# TITLE 10—ARMED FORCES

*This title was enacted by act Aug. 10, 1956, ch. 1041, §1, 70 Stat. 1126, set out beginning at 70A Stat. 1*


| Subtitle | | Sec. |
|---|---|---|
| **A.** | **General Military Law** | **101** |
| **B.** | **Army** | **7001** |
| **C.** | **Navy and Marine Corps** | **8001** |
| **D.** | **Air Force and Space Force** | **9011** |
| **E.** | **Reserve Components** | **10001** |
| **F.** | **Alternative Military Personnel Systems** | **20001** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title XVII, §1711, Dec. 22, 2023, 137 Stat. 625, added item for subtitle F. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title IX, §923(a)(2), Jan. 1, 2021, 134 Stat. 3807, substituted "Air Force and Space Force" for "Air Force" in item for subtitle D.

**2018**—Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840, substituted "7001" for "3001" in item for subtitle B and "8001" for "5001" in item for subtitle C.

Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840, substituted "9011" for "8001" in item for subtitle D to reflect the probable intent of Congress to include the number, as redesignated by section 806(c) of Pub. L. 115–232, of the first section of subtitle D.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(a), Oct. 5, 1994, 108 Stat. 3013, added item for subtitle E.

TABLE I

(Showing disposition of all sections of former Title 10)

| *Title 10 Former Sections* | *Title 10 New Sections* |
|---|---|
| 1 | Rep. |
| 1a(a) | 3001 |
| 1a(b) | 101 |
| 1a(c), (d) | Rep. |
| 1b | 3062 |
| 1c | 3075 |
| 1d, 1e | 3074 |
| 1f | Rep. |
| 1g(a) | 3063 |
| 1g(b) | 3064 |
| 1g(c)–(f) | 3065 |
| 2–10 | Rep. |
| 11 | 3536 |
| 12–14 | Rep. |
| 15 | T. 18 §1385 |
| 15a | 4711, 9711 |
| 16 | 3061, 8061 |
| 16a | 3492, 8492 |
| 17, 17a | Rep. |
| 18 | T. 37 §31a (See Rev. T. 37 Table) |

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|---|---|
| 19 | 1031 |
| 19a | 4833 |
| 20 | 3062, 8062 |
| 20a | 4503, 4531, 9503, 9531 |
| 20b | 122 |
| 20c | Rep. |
| 20i | 3062 |
| 20j(a) | 3201 |
| 20j(b) | 3205, 3213 |
| 20j(c) | 3225 |
| 20j(d) | 3222, 3223 |
| 20r | 8062 |
| 20s(a) | 8201 |
| 20s(b) | 8205, 8213 |
| 20s(c) | 8225 |
| 20s(d) | 8222, 8223 |
| 20t | 8062 |
| 21 | Rep. |
| 21a | 3031 |
| 21b | 3034 |
| 21c | 3035 |
| 21d | 3034 |
| 21e | 3032 |
| 21f | 3036 |
| 21g | 3039 |
| 21h | 3037, 3040 |
| 22, 22a | Rep. |
| 23, 23a | Rep. |
| 24–32a | Rep. |
| 33, 33a | Rep. |
| 34–37 | Rep. |
| 38 | 3033, 3034, 8033, 8034 |
| 41, 42 | Rep. |
| 51 | Rep. |
| 52 | 4024 |
| 53 | Rep. |
| 61 | Rep. |
| 61–1 | 3072, 3209, 3210 |
| 61a | 3037 |
| 62 | 3037, 8072 |
| 62a | 3037 |
| 63, 64 | Rep. |
| 65 | 3292 |
| 66–70c | Rep. |
| 71, 72 | Rep. |
| 72a | (See former 1195a) |
| 73 | (See former 1377) |
| 74 | Elim. |

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| 75 | (See former 1259d) |
| 76 | (See former 1259e) |
| 77 | Elim. |
| 81, 81a | Rep. |
| 81–1 | 3067–3070 |
| 81–2 | 3311, 3685, 3818, 8067, 8685, 8818 |
| 82 | 3579, 8579 |
| 83 | Rep. |
| 91 | Rep. |
| 91a (less (c)–(f)) | 3294, 8294 |
| 91a(c) | 3294 nt. |
| 91a(d) | 3444, 8444 |
| 91a(e) | 3452, 8452 |
| 91a(f) | 5652a |
| 91b | Rep. |
| 92, 92a | Rep. |
| 93 | 3289, 8289 |
| 94 | Rep. |
| 95 | (See former 82) |
| 96 | 3546, 8546 |
| 97–100 | Rep. |
| 101–103 | 3302, 8302 |
| 104 | Rep. |
| 105, 106 | 3539 |
| 107, 108 | 4022, 9022 |
| 121 | Rep. |
| 121a (less (c)–(f)) | 3294, 8294 |
| 121a(c) | 3294 nt. |
| 121a(d) | 3444, 8444 |
| 121a(e) | 3452, 8452 |
| 121a(f) | 5652a |
| 121b | Rep. |
| 122–124 | Rep. |
| 125 | 3302 |
| 126–131 | Rep. |
| 141 | Rep. |
| 142 | Rep. in part. Elim. in part. |
| 143 | Rep. |
| 143a | 3302, 8302 |
| 144, 145 | Rep. |
| 145a, 145a–1 | Rep. |
| 146 | Rep. |
| 151 | Rep. |
| 152 | Rep. in part. Elim. in part. |
| 153–156 | Rep. |
| 156a | 3068, 3209 |
| 156b | 3068 |
| 156c | 3504, 3962, 3991 |

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| 156d | 3068 |
| 156e | 3287, 3290 |
| 156f–156i | Rep. |
| 161–165 | Rep. |
| 166(a) | 3069, 3206, 8206 |
| 166(b) | 3069 |
| 166(c) | 3291, 8291 |
| 166(d) | Rep. See 3291(c) |
| 166a(a) | 3070, 3207, 8207 |
| 166a(b) | 3070 |
| 166a(c) | 3291, 8291 |
| 166a(d) | Rep. See 3291(c) |
| 166b to 166b–2 | Rep. |
| 166b–3 | 8067, 8209, 8296, 8579, 8683, 8963 |
| 166c to 166d–1 | Rep. |
| 166e(a) | 3574, 3579, 8574, 8579 |
| 166e(b), (c) | Rep. |
| 166f | 3206, 3207, 3212, 3304, 8206, 8207, 8212, 8304 |
| 166g(a), (b) | 3504, 3881, 3882, 3887, 3912, 3928, 3962, 3991, 8881, 8882, 8887, 8912, 8928, 8891 |
| 166g(c) | Rep. |
| 166h | Rep. |
| 166i | 3683, 8683 |
| 166j | 3818, 8818 |
| 166k | 3205 |
| 166*l* | Rep. |
| 171–177 | Rep. |
| 181 | 3036, 3040, 3074, 3209, 3216 |
| 181a | 3040, 3209, 3493; T. 33 §583a |
| 181b | 3038 |
| 181c | 3535 |
| 181d | 3535 nt. |
| 182–186 | Rep. |
| 187 | Elim. |
| 188 | Rep. |
| 189 (1st sent.) | Elim. |
| 189 (less 1st sent.) | 3534 |
| 190 | 3534 |
| 190a | T. 33 §§575, 701b–9 |
| 190b | T. 33 §§576, 701b–10 |
| 191–196 | Rep. |
| 197, 197a | Elim. |
| 198 | T. 50 §64a |
| 199 | (See former 190a) |
| 211, 212 | Rep. |
| 213 | Elim. |
| 214, 215 | Rep. |

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| 221, 222 | Rep. |
| 223 | Elim. |
| 231 | Rep. |
| 231a | 3073 |
| 232 | 3293, 8293 |
| 233 | Rep. in part. Elim. in part. |
| 234 | Rep. |
| 235 | 3581, 8581 |
| 236, 237 | Rep. |
| 238, 239 | 3547, 8547 |
| 240 | Rep. |
| 251–253 | Rep. |
| 261, 262 | Rep. |
| 271–277 | Rep. |
| 281–283 | Rep. |
| 291–291b | Rep. |
| 291c, 291c–1 | 3691, 8691 |
| 291d | 3692, 8692 |
| 291e | 3691, 8691 |
| 291f, 291f–1 | Rep. |
| 291f–2 | 8257 |
| 291g | Rep. |
| 292 | Rep. |
| 292–1, 292a | Rep. |
| 292a–1, 292a–3 | Rep. |
| 292b to 292b–3 | Rep. |
| 292c | 8537 |
| 292c–1 | 9305 |
| 292d, 293 | Rep. |
| 294 | 8577 |
| 295 | Rep. |
| 296, 296a | 9303 |
| 297 | Rep. |
| 297a | 8257 |
| 298, 298a | Rep. |
| 298a–1 | 9304 |
| 298b | 4656, 9656 |
| 298c | 4628, 9628 |
| 299 | 8257, 8356, 8817 |
| 299a–299d | Rep. |
| 299e | 8356 |
| 300 | Rep. |
| 300a–300c | Elim. |
| 301, 302 | Rep. |
| 303 | Rep. |
| 304 | Rep. See T. 37 §402(a)–(c) |
| 304a | Rep. |
| 304b | Rep. See T. 37 §402(a)–(c) |

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| 305, 306 | Rep. |
| 307 | Elim. |
| 308, 308a | Rep. |
| 309 | Elim. |
| 310(a), (b) | 2271 |
| 310(c) | 2272 |
| 310(d) | 2273 |
| 310(e) | 2271, 2272 |
| 310(f), (g) | 2272 |
| 310(h) | 2271 |
| 310(i) | 2273 |
| 310(j) | 2272, 2279 |
| 310(k) | 2274 |
| 310(*l*), (m) | 2276 |
| 310(n) | 2272 |
| 310(*o*) | 2277 |
| 310(p) | 2276 |
| 310(q) | Rep. |
| 310(r) | Elim. |
| 310(s) | 2271 |
| 310(t) | 2275 |
| 311 | 2382 |
| 312 | 2278 |
| 313 | Rep. |
| 316, 316–1 | 3071 |
| 316a | 3209, 3215 |
| 316b | 3071, 3504, 3962, 3991 |
| 316c(a) | 3311 |
| 316c(b) | Rep. |
| 316c(c) | 3211 |
| 316d | 3580 |
| 316e | 3685 |
| 321 | Rep. See 3063 nt. |
| 321a | Elim. |
| 322–332 | Rep. |
| 333 | Elim. |
| 334, 335 | Rep. |
| 336 | Elim. |
| 337–343 | Rep. |
| 351–353 | Rep. |
| 354 | 3355, 8355 |
| 355, 355a | Rep. |
| 356–359a | Rep. |
| 360, 361 | Rep. |
| 361a | Rep. |
| 361b | Rep. |
| 362, 362a | Rep. |
| 363–365 | Rep. |

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| 366 | Rep. |
| 367 | Elim. |
| 367a, 368 | Rep. |
| 369, 369a | Rep. |
| 369b | 684 |
| 370 | Rep. |
| 371 | Rep. See T. 5 §§3551, 6323(a), (b) |
| 371a | Rep. See T. 5 §6323(a), (b) |
| 371b | Rep. See T. 5 §§502, 5534 |
| 371c | Elim. |
| 372–375 | Rep. |
| 376 | 3357 |
| 377, 378 | Rep. |
| 381, 382 | 4382, 9382 |
| 383, 384 | 4383, 9383 |
| 385 | 4384, 9384 |
| 385a | 4387, 9387 |
| 385b | 4387 |
| 386 | 3540, 8540 |
| 386a | 4387, 9387 |
| 387, 387a | 4387, 9387 |
| 388 | Rep. |
| 389 | 4386, 9386. Rep. in part. |
| 390 | 4386, 9386 |
| 391 | Elim. |
| 421–424 | Rep. |
| 425 | (See former 628–1) |
| 426, 427 | Rep. |
| 441 | 4385, 9385 |
| 442 | 4411–4414, 9411–9414 |
| 443 | 4385, 9385 |
| 444 | (See former 387a) |
| 445 | Rep. |
| 451–455 | Rep. |
| 455a–455c | 3722, 8722 |
| 455d | Rep. |
| 455e | 3723, 8723; T. 32 §320 |
| 455f | Rep. |
| 456 | 3687, 3688, 3721, 8687, 8688, 8721 |
| 456–1 | 3687 nt. |
| 456–2 | Rep. |
| 456a, 457 | Rep. |
| 481 | 3205 |
| 481a | Rep. |
| 481b | Rep. |
| 482–482c | Rep. |
| 483, 484 | Rep. |
| 484a | 3814, 8814 |

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| 485, 486 | Rep. |
| 486a | 4353, 9353. Rep. in part. See 4353 nt. |
| 487, 487a | Rep. |
| 488, 489 | Rep. |
| 490, 491 | 3302, 8302 |
| 491a–491c | 1521 |
| 491c–1 | 1521 nt. |
| 491d | 1523 |
| 492–494 | Rep. |
| 495 | 3544, 8544 |
| 496 | Rep. |
| 497 | 3545, 8545 |
| 498 | 3543, 8543 |
| 498a | Rep. |
| 499 | 3446, 8446 |
| 499a, 499b | Rep. |
| 500 | 3681, 8681 |
| 501 | Elim. |
| 502–504 | Rep. |
| 505–505e | Rep. |
| 506(a) | 3281, 3284, 8281, 8284 |
| 506(b) | 3282, 3283 |
| 506(c) | 3283, 3533 |
| 506(d) | 3209, 8209 |
| 506(e), (f) | Rep. |
| 506a(a) | 3210, 8210 |
| 506a(b), (c) | 3573, 8573 |
| 506b(a) | Rep. |
| 506b(b) | 3066, 3531, 8066, 8531 |
| 506b(c) | 711. Rep. in part. See T. 37 §414 |
| 506b(d) | 3962, 3991, 8962, 8991. Rep. in part. See 3962 nt. |
| 506c(a) | 3284, 8284 |
| 506c(b) | 3285, 8285 |
| 506c(c) | 3287, 8287 |
| 506c(d) | 3288, 3295, 8288, 8295 |
| 506c(e) | 3286, 8286 |
| 506c(f) | 3212, 3287, 3574, 4353, 8212, 8287, 8574, 9353 |
| 506c(g) | Rep. |
| 506c–1 | Rep. |
| 506c–2(a) | Rep. See 3284 |
| 506c–2(b) | 3285 |
| 506c–3 | 3286 |
| 506c–4(a) | 3287. Rep. in part. See 3287 nt. |
| 506c–4(b) | 3287 |
| 506c–4(c) | 3212, 3287, 3574, 4353 |
| 506c–5 | 3288, 3295 |

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| 506c–6 | 3888, 3927 |
| 506c–7 | 3285–3288, 3295, 3314. Rep. in part. See 3287 nt. |
| 506c–8 | Rep. |
| 506c–9 | 3314 |
| 506c–10 | Rep. See 3287 nt. |
| 506d(a), (b) | 3442, 8442 |
| 506d(c) | 3442, 3572, 8442, 8572 |
| 506d(d) | 3443, 8443 |
| 506d(e) | 3444, 8444 |
| 506d(f) | 3447, 8447 |
| 506d(g) | Rep. |
| 506d(h) | 3491, 8491 |
| 506d(i) | 3441, 8441 |
| 506d–1 to 506d–3 | 3202 |
| 506d–4 | 686 |
| 507 | 3578, 8578 |
| 507a | 3576, 5954, 8576 |
| 511 | 3571, 8571 |
| 512, 512a | Rep. |
| 513 | 3395, 3445, 3447, 8395, 8445, 8447 |
| 514 | Rep. |
| 515 | 744 |
| 516 | Rep. |
| 517 | 741 |
| 521–528 | Rep. |
| 531–534 | Rep. |
| 535, 535a | 4301 |
| 536–539 | Rep. |
| 540 | 712 |
| 541 | Elim. |
| 551, 551a | Rep. |
| 552–552c | Rep. |
| 553–553b | Rep. |
| 554, 555 | Rep. |
| 555a | 3302, 3309, 8302, 8309 |
| 556 | 3309, 8309 |
| 556a | 3302, 3309, 8302, 8309 |
| 557 | Rep. |
| 558 | 3312, 3394, 3451, 8312, 8394, 8451 |
| 559(a) | 3296, 8296 |
| 559(b) | 3211, 3212, 8211, 8212 |
| 559(c) | 3296, 8296 |
| 559(d) | 3296, 3574, 8296, 8574 |
| 559(e) | Rep. |
| 559a(a) | 3297, 3308, 8297, 8308 |
| 559a(b) | 3313, 8313 |
| 559a(c) | 3297, 8297 |

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| 559a(d) | Rep. |
| 559b | 3212, 3298, 8212, 8298 |
| 559c(a)–(d) | 3299, 8299 |
| 559c(e) | 3300, 8300 |
| 559c(f) | 3299, 8299 |
| 559c(g) | 3303, 8303 |
| 559c(h) | 3303, 3913, 8303, 8913 |
| 559c(i) | 3913, 8913 |
| 559c(j) | 3299, 8299 |
| 559c(k) | 3212, 3299, 8212, 8299 |
| 559c(*l*) | 8301 |
| 559c(m) | Rep. |
| 559c–1 | 3299 |
| 559d | 3305, 8305 |
| 559e | 3306, 8306 |
| 559f | 3307, 8307 |
| 559g | 3036, 3212 |
| 559h, 559i | Rep. |
| 559j | 3296 |
| 559k | 3818 |
| 559*l*–559*o* | Rep. |
| 571–575 | Rep. |
| 576 | 3544, 8544 |
| 576a | Rep. |
| 577 | 3544, 8544 |
| 578, 579 | Rep. |
| 580 | 3784, 8784 |
| 581 | 3781, 8781 |
| 582 | 3782, 8782 |
| 583 | 3782–3784, 3786, 8782–8784, 8786 |
| 584 | 3785, 8785 |
| 585 | 3786, 8786 |
| 586 | Elim. |
| 587 | Rep. |
| 591 | 3310, 8310 |
| 591–1 | 3311, 3818 |
| 591a | 3448, 8448 |
| 592 | Rep. |
| 593 | 3548, 3575, 8548, 8575 |
| 593a | Rep. |
| 594 | 3964, 3992, 8964, 8992 |
| 595 | Elim. |
| 596, 597 | Rep. |
| 598 | (See former 631a) |
| 599 | Rep. |
| 600(a), (b) | 101 |
| 600(c) | 564 |
| 600(d) | 564, 1166, 1167, 1255, 1263, 1293, 1305. |

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| | Rep. in part. See 1164 nt. |
| 600a | 555, 597, 745, 3445, 3448, 8445, 8448 |
| 600b | Rep. |
| 600c | 555, 556, 597, 3448, 8448 |
| 600d | 515, 1165 |
| 600e | 557, 598, 3449, 8449 |
| 600f | 558 |
| 600g | 559, 561 |
| 600h | 560, 562 |
| 600i | 562, 563 |
| 600j | 557 |
| 600k | 564 |
| 600*l*(a) | 1293 |
| 600*l*(b) | 1255, 1263, 1305. Rep. in part. See 1164 nt. |
| 600*l*(c) | 1164 |
| 600*l*(d) | 1371, 1401 |
| 600*l*(e) | 564, 1164, 1166, 1255, 1263, 1305 |
| 600*l*(f) | 1371, 1401 |
| 600*l*(g) | Elim. |
| 600m | 515, 1166 |
| 600n | 1167 |
| 600*o* | Rep. |
| 600p | 565, 599, 3450, 8450 |
| 600q | Rep. |
| 600r | 564, 1164, 1255, 1263, 1305 |
| 602 | Rep. |
| 603–604a | Rep. |
| 605–607 | Rep. |
| 608 | 3639, 8639 |
| 609 | 3635, 8635 |
| 610 | 3690, 8690 |
| 611 | Rep. |
| 612 | 1522 |
| 621 | 3256, 8256 |
| 621a | Rep. |
| 621b | 3256, 3818 |
| 621c, 621d | Elim. |
| 622–625 | 3253, 8253 |
| 626, 626a | Rep. |
| 627 | 3256, 8256 |
| 628 | 3256, 3815, 3816, 8256, 8815, 8816 |
| 628–1 | 3256, 8256 |
| 628a | 3262, 8262 |
| 628b | 3263, 8263 |
| 629 | 3638, 8638 |
| 629a | 972 |
| 630, 631 | Rep. |
| 631a | 3258, 3684, 8258, 8684 |

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| 632, 633 | Rep. |
| 634 | 3254, 3812, 8254, 8812 |
| 635 | 3255, 8255 |
| 636 | 3256, 8256 |
| 636a | Rep. |
| 637 | Elim. |
| 641–642a | Rep. |
| 643, 644 | Rep. |
| 645 | Elim. |
| 651 | Rep. |
| 652 | 3813, 8813 |
| 652a | 3811, 8811 |
| 653, 653a | Rep. |
| 654, 654a | Rep. |
| 654b, 655 | Elim. |
| 656 | Rep. |
| 657 | Elim. |
| 658 | Rep. |
| 661 | Elim. |
| 662 | Rep. |
| 663 | 4023, 9023 |
| 664, 665 | Rep. |
| 671 | Elim. |
| 671a | Rep. |
| 672, 673 | Elim. |
| 681, 682 | Elim. |
| 683, 683a | Rep. |
| 684 | T. 37 §4c (See Rev. T. 37 Table) |
| 685 | Elim. |
| 686 | Rep. |
| 691, 692 | Rep. |
| 693 | Elim. |
| 694 | T. 37 §235a (See Rev. T. 37 Table) |
| 695–699 | Rep. |
| 711–716 | Elim. |
| 716a | Rep. |
| 716b | 4561, 9561 |
| 717–722 | Rep. |
| 723 | 4593, 9593 |
| 724–726 | 4561, 9561 |
| 727 | Elim. |
| 728 | 4775, 9775 |
| 729 | Rep. |
| 741 | Elim. |
| 742–748a | Rep. |
| 749 | 4743, 9743 |
| 757 | Elim. |
| 758–760 | Rep. |

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| 771, 772 | Rep. |
| 781 | Elim. |
| 782–786 | Rep. |
| 787 | Elim. |
| 801–811 | Rep. |
| 821–823 | Rep. |
| 824 | T. 5 §73c (See Rev. T. 5 Table) |
| 825 | 4748, 9748 |
| 831 | 4562, 9562 |
| 832 | Elim. |
| 833 | Rep. |
| 834 | 4563, 9563 |
| 835 | Rep. |
| 841, 842 | Rep. |
| 843 | 4306, 9306 |
| 844, 845 | Rep. |
| 846 | Rep. |
| 847 | Rep. |
| 847a | 3632, 8632 |
| 847b | Rep. |
| 847c, 847d | 3632, 8632 |
| 848 | Rep. |
| 849 | 3633, 8633 |
| 850–852 | Rep. |
| 861, 861a | Rep. |
| 862 | T. 37 §310b (See Rev. T. 37 Table) |
| 862a | T. 31 §493b |
| 862b | Rep. |
| 863–866j | Rep. |
| 867 | Rep. |
| 868 | 2771 |
| 869 | T. 31 §492d |
| 870 | Rep. |
| 871, 872 | 4837, 9837 |
| 873, 874 | Rep. |
| 875–875c | 4837, 9837 |
| 876 | 3636, 8636 |
| 877 | 2772 |
| 878 | 4840, 9840 |
| 891–894 | 3689, 8689 |
| 895 | Elim. |
| 902, 902a | Rep. |
| 903, 903a | 3688, 8688 |
| 904 | 4621, 9621 |
| 904a–904d | Rep. |
| 905 | 3634, 8634 |
| 906–906a | Rep. |
| 907, 908 | Rep. |

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| 908a–908c | 1035 |
| 909 | Elim. |
| 910 | Rep. |
| 911 | Elim. |
| 912–914 | Rep. |
| 914a | Elim. |
| 915–916d | Rep. |
| 917 | Rep. |
| 918 | Elim. |
| 919 | Rep. |
| 920 | 1584 nt. |
| 921 | 3532 |
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| 850c | 6912. Rep. in part. See T. 37 §402(a)–(c) |
| 850d | Rep. |
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| 850k to 850k–2 | Elim. |
| 850*l*, 850m | Rep. |
| 851 to 853a–1 | Rep. |
| 835b to 853c–1 | Rep. |
| 853c–2 to 853c–2a | 6902 |
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| 853c–4 (proviso) | 6902 |
| 853c–4 (less proviso) | Rep. |
| 853c–5 | Rep. |
| 853c–6 | Elim. |
| 853d, 853e | Rep. |
| 853e–1 | 684 |
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| 853h–853j | Rep. |
| 854 (proviso) | Rep. |
| 854 (less proviso) | 6330 |
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| 854c | 6330, 6331. Rep. in part. |
| 854c–1 to 854c–5 | 6330 nt. |
| 854d | 6485, 6486. Rep. in part. |
| 854e (2d, 4th provisos) | 6331 |
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| 855c–1 | 6148 |
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| 855c–4 | Rep. |
| 855d to 855i–1 | Rep. |
| 855j–855s | Rep. |
| 856 to 857c–1 | Rep. |
| 857d–857g | Rep. |
| 858–858c | Rep. |
| 861–861f | (See former 842, 843, 844–848) |
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| 864a | 5701 nt. |

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| 865a | T. 37 §257 (See Rev. T. 37 Table) |
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| 870 | 5788 |
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| 871–875 | Rep. |
| 875a | T. 37 §310c (See Rev. T. 37 Table) |
| 875b | T. 37 §310d (See Rev. T. 37 Table) |
| 876–877a | Rep. |
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## STATUTORY NOTES AND RELATED SUBSIDIARIES

### POSITIVE LAW; CITATION

This title has been enacted into positive law by section 1 of act Aug. 10, 1956, ch. 1041, 70A Stat. 1, which provided in part that: "Title 10 of the United States Code, entitled 'Armed Forces', is revised, codified, and enacted into law, and may be cited as 'Title 10, United States Code, §—.' "

### REPEALS

Act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this act, "except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this act [Aug. 10, 1956] and except as provided in section 49."

## SAVINGS PROVISION AND SEPARABILITY

Act Aug. 10, 1956, ch. 1041, §49, 70A Stat. 640, provided that:

"(a) In sections 1–48 of this Act [see Tables for classification], it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act [Aug. 10, 1956]. However, laws effective after March 31, 1955, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

"(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–48.

"(c) Actions taken and offenses committed under the replaced law shall be considered to have been taken or committed under the corresponding provisions of sections 1–48.

"(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

"(e) In chapter 47 of title 10, United States Code, enacted by section 1 of this Act, no inference of a legislative construction is to be drawn from the part in which any article is placed nor from the catchlines of the part or the article as set out in that chapter.

"(f) The enactment of this Act does not increase or decrease the pay or allowances, including retired pay and retainer pay, of any person.

"(g) The enactment of this Act does not affect the status of persons who, on the effective date of this Act [Aug. 10, 1956], have the status of warrant officers of the Army Mine Planter Service."

## EFFECTIVE DATE OF UNIFORM CODE OF MILITARY JUSTICE

Act Aug. 10, 1956, ch. 1041, §51, 70A Stat. 640, provided that chapter 47 of this title takes effect January 1, 1957.

## RESTATEMENT OF SUSPENDED OR TEMPORARILY SUPERSEDED PROVISIONS

Act Aug. 10, 1956, ch. 1041, §50, 70A Stat. 640, provided that: "If on the effective date of this Act [Aug. 10, 1956] a provision of law that is restated in this Act and repealed by section 53 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status."

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 85–861; LEGISLATIVE PURPOSE; REPEAL OF INCONSISTENT PROVISIONS; CORRESPONDING PROVISIONS; SAVINGS PROVISION AND SEPARABILITY; STATUS; REPEALS

Pub. L. 85–861, §34, Sept. 2, 1958, 72 Stat. 1568, provided that:

"(a) In sections 1–32 of this Act [see Tables for classification], it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act [Sept. 2, 1958]. However, laws effective after December 31, 1957, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

"(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–32.

"(c) Actions taken under the replaced law shall be considered to have been taken under the corresponding provisions of sections 1–32.

"(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

"(e) The enactment of this Act does not increase or decrease the pay or allowances, including retired and retainer pay, of any person."

Pub. L. 85–861, §35, Sept. 2, 1958, 72 Stat. 1568, provided that: "If on the effective date of this Act [Sept. 2, 1958] a provision of law that is restated in this Act and repealed by section 36 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status."

Pub. L. 85–861, §36, Sept. 2, 1958, 72 Stat. 1568, repealed certain laws except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before Sept. 2, 1958.

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 87–651; INCONSISTENT PROVISIONS SUPERSEDED; CORRESPONDING PROVISIONS

Pub. L. 87–651, title III, §306, Sept. 7, 1962, 76 Stat. 526, provided that:

"(a) Laws becoming effective after January 9, 1962, that are inconsistent with this Act [see Tables for

classification] shall be considered as superseding it to the extent of the inconsistency.

"(b) References made by other laws, regulations and orders to the laws shall be considered to be made to the corresponding provisions of this Act.

"(c) Actions taken under the replaced law shall be considered to have been taken under the corresponding provisions of this Act.

"(d) The enactment of this Act, except section 108 [amending section 1334 [now 12734] of this title], does not increase or decrease the pay or allowances, including retired and retainer pay, of any person."

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 89–718; INCONSISTENT PROVISIONS SUPERSEDED; CORRESPONDING PROVISIONS

Pub. L. 89–718, §74, Nov. 2, 1966, 80 Stat. 1124, provided that:

"(a) Laws becoming effective after June 1, 1965, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

"(b) References made by other laws, regulations, and orders to the laws restated by this Act shall be considered to be made to the corresponding provisions of this Act.

"(c) Actions taken under the laws restated by this Act shall be considered to have been taken under the corresponding provisions of this Act."

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 97–295; LEGISLATIVE PURPOSE; REPEAL OF INCONSISTENT PROVISIONS; CORRESPONDING PROVISIONS; SAVINGS PROVISION AND SEPARABILITY

Pub. L. 97–295, §5, Oct. 12, 1982, 96 Stat. 1313, provided that:

"(a) Sections 1–4 of this Act [see Tables for classification] restate, without substantive change, laws enacted before December 2, 1981, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after December 1, 1981, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

"(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

"(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

"(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications."

Pub. L. 97–295, §6(a), Oct. 12, 1982, 96 Stat. 1314, provided that: "The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal."

Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314, repealed certain sections or parts of sections of the Statutes at Large, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Oct. 12, 1982.

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 100–370; CORRESPONDING PROVISIONS; SAVINGS PROVISION

Pub. L. 100–370, §4, July 19, 1988, 102 Stat. 856, provided that:

"(a) REFERENCES TO REPLACED LAWS.—A reference to a law replaced by the provisions of title 10, United States Code, enacted by this Act [see Tables for classification] (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

"(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(c) GENERAL SAVINGS PROVISION.—An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall be treated as having been taken or committed under the corresponding provision enacted by this Act."

## IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 101–510; CORRESPONDING PROVISIONS; SAVINGS PROVISION

Pub. L. 101–510, div. A, title XIV, §1481(k), Nov. 5, 1990, 104 Stat. 1709, provided that:

"(1) A reference to a law replaced by the provisions of title 10, United States Code, enacted by this section [enacting sections 129b, 1056, 2245, 2549, 2550, 2678, and 2732 of this title, amending sections 114, 1584, 1593, 2701, 2734, 2734a, and 2734b of this title, enacting provisions set out as a note under section 1056 of this title, and repealing provisions set out as notes under sections 113, 114, 1584, 1593, 2241, and 2701 of this title] (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this section.

"(2) A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this section shall continue in effect under the corresponding provision enacted by this title until repealed, amended, or superseded.

"(3) An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this section shall be treated as having been taken or committed under the corresponding provision enacted by this title."

**IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 103–337; CORRESPONDING PROVISIONS; SAVINGS PROVISION**

Pub. L. 103–337, div. A, title XVI, §1665, Oct. 5, 1994, 108 Stat. 3012, provided that:

"(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 1661 through 1664 [see Tables for classification] (including a reference in a regulation, order, or other law) shall be treated as referring to that provision as transferred or to the corresponding provision as so enacted by this subtitle [subtitle C (§§1661–1665) of title XVI of div. A of Pub. L. 103–337].

"(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

"(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall be treated as having been taken, or having matured, under the corresponding provision so enacted."

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### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(1), title XVII, §1701(a)(1), div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 948, 1207, 1336, substituted "Other Matters Relating to Awarding of Contracts" for "Other Matters Relating to Awarding and Types of Contracts" in item for chapter 243, struck out item for chapter 345 "Acquisition of Information Technology", and added items for subpart B of part VI and chapters 601 to 608 of subpart B. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVI, §1649(a), title XVII, §1701(a)(1), Dec. 23, 2024, 138 Stat. 2187, 2202, added items for chapters 19, 25, 327, 363, and 367 and part VI containing items for subpart A and chapter 551, struck out former items for chapters 19 "Cyber Matters", 25 "Electronic Warfare", 326 "Weapon Systems Development And Related Matters", 363 "Prohibitions and Penalties", and 367 "Other Administrative and Miscellaneous Provisions", and struck out second item for subpart F "major systems, major defense acquisition programs, and weapon systems development" including chapters 321 "General Matters", 322 "Major Systems and Major Defense Acquisition Programs Generally", 323 "Life-Cycle And

Sustainment", 324 "Program Status—Selected Acquisition Reports", 325 "Cost Growth—Unit Cost Reports (Nunn-McCurdy)", and 327 "Weapon Systems Development and Related Matters". Amendment adding items for part VI, subpart A, and chapter 551 was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title XVIII, §1801(a)(1)(G), Dec. 22, 2023, 137 Stat. 683, which directed the insertion of new items for subpart F and chapters 321 to 326 after the item relating to chapter 307, was so executed, notwithstanding that items for subpart F and chapters 321 to 327 (which chapter items did not include designators indicating the first section of each chapter) had been added previously by Pub. L. 116–283, div. A, title XVIII, §1846(a), Jan. 1, 2021, 134 Stat. 4247. See 2021 Amendment note below.

Pub. L. 118–31, div. A, title XVI, §1682(b), title XVIII, §1801(a)(1)(A)–(F), (H), Dec. 22, 2023, 137 Stat. 617, 682, 683, added items for chapters 25, 113, 207, 287, 305, and 383 and items for Reserved chapters 225 and 272 and struck out former items for chapters 113 "Defense Civilian Training Corps", 207 "Budgeting and Appropriations Matters", 225 "Planning and Solicitation Relating to Particular Items or Services", 272 "Other Provisions Relating to Cost or Pricing Data", 287 "Other Contracting Programs", 305 "Universities", and 383 "Development, Application, & Support of Dual-Use Technologies".

**2022**—Pub. L. 117–263, div. A, title VIII, §804(b), title X, §1081(a)(1), (e)(2), Dec. 23, 2022, 136 Stat. 2701, 2797, 2798, substituted "Definitions, Rules of Construction, Cross References, and Related Matters" for "Definitions" in item for chapter 1, struck out second item for chapter 19 "Cyber Matters", and added item for chapter 253 and struck out former item for chapter 253 "[Reserved]". Amendment to item for chapter 1 was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(8)(A), (l)(2), Dec. 27, 2021, 135 Stat. 2142, 2144, which directed amendment of this analysis by substituting "[Reserved]" for "Foreign Acquisitions" and starting section number 3881 in item for chapter 283 and by adding item for chapter 287 and striking out former item for chapter 287 "Socioeconomic Programs", was executed by amending this analysis as directed, notwithstanding that other amendments by section 1701(i) and (l) of Pub. L. 117–81 were directed to Pub. L. 116–283, and not to the Code directly, and that such amendments are effective as if included in title XVIII of Pub. L. 116–283.

Pub. L. 117–81, div. A, title XVII, §1701(i)(5)(A), (B)(ii), Dec. 27, 2021, 135 Stat. 2141, made similar amendments, resulting in the substitution of "[Reserved]" for "Rapid Acquisition Procedures" and starting section number 3601 in item for chapter 253. Section 1701(i)(5)(B)(ii) amended Pub. L. 116–283, div. A, title XVIII, §1824(b), Jan. 1, 2021, 134 Stat. 4205, which had added the item for chapter 253, while section 1701(i)(5)(A) amended this analysis directly.

Pub. L. 117–81, div. A, title XVII, §1701(g), Dec. 27, 2021, 135 Stat. 2140, substituted "3061", "3101", and "3131", for "3021", "3051", and "3101", respectively, in items for chapters 203, 205, and 207, added item for chapter 247 and struck out former item for chapter 247 "Acquisition of Commercial Items", substituted "3571" for "3551" in item for chapter 251, added items for chapters 257 and 258 and struck out former item for chapter 257 "Contracts for Long-Term Lease or Charter of Vessels, Aircraft, and Combat", and substituted "Provisions" for "Requirements" in item for subpart D of part V.

Pub. L. 116–283, div. A, title XVIII, §§1841(a)(2), 1856(a), Jan. 1, 2021, 134 Stat. 4243, 4273, as amended by Pub. L. 117–81, div. A, title XVII, §1701(i)(9)(A), (u)(1), Dec. 27, 2021, 135 Stat. 2142, 2150, added items for subpart E and chapters 301 to 307 and item for Reserved chapter 343 and struck out former item for subpart E "special categories of contracting: major defense acquisition programs and major systems" including chapters 301 "Major Defense Acquisition Programs", 303 "Weapon Systems Development and Related Matters", and 305 "Other Matters Relating to Major Systems" and former item for chapter 343 "Acquisition of Services".

Pub. L. 116–283, div. A, title XVIII, §§1808(a)(4), 1811(a), 1816(a), 1821(a)(4), 1824(b), 1825(l), 1831(l), 1833(a)(2), 1846(a), 1851(d)(2), 1866(a), 1872(b)(2), 1873(f), 1880(b), 1881(b), 1882(a)(2), Jan. 1, 2021, 134 Stat. 4159, 4164, 4181, 4195, 4205, 4208, 4217, 4226, 4247, 4279, 4289, 4290, 4293, substituted "SERVICE, SUPPLY, AND PROPERTY" for "SERVICE, SUPPLY, AND PROCUREMENT" in heading of part IV and "Miscellaneous Provisions Relating to Property" for "Miscellaneous Procurement Provisions" in item for chapter 141, struck out items for chapters 137 "Procurement Generally", 139 "Research and Development", 140 "Procurement of Commercial Products and Commercial Services", 142 "Procurement Technical Assistance Cooperative Agreement Program", 144 "Major Defense Acquisition Programs", 144B "Weapon Systems Development and Related Matters", 148 "National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion", and 149 "Defense Acquisition System", added items for chapters 221 to 225, 241 to 244, 253, 257, 271, 272, and 275, item for subpart F and chapters 321 to 327, and items for chapters 341, 381 to 385, and 387 to 389 and struck out former items for chapters 221 "Planning and Solicitation Generally", 223 "Planning and Solicitation Relating to Particular Items or Services", 241 "Awarding of Contracts", 243 "Specific Types of Contracts", 253 "Emergency and Rapid Acquisitions", 271

"Truthful Cost or Pricing Data", 275 "Proprietary Contractor Data and Technical Data", and 285 "Small Business Programs", former item for subpart F "special categories of contracting: research, development, test, and evaluation" including chapters 321 "Research and Development Generally", 323 "Innovation", 325 "Department of Defense Laboratories", 327 "Research and Development Centers and Facilities", and 329 "Operational Test and Evaluation; Developmental Test and Evaluation", and former items for chapters 341 "Contracting for Performance of Civilian Commercial or Industrial Type Functions", 381 "Defense Industrial Base Generally", 383 "Loan Guarantee Programs", and 385 "Procurement Technical Assistance Cooperative Agreement Program".

Pub. L. 116–283, title X, §1081(a)(1)–(3), Jan. 1, 2021, 134 Stat. 3870, added second item for chapter 19 and item for chapter 113 and substituted "2375" for "2377" in item for chapter 140.

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(a)(1), (2), Dec. 20, 2019, 133 Stat. 1812, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(8), Jan. 1, 2021, 134 Stat. 3873, substituted "240a" for "251" in item for chapter 9A and "Cyber Scholarship Program" for "Information Security Scholarship Program" in item for chapter 112.

**2018**—Pub. L. 115–232, div. A, title VIII, §§801(b), 836(e)(12), Aug. 13, 2018, 132 Stat. 1831, 1870, substituted "Procurement of Commercial Products and Commercial Services" for "Procurement of Commercial Items" and "2377" for "2375" in item for chapter 140 and added item for part V containing items for subparts A to I and chapters 201 to 385.

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(4), Dec. 12, 2017, 131 Stat. 1600, amended directory language of Pub. L. 114–328, §805(a)(2). See 2016 Amendment note below.

Pub. L. 115–91, div. A, title X, §1002(a)(2), Dec. 12, 2017, 131 Stat. 1537, added item for chapter 9A.

**2016**—Pub. L. 114–328, div. A, title VIII, §846(2), title XII, §1241(o)(1), Dec. 23, 2016, 130 Stat. 2292, 2512, redesignated item for chapter 13 "The Militia" as 12 and substituted "246" for "311", redesignated item for chapter 15 "Insurrection" as 13 and substituted "251" for "331", redesignated item for chapter 17 "Arming of American Vessels" as 14 and substituted "261" for "351", redesignated item for chapter 18 "Military Support for Civilian Law Enforcement Agencies" as 15 and substituted "271" for "371", added item for chapter 16, and struck out item for chapter 144A "Major Automated Information System Programs".

Pub. L. 114–328, div. A, title VIII, §805(a)(2), Dec. 23, 2016, 130 Stat. 2255, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(4), Dec. 12, 2017, 131 Stat. 1600, added item for chapter 144B.

**2015**—Pub. L. 114–92, div. A, title X, §1081(a)(1), Nov. 25, 2015, 129 Stat. 1000, substituted "Cyber Matters" for "Cyber matters" in first item for chapter 19.

**2014**—Pub. L. 113–291, div. A, title XVI, §1632(d), Dec. 19, 2014, 128 Stat. 3640, added first item for chapter 19.

**2013**—Pub. L. 113–66, div. A, title X, §1091(a)(1), Dec. 26, 2013, 127 Stat. 875, substituted "Nuclear Posture" for "Nuclear posture" in item for chapter 24.

Pub. L. 112–239, div. A, title X, §1031(b)(2), Jan. 2, 2013, 126 Stat. 1918, added item for chapter 24.

**2011**—Pub. L. 111–383, div. A, title VIII, §861(b), title X, §1075(b)(1), Jan. 7, 2011, 124 Stat. 4292, 4368, substituted "1030" for "1031" in item for chapter 53 and added item for chapter 149.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(1), Oct. 28, 2009, 123 Stat. 2472, substituted "1580" for "1581" in item for chapter 81 and "2551" for "2541" in item for chapter 152.

**2008**—Pub. L. 110–181, div. A, title X, §1068(a)(4)(B), Jan. 28, 2008, 122 Stat. 326, substituted "Insurrection" for "Enforcement of the Laws to Restore Public Order" in item for chapter 15.

**2006**—Pub. L. 109–366, §3(a)(2), Oct. 17, 2006, 120 Stat. 2630, added item for chapter 47A.

Pub. L. 109–364, div. A, title VIII, §816(a)(2), title X, §1076(a)(4)(A), div. B, title XXVIII, §2851(c)(1), Oct. 17, 2006, 120 Stat. 2326, 2405, 2495, substituted "Enforcement of the Laws to Restore Public Order" for "Insurrection" in item for chapter 15 and added items for chapters 144A and 173.

**2004**—Pub. L. 108–375, div. A, title V, §532(e), title X, §1084(d)(1), Oct. 28, 2004, 118 Stat. 1900, 2061, substituted "480" for "481" in item for chapter 23, added item for chapter 107, and redesignated former item for chapter 107 as item for chapter 106A.

**2003**—Pub. L. 108–136, div. A, title IX, §921(d)(8), title X, §1045(a)(1), Nov. 24, 2003, 117 Stat. 1569, 1612, substituted "Geospatial-Intelligence" for "Imagery and Mapping" in item for chapter 22 and "2700" for "2701" in item for chapter 160.

**2001**—Pub. L. 107–107, div. A, title IX, §911(b), title X, §1048(a)(1), Dec. 28, 2001, 115 Stat. 1196, 1222, struck out period after "1111" in item for chapter 56 and added item for chapter 135.

**2000**—Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(2), title IX, §922(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, 1654A–236, added items for chapters 56 and 112.

**1999**—Pub. L. 106–65, div. A, title V, §586(c)(1), title VII, §721(c)(2), Oct. 5, 1999, 113 Stat. 638, 694, added item for chapter 50 and substituted "Deceased Personnel" for "Death Benefits" and "1471" for "1475"

in item for chapter 75.

**1997**—Pub. L. 105–85, div. A, title III, §§355(c)(2), 371(a)(2), (c)(5), title V, §591(a)(2), title X, §§1073(a)(1), (2), 1074(d)(2), Nov. 18, 1997, 111 Stat. 1694, 1705, 1762, 1900, 1910, substituted "481" for "471" in item for chapter 23, added items for chapters 80 and 136, and substituted "2460" for "2461" in item for chapter 146, "Commissaries and Exchanges and Other Morale, Welfare, and Recreation Activities" for "Utilities and Services" in item for chapter 147, "2500" for "2491" in item for chapter 148, and "2541" for "2540" in item for chapter 152.

**1996**—Pub. L. 104–201, div. A, title XI, §1123(a)(1), (2), title XVI, §1633(c)(3), Sept. 23, 1996, 110 Stat. 2687, 2688, 2751, substituted "National Imagery and Mapping Agency" for "Miscellaneous Studies and Reports" and "441" for "451" in item for chapter 22, added item for chapter 23, substituted "Civilian Defense Intelligence Employees" for "Defense Intelligence Agency and Central Imagery Office Civilian Personnel" in item for chapter 83, and struck out item for chapter 167 "Defense Mapping Agency".

Pub. L. 104–106, div. A, title V, §§568(a)(2), 569(b)(2), title X, §1061(a)(2), (b)(2), Feb. 10, 1996, 110 Stat. 335, 351, 442, added items for chapters 76 and 88 and struck out items for chapters 89 "Volunteers Investing in Peace and Security" and 171 "Security and Control of Supplies".

**1994**—Pub. L. 103–359, title V, §501(b)(2), Oct. 14, 1994, 108 Stat. 3429, substituted "Defense Intelligence Agency and Central Imagery Office Civilian Personnel" for "Defense Intelligence Agency Civilian Personnel" in item for chapter 83.

Pub. L. 103–355, title VIII, §8101(b), Oct. 13, 1994, 108 Stat. 3389, added item for chapter 140.

Pub. L. 103–337, div. A, title V, §554(a)(2), Oct. 5, 1994, 108 Stat. 2773, added item for chapter 22.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(1), Nov. 30, 1993, 107 Stat. 1713, struck out item for chapter 135 "Encouragement of Aviation".

**1992**—Pub. L. 102–484, div. A, title XIII, §1322(a)(2), div. D, title XLII, §4271(b)(1), Oct. 23, 1992, 106 Stat. 2553, 2695, added items for chapters 89 and 148 and struck out former items for chapters 148 "Defense Industrial Base", 149 "Manufacturing Technology", and 150 "Development of Dual-Use Critical Technologies".

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(ii), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993, struck out item for chapter 85 "Procurement Management Personnel".

Pub. L. 102–190, div. A, title VIII, §821(f), title X, §§1002(a)(2), 1061(a)(27)(A), title XI, §1112(b)(2), Dec. 5, 1991, 105 Stat. 1432, 1455, 1474, 1501, substituted "Defense Budget Matters" for "Regular Components" and inserted "221" in item for chapter 9, substituted "Original Appointments of Regular Officers in Grades Above Warrant Officer Grades" for "Appointments in Regular Components" in item for chapter 33, added item for chapter 33A, substituted "Manufacturing" for "Maufacturing" in item for chapter 149, added items for chapters 150 and 152, struck out item for former chapter 150 "Issue to Armed Forces" and struck out item for former chapter 151 "Issue of Serviceable Material Other Than to Armed Forces".

Pub. L. 102–25, title VII, §701(e)(1), (2), Apr. 6, 1991, 105 Stat. 114, added item for chapter 85 and in item for chapter 108 inserted "2161".

**1990**—Pub. L. 101–510, div. A, title II, §247(a)(2)(B), title V, §502(a)(2), title VIII, §823(b)(1), title IX, §911(b)(3), title XII, §1202(b), title XVIII, §1801(a)(2), Nov. 5, 1990, 104 Stat. 1523, 1557, 1602, 1626, 1656, 1757, added item for chapter 58, struck out item for chapter 85 "Procurement Management Personnel", added item for chapter 87, substituted "Department of Defense Schools" for "Granting of Advanced Degrees at Department of Defense Schools" in item for chapter 108, substituted "Support of Science, Mathematics, and Engineering Education" for "National Defense Science and Engineering Graduate Fellowships" in item for chapter 111, added item for chapter 149 and redesignated former item for chapter 149 as item for chapter 150, and added item for chapter 172.

**1989**—Pub. L. 101–189, div. A, title VIII, §843(d)(2), title IX, §931(e)(2), title XVI, §1622(d)(2), Nov. 29, 1989, 103 Stat. 1517, 1535, 1605, substituted "Training and Education" for "Training" in item for part III, added item for chapter 111, and substituted "Cooperative Agreements" for "Acquisition and Cross-Servicing Agreements" in item for chapter 138.

**1988**—Pub. L. 100–456, div. A, title III, §§342(a)(2), 344(b)(2), title VIII, §821(b)(2), title XI, §1104(b), Sept. 29, 1988, 102 Stat. 1961, 1962, 2016, 2046, substituted "Support for" for "Cooperation With" and "Agencies" for "Officials" in item for chapter 18, substituted "Defense Industrial Base" for "Buy American Requirements" in item for chapter 148, substituted "Property Records and Report of Theft or Loss of Certain Property" for "Property Records" in item for chapter 161, and added item for chapter 171.

Pub. L. 100–370, §§1(c)(3), (e)(2), 2(a)(2), 3(a)(2), July 19, 1988, 102 Stat. 841, 845, 854, 855, added items for chapters 54, 134, 146, and 148.

**1987**—Pub. L. 100–180, div. A, title III, §332(c), title VII, §711(b), Dec. 4, 1987, 101 Stat. 1080, 1111, substituted "Humanitarian and Other Assistance" for "Humanitarian and Civic Assistance Provided in

Conjunction With Military Operations" in item for chapter 20 and "Financial Assistance Programs" for "Scholarship Program" in item for chapter 105.

Pub. L. 100–26, §§7(c)(1), 9(b)(4), Apr. 21, 1987, 101 Stat. 280, 287, added item for chapter 21, substituted "Acquisition and Cross-Servicing Agreements with NATO Allies and Other Countries" for "North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements" in item for chapter 138, substituted "Major Defense Acquisition Programs" for "Oversight of Cost Growth in Major Programs" and "2430" for "2431" in item for chapter 144, and substituted "2721" for "2701" in item for chapter 161.

**1986**—Pub. L. 99–661, div. A, title III, §333(a)(2), title XIII, §1343(a)(22), Nov. 14, 1986, 100 Stat. 3859, 3994, added item for chapter 20 and substituted "2341" for "2321" in item for chapter 138.

Pub. L. 99–499, title II, §211(a)(2), Oct. 17, 1986, 100 Stat. 1725, added item for chapter 160.

Pub. L. 99–433, title IV, §401(b), title VI, §605, Oct. 1, 1986, 100 Stat. 1030, 1075a, added items for chapters 2, 6, 38, and 144, inserted "and Functions" in item for chapter 3, substituted "Office of the Secretary of Defense" for "Department of Defense" in item for chapter 4, substituted "151" for "141" as the section number in the item for chapter 5, reenacted item for chapter 7 without change, and inserted "and Department of Defense Field Activities" in item for chapter 8.

Pub. L. 99–399, title VIII, §806(d)(2), Aug. 27, 1986, 100 Stat. 888, added item for chapter 110.

**1985**—Pub. L. 99–145, title VI, §671(a)(2), title IX, §924(a)(2), Nov. 8, 1985, 99 Stat. 663, 698, added items for chapters 85 and 109.

**1984**—Pub. L. 98–525, title VII, §705(a)(2), title XII, §1241(a)(2), Oct. 19, 1984, 98 Stat. 2567, 2606, substituted "Members of the Selected Reserve" for "Enlisted Members of the Selected Reserve of the Ready Reserve" in item for chapter 106 and added item for chapter 142.

**1983**—Pub. L. 98–94, title IX, §925(a)(2), title XII, §1268(15), Sept. 24, 1983, 97 Stat. 648, 707, added item for chapter 74, and substituted "or" for "and" in item for chapter 60.

**1982**—Pub. L. 97–295, §1(50)(D), Oct. 12, 1982, 96 Stat. 1300, added item for chapter 167.

Pub. L. 97–269, title V, §501(b), Sept. 27, 1982, 96 Stat. 1145, added item for chapter 8.

Pub. L. 97–214, §2(b), July 12, 1982, 96 Stat. 169, added item for chapter 169.

**1981**—Pub. L. 97–89, title VII, §701(a)(2), Dec. 4, 1981, 95 Stat. 1160, added item for chapter 83.

Pub. L. 97–86, title IX, §905(a)(2), Dec. 1, 1981, 95 Stat. 1116, added item for chapter 18.

**1980**—Pub. L. 96–513, title V, §§501(1), 511(29), (54)(B), (99), Dec. 12, 1980, 94 Stat. 2907, 2922, 2925, 2929, added item for chapter 32, substituted "531" for "541" as section number in item for chapter 33, substituted "34" for "35" as chapter number of chapter relating to appointments as reserve officers, added items for chapters 35 and 36, substituted "Reserve Components: Standards and Procedures for Retention and Promotion" for "Retention of Reserves" in item for chapter 51, added item for chapter 60, substituted "1251" for "1255" as section number in item for chapter 63, substituted "Retirement of Warrant Officers" for "Retirement" in item for chapter 65, substituted "1370" for "1371" as section number in item for chapter 69, amended item for chapter 73 to read: "Annuities Based on Retired or Retainer Pay", and capitalized "Assistance", "Persons", "Enlisting", "Active", and "Duty" in item for chapter 107.

Pub. L. 96–450, title IV, §406(b), Oct. 14, 1980, 94 Stat. 1981, added item for chapter 108.

Pub. L. 96–342, title IX, §901(b), Sept. 8, 1980, 94 Stat. 1114, added item for chapter 107.

Pub. L. 96–323, §2(b), Aug. 4, 1980, 94 Stat. 1019, added item for chapter 138.

**1977**—Pub. L. 95–79, title IV, §402(b), July 30, 1977, 91 Stat. 330, added item for chapter 106.

**1972**—Pub. L. 92–426, §2(b), Sept. 21, 1972, 86 Stat. 719, added items for chapters 104 and 105.

Pub. L. 92–425, §2, Sept. 21, 1972, 86 Stat. 711, amended item for chapter 73 by inserting "; Survivor Benefit Plan" after "Pay" which could not be executed as directed in view of amendment by Pub. L. 87–381. See 1961 Amendment note below.

**1968**—Pub. L. 90–377, §2, July 5, 1968, 82 Stat. 288, added item for chapter 48.

**1967**—Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220, struck out item for chapter 80 "Exemplary Rehabilitation Certificates".

**1966**—Pub. L. 89–690, §2, Oct. 15, 1966, 80 Stat. 1017, added item for chapter 80.

**1964**—Pub. L. 88–647, title I, §101(2), title II, §201(2), Oct. 13, 1964, 78 Stat. 1064, 1069, added items for chapters 102 and 103.

**1962**—Pub. L. 87–651, title II, §203, Sept. 7, 1962, 76 Stat. 519, added item for chapter 4.

Pub. L. 87–649, §3(2), Sept. 7, 1962, 76 Stat. 493, added item for chapter 40.

**1961**—Pub. L. 87–381, §1(2), Oct. 4, 1961, 75 Stat. 810, substituted "Retired Serviceman's Family Protection Plan" for "Annuities Based on Retired or Retainer Pay" in item for chapter 73.

**1958**—Pub. L. 85–861, §§1(21), (26), (33), 33(a)(4)(B), Sept. 2, 1958, 72 Stat. 1443, 1450, 1455, 1564, substituted "General Service Requirements" for "Service Requirements for Reserves" in item for chapter 37, "971" for "[No present sections]" in item for chapter 49, "Medical and Dental Care" for "Voting by Members

of Armed Forces" in item for chapter 55, and struck out "Care of the Dead" and substituted "1475" for "1481" in item for chapter 75.

# PART I—ORGANIZATION AND GENERAL MILITARY POWERS


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## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVII, §1701(a)(2), Dec. 18, 2025, 139 Stat. 1207, substituted "Electromagnetic Warfare" for "Electronic Warfare" in item for chapter 25.

**2023**—Pub. L. 118–31, div. A, title XVI, §1682(b), Dec. 22, 2023, 137 Stat. 617, added item for chapter 25.

**2022**—Pub. L. 117–263, div. A, title X, §1081(e)(2), Dec. 23, 2022, 136 Stat. 2798, substituted "Definitions, Rules of Construction, Cross References, and Related Matters" for "Definitions" in item for chapter 1. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(1), Dec. 27, 2021, 135 Stat. 1919, struck out second item for chapter 19 "Cyber Matters".

Pub. L. 116–283, div. A, title X, §1081(a)(1), Jan. 1, 2021, 134 Stat. 3870, added second item for chapter 19.

**2019**—Pub. L. 116–92, div. A, title XVI, §1631(a)(2)(B), title XVII, §1731(a)(1), Dec. 20, 2019, 133 Stat. 1742, 1812, substituted "240a" for "251" in item for chapter 9A and "Cyber and Information Operations Matters" for "Cyber Matters" in first item for chapter 19.

**2017**—Pub. L. 115–91, div. A, title X, §1002(a)(2), Dec. 12, 2017, 131 Stat. 1537, added item for chapter 9A.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(1), Dec. 23, 2016, 130 Stat. 2512, redesignated item for chapter 13 "The Militia" as 12 and substituted "246" for "311", redesignated item for chapter 15 "Insurrection" as 13 and substituted "251" for "331", redesignated item for chapter 17 "Arming of American Vessels" as 14 and substituted "261" for "351", redesignated item for chapter 18 "Military Support for Civilian Law Enforcement Agencies" as 15 and substituted "271" for "371", and added item for chapter 16.

**2015**—Pub. L. 114–92, div. A, title X, §1081(a)(1), Nov. 25, 2015, 129 Stat. 1000, substituted "Cyber

Matters" for "Cyber matters" in first item for chapter 19.

**2014**—Pub. L. 113–291, div. A, title XVI, §1632(d), Dec. 19, 2014, 128 Stat. 3640, added first item for chapter 19.

**2013**—Pub. L. 113–66, div. A, title X, §1091(a)(1), Dec. 26, 2013, 127 Stat. 875, substituted "Nuclear Posture" for "Nuclear posture" in item for chapter 24.

Pub. L. 112–239, div. A, title X, §1031(b)(2), Jan. 2, 2013, 126 Stat. 1918, added item for chapter 24.

**2008**—Pub. L. 110–181, div. A, title X, §1068(a)(4)(B), Jan. 28, 2008, 122 Stat. 326, substituted "Insurrection" for "Enforcement of the Laws to Restore Public Order" in item for chapter 15.

**2006**—Pub. L. 109–364, div. A, title X, §1076(a)(4)(A), Oct. 17, 2006, 120 Stat. 2405, substituted "Enforcement of the Laws to Restore Public Order" for "Insurrection" in item for chapter 15.

**2004**—Pub. L. 108–375, div. A, title X, §1084(d)(1), Oct. 28, 2004, 118 Stat. 2061, substituted "480" for "481" in item for chapter 23.

**2003**—Pub. L. 108–136, div. A, title IX, §921(d)(8), Nov. 24, 2003, 117 Stat. 1569, substituted "Geospatial-Intelligence" for "Imagery and Mapping" in item for chapter 22.

**1997**—Pub. L. 105–85, div. A, title X, §1073(a)(1), Nov. 18, 1997, 111 Stat. 1900, substituted "481" for "471" in item for chapter 23.

**1996**—Pub. L. 104–201, div. A, title XI, §1123(a)(2), Sept. 23, 1996, 110 Stat. 2688, substituted "National Imagery and Mapping Agency" for "Miscellaneous Studies and Reports" and "441" for "451" in item for chapter 22 and added item for chapter 23.

**1994**—Pub. L. 103–337, div. A, title V, §554(a)(2), Oct. 5, 1994, 108 Stat. 2773, added item for chapter 22.

**1991**—Pub. L. 102–190, div. A, title X, §1002(a)(2), Dec. 5, 1991, 105 Stat. 1455, substituted "Defense Budget Matters" for "Regular Components" and inserted "221" in item for chapter 9.

**1988**—Pub. L. 100–456, div. A, title XI, §1104(b), Sept. 29, 1988, 102 Stat. 2046, substituted "Support for" for "Cooperation With" and "Agencies" for "Officials" in item for chapter 18.

**1987**—Pub. L. 100–180, div. A, title III, §332(c), Dec. 4, 1987, 101 Stat. 1080, substituted "Humanitarian and Other Assistance" for "Humanitarian and Civic Assistance Provided in Conjunction With Military Operations" in item for chapter 20.

Pub. L. 100–26, §9(b)(4), Apr. 21, 1987, 101 Stat. 287, added item for chapter 21.

**1986**—Pub. L. 99–661, div. A, title III, §333(a)(2), Nov. 14, 1986, 100 Stat. 3859, added item for chapter 20.

Pub. L. 99–433, title VI, §605(a), Oct. 1, 1986, 100 Stat. 1075a, added items for chapters 2 and 6, inserted "and Functions" in item for chapter 3, substituted "Office of the Secretary of Defense" for "Department of Defense" in item for chapter 4, substituted "151" for "141" as section number in item for chapter 5, reenacted item for chapter 7 without change, and inserted "and Department of Defense Field activities" in item for chapter 8.

**1982**—Pub. L. 97–269, title V, §501(b), Sept. 27, 1982, 96 Stat. 1145, added item for chapter 8.

**1981**—Pub. L. 97–86, title IX, §905(a)(2), Dec. 1, 1981, 95 Stat. 1116, added item for chapter 18.

**1962**—Pub. L. 87–651, title II, §203, Sept. 7, 1962, 76 Stat. 519, added item for chapter 4.

# CHAPTER 1—DEFINITIONS, RULES OF CONSTRUCTION, CROSS REFERENCES, AND RELATED MATTERS

Sec.
101. Definitions.
102. Effect of certain amendments on conforming changes to tables of sections, tables of contents, and similar tabular entries.

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263, div. A, title X, §1081(e)(1), (2), Dec. 23, 2022, 136 Stat. 2798, substituted "DEFINITIONS, RULES OF CONSTRUCTION, CROSS REFERENCES, AND RELATED MATTERS" for "DEFINITIONS" in chapter heading and added item 102. Addition of item 102 was made pursuant to operation of section 102 of this title.

## §101. Definitions

(a) IN GENERAL.—The following definitions apply in this title:

(1) The term "United States", in a geographic sense, means the States and the District of Columbia.

[(2) Repealed. Pub. L. 109–163, div. A, title X, §1057(a)(1), Jan. 6, 2006, 119 Stat. 3440.]

(3) The term "possessions" includes the Virgin Islands, Guam, American Samoa, and the Guano Islands, so long as they remain possessions, but does not include any Commonwealth.

(4) The term "armed forces" means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(5) The term "uniformed services" means—

(A) the armed forces;

(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(C) the commissioned corps of the Public Health Service.

(6) The term "department", when used with respect to a military department, means the executive part of the department and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, such term means the executive part of the department, including the executive parts of the military departments, and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of Defense, including those of the military departments.

(7) The term "executive part of the department" means the executive part of the Department of Defense, Department of the Army, Department of the Navy, or Department of the Air Force, as the case may be, at the seat of government.

(8) The term "military departments" means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

(9) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Department of the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force and the Space Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

(10) The term "service acquisition executive" means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.

(11) The term "Defense Agency" means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

(B) that is designated by the Secretary of Defense as a Defense Agency.

(12) The term "Department of Defense Field Activity" means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department; and

(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.

(13) The term "contingency operation" means a military operation that—

(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of this title, chapter 13 of this title, section 3713 of title 14, or any other provision of law during a war or during a national emergency declared by the President or Congress.

(14) The term "supplies" includes material, equipment, and stores of all kinds.

(15) The term "pay" includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(16) The term "congressional defense committees" means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(17) The term "base closure law" means the following:

(A) Section 2687 of this title.

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(C) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(18) The term "acquisition workforce" means the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of this title.

(19) The term "climate resilience" means the capability to avoid, prepare for, minimize the effect of, adapt to, and recover from, extreme weather, or from anticipated or unanticipated changes in environmental conditions, that do (or have the potential to) adversely affect the national security of the United States or of allies and partners of the United States.

(20) The term "extreme weather" means recurrent flooding, drought, desertification, wildfires, thawing permafrost, sea level fluctuation, changes in mean high tides, or any other weather-related event, or anticipated change in environmental conditions, that present (or are projected to present) a recurring annual threat to the climate security of the United States or of allies and partners of the United States.

(21) The term "major weapon system" means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 4201 of this title).

(b) PERSONNEL GENERALLY.—The following definitions relating to military personnel apply in this title:

(1) The term "officer" means a commissioned or warrant officer.

(2) The term "commissioned officer" includes a commissioned warrant officer.

(3) The term "warrant officer" means a person who holds a commission or warrant in a warrant officer grade.

(4) The term "general officer" means an officer of the Army, Air Force, Marine Corps, or Space Force serving in or having the grade of general, lieutenant general, major general, or brigadier general.

(5) The term "flag officer" means an officer of the Navy or Coast Guard serving in or having the grade of admiral, vice admiral, rear admiral, or rear admiral (lower half).

(6) The term "enlisted member" means a person in an enlisted grade.

(7) The term "grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) The term "rank" means the order of precedence among members of the armed forces.

(9) The term "rating" means the name (such as "boatswain's mate") prescribed for members of an armed force in an occupational field. The term "rate" means the name (such as "chief boatswain's mate") prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

(10) The term "original", with respect to the appointment of a member of the armed forces in a regular or reserve component, refers to that member's most recent appointment in that component that is neither a promotion nor a demotion and, with respect to the appointment of a member of the armed forces in the Space Force, refers to that member's most recent appointment in the Space Force that is neither a promotion nor a demotion.

(11) The term "authorized strength" means the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces.

(12) The term "regular", with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office in a regular component of an armed force.

(13) The term "active-duty list" means a single list for the Army, Navy, Air Force, Marine Corps, or Space Force (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers described in section 641 of this title, who are serving on active duty.

(14) The term "medical officer" means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer.

(15) The term "dental officer" means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

(16) The term "Active Guard and Reserve" means a member of a reserve component who is on active duty pursuant to section 12301(d) of this title or, if a member of the Army National Guard or Air National Guard, is on full-time National Guard duty pursuant to section 502(f) of title 32, and who is performing Active Guard and Reserve duty.

(c) RESERVE COMPONENTS.—The following definitions relating to the reserve components apply in this title:

(1) The term "National Guard" means the Army National Guard and the Air National Guard.

(2) The term "Army National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(3) The term "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard.

(4) The term "Air National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(5) The term "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(6) The term "reserve", with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office held as a Reserve of one of the armed forces.

(7) The term "reserve active-status list" means a single list for the Army, Navy, Air Force, or

Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.

(d) DUTY STATUS.—The following definitions relating to duty status apply in this title:

(1) The term "active duty" means full-time duty in the active military service of the United States, including sustained duty in the Space Force. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

(2) The term "active duty for a period of more than 30 days" means active duty under a call or order that does not specify a period of 30 days or less.

(3) The term "active service" means service on active duty or full-time National Guard duty.

(4) The term "active status" means the status of a member of a reserve component who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve.

(5) The term "full-time National Guard duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

(6)(A) The term "active Guard and Reserve duty" means active duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard pursuant to an order to full-time National Guard duty, for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(B) Such term does not include the following:

(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 10301 of this title.

(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

(iv) Duty performed as a general or flag officer.

(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. 3809(b)(2)).

(7) The term "inactive-duty training" means—

(A) duty prescribed for Reserves, or a member of the Space Force, by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves, or a member of the Space Force, by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

(e) SPACE FORCE.—The following definitions relating to members of the Space Force apply in this title:

(1) The term "space force active status" means the status of a member of the Space Force who is not in a space force inactive status and is not retired.

(2) The term "space force inactive status" means the status of a member of the Space Force who is designated by the Secretary of the Air Force, under regulations prescribed by the Secretary, as being in a space force inactive status.

(3) The term "space force retired status" means the status of a member of the Space Force who—

(A) is receiving retired pay ; or

(B) but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

(4) The term "sustained duty" means full-time duty by a member of the Space Force ordered to such duty by an authority designated by the Secretary of the Air Force—

(A) in the case of an officer—

(i) to fulfill the terms of an active-duty service commitment incurred by the officer under any provision of law; or

(ii) with the consent of the officer; and

(B) in the case of an enlisted member, with the consent of the enlisted member as specified in the terms of the member's enlistment or reenlistment agreement.

(f) FACILITIES AND OPERATIONS.—The following definitions relating to facilities and operations apply in this title:

(1) RANGE.—The term "range", when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. Such term includes the following:

(A) Firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas.

(B) Airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration.

(2) RANGE ACTIVITIES.—The term "range activities" means—

(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and

(B) the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems.

(3) OPERATIONAL RANGE.—The term "operational range" means a range that is under the jurisdiction, custody, or control of the Secretary of a military department and—

(A) that is used for range activities, or

(B) although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities.

(4) MILITARY MUNITIONS.—(A) The term "military munitions" means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard.

(B) Such term includes the following:

(i) Confined gaseous, liquid, and solid propellants.

(ii) Explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents.

(iii) Chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges.

(iv) Devices and components of any item specified in clauses (i) through (iii).

(C) Such term does not include the following:
(i) Wholly inert items.
(ii) Improvised explosive devices.
(iii) Nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

(5) UNEXPLODED ORDNANCE.—The term "unexploded ordnance" means military munitions that—
(A) have been primed, fused, armed, or otherwise prepared for action;
(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and
(C) remain unexploded, whether by malfunction, design, or any other cause.

(6) ENERGY RESILIENCE.—The term "energy resilience" means the ability to avoid, prepare for, minimize, adapt to, and recover from anticipated and unanticipated energy disruptions in order to ensure energy availability and reliability sufficient to provide for mission assurance and readiness, including mission essential operations related to readiness, and to execute or rapidly reestablish mission essential requirements.
(7) ENERGY SECURITY.—The term "energy security" means having assured access to reliable supplies of energy and the ability to protect and deliver sufficient energy to meet mission essential requirements.
(8) MILITARY INSTALLATION RESILIENCE.—The term "military installation resilience" means the capability of a military installation to avoid, prepare for, minimize the effect of, adapt to, and recover from extreme weather events, anticipated or unanticipated changes in environmental conditions, energy or water disruptions, or human-induced hazards with respect to the environment, that do, or have the potential to, adversely affect the military installation or essential transportation, logistical, or other necessary resources outside of the military installation that are necessary in order to maintain, improve, or rapidly reestablish installation mission assurance and mission-essential functions.

(g) RULES OF CONSTRUCTION.—In this title—
(1) "shall" is used in an imperative sense;
(2) "may" is used in a permissive sense;
(3) "no person may * * *" means that no person is required, authorized, or permitted to do the act prescribed;
(4) "includes" means "includes but is not limited to"; and
(5) "spouse" means husband or wife, as the case may be.

(h) REFERENCE TO TITLE 1 DEFINITIONS.—For other definitions applicable to this title, see sections 1 through 5 of title 1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 3; Pub. L. 85–861, §§1(1), 33(a)(1), Sept. 2, 1958, 72 Stat. 1437, 1564; Pub. L. 86–70, §6(a), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, §4(a), July 12, 1960, 74 Stat. 411; Pub. L. 87–649, §6(f)(1), Sept. 7, 1962, 76 Stat. 494; Pub. L. 90–235, §7(a)(1), Jan. 2, 1968, 81 Stat. 762; Pub. L. 90–623, §2(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92–492, §1, Oct. 13, 1972, 86 Stat. 810; Pub. L. 96–513, title I, §§101, 115(a), title V, §501(2), Dec. 12, 1980, 94 Stat. 2839, 2877, 2907; Pub. L. 97–22, §2(a), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title IV, §414(a)(1), Oct. 19, 1984, 98 Stat. 2518; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–348, title III, §303, July 1, 1986, 100 Stat. 703; Pub. L. 99–433, title III, §302, Oct. 1, 1986, 100 Stat. 1022; Pub. L.

100–26, §7(i), (k)(1), Apr. 21, 1987, 101 Stat. 282, 283; Pub. L. 100–180, div. A, title XII, §§1231(1), (20), 1233(a)(2), Dec. 4, 1987, 101 Stat. 1160, 1161; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–510, div. A, title XII, §1204, Nov. 5, 1990, 104 Stat. 1658; Pub. L. 102–190, div. A, title VI, §631(a), Dec. 5, 1991, 105 Stat. 1380; Pub. L. 102–484, div. A, title X, §1051(a), Oct. 23, 1992, 106 Stat. 2494; Pub. L. 103–337, div. A, title V, §514, title XVI, §§1621, 1671(c)(1), Oct. 5, 1994, 108 Stat. 2753, 2960, 3014; Pub. L. 104–106, div. A, title XV, §1501(c)(1), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104–201, div. A, title V, §522, Sept. 23, 1996, 110 Stat. 2517; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, §§1042(a), 1043(a), 1045(a)(2), Nov. 24, 2003, 117 Stat. 1608, 1610, 1612; Pub. L. 108–375, div. A, title X, §1084(a), Oct. 28, 2004, 118 Stat. 2060; Pub. L. 109–163, div. A, title X, §§1056(c)(1), 1057(a)(1), (2), Jan. 6, 2006, 119 Stat. 3439, 3440; Pub. L. 109–364, div. A, title V, §524, Oct. 17, 2006, 120 Stat. 2193; Pub. L. 111–383, div. A, title VIII, §876, Jan. 7, 2011, 124 Stat. 4305; Pub. L. 112–81, div. A, title V, §515(b), Dec. 31, 2011, 125 Stat. 1395; Pub. L. 112–239, div. A, title VI, §681(a), Jan. 2, 2013, 126 Stat. 1795; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(i), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 115–91, div. B, title XXVIII, §2831(d), Dec. 12, 2017, 131 Stat. 1858; Pub. L. 115–232, div. A, title III, §312(f), title XII, §1204(a)(3), div. B, title XXVIII, §2805(e), Aug. 13, 2018, 132 Stat. 1711, 2017, 2263; Pub. L. 116–92, div. A, title IX, §§952(c), 958(a)(1), Dec. 20, 2019, 133 Stat. 1562, 1567; Pub. L. 116–283, div. A, title IX, §924(a), title X, §1081(a)(5), Jan. 1, 2021, 134 Stat. 3820, 3871; Pub. L. 117–81, div. A, title III, §332(c), Dec. 27, 2021, 135 Stat. 1638; Pub. L. 118–31, div. A, title XVII, §§1713, 1716(b)(1), 1741(a)(3), Dec. 22, 2023, 137 Stat. 625, 633, 679; Pub. L. 119–60, div. A, title VIII, §811(c)(1), div. B, title XXVIII, §2801, Dec. 18, 2025, 139 Stat. 950, 1291.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 101(1) | 50:351 (clause (b)). | Sept. 16, 1942, ch. 561, §401 (clause (b)); added Apr. 1, 1944, ch. 150, §401 (clause (b)); restated Apr. 19, 1946, ch. 142, §401 (clause (b)), 60 Stat. 102. |
| 101(2) | 32:4c (1st 33 words). | |
| 101(3) | [No source]. | |
| 101(4) | 50:901(e). | |
| 101(5) | 5:181–1(c) (for definition purposes); 5:411a(a) (for definition purposes); 5:626(c) (for definition purposes). | July 9, 1952, ch. 608, §101(d) (less 2d sentence), (e), (g), §702 (for definition purposes), 66 Stat. 481, 482, 501. |
| 101(6) | [No source]. | |
| 101(7) | 5:171(b) (last 23 words of clause (1), for definition purposes). | |
| 101(8) | 10:600(a); 34:135(a). | July 26, 1947, ch. 343, §§205(c) (for definition purposes), 206(a) (for definition purposes), 207(c) (for definition purposes), 61 Stat. 501, 502. |
| 101(9) | [No source]. | |
| 101(10) | 32:2 (for definition purposes); 32:4b (for definition purposes). | |
| 101(11) | 50:1112(a) (for definition purposes). | |
| 101(12) | 10:1835 (less last 16 words, for definition purposes); 32:2 (for definition purposes); 32:4b (for definition purposes). 50:1112(b) (for definition purposes). | July 26, 1947, ch. 343, §201(b) (last 31 words of clause (1), for definition purposes); restated Aug. 10, 1949, ch. 412, §4 (last 31 words of clause (1) of 201(b), for definition purposes), 63 Stat. 579. |
| 101(13) | 5:181–3(b) (less last sentence); 10:1a(b) (less last sentence); | June 3, 1916, ch. 134, §62 (1st 36 words of last proviso), 39 Stat. 198. |

| | | |
|---|---|---|
| 101(14) | 10:1801(b) (less last sentence); 37:231(c) (1st sentence, for definition purposes); 50:901(g). | June 3, 1916, ch. 134, §117 (for definition purposes), 39 Stat. 212. |
| 101(15) | [No source]. | |
| 101(16) | 10:600(b); 34:135(b). | June 3, 1916, ch. 134, §71 (for definition purposes); added June 15, 1933, ch. 87, §9 (for definition purposes), 48 Stat. 157; Oct. 12, 1949, ch. 681, §530 (for definition purposes), 63 Stat. 837; July 9, 1952, ch. 608, §803 (9th par., for definition purposes), 66 Stat. 505. |
| 101(17) | 5:181–3(b) (last sentence); 10:1a(b) (last sentence); 10:1801(b) (last sentence); 50:551(9). | |
| 101(18) | [No source]. | |
| 101(19) | [No source]. | |
| 101(20) | [No source]. | |
| 101(21) | [No source]. | |
| 101(22) | 10:1036e(d) (for definition purposes); 34: 440m(d) (for definition purposes). | |
| 101(23) | [No source]. | Sept. 19, 1951, ch. 407, §§2(b), 305 (less last 16 words, for definition purposes), 65 Stat. 326, 330. |
| 101(24) | [No source]. | |
| 101(26) | [No source]. | |
| 101(27) | [No source]. | |
| 101(28) | [No source]. | |
| 101(29) | [No source]. | June 28, 1950, ch. 383, §2(b), 64 Stat. 263; July 9, 1952, ch. 608, §807(a), 66 Stat. 508. |
| 101(30) | [No source]. | |
| 101(31) | 50:901(d) (less 2d sentence). | |
| 101(32) | [No source]. | Oct. 12, 1949, ch. 681, §102(c) (1st sentence, for definition purposes), 63 Stat. 804. |
| 101(33) | [No source]. | |
| 101(34) | [No source]. | |
| | | May 5, 1950, ch. 169, §1 (Art. 1 (clause (9))), 64 Stat. 108. |
| | | May 29, 1954, ch. 249, §2(a), (b), 68 Stat. 157. |
| | | June 29, 1948, ch. 708, §306(d) (for definition purposes), 62 Stat. 1089. |

The definitions in clauses (3), (15), (18)–(21), (23)–(30), and (31)–(33) reflect the adoption of terminology which, though undefined in the source statutes restated in this title, represents the closest practicable approximation of the ways in which the terms defined have been most commonly used. A choice has been made where established uses conflict.

In clause (2), the definition of "Territory" in 32:4c is executed throughout this revised title by specific reference, where applicable, to the Territories, Puerto Rico and the Canal Zone.

In clause (4), the definition of "armed forces" is based on the source statute instead of 50:551(2), which does not include an express reference to the Marine Corps. The words "including all components thereof" are omitted as surplusage.

In clause (5), the term "Department" is defined to give it the broad sense of "Establishment", to conform to the source statute and the usage preferred by the Department of Defense, instead of the more limited sense defined by 5:421g(a) and 423a(a), and 10:1a(d) and 1801(d).

In clause (6), the term "executive part of the department" is created for convenience in referring to what is described in the source statutes for this title as "department" in the limited sense of the executive part at the seat of government. This is required by the adoption of the word "department" in clause (5) to cover the broader concept of "establishment".

In clause (8), the term "Secretary concerned" is created and defined for legislative convenience.

In clause (9), a definition of "National Guard" is inserted for clarity.

In clause (10)(A), the words "a land force" are substituted for 32:2 (as applicable to Army National Guard).

The National Defense Act of 1916, §117 (last 66 words), 39 Stat. 212, is not contained in 32:2. It is also omitted from the revised section as repealed by the Act of February 28, 1925, ch. 374, §3, 43 Stat. 1081.

In clauses (10) and (11), the word "Army" is inserted to distinguish the organizations defined from their Air Force counterparts.

In clauses (10) and (12), the words "unless the context or subject matter otherwise requires" and "as provided in this title", in 32:4b, are omitted as surplusage.

In clauses (10)(B) and (12)(B), the words "has its officers appointed" are substituted for the word "officered", in 32:4b.

In clauses (11) and (13), only that much of the description of the composition of the Army National Guard of the United States and the Air National Guard of the United States is used as is necessary to distinguish these reserve components, respectively, from the other reserve components.

In clause (12)(A), the words "an air force" are substituted for the words "for which Federal responsibility has been vested in the Secretary of the Air Force or the Department of the Air Force pursuant to law", in 10:1835, and for 32:2 (as applicable to Air National Guard), to make the definition of "Air National Guard" parallel with the definition of "Army National Guard", and to make explicit the intent of Congress, in creating the Air National Guard, that the organized militia henceforth should consist of three mutually exhaustive classes comprising the Army, Air, and Naval militia.

In clause (14), the definition of "officer" is based on the source statutes instead of 50:551(5), which excludes warrant officers. The reference to appointment in 10:1a(b) (2d sentence and 10:1801(b) (2d sentence), and the words "commissioned warrant officer", "flight officer", and "either permanent or temporary", in 37:231(c) (1st sentence), are omitted as surplusage. 5:181–3(b) (1st sentence), 10:1a(b) (1st sentence), and 10:1801(b) (1st sentence) are omitted as covered by the definitions in clauses (14) and (16) of the revised section and by section 3062(c) and section 8062(d) of this title.

In clause (16), the words "unless otherwise qualified", "permanent or temporary", and "in the Army, Navy, Air Force, Marine Corps, or Coast Guard, including any component thereof" are omitted as surplusage. The word "person" is substituted for the word "officer".

In clause (22), the definition of "active duty" is based on the definition of "active Federal service" in the source statute, since it is believed to be closer to general usage than the definition in 50:901(b), which excludes active duty for training from the general concept of active duty.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 101(25) | 50:1181(6). | Sept. 3, 1954, ch. 1257, §102(6), 68 Stat. 1150. |

The words ", other than a commissioned warrant officer," are inserted to reflect 50:1181(1).

[Clause (35).] The word "original" is defined to make clear that when used in relation to an appointment it refers to the member's first appointment in his current series of appointments and excludes any appointment made before a lapse in service.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 125(d) of this title, referred to in subsec. (a)(12)(A), was repealed by Pub. L. 99–433, title III, §301(b)(1), Oct. 1, 1986, 100 Stat. 1022.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(17)(B), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, which is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Tables.

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(17)(C), is Pub. L. 100–526, Oct. 24, 1988, 102 Stat. 2623. Title II of the Act is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (f)(4)(C)(iii), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

## CODIFICATION

Pub. L. 107–296, §1704(b)(1), which directed amendment of section 101(9) of this title by substituting of "of Homeland Security" for "of Transportation" wherever appearing, could not be executed because there is no section 101(9).

## AMENDMENTS

**2025**—Subsec. (a)(21). Pub. L. 119–60, §811(c)(1), added par. (21).

Subsec. (f)(8). Pub. L. 119–60, §2801, struck out "or from" before "anticipated or unanticipated changes in environmental conditions" and inserted ", energy or water disruptions, or human-induced hazards with respect to the environment" before ", that do".

**2023**—Subsec. (b)(4). Pub. L. 118–31, §1741(a)(3), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (b)(10). Pub. L. 118–31, §1716(b)(1), inserted before period at end "and, with respect to the appointment of a member of the armed forces in the Space Force, refers to that member's most recent appointment in the Space Force that is neither a promotion nor a demotion".

Subsec. (d)(1). Pub. L. 118–31, §1713(b)(1), inserted ", including sustained duty in the Space Force" after "United States".

Subsec. (d)(7). Pub. L. 118–31, §1713(b)(2), inserted ", or a member of the Space Force," after "Reserves" in subpars. (A) and (B).

Subsecs. (e) to (h). Pub. L. 118–31, §1713(a), added subsec. (e) and redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

**2021**—Subsec. (a)(13)(B). Pub. L. 116–283, §1081(a)(5), substituted "section 3713" for "section 712".

Subsec. (a)(19), (20). Pub. L. 117–81 added pars. (19) and (20).

Subsec. (b)(13). Pub. L. 116–283, §924(a), substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2019**—Subsec. (a)(4). Pub. L. 116–92, §952(c), inserted "Space Force," after "Marine Corps,".

Subsec. (a)(9)(C). Pub. L. 116–92, §958(a)(1), inserted "and the Space Force" after "concerning the Air Force".

**2018**—Subsec. (a)(13)(B). Pub. L. 115–232, §1204(a)(3), substituted "chapter 13" for "chapter 15".

Subsec. (e)(6). Pub. L. 115–232, §312(f), struck out "task critical assets and other" before "mission essential operations".

Subsec. (e)(8). Pub. L. 115–232, §2805(e), added par. (8).

**2017**—Subsec. (e)(6), (7). Pub. L. 115–91 added pars. (6) and (7).

**2016**—Subsec. (d)(6)(B)(v). Pub. L. 114–328 substituted "(50 U.S.C. 3809(b)(2))" for "(50 U.S.C. App. 460(b)(2))".

**2013**—Subsec. (a)(13)(B). Pub. L. 112–239 inserted "section 712 of title 14," after "chapter 15 of this title,".

**2011**—Subsec. (a)(13)(B). Pub. L. 112–81 inserted "12304a," after "12304,".

Subsec. (a)(18). Pub. L. 111–383 added par. (18).

**2006**—Subsec. (a)(2). Pub. L. 109–163, §1057(a)(1), struck out par. (2) which read as follows: "The term 'Territory' (except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States) means any Territory organized after August 10, 1956, so long as it remains a Territory."

Subsec. (a)(3). Pub. L. 109–163, §1057(a)(2), struck out "Territory or" before "Commonwealth".

Subsec. (b)(16). Pub. L. 109–364, §524(1), added par. (16).

Subsec. (d)(6)(A). Pub. L. 109–364, §524(2), struck out "or full-time National Guard duty" after "means active duty" and substituted "pursuant to an order to full-time National Guard duty," for ", pursuant to an order to active duty or full-time National Guard duty".

Subsec. (e)(4)(B)(ii). Pub. L. 109–163, §1056(c)(1), struck out comma after "bulk explosives".

**2004**—Subsec. (e)(3). Pub. L. 108–375 substituted "Secretary of a military department" for "Secretary of Defense" in introductory provisions.

**2003**—Subsec. (a)(9)(D). Pub. L. 108–136, §1045(a)(2), substituted "Homeland Security" for "Transportation".

Subsec. (a)(16), (17). Pub. L. 108–136, §1043(a), added pars. (16) and (17).

Subsecs. (e) to (g). Pub. L. 108–136, §1042(a), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**1996**—Subsec. (d)(4). Pub. L. 104–201 substituted "a member of a reserve component" for "a reserve commissioned officer, other than a commissioned warrant officer,".

Subsec. (d)(6)(B)(i). Pub. L. 104–160 substituted "section 10301" for "section 175".

**1994**—Subsec. (a)(13)(B). Pub. L. 103–337, §1671(c)(1), substituted "688, 12301(a), 12302, 12304, 12305, or 12406" for "672(a), 673, 673b, 673c, 688, 3500, or 8500".

Subsec. (c)(7). Pub. L. 103–337, §1621, added par. (7).

Subsec. (d)(6), (7). Pub. L. 103–337, §514, added par. (6) and redesignated former par. (6) as (7).

**1992**—Pub. L. 102–484 amended section generally, substituting subsecs. (a) to (f) for former pars. (1) to (47) which defined terms for purposes of this title.

**1991**—Par. (47). Pub. L. 102–190 added par. (47).

**1990**—Par. (46). Pub. L. 101–510 added par. (46).

**1988**—Pars. (3), (10), (12). Pub. L. 100–456 struck out "the Canal Zone," after "the Virgin Islands," in par. (3) and after "Puerto Rico," in pars. (10) and (12).

**1987**—Par. (1). Pub. L. 100–26, §7(k)(1)(A), inserted "The term" after par. designation.

Par. (2). Pub. L. 100–26, §7(1)(k)(B), inserted "the term" after "Air National Guard of the United States,".

Pub. L. 100–180, §1233(a)(2), amended directory language of Pub. L. 100–26, §7(k)(1)(C), by adding par. (2) to those pars. excepted from direction that initial letter of first word after open quotation marks in each par. be made lowercase rather than uppercase.

Pars. (3) to (7). Pub. L. 100–26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (8) to (13). Pub. L. 100–26, §7(k)(1)(A), inserted "The term" after par. designation.

Par. (14). Pub. L. 100–180, §1231(1), inserted "a" after "means".

Pub. L. 100–26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (15) to (19). Pub. L. 100–26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Par. (20). Pub. L. 100–180, §1231(20), substituted "The term 'rate" for " 'Rate" in second sentence.

Pub. L. 100–26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (21) to (43). Pub. L. 100–26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (44), (45). Pub. L. 100–26, §7(i)(1), (k)(1)(A), inserted "The term" after par. designation and substituted "October 1, 1986" for "the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986".

**1986**—Par. (43). Pub. L. 99–348 added par. (43).

Pars. (44), (45). Pub. L. 99–433 added pars. (44) and (45).

**1985**—Par. (41). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Par. (22). Pub. L. 98–525, §414(a)(1)(A), inserted "It does not include full-time National Guard duty."

Par. (24). Pub. L. 98–525, §414(a)(1)(B), inserted "or full-time National Guard duty".

Par. (42). Pub. L. 98–525, §414(a)(1)(C), added par. (42).

**1981**—Par. (41). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Pub. L. 97–22 inserted "or Coast Guard" after "Navy".

**1980**—Par. (22). Pub. L. 96–513, §501(2), struck out "duty on the active list," after "It includes".

Par. (36). Pub. L. 96–513, §115(a), struck out par. (36) which provided that "dependent", with respect to a female member of an armed force, did not include her husband, unless he was in fact dependent on her for his chief support, or her child, unless his father was dead or he was in fact dependent on her for his chief support.

Pars. (37) to (41). Pub. L. 96–513, §101, added pars. (37) to (41).

**1972**—Par. (2). Pub. L. 92–492 inserted "Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States," before "Territory".

**1968**—Par. (8)(D). Pub. L. 90–623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

Par. 36. Pub. L. 90–235 added par. (36).

**1962**—Par. (31)(A). Pub. L. 87–649 substituted "section 206 of title 37" for "section 301 of title 37".

**1960**—Par. (2). Pub. L. 80–624 struck out reference to Hawaii.

**1959**—Par. (2). Pub. L. 80–70 struck out reference to Alaska.

**1958**—Par. (25). Pub. L. 85–861, §1(1), added par. (25).

Par. (35). Pub. L. 85–861, §33(a)(1), added par. (35).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VI, §681(d), Jan. 2, 2013, 126 Stat. 1795, provided that:

"(1) INCLUSION OF PRIOR ORDERS.—The amendments made by this section [amending this section, section 12731 of this title, and section 3301 of Title 38, Veterans' Benefits] shall apply to any call or order to active duty authorized under section 712 [now 3713] of title 14, United States Code, on or after December 31, 2011, by the Secretary of the executive department in which the Coast Guard is operating.

"(2) CREDIT FOR PRIOR SERVICE.—The amendments made by this section shall be deemed to have been enacted on December 31, 2011, for purposes of applying the amendments to the following provisions of law:

"(A) Section 5538 of title 5, United States Code, relating to nonreduction in pay.

"(B) Section 701 of title 10, United States Code, relating to the accumulation and retention of leave.

"(C) Section 12731 of title 10, United States Code, relating to age and service requirements for receipt of retired pay for non-regular service."

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–296, title XVII, §1704(g), Nov. 25, 2002, 116 Stat. 2316, provided that: "The amendments made by this section (other than subsection (f)) [see Tables for classification] shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security]."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1621 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–180, div. A, title XII, §1233(c)[(1)], Dec. 4, 1987, 101 Stat. 1161, provided that: "The amendments made by subsection (a) [amending this section, section 2432 of this title, and section 406b of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100–26)."

### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–86, title IV, §405(f), Dec. 1, 1981, 95 Stat. 1106, provided that: "The amendments made by this section [amending this section, sections 525, 601, 611, 612, 619, 625, 634, 635, 637, 638, 645, 741, 5138, 5149, 5155, 5442, 5444, 5457, 5501, and 6389 of this title, section 201 of Title 37, Pay and Allowances of the Uniformed Services, and a provision set out as a note under section 611 of this title] shall take effect as of September 15, 1981."

### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–513, title VII, §701, Dec. 12, 1980, 94 Stat. 2955, provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on September 15, 1981.

"(b)(1) The authority to prescribe regulations under the amendments made by titles I through IV and under the provisions of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

"(2) The amendment made by section 415 [enacting section 302(h) of Title 37, Pay and Allowances of the Uniformed Services] shall take effect as of July 1, 1980.

"(3) The amendments made by part B of title V shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

"(4) Part D of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980]."

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Inconsistent Provisions note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–861, §33(g), Sept. 2, 1958, 72 Stat. 1568, provided that: "This section [see Tables for classification] is effective as of August 10, 1956, for all purposes."

## SHORT TITLE OF 2025 AMENDMENT

Pub. L. 119–18, §1, June 12, 2025, 139 Stat. 68, provided that: "This Act [amending provisions set out as a note under section 2576 of this title] may be cited as the 'Aerial Firefighting Enhancement Act of 2025'."

## SHORT TITLE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title XVII, §1701, Dec. 22, 2023, 137 Stat. 624, provided that: "This title [see Tables for classification] may be cited as the 'Space Force Personnel Management Act'."

## SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title IX, §951, Dec. 20, 2019, 133 Stat. 1561, provided that: "This subtitle [subtitle D (§§951–961) of div. A of Pub. L. 116–92, see Tables for classification] may be cited as the 'United States Space Force Act'."

## SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title VI, §621(a), Aug. 13, 2018, 132 Stat. 1798, provided that: "This section [enacting section 1065 of this title and provisions set out as a note under section 1065 of this title] may be cited as the 'Purple Heart and Disabled Veterans Equal Access Act of 2018'."

## SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–328, div. E, §5001, Dec. 23, 2016, 130 Stat. 2894, provided that: "This division [div. E (§§5001–5542) of Pub. L. 114–328, see Tables for classification] may be cited as the 'Military Justice Act of 2016'."

## SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title VIII, §860, Jan. 7, 2011, 124 Stat. 4287, provided that: "This subtitle [subtitle F (§§860–896) of title VIII of div. A of Pub. L. 111–383, see Tables for classification] may be cited as the 'Improve Acquisition Act of 2010'."

## SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–23, §1(a), May 22, 2009, 123 Stat. 1704, provided that: "This Act [enacting sections 139c, 139d, 2334, and 2433a of this title, amending sections 139a, 181, 2306b, 2366a, 2366b, 2430, 2433, 2434, 2445c, 2501, and 2505 of this title and section 5315 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 139a, 139c, 181, 2302, 2366a, 2366b, 2430, and 2433a of this title, and amending provisions set out as a note under section 2304 of this title] may be cited as the 'Weapon Systems Acquisition Reform Act of 2009'."

## SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–317, §1(a), Aug. 29, 2008, 122 Stat. 3526, provided that: "This Act [amending sections 1145, 1146, and 1174 of this title, sections 2108 and 8521 of Title 5, Government Organization and Employees, section 685 of Title 26, Internal Revenue Code, section 303a of Title 37, Pay and Allowances of the Uniformed Services, and sections 3011, 3012, 3702, and 4211 of Title 38, Veterans' Benefits, and enacting provisions set out as notes under section 2108 of Title 5 and section 685 of Title 26] may be cited as the 'Hubbard Act'."

Pub. L. 110–181, div. A, title VIII, §800, Jan. 28, 2008, 122 Stat. 202, provided that: "This title [see Tables for classification] may be cited as the 'Acquisition Improvement and Accountability Act of 2007'."

Pub. L. 110–181, div. A, title XVIII, §1801, Jan. 28, 2008, 122 Stat. 496, provided that: "This title [enacting section 10508 of this title, amending sections 113, 164, 526, 10501 to 10503, 10541, 14508, 14511, and 14512 of this title, and enacting provisions set out as notes under sections 113 and 164 of this title and section 104 of Title 32, National Guard] may be cited as the 'National Guard Empowerment Act of 2007'."

## SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–148, div. A, title VIII, §8126(a), Dec. 30, 2005, 119 Stat. 2728, which provided that this Act, probably meaning section 8126 of div. A of Pub. L. 109–148, which amended section 2554 of this title and section 5309 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 2554 of this title and section 301 of Title 5, Government Organization and Employees, could be cited as the "Support Our Scouts Act of 2005", was repealed by Pub. L. 109–364, div. A, title X, §1071(f)(3), Oct. 17, 2006, 120 Stat. 2402.

## SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–38, §1, July 22, 1999, 113 Stat. 205, provided that: "This Act [enacting provisions set out as notes under section 2431 of this title and section 5901 of Title 22, Foreign Relations and Intercourse] may be cited as the 'National Missile Defense Act of 1999'."

## SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–25, §1, Apr. 6, 1991, 105 Stat. 75, provided that: "This Act [see Tables for classification] may be cited as the 'Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991'."

## SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–26, §1, Apr. 21, 1987, 101 Stat. 273, provided that: "This Act [see Tables for classification] may be cited as the 'Defense Technical Corrections Act of 1987'."

## SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–500, §101(c) [title X, §900], Oct. 18, 1986, 100 Stat. 1783–82, 1783–130, Pub. L. 99–591, §101(c) [title X, §900], Oct. 30, 1986, 100 Stat. 3341–82, 3341–130, and Pub. L. 99–661, div. A, title IX, formerly title IV, §900, Nov. 14, 1986, 100 Stat. 3910, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "This title [see Tables for classification] may be cited as the 'Defense Acquisition Improvement Act of 1986'."

## SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–145, title IX, §901, Nov. 8, 1985, 99 Stat. 682, provided that: "This title [see Tables for classification] may be cited as the 'Defense Procurement Improvement Act of 1985'."

## SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–525, title XII, §1201, Oct. 19, 1984, 98 Stat. 2588, provided that: "This title [see Tables for classification] may be cited as the 'Defense Procurement Reform Act of 1984'."

## SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–22, §1(a), July 10, 1981, 95 Stat. 124, provided that: "this Act [see Tables for classification] may be cited as the 'Defense Officer Personnel Management Act Technical Corrections Act'."

## SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–513, §1(a), Dec. 12, 1980, 94 Stat. 2835, provided that: "This Act [see Tables for classification] may be cited as the 'Defense Officer Personnel Management Act'."

## SAVINGS PROVISION

Pub. L. 96–513, title VII, §703, Dec. 12, 1980, 94 Stat. 2956, provided that: "Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act [see Tables for classification] do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act [see Effective Date of 1980 Amendment note above]."

## RULE OF CONSTRUCTION RELATING TO USE OF MILITARY FORCE

Pub. L. 116–283, div. A, title XII, §1299S, Jan. 1, 2021, 134 Stat. 4028, provided that: "Nothing in this Act [see Tables for classification] or any amendment made by this Act may be construed to authorize the use of military force."

## RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661; DEFINITIONS

Pub. L. 100–26, §§2, 6, Apr. 21, 1987, 101 Stat. 273, 274, provided that:

"SEC. 2. REFERENCES TO 99TH CONGRESS LAWS

"For purposes of this Act [Pub. L. 100–26, see Tables for classification]:

"(1) The term 'Defense Authorization Act' means the Department of Defense Authorization Act, 1987 (division A of Public Law 99–661; 100 Stat. 3816 et seq.).

"(2) The term 'Defense Appropriations Act' means the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99–500 (100 Stat. 1783–82 et seq.) and section 101(c) of Public Law 99–591 (100 Stat. 3341–82 et seq.)).

"(3) The term 'Defense Acquisition Improvement Act' means title X of the Defense Appropriations Act [100 Stat. 1783–130, 3341–130] and title IX of the Defense Authorization Act [100 Stat. 3910] (as designated by the amendment made by section 3(5) [section 3(5) of Pub. L. 100–26]). Any reference in this Act to the Defense Acquisition Improvement Act shall be considered to be a reference to each such title."

"SEC. 6. CONSTRUCTION OF DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS

"(a) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—(1) In applying the provisions of Public Laws 99–500, 99–591, and 99–661 described in paragraph (2)—

"(A) the identical provisions of those public laws referred to in such paragraph shall be treated as having been enacted only once, and

"(B) in executing to the United States Code and other statutes of the United States the amendments made by such identical provisions, such amendments shall be executed so as to appear only once in the law as amended.

"(2) Paragraph (1) applies with respect to the provisions of the Defense Appropriations Act and the Defense Authorization Act (as amended by sections 3, 4, 5, and 10(a)) referred to across from each other in the following table:

| "Section 101(c) of Public Law 99–500 | Section 101(c) of Public Law 99–591 | Division A of Public Law 99–661 |
|---|---|---|
| "Title X | Title X | Title IX |
| "Sec. 9122 | Sec. 9122 | Sec. 522 |
| "Sec. 9036(b) | Sec. 9036(b) | Sec. 1203 |
| "Sec. 9115 | Sec. 9115 | Sec. 1311 |

"(b) RULE FOR DATE OF ENACTMENT.—(1) The date of the enactment of the provisions of law listed in the middle column, and in the right-hand column, of the table in subsection (a)(2) shall be deemed to be October 18, 1986 (the date of the enactment of Public Law 99–500).

"(2) Any reference in a provision of law referred to in paragraph (1) to 'the date of the enactment of this Act' shall be treated as a reference to October 18, 1986."

[For classification of provisions listed in the table, see Tables.]

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## LAWS IN SUSPENDED STATUS PRIOR TO 1980 AMENDMENT BY PUB. L. 96–513

Pub. L. 96–513, title VII, §702, Dec. 12, 1980, 94 Stat. 2955, provided that: "If a provision of law that is in a suspended status on the day before the effective date of this Act [see Effective Date of 1980 Amendment note above] is amended by this Act [see Tables for classification], the suspended status of that provision is not affected by that amendment."

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this title in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation

and Navigable Waters.

## PUBLIC HEALTH SERVICE

Authority vested by this title in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

## SUICIDE CLUSTER: STANDARDIZED DEFINITION FOR USE BY DEPARTMENT OF DEFENSE; CONGRESSIONAL NOTIFICATION

Pub. L. 117–263, div. A, title VII, §740, Dec. 23, 2022, 136 Stat. 2676, provided that:

"(a) STANDARDIZATION OF DEFINITION.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, in consultation with the Secretaries concerned, shall develop, for use across the Armed Forces, a standardized definition for the term 'suicide cluster'.

"(b) NOTIFICATION REQUIRED.—Beginning not later than one year after the date of the enactment of this Act, whenever the Secretary determines the occurrence of a suicide cluster (as that term is defined pursuant to subsection (a)) among members of the Armed Forces, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a notification of such determination.

"(c) BRIEFING.—Not later than April 1, 2023, the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the following:

"(1) The methodology being used in the development of the definition under subsection (a).

"(2) The progress made towards the development of the process for submitting required notifications under subsection (b).

"(3) An estimated timeline for the implementation of this section.

"(d) COORDINATION REQUIRED.—In developing the definition under subsection (a) and the process for submitting required notifications under subsection (b), the Secretary of Defense shall coordinate with the Secretaries concerned.

"(e) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Codes [sic]."

## COORDINATION OF CERTAIN SECTIONS OF AN ACT WITH OTHER PROVISIONS OF THAT ACT

Pub. L. 119–60, div. A, title XVII, §1701(b), Dec. 18, 2025, 139 Stat. 1210, provided that: "For purposes of applying amendments made by provisions of this Act other than this section [see Tables for classification], the amendments made by this section shall be treated as having been enacted immediately before any such amendments by other provisions of this Act."

Similar provisions were contained in the following prior acts:

Pub. L. 118–159, div. A, title XVII, §1701(h), Dec. 23, 2024, 138 Stat. 2207.
Pub. L. 118–31, div. A, title XVIII, §1801(b), Dec. 22, 2023, 137 Stat. 685.
Pub. L. 117–81, div. A, title X, §1081(d), Dec. 27, 2021, 135 Stat. 1922.
Pub. L. 116–283, div. A, title X, §1081(g), Jan. 1, 2021, 134 Stat. 3875.
Pub. L. 116–92, div. A, title XVII, §1731(f), Dec. 20, 2019, 133 Stat. 1816.
Pub. L. 115–232, div. A, title X, §1081(g), Aug. 13, 2018, 132 Stat. 1987.
Pub. L. 115–91, div. A, title X, §1081(j), Dec. 12, 2017, 131 Stat. 1601.
Pub. L. 114–328, div. A, title X, §1081(d), Dec. 23, 2016, 130 Stat. 2420.
Pub. L. 114–92, div. A, title X, §1081(e), Nov. 25, 2015, 129 Stat. 1002.
Pub. L. 113–291, div. A, title X, §1071(k), Dec. 19, 2014, 128 Stat. 3512.
Pub. L. 113–66, div. A, title X, §1091(f), Dec. 26, 2013, 127 Stat. 877.
Pub. L. 112–239, div. A, title X, §1076(m), Jan. 2, 2013, 126 Stat. 1956.
Pub. L. 109–364, div. A, title X, §1071(i), Oct. 17, 2006, 120 Stat. 2403.
Pub. L. 107–107, div. A, title X, §1048(j), Dec. 28, 2001, 115 Stat. 1230.
Pub. L. 106–398, §1 [[div. A], title X, §1087(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294.
Pub. L. 106–65, div. A, title X, §1066(e), Oct. 5, 1999, 113 Stat. 773.
Pub. L. 105–261, div. A, title X, §1069(e), Oct. 17, 1998, 112 Stat. 2137.
Pub. L. 105–85, div. A, title X, §1073(i), Nov. 18, 1997, 111 Stat. 1907.
Pub. L. 104–201, div. A, title X, §1074(e), Sept. 23, 1996, 110 Stat. 2661.
Pub. L. 104–106, div. A, title XV, §1506, Feb. 10, 1996, 110 Stat. 515.
Pub. L. 103–337, div. A, title X, §1070(h), Oct. 5, 1994, 108 Stat. 2859.
Pub. L. 103–160, div. A, title XI, §1182(h), Nov. 30, 1993, 107 Stat. 1774.

Pub. L. 102–484, div. A, title X, §1055, Oct. 23, 1992, 106 Stat. 2503.

## ESTABLISHMENT OF CERTAIN DEFINITIONS

Pub. L. 117–81, div. A, title VI, §626(c), Dec. 27, 2021, 135 Stat. 1775, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall publish an interim rule that establishes standard definitions, for use across the military departments, of the terms 'gold star family' and 'gold star survivor'."

## STANDARDIZATION OF DEFINITIONS USED BY THE DEPARTMENT OF DEFENSE FOR TERMS RELATED TO SUICIDE

Pub. L. 117–81, div. A, title VII, §726, Dec. 27, 2021, 135 Stat. 1795, provided that:

"(a) STANDARDIZATION OF DEFINITIONS.—Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop standardized definitions for the following terms:

"(1) 'Suicide'.

"(2) 'Suicide attempt'.

"(3) 'Suicidal ideation'.

"(b) REQUIRED USE OF STANDARDIZED DEFINITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue policy guidance requiring the exclusive and uniform use across the Department of Defense and within each military department of the standardized definitions developed under subsection (a) for the terms specified in such subsection.

"(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing that sets forth the standardized definitions developed under subsection (a) and includes—

"(1) a description of the process that was used to develop such definitions;

"(2) a description of the methods by which data shall be collected on suicide, suicide attempts, and suicidal ideations (as those terms are defined pursuant to such definitions) in a standardized format across the Department and within each military department; and

"(3) an implementation plan to ensure the use of such definitions as required pursuant to subsection (b)."

## REFERENCES TO NDAA FOR FISCAL YEAR 2025

Pub. L. 118–159, §1(b), Dec. 23, 2024, 138 Stat. 1773, provided that: "Any reference in this or any other Act to the 'National Defense Authorization Act for Fiscal Year 2025' shall be deemed to be a reference to the 'Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025'."

## REFERENCES TO NDAA FOR FISCAL YEAR 2023

Pub. L. 117–263, §1(b), Dec. 23, 2022, 136 Stat. 2395, provided that: "Any reference in this or any other Act to the 'National Defense Authorization Act for Fiscal Year 2023' shall be deemed to be a reference to the 'James M. Inhofe National Defense Authorization Act for Fiscal Year 2023'."

## REFERENCES TO NDAA FOR FISCAL YEAR 2021

Pub. L. 116–283, §1(b), as added by Pub. L. 117–81, div. A, title X, §1081(b)(2), Dec. 27, 2021, 135 Stat. 1922, provided that: "Any reference in this or any other Act to the 'National Defense Authorization Act for Fiscal Year 2021' shall be deemed to be a reference to the 'William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021' [Pub. L. 116–283]."

[Pub. L. 117–81, div. A, title X, §1081(b), Dec. 27, 2021, 135 Stat. 1922, provided that the enactment of section 1(b) of Pub. L. 116–283, set out above, by section 1081(b)(2) of Pub. L. 117–81 is effective as of Jan. 1, 2021, and as if included in Pub. L. 116–283.]

## CONGRESSIONAL DEFENSE COMMITTEES DEFINED

The following provisions provided that the term "congressional defense committees" for purposes of the Acts in which they were contained has the meaning given that term in subsec. (a)(16) of this section:

Pub. L. 119–60, §3(2), Dec. 18, 2025, 139 Stat. 748.

Pub. L. 118–159, §3(2), Dec. 23, 2024, 138 Stat. 1799.

Pub. L. 118–31, §3, Dec. 22, 2023, 137 Stat. 164.

Pub. L. 117–263, §3, Dec. 23, 2022, 136 Stat. 2438.

Pub. L. 117–81, §3, Dec. 27, 2021, 135 Stat. 1565.

Pub. L. 116–283, §3, Jan. 1, 2021, 134 Stat. 3421.

Pub. L. 116–92, §3, Dec. 20, 2019, 133 Stat. 1231.
Pub. L. 115–232, §3, Aug. 13, 2018, 132 Stat. 1658.
Pub. L. 115–91, §3, Dec. 12, 2017, 131 Stat. 1305.
Pub. L. 114–328, §3, Dec. 23, 2016, 130 Stat. 2025.
Pub. L. 114–92, §3, Nov. 25, 2015, 129 Stat. 745.
Pub. L. 113–291, §3, Dec. 19, 2014, 128 Stat. 3312.
Pub. L. 113–66, §3, Dec. 26, 2013, 127 Stat. 689.
Pub. L. 112–239, §3, Jan. 2, 2013, 126 Stat. 1652.
Pub. L. 112–81, §3, Dec. 31, 2011, 125 Stat. 1316.
Pub. L. 111–383, §3, Jan. 7, 2011, 124 Stat. 4151.
Pub. L. 111–84, §3, Oct. 28, 2009, 123 Stat. 2208.
Pub. L. 110–417, §3, Oct. 14, 2008, 122 Stat. 4372.
Pub. L. 110–181, §3, Jan. 28, 2007, 122 Stat. 23.
Pub. L. 109–364, §3, Oct. 17, 2006, 120 Stat. 2100.
Pub. L. 109–163, §3, Jan. 6, 2006, 119 Stat. 3152.
Pub. L. 108–375, §3, Oct. 28, 2004, 118 Stat. 1825.

Pub. L. 109–148, div. A, title VIII, §8028, Dec. 30, 2005, 119 Stat. 2704, provided that for purposes of Pub. L. 109–148 the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and, for any matter pertaining to basic allowance for housing, facilities sustainment, restoration and modernization, environmental restoration and the Defense Health Program, "congressional defense committees" also means the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies [subcommittee jurisdiction now in Subcommittee on Military Construction, Veterans Affairs, and Related Agencies and Subcommittee on Defense] of the Committee on Appropriations of the House of Representatives.

The following provisions defined the term "congressional defense committees" for purposes of the Acts in which they were contained to mean the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives:

Pub. L. 111–118, div. A, title VIII, §8028, Dec. 19, 2009, 123 Stat. 3434.
Pub. L. 110–329, div. C, title VIII, §8028, Sept. 30, 2008, 122 Stat. 3627 (definition applies to div. C only).
Pub. L. 110–116, div. A, title VIII, §8027, Nov. 13, 2007, 121 Stat. 1320.
Pub. L. 109–289, div. A, title VIII, §8025, Sept. 29, 2006, 120 Stat. 1279.
Pub. L. 108–287, title VIII, §8030, Aug. 5, 2004, 118 Stat. 977.
Pub. L. 108–87, title VIII, §8031, Sept. 30, 2003, 117 Stat. 1079.
Pub. L. 107–248, title VIII, §8031, Oct. 23, 2002, 116 Stat. 1543.
Pub. L. 107–117, div. A, title VIII, §8034, Jan. 10, 2002, 115 Stat. 2255.
Pub. L. 106–259, title VIII, §8034, Aug. 9, 2000, 114 Stat. 682.
Pub. L. 106–79, title VIII, §8036, Oct. 25, 1999, 113 Stat. 1239.

The following provisions defined the term "congressional defense committees" for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives:

Pub. L. 108–136, §3, Nov. 24, 2003, 117 Stat. 1406.
Pub. L. 107–314, §3, Dec. 2, 2002, 116 Stat. 2471.
Pub. L. 107–107, §3, Dec. 28, 2001, 115 Stat. 1027.
Pub. L. 106–398, §1 [§3], Oct. 30, 2000, 114 Stat. 1654, 1654A–19.
Pub. L. 106–65, §3, Oct. 5, 1999, 113 Stat. 529.
Pub. L. 103–337, §3, Oct. 5, 1994, 108 Stat. 2678.
Pub. L. 103–160, §3, Nov. 30, 1993, 107 Stat. 1562.
Pub. L. 102–484, §3, Oct. 23, 1992, 106 Stat. 2331.
Pub. L. 102–190, §3, Dec. 5, 1991, 105 Stat. 1301.
Pub. L. 102–25, §3(4), Apr. 6, 1991, 105 Stat. 77.
Pub. L. 101–510, §3, Nov. 5, 1990, 104 Stat. 1498.
Pub. L. 101–189, §4, Nov. 29, 1989, 103 Stat. 1364.

The following provisions defined the term "congressional defense committees" for purposes of the Acts in

which they were contained to mean the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on National Security of the Committee on Appropriations of the House of Representatives:

Pub. L. 105–262, title VIII, §8036, Oct. 17, 1998, 112 Stat. 2305.

Pub. L. 105–56, title VIII, §8038, Oct. 8, 1997, 111 Stat. 1229.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8040], Sept. 30, 1996, 110 Stat. 3009–71, 3009–97.

Pub. L. 104–61, title VIII, §8049, Dec. 1, 1995, 109 Stat. 661.

The following provisions defined the term "congressional defense committees" for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives:

Pub. L. 105–261, §3, Oct. 17, 1998, 112 Stat. 1935.

Pub. L. 105–85, §3, Nov. 18, 1997, 111 Stat. 1645.

Pub. L. 104–201, §3, Sept. 23, 1996, 110 Stat. 2439.

Pub. L. 104–106, §3, Feb. 10, 1996, 110 Stat. 204.

The following provisions defined the term "congressional defense committees" for purposes of the Acts in which they were contained to mean the Committees on Armed Services, the Committees on Appropriations, and the subcommittees on Defense of the Committee on Appropriations, of the Senate and the House of Representatives:

Pub. L. 103–335, title VIII, §8056, Sept. 30, 1994, 108 Stat. 2631.

Pub. L. 103–139, title VIII, §8067, Nov. 11, 1993, 107 Stat. 1455.

Pub. L. 102–172, title VIII, §8116, Nov. 26, 1991, 105 Stat. 1203.

**DEFINITIONS FOR PURPOSES OF PUB. L. 102–25**

Pub. L. 102–25, §3, Apr. 6, 1991, 105 Stat. 77, as amended by Pub. L. 102–190, div. A, title XII, §1203(a), Dec. 5, 1991, 105 Stat. 1508, provided that: "For the purposes of this Act [see Short Title of 1991 Amendment note above]:

"(1) The term 'Operation Desert Storm' means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort).

"(2) The term 'incremental costs associated with Operation Desert Storm' means costs referred to in [former] section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 ([former] 2 U.S.C. 901(b)(2)(D)(ii)).

"(3) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

"(4) The term 'congressional defense committees' has the meaning given that term in section 3 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1498)."

## §102. Effect of certain amendments on conforming changes to tables of sections, tables of contents, and similar tabular entries

(a) AUTOMATIC EXECUTION OF CONFORMING CHANGES.—When an amendment to a covered defense law adds a section or larger organizational unit to the covered defense law, repeals or transfers a section or larger organizational unit in the covered defense law, or amends the designation or heading of a section or larger organizational unit in the covered defense law, that amendment also shall have the effect of amending any table of sections, table of contents, or similar tabular entries in the covered defense law to alter the table to conform to the changes made by the amendment.

(b) EXCEPTIONS.—Subsection (a) shall not apply to an amendment described in such subsection when—

(1) the amendment or a clerical amendment enacted at the same time expressly amends a table of sections, table of contents, or similar tabular entries in the covered defense law to alter the table to conform to the changes made by the amendment; or

(2) the amendment otherwise expressly exempts itself from the operation of this section.

(c) COVERED DEFENSE LAW.—In this section, the term "covered defense law" means—

(1) this title;

(2) titles 32 and 37;

(3) any national defense authorization Act that authorizes funds to be appropriated for a fiscal year to the Department of Defense; and

(4) any other law designated in the text thereof as a covered defense law for purposes of application of this section.

(Added Pub. L. 117–263, div. A, title X, §1081(e)(1), Dec. 23, 2022, 136 Stat. 2798.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### APPLICATION OF AMENDMENT

Pub. L. 117–263, div. A, title X, §1081(e)(3), Dec. 23, 2022, 136 Stat. 2798, provided that: "Section 102 of title 10, United States Code, as added by paragraph (1), shall apply to the amendments made by this section and other amendments made by this Act [see Tables for classification]."

#### COORDINATION WITH OTHER AMENDMENTS MADE BY PUB. L. 117–263

Pub. L. 117–263, div. A, title X, §1081(f), Dec. 23, 2022, 136 Stat. 2798, provided that: "For purposes of applying amendments made by provisions of this Act other than this section [see Tables for classification], the amendments made by this section [enacting this section, amending sections 113, 2691, 3014, 4423, 4831, and 4833 of this title, and amending provisions set out as notes under sections 113, 391, and 2224 of this title] shall be treated as having been enacted immediately before any such amendments by other provisions of this Act."

#### ELIMINATION OF NEED FOR CERTAIN SEPARATE CONFORMING AMENDMENTS

Pub. L. 117–263, div. B, §2803(b), Dec. 23, 2022, 136 Stat. 2970, provided that:

"(1) AUTOMATIC EXECUTION OF CONFORMING CHANGES.—When an amendment made by a provision of this division [see Tables for classification] to a covered defense law adds a section or larger organizational unit to the covered defense law, repeals or transfers a section or larger organizational unit in the covered defense law, or amends the designation or heading of a section or larger organizational unit in the covered defense law, that amendment also shall have the effect of amending any table of sections, table of contents, or similar table of tabular entries in the covered defense law to alter the table to conform to the changes made by the amendment.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to an amendment described in such paragraph when—

"(A) the amendment, or a separate clerical amendment enacted at the same time as the amendment, expressly amends a table of sections, table of contents, or similar table of tabular entries in the covered defense law to alter the table to conform to the changes made by the amendment; or

"(B) the amendment otherwise expressly exempts itself from the operation of this section.

"(3) COVERED DEFENSE LAW DEFINED.—In this subsection, the term 'covered defense law' means—

"(A) titles 10, 32, and 37 of the United States Code;

"(B) any national defense authorization Act or military construction authorization Act that authorizes funds to be appropriated for a fiscal year to the Department of Defense; and

"(C) any other law designated in the text thereof as a covered defense law for purposes of application of this section."

[Another section 2803(b) of Pub. L. 117–263 enacted provisions set out as a note under section 2805 of this title. The section 2803(b) of Pub. L. 117–263 set out above probably should have been numbered section 2003(b) as it followed section 2002 of Pub. L. 117–263.]

Similar provisions were contained in the following prior act:

Pub. L. 117–81, div. B, §2003(b), Dec. 27, 2021, 135 Stat. 2162.

## CHAPTER 2—DEPARTMENT OF DEFENSE

Sec.

111. Executive department.

112. Department of Defense: seal.

113. Secretary of Defense.
113a. Transmission of annual defense authorization request.
114. Annual authorization of appropriations.
[114a. Renumbered.]
115. Personnel strengths: requirement for annual authorization.
115a. Annual defense manpower profile report and related reports.
[115b. Repealed.]
116. Annual operations and maintenance report.
117. Readiness reporting system.
118. Materiel readiness metrics and materiel readiness objectives for major weapon systems.
118a. Quadrennial quality of life review.
118b. National Defense Sustainment and Logistics Review.
118c. National Defense Science and Technology Strategy.
119. Special access programs: congressional oversight.
119a. Programs managed under alternative compensatory control measures: congressional oversight.
120. Department of Defense executive aircraft controlled by Secretaries of military departments.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVIII, §1803(d)(1), Dec. 18, 2025, 139 Stat. 1233, inserted "materiel readiness" before "objectives" in item 118. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1061(a)(2), Dec. 27, 2021, 135 Stat. 1909, which effectively directed the renumbering of the second item 118a ("Quadrennial quality of life review") as 118b, could not be executed because there was no second item 118a after the renumbering of another item 118a ("National Defense Sustainment and Logistics Review") as 118b by Pub. L. 117–81, §§311(b)(2)(A), 1081(a)(3). See note below.

Pub. L. 117–81, div. A, title III, §311(b)(2)(A), title X, §1081(a)(3), Dec. 27, 2021, 135 Stat. 1625, 1919, made similar amendments, resulting in the renumbering of item 118a "National Defense Sustainment and Logistics Review" as 118b. Amendment by section 1081(a)(3) to be treated as applying before amendment by section 311(b)(2)(A), see section 1081(d) of Pub. L. 117–81, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act under section 101 of this title.

Pub. L. 117–81, div. A, title II, §211(b), title X, §1081(a)(2), Dec. 27, 2021, 135 Stat. 1587, 1919, substituted "Materiel readiness metrics and objectives for major weapon systems" for "Materiel readiness metrics and objectives for major defense acquisition programs" in item 118 and added item 118c.

Pub. L. 116–283, div. A, title III, §§341(b), 347(b), Jan. 1, 2021, 134 Stat. 3537, 3541, substituted "Materiel readiness metrics and objectives for major defense acquisition programs" for "Annual report on major weapons systems sustainment" in item 118 and added item 118a "National Defense Sustainment and Logistics Review".

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(b), Dec. 20, 2019, 133 Stat. 1816, amended directory language of Pub. L. 115–232, §331(g)(2), and provided that the amendment is effective Aug. 13, 2018, and as if included in Pub. L. 115–232 as enacted. See 2018 Amendment note below.

Pub. L. 116–92, div. A, title XVII, §1701(c)(2), Dec. 20, 2019, 133 Stat. 1795, which directed amendment of item 115a in the analysis for chapter 3 of this title by substituting "profile report and related reports" for "requirements report", was executed by making the substitution in item 115a in the analysis for this chapter, to reflect the probable intent of Congress.

Pub. L. 116–92, div. A, title III, §351(a)(2), title X, §1051(b), Dec. 20, 2019, 133 Stat. 1320, 1590, added items 118 and 120.

**2018**—Pub. L. 115–232, div. A, title III, §331(g)(2), Aug. 13, 2018, 132 Stat. 1724, as amended by Pub. L. 116–92, div. A, title XVII, §1731(b)(1), Dec. 20, 2019, 133 Stat. 1816, struck out ": establishment; reporting to congressional committees" after "system" in item 117.

**2016**—Pub. L. 114–328, div. A, title IX, §941(b)(2), title X, §1062(b), title XI, §1102(b), Dec. 23, 2016, 130 Stat. 2367, 2408, 2444, added item 119a and struck out items 115b "Biennial strategic workforce plan" and 118 "Defense strategy review".

**2015**—Pub. L. 114–92, div. A, title X, §1081(b)(3), Nov. 25, 2015, 129 Stat. 1001, amended directory language of Pub. L. 113–291, §1072(a)(2). See 2014 Amendment note below.

**2014**—Pub. L. 113–291, div. A, title X, §1072(b)(2), Dec. 19, 2014, 128 Stat. 3517, struck out item 118b "Quadrennial roles and missions review".

Pub. L. 113–291, div. A, title X, §1072(a)(2), Dec. 19, 2014, 128 Stat. 3516, as amended by Pub. L. 114–92, div. A, title X, §1081(b)(3), Nov. 25, 2015, 129 Stat. 1001, substituted "Defense Strategy Review" for "Quadrennial defense review" in item 118.

**2011**—Pub. L. 112–81, div. A, title IX, §935(a)(2), Dec. 31, 2011, 125 Stat. 1545, substituted "Biennial strategic workforce plan" for "Annual strategic workforce plan" in item 115b.

**2009**—Pub. L. 111–84, div. A, title XI, §§1108(a)(2), 1109(b)(2)(B)(ii), Oct. 28, 2009, 123 Stat. 2491, 2493, amended item 115a generally, substituting "Annual defense manpower requirements report" for "Annual manpower requirements report", and added item 115b.

**2008**—Pub. L. 110–417, [div. A], title X, §1061(a)(1), Oct. 14, 2008, 122 Stat. 4612, added item 118b.

**2002**—Pub. L. 107–314, div. A, title V, §581(a)(2), title X, §1061(b), Dec. 2, 2002, 116 Stat. 2561, 2649, added item 113a and item 118a "Quadrennial quality of life review".

**1999**—Pub. L. 106–65, div. A, title IX, §901(a)(2), Oct. 5, 1999, 113 Stat. 717, added item 118.

**1998**—Pub. L. 105–261, div. A, title III, §373(a)(2), Oct. 17, 1998, 112 Stat. 1992, added item 117.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(1), Oct. 5, 1994, 108 Stat. 3013, struck out item 115b "Annual report on National Guard and reserve component equipment".

**1992**—Pub. L. 102–484, div. A, title X, §1002(d)(1), Oct. 23, 1992, 106 Stat. 2480, struck out item 114a "Multiyear Defense Program: submission to Congress; consistency in budgeting".

**1990**—Pub. L. 101–510, div. A, title XIV, §1402(a)(3)(B), Nov. 5, 1990, 104 Stat. 1674, which directed amendment of item 114a by substituting "Multiyear" for "Five-year", was executed by substituting "Multiyear" for "Five-Year" as the probable intent of Congress.

Pub. L. 101–510, div. A, title XIII, §1331(1), title XIV, §1483(c)(1), Nov. 5, 1990, 104 Stat. 1673, 1715, substituted "Personnel strengths: requirement for annual authorization" for "Annual authorization of personnel strengths; annual manpower requirements report" in item 115, added items 115a and 115b, and struck out items 117 "Annual report on North Atlantic Treaty Organization readiness" and 118 "Sale or transfer of defense articles: reports to Congress".

**1989**—Pub. L. 101–189, div. A, title XVI, §1602(a)(2), Nov. 29, 1989, 103 Stat. 1597, added item 114a.

**1987**—Pub. L. 100–180, div. A, title XI, §1132(a)(2), Dec. 4, 1987, 101 Stat. 1152, added item 119.

**1986**—Pub. L. 99–433, title I, §101(a)(1), Oct. 1, 1986, 100 Stat. 994, added chapter heading and analysis of sections for chapter 2, consisting of items 111 to 118.

## §111. Executive department

(a) The Department of Defense is an executive department of the United States.

(b) The Department is composed of the following:

(1) The Office of the Secretary of Defense.

(2) The Joint Chiefs of Staff.

(3) The Joint Staff.

(4) The Defense Agencies.

(5) Department of Defense Field Activities.

(6) The Department of the Army.

(7) The Department of the Navy.

(8) The Department of the Air Force.

(9) The unified and specified combatant commands.

(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), the President shall notify Congress not later than 60 days thereafter.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 517, §131; renumbered §111 and amended Pub. L. 99–433, title I, §101(a)(2), (b), Oct. 1, 1986, 100 Stat. 994, 995.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 131 | 5:171(a) (less last 10 words), (b). | July 26, 1947, ch. 343, §201(a) (less last 10 words), (b); restated Aug. 10, 1949, ch. 412, §4 (1st (less last 10 words) and 2d pars.), 63 Stat. 579. |

The words "There is established", in 5 U.S.C. 171(a), are omitted as executed. 5 U.S.C. 171(b) (1st 26 words) is omitted as covered by the definitions of "department" and "military departments" in section 101(5) and (7), respectively, of this title. 5 U.S.C. 171(b) (27th through 49th words) is omitted as executed. 5 U.S.C. 171(b) (last 18 words) is omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**1986**—Pub. L. 99–433 renumbered section 131 of this title as this section, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 104–106, div. A, title IX, §908, Feb. 10, 1996, 110 Stat. 406, provided that:

"(a) REDESIGNATION.—The agency in the Department of Defense known as the Advanced Research Projects Agency shall after the date of the enactment of this Act [Feb. 10, 1996] be designated as the Defense Advanced Research Projects Agency.

"(b) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States or in any provision of this Act to the Advanced Research Projects Agency shall be considered to be a reference to the Defense Advanced Research Projects Agency."

### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–433, §1(a), Oct. 1, 1986, 100 Stat. 992, provided that: "This Act [see Tables for classification] may be cited as the 'Goldwater-Nichols Department of Defense Reorganization Act of 1986'."

### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Department of Defense, including the functions of the Secretary of Defense relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 121(g)(2), 183(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Missions and functions of elements of Department of Defense as specified in classified annex to Pub. L. 104–201, and related personnel, assets, and balances of appropriations and authorizations of appropriations, transferred to National Imagery and Mapping Agency, see sections 1111 and 1113 of Pub. L. 104–201, set out as notes under section 441 of this title.

### REVISION OF DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT REGULATION; ESTABLISHMENT OF CROSS-FUNCTIONAL TEAM

Pub. L. 118–159, div. A, title X, §§1005, 1006, Dec. 23, 2024, 138 Stat. 2047, 2048, provided that:

"SEC. 1005. REVISION OF DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT REGULATION.

"(a) Not later than September 30, 2026, the Under Secretary of Defense (Comptroller) shall revise the Department of Defense Financial Management Regulation 7000.14-R. The Under Secretary shall ensure that the revised regulation—

"(1) is consistent and clear throughout;

"(2) includes updated guidance with respect to legislative and regulatory requirements; and

"(3) does not include any outdated guidance or guidance subject to change annually in an annual appropriations Act.

"(b) CONSIDERATIONS.—In revising the regulation under subsection (a), the Under Secretary shall—

"(1) prioritize clarity and accessibility in the language and direction provided, including improvements to the coordination and approval process for recommended changes;

"(2) review and adopt modern financial practices that better align to current development and production cycles;

"(3) consider information technology solutions to improve the accessibility and usability of the Financial Management Regulation; and

"(4) in consultation with the Cross-Functional Team established under section 1006 consider the recommendations of the Commission on Planning, Programming, Budgeting, and Execution Reform.

"(c) BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], and once every 180 days thereafter during the three-year period following such date of enactment, the Under Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the efforts to revise the Financial Management Regulation. Each such briefing shall include each of the following:

"(1) The progress made in revising the Financial Management Regulation.

"(2) The plan and timeline for completing revisions to the Financial Management Regulation.

"(3) Any barriers to the ability of the Department of Defense to revising the Financial Management Regulation as required under this section.

"(4) Any legislation required to complete revisions of the Financial Management Regulation.

"(5) Any other information determined relevant by the Secretary.

"SEC. 1006. ESTABLISHMENT OF CROSS-FUNCTIONAL TEAM TO OVERSEE IMPLEMENTATION OF RECOMMENDATIONS OF COMMISSION ON PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION REFORM.

"(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024], using the authority provided under section 911(c) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note) [set out below], the Secretary of Defense shall establish and appropriately resource a cross-functional team to plan and oversee, in coordination with the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the implementation of the recommendations of the Commission on Planning, Programming, Budgeting, and Execution Reform established by section 1004 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1884).

"(b) REPORTING.—The head of the cross-functional team required by subsection (a) shall be the Under Secretary of Defense (Comptroller) and such team shall report directly to the Deputy Secretary of Defense.

"(c) PERSONNEL.—

"(1) IN GENERAL.—The cross-functional team required by subsection (a) shall include dedicated, appropriate personnel with relevant expertise.

"(2) DIRECTOR.—There shall be a Director of the cross-functional team who shall be responsible for leading the daily activities of the cross-functional team. The Under Secretary of Defense (Comptroller) shall select either a member of the Senior Executive Service or a senior military officer to serve as the Director.

"(3) HIRING AUTHORITIES.—In establishing the cross-functional team, the Secretary may—

"(A) hire personnel on a temporary or term basis to support the activities of the cross-functional team; and

"(B) enter into contracts or other agreements with subject-matter experts with relevant expertise to support the cross-functional team.

"(4) COMPENSATION.—Basic pay for personnel on the cross-functional team may be administratively determined and set in accordance with section 3161(d) of title 5, United States Code.

"(5) INAPPLICABILITY OF CERTAIN LIMITATION.—An individual hired or selected for service under this subsection who is not assigned to perform functions in, or employed by, the Office of the Secretary of Defense (including performance of direct support activities of that Office and the Washington Headquarters Services of the Department of Defense) as of the date of the enactment of this Act is not subject to the limitations under section 143 of title 10, United States Code.

"(d) CONSULTATIONS WITH CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall—

"(1) provide to the congressional defense committees a briefing on the proposed leadership, composition, and charter of the cross-functional team required by subsection (a); and

"(2) seek feedback from the congressional defense committees on the recommendations of the Commission on Planning, Programming, Budgeting, and Execution Reform.

"(e) REPORTS.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until the date that is three years after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report on the efforts of the Department of Defense to implement the recommendations of the Commission.

"(f) TERMINATION.—

"(1) IN GENERAL.—Except as provided by paragraph (2), this section and the cross-functional team required by subsection (a) shall terminate on December 31, 2029.

"(2) EARLY DISESTABLISHMENT OF TEAM.—The Secretary may, on or after December 31, 2027, and before the termination date specified in paragraph (1), disestablish the cross-functional team required by subsection (a) if—

"(A) the Under Secretary of Defense (Comptroller) determines that the cross-functional team is no longer required for the implementation of the recommendations of the Commission on Planning, Programming, Budgeting, and Execution Reform; and

"(B) the Secretary—

"(i) notifies the congressional defense committees not later than 30 days before disestablishing the cross-functional team; and

"(ii) includes in the notification the justification of the Secretary for the disestablishment of the cross-functional team."

## ASSESSMENTS OF CASUALTIES AND FATALITIES DURING HOSTILITIES

Pub. L. 118–159, div. A, title X, §1053, Dec. 23, 2024, 138 Stat. 2061, provided that: "In making assessments of casualties and fatalities during hostilities, the Department of Defense may not cite as authoritative in public communications, fatality figures that are derived by United States-designated terrorist organizations, governmental entities controlled by United States-designated terrorist organizations, or any sources that rely on figures provided by United States-designated terrorist organizations."

## SOFTWARE-BASED CAPABILITY TO FACILITATE SCHEDULING BETWEEN THE DEPARTMENT OF DEFENSE AND CONGRESS

Pub. L. 118–31, div. A, title IX, §919, Dec. 22, 2023, 137 Stat. 372, provided that: "Not later than September 30, 2024, the Secretary of Defense shall seek to develop and implement a software-based capability to facilitate the mutual scheduling of engagements between the Department of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]. Such capability shall—

"(1) enable the automated transmission of scheduling data to and from the congressional defense committees; and

"(2) be compatible and interoperable with the information technology systems of such committees."

## INTEGRATED AND AUTHENTICATED ACCESS TO DEPARTMENT OF DEFENSE SYSTEMS FOR CERTAIN CONGRESSIONAL STAFF FOR OVERSIGHT PURPOSES

Pub. L. 117–263, div. A, title X, §1046, Dec. 23, 2022, 136 Stat. 2773, as amended by Pub. L. 118–31, div. A, title X, §1081, Dec. 22, 2023, 137 Stat. 416, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall develop processes and procedures under which the Secretary shall issue access tokens to staff of the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] to facilitate the performance of required congressional oversight activities. Such access tokens shall—

"(1) provide designated and authenticated staff with access to designated Department of Defense information systems, including—

"(A) the reporting system described in section 805(b) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) [135 Stat. 1816] that will replace the Selected Acquisition Report requirements under section 4351 of title 10, United States Code; and

"(B) the process referred to in section 908 of the William (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [10 U.S.C. 111 note] that is used by the Department of Defense to identify reports to Congress required by annual national defense authorization Acts, assign responsibility for preparation of such reports, and manage the completion and delivery of such reports to Congress;

"(2) to the extent feasible, be integrated with the provision of Pentagon Facilities Alternative Credentials; and

"(3) to the extent feasible, be integrated with software used by the Department of Defense Parking Management Office to validate parking requests.

"(b) IMPLEMENTATION.—The Secretary shall implement the processes and procedures developed under subsection (a) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022].

"(c) INTERIM BRIEFING.—Not later than 90 days after the date of the enactment of the Act, the Secretary of Defense shall provide to the congressional defense committees an interim briefing on the status of the processes and procedures required to be developed under subsection (a), including any updates to applicable policies, instructions, and guidance issued by the Department."

## MODERNIZATION OF PROCESS USED BY THE DEPARTMENT OF DEFENSE TO IDENTIFY, TASK, AND MANAGE CONGRESSIONAL REPORTING REQUIREMENTS

Pub. L. 116–283, div. A, title IX, §908, Jan. 1, 2021, 134 Stat. 3799, provided that:

"(a) ONGOING ANALYSIS REQUIRED.—The Assistant Secretary of Defense for Legislative Affairs shall conduct on an ongoing basis an analysis of the process used by the Department of Defense to identify reports to Congress required by annual national defense authorization Acts, assign responsibility for preparation of such reports, and manage the completion and delivery of such reports to Congress for the purpose of identifying mechanisms to optimize and otherwise modernize the process.

"(b) CONSULTATION.—The Assistant Secretary shall conduct the analysis required by subsection (a) with the assistance of and in consultation with the Chief Information Officer of the Department of Defense.

"(c) ELEMENTS.—The analysis required by subsection (a) shall include the following:

"(1) A business process reengineering of the process described in subsection (a).

"(2) An assessment of applicable commercially available analytics tools, technologies, and services in connection with such business process reengineering.

"(3) Such other actions as the Assistant Secretary considers appropriate for purposes of the analysis."

## AUTHORITY OF PRESIDENT TO EXTEND MILITARY LEADER APPOINTMENTS

Pub. L. 116–136, div. B, title III, §13007, Mar. 27, 2020, 134 Stat. 522, provided that:

"(a) The President may extend the appointment of the Chief of Army Reserve as prescribed in section 7038(c) of title 10, United States Code, for the incumbent in that position as of the date of the enactment of this Act [Mar. 27, 2020] until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 7038(c).

"(b) The President may extend the appointment of the Chief of Navy Reserve as prescribed in section 8083(c) of title 10, United States Code, for the incumbent in that position as of the date of the enactment of this Act until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 8083(c).

"(c) The President may extend the appointment of the Chief of Staff of the Air Force prescribed in section 9033(a)(1) of title 10, United States Code, for the incumbent in that position as of the date of the enactment of this Act until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 9033(a)(1).

"(d) The President may extend the appointment of the Chief of Space Operations, as prescribed in section 9082(a)(2) of title 10, United States Code, for the incumbent in that position as of the date of the enactment of this Act until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 9082(a)(2).

"(e) The President may extend the appointment of the Chief of the National Guard Bureau as prescribed in section 10502(b) of title 10, United States Code, for the incumbent in that position as of the date of the enactment of this Act until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 10502(b).

"(f) The President may extend the appointment of Director, Army National Guard and Director, Air National Guard as prescribed in section 10506(a)(3)(D) of title 10, United States Code, for the incumbent in such position as of the date of the enactment of this Act until the date of the appointment of the successor to such incumbent, notwithstanding any limitation otherwise imposed on such term by such section 10506(a)(3)(D).

"(g) Notwithstanding paragraph (4) of section 10505(a) of title 10, United States Code, the Secretary of Defense may waive the limitations in paragraphs (2) and (3) of that section for a period of not more than 270 days.

"(h)(1) The President may delegate the exercise of the authorities in subsections (a) through (f) to the Secretary of Defense.

"(2) The Secretary of Defense may not redelegate the exercise of any authority delegated to the Secretary pursuant to paragraph (1), and may not delegate the exercise of the authority in subsection (g)."

## TERMINATION OF REPORTING REQUIREMENTS

Pub. L. 116–92, div. A, title XVII, §1702(a), (b), Dec. 20, 2019, 133 Stat. 1796, provided that:

"(a) TERMINATION.—Effective on December 30, 2021, each report described in subsection (b) that is still required to be submitted to Congress as of such effective date shall no longer be required to be submitted to Congress.

"(b) COVERED REPORTS.—A report described in this subsection is any of the following:

"(1) The report required by section 1696(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) [132 Stat. 2171].

"(2) The report required by section 1071(b)(1) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91) [10 U.S.C. 4811 note].

"(3) The report required by section 1788a(d) of title 10, United States Code, as added by section 555 of such Act.

"(4) The report required under section 709(g) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1071 note).

"(5) The report required by section 1292(a)(2) of such Act (22 U.S.C. 2751 note).

"(6) The quarterly report required by section 1236(c) of such Act [130 Stat. 2492].

"(7) The annual certification required by section 1666 of such Act (10 U.S.C. 2431 note) [section 1666 of Pub. L. 114–328 (130 Stat. 2617) is not classified to the Code].

"(8) The updates required under paragraph (3) of subsection (a) of section 1694 of such Act [130 Stat. 2637] to the report required under paragraph (1) of such subsection.

"(9) The notifications required by section 1695 of such Act [130 Stat. 2638].

"(10) The report required under section 522(g) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) [10 U.S.C. 503 note]."

## REQUIREMENT FOR PREPARATION OF CERTAIN REPORTS TO CONGRESS BY CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT AND MEMBERS OF THE ARMED FORCES

Pub. L. 116–92, div. A, title XVII, §1702(d), Dec. 20, 2019, 133 Stat. 1796, provided that:

"(1) REQUIREMENT.—Except as expressly otherwise provided in the provision of law requiring such report, any report submitted to Congress pursuant to a provision of a national defense authorization Act that is enacted on or after the date that is three years after the date of the enactment of this Act [Dec. 20, 2019] shall be written by civilian employees of the Federal Government, members of the Armed Forces, or both, and not by contractor employees of the Federal Government.

"(2) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on the actions to be taken to ensure compliance with the requirement in paragraph (1), including on any impediments to compliance with the requirement."

Pub. L. 115–91, div. A, title X, §1051(x), Dec. 12, 2017, 131 Stat. 1567, provided that: "Effective on December 31, 2021, the reports required under the following provisions of title 10, United States Code, shall no longer be required to be submitted to Congress:

"(1) Section 113(c)(1) [now 10 U.S.C. 113(c)].

"(2) Section 113(e).

"(3) Section 116.

"(4) Section 2432 [now 10 U.S.C. 4351]."

## ORGANIZATIONAL STRATEGY FOR THE DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. A, title IX, §903(b), Dec. 23, 2024, 138 Stat. 2026, provided that:

"(1) ESTABLISHMENT.—Not later than July 1, 2025, the Secretary of Defense shall establish not fewer than two Cross-Functional Teams to coordinate and support international cooperation activities of the Department of Defense.

"(2) PURPOSE.—Of the Cross-Functional Teams required under paragraph (1)—

"(A) at least one shall be dedicated to a geographic area of interest, such as a specific country or subset of an area of responsibility for a geographic combatant command; and

"(B) at least one shall be dedicated to a functional area of interest, such as munitions production, logistics, or additive manufacturing.

"(3) PARTICIPATION.—The Cross-Functional Teams established under paragraph (1)—

"(A) shall include representation from—

"(i) the Office of the Under Secretary of Defense for Policy;

"(ii) the Office of the Under Secretary of Defense for Acquisition and Sustainment; and

"(iii) the Office of the Under Secretary of Defense for Research and Engineering; and

"(B) may include such other participants from across the Department of Defense as the Secretary of Defense determines appropriate.

"(4) CHAIRPERSON.—Each Cross-Functional Team shall have a Chairperson who shall be designated by the Secretary of Defense from among the representatives on the Team from the Offices specified in paragraph (3)(A)."

Pub. L. 118–31, div. G, title III, §7353, Dec. 22, 2023, 137 Stat. 1065, provided that:

"(a) ACCESS TO INFORMATION.—Upon request by the cross-functional team of the Department of Defense established under section 910 of the National Defense Authorization Act of Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 111 note) [set out below] (in this section referred to as the 'cross-functional team'), and consistent with the protection of intelligence sources and methods, the head of any element of the intelligence community shall provide such team with access to any information (including any intelligence reporting, analysis, or finished intelligence product) of the element potentially relevant to the duties of such team required under subsection (b)(1) of such section.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as waiving the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) or any other applicable law regarding privacy or the protection of health information.

"(c) STAFFING OF CROSS-FUNCTIONAL TEAM BY CERTAIN ELEMENTS.—

"(1) STAFFING.—

"(A) COVERED ELEMENTS.—The head of each covered element shall detail or assign to the cross-functional team, including through a joint duty assignment (as applicable), intelligence or counterintelligence personnel of that covered element in such numbers as the head, in consultation with such team, determines necessary to support such team in fulfilling the duties required under section 910(b)(1) of the National Defense Authorization Act of Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 111 note).

"(B) OTHER ELEMENTS.—The head any element that is not a covered element may only detail or assign to the cross-functional team, including through a joint duty assignment (as applicable), intelligence or counterintelligence personnel of such element if the head of such element—

"(i) receives written concurrence from the Director of National Intelligence and the Secretary of Defense regarding the specific personnel to be detailed or assigned; and

"(ii) submits to the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives a notification describing the personnel to be detailed or assigned and the rationale for participation in the cross functional team.

"(2) NATIONAL SECURITY AGENCY.—In carrying out paragraph (1) with respect to the National Security Agency, the Director of the National Security Agency shall ensure there is detailed or assigned to the cross-functional team at least 1 individual determined appropriate by the Director, who, while so detailed or assigned, shall provide such team with technical expertise of the National Security Agency relevant to the fulfilment of the duties referred to in paragraph (1).

"(d) ADDITIONAL DETAIL AUTHORITY.—Upon request by the cross-functional team, the head of any element of the intelligence community may detail to such team personnel of the element to provide intelligence, counterintelligence, or related support.

"(e) COVERED ELEMENT DEFINED.—In this section, the term 'covered element' means the following:

"(1) The National Security Agency.

"(2) The Defense Intelligence Agency.

"(3) The intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps."

[For definitions of "intelligence community" and "congressional intelligence committees" as used in section 7353 of Pub. L. 118–31, set out above, see section 7002 of Pub. L. 118–31, set out as a note under section 3003 of Title 50, War and National Defense.]

Pub. L. 117–81, div. A, title IX, §910, Dec. 27, 2021, 135 Stat. 1877, as amended by Pub. L. 117–263, div. A, title X, §1044(a), Dec. 23, 2022, 136 Stat. 2771; Pub. L. 118–31, div. A, title IX, §917, Dec. 22, 2023, 137 Stat. 369, provided that:

"(a) ESTABLISHMENT.—Using the authority provided pursuant to section 911(c) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note), the Secretary of Defense shall establish a cross-functional team to address national security challenges posed by anomalous health incidents (as defined by the Secretary), including capabilities that plausibly could result in such incidents, and ensure that individuals affected by anomalous health incidents receive timely and comprehensive health care

and treatment pursuant to title 10, United States Code, for symptoms consistent with an anomalous health incident.

"(b) DUTIES.—The duties of the cross-functional team established under subsection (a) shall be—

"(1) to investigate and carry out such other activities as may be necessary—

"(A) to identify anomalous health incidents;

"(B) to determine the causes and sources of such incidents, including identification of any individuals, entities, capabilities, or phenomena to which such incidents may plausibly be attributed; and

"(C) to understand how such incidents may be mitigated and treated;

"(2) to address the challenges posed by anomalous health incidents, including by coordinating research into—

"(A) non-kinetic capabilities that plausibly might result in such incidents, such as anti-personnel capabilities and directed energy capabilities;

"(B) the detection and mitigation of such capabilities; and

"(C) the development of countermeasures for such capabilities;

"(3) to integrate and deconflict the efforts of the Department of Defense regarding anomalous health incidents with the efforts of other departments or agencies of the Federal Government regarding such incidents; and

"(4) to undertake any other efforts regarding non-kinetic threats to personnel and anomalous health incidents that the Secretary considers appropriate.

"(c) TEAM LEADERSHIP.—The Secretary shall select an Under Secretary of Defense to lead the cross-functional team and a senior military officer to serve as the deputy to the Under Secretary so selected.

"(d) DETERMINATION OF ORGANIZATIONAL ROLES AND RESPONSIBILITIES.—The Secretary, acting through the cross-functional team established under subsection (a), shall determine the roles and responsibilities of the organizations and elements of the Department of Defense with respect to addressing anomalous health incidents, including the roles and responsibilities of the Office of the Secretary of Defense, the intelligence components of the Department, Defense agencies, Department of Defense field activities, the military departments, combatant commands, and the Joint Staff.

"(e) BRIEFINGS.—

"(1) INITIAL BRIEFING.—Not later than 45 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary shall provide to the appropriate congressional committees a briefing on—

"(A) the progress of the Secretary in establishing the cross-functional team; and

"(B) the progress the team has made in—

"(i) determining the roles and responsibilities of the organizations and elements of the Department of Defense with respect the cross-functional team; and

"(ii) carrying out the duties under subsection (b).

"(2) UPDATES.—Not later than March 1, 2023, and not less frequently than once every 180 days thereafter until March 1, 2028, the Secretary shall provide to the appropriate congressional committees a briefing containing updates on any activities carried out to fulfill the duties specified in subsection (b) since the date of the preceding briefing under this section.

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

Pub. L. 115–232, div. A, title IX, §918, Aug. 13, 2018, 132 Stat. 1925, provided that:

"(a) CROSS-FUNCTIONAL TEAM ON ELECTRONIC WARFARE.—

"(1) IN GENERAL.—Among the cross-functional teams established by the Secretary of Defense pursuant to subsection (c) of section 911 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2345; 10 U.S.C. 111 note) [set out below] in support of the organizational strategy for the Department of Defense required by subsection (a) of that section, the Secretary shall establish a cross-functional team on electronic warfare.

"(2) ESTABLISHMENT AND ACTIVITIES.—The cross-functional team established pursuant to paragraph (1) shall be established in accordance with subsection (c) of section 911 of the National Defense Authorization Act for Fiscal Year 2017, and shall be governed in its activities in accordance with the provisions of such subsection (c).

"(3) DEADLINE FOR ESTABLISHMENT.—The cross-functional team required by paragraph (1) shall be established by not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018].

"(b) ADDITIONAL CROSS-FUNCTIONAL TEAMS MATTERS.—

"(1) CRITERIA FOR DISTINGUISHING AMONG CROSS-FUNCTIONAL TEAMS.—Not later than 60 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall issue criteria that distinguish cross-functional teams under section 911 of the National Defense Authorization Act for Fiscal Year 2017 from other types of cross-functional working groups, committees, integrated product teams, and task forces of the Department.

"(2) PRIMARY RESPONSIBILITY FOR IMPLEMENTATION OF TEAMS.—The Deputy Secretary of Defense shall establish or designate an office within the Department that shall have primary responsibility for implementing section 911 of the National Defense Authorization Act for Fiscal Year 2017."

Pub. L. 114–328, div. A, title IX, §911, Dec. 23, 2016, 130 Stat. 2345, provided that:

"(a) ORGANIZATIONAL STRATEGY REQUIRED.—

"(1) IN GENERAL.—Not later than September 1, 2017, the Secretary of Defense shall formulate and issue to the Department of Defense an organizational strategy for the Department that—

"(A) identifies the critical objectives and other organizational outputs for the Department that span multiple functional boundaries and would benefit from the use of cross-functional teams under this section to ensure collaboration and integration across organizations within the Department;

"(B) improves the manner in which the Department integrates the expertise and capacities of the functional components of the Department for effective and efficient achievement of such objectives and outputs;

"(C) improves the management of relationships and processes involving the Office of the Secretary of Defense, the Joint Staff, the combatant commands, the military departments, and the Defense Agencies with regard to such objectives and outputs;

"(D) improves the ability of the Department to work effectively in interagency processes with regard to such objectives and outputs in order to better serve the President; and

"(E) achieves an organizational structure that enhances performance with regard to such objectives and outputs.

"(2) ELEMENTS.—The strategy shall provide for the following:

"(A) The appropriate use of cross-functional teams to manage critical objectives and outputs of the Department described in paragraph (1)(A).

"(B) The furtherance and advancement of a collaborative, team-oriented, results-driven, and innovative culture within the Department that fosters an open debate of ideas and alternative courses of action, and supports cross-functional teaming and integration.

"(b) ACTIONS IN SUPPORT OF STRATEGY.—

"(1) STUDY.—The Department of Defense shall conduct a study of the following in order to determine how best to implement effective cross-functional teams in the Department to achieve the strategic objectives of the Secretary of Defense:

"(A) Lessons learned, as reflected in academic literature, business and management school case studies, and the work of leading management consultant firms, on the successful and failed application of cross-functional teams in the private sector and government, and on the cultural factors necessary to support effective cross-functional teams.

"(B) The historical and current use by the Department of cross-functional working groups, integrated process teams, councils, and committees, and the reasons why such entities have or have not achieved high levels of teamwork or effectiveness.

"(2) CONDUCT OF STUDY.—The study required by paragraph (1) shall be conducted by an independent organization with widely acknowledged expertise in modern organizational management and teaming selected by the Secretary for purposes of the study.

"(3) SCHEDULE.—The Secretary shall award any necessary contract for the study required by paragraph (1) pursuant to paragraph (2) by not later than March 15, 2017, and shall provide the results of the study to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than July 15, 2017.

"(c) CROSS-FUNCTIONAL TEAMS.—In support of the strategy required by subsection (a):

"(1) IN GENERAL.—The Secretary of Defense shall establish cross-functional teams to address critical objectives and outputs for such teams as are determined to be appropriate in accordance with the organizational strategy issued under subsection (a), with initial teams established by not later than September 30, 2017.

"(2) PURPOSES.—The purposes of cross-functional teams established pursuant to this subsection shall be, as determined appropriate by the Secretary—

"(A) to provide for effective collaboration and integration across organizational and functional boundaries in the Department of Defense;

"(B) to develop, at the direction of the Secretary, recommendations for comprehensive and fully integrated policies, strategies, plans, and resourcing decisions;

"(C) to make decisions on cross-functional issues, to the extent authorized by the Secretary and within parameters established by the Secretary; and

"(D) to provide oversight for and, as directed by the Secretary, supervise the implementation of approved policies, strategies, plans, and resourcing decisions approved by the Secretary.

"(3) GUIDANCE ON TEAMS.—Not later than September 30, 2017, the Secretary shall issue guidance—

"(A) addressing the role, authorities, reporting relationships, resourcing, manning, training, and operations of cross-functional teams established pursuant to this subsection;

"(B) delineating decision-making authority of such teams;

"(C) providing that the leaders of functional components of the Department that provide personnel to such teams respect and respond to team needs and activities; and

"(D) emphasizing that personnel selected for assignment to such teams shall faithfully represent the views and expertise of their functional components while contributing to the best of their ability to the success of the team concerned.

"(4) PARTICIPANTS.—In establishing a cross-functional team pursuant to this subsection, the Secretary shall consider personnel from the Office of the Secretary of Defense, the Joint Staff, the military departments, and the Defense Agencies in all functional areas that the Secretary considers appropriate.

"(5) TEAM PERSONNEL.—For each cross-functional team established by the Secretary pursuant to this subsection, the Secretary shall—

"(A) assign as leader of such team a senior qualified and experienced individual, who shall report directly to the Secretary regarding the activities of such team;

"(B) delegate to the team leader designated pursuant to subparagraph (A) authority to select members of such team from among civilian employees of the Department and members of the Armed Forces in any grade who are recommended for membership on such team by the head of a functional component of the Department within the Office of the Secretary of Defense, the Joint Staff, and the military departments, by the commander of a combatant command, or by the director of a Defense Agency;

"(C) provide the team leader with necessary full time support from team members, and the means to co-locate team members;

"(D) ensure that team members and all leaders in functional organizations that are in the supervisory chain for personnel serving on such team receive training in elements of successful cross-functional teams, including teamwork, collaboration, conflict resolution, and appropriately representing the views and expertise of their functional components; and

"(E) ensure that the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] are provided information on the progress and results of such team upon request.

"(6) TEAM STRATEGIES AND DECISION-MAKING AUTHORITY.—

"(A) IN GENERAL.—The Secretary shall ensure that the objectives of each cross-functional team established pursuant to this subsection are clearly established in writing, through a memorandum, statement, charter, or similar document.

"(B) METRICS.—To improve team performance and accountability, the Secretary shall task each team, as appropriate, to establish a strategy to achieve the objectives specified by the Secretary, metrics for evaluation of the achievement of such objectives by such team, and the alignment of individual and team goals for the achievement of such objectives by such team.

"(C) DELEGATION OF AUTHORITY.—The Secretary may delegate to a team any decision-making authority that, and shall delegate such authority as, the Secretary considers appropriate to permit such team to achieve the objectives established by the Secretary.

"(7) REVIEW OF TEAMS.—Not later than 18 months after the date on which the first cross-functional team is established pursuant to this subsection, the Secretary shall complete an analysis, with support from external experts in organizational and management sciences, of the successes and failures of teams established pursuant to this subsection, and determine how to apply the lessons learned from that analysis.

"(8) REPORT ON ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to Congress a report on the establishment of

cross-functional teams under this subsection, including descriptions from the leaders of teams established prior to the date on which this report is submitted of the manner in which the teams were designed and how they functioned.

"(d) DIRECTIVE ON COLLABORATIVE CULTURE AND BEHAVIOR.—The guidance issued by the Secretary of Defense pursuant to subsection (c)(3) shall also—

"(1) articulate the shared purposes, values, and principles for the operation of the Office of the Secretary of Defense that are required to promote a team-oriented, collaborative, results-driven culture within the Office to support the primary objectives of the Department of Defense;

"(2) ensure that collaboration across functional and organizational boundaries is an important factor in the performance review of leaders of cross-functional teams established pursuant to subsection (c), members of teams, and other appropriate leaders of the Department; and

"(3) identify key practices that senior leaders of the Department should follow with regard to leadership, organizational practice, collaboration, and the functioning of cross-functional teams, and the types of personnel behavior that senior leaders should encourage and discourage.

"(e) STREAMLINING OF ORGANIZATIONAL STRUCTURE AND PROCESSES OF OSD.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall take such actions as the Secretary considers appropriate to streamline the organizational structure and processes of the Office of the Secretary of Defense in order to increase spans of control, achieve a reduction in layers of management, eliminate unnecessary duplication between the Office and the Joint Staff, and reduce the time required to complete standard processes and activities.

"(f) TRAINING FOR INDIVIDUALS NOMINATED FOR APPOINTMENT FOR OSD POSITIONS CONFIRMED BY THE SENATE.—

"(1) IN GENERAL.—Within three months of the appointment of an individual to a position in the Office of the Secretary of Defense appointable by and with the advice and consent of the Senate, the individual shall complete a course of instruction in leadership, modern organizational practice, collaboration, and the operation of teams described in subsection (c).

"(2) WAIVER.—The President may waive the requirement in paragraph (1) with respect to an individual if the Secretary determines in writing that the individual possesses, through training and experience, the skill and knowledge otherwise to be provided through a course of instruction as described in that paragraph.

"(g) COMPTROLLER GENERAL OF THE UNITED STATES ASSESSMENTS.—

"(1) BIANNUAL REPORT ON ASSESSMENTS.—Not later than six months after the date of the enactment of this Act [Dec. 23, 2016], and every six months thereafter through December 31, 2019, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive assessment of the actions taken under this section during the six-month period ending on the date of such report and cumulatively since the date of the enactment of this Act.

"(2) ASSESSMENT TEAM.—The Comptroller General may establish within the Government Accountability Office a team of analysts to assist the Comptroller General in the performance assessments required by this subsection."

## CONTINUATION OF REPORTING REQUIREMENTS

Pub. L. 118–159, div. A, title XVI, §1652(a)(1), Dec. 23, 2024, 138 Stat. 2200, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 111 note) does not apply to the report required to be submitted to Congress under section 1343(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3743(a))."

Pub. L. 117–263, div. A, title III, §314(c)(1), Dec. 23, 2022, 136 Stat. 2505, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to the following reports:

"(A) The report required to be submitted to Congress under section 2711 of title 10, United States Code.

"(B) The report required to be submitted to Congress under section 2925 of title 10, United States Code."

Pub. L. 117–263, div. A, title III, §375(a), Dec. 23, 2022, 136 Stat. 2542, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to the report required to be submitted to Congress under section 2464(d) of title 10, United States Code."

Pub. L. 117–263, div. A, title III, §376(a), Dec. 23, 2022, 136 Stat. 2542, provided that: "Section 1080(a) of

the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to the report required to be submitted to Congress under section 2466(d) of title 10, United States Code."

Pub. L. 117–263, div. A, title X, §1053(b)(1), Dec. 23, 2022, 136 Stat. 2778, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to the report required to be submitted to Congress under section 2561(c) of title 10, United States Code."

Pub. L. 117–263, div. A, title X, §1059(a), Dec. 23, 2022, 136 Stat. 2780, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to the report required to be submitted to Congress under section 10541 of title 10, United States Code."

Pub. L. 115–91, div. A, title VIII, §811(d)(2), Dec. 12, 2017, 131 Stat. 1460, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note), as amended by section 1061(j) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2405; 10 U.S.C. 111 note), does not apply to the report required to be submitted to Congress under section 2313a of title 10, United States Code [now 10 U.S.C. 3847]."

Pub. L. 114–328, div. A, title X, §1061, Dec. 23, 2016, 130 Stat. 2400, as amended by Pub. L. 115–91, div. A, title X, §§1051(u)–(w), 1081(d)(11), (12), Dec. 12, 2017, 131 Stat. 1566, 1567, 1600; Pub. L. 115–232, div. A, title III, §314(b)(2), title VIII, §813(i)(1), Aug. 13, 2018, 132 Stat. 1712, 1851; Pub. L. 117–81, div. A, title X, §§1011(b), 1064, Dec. 27, 2021, 135 Stat. 1890, 1909; Pub. L. 117–263, div. A, title III, §§314(c)(2), 375(b), 376(b), title X, §§1053(b)(2), 1059(b), title XVI, §1633(e), Dec. 23, 2022, 136 Stat. 2505, 2542, 2778, 2780, 2938; Pub. L. 118–31, div. B, title XXVIII, §2821(c), Dec. 22, 2023, 137 Stat. 751; Pub. L. 118–159, div. A, title XVI, §1652(a)(2), Dec. 23, 2024, 138 Stat. 2201; Pub. L. 119–60, div. B, title XXVIII, §2823(b)(2), Dec. 18, 2025, 139 Stat. 1307, provided that:

"(a) EXCEPTIONS TO REPORTS TERMINATION PROVISION.—Section 1080 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to any report required to be submitted to Congress by the Department of Defense, or by any officer, official, component, or element of the Department, pursuant to a provision of law specified in this section, notwithstanding the enactment of the reporting requirement by an annual national defense authorization Act or the inclusion of the report in the list of reports prepared by the Secretary of Defense pursuant to subsection (c) of such section 1080.

"(b) FINAL TERMINATION DATE FOR SUBMITTAL OF EXEMPTED REPORTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each report required pursuant to a provision of law specified in this section that is still required to be submitted to Congress as of December 31, 2021, shall no longer be required to be submitted to Congress after that date.

"(2) REPORTS EXEMPTED FROM TERMINATION.—The termination dates specified in paragraph (1) and section 1080 of the National Defense Authorization Act for Fiscal Year 2016 do not apply to the following:

"(A) The submission of the reports on the National Military Strategy and Risk Assessment under section 153(b)(3) of title 10, United States Code.

"(B) The submission of the future-years defense program (including associated annexes) under section 221 of title 10, United States Code.

"(C) The submission of the future-years mission budget for the military programs of the Department of Defense under section 221 of such title.

"(D) The submission of audits of contracting compliance by the Inspector General of the Department of Defense under section 1601(b) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 2533a note [now 10 U.S.C. 4862 note]).

"(E) The submission of the report required under section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5).

"(F) The submission of the report required under section 2504 of title 10, United States Code [now 10 U.S.C. 4814].

"(c) REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of title 10, United States Code:

"(1) Section 113(i).

"(2) [Former] Section 117(e).

"(3) [Section] 118a(d).

"(4) Section 119(a) and (b).

"(5) Section 127b(f).
"(6) Section 139(h).
"(7) [Former] Section 139b(d).
"(8) Sections [sic] 153(c).
"(9) Section 171a(e) and (g)(2).
"[(10) Repealed. Pub. L. 117–263, div. A, title XVI, §1633(e), Dec. 23, 2022, 136 Stat. 2938.]
"(11) Section 196(d)(1), (d)(4), and (e)(3) [now 10 U.S.C. 4173(d)(1), (4), (e)(3)].
"(12) Section 223a(a).
"(13) [Former] Section 225(c)[.]
"(14) Section 229.
"[(15) Repealed. Pub. L. 117–81, div. A, title X, §1011(b), Dec. 27, 2021, 135 Stat. 1890.]
"[(16) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(A), Aug. 13, 2018, 132 Stat. 1852.]
"(17) Section 238.
"(18) Section 341(f) of title 10, United States Code, as amended by section 1246 of this Act.
"(19) Section 401(d).
"(20) Section 407(d).
"(21) Section 481a(c).
"(22) Section 482(a).
"(23) [Former] Section 488(c).
"(24) Section 494(b).
"(25) Section 526(j).
"(26) Section 946(c) (Article 146 of the Uniform Code of Military Justice).
"(27) Section 981(c).
"(28) Section 1116(d).
"(29) Section 1566(c)(3).
"(30) Section 1557(e).
"[(31) Repealed. Pub. L. 118–31, div. B, title XXVIII, §2821(c), Dec. 22, 2023, 137 Stat. 751.]
"(32) Section 1781c(h) [now 10 U.S.C. 1781c(g)].
"(33) Section 2011(e) [now 10 U.S.C. 322(e)].
"(34) Section 2166(i) [now 10 U.S.C. 343(i)].
"(35) Section 2218(h).
"(36) Section 2228(e).
"(37) Section 2229(d).
"(38) Section 2229a.
"(39) Section 2249c(c) [now 10 U.S.C. 345(d)].
"(40) Section 2275.
"[(41) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(A), Aug. 13, 2018, 132 Stat. 1852.]
"(42) Section 2367(d) [now 10 U.S.C. 4126(d)].
"(43) Section 2399(g) [now 10 U.S.C. 4171(g)].
"(44) [Former] Section 2445b.
"[(45) Repealed. Pub. L. 117–263, div. A, title III, §375(b), Dec. 23, 2022, 136 Stat. 2542.]
"[(46) Repealed. Pub. L. 117–263, div. A, title III, §376(b), Dec. 23, 2022, 136 Stat. 2542.]
"[(47) Repealed. Pub. L. 117–81, div. A, title X, §1064(2), Dec. 27, 2021, 135 Stat. 1909.]
"[(48) Repealed. Pub. L. 117–263, div. A, title X, §1053(b)(2), Dec. 23, 2022, 136 Stat. 2778.]
"(49) Section 2684a(g) [now 10 U.S.C. 2684a(h)].
"(50) Section 2687a.
"[(51) Repealed. Pub. L. 117–263, div. A, title III, §314(c)(2), Dec. 23, 2022, 136 Stat. 2505.]
"[(52) Repealed. Pub. L. 119–60, div. B, title XXVIII, §2823(b)(2), Dec. 18, 2025, 139 Stat. 1307.]
"(53) Section 2911(a) and (b)(3) [now 10 U.S.C. 2911(c) and (d)(3)].
"[(54) Repealed. Pub. L. 117–263, div. A, title III, §314(c)(2), Dec. 23, 2022, 136 Stat. 2505.]
"(55) Section 2926(e)(4) [now 10 U.S.C. 2926(f)(4)].
"(56) Section 4361(d)(4)(B) [now 10 U.S.C. 7461(d)(4)(B)].
"(57) Section 4721(e) [now 10 U.S.C. 7721(e)].
"(58) Section 6980(d)(4)(B) [now 10 U.S.C. 8480(d)(4)(B)].
"(59) Section 7310(c) [now 10 U.S.C. 8680(c)].
"(60) Section 9361(d)(4)(B) [now 10 U.S.C. 9461(d)(4)(B)].
"(61) Section 10216(c).
"[(62) Repealed. Pub. L. 117–263, div. A, title X, §1059(b), Dec. 23, 2022, 136 Stat. 2780.]

"(63) Section 10543.
"(64) Section 10504(b) [now 10 U.S.C. 10504(c)].
"(65) [Former] Section 235.
"(66) Section 115a.
"(67) Section 2193b(g).

"(d) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291):

"(1) Section 546(d) [now 546(e)] (10 U.S.C. 1561 note).
"(2) Section 1003 (10 U.S.C. 221 note).
"[(3) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(B), Aug. 13, 2018, 132 Stat. 1852.]
"(4) Section 1055 (128 Stat. 3498).
"(5) Section 1204(b) (10 U.S.C. 2249e note) [now 10 U.S.C. 362 note].
"(6) Section 1205(e) (128 Stat. 3537).
"(7) Section 1206(e) ([former] 10 U.S.C. 2282 note).
"(8) Section 1211 (128 Stat. 3544).
"(9) Section 1225 (128 Stat. 3550).
"(10) Section 1235 (128 Stat. 3558).
"(11) [Former] Section 1245 (128 Stat. 3566).
"(12) Section 1253(b) (22 U.S.C. 2151 note).
"(13) Section 1275(b) (128 Stat. 3591).
"[(14) Repealed. Pub. L. 118–159, div. A, title XVI, §1652(a)(2), Dec. 23, 2024, 138 Stat. 2201.]
"(15) Section 1650 (128 Stat. 3653).
"(16) Section 1662(c)(2) and (d)(2) (128 Stat. 3657; [former] 10 U.S.C. 2431 note).
"(17) Section 2821(a)(3) (10 U.S.C. 2687 note).
"(18) Section 1209(d) (128 Stat. 3542).

"(e) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66):

"(1) Section 704(e) (10 U.S.C. 1074 note).
"(2) Sections [sic] 713(f), (g), and (h) ([former] 10 U.S.C. 1071 note).
"(3) Section 904(d)(2) (10 U.S.C. 111 note).
"(4) [Former] Section 1205(f)(3) ([Former] 32 U.S.C. 107 note).

"(f) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239):

"[(1) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(C), Aug. 13, 2018, 132 Stat. 1852.]
"(2) Section 904(h)(1) and (2) (10 U.S.C. 133 note) [now 10 U.S.C. 133a note].
"(3) Section 1009 (126 Stat. 1906).
"(4) Section 1023 (126 Stat. 1911).
"(5) Section 1052(b)(4) (126 Stat. 1936; 49 U.S.C. 40101 note) [now 49 U.S.C. 44802 note].

"(g) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383):

"(1) Section 123 (10 U.S.C. 167 note).
"(2) Section 1216(c) (124 Stat. 4392).
"[(3) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(D), Aug. 13, 2018, 132 Stat. 1852.]
"(4) Section 1631(d) (10 U.S.C. 1561 note).

"(h) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84):

"(1) Section 711(d) (10 U.S.C. 1071 note).
"(2) Section 1003(b) ([former] 10 U.S.C. 2222 note).
"[(3) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(E), Aug. 13, 2018, 132 Stat. 1852.]
"(4) Section 1245 (123 Stat. 2542) [10 U.S.C. 113 note].
"(5) Section 1806 (10 U.S.C. 948a note).

"(i) REPORTS REQUIRED BY OTHER LAWS.—Subject to subsection (b), subsection (a) applies to

reporting requirements contained in the following provisions of law:

"(1) Sections [sic] 1412(i) and (j) of the National Defense Authorization Act, 1986 [probably should be "Department of Defense Authorization Act, 1986"] (50 U.S.C. 1521), as amended by section 1421 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383).

"(2) Section 1703 of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 1523).

"(3) Section 717(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 1073 note).

"(4) Section 234 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. 2367).

"(5) Section 1309(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note).

"(6) Section 1237(b)(2) of the [Strom Thurmond] National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).

"(7) Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note).

"(8) Section 232(h)(2) [probably should be "232(h)(3)"] of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; [former] 10 U.S.C. 2431 note).

"(9) Section 366(a)(5) and (c)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note).

"(10) Section 1208(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086).

"(11) Section 1208(d) of the National Defense Authorization Act for [Fiscal Year] 2006 (Public Law 109–163; 119 Stat. 3459).

"(12) Section 1405(d) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. 801 note).

"(13) Section 122(f)(1) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2104).

"(14) Section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294) [10 U.S.C. 1074 note].

"[(15) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(F), Aug. 13, 2018, 132 Stat. 1852.]

"(16) Section 1517(f) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2443).

"[(17) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(F), Aug. 13, 2018, 132 Stat. 1852.]

"(18) Section 1034(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 309) [10 U.S.C. 272 note].

"(19) Section 1107(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 358) [10 U.S.C. 4121 note].

"(20) Section 1233(f) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 393).

"(21) Section 1234(e) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 394).

"(22) Section 219(c) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; [former] 10 U.S.C. 2358 note).

"(23) Section 533(i) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; [former] 10 U.S.C. prec. 701 note).

"[(24) Repealed. Pub. L. 115–232, div. A, title VIII, §813(i)(1)(F), Aug. 13, 2018, 132 Stat. 1852.]

"(25) Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1619).

"(26) Section 1236 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1641).

"(27) Section 103A(b)(3) [probably should be "103a(b)(3)"] of the Sikes Act (16 U.S.C. 670c–1(b)(3)).

"(28) Section 1511(h) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411(h)).

"(29) Section 901(f) [now 901(g)] of the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109–469; 32 U.S.C. 112 note), as added by section 1008 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239).

"[(30) Repealed. Pub. L. 117–81, div. A, title X, §1064(3), Dec. 27, 2021, 135 Stat. 1910.]

"(31) Section 105A(b) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20308(b)), as added by section 586 of the National Defense Authorization Act for Fiscal Year 2010 (Public

Law 111–84).

"(32) Section 112(f) of title 32, United States Code.

"(33) Section 310b(i)(2) [probably should be "301b(i)(2)"] of title 37, United States Code.

"(34) Section 509(k) of title 32, United States Code.

"(35) Section 1022(c) of the National Defense Authorization Act for [Fiscal Year] 2004 (Public Law 108–136; 10 U.S.C. 371 note [probably should be "10 U.S.C. 271 note"]).

"(j) [Amended section 1080(a) of Pub. L. 114–92, set out below.]

"(k) REPORT TO CONGRESS.—Not later than February 1, 2017, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes each of the following:

"(1) A list of all reports that are required to be submitted to Congress as of the date of the enactment of this Act [Dec. 23, 2016] that will no longer be required to be submitted to Congress as of November 25, 2017.

"(2) For each such report, a citation to the provision of law under which the report is or was required to be submitted."

[Pub. L. 115–91, div. A, title X, §1051(u)–(w), Dec. 12, 2017, 131 Stat. 1566, 1567, provided that the amendments made by section 1051(u)–(w) to section 1061 of Pub. L. 114–328, set out above, are effective as of Dec. 23, 2016, and as if included in section 1061 as enacted.]

## REDUCTION IN AMOUNTS AVAILABLE FOR DEPARTMENT OF DEFENSE HEADQUARTERS, ADMINISTRATIVE, AND SUPPORT ACTIVITIES

Pub. L. 114–92, div. A, title III, §346(a), (b), (d), Nov. 25, 2015, 129 Stat. 796, as amended by Pub. L. 115–91, div. A, title IX, §§922, 923, Dec. 12, 2017, 131 Stat. 1525; Pub. L. 116–92, div. A, title IX, §901(b), Dec. 20, 2019, 133 Stat. 1542, provided that:

"(a) PLAN FOR ACHIEVEMENT OF COST SAVINGS.—

"(1) IN GENERAL.—Commencing not later than 120 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall implement a plan to ensure that the Department of Defense achieves not less than $10,000,000,000 in cost savings from the headquarters, administrative, and support activities of the Department during the period beginning with fiscal year 2015 and ending with fiscal year 2019. The Secretary shall ensure that at least one half of the required cost savings are programmed for fiscal years before fiscal year 2018.

"(2) TREATMENT OF SAVINGS PURSUANT TO HEADQUARTERS REDUCTION .—Documented savings achieved pursuant to the headquarters reduction requirement in subsection (b), other than savings achieved in fiscal year 2020, shall count toward the cost savings required by paragraph (1).

"(3) TREATMENT OF SAVINGS PURSUANT TO MANAGEMENT ACTIVITIES.—Documented savings in the human resources management, health care management, financial flow management, information technology infrastructure and management, supply chain and logistics, acquisition and procurement, and real property management activities of the Department during the period referred to in paragraph (1) may be counted toward the cost savings required by paragraph (1).

"(4) TREATMENT OF SAVINGS PURSUANT TO FORCE STRUCTURE REVISIONS.—Savings or reductions to military force structure or military operating units of the Armed Forces may not count toward the cost savings required by paragraph (1).

"(5) REPORTS.—The Secretary shall include with the budget for the Department of Defense for each of fiscal years 2017, 2018, and 2019, as submitted to Congress pursuant to section 1105 of title 31, United States Code, a report describing and assessing the progress of the Department in implementing the plan required by paragraph (1) and in achieving the cost savings required by that paragraph.

"(6) COMPTROLLER GENERAL ASSESSMENTS.—Not later than 90 days after the submittal of each report required by paragraph (5), the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the assessment of the Comptroller General of the report and of the extent to which the Department of Defense is in compliance with the requirements of this section.

"(b) HEADQUARTERS REDUCTIONS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall modify the headquarters reduction plan required by section 904 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 816; 10 U.S.C. 111 note) to ensure that it achieves savings in the total funding available for major Department of Defense

headquarters activities by fiscal year 2020 that are not less than 25 percent of the baseline amount. The modified plan shall establish a specific savings objective for each major headquarters activity in each fiscal year through fiscal year 2020. The budget for the Department of Defense for each fiscal year after fiscal year 2016 shall reflect the savings required by the modified plan.

"(2) BASELINE AMOUNT.—For the purposes of this subsection, the baseline amount is the amount authorized to be appropriated by this Act [see Tables for classification] for fiscal year 2016 for major Department of Defense headquarters activities, adjusted by a credit for reductions in such headquarters activities that are documented, as of the date that is 90 days after the date of the enactment of this Act, as having been accomplished in earlier fiscal years in accordance with the December 2013 directive of the Secretary of Defense on headquarters reductions. The modified plan issued pursuant to paragraph (1) shall include an overall baseline amount for all of the major Department of Defense headquarters activities that credits reductions accomplished in earlier fiscal years in accordance with the December 2013 directive, and a specific baseline amount for each such headquarters activity that credits such reductions.

"(3) MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES DEFINED.—In this subsection, the term 'major Department of Defense headquarters activities' means the following:

"(A) Each of the following organizations:

"(i) The Office of the Secretary of Defense and the Joint Staff.

"(ii) The Office of the Secretary of the Army and the Army Staff.

"(iii) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and Headquarters, Marine Corps.

"(iv) The Office of the Secretary of the Air Force and the Air Staff.

"(v) The Office of the Chief, National Guard Bureau, and the National Guard Joint Staff.

"(B)(i) Except as provided in clause (ii), headquarters elements of each of the following:

"(I) The combatant commands, the sub-unified commands, and subordinate commands that directly report to such commands.

"(II) The major commands of the military departments and the subordinate commands that directly report to such commands.

"(III) The component commands of the military departments.

"(IV) The Defense Agencies, the Department of Defense field activities, and the Office of the Inspector General of the Department of Defense.

"(V) Department of Defense components that report directly to the organizations specified in subparagraph (A).

"(ii) Subordinate commands and direct-reporting components otherwise described in clause (i) that do not have significant functions other than operational, operational intelligence, or tactical functions, or training for operational, operational intelligence, or tactical functions, are not headquarters elements for purposes of this subsection.

"(4) IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall revise applicable guidance on the Department of Defense major headquarters activities as needed to—

"(A) incorporate into such guidance the definition of the term 'major Department of Defense headquarters activities' as provided in paragraph (3);

"(B) ensure that the term 'headquarters element', as used in paragraph (3)(B), is consistently applied within such guidance to include—

"(i) senior leadership and staff functions of applicable commands and components; and

"(ii) direct support to senior leadership and staff functions of applicable commands and components and to higher headquarters;

"(C) ensure that the budget and accounting systems of the Department of Defense are modified to track funding for the major Department of Defense headquarters activities as separate funding lines; and

"(D) identify and address any deviation from the specific savings objective established for a headquarters activity in the modified plan issued by the Secretary pursuant to the requirement in paragraph (1).

"(5) MANNER OF CARRYING OUT REDUCTIONS.—

"(A) IN GENERAL.—The Secretary of Defense shall implement the headquarters reduction plan referred to in paragraph (1), as modified pursuant to that paragraph, so that reductions in major Department of Defense headquarters activities pursuant to the plan are carried out only after consideration of—

"(i) the current manpower levels of major Department of Defense headquarters activities;

"(ii) the historic manpower levels of major Department of Defense headquarters activities;

"(iii) the mission requirements of major Department of Defense headquarters activities; and

"(iv) the anticipated staffing needs of major Department of Defense headquarters activities necessary to meet national defense objectives.

"(B) CONFORMING MODIFICATION OF PLAN FOR ACHIEVEMENT OF COST SAVINGS .—The Secretary of Defense shall modify the plan for achievement of cost savings required by subsection (a) to take into account the requirement specified in subparagraph (A).

"(6) CERTIFICATIONS ON COST SAVINGS ACHIEVED.—Not later than 120 days after the date of the enactment of this paragraph [Dec. 12, 2017], and not later than 60 days after the end of each of fiscal years 2018 through 2020, the Director of Cost Assessment and Program Evaluation shall certify to the Secretary of Defense, and to the congressional defense committees, the following:

"(A) The validity of the cost savings achieved for each major Department of Defense headquarters activity during the previous fiscal year, including the cost of personnel detailed by another Department entity to the headquarters activity.

"(B) Whether the cost savings achieved for each major Department of Defense headquarters activity during that fiscal year met the savings objective for the headquarters activity for that fiscal year, as established pursuant to paragraph (1).

"(d) SUNSET.—No action is required under this section with respect to any fiscal year after fiscal year 2019."

## TERMINATION OF REQUIREMENT FOR SUBMITTAL TO CONGRESS OF REPORTS REQUIRED OF DEPARTMENT OF DEFENSE BY STATUTE

Pub. L. 119–60, div. B, title XXVIII, §2823(b)(1), Dec. 18, 2025, 139 Stat. 1307, provided that: "Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 111 note) [set out below] does not apply to the reports required to be submitted to Congress under subsection (b) and subsection (c) of section 2884 of title 10, United States Code."

Pub. L. 114–92, div. A, title X, §1080, Nov. 25, 2015, 129 Stat. 1000, as amended by Pub. L. 114–328, div. A, title X, §1061(j), Dec. 23, 2016, 130 Stat. 2405, provided that:

"(a) TERMINATION.—Effective November 25, 2017, each report described in subsection (b) that is still required to be submitted to Congress as of such date shall no longer be required to be submitted to Congress.

"(b) COVERED REPORTS.—A report described in this subsection is a report that is required to be submitted to Congress by the Department of Defense, or by any officer, official, component, or element of the Department, by any annual national defense authorization Act as of April 1, 2015.

"(c) REPORT TO CONGRESS.—Not later than February 1, 2016, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes each of the following:

"(1) A list of all reports described in subsection (b).

"(2) For each such report, a citation to the provision of law under which the report is required to be submitted.

"(3) Draft legislation that would repeal each such report."

## STREAMLINING OF DEPARTMENT OF DEFENSE MANAGEMENT HEADQUARTERS

Pub. L. 113–66, div. A, title IX, §904, Dec. 26, 2013, 127 Stat. 816, as amended by Pub. L. 113–291, div. A, title IX, §905(e), Dec. 19, 2014, 128 Stat. 3472, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall develop a plan for streamlining Department of Defense management headquarters by changing or reducing the size of staffs, eliminating tiers of management, cutting functions that provide little or no added value, and consolidating overlapping and duplicative programs and offices.

"(b) ELEMENTS OF PLAN.—The plan required by subsection (a) shall include the following for each covered organization:

"(1) A description of the planned changes or reductions in staffing and services provided by military personnel, civilian personnel, and contractor personnel.

"(2) A description of the planned changes or reductions in management, functions, and programs and offices.

"(3) The estimated cumulative savings to be achieved over a 10-fiscal-year period beginning with fiscal year 2015, and estimated savings to be achieved for each of fiscal years 2015 through 2024.

"(c) COVERED ORGANIZATION.—In this section, the term 'covered organization' includes each of the following:

"(1) The Office of the Secretary of Defense.

"(2) The Joint Staff.

"(3) The Defense Agencies.

"(4) The Department of Defense field activities.

"(5) The headquarters of the combatant commands.

"(6) Headquarters, Department of the Army, including the Office of the Secretary of the Army, the Office of the Chief of Staff of the Army, and the Army Staff.

"(7) The major command headquarters of the Army.

"(8) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and Headquarters, United States Marine Corps.

"(9) The major command headquarters of the Navy and the Marine Corps.

"(10) Headquarters, Department of the Air Force, including the Office of the Secretary of the Air Force, the Office of the Air Force Chief of Staff, and the Air Staff.

"(11) The major command headquarters of the Air Force.

"(12) The National Guard Bureau.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the plan required by subsection (a).

"(2) STATUS REPORT.—The Secretary shall include with the Department of Defense materials submitted to Congress with the budget of the President for each of fiscal years 2017 through 2024 (as submitted to Congress pursuant to section 1105 of title 31, United States Code) a report describing the implementation of the plan required by subsection (a) during the preceding fiscal year and any modifications to the plan required due to changing circumstances. Each such report shall include the following:

"(A) A summary of savings achieved for each covered organization in the fiscal year covered by such report.

"(B) A description of the savings through changes, consolidations, or reductions in staffing and services provided by military personnel, civilian personnel, and contractor personnel in the fiscal year covered by such report.

"(C) A description of the savings through changes, consolidations, or reductions in management, functions, and programs and offices, or other associated cost drivers, including a discussion of how the changes, consolidations, or reductions were prioritized, in the fiscal year covered by such report.

"(D) In any case in which savings under the plan fall short of the objective of the plan for the fiscal year covered by such report, an explanation of the reasons for the shortfall.

"(E) A description of any modifications to the plan made during the fiscal year covered by such report, and an explanation of the reasons for such modifications, including the risks of, and capabilities gained or lost by implementing, such modifications.

"(F) A description of how the plan supports or affects current Department of Defense strategic guidance, policy, and mission requirements, including the quadrennial defense review, the Unified Command Plan, and the strategic choices and management review.

"(G) A description of the associated costs specifically addressed by the savings."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 904(d)(2) of Pub. L. 113–66, set out above, see section 1061 of Pub. L. 114–328, set out as a note above.]

## MILITARY ACTIVITIES IN CYBERSPACE

Pub. L. 112–81, div. A, title IX, §954, Dec. 31, 2011, 125 Stat. 1551, provided that: "Congress affirms that the Department of Defense has the capability, and upon direction by the President may conduct offensive operations in cyberspace to defend our Nation, Allies and interests, subject to—

"(1) the policy principles and legal regimes that the Department follows for kinetic capabilities, including the law of armed conflict; and

"(2) the War Powers Resolution (50 U.S.C. 1541 et seq.)."

## INTERAGENCY POLICY COORDINATION

Pub. L. 110–181, div. A, title IX, §952, Jan. 28, 2008, 122 Stat. 291, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall develop and submit to Congress a plan to improve and reform the Department of Defense's participation in and contribution to the interagency coordination process on national security issues.

"(b) ELEMENTS.—The elements of the plan shall include the following:

"(1) Assigning either the Under Secretary of Defense for Policy or another official to be the lead policy

official for improving and reforming the interagency coordination process on national security issues for the Department of Defense, with an explanation of any decision to name an official other than the Under Secretary and the relative advantages and disadvantages of such decision.

"(2) Giving the official assigned under paragraph (1) the following responsibilities:

"(A) To be the lead person at the Department of Defense for the development of policy affecting the national security interagency process.

"(B) To serve, or designate a person to serve, as the representative of the Department of Defense in Federal Government forums established to address interagency policy, planning, or reforms.

"(C) To advocate, on behalf of the Secretary, for greater interagency coordination and contributions in the execution of the National Security Strategy and particularly specific operational objectives undertaken pursuant to that strategy.

"(D) To make recommendations to the Secretary of Defense on changes to existing Department of Defense regulations or laws to improve the interagency process.

"(E) To serve as the coordinator for all planning and training assistance that is—

"(i) designed to improve the interagency process or the capabilities of other agencies to work with the Department of Defense; and

"(ii) provided by the Department of Defense at the request of other agencies.

"(F) To serve as the lead official in Department of Defense for the development of deployable joint interagency task forces.

"(c) FACTORS TO BE CONSIDERED.—In drafting the plan, the Secretary of Defense shall also consider the following factors:

"(1) How the official assigned under subsection (b)(1) shall provide input to the Secretary of Defense on an ongoing basis on how to incorporate the need to coordinate with other agencies into the establishment and reform of combatant commands.

"(2) How such official shall develop and make recommendations to the Secretary of Defense on a regular or an ongoing basis on changes to military and civilian personnel to improve interagency coordination.

"(3) How such official shall work with the combatant command that has the mission for joint warfighting experimentation and other interested agencies to develop exercises to test and validate interagency planning and capabilities.

"(4) How such official shall lead, coordinate, or participate in after-action reviews of operations, tests, and exercises to capture lessons learned regarding the functioning of the interagency process and how those lessons learned will be disseminated.

"(5) The role of such official in ensuring that future defense planning guidance takes into account the capabilities and needs of other agencies.

"(d) RECOMMENDATION ON CHANGES IN LAW.—The Secretary of Defense may submit with the plan or with any future budget submissions recommendations for any changes to law that are required to enhance the ability of the official assigned under subsection (b)(1) in the Department of Defense to coordinate defense interagency efforts or to improve the ability of the Department of Defense to work with other agencies.

"(e) ANNUAL REPORT.—If an official is named by the Secretary of Defense under subsection (b)(1), the official shall annually submit to Congress a report, beginning in the fiscal year following the naming of the official, on those actions taken by the Department of Defense to enhance national security interagency coordination, the views of the Department of Defense on efforts and challenges in improving the ability of agencies to work together, and suggestions on changes needed to laws or regulations that would enhance the coordination of efforts of agencies.

"(f) DEFINITION.—In this section, the term 'interagency coordination', within the context of Department of Defense involvement, means the coordination that occurs between elements of the Department of Defense and engaged Federal Government agencies for the purpose of achieving an objective.

"(g) CONSTRUCTION.—Nothing in this provision shall be construed as preventing the Secretary of Defense from naming an official with the responsibilities listed in subsection (b) before the submission of the report required under this section."

## COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES

Pub. L. 108–132, §128, Nov. 22, 2003, 117 Stat. 1382, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–324, div. A, §127, Oct. 13, 2004, 118 Stat. 1229, established the Commission on the Review of the Overseas Military Facility Structure of the United States to conduct a

thorough study of matters relating to the military facility structure of the United States overseas, directed the Commission to submit a report to the President and Congress not later than Aug. 15, 2005, and provided that the Commission would terminate 45 days after such date.

## COMMISSION TO ASSESS UNITED STATES NATIONAL SECURITY SPACE MANAGEMENT AND ORGANIZATION

Pub. L. 106–65, div. A, title XVI, subtitle C, Oct. 5, 1999, 113 Stat. 813, as amended by Pub. L. 106–398, §1 [[div. A], title X, §1091], Oct. 30, 2000, 114 Stat. 1654, 1654A–300, established Commission To Assess United States National Security Space Management and Organization for purpose of assessing (1) manner in which military space assets may be exploited to provide support for United States military operations, (2) current interagency coordination process regarding operation of national security space assets, (3) relationship between intelligence and nonintelligence aspects of national security space, and potential costs and benefits of partial or complete merger of programs, projects, (4) manner in which military space issues are addressed by professional military education institutions, (5) potential costs and benefits of establishing changes to existing organizational structure of Department of Defense for national security space management and organization, and (6) advisability of certain actions relating to assignment of specified officers in United States Space Command; and further provided for report to Congress and Secretary of Defense on its findings and conclusions not later than six months after first meeting, submission to Congress by Secretary of Defense of assessment of Commission's report not later than 90 days after submission of Commission's report, and for termination of Commission 60 days after submission of its report to Congress.

## COMMISSION ON NATIONAL MILITARY MUSEUM

Pub. L. 106–65, div. B, title XXIX, Oct. 5, 1999, 113 Stat. 881, as amended by Pub. L. 107–107, div. A, title X, §1048(g)(9), Dec. 28, 2001, 115 Stat. 1228, established the Commission on the National Military Museum to conduct a study regarding construction of a national military museum in the National Capital Area, directed that appointments to the Commission be made not later than 90 days after Oct. 5, 1999, directed the Commission to convene its first meeting not later than 60 days after all appointments, directed the Commission to submit a report to Congress not later than 12 months after its first meeting, and provided for the termination of the Commission 60 days after submission of its report.

## PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Pub. L. 105–261, div. A, title XII, §1232, Oct. 17, 1998, 112 Stat. 2155, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the training or operations of the United States Armed Forces or limit the military equipment procured by the United States Armed Forces.

"(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

"(1) specifically refers to this section; and

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

"(c) MATTERS NOT AFFECTED.—Nothing in this section shall be construed to preclude the Department of Defense from implementing any measure to achieve efficiencies or for any other reason independent of the Kyoto Protocol."

## APPLICABILITY OF CERTAIN PAY AUTHORITIES TO MEMBERS OF SPECIFIED INDEPENDENT STUDY ORGANIZATIONS

Pub. L. 105–85, div. A, title X, §1081, Nov. 18, 1997, 111 Stat. 1916, provided that:

"(a) APPLICABILITY OF CERTAIN PAY AUTHORITIES.—(1) An individual who is a member of a commission or panel specified in subsection (b) and is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission or panel is not subject to the provisions of that section with respect to such membership.

"(2) An individual who is a member of a commission or panel specified in subsection (b) and is a member or former member of a uniformed service is not subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission or panel.

"(b) SPECIFIED ENTITIES.—Subsection (a) applies—

"(1) effective as of September 23, 1996, to members of the National Defense Panel established by section 924 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2626) [formerly set out below]; and

"(2) effective as of October 9, 1996, to members of the Commission on Servicemembers and Veterans Transition Assistance established by section 701 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104–275; 110 Stat. 3346; 38 U.S.C. 545 note)."

## MISSION OF WHITE HOUSE COMMUNICATIONS AGENCY

Pub. L. 104–201, div. A, title IX, §912, Sept. 23, 1996, 110 Stat. 2623, as amended by Pub. L. 109–163, div. A, title IX, §906, Jan. 6, 2006, 119 Stat. 3402, provided that:

"(a) TELECOMMUNICATIONS SUPPORT AND AUDIOVISUAL SUPPORT SERVICES.—The Secretary of Defense shall ensure that the activities of the White House Communications Agency in providing support services on a nonreimbursable basis for the President from funds appropriated for the Department of Defense for any fiscal year are limited to the provision of telecommunications support and audiovisual support services to the President and Vice President and to related elements (as defined in regulations of that agency and specified by the President with respect to particular individuals within those related elements).

"(b) OTHER SUPPORT.—Support services other than telecommunications and audiovisual support services described in subsection (a) may be provided by the Department of Defense for the President through the White House Communications Agency on a reimbursable basis.

"(c) WHITE HOUSE COMMUNICATIONS AGENCY.—For purposes of this section, the term 'White House Communications Agency' means the element of the Department of Defense within the Defense Communications Agency that is known on the date of the enactment of this Act [Sept. 23, 1996] as the White House Communications Agency and includes any successor agency."

## MILITARY FORCE STRUCTURE REVIEW

Pub. L. 104–201, div. A, title IX, subtitle B, Sept. 23, 1996, 110 Stat. 2623, directed Secretary of Defense, in consultation with Chairman of the Joint Chiefs of Staff, to complete in 1997 a review of defense program of United States, which was to include comprehensive examination of defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of defense program and policies with view toward determining and expressing defense strategy of United States and establishing revised defense program through year 2005, further established National Defense Panel to complete review and report to Secretary not later than Dec. 1, 1997, further directed Secretary to submit final report to Congress not later than Dec. 15, 1997, and provided for termination of Panel 30 days after submission of report to Secretary.

## COMMISSION ON ROLES AND MISSIONS OF ARMED FORCES

Pub. L. 103–160, div. A, title IX, subtitle E, Nov. 30, 1993, 107 Stat. 1738, as amended by Pub. L. 103–337, div. A, title IX, §923(a)(1), (2), (b)–(d), Oct. 5, 1994, 108 Stat. 2830, 2831, established the Commission on Roles and Missions of the Armed Forces to review the efficacy and appropriateness of post-Cold War era allocations of roles, missions, and functions among the Armed Forces and to evaluate and report on alternatives and make recommendations for changes, directed that appointments to the Commission be made within 45 days after Nov. 30, 1993, and that the Commission convene its first meeting within 30 days of all appointments, and thereafter submit a report not later than one year after the date of its first meeting, directed the Secretary of Defense to submit comments on the report not later than 90 days following receipt, and provided for the termination of the Commission on the last day of the sixteenth month after its first meeting or no earlier than 30 days after submission of comments by the Secretary of Defense.

## TERMINATION OF DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS DETERMINED BY SECRETARY OF DEFENSE TO BE UNNECESSARY OR INCOMPATIBLE WITH EFFICIENT MANAGEMENT OF DEPARTMENT OF DEFENSE

Pub. L. 103–160, div. A, title XI, §1151, Nov. 30, 1993, 107 Stat. 1758, provided that:

"(a) TERMINATION OF REPORT REQUIREMENTS.—Unless otherwise provided by a law enacted after the date of the enactment of this Act [Nov. 30, 1993], each provision of law requiring the submittal to Congress (or any committee of Congress) of any report specified in the list submitted under subsection (b) shall, with respect to that requirement, cease to be effective on October 30, 1995.

"(b) PREPARATION OF LIST.—(1) The Secretary of Defense shall submit to Congress a list of each provision of law that, as of the date specified in subsection (c), imposes upon the Secretary of Defense (or any other officer of the Department of Defense) a reporting requirement described in paragraph (2). The list of provisions of law shall include a statement or description of the report required under each such provision of law.

"(2) Paragraph (1) applies to a requirement imposed by law to submit to Congress (or specified committees of Congress) a report on a recurring basis, or upon the occurrence of specified events, if the Secretary determines that the continued requirement to submit that report is unnecessary or incompatible with the

efficient management of the Department of Defense.

"(3) The Secretary shall submit with the list an explanation, for each report specified in the list, of the reasons why the Secretary considers the continued requirement to submit the report to be unnecessary or incompatible with the efficient management of the Department of Defense.

"(c) SUBMISSION OF LIST.—The list under subsection (a) shall be submitted not later than April 30, 1994.

"(d) SCOPE OF SECTION.—For purposes of this section, the term 'report' includes a certification, notification, or other characterization of a communication.

"(e) INTERPRETATION OF SECTION.—This section does not require the Secretary of Defense to review each report required of the Department of Defense by law."

## REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101–510, div. A, title XIII, §1321, Nov. 5, 1990, 104 Stat. 1670, provided that section 1322 of Pub. L. 101–510, with respect to Goldwater-Nichols terminations, repeals certain provisions of law containing terminated report requirements and section 1323 of Pub. L. 101–510, with respect to such terminations, restores effectiveness of selected other provisions of law containing such requirements and described Goldwater-Nichols terminations for purposes of such repeals or restorations.

## RESTORATION OF CERTAIN REPORTING REQUIREMENTS OF TITLE 10 TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101–510, div. A, title XIII, §1323, Nov. 5, 1990, 104 Stat. 1672, restored effectiveness of following report and notification provisions previously terminated by section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99–433, formerly set out below: (1) the quarterly report required by section 127(c) of this title relating to emergency and extraordinary expenses, (2) the notifications required by section 2672a(b) of this title relating to urgent acquisitions of interests in land, (3) the notifications required by section 7308(c) of this title relating to the transfer or gift of obsolete, condemned, or captured vessels, and (4) the notifications required by section 7309(b) of this title relating to construction or repair of vessels in foreign shipyards.

## GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986; CONGRESSIONAL DECLARATION OF POLICY

Pub. L. 99–433, §3, Oct. 1, 1986, 100 Stat. 993, provided that: "In enacting this Act [see Short Title of 1986 Amendment note above], it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401) [now 50 U.S.C. 3002]—

"(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

"(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense;

"(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

"(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

"(5) to increase attention to the formulation of strategy and to contingency planning;

"(6) to provide for more efficient use of defense resources;

"(7) to improve joint officer management policies; and

"(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense."

## REDUCTION OF REPORTING REQUIREMENTS

Pub. L. 99–433, title VI, §602, Oct. 1, 1986, 100 Stat. 1066, as amended by Pub. L. 100–180, div. A, title XIII, §1314(a)(4), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title II, §243, Nov. 29, 1989, 103 Stat. 1402; Pub. L. 101–510, div. A, title XIII, §1324, Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, directed Secretary of Defense to compile a list of all provisions of law in effect on or after Oct. 1, 1986, and before Feb. 1, 1987, which require President or any official or employee of Department of Defense to submit a report, notification, or study to Congress or any committee of Congress and to submit this list not later than six months after Oct. 1, 1986, with any recommendation or draft of legislation to implement any changes in law recommended by the Secretary.

## LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

Pub. L. 99–433, title VI, §604, Oct. 1, 1986, 100 Stat. 1075a, directed Secretary of Defense, not later than six months after Oct. 1, 1986, to submit to Committees on Armed Services of Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by Pub. L. 99–433.

### READINESS STATUS OF MILITARY FORCES OF THE NORTH ATLANTIC TREATY ORGANIZATION; ASSESSMENT, FINDINGS, AND REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 96–107, title VIII, §808, Nov. 9, 1979, 93 Stat. 814, which directed Secretary of Defense to report annually to Congress on readiness of military forces of NATO, was repealed and restated as section 133a (renumbered §117 and repealed) of this title by Pub. L. 97–295, §§1(2)(A), 6(b), Oct. 12, 1982, 96 Stat. 1287, 1314.

### DEFENSE MANPOWER COMMISSION

Pub. L. 93–155, title VII, §§701–708, Nov. 16, 1973, 87 Stat. 609–611, established the Commission; provided for its composition, duties, powers, compensation, staff, appropriations, and use of General Services Administration; and directed that interim reports to President and Congress be submitted and that Commission terminate 60 days after its final report which was to be submitted not more than 24 months after appointment of Commission.

### AIR FORCE RESERVE AND AIR NATIONAL GUARD OF UNITED STATES; STUDY AND INVESTIGATION OF RELATIVE STATUS; ADVANTAGES AND DISADVANTAGES OF ALTERNATIVES; MODERNIZATION AND MANPOWER NEEDS; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 93–155, title VIII, §810, Nov. 16, 1973, 87 Stat. 618, directed the Secretary of Defense to study the relative status of the Air Force Reserve and the Air National Guard of the United States; to measure the effects on costs and combat capability as well as other advantages and disadvantages of (1) merging the Reserve into the Guard, (2) merging the Guard into the Reserve, and (3) retaining the status quo; and to consider the modernization needs and manpower problems of both; and also directed that a report of such study be submitted to the President and to the Congress no later than Jan. 31, 1975.

## EXECUTIVE DOCUMENTS

### REORGANIZATION PLAN NO. 6 OF 1953

Eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, as amended Aug. 6, 1958, Pub. L. 85–559, §10(b), 72 Stat. 521; Sept. 7, 1962, Pub. L. 87–651, title III, §307C, 76 Stat. 526

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

### DEPARTMENT OF DEFENSE

### SECTION 1. TRANSFERS OF FUNCTIONS

(a) All functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations are hereby transferred to the Secretary of Defense.

(b) The selection of the Director of the Joint Staff by the Joint Chiefs of Staff, and his tenure, shall be subject to the approval of the Secretary of Defense.

(c) The selection of the members of the Joint Staff by the Joint Chiefs of Staff, and their tenure, shall be subject to the approval of the Chairman of the Joint Chiefs of Staff.

(d) The functions of the Joint Chiefs of Staff with respect to managing the Joint Staff and the Director thereof are hereby transferred to the Chairman of the Joint Chiefs of Staff.

### SEC. 2. ABOLITION OF AGENCIES AND FUNCTIONS

(a) There are hereby abolished the Munitions Board, the Research and Development Board, and the Defense Supply Management Agency.

(b) The offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Director of the Defense Supply Management Agency, Deputy Director of the Defense Supply Management

Agency, and Director of Installations are hereby abolished.

(c) The Secretary of Defense shall provide for winding up any outstanding affairs of the said abolished agency, boards, and offices, not otherwise provided for in this reorganization plan.

(d) The function of guidance to the Munitions Board in connection with strategic and logistic plans as required by section 213(c) of the National Security Act of 1947, as amended [section 171h(c) of former Title 5], is hereby abolished.

**SEC. 3. ASSISTANT SECRETARIES OF DEFENSE**

[Repealed. Pub. L. 85–599, §10(b), Aug. 6, 1958, 72 Stat. 521, eff. six months after Aug. 6, 1958. Section authorized appointment of six additional Assistant Secretaries and prescribed their duties and compensation.]

**SEC. 4. GENERAL COUNSEL**

[Repealed. Pub. L. 87–651, title III, §307C, Sept. 7, 1962, 76 Stat. 526. Section authorized appointment of a General Counsel for the Department of Defense. See section 140 of this title.]

**SEC. 5. PERFORMANCE OF FUNCTIONS**

[Repealed. Pub. L. 87–651, title III, §307C, Sept. 7, 1962, 76 Stat. 526. Section authorized the Secretary of Defense from time to time to make such provisions as he deemed appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary. See section 113 of this title.]

**SEC. 6. MISCELLANEOUS PROVISIONS**

(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762).

**EXECUTIVE ORDER NO. 12049**

Ex. Ord. No. 12049, Mar. 27, 1978, 43 F.R. 13363, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which provided for establishment of Defense Economic Adjustment Program and continued the Economic Adjustment Committee, was superseded by Ex. Ord. No. 12788, Jan. 15, 1992, 57 F.R. 2213, set out as a note under section 2391 of this title.

## §112. Department of Defense: seal

The Secretary of Defense shall have a seal for the Department of Defense. The design of the seal is subject to approval by the President. Judicial notice shall be taken of the seal.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 517, §132; renumbered §112 and amended Pub. L. 99–433, title I, §§101(a)(2), 110(d)(1), Oct. 1, 1986, 100 Stat. 994, 1002.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 132 | 5:171a(e). | July 26, 1947, ch. 343, §202(e); added Aug. 10, 1949, ch. 412, §5 (10th par.), 63 Stat. 580. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1986**—Pub. L. 99–433 renumbered section 132 of this title as this section and substituted "Department of Defense: seal" for "Seal" in section catchline.

## §113. Secretary of Defense

(a)(1) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(2) A person may not be appointed as Secretary of Defense—

(A) within seven years after relief from active duty as a commissioned officer of a regular component of an armed force in a grade below O–7; or

(B) within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force in the grade of O–7 or above.

(b) The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 3002) he has authority, direction, and control over the Department of Defense.

(c) The Secretary shall report annually in writing to the President and the Congress on the expenditures, work, and accomplishments of the Department of Defense during the period covered by the report, together with—

(1) a report from each military department on the expenditures, work, and accomplishments of that department;

(2) itemized statements showing the savings of public funds, and the eliminations of unnecessary duplications, made under sections 125 and 191 of this title; and

(3) such recommendations as he considers appropriate.

(d) Unless specifically prohibited by law, the Secretary may, without being relieved of his responsibility, perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Department of Defense as he may designate.

(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043) for the fiscal year concerned.

(f) When a vacancy occurs in an office within the Department of Defense and the office is to be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

(g)(1)(A) Except as provided in subparagraph (E), in January every four years, and intermittently otherwise as may be appropriate, the Secretary of Defense shall provide to the Secretaries of the military departments, the Chiefs of Staff of the armed forces, the commanders of the unified and specified combatant commands, and the heads of all Defense Agencies and Field Activities of the Department of Defense and other elements of the Department specified in paragraphs (1) through (10) of section 111(b) of this title, and to the congressional defense committees, a defense strategy. Each strategy shall be known as the "national defense strategy", and shall support the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043).

(B) Each national defense strategy shall including the following:

(i) The priority missions of the Department of Defense, and the assumed force planning scenarios and constructs.

(ii) The assumed strategic environment, including the most critical and enduring threats to the national security of the United States and its allies posed by state or non-state actors, and the

current or projected threats to military installation resilience, and the strategies that the Department will employ to counter such threats and provide for the national defense.

(iii) A strategic framework prescribed by the Secretary that guides how the Department will prioritize among the threats described in clause (ii) and the missions specified pursuant to clause (i), how the Department will allocate and mitigate the resulting risks, and how the Department will make resource investments.

(iv) The roles and missions of the armed forces to carry out the missions described in clause (i), and the assumed roles and capabilities provided by other United States Government agencies and by allies and international partners.

(v) The force size and shape, force posture, defense capabilities, force readiness, infrastructure, organization, personnel, technological innovation, and other elements of the defense program necessary to support such strategy.

(vi) The major investments in defense capabilities, force structure, force readiness, force posture, and technological innovation that the Department will make over the following five-year period in accordance with the strategic framework described in clause (iii).

(vii) A strategic framework prescribed by the Secretary that guides how the Department will prioritize and integrate activities relating to sustainment of major defense acquisition programs, core logistics capabilities (as described under section 2464 of this title), commercial logistics capabilities, and the national technology and industrial base (as defined in section 4801 of this title).

(viii) A strategic framework prescribed by the Secretary that guides how the Department will specifically address contested logistics, including major investments for related infrastructure, logistics-related authorities, force posture, related emergent technology and advanced computing capabilities, operational resilience, and operational energy, over the following five-year period to support such strategy.

(ix) Strategic goals to address or mitigate the current and projected risks to military installation resilience.

(C) The Secretary shall seek the military advice and assistance of the Chairman of the Joint Chiefs of Staff in preparing each national defense strategy required by this subsection.

(D) Each national defense strategy under this subsection shall be presented to the congressional defense committees in both classified and unclassified form. The unclassified form may not be a summary of the classified document.

(E) In a year following an election for President, which election results in the appointment by the President of a new Secretary of Defense, the Secretary shall present the national defense strategy required by this subsection as soon as possible after appointment by and with the advice and consent of the Senate.

(F) In February of each year in which the Secretary does not submit a new defense strategy as required by paragraph (A), the Secretary shall submit to the congressional defense committees an assessment of the current national defense strategy, including an assessment of the implementation of the strategy by the Department and an assessment whether the strategy requires revision as a result of changes in assumptions, policy, or other factors.

(2)(A) In implementing the requirement in paragraph (1), the Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall each year provide to the officials and officers referred in paragraph (1)(A) written guidance (to be known as "Defense Planning Guidance") establishing goals, priorities, including priorities relating to the current or projected risks to military installation resilience, and objectives, including fiscal constraints, to direct the preparation and review of the program and budget recommendations of all elements of the Department, including—

(i) the priority military missions of the Department, including the assumed force planning scenarios and constructs;

(ii) the force size and shape, force posture, defense capabilities, force readiness, infrastructure, organization, personnel, technological innovation, and other elements of the defense program necessary to support the strategy required by paragraph (1);

(iii) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective; and

(iv) a discussion of any changes in the strategy required by paragraph (1) and assumptions underpinning the strategy, as required by paragraph (1).

(B) The guidance required by this paragraph shall be produced in February each year in order to support the planning and budget process. A comprehensive briefing on the guidance shall be provided to the congressional defense committees at the same time as the submission of the budget of the President (as submitted to Congress pursuant to section 1105(a) of title 31) for the fiscal year beginning in the year in which such guidance is produced.

(3)(A) In implementing the requirement in paragraph (1) and in conjunction with the reporting requirement in section 2687a of this title, the Secretary, with the approval of the President and the advice of the Chairman of the Joint Chiefs of Staff, shall, on the basis provided in subparagraph (E), provide to the officials and officers referred to in paragraph (1)(A) written guidance (to be known as "Contingency Planning Guidance" or "Guidance for Employment of the Force") on the preparation and review of contingency and campaign plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities.

(B) The guidance required by this paragraph shall include the following:

(i) A description of the manner in which limited existing forces and resources shall be prioritized and apportioned to achieve the objectives described in the strategy required by paragraph (1).

(ii) A description of the relative priority of contingency and campaign plans, specific force levels, and supporting resource levels projected to be available for the period of time for which such plans are to be effective.

(C) The guidance required by this paragraph shall include the following:

(i) Prioritized global, regional, and functional policy objectives that the armed forces should plan to achieve, including plans for deliberate and contingency scenarios.

(ii) Policy and strategic assumptions that should guide military planning, including the role of foreign partners.

(iii) Guidance on global posture and global force management.

(iv) Security cooperation priorities.

(v) Specific guidance on United States and Department nuclear policy.

(D) The guidance required by this paragraph shall be the primary source document to be used by the Chairman of the Joint Chiefs of Staff in—

(i) executing the global military integration responsibilities described in section 153 of this title; and

(ii) developing implementation guidance for the Joint Chiefs of Staff and the commanders of the combatant commands.

(E) The guidance required by this paragraph shall be produced every two years, or more frequently as needed.

(4)(A) In implementing the requirement in paragraph (1), the Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall each year produce, and submit to the congressional defense committees, a report (to be known as the "Global Defense Posture Report") that shall include the following:

(i) A description of major changes to United States forces, capabilities, and equipment assigned and allocated outside the United States, focused on significant alterations, additions, or reductions to such global defense posture that are required to execute the strategy and plans of the Department.

(ii) A description of the supporting network of infrastructure, facilities, pre-positioned stocks,

and war reserve materiel required for execution of major contingency plans of the Department.

(iii) A list of all enduring locations, including main operating bases, forward operating sites, and cooperative security locations.

(iv) A description of the status of treaty, access, cost-sharing, and status-protection agreements with foreign nations.

(v) A summary of the priority posture initiatives for each region by the commanders of the combatant commands.

(vi) For each military department, a summary of the implications for overseas posture of any force structure changes.

(vii) A description of the costs incurred outside the United States during the preceding fiscal year in connection with operating, maintaining, and supporting United States forces outside the United States for each military department, broken out by country, and whether for operation and maintenance, infrastructure, or transportation.

(viii) A description of the amount of direct support for the stationing of United States forces provided by each host nation during the preceding fiscal year.

(B) The report required by this paragraph shall be submitted to the congressional defense committees as required by subparagraph (A) by not later than April 30 each year.

(C) In this paragraph, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.

(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.

(i)(1) The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries.

(2) Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221 of this title;

(C) include a description of the means by which the Department of Defense will maintain the capability to reconstitute or expand the defense capabilities and programs of the armed forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States;

(D) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(E) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.

(j)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) The costs incurred outside the United States in connection with operating, maintaining, and

supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(B) The amount of direct and indirect support for the stationing of United States forces provided by each host nation.

(2) In this subsection, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.

(k) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

(l) On an annual basis, the Secretary of Defense, in coordination with the Secretary of the Department in which the Coast Guard is operating, shall submit to the congressional defense committees a report that sets forth a detailed discussion, current as of the preceding fiscal year, of the following:

(1) The number of officers and enlisted members of the armed forces, including the reserve components, disaggregated by gender, race, and ethnicity, for each grade in each armed force.

(2) The number of members of the armed forces, including the reserve components, who were promoted during the fiscal year covered by such report, disaggregated by gender, race, and ethnicity, for each grade in each armed force, and of the number so promoted, the number promoted below, in, and above the applicable promotion zone.

(3) The number of members of the armed forces, including the reserve components, who were enlisted or accessed into the armed forces during the fiscal year covered by such report, disaggregated by gender, race, and ethnicity, in each armed force.

(4) The number of graduates of each military service academy during the fiscal year covered by such report, disaggregated by gender, race, and ethnicity, for each military department and the United States Coast Guard.

(5) The number of Senior Reserve Officers' Training Corps scholarships awarded during the fiscal year covered by the report, disaggregated by gender, race, and ethnicity, for each military department.

(6) The program completion rates and program withdrawal rates of Senior Reserve Officers' Training Corps scholarship recipients during the fiscal year covered by the report, disaggregated by gender, race, and ethnicity, for each military department.

(7) The number of graduates of the Senior Reserve Officers' Training Corps during the fiscal year covered by the report, disaggregated by gender, race, and ethnicity, for each military department.

(8) The number of members of the armed forces, including the reserve components, who reenlisted or otherwise extended a commitment to military service during the fiscal year covered by such report, disaggregated by gender, race, and ethnicity, for each grade in each armed force.

(9) The number of civilian employees of the Department, disaggregated by military department, gender, race, and ethnicity—

(A) in each grade of the General Schedule;

(B) in each grade of the Senior Executive Service;

(C) paid at levels above grade GS-15 of the General Schedule but who are not members of the Senior Executive Service;

(D) paid under the Federal Wage System, and

(E) paid under alternative pay systems.

(10) An assessment of the pool of officers best qualified for promotion to grades O–9 and O–10, disaggregated by gender, race, and ethnicity, in each military department and the United States Coast Guard.

(11) Any other matter the Secretary considers appropriate.

(m) INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

(1) What clear and distinct objectives guide the activities of United States forces in the operation.

(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.

(n) NOTIFICATION OF CERTAIN OVERSEAS CONTINGENCY OPERATIONS FOR PURPOSES OF INSPECTOR GENERAL ACT OF 1978.—The Secretary of Defense shall provide the Chair of the Council of Inspectors General on Integrity and Efficiency written notification of the commencement or designation of a military operation as an overseas contingency operation upon the earlier of—

(1) a determination by the Secretary that the overseas contingency operation is expected to exceed 60 days; or

(2) the date on which the overseas contingency operation exceeds 60 days.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 517, §133; amended Pub. L. 96–513, title V, §511(3), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–252, title XI, §1105, Sept. 8, 1982, 96 Stat. 739; Pub. L. 97–295, §1(1), Oct. 12, 1982, 96 Stat. 1287; renumbered §113 and amended Pub. L. 99–433, title I, §§101(a)(2), 102, 110(b)(2), (d)(2), title III, §301(b)(2), title VI, §603(b), Oct. 1, 1986, 100 Stat. 994, 996, 1002, 1022, 1075; Pub. L. 100–26, §7(d)(1), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title XII, §1214, Dec. 4, 1987, 101 Stat. 1157; Pub. L. 100–370, §1(o)(1), July 19, 1988, 102 Stat. 850; Pub. L. 100–456, div. A, title VII, §731, title XI, §1101, Sept. 29, 1988, 102 Stat. 2003, 2042; Pub. L. 101–189, div. A, title XVI, §1622(c)(1), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 101–510, div. A, title XIII, §1322(a)(1), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–190, div. A, title III, §341, Dec. 5, 1991, 105 Stat. 1343; Pub. L. 103–337, div. A, title X, §1070(a)(1), title XVI, §1671(c)(2), Oct. 5, 1994, 108 Stat. 2855, 3014; Pub. L. 104–106, div. A, title XV, §§1501(a)(8)(B), 1502(a)(3), 1503(a)(1), Feb. 10, 1996, 110 Stat. 495, 502, 510; Pub. L. 104–201, div. A, title XII, §1255(c), Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105–85, div. A, title IX, §903, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 105–261, div. A, title IX, §915(a), title XII, §1212(b), Oct. 17, 1998, 112 Stat. 2101, 2152; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 110–181, div. A, title IX, §903(a), title XVIII, §1815(e), Jan. 28, 2008, 122 Stat. 273, 500; Pub. L. 111–383, div. A, title V, §514(b), Jan. 7, 2011, 124 Stat. 4213; Pub. L. 112–81, div. A, title IX, §933(a), title X, §1064(1), Dec. 31, 2011, 125 Stat. 1543, 1586; Pub. L. 112–239, div. A, title X, §1076(f)(1), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–291, div. A, title X, §1071(c)(1), (2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–92, div. A, title X, §1060(a), Nov. 25, 2015, 129 Stat. 987; Pub. L. 114–328, div. A, title IX, §941(a), Dec. 23, 2016, 130 Stat. 2365; Pub. L. 115–91, div. A, title X, §§1051(a)(1), 1081(a)(1), Dec. 12, 2017, 131 Stat. 1560, 1594; Pub. L. 115–232, div. A, title X, §1041, Aug. 13, 2018, 132 Stat. 1954; Pub. L. 116–92, div. A, title XVII, §§1731(a)(3), 1732(a), Dec. 20, 2019, 133 Stat. 1812, 1816; Pub. L. 116–283, div. A, title V, §551(a)(1), title VIII, §811(a)(1), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3627, 3748, 4294; Pub. L. 117–81, div. A, title III, §311(a), title V, §573, title IX, §901(a), title XI, §1101, Dec. 27, 2021, 135 Stat. 1625, 1755, 1867, 1949; Pub. L. 117–263, div. A, title V, §511, title X, §§1041, 1081(a)(2), Dec. 23, 2022, 136 Stat. 2563, 2770, 2797; Pub. L. 119–60, div. A, title IX, §901(a), Dec. 18, 2025, 139 Stat. 1006.)

HISTORICAL AND REVISION NOTES

1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 133(a)<br>133(b)<br>133(c)<br>133(d) | 5:171(a) (last 10 words).<br>5:171a(a).<br>5:171a(b).<br>5:171a(d).<br>5:171a–1.<br>5:171a(f).<br>5:171n(a) (as applicable to 5:171a(f)). | July 26, 1947, ch. 343, §§201(a) (last 10 words), 202(a),(b); restated Aug. 10, 1949, ch. 412, §§4 (last 10 words of 1st par.), 5 (1st and 2d pars.), 63 Stat. 579, 580. |
| | [Uncodified: 1953 Reorg. Plan No. 6, §5, eff. June 30, 1953, 67 Stat. 639].<br>5:171n(a). | July 26, 1947, ch. 343, §202(d); added Apr. 2, 1949, ch. 47, §1; restated Aug. 10, 1949, ch. 412, §5 (9th par.); restated Aug. 6, 1958, Pub. L. 85–599, §3(b), 72 Stat. 516.<br>July 26, 1947, ch. 343, §202(f); added Aug. 10, 1949, ch. 412, §5 (11th par.), 63 Stat. 581.<br>July 26, 1947, ch. 343, §308(a) (as applicable to §202(f)), 61 Stat. 509.<br>July 9, 1952, ch. 608, §257(e), 66 Stat. 497; Sept. 3, 1954, ch. 1257, §702(c), 68 Stat. 1189.<br>1953 Reorg. Plan No. 6, §5, eff. June 30, 1953, 67 Stat. 639. |

In subsection (a), the last sentence is substituted for 5 U.S.C. 171a(a) (proviso).

In subsection (b), the words "this title and section 401 of title 50" are substituted for 5 U.S.C. 171a(b) (13th through 30th words of last sentence), since those words merely described the coverage of this title and section 401 of title 50.

In subsection (c), the words "during the period covered by the report" are inserted for clarity. The following substitutions are made: "under section 125 of this title" for "pursuant to the provisions of this Act" since 125 of this title relates to the duty of the Secretary of Defense to take action to save public funds and to eliminate duplication in the Department of Defense; and the last 22 words of clause (3) for 5 U.S.C. 171a–1 (last 13 words).

In subsection (d), section 5 of 1953 Reorganization Plan No. 6 is omitted as covered by 5 U.S.C. 171a(f).

1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 133(e) | 10:133 (note). | Oct. 7, 1975, Pub. L. 94–106, §812, 89 Stat. 540. |

The words "prepare and" are omitted as surplus.

**1988 ACT**

Subsection (k) is based on Pub. L. 100–202, §101(b) [title VIII, §8042], 101 Stat. 1329–69.

Section 8042 of the FY88 Defense Appropriations Act (Public Law 100–202) established a requirement for the Secretary of Defense to submit an annual report on the cost of stationing United States forces overseas. Under that section, the annual report is to be sent to the Committees on Appropriations of the two Houses. In codifying that section as section 113(k) of title 10, the committee added the two Armed Services Committees as committees to be sent the annual report. This minor change from the source law does not change the nature of the report to be submitted.

The committee notes that the source section does not specify the period of time to be covered by the report. In the absence of statutory language specifying the period to be covered by the report, it would seem reasonable to conclude that the report should cover the previous fiscal year. The committee notes, however, that the report of the Senate Appropriations Committee on its FY88 defense appropriations bill (S. Rpt. 100–235) states that this new annual report "should cover the budget years and the 2 previous fiscal years"

(page 54). The committee believes that such a requirement may be unnecessarily burdensome and in any case, if such a requirement is intended, should be stated in the statute. In the absence of clear intent, the provision is proposed to be codified without specifying the period of time to be covered by the annual report.

In codifying this provision, the committee also changed the term "United States troops" in the source law to "United States forces" for consistency in usage in title 10 and as being preferable usage. No change in meaning is intended. The committee also changed "overseas" to "outside the United States" and defined "United States" for this purpose to include the territories and possessions of the United States. The committee was concerned that the term "overseas" read literally could include Hawaii or Guam, an interpretation clearly not intended in enacting section 8042. The committee notes that the Senate report referred to above states "For the purposes of this report [meaning the new DOD annual report], U.S. forces stationed overseas are considered to be those outside of the United States and its territories.". The committee extrapolates from this statement that provisions in the report requirement relating to expenditures "overseas" and costs incurred "overseas" are also to be construed as relating to matters outside the United States and its territories and has prepared the codified provision accordingly.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The General Schedule, referred to in subsec. (m)(9)(A), (C), is set out under section 5332 of Title 5, Government Organization and Employees.

Senior Executive Service, referred to in subsec. (m)(9)(B), (C), see section 5382 of Title 5, Government Organization and Employees.

The Inspector General Act of 1978, referred to in subsec. (o), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 4 (§401 et seq.) of Title 5 by Pub. L. 117–286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4206, 4361. For disposition of sections of the Act into chapter 4 of Title 5, see Disposition Table preceding section 101 of Title 5.

### AMENDMENTS

**2025**—Subsec. (c)(2) to (4). Pub. L. 119–60, §901(a)(1), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "a report from each military department on the status of diversity and inclusion of members and civilian employees in such department, including the status of diversity and inclusion in the military service academies, the Officer Candidate and Training Schools, and the Senior Reserve Officers' Training Corps programs of such department;".

Subsec. (g)(1)(B)(vii) to (x). Pub. L. 119–60, §901(a)(2), redesignated cls. (viii) to (x) as (vii) to (ix), respectively, and struck out former cl. (vii) which read as follows: "Strategic goals related to diversity and inclusion in the armed forces, and an assessment of measures of performance related to the efforts of the armed forces to reflect the diverse population of the United States eligible to serve in the armed forces."

Subsec. (l). Pub. L. 119–60, §901(a)(5), in introductory provisions, substituted "On an annual basis" for "Accompanying each national defense strategy provided to the congressional defense committees in accordance with subsection (g)(1)(D)" and "submit to the congressional defense committees a report" for "provide a report".

Pub. L. 119–60, §901(a)(3), (4), redesignated subsec. (m) as (l) and struck out former subsec. (l) which required the Secretary of Defense, in coordination with the Secretary of the Department in which the Coast Guard was operating, to establish certain metrics.

Subsecs. (m) to (o). Pub. L. 119–60, §901(a)(4), redesignated subsecs. (n) and (o) as (m) and (n), respectively. Former subsec. (m) redesignated (l).

**2022**—Subsec. (g)(1)(D). Pub. L. 117–263, §1041, substituted "in both classified and unclassified form. The unclassified form may not be a summary of the classified document." for "in classified form with an unclassified summary."

Subsec. (l)(2)(F). Pub. L. 117–263, §1081(a)(2)(A), inserted period after "inclusion in the armed forces".

Subsec. (m)(5), (6). Pub. L. 117–263, §511(4), added pars. (5) and (6). Former pars. (5) and (6) redesignated (7) and (8), respectively.

Subsec. (m)(7). Pub. L. 117–263, §511(3), redesignated par. (5) as (7). Former par. (7) redesignated (9).

Subsec. (m)(8). Pub. L. 117–263, §511(3), redesignated par. (6) as (8).

Pub. L. 117–263, §511(2), redesignated par. (8) relating to providing assessment of pool of officers best qualified for promotion in each military department and United States Coast Guard in report as (10).

Pub. L. 117–263, §511(1), redesignated par. (8) relating to providing any other matter Secretary considers

appropriate in report as (11).

Subsec. (m)(9). Pub. L. 117–263, §1081(a)(2)(B), which directed redesignation of "second paragraph (8) as paragraph (9)", was not executed in light of the redesignations made by section 511 of Pub. L. 117–263, notwithstanding section 1081(f) of Pub. L. 117–263, set out as a note under section 102 of this title, which provided that amendments made by section 1081 of Pub. L. 117–263 should be treated as having been enacted immediately before other amendments by Pub. L. 117–263.

Pub. L. 117–263, §511(3), redesignated par. (7) as (9).

Subsec. (m)(10). Pub. L. 117–263, §511(2), redesignated par. (8) relating to providing assessment of pool of officers best qualified for promotion in each military department and United States Coast Guard in report as (10).

Subsec. (m)(11). Pub. L. 117–263, §511(1), redesignated par. (8) relating to providing any other matter Secretary considers appropriate in report as (11).

**2021**—Subsec. (a). Pub. L. 117–81, §901(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force."

Subsec. (c)(2). Pub. L. 117–81, §1101(1), inserted "of members and civilian employees" after "inclusion".

Pub. L. 117–81, §573(1), inserted before semicolon at end ", including the status of diversity and inclusion in the military service academies, the Officer Candidate and Training Schools, and the Senior Reserve Officers' Training Corps programs of such department".

Pub. L. 116–283, §551(a)(1)(A)(ii), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3), (4). Pub. L. 116–283, §551(a)(1)(A)(i), redesignated pars. (2) and (3) as (3) and (4), respectively.

Subsec. (g)(1)(B)(ii). Pub. L. 117–81, §311(a)(1)(A), substituted "actors, and the current or projected threats to military installation resilience," for "actors,".

Subsec. (g)(1)(B)(vii). Pub. L. 116–283, §551(a)(1)(B), added cl. (vii).

Subsec. (g)(1)(B)(viii). Pub. L. 116–283, §1883(b)(2), substituted "section 4801" for "section 2500".

Pub. L. 116–283, §881(a)(1), added cl. (viii).

Subsec. (g)(1)(B)(ix). Pub. L. 116–283, §811(a)(1), added cl. (ix).

Subsec. (g)(1)(B)(x). Pub. L. 117–81, §311(a)(1)(B), added cl. (x).

Subsec. (g)(2)(A). Pub. L. 117–81, §311(a)(2), substituted "priorities, including priorities relating to the current or projected risks to military installation resilience," for "priorities," in introductory provisions.

Subsec. (l). Pub. L. 116–283, §551(a)(1)(D), added subsec. (l).

Subsec. (l)(1)(B), (C). Pub. L. 117–81, §1101(2)(A), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (l)(2)(B). Pub. L. 117–81, §1101(2)(B), inserted "and civilian employees of the Department" after "members of the armed forces".

Subsec. (m). Pub. L. 116–283, §551(a)(1)(D), added subsec. (m). Former subsec. (m) redesignated (n).

Subsec. (m)(5), (6). Pub. L. 117–81, §573(2)(A), (B), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (m)(7), (8). Pub. L. 117–81, §1101(3), added par. (7) and redesignated former par. (7), relating to providing assessment of pool of officers best qualified for promotion in each military department and United States Coast Guard in report, as (8).

Pub. L. 117–81, §573(2)(A), redesignated pars. (6) and (7), relating to providing any other matter Secretary considers appropriate in report, as (7) and (8), respectively.

Subsecs. (n), (o). Pub. L. 116–283, §551(a)(1)(C), redesignated subsecs. (m) and (n) as (n) and (o), respectively.

**2019**—Subsec. (j)(1). Pub. L. 116–92, §1731(a)(3), inserted "the" before "congressional defense committees".

Subsec. (n). Pub. L. 116–92, §1732(a), added subsec. (n).

**2018**—Subsec. (g)(2) to (4). Pub. L. 115–232 added pars. (2) to (4) and struck out former pars. (2) to (4) which related to annual provision of written policy guidance for preparation and review of program recommendations and budget proposals, provision every two years of written policy guidance for preparation and review of contingency plans including those providing support to civil authorities in an incident of national significance or a catastrophic incident, and provision to congressional defense committees of a detailed classified briefing summarizing such guidance not later than Feb. 15 in any calendar year in which guidance is required.

**2017**—Subsec. (c). Pub. L. 115–91, §1051(a)(1)(A), redesignated par. (1) as subsec. (c) and subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: "At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on any reserve component matter that the Reserve Forces Policy Board considers appropriate to include in the report."

Subsec. (j)(1). Pub. L. 115–91, §1081(a)(1), substituted "congressional defense committees" for "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives" in introductory provisions.

Subsec. (l). Pub. L. 115–91, §1051(a)(1)(B), struck out subsec. (l) which listed items to be included in the Secretary's annual report to Congress under subsec. (c).

**2016**—Subsec. (g). Pub. L. 114–328 amended subsec. (g) generally. Prior to amendment, subsec. (g) required Secretary of Defense to provide annually to Department of Defense heads written policy guidance for preparation and review of program recommendations and budget proposals, to provide to the Chairman of the Joint Chiefs of Staff written policy guidance for contingency plans for homeland defense and for military support to civil authorities, and to include in budget materials submitted to Congress summaries of the guidance developed and summaries of any plans developed in accordance with that guidance.

**2015**—Subsec. (g)(3). Pub. L. 114–92 added par. (3).

**2014**—Subsec. (b). Pub. L. 113–291, §1071(c)(1), substituted "(50 U.S.C. 3002)" for "(50 U.S.C. 401)".

Subsec. (e)(2). Pub. L. 113–291, §1071(c)(2), substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

**2013**—Subsec. (c)(2). Pub. L. 112–239 struck out "on" after "Board on".

**2011**—Subsec. (c)(2). Pub. L. 111–383 substituted "on any reserve component matter" for "the reserve programs of the Department of Defense and on any other matters".

Subsec. (j)(1)(A) to (C). Pub. L. 112–81, §1064(1)(A), added subpar. (B), redesignated former subpar. (B) as (A), and struck out former subpars. (A) and (C) which read as follows:

"(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

"(C) The effect of such expenditures outside the United States on the balance of payments of the United States."

Subsec. (j)(2), (3). Pub. L. 112–81, §1064(1)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "Each report under this subsection shall be prepared in consultation with the Secretary of Commerce."

Subsec. (l). Pub. L. 112–81, §933(a), amended subsec. (l) generally. Prior to amendment, subsec. (l) related to contents of the Secretary's annual report to Congress under subsec. (c).

**2008**—Subsec. (a). Pub. L. 110–181, §903(a), substituted "seven" for "10".

Subsec. (g)(2). Pub. L. 110–181, §1815(e), substituted "contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities" for "contingency plans".

**1999**—Subsec. (j)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1998**—Subsec. (l). Pub. L. 105–261, §915(a), added subsec. (l).

Subsec. (m). Pub. L. 105–261, §1212(b), added subsec. (m).

**1997**—Subsec. (g)(2). Pub. L. 105–85 struck out "annually" after "Staff, shall provide" and inserted "be provided every two years or more frequently as needed and shall" after "Such guidance shall".

**1996**—Subsec. (c). Pub. L. 104–201, §1255(c)(2)–(5), inserted "(1)" after "(c)", redesignated former pars. (1), (2), and (4) as subpars. (A), (B), and (C), respectively, inserted "and" at end of subpar. (B), and added par. (2).

Subsec. (c)(3). Pub. L. 104–201, §1255(c)(1), struck out par. (3) which read as follows: "a report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense, including a review of the effectiveness of chapters 51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers; and".

Pub. L. 104–106, §1501(a)(8)(B), made technical correction to directory language of Pub. L. 103–337, §1671(c)(2). See 1994 Amendment note below.

Subsec. (i)(2)(B). Pub. L. 104–106, §1503(a)(1), substituted "the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221" for "the five years covered by the five-year defense program submitted to Congress during that year pursuant to section 114(g)".

Subsec. (j)(1). Pub. L. 104–106, §1502(a)(3), substituted "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on

Appropriations of the" for "Committees on Armed Services and Committees on Appropriations of the Senate and".

**1994**—Subsec. (c)(3). Pub. L. 103–337, §1671(c)(2), as amended by Pub. L. 104–106, §1501(a)(8)(B), which directed the substitution of "1219 and 1401 through 1411 of this title" for "51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers", effective Oct. 1, 1996, could not be executed because of the intervening amendment by Pub. L. 104–201, §1255(c)(1). See 1996 Amendment note above.

Subsec. (e)(2). Pub. L. 103–337, §1070(a)(1), substituted "section 108" for "section 104".

**1991**—Subsec. (i)(2)(C) to (E). Pub. L. 102–190 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

**1990**—Subsecs. (i) to (l). Pub. L. 101–510 redesignated subsecs. (j) to (l) as (i) to (k), respectively, and struck out former subsec. (i) which read as follows: "The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year."

**1989**—Subsec. (j)(2)(B). Pub. L. 101–189 substituted "five-year defense program" for "Five-Year Defense Program".

**1988**—Subsec. (j). Pub. L. 100–456, §731, designated existing provisions as par. (1), struck out provision requiring that each report be transmitted in both a classified and an unclassified form, and added pars. (2) and (3).

Subsec. (k). Pub. L. 100–370 added subsec. (k).

Subsec. (l). Pub. L. 100–456, §1101, added subsec. (l).

**1987**—Subsec. (e)(2). Pub. L. 100–26 inserted "(50 U.S.C. 404a)" after "National Security Act of 1947".

Subsec. (j). Pub. L. 100–180 added subsec. (j).

**1986**—Pub. L. 99–433, §110(d)(2), struck out ": appointment; powers and duties; delegation by" at end of section catchline.

Subsecs. (a) to (e). Pub. L. 99–443, §101(a)(2), redesignated subsecs. (a) to (e) of section 133 of this title as subsecs. (a) to (e) of this section.

Pub. L. 99–433, §301(b)(2), substituted "sections 125 and 191" for "section 125" in subsec. (c)(2).

Pub. L. 99–433, §603(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on—

"(1) the foreign policy and military force structure for the next fiscal year;

"(2) the relationship of that policy and structure to each other; and

"(3) the justification for the policy and structure."

Subsecs. (f) to (h). Pub. L. 99–433, §102, added subsecs. (f) to (h).

Subsec. (i). Pub. L. 99–433, §§101(a)(2), 110(b)(2), successively redesignated subsec. (h) of section 138 of this title as subsec. (h) of section 114 of this title and then as subsec. (i) of this section.

**1982**—Subsec. (e). Pub. L. 97–295 added subsec. (e).

Subsec. (i) [formerly §138(h)]. Pub. L. 97–252, §1105, added subsec. (h). See 1986 Amendment note above.

**1980**—Subsec. (b). Pub. L. 96–513 substituted "section 2 of the National Security Act of 1947 (50 U.S.C. 401)" for "section 401 of title 50".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title IX, §901(g), Dec. 27, 2021, 135 Stat. 1868, provided that: "The amendments made by subsections (a) through (e) [amending sections 113, 138, 7013, 8013, and 9013 of this title] shall apply with respect to appointments made on or after the date of the enactment of this Act [Dec. 27, 2021]."

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1051(z), Dec. 12, 2017, 131 Stat. 1568, provided that: "Except as provided in subsections (u), (v), and (w) [amending section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title] the amendments made by this section [see Tables for classification] shall take effect on the later of—

"(1) the date of the enactment of this Act [Dec. 12, 2017]; or

"(2) November 25, 2017."

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(f)(3), Feb. 10, 1996, 110 Stat. 501, provided that: "The amendments made by this section [see Tables for classification] shall take effect as if included in the Reserve Officer Personnel Management Act [Pub. L. 103–337, div. A, title XVI] as enacted on October 5, 1994."

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(2) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (c)(1) and (e) of this section requiring submittal of annual report to Congress, see section 1051(x) of Pub. L. 115–91, set out as a note under section 111 of this title.

For termination, effective Dec. 31, 2021, of provisions in subsec. (i) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## TRANSFER OF RESPONSIBILITIES AND FUNCTIONS RELATING TO ELECTROMAGNETIC SPECTRUM OPERATIONS

Pub. L. 116–283, div. A, title I, §152, Jan. 1, 2021, 134 Stat. 3440, as amended by Pub. L. 117–81, div. A, title IX, §907(c)(1), Dec. 27, 2021, 135 Stat. 1875, which authorized the Secretary of Defense to transfer the responsibilities and functions of the Commander of the United States Strategic Command relating to electromagnetic spectrum operations, was transferred to section 1053 of Pub. L. 115–232, formerly set out as a note below, and redesignated as subsec. (g) of that section by Pub. L. 117–81, div. A, title IX, §907(c)(2), Dec. 27, 2021, 135 Stat. 1875. Section 1053 of Pub. L. 115–232 was repealed by Pub. L. 118–31, div. A, title XVI, §1682(c), Dec. 22, 2023, 137 Stat. 617.

## PROHIBITED DIVERSITY, EQUITY, AND INCLUSION PRACTICES

Pub. L. 119–60, div. A, title IX, §901(f), Dec. 18, 2025, 139 Stat. 1007, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Defense may not—

"(A) maintain an office relating to diversity, equity, inclusion, or accessibility or any substantially similar office;

"(B) maintain or employ a chief diversity officer or a substantially similar officer;

"(C) develop, implement, distribute, or publish plans, strategic plans, reports, or surveys relating to diversity, equity, inclusion, and accessibility, or substantially similar plans, reports, or surveys;

"(D) develop, implement, or maintain an employee resource group or an affinity group based on race, color, ethnicity, religion, national origin, sexual orientation, or gender identity;

"(E) develop, implement, or maintain an agency equity team or a substantially similar team;

"(F) develop, implement, distribute, publish, establish, or purchase—

"(i) a training course relating to—

"(I) diversity;

"(II) equity;

"(III) inclusion;

"(IV) a critical theory relating to race, gender, or otherwise; or

"(V) intersectionality; or

"(ii) a training course substantiality similar to a training course described in clause (i);

"(G) develop, implement, or maintain a diversity, equity, inclusion, and accessibility data dashboard or

a substantially similar data dashboard; or

"(H) maintain or employ a position relating to diversity, equity, inclusion, or accessibility.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prevent the Secretary of Defense from maintaining or operating—

"(A) Equal Employment Opportunity offices as historically organized and operated within the Department of Defense; or

"(B) an office enforcing the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or similar programs or offices as historically organized and operated within the Department of Defense.

"(3) ACCESSIBILITY DEFINED.—In this subsection, the term 'accessibility' has the meaning given that term in the Department of Defense Diversity, Equity, Inclusion, and Accessibility Strategic Plan for Fiscal Years 2022 and 2023, except such term does not refer to accessibility or other accommodations required under law for individuals with disabilities."

## PLAN TO ADVANCE INTERESTS OF DEPARTMENT OF DEFENSE IN MATTERS RELATING TO ELECTROMAGNETIC SPECTRUM IN INTERNATIONAL FORA

Pub. L. 118–159, div. A, title II, §243, Dec. 23, 2024, 138 Stat. 1848, provided that:

"(a) PLAN REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with the Chief Information Officer of the Department of Defense, shall develop and commence implementation of a five-year plan for advancing United States defense policy interests at meetings of relevant international organizations and other international fora relating to electromagnetic spectrum, including all phases of the World Radiocommunication Conferences preparatory process.

"(b) ELEMENTS.—At a minimum, the plan developed under subsection (a) shall include the following:

"(1) Actions and resourcing required to ensure that the Department of Defense has the personnel and expertise required to engage meaningfully in the international activities described in subsection (a).

"(2) Processes to increase pre-coordination with relevant domestic partners and Federal agencies on matters relating to the international activities described in subsection (a), including the defense industrial base and industry.

"(3) Appropriate avenues to increase cooperation activities with friendly foreign partners relating to the international activities described in subsection (a).

"(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Chief Information officer of the Department of Defense, shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the plan developed under subsection (a), which shall include information on relevant funded and unfunded resourcing requirements for current and future fiscal years."

## INCLUSION IN DEFENSE PLANNING GUIDANCE OF GUIDANCE ON SIZE, STRUCTURE, AND POSTURE OF SPECIAL OPERATIONS FORCES

Pub. L. 118–159, div. A, title IX, §908(a), Dec. 23, 2024, 138 Stat. 2032, provided that: "As part of the annual Defense Planning Guidance issued under section 113(g)(2)(A) of title 10, United States Code, the Secretary of Defense shall include guidance with respect to the size, structure, posture, and other force development planning priorities specific to special operations forces."

## DISCLOSURE AND NOTICE REQUIREMENTS REGARDING EXECUTE ORDERS

Pub. L. 118–159, div. A, title X, §1067(c), Dec. 23, 2024, 138 Stat. 2066, provided that:

"(1) INITIAL NOTICE.—Not later than 30 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a copy of each extant execute order issued at the direction of the President or the Secretary of Defense.

"(2) NOTICE OF ISSUANCE OR REVISION.—Not later than 15 days after the issuance or revision of any execute order issued at the direction of the President or the Secretary of Defense, the Secretary of Defense shall provide to the congressional defense committees a copy of the new or revised execute order.

"(3) NOTICE OF TERMINATIONS.—Not later than 15 days after the date on which any execute order that was issued at the direction of the President or the Secretary of Defense is terminated or rescinded, the Secretary of Defense shall notify the congressional defense committees in writing of the termination or rescission of the execute order."

## PILOT PROGRAM TO PROVIDE MILITARY AIRCRAFT SUPPORT TO AIR SHOWS

Pub. L. 118–159, div. A, title X, §1094(b), Dec. 23, 2024, 138 Stat. 2084, provided that: "Not later than 90

days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, shall establish a one-year pilot program under which the Secretary shall provide military aircraft and aerial demonstration teams in support of not fewer than five air shows located in rural or small market areas across the country for the purpose of providing the public with positive exposure to the Armed Forces."

## PUBLIC DISCLOSURE OF AFGHANISTAN WAR RECORDS

Pub. L. 118–31, div. A, title X, §1087, Dec. 22, 2023, 137 Stat. 419, provided that: "The Secretary of Defense, in a manner consistent with the protection of intelligence sources and methods, shall expeditiously disclose to the public all relevant unclassified records of the Department of Defense relating to the war in Afghanistan."

## UNITED STATES BASING AND TRAINING IN NORTH ATLANTIC TREATY ORGANIZATION MEMBER COUNTRIES

Pub. L. 118–31, div. A, title XII, §1250, Dec. 22, 2023, 137 Stat. 464, as amended by Pub. L. 119–60, div. A, title XII, §1248, Dec. 18, 2025, 139 Stat. 1107, provided that: "In considering decisions related to United States military basing and training in North Atlantic Treaty Organization member countries, the Secretary of Defense shall include among the factors for consideration progress toward the defense investment commitment agreed to in the Hague Summit Declaration of June 25, 2025, to invest not less than 5 percent of gross domestic product annually in defense by 2035, of which—

"(1) not less than 3.5 percent is dedicated to core defense requirements and North Atlantic Treaty Organization capability targets; and

"(2) not less than 1.5 percent is dedicated to other defense and security related investments."

## PLAN OF ACTION TO EQUIP AND TRAIN IRAQI SECURITY FORCES AND KURDISH PESHMERGA FORCES

Pub. L. 118–31, div. A, title XII, §1266, Dec. 22, 2023, 137 Stat. 483, provided that:

"(a) IN GENERAL.—Not later than February 1, 2024, the Secretary of Defense, in consultation with the Secretary of State, shall develop a plan of action to equip and train Iraqi security forces and Kurdish Peshmerga forces to defend against attack by missiles, rockets, and unmanned systems. The plan of action shall be based on and informed by the results of the report submitted by the Secretary of Defense pursuant to section 1237 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2839).

"(b) MATTERS TO BE INCLUDED.—The plan required by subsection (a) shall include the following:

"(1) The provision of available equipment to Iraq and the Iraqi Kurdistan Region to counter the air and missile threats addressed in the report, to include air defense systems, to counter attack by missiles, rockets, and unmanned systems.

"(2) The provision of appropriate training of Iraqi security forces and Kurdish Peshmerga forces to support fielding and operational employment of the available equipment described in paragraph (1).

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary of Defense shall begin implementation of the plan required by subsection (a) not later than 90 days after development of the plan required by subsection (a).

"(2) WAIVER.—The Secretary of Defense may delay implementation of the plan required by subsection (a) if such implementation would adversely impact United States stocks and readiness.

"(3) CONGRESSIONAL NOTIFICATION.—If the Secretary of Defense exercises the waiver authority under paragraph (2), the Secretary shall—

"(A) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the exercise of such authority and the reason therefor not later than 10 days prior to the exercise of such authority; and

"(B) notify the congressional defense committees of the exercise of such authority every 30 days thereafter until implementation of the plan required by subsection (a) begins.

"(d) CONGRESSIONAL BRIEFING.—Not later than July 1, 2024, the Secretary of Defense should provide to the congressional defense committees a briefing on progress of the air defense equipping and training effort against the air and missile threat to Iraq, including in the Iraqi Kurdistan Region."

## INTRODUCTION OF ENTITIES IN TRANSACTIONS CRITICAL TO NATIONAL SECURITY

Pub. L. 117–263, div. A, title X, §1047, Dec. 23, 2022, 136 Stat. 2774, as amended by Pub. L. 118–159, div. A, title X, §1081, Dec. 23, 2024, 138 Stat. 2077, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall facilitate the introduction of entities for the purpose of

discussing a covered transaction that the Secretary has determined is in the national security interests of the United States.

"(b) COVERED TRANSACTION DEFINED.—The term 'covered transaction' means a transaction that the Secretary has reason to believe would likely involve an entity affiliated with a strategic competitor unless an alternative transaction were to occur."

## JUSTIFICATION FOR TRANSFER OR ELIMINATION OF CERTAIN FLYING MISSIONS

Pub. L. 117–263, div. A, title X, §1065, Dec. 23, 2022, 136 Stat. 2786, provided that: "Prior to the relocation or elimination of any flying mission that involves 50 personnel or more assigned to a unit performing that mission, either with respect to an active or reserve component of a military department, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the justification of the Secretary for the decision to relocate or eliminate such flying mission. Such report shall include each of the following:

"(1) A description of how the decision supports the national defense strategy, the national military strategy, the North American Aerospace Defense Command strategy, and other relevant strategies.

"(2) A specific analysis and metrics supporting such decision.

"(3) An analysis and metrics to show that the elimination or relocation of the flying mission would not negatively affect broader mission sets, such as the homeland defense mission.

"(4) A plan for how the Department of Defense intends to fulfill or continue to meet the mission requirements of the eliminated or relocated flying mission.

"(5) An assessment of the effect of the elimination or relocation on the national defense strategy, the national military strategy, the North American Aerospace Defense Command strategy, and broader mission sets, such as the homeland defense mission.

"(6) An analysis and metrics to show that the elimination or relocation of the flying mission and its secondary and tertiary impacts would not degrade capabilities and readiness of the Joint Force.

"(7) An analysis and metrics to show that the elimination or relocation of the flying mission would not negatively affect the continental United States national airspace system."

## JOINT CONCEPT FOR COMPETING

Pub. L. 118–31, div. A, title X, §1088, Dec. 22, 2023, 137 Stat. 419, provided that:

"(a) IMPLEMENTATION PLAN REQUIRED.—Not later than March 1, 2024, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an implementation plan for of the Joint Concept for Competing, released on February 10, 2023.

"(b) ELEMENTS.—The implementation plan required by subsection (a) shall include—

"(1) timelines for the development of integrated competitive strategies for engaging in strategic competition, as described in the Joint Concept for Competing, to address the challenges posed by specific competitors, including such strategies designed to—

"(A) deter adversarial military action;

"(B) counter the efforts of specific competitors, as necessary; and

"(C) support the efforts of the United States interagency and foreign allies, partners, and multilateral organizations;

"(2) an identification of any relevant updates to joint doctrine or professional military education;

"(3) a description of the integration of the Joint Concept for Competing with other joint force development and design efforts;

"(4) a description of concept-required capabilities that are necessary for joint force development and design in support of the Joint Concept for Competing, including the assignment of roles and responsibilities and the timelines for attaining such capabilities;

"(5) a description of efforts to coordinate and synchronize Department of Defense activities with the activities of interagency and foreign partners for the purpose of integrated campaigning;

"(6) an identification of any recommendations to better integrate the role of the Joint Force, as identified by the Joint Concept for Competing, with national security efforts of interagency and foreign partners;

"(7) an identification of any changes to authorities or resources necessary to implement the Joint Concept for Competing; and

"(8) a description of any other matters the Chairman determines appropriate.

"(c) BRIEFING.—Not later than 180 days after the delivery of the implementation plan required under subsection (a), and every 180 days thereafter through March 1, 2026, the Chairman of the Joint Chiefs of Staff

shall provide to the congressional defense committees a briefing that includes an update on the status of the implementation plan required under subsection (a)."

Pub. L. 117–263, div. A, title X, §1074, Dec. 23, 2022, 136 Stat. 2794, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall develop a Joint Concept for Competing.

"(b) PURPOSES.—The purposes of the Joint Concept for Competing are to—

"(1) define the roles and missions of the Department of Defense in long-term strategic competition with specific competitors;

"(2) conceptualize the employment of joint forces capabilities to deter adversarial military action by strategic competitors;

"(3) describe the manner in which the Department of Defense will use its forces, capabilities, posture, indications and warning systems, and authorities to protect United States national interests in the course of participating in long-term strategic competition, including through—

"(A) departmental efforts to integrate Department of Defense roles and missions with other instruments of national power;

"(B) security cooperation with partners and allies; and

"(C) operations relating to long-term strategic competition, particularly below the threshold of traditional armed conflict;

"(4) identify priority lines of effort and assign responsibility to relevant Armed Forces, combatant commands, and other elements of the Department of Defense for each specified line of effort in support of the Joint Concept for Competing; and

"(5) provide means for integrating and continuously improving the ability of the Department to engage in long-term strategic competition.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter for two years, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of the Joint Concept for Competing.

"(2) ELEMENTS.—Each report required under paragraph (1) shall include the following elements:

"(A) A detailed description of any actions taken by the Department of Defense relative to the purposes specified under subsection (b).

"(B) An articulation of any new concepts or strategies necessary to support the Joint Concept for Competing.

"(C) An articulation of any capabilities, resources, or authorities necessary to implement the Joint Concept for Competing.

"(D) An explanation of the manner in which the Joint Concept for Competing relates to and integrates with the Joint Warfighting Concept.

"(E) An explanation of the manner in which the Joint Concept for Competing synchronizes and integrates with efforts of other departments and agencies of the United States Government to address long-term strategic competition.

"(F) Any other matters the Secretary of Defense determines relevant."

## INTEGRATED NON-KINETIC FORCE DEVELOPMENT

Pub. L. 117–263, div. A, title XV, §1510, Dec. 23, 2022, 136 Stat. 2890, provided that:

"(a) FORCE DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall establish forces, capabilities, and information support to enable the delivery of non-kinetic effects that provide increased survivability and effectiveness of military forces within a defense planning scenario.

"(2) FORCE PLANNING.—To support the development of the forces, capabilities, and information support under paragraph (1), the Secretary shall establish a force planning activity to identify and define the relevant forces, capabilities, and information support required to develop and deliver non-kinetic effects within a defense planning scenario. The Secretary shall ensure that the force planning activity identifies—

"(A) desired operational effects within such scenario;

"(B) the gaps that limit the ability to access important targets, the development of capabilities, the conduct of mission planning, and the execution of operations to deliver such effects;

"(C) the collection systems, analytic expertise and capacity, analytic tools and processes, foreign materiel, and product lines required to support development and delivery of such effects;

"(D) the forces required to deliver such effects, including associated doctrine, training, expertise,

organization, authorities, and command and control arrangements; and

"(E) the cyber, electronic warfare, sensing, and communications capabilities, and delivery platforms and mechanisms, required to achieve such effects and the extent to which such capabilities, platforms, and mechanisms should be integrated with each other.

"(3) INITIAL ORGANIZATION STRUCTURE.—During an initial period of not less than 24 months, the Under Secretary of Defense for Research and Engineering shall organize the force planning activity established under paragraph (2). The Under Secretary shall designate a planning official from the Office of the Under Secretary for Research and Engineering to lead development and execution of the force planning activity, in coordination with staff designated by the Director of the Joint Staff of the Joint Chiefs of Staff. The designated planning official shall select a lead technical director. After such initial period, the Secretary may re-assign the force planning activity to another organization under different leadership.

"(4) PLAN FOR FOLLOW-ON ACTIVITIES.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for follow-on activities regarding the delivery of non-kinetic effects described in paragraph (1). The Secretary shall ensure the plan—

"(A) includes the identification of dedicated resources to be controlled by the designated planning official described in paragraph (3) and an approach under which the planning official apportions such resources across the Department of Defense to establish, augment, and accelerate new and ongoing activities described in paragraph (1) and subsections (b), (c), and (d); and

"(B) identifies—

"(i) a dedicated program element for non-kinetic force development;

"(ii) the suitability of the mission management authorities established through the pilot program under section 871 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 191 note);

"(iii) the utility of using joint capability technology demonstrations to drive prototyping, experimentation, and technical integration of non-kinetic capabilities;

"(iv) how the Rapid Defense Experimentation Reserve might drive prototyping, experimentation, and technical integration of non-kinetic capabilities; and

"(v) alignment with other experimentation activities with the appropriate combatant commands.

"(5) IMPLEMENTATION.—During the initial period specified in paragraph (3), the designated planning official described in such paragraph shall report directly to the Deputy Secretary of Defense, to whom the official shall provide updates and recommendations not less frequently than quarterly. The Secretary shall ensure that the force planning activity established under paragraph (2) is supported by representatives from the military services, relevant combatant commands, the Strategic Capabilities Office, the Defense Advanced Research Projects Agency, and other elements within the Department of Defense, as appropriate.

"(b) FORCES.—In order to generate the forces identified in subsection (a)(2)(D), the Secretary of Defense shall—

"(1) through the Secretaries of the military departments and the heads of other Department of Defense components, as appropriate, establish appropriate forces and accompanying doctrine, training, and tradecraft;

"(2) acting through the Vice Chairman of the Joint Chiefs of Staff, serving as the Chairman of the Joint Requirements Oversight Council, ensure that appropriate requirements exist to guide the development and fielding of forces and means to deliver non-kinetic effects within a defense planning scenario;

"(3) through the Under Secretary of Defense for Policy, in coordination with the Chairman of the Joint Chiefs of Staff and the combatant commands, establish appropriate command and control structures and relationships governing such forces; and

"(4) determine the appropriate responsibilities of—

"(A) Cyber Mission Force of the United States Cyber Command;

"(B) cyber, electronic warfare, and space forces provided to other combatant commands; and

"(C) other operational entities within the Department of Defense in delivering non-kinetic effects.

"(c) CAPABILITIES.—In order to develop the capabilities identified in subsection (a)(2)(E), the Secretary of Defense, acting through the Director of the Defense Advanced Research Projects Agency, the Director of the Strategic Capabilities Office, the Secretaries of the military departments, and the heads of other elements of the Department of Defense, shall develop the capabilities required for the delivery of non-kinetic effects within a defense planning scenario.

"(d) POLICY.—The Secretary of Defense, acting through the Under Secretary of Defense for Policy and in coordination with the Chairman of the Joint Chiefs of Staff, shall develop policy governing the delivery of non-kinetic effects within a defense planning scenario.

"(e) BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of the implementation of this section.

"(f) NON-KINETIC EFFECTS DEFINED.—In this section, the term 'non-kinetic effects' means effects achieved through radio-frequency transmission of integrated cyber and electronic warfare techniques and other related and supporting technical measures."

## CLIMATE RESILIENCE IN PLANNING, ENGAGEMENT STRATEGIES, INFRASTRUCTURE, AND FORCE DEVELOPMENT OF DEPARTMENT OF DEFENSE

Pub. L. 117–81, div. A, title III, §§331, 334, Dec. 27, 2021, 135 Stat. 1637, 1638, provided that:

"SEC. 331. DEFINITIONS.

"In this subtitle [subtitle C (§§331–335) of title III of div. A of Pub. L. 117–81, enacting section 2285 of this title, amending sections 101 and 2504 of this title, and enacting this note]:

"(1) The terms 'climate resilience' and 'extreme weather' have the meanings given such terms in section 101(a) of title 10, United States Code, as amended by section 332.

"(2) The term 'climate security' has the meaning given such term in the second subsection (e) of section 120 of the National Security Act of 1947 (50 U.S.C. 3060(e)).

"(3) The term 'military installation resilience' has the meaning given such term in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

"SEC. 334. CLIMATE RESILIENCE IN PLANNING, ENGAGEMENT STRATEGIES, INFRASTRUCTURE, AND FORCE DEVELOPMENT OF DEPARTMENT OF DEFENSE.

"(a) CLIMATE CHALLENGES AND CLIMATE RESILIENCE IN KEY PROCESSES OF DEPARTMENT OF DEFENSE.—The Secretary of Defense shall direct that the acquisition, budget planning and execution, infrastructure planning and sustainment, force development, engagement strategy development, security assistance, and other core processes of the Department of Defense fully consider and make needed adjustments to account for current and emerging climate and environmental challenges and to ensure the climate resilience of assets and capabilities of the Department, to include cost effectiveness over the life cycle of the investment weighed against threat reduction.

"(b) CLIMATE RESILIENCE MISSION IMPACT ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall conduct a mission impact assessment on climate resilience for the Department.

"(2) ELEMENTS.—The assessment conducted under paragraph (1) shall include the following:

"(A) An assessment of the direct impacts of extreme weather on the deployment and operations of the Armed Forces, and the manner in which extreme weather may impact the requirements of the commanders of the combatant commands in the respective areas of responsibility of such commanders, including—

"(i) an assessment of the evolving posture of peer competitors and impacts to deployment and operations of peer competitors due to extreme weather;

"(ii) an assessment of the impacts of expanding requirements for Department humanitarian assistance and disaster response due to extreme weather;

"(iii) a threat assessment of the impacts of extreme weather, drought, and desertification on regional stability;

"(iv) an assessment of risks to home station strategic and operational support area readiness, including the strategic highway network, the strategic rail network, and strategic air and sea ports; and

"(v) the development of standards for data collection to assist decision-making processes for research, development, and acquisition priorities for installation and infrastructure resilience to extreme weather.

"(B) A long-term strategic plan, including war games and exercises, centered on climate-driven crises, and a long-term assessment of climate security by the Office of Net Assessment of the Department.

"(C) A review outlining near-term and long-term needs for research, development, and deployment for equipment and other measures required to assure the resilience of the assets and capabilities of the Department and each component thereof, and of key elements of the defense industrial

base and supporting transportation networks, to the impacts of extreme weather.

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], and every five years thereafter, the Chairman of the Joint Chiefs of Staff shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the broader strategic and operational impacts of extreme weather on the Department, measures to address such impacts, and progress in implementing new technologies and platforms, training and education methods, and data collection and dissemination for each military department to meet the respective mission requirements of the department.

"(2) RESEARCH, DEVELOPMENT, AND DEPLOYMENT NEEDS.—Each report required by paragraph (1) shall identify research, development, and deployment needs for each combatant command and functional command."

## REQUIREMENTS RELATING TO EMISSIONS CONTROL TACTICS, TECHNIQUES, AND PROCEDURES

Pub. L. 117–81, div. A, title III, §378, Dec. 27, 2021, 135 Stat. 1669, which related to requirements relating to emissions control tactics, techniques, and procedures, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(2)(A), Dec. 18, 2025, 139 Stat. 948.

## DEPARTMENT OF DEFENSE RESPONSE TO MILITARY LAZING INCIDENTS

Pub. L. 117–81, div. A, title III, §382, Dec. 27, 2021, 135 Stat. 1672, provided that:

"(a) INVESTIGATION INTO LAZING OF MILITARY AIRCRAFT.—

"(1) INVESTIGATION REQUIRED.—The Secretary of Defense shall conduct a formal investigation into all incidents of lazing of military aircraft that occurred during fiscal year 2021. The Secretary shall carry out such investigation in coordination and collaboration with appropriate non-Department of Defense entities.

"(2) REPORT TO CONGRESS.—Not later than March 31, 2022, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the investigation conducted pursuant to paragraph (1).

"(b) INFORMATION SHARING.—The Secretary shall seek to increase information sharing between the Department of Defense and the States with respect to incidents of lazing of military aircraft, including by entering into memoranda of understanding with State law enforcement agencies on information sharing in connection with such incidents to provide for procedures for closer cooperation with local law enforcement in responding to such incidents as soon as they are reported.

"(c) DATA COLLECTION AND TRACKING.—The Secretary shall collect such data as may be necessary to track the correlation between noise complaints and incidents of military aircraft lazing.

"(d) OPERATING PROCEDURES.—The Secretary shall give consideration to adapting local operating procedures in areas with high incidence of military aircraft lazing incidents to reduce potential injury to aircrew.

"(e) EYE PROTECTION.—The Secretary shall examine the availability of commercial off-the-shelf laser eye protection equipment that protects against the most commonly available green light lasers that are available to the public. If the Secretary determines that no such laser eye protection equipment is available, the Secretary shall conduct research and develop such equipment."

## VIETNAM WARTIME ACCOUNTING INITIATIVE

Pub. L. 117–81, div. A, title XII, §1245, Dec. 27, 2021, 135 Stat. 1986, as amended by Pub. L. 118–159, div. A, title XIII, §1342, Dec. 23, 2024, 138 Stat. 2120, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other relevant Federal departments and agencies, may carry out a cooperative program with the Ministry of Defense of Vietnam and other entities of the Government of Vietnam to assist in accounting for killed or missing Vietnamese persons from the Vietnam War (referred to in this section as 'missing persons from the Vietnam War').

"(b) PURPOSE.—The purpose of the cooperative program under subsection (a) is to carry out the following activities:

"(1) Collection, digitization, verification, and sharing of archival information.

"(2) Building the capacity of Vietnam to manage archival information and personal data.

"(3) Supporting activities to build the capacity of Vietnam for locating, recovering, and conducting DNA analysis and identification of missing persons from the Vietnam War.

"(4) Increasing exchanges, training, and dialogue among veterans and families of missing persons from

the Vietnam War.

"(5) Other support activities the Secretary of Defense considers necessary and appropriate.

"(c) DESIGNATION OF LEAD COORDINATING OFFICE.—The Secretary shall designate an office within the Department of Defense to serve as the lead coordinating office for the program carried out under this section.

"(d) TERMINATION.—The authority provided by subsection (a) shall terminate on October 1, 2031."

## APPLICATION OF ARTIFICIAL INTELLIGENCE TO THE DEFENSE REFORM PILLAR OF THE NATIONAL DEFENSE STRATEGY

Pub. L. 116–283, div. A, title II, §234, Jan. 1, 2021, 134 Stat. 3483, as amended by Pub. L. 117–263, div. A, title II, §212(g), Dec. 23, 2022, 136 Stat. 2468, provided that:

"(a) IDENTIFICATION OF USE CASES.—The Secretary of Defense, acting through such officers and employees of the Department of Defense as the Secretary considers appropriate, including the chief data officers and chief management officers of the military departments, shall identify a set of no fewer than five use cases of the application of existing artificial intelligence enabled systems to support improved management of enterprise acquisition, personnel, audit, or financial management functions, or other appropriate management functions, that are consistent with reform efforts that support the National Defense Strategy.

"(b) PROTOTYPING ACTIVITIES ALIGNED TO USE CASES.—The Secretary, acting through the Under Secretary of Defense for Research and Engineering and in coordination with the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) and such other officers and employees as the Secretary considers appropriate, shall pilot technology development and prototyping activities that leverage commercially available technologies and systems to demonstrate new artificial intelligence enabled capabilities to support the use cases identified under subsection (a).

"(c) BRIEFING.—Not later than October 1, 2021, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing summarizing the activities carried out under this section."

## PUBLIC AVAILABILITY OF REPORTS

Pub. L. 116–283, div. A, title V, §551(a)(2), Jan. 1, 2021, 134 Stat. 3629, provided that: "Not later than 72 hours after submitting to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report required by subsection (m) of section 113 of title 10, United States Code [now 10 U.S.C. 113(l)] (as amended by paragraph (1)), the Secretary of Defense shall make the report available on an Internet website of the Department of Defense available to the public. In so making a report available, the Secretary shall ensure that any data included in the report is made available in a machine-readable format that is downloadable, searchable, and sortable."

## CONSTRUCTION OF METRICS

Pub. L. 116–283, div. A, title V, §551(a)(3), Jan. 1, 2021, 134 Stat. 3629, provided that:

"(A) WITH MERIT-BASED PROCESSES.—Any metric established pursuant to [former] subsection (l) of section 113 of title 10, United States Code (as so amended [former subsec. (l) added by section 551(a)(1)(D) of Pub. L. 116–283]), may not be used in a manner that undermines the merit-based processes of the Department of Defense and the Coast Guard, including such processes for accession, retention, and promotion.

"(B) WITH OTHER MATTERS.—Any such metric may not be used to identify or specify specific quotas based upon diversity characteristics. The Secretary concerned shall continue to account for diversified language and cultural skills among the total force of the Armed Forces."

## INTERIM GUIDANCE

Pub. L. 116–283, div. A, title VIII, §811(a)(3), Jan. 1, 2021, 134 Stat. 3749, provided that: "Not later than October 1, 2021, the Secretary of Defense shall publish interim guidance to carry out the requirements of this subsection [amending this section and section 133b of this title]."

## SAFEGUARDING DEFENSE-SENSITIVE UNITED STATES INTELLECTUAL PROPERTY, TECHNOLOGY, AND OTHER DATA AND INFORMATION

Pub. L. 116–283, div. A, title VIII, §837, Jan. 1, 2021, 134 Stat. 3760, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall, in coordination with relevant departments and agencies—

"(1) identify policies and procedures protecting defense-sensitive United States intellectual property, technology, and other data and information, including hardware and software, from acquisition by the government of China; and

"(2) to the extent that the Secretary determines that such policies and procedures are insufficient to provide such protection, develop additional policies and procedures.

"(b) MATTERS CONSIDERED.—In developing the policies and procedures under subsection (a), the Secretary shall take the following actions:

"(1) Establish and maintain a list of critical national security technology that may require certain restrictions on current or former employees, contractors, or subcontractors (at any tier) of the Department of Defense that contribute to such technology.

"(2) Review the existing authorities under which employees of the Department of Defense may be subject to post-employment restrictions with foreign governments and with organizations subject to foreign ownership, control, or influence.

"(3) Identify additional measures that may be necessary to enhance the authorities described in paragraph (2).

"(c) POST-EMPLOYMENT MATTERS.—The Secretary shall consider mechanisms to restrict current or former employees of contractors or subcontractors (at any tier) of the Department of Defense that contribute significantly and materially to a technology referred to in subsection (b)(1) from working directly for companies wholly owned by the government of China, or for companies that have been determined by a cognizant Federal agency to be under the ownership, control, or influence of the government of China."

## ARCTIC PLANNING, RESEARCH, DEVELOPMENT, INDEPENDENT ASSESSMENT, AND ARCTIC SECURITY INITIATIVE

Pub. L. 117–81, div. A, title X, §1090, Dec. 27, 2021, 135 Stat. 1925, provided that:

"(a) INDEPENDENT ASSESSMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Commander of the United States Northern Command, in consultation and coordination with the Commander of the United States Indo-Pacific Command, the Commander of the United States European Command, the military services, and the defense agencies, shall complete an independent assessment with respect to the activities and resources required, for fiscal years 2023 through 2027, to achieve the following objectives:

"(A) The implementation of the National Defense Strategy and military service-specific strategies with respect to the Arctic region.

"(B) The maintenance or restoration of the comparative military advantage of the United States in response to great power competitors in the Arctic region.

"(C) The reduction of the risk of executing operation and contingency plans of the Department of Defense.

"(D) To maximize execution of Department operation and contingency plans, in the event deterrence fails.

"(2) ELEMENTS.—The assessment required by paragraph (1) shall include the following:

"(A) An analysis of, and recommended changes to achieve, the required force structure and posture of assigned and allocated forces within the Arctic region for fiscal year 2027 necessary to achieve the objectives described in paragraph (1), which shall be informed by—

"(i) a review of United States military requirements based on operation and contingency plans, capabilities of potential adversaries, assessed gaps or shortfalls of the Armed Forces within the Arctic region, and scenarios that consider—

"(I) potential contingencies that commence in the Arctic region and contingencies that commence in other regions but affect the Arctic region;

"(II) use of near-, mid-, and far-time horizons to encompass the range of circumstances required to test new concepts and doctrine;

"(III) supporting analyses that focus on the number of regionally postured military units and the quality of capability of such units;

"(ii) a review of current United States military force posture and deployment plans within the Arctic region, especially of Arctic-based forces that provide support to, or receive support from, the United States Northern Command, the United States Indo-Pacific Command, or the United States European Command;

"(iii) an analysis of potential future realignments of United States forces in the region, including options for strengthening United States presence, access, readiness, training, exercises,

logistics, and pre-positioning; and

"(iv) any other matter the Commander of the United States Northern Command considers appropriate.

"(B) A discussion of any factor that may influence the United States posture, supported by annual wargames and other forms of research and analysis.

"(C) An assessment of capabilities requirements to achieve such objectives.

"(D) An assessment of logistics requirements, including personnel, equipment, supplies, storage, and maintenance needs to achieve such objectives.

"(E) An assessment and identification of required infrastructure and military construction investments to achieve such objectives.

"(3) REPORT.—

"(A) IN GENERAL.—Upon completion of the assessment required by paragraph (1), the Commander of the United States Northern Command shall submit to the Secretary of Defense a report on the assessment.

"(B) SUBMITTAL TO CONGRESS.—Not later than 30 days after the date on which the Secretary receives the report under subparagraph (A), the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

"(i) a copy of the report, in its entirety; and

"(ii) any additional analysis or information, as the Secretary considers appropriate.

"(C) FORM.—The report required by subparagraph (A), and any additional analysis or information provided under subparagraph (B)(i)(II), may be submitted in classified form, but shall include an unclassified summary.

"(b) ARCTIC SECURITY INITIATIVE.—

"(1) PLAN.—

"(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives the report under subsection (a)(3)(A), the Secretary shall provide to the congressional defense committees a briefing on the plan to carry out a program of activities to enhance security in the Arctic region.

"(B) OBJECTIVES.—The plan required by subparagraph (A) shall be—

"(i) consistent with the objectives described in paragraph (1) of subsection (a); and

"(ii) informed by the assessment required by that paragraph.

"(C) ACTIVITIES.—The plan shall include, as necessary, the following prioritized activities to improve the design and posture of the joint force in the Arctic region:

"(i) Modernize and strengthen the presence of the Armed Forces, including those with advanced capabilities.

"(ii) Improve logistics and maintenance capabilities and the pre-positioning of equipment, munitions, fuel, and materiel.

"(iii) Conduct exercises, wargames, education, training, experimentation, and innovation for the joint force.

"(iv) Improve infrastructure to enhance the responsiveness and resiliency of the Armed Forces.

"(2) ESTABLISHMENT.—

"(A) IN GENERAL.—Not earlier than 30 days after the submittal of the plan required by paragraph (1), the Secretary may establish a program of activities to enhance security in the Arctic region, to be known as the 'Arctic Security Initiative' (in this paragraph referred to as the 'Initiative').

"(B) FIVE-YEAR PLAN FOR THE INITIATIVE.—

"(i) IN GENERAL.—If the Initiative is established, the Secretary, in consultation with the Commander of the United States Northern Command, shall submit to the congressional defense committees a future years plan for the activities and resources of the Initiative that includes the following:

"(I) A description of the activities and resources for the first fiscal year beginning after the date on which the Initiative is established, and the plan for not fewer than the four subsequent fiscal years, organized by the activities described in paragraph (1)(C).

"(II) A summary of progress made toward achieving the objectives described in subsection (a)(1).

"(III) A summary of the activity, resource, capability, infrastructure, and logistics requirements necessary to achieve progress in reducing risk to the ability of the joint force to achieve objectives in the Arctic region, including, as appropriate, investments in—

"(aa) active and passive defenses against—

"(AA) manned aircraft, surface vessels, and submarines;
"(BB) unmanned naval systems;
"(CC) unmanned aerial systems; and
"(DD) theater cruise, ballistic, and hypersonic missiles;
"(bb) advanced long-range precision strike systems;
"(cc) command, control, communications, computers, intelligence, surveillance, and reconnaissance systems;
"(dd) training and test range capacity, capability, and coordination;
"(ee) dispersed resilient and adaptive basing to support distributed operations, including expeditionary airfields and ports, space launch facilities, and command posts;
"(ff) advanced critical munitions;
"(gg) pre-positioned forward stocks of fuel, munitions, equipment, and materiel;
"(hh) distributed logistics and maintenance capabilities;
"(ii) strategic mobility assets, including icebreakers;
"(jj) improved interoperability, logistics, transnational supply lines and infrastructure, and information sharing with allies and partners, including scientific missions; and
"(kk) information operations capabilities.
"(IV) A detailed timeline for achieving the requirements identified under subclause (III).
"(V) A detailed explanation of any significant modification to such requirements, as compared to—
"(aa) the assessment required by subsection (a)(1) for the first fiscal year; and
"(bb) the plans previously submitted for each subsequent fiscal year.
"(VI) Any other matter the Secretary considers necessary.
"(ii) FORM.—A plan under clause (i) shall be submitted in unclassified form, but may include a classified annex."

Pub. L. 116–283, div. A, title X, §1060, Jan. 1, 2021, 134 Stat. 3857, provided that:

"(a) ARCTIC PLANNING AND IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall continue assessing potential multi-domain risks in the Arctic, identifying capability and capacity gaps in the current and projected force, and planning for and implementing the training, equipping, and doctrine requirements necessary to mitigate such risks and gaps.

"(2) TRAINING.—In carrying out paragraph (1), the Secretary may direct the Armed Forces to conduct training in the Arctic or training relevant to military operations in the Arctic.

"(b) ARCTIC RESEARCH AND DEVELOPMENT PROGRAM.—

"(1) IN GENERAL.—If the Secretary of Defense determines that there are capability or capacity gaps for the Armed Forces in the Arctic, the Secretary may conduct research and development on the current and future requirements and needs of the Armed Forces for operations in the Arctic.

"(2) ELEMENTS.—Research and development conducted under paragraph (1) may include the following:

"(A) Development of doctrine to address any identified gaps, including the study of existing doctrine of partners and allies of the United States.

"(B) Development of materiel solutions for operating in extreme weather environments of the Arctic, including equipment for individual members of the Armed Forces, ground vehicles, and communications systems.

"(C) Development of a plan for fielding future weapons platforms able to operate in Arctic conditions.

"(D) Development of capabilities to monitor, assess, and predict environmental and weather conditions in the Arctic and the effect of such conditions on military operations.

"(E) Determining requirements for logistics and sustainment of the Armed Forces operating in the Arctic."

## REPORTING OF ADVERSE EVENTS RELATING TO CONSUMER PRODUCTS ON MILITARY INSTALLATIONS

Pub. L. 116–283, div. A, title X, §1082, Jan. 1, 2021, 134 Stat. 3875, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall issue to the military departments guidance to encourage the reporting of any adverse event related to a consumer product that occurs on a military installation on the appropriate consumer product safety website.

"(b) DEFINITIONS.—In this section:

"(1) The term 'adverse event' means—

"(A) any event that indicates that a consumer product—

"(i) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Consumer Product Safety Commission has relied under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058);

"(ii) fails to comply with any other rule, regulation, standard, or ban under that Act or any other Act enforced by the Commission;

"(iii) contains a defect that could create a substantial product hazard described in section 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2064(a)(2)); or

"(iv) creates an unreasonable risk of serious injury or death; or

"(B) any other harm described in subsection (b)(1)(A) of section 6A of the Consumer Product Safety Act (15 U.S.C. 2055a) and required to be reported in the database established under subsection (a) of that section.

"(2) The term 'consumer product' has the meaning given that term in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052)."

**IMPLEMENTATION OF THE WOMEN, PEACE, AND SECURITY ACT OF 2017**

Pub. L. 116–283, div. A, title XII, §1210E, Jan. 1, 2021, 134 Stat. 3917, as amended by Pub. L. 117–81, div. A, title XIII, §1334, Dec. 27, 2021, 135 Stat. 2009; Pub. L. 118–159, div. A, title XII, §1206(b), Dec. 23, 2024, 138 Stat. 2095, provided that:

"(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act [Jan. 1, 2021] and ending on September 30, 2027, the Secretary of Defense shall undertake activities consistent with the Women, Peace, and Security Act of 2017 (Public Law 115–68; 131 Stat. 1202 [22 U.S.C. 2152j to 2152j–4]) and with the guidance specified in this section, including—

"(1) implementation of the Department of Defense plan entitled 'Women, Peace, and Security Strategic Framework and Implementation Plan' published in June 2020, or any successor plan;

"(2) establishing Department of Defense-wide policies and programs that advance the implementation of the Act, including military doctrine and Department-specific and combatant command-specific programs;

"(3) ensuring the Department has sufficient qualified personnel to advance implementation of that Act, including by hiring and training full-time equivalent personnel, as necessary, and establishing roles, responsibilities, and requirements for such personnel;

"(4) as appropriate, the deliberate integration of relevant training curriculum for members of the Armed Forces across all ranks; and

"(5) security cooperation activities that further the implementation of that Act.

"(b) BUILDING PARTNER DEFENSE INSTITUTION AND SECURITY FORCE CAPACITY.—

"(1) INCORPORATION OF GENDER ANALYSIS AND PARTICIPATION OF WOMEN INTO SECURITY COOPERATION ACTIVITIES.—Consistent with the Women, Peace, and Security Act of 2017 (Public Law 115–68; 131 Stat. 1202), the Secretary of Defense, in coordination with the Secretary of State, shall incorporate participation by women and the analysis described in the Women's Entrepreneurship and Economic Empowerment Act of 2018 (Public Law 115–428; 132 Stat. 5509 [see Tables for classification]) into the institutional and national security force capacity-building activities of security cooperation programs carried out under title 10, United States Code, including, as appropriate, by—

"(A) incorporating gender analysis and women, peace, and security priorities into educational and training materials and programs authorized by section 333 of title 10, United States Code;

"(B) advising on the recruitment, employment, development, retention, and promotion of women in such national security forces, including by—

"(i) identifying existing military career opportunities for women;

"(ii) exposing women and girls to careers available in such national security forces and the skills necessary for such careers; and

"(iii) encouraging women's and girls' interest in such careers by highlighting as role models women of the United States and applicable foreign countries in uniform;

"(C) addressing sexual harassment and abuse against women within such national security forces;

"(D) integrating gender analysis into security sector policy, planning, and training for such national security forces; and

"(E) improving infrastructure to address the requirements of women serving in such national security forces, including appropriate equipment for female security and police forces.

"(2) BARRIERS AND OPPORTUNITIES.—Partner country assessments conducted in the course of Department security cooperation activities to build the capacity of the national security forces of foreign

countries shall include attention to the barriers and opportunities with respect to strengthening recruitment, employment, development, retention, and promotion of women in the military forces of such partner countries.

"(c) DEPARTMENT-WIDE POLICIES ON WOMEN, PEACE, AND SECURITY.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall initiate a process to establish standardized policies described in subsection (a)(2).

"(d) FUNDING.—The Secretary of Defense may use funds authorized to be appropriated in each fiscal year to the Department of Defense for operation and maintenance as specified in the table in section 4301 for carrying out the full implementation of the Women, Peace, and Security Act of 2017 (Public Law 115–68; 131 Stat. 1202) and the guidance on the matters described in paragraphs (1) through (5) of subsection (a) and subparagraphs (A) through (E) of subsection (b)(1).

"(e) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter through 2025, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the steps the Department has taken to implement the Women, Peace, and Security Act of 2017, including—

"(1) implementation of defense lines of effort outlined in the June 2020 Department of Defense 'Women, Peace, and Security Strategic Framework and Implementation Plan' and described in paragraphs (1) through (5) of subsection (a) and subparagraphs (A) through (E) of subsection (b)(1), as appropriate; and

"(2) an enumeration of the funds used in such implementation and an identification of funding shortfalls, if any, that may inhibit implementation.

"(f) PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Defense, in consultation with the Secretary of State, shall establish and carry out a pilot program for the purpose of conducting partner country assessments described in subsection (b)(2).

"(2) CONTRACT AUTHORITY.—The Secretary of Defense, in consultation with the Secretary of State, shall seek to enter into one or more contracts with a nonprofit organization or a federally funded research and development center independent of the Department for the purpose of conducting such partner country assessments.

"(3) SELECTION OF COUNTRIES.—

"(A) IN GENERAL.—The Secretary of Defense, in consultation with the commanders of the combatant commands and relevant United States ambassadors, shall select one partner country within the area of responsibility of each geographic combatant command for participation in the pilot program.

"(B) CONSIDERATIONS.—In making the selection under subparagraph (A), the Secretary of Defense shall consider—

"(i) the demonstrated political commitment of the partner country to increasing the participation of women in the security sector; and

"(ii) the national security priorities and theater campaign strategies of the United States.

"(4) PARTNER COUNTRY ASSESSMENTS.—Partner country assessments conducted under the pilot program shall be—

"(A) adapted to the local context of the partner country being assessed;

"(B) conducted in collaboration with the security sector of the partner country being assessed; and

"(C) based on tested methodologies.

"(5) REVIEW AND ASSESSMENT.—With respect to each partner country assessment conducted under the pilot program, the Secretary of Defense, in consultation with the Secretary of State, shall—

"(A) review the methods of research and analysis used by any entity contracted with under paragraph (2) in conducting the assessment and identify lessons learned from such review; and

"(B) assess the ability of the Department to conduct future partner country assessments without entering into such a contract, including by assessing potential costs and benefits for the Department that may arise in conducting such future assessments.

"(6) FINDINGS.—

"(A) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of State, shall use findings from each partner country assessment to inform effective security cooperation activities and security sector assistance interventions by the United States in the partner country assessed, which shall be designed to substantially increase opportunities for the recruitment, employment, development, retention, deployment, and promotion of women in the national security forces of such partner country (including for deployments to peace operations and for participation in counterterrorism operations and activities).

"(B) MODEL METHODOLOGY.—The Secretary of Defense, in consultation with the Secretary of State, shall develop, based on the findings of the pilot program, a model barrier assessment methodology for use across the geographic combatant commands.

"(7) REPORTS.—

"(A) IN GENERAL.—Not later than 2 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 [Dec. 27, 2021], the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate committees of Congress an initial report on the implementation of the pilot program under this subsection that includes an identification of the partner countries selected for participation in the program and the justifications for such selections.

"(B) METHODOLOGY.—On the date on which the Secretary of Defense determines the pilot program to be complete, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate committees of Congress a report on the model barrier assessment methodology developed under paragraph (6)(B).

"(g) BRIEFING.—Not later than 1 year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, the Director of the Defense Security Cooperation Agency shall provide to the appropriate committees of Congress a briefing on the efforts to build partner defense institution and security force capacity pursuant to this section.

"(h) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

## PACIFIC DETERRENCE INITIATIVE

Pub. L. 116–283, div. A, title XII, §1251(a)–(g), Jan. 1, 2021, 134 Stat. 3951–3954, as amended by Pub. L. 117–81, div. A, title XII, §1242, Dec. 27, 2021, 135 Stat. 1978; Pub. L. 117–263, div. A, title XII, §1254, Dec. 23, 2022, 136 Stat. 2850; Pub. L. 118–31, div. A, title XIII, §1302, Dec. 22, 2023, 137 Stat. 489; Pub. L. 118–159, div. A, title XIII, §1313, Dec. 23, 2024, 138 Stat. 2113; Pub. L. 119–60, div. A, title XII, §1251, Dec. 18, 2025, 139 Stat. 1113, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish an initiative, to be known as the 'Pacific Deterrence Initiative' (in this section referred to as the 'Initiative'), to carry out prioritized activities to enhance the United States deterrence and defense posture in the Indo-Pacific region, assure allies and partners, and increase capability and readiness in the Indo-Pacific region.

"(b) PURPOSE.—The Initiative required under subsection (a) shall carry out the following prioritized activities to improve the design and posture of the joint force in the Indo-Pacific region, primarily west of the International Date Line:

"(1) Modernize and strengthen the presence of the United States Armed Forces, including those with advanced capabilities.

"(2) Improve logistics and maintenance capabilities and the pre-positioning of equipment, munitions, fuel, and materiel.

"(3) Carry out a program of exercises, training, experimentation, and innovation for the joint force.

"(4) Improve infrastructure to enhance the responsiveness and resiliency of the United States Armed Forces.

"(5) Build the defense and security capabilities, capacity, and cooperation of allies and partners.

"(c) FUNDING.—Of the amounts authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2026 [Pub. L. 119–60, see Tables for classification] for the Department of Defense for fiscal year 2026, there is authorized to be appropriated for the Pacific Deterrence Initiative such sums as may be necessary, as indicated in sections 4101, 4201, 4301, and 4601 [of div. D] of such Act [see Tables for classification].

"(d) REPORT ON RESOURCING UNITED STATES DEFENSE REQUIREMENTS FOR THE INDO-PACIFIC REGION AND STUDY ON COMPETITIVE STRATEGIES.—

"(1) REPORT REQUIRED.—

"(A) IN GENERAL.—At the same time as the submission of the budget of the President (submitted to Congress pursuant to section 1105 of title 31, United States Code) for each of fiscal years 2027 and 2028, the Commander of the United States Indo-Pacific Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and

the House of Representatives] a report containing the independent assessment of the Commander with respect to the activities and resources required, for the first fiscal year beginning after the date of submission of the report and the four following fiscal years, to achieve the following objectives:

"(i) The implementation of the National Defense Strategy with respect to the Indo-Pacific region.

"(ii) The maintenance or restoration of the comparative military advantage of the United States with respect to the People's Republic of China.

"(iii) The reduction of the risk of executing contingency plans of the Department of Defense.

"(B) MATTERS TO BE INCLUDED.—The report required under subparagraph (A) shall include the following:

"(i) With respect to the achievement of the objectives described in subparagraph (A), a description of the intended force structure and posture of assigned and allocated forces in each of the following:

"(I) West of the International Date Line.

"(II) In States outside the contiguous United States east of the International Date Line.

"(III) In the contiguous United States.

"(ii) An assessment of capabilities requirements to achieve such objectives.

"(iii) An assessment of logistics requirements, including personnel, equipment, supplies, storage, and maintenance needs to achieve such objectives.

"(iv) An identification of required infrastructure and military construction investments to achieve such objectives.

"(v) An assessment of security cooperation authorities, activities, or resources required to achieve such objectives.

"(vi)(I) A plan to fully resource United States force posture and capabilities, including—

"(aa) a detailed assessment of the resources necessary to address the elements described in clauses (i) through (v), including specific cost estimates for recommended investments or projects—

"(AA) to improve the posture and presence of the United States Armed Forces, including those with advanced capabilities;

"(BB) to improve logistics and maintenance capabilities and the pre-positioning of equipment, munitions, fuel, and materiel;

"(CC) to carry out a program of exercises, training, experimentation, and innovation for the joint force;

"(DD) to improve infrastructure to enhance the responsiveness and resiliency of the United States Armed Forces;

"(EE) to build the defense and security capabilities, capacity, and cooperation of allies and partners; and

"(FF) to modernize and improve capabilities available to the United States Indo-Pacific Command; and

"(bb) a detailed timeline to achieve the intended force structure and posture described in clause (i).

"(II) The specific cost estimates required by subclause (I)(aa) shall, to the maximum extent practicable, include the following:

"(aa) With respect to procurement accounts—

"(AA) amounts displayed by account, budget activity, line number, line item, and line item title; and

"(BB) a description of the requirements for each such amount.

"(bb) With respect to research, development, test, and evaluation accounts—

"(AA) amounts displayed by account, budget activity, line number, program element, and program element title; and

"(BB) a description of the requirements for each such amount.

"(cc) With respect to operation and maintenance accounts—

"(AA) amounts displayed by account title, budget activity title, line number, and subactivity group title; and

"(BB) a description of the specific manner in which each such amount would be used.

"(dd) With respect to military personnel accounts—

"(AA) amounts displayed by account, budget activity, budget subactivity, and budget subactivity title; and

"(BB) a description of the requirements for each such amount.

"(ee) With respect to each project under military construction accounts (including unspecified minor

military construction and amounts for planning and design), the country, location, project title, and project amount for each fiscal year.

"(ff) With respect to any expenditure or proposed appropriation not described in items (aa) through (ee), a level of detail equivalent to or greater than the level of detail provided in the future-years defense program submitted pursuant to section 221(a) of title 10, United States Code.

"(vii) A budget display, prepared with the assistance of the Under Secretary of Defense (Comptroller), that compares the independent assessment of the Commander of the United States Indo-Pacific Command with the amounts contained in the budget display for the applicable fiscal year under subsection (f).

"(C) FORM.—The report required under subparagraph (A) may be submitted in classified form, but shall include an unclassified summary.

"(D) AVAILABILITY.—Not later than February 1 each year, the Commander of the United States Indo-Pacific Command shall make the report available to the Secretary of Defense, the Under Secretary of Defense for Policy, the Under Secretary of Defense (Comptroller), the Director of Cost Assessment and Program Evaluation, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the chiefs of staff of each military service.

"(2) BRIEFINGS REQUIRED.—

"(A) INITIAL BRIEFING.—Not later than 15 days after the submission of the budget of the President (submitted to Congress pursuant to section 1105 of title 31, United States Code) for each of fiscal years 2027 and 2028, the Secretary of Defense (acting through the Under Secretary of Defense for Policy, the Under Secretary of Defense (Comptroller), and the Director of Cost Assessment and Program Evaluation) and the Chairman of the Joint Chiefs of Staff shall provide to the congressional defense committees a joint briefing, and any written comments the Secretary of Defense and the Chairman of the Joint Chiefs of Staff consider necessary, with respect to their assessments of the report submitted under paragraph (1), including their assessments of the feasibility and advisability of the plan required by subparagraph (B)(vi) of that paragraph.

"(B) SUBSEQUENT BRIEFING.—Not later than 30 days after the submission of the budget of the President (submitted to Congress pursuant to section 1105 of title 31, United States Code) for each of fiscal years 2027 and 2028, the Secretary of the Air Force, the Secretary of the Army, and the Secretary of the Navy shall provide to the congressional defense committees a joint briefing, and documents as appropriate, with respect to their assessments of the report submitted under paragraph (1), including their assessments of the feasibility and advisability of the plan required by subparagraph (B)(vi) of that paragraph.

"(e) PLAN REQUIRED.—At the same time as the submission of the budget of the President (submitted to Congress pursuant to section 1105 of title 31, United States Code) for each of fiscal years 2027 and 2028, the Secretary, in consultation with the Commander of the United States Indo-Pacific Command, shall submit to the congressional defense committees a report on future year activities and resources for the Initiative that includes the following:

"(1) A description of the activities and resources for the first fiscal year beginning after the date of submission of the report and the plan for not fewer than the four following fiscal years, organized—

"(A) functionally, by the activities described in paragraphs (1) through (5) of subsection (b); and

"(B) geographically by—

"(i) areas west of the International Date Line;

"(ii) States outside the contiguous United States east of the International Date Line; and

"(iii) States in the contiguous United States.

"(2) A summary of progress made toward achieving the purposes of the Initiative.

"(3) A summary of the activity, resource, capability, infrastructure, and logistics requirements necessary to achieve measurable progress in reducing risk to the joint force's ability to achieve objectives in the region.

"(4) A detailed timeline to achieve the requirements identified under paragraph (3).

"(5) A detailed explanation of any significant modifications to such requirements, as compared to plans previously submitted under this subsection.

"(6) Any other matter, as determined by the Secretary.

"(f) BUDGET DISPLAY INFORMATION.—The Secretary shall include a detailed budget display for the Initiative in the materials of the Department of Defense in support of the budget of the President (submitted to Congress pursuant to section 1105 of title 31, United States Code) for fiscal year 2022 and each fiscal year thereafter that includes the following information:

"(1) The resources necessary for the Initiative to carry out the activities required under subsection (b)

for the applicable fiscal year and not fewer than the four following fiscal years, organized by the activities described in paragraphs (1) through (5) of that subsection.

"(2) With respect to procurement accounts—

"(A) amounts displayed by account, budget activity, line number, line item, and line item title; and

"(B) a description of the requirements for such amounts specific to the Initiative.

"(3) With respect to research, development, test, and evaluation accounts—

"(A) amounts displayed by account, budget activity, line number, program element, and program element title; and

"(B) a description of the requirements for such amounts specific to the Initiative.

"(4) With respect to operation and maintenance accounts—

"(A) amounts displayed by account title, budget activity title, line number, and subactivity group title; and

"(B) a description of the specific manner in which such amounts will be used.

"(5) With respect to military personnel accounts—

"(A) amounts displayed by account, budget activity, budget subactivity, and budget subactivity title; and

"(B) a description of the requirements for such amounts specific to the Initiative.

"(6) With respect to each project under military construction accounts (including with respect to unspecified minor military construction and amounts for planning and design), the country, location, project title, and project amount by fiscal year.

"(7) With respect to the activities described in subsection (b)—

"(A) amounts displayed by account title, budget activity title, line number, and subactivity group title; and

"(B) a description of the specific manner in which such amounts will be used.

"(8) With respect to each military service—

"(A) amounts displayed by account title, budget activity title, line number, and subactivity group title; and

"(B) a description of the specific manner in which such amounts will be used.

"(9) With respect to the amounts described in each of paragraphs (2)(A), (3)(A), (4)(A), (5)(A), (6), (7)(A), and (8)(A), a comparison between—

"(A) the amount in the budget of the President for the following fiscal year;

"(B) the amount projected in the previous budget of the President for the following fiscal year;

"(C) a detailed summary of funds obligated for the Initiative during the preceding fiscal year; and

"(D) a detailed comparison of funds obligated for the Initiative during the previous fiscal year to the amount of funds requested for such fiscal year.

"(g) BRIEFINGS REQUIRED.—Not later than March 1, 2021, and annually thereafter, the Secretary shall provide to the congressional defense committees a briefing on the budget proposal and programs, including the budget display information for the applicable fiscal year required by subsection (f)."

## COOPERATIVE PROGRAM WITH VIETNAM TO ACCOUNT FOR VIETNAMESE PERSONNEL MISSING IN ACTION

Pub. L. 116–283, div. A, title XII, §1254, Jan. 1, 2021, 134 Stat. 3955, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of State, is authorized to carry out a cooperative program with the Ministry of Defense of Vietnam to assist in accounting for Vietnamese personnel missing in action.

"(b) PURPOSE.—The purpose of the cooperative program under subsection (a) is to carry out the following activities:

"(1) Collection, digitization, and sharing of archival information.

"(2) Building the capacity of Vietnam to conduct archival research, investigations, and excavations.

"(3) Improving DNA analysis capacity.

"(4) Increasing veteran-to-veteran exchanges.

"(5) Other support activities the Secretary of Defense considers necessary and appropriate."

## PUBLIC REPORTING OF CHINESE MILITARY COMPANIES OPERATING IN THE UNITED STATES

Pub. L. 116–283, div. A, title XII, §1260H, Jan. 1, 2021, 134 Stat. 3965, as amended by Pub. L. 118–159, div. A, title XIII, §1346, Dec. 23, 2024, 138 Stat. 2123; Pub. L. 119–60, div. A, title XII, §§1262(a), 1263,

Dec. 18, 2025, 139 Stat. 1118, 1119, provided that:

"(a) DETERMINATION.—The Secretary of Defense shall identify each entity the Secretary determines, based on the most recent information available, is operating directly or indirectly in the United States or any of its territories and possessions, that is a Chinese military company.

"(b) REPORTING AND PUBLICATION.—

"(1) ANNUAL REPORT.—Not later than April 15, 2021, and annually thereafter until December 31, 2030, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a list of each entity identified pursuant to subsection (a) to be a Chinese military company, in classified and unclassified forms, and shall include in such submission, as applicable, a justification for adding any entities to the list and for deleting any entities from a prior list.

"(2) CONCURRENT PUBLICATION.—

"(A) IN GENERAL.—Concurrent with the submission of each list described in paragraph (1), the Secretary shall publish the unclassified portion of such list in the Federal Register.

"(B) INCLUSION.—The publication required by subparagraph (A) shall include, for each entity included in the unclassified portion of such list, the justification for inclusion in such list.

"(3) ANNUAL REVISIONS.—

"(A) IN GENERAL.—The Secretary shall make additions or deletions to the most recent list submitted under paragraph (1) not less frequently than annually based on the latest information available.

"(B) REVIEW OF ENTITIES ADDED TO OTHER LISTS.—In preparing each annual revision under subparagraph (A) of the list required by paragraph (1), the Secretary shall consider whether to include each Chinese entity added, during the preceding year, to any other list maintained by the United States of entities subject to additional restrictions or scrutiny for any purpose, as a result of concerns relating to the activities or affiliations of such entities.

"(4) LANGUAGE REQUIREMENT.—The Secretary shall prepare the list required by paragraph (1) in English and in Mandarin Chinese. If the name of a Chinese military company included on the list is referred to by the Government of China in a language other than English or Mandarin Chinese, the Secretary shall also include on the list the name of that company in that language.

"(c) CONSULTATION.—The Secretary may consult with the head of any appropriate Federal department or agency in making the determinations described in subsection (a) and shall transmit a copy of each list submitted under subsection (b)(1) to the heads of each appropriate Federal department and agency.

"(d) DEFENSE INDUSTRIAL BASE REPORT.—

"(1) IN GENERAL.—Not later than December 31, 2026, and biennially thereafter through December 31, 2031, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of Department of Defense procurement restrictions on entities included in the list described in subsection (b)(1).

"(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

"(A) A list of each entity included in the list described in subsection (b)(1) that is likely present in the United States defense industrial base.

"(B) Available unclassified data on any such entity and its presence within the United States defense industrial base.

"(C) A description of any update to policies or procedures implemented to enforce procurement restrictions on entities included in the list described in subsection (b)(1).

"(e) PROCEDURES FOR IMPLEMENTATION.—The Secretary of Defense shall establish such reasonable procedures as are necessary to implement the provisions of this section, including for obtaining information from outside entities relevant to the list described in subsection (b)(1) and procedures for removal of entities from the list described in subsection (b)(1).

"(f) JUDICIAL REVIEW.— In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act [18 U.S.C. App.]) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.

"(g) DEFINITIONS.—In this section:

"(1) AFFILIATED WITH.—The term 'affiliated with' means in close formal or informal association.

"(2) CHINESE MILITARY COMPANY.—The term 'Chinese military company'—

"(A) does not include natural persons;

"(B) means an entity that is—

"(i)(I) directly or indirectly owned by, controlled by, or beneficially owned by, affiliated with, or in an official or unofficial capacity acting as an agent of or on behalf of, the People's Liberation Army, Chinese military and paramilitary elements, security forces, police, law enforcement,

border control, the People's Armed Police, the Ministry of State Security (MSS), or any other organization subordinate to the Central Military Commission of the Chinese Communist Party, the Chinese Ministry of Industry and Information Technology (MIIT), the State-Owned Assets Supervision and Administration Commission of the State Council (SASAC), or the State Administration of Science, Technology, and Industry for National Defense (SASTIND); or

"(II) identified as a military-civil fusion contributor to the Chinese defense industrial base; and

"(ii) engaged in providing commercial services, manufacturing, producing, or exporting; and

"(C) includes a wholly-owned or wholly-controlled subsidiary or wholly-owned or wholly-controlled affiliate of such an entity or any entity that owns in the aggregate, directly or indirectly, 50 percent or more of any entity or entities described in subparagraph (B).

"(3) MILITARY-CIVIL FUSION CONTRIBUTOR.—The term 'military-civil fusion contributor' includes any of the following:

"(A) Entities knowingly receiving assistance from the Government of China or the Chinese Communist Party through science, technology, research, and industrial efforts initiated, granted, or created by, or provided under, or related to, the Chinese military industrial planning apparatus, or in furtherance of Chinese military industrial planning objectives, including selection or designation as a 'Single Champion', 'Little Giant', or any other successor selection or designation as an enterprise associated with industrial planning or military-civil fusion efforts.

"(B) Entities managed, overseen, or supervised by, otherwise under the control of, or affiliated with (including by means of formal participation in research partnerships and projects)—

"(i) the Chinese Ministry of Industry and Information Technology (MIIT);

"(ii) the State-Owned Assets Supervision and Administration Commission of the State Council (SASAC);

"(iii) the State Administration of Science, Technology and Industry for National Defense (SASTIND);

"(iv) the Ministry of State Security (MSS); or

"(v) the People's Liberation Army.

"(C) Entities receiving assistance, operational direction or policy guidance from the State Administration for Science, Technology and Industry for National Defense.

"(D) Any entities or subsidiaries defined as a 'defense enterprise' by the State Council of the People's Republic of China.

"(E) Entities residing in or affiliated with a military-civil fusion enterprise zone or receiving assistance from the Government of China through such enterprise zone.

"(F) Entities awarded with receipt of military production licenses by the Government of China, including a Weapons and Equipment Research and Production Unit Classified Qualification Permit, Weapons and Equipment Research and Production Certificate, Weapons and Equipment Quality Management System Certificate, or Equipment Manufacturing Unit Qualification.

"(G) Entities that advertise on national, provincial, and non-governmental military equipment procurement platforms in the People's Republic of China.

"(H) Any other entities the Secretary determines is appropriate.

"(4) OPERATING DIRECTLY OR INDIRECTLY IN THE UNITED STATES OR ANY OF ITS TERRITORIES AND POSSESSIONS.—With respect to an entity, the term 'operating directly or indirectly in the United States or any of its territories and possessions' includes an entity selling goods in, or receiving goods or services from, the United States or any of its territories or possessions, regardless of whether the entity has a physical presence in the United States.

"(5) PEOPLE'S LIBERATION ARMY.—The term 'People's Liberation Army' means the land, naval, and air military services, the People's Armed Police, the Strategic Support Force, the Rocket Force, and any other related security or intelligence element within the Government of China or the Chinese Communist Party that the Secretary determines is appropriate, including other Chinese military and paramilitary elements, security forces, police, law enforcement, border control, and the Ministry of State Security."

*[Pub. L. 119–60, div. A, title XII, §1262, Dec. 18, 2025, 139 Stat. 1118, provided that, effective one year after Dec. 18, 2025, section 1260H(g)(2)(B)(i)(I) of Pub. L. 116–283, set out above, is generally amended to read as follows: "directly or indirectly owned by, controlled by, or beneficially owned by, affiliated with, or in an official or unofficial capacity acting as an agent of or on behalf of, any of the following, whether operating inside or outside of China—*

*["(aa) the People's Liberation Army;*

*["(bb) Chinese military and paramilitary elements, security forces, police, law enforcement, or border*

*control;*

*["(cc) the People's Armed Police;*

*["(dd) the Ministry of State Security, or any other organization subordinate to the Central Military Commission of the Chinese Communist Party;*

*["(ee) the Chinese Ministry of Industry and Information Technology;*

*["(ff) the State-Owned Assets Supervision and Administration Commission of the State Council; or*

*["(gg) the State Administration of Science, Technology, and Industry for National Defense; or".]*

[Pub. L. 118–159, §1346(1)(C)(i), which directed amendment of section 1260H(b)(3) of Pub. L. 116–283, set out above, by substituting "ANNUAL" for "ONGOING" in par. heading, was executed by substituting " ANNUAL" for "ONGOING", to reflect the probable intent of Congress.]

## REVIEW OF DEPARTMENT OF DEFENSE COMPLIANCE WITH "PRINCIPLES RELATED TO THE PROTECTION OF MEDICAL CARE PROVIDED BY IMPARTIAL HUMANITARIAN ORGANIZATIONS DURING ARMED CONFLICTS"

Pub. L. 116–283, div. A, title XII, §1299J, Jan. 1, 2021, 134 Stat. 4012, provided that:

"(a) REVIEW.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any available results of the review requested on October 3, 2016, by the Secretary of Defense of compliance of all relevant Department of Defense orders, rules of engagement, directives, regulations, policies, practices, and procedures, with the 'Principles Related to the Protection of Medical Care Provided by Impartial Humanitarian Organizations During Armed Conflicts'.

"(b) ADDITIONAL REQUIREMENT.—The Secretary of Defense shall continue to ensure that all Department of Defense orders, rules of engagement, directives, regulations, policies, practices, and procedures that were reviewed as described in subsection (a), including any other guidance, training, or standard operating procedures relating to the protection of health care during armed conflict, are consistent with the 'Principles Related to the Protection of Medical Care Provided by Impartial Humanitarian Organizations During Armed Conflicts'."

## INDEPENDENT ASSESSMENT ON GENDER AND COUNTERING VIOLENT EXTREMISM

Pub. L. 116–92, div. A, title X, §1047, Dec. 20, 2019, 133 Stat. 1588, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of State, shall seek to enter into a contract with a nonprofit entity or a federally funded research and development center independent of the Department of Defense and the Department of State to conduct research and analysis on the relationship between gender and violent extremism.

"(b) ELEMENTS.—The research and analysis conducted under subsection (a) shall include consideration of the following:

"(1) The probable causes and historical trends of women's participation in violent extremist organizations.

"(2) Potential ways in which women's participation in violent extremism is likely to change in the near- and medium-term.

"(3) The relationship between violent extremism and each of the following:

"(A) Gender-based violence, abduction, and human trafficking.

"(B) The perceived role or value of women at the community level, including with respect to property and inheritance rights and bride-price and dowry.

"(C) Community opinions of killing or harming of women.

"(D) Violations of girls' rights, including child, early, and forced marriage and access to education.

"(4) Ways for the Department of Defense to engage and support women and girls who are vulnerable to extremist behavior and activities as a means to counter violent extremism and terrorism.

"(c) UTILIZATION.—The Secretary of Defense and the Secretary of State shall utilize the results of the research and analysis conducted under subsection (a) to inform the strategic and operational objectives of the geographic combatant command, where appropriate. Such utilization shall be in accordance with the Women, Peace, and Security Act of 2017 (Public Law 115–68; 22 U.S.C. 2152j et seq.).

"(d) REPORTS.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the nonprofit entity or federally funded research and development center with which the Secretary of Defense enters into the contract under subsection (a) shall submit to the Secretary of Defense and Secretary of State a report on the results of the research and analysis required by subsection (a).

"(2) SUBMISSION TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees each of the following:

"(A) A copy of the report submitted under paragraph (1) without change.

"(B) Any comments, changes, recommendations, or other information provided by the Secretary of Defense and the Secretary of State relating to the research and analysis required by subsection (a) and contained in such report.

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this paragraph, the term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

"(C) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## TRANSMITTAL TO CONGRESS OF REQUESTS FOR ASSISTANCE FROM OTHER DEPARTMENTS OF THE FEDERAL GOVERNMENT THAT ARE APPROVED BY THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title XVII, §1707, Dec. 20, 2019, 133 Stat. 1799, as amended by Pub. L. 119–60, div. A, title X, §1053(c), Dec. 18, 2025, 139 Stat. 1044, provided that:

"(a) REQUESTS FOLLOWING APPROVAL.—Not later than seven calendar days after the Department of Defense approves a Request for Assistance from the Department of Homeland Security or the Department of Health and Human Services, the Secretary of Defense shall electronically transmit to the Committees on Armed Services of the Senate and the House of Representatives a copy of such Request for Assistance.

"(b) OFFICIAL RESPONSES TO APPROVED REQUESTS.—At the same time the Secretary of Defense submits to the Secretary of Homeland Security or the Secretary of Health and Human Services an official response of the Department of Defense approving a Request for Assistance from the Department of Homeland Security or the Department of Health and Human Services, as applicable, the Secretary of Defense shall electronically transmit to the Committees on Armed Services of the Senate and the House of Representatives a copy of such official response.

"(c) REPORTS ON SUPPORT FOR IMMIGRATION ENFORCEMENT OPERATIONS.—

"(1) IN GENERAL.—If the Department of Defense approves a Request for Assistance for support for immigration enforcement operations, the Secretary of Defense shall electronically transmit to the Committees on Armed Services of the Senate and the House of Representatives a report on such support not later than 30 calendar days after the date on which the Secretary approves the Request for Assistance and every 90 calendar days thereafter.

"(2) ELEMENTS.—Each report required by paragraph (1) shall include information on the following:

"(A) The name of any Department of Defense facility used to support immigrant enforcement operations and costs associated with any modifications to such facilities to support such operations.

"(B) The number of Department of Defense personnel assigned to conduct support for immigration enforcement operations, the units from which such personnel were assigned, the duration of the operations, and the personnel cost associated with of such operations."

## ACTIONS TO INCREASE ANALYTIC SUPPORT

Pub. L. 116–92, div. A, title XVII, §1709, Dec. 20, 2019, 133 Stat. 1801, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall direct the Under Secretary of Defense for Policy, the Director of the Joint Staff, and the Director of Cost Assessment and Program Evaluation, in consultation with the Secretary of each of the military services, to jointly develop and implement a plan to strengthen the analytic capabilities, expertise, and processes necessary to implement the national defense strategy, as required under section 113(g) of title 10, United States Code.

"(b) ELEMENTS.—The plan under subsection (a) shall include—

"(1) an assessment of the decision support capability of the Department of Defense to support decision-making, specifically the analytic expertise available to inform senior leader decisions that link national defense strategy objectives with approaches to competing effectively across the full spectrum of engagement against strategic competitors;

"(2) an analytic approach to force structure development, including an assessment of the major elements, products, and milestones of the force planning process of the Department;

"(3) the conclusions and recommendations of the Defense Planning and Analysis Community initiative;

"(4) the progress of the Department in implementing the recommendations of the Comptroller General of the United States set forth in Government Accountability Office Report (GAO-19-40C);

"(5) the progress of the Under Secretary, the Chairman of the Joint Chiefs of Staff, and the Director of Cost Assessment and Program Evaluation in implementing paragraph (5) of section 134(b) of title 10, United States Code, as added by section 902(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232); and

"(6) such other matters as the Secretary of Defense determines to be appropriate.

"(c) BRIEFING REQUIRED.—Not later than March 1, 2020, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the plan under subsection (a)."

## OVERSIGHT OF DEPARTMENT OF DEFENSE EXECUTE ORDERS

Pub. L. 116–92, div. A, title XVII, §1744, Dec. 20, 2019, 133 Stat. 1842, provided that:

"(a) REVIEW OF EXECUTE ORDERS.—Not later than 30 days after receiving a written request by the Chairman or Ranking Member of a congressional defense committee, the Secretary of Defense shall provide the committee, including appropriately designated staff of the committee, with—

"(1) an execute order approved by the Secretary or the commander of a combatant command for review; and

"(2) a detailed briefing on such execute order.

"(b) EXCEPTION.—

"(1) IN GENERAL.—In extraordinary circumstances necessary to protect operations security or the sensitivity of the execute order, the Secretary may limit review of an execute order. A determination that extraordinary circumstances exist for purposes of this paragraph may only be made by the Secretary and the decision to limit the review of an execute order may not be delegated.

"(2) SUMMARY AND OTHER INFORMATION.—In extraordinary circumstances described in paragraph (1) with respect to an execute order, within 30 days of receiving a written request under subsection (a), the Secretary shall provide to the committee concerned, including appropriately designated staff of the committee—

"(A) a written explanation of the extraordinary circumstances that led to the determination by the Secretary to limit review of the execute order; and

"(B) a detailed summary of the execute order and other information necessary for the conduct of the oversight duties of the committee.

"(c) QUARTERLY REPORT.—Not later than 30 days after the date on which the budget of the President is submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2021 and every 90 days thereafter, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive report identifying and summarizing all execute orders approved by the Secretary or the commander of a combatant command in effect for the Department of Defense as of the date of the report."

## PROHIBITION AND REMOVAL OF NAMES RELATED TO THE CONFEDERACY ON DEPARTMENT OF DEFENSE ASSETS; COMMISSION ESTABLISHED

Pub. L. 116–283, div. A, title III, §370, Jan. 1, 2021, 134 Stat. 3553, provided that:

"(a) REMOVAL.—Not later than three years after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall implement the plan submitted by the commission described in paragraph (b) and remove all names, symbols, displays, monuments, and paraphernalia that honor or commemorate the Confederate States of America (commonly referred to as the 'Confederacy') or any person who served voluntarily with the Confederate States of America from all assets of the Department of Defense.

"(b) IN GENERAL.—The Secretary of Defense shall establish a commission relating to assigning, modifying, or removing of names, symbols, displays, monuments, and paraphernalia to assets of the Department of Defense that commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America.

"(c) DUTIES.—The Commission shall—

"(1) assess the cost of renaming or removing names, symbols, displays, monuments, or paraphernalia that commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America;

"(2) develop procedures and criteria to assess whether an existing name, symbol, monument, display, or paraphernalia commemorates the Confederate States of America or person who served voluntarily with

the Confederate States of America;

"(3) recommend procedures for renaming assets of the Department of Defense to prevent commemoration of the Confederate States of America or any person who served voluntarily with the Confederate States of America;

"(4) develop a plan to remove names, symbols, displays, monuments, or paraphernalia that commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America from assets of the Department of Defense, within the timeline established by this Act; and

"(5) include in the plan procedures and criteria for collecting and incorporating local sensitivities associated with naming or renaming of assets of the Department of Defense.

"(d) MEMBERSHIP.—The Commission shall be composed of eight members, of whom—

"(1) four shall be appointed by the Secretary of Defense;

"(2) one shall be appointed by the Chairman of the Committee on Armed Services of the Senate;

"(3) one shall be appointed by the Ranking Member of the Committee on Armed Services of the Senate;

"(4) one shall be appointed by the Chairman of the Committee on Armed Services of the House of Representatives; and

"(5) one shall be appointed by the Ranking Member of the Committee on Armed Services of the House of Representatives.

"(e) APPOINTMENT.—Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act [Jan. 1, 2021].

"(f) INITIAL MEETING.—The Commission shall hold its initial meeting on the date that is 60 days after the enactment of this Act.

"(g) BRIEFINGS AND REPORTS.—Not later than October 1, 2021, the Commission shall brief the Committees on Armed Services of the Senate and House of Representatives detailing the progress of the requirements under subsection (c). Not later than October 1, 2022, and not later than 90 days before the implementation of the plan in subsection (c)(4), the Commission shall present a briefing and written report detailing the results of the requirements under subsection (c), including:

"(1) A list of assets to be removed or renamed.

"(2) Costs associated with the removal or renaming of assets in subsection (g)(1).

"(3) Criteria and requirements used to nominate and rename assets in subsection (g)(1).

"(4) Methods of collecting and incorporating local sensitivities associated with the removal or renaming of assets in subsection (g)(1).

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

"(2) OFFSET.—The amount authorized to be appropriated by the Act [sic] for fiscal year 2021 for Operations and Maintenance, Army, sub activity group 434 - other personnel support is hereby reduced by $2,000,000.

"(i) ASSETS DEFINED.—In this section, the term 'assets' includes any base, installation, street, building, facility, aircraft, ship, plane, weapon, equipment, or any other property owned or controlled by the Department of Defense.

"(j) EXEMPTION FOR GRAVE MARKERS.—Shall not cover monuments but shall exempt grave markers. [sic] Congress expects the commission to further define what constitutes a grave marker."

Pub. L. 116–92, div. A, title XVII, §1749, Dec. 20, 2019, 133 Stat. 1848, provided that:

"(a) PROHIBITION ON NAMES RELATED TO THE CONFEDERACY.—In naming a new asset or renaming an existing asset, the Secretary of Defense or the Secretary of a military department may not give a name to an asset that refers to, or includes a term referring to, the Confederate States of America (commonly referred to as the 'Confederacy'), including any name referring to—

"(1) a person who served or held leadership within the Confederacy; or

"(2) a Confederate battlefield victory.

"(b) ASSET DEFINED.—In this section, the term 'asset' includes any base, installation, facility, aircraft, ship, equipment, or any other property owned or controlled by the Department of Defense or a military department.

"(c) SAVINGS CLAUSE.—Nothing in this section may be construed as requiring a Secretary concerned to initiate a review of previously named assets."

## INSTALLATION AND MAINTENANCE OF FIRE EXTINGUISHERS IN DEPARTMENT OF DEFENSE FACILITIES

Pub. L. 116–92, div. B, title XXVIII, §2861, Dec. 20, 2019, 133 Stat. 1899, as amended by Pub. L. 117–81, div. B, title XXVIII, §2881, Dec. 27, 2021, 135 Stat. 2216, provided that: "The Secretary of Defense shall ensure that portable fire extinguishers are installed and maintained in all Department of Defense facilities, in accordance with NFPA 1, Fire Code of the National Fire Protection Association and applicable requirements of the international building code and international fire code of the International Code Council that require redundancy and extinguishers throughout occupancies regardless of the presence of other suppression systems or alarm systems."

## ANNUAL REPORT ON CIVILIAN CASUALTIES IN CONNECTION WITH UNITED STATES MILITARY OPERATIONS

Pub. L. 115–91, div. A, title X, §1057, Dec. 12, 2017, 131 Stat. 1572, as amended by Pub. L. 115–232, div. A, title X, §1062, Aug. 13, 2018, 132 Stat. 1970; Pub. L. 116–92, div. A, title XVII, §1703(a), Dec. 20, 2019, 133 Stat. 1797; Pub. L. 117–263, div. A, title X, §1056(a), Dec. 23, 2022, 136 Stat. 2779; Pub. L. 118–159, div. A, title X, §1064, Dec. 23, 2024, 138 Stat. 2065, provided that:

"(a) ANNUAL REPORT REQUIRED.—Not later than May 1 each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on civilian casualties caused as a result of United States military operations during the preceding year.

"(b) ELEMENTS.—Each report under subsection (a) shall set forth the following:

"(1) A list of all the United States military operations, including each specific mission, strike, engagement, raid, or incident, during the year covered by such report that resulted in civilian casualties that have been confirmed or are reasonably suspected to have occurred.

"(2) For each military operation listed pursuant to paragraph (1), each of the following:

"(A) The date.

"(B) The location, including, to the extent practicable, the closest town, city, or identifiable place.

"(C) An identification of whether the operation occurred inside or outside of a declared theater of active armed conflict.

"(D) The type of operation, including the specific justification or use of authority for each strike conducted.

"(E) An assessment of the number of civilian and enemy combatant casualties, including a differentiation between those killed and those injured, formulated as a range, if necessary, and including, to the extent practicable, information regarding the number of men, women, and children involved.

"(F) A summary of the determination of each completed civilian casualty assessment or investigation.

"(G) For each assessment or investigation of an incident that resulted in civilian casualties—

"(i) whether the Department conducted any witness interviews or site visits occurred, and if not, an explanation of why not; and

"(ii) whether information pertaining to the incident that was collected by one or more non-governmental entities was considered, if such information exists.

"(3) A description of the process by which the Department of Defense investigates allegations of civilian casualties resulting from United States military operations, including how the Department incorporates information from interviews with witnesses, civilian survivors of United States operations, and public reports or other nongovernmental sources.

"(4) A description of any new or updated civilian harm policies and procedures implemented by the Department of Defense.

"(5) A description of any allegations of civilian casualties made by public or non-governmental sources formally investigated by the Department of Defense.

"(6) A description of the general reasons for any discrepancies between the assessments of the United States and reporting from nongovernmental organizations regarding non-combatant deaths resulting from strikes and operations undertaken by the United States.

"(7) The definitions of 'combatant' and 'non-combatant' used in the preparation of the report, which shall be consistent with the laws of armed conflict.

"(8) Any update or modification to any report under this section during a previous year.

"(9) Any other matters the Secretary of Defense determines are relevant.

"(c) USE OF SOURCES.—In preparing a report under this section, the Secretary of Defense shall take into account relevant and credible all-source reporting, including information from public reports and nongovernmental sources.

"(d) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a

classified annex. The unclassified form of each report shall, at a minimum, be responsive to each element under subsection (b) of a report under subsection (a), and shall be made available to the public at the same time it is submitted to Congress (unless the Secretary certifies in writing that the publication of such information poses a threat to the national security interests of the United States).

"(e) SUNSET.—The requirement to submit a report under subsection (a) shall expire on December 31, 2030."

[Pub. L. 117–263, div. A, title X, §1056(b), Dec. 23, 2022, 136 Stat. 2779, provided that: "The amendments made by this section [amending section 1057 of Pub. L. 115–91, set out above] shall apply as follows:

["(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to a report submitted on or after May 1, 2024.

["(2) The amendments made by subparagraphs (A) and (B) of subsection (a)(2) shall apply with respect to a report submitted after the date of the enactment of this Act [Dec. 23, 2022]."]

[Pub. L. 116–92, div. A, title XVII, §1703(b), Dec. 20, 2019, 133 Stat. 1797, provided that: "The Law Revision Counsel is directed to place such section 1057 [section 1057 of Pub. L. 115–91, set out above] in a note following section 113 of title 10, United States Code."]

## IMPROVED CRIME REPORTING

Pub. L. 115–232, div. A, title V, §546, Aug. 13, 2018, 132 Stat. 1765, provided that:

"(a) TRACKING PROCESS.—The Secretary of Defense, in consultation with the secretaries of the military departments, shall establish a consolidated tracking process for the Department of Defense to ensure increased oversight of the timely submission of crime reporting data to the Federal Bureau of Investigation under section 922(g) of title 18, United States Code, and Department of Defense Instruction 5505.11, 'Fingerprint Card and Final Disposition Report Submission Requirements'. The tracking process shall, to the maximum extent possible, standardize and automate reporting and increase the ability of the Department to track such submissions.

"(b) LETTER REQUIRED.—Not later than July 1, 2019, the Secretary of Defense shall submit a letter to the Committees on Armed Services of the Senate and House of Representatives that details the tracking process under subsection (a)."

## CRITICAL TECHNOLOGIES LIST

Pub. L. 115–232, div. A, title X, §1049, Aug. 13, 2018, 132 Stat. 1961, provided that:

"(a) LIST REQUIRED.—The Secretary of Defense shall establish and maintain a list of acquisition programs, technologies, manufacturing capabilities, and research areas that are critical for maintaining the national security technological advantage of the United States over foreign countries of special concern. The list shall be accompanied by a justification for inclusion of items on the list, including specific performance and technical figures of merit.

"(b) USE OF LIST.—The Secretary may use the list required under subsection (a) to—

"(1) guide the recommendations of the Secretary in any interagency determinations conducted pursuant to Federal law relating to technology protection, including relating to export licensing, deemed exports, technology transfer, and foreign direct investment;

"(2) inform the Secretary while engaging in interagency processes on promotion and protection activities involving acquisition programs and technologies that are necessary to achieve and maintain the national security technology advantage of the United States and that are supportive of military requirements and strategies;

"(3) inform the Department's activities to integrate acquisition, intelligence, counterintelligence and security, and law enforcement to inform requirements, acquisition, programmatic, and strategic courses of action for technology protection;

"(4) inform development of research investment strategies and activities and develop innovation centers and an emerging technology industrial base through the employment of financial assistance from the United States Government through appropriate statutory authorities and programs;

"(5) identify opportunities for alliances and partnerships in key research and development areas to achieve and maintain a national security technology advantage; and

"(6) carry out such other purposes as identified by the Secretary.

"(c) PUBLICATION.—The Secretary shall—

"(1) publish the list required under subsection (a) by not later than December 31, 2018; and

"(2) update such list at least annually."

## GUIDANCE ON THE ELECTRONIC WARFARE MISSION AREA AND JOINT ELECTROMAGNETIC SPECTRUM OPERATIONS

Pub. L. 115–232, div. A, title X, §1053, Aug. 13, 2018, 132 Stat. 1966, as amended by Pub. L. 117–81, div. A, title IX, §907(a), (b), (c)(2), Dec. 27, 2021, 135 Stat. 1873, 1875; Pub. L. 117–263, div. A, title IX, §914, title X, §1081(b), Dec. 23, 2022, 136 Stat. 2751, 2797, which required the Secretary of Defense to establish processes and procedures to develop, integrate, and enhance the electronic warfare mission area and the conduct of joint electromagnetic spectrum operations in all domains across the Department of Defense, was repealed by Pub. L. 118–31, div. A, title XVI, §1682(c), Dec. 22, 2023, 137 Stat. 617.

## UNITED STATES POLICY WITH RESPECT TO FREEDOM OF NAVIGATION AND OVERFLIGHT

Pub. L. 115–232, div. A, title X, §1086, Aug. 13, 2018, 132 Stat. 1992, provided that:

"(a) DECLARATION OF POLICY.—It is the policy of the United States to fly, sail, and operate throughout the oceans, seas, and airspace of the world wherever international law allows.

"(b) IMPLEMENTATION OF POLICY.—In furtherance of the policy set forth in subsection (a), the Secretary of Defense should—

"(1) plan and execute a robust series of routine and regular air and naval presence missions throughout the world and throughout the year, including for critical transportation corridors and key routes for global commerce;

"(2) in addition to the missions executed pursuant to paragraph (1), execute routine and regular air and maritime freedom of navigation operations throughout the year, in accordance with international law, including, but not limited to, maneuvers beyond innocent passage; and

"(3) to the maximum extent practicable, execute the missions pursuant to paragraphs (1) and (2) with regional partner countries and allies of the United States."

## REPORT ON MILITARY AND COERCIVE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA IN SOUTH CHINA SEA

Pub. L. 115–232, div. A, title XII, §1262, Aug. 13, 2018, 132 Stat. 2061, provided that:

"(a) IN GENERAL.—Except as provided in subsection (d), immediately after the commencement of any significant reclamation, assertion of an excessive territorial claim, or militarization activity by the People's Republic of China in the South China Sea, including any significant military deployment or operation or infrastructure construction, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees, and release to the public, a report on the military and coercive activities of China in the South China Sea in connection with such activity.

"(b) ELEMENTS OF REPORT TO PUBLIC.—Each report on the commencement of a significant reclamation, an assertion of an excessive territorial claim, or a militarization activity under subsection (a) shall include a short narrative on, and one or more corresponding images of, such commencement of a significant reclamation, assertion of an excessive territorial claim, or militarization activity.

"(c) FORM.—

"(1) SUBMISSION TO CONGRESS.—Any report under subsection (a) that is submitted to the appropriate congressional committees shall be submitted in unclassified form, but may include a classified annex.

"(2) RELEASE TO PUBLIC.—If a report under subsection (a) is released to the public, such report shall be so released in unclassified form.

"(d) WAIVER.—

"(1) RELEASE OF REPORT TO PUBLIC.—The Secretary of Defense may waive the requirement in subsection (a) for the release to the public of a report on the commencement of any significant reclamation, an assertion of an excessive territorial claim, or a militarization activity by the People's Republic of China in the South China Sea if the Secretary determines that the release to the public of a report on such activity under that subsection in the form required by subsection (c)(2) would have an adverse effect on the national security interests of the United States.

"(2) NOTICE TO CONGRESS.—If the Secretary issues a waiver under paragraph (1) with respect to a report on an activity, not later than 48 hours after the Secretary issues such waiver, the Secretary shall submit to the appropriate congressional committees written notice of, and justification for, such waiver.

"(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

## STRATEGIC PLAN TO IMPROVE CAPABILITIES OF DEPARTMENT OF DEFENSE TRAINING RANGES AND INSTALLATIONS

Pub. L. 115–232, div. B, title XXVIII, §2862, Aug. 13, 2018, 132 Stat. 2283, provided that:

"(a) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a comprehensive strategic plan to identify and address deficits in the capabilities of Department of Defense training ranges to support current and anticipated readiness requirements to execute the National Defense Strategy (NDS).

"(b) EVALUATION.—As part of the preparation of the strategic plan, the Secretary shall conduct an evaluation of the following:

"(1) The adequacy of current training range resources to include the ability to train against near-peer or peer threats in a realistic 5th Generation environment.

"(2) The adequacy of current training enablers to meet current and anticipated demands of the Armed Forces.

"(c) ELEMENTS.—The strategic plan shall include the following:

"(1) An integrated priority list of location-specific proposals and/or infrastructure project priorities, with associated Department of Defense Form 1391 documentation, required to both address any limitations or constraints on current Department resources, including any climatically induced impacts or shortfalls, and achieve full spectrum training (integrating virtual and constructive entities into live training) against a more technologically advanced peer adversary.

"(2) Goals and milestones for tracking actions under the plan and measuring progress in carrying out such actions.

"(3) Projected funding requirements for implementing actions under the plan.

"(d) DEVELOPMENT AND IMPLEMENTATION.—The Under Secretary of Defense for Acquisition and Sustainment, as the principal staff assistant to the Secretary on installation management, shall have lead responsibility for developing and overseeing implementation of the strategic plan and for coordination of the discharge of the plan by components of the Department.

"(e) REPORT ON IMPLEMENTATION.—Not later than April 1, 2020, the Secretary shall, through the Under Secretary of Defense for Acquisition and Sustainment, submit to Congress a report on the progress made in implementing this section, including the following:

"(1) A description of the strategic plan.

"(2) A description of the results of the evaluation conducted under subsection (b).

"(3) Such recommendations as the Secretary considers appropriate with respect to improvements of the capabilities of training ranges and enablers.

"(f) PROGRESS REPORTS.—Not later than April 1, 2019, and annually thereafter for 3 years, the Secretary shall, through the Under Secretary, submit to Congress a report setting forth the following:

"(1) A description of the progress made during the preceding fiscal year in implementing the strategic plan.

"(2) A description of any additional actions taken, or to be taken, to address limitations and constraints on training ranges and enablers.

"(3) Assessments of individual training ranges addressing the evaluation conducted under subsection (b).

"(g) ADDITIONAL REPORT ELEMENT.—Each report under subsections (e) and (f) shall also include a list of significant modifications to training range inventory, such as range closures or expansions, during the preceding fiscal year, including any limitations or impacts due to climatic conditions."

## IMPROVEMENT OF UPDATE PROCESS FOR POPULATING MISSION DATA FILES USED IN ADVANCED COMBAT AIRCRAFT

Pub. L. 115–91, div. A, title II, §224, Dec. 12, 2017, 131 Stat. 1334, provided that:

"(a) IMPROVEMENTS TO UPDATE PROCESS.—

"(1) IN GENERAL.—The Secretary of Defense shall take such actions as may be necessary to improve the process used to update the mission data files used in advanced combat aircraft of the United States so that such updates can occur more quickly.

"(2) REQUIREMENTS.—In improving the process under paragraph (1), the Secretary shall ensure the following:

"(A) That under such process, updates to the mission data files are developed, operationally tested, and loaded onto systems of advanced combat aircraft while in theaters of operation in a time-sensitive manner to allow for the distinguishing of threats, including distinguishing friends from foes, loading and delivery of weapon suites, and coordination with allied and coalition armed forces.

"(B) When updates are made to the mission data files, all areas of responsibility (AoRs) are

included.

"(C) The process includes best practices relating to such mission data files that have been identified by industry and allies of the United States.

"(D) The process improves the exchange of information between weapons systems of the United States and weapon systems of allies and partners of the United States, with respect to such mission data files.

"(b) CONSULTATION AND PILOT PROGRAMS.—In carrying out subsection (a), the Secretary shall consult the innovation organizations resident in the Department of Defense and may consider carrying out a pilot program under another provision of this Act [see Tables for classification].

"(c) REPORT.—Not later than March 31, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken by the Secretary under subsection (a)(1) and how the process described in such subsection has been improved."

## DEPARTMENT OF DEFENSE ENGAGEMENT WITH COVERED NON-FEDERAL ENTITIES

Pub. L. 115–91, div. A, title X, §1088, Dec. 12, 2017, 131 Stat. 1604, provided that:

"(a) REVIEW OF CURRENT GUIDANCE.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense and the Secretary of State shall jointly conduct a review of the guidance of the Department of Defense applicable to Department of Defense engagements with covered non-Federal entities.

"(b) ADDITIONAL GUIDANCE.—If the Secretary of Defense and the Secretary of State determine pursuant to the review under subsection (a) that additional guidance is required in connection with Department of Defense engagements with covered non-Federal entities, the Secretary of Defense, with the concurrence of the Secretary of State, shall, by not later than 180 days after the date of the enactment of this Act, issue such additional guidance as the Secretaries consider appropriate in light of the review. Any such additional guidance shall be consistent with—

"(1) applicable law, as in effect on the date of the enactment of this Act;

"(2) Department of Defense guidance with respect to solicitation and preferential treatment, as in effect on the date of the enactment of this Act, including such guidance specified in the Department of Defense Joint Ethics Regulations; and

"(3) the principle that the Department of State and the United States Agency for International Development are the principal United States agencies with primary responsibility for providing and coordinating humanitarian and economic assistance.

"(c) BRIEFING.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly provide to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a briefing on the findings of the review required under subsection (a).

"(d) COVERED NON-FEDERAL ENTITY DEFINED.—In this section, the term 'covered non-Federal entity' means an organization that—

"(1) is based in the United States;

"(2) has an independent board of directors and is subject to independent financial audits;

"(3) is substantially privately-funded;

"(4) is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] and is exempt from taxation under section 501(a) of such Code [26 U.S.C. 501(a)];

"(5) provides international assistance; and

"(6) has a stated mission of supporting United States military missions abroad."

## NOTICE TO CONGRESS OF TERMS OF DEPARTMENT OF DEFENSE SETTLEMENT AGREEMENTS

Pub. L. 115–91, div. A, title X, §1096, Dec. 12, 2017, 131 Stat. 1614, provided that:

"(a) REQUEST OF SETTLEMENT AGREEMENTS.—At the request of the Chairman, in coordination with the Ranking Member, of the Committee on Armed Services of the Senate or the House of Representatives or the Chairman, in coordination with the Ranking Member, of the Committee on Appropriations of the Senate or the House of Representatives, the Secretary of Defense shall make available (in an appropriate manner with respect to classified or other protected information) to the Chairman and Ranking Member of the requesting committee a settlement agreement (including a consent decree) in any civil action in a court of competent jurisdiction involving the Department of Defense, a military department, or a Defense Agency.

"(b) PROVISION OF SETTLEMENT AGREEMENTS.—The Secretary shall take all necessary steps to ensure the settlement agreement is provided to the Chairman and Ranking Member of the requesting committee, including by making any necessary requests to a court with competent jurisdiction over the settlement."

## STRATEGY TO COUNTER THREATS BY THE RUSSIAN FEDERATION

Pub. L. 115–91, div. A, title XII, §1239, Dec. 12, 2017, 131 Stat. 1666, provided that:

"(a) STRATEGY REQUIRED.—The Secretary of Defense, in coordination with the Secretary of State and in consultation with each of the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of each of the regional and functional combatant commands, shall develop and implement a comprehensive strategy to counter threats by the Russian Federation.

"(b) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the appropriate congressional committees a report on the strategy required by subsection (a).

"(2) ELEMENTS.—The report required by this subsection shall include the following elements:

"(A) An evaluation of strategic objectives and motivations of the Russian Federation.

"(B) A detailed description of Russian threats to the national security of the United States, including threats that may pose challenges below the threshold of armed conflict.

"(C) A discussion of how the strategy complements the National Defense Strategy and the National Military Strategy.

"(D) A discussion of the ends, ways, and means inherent to the strategy.

"(E) A discussion of the strategy's objectives with respect to deterrence, escalation control, and conflict resolution.

"(F) A description of the military activities across geographic regions and military functions and domains that are inherent to the strategy.

"(G) A description of the posture, forward presence, and readiness requirements inherent to the strategy.

"(H) A description of the roles of the United States Armed Forces in implementing the strategy, including—

"(i) the role of United States nuclear capabilities;

"(ii) the role of United States space capabilities;

"(iii) the role of United States cyber capabilities;

"(iv) the role of United States conventional ground forces;

"(v) the role of United States naval forces;

"(vi) the role of United States air forces; and

"(vii) the role of United States special operations forces.

"(I) An assessment of the force requirements needed to implement and sustain the strategy.

"(J) A description of the logistical requirements needed to implement and sustain the strategy.

"(K) An assessment of the technological research and development requirements needed to implement and sustain the strategy.

"(L) An assessment of the training and exercise requirements needed to implement and sustain the strategy.

"(M) An assessment of the budgetary resource requirements needed to implement and sustain the strategy through December 31, 2030.

"(N) An analysis of the adequacy of current authorities and command structures for countering unconventional warfare.

"(O) Recommendations for improving the counter-unconventional warfare capabilities, authorities, and command structures of the Department of Defense.

"(P) A discussion of how the strategy provides a framework for future planning and investments in regional defense initiatives, including the European Deterrence Initiative.

"(Q) A plan to increase conventional precision strike weapon stockpiles in the United States European Command's areas of responsibility, which shall include necessary increases in the quantities of such stockpiles that the Secretary of Defense determines will enhance deterrence and warfighting capability of the North Atlantic Treaty Organization forces.

"(R) A plan to counter the military capabilities of the Russian Federation, which, in addition to elements the Secretary of Defense determines to be appropriate, shall include recommendations for—

"(i) improving the capability of United States Armed Forces to operate in a Global

Positioning System (GPS)-denied or GPS-degraded environment;

"(ii) improving the capability of United States Armed Forces to counter Russian unmanned aircraft systems, electronic warfare, and long-range precision strike capabilities; and

"(iii) countering unconventional capabilities and hybrid threats from the Russian Federation.

"(3) FORM.—The report required by this subsection shall be submitted in unclassified form but may contain a classified annex."

## CULTURAL HERITAGE PROTECTION COORDINATOR

Pub. L. 115–91, div. A, title XII, §1279C, Dec. 12, 2017, 131 Stat. 1702, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall designate an employee of the Department of Defense to serve concurrently as the Coordinator for Cultural Heritage Protection, who shall be responsible for—

"(1) coordinating the existing obligations of the Department of Defense for the protection of cultural heritage, including the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and other obligations for the protection of cultural heritage; and

"(2) coordinating with the Cultural Heritage Coordinating Committee convened by the Secretary of State for the national security interests of the United States, as appropriate."

## EXCEPTION TO LIMITATION AGAINST APPOINTMENT OF PERSONS AS SECRETARY OF DEFENSE WITHIN SEVEN YEARS OF RELIEF FROM ACTIVE DUTY AS REGULAR COMMISSIONED OFFICERS OF THE ARMED FORCES

Pub. L. 117–1, §1, Jan. 22, 2021, 135 Stat. 3, provided for an exception to the seven-year limitation under subsec. (a) of this section for the first person appointed as Secretary of Defense after Jan. 20, 2021.

Pub. L. 115–2, §1, Jan. 20, 2017, 131 Stat. 6, provided for an exception to the seven-year limitation under subsec. (a) of this section for the first person appointed as Secretary of Defense after Jan. 20, 2017.

## PILOT PROGRAM ON MODERNIZATION AND FIELDING OF ELECTROMAGNETIC SPECTRUM WARFARE SYSTEMS AND ELECTRONIC WARFARE CAPABILITIES

Pub. L. 114–328, div. A, title II, §234, Dec. 23, 2016, 130 Stat. 2064, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense may carry out a pilot program on the modernization and fielding of electromagnetic spectrum warfare systems and electronic warfare systems.

"(2) SELECTION.—If the Secretary carries out the pilot program under paragraph (1), the Electronic Warfare Executive Committee shall select from the list described in section 240(b)(4) [130 Stat. 2070] a total of 10 electromagnetic spectrum warfare systems and electronic warfare systems across at least two military departments for modernization and fielding under the pilot program.

"(b) TERMINATION.—The pilot program authorized by subsection (a) shall terminate on September 30, 2023.

"(c) FUNDING.—For the purposes of this pilot program, funds authorized to be appropriated for electromagnetic spectrum warfare and electronic warfare may be used for the development and fielding of electromagnetic spectrum warfare systems and electronic warfare capabilities.

"(d) DEFINITIONS.—In this section:

"(1) The term 'electromagnetic spectrum warfare' means electronic warfare that encompasses military communications and sensing operations that occur in the electromagnetic operational domain.

"(2) The term 'electronic warfare' means military action involving the use of electromagnetic and directed energy to control the electromagnetic spectrum or to attack the enemy."

## IMPROVED DEPARTMENT OF DEFENSE PREVENTION OF AND RESPONSE TO HAZING AND BULLYING IN THE ARMED FORCES

Pub. L. 114–328, div. A, title V, §549, Dec. 23, 2016, 130 Stat. 2129, as amended by Pub. L. 117–81, div. A, title V, §549L, Dec. 27, 2021, 135 Stat. 1732, provided that:

"(a) ANTI-HAZING AND ANTI-BULLYING DATABASE.—The Secretary of Defense shall provide for the establishment and use of a comprehensive and consistent data-collection system for the collection of reports, including anonymous reports, of incidents of hazing or bullying involving a member of the Armed Forces. The Secretary shall issue department-wide guidance regarding the availability and use of the database, including information on protected classes, such as race and religion, who are often the victims of hazing or bullying.

"(b) IMPROVED TRAINING.—Each Secretary of a military department, in consultation with the Chief of Staff of each Armed Force under the jurisdiction of such Secretary, shall seek to improve training to assist

members of the Armed Forces [to] better recognize, prevent, and respond to hazing and bullying at all command levels.

"(c) ANNUAL REPORTS ON HAZING AND BULLYING.—

"(1) REPORT REQUIRED.—Not later than May 31, 2023, and annually thereafter for five years,, [sic] the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of efforts during the previous year—

"(A) to prevent and to respond to incidents of hazing or bullying involving members of the Armed Forces;

"(B) to track and encourage reporting, including reporting anonymously, incidents of hazing in the Armed Force; and

"(C) to ensure the consistent implementation of anti-hazing and anti-bullying policies.

"(2) ADDITIONAL ELEMENTS.—Each report required by this subsection shall include the following:

"(A) A description of comprehensive data-collection systems of each Armed Force described in subsection (b) and the Office of the Secretary of Defense for collecting hazing or bullying reports involving a member of the Armed Forces.

"(B) A description of processes of each Armed Force described in subsection (b) to identify, document, and report alleged instances of hazing or bullying. Such description shall include the methodology each such Armed Force uses to categorize and count potential instances of hazing or bullying.

"(C) An assessment by each Secretary of a military department of the quality and need for training on recognizing and preventing hazing and bullying provided to members under the jurisdiction of such Secretary.

"(D) An assessment by the Office of the Secretary of Defense of—

"(i) the effectiveness of each Armed Force described in subsection (b) in tracking and reporting instances of hazing or bullying;

"(ii) whether the performance of each such Armed Force was satisfactory or unsatisfactory in the preceding fiscal year.

"(E) Recommendations of the Secretary to improve—

"(i) elements described in subparagraphs (A) through (D).

"(ii) the Uniform Code of Military Justice or the Manual for Courts-Martial to improve the prosecution of persons alleged to have committed hazing or bullying in the Armed Forces.

"(F) The status of efforts of the Secretary to evaluate the prevalence of hazing and bullying in the Armed Forces.

"(G) Data on allegations of hazing and bullying in the Armed Forces, including final disposition of investigations.

"(H) Plans of the Secretary to improve hazing and bullying prevention and response during the next reporting year."

## NOTIFICATION ON THE PROVISION OF DEFENSE SENSITIVE SUPPORT

Pub. L. 114–328, div. A, title X, §1055, Dec. 23, 2016, 130 Stat. 2399, as amended by Pub. L. 115–232, div. A, title X, §1042, Aug. 13, 2018, 132 Stat. 1956; Pub. L. 116–92, div. A, title X, §1054, Dec. 20, 2019, 133 Stat. 1591; Pub. L. 118–159, div. A, title X, §1085, Dec. 23, 2024, 138 Stat. 2078, provided that:

"(a) LIMITATION.—The Secretary of Defense may provide defense sensitive support to a non-Department of Defense Federal department or agency only after the Secretary has determined that such support—

"(1) is consistent with the mission and functions of the Department of Defense;

"(2) does—

"(A) not significantly interfere with the mission or functions of the Department; or

"(B) interfere with the mission and functions of the Department of Defense but such support is in the national security interest of the United States; and

"(3) has been requested by the head of a non-Department of Defense Federal department or agency who has certified to the Secretary that the department or agency has reasonably attempted to use capabilities and resources internal to the department or agency.

"(b) NOTICE REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), before providing defense sensitive support to a non-Department of Defense Federal department or agency, the Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and, when the part of the Department of Defense providing the

sensitive support is a member of the intelligence community, the congressional intelligence committees of the Secretary's intent to provide such support.

"(2) CONTENTS.—Notice provided under paragraph (1) shall include the following:

"(A) A description of the support to be provided.

"(B) A description of how the support is consistent with the mission and functions of the Department.

"(C) A description of the required duration of the support.

"(D) A description of the initial costs for the support.

"(E) A description of how the support—

"(i) does not significantly interfere with the mission or functions of the Department; or

"(ii) significantly interferes with the mission or functions of the Department but is in the national security interest of the United States.

"(3) ROUTINE DEFENSE SENSITIVE SUPPORT.—In the event that the provision of defense sensitive support is routine defense sensitive support, the Secretary shall provide notification under paragraph (1) on a quarterly basis after providing the support.

"(4) TIME SENSITIVE SUPPORT.—In the event that the provision of defense sensitive support is time-sensitive, the Secretary—

"(A) may provide notification under paragraph (1) after providing the support; and

"(B) shall provide such notice as soon as practicable after providing such support, but not later than 48 hours after providing the support.

"(5) REVERSE DEFENSE SENSITIVE SUPPORT REQUEST.—The Secretary shall notify the congressional defense committees (and the congressional intelligence committees with respect to matters relating to members of the intelligence community) of requests made by the Secretary to a non-Department of Defense Federal department or agency for support that requires special protection from disclosure in the same manner and containing the same information as the Secretary notifies such committees of defense sensitive support requests under paragraphs (1), (3), and (4).

"(6) SUSTAINMENT COSTS.—If the Secretary determines that sustainment costs will be incurred as a result of the provision of defense sensitive support, the Secretary, not later than 15 days after the initial provision of such support, shall certify to the congressional defense committees (and the congressional intelligence committees with respect to matters relating to members of the intelligence community) that such sustainment costs will not interfere with the ability of the Department to execute operations, accomplish mission objectives, and maintain readiness.

"(c) DEFINITIONS.—In this section:

"(1) The term 'defense sensitive support' means support provided by the Department of Defense to a non-Department of Defense Federal department or agency that requires special protection from disclosure.

"(2) The term 'routine defense sensitive support' has the meaning given such term elsewhere in the National Defense Authorization Act for Fiscal Year 2025 [Pub. L. 118–159, see Tables for classification, which does not contain definition for "routine defense sensitive support"]."

## WOMEN'S MILITARY SERVICE MEMORIALS AND MUSEUMS

Pub. L. 115–91, div. A, title III, §342, Dec. 12, 2017, 131 Stat. 1361, provided that:

"(a) IN GENERAL.—The Secretary of Defense may provide not more than $5,000,000 in financial support for the acquisition, installation, and maintenance of exhibits, facilities, historical displays, and programs at military service memorials and museums that highlight the role of women in the military. The Secretary may enter into a contract, partnership, or grant with a non-profit organization for the purpose of performing such acquisition, installation, and maintenance.

"(b) PURPOSES.—The contracts, partnerships, or grants shall be limited to serving the purposes of—

"(1) preserving the history of the 3,000,000 women who have served in the United States Armed Forces;

"(2) managing an archive of artifacts, historic memorabilia, and documents related to servicewomen;

"(3) maintaining a women veterans' oral history program; and

"(4) conducting other educational programs related to women in service."

Pub. L. 114–328, div. B, title XXVIII, §2833, Dec. 23, 2016, 130 Stat. 2740, provided that:

"(a) AUTHORIZATION.—The Secretary of Defense may provide not more than $5,000,000 in financial support for the acquisition, installation, and maintenance of exhibits, facilities, historical displays, and programs at military service memorials and museums that highlight the role of women in the military. The Secretary may enter into a contract with a nonprofit organization for the purpose of performing such acquisition, installation, and maintenance.

"(b) OFFSET.—Of the funds authorized to be appropriated by section 301 [130 Stat. 2072] for operation and maintenance, Army, and available for the National Museum of the United States Army, not more than $5,000,000 shall be provided, at the discretion of the Secretary of Defense, to carry out activities under subsection (a)."

## STRATEGIC FRAMEWORK FOR DEPARTMENT OF DEFENSE SECURITY COOPERATION

Pub. L. 114–92, div. A, title XII, §1202, Nov. 25, 2015, 129 Stat. 1036, provided for the development of a strategic framework for Department of Defense security cooperation to guide prioritization of resources and activities and required submission of an initial report and biennial reports thereafter to certain congressional committees, prior to ceasing to be effective 6 years after Nov. 25, 2015.

## ROLE OF SECRETARY OF DEFENSE IN DEVELOPMENT OF GENDER-NEUTRAL OCCUPATIONAL STANDARDS

Pub. L. 113–291, div. A, title V, §524(a), Dec. 19, 2014, 128 Stat. 3361, as amended by Pub. L. 114–92, div. A, title V, §525, Nov. 25, 2015, 129 Stat. 813, provided that: "The Secretary of Defense shall ensure that the gender-neutral occupational standards being developed by the Secretaries of the military departments pursuant to section 543 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 113 note), as amended by section 523 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 756)—

"(1) accurately predict performance of actual, regular, and recurring duties of a military occupation;

"(2) are applied equitably to measure individual capabilities; and

"(3) measure the combat readiness of combat units, including special operations forces."

## FEMALE PERSONAL PROTECTION GEAR

Pub. L. 113–291, div. A, title V, §524(b), Dec. 19, 2014, 128 Stat. 3362, provided that: "The Secretary of Defense shall direct each Secretary of a military department to take immediate steps to ensure that combat equipment distributed to female members of the Armed Forces—

"(1) is properly designed and fitted; and

"(2) meets required standards for wear and survivability."

## OFFICE OF NET ASSESSMENT

Pub. L. 113–291, div. A, title IX, §904, Dec. 19, 2014, 128 Stat. 3471, provided that:

"(a) INDEPENDENT OFFICE REQUIRED.—The Secretary of Defense shall establish and maintain an independent organization within the Department of Defense to develop and coordinate net assessments of the standing, trends, and future prospects of the military capabilities and potential of the United States in comparison with the military capabilities and potential of other countries or groups of countries, so as to identify emerging or future threats or opportunities for the United States.

"(b) DIRECT REPORT TO THE SECRETARY OF DEFENSE.—The head of the office established and maintained pursuant to subsection (a) shall report directly to the Secretary of Defense without intervening authority and may communicate views on matters within the responsibility of the office directly to the Secretary without obtaining the approval or concurrence of any other official within the Department of Defense."

## CLARIFICATION OF POLICIES ON MANAGEMENT OF SPECIAL USE AIRSPACE OF DEPARTMENT OF DEFENSE

Pub. L. 113–291, div. A, title X, §1076, Dec. 19, 2014, 128 Stat. 3519, required the Secretary of Defense to issue guidance, no later than 90 days after Dec. 19, 2014, to clarify the policies of the Department with respect to special use airspace and to provide a briefing, no later than 120 days after Dec. 19, 2014, on the status of implementing the guidance.

## PROVISION OF MILITARY SERVICE RECORDS TO THE SECRETARY OF VETERANS AFFAIRS IN AN ELECTRONIC FORMAT

Pub. L. 113–66, div. A, title V, §525, Dec. 26, 2013, 127 Stat. 757, provided that:

"(a) PROVISION IN ELECTRONIC FORMAT.—In accordance with subsection (b), the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall make the covered records of each member of the Armed Forces available to the Secretary of Veterans Affairs in an electronic format.

"(b) DEADLINE FOR PROVISION OF RECORDS.—With respect to a member of the Armed Forces who is discharged or released from the Armed Forces on or after January 1, 2014, the Secretary of Defense shall ensure that the covered records of the member are made available to the Secretary of Veterans Affairs not later

than 90 days after the date of the member's discharge or release.

"(c) SHARING OF PROTECTED HEALTH INFORMATION.—For purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 42 U.S.C. 1320d–2 note), making medical records available to the Secretary of Veterans Affairs under subsection (a) shall be treated as a permitted disclosure.

"(d) RECORDS CURRENTLY AVAILABLE TO SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that the covered records of members of the Armed Forces that are available to the Secretary of Veterans Affairs as of the date of the enactment of this Act [Dec. 26, 2013] are made electronically accessible and available as soon as practicable after that date to the Veterans Benefits Administration.

"(e) COVERED RECORDS DEFINED.—In this section, the term 'covered records' means, with respect to a member of the Armed Forces—

"(1) service treatment records;

"(2) accompanying personal records;

"(3) relevant unit records; and

"(4) medical records created by reason of treatment or services received pursuant to chapter 55 of title 10, United States Code."

## STRATEGY FOR FUTURE MILITARY INFORMATION OPERATIONS CAPABILITIES

Pub. L. 113–66, div. A, title X, §1096, Dec. 26, 2013, 127 Stat. 880, provided that:

"(a) STRATEGY REQUIRED.—The Secretary of Defense shall develop and implement a strategy for developing and sustaining through fiscal year 2020 information operations capabilities for future contingencies. The Secretary shall submit such strategy to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013].

"(b) CONTENTS OF STRATEGY.—The strategy required by subsection (a) shall include each of the following:

"(1) A plan for the sustainment of existing capabilities that have been developed during the ten-year period prior to the date of the enactment of this Act, including such capabilities developed using funds authorized to be appropriated for overseas contingency operations determined to be of enduring value for continued sustainment.

"(2) A discussion of how the capabilities referred to in paragraph (1) are integrated into policy, doctrine, and operations.

"(3) An assessment of the force structure that is required to sustain operational planning and potential contingency operations, including the integration across the active and reserve components.

"(4) Estimates of the steady-state resources needed to support the force structure referred to in paragraph (3), as well as estimates for resources that might be needed based on selected operational plans, contingency plans, and named operations.

"(5) An assessment of the impact of how new and emerging technologies can be incorporated into policy, doctrine, and operations.

"(6) A description of ongoing research into new capabilities that may be needed to fill any identified gaps and programs that might be required to develop such capabilities.

"(7) Potential policy implications or legal challenges that may prevent the integration of new and emerging technologies into the projected force structure.

"(8) Potential policy implications or challenges to the better leveraging of capabilities from interagency partners."

## PROHIBITION OF RETALIATION AGAINST MEMBERS OF THE ARMED FORCES FOR REPORTING A CRIMINAL OFFENSE

Pub. L. 113–66, div. A, title XVII, §1709(a), (b), Dec. 26, 2013, 127 Stat. 962, as amended by Pub. L. 113–291, div. A, title X, §1071(g)(5), Dec. 19, 2014, 128 Stat. 3511, required the prescription, no later than 120 days after Dec. 26, 2013, of regulations prohibiting retaliation against an alleged victim or other member of the Armed Forces who reports a criminal offense.

## REVIEW AND POLICY REGARDING DEPARTMENT OF DEFENSE INVESTIGATIVE PRACTICES IN RESPONSE TO ALLEGATIONS OF UNIFORM CODE OF MILITARY JUSTICE VIOLATIONS

Pub. L. 113–66, div. A, title XVII, §1732, Dec. 26, 2013, 127 Stat. 975, required a review, by no later than 180 days after Dec. 26, 2013, of the practices of the military criminal investigative organizations in response

to allegations of Uniform Code of Military Justice violations and required the development of a uniform policy regarding the use of case determinations to record the results of investigations of such allegations.

## DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL FOR ENTERPRISE RESOURCE PLANNING SYSTEM DATA CONVERSION

Pub. L. 112–239, div. A, title IX, §903, Jan. 2, 2013, 126 Stat. 1866, directed the designation, by no later than 90 days after Jan. 2, 2013, of a Department of Defense senior official with principal responsibility for coordination and management oversight of data conversion for all enterprise resource planning systems of the Department.

## ELECTRONIC WARFARE STRATEGY OF THE DEPARTMENT OF DEFENSE

Pub. L. 112–239, div. A, title X, §1061(a), (b), Jan. 2, 2013, 126 Stat. 1939, directed the Secretary of Defense to review and update guidance related to electronic warfare and directed the Commander of the United States Strategic Command to update and issue guidance regarding the responsibilities of the Command with regard to joint electronic warfare capabilities.

## UNITED STATES PARTICIPATION IN HEADQUARTERS EUROCORPS

Pub. L. 112–239, div. A, title XII, §1275, Jan. 2, 2013, 126 Stat. 2027, provided that:

"(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the Armed Forces as members of the staff of Headquarters Eurocorps for the purpose of supporting the North Atlantic Treaty Organization (NATO) activities of the NATO Rapid Deployable Corps Eurocorps.

"(b) MEMORANDUM OF UNDERSTANDING.—

"(1) REQUIREMENT.—The participation of members of the Armed Forces as members of the staff of Headquarters Eurocorps shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and Headquarters Eurocorps.

"(2) COST-SHARING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support Headquarters Eurocorps, the memoranda of understanding under paragraph (1) shall provide details of any cost-sharing arrangement or other funding arrangement.

"(c) LIMITATION ON NUMBER OF MEMBERS PARTICIPATING AS STAFF.—Not more than two members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps, until the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

"(1) A certification by the Secretary of Defense that the participation of more than two members of the Armed Forces in Headquarters Eurocorps is in the national interests of the United States.

"(2) A description of the benefits of the participation of the additional members proposed by the Secretary.

"(3) A description of the plans for the participation of the additional members proposed by the Secretary, including the grades and posts to be filled.

"(4) A description of the costs associated with the participation of the additional members proposed by the Secretary.

"(d) NOTICE ON PARTICIPATION OF NUMBER OF MEMBERS ABOVE CERTAIN CEILING.—Not more than 10 members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps unless the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a notice that the number of members so participating will exceed 10 members.

"(e) AVAILABILITY OF APPROPRIATED FUNDS.—

"(1) AVAILABILITY.—Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

"(A) To pay the United States' share of the operating expenses of Headquarters Eurocorps.

"(B) To pay the costs of the participation of members of the Armed Forces participating as members of the staff of Headquarters Eurocorps, including the costs of expenses of such participants.

"(2) LIMITATION.—No funds may be used under this section to fund the pay or salaries of members of the Armed Forces who participate as members of the staff of the Headquarters, North Atlantic Treaty Organization (NATO) Rapid Deployable Corps under this section.

"(f) HEADQUARTERS EUROCORPS DEFINED.—In this section, the term 'Headquarters Eurocorps' refers to the multinational military headquarters, established on October 1, 1993, which is one of the High Readiness Forces (Land) associated with the Allied Rapid Reaction Corps of NATO."

## STRATEGY TO COUNTER IMPROVISED EXPLOSIVE DEVICES IN PAKISTAN AND AFGHANISTAN

Pub. L. 112–87, title V, §503, Jan. 3, 2012, 125 Stat. 1896, directed the establishment of a strategy to identify and counter network activity and operations in Pakistan and Afghanistan regarding improvised explosive devices and required a report and implementation of the strategy no later than 120 days after Jan. 3, 2012.

## DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL WITH PRINCIPAL RESPONSIBILITY FOR AIRSHIP PROGRAMS

Pub. L. 112–81, div. A, title IX, §903, Dec. 31, 2011, 125 Stat. 1532, directed the Secretary of Defense to designate an official to have principal responsibility for the airship programs of the Department and to set forth the responsibilities of that official by no later than 180 days after Dec. 31, 2011.

## AUTHORITY TO SUPPORT OPERATIONS AND ACTIVITIES OF THE OFFICE OF SECURITY COOPERATION IN IRAQ

Pub. L. 112–81, div. A, title XII, §1215, Dec. 31, 2011, 125 Stat. 1631, as amended by Pub. L. 112–239, div. A, title XII, §1211(a)–(c), Jan. 2, 2013, 126 Stat. 1982; Pub. L. 113–66, div. A, title XII, §1214(a)–(c), Dec. 26, 2013, 127 Stat. 906; Pub. L. 113–291, div. A, title XII, §1237, Dec. 19, 2014, 128 Stat. 3562; Pub. L. 114–92, div. A, title XII, §1221, Nov. 25, 2015, 129 Stat. 1047; Pub. L. 114–328, div. A, title XII, §1223, Dec. 23, 2016, 130 Stat. 2486; Pub. L. 115–91, div. A, title XII, §1224(a), (b)(1), (c), Dec. 12, 2017, 131 Stat. 1654; Pub. L. 115–232, div. A, title XII, §1235(a), (b)(1), (c), Aug. 13, 2018, 132 Stat. 2041, 2042; Pub. L. 116–92, div. A, title XII, §1223, Dec. 20, 2019, 133 Stat. 1641; Pub. L. 116–283, div. A, title XII, §1223, Jan. 1, 2021, 134 Stat. 3930; Pub. L. 117–81, div. A, title XII, §1224, Dec. 27, 2021, 135 Stat. 1971; Pub. L. 117–263, div. A, title XII, §1232(a), Dec. 23, 2022, 136 Stat. 2837; Pub. L. 118–31, div. A, title XII, §1265, Dec. 22, 2023, 137 Stat. 482; Pub. L. 118–159, div. A, title XII, §1230, Dec. 23, 2024, 138 Stat. 2108, provided that:

"(a) AUTHORITY.—The Secretary of Defense may support United States Government security cooperation activities in Iraq by providing funds for the operations and activities of the Office of Security Cooperation in Iraq.

"(b) TYPES OF SUPPORT.—The operations and activities for which the Secretary may provide funds under the authority in subsection (a) may include life support and transportation and personal security.

"(c) LIMITATION ON AMOUNT.—The total amount of funds provided under the authority in subsection (a) in fiscal year 2025 may not exceed $18,000,000.

"(d) SOURCE OF FUNDS.—Funds for purposes of subsection (a) for fiscal year 2025 shall be derived from amounts available for that fiscal year for operation and maintenance for the Air Force.

"(e) COVERAGE OF COSTS IN CONNECTION WITH SALES OF DEFENSE ARTICLES OR DEFENSE SERVICES TO IRAQ.—The President shall ensure that any letter of offer for the sale to Iraq of any defense articles or defense services issued after the date of the enactment of this Act [Dec. 31, 2011] includes appropriate administrative charges, consistent with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(f) ADDITIONAL AUTHORITY FOR ACTIVITIES OF OSCI.—

"(1) IN GENERAL.—During fiscal year 2019, the Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Office of Security Cooperation in Iraq to conduct activities to support the following:

"(A) Defense institution building to mitigate capability gaps and promote effective and sustainable defense institutions.

"(B) Professionalization, strategic planning and reform, financial management, manpower management, and logistics management of military and other security forces with a national security mission.

"(2) REQUIRED ELEMENTS.—The activities of the Office of Security Cooperation in Iraq conducted under paragraph (1) shall include elements that promote the following:

"(A) Observance of and respect for human rights and fundamental freedoms.

"(B) Military professionalism.

"(C) Respect for legitimate civilian authority within Iraq.

"(3) SUNSET.—The authority provided in this subsection shall terminate on the date that is 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Pub. L. 116–92, approved Dec. 20, 2019].

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than September 30, 2020, and every 180 days thereafter until the authority in this section expires, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the appropriate committees of Congress a report on the activities of the Office of Security Cooperation in Iraq.

"(2) ELEMENTS.—Each report under this subsection shall include the following:

"(A) A description of capability gaps in the security forces of Iraq that also addresses capability gaps relating to intelligence matters, protection of Iraq airspace, and logistics and maintenance, and a description of the extent, if any, to which the Government of Iraq has requested assistance in addressing such capability gaps.

"(B) A description of the activities of the Office of Security Cooperation in Iraq and the extent, if any, to which United States security assistance and security cooperation activities are intended to address the capability gaps described pursuant to subparagraph (A).

"(C) A description of how the activities of the Office of Security Cooperation in Iraq are coordinated with, and complement and enhance, the assistance provided pursuant to section 1236 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015.

"(D) A description of end use monitoring programs, and any other programs or procedures, used to improve accountability for equipment provided to the Government of Iraq.

"(E) A description of the measures of effectiveness used to evaluate the activities of the Office of the Security Cooperation in Iraq, and an analysis of any determinations to expand, alter, or terminate specific activities of the Office based on such evaluations.

"(F) An evaluation of the effectiveness of United States efforts to promote respect for human rights, military professionalism, and respect for legitimate civilian authority in Iraq.

"(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

"(h) LIMITATION ON AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by this Act [probably means Pub. L. 117–81, see Tables for classification] for fiscal year 2022 to carry out this section, not more than $10,000,000 may be obligated or expended for the Office of Security Cooperation in Iraq until the date on which the Secretary of Defense provides to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report that—

"(1) details further steps to reorganize the Office in a manner similar to that of other security cooperation offices in the region and indicates whether such reorganization will be achieved by 2023;

"(2) describes progress made toward the continuation of bilateral engagement with the Government of Iraq, with the objective of establishing a joint mechanism for security assistance planning;

"(3) includes a five-year security assistance roadmap for developing sustainable military capacity and capabilities and enabling defense institution building and reform; and

"(4) describes progress made toward, and a timeline for, the transition of the preponderance of funding for the activities of the Office from current sources to the Foreign Military Financing Administrative Fund and the Foreign Military Sales Trust Fund Administrative Surcharge Account in future years."

[Section 1235(b)(1)(B) and (c) of Pub. L. 115–232 made identical amendment to subsec. (d) of section 1215 of Pub. L. 112–81, set out above.]

## COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVES DATABASE

Pub. L. 111–383, div. A, title I, §124, Jan. 7, 2011, 124 Stat. 4159, provided that:

"(a) COMPREHENSIVE DATABASE.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall develop and maintain a comprehensive database containing appropriate information for coordinating, tracking, and archiving each counter-improvised explosive device initiative within the Department of Defense. The database shall, at a minimum, ensure the visibility of each counter-improvised explosive device initiative.

"(2) USE OF INFORMATION.—Using information contained in the database developed under paragraph (1), the Secretary, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

"(A) identify and eliminate redundant counter-improvised explosive device initiatives;

"(B) facilitate the transition of counter-improvised explosive device initiatives from funding under the Joint Improvised Explosive Device Defeat Fund to funding provided by the military departments; and

"(C) notify the appropriate personnel and organizations prior to a counter-improvised explosive device initiative being funded through the Joint Improvised Explosive Device Defeat Fund.

"(3) COORDINATION.—In carrying out paragraph (1), the Secretary shall ensure that the Secretary of each military department coordinates and collaborates on development of the database to ensure its interoperability, completeness, consistency, and effectiveness.

"(b) METRICS.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

"(1) develop appropriate means to measure the effectiveness of counter-improvised explosive device initiatives; and

"(2) prioritize the funding of such initiatives according to such means.

"(c) COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVE DEFINED.—In this section, the term 'counter-improvised explosive device initiative' means any project, program, or research activity funded by any component of the Department of Defense that is intended to assist or support efforts to counter, combat, or defeat the use of improvised explosive devices."

## PROGRAMS TO COMMEMORATE ANNIVERSARIES OF THE KOREAN WAR

Pub. L. 111–383, div. A, title V, §574, Jan. 7, 2011, 124 Stat. 4223, authorized the Secretary of Defense to conduct a program to commemorate the 60th anniversary of the Korean War, authorized the establishment of a Department of Defense Korean War Commemoration Fund, and directed the Inspector General of the Department of Defense to submit to Congress a report containing an accounting of various funds no later than 60 days after the end of the commemorative program.

Pub. L. 105–85, div. A, title X, §1083, Nov. 18, 1997, 111 Stat. 1918, as amended by Pub. L. 105–129, §1(b)(1), Dec. 1, 1997, 111 Stat. 2551; Pub. L. 105–261, div. A, title X, §1067(a), (c), Oct. 17, 1998, 112 Stat. 2134; Pub. L. 106–65, div. A, title X, §1052(a), (b)(1), (c), Oct. 5, 1999, 113 Stat. 764; Pub. L. 107–107, div. A, title X, §1048(g)(6), (i)(1), Dec. 28, 2001, 115 Stat. 1228, 1229; Pub. L. 107–314, div. A, title X, §1069, Dec. 2, 2002, 116 Stat. 2660, authorized the Secretary of Defense to conduct a program to commemorate the 50th anniversary of the Korean War during fiscal years 2000 through 2004, provided that up to $10,000,000 of funds appropriated for the Army for such fiscal years be made available for the program, and directed the Secretary to submit to Congress a report containing an accounting not later than 60 days after completion of all activities and ceremonies.

## REPORT ON ORGANIZATIONAL STRUCTURE AND POLICY GUIDANCE OF THE DEPARTMENT OF DEFENSE REGARDING INFORMATION OPERATIONS

Pub. L. 111–383, div. A, title IX, §943, Jan. 7, 2011, 124 Stat. 4341, required a report on the organizational structure and policy guidance of the Department of Defense with respect to information operations to be submitted to Congress no later than 90 days after Jan. 7, 2011, and a revised directive on information operations to be prescribed upon submittal of the report.

## BIENNIAL REPORT ON NUCLEAR TRIAD

Pub. L. 111–383, div. A, title X, §1054, Jan. 7, 2011, 124 Stat. 4358, which provided that, not later than March 1 of each even-numbered year, beginning March 1, 2012, the Secretary of Defense was to submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report on the nuclear triad, was repealed by Pub. L. 115–91, div. A, title X, §1051(p)(4), Dec. 12, 2017, 131 Stat. 1565.

## TREATMENT OF SUCCESSOR CONTINGENCY OPERATION TO OPERATION IRAQI FREEDOM

Pub. L. 111–383, div. A, title X, §1077, Jan. 7, 2011, 124 Stat. 4379, provided that: "Any law applicable to Operation Iraqi Freedom shall apply in the same manner and to the same extent to the successor contingency operation known as Operation New Dawn, except as specifically provided in this Act [see Tables for classification], any amendment made by this Act, or any other law enacted after the date of the enactment of this Act [Jan. 7, 2011]."

## POLICY AND REQUIREMENTS TO ENSURE THE SAFETY OF FACILITIES, INFRASTRUCTURE, AND EQUIPMENT FOR MILITARY OPERATIONS

Pub. L. 111–84, div. A, title VIII, §807, Oct. 28, 2009, 123 Stat. 2404, provided that:

"(a) POLICY.—It shall be the policy of the Department of Defense that facilities, infrastructure, and equipment that are intended for use by military or civilian personnel of the Department in current or future military operations should be inspected for safety and habitability prior to such use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable and consistent with the requirements of military operations and the best interests of the Department of Defense, to minimize the safety and health risk posed to such personnel.

"(b) REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall—

"(1) ensure that each contract or task or delivery order entered into for the construction, installation, repair, maintenance, or operation of facilities for use by military or civilian personnel of the Department complies with the policy established in subsection (a);

"(2) ensure that contracts entered into prior to the date that is 60 days after the date of the enactment of this Act comply with such policy to the maximum extent practicable;

"(3) define the term 'generally accepted standards' with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and

"(4) provide such exceptions and limitations as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense."

## DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM DEVELOPMENT AND TRANSITION

Pub. L. 111–84, div. A, title IX, §932, Oct. 28, 2009, 123 Stat. 2433, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, established a Defense Integrated Military Human Resources System development and transition Council to provide advice on the modernization of the integrated pay and personnel systems, required a report to Congress on actions taken, and went out of effect after Sept. 30, 2013.

## ANNUAL REPORT ON MILITARY POWER OF IRAN

Pub. L. 111–84, div. A, title XII, §1245, Oct. 28, 2009, 123 Stat. 2542, as amended by Pub. L. 113–66, div. A, title XII, §1232(a), Dec. 26, 2013, 127 Stat. 920; Pub. L. 113–291, div. A, title XII, §1277, Dec. 19, 2014, 128 Stat. 3592; Pub. L. 114–92, div. A, title XII, §1231(a)–(d), Nov. 25, 2015, 129 Stat. 1057, 1058; Pub. L. 114–328, div. A, title XII, §1225(a), Dec. 23, 2016, 130 Stat. 2487; Pub. L. 115–91, div. A, title XII, §1225(a), Dec. 12, 2017, 131 Stat. 1655; Pub. L. 115–232, div. A, title XII, §1236, Aug. 13, 2018, 132 Stat. 2042; Pub. L. 117–263, div. A, title XII, §1231, Dec. 23, 2022, 136 Stat. 2837; Pub. L. 118–31, div. A, title XII, §1268, Dec. 22, 2023, 137 Stat. 484; Pub. L. 118–159, div. A, title XII, §1222, Dec. 23, 2024, 138 Stat. 2103; Pub. L. 119–60, div. A, title XII, §1222, Dec. 18, 2025, 139 Stat. 1088, provided that:

"(a) ANNUAL REPORT.—Not later than January 30 of each year, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified form, on the current and future military strategy of Iran.

"(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include a description of the security posture of Iran, including at least the following:

"(1) A description and assessment of Iranian grand strategy, security strategy, and military strategy, including—

"(A) the goals of Iran's grand strategy, security strategy, and military strategy. [sic]

"(B) evolving thresholds for the use of direct and attributable force by Iran;

"(C) any adjustments to the use of proxy forces by Iran;

"(D) trends in Iran's strategy that would be designed to establish Iran as the leading power in the Middle East and to enhance the influence of Iran in other regions of the world;

"(E) Iranian strategy regarding other countries in the region, including other specified countries; and

"(F) Iranian strategy regarding offensive cyber capabilities and defensive cyber capabilities.

"(2) An assessment of the capabilities of Iran's conventional forces, including—

"(A) the size and capabilities of Iran's conventional forces;

"(B) the effectiveness of Iran's conventional forces when facing United States forces in the region and other specified countries;

"(C) a summary of Iran's procurement of advanced conventional capabilities from Russia;

"(D) a description of Iranian military doctrine, including Iranian anti-access or area denial and other maritime harassment capabilities; and

"(E) an estimate of the funding provided for each branch of Iran's conventional forces and Iran's unconventional or parallel military forces.

"(3) An assessment of Iran's unconventional forces and related activities, including—

"(A) the size and capability of Iranian special operations units, including the Islamic Revolutionary Guard Corps–Quds Force;

"(B) the types and amount of support, including funding, lethal and non-lethal supplies, and training, provided to groups designated by the United States as foreign terrorist organizations, regional militant groups, and Iranian-linked proxy groups, in particular those forces as having been assessed as to be willing to carry out terrorist operations on behalf of Iran or in response to a military attack by another country on Iran;

"(C) the types and amount of support to be assessed under subparagraph (B) shall include support provided to Lebanese Hezbollah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, Asa'ib ahl al-Haq, Harakat Hezbollah al-Nujaba, Kata'ib Sayyid al-Shuhada, Kata'ib al-Imam Ali, Kata'ib Hezbollah, the Badr Organization, any Iraqi Shia-militia operating under the auspices of the 'Islamic Resistance', the Fatemiyoun, the Zainabiyoun, and Ansar Allah (also known as the 'Houthis');

"(D) the threat from Special Groups in Iraq, including Kata'ib Hezbollah and Asa'ib Ahl al-Haq, to United States and coalition forces located in Iraq and Syria;

"(E) the role of Iran in supporting, facilitating, directing, or conducting attacks on United States forces in the region;

"(F) an analysis of the effectiveness of Iran's unconventional forces when facing United States forces in the region and other specified countries in the region;

"(G) an estimate of the amount of funds spent by Iran to develop and support special operations forces and terrorist groups;

"(H) a description of the structure of Iran's global network of terrorist and criminal groups and an analysis of the capability of such network of groups and how such network of groups operates to support and reinforce Iran's grand strategy;

"(I) Iran's cyber capabilities, including—

"(i) Iran's ability to use proxies and other actors to mask its cyber operations;

"(ii) Iran's ability to target United States governmental and nongovernmental entities, assets, and critical infrastructure; and

"(iii) cooperation with or assistance from state and non-state actors in support or enhancement of Iran's cyber capabilities;

"(J) Iranian ability to manipulate the information environment both domestically and against the interests of the United States and its allies; and

"(K) all formal or informal agreements involving a strategic military or security partnership with the Russian Federation, the People's Republic of China, or any proxies of either such country; and

"(L) an assessment of the military power of Iranian proxies and partners, including Hezbollah, Hamas, Palestine Islamic Jihad, Ansar Allah, and Iraqi and Syrian proxies.

"(4) An assessment of Iranian capabilities related to nuclear and missile forces, including—

"(A) a summary of nuclear weapons-related advances, including development of related scientific and industrial infrastructure, fissile material inventories aggregated by level of enrichment, and weaponization-related activities in the preceding year;

"(B) a summary of the capabilities of Iran's ballistic missile forces, including developments in the preceding year, the size of Iran's ballistic missile forces and Iran's cruise missile forces, and the locations of missile launch, storage, and production sites;

"(C) a detailed analysis of the effectiveness of Iran's ballistic missile forces and Iran's cruise missile forces when facing United States forces in the region and other specified countries[;]

"(D) an estimate of the amount of funding expended by Iran since 2004 on programs to develop a capability to build nuclear weapons or to enhance Iran's ballistic missile forces;

"(E) an assessment of Iran's space launch vehicle program and the ability of Iran to use those technologies to develop and field an intermediate-range ballistic missile or an intercontinental ballistic missile;

"(F) a detailed analysis of the effectiveness of Iran's drone forces and the exportation of Iranian drones globally;

"(G) a detailed analysis of the domestic and foreign supply chains supporting Iran's drone program;

"(H) a detailed assessment of the domestic production capacity by Iran's proxies in the Middle

East of tactical munitions including mortars, rocket assisted munitions, and rockets and long-range strike capabilities, including, drones, cruise missiles, and ballistic missiles; and

"(I) a description or estimation of the threat posed by Iran's Islamic Revolutionary Guard Corps to European citizens or to member countries of the European Union.

"(5) An assessment of transfers to and from Iran of military equipment, technology, and training from or to non-Iranian sources or destinations, including transfers that pertain to nuclear development, ballistic missiles, chemical, biological, and advanced conventional weapons, weapon systems, and delivery vehicles, including drones.

"(6) An assessment of the use of civilian transportation assets and infrastructure, including commercial aircraft, airports, commercial vessels, and seaports, used to transport illicit military cargo to or from Iran, including military personnel, military goods, weapons, military-related electric parts, and related components.

"(7) An assessment of military-to-military cooperation between Iran and foreign counties [sic], including the People's Republic of China, Cuba, North Korea, Pakistan, the Russian Federation, Sudan, Syria, Venezuela, and any other country designated by the Secretary of Defense with additional reference to cooperation and collaboration on the trafficking or development of nuclear, biological, chemical, and advanced conventional weapons, weapon systems, and delivery vehicles.

"(8) An assessment of the extent to which the commercial aviation sector of Iran knowingly provides financial, material, or technological support to the Islamic Revolutionary Guard Corps, the Ministry of Defense and Armed Forces Logistics of Iran, the Russian Federation, Hezbollah, Hamas, Ansarallah, Kata'ib Hezbollah, the Badr Organization, any other foreign terrorist organization, or any Specially Designated Global Terrorist.

"(9) An assessment of the use of civilians by groups supported by Iran to shield military objectives from attack, including groups such as—

"(A) Hezbollah, Hamas, and the Houthis; and

"(B) the Special Groups in Iraq.

"(10) An assessment of the threat posed by Iran against United States and partner military bases, to include missile, unmanned aircraft systems, and loitering munition attacks.

"(11) An assessment of the sale, supply, or transfer of narcotics in the Middle East region by the Islamic Revolutionary Guard Corps and Iran backed groups.

"(12) An assessment of groups that are supported by Iran and designated by the United States as foreign terrorist organizations and regional military groups, including Hezbollah, Hamas, the Houthis, and the Special Groups in Iraq, in particular those forces as having been assessed as to be willing to carry out terrorist operations on behalf of Iran.

"(13) An assessment of how Iran would utilize additional resources to further activities described in paragraphs (1) through (12).

"(14) An assessment of the manner and extent to which the advances or improvements in the capabilities of Iran's conventional and unconventional forces described in this section have affected Israel's qualitative military edge during the preceding year.

"(c) DEFINITIONS.—In this section:

"(1) IRAN'S CONVENTIONAL FORCES.—The term 'Iran's conventional forces'—

"(A) means military forces of the Islamic Republic of Iran designed to conduct operations on sea, air, or land, other than Iran's unconventional forces and Iran's ballistic missile forces and Iran's cruise missile forces; and

"(B) includes all branches and sub-branches of Iran's national army or Artesh, such as its ground forces, air force, navy, and air defense forces as well as most branches of its parallel military, and the Islamic Revolutionary Guard Corps excluding its Quds-Force.

"(2) IRAN'S UNCONVENTIONAL FORCES.—The term 'Iran's unconventional forces'—

"(A) means forces of the Islamic Republic of Iran that carry out missions typically associated with special operations forces; and

"(B) includes—

"(i) the Islamic Revolutionary Guard Corps–Quds Force; and

"(ii) any organization that—

"(I) has been designated a terrorist organization by the United States;

"(II) receives assistance from Iran; and

"(III)(aa) is assessed as being willing in some or all cases of carrying out attacks on behalf of Iran; or

"(bb) is assessed as likely to carry out attacks in response to a military attack by another country on Iran or its regional interests.

"(3) IRAN'S BALLISTIC MISSILE FORCES.—The term 'Iran's ballistic missile forces' means those elements of the military forces of Iran that employ ballistic missiles, including surface-to-surface or anti-ship variants.

"(4) IRAN'S CRUISE MISSILE FORCES.—The term 'Iran's cruise missile forces' means those elements of the military forces of Iran that employ cruise missiles, including surface-to-surface or anti-ship variants.

"(5) SPECIFIED COUNTRIES.—The term 'specified countries' means the countries in the same geographic region as Iran, including Israel, Lebanon, Syria, Jordan, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

"(d) TERMINATION.—The requirement to submit the report required under subsection (a) shall terminate on December 31, 2030."

[Pub. L. 118–159, §1222(b)(2), which directed amendment of section 1245 of Pub. L. 111–84, set out above, by inserting "or its regional interests" before the period at the end of subsec. "(c)(2)(B)(ii)(bb)", was executed to subsec. (c)(2)(B)(ii)(III)(bb), to reflect the probable intent of Congress.]

[Pub. L. 115–91, div. A, title XII, §1225(b), Dec. 12, 2017, 131 Stat. 1655, provided that: "The amendments made by this section [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on the date of the enactment of this Act [Dec. 12, 2017], and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84] after that date."]

[Pub. L. 114–328, div. A, title XII, §1225(b), Dec. 23, 2016, 130 Stat. 2487, provided that: "The amendment made by subsection (a) [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on January 1, 2018, and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84] on or after that date."]

[Pub. L. 114–92, div. A, title XII, §1231(e), Nov. 25, 2015, 129 Stat. 1058, provided that: "The amendments made by this section [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on the date of the enactment of this Act [Nov. 25, 2015], and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84], as so amended, after that date."]

[Pub. L. 113–66, div. A, title XII, §1232(b), Dec. 26, 2013, 127 Stat. 920, provided that: "The amendments made by this section [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on the date of the enactment of this Act [Dec. 26, 2013] and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84], as so amended, on or after that date."]

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1245 of Pub. L. 111–84, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## REQUIREMENT FOR COMMON GROUND STATIONS AND PAYLOADS FOR MANNED AND UNMANNED AERIAL VEHICLE SYSTEMS

Pub. L. 110–417, [div. A], title I, §144, Oct. 14, 2008, 122 Stat. 4382, required the establishment of a policy and an acquisition strategy for intelligence, surveillance, and reconnaissance payloads and ground stations for manned and unmanned aerial vehicle systems and submission of a report containing the policy and acquisition strategy no later than 120 days after Oct. 14, 2008.

## REPORT ON COMMAND AND CONTROL STRUCTURE FOR MILITARY FORCES OPERATING IN AFGHANISTAN

Pub. L. 110–417, [div. A], title XII, §1216, Oct. 14, 2008, 122 Stat. 4633, as amended by Pub. L. 111–84, div. A, title XII, §1229, Oct. 28, 2009, 123 Stat. 2528, required a report on the command and control structure for military forces operating in Afghanistan to be submitted in December of 2008, with a subsequent update as warranted by any modifications to the command and control structure.

## PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE VIETNAM WAR

Pub. L. 110–181, div. A, title V, §598, Jan. 28, 2008, 122 Stat. 141, provided that:

"(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a program to commemorate the 50th anniversary of the Vietnam War. In conducting the commemorative program, the Secretary shall coordinate, support, and facilitate other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Vietnam War.

"(b) SCHEDULE.—The Secretary of Defense shall determine the schedule of major events and priority of efforts for the commemorative program in order to ensure achievement of the objectives specified in

subsection (c).

"(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

"(1) To thank and honor veterans of the Vietnam War, including personnel who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States and to thank and honor the families of these veterans.

"(2) To highlight the service of the Armed Forces during the Vietnam War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

"(3) To pay tribute to the contributions made on the home front by the people of the United States during the Vietnam War.

"(4) To highlight the advances in technology, science, and medicine related to military research conducted during the Vietnam War.

"(5) To recognize the contributions and sacrifices made by the allies of the United States during the Vietnam War.

"(d) NAMES AND SYMBOLS.—The Secretary of Defense shall have the sole and exclusive right to use the name 'The United States of America Vietnam War Commemoration', and such seal, emblems, and badges incorporating such name as the Secretary may lawfully adopt. Nothing in this section may be construed to supersede rights that are established or vested before the date of the enactment of this Act [Jan. 28, 2008].

"(e) COMMEMORATIVE FUND.—

"(1) ESTABLISHMENT AND ADMINISTRATION.—If the Secretary establishes the commemorative program under subsection (a), the Secretary the Treasury shall establish in the Treasury of the United States an account to be known as the 'Department of Defense Vietnam War Commemoration Fund' (in this section referred to as the 'Fund'). The Fund shall be administered by the Secretary of Defense.

"(2) USE OF FUND.—The Secretary shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary considers to be necessary.

"(3) DEPOSITS.—There shall be deposited into the Fund—

"(A) amounts appropriated to the Fund;

"(B) proceeds derived from the Secretary's use of the exclusive rights described in subsection (d);

"(C) donations made in support of the commemorative program by private and corporate donors; and

"(D) funds transferred to the Fund by the Secretary from funds appropriated for fiscal year 2008 and subsequent years for the Department of Defense.

"(4) AVAILABILITY.—Subject to subsection (g)(2), amounts deposited under paragraph (3) shall constitute the assets of the Fund and remain available until expended.

"(5) BUDGET REQUEST.—The Secretary of Defense may establish a separate budget line for the commemorative program. In the budget justification materials submitted by the Secretary in support of the budget of the President for any fiscal year for which the Secretary establishes the separate budget line, the Secretary shall—

"(A) identify and explain any amounts expended for the commemorative program in the fiscal year preceding the budget request;

"(B) identify and explain the amounts being requested to support the commemorative program for the fiscal year of the budget request; and

"(C) present a summary of the fiscal status of the Fund.

"(f) ACCEPTANCE OF VOLUNTARY SERVICES.—

"(1) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

"(2) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary shall determine which expenses are eligible for reimbursement under this paragraph.

"(g) FINAL REPORT.—

"(1) REPORT REQUIRED.—Not later than 60 days after the end of the commemorative program, if

established by the Secretary of Defense under subsection (a), the Secretary shall submit to Congress a report containing an accounting of—

"(A) all of the funds deposited into and expended from the Fund;

"(B) any other funds expended under this section; and

"(C) any unobligated funds remaining in the Fund.

"(2) TREATMENT OF UNOBLIGATED FUNDS.—Unobligated amounts remaining in the Fund as of the end of the commemorative period specified in subsection (b) shall be held in the Fund until transferred by law.

"(h) LIMITATION ON EXPENDITURES.—Total expenditures from the Fund, using amounts appropriated to the Department of Defense, may not exceed $5,000,000 for fiscal year 2008 or for any subsequent fiscal year to carry out the commemorative program.

"(i) FUNDING.—Of the amount authorized to be appropriated pursuant to section 301(5) [122 Stat. 53] for Defense-wide activities, $1,000,000 shall be available for deposit in the Fund for fiscal year 2008 if the Fund is established under subsection (e)."

## ACCESS TO MILITARY INSTALLATIONS

Pub. L. 116–283, div. A, title X, §1090, Jan. 1, 2021, 134 Stat. 3879, as amended by Pub. L. 118–31, div. A, title X, §1046, Dec. 22, 2023, 137 Stat. 390, which related to vetting procedures and monitoring requirements for certain military training, was transferred and is set out as a note preceding section 2661 of this title.

Pub. L. 115–232, div. A, title VI, §626, Aug. 13, 2018, 132 Stat. 1802, which related to access to military installations for certain surviving spouses or next of kin, was transferred and is set out as a note preceding section 2661 of this title.

Pub. L. 114–328, div. A, title III, §346, Dec. 23, 2016, 130 Stat. 2085, as amended by Pub. L. 115–91, div. B, title XXVIII, §2819, Dec. 12, 2017, 131 Stat. 1853, which related to access to military installations by transportation companies, was transferred and is set out as a note preceding section 2661 of this title.

Pub. L. 114–328, div. A, title X, §1050, Dec. 23, 2016, 130 Stat. 2396, as amended by Pub. L. 116–92, div. B, title XXVIII, §2822, Dec. 20, 2019, 133 Stat. 1889, which related to access to military installations for credentialed transportation workers, was transferred and is set out as a note preceding section 2661 of this title.

Pub. L. 112–239, div. B, title XXVIII, §2812, Jan. 2, 2013, 126 Stat. 2150, required the Secretary of Defense to publish procedural requirements regarding access to military installations in the United States by individuals, including individuals performing work under a contract awarded by the Department of Defense, by no later than 180 days after Jan. 2, 2013.

Pub. L. 110–181, div. A, title X, §1069, Jan. 28, 2008, 122 Stat. 326, as amended by Pub. L. 110–417, [div. A], title X, §1059, Oct. 14, 2008, 122 Stat. 4611; Pub. L. 111–84, div. A, title X, §1073(c)(11), Oct. 28, 2009, 123 Stat. 2475, directed the Secretary of Defense to develop access standards applicable to all military installations in the United States by Feb. 1, 2009, submit the standards to Congress by Aug. 1, 2009, and implement the standards by Oct. 1, 2010.

## PROTECTION OF CERTAIN INDIVIDUALS

Pub. L. 110–181, div. A, title X, §1074, Jan. 28, 2008, 122 Stat. 330, as amended by Pub. L. 113–66, div. A, title X, §1084(b)(2)(A), Dec. 26, 2013, 127 Stat. 872; Pub. L. 113–291, div. A, title X, §1046, Dec. 19, 2014, 128 Stat. 3494, which provided for protection of Department of Defense leadership and certain additional individuals within the military, Department of Defense, and certain foreign government representatives, was repealed by Pub. L. 114–328, div. A, title IX, §952(c)(3), Dec. 23, 2016, 130 Stat. 2375. See section 714 of this title.

## AUTHORITY TO PROVIDE AUTOMATIC IDENTIFICATION SYSTEM DATA ON MARITIME SHIPPING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Pub. L. 110–181, div. A, title XII, §1208, Jan. 28, 2008, 122 Stat. 367, provided that:

"(a) AUTHORITY TO PROVIDE DATA.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Secretary of a military department or a commander of a combatant command to exchange or furnish automatic identification system data broadcast by merchant or private ships and collected by the United States to a foreign country or international organization pursuant to an agreement for the exchange or production of such data. Such data may be transferred pursuant to this section without cost to the recipient country or international organization.

"(b) DEFINITIONS.—In this section:

"(1) AUTOMATIC IDENTIFICATION SYSTEM.—The term 'automatic identification system' means

a system that is used to satisfy the requirements of the Automatic Identification System under the International Convention for the Safety of Life at Sea, signed at London on November 1, 1974 (TIAS 9700) [see 33 U.S.C. 1602 and notes thereunder].

"(2) GEOGRAPHIC COMBATANT COMMANDER.—The term 'commander of a combatant command' means a commander of a combatant command (as such term is defined in section 161(c) of title 10, United States Code) with a geographic area of responsibility."

## REPORT ON SUPPORT FROM IRAN FOR ATTACKS AGAINST COALITION FORCES IN IRAQ

Pub. L. 110–181, div. A, title XII, §1225, Jan. 28, 2008, 122 Stat. 375, which required the Secretary of Defense, in coordination with the Director of National Intelligence, to submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives reports describing and assessing any support provided to anti-coalition forces in Iraq by Iran or its agents, the strategy and ambitions in Iraq of Iran, and any strategy or efforts by the United States to counter the activities of agents of Iran in Iraq, was repealed by Pub. L. 111–383, div. A, title XII, §1233(f)(2), Jan. 7, 2011, 124 Stat. 4397.

## REQUIREMENT FOR SECRETARY OF DEFENSE TO PREPARE PLAN FOR RESPONSE TO NATURAL DISASTERS AND TERRORIST EVENTS

Pub. L. 110–181, div. A, title XVIII, §1814, Jan. 28, 2008, 122 Stat. 498, required, by June 1, 2008, the preparation and submission to Congress of a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and certain other disasters and submission of an update of the plan by June 1, 2010.

## DETERMINATION OF DEPARTMENT OF DEFENSE CIVIL SUPPORT REQUIREMENTS

Pub. L. 110–181, div. A, title XVIII, §1815(a)–(d), Jan. 28, 2008, 122 Stat. 499, provided that:

"(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine the military-unique capabilities needed to be provided by the Department of Defense to support civil authorities in an incident of national significance or a catastrophic incident.

"(b) PLAN FOR FUNDING CAPABILITIES.—

"(1) PLAN.—The Secretary of Defense shall develop and implement a plan, in coordination with the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff, for providing the funds and resources necessary to develop and maintain the following:

"(A) The military-unique capabilities determined under subsection (a).

"(B) Any additional capabilities determined by the Secretary to be necessary to support the use of the active components and the reserve components of the Armed Forces for homeland defense missions, domestic emergency responses, and providing military support to civil authorities.

"(2) TERM OF PLAN.—The plan required under paragraph (1) shall cover at least five years.

"(c) BUDGET.—The Secretary of Defense shall include in the materials accompanying the budget submitted for each fiscal year a request for funds necessary to carry out the plan required under subsection (b) during the fiscal year covered by the budget. The defense budget materials shall delineate and explain the budget treatment of the plan for each component of each military department, each combatant command, and each affected Defense Agency.

"(d) DEFINITIONS.—In this section:

"(1) The term 'military-unique capabilities' means those capabilities that, in the view of the Secretary of Defense—

"(A) cannot be provided by other Federal, State, or local civilian agencies; and

"(B) are essential to provide support to civil authorities in an incident of national significance or a catastrophic incident.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year."

## MILITARY SEVERELY INJURED CENTER

Pub. L. 109–364, div. A, title V, §564, Oct. 17, 2006, 120 Stat. 2222, provided that:

"(a) CENTER REQUIRED.—In support of the comprehensive policy on the provision of assistance to severely wounded or injured servicemembers required by section 563 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3269; 10 U.S.C. 113 note), the Secretary of Defense shall establish within the Department of Defense a center to augment and support the programs and activities of the military departments for the provision of such assistance, including the programs of the military departments referred to in subsection (c).

"(b) DESIGNATION.—The center established under subsection (a) shall be known as the 'Military Severely Injured Center' (in this section referred to as the 'Center').

"(c) PROGRAMS OF THE MILITARY DEPARTMENTS.—The programs of the military departments referred to in this subsection are the following:

"(1) The Army Wounded Warrior Support Program.

"(2) The Navy Safe Harbor Program.

"(3) The Palace HART Program of the Air Force.

"(4) The Marine for Life Injured Support Program of the Marine Corps.

"(d) ACTIVITIES OF CENTER.—

"(1) IN GENERAL.—The Center shall carry out such programs and activities to augment and support the programs and activities of the military departments for the provision of assistance to severely wounded or injured servicemembers and their families as the Secretary of Defense, in consultation with the Secretaries of the military departments and the heads of other appropriate departments and agencies of the Federal Government (including the Secretary of Labor and the Secretary of Veterans Affairs), determines appropriate.

"(2) DATABASE.—The activities of the Center under this subsection shall include the establishment and maintenance of a central database. The database shall be transparent and shall be accessible for use by all of the programs of the military departments referred to in subsection (c).

"(e) RESOURCES.—The Secretary of Defense shall allocate to the Center such personnel and other resources as the Secretary of Defense, in consultation with the Secretaries of the military departments, considers appropriate in order to permit the Center to carry out effectively the programs and activities assigned to the Center under subsection (d)."

Pub. L. 109–163, div. A, title V, §563, Jan. 6, 2006, 119 Stat. 3269, provided that:

"(a) COMPREHENSIVE POLICY.—

"(1) POLICY REQUIRED.—Not later than June 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty (in this section referred to as 'severely wounded or injured servicemembers').

"(2) CONSULTATION.—The Secretary shall develop the policy required by paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Labor.

"(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy required by paragraph (1) shall be based on—

"(A) the experience and best practices of the military departments, including the Army Wounded Warrior Program, the Marine Corps Marine for Life Injured Support Program, the Air Force Palace HART program, and the Navy Wounded Marines and Sailors Initiative;

"(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of severely wounded or injured servicemembers; and

"(C) such other matters as the Secretary of Defense considers appropriate.

"(4) PROCEDURES AND STANDARDS.—The policy shall include guidelines to be followed by the military departments in the provision of assistance to severely wounded or injured servicemembers. The procedures and standards shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department. The procedures and standards shall establish a minimum level of support and shall specify the duration of programs.

"(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

"(1) Coordination with the Severely Injured Joint Support Operations Center of the Department of Defense.

"(2) Promotion of a seamless transition to civilian life for severely wounded or injured servicemembers who are or are likely to be separated on account of their wound or injury.

"(3) Identification and resolution of special problems or issues related to the transition to civilian life of severely wounded or injured servicemembers who are members of the reserve components.

"(4) The qualifications, assignment, training, duties, supervision, and accountability for the performance of responsibilities for the personnel providing assistance to severely wounded or injured servicemembers.

"(5) Centralized, short-term and long-term case-management procedures for assistance to severely wounded or injured servicemembers by each military department, including rapid access for severely wounded or injured servicemembers to case managers and counselors.

"(6) The provision, through a computer accessible Internet website and other means and at no cost to severely wounded or injured servicemembers, of personalized, integrated information on the benefits and financial assistance available to such members from the Federal Government.

"(7) The provision of information to severely wounded or injured servicemembers on mechanisms for registering complaints about, or requests for, additional assistance.

"(8) Participation of family members.

"(9) Liaison with the Department of Veterans Affairs and the Department of Labor in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for severely wounded or injured servicemembers.

"(10) Data collection regarding the incidence and quality of assistance provided to severely wounded or injured servicemembers, including surveys of such servicemembers and military and civilian personnel whose assigned duties include assistance to severely wounded or injured servicemembers.

"(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than September 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of assistance to severely wounded or injured servicemembers in order to conform such policies and procedures to the policy prescribed under subsection (a)."

## QUARTERLY REPORTS ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES

Pub. L. 109–364, div. A, title XIV, §1402, Oct. 17, 2006, 120 Stat. 2433, which required the Secretary of Defense to submit quarterly reports on incidents involving the detonation or discovery of an improvised explosive device that involved United States or allied forces in Iraq and Afghanistan and on certain efforts of the Department of Defense to counter the threat of improvised explosive devices, was repealed by Pub. L. 112–81, div. A, title X, §1062(d)(5), Dec. 31, 2011, 125 Stat. 1585.

## DATABASE OF EMERGENCY RESPONSE CAPABILITIES

Pub. L. 115–232, div. A, title X, §1084(b), Aug. 13, 2018, 132 Stat. 1990, provided that:

"(1) DEADLINE FOR ESTABLISHMENT.—The Secretary of Defense shall establish the database required by section 1406 of the John Warner National Defense Authorization Act for Fiscal Year 2007 [section 1406 of Pub. L. 109–364, set out below], as amended by subsection (a), by not later than one year after the date of the enactment of this Act [Aug. 13, 2018].

"(2) USE OF EXISTING DATABASE OR SYSTEM FOR CERTAIN CAPABILITIES.—The Secretary may meet the requirement with respect to the capabilities described in subsection (a)(1) of section 1406 of the John Warner National Defense Authorization Act for Fiscal Year 2007, as so amended, in connection with the database required by that section through the use or modification of current databases and tracking systems of the Department of Defense, including the Defense Readiness Reporting System, if the Secretary determines that such action will—

"(A) expedite compliance with the requirement; and

"(B) achieve such compliance at a cost not greater than the cost of establishing anew the database otherwise covered by the requirement."

Pub. L. 109–364, div. A, title XIV, §1406, Oct. 17, 2006, 120 Stat. 2436, as amended by Pub. L. 115–232, div. A, title X, §1084(a), Aug. 13, 2018, 132 Stat. 1990, provided that:

"(a) DATABASE REQUIRED.—The Secretary of Defense shall maintain a database of emergency response capabilities that includes the following:

"(1) The types of emergency response capabilities that each State's National Guard, as reported by the States, may be able to provide in response to a domestic natural or manmade disaster, both to their home States and under State-to-State mutual assistance agreements.

"(2) The types of emergency response capabilities that the Department of Defense may be able to provide in support of the National Response Plan's Emergency Support Functions, and identification of the units that provide these capabilities.

"(3) The types of emergency response cyber capabilities that the National Guard of each State and territory may be able to provide in response to domestic or natural man-made disasters, as reported by the States and territories, including—

"(A) capabilities that can be provided within the State or territory;

"(B) capabilities that can be provided under State-to-State mutual assistance agreements; and

"(C) capabilities for defense support to civil authorities.

"(4) The types of emergency response cyber capabilities of other reserve components of the Armed Forces identified by the Secretary that are available for defense support to civil authorities in response to

domestic or natural man-made disasters.

"(b) INFORMATION REQUIRED TO KEEP DATABASE CURRENT.—In maintaining the database required by subsection (a), the Secretary shall identify and revise the information required to be reported and included in the database at least once every two years for purposes of keeping the database current."

## REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES

Pub. L. 109–163, div. A, title III, §354, Jan. 6, 2006, 119 Stat. 3204, provided that:

"(a) REPORT CONTAINING ASSESSMENT AND RESPONSE PLAN.—Not later than April 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

"(1) an assessment of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

"(2) a plan for the implementation of measures to prevent such trespass.

"(b) PREPARATION AND ELEMENTS OF ASSESSMENT.—The assessment required by subsection (a)(1) shall be prepared by the Secretary of Defense. The assessment shall include the following:

"(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

"(2) A description of the types of range activities affected by such trespass.

"(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

"(4) An evaluation of the nature and extent of such trespass and means of travel.

"(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

"(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

"(c) PREPARATION AND ELEMENTS OF PLAN.—The plan required by subsection (a)(2) shall be prepared jointly by the Secretary of Defense and the Secretary of Homeland Security. The plan shall include the following:

"(1) The types of measures to be implemented to improve prevention of trespass of undocumented immigrants upon operational ranges, including the specific physical methods, such as barriers and increased patrols or monitoring, to be implemented and any legal or other policy changes recommended by the Secretaries.

"(2) The costs of, and timeline for, implementation of the plan.

"(d) IMPLEMENTATION REPORTS.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the period covered by the report, in implementing measures recommended in the plan required by subsection (a)(2) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

"(e) DEFINITIONS.—In this section, the terms 'operational range' and 'range activities' have the meaning given those terms in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)]."

## REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW

Pub. L. 109–163, div. A, title V, §554, Jan. 6, 2006, 119 Stat. 3264, directed the Secretary of Defense to prescribe regulations, to go into effect by 180 days after Jan. 6, 2006, that require certain officers and senior enlisted members to report a conviction for a violation of a criminal law of the United States that becomes final after Jan. 6, 2006.

## PRESERVATION OF RECORDS PERTAINING TO RADIOACTIVE FALLOUT FROM NUCLEAR WEAPONS TESTING

Pub. L. 109–163, div. A, title X, §1055, Jan. 6, 2006, 119 Stat. 3438, provided that:

"(a) PROHIBITION OF DESTRUCTION OF CERTAIN RECORDS.—The Secretary of Defense may not destroy any official record in the custody or control of the Department of Defense that contains information relating to radioactive fallout from nuclear weapons testing.

"(b) PRESERVATION AND PUBLICATION OF INFORMATION.—The Secretary of Defense shall identify, preserve, and make available any unclassified information contained in official records referred to in subsection (a)."

## SAFE DELIVERY OF MAIL IN MILITARY MAIL SYSTEM

Pub. L. 109–163, div. A, title X, §1071, Jan. 6, 2006, 119 Stat. 3446, provided that:

"(a) PLAN FOR SAFE DELIVERY OF MILITARY MAIL.—

"(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan to ensure that the mail within the military mail system is safe for delivery. The plan shall provide for the screening of all mail within the military mail system in order to detect the presence of biological, chemical, or radiological weapons, agents, or pathogens or explosive devices before mail within the military mail system is delivered to its intended recipients.

"(2) FUNDING.—The budget justification materials submitted to Congress with the budget of the President for fiscal year 2007 and each fiscal year thereafter shall include a description of the amounts required in such fiscal year to carry out the plan.

"(b) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

"(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary shall submit to Congress a report on the safety of mail within the military mail system for delivery.

"(2) ELEMENTS.—The report shall include the following:

"(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within the military mail system is safe for delivery.

"(B) The plan required by subsection (a).

"(C) An estimate of the time and resources required to implement the plan.

"(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to the military mail system to ensure that mail within the military mail system is safe for delivery.

"(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

"(c) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

"(1) IN GENERAL.—In this section, the term 'mail within the military mail system' means—

"(A) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

"(B) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces.

"(2) INCLUSIONS AND EXCEPTION.—The term includes any official mail posted by the Department of Defense. The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before such posting."

## WAR-RELATED REPORTING REQUIREMENTS

Pub. L. 109–163, div. A, title XII, §1221, Jan. 6, 2006, 119 Stat. 3462, as amended by Pub. L. 109–364, div. A, title XV, §1518, Oct. 17, 2006, 120 Stat. 2443; Pub. L. 111–84, div. A, title XII, §1233, Oct. 28, 2009, 123 Stat. 2531; Pub. L. 115–91, div. A, title XII, §1266, Dec. 12, 2017, 131 Stat. 1691, which required the Secretary of Defense to submit to the congressional defense committees a report on procurement and equipment maintenance costs for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle and on facility infrastructure costs associated with each of Operation Iraqi Freedom and Operation Enduring Freedom, was repealed by Pub. L. 119–60, div. A, title XII, §1272, Dec. 18, 2025, 139 Stat. 1130.

## ANNUAL REPORT ON DEPARTMENT OF DEFENSE COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS

Pub. L. 109–163, div. A, title XII, §1224, Jan. 6, 2006, 119 Stat. 3463, which provided that, no later than April 30 of each year, the Secretary of Defense was to submit a report to certain congressional committees on Department of Defense costs during the preceding fiscal year to carry out United Nations resolutions, was repealed by Pub. L. 115–91, div. A, title X, §1051(k)(3), Dec. 12, 2017, 131 Stat. 1564.

## REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO GLOBAL POSTURE REVIEW

Pub. L. 109–163, div. A, title XII, §1233, Jan. 6, 2006, 119 Stat. 3469, provided that:

"(a) CRITERIA.—As part of the Integrated Global Presence and Basing Strategy (IGPBS) developed by the Department of Defense that is referred to as the 'Global Posture Review', the Secretary of Defense, in

consultation with the Chairman of the Joint Chiefs of Staff, shall develop criteria for assessing, with respect to each type of facility specified in subsection (c) that is to be located in a foreign country, the following factors:

"(1) The effect of any new basing arrangements on the strategic mobility requirements of the Department of Defense.

"(2) The ability of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed to meet mobility response times required by operational planners.

"(3) The cost of deploying units to areas referred to in paragraph (2) on a rotational basis (rather than on a permanent basing basis).

"(4) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

"(5) Whether the relative speed and complexity of conducting negotiations with a particular country is a discriminator in the decision to deploy forces within the country.

"(6) The appropriate and available funding mechanisms for the establishment, operation, and sustainment of specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

"(7) The effect on military quality of life of the unaccompanied deployment of units to new facilities in overseas locations.

"(8) Other criteria as Secretary of Defense determines appropriate.

"(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in each of paragraphs (1) through (5) of subsection (a).

"(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.—The Secretary of Defense shall develop a description of minimal infrastructure requirements for each of the following types of facilities:

"(1) Facilities categorized as Main Operating Bases.

"(2) Facilities categorized as Forward Operating Bases.

"(3) Facilities categorized as Cooperative Security Locations.

"(d) NOTIFICATION REQUIRED.—Not later than 30 days after an agreement is entered into between the United States and a foreign country to support the deployment of elements of the United States Armed Forces in that country, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written notification of such agreement. The notification under this subsection shall include the terms of the agreement, any costs to the United States resulting from the agreement, and a timeline to carry out the terms of the agreement.

"(e) ANNUAL BUDGET ELEMENT.—The Secretary of Defense shall submit to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for the establishment, operation, and sustainment of individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

"(f) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c)."

## PROCESSING OF FORENSIC EVIDENCE COLLECTION KITS AND ACQUISITION OF SUFFICIENT STOCKS OF SUCH KITS

Pub. L. 108–375, div. A, title V, §573, Oct. 28, 2004, 118 Stat. 1921, provided that:

"(a) ELIMINATION OF BACKLOG, ETC.—The Secretary of Defense shall take such steps as may be necessary to ensure that—

"(1) the United States Army Criminal Investigation Laboratory has the personnel and resources to effectively process forensic evidence used by the Department of Defense within 60 days of receipt by the laboratory of such evidence;

"(2) consistent policies are established among the Armed Forces to reduce the time period between the collection of forensic evidence and the receipt and processing of such evidence by United States Army Criminal Investigation Laboratory; and

"(3) there is an adequate supply of forensic evidence collection kits—

"(A) for all United States military installations, including the military service academies; and

"(B) for units of the Armed Forces deployed in theaters of operation.

"(b) TRAINING.—The Secretary shall take such measures as the Secretary considers appropriate to ensure that personnel are appropriately trained—

"(1) in the use of forensic evidence collection kits; and

"(2) in the prescribed procedures to ensure protection of the chain of custody of such kits once used."

## POLICY FOR TIMELY NOTIFICATION OF NEXT OF KIN OF MEMBERS SERIOUSLY ILL OR INJURED IN COMBAT ZONES

Pub. L. 108–375, div. A, title VII, §724, Oct. 28, 2004, 118 Stat. 1990, required the Secretary of Defense to prescribe a policy for providing timely notification to the next of kin of seriously ill or injured members in combat zones and to submit to Congress a copy of the policy no later than 120 days after Oct. 28, 2004.

## SECRETARY OF DEFENSE CRITERIA FOR AND GUIDANCE ON IDENTIFICATION AND INTERNAL TRANSMISSION OF CRITICAL INFORMATION

Pub. L. 108–375, div. A, title IX, §932, Oct. 28, 2004, 118 Stat. 2031, required the Secretary of Defense, no later than 120 days after Oct. 28, 2004, to establish criteria for determining categories of critical information that should be made known expeditiously to senior civilian and military officials in the Department of Defense.

## PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF WORLD WAR II

Pub. L. 108–375, div. A, title X, §1032, Oct. 28, 2004, 118 Stat. 2045, authorized the Secretary of Defense to conduct a program during fiscal year 2005 to commemorate the 60th anniversary of World War II.

## PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT

Pub. L. 108–375, div. A, title X, §1085, Oct. 28, 2004, 118 Stat. 2065, as amended by Pub. L. 110–181, div. A, title III, §360(c), Jan. 28, 2008, 122 Stat. 78; Pub. L. 111–383, div. A, title X, §1075(i)(2), Jan. 7, 2011, 124 Stat. 4378, provided that: "The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary, after reviewing the search and rescue capabilities report prepared by the Secretary of the Air Force under section 360(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 77), first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

"(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

"(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities."

## SUNKEN MILITARY CRAFT

Pub. L. 108–375, div. A, title XIV, Oct. 28, 2004, 118 Stat. 2094, as amended by Pub. L. 117–263, div. A, title X, §1027, Dec. 23, 2022, 136 Stat. 2767, provided that:

"SEC. 1401. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

"Right, title, and interest of the United States in and to any United States sunken military craft—

"(1) shall not be extinguished except by an express divestiture of title by the United States; and

"(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

"SEC. 1402. PROHIBITIONS.

"(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

"(1) as authorized by a permit under this title;

"(2) as authorized by regulations issued under this title; or

"(3) as otherwise authorized by law.

"(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

"(1) this section; or

"(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

"(c) LIMITATIONS ON APPLICATION.—

"(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the

direction of, the United States.

"(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

"(A) generally recognized principles of international law;

"(B) an agreement between the United States and the foreign country of which the person is a citizen; or

"(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

"(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

"SEC. 1403. PERMITS.

"(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

"(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

"(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act [Oct. 28, 2004] of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

"(d) APPLICATION TO FOREIGN CRAFT.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

"SEC. 1404. PENALTIES.

"(a) IN GENERAL.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

"(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

"(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

"(d) IN REM LIABILITY.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

"(e) OTHER RELIEF.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

"(f) LIMITATIONS.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

"(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

"(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

"SEC. 1405. LIABILITY FOR DAMAGES.

"(a) IN GENERAL.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

"(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

"(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

"(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

"SEC. 1406. RELATIONSHIP TO OTHER LAWS.

"(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

"(1) any activity that is not directed at a sunken military craft; or

"(2) the traditional high seas freedoms of navigation, including—

"(A) the laying of submarine cables and pipelines;

"(B) operation of vessels;

"(C) fishing; or

"(D) other internationally lawful uses of the sea related to such freedoms.

"(b) INTERNATIONAL LAW.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

"(c) LAW OF FINDS.—The law of finds shall not apply to—

"(1) any United States sunken military craft, wherever located; or

"(2) any foreign sunken military craft located in United States waters.

"(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to—

"(1) any United States sunken military craft without the express permission of the United States; or

"(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

"(e) LAW OF CAPTURE OR PRIZE.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

"(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes ([former] 46 U.S.C. App. 181 et seq.) [see chapter 305 of Title 46, Shipping] or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; [former] 46 U.S.C. App. 192) [now 46 U.S.C. 30706], shall limit the liability of any person under this section.

"(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

"(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

"(i) CRIMINAL LAW.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

"(j) WITHHOLDING OF CERTAIN INFORMATION.—Pursuant to subparagraphs (A)(ii) and (B) of section 552(b)(3) of title 5[,] United States Code, the Secretary concerned may withhold from public disclosure information and data about the location or related artifacts of a sunken military craft under the jurisdiction of the Secretary, if such disclosure would increase the risk of the unauthorized disturbance of one or more sunken military craft.

"SEC. 1407. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

"The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

"SEC. 1408. DEFINITIONS.

"In this title:

"(1) ASSOCIATED CONTENTS.—The term 'associated contents' means—

"(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

"(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

"(2) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(A) subject to subparagraph (B), the Secretary of a military department; and

"(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

"(3) SUNKEN MILITARY CRAFT.—The term 'sunken military craft' means all or any portion of—

"(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

"(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

"(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

"(4) UNITED STATES CONTIGUOUS ZONE.—The term 'United States contiguous zone' means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999 [43 U.S.C. 1331 note].

"(5) UNITED STATES INTERNAL WATERS.—The term 'United States internal waters' means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

"(6) UNITED STATES TERRITORIAL SEA.—The term 'United States territorial sea' means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988 [43 U.S.C. 1331 note].

"(7) UNITED STATES WATERS.—The term 'United States waters' means United States internal waters, the United States territorial sea, and the United States contiguous zone."

## REPORTS ON WEAPONS AND AMMUNITION OBTAINED BY IRAQ

Pub. L. 108–177, title III, §358, Dec. 13, 2003, 117 Stat. 2621, directed the Director of the Defense Intelligence Agency, not later than one year after Dec. 13, 2003, to submit preliminary and final reports to committees of Congress on information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in 1990.

Pub. L. 108–136, div. A, title XII, §1204, Nov. 24, 2003, 117 Stat. 1649, directed the Secretary of Defense, not later than one year after Nov. 24, 2003, to submit to committees of Congress a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

## STUDIES OF FLEET PLATFORM ARCHITECTURES FOR THE NAVY

Pub. L. 108–136, div. A, title II, §216, Nov. 24, 2003, 117 Stat. 1418, directed the Secretary of Defense to provide for the performance of two independent studies of alternative future fleet platform architectures for the Navy and to forward the results of each study to congressional defense committees not later than Jan. 15, 2005.

## REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES AND PLAN TO ADDRESS ENCROACHMENT

Pub. L. 108–136, div. A, title III, §320, Nov. 24, 2003, 117 Stat. 1435, required a study on the impact of various civilian and environmental encroachment issues affecting military installations and operational ranges, a plan to respond to any encroachment issues found, and reports from 2004 to 2010 regarding the results of the study and progress being made on the encroachment response plan.

## HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM

Pub. L. 108–136, div. A, title III, §337, Nov. 24, 2003, 117 Stat. 1445, established a pilot program designed to create, or continue the implementation of, high-performing organizations through the conduct of a Business Process Reengineering initiative at selected military installations and facilities.

## ASSESSMENT BY SECRETARY OF DEFENSE

Pub. L. 108–136, div. A, title V, §517(b), Nov. 24, 2003, 117 Stat. 1461, directed the Secretary of Defense to submit to committees of Congress, not later than one year after Nov. 24, 2003, a description of the effects on reserve component recruitment and retention that have resulted from calls and orders to active duty and the tempo of such service, an assessment of the process for calling and ordering reserve members to active duty, preparing such members for active duty, processing such members into the force, and deploying such members, and a description of changes in the Armed Forces envisioned by the Secretary of Defense.

## POLICY ON PUBLIC IDENTIFICATION OF CASUALTIES

Pub. L. 108–136, div. A, title V, §546, Nov. 24, 2003, 117 Stat. 1479, directed the Secretary of Defense, no

later than 180 days after Nov. 24, 2003, to prescribe a policy on the public release of the names or other personally identifying information of casualties.

**PROCUREMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES**

Pub. L. 108–136, div. A, title XVI, §1602, Nov. 24, 2003, 117 Stat. 1682, as amended by Pub. L. 110–181, div. A, title X, §1063(g)(3), Jan. 28, 2008, 122 Stat. 324, provided that:

"(a) DETERMINATION OF MATERIAL THREATS.—(1) The Secretary of Defense (in this section referred to as the 'Secretary') shall on an ongoing basis—

"(A) assess current and emerging threats of use of biological, chemical, radiological, and nuclear agents; and

"(B) identify, on the basis of such assessment, those agents that present a material risk of use against the Armed Forces.

"(2) The Secretary shall on an ongoing basis—

"(A) assess the potential consequences to the health of members of the Armed Forces of use against the Armed Forces of the agents identified under paragraph (1)(B); and

"(B) identify, on the basis of such assessment, those agents for which countermeasures are necessary to protect the health of members of the Armed Forces.

"(b) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES .—The Secretary shall on an ongoing basis assess the availability and appropriateness of specific countermeasures to address specific threats identified under subsection (a).

"(c) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT.—(1) The Secretary, in accordance with paragraph (2), shall on an ongoing basis identify specific countermeasures that the Secretary determines to be appropriate for procurement for the Department of Defense stockpile of biomedical countermeasures.

"(2) The Secretary may not identify a specific countermeasure under paragraph (1) unless the Secretary determines that—

"(A) the countermeasure is a qualified countermeasure; and

"(B) it is reasonable to expect that producing and delivering, within 5 years, the quantity of that countermeasure required to meet the needs of the Department (as determined by the Secretary) is feasible.

"(d) INTERAGENCY COOPERATION.—(1) Activities of the Secretary under this section shall be carried out in regular, structured, and close consultation and coordination with the Secretaries of Homeland Security and Health and Human Services, including the activities described in subsections (a), (b), and (c) and those activities with respect to interagency agreements described in paragraph (2).

"(2) The Secretary may enter into an interagency agreement with the Secretaries of Homeland Security and Health and Human Services to provide for acquisition by the Secretary of Defense for use by the Armed Forces of biomedical countermeasures procured for the Strategic National Stockpile by the Secretary of Health and Human Services. The Secretary may transfer such funds to the Secretary of Health and Human Services as are necessary to carry out such agreements (including administrative costs of the Secretary of Health and Human Services), and the Secretary of Health and Human Services may expend any such transferred funds to procure such countermeasures for use by the Armed Forces, or to replenish the stockpile. The Secretaries are authorized to establish such terms and conditions for such agreements as the Secretaries determine to be in the public interest. The transfer authority provided under this paragraph is in addition to any other transfer authority available to the Secretary.

"(e) DEFINITIONS.—In this section:

"(1) The term 'qualified countermeasure' means a biomedical countermeasure—

"(A) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or that is approved under section 515 or cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e and 360) for use as such a countermeasure to a biological, chemical, radiological, or nuclear agent identified as a material threat under subsection (a); or

"(B) with respect to which the Secretary of Health and Human Services makes a determination that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) exists to support a reasonable conclusion that the product will qualify for such approval or licensing for use as such a countermeasure.

"(2) The term 'biomedical countermeasure' means a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), or biological product (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i))) that is—

"(A) used to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a military health emergency affecting the Armed Forces; or

"(B) used to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in subparagraph (A).

"(3) The term 'Strategic National Stockpile' means the stockpile established under section 121(a) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh–12(a)).

"(f) FUNDING.—Of the amount authorized to be appropriated for the Department of Defense and available within the transfer authority established under section 1001 of this Act [117 Stat. 1582] for fiscal year 2004 and for each fiscal year thereafter, such sums are authorized as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this section."

## PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY

Pub. L. 110–181, div. A, title II, §243, Jan. 28, 2008, 122 Stat. 51, required submission of a research, development, and testing plan for prompt global strike program objectives for fiscal years 2008 through 2013 and a plan for obligation and expenditure of funds available for prompt global strike for fiscal year 2008.

Pub. L. 108–136, div. A, title X, §1032, Nov. 24, 2003, 117 Stat. 1605, as amended by Pub. L. 110–181, div. A, title X, §1043, Jan. 28, 2008, 122 Stat. 311, required establishment of, and annual updates to, an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces and submission of reports on the plan from 2004 to 2009.

## REPORTS ON MILITARY OPERATIONS AND RECONSTRUCTION ACTIVITIES IN IRAQ AND AFGHANISTAN

Pub. L. 109–13, div. A, title I, §1024(c), May 11, 2005, 119 Stat. 253, provided that:

"(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

"(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

"(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

"(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

"(2) The provisions of law referred to in this paragraph are as follows:

"(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

"(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note)."

Pub. L. 108–287, title IX, §9010, Aug. 5, 2004, 118 Stat. 1008, as amended by Pub. L. 108–324, div. B, §306, Oct. 13, 2004, 118 Stat. 1243, provided that:

"(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

"(b) Each report shall include the following information:

"(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

"(2) An assessment of the progress made toward preventing attacks on United States personnel.

"(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

"(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

"(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

"(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

"(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12302 of title 10, United States Code.

"(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12302 of title 10, United States Code, the following information:

"(A) The unit.

"(B) The projected date of return of the unit to its home station.

"(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces."

Pub. L. 108–106, title I, §1120, Nov. 6, 2003, 117 Stat. 1219, provided that:

"(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

"(b) Each report shall include the following information:

"(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

"(2) An assessment of the progress made toward preventing attacks on United States personnel.

"(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

"(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

"(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

"(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

"(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

"(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

"(A) The unit.

"(B) The projected date of return of the unit to its home station.

"(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces."

## UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES

Pub. L. 107–314, div. A, title II, §233, Dec. 2, 2002, 116 Stat. 2490, directed the Secretary of Defense to implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense, with the goal that such system be implemented no later than Sept. 30, 2006.

## TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY

Pub. L. 107–314, div. A, title III, §366, Dec. 2, 2002, 116 Stat. 2522, as amended by Pub. L. 109–364, div. A, title III, §348, Oct. 17, 2006, 120 Stat. 2159; Pub. L. 110–181, div. A, title X, §1063(c)(2), Jan. 28, 2008, 122 Stat. 322; Pub. L. 111–383, div. A, title X, §1075(g)(2), Jan. 7, 2011, 124 Stat. 4376; Pub. L. 112–239, div. A, title III, §311, Jan. 2, 2013, 126 Stat. 1691, provided that:

"(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address training constraints caused by limitations on the use of military lands, marine areas, and airspace that are available in the United States and overseas for training of the Armed Forces.

"(2) As part of the preparation of the plan, the Secretary of Defense shall conduct the following:

"(A) An assessment of current and future training range requirements of the Armed Forces.

"(B) An evaluation of the adequacy of current Department of Defense resources (including virtual and constructive training assets as well as military lands, marine areas, and airspace available in the United States and overseas) to meet those current and future training range requirements.

"(3) The plan shall include the following:

"(A) Proposals to enhance training range capabilities and address any shortfalls in current Department of Defense resources identified pursuant to the assessment and evaluation conducted under paragraph (2).

"(B) Goals and milestones for tracking planned actions and measuring progress.

"(C) Projected funding requirements for implementing planned actions.

"(D) Designation of an office in the Office of the Secretary of Defense and in each of the military departments that will have lead responsibility for overseeing implementation of the plan.

"(4) At the same time as the President submits to Congress the budget for fiscal year 2004, the Secretary of Defense shall submit to Congress a report describing the progress made in implementing this subsection, including—

"(A) the plan developed under paragraph (1);

"(B) the results of the assessment and evaluation conducted under paragraph (2); and

"(C) any recommendations that the Secretary may have for legislative or regulatory changes to address training constraints identified pursuant to this section.

"(5) At the same time as the President submits to Congress the budget for each fiscal year through fiscal year 2018, the Secretary shall submit to Congress a report describing the progress made in implementing the plan and any additional actions taken, or to be taken, to address training constraints caused by limitations on the use of military lands, marine areas, and airspace.

"(b) READINESS REPORTING IMPROVEMENT.—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System to reflect the readiness impact that training constraints caused by limitations on the use of military lands, marine areas, and airspace have on specific units of the Armed Forces.

"(c) TRAINING RANGE INVENTORY.—(1) The Secretary of Defense shall develop and maintain a training range inventory for each of the Armed Forces—

"(A) to identify all available operational training ranges;

"(B) to identify all training capacities and capabilities available at each training range; and

"(C) to identify training constraints caused by limitations on the use of military lands, marine areas, and airspace at each training range.

"(2) The Secretary of Defense shall submit an initial inventory to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an updated inventory to Congress at the same time as the President submits the budget for each fiscal year through fiscal year 2018.

"(d) GAO EVALUATION.—The Secretary of Defense shall transmit copies of each report required by subsections (a) and (b) to the Comptroller General. Within 90 days of receiving a report, the Comptroller General shall submit to Congress an evaluation of the report.

"(e) ARMED FORCES DEFINED.—In this section, the term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps."

## DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE

Pub. L. 107–314, div. A, title X, §1004, Dec. 2, 2002, 116 Stat. 2629, which required Secretary of Defense to develop a financial management enterprise architecture for all budgetary, accounting, finance, enterprise resource planning, and mixed information systems of the Department of Defense by May 1, 2003, was repealed by Pub. L. 108–375, div. A, title III, §332(f), Oct. 28, 2004, 118 Stat. 1856.

## RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS

Pub. L. 107–107, div. A, title X, §1008, Dec. 28, 2001, 115 Stat. 1204, as amended by Pub. L. 112–81, div. A, title X, §1052, Dec. 31, 2011, 125 Stat. 1582; Pub. L. 113–188, title IV, §401(b), Nov. 26, 2014, 128 Stat. 2019; Pub. L. 115–91, div. A, title X, §§1002(h), 1051(i)(2), Dec. 12, 2017, 131 Stat. 1542, 1563, provided that:

"[(a), (b) Repealed. Pub. L. 113–188, title IV, §401(b)(1), Nov. 26, 2014, 128 Stat. 2019.]

"(c) INFORMATION TO AUDITORS.—Not later than the date that is 180 days prior to the date set by the Office of Management and Budget for the submission of financial statements of each year [sic], the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with

responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official's department for the fiscal year ending during the preceding month that official's preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

"[(d) to (f) Repealed. Pub. L. 115–91, div. A, title X, §1002(h), Dec. 12, 2017, 131 Stat. 1542.]"

## ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM

Pub. L. 107–314, div. A, title X, §1043, Dec. 2, 2002, 116 Stat. 2646, required annual reports on the conduct of military operations conducted as part of Operation Enduring Freedom, starting June 15, 2003, and ending no later than 180 days after the date of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

## COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS

Pub. L. 107–314, div. A, title XIV, §1402, Dec. 2, 2002, 116 Stat. 2675, directed the Secretary of Defense to develop and submit to Congress a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, directed the Comptroller General to review the plan, and required reports on the plan in 2004, 2005, and 2006.

## POLICY CONCERNING RIGHTS OF INDIVIDUALS WHOSE NAMES HAVE BEEN ENTERED INTO DEPARTMENT OF DEFENSE OFFICIAL CRIMINAL INVESTIGATIVE REPORTS

Pub. L. 106–398, §1 [[div. A], title V, §552], Oct. 30, 2000, 114 Stat. 1654, 1654A–125, provided that:

"(a) POLICY REQUIREMENT.—The Secretary of Defense shall establish a policy creating a uniform process within the Department of Defense that—

"(1) affords any individual who, in connection with the investigation of a reported crime, is designated (by name or by any other identifying information) as a suspect in the case in any official investigative report, or in a central index for potential retrieval and analysis by law enforcement organizations, an opportunity to obtain a review of that designation; and

"(2) requires the expungement of the name and other identifying information of any such individual from such report or index in any case in which it is determined the entry of such identifying information on that individual was made contrary to Department of Defense requirements.

"(b) EFFECTIVE DATE.—The policy required by subsection (a) shall be established not later than 120 days after the date of the enactment of this Act [Oct. 30, 2000]."

## TEST OF ABILITY OF RESERVE COMPONENT INTELLIGENCE UNITS AND PERSONNEL TO MEET CURRENT AND EMERGING DEFENSE INTELLIGENCE NEEDS

Pub. L. 106–398, §1 [[div. A], title V, §576], Oct. 30, 2000, 114 Stat. 1654, 1654A–138, directed the Secretary of Defense to conduct a three-year test program to determine the most effective peacetime structure and operational employment of reserve component intelligence assets and to establish a means to coordinate and transition the peacetime intelligence support network into use for meeting wartime needs, and to submit to Congress interim and final reports on such program not later than Dec. 1, 2004.

## STUDY ON CIVILIAN PERSONNEL SERVICES

Pub. L. 106–398, §1 [[div. A], title XI, §1105], Oct. 30, 2000, 114 Stat. 1654, 1654A–311, directed the Secretary of Defense to conduct a study to assess the manner in which personnel services were provided for civilian personnel in the Department of Defense and to submit a report on such study to committees of Congress not later than Jan. 1, 2002.

## PILOT PROGRAM FOR REENGINEERING EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESS

Pub. L. 106–398, §1 [[div. A], title XI, §1111], Oct. 30, 2000, 114 Stat. 1654, 1654A–312, directed the Secretary of Defense to carry out a three-year pilot program to improve processes for the resolution of equal employment opportunity complaints by civilian employees of the Department of Defense, and directed the Comptroller General to submit to Congress a report on such program not later than 90 days following the end of the first and last full or partial fiscal years during which such program had been implemented.

## WORK SAFETY DEMONSTRATION PROGRAM

Pub. L. 106–398, §1 [[div. A], title XI, §1112], Oct. 30, 2000, 114 Stat. 1654, 1654A–313, as amended by Pub. L. 107–314, div. A, title III, §363, Dec. 2, 2002, 116 Stat. 2520, directed the Secretary of Defense to carry out a defense employees work safety demonstration program under which work safety models used by employers in the private sector would be adopted and any improvement to work safety records would be assessed, directed that such program would terminate on Sept. 30, 2003, and required the Secretary to submit interim and final reports on such program to committees of Congress not later than Dec. 1, 2003.

## GAO STUDY ON BENEFITS AND COSTS OF UNITED STATES MILITARY ENGAGEMENT IN EUROPE

Pub. L. 106–398, §1 [[div. A], title XII, §1223], Oct. 30, 2000, 114 Stat. 1654, 1654A–328, directed the Comptroller General to conduct a study assessing the benefits and costs to the United States and United States national security interests of the engagement of United States forces in Europe and of United States military strategies used to shape the international security environment in Europe and to submit to committees of Congress a report on the results of such study not later than Dec. 1, 2001.

## ESTABLISHMENT OF LOGISTICS STANDARDS FOR SUSTAINED MILITARY OPERATIONS

Pub. L. 106–65, div. A, title III, §366, Oct. 5, 1999, 113 Stat. 578, as amended by Pub. L. 115–91, div. A, title X, §1051(h), Dec. 12, 2017, 131 Stat. 1563, provided that:

"(a) ESTABLISHMENT OF STANDARDS.—The Secretary of each military department shall establish, for deployable units of each of the Armed Forces under the jurisdiction of the Secretary, standards regarding—

"(1) the level of spare parts that the units must have on hand; and

"(2) similar logistics and sustainment needs of the units.

"(b) BASIS FOR STANDARDS.—The standards to be established for a unit under subsection (a) shall be based upon the following:

"(1) The unit's wartime mission, as reflected in the war-fighting plans of the relevant combatant commanders.

"(2) An assessment of the likely requirement for sustained operations under each such war-fighting plan.

"(3) An assessment of the likely requirement for that unit to conduct sustained operations in an austere environment, while drawing exclusively on its own internal logistics capabilities.

"(c) SUFFICIENCY CAPABILITIES.—The standards to be established by the Secretary of a military department under subsection (a) shall reflect those spare parts and similar logistics capabilities that the Secretary considers sufficient for the units of each of the Armed Forces under the Secretary's jurisdiction to successfully execute their missions under the conditions described in subsection (b).

"(d) RELATION TO READINESS REPORTING SYSTEM.—The standards established under subsection (a) shall be taken into account in designing the comprehensive readiness reporting system for the Department of Defense required by section 117 of title 10, United States Code, and shall be an element in determining a unit's readiness status.

"(e) RELATION TO ANNUAL FUNDING NEEDS.—The Secretary of Defense shall consider the standards established under subsection (a) in establishing the annual funding requirements for the Department of Defense."

## USE OF SMART CARD TECHNOLOGY IN THE DEPARTMENT OF DEFENSE

Pub. L. 106–65, div. A, title III, §373(a)–(g), Oct. 5, 1999, 113 Stat. 580, 581, designated the Navy as the lead agency for the development and implementation of a Smart Card program for the Department of Defense, required the Army and Air Force to establish project offices and cooperate with the Navy to develop implementation plans for using Smart Card technology, established a senior coordinating group, and provided for allocation of certain funds for the Navy to implement Smart Card technology.

## SECRETARY OF DEFENSE REVIEW OF ARMY TECHNICIAN COSTING PROCESS

Pub. L. 106–65, div. A, title V, §526, Oct. 5, 1999, 113 Stat. 600, required Secretary of Defense to review process used by the Army to develop estimates of annual authorizations and appropriations required for civilian personnel of Department of the Army generally and for National Guard and Army Reserve technicians in particular and to report on results of review to the Committees on Armed Services of the Senate and House of Representatives not later than Mar. 31, 2000.

## SURVEY OF MEMBERS LEAVING MILITARY SERVICE ON ATTITUDES TOWARD MILITARY SERVICE

Pub. L. 106–65, div. A, title V, §581, Oct. 5, 1999, 113 Stat. 633, directed the Secretary of Defense to develop and implement a survey on attitudes toward military service to be completed by all members of the Armed Forces who had been voluntarily discharged or separated or transferred from a regular to a reserve component between Jan. 1, 2000, and June 30, 2000, and to submit a report to Congress on the results of such survey not later than Oct. 1, 2000.

## ANNUAL REPORT ON UNITED STATES MILITARY ACTIVITIES IN COLOMBIA

Pub. L. 106–65, div. A, title X, §1025, Oct. 5, 1999, 113 Stat. 748, which required the Secretary of Defense to submit an annual report regarding the deployments and assignments of the United States Armed Forces in Colombia, was repealed by Pub. L. 112–81, div. A, title X, §1062(j)(2), Dec. 31, 2011, 125 Stat. 1585.

## REPORT ON NATO DEFENSE CAPABILITIES INITIATIVE

Pub. L. 106–65, div. A, title X, §1039, Oct. 5, 1999, 113 Stat. 756, as amended by Pub. L. 108–136, div. A, title X, §1031(h)(3), Nov. 24, 2003, 117 Stat. 1605, provided findings of Congress relating to the Defense Capabilities Initiative.

## COMMEMORATION OF THE VICTORY OF FREEDOM IN THE COLD WAR

Pub. L. 106–65, div. A, title X, §1053, Oct. 5, 1999, 113 Stat. 764, as amended by Pub. L. 107–107, div. A, title X, §1048(g)(7), Dec. 28, 2001, 115 Stat. 1228, established a commission to review and make recommendations regarding the celebration of victory in the Cold War, directed the President to transmit to Congress a report on the content of a Presidential proclamation and a plan for appropriate ceremonies and activities, and authorized funds.

## ANNUAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 118–50, div. G, §2, Apr. 24, 2024, 138 Stat. 954, provided that:

"(a) IN GENERAL.—As part of each annual report submitted under section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note) (commonly referred to as the 'China Military Power report'), the Secretary of Defense and Secretary of State, in consultation with the heads of such other Federal departments and agencies as the Secretary of Defense and Secretary of State may determine appropriate, shall include a component on emerging technological developments involving the People's Republic of China.

"(b) MATTERS.—Each report component referred to in subsection (a) shall include an identification and assessment of at least five fields of critical or emerging technologies in which the People's Liberation Army is invested, or for which there are Military-Civil Fusion Development Strategy programs of the People's Republic of China, including the following:

"(1) A brief summary of each such identified field and its relevance to the military power and national security of the People's Republic of China.

"(2) The implications for the national security of the United States as a result of the leadership or dominance by the People's Republic of China in each such identified field and associated supply chains.

"(3) The identification of at least 10 entities domiciled in, controlled by, or directed by the People's Republic of China (including any subsidiaries of such entity), involved in each such identified field, and an assessment of, with respect to each such entity, the following:

"(A) Whether the entity has procured components from any known United States suppliers.

"(B) Whether any United States technology imported by the entity is controlled under United States regulations.

"(C) Whether United States capital is invested in the entity, either through known direct investment or passive investment flows.

"(D) Whether the entity has any connection to the People's Liberation Army, the Military-Civil Fusion program of the People's Republic of China, or any other state-sponsored initiatives of the People's Republic of China to support the development of national champions.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Foreign Affairs of the House of Representatives;

"(2) the Committee on Armed Services of the House of Representatives;

"(3) the Committee on Foreign Relations of the Senate; and

"(4) the Committee on Armed Services of the Senate."

Pub. L. 106–65, div. A, title XII, §1202, Oct. 5, 1999, 113 Stat. 781, as amended by Pub. L. 107–107, div. A, title XII, §1221, Dec. 28, 2001, 115 Stat. 1252; Pub. L. 110–181, div. A, title XII, §1263, Jan. 28, 2008,

122 Stat. 407; Pub. L. 111–84, div. A, title XII, §1246(a)–(c), Oct. 28, 2009, 123 Stat. 2544, 2545; Pub. L. 112–81, div. A, title X, §1066(e)(1), title XII, §1238(a), Dec. 31, 2011, 125 Stat. 1589, 1642; Pub. L. 112–239, div. A, title XII, §1271, Jan. 2, 2013, 126 Stat. 2022; Pub. L. 113–66, div. A, title XII, §1242, Dec. 26, 2013, 127 Stat. 920; Pub. L. 113–291, div. A, title XII, §1252(a), Dec. 19, 2014, 128 Stat. 3571; Pub. L. 114–328, div. A, title XII, §1271(a), (b), Dec. 23, 2016, 130 Stat. 2538; Pub. L. 115–91, div. A, title XII, §1261, Dec. 12, 2017, 131 Stat. 1688; Pub. L. 115–232, div. A, title XII, §1260, Aug. 13, 2018, 132 Stat. 2059; Pub. L. 116–92, div. A, title XII, §1260, Dec. 20, 2019, 133 Stat. 1677; Pub. L. 116–283, div. A, title XII, §1260D, Jan. 1, 2021, 134 Stat. 3963; Pub. L. 117–81, div. A, title XII, §1243, Dec. 27, 2021, 135 Stat. 1982; Pub. L. 117–263, div. A, title XII, §1251, Dec. 23, 2022, 136 Stat. 2849, provided that:

"(a) ANNUAL REPORT.—Not later than January 31 of each year through January 31, 2027, the Secretary of Defense, in consultation with the heads of other Federal departments and agencies as appropriate, shall submit to the specified congressional committees a report on military and security developments involving the People's Republic of China.

"(b) MATTERS TO BE INCLUDED.—Each report under this section shall include analyses and forecasts, through the next 20 years, of the following:

"(1) The goals, factors, and trends shaping Chinese security strategy and military strategy.

"(2) The role of the People's Liberation Army in the strategy, governance systems, and foreign and economic policies of the People's Republic of China, including the following:

"(A) Developments in the defense policy and military strategy of the People's Republic of China, and the role and mission of the People's Liberation Army.

"(B) The role of the People's Liberation Army in the Chinese Communist Party, including the structure and leadership of the Central Military Commission.

"(C) The internal security role and affiliation of the People's Liberation Army with the People's Armed Police and other law enforcement, intelligence, and paramilitary entities of the People's Republic of China, including any activities supporting or implementing mass surveillance, mass detentions, forced labor, or gross violations of human rights.

"(3) The role of the People's Liberation Army in, and its support of, the overall foreign policy of the People's Republic of China, as expressed through military diplomacy and other external actions, activities, and operations, including the following:

"(A) Chinese military-to-military relationships with other countries, including—

"(i) Chinese military attache presence, activities, exercises, and agreements with the militaries of other countries; and

"(ii) military education programs conducted—

"(I) in the People's Republic of China for militaries of other countries; or

"(II) in other countries for personnel of the People's Liberation Army.

"(B) Any significant sale or transfer of military hardware, expertise, and technology to or from the People's Republic of China, including—

"(i) a forecast of possible future sales and transfers;

"(ii) the implications of such sales and transfers for the security of the United States and its partners and allies; and

"(iii) any significant assistance to and from any selling state with military-related research and development programs in the People's Republic of China.

"(C) Relations between the People's Republic of China and the Russian Federation, and between the People's Republic of China and Iran, with respect to security and military matters.

"(4) Developments in the military doctrine, operational concepts, joint command and organizational structures, and significant military operations and deployments of the People's Liberation Army.

"(5) Developments and future course of the services, theater-level commands, and paramilitary organizations of the People's Liberation Army, including—

"(A) the specific roles and missions, organization, capabilities, force structure, readiness, and modernization efforts of such services, theater-level commands, special operations, and paramilitary organizations;

"(B) a summary of the order of battle of the People's Liberation Army, including ballistic and cruise missile inventories; and

"(C) developments relating to the Chinese Coast Guard, including its interactions with the Armed Forces of the United States, and the implications for its use as a coercive tool in maritime disputes.

"(7) [sic; there is no par. (6)] Developments in the People's Liberation Army as a global actor, such as overseas military basing, military logistics capabilities, and infrastructure to project power, and the overseas command and control structure of the People's Liberation Army, including—

"(A) Chinese overseas investments or projects likely, or with significant potential, to be converted into military or intelligence assets of the People's Republic of China; and

"(B) efforts by the People's Republic of China to use the People's Liberation Army to expand its presence and influence overseas and the implications of such efforts on United States' national defense and security interests in—

"(i) Latin America and the Caribbean;

"(ii) Africa;

"(iii) the Indo-Pacific region, including the Pacific Islands; and

"(iv) the Middle East.

"(8) The strategy, policy, development, and modernization of key military capabilities of the People's Republic of China across the People's Liberation Army, including the following:

"(A) The cyberwarfare and electronic warfare capabilities (including details on the number of malicious cyber incidents originating from the People's Republic of China against Department of Defense infrastructure) and associated activities originating or suspected to have originated from the People's Republic of China.

"(B) The space and counter-space programs and capabilities.

"(C) The nuclear program and capabilities, including—

"(i) its nuclear strategy and associated doctrines;

"(ii) the size and state of its stockpile and projections of its future arsenals;

"(iii) its civil and military production capacities; and

"(iv) the modernization and force structure of its strategic forces.

"(D) The anti-access and area denial capabilities.

"(E) The command, control, communications, computers, intelligence, surveillance, and reconnaissance modernization program and capabilities and the applications for such program and capabilities for precision-guided weapons.

"(F) Special operations capabilities.

"(9) Trends and developments in the budget, resources, strategies, and policies of the People's Liberation Army with respect to science and technology, defense industry reform, and the use of espionage and technology transfers by the People's Republic of China, including—

"(A) the relationship between Chinese overseas investment (including the Belt and Road Initiative, the Digital Silk Road, and any state- owned or state-controlled digital or physical infrastructure projects of the People's Republic of China) and Chinese security and military strategy objectives, including—

"(i) any Chinese investment or project, located in any other country, that is linked to military or intelligence cooperation with such country, such as cooperation on satellite navigation or arms production; and

"(ii) the implications for United States military or governmental interests related to denial of access, compromised intelligence activities, and network advantages of Chinese investments or projects in other countries, including in port or port-related infrastructure; and

"(B) efforts (including by espionage and technology transfers through investment, industrial espionage, cyber theft, academia, forced technological transfers, and other means) to develop, acquire, or gain access to information, communication, space, and other advanced technologies that would enhance defense capabilities or otherwise undermine the capability of the Department of Defense to conduct information assurance, including an assessment of the damage inflicted on the Department of Defense by such efforts.

"(10) The strategy of the People's Republic of China regarding Taiwan and the security situation in the Taiwan Strait, including—

"(A) the posture of the forces of the People's Liberation Army facing Taiwan; and

"(B) any challenges during the preceding year to the deterrent forces of the Republic of China on Taiwan, consistent with the commitments made by the United States in the Taiwan Relations Act (Public Law 96–8; 22 U.S.C. 3301 et seq.).

"(11) The maritime strategy and military and nonmilitary activities in the South China Sea and East China Sea of the People's Republic of China, including—

"(A) the role and activities of the People's Liberation Army and maritime law enforcement, the People's Armed Forces Maritime Militia or other subset national militias, and paramilitary entities of the People's Republic of China; and

"(B) any such activities in the South China Sea or East China Sea affecting United States military activities or the military activities of a United States ally or partner.

"(12) The current state of United States military-to-military contacts with the People's Liberation Army, including the following:

"(A) A comprehensive and coordinated strategy for such military-to-military contacts and any necessary update to the strategy.

"(B) A summary of all such military-to-military contacts during the preceding fiscal year including a summary of topics discussed.

"(C) A description of such military-to-military contacts scheduled for the 1-year period following the period covered by the report and the plan for future contacts.

"(D) The Secretary's assessment of the benefits the Chinese expect to gain from such military-to-military contacts.

"(E) The Secretary's assessment of the benefits the Department of Defense expects to gain from such military-to-military contacts, and any concerns regarding such contacts.

"(F) The Secretary's assessment of how such military-to-military contacts fit into the larger security relationship between the United States and the People's Republic of China.

"(G) The Secretary's certification whether or not any military-to-military exchange or contact was conducted during the period covered by the report in violation of section 1201(a) [10 U.S.C. 311 note].

"(13) Any influence operations or campaigns by the People's Republic of China targeting military alliances and partnerships of which the United States is a member, including—

"(A) United States military alliances and partnerships targeted or that may be targeted;

"(B) the objectives of such operations;

"(C) the tactics, techniques, and procedures used; and

"(D) the impact of such operations on military alliances and partnerships of which the United States is a member.

"(14) Any other significant military or security development involving the People's Republic of China the Secretary considers relevant to United States national security.

"(c) FORM.—Each report required by subsection (a) shall be submitted in unclassified form but may include a classified annex.

"(d) SPECIFIED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'specified congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives."

[Pub. L. 114–328, div. A, title XII, §1271(c), Dec. 23, 2016, 130 Stat. 2538, provided that: "The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above] take effect on the date of the enactment of this Act [Dec. 23, 2016] and apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65] on or after that date."]

[Pub. L. 113–291, div. A, title XII, §1252(b), Dec. 19, 2014, 128 Stat. 3571, provided that: "The amendment made by this section [amending section 1202 of Pub. L. 106–65, set out above] takes effect on the date of the enactment of this Act [Dec. 19, 2014] and applies with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65] on or after that date."]

[Pub. L. 112–81, div. A, title XII, §1238(b), Dec. 31, 2011, 125 Stat. 1642, provided that: "The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above] shall take effect on the date of the enactment of this Act [Dec. 31, 2011], and shall apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65], as so amended, on or after that date."]

[Pub. L. 111–84, div. A, title XII, §1246(e), Oct. 28, 2009, 123 Stat. 2545, provided that:

["(1) IN GENERAL.—The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above, and provisions set out as a note under section 311 of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65, set out above], as so amended, on or after that date.

["(2) STRATEGY AND UPDATES FOR MILITARY-TO-MILITARY CONTACTS WITH PEOPLE'S LIBERATION ARMY.—The requirement to include the strategy described in paragraph (11)(A) of section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000, as so amended, in the report required to be submitted under section 1202(a) of such Act, as so amended, shall apply with respect to the first report

required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act. The requirement to include updates to such strategy shall apply with respect to each subsequent report required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act."]

## NUCLEAR MISSION MANAGEMENT PLAN

Pub. L. 106–65, div. C, title XXXI, §3163(d), Oct. 5, 1999, 113 Stat. 945, provided that:

"(1) The Secretary of Defense shall develop and implement a plan to ensure the continued reliability of the capability of the Department of Defense to carry out its nuclear deterrent mission.

"(2) The plan shall do the following:

"(A) Articulate the current policy of the United States on the role of nuclear weapons and nuclear deterrence in the conduct of defense and foreign relations matters.

"(B) Establish stockpile viability and capability requirements with respect to that mission, including the number and variety of warheads required.

"(C) Establish requirements relating to the contractor industrial base, support infrastructure, and surveillance, testing, assessment, and certification of nuclear weapons necessary to support that mission.

"(3) The plan shall take into account the following:

"(A) Requirements for the critical skills, readiness, training, exercise, and testing of personnel necessary to meet that mission.

"(B) The relevant programs and plans of the military departments and the Defense Agencies with respect to readiness, sustainment (including research and development), and modernization of the strategic deterrent forces."

## REPORT ON SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS ASSISTANCE FOR MEMBERS OF ARMED FORCES

Pub. L. 105–262, title VIII, §8119, Oct. 17, 1998, 112 Stat. 2331, as amended by Pub. L. 110–234, title IV, §4002(b)(1)(B), (D), (E), (2)(K), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (D), (E), (2)(K), June 18, 2008, 122 Stat. 1664, 1857, 1858, directed the Secretary of Defense to submit to committees of Congress, at the same time that materials relating to Department of Defense funding for fiscal year 2001 were to be submitted, a report on supplemental nutrition assistance program benefits assistance for members of the Armed Forces.

## DEFENSE REFORM INITIATIVE ENTERPRISE PILOT PROGRAM FOR MILITARY MANPOWER AND PERSONNEL INFORMATION

Pub. L. 106–65, div. A, title IX, §924, Oct. 5, 1999, 113 Stat. 726, authorized the Secretary of Defense to designate the Secretary of the Navy as the Department of Defense executive agent for carrying out the pilot program described in Pub. L. 105–262, §8147.

Pub. L. 105–262, title VIII, §8147, Oct. 17, 1998, 112 Stat. 2341, established a defense reform initiative enterprise pilot program for military manpower and personnel information to be implemented no later than 6 months after Oct. 17, 1998.

## OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF AUTOMATED IDENTIFICATION TECHNOLOGY

Pub. L. 105–261, div. A, title III, §344, Oct. 17, 1998, 112 Stat. 1977, as amended by Pub. L. 106–65, div. A, title III, §373(h), title X, §1067(3), Oct. 5, 1999, 113 Stat. 581, 774, directed the Secretary of the Navy to allocate up to $25,000,000 of fiscal year 1999 funds for the purpose of making progress toward the issuance and use of Smart Cards throughout the Navy and the Marine Corps and to equip with Smart Card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group in each of the United States Atlantic and Pacific Commands not later than June 30, 1999, and directed the Secretary of Defense, not later than Mar. 31, 1999, to submit to congressional defense committees a plan for the use of Smart Card technology by each military department.

## PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT

Pub. L. 105–261, div. A, title III, §377, Oct. 17, 1998, 112 Stat. 1993, as amended by Pub. L. 106–398, §1 [[div. A], title III, §387], Oct. 30, 2000, 114 Stat. 1654, 1654A–88, authorized pilot programs for each military department to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields, required a report on the pilot programs by Mar. 31, 2003, and terminated the program as of Sept. 30, 2010.

## REPORT ON TERMINOLOGY FOR ANNUAL REPORT REQUIREMENT

Pub. L. 105–261, div. A, title IX, §915(b), Oct. 17, 1998, 112 Stat. 2102, directed the Secretary of Defense, not later than 90 days after Oct. 17, 1998, to submit to committees of Congress a report setting forth the definitions of the terms "support" and "mission" to use for purposes of the report requirement under subsec. (l) of this section.

## PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE

Pub. L. 105–85, div. A, title III, §392, Nov. 18, 1997, 111 Stat. 1717, as amended by Pub. L. 105–261, div. A, title III, §374, Oct. 17, 1998, 112 Stat. 1992, provided that: "The Secretary of Defense shall maintain a specific coordinated program for the investigation of evidence of fraud, waste, and abuse within the Department of Defense, particularly fraud, waste, and abuse regarding finance and accounting matters and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2461 note)."

## COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES

Pub. L. 105–85, div. A, title V, subtitle F, Nov. 18, 1997, 111 Stat. 1750, as amended by Pub. L. 105–261, div. A, title V, §524, Oct. 17, 1998, 112 Stat. 2014; Pub. L. 106–65, div. A, title X, §1066(c)(2), Oct. 5, 1999, 113 Stat. 773, established a Commission on Military Training and Gender-Related Issues to review requirements and restrictions regarding cross-gender relationships of members of the Armed Forces, to review the basic training programs of the Army, Navy, Air Force, and Marine Corps, and to make recommendations on improvements to those programs, requirements, and restrictions, and further provided for composition, powers, and duties of Commission, administrative matters, funding, an interim report to Congress not later than Oct. 15, 1998, and a final report to Congress not later than Mar. 15, 1999, and for termination of Commission 60 days after submission of final report.

## COORDINATION OF DEPARTMENT OF DEFENSE CRIMINAL INVESTIGATIONS AND AUDITS

Pub. L. 105–85, div. A, title IX, §907, Nov. 18, 1997, 111 Stat. 1856, directed the heads of the military department criminal investigative organizations and the heads of the defense auditing organizations to take action to conserve and share their resources and required the Secretary of Defense to submit to Congress an implementation plan by Dec. 31, 1997.

## PROVISION OF ADEQUATE TROOP PROTECTION EQUIPMENT FOR ARMED FORCES PERSONNEL ENGAGED IN PEACE OPERATIONS; REPORT ON ANTITERRORISM ACTIVITIES AND PROTECTION OF PERSONNEL

Pub. L. 105–85, div. A, title X, §1052, Nov. 18, 1997, 111 Stat. 1889, provided that:

"(a) PROTECTION OF PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that units of the Armed Forces engaged in a peace operation are provided adequate troop protection equipment for that operation.

"(b) SPECIFIC ACTIONS.—In taking actions under subsection (a), the Secretary shall—

"(1) identify the additional troop protection equipment, if any, required to equip a division (or the equivalent of a division) with adequate troop protection equipment for peace operations; and

"(2) establish procedures to facilitate the exchange or transfer of troop protection equipment among units of the Armed Forces.

"(c) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall designate an official within the Department of Defense to be responsible for—

"(1) ensuring the appropriate allocation of troop protection equipment among the units of the Armed Forces engaged in peace operations; and

"(2) monitoring the availability, status or condition, and location of such equipment.

"(d) TROOP PROTECTION EQUIPMENT DEFINED.—In this section, the term 'troop protection equipment' means the equipment required by units of the Armed Forces to defend against any hostile threat that is likely during a peace operation, including an attack by a hostile crowd, small arms fire, mines, and a terrorist bombing attack.

"(e) REPORT ON ANTITERRORISM ACTIVITIES OF THE DEPARTMENT OF DEFENSE AND PROTECTION OF PERSONNEL.—Not later than 120 days after the date of the enactment of this Act [Nov.

18, 1997], the Secretary of Defense shall submit to Congress a report, in classified and unclassified form, on antiterrorism activities of the Department of Defense and the actions taken by the Secretary under subsections (a), (b), and (c). The report shall include the following:

"(1) A description of the programs designed to carry out antiterrorism activities of the Department of Defense, any deficiencies in those programs, and any actions taken by the Secretary to improve implementation of such programs.

"(2) An assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces overseas against terrorist attack, including any modifications to such policies or practices that are proposed or implemented as a result of the assessment.

"(3) An assessment of the procedures of the Department of Defense for determining accountability, if any, in the command structure of the Armed Forces in instances in which a terrorist attack results in the loss of life at an overseas military installation or facility.

"(4) A detailed description of the roles of the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the combatant commanders in providing guidance and support with respect to the protection of members of the Armed Forces deployed overseas against terrorist attack (both before and after the November 1995 bombing in Riyadh, Saudi Arabia) and how these roles have changed since the June 25, 1996, terrorist bombing at Khobar Towers in Dhahran, Saudi Arabia.

"(5) A description of the actions taken by the Secretary of Defense under subsections (a), (b), and (c) to provide adequate troop protection equipment for units of the Armed Forces engaged in a peace operation."

## STUDY OF INVESTIGATIVE PRACTICES OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS RELATING TO SEX CRIMES

Pub. L. 105–85, div. A, title X, §1072, Nov. 18, 1997, 111 Stat. 1898, required the Secretary of Defense to provide for a study to be conducted by the National Academy of Public Administration of the policies, procedures, and practices of the military criminal investigative organizations for the conduct of investigations of complaints of sex crimes and other criminal sexual misconduct arising in the Armed Forces, required the Academy to submit a report to the Secretary not later than one year after Nov. 18, 1997, and directed the Secretary to submit the report and comments on the report to Congress not later than 30 days afterwards.

## ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES

Pub. L. 105–85, div. A, title XIII, §1309, Nov. 18, 1997, 111 Stat. 1956, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

"(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

"(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

"(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

"(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called 'Ottawa process') designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

"(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed antitank mine systems which could be used to deter an armored assault against United States forces.

"(7) The President also announced a change in United States policy whereby the United States—

"(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

"(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

"(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

"(D) would increase its current humanitarian demining activities around the world.

"(8) The President's decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

"(9) Under existing law (as provided in section 580 of Public Law 104–107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

"(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

"(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report concerning antipersonnel landmines. Each such report shall include the Secretary's description of the following:

"(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

"(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

"(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

"(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

"(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President's September 17, 1997, declaration on United States antipersonnel landmine policy.

"(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

"(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

"(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

"(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1309(c) of Pub. L. 105–85, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## HATE CRIMES IN THE MILITARY

Pub. L. 104–201, div. A, title V, §571(a), (b), Sept. 23, 1996, 110 Stat. 2532, which authorized the Secretary of Defense to ensure that the Secretary of each military department conducted ongoing programs for human relations training for all members of the Armed Forces and that prospective recruits be provided with such information, was repealed by Pub. L. 117–81, div. A, title V, §552(b)(2), Dec. 27, 2021, 135 Stat. 1736. See section 2001 of this title, as added by section 552(a) of Pub. L. 117–81.

## ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH

Pub. L. 104–201, div. A, title X, §1041, Sept. 23, 1996, 110 Stat. 2640, required the Secretary of Defense to submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch not later than Mar. 1 of each year and provided for the termination of the requirement with respect to each operation upon the termination of United States involvement in that operation.

## ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS

Pub. L. 104–201, div. A, title X, §1042, Sept. 23, 1996, 110 Stat. 2642, as amended by Pub. L. 106–65, div. A, title X, §1067(5), Oct. 5, 1999, 113 Stat. 774, directed Secretary of Defense to submit to Committees on Armed Services of the Senate and the House of Representatives a report on emerging operational concepts not later than March 1 of each year through 2000, prior to repeal by Pub. L. 106–65, div. A, title II, §241(b), Oct. 5, 1999, 113 Stat. 550.

## GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES

Pub. L. 104–201, div. A, title X, §1065, Sept. 23, 1996, 110 Stat. 2653, as amended by Pub. L. 108–136, div. A, title X, §1031(f)(2), Nov. 24, 2003, 117 Stat. 1604; Pub. L. 109–163, div. A, title IX, §903(c)(2), Jan. 6, 2006, 119 Stat. 3399, which related to participation by a European or Eurasian nation in Marshall Center programs and exemptions for members of Marshall Center Board of Visitors from certain requirements, was repealed by Pub. L. 114–328, div. A, title XII, §1241(e)(5)(B), Dec. 23, 2016, 130 Stat. 2507. See section 342(h)(1), (2) of this title.

Pub. L. 103–337, div. A, title XIII, §1306, Oct. 5, 1994, 108 Stat. 2892, as amended by Pub. L. 108–136, div. A, title XII, §1223, Nov. 24, 2003, 117 Stat. 1652; Pub. L. 109–163, div. A, title IX, §903(c)(1), Jan. 6, 2006, 119 Stat. 3399, which related to waiver of reimbursement of costs of educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union, was repealed by Pub. L. 114–328, div. A, title XII, §1241(e)(5)(C), Dec. 23, 2016, 130 Stat. 2507. See section 342(h)(3) of this title.

## PARTICIPATION OF MEMBERS, DEPENDENTS, AND OTHER PERSONS IN CRIME PREVENTION EFFORTS AT INSTALLATIONS

Pub. L. 104–201, div. A, title X, §1070, Sept. 23, 1996, 110 Stat. 2656, required the development of an incentive-based plan to encourage reporting of criminal activity occurring on military installations or involving members of the Armed Forces and submission to Congress of a report describing the plan by Feb. 1, 1997.

## AVAILABILITY OF LOCATOR INFORMATION FOR ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES

Pub. L. 104–193, title III, §363(a), Aug. 22, 1996, 110 Stat. 2247, as amended by Pub. L. 107–296, title XVII, §1704(e)(1)(A), Nov. 25, 2002, 116 Stat. 2315, provided that:

"(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Homeland Security, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

"(2) TYPE OF ADDRESS.—

"(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

"(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

"(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

"(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

"(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

"(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act [42 U.S.C. 653]."

## REVIEW OF C4I BY NATIONAL RESEARCH COUNCIL

Pub. L. 104–106, div. A, title II, §262, Feb. 10, 1996, 110 Stat. 236, directed the Secretary of Defense, not later than 90 days after Feb. 10, 1996, to request the National Research Council of the National Academy of Sciences to conduct a two-year review of current and planned service and defense-wide programs for

command, control, communications, computers, and intelligence, and required the Secretary to provide that the Council submit interim reports and a final report on the review to the Department of Defense and committees of Congress.

## STRATEGY AND REPORT ON AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 104–106, div. A, title III, §366, Feb. 10, 1996, 110 Stat. 275, directed the Secretary of Defense to develop a strategy for the development or modernization of automated information systems for the Department of Defense and to submit to Congress a report on the development of such strategy not later than Apr. 15, 1996.

## REPORT CONCERNING APPROPRIATE FORUM FOR JUDICIAL REVIEW OF DEPARTMENT OF DEFENSE PERSONNEL ACTIONS

Pub. L. 104–106, div. A, title V, §551, Feb. 10, 1996, 110 Stat. 318, directed the Secretary of Defense to establish an advisory committee to consider issues relating to the appropriate forum for judicial review of Department of Defense administrative personnel actions, required the committee to submit a report to the Secretary of Defense not later than Dec. 15, 1996, required the Secretary to transmit the committee's report to Congress not later than Jan. 1, 1997, and provided for the termination of the committee 30 days after the date of the submission of its report to Congress.

## REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 103–337, div. A, title III, §381, Oct. 5, 1994, 108 Stat. 2738, required determinations, evaluations, and guidance regarding certain automated information systems, establishment of performance measures and management controls, and submission to Congress of reports in 1995, 1996, and 1997.

Pub. L. 104–201, div. A, title VIII, §830, Sept. 23, 1996, 110 Stat. 2614, as amended by Pub. L. 104–208, div. A, title I, §101(f) [title VIII, §808(c)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–394, provided that Secretary of Defense was to include in report submitted in 1997 under section 381(f) of Pub. L. 103–337 [set out above] a discussion of progress made in implementing div. E of Pub. L. 104–106 [§§5001–5703, see Tables for classification] and strategy for development or modernization of automated information systems for Department of Defense, and plans of Department of Defense for establishing an integrated framework for management of information resources within the Department, and provided further specifications of the elements to be included in the discussion.

## ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER

Pub. L. 103–337, div. A, title V, §533, Oct. 5, 1994, 108 Stat. 2760, which provided that the Secretary of Defense was to submit to Congress an annual report on trends in recruiting, retention, and personnel readiness, was repealed by Pub. L. 115–91, div. A, title X, §1051(g), Dec. 12, 2017, 131 Stat. 1563.

## VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE

Pub. L. 103–337, div. A, title V, §534, Oct. 5, 1994, 108 Stat. 2761, provided that:

"(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

"(2) Programs referred to in paragraph (1) are the following:

"(A) Victim and witness assistance programs.

"(B) Family advocacy programs.

"(C) Equal opportunity programs.

"(3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.

"(b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

"(1) Crime.

"(2) Intrafamilial sexual, physical, or emotional abuse.

"(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

"(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of

Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.

"(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

"(d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

"(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

"(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

"(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act [Oct. 5, 1994].

"(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section."

## ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR

Pub. L. 103–337, div. A, title X, §1031, Oct. 5, 1994, 108 Stat. 2838, provided that:

"(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

"(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

"(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

"(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

"(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

"(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

"(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

"(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

"(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'unaccounted-for Korean conflict POW/MIA' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

"(2) The term 'unaccounted-for Cold War POW/MIA' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945,

to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

"(3) The term 'Korean conflict' has the meaning given such term in section 101(9) of title 38, United States Code."

## PLAN REQUIRING DISBURSING OFFICIALS OF DEPARTMENT OF DEFENSE TO MATCH DISBURSEMENTS TO PARTICULAR OBLIGATIONS

Pub. L. 113–76, div. C, title VIII, §8067, Jan. 17, 2014, 128 Stat. 121, provided that: "Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2014."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113–6, div. C, title VIII, §8067, Mar. 26, 2013, 127 Stat. 313.

Pub. L. 112–74, div. A, title VIII, §8068, Dec. 23, 2011, 125 Stat. 822.

Pub. L. 112–10, div. A, title VIII, §8070, Apr. 15, 2011, 125 Stat. 73.

Pub. L. 111–118, div. A, title VIII, §8073, Dec. 19, 2009, 123 Stat. 3445.

Pub. L. 110–329, div. C, title VIII, §8073, Sept. 30, 2008, 122 Stat. 3637.

Pub. L. 110–116, div. A, title VIII, §8076, Nov. 13, 2007, 121 Stat. 1332.

Pub. L. 109–289, div. A, title VIII, §8074, Sept. 29, 2006, 120 Stat. 1291.

Pub. L. 109–148, div. A, title VIII, §8083, Dec. 30, 2005, 119 Stat. 2717.

Pub. L. 108–287, title VIII, §8091, Aug. 5, 2004, 118 Stat. 992.

Pub. L. 108–87, title VIII, §8092, Sept. 30, 2003, 117 Stat. 1094.

Pub. L. 107–248, title VIII, §8098, Oct. 23, 2002, 116 Stat. 1559.

Pub. L. 107–117, div. A, title VIII, §8118, Jan. 10, 2002, 115 Stat. 2273.

Pub. L. 106–259, title VIII, §8137, Aug. 9, 2000, 114 Stat. 704.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8106], Sept. 30, 1996, 110 Stat. 3009–71, 3009–111, as amended by Pub. L. 105–56, title VIII, §8113, Oct. 8, 1997, 111 Stat. 1245; Pub. L. 105–277, div. C, title I, §143, Oct. 21, 1998, 112 Stat. 2681–609; Pub. L. 106–79, title VIII, §8135, Oct. 25, 1999, 113 Stat. 1268, provided that:

"(a) The Secretary of Defense shall require each disbursement by the Department of Defense in an amount in excess of $500,000 be matched to a particular obligation before the disbursement is made.

"(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under section (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such section to that disbursement."

[Section 8113 of Pub. L. 105–56 provided that the amendment made by that section [amending section 101(b) [title VIII, §8106] of Pub. L. 104–208] set out above, is effective June 30, 1998.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8102, Dec. 1, 1995, 109 Stat. 672.

Pub. L. 103–335, title VIII, §8137, Sept. 30, 1994, 108 Stat. 2654.

## NOTICE TO CONGRESS OF PROPOSED CHANGES IN COMBAT ASSIGNMENTS TO WHICH FEMALE MEMBERS MAY BE ASSIGNED

Pub. L. 103–160, div. A, title V, §542, Nov. 30, 1993, 107 Stat. 1659, as amended by Pub. L. 106–398, §1 [[div. A], title V, §573(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136; Pub. L. 107–107, div. A, title V, §591, Dec. 28, 2001, 115 Stat. 1125, which generally required the Secretary of Defense to transmit to the Committees on Armed Services of the Senate and House of Representatives notice of a proposed change in military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that was not open to such assignments, and also required the Secretary to submit to Congress a report providing notice of certain proposed changes to the ground combat exclusion policy, was repealed and restated as section 652 of this title by Pub. L. 109–163, div. A, title V, §541(a)(1), (c), Jan. 6, 2006, 119 Stat. 3251, 3253.

## GENDER-NEUTRAL OCCUPATIONAL PERFORMANCE STANDARDS

Pub. L. 103–160, div. A, title V, §543, Nov. 30, 1993, 107 Stat. 1660, as amended by Pub. L. 113–66, div. A, title V, §523, Dec. 26, 2013, 127 Stat. 756, provided that:

"(a) GENDER NEUTRALITY REQUIREMENT.—In the case of any military career designator that is open to both male and female members of the Armed Forces, the Secretary of Defense—

"(1) shall ensure that qualification of members of the Armed Forces for, and continuance of members of the Armed Forces in, that occupational career field is evaluated on the basis of an occupational standard,

without differential standards or evaluation on the basis of gender;

"(2) may not use any gender quota, goal, or ceiling except as specifically authorized by law; and

"(3) may not change an occupational performance standard for the purpose of increasing or decreasing the number of women in that occupational career field.

"(b) REQUIREMENTS RELATING TO USE OF SPECIFIC PHYSICAL REQUIREMENTS.—(1) For any military career designator for which the Secretary of Defense determines that specific physical requirements for muscular strength and endurance and cardiovascular capacity are essential to the performance of duties, the Secretary shall prescribe specific physical requirements as part of the gender-neutral occupational standard for members in that career designator and shall ensure (in the case of a career designator that is open to both male and female members of the Armed Forces) that those requirements are applied on a gender-neutral basis.

"(2) Whenever the Secretary establishes or revises a physical requirement for a military career designator, a member serving in that military career designator when the new requirement becomes effective, who is otherwise considered to be a satisfactory performer, shall be provided a reasonable period, as determined under regulations prescribed by the Secretary, to meet the standard established by the new requirement. During that period, the new physical requirement may not be used to disqualify the member from continued service in that military career designator.

"(c) NOTICE TO CONGRESS OF CHANGES.—Whenever the Secretary of Defense proposes to implement changes to the gender-neutral occupational standard for a military career designator that are expected to result in an increase, or in a decrease, of at least 10 percent in the number of female members of the Armed Forces who enter, or are assigned to, that military career designator, the Secretary of Defense shall submit to Congress a report providing notice of the change and the justification and rationale for the change. Such changes may then be implemented only after the end of the 60-day period beginning on the date on which such report is submitted.

"(d) DEFINITIONS.—In this section:

"(1) GENDER-NEUTRAL OCCUPATIONAL STANDARD.—The term 'gender-neutral occupational standard', with respect to a military career designator, means that all members of the Armed Forces serving in or assigned to the military career designator must meet the same performance outcome-based standards for the successful accomplishment of the necessary and required specific tasks associated with the qualifications and duties performed while serving in or assigned to the military career designator.

"(2) MILITARY CAREER DESIGNATOR.—The term 'military career designator' refers to—

"(A) in the case of enlisted members and warrant officers of the Armed Forces, military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

"(B) in the case of commissioned officers (other than commissioned warrant officers), officer areas of concentration, occupational specialties, specialty codes, additional skill identifiers, and special qualification identifiers."

## SECURITY CLEARANCES

Pub. L. 103–337, div. A, title X, §1041, Oct. 5, 1994, 108 Stat. 2842, directed the Secretary of Defense to submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

Pub. L. 103–160, div. A, title XI, §1183, Nov. 30, 1993, 107 Stat. 1774, required a review of the procedural safeguards available to Department of Defense civilian employees facing denial or revocation of security clearances, a report on the review by Mar. 1, 1994, and revision of regulations governing security clearance procedures for Department of Defense civilian employees by May 15, 1994.

## FOREIGN LANGUAGE PROFICIENCY TEST PROGRAM

Pub. L. 103–160, div. A, title V, §575, Nov. 30, 1993, 107 Stat. 1675, directed the Secretary of Defense to develop and carry out a test program for improving foreign language proficiency in the Department of Defense through improved management and other measures and to submit a report to committees of Congress not later than Apr. 1, 1994, containing a plan for the program, an explanation of the plan, and a discussion of proficiency pay adjustments, and provided for the program to begin on Oct. 1, 1994, or 180 days after the date of submission of the report and to terminate two years later.

## INVESTIGATIONS OF DEATHS OF MEMBERS OF ARMED FORCES FROM SELF-INFLICTED CAUSES

Pub. L. 103–160, div. A, title XI, §1185, Nov. 30, 1993, 107 Stat. 1774, required the Secretary of Defense

to review, not later than June 30, 1994, the procedures of the military departments for investigating deaths of members of the Armed Forces that may have resulted from self-inflicted causes, to submit to Congress, not later than July 15, 1994, a report on the review, and to prescribe, not later than Oct. 1, 1994, regulations governing the investigation of deaths of members of the Armed Forces that may have resulted from self-inflicted causes, required the Inspector General of the Department of Defense to review certain death investigations, and required the Secretary of Transportation to implement with respect to the Coast Guard the requirements that were imposed on the Secretary of Defense and the Inspector General of the Department of Defense.

## PROGRAM TO COMMEMORATE WORLD WAR II

Pub. L. 102–484, div. A, title III, §378, Oct. 23, 1992, 106 Stat. 2387, as amended by Pub. L. 103–337, div. A, title III, §382(a), Oct. 5, 1994, 108 Stat. 2740, authorized the Secretary of Defense, during fiscal years 1993 through 1996, to conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate commemoration programs and activities of Federal, State, and local governments.

## REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS

Pub. L. 102–484, div. A, title III, §383, Oct. 23, 1992, 106 Stat. 2392, required a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

## REPORT ON ACTIONS TO REDUCE DISINCENTIVES FOR DEPENDENTS TO REPORT ABUSE BY MEMBERS OF ARMED FORCES

Pub. L. 102–484, div. A, title VI, §653(d), Oct. 23, 1992, 106 Stat. 2429, directed the Secretary of Defense to transmit a report to Congress not later than Dec. 15, 1993, on actions that had been taken and were planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse.

## SURVIVOR NOTIFICATION AND ACCESS TO REPORTS RELATING TO SERVICE MEMBERS WHO DIE

Pub. L. 102–484, div. A, title X, §1072, Oct. 23, 1992, 106 Stat. 2508, provided that:

"(a) AVAILABILITY OF FATALITY REPORTS AND RECORDS.—

"(1) REQUIREMENT.—The Secretary of each military department shall ensure that fatality reports and records pertaining to any member of the Armed Forces who dies in the line of duty shall be made available to family members of the service member in accordance with this subsection.

"(2) INFORMATION TO BE PROVIDED AFTER NOTIFICATION OF DEATH.—Within a reasonable period of time after family members of a service member are notified of the member's death, but not more than 30 days after the date of notification, the Secretary concerned shall ensure that the family members—

"(A) in any case in which the cause or circumstances surrounding the death are under investigation, are informed of that fact, of the names of the agencies within the Department of Defense conducting the investigations, and of the existence of any reports by such agencies that have been or will be issued as a result of the investigations; and

"(B) are furnished, if the family members so desire, a copy of any completed investigative report and any other completed fatality reports that are available at the time family members are provided the information described in subparagraph (A) to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

"(3) ASSISTANCE IN OBTAINING REPORTS.—(A) In any case in which an investigative report or other fatality reports are not available at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death, the Secretary concerned shall ensure that a copy of such investigative report and any other fatality reports are furnished to the family members, if they so desire, when the reports are completed and become available, to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

"(B) In any case in which an investigative report or other fatality reports cannot be released at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death because of section 552 or 552a of title 5, United States Code, the Secretary concerned shall ensure that the family members—

"(i) are informed about the requirements and procedures necessary to request a copy of such reports; and

"(ii) are assisted, if the family members so desire, in submitting a request in accordance with such requirements and procedures.

"(C) The requirement of subparagraph (B) to inform and assist family members in obtaining copies of fatality reports shall continue until a copy of each report is obtained, or access to any such report is denied by competent authority within the Department of Defense.

"(4) WAIVER.—The requirements of paragraph (2) or (3) may be waived on a case-by-case basis, but only if the Secretary of the military department concerned determines that compliance with such requirements is not in the interests of national security.

"(b) REVIEW OF COMBAT FATALITY NOTIFICATION PROCEDURES.—

"(1) REVIEW.—The Secretary of Defense shall conduct a review of the fatality notification procedures used by the military departments. Such review shall examine the following matters:

"(A) Whether uniformity in combat fatality notification procedures among the military departments is desirable, particularly with respect to—

"(i) the use of one or two casualty notification and assistance officers;

"(ii) the use of standardized fatality report forms and witness statements;

"(iii) the use of a single center for all military departments through which combat fatality information may be processed; and

"(iv) the use of uniform procedures and the provision of a dispute resolution process for instances in which members of one of the Armed Forces inflict casualties on members of another of the Armed Forces.

"(B) Whether existing combat fatality report forms should be modified to include a block or blocks with which to identify the cause of death as 'friendly fire', 'U.S. ordnance', or 'unknown'.

"(C) Whether the existing 'Emergency Data' form prepared by members of the Armed Forces should be revised to allow members to specify provision for notification of additional family members in cases such as the case of a divorced service member who leaves children with both a current and a former spouse.

"(D) Whether the military departments should, in all cases, provide family members of a service member who died as a result of injuries sustained in combat with full and complete details of the death of the service member, regardless of whether such details may be graphic, embarrassing to the family members, or reflect negatively on the military department concerned.

"(E) Whether, and when, the military departments should inform family members of a service member who died as a result of injuries sustained in combat about the possibility that the death may have been the result of friendly fire.

"(F) The criteria and standards which the military departments should use in deciding when disclosure is appropriate to family members of a member of the military forces of an allied nation who died as a result of injuries sustained in combat when the death may have been the result of fire from United States armed forces and an investigation into the cause or circumstances of the death has been conducted.

"(2) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review conducted under paragraph (1). Such report shall be submitted not later than March 31, 1993, and shall include recommendations on the matters examined in the review and on any other matters the Secretary determines to be appropriate based upon the review or on any other reviews undertaken by the Department of Defense.

"(c) DEFINITIONS.—In this section:

"(1) The term 'fatality reports' includes investigative reports and any other reports pertaining to the cause or circumstances of death of a member of the Armed Forces in the line of duty (such as autopsy reports, battlefield reports, and medical reports).

"(2) The term 'family members' means parents, spouses, adult children, and such other relatives as the Secretary concerned considers appropriate.

"(d) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies with respect to deaths of members of the Armed Forces occurring after the date of the enactment of this Act [Oct. 23, 1992].

"(2) With respect to deaths of members of the Armed Forces occurring before the date of the enactment of this Act, the Secretary concerned shall provide fatality reports to family members upon request as promptly as practicable."

## LIMITATION ON SUPPORT FOR UNITED STATES CONTRACTORS SELLING ARMS OVERSEAS

Pub. L. 102–484, div. A, title X, §1082, Oct. 23, 1992, 106 Stat. 2516, as amended by Pub. L. 108–136, div.

A, title X, §1031(d)(2), Nov. 24, 2003, 117 Stat. 1604, provided that:

"(a) SUPPORT FOR CONTRACTORS.—In the event that a United States defense contractor or industrial association requests the Department of Defense or a military department to provide support in the form of military equipment for any airshow or trade exhibition to be held outside the United States, such equipment may not be supplied unless the contractor or association agrees to reimburse the Treasury of the United States for—

"(1) all incremental costs of military personnel accompanying the equipment, including food, lodging, and local transportation;

"(2) all incremental transportation costs incurred in moving such equipment from its normally assigned location to the airshow or trade exhibition and return; and

"(3) any other miscellaneous incremental costs not included under paragraphs (1) and (2) that are incurred by the Federal Government but would not have been incurred had military support not been provided to the contractor or industrial association.

"(b) DEPARTMENT OF DEFENSE EXHIBITIONS.—(1) A military department may not participate directly in any airshow or trade exhibition held outside the United States unless the Secretary of Defense determines that it is in the national security interests of the United States for the military departments to do so.

"(2) The Secretary of Defense may not delegate the authority to make the determination referred to in paragraph (1)(A) [now par. (1)] below the level of the Under Secretary of Defense for Policy.

"(c) DEFINITION.—In this section, the term 'incremental transportation cost' includes the cost of transporting equipment to an airshow or trade exhibition only to the extent that the provision of transportation by the Department of Defense described in subsection (a)(2) does not fulfill legitimate training requirements that would otherwise have to be met."

## OVERSEAS MILITARY END STRENGTH

Pub. L. 102–484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which provided that on and after Sept. 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on Sept. 30, 1992, with exceptions in the event of declarations of war or emergency, was repealed and restated as section 123b of this title by Pub. L. 103–337, §1312(a), (c).

## REPORTS ON OVERSEAS BASING

Pub. L. 111–84, div. A, title X, §1063, Oct. 28, 2009, 123 Stat. 2469, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(14), Jan. 7, 2011, 124 Stat. 4373, required a report on the plan for basing of forces outside the United States to be submitted along with the 2009 quadrennial defense review and required the Secretary of Defense to notify Congress at least 30 days before the permanent relocation of a unit stationed outside the United States as of Oct. 28, 2009.

Pub. L. 102–484, div. A, title XIII, §1304, Oct. 23, 1992, 106 Stat. 2546, as amended by Pub. L. 103–160, div. B, title XXIX, §2924(a), Nov. 30, 1993, 107 Stat. 1931; Pub. L. 104–106, div. A, title XV, §1502(c)(2)(A), Feb. 10, 1996, 110 Stat. 506, required annual reports through 1997 relating to basing plans, closures, and negotiations regarding military installations located outside the United States and required a report on the Federal budget implications before a basing agreement was entered into between the United States and a foreign country.

## COMMISSION ON ASSIGNMENT OF WOMEN IN ARMED FORCES

Pub. L. 102–190, div. A, title V, part D, subpart 2, Dec. 5, 1991, 105 Stat. 1365, provided for the creation of a Commission on the Assignment of Women in the Armed Forces to assess the laws and policies restricting the assignment of female service members and the implications, if any, for the combat readiness of the Armed Forces of permitting female members to qualify for assignment to positions in some or all categories of combat positions, with a report to be submitted to the President no later than Nov. 15, 1992, and to the Congress no later than Dec. 15, 1992, containing recommendations as to what roles female members should have in combat and what laws and policies restricting such assignments should be repealed or modified, and further provided for powers and procedures of the Commission, personnel matters, payment of Commission expenses and other miscellaneous administrative provisions, termination of the Commission 90 days after submission of its final report, and test assignments of female service members to combat positions.

## REQUIREMENTS RELATING TO EUROPEAN MILITARY PROCUREMENT PRACTICES

Pub. L. 102–190, div. A, title VIII, §832, Dec. 5, 1991, 105 Stat. 1446, required various reviews relating to European procurement of American-made military goods and services and established a defense trade and

cooperation working group.

## DEPARTMENT OF DEFENSE USE OF NATIONAL INTELLIGENCE COLLECTION SYSTEMS

Pub. L. 102–190, div. A, title IX, §924, Dec. 5, 1991, 105 Stat. 1454, required procedures for exercising national intelligence collection systems and exploitation organizations and required a report to be submitted to Congress no later than May 1, 1992.

## FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION

Pub. L. 102–190, div. A, title X, §1083, Dec. 5, 1991, 105 Stat. 1482, authorized the President to establish a support center for families of prisoners of war or those missing in action in Southeast Asia.

## REPORTS ON FOREIGN CONTRIBUTIONS AND COSTS OF OPERATION DESERT STORM

Pub. L. 102–25, title IV, Apr. 6, 1991, 105 Stat. 99, directed Director of Office of Management and Budget to submit to Congress a number of reports on incremental costs associated with Operation Desert Storm and amounts of contributions made to United States by foreign countries to offset those costs, with a final report due not later than Nov. 15, 1992, and directed Secretary of State and Secretary of the Treasury to jointly submit to Congress a number of reports on contributions made by foreign countries as part of international response to Persian Gulf crisis, with a final report due not later than Nov. 15, 1992.

## CHILD CARE ASSISTANCE TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY DURING PERSIAN GULF CONFLICT

Pub. L. 102–25, title VI, §601, Apr. 6, 1991, 105 Stat. 105, as amended by Pub. L. 102–190, div. A, title X, §1063(d)(1), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 102–484, div. A, title X, §1053(8), Oct. 23, 1992, 106 Stat. 2502, authorized the Secretary of Defense to provide child care assistance for families of members of the Armed Forces and the National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm.

## FAMILY EDUCATION AND SUPPORT SERVICES TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY IN OPERATION DESERT STORM

Pub. L. 102–25, title VI, §602, Apr. 6, 1991, 105 Stat. 106, as amended by Pub. L. 102–190, div. A, title X, §1063(d)(2), Dec. 5, 1991, 105 Stat. 1476, authorized the Secretary of Defense to provide assistance to families of members of the Armed Forces and National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm in order to ensure that they would receive educational assistance and support services necessary to meet needs.

## WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

Pub. L. 102–25, title VI, §608, Apr. 6, 1991, 105 Stat. 112, related to withholding payments to nations pledging to contribute to certain expenses of Operation Desert Shield but not paying the full amount pledged.

## PROGRAMMING LANGUAGE FOR DEPARTMENT OF DEFENSE SOFTWARE

Pub. L. 102–396, title IX, §9070, Oct. 6, 1992, 106 Stat. 1918, provided that: "Notwithstanding any other provision of law, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–172, title VIII, §8073, Nov. 26, 1991, 105 Stat. 1188.

Pub. L. 101–511, title VIII, §8092, Nov. 5, 1990, 104 Stat. 1896.

## CONTRIBUTIONS BY JAPAN TO SUPPORT OF UNITED STATES FORCES IN JAPAN

Pub. L. 101–511, title VIII, §8105, Nov. 5, 1990, 104 Stat. 1902, as amended by Pub. L. 102–190, div. A, title X, §1063(b), Dec. 5, 1991, 105 Stat. 1476, provided that:

"(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

"(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the

direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

"(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

"(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

"(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Nov. 5, 1990]."

Pub. L. 101–510, div. A, title XIV, §1455, Nov. 5, 1990, 104 Stat. 1695, provided that:

"(a) PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

"(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

"(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

"(2) It is the sense of Congress that—

"(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

"(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

"(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act [Nov. 5, 1990], the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

"(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

"(2) This section may be waived by the President if the President—

"(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

"(B) immediately informs the Congress of the waiver and the reasons for the waiver."

## NATIONAL MILITARY STRATEGY REPORTS

Pub. L. 101–510, div. A, title IX, §901, Nov. 5, 1990, 104 Stat. 1619, directed the Secretary of Defense to submit, with the Secretary's annual report to Congress during each of fiscal years 1992, 1993, and 1994, a report covering a period of at least ten years addressing threats facing the United States and strategic military plans to aid in the achievement of national objectives.

## ANNUAL REPORT ON BALANCED TECHNOLOGY INITIATIVE

Pub. L. 101–189, div. A, title II, §211(e), Nov. 29, 1989, 103 Stat. 1394, which required Secretary of Defense to submit annual report to congressional defense committees on Balanced Technology Initiative, was repealed by Pub. L. 104–106, div. A, title X, §1061(l), Feb. 10, 1996, 110 Stat. 443.

## MILITARY RELOCATION ASSISTANCE PROGRAMS

Pub. L. 101–189, div. A, title VI, §661, Nov. 29, 1989, 103 Stat. 1463, which related to establishment by

Secretary of Defense of programs to provide relocation assistance to members of Armed Forces and their families, was repealed and restated in section 1056 of this title by Pub. L. 101–510, div. A, title XIV, §1481(c)(1), (3), Nov. 5, 1990, 104 Stat. 1705.

## MILITARY CHILD CARE

Pub. L. 101–189, div. A, title XV, Nov. 29, 1989, 103 Stat. 1589, which provided that such title could be cited as the "Military Child Care Act of 1989", and which related to funding for military child care for fiscal year 1990, child care employees, parent fees, child abuse prevention and safety at facilities, parent partnerships with child development centers, report on 5-year demand for child care, subsidies for family home day care, early childhood education demonstration program, and deadline for regulations, was repealed and restated in subchapter II (§1791 et seq.) of chapter 88 of this title by Pub. L. 104–106, div. A, title V, §568(a)(1), (e)(2), Feb. 10, 1996, 110 Stat. 331, 336.

## LEAD AGENCY FOR DETECTION OF TRANSIT OF ILLEGAL DRUGS

Pub. L. 100–456, div. A, title XI, §1102, Sept. 29, 1988, 102 Stat. 2042, which designated the Department of Defense as the single lead agency of the Federal Government for detection and monitoring of aerial and maritime transit of illegal drugs into the United States, was repealed and restated as section 124 of this title by Pub. L. 101–189, §1202(a)(1), (b).

## ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN PHILIPPINES

Pub. L. 100–456, div. A, title XIII, §1309, Sept. 29, 1988, 102 Stat. 2063, directed Secretary of Defense to submit to Congress annual reports assessing security at United States military facilities in Republic of Philippines, prior to repeal by Pub. L. 102–484, div. A, title X, §1074, Oct. 23, 1992, 106 Stat. 2511.

## DEPARTMENT OF DEFENSE OVERSEAS PERSONNEL; ACTIONS RESULTING IN MORE BALANCED SHARING OF DEFENSE AND FOREIGN ASSISTANCE SPENDING BURDENS BY UNITED STATES AND ALLIES; REPORTS TO CONGRESS; LIMITATION ON ACTIVE DUTY ARMED FORCES MEMBERS IN JAPAN AND REPUBLIC OF KOREA

Pub. L. 100–463, title VIII, §8125, Oct. 1, 1988, 102 Stat. 2270–41, as amended by Pub. L. 101–189, div. A, title XVI, §1623, Nov. 29, 1989, 103 Stat. 1606; Pub. L. 103–236, title I, §162(j), Apr. 30, 1994, 108 Stat. 408; Pub. L. 104–106, div. A, title XV, §1502(f)(1), Feb. 10, 1996, 110 Stat. 509; Pub. L. 106–65, div. A, title X, §1067(14), Oct. 5, 1999, 113 Stat. 775, provided that:

"(a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

"(2) The report shall include a discussion of the following:

"(A) The current assignment of military missions among the member countries of NATO.

"(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

"(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

"(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

"(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

"[(c) Repealed. Pub. L. 103–236, title I, §162(j), Apr. 30, 1994, 108 Stat. 408.]

"(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in each budget submitted to Congress under section 1105 of title 31, United States Code, (1) the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and (2) the costs for all dependents who accompany Department of Defense personnel outside the Unied [sic] States.

"(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total

costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

"(f) As of September 30 of each fiscal year, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation in the preceding sentence may be increased if and when (1) a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and (2) the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

"(g)(1) After fiscal year 1990, budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989 and shall set forth a detailed description of (A) the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

"(2) The Secretary of Defense shall notify in advance the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives, through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore outside the United States will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

"(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

"(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

"(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

"(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

"(i) In this section—

"(1) the term 'personnel' means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

"(2) the term 'Department of Defense overseas personnel' means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

"(3) the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States."

## ANNUAL REPORT ON COSTS OF STATIONING UNITED STATES TROOPS OVERSEAS

Pub. L. 100–202, §101(b) [title VIII, §8042], Dec. 22, 1987, 101 Stat. 1329–43, 1329–69, which required Secretary of Defense to submit annual report on full costs of stationing United States troops overseas, etc., was repealed and restated in subsec. (k) [now (j)] of this section by Pub. L. 100–370, §1(o).

## REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Pub. L. 100–180, div. A, title VI, §637, Dec. 4, 1987, 101 Stat. 1106, required the Secretary of Defense to prescribe regulations regarding employment and volunteer work of spouses of military personnel by no later than 60 days after Dec. 4, 1987.

## TEST PROGRAM FOR REIMBURSEMENT FOR ADOPTION EXPENSES

Pub. L. 100–180, div. A, title VI, §638, Dec. 4, 1987, 101 Stat. 1106, as amended by Pub. L. 101–189, div. A, title VI, §662, Nov. 29, 1989, 103 Stat. 1465; Pub. L. 101–510, div. A, title XIV, §1484(l)(1), Nov. 5, 1990, 104 Stat. 1719, provided that the Secretary of Defense, with respect to members of the Armed Forces, and the Secretary of Transportation, with respect to members of the Coast Guard, were to carry out a test program providing for reimbursement for qualifying adoption expenses incurred by members of the Army, Navy, Air Force, or Marine Corps for adoption proceedings initiated after Sept. 30, 1987, and before Oct. 1,

1990, and for qualifying adoption expenses incurred by members of the Coast Guard for adoption proceedings initiated after Sept. 30, 1989, and before Oct. 1, 1990.

## COUNTERINTELLIGENCE POLYGRAPH PROGRAM

Pub. L. 100–180, div. A, title XI, §1121, Dec. 4, 1987, 101 Stat. 1147, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(5), Nov. 18, 1997, 111 Stat. 1906, which provided for a counterintelligence polygraph program to be carried out by the Secretary of Defense, was repealed and restated in section 1564a of this title by Pub. L. 108–136, div. A, title X, §1041(a)(1),(b), Nov. 24, 2003, 117 Stat. 1607, 1608.

## COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

Pub. L. 99–661, div. A, title VI, §612, Nov. 14, 1986, 100 Stat. 3878, provided that: "The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents."

## COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

Pub. L. 99–500, §101(c) [title X, §955], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, and Pub. L. 99–591, §101(c) [title X, §955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, §955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, which provided that in preparing the defense budget for any fiscal year, the Secretary of Defense was to specifically identify each common procurement weapon system included in the budget, take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system, and identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems, and that the Secretary of Defense carry out this section through the Assistant Secretary of Defense (Comptroller), was repealed and restated in section 2217 of this title by Pub. L. 100–370, §1(d)(3).

## ANNUAL REPORT TO CONGRESS ON IMPLEMENTATION OF JOINT OFFICER PERSONNEL POLICY

Pub. L. 99–433, title IV, §405, Oct. 1, 1986, 100 Stat. 1032, required the Secretary of Defense to include in the Secretary's annual report to Congress under subsec. (c) of this section for each year from 1987 through 1991 a detailed report on the implementation of title IV of Pub. L. 99–433.

## INITIAL REPORT TO CONGRESS

Pub. L. 99–433, title IV, §406(g), Oct. 1, 1986, 100 Stat. 1034, required that the first report submitted by the Secretary of Defense under subsec. (c) of this section after Oct. 1, 1986, would contain as much of the information required by former section 667 of this title as had been available to the Secretary at the time of its preparation.

## SECURITY AT MILITARY BASES ABROAD

Pub. L. 99–399, title XI, Aug. 27, 1986, 100 Stat. 894, directed the Secretary of Defense to report to Congress not later than June 30, 1987, on actions taken to review the security of each base and installation of the Department of Defense outside the United States, to improve the security of such bases and installations, and to institute a training program for members of the Armed Forces stationed outside the United States and their families concerning security and antiterrorism.

## SURCHARGE FOR SALES BY ANIMAL DISEASE PREVENTION AND CONTROL CENTERS; FEE FOR VETERINARY SERVICES

Pub. L. 99–145, title VI, §685(a), (b), (d), Nov. 8, 1985, 99 Stat. 666, provided that:

"(a) REQUIRED SURCHARGE.—The Secretary of Defense shall require that each time a sale is recorded at a military animal disease prevention and control center the person to whom the sale is made shall be charged a surcharge of $2.

"(b) DEPOSIT OF RECEIPTS IN TREASURY.—Amounts received from surcharges under this section shall be deposited in the Treasury in accordance with section 3302 of title 31."

"(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1985."

Pub. L. 98–94, title X, §1033, Sept. 24, 1983, 97 Stat. 672, as amended by Pub. L. 98–525, title VI, §656, Oct. 19, 1984, 98 Stat. 2553, effective Oct. 1, 1985, required payment by a member of the Armed Forces of a $10 fee for veterinary services, prior to repeal by Pub. L. 99–145, title VI, §685(c), (d), Nov. 8, 1985, 99 Stat.

666, effective Oct. 1, 1985.

## MILITARY FAMILY POLICY AND PROGRAMS

Pub. L. 99–145, title VIII, Nov. 8, 1985, 99 Stat. 678, as amended by Pub. L. 99–661, div. A, title VI, §653, Nov. 14, 1986, 100 Stat. 3890; Pub. L. 100–180, div. A, title VI, §635, Dec. 4, 1987, 101 Stat. 1106; Pub. L. 100–456, div. A, title V, §524, Sept. 29, 1988, 102 Stat. 1975, which provided that such title could be cited as the "Military Family Act of 1985", and which related to Office of Family Policy, transfer of Military Family Resource Center, surveys of military families, family members serving on advisory committees, employment opportunities for military spouses, youth sponsorship program, dependent student travel within United States, relocation and housing, food programs, reporting of child abuse, miscellaneous reporting requirements, and effective date, was repealed and restated in subchapter I (§1781 et seq.) of chapter 88 of this title by Pub. L. 104–106, div. A, title V, §568(a)(1), (e)(1), Feb. 10, 1996, 110 Stat. 329, 336.

## PROHIBITION OF CERTAIN RESTRICTIONS ON INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES; PROVISION OF OFF-DUTY POSTSECONDARY EDUCATION SERVICES OVERSEAS

Pub. L. 99–145, title XII, §1212, Nov. 8, 1985, 99 Stat. 726, as amended by Pub. L. 101–189, div. A, title V, §518, Nov. 29, 1989, 103 Stat. 1443, provided that:

"(a) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

"(b) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

"(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 [probably means date of enactment of Pub. L. 101–189, Nov. 29, 1989] with respect to the procurement of such services are—

"(A) consistent with the provisions of subsections (a) and (b);

"(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

"(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

"(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

"(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

"(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

"(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

"(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph [Nov. 29, 1989] may be renewed or extended on or after such date, until the end of the 60-day

period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

"(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

"(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph [Nov. 29, 1989], the contract may be awarded—

"(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

"(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

"(iii) on the basis of a new solicitation.

"(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel."

## REPORT OF UNOBLIGATED BALANCES

Pub. L. 99–145, title XIV, §1407, Nov. 8, 1985, 99 Stat. 745, required reports on unobligated balances, prior to repeal by Pub. L. 99–661, div. A, title XIII, §1307(b), Nov. 14, 1986, 100 Stat. 3981.

## DEFENSE INDUSTRIAL BASE FOR TEXTILE AND APPAREL PRODUCTS

Pub. L. 99–145, title XIV, §1456, Nov. 8, 1985, 99 Stat. 762, which directed Secretary of Defense to monitor capability of domestic textile and apparel industrial base to support defense mobilization requirements and to make annual reports to Congress on status of such industrial base, was repealed and restated in section 2510 of this title by Pub. L. 101–510, §826(a)(1), (b). Section 2510 of this title was repealed by Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659.

## HOTLINE BETWEEN UNITED STATES AND RUSSIA

Pub. L. 99–85, Aug. 8, 1985, 99 Stat. 286, as amended by Pub. L. 103–199, title IV, §404(a), Dec. 17, 1993, 107 Stat. 2325, provided: "That the Secretary of Defense may provide to Russia, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Russian part of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to Russia at the cost thereof to the United States.

"SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

"(b) Funds received from Russia as payment for such equipment and services shall be credited to the appropriate account of Department of Defense."

[Pub. L. 103–199, title IV, §404(b), Dec. 17, 1993, 107 Stat. 2325, provided that: "The amendment made by subsection (a)(2) [amending section 2(b) of Pub. L. 99–85, set out above] does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union."]

## CONSOLIDATION OF FUNCTIONS OF MILITARY TRANSPORTATION COMMANDS PROHIBITED

Pub. L. 97–252, title XI, §1110, Sept. 8, 1982, 96 Stat. 747, provided that none of funds appropriated pursuant to an authorization of appropriations could be used for purpose of consolidating any functions being performed on Sept. 8, 1982, by Military Traffic Management Command of Army, Military Sealift Command of Navy, or Military Airlift Command of Air Force with any function being performed on such date by either or both of the other commands, prior to repeal by Pub. L. 99–433, title II, §213(a), Oct. 1, 1986, 100 Stat. 1018.

## REPORTS TO CONGRESS ON RECOMMENDATIONS WITH RESPECT TO ELIMINATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT IN DEPARTMENT OF DEFENSE

Pub. L. 97–86, title IX, §918, Dec. 1, 1981, 95 Stat. 1132, directed Secretary of Defense, not later than Jan. 15, 1982 and 1983, to submit to Congress reports containing recommendations to improve efficiency and management of, and to eliminate waste, fraud, abuse, and mismanagement in, operation of Department of Defense, and to include each recommendation by Comptroller General since Jan. 1, 1979, for elimination of

waste, fraud, abuse, or mismanagement in Department of Defense with a statement as to which have been adopted and, to extent practicable actual and projected cost savings from each, and which have not been adopted and, to extent practicable, projected cost savings from each and an explanation of why each such recommendation was not adopted.

### MILITARY INSTALLATIONS TO BE CLOSED IN UNITED STATES, GUAM, OR PUERTO RICO; STUDIES TO DETERMINE POTENTIAL USE

Pub. L. 94–431, title VI, §610, Sept. 30, 1976, 90 Stat. 1365, authorized Secretary of Defense to conduct studies with regard to possible use of military installations being closed and to make recommendations with regard to such installations, prior to repeal by Pub. L. 97–86, title IX, §912(b), Dec. 1, 1981, 95 Stat. 1123. See section 2391 of this title.

### REPORTS TO CONGRESSIONAL COMMITTEES ON FOREIGN POLICY AND MILITARY FORCE STRUCTURE

Pub. L. 94–106, title VIII, §812, Oct. 7, 1975, 89 Stat. 540, which directed Secretary of Defense, after consultation with Secretary of State, to prepare and submit not later than January 31 of each year to Committees on Armed Services of Senate and House of Representatives a written annual report on foreign policy and military force structure of United States for next fiscal year, how such policy and force structure relate to each other, and justification for each, was repealed and restated as subsec. (e) of section 133 [now §113] of this title by Pub. L. 97–295, §§1(1), 6(b).

### REPORT TO CONGRESS ON SALE OR TRANSFER OF DEFENSE ARTICLES

Pub. L. 94–106, title VIII, §813, Oct. 7, 1975, 89 Stat. 540, as amended by Pub. L. 95–79, title VIII, §814, July 30, 1977, 91 Stat. 337; Pub. L. 97–252, title XI, §1104, Sept. 8, 1982, 96 Stat. 739, which directed Secretary of Defense to report to Congress on any letter proposing to transfer $50,000,000 or more of defense articles, detailing impact of such a sale on readiness, adequacy of price for replacement, and armed forces needs and supply for each article, was repealed and restated as section 133b (renumbered §118 and repealed) of this title by Pub. L. 97–295, §§1(2)(A), 6(b).

### PROCUREMENT OF AIRCRAFT, MISSILES, NAVAL VESSELS, TRACKED COMBAT VEHICLES, AND OTHER WEAPONS; AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT, RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES; SELECTED RESERVE OF RESERVE COMPONENTS: ANNUAL AUTHORIZATION OF PERSONNEL STRENGTH

Pub. L. 86–149, title IV, §412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87–436, §2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88–174, title VI, §610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89–37, title III, §304, June 11, 1965, 79 Stat. 128; Pub. L. 90–168, §6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91–121, title IV, §405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–441, title V, §§505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92–129, title VII, §701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92–436, title III, §302, title VI, §604, Sept. 26, 1972, 86 Stat. 736, 739, was repealed by Pub. L. 93–155, title VIII, §803(b)(1), Nov. 16, 1973, 87 Stat. 615. See sections 114 to 116 of this title.

### REGULATIONS GOVERNING LIQUOR SALES; PENALTIES

Act June 19, 1951, ch. 144, title I, §6, 65 Stat. 88, as amended by Pub. L. 99–145, title XII, §1224(b)(2), Nov. 8, 1985, 99 Stat. 729, provided that: "Subject to section 2683(c) of title 10, United States Code, the Secretary of Defense is authorized to make such regulations as he may deem to be appropriate governing the sale, consumption, possession of or traffic in beer, wine, or any other intoxicating liquors to or by members of the Armed Forces or the National Security Training Corps at or near any camp, station, post, or other place primarily occupied by members of the Armed Forces or the National Security Training Corps. Any person, corporation, partnership, or association who knowingly violates the regulations which may be made hereunder shall, unless otherwise punishable under the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], be deemed guilty of a misdemeanor and be punished by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both."

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under various sections delegated to Secretary of Defense, see Ex. Ord. No. 10621,

July 1, 1955, 20 F.R. 4759, as amended by Ex. Ord. No. 11294, Aug. 4, 1966, 31 F.R. 10601; see Ex. Ord. No. 10661, Feb. 27, 1956, 21 F.R. 1315; see Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841; all set out as notes under section 301 of Title 3, The President.

## EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Defense, see Parts 1, 2, and 5 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

## ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## COMMEMORATION OF THE 50TH ANNIVERSARY OF THE VIETNAM WAR

Proc. No. 8829, May 25, 2012, 77 F.R. 32875, provided:

As we observe the 50th anniversary of the Vietnam War, we reflect with solemn reverence upon the valor of a generation that served with honor. We pay tribute to the more than 3 million servicemen and women who left their families to serve bravely, a world away from everything they knew and everyone they loved. From Ia Drang to Khe Sanh, from Hue to Saigon and countless villages in between, they pushed through jungles and rice paddies, heat and monsoon, fighting heroically to protect the ideals we hold dear as Americans. Through more than a decade of combat, over air, land, and sea, these proud Americans upheld the highest traditions of our Armed Forces.

As a grateful Nation, we honor more than 58,000 patriots—their names etched in black granite—who sacrificed all they had and all they would ever know. We draw inspiration from the heroes who suffered unspeakably as prisoners of war, yet who returned home with their heads held high. We pledge to keep faith with those who were wounded and still carry the scars of war, seen and unseen. With more than 1,600 of our service members still among the missing, we pledge as a Nation to do everything in our power to bring these patriots home. In the reflection of The Wall, we see the military family members and veterans who carry a pain that may never fade. May they find peace in knowing their loved ones endure, not only in medals and memories, but in the hearts of all Americans, who are forever grateful for their service, valor, and sacrifice.

In recognition of a chapter in our Nation's history that must never be forgotten, let us renew our sacred commitment to those who answered our country's call in Vietnam and those who awaited their safe return. Beginning on Memorial Day 2012, the Federal Government will partner with local governments, private organizations, and communities across America to participate in the Commemoration of the 50th Anniversary of the Vietnam War—a 13-year program to honor and give thanks to a generation of proud Americans who saw our country through one of the most challenging missions we have ever faced. While no words will ever be fully worthy of their service, nor any honor truly befitting their sacrifice, let us remember that it is never too late to pay tribute to the men and women who answered the call of duty with courage and valor. Let us renew our commitment to the fullest possible accounting for those who have not returned. Throughout this Commemoration, let us strive to live up to their example by showing our Vietnam veterans, their families, and all who have served the fullest respect and support of a grateful Nation.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 28, 2012, through November 11, 2025, as the Commemoration of the 50th Anniversary of the Vietnam War. I call upon Federal, State, and local officials to honor our Vietnam veterans, our fallen, our wounded, those unaccounted for, our former prisoners of war, their families, and all who served with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

BARACK OBAMA.

## EX. ORD. NO. 14185. RESTORING AMERICA'S FIGHTING FORCE

Ex. Ord. No. 14185, Jan. 27, 2025, 90 F.R. 8763, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. As Chief Executive and as Commander in Chief, I am committed to meritocracy and

to the elimination of race-based and sex-based discrimination within the Armed Forces of the United States. No individual or group within our Armed Forces should be preferred or disadvantaged on the basis of sex, race, ethnicity, color, or creed.

Unfortunately, in recent years civilian and uniformed leadership alike have implemented Diversity, Equity, and Inclusion (DEI) programs and their attendant race and sex preferences within the Armed Forces. These actions undermine leadership, merit, and unit cohesion, thereby eroding lethality and force readiness. They also violate Americans' consciences by engaging in invidious race and sex discrimination.

SEC. 2. *Policy*. It is the policy of my Administration that the Department of Defense, the Department of Homeland Security with regard to the United States Coast Guard (USCG), and every element of the Armed Forces should operate free from any preference based on race or sex.

SEC. 3. *Definitions*. (a) A "DEI office" means an office, division, job, or other unit of an institution established for the purpose of:

(i) influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes; or

(ii) promoting differential treatment of or providing special benefits to individuals on the basis of race, sex, color, or ethnicity.

(b) The term "gender ideology" has the meaning given to that term in section 2(f) of the Executive Order of January 20, 2025, (Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government) [5 U.S.C. 601 note].

(c) The term "divisive concepts" has the meaning given to that term in section 2(a) of Executive Order 13950 of September 22, 2020 (Combating Race and Sex Stereotyping) [former 5 U.S.C. 4103 note].

SEC. 4. *Abolishing the DEI Bureaucracy*. The Secretary of Defense and the Secretary of Homeland Security shall abolish every DEI office within the Department of Defense and the Department of Homeland Security with regard to the USCG, respectively, including any vestiges of DEI offices, such as sub-offices, programs, elements, or initiatives established to promote a race-based preferences system that subverts meritocracy, perpetuates unconstitutional discrimination, and promotes divisive concepts or gender ideology.

SEC. 5. *Department of Defense Internal Review*. The Secretary of Defense shall conduct an internal review that documents actions taken in pursuit of DEI initiatives, including all instances of race and sex discrimination and activities designed to promote a race- or sex-based preferences system. The report shall be delivered to the Secretary of Defense within 90 days of the date of this order [Jan. 27, 2025].

SEC. 6. *Protecting American Values*. (a) The Department of Defense and the Armed Forces, including any educational institution operated or controlled thereby, are prohibited from promoting, advancing, or otherwise inculcating the following un-American, divisive, discriminatory, radical, extremist, and irrational theories:

(i) "divisive concepts," as defined in section 3(c) of this order, and "race or sex stereotyping," or "race or sex scapegoating" as both terms are defined in section 2 of Executive Order 13950, as amended;

(ii) that America's founding documents are racist or sexist; and

(iii) "gender ideology," as defined in section 3(b) of this order.

(b) The Department of Defense and the Armed Forces shall not hire employees, contractors, or consultants to teach the theories set forth in subsection (a) of this section.

(c) The Secretary of Defense and the Secretary of Homeland Security shall carefully review the leadership, curriculum, and instructors of the United States Service Academies and other defense academic institutions associated with their respective Departments to ensure alignment with this order. In addition, these institutions shall be required to teach that America and its founding documents remain the most powerful force for good in human history.

SEC. 7. *Implementation*. (a) The Secretary of Defense and the Secretary of Homeland Security shall issue detailed guidance for the implementation of this order to their respective departments within 30 days of the date of this order.

(b) Within 180 days of the date of this order, the Secretary of Defense and the Secretary of Homeland Security shall submit a report through the Deputy Chief of Staff for Policy documenting the progress of their respective Departments in implementing this order, and any recommendations for action to fulfill the objectives of this order.

SEC. 8. *Severability*. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## EX. ORD. NO. 12765. DELEGATION OF CERTAIN DEFENSE RELATED AUTHORITIES OF PRESIDENT TO SECRETARY OF DEFENSE

Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, and my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 749 of title 10 of the United States Code to assign the command without regard to rank in grade to any commissioned officer otherwise eligible to command when two or more commissioned officers of the same grade or corresponding grades are assigned to the same area, field command, or organization.

SEC. 2. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7299a(a) of title 10 of the United States Code to direct that combatant vessels and escort vessels be constructed in a Navy or private yard, as the case may be, if the requirement of the Act of March 27, 1934 (ch. 95, 48 Stat. 503) that the first and each succeeding alternate vessel of the same class be constructed in a Navy yard is inconsistent with the public interest.

SEC. 3. For vessels, and for any major component of the hull or superstructure of vessels to be constructed or repaired for any of the armed forces, the Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7309(b) of title 10 of the United States Code to authorize exceptions to the prohibition in section 7309(a) of title 10 of the United States Code. Such exceptions shall be based on a determination that it is in the national security interest of the United States to authorize an exception. The Secretary of Defense shall transmit notice of any such determination to the Congress, as required by section 7309(b).

SEC. 4. The Secretary of Defense may redelegate the authority delegated to him by this order, in accordance with applicable law.

SEC. 5. This order shall be effective immediately.

GEORGE BUSH.

## WAIVER OF LIMITATION WITH RESPECT TO END STRENGTH LEVEL OF U.S. ARMED FORCES IN JAPAN FOR FISCAL YEAR 1991

Memorandum of the President of the United States, May 14, 1991, 56 F.R. 23991, provided:

Memorandum for the Secretary of Defense

Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101–511; 104 Stat. 1856) [set out above], I hereby waive the limitation in section 8105(b) which states that the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so.

You are authorized and directed to inform the Congress of this waiver and of the reasons for the waiver contained in the attached justification, and to publish this memorandum in the Federal Register.

GEORGE BUSH.

### JUSTIFICATION PURSUANT TO SECTION 8105(D)(2) OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991 (PUBLIC LAW NO. 101–511; 104 STAT. 1856)

In January of this year the Department of Defense signed a new Host Nation Support Agreement with the Government of Japan in which that government agreed to pay all utility and Japanese labor costs incrementally over the next five years (worth $1.7 billion). Because United States forward deployed forces stationed in Japan have regional missions in addition to the defense of Japan, we did not seek to have the Government of Japan offset all of the direct costs incurred by the United States related to the presence of all United States military personnel in Japan (excluding military personnel title costs).

## §113a. Transmission of annual defense authorization request

(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term "defense authorization request", with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

(3) Authority to carry out military construction projects, as required by section 2802 of this title.

(4) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.

(Added Pub. L. 107–314, div. A, title X, §1061(a), Dec. 2, 2002, 116 Stat. 2649; amended Pub. L. 108–136, div. A, title X, §1044(a), Nov. 24, 2003, 117 Stat. 1612.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (b)(3), (4). Pub. L. 108–136 added par. (3) and redesignated former par. (3) as (4).

## §114. Annual authorization of appropriations

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 4174 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 1803 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c)(1) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $3,500,000,000.

(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitations in paragraphs (1) and (3) and other applicable law; and

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

(3) Of the amount of annual obligations from the Special Defense Acquisition Fund in each of fiscal years 2018 through 2022, not less than 20 percent shall be for funds to procure and stock precision guided munitions that may be required by partner and allied forces to enhance the effectiveness of current or future contributions of such forces to overseas contingency operations conducted or supported by the United States.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.

(Added Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138; amended Pub. L. 94–106, title VIII, §801(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 94–361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–342, title X, §1001(a)(1), (b)–(d)(1), Sept. 8, 1980, 94 Stat. 1117–1119; Pub. L. 96–513, title I, §102, title V, §511(4), Dec. 12, 1980, 94 Stat. 2840, 2920; Pub. L. 97–22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title III, §302, title IX, §§901(a), 902, 903, Dec. 1, 1981, 95 Stat. 1104, 1113, 1114; Pub. L. 97–113, title I, §108(b), Dec. 29, 1981, 95 Stat. 1524; Pub. L. 97–214, §4, July 12, 1982, 96 Stat. 170; Pub. L. 97–252, title IV, §402(a), title XI, §§1103, 1105, Sept. 8, 1982, 96 Stat. 725, 738, 739; Pub. L. 97–295, §1(3), (4), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–525, title XIV, §1405(2), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99–145, title XII, §1208, title XIV, §1403, Nov. 8, 1985, 99 Stat. 723, 743; renumbered §114 and amended Pub. L. 99–433, title I, §§101(a)(2), 110(b)(1)–(9), (11), Oct. 1, 1986, 100 Stat. 994, 1001, 1002; Pub. L. 99–661, div. A, title I, §105(d), title XIII, §1304(a), Nov. 14, 1986, 100 Stat. 3827, 3979; Pub. L. 100–26, §7(j)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–180, div. A, title XII, §1203, Dec. 4, 1987, 101 Stat. 1154; Pub. L. 101–189, div. A, title XVI, §1602(b), Nov. 29, 1989, 103 Stat. 1597; Pub. L. 101–510, div. A, title XIV, §1481(a)(1), Nov. 5, 1990, 104 Stat. 1704; Pub. L. 104–106, div. A, title XV, §1501(c)(2), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104–201, div. A, title X, §1005, Sept. 23, 1996, 110 Stat. 2632; Pub. L. 114–328, div. A, title XII, §1202(a), (b), Dec. 23, 2016, 130 Stat. 2474; Pub. L. 115–91, div. A, title XII, §1203(a), Dec. 12, 2017, 131 Stat. 1642; Pub. L. 116–283, div. A, title XVIII, §§1844(e)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4246, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 117–263, div. A, title XVII, §1702, Dec. 23, 2022, 136 Stat. 2966.)

## HISTORICAL AND REVISION NOTES
## 1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 138(c)(5) | 10:138 (note). | Aug. 5, 1974, Pub. L. 93–365, §502, 88 Stat. 404. |
| 138(i) | 10:135 (note). | June 11, 1965, Pub. L. 89–37, §305, 79 Stat. 128. |

In subsection (c)(5), the words "It is the sense of Congress that" are omitted as unnecessary. The words

"Secretary of Defense" are substituted for "Department of Defense" the first time it appears because the responsibility is in the head of the agency. The word "Therefore" is omitted as surplus. The word "complete" is substituted for "full", and the word "personnel" is substituted for "manpower" except in the phrase "manpower requirements", for consistency.

In subsection (i), the words "may be . . . only if" are substituted for "No . . . may be . . . unless" to use the positive voice. The words "after June 30, 1966" are substituted for "after that date" for clarity.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (c), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320. Chapter 5 of the Arms Export Control Act is classified generally to subchapter V (§2795 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in subsec. (c)(2) of this section were contained in Pub. L. 101–165, title IX, §9017, Nov. 21, 1989, 103 Stat. 1133, which was set out as a note below, prior to repeal by Pub. L. 101–510, §1481(a)(2).

Prior similar provisions were contained in Pub. L. 86–149, title IV, §412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87–436, §2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88–174, title VI, §610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89–37, title III, §304, June 11, 1965, 79 Stat. 128; Pub. L. 90–168, §6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91–121, title IV, §405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–441, title V, §§505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92–129, title VII, §701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92–436, title III, §302, title VI, §604, Sept. 26, 1972, 86 Stat. 736, 739, prior to repeal by Pub. L. 93–155, §803(b)(1).

### AMENDMENTS

**2022**—Subsec. (c)(1). Pub. L. 117–263 substituted "$3,500,000,000" for "$2,500,000,000".

**2021**—Subsec. (b). Pub. L. 116–283, §1883(b)(2), substituted "section 4174" for "section 2353".

Pub. L. 116–283, §1844(e)(1), which had directed the substitution of "section 4141" for "section 2353", was repealed by Pub. L. 117–81, §1701(u)(5)(B).

**2017**—Subsec. (c)(3). Pub. L. 115–91 substituted "Of the amount of annual obligations from the Special Defense Acquisition Fund in each of fiscal years 2018 through 2022, not less than 20 percent shall be for funds to procure" for "Of the amount available in the Special Defense Acquisition Fund in any fiscal year after fiscal year 2016, $500,000,000 may be used in such fiscal year only to procure".

**2016**—Subsec. (c)(1). Pub. L. 114–328, §1202(a), substituted "$2,500,000,000" for "$1,070,000,000".

Subsec. (c)(2)(A). Pub. L. 114–328, §1202(b)(1), substituted "limitations in paragraphs (1) and (3)" for "limitation in paragraph (1)".

Subsec. (c)(3). Pub. L. 114–328, §1202(b)(2), added par. (3).

**1996**—Subsec. (b). Pub. L. 104–106 substituted "chapter 1803" for "chapter 133".

Subsec. (f). Pub. L. 104–201 added subsec. (f).

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

**1989**—Subsecs. (f), (g). Pub. L. 101–189 struck out subsecs. (f) and (g) which read as follows:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense."

**1987**—Subsec. (e). Pub. L. 100–26 redesignated subsec. (f) as (e).

Subsec. (f). Pub. L. 100–180 added subsec. (f).

Pub. L. 100–26, §7(j)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 100–180, §1203, added subsec. (g).

**1986**—Pub. L. 99–433, §101(a)(2), renumbered section 138 of this title as this section.

Pub. L. 99–433, §110(b)(1), struck out "and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports" at end of section catchline.

Subsec. (a)(6). Pub. L. 99–433, §110(b)(3), struck out "(as defined in subsection (f))" after "military construction".

Subsec. (b). Pub. L. 99–433, §110(b)(4), (5), (8), redesignated subsec. (f)(1) as (b). Former subsec. (b) redesignated section 115(a) of this title.

Subsec. (c). Pub. L. 99–661, §1304(a), substituted "$1,070,000,000" for "$1,000,000,000".

Pub. L. 99–433, §110(b)(4), (5), (11), redesignated subsec. (g) as (c). Former subsec. (c) redesignated section 115(b) of this title.

Subsec. (d). Pub. L. 99–433, §110(b)(4), (5), (11), redesignated subsec. (i) as (d). Former subsec. (d) redesignated section 115(c) of this title.

Subsec. (e). Pub. L. 99–433, §110(b)(6), (7), redesignated subsec. (e) as section 116(a) of this title.

Subsec. (f). Pub. L. 99–661, §105(d), added subsec. (f).

Subsec. (f)(1). Pub. L. 99–433, §110(b)(8), redesignated subsec. (f)(1) as (b).

Subsec. (f)(2). Pub. L. 99–433, §110(b)(9), redesignated subsec. (f)(2) as section 116(b) of this title.

Subsec. (g). Pub. L. 99–433, §110(b)(11), redesignated subsec. (g) as (c).

Subsec. (h). Pub. L. 99–433, §110(b)(2), redesignated subsec. (h) as section 113(i) of this title.

Subsec. (i). Pub. L. 99–433, §110(b)(11), redesignated subsec. (i) as (d).

**1985**—Subsec. (b)(3). Pub. L. 99–145, §1208, added par. (3).

Subsec. (g). Pub. L. 99–145, §1403, substituted "$1,000,000,000" for "$300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter".

**1984**—Subsec. (g). Pub. L. 98–525 inserted "(22 U.S.C. 2795 et seq.)".

**1982**—Subsec. (c)(1)(A). Pub. L. 97–252, §402(a), authorized increase in fiscal year end-strength authorizations determined by the Secretary of Defense to be in the national interest.

Subsec. (c)(5). Pub. L. 97–295, §1(3), added par. (5).

Subsec. (f)(1). Pub. L. 97–214 substituted ", any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23" for "but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85–241 (42 U.S.C. 1594i) applies" and inserted provision that "military construction" does not include any activity to which section 2821 or 2854 of this title applies.

Subsec. (g). Pub. L. 97–252, §1103, limited size of Special Defense Acquisition Fund to $600,000,000 in fiscal year 1983, striking out such sum as a limit in any fiscal year thereafter, and limited size of Fund to $900,000,000 in fiscal year 1984 or any fiscal year thereafter.

Subsec. (h). Pub. L. 97–252, §1105, added subsec. (h).

Subsec. (i). Pub. L. 97–295, §1(4), added subsec. (i).

**1981**—Subsec. (a)(8), (9). Pub. L. 97–86, §901(a), added pars. (8) and (9).

Subsec. (b). Pub. L. 97–86, §902, designated existing provisions as par. (1), substituted "authorize the average personnel strength" for "authorize the personnel strength", and added par. (2).

Subsec. (c)(3)(D)(iii)(I). Pub. L. 97–22 struck out "and active military service" after "active commissioned service".

Subsec. (c)(4). Pub. L. 97–86, §903, added par. (4).

Subsec. (e)(3), (4). Pub. L. 97–86, §302, struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

Subsec. (g). Pub. L. 97–113 added subsec. (g).

**1980**—Pub. L. 96–342, §1001(d)(1), substituted "Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports" for "Secretary of Defense: Annual authorization of appropriations for armed forces" in section catchline.

Subsec. (a). Pub. L. 96–342, §1001(a)(1), (b)(1), in cl. (6) substituted reference to subsec. (f) for reference to subsec. (e), and added cl. (7).

Subsec. (c)(1). Pub. L. 96–513, §102(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3)(D). Pub. L. 96–513, §102(b), substituted provisions relating to expanded coverage in the annual report of the Secretary of Defense for provisions under which the report had formerly covered only the estimated requirements in members on active duty during the next fiscal year, the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year, and an

analysis of the distribution by grade of commissioned officers on active duty at the time the report was prepared.

Subsec. (e). Pub. L. 96–342, §1001(b)(2), (3), added subsec. (e). Former subsec. (e) redesignated (f)(1).

Subsec. (f). Pub. L. 96–513, §511(4), substituted "(42 U.S.C. 1594i)" for "(71 Stat. 556)" in par. (1), and substituted "In subsection (e)" for "In subsection (f)" in par. (2).

Pub. L. 96–342, §1001(b)(2), (c), redesignated subsec. (e) as (f), substituted "(1) In subsection (a)(6)" for "For purposes of subsection (a)(6) of this section", and added par. (2).

**1979**—Subsec. (c)(3). Pub. L. 96–107 restructured existing provisions into subpars. (A) to (C) with minor changes in phraseology and added subpar. (D).

**1976**—Subsec. (c)(3). Pub. L. 94–361 required the report to Congress to identify, define, and group by mission and by region the types of military bases, installations, and facilities and to provide an explanation and justification of the relationship between the base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce the costs.

**1975**—Subsec. (a)(6). Pub. L. 94–106, §801(a)(1), added par. (6).

Subsec. (e). Pub. L. 94–106, §801(a)(2), added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title XII, §1203(b), Dec. 12, 2017, 131 Stat. 1642, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 2017."

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title XII, §1202(a), Dec. 23, 2016, 130 Stat. 2474, provided that the amendment made by section 1202(a) is effective as of Oct. 1, 2016.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1982 AMENDMENTS

Pub. L. 97–252, title IV, §402(b), Sept. 8, 1982, 96 Stat. 725, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981."

Amendment by Pub. L. 97–214 applicable with respect to funds appropriated for fiscal years beginning after Sept. 30, 1983, see section 12(b) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–86, title IX, §901(b), Dec. 1, 1981, 95 Stat. 1113, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1982."

### EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by section 102 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

Amendment by section 511(4) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

Pub. L. 96–342, title X, §1001(a)(2), Sept. 8, 1980, 94 Stat. 1118, provided that: "The amendments made by

paragraph (1) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981."

## APPLICABILITY OF PROVISIONS RELATING TO FUNDS NOT HERETOFORE REQUIRED TO BE AUTHORIZED

Pub. L. 94–106, title VIII, §801(b), Oct. 7, 1975, 89 Stat. 537, provided that: "The amendment provided by paragraph (2) of subsection (a) above [enacting subsec. (e) of this section] with respect to funds not heretofore required to be authorized shall only apply to funds authorized for appropriation for fiscal year 1977 and thereafter."

## AVAILABILITY OF APPROPRIATIONS

Pub. L. 101–165, title IX, §9017, Nov. 21, 1989, 103 Stat. 1133, which prohibited funding to be used for planning or executing programs which utilized amounts credited to the Department of Defense pursuant to section 2777(a) of Title 22, Foreign Relations and Intercourse, was repealed and restated in subsec. (c)(2) of this section by Pub. L. 101–510, div. A, title XIV, §1481(a), Nov. 5, 1990, 104 Stat. 1704.

The following general provisions, which had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1986, Pub. L. 99–190, §101(b) [title VIII, §§8005, 8006, 8009], Dec. 19, 1985, 99 Stat. 1185, 1202, 1203, 1204:

"SEC. 8005. [Authorized use of appropriated funds for expenses in connection with administration of occupied areas; payment of rewards for information leading to discovery of missing naval property or recovery thereof; payment of deficiency judgments and interests thereon arising out of condemnation proceedings; leasing of buildings and facilities; payments under contracts for maintenance of tools and facilities for twelve months; maintenance of defense access roads; purchase of milk for enlisted personnel; payments under leases for real or personal property, including maintenance; purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; payment of unusual cost overruns incident to ship overhaul, maintenance, and repair; payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations; and payments for depot maintenance contracts for twelve months; and was repealed and (except for section 8005(e)) restated in sections 2242(2), 2252, 2253(a)(2), 2389(b), 2410a [now 10 U.S.C. 3133], 2661(b), and 7313 [now 10 U.S.C. 8683] of this title by Pub. L. 100–370, §1(e)(1), (h)(1), (2), (l)(3), (n)(1), (p)(3), July 19, 1988, 102 Stat. 844, 847, 849–851. Section 8005(c) was not restated in view of section 2676(e) [now 2664(e)] of this title.]

"SEC. 8006. [Authorized use of appropriated funds for military courts, boards, and commissions; utility services for buildings erected at private cost and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and exchange fees, and losses in accounts of disbursing officers or agents; and was repealed and restated in sections 2242(3), 2490 [now 10 U.S.C. 2868], and 2781 of this title by Pub. L. 100–370, §1(e)(1), (j)(1), (m)(1), (p)(3), July 19, 1988, 102 Stat. 844, 848, 849, 851.]

"SEC. 8009. [Provided for exemption from apportionment requirement; exceptions for cost of airborne alerts and cost of increased military personnel on active duty; and for reports to Congress; and was repealed and restated in section 2201 of this title by Pub. L. 100–370, §1(d)(1), July 19, 1988, 102 Stat. 841.]"

The following general provisions, that had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriation Act, 1984, Pub. L. 98–212, title VII, §§705–707, 723, 728, 735, 774, Dec. 8, 1983, 97 Stat. 1437, 1438, 1443, 1444, 1452:

"SEC. 705. [Authorized use of appropriated funds for insurance of official motor vehicles in foreign countries; advance payments for investigations in foreign countries; security guard services for protection of confidential files; and other necessary expenses; and was repealed and restated in sections 2241(b), 2242(1), (4), and 2253(a)(1) of this title by Pub. L. 100–370, §1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

"SEC. 706. [Authorized use of appropriated funds for expenses incident to maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status was determined by Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation, and was repealed by Pub. L. 98–525, title XIV, §§1403(a)(1), 1404, Oct. 19, 1984, 98 Stat. 2621, effective Oct. 1, 1985. See section 956(5) of this title.]

"SEC. 707. [Authorized use of appropriated funds for acquisition of certain interests in land, and was repealed and restated in sections 2673 and 2828(h) of this title by Pub. L. 100–370, §1(l)(1), (2), (p)(1), July 19, 1988, 102 Stat. 849, 851.]

"SEC. 723. [Authorized use of appropriated funds for purchase of household furnishings, and automobiles from military and civilian personnel on duty outside continental United States, for purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of Department of Defense on duty outside continental United States or in

Alaska, and was repealed and restated in section 2251 of this title by Pub. L. 100–370, §1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

"SEC. 728. [Prohibited use of appropriated funds for payment of costs of advertising by any defense contractor, except advertising for which payment is made from profits, provided exemptions for advertising for personnel recruitment, procurement of scarce required items, and disposal of scrap or surplus materials, and was repealed by Pub. L. 100–370, §1(p)(1), July 19, 1988, 102 Stat. 851. See section 3744(a)(8) of this title.]

"SEC. 735. [Authorized use of appropriated funds for operation and maintenance of the active forces for welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions was amended by Pub. L. 98–525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985, and was repealed and restated in sections 2241(a) and 2661(a) of this title by Pub. L. 100–370, §1(e)(1), (l)(3), (p)(1), July 19, 1988, 102 Stat. 844, 849, 851.]

"SEC. 774. During the current fiscal year and subsequent fiscal years, for the purposes of the appropriation 'Foreign Currency Fluctuations, Defense' the foreign currency exchange rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on this Act."

## REPORTS

Pub. L. 114–328, div. A, title XII, §1202(c), Dec. 23, 2016, 130 Stat. 2474, provided that:

"(1) INITIAL PLAN ON USE OF AUTHORITY.—Before exercising authority for use of amounts in the Special Defense Acquisition Fund in excess of the size of that Fund as of September 30, 2016, by reason of the amendments made by this section [amending this section], the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report on the plan for the use of such amounts.

"(2) QUARTERLY SPENDING PLAN.—Not later than 30 days before the beginning of each fiscal year quarter, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a detailed plan for the use of amounts in the Special Defense Acquisition Fund for such fiscal year quarter.

"(3) ANNUAL UPDATES.—Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report setting forth the inventory of defense articles and services acquired, possessed, and transferred through the Special Defense Acquisition Fund in such fiscal year.

"(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' has the meaning given that term in section 301(1) of title 10, United States Code (as added by section 1241(a)(3) of this Act)."

## WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA

Pub. L. 105–85, div. A, title XII, §§1203, 1206, Nov. 18, 1997, 111 Stat. 1929, 1932, provided that:

"SEC. 1203. WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA.

"(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1998 or any subsequent fiscal year may be used for the deployment of any United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, not later than May 15, 1998, and after consultation with the bipartisan leadership of the two Houses of Congress, transmits to Congress a certification—

"(1) that the continued presence of United States ground combat forces, after June 30, 1998, in the Republic of Bosnia and Herzegovina is required in order to meet the national security interests of the United States; and

"(2) that after June 30, 1998, it will remain United States policy that United States ground forces will not serve as, or be used as, civil police in the Republic of Bosnia and Herzegovina.

"(b) REPORT.—The President shall submit with the certification under subsection (a) a report that includes the following:

"(1) The reasons why that presence is in the national security interest of the United States.

"(2) The number of United States military personnel to be deployed in and around the Republic of

Bosnia and Herzegovina and other areas of the former Yugoslavia after that date.

"(3) The expected duration of any such deployment.

"(4) The mission and objectives of the United States Armed Forces to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after June 30, 1998.

"(5) The exit strategy of such forces.

"(6) The incremental costs associated with any such deployment.

"(7) The effect of such deployment on the morale, retention, and effectiveness of United States armed forces.

"(8) A description of the forces from other nations involved in a follow-on mission, shown on a nation-by-nation basis.

"(9) A description of the command and control arrangement established for United States forces involved in a follow-on mission.

"(10) An assessment of the expected threats to United States forces involved in a follow-on mission.

"(11) The plan for rotating units and personnel to and from the Republic of Bosnia and Herzegovina during a follow-on mission, including the level of participation by reserve component units and personnel.

"(12) The mission statement and operational goals of the United States forces involved in a follow-on mission.

"(c) REQUEST FOR SUPPLEMENTAL APPROPRIATIONS.—The President shall transmit to Congress with a certification under subsection (a) a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any continued deployment beyond June 30, 1998.

"(d) CONSTRUCTION WITH PRESIDENT'S CONSTITUTIONAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

"(e) CONSTRUCTION WITH APPROPRIATIONS PROVISION.—The provisions of this section are enacted, and shall be applied, as supplemental to (and not in lieu of) the provisions of section 8132 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56) [111 Stat. 1250].

"SEC. 1206. DEFINITIONS.

"As used in this subtitle [subtitle A (§§1201–1206) of title XII of div. A of Pub. L. 105–85, enacting this note]:

"(1) DAYTON PEACE AGREEMENT.—The term 'Dayton Peace Agreement' means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

"(2) IMPLEMENTATION FORCE.—The term 'Implementation Force' means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as 'IFOR'), authorized under the Dayton Peace Agreement.

"(3) STABILIZATION FORCE.—The term 'Stabilization Force' means the NATO-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as 'SFOR'), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

"(4) FOLLOW-ON MISSION.—The term 'follow-on mission' means a mission involving the deployment of ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998 (other than as described in section 1203(b)).

"(5) NATO.—The term 'NATO' means the North Atlantic Treaty Organization."

## BUDGET DETERMINATION BY DIRECTOR OF OMB

Pub. L. 102–484, div. D, title XLV, §4501, Oct. 23, 1992, 106 Stat. 2769, directed that amounts made available under Pub. L. 102–484 for defense programs covered by certain portions of that Act could be obligated for such programs only if expenditures for such programs had been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), and required the President to submit to Congress a report listing amounts appropriated for fiscal year 1993 for programs that the Director had determined would not classify against the defense category.

## CLASSIFIED ANNEX

Pub. L. 107–107, div. A, title X, §1002, Dec. 28, 2001, 115 Stat. 1202, provided that:

"(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill S. 1438 of the One Hundred Seventh Congress

[Pub. L. 107–107] and transmitted to the President is hereby incorporated into this Act [see Tables for classification].

"(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

"(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

"(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government."

Similar provisions were contained in the following prior authorization or appropriation acts:

Pub. L. 106–398, §1 [[div. A], title X, §1002], Oct. 30, 2000, 114 Stat. 1654, 1654A–245.
Pub. L. 106–65, div. A, title X, §1002, Oct. 5, 1999, 113 Stat. 732.
Pub. L. 105–261, div. A, title X, §1002, Oct. 17, 1998, 112 Stat. 2111.
Pub. L. 105–85, div. A, title X, §1002, Nov. 18, 1997, 111 Stat. 1868.
Pub. L. 104–201, div. A, title X, §1002, Sept. 23, 1998, 110 Stat. 2631.
Pub. L. 104–106, div. A, title X, §1002, Feb. 10, 1996, 110 Stat. 414.
Pub. L. 103–337, div. A, title X, §1003, Oct. 5, 1994, 108 Stat. 2834.
Pub. L. 103–335, title VIII, §8084, Sept. 30, 1994, 108 Stat. 2637.
Pub. L. 103–160, div. A, title XI, §1103, Nov. 30, 1993, 107 Stat. 1749.
Pub. L. 103–139, title VIII, §8108, Nov. 11, 1993, 107 Stat. 1464.
Pub. L. 102–484, div. A, title X, §1006, Oct. 23, 1992, 106 Stat. 2482.
Pub. L. 102–396, title IX, §9126, Oct. 6, 1992, 106 Stat. 1931.
Pub. L. 102–190, div. A, title X, §1005, Dec. 5, 1991, 105 Stat. 1457.
Pub. L. 102–172, title VIII, §8124, Nov. 26, 1991, 105 Stat. 1206.
Pub. L. 101–511, title VIII, §8111, Nov. 5, 1990, 104 Stat. 1904.
Pub. L. 101–510, div. A, title XIV, §1409, Nov. 5, 1990, 104 Stat. 1681.

## BUDGET ACT LIMITATION

Pub. L. 99–661, div. A, title XIII, §1304(b), Nov. 14, 1986, 100 Stat. 3979, provided that: "New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)]) provided by the amendment made by subsection (a) [amending this section] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts."

## LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

Pub. L. 99–661, div. A, title XIII, §1351, Nov. 14, 1986, 100 Stat. 3995, as amended by Pub. L. 104–106, div. A, title X, §1063(a), Feb. 10, 1996, 110 Stat. 444, provided that: "Notwithstanding title II of the Military Construction Appropriations Act, 1987 [Pub. L. 99–500, §101(k) [title II], Oct. 18, 1986, 100 Stat. 1783–287, 1783–295, and Pub. L. 99–591, §101(k) [title II], Oct. 30, 1986, 100 Stat. 3341–287, 3341–295], or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition)."

## USE OF APPROPRIATED FUNDS TO SUPPORT REVENUE GENERATING ACTIVITIES IN LARGE METROPOLITAN AREAS PROHIBITED

Pub. L. 99–500, §101(c) [title IX, §9102], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, §101(c) [title IX, §9102], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, which provided that after Sept. 30, 1987, no appropriated funds could be used to support revenue generating morale, welfare, and recreation activities in large metropolitan areas, was repealed by Pub. L. 100–202, §101(b) [title VIII, §8099], Dec. 22, 1987, 101 Stat. 1329–43, 1329–78.

## TRANSFER OF OPERATION AND MAINTENANCE APPROPRIATIONS UNOBLIGATED BALANCES TO FOREIGN CURRENCY FLUCTUATIONS, DEFENSE, APPROPRIATION

Pub. L. 97–377, title I, §101(c) [title VII, §791], Dec. 21, 1982, 96 Stat. 1865, which provided that no later than end of second fiscal year following fiscal year for which appropriations for Operation and Maintenance

have been made available to Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter could be transferred into appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for same time period and same purposes as appropriation to which transferred, except that any transfer made pursuant to any use of this authority was limited so that amount in appropriation did not exceed $970,000,000 at time of transfer, was repealed and restated in section 2779(d) of this title by Pub. L. 104–106, div. A, title IX, §911(b), (d)(2), (f), Feb. 10, 1996, 110 Stat. 406, 407, applicable only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

**WAIVER OF APPLICABILITY OF OMB CIRCULAR A–76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES**

Pub. L. 96–107, title VIII, §802, Nov. 9, 1979, 93 Stat. 811, provided that:

"(a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A–76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law.

"(b) Funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

"(c) No law enacted after the date of the enactment of this Act [Nov. 9, 1979] shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section."

**MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS**

Pub. L. 93–365, title V, §502, Aug. 5, 1974, 88 Stat. 404, which provided that it was the sense of Congress that the Department of Defense use the least costly form of manpower consistent with military requirements and other needs of the Department of Defense, that in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense was to consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job, and that a full justification of any conversion from one form of manpower to another be contained in the annual manpower requirements report to the Congress required by subsec. (c)(3) of this section, was repealed and restated as subsec. (c)(5) of this section by Pub. L. 97–295, §§1(3), 6(b).

## [§114a. Renumbered §221]

## §115. Personnel strengths: requirement for annual authorization

(a) ACTIVE-DUTY, SELECTED RESERVE, AND SPACE FORCE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for the Army, Navy, Air Force, and Marine Corps for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(3) The end strength for the Space Force for members in space force active status.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or

ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1825 days in the previous 2190 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).

(c) LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by

law;

(3) the use of members of the Space Force in space force active status unless the end strength for the Space Force for that fiscal year for members in space force active status has been authorized by law; or

(4) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize for each fiscal year both the minimum end strength for non-temporary military technicians (dual status) and the end strength for temporary military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the minimum end strength for non-temporary military technicians (dual status), and the end strength for temporary military technicians (dual status), requested for each reserve component of the Army and Air Force shall be specifically set forth.

(e) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f)) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE STRENGTHS.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) vary the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) vary the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 3 percent of that end strength; and

(4) vary the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

(A) vary the end strength pursuant to subsection (a)(1)(A) for a fiscal year for the armed force or forces under the jurisdiction of that Secretary by a number not equal to more than 2 percent of such authorized end strength;

(B) vary the end strength pursuant to subsection (a)(1)(B) for a fiscal year for the armed force or forces under the jurisdiction of that Secretary by a number not equal to more than 2 percent of such authorized end strength; and

(C) vary the end strength pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force or forces under the jurisdiction of that Secretary by a number equal to not more than 2 percent of such authorized end strength.

(2) Any variance under paragraph (1)(A) of the end strength for an armed force for a fiscal year shall be counted as part of the variance for that armed force for that fiscal year authorized under subsection (f)(1). Any variance under paragraph (1)(B) of the end strength for the Selected Reserve of a reserve component of an armed force for a fiscal year shall be counted as part of the variance for that Selected Reserve for that fiscal year authorized under subsection (f)(3).

(3) The Secretary of the military department concerned shall promptly notify the congressional defense committees if such Secretary exceeds a variance under paragraph (1), and at least once every 90 days thereafter for so long as such end strength is outside such variance. Each such notification shall include the following:

(A) Modified projected end strengths for active and reserve components of the armed force or forces for which such Secretary exceeds such variance.

(B) An identification of any budgetary effects projected as a result of such modified end strength projections.

(C) An explanation of any effects on readiness resulting from such modified end strength projections.

(h) ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY .—The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

(5) Members of the National Guard called into Federal service under section 12406 of this title.

(6) Members of the militia called into Federal service under chapter 13 of this title.

(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1)(A) of title 32.

(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a)).

(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

(11) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) [1] for the administration of the Selective Service System.

(12) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.

(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.

(Added Pub. L. 101–510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1710; amended Pub. L. 102–190, div. A, title III, §312(a), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104–106, div. A, title IV, §§401(c), 415, title V, §513(a)(1), title X, §1061(c), title XV, §1501(c)(3), Feb. 10, 1996, 110 Stat. 286, 288, 305, 442, 498; Pub. L. 105–85, div. A, title IV, §413(b), title V, §522(i)(1), Nov. 18, 1997, 111 Stat. 1720, 1736; Pub. L. 106–65, div. A, title IV, §415, Oct. 5, 1999, 113 Stat. 587; Pub. L. 106–398, §1 [[div. A], title IV, §422], Oct. 30, 2000, 114 Stat. 1654, 1654A–96; Pub. L. 107–107, div. A, title IV, §§421(a), 422, Dec. 28, 2001, 115 Stat. 1076, 1077; Pub. L. 107–314, div. A, title IV, §403, Dec. 2, 2002, 116 Stat. 2525; Pub. L. 108–136, div. A, title IV, §403(a), (b), Nov. 24, 2003, 117 Stat. 1450, 1451; Pub. L. 108–375, div. A, title IV, §416(a)–(d), title V, §512(b), Oct. 28, 2004, 118 Stat. 1866, 1867, 1880; Pub. L. 109–364, div. A, title X, §1071(a)(1), (g)(1)(A), Oct. 17, 2006, 120 Stat. 2398, 2402; Pub. L. 110–181, div. A, title IV, §§416(b), 417, Jan. 28, 2008, 122 Stat. 91, 92; Pub. L. 111–84, div. A, title IV, §418, Oct. 28, 2009, 123 Stat. 2268; Pub. L. 114–328, div. A, title IV, §416, Dec. 23, 2016, 130 Stat. 2093; Pub. L. 115–91, div. A, title X, §1081(a)(2), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 115–232, div. A, title XII, §1204(a)(4), Aug. 13, 2018, 132 Stat. 2017; Pub. L. 116–283, div. A, title IV, §415(a), Jan. 1, 2021, 134 Stat. 3558; Pub. L. 117–81, div. A, title IV, §415, Dec. 27, 2021, 135 Stat. 1675; Pub. L. 117–263, div. A, title IV, §402(b), Dec. 23, 2022, 136 Stat. 2551; Pub. L. 118–31, div. A, title IV, §402, Dec. 22, 2023, 137 Stat. 235; Pub. L. 118–159, div. A, title IV, §402(a)–(c)(2), Dec. 23, 2024, 138 Stat. 1862.)

## AMENDMENT OF SECTION

*Pub. L. 118–159, div. A, title IV, §402(c), Dec. 23, 2024, 138 Stat. 1862, provided that, effective upon the date specified under paragraph (2) of section 1736(a) of Pub. L. 118–31 (set out in a note under section 20001 of this title) for the expiration of the authority provided by paragraph (1) of that section, this section is amended as follows:*

*(1) in subsection (f)—*

*(A) in the subsection heading, by striking "and Selected Reserve" and inserting ", Selected Reserve, and Space Force"; and*

*(B) in paragraph (1), by striking "subsection (a)(1)(A)" and inserting "paragraph (1)(A) or (3) of subsection (a)"; and*

*(2) in subsection (g)—*

*(A) in the subsection heading, by striking "and Selected Reserve" and inserting ", Selected Reserve, and Space Force"; and*

*(B) in paragraph (1)(A), by striking "subsection (a)(1)(A)" and inserting "paragraph (1)(A) or (3) of subsection (a)".*

*See 2024 Amendment notes below.*

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 10(b)(2) of the Military Selective Service Act, referred to in subsec. (i)(11), was classified to section 460(b)(2) of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as section 3809(b)(2) of Title 50.

### PRIOR PROVISIONS

A prior section 115, added Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138(b)–(d); amended Pub. L. 94–361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title I, §102, Dec. 12, 1980, 94 Stat. 2840; Pub. L. 97–22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title IX, §§902, 903, Dec. 1, 1981, 95 Stat. 1113, 1114; Pub. L. 97–252, title IV, §402(a), Sept. 8, 1982, 96 Stat. 725; Pub. L. 97–295, §1(3), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99–145, title XII, §1208, Nov. 8, 1985, 99 Stat. 723; renumbered §115, Pub. L. 99–433, title I, §§101(a)(2), 110(b)(4), (5), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 99–661, div. A, title IV, §§411(c) [(d)], 413, Nov. 14, 1986, 100 Stat. 3861, 3862; Pub. L. 100–26, §7(j)(2), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–456, div. A, title VI, §641, Sept. 29, 1988, 102 Stat. 1987, related to annual authorization of personnel strengths and annual manpower requirements reports, prior to repeal and reenactment as sections 115, 115a, 115b [now 10541], 123a, and 129a of this title by Pub. L. 101–510, §1483(a), (b).

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §402(a)(2)(A), substituted ", Selected Reserve, and Space Force" for "and Selected Reserve" in heading.

Subsec. (a)(1). Pub. L. 118–159, §402(a)(2)(B), substituted "the Army, Navy, Air Force, and Marine Corps" for "each of the armed forces (other than the Coast Guard)" in introductory provisions.

Subsec. (a)(3). Pub. L. 118–159, §402(a)(1), added par. (3).

Subsec. (c)(3), (4). Pub. L. 118–159, §402(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f). Pub. L. 118–159, §402(c)(1)(A), substituted ", Selected Reserve, and Space Force" for "and Selected Reserve" in heading.

Subsec. (f)(1). Pub. L. 118–159, §402(c)(1)(B), substituted "paragraph (1)(A) or (3) of subsection (a)" for "subsection (a)(1)(A)".

Subsec. (g). Pub. L. 118–159, §402(c)(2)(A), substituted ", Selected Reserve, and Space Force" for "and Selected Reserve" in heading.

Subsec. (g)(1)(A). Pub. L. 118–159, §402(c)(2)(B), substituted "paragraph (1)(A) or (3) of subsection (a)" for "subsection (a)(1)(A)".

**2023**—Subsec. (f)(2). Pub. L. 118–31, §402(1), substituted "not more than 3 percent" for "not more than 2 percent".

Subsec. (g)(1). Pub. L. 118–31, §402(2), added subpars. (A) to (C) and struck out former subpars. (A) and (B) which read as follows:

"(A) vary the end strength pursuant to subsection (a)(1)(A) for a fiscal year for the armed force or forces under the jurisdiction of that Secretary by a number not equal to more than two percent of such authorized end strength; and

"(B) vary the end strength pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force or forces under the jurisdiction of that Secretary by a number equal to not more than one percent of such authorized end strength."

**2022**—Subsec. (f). Pub. L. 117–263, §402(b)(1), substituted "vary" for "increase" in pars. (1), (2), and (4).

Subsec. (g)(1)(A), (B). Pub. L. 117–263, §402(b)(2)(A), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

"(A) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength; and

"(B) increase the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for the Selected Reserve of the reserve component of any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength."

Subsec. (g)(2). Pub. L. 117–263, §402(b)(2)(B), substituted "variance" for "increase" wherever appearing.

Subsec. (g)(3). Pub. L. 117–263, §402(b)(2)(C), added par. (3).

**2021**—Subsec. (b)(2)(B). Pub. L. 117–81 substituted "1825 days in the previous 2190 days" for "1095 days in the previous 1460 days".

Subsec. (d). Pub. L. 116–283, §415(a)(2), which directed substitution of "the minimum end strength for non-temporary military technicians (dual status), and the end strength for temporary military technicians (dual status), requested" for "the end strength requested for military technicians (dual status)" in the third sentence, was executed in the fourth sentence, to reflect to the probable intent of Congress.

Pub. L. 116–283, §415(a)(1), substituted "both the minimum end strength for non-temporary military technicians (dual status) and the end strength for temporary military technicians (dual status)" for "the end strength for military technicians (dual status)" in the first sentence.

**2018**—Subsec. (i)(6). Pub. L. 115–232 substituted "chapter 13" for "chapter 15".

**2017**—Subsec. (i)(9). Pub. L. 115–91 substituted "section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a))" for "section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b))".

**2016**—Subsec. (b)(1)(B), (C). Pub. L. 114–328, §416(1), substituted "502(f)(1)(B)" for "502(f)(2)".

Subsec. (i)(7). Pub. L. 114–328, §416(2), substituted "502(f)(1)(A)" for "502(f)(1)".

**2009**—Subsec. (g). Pub. L. 111–84 amended subsec. (g) generally. Prior to amendment, subsec. (g) related to authority for service secretary variances for active-duty end strengths.

**2008**—Subsec. (b)(4). Pub. L. 110–181, §416(b), added par. (4).

Subsec. (f)(3). Pub. L. 110–181, §417, substituted "3 percent" for "2 percent".

**2006**—Subsec. (a)(1)(A). Pub. L. 109–364, §1071(g)(1)(A), made technical correction to directory language of Pub. L. 108–375, §416(a)(1). See 2004 Amendment note below.

Subsec. (i). Pub. L. 109–364, §1071(a)(1)(A), struck out heading and text of subsec. (i) enacted by Pub. L. 108–375, §512(b). Text read as follows: "In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded."

Subsec. (i)(13). Pub. L. 109–364, §1071(a)(1)(B), added par. (13).

**2004**—Subsec. (a)(1)(A). Pub. L. 108–375, §416(a)(1), as amended by Pub. L. 109–364, §1071(g)(1)(A), inserted "unless on active duty pursuant to subsection (b)" after "funds appropriated for active-duty personnel".

Subsec. (a)(1)(B). Pub. L. 108–375, §416(a)(2), inserted "unless on active duty or full-time National Guard duty pursuant to subsection (b)" after "reserve personnel".

Subsec. (b). Pub. L. 108–375, §416(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–375, §416(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 108–375, §416(b), added par. (3).

Subsec. (d). Pub. L. 108–375, §416(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–375, §416(a)(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108–375, §416(d)(1)(A), substituted "subsection (a) or (d)" for "subsection (a) or (c)".

Subsec. (e)(2). Pub. L. 108–375, §416(d)(1)(B), substituted "subsections (a) and (d)" for "subsections (a) and (c)" in subpar. (A) and substituted "pursuant to subsection (f)) and subsection (d)" for "pursuant to subsection (e)) and subsection (c)" in subpars. (A) and (B).

Subsec. (f). Pub. L. 108–375, §416(c)(1), struck out "End" after "Reserve" in heading.

Pub. L. 108–375, §416(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(4). Pub. L. 108–375, §416(c)(2)–(4), added par. (4).

Subsec. (g). Pub. L. 108–375, §416(a)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 108–375, §416(d)(2), substituted "subsection (f)(1)" for "subsection (e)(1)".

Subsec. (h). Pub. L. 108–375, §416(a)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108–375, §512(b), added subsec. (i) relating to certain full-time National Guard duty personnel excluded from counting for full-time National Guard duty end strengths.

Pub. L. 108–375, §416(d)(3), amended heading and text of subsec. (i) generally, substituting provisions relating to 12 categories of personnel excluded from counting for active-duty end strengths for provisions relating to 11 categories of active-duty personnel excluded from counting for active-duty end strengths.

Pub. L. 108–375, §416(a)(3), redesignated subsec. (h) as (i).

**2003**—Subsecs. (a), (b). Pub. L. 108–136, §403(b)(1), (2), inserted headings.

Subsec. (c). Pub. L. 108–136, §403(a)(1), (b)(3), redesignated subsec. (g) as (c), transferred it to appear after subsec. (b), and inserted heading. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 108–136, §403(a)(3), added subsec. (d). Former subsec. (d) redesignated (h).

Subsec. (e). Pub. L. 108–136, §403(a)(1), (b)(4), redesignated subsec. (c) as (e), transferred it to appear after subsec. (d), and inserted heading. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 108–136, §403(b)(5), inserted heading and, in par. (2), substituted "subsection (e)(1)" for "subsection (c)(1)".

Subsec. (g). Pub. L. 108–136, §403(a)(1), (b)(6), redesignated subsec. (e) as (g), transferred it to appear after subsec. (f), and inserted heading. Former subsec. (g) redesignated (c).

Subsec. (h). Pub. L. 108–136, §403(a)(2), (b)(7), redesignated subsec. (d) as (h), transferred it to appear at end of section, and inserted heading.

**2002**—Subsec. (c)(1). Pub. L. 107–314, §403(a), substituted "3 percent" for "2 percent".

Subsec. (f). Pub. L. 107–314, §403(b), added subsec. (f).

**2001**—Subsec. (c)(1). Pub. L. 107–107, §421(a), substituted "2 percent" for "1 percent".

Subsec. (d)(10), (11). Pub. L. 107–107, §422, added pars. (10) and (11).

**2000**—Subsec. (d)(9). Pub. L. 106–398 added par. (9).

**1999**—Subsec. (c)(3). Pub. L. 106–65 added par. (3).

**1997**—Subsec. (g). Pub. L. 105–85, §522(i)(1), inserted "(dual status)" after "military technicians" in first sentence and after "military technician" in second sentence.

Pub. L. 105–85, §413(b), inserted at end "In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth."

**1996**—Subsec. (a)(3). Pub. L. 104–106, §1061(c)(1), struck out par. (3) which read as follows: "The average military training student loads for each of the armed forces (other than the Coast Guard)."

Subsec. (b). Pub. L. 104–106, §1061(c)(2), inserted "or" at end of par. (1), substituted a period for "; or" at end of par. (2), and struck out par. (3) which read as follows: "training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law."

Subsec. (c)(1). Pub. L. 104–106, §401(c), substituted "1 percent" for "0.5 percent".

Subsec. (d)(1). Pub. L. 104–106, §1501(c)(3)(A), substituted "section 12302" for "section 673".

Subsec. (d)(2). Pub. L. 104–106, §1501(c)(3)(B), substituted "section 12304" for "section 673b".

Subsec. (d)(3). Pub. L. 104–106, §1501(c)(3)(C), substituted "section 12406" for "section 3500 or 8500".

Subsec. (d)(8). Pub. L. 104–106, §415, added par. (8).

Subsec. (f). Pub. L. 104–106, §1061(c)(3), struck out subsec. (f) which read as follows: "Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

"(1) Recruit and specialized training.

"(2) Flight training.

"(3) Professional training in military and civilian institutions.

"(4) Officer acquisition training."

Subsec. (g). Pub. L. 104–106, §513(a)(1), added subsec. (g).

**1991**—Subsec. (a)(4). Pub. L. 102–190, §312(a)(1), struck out par. (4) which read as follows: "The end strength for civilian personnel for each component of the Department of Defense."

Subsec. (b)(2) to (4). Pub. L. 102–190, §312(a)(2), inserted "or" at end of par. (2), substituted a period for "; or" at end of par. (3), and struck out par. (4) which read as follows: "the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title IV, §402(c)(3), Dec. 23, 2024, 138 Stat. 1862, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall take effect upon the date specified under paragraph (2) of section 1736(a) of the Space Force Personnel Management Act (title XVII of Public Law 118–31; 137 Stat. 677) [10 U.S.C. 20001 note] for the expiration of the authority provided by paragraph (1) of that section."

## EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title IV, §415(b), Jan. 1, 2021, 134 Stat. 3558, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of the enactment of this Act [Jan. 1, 2021]. The amendment made by subsection (a)(2) shall apply with respect to budgets submitted by the President to Congress under section 1105 of title 31, United States Code, after such effective date."

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(A) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

## EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title IV, §403(d), Nov. 24, 2003, 117 Stat. 1452, provided that: "Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter."

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title V, §513(a)(2), Feb. 10, 1996, 110 Stat. 305, provided that: "The amendment made by paragraph (1) [amending this section] does not apply with respect to fiscal year 1995."

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

## REGULATIONS

Pub. L. 108–375, div. A, title IV, §416(m), Oct. 28, 2004, 118 Stat. 1869, provided that: "The Secretary of Defense shall prescribe by regulation the meaning of the term 'operational support' for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a)."

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2008 AND 2009

Pub. L. 108–375, div. A, title IV, §403, Oct. 28, 2004, 118 Stat. 1863, as amended by Pub. L. 109–163, div. A, title IV, §403, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109–364, div. A, title IV, §403, Oct. 17, 2006, 120 Stat. 2169, which authorized the Secretary of Defense, for each of fiscal years 2008 and 2009, to establish the active-duty end strengths for the Army and the Marine Corps at numbers greater than the numbers otherwise authorized by law up to the numbers equal to the fiscal-year 2007 baseline plus 20,000 with respect to the Army and plus 4,000 with respect to the Marine Corps, was repealed by Pub. L. 110–181, div. A, title IV, §403(h), Jan. 28, 2008, 122 Stat. 87.

## AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS FOR FISCAL YEAR 1996

Pub. L. 104–106, div. A, title IV, §432, Feb. 10, 1996, 110 Stat. 290, authorized $112,000,000 to be appropriated to the Department of Defense for fiscal year 1996 to increase the number of active-component military personnel for that fiscal year and provided that end-strength authorizations would each be deemed to be increased as necessary.

## END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 109–163, div. A, title IV, §413, Jan. 6, 2006, 119 Stat. 3221, which authorized the minimum number of military technicians (dual status) as of the last day of a fiscal year for each of the reserve components of the Army and the Air Force, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, §413, Oct. 28, 2004, 118 Stat. 1865.
Pub. L. 108–136, div. A, title IV, §413, Nov. 24, 2003, 117 Stat. 1453.
Pub. L. 107–314, div. A, title IV, §413, Dec. 2, 2002, 116 Stat. 2527.
Pub. L. 107–107, div. A, title IV, §413, Dec. 28, 2001, 115 Stat. 1070.
Pub. L. 106–398, §1 [[div. A], title IV, §413], Oct. 30, 2000, 114 Stat. 1654, 1654A–93.
Pub. L. 106–65, div. A, title IV, §413, Oct. 5, 1999, 113 Stat. 586.
Pub. L. 105–261, div. A, title IV, §413, Oct. 17, 1998, 112 Stat. 1997.
Pub. L. 105–85, div. A, title IV, §413(a), Nov. 18, 1997, 111 Stat. 1720.
Pub. L. 104–201, div. A, title IV, §413(a), Sept. 23, 1996, 110 Stat. 2507.
Pub. L. 104–106, div. A, title V, §513(b), Feb. 10, 1996, 110 Stat. 305.

## COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS

Pub. L. 104–106, title V, §552, Feb. 10, 1996, 110 Stat. 319, provided that, during fiscal years 1996 through 2001, the Comptroller General was (1) to analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that was conducted before 2002, (2) to consider whether the proposed active component end strengths and planned allocation of forces for that period was sufficient to implement the national military strategy, and (3) to submit to Congress an annual report by Mar. 1 of each year through 2002 on the Comptroller General's findings and conclusions, prior to repeal by Pub. L. 107–107, div. A, title V, §595, Dec. 28, 2001, 115 Stat. 1126.

## EFFECT OF RESERVE COMPONENT ON COMPUTATION OF END STRENGTH LIMITATION FOR ACTIVE FORCES FOR FISCAL YEAR 1995

Pub. L. 103–337, div. A, title XIII, §1316(c), Oct. 5, 1994, 108 Stat. 2899, provided that a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under former section 168 of this title shall not be counted (under subsec. (a)(1) of this section) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401 of Pub. L. 103–337, formerly set out below.

## END STRENGTHS FOR ACTIVE FORCES

Pub. L. 109–163, div. A, title IV, §401, Jan. 6, 2006, 119 Stat. 3218, which authorized specified strengths for Armed Forces active duty personnel as of Sept. 30, 2006, and provided that costs for that fiscal year of active duty personnel of the Army and the Marine Corps in excess of specified amounts would be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, §401, Oct. 28, 2004, 118 Stat. 1862.
Pub. L. 108–136, div. A, title IV, §401, Nov. 24, 2003, 117 Stat. 1450.
Pub. L. 107–314, div. A, title IV, §401, Dec. 2, 2002, 116 Stat. 2524.
Pub. L. 107–107, div. A, title IV, §401, Dec. 28, 2001, 115 Stat. 1069.
Pub. L. 106–398, §1 [[div. A], title IV, §401], Oct. 30, 2000, 114 Stat. 1654, 1654A–92.
Pub. L. 106–65, div. A, title IV, §401, Oct. 5, 1999, 113 Stat. 585.
Pub. L. 105–261, div. A, title IV, §401, Oct. 17, 1998, 112 Stat. 1995.
Pub. L. 105–85, div. A, title IV, §401, Nov. 18, 1997, 111 Stat. 1719.
Pub. L. 104–201, div. A, title IV, §401, Sept. 23, 1996, 110 Stat. 2503.
Pub. L. 104–106, div. A, title IV, §401(a), Feb. 10, 1996, 110 Stat. 285.
Pub. L. 103–337, div. A, title IV, §401, Oct. 5, 1994, 108 Stat. 2743.
Pub. L. 103–160, div. A, title IV, §§401, 403, Nov. 30, 1993, 107 Stat. 1639, 1640.
Pub. L. 102–484, div. A, title IV, §§401, 402, Oct. 23, 1992, 106 Stat. 2397.
Pub. L. 102–190, div. A, title IV, §401, title VI, §664, Dec. 5, 1991, 105 Stat. 1349, 1399.
Pub. L. 101–510, div. A, title IV, §§401, 402, Nov. 5, 1990, 104 Stat. 1543, 1544; Pub. L. 102–25, title II, §§201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 104–106, div. A, title XV, §1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507.
Pub. L. 101–189, div. A, title IV, §401, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101–510, div. A, title IV, §401(d), Nov. 5, 1990, 104 Stat. 1544.
Pub. L. 100–456, div. A, title IV, §401, Sept. 29, 1988, 102 Stat. 1963.
Pub. L. 100–180, div. A, title IV, §401, Dec. 4, 1987, 101 Stat. 1081.
Pub. L. 99–661, div. A, title IV, §401, Nov. 14, 1986, 100 Stat. 3859.

Pub. L. 99–145, title IV, §401, Nov. 8, 1985, 99 Stat. 618.
Pub. L. 98–525, title IV, §401, Oct. 19, 1984, 98 Stat. 2516.
Pub. L. 98–94, title IV, §401, Sept. 24, 1983, 97 Stat. 629.
Pub. L. 97–252, title IV, §401, Sept. 8, 1982, 96 Stat. 725.
Pub. L. 97–86, title IV, §401, Dec. 1, 1981, 95 Stat. 1104, as amended by Pub. L. 97–252, title IX, §903, Sept. 8, 1982, 96 Stat. 729.
Pub. L. 96–342, title III, §301, Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97–39, title III, §301, Aug. 14, 1981, 95 Stat. 940.
Pub. L. 96–107, title III, §301, Nov. 9, 1979, 93 Stat. 806.
Pub. L. 95–485, title III, §301, Oct. 20, 1978, 92 Stat. 1613.
Pub. L. 95–79, title III, §301, July 30, 1977, 91 Stat. 326.
Pub. L. 94–361, title III, §301, July 14, 1976, 90 Stat. 924.
Pub. L. 94–106, title III, §301, Oct. 7, 1975, 89 Stat. 532.
Pub. L. 93–365, title III, §301, Aug. 5, 1974, 88 Stat. 401.
Pub. L. 93–155, title III, §301, Nov. 16, 1973, 87 Stat. 607.
Pub. L. 92–436, title III, §301, Sept. 26, 1972, 86 Stat. 735.

**MINIMUM NUMBER OF NAVY HEALTH PROFESSIONS OFFICERS**

Pub. L. 102–190, div. A, title VII, §718(b), Dec. 5, 1991, 105 Stat. 1404, provided that, of the total number of officers authorized to be serving on active duty in Navy on last day of a fiscal year, 12,510 were to be available only for assignment to duties in health profession specialties, prior to repeal by Pub. L. 104–106, div. A, title V, §564(d)(2), Feb. 10, 1996, 110 Stat. 327.

**LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL**

Pub. L. 101–510, div. A, title VII, §711, Nov. 5, 1990, 104 Stat. 1582, as amended by Pub. L. 102–190, div. A, title VII, §718(a), Dec. 5, 1991, 105 Stat. 1404, prohibited Secretary of Defense from reducing number of medical personnel of Department of Defense below baseline number unless Secretary certified to Congress that number of such personnel being reduced was excess to current and projected needs of military departments, and such reduction would not result in increase in cost of health care services provided under Civilian Health and Medical Program of the Uniformed Services, and, in case of military medical personnel, included in certification information on strength levels for individual category of medical personnel involved in reduction as of Sept. 30, 1989, projected requirements of Department over 5-fiscal year period following fiscal year in which certification was submitted for medical personnel in category of medical personnel involved, and strength level recommended for each component of Armed Forces for most recent fiscal year for which Secretary submitted recommendations pursuant to former section 115a(g)(1) of this title for personnel in category of medical personnel involved, prior to repeal by Pub. L. 104–106, div. A, title V, §564(d)(1), Feb. 10, 1996, 110 Stat. 327. See section 129c of this title.

**OPERATION DESERT SHIELD INCREASE IN END STRENGTHS OF ACTIVE DUTY PERSONNEL; AUTHORITY; CERTIFICATION**

Pub. L. 101–510, div. A, title XI, §1117, Nov. 5, 1990, 104 Stat. 1637, authorized Secretary of Defense, after determining that operational requirements of Operation Desert Shield so require, to increase the end strengths of active duty personnel for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by section 401 of Pub. L. 101–510, set out above, and required certification by Secretary to Committees on Armed Services of Senate and House of Representatives of necessity of such increase, prior to repeal by Pub. L. 102–25, title II, §204, Apr. 6, 1991, 105 Stat. 80.

[1] *See References in Text note below.*

## §115a. Annual defense manpower profile report and related reports

(a) Not later than April 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, and furnish to any Member of Congress upon request, a defense manpower profile report. The report shall contain the Secretary's recommendations for—

(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

(2) the annual civilian personnel requirements level for each component of the Department of Defense for the next fiscal year and the civilian end-strength level for the prior fiscal year.

(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

(2) The justification and explanation required by paragraph (1) shall include the following:

(A) An explanation of how personnel end strength level requests address threats described in the national defense strategy under section 113(g) of this title.

(B) The rationale for recommended increases or decreases in active, reserve, and civilian personnel for each component of the Department of Defense.

(C) The actual end strength number for each armed force for the prior fiscal year, compared to authorized end strength levels.

(D) The shortfall in recruiting by each armed force as a percentage, as the Secretary determines appropriate.

(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the manpower required for support and overhead functions within the armed forces and the Department of Defense.

(d)(1) The Secretary shall include in each report under subsection (a) a detailed discussion of the management of the civilian workforce of the Department of Defense. The discussion shall include the matter specified in paragraph (2) for the civilian workforce of—

(A) the Office of the Secretary of Defense;

(B) the Defense Agencies;

(C) the Department of Defense Field Activities; and

(D) the military departments.

(2) The matter to be included in each discussion under paragraph (1), with respect to the civilian workforce of each element of the Department of Defense named in such paragraph, is the following:

(A) An assessment of the projected size and associated cost of such civilian workforce in the current year and for each year in the future-years defense program.

(B) If the projected size and associated cost of such civilian workforce has changed from the previous year's projected size and associated cost, an explanation of the reasons for the increase or decrease from the previous projection, including an explanation of any efforts to reduce the overall costs of the total force of military, civilian, and contract workforces.

(C) In the case of a transfer of functions between military, civilian, and contractor workforces, an explanation of the reasons for the transfer and the steps that have been taken to control the overall cost of the function to the Department.

(e) Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(A) retirements displayed by year of active commissioned service;

(B) discharges;

(C) other separations;
(D) deaths;
(E) promotions; and
(F) reserve and regular officers ordered to active duty or, in the case of the Space Force, officers ordered to active duty other than under section 20105(b) of this title.

(4) The opportunities for promotion of commissioned officers anticipated to be estimated pursuant to section 623(b)(4) of this title for the fiscal year in which such report is submitted for purposes of promotion selection boards convened pursuant to section 611 of this title during such fiscal year.

(f)(1) Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.
(2) For purposes of this subsection, the term "medical personnel" includes—
(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;
(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;
(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;
(D) enlisted members engaged in or supporting medically related activities; and
(E) such other personnel as the Secretary considers appropriate.

(g) Not later than June 1 each year, the Secretary shall submit to Congress a report that sets forth the following information with respect to personnel assigned to or supporting major Department of Defense headquarters activities:
(1) The military end strength and civilian full-time equivalents assigned to major Department of Defense headquarters activities for the preceding fiscal year.
(2) A summary of the replacement during the preceding fiscal year of contract workyears providing support to major Department of Defense headquarters activities with military end strength or civilian full-time equivalents, including an estimate of the number of contract workyears associated with the replacement of contracts performing inherently governmental or exempt functions.
(3) The plan for the continued review of contract personnel supporting major Department of Defense headquarters activities for possible conversion to military or civilian performance in accordance with section 2463 of this title.
(4) The amount of any adjustment in the limitation on personnel made by the Secretary of Defense or the Secretary of a military department, and, for each adjustment made pursuant to section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (10 U.S.C. 143 note), the purpose of the adjustment.

(h) Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth the following with respect to personnel:
(1) The number of members of the Armed Forces who are not citizens of the United States during the year covered by such report.
(2) The immigration status of such members.
(3) The number of such members naturalized.

(Added Pub. L. 101–510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1711; amended Pub. L. 102–190, div. A, title X, §1061(a)(1), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 104–106, div. A, title V, §513(e), title X, §1061(d), Feb. 10, 1996, 110 Stat. 307, 442; Pub. L. 105–85, div. A, title V, §522(i)(2), Nov. 18, 1997, 111 Stat. 1736; Pub. L. 105–261, div. A, title IV, §403, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 111–84, div. A, title XI, §1109(b)(1)–(2)(B)(i), Oct. 28, 2009, 123 Stat.

2492, 2493; Pub. L. 112–81, div. A, title IX, §934, Dec. 31, 2011, 125 Stat. 1544; Pub. L. 112–239, div. A, title V, §519(b), Jan. 2, 2013, 126 Stat. 1721; Pub. L. 115–91, div. A, title X, §1051(a)(2), Dec. 12, 2017, 131 Stat. 1560; Pub. L. 115–232, div. A, title V, §591, Aug. 13, 2018, 132 Stat. 1788; Pub. L. 116–92, div. A, title XVII, §1701(a)–(c)(1), Dec. 20, 2019, 133 Stat. 1794, 1795; Pub. L. 116–283, div. A, title V, §551(a)(4), Jan. 1, 2021, 134 Stat. 3629; Pub. L. 117–263, div. A, title V, §591, Dec. 23, 2022, 136 Stat. 2611; Pub. L. 118–31, div. A, title XVII, §1722(a)(1), Dec. 22, 2023, 137 Stat. 667; Pub. L. 118–159, div. A, title IV, §431, Dec. 23, 2024, 138 Stat. 1865; Pub. L. 119–60, div. A, title IV, §422(a), (b)(1), (2)(B), Dec. 18, 2025, 139 Stat. 850, 851.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, referred to in subsec. (f)(4), is section 1111(b)(2) of Pub. L. 110–417, which is set out as a note under section 143 of this title.

### CODIFICATION

The text of subsec. (c)(2) of section 129 of this title, which was transferred to this section and redesignated subsec. (d)(2), was based on Pub. L. 114–328, div. A, title XI, §1101(a)(4), Dec. 23, 2016, 130 Stat. 2443; amended Pub. L. 116–92, div. A, title XI, §1103(2), Dec. 20, 2019, 133 Stat. 1596.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(1)(D), (3), (c)(2) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60, §422(b)(1)(B), added subsec. (d), consisting of par. (1). Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 119–60, §422(b)(2)(B), transferred par. (2) of section 129(c) of this title and inserted it at end of subsec. (d) of this section. See Codification note above.

Subsecs. (e) to (g). Pub. L. 119–60, §422(a), (b)(1)(A), redesignated subsecs. (d) to (f) as (e) to (g), respectively, and struck out former subsec. (g) which required the Secretary of Defense to submit to Congress a report on the Army and Air Force military technician programs not later than April 1 each year.

**2024**—Subsec. (a). Pub. L. 118–159, §431(1), substituted "the Committees on Armed Services of the Senate and the House of Representatives, and furnish to any Member of Congress upon request," for "Congress" in introductory provisions.

Subsec. (b). Pub. L. 118–159, §431(2), designated existing provisions as par. (1) and added par. (2).

**2023**—Subsec. (d)(3)(F). Pub. L. 118–31 inserted before period at end "or, in the case of the Space Force, officers ordered to active duty other than under section 20105(b) of this title".

**2022**—Subsec. (h). Pub. L. 117–263 added subsec. (h).

**2021**—Subsecs. (g), (h). Pub. L. 116–283 redesignated subsec. (h) as (g) and struck out former subsec. (g) which set out elements to be included in a required annual report to Congress.

**2019**—Pub. L. 116–92, §1701(c)(1), substituted "Annual defense manpower profile report and related reports" for "Annual defense manpower requirements report" in section catchline.

Subsec. (a). Pub. L. 116–92, §1701(a)(1)(A), in introductory provisions, substituted "Not later than April 1 each year, the Secretary of Defense shall submit to Congress a defense manpower profile report." for "The Secretary of Defense shall submit to Congress an annual defense manpower requirements report. The report, which shall be in writing, shall be submitted each year on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31."

Subsec. (a)(3). Pub. L. 116–92, §1701(a)(1)(B)–(D), struck out par. (3) which read as follows: "the projected number of contractor personnel full-time equivalents required to provide contract services (as that term is defined in section 235 of this title) for each component of the Department of Defense for the next fiscal year and the contractor personnel full-time equivalents that provided contract services for each component of the Department of Defense for the prior fiscal year as reported in the inventory of contracts for services required by section 2330a(c) of this title."

Subsec. (b). Pub. L. 116–92, §1701(a)(2), struck out "(1)" before "The Secretary" and struck out pars. (2) and (3) which read as follows:

"(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

"(A) Unit mission and capability.

"(B) Strategy which the unit supports.

"(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense."

Subsec. (c). Pub. L. 116–92, §1701(a)(3), substituted "discussion of the manpower required for support and overhead functions within the armed forces and the Department of Defense." for "discussion of the following:

"(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

"(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

"(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions."

Subsec. (d). Pub. L. 116–92, §1701(b)(1), substituted "Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth" for "The Secretary shall also include in each such report".

Subsec. (e)(1). Pub. L. 116–92, §1701(b)(2), substituted "Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth" for "In each such report, the Secretary shall also include".

Subsec. (f). Pub. L. 116–92, §1701(b)(3)(A), substituted "Not later than June 1 each year, the Secretary shall submit to Congress a report that sets forth" for "The Secretary shall also include in each such report" in introductory provisions.

Subsec. (f)(1). Pub. L. 116–92, §1701(b)(3)(B), struck out "and estimates of such numbers for the current fiscal year and subsequent fiscal years" before period at end.

Subsec. (g). Pub. L. 116–92, §1701(b)(4), substituted "Not later than September 1 each year, the Secretary shall submit to Congress a report that sets forth a detailed discussion, current as of the preceding fiscal year," for "In each report submitted under subsection (a), the Secretary shall also include a detailed discussion" in introductory provisions and "the fiscal year" for "the year" in pars. (3) and (4).

Subsec. (h). Pub. L. 116–92, §1701(b)(5), substituted "Not later than April 1 each year, the Secretary shall submit to Congress a report" for "In each such report, the Secretary shall include a separate report" in introductory provisions.

**2018**—Subsec. (a). Pub. L. 115–232, §591(a), substituted "on the date on which" for "not later than 45 days after the date on which" in introductory provisions.

Subsec. (d)(4). Pub. L. 115–232, §591(b), added par. (4).

**2017**—Subsec. (g). Pub. L. 115–91 struck out "during fiscal years 2013 through 2017" after "subsection (a)" in introductory provisions.

**2013**—Subsec. (g). Pub. L. 112–239 added subsec. (g).

**2011**—Subsec. (a)(2), (3). Pub. L. 112–81 added pars. (2) and (3) and struck out former par. (2) which read as follows: "the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year."

**2009**—Pub. L. 111–84, §1109(b)(2)(B)(i), inserted "defense" before "manpower" in section catchline.

Subsec. (a). Pub. L. 111–84, §1109(b)(2)(A), inserted "defense" before "manpower requirements report" in introductory provisions.

Subsec. (f). Pub. L. 111–84, §1109(b)(1), added subsec. (f).

**1998**—Subsec. (a). Pub. L. 105–261, in introductory provisions, struck out ", not later than February 15 of each fiscal year," after "submit to Congress" and substituted "The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report" for "The report shall be in writing and".

**1997**—Subsec. (h). Pub. L. 105–85, §522(i)(2)(A), inserted "(displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians)" after "of the following" in introductory provisions.

Subsec. (h)(3). Pub. L. 105–85, §522(i)(2)(B), struck out par. (3) which read as follows: "Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called 'single-status' technicians), with a further display of such numbers as specified in paragraph (2)."

**1996**—Subsec. (b)(2)(C). Pub. L. 104–106, §1061(d)(1), struck out subpar. (C) which read as follows: "Area of deployment and illustrative areas of potential deployment, including a description of any United

States commitment to defend such areas."

Subsec. (d). Pub. L. 104–106, §1061(d)(3), redesignated subsec. (e) as (d) and struck out pars. (4) and (5) which read as follows:

"(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

"(A) Regular officers.

"(B) Reserve officers on the active-duty list.

"(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

"(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

"(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

"(A) recruit and specialized training;

"(B) flight training;

"(C) professional training in military and civilian institutions; and

"(D) officer acquisition training."

Pub. L. 104–106, §1061(d)(2), struck out subsec. (d) which read as follows: "In each such report, the Secretary shall also—

"(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

"(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

"(3) provide a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs."

Subsec. (e). Pub. L. 104–106, §1061(d)(5), redesignated subsec. (g) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–106, §1061(d)(4), struck out subsec. (f) which read as follows: "In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended."

Subsec. (g). Pub. L. 104–106, §1061(d)(5), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 104–106, §513(e), added subsec. (h).

**1991**—Subsec. (d)(3). Pub. L. 102–190 inserted "provide" before "a comprehensive".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CENTRALIZED DATABASE OF INFORMATION ON MILITARY TECHNICIAN POSITIONS

Pub. L. 113–291, div. A, title V, §513, Dec. 19, 2014, 128 Stat. 3359, provided that:

"(a) CENTRALIZED DATABASE REQUIRED.—The Secretary of Defense shall establish and maintain a centralized database of information on military technician positions that will contain and set forth current information on all military technician positions of the Armed Forces.

"(b) ELEMENTS.—

"(1) IDENTIFICATION OF POSITIONS.—The database required by subsection (a) shall identify each military technician position, whether dual-status or non-dual status.

"(2) ADDITIONAL DETAILS.—For each military technician position identified pursuant to paragraph (1), the database required by subsection (a) shall include the following:

"(A) A description of the functions of the position.

"(B) A statement of the military necessity for the position.

"(C) A statement of whether the position is—

"(i) a general administration, clerical, or office service occupation; or

"(ii) directly related to the maintenance of military readiness.

"(c) CONSULTATION.—The Secretary of Defense shall establish the database required by subsection (a) in consultation with the Secretaries of the military departments.

"(d) IMPLEMENTATION REPORT.—Not later than September 1, 2015, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the progress made in establishing the database required by subsection (a)."

**ASSESSMENT OF STRUCTURE AND MIX OF ACTIVE AND RESERVE FORCES**

Pub. L. 102–190, div. A, title IV, §402, Dec. 5, 1991, 105 Stat. 1349, as amended by Pub. L. 102–484, div. A, title V, §513(b), Oct. 23, 1992, 106 Stat. 2406, required Secretary of Defense to submit to Congress a report containing an assessment of alternatives relating to structure and mix of active and reserve forces appropriate for carrying out assigned missions in mid- to late-1990s and an evaluation and recommendations of Secretary and Chairman of Joint Chiefs of Staff as to mix or mixes of reserve and active forces considered acceptable to carry out expected future missions, and further provided for matters to be included in report and evaluation, commencement of assessment, submission of interim and final reports, and funding for assessment.

## [§115b. Repealed. Pub. L. 114–328, div. A, title XI, §1102(a), Dec. 23, 2016, 130 Stat. 2444]

Section, added Pub. L. 111–84, div. A, title XI, §1108(a)(1), Oct. 28, 2009, 123 Stat. 2488; amended Pub. L. 112–81, div. A, title IX, §935(a)(1), (b), (c), title X, §1053, Dec. 31, 2011, 125 Stat. 1545, 1582; Pub. L. 113–291, div. A, title IX, §911, Dec. 19, 2014, 128 Stat. 3472; Pub. L. 114–92, div. A, title VIII, §841(b), Nov. 25, 2015, 129 Stat. 914, required Secretary of Defense to submit biennial strategic workforce plan.

A prior section 115b was renumbered section 10541 of this title.

## §116. Annual operations and maintenance report

(a)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, Marine Corps, and Space Force for the next fiscal year. The Secretary shall include in each such report recommendations for—

(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

(b) The Secretary may submit the report required by subsection (a) by including the materials required in the report as an exhibit to the defense authorization request submitted pursuant to section 113a of this title in the fiscal year concerned.

(c) In this section:

(1) The term "combat arms battalions" means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(2) The term "major repair work" means, in the case of any ship to which subsection (a) is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

(Added Pub. L. 96–342, title X, §1001(b)(3), (c)(2), Sept. 8, 1980, 94 Stat. 1118, 1119, §138(e), (f)(2); amended Pub. L. 96–513, title V, §511(4)(B), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–86, title III, §302, Dec. 1, 1981, 95 Stat. 1104; renumbered §116 and amended Pub. L. 99–433, title I, §§101(a)(2), 110(b)(6), (7), (9), (10), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 105–85, div. A, title

X, §1073(a)(3), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 112–81, div. A, title X, §1064(2), Dec. 31, 2011, 125 Stat. 1586; Pub. L. 116–283, div. A, title IX, §924(b)(1)(A), Jan. 1, 2021, 134 Stat. 3820.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(1). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps" in introductory provisions.

**2011**—Subsecs. (b), (c). Pub. L. 112–81 added subsec. (b) and redesignated former subsec. (b) as (c).

**1997**—Subsec. (b)(2). Pub. L. 105–85 substituted "subsection (a)" for "such subsection".

**1986**—Pub. L. 99–433 successively redesignated subsecs. (e) and (f)(2) of section 138 of this title as subsecs. (e) and (f)(2) of section 114 of this title and then as subsecs. (a) and (b), respectively, of this section, added section catchline, and made minor conforming changes in text.

**1981**—Subsec. (a)(3), (4), formerly §138(e)(3), (4). Pub. L. 97–86 struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

**1980**—Subsec. (b), formerly §138(f)(2). Pub. L. 96–513 substituted "In subsection (e)" for "In subsection (f)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in this section requiring submittal of reports to Congress, see section 1051(x) of Pub. L. 115–91, set out as a note under section 111 of this title.

## §117. Readiness reporting system

(a) REQUIRED READINESS REPORTING SYSTEM.—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

(b) READINESS REPORTING SYSTEM CHARACTERISTICS.—In establishing and maintaining the readiness reporting system, the Secretary shall ensure—

(1) that the readiness reporting system and associated policies are applied uniformly throughout the Department of Defense, including between and among the joint staff and each of the armed forces;

(2) that is the single authoritative readiness reporting system for the Department, and that there shall be no military service specific systems;

(3) that readiness assessments are accomplished at an organizational level at, or below, the level at which forces are employed;

(4) that the reporting system include resources information, force posture, and mission centric capability assessments, as well as predicted changes to these attributes;

(5) that information in the readiness reporting system is continually updated, with (A) any change in the overall readiness status of a unit, or element of a unit, that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating

the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours of the event necessitating the change in readiness status; and

(6) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

(c) CAPABILITIES.—The readiness reporting system shall measure such factors relating to readiness as the Secretary prescribes, except that the system shall include the capability to do each of the following:

(1) Measure the readiness of units (both as elements of their respective armed force and as elements of joint forces) to conduct their designed and assigned missions.

(2) Measure the capability of training establishments to provide trained and ready forces for designed and assigned missions.

(3) Measure the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their designed and assigned missions.

(4) Measure critical warfighting deficiencies in unit capability.

(5) Measure critical warfighting deficiencies in training establishments and defense infrastructure.

(6) Measure the extent to which units of the armed forces remove serviceable parts, supplies, or equipment from one vehicle, vessel, or aircraft in order to render a different vehicle, vessel, or aircraft operational.

(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the established information technology system for Department of Defense reporting, specifically authorize exceptions to a single-system architecture, and identify the organizations, units, and entities that are subject to reporting in the readiness reporting system, what organization resources are subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.

(Added Pub. L. 105–261, div. A, title III, §373(a)(1), Oct. 17, 1998, 112 Stat. 1990; amended Pub. L. 106–65, div. A, title III, §361(d)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 575, 774; Pub. L. 106–398, §1 [[div. A], title III, §371], Oct. 30, 2000, 114 Stat. 1654, 1654A–80; Pub. L. 108–136, div. A, title X, §1031(a)(1), Nov. 24, 2003, 117 Stat. 1595; Pub. L. 112–239, div. A, title VIII, §845(a), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 115–91, div. A, title III, §331(b), Dec. 12, 2017, 131 Stat. 1354; Pub. L. 115–232, div. A, title III, §331(a)–(g)(1), Aug. 13, 2018, 132 Stat. 1723, 1724; Pub. L. 116–92, div. A, title III, §361(a), Dec. 20, 2019, 133 Stat. 1325.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 117, added Pub. L. 97–295, §1(2)(A), Oct. 12, 1982, 96 Stat. 1287, §133a; renumbered §117 and amended Pub. L. 99–433, title I, §§101(a)(2), 110(d)(3), Oct. 1, 1986, 100 Stat. 994, 1002, required annual report on North Atlantic Treaty Organization readiness, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(1), Nov. 5, 1990, 104 Stat. 1668.

### AMENDMENTS

**2019**—Subsecs. (d) to (h). Pub. L. 116–92 redesignated subsec. (h) as (d) and struck out former subsecs. (d) to (g) which related to semi-annual and monthly joint readiness reviews, semi-annual report to congressional committees on most recent joint readiness review, quarterly report on monthly changes in current state of readiness, and annual report on operational contract support, respectively.

**2018**—Pub. L. 115–232, §331(g)(1), struck out ": establishment; reporting to congressional committees" after "system" in section catchline.

Subsec. (b). Pub. L. 115–232, §331(a)(1), inserted "and maintaining" after "establishing" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–232, §331(a)(2), substituted "reporting system and associated policies are applied uniformly throughout the Department of Defense, including between and among the joint staff and each of the armed forces" for "reporting system is applied uniformly throughout the Department of Defense".

Subsec. (b)(2) to (4). Pub. L. 115–232, §331(a)(4), added pars. (2) to (4). Former pars. (2) and (3) redesignated (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 115–232, §331(a)(3), (5), redesignated par. (2) as (5) and inserted ", or element of a unit," after "readiness status of a unit".

Subsec. (b)(6). Pub. L. 115–232, §331(a)(3), redesignated par. (3) as (6).

Subsec. (c)(1). Pub. L. 115–232, §331(b)(1), substituted "Measure the readiness of units" for "Measure, on a monthly basis, the capability of units" and "conduct their designed and assigned missions" for "conduct their assigned wartime missions".

Subsec. (c)(2), (3). Pub. L. 115–232, §331(b)(2), (3), substituted "Measure" for "Measure, on an annual basis," and "designed and assigned missions" for "wartime missions".

Subsec. (c)(4). Pub. L. 115–232, §331(b)(4), substituted "Measure" for "Measure, on a monthly basis,".

Subsec. (c)(5). Pub. L. 115–232, §331(b)(5), substituted "Measure" for "Measure, on an annual basis,".

Subsec. (c)(6) to (8). Pub. L. 115–232, §331(b)(6), (7), redesignated par. (7) as (6), substituted "Measure" for "Measure, on a quarterly basis,", and struck out former pars. (6) and (8) which read as follows:

"(6) Measure, on a monthly basis, the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

"(8) Measure, on an annual basis, the capability of operational contract support to support current and anticipated wartime missions of the armed forces."

Subsec. (d)(1)(A). Pub. L. 115–232, §331(c), inserted ", which includes a validation of readiness data currency and accuracy" after "joint readiness review".

Subsec. (f). Pub. L. 115–232, §331(d)(2), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 115–232, §331(e), added subsec. (g).

Subsec. (h). Pub. L. 115–232, §331(d)(1), (f), redesignated subsec. (f) as (h) and substituted "prescribe the established information technology system for Department of Defense reporting, specifically authorize exceptions to a single-system architecture, and identify the organizations, units, and entities that are subject to reporting in the readiness reporting system, what organization resources are subject to such reporting" for "prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting".

**2017**—Subsec. (d). Pub. L. 115–91, §331(b)(1)(A), substituted "Semi-annual" for "Quarterly" in heading.

Subsec. (d)(1)(A). Pub. L. 115–91, §331(b)(1)(B), substituted "semi-annual" for "quarterly".

Subsec. (e). Pub. L. 115–91, §331(b)(2), substituted "semi-annually" for "each quarter".

**2014**—Subsec. (a)(1). Pub. L. 113–291 substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

**2013**—Subsec. (c)(8). Pub. L. 112–239 added par. (8).

**2003**—Subsec. (e). Pub. L. 108–136 substituted "each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A)" for "each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report in writing containing the results of the most recent joint readiness review or monthly review conducted under subsection (d)".

**2000**—Subsec. (c)(7). Pub. L. 106–398 added par. (7).

**1999**—Subsec. (b)(2). Pub. L. 106–65, §361(d)(1)(A), substituted "with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours" for "with any change in the overall readiness status of a unit, an element of the training establishment, or an element of defense infrastructure, that is required to be reported as part of the readiness reporting system, being reported within 24 hours".

Subsec. (c)(2), (3), (5). Pub. L. 106–65, §361(d)(1)(B), substituted "an annual" for "a quarterly".

Subsec. (e). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REQUIREMENT TO INCLUDE FOREIGN LANGUAGE PROFICIENCY IN READINESS REPORTING SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title III, §366, Dec. 20, 2019, 133 Stat. 1328, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense and the Secretary of each military department shall include in the Global Readiness and Force Management Enterprise, for the appropriate billets with relevant foreign language requirements, measures of foreign language proficiency as a mandatory element of unit readiness reporting, to include the Defense Readiness Reporting Systems-Strategic (DRRS-S) and all other subordinate systems that report readiness data."

### METRICS FOR ASSESSMENT OF READINESS OF CYBER MISSION FORCES

Pub. L. 116–92, div. A, title XVI, §1634(b), (c), Dec. 20, 2019, 133 Stat. 1747, provided that:

"(b) METRICS.—

"(1) ESTABLISHMENT REQUIRED.—The Secretary of Defense shall establish metrics for the assessment of the readiness of the Cyber Mission Forces of the Department of Defense.

"(2) BRIEFINGS REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019] and quarterly thereafter until completion of the establishment of the metrics under paragraph (1), the Secretary shall provide a briefing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on such metrics, including progress as required pursuant to subsection (c).

"(c) MODIFICATION OF READINESS REPORTING SYSTEM.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall take such actions as the Secretary considers appropriate to ensure that the comprehensive readiness reporting system established pursuant to section 117(a) of title 10, United States Code, covers matters relating to the readiness of the Cyber Mission Forces—

"(1) using the metrics established pursuant to subsection (b)(1); and

"(2) in a manner that is consistent with sections 117 and 482 of such title."

### LIMITATION ON AVAILABILITY OF FUNDS FOR SERVICE-SPECIFIC DEFENSE READINESS REPORTING SYSTEMS

Pub. L. 115–232, div. A, title III, §358, Aug. 13, 2018, 132 Stat. 1732, as amended by Pub. L. 116–92, div. A, title III, §362, Dec. 20, 2019, 133 Stat. 1327, provided that:

"(a) LIMITATION.—None of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for the Department of Defense for fiscal year 2019 for research, development, test, and evaluation or procurement, and available to develop service-specific Defense Readiness Reporting Systems (referred to in this section as 'DRRS') may be made available for such purpose except for required maintenance and in order to facilitate the transition to DRRS-Strategic (referred to in this section as 'DRRS-S').

"(b) PLAN.—Not later than February 1, 2019, the Under Secretary for Personnel and Readiness shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a resource and funding plan to include a schedule with relevant milestones on the elimination of service-specific DRRS and the migration of the military services and other organizations to DRRS-S.

"(c) TRANSITION.—The military services shall complete the transition to DRRS-S not later than October 1, 2020. The Secretary of Defense shall notify the congressional defense committees upon the complete transition of the services.

"(d) REPORTING REQUIREMENT.—

"(1) IN GENERAL.—The Under Secretary for Personnel and Readiness, the Under Secretary for Acquisition and Sustainment, and the Under Secretary for Research and Engineering, in coordination with the Secretaries of the military departments and other organizations with relevant technical expertise, shall establish a working group including individuals with expertise in application or software development, data science, testing, and development and assessment of performance metrics to assess the current process for collecting, analyzing, and communicating readiness data, and develop a strategy for implementing any recommended changes to improve and establish readiness metrics using the current DRRS-Strategic platform.

"(2) ELEMENTS.—The assessment conducted pursuant to paragraph (1) shall include—

"(A) identification of modern tools, methods, and approaches to readiness to more effectively and efficiently collect, analyze, and make decision based on readiness data; and

"(B) consideration of cost and schedule.

"(3) SUBMISSION TO CONGRESS.—Not later than February 1, 2020, the Secretary of Defense shall submit to the congressional defense committees the assessment conducted pursuant to paragraph (1).

"(e) DEFENSE READINESS REPORTING REQUIREMENTS.—To the maximum extent practicable, the Secretary of Defense shall meet defense readiness reporting requirements consistent with the recommendations of the working group established under subsection (d)(1)."

**DEFENSE MATERIEL READINESS BOARD**

Pub. L. 112–239, div. A, title XVI, §1601(a), Jan. 2, 2013, 126 Stat. 2062, provided that: "The Defense Materiel Readiness Board established pursuant to section 871 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 117 note) [formerly set out below] is hereby disestablished."

Pub. L. 112–239, div. A, title XVI, §1601(b), Jan. 2, 2013, 126 Stat. 2062, provided that: "The Department of Defense Strategic Readiness Fund established by section 872(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 117 note) [formerly set out below] is hereby closed."

Pub. L. 110–181, div. A, title VIII, subtitle G, Jan. 28, 2008, 122 Stat. 260, which required Secretary of Defense to establish Defense Materiel Readiness Board to provide independent assessments of materiel readiness, materiel readiness shortfalls, and materiel readiness plans to Secretary of Defense and Congress; provided for designation of critical materiel readiness shortfalls; established Department of Defense Strategic Readiness Fund; and required Secretary of military department to notify Congress with respect to determination that use of a multiyear procurement contract would address a critical material readiness shortfall, was repealed by Pub. L. 112–239, div. A, title XVI, §1601(c), Jan. 2, 2013, 126 Stat. 2062.

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title III, §373(b), (c), Oct. 17, 1998, 112 Stat. 1992, as amended by Pub. L. 106–65, div. A, title III, §361(d)(2), Oct. 5, 1999, 113 Stat. 575, directed the Secretary of Defense to submit to Congress a report, not later than Mar. 1, 1999, setting forth a plan for implementation of this section, and required the Secretary to establish and implement the readiness reporting system required by this section so as to ensure that required capabilities would be attained not later than Apr. 1, 2000.

## §118. Materiel readiness metrics and materiel readiness objectives for major weapon systems

(a) MATERIEL READINESS METRICS.—Each head of an element of the Department specified in paragraphs (1) through (10) of section 111(b) of this title shall establish and maintain materiel readiness metrics to enable assessment of the readiness of members of the armed forces to carry out—

(1) the strategic framework required by section 113(g)(1)(B)(vii) [1] of this title; and

(2) guidance issued by the Secretary of Defense pursuant to section 113(g)(1)(B) of this title.

(b) REQUIRED METRICS.—At a minimum, the materiel readiness metrics required by subsection (a) shall establish procedures and a computation methodology to determine the materiel availability, operational availability, operational capability, and materiel reliability of each major weapon system by designated mission, design series, variant, or class.

(c) MATERIEL READINESS OBJECTIVES.—(1) Not later than one year after the date of the enactment of this subsection, each head of an element described in subsection (a) shall establish materiel readiness objectives for each major weapon system.

(2) Annually, each head of an element described in subsection (a) shall review and revise such materiel readiness objectives and include any such revisions in the materials submitted to Congress in support of the budget of the President under section 1105 of title 31.

(d) BUDGET JUSTIFICATION.—Not later than five days after the date on which the Secretary of Defense submits to Congress the materials in support of the budget of the President for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees an annual report on major weapons systems sustainment for the period covered by the future years defense program specified by section 221 of this title. Such report shall include—

(1) an assessment of the materiel availability, operational availability, and materiel reliability

for each major weapon system; and

(2) a detailed explanation of any factors that could preclude the Department of Defense or any of the military departments from meeting applicable materiel readiness objectives, such as infrastructure, workforce, or supply chain considerations.

(e) FUNDING ESTIMATES.—Not later than five days after the date on which the Secretary of Defense submits to Congress the materials in support of the budget of the President for a fiscal year, the Director of Cost Assessment and Performance Evaluation shall submit to the congressional defense committees a comprehensive estimate of the funds necessary to meet the materiel readiness objectives required by subsection (c) through the period covered by the most recent future-years defense program. At a minimum, the Director shall provide, for each major weapon system, by designated mission, design series, variant, or class, a comprehensive estimate of the funds necessary to meet such objectives that—

(1) have been obligated by subactivity group within the operation and maintenance accounts for the second fiscal year preceding the budget year;

(2) the Director estimates will have been obligated by subactivity group within the operation and maintenance accounts by the end of the fiscal year preceding the budget year; and

(3) have been budgeted and programmed across the future years defense program within the operation and maintenance accounts by subactivity group.

(f) DEFINITIONS.—In this section:

(1) The term "major weapon system" has the meaning given in section 101(a) of this title.

(2) The term "materiel availability" means a measure of the percentage of the total inventory of a major weapon system that is operationally capable of performing an assigned mission.

(3) The term "materiel readiness objective" means the minimum required availability of each covered system that is necessary to fulfill the requirements of the strategic framework and guidance referred to in subsection (a).

(4) The term "materiel reliability" means the probability that a major weapon system will perform without failure over a specified interval.

(5) The term "operational availability" means a measure of the percentage of time a major weapon system is operationally capable.

(6) The term "operationally capable" means a materiel condition indicating that a major weapon system is capable of performing its assigned mission and has no discrepancies with a subsystem of a major weapon system.

(Added Pub. L. 116–92, div. A, title III, §351(a)(1), Dec. 20, 2019, 133 Stat. 1319; amended Pub. L. 116–283, div. A, title III, §347(a), title X, §1081(a)(6), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3540, 3871, 4294; Pub. L. 117–263, div. A, title III, §351(a), Dec. 23, 2022, 136 Stat. 2532; Pub. L. 119–60, div. A, title VIII, §811(c)(2)(A), title XVIII, §1803(d), Dec. 18, 2025, 139 Stat. 950, 1233.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 113(g)(1)(B)(vii) of this title, referred to in subsec. (a)(1), was repealed and section 113(g)(1)(B)(viii) was redesignated as section 113(g)(1)(B)(vii) by Pub. L. 119–60, div. A, title IX, §901(a)(2), Dec. 18, 2025, 139 Stat. 1007. Section 113(g)(1)(B)(vii), as so redesignated, relates to a strategic framework prescribed by the Secretary of Defense that guides how the Department of Defense will prioritize and integrate certain activities.

The date of the enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

### PRIOR PROVISIONS

A prior section 118, added Pub. L. 106–65, div. A, title IX, §901(a)(1), Oct. 5, 1999, 113 Stat. 715; amended Pub. L. 107–107, div. A, title IX, §921(a), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107–314, div. A,

title IX, §§922, 923, Dec. 2, 2002, 116 Stat. 2623; Pub. L. 109–364, div. A, title X, §1031(c)–(f), Oct. 17, 2006, 120 Stat. 2385, 2386; Pub. L. 110–181, div. A, title IX, §§941(b), 951(a), Jan. 28, 2008, 122 Stat. 287, 290; Pub. L. 111–84, div. A, title X, §§1002, 1073(a)(2), div. B, title XXVIII, §2822(b), Oct. 28, 2009, 123 Stat. 2439, 2472, 2666; Pub. L. 111–383, div. A, title X, §1071, Jan. 7, 2011, 124 Stat. 4364; Pub. L. 112–81, div. A, title VIII, §820(a), title IX, §942, Dec. 31, 2011, 125 Stat. 1501, 1548; Pub. L. 113–291, div. A, title X, §§1071(c)(2), (f)(1), 1072(a)(1), Dec. 19, 2014, 128 Stat. 3508, 3510, 3512, related to quadrennial defense strategy review by Secretary of Defense, prior to repeal by Pub. L. 114–328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367.

Another prior section 118, added Pub. L. 97–295, §1(2)(A), Oct. 12, 1982, 96 Stat. 1288, §133b; renumbered §118, Pub. L. 99–433, title I, §101(a)(2), Oct. 1, 1986, 100 Stat. 994, required reports to Congress on sales or transfers of defense articles, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(2), Nov. 5, 1990, 104 Stat. 1668.

## AMENDMENTS

**2025**—Pub. L. 119–60, §1803(d)(1), inserted "materiel readiness" before "objectives" in section catchline.

Subsec. (b). Pub. L. 119–60, §1803(d)(2), substituted "shall establish procedures and a computation methodology to determine" for "shall address".

Subsec. (c)(1). Pub. L. 119–60, §1803(d)(3)(A), substituted "materiel readiness objectives for each major weapon system." for "the metrics required by subsection (b) necessary to support the strategic framework and guidance referred to in paragraph (1) and (2) of subsection (a)."

Subsec. (c)(2). Pub. L. 119–60, §1803(d)(3)(B), substituted "such materiel readiness objectives" for "the metrics required by subsection (b)".

Subsec. (d)(2). Pub. L. 119–60, §1803(d)(4), substituted "materiel readiness objectives" for "readiness goals or objectives".

Subsec. (e). Pub. L. 119–60, §1803(d)(5), inserted comma after "designated mission" in introductory provisions.

Subsec. (f)(1). Pub. L. 119–60, §811(c)(2)(A), substituted "section 101(a)" for "section 3455(f)".

Subsec. (f)(3) to (6). Pub. L. 119–60, §1803(d)(6), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

**2022**—Subsec. (d)(2). Pub. L. 117–263, §351(a)(1), substituted "objectives, such as infrastructure, workforce, or supply chain considerations" for "objectives".

Subsecs. (e), (f). Pub. L. 117–263, §351(a)(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f).

**2021**—Pub. L. 116–283, §347(a)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Annual report on major weapons systems sustainment".

Subsecs. (a) to (c). Pub. L. 116–283, §347(a)(3), added subsecs. (a) to (c).

Subsec. (d). Pub. L. 116–283, §347(a)(2), designated existing provisions as subsec. (d) and inserted heading.

Subsec. (d)(1). Pub. L. 116–283, §347(a)(4)(A), substituted "operational availability, and materiel reliability for each major weapon system" for "materiel reliability, and mean down time metrics for each major weapons system" and inserted "and" at end.

Subsec. (d)(3). Pub. L. 116–283, §1081(a)(6), which directed inserting "and" after " 'materiel and operational capability',", could not be executed because of the prior amendment by section 347(a)(4)(C) of Pub. L. 116–283. See below.

Pub. L. 116–283, §347(a)(4)(C), struck out par. (3). Text read as follows: "an assessment of the validity and effectiveness of the definitions used to determine defense readiness, including the terms 'major weapons system', 'covered asset', 'total and required inventory', 'materiel and operational availability', 'materiel and operational capability', 'materiel and operational reliability' ".

Subsec. (e). Pub. L. 116–283, §347(a)(5), added subsec. (e).

Subsec. (e)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 3455" for "section 2379".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**PHASED IMPLEMENTATION**

Pub. L. 117–263, div. A, title III, §351(b), Dec. 23, 2022, 136 Stat. 2533, provided that: "The Director of Cost Assessment and Performance Evaluation may meet the requirements of subsection (e) of section 118 of title 10, United States Code, as added by subsection (a), through a phased submission of the funding estimates required under such subsection. In conducting a phased implementation, the Director shall ensure that—

"(1) for the budget request for fiscal year 2024, funding estimates are provided for a representative sample by military department of at least one-third of the major weapon systems;

"(2) for the budget request for fiscal year 2025, funding estimates are provided for an additional one-third of the major weapon systems; and

"(3) full implementation for all major weapons systems is completed not later than five days after the date on which the Secretary of Defense submits to Congress the materials in support of the budget of the President for fiscal year 2026."

[1] *See References in Text note below.*

## §118a. Quadrennial quality of life review

(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the "quadrennial quality of life review"). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as—

(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

(c) CONSIDERATIONS.—The Secretary shall consider addressing the following matters as part of the quadrennial quality of life review:

(1) Infrastructure.

(2) Military construction.

(3) Physical conditions at military installations and other Department of Defense facilities.

(4) Budget plans.

(5) Adequacy of medical care for members of the armed forces and their dependents.

(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

(7) Housing-related utility costs.

(8) Educational opportunities and costs.

(9) Length of deployments.

(10) Rates of pay and pay differentials between the pay of members and the pay of civilians.

(11) Retention and recruiting efforts.

(12) Workplace safety.

(13) Support services for spouses and children.

(14) Other elements of Department of Defense programs and Government policies and

programs that affect the quality of life of members.

(15) Support services for Gold Star families.

(d) SUBMISSION TO CONGRESSIONAL COMMITTEES.—(1) The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include the following:

(A) The assumptions used in the review.

(B) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

(2) The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.

(Added Pub. L. 107–314, div. A, title V, §581(a)(1), Dec. 2, 2002, 116 Stat. 2559; amended Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 117–81, div. A, title X, §1061(a)(1), (b), Dec. 27, 2021, 135 Stat. 1909.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 118a was renumbered section 118b of this title.

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1061(a)(1), which directed renumbering of the "second section 118a" of this title, relating to quadrennial quality of life review, as section 118b of this title could not be executed because there was no second section 118a of this title after the renumbering of another section 118a of this title, relating to National Defense Sustainment and Logistics Review, as section 118b by Pub. L. 117–81, §311(b)(1)(B), (C). See 2021 Amendment note set out under section 118b of this title.

Subsec. (c)(15). Pub. L. 117–81, §1061(b), which directed the addition of par. (15) to subsec. (c) of section 118b of this title, as redesignated by Pub. L. 117–81, §1061(a)(1), was executed by adding par. (15) to subsec. (c) of this section to reflect the probable intent of Congress. See above.

**2014**—Subsec. (b)(1). Pub. L. 113–291 substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**FIRST QUADRENNIAL QUALITY OF LIFE REVIEW**

Pub. L. 107–314, div. A, title V, §581(b), Dec. 2, 2002, 116 Stat. 2561, directed that the first quadrennial quality of life review under this section would be conducted during 2003, and that the report on such review was to be submitted not later than the date on which the President submitted the budget for fiscal year 2005 to Congress.

## §118b. National Defense Sustainment and Logistics Review

(a) REVIEW REQUIRED.—Upon submission of each national defense strategy under section 113(g) of this title, the Secretary of Defense shall conduct a comprehensive review of the sustainment and logistics requirements necessary to support the force structure, force modernization, infrastructure, force deployment capabilities, response to risks to military installation resilience, and other elements of the defense program and policies of the United States during the subsequent 5-, 10-, and 25-year periods. Each such review shall be known as the 'National Defense Sustainment and

Logistics Review'. Each such review shall be conducted in consultation with the Secretaries of the military departments, the Chiefs of Staff of the Armed Forces, all functional and geographic combatant commanders, and the Director of the Defense Logistics Agency.

(b) REPORT TO CONGRESS.—(1) Not later than the first Monday in February of the year following the fiscal year during which the National Defense Strategy was submitted under section 113(g) of this title, the Secretary shall submit to the congressional defense committees a report on the review required by subsection (a). Each such report shall include each of the following:

(A) An assessment of the strategic, operational, and tactical maritime logistics force (including non-military assets provided by Military Sealift Command, the Maritime Administration, and through the Voluntary Intermodal Sealift Agreement and Voluntary Tanker Agreement) required to support sealift, at sea logistics, and over-the-shore logistics of forces to meet steady state and contingency requirements and the strategic and intra-theater movement of supplies, personnel, and equipment.

(B) An assessment of the strategic, operational, and tactical airlift and tankers (including non-military assets provided by the Civil Reserve Air Fleet) required to meet steady state and contingency requirements.

(C) An assessment of the location, configuration, material condition, and inventory of prepositioned materiel, equipment, and war reserves programs, as well as the ability to store and distribute these items to deployed military forces, required to meet steady state and contingency requirements.

(D) An assessment of the location, infrastructure, and storage capacity for petroleum, oil, and lubricant products, as well as the ability to store, transport, and distribute such products from storage supply points to deployed military forces, required to meet steady state and contingency requirements.

(E) An assessment of the capabilities, capacity, and infrastructure of the Department of Defense organic industrial base and private sector industrial base required to meet steady-state and surge software and depot maintenance requirements.

(F) An assessment of the production capability, capacity, and infrastructure, of the Department of Defense organic industrial base and private sector industrial base required to meet steady-state and surge production requirements for ammunition and other military munitions.

(G) An assessment of the condition, capacity, location, and survivability under likely threats of military infrastructure located both inside the continental United States and outside the continental United States, including agreements with and infrastructure provided by international partners, required to generate, project, and sustain military forces to meet steady-state and contingency requirements.

(H) An assessment of the cybersecurity risks to military and commercial logistics networks and information technology systems.

(I) An assessment of the gaps between the requirements identified under subparagraphs (A) through (H) compared to the actual force structure and infrastructure capabilities, capacity, and posture and the risks associated with each gap as it relates to the ability to meet the national defense strategy.

(J) A discussion of the identified mitigations being pursued to address each gap and risk identified under subparagraph (I) as well as the initiatives and resources planned to address such gaps, as included in the Department of Defense budget request submitted during the same year as the report and the applicable future-years defense program.

(K) An assessment of the extent to which wargames incorporate logistics capabilities and threats and a description of the logistics constraints and restraints to operations identified through such wargames.

(L) An assessment of the ability of the Department of Defense, the Armed Forces, and the combatant commands to leverage and integrate emergent logistics related technologies and advanced computing systems.

(M) Such other matters the Secretary of Defense considers appropriate.

(2) In preparing the report under paragraph (1), the Secretary of Defense shall consult with, and consider the recommendations of, the Chairman of the Joint Chiefs of Staff.

(3) The report required under this subsection shall be submitted in classified form and shall include an unclassified summary.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 180 days after the date on which Secretary submits each report required under subsection (b), the Comptroller General shall submit to the congressional defense committees a report that includes an assessment of each of the following:

(1) Whether the report includes each of the elements referred to in subsection (b).

(2) The strengths and weaknesses of the approach and methodology used in conducting the review required under subsection (a) that is covered by the report.

(3) Any other matters relating to sustainment that may arise from the report, as the Comptroller General considers appropriate.

(d) RELATIONSHIP TO BUDGET.—Nothing in this section shall be construed to affect section 1105(a) of title 31.

(Added Pub. L. 116–283, div. A, title III, §341(a), Jan. 1, 2021, 134 Stat. 3535, §118a; renumbered §118b and amended Pub. L. 117–81, div. A, title III, §311(b)(1), title X, §1081(a)(3), Dec. 27, 2021, 135 Stat. 1625, 1919.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 118b, added Pub. L. 110–181, div. A, title IX, §941(a), Jan. 28, 2008, 122 Stat. 286, related to quadrennial roles and missions review, prior to repeal by Pub. L. 113–291, div. A, title X, §1072(b)(1), Dec. 19, 2014, 128 Stat. 3516, effective Oct. 1, 2015.

### AMENDMENTS

**2021**—Pub. L. 117–81, §§311(b)(1)(B), (C), 1081(a)(3), made similar amendments, renumbering section 118a, relating to National Defense Sustainment and Logistics Review, as this section. Section 1081(a)(3), which directed the renumbering of the "second" section 118a, as added by section 341 of Pub. L. 116–283, was read as referring to this section, which had appeared as the first section 118a, to reflect the probable intent of Congress. Amendment by section 1081(a)(3) to be treated as applying before amendment by section 311(b)(1)(B), (C), see section 1081(d) of Pub. L. 117–81, listed in a table of Coordination of Certain Sections of an Act With Other Provisions of That Act under section 101 of this title.

Subsec. (a). Pub. L. 117–81, §311(b)(1)(A), substituted "capabilities, response to risks to military installation resilience," for "capabilities,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE FOR SUBMITTAL OF FIRST REPORT

Pub. L. 116–283, div. A, title III, §341(c), Jan. 1, 2021, 134 Stat. 3537, as amended by Pub. L. 117–81, div. A, title III, §311(b)(2)(B), Dec. 27, 2021, 135 Stat. 1625, provided that: "Notwithstanding the deadline in subsection (b)(1) of section 118b of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall submit the first report under such section not later than the date that is 18 months after the date of the enactment of this Act [Jan. 1, 2021], unless a new National Defense Strategy is released prior to such date."

[Pub. L. 117–81, div. A, title III, §311(b)(2)(B), which directed amendment of section "314(c)" of Pub. L. 116–283 by substituting "section 118b" for "section 118a", was executed by making the amendment to section 341(c) of Pub. L. 116–283, set out above, to reflect the probable intent of Congress.]

## §118c. National Defense Science and Technology Strategy

(a) IN GENERAL.—The Secretary of Defense shall develop a strategy—

(1) to articulate the science and technology priorities, goals, and investments of the Department

of Defense;

(2) to make recommendations on the future of the defense research and engineering enterprise and its continued success in an era of strategic competition; and

(3) to establish an integrated approach to the identification, prioritization, development, and fielding of emerging capabilities and technologies.

(b) ELEMENTS.—The strategy required under subsection (a) shall—

(1) inform the development of each National Defense Strategy under section 113(g) of this title and be aligned with Government-wide strategic science and technology priorities, including the defense budget priorities of the Office of Science and Technology Policy of the President;

(2) link the priorities, goals, and investments in subsection (a)(1) with needed critical enablers to specific programs, or broader portfolios, including—

(A) personnel and workforce capabilities;

(B) facilities for research and test infrastructure;

(C) relationships with academia, the acquisition community, the operational community, the defense industry, and the commercial sector; and

(D) funding, investments, personnel, facilities, and relationships with other departments and agencies of the Federal Government outside the Department of Defense without which defense capabilities would be severely degraded;

(3) support the coordination of acquisition priorities, programs, and timelines of the Department with the activities of the defense research and engineering enterprise;

(4) include recommendations for changes in authorities, regulations, policies, or any other relevant areas, that would support the achievement of the goals set forth in the strategy;

(5) identify mechanisms that may be used to identify critical capabilities and technological applications required to address operational challenges outlined in the National Defense Strategy under section 113(g) of this title;

(6) identify processes to inform senior leaders and policy makers on the potential impacts of emerging technologies for the purpose of shaping the development of policies and regulations;

(7) support the efficient integration of capabilities and technologies to close near-term, mid-term, and long-term capability gaps;

(8) support the development of appropriate investments in research and technology development within the Department, and appropriate partnerships with the defense industry and commercial industry; and

(9) identify mechanisms to provide information on defense technology priorities to industry to enable industry to invest deliberately in emerging technologies to build and broaden the capabilities of the industrial base.

(c) COORDINATION.—The Secretary of Defense shall develop the strategy under subsection (a) in coordination with relevant entities within the Office of the Secretary of Defense, the military departments, the research organizations of Defense Agencies and Department of Defense Field Activities, the intelligence community, defense and technology industry partners, research and development partners, other Federal research agencies, allies and partners of the United States, and other appropriate organizations.

(d) CONSIDERATIONS.—In developing the strategy under subsection (a), the Secretary of Defense shall consider—

(1) the operational challenges identified in the National Defense Strategy and the technological threats and opportunities identified through the global technology review and assessment activities of the Department of Defense, the intelligence community, and other technology partners;

(2) current military requirements and emerging technologies in the defense and commercial sectors;

(3) the capabilities of foreign near-peer and peer nations;

(4) the need to support the development of a robust trusted and assured industrial base to

manufacture and sustain the technologies and capabilities to meet defense requirements; and

(5) near-term, mid-term, and long-term technology and capability development goals.

(e) REPORTS.—

(1) SUBSEQUENT REPORTS AND UPDATES.—Not later than February 1 of the year following each fiscal year in which the National Defense Strategy is submitted under section 113(g) of this title, the Secretary of Defense shall submit to the congressional defense committees a report that includes an updated version of the strategy under subsection (a). Each update to such strategy shall be prepared for purposes of such report based on emerging requirements, technological developments in the United States, and technical intelligence derived from global technology reviews conducted by the Secretary of Defense.

(2) FORM OF REPORTS.—The reports submitted under paragraph (1) may be submitted in a form determined appropriate by the Secretary of Defense, which may include classified, unclassified, and publicly releasable formats, as appropriate.

(f) BRIEFING.—Not later than 90 days after the date on which the strategy under subsection (a) is completed, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the implementation plan for the strategy.

(g) DESIGNATION.—The strategy developed under subsection (a) shall be known as the "National Defense Science and Technology Strategy".

(Added Pub. L. 117–81, div. A, title II, §211(a), Dec. 27, 2021, 135 Stat. 1585.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 115–232, div. A, title II, §218, Aug. 13, 2018, 132 Stat. 1679, which was not classified to the Code and was repealed by Pub. L. 117–81, div. A, title II, §211(c), Dec. 27, 2021, 135 Stat. 1587.

## §119. Special access programs: congressional oversight

(a)(1) Not later than March 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.

(2) Each such report shall set forth—

(A) the total amount requested for special access programs of the Department of Defense in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each program in that budget that is a special access program—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) In the case of a report under paragraph (1) submitted in a year during which the President's budget for the next fiscal year, because of multiyear budgeting for the Department of Defense, does not include a full budget request for the Department of Defense, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for special access programs of the Department of Defense and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program of the Department of Defense that is a special access program, the

information specified in paragraph (2)(B).

(b)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term "new special access program" means a special access program that has not previously been covered in a notice and justification under this subsection.

(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e)(1) The Secretary of Defense may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the Secretary exercises the authority provided under paragraph (1), the Secretary shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the defense committees.

(f) A special access program may not be initiated until—

(1) the defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(g) In this section, the term "defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations, and the Subcommittee on Defense of the Committee on Appropriations, of the House of Representatives.

(Added Pub. L. 100–180, div. A, title XI, §1132(a)(1), Dec. 4, 1987, 101 Stat. 1151; amended Pub. L. 101–510, div. A, title XIV, §§1461, 1482(a), Nov. 5, 1990, 104 Stat. 1698, 1709; Pub. L.

104–106, div. A, title X, §1055, title XV, §1502(a)(4), Feb. 10, 1996, 110 Stat. 442, 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title X, §1048(a)(2), Dec. 28, 2001, 115 Stat. 1222.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Subsec. (g)(2). Pub. L. 107–107 substituted "Subcommittee on Defense" for "National Security Subcommittee".

**1999**—Subsec. (g)(2). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (a)(1). Pub. L. 104–106, §1055, substituted "March 1" for "February 1".

Subsec. (g). Pub. L. 104–106, §1502(a)(4), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) the Committees on Armed Services and Appropriations of the Senate and House of Representatives; and

"(2) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives."

**1990**—Subsec. (c). Pub. L. 101–510, §1461(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Whenever a change is made in the status of a program of the Department of Defense as a special access program, the Secretary of Defense shall submit to the defense committees a report describing the change. Any such report shall be submitted not later than 30 days after the date on which the change takes effect."

Subsec. (f). Pub. L. 101–510, §1482(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101–510, §1461(b), inserted "and Appropriations" after "Armed Services" in par. (1).

Subsec. (g). Pub. L. 101–510, §1482(a)(1), redesignated subsec. (f) as (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title XIV, §1482(d), Nov. 5, 1990, 104 Stat. 1710, provided that: "The amendments made by this section [enacting section 2214 of this title and amending this section and section 1584 of this title] shall take effect on October 1, 1991."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (a) and (b) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### INITIAL REPORTS ON SPECIAL ACCESS PROGRAMS

Pub. L. 100–180, div. A, title XI, §1132(b), (c), Dec. 4, 1987, 101 Stat. 1152, required that the first report under subsec. (a) of this section set forth the amount that had been requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense and the amount appropriated for each such year for such programs, and required that the first report under subsec. (b) of this section cover existing special access programs.

## §119a. Programs managed under alternative compensatory control measures: congressional oversight

(a) ANNUAL REPORT ON CURRENT PROGRAMS UNDER ACCMS.—

(1) IN GENERAL.—Not later than March 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the programs being managed under alternative compensatory control measures in the Department of Defense.

(2) ELEMENTS.—Each report under paragraph (1) shall set forth the following:

(A) The total amount requested for programs being managed under alternative compensatory

control measures in the Department in the budget of the President under section 1105 of title 31 for the fiscal year beginning in the fiscal year in which such report is submitted.

(B) For each program in that budget that is a program being managed under alternative compensatory control measures in the Department—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for—

(I) the current fiscal year;

(II) the fiscal year for which that budget is submitted; and

(III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) ELEMENTS ON PROGRAMS COVERED BY MULTIYEAR BUDGETING.—In the case of a report under paragraph (1) submitted in a year during which the budget of the President for the fiscal year concerned does not, because of multiyear budgeting for the Department, include a full budget request for the Department, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for programs being managed under alternative compensatory control measures in the Department, and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program that is a program being managed under alternative compensatory control measures in the Department, the information specified in paragraph (2)(B).

(b) ANNUAL REPORT ON NEW PROGRAMS UNDER ACCMS.—

(1) IN GENERAL.—Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a report that, with respect to each new program being managed under alternative compensatory control measures in the Department, provides—

(A) notice of the designation of the program as a program being managed under alternative compensatory control measures in the Department; and

(B) a justification for such designation.

(2) ADDITIONAL ELEMENTS.—A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the report.

(3) NEW PROGRAM BEING MANAGED UNDER ALTERNATIVE COMPENSATORY CONTROL MEASURES DEFINED.—In this subsection, the term "new program being managed under alternative compensatory control measures" means a program in the Department that has not previously been covered by a report under this subsection.

(c) REPORT ON CHANGE IN CLASSIFICATION OR DECLASSIFICATION OF PROGRAMS.—

(1) IN GENERAL.—Whenever a change in the classification of a program being managed under alternative compensatory control measures in the Department is planned to be made, or whenever classified information concerning a program being managed under alternative compensatory control measures in the Department is to be declassified and made public, the Secretary shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) DEADLINE FOR REPORT.—Except as provided in paragraph (3), a report required by

paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement concerned is to occur.

(3) EXCEPTION.—If the Secretary determines that because of exceptional circumstances the requirement in paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a program covered by paragraph (1), the Secretary may submit the report required by that paragraph regarding the proposed change or public announcement at any time before the proposed change or public announcement is made, and shall include in the report an explanation of the exceptional circumstances.

(d) MODIFICATION OF CRITERIA OR POLICY FOR DESIGNATING PROGRAMS UNDER ACCMS.—Whenever there is a modification or termination of the policy or criteria used for designating a program as a program being managed under alternative compensatory control measures in the Department, the Secretary shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy or criteria as modified.

(e) WAIVER.—

(1) IN GENERAL.—The Secretary may waive any requirement in subsection (a), (b), or (c) that certain information be included in a report under such subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) NOTICE TO CONGRESS.—If the Secretary exercises the authority in paragraph (1), the Secretary shall provide the information described in the applicable subsection with respect to the program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) LIMITATION ON INITIATION OF PROGRAMS UNDER ACCMS.—

(1) NOTICE AND WAIT.—Except as provided in paragraph (2), a program to be managed under alternative compensatory control measures in the Department may not be initiated until—

(A) the congressional defense committees are notified of the program; and

(B) a period of 30 days elapses after such notification is received.

(2) EXCEPTION.—If the Secretary determines that waiting for the regular notification process before initiating a program as described in paragraph (1) would cause exceptionally grave damage to the national security, the Secretary may begin a program to be managed under alternative compensatory control measures in the Department before such waiting period elapses. The Secretary shall notify the congressional defense committees within 10 days of initiating a program under this paragraph, including a justification for the determination of the Secretary that waiting for the regular notification process would cause exceptionally grave damage to the national security.

(g) CONGRESSIONAL OVERSIGHT.—(1) Neither the Secretary of Defense nor the Director of National Intelligence may take any action that would have the effect of limiting the access of the congressional defense committees to—

(A) any classified program, or any information about any classified program, to which such committees have access as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022; or

(B) any classified program established, or any information about any classified program that becomes available, after the date of the enactment of such Act that is within the jurisdiction of such committees.

(2) In this subsection, the term "classified program" includes any special access program, alternative compensatory control measure, or any other controlled access program.

(Added Pub. L. 114–328, div. A, title X, §1062(a), Dec. 23, 2016, 130 Stat. 2405; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(4), Dec. 20, 2019, 133 Stat. 1812; Pub. L. 117–81, div. A, title X, §1041(b), Dec. 27, 2021, 135 Stat. 1903.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 and the date of the enactment of such Act, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

**AMENDMENTS**

**2021**—Subsec. (g). Pub. L. 117–81 added subsec. (g).
**2019**—Subsecs. (a), (b). Pub. L. 116–92 substituted "ACCMS" for "AACMS" in subsec. heading.

## §120. Department of Defense executive aircraft controlled by Secretaries of military departments

(a) IN GENERAL.—The Secretary of Defense shall ensure that the Chief of the Air Force Special Air Mission Office is given the responsibility for coordination of scheduling all Department of Defense executive aircraft controlled by the Secretaries of the military departments in order to support required use travelers.

(b) RESPONSIBILITIES.—(1) Not later than 180 days after the date of the enactment of this section, the Secretary of each of the military departments shall execute a memorandum of understanding with the Air Force Special Air Mission Office regarding oversight and management of executive aircraft controlled by that military department.

(2) The Secretary of Defense shall establish standards for prioritizing access to executive aircraft controlled by the Secretaries of the military departments among authorized users of such aircraft within the Federal Government.

(3) The Secretary of Defense shall assign a career appointee (as that term is defined in section 3132(a) of title 5) in the Senior Executive Service of the Department of Defense to coordinate the efficient tasking of executive aircraft controlled by the Secretaries of the military departments and compliance with rules, regulations, policies, and guidance relating to such aircraft, including the standards established under paragraph (2). The career appointee shall, as determined by the Secretary of Defense, have knowledge and experience relating to executive aircraft, including familiarity with the executive aircraft fleets controlled by the Secretaries of the military departments and procedures for the prioritization of executive aircraft users.

(4) The Secretary of a military department shall maintain overall authority for scheduling the required use travelers of that military department on executive aircraft controlled by the Secretary. When an executive aircraft controlled by the Secretary of a military department is not supporting required use travelers of that military department, the Secretary of the military department shall make such executive aircraft available for scheduling of other required use travelers.

(c) LIMITATIONS.—(1) The Secretary of Defense may not establish a new command and control organization to support aircraft.

(2) No executive aircraft controlled by the Secretary of a military department may be permanently stationed at any location without a required use traveler without the approval of the Secretary of Defense.

(d) DEFINITIONS.—In this section:

(1) The term "required use traveler" has the meaning given such term in Department of Defense directive 4500.56, as in effect on the date of the enactment of this section.

(2) The term "executive aircraft" has the meaning given such term in Department of Defense directive 4500.43, as in effect on the date of the enactment of this section.

(Added Pub. L. 116–92, div. A, title X, §1051(a), Dec. 20, 2019, 133 Stat. 1590; amended Pub. L.

119–60, div. A, title I, §161(b)(1), Dec. 18, 2025, 139 Stat. 767.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b) and (d), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

### AMENDMENTS

**2025**—Subsec. (b)(2) to (4). Pub. L. 119–60 added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which read as follows: "The Secretary of Defense shall be responsible for prioritizing travel when requests exceed available executive airlift capability."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TIMELINES

Pub. L. 119–60, div. A, title I, §161(b)(2), Dec. 18, 2025, 139 Stat. 768, provided that: "The Secretary of Defense shall—

"(A) establish the standards required by paragraph (2) of such section 120(b) (as amended by this section) not later than December 1, 2025; and

"(B) assign the career appointee required by paragraph (3) of such section 120(b) (as amended by this section) not later than January 1, 2026."

## CHAPTER 3—GENERAL POWERS AND FUNCTIONS

Sec.
121. Regulations.
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129. Civilian personnel management.
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130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations.
130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.
130e. Treatment under Freedom of Information Act of certain critical infrastructure security information.
130f. Notification requirements for sensitive military operations.
130g.[1] Oversight of sensitive activities of the Department of Defense.
130g.[1] Notification requirements for waivers issued under Department of Defense guidance related to autonomy in weapon systems.
[130h. Repealed.]
130i. Protection of certain facilities and assets from unmanned aircraft.
[130j, 130k. Renumbered.]

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title X, §1061(a), title XVI, §1622(a), Dec. 18, 2025, 139 Stat. 1045, 1182, added item 130g relating to oversight of sensitive activities of the Department of Defense and item 130g relating to notification requirements for waivers issued under Department of Defense guidance related to autonomy in weapon systems. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199, struck out item 130h "Prohibitions relating to missile defense information and systems". Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title XII, §§1201(b), 1221(b), Dec. 22, 2023, 137 Stat. 441, 453, added items 127d and 127f and struck out former item 127f "Expenditure of funds for clandestine activities that support operational preparation of the environment".

**2022**—Pub. L. 117–263, div. A, title X, §1042(b), Dec. 23, 2022, 136 Stat. 2770, added item 130a.

**2021**—Pub. L. 116–283, div. A, title IX, §911(a)(2), title X, §1052(b), Jan. 1, 2021, 134 Stat. 3801, 3850, added items 125a and 127f.

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(2), title XVI, §1631(c)(1), Aug. 13, 2018, 132 Stat. 1983, 2123, struck out item 130g "Authorities concerning military cyber operations" and made technical correction to and struck out items 130j "Notification requirements for sensitive military cyber operations" and 130k "Notification requirements for cyber weapons".

**2017**—Pub. L. 115–91, div. A, title XVI, §1631(b), Dec. 12, 2017, 131 Stat. 1738, added items 130j and 130k.

**2016**—Pub. L. 114–328, div. A, title X, §1036(f)(2), title XI, §1101(b)(2), title XII, §§1203(a)(2), 1245(b), title XVI, §§1662(a)(3), 1682(a)(2), 1697(b), Dec. 23, 2016, 130 Stat. 2392, 2444, 2476, 2520, 2614, 2624, 2640, added items 127e, 128, 130f, 130h, and 130i, substituted "Civilian personnel management" for "Prohibition of certain civilian personnel management constraints" in item 129, and struck out former items 127d "Allied forces participating in combined operations: authority to provide logistic support, supplies, and services", 128 "Physical protection of special nuclear material: limitation on dissemination of unclassified information", 130f "Congressional notification of sensitive military operations", and 130h "Prohibitions on providing certain missile defense information to Russian Federation".

**2015**—Pub. L. 114–92, div. A, title X, §1042(d)(2), title XVI, §§1642(b), 1671(a)(2), Nov. 25, 2015, 129 Stat. 977, 1116, 1130, added items 130g and 130h and substituted "Department of Defense rewards program" for "Assistance in combating terrorism: rewards" in item 127b.

**2014**—Pub. L. 113–291, div. A, title X, §1071(f)(2), Dec. 19, 2014, 128 Stat. 3510, substituted "Treatment under Freedom of Information Act of certain critical infrastructure security information" for "Treatment under

Freedom of Information Act of critical infrastructure security information" in item 130e and "Congressional notification of sensitive military operations" for "Congressional notification regarding sensitive military operations" in item 130f.

**2013**—Pub. L. 113–66, div. A, title X, §§1041(a)(2), 1091(a)(2), Dec. 26, 2013, 127 Stat. 857, 875, added item 130f and substituted "Treatment under Freedom of Information Act of critical infrastructure security information" for "Treatment under Freedom of Information Act of certain critical infrastructure security information" in item 130e.

**2011**—Pub. L. 112–81, div. A, title VIII, §802(a)(2), title IX, §931(b), title X, §1091(b), Dec. 31, 2011, 125 Stat. 1485, 1543, 1605, added items 129d and 130e and substituted "General policy for total force management" for "General personnel policy" in item 129a.

Pub. L. 111–383, div. A, title X, §1061(a)(2), Jan. 7, 2011, 124 Stat. 4362, added item 122a.

**2008**—Pub. L. 110–417, [div. A], title IV, §416(c)(2), Oct. 14, 2008, 122 Stat. 4430, substituted "Suspension of end-strength and other strength limitations in time of war or national emergency" for "Suspension of end-strength limitations in time of war or national emergency" in item 123a.

Pub. L. 110–181, div. A, title X, §1063(a)(1)(B), Jan. 28, 2008, 122 Stat. 321, which directed amendment of chapter 3 of title 10 "by revising the table of sections at the beginning of such chapter to reflect the redesignation and transfer made by paragraph (1)", was executed to reflect the probable intent of Congress by amending the analysis to this chapter to reflect the redesignation and transfer made by section 1063(a)(1)(A) of Pub. L. 110–181, which redesignated the section 127c relating to allied forces participating in combined operations as 127d, and transferred it so as to appear immediately after section 127c relating to purchase of weapons overseas.

Pub. L. 110–181, div. A, title IX, §901(a)(2), Jan. 28, 2008, 122 Stat. 272, struck out item 130a "Major Department of Defense headquarters activities personnel: limitation".

**2006**—Pub. L. 109–364, div. A, title XII, §1201(b), title XIV, §1405(b), Oct. 17, 2006, 120 Stat. 2412, 2436, added items 127c, relating to allied forces participating in combined operations, and 130d.

Pub. L. 109–163, div. A, title XII, §1231(b), Jan. 6, 2006, 119 Stat. 3468, added item 127c relating to purchase of weapons overseas.

**2003**—Pub. L. 108–136, div. A, title VIII, §841(b)(2), Nov. 24, 2003, 117 Stat. 1552, substituted "Authority to procure personal services" for "Experts and consultants: authority to procure services of" in item 129b.

**2002**—Pub. L. 107–314, div. A, title X, §1065(b), Dec. 2, 2002, 116 Stat. 2656, added item 127b.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1073(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, added item 130c.

**1999**—Pub. L. 106–65, div. A, title IX, §921(a)(2), title X, §1044(b), Oct. 5, 1999, 113 Stat. 723, 762, substituted "Major Department of Defense headquarters activities personnel: limitation" for "Management headquarters and headquarters support activities personnel: limitation" in item 130a and added item 130b.

**1997**—Pub. L. 105–85, div. A, title IX, §911(a)(2), Nov. 18, 1997, 111 Stat. 1858, added item 130a.

**1996**—Pub. L. 104–106, div. A, title XV, §1504(a)(8), Feb. 10, 1996, 110 Stat. 513, made technical correction to directory language of Pub. L. 103–337, §1312(a)(2). See 1994 Amendment note below.

Pub. L. 104–106, div. A, title V, §564(a)(2), title X, §1003(a)(2), Feb. 10, 1996, 110 Stat. 326, 417, substituted "Operations for which funds are not provided in advance: funding mechanisms" for "Expenses for contingency operations" in item 127a and added item 129c.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(2), Oct. 5, 1994, 108 Stat. 3013, added item 123 and struck out former item 123 "Suspension of certain provisions of law relating to reserve commissioned officers".

Pub. L. 103–337, div. A, title XIII, §1312(a)(2), Oct. 5, 1994, 108 Stat. 2894, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(8), Feb. 10, 1996, 110 Stat. 513, added item 123b.

**1993**—Pub. L. 103–160, div. A, title XI, §1108(a)(2), Nov. 30, 1993, 107 Stat. 1752, added item 127a.

**1990**—Pub. L. 101–510, div. A, title XIV, §§1481(b)(2), 1483(c)(2), Nov. 5, 1990, 104 Stat. 1705, 1715, added items 123a, 129a, and 129b.

**1989**—Pub. L. 101–189, div. A, title XII, §1202(a)(2), Nov. 29, 1989, 103 Stat. 1563, added item 124.

**1987**—Pub. L. 100–180, div. A, title XI, §1123(b), Dec. 4, 1987, 101 Stat. 1150, added item 128.

Pub. L. 100–26, §9(b)(1), Apr. 21, 1987, 101 Stat. 287, struck out item 128 "Funds transfers for foreign cryptologic support".

**1986**—Pub. L. 99–433, title I, §110(c)(2), (e)(1), title II, §211(c)(2), Oct. 1, 1986, 100 Stat. 1002, 1003, 1017, inserted "and Functions" after "General Powers" in chapter heading, struck out item 124 "Combatant commands: establishment; composition; functions; administration and support", and added items 127 to 130.

**1962**—Pub. L. 87–651, title II, §201(b), Sept. 7, 1962, 76 Stat. 517, added items 124 to 126.

**1958**—Pub. L. 85–861, §1(2)(B), Sept. 2, 1958, 72 Stat. 1437, added items 122 and 123.

[1] *So in original. Two sections "130g" have been enacted.*

## §121. Regulations

The President may prescribe regulations to carry out his functions, powers, and duties under this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 6.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 121 | [No source]. | [No source]. |

The revised section is inserted to make express the President's general authority to issue regulations, which has been expressly reflected in many laws and left to inference in the remainder.

## §122. Official registers

The Secretary of a military department may have published, annually or at such other times as he may designate, official registers containing the names of, and other pertinent information about, such regular and reserve officers of the armed forces under his jurisdiction as he considers appropriate. The register may also contain any other list that the Secretary considers appropriate.

(Added Pub. L. 85–861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 122 | 10 App.:20b.<br>34 App.:609. | July 24, 1956, ch. 677, §1, 70 Stat. 623. |

## §122a. Public availability of Department of Defense reports required by law

(a) IN GENERAL.—To the maximum extent practicable, on or after the date on which each report described in subsection (b) is submitted to Congress, the Secretary of Defense, acting through the Assistant to the Secretary of Defense for Public Affairs, shall ensure that the report is made available to the public by—

(1) posting the report on a publicly accessible Internet website of the Department of Defense; and

(2) upon request, transmitting the report by other means, as long as such transmission is at no cost to the Department.

(b) COVERED REPORTS.—(1) Except as provided in paragraph (2), a report described in this subsection is any report that is required by law to be submitted to Congress by the Secretary of Defense, or by any element of the Department of Defense.

(2) A report otherwise described in paragraph (1) is not a report described in this subsection if the report contains—

(A) classified information;

(B) proprietary information;

(C) information that is exempt from disclosure under section 552 of title 5 (commonly referred to as the "Freedom of Information Act"); or

(D) any other type of information that the Secretary of Defense determines should not be made available to the public in the interest of national security.

(c) SEMI-ANNUAL SUMMARIES.—Not later than January 1 and July 1 of each year, the Secretary of Defense shall make publicly available on an appropriate internet website a summary of all reports submitted to Congress by the Department of Defense for the preceding six-month period that are required to be submitted by statute. Each such summary shall include, for each report covered by the summary, the title of report, the date of delivery, and the section of law under which such report is required.

(Added Pub. L. 111–383, div. A, title X, §1061(a)(1), Jan. 7, 2011, 124 Stat. 4362; amended Pub. L. 112–81, div. A, title X, §1068, Dec. 31, 2011, 125 Stat. 1589; Pub. L. 113–66, div. A, title X, §1081(a), Dec. 26, 2013, 127 Stat. 871; Pub. L. 115–91, div. A, title X, §1081(a)(3), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 117–81, div. A, title X, §1062(a), Dec. 27, 2021, 135 Stat. 1909.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 117–81 added subsec. (c).

**2017**—Subsec. (a). Pub. L. 115–91 substituted "acting through the Assistant to the Secretary of Defense for Public Affairs" for "acting through the Office of the Assistant Secretary of Defense for Public Affairs" in introductory provisions.

**2013**—Subsec. (a). Pub. L. 113–66 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall ensure that each report described in subsection (b) is

"(1) made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs; and

"(2) to the maximum extent practicable, transmitted in an electronic format."

**2011**—Subsec. (a). Pub. L. 112–81 substituted pars. (1) and (2) for "made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title X, §1062(b), Dec. 27, 2021, 135 Stat. 1909, provided that: "Subsection (c) of section 122a of title 10, United States Code, as added by subsection (a), shall apply beginning on the date that is one year after the date of the enactment of this Act [Dec. 27, 2021]."

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title X, §1081(b), Dec. 26, 2013, 127 Stat. 871, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to reports submitted to Congress after the date of the enactment of this Act [Dec. 26, 2013]."

### EFFECTIVE DATE

Pub. L. 111–383, div. A, title X, §1061(b), Jan. 7, 2011, 124 Stat. 4362, provided that: "Section 122a of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Jan. 7, 2011], and shall apply with respect to reports that are required by law to be submitted to Congress on or after that date."

### PUBLIC AVAILABILITY OF DEPARTMENT OF DEFENSE LEGISLATIVE PROPOSALS

Pub. L. 116–283, div. A, title X, §1059, Jan. 1, 2021, 134 Stat. 3857, provided that: "Not later than 21 days after the transmission to the Committee on Armed Services of the Senate or the Committee on Armed Services of the House of Representatives of any official Department of Defense legislative proposal, the Secretary of Defense shall make publicly available on a website of the Department such legislative proposal, including any bill text and section-by-section analysis associated with the proposal."

### PUBLIC AVAILABILITY OF TOP-LINE NUMBERS OF DEPLOYED MEMBERS OF THE ARMED

**FORCES**

Pub. L. 115–232, div. A, title V, §595, Aug. 13, 2018, 132 Stat. 1789, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Defense shall make publicly available, on a quarterly basis, on a website of the Department the top-line numbers of members of the Armed Forces deployed for each country as of the date of the submittal of the report and the total number of members of the Armed Forces so deployed during the quarter covered by the report.

"(b) WAIVER.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (a) in the case of a sensitive military operation if—

"(A) the Secretary determines the public disclosure of the number of deployed members of the Armed Forces could reasonably be expected to provide an operational military advantage to an adversary; or

"(B) members of the Armed Forces are deployed for a period that does not exceed 30 days.

"(2) NOTICE.— If the Secretary issues a waiver under this subsection, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives—

"(A) a notice of the waiver; and

"(B) the reasons for the determination to issue the waiver.

"(c) SENSITIVE MILITARY OPERATION DEFINED.—The term 'sensitive military operation' has the meaning given that term in section 130f(d) of title 10, United States Code."

**COST OF WARS**

Pub. L. 114–328, div. A, title X, §1090, Dec. 23, 2016, 130 Stat. 2428, as amended by Pub. L. 117–263, div. A, title X, §1085, Dec. 23, 2022, 136 Stat. 2800, provided that:

"(a) PUBLICATION OF INFORMATION.—The Secretary of Defense, in consultation with the Commissioner of the Internal Revenue Service and the Director of the Bureau of Economic Analysis, shall post on the public Internet website of the Department of Defense the costs to each United States taxpayer of any contingency operation conducted by the United States Armed Forces on or after September 18, 2001.

"(b) DISPLAY OF INFORMATION.—The information required to be posted under subsection (a) shall, to the extent practicable—

"(1) be posted directly on the website of the Department of Defense, in an accessible and clear format;

"(2) include corresponding documentation as links or attachments; and

"(3) include, for each contingency operation, a list of countries where the contingency operation has taken place.

"(c) UPDATES.—The Secretary shall ensure that all the information required to be posted under subsection (a) is updated by not later than 90 days after the last day of each fiscal year.

"(d) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given such term in section 101(a)(13) of title 10, United States Code."

## §123. Authority to suspend officer personnel laws during war or national emergency

(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such

proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.

(d) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.

(Added Pub. L. 85–861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437; amended Pub. L. 86–559, §1(1), June 30, 1960, 74 Stat. 264; Pub. L. 89–718, §1, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, §1(1), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V, §§501(3), 511(1), Dec. 12, 1980, 94 Stat. 2907, 2920; Pub. L. 97–22, §10(b)(1), July 10, 1981, 95 Stat. 137; Pub. L. 103–337, div. A, title XVI, §1622(a), Oct. 5, 1994, 108 Stat. 2961; Pub. L. 104–106, div. A, title XV, §1501(c)(4), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107–107, div. A, title V, §508(b), Dec. 28, 2001, 115 Stat. 1090; Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(i), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 123 | 50:1199 (less applicability to National Guard). | Sept. 3, 1954, ch. 1257, §209 (less applicability to National Guard), 68 Stat. 1152. |

In subsection (b), the words "the same as" are substituted for the word "comparable", since any necessary differences in the recommended legislation between Reserves and Regulars are fully taken account of in the words "So far as practicable".

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255. Title II of the Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 644 of this title prior to repeal by Pub. L. 103–337, §1622(b).

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps,".

**2001**—Subsec. (d). Pub. L. 107–107 added subsec. (d).

**1996**—Subsec. (a). Pub. L. 104–106 struck out "281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence)," after "armed force:", "5414, 5457, 5458, 5506," after "3855,", and "8217, 8218, 8219," after "6410," and substituted "8855, 10214, 12003, 12004, 12005, 12007, 12202, 12213(a) (second sentence), 12642, 12645, 12646, 12647, 12771, 12772, and 12773" for "and 8855".

**1994**—Pub. L. 103–337 substituted "Authority to suspend officer personnel laws during war or national emergency" for "Suspension of certain provisions of law relating to reserve commissioned officers" as section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsecs. (a) and (b).

**1981**—Subsec. (a). Pub. L. 97–22 struck out references to sections 3494 and 8494.

**1980**—Subsec. (a). Pub. L. 96–513 struck out references to sections 3571, 3847, 5867, 8370, 8571, and 8847.

**1967**—Subsec. (a). Pub. L. 90–130 struck out reference to section 3391.

**1966**—Subsec. (a). Pub. L. 89–718 struck out reference to section 5907.

**1960**—Subsec. (a). Pub. L. 86–559 inserted references to sections 281, 3855, and 8855 and struck out

references to sections 3841, 3842, 3849, 8841, 8842, and 8849.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 501(3) of Pub. L. 96–513, striking out references to sections 3571, 5867, and 8571, effective Sept. 15, 1981, and amendment by section 511(1) of Pub. L. 96–513, striking out references to sections 3847, 8370, and 8847, effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### EXECUTIVE DOCUMENTS

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(11) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

#### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as amended, set out as a note under section 12302 of this title.

## §123a. Suspension of end-strength and other strength limitations in time of war or national emergency

(a) DURING WAR OR NATIONAL EMERGENCY.—(1) If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

(2) When a designation of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) is in effect, the President may waive any statutory limit that would otherwise apply during the period of the designation on the number of members of a reserve component or the Space Force who are

authorized to be on active duty under subparagraph (A) or (B) of section 115(b)(1) of this title, if the President determines the waiver is necessary to provide assistance in responding to the major disaster or emergency.

(b) TERMINATION OF WAIVER.—(1) Upon the termination of a war or national emergency with respect to which the President has exercised the authority provided by subsection (a)(1), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

(2) A waiver granted under subsection (a)(2) shall terminate not later than 90 days after the date on which the designation of the major disaster or emergency that was the basis for the waiver expires.

(c) STATUTORY END STRENGTH.—In this section, the term "statutory end strength" means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.

(Added Pub. L. 101–510, div. A, title XIV, §1483(b)(1), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 107–107, div. A, title IV, §421(b), Dec. 28, 2001, 115 Stat. 1076; Pub. L. 110–417, [div. A], title IV, §416(a)–(c)(1), Oct. 14, 2008, 122 Stat. 4430; Pub. L. 118–31, div. A, title XVII, §1722(a)(2), Dec. 22, 2023, 137 Stat. 667.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(4) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

### AMENDMENTS

**2023**—Subsec. (a)(2). Pub. L. 118–31 inserted "or the Space Force" after "a reserve component".

**2008**—Pub. L. 110–417 in section catchline substituted "Suspension of end-strength and other strength limitations in time of war or national emergency" for "Suspension of end-strength limitations in time of war or national emergency", in subsec. (a) designated existing provisions as par. (1) and added par. (2), and in subsec. (b) substituted "Termination of Waiver" for "Upon Termination of War or National Emergency" in heading, designated existing provisions as par. (1), substituted "subsection (a)(1)" for "subsection (a)", and added par. (2).

**2001**—Pub. L. 107–107 amended text generally. Prior to amendment, text read as follows: "If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year."

### EXECUTIVE DOCUMENTS

### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as amended, set out as a note under section 12302 of this title.

## §123b. Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

(Added Pub. L. 103–337, div. A, title XIII, §1312(a)(1), Oct. 5, 1994, 108 Stat. 2894.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 102–484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 103–337, §1312(c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 103–337, div. A, title XIII, §1312(b), Oct. 5, 1994, 108 Stat. 2894, provided that: "Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996."

## §124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term "United States" means the land area of the several States and any territory, commonwealth, or possession of the United States.

(Added Pub. L. 101–189, div. A, title XII, §1202(a)(1), Nov. 29, 1989, 103 Stat. 1563; amended Pub. L. 102–190, div. A, title X, §1088(b), Dec. 5, 1991, 105 Stat. 1485.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 124, added Pub. L. 87–651, title II, §201(a), Sept. 7, 1962, 76 Stat. 514; amended Pub. L. 98–525, title XIII, §1301(a), Oct. 19, 1984, 98 Stat. 2611; Pub. L. 99–145, title XIII, §1303(a)(1), Nov. 8, 1985, 99 Stat. 738, related to establishment, composition, and functions of combatant commands, prior to

repeal by Pub. L. 99–433, §211(c)(1). See section 161 et seq. of this title. Similar provisions were contained in Pub. L. 100–456, div. A, title XI, §1102, Sept. 29, 1988, 102 Stat. 2042, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101–189, §1202(b).

## AMENDMENTS

**1991**—Subsec. (a). Pub. L. 102–190 designated existing provisions as par. (1) and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SUPPORT FOR COUNTERDRUG ACTIVITIES AFFECTING FLOW OF DRUGS INTO THE UNITED STATES

Pub. L. 118–159, div. A, title X, §1011, Dec. 23, 2024, 138 Stat. 2050, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall prescribe Department-wide guidance that establishes support for counterdrug activities and programs affecting the flow of drugs into the United States as the principal foreign counterdrug program priority of the Department."

### AUTHORITY FOR DETECTION AND MONITORING OF ILLEGAL DRUGS REGARDLESS OF DESTINATION

Pub. L. 118–159, div. A, title X, §1012, Dec. 23, 2024, 138 Stat. 2050, provided that: "In conducting detection and monitoring of illegal drugs under section 124 of title 10, United States Code, the Joint Interagency Task Force South may conduct detection and monitoring of vessels or aircraft transiting illegal drugs in the air and maritime domains within the established joint operating area of such task force regardless of the destination of the illegal drugs."

### CONDITION ON DEVELOPMENT OF FORWARD OPERATING LOCATIONS FOR UNITED STATES SOUTHERN COMMAND COUNTER-DRUG DETECTION AND MONITORING FLIGHTS

Pub. L. 106–65, div. A, title X, §1024, Oct. 5, 1999, 113 Stat. 748, provided that:

"(a) CONDITION.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended for the purpose of improving the physical infrastructure at any proposed forward operating location outside the United States from which the United States Southern Command may conduct counter-drug detection and monitoring flights until a formal agreement regarding the extent and use of, and host nation support for, the forward operating location is executed by both the host nation and the United States.

"(b) EXCEPTION.—The limitation in subsection (a) does not apply to an unspecified minor military construction project authorized by section 2805 of title 10, United States Code."

### COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN

Pub. L. 102–484, div. A, title X, §1043, Oct. 23, 1992, 106 Stat. 2492, provided that:

"(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

"(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

"(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

"(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

"(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

"(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

"(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

"(2) determine the optimal and most cost-effective combination of use of counter-drug detection and

monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

"(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

"(d) REPORT.—Not later than six months after the date of the enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

"(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act [see Tables for classification] may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

"(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

"(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

"(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

"(f) DEFINITION.—For purposes of this section, the term 'counter-drug detection and monitoring systems' means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

"(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

"(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States."

## INTEGRATION OF COMMUNICATIONS NETWORK

Pub. L. 101–189, div. A, title XII, §1204(a), Nov. 29, 1989, 103 Stat. 1564, provided that:

"(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

"(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy."

## RESEARCH AND DEVELOPMENT

Pub. L. 101–189, div. A, title XII, §1205, Nov. 29, 1989, 103 Stat. 1564, provided that: "The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

"(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

"(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers."

## TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

Pub. L. 101–189, div. A, title XII, §1206, Nov. 29, 1989, 103 Stat. 1564, provided that:

"(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

"(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

"(2) The report shall include—

"(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

"(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

"(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term 'drug-interdiction areas' includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred."

## §125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 2 of the National Security Act of 1947 (50 U.S.C. 3002), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished.

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty vested by law in the Department of Defense, or an officer, official, or agency thereof, including one assigned to the Army, Navy, Air Force, Marine Corps, or Space Force by section 7062(b), 8062, 8063, 9062(c), or 9081 of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

(c) Notwithstanding subsection (a), the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military departments or one or more of the armed forces.

(Added Pub. L. 87–651, title II, §201(a), Sept. 7, 1962, 76 Stat. 515; amended Pub. L. 89–501, title IV, §401, July 13, 1966, 80 Stat. 278; Pub. L. 98–525, title XIV, §1405(1), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99–433, title I, §103, title III, §301(b)(1), title V, §514(c)(1), Oct. 1, 1986, 100 Stat. 996, 1022, 1055; Pub. L. 101–510, div. A, title XIII, §1301(3), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 113–291, div. A, title X, §1071(c)(1), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(A), (b)(6), Jan. 1, 2021, 134 Stat. 3821, 3822.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 125(a) | 5:171a(c)(1), (2).<br>5:171n(a) (as applicable to 5:171a(c)(1)). | July 26, 1947, ch. 343, §202(c)(1), (2), (4), (5), (6); added Aug. 10, 1949, ch. 412, §5(3d, 4th, 6th, 7th, and 8th pars.); restated Aug. 6, 1958, Pub. L. 85–599, §3(a), (1st, 2d, 5th, 6th, and 7th pars.), 72 Stat. 514, 515. |
| 125(b) | 5:171a(c)(5).<br>5:171n(a) (as applicable to 5:171a(c)(5)). | |
| 125(c) | 5:171a(c)(4). | |
| 125(d) | 5:171a(c)(6).<br>5:171n(a) (as applicable to 5:171a(c)(6)). | |
| | | July 26, 1947, ch. 343, §308(a) (as applicable to §202(c)(1), (5), (6)), 61 |

| | | |
|---|---|---|
| | | Stat. 509. |

In subsection (a), the following substitutions are made: "Except as provided by subsections (b) and (c)" for "except as otherwise provided in this subsection"; "vested . . . by law" for "established by law to be performed by"; "recommending" for "stating"; "proposes" for "contemplates"; and "the period" for "the thirty-day period or the forty-day period". The words "on the first day after" are inserted for clarity. The words "if carried out" are omitted as surplusage.

In subsection (b), the words "Notwithstanding subsection (a)" are substituted for the words "Notwithstanding other provisions of this subsection"; and "Unless the President determines otherwise" for "subject to the determination of the President".

In subsection (c), the following substitutions are made: "Notwithstanding subsection (a)" for "Notwithstanding the provisions of paragraph (1) hereof"; and "armed forces" for "services".

In subsection (d), the following substitutions are made: "In subsection (a) (1)" for "within the meaning of paragraph (1) hereof"; and "considers" for "deems". The words "advantageous to the Government in terms of" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" and "9062(c), or 9081" for "or 9062(c)".

**2018**—Subsec. (b). Pub. L. 115–232 substituted "section 7062(b), 8062, 8063, or 9062(c)" for "section 3062(b), 5062, 5063, or 8062(c)".

**2014**—Subsec. (a). Pub. L. 113–291 substituted "(50 U.S.C. 3002)" for "(50 U.S.C. 401)".

**1990**—Subsec. (c). Pub. L. 101–510 struck out at end "However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session."

**1986**—Subsec. (a). Pub. L. 99–433, §103(1), struck out provision under which the Secretary of Defense could substantially transfer, reassign, consolidate, or abolish functions, powers, or duties vested in the Department of Defense by law if the Secretary reported the details of the proposed transfer, reassignment, consolidation, or abolition to Congress and if Congress did not affirmatively reject the proposal.

Subsec. (b). Pub. L. 99–433, §§103(2), 514(c)(1), inserted "vested by law in the Department of Defense, or an officer, official, or agency thereof" and substituted "5062, 5063" for "5012, 5013".

Subsec. (d). Pub. L. 99–433, §301(b)(1), struck out subsec. (d) which read as follows: "In subsection (a)(1), 'major combatant function, power, or duty' does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate."

**1984**—Subsec. (a). Pub. L. 98–525 substituted "section 2 of the National Security Act of 1947 (50 U.S.C. 401)" for "section 401 of title 50".

**1966**—Subsec. (c). Pub. L. 89–501 required the Secretary of Defense to report to the Congress all the pertinent details regarding any substantial reduction or elimination of a major weapons system before action could be initiated or effected by the Department of Defense.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### RESOLUTIONS RELATING TO TRANSFERS, REASSIGNMENTS, CONSOLIDATIONS, OR ABOLITIONS OF COMBATANT FUNCTIONS

Pub. L. 87–651, title III, §303, Sept. 7, 1962, 76 Stat. 525, provided that:

"(a) For the purposes of this section, any resolution reported to the Senate or the House of Representatives

pursuant to the provisions of section 125 of title 10, United States Code, shall be treated for the purpose of consideration by either House, in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U.S.C. 133z and the following) [63 Stat. 203; 71 Stat. 611], and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of that Act [63 Stat. 207].

"(b) The provisions of this section are enacted by the Congress—

"(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (as far as relating to the procedure in that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House."

## §125a. Reform: improvement of efficacy and efficiency

(a) IN GENERAL.—The Secretary of Defense shall take such action as is necessary to reform the Department of Defense to improve the efficacy and efficiency of the Department, and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(b) POLICY.—The Secretary shall develop a policy and issue guidance to implement reform within the Department and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(c) FRAMEWORK FOR REFORM.—

(1) IN GENERAL.—Not later than February 1, 2023, the Secretary shall establish policies, guidance, and a consistent reporting framework to measure the progress of the Department toward covered elements of reform, including by establishing categories of reform, consistent metrics, and a process for prioritization of reform activities.

(2) SCOPE.—The framework required by paragraph (1) may address duties under the following:

(A) Section 125 of this title.

(B) Section 192 of this title.

(C) Section 2222 of this title.

(D) Section 1124 of title 31.

(E) Section 11319 of title 40.

(3) CONSULTATION.—The Secretary shall consult with the Deputy Secretary of Defense, the Performance Improvement Officer of the Department of Defense, the Chief Data Officer of the Department of Defense, the Chief Information Officer of the Department of Defense, the Director for Administration and Management of the Department of Defense, and the financial managers of the military departments in carrying out activities under this subsection.

(d) COVERED ELEMENTS OF REFORM.—For purposes of this section and the policies, guidance, and reporting framework required by subsection (c), covered elements of reform may include the following:

(1) Business systems modernization.

(2) Enterprise business operations process re-engineering.

(3) Expanded and modernized collection, management, dissemination, and visualization of data to support decision-making at all levels of the enterprise.

(4) Improvements in workforce training and education and increasing capabilities of the Department workforce to support and execute reform activities and business processes.

(5) Improvements to decision-making processes to enable cost savings, cost avoidance, or investments to develop process improvements.

(6) Development and implementation of a uniform methodology for tracking and assessing cost

savings and cost avoidance from reform initiatives.

(7) Implementation of reform-focused research to improve management and administrative science.

(8) Tracking and implementation of technological approaches to improve management decision-making, such as artificial intelligence tools.

(9) Such other elements as the Secretary considers appropriate.

(e) ANNUAL REPORT.—At the same time the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary shall, using the policies, guidance, and reporting framework required by subsection (c), submit to the congressional defense committees a report, including detailed narrative justifications and tradeoff analyses between options, on the actions of the Department as follows:

(1) The activities, expenditures, and accomplishments carried out or made to effect reform under this section during the fiscal year in which such budget is submitted.

(2) The proposed activities, expenditures, and accomplishments to effect reform under this section, and consistent with priorities established by the Secretary, during the fiscal year covered by such budget and each of the four succeeding fiscal years.

(Added Pub. L. 116–283, div. A, title IX, §911(a)(1), Jan. 1, 2021, 134 Stat. 3800; amended Pub. L. 117–263, div. A, title IX, §911, Dec. 23, 2022, 136 Stat. 2750.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (c)(1). Pub. L. 117–263, §911(1)(A), substituted "2023" for "2022".

Subsec. (c)(3). Pub. L. 117–263, §911(1)(B), inserted "the Director for Administration and Management of the Department of Defense," after "the Chief Information Officer of the Department of Defense,".

Subsec. (d)(6) to (9). Pub. L. 117–263, §911(2), added pars. (6) to (8) and redesignated former par. (6) as (9).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STRATEGIC MANAGEMENT DASHBOARD DEMONSTRATION

Pub. L. 117–263, div. A, title IX, §916, Dec. 23, 2022, 136 Stat. 2755, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall conduct a demonstration of a strategic management dashboard to automate the data collection and data visualization of the primary management goals of the Department of Defense.

"(b) ELEMENTS.—The Secretary of Defense shall ensure that the strategic management dashboard demonstrated under subsection (a) includes the following:

"(1) The capability for real-time monitoring of the performance of the Department of Defense in meeting the management goals of the Department.

"(2) An integrated analytics capability, including the ability to dynamically add or upgrade new capabilities when needed.

"(3) Integration with the framework required by subsection (c) of section 125a of title 10, United States Code, for measuring the progress of the Department toward covered elements of reform (as defined in subsection (d) of that section).

"(4) Incorporation of the elements of the strategic management plan required by section 904(d) of the National Defense Authorization Act of Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. note prec. 2201), as derived from automated data feeds from existing information systems and databases.

"(5) Incorporation of the elements of the most recent annual performance plan of the Department required by section 1115(b) of title 31, United States Code, and the most recent update on performance of the Department required by section 1116 of that title.

"(6) Use of artificial intelligence and machine learning tools to improve decision making and assessment relating to data analytics.

"(7) Adoption of leading and lagging indicators for key strategic management goals.

"(c) AUTHORITIES.—

"(1) IN GENERAL.—In conducting the demonstration required by subsection (a), the Secretary of Defense may use the authorities described in paragraph (2), and such other authorities as the Secretary considers appropriate—

"(A) to help accelerate the development of innovative technological or process approaches; and

"(B) to attract new entrants to solve the data management and visualization challenges of the Department.

"(2) AUTHORITIES DESCRIBED.—The authorities described in this paragraph are the authorities provided under the following provisions of law:

"(A) Section 4025 of title 10, United States Code (relating to prizes for advanced technology achievements).

"(B) Section 217 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2222 note) (relating to science and technology activities to support business systems information technology acquisition programs).

"(C) Section 908 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 129a note) (relating to management innovation activities).

"(d) USE OF BEST PRACTICES.—In conducting the demonstration required by subsection (a), the Secretary of Defense shall leverage commercial best practices in management and leading research in management and data science.

"(e) STRATEGIC MANAGEMENT DASHBOARD DEFINED.—In this section, the term 'strategic management dashboard' means a system for dynamically displaying management metrics, performance goals, and other information necessary for Department of Defense leadership to make strategic decisions related to the management of the Department using modern, commercial practices for data visualization and drawn from existing automated information systems available to the Department."

**IMPLEMENTING POLICIES, GUIDANCE, AND REPORTING FRAMEWORK**

Pub. L. 116–283, div. A, title IX, §911(b), Jan. 1, 2021, 134 Stat. 3801, provided that:

"(1) SUBMITTAL TO CONGRESS.—Not later than March 1, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the policies, guidance, and reporting framework established pursuant to subsection (c) of section 125a of title 10, United States Code (as added by subsection (a) of this section).

"(2) UPDATE.—Not later than 90 days after the date of the submittal to Congress of the report required by section 901(d) of this Act [10 U.S.C. 132a note], the Secretary shall update the reporting framework referred to in paragraph (1)."

## §126. Transfer of funds and employees

(a) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred or assigned to another department or agency of that department, balances of appropriations that the Secretary of Defense determines are available and needed to finance or discharge that function, power, duty, or activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty or activity, as the case may be, is transferred, and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(1) be credited to any applicable appropriation account of the receiving department or agency; or

(2) be credited to a new account that may be established on the books of the Department of the Treasury;

and be merged with the funds already credited to that account and accounted for as one fund. Balances of appropriations credited to an account under clause (1) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under clause (2) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(b) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred to another department or agency of that department, those civilian employees

of the department or agency from which the transfer is made that the Secretary of Defense determines are needed to perform that function, power, or duty, or for that activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty, or activity, as the case may be, is transferred. The authorized strength in civilian employees of a department or agency from which employees are transferred under this section is reduced by the number of employees so transferred. The authorized strength in civilian employees of a department or agency to which employees are transferred under this section is increased by the number of employees so transferred.

(Added Pub. L. 87–651, title II, §201(a), Sept. 7, 1962, 76 Stat. 516; amended Pub. L. 96–513, title V, §511(2), Dec. 12, 1980, 94 Stat. 2920.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 126(a) | 5:172f(a).<br>5:171n(a) (as applicable to 5:172f(a)). | July 26, 1947, ch. 343, §407; added Aug. 10, 1949, ch. 412, §11 (21st and 22d pars.), 63 Stat. 589. |
| 126(b) | 5:172f (less (a)). | July 26, 1947, ch. 343, §308(a) (as applicable to §407), 61 Stat. 509. |

In subsection (a), the words "under authority of law" are omitted as surplusage. The following substitutions are made: "needed" for "necessary"; "used" for "be available for use by"; and "those appropriations" for "said funds".

In subsection (b), 5 U.S.C. 172f(b) is restated to reflect more clearly its purpose to authorize "transfers of personnel" (Senate Report No. 366, 81st Congress, p. 23).

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Subsec. (b) Pub. L. 96–513 substituted "President" for "Director of the Bureau of the Budget".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Authority of President under subsec. (a) of this section to approve transfers of balances of appropriations provided for therein delegated to Director of Office of Management and Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

## §127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations made for the purpose, the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and

conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount. The authority to expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature is provided by section 429a of this title instead of this section.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of $500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the congressional defense committees of the intent to obligate or expend the funds, and—

(A) in the case of an obligation or expenditure in excess of $1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of $500,000, but not in excess of $1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

(4)(A) Notwithstanding paragraph (1), funds may not be obligated or expended in an amount in excess of $100,000 under the authority of subsection (a) or (b) for intelligence or counter-intelligence activities until the Secretary of Defense has notified the congressional defense committees and the congressional intelligence committees of the intent to obligate or expend the funds and 15 days have elapsed since the date of the notification.

(B) The Secretary of Defense may waive subparagraph (A) if the Secretary determines that such a waiver is necessary due to extraordinary circumstances that affect the national security of the United States. If the Secretary issues a waiver under this subparagraph, the Secretary shall submit to the congressional defense and congressional intelligence committees, by not later than 48 hours after issuing the waiver, written notice of and justification for the waiver.

(d) ANNUAL REPORT.—(1) Not later than December 1 each year, the Secretary of Defense shall submit—

(A) to the congressional defense committees a report on all expenditures during the preceding fiscal year under subsections (a) and (b); and

(B) to the congressional intelligence committees a report on expenditures relating to intelligence and counter-intelligence during the preceding fiscal year under subsections (a) and (b).

(2) Each report submitted under paragraph (1) shall include, for each individual expenditure covered by such report in an amount in excess of $100,000, the following:

(A) A detailed description of the purpose of such expenditure.

(B) The amount of such expenditure.

(C) An identification of the approving authority for such expenditure.

(D) A justification why other authorities available to the Department could not be used for such expenditure.

(E) Any other matters the Secretary considers appropriate.

(e) DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—In this section, the term "congressional intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(Added Pub. L. 94–106, title VIII, §804(a), Oct. 7, 1975, 89 Stat. 538, §140; amended Pub. L. 98–94, title XII, §1268(2), Sept. 24, 1983, 97 Stat. 705; renumbered §127 and amended Pub. L. 99–433, title I, §§101(a)(3), 110(d)(4), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 103–160, div. A, title III, §361, Nov. 30, 1993, 107 Stat. 1627; Pub. L. 103–337, div. A, title III, §378, Oct. 5, 1994, 108 Stat. 2737; Pub. L. 104–106, div. A, title IX, §915, title XV, §1502(a)(5), Feb. 10, 1996, 110 Stat. 413, 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(2), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 115–91, div. A, title X, §§1041(a)–(c), 1081(a)(4), Dec. 12, 2017, 131 Stat. 1552, 1553, 1594; Pub. L. 116–92, div. A, title X, §1012, title XVII, §1731(a)(5), Dec. 20, 2019, 133 Stat. 1577, 1812; Pub. L. 118–159, div. A, title XVI, §1614(e)(2), Dec. 23, 2024, 138 Stat. 2169.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159 inserted at end "The authority to expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature is provided by section 429a of this title instead of this section."

**2019**—Subsec. (c)(1). Pub. L. 116–92, §1731(a)(5), inserted "the" before "congressional defense committees".

Subsec. (d)(2). Pub. L. 116–92, §1012, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Each report required to be submitted under paragraph (1) shall include a detailed explanation, by category of activity and approving authority (the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department), of the expenditures during the preceding fiscal year."

**2017**—Subsec. (c)(1). Pub. L. 115–91, §1081(a)(4), substituted "congressional defense committees" for "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives" in introductory provisions.

Subsec. (c)(4). Pub. L. 115–91, §1041(a), added par. (4).

Subsec. (d). Pub. L. 115–91, §1041(b), designated existing provisions as par. (1), substituted "submit—" for "submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).", added subpars. (A) and (B) of par. (1), and added par. (2).

Subsec. (e). Pub. L. 115–91, §1041(c), added subsec. (e).

**2003**—Subsec. (d). Pub. L. 108–136 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In any case in which funds are expended under the authority of subsections (a) and (b), the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**1999**—Subsecs. (c)(1), (d). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (c). Pub. L. 104–106, §915(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 104–106, §1502(a)(5), substituted "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of" for "Committees on Armed Services and Appropriations of the Senate and".

Subsec. (d). Pub. L. 104–106, §915(1), redesignated subsec. (c), as amended by Pub. L. 104–106, §§1502(a)(5), 1506, as (d).

**1994**—Subsec. (c). Pub. L. 103–337 struck out par. (1) designation before "In any case" and struck out par. (2) which read as follows: "The amount of funds expended by the Inspector General of the Department of Defense under subsections (a) and (b) during a fiscal year may not exceed $400,000."

**1993**—Subsec. (a). Pub. L. 103–160, §361(1), inserted ", the Inspector General of the Department of Defense," after "the Secretary of Defense" and "or the Inspector General" after "the Secretary concerned" and

after "The Secretary concerned".

Subsec. (b). Pub. L. 103–160, §361(2), inserted ", by the Inspector General to any person in the Office of the Inspector General," after "the Department of Defense".

Subsec. (c). Pub. L. 103–160, §361(3), designated existing provisions as par. (1) and added par. (2).

**1986**—Pub. L. 99–433 renumbered section 140 of this title as this section and substituted "Emergency" for "Emergencies" in section catchline.

**1983**—Subsec. (a). Pub. L. 98–94 struck out "of this section" after "subsection (c)".

Subsec. (c). Pub. L. 98–94 struck out "of this section" after "subsections (a) and (b)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONSTRUCTION AUTHORITY OF SECRETARY OF DEFENSE UNDER DECLARATION OF WAR OR NATIONAL EMERGENCY**

Pub. L. 97–99, title IX, §903, Dec. 23, 1981, 95 Stat. 1382, which authorized the Secretary of Defense, in the event of a declaration of war or the declaration of a national emergency by the President, to undertake military construction without regard to any other provisions of law, was repealed and restated as section 2808 of this title by Pub. L. 97–214, §§2(a), 7(18), July 12, 1982, 96 Stat. 157, 174, effective Oct. 1, 1982.

## §127a. Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in

paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

[(d) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(3), Nov. 24, 2003, 117 Stat. 1596.]

(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

(Added Pub. L. 103–160, div. A, title XI, §1108(a)(1), Nov. 30, 1993, 107 Stat. 1751; amended Pub. L. 104–106, div. A, title X, §1003(a)(1), Feb. 10, 1996, 110 Stat. 415; Pub. L. 108–136, div. A, title X, §1031(a)(3), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 111–383, div. A, title X, §1075(b)(2), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112–81, div. A, title X, §1061(1), Dec. 31, 2011, 125 Stat. 1583.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (h), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

### AMENDMENTS

**2011**—Subsec. (a)(1)(A). Pub. L. 111–383, §1075(b)(2)(A), substituted "armed forces" for "Armed Forces".

Subsec. (a)(3), (4). Pub. L. 112–81 redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation)."

Subsec. (b)(1). Pub. L. 111–383, §1075(b)(2)(B), substituted "armed forces" for "Armed Forces" in two places.

**2003**—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which required Secretary of Defense, within 45 days after identifying an operation pursuant to subsec. (a)(2), to submit a report to Congress relating to the funding, objectives, duration, cost, and exit criteria of the operation.

**1996**—Pub. L. 104–106 substituted "Operations for which funds are not provided in advance: funding mechanisms" for "Expenses for contingency operations" as section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to funding procedures for operations designated by the Secretary of Defense as National Contingency Operations.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title X, §1003(b), Feb. 10, 1996, 110 Stat. 417, provided that: "The amendment to section 127a of title 10, United States Code, made by subsection (a) shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any operation of the Department of Defense that is in effect on or after that date, whether such operation is begun before, on, or after such date of enactment. In the case of an operation begun before such date, any reference in such section to the commencement of such operation shall be treated as referring to the effective date under the preceding sentence."

### INCREMENTAL CONTINGENCY OPERATIONS COST REPORT

Pub. L. 114–113, div. C, title VIII, §8093, Dec. 18, 2015, 129 Stat. 2373, provided that: "The Department of Defense shall continue to report incremental contingency operations costs for Operation Inherent Resolve, Operation Freedom's Sentinel, and any named successor operations, on a monthly basis and any other operation designated and identified by the Secretary of Defense for the purposes of section 127a of title 10, United States Code, on a semi-annual basis in the Cost of War Execution Report as prescribed in the Department of Defense Financial Management Regulation Department of Defense Instruction 7000.14, Volume 12, Chapter 23 'Contingency Operations', Annex 1, dated September 2005."

Similar provisions were contained in the following appropriation acts:

Pub. L. 113–235, div. C, title VIII, §8097, Dec. 16, 2014, 128 Stat. 2276.

Pub. L. 113–76, div. C, title VIII, §8092, Jan. 17, 2014, 128 Stat. 126.

## §127b. Department of Defense rewards program

(a) AUTHORITY.—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel, or government personnel of allied forces participating in a combined operation with the armed forces, with information or nonlethal assistance that is beneficial to—

(1) an operation or activity of the armed forces, or of allied forces participating in a combined operation with the armed forces, conducted outside the United States against international terrorism; or

(2) force protection of the armed forces, or of allied forces participating in a combined

operation with the armed forces.

(b) LIMITATION.—The amount or value of a reward provided under this section may not exceed $5,000,000.

(c) DELEGATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of $1,000,000.

(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in an amount or with a value not in excess of $10,000, except that such a delegation may be made to the commander's deputy commander, or to the commander of a command directly subordinate to that commander, without regard to such limitation. Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).

(3)(A) Subject to subparagraph (B), an official who has authority delegated under paragraph (1) or (2) may use that authority, acting through government personnel of allied forces, to offer and make rewards.

(B) The Secretary of Defense shall prescribe policies and procedures for making rewards in the manner described in subparagraph (A), which shall include guidance for the accountability of funds used for making rewards in that manner. The policies and procedures shall not take effect until 30 days after the date on which the Secretary submits the policies and procedures to the congressional defense committees. Rewards may not be made in the manner described in subparagraph (A) except under policies and procedures that have taken effect.

(d) COORDINATION.—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this section and otherwise for administering the authority under this section. Such policies and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of $2,000,000.

(e) PERSONS NOT ELIGIBLE.—The following persons are not eligible to receive a reward under this section:

(1) A citizen of the United States.

(2) An officer or employee of the United States.

(3) An employee of a contractor of the United States.

(f) ANNUAL REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

(2) Each report for a fiscal year under this subsection shall include the following:

(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

(C) With respect to each reward provided during that fiscal year—

(i) the amount or value of the reward and whether the reward was provided as a monetary

payment or in some other form;

(ii) the recipient of the reward and the recipient's geographic location; and

(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

(D) A description of the status of program implementation in each geographic combatant command, including in which countries the program is being operated.

(E) A description of efforts to coordinate and de-conflict the authority under subsection (a) with similar rewards programs administered by the United States Government.

(F) An assessment of the effectiveness of the program in meeting its objectives.

(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.

(h) REPORT ON DESIGNATION OF COUNTRIES FOR WHICH REWARDS MAY BE PAID .—Not later than 15 days after the date on which the Secretary designates a country as a country in which an operation or activity of the armed forces is occurring in connection with which rewards may be paid under this section, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the designation. Each report shall include the following:

(1) The country so designated.

(2) The reason and justification for the designation of the country.

(3) An estimate of the amount or value of the rewards to be paid as monetary payment or payment-in-kind under this section.

(Added Pub. L. 107–314, div. A, title X, §1065(a), Dec. 2, 2002, 116 Stat. 2655; amended Pub. L. 109–163, div. A, title X, §1056(c)(2), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 109–364, div. A, title XIV, §1401, Oct. 17, 2006, 120 Stat. 2433; Pub. L. 110–181, div. A, title X, §1033, Jan. 28, 2008, 122 Stat. 307; Pub. L. 111–84, div. A, title X, §1071, Oct. 28, 2009, 123 Stat. 2470; Pub. L. 111–383, div. A, title X, §1031, Jan. 7, 2011, 124 Stat. 4351; Pub. L. 112–81, div. A, title X, §§1033, 1064(3), Dec. 31, 2011, 125 Stat. 1572, 1587; Pub. L. 112–239, div. A, title X, §1021(a), Jan. 2, 2013, 126 Stat. 1911; Pub. L. 113–291, div. A, title X, §1031, Dec. 19, 2014, 128 Stat. 3491; Pub. L. 114–92, div. A, title X, §1042(a)–(d)(1), Nov. 25, 2015, 129 Stat. 976; Pub. L. 114–328, div. A, title X, §1063, Dec. 23, 2016, 130 Stat. 2408.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (h)(2). Pub. L. 114–328, §1063(1), inserted "and justification" after "reason".

Subsec. (h)(3). Pub. L. 114–328, §1063(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "A justification for the designation of the country for purposes of this section."

**2015**—Pub. L. 114–92, §1042(d)(1), substituted "Department of Defense rewards program" for "Assistance in combating terrorism: rewards" in section catchline.

Subsec. (c)(3)(A). Pub. L. 114–92, §1042(a)(1), substituted "subparagraph (B)" for "subparagraphs (B) and (C)".

Subsec. (c)(3)(C), (D). Pub. L. 114–92, §1042(a)(2), struck out subpars. (C) and (D) which read as follows:

"(C) Rewards may not be made in the manner described in subparagraph (A) after September 30, 2015.

"(D) Not later than April 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of this paragraph. The report shall identify each reward made in the manner described in subparagraph (A) and, for each such reward—

"(i) identify the type, amount, and recipient of the reward;

"(ii) explain the reason for making the reward; and

"(iii) assess the success of the reward in advancing the effort to combat terrorism."

Subsec. (f)(2)(D) to (G). Pub. L. 114–92, §1042(b), redesignated subpars. (E) to (G) as (D) to (F),

respectively, inserted ", including in which countries the program is being operated" before period at end of subpar. (D), and struck out former subpar. (D) which read as follows: "Information on the implementation of paragraph (3) of subsection (c)."

Subsec. (h). Pub. L. 114–92, §1042(c), added subsec. (h).

**2014**—Subsec. (c)(3)(C). Pub. L. 113–291 substituted "September 30, 2015" for "September 30, 2014".

**2013**—Subsec. (c)(3)(C). Pub. L. 112–239 substituted "September 30, 2014" for "September 30, 2013".

**2011**—Subsec. (c)(3)(C). Pub. L. 112–81, §1033(1), substituted "September 30, 2013" for "September 30, 2011".

Pub. L. 111–383 substituted "2011" for "2010".

Subsec. (f)(1). Pub. L. 112–81, §1064(3), which directed the substitution of "February 1" for "December 1", could not be executed because of the intervening amendment by Pub. L. 112–81, §1033(2)(A). See note below.

Pub. L. 112–81, §1033(2)(A), substituted "February" for "December".

Subsec. (f)(2)(C)(ii). Pub. L. 112–81, §1033(2)(B)(i), inserted "and the recipient's geographic location" after "reward".

Subsec. (f)(2)(E) to (G). Pub. L. 112–81, §1033(2)(B)(ii), added subpars. (E) to (G).

**2009**—Subsec. (c)(3)(C). Pub. L. 111–84 substituted "2010" for "2009".

**2008**—Subsec. (a). Pub. L. 110–181, §1033(b)(1)(A), in introductory provisions, inserted ", or government personnel of allied forces participating in a combined operation with the armed forces," after "United States Government personnel".

Subsec. (a)(1). Pub. L. 110–181, §1033(b)(1)(B), inserted ", or of allied forces participating in a combined operation with the armed forces," after "armed forces".

Subsec. (a)(2). Pub. L. 110–181, §1033(b)(1)(C), inserted ", or of allied forces participating in a combined operation with the armed forces" after "armed forces".

Subsec. (b). Pub. L. 110–181, §1033(a)(1), substituted "$5,000,000" for "$200,000".

Subsec. (c)(1)(B). Pub. L. 110–181, §1033(a)(2), substituted "$1,000,000" for "$50,000".

Subsec. (c)(3). Pub. L. 110–181, §1033(b)(2), added par. (3).

Subsec. (d)(2). Pub. L. 110–181, §1033(a)(3), substituted "$2,000,000" for "$100,000".

Subsec. (f)(2)(D). Pub. L. 110–181, §1033(c), added subpar. (D).

**2006**—Subsec. (c)(2). Pub. L. 109–364 substituted "$10,000" for "$2,500", inserted ", or to the commander of a command directly subordinate to that commander," after "deputy commander", and inserted at end "Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A)."

Subsec. (d)(1). Pub. L. 109–163 substituted "Such policies" for "Such polices".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (f) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## §127c. Purchase of weapons overseas: force protection

(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

(b) LIMITATION.—The total amount expended during any fiscal year for purchases under this section may not exceed $15,000,000.

(c) SEMIANNUAL CONGRESSIONAL REPORT.—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted

not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary's estimate of the fair market value of those weapons.

(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).

(Added Pub. L. 109–163, div. A, title XII, §1231(a), Jan. 6, 2006, 119 Stat. 3467.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 127c was renumbered section 127d of this title prior to being renumbered section 331 of this title.

## §127d. Support of special operations for irregular warfare

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the relevant Chief of Mission, expend up to $20,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing and authorized irregular warfare operations by United States Special Operations Forces.

(b) FUNDS.—Funds for support under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for the Department of Defense for operation and maintenance.

(c) PROCEDURES.—

(1) IN GENERAL.—The authority in this section shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section.

(2) ELEMENTS.—The procedures required under paragraph (1) shall establish, at a minimum, the following:

(A) Policy guidance for the execution of, and constraints within, activities under the authority in this section.

(B) The processes through which activities under the authority in this section are to be developed, validated, and coordinated, as appropriate, with relevant entities of the United States Government.

(C) The processes through which legal reviews and determinations are made to comply with the authority in this section and ensure that the exercise of such authority is consistent with the national security of the United States.

(D) The processes to ensure, to the extent practicable, that before a decision to provide support is made, the recipients of support do not pose a counterintelligence or force protection threat and have not engaged in gross violations of human rights.

(E) The processes by which the Department shall keep the congressional defense committees fully and currently informed of—

(i) the requirements for the use of the authority in this section; and

(ii) activities conducted under such authority.

(3) NOTICE TO CONGRESS ON PROCEDURES AND MATERIAL MODIFICATIONS .—The Secretary shall notify the congressional defense committees of the procedures established pursuant to this section before any exercise of the authority in this section, and shall notify such committee of any material modification of the procedures.

(d) CONSTRUCTION OF AUTHORITY.—Nothing in this section shall be construed to constitute a specific statutory authorization for any of the following:

(1) The conduct of a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(2) The introduction of United States Armed Forces (including as such term is defined in section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c))) into hostilities or into situations wherein hostilities are clearly indicated by the circumstances.

(3) The provision of support to regular forces, irregular forces, groups, or individuals for the conduct of operations that United States Special Operations Forces are not otherwise legally authorized to conduct themselves.

(4) The conduct or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.

(e) LIMITATION ON DELEGATION.—The authority of the Secretary to make funds available under this section for support of a military operation may not be delegated.

(f) PROGRAMMATIC AND POLICY OVERSIGHT.—The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict shall have primary programmatic and policy oversight within the Office of the Secretary of Defense of support to irregular warfare activities authorized by this section.

(g) NOTIFICATION.—

(1) IN GENERAL.—Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an ongoing and authorized operation or changing the scope or funding level of any support under this section for such an operation by $500,000 or an amount equal to 10 percent of such funding level (whichever is less), the Secretary shall notify the congressional defense committees of the use of such authority with respect to such operation. Any such notification shall be in writing.

(2) ELEMENTS.—A notification required by this subsection shall include the following:

(A) The type of support to be provided to United States Special Operations Forces, and a description of the ongoing and authorized operation to be supported.

(B) A description of the foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating the ongoing and authorized operation that is to be the recipient of funds.

(C) The type of support to be provided to the recipient of the funds, and a description of the end-use monitoring to be used in connection with the use of the funds.

(D) The amount obligated under the authority to provide support.

(E) The duration for which the support is expected to be provided, and an identification of the timeframe in which the provision of support will be reviewed by the commander of the applicable combatant command for a determination with respect to the necessity of continuing such support.

(F) The determination of the Secretary that the provision of support does not constitute any of the following:

(i) An introduction of United States Armed Forces (including as such term is defined in section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c))) into hostilities, or into situations where hostilities are clearly indicated by the circumstances, without specific statutory authorization within the meaning of section 5(b) of such Resolution (50 U.S.C. 1544(b)).

(ii) A covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(iii) An authorization for the provision of support to regular forces, irregular forces, groups, or individuals for the conduct of operations that United States Special Operations Forces are not otherwise legally authorized to conduct themselves.

(iv) The conduct or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.

(h) NOTIFICATION OF SUSPENSION OR TERMINATION OF SUPPORT.—

(1) IN GENERAL.—Not later than 48 hours after suspending or terminating support to any foreign force, irregular force, group, or individual provided pursuant to the authority in this section, the Secretary shall submit to the congressional defense committees a written notice of such suspension or termination.

(2) ELEMENTS.—The written notice required by paragraph (1) shall include each of the following:

(A) A description of the reasons for the suspension or termination of such support.

(B) A description of any effect on regional, theater, or global campaign plan objectives anticipated to result from such suspension or termination.

(C) A plan for such suspension or termination, and, in the case of support that is planned to be transitioned to any other program of the Department of Defense or to a program of any other Federal department or agency, a detailed description of the transition plan, including the resources, equipment, capabilities, and personnel associated with such plan.

(i) BIANNUAL REPORTS.—

(1) REPORT ON PRECEDING FISCAL YEAR.—Not later than 120 days after the close of each fiscal year in which subsection (a) is in effect, the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the preceding fiscal year.

(2) REPORT ON CURRENT CALENDAR YEAR.— Not later than 180 days after the submittal of each report required by paragraph (1), the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the first half of the fiscal year in which the report under this paragraph is submitted.

(3) ELEMENTS.—Each report required by this subsection shall include the following:

(A) A summary of the ongoing irregular warfare operations, and associated authorized campaign plans, being conducted by United States Special Operations Forces that were supported or facilitated by foreign forces, irregular forces, groups, or individuals for which support was provided under this section during the period covered by such report.

(B) A description of the support or facilitation provided by such foreign forces, irregular forces, groups, or individuals to United States Special Operations Forces during such period.

(C) The type of recipients that were provided support under this section during such period, identified by authorized category (foreign forces, irregular forces, groups, or individuals).

(D) A detailed description of the support provided to the recipients under this section during such period.

(E) The total amount obligated for support under this section during such period, including budget details.

(F) The intended duration of support provided under this section during such period.

(G) An assessment of value of the support provided under this section during such period, including a summary of significant activities undertaken by foreign forces, irregular forces, groups, or individuals to support irregular warfare operations by United States Special Operations Forces.

(H) The total amount obligated for support under this section in prior fiscal years.

(j) QUARTERLY BRIEFINGS.—

(1) IN GENERAL.—Not less frequently than quarterly, the Secretary shall provide to the congressional defense committees a briefing on the use of the authority provided by this section, and other matters relating to irregular warfare, with the primary purposes of—

(A) keeping the congressional defense committees fully and currently informed of irregular warfare requirements and activities, including emerging combatant commands requirements; and

(B) consulting with the congressional defense committees regarding such matters.

(2) ELEMENTS.—Each briefing required by paragraph (1) shall include the following:

(A) An update on irregular warfare activities within each geographic combatant command and a description of the manner in which such activities support the respective theater campaign plan and the National Defense Strategy.

(B) An overview of relevant authorities and legal issues, including limitations.

(C) An overview of irregular warfare-related interagency activities and initiatives.

(D) A description of emerging combatant command requirements for the use of the authority provided by this section.

(k) IRREGULAR WARFARE DEFINED.—Subject to subsection (d), in this section, the term "irregular warfare" means Department of Defense activities not involving armed conflict that support predetermined United States policy and military objectives conducted by, with, and through regular forces, irregular forces, groups, and individuals.

(Added Pub. L. 118–31, div. A, title XII, §1201(a), Dec. 22, 2023, 137 Stat. 437.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 127d was renumbered section 331 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IRREGULAR WARFARE EXERCISE LABORATORY**

Pub. L. 119–60, div. A, title X, §1094, Dec. 18, 2025, 139 Stat. 1066, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish and maintain an Irregular Warfare Exercise Laboratory to—

"(1) support the training, experimentation, preparation, and validation of the United States Armed Forces to conduct full-spectrum irregular warfare activities; and

"(2) enable activities to build the capacity and interoperability of the national security forces of friendly foreign countries.

"(b) AUTHORITIES.—In carrying out the activities authorized under subsection (a), the Secretary may use the authorities under chapter 16 of title 10, United States Code, or other applicable statutory authorities available to the Secretary of Defense.

"(c) NATIONAL SECURITY FORCES DEFINED.—In this section, the term 'national security forces' has the meaning given that term in section 301 of title 10, United States Code."

## §127e. Support of special operations to combat terrorism

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the relevant Chief of Mission, expend up to $100,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating authorized ongoing military operations by United States special operations forces to combat terrorism.

(b) FUNDS.—Funds for support under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for the Department of Defense for operation and maintenance.

(c) PROCEDURES.—

(1) IN GENERAL.—The authority in this section shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section. The Secretary shall notify the congressional defense committees of any material change to such procedures.

(2) ELEMENTS.—The procedures required under paragraph (1) shall establish, at a minimum, each of the following:

(A) Policy, strategy, or other guidance for the execution of, and constraints within, activities conducted under this section.

(B) The processes through which activities conducted under this section are to be developed,

validated, and coordinated, as appropriate, with relevant Federal entities.

(C) The processes through which legal reviews and determinations are made to comply with this section and ensure that the exercise of the authority in this section is consistent with the national security of the United States.

(d) NOTIFICATION.—

(1) IN GENERAL.—Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an approved military operation or changing the scope or funding level of any support for such an operation by $1,000,000 or an amount equal to 20 percent of such funding level (whichever is less), or not later than 48 hours after exercising such authority if the Secretary determines that extraordinary circumstances that impact the national security of the United States exist, the Secretary shall notify the congressional defense committees of the use of such authority with respect to that operation. Any such notification shall be in writing.

(2) ELEMENTS.—A notification required by this subsection shall include the following:

(A) The type of support provided or to be provided to United States special operations forces and a description of the authorized ongoing operation.

(B) A description of the foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating the authorized ongoing operation who will receive support provided under this section.

(C) A detailed description of the support provided or to be provided to the recipient.

(D) The amount obligated under the authority to provide support.

(E) A detailed description of the legal and operational authorities related to the authorized ongoing operation, including relevant execute orders issued by the Secretary of Defense and combatant commanders related to the authorized ongoing operation, including an identification of operational activities United States Special Operations Forces are authorized to conduct under such execute orders.

(F) The duration for which the support is expected to be provided and an identification of the timeframe in which the provision of support will be reviewed by the combatant commander for a determination regarding the necessity of continuation of support.

(G) A description of the entities with which the recipients of support are engaged in hostilities and whether each such entity is covered under an authorization for use of military force.

(H) A description of the steps taken to ensure the support is consistent with United States national security objectives.

(I) A description of the steps taken to ensure that the recipients of support have not engaged in human rights violations.

(e) NOTIFICATION OF SUSPENSION OR TERMINATION OF SUPPORT.—

(1) IN GENERAL.—Not later than 48 hours after suspending or terminating support to any foreign force, irregular force, group, or individual under the authority in this section, the Secretary shall submit to the congressional defense committees a written notice of such suspension or termination.

(2) ELEMENTS.—Notice provided under paragraph (1) with respect to the suspension or termination of support shall include each of the following elements:

(A) A description of the reasons for the suspension or termination of such support.

(B) A description of any effects on regional, theatre, or global campaign plan objectives anticipated to result from the suspension or termination of such support.

(C) A plan for the suspension or termination of the support, and, in the case of support that is planned to be transitioned to another program of the Department of Defense or another Federal department or agency, a detailed description of the transition plan, including the resources, equipment, capabilities, and personnel associated with such plan.

(f) LIMITATION ON DELEGATION.—The authority of the Secretary to make funds available

under this section for support of a military operation may not be delegated.

(g) CONSTRUCTION OF AUTHORITY.—Nothing in this section may be construed to constitute authority to conduct or provide statutory authorization for any of the following:

(1) A covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(2) An introduction of the armed forces, (including as such term is defined in section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c)), into hostilities, or into situations where hostilities are clearly indicated by the circumstances, without specific statutory authorization within the meaning of section 5(b) of such Resolution (50 U.S.C. 1544(b)).

(3) Activities or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.

(h) OVERSIGHT BY ASD FOR SOLIC.—The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall have primary responsibility within the Office of the Secretary of Defense for oversight of policies and programs for support authorized by this section.

(i) BIANNUAL REPORTS.—

(1) REPORT ON PRECEDING CALENDAR YEAR.—Not later than 120 days after the last day of each fiscal year, the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the preceding calendar year.

(2) REPORT ON CURRENT CALENDAR YEAR.—Not later than six months after the date of the submittal of the report most recently submitted under paragraph (1), the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the first half of the calendar year in which the report under this paragraph is submitted.

(3) ELEMENTS.—Each report required by this subsection shall include, for the period covered by such report, the following:

(A) A summary of the ongoing military operations by United States special operations forces to combat terrorism that were supported or facilitated by foreign forces, irregular forces, groups, or individuals for which support was provided under this section.

(B) A description of the support or facilitation provided by such foreign forces, irregular forces, groups, or individuals to United States special operations forces.

(C) The type of recipients that were provided support under this section, identified by authorized category (foreign forces, irregular forces, groups, or individuals).

(D) The total amount obligated for support under this section, including budget details.

(E) The total amount obligated in prior fiscal years under this section and applicable preceding authority.

(F) The intended duration of support provided under this section.

(G) A description of the support or training provided to the recipients of support under this section.

(H) A value assessment of the support provided under this section, including a summary of significant activities undertaken by foreign forces, irregular forces, groups, or individuals to support operations by United States special operations forces to combat terrorism.

(Added Pub. L. 114–328, div. A, title XII, §1203(a)(1), Dec. 23, 2016, 130 Stat. 2474; amended Pub. L. 115–91, div. A, title X, §1031, Dec. 12, 2017, 131 Stat. 1550; Pub. L. 116–92, div. A, title X, §1041, Dec. 20, 2019, 133 Stat. 1585; Pub. L. 116–283, div. A, title X, §§1051, 1081(a)(7), Jan. 1, 2021, 134 Stat. 3847, 3871.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283, §1051(1), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The authority in this section shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section. The Secretary shall notify the congressional defense committees of any material modification of such procedures."

Subsec. (d)(2)(G) to (I). Pub. L. 116–283, §1051(2), added subpars. (G) to (I).

Subsecs. (e), (f). Pub. L. 116–283, §1051(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116–283, §1051(5), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e))."

Pub. L. 116–283, §1051(3), redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 116–283, §1081(a)(7), which directed the substitution of "Low Intensity" for "Low-Intensity" in subsec. (g) as redesignated by section 1051 of Pub. L. 116–283, was executed by making substitution in subsec. (h) as redesignated by section 1051, to reflect the probable intent of Congress.

Pub. L. 116–283, §1051(3), reesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 116–283, §1051(3), reesignated subsec. (h) as (i).

**2019**—Subsec. (a). Pub. L. 116–92, §1041(1), inserted "authorized" before "ongoing military operations".

Subsec. (d)(2)(A). Pub. L. 116–92, §1041(2)(A), inserted "and a description of the authorized ongoing operation" before period at end.

Subsec. (d)(2)(B) to (D). Pub. L. 116–92, §1041(2)(B), (C), added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which read as follows: "The type of support provided or to be provided to the recipient of the funds.".

Subsec. (d)(2)(E), (F). Pub. L. 116–92, §1041(2)(D), added subpars. (E) and (F).

**2017**—Subsecs. (g), (h). Pub. L. 115–91, §1031(a), added subsec. (g) and redesignated former subsec. (g) as (h).

Subsec. (h)(1). Pub. L. 115–91, §1031(b)(1), substituted "120 days after the last day of each fiscal year" for "March 1 each year".

Subsec. (h)(2). Pub. L. 115–91, §1031(b)(2), substituted "six months after the date of the submittal of the report most recently submitted under paragraph (1)" for "September 1 each year" and inserted "under this paragraph" after "in which the report".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHIEF OF MISSION CONCURRENCE

Pub. L. 117–81, div. E, title LVII, §5703, Dec. 27, 2021, 135 Stat. 2382, provided that: "In the course of a chief of mission providing concurrence to the exercise of the authority pursuant to section 127e of title 10, United States Code, or section 1202 of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115–91; 131 Stat. 1639]—

"(1) each relevant chief of mission shall inform and consult in a timely manner with relevant individuals at relevant missions or bureaus of the Department of State; and

"(2) the Secretary of State shall take such steps as may be necessary to ensure that such relevant individuals have the security clearances necessary and access to relevant compartmented and special programs to so consult in a timely manner with respect to such concurrence."

## §127f. Expenditure of funds for clandestine activities that support operational preparation of the environment and non-conventional assisted recovery capabilities

(a) AUTHORITY.—(1) Amounts appropriated or otherwise made available for the Department of Defense for operation and maintenance, Defense-wide, may be used for any purpose the Secretary of Defense determines to be proper—

(A) for operational preparation of the environment for operations of a confidential nature; or

(B) to establish, develop, and maintain non-conventional assisted recovery capabilities to facilitate the recovery of United States military and civilian personnel, or other individuals, who become isolated or separated.

(2) Such a determination is final and conclusive upon the accounting officers of the United States. The Secretary may certify the amount of any such expenditure authorized by the Secretary that the Secretary considers advisable not to specify, and the Secretary's certificate is sufficient voucher for

the expenditure of that amount.

(b) AUTHORIZED ACTIVITIES.—Activities authorized by subsection (a) may, in limited and special circumstances as determined by the Secretary of Defense, include the provision of support to foreign forces, irregular forces, groups, or individuals to conduct operational preparation of the environment and to conduct or support operations to establish, develop, and maintain non-conventional assisted recovery capabilities to facilitate the recovery of United States military and civilian personnel, or other individuals, who become isolated or separated. Such support may include limited amounts of equipment, supplies, training, transportation, or other logistical support or funding.

(c) PROCEDURES.—

(1) IN GENERAL.—The authority in this section shall be exercised in accordance with such procedures as the Secretary of Defense shall establish for purposes of this section.

(2) ELEMENTS.—The procedures required under paragraph (1) shall establish, at a minimum, each of the following:

(A) Policy, strategy, or other guidance for the execution of, and constraints within, activities conducted under this section.

(B) The processes through which activities conducted under this section are to be developed, validated, and coordinated, as appropriate, with relevant Federal entities.

(C) The processes through which legal reviews and determinations are made to comply with the authority in this section and ensure that the exercise of such authority is consistent with the national security interests of the United States.

(D) The processes by which the Department of Defense shall keep the congressional defense committees fully and currently informed of—

(i) the requirements for the use of the authority in this section; and

(ii) activities conducted under such authority.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the congressional defense committees of any material change to the procedures established under paragraph (1).

(d) LIMITATIONS.—The Secretary of Defense—

(1) may expend up to $40,000,000 in any fiscal year for the purposes described in subsection (a); and

(2) may not delegate the authority under this section with respect to any expenditure in excess of $250,000.

(e) EXCLUSION OF INTELLIGENCE ACTIVITIES.—(1) This section does not constitute authority to conduct, or expend funds for, intelligence, counterintelligence, or intelligence-related activities.

(2) In this subsection, the terms "intelligence" and "counterintelligence" have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(f) QUARTERLY BRIEFING.—On a quarterly basis, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, in coordination with elements of the Department of Defense that the Assistant Secretary determines appropriate, shall provide to the congressional defense committees a briefing outlining the clandestine activities carried out pursuant to subsection (a) during the period covered by the briefing, including—

(1) an update on such activities carried out in each geographic combatant command and a description of how such activities support the respective theater campaign plan;

(2) an overview of the authorities and legal issues, including limitations, relating to such activities; and

(3) any other matters the Assistant Secretary considers appropriate.

(g) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures made under this section

during the fiscal year preceding the year in which the report is submitted. Each report shall include, for each expenditure under this section during the fiscal year covered by such report—

(1) a description of activities carried out for the purposes described in subsection (a);

(2) the amount of such expenditures;

(3) an identification of the type of recipients to receive support, including foreign forces, irregular forces, groups or individuals, as appropriate;

(4) the total amount of funds obligated for such expenditures in prior fiscal years; and

(5) any other matters the Secretary considers appropriate.

(h) NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.—Funding used to establish, develop, and maintain non-conventional assisted recovery capabilities under this section may only be obligated and expended with the concurrence of the relevant Chief of Mission or Chiefs of Mission.

(i) OVERSIGHT BY ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT.—The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall have primary responsibility within the Office of the Secretary of Defense for oversight of policies and programs authorized by this section.

(j) OPERATIONAL PREPARATION OF THE ENVIRONMENT DEFINED.—In this section, the term "operational preparation of the environment" means the conduct of activities in likely or potential operational areas to set conditions for mission execution.

(Added Pub. L. 116–283, div. A, title X, §1052(a), Jan. 1, 2021, 134 Stat. 3849; amended Pub. L. 117–81, div. A, title X, §1093(b), Dec. 27, 2021, 135 Stat. 1935; Pub. L. 117–263, div. A, title XVI, §1621, Dec. 23, 2022, 136 Stat. 2933; Pub. L. 118–31, div. A, title XII, §1221(a), Dec. 22, 2023, 137 Stat. 451.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1221(a)(1), inserted "and non-conventional assisted recovery capabilities" after "environment" in section catchline.

Subsec. (a). Pub. L. 118–31, §1221(a)(2), substituted par. (1) for "Subject to subsections (b) through (d), the Secretary of Defense may expend up to $15,000,000 in any fiscal year for clandestine activities for any purpose the Secretary determines to be proper for preparation of the environment for operations of a confidential nature." and designated remainder of subsec. (a) as par. (2).

Subsec. (b). Pub. L. 118–31, §1221(a)(3), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Funds for expenditures under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for operation and maintenance, Defense-wide."

Subsec. (c). Pub. L. 118–31, §1221(a)(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 118–31, §1221(a)(6), substituted "Limitations" for "Limitation on Delegation" in heading and "The Secretary of Defense—", par. (1), and "(2) may not delegate" for "The Secretary of Defense may not delegate" in text.

Pub. L. 118–31, §1221(a)(4), redesignated subsec. (c) as (d).

Subsecs. (e) to (g). Pub. L. 118–31, §1221(a)(4), redesignated subsecs. (d) to (f) as (e) to (g), respectively. Former subsec. (g) redesignated (h).

Subsec. (g)(1) to (5). Pub. L. 118–31, §1221(a)(7), added pars. (1) to (4), redesignated former par. (4) as (5), and struck out former pars. (1) to (3) which read as follows:

"(1) the amount and date of such expenditure;

"(2) a detailed description of the purpose for which such expenditure was made;

"(3) an explanation why other authorities available to the Department of Defense could not be used for such expenditure; and".

Subsec. (h). Pub. L. 118–31, §1221(a)(4), redesignated subsec. (g) as (h).

Subsecs. (i), (j). Pub. L. 118–31, §1221(a)(8), added subsecs. (i) and (j).

**2022**—Subsecs. (e) to (g). Pub. L. 117–263 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**2021**—Subsec. (f). Pub. L. 117–81 added subsec. (f).

## §128. Control and physical protection of special nuclear material: limitation on dissemination of unclassified information

(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense, with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

(A) illegal production of nuclear weapons, or

(B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

(i) illegal production of nuclear weapons, or

(ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(b) Nothing in this section shall be construed to authorize the Secretary to withhold, or to authorize the withholding of, information from the appropriate committees of the Congress.

(c) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(d) Information that the Secretary prohibits to be disseminated pursuant to subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense, and a State or local law authorizing or requiring a State or local government to disclose such information shall not apply to such information.

(Added Pub. L. 100–180, div. A, title XI, §1123(a), Dec. 4, 1987, 101 Stat. 1149; amended Pub. L. 101–510, div. A, title XIII, §1311(1), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 108–136, div. A, title X, §1031(a)(4), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 114–328, div. A, title XVI, §1662(a)(1), (2), Dec. 23, 2016, 130 Stat. 2614.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 128 was renumbered section 421 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328, §1662(a)(2), substituted "Control and physical protection" for "Physical protection" in section catchline.

Subsec. (d). Pub. L. 114–328, §1662(a)(1), added subsec. (d).

**2003**—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which required the Secretary to prepare an annual report detailing the Secretary's application during the year of each regulation or order prescribed or issued under this section.

**1990**—Subsec. (d). Pub. L. 101–510 substituted "on an annual basis" for "on a quarterly basis".

## §129. Civilian personnel management

(a) The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with (1) the total force management policies and procedures established under section 129a of this title, (2) the workload required to carry out the functions and activities of the department, and (3) the funds made available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense except in accordance with the requirements of this section and section 129a of this title.

(b) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity as determined under the total force management policies and procedures established under section 129a of this title.

(Added Pub. L. 97–86, title IX, §904(a), Dec. 1, 1981, 95 Stat. 1114, §140b; renumbered §129, Pub. L. 99–433, title I, §101(a)(3), Oct. 1, 1986, 100 Stat. 994; amended Pub. L. 99–661, div. A, title V, §533, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 102–190, div. A, title III, §312(b), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104–106, div. A, title X, §1031, Feb. 10, 1996, 110 Stat. 428; Pub. L. 104–201, div. A, title X, §1074(a)(1), title XVI, §1603, Sept. 23, 1996, 110 Stat. 2658, 2735; Pub. L. 105–85, div. A, title XI, §1101, Nov. 18, 1997, 111 Stat. 1922; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112–81, div. A, title IX, §932, Dec. 31, 2011, 125 Stat. 1543; Pub. L. 114–328, div. A, title XI, §1101(a), (b)(1), Dec. 23, 2016, 130 Stat. 2443; Pub. L. 116–92, div. A, title XI, §1103, Dec. 20, 2019, 133 Stat. 1596; Pub. L. 117–81, div. A, title XI, §1102, Dec. 27, 2021, 135 Stat. 1949; Pub. L. 119–60, div. A, title IV, §422(b)(2), (3), Dec. 18, 2025, 139 Stat. 850, 851.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60, §422(b)(3), struck out subsec. (c) which required the Secretary of Defense to submit to the congressional defense committees a report on the management of the civilian workforce of the Office of the Secretary of Defense and the Defense Agencies and Field Activities and the Secretary of each military department to submit to the congressional defense committees a report on the management of the civilian workforces under the jurisdiction of such Secretary. See section 115a(d) of this title.

Subsec. (c)(2). Pub. L. 119–60, §422(b)(2), in introductory provisions, substituted "The matter to be included in each discussion under paragraph (1)" for "Each report under paragraph (1) shall contain" and "of each element of the Department of Defense named in such paragraph, is" for "under the jurisdiction of the official submitting the report," and redesignated par. (2) as section 115a(d)(2) of this title.

**2021**—Subsec. (a). Pub. L. 117–81, in first sentence, substituted "solely" for "primarily" and, in second sentence, struck out "solely" after "shall not be subject".

**2019**—Subsec. (a). Pub. L. 116–92, §1103(1), in first sentence, substituted "each fiscal year primarily" for "each fiscal year", and in second sentence, substituted "The management of such personnel in any fiscal year shall not be subject solely to any" for "Any" and struck out "shall be developed on the basis of those factors and shall be subject to adjustment solely for reasons of changed circumstances" after "number of employees".

Subsec. (c)(2)(A). Pub. L. 116–92, §1103(2)(A), inserted "and associated cost" after "projected size".

Subsec. (c)(2)(B). Pub. L. 116–92, §1103(2), inserted "and associated cost" after "projected size" in two places and substituted "to reduce the overall costs of the total force of military, civilian, and contract workforces." for "that have been taken to identify offsetting reductions and avoid unnecessary overall growth in the size of the civilian workforce."

**2016**—Pub. L. 114–328, §1101(b)(1), amended section catchline generally, substituting "Civilian personnel management" for "Prohibition of certain civilian personnel management constraints".

Subsec. (a). Pub. L. 114–328, §1101(a)(1), in first sentence, struck out "solely" before "on the basis", in second sentence, substituted "Any" for "The management of such personnel in any fiscal year shall not be subject to any" and inserted "shall be developed on the basis of those factors and shall be subject to adjustment solely for reasons of changed circumstances" after "employees", and in third sentence, substituted "except in accordance with the requirements of this section and section 129a of this title." for "unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after February 10, 1996, and that refers specifically to this subsection."

Subsec. (b). Pub. L. 114–328, §1101(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to the number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense.

Subsec. (c). Pub. L. 114–328, §1101(a)(2), (4), added subsec. (c) and struck out former subsec. (c) which defined the term "indirectly funded Government employees".

Subsecs. (d) to (f). Pub. L. 114–328, §1101(a)(2), (3), redesignated subsec. (d) as (b) and struck out subsecs. (e) and (f) which read as follows:

"(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level.

"(f)(1) Not later than February 1 of each year, the Secretary of each military department and the head of each Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the civilian workforce under the jurisdiction of that official.

"(2) Each report of an official under paragraph (1) shall contain the following:

"(A) The official's certification (i) that the civilian workforce under the jurisdiction of the official is not subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees, and (ii) that, during the 12 months preceding the date on which the report is due, such workforce has not been subject to any such constraint or limitation.

"(B) A description of how the civilian workforce is managed.

"(C) A detailed description of the analytical tools used to determine civilian workforce requirements during the 12-month period referred to in subparagraph (A)."

**2011**—Subsec. (a). Pub. L. 112–81, §932(1), inserted "the total force management policies and procedures established under section 129a of this title, (2)" after "(1)" and substituted "department, and (3)" for "department and (2)".

Subsec. (d). Pub. L. 112–81, §932(2), substituted "within that budget activity as determined under the total force management policies and procedures established under section 129a of this title." for "within that budget activity for which funds are provided for that fiscal year."

Subsec. (e). Pub. L. 112–81, §932(3), struck out at end "With respect to the MRTFB structure, the term 'funds made available' includes both direct appropriated funds and funds provided by MRTFB customers."

**1999**—Subsec. (f)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1997**—Subsec. (f). Pub. L. 105–85 added subsec. (f).

**1996**—Subsec. (a). Pub. L. 104–201, §1074(a)(1), substituted "February 10, 1996," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996".

Pub. L. 104–106, §1031(1), substituted "constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection." for "man-year constraint or limitation."

Subsec. (b)(2). Pub. L. 104–106, §1031(2), substituted "any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees" for "any end-strength".

Subsec. (c)(1). Pub. L. 104–201, §1603(1), inserted ", the Major Range and Test Facility Base," after "industrial-type activities".

Subsec. (d). Pub. L. 104–106, §1031(3), added subsec. (d).
Subsec. (e). Pub. L. 104–201, §1603(2), added subsec. (e).
**1991**—Subsec. (a). Pub. L. 102–190 substituted "department and (2)" for "department, (2)" and struck out ", and (3) the authorized end strength for the civilian personnel of the department for such fiscal year" at end of first sentence.
**1986**—Pub. L. 99–661 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).
Pub. L. 99–433 renumbered section 140b of this title as this section.

## §129a. General policy for total force management

(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for determining the most appropriate and cost efficient mix of military, civilian, and contractor personnel to perform the mission of the Department of Defense.

(b) RISK MITIGATION OVER COST.—In establishing the policies and procedures under subsection (a), the Secretary shall clearly provide that attainment of a Department of Defense workforce sufficiently sized and comprised of the appropriate mix of personnel necessary to carry out the mission of the Department and the core mission areas of the armed forces takes precedence over cost. The Secretary may not reduce the civilian workforce programmed full-time equivalent levels, or conduct any reductions or realignments that occur outside the normal programming process (including ad hoc, immediate, or unprogrammed changes) of 50 employees or more implemented before or after the submission of the annual budget request, unless the Secretary conducts an appropriate analysis of the impacts of such reductions on workload, military force structure, lethality, readiness, operational effectiveness, stress on the military force, and fully burdened costs.

(c) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate responsibility for implementation of the policies and procedures established under subsection (a) as follows:

(1) The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for guidance to implement such policies and procedures.

(2) The Secretaries of the military departments and the heads of the Defense Agencies shall have overall responsibility for the requirements determination, planning, programming, and budgeting for such policies and procedures. The Secretary of Defense shall ensure that the requirements determination, planning, programming, and budgeting conducted under this paragraph considers all components of the total force (including active and reserve military, the civilian workforce, and contract support) in a holistic manner—

(A) to avoid duplication of efforts and waste of resources attributable to a component working outside the scope of its responsibilities; and

(B) to ensure that risk, cost, and mission validation and prioritization considerations are consistent with the national defense strategy.

(3) The Under Secretary of Defense for Acquisition and Sustainment shall be responsible for ensuring that the defense acquisition system, as defined in section 3001 of this title, is consistent with such policies and procedures and with implementation pursuant to paragraph (1).

(4) The Under Secretary of Defense (Comptroller) shall be responsible for ensuring that the budget for the Department of Defense is consistent with such policies and procedures. The Under Secretary shall notify the congressional defense committees of any deviations from such policies and procedures that are recommended in the budget.

(d) USE OF PLAN, INVENTORY, AND LIST.—The policies and procedures established by the Secretary under subsection (a) shall specifically require the Department of Defense to use the following when making determinations regarding the appropriate workforce mix necessary to perform its mission:

(1) The inventory of contracts for services required by section 4505(c) of this title.

(2) The list of activities required by the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note).

(e) CONSIDERATIONS IN CONVERTING PERFORMANCE OF FUNCTIONS.— If conversion of functions to performance by either Department of Defense civilian personnel or contractor personnel is considered, the Under Secretary of Defense for Personnel and Readiness shall ensure compliance with—

(1) section 2463 of this title (relating to guidelines and procedures for use of civilian employees to perform Department of Defense functions); and

(2) section 2461 of this title (relating to public-private competition required before conversion to contractor performance).

(f) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this title may be construed as authorizing—

(1) a military department or Defense Agency to directly convert a function to contractor performance without complying with section 2461 of this title;

(2) the use of contractor personnel for functions that are inherently governmental even if there is a military or civilian personnel shortfall in the Department of Defense;

(3) restrictions on the use by a military department or Defense Agency of contractor personnel to perform functions closely associated with inherently governmental functions, provided that—

(A) there are adequate resources to maintain sufficient capabilities within the Department in the functional area being considered for performance by contractor personnel; and

(B) there is adequate Government oversight of contractor personnel performing such functions;

(4) the establishment of numerical goals or budgetary savings targets for the conversion of functions to performance by either Department of Defense civilian personnel or for conversion to performance by contractor personnel; or

(5) the imposition of a civilian hiring freeze that may inhibit the implementation of the policies and procedures established under subsection (a).

(g) PERFORMANCE OF CIVILIAN FUNCTIONS BY MILITARY PERSONNEL.—(1) Functions performed by civilian personnel should not be performed by military personnel except—

(A) if the Secretary of the military department concerned determines in writing based on mission requirements that the performance of such functions by military personnel is cost-effective, taking into account the fully-burdened costs of the civilian, military, and contractor workforces, including the impact of the performance of such functions on military career progression or when required by military necessity; or

(B) such functions may be performed by military personnel for a period that does not exceed one year if the Secretary of the military department concerned determines that—

(i) the performance of such functions by military personnel is required to address critical staffing needs resulting from a reduction in personnel or budgetary resources by reason of an Act of Congress; and

(ii) the military department concerned is in compliance with the policies, procedures, and analysis required by this section and section 129 of this title.

(2) In determining the workforce mix between civilian and military personnel, the Secretary of a military department shall reserve military personnel for the performance of the functions that, in the estimation of the Secretary, are required to be performed by military personnel in order to achieve national defense goals or in order to enable the proper functioning of the military department. In making workforce decisions, the Secretary shall account for the relative budgetary impact of military versus civilian personnel in determining the functions required to be performed by military personnel.

(h) REPORT TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 1 year after the date of the enactment of this subsection and annually thereafter, the Secretary of Defense shall

submit a report to the congressional defense committees containing the analysis conducted pursuant to subsection (b).

(Added Pub. L. 101–510, div. A, title XIV, §1483(b)(2), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 112–81, div. A, title IX, §931(a), Dec. 31, 2011, 125 Stat. 1541; Pub. L. 114–328, div. A, title IX, §914, Dec. 23, 2016, 130 Stat. 2350; Pub. L. 115–91, div. A, title X, §§1051(a)(6)(B), 1081(a)(5), Dec. 12, 2017, 131 Stat. 1560, 1594; Pub. L. 115–232, div. A, title IX, §933, Aug. 13, 2018, 132 Stat. 1938; Pub. L. 116–92, div. A, title IX, §902(1), title XI, §1106, Dec. 20, 2019, 133 Stat. 1542, 1597; Pub. L. 116–283, div. A, title IX, §912, title XVIII, §§1808(d)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3802, 4160, 4294; Pub. L. 118–31, div. A, title IX, §911, Dec. 22, 2023, 137 Stat. 364; Pub. L. 119–60, div. A, title XI, §1107(b), (c), Dec. 18, 2025, 139 Stat. 1074.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(5) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1107(b), inserted ", or conduct any reductions or realignments that occur outside the normal programming process (including ad hoc, immediate, or unprogrammed changes) of 50 employees or more implemented before or after the submission of the annual budget request," after "full-time equivalent levels".

Subsec. (h). Pub. L. 119–60, §1107(c), added subsec. (h).

**2023**—Subsec. (c)(2). Pub. L. 118–31 inserted at end "The Secretary of Defense shall ensure that the requirements determination, planning, programming, and budgeting conducted under this paragraph considers all components of the total force (including active and reserve military, the civilian workforce, and contract support) in a holistic manner—" and added subpars. (A) and (B).

**2021**—Subsec. (b). Pub. L. 116–283, §912, inserted at end "The Secretary may not reduce the civilian workforce programmed full-time equivalent levels unless the Secretary conducts an appropriate analysis of the impacts of such reductions on workload, military force structure, lethality, readiness, operational effectiveness, stress on the military force, and fully burdened costs."

Subsec. (c)(3). Pub. L. 116–283, §1808(d)(1), substituted "section 3001" for "section 2545".

Subsec. (d)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 4505(c)" for "section 2330a(c)".

**2019**—Subsec. (c)(3). Pub. L. 116–92, §902(1), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (g)(1)(B). Pub. L. 116–92, §1106, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "if the performance of such functions by military personnel is required to address critical staffing needs resulting from a reduction in personnel or budgetary resources by reason of an Act of Congress, in which case such functions may not be performed by military personnel for a period in excess of one year."

**2018**—Subsec. (g)(1)(A). Pub. L. 115–232 substituted "is cost-effective, taking into account the fully-burdened costs of the civilian, military, and contractor workforces, including the impact of the performance of such functions on military career progression or when required by military necessity" for ", including a permanent conversion of such functions to performance by military personnel, is cost-effective or required by a mission".

**2017**—Subsec. (b). Pub. L. 115–91, §1081(a)(5), struck out "(as identified pursuant to section 118b of this title)" after "armed forces".

Subsec. (d). Pub. L. 115–91, §1051(a)(6)(B), redesignated pars. (3) and (4) as (1) and (2), respectively, and struck out former pars. (1) and (2) which read as follows:

"(1) The civilian strategic workforce plan (required by section 115b of this title).

"(2) The civilian positions master plan (required by section 1597(c) of this title)."

**2016**—Subsec. (g). Pub. L. 114–328 added subsec. (g).

**2011**—Pub. L. 112–81 amended section generally. Prior to amendment, text read as follows: "The

Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

"(1) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

"(2) include in each manpower requirements report submitted under section 115a of this title a complete justification for converting from one form of personnel to another."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by sections 1808(d)(1) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### MODIFICATIONS TO TOTAL FORCE MANAGEMENT REQUIREMENTS

Pub. L. 119–60, div. A, title XI, §1107(a), Dec. 18, 2025, 139 Stat. 1074, provided that: "Not later than 30 days after the date of the enactment of this Act [Dec. 18, 2025], the Office of the Secretary of Defense shall, in consultation with each Secretary of a military department, provide guidance to each such Secretary on the analysis required under subsection (b) of section 129a of title 10, United States Code. Such guidance shall include defining the seven required elements of the analysis under such subsection, on either a Department-wide or component level."

### MANAGEMENT INNOVATION ACTIVITIES

Pub. L. 117–81, div. A, title IX, §908, Dec. 27, 2021, 135 Stat. 1875, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall carry out a set of activities to improve the effectiveness of management activities within the Department of Defense, with the goals of incorporating appropriate private sector management practices and technologies and enhancing the capabilities of the defense management workforce.

"(b) MANAGEMENT ACTIVITIES.—Subject to the total force management requirements under section 129a of title 10, United States Code, the activities carried out under subsection (a) may include the following:

"(1) Public-private partnerships with appropriate private sector and government organizations.

"(2) Personnel exchange programs with appropriate industry, academic, and government organizations to enhance the capabilities of the defense management workforce.

"(3) Research, development, and technology and business process prototyping activities to create new technological capabilities to support management missions, or development and testing of new management concepts and business transformation activities.

"(4) The designation of appropriate organizations to lead management innovation activities.

"(5) A process by which defense business process owners and other personnel of the Department of Defense can identify management and business process challenges and opportunities that could be addressed by activities carried out under this section.

"(6) Processes to develop, prototype, test, and field new business processes and practices to improve defense management capabilities.

"(7) Academic research and educational activities related to defense management missions to promote—

"(A) development of innovative management concepts;

"(B) analyses and addressing of appropriate management challenges; and

"(C) development of programs and activities to develop the defense management workforce.

"(8) Academic research and independent studies from federally funded research and development centers assessing lessons learned from previous Departmental management reform initiatives and whether legacy organizations exist and should be consolidated.

"(c) PLAN REQUIRED.—Not later than February 1, 2023, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for carrying out the activities under this section.

"(d) BRIEFINGS.—

"(1) INITIAL BRIEFING.—Not later than July 1, 2022, the Secretary of Defense shall provide to the congressional defense committees an initial briefing on the activities carried out and plans developed under this section.

"(2) SUBSEQUENT BRIEFING.—On a date occurring after the briefing under paragraph (1), but not later than July 1, 2023, the Secretary of Defense shall provide to the congressional defense committees a briefing on the activities carried out and plans developed under this section."

**STRATEGIC POLICY FOR THE RETROGRADE, RECONSTITUTION, AND REPLACEMENT OF OPERATING FORCES USED TO SUPPORT OVERSEAS CONTINGENCY OPERATIONS**

Pub. L. 113–66, div. A, title III, §324, Dec. 26, 2013, 127 Stat. 733, provided that:

"(a) ESTABLISHMENT OF POLICY.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a policy setting forth the programs and priorities of the Department of Defense for the retrograde, reconstitution, and replacement of units and materiel used to support overseas contingency operations. The policy shall take into account national security threats, the requirements of the combatant commands, the current readiness of the operating forces of the military departments, and risk associated with strategic depth and the time necessary to reestablish required personnel, equipment, and training readiness in such operating forces.

"(2) ELEMENTS.—The policy required under paragraph (1) shall include the following elements:

"(A) Establishment and assignment of responsibilities and authorities within the Department for oversight and execution of the planning, organization, and management of the programs to reestablish the readiness of redeployed operating forces.

"(B) Guidance concerning priorities, goals, objectives, timelines, and resources to reestablish the readiness of redeployed operating forces in support of national defense objectives and combatant command requirements.

"(C) Oversight reporting requirements and metrics for the evaluation of Department of Defense and military department progress on restoring the readiness of redeployed operating forces in accordance with the policy required under paragraph (1).

"(D) A framework for joint departmental reviews of military services' annual budgets proposed for retrograde, reconstitution, or replacement activities, including an assessment of the strategic and operational risk assumed by the proposed levels of investment across the Department of Defense.

"(b) IMPLEMENTATION PLAN.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementation of the policy required under this section.

"(2) ELEMENTS.—The implementation plan required under paragraph (1) shall include the following elements:

"(A) The assignment of responsibilities and authorities for oversight and execution of the planning, organization, and management of the programs to reestablish the readiness of redeployed operating forces.

"(B) Establishment of priorities, goals, objectives, timelines, and resources to reestablish the readiness of redeployed operating forces in support of national defense objectives and combatant command requirements.

"(C) A description of how the plan will be implemented, including a schedule with milestones to meet the goals of the plan.

"(D) An estimate of the resources by military service and by year required to implement the plan, including an assessment of the risks assumed in the plan.

"(3) UPDATES.—Not later than one year after submitting the plan required under paragraph (1), and annually thereafter for two years, the Secretary of Defense shall submit to the congressional defense committees an update on progress toward meeting the goals of the plan.

"(c) COMPTROLLER GENERAL REPORT.—Not later than 120 days after the date of the enactment of this Act, and annually after the submittal of each update to the implementation plan under subsection (b), the Comptroller General of the United States shall review the implementation plan submitted under subsection (b) and the policy required by subsection (a), and submit to the congressional defense committees a report describing the findings of such review and progress made toward meeting the goals of the plan and including any additional information relating to the policy and plan that the Comptroller General determines appropriate."

**SAVINGS TO BE ACHIEVED IN CIVILIAN PERSONNEL WORKFORCE AND SERVICE CONTRACTOR WORKFORCE OF THE DEPARTMENT OF DEFENSE**

Pub. L. 112–239, div. A, title IX, §955, Jan. 2, 2013, 126 Stat. 1896, which related to efficiencies plan for

the civilian personnel workforce and service contractor workforce of the Department of Defense, requiring specific savings, excluding certain expenses, setting reporting requirements, limiting transfers of functions, recommending application of certain funds saved to transition assistance for personnel separated from the Armed Forces, and providing definition of "service contractor workforce", was repealed by Pub. L. 114–328, div. A, title IX, §915, Dec. 23, 2016, 130 Stat. 2350.

**CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS**

Pub. L. 104–106, div. A, title X, §1032, Feb. 10, 1996, 110 Stat. 429, as amended by Pub. L. 104–201, div. A, title XVI, §1601, Sept. 23, 1996, 110 Stat. 2734, directed Secretary of Defense, by Sept. 30, 1996, to convert at least 3,000 military positions to civilian positions and, not later than Mar. 31, 1996, submit to Congress a plan for the implementation of conversion.

**PROHIBITION ON USE OF FUNDS TO ASSIGN SUPERVISOR'S TITLE OR GRADE BASED UPON NUMBER OF PEOPLE SUPERVISED**

Pub. L. 104–61, title VIII, §8031, Dec. 1, 1995, 109 Stat. 658, provided that: "None of the funds appropriated during the current fiscal year and hereafter, may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, §8036, Sept. 30, 1994, 108 Stat. 2626.

Pub. L. 103–139, title VIII, §8040, Nov. 11, 1993, 107 Stat. 1449.

Pub. L. 102–396, title IX, §9053, Oct. 6, 1992, 106 Stat. 1914.

Pub. L. 102–172, title VIII, §8055, Nov. 26, 1991, 105 Stat. 1184.

Pub. L. 101–511, title VIII, §8063, Nov. 5, 1990, 104 Stat. 1888.

Pub. L. 101–165, title IX, §9085, Nov. 21, 1989, 103 Stat. 1147.

Pub. L. 100–463, title VIII, §8079, Oct. 1, 1988, 102 Stat. 2270–30.

Pub. L. 100–202, §101(b) [title VIII, §8105], Dec. 22, 1987, 101 Stat. 1329–43, 1329–81.

## §129b. Authority to procure personal services

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense and the Secretaries of the military departments may—

(1) procure the services of experts or consultants (or of organizations of experts or consultants) in accordance with section 3109 of title 5; and

(2) pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law.

(b) CONDITIONS.—The services of experts or consultants (or organizations thereof) may be procured under subsection (a) only if the Secretary of Defense or the Secretary of the military department concerned, as the case may be, determines that—

(1) the procurement of such services is advantageous to the United States; and

(2) such services cannot adequately be provided by the Department of Defense.

(c) REGULATIONS.—Procurement of the services of experts and consultants (or organizations thereof) under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.

(d) ADDITIONAL AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts if the personal services—

(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

(B) directly support the mission of a defense intelligence component or counter-intelligence

organization of the Department of Defense; or

(C) directly support the mission of the special operations command of the Department of Defense.

(2) The contracting officer for a personal services contract under this subsection shall be responsible for ensuring that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department to obtain such services by other means.

(3) The requirements of section 3109 of title 5 shall not apply to a contract entered into under this subsection.

(Added Pub. L. 101–510, div. A, title XIV, §1481(b)(1), Nov. 5, 1990, 104 Stat. 1704; amended Pub. L. 102–190, div. A, title X, §1061(a)(2), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 108–136, div. A, title VIII, §841(a), (b)(1), Nov. 24, 2003, 117 Stat. 1552.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9002, Nov. 21, 1989, 103 Stat. 1129, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(b)(3).

**AMENDMENTS**

**2003**—Pub. L. 108–136, §841(b)(1), substituted "Authority to procure personal services" for "Experts and consultants: authority to procure services of" in section catchline.

Subsec. (d). Pub. L. 108–136, §841(a), added subsec. (d).

**1991**—Pub. L. 102–190 inserted "of" after "services" in section catchline.

## §129c. Medical personnel: limitations on reductions

(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the

reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

(e) DEFINITION.—In this section, the term "medical personnel" means—

(1) the members of the armed forces covered by the term "medical personnel" as defined in section 115a(e)(2) [1] of this title; and

(2) the civilian personnel of the Department of Defense assigned to military medical facilities.

(Added Pub. L. 104–106, div. A, title V, §564(a)(1), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 105–85, div. A, title X, §1073(a)(4), Nov. 18, 1997, 111 Stat. 1900.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 115a(e)(2) of this title, referred to in subsec. (e)(1), was redesignated as section 115a(f)(2) of this title by Pub. L. 119–60, div. A, title IV, §422(b)(1)(A), Dec. 18, 2025, 139 Stat. 850.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title VII, §711, Nov. 5, 1990, 104 Stat. 1582, as amended, which was set out as a note under section 115 of this title, prior to repeal by Pub. L. 104–106, §564(d)(1).

### AMENDMENTS

**1997**—Subsec. (e)(1). Pub. L. 105–85 substituted "section 115a(e)(2)" for "section 115a(g)(2)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### LIMITATION ON REDUCTION OF MILITARY MEDICAL MANNING END STRENGTH: CERTIFICATION REQUIREMENT AND OTHER REFORMS

Pub. L. 117–263, div. A, title VII, §741(a), (d), Dec. 23, 2022, 136 Stat. 2676, 2680, as amended by Pub. L. 119–60, div. A, title VII, §713(1), Dec. 18, 2025, 139 Stat. 921, provided that:

"(a) LIMITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and in addition to the limitation under section 719 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1454), as most recently amended by section 731 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1795), during the 10-year period beginning on the date of the enactment of this Act [Dec. 23, 2022], neither the Secretary of Defense nor a Secretary concerned may reduce military medical end strength authorizations, and following such period, neither may reduce such authorizations unless the Secretary of Defense issues a waiver pursuant to paragraph (6).

"(2) EXCEPTION.—The limitation under paragraph (1) shall not apply with respect to the following:

"(A) Administrative billets of a military department that have remained unfilled since at least October 1, 2018.

"(B) Billets identified as non-clinical in the budget of the President for fiscal year 2020 submitted to Congress pursuant to section 1105(a) of title 31, United States Code, except that the number of such billets may not exceed 1,700.

"(C) Medical headquarters billets of the military departments not assigned to, or providing direct support to, operational commands.

"(3) REPORT ON COMPOSITION OF MILITARY MEDICAL WORKFORCE REQUIREMENTS .—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall conduct an assessment of current military medical manning requirements (taking into consideration factors including future operational planning, training, and beneficiary healthcare) and submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing the findings of such assessment. Such assessment shall be informed by the following:

"(A) The National Defense Strategy submitted under section 113(g) of title 10, United States Code.

"(B) The National Military Strategy prepared under section 153(b) of such title.

"(C) The campaign plans of the combatant commands.

"(D) Theater strategies.

"(E) The joint medical estimate under section 732 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1817).

"(F) The plan of the Department of Defense on integrated medical operations, as updated pursuant to paragraph (1) of section 724(a) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1793; 10 U.S.C. 1096 note).

"(G) The plan of the Department of Defense on global patient movement, as updated pursuant to paragraph (2) of such section 724(a).

"(H) The biosurveillance program of the Department of Defense established pursuant to Department of Defense Directive 6420.02 (relating to biosurveillance).

"(I) Requirements for graduate medical education.

"(J) The report of the COVID–19 Military Health System Review Panel under section 731 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 134 Stat. 3698).

"(K) The report of the Inspector General of the Department of Defense titled 'Evaluation of Department of Defense Military Medical Treatment Facility Challenges During the Coronavirus Disease-2019 (COVID-19) Pandemic in Fiscal Year 2021 (DODIG-2022-081)' and published on April 5, 2022.

"(L) Reports of the Comptroller General of the United States relating to military health system reforms undertaken on or after January, 1, 2017, including any such reports relating to military medical manning and force composition mix.

"(M) Such other reports as may be determined appropriate by the Secretary of Defense.

"(4) CERTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a certification containing the following:

"(A) A certification of the completion of a comprehensive review of military medical manning, including with respect to the medical corps (or other health- or medical-related component of a military department), designator, profession, occupation, and rating of medical personnel.

"(B) A justification for any proposed increase, realignment, reduction, or other change to the specialty or occupational composition of military medical end strength authorizations, which may include compliance with a requirement or recommendation set forth in a strategy, plan, or other matter specified in paragraph (3).

"(C) A certification that, in the case that any change to such specialty or occupational composition is required, a vacancy resulting from such change may not be filled with a position other than a health- or medical-related position until such time as there are no military medical billets remaining to fill the vacancy.

"(D) A risk analysis associated with the potential realignment or reduction of any military medical end strength authorizations.

"(E) An identification of any plans of the Department to backfill military medical personnel positions with civilian personnel.

"(F) A plan to address persistent vacancies for civilian personnel in health- or medical-related positions, and a risk analysis associated with the hiring, onboarding, and retention of such civilian personnel, taking into account provider shortfalls across the United States.

"(G) A comprehensive plan to mitigate any risk identified pursuant to subparagraph (D) or (F), including with respect to funding necessary for such mitigation across fiscal years.

"(5) PROCESS REQUIRED.—The Secretaries of the military departments, in coordination with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall develop and submit to the Committees on Armed Services of the House of Representatives and the Senate a process for the authorization of proposed modifications to the composition of the medical manning force mix across the military departments while maintaining compliance with the limitation under paragraph (1). Such process shall—

"(A) take into consideration the funding required for any such proposed modification; and

"(B) include distinct processes for proposed increases and proposed decreases, respectively, to the medical manning force mix of each military department.

"(6) WAIVER.—

"(A) IN GENERAL.—Following the conclusion of the 10-year period specified in paragraph (1), the Secretary of Defense may waive the prohibition under such subsection if—

"(i) the report requirement under paragraph (3), the certification requirement under paragraph (4), and the process requirement under paragraph (5) have been completed;

"(ii) the Secretary determines that the waiver is necessary and in the interests of the national

security of the United States; and

"(iii) the waiver is issued in writing.

"(B) NOTIFICATION TO CONGRESS.—Not later than five days after issuing a waiver under subparagraph (A), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a notification of the waiver (including the text of the waiver and a justification for the waiver) and provide to such committees a briefing on the components of the waiver.

"(d) DEFINITIONS.—In this section:

"(1) The term 'medical personnel' has the meaning given such term in section 115a(e) of title 10, United States Code [now 10 U.S.C. 115a(f)].

"(2) The term 'Secretary concerned' has the meaning given that term in section 101(a) of such title.

"(3) The term 'theater strategy' means an overarching construct outlining the vision of a combatant commander for the integration and synchronization of military activities and operations with other national power instruments to achieve the strategic objectives of the United States."

## PROHIBITION ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 110–181, div. A, title VII, §721(a)–(d), Jan. 28, 2008, 122 Stat. 198, 199, as amended by Pub. L. 111–84, div. A, title VII, §701, Oct. 28, 2009, 123 Stat. 2372, prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position on or after Oct. 1, 2007, and required restoration of certain converted positions to military positions, prior to repeal by Pub. L. 114–328, div. A, title VII, §721(c), Dec. 23, 2016, 130 Stat. 2228.

## REQUIREMENT TO CERTIFY AND REPORT ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 109–364, div. A, title VII, §742, Oct. 17, 2006, 120 Stat. 2306, which prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position in a fiscal year until the Secretary submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives with respect to that fiscal year a certification that the conversions within that department would not increase cost or decrease quality of care or access to care, was repealed by Pub. L. 110–181, div. A, title VII, §721(e), Jan. 28, 2008, 122 Stat. 199.

## PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION

Pub. L. 109–163, div. A, title VII, §744, Jan. 6, 2006, 119 Stat. 3360, provided that:

"(a) PROHIBITION ON CONVERSIONS.—

"(1) SUBMISSION OF CERTIFICATION.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

"(2) REPORT WITH CERTIFICATION.—A Secretary submitting such a certification shall include with the certification a written report that includes—

"(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

"(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

"(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

"(b) REQUIREMENT FOR STUDY.—

"(1) IN GENERAL.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

"(2) MATTERS COVERED.—The study shall include the following:

"(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

"(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

"(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

"(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

"(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

"(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

"(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

"(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

"(3) REPORT ON STUDY.—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

"(c) DEFINITIONS.—In this section:

"(1) The term 'military medical or dental position' means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

"(2) The term 'civilian medical or dental position' means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

"(3) The term 'affected area' means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

"(4) The term 'uniformed services' has the meaning given that term in section 1072(1) of title 10, United States Code."

**SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996**

Pub. L. 104–106, div. A, title V, §564(b), Feb. 10, 1996, 110 Stat. 326, provided that, for purposes of applying subsec. (b)(1) of this section during fiscal year 1996, the number against which the percentage limitation of 95 percent was to be computed would be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994, rather than the number as of the end of fiscal year 1995.

[1] *See References in Text note below.*

## §129d. Disclosure to litigation support contractors

(a) DISCLOSURE AUTHORITY.—An officer or employee of the Department of Defense may disclose sensitive information to a litigation support contractor if—

(1) the disclosure is for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; and

(2) under a contract with the Government, the litigation support contractor agrees to and acknowledges—

(A) that sensitive information furnished will be accessed and used only for the purposes stated in the relevant contract;

(B) that the contractor will take all precautions necessary to prevent disclosure of the sensitive information provided to the contractor;

(C) that such sensitive information provided to the contractor under the authority of this section shall not be used by the contractor to compete against a third party for Government or non-Government contracts; and

(D) that the violation of subparagraph (A), (B), or (C) is a basis for the Government to

terminate the litigation support contract of the contractor.

(b) DEFINITIONS.—In this section:

(1) The term "litigation support contractor" means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support.

(2) The term "sensitive information" means confidential commercial, financial, or proprietary information, technical data, or other privileged information.

(Added Pub. L. 112–81, div. A, title VIII, §802(a)(1), Dec. 31, 2011, 125 Stat. 1484.)

## §130. Authority to withhold from public disclosure certain technical data

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.

(b) Regulations under this section shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation. Such regulations shall address, where appropriate, releases of technical data to allies of the United States and to qualified United States contractors, including United States contractors that are small business concerns, for use in performing United States Government contracts.

(c) In this section, the term "technical data with military or space application" means any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or be adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

(Added Pub. L. 98–94, title XII, §1217(a), Sept. 24, 1983, 97 Stat. 690, §140c; amended Pub. L. 99–145, title XIII, §1303(a)(3), Nov. 8, 1985, 99 Stat. 738; renumbered §130 and amended Pub. L. 99–433, title I, §§101(a)(3), 110(d)(6), Oct. 1, 1986, 100 Stat. 994, 1003; Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIV, §1484(b)(1), Nov. 5, 1990, 104 Stat. 1715; Pub. L. 114–328, div. A, title X, §1081(b)(3)(A), Dec. 23, 2016, 130 Stat. 2418.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613).

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328 substituted "(50 U.S.C. 4601 et seq.)" for "(50 U.S.C. App. 2401–2420)".

**1990**—Subsecs. (b), (c). Pub. L. 101–510 substituted "Regulations under this section" for "(1) Within 90 days after September 24, 1983, the Secretary of Defense shall propose regulations to implement this section. Such regulations" in subsec. (b) and redesignated former subsec. (b)(2) as subsec. (c).

**1987**—Subsec. (b)(2). Pub. L. 100–26 inserted "the term" after "In this section,".

**1986**—Pub. L. 99–433 renumbered section 140c of this title as this section and substituted "Authority" for "Secretary of Defense: authority" in section catchline.

**1985**—Subsec. (b)(1). Pub. L. 99–145 substituted "September 24, 1983" for "enactment of this section".

## §130a. Department of Defense support for funerals and memorial events for Members and former Members of Congress

(a) SUPPORT FOR FUNERALS.—Subject to subsection (b), the Secretary of Defense may provide such support as the Secretary considers appropriate for a funeral or memorial event for a Member or former Member of Congress, including support with respect to transportation to and from such a funeral or memorial event, in accordance with this section.

(b) REQUESTS FOR SUPPORT; SECRETARY DETERMINATION.—The Secretary may provide support under this section—

(1) upon request from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, or the Minority Leader of the Senate; or

(2) if the Secretary determines such support is necessary to carry out duties or responsibilities of the Department of Defense.

(c) USE OF FUNDS.—The Secretary may use funds authorized to be appropriated for operation and maintenance to provide support under this section.

(Added Pub. L. 117–263, div. A, title X, §1042(a), Dec. 23, 2022, 136 Stat. 2770.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 130a, added Pub. L. 105–85, div. A, title IX, §911(a)(1), Nov. 18, 1997, 111 Stat. 1857; amended Pub. L. 106–65, div. A, title IX, §921(a)(1), Oct. 5, 1999, 113 Stat. 722; Pub. L. 106–398, §1 [[div. A], title IX, §941], Oct. 30, 2000, 114 Stat. 1654, 1654A–241; Pub. L. 108–375, div. A, title X, §1084(d)(2), Oct. 28, 2004, 118 Stat. 2061, related to major Department of Defense headquarters activities personnel, prior to repeal by Pub. L. 110–181, div. A, title IX, §901(a)(1), Jan. 28, 2008, 122 Stat. 272.

## §130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information

(a) EXEMPTION FROM DISCLOSURE.—The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security may, notwithstanding section 552 of title 5, authorize to be withheld from disclosure to the public personally identifying information regarding—

(1) any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit; and

(2) any employee of the Department of Defense or of the Coast Guard whose duty station is with any such unit.

(b) EXCEPTIONS.—(1) The authority in subsection (a) is subject to such exceptions as the President may direct.

(2) Subsection (a) does not authorize any official to withhold, or to authorize the withholding of, information from Congress.

(c) DEFINITIONS.—In this section:

(1) The term "personally identifying information", with respect to any person, means the person's name, rank, duty address, and official title and information regarding the person's pay.

(2) The term "unit" means a military organization of the armed forces designated as a unit by competent authority.

(3) The term "overseas unit" means a unit that is located outside the United States and its territories.

(4) The term "sensitive unit" means a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including—

(A) a unit involved in collecting, handling, disposing, or storing of classified information and materials;

(B) a unit engaged in training—

(i) special operations units;

(ii) security group commands weapons stations; or

(iii) communications stations; and

(C) any other unit that is designated as a sensitive unit by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(5) The term "routinely deployable unit" means a unit that normally deploys from its permanent home station on a periodic or rotating basis to meet peacetime operational requirements that, or to participate in scheduled training exercises that, routinely require deployments outside the United States and its territories. Such term includes a unit that is alerted for deployment outside the United States and its territories during an actual execution of a contingency plan or in support of a crisis operation.

(Added Pub. L. 106–65, div. A, title X, §1044(a), Oct. 5, 1999, 113 Stat. 761; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsecs. (a), (c)(4)(C). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations

(a) EXEMPTION FROM DISCLOSURE.—The national security official concerned (as defined in subsection (h)) may withhold from public disclosure otherwise required by law sensitive information of foreign governments in accordance with this section.

(b) INFORMATION ELIGIBLE FOR EXEMPTION.—For the purposes of this section, information is sensitive information of a foreign government only if the national security official concerned makes each of the following determinations with respect to the information:

(1) That the information was provided by, otherwise made available by, or produced in cooperation with, a foreign government or international organization.

(2) That the foreign government or international organization is withholding the information from public disclosure (relying for that determination on the written representation of the foreign government or international organization to that effect).

(3) That any of the following conditions are met:

(A) The foreign government or international organization requests, in writing, that the information be withheld.

(B) The information was provided or made available to the United States Government on the condition that it not be released to the public.

(C) The information is an item of information, or is in a category of information, that the national security official concerned has specified in regulations prescribed under subsection (g) as being information the release of which would have an adverse effect on the ability of the United States Government to obtain the same or similar information in the future.

(c) INFORMATION OF OTHER AGENCIES.—If the national security official concerned provides to the head of another agency sensitive information of a foreign government, as determined by that national security official under subsection (b), and informs the head of the other agency of that determination, then the head of the other agency shall withhold the information from any public disclosure unless that national security official specifically authorizes the disclosure.

(d) LIMITATIONS.—(1) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government before October 30, 2000, and more than 25 years before the request is received by an agency, the information may be withheld only as set forth in paragraph (3).

(2)(A) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government on or after the date referred to in paragraph (1), the authority to withhold the information under this section is subject to the provisions of subparagraphs (B) and (C).

(B) Information referred to in subparagraph (A) may not be withheld under this section after—

(i) the date that is specified by a foreign government or international organization in a request or expression of a condition described in paragraph (1) or (2) of subsection (b) that is made by the foreign government or international organization concerning the information; or

(ii) if there are more than one such foreign governments or international organizations, the latest date so specified by any of them.

(C) If no date is applicable under subparagraph (B) to a request referred to in subparagraph (A) and the information referred to in that subparagraph came into possession or under the control of the United States more than 10 years before the date on which the request is received by an agency, the information may be withheld under this section only as set forth in paragraph (3).

(3) Information referred to in paragraph (1) or (2)(C) may be withheld under this section in the case of a request for disclosure only if, upon the notification of each foreign government and international organization concerned in accordance with the regulations prescribed under subsection (g)(2), any such government or organization requests in writing that the information not be disclosed for an additional period stated in the request of that government or organization. After the national security official concerned considers the request of the foreign government or international organization, the official shall designate a later date as the date after which the information is not to be withheld under this section. The later date may be extended in accordance with a later request of any such foreign government or international organization under this paragraph.

(e) INFORMATION PROTECTED UNDER OTHER AUTHORITY.—This section does not apply to information or matters that are specifically required in the interest of national defense or foreign policy to be protected against unauthorized disclosure under criteria established by an Executive order and are classified, properly, at the confidential, secret, or top secret level pursuant to such Executive order.

(f) DISCLOSURES NOT AFFECTED.—Nothing in this section shall be construed to authorize any official to withhold, or to authorize the withholding of, information from the following:

(1) Congress.

(2) The Comptroller General, unless the information relates to activities that the President designates as foreign intelligence or counterintelligence activities.

(g) REGULATIONS.—(1) The national security officials referred to in subsection (h)(1) shall each prescribe regulations to carry out this section. The regulations shall include criteria for making the determinations required under subsection (b). The regulations may provide for controls on access to and use of, and special markings and specific safeguards for, a category or categories of information subject to this section.

(2) The regulations shall include procedures for notifying and consulting with each foreign government or international organization concerned about requests for disclosure of information to which this section applies.

(h) DEFINITIONS.—In this section:

(1) The term "national security official concerned" means the following:

(A) The Secretary of Defense, with respect to information of concern to the Department of Defense, as determined by the Secretary.

(B) The Secretary of Homeland Security, with respect to information of concern to the Coast Guard, as determined by the Secretary, but only while the Coast Guard is not operating as a service in the Navy.

(C) The Secretary of Energy, with respect to information concerning the national security programs of the Department of Energy, as determined by the Secretary.

(2) The term "agency" has the meaning given that term in section 552(f) of title 5.

(3) The term "international organization" means the following:

(A) A public international organization designated pursuant to section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) as being entitled to enjoy the privileges, exemptions, and immunities provided in such Act.

(B) A public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(C) An official mission, except a United States mission, to a public international organization referred to in subparagraph (A) or (B).

(Added Pub. L. 106–398, §1 [[div. A], title X, §1073(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–277; amended Pub. L. 107–107, div. A, title X, §1048(a)(3), (c)(1), Dec. 28, 2001, 115 Stat. 1222, 1226; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (h)(3)(A), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to subchapter XVIII (§288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

### AMENDMENTS

**2002**—Subsec. (h)(1)(B). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Subsec. (b)(3)(C). Pub. L. 107–107, §1048(a)(3), substituted "subsection (g)" for "subsection (f)".

Subsec. (d)(1). Pub. L. 107–107, §1048(c)(1), substituted "October 30, 2000," for "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel

Confidential business information and other sensitive but unclassified homeland security information in the possession of the Department of Defense that is shared, pursuant to section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482), with State and local personnel (as defined in such section) shall not be subject to disclosure under section 552 of title 5 by virtue of the sharing of such information with such personnel.

(Added Pub. L. 109–364, div. A, title XIV, §1405(a), Oct. 17, 2006, 120 Stat. 2436.)

## §130e. Treatment under Freedom of Information Act of certain critical infrastructure security information

(a) EXEMPTION.—The Secretary of Defense may exempt Department of Defense critical infrastructure security information from disclosure pursuant to section 552(b)(3) of title 5, upon a written determination that—

(1) the information is Department of Defense critical infrastructure security information; and

(2) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(b) DESIGNATION OF DEPARTMENT OF DEFENSE CRITICAL INFRASTRUCTURE SECURITY INFORMATION.—In addition to any other authority or requirement regarding protection from dissemination of information, the Secretary may designate information as being Department of Defense critical infrastructure security information, including during the course of creating such information, to ensure that such information is not disseminated without authorization. Information so designated is subject to the determination process under subsection (a) to determine whether to exempt such information from disclosure described in such subsection.

(c) INFORMATION PROVIDED TO STATE AND LOCAL GOVERNMENTS.—(1) Department of Defense critical infrastructure security information covered by a written determination under subsection (a) or designated under subsection (b) that is provided to a State or local government shall remain under the control of the Department of Defense.

(2)(A) A State or local law authorizing or requiring a State or local government to disclose Department of Defense critical infrastructure security information that is covered by a written determination under subsection (a) shall not apply to such information.

(B) If a person requests pursuant to a State or local law that a State or local government disclose information that is designated as Department of Defense critical infrastructure security information under subsection (b), the State or local government shall provide the Secretary an opportunity to carry out the determination process under subsection (a) to determine whether to exempt such information from disclosure pursuant to subparagraph (A).

(d) TRANSPARENCY.—Each determination of the Secretary under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request.

(e) DEFINITION.—In this section, the term "Department of Defense critical infrastructure security information" means sensitive but unclassified information that, if disclosed, would reveal vulnerabilities in Department of Defense critical infrastructure that, if exploited, would likely result in the significant disruption, destruction, or damage of or to Department of Defense operations, property, or facilities, including information regarding the securing and safeguarding of explosives, hazardous chemicals, or pipelines, related to critical infrastructure or protected systems owned or operated by or on behalf of the Department of Defense, including vulnerability assessments prepared by or on behalf of the Department of Defense, explosives safety information (including storage and handling), and other site-specific information on or relating to installation security.

(Added Pub. L. 112–81, div. A, title X, §1091(a), Dec. 31, 2011, 125 Stat. 1604; amended Pub. L.

114–92, div. A, title X, §1081(a)(2), Nov. 25, 2015, 129 Stat. 1000; Pub. L. 114–328, div. A, title XVI, §1662(b), Dec. 23, 2016, 130 Stat. 2614; Pub. L. 118–31, div. A, title IX, §901(e)(1), Dec. 22, 2023, 137 Stat. 355.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsecs. (d) to (f). Pub. L. 118–31 redesignated subsecs. (e) and (f) as (d) and (e), respectively; struck out ", or the Secretary's designee," after "of the Secretary" and ", through the Office of the Director of Administration and Management" after "upon request" in subsec. (d) as redesignated; and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "The Secretary of Defense may delegate the authority to make a determination under subsection (a) to the Director of Administration and Management."

**2016**—Subsecs. (b), (c), (f). Pub. L. 114–328 added subsecs. (b) and (c), redesignated former subsec. (c) as (f), and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "Department of Defense critical infrastructure security information covered by a written determination under subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense."

**2015**—Pub. L. 114–92 substituted "Treatment under Freedom of Information Act of certain critical infrastructure security information" for "Treatment under Freedom of Information Act of critical infrastructure security information" in section catchline.

## §130f. Notification requirements for sensitive military operations

(a) IN GENERAL.—The Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a sensitive military operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) BRIEFING REQUIREMENT.—The Secretary of Defense shall periodically brief the congressional defense committees on Department of Defense personnel and equipment assigned to sensitive military operations, including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(d) SENSITIVE MILITARY OPERATION DEFINED.—In this section, the term "sensitive military operation" means—

(1) a lethal operation or capture operation conducted by the armed forces or conducted by a foreign partner in coordination with the armed forces that targets a specific individual or individuals;

(2) an operation conducted by the armed forces in self-defense or in defense of foreign partners, including during a cooperative operation; or

(3) an operation conducted by the armed forces to free an individual from the control of hostile foreign forces.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(f) COLLECTIVE SELF-DEFENSE NOTIFICATION REQUIREMENT.—Not later than 48 hours after the date on which a foreign partner force has been designated as eligible for the provision of collective self-defense by the armed forces for the purposes of subsection (d)(1)(B), the Secretary of Defense shall provide to the congressional defense committees notice in writing of such designation.

(Added Pub. L. 113–66, div. A, title X, §1041(a)(1), Dec. 26, 2013, 127 Stat. 856; amended Pub. L. 114–92, div. A, title X, §1043, Nov. 25, 2015, 129 Stat. 977; Pub. L. 114–328, div. A, title X, §1036(a)–(f)(1), Dec. 23, 2016, 130 Stat. 2391, 2392; Pub. L. 115–91, div. A, title X, §1081(a)(6), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 115–232, div. A, title X, §1031(a), (b), Aug. 13, 2018, 132 Stat. 1953; Pub. L. 117–81, div. A, title X, §1042, Dec. 27, 2021, 135 Stat. 1903.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsecs. (c) and (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The War Powers Resolution, referred to in subsec. (e), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

### AMENDMENTS

**2021**—Subsec. (d). Pub. L. 117–81, §1042(1)–(3), substituted "In" for "(1) Except as provided in paragraph (2), in", redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows: "For purposes of this section, the term 'sensitive military operation' does not include any operation conducted within Afghanistan, Syria, or Iraq."

Subsec. (d)(3). Pub. L. 117–81, §1042(4)–(6), added par. (3).

**2018**—Subsec. (d). Pub. L. 115–232, §1031(a), amended subsec. (d) generally. Prior to amendment, text read as follows: "The term 'sensitive military operation' means the following:

"(1) A lethal operation or capture operation—

"(A) conducted by the armed forces outside a declared theater of active armed conflict; or

"(B) conducted by a foreign partner in coordination with the armed forces that targets a specific individual or individuals.

"(2) An operation conducted by the armed forces outside a declared theater of active armed conflict in self-defense or in defense of foreign partners, including during a cooperative operation."

Subsec. (f). Pub. L. 115–232, §1031(b), added subsec. (f).

**2017**—Subsec. (b)(1). Pub. L. 115–91 inserted period at end.

**2016**—Pub. L. 114–328, §1036(f)(1), amended section catchline generally, substituting "Notification requirements for sensitive military operations" for "Congressional notification of sensitive military operations".

Subsec. (a). Pub. L. 114–328, §1036(a), (c)(1), inserted "no later than 48 hours" before "following such operation" and struck out at end "Department of Defense support to operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.) is addressed in the classified annex prepared to accompany the National Defense Authorization Act for Fiscal Year 2014."

Subsec. (b)(1). Pub. L. 114–328, §1036(b)(1), inserted at end "The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes".

Subsec. (b)(3). Pub. L. 114–328, §1036(b)(2), added par. (3).

Subsec. (c). Pub. L. 114–328, §1036(c)(2), inserted before period at end ", including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.)".

Subsec. (d). Pub. L. 114–328, §1036(d), substituted "means the following:" and pars. (1) and (2) for "means

a lethal operation or capture operation conducted by the armed forces outside the United States and outside a theater of major hostilities pursuant to—

"(1) the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note); or

"(2) any other authority except—

"(A) a declaration of war; or

"(B) a specific statutory authorization for the use of force other than the authorization referred to in paragraph (1)."

Subsecs. (e), (f). Pub. L. 114–328, §1036(e), redesignated subsec. (f) as (e) and struck out former subsec. (e) which provided exception to notification requirement.

**2015**—Subsec. (e). Pub. L. 114–92 designated existing provisions as par. (1) and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 113–66, div. A, title X, §1041(b), Dec. 26, 2013, 127 Stat. 857, provided that: "Section 130f of title 10, United States Code, as added by subsection (a), shall apply with respect to any sensitive military operation (as defined in subsection (d) of such section) executed on or after the date of the enactment of this Act [Dec. 26, 2013]."

### COMPREHENSIVE DEPARTMENT OF DEFENSE POLICY ON COLLECTIVE SELF-DEFENSE

Pub. L. 116–92, div. A, title XVII, §1754, Dec. 20, 2019, 133 Stat. 1853, provided that:

"(a) COMPREHENSIVE POLICY REQUIRED.—The Secretary of Defense shall prescribe a comprehensive written policy for the Department of Defense on the issuance of authorization for, and the provision by members and units of the United States Armed Forces of, collective self-defense to designated foreign nationals, their facilities, and their property.

"(b) ELEMENTS.—The policy required by subsection (a) shall address the following:

"(1) Each basis under domestic and international law pursuant to which a member or unit of the United States Armed Forces has been or may be authorized to provide collective self-defense to designated foreign nationals, their facilities, or their property under each circumstance as follows:

"(A) Inside an area of active hostilities, or in a country or territory in which United States forces are authorized to conduct or support direct action operations.

"(B) Outside an area of active hostilities, or in a country or territory in which United States forces are not authorized to conduct direct action military operations.

"(C) When United States personnel, facilities, or equipment are not threatened, including both as described in subparagraph (A) and as described in subparagraph (B).

"(D) When members of the United States Armed Forces are not participating in a military operation as part of an international coalition.

"(E) Any other circumstance not encompassed by subparagraphs (A) through (D) in which a member or unit of the United States Armed Forces has been or may be authorized to provide such collective self-defense.

"(2) A list and explanation of any limitations imposed by law or policy on the provision of collective self-defense to designated foreign nationals, their facilities, and their property under any of the bases in domestic or international law in the circumstances enumerated in paragraph (1), and the conditions under which any such limitation applies.

"(3) The procedure by which a proposal that any member or unit of the United States Armed Forces provide collective self-defense in support of designated foreign nationals, their facilities, and their property is to be submitted, processed, and endorsed through offices, officers, and officials of the Department to the applicable approval authority for final decision, and a list of any information, advice, or opinion to be included with such proposal in order to inform appropriate action on such proposal by such approval authority.

"(4) The title and duty position of any officers and officials of the Department empowered to render a final decision on a proposal described in paragraph (3), and the conditions applicable to, and limitations on, the exercise of such decisionmaking authority by each such officer or official.

"(5) A description of the Rules of Engagement applicable to the provision of collective self-defense to designated foreign nationals, their facilities, and their property under any of the bases in domestic or international law in the circumstances enumerated in paragraph (1), and the conditions under which any such Rules of Engagement would be modified.

"(6) A description of the process through which policy guidance pertaining to the authorization for,

and the provision by members of the United States Armed Forces of, collective self-defense to designated foreign nationals, their facilities, and their property is to be disseminated to the level of tactical execution.

"(7) Such other matters as the Secretary considers appropriate.

"(c) REPORT ON POLICY.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the policy required by subsection (a).

"(2) DOD GENERAL COUNSEL STATEMENT.—The Secretary shall include in the report under paragraph (1) a statement by the General Counsel of the Department of Defense as to whether the policy prescribed pursuant to subsection (a) is consistent with domestic and international law.

"(3) FORM.—The report required by paragraph (1) may be submitted in classified form.

"(d) BRIEFING ON POLICY.—Not later than 30 days after the date of the submittal of the report required by subsection (c), the Secretary shall provide the congressional defense committees a classified briefing on the policy prescribed pursuant to subsection (a). The briefing shall make use of vignettes designated to illustrate real world application of the policy in each [of] the circumstances enumerated in subsection (b)(1)."

**DEADLINE FOR SUBMITTAL OF PROCEDURES**

Pub. L. 113–66, div. A, title X, §1041(c), Dec. 26, 2013, 127 Stat. 857, provided that: "The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the procedures required under section 130f(b) of title 10, United States Code, as added by subsection (a), by not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013]."

## §130g.[1] Oversight of sensitive activities of the Department of Defense.

(a) REQUIREMENT.—The Secretary of Defense shall keep the congressional defense committees fully and currently informed of Department of Defense sensitive activities.

(b) NOTIFICATION.—In addition to the requirement under subsection (a), the Secretary shall submit to the congressional defense committees a written notification of any compromise or failure of a sensitive activity of the Department of Defense by not later than 48 hours after the date on which the Secretary determines that such a compromise or failure has occurred.

(c) PROCEDURES.—The Secretary, in consultation with the congressional defense committees, shall establish and submit to such committees procedures for complying with the requirements of subsections (a) and (b), including clearly established reporting thresholds and timelines for the prompt delivery of written notifications consistent with the national security of the United States and the protection of operational security. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(d) SENSITIVE ACTIVITIES DEFINED.—In this section, the term "Department of Defense sensitive activities" means operations, actions, activities, or programs of the Department of Defense that if compromised, could have enduring adverse effects on United States foreign policy, Department of Defense activities, or military operations, or cause significant embarrassment to the United States, its allies, or the Department of Defense. Such activities are generally handled through special access, compartmented, or other sensitive control mechanisms.

(Added Pub. L. 119–60, div. A, title XVI, §1622(a), Dec. 18, 2025, 139 Stat. 1182.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 130g was renumbered section 394 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**APPLICATION OF NOTIFICATIONS**

Pub. L. 119–60, div. A, title XVI, §1622(b), Dec. 18, 2025, 139 Stat. 1182, provided that: "The Secretary of Defense shall—

"(1) not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], establish the procedures under subsection (c) of section 130g of title 10, United States Code, as added by subsection (a) of this section; and

"(2) not later than 90 days after the date of such establishment, begin making notifications under subsection (b) of such section 130g."

[1] *Another section 130g is set out after this section.*

## §130g.[1] Notification requirements for waivers issued under Department of Defense guidance related to autonomy in weapon systems

(a) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees written notification of any waiver under Department of Defense Directive 3000.09 (relating to autonomy in weapon systems), or any successor directive, by not later than 30 days after the date on which the waiver is issued.

(b) ELEMENTS.—Each notification submitted under subsection (a) shall include the following:

(1) The rationale for the waiver.

(2) A description of the autonomous weapon system or technology covered by the waiver.

(3) The anticipated duration of the waiver.

(c) FORM.—A notification under subsection (a) shall be submitted in unclassified form, but may include a classified annex, as the Secretary determines necessary.

(Added Pub. L. 119–60, div. A, title X, §1061(a), Dec. 18, 2025, 139 Stat. 1045.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 130g was renumbered section 394 of this title.

[1] *Another section 130g is set out preceding this section.*

## [§130h. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 114–92, div. A, title XVI, §1671(a)(1), Nov. 25, 2015, 129 Stat. 1129; amended Pub. L. 114–328, div. A, title X, §1081(a)(1), title XVI, §1682(a)(1), (b), Dec. 23, 2016, 130 Stat. 2417, 2623, 2624; Pub. L. 115–232, div. A, title XVI, §1678, Aug. 13, 2018, 132 Stat. 2161; Pub. L. 116–283, div. A, title XVI, §1642, Jan. 1, 2021, 134 Stat. 4062; Pub. L. 117–263, div. A, title XVI, §1653, Dec. 23, 2022, 136 Stat. 2949, prohibited the Department of Defense from using appropriated funds to provide the Russian Federation with "hit-to-kill" technology and telemetry data for missile defense interceptors or target vehicles and other sensitive missile defense information. See section 5551 of this title.

## §130i. Protection of certain facilities and assets from unmanned aircraft

(a) AUTHORITY.—Notwithstanding section 46502 of title 49, or section 32, 1030, or 1367 or chapter 119 or 206 of title 18, the Secretary of Defense may take, and may authorize members of the armed forces and officers, civilian employees, and contractors of the Department of Defense with assigned duties that include safety, security, or protection of personnel, facilities, or assets, to take,

such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Defense, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means, including through the use of remote identification broadcast or other means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Defense shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—(1) Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Defense is subject to forfeiture to the United States.

(2) Any forfeiture conducted under paragraph (1) shall be made subject to the requirements for civil, criminal, or administrative forfeiture.

(d) REGULATIONS AND GUIDANCE.—(1) The Secretary of Defense and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(2)(A) The Secretary of Defense and the Secretary of Transportation shall coordinate in the development of guidance under paragraph (1).

(B) The Secretary of Defense shall coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance or otherwise implementing this section if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

(C) If the Secretary of Transportation notifies the Secretary of Defense that the manner of implementation of this section by the Department of Defense would result in an adverse impact to civil aviation safety, the Secretary of Defense shall consult with the Secretary of Transportation to mitigate adverse impacts.

(3) The Secretary of Defense shall ensure that the regulations prescribed or guidance issued under paragraph (1) require that, when taking an action described in subsection (b)(1), all due consideration is given to—

(A) mitigating impacts on privacy and civil liberties under the first and fourth amendments to the Constitution of the United States;

(B) mitigating damage to, or loss of, real and personal property;

(C) mitigating any risk of personal injury or death; and

(D) when practicable, obtaining the identification of, or issuing a warning to, the operator of an unmanned aircraft system or unmanned aircraft prior to taking action under subparagraphs (C) through (F) of subsection (b)(1), unless doing so would—

(i) endanger the safety of members of the armed forces or civilians;

(ii) create a flight risk or result in the destruction of evidence; or

(iii) seriously jeopardize an investigation, criminal proceeding, or legal proceeding pursuant to subsection (c).

(e) PRIVACY PROTECTION.—The regulations prescribed or guidance issued under subsection (d) shall ensure that—

(1) the interception, acquisition, maintenance, or use of, or access to, communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the first and fourth amendments to the Constitution and applicable provisions of Federal law;

(2) communications to or from an unmanned aircraft system are intercepted, acquired, or accessed only to the extent necessary to support an action described in subsection (b)(1);

(3) records of such communications are maintained only for as long as necessary, and in no event maintained for more than 180 days unless the Secretary of Defense determines that maintenance of such records—

(A) is necessary to investigate or prosecute a violation of law or to directly support an ongoing security operation; or

(B) is required under Federal law or for the purpose of any litigation; and

(4) such communications are not disclosed outside the Department of Defense unless the disclosure—

(A) is necessary to support an ongoing action described in subsection (b)(1);

(B) would support a civilian law enforcement agency or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory action with regard to, an action described in subsection (b)(1);

(C) is necessary to support the counter-unmanned aircraft systems activities of another Federal agency with authority to mitigate the threat of unmanned aircraft systems or unmanned aircraft in mitigating such threats; or

(D) is otherwise required by law or regulation.

(f) CLAIMS.—Claims for loss of property, injury, or death pursuant to actions under subsection (b) may be made consistent with chapter 171 of title 28, and chapter 163 of this title, as applicable.

(g) BUDGET.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2018, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Defense. The funding display shall be in unclassified form, but may contain a classified annex.

(h) SEMIANNUAL REPORTS.—(1) On a semiannual basis during the five-year period beginning March 1, 2026, the Secretary of Defense shall submit to the appropriate congressional committees and publish on a publicly available website a report summarizing all detection and mitigation activities conducted under this section during the previous year to counter unmanned aircraft systems.

(2) Each report under paragraph (1) shall include—

(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

(B) a description of instances where actions described in subsection (b)(1) have been taken;

(C) how the Secretaries have informed the public as to the possible use of authorities under this section; and

(D) how the Secretaries have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

(3) Each briefing under paragraph (1) shall be in unclassified form, and shall be accompanied by an additional classified briefing.

(i) BRIEFING, REPORT, AND PUBLICATION.—(1) Not later than 180 days after the date of the enactment of this subsection, and annually thereafter, the Secretary of Defense shall submit to the appropriate congressional committees and publish on a publicly available website a report summarizing all detection and mitigation activities conducted under this section during the previous year to counter unmanned aircraft systems.

(2) Each report under paragraph (1) shall include—

(A) information on any violation of, or failure to comply with, the privacy and civil liberties protections referenced in this section by personnel authorized to conduct detection and mitigation activities, including a description of any such violation or failure;

(B) data on the number of detection activities conducted, the number of mitigation activities conducted, and the number of instances of communications interception from an unmanned aircraft system;

(C) whether any unmanned aircraft that experienced mitigation was engaged in or attempting to engage in activities protected under the first amendment to the Constitution if such intent is readily and reasonably ascertainable;

(D) whether any unmanned aircraft or unmanned aircraft system was properly or improperly seized, disabled, damaged, or destroyed and an identification of any methods used to seize, disable, damage, or destroy such aircraft or system; and

(E) a description of the efforts of the Federal Government to protect privacy and civil liberties when carrying out detection and mitigation activities under this section to counter unmanned aircraft systems.

(3) Each report required under paragraph (1) shall be submitted and published in unclassified form, but may include a classified annex.

(j) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49; and

(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under this title.

(k) INTERAGENCY EXECUTIVE COMMITTEES ON EXECUTION OF DEPARTMENT OF DEFENSE COUNTER UNMANNED AVIATION AUTHORITY.—(1) The Secretary of Defense, the Attorney General, and the Administrator of the Federal Aviation Administration shall jointly establish by memorandum of understanding an interagency executive committee (referred to in this subsection as the "executive committee"), for the purpose of exchanging views, information, and advice relating to the execution of this section.

(2) The memorandum of understanding entered into under paragraph (1) shall include—

(A) a description of the officials and other individuals to be invited to participate as members in the executive committee;

(B) a procedure for creating a forum to carry out the purpose described in paragraph (1);

(C) a procedure for rotating the Chairperson and meeting location of the executive committee; and

(D) a procedure for scheduling regular meetings of the executive committee no fewer than three times each calendar year.

(l) ADDITIONAL ANNUAL REPORT.—Not later than April 1 of each year this section is in force, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(1) a summary of the use of activities described in subsection (b);

(2) an identification of additional missions of the Department of Defense for which the actions described in subsection (b)(1) are appropriate, as identified by the Secretary and including the specific list of facilities, installations, or assets, if any, that would be included if protections described in subsection (b)(1) were extended to facilities associated with the missions in such report;

(3) an updated copy of the memorandum of understanding required by subsection (k);

(4) a summary of actions taken by the interagency executive committee required by subsection (k);

(5) a summary of recommendations produced by each member of the interagency executive

committee required by subsection (k), disaggregated by department or agency; and

(6) a summary of actions taken as a result of meetings or decisions taken by the interagency executive committee required by subsection (k) to change procedures, regulations, guidelines, or other governing instruction of the Department of Defense relating to the use of authority provided by this section.

(m) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate; and

(C) the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(3) The term "contractor" means a person who—

(A) performs functions that support or carry out actions authorized in this section pursuant to a contract or subcontract entered into with an entity of the Department of Defense; and

(B) has completed training for the counter-unmanned aircraft system the person will use in performance of such functions, as certified by the Secretary of Defense.

(4) The term "covered facility or asset—" [1]

(A) means any facility or asset that—

(i) is identified by the Secretary of Defense, in consultation with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section;

(ii) is located in the United States (including the territories and possessions of the United States); and

(iii) directly relates to the missions of the Department of Defense pertaining to—

(I) nuclear deterrence, including with respect to nuclear command and control, integrated tactical warning and attack assessment, and continuity of government;

(II) missile defense;

(III) national security space;

(IV) assistance in protecting the President or the Vice President (or other officer immediately next in order of succession to the office of the President) pursuant to the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);

(V) air defense of the United States, including air sovereignty, ground-based air defense, and the National Capital Region integrated air defense system;

(VI) combat support agencies (as defined in paragraphs (1) through (4) of section 193(f) of this title);

(VII) special operations activities specified in paragraphs (1) through (9) of section 167(k) of this title;

(VIII) production, storage, transportation, or decommissioning of high-yield explosive munitions, by the Department;

(IX) a Major Range and Test Facility Base (as defined in section 4173 of this title);

(X) the physical security of other installations or property owned, leased, or operated by the Department of Defense to which the public is not permitted regular, unrestricted access, determined by the Secretary on a site by site basis to be critical to the national defense and certified as such to the Secretary of Transportation, the Attorney General, and the appropriate congressional committees; or

(XI) assistance to Federal, State, or local officials in responding to incidents involving nuclear, radiological, biological, or chemical weapons, high-yield explosives, or related materials or technologies, as well as support pursuant to section 282 of this title; and

(B) includes any persons physically present at any such facility or asset.

(5) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(6) The terms "electronic communication", "intercept", "oral communication", and "wire communication" have the meanings given those terms in section 2510 of title 18.

(7) The terms "unmanned aircraft" and "unmanned aircraft system" have the meanings given those terms in section 44801 of title 49.

(n) TERMINATION.—The authority to carry out this section shall terminate on December 31, 2030.

(Added Pub. L. 114–328, div. A, title XVI, §1697(a), Dec. 23, 2016, 130 Stat. 2639; amended Pub. L. 115–91, div. A, title XVI, §1692, Dec. 12, 2017, 131 Stat. 1788; Pub. L. 116–92, div. A, title XVI, §1694, title XVII, §1731(a)(6), Dec. 20, 2019, 133 Stat. 1791, 1812; Pub. L. 116–283, div. A, title X, §1081(a)(8), title XVIII, §1845(c)(4), Jan. 1, 2021, 134 Stat. 3871, 4247; Pub. L. 118–31, div. A, title XVI, §1681, Dec. 22, 2023, 137 Stat. 611; Pub. L. 118–159, div. A, title XVII, §1701(a)(2), div. B, title XXVIII, §2871(c)(1), Dec. 23, 2024, 138 Stat. 2203, 2281; Pub. L. 119–60, div. A, title XVII, §1707, Dec. 18, 2025, 139 Stat. 1215.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

The Presidential Protection Assistance Act of 1976, referred to in subsec. (m)(4)(A)(iii)(IV), is Pub. L. 94–524, Oct. 17, 1976, 90 Stat. 2475, which enacted and amended provisions set out as notes under section 3056 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1707(1), substituted "section 32, 1030, or 1367 or chapter 119 or 206 of title 18" for "any provision of title 18" and a comma for "and" after "officers", and inserted ", and contractors" after "civilian employees".

Subsec. (b)(1)(B). Pub. L. 119–60, §1707(2), inserted ", including through the use of remote identification broadcast or other means" after "electromagnetic means".

Subsec. (c). Pub. L. 119–60, §1707(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(2)(C). Pub. L. 119–60, §1707(4)(A), added subpar. (C).

Subsec. (d)(3). Pub. L. 119–60, §1707(4)(B), added par. (3).

Subsec. (e)(1). Pub. L. 119–60, §1707(5)(A), substituted a comma for "or" before "acquisition" and "amendments" for "amendment", and inserted ", maintenance, or use" after "acquisition" and "first and" before "fourth".

Subsec. (e)(2). Pub. L. 119–60, §1707(5)(B), substituted "an action described in subsection (b)(1)" for "a function of the Department of Defense".

Subsec. (e)(3). Pub. L. 119–60, §1707(5)(C)(i), in introductory provisions, substituted "maintained only for as long as necessary, and in no event maintained" for "not maintained".

Subsec. (e)(3)(A). Pub. L. 119–60, §1707(5)(C)(ii), substituted "investigate or prosecute a violation of law or to directly support an ongoing security operation" for "support one or more functions of the Department of Defense".

Subsec. (e)(3)(B). Pub. L. 119–60, §1707(5)(C)(iii), substituted "under Federal law or for the purpose of any litigation" for "for a longer period to support a civilian law enforcement agency or by any other applicable law or regulation".

Subsec. (e)(4)(A). Pub. L. 119–60, §1707(6)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "would fulfill a function of the Department of Defense;".

Subsec. (e)(4)(C), (D). Pub. L. 119–60, §1707(6)(B)–(D), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsecs. (f), (g). Pub. L. 119–60, §1707(10), (11), added subsec. (f) and redesignated former subsec. (f) as

(g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 119–60, §1707(12)(A), substituted "Reports" for "Briefings" in heading.

Pub. L. 119–60, §1707(10), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (j).

Subsec. (h)(1) to (3). Pub. L. 119–60, §1707(12)(B)–(D), substituted "2026" for "2018" and "shall submit to the appropriate congressional committees and publish on a publicly available website a report summarizing all detection and mitigation activities conducted under this section during the previous year to counter unmanned aircraft systems." for "and the Secretary of Transportation, shall jointly provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section. Such briefings shall include—"; inserted "(2) Each report under paragraph (1) shall include—" before subpar. (A); redesignated former par. (2) as (3); and, in par. (3) as redesignated, substituted "and shall" for "but may".

Subsec. (i). Pub. L. 119–60, §1707(8), (13), added subsec. (i) and struck out former subsec. (i), which terminated, on Dec. 31, 2026, authority to carry out this section with respect to certain covered facilities or assets.

Subsec. (j). Pub. L. 119–60, §1707(9), redesignated subsec. (h) as (j). Former subsec. (j) redesignated (m).

Subsecs. (k), (l). Pub. L. 119–60, §1707(14), added subsecs. (k) and (l).

Subsec. (m). Pub. L. 119–60, §1707(15), which directed amendment of "subsection (m)(3)" of this section, as redesignated by Pub. L. 119–60, §1707(7), was executed by making the following amendments to subsec. (m) as redesignated by Pub. L. 119–60, §1707(7), to reflect the probable intent of Congress: adding par. (3); redesignating former pars. (3) to (6) as (4) to (7), respectively; and, in par. (4) as so redesignated, substituting "covered facility or asset—" for " 'covered facility or asset' means any facility or asset that—" in introductory provisions, redesignating subpars. (A) to (C) as cls. (i) to (iii), respectively, inserting "(A) means any facility or asset that—" before cl. (i), as so redesignated, redesignating cls. (i) to (ix) of former subpar. (C) as subcls. (I) to (IX), respectively, of cl. (iii) and adding subcl. (X) at end of cl. (iii), and adding subpar. (B).

Pub. L. 119–60, §1707(7), redesignated subsec. (j) as (m).

Subsec. (n). Pub. L. 119–60, §1707(16), added subsec. (n).

**2024**—Subsec. (j)(3)(C)(ix). Pub. L. 118–159, §2871(c)(1), which directed substitution of "section 4173" for "sections 4173(i)", was executed by making the substitution for "section 4173(i)", to reflect the probable intent of Congress and the intervening amendment by Pub. L. 118–159, §1701(a)(2). See below and see section 1701(h) of Pub. L. 118–159, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act under section 101 of this title.

Pub. L. 118–159, §1701(a)(2), substituted "section" for "sections".

**2023**—Subsec. (i). Pub. L. 118–31 substituted "2026" for "2023" in pars. (1) and (2).

**2021**—Subsec. (i)(1). Pub. L. 116–283, §1081(a)(8)(A), substituted "of subsection (j)(3)(C) shall" for "of subsection (j)(3)(C) shall", resulting in no change in text. See 2019 Amendment notes and Coordination of Amendments by Pub. L. 116–92 note below.

Subsec. (j)(3)(C)(ix). Pub. L. 116–283, §1845(c)(4), substituted "sections 4173(i)" for "section 196(i)".

Subsec. (j)(6). Pub. L. 116–283, §1081(a)(8)(B), inserted a period at end.

**2019**—Subsec. (i). Pub. L. 116–92, §1694(a), substituted "2023" for "2020" in two places.

Subsec. (i)(1). Pub. L. 116–92, §1731(a)(6)(A), inserted "(C)" after "subsection (j)(3)".

Pub. L. 116–92, §1694(b)(1), which directed substitution of "of subsection (j)(3)(C)" for "of subsection (j)(3)", resulted in no change in text because of prior execution of amendment by Pub. L. 116–92, §1731(a)(6)(A). See Amendment note above and Coordination of Amendments by Pub. L. 116–92 note below.

Subsec. (j)(6). Pub. L. 116–92, §1731(a)(6)(B), substituted "44802" for "40101".

Pub. L. 116–92, §1694(b)(2), substituted "in section 44801 of title 49" for "in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 44802 note)."

**2017**—Pub. L. 115–91 amended section generally. Prior to amendment, section related to protection of certain facilities and assets from unmanned aircraft and consisted of provisions relating to authority of Secretary of Defense, authorized actions, forfeiture, regulations, and definitions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1845(c)(4) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### PILOT PROGRAM ON ENHANCED USE OF ADVANCED SENSOR NETWORKS TO IMPROVE

## AIR FORCE COUNTER-UNMANNED AIRCRAFT SYSTEM CAPABILITIES FOR BASE DEFENSE

Pub. L. 119–60, div. A, title X, §1088, Dec. 18, 2025, 139 Stat. 1059, provided that:

"(a) ESTABLISHMENT.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Air Force, in coordination with the Director of the Joint Interagency Task Force 401 established under section 199 of title 10, United States Code, as added by section 912, and in consultation with the Administrator of the Federal Aviation Administration, shall carry out a pilot program, to be known as the 'Enhancing Cooperation for Counter-Unmanned Aircraft Systems Program', under which the Secretary shall incorporate the use of civilian civil airspace sensor networks into Air Force data processing systems to—

"(1) improve base defense against small unmanned aircraft systems (in this section referred to as 'sUAS');

"(2) inform the development of counter-unmanned aircraft system capabilities that are suitable for use inside the United States and in the National Airspace System; and

"(3) enhance cooperation with law enforcement, State and local partners, and other Federal departments and agencies to counter domestic threats.

"(b) LOCATIONS.—The Secretary, in coordination with the Director and in consultation with the Administrator, shall select at least two military installations located in the United States at which to conduct the pilot program. In selecting such military installations, the Secretary shall consider the potential for the Air Force to—

"(1) access advanced civilian airspace sensor networks;

"(2) leverage public-private partnerships that enable multi-use of airspace awareness capabilities for public safety, defense of critical infrastructure to include Department of Defense installations, and protection of civil aviation; and

"(3) minimize the potential for negatively affecting civil aircraft operations in the National Airspace System.

"(c) OBJECTIVES.—The objectives of the pilot program are—

"(1) to provide the Air Force with access to air space awareness data derived from civilian airspace sensor networks to increase the situational awareness of Air Force bases;

"(2) to determine any authority, capability, and capacity barriers to enhancing cooperation between the Air Force, civilian partners, and other Federal, State, and local government entities to extend the over-the-horizon identification of potential sUAS threats beyond the current range of existing domestic base defense systems; and

"(3) to improve the data-sharing frameworks for airspace data between the Air Force and various stakeholders for the purpose of base defense.

"(d) CONTRACT AUTHORITY.—In carrying out the pilot program, the Secretary of the Air Force may enter into one or more contracts for the procurement of additional technologies capable of—

"(1) leveraging commercial or Government off-the-shelf detect-track-defeat systems;

"(2) integrating and using civilian airspace awareness data to serve as an early warning capability specifically to help identify and monitor non-compliant sUAS; and

"(3) informing appropriate communication mechanisms between military installations and local law enforcement agencies to report and track non-compliant air vehicles, deter incursions, and foster potential prosecution.

"(e) BRIEFINGS.—Not later than 90 days after the conclusion of all activities carried out under the pilot program at an installation selected for such program, the Secretary shall provide to the appropriate congressional committees a briefing that includes a description of—

"(1) the manner in which the program was conducted at such installation; and

"(2) any results achieved under the program at such installation.

"(f) TERMINATION.—

"(1) IN GENERAL.—The authority to carry out a pilot program under this section shall terminate on the date that is five years after the date of the enactment of this Act.

"(2) EARLY TERMINATION OPTION.—The Secretary of the Air Force may request the termination of the pilot program before the date specified in paragraph (1) if the Secretary—

"(A) determines that administrative, legal, performance, or other factors indicate the program will not be successful; and

"(B) submits to the appropriate congressional committees notice in writing of such determination.

"(g) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate."

## PILOT PROGRAM AND OTHER REQUIREMENTS FOR ACCELERATING PROTECTION OF CERTAIN FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT

Pub. L. 119–60, div. A, title X, §1089, Dec. 18, 2025, 139 Stat. 1060, provided that:

"(a) REQUIREMENTS.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, acting through the Joint Interagency Task Force 401 established under section 199 of title 10, United States Code, as added by section 912, shall ensure that for each covered facility or asset at which the Secretary has determined counter-UAS operations are necessary to mitigate the threat that an unmanned aircraft system poses to the safety or security of such covered facility or asset—

"(1) any administrative action required for the effective use of the authorities under section 130i of title 10, United States Code, for the protection of the covered facility or asset not contingent upon action by another Federal department or agency has been completed, including the establishment of appropriate policies for the training of relevant personnel upon the deployment of new counter-UAS systems, annual training, and training for newly assigned personnel;

"(2) any such training required for the safe or effective use of counter-UAS systems for such protection has been completed; and

"(3) planning to deploy and sustain systems similar to those procured pursuant to the pilot program under subsection (b) in a manner appropriate for the covered facility or asset has commenced.

"(b) PILOT PROGRAM FOR DEPLOYMENT OF CERTAIN COUNTER-UAS SYSTEMS.—

"(1) PILOT PROGRAM.—The Secretary, acting through the Joint Interagency Task Force 401 established under section 199 of title 10, United States Code, as added by section 912, and in coordination with the Administrator as required by section 130i of title 10, United States Code, shall carry out a pilot program for the deployment of covered counter-UAS systems to expeditiously demonstrate enhanced protective capabilities for certain covered facilities or assets (in this subsection, referred to as the 'pilot program').

"(2) ELEMENTS.—Under the pilot program, the Secretary shall—

"(A) not later than 180 days after the date of the enactment of this Act, select and procure covered counter-UAS systems for deployment for the protection of at least four covered facilities or assets identified for purposes of the pilot program;

"(B) not later than 240 days after the date of the enactment of this Act submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on any delays caused by interagency coordination requirements, particularly delays related to site surveys by other agencies; and

"(C) not later than one year after the date of the enactment of this Act, ensure such covered counter-UAS systems are so deployed with respect to each such identified covered facility or asset.

"(c) COORDINATION REQUIRED.—The Secretary shall carry out this section consistent with the requirements of section 130i of title 10, United States Code.

"(d) BRIEFINGS.—Not later than 60 days after the date of the enactment of this Act, and every 60 days thereafter until the date on which each requirement under this section is complete, the Secretary, in consultation with the Administrator, shall provide to the congressional defense committees and the Committee on Transportation and Infrastructure of the House of Representatives a briefing on the implementation of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) The terms 'counter-UAS system' and 'small unmanned aircraft' have the meanings given those terms in section 44801 of title 49, United States Code.

"(3) The term 'covered counter-UAS system' means a counter-UAS system that—

"(A) is capable of destroying or disabling a small unmanned aircraft by means of high-powered microwave, laser, or other similar technology; and

"(B) may be integrated with appropriate sensing and command-and-control systems.

"(4) The term 'covered facility or asset' means a facility or asset with respect to which there is authority to carry out section 130i of title 10, United States Code, for the protection of the facility or asset.

"(5) The term 'unmanned aircraft' has the meaning given such term in section 130i(j) of title 10, United States Code [now 10 U.S.C. 130i(m)]."

## COUNTER UNMANNED AERIAL SYSTEM THREAT LIBRARY

Pub. L. 118–159, div. A, title III, §353, Dec. 23, 2024, 138 Stat. 1858, as amended by Pub. L. 119–60, div. A, title IX, §912(d), Dec. 18, 2025, 139 Stat. 1018, provided that:

"(a) IN GENERAL.—Not later than June 30, 2027, the Director of the Joint Interagency Task Force 401 shall establish and maintain a threat library, or expand and maintain an existing threat library, to coordinate efforts across the Department of Defense to counter unmanned aircraft systems.

"(b) INFORMATION TO BE INCLUDED.—The threat library required under subsection (a) shall include—

"(1) classified and unclassified information relating to known or suspected threats from unmanned aircraft systems;

"(2) proposed solutions for countering such known threats; and

"(3) a comprehensive listing of global incursions from unmanned aircraft systems at installations of the Department of Defense.

"(c) DISSEMINATION.—The Director of the Joint Interagency Task Force 401 shall establish a framework to share the information contained in the threat library required under subsection (a) with the military departments, the combatant commands, other Federal agencies, and relevant industries, as determined by the Director, in order to maintain technological superiority in aerial defense."

## COUNTER UNMANNED AERIAL SYSTEMS TASK FORCE

Pub. L. 118–159, div. A, title IX, §925, Dec. 23, 2024, 138 Stat. 2041, provided that:

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish, or designate from existing organizations and personnel of the Department of Defense, a counter unmanned aerial systems task force, to be known as the 'C-UAS Task Force'.

"(b) REVIEW OF MEMORANDA AND DIRECTIVES.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, acting through the C-UAS Task Force, shall review and, if necessary, consolidate and update all Department of Defense memoranda and directives related to the countering of unmanned aircraft systems in United States airspace to provide clarity to and an expedited decision-making process for commanders with respect to effectively countering unmanned aircraft systems or unmanned aircraft incursions at military installations in the United States.

"(2) INCLUDED MEMORANDA AND DIRECTIVES.—The memoranda and directives required to be reviewed and, if necessary, consolidated and updated under paragraph (1) include the following:

"(A) The Counter-Small Unmanned Aircraft Systems Strategy of the Department of Defense, dated January 7, 2021.

"(B) The Deputy Secretary of Defense Memorandum entitled 'Risk-based Assessment in Support of Counter-Unmanned Aircraft Activities to Protect DOD Facilities and Assets' and dated May 7, 2020.

"(C) Deputy Secretary of Defense Policy Memorandum 16–003, entitled 'Interim Guidance for Countering Unmanned Aircraft' and dated August 18, 2016.

"(D) Deputy Secretary of Defense Policy Memorandum 17–00X, entitled 'Supplemental Guidance for Countering Unmanned Aircraft' and dated July 5, 2017.

"(E) Chairman of the Joint Chiefs of Staff Notice 3124, entitled 'Interim Guidance for Countering Unmanned Aircraft' and dated February 8, 2017.

"(F) Other related general administrative notices of the Joint Staff.

"(G) Any other associated memoranda or directives of the Department of Defense relating to unmanned aircraft systems, as the Secretary of Defense and the Chairman of the Joint Chiefs of Staff determine necessary.

"(c) ISSUANCE OF UPDATED GUIDANCE.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue new memoranda, directives, and guidance related to authorities to counter unmanned aircraft systems.

"(2) DISSEMINATION TO INSTALLATION COMMANDERS.—The Secretary of Defense shall ensure that memoranda, directives, and guidance issued under paragraph (1), and any subsequent memoranda, directives and guidance, are included in pre-briefings for any officers that assume command of a military installation in the United States on or after July 1, 2025.

"(3) STANDARD OPERATING PROCEDURES FOR MILITARY INSTALLATIONS.—

"(A) IN GENERAL.—Not later than 60 days after the issuance of the memoranda, directives, and guidance required by paragraph (1), each commander of a military installation shall issue operating procedures specific to their military installation for countering unmanned aircraft systems at the

installation.

"(B) EXTENSION DURING CHANGES IN COMMAND.—If there is a change of command of a military installation during the 60-day period described in subparagraph (A), the incoming commander of the installation shall issue operating procedures specific to their military installation required by that subparagraph not later than 60 days after receiving the pre-briefing described in paragraph (2).

"(d) REPORT ON EXISTING TRAINING EFFORTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the counter-unmanned aircraft systems training efforts of the Department of Defense in effect as of the date of the enactment of this Act. The report shall include—

"(1) a description of any training that is commonly provided to members of the Armed Forces on countering threats posed by unmanned aircraft systems; and

"(2) a summary of the training curriculum that is provided for installation commanders and deployed forces to counter unmanned aircraft systems."

## ASSESSMENT AND STRATEGY FOR FIELDING CAPABILITIES TO COUNTER THREATS POSED BY UNMANNED AERIAL SYSTEM SWARMS

Pub. L. 117–263, div. A, title I, §162, Dec. 23, 2022, 136 Stat. 2462, provided that:

"(a) ASSESSMENT, ANALYSIS, AND REVIEW.—The Secretary of Defense shall conduct—

"(1) an assessment of the threats posed by unmanned aerial system swarms and unmanned aerial systems with swarm capabilities to installations and deployed Armed Forces;

"(2) an analysis of the use or potential use of unmanned aerial system swarms by adversaries, including the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of North Korea, and non-state actors;

"(3) an analysis of the national security implications of swarming technologies such as autonomous intelligence and machine learning;

"(4) a review of the capabilities used by the Department of Defense to counter threats posed by unmanned aerial systems and an assessment of the effectiveness of such capabilities at countering the threat of unmanned aerial system swarms; and

"(5) an overview of the efforts of the Department of Defense to develop and field test technologies that offer scalable, modular, and rapidly deployable capabilities with the ability to counter unmanned aerial system swarms.

"(b) STRATEGY DEVELOPMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and implement a strategy to field capabilities to counter threats posed by unmanned aerial system swarms.

"(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

"(A) The development of a comprehensive definition of 'unmanned aerial system swarm'.

"(B) A plan to establish and incorporate requirements for the development, testing, and fielding of technologies and capabilities to counter unmanned aerial system swarms.

"(C) A plan to acquire and field adequate capabilities to counter unmanned aerial system swarms in defense of the Armed Forces, infrastructure, and other assets of the United States across land, air, and maritime domains.

"(D) An estimate of the resources needed by each Armed Force to implement the strategy.

"(E) An analysis, determination, and prioritization of legislative action required to ensure the Department of Defense has the ability to counter the threats posed by unmanned aerial system swarms.

"(F) Such other matters as the Secretary determines to be relevant to the strategy.

"(3) INCORPORATION INTO EXISTING STRATEGY.—The Secretary of Defense may incorporate the strategy required by paragraph (1) into a comprehensive strategy of the Department of Defense to counter the threat of unmanned aerial systems.

"(c) INFORMATION TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on—

"(1) the findings of the Secretary under subsection (a); and

"(2) the strategy developed and implemented by the Secretary under subsection (b)."

## COORDINATION OF AMENDMENTS BY PUB. L. 116–92

Amendments to this section by section 1731 of Pub. L. 116–92 to be treated as having been enacted immediately before amendments by other provisions of Pub. L. 116–92, see section 1731(f) of Pub. L. 116–92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under

section 101 of this title.

[1] *So in original.*

## [§§130j, 130k. Renumbered §§395, 396]

# CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

Sec.
131. Office of the Secretary of Defense.
132. Deputy Secretary of Defense.
132a. Performance Improvement Officer.
[133. Repealed.]
133a. Under Secretary of Defense for Research and Engineering.
133b. Under Secretary of Defense for Acquisition and Sustainment.
134. Under Secretary of Defense for Policy.
[134a, 134b. Repealed.]
135. Under Secretary of Defense (Comptroller).
136. Under Secretary of Defense for Personnel and Readiness.
[136a. Repealed.]
137. Under Secretary of Defense for Intelligence and Security.
137a. Deputy Under Secretaries of Defense.
138. Assistant Secretaries of Defense.
[138a to 138d. Repealed.]
139. Director of Operational Test and Evaluation.
139a. Director of Cost Assessment and Program Evaluation.
139b. Secretariat for Special Operations; Special Operations Policy and Oversight Council.
[139c. Repealed.]
[139d, 139e. Renumbered.]
140. General Counsel.
[140a to 140c. Renumbered.]
141. Inspector General.
142. Chief Information Officer.
143. Office of the Secretary of Defense personnel: limitation.
144. Director of Small Business Programs.
145. Principal Advisor on Countering Weapons of Mass Destruction.
[146. Renumbered.]
[147. Repealed.]
148. Joint Energetics Transition Office.
149. Office of Strategic Capital.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title IX, §901(b), title XVII, §1701(a)(3)(A), Dec. 18, 2025, 139 Stat. 1007, 1207, substituted "Improvement Officer" for "improvement officer" in item 132a and struck out item 147 "Chief Diversity Officer". Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title IX, §902(a), Dec. 23, 2024, 138 Stat. 2025, added item 132a.

Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title II, §241(a), title IX, §903(a), Dec. 22, 2023, 137 Stat. 205, 358, added items 148 and 149. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title IX, §902(a)(4)(A), Dec. 27, 2021, 135 Stat. 1869, struck out item 146 "Office of Local Defense Community Cooperation".

Pub. L. 116–283, div. A, title IX, §§901(a)(3), 902(b)(2), 905(a)(2), 913(a)(2), Jan. 1, 2021, 134 Stat. 3794, 3797, 3799, 3803, added items 146 and 147, substituted "Secretariat for Special Operations; Special Operations Policy and Oversight Council" for "Special Operations Policy and Oversight Council" in item 139b, and struck out item 132a "Chief Management Officer".

**2019**—Pub. L. 116–92, div. A, title XVI, §1621(e)(1)(D), Dec. 20, 2019, 133 Stat. 1733, substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence" in item 137.

**2018**—Pub. L. 115–232, div. A, title X, §1082(a)(2), Aug. 13, 2018, 132 Stat. 1988, added item 145.

**2017**—Pub. L. 115–91, div. A, title X, §1081(b)(1)(B), Dec. 12, 2017, 131 Stat. 1597, repealed Pub. L. 113–291, §901(l)(1)(A). See 2014 Amendment note below.

Pub. L. 115–91, div. A, title IX, §§906(f)(2), 910(a)(2), Dec. 12, 2017, 131 Stat. 1514, 1517, substituted "Chief Management Officer" for "Deputy Chief Management Officer" in item 132a and "Deputy Under Secretaries of Defense" for "Principal Deputy Under Secretaries of Defense" in item 137a.

**2016**—Pub. L. 114–328, div. A, title IX, §901(g)(2), Dec. 23, 2016, 130 Stat. 2342, effective on Feb. 1, 2018, added items 133a and 133b and struck out item 133 "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Pub. L. 114–328, div. A, title IX, §§901(g)(1), 922(b)(2), Dec. 23, 2016, 130 Stat. 2342, 2356, added item 139b and struck out former item 139b "Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance" and item 139c "Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy".

**2014**—Pub. L. 113–291, div. A, title IX, §901(l)(1)(B), (C), Dec. 19, 2014, 128 Stat. 3468, added item 142 and struck out items 138a "Assistant Secretary of Defense for Logistics and Materiel Readiness", 138b "Assistant Secretary of Defense for Research and Engineering", 138c "Assistant Secretary of Defense for Operational Energy Plans and Programs", and 138d "Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs".

Pub. L. 113–291, div. A, title IX, §901(l)(1)(A), Dec. 19, 2014, 128 Stat. 3468, which directed substitution of "Under Secretary of Defense for Business Management and Information" for "Deputy Chief Management Officer" in item 132a, was repealed by Pub. L. 115–91, §1081(b)(1)(B).

**2013**—Pub. L. 112–239, div. A, title X, §1076(f)(2), Jan. 2, 2013, 126 Stat. 1952, struck out item 133b "Deputy Under Secretary of Defense for Logistics and Materiel Readiness".

**2011**—Pub. L. 111–383, div. A, title IX, §901(k)(2)(A), Jan. 7, 2011, 124 Stat. 4325, added items 132a, 137a, 138b to 138d, and 139a to 139c, and struck out former items 133a "Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics", 134a "Principal Deputy Under Secretary of Defense for Policy", 136a "Principal Deputy Under Secretary of Defense for Personnel and Readiness", 137a "Deputy Under Secretaries of Defense", 139a "Director of Defense Research and Engineering", 139b "Director of Operational Energy Plans and Programs", 139c "Director of Cost Assessment and Program Evaluation", 139d "Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance", and 142 "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs".

**2009**—Pub. L. 111–84, div. A, title IX, §§905(a)(2), 906(c)(3), Oct. 28, 2009, 123 Stat. 2425, 2427, added items 133a, 134a, 136a, 137a, and 138a and struck out former items 133a "Deputy Under Secretary of Defense for Acquisition and Technology", 134a "Deputy Under Secretary of Defense for Policy", 134b "Deputy Under Secretary of Defense for Technology Security Policy", and 136a "Deputy Under Secretary of Defense for Personnel and Readiness".

Pub. L. 111–23, title I, §§101(a)(2), 102(a)(2), May 22, 2009, 123 Stat. 1706, 1713, added items 139c and 139d.

**2008**—Pub. L. 110–417, [div. A], title IX, §902(b), Oct. 14, 2008, 122 Stat. 4566, added item 139b.

**2006**—Pub. L. 109–163, div. A, title IX, §904(b)(2), Jan. 6, 2006, 119 Stat. 3400, added item 144.

**2002**—Pub. L. 107–314, div. A, title IX, §901(b)(2), Dec. 2, 2002, 116 Stat. 2619, added items 137 and 139a and struck out former item 137 "Director of Defense Research and Engineering".

**2001**—Pub. L. 107–107, div. A, title IX, §901(a)(2), Dec. 28, 2001, 115 Stat. 1194, added item 136a.

**1999**—Pub. L. 106–65, div. A, title IX, §911(d)(3), Oct. 5, 1999, 113 Stat. 719, added items 133 and 133b and struck out former item 133 "Under Secretary of Defense for Acquisition and Technology".

**1998**—Pub. L. 105–261, div. A, title XV, §1521(b)(2), Oct. 17, 1998, 112 Stat. 2179, added item 134b.

**1997**—Pub. L. 105–85, div. A, title IX, §911(d)(2), Nov. 18, 1997, 111 Stat. 1859, added item 143.

**1996**—Pub. L. 104–106, div. A, title IX, §904(a)(2), Feb. 10, 1996, 110 Stat. 403, substituted "Nuclear and Chemical and Biological Defense Programs" for "Atomic Energy" in item 142.

Pub. L. 104–106, div. A, title IX, §903(a), (e)(3), Feb. 10, 1996, 110 Stat. 401, 402, which directed amendment of analysis, eff. Jan. 31, 1997, by striking out items 133a, 134a, 137, and 142, was repealed by Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

**1994**—Pub. L. 103–337, div. A, title IX, §903(a)(3), Oct. 5, 1994, 108 Stat. 2823, substituted "Under Secretary of Defense (Comptroller)" for "Comptroller" in item 135.

**1993**—Pub. L. 103–160, div. A, title IX, §906(b), Nov. 30, 1993, 107 Stat. 1729, amended table of sections generally, inserting "and Technology" after "Acquisition" in items 133 and 133a, adding item 136, and redesignating former items 135, 136, 137, 138, 139, 140, and 141 as 137, 138, 135, 139, 140, 141, and 142, respectively.

**1991**—Pub. L. 102–190, div. A, title IX, §901(a)(2), Dec. 5, 1991, 105 Stat. 1450, added item 134a.

**1987**—Pub. L. 100–180, div. A, title XII, §1245(a)(2), Dec. 4, 1987, 101 Stat. 1165, added item 141.

Pub. L. 100–26, §9(b)(2), Apr. 21, 1987, 101 Stat. 287, struck out item 140a "Counterintelligence official reception and representation expenses" and item 140b "Authority to use proceeds from counterintelligence operations of the military departments".

**1986**—Pub. L. 99–500, §101(c) [title X, §902(a)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–131, and Pub. L. 99–591, §101(c) [title X, §902(a)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–131; Pub. L. 99–661, div. A, title IX, formerly title IV, §902(a)(2), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, amended analysis identically adding item 133a.

Pub. L. 99–569, title IV, §§401(d), 403(b), Oct. 27, 1986, 100 Stat. 3196, 3197, added items 140a and 140b.

Pub. L. 99–433, title I, §§101(a)(6), 110(e)(2), Oct. 1, 1986, 100 Stat. 995, 1003, substituted "Office of the Secretary of Defense" for "Department of Defense" in chapter heading, and amended analysis generally, substituting items 131 to 140 for former items 131 "Executive department", 132 "Seal", 133 "Secretary of Defense: appointment; powers and duties; delegation by", 133a "Secretary of Defense: annual report on North Atlantic Treaty Organization readiness", 133b "Sale or transfer of defense articles: reports to Congress", 134 "Deputy Secretary of Defense: appointment; powers and duties; precedence", 134a "Under Secretary of Defense for Acquisition: appointment", 135 "Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence", 136 "Assistant Secretaries of Defense: appointment; powers and duties; precedence", 136a "Director of Operational Test and Evaluation: appointment, powers and duties", 137 "General Counsel: appointment; powers and duties", 138 "Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports", 139 "Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports", 139a "Oversight of cost growth in major programs: Selected Acquisition Reports", 139b "Oversight of cost growth in major programs: unit cost reports", 139c "Major defense acquisition programs: independent cost estimates", 140 "Emergencies and extraordinary expenses", 140a "Secretary of Defense: funds transfers for foreign cryptologic support", 140b "Prohibition of certain civilian personnel management constraints", and 140c "Secretary of Defense: authority to withhold from public disclosure certain technical data".

Pub. L. 99–348, title V, §501(e)(2), July 1, 1986, 100 Stat. 708, added item 134a and substituted "Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments" for "Under Secretaries of Defense: appointment" in item 135.

**1983**—Pub. L. 98–94, title XII, §§1203(a)(2), 1211(a)(2), 1217(b), Sept. 24, 1983, 97 Stat. 683, 686, 690, added items 136a, 139c, and 140c.

**1982**—Pub. L. 97–295, §1(2)(B), Oct. 12, 1982, 96 Stat. 1288, added items 133a and 133b.

Pub. L. 97–252, title XI, §1107(a)(2), Sept. 8, 1982, 96 Stat. 745, added items 139a and 139b.

**1981**—Pub. L. 97–86, title IX, §904(b), Dec. 1, 1981, 95 Stat. 1114, added item 140b.

**1980**—Pub. L. 96–450, title IV, §401(b), Oct. 14, 1980, 94 Stat. 1977, added item 140a.

Pub. L. 96–342, title X, §1001(d)(2), Sept. 8, 1980, 94 Stat. 1119, substituted "Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports" for "Secretary of Defense: Annual authorization of appropriations for armed forces" in item 138.

**1977**—Pub. L. 95–140, §§1(b), 2(b), Oct. 21, 1977, 91 Stat. 1172, 1173, substituted "Deputy Secretary" for "Deputy Secretaries" in item 134 and "Under Secretaries of Defense" for "Director of Defense Research and Engineering" in item 135.

**1975**—Pub. L. 94–106, title VIII, §804(a), Oct. 7, 1975, 89 Stat. 538, added item 140.

**1973**—Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, added items 138 and 139.

**1972**—Pub. L. 92–596, §4(3), Oct. 27, 1972, 86 Stat. 1318, substituted "Deputy Secretaries" for "Deputy Secretary" in item 134.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Pub. L. 115–91, div. A, title IX, §910(a)(2), Dec. 12, 2017, 131 Stat. 1517, which provided that the amendment made by section 910(a)(2) was effective Feb. 1, 2018, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

Pub. L. 115–91, div. A, title X, §1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(B) is effective as of Dec. 23, 2016.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114–328, div. A, title IX, §901(g)(2), Dec. 23, 2016, 130 Stat. 2342, provided that the amendment made by section 901(g)(2) is effective on Feb. 1, 2018.

**EFFECTIVE DATE OF 2014 AMENDMENT**

Pub. L. 113–291, div. A, title IX, §901(l)(1)(A), Dec. 19, 2014, 128 Stat. 3468, which provided that the amendment made by section 901(l)(1)(A) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(B), Dec. 12, 2017, 131 Stat. 1597, effective as of Dec. 23, 2016.

## §131. Office of the Secretary of Defense

(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out the Secretary's duties and responsibilities and to carry out such other duties as may be prescribed by law.

(b) The Office of the Secretary of Defense is composed of the following:

(1) The Deputy Secretary of Defense.

[(2) Repealed. Pub. L. 116–283, div. A, title IX, §901(a)(2)(A), Jan. 1, 2021, 134 Stat. 3794.]

(3) The Under Secretaries of Defense, as follows:

(A) The Under Secretary of Defense for Research and Engineering.

(B) The Under Secretary of Defense for Acquisition and Sustainment.

(C) The Under Secretary of Defense for Policy.

(D) The Under Secretary of Defense (Comptroller).

(E) The Under Secretary of Defense for Personnel and Readiness.

(F) The Under Secretary of Defense for Intelligence and Security.

(4) Other officers who are appointed by the President, by and with the advice and consent of the Senate, and who report directly to the Secretary and Deputy Secretary without intervening authority, as follows:

(A) The Director of Cost Assessment and Program Evaluation.

(B) The Director of Operational Test and Evaluation.

(C) The General Counsel of the Department of Defense.

(D) The Inspector General of the Department of Defense.

(5) The Chief Information Officer of the Department of Defense, who reports directly to the Secretary and Deputy Secretary without intervening authority.

(6) The Deputy Under Secretaries of Defense.

(7) The Assistant Secretaries of Defense.

(8) Other officials provided for by law, as follows:

(A) The two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation under section 139a(c) of this title.

(B) The Director of Small Business Programs appointed pursuant to section 144 of this title.

(C) The official designated under section 1501(a) of this title to have responsibility for Department of Defense matters relating to missing persons as set forth in section 1501 of this title.

(D) The Director of Military Family Readiness Policy under section 1781 of this title.

(E) The Director of the Office of Corrosion Policy and Oversight assigned pursuant to section 2228(a) of this title.

(F) The official designated under section 4273(a) of this title to have responsibility for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(9) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

(Added Pub. L. 99–433, title I, §104, Oct. 1, 1986, 100 Stat. 996; amended Pub. L. 103–160, div. A, title IX, §906(a), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 103–337, div. A, title IX, §903(b)(1), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104–106, div. A, title IX, §903(e)(1), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107–314, div. A, title IX, §901(b)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 110–181, div. A, title IX, §904(a)(4), Jan. 28, 2008, 122 Stat. 274; Pub. L. 110–417, [div. A], title X, §1061(b)(7), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111–383, div. A, title IX, §901(b)(2), (m)(1), Jan. 7, 2011, 124 Stat. 4317, 4326; Pub. L. 113–291, div. A, title IX, §901(a)(2), (b)(2), (j)(1)(A), (k)(1), (n)(1), Dec. 19, 2014, 128 Stat. 3463, 3467, 3469; Pub. L. 114–328, div. A, title IX, §§901(d), (f), 902(b), 933(a)(3), Dec. 23, 2016, 130 Stat. 2342, 2344, 2364; Pub. L. 115–91, div. A, title IX, §§906(d)(1), 910(c)(1), title X, §1081(b)(1)(A), (D), (d)(9), Dec. 12, 2017, 131 Stat. 1513, 1518, 1597, 1600; Pub. L. 115–232, div. A, title X, §1081(a)(3), (f)(1)(B), Aug. 13, 2018, 132 Stat. 1983, 1986; Pub. L. 116–92, div. A, title XVI, §1621(e)(1)(A)(i), title XVII, §1731(a)(7), Dec. 20, 2019, 133 Stat. 1733, 1812; Pub. L. 116–283, div. A, title IX, §901(a)(2)(A), title XVIII, §1847(e)(6)(A), Jan. 1, 2021, 134 Stat. 3794, 4257.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 131 was renumbered section 111 of this title.

### AMENDMENTS

**2021**—Subsec. (b)(2). Pub. L. 116–283, §901(a)(2)(A), struck out par. (2) which read as follows: "The Chief Management Officer of the Department of Defense."

Subsec. (b)(8)(F). Pub. L. 116–283, §1847(e)(6)(A), substituted "section 4273(a)" for "section 2438(a)".

**2019**—Subsec. (b)(3)(F). Pub. L. 116–92, §1621(e)(1)(A)(i), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

Subsec. (b)(8)(F), (I). Pub. L. 116–92, §1731(a)(7), redesignated subpar. (I) as (F).

**2018**—Subsec. (b)(4) to (9). Pub. L. 115–232, §1081(f)(1)(B), redesignated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: "The Deputy Chief Management Officer of the Department of Defense."

Subsec. (b)(9)(B) to (H). Pub. L. 115–232, §1081(a)(3), redesignated subpars. (E) to (H) as (B) to (E), respectively, and struck out former subpars. (B) to (D) which read as follows:

"(B) The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation appointed pursuant

to section 139b(a) of this title.

"(C) The Deputy Assistant Secretary of Defense for Systems Engineering appointed pursuant to section 139b(b) of this title.

"(D) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy appointed pursuant to section 139c of this title."

Subsec. (b)(10). Pub. L. 115–232, §1081(f)(1)(B), redesignated par. (10) as (9).

**2017**—Subsec. (b). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(1)(A). See 2014 Amendment notes below.

Subsec. (b)(2) to (4). Pub. L. 115–91, §910(c)(1), added par. (2) and redesignated pars. (2) to (4) as (3) to (5), respectively.

Subsec. (b)(5). Pub. L. 115–91, §1081(d)(9), made technical correction to directory language of Pub. L. 114–328, §902(b). See 2016 Amendment note below.

Pub. L. 115–91, §910(c)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 115–91, §910(c)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 115–91, §906(d)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The Principal Deputy Under Secretaries of Defense."

Subsec. (b)(7) to (10). Pub. L. 115–91, §910(c)(1)(A), redesignated pars. (6) to (9) as (7) to (10), respectively.

**2016**—Subsec. (b)(2). Pub. L. 114–328, §901(f), added subpars. (A) and (B), redesignated former subpars. (B) to (E) as (C) to (F), respectively, and struck out former subpar. (A), which read as follows: "The Under Secretary of Defense for Acquisition, Technology, and Logistics."

Pub. L. 114–328, §901(d), repealed Pub. L. 113–291, §901(a)(2). See 2014 Amendment note below.

Subsec. (b)(5). Pub. L. 114–328, §902(b), as amended by Pub. L. 115–91, §1081(d)(9), inserted ", who reports directly to the Secretary and Deputy Secretary without intervening authority" before period at end.

Subsec. (b)(8)(G). Pub. L. 114–328, §933(a)(3), substituted "Director of Military Family Readiness Policy" for "Director of Family Policy".

**2014**—Subsec. (b)(2). Pub. L. 113–291, §901(a)(2), which directed adding subpar. (A) reading "The Under Secretary of Defense for Business Management and Information." and redesignating former subpars. (A) to (E) as (B) to (F), respectively, was repealed by Pub. L. 114–328, §901(d).

Subsec. (b)(5) to (7). Pub. L. 113–291, §901(j)(1)(A), which directed striking out par. (5) and redesignating pars. (6) to (8) as (5) to (7), respectively, was repealed by Pub. L. 115–91, §1081(b)(1)(A).

Pub. L. 113–291, §901(b)(2), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 113–291, §901(j)(1)(A)(ii), which directed redesignating par. (9) as (8), was repealed by Pub. L. 115–91, §1081(b)(1)(A).

Pub. L. 113–291, §901(k)(1), added subpar. (A) and redesignated former subpars. (A) to (H) as (B) to (I), respectively.

Pub. L. 113–291, §901(b)(2)(A), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 113–291, §901(j)(1)(A)(ii), which directed redesignating par. (9) as (8), was repealed by Pub. L. 115–91, §1081(b)(1)(A).

Pub. L. 113–291, §901(b)(2)(A), redesignated par. (8) as (9).

**2011**—Subsec. (a). Pub. L. 111–383, §901(m)(1), substituted "the Secretary's" for "his".

Subsec. (b). Pub. L. 111–383, §901(b)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to the composition of the Office of the Secretary of Defense.

**2008**—Subsec. (b)(3) to (9). Pub. L. 110–181, as amended by Pub. L. 110–417, added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively.

**2002**—Subsec. (b)(2) to (11). Pub. L. 107–314 added par. (2), redesignated pars. (6) to (11) as (3) to (8), respectively, and struck out former pars. (2) to (5) which read as follows:

"(2) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(3) The Under Secretary of Defense for Policy.

"(4) The Under Secretary of Defense (Comptroller).

"(5) The Under Secretary of Defense for Personnel and Readiness."

**1999**—Subsec. (b)(2). Pub. L. 106–65 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1996**—Subsec. (b)(6) to (11). Pub. L. 104–106, §903(a), (e)(1), which directed amendment of subsec. (b), eff. Jan. 31, 1997, by striking out pars. (6) and (8) and redesignating pars. (7), (9), (10), and (11) as (6), (7), (8), and (9), respectively, was repealed by Pub. L. 104–201.

**1994**—Subsec. (b)(4). Pub. L. 103–337 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller".

**1993**—Subsec. (b). Pub. L. 103–160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Office of the Secretary of Defense is composed of the following:

"(1) The Deputy Secretary of Defense.

"(2) The Under Secretary of Defense for Acquisition.

"(3) The Under Secretary of Defense for Policy.

"(4) The Director of Defense Research and Engineering.

"(5) The Assistant Secretaries of Defense.

"(6) The Comptroller of the Department of Defense.

"(7) The Director of Operational Test and Evaluation.

"(8) The General Counsel of the Department of Defense.

"(9) The Inspector General of the Department of Defense.

"(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title IX, §901(a)(4), Jan. 1, 2021, 134 Stat. 3794, provided that: "The repeals and amendments made by this subsection [amending this section and repealing section 132a of this title and provisions set out as notes preceding this section and under this section, sections 132 and 132a of this title, and section 5313 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [Jan. 1, 2021]."

Amendment by section 1847(e)(6)(A) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, which provided that the amendment made by section 910(c)(1) was effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114–328, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

Pub. L. 115–91, div. A, title X, §1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A), (D) is effective as of Dec. 23, 2016.

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(9) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title IX, §901(f), Dec. 23, 2016, 130 Stat. 2342, provided that the amendment made by section 901(f) is effective on Feb. 1, 2018.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(a)(2), Dec. 19, 2014, 128 Stat. 3463, which provided that the amendment made by section 901(a)(2) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 114–328, div. A, title IX, §901(d), Dec. 23, 2016, 130 Stat. 2342.

Pub. L. 113–291, div. A, title IX, §901(j)(1), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(1)(A) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title IX, §901(p), Jan. 7, 2011, 124 Stat. 4327, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), this section [see Tables for classification] and the amendments made by this section shall take effect on January 1, 2011.

"(2) CERTAIN MATTERS.—Subsection (i) [enacting and amending provisions set out as notes under section 137a of this title] and the amendments made by that subsection, and subsection (o) [enacting

provisions set out as a note under this section], shall take effect on the date of the enactment of this Act [Jan. 7, 2011]."

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 effective Jan. 28, 2008, and as if included in Pub. L. 110–181 as enacted, see section 1061(b) of Pub. L. 110–417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title IX, §903(a), Feb. 10, 1996, 110 Stat. 401, which provided that the amendments made by section 903 of Pub. L. 104–106 (amending this section and sections 138, 176, 1056, 1216, 1587, and 10201 of this title, repealing sections 133a, 134a, 137, and 142 of this title, and amending provisions set out as a note under section 167 of this title) were to take effect on Jan. 31, 1997, was repealed by Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

## ESTABLISHMENT AND ASSIGNMENT OF ROLES AND RESPONSIBILITIES FOR COMBINED JOINT ALL-DOMAIN COMMAND AND CONTROL IN SUPPORT OF INTEGRATED JOINT WARFIGHTING

Pub. L. 118–31, div. A, title IX, §904, Dec. 22, 2023, 137 Stat. 363, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish, and assign to appropriate components of the Office of the Secretary, roles and responsibilities relating to—

"(1) the development of combined joint all-domain command and control (commonly known as 'CJADC2') capabilities in support of integrated joint warfighting; and

"(2) the delivery of such capabilities to the combatant commands.

"(b) ROLES AND RESPONSIBILITIES.—The roles and responsibilities established and assigned under subsection (a) shall include, at a minimum, the following:

"(1) Identifying new technology and operational concepts for experimentation and prototyping for delivery to the Joint Force to address key operational challenges.

"(2) Providing technical support for the Joint Force in exploring and analyzing new combined joint all-domain command and control capabilities and operational concepts, including through advanced modeling and simulation.

"(3) Executing experimentation associated with such capabilities through the Rapid Defense Experimentation Reserve or another mechanism.

"(4) Enabling the acquisition of cross-domain, joint, and cross-system mission capabilities, including resourcing of modifications necessary for integration and interoperability among mission components.

"(5) Ensuring the effectiveness of cross-domain, joint, and cross-system mission capabilities through analysis and testing.

"(6) Creating and operating a complete capability for software development that allows for iterative, secure, and continuous deployment of developmental, prototype, and operational tools and capabilities from multiple vendors to test networks and operational networks for combatant commanders to—

"(A) gain operational awareness, make decisions, and take actions;

"(B) integrate relevant data sources to support target selection, target prioritization, and weapon-target pairing; and

"(C) assign targets through networks, tools, and systems of the Armed Forces and combat support agencies.

"(c) INITIAL PRIORITIZATION.—In establishing an initial set of roles and responsibilities under subsection (a), the Secretary of Defense shall prioritize the development and delivery of capabilities that meet the requirements of the United States Indo-Pacific Command.

"(d) BRIEFINGS REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], and not less frequently than once every 180 days thereafter through December 31, 2026, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) any activities carried out in accordance with the roles and responsibilities under subsection (a); and

"(2) any plans associated with such roles and responsibilities."

## RESPONSIBILITIES FOR NATIONAL MOBILIZATION; PERSONNEL REQUIREMENTS

Pub. L. 117–81, div. A, title X, §1089, Dec. 27, 2021, 135 Stat. 1925, provided that:

"(a) EXECUTIVE AGENT FOR NATIONAL MOBILIZATION.—The Secretary of Defense shall

designate a senior civilian official within the Office of the Secretary of Defense as the Executive Agent for National Mobilization. The Executive Agent for National Mobilization shall be responsible for—

"(1) developing, managing, and coordinating policy and plans that address the full spectrum of military mobilization readiness, including full mobilization of personnel from volunteers to other persons inducted into the Armed Forces under the Military Selective Service Act (50 U.S.C. 3801 et seq.);

"(2) providing Congress and the Selective Service System with updated requirements and timelines for obtaining inductees in the event of a national emergency requiring mass mobilization and induction of personnel under the Military Selective Service Act for training and service in the Armed Forces; and

"(3) providing Congress with a plan, developed in coordination with the Selective Service System, to induct large numbers of volunteers who may respond to a national call for volunteers during an emergency.

"(b) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to Congress a plan for obtaining inductees as part of a mobilization timeline for the Selective Service System. The plan shall include a description of resources, locations, and capabilities of the Armed Forces required to train, equip, and integrate personnel inducted into the Armed Forces under the Military Selective Service Act into the total force, addressing scenarios that would include 300,000, 600,000, and 1,000,000 new volunteer and other personnel inducted into the Armed Forces under the Military Selective Service Act. The plan may be provided in classified form."

## OVERSIGHT OF REGISTERED SEX OFFENDER MANAGEMENT PROGRAM

Pub. L. 115–232, div. A, title V, §544, Aug. 13, 2018, 132 Stat. 1763, provided that:

"(a) DESIGNATION OF OFFICIAL OR ENTITY.—The Secretary of Defense shall designate a single official or existing entity within the Office of the Secretary of Defense to serve as the official or entity (as the case may be) with principal responsibility in the Department of Defense for providing oversight of the registered sex offender management program of the Department.

"(b) DUTIES.—The official or entity designated under subsection (a) shall—

"(1) monitor compliance with Department of Defense Instruction 5525.20 and other relevant polices;

"(2) compile data on members serving in the military departments who have been convicted of a qualifying sex offense, including data on the sex offender registration status of each such member;

"(3) maintain statistics on the total number of active duty service members in each military department who are required to register as sex offenders; and

"(4) perform such other duties as the Secretary of Defense determines to be appropriate.

"(c) BRIEFING REQUIRED.—Not later than June 1, 2019, the Secretary of Defense shall provide to the Committee on Armed Services of the House of Representatives a briefing on—

"(1) the compliance of the military departments with the policies of the Department of Defense relating to registered sex offenders;

"(2) the results of the data compilation described in subsection (b)(2); and

"(3) any other matters the Secretary determines to be appropriate.

"(d) MILITARY DEPARTMENTS DEFINED.—In this section, the term 'military departments' has the meaning given that term in section 101(a)(8) of title 10, United States Code."

## FRAMEWORK FOR OVERSIGHT OF COUNTERING WEAPONS OF MASS DESTRUCTION POLICY, PROGRAMS, AND ACTIVITIES

Pub. L. 115–232, div. A, title X, §1082(b), (c), Aug. 13, 2018, 132 Stat. 1988, provided that:

"(b) OVERSIGHT PLAN.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to streamline the oversight framework of the Office of the Secretary of Defense, including any efficiencies and the potential to reduce, realign, or otherwise restructure current Assistant Secretary and Deputy Assistant Secretary positions with responsibilities for overseeing countering weapons of mass destruction policy, programs, and activities.

"(c) DIRECTIVE.—Not later than 90 days after the submission of the oversight plan under subsection (b), the Secretary of Defense shall issue a directive for the implementation of the oversight plan by the Countering Weapons of Mass Destruction-Unity of Effort Council."

## DESIGNATION OF OFFICE WITHIN OFFICE OF THE SECRETARY OF DEFENSE TO OVERSEE USE OF FOOD ASSISTANCE PROGRAMS BY MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY

Pub. L. 115–91, div. A, title V, §583, Dec. 12, 2017, 131 Stat. 1416, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall designate an office or official within the Office of the Secretary of Defense for purposes as follows:

"(1) To discharge responsibility for overseeing the efforts of the Department of Defense to collect, analyze, and monitor data on the use of food assistance programs by members of the Armed Forces on active duty.

"(2) To establish and maintain relationships with other departments and agencies of the Federal Government to facilitate the discharge of the responsibility specified in paragraph (1)."

## CHIEF MANAGEMENT OFFICER

Pub. L. 114–328, div. A, title IX, §901(c)(1)–(3), Dec. 23, 2016, 130 Stat. 2341, which established the position of Chief Management Officer of the Department of Defense, effective Feb. 1, 2018, was repealed by Pub. L. 115–91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517.

## SECRETARY OF DEFENSE DELIVERY UNIT

Pub. L. 114–328, div. A, title IX, §913, Dec. 23, 2016, 130 Stat. 2349, provided that:

"(a) IN GENERAL.—The Secretary of Defense serving in that position as of March 1, 2017, may establish within the Office of the Secretary of Defense a unit of personnel that shall be responsible for providing expertise and support throughout the Department of Defense in an effort to improve the implementation of policies and priorities across the Department. The unit may be known as the 'delivery unit'.

"(b) COMPOSITION.—The unit established pursuant to subsection (a) shall consist of not more than 30 individuals selected by the Secretary primarily from among individuals outside the Government who have significant experience and expertise in management consulting, organizational architecture, relationship management, or data analytics.

"(c) DUTIES.—The unit established pursuant to subsection (a) shall have the duties as follows:

"(1) To advise the Secretary on improving the implementation and delivery of policies and priorities of the Department, including making recommendations on establishing performance or implementation targets, assisting in the development of delivery plans to achieve targets, and monitoring and measuring progress.

"(2) To work across organizations, missions, and functions of the Department in order to identify obstacles to improving the implementation of policies and priorities of the Department, including organization, culture, and incentives, and to recommend options to the Secretary for addressing such obstacles.

"(d) SUNSET.—The unit established pursuant to subsection (a) shall sunset on January 31, 2021."

## REFERENCES

Pub. L. 113–291, div. A, title IX, §901(n), Dec. 19, 2014, 128 Stat. 3469, as amended by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

"[(1) Repealed. Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597.]

"(2) ASDEIE.—Any reference to the Assistant Secretary of Defense for Operational Energy Plans and Programs or to the Deputy Under Secretary of Defense for Installations and Environment in any provision of law or in any rule, regulation, or other paper of the United States shall be deemed to refer to the Assistant Secretary of Defense for Energy, Installations, and Environment."

## REDESIGNATION OF CERTAIN POSITIONS IN OFFICE OF SECRETARY OF DEFENSE

Pub. L. 111–383, div. A, title IX, §901(a), Jan. 7, 2011, 124 Stat. 4317, provided that:

"(1) REDESIGNATION.—Positions in the Office of the Secretary of Defense are hereby redesignated as follows:

"(A) The Director of Defense Research and Engineering is redesignated as the Assistant Secretary of Defense for Research and Engineering.

"(B) The Director of Operational Energy Plans and Programs is redesignated as the Assistant Secretary of Defense for Operational Energy Plans and Programs [now Assistant Secretary of Defense for Energy, Installations, and Environment].

"(C) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs is redesignated as the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

"(2) REFERENCES.—Any reference in any law, rule, regulation, paper, or other record of the United States to an office of the Department of Defense redesignated by paragraph (1) shall be deemed to be a reference to such office as so redesignated."

## INAPPLICABILITY OF APPOINTMENT REQUIREMENT TO CERTAIN INDIVIDUALS SERVING ON EFFECTIVE DATE

Pub. L. 111–383, div. A, title IX, §901(o), Jan. 7, 2011, 124 Stat. 4327, provided that:

"(1) IN GENERAL.—Notwithstanding this section [see Tables for classification] and the amendments made by this section, the individual serving as specified in paragraph (2) on December 31, 2010, may continue to serve in the applicable position specified in that paragraph after that date without the requirement for appointment by the President, by and with the advice and consent of the Senate.

"(2) COVERED INDIVIDUALS AND POSITIONS.—The individuals and positions specified in this paragraph are the following:

"(A) In the case of the individual serving as Director of Defense Research and Engineering, the position of Assistant Secretary of Defense for Research and Engineering.

"(B) In the case of the individual serving as Director of Operational Energy Plans and Programs, the position of Assistant Secretary of Defense for Operational Energy Plans and Programs.

"(C) In the case of the individual serving as Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs."

**DEFENSE ACQUISITION WORKFORCE**

Pub. L. 105–85, div. A, title IX, §912(a)–(e), Nov. 18, 1997, 111 Stat. 1860, 1861, required Secretary of Defense to accomplish reductions in defense acquisition personnel positions, to report on specific acquisition positions previously eliminated, to submit an implementation plan to streamline and improve acquisition organizations, to review acquisition organizations and functions, and to require certain duties of Task Force on Defense Reform.

**REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE**

Pub. L. 104–201, div. A, title IX, §903, Sept. 23, 1996, 110 Stat. 2617, which provided for phased reduction of number of personnel assigned to or employed in functions in Office of the Secretary of Defense, was repealed and restated in section 143 of this title by Pub. L. 105–85, div. A, title IX, §911(d)(1), (3), Nov. 18, 1997, 111 Stat. 1859, 1860.

**ORGANIZATION OF OFFICE OF THE SECRETARY OF DEFENSE**

Pub. L. 104–106, div. A, title IX, §901, Feb. 10, 1996, 110 Stat. 399, as amended by Pub. L. 104–201, div. A, title IX, §903(g), Sept. 23, 1996, 110 Stat. 2618, directed the Secretary of Defense to conduct a review of the organizations and functions of the Office of the Secretary of Defense and the personnel needed to carry out those functions, and to submit to the congressional defense committees a report containing findings, conclusions, and a plan for implementing recommendations not later than Mar. 1, 1996.

Pub. L. 99–433, title I, §109, Oct. 1, 1986, 100 Stat. 999, directed the Secretary of Defense, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to conduct studies of the functions and organization of the Office of the Secretary of Defense, required the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff to submit reports on their studies to the Secretary of Defense, and directed the Secretary of Defense to submit a report on the Secretary's study to Congress not later than one year after Oct. 1, 1986.

## §132. Deputy Secretary of Defense

(a) There is a Deputy Secretary of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management experience. A person may not be appointed as Deputy Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b)(1) The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2)(A) The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(B) If the Secretary is unable to perform the functions and duties of the office as described in subparagraph (A), the Deputy Secretary, or any other individual performing such functions and

duties in accordance with applicable law, shall, not later than 24 hours before any planned transfer of such functions and duties or 24 hours after any unplanned transfer of such functions and duties, notify the following of the transfer:

(i) The Committee on Armed Services, the Committee on Appropriations, and the majority and minority leaders of the Senate.

(ii) The Committee on Armed Services, the Committee on Appropriations, the Speaker, and the minority leader of the House of Representatives.

(c) The Deputy Secretary takes precedence in the Department of Defense immediately after the Secretary.

(d) Until September 30, 2020, the Deputy Secretary of Defense shall lead the Guam Oversight Council and shall be the Department of Defense's principal representative for coordinating the interagency efforts in matters relating to Guam, including the following executive orders:

(1) Executive Order No. 13299 of May 12, 2003 (68 Fed. Reg. 25477; 48 U.S.C. note prec. 1451; relating to the Interagency Group on Insular Affairs).

(2) Executive Order No. 12788 of January 15, 1992, as amended (57 Fed. Reg. 2213; relating to the Defense Economic Adjustment Program).

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §134; amended Pub. L. 92–596, §4(1), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §1(a), Oct. 21, 1977, 91 Stat. 1172; renumbered §132 and amended Pub. L. 99–433, title I, §§101(a)(7), 110(d)(7), Oct. 1, 1986, 100 Stat. 995, 1003; Pub. L. 110–181, div. A, title IX, §§903(b), 904(a)(1), Jan. 28, 2008, 122 Stat. 273; Pub. L. 111–84, div. B, title XXVIII, §2831(a), Oct. 28, 2009, 123 Stat. 2669; Pub. L. 111–383, div. A, title IX, §901(c)(2), (m)(2), title X, §1075(b)(4), div. B, title XXVIII, §2821, Jan. 7, 2011, 124 Stat. 4321, 4326, 4369, 4465; Pub. L. 112–81, div. A, title IX, §902, Dec. 31, 2011, 125 Stat. 1532; Pub. L. 113–291, div. A, title IX, §901(k)(2), Dec. 19, 2014, 128 Stat. 3468; Pub. L. 114–328, div. A, title IX, §901(c)(4), Dec. 23, 2016, 130 Stat. 2341; Pub. L. 115–91, div. A, title IX, §910(b), Dec. 12, 2017, 131 Stat. 1517; Pub. L. 116–92, div. A, title XVII, §1731(a)(8), Dec. 20, 2019, 133 Stat. 1812; Pub. L. 118–159, div. A, title IX, §901, Dec. 23, 2024, 138 Stat. 2024.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 134(a) | 5:171c(a) (1st sentence). | July 26, 1947, ch. 343, §203(a); added Aug. 10, 1949, ch. 412, §6(a) (1st par.), 63 Stat. 581. |
| 134(b) | 5:171c(a) (less 1st sentence and last 15 words of 2d sentence). | |
| 134(c) | 5:171c(a) (last 15 words of 2d sentence). | |

In subsection (a), the last sentence is substituted for 5 U.S.C. 171c(a) (proviso).

## EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order No. 13299, referred to in subsec. (d)(1), was superseded by Ex. Ord. No. 13537, Apr. 14, 2010, 75 F.R. 20237, set out as a note preceding section 1451 of Title 48, Territories and Insular Possessions.

Executive Order No. 12788, referred to in subsec. (d)(2), is set out as a note under section 2391 of this title.

### PRIOR PROVISIONS

A prior section 132 was renumbered section 112 of this title.

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 designated first sentence as par. (1) and second sentence as subpar. (A) of par. (2) and added subpar. (B) of par. (2).

**2019**—Subsecs. (d), (e). Pub. L. 116–92 redesignated subsec. (e) as (d).

**2017**—Subsecs. (c), (d). Pub. L. 115–91, §910(b)(2), redesignated subsec. (d) as (c) and struck out former

subsec. (c) which read as follows: "The Deputy Secretary serves as the Chief Management Officer of the Department of Defense."

Pub. L. 115–91, §910(b)(1), repealed Pub. L. 114–328, §901(c)(4). See 2016 Amendment note below.

Subsec. (e). Pub. L. 115–91, §910(b)(1), repealed Pub. L. 114–328, §901(c)(4). See 2016 Amendment note below.

**2016**—Subsecs. (c) to (e). Pub. L. 114–328, §901(c)(4), which directed striking out subsec. (c) and redesignating subsecs. (d) and (e) as (c) and (d), respectively, was repealed by Pub. L. 115–91, §910(b)(1).

**2014**—Subsec. (b). Pub. L. 113–291 substituted "dies, resigns, or is otherwise unable to perform the functions and duties of the office" for "is disabled or there is no Secretary of Defense".

**2011**—Subsec. (a). Pub. L. 112–81 inserted "The Deputy Secretary shall be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management experience." after first sentence.

Subsec. (c). Pub. L. 111–383, §901(c)(2), struck out at end "The Deputy Secretary shall be assisted in this capacity by a Deputy Chief Management Officer, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate."

Subsec. (d). Pub. L. 111–383, §1075(b)(4)(A), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), could not be executed because of the prior amendment by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

Subsec. (e). Pub. L. 111–383, §2821, which directed substitution of "September 30, 2020" for "September 30, 2015" in subsec. (d), as added by section 2831(a) of Pub. L. 111–84, was executed in subsec. (e) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (e) by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §1075(b)(4), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), and substitution of "Guam Oversight Council" for "Guam Executive Council", was executed by making the substitution in subsec. (e) because of the prior redesignation of subsec. (d) as (e) by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

**2009**—Subsec. (d). Pub. L. 111–84 added subsec. (d) relating to the Deputy Secretary of Defense leading the Guam Executive Council.

**2008**—Subsec. (a). Pub. L. 110–181, §903(b), substituted "seven" for "ten".

Subsecs. (c), (d). Pub. L. 110–181, §904(a)(1), added subsec. (c) and redesignated former subsec. (c) as (d).

**1986**—Pub. L. 99–433 renumbered section 134 of this title as this section and struck out ": appointment; powers and duties; precedence" at end of section catchline.

**1977**—Pub. L. 95–140, §1(a)(4), substituted "Deputy Secretary" for "Deputy Secretaries" in section catchline.

Subsec. (a). Pub. L. 95–140, §1(a)(1), substituted "There is a Deputy Secretary" for "There are two Deputy Secretaries" and struck out "a" before "Deputy Secretary".

Subsec. (b). Pub. L. 95–140, §1(a)(2), substituted "Deputy Secretary" for "Deputy Secretaries" and "Deputy Secretary" for "Deputy Secretaries, in the order of precedence, designated by the President".

Subsec. (c). Pub. L. 95–140, §1(a)(3), substituted "The Deputy Secretary takes" for "The Deputy Secretaries take".

**1972**—Pub. L. 92–596 substituted "Deputy Secretaries" for "Deputy Secretary" in section catchline.

Subsec. (a). Pub. L. 92–596 substituted "There are two Deputy Secretaries of Defense" for "There is a Deputy Secretary of Defense".

Subsec. (b). Pub. L. 92–596 provided for the exercise of powers and duties consequent to the creation of a second Deputy Secretary.

Subsec. (c). Pub. L. 92–596 substituted "The Deputy Secretaries take" for "The Deputy Secretary takes".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517, which provided that the amendment made by section 910(b)(1) was effective on Jan. 31, 2018, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

Pub. L. 115–91, div. A, title IX, §910(b)(2), Dec. 12, 2017, 131 Stat. 1518, which provided that the amendment made by section 910(b)(2) was effective on Feb. 1, 2018, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title IX, §901(c)(4), Dec. 23, 2016, 130 Stat. 2341, which provided that the amendment made by section 901(c)(4) was effective on Feb. 1, 2018, was repealed by Pub. L. 115–91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517.

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(c)(2), (m)(2) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

## ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## SENIOR CONTRACTING OFFICIAL FOR STRATEGIC CAPABILITIES OFFICE

Pub. L. 118–31, div. A, title VIII, §807, Dec. 22, 2023, 137 Stat. 318, provided that:

"(a) SENIOR CONTRACTING OFFICIAL.—The staff of the Director of the Strategic Capabilities Office shall include a senior contracting official (as defined in section 1737 of title 10, United States Code) who shall have the authority to enter into and administer contracts, grants, cooperative agreements, and other transactions in execution of the program activities of the Strategic Capabilities Office.

"(b) EFFECTIVE DATE; IMPLEMENTATION PLAN.—

"(1) EFFECTIVE DATE.—The authorities described in subsection (a) shall take effect 30 days after the date on which the Secretary of Defense submits the plan described in paragraph (2).

"(2) PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of the authorities described in subsection (a). The plan shall include the following:

"(A) A plan for oversight of the senior contracting official described under subsection (a).

"(B) An assessment of the acquisition workforce needs of the Strategic Capabilities Office to support the authority provided under subsection (a).

"(C) Other matters as appropriate."

## JOINT ALL DOMAIN COMMAND AND CONTROL

Pub. L. 117–263, div. A, title IX, §915, Dec. 23, 2022, 136 Stat. 2752, provided that:

"(a) DIRECTION AND CONTROL OF JOINT ALL DOMAIN COMMAND AND CONTROL.—The Deputy Secretary of Defense, in coordination with the Vice Chairman of the Joint Chiefs of Staff, shall oversee joint all domain command and control (commonly known as 'JADC2') to ensure—

"(1) close collaboration with the Joint Requirements Oversight Council, the combatant commands, and the military services regarding operational requirements and requirements satisfaction relating to joint all domain command and control; and

"(2) objective assessments to the Deputy Secretary and Vice Chairman about the progress of the Department of Defense in achieving the objectives of joint all domain command and control.

"(b) DEMONSTRATIONS AND FIELDING OF MISSION THREADS.—

"(1) IN GENERAL.—The Deputy Secretary and Vice Chairman shall take the following actions in support of the objectives described in paragraph (2):

"(A) In consultation with the Commander of the United States Indo-Pacific Command and the commanders of such other combatant commands as may be designated by the Deputy Secretary—

"(i) identify a prioritized list of difficult mission-critical operational challenges specific to the area of operations of the designated commands;

"(ii) design and recommend resourcing options, through the Office of Cost Analysis and Program Evaluation and the Management Action Group of the Deputy Secretary, a series of multi-domain, multi-service and multi-agency, multi-platform, and multisystem end-to-end integrated kinetic and non-kinetic mission threads, including necessary battle management functions, to solve the operational challenges identified in clause (i);

"(iii) demonstrate the ability to execute the integrated mission threads identified in clause (ii)

in realistic conditions on a repeatable basis, including the ability to achieve, through mission integration software, interoperability among effects chain components that do not conform to common interface standards, including the use of the System of Systems Technology Integration Tool Chain for Heterogeneous Electronic Systems (commonly known as 'STITCHES') managed by the 350th Spectrum Warfare Wing of the Department of the Air Force; and

"(iv) create a plan to deploy the mission threads to the area of operations of the United States Indo-Pacific Command and such other combatant commands as may be designated by Deputy Secretary, and execute the mission threads at the scale and pace required to solve the identified operational challenges, including necessary logistics and sustainment capabilities.

"(B) Designate organizations to serve as transition partners for integrated mission threads and ensure such integrated mission threads are maintained and exercised as operational capabilities in the United States Indo-Pacific Command and such other combatant commands as may be designated by Deputy Secretary.

"(C) Designate organizations and elements of the Department of Defense as the Deputy Secretary determines appropriate to be responsible for—

"(i) serving as mission managers for composing and demonstrating the integrated mission threads under the mission management pilot program established by section 871 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 191 note);

"(ii) providing continuing support and sustainment for, and training and exercising of, the integrated mission threads under the operational command of the Commander of United States Indo-Pacific Command and such other combatant commands as may be designated by Deputy Secretary;

"(iii) planning and executing experimentation and demonstrations with—

"(I) Joint data integration approaches;

"(II) mission integration capabilities, especially software; and

"(III) Joint tactics, techniques, and procedures;

"(iv) assisting in fielding mission integration software to encourage the development and employment of such software on a larger scale, especially at the designated combatant commands;

"(v) assessing and integrating, as appropriate, the capabilities of Assault Breaker II, developed by the Defense Advanced Research Projects Agency, and related developmental efforts as those efforts transition to operational deployment; and

"(vi) integrating joint all domain command and control mission threads and mission command and control, including in conflicts that arise with minimal warning, and exercising other joint all domain command and control capabilities and functions.

"(D) Integrate the planning and demonstrations of the mission threads with—

"(i) the Production, Exploitation, and Dissemination Center in the United States Indo-Pacific Command;

"(ii) the Family of Integrated Targeting Cells; and

"(iii) the tactical dissemination and information sharing systems for the Armed Forces and allies of the United States, including the Mission Partner Environment and the Maven Smart System.

"(2) OBJECTIVES DESCRIBED.—The objectives described in this paragraph are the following—

"(A) to support the emphasis of the National Defense Strategy on adversary-specific deterrence postures;

"(B) to support actions that can be taken within the period covered by the future-years defense program focused on—

"(i) critical mission threads, such as kinetic kill chains and non-kinetic effects chains; and

"(ii) integrated concepts of operation;

"(C) to support demonstrations and experimentation; and

"(D) to achieve the objectives of the Joint All Domain Command and Control Strategy and Implementation Plan approved by the Deputy Secretary of Defense.

"(c) PERFORMANCE GOALS.—The Deputy Secretary, the Vice Chairman, and the commanders of such other combatant commands as may be designated by the Deputy Secretary shall seek to—

"(1) beginning in the third quarter of fiscal year 2023, demonstrate new integrated mission threads on a regularly recurring basis multiple times each year; and

"(2) include such demonstrations, as feasible, in the Rapid Defense Experimentation Reserve campaign of experimentation, Valiant Shield, Northern Edge, the Large Scale Global Exercise, the quarterly Scarlet Dragon exercises, the Global Information Dominance Experiments, and annual force exercises in the area of responsibility of the United States Indo-Pacific Command.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Deputy Secretary' means the Deputy Secretary of Defense.

"(2) The term 'Family of Integrated Targeting Cells' means the Maritime Targeting Cell-Afloat, the Maritime Targeting Cell-Expeditionary, the Tactical Intelligence Targeting Access Node, Tactical Operations Center Medium/Light, and other interoperable command and control nodes that are able to task the collection of, receive, process, and disseminate track and targeting information from many sensing systems in disconnected, denied, intermittent or limited bandwidth conditions.

"(3) The term 'joint all domain command and control' refers to the warfighting capabilities that support commander decision making at all echelons from campaigning to conflict, across all domains, and with partners, to deliver information advantage.

"(4) The term 'mission command' is the employment of military operations through decentralized execution based upon mission-type orders and the intent of commanders.

"(5) The terms 'mission thread', 'kill chain', and 'effects chain' have the meanings given those terms in the publication of the Office of the Under Secretary of Defense for Research and Engineering titled 'Mission Engineering Guide' and dated November 2020.

"(6) The term 'Vice Chairman' means the Vice Chairman of the Joint Chiefs of Staff."

## IMPROVEMENT OF THE STRATEGIC CAPABILITIES OFFICE OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title II, §233, Dec. 20, 2019, 133 Stat. 1277, provided that:

"(a) ORGANIZATION.—

"(1) AUTHORITY OF DEPUTY SECRETARY OF DEFENSE.—The Deputy Secretary of Defense shall exercise authority and direction over the Strategic Capabilities Office of the Department of Defense (referred to in this section as the 'Office').

"(2) AUTHORITY OF DIRECTOR.—The Director of the Office shall report directly to the Deputy Secretary of Defense.

"(3) DELEGATION.—In exercising authority and direction over the Office under subsection (a), the Deputy Secretary of Defense may delegate administrative, management, and other duties to the Director of the Defense Advanced Research Projects Agency, as needed, to effectively and efficiently execute the mission of the Office.

"(b) CROSS-FUNCTIONAL TEAMS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 20, 2019], the Deputy Secretary of Defense shall establish the following cross-functional teams to improve the effectiveness of the Office:

"(A) A transition cross-functional team to improve the efficiency and effectiveness with which the programs of the Office may be transitioned into—

"(i) research and development programs of the military services and other agencies of the Department of Defense; and

"(ii) programs of such services and agencies in operational use.

"(B) A technical cross functional team to improve the continuous technical assessment and review of the programs of the Office during program selection and execution.

"(2) MEMBERSHIP.—The Deputy Secretary of Defense shall select individuals to serve on the cross-functional teams described in paragraph (1) from among individuals in the defense research and engineering enterprise, acquisition community, Joint Staff, combatant commands, and other organizations, as determined to be appropriate by the Deputy Secretary."

## ASSIGNMENT OF DUTIES

Pub. L. 110–181, div. A, title IX, §904(a)(2), Jan. 28, 2008, 122 Stat. 273, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

"(A) The Secretary of Defense shall assign duties and authorities relating to the management of the business operations of the Department of Defense.

"(B) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the Department of Defense.

"(C) The Secretary shall assign such duties and authorities to the Deputy Chief Management Officer as are necessary for that official to assist the Chief Management Officer to effectively and efficiently organize the business operations of the Department of Defense.

"(D) The Deputy Chief Management Officer shall perform the duties and have the authorities assigned by

the Secretary under subparagraph (C) and perform such duties and have such authorities as are delegated by the Chief Management Officer."

[Position of Chief Management Officer of the Department of Defense effectively abolished upon the repeal of section 132a of this title by Pub. L. 116–283, div. A, title IX, §901(a)(1), Jan. 1, 2021, 134 Stat. 3794. Duties, personnel, and functions of the Chief Management Officer transferred to other Department of Defense officers, employees, and organizations, and any reference to the Chief Management Officer of the Department of Defense to be deemed to refer to the applicable Department of Defense officer or employee as so designated, see section 901(b), (c) of Pub. L. 116–283, set out in a note under former section 132a of this title.]

**ASSIGNMENT OF MANAGEMENT DUTIES AND DESIGNATION OF THE CHIEF MANAGEMENT OFFICERS OF THE MILITARY DEPARTMENTS**

Pub. L. 110–181, div. A, title IX, §904(b), Jan. 28, 2008, 122 Stat. 274, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597; Pub. L. 115–232, div. A, title X, §1081(f)(1)(E), Aug. 13, 2018, 132 Stat. 1987, provided that:

"(1) The Secretary of a military department shall assign duties and authorities relating to the management of the business operations of such military department.

"(2) The Secretary of a military department, in assigning duties and authorities under paragraph (1) shall designate the Under Secretary of such military department to have the primary management responsibility for business operations, to be known in the performance of such duties as the Chief Management Officer.

"(3) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the military department concerned.

"(4) The Chief Management Officer of each military department shall promptly provide such information relating to the business operations of such department to the Chief Management Officer of the Department of Defense as is necessary to assist the Chief Management Officer in the performance of the duties assigned to such official."

[Position of Chief Management Officer of the Department of Defense effectively abolished upon the repeal of section 132a of this title by Pub. L. 116–283, div. A, title IX, §901(a)(1), Jan. 1, 2021, 134 Stat. 3794. Duties, personnel, and functions of the Chief Management Officer transferred to other Department of Defense officers, employees, and organizations, and any reference to the Chief Management Officer of the Department of Defense to be deemed to refer to the applicable Department of Defense officer or employee as so designated, see section 901(b), (c) of Pub. L. 116–283, set out in a note under former section 132a of this title.]

## §132a. Performance Improvement Officer

(a) ESTABLISHMENT.—

(1) There is a Performance Improvement Officer of the Department of Defense, to be appointed by the Secretary of Defense from among the ranks of qualified individuals from the senior career civil service.

(2) The Performance Improvement Officer shall be appointed from among persons described in paragraph (1) who have an extensive management or business background and experience with managing large or complex organizations, organizational change management, or business transformation activities.

(b) DEPUTY.—The Performance Improvement Officer shall be supported by a Deputy who shall be appointed by the Secretary of Defense from among the ranks of qualified individuals from the senior career civil service. The Deputy shall be the first assistant to the Performance Improvement Officer and shall assist that Officer in the performance of the duties of that position and shall act for, and exercise the powers of, the Officer when that Officer dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(c) DUTIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the Secretary of Defense and the Deputy Secretary of Defense, the Performance Improvement Officer shall perform such duties, exercise such powers, and have such responsibilities as the Secretary or

the Deputy Secretary may prescribe, including the following:

(1) Responsibility for updating and implementing the Strategic Management Plan of the Department of Defense required by section 904(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. note prec. 2201).

(2) Responsibility for chairing the Defense Performance Improvement Council (or any successor organization).

(3) Responsibility for the Defense Performance Improvement Framework, as established under section 125a of this title.

(4) Responsibility for the execution of not fewer than two annual meetings of the Defense Management Action Group (or any successor organization) with agendas relating to the Strategic Management Plan described in paragraph (1).

(5) Oversight of transformational business modernization and business process re-engineering of the Department of Defense.

(6) Oversight and tracking the implementation of—

(A) solutions to solve issues identified by the High Risk List maintained by the Government Accountability Office; and

(B) other recommendations of such Office.

(7) Serving as the lead official devoted to modernizing the business processes of the Department that serve as the baseline for all external acquisition and internal operations.

(8) Oversight and management of the Defense Management Institute (as established pursuant to the memorandum of the Director of Administration and Management of the Department dated January 13, 2023), or any successor organization.

(9) Serving as co-chair of the Defense Business Council in accordance with section 2222(f)(1) of this title.

(10) Maintaining authority for convening meetings of personnel and organizations of the Department on matters relating to the duties and responsibilities described in this subsection.

(Added Pub. L. 118–159, div. A, title IX, §902(a), Dec. 23, 2024, 138 Stat. 2025; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(3), Dec. 18, 2025, 139 Stat. 1207.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 132a, added Pub. L. 111–383, div. A, title IX, §901(c)(1), Jan. 7, 2011, 124 Stat. 4320; amended Pub. L. 113–291, div. A, title IX, §901(a)(1), Dec. 19, 2014, 128 Stat. 3462; Pub. L. 114–328, div. A, title IX, §901(d), Dec. 23, 2016, 130 Stat. 2342; Pub. L. 115–91, div. A, title IX, §910(a)(1), Dec. 12, 2017, 131 Stat. 1516; Pub. L. 115–232, div. A, title IX, §921(a)(1), (2)(A), Aug. 13, 2018, 132 Stat. 1926; Pub. L. 116–92, div. A, title IX, §903(a)(2), Dec. 20, 2019, 133 Stat. 1555, related to establishment and responsibilities of the Chief Management Officer of the Department of Defense, prior to repeal by Pub. L. 116–283, div. A, title IX, §901(a)(1), Jan. 1, 2021, 134 Stat. 3794.

### AMENDMENTS

**2025**—Pub. L. 119–60, §1701(a)(3)(A), substituted "Improvement Officer" for "improvement officer" in section catchline.

Subsec. (c)(1). Pub. L. 119–60, §1701(a)(3)(B), substituted "National Defense Authorization Act for Fiscal Year 2008" for "National Defense Authorization Act of Fiscal Year 2008".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### GUIDANCE REQUIRED

Pub. L. 118–159, div. A, title IX, §902(c), Dec. 23, 2024, 138 Stat. 2026, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue rules, regulations, policies, or other guidance (as appropriate)—

"(1) to clearly delineate the authorities and responsibilities of the Performance Improvement Officer of

the Department of Defense established under section 132a of title 10, United States Code, as added by subsection (a); and

"(2) setting forth a charter for the office (including personnel, facilities, and other infrastructure) supporting the position of the Performance Improvement Officer."

**TRANSFER OF DUTIES AND RESPONSIBILITIES OF THE CHIEF MANAGEMENT OFFICER**

Pub. L. 116–283, div. A, title IX, §901(b)–(d), Jan. 1, 2021, 134 Stat. 3794, 3795, as amended by Pub. L. 117–81, div. A, title IX, §904, Dec. 27, 2021, 135 Stat. 1871, provided for the transfer of duties and responsibilities, personnel, functions, and assets of the Chief Management Officer of the Department of Defense not later than one year after Jan. 1, 2021.

**SERVICE OF INCUMBENT DEPUTY CHIEF MANAGEMENT OFFICER AS CHIEF MANAGEMENT OFFICER UPON COMMENCEMENT OF LATTER POSITION WITHOUT FURTHER APPOINTMENT**

Pub. L. 115–91, div. A, title IX, §910(e), Dec. 12, 2017, 131 Stat. 1518, which provided that the individual serving in the position of Deputy Chief Management Officer of the Department of Defense as of February 1, 2018, could continue to serve as Chief Management Officer of the Department of Defense under former section 132a of this title, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

**DEFENSE AGENCIES AND FIELD ACTIVITIES PROVIDING SHARED BUSINESS SERVICES**

Pub. L. 115–91, div. A, title IX, §910(f), Dec. 12, 2017, 131 Stat. 1518, which related to initial reporting requirements and notice to Congress on transfer to the Chief Management Officer of the Department of Defense of oversight of shared business services, was repealed by Pub. L. 116–283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

## [§133. Repealed. Pub. L. 114–328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339]

Section, added Pub. L. 99–348, title V, §501(a), July 1, 1986, 100 Stat. 707, §134a; renumbered §133 and amended Pub. L. 99–433, title I, §§101(a)(7), 110(c)(1), (d)(8), Oct. 1, 1986, 100 Stat. 995, 1002, 1003; Pub. L. 99–500, §101(c) [title X, §901], Oct. 18, 1986, 100 Stat. 1783–82, 1783–130, and Pub. L. 99–591, §101(c) [title X, §901], Oct. 30, 1986, 100 Stat. 3341–82, 3341–130; Pub. L. 99–661, div. A, title IX, formerly title IV, §901, Nov. 14, 1986, 100 Stat. 3910, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–456, div. A, title VIII, §809(d), Sept. 29, 1988, 102 Stat. 2013; Pub. L. 103–160, div. A, title IX, §904(b), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106–65, div. A, title IX, §911(a)(2), (d)(2), Oct. 5, 1999, 113 Stat. 717, 719; Pub. L. 107–107, div. A, title VIII, §801(a), Dec. 28, 2001, 115 Stat. 1174; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, §907, Jan. 28, 2008, 122 Stat. 277; Pub. L. 111–350, §5(b)(1), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 113–291, div. A, title IX, §901(j)(2)(A), Dec. 19, 2014, 128 Stat. 3467; Pub. L. 114–92, div. A, title VIII, §825(b), Nov. 25, 2015, 129 Stat. 908; Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597, related to Under Secretary of Defense for Acquisition, Technology, and Logistics.

A prior section 133 was renumbered section 113 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that the position of Under Secretary of Defense for Acquisition and Technology in the Department of Defense was redesignated as the Under Secretary of Defense for Acquisition, Technology, and Logistics, and any reference in any law, regulation, document, or other record of the United States to the Under Secretary of Defense for Acquisition and Technology was to be treated as referring to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Pub. L. 103–160, div. A, title IX, §904(a), (f), Nov. 30, 1993, 107 Stat. 1728, 1729, provided that the office of Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Under Secretary of Defense for Acquisition and Technology, the office of Deputy Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Deputy Under Secretary of Defense for

Acquisition and Technology, and any reference to the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition in any provision of law other than this title, or in any rule, regulation, or other paper of the United States was to be treated as referring to the Under Secretary of Defense for Acquisition and Technology or the Deputy Under Secretary of Defense for Acquisition and Technology, respectively.

**EFFECTIVE DATE OF REPEAL**

Pub. L. 114–328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that the repeal of this section is effective Feb. 1, 2018.

## §133a. Under Secretary of Defense for Research and Engineering

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive technology, science, or engineering background and experience with managing complex or advanced technological programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief technology officer of the Department of Defense with the mission of advancing technology and innovation for the armed forces (and the Department);

(2) establishing policies on, and supervising, all elements of the Department relating to defense research and engineering, technology development, technology transition, appropriate prototyping activities, experimentation, and developmental testing activities and programs and unifying defense research and engineering efforts and enhancing jointness across the Department;

(3) serving as the principal advisor to the Secretary on all research, engineering, and technology development activities and programs in the Department;

(4) directing the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Under Secretary has responsibility; and

(5) conducting developmental prototyping, designing and executing experiments of prototypes in the field to demonstrate operational relevance to address joint force capability gaps, and encouraging and supporting the rapid transition of technology from the research and development phase into operational use within the Department.

(c) PRECEDENCE IN DEPARTMENT OF DEFENSE.—

(1) PRECEDENCE IN MATTERS OF RESPONSIBILITY.—With regard to all matters for which the Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary and the Deputy Secretary of Defense.

(2) PRECEDENCE IN OTHER MATTERS.—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, and the Secretaries of the military departments.

(Added Pub. L. 114–328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339; amended Pub. L. 115–91, div. A, title IX, §910(c)(2), Dec. 12, 2017, 131 Stat. 1518; Pub. L. 116–92, div. A, title IX, §902(2), Dec. 20, 2019, 133 Stat. 1542; Pub. L. 118–31, div. A, title IX, §901(a)(1), Dec. 22, 2023, 137 Stat. 354; Pub. L. 119–60, div. A, title IX, §902, Dec. 18, 2025, 139 Stat. 1008.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 133a, added Pub. L. 99–500, §101(c) [title X, §902(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–131, and Pub. L. 99–591, §101(c) [title X, §902(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–131; Pub. L. 99–661, div. A, title IX, formerly title IV, §902(a)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103–160, div. A, title IX, §904(c), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title X, §1070(a)(2), Oct. 5, 1994, 108 Stat. 2855; Pub. L. 104–106, div. A, title IX, §903(c)(1), Feb. 10, 1996, 110 Stat. 401; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106–65, div. A, title IX, §911(c), Oct. 5, 1999, 113 Stat. 718; Pub. L. 107–107, div. A, title X, §1048(b)(1), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111–84, div. A, title IX, §906(c)(1)(A), (2)(A), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics, prior to repeal by Pub. L. 111–383, div. A, title IX, §901(b)(1), (p), Jan. 7, 2011, 124 Stat. 4317, 4327, effective Jan. 1, 2011.

Another prior section 133a was renumbered section 117 of this title.

## AMENDMENTS

**2025**—Subsec. (b)(2). Pub. L. 119–60, §902(1)(A), (B), inserted "elements of the Department relating to" after "supervising, all" and "and enhancing jointness" after "and engineering efforts".

Subsec. (b)(4), (5). Pub. L. 119–60, §902(1)(C), (2), (3), added pars. (4) and (5).

**2023**—Subsec. (c)(1). Pub. L. 118–31, §901(a)(1)(A), substituted "and the Deputy Secretary of Defense" for ", the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense".

Subsec. (c)(2). Pub. L. 118–31, §901(a)(1)(B), struck out "the Chief Management Officer," after "the Deputy Secretary,".

**2019**—Subsec. (b)(2). Pub. L. 116–92 substituted "appropriate prototyping activities," for "prototyping," and struck out ", including the allocation of resources for defense research and engineering," after "testing activities and programs".

**2017**—Subsec. (c)(1). Pub. L. 115–91, §910(c)(2)(A), substituted ", the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense" for "and the Deputy Secretary of Defense".

Subsec. (c)(2). Pub. L. 115–91, §910(c)(2)(B), inserted "the Chief Management Officer," after "the Deputy Secretary,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(2) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114–328 (see Tables for classification).

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

### SEMIANNUAL UPDATES ON MEETINGS HELD BY THE MISSILE DEFENSE EXECUTIVE BOARD

Pub. L. 117–81, div. A, title XVI, §1671(a)–(c), Dec. 27, 2021, 135 Stat. 2112, provided that:

"(a) SEMIANNUAL UPDATES.—Not later than March 1 and September 1 of each year, the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment, acting in their capacities as co-chairs of the Missile Defense Executive Board pursuant to section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 2162), shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a semiannual update including, with respect to the six-month period preceding the update—

"(1) the dates on which the Board met; and

"(2) except as provided by subsection (b), a summary of any decisions made by the Board at each meeting of the Board and the rationale for and options that informed such decisions.

"(b) EXCEPTION FOR CERTAIN BUDGETARY MATTERS.—The co-chairs shall not be required to include in a semiannual update under subsection (a) the matters described in paragraph (2) of such subsection with respect to decisions of the Board relating to the budget of the President for a fiscal year if the budget for that fiscal year has not been submitted to Congress under section 1105 of title 31, United States Code, as of the date of the semiannual update.

"(c) FORM OF UPDATE.—The co-chairs may provide a semiannual update under subsection (a) either in the form of a briefing or a written report."

## SERVICE OF INCUMBENT USD FOR ATL IN POSITION

Pub. L. 114–328, div. A, title IX, §901(a)(2), Dec. 23, 2016, 130 Stat. 2339, which provided that the Under Secretary of Defense for Acquisition, Technology, and Logistics serving as of Feb. 1, 2018, could continue as Under Secretary of Defense for Research and Engineering, without further appointment under this section, was repealed by Pub. L. 115–91, div. A, title IX, §901, Dec. 12, 2017, 131 Stat. 1511.

## REPORTS TO CONGRESS ON FAILURE TO COMPLY WITH RECOMMENDATIONS

Pub. L. 112–239, div. A, title IX, §904(h), Jan. 2, 2013, 126 Stat. 1868, provided that:

"(1) REPORT REQUIRED.—Not later than 60 days after the end of each fiscal year, from fiscal year 2013 through fiscal year 2018, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each case in which a major defense acquisition program, in the preceding fiscal year—

"(A) proceeded to implement a test and evaluation master plan notwithstanding a decision of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation to disapprove the developmental test and evaluation plan within that plan in accordance with former section 139b(a)(5)(B) of title 10, United States Code; or

"(B) proceeded to initial operational testing and evaluation notwithstanding a determination by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation on the basis of an assessment of operational test readiness that the program is not ready for operational testing.

"(2) MATTERS COVERED.—

"(A) For each program covered by paragraph (1)(A), the report shall include the following:

"(i) A description of the specific aspects of the developmental test and evaluation plan that the Deputy Assistant Secretary determined to be inadequate.

"(ii) An explanation of the reasons why the program disregarded the Deputy Assistant Secretary's recommendations with regard to those aspects of the developmental test and evaluation plan.

"(iii) The steps taken to address those aspects of the developmental test and evaluation plan and address the concerns of the Deputy Assistant Secretary.

"(B) For each program covered by paragraph (1)(B), the report shall include the following:

"(i) An explanation of the reasons why the program proceeded to initial operational testing and evaluation notwithstanding the findings of the assessment of operational test readiness.

"(ii) A description of the aspects of the approved testing and evaluation master plan that had to be set aside to enable the program to proceed to initial operational testing and evaluation.

"(iii) A description of how the program addressed the specific areas of concern raised in the assessment of operational test readiness.

"(iv) A statement of whether initial operational testing and evaluation identified any significant shortcomings in the program.

"(3) ADDITIONAL CONGRESSIONAL NOTIFICATION.—Not later than 30 days after any decision to conduct developmental testing on a major defense acquisition program without an approved test and evaluation master plan in place, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide to the congressional defense committees a written explanation of the basis for the decision and a timeline for getting an approved plan in place."

## OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES

Pub. L. 109–364, div. A, title IX, §905, Oct. 17, 2006, 120 Stat. 2353, as amended by Pub. L. 110–181, div. A, title IX, §905, Jan. 28, 2008, 122 Stat. 275; Pub. L. 115–232, div. A, title VIII, §812(a)(1)(C), Aug. 13, 2018, 132 Stat. 1846, provided that:

"(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

"(1) any commander of a combatant command who is authorized by section 166b or 167 of title 10, United States Code, to exercise acquisition authority; and

"(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

"(b) GUIDANCE.—

"(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

"(A) is in compliance with department-wide acquisition policy; and

"(B) is coordinated with acquisition programs of the military departments.

"(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

"(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

"(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006]."

**IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL**

Pub. L. 100–456, div. A, title X, §1006, Sept. 29, 1988, 102 Stat. 2040, as amended by Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, which provided for the designation of a primary liaison between the procurement and research and development activities of the armed forces of the United States and Israel, was repealed by Pub. L. 115–232, div. A, title VIII, §811(e), Aug. 13, 2018, 132 Stat. 1845.

## §133b. Under Secretary of Defense for Acquisition and Sustainment

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Acquisition and Sustainment, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive system development, engineering, production, or management background and experience with managing complex programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief acquisition and sustainment officer of the Department of Defense with the mission of delivers end-user capabilities with speed and innovation to counter threats and cost-effectively sustain the military advantage of the United States;

(2) establishing policies on, and supervising, all elements of the Department relating to acquisition (including system design, development, appropriate prototyping activities, and production, and procurement of goods and services) and sustainment (including logistics, maintenance, and materiel readiness);

(3) establishing policies for access to, and maintenance of, the defense industrial base and materials critical to national security, and policies on contract administration;

(4) establishing policies for, and providing oversight, guidance, and coordination with respect to, the nuclear command, control, and communications system;

(5) serving as—

(A) the principal advisor to the Secretary on acquisition and sustainment in the Department;

(B) the senior procurement executive for the Department for the purposes of section 1702(c) of title 41;

(C) the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive;

(D) chairman of the Nuclear Weapons Council established by section 179 of this title; and

(E) co-chairman of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of this title;

(6) overseeing—

(A) the sustainment and modernization of United States nuclear forces, including the nuclear command, control, and communications system; and

(B) military department and Defense Agency programs to develop defenses against chemical and biological weapons and capabilities to counter weapons of mass destruction;

(7) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Under Secretary has responsibility, except that the Under Secretary shall exercise advisory authority over service acquisition programs for which the service acquisition executive is the milestone decision authority;

(8) to the extent directed by the Secretary, exercising overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law;

(9) advising the Secretary on all aspects of acquisition and sustainment relating to—

(A) the defense acquisition system, in accordance with the objectives established pursuant to section 3102 of this title;

(B) core logistics capabilities (as described under section 2464 of this title); and

(C) the national technology and industrial base (as defined in section 4801 of this title); and

(10) advising the Secretary on, establishing policies on, and supervising, the activities of the Department relating to international cooperation and agreements regarding industrial base collaboration and coordination, including cooperative development and co-production, reciprocal production, exportability considerations, supply chain integration, security of supply chain agreements, and acquisition and cross-service agreements.

(c) PRECEDENCE IN DEPARTMENT OF DEFENSE.—

(1) PRECEDENCE IN MATTERS OF RESPONSIBILITY.—With regard to all matters for which the Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary of Defense, and the Under Secretary of Defense for Research and Engineering.

(2) PRECEDENCE IN OTHER MATTERS.—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, the Under Secretary of Defense for Research and Engineering, and the Secretaries of the military departments.

(Added Pub. L. 114–328, div. A, title IX, §901(b), Dec. 23, 2016, 130 Stat. 2340; amended Pub. L. 115–91, div. A, title IX, §§902, 910(c)(3), Dec. 12, 2017, 131 Stat. 1511, 1518; Pub. L. 116–92, div. A, title IX, §902(92), title XVI, §1662(a), Dec. 20, 2019, 133 Stat. 1554, 1772; Pub. L. 116–283, div. A, title VIII, §811(a)(2), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3749, 4294; Pub. L. 118–31, div. A, title IX, §901(a)(2), Dec. 22, 2023, 137 Stat. 354; Pub. L. 118–159, div. A, title IX, §903(a)(1), title XVI, §1621(b), Dec. 23, 2024, 138 Stat. 2026, 2171; Pub. L. 119–60, div. A, title XVIII, §1801(a)(2)(A), Dec. 18, 2025, 139 Stat. 1221.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 133b was renumbered section 138a of this title and was subsequently repealed.

Another prior section 133b was renumbered section 118 of this title and was subsequently repealed.

### AMENDMENTS

**2025**—Subsec. (b)(1). Pub. L. 119–60, §1801(a)(2)(A)(i), substituted "delivers end-user capabilities with speed and innovation to counter threats and cost-effectively sustain the military advantage of the United States" for "delivering and sustaining timely, cost-effective capabilities for the armed forces (and the

Department)".

Subsec. (b)(9)(A). Pub. L. 119–60, §1801(a)(2)(A)(ii), substituted "the defense acquisition system, in accordance with the objectives established pursuant to section 3102 of this title" for "defense acquisition programs".

**2024**—Subsec. (b)(5)(D), (E). Pub. L. 118–159, §1621(b)(1), added subpars. (D) and (E).

Subsec. (b)(6). Pub. L. 118–159, §1621(b)(2), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "overseeing the modernization of nuclear forces, including the nuclear command, control, and communications system, and the development of capabilities to counter weapons of mass destruction, and serving as the chairman of the Nuclear Weapons Council and the co-chairman of the Council on Oversight of the National Leadership Command, Control, and Communications System;".

Subsec. (b)(10). Pub. L. 118–159, §903(a)(1), added par. (10).

**2023**—Subsec. (c)(1). Pub. L. 118–31, §901(a)(2)(A), struck out "the Chief Management Officer of the Department of Defense," after "the Deputy Secretary of Defense,".

Subsec. (c)(2). Pub. L. 118–31, §901(a)(2)(B), struck out "the Chief Management Officer," after "the Deputy Secretary,".

**2021**—Subsec. (b)(9). Pub. L. 116–283, §811(a)(2), added par. (9).

Subsec. (b)(9)(C). Pub. L. 116–283, §1883(b)(2), substituted "section 4801" for "section 2500".

**2019**—Subsec. (b)(2). Pub. L. 116–92, §902(92), inserted "appropriate prototyping activities," after "development,".

Subsec. (b)(4) to (8). Pub. L. 116–92, §1662(a), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and in par. (6) inserted ", including the nuclear command, control, and communications system," after "modernization of nuclear forces".

**2017**—Subsec. (b)(6). Pub. L. 115–91, §902, substituted "advisory authority" for "supervisory authority".

Subsec. (c)(1). Pub. L. 115–91, §910(c)(3)(A), inserted "the Chief Management Officer of the Department of Defense," after "the Deputy Secretary of Defense,".

Subsec. (c)(2). Pub. L. 115–91, §910(c)(3)(B), inserted "the Chief Management Officer," after "the Deputy Secretary,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §902, Dec. 12, 2017, 131 Stat. 1511, provided that the amendment made by section 902 is effective Feb. 1, 2018, and immediately after the coming into effect of the amendment made by section 901(b) of Pub. L. 114–328 (enacting this section).

Pub. L. 115–91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(3) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114–328 (see Tables for classification).

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title IX, §901(b), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

### GUIDANCE REQUIRED

Pub. L. 118–159, div. A, title IX, §903(a)(2), Dec. 23, 2024, 138 Stat. 2026, provided that: "Not later than July 1, 2025, the Secretary of Defense shall update relevant policies and guidance related to the duties of the Under Secretary of Defense for Acquisition and Sustainment prescribed in section 133b(b)(10) of title 10, United States Code, as added by paragraph (1)."

### DEPARTMENT OF DEFENSE SUPPORT FOR REQUIREMENTS OF WHITE HOUSE MILITARY OFFICE

Pub. L. 117–263, div. A, title XVI, §1672(b), (c), Dec. 23, 2022, 136 Stat. 2959, provided that:

"(b) PORTFOLIO MANAGER.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall designate a senior official to coordinate and advocate for the portfolio

of national level programs of the Department of Defense that are either or both—

"(1) in direct support of requirements from the White House Military Office; or

"(2) operationally relevant to the mission areas of the White House Military Office.

"(c) ACCESSIBILITY OF INFORMATION.—The programmatic and budgetary information required to assess the efficacy of the national level programs covered by subsection (b) shall be provided to the senior official designated under such subsection by the following officials:

"(1) The Secretary of each military department.

"(2) The Under Secretary of Defense for Policy.

"(3) The Under Secretary of Defense for Research and Engineering.

"(4) The Chairman of the Joint Chiefs of Staff.

"(5) The Director of Cost Assessment and Program Evaluation."

## §134. Under Secretary of Defense for Policy

(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall be responsible and have overall direction and supervision for—

(A) the development, implementation, and integration across the Department of Defense of the National Defense Strategy (as described by section 113 of this title) and strategic policy guidance for the activities of the Department of Defense across all geographic regions and military functions and domains;

(B) the integration of the activities of the Department into the National Security Strategy of the United States;

(C) the development of policy guidance for the preparation of campaign and contingency plans by the combatant commands, and for the review of such plans;

(D) the preparation of policy guidance for the development of the global force posture;

(E) the development of the Defense Planning Guidance that guides the formulation of program and budget requests by the military departments and other elements of the Department; and

(F) the development of strategic policy guidance for the Department of Defense to enable the achievement of Presidential objectives outlined within the nuclear weapons employment guidance of the United States, as described in section 491 of this title.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.

(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.

(5) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall coordinate with the Chairman of the Joint Chiefs of Staff and the Director of Cost Assessment and Program Evaluation to—

(A) develop planning scenarios that describe the present and future strategic and operational environments by which to assess joint force capabilities and readiness; and

(B) develop specific objectives that the joint force should be ready to achieve, and conduct assessments of the capability (in terms of both capacity and readiness) of the joint force to achieve such objectives.

(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of

Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the Secretaries of the military departments.

(Added Pub. L. 99–433, title I, §105(1), Oct. 1, 1986, 100 Stat. 997; amended Pub. L. 99–500, §101(c) [title X, §903(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, §101(c) [title X, §903(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–661, div. A, title IX, formerly title IV, §903(a), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–261, div. A, title XV, §1521(a), Oct. 17, 1998, 112 Stat. 2178; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107–314, div. A, title IX, §902(b), Dec. 2, 2002, 116 Stat. 2620; Pub. L. 110–181, div. A, title IX, §903(c), Jan. 28, 2008, 122 Stat. 273; Pub. L. 113–291, div. A, title IX, §901(j)(2)(B), Dec. 19, 2014, 128 Stat. 3467; Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597; Pub. L. 115–232, div. A, title IX, §902, Aug. 13, 2018, 132 Stat. 1921; Pub. L. 116–92, div. A, title IX, §902(3), Dec. 20, 2019, 133 Stat. 1542; Pub. L. 118–159, div. A, title XVI, §1621(c), Dec. 23, 2024, 138 Stat. 2171.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### PRIOR PROVISIONS

Provisions of this section were contained in section 135 of this title prior to amendment by Pub. L. 99–433. A prior section 134 was renumbered section 132 of this title.

### AMENDMENTS

**2024**—Subsec. (b)(2)(F). Pub. L. 118–159 added subpar. (F).

**2019**—Subsec. (c). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering," for "Under Secretary of Defense for Acquisition, Technology, and Logistics,".

**2018**—Subsec. (b)(2). Pub. L. 115–232, §902(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Under Secretary shall assist the Secretary of Defense—

"(A) in preparing written policy guidance for the preparation and review of contingency plans; and

"(B) in reviewing such plans."

Subsec. (b)(5). Pub. L. 115–232, §902(b), added par. (5).

**2017**—Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(2)(B). See 2014 Amendment note below.

**2014**—Subsec. (c). Pub. L. 113–291, §901(j)(2)(B), which directed insertion of "the Under Secretary of Defense for Business Management and Information," after "the Deputy Secretary of Defense,", was repealed by Pub. L. 115–91, §1081(b)(1)(A).

**2008**—Subsec. (a). Pub. L. 110–181 substituted "seven" for "10".

**2002**—Subsec. (b)(4). Pub. L. 107–314 added par. (4).

**1999**—Subsec. (c). Pub. L. 106–65 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1998**—Subsec. (b)(3). Pub. L. 105–261 added par. (3).

**1993**—Subsec. (c). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1986**—Subsec. (c). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (c) identically, inserting "the Under Secretary of Defense for Acquisition,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

## EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(B) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

## IMPLEMENTATION OF AMENDMENTS BY PUB. L. 105–261

Pub. L. 105–261, div. A, title XV, §1521(c), (d), Oct. 17, 1998, 112 Stat. 2179, provided that:

"(c) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) [amending this section] and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with [former] section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998].

"(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives] a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b) [enacting former section 134b of this title and amending this section]. The report shall include the following:

"(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

"(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of those subsections."

## RESPONSIBILITY FOR POLICY ON CIVILIAN CASUALTY MATTERS

Pub. L. 115–232, div. A, title IX, §936, Aug. 13, 2018, 132 Stat. 1939, as amended by Pub. L. 116–92, div. A, title XII, §1282, Dec. 20, 2019, 133 Stat. 1706, provided that:

"(a) DESIGNATION OF SENIOR CIVILIAN OFFICIAL.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Under Secretary of Defense for Policy shall designate a senior civilian official of the Department of Defense within the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense to develop, coordinate, and oversee compliance with the policy of the Department relating to civilian casualties resulting from United States military operations.

"(b) RESPONSIBILITIES.—The senior civilian official designated under subsection (a) shall ensure that the policy referred to in that subsection provides for—

"(1) uniform processes and standards across the combatant commands for accurately recording kinetic strikes by the United States military;

"(2) the development and dissemination of best practices for reducing the likelihood of civilian casualties from United States military operations;

"(3) the development of publicly available means appropriate to the specific regional circumstances, including an Internet-based mechanism, for the submittal to the United States Government of allegations of civilian casualties resulting from United States military operations;

"(4) uniform processes and standards across the combatant commands for reviewing and investigating allegations of civilian casualties resulting from United States military operations, including the consideration of relevant information from all available sources;

"(5) uniform processes and standards across the combatant commands for—

"(A) acknowledging the responsibility of the United States military for civilian casualties resulting from United States military operations, including for acknowledging the status of any individuals killed or injured who were believed to be enemy combatants, but subsequently determined to be non-combatants; and

"(B) offering ex gratia payments or other assistance to civilians who have been injured, or to the families of civilians killed, as a result of United States military operations, as determined to be reasonable and culturally appropriate by the designated senior civilian official;

"(6) regular engagement with relevant intergovernmental and nongovernmental organizations;

"(7) public affairs guidance with respect to matters relating to civilian casualties alleged or confirmed to have resulted from United States military operations;

"(8) cultivating, developing, retaining, and disseminating—

"(A) lessons learned for integrating civilian protection into operational planning and identifying

the proximate cause or causes of civilian casualties; and

"(B) practices developed to prevent, mitigate, or respond to such casualties; [and]

"(9) such other matters with respect to civilian casualties resulting from United States military operations as the designated senior civilian official considers appropriate.

"(c) COORDINATION.—The senior civilian official designated under subsection (a) shall develop and implement steps to increase coordination with the relevant Chiefs of Mission and other appropriate positions in the Department of State with respect to the policies required pursuant to subsection (a) and other matters or assistance related to civilian harm, resulting from military operations.

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 18, 2018], the senior civilian official designated under subsection (a) shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes—

"(1) the policy developed by the senior civilian official under that subsection; and

"(2) the efforts of the Department to implement such policy.

"(e) BRIEFING.—Not later than 180 days after the date of the enactment of this subsection [Dec. 20, 2019], the senior civilian official designated under subsection (a) shall provide to the congressional defense committees a briefing on—

"(1) the updates made to the policy developed by the senior civilian official pursuant to this section; and

"(2) the efforts of the Department to implement such updates."

## [§134a. Repealed. Pub. L. 111–383, div. A, title IX, §901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 102–190, div. A, title IX, §901(a)(1), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 104–106, div. A, title IX, §903(c)(2), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 111–84, div. A, title IX, §906(c)(1)(B), (2)(B), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Policy.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 134a was renumbered section 133 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

## [§134b. Repealed. Pub. L. 111–84, div. A, title IX, §905(a)(1), Oct. 28, 2009, 123 Stat. 2425]

Section, added Pub. L. 105–261, div. A, title XV, §1521(b)(1), Oct. 17, 1998, 112 Stat. 2178, related to the Deputy Under Secretary of Defense for Technology Security Policy.

## §135. Under Secretary of Defense (Comptroller)

(a)(1) There is an Under Secretary of Defense (Comptroller), appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(2) The Under Secretary of Defense (Comptroller) shall be appointed from among persons who

have significant budget, financial management, or audit experience in complex organizations.

(b) The Under Secretary of Defense (Comptroller) is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31. The Under Secretary of Defense (Comptroller) shall perform the duties assigned to the Under Secretary in section 2222 of this title and such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Under Secretary of Defense (Comptroller) shall advise and assist the Secretary of Defense—

(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(A) the preparation and execution of budgets;

(B) fiscal, cost, operating, and capital property accounting; and

(C) progress and statistical reporting;

(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by paragraphs (1) through (4).

(d) In addition to any duties under subsection (c), the Under Secretary of Defense (Comptroller) shall, subject to the authority, direction, and control of the Secretary of Defense, do the following:

(1) Provide guidance and instruction on annual performance plans and evaluations to the following:

(A) The Assistant Secretaries of the military departments for financial management.

(B) Any other official of an agency, organization, or element of the Department of Defense with responsibility for financial management.

(2) Give directions to the military departments, Defense Agencies, and other organizations and elements of the Department of Defense regarding their financial statements and the audit and audit readiness of such financial statements.

(e) The Under Secretary of Defense (Comptroller) takes precedence in the Department of Defense after the Under Secretary of Defense for Policy.

(f) The Under Secretary of Defense (Comptroller) shall ensure that each of the congressional defense committees is informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the Under Secretary of Defense (Comptroller).

(Added Pub. L. 99–433, title I, §107, Oct. 1, 1986, 100 Stat. 998, §137; renumbered §135 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(2), 902(a)(1), (b), Nov. 30, 1993, 107 Stat. 1726, 1727; Pub. L. 103–337, div. A, title IX, §903(a)(1), (2), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104–106, div. A, title XV, §1502(a)(6), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1043(b)(1), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 111–383, div. A, title IX, §901(m)(3), Jan. 7, 2011, 124 Stat. 4326; Pub. L. 115–91, div. A, title IX, §§904(1), 905(a), 912(b), Dec. 12, 2017, 131 Stat. 1512, 1520; Pub. L. 117–81, div. A, title IX, §901(f)(1), Dec. 27, 2021, 135 Stat. 1868.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 135 was renumbered section 138b of this title.

## AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 117–81 substituted "an armed force" for "the armed forces".

**2017**—Subsec. (a). Pub. L. 115–91, §905(a)(1), designated existing provisions as par. (1) and added par. (2).

Pub. L. 115–91, §904(1), inserted at end "A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces."

Subsec. (b). Pub. L. 115–91, §912(b), inserted "the duties assigned to the Under Secretary in section 2222 of this title and" after "shall perform".

Subsecs. (d) to (f). Pub. L. 115–91, §905(a)(2), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2011**—Subsec. (c)(5). Pub. L. 111–383 substituted "paragraphs" for "clauses".

**2003**—Subsec. (e). Pub. L. 108–136 struck out "(1)" before "The Under Secretary", substituted "each of the congressional defense committees" for "each congressional committee specified in paragraph (2)", and struck out par. (2) which read as follows: "The committees referred to in paragraph (1) are—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**1999**—Subsec. (e)(2)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (e). Pub. L. 104–106 designated existing provisions as par. (1), substituted "each congressional committee specified in paragraph (2) is" for "the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each", and added par. (2).

**1994**—Pub. L. 103–337, §903(a)(2), substituted "Under Secretary of Defense (Comptroller)" for "Comptroller" as section catchline.

Subsec. (a). Pub. L. 103–337, §903(a)(1)(A), substituted "an Under Secretary of Defense (Comptroller)" for "a Comptroller of the Department of Defense".

Subsecs. (b) to (e). Pub. L. 103–337, §903(a)(1)(B), substituted "Under Secretary of Defense (Comptroller)" for "Comptroller" wherever appearing.

**1993**—Pub. L. 103–160, §901(a)(2), renumbered section 137 of this title as this section.

Subsec. (b). Pub. L. 103–160, §902(a)(1), inserted "The Comptroller is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31." after "(b)" and "additional" after "shall perform such".

Subsec. (d). Pub. L. 103–160, §901(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 103–160, §902(b), added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 103–337, div. A, title IX, §903(d), Oct. 5, 1994, 108 Stat. 2823, provided that: "Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller)."

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §905(c), Dec. 12, 2017, 131 Stat. 1513, provided that: "The appointment qualifications imposed by the amendments made by subsection (a)(1) [amending this section] and the appointment qualifications imposed by subsection (b) [set out as a note below] shall apply with respect to appointments as Under Secretary of Defense (Comptroller) and Deputy Chief Financial Officer of the Department of Defense that are made on or after the date of the enactment of this Act [Dec. 12, 2017]."

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### QUALIFICATION FOR APPOINTMENT AS DEPUTY CHIEF FINANCIAL OFFICER

Pub. L. 115–91, div. A, title IX, §905(b), Dec. 12, 2017, 131 Stat. 1513, provided that: "The Deputy Chief Financial Officer of the Department of Defense shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations."

## §136. Under Secretary of Defense for Personnel and Readiness

(a) There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the areas of military readiness, total force management, military and civilian personnel requirements, military and civilian personnel training, military and civilian family matters, exchange, commissary, and nonappropriated fund activities, personnel requirements for weapons support, National Guard and reserve components, and health affairs.

(c) The Under Secretary of Defense for Personnel and Readiness takes precedence in the Department of Defense after the Under Secretary of Defense (Comptroller).

(d) The Under Secretary of Defense for Personnel and Readiness is responsible, subject to the authority, direction, and control of the Secretary of Defense, for the monitoring of the operations tempo and personnel tempo of the armed forces. The Under Secretary shall establish, to the extent practicable, uniform standards within the Department of Defense for terminology and policies relating to deployment of units and personnel away from their assigned duty stations (including the length of time units or personnel may be away for such a deployment) and shall establish uniform reporting systems for tracking deployments.

(Added Pub. L. 103–160, div. A, title IX, §903(a), Nov. 30, 1993, 107 Stat. 1727; amended Pub. L. 104–106, div. A, title XV, §1503(a)(2), Feb. 10, 1996, 110 Stat. 510; Pub. L. 106–65, div. A, title IX, §923(a), title X, §1066(a)(1), Oct. 5, 1999, 113 Stat. 724, 770; Pub. L. 115–91, div. A, title IX, §904(2), Dec. 12, 2017, 131 Stat. 1512; Pub. L. 117–81, div. A, title IX, §901(f)(2), Dec. 27, 2021, 135 Stat. 1868.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 136 was renumbered section 138 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81 substituted "an armed force" for "the armed forces".

**2017**—Subsec. (a). Pub. L. 115–91 inserted at end "A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces."

**1999**—Subsec. (a). Pub. L. 106–65, §1066(a)(1), inserted "advice and" after "by and with the".

Subsec. (d). Pub. L. 106–65, §923(a), added subsec. (d).

**1996**—Subsec. (c). Pub. L. 104–106 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller".

## [§136a. Repealed. Pub. L. 111–383, div. A, title IX, §901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 107–107, div. A, title IX, §901(a)(1), Dec. 28, 2001, 115 Stat. 1193; amended Pub. L. 111–84, div. A, title IX, §906(c)(1)(C), (2)(C), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Personnel and Readiness.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 136a was renumbered section 139 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

## §137. Under Secretary of Defense for Intelligence and Security

(a) There is an Under Secretary of Defense for Intelligence and Security, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence and Security shall—

(1) have responsibility for the overall direction and supervision for policy, program planning and execution, and use of resources, for the activities of the Department of Defense that are part of the Military Intelligence Program;

(2) execute the functions for the National Intelligence Program of the Department of Defense under section 105 of the National Security Act of 1947 (50 U.S.C. 3038), as delegated by the Secretary of Defense;

(3) have responsibility for the overall direction and supervision for policy, program planning and execution, and use of resources, for personnel security, physical security, industrial security, and the protection of classified information and controlled unclassified information, related activities of the Department of Defense; and

(4) perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

(c) The protection of privacy and civil liberties in accordance with Federal law and the regulations and directives of the Department of Defense shall be a top priority for the Under Secretary of Defense for Intelligence and Security.

(d) The Under Secretary of Defense for Intelligence and Security takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.

(Added Pub. L. 107–314, div. A, title IX, §901(a)(2), Dec. 2, 2002, 116 Stat. 2619; amended Pub. L. 115–91, div. A, title IX, §904(3), Dec. 12, 2017, 131 Stat. 1512; Pub. L. 115–232, div. A, title XVI, §1621, Aug. 13, 2018, 132 Stat. 2117; Pub. L. 116–92, div. A, title XVI, §1621(d), (e)(1)(A)(ii), (C), Dec. 20, 2019, 133 Stat. 1732, 1733; Pub. L. 117–81, div. A, title IX, §901(f)(3), Dec. 27, 2021, 135 Stat. 1868.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 137 was renumbered section 138b of this title.

Another prior section 137 was renumbered section 135 of this title.

Another prior section 137 was renumbered section 140 of this title.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 117–81 substituted "an armed force" for "the armed forces".

**2019**—Pub. L. 116–92, §1621(e)(1)(C), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence" in section catchline.

Subsecs. (a), (b). Pub. L. 116–92, §1621(e)(1)(A)(ii), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

Subsec. (c). Pub. L. 116–92, §1621(d)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 116–92, §1621(e)(1)(A)(ii), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

Pub. L. 116–92, §1621(d)(1), redesignated subsec. (c) as (d).

**2018**—Subsec. (b). Pub. L. 115–232 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence."

**2017**—Subsec. (a). Pub. L. 115–91 inserted at end "A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 116–92, div. A, title XVI, §1621(a)–(c), Dec. 20, 2019, 133 Stat. 1732, provided that:

"(a) REDESIGNATION OF UNDER SECRETARY.—

"(1) IN GENERAL.—The Under Secretary of Defense for Intelligence is hereby redesignated as the Under Secretary of Defense for Intelligence and Security.

"(2) SERVICE OF INCUMBENT IN POSITION.—The individual serving as Under Secretary of Defense for Intelligence as of the date of the enactment of this Act [Dec. 20, 2019] may serve as Under Secretary of Defense for Intelligence and Security commencing as of that date without further appointment under section 137 of title 10, United States Code (as amended by subsection (c)(1)(A)(ii) [probably should be (e)(1)(A)(ii)]).

"(3) REFERENCE.—Any reference in any law, regulation, map, document, paper, or other record of the United States to the Under Secretary of Defense for Intelligence shall be deemed to be a reference to the Under Secretary of Defense for Intelligence and Security.

"(b) REDESIGNATION OF RELATED DEPUTY UNDER SECRETARY.—

"(1) IN GENERAL.—The Deputy Under Secretary of Defense for Intelligence is hereby redesignated as the Deputy Under Secretary of Defense for Intelligence and Security.

"(2) SERVICE OF INCUMBENT IN POSITION.—The individual serving as Deputy Under Secretary of Defense for Intelligence as of the date of the enactment of this Act may serve as Deputy Under Secretary of Defense for Intelligence and Security commencing as of that date without further appointment under section 137a of title 10, United States Code (as amended by subsection (c)(1)(B) [probably should be (e)(1)(B)]).

"(3) REFERENCE.—Any reference in any law, regulation, map, document, paper, or other record of the United States to the Deputy Under Secretary of Defense for Intelligence shall be deemed to be a reference to the Deputy Under Secretary of Defense for Intelligence and Security.

"(c) RULE OF CONSTRUCTION REGARDING EFFECTS OF REDESIGNATION.—Nothing in this section shall be construed to modify or expand the authorities, resources, responsibilities, roles, or missions of the Under Secretary of Defense for Intelligence and Security, as redesignated by this section."

### PLAN FOR INCORPORATION OF ENTERPRISE QUERY AND CORRELATION CAPABILITY INTO THE DEFENSE INTELLIGENCE INFORMATION ENTERPRISE

Pub. L. 112–81, div. A, title IX, §925, Dec. 31, 2011, 125 Stat. 1540, provided that:

"(a) PLAN REQUIRED.—

"(1) IN GENERAL.—The Under Secretary of Defense for Intelligence shall develop a plan for the incorporation of an enterprise query and correlation capability into the Defense Intelligence Information Enterprise (DI2E).

"(2) ELEMENTS.—The plan required by paragraph (1) shall—

"(A) include an assessment of all the current and planned advanced query and correlation systems which operate on large centralized databases that are deployed or to be deployed in elements of the Defense Intelligence Information Enterprise; and

"(B) determine where duplication can be eliminated, how use of these systems can be expanded, whether these systems can be operated collaboratively, and whether they can and should be integrated with the enterprise-wide query and correlation capability required pursuant to paragraph (1).

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—The Under Secretary shall conduct a pilot program to demonstrate an

enterprisewide query and correlation capability through the Defense Intelligence Information Enterprise program.

"(2) PURPOSE.—The purpose of the pilot program shall be to demonstrate the capability of an enterprisewide query and correlation system to achieve the following:

"(A) To conduct complex, simultaneous queries by a large number of users and analysts across numerous, large distributed data stores with response times measured in seconds.

"(B) To be scaled up to operate effectively on all the data holdings of the Defense Intelligence Information Enterprise.

"(C) To operate across multiple levels of security with data guards.

"(D) To operate effectively on both unstructured data and structured data.

"(E) To extract entities, resolve them, and (as appropriate) mask them to protect sources and methods, privacy, or both.

"(F) To control access to data by means of on-line electronic user credentials, profiles, and authentication.

"(3) TERMINATION.—The pilot program conducted under this subsection shall terminate on September 30, 2014.

"(c) REPORT.—Not later than November 1, 2012, the Under Secretary shall submit to the appropriate committees of Congress a report on the actions undertaken by the Under Secretary to carry out this section. The report shall set forth the plan developed under subsection (a) and a description and assessment of the pilot program conducted under subsection (b).

"(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives."

**RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947**

Pub. L. 107–314, div. A, title IX, §901(d), Dec. 2, 2002, 116 Stat. 2620, as amended by Pub. L. 113–291, div. A, title X, §1071(d)(2), Dec. 19, 2014, 128 Stat. 3509, provided that: "Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 3001 et seq.)."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

## §137a. Deputy Under Secretaries of Defense

(a)(1) There are six Deputy Under Secretaries of Defense.

(2) The Deputy Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(3) The officials authorized under this section shall be the only Deputy Under Secretaries of Defense.

(b) Each Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(c)(1) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Research and Engineering.

(2) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition and Sustainment.

(3) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Policy.

(4) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Personnel and Readiness.

(5) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense (Comptroller).

(6) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Intelligence and Security, who shall be appointed from among persons who have extensive expertise in intelligence matters.

(d) The Deputy Under Secretaries of Defense take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense. The Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 111–84, div. A, title IX, §906(a)(1), Oct. 28, 2009, 123 Stat. 2425; amended Pub. L. 111–383, div. A, title IX, §901(b)(3), (k)(1)(A), Jan. 7, 2011, 124 Stat. 4318, 4325; Pub. L. 113–291, div. A, title IX, §901(i)(1), (j)(2)(C), (k)(3), Dec. 19, 2014, 128 Stat. 3467, 3468; Pub. L. 115–91, div. A, title IX, §906(a)–(c), (f)(1), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597; Pub. L. 115–232, div. A, title X, §1081(f)(1)(C), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116–92, div. A, title XVI, §1621(e)(1)(B), Dec. 20, 2019, 133 Stat. 1733; Pub. L. 118–31, div. A, title IX, §901(a)(3), Dec. 22, 2023, 137 Stat. 354.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d). Pub. L. 118–31 struck out "the Chief Management Officer of the Department of Defense," after "the Deputy Secretary of Defense,".

**2019**—Subsec. (c)(6). Pub. L. 116–92 substituted "Deputy Under Secretary of Defense for Intelligence and Security" for "Deputy Under Secretary of Defense for Intelligence".

**2018**—Subsec. (d). Pub. L. 115–232 substituted "the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense" for "the Secretaries of the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense".

**2017**—Pub. L. 115–91, §906(f)(1), amended section catchline generally, substituting "Deputy Under Secretaries of Defense" for "Principal Deputy Under Secretaries of Defense".

Subsec. (a)(1). Pub. L. 115–91, §906(b), substituted "six" for "five".

Pub. L. 115–91, §906(a), struck out "Principal" before "Deputy Under".

Subsec. (a)(2). Pub. L. 115–91, §906(a), struck out "Principal" before "Deputy Under".

Subsec. (b). Pub. L. 115–91, §906(a), struck out "Principal" before "Deputy Under".

Subsec. (c). Pub. L. 115–91, §906(c), added pars. (1) and (2), redesignated former pars. (2) to (5) as (3) to (6), respectively, and struck out former par. (1) which read as follows: "One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics."

Pub. L. 115–91, §906(a), struck out "Principal" before "Deputy Under" wherever appearing.

Subsec. (d). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(2)(C). See 2014 Amendment note below.

Pub. L. 115–91, §906(a), struck out "Principal" before "Deputy Under" in two places.

**2014**—Subsec. (a)(3). Pub. L. 113–291, §901(i)(1), added par. (3).

Subsec. (b). Pub. L. 113–291, §901(k)(3), substituted "dies, resigns, or is otherwise unable to perform the functions and duties of the office" for "is absent or disabled".

Subsec. (d). Pub. L. 113–291, §901(j)(2)(C), which directed substitution of "and the Under Secretaries of Defense." for "the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense.", was repealed by Pub. L. 115–91, §1081(b)(1)(A).

**2011**—Pub. L. 111–383, §901(k)(1)(A), substituted "Principal Deputy Under Secretaries of Defense" for "Deputy Under Secretaries of Defense" in section catchline.

Subsec. (a)(1). Pub. L. 111–383, §901(b)(3)(A), substituted "Principal Deputy Under" for "Deputy Under".

Subsec. (a)(2). Pub. L. 111–383, §901(b)(3)(B), struck out subpar. (A) and subpar. (B) designation and substituted "The Principal Deputy Under Secretaries of Defense" for "The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c)". Prior to amendment, subpar. (A) read as

follows: "The Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph."

Subsec. (b). Pub. L. 111–383, §901(b)(3)(A), substituted "Principal Deputy Under" for "Deputy Under".

Subsec. (c)(1). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted "One of the Principal Deputy" for "One of the Deputy" and struck out "appointed pursuant to section 133a of this title" after "Logistics".

Subsec. (c)(2). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted "One of the Principal Deputy" for "One of the Deputy" and struck out "appointed pursuant to section 134a of this title" after "Policy".

Subsec. (c)(3). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted "One of the Principal Deputy" for "One of the Deputy" and struck out "appointed pursuant to section 136a of this title" after "Readiness".

Subsec. (c)(4). Pub. L. 111–383, §901(b)(3)(C)(i), (iii), substituted "One of the Principal Deputy Under Secretaries is" for "One of the Deputy Under Secretaries shall be".

Subsec. (c)(5). Pub. L. 111–383, §901(b)(3)(C)(i), (iii), (iv), substituted "One of the Principal Deputy Under Secretaries is" for "One of the Deputy Under Secretaries shall be" and inserted before period at end ", who shall be appointed from among persons who have extensive expertise in intelligence matters".

Subsec. (d). Pub. L. 111–383, §901(b)(3)(A), (D), substituted "Principal Deputy Under" for "Deputy Under" and inserted at end "The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §906(c), Dec. 12, 2017, 131 Stat. 1513, provided that the amendment made by section 906(c) is effective on Feb. 1, 2018.

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(i)(1), Dec. 19, 2014, 128 Stat. 3467, provided that the amendment made by section 901(i)(1) is effective Jan. 1, 2015.

Pub. L. 113–291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(C) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### SAVINGS PROVISIONS

Pub. L. 111–84, div. A, title IX, §906(e), Oct. 28, 2009, 123 Stat. 2428, provided that:

"(1) IN GENERAL.—Notwithstanding the amendments made by this section [enacting this section and amending sections 133a, 134a, 136a, 138, and former 138a of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees], the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act [Oct. 28, 2009] may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

"(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

"(A) The Principal Deputy Under Secretary of Defense (Comptroller).

"(B) The Principal Deputy Under Secretary of Defense for Intelligence."

### TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS

Pub. L. 111–383, div. A, title IX, §901(i)(2), Jan. 7, 2011, 124 Stat. 4323, provided that: "During the period beginning on the date of the enactment of this Act [Jan. 7, 2011] and ending on January 1, 2015, the Secretary of Defense may, in the Secretary's discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3))."

### DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE

Pub. L. 111–84, div. A, title IX, §906(a)(2), Oct. 28, 2009, 123 Stat. 2426, as amended by Pub. L. 111–383,

div. A, title IX, §901(i)(1), Jan. 7, 2011, 124 Stat. 4323, which provided that, effective Jan. 1, 2015, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10 would be the only Deputy Under Secretaries of Defense, was repealed by Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467.

[Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467, provided that section 901(i)(2), which repealed section 906(a)(2) of Pub. L. 111–84, formerly set out above, is effective on the effective date specified in section 901(i)(1) of Pub. L. 113–291, which is Jan. 1, 2015.]

## §138. Assistant Secretaries of Defense

(a)(1) There are 20 Assistant Secretaries of Defense.

(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2)(A) One of the Assistant Secretaries is the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. The principal duty of the Assistant Secretary shall be the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(k) of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. A person may not be appointed as Assistant Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force. Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

(i) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces through the administrative chain of command specified in section 167(f) of this title.

(ii) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

(I) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

(II) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

(B) In the discharge of the responsibilities specified in subparagraph (A)(i), the Assistant Secretary is immediately subordinate to the Secretary of Defense. Unless otherwise directed by the President, no officer below the Secretary may intervene to exercise authority, direction, or control over the Assistant Secretary in the discharge of such responsibilities.

(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Legislative Affairs. The principal duty of the Assistant Secretary shall be the overall supervision of legislative affairs of the Department of Defense.

(4) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on nuclear deterrence policies, operations, and associated programs within the senior management of the Department of Defense. The principal duty of the Assistant Secretary shall be the overall supervision of nuclear deterrence policy, resources, and activities of the Department of Defense.

(A) Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall—

(i) advise and assist the Secretary of Defense, the Deputy Secretary of Defense, the Under

Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense on all matters relating to the sustainment, operation, and modernization of United States nuclear forces as defined in section 499c(d) of this title;

(ii) communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense;

(iii) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title;

(iv) serve as the principal Department of Defense civilian responsible for oversight of portfolio management for nuclear forces established by section 499c of this title;

(v) serve as the principal interface with the Department of Energy on issues relating to nuclear fuels;

(vi) in coordination with the Assistant Secretary of Defense for Energy, Installations, and Environment, advise the Secretary of Defense on nuclear energy matters; and

(vii) advise and assist the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Policy on all matters relating to the defense against chemical, biological, and other weapons of mass destruction.

(B) Unless otherwise directed by the President or statute, no officer other than the Secretary of Defense, Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Policy may intervene to exercise authority, direction, or control over the Assistant Secretary in the discharge of responsibilities specified in subparagraph (A).

(5) One of the Assistant Secretaries is the Assistant Secretary of Defense for Space Policy. The principal duty of the Assistant Secretary shall be the overall supervision of policy of the Department of Defense for space warfighting.

(6) One of the Assistant Secretaries is the Assistant Secretary of Defense for Industrial Base Policy. The Assistant Secretary shall advise the Under Secretary of Defense for Acquisition and Sustainment on industrial base policies.

(7) One of the Assistant Secretaries is the Assistant Secretary of Defense for International Armaments Cooperation, who shall report directly to the Under Secretary of Defense for Acquisition and Sustainment. The principal duty of the Assistant Secretary shall be to carry out section 133b(b)(10) of this title.

(8) One of the Assistant Secretaries is the Assistant Secretary of Defense for Energy, Installations, and Environment. The principal duty of the Assistant Secretary shall be the overall supervision of matters relating to energy, installations, and the environment for the Department of Defense.

(9) One of the Assistant Secretaries is the Assistant Secretary of Defense for Cyber Policy. The principal duty of the Assistant Secretary shall be the overall supervision of policy of the Department of Defense for cyber. The Assistant Secretary is the Principal Cyber Advisor described in section 392a(a) of this title.

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to the Assistant Secretary in writing; and

(2) the order is issued through the Secretary of the military department concerned.

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, the officials serving in positions specified in section 131(b)(4) of this title,

and the Deputy Under Secretaries of Defense. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

(e) The number of Deputy Assistant Secretaries of Defense may not exceed 62.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §136; amended Pub. L. 90–168, §2(1), (2), Dec. 1, 1967, 81 Stat. 521; Pub. L. 91–121, title IV, §404(a), Nov. 19, 1969, 83 Stat. 207; Pub. L. 92–215, §1, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92–596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §3(a), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 96–107, title VIII, §820(a), Nov. 9, 1979, 93 Stat. 819; Pub. L. 98–94, title XII, §1212(a), Sept. 24, 1983, 97 Stat. 686; Pub. L. 99–433, title I, §§106, 110(d)(9), Oct. 1, 1986, 100 Stat. 997, 1003; Pub. L. 99–500, §101(c) [title IX, §9115(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–122, and Pub. L. 99–591, §101(c) [title IX, §9115(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–122; Pub. L. 99–661, div. A, title XIII, §1311(a), Nov. 14, 1986, 100 Stat. 3983; Pub. L. 100–180, div. A, title XII, §1211(a)(1), Dec. 4, 1987, 101 Stat. 1154; Pub. L. 100–453, title VII, §702, Sept. 29, 1988, 102 Stat. 1912; Pub. L. 100–456, div. A, title VII, §701, Sept. 29, 1988, 102 Stat. 1992; renumbered §138 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(1), (c), 903(c)(1), 905, Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103–337, div. A, title IX, §§901(a), 903(b)(2), Oct. 5, 1994, 108 Stat. 2822, 2823; Pub. L. 104–106, div. A, title IX, §§902(a), 903(b), (e)(2), Feb. 10, 1996, 110 Stat. 401, 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 105–261, div. A, title IX, §§901(a), 902, Oct. 17, 1998, 112 Stat. 2091; Pub. L. 106–398, §1 [[div. A], title IX, §901], Oct. 30, 2000, 114 Stat. 1654, 1654A–223; Pub. L. 107–107, div. A, title IX, §901(c)(1), Dec. 28, 2001, 115 Stat. 1194; Pub. L. 107–314, div. A, title IX, §902(a), (c), (d), Dec. 2, 2002, 116 Stat. 2620, 2621; Pub. L. 109–364, div. A, title IX, §901(a), Oct. 17, 2006, 120 Stat. 2350; Pub. L. 111–84, div. A, title IX, §906(b)(2), Oct. 28, 2009, 123 Stat. 2426; Pub. L. 111–383, div. A, title IX, §901(b)(4), Jan. 7, 2011, 124 Stat. 4319; Pub. L. 112–81, div. A, title III, §314(a), Dec. 31, 2011, 125 Stat. 1357; Pub. L. 112–166, §2(c)(1)(A), Aug. 10, 2012, 126 Stat. 1283; Pub. L. 112–239, div. A, title X, §1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–291, div. A, title IX, §§901(f), (h)(1)–(3), (j)(2)(D), 902(a)(2), Dec. 19, 2014, 128 Stat. 3464, 3466, 3467, 3469; Pub. L. 114–92, div. A, title VIII, §829, title X, §1078(a), Nov. 25, 2015, 129 Stat. 911, 998; Pub. L. 114–328, div. A, title IX, §§901(e)(1), 922(a), Dec. 23, 2016, 130 Stat. 2342, 2354; Pub. L. 115–91, div. A, title IX, §§906(d)(2), 907, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597; Pub. L. 115–232, div. A, title X, §1081(f)(1)(D), Aug. 13, 2018, 132 Stat. 1987; Pub. L. 116–92, div. A, title IX, §955(a), Dec. 20, 2019, 133 Stat. 1565; Pub. L. 116–283, div. A, title IX, §§902(a), 903, 904, Jan. 1, 2021, 134 Stat. 3795, 3797, 3798; Pub. L. 117–81, div. A, title IX, §901(b), title X, §1081(a)(4), Dec. 27, 2021, 135 Stat. 1868, 1919; Pub. L. 117–263, div. A, title IX, §901(a), (b)(1), (c)(1), (d), Dec. 23, 2022, 136 Stat. 2747, 2748; Pub. L. 118–31, div. A, title IX, §901(a)(4), Dec. 22, 2023, 137 Stat. 354; Pub. L. 118–159, div. A, title IX, §904, title XVI, §1621(a), Dec. 23, 2024, 138 Stat. 2028, 2170; Pub. L. 119–60, div. A, title IX, §903(a), (b)(1), Dec. 18, 2025, 139 Stat. 1008, 1009.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 136(a) | 5:171c(c) (1st sentence). | July 26, 1947, ch. 343, §202(c)(7) (less 1st 2 sentences); added Aug. 6, 1958, Pub. L. 85–599, §3(a) (8th par., less 1st 2 sentences), 72 Stat. 516. |
| 136(b) | 5:171c(c) (1st 18 words of 2d sentence).<br>5:171c–2 (less 1st sentence).<br>5:171n(a) (as applicable to 5:172).<br>5:172.<br>5:171a(c)(7) (3rd sentence). | July 26, 1947, ch. 343, §203(c); added Aug. 10, 1949, ch. 412, §6(a), (2d par.), 63 Stat. 581; redesignated Aug. 6, 1958, Pub. L. 85–599, §§9(a) (1st par., as applicable to §203(c)), 10(a), 72 Stat. 520, 521. |
| 136(c) | 5:171a(c)(7) (less 1st 3 sentences). | |
| 136(d) | 5:171c(c) (less 1st sentence and less 1st 18 words of 2d | |

| | | |
|---|---|---|
| 136(e) | sentence). | July 26, 1947, ch. 343, §302 (less 1st sentence); restated Aug. 10, 1949, ch. 412, §10(b) (less 1st sentence) restated Aug. 10, 1956, ch. 1041, §21 (less 1st sentence), 70A Stat. 629.<br>July 26, 1947, ch. 343, §308(a) (as applicable to §401), 61 Stat. 509.<br>July 26, 1947, ch. 343, §401; added Aug. 10, 1949, ch. 412, §11 (1st 2 pars.), 63 Stat. 585. |

In subsection (b)(1), 5 U.S.C. 172(b) (last 13 words of 1st sentence) is omitted as surplusage, since they are only a general description of the powers of the Secretary of Defense under this title. 5 U.S.C. 171c–2 (less 1st sentence) is omitted as covered by 5 U.S.C. 171c(c) (1st 18 words of 2d sentence).

In subsection (d), the following substitutions are made: "In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (last two sentences), 8010, and 8012(b) last two sentences of this title," for "In implementation of this paragraph"; and "members of the armed forces under the jurisdiction of his department" for "the military personnel in such department". The words "in a continuous effort" are omitted as surplusage.

## EDITORIAL NOTES

### CODIFICATION

The text of section 138a(b) and (c) of this title, which was transferred to subsec. (b)(7) of this section and amended by Pub. L. 113–291, §901(h)(1)(C)–(E), was based on Pub. L. 106–65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111–84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111–383, div. A, title IX, §901(b)(5), Jan. 7, 2011, 124 Stat. 4319.

The text of section 138b of this title, which was transferred to subsec. (b)(8) of this section and amended by Pub. L. 113–291, §901(h)(2), was based on Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92–596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99–348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99–433, title I, §105, Oct. 1, 1986, 100 Stat. 997; Pub. L. 99–500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104–106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L. 107–314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111–23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111–383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112–239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867.

The text of section 138d of this title, which was transferred to subsec. (b)(10) of this section and amended by Pub. L. 113–291, §901(h)(3), was based on Pub. L. 100–180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104–106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110–417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111–383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### PRIOR PROVISIONS

A prior section 138 was renumbered section 139 of this title.

Another prior section 138 was renumbered by Pub. L. 99–433 as follows:

Section 138(a) was renumbered section 114(a) of this title.
Section 138(b) was renumbered successively as section 114(b) and section 115(a) of this title.
Section 138(c) was renumbered successively as section 114(c) and section 115(b) of this title.
Section 138(d) was renumbered successively as section 114(d) and section 115(c) of this title.
Section 138(e) was renumbered successively as section 114(e) and section 116(a) of this title.
Section 138(f)(1) was renumbered successively as section 114(f)(1) and section 114(b) of this title.
Section 138(f)(2) was renumbered successively as section 114(f)(2) and section 116(b) of this title.
Section 138(g) was renumbered successively as section 114(g) and section 114(c) of this title.
Section 138(h) was renumbered successively as section 114(h) and section 113(i) of this title.
Section 138(i) was renumbered successively as section 114(i) and section 114(d) of this title.

## AMENDMENTS

**2025**—Subsec. (a)(1). Pub. L. 119–60, §903(b)(1), substituted "20" for "19".

Subsec. (b)(7) to (9). Pub. L. 119–60, §903(a), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

**2024**—Subsec. (b)(4). Pub. L. 118–159, §1621(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Assistant Secretary shall—

"(A) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense; and

"(B) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title."

Subsec. (e). Pub. L. 118–159, §904, substituted "62" for "60".

**2023**—Subsec. (d). Pub. L. 118–31 struck out "the Chief Management Officer of the Department of Defense," after "the Deputy Secretary of Defense,".

**2022**—Subsec. (a)(1). Pub. L. 117–263, §901(b)(1), substituted "19" for "15".

Subsec. (b)(2)(A). Pub. L. 117–263, §901(d)(1)(A), substituted "The principal duty of the Assistant Secretary shall be" for "He shall have as his principal duty" in introductory provisions.

Subsec. (b)(2)(A)(ii)(III). Pub. L. 117–263, §901(d)(1)(B), struck out subcl. (III) which read as follows: "Such other matters as may be specified by the Secretary and the Under Secretary."

Subsec. (b)(3). Pub. L. 117–263, §901(d)(2), substituted "The principal duty of the Assistant Secretary shall be" for "He shall have as his principal duty".

Subsec. (b)(4)(C). Pub. L. 117–263, §901(d)(3), struck out subpar. (C) which read as follows: "perform such additional duties as the Secretary may prescribe."

Subsec. (b)(6). Pub. L. 117–263, §901(d)(4), substituted "shall advise the Under Secretary of Defense for Acquisition and Sustainment on industrial base policies." for "shall—

"(A) advise the Under Secretary of Defense for Acquisition and Sustainment on industrial base policies; and

"(B) perform other duties as directed by the Under Secretary."

Subsec. (b)(8). Pub. L. 117–263, §901(a), added par. (8).

Subsec. (e). Pub. L. 117–263, §901(c)(1), added subsec. (e).

**2021**—Subsec. (a)(1). Pub. L. 116–283, §904(a), substituted "15" for "14".

Pub. L. 116–283, §903(a), substituted "14" for "13".

Subsec. (b)(2). Pub. L. 116–283, §902(a)(1)(A)–(C), (E), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A) and cls. (i) to (iii) of former subpar. (B) as subcls. (I) to (III), respectively, of subpar. (A)(ii), and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 117–81, §901(b), inserted "A person may not be appointed as Assistant Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force." before "Subject to the authority," in introductory provisions.

Pub. L. 116–283, §902(a)(2), substituted "section 167(k)" for "section 167(j)" in introductory provisions.

Subsec. (b)(2)(A)(i). Pub. L. 117–81, §1081(a)(4), struck out semicolon before period at end.

Pub. L. 116–283, §902(a)(1)(D), inserted before period at end "through the administrative chain of command specified in section 167(f) of this title;".

Subsec. (b)(6). Pub. L. 116–283, §903(b), added par. (6).

Subsec. (b)(7). Pub. L. 116–283, §904(b), added par. (7).

**2019**—Subsec. (b)(5). Pub. L. 116–92 added par. (5).

**2018**—Subsec. (d). Pub. L. 115–232 inserted "the Chief Management Officer of the Department of Defense," after "the Deputy Secretary of Defense," and struck out "the Deputy Chief Management Officer of the Department of Defense," after "the Under Secretaries of Defense,".

**2017**—Subsec. (a)(1). Pub. L. 115–91, §907(a), substituted "13" for "14".

Subsec. (b)(2) to (6). Pub. L. 115–91, §907(b), redesignated pars. (4) to (6) as (2) to (4), respectively, and struck out former pars. (2) and (3) which read as follows:

"(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Manpower and Reserve Affairs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Manpower and Reserve Affairs shall have as the principal duty of such Assistant Secretary the overall supervision of manpower and reserve affairs of the Department of Defense.

"(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense."

Subsec. (d). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(2)(D). See 2014 Amendment note below.

Pub. L. 115–91, §906(d)(2), struck out "Principal" before "Deputy Under Secretaries of Defense".

**2016**—Subsec. (b)(4). Pub. L. 114–328, §922(a), inserted at end "Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

"(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

"(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

"(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

"(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

"(iii) Such other matters as may be specified by the Secretary and the Under Secretary."

Subsec. (b)(6) to (10). Pub. L. 114–328, §901(e)(1), redesignated par. (10) as (6) and struck out former pars. (6) to (9), which related to positions of Assistant Secretary of Defense for Acquisition, Assistant Secretary of Defense for Logistics and Materiel Readiness, Assistant Secretary of Defense for Research and Engineering, and Assistant Secretary of Defense for Energy, Installations, and Environment.

**2015**—Subsec. (b)(8). Pub. L. 114–92, §1078(a), substituted "shall periodically review and assess the technological maturity" for "shall—", the designation for subpar. (A), and "review and assess the technological maturity"; substituted period at end for "; and"; and struck out subpar. (B) which read as follows: "submit to the Secretary of Defense and to the congressional defense committees by March 1 of each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense for which a Milestone B approval occurred during the preceding fiscal year."

Subsec. (b)(8)(A). Pub. L. 114–92, §829(a), struck out "periodically" before "review and assess", inserted "before the Milestone B approval for that program" after "Department of Defense", and substituted "each major defense acquisition program" for "the major defense acquisition programs" and "such review and assessment" for "such reviews and assessments".

Subsec. (b)(8)(B). Pub. L. 114–92, §829(b), inserted "for which a Milestone B approval occurred during the preceding fiscal year" after "Department of Defense".

**2014**—Subsec. (b)(2). Pub. L. 113–291, §902(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "One of the Assistant Secretaries is the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense."

Subsec. (b)(7). Pub. L. 113–291, §901(h)(1)(D), (E), transferred section 138a(c) of this title to subsec. (b)(7) of this section, inserted it at end, and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively. The redesignation was executed to reflect the probable intent of Congress, notwithstanding directory language referring to the text transferred by subparagraph (C) of section 901(h)(1) instead of subparagraph (D).

Pub. L. 113–291, §901(h)(1)(C), transferred section 138a(b) of this title to subsec. (b)(7) of this section and inserted it after first sentence.

Pub. L. 113–291, §901(h)(1)(A), (B), in first sentence, inserted ", who shall be appointed from among persons with an extensive background in the sustainment of major weapons systems and combat support

equipment" after "Readiness" and struck out second sentence which read as follows: "In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title."

Subsec. (b)(8). Pub. L. 113–291, §901(h)(2)(C)–(E), transferred section 138b(b)(1) and (2) of this title to subsec. (b)(8) of this section, inserted it at end, and realigned margins; redesignated pars. (1) and (2) as subpars. (A) and (B), respectively; in subpar. (A), struck out "The Assistant Secretary of Defense for Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall" before "periodically review" and substituted "; and" for period at end; and, in subpar. (B), struck out "The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall" before "submit".

Pub. L. 113–291, §901(h)(2)(B), inserted "The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall—" after "Logistics may prescribe."

Pub. L. 113–291, §901(h)(2)(A), inserted text of section 138b(a) of this title after first sentence of subsec. (b)(8) of this section and struck out at end: "In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title."

Subsec. (b)(9). Pub. L. 113–291, §901(f), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title."

Subsec. (b)(10). Pub. L. 113–291, §901(h)(3)(B), inserted text of section 138d(a) of this title at end of subsec. (b)(10) of this section, struck out "of Defense for Nuclear, Chemical, and Biological Defense Programs" before "shall—", and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively.

Pub. L. 113–291, §901(h)(3)(A), inserted text of section 138d(b) after first sentence of subsec. (b)(10) of this section and struck out at end: "In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138d of this title."

Subsec. (d). Pub. L. 113–291, §901(j)(2)(D), which directed striking out "the Deputy Chief Management Officer of the Department of Defense,", was repealed by Pub. L. 115–91, §1081(b)(1)(A).

**2013**—Subsec. (c)(3). Pub. L. 112–239 transferred subsec. (c)(3), relating to responsibilities of the Assistant Secretary of Defense for Operational Energy Plans and Programs regarding alternative fuel, to section 138c(c)(3) of this title.

**2012**—Subsec. (a)(1). Pub. L. 112–166 substituted "14" for "16".

Subsec. (c)(3). Pub. L. 112–81 added par. (3).

**2011**—Subsec. (a)(1). Pub. L. 111–383, §901(b)(4)(A)(i), substituted "16" for "12".

Subsec. (a)(2). Pub. L. 111–383, §901(b)(4)(A)(ii), struck out subpar. (A) and subpar. (B) designation and substituted "The" for "The other". Prior to amendment, subpar. (A) read as follows: "The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection."

Subsec. (b)(2) to (6). Pub. L. 111–383, §901(b)(4)(B)(i), substituted "Secretaries is" for "Secretaries shall be".

Subsec. (b)(7). Pub. L. 111–383, §901(b)(4)(B)(ii), struck out "appointed pursuant to section 138a of this title" before period at end of first sentence.

Subsec. (b)(8) to (10). Pub. L. 111–383, §901(b)(4)(B)(iii), added pars. (8) to (10).

Subsec. (d). Pub. L. 111–383, §901(b)(4)(C), substituted "the Deputy Chief Management Officer of the Department of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense" for "and the Director of Defense Research and Engineering".

**2009**—Subsec. (a). Pub. L. 111–84, §906(b)(2)(A), added subsec. (a) and struck out former subsec. (a), which read as follows: "There are ten Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate."

Subsec. (b)(6), (7). Pub. L. 111–84, §906(b)(2)(B), added pars. (6) and (7).

**2006**—Subsec. (a). Pub. L. 109–364 substituted "ten" for "nine".

**2002**—Subsec. (a). Pub. L. 107–314, §902(d), which directed the repeal of Pub. L. 107–107, §901(c), was executed by substituting "nine" for "eight" to reflect the probable intent of Congress. See 2001 Amendment note below.

Subsec. (b)(3). Pub. L. 107–314, §902(a), added par. (3).

Subsec. (b)(6). Pub. L. 107–314, §902(c), struck out par. (6) which read as follows:

"(6)(A) One of the Assistant Secretaries, as designated by the Secretary of Defense from among those Assistant Secretaries with responsibilities that include responsibilities related to combating terrorism, shall have, among that Assistant Secretary's duties, the duty to provide overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism, including antiterrorism activities, counterterrorism activities, terrorism consequences management activities, and terrorism-related intelligence support activities.

"(B) The Assistant Secretary designated under subparagraph (A) shall be the principal civilian adviser to the Secretary of Defense on combating terrorism and (after the Secretary and Deputy Secretary) shall be the principal official within the senior management of the Department of Defense responsible for combating terrorism.

"(C) If the Secretary of Defense designates under subparagraph (A) an Assistant Secretary other than the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, then the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict related to combating terrorism shall be exercised subject to subparagraph (B)."

**2001**—Subsec. (a). Pub. L. 107–107, which substituted "eight Assistant Secretaries of Defense" for "nine Assistant Secretaries of Defense", was repealed by Pub. L. 107–314, §902(d). See 2002 Amendment note above.

**2000**—Subsec. (b)(6). Pub. L. 106–398 added par. (6).

**1998**—Subsec. (a). Pub. L. 105–261, §901(a), substituted "nine" for "ten".

Subsec. (b)(3). Pub. L. 105–261, §902, struck out par. (3) which read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense."

**1996**—Subsec. (a). Pub. L. 104–106, §902(a), substituted "ten" for "eleven".

Subsec. (b). Pub. L. 104–106, §903(a), (b), which directed the general amendment of subsec. (b), eff. Jan. 31, 1997, designating par. (1) as entire subsec. and striking out pars. (2) to (5), was repealed by Pub. L. 104–201.

Subsec. (d). Pub. L. 104–106, §903(a), (e)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting "and the Under Secretaries of Defense" for "the Under Secretaries of Defense, and the Director of Defense Research and Engineering", was repealed by Pub. L. 104–201.

**1994**—Subsec. (a). Pub. L. 103–337, §901(a), substituted "eleven" for "ten".

Subsec. (d). Pub. L. 103–337, §903(b)(2), struck out "and Comptroller" after "Under Secretaries of Defense".

**1993**—Pub. L. 103–160, §901(a)(1), renumbered section 136 of this title as this section.

Subsec. (a). Pub. L. 103–160, §903(c)(1), substituted "ten" for "eleven".

Subsec. (b)(5). Pub. L. 103–160, §905, added par. (5).

Subsec. (d). Pub. L. 103–160, §901(c), inserted "and Comptroller" after "Under Secretaries of Defense".

**1988**—Subsec. (b)(3). Pub. L. 100–453 and Pub. L. 100–456 generally amended par. (3) identically. Prior to amendment, par. (3) read as follows: "One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense."

**1987**—Subsec. (b)(4). Pub. L. 100–180 inserted at end "The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense."

**1986**—Pub. L. 99–433, §110(d)(9), struck out ": appointment; powers and duties; precedence" at end of section catchline.

Subsec. (b)(2), (3). Pub. L. 99–433, §106(a)(1), (2), redesignated pars. (4) and (5) as pars. (2) and (3), respectively, and struck out former par. (2) relating to the Assistant Secretary of Defense for Health Affairs and former par. (3) relating to the Assistant Secretary of Defense for Manpower and Logistics.

Subsec. (b)(4). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended subsec. (b) identically, adding par. (4).

Pub. L. 99–433, §106(a)(2), redesignated par. (4) as (2).

Subsec. (b)(5). Pub. L. 99–433, §106(a)(2), redesignated par. (5) as (3).

Subsec. (b)(6). Pub. L. 99–433, §106(a)(3), struck out par. (6) relating to Comptroller of Department of Defense. See section 135 of this title.

Subsec. (c)(1). Pub. L. 99–433, §106(c)(1)(A), substituted "the Assistant Secretary" for "him".

Subsec. (c)(2). Pub. L. 99–433, §106(c)(1)(B), struck out ", or his designee" after "concerned".

Subsecs. (d), (e). Pub. L. 99–433, §106(b), (c)(2), (3), redesignated subsec. (e) as (d), substituted "the Under Secretaries of Defense, and the Director of Defense Research and Engineering" for "and the Under Secretaries of Defense", inserted sentence directing that the Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense, and struck out former subsec. (d) which directed the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department to cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

**1983**—Subsec. (a). Pub. L. 98–94, §1212(a)(1), substituted "eleven" for "seven".

Subsec. (b)(1). Pub. L. 98–94, §1212(a)(2)(A), designated existing first sentence as par. (1).

Subsec. (b)(2). Pub. L. 98–94, §1212(a)(2)(B), designated existing second and third sentences as par. (2).

Subsec. (b)(3). Pub. L. 98–94, §1212(a)(2)(C), (D), designated existing fourth and fifth sentences as par. (3) and substituted "Logistics" for "Reserve Affairs" and "logistics" for "reserve component".

Subsec. (b)(4), (5). Pub. L. 98–94, §1212(a)(2)(E), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 98–94, §1212(a)(2)(F), designated existing sixth sentence as par. (6), substituted "One of the Assistant Secretaries" for "In addition, one of the Assistant Secretaries", redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, redesignated former subpars. (A) to (D) as cls. (1) to (4), respectively, and in subpar. (E) substituted "clauses (A) through (D)" for "clauses (1)–(4)".

Subsec. (f). Pub. L. 98–94, §1212(a)(3), struck out subsec. (f) which provided for appointment of a Deputy Assistant Secretary of Defense for Reserve Affairs within the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs. See subsec. (b)(4) of this section.

**1979**—Subsec. (a). Pub. L. 96–107 substituted "seven" for "nine".

**1977**—Subsec. (e). Pub. L. 95–140 inserted "of Defense" after "Secretary" and substituted "Secretary of Defense" for "Secretaries of Defense" and ", and the Under Secretaries of Defense" for ", and the Director of Defense Research and Engineering".

**1972**—Subsec. (e). Pub. L. 92–596 substituted "Deputy Secretaries" for "Deputy Secretary".

**1971**—Subsec. (a). Pub. L. 92–215 substituted "nine" for "eight".

**1969**—Subsec. (a). Pub. L. 91–121, §404(a)(1), substituted "eight" for "seven".

Subsec. (b). Pub. L. 91–121, §404(a)(2), provided for an Assistant Secretary of Defense for Health Affairs having as his principal duty the overall supervision of health affairs of Department of Defense.

**1967**—Subsec. (b). Pub. L. 90–168, §2(1), inserted provisions for an Assistant Secretary of Defense for Manpower and Reserve Affairs with principal duty of overall supervision of manpower and reserve component affairs of Department of Defense.

Subsec. (f). Pub. L. 90–168, §2(2), added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 901(b) of Pub. L. 117–81 applicable with respect to appointments made on or after Dec. 27, 2021, see section 901(g) of Pub. L. 117–81, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(D) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

## EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title XII, §1212(e), Sept. 24, 1983, 97 Stat. 687, provided that: "The amendments made by this section [amending this section, sections 175, 3013, and 5034 of this title, and section 5315 of Title 5, Government Organization and Employees] shall take effect on October 1, 1983."

## EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90–168, §7, Dec. 1, 1967, 81 Stat. 526, provided that: "The provisions of this Act [see Short Title of 1967 Amendment note below] shall become effective on the first day of the first calendar month following the date of enactment [Dec. 1, 1967]."

## SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90–168, §1, Dec. 1, 1967, 81 Stat. 521, provided: "That this Act [amending this section, sections 175, 262, 264, 268, 269, 270, 511 [now 12103], 3014, 5034, 8014, and 8850 of this title, section 502 of Title 32, National Guard, and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting sections 3021 [now 10302], 3038, 8021 [now 10305], and 8038 of this title, enacting provisions set out as notes under this section and section 8212 of this title, and amending provisions set out as a note under section 113 of this title] may be cited as the 'Reserve Forces Bill of Rights and Vitalization Act'."

## ORGANIZATIONAL REALIGNMENT WITH RESPECT TO OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR NUCLEAR DETERRENCE, CHEMICAL AND BIOLOGICAL DEFENSE POLICY AND PROGRAMS; LIMITATION ON AVAILABILITY OF CERTAIN FUNDS

Pub. L. 119–60, div. A, title XVI, §1635(a), Dec. 18, 2025, 139 Stat. 1187, provided that:

"(a) ORGANIZATIONAL REALIGNMENT.—Not later than 45 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall take such actions as are required to—

"(1) integrate into the Office of the Assistant Secretary of Defense for Nuclear Deterrence, Chemical and Biological Defense Policy and Programs (hereinafter 'ASD (ND-CBD)') the authorities, responsibilities, personnel, and resources necessary for executing activities in support of the Under Secretary of Defense for Acquisition and Sustainment's roles as the Defense Acquisition Executive and Milestone Decision Authority for applicable Major Defense Acquisition Programs as pertains to Department of Defense programs for acquiring, sustaining, and managing—

"(A) dedicated nuclear weapons platforms and delivery systems; and

"(B) nuclear command, control, and communications (hereinafter 'NC3') systems;

"(2) ensure the Office of the Assistant Secretary of Defense for Acquisition reassigns sufficient personnel to the Office of the ASD (ND-CBD) to support joint oversight of Major Defense Acquisition Programs for platforms—

"(A) capable of employing both conventional and nuclear weapons; and

"(B) hosting NC3 systems; and

"(3) establish Departmental processes for joint oversight by the Assistant Secretary of Defense for Acquisition and the ASD (ND-CBD) of platforms—

"(A) capable of employing both conventional and nuclear weapons; and

"(B) hosting NC3 systems."

## MATTERS RELATING TO ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Pub. L. 118–159, div. A, title IX, §907, Dec. 23, 2024, 138 Stat. 2031, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall—

"(1) using a systematic approach, identify and update relevant policies, processes, and policy guidance of the Department of Defense to fully implement and institutionalize the position of Assistant Secretary of

Defense for Special Operations and Low Intensity Conflict (in this section referred to as the "Assistant Secretary") to ensure that the Assistant Secretary exercises authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces as required under section 138(b)(2)(A)(i) of title 10, United States Code, including—

"(A) special operations budgeting and programming, legislative affairs, operations, personnel, and public affairs activities; and

"(B) protocols for participation in decision-making fora of the Department involving special operations forces;

"(2) develop a long-term staffing plan for the Secretariat for Special Operations established under section 139b(a) of title 10, United States Code, that incorporates strategic workforce planning principles, including an articulation of the mission of the Secretariat, an identification of critical skill gaps, and a strategy to hire personnel to address such gaps;

"(3) produce written departmental guidance to clarify the respective administrative roles of the Under Secretary of Defense for Policy and the Assistant Secretary, including guidance to ensure adequate support for the Secretariat from Washington Headquarters Services, the Office of the Director of Administration and Management, Joint Service Provider, and other administrative offices of the Department;

"(4) establish a process for development, coordination, and issuance by the Assistant Secretary of special operations instructions and other Department-wide policies, instructions, directive-type memorandums, or other documents consistent with the responsibilities assigned to the Assistant Secretary;

"(5) establish a process for the Assistant Secretary and the Commander of the United States Special Operations Command to monitor the promotions of members of special operations forces and coordinate with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of members of special operations forces consistent with the responsibilities assigned to the Assistant Secretary and the Commander; and

"(6) establish a Center for Special Operations Analysis to lead special operations-related analysis for the Department and ensure senior civilian and military leaders have adequate analytical support for decision making related to the organization, training, equipping, and employment of special operations forces.

"(b) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan, including appropriate milestones and timelines for completion, for achieving the requirements under subsection (a)."

## PRINCIPAL DEPUTY ASSISTANT SECRETARIES TO SUPPORT ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Pub. L. 118–31, div. A, title IX, §905, Dec. 22, 2023, 137 Stat. 364, provided that: "The Secretary of Defense may appoint two Principal Deputy Assistant Secretaries to report to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict—

"(1) one of whom may be assigned to support the Assistant Secretary in the discharge of responsibilities specified in clause (i) of section 138(b)(2)(A) of title 10, United States Code; and

"(2) one of whom may be assigned to support the Assistant Secretary in the discharge of responsibilities specified in clause (ii) of that section."

## DOD DIRECTIVE ON RESPONSIBILITIES OF ASD SOLIC

Pub. L. 116–283, div. A, title IX, §902(c), Jan. 1, 2021, 134 Stat. 3797, provided that:

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall publish a Department of Defense directive establishing policy and procedures related to the exercise of authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict as specified by section 138(b)(2)(A)(i) of title 10, United States Code, as amended by subsection (a)(1).

"(2) MATTERS FOR INCLUDING.—The directive required by paragraph (1) shall include the following:

"(A) A specification of responsibilities for coordination on matters affecting the organization, training, and equipping of special operations forces.

"(B) An identification and specification of updates to applicable documents and instructions of the Department of Defense.

"(C) Mechanisms to ensure the inclusion of the Assistant Secretary in all Departmental governance forums affecting the organization, training, and equipping of special operations forces.

"(D) Such other matters as the Secretary considers appropriate.

"(3) APPLICABILITY.— The directive required by paragraph (1) shall apply throughout the Department of Defense to all components of the Department of Defense.

"(4) LIMITATION ON AVAILABILITY OF CERTAIN FUNDING PENDING PUBLICATION.—Of the amounts authorized to be appropriated by this Act [see Tables for classification] for fiscal year 2021 for operation and maintenance, Defense-wide, and available for the Office of the Secretary of Defense, not more than 75 percent may be obligated or expended until the date that is 15 days after the date on which the Secretary publishes the directive required by paragraph (1)."

**ASSIGNMENT OF RESPONSIBILITY FOR THE ARCTIC REGION WITHIN THE OFFICE OF THE SECRETARY OF DEFENSE**

Pub. L. 116–283, div. A, title IX, §907, Jan. 1, 2021, 134 Stat. 3799, provided that: "The Assistant Secretary of Defense for International Security Affairs shall assign responsibility for the Arctic region to the Deputy Assistant Secretary of Defense for the Western Hemisphere or any other Deputy Assistant Secretary of Defense the Secretary of Defense considers appropriate."

**DEADLINE FOR COMPLETION OF FULL IMPLEMENTATION OF REQUIREMENTS IN CONNECTION WITH ORGANIZATION OF THE DEPARTMENT OF DEFENSE FOR MANAGEMENT OF SPECIAL OPERATIONS FORCES AND SPECIAL OPERATIONS**

Pub. L. 115–232, div. A, title IX, §917, Aug. 13, 2018, 132 Stat. 1925, provided that: "The Secretary of Defense shall ensure that the implementation of section 922 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2354) [enacting section 139b of this title and amending this section and section 167 of this title] and the amendments made by that section is fully complete by not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018]."

**LIMITATION ON MAXIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES OF DEFENSE**

Pub. L. 115–91, div. A, title IX, §908, Dec. 12, 2017, 131 Stat. 1514, which limited the maximum number of Deputy Assistant Secretaries of Defense to 48 after Dec. 12, 2017, was repealed by Pub. L. 117–263, div. A, title IX, §901(c)(2), Dec. 23, 2022, 136 Stat. 2747. See subsec. (e) of this section.

**REDESIGNATION OF ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS**

Pub. L. 113–291, div. A, title IX, §902(a)(1), Dec. 19, 2014, 128 Stat. 3469, provided that: "The position of Assistant Secretary of Defense for Reserve Affairs is hereby redesignated as the Assistant Secretary of Defense for Manpower and Reserve Affairs. The individual serving in that position on the day before the date of the enactment of this Act [Dec. 19, 2014] may continue in office after that date without further appointment."

**DECREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE**

Pub. L. 112–166, §2(c)(1)(B)–(D), Aug. 10, 2012, 126 Stat. 1283, provided that:

"(B) ADMINISTRATION OF REDUCTION.—The Assistant Secretary of Defense positions eliminated in accordance with the reduction in numbers required by the amendment made by subparagraph (A) [amending this section] shall be—

"(i) the Assistant Secretary of Defense for Networks and Information Integration; and

"(ii) the Assistant Secretary of Defense for Public Affairs.

"(C) CONTINUED SERVICE OF INCUMBENTS.—Notwithstanding the requirements of this paragraph, any individual serving in a position described under subparagraph (B) on the date of the enactment of this Act [Aug. 10, 2012] may continue to serve in such position without regard to the limitation imposed by the amendment in subparagraph (A).

"(D) PLAN FOR SUCCESSOR POSITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to the congressional defense committees on his plan for successor positions, not subject to Senate confirmation, for the positions eliminated in accordance with the requirements of this paragraph."

**CHARTER OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT**

Pub. L. 100–180, div. A, title XII, §1211(a)(2)–(5), Dec. 4, 1987, 101 Stat. 1154, 1155, provided that:

"(2) The Secretary of Defense shall publish a directive setting forth the charter of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987]. The directive shall set forth—

"(A) the duties and responsibilities of the Assistant Secretary;

"(B) the relationships between the Assistant Secretary and other Department of Defense officials;

"(C) any delegation of authority from the Secretary of Defense to the Assistant Secretary; and

"(D) such other matters as the Secretary considers appropriate.

"(3) On the date that such directive is published, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

"(A) a copy of the directive; and

"(B) a report explaining how the charter of the Assistant Secretary fulfills the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), that provide that the Assistant Secretary—

"(i) exercises overall supervision of special operations activities and low intensity conflict activities of the Department of Defense;

"(ii) is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters; and

"(iii) is the principal special operations and low intensity conflict official (after the Secretary and Deputy Secretary) within the senior management of the Department of Defense.

"(4)(A) Until the office of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is filled for the first time by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of the Army shall carry out the duties and responsibilities of that office.

"(B) Throughout the period of time during which the Secretary of the Army is carrying out the duties and responsibilities of that office, he shall submit to the Committees on Armed Services of the Senate and House of Representatives a monthly report on the administrative actions that he has taken and the policy guidance that he has issued to carry out such duties and responsibilities. Each such report shall also describe the actions that he intends to take and the guidance that he intends to issue to fulfill the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), along with a timetable for completion of such actions and issuance of such guidance. The first such report shall be submitted not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987].

"(5) Until the first individual appointed to the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict by the President, by and with the advice and consent of the Senate, leaves that office, that Assistant Secretary (and the Secretary of the Army when carrying out the duties and responsibilities of the Assistant Secretary) shall, with respect to the duties and responsibilities of that office, report directly, without intervening review or approval, to the Secretary of Defense personally or, as designated by the Secretary, to the Deputy Secretary of Defense personally."

**TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE**

Pub. L. 100–180, div. A, title XIII, §1311, Dec. 4, 1987, 101 Stat. 1174, provided that until Jan. 20, 1989, the number of Assistant Secretaries of Defense authorized under subsec. (a) of this section and the number of positions at level IV of the Executive Schedule are each increased by one (to a total of 12).

## [§§138a, 138b. Repealed. Pub. L. 113–291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]

Section 138a, added Pub. L. 106–65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111–84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111–383, div. A, title IX, §901(b)(5), Jan. 7, 2011, 124 Stat. 4319; Pub. L. 113–291, div. A, title IX, §901(h)(1)(C), (D), Dec. 19, 2014, 128 Stat. 3466, related to Assistant Secretary of Defense for Logistics and Materiel Readiness.

Section 138b, added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92–596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99–348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99–433, title I, §105, Oct. 1, 1986, 100 Stat. 997; Pub. L. 99–500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104–106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L.

107–314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111–23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111–383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112–239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867; Pub. L. 113–291, div. A, title IX, §901(h)(2)(C), Dec. 19, 2014, 128 Stat. 3466, related to Assistant Secretary of Defense for Research and Engineering.

## [§138c. Repealed. Pub. L. 113–291, div. A, title IX, §901(g)(2), Dec. 19, 2014, 128 Stat. 3466]

Section, added Pub. L. 110–417, [div. A], title IX, §902(a), Oct. 14, 2008, 122 Stat. 4564, §139b; renumbered §138c and amended Pub. L. 111–383, div. A, title IX, §901(b)(7), (k)(1)(C), Jan. 7, 2011, 124 Stat. 4320, 4325; Pub. L. 112–81, div. A, title III, §311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 112–239, div. A, title X, §1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–66, div. A, title III, §311, Dec. 26, 2013, 127 Stat. 728; Pub. L. 113–291, div. A, title IX, §901(g)(1)(B), (D), Dec. 19, 2014, 128 Stat. 3464, 3465, related to Assistant Secretary of Defense for Operational Energy Plans and Programs.

## [§138d. Repealed. Pub. L. 113–291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]

Section, added Pub. L. 100–180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104–106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110–417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111–383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325, related to Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

## §139. Director of Operational Test and Evaluation

(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(2) In this section:

(A) The term "operational test and evaluation" means—

(i) the field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and

(ii) the evaluation of the results of such test.

(B) The term "major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 4201 of this title or that is designated as such a program by the Director for purposes of this section.

(b) The Director is the principal adviser to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering on operational test and evaluation in the Department of Defense and the principal operational test and evaluation official within the senior management of the Department of Defense. The Director shall—

(1) ensure that all operational test and evaluation activities are aligned with, and are conducted

in a manner that supports, the objectives of the defense acquisition system established pursuant to section 3102 of this title;

(2) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of operational test and evaluation in the Department of Defense;

(3) provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;

(4) monitor and review all operational test and evaluation in the Department of Defense;

(5) coordinate operational testing conducted jointly by more than one military department or defense agency;

(6) review and make recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities and equipment, in the Department of Defense;

(7) monitor and review the live fire testing activities of the Department of Defense provided for under section 4172 of this title; and

(8) have access to approved test and evaluation master plans and test strategies of the armed forces for purposes of conducting independent reviews of such plans and strategies.

(c) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Director shall consult closely with, but the Director and the Director's staff are independent of, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and all other officers and entities of the Department of Defense responsible for acquisition.

(d) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.

(e)(1) The Secretary of a military department shall report promptly to the Director the results of all operational test and evaluation conducted by the military department and of all studies conducted by the military department in connection with operational test and evaluation in the military department.

(2) The Director may require that such observers as he designates be present during the preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

(3) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out his duties under this section.

(4) The Director shall have prompt access to all data regarding modeling and simulation activity proposed to be used by military departments and defense agencies in support of operational or live fire test and evaluation of military capabilities. This access shall include data associated with verification, validation, and accreditation activities.

(f)(1) The Director of the Missile Defense Agency shall make available to the Director of Operational Test and Evaluation the results of all tests and evaluations conducted by the Missile Defense Agency and of all studies conducted by the Missile Defense Agency in connection with tests and evaluations in the Missile Defense Agency.

(2) The Director of Operational Test and Evaluation may require that such observers as the Director designates be present during the preparation for and the conducting of any test and evaluation conducted by the Missile Defense Agency.

(3) The Director of Operational Test and Evaluation shall have access to all records and data in the Department of Defense (including the records and data of the Missile Defense Agency) that the Director considers necessary to review in order to carry out his duties under this subsection.

(g) The Director shall ensure that safety concerns developed during the operational test and

evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.

(h)(1) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year.

(2) Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, the Secretaries of the military departments, and the Congress not later than January 31 of each year.

(3) If the Director submits the report to Congress in a classified or controlled unclassified form, the Director shall concurrently submit to Congress a version of the report that is unclassified and does not require safeguarding or dissemination controls.

(4) The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and evaluation activities. The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.

(5) The Director shall solicit comments from the Secretaries of the military departments on each report of the Director to Congress under this section and include any comments as an appendix to the Director's report. The Director shall determine the amount of time available for the Secretaries to comment on the draft report on a case by case basis, and consider the extent to which substantive discussions have already been held between the Director and the military department. The Director shall reserve the right to issue the report without comment from a military department if the department's comments are not received within the time provided, and shall indicate any such omission in the report.

(i) The Director shall comply with requests from Congress (or any committee of either House of Congress) for information relating to operational test and evaluation in the Department of Defense.

(j) The President shall include in the Budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the activities of the Director of Operational Test and Evaluation in carrying out the duties and responsibilities of the Director under this section.

(k) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law, and the Secretary of Defense shall ensure that the amount requested for the Office of the Director in the Department of Defense budget for each fiscal year is sufficient to enable the Director to fulfill the duties and responsibilities assigned by this section.

(l)(1) The Director may enter into contracts or other agreements with one or more federally funded research and development centers pursuant to which personnel of such centers may assist the Director with program oversight, including through—

(A) test planning, preparation, and monitoring;

(B) data collection;

(C) data analysis;

(D) drafting and reviewing test reports;

(E) providing technical expertise and support to program offices; and

(F) performing such other duties as the Director determines appropriate.

(2) The Secretary of Defense shall ensure that the Director has sufficient funding to enter into the contracts or other agreements for which authorization is provided under paragraph (1).

(Added Pub. L. 98–94, title XII, §1211(a)(1), Sept. 24, 1983, 97 Stat. 684, §136a; amended Pub. L. 99–348, title V, §501(c), July 1, 1986, 100 Stat. 708; renumbered §138 and amended Pub. L.

99–433, title I, §§101(a)(7), 110(d)(10), (g)(1), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99–500, §101(c) [title X, §§903(c), 910(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, 1783–145, and Pub. L. 99–591, §101(c) [title X, §§903(c), 910(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132, 3341–145; Pub. L. 99–661, div. A, title IX, formerly title IV, §§903(c), 910(c), Nov. 14, 1986, 100 Stat. 3912, 3924, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §7(a)(1), (c)(2), Apr. 21, 1987, 101 Stat. 275, 280; Pub. L. 100–180, div. A, title VIII, §801, Dec. 4, 1987, 101 Stat. 1123; Pub. L. 101–189, div. A, title VIII, §802(b), title XVI, §1622(e)(1), Nov. 29, 1989, 103 Stat. 1486, 1605; Pub. L. 101–510, div. A, title XIV, §1484(k)(1), Nov. 5, 1990, 104 Stat. 1719; renumbered §139 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(1), 904(d)(1), 907, Nov. 30, 1993, 107 Stat. 1726, 1728, 1730; Pub. L. 103–355, title III, §§3011–3013, Oct. 13, 1994, 108 Stat. 3331, 3332; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107–107, div. A, title II, §263, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1044, 1225; Pub. L. 107–314, div. A, title II, §235, Dec. 2, 2002, 116 Stat. 2491; Pub. L. 109–364, div. A, title II, §231(f), Oct. 17, 2006, 120 Stat. 2133; Pub. L. 110–181, div. A, title II, §221, Jan. 28, 2008, 122 Stat. 37; Pub. L. 110–417, [div. A], title II, §251(c), Oct. 14, 2008, 122 Stat. 4400; Pub. L. 114–328, div. A, title VIII, §845, Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115–232, div. A, title VIII, §887(a), Aug. 13, 2018, 132 Stat. 1916; Pub. L. 116–92, div. A, title VIII, §815, title IX, §902(4), Dec. 20, 2019, 133 Stat. 1487, 1542; Pub. L. 116–283, div. A, title II, §271, title XVIII, §§1845(c)(1), 1846(i)(1), Jan. 1, 2021, 134 Stat. 3502, 4247, 4251; Pub. L. 117–81, div. A, title II, §241, Dec. 27, 2021, 135 Stat. 1619; Pub. L. 117–263, div. A, title II, §231, Dec. 23, 2022, 136 Stat. 2486; Pub. L. 119–60, div. A, title IX, §904(a), title XVIII, §1801(a)(2)(B), Dec. 18, 2025, 139 Stat. 1009, 1222.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### PRIOR PROVISIONS

A prior section 139 was renumbered section 140 of this title.

Another prior section 139 was renumbered section 4205 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(1) to (6). Pub. L. 119–60, §1801(a)(2)(B), added par. (1) and redesignated former pars. (1) to (5) as (2) to (6), respectively.

Subsec. (b)(7). Pub. L. 119–60, §1801(a)(2)(B)(i), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Pub. L. 119–60, §904(a)(1), added par. (7).

Subsec. (b)(8). Pub. L. 119–60, §1801(a)(2)(B)(i), redesignated par. (7) as (8).

Subsec. (k). Pub. L. 119–60, §904(a)(2), inserted ", and the Secretary of Defense shall ensure that the amount requested for the Office of the Director in the Department of Defense budget for each fiscal year is sufficient to enable the Director to fulfill the duties and responsibilities assigned by this section" before period at end.

Subsec. (l). Pub. L. 119–60, §904(a)(3), added subsec. (l).

**2022**—Subsec. (h)(3). Pub. L. 117–263 inserted "or controlled unclassified" after "classified" and substituted "submit to Congress a version of the report that is unclassified and does not require safeguarding or dissemination controls" for "submit an unclassified version of the report to Congress".

**2021**—Subsec. (a)(2)(B). Pub. L. 116–283, §1846(i)(1), substituted "section 4201" for "section 2430".

Subsec. (b)(6). Pub. L. 116–283, §1845(c)(1), substituted "section 4172" for "section 2366".

Subsec. (h)(2). Pub. L. 117–81 struck out before period at end ", through January 31, 2026".

Pub. L. 116–283, §271, substituted "Engineering," for "Engineering,," and ", through January 31, 2026" for ", through January 31, 2025".

**2019**—Subsec. (b). Pub. L. 116–92, §902(4)(A), substituted ", the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering" for "and the Under Secretary of Defense for Acquisition, Technology, and Logistics" in two places.

Subsec. (c). Pub. L. 116–92, §902(4)(B), substituted "the Under Secretary of Defense for Acquisition and

Sustainment, the Under Secretary of Defense for Research and Engineering," for "the Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (h)(2). Pub. L. 116–92, §902(4)(B), substituted "the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering," for "the Under Secretary of Defense for Acquisition, Technology, and Logistics".

Pub. L. 116–92, §815(1), substituted ", through January 31, 2025" for ", through January 31, 2021".

Subsec. (h)(5). Pub. L. 116–92, §815(2), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "The Secretary of Defense and the Secretaries of the military departments may comment on any report of the Director to Congress under this subsection."

**2018**—Subsec. (e)(4). Pub. L. 115–232 added par. (4).

**2016**—Subsec. (h)(2). Pub. L. 114–328, §845(1), inserted "the Secretaries of the military departments," after "Logistics," and substituted "January 31 of each year, through January 31, 2021" for "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

Subsec. (h)(5). Pub. L. 114–328, §845(2), inserted "of Defense and the Secretaries of the military departments" after "Secretary".

**2008**—Subsec. (b)(3) to (7). Pub. L. 110–417 redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which required the Director to provide guidance to and consult with the officials described in par. (2) of subsec. (b) with respect to operational test and evaluation or survivability testing (or both) within the Department of Defense of force protection equipment.

Subsecs. (f) to (k). Pub. L. 110–181 added subsec. (f) and redesignated former subsecs. (f) to (j) as (g) to (k), respectively.

**2006**—Subsec. (b)(3) to (7). Pub. L. 109–364 added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

**2002**—Subsec. (g). Pub. L. 107–314, §235(b), designated first sentence as par. (1), second sentence as par. (2), third sentence as par. (3), fourth and fifth sentences as par. (4), and sixth sentence as par. (5).

Pub. L. 107–314, §235(a), inserted after fourth sentence "The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns."

**2001**—Subsec. (c). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (f). Pub. L. 107–107, §263(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Pub. L. 107–107, §263(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h) to (j). Pub. L. 107–107, §263(1), redesignated subsecs. (g) to (i) as (h) to (j), respectively.

**1999**—Subsec. (b). Pub. L. 106–65 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology" in introductory provisions and in par. (2).

**1994**—Subsec. (b)(6). Pub. L. 103–355, §3012(a), added par. (6).

Subsec. (c). Pub. L. 103–355, §3011, inserted "The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense." after "(c)".

Subsec. (f). Pub. L. 103–355, §§3012(b), 3013, in first sentence inserted "(including live fire testing activities)" after "operational test and evaluation activities" and after second sentence inserted "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress."

**1993**—Pub. L. 103–160, §901(a)(1), renumbered section 138 of this title as this section.

Subsec. (b). Pub. L. 103–160, §904(d)(1), substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition" in introductory provisions and in par. (2).

Subsec. (c). Pub. L. 103–160, §907, struck out "The Director reports directly, without intervening review or approval, to the Secretary of Defense personally." after "(c)" and substituted "Under Secretary of Defense for Acquisition and Technology" for "Director of Defense Research and Engineering" and "responsible for acquisition" for "responsible for research and development".

Subsec. (f). Pub. L. 103–160, §904(d)(1), substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1990**—Subsec. (a)(2)(A). Pub. L. 101–510, §1484(k)(1)(A), substituted "(A) The term 'operational test and evaluation" for "(A) 'Operational test and evaluation".

Subsec. (a)(2)(B). Pub. L. 101–510, §1484(k)(1)(B), substituted "(B) The term 'major defense acquisition program" for "(B) 'Major defense acquisition program".

**1989**—Subsec. (a)(2)(A). Pub. L. 101–189, §1622(e)(1)(A), which directed amendment of subpar. (A) by substituting "(A) The term 'operational' " for "(A) 'Operational' ", could not be executed because a closing quotation mark did not follow "Operational".

Subsec. (a)(2)(B). Pub. L. 101–189, §1622(e)(1)(B), which directed amendment of subpar. (B) by substituting "(B) The term 'major' " for "(B) 'Major' ", could not be executed because a closing quotation mark did not follow "Major".

Subsec. (b)(4). Pub. L. 101–189, §802(b)(1)(A), inserted "and" after "defense agency;".

Subsec. (b)(5), (6). Pub. L. 101–189, §802(b)(1)(B), (C), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "analyze the results of the operational test and evaluation conducted for each major defense acquisition program and, at the conclusion of such operational test and evaluation, report to the Secretary of Defense, to the Under Secretary of Defense for Acquisition, and to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives as provided in subsection (c) on—

"(A) whether the test and evaluation performed was adequate; and

"(B) whether the test and evaluation results confirm that the items or components actually tested are effective and suitable for combat; and".

Subsec. (c). Pub. L. 101–189, §802(b)(2), (3), redesignated subsec. (d)(1) as (c) and struck out former subsec. (c) which read as follows: "Each report of the Director required under subsection (b)(5) shall be submitted to the committees specified in that subsection in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report."

Subsec. (d). Pub. L. 101–189, §802(b)(4), redesignated former par. (2) of subsec. (d) as entire subsec. Former par. (1) of subsec. (d) redesignated subsec. (c).

Subsec. (f). Pub. L. 101–189, §802(b)(5)–(7), redesignated subsec. (g)(1) as (f), substituted "this subsection" for "this paragraph", and struck out former subsec. (f) which read as follows:

"(1) Operational testing of a major defense acquisition program may not be conducted until the Director has approved in writing the adequacy of the plans (including the adequacy of projected levels of funding) for operational test and evaluation to be conducted in connection with that program.

"(2) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program required by subsection (b)(5) and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have received that report."

Subsec. (g). Pub. L. 101–189, §802(b)(6), (8), redesignated former par. (2) of subsec. (g) as entire subsec. (g), and redesignated former par. (1) of subsec. (g) as subsec. (f).

**1987**—Subsec. (a)(2)(B). Pub. L. 100–26, §7(c)(2), substituted "section 2430" for "section 2432(a)(1)".

Subsec. (c). Pub. L. 100–26, §7(a)(1), substituted "to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report." for "to the Secretary, to the Under Secretary of Defense for Acquisition, and shall be accompanied by such comments as the Secretary of Defense may wish to make on such report."

Subsec. (d). Pub. L. 100–180 designated existing provisions as par. (1) and added par. (2).

**1986**—Pub. L. 99–433, §§101(a)(7), 110(d)(10), renumbered section 136a of this title as this section, and struck out ": appointment; powers and duties" at end of section catchline.

Subsec. (a)(2)(B). Pub. L. 99–433, §110(g)(1), substituted "section 2432(a)(1)" for "section 139a(a)(1)".

Subsec. (b). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(1)–(3)] and Pub. L. 99–661, §903(c)(1)–(3), amended subsec. (b) identically, in provisions preceding par. (1) and in par. (2), inserting "and the Under Secretary of Defense for Acquisition" and, in par. (5), inserting ", to the Under Secretary of Defense for Acquisition,".

Subsec. (c). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(4)], and Pub. L. 99–661, §903(c)(4), amended subsec. (c) identically by directing the insertion of ", to the Under Secretary of Defense for Acquisition," after "Secretary of Defense" the first place it appears which was executed by making the insertion after "the Secretary" the first place it appears as the probable intent of Congress.

Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(5)], and Pub. L. 99–661, §903(c)(5), amended subsec. (d) identically inserting "personally" after "Secretary of Defense".

Pub. L. 99–348 substituted "Director of Defense Research and Engineering" for "Under Secretary of Defense for Research and Engineering".

Subsec. (g)(1). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§§903(c)(6), 910(c)], and Pub. L. 99–661,

§§903(c)(6), 910(c), amended par. (1) identically, inserting ", the Under Secretary of Defense for Acquisition," and substituting "10 days after transmission of the budget for the next fiscal year under section 1105 of title 31" for "January 15 immediately following the end of the fiscal year for which the report is prepared".

Subsec. (i). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(7)], and Pub. L. 99–661, §903(c)(7), amended section identically adding subsec. (i).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by sections 1845(c)(1) and 1846(i)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 98–94, title XII, §1211(c), Sept. 24, 1983, 97 Stat. 686, provided that: "The amendments made by this section [enacting this section and amending section 5315 of Title 5, Government Organization and Employees] shall take effect on November 1, 1983."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### CONGRESSIONALLY DIRECTED PROGRAMS FOR TEST AND EVALUATION OVERSIGHT

Pub. L. 119–60, div. A, title II, §219, Dec. 18, 2025, 139 Stat. 778, provided that:

"(a) REQUIREMENT.—The Director of Operational Test and Evaluation shall include in the annual report required by section 139(h) of title 10, United States Code, an assessment of the operational and live fire test and evaluation activities for—

"(1) command and control and data integration architecture for layered integrated missile defense of the homeland;

"(2) the Joint Fires Network; and

"(3) the Cryptographic Modernization Program.

"(b) ALTERNATIVE PATHWAY.—For any effort under subsection (a) assigned to the software acquisition pathway pursuant to section 3603 of title 10, United States Code, the Director of Operational Test and Evaluation shall assess the effort in accordance with the alternative test and evaluation pathway established by section 218 of this Act [10 U.S.C. 4171 note]."

### REQUIREMENT TO MAINTAIN CERTAIN TEST AND EVALUATION ACTIVITIES

Pub. L. 119–60, div. A, title IX, §904(b), Dec. 18, 2025, 139 Stat. 1009, provided that:

"(1) LIMITATION.—During the period beginning on the date of the enactment of this Act [Dec. 18, 2025] and ending on September 30, 2027, the Secretary of Defense may not—

"(A) divest or consolidate a capability specified in paragraph (2);

"(B) transfer responsibility for such a capability away from the organization responsible for the capability as of the date of the enactment of this Act; or

"(C) take any other action that would reduce the scope or effectiveness of the capability.

"(2) CAPABILITIES DESCRIBED.—The capabilities specified in this paragraph are—

"(A) the Cyber Assessment Program;

"(B) the Center for Countermeasures;

"(C) the Test and Evaluation Threat Resource Activity;

"(D) the Joint Technical Coordinating Group for Munitions Effectiveness Program;

"(E) the Joint Aircraft Survivability Program;

"(F) the Joint Test and Evaluation Program; and

"(G) the Test and Evaluation Transformation Program.

"(3) WAIVER.—The Secretary of Defense, acting through the Director of Operational Test and Evaluation, may a waive the limitation under paragraph (1) with respect to capability specified in paragraph (2), on a case-by-case basis, if—

"(A) the Secretary submits to the congressional defense committees [Committees on Armed Services

and Appropriations of the Senate and the House of Representatives] a plan for divesting, consolidating, transferring, or otherwise reducing the scope or effectiveness the capability (as the case may be), which shall include—

"(i) in the case of a capability proposed to be transferred to another organization within the Department of Defense—

"(I) identification of the organization to which such capability will be transferred; and

"(II) an explanation of the level of resources needed to sustain such capability at the new organization, staffing levels for the capability at such organization, and any agreements needed to implement the proposed transfer; and

"(ii) in the case of a capability proposed to be divested or consolidated by the Secretary, a justification for the divestment or consolidation together with an explanation of how the proposed divestment or consolidation will not result in a loss of capabilities or functions in a manner that poses a risk to any mission of the Department of Defense; and

"(B) a period of 30 days has elapsed following the date on which the plan under subparagraph (A) was submitted.

"(4) RESOURCES.—The Secretary of Defense shall ensure that sufficient funding and personnel are made available to the Director of Operational Test and Evaluation to maintain the capabilities specified in paragraph (2) during the period in which the limitation under paragraph (1) applies."

## ANNUAL ASSESSMENT OF BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 116–92, div. A, title XVI, §1689, Dec. 20, 2019, 133 Stat. 1789, provided that:

"(a) ANNUAL ASSESSMENT.—As part of the annual report of the Director of Operational Test and Evaluation submitted to Congress under section 139 of title 10, United States Code, the Director shall include an assessment of the ballistic missile defense system and all of the elements of the system that have been fielded or are planned, as of the date of the assessment, including—

"(1) the operational effectiveness, suitability, and survivability of the ballistic missile defense system and the elements of the system that have been fielded or tested; and

"(2) the adequacy and sufficiency of the test program of such system as of the date of the assessment, including with respect to the operational realism of the tests.

"(b) FORM.—Each assessment under subsection (a) may be submitted in unclassified form, and may include a classified annex."

## ADDITIONAL TESTING DATA

Pub. L. 115–232, div. A, title VIII, §887(b), Aug. 13, 2018, 132 Stat. 1916, provided that: "Developmental Test and Evaluation activities under the leadership of the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment shall have prompt access to all data regarding modeling and simulation activity proposed to be used by military departments and defense agencies in support of developmental test and evaluation of military capabilities. This access shall include data associated with verification, validation, and accreditation activities."

## REVIEW AND REVISION OF POLICIES AND PRACTICES ON TEST AND EVALUATION; INCLUSION IN STRATEGIC PLAN; REPORT

Pub. L. 109–364, div. A, title II, §231(b)–(e), Oct. 17, 2006, 120 Stat. 2132, 2133, as amended by Pub. L. 117–263, div. A, title VIII, §804(d)(4), Dec. 23, 2022, 136 Stat. 2701, provided that:

"(b) REVIEW AND REVISION OF POLICIES AND PRACTICES.—

"(1) REVIEW.—During fiscal year 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Operational Test and Evaluation shall review Department of Defense policies and practices on test and evaluation in order to—

"(A) reaffirm the test and evaluation principles that should guide traditional acquisition programs; and

"(B) determine how best to apply appropriate test and evaluation principles to emerging acquisition approaches.

"(2) REVISED GUIDANCE.—If the Under Secretary determines as a result of the review under paragraph (1) that a revision of the policies and practices referred to in that paragraph is necessary, the Under Secretary and the Director shall jointly issue new or revised guidance for the Department of Defense on test and evaluation to address that determination.

"(c) ISSUES TO BE ADDRESSED.—In carrying out subsection (b), the Under Secretary shall address policies and practices on test and evaluation in order to—

"(1) ensure the performance of test and evaluation activities with regard to—

"(A) items that are acquired pursuant to the authority for rapid acquisition and deployment of items in section 3601 of title 10, United States Code;

"(B) programs that are conducted pursuant to the authority for spiral development in [former] section 803 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2603; [former] 10 U.S.C. 2430 note), or other authority for the conduct of incremental acquisition programs;

"(C) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

"(D) equipment that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code [now 10 U.S.C. 4172, 4171], but that may require limited operational test and evaluation for the purpose of ensuring the safety and survivability of such equipment and personnel using such equipment; and

"(2) ensure the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for the purpose of section 2366a of title 10, United States Code [now 10 U.S.C. 4251], and other applicable technology readiness requirements.

"(d) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director, Test Resource Management Center, shall ensure that the strategic plan for Department of Defense test and evaluation resources developed pursuant to section 196 of title 10, United States Code [now 10 U.S.C. 4173]—

"(1) reflects any testing needs of the Department of Defense that are identified as a result of activities under subsection (b); and

"(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

"(e) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act [Oct. 17, 2006], the Under Secretary and the Director of Operational Test and Evaluation shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the review conducted under paragraph (1) of subsection (b), including any new or revised guidance issued pursuant to paragraph (2) of that subsection."

## §139a. Director of Cost Assessment and Program Evaluation

(a) APPOINTMENT.—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.

(b) INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.—(1) The Director of Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

(A) Matters assigned to the Director pursuant to this section and section 3221 of this title.

(B) Matters assigned to the Director by the Secretary pursuant to section 113 of this title.

(2) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:

(1) The Deputy Director for Cost Assessment.

(2) The Deputy Director for Program Evaluation.

(d) RESPONSIBILITIES.—The Director of Cost Assessment and Program Evaluation shall carry out the requirements of this section in accordance with the objectives established pursuant to section 3102 of this title and shall serve as the principal official within the senior management of the Department of Defense for the following:

(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section section 3221 of this title.

(2) Analysis and advice on matters relating to the planning and programming phases of the

Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense.

(5) Review, analysis, and evaluation of programs for executing approved strategies and policies and ensuring that information on programs is presented accurately and completely.

(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the Under Secretary of Defense for Intelligence and Security and in accordance with applicable policies.

(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources, including the standardization of analytical methodologies and the establishment and maintenance of a centralized knowledge repository of physical attributes or other data for modeling and simulation purposes.

(9) Performing the duties assigned to the Director in section 2222 of this title.

(e) PROGRAM EVALUATION COMPETITIVE ANALYSIS CELL.—

(1) Not later than June 1, 2024, the Secretary of Defense shall establish a team, to be known as the "Program Evaluation Competitive Analysis Cell" (referred to in this subsection as the "Cell"), to critically assess the analytical methodologies, assumptions, and data used in key strategic and operational analyses conducted by the Director of Cost Assessment and Program Evaluation.

(2) The Secretary of Defense shall—

(A) designate an individual to serve as the head of the Cell; and

(B) ensure that the Cell has a sufficient number of personnel to carry out the duties described in this subsection.

(3) The Cell shall be independent of the Director of Cost Assessment and Program Evaluation. The head of the Cell shall report directly to the Secretary of Defense or the Deputy Secretary of Defense.

(4)(A) Not less frequently than once every two years, the Cell shall conduct an alternative operational or strategic analysis of an analytical question identified by the Chairman of the Joint Chiefs of Staff under subparagraph (B). In conducting such alternative analysis, the Cell shall use assumptions different from the assumptions used by the Director of Cost Assessment and Program Evaluation for the original analysis of such question.

(B) For purposes of each alternative analysis required under subparagraph (A), at an appropriate time before the commencement of such analysis—

(i) the Director of the Joint Staff shall submit to the Chairman of the Joint Chiefs of Staff a list of not fewer than three operational or strategic questions previously studied by the Director of Cost Assessment and Program Evaluation that could potentially serve as the basis of for such alternative analysis; and

(ii) from such list, the Chairman shall select one question to serve as the basis for such analysis.

(f) INCLUSION OF RISK ESTIMATES IN CERTAIN SUBMISSIONS.—In any case in which the Director of Cost Assessment and Program Evaluation submits to the Secretary of Defense an analytical product that recommends not meeting or changing a requirement established by the Joint

Requirements Oversight Council, the Director shall include with such submission—

(1) a risk assessment that assesses any risks of the recommended course of action with respect to the execution of operational plans and the long-term ability of the armed forces to meet the needs of combatant commanders (as determined by the Secretary of Defense); and

(2) a risk estimate from the military service in question that assesses the risks described in paragraph (1).

(g) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than February 1, 2024, and annually thereafter, the Director of Cost Assessment and Program Evaluation shall submit to the congressional defense committees a report on any strategic and operational analyses conducted under paragraphs (2), (3), (6), (7), or (8) of subsection (d). Each report shall include—

(A) a review of strategic portfolio reviews completed in the fiscal year preceding submission of the report and a description of such reviews planned for the fiscal year that begins after submission of the report;

(B) a review of analyses of alternatives completed in the fiscal year preceding submission of the report and a description of such analyses planned for the fiscal year that begins after submission of the report; and

(C) a review of defense program projections completed in the fiscal year preceding submission of the report and a description of such projections planned for the fiscal year that begins after submission of the report.

(2) FORM.—Each report required by paragraph (1) shall be submitted in classified form, but shall include an unclassified summary.

(3) BRIEFINGS.—Not later than 15 days after the submission of each report required by paragraph (1), the Director of Cost Assessment and Program Evaluation shall provide to the congressional defense committees a briefing on the contents of the report.

(h) QUARTERLY BRIEFINGS.—Beginning not later than 30 days after the date of the enactment of this subsection, and on a quarterly basis thereafter, the Director of Cost Assessment and Program Evaluation shall provide to the congressional defense committees a briefing on the activities carried out by the Director during the preceding quarter and any ongoing activities of the Director as of the date of briefing.

(Added Pub. L. 111–23, title I, §101(a)(1), May 22, 2009, 123 Stat. 1705, §139c; renumbered §139a and amended Pub. L. 111–383, div. A, title IX, §901(f), title X, §1075(b)(5), Jan. 7, 2011, 124 Stat. 4322, 4369; Pub. L. 112–239, div. A, title X, §1076(f)(4), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 115–91, div. A, title IX, §912(c), Dec. 12, 2017, 131 Stat. 1521; Pub. L. 116–92, div. A, title IX, §902(5), title XVI, §1621(e)(1)(A)(iii), Dec. 20, 2019, 133 Stat. 1543, 1733; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294; Pub. L. 118–31, div. A, title IX, §902(a), Dec. 22, 2023, 137 Stat. 355; Pub. L. 118–159, div. A, title XVII, §1701(a)(3), Dec. 23, 2024, 138 Stat. 2203; Pub. L. 119–60, div. A, title XVII, §1701(a)(4), title XVIII, §1801(a)(2)(C), Dec. 18, 2025, 139 Stat. 1208, 1222.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### PRIOR PROVISIONS

A prior section 139a was renumbered section 138b of this title.

Another prior section 139a was renumbered section 4351 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(1)(A). Pub. L. 119–60, §1701(a)(4), substituted "section 3221" for "section 2334".

Subsec. (d). Pub. L. 119–60, §1801(a)(2)(C), in introductory provisions, inserted "shall carry out the requirements of this section in accordance with the objectives established pursuant to section 3102 of this title and" before "shall serve".

Subsec. (d)(1). Pub. L. 119–60, §1701(a)(4), substituted "section 3221" for "section 2334".

**2024**—Subsec. (h). Pub. L. 118–159 substituted "out by the Director" for "out by Director" and "and any" for "an any".

**2023**—Subsec. (d)(5). Pub. L. 118–31, §902(a)(1)(A), substituted "and ensuring" for ", ensuring" and struck out ", and assessing the effect of spending by the Department of Defense on the United States economy" after "accurately and completely".

Subsec. (d)(8). Pub. L. 118–31, §902(a)(1)(B), inserted ", including the standardization of analytical methodologies and the establishment and maintenance of a centralized knowledge repository of physical attributes or other data for modeling and simulation purposes" after "defense resources".

Subsecs. (e) to (h). Pub. L. 118–31, §902(a)(2), added subsecs. (e) to (h).

**2021**—Subsecs. (b)(1)(A), (d)(1). Pub. L. 116–283, which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2334", which was redesignated as multiple sections.

**2019**—Subsec. (d)(6). Pub. L. 116–92, §1621(e)(1)(A)(iii), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

Pub. L. 116–92, §902(5), substituted "Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering," for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2017**—Subsec. (d)(9). Pub. L. 115–91 added par. (9).

**2013**—Subsec. (d)(4). Pub. L. 112–239, which directed amendment of par. (4) by inserting a period at end, was not executed to reflect the probable intent of Congress and the prior amendment by Pub. L. 111–383, §1075(b)(5). See 2011 Amendment note below.

**2011**—Pub. L. 111–383, §901(f), renumbered section 139c of this title as this section.

Subsec. (d)(4). Pub. L. 111–383, §1075(b)(5), which directed amendment of section 139c of this title by inserting a period at the end of subsec. (d)(4), was executed to this section, to reflect the probable intent of Congress and the renumbering of section 139c of this title as this section by Pub. L. 111–383, §901(f). See above.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(f) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### TRANSFER OF PERSONNEL AND FUNCTIONS

Pub. L. 111–23, title I, §101(c), May 22, 2009, 123 Stat. 1709, provided that:

"(1) TRANSFER OF FUNCTIONS.—The functions of the Office of Program Analysis and Evaluation of the Department of Defense, including the functions of the Cost Analysis Improvement Group, are hereby transferred to the Office of the Director of Cost Assessment and Program Evaluation.

"(2) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR INDEPENDENT COST ASSESSMENT.—The personnel of the Cost Analysis Improvement Group are hereby transferred to the Deputy Director for Cost Assessment in the Office of the Director of Cost Assessment and Program Evaluation.

"(3) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR PROGRAM ANALYSIS AND EVALUATION.—The personnel (other than the personnel transferred under paragraph (2)) of the Office of Program Analysis and Evaluation are hereby transferred to the Deputy Director for Program Evaluation in the Office of the Director of Cost Assessment and Program Evaluation."

**PILOT PROGRAM ON ALTERNATIVE ANALYSIS; ESTABLISHMENT OF ANALYSIS WORKING GROUP**

Pub. L. 118–31, div. A, title IX, §902(b)–(d), Dec. 22, 2023, 137 Stat. 357, 358, provided that:

"(b) PILOT PROGRAM ON ALTERNATIVE ANALYSIS.—

"(1) IN GENERAL.—Not later than May 1, 2024, the Director of Cost Assessment and Program Evaluation shall establish a pilot program on alternative analysis (referred to in this subsection as the 'pilot program').

"(2) STRUCTURE.—Under the pilot program, the Director shall establish three analytical groups focused on programmatic analysis in the following:

"(A) Year 1 of the future-years defense program under section 221 of title 10, United States Code, beginning with fiscal year 2025.

"(B) Years 2 through 5 of the future-years defense program.

"(C) Years outside the future-years defense program.

"(3) REQUIREMENTS.—The Director shall ensure that at least one strategic portfolio review or an equivalent analytical effort is conducted each year under the pilot program.

"(4) TERMINATION.—The pilot program shall terminate on September 30, 2028.

"(c) ESTABLISHMENT OF ANALYSIS WORKING GROUP.—

"(1) IN GENERAL.—Not later than May 1, 2024, the Secretary of Defense shall establish within the Department of Defense a working group to be known as the 'Analysis Working Group'.

"(2) PERSONNEL.—The Secretary of Defense shall ensure that the Analysis Working Group possesses sufficient full-time equivalent support personnel to carry out the duties of the Group, including expansive coordination activities across the Department of Defense.

"(3) MEMBERSHIP.—

"(A) REGULAR MEMBERS.—The Analysis Working Group shall be composed of at least one representative from each of the following components of the Department of Defense:

"(i) The Office of the Director of Cost Assessment and Program Evaluation.

"(ii) The Directorate for Joint Force Development (J7) of the Joint Staff.

"(iii) The Directorate for Force Structure, Resources, and Assessment (J8) of the Joint Staff.

"(iv) The Office of the Secretary of Defense for Policy.

"(v) The Chief Digital and Artificial Intelligence Office.

"(B) OBSERVERS.—At least one representative from each of the following commands shall serve as observers of the Analysis Working Group:

"(i) The United States Indo-Pacific Command.

"(ii) The United States European Command.

"(iii) The United States Central Command.

"(4) DUTIES.—The Analysis Working Group shall—

"(A) establish clear priorities and standards to focus analysts on decision support;

"(B) improve transparency of methodologies, tools, and tradecraft across the analytic community, including testing and validation for new or emerging methodologies, tools, and tradecraft;

"(C) improve quality of and expand access to data, including evaluation of new data sets, or application of existing data sets in new or novel ways;

"(D) evolve the methodologies, tools, and tradecraft methods and tools used in strategic analysis;

"(E) resolve classified access and infrastructure challenges;

"(F) foster a workforce and organizations that are innovative, creative, and provide high-quality strategic decision support; and

"(G) carry out such other activities as the Secretary of Defense determines appropriate.

"(d) RULE OF CONSTRUCTION.—Nothing in subsection (b) or (c) shall be construed to interfere with the authority of the Chiefs of Staff of the Armed Forces to establish military requirements, performance requirements, and joint performance requirements, or the authority of the Joint Requirements Oversight Council to validate such requirements under section 181 of title 10, United States Code."

## §139b. Secretariat for Special Operations; Special Operations Policy and Oversight Council

(a) SECRETARIAT FOR SPECIAL OPERATIONS.—

(1) IN GENERAL.—In order to fulfill the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict specified in section 138(b)(2)(A)(i) of this title,

there shall be within the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict an office to be known as the "Secretariat for Special Operations".

(2) PURPOSE.—The purpose of the Secretariat is to assist the Assistant Secretary in exercising authority, direction, and control with respect to the special operations-peculiar administration and support of the special operations command, including the readiness and organization of special operations forces, resources and equipment, and civilian personnel as specified in such section.

(3) DIRECTOR.—The Director of the Secretariat for Special Operations shall be appointed by the Secretary of Defense from among individuals qualified to serve as the Director. An individual serving as Director shall, while so serving, be a member of the Senior Executive Service.

(4) ADMINISTRATIVE CHAIN OF COMMAND.—For purposes of the support of the Secretariat for the Assistant Secretary in the fulfillment of the responsibilities referred to in paragraph (1), the administrative chain of command is as specified in section 167(f) of this title. Unless otherwise directed by the President, no officer below the Secretary of Defense (other than the Assistant Secretary) may intervene to exercise authority, direction, or control over the Secretariat in its support of the Assistant Secretary in the discharge of such responsibilities.

(b) SPECIAL OPERATIONS POLICY AND OVERSIGHT COUNCIL.—

(1) IN GENERAL.—In order to fulfill the responsibilities specified in section 138(b)(2)(A)(i) of this title, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall establish and lead a team known as the "Special Operation Policy and Oversight Council" (in this subsection referred to as the "Council").

(2) PURPOSE.—The purpose of the Council is to integrate the functional activities of the headquarters of the Department of Defense in order to most efficiently and effectively provide for special operations forces and capabilities. In fulfilling this purpose, the Council shall develop and continuously improve policy, joint processes, and procedures that facilitate the development, acquisition, integration, employment, and sustainment of special operations forces and capabilities.

(3) MEMBERSHIP.—The Council shall include the following:

(A) The Assistant Secretary.

(B) Appropriate senior representatives of each of the following:

(i) The Under Secretary of Defense for Research and Engineering.

(ii) The Under Secretary of Defense for Acquisition and Sustainment.

(iii) The Under Secretary of Defense (Comptroller).

(iv) The Under Secretary of Defense for Personnel and Readiness.

(v) The Under Secretary of Defense for Intelligence.

(vi) The General Counsel of the Department of Defense.

(vii) The other Assistant Secretaries of Defense under the Under Secretary of Defense for Policy.

(viii) The military departments.

(ix) The Joint Staff.

(x) The United States Special Operations Command.

(xi) Such other officers or Agencies, elements, or components of the Department of Defense as the Secretary of Defense considers appropriate.

(4) OPERATION.—The Council shall operate continuously.

(Added Pub. L. 114–328, div. A, title IX, §922(b)(1), Dec. 23, 2016, 130 Stat. 2355; amended Pub. L. 115–91, div. A, title X, §1081(a)(7), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 116–92, div. A, title XVI, §1621(e)(1)(A)(iv), Dec. 20, 2019, 133 Stat. 1733; Pub. L. 116–283, div. A, title IX, §902(b)(1), Jan. 1, 2021, 134 Stat. 3795.)

## EDITORIAL NOTES

## PRIOR PROVISIONS

A prior section 139b, added Pub. L. 111–23, title I, §102(a)(1), May 22, 2009, 123 Stat. 1710, §139d; renumbered §139b and amended Pub. L. 111–383, div. A, title IX, §901(e), (f), (k)(1)(E), title X, §1075(b)(6), Jan. 7, 2011, 124 Stat. 4321, 4322, 4325, 4369; Pub. L. 112–81, div. A, title VIII, §835(b), Dec. 31, 2011, 125 Stat. 1507; Pub. L. 112–239, div. A, title IX, §904(a)–(d), (f), (g), title X, §1076(f)(5), Jan. 2, 2013, 126 Stat. 1866, 1867, 1952; Pub. L. 113–291, div. A, title II, §221(a), Dec. 19, 2014, 128 Stat. 3330; Pub. L. 114–92, div. A, title VIII, §832, title X, §1078(b), Nov. 25, 2015, 129 Stat. 913, 998, related to Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering; support of major defense acquisition programs; annual and biennial report requirements; and joint guidance in certain areas, prior to repeal by Pub. L. 114–328, div. A, title IX, §901(e)(2), Dec. 23, 2016, 130 Stat. 2342.

Another prior section 139b was renumbered section 138c of this title and was subsequently repealed.

Another prior section 139b was renumbered sections 4371 to 4375 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 amended section generally. Prior to amendment, section related to Special Operations Policy and Oversight Council.

**2019**—Subsec. (c)(2)(E). Pub. L. 116–92 substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

**2017**—Subsec. (c)(2)(K). Pub. L. 115–91 inserted period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### OPTIMIZATION OF IRREGULAR WARFARE TECHNICAL SUPPORT DIRECTORATE

Pub. L. 117–81, div. A, title X, §1071, Dec. 27, 2021, 135 Stat. 1913, provided that:

"(a) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for improving the support provided by the Irregular Warfare Technical Support Directorate to meet military requirements. Such plan shall include the following:

"(1) Specific actions to—

"(A) ensure adequate focus on rapid fielding of required capabilities;

"(B) improve metrics and methods for tracking projects that have transitioned into programs of record; and

"(C) minimize overlap with other research, development, and acquisition efforts.

"(2) Such other matters as the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict considers relevant.

"(b) DEPARTMENT OF DEFENSE INSTRUCTION REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, in coordination with the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, and the Secretaries of the military departments, shall publish an updated Department of Defense Instruction in order to—

"(1) define the objectives, organization, mission, customer base, and role of the Irregular Warfare Technical Support Directorate;

"(2) ensure coordination with external program managers assigned to the military departments and the United States Special Operations Command;

"(3) facilitate adequate oversight by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the Under Secretary of Defense for Research and Engineering, and the Under Secretary of Defense for Acquisition and Sustainment; and

"(4) address such other matters as the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict considers relevant."

## [§139c. Repealed. Pub. L. 114–328, div. A, title IX, §901(e)(2), Dec. 23, 2016, 130 Stat. 2342]

Section, added §139e and renumbered §139c, Pub. L. 111–383, div. A, title VII, §896(a), title IX, §901(f), Jan. 7, 2011, 124 Stat. 4314, 4322; amended Pub. L. 112–81, div. A, title VIII, §855, Dec. 31, 2011, 125 Stat. 1521; Pub. L. 112–239, div. A, title IX, §901(a), (b), title X, §1076(a)(13), (b)(3), Jan. 2, 2013, 126 Stat.

1863, 1864, 1948, 1949; Pub. L. 114–328, div. A, title X, §1081(b)(4)(A), Dec. 23, 2016, 130 Stat. 2419, related to Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

A prior section 139c was renumbered section 139a of this title.

Another prior section 139c was renumbered section 2434 of this title.

## [§§139d, 139e. Renumbered §§139b, 139c]

## §140. General Counsel

(a) There is a General Counsel of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel is the chief legal officer of the Department of Defense. He shall perform such functions as the Secretary of Defense may prescribe.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 519, §137; amended Pub. L. 88–426, title III, §305(9), Aug. 14, 1964, 78 Stat. 423; renumbered §139 and amended Pub. L. 99–433, title I, §§101(a)(7), 110(d)(11), Oct. 1, 1986, 100 Stat. 995, 1003; renumbered §140, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 137(a) | [Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (1st 25 words of 1st sentence), 67 Stat. 639]. | 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4, 67 Stat. 639. |
| 137(b) | [Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (1st sentence, less 1st 25 words), 67 Stat. 639]. | |
| 137(c) | [Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (2d sentence), 67 Stat. 639]. | |

In subsection (b), the words "from time to time" are omitted as surplusage.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 140 was renumbered section 141 of this title.

Another prior section 140 was renumbered section 127 of this title.

### AMENDMENTS

**1993**—Pub. L. 103–160 renumbered section 139 of this title as this section.

**1986**—Pub. L. 99–433, §§101(a)(7), 110(d)(11), renumbered section 137 of this title as this section, and struck out ": powers and duties" at end of section catchline.

**1964**—Subsec. (c). Pub. L. 88–426 repealed subsec. (c) which related to compensation of General Counsel. See section 5315 of Title 5, Government Organization and Employees.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88–426, see section 501 of Pub. L. 88–426.

## [§140a. Renumbered §422]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 140a was renumbered section 421 of this title.

## [§140b. Renumbered §423]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 140b was renumbered section 129 of this title.

## [§140c. Renumbered §130]

## §141. Inspector General

(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 403 of title 5.

(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in chapter 4 of title 5.

(Added Pub. L. 99–433, title I, §108, Oct. 1, 1986, 100 Stat. 998, §140; renumbered §141, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 117–286, §4(b)(26), Dec. 27, 2022, 136 Stat. 4346.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 141 was renumbered section 138d of this title.

Another prior section 141 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

**AMENDMENTS**

**2022**—Subsec. (a). Pub. L. 117–286, §4(b)(26)(A), substituted "section 403 of title 5." for "section 3 of the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App. 3)."

Subsec. (b). Pub. L. 117–286, §4(b)(26)(B), substituted "chapter 4 of title 5." for "the Inspector General Act of 1978."

**1993**—Pub. L. 103–160 renumbered section 140 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**INSPECTOR GENERAL OVERSIGHT OF DIVERSITY AND INCLUSION IN DEPARTMENT OF DEFENSE; SUPREMACIST, EXTREMIST, OR CRIMINAL GANG ACTIVITY IN THE ARMED FORCES**

Pub. L. 116–283, div. A, title V, §554, Jan. 1, 2021, 134 Stat. 3633, as amended by Pub. L. 117–81, div. A, title V, §549K, Dec. 27, 2021, 135 Stat. 1731, which related to Inspector General oversight of diversity and

inclusion in Department of Defense and the establishment of policies, processes, and mechanisms for supremacist, extremist, or criminal gang activity in certain Armed Forces, was repealed by Pub. L. 119–60, div. A, title IX, §901(d), Dec. 18, 2025, 139 Stat. 1007.

## §142. Chief Information Officer

(a) There is a Chief Information Officer of the Department of Defense, who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer.

(b)(1) The Chief Information Officer of the Department of Defense—

(A) is the Chief Information Officer of the Department of Defense for the purposes of sections 3506(a)(2) and 3544(a)(3) of title 44;

(B) has the responsibilities and duties specified in sections 11315 and 11319 of title 40;

(C) has the responsibilities specified for the Chief Information Officer in sections 2223(a) and 2224 of this title;

(D) exercises authority, direction, and control over the Activities of the Cybersecurity Directorate, or any successor organization, of the National Security Agency, funded through the Information Systems Security Program;

(E) exercises authority, direction, and control over the Defense Information Systems Agency, or any successor organization;

(F) has the responsibilities for policy, oversight, guidance, and coordination for all Department of Defense matters related to electromagnetic spectrum, including coordination with other Federal and industry agencies, coordination for classified programs, and in coordination with the Under Secretary for Personnel and Readiness, policies related to spectrum management workforce;

(G) has the responsibilities for policy, oversight, and guidance for matters related to precision navigation and timing; and

(H) has the responsibilities for policy, oversight, and guidance for the architecture and programs related to the information technology, networking, information assurance, cybersecurity, and cyber capability architectures of the Department.

(2)(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require the Secretaries of the military departments and the heads of the Defense Agencies with responsibilities associated with any activity specified in paragraph (1) to transmit the proposed budget for such activities for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Chief Information Officer for review under subparagraph (B) before submitting the proposed budget to the Under Secretary of Defense (Comptroller).

(B) The Chief Information Officer shall review each proposed budget transmitted under subparagraph (A) and, not later than January 31 of the year preceding the fiscal year for which the budget is proposed, shall submit to the Secretary of Defense a report containing the comments of the Chief Information Officer with respect to all such proposed budgets, together with the certification of the Chief Information Officer regarding whether each proposed budget is adequate.

(C) Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report specifying each proposed budget contained in the most-recent report submitted under subparagraph (B) that the Chief Information Officer did not certify to be adequate. The report of the Secretary shall include the following matters:

(i) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets specified in the report.

(ii) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(3)(A) The Secretary of a military department or head of a Defense Agency may not develop or

procure information technology (as defined in section 11101 of title 40) that does not fully comply with such standards as the Chief Information Officer may establish.

(B) The Chief Information Officer shall implement and enforce a process for—

(i) developing, adopting, or publishing standards for information technology, networking, or cyber capabilities to which any military department or defense agency would need to adhere in order to run such capabilities on defense networks; and

(ii) certifying on a regular and ongoing basis that any capabilities being developed or procured meets such standards as have been published by the Department at the time of certification.

(C) The Chief Information Officer shall identify gaps in standards and mitigation plans for operating in the absence of acceptable standards.

(4) The Chief Information Officer shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Chief Information Officer takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4) of this title. The officials serving in positions specified in section 131(b)(4) and the Chief Information Officer of the Department of Defense take precedence among themselves in the order prescribed by the Secretary of Defense.

(d) The Chief Information Officer of the Department of Defense shall report directly to the Secretary of Defense in the performance of duties under this section.

(Added and amended Pub. L. 113–291, div. A, title IX, §901(b)(1), (j)(1)(B), Dec. 19, 2014, 128 Stat. 3463, 3467; Pub. L. 114–328, div. A, title IX, §902(a), Dec. 23, 2016, 130 Stat. 2343; Pub. L. 115–91, div. A, title IX, §909(a)–(d), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1514, 1515, 1597; Pub. L. 115–232, div. A, title IX, §903, Aug. 13, 2018, 132 Stat. 1922; Pub. L. 116–92, div. A, title IX, §903(a)(1), title XVI, §1662(b), Dec. 20, 2019, 133 Stat. 1555, 1772; Pub. L. 116–283, div. A, title X, §1081(a)(9), Jan. 1, 2021, 134 Stat. 3871; Pub. L. 117–81, div. A, title XV, §1523, Dec. 27, 2021, 135 Stat. 2042.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 142 of this title was renumbered section 138d of this title and subsequently repealed.

Another prior section 142 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

### AMENDMENTS

**2021**—Subsec. (b)(1)(A). Pub. L. 117–81, §1523(1), struck out "(other than with respect to business management)" after "sections 3506(a)(2)".

Subsec. (b)(1)(B). Pub. L. 117–81, §1523(1), struck out "(other than with respect to business management)" after "title 40".

Subsec. (b)(1)(C). Pub. L. 117–81, §1523(1), struck out "(other than with respect to business management)" after "sections 2223(a)".

Subsec. (b)(1)(D). Pub. L. 117–81, §1523(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "exercises authority, direction, and control over the Information Assurance Directorate of the National Security Agency;".

Subsecs. (c), (d). Pub. L. 116–283 redesignated subsec. (c) relating to the direct report of the Chief Information Officer to the Secretary of Defense as (d) and struck out former subsec. (d) which read as follows: "The Chief Information Officer of the Department of Defense takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4) of this title. The officials serving in positions specified in such section and the Chief Information Officer take precedence among themselves in the order prescribed by the Secretary of Defense."

**2019**—Subsec. (b)(1)(A) to (C). Pub. L. 116–92, §903(a)(1), struck out "systems and" after "business".

Subsec. (b)(1)(G) to (I). Pub. L. 116–92, §1662(b), redesignated subpars. (H) and (I) as (G) and (H), respectively, and struck out former subpar. (G) which read as follows: "has the responsibilities for policy, oversight, guidance, and coordination for nuclear command and control systems;".

**2018**—Subsec. (b)(1)(A). Pub. L. 115–232, §903(1), inserted "(other than with respect to business systems

and management)" after "sections 3506(a)(2)".

Subsec. (b)(1)(B). Pub. L. 115–232, §903(2), substituted "sections 11315 and 11319 of title 40 (other than with respect to business systems and management)" for "section 11315 of title 40".

Subsec. (b)(1)(C). Pub. L. 115–232, §903(3), substituted "sections 2223(a) (other than with respect to business systems and management) and 2224" for "sections 2222, 2223(a), and 2224".

**2017**—Subsec. (a). Pub. L. 115–91, §909(a), inserted before period at end ", who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer".

Subsec. (b)(1)(I). Pub. L. 115–91, §909(b), substituted "the information technology, networking, information assurance, cybersecurity, and cyber capability architectures" for "the networking and cyber defense architecture".

Subsec. (b)(2) to (4). Pub. L. 115–91, §909(c), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (c). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(1)(B). See 2014 Amendment note below.

Pub. L. 115–91, §909(d), added subsec. (c), relating to the direct report of the Chief Information Officer to the Secretary of Defense.

Subsec. (d). Pub. L. 115–91, §909(d), added subsec. (d).

**2016**—Subsec. (b)(1)(E) to (I). Pub. L. 114–328 added subpars. (E) to (I).

**2014**—Subsec. (c). Pub. L. 113–291, §901(j)(1)(B), which directed striking out subsec. (c), was repealed by Pub. L. 115–91, §1081(b)(1)(A).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §909(g), Dec. 12, 2017, 131 Stat. 1516, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2019."

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(j)(1), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(1)(B) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

### CRYPTOGRAPHIC MODERNIZATION SCHEDULES

Pub. L. 116–283, div. A, title I, §153, Jan. 1, 2021, 134 Stat. 3442, provided that:

"(a) CRYPTOGRAPHIC MODERNIZATION SCHEDULES REQUIRED.—Each of the Secretaries of the military departments and the heads of relevant Defense Agencies and Department of Defense Field Activities shall establish and maintain a cryptographic modernization schedule that specifies, for each pertinent weapon system, command and control system, or data link under the jurisdiction of such Secretary or head, including those that use commercial encryption technologies (as relevant), the following:

"(1) The last year of use for applicable cryptographic algorithms.

"(2) Anticipated key extension requests for systems where cryptographic modernization is assessed to be overly burdensome and expensive or to provide limited operational utility.

"(3) The funding and deployment schedule for modernized cryptographic algorithms, keys, and equipment over the future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code, in 2021 together with the budget of the President for fiscal year 2022.

"(b) REQUIREMENTS FOR CHIEF INFORMATION OFFICER.—The Chief Information Officer of the Department of Defense shall—

"(1) oversee the construction and implementation of the cryptographic modernization schedules required by subsection (a);

"(2) establish and maintain an integrated cryptographic modernization schedule for the entire Department of Defense, collating the cryptographic modernization schedules required under subsection (a); and

"(3) in coordination with the Director of the National Security Agency and the Joint Staff Director for Command, Control, Communications, and Computers/Cyber, use the budget certification, standard-setting,

and policy-making authorities provided in section 142 of title 10, United States Code, to amend Armed Force and Defense Agency and Field Activity plans for key extension requests and cryptographic modernization funding and deployment that pose unacceptable risk to military operations.

"(c) ANNUAL NOTICES.—Not later than January 1, 2022, and not less frequently than once each year thereafter until January 1, 2026, the Chief Information Officer and the Joint Staff Director shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notification of all—

"(1) delays to or planned delays of Armed Force and Defense Agency and Field Activity funding and deployment of modernized cryptographic algorithms, keys, and equipment over the previous year; and

"(2) changes in plans or schedules surrounding key extension requests and waivers, including—

"(A) unscheduled or unanticipated key extension requests; and

"(B) unscheduled or unanticipated waivers and nonwaivers of scheduled or anticipated key extension requests."

**SERVICE OF INCUMBENT WITHOUT FURTHER APPOINTMENT**

Pub. L. 115–91, div. A, title IX, §909(f), Dec. 12, 2017, 131 Stat. 1516, provided that: "The individual serving in the position of Chief Information Officer of the Department of Defense as of January 1, 2019, may continue to serve in such position commencing as of that date without further appointment pursuant to section 142 of title 10, United States Code, as amended by this section."

## §143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed 4,300.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(Added Pub. L. 105–85, div. A, title IX, §911(d)(1), Nov. 18, 1997, 111 Stat. 1859; amended Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723; Pub. L. 114–328, div. A, title IX, §903(a), Dec. 23, 2016, 130 Stat. 2344; Pub. L. 116–92, div. A, title IX, §901(a)(1), Dec. 20, 2019, 133 Stat. 1541.)

**EDITORIAL NOTES**

**CODIFICATION**

Section, as added by Pub. L. 105–85, consists of text of Pub. L. 104–201, div. A, title IX, §903(a)–(f), Sept. 23, 1996, 110 Stat. 2617. Section 903 of Pub. L. 104–201, which was formerly set out as a note under section 131 of this title, was repealed by Pub. L. 105–85, div. A, title IX, §911(d)(3), Nov. 18, 1997, 111 Stat. 1860.

**AMENDMENTS**

**2019**—Subsec. (a). Pub. L. 116–92, §901(a)(1)(A), substituted "4,300" for "3,767".

Subsec. (b). Pub. L. 116–92, §901(a)(1)(B), substituted "military and civilian personnel" for "military, civilian, and detailed personnel".

**2016**—Subsec. (b). Pub. L. 114–328 substituted ", civilian, and detailed personnel" for "and civilian personnel".

**1999**—Subsec. (a). Pub. L. 106–65, §921(c)(1), substituted "The number" for "Effective October 1, 1999, the number" and "3,767" for "75 percent of the baseline number".

Subsec. (b). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "The number of OSD personnel—

"(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

"(2) as of October 1, 1998, may not exceed 80 percent of the baseline number."

Subsec. (c). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "For purposes of this section, the term 'baseline number' means the number of OSD personnel as of October 1, 1994."

Subsecs. (d), (e). Pub. L. 106–65, §921(c)(3), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

Subsec. (f). Pub. L. 106–65, §921(c)(2), struck out heading and text of subsec. (f). Text read as follows: "If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723, provided that the amendment made by section 921(c) is effective Oct. 1, 1999.

**EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL**

Pub. L. 110–417, [div. A], title XI, §1111, Oct. 14, 2008, 122 Stat. 4619, as amended by Pub. L. 111–84, div. A, title XI, §1109(a), Oct. 28, 2009, 123 Stat. 2492; Pub. L. 111–383, div. A, title X, §1075(e)(17), Jan. 7, 2011, 124 Stat. 4375; Pub. L. 115–232, div. A, title VIII, §809(b)(1), Aug. 13, 2018, 132 Stat. 1840, provided that:

"(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 7014, 8014, and 9014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

"(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) [now 1705(g)] of title 10, United States Code, as amended by section 833 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

"(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

"(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the Secretary of Defense or a Secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

"(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of [former] section 115b of such title; or

"(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any of the following purposes:

"(A) Performance of inherently governmental functions.

"(B) Performance of work pursuant to section 2463 of title 10, United States Code.

"(C) Ability to maintain sufficient organic expertise and technical capability.

"(D) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work."

## §144. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small

Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, §904(b)(1), Jan. 6, 2006, 119 Stat. 3400.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 109–163, div. A, title IX, §904(a), Jan. 6, 2006, 119 Stat. 3399, provided that:

"(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

"(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

"(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

"(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

"(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

"(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

"(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

"(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

"(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

"(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

"(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated."

### ESTABLISHMENT OF PROJECT SPECTRUM

Pub. L. 119–60, div. A, title XVIII, §1807, Dec. 18, 2025, 139 Stat. 1240, provided that:

"(a) IN GENERAL.—The Director of the Office of Small Business Programs of the Department of Defense shall establish and maintain a program to be known as 'Project Spectrum' to provide to covered entities an online platform of digital resources, training, and services that increase awareness of, and facilitate compliance with, the requirements of the defense acquisition system established pursuant to section 3102 of title 10, United States Code.

"(b) REQUIREMENT FOR COORDINATION.—In carrying out the requirements of subsection (a), the Director of Small Business Programs shall coordinate with other elements of the Department of Defense to ensure resources, training, or services made available through Project Spectrum are aligned with Department-wide policies and guidance related to the defense acquisition system, including coordination with—

"(1) the Chief Information Officer of the Department of Defense, particularly regarding cybersecurity resources and alignment with the Cybersecurity Maturity Model Certification program or successor program;

"(2) the Under Secretary of Defense for Acquisition and Sustainment;

"(3) the Under Secretary of Defense for Research and Engineering;

"(4) the Deputy Assistant Secretary of Defense for International and Industry Engagement;

"(5) the President of the Defense Acquisition University;

"(6) the Director of the Defense Logistics Agency;

"(7) the Director of the Defense Counterintelligence and Security Agency; and

"(8) the Executive Director of the Department of Defense Cyber Crime Center.

"(c) PERFORMANCE METRICS.—Not later than April 1, 2026, the Director of Small Business Programs, in coordination with elements and individuals in subsection (b), shall establish performance metrics to measure the outcomes associated with Project Spectrum. Such metrics shall include—

"(1) cybersecurity-related activities and tools, to be evaluated in coordination with Chief Information Officer of the Department of Defense;

"(2) foreign ownership, control, or influence activities and tools, to be evaluated in coordination with the Under Secretary of Defense for Acquisition and Sustainment; and

"(3) any additional performance metrics the Director determines necessary.

"(d) BRIEFING REQUIRED.—Not later than May 1, 2026, the Director of Small Business Programs shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the performance metrics required by subsection (c).

"(e) SUNSET.—The authority for Project Spectrum, and the requirements of the section, shall terminate on December 31, 2031.

"(f) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that is a small business or a medium business that contracts with, or seeks to enter into a contract with, the Department of Defense that is registered to access the online platform of Project Spectrum."

**ROLE OF THE DIRECTORS OF SMALL BUSINESS PROGRAMS IN ACQUISITION PROCESSES OF THE DEPARTMENT OF DEFENSE**

Pub. L. 112–239, div. A, title XVI, §1611, Jan. 2, 2013, 126 Stat. 2063, provided that:

"(a) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance to ensure that the head of each Office of Small Business Programs of the Department of Defense is a participant as early as practicable in the acquisition processes—

"(1) of the Department, in the case of the Director of Small Business Programs in the Department of Defense; and

"(2) of the military department concerned, in the case of the Director of Small Business Programs in the Department of the Army, in the Department of the Navy, and in the Department of the Air Force.

"(b) MATTERS TO BE INCLUDED.—Such guidance shall, at a minimum—

"(1) require the Director of Small Business Programs in the Department of Defense—

"(A) to provide advice to the Defense Acquisition Board; and

"(B) to provide advice to the Information Technology Acquisition Board; and

"(2) require coordination between the chiefs of staff of the Armed Forces and the service acquisition executives, as appropriate (or their designees), and the Director of Small Business Programs in each military department as early as practical in the relevant acquisition processes."

## §145. Principal Advisor on Countering Weapons of Mass Destruction

The Secretary of Defense may designate, from among the personnel of the Office of the Secretary of Defense, a Principal Advisor on Countering Weapons of Mass Destruction. Such Principal Advisor shall coordinate the activities of the Department of Defense relating to countering weapons of mass destruction. The individual designated to serve as such Principal Advisor shall be an individual who was appointed to the position held by the individual by and with the advice and consent of the Senate.

(Added Pub. L. 115–232, div. A, title X, §1082(a)(1), Aug. 13, 2018, 132 Stat. 1987.)

## [§146. Renumbered §198]

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**LIMITATION ON INVOLUNTARY SEPARATION OF PERSONNEL**

Pub. L. 116–283, div. A, title IX, §905(b), Jan. 1, 2021, 134 Stat. 3799, which provided that personnel of the Office of Local Defense Community Cooperation could not be involuntarily separated from service during the one-year period beginning on Jan. 1, 2021, except for cause, was repealed by Pub. L. 117–81, div. A, title

IX, §902(d), Dec. 27, 2021, 135 Stat. 1869.

**ADMINISTRATION OF PROGRAMS**

Pub. L. 116–283, div. A, title IX, §905(c), Jan. 1, 2021, 134 Stat. 3799, which authorized the Office of Local Defense Community Cooperation to administer any program, project, or other activity administered by the Office of Economic Adjustment of the Department of Defense, was repealed by Pub. L. 117–81, div. A, title IX, §902(d), Dec. 27, 2021, 135 Stat. 1869.

## [§147. Repealed. Pub. L. 119–60, div. A, title IX, §901(b), Dec. 18, 2025, 139 Stat. 1007]

Section, added Pub. L. 116–283, div. A, title IX, §913(a)(1), Jan. 1, 2021, 134 Stat. 3802, authorized appointment by the Secretary of Defense of a Chief Diversity Officer.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 116–283, div. A, title IX, §913(c), Jan. 1, 2021, 134 Stat. 3804, which provided that this section and former section 913(b) of Pub. L. 116–283, formerly set out as a note below, were effective on Feb. 1, 2021, was repealed by Pub. L. 119–60, div. A, title IX, §901(e), Dec. 18, 2025, 139 Stat. 1007.

**SENIOR ADVISORS FOR DIVERSITY AND INCLUSION FOR THE MILITARY DEPARTMENTS AND COAST GUARD**

Pub. L. 116–283, div. A, title IX, §913(b), Jan. 1, 2021, 134 Stat. 3803, which authorized appointment of Senior Advisors for Diversity and Inclusion for the military departments and the Coast Guard, was repealed by Pub. L. 119–60, div. A, title IX, §901(e), Dec. 18, 2025, 139 Stat. 1007.

## §148. Joint Energetics Transition Office

(a) IN GENERAL.—The Secretary of Defense shall establish a Joint Energetics Transition Office (in this section referred to as the "Office") within the Department of Defense. The Office shall carry out the activities described in subsection (c) and shall have such other responsibilities relating to energetic materials as the Secretary shall specify.

(b) LEADERSHIP AND ADMINISTRATION.—

(1) The Under Secretary of Defense for Acquisition and Sustainment shall designate an individual to serve as the head of the Office. The Under Secretary shall select such individual from among officials of the Department of Defense serving in organizations under the jurisdiction of the Under Secretary at the time of such designation. The head of the Office shall—

(A) report directly to the Under Secretary of Defense for Acquisition and Sustainment; and

(B) coordinate, as appropriate, with the Under Secretary of Defense for Research and Engineering.

(2) The Under Secretary of Defense for Research and Engineering shall designate an individual to serve as the deputy head of the Office. The Under Secretary shall select such individual from among officials of the Department of Defense serving in organizations under the jurisdiction of the Under Secretary at the time of such designation. The deputy head of the Office shall report directly to the head of the Office and to the Under Secretary of Defense for Research and Engineering.

(3) The head of the Office and deputy head of the Office shall be responsible for the overall management and operation of the Office. The Under Secretaries shall ensure that the head and deputy head of the Office are not assigned outside duties that would diminish their ability to effectively manage and operate the Office.

(c) RESPONSIBILITIES.—The Office shall do the following:

(1) Develop and periodically update an energetic materials strategic plan and investment strategy to guide investments in both new and legacy energetic materials and technologies across the entire supply chain for the total life cycle of energetic materials, including raw materials, ingredients, propellants, pyrotechnics, and explosives for munitions, weapons, and propulsion systems. Such strategy and plan shall provide for—

(A) developing or supporting the development of strategic plans for energetic materials and technologies, including associated performance metrics for the Office, over the periods covered by the future-years defense program required under section 221 of this title and the program objective memorandum process;

(B) initiating special studies or analyses—

(i) to determine targets that would be optimally addressed or defeated by weapons that incorporate novel energetic materials; and

(ii) to inform the program objective memorandum process;

(C) identifying any shortfalls in the supply chain for energetic materials and developing plans to alleviate any shortfalls through the expansion of the energetic materials industrial base to include critical contractors, subcontractors, and suppliers; and

(D) identifying raw material waste produced during the explosives manufacturing process and developing plans to reduce waste and optimize production.

(2) Coordinate and ensure consistency and congruity among research, development, test, and evaluation efforts in energetic materials across the Department of Defense—

(A) to identify promising new energetic materials and technologies;

(B) to mature, integrate, prototype, test, and demonstrate novel energetic materials and technologies, including new materials and manufacturing technologies;

(C) to expedite testing, evaluation, and acquisition of energetic materials and technologies to meet the emergent needs of the Department, including the rapid integration of promising new materials and other promising energetic compounds into weapons platforms;

(D) to identify or establish prototyping demonstration venues to integrate advanced technologies that speed the maturation and deployment of energetic materials; and

(E) to support collaboration among industry, academia, and elements of the Department of Defense to transition energetic materials and technologies from the research and development phase to production and operational use within the Department.

(3) Oversee a process to expedite—

(A) the validation, verification, and accreditation of modeling and simulation of energetic materials for the development of requirements; and

(B) the qualification process for energetic materials, from discovery through transition to production and integration into weapon systems.

(4) Recommend changes to laws, regulations, and policies that present barriers or extend timelines for the expedited process described in paragraph (3).

(5) Coordinate with other organizations involved in energetic materials activities within the Department of Defense, including the Armed Forces, and across other departments and agencies of the Federal Government.

(6) Pursuant to the authority provided under section 191 of this title, establish and manage a Department of Defense Field Activity dedicated to systems engineering associated with energetic materials. Such Field Activity shall be funded under budget activity 3 (advanced technology development) or budget activity 4 (advanced component development and prototypes) (as such budget activity classifications are set forth in volume 2B, chapter 5 of the Department of Defense Financial Management Regulation (DOD 7000.14-R)) to reduce technical risk, integrate research, development, test, and evaluation, and perform system demonstration programs of the Department of Defense on novel energetic materials for use in weapon systems.

(7) Carry out such other responsibilities relating to energetic materials as the Secretary shall specify.

(d) BUDGETING AND FUNDING REQUIREMENTS.—

(1) The Secretary of Defense shall ensure that the Office is budgeted for and funded in a manner sufficient to ensure the Office has the staff and other resources necessary to effectively carry out the responsibilities specified in subsection (c).

(2) In the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2027 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include a dedicated budget line item for the implementation of subsection (a) and for the testing and evaluation of energetic materials and technologies by the Office.

(e) DEFINITIONS.—In this section, the term "energetic materials" means critical chemicals and formulations that—

(1) release large amounts of stored chemical energy; and

(2) are capable of being used as explosives, propellants, pyrotechnics, and reactive materials that—

(A) create lethal effects in warheads in kinetic weapons components and systems; or

(B) increase propellant performance in a weapon propulsion system as related to lethal effects, range, or speed.

(Added Pub. L. 118–31, div. A, title II, §241(a), Dec. 22, 2023, 137 Stat. 205; amended Pub. L. 118–159, div. A, title II, §211, Dec. 23, 2024, 138 Stat. 1823; Pub. L. 119–60, div. A, title II, §251, Dec. 18, 2025, 139 Stat. 800.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (c)(1)(D). Pub. L. 119–60 added subpar. (D).

**2024**—Subsec. (d). Pub. L. 118–159 amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall ensure that the Office is budgeted for and funded in a manner sufficient to ensure the Office has the staff and other resources necessary to effectively carry out the responsibilities specified in subsection (c)."

## §149. Office of Strategic Capital

(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an office to be known as the Office of Strategic Capital (in this section referred to as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director (in this section referred to as the "Director"), who shall be appointed by the Secretary from among employees in Senior Executive Service positions (as defined in section 3132 of title 5), or from outside the civil service who have successfully held equivalent positions.

(c) DUTIES.—The Office shall—

(1) develop, integrate, and implement capital investment strategies proven in the commercial sector to shape and scale investment in critical technologies and assets;

(2) identify and prioritize promising critical technologies and assets that require capital assistance and have the potential to benefit the Department of Defense; and

(3) make eligible investments in such technologies and assets, such as supply chain technologies not always supported through direct investment.

(d) NON-FEDERAL FUNDING REQUIREMENTS FOR CERTAIN INVESTMENTS.—In the case of an eligible investment made through a direct loan, not less than 80 percent of the total capital provided for the specific technology to be funded by the investment shall be derived from

non-Federal sources as of the time of the investment.

(e) PILOT PROGRAM ON CAPITAL ASSISTANCE TO SUPPORT DEFENSE INVESTMENT IN THE INDUSTRIAL BASE.—

(1) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Secretary of Defense, acting through the Director, may carry out a pilot program under this subsection to provide capital assistance to eligible entities for eligible investments to develop technologies that support the duties and elements of the Office and meet the needs of the Department of Defense.

(2)(A) An eligible entity seeking capital assistance for an eligible investment under this subsection shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require.

(B) The Director shall establish criteria for selecting among eligible investments for which applications are submitted under subparagraph (A). The criteria shall include—

(i) the extent to which an investment supports the national security or economic interests of the United States;

(ii) the likelihood that capital assistance provided for an investment would enable the investment to proceed sooner than the investment would otherwise be able to proceed; and

(iii) the creditworthiness of an investment.

(3)(A)(i) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director may provide loans or loan guarantees to finance or refinance the costs of an eligible investment selected pursuant to paragraph (2)(B).

(ii)(I)(aa) Except as provided under item (bb), the interest rate on a loan provided under clause (i) shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the loan on the date of execution of the loan agreement.

(bb) The Director may waive the requirement under item (aa) with respect to an investment if the investment is determined by the Secretary of Defense to be vital to the national security of the United States.

(cc) The Director shall establish separate and distinct criteria for interest rates for loan guarantees with private sector lending institutions.

(II) The final maturity date of a loan provided under clause (i) shall be not later than 50 years after the date on which the loan was provided.

(III) A loan provided under clause (i) may be paid earlier than is provided for under the loan agreement without a penalty.

(IV)(aa) A loan provided under clause (i) shall not be subordinated to the claims of any holder of investment obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(bb) The Director may waive the requirement under item (aa) with respect to the investment in order to mitigate risks to loan repayment.

(V) The Director may sell to another entity or reoffer into the capital markets a loan provided under clause (i) if the Director determines that the sale or reoffering can be made on favorable terms.

(VI) Any loan guarantee provided under clause (i) shall specify the percentage of the principal amount guaranteed. If the Director determines that the obligor of a loan guaranteed by the Department of Defense defaults on the loan, the Director shall pay the holder, or such other party, as specified in the loan guarantee agreement.

(VII) The Director shall establish a credit rating system to ensure a reasonable assurance of repayment. The system may include use of existing credit rating agencies where appropriate.

(VIII) Loans and loan guarantees provided under clause (i) shall be subject to such other terms and conditions and contain such other covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(IX) Loans and loan guarantees provided under clause (i) shall be subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(B) Subject to appropriations Acts, the Director may provide technical assistance with respect to developing and financing investments to eligible entities seeking capital assistance for eligible investments and eligible entities receiving capital assistance under this subsection.

(C)(i) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director shall provide to an eligible investment selected pursuant to paragraph (2)(B) the amount of capital assistance necessary to carry out the investment.

(ii) All financial transactions conducted under this subsection shall be conducted in United States dollars.

(4) The requirements of subsection (d) shall apply to eligible investments under this subsection.

(5)(A)(i) There is established in the Treasury of the United States a Department of Defense Credit Program Account to make and guarantee loans under this subsection in accordance with section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(ii) The Credit Program Account shall consist of—

(I) amounts appropriated pursuant to the authorization of appropriations; and

(II) fees deposited under subsection (f)(2).

(B) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director is authorized to pay, from amounts in the Department of Defense Credit Program Account—

(i) the cost, as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a), of loans and loan guarantees and other capital assistance;

(ii) administrative expenses associated with activities under this subsection;

(iii) project-specific transaction costs; and

(iv) the cost of providing support authorized by this subsection.

(6) The Secretary of Defense may prescribe such regulations as the Secretary determines to be appropriate to carry out this subsection.

(7) Not later than the first Monday in February of a fiscal year, the Secretary of Defense shall submit to the congressional defense committees an annual report describing activities carried out pursuant to this subsection in the preceding fiscal year and the goals of the Department of Defense in accordance with this subsection for the next fiscal year.

(8) The Secretary of Defense shall notify the congressional defense committees not later than 30 days after a use of loans, loan guarantees, or technical assistance under this subsection.

(9)(A) The authority of the Director to make new loans and provide new loan guarantees under subparagraph (A)(i) of paragraph (3) shall expire on October 1, 2028. Any loans or loan guarantees provided under such subparagraph that are outstanding as of such date shall continue to be subject to the terms, conditions, and other requirements of this subsection.

(B) The authority of the Director to provide technical assistance to eligible entities under subparagraph (B) of paragraph (3) shall expire on October 1, 2028.

(10) Presumption of compliance.—Each agreement for a loan or loan guarantee executed by the Director under paragraph (3)(A) shall be conclusively presumed to be issued in compliance with the requirements of this section.

(11) Authority to collect debts.—In the case of a default on a loan or loan guarantee provided under paragraph (3)(A), the Director may exercise any priority of the United States in collecting debts relating to the default.

(12) Additional authorities.—In carrying out the capital assistance program under this subsection the Director may—

(A) enter into contracts, agreements, or other transactions with applicants for or recipients of capital assistance pursuant to which such applicants or recipients directly pay for the costs of third-party services provided to the Office in connection with transactions involving such applicants and recipients;

(B) procure temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5 only for the purposes established under this subsection; and

(C) with the consent of another Federal agency, enter into an agreement with that Federal agency to use, with or without reimbursement, any service, equipment, personnel, or facility of that Federal agency.

(f) FEES.—

(1) IN GENERAL.—

(A) The Director may—

(i) charge and collect fees for the costs specified in subparagraph (B) for services provided by the Office and associated with administering programs under this section, including project-specific transaction costs and direct costs relating to such services; and

(ii) establish those fees at amounts that the Director considers appropriate only to recover the costs of project-specific transaction costs and to offset the expenses of administering of those programs.

(B) The costs specified in this subparagraph are the following:

(i) Due diligence costs paid to third parties for services conducting national security, legal, engineering, technical, financial, and other due diligence on applicants, prospective and existing borrowers, guarantors, sponsors, and other key transaction parties, their respective owners, managers, and employees, and their properties, assets, and operations.

(ii) Costs of third-party services related to ratings analysis, underwriting, appraisals, valuations, travel to and inspection of project sites, and other customary analysis relating to specific applications.

(iii) Costs of third-party legal services for negotiation and documentation of transactions.

(iv) Costs of third-party services for monitoring, restructurings, and workouts of agreements.

(v) Administrative expenses directly related to credit program operations as defined in Office of Management and Budget Circular A–11 as of August 2025, including—

(I) the appropriate proportion of administrative expenses that are shared with non-credit programs;

(II) the cost of loan systems development and maintenance, including information technology systems costs;

(III) the cost of monitoring credit programs and private lenders for compliance with contractual requirements, laws, and regulations;

(IV) the cost of all activities related to credit extension, loan servicing, write-off, and close out; and

(V) the cost of collecting delinquent or defaulted loans.

(2) DEPOSIT INTO CREDIT PROGRAM ACCOUNT.—

(A) IN GENERAL.—Amounts collected as fees under paragraph (1) shall—

(i) be deposited into the Credit Program Account established under subsection (e)(5); and

(ii) remain available until expended.

(B) LIMITATION ON USE OF FEES.—Notwithstanding subsection (e)(5)(B), none of the fees collected under paragraph (1) may be used to pay salaries or expenses of civilian employees of the Department of Defense or for any purposes other than those described in this subsection or subsection (e)(12).

(3) TERMINATION OF AUTHORITY.—

(A) IN GENERAL.—Except as provided by subparagraph (B), the authority under paragraph (1) to charge and collect fees shall expire on the date specified in paragraph (9)(A) of subsection (e).

(B) TREATMENT OF CERTAIN ASSETS.—With respect to a loan or loan guarantee provided under this section that is outstanding as of the expiration date under subparagraph (A),

the authority of the Director under paragraph (1) to charge and collect fees for services relating to the loan or loan guarantee shall remain in effect for the duration of the loan or loan guarantee.

(4) REPORTS REQUIRED.—

(A) ANNUAL REPORT.—Not later than March 1 of each year, the Director shall submit to the congressional defense committees a report that includes—

(i) a detailed summary of the fees collected under paragraph (1) in the preceding fiscal year; and

(ii) a description of how those fees were allocated.

(B) AUDIT.—The Inspector General of the Department of Defense shall—

(i) conduct a review of the fees charged and collected under paragraph (1) in fiscal year 2026 and provide a report on the results of the review to the congressional defense committees; and

(ii) conduct an audit of the fees collected in fiscal years 2026 and 2027 and, once completed, provide a report to the congressional defense committees on the results of the audit not later than 180 days after the end of fiscal year 2027.

(g) AUTHORITY TO ACCEPT SERVICES.—The Director may accept services, such as legal, financial, technical, or professional services, associated with administering programs under this section, including accepting such services as indirect payment in kind for services provided by the Office.

(h) DEFINITIONS.—In this section:

(1) The term "capital assistance" means a loan, loan guarantee, or technical assistance.

(2) The term "covered technology category" means the following:

(A) Advanced bulk materials.

(B) Advanced manufacturing.

(C) Autonomous mobile robots.

(D) Battery storage.

(E) Biochemicals.

(F) Bioenergetics.

(G) Biomass.

(H) Cybersecurity.

(I) Data fabric.

(J) Decision science.

(K) Edge computing.

(L) External communication.

(M) Hydrogen generation and storage.

(N) Mesh networks.

(O) Microelectronics assembly, testing, or packaging.

(P) Microelectronics design and development.

(Q) Microelectronics fabrication.

(R) Microelectronics manufacturing equipment.

(S) Microelectronics materials.

(T) Nanomaterials and metamaterials.

(U) Nuclear fission and fusion energy technologies.

(V) Open RAN.

(W) Optical communications.

(X) Sensor hardware.

(Y) Solar.

(Z) Space launch.

(AA) Spacecraft.

(BB) Space-enabled services and equipment.

(CC) Synthetic biology.
(DD) Quantum computing.
(EE) Quantum security.
(FF) Quantum sensing.
(GG) Strategic maritime infrastructure.
(HH) Critical minerals and materials.

(3) The term "eligible entity" means—
(A) an individual;
(B) a corporation;
(C) a partnership, which may include a public-private partnership, limited partnership, or general partnership;
(D) a joint venture;
(E) a trust;
(F) a State, including a political subdivision or any other instrumentality of a State;
(G) a Tribal government or consortium of Tribal governments;
(H) any other governmental entity or public agency in the United States, including a special purpose district or public authority, including a port authority;
(I) a multi-State or multi-jurisdictional group of public entities; or
(J) a strategic alliance among two or more entities described in subparagraphs (A) through (I).

(4) The term "eligible investment" means an investment, in the form of capital assistance provided to an eligible entity, for a technology that—
(A) is in a covered technology category; and
(B) is not a technology that solely has defense applications.

(5) The term "obligor" means a party that is primarily liable for payment of the principal or interest on a loan.

(Added Pub. L. 118–31, div. A, title IX, §903(a), Dec. 22, 2023, 137 Stat. 358; amended Pub. L. 118–159, div. A, title IX, §905(a), Dec. 23, 2024, 138 Stat. 2028; Pub. L. 119–60, div. A, title IX, §§905, 906, Dec. 18, 2025, 139 Stat. 1010, 1011.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (e)(3)(A)(ii)(IX), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in subsec. (e) of this section were contained in Pub. L. 118–31, div. A, title IX, §903(b), Dec. 22, 2023, 137 Stat. 360, which was set out as a note under section 4811 of this title, prior to repeal by Pub. L. 118–159, div. A, title IX, §905(b), Dec. 23, 2024, 138 Stat. 2031.

### AMENDMENTS

**2025**—Subsec. (e)(3)(A)(ii)(VI). Pub. L. 119–60, §906(b), substituted "Director" for "Secretary" after "If the".

Subsec. (e)(5)(A)(ii). Pub. L. 119–60, §906(c), substituted "consist of—
(I) amounts"
for "consist of amounts", substituted "; and" for period at end. and added subcl. (II).

Subsec. (e)(10) to (12). Pub. L. 119–60, §906(d), added pars. (10) to (12).

Subsec. (f). Pub. L. 119–60, §906(a)(2), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (f)(2)(U) to (HH). Pub. L. 119–60, §905, added subpar. (U) and redesignated former subpars. (U) to

(GG) as (V) to (HH), respectively.

Subsecs. (g), (h). Pub. L. 119–60, §906(a), added subsec. (g) and redesignated former subsec. (f) as (h).

**2024**—Subsecs. (e), (f). Pub. L. 118–159, §905(a)(1), (2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f)(2)(FF), (GG). Pub. L. 118–159, §905(a)(3)(A), added subpars. (FF) and (GG).

Subsec. (f)(5). Pub. L. 118–159, §905(a)(3)(B), added par. (5).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### AUTHORITY FOR TEMPORARY ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF STRATEGIC CAPITAL TO CERTAIN PRIVATE-SECTOR ORGANIZATIONS

Pub. L. 118–159, div. A, title II, §230, Dec. 23, 2024, 138 Stat. 1836, provided that:

"(a) AUTHORIZATION.—Using the authority provided under section 1599g of title 10, United States Code, the Secretary of Defense, acting through the Director of the Office of Strategic Capital, may carry out a program under which the Director arranges for the temporary assignment of an employee of the Office to a qualifying private-sector organization.

"(b) OBJECTIVES.—The objectives of the program under subsection (a) shall be—

"(1) to enable the Office of Strategic Capital to rapidly acquire industry-specific context and technical competence across high priority technology and industrial focus areas through immersion in highly relevant emerging technology and business ecosystems across the United States; and

"(2) to enhance, among personnel of the Department—

"(A) understanding of, connectivity with, and access to knowledge about critical and emerging defense industrial base capabilities; and

"(B) understanding of the strategic role that venture capital and private equity operations have in shaping future sustainment and modernization requirements for the defense industrial base.

"(c) MATCHING AND TRACKING CAPABILITIES.—In carrying out program under subsection (a), the Director of the Office of Strategic Capital shall—

"(1) use digital automation and analysis capability to optimize the identification, assessment, and placement of participants within the program, which shall include the ability to match and track private-sector organizations with employees of the Office participating in the program in a manner that aligns the priorities, needs, and expertise of such employees, organizations, and the Office; and

"(2) establish a database or other digital automation capability that—

"(A) enables the Office to identify and track current and former participants in the program;

"(B) documents the nature of the experience such participants had while in the program; and

"(C) is suitable for potential development and expansion to other organizations of Department of Defense in the event the Secretary of Defense determines such expansion is appropriate.

"(d) QUALIFYING PRIVATE-SECTOR ORGANIZATION DEFINED.—In this section, the term 'qualifying private-sector organization' means a private-sector organization that has functions and expertise relevant to the responsibilities of the Office of Strategic Capital, which may include organization such as a venture capital firm, private equity firm, or other such organizations as determined appropriated by the Director of the Office."

### ESTABLISHMENT OF NATIONAL SECURITY CAPITAL FORUM

Pub. L. 118–159, div. A, title X, §1092, Dec. 23, 2024, 138 Stat. 2083, as amended by Pub. L. 119–60, div. A, title VIII, §867(c), (d)(2), Dec. 18, 2025, 139 Stat. 1001, 1002, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish a forum to—

"(1) convene domestic and international institutional financiers, capital providers, investors, entrepreneurs, innovators, business persons, representatives from across the private sector, relevant United States Government offices, and government and private entities of partner nations;

"(2) allow the exchange of information between the entities referred to in paragraph (1) and the Department of Defense relating to transactions or potential transactions, in accordance with applicable law, and to integrate efforts to achieve coordinated effects to support the national security interests of the United States; and

"(3) serve as a clearinghouse for vetting potential investments transactions, whether as a loan or as an equity transaction, by executive agencies (as defined in section 133 of title 41, United States Code).

"(b) CHAIR.—The Chair of the forum established under subsection (a) shall be the Director of the Office of Strategic Capital.

"(c) DESIGNATION OF EXECUTIVE AGENT.—The Secretary may designate the Director as the sole

Executive Agent with respect to the authorities and responsibilities of the Secretary of Defense under section 1047 of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 113 note).

"(d) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue guidance on the establishment and operation of the forum established under subsection (a), including regarding the vetting and selection of participants. Such guidance shall include each of the following:

"(1) A process for due diligence vetting of investment fund participants to exclude funds with significant investments to or from countries of concern.

"(2) The development of selection criteria for the consideration of a diverse range of investment fund participants, including by fund size, company-size, socio-economic status, and participating investment sectors.

"(3) Reporting responsibilities for participants to avoid or mitigate potential or perceived conflicts of interest.

"(4) The development of a process for the recusal or removal of participants."

"(e) INCLUSION OF CERTAIN OFFICIALS.—The Secretary of Defense shall include in the forum established under subsection (a) the following:

"(1) The Assistant Secretary of Defense for Industrial Base Policy.

"(2) The individual serving as the Director of the Defense Logistics Agency and the head of the Office of General Counsel of the Department of Defense."

*[Pub. L. 119–60, div. A, title VIII, §867(d)(2), Dec. 18, 2025, 139 Stat. 1002, provided that, effective Dec. 31, 2035, section 1092 of Pub. L. 118–159, set out above, is amended by striking out subsecs. (a)(3) and (e).]*

# CHAPTER 5—JOINT CHIEFS OF STAFF

Sec.
151. Joint Chiefs of Staff: composition; functions.
152. Chairman: appointment; grade and rank.
153. Chairman: functions.
154. Vice Chairman.
155. Joint Staff.
[155a. Repealed.]
156. Legal Counsel to the Chairman of the Joint Chiefs of Staff.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 5 related to Joint Chiefs of Staff, prior to the general revision of this chapter by Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1004, consisted of sections 141 to 143 as follows:

Section 141, acts Aug. 10, 1956, ch. 1041, 70A Stat. 6; Aug. 6, 1958, Pub. L. 85–599, §7, 72 Stat. 519; Sept. 7, 1962, Pub. L. 87–651, title II, §204, 76 Stat. 519; Oct. 20, 1978, Pub. L. 95–485, title VIII, §807, 92 Stat. 1622, provided for composition and functions of Joint Chiefs. See section 151 of this title.

Section 142, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Sept. 7, 1962, Pub. L. 87–649, §14c(1), 76 Stat. 501; Oct. 19, 1984, Pub. L. 98–525, title XIII, §1301(b), 98 Stat. 2611, provided for appointment and duties of Chairman of Joint Chiefs. See sections 152 and 153 of this title.

Section 143, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Aug. 6, 1958, Pub. L. 85–599, §5(a), 72 Stat. 517; Oct. 19, 1984, Pub. L. 98–525, title XIII, §1301(c), 98 Stat. 2611, provided for a Joint Staff. See section 155 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328, div. A, title V, §502(a)(2), Dec. 23, 2016, 130 Stat. 2102, struck out item 155a "Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters".

**2013**—Pub. L. 112–239, div. A, title V, §511(b), Jan. 2, 2013, 126 Stat. 1718, added item 155a.

**2008**—Pub. L. 110–417, [div. A], title X, §1061(a)(2), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 156.

Pub. L. 110–181, div. A, title V, §543(e)(2), Jan. 28, 2008, 122 Stat. 115, added item 156.

**1987**—Pub. L. 100–180, div. A, title XIII, §1314(b)(1)(B), Dec. 4, 1987, 101 Stat. 1175, substituted "grade

and rank" for "rank" in item 152.

**1986**—Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1005, amended chapter 5 heading and analysis generally, substituting items 151–155 for items 141–143.

## §151. Joint Chiefs of Staff: composition; functions

(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

(1) The Chairman.
(2) The Vice Chairman.
(3) The Chief of Staff of the Army.
(4) The Chief of Naval Operations.
(5) The Chief of Staff of the Air Force.
(6) The Commandant of the Marine Corps.
(7) The Chief of the National Guard Bureau.
(8) The Chief of Space Operations.

(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense.

(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense as specified in subsection (d).

(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as necessary, consult with and seek the advice of—

(A) the other members of the Joint Chiefs of Staff; and
(B) the commanders of the unified and specified combatant commands.

(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) After first informing the Secretary of Defense and the Chairman, the members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisors, may provide advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense on a particular matter on the judgment of the military member.

(2) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be.

(3) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

[(e) Repealed. Pub. L. 114–328, div. A, title IX, §921(a)(2)(C), Dec. 23, 2016, 130 Stat. 2351.]

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

(A) preside over the Joint Chiefs of Staff;

(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

(h) REMOVAL OF MEMBERS OF JOINT CHIEFS OF STAFF.—(1) If the President removes a member of the Joint Chiefs of Staff from office or transfers a member of the Joint Chiefs of Staff to another position or location before the end of the term of the member as specified in statute, the President shall, not later than five days after the removal or transfer takes effect, submit to Congress, including the congressional defense committees, notice that the member is being removed or transferred and a statement of the reason for the removal or transfer.

(2) Nothing in this subsection prohibits a personnel action authorized by another provision of law.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1005; amended Pub. L. 102–484, div. A, title IX, §911(a), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 109–163, div. A, title IX, §908(a), Jan. 6, 2006, 119 Stat. 3403; Pub. L. 112–81, div. A, title V, §512(a), Dec. 31, 2011, 125 Stat. 1393; Pub. L. 114–328, div. A, title IX, §921(a), Dec. 23, 2016, 130 Stat. 2351; Pub. L. 116–92, div. A, title IX, §953(c), Dec. 20, 2019, 133 Stat. 1564; Pub. L. 119–60, div. A, title IX, §911(a), Dec. 18, 2025, 139 Stat. 1015.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (h). Pub. L. 119–60 added subsec. (h).

**2019**—Subsec. (a)(8). Pub. L. 116–92 added par. (8).

**2016**—Subsec. (b)(2). Pub. L. 114–328, §921(a)(2)(A), substituted "subsection (d)" for "subsections (d) and (e)".

Subsec. (c)(1). Pub. L. 114–328, §921(a)(1), substituted "as necessary" for "as he considers appropriate" in introductory provisions.

Subsec. (d). Pub. L. 114–328, §921(a)(2)(B), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (e). Pub. L. 114–328, §921(a)(2)(C), struck out subsec. (e) which required members of the Joint Chiefs of Staff to provide advice on request to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense.

**2011**—Subsec. (a)(7). Pub. L. 112–81 added par. (7).

**2006**—Subsecs. (b), (c)(2), (d), (e). Pub. L. 109–163 inserted "the Homeland Security Council," after "the National Security Council," wherever appearing.

**1992**—Subsec. (a)(2) to (6). Pub. L. 102–484 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title IX, §953(c), Dec. 20, 2019, 133 Stat. 1564, provided that the amendment made by section 953(c) is effective on the date that is one year after Dec. 20, 2019.

## §152. Chairman: appointment; grade and rank

(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of four years, beginning on October 1 of an odd-numbered year. The limitation does not apply in time of war.

(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

(3) The President may extend to eight years the combined period of service of an officer as Chairman and Vice Chairman if the President determines that such action is in the national interest. The limitation in this paragraph does not apply in time of war.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

(A) the Vice Chairman of the Joint Chiefs of Staff;

(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, or the Chief of Space Operations; or

(C) the commander of a unified or specified combatant command.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of the Navy, admiral, and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1006; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(1)(A), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 114–328, div. A, title IX, §921(b)(1), Dec. 23, 2016, 130 Stat. 2351; Pub. L. 116–283, div. A, title IX, §924(b)(7)(A), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–159, div. A, title V, §521(a), Dec. 23, 2024, 138 Stat. 1880.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c). Pub. L. 118–159 substituted "general or, in the case of the Navy, admiral" for "general, in the case of the Navy, admiral, or, in the case of an officer of the Space Force, the equivalent grade".

**2021**—Subsec. (b)(1)(B). Pub. L. 116–283, §924(b)(7)(A)(i), which directed substitution of "the Commandant of the Marine Corps, or the Chief of Space Operations" for "or the Commandant of the Marine Corps" in subpar. (C), was executed by making the substitution in subpar. (B), to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 116–283, §924(b)(7)(A)(ii), which directed substitution of ", in the case of the Navy, admiral, or, in the case of an officer of the Space Force, the equivalent grade," for "or, in the case of the Navy, admiral", was executed by making the substitution for "or, in the case of an officer of the Navy, admiral", to reflect the probable intent of Congress.

**2016**—Subsec. (a)(1). Pub. L. 114–328, §921(b)(1)(A), substituted "four years, beginning on October 1 of an odd-numbered year. The limitation does not apply in time of war." for "two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments."

Subsec. (a)(3). Pub. L. 114–328, §921(b)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war."

**1987**—Pub. L. 100–180 substituted "grade and rank" for "rank" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114–328, div. A, title IX, §921(b)(2), Dec. 23, 2016, 130 Stat. 2351, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 2019, and shall apply to individuals appointed as Chairman of the Joint Chiefs of Staff on or after that date."

## §153. Chairman: functions

(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary in providing for the strategic direction of the armed forces.

(2) STRATEGIC AND CONTINGENCY PLANNING.—In matters relating to strategic and contingency planning—

(A) developing strategic frameworks and preparing strategic plans, as required, to guide the use and employment of military force and related activities across all geographic regions and military functions and domains, and to sustain military efforts over different durations of time, as necessary;

(B) advising the Secretary on the production of the national defense strategy required by section 113(g) of this title and the national security strategy required by section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(C) preparing military analysis, options, and plans, as the Chairman considers appropriate, to recommend to the President and the Secretary;

(D) providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary; and

(E) preparing joint logistic and mobility plans to support national defense strategies and recommending the assignment of responsibilities to the armed forces in accordance with such plans.

(3) GLOBAL MILITARY INTEGRATION.—In matters relating to global military strategic and operational integration—

(A) providing advice to the President and the Secretary on ongoing military operations; and

(B) advising the Secretary on the allocation and transfer of forces among geographic and functional combatant commands, as necessary, to address transregional, multi-domain, and multifunctional threats.

(4) COMPREHENSIVE JOINT READINESS.—In matters relating to comprehensive joint readiness—

(A) evaluating the overall preparedness of the joint force to perform the responsibilities of that force under national defense strategies and to respond to significant contingencies worldwide;

(B) assessing the risks to United States missions, strategies, and military personnel that stem from shortfalls in military readiness across the armed forces, and developing risk mitigation options;

(C) advising the Secretary on critical deficiencies and strengths in joint force capabilities (including manpower, logistics, and mobility support) identified during the preparation and review of national defense strategies and contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans;

(D) advising the Secretary on the missions and functions that are likely to require contractor or other external support to meet national security objectives and policy and strategy, and the

risks associated with such support; and

(E) establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform system of evaluating the preparedness of each such command, and groups of commands collectively, to carry out missions assigned to the command or commands.

(5) JOINT CAPABILITY DEVELOPMENT.—In matters relating to joint capability development—

(A) identifying new joint military capabilities based on advances in technology and concepts of operation needed to maintain the technological and operational superiority of the armed forces, and recommending investments and experiments in such capabilities to the Secretary;

(B) performing military net assessments of the joint capabilities of the armed forces of the United States and its allies in comparison with the capabilities of potential adversaries;

(C) advising the Secretary under section 163(b)(2) of this title on the priorities of the requirements identified by the commanders of the unified and specified combatant commands;

(D) advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in national defense strategies and with the priorities established for the requirements of the unified and specified combatant commands;

(E) advising the Secretary on new and alternative joint military capabilities, and alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in subparagraph (D);

(F) assessing joint military capabilities and identifying, approving, and prioritizing gaps in such capabilities to meet national defense strategies, pursuant to section 181 of this title; and

(G) recommending to the Secretary appropriate trade-offs among life-cycle cost, schedule, performance, and procurement quantity objectives in the acquisition of materiel and equipment to support the strategic and contingency plans required by this paragraph in the most effective and efficient manner.

(6) JOINT FORCE DEVELOPMENT ACTIVITIES.—In matters relating to joint force development activities—

(A) developing doctrine for the joint employment of the armed forces;

(B) formulating policies and technical standards, and executing actions, for the joint training of the armed forces;

(C) formulating policies for coordinating the military education of members of the armed forces;

(D) formulating policies for development and experimentation on both urgent and long-term concepts for joint force employment, including establishment of a process within the Joint Staff for analyzing and prioritizing gaps in capabilities that could potentially be addressed by joint concept development using existing or modified joint force capabilities;

(E) formulating policies for gathering, developing, and disseminating joint lessons learned for the armed forces; and

(F) advising the Secretary on development of joint command, control, communications, and cybercapability, including integration and interoperability of such capability, through requirements, integrated architectures, data standards, and assessments.

(7) OTHER MATTERS.—In other matters—

(A) recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command;

(B) providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

(C) performing such other duties as may be prescribed by law or by the President or the

Secretary.

(b) NATIONAL MILITARY STRATEGY.—

(1) NATIONAL MILITARY STRATEGY.—(A) The Chairman shall determine each even-numbered year whether to prepare a new National Military Strategy in accordance with this paragraph or to update a strategy previously prepared in accordance with this paragraph. The Chairman shall provide such National Military Strategy or update to the Secretary of Defense in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion in the report of the Secretary of Defense, if any, under paragraph (4).

(B) Each National Military Strategy (or update) under this paragraph shall be based on a comprehensive review conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified combatant commands. Each update shall address only those parts of the most recent National Military Strategy for which the Chairman determines, on the basis of the review, that a modification is needed.

(C) Each National Military Strategy (or update) submitted under this paragraph shall describe how the military will support the objectives of the United States as articulated in—

(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title;

(iii) the most recent national defense strategy presented by the Secretary of Defense pursuant to section 113 of this title;

(iv) the most recent policy guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(v) any other national security or defense strategic guidance issued by the President or the Secretary of Defense.

(D) At a minimum, each National Military Strategy (or update) submitted under this paragraph shall—

(i) assess the strategic environment, threats, opportunities, and challenges that affect the national security of the United States;

(ii) assess military ends, ways, and means to support the objectives referred to in subparagraph (C);

(iii) provide the framework for the assessment by the Chairman of military risk, and for the development of risk mitigation options;

(iv) develop military options to address threats and opportunities;

(v) assess joint force capabilities, capacities, and resources; and

(vi) establish military guidance for the development of the joint force and the total force building on guidance by the President and the Secretary of Defense as referred to in subparagraph (C).

(2) RISK ASSESSMENT.—(A) The Chairman shall prepare each year an assessment of the risks associated with the most current National Military Strategy (or update) under paragraph (1). The risk assessment shall be known as the "Risk Assessment of the Chairman of the Joint Chiefs of Staff". The Chairman shall complete preparation of the Risk Assessment in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion in the report of the Secretary of Defense, if any, under paragraph (4).

(B) The Risk Assessment shall do the following:

(i) As the Chairman considers appropriate, update any changes to the strategic environment, threats, objectives, force planning and sizing constructs, assessments, and assumptions that informed the National Military Strategy (or update) required by this section.

(ii) Identify and define the military strategic risks to United States interests and military risks in executing the National Military Strategy (or update).

(iii) Identify and define levels of risk, including an identification of what constitutes "significant" risk in the judgment of the Chairman.

(iv)(I) Identify and assess risk in the National Military Strategy (or update) by category and level and the ways in which risk might manifest itself, including how risk is projected to increase, decrease, or remain stable over time; and

(II) for each category of risk, assess the extent to which current or future risk increases, decreases, or is stable as a result of budgetary priorities, tradeoffs, or fiscal constraints or limitations as currently estimated and applied in the current future-years defense program under section 221 of this title.

(v) Identify and assess risk associated with the assumptions or plans of the National Military Strategy (or update) about the contributions of external support, as appropriate.

(vi) Identify and assess the critical deficiencies and strengths in force capabilities (including manpower, logistics, intelligence, and mobility support) identified during the preparation and review of the contingency plans of each unified combatant command, and identify and assess the effect of such deficiencies and strengths for the National Military Strategy (or update).

(vii) Identify and assess risk resulting from, or likely to result from, current or projected effects on military installation resilience.

(3) SUBMITTAL OF NATIONAL MILITARY STRATEGY AND RISK ASSESSMENT TO CONGRESS.—(A) Not later than February 15 of each even-numbered year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the National Military Strategy or update, if any, prepared under paragraph (1) in such year.

(B) Not later than February 15 each year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the Risk Assessment prepared under paragraph (2) in such year.

(C) The National Military Strategy (or update) and Risk Assessment submitted under this subsection shall be classified in form, but shall include an unclassified summary.

(4) SECRETARY OF DEFENSE REPORTS TO CONGRESS.—(A) In transmitting a National Military Strategy (or update) or Risk Assessment to Congress pursuant to paragraph (3), the Secretary of Defense shall include in the transmittal such comments of the Secretary thereon, if any, as the Secretary considers appropriate.

(B) If the Risk Assessment transmitted under paragraph (3) in a year includes an assessment that a risk or risks associated with the National Military Strategy (or update) are significant, or that critical deficiencies in force capabilities exist for a contingency plan described in paragraph (2)(B)(vi), the Secretary shall include in the transmittal of the Risk Assessment the plan of the Secretary for mitigating such risk or deficiency. A plan for mitigating risk of deficiency under this subparagraph shall—

(i) address the risk assumed in the National Military Strategy (or update) concerned, and the additional actions taken or planned to be taken to address such risk using only current technology and force structure capabilities; and

(ii) specify, for each risk addressed, the extent of, and a schedule for expected mitigation of, such risk, and an assessment of the potential for residual risk, if any, after mitigation.

(c) ANNUAL REPORT ON COMBATANT COMMAND REQUIREMENTS.—(1) Not later than 25 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, the Chairman shall submit to the congressional defense committees a report on the requirements of the combatant commands established under section 161 of this title.

(2) Each report under paragraph (1) shall contain the following:

(A) A consolidation of the integrated priority lists of requirements of the combatant commands.

(B) The Chairman's views on the consolidated lists.

(C) A description of the extent to which the most recent future-years defense program (under

section 221 of this title) addresses the requirements on the consolidated lists.

(D) A description of the funding proposed in the President's budget for the next fiscal year, and for the subsequent fiscal years covered by the most recent future-years defense program, to address each deficiency in readiness identified during the joint readiness review conducted under section 117 of this title for the first quarter of the current fiscal year.

(d) BRIEFING REQUIREMENT.—(1) Not later than 15 days after the submission of the risk assessment required under subsection (b)(2) or March 1 of each even-numbered year, whichever is earlier, the Chairman shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the activities of the Chairman under this section.

(2) The briefing required under paragraph (1) shall include—

(A) a detailed review of the risk assessment required under paragraph (2) of subsection (b), including how such risk assessment addresses the elements required in subparagraph (B) of such paragraph;

(B) an analysis of how the risk assessment informs and supports other Joint Staff assessments, including joint capability development assessments, joint force development assessments, comprehensive joint readiness assessments, and global military integration assessments; and

(C) if the risk assessment is not delivered at or before the time of the briefing, a timeline for when the risk assessment will be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1007; amended Pub. L. 106–65, div. A, title X, §1033, Oct. 5, 1999, 113 Stat. 751; Pub. L. 106–398, §1 [[div. A], title IX, §905], Oct. 30, 2000, 114 Stat. 1654, 1654A–226; Pub. L. 107–107, div. A, title IX, §921(b), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107–314, div. A, title X, §1062(a)(1), Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108–136, div. A, title IX, §903, title X, §1043(b)(2), Nov. 24, 2003, 117 Stat. 1558, 1610; Pub. L. 112–81, div. A, title VIII, §820(b), title IX, §941, Dec. 31, 2011, 125 Stat. 1501, 1548; Pub. L. 112–239, div. A, title VIII, §845(b), title IX, §§951(a), 952, Jan. 2, 2013, 126 Stat. 1848, 1891, 1892; Pub. L. 113–66, div. A, title IX, §905, Dec. 26, 2013, 127 Stat. 817; Pub. L. 113–291, div. A, title X, §1071(c)(2), (g)(3), Dec. 19, 2014, 128 Stat. 3508, 3511; Pub. L. 114–92, div. A, title IX, §901, title X, §1081(a)(3), Nov. 25, 2015, 129 Stat. 956, 1000; Pub. L. 114–328, div. A, title IX, §§921(c), 943, title X, §1064(c), Dec. 23, 2016, 130 Stat. 2351, 2369, 2409; Pub. L. 115–91, div. A, title X, §1081(a)(8), (d)(10), Dec. 12, 2017, 131 Stat. 1594, 1600; Pub. L. 115–232, div. A, title IX, §§912, 913, Aug. 13, 2018, 132 Stat. 1923; Pub. L. 117–81, div. A, title III, §311(c), Dec. 27, 2021, 135 Stat. 1626; Pub. L. 118–31, div. A, title X, §1041(c), Dec. 22, 2023, 137 Stat. 388.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d). Pub. L. 118–31 added subsec. (d).

**2021**—Subsec. (b)(2)(B)(vii). Pub. L. 117–81 added cl. (vii).

**2018**—Subsec. (a)(6)(D). Pub. L. 115–232, §912, amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "formulating policies for concept development and experimentation for the joint employment of the armed forces;".

Subsec. (b)(1)(D)(iii). Pub. L. 115–232, §913(1), substituted "military risk" for "military strategic and operational risks".

Subsec. (b)(2)(B)(ii). Pub. L. 115–232, §913(2), substituted "military strategic risks to United States interests and military risks in executing the National Military Strategy (or update)" for "military strategic and operational risks to United States interests and the military strategic and operational risks in executing the National Military Strategy (or update)".

**2017**—Subsec. (a). Pub. L. 115–91, §1081(d)(10), made technical amendment to directory language of Pub. L. 114–328, §921(c). See 2016 Amendment note below.

Pub. L. 115–91, §1081(a)(8), in introductory provisions, inserted colon after "the following".

**2016**—Subsec. (a). Pub. L. 114–328, §921(c), as amended by Pub. L. 115–91, §1081(d)(10), amended the text of subsec. (a) generally. Prior to amendment, subsec. (a) related to Chairman's functions of planning,

advice, and policy formulation.

Subsec. (b)(1). Pub. L. 114–328, §943(a), amended par. (1) generally. Prior to amendment, par. (1) consisted of subpars. (A) to (F) and related to national military strategy.

Subsec. (b)(2)(A). Pub. L. 114–328, §943(b)(1), substituted "in the report" for "of the report" in third sentence.

Subsec. (b)(2)(B). Pub. L. 114–328, §943(b)(2)(A), inserted "(or update)" after "National Military Strategy" wherever appearing.

Subsec. (b)(2)(B)(ii). Pub. L. 114–328, §943(b)(2)(B), substituted "military strategic and operational risks to United States interests and the military strategic and operational risks in executing the National Military Strategy (or update)." for "strategic risks to United States interests and the military risks in executing the missions of the National Military Strategy (or update)."

Subsec. (b)(2)(B)(iii). Pub. L. 114–328, §943(b)(2)(C), struck out "distinguishing between the concepts of probability and consequences" after "levels of risk".

Subsec. (b)(2)(B)(iv)(II). Pub. L. 114–328, §943(b)(2)(D), struck out "most" before "current future-years defense program".

Subsec. (b)(2)(B)(v). Pub. L. 114–328, §943(b)(2)(E), substituted "of external support, as appropriate." for "or support of—

"(I) other departments and agencies of the United States Government (including their capabilities and availability);

"(II) alliances, allies, and other friendly nations (including their capabilities, availability, and interoperability); and

"(III) contractors."

Subsec. (b)(3)(C). Pub. L. 114–328, §943(c), added subpar. (C).

Subsec. (c)(1). Pub. L. 114–328, §1064(c), substituted "Not later than 25 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31" for "At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31".

**2015**—Subsec. (a)(5). Pub. L. 114–92, §1081(a)(3), substituted "Joint Force Development Activities" for "Joint force development activities" in heading.

Subsec. (a)(5)(F). Pub. L. 114–92, §901, added subpar. (F).

**2014**—Subsec. (a)(5). Pub. L. 113–291, §1071(g)(3), amended Pub. L. 113–66, §905(b). See 2013 Amendment note below.

Subsec. (b)(1)(C)(i). Pub. L. 113–291, §1071(c)(2), substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

**2013**—Subsec. (a)(3)(F). Pub. L. 112–239, §845(b), added subpar. (F).

Subsec. (a)(4)(F), (G). Pub. L. 112–239, §951(a), added subpars. (F) and (G) and struck out former subpar. (F) which read as follows: "Assessing military requirements for defense acquisition programs."

Subsec. (a)(5). Pub. L. 113–66, §905(b), as amended by Pub. L. 113–291, §1071(g)(3), which directed substitution of "JOINT FORCE DEVELOPMENT ACTIVITIES" for "DOCTRINE, TRAINING, AND EDUCATION" in heading, was executed by making the substitution for "DOCTRINE, TRAINING, AND EDUCATION" to reflect the probable intent of Congress.

Subsec. (a)(5)(B). Pub. L. 113–66, §905(a)(1), inserted "and technical standards, and executing actions," after "policies".

Subsec. (a)(5)(C). Pub. L. 113–66, §905(a)(2), struck out "and training" after "education".

Subsec. (a)(5)(D), (E). Pub. L. 113–66, §905(a)(3), added subpars. (D) and (E).

Subsec. (b). Pub. L. 112–239, §952(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to risks under National Military Strategy.

Subsec. (d). Pub. L. 112–239, §952(b), struck out subsec. (d) which related to biennial review of National Military Strategy.

**2011**—Subsec. (a)(3)(C) to (E). Pub. L. 112–81, §820(b)(1), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (a)(4)(E). Pub. L. 112–81, §820(b)(2), inserted "and contractor support" after "area of manpower".

Subsec. (b)(1). Pub. L. 112–81, §941(1), substituted "assessment of—" for "assessment of the nature and magnitude of the strategic and military risks associated with executing the missions called for under the current National Military Strategy." and added subpars. (A) and (B).

Subsec. (b)(2). Pub. L. 112–81, §941(2), inserted "or that critical deficiencies in force capabilities exist for a contingency plan," after "National Military Strategy is significant," and "or deficiency" before period at end.

Subsec. (d)(2)(I). Pub. L. 112–81, §820(b)(3)(A), added subpar. (I).

Subsec. (d)(3)(B). Pub. L. 112–81, §820(b)(3)(B), substituted "the levels of support from allies and other

friendly nations, and the levels of contractor support" for "and the levels of support from allies and other friendly nations".

**2003**—Subsec. (b)(1). Pub. L. 108–136, §903(b), substituted "of each odd-numbered year" for "each year".

Subsec. (c). Pub. L. 108–136, §1043(b)(2), in par. (1), substituted "congressional defense committees" for "committees of Congress named in paragraph (2)", designated the second sentence of par. (1) as par. (2), in par. (2), substituted "Each report under paragraph (1)" for "The report", and struck out former par. (2) which read as follows: "The committees of Congress referred to in paragraph (1) are the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives."

Subsec. (d). Pub. L. 108–136, §903(a), added subsec. (d).

**2002**—Pub. L. 107–314 inserted subsec. (a) heading and redesignated subsecs. (c) and (d) as (b) and (c), respectively.

**2001**—Subsec. (a). Pub. L. 107–107, §921(b)(1), struck out "(a) PLANNING; ADVICE; POLICY FORMULATION.—" before "Subject to the authority".

Subsec. (b). Pub. L. 107–107, §921(b)(2), struck out heading and text of subsec. (b) which read as follows:

"(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

"(A) Changes in the nature of the threats faced by the United States.

"(B) Unnecessary duplication of effort among the armed forces.

"(C) Changes in technology that can be applied effectively to warfare.

"(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman."

**2000**—Subsec. (d)(1). Pub. L. 106–398, §1 [[div. A], title IX, §905(b)], substituted "At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31," for "Not later than August 15 of each year," in introductory provisions.

Subsec. (d)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title IX, §905(a)], added subpars. (C) and (D).

**1999**—Subsecs. (c), (d). Pub. L. 106–65 added subsecs. (c) and (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(10) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(3) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113–66 as enacted.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### INCLUSION OF ASSESSMENT OF JOINT MILITARY TRAINING AND FORCE ALLOCATIONS IN QUADRENNIAL DEFENSE REVIEW AND NATIONAL MILITARY STRATEGY

Pub. L. 112–81, div. A, title III, §348, Dec. 31, 2011, 125 Stat. 1375, provided that: "The assessments of the National Military Strategy conducted by the Chairman of the Joint Chiefs of Staff under section 153(b) of this title [sic; probably means Title 10, Armed Forces], and the quadrennial roles and missions review pursuant to [former] section 118b of this title [sic], shall include an assessment of joint military training and force allocations to determine—

"(1) the compliance of the military departments with the joint training, doctrine, and resource allocation recommendations promulgated by the Joint Chiefs of Staff; and

"(2) the effectiveness of the Joint Staff in carrying out the missions of planning and experimentation

formerly accomplished by Joint Forces Command."

**COMMON MEASUREMENT OF OPERATIONS TEMPO AND PERSONNEL TEMPO**

Pub. L. 105–85, div. A, title III, §326, Nov. 18, 1997, 111 Stat. 1679, provided that:

"(a) MEANS FOR MEASUREMENT.—The Chairman of the Joint Chiefs of Staff shall, to the maximum extent practicable, develop (1) a common means of measuring the operations tempo (OPTEMPO) of each of the Armed Forces, and (2) a common means of measuring the personnel tempo (PERSTEMPO) of each of the Armed Forces. The Chairman shall consult with the other members of the Joint Chiefs of Staff in developing those common means of measurement.

"(b) PERSTEMPO MEASUREMENT.—The measurement of personnel tempo developed by the Chairman shall include a means of identifying the rate of deployment for individual members of the Armed Forces in addition to the rate of deployment for units."

**ANNUAL ASSESSMENT OF FORCE READINESS**

Pub. L. 103–160, div. A, title III, §376, Nov. 30, 1993, 107 Stat. 1637, provided for an annual assessment of readiness and capability of the Armed Forces by the Chairman of the Joint Chiefs of Staff to be submitted to Congress not later than March 1 of each of 1994, 1995, and 1996 and for interim assessments between annual submissions in the event of a significant change in readiness or capability of the Armed Forces.

**REPORT OF CHAIRMAN OF JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF ARMED FORCES**

Pub. L. 102–484, div. A, title IX, §901, Oct. 23, 1992, 106 Stat. 2469, provided for the Secretary of Defense to transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that was submitted by the Chairman of the Joint Chiefs of Staff under subsec. (b) of this section after Jan. 1, 1992, and directed the Chairman to include in the report comments and recommendations.

**TRANSITION PROVISIONS**

Pub. L. 99–433, title II, §204(a), (b), Oct. 1, 1986, 100 Stat. 1011, provided dates for establishment of the uniform system of evaluating the preparedness of each unified and specified combatant command and for submission of the first report.

## §154. Vice Chairman

(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

(3) The Vice Chairman serves at the pleasure of the President for a single term of four years, beginning on October 1 of an odd-numbered year, except that the term may not begin in the same year as the term of a Chairman. In time of war, there is no limit on the number of reappointments.

(4)(A) The Vice Chairman shall not be eligible for promotion to the position of Chairman or any other position in the armed forces.

(B) The President may waive subparagraph (A) if the President determines such action is necessary in the national interest.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(f) [1] of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) DUTIES.—The Vice Chairman performs the duties prescribed for him as a member of the

Joint Chiefs of Staff and such other duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the offices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

(f) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1008; amended Pub. L. 100–456, div. A, title V, §519(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102–484, div. A, title IX, §911(b)(1), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 114–328, div. A, title IX, §921(d)(1), (2), Dec. 23, 2016, 130 Stat. 2354.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (b)(1)(B), was redesignated as section 664(d) of this title by Pub. L. 114–328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

### AMENDMENTS

**2016**—Subsec. (a)(3). Pub. L. 114–328, §921(d)(1), substituted "for a single term of four years, beginning on October 1 of an odd-numbered year, except that the term may not begin in the same year as the term of a Chairman. In time of war, there is no limit on the number of reappointments." for "for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments."

Subsec. (a)(4). Pub. L. 114–328, §921(d)(2), added par. (4).

**1992**—Subsec. (c). Pub. L. 102–484, §911(b)(1)(A), substituted "the duties prescribed for him as a member of the Joint Chiefs of Staff and such other" for "such".

Subsecs. (f), (g). Pub. L. 102–484, §911(b)(1)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman."

**1988**—Subsec. (b)(1)(B). Pub. L. 100–456 substituted "completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "served in at least one joint duty assignment (as defined under section 668(b) of this title)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title IX, §921(d)(3), Dec. 23, 2016, 130 Stat. 2354, provided that: "The amendments made by this subsection [amending this section] shall take effect on January 1, 2021, and shall apply to individuals appointed as Vice Chairman of the Joint Chiefs of Staff on or after that date."

### EXTENSION OF TERM OF OFFICE OF VICE CHAIRMAN OF JOINT CHIEFS OF STAFF

Pub. L. 100–526, title I, §107, Oct. 24, 1988, 102 Stat. 2625, authorized President to extend until June 1, 1989, term of office of officer serving as Vice Chairman of Joint Chiefs of Staff for term which began on Feb. 6, 1987.

### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JOINT CHIEFS

**OF STAFF**

Pub. L. 99–433, title II, §204(c), Oct. 1, 1986, 100 Stat. 1011, authorized President, until Oct. 1, 1990, to waive certain requirements otherwise applicable for appointment of an officer as Vice Chairman of Joint Chiefs of Staff.

[1] *See References in Text note below.*

## §155. Joint Staff

(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff in carrying out their responsibilities.

(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

(A) the Army;

(B) the Navy and the Marine Corps; and

(C) the Air Force and the Space Force.

(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman prescribes and shall perform such duties under such procedures as the Chairman prescribes.

(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 3002) to provide—

(1) for the unified strategic direction of the combatant forces;

(2) for their operation under unified command; and

(3) for their integration into an efficient team of land, naval, and air forces.

(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the

approval of the Secretary.

(4) Paragraphs (1) and (3) do not apply—

(A) in time of war; or

(B) during a national emergency declared by the President or Congress.

(g) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.

(h) PERSONNEL LIMITATIONS.—(1) The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty for the Joint Staff may not exceed 2,250.

(2) Not more than 1,500 members of the armed forces on the active-duty list may be assigned or detailed to permanent duty for the Joint Staff.

(3) The limitations in paragraphs (1) and (2) do not apply in time of war.

(4) Each limitation in paragraphs (1) and (2) may be exceeded by a number equal to 15 percent of such limitation in time of national emergency.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1009; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(2), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–510, div. A, title IX, §902, Nov. 5, 1990, 104 Stat. 1620; Pub. L. 102–484, div. A, title IX, §911(b)(2), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 103–35, title II, §202(a)(8), May 31, 1993, 107 Stat. 101; Pub. L. 113–291, div. A, title X, §1071(c)(1), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title IX, §903(b)(1), Dec. 23, 2016, 130 Stat. 2344; Pub. L. 116–92, div. A, title IX, §901(a)(2)(A), Dec. 20, 2019, 133 Stat. 1541; Pub. L. 116–283, div. A, title IX, §924(b)(7)(B), Jan. 1, 2021, 134 Stat. 3822.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2)(C). Pub. L. 116–283 inserted "and the Space Force" after "the Air Force".

**2019**—Subsec. (h)(1). Pub. L. 116–92 substituted "2,250" for "2,069".

**2016**—Subsec. (h). Pub. L. 114–328 added subsec. (h).

**2014**—Subsec. (d). Pub. L. 113–291 substituted "(50 U.S.C. 3002)" for "(50 U.S.C. 401)" in introductory provisions.

**1993**—Subsec. (a)(1). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484. See 1992 Amendment note below.

**1992**—Subsec. (a)(1). Pub. L. 102–484, as amended by Pub. L. 103–35, struck out "and the Vice Chairman" before "in carrying out".

**1990**—Subsecs. (g), (h). Pub. L. 101–510 redesignated subsec. (h) as (g) and struck out former subsec. (g) which read as follows: "LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

"(2) Paragraph (1) does not apply—

"(A) in time of war; or

"(B) during a national emergency declared by the President or Congress."

**1987**—Subsec. (f)(4)(B). Pub. L. 100–180, §1314(b)(2)(A), inserted "or Congress" after "by the President".

Subsec. (g)(2)(B). Pub. L. 100–180, §1314(b)(2)(B), inserted "the President or" after "declared by".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title IX, §901(a)(2)(B), Dec. 20, 2019, 133 Stat. 1541, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect on December 31, 2019, immediately after the coming into effect of the amendment made by section 903(b) of the National Defense

Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2344) [amending this section], to which such amendments relate[.]"

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title IX, §903(b)(2), Dec. 23, 2016, 130 Stat. 2344, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on December 31, 2019."

## EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–35, title II, §202(b), May 31, 1993, 107 Stat. 102, provided that: "The amendments made by this section [amending this section, sections 1079, 1086a, 1174a, 1463, 2323, 2347, 2391, and 2410d of this title, and sections 5013 and 5113 of former Title 36, Patriotic Societies and Observances, and amending provisions set out as notes under sections 664, 2350a, 2431, 2501, 2505, 10105, and 12681 of this title and section 5611 of Title 15, Commerce and Trade] shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484)."

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## ESTABLISHMENT OF CHAIRMAN'S CONTROLLED ACTIVITY WITHIN JOINT STAFF FOR INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE

Pub. L. 115–91, div. A, title XVI, §1627, Dec. 12, 2017, 131 Stat. 1734, provided that:

"(a) CHAIRMAN'S CONTROLLED ACTIVITY.—The Chairman of the Joint Chiefs of Staff shall—

"(1) undertake the roles, missions, and responsibilities of, and preserve an equal or greater number of personnel billets than the amount of such billets previously prescribed for, the Joint Functional Component Command for Intelligence, Surveillance, and Reconnaissance of the United States Strategic Command; and

"(2) not later than 30 days after the date of the enactment of this Act [Dec. 12, 2017], establish an organization within the Joint Staff—

"(A) that is designated as the Joint Staff Intelligence, Surveillance, and Reconnaissance Directorate and Supporting Chairman's Controlled Activity;

"(B) for which the Chairman of the Joint Chiefs of Staff shall serve as the joint functional manager; and

"(C) that shall synchronize cross-combatant command intelligence, surveillance, and reconnaissance plans and develop strategies integrating all intelligence, surveillance, and reconnaissance capabilities provided by joint services, the National Reconnaissance Office, combat support intelligence agencies of the Department of Defense, and allies, to satisfy the intelligence needs of the combatant commands for the Department of Defense.

"(b) LEAD AGENT.—The Secretary of Defense shall designate the Secretary of the Air Force as the lead agent and sponsor for funding for the organization established under subsection (a)(2).

"(c) DATA COLLECTION AND ANALYSIS TO SUPPORT ISR ALLOCATION AND SYNCHRONIZATION PROCESSES.—In coordination with the Director of Cost Analysis and Program Evaluation, the Chairman of the Joint Chiefs of Staff shall issue guidance to the commanders of the geographical combatant commands that requires the commanders to collect sufficient and relevant data regarding the effectiveness of intelligence, surveillance, and reconnaissance measures in a manner that will—

"(1) enable the standardized, objective evaluation and analysis of that data with respect to the use and effectiveness of the intelligence, surveillance, and reconnaissance capabilities provided to the commanders; and

"(2) support recommendations made by the organization established under subsection (a)(2) to the Secretary of Defense regarding the allocation of intelligence, surveillance, and reconnaissance resources of the Department of Defense."

## INCREASED FLEXIBILITY IN USE OF FUNDS FOR JOINT STAFF EXERCISES

Pub. L. 109–364, div. A, title X, §1052, Oct. 17, 2006, 120 Stat. 2396, provided that:

"(a) IN GENERAL.—Amounts available to the Chairman of the Joint Chiefs of Staff for joint staff exercises may be available for any expenses as follows:

"(1) Expenses of the Armed Forces in connection with such exercises, including expense relating to

self-deploying watercraft under the jurisdiction of a military department.

"(2) Expenses relating to the costs of port support activities in connection with such exercises, including transportation and port handling.

"(3) Expenses relating to the breakout and operation of prepositioned watercraft and lighterage for joint logistics and over the shore exercises in connection with such exercises.

"(b) SUPPLEMENT NOT SUPPLANT.—Any amounts made available by the Chairman of the Joint Chiefs of Staff under subsection (a) for expenses covered by that subsection are in addition to any other amounts available under law for such expenses."

**ASSISTANTS TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD MATTERS AND FOR RESERVE MATTERS**

Pub. L. 105–85, div. A, title IX, §901, Nov. 18, 1997, 111 Stat. 1853, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, which established the positions of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters and Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters within the Joint Staff, was repealed and restated as former section 155a of this title by Pub. L. 112–239, §511(a), (c), Jan. 2, 2013, 126 Stat. 1717, 1718.

## [§155a. Repealed. Pub. L. 114–328, div. A, title V, §502(a)(1), Dec. 23, 2016, 130 Stat. 2102]

Section, added Pub. L. 112–239, div. A, title V, §511(a), Jan. 2, 2013, 126 Stat. 1717, related to Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those formerly contained in this section were contained in Pub. L. 105–85, div. A, title IX, §901, Nov. 18, 1997, 111 Stat. 1853, which was set out as a note under section 155 of this title, prior to repeal by Pub. L. 112–239, §511(c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**RETENTION OF GRADE OF INCUMBENTS IN POSITIONS ON EFFECTIVE DATE**

Pub. L. 114–328, div. A, title V, §502(tt), as added by Pub. L. 115–91, div. A, title V, §506(a)(1), Dec. 12, 2017, 131 Stat. 1374, provided that: "The grade of service of an officer serving as of the date of the enactment of this Act [Dec. 23, 2016, see below] in a position whose statutory grade is affected by an amendment made by this section [see Tables for classification] may not be reduced after that date by reason of such amendment as long as the officer remains in continuous service in such position after that date."

[Pub. L. 115–91, div. A, title V, §506(a)(2), Dec. 12, 2017, 131 Stat. 1374, provided that: "The amendment made by paragraph (1) [enacting section 502(tt) of Pub. L. 114–328, set out above] shall take effect as of December 23, 2016, and be treated as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328)."]

## §156. Legal Counsel to the Chairman of the Joint Chiefs of Staff

(a) IN GENERAL.—There is a Legal Counsel to the Chairman of the Joint Chiefs of Staff.

(b) SELECTION FOR APPOINTMENT.—Under regulations prescribed by the Secretary of Defense, the officer selected for appointment to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be recommended by a board of officers convened by the Secretary of Defense that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(c) DUTIES.—(1) The Legal Counsel of the Chairman of the Joint Chiefs of Staff shall perform such legal duties in support of the responsibilities of the Chairman of the Joint Chiefs of Staff as the Chairman may prescribe.

(2) No officer or employee of the Department of Defense may interfere with the ability of the Legal Counsel to give independent legal advice to the Chairman of the Joint Chiefs of Staff and to the Joint Chiefs of Staff.

(Added Pub. L. 110–181, div. A, title V, §543(e)(1), Jan. 28, 2008, 122 Stat. 115; amended Pub. L. 110–417, [div. A], title V, §591, Oct. 14, 2008, 122 Stat. 4474; Pub. L. 111–84, div. A, title V, §501(a), Oct. 28, 2009, 123 Stat. 2272; Pub. L. 114–328, div. A, title V, §502(b), Dec. 23, 2016, 130 Stat. 2102.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsecs. (c), (d). Pub. L. 114–328 redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "An officer appointed to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be appointed in the regular grade of brigadier general or rear admiral (lower half)."

**2009**—Subsec. (c). Pub. L. 111–84 substituted "be appointed in the regular" for ", while so serving, hold the".

**2008**—Subsec. (d). Pub. L. 110–417 designated existing provisions as par. (1) and added par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title V, §501(b), Oct. 28, 2009, 123 Stat. 2272, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to individuals appointed as Legal Counsel to the Chairman of the Joint Chiefs of Staff on or after that date."

## CHAPTER 6—COMBATANT COMMANDS

Sec.
161. Combatant commands: establishment.
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[168, 169. Repealed.]

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior to enactment of this chapter by Pub. L. 99–433, provisions relating to combat commands were contained in section 124 of this title.

### AMENDMENTS

**2019**—Pub. L. 116–92, div. A, title XVI, §1601(b)(1), title XVII, §1731(a)(9), Dec. 20, 2019, 133 Stat. 1722, 1812, inserted period at end of item 169 "Subordinate unified command of the United States Strategic Command" and then struck it out.

**2018**—Pub. L. 115–232, div. A, title VIII, §812(a)(1)(B), title XVI, §1601(a)(2), Aug. 13, 2018, 132 Stat. 1846, 2103, struck out item 167a "Unified combatant command for joint warfighting experimentation:

acquisition authority" and added item 169.

**2016**—Pub. L. 114–328, div. A, title IX, §923(b), title XII, §1253(a)(2)(A), Dec. 23, 2016, 130 Stat. 2358, 2532, added item 167b and struck out item 168 "Military-to-military contacts and comparable activities".

**2003**—Pub. L. 108–136, div. A, title VIII, §848(a)(2), Nov. 24, 2003, 117 Stat. 1555, added item 167a.

**2001**—Pub. L. 107–107, div. A, title XV, §1512(b), Dec. 28, 2001, 115 Stat. 1273, added item 166b.

**1994**—Pub. L. 103–337, div. A, title XIII, §1316(a)(2), Oct. 5, 1994, 108 Stat. 2899, added item 168.

**1991**—Pub. L. 102–190, div. A, title IX, §902(b), Dec. 5, 1991, 105 Stat. 1451, added item 166a.

**1986**—Pub. L. 99–500, §101(c) [title IX, §9115(b)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–124, and Pub. L. 99–591, §101(c) [title IX, §9115(b)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–124; Pub. L. 99–661, div. A, title XIII, §1311(b)(2), Nov. 14, 1986, 100 Stat. 3985, amended analysis identically adding item 167.

Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012, added chapter 6 heading and analysis.

## §161. Combatant commands: establishment

(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

(1) establish unified combatant commands and specified combatant commands to perform military missions; and

(2) prescribe the force structure of those commands.

(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

(2) Except during time of hostilities or imminent threat of hostilities, the President shall—

(A) not more than 60 days after establishing a new combatant command—

(i) notify Congress of the establishment of such command; and

(ii) provide to Congress a briefing on the establishment of such command; and

(B) not more than 60 days after significantly revising the missions, responsibilities, or force structure of an existing combatant command—

(i) notify Congress of such revisions; and

(ii) provide to Congress a briefing on such revisions.

(c) DEFINITIONS.—In this chapter:

(1) The term "unified combatant command" means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

(2) The term "specified combatant command" means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

(3) The term "combatant command" means a unified combatant command or a specified combatant command.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012; amended Pub. L. 117–263, div. A, title IX, §912, Dec. 23, 2022, 136 Stat. 2751.)

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b)(2). Pub. L. 117–263 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

"(A) establishing a new combatant command; or

"(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 115–232, div. A, title XII, §1251(a), Aug. 13, 2018, 132 Stat. 2053, provided that: "The combatant command known as the United States Pacific Command shall be known as the 'United States Indo-Pacific Command'. Any reference to the United States Pacific Command in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the United States Indo-Pacific Command."

### ESTABLISHMENT OF JOINT FORCE HEADQUARTERS IN AREA OF OPERATIONS OF UNITED STATES INDO-PACIFIC COMMAND

Pub. L. 117–263, div. A, title X, §1087, Dec. 23, 2022, 136 Stat. 2802, provided that:

"(a) ESTABLISHMENT.—Not later than October 1, 2024, the Secretary of Defense shall establish a joint force headquarters in the area of operations of United States Indo-Pacific Command, in accordance with the implementation plan required under subsection (b).

"(b) IMPLEMENTATION PLAN AND ESTABLISHMENT OF JOINT FORCE HEADQUARTERS.—

"(1) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an implementation plan for the establishment of a joint force headquarters in the area of operations of United States Indo-Pacific Command to serve as an operational command. Such plan shall include—

"(A) the integration of joint all domain command and control effects chains and mission command and control, including in conflicts that arise with minimal warning;

"(B) the integration of the capabilities of Assault Breaker II, developed by the Defense Advanced Research Projects Agency, and related developmental efforts as they transition to operational deployment;

"(C) the exercise of other joint all domain command and control capabilities and functions; and

"(D) such other missions and operational tasks as the Secretary determines appropriate.

"(2) ELEMENTS.—The plan required by paragraph (1) shall include each of the following with respect to the joint force headquarters to be established:

"(A) A description of the operational chain of command.

"(B) An identification of the manning and resourcing required, relative to assigned missions, particularly the sources of personnel required.

"(C) A description of the mission and lines of effort.

"(D) A description of the relationship with existing entities in United States Indo-Pacific Command, including an assessment of complementary and duplicative activities with such entities and the joint force headquarters.

"(E) An identification of supporting infrastructure required.

"(F) Such other matters as the Secretary considers appropriate.

"(c) SUPPORT FOR JOINT FORCE HEADQUARTERS.—The commander of the joint force headquarters established under this section shall be supported by the United States Indo-Pacific Command subordinate unified commands, subordinate component commands, standing joint task force, and the Armed Forces.

"(d) ANNUAL REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the establishment of the joint force headquarters required under subsection (a), and not less frequently than once each year thereafter until December 31, 2028, the Secretary of Defense shall submit to the congressional defense committees an annual report on the joint force headquarters established under this section.

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

"(A) A description of the mission and lines of effort of the joint force headquarters.

"(B) An accounting of the personnel and other resources supporting the joint force headquarters, including support external to the headquarters.

"(C) A description of the operational chain of command of the joint force headquarters.

"(D) An assessment of the manning and resourcing of the joint force headquarters, relative to assigned missions.

"(E) A description of the relationship with existing entities in Indo-Pacific Command, including an assessment of complementary and duplicative activities with such entities and the joint force headquarters.

"(3) FORM.—Each report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex."

## MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF UNIFIED COMBATANT COMMANDS

Pub. L. 104–201, div. A, title IX, §905, Sept. 23, 1996, 110 Stat. 2619, required the Chairman of the Joint Chiefs of Staff to consider, as part of the next periodic review after Sept. 23, 1996, pursuant to subsec. (b) of this section: (1) whether there was an adequate distribution of responsibilities among the regional unified combatant commands; (2) whether fewer or differently configured commands would permit the United States to better execute warfighting plans; (3) whether any assets or activities were redundant; (4) whether warfighting requirements were adequate to justify current commands; (5) whether exclusion of certain nations from the Areas of Responsibility presented difficulties with respect to national security objectives in those areas; and (6) whether the boundary between the United States Central and European Commands could create command conflicts in the context of a major regional conflict in the Middle East.

## INITIAL REVIEW OF COMBATANT COMMANDS

Pub. L. 99–433, title II, §212, Oct. 1, 1986, 100 Stat. 1017, set out 10 areas to be covered in first review of missions, responsibilities, and force structure of unified combatant commands under subsec. (b) of this section, and directed that first report to President be made not later than Oct. 1, 1987.

## EXECUTIVE DOCUMENTS

## DISESTABLISHMENT OF UNITED STATES JOINT FORCES COMMAND

Memorandum of President of the United States, Jan. 6, 2011, 76 F.R. 1977, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as Commander in Chief and under 10 U.S.C. 161, I hereby accept the recommendations of the Secretary of Defense and Chairman of the Joint Chiefs of Staff and approve the disestablishment of United States Joint Forces Command, effective on a date to be determined by the Secretary of Defense. I direct this action be reflected in the 2010 Unified Command Plan.

Pursuant to 10 U.S.C. 161(b)(2) and 3 U.S.C. 301, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## REVISIONS TO UNIFIED COMMAND PLAN

The following presidential memoranda approved and directed the implementation of a revised Unified Command Plan and directed notification to Congress consistent with subsec. (b)(2) of this section:

Memorandum of President of the United States, Mar. 14, 2025, 90 F.R. 13045.

Memorandum of President of the United States, Apr. 25, 2023, 88 F.R. 26219.

Memorandum of President of the United States, May 24, 2019, 84 F.R. 24977.

Memorandum of President of the United States, Apr. 6, 2011, 76 F.R. 19893.

## ESTABLISHMENT OF UNITED STATES SPACE COMMAND AS A UNIFIED COMBATANT COMMAND

Memorandum of President of the United States, Dec. 18, 2018, 83 F.R. 65483, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as the Commander in Chief and under section 161 of title 10, United States Code, and in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, I direct the establishment, consistent with United States law, of United States Space Command as a functional Unified Combatant Command. I also direct the Secretary of Defense to recommend officers for my nomination and Senate confirmation as Commander and Deputy Commander of the new United States Space Command.

I assign to United States Space Command: (1) all the general responsibilities of a Unified Combatant Command; (2) the space-related responsibilities previously assigned to the Commander, United States Strategic Command; and (3) the responsibilities of Joint Force Provider and Joint Force Trainer for Space Operations Forces. The comprehensive list of authorities and responsibilities for United States Space Command will be included in the next update to the Unified Command Plan.

Consistent with section 161(b)(2) of title 10, United States Code, and section 301 of title 3, United States Code, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

## §162. Combatant commands: assigned forces; chain of command

(a) ASSIGNMENT OF FORCES.—(1) As directed by the Secretary of Defense, the Secretaries of the military departments shall assign specified forces under their jurisdiction to unified and specified combatant commands or to the United States element of the North American Aerospace Defense Command to perform missions assigned to those commands. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

(2) A force not assigned to a combatant command or to the United States element of the North American Aerospace Defense Command under paragraph (1) shall remain assigned to the military department concerned for carrying out the responsibilities of the Secretary of the military department concerned as specified in section 7013, 8013, or 9013 of this title, as applicable.

(3) A force assigned to a combatant command or to the United States element of the North American Aerospace Defense Command under this section may be transferred from the command to which it is assigned only—

(A) by authority of the Secretary of Defense; and

(B) under procedures prescribed by the Secretary and approved by the President.

(4) Except as otherwise directed by the Secretary of Defense, all forces assigned to a unified combatant command shall be under the command of the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

(1) from the President to the Secretary of Defense; and

(2) from the Secretary of Defense to the commander of the combatant command.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012; amended Pub. L. 100–180, div. A, title XIII, §1313, Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title VII, §711, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 104–201, div. A, title X, §1073(a), Sept. 23, 1996, 110 Stat. 2657; Pub. L. 114–328, div. A, title IX, §924, Dec. 23, 2016, 130 Stat. 2358; Pub. L. 115–91, div. A, title X, §1081(a)(9), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a)(2). Pub. L. 115–232 substituted "section 7013, 8013, or 9013" for "section 3013, 5013, or 8013".

**2017**—Subsec. (a)(4). Pub. L. 115–91 struck out comma after "command of".

**2016**—Subsec. (a)(1). Pub. L. 114–328, §924(1), substituted "As directed by the Secretary of Defense" for "Except as provided in paragraph (2)" and "specified forces" for "all forces" and struck out "Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned." before "The Secretary of Defense".

Subsec. (a)(2). Pub. L. 114–328, §924(2), added par. (2) and struck out former par. (2) which read as follows: "Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands or to the United States element of the North American

Aerospace Defense Command under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title or forces assigned to multinational peacekeeping organizations."

Subsec. (a)(4). Pub. L. 114–328, §924(3)(B), struck out "assigned to, and" before "under the command".

Pub. L. 114–328, §924(3)(A), which directed striking out "operating with the geographic area", was executed by striking out "operating within the geographic area" after "all forces" to reflect the probable intent of Congress.

**1996**—Subsec. (a)(1) to (3). Pub. L. 104–201 substituted "North American Aerospace Defense Command" for "North American Air Defense Command".

**1988**—Subsec. (a)(1) to (3). Pub. L. 100–456 inserted "or to the United States element of the North American Air Defense Command".

**1987**—Subsec. (a)(2). Pub. L. 100–180 inserted before period at end "or forces assigned to multinational peacekeeping organizations".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION OF ASSIGNMENT OF FORCES TO COMBATANT COMMANDS**

Pub. L. 99–433, title II, §214(a), Oct. 1, 1986, 100 Stat. 1018, provided that section 162(a) of this title shall be implemented not later than 90 days after Oct. 1, 1986.

## §163. Role of Chairman of Joint Chiefs of Staff

(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES .—Subject to the limitations in section 152(c) of this title, the President may—

(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the commanders of the combatant commands prescribed in section 164(b)(2) of this title.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

(B) evaluate and integrate such information;

(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1013.)

## §164. Commanders of combatant commands: assignment; powers and duties

(a) ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(d) of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

(3)(A) If the President removes an officer assigned under paragraph (1) to serve as the commander of a unified or specified combatant command or transfers that officer to another position or location before the expected end of the officer's service as a combatant commander, the President shall, not later than five days after the removal or transfer takes effect, submit to Congress, including the congressional defense committees, notice that the officer is being removed or transferred and a statement of the reason for the removal or transfer.

(B) Nothing in this paragraph prohibits a personnel action authorized by another provision of law.

(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

(2) Subject to the direction of the President, the commander of a combatant command—

(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

(3) Among the full range of command responsibilities specified in subsection (c) and as provided for in section 161 of this title, the primary duties of the commander of a combatant command shall be as follows:

(A) To produce plans for the employment of the armed forces to execute national defense strategies and respond to significant military contingencies.

(B) To take actions, as necessary, to deter conflict.

(C) To command United States armed forces as directed by the Secretary and approved by the President.

(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

(B) prescribing the chain of command to the commands and forces within the command;

(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

(E) assigning command functions to subordinate commanders;

(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in

subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the Secretary considers necessary to carry out missions assigned to the command.

(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

(d) AUTHORITY OVER SUBORDINATE COMMANDERS.—Unless otherwise directed by the President or the Secretary of Defense—

(1) commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

(e) SELECTION OF SUBORDINATE COMMANDERS.—(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of the combatant command; and

(B) in accordance with procedures established by the Secretary of Defense.

(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

(3) The commander of a combatant command shall—

(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

(4)(A) At least one deputy commander of the combatant command the geographic area of

responsibility of which includes the United States shall be—

(i) a qualified officer of a reserve component who is eligible for promotion to the grade of lieutenant general or, in the case of the Navy, vice admiral; or

(ii) a qualified officer of the Space Force whose prior service includes service in a space force active status other than sustained duty and who is eligible for promotion to the grade of lieutenant general.

(B) The requirement in subparagraph (A) does not apply when the officer serving as commander of the combatant command described in that subparagraph is (i) a reserve component officer, or (ii) an officer of the Space Force whose prior service includes service in a space force active status other than sustained duty.

(f) COMBATANT COMMAND STAFF.—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of such command; and

(B) in accordance with procedures established by the Secretary of Defense.

(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

(g) AUTHORITY TO SUSPEND SUBORDINATES.—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

(h) SUPPORT TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF.—The commander of a combatant command shall provide such information to the Chairman of the Joint Chiefs of Staff as may be necessary for the Chairman to perform the duties of the Chairman under section 153 of this title.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1013; amended Pub. L. 100–456, div. A, title V, §519(a)(2), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 110–181, div. A, title XVIII, §1824(b), Jan. 28, 2008, 122 Stat. 501; Pub. L. 114–328, div. A, title V, §516, title IX, §921(e), Dec. 23, 2016, 130 Stat. 2113, 2354; Pub. L. 115–91, div. A, title X, §1081(a)(10), Dec. 12, 2017, 131 Stat. 1594; Pub. L. 118–31, div. A, title XVII, §1722(a)(3), Dec. 22, 2023, 137 Stat. 667; Pub. L. 119–60, div. A, title IX, §911(b), Dec. 18, 2025, 139 Stat. 1015.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(3). Pub. L. 119–60 added par. (3).

**2023**—Subsec. (e)(4). Pub. L. 118–31 designated existing provisions as subpar. (A), substituted "shall be—" and cls. (i) and (ii) for "shall be a qualified officer of a reserve component of the armed forces who is eligible for promotion to the grade of O–9, unless a reserve component officer is serving as commander of that combatant command.", and added subpar. (B).

**2017**—Subsec. (a)(1)(B). Pub. L. 115–91 substituted "section 664(d)" for "section 664(f)".

**2016**—Subsec. (b)(3). Pub. L. 114–328, §921(e)(1), added par. (3).

Subsec. (e)(4). Pub. L. 114–328, §516, substituted "a reserve component of the armed forces" for "the National Guard" and "a reserve component officer" for "a National Guard officer".

Subsec. (h). Pub. L. 114–328, §921(e)(2), added subsec. (h).

**2008**—Subsec. (e)(4). Pub. L. 110–181 added par. (4).

**1988**—Subsec. (a)(1)(B). Pub. L. 100–456 substituted "completed a full tour of duty in a joint duty

assignment (as defined in section 664(f) of this title)" for "served in at least one joint duty assignment (as defined under section 668(b) of this title)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 99–433, title II, §214(c), Oct. 1, 1986, 100 Stat. 1019, provided that: "Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 1, 1986], or on such earlier date as may be prescribed by the Secretary of Defense."

**CONSIDERATION OF RESERVE COMPONENT OFFICERS FOR APPOINTMENT TO CERTAIN COMMAND POSITIONS**

Pub. L. 112–81, div. A, title V, §518, Dec. 31, 2011, 125 Stat. 1397, provided that: "Whenever officers of the Armed Forces are considered for appointment to the position of Commander, Army North Command or Commander, Air Force North Command, fully qualified officers of the National Guard and the Reserves shall be considered for appointment to such position."

**SENSE OF CONGRESS**

Pub. L. 110–181, div. A, title XVIII, §1824(a), Jan. 28, 2008, 122 Stat. 501, provided that: "It is the sense of Congress that, whenever officers of the Armed Forces are considered for promotion to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active duty list, officers in the reserve components of the Armed Forces who are eligible for promotion to such grade should be considered for promotion to such grade."

**WAIVER OF QUALIFICATIONS FOR ASSIGNMENT AS COMBATANT COMMANDER**

Pub. L. 99–433, title II, §214(b), Oct. 1, 1986, 100 Stat. 1018, authorized President, until Oct. 1, 1990, to waive, on a case-by-case basis, certain requirements provided for in subsec. (a) of this section relating to assignment of commanders of combatant commands.

## §165. Combatant commands: administration and support

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

(b) RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

(c) ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1016.)

## §166. Combatant commands: budget proposals

(a) COMBATANT COMMAND BUDGETS.—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for

such activities of each of the unified and specified combatant commands as may be determined under subsection (b).

(b) CONTENT OF PROPOSALS.—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

(1) Joint exercises.
(2) Force training.
(3) Contingencies.
(4) Selected operations.

(c) SOF TRAINING WITH FOREIGN FORCES.—A funding proposal for force training under subsection (b)(2) may include amounts for training expense payments authorized in section 322 of this title.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1016; amended Pub. L. 102–190, div. A, title X, §1052(b), Dec. 5, 1991, 105 Stat. 1471; Pub. L. 115–91, div. A, title X, §1081(a)(11), Dec. 12, 2017, 131 Stat. 1594.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (c). Pub. L. 115–91 substituted "section 322" for "section 2011".
**1991**—Subsec. (c). Pub. L. 102–190 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 99–433, title II, §214(d), Oct. 1, 1986, 100 Stat. 1019, provided that: "Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989."

## §166a. Combatant commands: funding through the Chairman of Joint Chiefs of Staff

(a) COMBATANT COMMANDER INITIATIVE FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the "Combatant Commander Initiative Fund", the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for any of the activities named in subsection (b).

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

(1) Force training.
(2) Contingencies.
(3) Selected operations.
(4) Command and control.
(5) Joint exercises (including activities of participating foreign countries).
(6) Humanitarian and civic assistance, in coordination with the relevant chief of mission to the extent practicable, to include urgent and unanticipated humanitarian relief and reconstruction assistance.

(7) Military education and training to military and related civilian personnel of foreign countries (including transportation, translation, and administrative expenses).

(8) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

(9) Force protection.

(10) Joint warfighting capabilities.

(11) Incremental expenses (as such term is defined in section 301(5) of this title) related to security cooperation programs and activities of the Department of Defense (as such term is defined in section 301(7) of this title).

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combatant Commander Initiative Fund, should give priority consideration to—

(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds;

(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States;

(3) the provision of funds to be used for urgent and unanticipated humanitarian relief and reconstruction assistance, particularly in a foreign country where the armed forces are engaged in a contingency operation; and

(4) incremental expenses related to security cooperation programs and activities of the Department of Defense, as authorized by subsection (b)(11), for United States Africa Command and United States Southern Command.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff during any fiscal year out of the Combatant Commander Initiative Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATIONS.—(1) Of funds made available under this section for any fiscal year—

(A) not more than $25,000,000 may be used to purchase items with a unit cost in excess of $300,000;

(B) not more than $15,000,000 may be used to pay for any expenses of foreign countries participating in joint exercises as authorized by subsection (b)(5); and

(C) not more than $10,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).

(2) Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(f) INCLUSION OF NORAD.—For purposes of this section, the Commander, United States Element, North American Aerospace Defense Command shall be considered to be a commander of a combatant command.

(Added Pub. L. 102–190, div. A, title IX, §902(a), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 102–396, title IX, §9128, Oct. 6, 1992, 106 Stat. 1935; Pub. L. 102–484, div. A, title IX, §934, Oct. 23, 1992, 106 Stat. 2477; Pub. L. 103–35, title II, §201(a), May 31, 1993, 107 Stat. 97; Pub. L. 105–85, div. A, title IX, §902, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 108–136, div. A, title IX, §902(a)(2), (b), (c), Nov. 24, 2003, 117 Stat. 1558; Pub. L. 109–364, div. A, title IX, §902, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111–84, div. A, title IX, §904, Oct. 28, 2009, 123 Stat. 2424; Pub. L. 114–328, div. A, title VIII, §833(b)(1)(C), Dec. 23, 2016, 130 Stat. 2284; Pub. L. 117–81, div. A, title X, §1002, Dec. 27, 2021, 135 Stat. 1883; Pub. L. 118–31, div. A, title XII, §1202(a), Dec. 22, 2023, 137 Stat. 441.)

**EDITORIAL NOTES**

## AMENDMENTS

**2023**—Subsec. (b)(11). Pub. L. 118–31, §1202(a)(1), added par. (11).

Subsec. (c)(4). Pub. L. 118–31, §1202(a)(2), added par. (4).

**2021**—Subsec. (e)(1)(A). Pub. L. 117–81, §1002(1), substituted "$25,000,000" for "$20,000,000" and "$300,000" for "$250,000".

Subsec. (e)(1)(B). Pub. L. 117–81, §1002(2), substituted "$15,000,000" for "$10,000,000".

Subsec. (e)(1)(C). Pub. L. 117–81, §1002(3), substituted "$10,000,000" for "$5,000,000".

**2016**—Subsec. (e)(1)(A). Pub. L. 114–328 substituted "$250,000" for "the investment unit cost threshold in effect under section 2245a of this title".

**2009**—Subsec. (b)(6). Pub. L. 111–84, §904(b), inserted "in coordination with the relevant chief of mission to the extent practicable," after "assistance,".

Subsec. (e)(1)(A). Pub. L. 111–84, §904(a), substituted "$20,000,000" for "$10,000,000" and "the investment unit cost threshold in effect under section 2245a of this title" for "$15,000".

**2006**—Subsec. (b)(6). Pub. L. 109–364, §902(a), substituted "civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance" for "civil assistance".

Subsec. (c)(3). Pub. L. 109–364, §902(b), added par. (3).

**2003**—Subsec. (a). Pub. L. 108–136, §902(a)(2), substituted "COMBATANT COMMANDER INITIATIVE FUND" for "CINC INITIATIVE FUND" in heading and "Combatant Commander Initiative Fund" for "CINC Initiative Fund" in first sentence.

Subsec. (b)(10). Pub. L. 108–136, §902(b), added par. (10).

Subsecs. (c), (d). Pub. L. 108–136, §902(a)(2)(B), substituted "Combatant Commander Initiative Fund" for "CINC Initiative Fund".

Subsec. (e)(1)(A). Pub. L. 108–136, §902(c)(1), substituted "$10,000,000" for "$7,000,000".

Subsec. (e)(1)(B). Pub. L. 108–136, §902(c)(2), substituted "$10,000,000" for "$1,000,000".

Subsec. (e)(1)(C). Pub. L. 108–136, §902(c)(3), substituted "$5,000,000" for "$2,000,000".

**1997**—Subsec. (b)(9). Pub. L. 105–85 added par. (9).

**1993**—Subsec. (a). Pub. L. 103–35, §201(a)(1), substituted "the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose" for "the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command."

Subsec. (b)(7). Pub. L. 103–35, §201(a)(2), struck out second of two identical parenthetical phrases at end of par. (7) which read as follows: "(including transportation, translation, and administrative expenses)".

**1992**—Subsec. (a). Pub. L. 102–484, §934(a), which directed substitution of "funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose." for "funds, upon request," and all that follows through the period, could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102–396, §9128(a). See below.

Pub. L. 102–396, §9128(a), substituted "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command." for "funds, upon request, to the commanders of the combatant commands."

Subsec. (b)(7). Pub. L. 102–396, §9128(b), and Pub. L. 102–484, §934(b), both inserted before period at end "(including transportation, translation, and administrative expenses)".

Subsec. (c). Pub. L. 102–484, §934(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund, should give priority consideration to requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds (c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise

increase, the national security of the United States..[sic]"

Pub. L. 102–396, §9128(c), inserted before period at end "(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States."

Subsec. (e)(1)(C). Pub. L. 102–484, §934(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7)."

Pub. L. 102–396, §9128(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "not more than $500,000 may be used to provide military education and training to military and related civilian personnel of foreign countries as authorized by subsection (b)(7)."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REDESIGNATION OF CINC INITIATIVE FUND**

Pub. L. 108–136, div. A, title IX, §902(a)(1), (3), Nov. 24, 2003, 117 Stat. 1558, provided that:

"(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the 'Combatant Commander Initiative Fund'.

"(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund."

## §166b. Combatant commands: funding for combating terrorism readiness initiatives

(a) COMBATING TERRORISM READINESS INITIATIVES FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the "Combating Terrorism Readiness Initiatives Fund", the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for initiating any activity named in subsection (b) and for maintaining and sustaining the activity for the fiscal year in which initiated and one additional fiscal year.

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

(1) Procurement and maintenance of physical security equipment.

(2) Improvement of physical security sites.

(3) Under extraordinary circumstances—

(A) physical security management planning;

(B) procurement and support of security forces and security technicians;

(C) security reviews and investigations and vulnerability assessments; and

(D) any other activity relating to physical security.

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combating Terrorism Readiness Initiatives Fund, should give priority consideration to emergency or emergent unforeseen high-priority requirements for combating terrorism.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff for a fiscal year out of the Combating Terrorism Readiness Initiatives Fund for

an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATION.—Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(Added Pub. L. 107–107, div. A, title XV, §1512(a), Dec. 28, 2001, 115 Stat. 1272.)

## §167. Unified combatant command for special operations forces

(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the "special operations command"). The principal function of the command is to prepare special operations forces to carry out assigned missions.

(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities.

(2) Subject to the authority, direction, and control of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):

(A) Developing strategy, doctrine, and tactics.

(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

(C) Exercising authority, direction, and control over the expenditure of funds—

(i) for forces assigned to the special operations command; and

(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.

(D) Training assigned forces.

(E) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(F) Validating requirements.

(G) Establishing priorities for requirements.

(H) Ensuring the interoperability of equipment and forces.

(I) Formulating and submitting requirements for intelligence support.

(J) Monitoring the promotions of special operations forces and coordinating with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of special operations forces.

(3) The commander of the special operations command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the special operations command; and

(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

(i) Development and acquisition of special operations-peculiar equipment.

(ii) Acquisition of special operations-peculiar material, supplies, and services.

(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 [1] of this title.

(C)(i) The staff of the commander shall include a command acquisition executive, who shall be responsible for the overall supervision of acquisition matters for the special operations command. The command acquisition executive shall have the authority to—

(I) negotiate memoranda of agreement with the military departments to carry out the acquisition of equipment, material, supplies, and services described in subparagraph (A) on behalf of the command;

(II) supervise the acquisition of equipment, material, supplies, and services described in subparagraph (A), regardless of whether such acquisition is carried out by the command, or by a military department pursuant to a delegation of authority by the command;

(III) represent the command in discussions with the military departments regarding acquisition programs for which the command is a customer; and

(IV) work with the military departments to ensure that the command is appropriately represented in any joint working group or integrated product team regarding acquisition programs for which the command is a customer.

(ii) The command acquisition executive of the special operations command shall be responsible to the commander for rapidly delivering acquisition solutions to meet validated special operations-peculiar requirements, subordinate to the Defense Acquisition Executive in matters of acquisition, subject to the same oversight as the service acquisition executives, and included on the distribution list for acquisition directives and instructions of the Department of Defense.

(D) The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.

(f) ADMINISTRATIVE CHAIN OF COMMAND.—(1) Unless otherwise directed by the President, the administrative chain of command to the special operations command runs—

(A) from the President to the Secretary of Defense;

(B) from the Secretary of Defense to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; and

(C) from the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to the commander of the special operations command.

(2) For purposes of this subsection, administrative chain of command refers to the exercise of authority, direction and control with respect to the special operations-peculiar administration and support of the special operations command, including the readiness and organization of special operations forces, resources and equipment, and civilian personnel. It does not refer to the exercise of authority, direction, and control of operational matters that are subject to the operational chain of

command of the commanders of combatant commands or the exercise of authority, direction, and control of personnel, resources, equipment, and other matters that are not special operations-peculiar that are the purview of the armed forces.

(g) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

(1) development and acquisition of special operations-peculiar equipment; and

(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

(h) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

(j) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

(C) are designated as special operations forces by the Secretary of Defense.

(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

(k) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

(1) Direct action.

(2) Strategic reconnaissance.

(3) Unconventional warfare.

(4) Foreign internal defense.

(5) Civil affairs.

(6) Military information support operations.

(7) Counterterrorism.

(8) Humanitarian assistance.

(9) Theater search and rescue.

(10) Such other activities as may be specified by the President or the Secretary of Defense.

(l) BUDGET SUPPORT FOR RESERVE ELEMENTS.—(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of

the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.

(Added Pub. L. 99–500, §101(c) [title IX, §9115(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–122, and Pub. L. 99–591, §101(c) [title IX, §9115(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–122; Pub. L. 99–661, div. A, title XIII, §1311(b)(1), Nov. 14, 1986, 100 Stat. 3983; amended Pub. L. 100–180, div. A, title XII, §1211(d), Dec. 4, 1987, 101 Stat. 1156; Pub. L. 100–456, div. A, title VII, §712, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 102–88, title VI, §602(c)(3), Aug. 14, 1991, 105 Stat. 444; Pub. L. 103–337, div. A, title IX, §925, Oct. 5, 1994, 108 Stat. 2832; Pub. L. 110–181, div. A, title VIII, §810, Jan. 28, 2008, 122 Stat. 217; Pub. L. 112–81, div. A, title X, §1086(1), Dec. 31, 2011, 125 Stat. 1603; Pub. L. 113–66, div. A, title IX, §903, Dec. 26, 2013, 127 Stat. 816; Pub. L. 113–291, div. A, title X, §1071(c)(3), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title IX, §922(c), Dec. 23, 2016, 130 Stat. 2356.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (e)(4)(B), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

The National Security Act of 1947, referred to in subsec. (h), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–661 and Pub. L. 99–500 added identical sections.

### AMENDMENTS

**2016**—Subsec. (e)(2). Pub. L. 114–328, §922(c)(1)(A), substituted "Subject to the authority, direction, and control of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the commander" for "The commander" in introductory provisions.

Subsec. (e)(2)(J). Pub. L. 114–328, §922(c)(1)(B), added subpar. (J) and struck out former subpar. (J) which read as follows: "Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers."

Subsecs. (f) to (l). Pub. L. 114–328, §922(c)(2), added subsec. (f) and redesignated former subsecs. (f) to (k) as (g) to (l), respectively.

**2014**—Subsec. (g). Pub. L. 113–291 substituted "(50 U.S.C. 3091 et seq.)" for "(50 U.S.C. 413 et seq.)".

**2013**—Subsec. (e)(4)(C)(ii). Pub. L. 113–66 inserted "responsible to the commander for rapidly delivering acquisition solutions to meet validated special operations-peculiar requirements, subordinate to the Defense Acquisition Executive in matters of acquisition, subject to the same oversight as the service acquisition executives, and" after "shall be".

**2011**—Subsec. (j)(6). Pub. L. 112–81 added par. (6) and struck out former par. (6) which read as follows: "Psychological operations."

**2008**—Subsec. (e)(4)(C), (D). Pub. L. 110–181 added subpar. (C) and redesignated former subpar. (C) as (D).

**1994**—Subsec. (k). Pub. L. 103–337 added subsec. (k).

**1991**—Subsec. (g). Pub. L. 102–88 substituted "would require a notice" for "would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice" and "title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)" for "section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413)".

**1988**—Subsec. (e). Pub. L. 100–456 revised and restated subsec. (e). Prior to amendment, subsec. (e) read as follows:

"(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under paragraph (1)(G), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned."

**1987**—Subsec. (e)(3). Pub. L. 100–180 added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title IX, §9115(i)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–125, Pub. L. 99–591, §101(c) [title IX, §9115(i)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–125, and Pub. L. 99–661, div. A, title XIII, §1311(i), Nov. 14, 1986, 100 Stat. 3986, provided that: "Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act [Oct. 18, 1986]."

### REVIEW OF CERTAIN PERSONNEL POLICIES OF SPECIAL OPERATIONS FORCES

Pub. L. 117–263, div. A, title V, §538, Dec. 23, 2022, 136 Stat. 2577, provided that:

"(a) REVIEW REQUIRED.—The Secretary of Defense shall direct the covered officials to review (and, if a covered official determines it necessary, update guidance and processes) matters described in section 167(e)(2)(J) of title 10, United States Code. The covered officials shall complete such review (and update) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022].

"(b) ELEMENTS OF REVIEW.—The review and updates under subsection (a) shall address the respective roles of the military departments and the United States Special Operations Command with respect to the following:

"(1) Coordination between special operations command and the military departments regarding recruiting and retention to ensure that personnel requirements of special operations forces and the military departments are met appropriately.

"(2) Opportunities for members of special operations forces to enroll in professional military education.

"(3) Promotion opportunities for members of special operations forces and an assessment of whether such opportunities are adequate to fulfill staffing requirements of special operations forces.

"(4) Data sharing between the military departments and special operations command with respect to special operations forces personnel.

"(5) Any other matter the Secretary of Defense determines appropriate.

"(c) REPORT REQUIRED.—Not later than 90 days after completing the review (and any updates) under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such review and any resulting updates to guidance and processes. The report shall also include any recommendations of the Secretary regarding matters described in subsection (a) or (b).

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered officials' means—

"(A) the Secretaries of the military departments;

"(B) the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; and

"(C) the Commander of special operations command.

"(2) The term 'special operations command' has the meaning given that term in section 167(a) of title 10, United States Code.

"(3) The term 'special operations forces' means the forces described in section 167(j) of title 10, United States Code."

## PROCESSES AND PROCEDURES FOR NOTIFICATIONS REGARDING SPECIAL OPERATIONS FORCES

Pub. L. 116–92, div. A, title XVII, §1745, Dec. 20, 2019, 133 Stat. 1842, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall establish and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] processes and procedures for providing notifications to the committees regarding members of special operations forces, as identified in section 167(j) of title 10, United States Code.

"(b) PROCESSES AND PROCEDURES.—The processes and procedures established under subsection (a) shall—

"(1) clarify the roles and responsibilities of the Secretaries of the military departments, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, and the Commander of United States Special Operations Command;

"(2) provide guidance relating to the types of matters that would warrant congressional notification, including awards, reprimands, incidents, and any other matters the Secretary determines necessary;

"(3) be consistent with the national security of the United States;

"(4) be designed to protect sensitive information during an ongoing investigation;

"(5) account for the privacy of members of the Armed Forces; and

"(6) take in to account existing processes and procedures for notifications to the congressional defense committees regarding members of the conventional Armed Forces."

## MEMORANDA OF AGREEMENT ON IDENTIFICATION AND DEDICATION OF ENABLING CAPABILITIES OF GENERAL PURPOSE FORCES TO FULFILL CERTAIN REQUIREMENTS OF SPECIAL OPERATIONS FORCES

Pub. L. 112–81, div. A, title IX, §904, Dec. 31, 2011, 125 Stat. 1533, provided that:

"(a) REQUIREMENT.—By not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011] and annually thereafter, each Secretary of a military department shall enter into a memorandum of agreement with the Commander of the United States Special Operations Command that identifies or establishes processes and associated milestones by which numbers and types of enabling capabilities of the general purpose forces of the Armed Forces under the jurisdiction of such Secretary can be identified and dedicated to fulfill the training and operational requirements of special operations forces under the United States Special Operations Command.

"(b) FORMAT.—Such agreements may be accomplished in an annex to existing memoranda of agreement or through separate memoranda of agreement."

## COUNTERTERRORISM OPERATIONAL BRIEFING REQUIREMENT

Pub. L. 112–81, div. A, title X, §1031, Dec. 31, 2011, 125 Stat. 1570, required the Secretary of Defense, beginning not later than March 1, 2012, to provide to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives quarterly briefings outlining Department of Defense counterterrorism operations and related activities involving special operations forces, prior to repeal by Pub. L. 113–66, div. A, title X, §1042(b), Dec. 26, 2013, 127 Stat. 857.

## ANNUAL REPORTS ON USE OF COMBAT MISSION REQUIREMENTS FUNDS

Pub. L. 111–383, div. A, title I, §123, Jan. 7, 2011, 124 Stat. 4158, as amended by Pub. L. 112–81, div. A, title I, §145, Dec. 31, 2011, 125 Stat. 1326; Pub. L. 114–328, div. A, title I, §145, Dec. 23, 2016, 130 Stat. 2042, provided that:

"(a) ANNUAL REPORTS REQUIRED.—

"(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year, the commander of the United States Special Operations Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a

report on the use of Combat Mission Requirements funds during the preceding fiscal year.

"(2) COMBAT MISSION REQUIREMENTS FUNDS.—For purposes of this section, Combat Mission Requirements funds are amounts available to the Department of Defense for Defense-wide procurement in the Combat Mission Requirements subaccount of the Defense-wide Procurement account.

"(b) ELEMENTS.—Each report under subsection (a) shall include, for the fiscal year covered by such report, the following:

"(1) The balance of the Combat Mission Requirements subaccount at the beginning of such year.

"(2) The balance of the Combat Mission Requirements subaccount at the end of such year.

"(3) Any transfer of funds into or out of the Combat Mission Requirements subaccount during such year, including the source of any funds transferred into the subaccount, and the objective of any transfer of funds out of the subaccount.

"(4) A description of any requirement—

"(A) approved for procurement using Combat Mission Requirements funds during such year; or

"(B) procured using such funds during such year.

"(5) With respect to each description of a requirement under paragraph (4), the amount of Combat Mission Requirements funds committed to the procurement or approved procurement of such requirement.

"(6) A table setting forth the Combat Mission Requirements approved during the fiscal year in which such report is submitted and the two preceding fiscal years, including for each such Requirement—

"(A) the title of such Requirement;

"(B) the date of approval of such Requirement; and

"(C) the amount of funding approved for such Requirement, and the source of such approved funds.

"(7) A statement of the amount of any unspent Combat Mission Requirements funds from the fiscal year in which such report is submitted and the two preceding fiscal years.

"(c) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 123 of Pub. L. 111–383, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## RESOURCES FOR CINCSOF

Pub. L. 100–180, div. A, title XII, §1211(b), Dec. 4, 1987, 101 Stat. 1155, as amended by Pub. L. 104–106, div. A, title IX, §903(f)(5), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617, provided that: "The Secretary of Defense shall provide sufficient resources for the commander of the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code, to carry out his duties and responsibilities, including particularly his duties and responsibilities relating to the following functions:

"(1) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(2) Providing advice and assistance to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the Assistant Secretary's overall supervision of the preparation and justification of the program recommendations and budget proposals for special operations forces.

"(3) Managing assigned resources from the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense (as required to be created pursuant to subsection (e))."

## MAJOR FORCE PROGRAM CATEGORY; PROGRAM AND BUDGET EXECUTION; GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS

Pub. L. 102–484, div. A, title IX, §936(a), (b), Oct. 23, 1992, 106 Stat. 2479, provided that, during the period beginning on Feb. 1, 1993, and ending on Feb. 1, 1995, the provisions of Pub. L. 99–661, §1311(e), set out below, would apply as if the Secretary of Defense had designated the United States Southern Command and the United States Central Command for the purposes of that section, and required the Secretary of Defense to submit to Congress a report setting forth the Secretary's recommendations for the grade structure for the special operations forces component commander for each unified command not later than Mar. 1, 1994.

Pub. L. 100–180, div. A, title XII, §1211(e), Dec. 4, 1987, 101 Stat. 1156, directed that the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense created pursuant to Pub. L. 99–661, §1311(c), set out below, was to be created not later than 30 days after

Dec. 4, 1987, and required the Secretary of Defense to submit to committees of Congress on such date a report explaining the program recommendations and budget proposals included in such category and a certification that all program recommendations and budget proposals for special operations forces had been included.

Pub. L. 99–661, div. A, title XIII, §1311(c)–(e), Nov. 14, 1986, 100 Stat. 3985, 3986, provided that:

"(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

"(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

"(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS .—The commander of the special operations command of the United States European Command, the United States Pacific Command [now United States Indo-Pacific Command], and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade."

[Identical provisions were contained in section 101(c) [§9115(c)–(e)] of Pub. L. 99–500 and Pub. L. 99–591, which was repealed by Pub. L. 102–484, div. A, title IX, §936(c), Oct. 23, 1992, 106 Stat. 2479.]

**REPORT ON CAPABILITIES OF UNITED STATES TO CONDUCT SPECIAL OPERATIONS AND ENGAGE IN LOW INTENSITY CONFLICTS**

Pub. L. 99–500, §101(c) [title IX, §9115(h)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–125, Pub. L. 99–591, §101(c) [title IX, §9115(h)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–125, and Pub. L. 99–661, div. A, title XIII, §1311(h)(2), Nov. 14, 1986, 100 Stat. 3986, required President, not later than one year after the date of enactment, to transmit to Congress a report on capabilities of United States to conduct special operations and engage in low intensity conflicts, the report to include a description of deficiencies in such capabilities, actions being taken throughout executive branch to correct such deficiencies, the principal low intensity conflict threats to interests of United States, and the actions taken and to be taken to implement this section.

[1] *See References in Text note below.*

## [§167a. Repealed. Pub. L. 115–232, div. A, title VIII, §812(a)(1)(A), Aug. 13, 2018, 132 Stat. 1846]

Section, added Pub. L. 108–136, div. A, title VIII, §848(a)(1), Nov. 24, 2003, 117 Stat. 1554; amended Pub. L. 109–163, div. A, title VIII, §846(a), Jan. 6, 2006, 119 Stat. 3391; Pub. L. 110–181, div. A, title VIII, §825, Jan. 28, 2008, 122 Stat. 227, provided for delegation of limited acquisition authority to the commander of the unified combatant command for joint warfighting experimentation.

## §167b. Unified combatant command for cyber operations

(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for cyber operations forces (hereinafter in this section referred to as the "United States Cyber Command").

(2) The principal mission of the United States Cyber Command is to direct, synchronize, and coordinate military cyberspace planning and operations to defend and advance national interests in collaboration with domestic and international partners.

(b) ASSIGNMENT OF FORCES.—(1) Active and reserve cyber forces of the armed forces shall be assigned to the United States Cyber Command through the Global Force Management Process, as approved by the Secretary of Defense.

(2) Cyber forces not assigned to United States Cyber Command remain assigned to combatant

commands or service-retained.

(c) GRADE OF COMMANDER.—The Commander of the United States Cyber Command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating that officer's permanent grade. The Commander of such Command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(d) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the Commander of the United States Cyber Command shall be responsible for, and shall have the authority to conduct, all affairs of such Command relating to cyber operations activities.

(2)(A) Subject to the authority, direction, and control of the Principal Cyber Advisor to the Secretary of Defense under section 392a(a) of this title, the Commander of such Command shall be responsible for, and shall have the authority to conduct, the following functions relating to cyber operations activities (whether or not relating to the United States Cyber Command):

(i) Developing strategy, doctrine, and tactics.

(ii) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for cyber operations forces and for other forces assigned to the United States Cyber Command.

(iii) Exercising authority, direction, and control over the expenditure of funds—

(I) for forces assigned directly to the United States Cyber Command; and

(II) for cyber operations forces assigned to unified combatant commands other than the United States Cyber Command, with respect to all matters covered by section 807 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 886; 10 U.S.C. 2224 note) and, with respect to a matter not covered by such section, to the extent directed by the Secretary of Defense.

(iv) Training and certification of assigned joint forces.

(v) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(vi) Validating requirements.

(vii) Establishing priorities for requirements.

(viii) Ensuring the interoperability of equipment and forces.

(ix) Formulating and submitting requirements for intelligence support.

(x) Monitoring the promotion of cyber operation forces and coordinating with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of cyber operation forces.

(B) The authority, direction, and control exercised by the Principal Cyber Advisor for purposes of this section is authority, direction, and control with respect to the administration and support of the United States Cyber Command, including readiness and organization of cyber operations forces, cyber operations-peculiar equipment and resources, and civilian personnel.

(C) Nothing in this section shall be construed as providing the Principal Cyber Advisor authority, direction, and control of operational matters that are subject to the operational chain of command of the combatant commands or the exercise of authority, direction, and control of personnel, resources, equipment, and other matters that are not cyber-operations peculiar and that are in the purview of the armed forces.

(3) The Commander of the United States Cyber Command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the United States Cyber Command; and

(B) monitoring the preparedness to carry out assigned missions of cyber forces assigned to unified combatant commands other than the United States Cyber Command.

(C) The staff of the Commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the cyber operations command and such other inspector general functions as may be assigned.

(e) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

(f) PLANNING, PROGRAMMING, AND BUDGETING.—(1) In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the Commander of the United States Cyber Command shall, subject to the authority, direction, and control of the Assistant Secretary of Defense for Cyber Policy, be responsible for directly controlling and managing the planning, programming, budgeting, and execution of resources to train, equip, operate, and sustain the Cyber Mission Force.

(2) The responsibilities assigned to the Commander of the United States Cyber Command pursuant to paragraph (1) shall include the following:

(A) Preparation of a program objective memorandum and budget estimate submission for the resources required to train, equip, operate, and sustain the Cyber Mission Force.

(B) Preparation of budget materials pertaining to the United States Cyber Command for inclusion in the budget justification materials that are submitted to Congress in support of the budget of the Department of Defense for a fiscal year, as submitted with the budget of the President under section 1105(a) of title 31, United States Code, that is separate from any other military department or component of the Department of Defense.

(3) The responsibilities assigned to the Commander of the United States Cyber Command pursuant to paragraph (1) shall not include the following:

(A) Military pay and allowances.

(B) Funding for facility support that is provided by the military departments.

(Added Pub. L. 114–328, div. A, title IX, §923(a), Dec. 23, 2016, 130 Stat. 2357; amended Pub. L. 115–91, div. A, title X, §1081(a)(12), title XVI, §1635, Dec. 12, 2017, 131 Stat. 1595, 1741; Pub. L. 116–283, div. A, title XVII, §1701(1), Jan. 1, 2021, 134 Stat. 4079; Pub. L. 117–263, div. A, title XV, §1501(c)(1), Dec. 23, 2022, 136 Stat. 2878; Pub. L. 118–159, div. A, title XVII, §1701(a)(4), Dec. 23, 2024, 138 Stat. 2203; Pub. L. 119–60, div. A, title XV, §1501(a), Dec. 18, 2025, 139 Stat. 1137.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (e), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60 added subsec. (f).

**2024**—Subsec. (a)(1). Pub. L. 118–159, §1701(a)(4)(A)(i), substituted "referred to as the 'United States Cyber Command' " for "referred to as the 'cyber command' ".

Subsec. (a)(2). Pub. L. 118–159, §1701(a)(4)(A)(ii), substituted "United States Cyber Command" for "Cyber Command".

Subsec. (b). Pub. L. 118–159, §1701(a)(4)(B), substituted "United States Cyber Command" for "Cyber Command" in pars. (1) and (2).

Subsec. (c). Pub. L. 118–159, §1701(a)(4)(C), substituted "Commander" for "commander" in two places, "United States Cyber Command" for "cyber command", and "such Command" for "such command".

Subsec. (d). Pub. L. 118–159, §1701(a)(4)(C), substituted "Commander" for "commander" and "United States Cyber Command" for "cyber command" wherever appearing and "such Command" for "such command" in two places.

**2022**—Subsec. (d)(2)(A). Pub. L. 117–263 inserted "to the Secretary of Defense under section 392a(a) of

this title" after "Principal Cyber Advisor" in introductory provisions.

**2021**—Subsec. (a). Pub. L. 116–283, §1701(1)(A), designated existing provisions as par. (1), struck out at end "The principal function of the command is to prepare cyber operations forces to carry out assigned missions.", and added par. (2).

Subsec. (b). Pub. L. 116–283, §1701(1)(B), amended subsec. (b) generally. Prior to amendment, text read as follows: "Unless otherwise directed by the Secretary of Defense, all active and reserve cyber operations forces of the armed forces stationed in the United States shall be assigned to the cyber command."

**2017**—Subsec. (d). Pub. L. 115–91, §1635, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to command of activity or mission.

Subsec. (e). Pub. L. 115–91, §1635(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2)(A)(iii)(II). Pub. L. 115–91, §1081(a)(12), substituted "Fiscal Year 2016" for "Fiscal Year 2014".

Subsec. (f). Pub. L. 115–91, §1635(2), redesignated subsec. (f) as (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### OCCUPATIONAL RESILIENCY OF THE CYBER MISSION FORCE

Pub. L. 119–60, div. A, title XV, §1506, Dec. 18, 2025, 139 Stat. 1144, provided that:

"(a) REQUIREMENT.—Beginning not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Under Secretary of Defense for Personnel and Readiness and the Under Secretary of Defense for Policy, in coordination with the Principal Cyber Advisors of the military departments and the Commander of the United States Cyber Command, shall jointly carry out an initiative to understand and address occupational resiliency challenges at the duty locations of the Cyber Mission Force by ensuring that—

"(1) behavioral health professionals are assigned to the operating locations of United States Cyber Command and the Cyber Mission Force; and

"(2) each such professional holds the security clearance necessary to provide treatment to the members of the Armed Forces assigned at such duty locations.

"(b) ANNUAL BRIEFINGS.—On an annual basis during the three-year period beginning on the date on which the initiative under subsection (a) commences, the Under Secretary of Defense for Personnel and Readiness and the Assistant Secretary of Defense for Cyber Policy shall jointly provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the following:

"(1) The status of carrying out such initiative.

"(2) Validation of the security clearances held by behavioral health professionals assigned under such subsection.

"(3) An analysis of clinical acuity being treated by such professionals.

"(4) Identified challenges to carrying out such initiative.

"(5) Efforts to improve the awareness by members of the Armed Forces assigned to the Cyber Mission Force with respect to the availability of appropriately cleared behavioral health professionals who can treat such members.

"(6) Any other information the Under Secretary or the Assistant Secretary determines appropriate.

"(c) OCCUPATIONAL RESILIENCY CHALLENGES DEFINED.—In this section, the term 'occupational resiliency challenges' means behavioral health challenges relating to an occupation and work-related stress."

### DEPARTMENT OF DEFENSE INFORMATION NETWORK SUBORDINATE UNIFIED COMMAND

Pub. L. 118–159, div. A, title XV, §1502, Dec. 23, 2024, 138 Stat. 2131, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate the Joint Force Headquarters-Department of Defense Information Network as a subordinate unified command under the United States Cyber Command.

"(b) DESIGNATION NOTICE.—On the date on which the Secretary of Defense makes the designation required by subsection (a), the Secretary shall issue to the Secretary of each military department (as defined in section 101(a) of title 10, United States Code), the Chairman of the Joint Chiefs of Staff, the Under Secretaries of the Department of Defense, the Chief of the National Guard Bureau, the General Counsel of the Department of Defense, the Director of Cost Assessment and Program Evaluation, the Inspector General of the Department of Defense, the Director of Operational Test and Evaluation, the Chief Information Officer of the Department of Defense, the Assistant Secretary of Defense for Legislative Affairs, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the Chief Digital and Artificial Intelligence Officer of the Department of Defense, the commander of each combatant command, and the head of each

Defense Agency and Department of Defense Field Activity (as such terms are defined, respectively, in section 101(a) of title 10, United States Code) a notice regarding—

"(1) the designation of the Joint Force Headquarters-Department of Defense Information Network as a subordinate unified command under the United States Cyber Command; and

"(2) the mission of the Joint Force Headquarters-Department of Defense Information Network as the lead organization for the network operations, security, and defense of the Department of Defense Information Network."

## DEVELOPMENT OF CYBER SUPPORT MECHANISMS FOR GEOGRAPHIC COMBATANT COMMANDS

Pub. L. 118–31, div. A, title XV, §1506, Dec. 22, 2023, 137 Stat. 540, provided that:

"(a) DEVELOPMENT OF MECHANISMS REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023], each commander of a geographic combatant command, in coordination with the Commander of the United States Cyber Command, shall develop a cyber support mechanism to support the operations of that geographic combatant command.

"(b) ELEMENTS.—Each cyber support mechanism developed with respect to a geographic combatant command under subsection (a) shall include the following:

"(1) Processes to enhance the cyber capabilities of such combatant command.

"(2) Plans to develop and maintain a sufficient cyber planning capacity in such combatant command.

"(3) Processes to integrate cyber capabilities into operational support for such combatant command.

"(4) A prioritization of cyber risks and vulnerabilities within the geographic area of responsibility of such combatant command.

"(5) Specific plans to assist in the defense of friendly foreign countries."

## PILOT PROGRAM AND OTHER MEASURES TO ENHANCE READINESS AND EFFECTIVENESS OF CYBER MISSION FORCE

Pub. L. 118–31, div. A, title XV, §1535, Dec. 22, 2023, 137 Stat. 566, provided that:

"(a) PERSONNEL REQUIREMENTS AND TRAINING FOR CRITICAL WORK ROLES.—Not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

"(1) direct and oversee the implementation of guidance, to be issued by each Secretary of a military department, that correlates critical work roles to military occupational specialties and periods of obligated service with respect to that military department;

"(2) require that, prior to the attachment or assignment of a member of the Armed Forces to a unit of the United States Cyber Command, the Secretary concerned ensure such member is fully trained and in compliance with the required standards for the work role to be assumed by the member within such unit, including with respect to critical work roles within the Cyber Mission Force;

"(3) ensure that the period of obligated service for members of the Armed Forces is—

"(A) uniform across the military departments with respect to positions of the Cyber Mission Force involving critical work roles;

"(B) commensurate with the financial and time investments made by Secretary concerned for the purpose of furnishing training pursuant to paragraph (2); and

"(C) sufficient to meet the readiness requirements established by the Commander of the United States Cyber Command;

"(4) facilitate consecutive assignments of members of the Armed Forces to the same unit of the United States Cyber Command without inhibiting the advancement or promotion potential of any such member;

"(5) provide to the Secretaries of the military departments direction for the integration of critical work roles into the personnel system of record of the respective military department, to provide for tracking cyber personnel data by work role; and

"(6) establish within at least one military department the curriculum and capacity necessary to train sufficient numbers of members of the Armed Forces from across the military departments in the performance of critical work roles within the Cyber Mission Force to achieve the readiness requirements established by the Commander of United States Cyber Command.

"(b) PILOT PROGRAM ON CONTRACTING FOR SERVICES RELEVANT TO CRITICAL WORK ROLES.—

"(1) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Cyber Command shall carry out a pilot program under which the

Commander shall seek to enter into one or more contracts under which skilled contractor personnel provide services relevant to critical work roles within the Cyber Mission Force, for the purpose of enhancing the readiness and effectiveness of the Cyber Mission Force.

"(2) DURATION.—The Commander shall carry out the pilot program under paragraph (1) during the three-year period beginning on the date of the commencement of the pilot program and following such period, may—

"(A) continue carrying out such pilot program for such duration as the Commander considers appropriate;

"(B) transition such pilot program to a permanent program; or

"(C) terminate such pilot program.

"(c) PLAN ON HIRING, TRAINING, AND RETAINING CIVILIANS TO SERVE IN CRITICAL WORK ROLES.—Not later than 120 days after the date of the enactment of this Act, the Commander of the United States Cyber Command shall—

"(1) develop a plan to hire, train, and retain civilians to serve in critical work roles and other work roles within the Cyber Mission Force, for the purpose of enhancing the readiness and effectiveness of the Cyber Mission Force; and

"(2) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such plan.

"(d) DEFINITIONS.—In this section:

"(1) The term 'critical work role' means a work role designated as critical by the Commander of the United States Cyber Command for purposes of this section.

"(2) The term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

**MANAGEMENT AND OVERSIGHT OF JOINT CYBER WARFIGHTING ARCHITECTURE**

Pub. L. 117–263, div. A, title XV, §1509, Dec. 23, 2022, 136 Stat. 2886, provided that:

"(a) ESTABLISHMENT OF OFFICES.—

"(1) REQUIREMENT.—The Secretary of Defense, in consultation with the Commander of the United States Cyber Command, shall establish within the United States Cyber Command—

"(A) a program executive office; and

"(B) one or more subordinate program management offices under the program executive office.

"(2) RESPONSIBILITIES.—The offices established pursuant to paragraph (1) shall—

"(A) oversee, manage, and execute the Joint Cyber Warfighting Architecture;

"(B) oversee, manage, and execute the programs designated, or to be designated, as part of the Joint Cyber Warfighting Architecture;

"(C) conduct mission engineering, architecting, and design of the Joint Cyber Warfighting Architecture system of systems, and any successor effort;

"(D) maintain a validated Joint Cyber Warfighting Architecture system of systems mission architecture, updated regularly to inform the current and future constituent programs of the Joint Cyber Warfighting Architecture, and the continuous delivery pipelines of such programs;

"(E) ensure that the Joint Cyber Warfighting Architecture component solution architectures align with and support the Joint Cyber Warfighting Architecture system of systems mission architecture;

"(F) support integration of mission-specific capabilities, including mission-specific data, analytics, defensive tools, offensive tools, and intelligence systems, acquired through non-Joint Cyber Warfighting Architecture programs; and

"(G) carry out any other responsibilities determined appropriate by the Secretary of Defense, including the acquisition of cyber operations capabilities beyond the Joint Cyber Warfighting Architecture.

"(3) APPORTIONMENT OF RESPONSIBILITIES.—The Commander shall apportion the responsibilities under paragraph (2) across the offices established pursuant to paragraph (1).

"(4) AUTHORITY.—The Secretary shall ensure that the offices established pursuant to paragraph (1) are empowered with the authority necessary to compel and enforce compliance with decisions and directives issued pursuant to the responsibilities under paragraph (2).

"(b) ARCHITECTURE COMPONENTS.—The Commander shall serve as the sole sponsor and requirements manager for the Joint Cyber Warfighting Architecture and the constituent programs of such architecture, as determined by the Commander.

"(c) ORGANIZATION OF PROGRAM EXECUTIVE OFFICE.—

"(1) HEAD.—

"(A) REPORTING.—The head of the program executive office established under subsection (a)(1)(A) shall report to the Command Acquisition Executive of the United States Cyber Command.

"(B) ADDITIONAL OVERSIGHT.—In addition to the oversight of the head of the program executive office provided by the Command Acquisition Executive under subparagraph (A), the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the Principal Cyber Advisor of the Department of Defense shall provide oversight of the head.

"(2) RESPONSIBILITIES.—The head of the program executive office shall—

"(A) exercise central technical authority for the Joint Cyber Warfighting Architecture;

"(B) manage and provide oversight of the implementation and integration of the Architecture; and

"(C) provide direction to subordinate program offices, as determined appropriate by the Commander.

"(d) PERSONNEL.—

"(1) NECESSARY POSITIONS.—The Commander of the United States Cyber Command shall ensure that the program executive office or any subordinate program management office established pursuant to subsection (a)(1) includes in the staff of the respective office a chief architect, a systems engineer, and a chief talent officer to—

"(A) develop a mission-driven Joint Cyber Warfighting Architecture optimized for execution of missions of the United States Cyber Command;

"(B) ensure the office is properly and effectively staffed; and

"(C) advise the head of the office with respect to the execution of—

"(i) the central technical authority for the Joint Cyber Warfighting Architecture;

"(ii) the management of the implementation and integration of the Joint Cyber Warfighting Architecture; and

"(iii) technical direction provided to subordinates responsible for individual Joint Cyber Warfighting Architecture programs.

"(2) STAFFING.—

"(A) IN GENERAL.—The Secretary of Defense, in coordination with the Commander of the United States Cyber Command, shall ensure that the offices established pursuant to subsection (a)(1) are appropriately staffed with expert talent, including from the following organizations, as appropriate:

"(i) The headquarters staff of the United States Cyber Command, the Cyber National Mission Force, the Joint Force Headquarters-Cyber, and the Cyber Mission Force.

"(ii) The Capabilities Directorate of the National Security Agency.

"(iii) The military departments.

"(iv) The Cyber Capabilities Support Office of the Air Force.

"(v) The Defense Advanced Research Projects Agency.

"(vi) The Strategic Capabilities Office.

"(vii) Research laboratories of the military departments.

"(viii) The Defense Information Systems Agency.

"(B) TECHNICAL TALENT.—In addition to the requirement under subparagraph (A), to support the permanent staffing of the offices established pursuant to subsection (a)(1), the Commander of the United States Cyber Command shall ensure that the offices deliberately hire and use technical talent resident in the defense industrial base, commercial technology industry, federally funded research and development centers, university affiliated research centers, and the rest of the Federal Government.

"(e) BUDGET EXECUTION CONTROL.—The Secretary shall provide to the United States Cyber Command the resources necessary to support the program executive office established under subsection (a)(1)(A) and the Commander of the United States Cyber Command shall exercise budget execution control over component programs of the Joint Cyber Warfighting Architecture that are subject to the responsibilities assigned to the Commander by section 1507 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; [former] 10 U.S.C. 167b note).

"(f) CONSTELLATION PROGRAM.—The Director of the Defense Advanced Research Projects Agency and the head of the program executive office established under subsection (a)(1)(A) shall plan and carry out the Constellation program by entering into transactions under section 4021 of title 10, United States Code. In carrying out the preceding sentence, the Secretary shall establish an effective framework and pipeline system for maturing cyber operations-relevant technologies developed by the Agency, integrating the technologies into Joint Cyber Warfighting Architecture capabilities, and transitioning the technologies into operational use by the United States Cyber Command.

"(g) TRANSITION.—The Secretary of Defense, in coordination with the Commander of the United States

Cyber Command, shall transition responsibilities for the management and execution of Joint Cyber Warfighting Architecture programs from the military departments to the offices established pursuant to subsection (a)(1) by the earlier of the following:

"(1) The date on which—

"(A) the offices are appropriately staffed and resourced; and

"(B) the Commander determines that the transition is appropriate.

"(2) The date that is five years after the date of the enactment of this Act [Dec. 23, 2022].

"(h) REVIEW.—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment and the Commander of the United States Cyber Command, in coordination with the Under Secretary of Defense for Research and Engineering, the Principal Cyber Advisor of the Department of Defense, the Secretaries of the military departments, the Director of the Defense Advanced Research Projects Agency, and the Director of the National Security Agency, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an integrated review of the Joint Cyber Warfighting Architecture and all other capabilities required for the execution of the missions of the United States Cyber Command to determine the following:

"(1) The extent to which capabilities of the United States Cyber Command and the National Security Agency should be joint, mutually available, integrated, or interoperable.

"(2) Whether each of the Joint Cyber Warfighting Architecture capabilities has been effectively designed and architected to enable each of the missions of the United States Cyber Command.

"(3) How the Joint Cyber Warfighting Architecture will support defense of the Department of Defense Information Network and its relation to existing datasets, sensors, tools, firewalls, and capabilities deployed at each echelon of the Department of Defense Information Network.

"(4) What data, capabilities, and technologies external to the current Joint Cyber Warfighting Architecture programs, as of the date of the review, should be acquired as part of the Joint Cyber Warfighting Architecture and under the control of the offices established pursuant to subsection (a)(1).

"(5) What mission-specific data, capabilities, and technologies external to the current Joint Cyber Warfighting Architecture programs should integrate with or be interoperable with the Joint Cyber Warfighting Architecture system of systems.

"(6) The organization and staffing of such offices, including—

"(A) whether the program executive office should be responsible for overseeing the acquisition of the cyber operations capabilities of the United States Cyber Command generally or the Joint Cyber Warfighting Architecture specifically;

"(B) what subordinate program management offices should be established under the program executive office;

"(C) whether the Joint Cyber Warfighting Architecture programs should be consolidated within a single program management office; and

"(D) which personnel should be appointed to such offices pursuant to subsection (d)(1).

"(7) The timeline for the execution of the transition under subsection (g).

"(8) The acquisition strategy of the Department for procuring the Joint Cyber Warfighting Architecture and related capabilities, including relevant enterprise strategic initiatives and contracting strategies.

"(9) The responsibilities of the United States Cyber Command J2, J3, J5, J6, J8, and J9 in acquiring, authorizing, and managing cyber capabilities.

"(10) The physical locations of the offices established pursuant to subsection (a)(1).

"(i) BRIEFING REQUIRED.—Not later than 540 days after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Acquisition and Sustainment and the Commander of the United States Cyber Command shall jointly provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of the implementation of this section.

"(j) REPEAL.—[Repealed section 1645 of Pub. L. 114–92, formerly set out as a note preceding section 4571 of this title.]

"(k) JOINT CYBER WARFIGHTING ARCHITECTURE DEFINED.—In this section, the term 'Joint Cyber Warfighting Architecture' means the range of joint cyber warfighting systems and capabilities that support the full spectrum of military cyber operations, as designated by the Commander of the United States Cyber Command, and includes any such successor effort."

## TOTAL FORCE GENERATION FOR THE CYBERSPACE OPERATIONS FORCES

Pub. L. 117–263, div. A, title XV, §1533, Dec. 23, 2022, 136 Stat. 2903, provided that:

"(a) STUDY.—

"(1) REQUIREMENT.—Not later than June 1, 2024, the Secretary of Defense shall complete a study on the responsibilities of the military services for organizing, training, and presenting the total force to United States Cyber Command.

"(2) ELEMENTS.—The study under paragraph (1) shall assess the following:

"(A) Which military services should man, train, equip, and organize the forces necessary to execute the functions and missions of the Cyber Mission Force and the Cyberspace Operations Forces for assignment, allocation, and apportionment to, or under the directive authority of, the United States Cyber Command.

"(B) The sufficiency of the military service accession and training model to provide forces to the Cyberspace Operations Forces and the sufficiency of the accessions and personnel resourcing of the supporting command and control staffs necessary as a component to the United States Cyber Command.

"(C) The organization of the Cyber Mission Forces and whether the total forces or elements of the forces function best as a collection of independent teams or through a different model.

"(D) How to correct chronic shortages of proficient personnel in key work roles.

"(E) The need for additional work roles or skills to enable effective infrastructure management and generate access to targets.

"(F) What unique or training-intensive expertise is required for each of the work roles identified in subparagraph (E) and whether native talents to master unique and training-intensive work roles can be identified and how personnel with those talents can be developed, retained, and employed across the active and reserve components.

"(G) The appropriate pay scales, rotation or force management policies, career paths and progression, expertise-based grading, talent management practices, and training for each of those work roles, given expected operational requirements.

"(H) Whether a single military service should be responsible for basic, intermediate, and advanced training for the Cyber Mission Force.

"(I) The level of training required before an individual should be assigned, allocated, or apportioned to the United States Cyber Command.

"(J) Whether or how the duties of the Director of the National Security Agency and the duties of the Commander of United States Cyber Command, resting with a single individual, enable each respective organization, and whether technical directors and intelligence experts of the National Security Agency should serve rotations in the Cyber Mission Force.

"(K) How nonmilitary personnel, such as civilian government employees, contracted experts, commercial partners, and domain or technology-specific experts in industry or the intelligence community can serve in, augment, or support Cyber Mission Force teams.

"(L) What work roles in the Cyberspace Operations Forces can only be filled by military personnel, which work roles can be filled by civilian employees or contractors, and which work roles should be filled partially or fully by civilians due to the need for longevity of service to achieve required skill levels or retention rates.

"(M) How specialized cyber experience, developed and maintained in the reserve component, can be more effectively leveraged to support the Cyberspace Operations Forces through innovative force generation models.

"(N) Whether the Department of Defense should create a separate service to perform the functions and missions currently performed by Cyber Mission Force units generated by multiple military services.

"(O) Whether the Department of Defense is maximizing partnerships with industry and other nontraditional sources of expertise and capacity in the areas of critical infrastructure protection and information sharing.

"(P) Whether the Defense Readiness Reporting System of the Department of Defense is sufficient to capture Cyber Mission Force readiness metrics.

"(3) CONSIDERATIONS.—The study required by paragraph (1) shall consider existing models for total force generation practices and programs, as well as nontraditional and creative alternatives.

"(b) RECOMMENDATIONS.—

"(1) IN GENERAL.—Not later than June 1, 2024, the Principal Cyber Advisor of the Department of Defense and the Commander of the United States Cyber Command shall submit to the Secretary of Defense one or more recommendations, respectively, as to the future total force generation model for both the Cyber Mission Force and the Cyberspace Operations Forces.

"(2) MATTERS ADDRESSED.—The recommendations under paragraph (1) shall address, at a

minimum, each of the elements identified in subsection (a)(2).

"(c) ESTABLISHMENT OF A REVISED MODEL REQUIRED.—

"(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Defense shall establish a revised total force generation model for the Cyberspace Operations Forces.

"(2) ELEMENTS.—In establishing a revised total force generation model under paragraph (1), the Secretary shall explicitly determine the following:

"(A) Whether the Navy should no longer be responsible for developing and presenting forces to the United States Cyber Command as part of the Cyber Mission Force or Cyberspace Operations Forces, including recommendations for corresponding transfer of responsibilities and associated resources and personnel for the existing and future year programmed Cyberspace Operations Forces or Cyber Mission Force resources.

"(B) Whether a single military service should be responsible for organizing, training, and equipping the Cyberspace Operations Forces, or if different services should be responsible for different components of the Cyberspace Operations Forces.

"(C) Whether modification of United States Cyber Command enhanced budget control authorities are necessary to further improve total force generation for Cyberspace Operations Forces.

"(D) Implications of low service retention rates for critical roles within the Cyber Mission Force, and the mix of actions necessary to correct them, including multiple rotations in critical work roles, length of service commitments, repeat tours within the Cyber Mission Force, retention incentives across the entire Cyberspace Operations Forces, and best practices for generating the future force.

"(d) IMPLEMENTATION PLAN.—Not later than June 1, 2025, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an implementation plan for effecting the revised total force generation model required under subsection (c).

"(e) PROGRESS BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], and not less frequently than once every 180 days thereafter until receipt of the plan required by subsection (d), the Secretary shall provide the congressional defense committees with a briefing on the progress made in carrying out this section.

"(f) ADDITIONAL CONSIDERATIONS.—The Secretary shall ensure that subsections (a) through (c) are carried out with consideration to matters relating to the following:

"(1) The cybersecurity service providers, local defenders, and information technology personnel who own, operate, and defend the information networks of the Department of Defense.

"(2) Equipping the Cyberspace Operations Forces to include infrastructure management.

"(3) Providing intelligence support to the Cyberspace Operations Forces.

"(4) The resources, including billets, needed to account for any recommended changes."

## CORRECTING CYBER MISSION FORCE READINESS SHORTFALLS

Pub. L. 117–263, div. A, title XV, §1534, Dec. 23, 2022, 136 Stat. 2906, provided that:

"(a) PLAN AND BRIEFING REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretaries of the military departments shall jointly—

"(1) develop a near-term plan to correct readiness shortfalls in the Cyber Mission Forces over the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code;

"(2) develop recommendations for such legislative action as the Secretary of Defense, the Chairman, and the Secretaries of the military departments jointly consider appropriate to correct the readiness shortfalls described in paragraph (1); and

"(3) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the plan under paragraph (1) and the recommendations under paragraph (2).

"(b) IMPLEMENTATION.—Not later than 30 days after the date of the briefing provided under paragraph (3) of subsection (a), the Secretary of Defense and the Chairman shall commence implementation of the aspects of the plan developed under paragraph (1) of such subsection that are not dependent upon legislative action.

"(c) MATTERS TO BE ADDRESSED.—In developing the plan under paragraph (1) of subsection (a), the Secretary of Defense, the Chairman, and the Secretaries of the military departments shall consider and explicitly address through analysis the following potential courses of action, singly and in combination, to increase the availability of personnel in key work roles:

"(1) Determining the correct number of personnel necessary to fill key work roles, including the proper force mix of civilian, military, and contractor personnel, and the means necessary to meet those requirements.

"(2) Employing civilians rather than military personnel in key work roles.

"(3) Expanding training capacity.

"(4) Modifying or creating new training models.

"(5) Maximizing use of compensation and incentive authorities, including increasing bonuses and special pays, and alternative compensation mechanisms.

"(6) Modifying career paths and service policies to permit consecutive assignments in key work roles without jeopardizing promotion opportunities.

"(7) Increasing service commitments following training commensurate with the value of the key work role training.

"(8) Standardizing compensation models across the services.

"(9) Requiring multiple rotations within the Cyber Mission Forces for key work roles.

"(10) Adopting and implementing what are known as 'rank in person' policies that enable civilian personnel to be promoted on the basis of skills and abilities demonstrated in a given position.

"(11) A review of departmental guidance and processes consistent with section 167b(d)(2)(A)(x) of title 10, United States Code, with respect to the authority of the Commander of United States Cyber Command to monitor the promotions of certain cyber operations forces and coordinate with the Secretaries regarding the assignment, retention, training, professional military education, and special and incentive pays of certain cyber operations forces, including—

"(A) the recruiting, retention, professional military education, and promotion of certain cyber operations personnel;

"(B) the sharing of personnel data between the military departments and the United States Cyber Command; and

"(C) structures, departmental guidance, and processes developed between the military departments and the United States Special Operations Command with respect to the authority of the Commander of the United States Special Operations Command described in section 167(e)(2)(J) of title 10, United States Code, that could be used as a model for the United States Cyber Command.

"(d) KEY WORK ROLES DEFINED.—In this section, the term 'key work roles' means work roles that consist of access development, tool development, and exploitation analysis."

## REVIEW OF DEFINITIONS ASSOCIATED WITH CYBERSPACE OPERATIONS FORCES

Pub. L. 117–263, div. A, title XV, §1557, Dec. 23, 2022, 136 Stat. 2924, provided that:

"(a) REVIEW.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, acting through the Principal Cyber Advisor of the Department of Defense and the Principal Cyber Advisors of the military departments, shall—

"(1) review—

"(A) the memorandum of the Secretary of Defense dated December 12, 2019, concerning the definition of the term 'Department of Defense Cyberspace Operations Forces (DoD COF)'; and

"(B) the responsibilities of the Commander of the United States Cyber Command as the Cyberspace Joint Force Provider and Cyberspace Joint Force Trainer, with respect to forces included and excluded from the Cyberspace Operations Forces; and

"(2) update such memorandum and, as appropriate, update such responsibilities.

"(b) ELEMENTS.—The review under subsection (a) shall include the following:

"(1) A comprehensive assessment of units and components of the Department of Defense conducting defensive cyberspace operations which are not currently included in the definition specified in paragraph (1)(A) of such subsection.

"(2) Consideration of options for participation in the Cyberspace Operations Forces by forces without regard to whether the forces are included in such definition, including options under which—

"(A) forces currently excluded from the Cyberspace Operations Forces because of such definition may access training, resources, and expertise of the Cyberspace Operations Forces;

"(B) the Commander of the United States Cyber Command may issue advisory tasking to forces that are not Cyberspace Operations Forces pursuant to such definition; and

"(C) forces that are not Cyberspace Operations Forces pursuant to such definition are subject to training standards established by the Commander as the Cyberspace Joint Force Trainer."

## ASSIGNMENT OF CERTAIN BUDGET CONTROL RESPONSIBILITIES TO COMMANDER OF UNITED STATES CYBER COMMAND

Pub. L. 117–81, div. A, title XV, §1507, Dec. 27, 2021, 135 Stat. 2030, which related to assignment of certain budget control responsibilities to Commander of United States Cyber Command, was repealed by Pub. L. 119–60, div. A, title XV, §1501(b), Dec. 18, 2025, 139 Stat. 1138.

### EXECUTIVE DOCUMENTS

### ELEVATION OF U.S. CYBER COMMAND TO A UNIFIED COMBATANT COMMAND

Memorandum of President of the United States, Aug. 15, 2017, 82 F.R. 39953, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as the Commander in Chief and under sections 161 and 167b of title 10, United States Code, and in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, I direct that U.S. Cyber Command be established as a Unified Combatant Command. I also direct the Secretary of Defense to recommend an officer for my nomination and Senate confirmation as commander in order to establish U.S. Cyber Command as a Unified Combatant Command.

I assign to U.S. Cyber Command: (1) all the general responsibilities of a Unified Combatant Command; (2) the cyberspace-related responsibilities previously assigned to the Commander, U.S. Strategic Command; (3) the responsibilities of Joint Force Provider and Joint Force Trainer; and (4) all other responsibilities identified in section 167b of title 10, United States Code. The comprehensive list of authorities and responsibilities for U.S. Cyber Command will be included in the next update to the Unified Command Plan.

I further direct that the Secretary of Defense, in coordination with the Director of National Intelligence, provide a recommendation and, as appropriate, a plan to me regarding the future command relationship between the U.S. Cyber Command and the National Security Agency.

Consistent with section 161(b)(2) of title 10, United States Code, and section 301 of title 3, United States Code, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

## [§168. Repealed. Pub. L. 114–328, div. A, title XII, §1253(a)(1)(A), Dec. 23, 2016, 130 Stat. 2532]

Section, added Pub. L. 103–337, div. A, title XIII, §1316(a)(1), Oct. 5, 1994, 108 Stat. 2898; amended Pub. L. 104–106, div. A, title IV, §416, Feb. 10, 1996, 110 Stat. 289; Pub. L. 108–375, div. A, title IV, §416(e), Oct. 28, 2004, 118 Stat. 1868; Pub. L. 110–181, div. A, title XII, §1201, Jan. 28, 2008, 122 Stat. 363; Pub. L. 110–417, [div. A], title XII, §1202(a), Oct. 14, 2008, 122 Stat. 4622, related to military-to-military contacts and comparable activities.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### UPDATE OF POLICY GUIDANCE ON AUTHORITY FOR ASSIGNMENT OF CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE AS ADVISORS TO FOREIGN MINISTRIES OF DEFENSE AND REGIONAL ORGANIZATIONS

Pub. L. 113–291, div. A, title X, §1047(b), Dec. 19, 2014, 128 Stat. 3495, required the Under Secretary of Defense for Policy to issue an update of the policy of the Department of Defense for assignment of civilian employees of the Department as advisors to foreign ministries of defense and regional organizations under the authority in section 1081 of Pub. L. 112–81, formerly set out as a note under this section.

Pub. L. 113–66, div. A, title X, §1094(a)(2), Dec. 26, 2013, 127 Stat. 878, required the Under Secretary of Defense for Policy to issue an update of the policy of the Department of Defense for assignment of civilian employees of the Department as advisors to foreign ministries of defense under the authority in section 1081 of Pub. L. 112–81, formerly set out as a note under this section.

### DEFENSE INSTITUTION CAPACITY BUILDING PROGRAM

Pub. L. 112–81, div. A, title X, §1081, Dec. 31, 2011, 125 Stat. 1599, as amended by Pub. L. 113–66, div. A, title X, §1094(a)(1), (3)–(5), Dec. 26, 2013, 127 Stat. 878; Pub. L. 113–291, div. A, title X, §1047(a), (c), Dec. 19, 2014, 128 Stat. 3494, 3495; Pub. L. 114–92, div. A, title X, §1055(a)–(d)(1), Nov. 25, 2015, 129 Stat. 982, 983, which related to the Defense Institution Capacity Building Program, was repealed by Pub. L. 114–328, div. A, title XII, §1241(c)(3), Dec. 23, 2016, 130 Stat. 2500.

**AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES**

Pub. L. 111–84, div. A, title XII, §1207, Oct. 28, 2009, 123 Stat. 2514, as amended by Pub. L. 112–239, div. A, title XII, §1202, Jan. 2, 2013, 126 Stat. 1980; Pub. L. 114–92, div. A, title XII, §1204, Nov. 25, 2015, 129 Stat. 1039, which related to authority for non-reciprocal exchanges of defense personnel between the United States and foreign countries, was repealed by Pub. L. 114–328, div. A, title XII, §1242(c)(2), Dec. 23, 2016, 130 Stat. 2513.

**AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN UNITED STATES AND FOREIGN COUNTRIES**

Pub. L. 104–201, div. A, title X, §1082, Sept. 23, 1996, 110 Stat. 2672, which related to agreements for exchange of defense personnel between the United States and foreign countries, was repealed by Pub. L. 114–328, div. A, title XII, §1242(c)(1), Dec. 23, 2016, 130 Stat. 2513. See section 311 of this title.

## [§169. Repealed. Pub. L. 116–92, div. A, title XVI, §1601(a), Dec. 20, 2019, 133 Stat. 1722]

Section, added Pub. L. 115–232, div. A, title XVI, §1601(a)(1), Aug. 13, 2018, 132 Stat. 2101, related to United States Space Command for carrying out joint space warfighting operations. See chapter 908 of this title.

# CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.
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[186, 187. Repealed.]
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189. Communications Security Review and Advisory Board.
[190. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title III, §363(1), Dec. 22, 2023, 137 Stat. 233, redesignated item 184 "Joint Safety Council" as 185. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title III, §311, title X, §1082(a)(2), title XIV, §1411(a), Dec. 23, 2022, 136 Stat. 2500, 2799, 2869, added item 182a and item 184 "Civilian Protection Center of Excellence" and struck out item 187 "Strategic Materials Protection Board". Striking of item 187 was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title III, §372(b), Dec. 27, 2021, 135 Stat. 1666, added item 184 "Joint Safety Council".

**2019**—Pub. L. 116–92, div. A, title VIII, §810(b), title XVII, §1731(a)(10), Dec. 20, 2019, 133 Stat. 1487, 1813, substituted "Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions" for "Military Aviation and Installation Assurance Siting Clearinghouse for review of mission obstructions" in item 183a and struck out item 190 "Defense Cost Accounting Standards Board".

**2017**—Pub. L. 115–91, div. A, title III, §§311(b)(4), 341(b)(2), Dec. 12, 2017, 131 Stat. 1348, 1361, substituted "Explosive safety board" for "Ammunition storage board" in item 172 and added item 183a.

**2016**—Pub. L. 114–328, div. A, title VIII, §820(b)(2), title IX, §904(b), title XII, §1241(o)(3), Dec. 23, 2016, 130 Stat. 2276, 2345, 2512, struck out items 184 "Regional Centers for Security Studies" and 185 "Financial Management Modernization Executive Committee" and, effective Oct. 1, 2018, added item 190.

**2014**—Pub. L. 113–291, div. A, title IX, §901(l)(2), title X, §1071(f)(3), Dec. 19, 2014, 128 Stat. 3468, 3510, struck out item 186 "Defense Business System Management Committee" and inserted period at end of item 189.

**2013**—Pub. L. 113–66, div. A, title II, §261(b), title X, §1052(a)(2), Dec. 26, 2013, 127 Stat. 725, 861, added items 171a and 189.

Pub. L. 112–239, div. A, title X, §1040(b), Jan. 2, 2013, 126 Stat. 1930, added item 188.

**2008**—Pub. L. 110–417, [div. A], title X, §1061(a)(3), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 183.

Pub. L. 110–181, div. A, title IX, §906(a)(2), Jan. 28, 2008, 122 Stat. 277, added item 183.

**2006**—Pub. L. 109–364, div. A, title VIII, §843(b), title IX, §904(a)(2), Oct. 17, 2006, 120 Stat. 2339, 2353, substituted "Regional Centers for Security Studies" for "Department of Defense regional centers for security studies" in item 184 and added item 187.

**2004**—Pub. L. 108–375, div. A, title III, §332(b)(2), Oct. 28, 2004, 118 Stat. 1855, added item 186.

**2002**—Pub. L. 107–314, div. A, title X, §1041(a)(1)(B), Dec. 2, 2002, 116 Stat. 2645, struck out item 183 "Advisory committees: annual justification required".

**2001**—Pub. L. 107–107, div. A, title X, §1009(a)(2), Dec. 28, 2001, 115 Stat. 1208, added item 185.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §912(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–229, added item 184.

**1997**—Pub. L. 105–85, div. A, title III, §382(a)(2), title IX, §904(b), Nov. 18, 1997, 111 Stat. 1711, 1855, added items 182 and 183.

**1996**—Pub. L. 104–106, div. A, title IX, §905(a)(2), Feb. 10, 1996, 110 Stat. 404, added item 181.

**1991**—Pub. L. 102–190, div. A, title V, §513(b), Dec. 5, 1991, 105 Stat. 1361, added item 180.

**1986**—Pub. L. 99–661, div. C, title I, §3137(a)(2), Nov. 14, 1986, 100 Stat. 4066, added item 179.

**1983**—Pub. L. 98–132, §2(a)(2), Oct. 17, 1983, 97 Stat. 849, inserted "The Henry M. Jackson" before "Foundation" in item 178.

Pub. L. 98–36, §2(b), May 27, 1983, 97 Stat. 201, added item 178.

**1976**—Pub. L. 94–361, title VIII, §811(c), July 14, 1976, 90 Stat. 936, added items 176 and 177.

## §171. Armed Forces Policy Council

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) the Secretary of Defense, as Chairman, with the power of decision;

(2) the Deputy Secretary of Defense;

(3) the Under Secretary of Defense for Acquisition and Sustainment;

(4) the Under Secretary of Defense for Research and Engineering;

(5) the Secretary of the Army;

(6) the Secretary of the Navy;

(7) the Secretary of the Air Force;

(8) the Under Secretary of Defense for Policy;

(9) the Deputy Under Secretary of Defense for Acquisition and Technology;

(10) the Deputy Under Secretary of Defense for Research and Engineering;

(11) the Deputy Under Secretary of Defense for Acquisition and Sustainment;
(12) the Chairman of the Joint Chiefs of Staff;
(13) the Chief of Staff of the Army;
(14) the Chief of Naval Operations;
(15) the Chief of Staff of the Air Force;
(16) the Commandant of the Marine Corps; and
(17) the Chief of Space Operations.

(b) The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 85–599, §9(c), Aug. 6, 1958, 72 Stat. 521; Pub. L. 92–596, §5, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §3(b), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 98–94, title XII, §1213, Sept. 24, 1983, 97 Stat. 687; Pub. L. 99–500, §101(c) [title X, §903(e)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–133, and Pub. L. 99–591, §101(c) [title X, §903(e)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–133; Pub. L. 99–661, div. A, title IX, formerly title IV, §903(e), Nov. 14, 1986, 100 Stat. 3912, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–160, div. A, title IX, §904(d)(1), (3), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(6), Dec. 20, 2019, 133 Stat. 1543; Pub. L. 116–283, div. A, title IX, §924(b)(8), Jan. 1, 2021, 134 Stat. 3822.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 171(a) | 5:171e (less last sentence). | July 26, 1947, ch. 343, §210; restated Aug. 10, 1949, ch. 412, §7(a), 63 Stat. 581. |
| 171(b) | 5:171e (last sentence). | |

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

**AMENDMENTS**

**2021**—Subsec. (a)(17). Pub. L. 116–283 added par. (17).

**2019**—Subsec. (a)(3). Pub. L. 116–92, §902(6)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (a)(4) to (16). Pub. L. 116–92, §902(6)(B)–(E), added par. (4), redesignated former pars. (4) to (8) as (5) to (9), respectively, added pars. (10) and (11), and redesignated former pars. (9) to (13) as (12) to (16), respectively.

**2001**—Subsec. (a)(3). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1993**—Subsec. (a)(3). Pub. L. 103–160, §904(d)(1), substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

Subsec. (a)(8). Pub. L. 103–160, §904(d)(3), substituted "Deputy Under Secretary of Defense for Acquisition and Technology" for "Deputy Under Secretary of Defense for Acquisition".

**1986**—Subsec. (a)(3) to (13) Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (a) identically, redesignating pars. (3) to (11) as (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively, adding new pars. (3) and (8), and substituting "the Under Secretary of Defense for Acquisition" for "the Under Secretaries of Defense" in par. (7).

**1983**—Subsec. (a)(11). Pub. L. 98–94 added par. (11).

**1977**—Subsec. (a)(2). Pub. L. 95–140, §3(b)(1), substituted "the Deputy" for "a Deputy".

Subsec. (a)(6). Pub. L. 95–140, §3(b)(2), substituted "the Under Secretaries of Defense;" for "the Director

of Defense Research and Engineering;".

**1972**—Subsec. (a)(2). Pub. L. 92–596 substituted "a Deputy Secretary" for "the Deputy Secretary".

**1958**—Subsec. (a)(6) to (10). Pub. L. 85–599 added par. (6) and redesignated former pars. (6) to (9) as (7) to (10), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SHORT TITLE OF 1983 AMENDMENT**

Pub. L. 98–36, §1, May 27, 1983, 97 Stat. 200, provided: "That this Act [enacting section 178 of this title and amending section 2113 of this title] may be cited as the 'Foundation for the Advancement of Military Medicine Act of 1983'."

## §171a. Council on Oversight of the National Leadership Command, Control, and Communications System

(a) ESTABLISHMENT.—There is within the Department of Defense a council to be known as the "Council on Oversight of the National Leadership Command, Control, and Communications System" (in this section referred to as the "Council").

(b) MEMBERSHIP.—The members of the Council shall be as follows:

(1) The Under Secretary of Defense for Policy.

(2) The Under Secretary of Defense for Acquisition and Sustainment.

(3) The Vice Chairman of the Joint Chiefs of Staff.

(4) The Commander of the United States Strategic Command.

(5) The Director of the National Security Agency.

(6) The Chief Information Officer of the Department of Defense.

(7) The Director of the White House Military Office.

(8) Such other officers of the Department of Defense as the Secretary may designate.

(c) CO-CHAIR.—The Council shall be co-chaired by the Under Secretary of Defense for Acquisition and Sustainment and the Vice Chairman of the Joint Chiefs of Staff.

(d) RESPONSIBILITIES.—(1) The Council shall be responsible for oversight of the command, control, and communications system for the national leadership of the United States, including nuclear command, control, and communications, and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense.

(2) In carrying out the responsibility for oversight of the command, control, and communications system as specified in paragraph (1), the Council shall be responsible for the following:

(A) Oversight of performance assessments (including interoperability).

(B) Vulnerability identification and mitigation.

(C) Architecture development (including space system architectures and associated user terminals and ground segments).

(D) Resource prioritization.

(E) Such other responsibilities as the Secretary of Defense shall specify for purposes of this section.

(e) ANNUAL REPORTS.—During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council, the Council shall submit to the congressional defense committees a report on the activities of the Council. Each report shall include the following:

(1) A description and assessment of the activities of the Council during the previous fiscal year.

(2) A description of the activities proposed to be undertaken by the Council during the period covered by the current future-years defense program under section 221 of this title.

(3) Any changes to the requirements of the command, control, and communications system for the national leadership of the United States made during the previous year, along with an explanation for why the changes were made and a description of the effects of the changes to the capability of the system.

(4) A breakdown of each program element in such budget that relates to the system, including how such program element relates to the operation and sustainment, research and development, procurement, or other activity of the system.

(5) An assessment of the threats and vulnerabilities described in the reports and assessments collected under subsection (f) during the previous year, including any plans to address such threats and vulnerabilities.

(6) An assessment of the readiness of the command, control, and communications system for the national leadership of the United States and of each layer of the system, as that layer relates to nuclear command, control, and communications.

(f) COLLECTION OF ASSESSMENTS ON CERTAIN THREATS.—The Council shall collect and assess (consistent with the provision of classified information and intelligence sources and methods) all reports and assessments otherwise conducted by the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) regarding foreign threats, including cyber threats, to the command, control, and communications system for the national leadership of the United States and the vulnerabilities of such system to such threats.

(g) BUDGET AND FUNDING MATTERS.—(1) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(A) whether such budget allows the Federal Government to meet the required capabilities of the command, control, and communications system for the national leadership of the United States during the fiscal year covered by the budget and the four subsequent fiscal years; and

(B) if the Commander determines that such budget does not allow the Federal Government to meet such required capabilities, a description of the steps being taken to meet such required capabilities.

(2) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command under paragraph (1), the Chairman shall submit to the congressional defense committees—

(A) such assessment as it was submitted to the Chairman; and

(B) any comments of the Chairman.

(3) If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the command, control, and communications system for the national leadership of the United States that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.

(h) REPORTS ON SPACE ARCHITECTURE DEVELOPMENT.—(1) Not less than 90 days before each of the dates on which a system described in paragraph (2) achieves Milestone A or Milestone B approval, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees a report prepared by the Council detailing the implications of any changes to the architecture of such a system with respect to the systems, capabilities, and programs covered under subsection (d).

(2) A system described in this paragraph is any of the following:

(A) Advanced extremely high frequency satellites.

(B) The space-based infrared system.

(C) The integrated tactical warning and attack assessment system and its command and control system.

(D) The enhanced polar system.

(3) In this subsection, the terms "Milestone A approval" and "Milestone B approval" have the meanings given such terms in sections 4172(e) and 4251(d) of this title.

(i) NOTIFICATION OF REDUCTION OF CERTAIN WARNING TIME.—(1) None of the funds authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year may be used to change any command, control, and communications system described in subsection (d)(1) in a manner that reduces the warning time provided to the national leadership of the United States with respect to a warning of a strategic missile attack on the United States unless—

(A) the Secretary of Defense notifies the congressional defense committees of such proposed change and reduction; and

(B) a period of one year elapses following the date of such notification.

(2) Not later than March 1, 2017, and each year thereafter, the Council shall determine whether the integrated tactical warning and attack assessment system and its command and control system have met all warfighter requirements for operational availability, survivability, and endurability. If the Council determines that such systems have not met such requirements, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the congressional defense committees—

(A) an explanation for such negative determination;

(B) a description of the mitigations that are in place or being put in place as a result of such negative determination; and

(C) the plan of the Secretary and the Chairman to ensure that the Council is able to make a positive determination in the following year.

(j) STATUS OF ACQUISITION PROGRAMS.—(1) On a quarterly basis, each program manager of a covered acquisition program shall transmit to the co-chairs of the Council, acting through the senior steering group of the Council, a report that identifies—

(A) the covered acquisition program;

(B) the requirements of the program;

(C) the development timeline of the program; and

(D) the status of the program, including whether the program is delayed and, if so, whether such delay will result in a program schedule delay.

(2) Not later than seven days after the end of each semiannual period, the co-chairs of the Council shall submit to the congressional defense committees a report that identifies, with respect to the reports transmitted to the Council under paragraph (1) for the two quarters in such period—

(A) each covered acquisition program that is delayed more than 180 days; and

(B) any covered acquisition program that should have been included in such reports but was excluded, and the reasons for such exclusion.

(3) In this subsection, the term "covered acquisition program" means each acquisition program of the Department of Defense that materially contributes to—

(A) the nuclear command, control, and communications systems of the United States; or

(B) the continuity of government systems of the United States.

(k) NATIONAL LEADERSHIP OF THE UNITED STATES DEFINED.—In this section, the term "national leadership of the United States" means the following:

(1) The President.

(2) The Vice President.

(3) Such other civilian officials of the United States Government as the President shall designate for purposes of this section.

(Added Pub. L. 113–66, div. A, title X, §1052(a)(1), Dec. 26, 2013, 127 Stat. 859; amended Pub. L. 114–92, div. A, title XVI, §1651, Nov. 25, 2015, 129 Stat. 1121; Pub. L. 114–328, div. A, title XVI,

§1661, Dec. 23, 2016, 130 Stat. 2613; Pub. L. 115–91, div. A, title X, §1081(a)(13), title XVI, §1654(a)(1), Dec. 12, 2017, 131 Stat. 1595, 1758; Pub. L. 116–92, div. A, title XVI, §1661, Dec. 20, 2019, 133 Stat. 1772; Pub. L. 116–283, div. A, title X, §1081(a)(10), title XVIII, §1845(c)(2), Jan. 1, 2021, 134 Stat. 3871, 4247; Pub. L. 117–81, div. A, title XVII, §§1701(b)(14), 1702(a)(1), Dec. 27, 2021, 135 Stat. 2134, 2155; Pub. L. 117–263, div. A, title XVI, §§1636(c), 1672(a), Dec. 23, 2022, 136 Stat. 2940, 2959.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b)(7), (8). Pub. L. 117–263, §1672(a), added par. (7) and redesignated former par. (7) as (8).

Subsecs. (h) to (l). Pub. L. 117–263, §1636(c), redesignated subsecs. (i) to (l) as (h) to (k), respectively, and struck out former subsec. (h). Prior to amendment, text of subsec. (h) read as follows:

"(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system for the national leadership of the United States that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

"(2) In this subsection, the term 'anomaly' means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system."

**2021**—Subsec. (i)(1). Pub. L. 116–283, §1081(a)(10), substituted "Acquisition" for "Acquisitions".

Subsec. (i)(3). Pub. L. 117–81, §1702(a)(1), substituted "4251(d)" for "2366a(d)".

Pub. L. 116–283, §1845(c)(2), as amended by Pub. L. 117–81, §1701(b)(14), substituted "sections 4172(e)" for "sections 2366(e)".

**2019**—Pub. L. 116–92 substituted "and Sustainment" for ", Technology, and Logistics" wherever appearing.

**2017**—Subsec. (f). Pub. L. 115–91, §1081(a)(13)(A), substituted "(50 U.S.C. 3003(4)))" for "(50 U.S.C. 3003(4))".

Subsec. (i)(3). Pub. L. 115–91, §1081(a)(13)(B), substituted "sections 2366(e) and 2366a(d)" for "section 2366(e)".

Subsecs. (k), (l). Pub. L. 115–91, §1654(a)(1), added subsec. (k) and redesignated former subsec. (k) as (l).

**2016**—Subsec. (d)(1). Pub. L. 114–328, §1661(a)(1), inserted ", and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense" before period at end.

Subsec. (d)(2)(C). Pub. L. 114–328, §1661(a)(2), inserted "(including space system architectures and associated user terminals and ground segments)" before period at end.

Subsec. (e). Pub. L. 114–328, §1661(c)(1), substituted "During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council," for "At the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31," in introductory provisions.

Subsec. (e)(6). Pub. L. 114–328, §1661(c)(2), added par. (6).

Subsecs. (i) to (k). Pub. L. 114–328, §1661(b), added subsecs. (i) and (j) and redesignated former subsec. (i) as (k).

**2015**—Subsec. (e)(5). Pub. L. 114–92, §1651(3), added par. (5).

Subsecs. (f) to (i). Pub. L. 114–92, §1651(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(14) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1845(c)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a

note preceding section 3001 of this title.

**DEPARTMENT OF DEFENSE INSTRUCTION**

Pub. L. 115–91, div. A, title XVI, §1654(a)(2), Dec. 12, 2017, 131 Stat. 1759, provided that: "The Secretary of Defense shall issue a Department of Defense Instruction, or revise such an Instruction, to ensure that program managers carry out subsection (k)(1) of section 171a of title 10, United States Code, as added by paragraph (1)."

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsecs. (e) and (g)(2) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**EXECUTION AND PROGRAMMATIC OVERSIGHT**

Pub. L. 115–91, div. A, title XVI, §1654(b), Dec. 12, 2017, 131 Stat. 1759, provided that:

"(1) DATABASE.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Chief Information Officer of the Department of Defense, as Executive Secretary of the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of title 10, United States Code (or a successor to the Chief Information Officer assigned responsibility for policy, oversight, guidance, and coordination for nuclear command and control systems), shall, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, develop a database relating to the execution of all nuclear command, control, and communications acquisition programs of the Department of Defense with an approved Materiel Development Decision. The database shall be updated not less frequently than annually and upon completion of a major program element of such a program.

"(2) DATABASE ELEMENTS.—The database required by paragraph (1) shall include, at a minimum, the following elements for each program described in that paragraph, consistent with Department of Defense Instruction 5000.02:

"(A) Projected dates for Milestones A, B, and C, including cost thresholds and objectives for major elements of life cycle cost.

"(B) Projected dates for program design reviews and critical design reviews.

"(C) Projected dates for developmental and operation tests.

"(D) Projected dates for initial operational capability and final operational capability.

"(E) An acquisition program baseline.

"(F) Program acquisition unit cost and average procurement unit cost.

"(G) Contract type.

"(H) Key performance parameters.

"(I) Key system attributes.

"(J) A risk register.

"(K) Technology readiness levels.

"(L) Manufacturing readiness levels.

"(M) Integration readiness levels.

"(N) Any other critical elements that affect the stability of the program.

"(3) BRIEFINGS.—The co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the status of the database required by paragraph (1)—

"(A) not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017]; and

"(B) upon completion of the database."

## §172. Explosive safety board

(a) IN GENERAL.—The Secretary of Defense, acting through a joint board that includes members selected by the Secretaries of the military departments, composed of military officers designated as the chair and voting members of the board for each military department, and other civilian officers and employees of the Department of Defense, as necessary, shall provide oversight on storage and transportation of supplies of ammunition and components thereof for use of the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard, with particular regard to

keeping those supplies properly dispersed and stored and to preventing hazardous conditions from arising to endanger life and property inside or outside of storage reservations. When the Coast Guard is not operating as a service in the Department of the Navy, the Secretary of Homeland Security shall appoint an officer of the Coast Guard to serve as a voting member of the board.

(b) OVERSIGHT BY SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the military departments shall provide research, development, test, evaluation, and manufacturing oversight for energetic materials supporting military requirements.

(c) RESPONSIBILITIES OF CHAIR.—Except as provided in subsection (h), the chair of the explosive safety board shall carry out the following responsibilities:

(1) To act as the principal executive representative and advisor of the Secretary on explosive and chemical agent safety matters related to Department of Defense military munitions.

(2) To perform the hazard classification approval duties assigned to the chair.

(3) To preside over meetings of the explosive safety board.

(4) To direct the staff of the explosive safety board.

(5) To perform other functions relating to explosives safety management, as directed by the Assistant Secretary of Defense for Sustainment.

(6) To provide impartial and objective advice related to explosives safety management to the Secretary of Defense and the heads of the military departments.

(7) To serve as the principal representative and advisor of the Department of Defense on matters relating to explosives safety management.

(8) To provide assistance and advice to the Under Secretary of Defense for Acquisition and Sustainment and the Deputy Director of Land Warfare and Munitions in munitions acquisition oversight and technology advancement for Department of Defense military munitions, especially in the areas of explosives and chemical agent safety and demilitarization.

(9) To provide assistance and advice to the Assistant Secretary of Defense for Logistics and Material Readiness in sustainment oversight of Department of Defense military munitions, especially in the areas of explosives and chemical agent safety, storage, transportation, and demilitarization.

(10) To develop and recommend issuances to define the functions of the explosive safety board.

(11) To establish joint hazard classification procedures with covered components of the Department.

(12) To make recommendations to the Under Secretary of Defense for Acquisition and Sustainment with respect to explosives and chemical agent safety tenets and requirements.

(13) To conduct oversight of Department of Defense explosive safety management programs.

(14) To carry out such other responsibilities as the Secretary of Defense determines appropriate.

(d) RESPONSIBILITIES OF EXECUTIVE DIRECTOR AND CIVILIAN MEMBERS.—The executive director and civilian members of the explosive safety board shall—

(1) provide assistance to the chair in carrying out the responsibilities specified in subsection (c); and

(2) carry out such other responsibilities as the chair determines appropriate.

(e) MEETINGS.—(1) The explosive safety board shall meet not less frequently than quarterly.

(2) The chair shall submit to the congressional defense committees an annual report describing the activities conducted at the meetings of the board.

(f) EXCLUSIVE RESPONSIBILITIES.—The explosive safety board shall have exclusive responsibility within the Department of Defense for—

(1) recommending new and updated explosive and chemical agent safety regulations and standards to the Assistant Secretary of Defense for Energy Installations and Environment for submittal to the Under Secretary of Defense for Acquisition and Sustainment; and

(2) acting as the primary forum for coordination among covered components of the Department on all matters related to explosive safety management.

(g) COVERED COMPONENTS.—In this section, the covered components of the Department are each of the following:

(1) The Office of the Secretary of Defense.

(2) The military departments.

(3) The Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands.

(4) The Office of the Inspector General of the Department.

(5) The Defense Agencies.

(6) The Department of Defense field activities.

(7) All other organizational entities within the Department.

(h) EXPLOSIVES USED BY SPACE LAUNCH VEHICLES.—(1) The Secretary of Defense shall delegate to the Secretary of the Air Force, who may further delegate to the Commanders of the Space Launch Deltas, the responsibilities under subsection (c) with respect to explosives used by space launch vehicles.

(2) In this subsection, the term "launch vehicle" has the meaning given such term in section 50902(11) of title 51.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 104–201, div. A, title IX, §909, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 111–383, div. A, title X, §1075(b)(7), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 115–91, div. A, title III, §341(a), (b)(1), Dec. 12, 2017, 131 Stat. 1361; Pub. L. 115–232, div. A, title III, §351, Aug. 13, 2018, 132 Stat. 1730; Pub. L. 116–283, div. A, title III, §351(a), title IX, §924(b)(2)(A)(ii), Jan. 1, 2021, 134 Stat. 3542, 3821; Pub. L. 118–31, div. A, title XVI, §1601(a), title XVIII, §1801(a)(2), Dec. 22, 2023, 137 Stat. 583, 683.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 172(a) | 50:83 (less last sentence). | May 29, 1928, ch. 853 (last par. under "Ordnance Establishment"), 45 Stat. 928. |
| 172(b) | 50:83 (last sentence). | |

In subsection (a), the words "informed on stored" are substituted for the words "advised of storage". The words "particular regard" are substituted for the words "special reference". The words "inside or outside of" are substituted for the words "within or without". The word "selected" is substituted for the word "appointed", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the words "in carrying out" are substituted for the words "in the execution of".

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31, §1601(a)(1), substituted "Except as provided in subsection (h), the chair" for "The chair" in introductory provisions.

Subsec. (c)(5). Pub. L. 118–31, §1801(a)(2)(A), substituted "perform" for "performs".

Subsec. (c)(11). Pub. L. 118–31, §1801(a)(2)(B), substituted "establish" for "establishes".

Subsec. (c)(13). Pub. L. 118–31, §1801(a)(2)(C), substituted "conduct" for "conducts".

Subsec. (h). Pub. L. 118–31, §1601(a)(2), added subsec. (h).

**2021**—Subsec. (a). Pub. L. 116–283, §924(b)(2)(A)(ii), substituted "Marine Corps, Space Force," for "Marine Corps,".

Subsecs. (c) to (g). Pub. L. 116–283, §351(a), added subsecs. (c) to (g).

**2018**—Subsec. (a). Pub. L. 115–23 substituted "Marine Corps, and Coast Guard" for "and Marine Corps" and inserted at end "When the Coast Guard is not operating as a service in the Department of the Navy, the Secretary of Homeland Security shall appoint an officer of the Coast Guard to serve as a voting member of the board."

**2017**—Pub. L. 115–91, §341(b)(1), substituted "Explosive safety" for "Ammunition storage" in section catchline.

Pub. L. 115–91, §341(a)(1)–(8), designated existing provisions as subsec. (a) and inserted heading, inserted "that includes members" after "joint board", substituted "selected by the Secretaries of the military departments" for "selected by them", inserted "military" before "officers", "designated as the chair and voting members of the board for each military department" after "officers", and "and other" before "civilian officers", and substituted "as necessary" for "or both" and "provide oversight on storage and transportation of" for "keep informed on stored".

Subsec. (b). Pub. L. 115–91, §341(a)(9), added subsec. (b).

**2011**—Pub. L. 111–383 struck out subsec. (a) designation before "The Secretaries" and struck out subsec. (b) which read as follows: "The board shall confer with and advise the Secretaries of the military departments in carrying out the recommendations in House Document No. 199 of the Seventieth Congress."

**1996**—Subsec. (a). Pub. L. 104–201 substituted "a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both" for "a joint board of officers selected by them".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR APPOINTMENT**

Pub. L. 116–283, div. A, title III, §351(b), Jan. 1, 2021, 134 Stat. 3543, provided that: "By not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall take such steps as may be necessary to ensure that the explosive safety board of the Department of Defense, as authorized under section 172 of title 10, United States Code, has a chair who is a military officer and whose responsibilities include the day-to-day management of the explosive safety board and the responsibilities provided in subsection (c) of such section."

## §173. Advisory personnel

(a) The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 89–718, §2, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 104–106, div. A, title X, §1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 173(a) | 5:171j(a) (1st sentence, as applicable to Secretary of Defense). | July 26, 1947, ch. 343, §303 (as applicable to Secretary of Defense); Aug. 10, 1949, ch. 412, §10(c) (as applicable to Secretary of Defense); Sept. 3, 1954, ch. 1263, §8 (as applicable to Secretary of Defense), 68 Stat. 1228. |
| 173(b) | 5:171j(a) (less 1st sentence, as applicable to Secretary of Defense). | |
| 173(c) | 5:171j(b) (as applicable to Secretary of Defense). | |

In subsection (a), the words "consistent with other provisions of sections 171–171n, 172–172j, 181–1, 181–2, 411a, 411b, and 626–626d of this title and sections 401–405 of Title 50" are omitted as surplusage. The word "establish" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the word "Secretary" is substituted for the words "appointing authority".

In subsection (c), the words "as a part-time adviser" are substituted for the words "in any other part-time capacity for a department or agency" to conform to subsections (a) and (b).

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service." for "Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary determines."

**1966**—Subsec. (c). Pub. L. 89–718 repealed subsec. (c) which provided that sections 281, 283, and 284 of title 18 did not apply to a person because of his service on a committee or as a part-time advisor under subsec. (a) of this section unless the unlawful act related to a matter directly involving a department or agency which he was advising or to a matter in which that department or agency was directly interested.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF ADVISORY COMMITTEES**

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

## §174. Advisory personnel: research and development

(a) The Secretary of each military department may establish such advisory committees and panels as are necessary for the research and development activities of his department and may employ such part-time advisers as he considers necessary to carry out those activities.

(b) A person who serves as a member of such a committee or panel may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(c) The Secretary concerned may delegate any authority under this section to—

(1) the Under Secretary of his department;

(2) an Assistant Secretary of his department; or

(3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 104–106, div. A, title X, §1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 174(a) | 5:235b (1st sentence).<br>5:475g (1st sentence).<br>5:628b (1st sentence). | July 16, 1952, ch. 882, §§1, 7 (as applicable to §1), 66 Stat. 725, 726. |
| 174(b) | 5:235b (less 1st sentence).<br>5:475g (less 1st sentence).<br>5:628b (less 1st sentence). | |
| 174(c) | 5:235h (as applicable to 5:235b).<br>5:475m (as applicable to 5:475g).<br>5:628h (as applicable to 5:628b). | |

In subsection (a), the words "the conduct of" are omitted as surplusage.

In subsection (b), the words "or panel" are inserted for clarity. The words "Secretary concerned" are

substituted for the words "appointing authority".

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service." for "Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary concerned determines."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF ADVISORY COMMITTEES**

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

## §175. Reserve Forces Policy Board

There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 90–168, §2(3), (4), Dec. 1, 1967, 81 Stat. 521; Pub. L. 98–94, title XII, §1212(b), Sept. 24, 1983, 97 Stat. 687; Pub. L. 98–525, title XIII, §1306, title XIV, §1405(4), Oct. 19, 1984, 98 Stat. 2613, 2622; Pub. L. 98–557, §21, Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99–433, title V, §531(a)(1), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103–337, div. A, title IX, §921, title XVI, §1661(b)(3), Oct. 5, 1994, 108 Stat. 2829, 2981.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 175(a) | 50:1008(a). | July 9, 1952, ch. 608, §257 (less (e)), 66 Stat. 497. |
| 175(b) | 50:1008(b). | |
| 175(c) | 50:1008(c). | |
| 175(d) | 50:1008(d) (less proviso). | |
| 175(e) | 50:1008(d) (proviso). | |

In subsection (a), the word "are" is substituted for the words "is established", to make clear the continuing authority of the organization established by the source statute. Clauses (3), (4), and (5) are substituted for 50:1008(a)(iii) for clarity. In clauses (6), (7), (8), and (9), the word "designated" is substituted for the word "appointed", in 50:1008(iv), (v), (vi), and (vii), to make it clear that the positions described are not constitutional offices.

In subsection (b), the words "Regular Coast Guard or Coast Guard Reserve" are substituted for the words "Regular or Reserve * * * Coast Guard".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1661(b)(3), amended section generally, substituting single undesignated par. for former subsecs. (a) to (f) relating to establishment, composition, functions, and powers of Reserve Forces Policy Board.

Subsec. (a)(4). Pub. L. 103–337, §921(1), substituted "and an officer of the Regular Marine Corps each" for "or Regular Marine Corps".

Subsec. (a)(10). Pub. L. 103–337, §921(2)–(4), added par. (10).

**1986**—Subsec. (d). Pub. L. 99–433 substituted "3021" and "8021" for "3033" and "8033", respectively.

**1984**—Subsec. (b). Pub. L. 98–557 substituted "Regular or Reserve, to serve as voting members" for "regular or reserve, to serve as a voting member".

Pub. L. 98–525, §1306, substituted "two officers of the Coast Guard, regular or reserve" for "an officer of the Regular Coast Guard or the Coast Guard Reserve".

Subsec. (c). Pub. L. 98–525, §1405(4), inserted a comma following "Reserve Affairs".

**1983**—Subsec. (c). Pub. L. 98–94 substituted "Assistant Secretary of Defense for Reserve Affairs" for "Assistant Secretary of Defense for Manpower and Reserve Affairs".

**1967**—Subsec. (a)(2). Pub. L. 90–168, §2(3), substituted "the Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs" for "the Secretary, the Under Secretary, or an Assistant Secretary designated under section 264(b) of this title, of each of the military departments".

Subsec. (b). Pub. L. 90–168, §2(4), substituted "Secretary of Transportation" for "Secretary of the Treasury" as the Secretary empowered to designate officers to serve on the Board and substituted "serve as a voting member" for "serve without vote as a member" in the description of the officer's service on the Board.

Subsec. (c). Pub. L. 90–168, §2(4), substituted "Assistant Secretary of Defense for Manpower and Reserve Affairs" for "Assistant Secretary of Defense designated under section 264(a) of this title".

Subsec. (d). Pub. L. 90–168, §2(4), inserted references to sections 5251 and 5252 of this title.

Subsec. (e). Pub. L. 90–168, §2(4), substituted "member of a committee or board prescribed under a section listed in subsection (d)" for "member of a committee under section 3033 or 8033 of this title".

Subsec. (f). Pub. L. 90–168, §2(4), added subsec. (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1661(b)(3) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 1212(e) of Pub. L. 98–94 set out as a note under section 138 of this title.

#### EFFECTIVE DATE OF 1967 AMENDMENT

For effective date of amendment by Pub. L. 90–168, see section 7 of Pub. L. 90–168, set out as a note under section 138 of this title.

## §176. Armed Forces Institute of Pathology

(a)(1) There is in the Department of Defense an Institute to be known as the Armed Forces Institute of Pathology (hereinafter in this section referred to as the "Institute"), which has the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health and Human Services for Health, the Surgeons General of the Army, Navy, and Air Force, the Under Secretary for Health of the Department of Veterans Affairs, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

(4) The Director and the Deputy Directors shall be appointed by the Secretary of Defense.

(b)(1) In carrying out the provisions of this section, the Institute is authorized to—

(A) contract with the American Registry of Pathology (established under section 177 of this title) for cooperative enterprises in medical research, consultation, and education between the

Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

(B) make available at no cost to the American Registry of Pathology such space, facilities, equipment, and support services within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

(2) No contract may be entered into under paragraph (1) which obligates the Institute to make outlays in advance of the enactment of budget authority for such outlays.

(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law. The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense.

(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

(Added Pub. L. 94–361, title VIII, §811(b), July 14, 1976, 90 Stat. 933; amended Pub. L. 96–513, title V, §511(6), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 103–160, div. A, title VII, §733, Nov. 30, 1993, 107 Stat. 1697; Pub. L. 104–106, div. A, title IX, §903(f)(1), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 107–107, div. A, title X, §1048(a)(4), Dec. 28, 2001, 115 Stat. 1222.)

## EDITORIAL NOTES

### AMENDMENTS

**2001**—Subsec. (a)(3). Pub. L. 107–107 substituted "Under Secretary for Health" for "Chief Medical Director".

**1996**—Subsec. (a)(3). Pub. L. 104–106, §903(a), (f)(1), which directed amendment of subsec. (a)(3), eff. Jan. 31, 1997, by substituting "official in the Department of Defense with principal responsibility for health affairs" for "Assistant Secretary of Defense for Health Affairs" and "Under Secretary for Health of the Department of Veterans Affairs" for "Chief Medical Director of the Department of Veterans Affairs", was repealed by Pub. L. 104–201.

**1993**—Subsec. (c). Pub. L. 103–160 inserted at end "The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense."

**1989**—Subsec. (a)(3). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1980**—Subsec. (a)(3). Pub. L. 96–513, §511(6)(A), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (b)(1)(A). Pub. L. 96–513, §511(6)(B), inserted "of this title" after "177".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## ESTABLISHMENT OF JOINT PATHOLOGY CENTER

Pub. L. 110–181, div. A, title VII, §722, Jan. 28, 2008, 122 Stat. 199, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The Secretary of Defense proposed to disestablish all elements of the Armed Forces Institute of Pathology, except the National Medical Museum and the Tissue Repository, as part of the recommendations of the Secretary for the closure of Walter Reed Army Medical Center in the 2005 round of defense base closure and realignment.

"(2) The Defense Base Closure and Realignment Commission altered, but did not reject, the proposal of the Secretary of Defense to disestablish the Armed Forces Institute of Pathology.

"(3) The Commission's recommendation that the Armed Forces Institute of Pathology's 'capabilities not specified in this recommendation will be absorbed into other DOD, Federal, or civilian facilities' provides the flexibility to retain a Joint Pathology Center as a Department of Defense or Federal entity.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the Armed Forces Institute of Pathology has provided important medical benefits to the Armed Forces and to the United States and that the Federal Government should retain a Joint Pathology Center.

"(c) ESTABLISHMENT.—

"(1) ESTABLISHMENT REQUIRED.—The President shall establish and maintain a Joint Pathology Center that shall function as the reference center in pathology for the Federal Government.

"(2) ESTABLISHMENT WITHIN DOD.—Except as provided in paragraph (3), the Joint Pathology Center shall be established in the Department of Defense, consistent with the final recommendations of the 2005 Defense Base Closure and Realignment Commission, as approved by the President.

"(3) ESTABLISHMENT IN ANOTHER DEPARTMENT.—If the President makes a determination, within 180 days after the date of the enactment of this Act [Jan. 28, 2008], that the Joint Pathology Center cannot be established in the Department of Defense, the Joint Pathology Center shall be established as an element of a Federal agency other than the Department of Defense. The President shall incorporate the selection of such agency into the determination made under this paragraph.

"(d) SERVICES.—The Joint Pathology Center shall provide, at a minimum, the following:

"(1) Diagnostic pathology consultation services in medicine, dentistry, and veterinary sciences.

"(2) Pathology education, to include graduate medical education, including residency and fellowship programs, and continuing medical education.

"(3) Diagnostic pathology research.

"(4) Maintenance and continued modernization of the Tissue Repository and, as appropriate, utilization of the Repository in conducting the activities described in paragraphs (1) through (3)."

## NATIONAL MUSEUM OF HEALTH AND MEDICINE

Pub. L. 103–337, div. A, title X, §1067, Oct. 5, 1994, 108 Stat. 2851, as amended by Pub. L. 105–78, title VII, §702, Nov. 13, 1997, 111 Stat. 1524, provided that:

"(a) PURPOSE.—It is the purpose of this section—

"(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

"(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine.

"(b) DESIGNATION.—The public facility of the Armed Forces Institute of Pathology shall also be known as the National Museum of Health and Medicine."

## CONGRESSIONAL FINDINGS AND DECLARATION

Pub. L. 94–361, title VIII, §811(a), July 14, 1976, 90 Stat. 933, provided that:

"(1) The Congress hereby finds and declares that—

"(A) the Armed Forces Institute of Pathology offers unique pathologic support to national and international medicine;

"(B) the Institute contains the Nation's most comprehensive collection of pathologic specimens for study and a staff of prestigious pathologists engaged in consultation, education, and research;

"(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Forces of the United States;

"(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

"(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

"(F) it is important to the health of the American people and of the members of the Armed Forces of the United States that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

"(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation."

## §177. American Registry of Pathology

(a)(1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this section and, to the extent not inconsistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(2) The American Registry of Pathology shall have a Board of Members (hereinafter in this section referred to as the "Board") consisting of not less than eleven individuals who are representatives of the professional societies and organizations that support the activities of the American Registry of Pathology, of whom one shall be elected annually by the Board to serve as chairman.

(3) The American Registry of Pathology shall have a Director, who shall be appointed by the Board, and such other officers as may be named and appointed by the Board. Such officers shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(4) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by paragraph (1).

(5) The term of office of each member of the Board shall be four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment and to the maximum extent practicable, one fourth at the end of one year, one fourth at the end of two years, one fourth at the end of three years, and one fourth at the end of four years, and (C) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve more than two consecutive terms of four years each.

(6) Any vacancy in the Board shall not affect its powers, but such vacancy shall be filled in the manner in which the original appointment was made.

(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

(1) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of fascicles of tumor pathology, atlases, and other material;

(2) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

(3) enter into agreements with professional societies for the establishment and maintenance of Registries of Pathology; and

(4) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board deems appropriate to conduct the activities of the American Registry of Pathology; and

(2) charge such fees for professional services as the Board deems reasonable and appropriate.

(d) The American Registry of Pathology may transmit annually to its Board and supporting organizations referred to in subsection (a)(2) a comprehensive and detailed report of its operations, activities, and accomplishments.

(Added Pub. L. 94–361, title VIII, §811(b), July 14, 1976, 90 Stat. 934; amended Pub. L. 98–525, title XIV, §1405(5), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 112–239, div. A, title V, §585, Jan. 2, 2013, 126 Stat. 1768.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a)(1), (4), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

**AMENDMENTS**

**2013**—Subsec. (a)(2). Pub. L. 112–239, §585(1)(A), substituted "the professional societies and organizations that support the activities of the American Registry of Pathology" for "those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology" and struck out at end "Each such sponsor shall appoint one member to the Board for a term of four years."

Subsec. (a)(3). Pub. L. 112–239, §585(1)(B), struck out "with the concurrence of the Director of the Armed Forces Institute of Pathology" after "shall be appointed by the Board".

Subsec. (b). Pub. L. 112–239, §585(2), redesignated pars. (2) to (5) as (1) to (4), respectively, and struck out former par. (1) which read as follows: "enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their cooperative enterprises;".

Subsec. (d). Pub. L. 112–239, §585(3), substituted "annually to its Board and supporting organizations referred to in subsection (a)(2)" for "to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a)(2) annually, and at such other times as it deems desirable,".

**1984**—Subsec. (a)(1). Pub. L. 98–525 substituted "sec. 29–501" for "sec. 29–1001".

## §178. The Henry M. Jackson Foundation for the Advancement of Military Medicine

(a) There is authorized to be established a nonprofit corporation to be known as the Henry M. Jackson Foundation for the Advancement of Military Medicine (hereinafter in this section referred to as the "Foundation") which shall not for any purpose be an agency or instrumentality of the United States Government. The Foundation shall be subject to the provisions of this section and, to the extent not inconsistent with this section, the Corporations and Associations Articles of the State of Maryland.

(b) It shall be the purpose of the Foundation (1) to carry out medical research and education projects under cooperative arrangements with the Uniformed Services University of the Health Sciences, (2) to serve as a focus for the interchange between military and civilian medical personnel, and (3) to encourage the participation of the medical, dental, nursing, veterinary, and other biomedical sciences in the work of the Foundation for the mutual benefit of military and civilian medicine.

(c)(1) The Foundation shall have a Council of Directors (hereinafter in this section referred to as the "Council") composed of—

(A) the Chairmen and ranking minority members of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives (or their designees from the membership of such committees), who shall be ex officio members,

(B) the Dean of the Uniformed Services University of the Health Sciences, who shall be an ex officio member, and

(C) six members, each of whom shall be appointed at the expiration of the term of a member

appointed under this subparagraph, as provided for in paragraph (2), by the members currently serving on the Council pursuant to this subparagraph and paragraph (2), including the member whose expiring term is so being filled by such appointment.

(2) The term of office of each member of the Council appointed under clause (C) of paragraph (1) shall be four years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(3) The Council shall elect a chairman from among its members.

(d)(1) The Foundation shall have an Executive Director who shall be appointed by the Council and shall serve at the pleasure of the Council. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Council shall prescribe.

(2) The rate of compensation of the Executive Director shall be fixed by the Council.

(e) The initial members of the Council shall serve as incorporators and take whatever actions as are necessary to establish under the Corporations and Associations Articles of the State of Maryland the corporation authorized by subsection (a).

(f) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original designation or appointment was made.

(g) In order to carry out the purposes of this section, the Foundation is authorized to—

(1) enter into contracts with, accept grants from, and make grants to the Uniformed Services University of the Health Sciences for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education, including contracts for provision of such personnel and services as may be necessary to carry out such cooperative enterprises;

(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(3) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(4) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(5) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation;

(6) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; and

(7) charge such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

(h) A person who is a full-time or part-time employee of the Foundation may not be an employee (full-time or part-time) of the Federal Government.

(i) The Council shall transmit to the President annually, and at such other times as the Council considers desirable, a report on the operations, activities, and accomplishments of the Foundation.

(Added Pub. L. 98–36, §2(a), May 27, 1983, 97 Stat. 200; amended Pub. L. 98–132, §2(a)(1), Oct. 17, 1983, 97 Stat. 849; Pub. L. 101–189, div. A, title VII, §726(b)(2), Nov. 29, 1989, 103 Stat. 1480; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 115–232, div. A, title VII, §739, Aug. 13, 2018, 132 Stat. 1822; Pub. L. 116–92, div. A, title VII, §733(a), (b), Dec. 20, 2019, 133 Stat. 1461.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (c)(1)(C). Pub. L. 116–92, §733(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "six members appointed by the ex officio members of the Council designated in clauses (A) and (B)."

Subsec. (c)(2). Pub. L. 116–92, §733(b), substituted "except that any person" for "except that—

"(A) any person",

substituted period at end for "; and", and struck out subpar. (B) which read as follows: "the terms of office of members first taking office shall expire, as designated by the ex officio members of the Council at the time of the appointment, two at the end of two years and two at the end of four years."

**2018**—Subsec. (c)(1)(C). Pub. L. 115–232 substituted "six members" for "four members".

**1999**—Subsec. (c)(1)(A). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (c)(1)(A). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1989**—Subsec. (g)(1). Pub. L. 101–189 inserted ", accept grants from, and make grants to" after "contracts with".

**1983**—Pub. L. 98–132, §2(a)(1)(A), inserted "The Henry M. Jackson" before "Foundation" in section catchline.

Subsec. (a). Pub. L. 98–132, §2(a)(1)(B), inserted "Henry M. Jackson".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 98–132, §1, Oct. 17, 1983, 97 Stat. 849, provided: "That (a) the Foundation for the Advancement of Military Medicine established pursuant to section 178 of title 10, United States Code, shall be designated and hereafter known as the 'Henry M. Jackson Foundation for the Advancement of Military Medicine', in honor of the late Henry M. Jackson, United States Senator from the State of Washington. Any reference to the Foundation for the Advancement of Military Medicine in any law, regulation, document, record, or other paper of the United States shall be held and considered to be a reference to the 'Henry M. Jackson Foundation for the Advancement of Military Medicine'.

"(b) The Council of Directors referred to in subsection (c) of section 178 of such title shall take such action as is necessary under the Corporations and Associations Articles of the State of Maryland to amend the corporate name of the Foundation for the Advancement of Military Medicine established under such section to reflect the designation made by the first sentence of subsection (a)."

### EFFECTIVE DATE OF 2019 AMENDMENT; CONSTRUCTION

Pub. L. 116–92, div. A, title VII, §733(c), Dec. 20, 2019, 133 Stat. 1461, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019].

"(2) CONSTRUCTION FOR CURRENT MEMBERS.—Nothing in the amendments made by this section shall be construed to terminate or otherwise alter the appointment or term of service of members of the Henry M. Jackson Foundation for the Advancement of Military Medicine who are so serving on the date of the enactment of this Act pursuant to an appointment under paragraph (1)(C) or (2) of section 178(c) of title 10, United States Code, made before that date."

## §179. Nuclear Weapons Council

(a) ESTABLISHMENT; MEMBERSHIP.—There is a Nuclear Weapons Council (hereinafter in this section referred to as the "Council") operated as a joint activity of the Department of Defense and the Department of Energy. The Council shall be the primary mechanism for integrating, streamlining, and ensuring unity of purpose and direction for nuclear deterrence related activities within the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:

(1) The Under Secretary of Defense for Acquisition and Sustainment.

(2) The Vice Chairman of the Joint Chiefs of Staff.

(3) The Under Secretary for Nuclear Security of the Department of Energy.

(4) The Under Secretary of Defense for Research and Engineering.

(5) The Under Secretary of Defense for Policy.

(6) The Commander of the United States Strategic Command.

(b) CHAIRMAN; MEETINGS.—(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member designated under subsection (a)(1).

(2) A meeting of the Council shall be chaired by the Under Secretary for Nuclear Security of the Department of Energy whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

(3) The Council shall meet not less often than once every three months. To the extent possible, not later than seven days before a meeting, the Chairman shall disseminate to each member of the Council the agenda and documents for such meeting.

(c) STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

(2) The Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs shall be the Staff Director of the Council.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

(1) Overseeing nuclear deterrence activities of the Department of Defense and the National Nuclear Security Administration, including policy and resources, and developing options for adjusting the deterrence posture of the United States in response to evolving international security conditions.

(2) Preparing the annual Nuclear Weapons Stockpile Memorandum.

(3) Developing nuclear weapons stockpiles options and the costs of such options and alternatives.

(4) Coordinating and approving programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.

(5) Identifying various options for cost-effective schedules for nuclear weapons production.

(6) Evaluating safety, security, and control issues for existing weapons and for proposed new weapon program starts and approving adjustments as required.

(7) Overseeing the approval of design, performance, and cost tradeoffs for all proposed new nuclear weapons programs.

(8) Providing specific guidance regarding priorities for research on—

(A) nuclear weapon delivery systems and platforms and priorities on military capability development within the armed forces and the broader Department of Defense; and

(B) nuclear weapons and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration.

(9) Coordinating and approving activities conducted by the Department of Defense and the Department of Energy for the study, development, production, and retirement of nuclear warheads and weapon systems, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead and weapon system production, and warhead retirement.

(10) Reviewing proposed capabilities, and, in coordination with the Joint Requirements Oversight Council, establishing and validating performance requirements (as defined in section 181(h) of this title), for nuclear warhead and weapon system programs.

(11) With respect to nuclear warheads—

(A) reviewing military requirements, performance requirements, and planned delivery schedules to evaluate whether such requirements and schedules create significant risks to cost, schedules, or other matters regarding production, surveillance, research, and other programs relating to nuclear weapons within the National Nuclear Security Administration; and

(B) if any such risk exists, proposing and analyzing adjustments to such requirements and schedules.

(12) Preparing comments on annual proposals for budget levels for research on nuclear weapons

and related weapon systems supporting nuclear deterrence missions and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

(13) Coordinating and approving the annual budget proposals of the National Nuclear Security Administration.

(14) Overseeing risk management efforts between the Department of Defense and the National Nuclear Security Administration relating to the nuclear weapons stockpile, the nuclear security enterprise (as defined in section 6101), and the delivery systems and platforms for nuclear weapons, including with respect to identifying and analyzing risks and proposing actions to mitigate risks.

(e) REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—The Council shall submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.

(f) BUDGET AND FUNDING MATTERS.—(1) The Council shall annually review the plans and budget of the National Nuclear Security Administration and the military departments to assess whether such plans and budget meet the current and projected requirements relating to nuclear weapons and related weapon systems supporting nuclear deterrence missions.

(2)(A) The Council shall review each budget request transmitted by the Secretary of Energy to the Council under section 6289 and make a determination under subparagraph (B) regarding the adequacy of each such request. Not later than 30 days after making such a determination, the Council shall notify the congressional defense committees that such a determination has been made.

(B)(i) If the Council determines that a budget request for a fiscal year transmitted to the Council under section 6289 is inadequate, in whole or in part, to implement the objectives of the Department of Defense with respect to nuclear weapons for that fiscal year, the Council shall submit to the Secretary of Energy a written description of funding levels and specific initiatives that would, in the determination of the Council, make the budget request adequate to implement those objectives.

(ii) If the Council determines that a budget request for a fiscal year transmitted to the Council under section 6289 is adequate to implement the objectives described in clause (i) for that fiscal year, the Council shall submit to the Secretary of Energy a written statement confirming the adequacy of the request.

(iii) The Council shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(3) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Council shall submit to the congressional defense committees a report containing the following:

(A) The results of the assessment conducted under paragraph (1) with respect to that budget.

(B) An evaluation of—

(i) whether the funding requested for the National Nuclear Security Administration in such budget—

(I) enables the Administrator for Nuclear Security to meet requirements relating to nuclear weapons for such fiscal year; and

(II) is adequate to implement the objectives of the Department of Defense with respect to nuclear weapons for that fiscal year; and

(ii) whether the plans and budget reviewed under paragraph (1) will enable the Administrator to meet—

(I) the requirements to produce war reserve plutonium pits under section 4219(a) [1] of such Act (50 U.S.C. 2538a(a)); and

(II) any other requirements under Federal law.

(C) If the evaluation under subparagraph (B)(ii) determines that the plans and budget reviewed under paragraph (1) will not enable the Administrator to meet the requirements to produce war reserve plutonium pits under section 6218 [2]—

(i) an explanation for why the plans and budget will not enable the Administrator to meet such requirements; and

(ii) proposed alternative plans, budget, or requirements by the Council to meet such requirements.

(4) If a member of the Council does not concur in any assessment or evaluation under this subsection, the report or other information required to be submitted to the congressional defense committees regarding such assessment or evaluation shall include a written explanation from the non-concurring member describing the reasons for the member's nonconcurrence.

(5)(A) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(i) whether such budget allows the Federal Government to meet the nuclear stockpile and stockpile stewardship program requirements during the fiscal year covered by the budget and the four subsequent fiscal years; and

(ii) if the Commander determines that such budget does not allow the Federal Government to meet such requirements, a description of the steps being taken to meet such requirements.

(B) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command under subparagraph (A), the Chairman shall submit to the congressional defense committees—

(i) such assessment as it was submitted to the Chairman; and

(ii) any comments of the Chairman.

(6) In this subsection, the term "budget" has the meaning given that term in section 231(f) [1] of this title.

(g) SEMIANNUAL UPDATES ON COUNCIL MEETINGS.—(1) Not later than February 1 and August 1 of each year, the Council shall provide to the congressional defense committees a semiannual update including, with respect to the six-month period preceding the update—

(A) the dates on which the Council met and the members who attended each meeting; and

(B) except as provided by paragraph (2), a summary of any decisions made by the Council pursuant to subsection (d) at each such meeting and the rationale for and options that informed such decisions.

(2) The Council shall not be required to include in a semiannual update under paragraph (1) the matters described in subparagraph (B) of that paragraph with respect to decisions of the Council relating to the budget of the President for a fiscal year if the budget for that fiscal year has not been submitted to Congress under section 1105 of title 31 as of the date of the semiannual update.

(3) The Council may provide a semiannual update under paragraph (1) either in the form of a briefing or a written report.

(Added Pub. L. 99–661, div. C, title I, §3137(a)(1), Nov. 14, 1986, 100 Stat. 4065; amended Pub. L. 100–180, div. A, title XII, §1231(2), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 100–456, div. A, title XII, §1233(h), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 102–484, div. C, title XXXI, §3133, Oct. 23, 1992, 106 Stat. 2639; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. C, title XXXI, §3152, Oct. 5, 1994, 108 Stat. 3090; Pub. L. 104–106, div. A, title IX, §904(b)(1), title XV, §1502(a)(7), Feb. 10, 1996, 110 Stat. 403, 502; Pub. L. 106–65, div. A, title X, §1067(1), div. C, title XXXI, §3163(a), (c), Oct. 5, 1999, 113 Stat. 774, 944; Pub. L. 106–398, §1 [div. C, title XXXI, §3152(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–464; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. D, title XLII, §4213(c), formerly Pub. L. 104–201, div. C, title XXXI, §3159(c), Sept. 23, 1996, 110 Stat. 2842, renumbered

§4213(c) of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(14), Nov. 24, 2003, 117 Stat. 1760; Pub. L. 108–375, div. A, title IX, §902(a)–(d), Oct. 28, 2004, 118 Stat. 2025; Pub. L. 109–364, div. A, title IX, §903, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111–383, div. A, title IX, §901(j)(1), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112–239, div. A, title X, §1039, Jan. 2, 2013, 126 Stat. 1927; Pub. L. 113–66, div. A, title X, §§1053, 1091(a)(3), Dec. 26, 2013, 127 Stat. 861, 875; Pub. L. 113–291, div. A, title XVI, §1641, Dec. 19, 2014, 128 Stat. 3648; Pub. L. 114–92, div. A, title X, §1076(a), Nov. 25, 2015, 129 Stat. 997; Pub. L. 115–91, div. A, title X, §1081(a)(14), title XVI, §1653, Dec. 12, 2017, 131 Stat. 1595, 1758; Pub. L. 115–232, div. A, title XVI, §1661, Aug. 13, 2018, 132 Stat. 2152; Pub. L. 116–92, div. A, title XVI, §1663, Dec. 20, 2019, 133 Stat. 1772; Pub. L. 116–283, div. A, title XVI, §§1631(a), 1632(a), Jan. 1, 2021, 134 Stat. 4056, 4057; Pub. L. 117–263, div. A, title XVI, §1633(a), (b), (d), Dec. 23, 2022, 136 Stat. 2935, 2936, 2938; Pub. L. 118–159, div. A, title XVI, §1621(d)(1), Dec. 23, 2024, 138 Stat. 2171; Pub. L. 119–60, div. A, title XVI, §1631, div. C, title XXXI, §3111(c)(1)(A), Dec. 18, 2025, 139 Stat. 1184, 1459.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4219(a) of such Act (50 U.S.C. 2538a(a)), referred to in subsec. (f)(3)(B)(ii)(I), means section 4219(a) of the Atomic Energy Defense Act, div. D of Pub. L. 107–314, which was classified to section 2538a(a) of Title 50, War and National Defense, prior to repeal and restatement as section 6128(a) of this title by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1363, 1458.

Section 231(f) of this title, referred to in subsec. (f)(6), was redesignated as section 231(g) of this title by Pub. L. 117–263, div. A, title III, §352(a)(2), Dec. 23, 2022, 136 Stat. 2533, and was subsequently redesignated as section 231(h) of this title by Pub. L. 118–159, div. A, title X, §1021(1), Dec. 23, 2024, 138 Stat. 2052.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1631(1), in introductory provisions, inserted "The Council shall be the primary mechanism for integrating, streamlining, and ensuring unity of purpose and direction for nuclear deterrence related activities within the Department of Defense and the Department of Energy." after "joint activity of the Department of Defense and the Department of Energy."

Subsec. (c)(3). Pub. L. 119–60, §1631(2), struck out par. (3) which related to staff and administrative services; staff director.

Subsec. (d)(1) to (5). Pub. L. 119–60, §1631(3)(A), (B), added par. (1) and redesignated former pars. (1) to (4) as (2) to (5), respectively. Former par. (5) redesignated (6).

Subsec. (d)(6). Pub. L. 119–60, §1631(3)(C), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts."

Pub. L. 119–60, §1631(3)(A), designated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (d)(7). Pub. L. 119–60, §1631(3)(D), substituted "Overseeing the approval of" for "Ensuring that adequate consideration is given to".

Pub. L. 119–60, §1631(3)(A), designated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 119–60, §1631(3)(E), amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Providing specific guidance regarding priorities for research on nuclear weapons and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration."

Pub. L. 119–60, §1631(3)(A), designated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (d)(9). Pub. L. 119–60, §1631(3)(F), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement."

Pub. L. 119–60, §1631(3)(A), designated par. (8) as (9). Former par. (9) redesignated (10).

Subsec. (d)(10). Pub. L. 119–60, §1631(3)(G), inserted "and weapon system" after "warhead".

Pub. L. 119–60, §1631(3)(A), designated par. (9) as (10). Former par. (10) redesignated (11).

Subsec. (d)(11). Pub. L. 119–60, §1631(3)(A), designated par. (10) as (11). Former par. (11) redesignated (12).

Subsec. (d)(12). Pub. L. 119–60, §1631(3)(H), inserted "and related weapon systems supporting nuclear deterrence missions" after "weapons".

Pub. L. 119–60, §1631(3)(A), designated par. (11) as (12). Former par. (12) redesignated (13).

Subsec. (d)(13). Pub. L. 119–60, §1631(3)(A), designated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (d)(14). Pub. L. 119–60, §3111(c)(1)(A)(i), which directed amendment of par. (13) of subsec. (d) by substituting "section 6101" for "section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501)", was executed by making the substitution in par. (14), to reflect the probable intent of Congress, in view of the redesignation of par. (13) as (14) by Pub. L. 119–60, §1631(3)(A). See note below.

Pub. L. 119–60, §1631(3)(I), substituted "Overseeing" for "Coordinating" and inserted "systems and" after "delivery".

Pub. L. 119–60, §1631(3)(A), designated par. (13) as (14).

Subsec. (f)(1). Pub. L. 119–60, §1631(4), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Council shall annually review the plans and budget of the National Nuclear Security Administration and assess whether such plans and budget meet the current and projected requirements relating to nuclear weapons."

Subsec. (f)(2)(A), (B)(i), (ii). Pub. L. 119–60, §3111(c)(1)(A)(ii)(I), substituted "section 6289" for "section 4717 of the Atomic Energy Defense Act (50 U.S.C. 2757)".

Subsec. (f)(3)(C). Pub. L. 119–60, §3111(c)(1)(A)(ii)(II), substituted "section 6218" for "section 4219(a) of the Atomic Energy Defense Act (50 U.S.C. 2538a(a))".

**2024**—Subsec. (c)(2), (3)(A). Pub. L. 118–159 substituted "Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs" for "Nuclear, Chemical, and Biological Defense Programs".

**2022**—Subsec. (d)(9). Pub. L. 117–263, §1633(a)(1), inserted ", in coordination with the Joint Requirements Oversight Council," after "capabilities, and".

Subsec. (d)(10) to (12). Pub. L. 117–263, §1633(a)(2), (3), added par. (10) and redesignated former pars. (10) and (11) as (11) and (12), respectively.

Subsec. (d)(13). Pub. L. 117–263, §1633(a)(2), (4), redesignated par. (12) as (13), struck it out, and added a new par. (13). Prior to amendment, such par. related to Council's responsibility to provide guidance regarding priorities and comments on annual proposals for research on improved conventional weapons.

Subsec. (f). Pub. L. 117–263, §1633(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to budget and funding matters.

Subsec. (g)(1)(A). Pub. L. 117–263, §1633(d), inserted "and the members who attended each meeting" before the semicolon.

**2021**—Subsec. (d)(9) to (12). Pub. L. 116–283, §1632(a), added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively.

Subsec. (g). Pub. L. 116–283, §1631(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to semiannual briefings to Congress.

**2019**—Subsec. (g). Pub. L. 116–92 added subsec. (g).

**2018**—Subsec. (a)(1). Pub. L. 115–232, §1661(1), substituted "Acquisition and Sustainment" for "Acquisition, Technology, and Logistics".

Subsec. (a)(4) to (6). Pub. L. 115–232, §1661(2), (3), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

**2017**—Subsec. (f)(3)(B)(iii). Pub. L. 115–91, §1081(a)(14), substituted "Joint" for "Joints".

Subsec. (f)(6), (7). Pub. L. 115–91, §1653, added par. (6) and redesignated former par. (6) as (7).

**2015**—Subsec. (g). Pub. L. 114–92 struck out subsec. (g) which related to annual report.

**2014**—Subsec. (f)(3) to (6). Pub. L. 113–291 added pars. (3) to (6).

**2013**—Subsec. (a)(5). Pub. L. 113–66, §1091(a)(3), substituted "Commander" for "commander".

Subsec. (b)(3). Pub. L. 112–239, §1039(c), inserted at end "To the extent possible, not later than seven days before a meeting, the Chairman shall disseminate to each member of the Council the agenda and documents for such meeting."

Subsec. (d)(2). Pub. L. 112–239, §1039(a)(1), inserted "and alternatives" before period at end.

Subsec. (d)(3). Pub. L. 112–239, §1039(a)(2), inserted "and approving" after "Coordinating".

Subsec. (d)(7). Pub. L. 112–239, §1039(a)(3), substituted "specific" for "broad" and inserted before period at end "and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration".

Subsec. (d)(10). Pub. L. 113–66, §1053(a), redesignated par. (11) as (10) and struck out former par. (10) which read as follows: "Coordinating and providing guidance and oversight on nuclear command, control, and communications systems."

Pub. L. 112–239, §1039(a)(5), added par. (10). Former par. (10) redesignated (12).

Subsec. (d)(11). Pub. L. 113–66, §1053(a)(2), redesignated par. (12) as (11).

Pub. L. 112–239, §1039(b)(1), added par. (11).

Subsec. (d)(12). Pub. L. 113–66, §1053(a)(2), redesignated par. (12) as (11).

Pub. L. 112–239, §1039(a)(4), redesignated par. (10) as (12).

Subsec. (f). Pub. L. 112–239, §1039(b)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 113–66, §1053(c), substituted "that includes the following" for "on the following" in introductory provisions.

Pub. L. 112–239, §1039(b)(2), redesignated subsec. (f) as (g).

Subsec. (g)(6). Pub. L. 113–66, §1053(b), added par. (6).

**2011**—Subsec. (c)(2). Pub. L. 111–383, §901(j)(1)(A), substituted "Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs" for "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs".

Subsec. (c)(3)(A). Pub. L. 111–383 substituted "Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs" for "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and "Assistant Secretary" for "that Assistant to the Secretary".

**2006**—Subsec. (a)(5). Pub. L. 109–364 added par. (5).

**2004**—Subsec. (a). Pub. L. 108–375, §902(b), (d)(1), inserted heading and, in introductory provisions, struck out "Joint" before "Nuclear Weapons Council" and substituted "operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:" for "composed of three members as follows:".

Subsec. (a)(4). Pub. L. 108–375, §902(a), added par. (4).

Subsec. (b). Pub. L. 108–375, §902(d)(2), inserted heading.

Subsec. (c). Pub. L. 108–375, §902(d)(3), inserted heading.

Subsec. (c)(3)(B). Pub. L. 108–375, §902(c)(1), substituted "designated" for "appointed".

Subsec. (d). Pub. L. 108–375, §902(d)(4), inserted heading.

Subsec. (e). Pub. L. 108–375, §902(c)(2), (d)(5), inserted heading and substituted "The Council shall" for "In addition to the responsibilities set forth in subsection (d), the Council shall also" in text.

Subsec. (f). Pub. L. 108–375, §902(c)(3), (d)(6), inserted heading and substituted "congressional defense committees" for "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives" in introductory provisions.

**2001**—Subsec. (a)(1). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**2000**—Subsec. (a)(3). Pub. L. 106–398, §1 [div. C, title XXXI, §3152(a)(1)], added par. (3) and struck out former par. (3) which read as follows: "One senior representative of the Department of Energy designated by the Secretary of Energy."

Subsec. (b)(2). Pub. L. 106–398, §1 [div. C, title XXXI, §3152(a)(2)], substituted "the Under Secretary for Nuclear Security of the Department of Energy" for "the representative designated under subsection (a)(3)".

**1999**—Subsec. (b)(3). Pub. L. 106–65, §3163(a)(1), added par. (3).

Subsec. (c)(3). Pub. L. 106–65, §3163(a)(2), added par. (3).

Subsec. (f). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

Subsec. (f)(3) to (5). Pub. L. 106–65, §3163(c), added pars. (3) to (5).

**1996**—Subsec. (c)(2). Pub. L. 104–106, §904(b)(1), substituted "Nuclear and Chemical and Biological Defense Programs" for "Atomic Energy".

Subsec. (e). Pub. L. 107–314, §4213(c)(2), formerly Pub. L. 104–201, §3159(c)(2), as renumbered by Pub. L. 108–136, added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 104–106, §1502(a)(7), substituted "to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the" for "to the Committees on Armed Services and Appropriations of the Senate and".

Subsec. (f). Pub. L. 107–314, §4213(c)(1), formerly Pub. L. 104–201, §3159(c)(1), as renumbered by Pub. L. 108–136, redesignated subsec. (e) as (f).

**1994**—Subsecs. (a)(3), (b). Pub. L. 103–337, §3152(c), substituted "designated" for "appointed" wherever appearing.

Subsec. (d)(8) to (10). Pub. L. 103–337, §3152(a), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (e). Pub. L. 103–337, §3152(b), added subsec. (e).

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1992**—Subsec. (a)(1). Pub. L. 102–484 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Director of Defense Research and Engineering."

**1988**—Subsec. (e). Pub. L. 100–456 struck out subsec. (e) which read as follows: "The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987."

**1987**—Subsec. (e). Pub. L. 100–180 realigned margins of subsec. (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

#### CONSIDERATION OF BUDGET MATTERS AT MEETINGS OF NUCLEAR WEAPONS COUNCIL

Pub. L. 116–92, div. A, title XVI, §1664, Dec. 20, 2019, 133 Stat. 1773, provided that:

"(a) ATTENDANCE.—

"(1) REQUIREMENT.—Except as provided by subsection (b), each official described in paragraph (2) shall attend the meetings of the Nuclear Weapons Council established by section 179 of title 10, United States Code, and the meetings of the Standing and Safety Committee of the Council, or such a successor committee. Each such official shall attend such meetings as advisors on matters within the authority and expertise of the official.

"(2) OFFICIALS DESCRIBED.—The officials described in this paragraph are each of the following officials (or the designees of the officials):

"(A) The Director of Cost Assessment and Program Evaluation of the Department of Defense.

"(B) The Director of the Office of Management and Budget of the National Nuclear Security Administration.

"(C) The Director for Cost Estimating and Program Evaluation of the National Nuclear Security Administration.

"(D) The Director of the Office of Management and Budget.

"(b) EXCEPTION.—On a case-by-case basis, the Chairman of the Nuclear Weapons Council, without delegation, may exclude the attendance of an official at a meeting pursuant to subsection (a) because of specific requirements relating to classified information or other exigent circumstances as determined by the Chairman."

#### CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS

Pub. L. 99–661, div. C, title I, §3137(b), Nov. 14, 1986, 100 Stat. 4066, provided that, if on Nov. 14, 1986, the position of Vice Chairman of the Joint Chiefs of Staff had not been established by law, the Chairman of the Joint Chiefs of Staff would be a member of the Nuclear Weapons Council established by section 179 of this title, and would remain a member of such Council until an individual had been appointed Vice Chairman of the Joint Chiefs of Staff.

[1] *See References in Text note below.*

[2] *So in original. Probably should be "6128".*

## §180. Service academy athletic programs: review board

(a) INDEPENDENT REVIEW BOARD.—The Secretary of Defense shall appoint a board to review the administration of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

(b) COMPOSITION OF BOARD.—The Secretary shall appoint the members of the board from among distinguished administrators of institutions of higher education, members of Congress, members of the Boards of Visitors of the academies, and other experts in collegiate athletics programs. The Superintendents of the three academies shall be members of the board. The Secretary shall designate one member of the board, other than a Superintendent of an academy, as Chairman.

(c) DUTIES.—The board shall, on an annual basis—

(1) review all aspects of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, including—

(A) the policies relating to the administration of such programs;

(B) the appropriateness of the balance between the emphasis placed by each academy on athletics and the emphasis placed by such academy on academic pursuits; and

(C) the extent to which all athletes in all sports are treated equitably under the athletics program of each academy; and

(2) determine ways in which the administration of the athletics programs at the academies can serve as models for the administration of athletics programs at civilian institutions of higher education.

(d) ADMINISTRATIVE PROVISIONS.—(1) Each member of the board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Executive Schedule Level IV under section 5315 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the board. Members of the board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the board.

(Added Pub. L. 102–190, div. A, title V, §513(a), Dec. 5, 1991, 105 Stat. 1360; amended Pub. L. 106–65, div. A, title X, §1066(a)(2), Oct. 5, 1999, 113 Stat. 770; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Subsec. (d). Pub. L. 106–398 substituted "section 5315" for "section 5376".

**1999**—Subsec. (d)(1). Pub. L. 106–65 substituted "Executive Schedule Level IV under section 5376 of title 5" for "grade GS–18 of the General Schedule under section 5332 of title 5".

## §181. Joint Requirements Oversight Council

(a) IN GENERAL.—There is a Joint Requirements Oversight Council in the Department of Defense.

(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall assist the Chairman of the Joint Chiefs of Staff in—

(1) evaluating global trends, emerging threats, and adversary capabilities to inform understanding of joint operational problems and to shape joint force design;

(2) coordinating with commanders of combatant commands to compile, refine, and prioritize joint operational problems;

(3) continuously reviewing and assessing joint military capabilities of elements of the

Department of Defense listed in section 111(b) of this title in a manner that meets applicable requirements in the national defense strategy under section 113(g) of this title;

(4) identifying and prioritizing gaps and opportunities in joint military capabilities, including making recommendations for changes to address such capability and capacity gaps;

(5) identifying advances in technology, innovative commercial solutions, and concepts of operation that could improve the military advantage of the joint force;

(6) recommending joint capability requirements that—

(A) describe the joint operational problem to provide necessary context for the joint capability requirement;

(B) proposes nonprescriptive solutions to joint operational problems; and

(C) ensures system interoperability, where appropriate, between and among joint military capabilities;

(7) designing the joint force in a manner that—

(A) addresses joint operational problems; and

(B) evaluates force design initiatives of the Armed Forces to recommend acceptance, mitigation, or alternative force designs for the joint force;

(8) maintaining a repository of joint operational problems and identification of capabilities to address those problems; and

(9) evaluating effect of joint military capability requirements for the purposes of section 4376(a) of this title.

(c) COMPOSITION.—

(1) IN GENERAL.—The Joint Requirements Oversight Council is composed of the following:

(A) The Vice Chairman of the Joint Chiefs of Staff, who is the Chair of the Council and is the principal adviser to the Chairman of the Joint Chiefs of Staff for making recommendations about joint military capabilities.

(B) An Army officer in the grade of general.

(C) A Navy officer in the grade of admiral.

(D) An Air Force officer in the grade of general.

(E) A Marine Corps officer in the grade of general.

(F) A Space Force officer in the grade of general.

(2) SELECTION OF MEMBERS.—Members of the Council under subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for selection by the Secretary of the military department concerned.

(3) RECOMMENDATIONS.—In making any recommendation to the Chairman of the Joint Chiefs of Staff as described in paragraph (1)(A), the Vice Chairman of the Joint Chiefs of Staff shall provide the Chairman any dissenting view of members of the Council under paragraph (1) with respect to such recommendation.

(d) ADVISORS.—

(1) IN GENERAL.—The following officials of the Department of Defense shall serve as advisors to the Joint Requirements Oversight Council on matters within their authority and expertise:

(A) The Under Secretary of Defense for Policy.

(B) The Under Secretary of Defense for Intelligence and Security.

(C) The Under Secretary of Defense for Acquisition and Sustainment.

(D) The Under Secretary of Defense for Research and Engineering who shall serve as the Chief Technical Advisor to the Council and—

(i) shall provide assistance in evaluating the technical feasibility of requirements under development; and

(ii) shall identify options for expanding or generating new requirements based on opportunities provided by new or emerging technologies.

(E) The Under Secretary of Defense (Comptroller).

(F) The Director of Cost Assessment and Program Evaluation.

(G) The Director of Operational Test and Evaluation.

(H) The commander of a combatant command when matters related to the area of responsibility or functions of that command are under consideration by the Council.

(2) INPUT FROM COMBATANT COMMANDS.—The Council shall seek and strongly consider input from the commanders of the combatant commands in carrying out its mission under subsection (b).

(3) INPUT FROM SERVICE CHIEFS.—The Council shall seek and consider the views of the service chiefs in their roles as end users of capabilities delivered by the defense acquisition system on matters pertaining to a capability proposed by an armed force, Defense Agency, or other entity of the Department of Defense.

(4) INPUT FROM VICE CHIEF OF THE NATIONAL GUARD BUREAU.—The Council shall seek and consider the views of the Vice Chief of the National Guard Bureau regarding non-Federalized National Guard capabilities in support of homeland defense and civil support missions.

(5) INPUT FROM INDUSTRY.—The Council shall seek views from private entities on commercially available technology to address joint operational problems or gaps in joint military capabilities.

(e) RESPONSIBILITY FOR CAPABILITY REQUIREMENTS.—Each service chief is responsible for the capability requirements of the armed force of such service chief.

(f) ANALYTIC AND ENGINEERING SUPPORT.—The Secretary of Defense shall ensure that analytical organizations within the Department of Defense, such as the Office of Cost Assessment and Program Evaluation and mission engineering activities, provide resources and expertise to the Joint Requirements Oversight Council to assist the Council in performing the mission in subsection (b).

(g) AVAILABILITY OF OVERSIGHT INFORMATION TO CONGRESSIONAL DEFENSE COMMITTEES.—The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman of the Joint Chiefs of Staff to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.

(h) DEFINITIONS.—In this section:

(1) The term "joint capability requirement" means a capability that is critical or essential to address a joint operational problem.

(2) The term "joint military capabilities" means the collective capabilities across the joint force, including both joint and force-specific capabilities, that are available to conduct military operations.

(3) The term "joint operational problem"—

(A) means a challenge across the joint force in achieving an assigned military objective based on current doctrine, emerging threats or future concepts; and

(B) may include limitations in capabilities, capacity, resources, or the ability to effectively and efficiently coordinate across the joint force, with another combatant command, or among joint military capabilities.

(4) The term "oversight information" means information and materials comprising analysis and

justification that are prepared to support a recommendation that is made to, and approved by, the Secretary of Defense.

(5) The term "service chief" has the meaning given in section 3101 of this title.

(Added Pub. L. 104–106, div. A, title IX, §905(a)(1), Feb. 10, 1996, 110 Stat. 403; amended Pub. L. 104–201, div. A, title IX, §908, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1043(b)(3), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 110–181, div. A, title IX, §942(a)–(d), Jan. 28, 2008, 122 Stat. 287, 288; Pub. L. 110–417, [div. A], title VIII, §813(d)(1), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–23, title I, §§101(d)(1), 105(a), title II, §201(b), May 22, 2009, 123 Stat. 1709, 1717, 1719; Pub. L. 111–383, div. A, title VIII, §841, title X, §1075(b)(8), Jan. 7, 2011, 124 Stat. 4281, 4369; Pub. L. 112–239, div. A, title IX, §951(b), Jan. 2, 2013, 126 Stat. 1891; Pub. L. 114–92, div. A, title VIII, §802(d)(1), Nov. 25, 2015, 129 Stat. 879; Pub. L. 114–328, div. A, title IX, §925(a), Dec. 23, 2016, 130 Stat. 2359; Pub. L. 115–91, div. A, title X, §1081(a)(15), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 115–232, div. A, title VIII, §831(b)(1), Aug. 13, 2018, 132 Stat. 1857; Pub. L. 116–92, div. A, title IX, §902(7), title XVI, §1621(e)(1)(A)(v), Dec. 20, 2019, 133 Stat. 1543, 1733; Pub. L. 116–283, div. A, title IX, §§906, 924(b)(9), title XVIII, §1850(m), Jan. 1, 2021, 134 Stat. 3799, 3822, 4271; Pub. L. 117–81, div. A, title IX, §903(a), title XVII, §1702(a)(2), Dec. 27, 2021, 135 Stat. 1869, 2155; Pub. L. 118–159, div. A, title V, §521(b), Dec. 23, 2024, 138 Stat. 1880; Pub. L. 119–60, div. A, title XVIII, §1811(a)–(f), Dec. 18, 2025, 139 Stat. 1241–1243.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1811(a), which directed amendment of subsec. (b) "by amending paragraphs (1) through (7)", was executed by generally amending pars. (1) to (7) and adding pars. (8) and (9), to reflect the probable intent of Congress. Prior to amendment, pars. (1) to (7) listed tasks in which the Joint Requirements Oversight Council was to assist the Chairman of the Joint Chiefs of Staff.

Subsec. (c)(1)(A). Pub. L. 119–60, §1811(b), struck out "or joint performance requirements" before period at end.

Subsec. (d)(2). Pub. L. 119–60, §1811(c)(1), inserted "strongly" before "consider" and struck out "paragraphs (1) and (2)" before "of subsection (b)".

Subsec. (d)(3). Pub. L. 119–60, §1811(c)(2), substituted "Input from service chiefs" for "Input from chiefs of staff" in heading and "and consider the views of the service chiefs in their roles as end users of capabilities delivered by the defense acquisition system" for ", and strongly consider, the views of the Chiefs of Staff of the armed forces, in their roles as customers of the acquisition system," in text, and struck out "under subsection (b)(2) and joint performance requirements pursuant to subsection (b)(3)" before period at end.

Subsec. (d)(4). Pub. L. 119–60, §1811(c)(3), substituted "and consider" for ", and strongly consider,".

Subsec. (d)(5). Pub. L. 119–60, §1811(c)(4), added par. (5).

Subsec. (e). Pub. L. 119–60, §1811(d), amended subsec. (e) generally. Prior to amendment, text of subsec. (e) read as follows: "The Chief of Staff of an armed force is responsible for all performance requirements for that armed force and, except for performance requirements specified in subsections (b)(4) and (b)(5), such performance requirements do not need to be validated by the Joint Requirements Oversight Council."

Subsec. (f). Pub. L. 119–60, §1811(e), inserted "and Engineering" after "Analytic" in heading and "and mission engineering activities" after "Office of Cost Assessment and Program Evaluation" in text, and struck out "in operations research, systems analysis, and cost estimation" after "resources and expertise".

Subsec. (h). Pub. L. 119–60, §1811(f), added par. (1), redesignated former par. (1) as (2), added pars. (1), (3), and (5), and struck out former pars. (2) and (3) which read as follows:

"(2) The term 'performance requirement' means a performance attribute of a particular system considered critical or essential to the development of an effective military capability.

"(3) The term 'joint performance requirement' means a performance requirement that is critical or essential to ensure interoperability or fulfill a capability gap of more than one armed force, Defense Agency, or other entity of the Department of Defense, or impacts the joint force in other ways such as logistics."

**2024**—Subsec. (c)(1)(F). Pub. L. 118–159 substituted "in the grade of general" for "in the grade equivalent to the grade of general in the Army, Air Force, or Marine Corps, or admiral in the Navy".

**2021**—Subsec. (b)(2) to (5). Pub. L. 117–81, §903(a)(1), added par. (2) and redesignated former pars. (2) to

(4) as (3) to (5), respectively. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 117–81, §903(a)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 117–81, §1702(a)(2), which directed amendment of par. (6) by substituting "sections 4251(b), 4252(a)(4)," for "sections 2366a(b), 2366b(a)(4),", was executed by making the substitution in par. (7) to reflect the probable intent of Congress and the redesignation of par. (6) as (7) by Pub. L. 117–81, §903(a)(1)(A). See below.

Pub. L. 117–81, §903(a)(1)(A), redesignated par. (6) as (7).

Pub. L. 116–283, §1850(m), which directed amendment of par. (6) by substituting "4375(b)" for "2433(e)(2)" effective Jan. 1, 2022, was executed by making the substitution in par. (7) to reflect the probable intent of Congress and the redesignation of par. (6) as (7) by Pub. L. 117–81, §903(a)(1)(A), effective Dec. 27, 2021. See above.

Subsec. (c)(1)(F). Pub. L. 116–283, §924(b)(9), added subpar. (F).

Subsec. (d)(1)(D). Pub. L. 117–81, §903(a)(2), substituted "Engineering who shall serve as the Chief Technical Advisor to the Council and—" and cls. (i) and (ii) for "Engineering."

Pub. L. 116–283, §906(b), substituted "The" for "the".

Subsec. (d)(4). Pub. L. 116–283, §906(a), added par. (4).

**2019**—Subsec. (d)(1)(B). Pub. L. 116–92, §1621(e)(1)(A)(v), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

Subsec. (d)(1)(C). Pub. L. 116–92, §902(7)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (d)(1)(D) to (H). Pub. L. 116–92, §902(7)(B), (C), added subpar. (D) and redesignated former subpars. (D) to (G) as (E) to (H), respectively.

**2018**—Subsec. (b)(3) to (7). Pub. L. 115–232 redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which related to development of recommendations for program cost and fielding targets pursuant to section 2448a of this title.

**2017**—Subsec. (b)(1). Pub. L. 115–91 substituted "section 113(g)" for "section 118".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to Joint Requirements Oversight Council and consisted of its establishment, mission, composition, advisors, organization, availability of oversight information to Congressional defense committees, and definitions.

**2015**—Subsec. (d)(3). Pub. L. 114–92 added par. (3).

**2013**—Subsec. (b)(1)(C). Pub. L. 112–239, §951(b)(1), substituted "in ensuring that appropriate trade-offs are made among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, in the establishment and approval of military requirements" for "in ensuring the consideration of trade-offs among cost, schedule, and performance objectives for joint military requirements".

Subsec. (b)(3). Pub. L. 112–239, §951(b)(2), substituted "the total cost of such resources" for "such resource level".

**2011**—Subsec. (a). Pub. L. 111–383, §841(d), substituted "There is" for "The Secretary of Defense shall establish".

Subsec. (b)(3). Pub. L. 111–383, §1075(b)(8), which directed substitution of "Program Evaluation" for "Performance Evaluation", could not be executed because of the amendment by Pub. L. 111–383, §841(c)(2). See below.

Pub. L. 111–383, §841(c)(2), substituted "advisors to the Council under subsection (d)" for "Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation".

Subsec. (c)(1)(A). Pub. L. 111–383, §841(a)(1), inserted "Vice" before "Chairman of the Joint Chiefs of Staff".

Subsec. (c)(1)(F). Pub. L. 111–383, §841(b), added subpar. (F).

Subsec. (c)(2). Pub. L. 111–383, §841(a)(2), substituted "under subparagraphs (B), (C), (D), and (E) of paragraph (1)" for ", other than the Chairman of the Joint Chiefs of Staff,".

Subsec. (c)(3). Pub. L. 111–383, §841(a)(3), struck out par. (3) which read as follows: "The functions of the Chairman of the Joint Chiefs of Staff as chairman of the Council may only be delegated to the Vice Chairman of the Joint Chiefs of Staff."

Subsec. (d)(1). Pub. L. 111–383, §841(c)(1), substituted "The following officials of the Department of Defense shall serve as advisors to the Council on matters within their authority and expertise:" for "The Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Director of Cost Assessment and Program Evaluation shall serve as advisors to the Council on matters within their authority and expertise." and added subpars. (A) to (F).

**2009**—Subsec. (b)(1)(C). Pub. L. 111–23, §201(b)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 111–23, §201(b)(2)(A), inserted ", in consultation with the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation," after "assist the Chairman".

Subsec. (b)(5). Pub. L. 111–23, §201(b)(2)(B)–(4), added par. (5).

Subsec. (d). Pub. L. 111–23, §105(a), designated existing provisions as par. (1) and added par. (2).

Pub. L. 111–23, §101(d)(1), substituted "Director of Cost Assessment and Program Evaluation" for "Director of the Office of Program Analysis and Evaluation".

**2008**—Subsec. (b). Pub. L. 110–181, §942(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to mission of Joint Requirements Oversight Council.

Subsec. (b)(4). Pub. L. 110–417 substituted "section 2366a(b), section 2366b(a)(4)," for "section 2366a(a)(4), section 2366b(b),".

Subsec. (d). Pub. L. 110–181, §942(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 110–181, §942(c), added subsec. (e).

Subsec. (f). Pub. L. 110–181, §942(b)(1), redesignated subsec. (d) as (f).

Subsec. (g). Pub. L. 110–181, §942(d), added subsec. (g).

**2003**—Subsec. (d)(2). Pub. L. 108–136 substituted "subsection, the term 'oversight" for "subsection:", struck out "(A) The term 'oversight" before "information' means", and struck out subpar. (B) which read as follows: "The term 'congressional defense committees' means—

"(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**1999**—Subsec. (d)(2)(B)(ii). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (d). Pub. L. 104–201 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 104–106, div. A, title IX, §905(b), Feb. 10, 1996, 110 Stat. 404, provided that: "The amendments made by this section [enacting this section] shall take effect on January 31, 1997."

### INPUT FROM COMMANDERS OF COMBATANT COMMANDS

Pub. L. 111–23, title I, §105(b), May 22, 2009, 123 Stat. 1718, which provided that the Joint Requirements Oversight Council in the Department of Defense was to seek and consider input from the commanders of combatant commands, in accordance with section 181(d) of title 10, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(3), Dec. 18, 2025, 139 Stat. 1244.

### REVIEW OF JOINT MILITARY REQUIREMENTS

Pub. L. 111–23, title II, §201(c), May 22, 2009, 123 Stat. 1720, which provided that the Secretary of Defense was to ensure that each new joint military requirement recommended by the Joint Requirements Oversight Council was reviewed, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(4), Dec. 18, 2025, 139 Stat. 1244.

### STUDY GUIDANCE FOR ANALYSES OF ALTERNATIVES

Pub. L. 111–23, title II, §201(d), May 22, 2009, 123 Stat. 1720, which related to study guidance for analyses of alternatives for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council was the validation authority, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(4), Dec. 18, 2025, 139 Stat. 1244.

Pub. L. 111–23, title II, §201(d), May 22, 2009, 123 Stat. 1720, provided that: "The Director of Cost Assessment and Program Evaluation shall take the lead in the development of study guidance for an analysis

of alternatives for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council is the validation authority. In developing the guidance, the Director shall solicit the advice of appropriate officials within the Department of Defense and ensure that the guidance requires, at a minimum—

"(1) full consideration of possible trade-offs among cost, schedule, and performance objectives for each alternative considered; and

"(2) an assessment of whether or not the joint military requirement can be met in a manner that is consistent with the cost and schedule objectives recommended by the Joint Requirements Oversight Council."

**DEADLINES FOR INCLUSION OF CORE MISSION REFERENCES IN DOCUMENTS**

Pub. L. 110–181, div. A, title IX, §942(f), Jan. 28, 2008, 122 Stat. 288, which provided that, effective June 1, 2009, all joint military requirements documents of the Joint Requirements Oversight Council produced to carry out its mission under section 181(b)(1) of title 10were to reference the core mission areas organized and defined under former section 118b of title 10, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(2), Dec. 18, 2025, 139 Stat. 1244.

**REPORTS ON JOINT REQUIREMENTS OVERSIGHT COUNCIL REFORM INITIATIVE**

Pub. L. 106–398, §1 [[div. A], title IX, §916], Oct. 30, 2000, 114 Stat. 1654, 1654A–231, as amended by Pub. L. 107–107, div. A, title IX, §923, Dec. 28, 2001, 115 Stat. 1199, which directed the Chairman of the Joints Chiefs of Staff to submit reports to committees of Congress not later than Mar. 1, 2001, Sept. 1, 2001, Mar. 1, 2002, and Mar. 1, 2003, on the progress made on the initiative of the Chairman to reform and refocus the Joint Requirements Oversight Council, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(1), Dec. 18, 2025, 139 Stat. 1244.

## §182. Center for Excellence in Disaster Management and Humanitarian Assistance

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Disaster Management and Humanitarian Assistance (in this section referred to as the "Center").

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations, particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between the Department of Defense and other agencies.

(2) The Center shall be used to make available high-quality disaster management and humanitarian assistance in response to disasters.

(3) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of nuclear, biological, and chemical events.

(B) Management of the consequences of terrorism.

(C) Appropriate roles for the reserve components in the management of such consequences and in disaster management and humanitarian assistance in response to natural disasters.

(D) Meeting requirements for information in connection with regional and global disasters, including the use of advanced communications technology as a virtual library.

(E) Tropical medicine, particularly in relation to the medical readiness requirements of the Department of Defense.

(4) The Center shall develop a repository of disaster risk indicators for the Asia-Pacific region.

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for joint operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or

to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or members of the armed forces, to carry out any responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(Added Pub. L. 105–85, div. A, title III, §382(a)(1), Nov. 18, 1997, 111 Stat. 1709.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PAYMENTS FOR EDUCATION AND TRAINING OF PERSONNEL OF FOREIGN COUNTRIES**

Pub. L. 107–248, title VIII, §8093, Oct. 23, 2002, 116 Stat. 1558, provided that: "During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance [probably should be Center for Excellence in Disaster Management and Humanitarian Assistance] may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–117, div. A, title VIII, §8109, Jan. 10, 2002, 115 Stat. 2272.

Pub. L. 106–259, title VIII, §8109, Aug. 9, 2000, 114 Stat. 698.

Pub. L. 106–79, title VIII, §8139, Oct. 25, 1999, 113 Stat. 1269.

## §182a. Center for Excellence in Environmental Security

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Environmental Security (in this section referred to as the "Center").

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations, particularly operations that require international assistance and operations that require coordination between the Department of Defense and other Federal agencies.

(2) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of environmental insecurity with respect to—

(i) access to water, food, and energy;

(ii) related health matters; and

(iii) matters relating to when, how, and why environmental stresses to human safety, health, water, energy, and food will cascade to economic, social, political, or national security events.

(B) Appropriate roles for the reserve components in response to environmental insecurity resulting from natural disasters.

(C) Meeting requirements for information in connection with regional and global disasters,

including through the use of advanced communications technology as a virtual library.

(3) The Center shall perform such other missions as the Secretary of Defense may specify.

(4) To assist the Center in carrying out the missions under this subsection, upon request of the Center, the head of any Federal agency may grant to the Center access to the data, archives, and other physical resources (including facilities) of that agency, and may detail any personnel of that agency to the Center, for the purpose of enabling the development of global environmental indicators.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for the operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including by directly providing such services or providing the funds for such services.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces, to carry out any responsibility or duty of the Department or the armed forces in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation under paragraph (1) would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(Added Pub. L. 117–263, div. A, title III, §311, Dec. 23, 2022, 136 Stat. 2501.)

## §183. Department of Defense Board of Actuaries

(a) IN GENERAL.—There shall be in the Department of Defense a Department of Defense Board of Actuaries (hereinafter in this section referred to as the "Board").

(b) MEMBERS.—(1) The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(2) The members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the member's predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the member's term until the member's successor takes office.

(3) A member of the Board may be removed by the Secretary of Defense only for misconduct or failure to perform functions vested in the Board.

(4) A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5 for each day the

member is engaged in the performance of the duties of the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of that title in connection with such duties.

(c) DUTIES.—The Board shall have the following duties:

(1) To review valuations of the Department of Defense Military Retirement Fund in accordance with section 1465(c) of this title and submit to the President and Congress, not less often than once every four years, a report on the status of that Fund, including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis.

(2) To review valuations of the Department of Defense Education Benefits Fund in accordance with section 2006(e) of this title and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis.

(3) To review valuations of such other funds as the Secretary of Defense shall specify for purposes of this section and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis.

(d) RECORDS.—The Secretary of Defense shall ensure that the Board has access to such records regarding the funds referred to in subsection (c) as the Board shall require to determine the actuarial status of such funds.

(e) REPORTS.—(1) The Board shall submit to the Secretary of Defense on an annual basis a report on the actuarial status of each of the following:

(A) The Department of Defense Military Retirement Fund.

(B) The Department of Defense Education Benefits Fund.

(C) Each other fund specified by Secretary under subsection (c)(3).

(2) The Board shall also furnish its advice and opinion on matters referred to it by the Secretary.

(Added Pub. L. 110–181, div. A, title IX, §906(a)(1), Jan. 28, 2008, 122 Stat. 275.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 183, added Pub. L. 105–85, div. A, title IX, §904(a), Nov. 18, 1997, 111 Stat. 1854, required the Secretary of Defense to report annually on the justification or requirement and projected costs of Department of Defense advisory committees, prior to repeal by Pub. L. 107–314, div. A, title X, §1041(a)(1)(A), Dec. 2, 2002, 116 Stat. 2645.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### INITIAL SERVICE AS BOARD MEMBERS

Pub. L. 110–181, div. A, title IX, §906(a)(3), Jan. 28, 2008, 122 Stat. 277, provided that: "Each member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries as of the date of the enactment of this Act [Jan. 28, 2008] shall serve as an initial member of the Department of Defense Board of Actuaries under section 183 of title 10, United States Code (as added by paragraph (1)), from that date until the date otherwise provided for the completion of such individual's term as a member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as the case may be, unless earlier removed by the Secretary of Defense."

## §183a. Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions

(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Military Aviation and Installation Assurance Siting Clearinghouse (in this section referred to as the "Clearinghouse").

(2) The Clearinghouse shall be—

(A) organized under the authority, direction, and control of an Assistant Secretary of Defense designated by the Secretary; and

(B) assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

(b) FUNCTIONS.—(1) The Clearinghouse shall coordinate Department of Defense review of applications for energy projects or antenna structure projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 and received by the Department of Defense from the Secretary of Transportation. In performing such coordination, the Clearinghouse shall provide procedures to ensure affected local military installations are consulted.

(2) The Clearinghouse shall accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for an energy project or antenna structure project submitted pursuant to such section.

(3) The Clearinghouse shall perform such other functions as the Secretary of Defense assigns.

(c) REVIEW OF PROPOSED ACTIONS.—(1) Not later than 75 days after receiving from the Secretary of Transportation a proper application for an energy project or antenna structure project under section 44718 of title 49 that may have an adverse impact on military operations and readiness, the Clearinghouse shall conduct a preliminary review of such application. The review shall—

(A) assess the likely scope, duration, and level of risk of any adverse impact of such energy project or antenna structure project on military operations and readiness; and

(B) identify any feasible and affordable actions that could be taken by the Department, the developer of such energy project or antenna structure project, or others to mitigate the adverse impact and to minimize risks to national security while allowing the energy project or antenna structure project to proceed with development.

(2)(A) If the Clearinghouse finds under paragraph (1) that an energy project or antenna structure project will have an adverse impact on military operations and readiness, the Clearinghouse shall issue to the applicant a notice of presumed risk that describes the concerns identified by the Department in the preliminary review and requests a discussion of possible mitigation actions.

(B) After the Clearinghouse issues a notice under subparagraph (A) with respect to an energy project or antenna structure project, the parties should seek to identify feasible and affordable actions that can be taken by the Department, the developer of such energy project or antenna structure project, or others to mitigate any adverse impact on military operations and readiness.

(C) A notice of presumed risk issued under subparagraph (A) is a preliminary assessment only and does not represent a formal objection pursuant to subsection (e). Discussions of possible mitigation actions under such subparagraph could favorably resolve any concerns identified in the notice of presumed risk.

(3) At the same time that the Clearinghouse issues to the applicant a notice of presumed risk under paragraph (2), the Clearinghouse shall provide the same notice to the governor of the State in which the project is located and request that the governor provide the Clearinghouse any comments the governor believes of relevance to the application. The Clearinghouse shall ensure that a governor has at least 30 days after the date on which the governor receives the notice of presumed risk to provide any such comments and shall provide detailed information and other information necessary to ensure that the governor can fully understand the nature of the presumed risk. The Secretary of Defense shall consider the comments of the governor in the Secretary's evaluation of whether the project presents an unacceptable risk to the national security of the United States and shall include the comments with the finding provided to the Secretary of Transportation pursuant to section 44718(f) of title 49.

(4) If, after issuing the notices of presumed risk required by paragraphs (2) and (3), the Secretary of Defense later concludes for any reason that the energy project or antenna structure project will not

have an adverse impact on military readiness, the Clearinghouse shall notify the applicant and the governor in writing of that conclusion.

(5) The Clearinghouse shall develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of energy projects or antenna structure projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 that may have an adverse impact on military operations and readiness.

(6) The Clearinghouse shall establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from another Federal agency, a State government, an Indian tribal government, a local government, a landowner, or the developer of an energy project or antenna structure project, including guidance to personnel at each military installation in the United States on how to initiate such procedures and ensure a coordinated Department response.

(7) The Clearinghouse shall develop procedures for conducting early outreach to parties carrying out energy projects or antenna structure projects that could have an adverse impact on military operations and readiness and to clearly communicate to such parties actions being taken by the Department of Defense under this section. The procedures shall provide for filing by such parties of a project area and preliminary project layout at least one year before expected construction of any project proposed within a military training route or within line-of-sight of any air route surveillance radar, airport surveillance radar, or wide area surveillance over-the-horizon radar operated or used by the Department of Defense in order to provide adequate time for analysis and negotiation of mitigation options. Material marked as proprietary or competition sensitive by a party filing for this preliminary review shall be protected from public release by the Department of Defense.

(8) If, in reviewing an application for an energy project or antenna structure project pursuant to paragraph (1), the Clearinghouse finds no adverse impact on military operations under section 44718(b)(1) of title 49, the Clearinghouse shall communicate to the Secretary of Transportation in writing, not later than five business days after making such finding, the following: "No Part 77 concerns, national security review ongoing."

(d) COMPREHENSIVE REVIEW.—(1) The Secretary of Defense shall develop a comprehensive strategy for addressing the impacts upon the military of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49.

(2) In developing the strategy required by paragraph (1), the Secretary shall—

(A) assess the magnitude of interference posed by projects filed with the Secretary of Transportation pursuant to section 44718 of title 49;

(B) solely for the purpose of informing preliminary reviews under subsection (c)(1) and early outreach efforts under subsection (c)(5), identify distinct geographic areas selected as proposed locations for projects filed, or for projects that are reasonably expected to be filed in the near future, with the Secretary of Transportation pursuant to section 44718 of title 49 where the Secretary of Defense can demonstrate such projects could have an adverse impact on military operations and readiness, including military training routes or any active intercontinental ballistic missile launch facility or control center, and categorize the risk of adverse impact in such areas;

(C) develop procedures for the initial identification of such geographic areas identified under subparagraph (B), to include a process to provide notice and seek public comment prior to making a final designation of the geographic areas, including maps of the area and the basis for identification;

(D) develop procedures to periodically review and modify, consistent with the notice and public comment process under subparagraph (C), geographic areas identified under subparagraph (B) and to solicit and identify additional geographic areas as appropriate;

(E) at the conclusion of the notice and public comment period conducted under subparagraph (C), make a final finding on the designation of a geographic area of concern or delegate the authority to make such finding to the Deputy Secretary of Defense, an Under Secretary of Defense, a Deputy Under Secretary of Defense, or, in the case of a geographic area of concern related to an active intercontinental ballistic missile launch facility or control center, the Assistant Secretary of Defense for Energy, Installations, and Environment; and

(F) specifically identify feasible and affordable long-term actions that may be taken to mitigate adverse impacts of projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, on military operations and readiness, including—

(i) investment priorities of the Department of Defense with respect to research and development;

(ii) modifications to military operations to accommodate applications for such projects;

(iii) recommended upgrades or modifications to existing systems or procedures by the Department of Defense;

(iv) acquisition of new systems by the Department and other departments and agencies of the Federal Government and timelines for fielding such new systems; and

(v) modifications to the projects for which such applications are filed with the Secretary of Transportation pursuant to section 44718 of title 49, including changes in size, location, or technology.

(3) The governor of a State may recommend to the Secretary of Defense additional geographical areas of concern within that State. Any such recommendation shall be submitted for notice and comment pursuant to paragraph (2)(C).

(4) The Clearinghouse shall make access to data reflecting geographic areas identified under subparagraph (B) of paragraph (2) and reviewed and modified under subparagraph (C) of such paragraph available online.

(e) DEPARTMENT OF DEFENSE FINDING OF UNACCEPTABLE RISK.—(1)(A) The Secretary of Defense may not object to an energy project or antenna structure project filed with the Secretary of Transportation pursuant to section 44718 of title 49, except in a case in which the Secretary of Defense determines, after giving full consideration to mitigation actions identified pursuant to this section, that such project, in isolation or cumulatively with other projects, would result in an unacceptable risk to the national security of the United States.

(B)(i) In the case of any energy project or antenna structure project with proposed structures more than 200 feet above ground level located within two nautical miles of the geographic center of an active intercontinental ballistic missile launch facility or control center, the Secretary of Defense shall issue a finding of unacceptable risk to national security for such project if the mitigation actions identified pursuant to this section do not include removal of all such proposed structures from such project after receiving notice of presumed risk from the Clearinghouse under subsection (c)(2).

(ii) Clause (i) does not apply to structures approved before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 or to structures that are re-powered with updated technology in the same location as previously approved structures.

(C) Any finding of unacceptable risk to national security by the Secretary of Defense under this paragraph shall be transmitted to the Secretary of Transportation for inclusion in the report required under section 44718(b)(2) of title 49.

(2)(A) Not later than 30 days after making a finding of unacceptable risk under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on such finding and the basis for such finding. Such report shall include an explanation of the operational impact that led to the finding, a discussion of the mitigation options considered, and an explanation of why the mitigation options were not feasible or did not resolve the conflict. The report may include a classified annex. Unclassified reports shall also be provided to the project proponent. The Secretary of Defense may provide public notice through the Federal Register of the finding.

(B) The Secretary of Defense shall notify the appropriate State agency of a finding made under paragraph (1).

(3) The Secretary of Defense may only delegate the responsibility for making a finding of unacceptable risk under paragraph (1) to the Deputy Secretary of Defense, an Under Secretary of Defense, or a Deputy Under Secretary of Defense.

(4) The Clearinghouse shall develop procedures for making a finding of unacceptable risk, including with respect to how to implement cumulative effects analysis. Such procedures shall be subject to public comment prior to finalization.

(f) AUTHORITY TO ACCEPT CONTRIBUTIONS OF FUNDS.—The Secretary of Defense is authorized to request and accept a voluntary contribution of funds from an applicant for an energy project or antenna structure project. Amounts so accepted shall remain available until expended for the purpose of offsetting the cost of measures undertaken by the Secretary of Defense to mitigate adverse impacts of such a project on military operations and readiness or to conduct studies of potential measures to mitigate such impacts.

(g) EFFECT OF DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.—An action taken pursuant to this section shall not be considered to be a substitute for any assessment or determination required of the Secretary of Transportation under section 44718 of title 49.

(h) DEFINITIONS.—In this section:

(1) The term "adverse impact on military operations and readiness" means any adverse impact upon military operations and readiness, including flight operations, research, development, testing, and evaluation, and training, that is demonstrable and is likely to impair or degrade the ability of the armed forces to perform their warfighting missions.

(2) The term "antenna structure project"—

(A) means a project to construct a structure located within two nautical miles of the geographic center of any intercontinental ballistic missile launch facility or control center that—

(i) is constructed or used to transmit radio energy or that is constructed or used for the primary purpose of supporting antennas to transmit or receive radio energy (or both), and any antennas and other appurtenances mounted on the structure, from the time construction of the supporting structure begins until such time as the supporting structure is dismantled; and

(ii) for which notification is required to be made to the Federal Aviation Administration pursuant to processes already established by law; and

(B) does not include—

(i) any structure constructed before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, including any such structure which is upgraded, repaired, or otherwise modified after such date of enactment as long as such upgrade, repair, or modification has not increased the height of such structure; or

(ii) any project in support of or required by an intercontinental ballistic missile launch facility or control center, or any other such project that has been approved by the Secretary of Defense or the Secretary of Defense's designee for use on the same military installation at which such facility or control center is located.

(3) The term "intercontinental ballistic missile launch facility or control center" means such facilities or control centers located at the Francis E. Warren Air Force Base, the Malmstrom Air Force Base, and the Minot Air Force Base, and their respective missile fields.

(4) The term "energy project" means a project that provides for the generation or transmission of electrical energy.

(5) The term "governor", with respect to a State, means the chief executive officer of the State.

(6) The term "landowner" means a person that owns a fee interest in real property on which a proposed energy project or antenna structure project is planned to be located.

(7) The term "military installation" has the meaning given that term in section 2801(c)(4) of this title.

(8) The term "military readiness" includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

(9) The term "military training route" means a training route developed as part of the Military Training Route Program, carried out jointly by the Administrator of the Federal Aviation Administration and the Secretary of Defense, for use by the armed forces for the purpose of conducting low-altitude, high-speed military training.

(10) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

(11) The term "unacceptable risk to the national security of the United States" means the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill, that the Secretary of Defense can demonstrate would—

(A) endanger safety in air commerce directly related to the activities of the Department of Defense;

(B) interfere with the efficient use of the navigable airspace directly related to the activities of the Department of Defense; or

(C) significantly impair or degrade the capability of the Department of Defense to conduct training, research, development, testing, and evaluation, and operations or to maintain military readiness.

(Added Pub. L. 115–91, div. A, title III, §311(a), Dec. 12, 2017, 131 Stat. 1343; amended Pub. L. 116–92, div. A, title III, §§311, 312, 371, Dec. 20, 2019, 133 Stat. 1303, 1329; Pub. L. 116–283, div. A, title III, §311, Jan. 1, 2021, 134 Stat. 3513; Pub. L. 117–81, div. A, title III, §371(b), Dec. 27, 2021, 135 Stat. 1663; Pub. L. 118–31, div. A, title III, §§361, 362, Dec. 22, 2023, 137 Stat. 231; Pub. L. 118–159, div. A, title III, §311, Dec. 23, 2024, 138 Stat. 1851; Pub. L. 119–60, div. A, title XVII, §1701(a)(5), Dec. 18, 2025, 139 Stat. 1208.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsecs. (e)(1)(B)(ii) and (h)(2)(B)(i), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### AMENDMENTS

**2025**—Subsec. (h)(3). Pub. L. 119–60 substituted comma for semicolon after "Francis E. Warren Air Force Base".

**2024**—Subsec. (h)(2)(A)(ii). Pub. L. 118–159 substituted "by law" for "under this title".

**2023**—Pub. L. 118–31, §362(b)(1), inserted "or antenna structure projects" after "energy projects" wherever appearing and inserted "or antenna structure project" after "energy project" wherever appearing except in subsecs. (e)(1) and (h)(2).

Subsec. (c)(3). Pub. L. 118–31, §361, inserted "The Clearinghouse shall ensure that a governor has at least 30 days after the date on which the governor receives the notice of presumed risk to provide any such comments and shall provide detailed information and other information necessary to ensure that the governor can fully understand the nature of the presumed risk." after "to the application."

Subsec. (d)(2)(B). Pub. L. 118–31, §362(a)(1)(A), inserted "or any active intercontinental ballistic missile launch facility or control center" after "military training routes".

Subsec. (d)(2)(E). Pub. L. 118–31, §362(a)(1)(B), substituted "a Deputy Under Secretary of Defense, or, in the case of a geographic area of concern related to an active intercontinental ballistic missile launch facility or control center, the Assistant Secretary of Defense for Energy, Installations, and Environment" for "or a Deputy Under Secretary of Defense".

Subsec. (e)(1). Pub. L. 118–31, §362(a)(2), designated first sentence as subpar. (A) and inserted "or antenna structure project" after "energy project", designated second sentence as subpar. (C) and substituted "Any finding of unacceptable risk to national security by the Secretary of Defense under this paragraph" for "The Secretary of Defense's finding of unacceptable risk to national security", and added subpar. (B) after subpar. (A) as so designated.

Subsec. (h)(2) to (11). Pub. L. 118–31, §362(b)(2), added pars. (2) and (3) and redesignated former pars. (2) to (9) as (4) to (11), respectively.

**2021**—Subsec. (c)(2). Pub. L. 116–283, §311(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(2)(C). Pub. L. 117–81, §371(b)(1), added subpar. (C).

Subsec. (c)(4) to (6). Pub. L. 116–283, §311(2), (3), added par. (4) and redesignated former pars. (4) and (5)

as (5) and (6), respectively. Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 116–283, §311(2), (4), redesignated par. (6) as (7) and struck out "Any setback for a project pursuant to the previous sentence shall not be more than what is determined to be necessary by a technical analysis conducted by the Lincoln Laboratory at the Massachusetts Institute of Technology or any successor entity." before "Material marked".

Subsec. (c)(8). Pub. L. 117–81, §371(b)(2), added par. (8).

**2019**—Subsec. (c)(1). Pub. L. 116–92, §311, substituted "75 days" for "60 days" in introductory provisions.

Subsec. (c)(6). Pub. L. 116–92, §371(1), in second sentence, substituted "air route surveillance radar, airport surveillance radar, or wide area surveillance over-the-horizon radar" for "air route surveillance radar or airport surveillance radar" and inserted after second sentence "Any setback for a project pursuant to the previous sentence shall not be more than what is determined to be necessary by a technical analysis conducted by the Lincoln Laboratory at the Massachusetts Institute of Technology or any successor entity."

Subsec. (d)(2)(E). Pub. L. 116–92, §371(2)(A), substituted "the Deputy Secretary of Defense, an Under Secretary of Defense, or a Deputy Under Secretary of Defense" for "a Deputy Secretary of Defense, an Under Secretary of Defense, or a Principal Deputy Under Secretary of Defense".

Subsec. (d)(3), (4). Pub. L. 116–92, §371(2)(B), (C), added par. (3) and redesignated former par. (3) as (4).

Subsec. (e)(3). Pub. L. 116–92, §371(3), substituted "an Under Secretary of Defense, or a Deputy Under Secretary of Defense" for "an under secretary of defense, or a deputy under secretary of defense".

Subsec. (f). Pub. L. 116–92, §371(4), which directed the substitution of "from an entity requesting a review by the Clearinghouse under this section" for "from an applicant for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49", could not be executed because of the intervening amendment by Pub. L. 116–92, §312. See note below.

Pub. L. 116–92, §312, substituted "for an energy project" for "for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49".

Subsec. (h)(3) to (9). Pub. L. 116–92, §371(5), added par. (3), redesignated former pars. (3) to (6) as (4) to (7), respectively, in par. (7) substituted "the Administrator of the Federal Aviation Administration" for "the Federal Aviation Administration", added par. (8), and redesignated former par. (7) as (9).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### APPLICABILITY OF EXISTING RULES AND REGULATIONS

Pub. L. 115–91, div. A, title III, §311(c), Dec. 12, 2017, 131 Stat. 1348, provided that: "Notwithstanding the amendments made by subsection (a) [enacting this section], any rule or regulation promulgated to carry out section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383] (49 U.S.C. 44718 note), that is in effect on the day before the date of the enactment of this Act [Dec. 12, 2017] shall continue in effect and apply to the extent such rule or regulation is consistent with the authority under section 183a of title 10, United States Code, as added by subsection (a), until such rule or regulation is otherwise amended or repealed."

### DEADLINE FOR INITIAL IDENTIFICATION OF GEOGRAPHIC AREAS

Pub. L. 115–91, div. A, title III, §311(d), Dec. 12, 2017, 131 Stat. 1348, provided that: "The initial identification of geographic areas under section 183a(d)(2)(B) of title 10, United States Code, as added by subsection (a), shall be completed not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017]."

## §184. Civilian Protection Center of Excellence

(a) ESTABLISHMENT.—The Secretary of Defense shall operate the Civilian Protection Center of Excellence. The purpose of the Center shall be to—

(1) serve as the focal point for matters related to civilian casualties and other forms of civilian harm resulting from military operations involving the United States Armed Forces; and

(2) institutionalize and advance knowledge, practices, and tools for preventing, mitigating, and responding to civilian harm.

(b) PURPOSE.—The Center shall be used to—

(1) develop standardized civilian-harm operational reporting and data management processes to

improve data collection, sharing, and learning across the Department of Defense;

(2) develop, recommend, and review guidance, and the implementation of guidance, on how the Department responds to civilian harm;

(3) develop recommended guidance for addressing civilian harm across the full spectrum of armed conflict and for use in doctrine and operational plans;

(4) recommend training and exercises for the prevention and investigation of civilian harm;

(5) develop a repository of civilian casualty and civilian harm information;

(6) capture lessons learned from assessments and investigations of civilian casualty incidents and supporting institutionalization of such lessons learned within policy, doctrine, training, exercises, and tactics, techniques, and procedures of the Department of Defense;

(7) support the coordination and synchronization of efforts across combatant commands, the Department of State, and other relevant United States Government departments and agencies to prevent, mitigate, and respond to incidents of civilian harm;

(8) engage with nongovernmental organizations and civilian casualty experts; and

(9) perform such other functions as the Secretary of Defense may specify.

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the congressional defense committees, and make publicly available on an appropriate website of the Department, an annual report on the activities of the Center.

(Added Pub. L. 117–263, div. A, title X, §1082(a)(1), Dec. 23, 2022, 136 Stat. 2799.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 184 was renumbered section 185 of this title.

**PRIOR PROVISIONS**

A prior section 184 was renumbered section 342 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR ESTABLISHMENT**

Pub. L. 117–263, div. A, title X, §1082(b), Dec. 23, 2022, 136 Stat. 2799, provided that: "The Civilian Protection Center of Excellence, as required under section 184 of title 10, United States Code, as added by subsection (a), shall be established by not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022]."

## §185. Joint Safety Council

(a) IN GENERAL.—There is established, within the Office of the Deputy Secretary of Defense, a Joint Safety Council (in this section referred to as the "Council").

(b) MEMBERSHIP; APPOINTMENT; COMPENSATION.—(1) The Council shall be composed of voting members as follows:

(A) The Director of Safety for each military department.

(B) An employee of the Department of Defense who is a career member of the Senior Executive Service and has a demonstrated record of success in the implementation of programs within the Department of Defense (as determined by the Deputy Secretary of Defense), appointed by the Deputy Secretary of Defense.

(C) One member of the armed forces or civilian employee from each military department, appointed by the Secretary concerned.

(D) During periods in which the Coast Guard is not operating as a service in the Department of the Navy, an officer of the Coast Guard, appointed by the Secretary of Homeland Security.

(E) Such additional members as may be determined by the Deputy Secretary of Defense.

(2)(A) Each member of the Council shall serve at the will of the official who appointed that member.

(B) Any vacancy on the Council shall be filled in the same manner as the original appointment.

(3) Members of the Council may not receive additional pay, allowances, or benefits by reason of their service on the Council.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—(1)(A) The Secretary of Defense, or the designee of the Secretary, shall select one of the members of the Council who is a member of the armed forces to serve as the Chairperson of the Council.

(B) The Chairperson shall serve for a term of two years and shall be responsible for—

(i) serving as the Director of Safety for the Department of Defense;

(ii) serving as principal advisor to the Secretary of Defense regarding military safety and related regulations and policy reforms, including issues regarding maintenance, supply chains, personnel management, and training;

(iii) overseeing all duties and activities of the Council, including the conduct of military safety studies and the issuance of safety guidance to the military departments;

(iv) working with, and advising, the Secretaries of the military departments through appointed safety chiefs to implement standardized safety guidance across the military departments;

(v) submitting to the Secretary of Defense and Congress an annual report reviewing the compliance of each military department with the guidance described in clause (iv);

(vi) advising Congress on issues relating to military safety and reforms; and

(vii) overseeing coordination with other Federal agencies, including the Federal Aviation Administration, to inform military aviation safety guidance and reforms.

(2) The individual appointed under subsection (b)(1)(B) shall serve as the Vice Chairperson. The Vice Chairperson shall report to the Chairperson and shall serve as Chairperson in the absence of the Chairperson.

(d) RESPONSIBILITIES.—The Council shall carry out the following responsibilities:

(1) Subject to subsection (e), issuing, publishing, and updating regulations related to joint safety, including regulations on the reporting and investigation of mishaps.

(2) With respect to mishap data—

(A) establishing uniform data collection standards and a repository, that is accessible Department-wide, of data for mishaps in the Department of Defense;

(B) reviewing the compliance of each military department in adopting and using the uniform data collection standards established under subparagraph (A); and

(C) reviewing mishap data to assess, identify, and prioritize risk mitigation efforts and safety improvement efforts across the Department.

(3) With respect to non-mishap data—

(A) establishing standards and requirements for the collection of aircraft, equipment, simulator, airfield, range, pilot, and operator data;

(B) establishing standards and requirements for the collection of ground vehicle equipment and crew data; and

(C) establishing requirements for each military department to collect and analyze any waivers issued relating to pilot or operator qualifications or standards.

(4) Reviewing and assessing civil and commercial aviation safety programs and practices to determine the suitability of such programs and practices for implementation in the military departments.

(5) Establishing, in consultation with the Administrator of the Federal Aviation Administration, a requirement for each military department to implement an aviation safety management system.

(6) Establishing, in consultation with the heads of appropriate Federal departments and agencies, a requirement for each military department to implement a separate safety management

program for ground vehicles and ships.

(7) Ensuring each military department has in place, for the safety management system and program described in paragraphs (5) and (6), respectively, of that military department—

(A) a resolution plan that identifies specific corrective and preventative actions to address the causes of mishaps; and

(B) an implementation plan for such system and program.

(8) Reviewing the proposal of each military department for the safety management system and program described in paragraphs (5) and (6), respectively.

(9) Reviewing the implementation of such systems by each military department.

(10) Ensuring each military department has in place a system to monitor the implementation of recommendations made in safety and legal investigation reports of mishap incidents.

(11) Not later than one year after the initial identification of corrective and preventative actions by a military department pursuant to a resolution plan under paragraph (7)(A), and periodically thereafter, reviewing and validating each such identified corrective and preventative action to ensure the action is effective.

(12) Ensuring any related change in methods, tactics, or procedures necessary for the conduct of such identified corrective and preventative actions have been implemented.

(e) OVERSIGHT.—The decisions and recommendations of the Council are subject to review and approval by the Deputy Secretary of Defense.

(f) STAFF.—(1) The Council may appoint staff in accordance with section 3101 of title 5.

(2) The Council may accept persons on detail from within the Department of Defense and from other Federal departments or agencies on a reimbursable or non-reimbursable basis.

(g) CONTRACT AUTHORITY.—The Council may enter into contracts for the acquisition of administrative supplies, equipment, and personnel services for use by the Council, to the extent that funds are available for such purposes.

(h) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5 at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) DATA COLLECTION.—(1) Under regulations issued by the Secretary of Defense, the Council shall have access to Department of Defense databases necessary to carry out its responsibilities, including causal factors to be used for mishap reduction purposes.

(2) Under regulations issued by the Secretary of Defense, the Council may enter into agreements with the Federal Aviation Administration, the National Transportation Safety Board, and any other Federal agency regarding the sharing of safety data.

(3) Data collected by the Council pursuant to this subsection may include privileged safety information that is protected from disclosure or discovery to any person.

(j) MEETINGS.—The Council shall meet quarterly and at the call of the Chairperson.

(k) REPORTS.—(1) The Chairperson of the Council shall submit to the congressional defense committees biannual reports on the activities of the Council.

(2) Not later than December 31 of each year, the Deputy Secretary of Defense shall submit to the congressional defense committees an annual report containing—

(A) a summary of the goals and priorities of the Deputy Secretary for the year following the date of the submission of the report with respect to the activities of the Council;

(B) an assessment by the Deputy Secretary of the activities of the Council carried out during the year preceding the date of such submission; and

(C) for the year covered by the report—

(i) releasable information regarding any mishap that occurred during such year; and

(ii) an identification of any corrective or preventative action implemented pursuant to a recommendation made in a safety or legal investigation report of such a mishap.

(l) BIANNUAL BRIEFINGS.—Not later than March 31 and December 31 of each year, the Chairperson of the Council shall provide to the congressional defense committees a briefing on the contents of the report required to be submitted under subsection (k)(1) that covers the six-month period preceding the date of the briefing.

(Added Pub. L. 117–81, div. A, title III, §372(a), Dec. 27, 2021, 135 Stat. 1664, §184; amended Pub. L. 117–263, div. A, title III, §§381, 383, Dec. 23, 2022, 136 Stat. 2542, 2544; renumbered §185 and amended Pub. L. 118–31, div. A, title III, §363, Dec. 22, 2023, 137 Stat. 233; Pub. L. 118–159, div. A, title III, §331, Dec. 23, 2024, 138 Stat. 1854.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (k)(1). Pub. L. 118–159, §331(1)(A), substituted "Chairperson" for "Chair" and "biannual" for "semi-annual".

Subsec. (k)(2). Pub. L. 118–159, §331(1)(B)(i), in introductory provisions, struck out "March 31, 2023, and not later than" before "December 31" and "thereafter" after "each year" and substituted "an annual report" for "a report".

Subsec. (k)(2)(C). Pub. L. 118–159, §331(1)(B)(ii)–(iv), added subpar. (C).

Subsec. (l). Pub. L. 118–159, §331(2), added subsec. (l).

**2023**—Pub. L. 118–31, §363(1), renumbered section 184 of this title relating to Joint Safety Council as this section.

Subsec. (d)(7) to (12). Pub. L. 118–31, §363(2), added pars. (7), (11), and (12), redesignated former pars. (7) to (9) as (8) to (10), respectively, and substituted "the safety management system and program described in paragraphs (5) and (6), respectively" for "the safety management systems described in paragraphs (9) and (10)" in par. (8) as so redesignated.

**2022**—Subsec. (b)(1)(D), (E). Pub. L. 117–263, §383, added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (k). Pub. L. 117–263, §381, substituted "Reports" for "Report" in heading, designated existing provisions as par. (1), and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF MAJOR MISHAP INCIDENT DESIGNATION CLASSIFICATION FOR DEPARTMENT OF DEFENSE INCIDENTS

Pub. L. 118–159, div. A, title X, §1054, Dec. 23, 2024, 138 Stat. 2061, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a new mishap designation classification for the most serious incidents, to be known as 'major mishap incidents', to describe any incident that—

"(1) results in not less than $500,000,000 in damage or loss; and

"(2) is of such complexity or sensitivity, or would have such an effect on the national security of the United States, as to warrant designation by the Secretary of Defense as a major mishap incident pursuant to regulations prescribed by the Secretary and that include the consideration of—

"(A) the number of members of the Armed Forces who were killed due to the incident;

"(B) the geographic dispersion of the incident;

"(C) the grade of individuals involved;

"(D) the number of Armed Forces and Government entities involved;

"(E) the effect of the incident on the local civilian population;

"(F) the effect of the incident on any foreign government or foreign personnel;

"(G) the anticipated complexity or difficulty of the investigation of the incident;

"(H) the effect of the incident on the capability of any major operational command or component to continue to function effectively; and

"(I) such other matters as the Secretary determines appropriate.

"(b) INVESTIGATIONS.—

"(1) GRADE OF INVESTIGATING OFFICER.—The convening authority for any investigation of a major mishap incident shall appoint an investigating officer from among officers who hold a rank not lower than Major General in the Army, Air Force, or Marine Corps or Rear Admiral in the Navy to investigate all

major mishap incidents—

"(A) including any related administrative, disciplinary, or legal investigations; and

"(B) excluding any criminal investigations conducted by a military criminal investigative organization.

"(2) TIMELINE FOR INVESTIGATIONS.—The Secretary of Defense shall amend Department of Defense Instruction 6055.07 to set the goal that a full investigation of each major mishap incident be completed, to the extent practicable, not later than one year after the date on which the investigation is initiated.

"(3) BRIEFING REQUIREMENT.—In the case of any investigation of a major mishap incident that is not completed within the timeline provided under paragraph (2), the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing every 90 days until the date of the completion of the investigation. Each such briefing shall include—

"(A) an explanation for why the investigation has not been completed; and

"(B) the projected date of the completion of the investigation.

"(c) ACCOUNTABILITY ACTIONS.—If an investigation into a major mishap incident includes a recommendation to hold an individual accountable, the separation authority or convening authority, as appropriate, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the status of the proceeding for the accountability action every 120 days beginning on the date of the completion of the investigation of the incident and ending on the date on which the proceeding is complete.

"(d) BRIEFING REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall provide to the Committees on Armed Services for the Senate and House of Representatives a briefing on—

"(1) the status of the implementation of the establishment of a major mishap incident designation, as required under subsection (a);

"(2) any updates to statutes or Department of Defense Instructions that are needed to implement this section; and

"(3) the projected timeline for the implementation of this section.

"(e) DEADLINE FOR IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall finalize the implementation of this section, including by updating any Department of Defense guidance and policy as necessary to carry out the requirements of this section."

**DEADLINES**

Pub. L. 117–81, div. A, title III, §372(c), Dec. 27, 2021, 135 Stat. 1666, provided that:

"(1) ESTABLISHMENT.—The Secretary of Defense shall ensure the establishment of the Joint Safety Council under section 184 of title 10, United States Code (as added by subsection (a)) [now 10 U.S.C. 185], by not later than the date that is 120 days after the date of the enactment of this Act [Dec. 27, 2021].

"(2) APPOINTMENT OF FIRST MEMBERS.—The initial members of the Joint Safety Council established under such section 184 [now 10 U.S.C. 185] shall be appointed by not later than the date that is 120 days after the date of the enactment of this Act.

"(3) DIRECTORS OF SAFETY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of each military department shall ensure there is appointed as the Director of Safety for the military department concerned an officer of that military department in pay grade O–8 or above."

## [§186. Repealed. Pub. L. 113–291, div. A, title IX, §901(c), Dec. 19, 2014, 128 Stat. 3463]

Section, added Pub. L. 108–375, div. A, title III, §332(b)(1), Oct. 28, 2004, 118 Stat. 1854; amended Pub. L. 110–417, [div. A], title IX, §904, Oct. 14, 2008, 122 Stat. 4567; Pub. L. 111–383, div. A, title X, §1075(b)(9), Jan. 7, 2011, 124 Stat. 4369, related to Defense Business System Management Committee.

## [§187. Repealed. Pub. L. 117–263, div. A, title XIV, §1411(a), Dec. 23, 2022, 136 Stat. 2869]

Section, added Pub. L. 109–364, div. A, title VIII, §843(a), Oct. 17, 2006, 120 Stat. 2338; amended Pub. L. 111–383, div. A, title VIII, §829, Jan. 7, 2011, 124 Stat. 4272; Pub. L. 112–239, div. A, title IX, §901(c), Jan. 2, 2013, 126 Stat. 1864; Pub. L. 114–328, div. A, title X, §1081(a)(2), Dec. 23, 2016, 130 Stat. 2417; Pub. L.

116–92, div. A, title XVII, §1731(a)(11), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title XVIII, §1870(c)(6)(C), Jan. 1, 2021, 134 Stat. 4285, related to Strategic Materials Protection Board. See section 98h–1 of Title 50, War and National Defense.

## §188. Interagency Council on the Strategic Capability of the National Laboratories

(a) ESTABLISHMENT.—There is an Interagency Council on the Strategic Capability of the National Laboratories (in this section referred to as the "Council").

(b) MEMBERSHIP.—The membership of the Council is comprised of the following:

(1) The Secretary of Defense.

(2) The Secretary of Energy.

(3) The Secretary of Homeland Security.

(4) The Director of National Intelligence.

(5) The Administrator for Nuclear Security.

(6) Such other officials as the President considers appropriate.

(c) STRUCTURE AND PROCEDURES.—The President may determine the chair, structure, staff, and procedures of the Council.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

(1) Identifying and considering the science, technology, and engineering capabilities of the national laboratories that could be leveraged by each participating agency to support national security missions.

(2) Reviewing and assessing the adequacy of the national security science, technology, and engineering capabilities of the national laboratories for supporting national security missions throughout the Federal Government.

(3) Establishing and overseeing means of ensuring that—

(A) capabilities identified by the Council under paragraph (1) are sustained to an appropriate level; and

(B) each participating agency provides the appropriate level of institutional support to sustain such capabilities.

(4) In accordance with acquisition rules regarding federally funded research and development centers, establishing criteria for when each participating agency should seek to use the services of the national laboratories, including the identification of appropriate mission areas and capabilities.

(5) Making recommendations to the President and Congress regarding regulatory or statutory changes needed to better support—

(A) the strategic capabilities of the national laboratories; and

(B) the use of such laboratories by each participating agency.

(6) Other actions the Council considers appropriate with respect to—

(A) the sustainment of the national laboratories; and

(B) the use of the strategic capabilities of such laboratories.

(e) STREAMLINED PROCESS.—With respect to the participating agency for which a member of the Council is the head of, each member of the Council shall—

(1) establish processes to streamline the consideration and approval of procuring the services of the national laboratories on appropriate matters; and

(2) ensure that such processes are used in accordance with the criteria established under subsection (d)(4).

(f) DEFINITIONS.—In this section:

(1) The term "participating agency" means a department or agency of the Federal Government

that is represented on the Council by a member under subsection (b).

(2) The term "national laboratories" means—

(A) each national security laboratory (as defined in section 3281(1) of the National Nuclear Security Administration Act (50 U.S.C. 2471(1))); and

(B) each national laboratory of the Department of Energy.

(Added Pub. L. 112–239, div. A, title X, §1040(a), Jan. 2, 2013, 126 Stat. 1928.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONSTRUCTION

Pub. L. 112–239, div. A, title X, §1040(d), Jan. 2, 2013, 126 Stat. 1931, provided that: "Nothing in section 188 of title 10, United States Code, as added by subsection (a), shall be construed to limit section 309 of the Homeland Security Act of 2002 (6 U.S.C. 189)."

### REPORT

Pub. L. 112–239, div. A, title X, §1040(c), Jan. 2, 2013, 126 Stat. 1930, provided that:

"(1) IN GENERAL.—Not later than September 30, 2013, the Interagency Council on the Strategic Capability of the National Laboratories established under section 188 of title 10, United States Code, as added by subsection (a), shall submit to the appropriate congressional committees a report describing and assessing the following:

"(A) The actions taken to implement the requirements of such section 188 and the charter titled 'Governance Charter for an Interagency Council on the Strategic Capability of DOE National Laboratories as National Security Assets' signed by the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, and the Director of National Intelligence in July 2010.

"(B) The effectiveness of the Council in accomplishing the purpose and objectives of such section and such Charter.

"(C) Efforts to strengthen work-for-others programs at the national laboratories.

"(D) Efforts to make work-for-others opportunities at the national laboratories more cost-effective.

"(E) Ongoing and planned measures for increasing cost-sharing and institutional support investments at the national laboratories from other agencies.

"(F) Any regulatory or statutory changes recommended to improve the ability of such other agencies to leverage expertise and capabilities at the national laboratories.

"(G) The strategic capabilities and core competencies of laboratories and engineering centers operated by the Department of Defense, including identification of mission areas and functions that should be carried out by such laboratories and engineering centers.

"(H) Consistent with the protection of sources and methods, the level of funding and general description of programs that were funded during fiscal year 2012 by—

"(i) the Department of Defense and carried out at the national laboratories; and

"(ii) the Department of Energy and the national laboratories and carried out at the laboratories and engineering centers of the Department of Defense.

"(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the following:

"(A) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(B) The Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

"(C) The Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(D) The Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(E) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## §189. Communications Security Review and Advisory Board

(a) ESTABLISHMENT.—There shall be in the Department of Defense a Communications Security Review and Advisory Board (in this section referred to as the "Board") to review and assess the communications security, cryptographic modernization, and related key management activities of the Department and provide advice to the Secretary with respect to such activities.

(b) MEMBERS.—(1) The Secretary shall determine the number of members of the Board.

(2) The Chief Information Officer of the Department of Defense shall serve as chairman of the Board.

(3) The Secretary shall appoint officers in the grade of general or admiral and civilian employees of the Department of Defense in the Senior Executive Service to serve as members of the Board.

(c) RESPONSIBILITIES.—The Board shall—

(1) monitor the overall communications security, cryptographic modernization, and key management efforts of the Department, including activities under major defense acquisition programs (as defined in section 4201 of this title), by—

(A) requiring each Chief Information Officer of each military department to report the communications security activities of the military department to the Board;

(B) tracking compliance of each military department with respect to communications security modernization efforts;

(C) validating lifecycle communications security modernization plans for major defense acquisition programs;

(2) validate the need to replace cryptographic equipment based on the expiration dates of the equipment and evaluate the risks of continuing to use cryptographic equipment after such expiration dates;

(3) convene in-depth program reviews for specific cryptographic modernization developments with respect to validating requirements and identifying programmatic risks;

(4) develop a long-term roadmap for communications security to identify potential issues and ensure synchronization with major planning documents; and

(5) advise the Secretary on the cryptographic posture of the Department, including budgetary recommendations.

(d) EXCLUSION OF CERTAIN PROGRAMS.—The Board shall not include the consideration of programs funded under the National Intelligence Program (as defined in section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6))) in carrying out this section.

(Added Pub. L. 113–66, div. A, title II, §261(a), Dec. 26, 2013, 127 Stat. 724; amended Pub. L. 113–291, div. A, title X, §1071(f)(4), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 116–283, div. A, title XVIII, §1846(i)(2), Jan. 1, 2021, 134 Stat. 4252.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(1). Pub. L. 116–283 substituted "section 4201" for "section 2430(a)".

**2014**—Subsec. (c)(1). Pub. L. 113–291 substituted "2430(a)" for "139c" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§190. Repealed. Pub. L. 116–92, div. A, title VIII, §810(a), Dec. 20, 2019, 133 Stat. 1487]

Section, added Pub. L. 114–328, div. A, title VIII, §820(b)(1), Dec. 23, 2016, 130 Stat. 2274; amended Pub. L. 115–91, div. A, title VIII, §804, Dec. 12, 2017, 131 Stat. 1456, related to Defense Cost Accounting Standards Board.

# CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES


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## SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES


Sec.

191. Secretary of Defense: authority to provide for common performance of supply or service activities.
192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.
193. Combat support agencies: oversight.
194. Limitations on personnel.
195. Defense Automated Printing Service: applicability of Federal printing requirements.
196. Department of Defense Test Resource Management Center.[1]
197. Defense Logistics Agency: fees charged for logistics information.
198. Office of Local Defense Community Cooperation.
199. Joint Interagency Task Force 401.


### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title IX, §912(a), Dec. 18, 2025, 139 Stat. 1015, added item 199. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title IX, §902(a)(4)(B), Dec. 27, 2021, 135 Stat. 1869, which directed amendment of the table of sections at the beginning of "subtitle I" of this chapter by adding item 198 after item 197, was executed to the table of sections at the beginning of this subchapter, to reflect the probable intent of Congress.

**2004**—Pub. L. 108–375, div. A, title X, §1010(b), Oct. 28, 2004, 118 Stat. 2038, added item 197.

**2002**—Pub. L. 107–314, div. A, title II, §231(a)(2), Dec. 2, 2002, 116 Stat. 2489, added item 196.

**1997**—Pub. L. 105–85, div. A, title III, §383(b), Nov. 18, 1997, 111 Stat. 1711, added item 195.

**1986**—Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1019, inserted "AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES" in chapter heading, added subchapter analysis and subchapter I analysis, and struck out former chapter analysis consisting of item 191 "Unauthorized use of Defense Intelligence Agency name, initials, or seal".

**1985**—Pub. L. 99–145, title XIII, §1302(a)(2), Nov. 8, 1985, 99 Stat. 737, redesignated item 192 "Benefits for certain employees of the Defense Intelligence Agency" as item 1605 and transferred it to chapter 83 of this title.

**1983**—Pub. L. 98–215, title V, §501(b), Dec. 9, 1983, 97 Stat. 1479, added item 192.

**1982**—Pub. L. 97–269, title V, §501(a), Sept. 27, 1982, 96 Stat. 1144, added chapter 8 heading and analysis of sections for chapter 8, consisting of a single item 191.

*[1] Section 196 was renumbered section 4173 of this title by Pub. L. 116–283 without corresponding amendment of subchapter analysis.*

## §191. Secretary of Defense: authority to provide for common performance of supply or service activities

(a) AUTHORITY.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

(b) DESIGNATION OF COMMON SUPPLY OR SERVICE AGENCY.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

(Added Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1019; amended Pub. L. 100–26, §7(i)(1), Apr. 21, 1987, 101 Stat. 282.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Subsection (d) of section 125 of this title, referred to in subsec. (b), was repealed by section 301(b)(1) of Pub. L. 99–433.

### PRIOR PROVISIONS

A prior section 191 was renumbered section 202 of this title and subsequently repealed.

### AMENDMENTS

**1987**—Subsec. (b). Pub. L. 100–26 substituted "October 1, 1986" for "the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### MISSION MANAGEMENT PILOT PROGRAM

Pub. L. 117–81, div. A, title VIII, §871, Dec. 27, 2021, 135 Stat. 1855, as amended by Pub. L. 118–31, div. A, title VIII, §871, Dec. 22, 2023, 137 Stat. 349, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Defense shall establish a pilot program to identify lessons learned and improved mission outcomes achieved by quickly delivering solutions that fulfill critical operational needs arising from cross-service missions undertaken by combatant commands through the use of a coordinated and iterative approach to develop, evaluate, and transition such solutions.

"(b) MISSIONS SELECTION.—

"(1) IN GENERAL.—

"(A) SELECTION.—Except as provided in paragraph (3), the Deputy Secretary of Defense shall select missions with respect to which to carry out the pilot program.

"(B) DELEGATION OF OVERSIGHT AND MANAGEMENT.—The Deputy Secretary of Defense may delegate to one or more mission managers the responsibility to oversee the selected missions and provide mission management.

"(2) SELECTION CRITERIA.—When selecting missions under paragraph (1), the Deputy Secretary of Defense shall—

"(A) select missions with critical cross-service operational needs; and

"(B) consider—

"(i) the strategic importance of the critical cross-service operational needs to the operational plans of the relevant combatant commands; and

"(ii) the advice of key stakeholders, including the Joint Staff, regarding mission selection.

"(3) INITIAL MISSION.—

"(A) IN GENERAL.—Not later than four months after the date of the enactment of this section [Dec. 27, 2021], the Director of the Strategic Capabilities Office shall select the initial mission under the pilot program that has critical cross-service operational needs and which is of strategic importance to the

operational plans of the United States Indo-Pacific Command.

"(B) RESPONSIBILITY.—The mission selected under subparagraph (A) shall be established within the Strategic Capabilities Office of the Department of Defense, in coordination with the Office of the Under Secretary of Defense for Research and Engineering.

"(C) MISSION SELECTION APPROVAL.—The mission selected by the Director of the Strategic Capabilities Office under subparagraph (A) shall be subject to the approval of the Technology Cross-Functional Team of the Strategic Capabilities Office that is chaired by the Under Secretary of Defense for Research and Engineering.

"(4) IDENTIFICATION OF FUNDING.—For each mission selected under paragraph (1), the Deputy Secretary of Defense shall identify funding sources in detail in defense budget materials submitted to Congress pursuant to section 1105 of title 31, United States Code, for the first year for which the selected mission is intended to be carried out. Such materials shall also include a description of each such selected mission and the proposed solution to achieve the goals of such mission.

"(c) MISSION MANAGERS.—

"(1) IN GENERAL.—A mission manager shall carry out the pilot program with respect to each mission.

"(2) RESPONSIBILITIES.—With respect to each mission, the relevant mission manager shall—

"(A) identify critical cross-service, cross-program, and cross-domain operational needs by enumerating the options available to the combatant command responsible for carrying out such mission and determining the resiliency of such options to threats from adversaries;

"(B) in coordination with the military services and appropriate Defense Agencies and Field Activities, develop and deliver solutions, including software and information technology solutions and other functionalities unaligned with any one weapon system of a covered Armed Service, to—

"(i) fulfill critical cross-service, cross-program, and cross-domain operational needs; and

"(ii) address future changes to existing critical cross-service, cross-program, and cross-domain operational needs by providing additional capabilities;

"(C) work with the combatant command responsible for such mission and the related planning organizers, program managers of a covered Armed Force, and defense research and development activities to carry out iterative testing and support to initial operational fielding of the solutions described in subparagraph (B);

"(D) conduct research, development, test, evaluation, and transition support activities with respect to the delivery of the solutions described in subparagraph (B);

"(E) seek to integrate existing, emerging, and new capabilities available to the Department of Defense in the development of the solutions described in subparagraph (B), including by incenting and working with program managers of a covered Armed Force;

"(F) assist the Deputy Secretary of Defense in the identification of funding that could contribute to the mission through existing authorized methods to realign, reprogram, or transfer funds; and

"(G) provide to the Deputy Secretary of Defense mission management activity updates and reporting on the use of funds under the pilot program with respect to such mission.

"(3) APPOINTMENT.—Each mission selected under subsection (b) shall have a mission manager—

"(A) appointed at the time of mission approval; and

"(B) who may be from any suitable organization, except that the mission manager with respect the initial mission under (b)(3) shall be the Director of the Strategic Capabilities Office.

"(4) ITERATIVE APPROACH.—The mission manager shall, to the extent practicable, carry out the pilot program with respect to each mission selected under subsection (b) by integrating existing, emerging, and new military capabilities, and managing a portfolio of small, iterative development and support to initial operational fielding efforts.

"(5) OTHER PROGRAM MANAGEMENT RESPONSIBILITIES.—The activities undertaken by the mission manager with respect to a mission, including mission management, do not supersede or replace the program management responsibilities of any other individual that are related to such missions.

"(d) DATA COLLECTION REQUIREMENT.—The Deputy Secretary of Defense shall develop and implement a plan to collect and analyze data on the pilot program for the purposes of—

"(1) developing and sharing best practices for applying emerging technology and supporting new operational concepts to improve outcomes on key military missions and operational challenges; and

"(2) providing information to the leadership of the Department on the implementation of the pilot program and related policy issues.

"(e) ASSESSMENTS.—During the five-year period beginning on the date of the enactment of this Act [Dec. 27, 2021], the Deputy Secretary of Defense shall regularly assess—

"(1) the authorities required by the mission managers to effectively and efficiently carry out the pilot program with respect to the missions selected under subsection (b); and

"(2) whether the mission managers have access to sufficient funding to carry out the research, development, test, evaluation, and support to initial operational fielding activities required to deliver solutions fulfilling the critical cross-service, cross-program, and cross-domain operational needs of the missions.

"(f) BRIEFINGS.—

"(1) SEMIANNUAL BRIEFING.—

"(A) IN GENERAL.—Not later than July 1, 2022, and annually thereafter until September 30, 2028, the mission manager shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the progress of the pilot program with respect to each mission selected under subsection (b), the anticipated mission outcomes, and the funds used to carry out the pilot program with respect to such mission.

"(B) INITIAL BRIEFING.—The Deputy Secretary of Defense shall include in the first briefing submitted under subparagraph (A) a briefing on the implementation of the pilot program, including—

"(i) the actions taken to implement the pilot program;

"(ii) an assessment of the pilot program;

"(iii) requests for Congress to provide authorities required to successfully carry out the pilot program; and

"(iv) a description of the data plan required under subsection (d).

"(2) ANNUAL BRIEFING.—Not later than one year after the date on which the pilot program is established, and annually thereafter until the date that is five years after the date of the enactment of this Act, the Deputy Secretary of Defense shall submit to the congressional defense committees a briefing on the pilot program, including—

"(A) the data collected and analysis performed under subsection (d);

"(B) lessons learned;

"(C) the priorities for future activities of the pilot program; and

"(D) such other information as the Deputy Secretary determines appropriate.

"(3) RECOMMENDATION.—Not later than two years after the date of the enactment of this Act, the Deputy Secretary of Defense shall submit to Congress a briefing on the recommendations of the Deputy Secretary with respect to the pilot program and shall concurrently submit to Congress—

"(A) a written assessment of the pilot program;

"(B) a written recommendation on continuing or expanding the mission integration pilot program;

"(C) requests for Congress to provide authorities required to successfully carry out the pilot program; and

"(D) the data collected and analysis performed under subsection (d).

"(g) TRANSITION.—Beginning in fiscal year 2025, the Deputy Secretary of Defense may transition responsibilities for research, development, test, evaluation, and support to initial operational fielding activities started under the pilot program to other elements of the Department for purposes of delivering solutions fulfilling critical cross-service, cross-program, and cross-domain operational needs.

"(h) TERMINATION DATE.—The pilot program shall terminate on September 30, 2028.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as providing any authority not otherwise provided by law to procure, or enter agreements to procure, any goods, materials, or services.

"(j) DEFINITIONS.—In this section:

"(1) COVERED ARMED FORCE.—The term 'covered Armed Force' means—

"(A) the Army;

"(B) the Navy;

"(C) the Air Force;

"(D) the Marine Corps; or

"(E) the Space Force.

"(2) CROSS-FUNCTIONAL TEAMS OF THE STRATEGIC CAPABILITIES OFFICE.—The term 'Cross-Functional Teams of the Strategic Capabilities Office' means the teams established in the Strategic Capabilities Office of the Department of Defense pursuant to section 233(b) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1277; 10 U.S.C. 132 note).

"(3) CROSS-SERVICE.—The term 'cross-service' means pertaining to multiple covered Armed Forces.

"(4) CROSS-DOMAIN.—The term 'cross-domain' means pertaining to multiple operational domains of land, maritime, air, space, and cyberspace.

"(4)[(5)] CROSS-SERVICE OPERATIONAL NEED.—The term 'cross-service operational need' means an operational need arising from a mission undertaken by a combatant command which involves multiple covered Armed Forces.

"(5)[(6)] DEFENSE AGENCY; MILITARY DEPARTMENT.—The terms 'Defense Agency' and 'military department' have the meanings given such terms in section 101(a) of title 10, United States Code.

"(6)[(7)] FIELD ACTIVITY.—The term 'Field Activity' has the meaning given the term 'Department of Defense Field Activity' in section 101(a) of title 10, United States Code.

"(7)[(8)] MISSION MANAGEMENT.—The term 'mission management' means the integration of materiel, digital, and operational elements to improve defensive and offensive options and outcomes for a specific mission or operational challenge.

"(8)[(9)] PILOT PROGRAM.—The term 'pilot program' means the pilot program established under subsection (a)."

**ESTABLISHMENT OF MISSION-ORIENTED PILOT PROGRAMS TO CLOSE SIGNIFICANT CAPABILITIES GAPS**

Pub. L. 117–81, div. A, title VIII, §872, Dec. 27, 2021, 135 Stat. 1859, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish, within the Strategic Capabilities Office of the Office of the Secretary of Defense, not fewer than two mission-oriented integration pilot programs with the objective of closing significant capabilities gaps by developing and implementing capabilities and by synchronizing and integrating missions across covered Armed Forces and Defense Agencies.

"(b) ELEMENTS.—The pilot programs established under subsection (a) shall—

"(1) seek to address specific outstanding operational challenges of high importance to the operational plans of the United States Indo-Pacific Command and the United States European Command;

"(2) be designed to leverage industry cost sharing by using sources such as private equity and venture capital funding to develop technologies and overall capabilities that resolve significant capability gaps for delivery to the Department of Defense, as a product or as a service;

"(3) not later than three years after the date on which the pilot program commences, demonstrate the efficacy of the solutions being developed under the pilot program;

"(4) deliver an operational capability not later than five years after the pilot program commences;

"(5) provide an operationally relevant solution for—

"(A)(i) maintaining resilient aircraft operations in and around Guam in the face of evolving regional threats, including large salvo supersonic and hypersonic missile threats; or

"(ii) an operational challenge of similar strategic importance and relevance to the responsibilities and plans of the United States Indo-Pacific Command or the United States European Command; and

"(B)(i) providing a resilient logistic and resupply capability in the face of evolving regional threats, including operations within an anti-access-area denial environment; or

"(ii) an operational challenge of similar strategic importance and relevance to the responsibilities and plans of the United States Indo-Pacific Command; and

"(6) incorporate—

"(A) existing and planned Department of Defense systems and capabilities to achieve mission objectives; and

"(B) to the extent practicable, technologies that have military applications and the potential for nonmilitary applications.

"(c) ROLE OF STRATEGIC CAPABILITIES OFFICE.—

"(1) IN GENERAL.—With respect to the pilot programs established under subsection (a), the Director of the Strategic Capabilities Office, in consultation with the Under Secretary of Defense for Research and Engineering, shall—

"(A) assign mission managers or program managers—

"(i) to coordinate and collaborate with entities awarded contracts or agreements under the pilot program, parties to cost sharing agreements for such awarded contracts or agreements, combatant commands, and military departments to define mission requirements and solutions; and

"(ii) to coordinate and monitor pilot program implementation;

"(B) provide technical assistance for pilot program activities, including developing and implementing metrics, which shall be used—

"(i) to assess each operational challenge such pilot programs are addressing; and

"(ii) to characterize the resilience of solutions being developed under the pilot programs to known threats and single points of failure;

"(C) provide operational use case expertise to the entities awarded contracts or agreements under

the pilot program and parties to cost sharing agreements for such awarded contracts or agreements;

"(D) serve as the liaison between the Armed Forces, the combatant commanders, and the participants in the pilot programs; and

"(E) use flexible acquisition practices and authorities, including—

"(i) the authorities under section[s] 2371 and 2371b of title 10, United States Code [now 10 U.S.C. 4021, 4022];

"(ii) payments for demonstrated progress;

"(iii) authorities under the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.); and

"(iv) other acquisition practices that support efficient and effective access to emerging technologies and capabilities, including technologies and capabilities from companies funded with private investment.

"(2) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], and every 180 days thereafter, the Director of the Strategic Capabilities Office shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot programs.

"(d) ADDITIONAL AUTHORITIES.—The Secretary of Defense shall assess authorities required for such mission managers and program managers to effectively and efficiently fulfill their responsibilities under the pilot programs, including the delegation of personnel hiring and contracting authorities.

"(e) DATA.—The Secretary of Defense shall establish mechanisms to collect and analyze data on the implementation of the pilot programs for the purposes of—

"(1) developing and sharing best practices for achieving goals established for the pilot programs; and

"(2) providing information to the Secretary and the congressional defense committees on—

"(A) the implementation of the pilot programs; and

"(B) related policy issues.

"(f) RECOMMENDATIONS.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a recommendation with respect to continuing or expanding the pilot program.

"(g) TRANSITION OF PILOT PROGRAM RESPONSIBILITIES.—Beginning in fiscal year 2025, the Secretary may transition the responsibility for the pilot programs to another organization.

"(h) DEFINITIONS.—In this section:

"(1) COVERED ARMED FORCE.—The term 'covered Armed Force' means—

"(A) the Army;

"(B) the Navy;

"(C) the Air Force;

"(D) the Marine Corps; or

"(E) the Space Force.

"(2) DEFENSE AGENCY.—The term 'Defense Agency' has the meaning given such term in section 101(a) of title 10, United States Code.

"(3) MISSION MANAGER.—The term 'mission manager' means an individual that, with respect to a mission under a pilot program established under subsection (a), shall have the responsibilities described in subparagraphs (B) through (F) of section 871(c)(2) of this Act [set out in a note above]."

## ACTIONS TO INCREASE THE EFFICIENCY AND TRANSPARENCY OF THE DEFENSE LOGISTICS AGENCY

Pub. L. 115–232, div. A, title IX, §924, Aug. 13, 2018, 132 Stat. 1931, provided that:

"(a) SYSTEM AND CAPABILITY.—Not later than January 1, 2020, the Director of the Defense Logistics Agency and the Chief Management Officer of the Department of Defense shall jointly, in consultation with the customers served by the Agency, develop and implement—

"(1) a comprehensive system that enables customers of the Agency to view—

"(A) the inventory of items and materials available to customers from the Agency; and

"(B) the delivery status of items and materials that are in transit to customers; and

"(2) a predictive analytics capability designed to increase the efficiency of the system described in paragraph (1) by identifying emerging customer needs with respect to items and materials supplied by the Agency, including any emerging needs arising from the use of new weapon systems by customers.

"(b) ACTIONS TO INCREASE EFFICIENCY.—Not later than January 1, 2020, the Director and the Chief Management Officer shall jointly—

"(1) develop a plan to reduce the rates charged by the Agency to customers, in aggregate—

"(A) by not less than 10 percent; or

"(B) if the Chief Management Officer determines that a reduction of rates in aggregate of 10 percent or more will create overall inefficiencies for the Department, by such percentage less than 10 percent as the Chief Management Officer considers appropriate to avoid such inefficiencies, but only after notifying the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such lesser percentage in reduction of rates pursuant to this subparagraph;

"(2) eliminate the duplication of services within the Agency; and

"(3) establish specific goals and metrics to ensure that the Agency is fulfilling its mission of providing items and materials to customers with sufficient speed and in sufficient quantities to ensure the lethality and readiness of warfighters.

"(c) PLAN REQUIRED.—Not later than February 1, 2019, the Director and the Chief Management Officer shall jointly submit to the congressional defense committees a plan that describes how the Director and the Chief Management Officer will achieve compliance with the requirements of subsections (a) and (b)."

**COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE LOGISTICS AGENCY**

Pub. L. 106–398, §1 [[div. A], title IX, §917], Oct. 30, 2000, 114 Stat. 1654, 1654A–232, directed the Comptroller General to review the operations of the Defense Logistics Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General's findings not later than Feb. 1, 2002.

**COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE INFORMATION SYSTEMS AGENCY**

Pub. L. 106–398, §1 [[div. A], title IX, §918], Oct. 30, 2000, 114 Stat. 1654, 1654A–232, directed the Comptroller General to review the operations of the Defense Information Systems Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General's findings not later than Feb. 1, 2002.

**REASSESSMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES**

Pub. L. 99–433, title III, §303, Oct. 1, 1986, 100 Stat. 1023, directed Secretary of Defense to conduct a study of functions and organizational structure of Defense Agencies and Department of Defense Field Activities to determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, with Secretary to submit a report to Congress not later than Oct. 1, 1987. The report was to include a study of improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for rapid replacement, where necessary, of existing automated data processing equipment with new equipment, and plans to achieve reductions in total number of members of Armed Forces and civilian employees assigned or detailed to permanent duty in Defense Agencies and Department of Defense Field Activities (other than National Security Agency) by 5 percent, 10 percent, and 15 percent of total number of such members and employees projected to be assigned or detailed to such duty on Sept. 30, 1988, together with a discussion of implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

## §192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

(a) OVERALL SUPERVISION.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

(B) to the Chairman of the Joint Chiefs of Staff.

(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

(b) PROGRAM AND BUDGET REVIEW.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

(c) PERIODIC REVIEW.—(1)(A) Not later than January 1, 2020, and periodically (but not less frequently than every four years) thereafter, the Secretary of Defense shall conduct a review of the efficiency and effectiveness of each Defense Agency and Department of Defense Field Activity. Each review shall, to the maximum extent practicable, be conducted in coordination with other ongoing efforts in connection with business enterprise reform.

(B) As part of each review under this paragraph, the Secretary shall identify each activity of an Agency or Activity that is substantially similar to, or duplicative of, an activity carried out by another organization or element of the Department of Defense, or is not being performed to an adequate level to meet Department needs.

(C) For purposes of conducting reviews under this paragraph, the Secretary shall develop internal guidance that defines requirements for such reviews and provides clear direction for conducting and recording the results of reviews.

(2)(A) Not later than 90 days after the completion of a review under paragraph (1), the Secretary shall submit to the congressional defense committees a report that sets forth the results of the review.

(B) The report on a review under this paragraph shall, based on the results of the review, include the following:

(i) A list of each Defense Agency and Department of Defense Field Activity that the Secretary has determined—

(I) operates efficiently and effectively; and

(II) does not carry out any function that is substantially similar to, or duplicative of, a function carried out by another organization or element of the Department of Defense.

(ii) With respect to each Agency or Activity not included on the list under clause (i), a plan, aimed at better meeting Department needs, for—

(I) rationalizing the functions within such Agency or Activity; or

(II) transferring some or all of the functions of such Agency or Activity to another organization or element of the Department.

(iii) Recommendations for functions, if any, currently conducted separately by the military departments that should be consolidated into an Agency or Activity.

(3) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of National Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after October 17, 1998.

(e) LIMITATION ON TERMINATION.—The Secretary of Defense may not terminate a Defense Agency or Department of Defense Field Activity until 30 days after the date on which the Secretary submits to the congressional defense committees a report setting forth the following:

(1) Notice of the intent of the Secretary to terminate the Agency or Activity.

(2) Such recommendations for legislative action as the Secretary considers appropriate in connection with the termination of the Agency or Activity.

(Added Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 105–261,

div. A, title III, §361(a), Oct. 17, 1998, 112 Stat. 1984; Pub. L. 106–65, div. A, title X, §1066(a)(3), Oct. 5, 1999, 113 Stat. 770; Pub. L. 109–163, div. A, title III, §371, Jan. 6, 2006, 119 Stat. 3209; Pub. L. 110–181, div. A, title IX, §§904(c), 931(a)(1), Jan. 28, 2008, 122 Stat. 274, 285; Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597; Pub. L. 115–232, div. A, title IX, §923, title X, §1081(f)(1)(A)(i), Aug. 13, 2018, 132 Stat. 1930, 1986; Pub. L. 116–283, div. A, title X, §1081(a)(11), Jan. 1, 2021, 134 Stat. 3871; Pub. L. 118–31, div. A, title IX, §901(b), Dec. 22, 2023, 137 Stat. 354.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 192, Pub. L. 98–215, title V, §501(a), Dec. 9, 1983, 97 Stat. 1478, which related to benefits for certain personnel of the Defense Intelligence Agency, was redesignated as section 1605 of this title and amended by Pub. L. 99–145, title XIII, §1302(a)(1), Nov. 8, 1985, 99 Stat. 737. Provisions of prior section 192 as related to members of the armed forces were enacted as section 431 of Title 37, Pay and Allowances of the Uniformed Services, by section 1302(b)(1) of Pub. L. 99–145.

### AMENDMENTS

**2023**—Subsec. (c)(1)(A). Pub. L. 118–31, §901(b)(1)(A), substituted "the Secretary of Defense" for "the Chief Management Officer of the Department of Defense".

Subsec. (c)(1)(B), (C). Pub. L. 118–31, §901(b)(1)(B), substituted "the Secretary" for "the Chief Management Officer".

Subsec. (c)(2)(A), (B)(i). Pub. L. 118–31, §901(b)(2), substituted "the Secretary" for "the Chief Management Officer".

**2021**—Subsec. (c)(1). Pub. L. 116–283 struck out par. (1) relating to periodic review of services and supplies provided by each Defense Agency and Department of Defense Field Activity.

**2018**—Subsec. (c)(1) to (3). Pub. L. 115–232, §923(a), added par. (1) relating to efficiency and effectiveness reviews and par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 115–232, §923(b), (c), added subsec. (e) and struck out former subsec. (e) which related to special rule for Defense Business Transformation Agency.

Subsec. (e)(2). Pub. L. 115–232, §1081(f)(1)(A)(i), substituted "Chief Management Officer" for "Deputy Chief Management Officer".

**2008**—Subsec. (c)(2). Pub. L. 110–181, §931(a)(1), substituted "Director of National Intelligence" for "Director of Central Intelligence".

Subsec. (e)(2). Pub. L. 110–181, §904(c), substituted "that the Director of the Agency shall report directly to the Deputy Chief Management Officer of the Department of Defense." for "that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management."

**2006**—Subsec. (e). Pub. L. 109–163 added subsec. (e).

**1999**—Subsec. (d). Pub. L. 106–65 substituted "October 17, 1998" for "the date of the enactment of this subsection".

**1998**—Subsec. (d). Pub. L. 105–261 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### FIRST REVIEW OF DEFENSE AGENCIES BY SECRETARY OF DEFENSE

Pub. L. 99–433, title III, §304(a), Oct. 1, 1986, 100 Stat. 1024, required the first review under subsec. (c) of this section to be completed not later than two years after the date that the report under Pub. L. 99–433, §303(e), formerly set out as a note under section 191 of this title, was required to be submitted to Congress (Oct. 1, 1987).

## §193. Combat support agencies: oversight

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the

Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense and the congressional defense committees a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall—

(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their support missions with respect to a war or threat to national security; and

(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security.

(d) REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency and the National Geospatial-Intelligence Agency, but only with respect to combat support functions that the agencies perform for the Department of Defense.

(2) The Secretary, after consulting with the Director of National Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency and the National Geospatial-Intelligence Agency.

(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, AND NGA.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, and the National Geospatial-Intelligence Agency to accomplish assigned missions in support of military combat operations.

(f) DEFINITION OF COMBAT SUPPORT AGENCY.—In this section, the term "combat support agency" means any of the following Defense Agencies:

(1) The Defense Information Systems Agency.

(2) The Defense Intelligence Agency.

(3) The Defense Logistics Agency.

(4) The National Geospatial-Intelligence Agency.

(5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

(Added Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 104–201, div. A, title XI, §1112(c), Sept. 23, 1996, 110 Stat. 2683; Pub. L. 105–85, div. A, title X, §1073(a)(5), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108–136, div. A, title IX, §921(d)(3), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 109–364, div. A, title IX, §907, Oct. 17, 2006, 120 Stat. 2354; Pub. L.

110–181, div. A, title IX, §931(a)(2), (3), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(1), (2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–66, div. A, title X, §1082, Dec. 26, 2013, 127 Stat. 871.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (a)(1). Pub. L. 113–66 inserted "and the congressional defense committees" after "the Secretary of Defense" in introductory provisions.

**2009**—Subsecs. (d)(2), (e). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(1), (2). See 2008 Amendment note below.

**2008**—Subsecs. (d)(2), (e). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(1), (2), made identical amendments, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(1), (2), was repealed by Pub. L. 111–84.

**2006**—Subsec. (f)(1). Pub. L. 109–364 substituted "Defense Information Systems Agency" for "Defense Communications Agency".

**2003**—Subsec. (d). Pub. L. 108–136, §921(d)(3)(B), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in heading.

Subsec. (d)(1), (2). Pub. L. 108–136, §921(d)(3)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

Subsec. (e). Pub. L. 108–136, §921(d)(3)(A), (C), substituted "NGA" for "NIMA" in heading and "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in text.

Subsec. (f)(4). Pub. L. 108–136, §921(d)(3)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**1997**—Subsec. (d)(1). Pub. L. 105–85 substituted "agencies perform" for "agencies performs".

**1996**—Subsec. (d). Pub. L. 104–201, §1112(c)(1)(A), substituted "Review of National Security Agency and National Imagery and Mapping Agency" for "Review of National Security Agency" in heading.

Subsec. (d)(1). Pub. L. 104–201, §1112(c)(1)(B), inserted "and the National Imagery and Mapping Agency" after "the National Security Agency" and substituted "that the agencies" for "the Agency".

Subsec. (d)(2). Pub. L. 104–201, §1112(c)(1)(C), inserted "and the National Imagery and Mapping Agency" after "the National Security Agency".

Subsec. (e). Pub. L. 104–201, §1112(c)(2), substituted "DIA, NSA, and NIMA" for "DIA and NSA" in heading and ", the National Security Agency, and the National Imagery and Mapping Agency" for "and the National Security Agency" in text.

Subsec. (f)(4). Pub. L. 104–201, §1112(c)(3), substituted "The National Imagery and Mapping Agency" for "Defense Mapping Agency".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XI, §1124, Sept. 23, 1996, 110 Stat. 2688, provided that: "This title [enacting section 424 and chapter 22 of this title and sections 3045 and 3046 of Title 50, War and National Defense, amending this section, sections 201 and 451 to 456 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44, Public Printing and Documents, and sections 3003 and 3038 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under section 441 of this title, and amending provisions set out as a note under section 501 of Title 44] and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act [Sept. 23, 1996], whichever is later."

### FRAMEWORK ON GOVERNANCE, MISSION MANAGEMENT, RESOURCING, AND

## EFFECTIVE OVERSIGHT OF COMBAT SUPPORT AGENCIES THAT ARE ALSO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Pub. L. 115–232, div. A, title XVI, §1626, Aug. 13, 2018, 132 Stat. 2121, provided that:

"(a) FRAMEWORK REQUIRED.—

"(1) IN GENERAL.—In accordance with section 105 of the National Security Act of 1947 (50 U.S.C. 3038), section 193 of title 10, United States Code, and section 1018 of the National Security Intelligence Reform Act of 2004 (Public Law 108–458; 50 U.S.C. 3023 note), the Secretary of Defense, in coordination with the Director of National Intelligence, shall develop and establish in policy a framework and supporting processes within the Department of Defense to help ensure that the missions, roles, and functions of the combat support agencies of the Department of Defense that are also elements of the intelligence community, and other intelligence components of the Department, are appropriately balanced and resourced.

"(2) SCOPE.—The framework shall include a consistent, repeatable process for the evaluation of proposed additions, transfers, or eliminations of a mission, role, or functions and associated resource profiles of the elements described in paragraph (1) for purposes of preventing imbalances in priorities, insufficient or misaligned resources, and the unauthorized expansion of mission parameters.

"(b) ELEMENTS.—The framework required by subsection (a) shall include the following:

"(1) A lexicon of relevant terms used by the Department of Defense and the Office of the Director of National Intelligence that—

"(A) ensures consistent definitions are used in determinations about the balance described in subsection (a)(1); and

"(B) reconciles jointly used definitions.

"(2) A reevaluation of the intelligence components of the Department, including the Joint Intelligence Centers and Joint Intelligence Operations Centers within the combatant commands, in order to determine which components should be formally designated as part of the intelligence community and any components not so designated conform to relevant tradecraft standards.

"(3) A repeatable process of the Department for evaluating the addition, transfer, or elimination of defense intelligence missions, roles, and functions, currently or to be performed by elements described in subsection (a)(1) that includes—

"(A) a justification for any proposed addition, transfer, or elimination of a mission, role, or function;

"(B) the identification of the elements in the Federal Government, if any, that currently perform the mission, role, or function concerned;

"(C) for any proposed addition of a mission, role, or function, an assessment of the most appropriate element of the Department to assume it, taking into account current resource profiles, scope of existing responsibilities, primary customers, and infrastructure necessary to support the addition; and

"(D) for any proposed addition or transfer of a mission, role, or function—

"(i) a determination of the appropriate resource profile for such mission, role, or function; and

"(ii) the identification, in writing, for the Department elements concerned of the resources anticipated to be needed and source of such resources during the period covered by the future-years defense program submitted to Congress under section 221 of title 10, United States Code, as in effect at the time of the proposed addition or transfer.

"(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary, in coordination with the Director, shall provide to the Committees on Armed Services of the House of Representatives and the Senate, and to any other appropriate congressional committee upon request, a briefing on the framework required by subsection (a).

"(d) POLICY.—Not later than 270 days after the date of the enactment of this Act, the Secretary, in coordination with the Director, shall submit to the appropriate congressional committees a report setting forth the policy establishing the framework required by subsection (a).

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) The term 'combat support agency' has the meaning given that term in section 193 of title 10, United States Code.

"(3) The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))."

**FIRST REPORT AND OTHER ACTIONS BY CHAIRMAN OF JOINT CHIEFS OF STAFF**

Pub. L. 99–433, title III, §304(b), Oct. 1, 1986, 100 Stat. 1025, required the first report under subsec. (a) of section 193 of this title to be submitted and subsecs. (b) and (c) of section 193 to be implemented not later than one year after Oct. 1, 1986, and a report on implementation to be submitted to Congress for 1988 under section 113(c) of this title.

## §194. Limitations on personnel

(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(b) CAP ON OTHER PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by recategorizing or redefining duties, functions, offices, or organizations.

(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

(e) WAIVER.—The limitations in this section do not apply—

(1) in time of war; or

(2) during a national emergency declared by the President or Congress.

(f) DEFINITIONS.—In this section, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Instruction 5100.73, titled "Major DoD Headquarters Activities".

(Added Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1021; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(3), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title XVI, §1622(h)(1), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 113–66, div. A, title IX, §906, Dec. 26, 2013, 127 Stat. 818.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Subsec. (f). Pub. L. 113–66 substituted "Instruction 5100.73, titled 'Major DoD Headquarters Activities'." for "Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985."

**1989**—Subsecs. (a), (b). Pub. L. 101–189 substituted "The" for "After September 30, 1989, the".

**1987**—Subsec. (e)(2). Pub. L. 100–180 inserted "the President or" after "declared by".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL**

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009

and fiscal years thereafter, see section 1111 of Pub. L. 110–417, set out as a note under section 143 of this title.

**REDUCTIONS IN DEFENSE INTELLIGENCE AGENCY PERSONNEL**

Pub. L. 100–202, §101(b) [title VIII, §8122], Dec. 22, 1987, 101 Stat. 1329–43, 1329–85, provided that nothing in section 102d(1) of Public Law 100–178, 101 Stat. 1010, section 601(b)(2)(A) of Public Law 99–433, 100 Stat. 1065 [set out below], or section 601(d) of Public Law 99–433, 100 Stat. 1065 [set out below], shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency, prior to repeal by Pub. L. 100–456, div. A, title XII, §1213, Sept. 29, 1988, 102 Stat. 2053.

**REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES**

Pub. L. 99–433, title VI, §601, Oct. 1, 1986, 100 Stat. 1064, as amended by Pub. L. 100–180, div. A, title XIII, §1312, Dec. 4, 1987, 101 Stat. 1174; Pub. L. 101–189, div. A, title XVI, §1622(h)(2), Nov. 29, 1989, 103 Stat. 1606, provided that:

"(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) The total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2) may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

"(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

"(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

"(A) The Office of the Secretary of the Army and the Army Staff.

"(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

"(C) The Office of the Secretary of the Air Force and the Air Staff.

"(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

"(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

"(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

"(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

"(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

"(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

"(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

"(3) If after the date of the enactment of this Act [Oct. 1, 1986] and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the

additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

"(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

"(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

"(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

"(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

"(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act [see Short Title of 1986 Amendment note set out under section 111 of the title].

"(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.

"(g) DEFINITIONS.—For purposes of this section, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985."

## §195. Defense Automated Printing Service: applicability of Federal printing requirements

The Defense Automated Printing Service shall comply fully with the requirements of section 501 of title 44 relating to the production and procurement of printing, binding, and blank-book work.

(Added Pub. L. 105–85, div. A, title III, §383(a), Nov. 18, 1997, 111 Stat. 1711.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### AUTHORITY TO PROCURE SERVICES FROM GOVERNMENT PUBLISHING OFFICE

Pub. L. 105–85, div. A, title III, §387(c), Nov. 18, 1997, 111 Stat. 1713, as amended by Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537, provided that: "Consistent with section 501 of title 44, United States Code, the Secretary of a military department or head of a Defense Agency may contract directly with the Government Publishing Office for printing and duplication services otherwise available through the Defense Automated Printing Service."

## [§196. Renumbered §4173]

## §197. Defense Logistics Agency: fees charged for logistics information

(a) AUTHORITY.—The Secretary of Defense may charge fees for providing information in the

Federal Logistics Information System through Defense Logistics Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person.

(b) AMOUNT.—The fee or fees prescribed under subsection (a) shall be such amount or amounts as the Secretary of Defense determines appropriate for recovering the costs of providing information as described in such subsection.

(c) RETENTION OF FEES.—Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation with which merged.

(d) DEFENSE LOGISTICS INFORMATION SERVICES DEFINED.—In this section, the term "Defense Logistics Information Services" means the organization within the Defense Logistics Agency that is known as Defense Logistics Information Services.

(Added Pub. L. 108–375, div. A, title X, §1010(a), Oct. 28, 2004, 118 Stat. 2038.)

## §198. Office of Local Defense Community Cooperation

(a) IN GENERAL.—There is in the Department of Defense an Office of Local Defense Community Cooperation (in this section referred to as the "Office"). The Secretary shall designate the Office as a Department of Defense Field Activity pursuant to section 191, effective as of the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

(b) DIRECTOR.—The Office shall be headed by the Director of the Office of Local Defense Community Cooperation, who shall be appointed by the Secretary of Defense from among civilian employees of the Federal Government or private individuals who have the following:

(1) Experience in the interagency in the Executive Branch.

(2) Experience in the administration and management of Federal grants programs.

(c) DUTIES.—The Office shall—

(1) serve as the office in the Department of Defense with primary responsibility for—

(A) providing assistance to States, counties, municipalities, regions, and other communities to foster cooperation with military installations to enhance the military mission, achieve facility and infrastructure savings and reduced operating costs, address encroachment and compatible land use issues, support military families, and increase military, civilian, and industrial readiness and resiliency; and

(B) providing adjustment and diversification assistance to State and local governments under section 2391(b) of this title to achieve the objectives described in subparagraph (A);

(2) coordinate the provision of such assistance with other organizations and elements of the Department;

(3) provide support to the Economic Adjustment Committee established under Executive Order No. 12788 (57 Fed. Reg. 2213; 10 U.S.C. 2391 note) or any successor to such Committee; and

(4) carry out such other activities as the Secretary considers appropriate.

(d) ANNUAL REPORT TO CONGRESS.—Not later than June 1 each year, the Director of the Office of Local Defense Community Cooperation shall submit to the congressional defense committees a report on the activities of the Office during the preceding year, including the assistance provided pursuant to subsection (c)(1) during such year.

(Added Pub. L. 116–283, div. A, title IX, §905(a)(1), Jan. 1, 2021, 134 Stat. 3798, §146; renumbered §198 and amended Pub. L. 117–81, div. A, title IX, §902(a)(1)–(3), Dec. 27, 2021, 135 Stat. 1868, 1869.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (a), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

### AMENDMENTS

**2021**—Pub. L. 117–81, §902(a)(1), renumbered section 146 of this title as this section.

Subsec. (a). Pub. L. 117–81, §902(a)(2), substituted "in the Department of Defense an" for "in the Office of the Secretary of Defense an office to be known as the" and inserted at end "The Secretary shall designate the Office as a Department of Defense Field Activity pursuant to section 191, effective as of the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283)."

Subsec. (b). Pub. L. 117–81, §902(a)(3)(A), substituted "Secretary of Defense" for "Under Secretary of Defense for Acquisition and Sustainment" in introductory provisions.

Subsec. (c)(4). Pub. L. 117–81, §902(a)(3)(B), substituted "Secretary" for "Under Secretary of Defense for Acquisition and Sustainment".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### LIMITATION ON INVOLUNTARY SEPARATION OF PERSONNEL

Pub. L. 117–81, div. A, title IX, §902(b), Dec. 27, 2021, 135 Stat. 1869, provided that: "No personnel of the Office of Local Defense Community Cooperation under section 198 of title 10, United States Code (as added by subsection (a)), may be involuntarily separated from service with that Office during the one-year period beginning on the date of the enactment of this Act [Dec. 27, 2021], except for cause."

### ADMINISTRATION OF PROGRAMS

Pub. L. 117–81, div. A, title IX, §902(c), Dec. 27, 2021, 135 Stat. 1869, provided that: "Any program, project, or other activity administered by the Office of Economic Adjustment of the Department of Defense as of the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [Jan. 1, 2021] shall be administered by the Office of Local Defense Community Cooperation under section 198 of title 10, United States Code (as added by subsection (a))."

## §199. Joint Interagency Task Force 401

(a) ESTABLISHMENT.—There is established in the Department of Defense a joint activity to be known as the "Joint Interagency Task Force 401" (referred to in this section as the "Task Force").

(b) DIRECTOR.—

(1) There is a Director of the Task Force (referred to in this section as the "Director") who shall be appointed by the Secretary of Defense from among personnel of the Department of Defense who are—

(A) general or flag officers of the covered armed forces; or

(B) members of the Senior Executive Service.

(2) The Director shall report directly to the Deputy Secretary of Defense and shall serve as the principal advisor to the Deputy Secretary and the Chairman of the Joint Chiefs of Staff on counter-small unmanned aircraft system matters.

(c) ORGANIZATION.—The Task Force shall—

(1) be designated as a jointly manned activity with full joint manning support from the covered armed forces as determined by the Director; and

(2) shall consist of such other subordinate organizational elements as the Director determines appropriate, subject to the authority, direction, and control of the Secretary of Defense with support from designated organizational elements within the Office of the Secretary of Defense as

determined by the Director in coordination with the Secretary.

(d) RESPONSIBILITIES.—The responsibilities of the Task Force shall include the following:

(1) Lead, advocate, coordinate, and focus all Department of Defense actions in support of efforts of the combatant commands and the covered armed forces to defeat small unmanned aircraft systems (referred to in this section as "sUAS") as weapons of strategic influence.

(2) Integrate all counter-sUAS solutions throughout the Department of Defense, seeking interagency participation and assistance as necessary.

(3) Develop and share counter-sUAS training tools, expertise, and tactics, techniques, and procedures for components of the Department of Defense that address needs of the joint force.

(4) Coordinate efforts across the Department of Defense to develop, test, evaluate, and procure counter-sUAS kinetic and non-kinetic defeat capabilities.

(5) Carry out the counter-sUAS validation and acquisition responsibilities described in subsections (e) and (f).

(6) Develop and regularly update a counter-sUAS strategic plan.

(7) Carry out such other activities relating to counter-sUAS as the Secretary of Defense determines appropriate.

(e) APPROVAL AND VALIDATION OF COUNTER-SUAS SYSTEMS.—

(1) The Task Force shall serve as the entity within the Department of Defense with primary responsibility for the validation and approval of counter-sUAS systems for procurement and use by the Department.

(2) In coordination with other components of the Department of Defense, the Director shall develop, maintain, and regularly update a list of counter-sUAS systems that are validated and approved for procurement and use by the Department as described in paragraph (1). The Director shall ensure that each counter-sUAS system on the list has been vetted by the Task Force and has proven to be effective for use by the Department in countering sUAS.

(3) Except as provided in paragraph (4), no component of the Department of Defense may procure a counter-sUAS system unless such system—

(A) has been validated and approved by the Task Force under paragraph (1); and

(B) is included on the list maintained under paragraph (2).

(4) The service acquisition executive of the military department concerned (in the case of a procurement by a military department) or the Under Secretary of Defense for Acquisition and Sustainment (in the case of a procurement not under the authority of a service acquisition executive) may waive the restriction under paragraph (3), on a case-by-case basis, by submitting to the congressional defense committees—

(A) notice of the intent to issue such a waiver; and

(B) an explanation of the reasons for issuing the waiver.

(f) ACQUISITION DIVISION.—The Director shall establish and maintain an acquisition division within the Task Force. The acquisition division shall—

(1) include acquisition professionals from relevant portfolio acquisition executives (as described in section 1732 of this title) within each covered armed force;

(2) support and facilitate efforts of the Director and covered armed forces—

(A) to budget and plan for the integration and sustainment of counter-sUAS capabilities that are approved and validated by the Task Force under subsection (e); and

(B) to efficiently and effectively transition such capabilities into operational use; and

(3) have such other duties and responsibilities as the Director determines appropriate.

(g) ANNUAL REPORTS.—On an annual basis, the Director shall submit to the congressional defense committees a report that includes a summary of the activities of the Task Force over the

period covered by the report, including a description of—

(1) the progress of the Task Force in carrying out the requirements of this section;

(2) the metrics used to measure such progress; and

(3) recommendations for congressional consideration.

(h) DEFINITIONS.—In this section:

(1) The term "counter-sUAS system" means a system or device capable of lawfully and safely disabling, disrupting, or seizing control of a small unmanned aircraft or small unmanned aircraft system.

(2) The term "covered armed forces" means the Army, Navy, Air Force, Marine Corps, and Space Force.

(3) The terms "small unmanned aircraft", "unmanned aircraft", and "unmanned aircraft system" have the meanings given those terms in section 44801 of title 49.

(Added Pub. L. 119–60, div. A, title IX, §912(a), Dec. 18, 2025, 139 Stat. 1015.)

## SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

Sec.

201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.

[202, 203. Repealed.]

204. Small Business Ombudsman for defense audit agencies.[1]

[205. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199, struck out item 205 "Missile Defense Agency". Amendment was made pursuant to operation of section 102 of this title.

**2017**—Pub. L. 115–91, div. A, title XVI, §1676(c)(2), Dec. 12, 2017, 131 Stat. 1773, added item 205.

**2016**—Pub. L. 114–328, div. A, title V, §502(d)(2), Dec. 23, 2016, 130 Stat. 2102, which directed amendment of the "table of sections at the beginning of chapter 8" of this title by striking item 203, was executed by striking item 203 "Director of Missile Defense Agency" in the analysis preceding subchapter II of chapter 8 of this title to reflect the probable intent of Congress.

**2013**—Pub. L. 112–239, div. A, title XVI, §1612(b), Jan. 2, 2013, 126 Stat. 2065, added item 204.

**2002**—Pub. L. 107–314, div. A, title II, §225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted "Missile Defense Agency" for "Ballistic Missile Defense Organization" in item 203.

**1997**—Pub. L. 105–107, title V, §503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 "Unauthorized use of Defense Intelligence Agency name, initials, or seal".

Pub. L. 105–85, div. A, title II, §235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

**1996**—Pub. L. 104–201, div. A, title XI, §1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted "Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance" for "Consultation regarding appointment of certain intelligence officials" in item 201.

**1991**—Pub. L. 102–190, div. A, title IX, §922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

**1986**—Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

[1] *Section 204 was renumbered section 3848 of this title by Pub. L. 116–283 without corresponding amendment of subchapter analysis.*

## §201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 3041(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary's consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102–190, div. A, title IX, §922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104–201, div. A, title XI, §1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108–136, div. A, title IX, §921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, §931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(4), Dec. 19, 2014, 128 Stat. 3508.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

### AMENDMENTS

**2014**—Subsec. (b)(1). Pub. L. 113–291 substituted "(50 U.S.C. 3041(b))" for "(50 U.S.C. 403–6(b))".

**2009**—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(3)–(5). See 2008 Amendment notes below.

**2008**—Subsec. (a). Pub. L. 110–181, §931(a)(4), and Pub. L. 110–417, §932(a)(3), amended subsec. (a) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(3), was repealed by Pub. L. 111–84.

Subsec. (b)(1). Pub. L. 110–417, §932(a)(4), which directed substitution of "Director of National Intelligence" for "Director of Central Intelligence", could not be executed because of the intervening amendment by Pub. L. 110–181, §931(c)(2)(A), and was repealed by Pub. L. 111–84.

Pub. L. 110–181, §931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation."

Subsec. (c)(1). Pub. L. 110–181, §931(c)(2)(B), substituted "National Intelligence Program" for "National Foreign Intelligence Program".

Pub. L. 110–181, §931(a)(5), and Pub. L. 110–417, §932(a)(5), amended par. (1) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(5), was repealed by Pub. L. 111–84.

**2003**—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**1996**—Pub. L. 104–201 substituted "Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance" for "Consultation regarding appointment of certain intelligence officials" in section catchline and amended text generally. Prior to amendment, text read as follows: "Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

#### DEFENSE INTELLIGENCE AGENCY

Pub. L. 102–190, div. A, title IX, §921, Dec. 5, 1991, 105 Stat. 1452, as amended by Pub. L. 103–337, div. A, title X, §1070(d)(1), Oct. 5, 1994, 108 Stat. 2858, provided that, during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, the Assistant Secretary of Defense referred to in section 138(b)(3) of this title could be assigned supervision of the Defense Intelligence Agency other than day-to-day operational control over the Agency, set forth the responsibilities of the Director of the Defense Intelligence Agency during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, and directed the Secretary of the Army and the Director of the Defense Intelligence Agency to take all required actions in order to transfer the Armed Forces Medical Intelligence Center and the Missile and Space Intelligence Center from the Department of the Army to the control of the Defense Intelligence Agency not later than Jan. 1, 1992.

#### JOINT INTELLIGENCE CENTER

Pub. L. 102–190, div. A, title IX, §923, Dec. 5, 1991, 105 Stat. 1453, provided that:

"(a) REQUIREMENT FOR CENTER.—The Secretary of Defense shall direct the consolidation of existing single-service current intelligence centers that are located within the District of Columbia or its vicinity into a joint intelligence center that is responsible for preparing current intelligence assessments (including indications and warning). The joint intelligence center shall be located within the District of Columbia or its vicinity. As appropriate for the support of military operations, the joint intelligence center shall provide for and manage the collection and analysis of intelligence.

"(b) MANAGEMENT.—The center shall be managed by the Defense Intelligence Agency in its capacity as the intelligence staff activity of the Chairman of the Joint Chiefs of Staff.

"(c) RESPONSIVENESS TO COMMAND AUTHORITIES.—The Secretary shall ensure that the center is fully responsive to the intelligence needs of the Secretary, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands."

## [§202. Repealed. Pub. L. 105–107, title V, §503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 97–269, title V, §501(a), Sept. 27, 1982, 96 Stat. 1145, §191; amended Pub. L. 98–525, title XIV, §1405(6), Oct. 19, 1984, 98 Stat. 2622; renumbered §201, Pub. L. 99–433, title III, §301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered §202, Pub. L. 102–190, div. A, title IX, §922(a)(1), Dec. 5, 1991, 105 Stat. 1453; Pub. L. 105–107, title V, §503(b), Nov. 20, 1997, 111 Stat. 2262, related to unauthorized use of Defense Intelligence Agency name, initials, or seal, after amendment by Pub. L. 105–107, which transferred subsec. (b) to end of section 425.

## [§203. Repealed. Pub. L. 114–328, div. A, title V, §502(d)(1), Dec. 23, 2016, 130 Stat. 2102]

Section, added Pub. L. 105–85, div. A, title II, §235(a), Nov. 18, 1997, 111 Stat. 1665; amended Pub. L. 107–314, div. A, title II, §225(b)(1)(A), (B)(i), Dec. 2, 2002, 116 Stat. 2486, related to appointment of Director of Missile Defense Agency.

## [§204. Renumbered §3848]

## [§205. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 115–91, div. A, title XVI, §1676(c)(1), Dec. 12, 2017, 131 Stat. 1773; amended Pub. L. 116–283, div. A, title XVI, §1641(a), Jan. 1, 2021, 134 Stat. 4061; Pub. L. 117–81, div. A, title XVI, §1661(a), Dec. 27, 2021, 135 Stat. 2101; Pub. L. 118–31, div. A, title XVI, §1661, Dec. 22, 2023, 137 Stat. 602, related to the Missile Defense Agency. See section 5502 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### APPLICATION

Pub. L. 115–91, div. A, title XVI, §1676(c)(3), Dec. 12, 2017, 131 Stat. 1773, as amended by Pub. L. 117–81, div. A, title XVI, §1671(d)(1), Dec. 27, 2021, 135 Stat. 2113, related to applicability of subsecs. (a) and (b) of former section 205 of this title.

# CHAPTER 9—DEFENSE BUDGET MATTERS

Sec.
221. Future-years defense program: submission to Congress; consistency in budgeting.
222. Future-years mission budget.
222a. Unfunded priorities of the armed forces and combatant commands: annual report.
[222b. Repealed.]
222c. Armed forces: Out-Year Unconstrained Total Munitions Requirements; Out-Year inventory numbers.
222d. Annual report on industrial base constraints for munitions.
222e. Programs, projects, and activities that were internally changed in the submission of the President's budget: annual report.
222f. Unfunded priorities of the Under Secretary of Defense for Research and Engineering: annual report.
[223. Repealed.]
223a. Ballistic missile defense programs: procurement.
[224, 225. Repealed.]
226. Special operations forces: display of service-common and other support and enabling capabilities.
227. Budget justification for covered military unaccompanied housing Facilities Sustainment, Restoration, and Modernization projects.
[228. Repealed.]
229. Programs for combating terrorism: display of budget information.
[230. Repealed.]
231. Budgeting for construction, maintenance, and modernization of naval vessels: annual plans and certifications.
231a. Budgeting for life-cycle costs of aircraft for the Army, Navy, and Air Force: annual plan and certification.
[232. Repealed.]
233. Operation and maintenance budget presentation.

233a. Annual report on force structure changes exhibit for the defense budget.
234. POW/MIA activities: display of budget information.
[235. Repealed.]
236. Personal protection equipment procurement: display of budget information.
237. Embedded mental health providers of the reserve components: display of budget information.
238. Cyber mission forces: program elements.
239. National security space programs: major force program and budget assessment.
[239a. Repealed.]
239b. Certain intelligence-related programs: budget justification materials.
239c. Certain multiyear contracts for acquisition of property: budget justification materials.
239d. Budgeting for depot and ammunition production facility maintenance and repair: annual report.
239e. Nuclear command, control, and communications: major force program and budget assessment.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVII, §1701(a)(7), Dec. 18, 2025, 139 Stat. 1208, redesignated item 222e "Unfunded priorities of the Under Secretary of Defense for Research and Engineering: annual report" as 222f. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVI, §1649(b)(1), div. B, title XXVIII, §2821, Dec. 23, 2024, 138 Stat. 2199, 2253, added item 227 and struck out items 222b "Unfunded priorities of the Missile Defense Agency: annual report", 223 "Ballistic missile defense programs: program elements", 224 "Ballistic missile defense programs: display of amounts for research, development, test, and evaluation", 225 "Acquisition accountability reports on the ballistic missile defense system", and 239a "Missile defense and defeat programs: major force program and budget assessment". Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title I, §151, title II, §211, title X, §1002, title XVI, §1631, title XVIII, §1801(a)(3)(A), Dec. 22, 2023, 137 Stat. 179, 182, 378, 591, 683, added item 222e "Programs, projects, and activities that were internally changed in the submission of the President's budget: annual report", 222e "Unfunded priorities of the Under Secretary of Defense for Research and Engineering: annual report", and items 233a and 239e and substituted "plans and certifications" for "plan and certification" in item 231. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title III, §§352(b), 371, title XVII, §1701(d)(2), Dec. 23, 2022, 136 Stat. 2534, 2539, 2966, added items 222d, 231, and 239d and struck out former item 231 "Budgeting for construction of naval vessels: annual plan and certification".

**2021**—Pub. L. 117–81, div. A, title VIII, §811(b), Dec. 27, 2021, 135 Stat. 1823, added item 239c.

Pub. L. 116–283, div. A, title I, §151(b), title XVIII, §1809(h)(2), Jan. 1, 2021, 134 Stat. 3440, 4162, added item 231a and struck out item 235 "Procurement of contract services: specification of amounts requested in budget".

**2019**—Pub. L. 116–92, div. A, title X, §1007(b), Dec. 20, 2019, 133 Stat. 1575, added item 226.

**2018**—Pub. L. 115–232, div. A, title VIII, §813(a)(1)(B), title X, §1061(b), title XVI, §§1624(b)(2), 1677(b)(2), Aug. 13, 2018, 132 Stat. 1851, 1970, 2120, 2161, added items 222b, 222c, and 239b and struck out item 231a "Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification".

**2017**—Pub. L. 115–91, div. A, title XVI, §1676(a)(2), Dec. 12, 2017, 131 Stat. 1772, added item 239a.

**2016**—Pub. L. 114–328, div. A, title X, §1064(a)(2), Dec. 23, 2016, 130 Stat. 2409, added item 222a.

**2015**—Pub. L. 114–92, div. A, title X, §1073(a)(2), title XVI, §1601(a)(2), Nov. 25, 2015, 129 Stat. 995, 1096, struck out item 228 "Biannual reports on allocation of funds within operation and maintenance budget subactivities" and added item 239.

**2014**—Pub. L. 113–291, div. A, title XVI, §1631(a)(2), Dec. 19, 2014, 128 Stat. 3638, added item 238.

**2013**—Pub. L. 113–66, div. A, title I, §141(b), title VII, §721(b), title X, §1091(a)(4), Dec. 26, 2013, 127 Stat. 697, 799, 875, added items 236 and 237 and inserted a period at end of item 231.

Pub. L. 112–239, div. A, title X, §§1076(f)(6), 1081(1)(B), Jan. 2, 2013, 126 Stat. 1952, 1960, transferred item 225 to appear after item 224 and struck out item 232 "United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts".

**2011**—Pub. L. 112–81, div. A, title X, §§1011(b), 1061(3)(B), 1064(4)(B)(ii), 1069(c), Dec. 31, 2011, 125 Stat. 1560, 1583, 1587, 1592, struck out item 226 "Scoring of outlays", added item 228 and struck out former item 228 "Quarterly reports on allocation of funds within operation and maintenance budget subactivities", added item 231 and struck out former item 231 "Long-range plan for construction of naval vessels", and amended item 231a generally. Prior to amendment, item 231a read as follows: "Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification".

Pub. L. 112–81, div. A, title II, §231(a)(2), Dec. 31, 2011, 125 Stat. 1339, added item 225 at the end of this analysis.

Pub. L. 111–383, div. A, title X, §1023(b), Jan. 7, 2011, 124 Stat. 4350, added item 231 and struck out former item 231 "Budgeting for construction of naval vessels: annual plan and certification".

**2009**—Pub. L. 111–84, div. A, title VIII, §803(a)(2), Oct. 28, 2009, 123 Stat. 2402, added item 235.

**2008**—Pub. L. 110–417, [div. A], title I, §141(b), Oct. 14, 2008, 122 Stat. 4380, added item 231a.

**2006**—Pub. L. 109–364, div. A, title V, §563(b), Oct. 17, 2006, 120 Stat. 2222, added item 234.

**2004**—Pub. L. 108–375, div. A, title II, §214(b), title X, §1003(a)(2), Oct. 28, 2004, 118 Stat. 1834, 2035, added items 232 and 233.

**2003**—Pub. L. 108–136, div. A, title II, §223(a)(2), title X, §1031(a)(6)(B)(ii), Nov. 24, 2003, 117 Stat. 1420, 1596, added item 223a and substituted "Quarterly" for "Monthly" in item 228.

**2002**—Pub. L. 107–314, div. A, title X, §§1022(b), 1041(a)(2)(B), Dec. 2, 2002, 116 Stat. 2640, 2645, struck out item 230 "Amounts for declassification of records" and added item 231.

**2001**—Pub. L. 107–107, div. A, title II, §231(b)(2), Dec. 28, 2001, 115 Stat. 1037, substituted "research, development, test, and evaluation" for "procurement" in item 224.

**1999**—Pub. L. 106–65, div. A, title IX, §932(b)(2), title X, §1041(a)(2), Oct. 5, 1999, 113 Stat. 728, 758, added items 229 and 230.

**1998**—Pub. L. 105–261, div. A, title II, §235(a)(2), Oct. 17, 1998, 112 Stat. 1953, added item 223.

**1997**—Pub. L. 105–85, div. A, title II, §232(a)(2), title III, §321(a)(2), Nov. 18, 1997, 111 Stat. 1663, 1673, added items 224 and 228.

**1996**—Pub. L. 104–106, div. A, title X, §1061(f)(2), Feb. 10, 1996, 110 Stat. 443, struck out item 227 "Recruiting costs".

**1993**—Pub. L. 103–160, div. A, title III, §374(b), Nov. 30, 1993, 107 Stat. 1637, added item 227.

**1992**—Pub. L. 102–484, div. A, title X, §1002(d)(2), Oct. 23, 1992, 106 Stat. 2481, added items 221 and 222 and redesignated former item 221 as 226.

**1991**—Pub. L. 102–190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, substituted "DEFENSE BUDGET MATTERS" for "REGULAR COMPONENTS" in chapter heading and added item 221.

## §221. Future-years defense program: submission to Congress; consistency in budgeting

(a) The Secretary of Defense shall submit to Congress each year, not later than five days after the date on which the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years defense program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

(c) Nothing in this section shall be construed to prohibit the inclusion in the future-years defense program of amounts for management contingencies, subject to the requirements of subsection (b).

(d)(1) The Secretary of Defense shall make available to Congress, the Congressional Budget Office, the Comptroller General of the United States, and the Congressional Research Service each future-years defense program under this section as follows:

(A) By making such program available electronically in the form of an unclassified electronic database.

(B) By delivering printed copies of such program to the congressional defense committees.

(2) In the event inclusion of classified material in a future-years defense program would otherwise render the totality of the program classified for purposes of this subsection—

(A) such program shall be made available to Congress in unclassified form, with such material attached as a classified annex; and

(B) such annex shall be submitted to the congressional defense committees, the Congressional Budget Office, the Comptroller General of the United States, and the Congressional Research Service.

(e) Each future-years defense program under this subsection shall be accompanied by a certification by the Under Secretary of Defense (Comptroller), in the case of the Department of Defense, and the comptroller of each military department, in the case of such military department, that any information entered into the Standard Data Collection System of the Department of Defense, the Comptroller Information System, or any other data system, as applicable, for purposes of assembling such future-years defense program was accurate.

(Added Pub. L. 101–189, div. A, title XVI, §1602(a)(1), Nov. 29, 1989, 103 Stat. 1596, §114a; amended Pub. L. 101–510, div. A, title XIV, §1402(a)(1)–(3)(A), Nov. 5, 1990, 104 Stat. 1674; renumbered §221 and amended Pub. L. 102–484, div. A, title X, §1002(c), Oct. 23, 1992, 106 Stat. 2480; Pub. L. 115–91, div. A, title X, §1042(a)–(c), Dec. 12, 2017, 131 Stat. 1553, 1554.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 221 was renumbered section 226 of this title.

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91, §1042(a), substituted "not later than five days after the date on which" for "at or about the time that".

Subsec. (d). Pub. L. 115–91, §1042(b), added subsec. (d).

Subsec. (e). Pub. L. 115–91, §1042(c), added subsec. (e).

**1992**—Pub. L. 102–484 renumbered section 114a of this title as this section, amended section catchline generally, and substituted "future-years" for "multiyear" wherever appearing in text.

**1990**—Pub. L. 101–510, §1402(a)(3)(A), which directed amendment of section catchline by substituting "Multiyear" for "Five-year", was executed by substituting "Multiyear" for "Five-Year" as the probable intent of Congress.

Subsec. (a). Pub. L. 101–510, §1402(a)(1), (2), substituted "a multiyear" for "the current five-year" and inserted at end "Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years."

Subsecs. (b)(2)(A), (c). Pub. L. 101–510, §1402(a)(2)(A), substituted "multiyear" for "five-year".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1042(d), Dec. 12, 2017, 131 Stat. 1554, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec.

12, 2017], and shall apply to future-years defense programs submitted at the time of budgets of the President for fiscal years beginning after fiscal year 2018."

## COST BUDGETING FOR ARTIFICIAL INTELLIGENCE DATA

Pub. L. 118–159, div. A, title XV, §1533, Dec. 23, 2024, 138 Stat. 2145, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Chief Digital and Artificial Intelligence Officer of the Department of Defense, in consultation with the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering, shall develop a plan to ensure that the budgeting process for programs containing artificial intelligence components or subcomponents, including artificial intelligence support systems, models, or analysis tools, includes estimates for the types of data required to train, maintain, or improve the artificial intelligence components or subcomponents contained within such programs and estimated costs for the acquisition and sustainment of such data.

"(b) ELEMENTS OF PLAN.—The plan required under subsection (a) shall include the following:

"(1) An assessment of the current programs of the Department of Defense containing artificial intelligence components or subcomponents, such as large language models, including the sources and costs for structured and unstructured training data for such artificial intelligence components.

"(2) An estimate of the costs associated with the data required to train, maintain, or improve artificial intelligence models or systems for programs that are ongoing or proposed as of enactment of this Act and which are not otherwise currently accounted for in a program of record.

"(3) An estimate of the costs associated with providing access to capabilities for data preparation, including tooling, indexing, and data tagging or labeling, including for the protection of data provided by the Government from unauthorized use during the algorithm training process and the ongoing control by the Government of such data during such process.

"(4) Mapping of the acquisition lifecycle for the programs described in paragraph (1) to align budgeting milestones with critical design or decision points in the budgeting and execution processes of the Department of Defense.

"(5) A framework for estimating the costs described in paragraph (2) and ensuring the costs associated with the data required to train, maintain, or improve artificial intelligence models or systems are appropriately incorporated into lifecycle sustainment estimates for future programs containing artificial intelligence components or subcomponents.

"(c) IMPLEMENTATION.—The Secretary of Defense shall begin implementing the plan required by subsection (a) not later than 90 days after the date on which development of the plan required by subsection (a) is completed.

"(d) BRIEFINGS.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than once annually thereafter until 2027, the Secretary shall provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the implementation of the plan developed pursuant to subsection (a)."

## BUDGET DISPLAY FOR CRYPTOGRAPHIC MODERNIZATION ACTIVITIES FOR CERTAIN SYSTEMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 117–263, div. A, title XV, §1512, Dec. 23, 2022, 136 Stat. 2893, provided that:

"(a) DISPLAY REQUIRED.—Beginning with fiscal year 2024, and for each fiscal year thereafter, the Secretary of Defense shall include with the budget justification materials submitted to Congress in support of the budget of the Department of Defense for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a consolidated cryptographic modernization budget justification display for each Department of Defense system or asset that is protected by cryptography and subject to certification by the National Security Agency (in this section, referred to as 'covered items').

"(b) ELEMENTS.—Each display included under subsection (a) for a fiscal year shall include the following:

"(1) CRYPTOGRAPHIC MODERNIZATION ACTIVITIES.—(A) Whether, in accordance with the schedule established under section 153(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 142 note), the cryptographic modernization for each covered item is pending, in progress, complete, or, pursuant to paragraph (2) of such section, extended.

"(B) The funding required for the covered fiscal year and for each subsequent fiscal year of the Future Years Defense Program to complete the pending or in progress cryptographic modernization by the required replacement date of each covered item.

"(C)(i) A description of deviations between the funding annually required to complete the modernization prior to the required replacement date and the funding requested and planned within the

Future Years Defense Program.

"(ii) An explanation—

"(I) justifying the deviations; and

"(II) of whether or how any delays resulting from a deviation shall be overcome to meet the required replacement date.

"(D) A description of operational or security risks resulting from each deviation from the modernization schedule required to meet replacement dates, including a current intelligence assessment of adversary progress on exploiting the covered item.

"(E) For any covered item that remains in service past its required replacement date, a description of the number of times the covered item has been extended and the circumstances attending each such extension.

"(2) MITIGATION ACTIVITIES FOR COVERED ITEMS.—(A) Whether activities to mitigate the risks associated with projected failure to replace a covered item by the required replacement date are planned, in progress, or complete.

"(B) The funding required for the covered fiscal year and for each subsequent fiscal year for required mitigation activities to complete any planned, pending, or in progress mitigation activities for a covered item.

"(C) A description of the activities planned in the covered fiscal year and each subsequent fiscal year to complete mitigation activities and an explanation of the efficacy of the mitigations.

"(c) FORM.—The display required by subsection (a) shall be included in unclassified form, but may include a classified annex."

## DATA ON PHASE III SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM AWARDS

Pub. L. 117–81, div. A, title VIII, §867, Dec. 27, 2021, 135 Stat. 1854, provided that:

"(a) DEFINITIONS.—In this section, the terms 'Phase I', 'Phase II', 'Phase III', 'SBIR', and 'STTR' have the meanings given those terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

"(b) DATA ON PHASE III AWARDS.—Each Secretary of a military department (as defined in section 101 of title 10, United States Code) shall collect and submit to the President for inclusion in each budget submitted to Congress under section 1105 of title 31, United States Code, data on the Phase III awards under the SBIR and STTR programs of the military department of the Secretary for the immediately preceding fiscal year, including—

"(1) the cumulative funding amount for Phase III awards;

"(2) the number of Phase III award topics;

"(3) the total funding obligated for Phase III awards by State;

"(4) the original Phase I or Phase II award topics and the associated Phase III contracts awarded;

"(5) where possible, an identification of the specific program executive office involved in each Phase III transition; and

"(6) a list of the five highest performing projects, as determined by the Secretary."

## TREATMENT IN FUTURE BUDGETS OF THE PRESIDENT OF SYSTEMS ADDED BY CONGRESS

Pub. L. 116–283, div. A, title I, §126, Jan. 1, 2021, 134 Stat. 3428, provided that: "In the event the procurement quantity for a system authorized by Congress in a National Defense Authorization Act for a fiscal year, and for which funds for such procurement quantity are appropriated by Congress in the Shipbuilding and Conversion, Navy account for such fiscal year, exceeds the procurement quantity specified in the budget of the President, as submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year, such excess procurement quantity shall not be specified as a new procurement quantity in any budget of the President, as so submitted, for any fiscal year after such fiscal year."

## BUDGETING OF DEPARTMENT OF DEFENSE RELATING TO OPERATIONAL ENERGY IMPROVEMENT

Pub. L. 116–283, div. A, title III, §322, Jan. 1, 2021, 134 Stat. 3522, provided that: "The Secretary of Defense shall include in the annual budget submission of the President under section 1105(a) of title 31, United States Code, a dedicated budget line item for fielding operational energy improvements, including such improvements for which funds from the Operational Energy Capability Improvement Fund have been expended to create the operational and business case for broader employment."

## REPORT AND BUDGET DETAILS REGARDING OPERATION INHERENT RESOLVE

Pub. L. 116–283, div. A, title XII, §1221(d), Jan. 1, 2021, 134 Stat. 3928, provided that:

"(1) REPORT REQUIRED.—At the same time as the submission of the budget of the President (as submitted to Congress pursuant to section 1105 of title 31, United States Code) for fiscal year 2022 and each fiscal year thereafter, the Secretary of Defense shall submit a report with accompanying budgetary details regarding Operation Inherent Resolve.

"(2) ELEMENTS OF REPORT.—At a minimum, the report required by paragraph (1) shall include—

"(A)(i) for the first report, a history of the operation and its objectives; and

"(ii) for each subsequent report, a description of the operation and its objectives during the prior fiscal year;

"(B) a detailed description of the weapons and equipment purchased using the Counter-ISIS Train and Equip Fund in the prior fiscal year;

"(C) a list and description of activities and exercises carried out under the operation during the prior fiscal year;

"(D) a description of the purpose and goals of such activities and exercises and an assessment of the degree to which stated goals were achieved during the prior fiscal year;

"(E) a description of criteria used to judge the effectiveness of joint exercises and other efforts to build partner capacity under the operation during the prior fiscal year;

"(F) a description of the forces deployed under the operation, their deployment locations, and activities undertaken;

"(G) the information required under paragraph (3); and

"(H) any other matters the Secretary determines appropriate.

"(3) ELEMENTS OF BUDGETARY DETAILS.—At a minimum, the budgetary details accompanying the report required by paragraph (1)—

"(A) shall include—

"(i) a description of expenditures related to the operation for the fiscal year preceding the fiscal year of the budget covered by the report;

"(ii) with respect to the amount requested for the operation in the budget covered by the report—

"(I) any significant change in methodology used to determine the budgetary details included in the report and the categories used to organize such details; and

"(II) a narrative justification for any significant changes in the amount requested as compared to the amount requested and the amount expended for the fiscal year preceding the fiscal year of the budget covered by the report; and

"(iii) with respect to the estimated direct and indirect expenditures for the operation in the budget covered by the report—

"(I) detailed information on the estimated direct expenditures and indirect expenditures broken down by category (including with respect to operations, force protection, in-theater support, equipment reset and readiness, military construction, mobilization, incremental and total deployment costs, and exercises) and any additional accounts and categories the Secretary determines to be relevant; and

"(II) a description of the methodology and metrics used by the Secretary to define the contribution of indirect costs to the operation or an explanation of pro-rated amounts based on the level of support provided to the operation; and

"(B) may include a breakdown of expenditures and the amount requested for the operation in the budget covered by the report by line item, including with respect to procurement accounts, military personnel accounts, operation and maintenance accounts, research, development, test, and evaluation accounts, and military construction accounts.

"(4) FORM.—The report and accompanying budget details required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(5) SUNSET.—The requirements of this subsection shall terminate on the date on which Operation Inherent Resolve (or a successor operation) concludes.

"(6) DEFINITIONS.—In this subsection:

"(A) The term 'direct expenditures' means, with respect to amounts expended or estimated to be expended for Operation Inherent Resolve, amounts used directly for supporting counter-ISIS activities and missions.

"(B) The term 'indirect expenditures' means, with respect to amounts expended or estimated to be expended for Operation Inherent Resolve, amounts used for programs or activities that the Secretary of Defense determines enable the Armed Forces to carry out the operation."

**REPORT AND BUDGET DETAILS REGARDING OPERATION SPARTAN SHIELD**

Pub. L. 116–283, div. A, title XII, §1225, Jan. 1, 2021, 134 Stat. 3931, as amended by Pub. L. 117–263, div. A, title X, §1055, Dec. 23, 2022, 136 Stat. 2778, provided that:

"(a) REPORT REQUIRED.—At the same time as the submission of the budget of the President (as submitted to Congress pursuant to section 1105 of title 31, United States Code) for fiscal year 2022 and each fiscal year thereafter, the Secretary of Defense shall submit a report with accompanying budgetary details regarding Operation Spartan Shield.

"(b) ELEMENTS OF REPORT.—At a minimum, the report required by subsection (a) shall include—

"(1)(A) for the first report, a history of the operation and its objectives; and

"(B) for each subsequent report, a description of the operation and its objectives during the prior fiscal year;

"(2) a list and description of activities and exercises carried out under the operation during the prior fiscal year;

"(3) a description of the purpose and goals of such activities and exercises and an assessment of the degree to which stated goals were achieved during the prior fiscal year;

"(4) a description of criteria used to judge the effectiveness of joint exercises and other efforts to build partner capacity under the operation during the prior fiscal year;

"(5) a description of the forces deployed under the operation, their deployment locations, and activities undertaken;

"(6) the information required under subsection (c);

"(7) a list of all countries in which Task Force Spartan operated during the prior fiscal year;

"(8) a description of activities conducted pursuant to the operation to build the military readiness of partner forces during the prior fiscal year, including—

"(A) training exercises;

"(B) joint exercises; and

"(C) bilateral or multilateral exchanges;

"(9) an assessment of the extent to which the activities described in paragraph (8) improved—

"(A) the military readiness of such partner forces;

"(B) the national security of the United States; and

"(C) the national security of allies and partners of the United States;

"(10) a description of criteria used to make the assessment required under paragraph (9); and

"(11) any other matters the Secretary determines appropriate.

"(c) ELEMENTS OF BUDGETARY DETAILS.—At a minimum, the budgetary details accompanying the report required by subsection (a)—

"(1) shall include—

"(A) a description of expenditures related to the operation for the fiscal year preceding the fiscal year of the budget covered by the report;

"(B) with respect to the amount requested for the operation in the budget covered by the report—

"(i) any significant change in methodology used to determine the budgetary details included in the report and the categories used to organize such details; and

"(ii) a narrative justification for any significant changes in the amount requested as compared to the amount requested and the amount expended for the fiscal year preceding the fiscal year of the budget covered by the report; and

"(C) with respect to the estimated direct and indirect expenditures for the operation in the budget covered by the report—

"(i) detailed information on the estimated direct expenditures and indirect expenditures broken down by category (including with respect to operations, force protection, in-theater support, equipment reset and readiness, military construction, mobilization, incremental and total deployment costs, and exercises) and any additional accounts and categories the Secretary determines to be relevant; and

"(ii) a description of the methodology and metrics used by the Secretary to define the contribution of indirect costs to the operation or an explanation of pro-rated amounts based on the level of support provided to the operation; and

"(2) may include a breakdown of expenditures and the amount requested for the operation in the budget covered by the report by line item, including with respect to procurement accounts, military personnel accounts, operation and maintenance accounts, research, development, test, and evaluation accounts, and military construction accounts.

"(d) FORM.—The report and accompanying budget details required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

"(e) SUNSET.—The requirements of this section shall terminate on the date on which Operation Spartan Shield (or a successor operation) concludes.

"(f) DEFINITIONS.—In this section:

"(1) The term 'direct expenditures' means, with respect to amounts expended or estimated to be expended for Operation Spartan Shield, amounts used directly for supporting deterrence activities and missions.

"(2) The term 'indirect expenditures' means, with respect to amounts expended or estimated to be expended for Operation Spartan Shield, amounts used for programs or activities that the Secretary of Defense determines enable the Armed Forces to carry out the operation."

## BUDGETING OF DEPARTMENT OF DEFENSE RELATING TO EXTREME WEATHER

Pub. L. 116–92, div. A, title III, §328, Dec. 20, 2019, 133 Stat. 1311, as amended by Pub. L. 117–263, div. A, title III, §321, Dec. 23, 2022, 136 Stat. 2510, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall include in the annual budget submission of the President under section 1105(a) of title 31, United States Code—

"(1) a dedicated budget line item for adaptation to, and mitigation of, effects of extreme weather on military networks, systems, installations, facilities, and other assets and capabilities of the Department of Defense;

"(2) an estimate of the anticipated adverse impacts to the readiness of the Department and the financial costs to the Department during the year covered by the budget of the loss of, or damage to, military networks, systems, installations, facilities, and other assets and capabilities of the Department, including loss of or obstructed access to training ranges, as a result [of] extreme weather events; and

"(3) a calculation of the annual costs to the Department for—

"(A) assistance that is—

"(i) provided to the Federal Emergency Management Agency or any Federal land management agency (as such term is defined in section 802 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801)) pursuant to a request for such assistance and in consultation with the National Interagency Fire Center; or

"(ii) provided under title 10 or title 32, United States Code, to any State, territory, or possession of the United States, regarding extreme weather; and

"(B) resourcing required to support—

"(i) wildfire response, recovery, or restoration efforts occurring within military installations or other facilities of the Department; or

"(ii) any Federal agency other than the Department (including the Federal Emergency Management Agency and the National Interagency Fire Center) with respect to wildfire response, recovery, or restoration efforts, where such resourcing is not reimbursed.

"(b) DISAGGREGATION OF IMPACTS AND COSTS.—The estimate under subsection (a)(2) shall set forth the adverse readiness impacts and financial costs under that subsection by military department, Defense Agency, and other component or element of the Department.

"(c) EXTREME WEATHER DEFINED.—In this section, the term 'extreme weather' means recurrent flooding, drought, desertification, wildfires, and thawing permafrost."

## INCLUSION OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM IN ANNUAL BUDGET JUSTIFICATION DOCUMENTS

Pub. L. 116–92, div. A, title VIII, §852(c), Dec. 20, 2019, 133 Stat. 1511, provided that: "The Secretary of Defense shall submit to Congress, as a part of the defense budget materials (as defined in section 234(d) of title 10, United States Code) for fiscal year 2021 and each fiscal year thereafter, a budget justification display that includes the procurement technical assistance cooperative agreement program under [former] chapter 142 of title 10, United States Code [see chapter 388 of this title], as part of the budget justification for Operation and Maintenance, Defense-wide for the Office of the Secretary of Defense."

## INCLUSION OF EUROPEAN DETERRENCE INITIATIVE IN ANNUAL BUDGET DISPLAY INFORMATION

Pub. L. 116–92, div. A, title XII, §1243(b)–(d), Dec. 20, 2019, 133 Stat. 1657, 1658, provided that:

"(b) BUDGET DISPLAY INFORMATION.—The Secretary of Defense shall include in the materials submitted to Congress by the Secretary in support of the budget of the President for fiscal year 2021 and each fiscal year thereafter (as submitted under section 1105 of title 31, United States Code), a detailed budget display for the European Deterrence Initiative that includes the following information (regardless of whether the funding line is for overseas contingency operations):

"(1) With respect to procurement accounts—

"(A) amounts displayed by account, budget activity, line number, line item, and line item title; and

"(B) a description of the requirements for each such amounts specific to the Initiative.

"(2) With respect to research, development, test, and evaluation accounts—

"(A) amounts displayed by account, budget activity, line number, program element, and program element title; and

"(B) a description of the requirements for each such amounts specific to the Initiative.

"(3) With respect to operation and maintenance accounts—

"(A) amounts displayed by account title, budget activity title, line number, and subactivity group title; and

"(B) a description of how such amounts will specifically be used.

"(4) With respect to military personnel accounts—

"(A) amounts displayed by account, budget activity, budget subactivity, and budget subactivity title; and

"(B) a description of the requirements for each such amounts specific to the Initiative.

"(5) With respect to each project under military construction accounts (including with respect to unspecified minor military construction and amounts for planning and design), the country, location, project title, and project amount by fiscal year.

"(c) END OF FISCAL YEAR REPORT.—Not later than November 30, 2020, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that contains—

"(1) a detailed summary of funds obligated for the European Deterrence Initiative for the preceding fiscal year; and

"(2) a detailed comparison of funds obligated for the European Deterrence Initiative for the preceding fiscal year to amounts requested for the Initiative for that fiscal year in the materials submitted to Congress by the Secretary in support of the budget of the President for that fiscal year as required by subsection (c), including with respect to each of the accounts described in paragraphs (1), (2), (3), (4), and (5) of subsection (b) and the information required under each such paragraph.

"(d) INTERIM BRIEFING.—Not later than March 30, 2021, and annually thereafter, the Secretary of Defense shall provide the congressional defense committees with an interim briefing on the status of all matters covered by the end of fiscal year report required by section (c)."

## REPORTING ON FUTURE YEARS BUDGETING BY SUBACTIVITY GROUP

Pub. L. 115–232, div. A, title III, §357, Aug. 13, 2018, 132 Stat. 1732, provided that: "Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include in the OP-5 Justification Books, as detailed by Department of Defense Financial Management Regulation 7000.14–R, the amount for each individual subactivity group, as detailed in the Department's future years defense program pursuant to section 221 of title 10, United States Code."

## INCLUSION OF AIRCRAFT CARRIER REFUELING OVERHAUL BUDGET REQUEST IN ANNUAL BUDGET JUSTIFICATION MATERIALS

Pub. L. 115–232, div. A, title X, §1018, Aug. 13, 2018, 132 Stat. 1951, provided that: "The Secretary of Defense shall include in the budget justification materials submitted to Congress by the Secretary in support of the budget of the President for fiscal year 2020 and each subsequent fiscal year, as part of the budget request for Shipbuilding and Conversion, Navy, a detailed aircraft carrier refueling overhaul budget request, by hull number, including all funding requested for reactor power units and reactor components."

## BUDGET DISPLAY FOR CYBER VULNERABILITY EVALUATIONS AND MITIGATION ACTIVITIES FOR MAJOR WEAPON SYSTEMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 115–232, div. A, title XVI, §1637, Aug. 13, 2018, 132 Stat. 2127, which provided that, beginning in fiscal year 2021 and in each fiscal year thereafter, the Secretary of Defense was to submit to Congress, as a part of the documentation that supported the President's annual budget for the Department of Defense, a consolidated Cyber Vulnerability Evaluation and Mitigation budget justification display for each major weapons system of the Department of Defense, was repealed by Pub. L. 118–31, div. A, title XV, §1502(a)(2)(D), Dec. 22, 2023, 137 Stat. 537.

## BUDGET EXHIBIT ON SUPPORT PROVIDED TO EXECUTIVE OFFICE OF THE PRESIDENT

Pub. L. 115–232, div. A, title XVI, §1697, Aug. 13, 2018, 132 Stat. 2171, provided that:

"(a) IN GENERAL.—The Under Secretary of Defense (Comptroller) shall include in the budget justification materials submitted to Congress in support of the Department of Defense budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a single budget exhibit containing relevant details pertaining to support provided by the Department of Defense to the Executive Office of the President related to senior leader communications and continuity of Government programs.

"(b) INCLUSIONS.—The budget exhibit required by subsection (a) shall include—

"(1) support provided by the White House Military Office, the White House Communications Agency, special mission area activities of the Defense Information Systems Agency, and other relevant programs; and

"(2) specific appropriation and line numbers where appropriate.

"(c) FORM.—The budget exhibit required by subsection (a) shall be submitted in unclassified form, but may include a classified annex."

## SUBMISSION OF FUTURE YEAR DEFENSE PROGRAM FOR CONSTRUCTION PROJECTS RELATED TO EUROPEAN REASSURANCE INITIATIVE AND EUROPEAN DETERRENCE INITIATIVE

Pub. L. 115–141, div. J, title IV, §402, Mar. 23, 2018, 132 Stat. 831, provided that: "Notwithstanding any other provision of law, the Secretary of Defense is directed to provide the congressional defense committees [Committees on Armed Services of the House of Representatives and the Senate, the Subcommittee on Military Construction and Veterans Affairs of the Committee on Appropriations of the Senate, and the Subcommittee on Military Construction and Veterans Affairs of the Committee on Appropriations of the House of Representatives] a future years defense program for funds appropriated to the Department of Defense for construction projects related to European Reassurance Initiative and European Deterrence Initiative beginning in fiscal year 2018 and each subsequent fiscal year that funding is requested for either initiative. Further, the Secretary of Defense is directed to submit the future years defense program with each fiscal year budget submission."

## DOD GUIDANCE

Pub. L. 115–91, div. A, title X, §1042(e), Dec. 12, 2017, 131 Stat. 1554, provided that: "The Secretary of Defense shall, in coordination with the Under Secretary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14–R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with the amendments made by this section [amending this section] in the submittal of future-years defense programs in calendar years after calendar year 2017."

## FUTURE YEARS PLANS FOR THE EUROPEAN DETERRENCE INITIATIVE

Pub. L. 115–91, div. A, title XII, §1273, Dec. 12, 2017, 131 Stat. 1696, as amended by Pub. L. 116–92, div. A, title XII, §1243(a), Dec. 20, 2019, 133 Stat. 1656, provided that:

"(a) INITIAL PLAN.—Not later than December 31, 2019, the Secretary of Defense, in consultation with the Commander of the United States European Command, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a future years plan on activities and resources of the European Deterrence Initiative (EDI) for fiscal year 2020 and not fewer than the four succeeding fiscal years.

"(b) MATTERS TO BE INCLUDED.—The plan required under subsection (a) shall include the following:

"(1) A description of the objectives of the EDI, including a description of—

"(A) the intended force structure and posture of the assigned and allocated forces within the area of responsibility of the United States European Command for the last fiscal year of the plan; and

"(B) the manner in which such force structure and posture support the implementation of the National Defense Strategy.

"(2) An assessment of resource requirements to achieve the objectives of the EDI.

"(3) An assessment of capabilities requirements to achieve the objectives of the EDI.

"(4) An assessment of logistics requirements, including force enablers, equipment, supplies, storage, and maintenance requirements, to achieve the objectives of the EDI.

"(5) An identification and assessment of required infrastructure and military construction investments to achieve the objectives of the EDI, including potential infrastructure investments by host nations and new construction or modernization of existing sites that would be funded by the United States.

"(6) An assessment of security cooperation investments required to achieve the objectives of the EDI.

"(7) An analysis of the challenges to the ability of the United States to deploy significant forces from the continental United States to the European theater in the event of a major contingency, and a description of the plans of the Department of Defense, including military exercises, to address such challenges.

"(8) A plan to fully resource United States force posture and capabilities, including—

"(A) details regarding the strategy to balance the force structure of the United States forces to source additional permanently stationed United States forces in Europe as a part of any planned growth in end strength and force posture;

"(B) the infrastructure capacity of existing locations and their ability to accommodate additional permanently stationed United States forces in Europe;

"(C) the potential new locations for additional permanently stationed United States forces in Europe, including an assessment of infrastructure and military construction resources necessary to accommodate additional United States forces in Europe;

"(D) a detailed timeline to achieve desired permanent posture requirements;

"(E) a reevaluation of sites identified for divestiture but not yet divested under the European Infrastructure Consolidation initiative, accounting for updated military requirements;

"(F) any changes and associated costs incurred with retaining each site identified for divestiture but not yet divested under the European Infrastructure Consolidation initiative, including possible leasing agreements, sustainment, and maintenance;

"(G) a detailed assessment of the resources necessary to achieve the requirements of the plan, including specific cost estimates for each project under the EDI to support increased presence, exercises and training, enhanced prepositioning, improved infrastructure, and building partnership capacity;

"(H) a detailed timeline to achieve the force posture and capabilities, including permanent force posture requirements; and

"(I) a detailed explanation of any significant modifications to activities and resources as compared to the future years plan on activities and resources of the EDI submitted for the previous year.

"(c) SUBSEQUENT PLANS.—

"(1) IN GENERAL.—Not later than the date on which the Secretary of Defense submits to Congress the budget request for the Department of Defense for fiscal year 2021 and each fiscal year thereafter, the Secretary, in consultation with the Commander of the United States European Command, shall submit to the congressional defense committees a future years plan on activities and resources of the European Deterrence Initiative for such fiscal year and not fewer than the four succeeding fiscal years.

"(2) MATTERS TO BE INCLUDED.—The plan required under paragraph (1) shall include—

"(A) the matters described in subsection (b); and

"(B) a detailed explanation of any significant modifications in requirements or resources, as compared to the plan submitted under such subsection (b).

"(d) FORM.—The plans required under subsections (a) and (c) shall be submitted in unclassified form, but may include a classified annex.

"(e) LIMITATIONS.—In the case of a proposed divestiture of a site under the European Infrastructure Consolidation initiative, the Secretary of Defense may not take any action to divest the site unless prior to taking such action, the Secretary certifies to the congressional defense committees that no military requirement for future use of the site is foreseeable."

## REVIEW OF SUPPORT PROVIDED BY DEFENSE INTELLIGENCE ELEMENTS TO ACQUISITION ACTIVITIES OF THE DEPARTMENT

Pub. L. 115–91, div. A, title XVI, §1626, Dec. 12, 2017, 131 Stat. 1733, provided that:

"(a) REVIEW.—The Secretary of Defense shall review the support provided by Defense intelligence elements to the acquisition activities conducted by the Secretary, with a specific focus on such support—

"(1) consisting of planning, prioritizing, and resourcing relating to developmental weapon systems; and

"(2) for existing weapon systems throughout the program lifecycle of such systems.

"(b) BUDGET STRUCTURE.—The Secretary shall develop a specific budget structure for a sustainable funding profile to ensure the support provided by Defense intelligence elements described in subsection (a). The Secretary shall implement such structure beginning with the defense budget materials for fiscal year 2020.

"(c) BRIEFING.—Not later than May 1, 2018, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the results of the review under subsection (a) and a plan to carry out subsection (b).

"(d) CONSTRUCTION.—Nothing in this section may be construed to relieve the Director of National Intelligence of the responsibility to support the acquisition activities of the Department of Defense through the National Intelligence Program.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'defense budget materials' has the meaning given that term in section 231(f) of title 10, United States Code [now 10 U.S.C. 231(h)].

"(3) The term 'Defense intelligence element' means any of the agencies, offices, and elements of the Department of Defense included within the definition of 'intelligence community' under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))."

## REPORTING OF BALANCES CARRIED FORWARD BY THE DEPARTMENT OF DEFENSE AT THE END OF EACH FISCAL YEAR

Pub. L. 113–291, div. A, title X, §1003, Dec. 19, 2014, 128 Stat. 3482, provided that: "Not later March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and make publicly available on the Internet website of the Department of Defense, the following information:

"(1) The total dollar amount, by account, of all balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.

"(2) The total dollar amount, by account, of all unobligated balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.

"(3) The total dollar amount, by account, of any balances (both obligated and unobligated) that have been carried forward by the Department of Defense for five years or more as of the end of the fiscal year preceding the fiscal year during which such information is submitted."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1003 of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## BUDGET DOCUMENTATION REQUIREMENT

Pub. L. 113–66, div. A, title II, §213(c), Dec. 26, 2013, 127 Stat. 704, provided that: "In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2015, and each subsequent fiscal year, the Secretary shall include individual project lines for each program segment of the unmanned carrier-launched surveillance and strike system, within program element 0604404N, that articulate all costs, contractual actions, and other information associated with technology development for each such program segment."

## EVALUATION AND ASSESSMENT OF THE DISTRIBUTED COMMON GROUND SYSTEM

Pub. L. 113–66, div. A, title II, §219, Dec. 26, 2013, 127 Stat. 708, which related to budgetary requirements and analysis of capability components within the distributed common ground system program, was repealed by Pub. L. 119–60, div. A, title X, §1004(b)(1), Dec. 18, 2025, 139 Stat. 1028.

## CONSOLIDATED BUDGET JUSTIFICATION DISPLAY FOR AEROSPACE CONTROL ALERT MISSION

Pub. L. 112–239, div. A, title III, §352(a), Jan. 2, 2013, 126 Stat. 1701, provided that: "The Secretary of Defense shall establish a consolidated budget justification display that fully identifies the baseline aerospace control alert budget for each of the military services and encompasses all programs and activities of the aerospace control alert mission for each of the following functions:

"(1) Procurement.

"(2) Operation and maintenance.

"(3) Research, development, testing, and evaluation.

"(4) Military construction."

## BUDGET JUSTIFICATION DOCUMENTS; BUDGET FOR FULL-SPECTRUM MILITARY CYBERSPACE OPERATIONS

Pub. L. 112–239, div. A, title X, §1079(c), Jan. 2, 2013, 126 Stat. 1959, which required Secretary of Defense to submit dedicated budget documentation materials with budget submissions for fiscal year 2015 and subsequent fiscal years, was repealed by Pub. L. 115–91, div. A, title X, §1051(r)(7), Dec. 12, 2017, 131 Stat.

1565.

## SEPARATE PROCUREMENT LINE ITEM FOR CERTAIN LITTORAL COMBAT SHIP MISSION MODULES

Pub. L. 112–81, div. A, title I, §122, Dec. 31, 2011, 125 Stat. 1319, provided that:

"(a) IN GENERAL.—In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2013, and each subsequent fiscal year, the Secretary shall ensure that a separate, dedicated procurement line item is designated for each covered module that includes the quantity and cost of each such module requested.

"(b) FORM.—The Secretary shall ensure that any classified components of covered modules not included in a procurement line item under subsection (a) shall be included in a classified annex.

"(c) COVERED MODULE.—In this section, the term 'covered module' means, with respect to mission modules of the Littoral Combat Ship, the following modules:

"(1) Surface warfare.

"(2) Mine countermeasures.

"(3) Anti-submarine warfare."

## DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS

Pub. L. 112–81, div. A, title X, §1003A, Dec. 31, 2011, 125 Stat. 1556, provided that: "Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program."

## DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR ORGANIZATIONAL CLOTHING AND INDIVIDUAL EQUIPMENT

Pub. L. 112–81, div. A, title X, §1094, Dec. 31, 2011, 125 Stat. 1607, provided that:

"(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2013 and each subsequent fiscal year, the Secretary of Defense shall submit to the President, for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a budget justification display that covers all programs and activities associated with the procurement of organizational clothing and individual equipment.

"(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget justification display under subsection (a) for a fiscal year shall include the following:

"(1) The funding requirements in each budget activity and for each Armed Force for organizational clothing and individual equipment.

"(2) The amount in the budget for each of the Armed Forces for organizational clothing and equipment for that fiscal year.

"(c) DEFINITION.—In this section, the term 'organizational clothing and individual equipment' means an item of organizational clothing or equipment prescribed for wear or use with the uniform."

## SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF JOINT LIGHT TACTICAL VEHICLE

Pub. L. 111–383, div. A, title II, §213, Jan. 7, 2011, 124 Stat. 4163, which required a separate, dedicated program element for the Joint Light Tactical Vehicle within each research, development, test, and evaluation account of the Army and the Navy, was repealed by Pub. L. 119–60, div. A, title X, §1004(b)(2), Dec. 18, 2025, 139 Stat. 1028.

## SEPARATE PROCUREMENT LINE ITEM FOR BODY ARMOR

Pub. L. 111–84, div. A, title I, §141(b), Oct. 28, 2009, 123 Stat. 2223, which required a separate, dedicated procurement line item for body armor within each military department procurement account, was omitted in the general amendment of section 141 of Pub. L. 111–84 by Pub. L. 119–60, div. A, title X, §1004(a)(2), Dec. 18, 2025, 139 Stat. 1028.

## SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF

## INDIVIDUAL BODY ARMOR AND ASSOCIATED COMPONENTS

Pub. L. 111–84, div. A, title II, §216, Oct. 28, 2009, 123 Stat. 2227, provided that: "In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of each military department a separate, dedicated program element is assigned to the research and development of individual body armor and associated components."

## SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR THE F–35B AND F–35C JOINT STRIKE FIGHTER AIRCRAFT

Pub. L. 111–84, div. A, title II, §217, Oct. 28, 2009, 123 Stat. 2228, provided that: "In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within the Navy research, development, test, and evaluation account and the Navy aircraft procurement account, a separate, dedicated line item and program element is assigned to each of the F-35B aircraft and the F-35C aircraft, to the extent that such accounts include funding for each such aircraft."

## GUIDANCE ON BUDGET JUSTIFICATION MATERIALS DESCRIBING FUNDING REQUESTED FOR OPERATION, SUSTAINMENT, MODERNIZATION, AND PERSONNEL OF MAJOR RANGES AND TEST FACILITIES

Pub. L. 111–84, div. A, title II, §220, Oct. 28, 2009, 123 Stat. 2229, as amended by Pub. L. 116–283, div. A, title XVIII, §1845(c)(6), Jan. 1, 2021, 134 Stat. 4247; Pub. L. 118–159, div. B, title XXVIII, §2871(c)(2), Dec. 23, 2024, 138 Stat. 2281, provided that:

"(a) GUIDANCE ON BUDGET JUSTIFICATION MATERIALS.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and the Director of the Department of Defense Test Resource Management Center, shall issue guidance clarifying and standardizing the information required in budget justification materials describing amounts to be requested in the budget of the President for a fiscal year (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) for funding for each facility and resource of the Major Range and Test Facility Base in connection with each of the following:

"(1) Operation.

"(2) Sustainment.

"(3) Investment and modernization.

"(4) Government personnel.

"(5) Contractor personnel.

"(b) APPLICABILITY.—The guidance issued under subsection (a) shall apply with respect to budgets of the President for fiscal years after fiscal year 2010.

"(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section, the term 'Major Range and Test Facility Base' has the meaning given that term in section 4173 of title 10, United States Code."

## MILITARY MUNITIONS RESPONSE PROGRAM AND INSTALLATION RESTORATION PROGRAM

Pub. L. 111–84, div. A, title III, §318(b), Oct. 28, 2009, 123 Stat. 2250, provided that: "As part of the annual budget submission of the Secretary of Defense to Congress, the Secretary shall include the funding levels requested for the Military Munitions Response Program and the Installation Restoration Program."

## SEPARATE PROCUREMENT LINE ITEMS FOR FUTURE COMBAT SYSTEMS PROGRAM

Pub. L. 110–417, [div. A], title I, §111, Oct. 14, 2008, 122 Stat. 4373, which required separate, dedicated procurement line items for certain elements of the Future Combat Systems program, was repealed by Pub. L. 119–60, div. A, title X, §1004(b)(3), Dec. 18, 2025, 139 Stat. 1028.

## SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR SKY WARRIOR UNMANNED AERIAL SYSTEMS PROJECT

Pub. L. 110–417, [div. A], title II, §214, Oct. 14, 2008, 122 Stat. 4386, which required a separate, dedicated line item and program element for the Sky Warrior Unmanned Aerial Systems project within accounts for procurement and for research, development, test, and evaluation, was repealed by Pub. L. 119–60, div. A, title X, §1004(b)(4), Dec. 18, 2025, 139 Stat. 1028.

## DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION

Pub. L. 110–417, [div. A], title III, §354, Oct. 14, 2008, 122 Stat. 4426, which required the Secretary of Defense to submit to the President a display of annual budget requirements for the Air Sovereignty Alert Mission of the Air Force, was repealed by Pub. L. 113–188, title IV, §401(a), Nov. 26, 2014, 128 Stat. 2019.

[Pub. L. 113–291, div. A, title X, §1060(b), Dec. 19, 2014, 128 Stat. 3502, which directed repeal of section 354 of Pub. L. 110–417, formerly set out above, could not be executed because of the prior repeal by Pub. L. 113–188, title IV, §401(a), Nov. 26, 2014, 128 Stat. 2019.]

## REQUIREMENT FOR SEPARATE DISPLAY OF BUDGETS FOR AFGHANISTAN AND IRAQ

Pub. L. 110–417, [div. A], title XV, §1502, Oct. 14, 2008, 122 Stat. 4649, which required that in annual or supplemental budget requests submitted after Oct. 14, 2008, funding for Afghanistan and Iraq be displayed separately, was repealed by Pub. L. 119–60, div. A, title X, §1004(b)(5), Dec. 18, 2025, 139 Stat. 1028.

## REPORT ON FUNDING OF THE DEPARTMENT OF DEFENSE FOR HEALTH CARE

Pub. L. 110–181, div. A, title VII, §718, Jan. 28, 2008, 122 Stat. 197, provided that:

"(a) REPORT.—If the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, and the aggregate amount included in that budget for the Department of Defense for health care for such fiscal year is less than the aggregate amount provided by Congress for the Department for health care for the preceding fiscal year, and, in the case of the Department, the total allocation from the Defense Health Program to any military department is less than the total of such allocation in the preceding fiscal year, the President shall submit to Congress a report on—

"(1) the reasons for the determination that inclusion of a lesser aggregate amount or allocation to any military department is in the national interest; and

"(2) the anticipated effects of the inclusion of such lesser aggregate amount or allocation to any military department on the access to and delivery of medical and support services to members of the Armed Forces and their family members.

"(b) TERMINATION.—The section shall not be in effect after December 31, 2017."

## SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES

Pub. L. 110–181, div. A, title VIII, §806, Jan. 28, 2008, 122 Stat. 213, which required that materials submitted to Congress in support of the Defense Department budget identify clearly and separately the amounts requested in each budget account for procurement of contract services, was repealed and restated as former section 235 of this title by Pub. L. 111–84, div. A, title VIII, §803(a)(1), (3), Oct. 28, 2009, 123 Stat. 2402.

## REPORT ON MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES PERSONNEL

Pub. L. 110–181, div. A, title IX, §901(b), (c), Jan. 28, 2008, 122 Stat. 272, which required that the Secretary of Defense include a report with the defense budget materials for each fiscal year concerning the number of military personnel and civilian employees of the Department of Defense assigned to major headquarters activities for each component of the Department, any increase in personnel assigned to major headquarters activities attributable to certain reasons, and any cost savings associated with the elimination of contracts for the performance of major headquarters activities, was repealed by Pub. L. 111–84, div. A, title XI, §1109(b)(3), Oct. 28, 2009, 123 Stat. 2493.

## MAJOR FORCE PROGRAM CATEGORY FOR SPACE

Pub. L. 112–10, div. A, title VIII, §8092, Apr. 15, 2011, 125 Stat. 77, provided that: "The Secretary of Defense shall create a major force program category for space for each future-years defense program of the Department of Defense submitted to Congress under section 221 of title 10, United States Code, during fiscal year 2011. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111–118, div. A, title VIII, §8099, Dec. 19, 2009, 123 Stat. 3450.

Pub. L. 110–329, div. C, title VIII, §8104, Sept. 30, 2008, 122 Stat. 3644.

Pub. L. 110–116, div. A, title VIII, §8111, Nov. 13, 2007, 121 Stat. 1339.

## REQUEST FOR FUNDS FOR ONGOING MILITARY OPERATION OVERSEAS

Pub. L. 110–116, div. A, title VIII, §8116, Nov. 13, 2007, 121 Stat. 1340, provided that: "Any request for funds for a fiscal year after fiscal year 2008 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, shall be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code."

## ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM

Pub. L. 109–364, div. A, title III, §347(a), (b), Oct. 17, 2006, 120 Stat. 2158, which required that the Secretary of Defense include in budget justification documents for each fiscal year a report on future requirements of the Department of Defense concerning Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service, was repealed by Pub. L. 112–81, div. A, title X, §1062(d)(1), Dec. 31, 2011, 125 Stat. 1585.

## BUDGETING FOR ONGOING MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

Pub. L. 109–364, div. A, title X, §1008, Oct. 17, 2006, 120 Stat. 2374, provided that: "The President's budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2007 shall include—

"(1) a request for the appropriation of funds for such fiscal year for ongoing military operations in Afghanistan and Iraq;

"(2) an estimate of all funds expected to be required in that fiscal year for such operations; and

"(3) a detailed justification of the funds requested."

## SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM

Pub. L. 109–163, div. A, title II, §214, Jan. 6, 2006, 119 Stat. 3168, provided that:

"(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following systems development and demonstration projects of the Armored Systems Modernization program:

"(1) Manned Ground Vehicles.

"(2) Systems of Systems Engineering and Program Management.

"(3) Future Combat Systems Reconnaissance Platforms and Sensors.

"(4) Future Combat Systems Unmanned Ground Vehicles.

"(5) Unattended Sensors.

"(6) Sustainment.

"(b) EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

"(c) TECHNOLOGY INSERTION TO CURRENT FORCE.—

"(1) REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

"(2) DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program."

## ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS

Pub. L. 107–314, div. A, title III, §351, Dec. 2, 2002, 116 Stat. 2516, as amended by Pub. L. 110–417, [div.

A], title X, §1051, Oct. 14, 2008, 122 Stat. 4604; Pub. L. 113–66, div. A, title III, §333, Dec. 26, 2013, 127 Stat. 739, which related to annual submission of information regarding information technology capital assets, was repealed by Pub. L. 114–92, div. A, title X, §1079(h), Nov. 25, 2015, 129 Stat. 1000.

## DEPARTMENT OF DEFENSE REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS

Pub. L. 107–249, §131, Oct. 23, 2002, 116 Stat. 1586, provided that:

"(a) REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2003, the amount requested for environmental restoration, waste management, and environmental compliance activities in such fiscal year with respect to military installations approved for closure or realignment under the base closure laws shall accurately reflect the anticipated cost of such activities in such fiscal year.

"(b) BASE CLOSURE LAWS DEFINED.—In this section, the term 'base closure laws' means the following:

"(1) Section 2687 of title 10, United States Code.

"(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(3) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note)."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107–64, §131, Nov. 5, 2001, 115 Stat. 482.

## BUDGET JUSTIFICATION DOCUMENTS FOR COSTS OF ARMED FORCES' PARTICIPATION IN CONTINGENCY OPERATIONS

Pub. L. 107–248, title VIII, §8132, Oct. 23, 2002, 116 Stat. 1568, provided that: "The budget of the President for fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003."

Similar provisions were contained in the following appropriation acts:

Pub. L. 117–103, div. C, title VIII, §8079, Mar. 15, 2022, 136 Stat. 194.
Pub. L. 116–260, div. C, title VIII, §8076, Dec. 27, 2020, 134 Stat. 1323.
Pub. L. 116–93, div. A, title VIII, §8076, Dec. 20, 2019, 133 Stat. 2355.
Pub. L. 115–245, div. A, title VIII, §8074, Sept. 28, 2018, 132 Stat. 3018.
Pub. L. 115–141, div. C, title VIII, §8075, Mar. 23, 2018, 132 Stat. 482.
Pub. L. 115–31, div. C, title VIII, §8076, May 5, 2017, 131 Stat. 265.
Pub. L. 114–113, div. C, title VIII, §8075, Dec. 18, 2015, 129 Stat. 2370.
Pub. L. 113–235, div. C, title VIII, §8078, Dec. 16, 2014, 128 Stat. 2272.
Pub. L. 113–76, div. C, title VIII, §8075, Jan. 17, 2014, 128 Stat. 123.
Pub. L. 113–6, div. C, title VIII, §8075, Mar. 26, 2013, 127 Stat. 315.
Pub. L. 112–74, div. A, title VIII, §8077, Dec. 23, 2011, 125 Stat. 824.
Pub. L. 112–10, div. A, title VIII, §8077, Apr. 15, 2011, 125 Stat. 74.
Pub. L. 111–118, div. A, title VIII, §8083, Dec. 19, 2009, 123 Stat. 3447.
Pub. L. 110–329, div. C, title VIII, §8086, Sept. 30, 2008, 122 Stat. 3641.
Pub. L. 110–116, div. A, title VIII, §8091, Nov. 13, 2007, 121 Stat. 1335.
Pub. L. 109–289, div. A, title VIII, §8089, Sept. 29, 2006, 120 Stat. 1294.
Pub. L. 109–148, div. A, title VIII, §8100, Dec. 30, 2005, 119 Stat. 2721.
Pub. L. 108–287, title VIII, §8116, Aug. 5, 2004, 118 Stat. 998.

Pub. L. 108–87, title VIII, §8115, Sept. 30, 2003, 117 Stat. 1099.
Pub. L. 107–117, div. A, title VIII, §8097, Jan. 10, 2002, 115 Stat. 2268.
Pub. L. 106–259, title VIII, §8097, Aug. 9, 2000, 114 Stat. 695.
Pub. L. 106–79, title VIII, §8110, Oct. 25, 1999, 113 Stat. 1257.

## BUDGET SUBMISSIONS ON ACTIVE AND RESERVE MILITARY PERSONNEL ACCOUNTS

Pub. L. 105–262, title VIII, §8093, Oct. 17, 1998, 112 Stat. 2319, provided that: "At the time the President submits his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] a budget justification document for the active and reserve Military Personnel accounts, to be known as the 'M–1', which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year."

Similar provisions were contained in the following prior appropriation act:
Pub. L. 105–56, title VIII, §8104, Oct. 8, 1997, 111 Stat. 1243.

## MODIFICATION OF BUDGET DATA EXHIBITS

Pub. L. 105–85, div. A, title III, §324(c), Nov. 18, 1997, 111 Stat. 1678, provided that: "The Under Secretary of Defense (Comptroller) shall ensure that aircraft budget data exhibits of the Department of Defense that are submitted to Congress display total numbers of active aircraft where numbers of primary aircraft or primary authorized aircraft are displayed in those exhibits."

## INCLUSION OF AIR FORCE DEPOT MAINTENANCE AS OPERATION AND MAINTENANCE BUDGET LINE ITEMS

Pub. L. 105–85, div. A, title III, §327, Nov. 18, 1997, 111 Stat. 1679, provided that: "For fiscal year 1999 and each fiscal year thereafter, Air Force depot-level maintenance of materiel shall be displayed as one or more separate line items under each subactivity within the authorization request for operation and maintenance, Air Force, in the proposed budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, United States Code."

## IDENTIFICATION IN PRESIDENT'S BUDGET OF NATO COSTS

Pub. L. 106–79, title VIII, §8091, Oct. 25, 1999, 113 Stat. 1253, provided that: "The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as 'subactivities') in all appropriations accounts provided in this Act [see Tables for classification], as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2001, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs."

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 105–262, title VIII, §8095, Oct. 17, 1998, 112 Stat. 2319.
Pub. L. 105–56, title VIII, §8116, Oct. 8, 1997, 111 Stat. 1245.

## PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 104–106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which required that in budget justification materials submitted to Congress in support of Department of Defense budget, the amount requested for activities of the Ballistic Missile Defense Organization be set forth in accordance with specified program elements, was repealed and restated as former section 223 of this title by Pub. L. 105–261, div. A, title II, §235(a)(1), (b), Oct. 17, 1998, 112 Stat. 1953.

## BUDGET SUBMISSIONS ON SALARIES AND EXPENSES RELATED TO ADMINISTRATIVE ACTIVITIES

Pub. L. 109–148, div. A, title VIII, §8032, Dec. 30, 2005, 119 Stat. 2705, provided that: "The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies."

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 108–287, title VIII, §8036, Aug. 5, 2004, 118 Stat. 978.
Pub. L. 108–87, title VIII, §8036, Sept. 30, 2003, 117 Stat. 1080.
Pub. L. 107–248, title VIII, §8036, Oct. 23, 2002, 116 Stat. 1544.
Pub. L. 107–117, div. A, title VIII, §8039, Jan. 10, 2002, 115 Stat. 2256.
Pub. L. 106–259, title VIII, §8039, Aug. 9, 2000, 114 Stat. 683.
Pub. L. 106–79, title VIII, §8042, Oct. 25, 1999, 113 Stat. 1240.
Pub. L. 105–262, title VIII, §8042, Oct. 17, 1998, 112 Stat. 2306.
Pub. L. 105–56, title VIII, §8046, Oct. 8, 1997, 111 Stat. 1231.
Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8047], Sept. 30, 1996, 110 Stat. 3009–71, 3009–98.
Pub. L. 104–61, title VIII, §8058, Dec. 1, 1995, 109 Stat. 663.
Pub. L. 103–335, title VIII, §8069, Sept. 30, 1994, 108 Stat. 2635.
Pub. L. 103–139, title VIII, §8082, Nov. 11, 1993, 107 Stat. 1458.
Pub. L. 102–396, title IX, §9132, Oct. 6, 1992, 106 Stat. 1936.

**SUBMISSION OF MULTIYEAR DEFENSE PROGRAM**

Pub. L. 101–510, div. A, title XIV, §1402(b), Nov. 5, 1990, 104 Stat. 1674, provided for limitations on obligation by Secretary of Defense of fiscal year 1991 advance procurement funds if, as of end of 90-day period beginning on date on which President's budget for fiscal year 1992 was submitted to Congress, the Secretary had not submitted to Congress fiscal year 1992 multiyear defense program.

**MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN BUDGET**

Pub. L. 101–510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, directed President to submit with budget submitted to Congress each year of programs of Department of Defense, a budget that organizes programs within major functional category 050 (National Defense) on basis of major roles and missions of Department of Defense, prior to repeal by Pub. L. 102–484, div. A, title X, §1002(b), Oct. 23, 1992, 106 Stat. 2480. See section 222 of this title.

**DEFINITION OF "CONGRESSIONAL DEFENSE COMMITTEES"**

Pub. L. 115–141, div. J, title I, §127, Mar. 23, 2018, 132 Stat. 804, provided that: "For the purposes of this Act [div. J of Pub. L. 115–141, 132 Stat. 796, see Tables for classification], the term 'congressional defense committees' means the Committees on Armed Services of the House of Representatives and the Senate, the Subcommittee on Military Construction and Veterans Affairs of the Committee on Appropriations of the Senate, and the Subcommittee on Military Construction and Veterans Affairs of the Committee on Appropriations of the House of Representatives."

## §222. Future-years mission budget

(a) FUTURE-YEARS MISSION BUDGET.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.

(b) CONSISTENCY WITH FUTURE-YEARS DEFENSE PROGRAM.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of major force programs.

(c) RELATIONSHIP TO OTHER DEFENSE BUDGET FORMATS.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year.

(Added Pub. L. 102–484, div. A, title X, §1002(a)(2), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–337, div. A, title X, §1004, Oct. 5, 1994, 108 Stat. 2834; Pub. L. 110–181, div. A, title IX, §944(a), (b), Jan. 28, 2008, 122 Stat. 289, 290; Pub. L. 115–91, div. A, title X, §1081(a)(16), Dec. 12, 2017, 131 Stat. 1595.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102–484, §1002(b).

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 substituted "major force programs." for "both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title."

**2008**—Subsec. (a). Pub. L. 110–181, §944(a), amended last sentence generally. Prior to amendment, last sentence read as follows: "That budget shall be submitted for any fiscal year not later than 60 days after the date on which the President's budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31."

Subsec. (b). Pub. L. 110–181, §944(b), substituted "on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title." for "on the basis of major roles, missions, or forces of the Department of Defense."

**1994**—Subsec. (a). Pub. L. 103–337 substituted "not later than 60 days after the date on which" for "at the same time that".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title IX, §944(c), Jan. 28, 2008, 122 Stat. 290, provided that: "The amendments made by this section [amending this section] shall apply with respect to the future-years mission budget for fiscal year 2010 and each fiscal year thereafter."

## §222a. Unfunded priorities of the armed forces and combatant commands: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, each officer specified in subsection (b) shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the armed force or forces or combatant command under the jurisdiction or command of such officer.

(b) OFFICERS.—The officers specified in this subsection are the following:

(1) The Chief of Staff of the Army.

(2) The Chief of Naval Operations.

(3) The Chief of Staff of the Air Force.

(4) The Commandant of the Marine Corps.

(5) The Chief of Space Operations.

(6) The commanders of the combatant commands established under section 161 of this title.

(7) The Chief of the National Guard Bureau in the role assigned to that position in section 10502(c)(1) of this title.

(c) ELEMENTS.—

(1) IN GENERAL.—Each report under this subsection shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives outlined in the national defense strategy required under section 113(g) of this title and the National Military Strategy required under section 139(b) of this title to be advanced if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under

subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(D) A detailed assessment of each specific risk that would be reduced in executing the national defense strategy required under section 113(g) of this title and the National Military Strategy required under section 139(b) of this title if such priority is funded (whether in whole or in part).

(E) The requirement to be addressed by the unfunded priority.

(F) The reason why funding for the priority was not included in the budget of the President.

(G) A description of any funding provided for the requirement for the current and preceding fiscal year.

(H) An assessment of the effect that providing funding for the priority would have on the future-years defense plan.

(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report as follows:

(A) In overall order of urgency of priority according to the amount of risk reduced.

(B) In overall order of urgency of priority among unfunded priorities (other than covered military construction projects).

(C) In overall order of urgency of priority among covered military construction projects.

(3) NATIONAL GUARD UNFUNDED PRIORITIES.—

(A) IN GENERAL.—The officer specified under subsection (b)(7) shall only include in a report submitted under subsection (a) such priorities that—

(i) relate to equipping requirements in support of non-federalized National Guard responsibilities for the homeland defense or civil support missions; and

(ii) except as provided in subparagraph (B), were not included in a report under this section submitted by an officer specified in subsection (b)(1) or (3) for any of five fiscal years preceding the fiscal year for which the report is submitted, on behalf of National Guard forces to address a warfighting requirement.

(B) EXCEPTION.—The officer specified under subsection (b)(7) may include in a report submitted under subsection (a) an unfunded priority covered by subparagraph (A)(ii) if the Secretary of Defense—

(i) determines that the inclusion such unfunded priority reasonably supports the priorities of the Department under the national defense strategy under section 113(g) of this title; and

(ii) submits to the congressional defense committees written notice of such determination.

(d) PRIORITIZATION.—Not later than 10 days after the receipt of all of the reports referred to in subsection (a), the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall submit to the congressional defense committees a report that prioritizes each specific unfunded priority across all unfunded priorities submitted by officers specified in (b) according to the risk reduced in executing the national defense strategy required under section 113(g) of this title and the National Military Strategy required under section 139(b) of this title.

(e) DEFINITIONS.—In this section:

(1) The term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement, including a covered military construction project, that—

(A) is not funded in the budget of the President for the fiscal year as submitted to Congress

pursuant to section 1105 of title 31;

(B) is necessary to fulfill a requirement associated with an operational or contingency plan of a combatant command or other validated requirement; and

(C) would have been recommended for funding through the budget referred to in subparagraph (1) by the officer submitting the report required by subsection (a) in connection with the budget if—

(i) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(ii) the program, activity, or mission requirement has emerged since the budget was formulated.

(2) The term "covered military construction project", in connection with a fiscal year, means a military construction project that—

(A) is included in any fiscal year of the future-years defense program under section 221 of this title that is submitted in connection with the budget of the President for the fiscal year, and is executable in the fiscal year; or

(B) is considered by the commander of a combatant command referred to in subsection (b)(5) to be an urgent need, and is executable in the fiscal year.

(Added Pub. L. 114–328, div. A, title X, §1064(a)(1), Dec. 23, 2016, 130 Stat. 2408; amended Pub. L. 116–92, div. A, title X, §1005, title XVII, §1731(a)(12), Dec. 20, 2019, 133 Stat. 1573, 1813; Pub. L. 116–283, div. A, title IX, §924(b)(10), title X, §§1006, 1081(a)(12), Jan. 1, 2021, 134 Stat. 3823, 3838, 3871; Pub. L. 117–263, div. A, title III, §384(b), title X, §1051, Dec. 23, 2022, 136 Stat. 2544, 2775; Pub. L. 118–31, div. A, title X, §1003, Dec. 22, 2023, 137 Stat. 379; Pub. L. 118–159, div. A, title XVII, §1701(a)(5), Dec. 23, 2024, 138 Stat. 2203.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d). Pub. L. 118–159 struck out "the" before "all of the reports".

**2023**—Subsec. (c)(1)(E) to (H). Pub. L. 118–31 added subpars. (E) to (H).

**2022**—Subsec. (c)(1)(A). Pub. L. 117–263, §1051(1)(A)(i), substituted "outlined in the national defense strategy required under section 113(g) of this title and the National Military Strategy required under section 139(b) of this title to be advanced" for "to be achieved".

Subsec. (c)(1)(D). Pub. L. 117–263, §1051(1)(A)(ii), added subpar. (D).

Subsec. (c)(2)(A). Pub. L. 117–263, §1051(1)(B), inserted "according to the amount of risk reduced" after "priority".

Subsec. (c)(3). Pub. L. 117–263, §384(b), substituted "subsection (b)(7)" for "subsection (b)(6)" in introductory provisions of subpars. (A) and (B).

Subsecs. (d), (e). Pub. L. 117–263, §1051(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

**2021**—Subsec. (b)(5), (6). Pub. L. 116–283, §924(b)(10), added par. (5) and redesignated former par. (5) as (6).

Subsec. (b)(7). Pub. L. 116–283, §1006(1), added par. (7).

Subsec. (c)(3). Pub. L. 116–283, §1006(2), added par. (3).

Subsec. (d)(1)(C)(i). Pub. L. 116–283, §1081(a)(12), inserted "had" before "been available".

**2019**—Subsec. (c)(2). Pub. L. 116–92, §1005(b), amended par. (2) generally. Prior to amendment, text read as follows: "Each report shall present the unfunded priorities covered by such report in order of urgency of priority."

Subsec. (d). Pub. L. 116–92, §1005(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined the term "unfunded priority".

Subsec. (d)(3)(A). Pub. L. 116–92, §1731(a)(12), inserted "had" before "been" prior to the general amendment of subsec. (d). See Amendment note above and Coordination of Amendments by Pub. L. 116–92 note below.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**COORDINATION OF AMENDMENTS BY PUB. L. 116–92**

Amendments to this section by section 1731 of Pub. L. 116–92 to be treated as having been enacted immediately before amendments by other provisions of Pub. L. 116–92, see section 1731(f) of Pub. L. 116–92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

**ANNUAL REPORT ON UNFUNDED REQUIREMENTS FOR LABORATORY MILITARY CONSTRUCTION PROJECTS**

Pub. L. 115–91, div. B, title XXVIII, §2806, Dec. 12, 2017, 131 Stat. 1847, as amended by Pub. L. 116–92, div. B, title XXVIII, §2807, Dec. 20, 2019, 133 Stat. 1885, provided that: "The Under Secretary of Defense for Research and Engineering, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] each year, at the time the budget of the President for the fiscal year beginning in such year is submitted to Congress under section 1105(a) of title 31, United States Code, a report listing unfunded requirements on major and minor military construction projects for Department of Defense science and technology laboratories and facilities and test and evaluation facilities, in prioritized order, with specific accounts and program elements identified, and shall include a Department of Defense Form DD1391 for each major and minor military construction project included in the report."

## [§222b. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added and amended Pub. L. 115–232, div. A, title XVI, §1677(a), (b)(1), Aug. 13, 2018, 132 Stat. 2160, 2161; Pub. L. 116–92, div. A, title XVII, §1731(a)(13), Dec. 20, 2019, 133 Stat. 1813, related to annual report on the unfunded priorities of the Missile Defense Agency. See section 5513 of this title. Section, as added and amended by Pub. L. 115–232, was based on Pub. L. 114–328, div. A, title XVI, §1696, Dec. 23, 2016, 130 Stat. 2638.

## §222c. Armed forces: Out-Year Unconstrained Total Munitions Requirements; Out-Year inventory numbers

(a) ANNUAL REPORTS.—At the same time each year that the budget for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105(a) of title 31, the chief of staff of each armed force (other than the Coast Guard) shall submit to the congressional defense committees a report setting forth for such armed force each of the following for such fiscal year, broken out as specified in subsection (c):

(1) The Out-Year Unconstrained Total Munitions Requirement.

(2) The Out-Year inventory numbers.

(b) PROHIBITION ON DELEGATION OF SUBMITTAL RESPONSIBILITY.—The responsibility of the chief of staff of an armed force in subsection (a) to submit a report may not be delegated outside the armed force concerned.

(c) PRESENTATION.—The Out-Year Unconstrained Total Munitions Requirement and Out-Year inventory numbers for an armed force for a fiscal year pursuant to subsection (a) shall include specific inventory objective requirements for each variant of munitions with respect to each of the following:

(1) Combat Requirement, broken out by operation plan (OPLAN) and including OPLANs for operations involving the People's Republic of China, the Russian Federation, the Democratic People's Republic of North Korea, and the Islamic Republic of Iran.

(2) Current Operation/Forward Presence Requirement.

(3) Strategic Readiness Requirement.

(4) Homeland Defense.

(5) Air and Missile Defense.

(6) Training and Testing Requirement.

(7) Total Out-Year Unconstrained Total Munitions Requirement, calculated in accordance with the implementation guidance described in subsection (d).

(8) Out-year worldwide inventory.

(9) [1] Requirement for Protracted Warfare Scenarios, calculated by doubling the duration of each applicable operation plan.

(9) [1] The estimated aggregate demand from United States allies and partners.

(d) IMPLEMENTATION GUIDANCE USED.—In submitting information pursuant to subsection (a) for a fiscal year, the chief of staff of each armed force shall describe and explain the munitions requirements process implementation guidance developed by the Under Secretary of Defense for Acquisition and Sustainment and used by such armed force for the munitions requirements process for such armed force for that fiscal year.

(e) ADDITIONAL REQUIREMENTS.—Each report required under subsection (a) shall include the following:

(1) The production level for each fiscal year required to meet the Out-Year Unconstrained Total Munitions Requirement at the end of the future years defense program.

(2) The amount of funding that would be required, for each fiscal year, to meet the production level specified in paragraph (1) for that fiscal year.

(f) INCLUSION IN PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION.—The Secretary of Defense shall ensure that the production levels specified in paragraph (1) [2] are incorporated into the planning, programming, budgeting, and execution process of the Department of Defense to align munitions procurement with the Out-Year Unconstrained Total Munitions Requirement.

(g) METHODOLOGY.—The estimate specified in subsection (c)(9) [3]—

(1) shall be based on, at a minimum, relevant information set forth in letters of offer and acceptance issued with respect to foreign military sales of munitions authorized under chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.); and

(2) may be informed by—

(A) discussions held with allies and partners of the United States regarding future potential sales or transfers of munitions; and

(B) analyses of the United States Government regarding the variants of munitions that would most benefit the interests of the United States if sold or transferred to allies and partners of the United States.

(h) DEFINITIONS.—In this section:

(1) The term "chief of staff", with respect to the Marine Corps, means the Commandant of the Marine Corps.

(2) The term "Out-Year Unconstrained Total Munitions Requirement" has the meaning given that term in and for purposes of Department of Defense Instruction 3000.04, or any successor instruction.

(Added Pub. L. 115–232, div. A, title X, §1061(a), Aug. 13, 2018, 132 Stat. 1969; amended Pub. L. 116–92, div. A, title X, §1006, Dec. 20, 2019, 133 Stat. 1574; Pub. L. 117–263, div. A, title XVII, §1701(c), Dec. 23, 2022, 136 Stat. 2964; Pub. L. 119–60, div. A, title III, §§361, 362, Dec. 18, 2025, 139 Stat. 833, 834.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Subsection (c)(9), referred to in subsec. (g), probably means the subsec. (c)(9) of this section added by section 361(1)(B) of Pub. L. 119–60, relating to estimated aggregate demand from United States allies and

partners.

The Arms Export Control Act, referred to in subsec. (g)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320. Chapter 2 of ths Act is classified generally to subchapter II (§2761 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

**AMENDMENTS**

**2025**—Subsec. (c)(1). Pub. L. 119–60, §361(1)(A), inserted "and including OPLANs for operations involving the People's Republic of China, the Russian Federation, the Democratic People's Republic of North Korea, and the Islamic Republic of Iran" after "(OPLAN)".

Subsec. (c)(5) to (8). Pub. L. 119–60, §362, added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

Subsec. (c)(9). Pub. L. 119–60, §362(1), redesignated par. (8), relating to Protracted Warfare Scenarios, as (9).

Pub. L. 119–60, §361(1)(B), added par. (9) relating to estimated aggregate demand from United States allies and partners.

Subsec. (e)(1). Pub. L. 119–60, §361(2)(A), substituted "production level for each fiscal year" for "number of years" and "end of the future years defense program" for "rate requested for the fiscal year covered by the report".

Subsec. (e)(2). Pub. L. 119–60, §361(2)(C), struck out "additional" before "amount" and substituted "production level specified in paragraph (1) for that fiscal year." for "Out-Year Unconstrained Total Munitions Requirement for each munition by the end of the period covered by the most recent future-years defense program submitted to Congress pursuant to section 221 of this title."

Pub. L. 119–60, §361(2)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The average rate of procurement during the three-year period preceding the date of the submission of the report, and the number of years required to meet the Out-Year Unconstrained Total Munitions Requirement at such three-year average rate."

Subsec. (e)(3). Pub. L. 119–60, §361(2)(B), redesignated par. (3) as (2).

Subsecs. (f) to (h). Pub. L. 119–60, §361(3), (4), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

**2022**—Subsec. (c)(8). Pub. L. 117–263, §1701(c)(1), added par. (8).

Subsecs. (e), (f). Pub. L. 117–263, §1701(c)(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f).

**2019**—Subsec. (a). Pub. L. 116–92, §1006(1), substituted "subsection (c)" for "subsection (b)" in introductory provisions.

Subsecs. (b) to (e). Pub. L. 116–92, §1006(2)–(4), added subsec. (b), redesignated former subsec. (b) as (c) and in par. (6) substituted "subsection (d)" for "subsection (c)", and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

*[1] So in original. Two pars. (9) have been enacted.*

*[2] So in original. Probably means paragraph (1) of subsection (e).*

*[3] See References in Text note below.*

## §222d. Annual report on industrial base constraints for munitions

(a) IN GENERAL.—Not later than 30 days after the submission of all reports required under section 222c(a) of this title, the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the service acquisition executive of each military department, shall submit to the congressional defense committees a report detailing the industrial base constraints for each munition identified in the Out-Year Unconstrained Total Munitions Requirement.

(b) ELEMENTS.—The report required under subsection (a) shall include the following elements, broken down by munition:

(1) Programmed purchase quantities per year.

(2) Average procurement unit cost per year.

(3) Contract type.

(4) Current minimum sustaining rate of production per month and year.

(5) Current maximum rate of production per month and year.

(6) Expected date to meet the Out-Year Unconstrained Total Munitions Requirement in section 222c of this title under the programmed purchase quantities established for the period covered by the report.

(7) A description of industrial base constraints on increased production of each munition, including any supply chain weaknesses.

(8) A description of investments or policy changes made by a defense contractor or by the United States Government to increase production, enable more efficient production, or mitigate significant loss of stability in potential production.

(9) A description of potential investments or policy changes identified by a defense contractor or the United States Government to increase munitions production, enable more efficient production, or mitigate significant loss of stability in potential production, including—

(A) direct investments in test and tooling equipment, workforce development, or improvements to existing production facilities;

(B) a pool of rotable critical components or subcomponents for munitions;

(C) multiyear contracts or other contracting strategies;

(D) direct investments in components, subcomponents, or raw materials commonly used across the industrial base;

(E) direct investments in additive manufacturing or expeditionary manufacturing capabilities;

(F) direct investments in simplification of supply chains; and

(G) direct investments in technologies or methods to enable increased scalability and reduced complexity of production processes for current or future munitions.

(10) A list of each contract for a munition with a priority rating of "critical to national defense" (commonly referred to as a "DO-rated order") or a priority rating of "highest national defense urgency" (commonly referred to as a "DX-rated order") in the Defense Priorities and Allocation System pursuant to part 700 of title 15, Code of Federal Regulations (or any successor regulation).

(11) A prioritized list of munitions judged to have high value for export for which additional investments would be necessary to enable export, including a description of such investments required.

(12) A list of munitions subject to the requirements of chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.) relating to foreign military sales that are anticipated to be exported based on developments in the conflict in Ukraine.

(c) MUNITION DEFINED.—In this section, the term "munition" has the meaning given that term by the Under Secretary of Defense for Acquisition and Sustainment.

(Added Pub. L. 117–263, div. A, title XVII, §1701(d)(1), Dec. 23, 2022, 136 Stat. 2965; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(6), Dec. 18, 2025, 139 Stat. 1208.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(12), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320. Chapter 2 of the Act is classified generally to subchapter II (§2761 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60 inserted "that term" after "meaning given" and "and Sustainment" after "Under Secretary of Defense for Acquisition".

## §222e. Programs, projects, and activities that were internally changed in the submission of the President's budget: annual report

(a) IN GENERAL.—The Secretary of Defense, acting through the Secretaries of the military departments and the officers of Department of Defense agencies and offices not under the control of a Secretary of a military department, shall submit to the congressional defense committees each year, not later than 30 days after the submission of the budget of the President for the fiscal year beginning in such year under section 1105(a) of title 31, a report that includes organized tabulations of programs, projects, and activities in research, development, test, and evaluation, procurement, and military construction the total obligational authority for which was changed in the current budget year proposal compared to the prior-year projection for the current year.

(b) ELEMENTS.—The tabulations required under subsection (a) shall include, for each program, project, or activity that was internally changed, the following elements:

(1) Whether the program, project, or activity was added, eliminated, or reduced and in which fiscal year.

(2) The appropriations sub-account.

(3) The appropriate program element, line item number, or sub-activity group.

(4) The program, project, or activity name.

(5) The prior year enacted appropriation.

(6) The prior year projected current year budget.

(7) The current year budget request.

(8) If applicable, the amount reduced or saved by the current year elimination or reduction over the future years defense plan.

(9) A characterization of the change as a fact-of-life change, a prioritization change, a programmatic change, or a change due to congressional action.

(c) FORM.—The report required under subsection (a) shall be submitted in machine readable, electronic form.

(Added Pub. L. 118–31, div. A, title X, §1002, Dec. 22, 2023, 137 Stat. 378.)

## §222f. Unfunded priorities of the Under Secretary of Defense for Research and Engineering: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense, after coordinating with the Secretaries of the military departments, shall submit to the congressional defense committees a report on the unfunded priorities of the Department of Defense related to activities for which the Under Secretary of Defense for Research and Engineering has authority.

(b) ELEMENTS.—

(1) IN GENERAL.—Except as provided in subsection (c), each report submitted under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(2) PRIORITIZATION OF PRIORITIES.—The report under subsection (a) shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) EXCLUSION OF PRIORITIES COVERED IN OTHER REPORTS.—The report submitted under subsection (a) shall not include unfunded priorities or requirements covered in reports submitted under—

(1) section 222a or 222b [1] of this title; or

(2) section 2806 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 222a note).

(d) FORM OF REPORT.—Each report submitted under subsection (a) shall be submitted in classified form, but may include an unclassified summary as the Secretary considers appropriate.

(e) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement, that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(2) would have been recommended for funding through that budget if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement has emerged since the budget was formulated; and

(3) in the case of a military construction project, has reached 35 percent design.

(Added Pub. L. 118–31, div. A, title II, §211, Dec. 22, 2023, 137 Stat. 182, §222e; amended Pub. L. 118–159, div. A, title II, §212, Dec. 23, 2024, 138 Stat. 1824; renumbered §222f, Pub. L. 119–60, div. A, title XVII, §1701(a)(7), Dec. 18, 2025, 139 Stat. 1208.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 222b of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199. For provisions similar to those in former section 222b of this title, see section 5513 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60 renumbered section 222e of this title relating to annual report on unfunded priorities of the Under Secretary of Defense for Research and Engineering as this section.

**2024**—Subsec. (a). Pub. L. 118–159, §212(1), substituted "the Secretary of Defense, after coordinating with the Secretaries of the military departments, shall" for "the Secretary of Defense shall".

Subsec. (e)(3). Pub. L. 118–159, §212(2), added par. (3).

[1] *See References in Text note below.*

## [§223. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 105–261, div. A, title II, §235(a)(1), Oct. 17, 1998, 112 Stat. 1953; amended Pub. L. 107–107, div. A, title II, §232(a), (b), Dec. 28, 2001, 115 Stat. 1037; Pub. L. 107–314, div. A, title II, §225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, §221(a), (b)(1), (c)(1), Nov. 24, 2003, 117 Stat. 1419, related to program elements for ballistic missile defense programs. See section 5511 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM**

Pub. L. 111–383, div. A, title II, §225, Jan. 7, 2011, 124 Stat. 4170, related to acquisition baselines, elements of baselines, and annual reports, prior to repeal by Pub. L. 112–81, div. A, title II, §231(b)(1), Dec. 31, 2011, 125 Stat. 1339.

**COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM ELEMENT**

Pub. L. 105–85, div. A, title II, §233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107–314, div. A, title II, §225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, directed the Secretary of Defense to establish the Cooperative Ballistic Missile Defense Program to support cooperative efforts between the United States and other nations that contributed to United States ballistic missile defense capabilities.

## §223a. Ballistic missile defense programs: procurement

(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(Added Pub. L. 108–136, div. A, title II, §223(a)(1), Nov. 24, 2003, 117 Stat. 1420; amended Pub. L. 113–291, div. A, title X, §1060(a)(1), Dec. 19, 2014, 128 Stat. 3502.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Subsec. (d). Pub. L. 113–291 struck out subsec. (d). Text read as follows: "The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c)."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY OF TEST PLANS**

Pub. L. 108–136, div. A, title II, §223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

## [§224. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 105–85, div. A, title II, §232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107–107, div. A, title II, §231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107–314, div. A, title II, §§222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108–136, div. A, title II, §226, title X, §1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611, related to display of amounts for research, development, test, and evaluation for ballistic missile defense programs. See section 5512 of this title.

## [§225. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 112–81, div. A, title II, §231(a)(1), Dec. 31, 2011, 125 Stat. 1337; amended Pub. L. 113–66, div. A, title II, §231(b), Dec. 26, 2013, 127 Stat. 711; Pub. L. 117–263, div. A, title XVI, §1652, Dec. 23, 2022, 136 Stat. 2948, provided for acquisition accountability reports on the ballistic missile defense system. See section 5514 of this title.

## §226. Special operations forces: display of service-common and other support and enabling capabilities

(a) IN GENERAL.—The Secretary of Defense and the Secretary of each of the military departments shall include, in the budget materials submitted to Congress under section 1105 of title 31 for fiscal year 2022 and any subsequent fiscal year, a budget justification display for each applicable appropriation showing service-common and other support and enabling capabilities for special operations forces requested by a military service or Defense Agency. Such budget justification displays shall include each of the following:

(1) Details at the appropriation and line item level, including any amount for service-common support, acquisition support, training, operations, pay and allowances, base operations sustainment, and any other common services and support.

(2) An identification of any change in the level or type of service-common support and enabling capabilities provided by each of the military services or Defense Agencies to special operations forces for the fiscal year covered by the budget justification display when compared to the preceding fiscal year, including the rationale for any such change and any mitigating actions.

(3) An assessment of the specific effects that the budget justification display for the fiscal year covered by the display and any anticipated future manpower and force structure changes are likely to have on the ability of each of the military services to provide service-common support and enabling capabilities to special operations forces.

(4) Any other matters the Secretary of Defense or the Secretary of a military department determines are relevant.

(b) CONSOLIDATED BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall include, in the budget materials submitted to Congress under section 1105 of title 31, for fiscal year 2022 and any subsequent fiscal year, a consolidated budget justification display containing the same information as is required in the budget justification displays required under subsection (a). Such consolidated budget justification display may be provided as a summary by appropriation for each military department and a summary by appropriation for all Defense Agencies.

(c) SERVICE-COMMON AND OTHER SUPPORT AND ENABLING CAPABILITIES.—In this section, the term "service-common and other support and enabling capabilities" means capabilities provided in support of special operations that are not reflected in Major Force

Program–11 or designated as special operations forces-peculiar.

(Added Pub. L. 116–92, div. A, title X, §1007(a), Dec. 20, 2019, 133 Stat. 1575; amended Pub. L. 116–283, div. A, title X, §1002, Jan. 1, 2021, 134 Stat. 3836.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 226, added Pub. L. 102–190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, §221; renumbered §226, Pub. L. 102–484, div. A, title X, §1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–160, div. A, title XI, §1104, Nov. 30, 1993, 107 Stat. 1749; Pub. L. 108–136, div. A, title X, §1031(a)(5), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 109–364, div. A, title X, §1007, Oct. 17, 2006, 120 Stat. 2373, related to scoring of outlays by the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(3)(A), Dec. 31, 2011, 125 Stat. 1583.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §1002(1)(A)–(D), inserted "of Defense and the Secretary of each of the military departments" after "Secretary" and substituted "2022" for "2021", "a budget justification display for each applicable appropriation" for "a consolidated budget justification display", and "displays shall include each of the following:" for "display shall include any amount for service-common or other capability development and acquisition, training, operations, pay, base operations sustainment, and other common services and support."

Subsec. (a)(1) to (4). Pub. L. 116–283, §1002(1)(E), added pars. (1) to (4).

Subsecs. (b), (c). Pub. L. 116–283, §1002(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

## §227. Budget justification for covered military unaccompanied housing Facilities Sustainment, Restoration, and Modernization projects

(a) IN GENERAL.—Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, each Secretary of a military department shall include a consolidated budget justification display for the congressional defense committees that individually identifies—

(1) for the fiscal year covered by the budget, the total requested expenditure for Facilities Sustainment, Restoration, and Modernization projects for covered military unaccompanied housing compared to the total expenditure required by such projects, disaggregated by military department; and

(2) the total expenditure for Facilities Sustainment, Restoration, and Modernization projects made during the fiscal year beginning two years before the fiscal year covered by the budget, disaggregated by—

(A) military installation;

(B) the type of facility repaired or restored under such repair projects;

(C) the number of such repair projects that were for sustainment or repair of a facility; and

(D) the number of such repair projects that were for restoration or modernization of a facility.

(b) DEFINITIONS.—In this section:

(1) The term "covered military unaccompanied housing" has the meaning given in section 2856 of this title.

(2) The terms "facility" and "military installation" have the meanings given, respectively, in section 2801 of this title.

(3) The term "repair project" has the meaning given in section 2811 of this title.

(Added Pub. L. 118–159, div. B, title XXVIII, §2821, Dec. 23, 2024, 138 Stat. 2253.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 227, added Pub. L. 103–160, div. A, title III, §374(a), Nov. 30, 1993, 107 Stat. 1636, directed Secretary of Defense to include recruiting costs in budget justification documents submitted to Congress each year in connection with submission of budget, prior to repeal by Pub. L. 104–106, div. A, title X, §1061(f)(1), Feb. 10, 1996, 110 Stat. 443.

## [§228. Repealed. Pub. L. 114–92, div. A, title X, §1073(a)(1), Nov. 25, 2015, 129 Stat. 995]

Section, added Pub. L. 105–85, div. A, title III, §321(a)(1), Nov. 18, 1997, 111 Stat. 1672; amended Pub. L. 107–314, div. A, title III, §361, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108–136, div. A, title X, §§1031(a)(6)(A), (B)(i), 1043(b)(5), Nov. 24, 2003, 117 Stat. 1596, 1611; Pub. L. 112–81, div. A, title X, §1064(4)(A), (B)(i), Dec. 31, 2011, 125 Stat. 1587, related to biannual reports on allocation of funds within operation and maintenance budget subactivities.

## §229. Programs for combating terrorism: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President's annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) shall include—

(1) the amount requested, by appropriation and functional area, for each of the program elements, projects, and initiatives that support the Department of Defense combating terrorism program, with supporting narrative descriptions and rationale for the funding levels requested; and

(2) a summary, to the program element and project level of detail, of estimated expenditures for the current year, funds requested for the budget year, and budget estimates through the completion of the current future-years defense plan for the Department of Defense combating terrorism program.

(c) EXPLANATION OF INCONSISTENCIES.—As part of the budget display under subsection (a) for any fiscal year, the Secretary shall identify and explain—

(1) any inconsistencies between (A) the information submitted under subsection (b) for that fiscal year, and (B) the information provided to the Director of the Office of Management and Budget in support of the annual report of the President to Congress on funding for executive branch counterterrorism and antiterrorism programs and activities for that fiscal year in accordance with section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998 (31 U.S.C. 1113 note); and

(2) any inconsistencies between (A) the execution, during the previous fiscal year and the current fiscal year, of programs and activities of the Department of Defense combating terrorism program, and (B) the funding and specification for such programs and activities for those fiscal years in the manner provided by Congress (both in statutes and in relevant legislative history).

(d) DEPARTMENT OF DEFENSE COMBATING TERRORISM PROGRAM.—In this section, the term "Department of Defense combating terrorism program" means the programs, projects, and activities of the Department of Defense related to combating terrorism inside and outside the United States.

(e) TERMINATION.—The requirement to submit a budget justification display under this section shall terminate on December 31, 2020.

(Added Pub. L. 106–65, div. A, title IX, §932(b)(1), Oct. 5, 1999, 113 Stat. 727; amended Pub. L. 108–136, div. A, title X, §1043(b)(6), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 114–92, div. A, title X, §1044, Nov. 25, 2015, 129 Stat. 977; Pub. L. 115–91, div. A, title X, §1032, Dec. 12, 2017, 131 Stat. 1550.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(1), is section 1051(b) of Pub. L. 105–85, which is set out as a note under section 1113 of Title 31, Money and Finance.

### AMENDMENTS

**2017**—Subsec. (e). Pub. L. 115–91 added subsec. (e).

**2015**—Subsecs. (d), (e). Pub. L. 114–92 redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "The Secretary shall submit to the congressional defense committees a semiannual report on the obligation and expenditure of funds for the Department of Defense combating terrorism program. Such reports shall be submitted not later than April 15 each year, with respect to the first half of a fiscal year, and not later than November 15 each year, with respect to the second half of a fiscal year. Each such report shall compare the amounts of those obligations and expenditures to the amounts authorized and appropriated for the Department of Defense combating terrorism program for that fiscal year, by budget activity, sub-budget activity, and program element or line item. The second report for a fiscal year shall show such information for the second half of the fiscal year and cumulatively for the whole fiscal year. The report shall be submitted in unclassified form, but may have a classified annex."

**2003**—Subsec. (f). Pub. L. 108–136 struck out heading and text of subsec. (f). Text read as follows: "In this section, the term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### PRIORITIZATION OF FUNDS FOR EQUIPMENT READINESS AND STRATEGIC CAPABILITY

Pub. L. 109–364, div. A, title III, §323, Oct. 17, 2006, 120 Stat. 2146, as amended by Pub. L. 110–181, div. A, title III, §353, Jan. 28, 2008, 122 Stat. 72; Pub. L. 111–383, div. A, title III, §332(a)–(f), Jan. 7, 2011, 124 Stat. 4185, 4187; Pub. L. 113–66, div. A, title III, §332, Dec. 26, 2013, 127 Stat. 739, provided that:

"(a) PRIORITIZATION OF FUNDS.—The Secretary of Defense shall take such steps as may be necessary through the planning, programming, budgeting, and execution systems of the Department of Defense to ensure that financial resources are provided for each fiscal year as necessary to enable—

"(1) the Secretary of each military department to meet the requirements of that military department for that fiscal year for the repair, recapitalization, and replacement of equipment used in overseas contingency operations; and

"(2) the Secretary of the Army to meet the requirements of the Army, and the Secretary of the Navy to meet the requirements of the Marine Corps, for that fiscal year, in addition to the requirements under paragraph (1), for the reconstitution of equipment and materiel in prepositioned stocks in accordance with requirements under the policy or strategy implemented under the guidelines in section 2229 of title 10, United States Code.

"(b) SUBMISSION OF BUDGET INFORMATION.—

"(1) SUBMISSION OF INFORMATION.—As part of the budget justification materials submitted to Congress in support of the President's budget for a fiscal year or a request for supplemental appropriations, the Secretary of Defense shall include the following:

"(A) The information described in paragraph (2) for the fiscal year for which the budget justification materials are submitted, the fiscal year during which the materials are submitted, and the

preceding fiscal year.

"(B) The information described in paragraph (2) for each of the fiscal years covered by the future-years defense program for the fiscal year in which the report is submitted based on estimates of any amounts required to meet each of the requirements under subsection (a) that are not met for that fiscal year and are deferred to the future-years defense program.

"(C) A consolidated budget justification summary of the information submitted under subparagraphs (A) and (B).

"(2) INFORMATION DESCRIBED.—The information described in this paragraph is information that clearly and separately identifies, by appropriations account, budget activity, activity group, sub-activity group, and program element or line item, the amounts requested for the programs, projects, and activities of—

"(A) each of the military departments for the repair, recapitalization, or replacement of equipment used in overseas contingency operations; and

"(B) the Army and the Marine Corps for the reconstitution of equipment and materiel in prepositioned stocks.

"(c) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code."

**QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM**

Pub. L. 108–375, div. A, title X, §1041, Oct. 28, 2004, 118 Stat. 2048, which required the Secretary of Defense to submit quarterly reports on Operation Iraqi Freedom, Operation Enduring Freedom, Operation Noble Eagle, and any other operation designated by the President as being an operation of the Global War on Terrorism, was repealed by Pub. L. 112–81, div. A, title X, §1062(f)(2), Dec. 31, 2011, 125 Stat. 1585.

## [§230. Repealed. Pub. L. 107–314, div. A, title X, §1041(a)(2)(A), Dec. 2, 2002, 116 Stat. 2645]

Section, added Pub. L. 106–65, div. A, title X, §1041(a)(1), Oct. 5, 1999, 113 Stat. 758; amended Pub. L. 106–398, §1 [[div. A], title X, §1075(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, related to inclusion in the budget justification materials submitted to Congress of specific identification of amounts required for declassification of records.

## §231. Budgeting for construction, maintenance, and modernization of naval vessels: annual plans and certifications

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of the Navy shall include with the defense budget materials for a fiscal year each of the following:

(1) A plan for the construction of naval vessels developed in accordance with this section for each of the following classes of ships:

(A) Combatant and support vessels.

(B) Auxiliary vessels.

(2) A certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan, together with the views of the Chief of Naval Operations and Commandant of the Marine Corps on the budget.

(3) The unaltered assessment of the Chief of Naval Operations and the Commandant of the Marine Corps of the plan required under paragraph (1).

(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel

construction plan developed for a fiscal year for purposes of subsection (a)(1) shall be designed so that the naval vessel force provided for under that plan supports the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan shall be designed so that the naval vessel force provided for under that plan supports the ship force structure recommended in the report of the most recent national defense strategy.

(2) Each such naval vessel construction plan shall include the following:

(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

(B) A detailed program for the construction of auxiliary vessels for the Navy over the next 30 fiscal years.

(C) A description of the necessary naval vessel force structure and capabilities to meet the requirements of the national security strategy of the United States or the most recent national defense strategy, whichever is applicable under paragraph (1).

(D) The estimated levels of annual funding by ship class in both graphical and tabular form necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

(E) The estimated total cost of construction for each vessel used to determine estimated levels of annual funding under subparagraph (D).

(F) The estimated operations and sustainment costs required to support the vessels delivered under the naval vessel construction plan.

(G) The expected service life of each vessel in the naval vessel force provided for under the naval vessel construction plan, disaggregated by ship class, and the rationale for any changes to such expectations from the previous year's plan.

(H) A certification by the appropriate Senior Technical Authority designated under section 8669b of this title of the expected service life of each vessel in the naval vessel force provided for under the naval vessel construction plan, disaggregated by ship class, and the rationale for any changes to such expectations from the previous year's plan.

(I) For each battle force ship planned to be inactivated during the five-year period beginning on the date of the submittal of the report, a description of the planned disposition of each such ship following such inactivation and the potential gaps in warfighting capability that will result from such ship being removed from service.

(J) For any class of battle force ship for which the procurement of the final ship of the class is proposed in the relevant future-years defense program submitted under section 221 of this title—

(i) a description of the expected specific effects on the Navy shipbuilding industrial base of—

(I) the termination of the production program for the ship and the transition to a new or modified production program, or

(II) the termination of the production program for the ship without a new or modified production program to replace it; and

(ii) in the case of any such production program for which a replacement production program is proposed, a detailed schedule for the replacement production program with planned decision points, solicitations, and contract awards.

(3) In developing annual naval vessel construction plans for purposes of subsection (a)(1), the Secretary of the Navy shall take into consideration the most recent biennial report on shipbuilder training and the defense industrial base required by section 8693 of this title.

(c) ASSESSMENT WHEN ANNUAL NAVAL VESSEL CONSTRUCTION PLAN DOES NOT MEET FORCE STRUCTURE REQUIREMENTS.—If the annual naval vessel construction plan for a fiscal year under subsection (b) does not result in a force structure or capabilities that meet the

requirements identified in subsection (b)(2)(B), the Secretary shall include with the defense budget materials for that fiscal year an assessment of the extent of the strategic and operational risk to national security associated with the reduced force structure of naval vessels over the period of time that the required force structure or capabilities are not achieved. Such assessment shall include an analysis of whether the risks are acceptable, and plans to mitigate such risks. Such assessment shall be coordinated in advance with the commanders of the combatant commands and the Nuclear Weapons Council under section 179 of this title.

(d) ANNUAL PLAN FOR MAINTENANCE AND MODERNIZATION OF NAVAL VESSELS .—In addition to the plan included under subsection (a)(1), the Secretary of Defense shall include with the defense budget materials for a fiscal year each of the following:

(1) A plan for the maintenance and modernization of naval vessels that includes the following:

(A) A forecast of the maintenance and modernization requirements for both the naval vessels in the inventory of the Navy and the vessels required to be delivered under the naval vessel construction plan under subsection (a)(1).

(B) A description of the initiatives of the Secretary of the Navy to ensure that activities key to facilitating the maintenance and modernization of naval vessels (including with respect to increasing workforce and industrial base capability and capacity, shipyard level-loading, and facility improvements) receive sufficient resourcing, and are including in appropriate planning, to facilitate the requirements specified in subparagraph (A).

(2) A certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding for the maintenance and modernization of naval vessels at a level that is sufficient for such maintenance and modernization in accordance with the plan under paragraph (1).

(e) CBO EVALUATION.—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a)(1), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which the plan is submitted and the future-years defense program submitted under section 221 of this title.

(f) LIMITATION ON AVAILABILITY OF FUNDS FOR FISCAL YEARS WITHOUT PLAN AND CERTIFICATION.—(1) If the Secretary of Defense does not include with the defense budget materials for a fiscal year the plan and certification under subsection (a) and the plan and certification under subsection (d), the Secretary of Defense may not use more than 25 percent of the funds described in paragraph (2) during the fiscal year in which such materials are submitted until the date on which such plans and certifications are submitted to the congressional defense committees.

(2) The funds described in this paragraph are funds made available to the Secretary of Defense for operation and maintenance, Defense-wide, for emergencies and extraordinary expenses, that remain available for obligation or expenditure as of the date on which the plan and certification under subsection (a) and the plan and certification under subsection (d) are required to be submitted.

(g) REDUCTION IN BATTLE FORCE SHIPS.—If the plan and certification under subsection (a) for a fiscal year include a proposed reduction in the number of battle force ships proposed to be procured during that fiscal year or during the any of the subsequent nine fiscal years, as compared to the number of such ships proposed in the plan and certification for the preceding fiscal year for that fiscal year and the subsequent nine fiscal years, the Secretary of Defense shall provide to the congressional defense committees, by not later than 15 days after the date of the submission of the plan and certification under subsection (a), a briefing that includes each of the following:

(1) An identification of each specific ship for which funds are not requested in the budget for that fiscal year and an identification of any funds that were allocated to each such ship, for any prior fiscal year including funds for—

(A) research, development, test, and evaluation;

(B) advance procurement;
(C) advanced construction; and
(D) economic order quantity.

(2) If a shipyard is identified in relation to a ship identified under paragraph (1), the projected change in workload at the shipyard as a result of the reduction of the ship.

(3) The projected change in the estimated value of any major subcontracted components or sequence critical material as a result of the reduction of the ship.

(h) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term "national defense strategy" means the review of the defense programs and policies of the United States that is carried out every four years under section 113(g) of this title.

(4) The term "combatant and support vessel" means any commissioned ship built or armed for naval combat or any naval ship designed to provide support to combatant ships and other naval operations. Such term does not include patrol coastal ships, non-commissioned combatant craft specifically designed for combat roles, or ships that are designated for potential mobilization.

(5) The term "auxiliary vessel" means any ship designed to operate in the open ocean in a variety of sea states to provide general support to either combatant forces or shore based establishments.

(6) The term "expected service life" means the number of years a naval vessel is expected to be in service.

(Added Pub. L. 107–314, div. A, title X, §1022(a)(1), Dec. 2, 2002, 116 Stat. 2639; amended Pub. L. 111–383, div. A, title X, §1023(a), Jan. 7, 2011, 124 Stat. 4349; Pub. L. 112–81, div. A, title X, §1011(a), Dec. 31, 2011, 125 Stat. 1558; Pub. L. 112–239, div. A, title X, §1014(a), Jan. 2, 2013, 126 Stat. 1908; Pub. L. 113–66, div. A, title X, §1021, Dec. 26, 2013, 127 Stat. 844; Pub. L. 113–291, div. A, title X, §§1021, 1071(c)(2), Dec. 19, 2014, 128 Stat. 3486, 3508; Pub. L. 114–92, div. A, title X, §1021, Nov. 25, 2015, 129 Stat. 965; Pub. L. 115–91, div. A, title X, §1021(d), Dec. 12, 2017, 131 Stat. 1547; Pub. L. 115–232, div. A, title X, §1011, Aug. 13, 2018, 132 Stat. 1947; Pub. L. 116–283, div. A, title X, §§1021, 1081(a)(13), Jan. 1, 2021, 134 Stat. 3839, 3871; Pub. L. 117–81, div. A, title X, §1011(a), Dec. 27, 2021, 135 Stat. 1889; Pub. L. 117–263, div. A, title III, §352(a), title X, §1021, Dec. 23, 2022, 136 Stat. 2533, 2763; Pub. L. 118–31, div. A, title X, §1015, title XVIII, §1801(a)(3), Dec. 22, 2023, 137 Stat. 382, 683; Pub. L. 118–159, div. A, title X, §1021, Dec. 23, 2024, 138 Stat. 2052.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsecs. (g), (h). Pub. L. 118–159 added subsec. (g) and redesignated former subsec. (g) as (h).

**2023**—Pub. L. 118–31, §1801(a)(3)(A), substituted "plans and certifications" for "plan and certification" in section catchline.

Subsec. (a)(2). Pub. L. 118–31, §1015(1)(A), inserted before period at end ", together with the views of the Chief of Naval Operations and Commandant of the Marine Corps on the budget".

Subsec. (a)(3). Pub. L. 118–31, §1015(1)(B), added par. (3).

Subsec. (b)(3). Pub. L. 118–31, §1015(2), added par. (3).

Subsec. (f)(1). Pub. L. 118–31, §1801(a)(3)(B), substituted "such plans and certifications" for "such plan and certification".

**2022**—Pub. L. 117–263, §352(a)(1), inserted ", maintenance, and modernization" after "construction" in section catchline.

Subsec. (b)(2)(J). Pub. L. 117–263, §1021, added subpar. (J).

Subsecs. (d), (e). Pub. L. 117–263, §352(a)(2), (3), added subsec. (d) and redesignated former subsec. (d) as

(e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 117–263, §352(a)(4), which directed amendment of subsec. (f) by inserting "and the plan and certification under subsection (d)" after "subsection (a)", was executed by making the insertion both places it appeared to reflect the probable intent of Congress.

Pub. L. 117–263, §352(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 117–263, §352(a)(2), redesignated subsec. (f) as (g).

**2021**—Pub. L. 116–283, §1081(a)(13)(A), substituted "national defense strategy" for "quadrennial defense review" wherever appearing.

Subsec. (a). Pub. L. 116–283, §1021(1)(A), substituted "Secretary of the Navy" for "Secretary of Defense" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §1021(1)(B), struck out "and" after colon at end.

Subsec. (b)(2)(G) to (I). Pub. L. 117–81, §1011(a)(1), added subpars. (G) to (I).

Subsec. (e)(1). Pub. L. 116–283, §1021(2)(A), substituted "the Secretary of Defense may not use more than 25 percent of the funds" for "the Secretary of the Navy may not use more than 50 percent of the funds".

Subsec. (e)(2). Pub. L. 116–283, §1021(2)(B), substituted "Secretary of Defense" for "Secretary of the Navy" and "operation and maintenance, Defense-wide" for "operation and maintenance, Navy" and inserted ", that remain available for obligation or expenditure as of the date on which the plan and certification under subsection (a) are required to be submitted" before period at end.

Subsec. (f)(3). Pub. L. 116–283, §1081(a)(13)(B), substituted "section 113(g)" for "section 118".

Subsec. (f)(6). Pub. L. 117–81, §1011(a)(2), added par. (6).

**2018**—Subsec. (b)(2)(F). Pub. L. 115–232 added subpar. (F).

**2017**—Subsec. (a). Pub. L. 115–91, §1021(d)(1)(A), substituted "year each of the following:" for "year—" in introductory provisions.

Subsec. (a)(1). Pub. L. 115–91, §1021(d)(1)(B), substituted "A plan for the construction of naval vessels developed in accordance with this section for each of the following classes of ships:" for "a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section;" and added subpars. (A) and (B).

Subsec. (a)(2). Pub. L. 115–91, §1021(d)(1)(C), substituted "A certification" for "a certification".

Subsec. (b)(2)(B) to (D). Pub. L. 115–91, §1021(d)(2)(A), (B), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (b)(2)(E). Pub. L. 115–91, §1021(d)(2)(C), substituted "subparagraph (D)" for "subparagraph (C)".

Pub. L. 115–91, §1021(d)(2)(A), redesignated subpar. (D) as (E).

Subsec. (f)(5). Pub. L. 115–91, §1021(d)(3), added par. (5).

**2015**—Subsec. (b)(2)(C). Pub. L. 114–92 inserted "by ship class in both graphical and tabular form" after "The estimated levels of annual funding".

**2014**—Subsec. (b)(1). Pub. L. 113–291, §1071(c)(2), substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

Subsec. (f)(4). Pub. L. 113–291, §1021, added par. (4).

**2013**—Subsec. (b)(1). Pub. L. 113–66, §1021(a)(1), substituted "shall be designed" for "should be designed" in two places and "supports" for "is capable of supporting" in two places.

Subsec. (b)(2)(B). Pub. L. 113–66, §1021(a)(2)(A), inserted "and capabilities" after "naval vessel force structure".

Subsec. (b)(2)(D). Pub. L. 113–66, §1021(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 113–66, §1021(b), added subsec. (c) and struck out former subsec. (c). Text read as follows: "If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands."

Subsecs. (e), (f). Pub. L. 112–239 added subsec. (e) and redesignated former subsec. (e) as (f).

**2011**—Pub. L. 112–81 amended section generally. Prior to amendment, section related to submission of a long-range plan for construction of combatant and support naval vessels that supports the force structure recommendations of a quadrennial defense review.

Pub. L. 111–383 amended section generally. Prior to amendment, section related to submission of an annual plan for construction of naval vessels and certification that the budget for the current fiscal year and the future-years defense program is sufficient for procurement of vessels provided for in the plan.

## §231a. Budgeting for life-cycle costs of aircraft for the Army, Navy, and Air Force: annual plan and certification

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 30 days after the date on which the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees the following:

(1) A plan for the procurement of the aircraft specified in subsection (b) for each of the Department of the Army, the Department of the Navy, and the Department of the Air Force developed in accordance with this section.

(2) A certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:

(1) Fighter aircraft.

(2) Attack aircraft.

(3) Bomber aircraft.

(4) Intertheater lift aircraft.

(5) Intratheater lift aircraft.

(6) Intelligence, surveillance, and reconnaissance aircraft.

(7) Tanker aircraft.

(8) Remotely piloted aircraft.

(9) Rotary-wing aircraft.

(10) Operational support and executive lift aircraft.

(11) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.

(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a) should be designed so that the aviation force provided for under the plan is capable of supporting the national military strategy of the United States as set forth in the most recent National Defense Strategy submitted under section 113(g) of this title and the most recent National Military Strategy submitted under section 153(b) of this title.

(2) Each annual aircraft procurement plan shall include the following:

(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Army, the Department of the Navy, and the Department of the Air Force over the next 15 fiscal years.

(B) A description of the aviation force structure necessary to meet the requirements of the national military strategy of the United States.

(C) The estimated levels of annual investment funding necessary to carry out each aircraft program, together with a discussion of the procurement strategies on which such estimated levels of annual investment funding are based, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(D) The estimated level of annual funding necessary to operate, maintain, sustain, and support each aircraft program throughout the life-cycle of the program, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(E) For each of the cost estimates required by subparagraphs (C) and (D)—

(i) a description of whether the cost estimate is derived from the cost estimate position of the military department concerned or from the cost estimate position of the Office of Cost Assessment and Program Evaluation;

(ii) if the cost estimate position of the military department and the cost estimate position of the Office of Cost Assessment and Program Evaluation differ by more than 5 percent for any aircraft program, an annotated cost estimate difference and sufficient rationale to explain the

difference;

(iii) the confidence or certainty level associated with the cost estimate for each aircraft program; and

(iv) a certification that the calculations from which the cost estimate is derived are based on common cost categories used by the Under Secretary of Defense for Acquisition and Sustainment for calculating the life-cycle cost of an aircraft program.

(F) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Army, the Department of the Navy, and the Department of the Air Force meet the national security requirements of the United States.

(3) For any cost estimate required by subparagraph (C) or (D) of paragraph (2) for any aircraft program for which the Secretary is required to include in a report under section 4351 of this title, the source of the cost information used to prepare the annual aircraft plan shall be derived from the Selected Acquisition Report data that the Secretary plans to submit to the congressional defense committees in accordance with subsection (f) of that section for the year for which the annual aircraft procurement plan is prepared.

(4) Each annual aircraft procurement plan shall be submitted in unclassified form, and shall contain a classified annex. A summary version of the unclassified report shall be made available to the public.

(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for any fiscal year provides for funding of the procurement of aircraft for the Department of the Army, the Department of the Navy, or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes the funding shortfall and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. The assessment shall be coordinated in advance with the commanders of the combatant commands.

(e) ANNUAL REPORT ON AIRCRAFT INVENTORY.—(1) As part of the annual plan and certification required to be submitted under this section, the Secretary shall include a report on the aircraft in the inventory of the Department of Defense.

(2) Each report under paragraph (1) shall include for the year covered by such report, the following:

(A) The total number of aircraft in the inventory.

(B) The total number of the aircraft in the inventory that are active, stated in the following categories (with appropriate subcategories for mission aircraft, training aircraft, dedicated test aircraft, and other aircraft):

(i) Primary aircraft.

(ii) Backup aircraft.

(iii) Attrition and reconstitution reserve aircraft.

(C) The total number of the aircraft in the inventory that are inactive, stated in the following categories:

(i) Bailment aircraft.

(ii) Drone aircraft.

(iii) Aircraft for sale or other transfer to foreign governments.

(iv) Leased or loaned aircraft.

(v) Aircraft for maintenance training.

(vi) Aircraft for reclamation.

(vii) Aircraft in storage.

(D) The aircraft inventory requirements approved by the Joint Chiefs of Staff.

(3) Each report under paragraph (1) shall set forth each item specified in paragraph (2) separately for the regular component of each armed force and for each reserve component of each armed force and, for each such component, shall set forth each type, model, and series of aircraft provided for in the future-years defense program that covers the fiscal year for which the budget accompanying the plan, certification and report is submitted.

(f) BUDGET DEFINED.—In this section, the term "budget" means the budget of the President for a fiscal year as submitted to Congress pursuant to section 1105 of title 31.

(Added and amended Pub. L. 116–283, div. A, title I, §151(a), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3437, 4294; Pub. L. 117–81, div. A, title X, §1081(a)(6), Dec. 27, 2021, 135 Stat. 1919.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 231a, added Pub. L. 110–417, [div. A], title I, §141(a), Oct. 14, 2008, 122 Stat. 4379; amended Pub. L. 112–81, div. A, title X, §1069(a), (b), Dec. 31, 2011, 125 Stat. 1589, 1591; Pub. L. 113–66, div. A, title X, §1091(a)(5), Dec. 26, 2013, 127 Stat. 875; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title I, §137, Dec. 23, 2016, 130 Stat. 2039, set forth provisions providing for the annual budgeting for life-cycle cost of specified aircraft for the Navy, Army, and Air Force, prior to repeal by Pub. L. 115–232, div. A, title VIII, §813(a)(1)(A), Aug. 13, 2018, 132 Stat. 1851.

**AMENDMENTS**

**2021**—Subsec. (c)(3). Pub. L. 116–283, §1883(b)(2), substituted "section 4351" for "section 2432".

Subsec. (e)(2). Pub. L. 117–81 substituted "include" for "include the following," in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§232. Repealed. Pub. L. 112–239, div. A, title X, §1081(1)(A), Jan. 2, 2013, 126 Stat. 1960]

Section, added Pub. L. 108–375, div. A, title II, §214(a), Oct. 28, 2004, 118 Stat. 1834, provided that amounts for research, development, test, and evaluation for the United States Joint Forces Command would be derived only from Defense-wide amounts and required a separate display for such amounts in the budget.

## §233. Operation and maintenance budget presentation

(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS .—In any case in which the amount requested in the President's budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

(c) DEFINITIONS.—In this section:

(1) The term "O&M justification documents" means Department of Defense budget justification

documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

(2) The term "President's budget" means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

(3) The term "current year" means the fiscal year during which the President's budget is submitted in any year.

(Added Pub. L. 108–375, div. A, title X, §1003(a)(1), Oct. 28, 2004, 118 Stat. 2035.)

## §233a. Annual report on force structure changes exhibit for the defense budget

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report on any major weapon systems proposed to be divested, re-prioritized, or retired in such budget.

(b) CONTENTS.—Each report under subsection (a) shall include the following:

(1) Identification of each major weapon system the Secretary of Defense proposes to divest, re-prioritize, or retire in the period of five fiscal years following the date of the report.

(2) Budget line-item details related to each major weapon system identified under paragraph (1).

(3) For each proposed divestment, re-prioritization, or retirement, an explanation of—

(A) the timeline for the divestment, re-prioritization, or retirement, including any factors that may affect such timelines positively or negatively;

(B) any cost savings associated with the divestment, re-prioritization, or retirement;

(C) the rationale for the divestment, re-prioritization, or retirement, including a qualitative description of the risk associated with the divestment, re-prioritization, or retirement based on the most recent National Defense Strategy (as of the date of the report);

(D) any critical dependencies with other program efforts that might affect the timeline for such divestment, reprioritization, or retirement;

(E) the expected disposition of the weapon system after divestment, re-prioritization or retirement; and

(F) identification of the system or systems that are expected to satisfy the military requirements that were fulfilled by the weapon system once the divestment, re-prioritization, or retirement of that weapon system is completed.

(c) RELATIONSHIP TO OTHER REPORTS.—The Secretary of Defense shall ensure that the report required under subsection (a) is deconflicted with the report required under section 222e of this title.

(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term "major weapon system" has the meaning given that term in section 101(a) of this title.

(Added Pub. L. 118–31, div. A, title I, §151, Dec. 22, 2023, 137 Stat. 179; amended Pub. L. 119–60, div. A, title VIII, §811(c)(2)(B), Dec. 18, 2025, 139 Stat. 950.)

### EDITORIAL NOTES

#### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60 substituted "section 101(a)" for "section 3455(f)".

## §234. POW/MIA activities: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all

programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

(3) The amount in the budget for that organization.

(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph (1), when compared to the amount shown pursuant to paragraph (3).

(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term "Department of Defense POW/MIA accounting and recovery organization" means any of the following (and any successor organization):

(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

(2) The Joint POW/MIA Accounting Command (JPAC).

(3) The Armed Forces DNA Identification Laboratory (AFDIL).

(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

(d) OTHER DEFINITIONS.—In this section:

(1) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(2) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(Added Pub. L. 109–364, div. A, title V, §563(a), Oct. 17, 2006, 120 Stat. 2221.)

## [§235. Repealed. Pub. L. 117–81, div. A, title VIII, §815(b)(1), Dec. 27, 2021, 135 Stat. 1825]

Section, added Pub. L. 111–84, div. A, title VIII, §803(a)(1), Oct. 28, 2009, 123 Stat. 2401, related to the specification of amounts requested in the Department of Defense budget with respect to the procurement of contract services submitted to Congress in the budget justification materials.

Provisions similar to those in this section were contained in Pub. L. 110–181, div. A, title VIII, §806, Jan. 28, 2008, 122 Stat. 213, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 111–84, §803(a)(3).

## §236. Personal protection equipment procurement: display of budget information

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2014, a consolidated budget justification display that covers all programs and activities associated with the procurement of personal protection equipment during the period covered by the future-years defense program submitted in that fiscal year under section 221.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The consolidated budget justification display under subsection (a) for a fiscal year shall include the following:

(1) The amount for personal protection equipment included in both the base budget of the President and any overseas contingency operations budget of the President.

(2) A brief description of each category of personal protection equipment for each military department planned to be procured and developed.

(3) For each category planned to be procured using funds made available for operation and maintenance (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, budget activity, and subactivity group for the category; and

(B) the funding profile for the fiscal year as requested, including cost and quantities, and an estimate of projected investments or procurements for each of the subsequent five fiscal years.

(4) For each category planned to be developed using funds made available for research, development, test, and evaluation (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, program, project or activity; program element number, and line number; and

(B) the funding profile for the fiscal year as requested and an estimate of projected investments for each of the subsequent five fiscal years.

(c) DEFINITIONS.—In this section:

(1) The terms "budget" and "defense budget materials" have the meaning given those terms in section 234 of this title.

(2) The term "category of personal protection equipment" means the following:

(A) Body armor components.

(B) Combat helmets.

(C) Combat protective eyewear.

(D) Other items as determined appropriate by the Secretary.

(Added Pub. L. 113–66, div. A, title I, §141(a), Dec. 26, 2013, 127 Stat. 696.)

## §237. Embedded mental health providers of the reserve components: display of budget information

The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President's annual budget for the Department of Defense, a budget justification display with respect to embedded mental health providers within each reserve component, including the amount requested for each such component.

(Added Pub. L. 113–66, div. A, title VII, §721(a), Dec. 26, 2013, 127 Stat. 799.)

## §238. Cyber mission forces: program elements

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for fiscal year 2021 and each fiscal year thereafter, a budget justification display, in electronic and print formats, that includes—

(1) a major force program category for the five-year defense plan of the Department of Defense for the training, manning, and equipping of the cyber mission forces and the cyberspace operations forces; and

(2) program elements for the cyber mission forces and the cyberspace operations forces.

(b) WAIVER.—The Secretary may waive the requirement under subsection (a) for fiscal year 2021 if the Secretary—

(1) determines the Secretary is unable to comply with such requirement for fiscal year 2021;

and

(2) establishes a plan to implement the requirement for fiscal year 2022.

(c) SUBMISSION.—The Secretary shall provide the displays described in subsection (a)—

(1) in electronic format not later than five days after the submission by the President under section 1105(a) of title 31 of the budget; and

(2) in print format not later than 21 days after the submission by the President under section 1105(a) of title 31 of the budget.

(Added Pub. L. 113–291, div. A, title XVI, §1631(a)(1), Dec. 19, 2014, 128 Stat. 3637; amended Pub. L. 116–283, div. A, title XVII, §1701(2), Jan. 1, 2021, 134 Stat. 4080.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1701(2)(A)(i), substituted "2021" for "2017" and inserted ", in electronic and print formats," after "display" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §1701(2)(A)(ii), inserted "and the cyberspace operations forces" before the semicolon.

Subsec. (a)(2). Pub. L. 116–283, §1701(2)(A)(iii), inserted "and the cyberspace operations forces" before period at end.

Subsec. (b). Pub. L. 116–283, §1701(2)(B)(i), substituted "2021" for "2017" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–283, §1701(2)(B)(ii), substituted "2021" for "2017".

Subsec. (b)(2). Pub. L. 116–283, §1701(2)(B)(iii), substituted "2022" for "2018".

Subsec. (c). Pub. L. 116–283, §1701(2)(C), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### DEMONSTRATION PROGRAM FOR CYBER AND INFORMATION TECHNOLOGY BUDGET DATA ANALYTICS

Pub. L. 117–263, div. A, title XV, §1552, Dec. 23, 2022, 136 Stat. 2919, provided that:

"(a) DEMONSTRATION PROGRAM.—

"(1) REQUIREMENT.—Not later than February 1, 2024, the Chief Information Officer of the Department of Defense shall, in coordination with the Chief Digital and Artificial Intelligence Officer, complete a pilot program to demonstrate the application of advanced data analytics to the fiscal year 2024 budget data of a military department for the purpose of identifying total cyber and information technology spending and the distribution of such resources across budget line items that are and are not identified, labeled, or categorized in a manner that would indicate that funds included in such line items will be expended on cyber and information technology activities.

"(2) COORDINATION WITH MILITARY DEPARTMENTS.—In carrying out the demonstration program under subsection (a), the Chief Information Officer shall, in coordination with the Secretary of the Air Force, the Secretary of the Army, and the Secretary of the Navy, select a military department for participation in the demonstration program.

"(b) ELEMENTS.—The demonstration program under subsection (a) shall include—

"(1) efforts to identify planned expenditures for cyber and information technology that are not captured in the total figures for cyber and information technology reported annually to Congress in support of the President's budget submission and in budget documents and briefings to Congress on the cyber and information technology programs and activities;

"(2) efforts to improve transparency in cyber and information technology budget information to identify cyber and information technology activities funded out of noncyber and noninformation technology budget lines, including by the use of qualitative techniques such as semantic analysis or natural language processing technologies;

"(3) metrics developed to assess the effectiveness of the demonstration program;

"(4) a cost tradeoff analysis of implementing these cyber and information technology data analytics across the entire budget of the Department of Defense;

"(5) existing or planned efforts to use these data analytics to make budget decisions; and

"(6) existing or planned efforts to incorporate these data analytics into materials presented to Congress through the budget submission process.

"(c) BRIEFING.—

"(1) INITIAL BRIEFING.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Chief Information Officer shall provide the Committees on Armed Services of the Senate and the House of Representatives a briefing on the plans and status of the Chief Information Officer with respect to the demonstration program under subsection (a).

"(2) FINAL BRIEFING.—Not later than March 1, 2024, the Chief Information Officer shall provide the Committees on Armed Services of the Senate and the House of Representatives a briefing on the results and findings of the Chief Information Officer with respect to the demonstration program under subsection (a), including the following:

"(A) Recommendations for expansion of the demonstration program to the entire cyber and information technology budget of the Department.

"(B) Plans for incorporating data analytics into the congressional budget submission process for the cyber and information technology budget of the Department."

## §239. National security space programs: major force program and budget assessment

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for national security space programs pursuant to section 222(b) of this title to prioritize national security space activities in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) Not later than 30 days after the date on which the President submits to Congress the budget for each of fiscal years 2017 through 2021, the Secretary of Defense shall submit to the congressional defense committees a report on the budget for national security space programs of the Department of Defense. The Secretary may include the report in the defense budget materials if the Secretary submits such materials to Congress by such date.

(2) Each report on the budget for national security space programs of the Department of Defense under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title, and the amounts appropriated for such programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(Added Pub. L. 114–92, div. A, title XVI, §1601(a)(1), Nov. 25, 2015, 129 Stat. 1095; amended Pub. L. 115–232, div. A, title XVI, §1605, Aug. 13, 2018, 132 Stat. 2107.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (b)(1). Pub. L. 115–232 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall include with the defense budget materials for each of fiscal years 2017 through 2020 a report on the budget for national security space programs of the Department of Defense."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PLAN TO CARRY OUT UNIFIED MAJOR FORCE PROGRAM DESIGNATION**

Pub. L. 114–92, div. A, title XVI, §1601(b), Nov. 25, 2015, 129 Stat. 1096, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to carry out the unified major force program designation required by section 239(a) of title 10, United States Code, as added by subsection (a)(1), including any recommendations for legislative action the Secretary determines appropriate."

## [§239a. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 115–91, div. A, title XVI, §1676(a)(1), Dec. 12, 2017, 131 Stat. 1771, related to major force program and budget assessment for missile defense and defeat programs. See section 5515 of this title.

## §239b. Certain intelligence-related programs: budget justification materials

(a) PROHIBITION ON USE OF PROGRAM ELEMENTS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2021 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense may not include in any single program element both funds made available under the Military Intelligence Program and funds made available outside of the Military Intelligence Program.

(b) DEFINITIONS.—In this section:

(1) The term "budget" has the meaning given that term in section 231(f) [1] of this title.

(2) The term "defense budget materials" has the meaning given that term in section 231(f) [1] of this title.

(Added Pub. L. 115–232, div. A, title XVI, §1624(b)(1), Aug. 13, 2018, 132 Stat. 2120.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 231(f) of this title, referred to in subsec. (b), was redesignated as section 231(g) of this title by Pub. L. 117–263, div. A, title III, §352(a)(2), Dec. 23, 2022, 136 Stat. 2533, and subsequently was redesignated as section 231(h) of this title by Pub. L. 118–159, div. A, title X, §1021(1), Dec. 23, 2024, 138 Stat. 2052.

[1] *See References in Text note below.*

## §239c. Certain multiyear contracts for acquisition of property: budget justification materials

(a) IN GENERAL.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2023 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include a

proposal for any multiyear contract of the Department entered into under section 3501 of this title that—

(1) the head of an agency intends to cancel during the fiscal year; or

(2) with respect to which the head of an agency intends to effect a covered modification during the fiscal year.

(b) ELEMENTS.—Each proposal required by subsection (a) shall include the following:

(1) A detailed explanation of the rationale for the proposed cancellation or covered modification of the multiyear contract.

(2) A detailed assessment of any expected termination costs associated with the proposed cancellation or covered modification of the multiyear contract.

(3) An updated assessment of estimated savings of such cancellation or carrying out the multiyear contract as modified by such covered modification.

(4) An explanation of the proposed use of previously appropriated funds for advance procurement or procurement of property planned under the multiyear contract before such cancellation or covered modification.

(5) An assessment of expected impacts of the proposed cancellation or covered modification on the defense industrial base, including workload stability, loss of skilled labor, and reduced efficiencies.

(c) DEFINITIONS.—In this section:

(1) The term "covered modification" means a modification that will result in a reduction in the quantity of end items to be procured.

(2) The term "head of an agency" means—

(A) the Secretary of Defense;

(B) the Secretary of the Army;

(C) the Secretary of the Navy; or

(D) the Secretary of the Air Force.

(Added Pub. L. 117–81, div. A, title VIII, §811(a), Dec. 27, 2021, 135 Stat. 1822; amended Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294; Pub. L. 117–263, div. A, title VIII, §811, Dec. 23, 2022, 136 Stat. 2706.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263 added par. (1) and redesignated former pars. (1) to (4) as (2) to (5), respectively.

**2021**—Subsec. (a). Pub. L. 116–283, which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was executed by substituting "section 3501" for "section 2306b". Section 1822(b) of title XVIII of Pub. L. 116–283 directed the redesignation of section 2306b of this title as section 3501, but such redesignation was executed by transferring the text of section 2306b to section 3501, as the section designation and catchline had already been enacted.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §239d. Budgeting for depot and ammunition production facility maintenance and repair: annual report

(a) ANNUAL REPORT.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall include with the defense budget materials for each fiscal year a report regarding the maintenance and repair of covered facilities.

(b) ELEMENTS.—Each report required under subsection (a) shall include, at a minimum, the following (disaggregated by military department):

(1) With respect to each of the three fiscal years preceding the fiscal year covered by the defense budget materials with which the report is included, revenue data for that fiscal year for the maintenance, repair, and overhaul workload funded at all the depots of the military department.

(2) With respect to the fiscal year covered by the defense budget materials with which the report is included and each of the two fiscal years prior, an identification of the following:

(A) The amount of appropriations budgeted for that fiscal year for depots, further disaggregated by the type of appropriation.

(B) The amount budgeted for that fiscal year for working-capital fund investments by the Secretary of the military department for the capital budgets of the covered depots of the military department, shown in total and further disaggregated by whether the investment relates to the efficiency of depot facilities, work environment, equipment, equipment (non-capital investment program), or processes.

(C) The total amount required to be invested by the Secretary of the military department for that fiscal year for the capital budgets of covered depots pursuant to section 2476(a) of this title.

(D) A comparison of the budgeted amount identified under subparagraph (B) with the total required amount identified under subparagraph (C).

(E) For each covered depot of the military department, of the total required amount identified under subparagraph (C), the percentage of such amount allocated, or projected to be allocated, to the covered depot for that fiscal year.

(3) For each covered facility of the military department, the following:

(A) Information on the average facility condition, average critical facility condition, restoration and maintenance project backlog, and average equipment age, including a description of any changes in such metrics from previous years.

(B) Information on the status of the implementation at the covered facility of the plans and strategies of the Department of Defense relating to covered facility improvement, including, as applicable, the implementation of the strategy required under section 359 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1323; 10 U.S.C. 2460 [1] note).

(c) DEFINITIONS.—In this section:

(1) The term "ammunition production facility" means an ammunition organic industrial base production facility.

(2) The terms "budget" and "defense budget materials" have the meaning given those terms in section 234 of this title.

(3) The term "covered depot" has the meaning given that term in section 2476 of this title.

(4) The term "covered facility" means a covered depot or an ammunition production facility.

(Added Pub. L. 117–263, div. A, title III, §371, Dec. 23, 2022, 136 Stat. 2539.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 359 of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (b)(3)(B), is section 359 of Pub. L. 116–92, which is set out as a note under section 2476 of this title.

[1] *See References in Text note below.*

## §239e. Nuclear command, control, and communications: major force program and budget assessment

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for nuclear command, control, and communications programs pursuant to section 222(b) of this title to prioritize such programs in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2025 through 2030 a report on the budget for nuclear command, control, and communications programs of the Department of Defense.

(2) Each report on the budget for nuclear command, control, and communications programs of the Department under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title (such comparison shall exclude the responsibility for research and development of the continuing improvement of such nuclear command, control, and communications program), and the amounts appropriated for such nuclear command, control, and communications programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term "nuclear command, control, and communications programs" means programs through which presidential authority and operational command and control of nuclear weapons is conducted, including programs that facilitate senior-level decisions on nuclear weapons employment.

(Added Pub. L. 118–31, div. A, title XVI, §1631, Dec. 22, 2023, 137 Stat. 591.)

# CHAPTER 9A—AUDIT

Sec.
[240a. Repealed.]
240b. Financial Improvement and Audit Remediation Plan.
240c. Audit: consolidated corrective action plan; centralized reporting system.
240d. Audits: audit of financial statements of Department of Defense components by independent external auditors.
240e. Audits: use of commercial data integration and analysis products in preparing audits.
240f. Audits: selection of service providers for audit services.
240g. Defense Business Audit Remediation Plan.
240h. Annual report on auditable financial statements.

240i. Annual report on unfunded priorities.
[251 to 254b. Renumbered.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title X, §1002(c), Dec. 18, 2025, 139 Stat. 1028, struck out item 240a "Audit of Department of Defense financial statements". Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title X, §1005(b)(2), Jan. 1, 2021, 134 Stat. 3838, added item 240i.

**2019**—Pub. L. 116–92, div. A, title X, §§1002(b), 1004(a)(2), Dec. 20, 2019, 133 Stat. 1571, 1573, added items 240g and 240h.

**2018**—Pub. L. 115–232, div. A, title X, §1002(a)(1)(B), Aug. 13, 2018, 132 Stat. 1945, renumbered items 251 to 254b as 240a to 240f, respectively.

## §240a. Audit of Department of Defense financial statements

The Secretary of Defense shall ensure that a full audit is performed on the financial statements of the Department of Defense for each fiscal year as required by section 3521(e) of title 31.

(Added Pub. L. 115–91, div. A, title X, §1002(b)(1), Dec. 12, 2017, 131 Stat. 1538, §251; renumbered §240a, Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945; amended Pub. L. 118–31, div. A, title X, §1061(g), Dec. 22, 2023, 137 Stat. 400.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 struck out subsec. (a) designation and heading before "The Secretary" and struck out subsec. (b). Text of subsec. (b) read as follows: "The Secretary shall submit to Congress the results of the audit performed in accordance with subsection (a) for a fiscal year by not later than March 31 of the following fiscal year."

**2018**—Pub. L. 115–232 renumbered section 251 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**USE OF TECHNOLOGY USING ARTIFICIAL INTELLIGENCE TO FACILITATE AUDIT OF THE FINANCIAL STATEMENTS OF THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 2026**

Pub. L. 119–60, div. A, title X, §1007, Dec. 18, 2025, 139 Stat. 1029, provided that:

"(a) USE OF AI TECHNOLOGY FOR AUDITS.—The Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall encourage, to the greatest extent practicable, the use of technology that uses artificial intelligence or machine learning for the purpose of facilitating audits of the financial statements of the Department of Defense.

"(b) IMPLEMENTATION OF AI TECHNOLOGY FOR AUDITS.—The Director of the Chief Digital and Artificial Intelligence Office of the Department, in coordination with the Under Secretary of Defense for Research and Engineering and the Inspector General of the Department, shall oversee the adoption of artificial intelligence and machine learning technologies in support of financial management and enterprise business operations."

Similar provisions were contained in the following prior act:

Pub. L. 118–159, div. A, title X, §1007, Dec. 23, 2024, 138 Stat. 2049.

**REQUIREMENT FOR UNQUALIFIED OPINION ON DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS**

Pub. L. 118–31, div. A, title X, §1005, Dec. 22, 2023, 137 Stat. 379, provided that: "The Secretary of Defense shall ensure that the Department of Defense has received an unqualified opinion on the financial statements of the Department by not later than December 31, 2028."

**REVIEW AND RECOMMENDATIONS ON EFFORTS TO OBTAIN AUDIT OPINION ON FULL FINANCIAL STATEMENTS**

Pub. L. 115–91, div. A, title X, §1006, Dec. 12, 2017, 131 Stat. 1544, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish within the Department of Defense a team of distinguished, private sector experts with experience conducting financial audits of large public or private sector organizations to review and make recommendations to improve the efforts of the Department to obtain an audit opinion on its full financial statements.

"(b) SCOPE OF ACTIVITIES.—A team established pursuant to subsection (a) shall—

"(1) identify impediments to the progress of the Department in obtaining an audit opinion on its full financial statements, including an identification of the organizations or elements that are lagging in their efforts toward obtaining such audit opinion;

"(2) estimate when an audit opinion on the full financial statements of the Department will be obtained; and

"(3) consider mechanisms and incentives to support efficient achievement by the Department of its audit goals, including organizational mechanisms to transfer direction and management control of audit activities from subordinate organizations to the Office of the Secretary of Defense, individual personnel incentives, workforce improvements (including in senior leadership positions), business process, technology, and systems improvements (including the use of data analytics), and metrics by which the Secretary and Congress may measure and assess progress toward achievement of the audit goals of the Department.

"(c) REPORTS.—

"(1) REPORT ON ESTABLISHMENT OF TEAM.—If the Secretary takes action pursuant to subsection (a), the Secretary shall, not later than September 30, 2019, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the team established pursuant to that subsection, including a description of the actions taken and to be taken by the team pursuant to subsection (b).

"(2) REPORT ON DETERMINATION NOT TO ESTABLISH TEAM.—If as of June 1, 2019, the Secretary has determined not to establish a team authorized by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives on that date a report on the determination, including an explanation and justification for the determination."

## §240b. Financial Improvement and Audit Remediation Plan

(a) FINANCIAL IMPROVEMENT AND AUDIT REMEDIATION PLAN.—

(1) IN GENERAL.—The Under Secretary of Defense (Comptroller) shall, in consultation with the Performance Improvement Officer of the Department of Defense, maintain a plan to be known as the "Financial Improvement and Audit Remediation Plan".

(2) ELEMENTS.—The plan required by paragraph (1) shall—

(A) describe specific actions to be taken, including interim milestones with a detailed description of the subordinate activities required, and estimate the costs associated with—

(i) correcting the financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information;

(ii) ensuring the financial statements of the Department of Defense go under full financial statement audit, and that the Department leadership makes every effort to reach an unmodified opinion as soon as possible;

(iii) ensuring the audit of the financial statements of the Department of Defense for each fiscal year after fiscal year 2020 occurs by not later than March 31 following such fiscal year;

(iv) achieving an unqualified audit opinion for each major element of the statement of budgetary resources of the Department of Defense;

(v) addressing the existence and completeness of each major category of Department of Defense assets;

(vi) meeting resource requirements, including personnel and information technology infrastructure; and

(vii) identifying long-range goals and measurable objectives, including audit cycle

timelines, control testing frequency, and auditor-validated corrective action plans; and

(B) systematically tie the actions described under subparagraph (A) to business process and control improvements and business systems modernization efforts described in section 2222 of this title.

(b) REPORT AND BRIEFING REQUIREMENTS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than July 31 each year, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report on the status of the implementation by the Department of Defense of the Financial Improvement and Audit Remediation Plan under subsection (a).

(B) ELEMENTS.—Each report under subparagraph (A) shall include the following:

(i) An analysis of the consolidated corrective action plan management summary prepared pursuant to section 240c of this title.

(ii) Current Department of Defense-wide information on the status of corrective actions plans related to critical capabilities and material weaknesses, including the standard data elements recommended in the implementation guide for Office of Management and Budget Circular A–123, for the armed forces, military departments, and Defense Agencies.

(iii) A current description of the work undertaken and planned to be undertaken by the Department of Defense, and the military departments, Defense Agencies, and other organizations and elements of the Department, to test and verify transaction data pertinent to obtaining an unqualified audit of their financial statements, including from feeder systems.

(iv) A current projected timeline of the Department in connection with the audit of the full financial statements of the Department, to be submitted to Congress annually not later than six months after the submittal to Congress of the budget of the President for a fiscal year under section 1105 of title 31, including the following:

(I) The date on which the Department projects the beginning of an audit of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(II) The date on which the Department projects the completions of audits of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(III) The dates on which the Department estimates it will obtain an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year.

(v) A current estimate of the anticipated annual costs of maintaining an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year after an unqualified audit opinion on such full financial statements for a fiscal year is first obtained.

(vi) A certification of the results of the audit of the financial statements of the Department performed for the preceding fiscal year, and a statement summarizing, based on such results, the current condition of the financial statements of the Department.

(vii) A description of audit activities and results for classified programs, including a description of the use of procedures and requirements to prevent unauthorized exposure of classified information in such activities.

(viii) An identification of the manner in which the corrective action plan or plans of each department, agency, component, or element of the Department of Defense, and the corrective action plan of the Department as a whole, support the National Defense Strategy (NDS) of the United States.

(ix) A detailed estimate of the funding required for the next fiscal year to procure, obtain, or otherwise implement each process, system, and technology identified to address the corrective action plan or plans of each department, agency, component, or element of the Department of Defense, and the corrective action plan of the Department as a whole, for purposes of this chapter during such fiscal year.

(x) The number and scope of automated processes implemented, including reconciliation, inventory validation, and internal controls.

(2) SEMIANNUAL BRIEFINGS.—(A) Not later than January 31 and July 31 each year, the Under Secretary of Defense (Comptroller) and the comptrollers of the military departments shall provide a briefing to the congressional defense committees on the status of the corrective action plan.

(B) The January 31 briefing under subparagraph (A) shall include a ranking of all of the military departments and Defense Agencies in order of how advanced each is in achieving auditable financial statements, as required by law.

(3) ANNUAL REPORT BY BOTTOM QUARTILE.—Not later than June 30 of each year, the head of each military department and Defense Agency that was ranked in the bottom quartile of the report submitted under paragraph (2)(B) for that year shall submit to the congressional defense committees a report that includes the following information for that military department or Defense Agency:

(A) A description of the material weaknesses of the military department or Defense Agency.

(B) The underlying causes of such weaknesses.

(C) A plan for remediating such weaknesses.

(D) The total number of open audit notices of findings and recommendations (in this paragraph referred to as "NFRs") for the most recently concluded fiscal year and the preceding two fiscal years, where applicable.

(E) The number of repeat or reissued NFRs from the most recently concluded fiscal year.

(F) The number of NFRs that were previously forecasted to be closed during the most recently concluded fiscal year that remain open.

(G) The number of closed NFRs during the current fiscal year and prior fiscal years.

(H) The number of material weaknesses that were validated by external auditors as fully resolved or downgraded during the current fiscal year relative to prior fiscal years.

(I) A breakdown, by fiscal year, of which open NFRs are forecasted to be closed.

(J) Explanations for any unfavorable trends in the information included under paragraphs (1) through (9).

(4) CRITICAL CAPABILITIES DEFINED.—In this subsection, the term "critical capabilities" means the financial statement audit priorities designated by the Secretary of Defense for the fiscal year in which the report is submitted.

(c) SELECTION OF AUDIT REMEDIATION SERVICES.—The selection of audit remediation service providers shall be based, among other appropriate criteria, on qualifications, relevant experience, and capacity to develop and implement corrective action plans to address internal control and compliance deficiencies identified during a financial statement or program audit.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(c)(1)–(3), Dec. 12, 2017, 131 Stat. 1538, §252; renumbered §240b and amended Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), (2)–(c), Aug. 13, 2018, 132 Stat. 1945, 1946; Pub. L. 116–92, div. A, title X, §§1003, 1008–1009(b), Dec. 20, 2019, 133 Stat. 1571, 1575, 1576; Pub. L. 116–283, div. A, title X, §§1003, 1004(b), 1081(a)(14), Jan. 1, 2021, 134 Stat. 3836, 3837, 3871; Pub. L. 117–81, div. A, title X, §1081(a)(7), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 118–31, div. A, title IX, §901(c), title X, §1061(h), Dec. 22, 2023, 137 Stat. 354, 400; Pub. L. 118–159, div. A, title X, §1002, Dec. 23, 2024, 138 Stat. 2047; Pub. L. 119–60, div. A, title X, §1002(a), Dec. 18, 2025, 139 Stat. 1026.)

## EDITORIAL NOTES

### CODIFICATION

Subsec. (a) of this section, as added by Pub. L. 115–91, is based on text of subsec. (a) of section 1003 of Pub. L. 111–84, div. A, title X, Oct. 28, 2009, 123 Stat. 2439, which was formerly set out as a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(c)(4), Dec. 12, 2017, 131 Stat. 1540.

### AMENDMENTS

**2025**—Subsec. (a)(2)(A)(vi), (vii). Pub. L. 119–60, §1002(a)(1), added cls. (vi) and (vii).

Subsec. (b)(1)(B)(ix), (x). Pub. L. 119–60, §1002(a)(2)(A), added cls. (ix) and (x).

Subsec. (b)(2)(B). Pub. L. 119–60, §1002(a)(2)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "Not later than January 31 and July 31 each year, the Under Secretary of Defense (Comptroller) and the comptrollers of the military departments shall provide a briefing to the congressional defense committees on the status of the corrective action plan."

Subsec. (b)(3). Pub. L. 119–60, §1002(a)(2)(D), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 119–60, §1002(a)(2)(C), (E), redesignated par. (3) as (4) and substituted "the financial statement audit priorities designated by the Secretary of Defense for the fiscal year in which the report is submitted" for "the critical capabilities described in the Department of Defense report titled 'Financial Improvement and Audit Readiness (FIAR) Plan Status Report' and dated May 2016".

**2024**—Subsec. (b)(1)(B)(ix). Pub. L. 118–159 struck out cl. (ix) which read as follows: "A description of the incentives available pursuant to the guidance required by section 1004(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, including a detailed explanation of how such incentives were provided during the fiscal year covered by the report."

**2023**—Subsec. (a)(1). Pub. L. 118–31, §901(c)(1), substituted "The Under Secretary of Defense (Comptroller) shall, in consultation with the Performance Improvement Officer of the Department of Defense," for "The Chief Management Officer of the Department of Defense shall, in consultation with the Under Secretary of Defense (Comptroller),".

Subsec. (b)(1)(A). Pub. L. 118–31, §1061(h)(1)(A), substituted "July 31 each year" for "June 30, 2019, and annually thereafter".

Subsec. (b)(1)(B)(vii) to (xiii). Pub. L. 118–31, §1061(h)(1)(B), redesignated cls. (xi) to (xiii) as (vii) to (ix), respectively, and struck out former cls. (vii) to (x) which related to elements to be included in annual reports by the Under Secretary of Defense (Comptroller) covering auditing and audit remediation services under contract where less than 50 percent, or less than 25 percent, of such services were being performed by professionals with certain qualifications.

Subsec. (b)(1)(C). Pub. L. 118–31, §1061(h)(1)(C), struck out subpar. (C). Text read as follows:

"(i) UNCLASSIFIED FORM.—A description submitted pursuant to clause (vii) or (ix) of subparagraph (B) or a certification submitted pursuant to clause (viii) of such subparagraph shall be submitted in unclassified form, but may contain a classified annex.

"(ii) DELEGATION.—The Secretary may not delegate the submission of a certification pursuant to clause (viii) of subparagraph (B) to any official other than the Deputy Secretary of Defense, the Performance Improvement Officer, or the Under Secretary of Defense (Comptroller)."

Subsec. (b)(1)(C)(ii). Pub. L. 118–31, §901(c)(2), substituted "the Performance Improvement Officer" for "the Chief Management Officer".

Subsec. (b)(2)(A). Pub. L. 118–31, §1061(h)(2)(A), substituted "July 31" for "June 30" and struck out "Such briefing shall include both the absolute number and percentage of personnel performing the amount of auditing services being performed by professionals meeting the qualifications described in section 240d(b) of this title." after "corrective action plan."

Subsec. (b)(2)(B). Pub. L. 118–31, §1061(h)(2)(B), substituted "July 31" for "June 30" and struck out "Such briefing shall include both the absolute number and percentage of personnel performing the amount of audit remediation services being performed by professionals meeting the qualifications described in subsection (c)." after "corrective action plan."

**2021**—Subsec. (a)(2)(A)(iii). Pub. L. 116–283, §1003, substituted "for each fiscal year after fiscal year 2020 occurs by not later than March 31 following such fiscal year;" for "for fiscal year 2018 occurs by not later than March 31, 2019."

Subsec. (b)(1)(B)(ix). Pub. L. 116–283, §1081(a)(14)(A), substituted "subsection" for "suhsection".

Subsec. (b)(1)(B)(xii). Pub. L. 116–283, §1081(a)(14)(B), inserted "of" after "identification".

Subsec. (b)(1)(B)(xiii). Pub. L. 117–81 substituted "A description" for "An description".

Pub. L. 116–283, §1004(b), added cl. (xiii).

**2019**—Subsec. (b)(1)(B)(i). Pub. L. 116–92, §1009(b), substituted "section 240c" for "section 253a".

Subsec. (b)(1)(B)(vii). Pub. L. 116–92, §1003(a)(1), struck out "or if less than 50 percent of the audit remediation services" after "auditing services" and "and audit remediation activities" after "conducting audits".

Subsec. (b)(1)(B)(viii). Pub. L. 116–92, §1003(a)(2), struck out "or if less than 25 percent of the audit remediation services" after "auditing services".

Subsec. (b)(1)(B)(ix), (x). Pub. L. 116–92, §1003(c)(1), added cls. (ix) and (x).

Subsec. (b)(1)(B)(xi). Pub. L. 116–92, §1008(1), added cl. (xi).

Subsec. (b)(1)(B)(xii). Pub. L. 116–92, §1009(a), added cl. (xii).

Subsec. (b)(1)(C)(i). Pub. L. 116–92, §1008(2), inserted "or (ix)" after "clause (vii)".

Subsec. (b)(2). Pub. L. 116–92, §1003(b), (c)(2), designated existing provisions as subpar. (A), struck out "or audit remediation" before "services", and added subpar. (B).

Subsec. (c). Pub. L. 116–92, §1003(d), added subsec. (c).

**2018**—Pub. L. 115–232, §1002(a)(1)(A), renumbered section 252 of this title as this section.

Subsec. (a)(2)(A)(iii) to (v). Pub. L. 115–232, §1002(a)(2), which directed amendment of subsec. (a)(2) by redesignating cl. (iii), relating to unqualified audit opinion, as (iv) and cl. (iv) as (v), was executed by making the amendment in subpar. (A) of subsec. (a)(2), to reflect the probable intent of Congress.

Subsec. (b)(1)(B)(vii), (viii). Pub. L. 115–232, §1002(c)(1), added cls. (vii) and (viii).

Subsec. (b)(1)(C). Pub. L. 115–232, §1002(c)(2), added subpar. (C).

Subsec. (b)(2). Pub. L. 115–232, §1002(b), inserted at end "Such briefing shall include both the absolute number and percentage of personnel performing the amount of auditing or audit remediation services being performed by professionals meeting the qualifications described in section 240d(b) of this title."

**2017**—Subsec. (a). Pub. L. 115–91, §1002(c)(3)(A), which directed substitution of "Financial Improvement and Audit Remediation Plan" for "Financial Improvement and Audit Readiness Plan" in heading, was executed by making the substitution for "Financial Improvement Audit Readiness Plan" to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 115–91, §1002(c)(3)(B)(i), substituted "Financial Improvement and Audit Remediation Plan" for "Financial Improvement and Audit Readiness Plan".

Pub. L. 115–91, §1002(c)(2)(A), struck out "develop and" before "maintain".

Subsec. (a)(2)(A). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(aa), in introductory provisions, substituted "describe specific actions to be taken, including interim milestones with a detailed description of the subordinate activities required, and estimate the costs associated with" for "describe specific actions to be taken and the costs associated with".

Subsec. (a)(2)(A)(ii). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(bb), substituted "go under full financial statement audit, and that the Department leadership makes every effort to reach an unmodified opinion as soon as possible;" for "are validated as ready for audit by not later than September 30, 2017, and the statement of budgetary resources of the Department of Defense is validated as ready for audit by not later than September 30, 2014; and".

Subsec. (a)(2)(A)(iii), (iv). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(cc), added cl. (iii), relating to unqualified audit opinion, and cl. (iv).

Subsec. (a)(2)(B). Pub. L. 115–91, §1002(c)(3)(B)(ii)(II), inserted "business" before "process and control", struck out "the business enterprise architecture and transition plan required by" before "section 2222" and substituted period for semicolon at end.

Pub. L. 115–91, §1002(c)(2)(B), substituted "of this title" for "of title 10, United States Code".

Subsec. (a)(2)(C), (D). Pub. L. 115–91, §1002(c)(3)(B)(ii)(III), struck out subpars. (C) and (D) which read as follows:

"(C) prioritize—

"(i) improving the budgetary information of the Department of Defense, in order to achieve an unqualified audit opinion on the Department's statements of budgetary resources; and

"(ii) as a secondary goal, improving the accuracy and reliability of management information on the Department's mission-critical assets (military and general equipment, real property, inventory, and operating materials and supplies) and validating its accuracy through existence and completeness audits; and

"(D) include interim goals, including—

"(i) the objective of ensuring that the financial statement of each of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Logistics Agency is validated as ready for audit: and

"(ii) a schedule setting forth milestones for elements of the military departments and financial statements of the military departments to be made ready for audit as part of the progress required to meet the objectives established pursuant to clause (i) of this subparagraph and clause (ii) of subparagraph (A) of this paragraph."

Subsec. (b). Pub. L. 115–91, §1002(c)(3)(C), added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### METRICS TO OPERATIONALIZE AUDIT READINESS

Pub. L. 118–31, div. A, title IX, §920, Dec. 22, 2023, 137 Stat. 372, provided that:

"(a) METRICS REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a set of metrics that reflect the Secretary's audit remediation goals and metrics to measure progress made by the military departments with respect to such goals.

"(2) FFRDC SUPPORT.—The Secretary of Defense may enter into a contract or other agreement with a federally funded research and development center or university-affiliated research center to support the development of the metrics required under paragraph (1).

"(3) DEADLINE.—The Secretary of Defense shall develop and implement an initial set of metrics under paragraph (1) by not later than April 30, 2025.

"(b) LEADER PERFORMANCE ASSESSMENTS.—

"(1) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments and the Under Secretary of Defense for Personnel and Readiness, shall evaluate means by which the metrics developed under subsection (a) can be used in the performance evaluation of general officers, flag officers, and employees of the military departments who are members of the Senior Executive Service.

"(2) BRIEFING REQUIRED.—Not later than September 30, 2024, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the evaluation conducted under paragraph (1). The briefing shall include the following:

"(A) Identification of the general officer, flag officer, and Senior Executive Service positions in the military departments for which it would be appropriate to use the metrics developed under subsection (a) in support of the performance evaluation process.

"(B) Evaluations of available measures to reward or recognize superior or above-average performance with respect to such metrics.

"(C) Assessment of the potential value, and challenges, to integrating such measures into the annual performance evaluations for positions identified under subparagraph (A).

"(D) Any other issues the Secretary considers appropriate."

### INCENTIVES FOR THE ACHIEVEMENT BY THE COMPONENTS OF THE DEPARTMENT OF DEFENSE OF UNQUALIFIED AUDIT OPINIONS ON THE FINANCIAL STATEMENTS

Pub. L. 116–283, div. A, title X, §1004(a), Jan. 1, 2021, 134 Stat. 3837, provided that:

"(a) INCENTIVES REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Under Secretary of Defense (Comptroller), acting through the Deputy Chief Financial Officer of the Department of Defense, shall develop and issue guidance to provide incentives for the achievement by each department, agency, and other component of the Department of Defense of unqualified audit opinions on their financial statements.

"(2) APPLICABILITY.—The guidance required under paragraph (1) shall provide incentives for individual employees in addition to departments, agencies, and components."

### ANNUAL REPORTS ON FUNDING FOR CORRECTIVE ACTION PLANS

Pub. L. 116–92, div. A, title X, §1009(c), Dec. 20, 2019, 133 Stat. 1576, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(5), Jan. 1, 2021, 134 Stat. 3873; Pub. L. 118–31, div. A, title X, §1061(i), Dec. 22, 2023, 137 Stat. 400, which required the Secretary of Defense to submit annual reports setting forth detailed estimates of funding needed to address corrective action plans, was repealed by Pub. L. 119–60, div. A, title X, §1002(b), Dec. 18, 2025, 139 Stat. 1028.

## §240c. Audit: consolidated corrective action plan; centralized reporting system

The Under Secretary of Defense (Comptroller) shall—

(1) on a bimonthly basis, prepare a consolidated corrective action plan management summary on the status of key corrective actions plans related to critical capabilities for the armed forces and for the components of the Department of Defense that support the armed forces; and

(2) develop and maintain a centralized monitoring and reporting process that captures and maintains up-to-date information, including the standard data elements recommended in the implementation guide for Office of Management and Budget Circular A–123, for key corrective action plans and findings and recommendations Department-wide that pertain to critical capabilities.

(Added Pub. L. 115–91, div. A, title X, §1002(d), Dec. 12, 2017, 131 Stat. 1540, §253; renumbered §240c, Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 253 of this title as this section.

## §240d. Audits: audit of financial statements of Department of Defense components by independent external auditors

(a) AUDITS REQUIRED.—For purposes of satisfying the requirement under section 3521(e) of title 31 for audits of financial statements of Department of Defense components identified by the Director of the Office of Management and Budget under section 3515(c) of such title, the Inspector General of the Department of Defense shall obtain each year audits of the financial statements of each such component by an independent external auditor.

(b) SELECTION OF AUDITORS.—The selection of independent external auditors for purposes of subsection (a) shall be based, among other appropriate criteria, on their qualifications, independence, and capacity to conduct audits described in subsection (a) in accordance with applicable generally accepted government auditing standards. The Inspector General shall participate in the selection of the independent external auditors.

(c) MONITORING AUDITS.—The Inspector General shall monitor the conduct of all audits by independent external auditors under subsection (a).

(d) REPORTS ON AUDITS.—

(1) IN GENERAL.—The Inspector General shall require the independent external auditors conducting audits under subsection (a) to submit a report on their audits each year to—

(A) the Under Secretary of Defense (Comptroller) as the Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31;

(B) the Controller of the Office of Federal Financial Management in the Office of Management and Budget;

(C) the head of each component audited; and

(D) the appropriate committees of Congress.

(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(e) RELATIONSHIP TO EXISTING LAW.—The requirements of this section—

(1) shall not be construed to alter the requirement under section 3521(e) of title 31 that the

financial statements of the Department of Defense as a whole be audited by the Inspector General or by an independent external auditor, as determined by the Inspector General; and

(2) shall not be construed to limit or alter the authorities of the Comptroller General of the United States under section 3521(g) of title 31.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(e)(1)–(3), Dec. 12, 2017, 131 Stat. 1541, §254; renumbered §240d, Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945; Pub. L. 118–31, div. A, title IX, §901(d), Dec. 22, 2023, 137 Stat. 354.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 1005 of Pub. L. 114–92, div. A, title X, Nov. 25, 2015, 129 Stat. 961, which was formerly set out as a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(e)(4), Dec. 12, 2017, 131 Stat. 1541.

### AMENDMENTS

**2023**—Subsec. (d)(1)(A). Pub. L. 118–31 struck out "and the Chief Management Officer of the Department of Defense" after "chapter 9 of title 31".

**2018**—Pub. L. 115–232 renumbered section 254 of this title as this section.

**2017**—Subsec. (a). Pub. L. 115–91, §1002(e)(2)(B), struck out ", United States Code," after "title 31".

Subsec. (d)(1)(A). Pub. L. 115–91, §1002(e)(3)(A)(i), inserted "and the Chief Management Officer of the Department of Defense" before semicolon.

Pub. L. 115–91, §1002(e)(2)(A), struck out ", United States Code" after "title 31".

Subsec. (d)(1)(C), (D). Pub. L. 115–91, §1002(e)(3)(A)(ii)–(iv), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (e)(1). Pub. L. 115–91, §1002(e)(3)(B), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: "shall be implemented in a manner that is consistent with the requirements of section 1008 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 113 note);".

Subsec. (e)(2). Pub. L. 115–91, §1002(e)(3)(B)(ii), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Pub. L. 115–91, §1002(e)(2)(B), struck out ", United States Code," after "title 31".

Subsec. (e)(3). Pub. L. 115–91, §1002(e)(3)(B)(ii), redesignated par. (3) as (2).

Pub. L. 115–91, §1002(e)(2)(A), struck out ", United States Code" after "title 31".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

### AUDIT REQUIREMENT FOR DEPARTMENT OF DEFENSE COMPONENTS

Pub. L. 118–31, div. A, title X, §1004, Dec. 22, 2023, 137 Stat. 379, as amended by Pub. L. 118–159, div. A, title X, §1004, Dec. 23, 2024, 138 Stat. 2047; Pub. L. 119–60, div. A, title X, §1005, Dec. 18, 2025, 139 Stat. 1029, provided that:

"(a) IN GENERAL.—During each of fiscal years 2024 through 2035, each component of the Department of Defense shall be subject to an independent audit. Any such component that fails to be subject to such an audit during any fiscal year shall have 1.5 percent of unobligated amounts available for the component be cancelled and returned to the general fund of the Treasury for deficit reduction, except as provided in subsection (b).

"(b) EXCEPTIONS.—The following accounts are excluded from any reductions:

"(1) Military personnel, reserve personnel, and National Guard personnel accounts of the Department of Defense.

"(2) The Defense Health Program account of the Department of Defense."

**TRANSPARENCY OF ACCOUNTING FIRMS USED TO SUPPORT DEPARTMENT OF DEFENSE AUDIT**

Pub. L. 115–232, div. A, title X, §1006, Aug. 13, 2018, 132 Stat. 1947, as amended by Pub. L. 116–92, div. A, title X, §1011, Dec. 20, 2019, 133 Stat. 1577, provided that:

"(a) IN GENERAL.—For all contract actions (including awards, renewals, and amendments) occurring more than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall require any accounting firm providing financial statement auditing or audit remediation services to the Department of Defense in support of the audit required under section 3521 of title 31, United States Code, to provide the Department with a statement setting forth the details of any disciplinary proceedings with respect to the accounting firm or its associated persons before any entity with the authority to enforce compliance with rules or laws applying to audit services offered by accounting firms.

"(b) TREATMENT OF STATEMENT.—A statement setting forth the details of a disciplinary proceeding submitted pursuant to subsection (a), and the information contained in such a statement, shall be—

"(1) treated as confidential to the extent required by the court or agency in which the proceeding has occurred; and

"(2) treated in a manner consistent with any protections or privileges established by any other provision of Federal law."

## §240e. Audits: use of commercial data integration and analysis products in preparing audits

(a) DEPLOYMENT OF DATA ANALYTICS CAPABILITIES.—The Secretary of Defense shall use competitive procedures under chapter 137 [1] of this title to procure or develop technologies or services, including those based on commercially available information technologies and services to improve data collection and analyses to support preparation of auditable financial statements for the Department of Defense.

(b) USE OF FUNDING AND RESOURCES.—The Secretary of Defense may use science and technology funding, prototypes, and test and evaluation resources as appropriate in support of deployment of technologies and services as described in subsection (a).

(Added and amended Pub. L. 115–91, div. A, title X, §1002(f)(1), (2), Dec. 12, 2017, 131 Stat. 1541, 1542, §254a; renumbered §240e, Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

**EDITORIAL NOTES**

**CODIFICATION**

Text of section, as added by Pub. L. 115–91, is based on text of subsecs. (a) and (b) of section 1003 of Pub. L. 114–328, div. A, title X, Dec. 23, 2016, 130 Stat. 2380, which were formerly set out in a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(f)(3), Dec. 12, 2017, 131 Stat. 1542.

**REFERENCES IN TEXT**

Chapter 137 of this title, referred to in subsec. (a), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 254a of this title as this section.

**2017**—Subsec. (a). Pub. L. 115–91, §1002(f)(2)(A), substituted "of this title" for "of title 10, United States Code," and struck out ", as soon as practicable," after "develop".

Subsec. (b). Pub. L. 115–91, §1002(f)(2)(B), substituted "deployment of technologies and services as described in subsection (a)" for "this deployment".

[1] *See References in Text note below.*

## §240f. Audits: selection of service providers for audit services

The Department of Defense shall select service providers for auditing services based on the best value to the Department, as determined by the resource sponsor for an auditing contract, rather than based on the lowest price technically acceptable service provider.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(g)(1), (2), Dec. 12, 2017, 131 Stat. 1542, §254b; renumbered §240f, Pub. L. 115–232, div. A, title X, §1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

### EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 892 of Pub. L. 114–328, div. A, title VIII, Dec. 23, 2016, 130 Stat. 2324, which was formerly set out as a note under section 2331 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(g)(3), Dec. 12, 2017, 131 Stat. 1542.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 254b of this title as this section.

**2017**—Pub. L. 115–91, §1002(g)(2), struck out "and audit readiness services" after "auditing services".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NOTIFICATION REQUIREMENT FOR CERTAIN CONTRACTS FOR AUDIT SERVICES

Pub. L. 115–91, div. A, title X, §1007, Dec. 12, 2017, 131 Stat. 1545, provided that:

"(a) NOTIFICATION TO CONGRESS.—If the Under Secretary of Defense (Comptroller) makes a written finding that a delay in performance of a covered contract while a protest is pending would hinder the annual preparation of audited financial statements for the Department of Defense, and the head of the procuring activity responsible for the award of the covered contract does not authorize the award of the contract (pursuant to section 3553(c)(2) of title 31, United States Code) or the performance of the contract (pursuant to section 3553(d)(3)(C) of such title), the Secretary of Defense shall—

"(1) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 10 days after such finding is made; and

"(2) describe any steps the Department of Defense plans to take to mitigate any hindrance identified in such finding to the annual preparation of audited financial statements for the Department.

"(b) COVERED CONTRACT DEFINED.—In this section, the term 'covered contract' means a contract for services to perform an audit to comply with the requirements of section 3515 of title 31, United States Code."

## §240g. Defense Business Audit Remediation Plan

(a) IN GENERAL.—The Secretary of Defense shall maintain a plan, to be known as the "Defense Business Systems Audit Remediation Plan". Such plan shall include a current accounting of the defense business systems of the Department of Defense that will be introduced, replaced, updated, modified, or retired in connection with the audit of the full financial statements of the Department, including a comprehensive roadmap that displays—

(1) in-service, retirement, and other pertinent dates for affected defense business systems;

(2) current cost-to-complete estimates for each affected defense business system;

(3) dependencies both between the various defense business systems and between the introduction, replacement, update, modification, and retirement of such systems;

(4) the amount spent by the Department on operating and maintaining financial management systems during the preceding five fiscal years; and

(5) the amount spent by the Department on acquiring or developing new financial management systems during such five fiscal years.

(b) ANNUAL REPORT.—On the same date as the date of the submission of the audited financial statements of the Department of Defense required pursuant to section 240a of this title each year, the Secretary of Defense shall submit to the congressional defense committees an updated annual report on the Defense Business Systems Audit Remediation Plan under subsection (a).

(c) DEFENSE BUSINESS SYSTEM.—In this section, the term "defense business system" has the meaning given such term in section 2222(i)(1)(A) of this title.

(Added Pub. L. 116–92, div. A, title X, §1002(a), Dec. 20, 2019, 133 Stat. 1570; amended Pub. L. 116–283, div. A, title X, §1005(a), Jan. 1, 2021, 134 Stat. 3837; Pub. L. 117–81, div. A, title X, §1081(a)(8), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 119–60, div. A, title X, §1003, Dec. 18, 2025, 139 Stat. 1028.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (b). Pub. L. 119–60 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to annual reports and semiannual briefings on the Defense Business Systems Audit Remediation Plan.

**2021**—Subsec. (a)(3). Pub. L. 117–81 substituted a semicolon for "; and" at end.

Subsec. (a)(4), (5). Pub. L. 116–283 added pars. (4) and (5).

## [§240h. Repealed. Pub. L. 119–60, div. A, title X, §1002(c), Dec. 18, 2025, 139 Stat. 1028]

Section, added Pub. L. 116–92, div. A, title X, §1004(a)(1), Dec. 20, 2019, 133 Stat. 1572, required Secretary of Defense to submit annual report that included ranking of military departments and Defense Agencies in order of how advanced each such department and Agency was in achieving auditable financial statements. See section 240b of this title.

## §240i. Annual report on unfunded priorities

(a) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Under Secretary of Defense (Comptroller) shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on unfunded priorities of the Department of Defense related to audit readiness and remediation.

(b) ELEMENTS.—(1) Each report under subsection (a) shall include, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority were to be funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives identified under subparagraph (A).

(C) Account information with respect to such priority, including, as applicable, the following:

(i) Line item number, in the case of applicable procurement accounts.

(ii) Program element number, in the case of applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group, in the case of applicable operation and maintenance accounts.

(2) The Under Secretary shall ensure that the unfunded priorities covered by a report under subsection (a) are listed in the order of urgency of priority, as determined by the Under Secretary.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", with respect to a fiscal year, means an activity related to an audit readiness or remediation effort stemming from a relevant requirement under the Chief Financial Officer Act [1] (Public Law 101–576), chapter 9 of title 31, or this chapter that—

(1) is not funded in the budget of the President for that fiscal year, as submitted to Congress pursuant to section 1105 of title 31;

(2) is necessary to address a shortfall in an audit readiness or remediation activity; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement had emerged before the budget was formulated.

(Added Pub. L. 116–283, div. A, title X, §1005(b)(1), Jan. 1, 2021, 134 Stat. 3837.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Chief Financial Officer Act, referred to in subsec. (c), probably means the Chief Financial Officers Act of 1990, Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

[1] *See References in Text note below.*

# CHAPTER 11—RESERVE COMPONENTS

Sec.
241. Reference to chapters 1003, 1005, and 1007.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(4), Aug. 13, 2018, 132 Stat. 1983, which directed amendment of the analysis of chapter 4 of this title by renumbering item 261 as 241, was executed by making the amendment in this analysis to reflect the probable intent of Congress.

**1994**—Pub. L. 103–337, div. A, title XVI, §1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2979, added item 261 and struck out former items 261 to 281.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(c)(1), Nov. 30, 1993, 107 Stat. 1714, added item 279.

**1984**—Pub. L. 98–525, title XIV, §1405(7)(C), Oct. 19, 1984, 98 Stat. 2622, in item 264 substituted "armed force" for "military department" and "Reserves" for "reserves" and struck out "; reports to Congress" at end.

**1978**—Pub. L. 95–485, title IV, §406(b)(2), Oct. 20, 1978, 92 Stat. 1616, struck out item 279 "Training reports".

**1967**—Pub. L. 90–168, §2(7), Dec. 1, 1967, 81 Stat. 522, substituted "designation of general or flag officers of each military department; personnel and logistic support for reserves; reports to Congress" for "responsibility for" in item 264.

**1960**—Pub. L. 86–559, §1(2)(D), June 30, 1960, 74 Stat. 264, added item 281.

**1958**—Pub. L. 85–861, §1(6), Sept. 2, 1958, 72 Stat. 1439, added items 270, 271, 272 and 279.

## §241. Reference to chapters 1003, 1005, and 1007

Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2980, §261; renumbered §241, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 261 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 12—THE MILITIA

Sec.
246. Militia: composition and classes.
247. Militia duty: exemptions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 13 of this title "THE MILITIA" as chapter 12, redesignated item 311 "Militia: composition and classes" as item 246, and redesignated item 312 "Militia duty: exemptions" as item 247.

## §246. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.

(b) The classes of the militia are—

(1) the organized militia, which consists of the National Guard and the Naval Militia; and

(2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 14, §311; Pub. L. 85–861, §1(7), Sept. 2, 1958, 72 Stat. 1439; Pub. L. 103–160, div. A, title V, §524(a), Nov. 30, 1993, 107 Stat. 1656; renumbered §246, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 311(a) | 32:1 (less last 19 words). | June 3, 1916, ch. 134, §57, 39 Stat. 197; June 28, 1947, ch. 162, §7 (as applicable to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192. |
| 311(b) | 32:1 (last 19 words). | |

In subsection (a), the words "who have made a declaration of intention" are substituted for the words "who have or shall have declared their intention". The words "at least 17 years of age and * * * under 45 years of age" are substituted for the words "who shall be more than seventeen years of age and * * * not more than forty-five years of age". The words "except as provided in section 313 of title 32" are substituted for the words "except as hereinafter provided", to make explicit the exception as to maximum age.

In subsection (b), the words "The organized militia, which consists of the National Guard and the Naval Militia" are substituted for the words "the National Guard, the Naval Militia", since the National Guard and the Naval Militia constitute the organized militia.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 311(a) | 32 App.:1. | July 30, 1956, ch. 789, §1, 70 Stat. 729. |

The words "appointed as . . . under section 4 of this title" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 311 of this title as this section.
**1993**—Subsec. (a). Pub. L. 103–160 substituted "members" for "commissioned officers".
**1958**—Subsec. (a). Pub. L. 85–861 included female citizens of the United States who are commissioned officers of the National Guard.

## §247. Militia duty: exemptions

(a) The following persons are exempt from militia duty:
(1) The Vice President.
(2) The judicial and executive officers of the United States, the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
(3) Members of the armed forces, except members who are not on active duty.
(4) Customhouse clerks.
(5) Persons employed by the United States in the transmission of mail.
(6) Workmen employed in armories, arsenals, and naval shipyards of the United States.
(7) Pilots on navigable waters.
(8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be noncombatant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §312; Pub. L. 100–456, div. A, title XII, §1234(a)(3), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(a)(7), Jan. 6, 2006, 119 Stat. 3441; renumbered §247, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 312(a)<br>312(b) | 32:3 (less last 67 words).<br>32:3 (last 67 words). | June 3, 1916, ch. 134, §59, 39 Stat. 197. |

In subsection (a), the words "Members of the armed forces" are substituted for the words "persons in the military or naval service". The words "except members who are not on active duty" are inserted to reflect an opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952). The word "artificers" is omitted as covered by the word "workmen". The words "naval shipyards" are substituted for the words "navy yards" to reflect modern terminology. The words "on navigable waters" are inserted to preserve the original coverage of the word "pilots". The words "actually" and "without regard to age" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 312 of this title as this section.
**2006**—Subsec. (a)(2). Pub. L. 109–163 substituted "States, the Commonwealth of Puerto Rico, Guam, and

the Virgin Islands" for "States and Territories, and Puerto Rico".

**1988**—Subsec. (a)(2). Pub. L. 100–456 substituted "and Puerto Rico" for "Puerto Rico, and the Canal Zone".

# CHAPTER 13—INSURRECTION

Sec.
251.[1] Federal aid for State governments.
252.[1] Use of militia and armed forces to enforce Federal authority.
253.[1] Interference with State and Federal law.
254.[1] Proclamation to disperse.
255. Guam and Virgin Islands included as "State".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 13, consisting of sections 311 and 312, was renumbered chapter 12, and sections 311 and 312 were renumbered sections 246 and 247, respectively.

**AMENDMENTS**

**2016**—Pub. L. 114–328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 15 of this title "INSURRECTION" as chapter 13, redesignated item 331 "Federal aid for State governments" as item 251, redesignated item 332 "Use of militia and armed forces to enforce Federal authority" as item 252, redesignated item 333 "Interference with State and Federal law" as item 253, redesignated item 334 "Proclamation to disperse" as item 254, and redesignated item 335 "Guam and Virgin Islands included as 'State' " as item 255.

**2008**—Pub. L. 110–181, div. A, title X, §1068(a)(3), (4)(A), Jan. 28, 2008, 122 Stat. 325, substituted "INSURRECTION" for "ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER" in chapter heading, added item 333, and struck out former item 333 "Major public emergencies; interference with State and Federal law".

**2006**—Pub. L. 109–364, div. A, title X, §1076(a)(3), (4)(B), Oct. 17, 2006, 120 Stat. 2405, substituted "ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER" for "INSURRECTION" in chapter heading and "Major public emergencies; interference with State and Federal law" for "Interference with State and Federal law" in item 333.

**1980**—Pub. L. 96–513, title V, §511(11)(C), Dec. 12, 1980, 94 Stat. 2921, added item 335.

*[1] Items numbered 251 to 254 also appear in the analysis for chapter 9A of this title.*

## §251. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §331; renumbered §251, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 331 | 50:201. | R.S. 5297. |

The words "armed forces" are substituted for the words "land or naval forces of the United States". The word "governor" is substituted for the word "executive". The word "may" is substituted for the words "it shall be lawful * * * to". The words "into Federal service" are substituted for the word "forth" for uniformity and

clarity.

**EDITORIAL NOTES**

**CODIFICATION**

Another section 251 was renumbered section 240a of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 331 of this title as this section.

## §252. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §332; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; renumbered §252, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 332 | 50:202. | R.S. 5298. |

50:202 (last 22 words) is omitted as surplusage. The words "armed forces" are substituted for the words "land and naval forces of the United States". The words "call into Federal service such of the militia" are substituted for the words "call forth the militia of any or all the States" for clarity and uniformity. The word "may" is substituted for the words "it shall be lawful". The words "faithful execution of the" and "in whatever State or Territory thereof the laws of the United States may be forcibly opposed" are omitted as surplusage.

**DERIVATION**

Act July 29, 1861, ch. 25, §1, 12 Stat. 281.

**EDITORIAL NOTES**

**CODIFICATION**

Another section 252 was renumbered section 240b of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 332 of this title as this section.
**2006**—Pub. L. 109–163 struck out "or Territory" after "in any State".

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 10730. ASSISTANCE FOR REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS**

Ex. Ord. No. 10730, Sept. 24, 1957, 22 F.R. 7628, authorized the Secretary of Defense to order into the active military service of the United States units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas for an indefinite period and until relieved by appropriate orders in order to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstructions to justice in respect to enrollment and attendance at public schools in

the Little Rock School District, Little Rock, Arkansas; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such orders of the district court; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

**EX. ORD. NO. 11053. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI**

Ex. Ord. No. 11053, Sept. 30, 1962, 27 F.R. 9681, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Mississippi for an indefinite period and until relieved by appropriate orders in order to enforce all orders of the United States District Court for the Southern District of Mississippi and of the United States Court of Appeals for the Fifth Circuit for the removal of obstructions to justice in the State of Mississippi; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such court orders; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

**EX. ORD. NO. 11111. ASSISTANCE FOR REMOVAL OF OBSTRUCTIONS OF JUSTICE AND SUPPRESSION OF UNLAWFUL COMBINATIONS WITHIN THE STATE OF ALABAMA**

Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States within that State and the orders of the United States District Court for the Northern District of Alabama, to remove obstructions to justice, and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the laws of the United States or impede the course of justice under those laws within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

**EX. ORD. NO. 11118. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF ALABAMA**

Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States and any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the law or impede the course of justice under the law within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

## §253. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §333; Pub. L. 109–364, div. A, title X, §1076(a)(1), Oct. 17, 2006, 120 Stat. 2404; Pub. L. 110–181, div. A, title X, §1068(a)(1), Jan. 28, 2008, 122 Stat. 325; renumbered §253, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 333 | 50:203. | R.S. 5299. |

The words "armed forces" are substituted for the words "land or naval forces of the United States". The word "shall" is substituted for the words "it shall be lawful for * * * and it shall be his duty".

**DERIVATION**

Act Apr. 20, 1871, ch. 22, §3, 17 Stat. 14.

**EDITORIAL NOTES**

**CODIFICATION**

Another section 253 was renumbered section 240c of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 333 of this title as this section.

**2008**—Pub. L. 110–181 amended section generally, substituting provisions directing the President to suppress certain insurrections and domestic violence in a State for provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority.

**2006**—Pub. L. 109–364 amended section catchline and text generally, substituting provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority for provisions directing the President to suppress certain insurrections and domestic violence in a State.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–181, div. A, title X, §1068(d), Jan. 28, 2008, 122 Stat. 326, provided that: "The amendments made by this section [amending this section and sections 334 and 12304 of this title and repealing section 2567 of this title] shall take effect on the date of the enactment of this Act [Jan. 28, 2008]."

## §254. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, §334; Pub. L. 109–364, div. A, title X, §1076(a)(2), Oct. 17, 2006, 120 Stat. 2405; Pub. L. 110–181, div. A, title X, §1068(a)(2), Jan. 28, 2008, 122 Stat. 325; renumbered §254, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 334 | 50:204. | R.S. 5300. |

The words "militia or the armed forces" are substituted for the words "military forces" for clarity and to conform to sections 331, 332, and 333 of this title.

**DERIVATION**

Act July 29, 1861, ch. 25, §2, 12 Stat. 282.

**EDITORIAL NOTES**

## CODIFICATION

Other sections 254 to 254b were renumbered sections 240d to 240f, respectively, of this title.

## AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 334 of this title as this section.
**2008**—Pub. L. 110–181 struck out "or those obstructing the enforcement of the laws" after "insurgents".
**2006**—Pub. L. 109–364 inserted "or those obstructing the enforcement of the laws" after "insurgents".

## EXECUTIVE DOCUMENTS

### PROC. NO. 3204. OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS

Proc. No. 3204, Sept. 23, 1957, 22 F.R. 7628, commanded all persons in the State of Arkansas who were obstructing the enforcement of orders of the United States District Court for the Eastern District of Arkansas relating to enrollment and attendance at public schools, particularly Central High School at Little Rock, Arkansas, to cease and desist therefrom and to disperse forthwith.

### PROC. NO. 3497. OBSTRUCTION OF JUSTICE IN THE STATE OF MISSISSIPPI

Proc. No. 3497, Sept. 30, 1962, 27 F.R. 9681, commanded all persons in the State of Mississippi who were obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit to cease and desist therefrom and to disperse and retire peaceably forthwith.

### PROC. NO. 3542. UNLAWFUL OBSTRUCTION OF JUSTICE AND COMBINATIONS IN THE STATE OF ALABAMA

Proc. No. 3542, June 11, 1963, 28 F.R. 5707, commanded the Governor of the State of Alabama and all other persons who were obstructing the orders of the United States District Court for the Northern District of Alabama relating to the enrollment and attendance of Negro students at the University of Alabama to cease and desist therefrom.

### PROC. NO. 3554. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3554, Sept. 10, 1963, 28 F.R. 9861, commanded all persons obstructing the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State to cease and desist therefrom and to disperse and retire peaceably forthwith.

### PROC. NO. 3645. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3645, Mar. 23, 1965, 30 F.R. 3739, commanded all persons engaged or who may engage in domestic violence obstructing the enforcement of the laws and the judicial order approving the right to march along U.S. Highway 80 from Selma to Montgomery, Alabama commencing during the period from Mar. 19, 1965 to Mar. 22, 1965 and terminating within 5 days of the commencement to cease and desist therefrom and to disperse forthwith.

### PROC. NO. 3795. OBSTRUCTION OF JUSTICE IN THE STATE OF MICHIGAN

Proc. No. 3795, July 26, 1967, 32 F.R. 10905, commanded all persons engaged in domestic violence and disorder in Detroit, Michigan, and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

### PROC. NO. 3840. OBSTRUCTION OF JUSTICE IN THE WASHINGTON METROPOLITAN AREA

Proc. No. 3840, Apr. 9, 1968, 33 F.R. 5495, commanded all persons engaged in acts of violence threatening the Washington Metropolitan Area and obstructing the execution of the laws to cease and desist therefrom and to disperse forthwith.

### PROC. NO. 3841. OBSTRUCTION OF JUSTICE IN THE STATE OF ILLINOIS

Proc. No. 3841, Apr. 9, 1968, 33 F.R. 5497, commanded all persons engaged in violence in and about the City of Chicago and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

### PROC. NO. 3842. OBSTRUCTION OF JUSTICE IN THE STATE OF MARYLAND

Proc. No. 3842, Apr. 9, 1968, 33 F.R. 5499, commanded all persons engaged in acts of violence and

obstructing the enforcement of the laws in and about the City of Baltimore to cease and desist therefrom and to disperse forthwith.

## §255. Guam and Virgin Islands included as "State"

For purposes of this chapter, the term "State" includes Guam and the Virgin Islands.

(Added Pub. L. 90–497, §11, Sept. 11, 1968, 82 Stat. 847, §335; amended Pub. L. 96–513, title V, §511(11)(A), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 109–163, div. A, title X, §1057(a)(8), Jan. 6, 2006, 119 Stat. 3441; renumbered §255, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 335 of this title as this section.

**2006**—Pub. L. 109–163 struck out "the unincorporated territories of" before "Guam".

**1980**—Pub. L. 96–513 inserted "and Virgin Islands" after "Guam" in section catchline and inserted provision respecting applicability to the Virgin Islands.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE

Pub. L. 90–497, §11, Sept. 11, 1968, 82 Stat. 847, provided that this section is effective on date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

# CHAPTER 14—ARMING OF AMERICAN VESSELS

Sec.
261. During war or threat to national security.

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 17 of this title "ARMING OF AMERICAN VESSELS" as chapter 14 and redesignated item 351 "During war or threat to national security" as item 261.

## §261. During war or threat to national security

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 16 of the Act of March 4, 1909 (22 U.S.C. 463) does not apply to vessels armed under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, §351; Pub. L. 96–513, title V, §511(12), Dec. 12, 1980, 94 Stat. 2921; renumbered §261, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 351(a) | 50:481 (1st sentence, less 1st 7 words). | June 29, 1948, ch. 715, 62 Stat. 1095. |
| 351(b) | 50:481 (1st 7 words of 1st sentence and 2d sentence). | |
| 351(c) | 50:481 (less 1st and 2d sentences). | |

In subsection (a), the wording of the special definition of "vessel" and "American vessel", contained in section 16 of the Neutrality Act of 1939, 54 Stat. 12 (22 U.S.C. 456), is substituted for the words "any American vessel as defined in the Neutrality Act of 1939".

In subsection (b), the words "or national emergency" are omitted, since the words of the source statute defining that term have been substituted for it.

In subsection (c), the words "(relating to bonds from armed vessels on clearing)" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 261 was renumbered section 241 of this title.

Another prior section 261, act Aug. 10, 1956, ch. 1041, 70A Stat. 10, which named the reserve components of the armed forces, was repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See sections 10101 and 10213 of this title.

Prior sections 262 to 265 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 262, acts Aug. 10, 1956, ch. 1041, 70A Stat. 10; Dec. 1, 1967, Pub. L. 90–168, §2(5), 81 Stat. 521, related to purpose of reserve components. See section 10102 of this title.

Section 263, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to basic policy for ordering Army National Guard of the United States and Air National Guard of the United States into Federal service. See section 10103 of this title.

Section 264, acts Aug. 10, 1956, ch. 1041, 70A Stat. 11; Dec. 1, 1967, Pub. L. 90–168, §2(6), 81 Stat. 521; Nov. 19, 1969, Pub. L. 91–121, title III, §303, 83 Stat. 206; Oct. 20, 1978, Pub. L. 95–485, title IV, §406(a), 92 Stat. 1616; Oct. 19, 1984, Pub. L. 98–525, title XIV, §1405(7)(A), (B), 98 Stat. 2622, authorized Secretaries of each armed force to designate officers to be responsible for reserve affairs and assigned responsibility for providing personnel and logistic support for reserves. See sections 10203 and 18501 of this title.

Section 265, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to participation of reserve officers in preparation and administration of policies and regulations affecting reserve components. See section 10211 of this title.

Prior section 266 was renumbered section 12643 of this title.

Prior sections 267 to 270 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 267, act Aug. 10, 1956, ch. 1041, 70A Stat. 12, related to placement and status of members of Ready Reserve, Standby Reserve, and Retired Reserve. See section 10141(a), (b) of this title.

Section 268, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85–861, §1(3), 72 Stat. 1437; Dec. 1, 1967, Pub. L. 90–168, §2(8), 81 Stat. 522; Oct. 12, 1982, Pub. L. 97–295, §1(5), 96 Stat. 1289, related to composition, organization, and structure of Ready Reserve. See sections 10142 and 10143 of this title.

Section 269, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85–861, §1(4), 72 Stat. 1437; June 30, 1960, Pub. L. 86–559, §1(2)(A), 74 Stat. 264; Dec. 1, 1967, Pub. L. 90–168, §2(9), 81 Stat.

522; Oct. 20, 1978, Pub. L. 95–485, title IV, §405(a)(1), 92 Stat. 1615; Sept. 24, 1983, Pub. L. 98–94, title X, §1018, 97 Stat. 669; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to placement in and transfer from Ready Reserve. See sections 10145 and 10146 of this title.

Section 270, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 87–378, §2, Oct. 4, 1961, 75 Stat. 807; Pub. L. 88–110, §4, Sept. 3, 1963, 77 Stat. 136; Pub. L. 90–168, §2(10), Dec. 1, 1967, 81 Stat. 523; Pub. L. 92–156, title III, §303(a), Nov. 17, 1971, 85 Stat. 425; Pub. L. 96–513, title V, §511(7), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 100–456, div. A, title XII, §1234(a)(2), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–189, div. A, title V, §501(b), Nov. 29, 1989, 103 Stat. 1435, related to training requirements of Ready Reserve. See sections 10147 and 10148 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 351 of this title as this section.

**1980**—Subsec. (c). Pub. L. 96–513 substituted "Section 16 of the Act of March 4, 1909 (22 U.S.C. 463)" for "Section 463 of title 22".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## CHAPTER 15—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

Sec.
271. Use of information collected during military operations.
272. Use of military equipment and facilities.
273. Training and advising civilian law enforcement officials.
274. Maintenance and operation of equipment.
275. Restriction on direct participation by military personnel.
276. Support not to affect adversely military preparedness.
277. Reimbursement.
278. Nonpreemption of other law.
279. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.
280. Enhancement of cooperation with civilian law enforcement officials.
281. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities.
282. Emergency situations involving weapons of mass destruction.
283. Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities.
284. Support for counterdrug activities and activities to counter transnational organized crime.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 15, consisting of sections 331 to 335, was renumbered chapter 13, and sections 331 to 335 were renumbered sections 251 to 255, respectively.

### AMENDMENTS

**2016**—Pub. L. 114–328, div. A, title X, §1011(a)(2), title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2385, 2497, 2512, added item 384, renumbered chapter 18 of this title "MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES" as chapter 15, redesignated item 371 "Use of information collected during military operations" as item 271, redesignated item 372 "Use of military equipment and facilities" as item 272, redesignated item 373 "Training and advising civilian law enforcement officials" as

item 273, redesignated item 374 "Maintenance and operation of equipment" as item 274, redesignated item 375 "Restriction on direct participation by military personnel" as item 275, redesignated item 376 "Support not to affect adversely military preparedness" as item 276, redesignated item 377 "Reimbursement" as item 277, redesignated item 378 "Nonpreemption of other law" as item 278, redesignated item 379 "Assignment of Coast Guard personnel to naval vessels for law enforcement purposes" as item 279, redesignated item 380 "Enhancement of cooperation with civilian law enforcement officials" as item 280, redesignated item 381 "Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities" as item 281, redesignated item 382 "Emergency situations involving weapons of mass destruction" as item 282, redesignated item 383 "Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities" as item 283, and redesignated item 384 "Support for counterdrug activities and activities to counter transnational organized crime" as item 284.

**2015**—Pub. L. 114–92, div. A, title X, §1082(b), Nov. 25, 2015, 129 Stat. 1003, added item 383.

**2011**—Pub. L. 111–383, div. A, title X, §1075(b)(10)(C), Jan. 7, 2011, 124 Stat. 4369, added item 382 and struck out former item 382 "Emergency situations involving chemical or biological weapons of mass destruction".

**2008**—Pub. L. 110–417, [div. A], title VIII, §885(b)(2), Oct. 14, 2008, 122 Stat. 4561, added item 381 and struck out former item 381 "Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense".

**1996**—Pub. L. 104–201, div. A, title XIV, §1416(a)(2), Sept. 23, 1996, 110 Stat. 2723, added item 382.

**1993**—Pub. L. 103–160, div. A, title XI, §1122(a)(2), Nov. 30, 1993, 107 Stat. 1755, added item 381.

**1989**—Pub. L. 101–189, div. A, title XII, §1216(a), Nov. 29, 1989, 103 Stat. 1569, in chapter heading substituted "18" for "8".

**1988**—Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043, amended chapter analysis generally substituting, in chapter heading "CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES" for "CHAPTER 18—MILITARY COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS", in item 374 "Maintenance and operation of equipment" for "Assistance by Department of Defense personnel", in item 376 "Support not to affect adversely military preparedness" for "Assistance not to affect adversely military preparedness" and in item 380 "Enhancement of cooperation with civilian law enforcement officials" for "Department of Defense drug law enforcement assistance: annual plan".

**1987**—Pub. L. 100–180, div. A, title XII, §1243(b), Dec. 4, 1987, 101 Stat. 1164, added item 380.

**1986**—Pub. L. 99–570, title III, §3053(b)(2), Oct. 27, 1986, 100 Stat. 3207–76, added item 379.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE ASSISTANCE TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES

Pub. L. 114–92, div. A, title X, §1059, Nov. 25, 2015, 129 Stat. 986, as amended by Pub. L. 116–283, div. A, title X, §1056(a), (b), Jan. 1, 2021, 134 Stat. 3855, which authorized Department of Defense to provide assistance to secure the southern land border of the United States, was transferred by Pub. L. 116–283, div. A, title X, §1056(c), Jan. 1, 2021, 134 Stat. 3856, and is set out as a note under section 284 of this title.

## §271. Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §371; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; renumbered §271, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 271, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 95–485, title IV, §405(b), Oct. 20, 1978, 92 Stat. 1615, related to system of continuous screening of units and members of Ready Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10149 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 371 of this title as this section.

**1988**—Pub. L. 100–456 amended section generally, designating existing provisions as subsec. (a), inserting reference to military training, and adding subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–570, title III, §3051, Oct. 27, 1986, 100 Stat. 3207–74, provided that: "This subtitle [subtitle A (§§3051–3059) of title III of Pub. L. 99–570, enacting section 379 of this title, amending sections 374 and 911 of this title, enacting provisions set out as notes under sections 374, 525, and 9441 of this title, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard] may be cited as the 'Defense Drug Interdiction Assistance Act'."

### ENHANCEMENT OF INFORMATION SHARING AND COORDINATION OF MILITARY TRAINING BETWEEN DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF DEFENSE

Pub. L. 114–328, div. A, title X, §1014, Dec. 23, 2016, 130 Stat. 2386, as amended by Pub. L. 116–92, div. A, title X, §1053, Dec. 20, 2019, 133 Stat. 1591; Pub. L. 117–81, div. A, title X, §1063, Dec. 27, 2021, 135 Stat. 1909; Pub. L. 117–263, div. A, title X, §1058, Dec. 23, 2022, 136 Stat. 2780; Pub. L. 118–31, div. A, title X, §1062, Dec. 22, 2023, 137 Stat. 400, provided that:

"(a) IN GENERAL.—The Secretary of Homeland Security shall ensure that the information needs of the Department of Homeland Security relating to civilian law enforcement activities in proximity to the international borders of the United States are identified and communicated to the Secretary of Defense for the purposes of the planning and executing of military training by the Department of Defense.

"(b) FORMAL MECHANISM OF NOTIFICATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Homeland Security, in coordination with the Secretary of Defense, shall establish a formal mechanism through which the information needs of the Department of Homeland Security relating to civilian law enforcement activities in proximity to the international borders of the United States are identified and communicated to the Secretary of Defense for the purposes of the planning and executing military training by the Department of Defense.

"(2) DISSEMINATION TO THE ARMED FORCES.—To the extent practicable, the Secretary of Defense shall ensure that such information needs are disseminated to the Armed Forces in a timely manner so the Armed Forces may take into account the information needs of civilian law enforcement when planning and executing training in accordance with section 271 of title 10, United States Code.

"(3) COORDINATION OF TRAINING.—To the maximum extent practicable, the Secretary of Defense shall ensure that the planning and execution of training described in paragraph (2) is coordinated with the Department of Homeland Security.

"(c) SHARING OF CERTAIN INFORMATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly formulate guidance to ensure that the information relevant to civilian law enforcement matters that is collected by the Armed Forces during the normal course of military training or operations in proximity to the international borders of the United States is provided promptly to relevant officials in accordance with section 271 of title 10, United States Code.

"(d) ANNUAL REPORTS.—

"(1) DEPARTMENT OF DEFENSE REPORT.—

"(A) IN GENERAL.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on any assistance provided by the Department of Defense to the border security mission of the Department of Homeland Security at the international borders of the United States during the fiscal year preceding the fiscal year during which the report is submitted.

"(B) ELEMENTS.—Each report submitted under subparagraph (A) shall include each of the following:

"(i) A description of the military training and operational activities of each military component leveraged, pursuant to section 271 of title 10, United States Code, to support the border security mission of the Department of Homeland Security at the southern border of the United States.

"(ii) For each activity described in clause (i), each of the following, identified by component:

"(I) The Department of Homeland Security information need that was supported.

"(II) The military training or operational activity leveraged to provide support.

"(III) The duration of the support.

"(IV) The cost of the support.

"(iii) A description of any Department of Defense activities provided in response to a request for assistance from the Department of Homeland Security.

"(iv) For each activity described in clause (iii), the following:

"(I) The stated rationale of the Department of Homeland Security for requesting assistance from the Department of Defense.

"(II) The capability provided by the Department of Defense.

"(III) The duration of the assistance provided by the capability.

"(IV) The statutory authority under which the assistance was provided.

"(V) The cost of the assistance provided.

"(VI) Whether the Department of Defense was reimbursed by the Department of Homeland Security for the assistance provided.

"(VII) In the case of assistance for which the Department of Defense was not reimbursed, the justification for non-reimbursement.

"(VIII) The methodology used for making cost estimates in the evaluation of a request for assistance.

"(IX) The extent to which the fulfillment of the request for assistance affected readiness of the Armed Forces, including members of the reserve components.

"(v) A description of any Department of Defense excess property provided to U. S. Customs and Border Protection.

"(vi) The status of the implementation of this section.

"(vii) A description of any other activity the Secretary of Defense determines relevant.

"(2) DEPARTMENT OF HOMELAND SECURITY REPORT.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

"(A) any activities of the Department of Homeland Security to reduce, mitigate, or eliminate the demand for Department of Defense support at the international borders of the United States; and

"(B) the status of implementation of this section.

"(3) TERMINATION.—The requirement to submit a report under paragraph (1) or (2) shall terminate on December 31, 2025."

## AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES

Pub. L. 108–136, div. A, title X, §1022, Nov. 24, 2003, 117 Stat. 1594, as amended by Pub. L. 109–163, div. A, title X, §1022, Jan. 6, 2006, 119 Stat. 3427; Pub. L. 110–181, div. A, title X, §1021, Jan. 28, 2008, 122 Stat. 304; Pub. L. 110–417, [div. A], title X, §1022, Oct. 14, 2008, 122 Stat. 4586; Pub. L. 111–84, div. A, title X, §1012, Oct. 28, 2009, 123 Stat. 2441; Pub. L. 111–383, div. A, title X, §1012(a)–(b)(2), Jan. 7, 2011, 124 Stat. 4346, 4347; Pub. L. 112–81, div. A, title X, §1004(a), Dec. 31, 2011, 125 Stat. 1556; Pub. L. 112–239, div. A, title X, §1011, Jan. 2, 2013, 126 Stat. 1907; Pub. L. 113–66, div. A, title X, §1012, Dec. 26,

2013, 127 Stat. 844; Pub. L. 113–291, div. A, title X, §1014, Dec. 19, 2014, 128 Stat. 3484; Pub. L. 115–91, div. A, title X, §1081(i), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116–92, div. A, title X, §1022, Dec. 20, 2019, 133 Stat. 1578; Pub. L. 117–81, div. A, title X, §1008, Dec. 27, 2021, 135 Stat. 1889; Pub. L. 119–60, div. A, title X, §1031, Dec. 18, 2025, 139 Stat. 1034, provided that:

"(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, subject to all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities or counter-transnational organized crime activities.

"(b) AVAILABILITY OF FUNDS.—During fiscal years 2006 through 2032, funds for drug interdiction and counter-drug activities that are available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism or counter-transnational organized crime support authorized by subsection (a).

"(c) ANNUAL REPORT.—Not later than December 31 of each year in which the authority in subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report setting forth, for the one-year period ending on the date of such report, the following:

"(1) An assessment of the effect on counter-drug, counter-transnational organized crime, and counter-terrorism activities and objectives of using counter-drug funds of a joint task force to provide counter-terrorism or counter-transnational organized crime support authorized by subsection (a).

"(2) A description of the type of support and any recipient of support provided under subsection (a), and a description of the objectives of such support.

"(3) A list of current joint task forces exercising the authority under subsection (a).

"(4) A certification by the Secretary of Defense that any support provided under subsection (a) during such one-year period was provided in compliance with the requirements of subsection (d).

"(d) CONDITIONS.—(1) Support for counter-terrorism or counter-transnational organized crime activities provided under subsection (a) may only be provided if the Secretary of Defense determines that the objectives of using the counter-drug funds of any joint task force to provide such support relate significantly to the objectives of providing support for counter-drug activities by that joint task force or any other joint task force.

"(2) The Secretary of Defense may waive the requirements of paragraph (1) if the Secretary determines that such a waiver is vital to the national security interests of the United States. The Secretary shall promptly submit to the congressional defense committees notice in writing of any waiver issued under this subparagraph, together with a description of the vital national security interests associated with the support covered by such waiver.

"(e) DEFINITIONS.—(1) In this section, the term 'transnational organized crime' has the meaning given such term in section 284(i) of title 10, United States Code.

"(2) For purposes of applying the definition of transnational organized crime under paragraph (1) to this section, the term 'illegal means', as it appears in such definition, includes the trafficking of money, human trafficking, illicit financial flows, illegal trade in natural resources and wildlife, trade in illegal drugs and weapons, and other forms of illegal means determined by the Secretary of Defense."

[Pub. L. 112–81, div. A, title X, §1004(b), Dec. 31, 2011, 125 Stat. 1556, provided that: "The authority in section 1022 of the National Defense Authorization Act for Fiscal Year 2004 [Pub. L. 108–136, set out above], as amended by subsection (a), may not be exercised unless the Secretary of Defense certifies to Congress, in writing, that the Department of Defense is in compliance with the provisions of paragraph (2) of subsection (d) of such section, as added by section 1012(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4346)."]

## §272. Use of military equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §372; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 104–106, div. A, title III,

§378, Feb. 10, 1996, 110 Stat. 284; Pub. L. 104–201, div. A, title XIV, §1416(b), Sept. 23, 1996, 110 Stat. 2723; Pub. L. 112–239, div. A, title III, §351, Jan. 2, 2013, 126 Stat. 1701; renumbered §272, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 272, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 96–513, title V, §511(8), Dec. 12, 1980, 94 Stat. 2920, related to transfers back from Standby Reserve to Ready Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10150 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 372 of this title as this section.

**2013**—Pub. L. 112–239 struck out "(a) IN GENERAL.—" before "The Secretary" and subsec. (b) which related to emergencies involving chemical and biological agents.

**1996**—Pub. L. 104–106 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104–201 inserted at end "The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance."

**1988**—Pub. L. 100–456 amended section generally, inserting "(including associated supplies or spare parts)" and substituting "Department of Defense" for "Army, Navy, Air Force, or Marine Corps".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONGRESSIONAL NOTIFICATION OF SUPPORT FOR IMMIGRATION ENFORCEMENT OPERATIONS

Pub. L. 119–60, div. A, title X, §1053(a), Dec. 18, 2025, 139 Stat. 1043, provided that: "Not later than seven calendar days after Department of Defense aircraft are used in support of alien removal operations by the Department of Homeland Security, the Secretary of Defense shall provide written notification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the following:

"(1) The type and variant of military aircraft used to support the alien removal operation.

"(2) The number of individuals not employed by the Department of Defense on board the military aircraft.

"(3) The type, variant, and number of any military aircraft used to support the military aircraft being used in the alien removal operation, including aerial refueling aircraft.

"(4) The estimated cost of supporting the alien removal operation, including—

"(A) the aircraft used;

"(B) the number of flights hours required to complete the round-trip mission;

"(C) the use of any supporting aircraft, including aerial refueling aircraft; and

"(D) the number of flight hours required to complete the round-trip mission of the supporting aircraft.

"(5) The destination country of the military aircraft.

"(6) When the destination country of the military aircraft is Naval Station Guantanamo Bay, Cuba, reporting on both inbound and outbound flights in accordance with the requirements of paragraphs (1) through (5).

"(7) Any reassignment of Department of Defense personnel from Joint Task Force Guantanamo or another Department of Defense entity to support removal operations."

### NOTIFICATION OF ALIENS HELD AT INSTALLATIONS OF DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title X, §1053(b), Dec. 18, 2025, 139 Stat. 1044, provided that:

"(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 18, 2025], and not less frequently every 90 days thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives written notice of the following:

"(A) The estimated total number of aliens held at installations of the Department of Defense,

disaggregated by location, over the period covered by the report.

"(B) The total cost that could be incurred by the Department of Defense of detention of aliens at installations of the Department of Defense, regardless of location, during the period covered by the report.

"(2) ALIEN DEFINED.—In this section, the term 'alien' has the meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)."

**SUPPORT FOR NON-FEDERAL DEVELOPMENT AND TESTING OF MATERIAL FOR CHEMICAL AGENT DEFENSE**

Pub. L. 110–181, div. A, title X, §1034, Jan. 28, 2008, 122 Stat. 308, as amended by Pub. L. 114–328, div. A, title X, §1043, Dec. 23, 2016, 130 Stat. 2393; Pub. L. 115–232, div. A, title VIII, §813(b)(2), Aug. 13, 2018, 132 Stat. 1851, provided that:

"(a) AUTHORITY TO PROVIDE TOXIC CHEMICALS OR PRECURSORS.—

"(1) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other elements of the Federal Government, may make available, to a State, a unit of local government, or a private entity incorporated in the United States, small quantities of a toxic chemical or precursor for the development or testing, in the United States, of material that is designed to be used for protective purposes.

"(2) TERMS AND CONDITIONS.—Any use of the authority under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

"(b) PAYMENT OF COSTS AND DISPOSITION OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall ensure, through the advance payment required by paragraph (2) and through any other payments that may be required, that a recipient of toxic chemicals or precursors under subsection (a) pays for all actual costs, including direct and indirect costs, associated with providing the toxic chemicals or precursors.

"(2) ADVANCE PAYMENT.—In carrying out paragraph (1), the Secretary shall require each recipient to make an advance payment in an amount that the Secretary determines will equal all such actual costs.

"(3) CREDITS.—A payment received under this subsection shall be credited to the account that was used to cover the costs for which the payment was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

"(c) CHEMICAL WEAPONS CONVENTION.—The Secretary shall ensure that toxic chemicals and precursors are made available under this section for uses and in quantities that comply with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on January 13, 1993, and entered into force with respect to the United States on April 29, 1997.

"(d) DEFINITIONS.—In this section:

"(1) The terms 'precursor', 'protective purposes', and 'toxic chemical' have the meanings given those terms in the convention referred to in subsection (c), in paragraph 2, paragraph 9(b), and paragraph 1, respectively, of article II of that convention.

"(2) The term 'biological select agent or toxin' means any agent or toxin identified under any of the following:

"(A) Section 331.3 of title 7, Code of Federal Regulations.

"(B) Section 121.3 or section 121.4 of title 9, Code of Federal Regulations.

"(C) Section 73.3 or section 73.4 of title 42, Code of Federal Regulations."

## §273. Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 [1] of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §373; amended Pub. L. 99–145, title XIV, §1423(a), Nov. 8, 1985, 99 Stat. 752; Pub. L. 100–456, div. A, title XI, §1104(a),

Sept. 29, 1988, 102 Stat. 2043; renumbered §273, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 372 of this title, referred to in par. (1), was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

### PRIOR PROVISIONS

A prior section 273, act Aug. 10, 1956, ch. 1041, 70A Stat. 13, related to composition of Standby Reserve and maintenance of inactive status list in Standby Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See sections 10151 to 10153 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 373 of this title as this section.

**1988**—Pub. L. 100–456 amended section generally, substituting provisions authorizing Secretary of Defense, in accordance with applicable law, to make Defense Department personnel available for training, etc., for former subsecs. (a) to (c) authorizing Secretary of Defense to assign members of Army, Navy, Air Force, and Marine Corps, etc., for training, etc., briefing sessions by Attorney General, and other functions of Attorney General and Administrator of General Services.

**1985**—Pub. L. 99–145 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title XIV, §1423(b), Nov. 8, 1985, 99 Stat. 752, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1986."

[1] *See References in Text note below.*

## §274. Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 [1] of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 [1] of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term "Federal law enforcement agency" means a Federal agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) Chapter 705 of title 46.

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term "land area of the United States" includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §374; amended Pub. L. 98–525, title XIV, §1405(9), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–570, title III, §3056, Oct. 27, 1986, 100 Stat. 3207–77; Pub. L. 99–661, div. A, title XIII, §1373(c), Nov. 14, 1986, 100 Stat. 4007; Pub. L. 100–418, title I, §1214(a)(1), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 101–189, div. A, title XII, §§1210, 1216(b), (c), Nov. 29, 1989, 103 Stat. 1566, 1569; Pub. L. 102–484, div. A, title X, §1042, Oct. 23, 1992, 106 Stat. 2492; Pub. L. 105–277, div. B, title II, §201, Oct. 21, 1998, 112 Stat. 2681–567; Pub. L.

106–65, div. A, title X, §1066(a)(4), Oct. 5, 1999, 113 Stat. 770; Pub. L. 109–304, §17(a)(1), Oct. 6, 2006, 120 Stat. 1706; renumbered §274, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 372 of this title, referred to in subsecs. (a) and (b)(1), was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

The Controlled Substances Act, referred to in subsec. (b)(4)(A)(i), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (b)(4)(A)(i), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of the Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(4)(A)(iii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

### PRIOR PROVISIONS

A prior section 274, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; June 30, 1960, Pub. L. 86–559, §1(2)(B), 74 Stat. 264; Dec. 12, 1980, Pub. L. 96–513, title V, §511(9), 94 Stat. 2920, related to composition of Retired Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10154 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 374 of this title as this section.

**2006**—Subsec. (b)(4)(A)(iv). Pub. L. 109–304 substituted "Chapter 705 of title 46" for "The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

**1999**—Subsec. (b)(1)(C), (D). Pub. L. 106–65, §1066(a)(4)(A), realigned margins.

Subsec. (b)(2)(F)(i). Pub. L. 106–65, §1066(a)(4)(B), struck out semicolon after "law enforcement personnel;".

**1998**—Subsec. (b)(1)(C), (D). Pub. L. 105–277, §201(1), (2), added subpars. (C) and (D).

Subsec. (b)(2)(F)(i). Pub. L. 105–277, §201(3), inserted "along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;" after "transportation of civilian law enforcement personnel" and struck out "and" at end.

Subsec. (b)(2)(F)(ii). Pub. L. 105–277, §201(4)(A), inserted "and supporting" before "personnel".

Subsec. (b)(2)(F)(iii). Pub. L. 105–277, §201(4)(B), (C), added cl. (iii).

Subsec. (b)(4)(A). Pub. L. 105–277, §201(5), substituted "a Federal agency" for "an agency" in introductory provisions.

Subsec. (b)(4)(A)(v). Pub. L. 105–277, §201(6), added cl. (v).

**1992**—Subsec. (b)(2)(B) to (F). Pub. L. 102–484, §1042(1), added subpar. (B) and redesignated former subpars. (B) to (E) as (C) to (F), respectively.

Subsec. (b)(3). Pub. L. 102–484, §1042(2), substituted "paragraph (2)(D)" for "paragraph (2)(C)".

**1989**—Subsec. (b)(2)(E). Pub. L. 101–189, §1210, substituted "and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)" for ", the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States" in introductory provisions.

Subsec. (b)(4)(A)(iii). Pub. L. 101–189, §1216(b), substituted "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 of the Tariff Schedules of the United States".

Subsec. (c). Pub. L. 101–189, §1216(c), substituted "subsection (b)(2)" for "paragraph (2)".

**1988**—Pub. L. 100–456 substituted "Maintenance and operation of equipment" for "Assistance by Department of Defense personnel" in section catchline, and amended text generally, revising and restating former subsecs. (a) to (d) as subsecs. (a) to (c).

Subsec. (a)(3). Pub. L. 100–418, which directed substitution of "general note 2 of the Harmonized Tariff

Schedule of the United States" for "general headnote 2 of the Tariff Schedules of the United States", could not be executed because of intervening general amendment by Pub. L. 100–456.

**1986**—Subsec. (a). Pub. L. 99–570, §3056(a), inserted provision at end relating to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws.

Subsec. (c). Pub. L. 99–570, §3056(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law listed in subsection (a) and to transport such law enforcement officials in connection with such operations, if—

"(A) equipment operated by or with the assistance of personnel assigned under subsection (a) is not used to interdict or to interrupt the passage of vessels or aircraft; and

"(B) the Secretary of Defense and the Attorney General jointly determine that an emergency circumstance exists.

"(2) For purposes of this subsection, an emergency circumstance may be determined to exist only when—

"(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and

"(B) enforcement of a law listed in subsection (a) would be seriously impaired if the assistance described in this subsection were not provided."

Subsec. (d). Pub. L. 99–661 added subsec. (d).

**1984**—Subsec. (a)(3). Pub. L. 98–525 struck out "(19 U.S.C. 1202)" after "Tariff Schedules of the United States".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

### FUNDS FOR YOUNG MARINES PROGRAM

Pub. L. 110–116, div. A, title VIII, §8030, Nov. 13, 2007, 121 Stat. 1321, provided that: "Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for 'Drug Interdiction and Counter-Drug Activities, Defense' may be obligated for the Young Marines program."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–289, div. A, title VIII, §8028, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 109–148, div. A, title VIII, §8033, Dec. 30, 2005, 119 Stat. 2705.

Pub. L. 108–287, title VIII, §8037, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108–87, title VIII, §8037, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107–248, title VIII, §8037, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107–117, div. A, title VIII, §8040, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106–259, title VIII, §8040, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106–79, title VIII, §8043, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105–262, title VIII, §8043, Oct. 17, 1998, 112 Stat. 2307.

Pub. L. 105–56, title VIII, §8047, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8048], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99.

### COUNTER-DRUG ACTIVITIES: CONDITIONS ON TRANSFERS OF FUNDS AND DETAILING PERSONNEL; RELATIONSHIP TO OTHER LAW

Pub. L. 103–337, div. A, title X, §1011(b)–(d), Oct. 5, 1994, 108 Stat. 2836, provided that:

"(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

"(1) the amount authorized to be transferred;

"(2) the account from which such amount is authorized to be transferred; and

"(3) the account to which such amount is authorized to be transferred.

"(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

"(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

"(1) specifically refers to this section; and

"(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be."

## RESTRICTION ON TRANSFER OF FUNDS AVAILABLE TO DEPARTMENT OF DEFENSE FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Pub. L. 119–75, div. A, title VIII, §8049(a), Feb. 3, 2026, 140 Stat. 211, provided that: "None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 118–47, div. A, title VIII, §8050(a), Mar. 23, 2024, 138 Stat. 496.

Pub. L. 117–328, div. C, title VIII, §8051(a), Dec. 29, 2022, 136 Stat. 4599.

Pub. L. 117–103, div. C, title VIII, §8052(a), Mar. 15, 2022, 136 Stat. 188.

Pub. L. 116–260, div. C, title VIII, §8047(a), Dec. 27, 2020, 134 Stat. 1316.

Pub. L. 116–93, div. A, title VIII, §8047(a), Dec. 20, 2019, 133 Stat. 2348.

Pub. L. 115–245, div. A, title VIII, §8045(a), Sept. 28, 2018, 132 Stat. 3012.

Pub. L. 115–141, div. C, title VIII, §8045(a), Mar. 23, 2018, 132 Stat. 475.

Pub. L. 115–31, div. C, title VIII, §8047(a), May 5, 2017, 131 Stat. 258.

Pub. L. 114–113, div. C, title VIII, §8046(a), Dec. 18, 2015, 129 Stat. 2362.

Pub. L. 113–235, div. C, title VIII, §8045(a), Dec. 16, 2014, 128 Stat. 2264.

Pub. L. 113–76, div. C, title VIII, §8045(a), Jan. 17, 2014, 128 Stat. 115.

Pub. L. 113–6, div. C, title VIII, §8045(a), Mar. 26, 2013, 127 Stat. 308.

Pub. L. 112–74, div. A, title VIII, §8045(a), Dec. 23, 2011, 125 Stat. 817.

Pub. L. 112–10, div. A, title VIII, §8045(a), Apr. 15, 2011, 125 Stat. 67.

Pub. L. 111–118, div. A, title VIII, §8047(a), Dec. 19, 2009, 123 Stat. 3439.

Pub. L. 110–329, div. C, title VIII, §8047(a), Sept. 30, 2008, 122 Stat. 3631.

Pub. L. 110–116, div. A, title VIII, §8048(a), Nov. 13, 2007, 121 Stat. 1325.

Pub. L. 109–289, div. A, title VIII, §8045(a), Sept. 29, 2006, 120 Stat. 1283.

Pub. L. 109–148, div. A, title VIII, §8052(a), Dec. 30, 2005, 119 Stat. 2709.

Pub. L. 108–287, title VIII, §8057(a), Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108–87, title VIII, §8057(a), Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107–248, title VIII, §8058(a), Oct. 23, 2002, 116 Stat. 1549.

Pub. L. 107–117, div. A, title VIII, §8063(a), Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106–259, title VIII, §8062(a), Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106–79, title VIII, §8065(a), Oct. 25, 1999, 113 Stat. 1244.

Pub. L. 105–262, title VIII, §8065(a), Oct. 17, 1998, 112 Stat. 2311.

Pub. L. 105–56, title VIII, §8071(a), Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8080(a)], Sept. 30, 1996, 110 Stat. 3009–71, 3009–104.

Pub. L. 104–61, title VIII, §8096(a), Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103–335, title VIII, §8154(a), Sept. 30, 1994, 108 Stat. 2658.

## ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES AND ACTIVITIES TO COUNTER TRANSNATIONAL ORGANIZED CRIME

Pub. L. 101–510, div. A, title X, §1004, Nov. 5, 1990, 104 Stat. 1629, as amended by Pub. L. 102–190, div. A, title X, §1088(a), Dec. 5, 1991, 105 Stat. 1484; Pub. L. 102–484, div. A, title X, §1041(a)–(d)(1), Oct. 23, 1992, 106 Stat. 2491; Pub. L. 103–160, div. A, title XI, §1121(a), (b), Nov. 30, 1993, 107 Stat. 1753; Pub. L. 103–337, div. A, title X, §1011(a), Oct. 5, 1994, 108 Stat. 2836; Pub. L. 105–261, div. A, title X, §1021, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 107–107, div. A, title X, §1021, Dec. 28, 2001, 115 Stat. 1212; Pub. L. 109–364, div. A, title X, §1021, Oct. 17, 2006, 120 Stat. 2382; Pub. L. 111–383, div. A, title X, §1015(a), Jan. 7, 2011, 124 Stat. 4347; Pub. L. 112–81, div. A, title X, §1005, Dec. 31, 2011, 125 Stat. 1556; Pub. L.

113–291, div. A, title X, §1012, Dec. 19, 2014, 128 Stat. 3483, which authorized the Secretary of Defense, during fiscal years 2012 through 2017, to provide support for the counter-drug activities or activities to counter transnational organized crime of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency, was repealed by Pub. L. 114–328, div. A, title X, §1011(b), Dec. 23, 2016, 130 Stat. 2385. See section 284 of this title.

**COMMUNICATIONS NETWORK**

Pub. L. 100–456, div. A, title XI, §1103, Sept. 29, 1988, 102 Stat. 2042, related to integration of United States assets dedicated to interdiction of illegal drugs into an effective communications network, prior to repeal by Pub. L. 101–189, div. A, title XII, §1204(b), Nov. 29, 1989, 103 Stat. 1564. See section 1204(a) of Pub. L. 101–189 set out as a note under section 124 of this title.

**ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR NATIONAL GUARD**

Pub. L. 100–456, div. A, title XI, §1105, Sept. 29, 1988, 102 Stat. 2047, related to funding and training of National Guard for purpose of drug interdiction and enforcement operations and for operation and maintenance of equipment and facilities for such purpose, prior to repeal by Pub. L. 101–189, div. A, title XII, §1207(b), Nov. 29, 1989, 103 Stat. 1566. See section 112 of Title 32, National Guard.

**ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE**

Pub. L. 99–570, title III, §3057, Oct. 27, 1986, 100 Stat. 3207–77, provided that the Secretary of Defense was to submit to Congress, within 90 days after Oct. 27, 1986, a list of all forms of assistance that were to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies and a plan for promptly lending equipment and rendering drug interdiction-related assistance included on the list, provided for congressional approval of the list and plan, required the Secretary to convene a conference of the heads of Government agencies with jurisdiction over drug law enforcement to determine the appropriate distribution of the assets or other assistance to be made available by the Department to such agencies, and provided for monitoring of the Department's performance by the General Accounting Office.

[1] *See References in Text note below.*

## §275. Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

(Added Pub. L. 97–86, title IX §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §375; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 101–189, div. A, title XII, §1211, Nov. 29, 1989, 103 Stat. 1567; renumbered §275, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 275, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Sept. 2, 1958, Pub. L. 85–861, §1(5)(B), 72 Stat. 1439, related to maintenance of personnel records of members of reserve components, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10204 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 375 of this title as this section.

**1989**—Pub. L. 101–189 substituted "any activity" for "the provision of any support", struck out "to any civilian law enforcement official" after "any personnel)", and substituted "a search, seizure, arrest," for "a search and seizure, an arrest,".

**1988**—Pub. L. 100–456 amended section generally. Prior to amendment, section read as follows: "The

Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any assistance (including the provision of any equipment or facility or the assignment of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in an interdiction of a vessel or aircraft, a search and seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law."

## §276. Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

(Added Pub. L. 97–86, title, IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §376; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; renumbered §276, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 276, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Apr. 21, 1987, Pub. L. 100–26, §7(k)(4), 101 Stat. 284, related to maintenance of mobilization forces, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10207 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 376 of this title as this section.

**1988**—Pub. L. 100–456 substituted "Support" for "Assistance" in section catchline and amended text generally. Prior to amendment, text read as follows: "Assistance (including the provision of any equipment or facility or the assignment of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such assistance will adversely affect the military preparedness of the United States. The Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any such assistance does not adversely affect the military preparedness of the United States."

## §277. Reimbursement

(a) Subject to subsection (c), to the extent otherwise required by section 1535 of title 31 (popularly known as the "Economy Act") or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b)(1) Subject to subsection (c), the Secretary of Defense shall require a Federal agency to which law enforcement support or support to a national special security event is provided by National Guard personnel performing duty under section 502(f) of title 32 to reimburse the Department of Defense for the costs of that support, notwithstanding any other provision of law. No other provision of this chapter shall apply to such support.

(2) Any funds received by the Department of Defense under this subsection as reimbursement for support provided by personnel of the National Guard shall be credited, at the election of the Secretary of Defense, to the following:

(A) The appropriation, fund, or account used to fund the support.

(B) The appropriation, fund, or account currently available for reimbursement purposes.

(c) An agency to which support is provided under this chapter or section 502(f) of title 32 is not required to reimburse the Department of Defense for such support if the Secretary of Defense waives reimbursement. The Secretary may waive the reimbursement requirement under this subsection if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense or personnel of the National Guard providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §377; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 110–181, div. A, title X, §1061, Jan. 28, 2008, 122 Stat. 319; renumbered §277, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 277, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, prohibited discrimination in administering laws applicable to both Regulars and Reserves, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10209 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 377 of this title as this section.

**2008**—Subsec. (a). Pub. L. 110–181, §1061(1), substituted "Subject to subsection (c), to the extent" for "To the extent".

Subsecs. (b), (c). Pub. L. 110–181, §1061(2), added subsecs. (b) and (c) and struck out former subsec. (b) which read as follows: "An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

"(1) is provided in the normal course of military training or operations; or

"(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training."

**1988**—Pub. L. 100–456 amended section generally. Prior to amendment, section read as follows: "The Secretary of Defense shall issue regulations providing that reimbursement may be a condition of assistance to a civilian law enforcement official under this chapter."

## §278. Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §378; amended Pub. L. 98–525, title XIV, §1405(10), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; renumbered §278, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 278, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, related to dissemination of information of interest to reserve components, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10210 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 378 of this title as this section.

**1988**—Pub. L. 100–456 reenacted section without change.
**1984**—Pub. L. 98–525 substituted "before December 1, 1981" for "prior to the enactment of this chapter".

## §279. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Homeland Security shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Homeland Security; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Homeland Security, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) [1] of this title.

(d) In this section, the term "drug-interdiction area" means an area outside the land area of the United States (as defined in section 374(b)(4)(B) [1] of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(Added Pub. L. 99–570, title III, §3053(b)(1), Oct. 27, 1986, 100 Stat. 3207–75, §379; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; renumbered §279, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 374 of this title, referred to in subsecs. (c) and (d), was renumbered section 274 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

#### PRIOR PROVISIONS

A prior section 279, added Pub. L. 103–160, div. A, title VIII, §822(d)(1), Nov. 30, 1993, 107 Stat. 1707, authorized acceptance of gratuitous services of officers of reserve components, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10212 of this title.

Another prior section 279, added Pub. L. 85–861, §1(5)(C), Sept. 2, 1958, 72 Stat. 1439; amended Pub. L. 94–273, §11(2), Apr. 21, 1976, 90 Stat. 378, directed Secretary of Defense to report to President and Congress, in January of each year, on the status of training of each reserve component and the progress made in strengthening the reserve components during the preceding fiscal year, prior to repeal by Pub. L. 95–485, §406(b)(1).

#### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 379 of this title as this section.

**2002**—Subsecs. (a), (b)(1), (c). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1988**—Pub. L. 100–456 amended section generally, substituting "every appropriate surface naval vessel" for "appropriate surface naval vessels" in subsec. (a), substituting "section 374(b)(4)(A)" for "section 374(a)(1)" in subsec. (c), and inserting "(as defined in section 374(b)(4)(B) of this title)" in subsec. (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

[1] *See References in Text note below.*

## §280. Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

(Added Pub. L. 100–180, div. A, title XII, §1243(a), Dec. 4, 1987, 101 Stat. 1163, §380; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2046; renumbered §280, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 280, acts Aug. 10, 1956, ch. 1041, 70A Stat. 14; Sept. 2, 1958, Pub. L. 85–861, §33(a)(2), 72 Stat. 1564; Sept. 7, 1962, Pub. L. 87–651, title I, §101, 76 Stat. 506; Sept. 11, 1967, Pub. L. 90–83, §3(1), 81 Stat. 220; Aug. 17, 1977, Pub. L. 95–105, title V, §509(d)(3), 91 Stat. 860; Dec. 12, 1980, Pub. L. 96–513, title V, §§501(5), 511(10), 94 Stat. 2907, 2920; Oct. 19, 1984, Pub. L. 98–525, title XIV, §1405(8), 98 Stat. 2622; Dec. 5, 1991, Pub. L. 102–190, div. A, title X, §1061(a)(3), 105 Stat. 1472, authorized Secretary of each military department and Secretary of Transportation to prescribe regulations, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10202 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 380 of this title as this section.

**1988**—Pub. L. 100–456 amended section generally, substituting provisions relating to annual briefing of

law enforcement personnel of each State by Secretary of Defense and Attorney General and establishment of offices and telephone communication with those offices regarding surplus military equipment for provisions requiring the Secretary to report to Congress on the availability of assistance, etc., to civilian law enforcement and drug interdiction agencies and to convene a conference and requiring the Comptroller General to monitor and report on the Secretary's compliance with those requirements.

## §281. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities

(a) PROCEDURES.—(1) The Secretary of Defense shall establish procedures in accordance with this subsection under which States and units of local government may purchase equipment suitable for counter-drug, homeland security, and emergency response activities through the Department of Defense. The procedures shall require the following:

(A) Each State desiring to participate in a procurement of equipment suitable for counter-drug, homeland security, or emergency response activities through the Department of Defense shall submit to the Department, in such form and manner and at such times as the Secretary prescribes, the following:

(i) A request for equipment.

(ii) Advance payment for such equipment, in an amount determined by the Secretary based on estimated or actual costs of the equipment and administrative costs incurred by the Department.

(B) A State may include in a request submitted under subparagraph (A) only the type of equipment listed in the catalog produced under subsection (c).

(C) A request for equipment shall consist of an enumeration of the equipment that is desired by the State and units of local government within the State. The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for equipment from units of local government within the State.

(D) A State requesting equipment shall be responsible for arranging and paying for shipment of the equipment to the State and localities within the State.

(2) In establishing the procedures, the Secretary of Defense shall coordinate with the General Services Administration and other Federal agencies for purposes of avoiding duplication of effort.

(b) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—In the case of any purchase made by a State or unit of local government under the procedures established under subsection (a), the Secretary of Defense shall require the State or unit of local government to reimburse the Department of Defense for the administrative costs to the Department of such purchase.

(c) GSA CATALOG.—The Administrator of General Services, in coordination with the Secretary of Defense, shall produce and maintain a catalog of equipment suitable for counter-drug, homeland security, and emergency response activities for purchase by States and units of local government under the procedures established by the Secretary under this section.

(d) DEFINITIONS.—In this section:

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement or emergency response functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement or emergency response functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

(3) The term "equipment suitable for counter-drug, homeland security, and emergency response

activities" has the meaning given such term in regulations prescribed by the Secretary of Defense. In prescribing the meaning of the term, the Secretary may not include any equipment that the Department of Defense does not procure for its own purposes and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security.

(Added Pub. L. 103–160, div. A, title XI, §1122(a)(1), Nov. 30, 1993, 107 Stat. 1754, §381; amended Pub. L. 110–417, [div. A], title VIII, §885(a), (b)(1), Oct. 14, 2008, 122 Stat. 4560, 4561; renumbered §281, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 281, added Pub. L. 86–559, §1(2)(C), June 30, 1960, 74 Stat. 264; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, provided that certain references in this title to the adjutant general or assistant adjutant general of the National Guard of a jurisdiction be applied to another officer of the National Guard performing the duties of that office, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10214 of this title.

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 381 of this title as this section.

**2008**—Pub. L. 110–417, §885(b)(1), substituted "Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities" for "Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense" in section catchline.

Subsec. (a)(1). Pub. L. 110–417, §885(a)(1), in introductory provisions, struck out "law enforcement" before "equipment" and inserted ", homeland security, and emergency response" after "counter-drug", in subpar. (A), inserted ", homeland security, or emergency response" after "counter-drug" in introductory provisions and struck out "law enforcement" before "equipment" in cl. (i), in subpar. (C) struck out "law enforcement" before "equipment" wherever appearing, and in subpar. (D) struck out "law enforcement" before "equipment shall".

Subsec. (c). Pub. L. 110–417, §885(a)(2), struck out "law enforcement" before "equipment" and inserted ", homeland security, and emergency response" after "counter-drug".

Subsec. (d)(2), (3). Pub. L. 110–417, §885(a)(3), in par. (2) inserted "or emergency response" after "law enforcement" in two places and in par. (3) struck out "law enforcement" before "equipment suitable" and inserted ", homeland security, and emergency response" after "counter-drug" and "and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security" before period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE FOR ESTABLISHING PROCEDURES

Pub. L. 103–160, div. A, title XI, §1122(b), Nov. 30, 1993, 107 Stat. 1755, directed the Secretary of Defense to establish procedures under subsec. (a) of this section not later than six months after Nov. 30, 1993.

### EXECUTIVE DOCUMENTS

### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## §282. Emergency situations involving weapons of mass destruction

(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of

section 175, 229, or 2332a of title 18 during an emergency situation involving a weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) EMERGENCY SITUATIONS COVERED.—In this section, the term "emergency situation involving a weapon of mass destruction" means a circumstance involving a weapon of mass destruction—

(1) that poses a serious threat to the interests of the United States; and

(2) in which—

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175, 229, or 2332a of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 [1] of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175, 229, or 2332a of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 [1] of this title.

(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and

only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.

(Added Pub. L. 104–201, div. A, title XIV, §1416(a)(1), Sept. 23, 1996, 110 Stat. 2721, §382; amended Pub. L. 105–85, div. A, title X, §1073(a)(6), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 111–383, div. A, title X, §1075(b)(10)(A), (B), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112–81, div. A, title X, §1089, Dec. 31, 2011, 125 Stat. 1603; renumbered §282, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 372 of this title, referred to in subsec. (c), was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 377 of this title, referred to in subsec. (e), was renumbered section 277 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

#### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 382 of this title as this section.

**2011**—Pub. L. 111–383, §1075(b)(10)(B), struck out "chemical or biological" before "weapons" in section catchline.

Subsec. (a). Pub. L. 112–81 struck out "biological or chemical" before "weapon of mass destruction" in introductory provisions.

Pub. L. 111–383, §1075(b)(10)(A), substituted "section 175, 229, or 2332a" for "section 175 or 2332c".

Subsec. (b). Pub. L. 112–81 struck out "biological or chemical" before "weapon of mass destruction" in two places in introductory provisions.

Subsecs. (b)(2)(C), (d)(2)(A)(ii). Pub. L. 111–383, §1075(b)(10)(A), substituted "section 175, 229, or 2332a" for "section 175 or 2332c".

**1997**—Subsec. (g). Pub. L. 105–85 substituted "September 23, 1996" for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### MILITARY ASSISTANCE TO CIVIL AUTHORITIES TO RESPOND TO ACT OR THREAT OF TERRORISM

Pub. L. 106–65, div. A, title X, §1023, Oct. 5, 1999, 113 Stat. 747, authorized the Secretary of Defense, upon the request of the Attorney General, to provide assistance to civil authorities in responding to an act of terrorism or threat of an act of terrorism within the United States, if the Secretary determined that certain conditions were met, subject to reimbursement and limitations on funding and personnel, and provided that this authority applied between Oct. 1, 1999, and Sept. 30, 2004.

[1] *See References in Text note below.*

## §283. Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities

(a) IN GENERAL.—Upon the request of the Attorney General, the Secretary of Defense may provide assistance in support of Department of Justice activities related to the enforcement of section 2332f of title 18 during situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities.

(b) RENDERING-SAFE SUPPORT.—Military explosive ordnance disposal units providing

rendering-safe support to Department of Justice activities relating to the enforcement of section 175, 229, or 2332a of title 18 in emergency situations involving weapons of mass destruction shall provide such support in a manner consistent with the provisions of section 382 [1] of this title.

(c) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations prescribed under paragraph (1) may not authorize any of the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175, 229, or 2332a of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) Such regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (a) or under otherwise applicable law.

(d) EXPLOSIVE ORDNANCE DEFINED.—The term "explosive ordnance"—

(1) means—

(A) bombs and warheads;

(B) guided and ballistic missiles;

(C) artillery, mortar, rocket, and small arms ammunition;

(D) all mines, torpedoes, and depth charges;

(E) grenades demolition charges;

(F) pyrotechnics;

(G) clusters and dispensers;

(H) cartridge- and propellant- actuated devices;

(I) electroexplosives devices;

(J) clandestine and improvised explosive devices; and

(K) all similar or related items or components explosive in nature; and

(2) includes all munitions containing explosives, propellants, nuclear fission or fusion materials, and biological and chemical agents.

(Added Pub. L. 114–92, div. A, title X, §1082(a), Nov. 25, 2015, 129 Stat. 1002, §383; renumbered §283, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 382 of this title, referred to in subsec. (b), was renumbered section 282 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 383 of this title as this section.

[1] *See References in Text note below.*

## §284. Support for counterdrug activities and activities to counter transnational

**organized crime**

(a) SUPPORT TO OTHER AGENCIES.—The Secretary of Defense may provide support for the counterdrug activities or activities to counter transnational organized crime of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency for any of the purposes set forth in subsection (b) or (c), as applicable, if—

(1) in the case of support described in subsection (b), such support is requested—

(A) by the official who has responsibility for the counterdrug activities or activities to counter transnational organized crime of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government; or

(B) by the appropriate official of a State, local, or tribal government, in the case of support for State, local, or tribal law enforcement agencies; or

(2) in the case of support described in subsection (c), such support is requested by an appropriate official of a department or agency of the Federal Government, in coordination with the Secretary of State, that has counterdrug responsibilities or responsibilities for countering transnational organized crime.

(b) TYPES OF SUPPORT FOR AGENCIES OF UNITED STATES.—The purposes for which the Secretary may provide support under subsection (a) for other departments or agencies of the Federal Government or a State, local, or tribal law enforcement agencies, are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State, local, or tribal government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of the Department of Defense or any Federal, State, local, or tribal law enforcement agency within or outside the United States.

(5) Counterdrug or counter-transnational organized crime related training of law enforcement personnel of the Federal Government, of State, local, and tribal governments, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist, intelligence analysis, and planning services.

(10) Aerial and ground reconnaissance.

(c) TYPES OF SUPPORT FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

(1) PURPOSES.—The purposes for which the Secretary may provide support under subsection (a) for foreign law enforcement agencies are the following:

(A) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(B) The establishment (including small scale construction) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of a foreign law enforcement agency outside the United States.

(C) The detection, monitoring, and communication of the movement of—

(i) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(ii) surface traffic outside the geographic boundaries of the United States.

(D) Establishment of command, control, communications, and computer networks for improved integration of United States Federal and foreign law enforcement entities and United States Armed Forces.

(E) The provision of linguist and intelligence analysis services.

(F) Aerial and ground reconnaissance.

(2) COORDINATION WITH SECRETARY OF STATE.—In providing support for a purpose described in this subsection, the Secretary shall coordinate with the Secretary of State.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 276 of this title, the Secretary may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER SUPPORT AUTHORITIES.—

(1) ADDITIONAL AUTHORITY.—The authority provided in this section for the support of counterdrug activities or activities to counter transnational organized crime by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the other requirements of this chapter.

(2) EXCEPTION.—Support under this section shall be subject to the provisions of section 275 and, except as provided in subsection (e), section 276 of this title.

(h) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not less than 15 days before providing support for an activity under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(A) In the case of support for a purpose described in subsection (c)—

(i) the country the capacity of which will be built or enabled through the provision of such support;

(ii) the budget, implementation timeline with milestones, anticipated delivery schedule for support, and completion date for the purpose or project for which support is provided;

(iii) the source and planned expenditure of funds provided for the project or purpose;

(iv) a description of the arrangements, if any, for the sustainment of the project or purpose and the source of funds to support sustainment of the capabilities and performance outcomes achieved using such support, if applicable;

(v) a description of the objectives for the project or purpose and evaluation framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient;

(vi) information, including the amount, type, and purpose, about the support provided the country during the three fiscal years preceding the fiscal year for which the support covered by the notice is provided under this section under—

(I) this section;

(II) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(III) peacekeeping operations;

(IV) the International Narcotics Control and Law Enforcement program under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291);

(V) Nonproliferation, Anti-Terrorism, Demining, and Related Programs;

(VI) counterdrug activities authorized by section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85); or

(VII) any other significant program, account, or activity for the provision of security assistance that the Secretary of Defense and the Secretary of State consider appropriate;

(vii) an evaluation of the capacity of the recipient country to absorb the support provided; and

(viii) an evaluation of the manner in which the project or purpose for which the support is provided fits into the theater security cooperation strategy of the applicable geographic combatant command.

(B) In the case of support for a purpose described in subsection (b) or (c), a description of any small scale construction project for which support is provided.

(2) COORDINATION WITH SECRETARY OF STATE.—In providing notice under this subsection for a purpose described in subsection (c), the Secretary of Defense shall coordinate with the Secretary of State.

(3) QUARTERLY REPORTS.—

(A) IN GENERAL.—Not less frequently than once each quarter, the Secretary shall submit to the appropriate committees of Congress a report on Department of Defense support provided under subsection (b) during the quarter preceding the quarter during which the report is submitted. Each such report shall be submitted in written and electronic form and shall include—

(i) an identification of each recipient of such support;

(ii) a description of the support provided and anticipated duration of such support;

(iii) a description of the sources and amounts of funds used to provide such support;

(iv) a description of the arrangements, if any, for the sustainment of the support, project, or

purpose and the source of funds to support sustainment of the capabilities and performance outcomes achieved using such support, if applicable;

(v) a description of the objectives for the support, project, or purpose; and

(vi) information, including the amount, type, and purpose, about the support provided to the agency during the fiscal year for which the support is provided with respect to—

(I) this section; or

(II) counterdrug activities authorized by section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1811).

(B) APPROPRIATE COMMITTEES OF CONGRESS.—Notwithstanding subsection (i)(1), for purposes of a report under this paragraph, the appropriate committees of Congress are—

(i) the congressional defense committees; and

(ii) any committee with jurisdiction over the department or agency that receives support covered by the report.

(i) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

(2) The term "Indian tribe" means a Federally recognized Indian tribe.

(3) The term "small scale construction" means construction at a cost not to exceed $1,000,000 for any project.

(4) The term "tribal government" means the governing body of an Indian tribe, the status of whose land is "Indian country" as defined in section 1151 of title 18 or held in trust by the United States for the benefit of the Indian tribe.

(5) The term "tribal law enforcement agency" means the law enforcement agency of a tribal government.

(6) The term "transnational organized crime" means self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary, or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption or violence or through a transnational organization structure and the exploitation of transnational commerce or communication mechanisms.

(Added §384 and renumbered §284, Pub. L. 114–328, div. A, title X, §1011(a)(1), title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2381, 2497; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(14), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title X, §1011, Jan. 1, 2021, 134 Stat. 3839; Pub. L. 118–31, div. A, title X, §§1010, 1011, Dec. 22, 2023, 137 Stat. 380; Pub. L. 119–60, div. A, title X, §1010, Dec. 18, 2025, 139 Stat. 1030.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 376 of this title, referred to in subsecs. (e) and (g)(2), was renumbered section 276 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to subsec. (f), is section 1206(a) of Pub. L. 101–189, which is set out as a note under section 124 of this title.

Section 375, referred to in subsec. (g)(2), was renumbered section 275 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (h)(1)(A)(vi)(VI), (3)(A)(vi)(II), is section 1033 of Pub. L. 105–85, div. A, title X, Nov. 18, 1997, 111 Stat. 1881, which is not classified to the Code.

## AMENDMENTS

**2025**—Subsec. (h)(3)(A)(iv) to (vi). Pub. L. 119–60, §1010(1), added cls. (iv) to (vi).

Subsec. (h)(3)(B)(i). Pub. L. 119–60, §1010(2), substituted "the congressional defense committees" for "the Committees on Armed Services of the Senate and House of Representatives".

**2023**—Subsec. (b)(9). Pub. L. 118–31, §1010, substituted "linguist, intelligence analysis, and planning" for "linguist and intelligence analysis".

Subsec. (i)(3). Pub. L. 118–31, §1011, substituted "$1,000,000" for "$750,000".

**2021**—Subsec. (h)(3). Pub. L. 116–283 added par. (3).

**2019**—Subsec. (e). Pub. L. 116–92, §1731(a)(14)(A), substituted "section 276" for "section 376".

Subsec. (f). Pub. L. 116–92, §1731(a)(14)(B), inserted second closing parenthesis after "103 Stat. 1564)".

Subsec. (g)(2). Pub. L. 116–92, §1731(a)(14)(C), substituted "section 275" for "section 375".

Pub. L. 116–92, §1731(a)(14)(A), substituted "section 276" for "section 376".

Subsec. (h)(1)(A)(vi)(VI). Pub. L. 116–92, §1731(a)(14)(D), struck out "section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) and" after "authorized by".

**2016**—Pub. L. 114–328, §1241(a)(2), renumbered section 384 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SEMIANNUAL REPORT ON DEPARTMENT OF DEFENSE OPERATIONS AT THE SOUTHERN LAND BORDER

Pub. L. 119–60, div. A, title X, §1070, Dec. 18, 2025, 139 Stat. 1050, provided that:

"(a) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on operations at the southern land border of the United States.

"(2) ELEMENTS.—The report required under paragraph (1) shall include a detailed description of—

"(A) the efforts of the Department of Defense to support civil law enforcement agencies with respect to—

"(i) combating transnational organized crime in the United States Northern Command and the United States Southern Command areas of responsibility;

"(ii) reducing the cross-border flow of illicit synthetic drugs, including fentanyl, fentanyl analogs, and fentanyl precursors; and

"(iii) reducing the cross-border illicit trade of firearms and human trafficking;

"(B) the steady-state plan and posture of the Department of Defense on the southern land border;

"(C) the assessment of the Department of Defense of the operational and readiness impact under the Department's steady-state plan and posture on the southern land border, and any revisions of such plan and posture;

"(D) each military installation and each Department of Defense facility on or off the installation that is being used to support—

"(i) the operations of the Department of Defense along the southern land border; or

"(ii) the Department of Homeland Security or any of its components;

"(E) the funding sources for the current operations of the Department of Defense along the southern land border;

"(F) the use-of-force policy and training of the Department of Defense related to operations along the southern land border; and

"(G) any challenges the Department of Defense has faced in the execution of the efforts described in subparagraphs (A) and (F).

"(b) SEMIANNUAL UPDATES.—Not later than 180 days after the date on which the Secretary submits the report required under subsection (a), and not less frequently than once every 180 days thereafter until the termination of the national emergency declared by Proclamation 100886 (90 Fed. Reg. 8327; relating to a Declaration of a National Emergency at the Southern Border of the United States), Executive Order 14165 (90 Fed. Reg. 8467; relating to Security Our Borders), and Executive Order 14167 (90 Fed. Reg. 8613; relating to Clarifying the Military's Role in Protecting the Territorial Integrity of the United States), the Commander of the United States Northern Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing updates to the information included in the report required under subsection (a)."

## COOPERATION WITH MEXICO

Pub. L. 118–31, div. A, title X, §1013(b), Dec. 22, 2023, 137 Stat. 381, provided that: "The Secretary of Defense shall seek to enhance cooperation with defense officials of the Government of Mexico to target, disrupt, and degrade transnational criminal organizations within Mexico that traffic fentanyl."

## DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE ASSISTANCE TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES

Pub. L. 114–92, div. A, title X, §1059, Nov. 25, 2015, 129 Stat. 986, as amended by Pub. L. 116–283, div. A, title X, §1056(a), (b), Jan. 1, 2021, 134 Stat. 3855; Pub. L. 119–60, div. A, title X, §1044, Dec. 18, 2025, 139 Stat. 1038, provided that:

"(a) AUTHORITY.—

"(1) PROVISION OF ASSISTANCE.—

"(A) IN GENERAL.—The Secretary of Defense may provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern land border of the United States in accordance with the requirements of this section.

"(B) REQUIREMENTS.—If the Secretary provides assistance under subparagraph (A), the Secretary shall ensure that the provision of the assistance will not negatively affect military training, operations, readiness, or other military requirements.

"(2) CONTRACT AUTHORITY.—In providing assistance to U.S. Customs and Border Protection under paragraph (1), the Secretary may enter into a contract for the provision of any of the following services:

"(A) Detection and monitoring.

"(B) Warehousing and logistical supply chain.

"(C) Transportation.

"(D) Vehicle maintenance.

"(E) Training other than lead or primary instructor.

"(F) Intelligence analysis.

"(G) Linguist.

"(H) Data entry.

"(I) Aviation.

"(3) NOTIFICATION REQUIREMENT.—Not later than 7 days after the date on which the Secretary approves a request for assistance from the Department of Homeland Security under paragraph (1), the Secretary shall electronically transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives notice of such approval.

"(b) CONCURRENCE IN ASSISTANCE.—Assistance under subsection (a) shall be provided with the concurrence of the Secretary of Homeland Security.

"(c) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include the following:

"(1) Deployment of members and units of the regular and reserve components of the Armed Forces to the southern land border of the United States.

"(2) Deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern land border of the United States.

"(3) Intelligence analysis support.

"(d) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense is authorized to deploy such materiel and equipment and logistics support as is necessary to ensure the effectiveness of assistance provided under subsection (a).

"(e) FUNDING.—Of the amounts authorized to be appropriated for the Department of Defense by this Act [see Tables for classification], the Secretary of Defense may use up to $75,000,000 to provide assistance under subsection (a).

"(f) REPORTS.—

"(1) REPORT REQUIRED.—At the end of each three-month period during which assistance is provided under subsection (a), the Secretary of Defense, in coordination with the Secretary of Homeland Security, shall submit to the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives a report that includes, for the period covered by the report, each of the following:

"(A) A description of the assistance provided.

"(B) A description of the Armed Forces, including the reserve components, deployed as part of such assistance, including an identification of—

"(i) the members of the Armed Forces, including members of the reserve components, deployed, including specific information about unit designation, size of unit, and whether any personnel in the unit deployed under section 12302 of title 10, United States Code;

"(ii) the projected length of the deployment and any special pay and incentives for which deployed personnel may qualify during the deployment;

"(iii) any specific pre-deployment training provided for such members of the Armed Forces, including members of the reserve components;

"(iv) the specific missions and tasks, by location, that are assigned to the members of the Armed Forces, including members of the reserve components, who are so deployed; and

"(v) the locations where units so deployed are conducting their assigned mission, together with a map showing such locations.

"(C) A description of any effects of such deployment on military training, operations, readiness, or other military requirements.

"(D) The sources and amounts of funds obligated or expended—

"(i) during the period covered by the report; and

"(ii) during the total period for which such support has been provided.

"(2) FORM OF REPORT.—Each report submitted under this subsection shall be submitted in unclassified form, but may include a classified annex."

[Pub. L. 116–283, div. A, title X, §1056(c), Jan. 1, 2021, 134 Stat. 3856, provided that: "The Law Revision Counsel is directed to move section 1059 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 986; 10 U.S.C. 271 note prec.), as amended by this section, to a note following section 284 of title 10, United States Code."]

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 14167. CLARIFYING THE MILITARY'S ROLE IN PROTECTING THE TERRITORIAL INTEGRITY OF THE UNITED STATES

Ex. Ord. No. 14167, Jan. 20, 2025, 90 F.R. 8613, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. (a) As Chief Executive and as Commander in Chief of the Armed Forces of the United States, I have no more solemn responsibility than protecting the sovereignty and territorial integrity of the United States along our national borders. The protection of a nation's territorial integrity and national boundaries is paramount for its security.

(b) The Armed Forces of the United States have played a long and well-established role in securing our borders against threats of invasion, against unlawful forays by foreign nationals into the United States, and against other transnational criminal activities that violate our laws and threaten the peace, harmony, and tranquility of the Nation. These threats have taken a variety of forms over our Nation's history, but the Armed Forces have consistently played an integral role in protecting the sovereignty of the United States.

(c) Threats against our Nation's sovereignty continue today, and it is essential that the Armed Forces staunchly continue to participate in the defense of our territorial integrity and sovereignty. A National Emergency currently exists along the southern border of the United States. Unchecked unlawful mass migration and the unimpeded flow of opiates across our borders continue to endanger the safety and security of the American people and encourage further lawlessness. Accordingly, through this order, I am acting in accordance with my solemn duty to protect and defend the sovereignty and territorial integrity of the United States along our national borders.

SEC. 2. *Policy*. It is the policy of the United States to ensure that the Armed Forces of the United States prioritize the protection of the sovereignty and territorial integrity of the United States along our national borders.

SEC. 3. *Implementation*. The Secretary of Defense shall:

(a) No later than 10 days from the effective date of this order [Jan. 20, 2025], deliver to the President a revision to the Unified Command Plan that assigns United States Northern Command (USNORTHCOM) the mission to seal the borders and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities.

(b) On the effective date of this order, add the following requirements to the Contingency Planning

Guidance and Guidance for the Employment of the Force:

(i) A Level 3 planning requirement for USNORTHCOM to seal the borders and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion, including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities, with a commander's estimate due to the Secretary of Defense within 30 days of the effective date of this order.

(ii) A campaign planning requirement for USNORTHCOM to provide steady-state southern border security, seal the border, and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion, including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities.

(iii) Continuous assessments of all available options to protect the sovereign territory of the United States from mass unlawful entry and impingement on our national sovereignty and security by foreign nations and transnational criminal organizations.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

# CHAPTER 16—SECURITY COOPERATION


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## SUBCHAPTER I—GENERAL MATTERS


Sec.

301. Definitions.


## §301. Definitions

In this chapter:

(1) The terms "appropriate congressional committees" and "appropriate committees of Congress" mean—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(2) The term "defense article" has the meaning given that term in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(3) The term "defense service" has the meaning given that term in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(4) The term "developing country" has the meaning prescribed by the Secretary of Defense for purposes of this chapter in accordance with section 1241(n) of the National Defense Authorization

Act for Fiscal Year 2017.

(5) The term "incremental expenses", with respect to a foreign country—

(A) means the reasonable and proper costs of rations, fuel, training ammunition, transportation, and other goods and services consumed by the country as a direct result of the country's participation in activities authorized by this chapter; and

(B) does not include—

(i) any form of lethal assistance (excluding training ammunition); or

(ii) pay, allowances, and other normal costs of the personnel of the country.

(6) The term "national security forces", in the case of a foreign country, means the following:

(A) National military and national-level security forces of the foreign country that have the functional responsibilities for which training is authorized in section 333(a) of this title.

(B) With respect to operations referred to in section 333(a)(2) of this title, military and civilian first responders of the foreign country at the national or local level that have such operations among their functional responsibilities.

(7) The term "security cooperation programs and activities of the Department of Defense" means any program, activity (including an exercise), or interaction of the Department of Defense with the security establishment of a foreign country to achieve a purpose as follows:

(A) To build and develop allied and friendly security capabilities for self-defense and multinational operations.

(B) To provide the armed forces with access to the foreign country during peacetime or a contingency operation.

(C) To build relationships that promote specific United States security interests.

(8) The term "small-scale construction" means construction at a cost not to exceed $2,000,000 for any project.

(9) The term "training" has the meaning given the term "military education and training" in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(Added Pub. L. 114–328, div. A, title XII, §1241(a)(3), Dec. 23, 2016, 130 Stat. 2498; amended Pub. L. 115–232, div. A, title XII, §1203(a), Aug. 13, 2018, 132 Stat. 2016; Pub. L. 118–31, div. A, title XII, §1203(a), Dec. 22, 2023, 137 Stat. 441.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1241(n) of the National Defense Authorization Act for Fiscal Year 2017, referred to in par. (4), is section 1241(n) of Pub. L. 114–328, which is set out as a note below.

### AMENDMENTS

**2023**—Par. (8). Pub. L. 118–31 substituted "$2,000,000" for "$1,500,000".

**2018**—Par. (8). Pub. L. 115–232 substituted "$1,500,000" for "$750,000".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS CLAUSE

Pub. L. 114–328, div. A, title XII, §1253(b), Dec. 23, 2016, 130 Stat. 2532, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(14), Dec. 12, 2017, 131 Stat. 1600, provided that: "Any determination or other action made or taken before the date of the enactment of this Act [Dec. 23, 2016] under a provision of law transferred or repealed by this subtitle [subtitle E (§§1241–1253) of title XII of Pub. L. 114–328, see Tables for classification] that is in effect as of the date of the enactment of this Act and is necessary for the administration of a successor authority to such provision of law under chapter 16 of title 10, United States

Code, by reason of the enactment of such chapter by this subtitle shall remain in effect, in accordance with the terms of such determination or action when made or taken, for purposes of the administration of such successor authority."

## FRAMEWORK FOR REFORMING TECHNOLOGY TRANSFER AND FOREIGN DISCLOSURE POLICIES

Pub. L. 119–60, div. A, title X, §1086, Dec. 18, 2025, 139 Stat. 1056, provided that:

"(a) FRAMEWORK DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall produce a framework to revise technology transfer and foreign disclosure policies and processes of the military departments and the technology transfer and foreign disclosure committees.

"(b) FRAMEWORK ELEMENTS.—The framework produced pursuant to subsection (a) shall include the following:

"(1) Guidelines for balancing the protection of technology and classified information with the requirement to share technology and classified defense information.

"(2) A process to gather, consider, and, as appropriate, incorporate input from Federal agencies and industry stakeholders, in accordance with subsection (d), to inform revisions to the technology transfer and foreign disclosure policies and processes of the Department of Defense.

"(3) Recommendations for updating the National Disclosure Policy to accommodate the use of emerging and advanced defense such as artificial intelligence, directed energy, microwave systems, counter-unmanned aerial systems, missile defense, cybersecurity, quantum technologies, hypersonics, autonomous systems, and such other technologies as the Secretary determines appropriate.

"(4) Mechanisms to enable the military departments and the Defense Technology Security Administration to streamline the approval process for technology transfers.

"(5) Mechanisms to enhance transparency to ensure the technology transfer policies of the Department of Defense and each of the military departments specifically are comparable with respect to capability and country release tiers for emerging and advanced defense items.

"(6) A plan to consolidate technology security and foreign disclosure approvals in accordance with Executive Order 14268, titled 'Reforming Foreign Defense Sales to Improve Speed and Accountability' and dated April 9, 2025.

"(7) An updated Department of Defense Directive 5111.21 to address roles, responsibilities and members of the Arms Transfer and Technology Release Senior Steering Group of the Department of Defense.

"(8) Metrics to evaluate the effectiveness of the technology transfer policies of the military departments and the National Disclosure Policy to enable the transfer of defense items to allies and partners of the United States while ensuring protection of United States technology.

"(9) An annual requirement to conduct an audit of license applications that were denied during the prior year on the basis of technology transfer policies of the military departments or the Defense Technology Security Administration.

"(10) A description of the charter of each technology security and foreign disclosure committee, its participants, and its relationship to other technology security and foreign disclosure committees.

"(c) IMPLEMENTATION.—Not later than one year after the date of the submission of the framework under subsection (a), and not less frequently than annually thereafter, the Secretary of Defense shall direct the Secretary of each of the military departments and the heads of the technology security and foreign disclosure committees to revise the technology transfer policy of that department and the Under Secretary of Defense for Policy to revise the National Disclosure Policy, based on the elements of the framework under subsection (b).

"(d) STAKEHOLDER ENGAGEMENT.—At least once every six months, the Secretaries of the military departments, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Policy shall consult with such representatives from the defense industry as the Secretaries and Under Secretary consider appropriate, including representatives from nontraditional defense contractors (as such term is defined by section 3014 of title 10, United States Code) in the course of carrying out subsections (a), (b), and (c).

"(e) REPORTING REQUIREMENTS.—

"(1) SUBMISSION OF FRAMEWORK.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing the framework produced under subsection (a).

"(2) ANNUAL REPORTS.—Not later than one year after the date of the submission of the framework

required under subsection (a), and not less frequently than annually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report that includes the following:

"(A) A description of any actions taken to improve the technology transfer policies of the military departments and the technology security and foreign disclosure committees in accordance with the implementation requirements under subsection (c).

"(B) A description of actions taken to implement or incorporate industry recommendation into the technology transfer policies of the military departments and the National Disclosure Policy.

"(C) A summary of any feedback from industry stakeholders with respect to current applications of the technology transfer policies of the military departments and the National Disclosure Policy, and a description of any actions taken to address such feedback.

"(D) The results of an audit of license applications that were denied during the preceding 12-month period on the basis of technology transfer policies of the military departments or the technology security and foreign disclosure committees, including information and data that link such denials to the policies in effect at the time of denial.

"(E) Any recommendations of the Secretary for legislation necessary to improve technology release and foreign disclosure policies of the Department of Defense.

"(3) FORM.—Each report submitted under this subsection shall be submitted in unclassified form, but may include a classified annex."

## ASSESSMENT AND ESTABLISHMENT OF OFFICE TO SUPPORT THE ACQUISITION OF SPECIFIED NON-PROGRAM OF RECORD SYSTEMS BY FOREIGN ALLIES AND PARTNERS

Pub. L. 119–60, div. A, title XII, §1214, Dec. 18, 2025, 139 Stat. 1086, provided that:

"(a) ASSESSMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall complete an assessment to determine the optimal organizational structure, authorities, reporting relationships, and resource requirements to manage effectively the acquisition of specified non-program of record systems by foreign allies and partners.

"(b) ESTABLISHMENT.—Not later than October 1, 2026, the Secretary of Defense shall establish an office to support the acquisition of specified non-program of record systems by foreign allies and partners, including the process for updating relevant Department of Defense-wide guidance, directives and instructions.

"(c) RESPONSIBILITIES.—The office required by subsection (b) shall be responsible for the following:

"(1) Coordinating with allies and partners to identify and procure specified non-program of record systems.

"(2) Facilitating discussions between industry and foreign allies and partners on new specified non-program of record systems.

"(3) Liaising with combatant commands to identify new specified non-program of record systems aligned with the strategic priorities of the combatant commands for theater security cooperation.

"(4) Promoting capabilities with foreign allies and partners that align with priority capabilities for the combatant commands.

"(5) Developing foreign military sales cases for specified non-program of record systems to expedite deliveries of such systems to foreign allies and partners.

"(6) Coordinating internal Department of Defense approval processes to expedite the delivery of specified non-program of record systems.

"(7) Other relevant responsibilities as determined by the Secretary.

"(d) BRIEFING.—Not later than 30 days after completion of the assessment required by subsection (a), the Secretary shall provide the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate with a briefing on the responsibilities, resources, and plan of activities for the non-program of record office that is to be established in accordance with subsection (b).

"(e) SPECIFIED NON-PROGRAM OF RECORD SYSTEM DEFINED.—In this section, the term 'specified non-program of record system' means a system that does not exist formally as a program of record within the Department of Defense, including the following:

"(1) Type A (Modified/Former Department of Defense program of record), which includes requests to modify an existing program of record with non-program of record elements and requests tied to former programs of record.

"(2) Type B (Military Unique), which includes commercial capabilities that are designed, modified, or built specifically for military applications and are not current or former programs of record.

"(3) Type C (Commercial), which includes a 'commercial product'—

"(A) as such term is defined in section 2.101 of the Federal Acquisition Regulation; and

"(B) that is not classified."

## GUIDANCE FOR COORDINATION OF INTERNATIONAL ARMS TRANSFERS

Pub. L. 119–60, div. A, title XII, §1215, Dec. 18, 2025, 139 Stat. 1087, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall issue updated guidance, in accordance with section 382 of title 10, United States Code, to streamline and align the roles, responsibilities, and authorities, and improve transparency, relating to Department of Defense processes for international arms transfers, including foreign military sales.

"(b) ELEMENTS.—The updated guidance required by subsection (a) shall do the following: (1) Streamline the roles and responsibilities relating to Department processes for international arms transfers (including the foreign military sales and technology security and foreign disclosure processes in accordance with section 1086 [set out as a note above]) so as to ensure effective implementation of such roles and responsibilities among the Under Secretary of Defense for Policy, the Under Secretary of Defense for Acquisition and Sustainment, the Defense Security Cooperation Agency, the Defense Technology Security Administration, and the military departments.

"(2) Designate a lead official who, in coordination with the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall be responsible for collecting, tracking, coordinating, and sharing data and information on Foreign Military Sales cases for the purposes of—

"(A) facilitating transparency across the Department of Defense international cooperation enterprise (including industry and international partners within such enterprise and components and subcomponents of the Department); and

"(B) sharing information on foreign military sales case development, execution, contracting, and implementation processes.

"(3) Develop a framework to facilitate the use of the foreign military sales process to deliver defense articles and services to allies and partners through programs other than a program of record in accordance with section 1214 [set out as a note above].

"(4) Set forth foreign military sales-specific guidance that—

"(A) identifies security cooperation priorities;

"(B) is informed by priorities identified in the National Defense Strategy, Department planning guidance, and theater campaign plans; and

"(C) takes into consideration—

"(i) the risk factors for arms transfers identified in the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

"(ii) the industrial capacity for production.

"(c) BRIEFING.—Not later than 30 days prior to the issuance of the updated guidance required by subsection (a), the Secretary shall provide the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives with a briefing on the development and implementation of such guidance that describes the manner in which the procedures set forth in the guidance will streamline, and enhance the transparency of, international cooperation processes of the Department.

"(d) DISSEMINATION OF FMS-SPECIFIC GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall disseminate the foreign miliary sales-specific guidance described in subsection (b)(4) to the Department of Defense international cooperation enterprise."

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OF EMERGING TECHNOLOGIES TO FURTHER THE WARFIGHTING CAPABILITIES OF THE UNITED STATES AND CERTAIN PARTNER COUNTRIES

Pub. L. 119–60, div. A, title XII, §1234, Dec. 18, 2025, 139 Stat. 1097, provided that:

"(a) AUTHORITY.—The Secretary of Defense, upon request by the Ministry of Defense of a covered partner country and in consultation with the Secretary of State, the Secretary of Commerce, and the Director of National Intelligence, is authorized to carry out, jointly with the covered partner country, research, development, test, and evaluation of emerging technologies to further the warfare capabilities of the United States and the covered partner country to meet emerging defense challenges, including in the areas of artificial intelligence, cybersecurity, robotics, quantum, and automation.

"(b) PROTECTION OF SENSITIVE INFORMATION.—Any activity carried out pursuant to the authority of subsection (b) [probably should be "subsection (a)"] shall be conducted in a manner that robustly protects sensitive information and the national security interests of the United States and the covered partner country.

"(c) APPLICABILITY OF EXPORT CONTROL RESTRICTIONS.—Any activity authorized under

subsection (a), including fundamental research, open source, and standards-related activities, for the development, production, or use of goods, technology, software, knowledge, or source code shall be subject to—

"(1) the Export Administration Regulations under subchapter C [of chapter VII of subtitle B] of title 15, Code of Federal Regulations; and

"(2) all other laws applicable to the control of arms exports.

"(d) REPORT.—None of the activities described in subsection (a) may be carried out with respect to a covered partner country until the date on which the Secretary of Defense, in consultation with the Secretary of State, the Secretary of Commerce, and the Director of National Intelligence submits to the appropriate congressional committees a report with respect to that partner country that includes the following:

"(1) A memorandum of agreement between the United States and the covered partner country regarding sharing of costs and security safeguards for the activities described in subsection (a), and any supporting documents.

"(2) A certification that such memorandum of agreement—

"(A) requires sharing of costs of the activities and security safeguards described in subsection (a), including in-kind support, between the United States and the covered partner country;

"(B) establishes the rights of the United States to any intellectual property developed under the memorandum of agreement;

"(C) requires the United States Government to receive semiannual reports on expenditure of funds, if any, by the government of the covered partner country, including—

"(i) a description of what the funds have been used for;

"(ii) a description of when funds were expended;

"(iii) an identification of entities that expended the funds; and

"(iv) the export control regimes in place in the covered partner country to protect sensitive technology, including related intellectual property and innovation efforts; and

"(D) includes robust safeguards against the ability of the People's Republic of China or other foreign adversaries of the United States from, directly or indirectly, accessing, acquiring, or benefitting from any potential innovation, technology, research, product, or application funded, produced, or utilized by the partnership.

"(e) LEAD AGENCY.—Not earlier than the date on which the Secretary of Defense submits the first report pursuant to subsection (d), the Secretary shall designate the Irregular Warfare Technology Support Directorate of the Department of Defense as the lead agency of the Department in carrying out this section.

"(f) SEMIANNUAL REPORTS.—The Secretary of Defense shall submit to the appropriate congressional committees on a semiannual basis a report that contains a copy of the most recent semiannual report provided by the government of each covered partner country to the Department of Defense pursuant to subsection (d)(2)(C).

"(g) DEFINITIONS.—In this section—

"(1) the term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(2) the term 'covered partner country' means a country that, as of June 1, 2025, has signed a bilateral agreement with the United States that is managed by the Irregular Warfare Technology Support Directorate of the Department of Defense."

## ESTABLISHMENT OF DEPARTMENT OF DEFENSE WORKING GROUP ON MULTILATERAL ARTIFICIAL INTELLIGENCE COORDINATION

Pub. L. 118–159, div. A, title X, §1087, Dec. 23, 2024, 138 Stat. 2079, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a working group, or designated [sic] a working group of a similar nature, to develop and coordinate artificial intelligence initiatives among the allies and partners of the United States.

"(b) ORGANIZATION.—

"(1) DESIGNATION OF HEAD.—The Secretary shall designate a senior civilian officer of the Department of Defense or senior military officer with experience leading relevant efforts, as determined by the Secretary, to serve as the head of the working group.

"(2) PARTICIPATION BY OTHER MEMBER COUNTRIES.—The Secretary shall establish a

process to determine which allies and partners of the United States shall be asked to participate as member countries in the working group.

"(c) RESPONSIBILITIES.—The responsibilities of the working group shall be to develop and coordinate efforts to implement an artificial intelligence initiative between the Department of Defense and allies and partners of the United States, including by—

"(1) comparing tools and practices for artificial intelligence systems for covered operational uses by member countries;

"(2) identifying (including by experimenting, testing, and evaluating) potential solutions to advance and accelerate the interoperability of artificial intelligence systems used for intelligence sharing, battlespace awareness, and other covered operational uses;

"(3) developing a shared strategy for the research, development, test, evaluation, and employment of artificial intelligence systems for covered operational uses carried out jointly by the member countries;

"(4) managing data for artificial intelligence systems, including multi-level security of training and operational data used by such systems;

"(5) testing and evaluating the capabilities of the defense industrial base of the member countries to incorporate artificial intelligence systems into systems used for covered operational uses;

"(6) expanding innovation efforts by the member countries and share among such countries best practices for the accelerated procurement and adoption of artificial intelligence technologies for covered operational uses; [and]

"(7) carrying out such other activities as the Secretary determines to be relevant to such responsibilities.

"(d) CONTROL OF KNOWLEDGE AND TECHNICAL DATA.—The Secretary shall seek to ensure that any knowledge or technical data produced by a member country under any cooperative project carried out by the working group shall be controlled by that country under the export control laws and regulations of that country and shall not be subject to the jurisdiction or control of any other member country.

"(e) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the working group shall terminate on September 30, 2028.

"(2) AUTHORITY TO EXTEND.—The Secretary may extend the termination date under paragraph (1) if the Secretary determines such extension to be in the national security interests of the United States.

"(f) DEFINITIONS.—In this section:

"(1) The term 'battlespace awareness' has the meaning given that term in the Joint Publication 1–02 of the Department of Defense, titled 'Department of Defense Dictionary of Military and Associated Terms', or successor publication.

"(2) The term 'covered operational use' means use by a government for operations in a defense context.

"(3) The term 'member country' means a member country of the working group."

## ACCEPTANCE AND EXPENDITURE OF CONTRIBUTIONS FOR MULTILATERAL SECURITY COOPERATION PROGRAMS AND ACTIVITIES

Pub. L. 118–159, div. A, title XII, §1208, Dec. 23, 2024, 138 Stat. 2095, provided that:

"(a) AUTHORITY TO ACCEPT AND EXPEND CONTRIBUTIONS.—The Secretary of Defense, with the concurrence of the Secretary of State, may accept, manage, and expend contributions, including funds and defense articles and defense services, from foreign governments for mutually agreed upon purposes to carry out security cooperation programs and activities of the Department of Defense authorized by—

"(1) chapter 16 of title 10, United States Code;

"(2) the Taiwan Security Cooperation Initiative authorized by section 1323 [22 U.S.C. 3302 note]; or

"(3) section 1250 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1068).

"(b) ACCOUNT REQUIREMENTS.—

"(1) FUNDS.—Contributions of funds accepted under subsection (a) shall be placed in an account established for such purpose and shall remain available for the following 2 fiscal years for the mutually agreed upon purposes specified in subsection (a).

"(2) DEFENSE ARTICLES.—Contributions of defense articles accepted under subsection (a) shall be placed in United States inventory.

"(3) SEPARATE COUNTRY ACCOUNTS.—The Secretary of Defense shall establish a separate sub-account for each country under the account established under paragraph (1).

"(4) COMPLIANCE.—Such expenditures and provision of defense articles and services shall comply with the prohibitions and limitations, notice, reporting, and other requirements specified in such authorities

or applicable statute.

"(c) PREVIOUSLY DENIED FUNDS.—Funds accepted or otherwise made available under subsection (a) may not be expended, in whole or in part, for any purpose for which Congress has previously denied funds.

"(d) NOTIFICATION REQUIRED.—Not later than 48 hours after receiving a contribution under subsection (a), the Secretary of Defense shall provide to the appropriate committees of Congress a written notification that, at a minimum, includes an identification of the following:

"(1) The foreign government making the contribution.

"(2) The mutually agreed upon purpose for which the contribution is being made.

"(3) The process and anticipated timeline for the use of such contribution under the authorities specified in subsection (a).

"(4) Any other condition or limitation placed on the contribution by the foreign government making the contribution.

"(e) ANNUAL REPORT.—Not later than March 1, 2026, and March 1 of each year thereafter through 2030, the Secretary shall submit to the appropriate committees of Congress a report on any funds accepted or expended under this section during the preceding calendar year, including the following:

"(1) An identification of the foreign government or governments involved from which contributions were received.

"(2) For each foreign government—

"(A) the amount of funds, equipment, or type of services provided by the foreign government; and

"(B) the amount of any remaining unobligated balance or accepted equipment remaining in United States inventory.

"(3) A description of the purpose of such contributions were provided.

"(4) A description of any written agreement entered into with a country under this section, including the date on which the agreement was signed.

"(f) SUBMISSION OF INSTRUMENTS.—

"(1) IN GENERAL.—Not later than 30 days after the signature, conclusion, or other finalization of any non-binding instrument related to the implementation of this section, the President shall submit to the appropriate committees of Congress the text of such agreement or instrument.

"(2) NON-DUPLICATION OF EFFORTS; RULE OF CONSTRUCTION.—To the extent the text of a non-binding instrument is submitted to the appropriate committees of Congress pursuant to paragraph (1), such text shall not be required to be submitted to Congress pursuant to section 112b(a)(1)(A)(ii) of title 1, United States Code. Paragraph (1) may not be construed to relieve the executive branch of any other requirement of section 112b of title 1, United States Code, or any other provision of law.

"(3) DEFINITIONS.—

"(A) The term 'text', with respect to a non-binding instrument, includes—

"(i) any annex, appendix, codicil, side agreement, side letter, or any document of similar purpose or function to the aforementioned, regardless of the title of the document, that is entered into contemporaneously and in conjunction with the non-binding instrument; and

"(ii) any implementing agreement or arrangement, or any document of similar purpose or function to the aforementioned, regardless of the title of the document, that is entered into contemporaneously and in conjunction with the non-binding instrument.

"(B) The term 'contemporaneously and in conjunction with'—

"(i) shall be construed liberally; and

"(ii) may not be interpreted to require any action to have occurred simultaneously or on the same day.

"(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

"(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed as circumventing the applicable requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(i) TERMINATION.—The authority provided by this section shall terminate on December 31, 2029."

## PROGRAM AND PROCESSES RELATING TO FOREIGN ACQUISITION

Pub. L. 118–31, div. A, title VIII, §873, Dec. 22, 2023, 137 Stat. 350, as amended by Pub. L. 119–60, div. A, title VIII, §816, Dec. 18, 2025, 139 Stat. 953, provided that:

"(a) PILOT PROGRAM FOR COMBATANT COMMAND USE OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT ACCOUNT.—Each commander of a geographic combatant command shall use amounts from the Defense Acquisition Workforce Development Account established under section 1705 of title 10, United States Code, to hire not more than two members of the acquisition workforce (as defined in section 101 of such title) or contracting officers who are qualified to advise the combatant command on the processes for foreign military sales authorized under chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.) and the Department of Defense security cooperation processes under chapter 16 of title 10, United States Code, for the purpose of facilitating the effective implementation of such processes.

"(b) INDUSTRY DAY.—

"(1) IN GENERAL.—Not later than March 1, 2024, and not less frequently than annually thereafter, the Secretary of Defense shall conduct an event to be known as the 'industry day'—

"(A) to raise awareness and understanding among officials of foreign governments, covered embassy personnel, and representatives of the defense industrial base with respect to the role of the Department of Defense in implementing the foreign military sales process and the Department of Defense security cooperation process; and

"(B) to raise awareness—

"(i) within the private sector of the United States with respect to—

"(I) foreign demand for United States weapon systems; and

"(II) potential foreign industry partnering opportunities; and

"(ii) among officials of foreign governments and covered embassy personnel with respect to potential United States materiel solutions for capability needs.

"(2) FORMAT.—In conducting each industry day under paragraph (1), the Secretary of Defense, to the extent practicable, shall seek to maximize participation by representatives of the defense industrial base and government officials while minimizing cost, by—

"(A) ensuring that information provided at the industry day is unclassified;

"(B) making the industry day publicly accessible through teleconference or other virtual means; and

"(C) posting any supporting materials on a publicly accessible internet website.

"(3) COVERED EMBASSY PERSONNEL.—In this subsection, the term 'covered embassy personnel' means personnel at United States diplomatic and consular posts and personnel of foreign missions located in the United States.

"(c) SENIOR-LEVEL INDUSTRY ADVISORY GROUP.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with representatives of the defense industrial base, shall establish or designate senior-level individuals working in the defense industrial base to serve on an advisory group for the purpose of focusing on the role of the Department of Defense in the foreign military sales process and the Department of Defense security cooperation process. Such advisory group shall terminate on the date specified in subsection (f).

"(d) DEPARTMENT OF DEFENSE POINTS OF CONTACT FOR FOREIGN MILITARY SALES.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment and the Secretary of each military department shall each designate an individual to serve as a single point of contact—

"(A) to coordinate information and outreach on Department of Defense implementation of the foreign military sales process; and

"(B) to respond to inquiries from representatives of the defense industrial base and partner countries.

"(2) POINTS OF CONTACT.—The Under Secretary of Defense for Acquisition and Sustainment and the Secretary of each military department shall each ensure that the contact information for each individual designated under paragraph (1) is publicized at each industry day conducted under subsection (b) and disseminated among the members of the advisory group established under subsection (c).

"(3) TERMINATION.—The responsibilities of each individual designated under paragraph (1) shall terminate on the date specified in subsection (f).

"(e) REGIONAL THEATER NEEDS FOR EXPORTABILITY.—Not later than July 1, 2024, and annually thereafter until the date specified in (f) [sic; probably should be "subsection (f)"], the Under Secretary of Defense for Acquisition and Sustainment, in consultation with the commander of each geographic combatant command, the Director of Strategy, Plans, and Policy on the Joint Staff, each Secretary of a military department, and the Secretary of State, shall provide to the Secretary of Defense a list of systems relating to research and development, procurement, or sustainment that would benefit from investment for exportability features in support of the security cooperation objectives of the regional theaters.

"(f) TERMINATION.—The requirements of and the authority under this section shall cease to have effect on December 31, 2028."

**TECHNOLOGY RELEASE AND FOREIGN DISCLOSURE REFORM INITIATIVE**

Pub. L. 118–31, div. A, title IX, §918, Dec. 22, 2023, 137 Stat. 370, as amended by Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) INITIATIVE REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out an initiative to reform and improve the policies, processes, and procedures applicable to technology release and foreign disclosure decisions by the Department of Defense.

"(2) OBJECTIVES.—The objectives of such initiative shall be—

"(A) to develop recommendations for the continuous improvement of such policies, processes, and procedures within the Department and across other departments and agencies of the Federal Government involved in technology release and foreign disclosure decisions;

"(B) to increase efficiency and reduce timelines for the processing of such decisions;

"(C) to standardize, to the extent practicable, processes and information sharing systems applicable to such decisions; and

"(D) to provide for the continuous exchange of timely and relevant information among—

"(i) the principal organizations involved in technology release and foreign disclosure decisions;

"(ii) the broader acquisition and portfolio acquisition executive communities; and

"(iii) interagency partners of the Department.

"(3) METHOD OF IMPLEMENTATION.—For purposes of the initiative required under paragraph (1), the Secretary of Defense may—

"(A) establish a new initiative;

"(B) modify an existing initiative of the Department of Defense; or

"(C) carry out the initiative through a combination of the approaches described in subparagraphs (A) and (B).

"(b) METRICS.—

"(1) IN GENERAL.—In conjunction with the initiative required under subsection (a), the Under Secretary of Defense for Policy shall develop metrics for the management of the technology release and foreign disclosure process to provide objective and subjective measures of performance and improve senior leader decision-making in the Department of Defense.

"(2) ELEMENTS.—The metrics developed under paragraph (1) shall include—

"(A) methods for tracking individual technology release and foreign disclosure decisions made by the Defense Technology Security Administration;

"(B) objectives and deadlines related to the completion of such decisions; and

"(C) a method of prioritizing among technology release and foreign disclosure requests that takes into account—

"(i) the importance of the request to the national security of the United States; and

"(ii) the risks associated with the release or disclosure.

"(3) BRIEFING REQUIRED.—Not later than June 1, 2024, the Under Secretary of Defense for Policy shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the metrics developed under paragraph (1).

"(c) DESIGNATION OF POINTS OF CONTACT.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023]—

"(1) the Under Secretary of Defense for Policy shall establish or designate—

"(A) one position within the Office of the Under Secretary to lead the development and oversee the implementation of technology release and foreign disclosure policies for the Department of Defense; and

"(B) one position within the Office to coordinate information and outreach to relevant stakeholders on relevant Department of Defense technology release and foreign disclosure policies and to respond to inquiries from representatives of the commercial defense industry and partner countries; and

"(2) each Secretary of a military department shall establish or designate—

"(A) one position within the department under the jurisdiction of such Secretary to lead the development and oversee the implementation of technology release and foreign disclosure policies for that department; and

"(B) one position within such department to coordinate information and outreach to relevant

stakeholders on relevant Department of Defense technology release and foreign disclosure policies and to respond to inquiries from representatives of the commercial defense industry and partner countries.

"(d) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Defense shall submit to the congressional defense committees a report that includes the following:

"(A) An assessment of the staffing levels of the organizations specified in paragraph (2).

"(B) An assessment of the feasibility and advisability of consolidating the functions and organizations of the Department of Defense involved in technology release and foreign disclosure decisions, including the organizations specified in paragraph (2).

"(C) A review of any statutes and regulations applicable to technology release and foreign disclosure, together with recommendations for any changes to such statutes and regulations.

"(D) A survey and description of the data and methodology used to assess operational risk, technology risk, and the effects of technology release and foreign disclosure decisions on the defense industrial base.

"(E) An assessment of the benefits of developing and implementing anticipatory policies for technology release and foreign disclosure that include standardized capability thresholds for countries and geopolitical regions, especially for emerging capabilities for partners and allies of the United States.

"(F) An assessment of the extent to which the lessons learned from technology release and foreign disclosure decisions made in support of the Ukraine conflict have been applied to broader processes.

"(2) ORGANIZATIONS SPECIFIED.—The organizations specified in this paragraph are—

"(A) the Defense Technology Security Administration;

"(B) the Low Observable/Counter Low Observable Tri-Service Committee;

"(C) the Executive Agent for Anti-Tamper;

"(D) the Communications Security Review and Advisory Board; and

"(E) the organizations responsible for technology release and foreign disclosure in each of the military departments."

## SECURITY COOPERATION PROGRAMS WITH FOREIGN PARTNERS TO ADVANCE WOMEN, PEACE, AND SECURITY

Pub. L. 117–263, div. A, title XII, §1208, Dec. 23, 2022, 136 Stat. 2831, as amended by Pub. L. 118–159, div. A, title XII, §1206(a), Dec. 23, 2024, 138 Stat. 2095, provided that:

"(a) IN GENERAL.—During fiscal years 2023 through 2027, the Secretary of Defense, in coordination with the Secretary of State, may conduct or support security cooperation programs and activities involving the national military forces or national-level security forces of a foreign country, or other covered personnel, to advise, train, and educate such forces or personnel with respect to—

"(1) the recruitment, employment, development, retention, promotion, and meaningful participation in decisionmaking of women;

"(2) sexual harassment, sexual assault, domestic abuse, and other forms of violence that disproportionately impact women;

"(3) the requirements of women, including providing appropriate equipment and facilities; and

"(4) the implementation of activities described in this subsection, including the integration of such activities into security-sector policy, planning, exercises, and training, as appropriate.

"(b) ANNUAL REPORT.—Not later than 90 days after the end of each of fiscal years 2023 through 2027, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report detailing the assistance provided under this section and specifying the recipients of such assistance.

"(c) OTHER COVERED PERSONNEL DEFINED.—In this section, the term 'other covered personnel' means personnel of the ministry of defense or other governmental entity carrying out similar functions of a foreign country."

## SECURITY COOPERATION STRATEGY FOR CERTAIN COMBATANT COMMANDS

Pub. L. 117–81, div. A, title XII, §1206, Dec. 27, 2021, 135 Stat. 1960, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of State, shall develop and implement a security cooperation strategy for each covered combatant command, which shall apply to the security cooperation programs and activities of the Department of Defense (as defined in section 301 of title 10, United States Code).

"(b) ELEMENTS.—The strategy for each covered combatant command required by subsection (a) shall include the following:

"(1) A discussion of how the strategy will—

"(A) support and advance United States national security interests in strategic competition with near-peer rivals;

"(B) prioritize and build key capabilities of allied and partner security forces so as to enhance bilateral and multilateral interoperability and responsiveness;

"(C) prioritize and build the capabilities of foreign partner security forces to secure their own territory, including through operations against violent extremist groups;

"(D) promote and build institutional capabilities for observance of, and respect for—

"(i) the law of armed conflict;

"(ii) human rights and fundamental freedoms;

"(iii) the rule of law; and

"(iv) civilian control of the military; and

"(E) support the programs and activities of law enforcement and civilian agencies, as appropriate, to counter the threat of and reduce risks from illicit drug trafficking and other forms of transnational organized crime.

"(2) A statement of the security cooperation strategic objectives for—

"(A) the covered combatant command; and

"(B) the covered combatant command in conjunction with other covered combatant commands.

"(3) A description of the primary security cooperation lines of effort for achieving such strategic objectives, including prioritization of foreign partners within the covered combatant command.

"(4) A description of the Department of Defense authorities to be used for each such line of effort and the manner in which such authorities will contribute to achieving such strategic objectives.

"(5) A description of the institutional capacity-building programs and activities within the covered combatant command and an assessment of the manner in which such programs and activities contribute to achieving such strategic objectives.

"(6) A description of Department of Defense educational programs and institutions, and international institutions, relevant to the combatant command and an assessment of the manner in which such programs and institutions contribute to achieving such strategic objectives.

"(7) A discussion of the manner in which the development, planning, and implementation of programs or activities under Department of Defense security cooperation authorities are coordinated and deconflicted with security assistance and other assistance authorities of the Department of State and other civilian agencies.

"(c) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to the appropriate committees of Congress a report on the security cooperation strategy for each covered combatant command developed under subsection (a).

"(2) SUBSEQUENT REPORTS.—Beginning in fiscal year 2023, and annually thereafter through fiscal year 2027, concurrently with the submittal of the report required by section 386(a) of title 10, United States Code, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the implementation of the security cooperation strategy for each covered combatant command developed under subsection (a).

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

"(2) COVERED COMBATANT COMMAND.—The term 'covered combatant command' means—

"(A) the United States European Command;

"(B) the United States Indo-Pacific Command;

"(C) the United States Central Command;

"(D) the United States Africa Command;

"(E) the United States Southern Command; and

"(F) the United States Northern Command."

## SECRETARY OF DEFENSE STRATEGIC COMPETITION INITIATIVE

Pub. L. 117–81, div. A, title XIII, §1332, Dec. 27, 2021, 135 Stat. 2007, which related to funding and planning for strategic competition initiative, was repealed by Pub. L. 119–60, div. A, title XII, §1201(b), Dec.

18, 2025, 139 Stat. 1081.

**PRESCRIPTION OF TERM "DEVELOPING COUNTRY"**

Pub. L. 114–328, div. A, title XII, §1241(n), Dec. 23, 2016, 130 Stat. 2511, provided that:

"(1) IN GENERAL.—The Secretary of Defense shall prescribe the meaning of the term 'developing country' for purposes of chapter 16 of title 10, United States Code, as added by subsection (a)(3), and may from time to time prescribe a revision to the meaning of that term for those purposes.

"(2) INITIAL PRESCRIPTION.—The Secretary shall first prescribe the meaning of the term by not later than 270 days after the date of the enactment of this Act [Dec. 23, 2016].

"(3) NOTICE TO CONGRESS.—Whenever the Secretary prescribes the meaning of the term pursuant to paragraph (1), the Secretary shall notify the appropriate committees of Congress of the meaning of the term as so prescribed.

"(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' has the meaning given that term in section 301(1) of title 10, United States Code, as so added."

**QUADRENNIAL REVIEW OF SECURITY SECTOR ASSISTANCE PROGRAMS AND AUTHORITIES OF THE UNITED STATES GOVERNMENT**

Pub. L. 114–328, div. A, title XII, §1252, Dec. 23, 2016, 130 Stat. 2531, provided that:

"(a) STATEMENT OF POLICY.—It is the policy of the United States that the principal goals of the security sector assistance programs and authorities of the United States Government are as follows:

"(1) To assist partner nations in building sustainable capability to address common security challenges with the United States.

"(2) To promote partner nation support for United States interests.

"(3) To promote universal values, such as good governance, transparent and accountable oversight of security forces, rule of law, transparency, accountability, delivery of fair and effective justice, and respect for human rights.

"(4) To strengthen collective security and multinational defense arrangements and organizations of which the United States is a participant.

"(b) QUADRENNIAL REVIEW.—

"(1) REVIEW REQUIRED.—Not later than January 31, 2018, and every four years thereafter though 2034, the President shall complete a review of the security sector assistance programs, policies, authorities, and resources of the United States Government across the United States Government.

"(2) ELEMENTS.—Each review under this subsection shall include the following:

"(A) An examination [of] whether the current security sector assistance programs, policies, authorities, and resources of the United States Government are sufficient to achieve the goals specified in subsection (a), and an identification of any gaps or shortfalls needing mitigation.

"(B) An examination of the success of such programs and resources in achieving such goals, based on a review of relevant departmental and interagency programmatic and strategic evaluations.

"(C) An examination of the extent to which the security sector assistance of the United States Government is aligned with national security and foreign policy objectives, conducted in support of clear and coherent policy guidance, and planned and executed in accordance with identified best practices.

"(D) The development of recommendations, as appropriate, for improving the security sector assistance programs, policies, authorities, and resources of the United States Government to more effectively achieve the goals specified in subsection (a) and support other national security objectives.

"(3) SUBMITTAL TO CONGRESS.—Not later than 60 days after the completion of a review under this subsection, the President shall submit to the appropriate committees of Congress a report setting forth a summary of the review, including any recommendations developed pursuant to paragraph (2)(D).

"(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' has the meaning given that term in section section [sic] 301(1) of title 10, United States Code, as added by section 1241(a)(3) of this Act."

[Memorandum of President of the United States, Feb. 8, 2018, 83 F.R. 8739, provided:

[Memorandum for the Secretary of State [and] the Secretary of Defense

[By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State, in coordination with the Secretary of Defense, the functions and authorities vested in the President by section 1252 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) [set out above].

[The delegation in this memorandum shall apply to any provisions of any future public law that are the same or substantially the same as the provision referenced in this memorandum.

[The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

[DONALD J. TRUMP.]

## SUBCHAPTER II—MILITARY-TO-MILITARY ENGAGEMENTS

Sec.
311. Exchange of defense personnel between United States and friendly foreign countries: authority.
312. Payment of personnel expenses necessary for theater security cooperation.
313. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance.

### §311. Exchange of defense personnel between United States and friendly foreign countries: authority

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements. Any exchange of personnel under such an agreement is subject to paragraph (3).

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of a friendly foreign country or international or regional security organization for the reciprocal or non-reciprocal exchange of—

(A) members of the armed forces and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense or security ministry of that foreign government or international or regional security organization.

(3) An exchange of personnel under an international defense personnel exchange agreement under this section may only be made with the concurrence of the Secretary of State to the extent the exchange is with either of the following:

(A) A non-defense security ministry of a foreign government.

(B) An international or regional security organization.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government, subject to the concurrence of the Secretary of State.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—In the case of an international defense personnel exchange agreement that provides for reciprocal exchanges, each government shall be required to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged

personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) RELATIONSHIP TO OTHER AUTHORITY.—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the defense or security ministry of that foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

(Added and amended Pub. L. 114–328, div. A, title XII, §1242(a), (b), Dec. 23, 2016, 130 Stat. 2512, 2513; Pub. L. 115–232, div. A, title XII, §1204(c)(1)(A), Aug. 13, 2018, 132 Stat. 2017.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 114–328, is based on text of Pub. L. 104–201, div. A, title X, §1082, Sept. 23, 1996, 110 Stat. 2672, which was formerly set out as a note under section 168 of this title, prior to repeal by Pub. L. 114–328, div. A, title XII, §1242(c)(1), Dec. 23, 2016, 130 Stat. 2513.

### PRIOR PROVISIONS

A prior section 311 was renumbered section 246 of this title.

### AMENDMENTS

**2018**—Subsec. (a)(3). Pub. L. 115–232 substituted "Secretary of State" for "Secretary to State" in introductory provisions.

**2016**—Subsec. (a)(1). Pub. L. 114–328, §1242(b)(1)(A), inserted at end "Any exchange of personnel under such an agreement is subject to paragraph (3)."

Subsec. (a)(2). Pub. L. 114–328, §1242(b)(1)(B)(i), substituted "a friendly foreign country or international or regional security organization for the reciprocal or non-reciprocal exchange" for "an ally of the United States or another friendly foreign country for the exchange" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 114–328, §1242(b)(1)(B)(ii), substituted "members of the armed forces" for "military".

Subsec. (a)(2)(B). Pub. L. 114–328, §1242(b)(1)(B)(iii), inserted "or security" after "defense" and inserted "or international or regional security organization" before period at end.

Subsec. (a)(3). Pub. L. 114–328, §1242(b)(1)(C), added par. (3).

Subsec. (b)(2). Pub. L. 114–328, §1242(b)(2), inserted ", subject to the concurrence of the Secretary of State" before period at end.

Subsec. (c). Pub. L. 114–328, §1242(b)(3), substituted "In the case of" for "Each government shall be required under" and inserted "that provides for reciprocal exchanges, each government shall be required" after "exchange agreement".

Subsec. (f). Pub. L. 114–328, §1242(b)(4), inserted "defense or security ministry of that" after "military personnel of the".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### KEY PARTNERS FOR MIDDLE EAST REGIONAL INTEGRATION MILITARY SUBJECT MATTER EXPERT EXCHANGE PROGRAM

Pub. L. 118–159, div. A, title XII, §1221, Dec. 23, 2024, 138 Stat. 2101, provided that:

"(a) IN GENERAL.—The Secretary of Defense, using existing authorities, including section 311 of title 10, United States Code, as applicable, and in consultation with the Secretary of State and the head of any other

Federal agency the Secretary of Defense determines appropriate, shall design and implement a foreign military officer subject matter expert exchange program to be known as the 'Middle East Regional Integration Military Subject Matter Expert Exchange Program' (referred to in this section as the 'exchange program').

"(b) PURPOSE.—The purpose of the exchange program shall be to facilitate interaction, cultural exchange, and mutual learning of members of participating militaries in support of Middle East regional integration in order to deepen and expand such integration.

"(c) MEMBERSHIP.—

"(1) COMPOSITION.—The exchange program shall be composed of members of the armed forces of participating militaries in support of Middle East regional integration and members of the Armed Forces of the United States.

"(2) SUBJECT MATTER.—

"(A) IN GENERAL.—The Secretary of Defense shall select exchange program participants with a wide range of experiences collectively covering the tactical, operational, and strategic levels.

"(B) PARTICIPANT PAY GRADE LEVELS.—The Secretary of Defense shall include in the exchange program participants at each of the following military pay grades, or equivalent foreign military pay grades:

"(i) E–7 through E–9.

"(ii) CW–3 through CW–5.

"(iii) O–3 through O–9.

"(iv) Such other pay grade levels at the discretion of the Secretary of Defense.

"(C) EXPERTISE.—Each participant in the exchange program shall have expertise in one or more of the following subject matter areas:

"(i) Strategic doctrine.

"(ii) Defense planning.

"(iii) Civilian and military relations.

"(iv) Military law.

"(v) Public affairs.

"(vi) Civil affairs.

"(vii) Military budgeting and acquisitions.

"(viii) Integrated air and missile defense.

"(ix) Integrated maritime domain awareness and interdiction.

"(x) Cyber resilience and defense.

"(xi) Counterterrorism.

"(xii) Defense information sharing.

"(xiii) Any other subject matter area that the Secretary of Defense determines to be appropriate.

"(d) EXCHANGE PROGRAM CONTENT.—The exchange program—

"(1) shall include learning modalities and methods, as determined by the Exchange Program Coordinator;

"(2) may include separate agendas and experiences for participants in order to—

"(A) facilitate interaction on particular topics;

"(B) cater to participant backgrounds or rank levels; or

"(C) achieve other pedagogical ends as determined by the Exchange Program Coordinator; and

"(3) may include discussion, comparison, and information regarding the development of—

"(A) defense doctrine;

"(B) exercise development;

"(C) budget planning;

"(D) military law and law of armed conflict;

"(E) military cooperation with civilian agencies;

"(F) standard operating procedures;

"(G) operational plans and the operational art;

"(H) gaps and opportunities for improvement in existing procedures and plans;

"(I) existing technical challenges;

"(J) emerging technical challenges;

"(K) the current and future threat environment;

"(L) trust and capacity for multilateral sharing of information;

"(M) additional mechanisms and ideas for integrated cooperation;

"(N) ways to promote the meaningful participation of women in matters of peace and security;

and

"(O) other content, as appropriate, developed to advance integration and tactical, operational, and strategic proficiency.

"(e) MEETINGS.—Participants in the exchange program shall meet in person not less frequently than quarterly.

"(f) EXCHANGE PROGRAM COORDINATOR.—

"(1) IN GENERAL.—The Secretary of Defense shall designate an Exchange Program Coordinator, who shall be assigned to a Department of Defense School, to oversee the exchange program.

"(2) DUTIES.—The Exchange Program Coordinator shall—

"(A) design the exchange program;

"(B) ensure that the exchange program complies with the requirements of this section;

"(C) provide to the Secretary of Defense reports on developments, insights, and progress of the exchange program; and

"(D) notify the Secretary of Defense of any failure of the exchange program to comply with the in-person requirements of subsection (e).

"(3) NOTIFICATION TO CONGRESS.—Not later than 15 days after receiving a notification under paragraph (2)(D), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing—

"(A) the reasons an in-person meeting did not occur during such quarter; and

"(B) any measures taken to ensure that an in-person meeting occurs during the following quarter.

"(g) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Dec. 23, 2024], and annually thereafter for 5 years, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report that includes—

"(A) a summary of the activities of the exchange program during the prior year, including—

"(i) the countries participating;

"(ii) the subject matter covered;

"(iii) developments, insights, and progress achieved through the program; and

"(iv) any new topics added to the exchange as well as a justification for adding the new topic;

"(B) an assessment of the effectiveness of the exchange program; and

"(C) recommendations on further improvements to the exchange program.

"(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form but may include a classified annex.

"(h) DEFINITIONS.—In this section:

"(1) DEPARTMENT OF DEFENSE SCHOOL.—The term 'Department of Defense school' means any institution listed in section 1595(c) or section 2162(d) of title 10, United States Code.

"(2) PARTICIPATING MILITARIES IN SUPPORT OF MIDDLE EAST REGIONAL INTEGRATION.—The term 'participating militaries in support of Middle East regional integration' means military allies and partner forces of the United States working to advance regional integration in the Middle East."

## INDO-PACIFIC EXTENDED DETERRENCE EDUCATION PILOT PROGRAM

Pub. L. 118–159, div. A, title XIII, §1314, Dec. 23, 2024, 138 Stat. 2113, as amended by Pub. L. 119–60, div. A, title XII, §1252, Dec. 18, 2025, 139 Stat. 1113, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, using the authorities provided in chapter 16 of title 10, United States Code, and other applicable statutory authorities available to the Secretary, may establish a pilot program, including an international defense personnel exchange program, to support the education of covered personnel in—

"(1) matters relating to nuclear deterrence, nuclear strategy, and nuclear defense strategy; and

"(2) any other matter the Secretary considers important to strengthening extended nuclear deterrence of—

"(A) threats to United States allies posed by major-power competitors; and

"(B) any other persistent nuclear threat identified in the 2022 National Defense Strategy published pursuant to section 113(g) of title 10, United States Code.

"(b) INSTITUTIONAL PARTNERSHIP.—The Secretary may enter into an agreement with an existing university-affiliated research center or an institution of higher education with recognized subject matter

expertise in nuclear deterrence and related matters, and demonstrated relevant experience, for the purpose of developing a curriculum to reinforce extended deterrence through education of covered personnel in deterrence, nuclear strategy, conventional-nuclear integration, command and control, and related matters.

"(c) TERMINATION DATE.—The authority of the Secretary to carry out the pilot program under this section shall terminate on December 31, 2030.

"(d) COVERED PERSONNEL DEFINED.—In this section, the term 'covered personnel' means—

"(1) an employee of the Department of Foreign Affairs and Trade, the Department of Defence, or equivalent component of the Government of Australia;

"(2) an employee of the Ministry of Foreign Affairs, the Ministry of Defense, or equivalent component of the Government of Japan;

"(3) an employee of the Ministry of Foreign Affairs, the Ministry of National Defense, or equivalent component of the Government of the Republic of Korea;

"(4) a member of the military forces of Australia, Japan, or the Republic of Korea; and

"(5) any other official of the Government of Australia, the Government of Japan, or the Government of the Republic of Korea the Secretary considers important to the extended deterrence relationship with the United States."

**DEFENSE OPERATIONAL RESILIENCE INTERNATIONAL COOPERATION PILOT PROGRAM**

Pub. L. 117–263, div. A, title XII, §1212, Dec. 23, 2022, 136 Stat. 2834, as amended by Pub. L. 118–31, div. A, title XII, §1226, Dec. 22, 2023, 137 Stat. 455; Pub. L. 118–159, div. A, title XII, §1207, Dec. 23, 2024, 138 Stat. 2095, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, in consultation with the Secretary of State and in coordination with the commanders of the geographic combatant commands, may establish a pilot program, to be known as the 'Defense Operational Resilience International Cooperation Pilot Program' (in this section referred to as the 'pilot program') to support engagement with national security forces of partner countries on defense-related environmental and operational energy issues in support of the theater campaign plans of the geographic combatant commands.

"(b) DURATION.—The Secretary of Defense may carry out the pilot program during the period beginning on the date of the enactment of this Act [Dec. 23, 2022] and ending on December 31, 2027.

"(c) LIMITATIONS.—

"(1) PURPOSES.—The pilot program shall be limited to the following purposes:

"(A) To build relationships with the national security forces of partner countries in support of the efforts of the Department of Defense to engage in long-term strategic competition.

"(B) To sustain the mission capability and forward posture of the Armed Forces of the United States.

"(C) To enhance the capability, capacity, and resilience of the national security forces of partner countries.

"(2) PROHIBITED ASSISTANCE.—The Secretary may not use the pilot program to provide assistance that is in violation of section 362 of title 10, United States Code, or otherwise prohibited by law.

"(3) SECURITY COOPERATION.—The Secretary shall plan and prioritize assistance, training, and exercises with partner countries pursuant to the pilot program in a manner that is consistent with applicable guidance relating to security cooperation program and activities of the Department of Defense.

"(4) SUSTAINMENT AND NON-LETHAL ASSISTANCE.—A program under subsection (a) may include the provision of sustainment and non-lethal assistance, including training, defense services, and supplies (including consumables).

"(d) FUNDING.—Of amounts authorized to be appropriated by this Act [see Tables for classification] for each of fiscal years 2023 through 2027 and available for operation and maintenance, the Secretary may make available $15,000,000 to support the pilot program.

"(e) PRIORITIZATION.—In providing security cooperation for the purposes described in section (c)(1), the Secretary shall prioritize efforts based on—

"(1) the priorities of the commanders of the geographic combatant commands;

"(2) the operational relevance of the effort;

"(3) the need of the foreign partner; and

"(4) programs in less developed countries.

"(f) ANNUAL REPORT.—

"(1) IN GENERAL.—With respect to each year the Secretary carries out the pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on obligations and expenditures

made to carry out the pilot program during the fiscal year that precedes the year during which each such report is submitted.

"(2) DEADLINE.—The Secretary shall submit each such report not later than March 1 of each year during which the Secretary has authority to carry out the pilot program.

"(3) ELEMENTS.—Each such report shall include the following:

"(A) An accounting of each obligation and expenditure made to carry out the pilot program, disaggregated, where applicable, by partner country and national security forces of a partner country.

"(B) An explanation of the manner in which each such obligation or expenditure—

"(i) supports the national defense of the United States; and

"(ii) is in accordance with limitations described in subsection (c).

"(C) Any other matter the Secretary determines to be relevant.

"(g) TEMPORARY CESSATION OF AUTHORIZATION.—No funds authorized to be appropriated or otherwise made available for any of fiscal years 2023 through 2027 for the Department of Defense may be made available for the 'Defense Environmental International Cooperation Program'. During the period specified in subsection (b), all activities and functions of the 'Defense Environmental International Cooperation Program' may only be carried out under the pilot program.

"(h) DEFINITIONS.—In this section the terms 'defense services', 'national security forces', and 'training' have the meaning given those terms in section 301 of title 10, United States Code."

## PILOT PROGRAM TO DEVELOP YOUNG CIVILIAN DEFENSE LEADERS IN THE INDO-PACIFIC REGION

Pub. L. 117–263, div. A, title XII, §1261, Dec. 23, 2022, 136 Stat. 2856, as amended by Pub. L. 118–31, div. A, title XIII, §1303, Dec. 22, 2023, 137 Stat. 489, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish, using existing authorities of the Department of Defense, a pilot program to enhance engagement of the Department with young civilian defense and security leaders in the Indo-Pacific region.

"(b) PURPOSES.—The activities of the pilot program under subsection (a) shall include training of, and engagement with, young civilian leaders from foreign partner ministries of defense and other appropriate ministries with a defense-related national security mission in the Indo-Pacific region for purposes of—

"(1) enhancing bilateral and multilateral cooperation between—

"(A) civilian leaders in the Department; and

"(B) civilian leaders in foreign partner ministries of defense and other appropriate ministries with a defense-related national security mission; and

"(2) building the capacity of young civilian leaders in foreign partner ministries of defense and other appropriate ministries with a defense-related national security mission to promote civilian control of the military, respect for human rights, and adherence to the law of armed conflict.

"(c) PRIORITY.—In carrying out the pilot program under subsection (a), the Secretary of Defense shall prioritize engagement with civilian leaders in foreign partner ministries of defense and other appropriate ministries with a defense-related national security mission who are 40 years of age or younger.

"(d) BRIEFINGS.—

"(1) DESIGN OF PILOT PROGRAM.—Not later than June 1, 2023, the Secretary of Defense, in consultation with the Secretary of State, shall provide a briefing to the appropriate committees of Congress on the design of the pilot program under subsection (a).

"(2) PROGRESS BRIEFING.—Not later than December 31, 2023, and annually thereafter until the date on which the pilot program terminates under subsection (e), the Secretary of Defense, in consultation with the Secretary of State, shall provide a briefing to the appropriate committees of Congress on the pilot program that includes—

"(A) a description of the activities conducted and the results of such activities;

"(B) an identification of existing authorities used to carry out the pilot program;

"(C) any recommendations related to new authorities or modifications to existing authorities necessary to more effectively achieve the objectives of the pilot program; and

"(D) any other matter the Secretary of Defense considers relevant.

"(e) TERMINATION.—The pilot program under subsection (a) shall terminate on December 31, 2026.

"(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

**LIMITATION ON MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH CHINESE PEOPLE'S LIBERATION ARMY**

Pub. L. 106–65, div. A, title XII, §1201, Oct. 5, 1999, 113 Stat. 779, as amended by Pub. L. 111–84, div. A, title XII, §1246(d), Oct. 28, 2009, 123 Stat. 2545; Pub. L. 112–81, div. A, title X, §1066(e)(2), Dec. 31, 2011, 125 Stat. 1589, provided that:

"(a) LIMITATION.—The Secretary of Defense may not authorize any military-to-military exchange or contact described in subsection (b) to be conducted by the armed forces with representatives of the People's Liberation Army of the People's Republic of China if that exchange or contact would create a national security risk due to an inappropriate exposure specified in subsection (b).

"(b) COVERED EXCHANGES AND CONTACTS.—Subsection (a) applies to any military-to-military exchange or contact that includes inappropriate exposure to any of the following:

"(1) Force projection operations.

"(2) Nuclear operations.

"(3) Advanced combined-arms and joint combat operations.

"(4) Advanced logistical operations.

"(5) Chemical and biological defense and other capabilities related to weapons of mass destruction.

"(6) Surveillance and reconnaissance operations.

"(7) Joint warfighting experiments and other activities related to a transformation in warfare.

"(8) Military space operations.

"(9) Other advanced capabilities of the Armed Forces.

"(10) Arms sales or military-related technology transfers.

"(11) Release of classified or restricted information.

"(12) Access to a Department of Defense laboratory.

"(c) EXCEPTIONS.—Subsection (a) does not apply to any search-and-rescue or humanitarian operation or exercise."

## §312. Payment of personnel expenses necessary for theater security cooperation

(a) AUTHORITY.—The Secretary of Defense may pay expenses specified in subsection (b) that the Secretary considers necessary for theater security cooperation.

(b) TYPES OF EXPENSES.—The expenses that may be paid under the authority provided in subsection (a) are the following:

(1) PERSONNEL EXPENSES.—The Secretary of Defense may pay travel, subsistence, and similar personnel expenses of, and special compensation for, the following that the Secretary considers necessary for theater security cooperation:

(A) Defense personnel of friendly foreign governments.

(B) With the concurrence of the Secretary of State, other personnel of friendly foreign governments and non-governmental personnel.

(2) ADMINISTRATIVE SERVICES AND SUPPORT FOR LIAISON OFFICERS.—The Secretary of Defense may provide administrative services and support for the performance of duties by a liaison officer of a foreign country while the liaison officer is assigned temporarily to any headquarters in the Department of Defense.

(3) TRAVEL, SUBSISTENCE, AND MEDICAL CARE FOR LIAISON OFFICERS.—The Secretary of Defense may pay the expenses of a liaison officer in connection with the assignment of that officer as described in paragraph (2) if the assignment is requested by the commander of a combatant command, the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, the Chief of Space Operations, or the head of a Defense Agency as follows:

(A) Travel and subsistence expenses.

(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

(C) Expenses for medical care at a civilian medical facility if—

(i) adequate medical care is not available to the liaison officer at a local military medical treatment facility;

(ii) the Secretary determines that payment of such medical expenses is necessary and in the best interests of the United States; and

(iii) medical care is not otherwise available to the liaison officer pursuant to any treaty or other international agreement.

(D) Mission-related travel expenses if such travel meets each of the following conditions:

(i) The travel is in support of the national security interests of the United States.

(ii) The officer or official making the request directs round-trip travel from the assigned location to one or more travel locations.

(4) CONFERENCES, SEMINARS, AND SIMILAR MEETINGS.—The authority provided by paragraph (1) includes authority to pay travel and subsistence expenses for personnel described in that paragraph in connection with the attendance of such personnel at any conference, seminar, or similar meeting that is in direct support of enhancing interoperability between the United States armed forces and the national security forces of a friendly foreign country for the purposes of conducting operations, the provision of equipment or training, or the planning for, or the execution of, bilateral or multilateral training, exercises, or military operations.

(5) OTHER EXPENSES.—In addition to the personnel expenses payable under paragraph (1), the Secretary of Defense may pay such other limited expenses in connection with conferences, seminars, and similar meetings covered by paragraph (4) as the Secretary considers appropriate in the national security interests of the United States.

(c) LIMITATIONS ON EXPENSES PAYABLE.—

(1) PERSONNEL FROM DEVELOPING COUNTRIES.—The authority provided in subsection (a) may be used only for the payment of expenses of, and special compensation for, personnel from developing countries, except that the Secretary of Defense may authorize the payment of such expenses and special compensation for personnel from a country other than a developing country if the Secretary determines that such payment is necessary to respond to extraordinary circumstances and is in the national security interest of the United States.

(2) NON-DEFENSE LIAISON OFFICERS.—In the case of a non-defense liaison officer of a foreign country, the authority of the Secretary of Defense under subsection (a) to pay expenses specified in paragraph (2) or (3) of subsection (b) may be exercised only if the assignment of that liaison officer as a liaison officer with the Department of Defense was accepted by the Secretary of Defense with the coordination of the Secretary of State.

(d) REIMBURSEMENT.—The Secretary of Defense may provide the services and support specified in subsection (b)(2) with or without reimbursement from (or on behalf of) the recipients. The terms of reimbursement (if any) shall be specified in the appropriate agreements used to assign the liaison officer.

(e) MONETARY LIMITATIONS ON EXPENSES PAYABLE.—

(1) TRAVEL AND SUBSISTENCE EXPENSES GENERALLY.—Travel and subsistence expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 or 8 of title 37 to a member of the armed forces (of a comparable grade) for authorized travel of a similar nature.

(2) TRAVEL AND RELATED EXPENSES OF LIAISON OFFICERS.—The amount paid for expenses specified in subsection (b)(3) for any liaison officer in any fiscal year may not exceed $150,000.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

(g) ADMINISTRATIVE SERVICES AND SUPPORT DEFINED.—In this section, the term "administrative services and support" includes base or installation support services, office space,

utilities, copying services, fire and police protection, training programs conducted to familiarize, orient, or certify liaison personnel regarding unique aspects of the assignments of the liaison personnel, and computer support.

(Added Pub. L. 114–328, div. A, title XII, §1243(a), Dec. 23, 2016, 130 Stat. 2514; amended Pub. L. 116–283, div. A, title IX, §924(b)(11), Jan. 1, 2021, 134 Stat. 3823.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 312 was renumbered section 247 of this title.

**AMENDMENTS**

**2021**—Subsec. (b)(3). Pub. L. 116–283 inserted "the Chief of Space Operations," after "the Commandant of the Marine Corps," in introductory provisions.

## §313. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance

(a) GENERAL AUTHORITY.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

(b) ACTIVITIES THAT MAY BE RECOGNIZED.—Activities that may be recognized under subsection (a) include superior achievement or performance that—

(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

(c) LIMITATION.—Expenditures for the purchase or production of mementos for award under this section may not exceed the minimal value in effect under section 7342(a)(5) of title 5.

(Added Pub. L. 108–136, div. A, title XII, §1222(a), Nov. 24, 2003, 117 Stat. 1652, §1051b; renumbered §313, Pub. L. 114–328, div. A, title XII, §1241(b), Dec. 23, 2016, 130 Stat. 2500.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 1051b of this title as this section.

## SUBCHAPTER III—TRAINING WITH FOREIGN FORCES

Sec.
321. Training and exercises with friendly foreign countries: payment of training and exercise expenses.
322. Special operations forces: training with friendly foreign forces.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XII, §1201(a)(4)(B), Dec. 18, 2025, 139 Stat. 1081, substituted "Training and exercises with friendly foreign countries: payment of training and exercise expenses" for "Training with friendly foreign countries: payment of training and exercise expenses" in item 321.

## §321. Training and exercises with friendly foreign countries: payment of training and exercise expenses

(a) TRAINING AUTHORIZED.—

(1) TRAINING WITH FOREIGN FORCES GENERALLY.—The armed forces under the jurisdiction of the Secretary of Defense may train with the military forces, or other national security forces that perform a similar function, of a friendly foreign country if the Secretary determines that it is in the national security interest of the United States to do so.

(2) TRAINING TO SUPPORT MISSION ESSENTIAL TASKS.—Any training conducted pursuant to paragraph (1) shall, to the maximum extent practicable, support the mission essential tasks for which the unit of the United States armed forces participating in such training is responsible.

(3) ELEMENTS OF TRAINING.—Any training conducted pursuant to paragraph (1) shall, to the maximum extent practicable, include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within the foreign country concerned.

(b) AUTHORITY TO PAY TRAINING AND EXERCISE EXPENSES.—Under regulations prescribed pursuant to subsection (f), the Secretary of a military department or the commander of a combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of forces assigned or allocated to that command in conjunction with training and exercises conducted pursuant to this section.

(2) The incremental expenses of a friendly foreign country as the direct result of participating in training and exercises conducted pursuant to this section.

(3) Small-scale construction that is directly related to the effective accomplishment of the training and exercises conducted pursuant to this section.

(c) PURPOSE OF TRAINING AND EXERCISES.—

(1) IN GENERAL.—The primary purpose of the training and exercises for which payment may be made under subsection (b) shall be to train United States forces.

(2) SELECTION OF FOREIGN PARTNERS.—Training and exercises with friendly foreign countries under subsection (a) should be planned and prioritized consistent with applicable guidance relating to the security cooperation programs and activities of the Department of Defense.

(d) AVAILABILITY OF FUNDS FOR ACTIVITIES THAT CROSS FISCAL YEARS .—Amounts available for the authority to pay expenses in subsection (b) for a fiscal year may be used to pay expenses under that subsection for training and exercises that begin in such fiscal year but end in the next fiscal year.

(e) QUARTERLY REPORT.—Not less frequently than quarterly, the Secretary of Defense shall submit to the appropriate committees of Congress a report on training and exercises conducted pursuant to this section during the preceding 90-day period.

(f) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations for the administration of this section. The Secretary shall submit the regulations to the Committees on Armed Services of the Senate and the House of Representatives.

(2) ELEMENTS.—The regulations required under this section shall provide the following:

(A) A requirement that training and exercise activities may be carried out under this section only with the prior approval of the Secretary.

(B) Accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(C) Procedures to limit the payment of incremental expenses to friendly foreign countries only to developing countries, except in the case of exceptional circumstances as specified in the regulations.

(Added Pub. L. 99–661, div. A, title XIII, §1321(a)(1), Nov. 14, 1986, 100 Stat. 3988, §2010; amended Pub. L. 105–85, div. A, title X, §1073(a)(35), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 110–417, [div. A], title XII, §1203(a), Oct. 14, 2008, 122 Stat. 4622; Pub. L. 112–81, div. A, title X, §1061(12), Dec. 31, 2011, 125 Stat. 1583; renumbered §321 and amended Pub. L. 114–328, div. A, title XII, §1244(a), Dec. 23, 2016, 130 Stat. 2516; Pub. L. 115–232, div. A, title XII, §1204(c)(1)(B), Aug. 13, 2018, 132 Stat. 2017; Pub. L. 119–60, div. A, title XII, §1201(a)(1)–(4)(A), Dec. 18, 2025, 139 Stat. 1080, 1081.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §1201(a)(4)(A), inserted "and exercises" after "Training" in section catchline.

Subsec. (a)(1). Pub. L. 119–60, §1201(a)(1)(A), substituted ", or other national security forces that perform a similar function," for "or other security forces".

Subsec. (a)(2) to (4). Pub. L. 119–60, §1201(a)(1)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "The general purpose forces of the United States armed forces may train only with the military forces of a friendly foreign country."

Subsec. (b). Pub. L. 119–60, §1201(a)(2)(A), substituted "subsection (f)" for "subsection (e)" in introductory provisions.

Subsec. (b)(1). Pub. L. 119–60, §1201(a)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Expenses of training forces assigned or allocated to that command in conjunction with training, and training with, the military forces or other security forces of a friendly foreign country under subsection (a)."

Subsec. (b)(2). Pub. L. 119–60, §1201(a)(2)(E), substituted "training and exercises conducted pursuant to this section" for "such training, as specified in the regulations".

Pub. L. 119–60, §1201(a)(2)(C), (D), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, par. (2) read as follows: "Expenses of deploying such forces for that training."

Subsec. (b)(3). Pub. L. 119–60, §1201(a)(2)(D), (F), redesignated par. (5) as (3) and substituted "training and exercises conducted pursuant to this section" for "training described in paragraph (1) or an exercise described in paragraph (4)". Former par. (3) redesignated (2).

Subsec. (b)(4). Pub. L. 119–60, §1201(a)(2)(C), struck out par. (4) which read as follows: "The incremental expenses of a friendly foreign country as the direct result of participating in an exercise with the armed forces under the jurisdiction of the Secretary of Defense."

Subsec. (b)(5). Pub. L. 119–60, §1201(a)(2)(D), redesignated par. (5) as (3).

Subsec. (e). Pub. L. 119–60, §1201(a)(3), amended subsec. (e) generally. Prior to amendment, text read as follows: "Not later than the end of the first calendar quarter beginning after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, and every calendar quarter thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a notice setting forth the schedule of planned training engagement pursuant to subsection (a) during the calendar quarter first following the calendar quarter in which such notice is submitted."

**2018**—Subsec. (e). Pub. L. 115–232 substituted "the first calendar quarter" for "the first calender quarter" and "every calendar quarter" for "every calender quarter".

**2016**—Pub. L. 114–328 renumbered section 2010 of this title as this section and amended it generally. Prior to amendment, section related to payment of incremental expenses for participation of developing countries in combined exercises.

**2011**—Subsecs. (b) to (e). Pub. L. 112–81 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b) which read as follows: "The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

"(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

"(2) the amounts expended on behalf of each government."

**2008**—Subsecs. (d), (e). Pub. L. 110–417 added subsec. (d) and redesignated former subsec. (d) as (e).

**1997**—Subsec. (e). Pub. L. 105–85 struck out subsec. (e) which read as follows: "Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title XII, §1203(b), Oct. 14, 2008, 122 Stat. 4622, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to bilateral and multilateral military exercises described in section 2010 [now 321] of title 10, United States Code, as so amended, that begin on or after that date."

### TEMPORARY AUTHORITY TO PROVIDE TRAINING TO MILITARY FORCES OR NATIONAL SECURITY FORCES OF COSTA RICA AND PANAMA

Pub. L. 118–159, div. A, title XII, §1209, Dec. 23, 2024, 138 Stat. 2097, provided that: "In conducting training with friendly foreign countries under section 321 of title 10, United States Code, notwithstanding subsection (a)(2) of that section, beginning on the date of the enactment of this Act [Dec. 23, 2024] and ending on December 31, 2030, the general purpose forces of the United States Armed Forces may train with the military forces or national security forces of the following countries:

"(1) Costa Rica.

"(2) Panama."

### PROHIBITION ON PARTICIPATION OF THE PEOPLE'S REPUBLIC OF CHINA IN RIM OF THE PACIFIC (RIMPAC) NAVAL EXERCISES

Pub. L. 115–232, div. A, title XII, §1259, Aug. 13, 2018, 132 Stat. 2058, as amended by Pub. L. 117–263, div. A, title XII, §1253, Dec. 23, 2022, 136 Stat. 2850, provided that:

"(a) CONDITIONS FOR FUTURE PARTICIPATION IN RIMPAC.—

"(1) IN GENERAL.—The Secretary of Defense shall not enable or facilitate the participation of the People's Republic of China in any Rim of the Pacific (RIMPAC) naval exercise unless the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that China has—

"(A) ceased all land reclamation activities in the South China Sea;

"(B) removed all weapons from its land reclamation sites;

"(C) established a consistent four-year track record of taking actions toward stabilizing the region; and

"(D) ceased committing genocide in China, as articulated in the Department of State's Country Report on Human Rights Practices released on April 12, 2022, and engaged in a credible justice and accountability process for all victims of such genocide.

"(2) FORM.—The certification under paragraph (1) shall be in unclassified form but may contain a classified annex as necessary.

"(b) NATIONAL SECURITY WAIVER.—

"(1) IN GENERAL.—The Secretary of Defense may waive the certification requirement under subsection (a) if the Secretary determines the waiver is in the national security interest of the United States and submits to the congressional defense committees a detailed justification for the waiver.

"(2) FORM.—The justification required under paragraph (1) shall be in unclassified form but may contain a classified annex as necessary."

## §322. Special operations forces: training with friendly foreign forces

(a) AUTHORITY TO PAY TRAINING EXPENSES.—Under regulations prescribed pursuant to subsection (c), the commander of the special operations command established pursuant to section 167 of this title and the commander of any other unified or specified combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of training special operations forces assigned to that command in conjunction with

training, and training with, armed forces and other security forces of a friendly foreign country.

(2) Expenses of deploying such special operations forces for that training.

(3) In the case of training in conjunction with a friendly developing country, the incremental expenses incurred by that country as the direct result of such training.

(b) PURPOSE OF TRAINING.—The primary purpose of the training for which payment may be made under subsection (a) shall be to train the special operations forces of the combatant command.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense. The regulations shall establish accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(d) DEFINITIONS.—In this section:

(1) The term "special operations forces" includes civil affairs forces and military information support operations forces.

(2) The term "incremental expenses", with respect to a developing country, means the reasonable and proper cost of rations, fuel, training ammunition, transportation, and other goods and services consumed by such country, except that the term does not include pay, allowances, and other normal costs of such country's personnel.

(e) REPORTS.—Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid under this section. Each report shall specify the following:

(1) All countries in which that training was conducted.

(2) The type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of members of the armed forces involved, and expenses paid.

(3) The extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort.

(4) The relationship of that training to other overseas training programs conducted by the armed forces, such as military exercise programs sponsored by the Joint Chiefs of Staff, military exercise programs sponsored by a combatant command, and military training activities sponsored by a military department (including deployments for training, short duration exercises, and other similar unit training events).

(5) A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

(6) A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.

(Added Pub. L. 102–190, div. A, title X, §1052(a)(1), Dec. 5, 1991, 105 Stat. 1470, §2011; amended Pub. L. 104–106, div. A, title XV, §1503(a)(18), Feb. 10, 1996, 110 Stat. 512; Pub. L. 105–261, div. A, title X, §1062, Oct. 17, 1998, 112 Stat. 2129; Pub. L. 112–81, div. A, title X, §1086(2), Dec. 31, 2011, 125 Stat. 1603; renumbered §322, Pub. L. 114–328, div. A, title XII, §1244(b), Dec. 23, 2016, 130 Stat. 2518.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 renumbered section 2011 of this title as this section.

**2011**—Subsec. (d)(1). Pub. L. 112–81 substituted "military information support operations" for "psychological operations".

**1998**—Subsec. (c). Pub. L. 105–261, §1062(a), inserted after first sentence "The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense."

Subsec. (e)(5), (6). Pub. L. 105–261, §1062(b), added pars. (5) and (6).
**1996**—Subsec. (a). Pub. L. 104–106 substituted "TO" for "TO" in heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (e) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### TRAINING OF GENERAL PURPOSE FORCES OF THE UNITED STATES ARMED FORCES WITH MILITARY AND OTHER SECURITY FORCES OF FRIENDLY FOREIGN COUNTRIES

Pub. L. 113–66, div. A, title XII, §1203, Dec. 26, 2013, 127 Stat. 894, related to the training of general purpose forces of the armed forces of the United States with military and other security forces of friendly foreign countries, prior to repeal by Pub. L. 114–328, div. A, title XII, §1244(c), Dec. 23, 2016, 130 Stat. 2518.

## SUBCHAPTER IV—SUPPORT FOR OPERATIONS AND CAPACITY BUILDING

Sec.
331. Friendly foreign countries: authority to provide support for conduct of operations.
332. Friendly foreign countries; international and regional organizations: defense institution capacity building.
333. Foreign security forces: authority to build capacity.
334. Administrative support and payment of certain expenses for covered foreign defense personnel.
335. Payment of personnel expenses necessary for participation in training program conducted by Colombia under the United States-Colombia Action Plan for Regional Security.

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263, div. A, title XII, §1201(b), Dec. 23, 2022, 136 Stat. 2823, added item 335.
**2021**—Pub. L. 117–81, div. A, title XII, §1201(b), Dec. 27, 2021, 135 Stat. 1958, added item 334.

## §331. Friendly foreign countries: authority to provide support for conduct of operations

(a) AUTHORITY.—The Secretary of Defense may provide support to friendly foreign countries in connection with the conduct of operations designated pursuant to subsection (b).

(b) DESIGNATED OPERATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall designate the operations for which support may be provided under the authority in subsection (a).

(2) NOTICE TO CONGRESS.—The Secretary shall notify the appropriate committees of Congress of the designation of any operation pursuant to this subsection.

(3) ANNUAL REVIEW FOR CONTINUING DESIGNATION.—The Secretary shall undertake on an annual basis a review of the operations currently designated pursuant to this subsection in order to determine whether each such operation merits continuing designation for purposes of this section for another year. If the Secretary determines that any operation so reviewed merits continuing designation for purposes of this section for another year, the Secretary—

(A) may continue the designation of such operation under this subsection for such purposes for another year; and

(B) if the Secretary so continues the designation of such operation, shall notify the appropriate committees of Congress of the continuation of designation of such operation.

(c) TYPES OF SUPPORT AUTHORIZED.—The types of support that may be provided under the authority in subsection (a) are the following:

(1) Logistic support, supplies, and services to security forces of a friendly foreign country participating in—

(A) an operation with the armed forces under the jurisdiction of the Secretary of Defense; or

(B) a military or stability operation that benefits the national security interests of the United States.

(2) Logistic support, supplies, and services—

(A) to military forces of a friendly foreign country solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in a combined operation with the United States in order to facilitate such operation; or

(B) to a nonmilitary logistics, security, or similar agency of a friendly foreign government if such provision would directly benefit the armed forces under the jurisdiction of the Secretary of Defense.

(3) Procurement of equipment for the purpose of the loan of such equipment to the military forces of a friendly foreign country participating in a United States-supported coalition or combined operation and the loan of such equipment to those forces to enhance capabilities or to increase interoperability with the armed forces under the jurisdiction of the Secretary of Defense and other coalition partners.

(4) Provision of specialized training to personnel of friendly foreign countries in connection with such an operation, including training of such personnel before deployment in connection with such operation.

(5) Small-scale construction to support military forces of a friendly foreign country participating in a United States-supported coalition or combined operation when the construction is directly linked to the ability of such forces to participate in such operation effectively and is limited to the geographic area where such operation is taking place. In the case of support provided under this paragraph that results in the provision of small-scale construction above $750,000, the notification pursuant to subsection (b)(2) shall include the location, project title, and cost of each such small-scale construction project that will be carried out, a Department of Defense Form 1391 for each such project, and a masterplan of planned infrastructure investments at the location.

(d) CERTIFICATION REQUIRED.—

(1) OPERATIONS IN WHICH THE UNITED STATES IS NOT PARTICIPATING.—The Secretary of Defense may provide support under subsection (a) to a friendly foreign country with respect to an operation in which the United States is not participating only—

(A) if the Secretary of Defense and the Secretary of State jointly certify to the appropriate committees of Congress that the operation is in the national security interests of the United States; and

(B) after the expiration of the 15-day period beginning on the date of such certification.

(2) ACCOMPANYING REPORT.—Any certification under paragraph (1) shall be accompanied by a report that includes the following:

(A) A description of the operation, including the geographic area of the operation.

(B) A list of participating countries.

(C) A description of the type of support and the duration of support to be provided.

(D) A description of the national security interests of the United States supported by the operation.

(E) A description of each entity with which the applicable friendly foreign country is engaged in hostilities and whether each such entity is covered by an authorization for the use of military force.

(F) Such other matters as the Secretary of Defense and the Secretary of State consider significant to a consideration of such certification.

(e) SECRETARY OF STATE CONCURRENCE.—The provision of support under subsection (a) may be made only with the concurrence of the Secretary of State.

(f) SUPPORT OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of support described in subsection (c) that is otherwise prohibited by any provision of law.

(g) LIMITATIONS ON VALUE.—

(1) The aggregate value of all logistic support, supplies, and services provided under paragraphs (1), (4), and (5) of subsection (c) in any fiscal year may not exceed $450,000,000.

(2) The aggregate value of all logistic support, supplies, and services provided under subsection (c)(2) in any fiscal year may not exceed $5,000,000.

(h) LOGISTIC SUPPORT, SUPPLIES, AND SERVICES DEFINED.—In this section, the term "logistic support, supplies, and services" has the meaning given that term in section 2350(1) of this title.

(Added Pub. L. 109–364, div. A, title XII, §1201(a), Oct. 17, 2006, 120 Stat. 2410, §127c; renumbered §127d, Pub. L. 110–181, div. A, title X, §1063(a)(1)(A), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111–383, div. A, title X, §1075(b)(3), title XII, §1202, Jan. 7, 2011, 124 Stat. 4369, 4385; renumbered §331 and amended Pub. L. 114–328, div. A, title XII, §1245(a), Dec. 23, 2016, 130 Stat. 2518; Pub. L. 115–232, div. A, title XII, §1203(b), Aug. 13, 2018, 132 Stat. 2016; Pub. L. 117–263, div. A, title XII, §1202(a), Dec. 23, 2022, 136 Stat. 2823.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 331 was renumbered section 251 of this title.

### AMENDMENTS

**2022**—Subsec. (d)(2)(E), (F). Pub. L. 117–263 added subpar. (E) and redesignated former subpar. (E) as (F).

**2018**—Subsec. (c)(5). Pub. L. 115–232 inserted at end "In the case of support provided under this paragraph that results in the provision of small-scale construction above $750,000, the notification pursuant to subsection (b)(2) shall include the location, project title, and cost of each such small-scale construction project that will be carried out, a Department of Defense Form 1391 for each such project, and a masterplan of planned infrastructure investments at the location."

**2016**—Pub. L. 114–328 renumbered section 127d of this title as this section and amended it generally. Prior to amendment, section related to authority to provide logistic support, supplies, and services to allied forces participating in combined operations.

**2011**—Subsec. (a). Pub. L. 111–383, §1202(a), designated existing provisions as par. (1), inserted "of the United States" after "armed forces", struck out "Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State." at end, and added pars. (2) and (3).

Subsec. (b). Pub. L. 111–383, §1202(b)(1), substituted "subsection (a)(1)" for "subsection (a)" in par. (1) and in introductory provisions of par. (2).

Subsec. (c)(1). Pub. L. 111–383, §1202(b)(2)(A), substituted "The" for "Except as provided in paragraph (2), the" and "subsection (a)(1)" for "this section".

Subsec. (c)(2). Pub. L. 111–383, §1202(b)(2)(B), substituted "The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not" for "In addition to any logistic

support, supplies, and services provided under subsection (a) that are covered by paragraph (1), the value of logistic support, supplies, and services provided under this section solely for the purposes of enhancing the interoperability of the logistical support systems of military forces participating in combined operation of the United States in order to facilitate such operations may not, in any fiscal year,".

Subsec. (d)(1). Pub. L. 111–383, §1075(b)(3), substituted "Committee on Foreign Affairs" for "Committee on International Relations".

**2008**—Pub. L. 110–181 renumbered section 127c of this title, relating to allied forces participating in combined operations, as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SUPPORT FOR EXECUTION OF BILATERAL AGREEMENTS CONCERNING ILLICIT TRANSNATIONAL MARITIME ACTIVITY**

Pub. L. 118–31, div. A, title XVIII, §1808, Dec. 22, 2023, 137 Stat. 688, as amended by Pub. L. 118–159, div. A, title XII, §1201(b), Dec. 23, 2024, 138 Stat. 2093, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Commandant of the Coast Guard, and in consultation with the Secretary of State, may provide assistance to the Coast Guard for the execution of existing maritime law enforcement agreements between the United States and friendly countries that were established to combat transnational organized illegal maritime activity, including illegal, unreported, and unregulated fishing.

"(b) EFFECT ON MILITARY TRAINING AND READINESS.—The Secretary of Defense shall ensure that the provision of assistance under this section does not negatively affect military training, operations, readiness, or other military requirements.

"(c) FUNDS.—If the Secretary of Defense provides assistance under subsection (a) during any fiscal year, the Secretary shall provide such assistance using amounts available for that fiscal year for the Department of Defense for operation and maintenance.

"(d) ASSISTANCE DEFINED.—In this section, the term 'assistance' means any of the following:

"(1) The use of surface and air assets as bases of operations and information collection platforms.

"(2) Communication infrastructure.

"(3) Information sharing.

"(4) The provision of logistic support, supplies, and services (as such term is defined in section 2350 of title 10, United States Code)."

## §332. Friendly foreign countries; international and regional organizations: defense institution capacity building

(a) MINISTRY OF DEFENSE ADVISOR AUTHORITY.—The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to assign civilian employees of the Department of Defense and members of the armed forces as advisors to the ministries of defense (or security agencies serving a similar defense function) of foreign countries or regional organizations with security missions in order to—

(1) provide institutional, ministerial-level advice, and other training to personnel of the ministry or regional organization to which assigned in support of stabilization or post-conflict activities; or

(2) assist such ministry or regional organization in building core institutional capacity, competencies, and capabilities to manage defense-related processes.

(b) TRAINING OF PERSONNEL OF FOREIGN MINISTRIES WITH SECURITY MISSIONS.—

(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to provide advisors or trainers to provide training and associated training support services to personnel of foreign ministries of defense (or ministries with security force oversight) or regional organizations with security missions—

(A) for the purpose of—

(i) enhancing civilian oversight of foreign security forces;

(ii) establishing responsible defense governance and internal controls in order to help build

effective, transparent, and accountable defense institutions;

(iii) assessing organizational weaknesses and establishing a roadmap for addressing shortfalls; and

(iv) enhancing ministerial, general or joint staff, or service level core management competencies; and

(B) for such other purposes as the Secretary considers appropriate, consistent with the authority in subsection (a).

(2) NOTICE TO CONGRESS.—Not later than February 1 of each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on activities under the program under paragraph (1) during the preceding fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

(A) A list of activities under the program.

(B) A list of any organization described in paragraph (1) to which the Secretary provided advisors or trainers under the program, including the number of such advisors or trainers so provided, the duration of each provision of such an advisor or trainer, a brief description of the activities of each advisor or trainer so provided, and a statement of the cost of each provision of such an advisor or trainer.

(C) A comprehensive justification of any activities conducted pursuant to paragraph (1)(B).

(c) CONGRESSIONAL NOTICE.—Not later than 15 days before assigning a civilian employee of the Department of Defense or a member of the armed forces as an advisor to a regional organization with a security mission under subsection (a), the Secretary shall submit to the appropriate committees of Congress a notification of such assignment. Such a notification shall include each of the following:

(1) A statement of the intent of the Secretary to assign the advisor or trainer to the regional organization.

(2) The name of the regional organization and the location and duration of the assignment.

(3) A description of the assignment, including a description of the training or assistance proposed to be provided to the regional organization, the justification for the assignment, a description of the unique capabilities the advisor or trainer can provide to the regional organization, and a description of how the assignment serves the national security interests of the United States.

(4) Any other information relating to the assignment that the Secretary of Defense considers appropriate.

(Added and amended Pub. L. 114–328, div. A, title XII, §1241(c)(1), (2), Dec. 23, 2016, 130 Stat. 2500; Pub. L. 115–91, div. A, title XII, §1204(a), Dec. 12, 2017, 131 Stat. 1642; Pub. L. 115–232, div. A, title XII, §1202, Aug. 13, 2018, 132 Stat. 2016; Pub. L. 117–263, div. A, title XII, §1202(b), Dec. 23, 2022, 136 Stat. 2823.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 114–328, is based on text of subsecs. (a), (b), and (d) of section 1081 of Pub. L. 112–81, div. A, title X, Dec. 31, 2011, 125 Stat. 1599, as amended, which was formerly set out as a note under section 168 of this title, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(c)(3), Dec. 23, 2016, 130 Stat. 2500.

### PRIOR PROVISIONS

A prior section 332 was renumbered section 252 of this title.

### AMENDMENTS

**2022**—Subsec. (b)(2). Pub. L. 117–263, in introductory provisions, substituted "Not later than February 1

of each year" for "Each fiscal year" and struck out "quarter" after "fiscal year" wherever appearing.

**2018**—Subsec. (b)(1). Pub. L. 115–232, §1202(1), substituted "provide advisors or trainers" for "assign civilian employees of the Department of Defense and members of the armed forces as advisors or trainers".

Subsec. (b)(2)(B). Pub. L. 115–232, §1202(2)(C), which directed substitution of "each provision of such an advisor or trainer" for "each assignment", was executed by making the substitution in both places it appeared, to reflect the probable intent of Congress.

Pub. L. 115–232, §1202(2)(A), (B), substituted "Secretary provided" for "Secretary assigned", "number of such advisors or trainers so provided" for "number of such advisors or trainers so assigned", and "each advisor or trainer so provided" for "each assigned advisor or trainer".

**2017**—Subsec. (a). Pub. L. 115–91, §1204(a)(1), inserted "and members of the armed forces" after "civilian employees of the Department of Defense" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–91, §1204(a)(2)(A), inserted "to assign civilian employees of the Department of Defense and members of the armed forces as advisors or trainers" after "carry out a program" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 115–91, §1204(a)(2)(B), substituted "advisors or trainers" for "employees" in two places and "the activities of each assigned advisor or trainer" for "each assigned employee's activities".

Subsec. (c). Pub. L. 115–91, §1204(a)(3)(A), inserted "or a member of the armed forces" after "a civilian employee of the Department of Defense" in introductory provisions.

Subsec. (c)(1). Pub. L. 115–91, §1204(a)(3)(B), substituted "advisor or trainer" for "employee as an advisor".

Subsec. (c)(3). Pub. L. 115–91, §1204(a)(3)(C), substituted "advisor or trainer" for "employee".

**2016**—Subsecs. (c), (d). Pub. L. 114–328, §1241(c)(2), redesignated subsec. (d) as (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### LEGAL INSTITUTIONAL CAPACITY BUILDING INITIATIVE FOR FOREIGN DEFENSE INSTITUTIONS

Pub. L. 116–92, div. A, title XII, §1210, Dec. 20, 2019, 133 Stat. 1625, as amended by Pub. L. 118–31, div. A, title XII, §1208, Dec. 22, 2023, 137 Stat. 449, provided that:

"(a) INITIATIVE.—The Secretary of Defense may carry out, in accordance with section 332 of title 10, United States Code, an initiative of legal institutional capacity building in collaboration with the appropriate ministry of defense (or security agency serving a similar defense function) legal institutions that support the efforts of one or more foreign countries to establish or improve legal institutional capacity.

"(b) PURPOSE.—The purpose of the initiative under subsection (a) is to enhance, through advisory services, training, or related training support services, as appropriate, the legal institutional capacity of the applicable foreign country to do the following:

"(1) Integrate legal matters into the authority, doctrine, and policies of the ministry of defense (or security agency serving a similar defense function) and forces of such country.

"(2) Provide appropriate legal support to commanders conducting defense and national security operations.

"(3) With respect to defense and national security law, institutionalize education, training, and professional development for personnel and forces, including uniformed lawyers, officers, noncommissioned officers, and civilian lawyers and leadership within such ministries of defense (and security agencies serving a similar defense function).

"(4) Establish a military justice system that is objective, transparent, and impartial.

"(5) Conduct effective and transparent command and administrative investigations.

"(6) Build the legal capacity of the forces and civilian personnel of ministries of defense (and security agencies serving a similar defense function) to provide equitable, transparent, and accountable institutions and provide for anti-corruption measures within such institutions.

"(7) Build capacity—

"(A) to provide for the protection of civilians consistent with the law of armed conflict and human rights law; and

"(B) to investigate incidents of civilian casualties.

"(8) Promote understanding and observance of—

"(A) the law of armed conflict;

"(B) human rights and fundamental freedoms;

"(C) the rule of law; and

"(D) civilian control of the military.

"(9) Establish mechanisms for effective civilian oversight of defense and national security legal institutions and legal matters.

"(c) ELEMENTS.—The initiative under subsection (a) shall include the following elements:

"(1) A measure for monitoring the implementation of the initiative and evaluating the efficiency and effectiveness of the initiative, in accordance with section 383 of title 10, United States Code.

"(2) An assessment of the organizational weaknesses for legal institutional capacity building of the applicable foreign country, including baseline information, an assessment of gaps in the capability and capacity of the appropriate institutions of such country, and any other indicator of efficacy, in accordance with section 383 of title 10, United States Code.

"(3) An engagement plan for building legal institutional capacity that addresses the weaknesses identified under paragraph (2), including objectives, milestones, and a timeline.

"(d) REPORTS.—

"(1) IN GENERAL.—Beginning in fiscal year 2020 through the fiscal year in which the initiative under subsection (a) terminates, the Secretary of Defense shall submit to the appropriate committees of Congress an annual report on the legal institutional capacity building activities carried out under this section.

"(2) INTEGRATION INTO OTHER CAPACITY BUILDING REPORTS.—The report submitted under paragraph (1) for a fiscal year shall be integrated into the report required pursuant to subsection (b)(2) of section 332 of title 10, United States Code, for the fourth fiscal year quarter of such fiscal year.

"(3) MATTERS TO BE INCLUDED.—Each report submitted under paragraph (1) shall include the following:

"(A) The same information required under subsection (b)(2) of section 332 of title 10, United States Code.

"(B) The names of the one or more countries in which the initiative was conducted.

"(C) For each such country—

"(i) the purpose of the initiative;

"(ii) the objectives, milestones, and timeline of the initiative;

"(iii) the number and type of advisors assigned and deployed to the country, as applicable; and

"(iv) an assessment of the progress of the implementation of the initiative.

"(e) SUNSET.—The initiative under subsection (a) shall terminate on December 31, 2028.

"(f) FUNDING.—Amounts for programs carried out pursuant to subsection (a) in a fiscal year, and for other purposes in connection with such programs as authorized by this section, may be derived only from amounts authorized to be appropriated for such fiscal year for the Department of Defense for operation and maintenance, Defense-wide, and available for the Defense Security Cooperation Agency for such programs and purposes."

## §333. Foreign security forces: authority to build capacity

(a) AUTHORITY.—The Secretary of Defense is authorized to conduct or support a program or programs to provide training and equipment to the national security forces of one or more foreign countries for the purpose of building the capacity of such forces to conduct one or more of the following:

(1) Counterterrorism operations.

(2) Counter-weapons of mass destruction operations.

(3) Counter-illicit drug trafficking operations.

(4) Counter-transnational organized crime operations.

(5) Maritime and border security operations.

(6) Military intelligence operations.

(7) Air domain awareness operations.

(8) Operations or activities that contribute to an existing international coalition operation that is determined by the Secretary to be in the national interest of the United States.

(9) Cyberspace security and defensive cyberspace operations.

(b) CONCURRENCE AND COORDINATION WITH SECRETARY OF STATE.—

(1) CONCURRENCE IN CONDUCT OF PROGRAMS.—The concurrence of the Secretary of

State is required to conduct or support any program authorized by subsection (a).

(2) JOINT DEVELOPMENT AND PLANNING OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall jointly develop and plan any program carried out pursuant to subsection (a). In developing and planning a program to build the capacity of the national security forces of a foreign country under subsection (a), the Secretary of Defense and Secretary of State should jointly consider political, social, economic, diplomatic, and historical factors, if any, of the foreign country that may impact the effectiveness of the program.

(3) IMPLEMENTATION OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall coordinate the implementation of any program under subsection (a). The Secretary of Defense and the Secretary of State shall each designate an individual responsible for program coordination under this paragraph at the lowest appropriate level in the Department concerned.

(4) COORDINATION IN PREPARATION OF CERTAIN NOTICES.—Any notice required by this section to be submitted to the appropriate committees of Congress shall be prepared in coordination with the Secretary of State.

(c) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—A program under subsection (a) may include the provision and sustainment of defense articles, training, defense services, supplies (including consumables), and small-scale construction supporting security cooperation programs under this section.

(2) REQUIRED ELEMENTS.—A program under subsection (a) shall include elements that promote the following:

(A) Observance of and respect for the law of armed conflict, human rights and fundamental freedoms, the rule of law, and civilian control of the military.

(B) Institutional capacity building.

(3) OBSERVANCE OF AND RESPECT FOR THE LAW OF ARMED CONFLICT, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, THE RULE OF LAW, AND CIVILIAN CONTROL OF THE MILITARY.—In order to meet the requirement in paragraph (2)(A) with respect to particular national security forces under a program under subsection (a), the Secretary of Defense shall certify, prior to the initiation of the program, that the Department of Defense or the Department of State is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, training that includes a comprehensive curriculum on the law of armed conflict, human rights and fundamental freedoms, and the rule of law, and that enhances the capacity to exercise responsible civilian control of the military, as applicable, to such national security forces.

(4) INSTITUTIONAL CAPACITY BUILDING.—In order to meet the requirement in paragraph (2)(B) with respect to a particular foreign country under a program under subsection (a), the Secretary shall certify, prior to the initiation of the program, that the Department of Defense or another department or agency is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, a program of institutional capacity building with appropriate institutions of such foreign country to enhance the capacity of such foreign country to organize, administer, employ, manage, maintain, sustain, or oversee the national security forces of such foreign country.

(d) LIMITATIONS.—

(1) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (c) that is otherwise prohibited by any provision of law.

(2) PROHIBITION ON ASSISTANCE TO UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The provision of assistance pursuant to a program under subsection (a) shall be subject to the provisions of section 362 of this title.

(3) DURATION OF SUSTAINMENT SUPPORT.—Sustainment support may not be provided pursuant to a program under subsection (a), or for equipment previously provided by the

Department of Defense under any authority available to the Secretary during fiscal year 2015 or 2016, for a period in excess of five years unless the notice on the program pursuant to subsection (e) includes the information specified in paragraph (7) of subsection (e).

(e) NOTICE AND WAIT ON ACTIVITIES UNDER PROGRAMS.—Not later than 15 days before initiating activities under a program under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(1) The foreign country, and specific unit, whose capacity to engage in activities specified in subsection (a) will be built under the program, and the amount, type, and purpose of the support to be provided.

(2) A detailed evaluation of the capacity of the foreign country and unit to absorb the training or equipment to be provided under the program.

(3) The cost, implementation timeline, and delivery schedule for assistance under the program.

(4) A description of the arrangements, if any, for the sustainment of the program and the estimated cost and source of funds to support sustainment of the capabilities and performance outcomes achieved under the program beyond its completion date, if applicable.

(5) Information, including the amount, type, and purpose, on the security assistance provided the foreign country during the three preceding fiscal years pursuant to authorities under this title, the Foreign Assistance Act of 1961, and any other train and equip authorities of the Department of Defense.

(6) A description of the elements of the theater security cooperation plan of the geographic combatant command concerned, and of the interagency integrated country strategy, that will be advanced by the program.

(7) In the case of a program described in subsection (d)(3), each of the following:

(A) A written justification that the provision of sustainment support described in that subsection for a period in excess of five years will enhance the security interest of the United States.

(B) To the extent practicable, a plan to transition such sustainment support from funding through the Department to funding through another security sector assistance program of the United States Government or funding through partner nations.

(8) In the case of activities under a program that results in the provision of small-scale construction above $750,000, the location, project title, and cost of each small-scale construction project that will be carried out, a Department of Defense Form 1391 for each such project, and a masterplan of planned infrastructure investments at the location over the next 5 years.

(9) In the case of a program described in subsection (a), each of the following:

(A) A description of whether assistance under the program could be provided pursuant to other authorities under this title, the Foreign Assistance Act of 1961, or any other train and equip authorities of the Department of Defense.

(B) An identification of each such authority described in subparagraph (A).

(f) SEMI-ANNUAL MONITORING REPORTS.—The Director of the Defense Security Cooperation Agency shall, on a semi-annual basis, submit to the appropriate committees of Congress a report setting forth, for the preceding 180 days, the following:

(1) Information, by recipient country, of the delivery and execution status of all defense articles, training, defense services, supplies (including consumables), and small-scale construction under programs under subsection (a).

(2) Information on the timeliness of delivery of defense articles, defense services, supplies (including consumables), and small-scale construction when compared with delivery schedules for such articles, services, supplies, and construction previously provided to Congress.

(3) Information, by recipient country, on the status of funds allocated for programs under subsection (a), including amounts of unobligated funds, unliquidated obligations, and disbursements.

(g) FUNDING.—

(1) SOLE SOURCE OF FUNDS.—Amounts for programs carried out pursuant to subsection (a) in a fiscal year, and for other purposes in connection with such programs as authorized by this section, may be derived only from amounts authorized to be appropriated for such fiscal year for the Department of Defense for operation and maintenance, Defense-wide, and available for the Defense Security Cooperation Agency for such programs and purposes.

(2) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—Amounts available in fiscal year 2025 or any subsequent fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in such fiscal year and end not later than the end of the third fiscal year thereafter.

(h) EQUIPMENT DISPOSITION; NOTICE AND WAIT.—

(1) The Secretary of Defense may treat as stocks of the Department of Defense—

(A) equipment procured to carry out a program pursuant to subsection (a) that has not yet been transferred to a foreign country and is no longer needed to support such program or any other program carried out pursuant to such subsection; and

(B) equipment that has been transferred to a foreign country to carry out a program pursuant to subsection (a) and is returned by the foreign country to the United States.

(2) NOTICE AND WAIT.—Not later than 15 days before initiating activities under a program under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(A) The foreign country, and specific unit, whose capacity was intended to be built under the program, and the amount, type, and purpose of the equipment that was to be provided.

(B) An explanation why the equipment is no longer needed to support such program or another program carried out pursuant to such subsection.

(i) INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may—

(A) allow a foreign country to provide sole-source direction for assistance in support of a program carried out pursuant to subsection (a); and

(B) enter into an agreement with a foreign country to provide such sole-source direction.

(2) NOTIFICATION.—Not later than 72 hours after the Secretary of Defense enters into an agreement under paragraph (1), the Secretary shall submit to the congressional defense committees a written notification that includes the following:

(A) A description of the parameters of the agreement, including types of support, objectives, and duration of support and cooperation under the agreement.

(B) A description and justification of any anticipated use of sole-source direction pursuant to such agreement.

(C) An assessment of the extent to which the equipment to be provided under the agreement—

(i) responds to the needs of the foreign country; and

(ii) can be sustained by the foreign country.

(D) A determination as to whether the anticipated costs to be incurred under the agreement are fair and reasonable.

(E) A certification that the agreement is in the national security interests of the United States.

(F) Any other matter relating to the agreement, as determined by the Secretary of Defense.

(Added Pub. L. 114–328, div. A, title XII, §1241(d)(1), Dec. 23, 2016, 130 Stat. 2500; amended Pub. L. 115–91, div. A, title XII, §1204(b), Dec. 12, 2017, 131 Stat. 1643; Pub. L. 115–232, div. A, title

XII, §§1201, 1203(c), Aug. 13, 2018, 132 Stat. 2016; Pub. L. 116–92, div. A, title XII, §1201, Dec. 20, 2019, 133 Stat. 1620; Pub. L. 116–283, div. A, title XII, §1201, Jan. 1, 2021, 134 Stat. 3908; Pub. L. 117–263, div. A, title XII, §1202(c), Dec. 23, 2022, 136 Stat. 2823; Pub. L. 118–31, div. A, title XII, §1203(b), (c), Dec. 22, 2023, 137 Stat. 441, 442; Pub. L. 118–159, div. A, title XII, §1201(a), Dec. 23, 2024, 138 Stat. 2093; Pub. L. 119–60, div. A, title XII, §1202, Dec. 18, 2025, 139 Stat. 1081.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e)(5), (9)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

### PRIOR PROVISIONS

A prior section 333 was renumbered section 253 of this title.

### AMENDMENTS

**2025**—Subsec. (g)(2). Pub. L. 119–60 struck out "made" after "Amounts".

**2024**—Subsec. (g)(2). Pub. L. 118–159 amended par. (2) generally. Prior to amendment, par. (2) related to availability of funds for programs across fiscal years.

**2023**—Subsecs. (h), (i). Pub. L. 118–31 added subsecs. (h) and (i).

**2022**—Subsec. (f). Pub. L. 117–263 substituted "Semi-Annual" for "Quarterly" in heading and "a semi-annual" for "a quarterly" and "180 days" for "calendar quarter" in introductory provisions.

**2021**—Subsec. (a)(7), (8). Pub. L. 116–283, §1201(1), (2), added par. (7) and redesignated former par. (7) as (8).

Subsec. (a)(9). Pub. L. 116–283, §1201(3), added par. (9).

**2019**—Subsec. (a)(7). Pub. L. 116–92, §1201(a), inserted "existing" before "international coalition operation".

Subsec. (e)(9). Pub. L. 116–92, §1201(b), added par. (9).

**2018**—Subsec. (b)(2). Pub. L. 115–232, §1201, inserted at end "In developing and planning a program to build the capacity of the national security forces of a foreign country under subsection (a), the Secretary of Defense and Secretary of State should jointly consider political, social, economic, diplomatic, and historical factors, if any, of the foreign country that may impact the effectiveness of the program."

Subsec. (c)(1). Pub. L. 115–232, §1203(c)(1), inserted "supporting security cooperation programs under this section" after "small-scale construction".

Subsec. (e)(8). Pub. L. 115–232, §1203(c)(2), added par. (8).

**2017**—Subsec. (c)(2)(A). Pub. L. 115–91, §1204(b)(1)(A), substituted "the rule of law, and civilian control of the military" for "and the rule of law".

Subsec. (c)(2)(B). Pub. L. 115–91, §1204(b)(1)(B), substituted "Institutional capacity building" for "Respect for civilian control of the military".

Subsec. (c)(3). Pub. L. 115–91, §1204(b)(2), in heading, substituted "Observance of and respect for the law of armed conflict, human rights and fundamental freedoms, the rule of law, and civilian control of the military" for "Human rights training" and in text, inserted "or the Department of State" after "Department of Defense" and substituted "training that includes a comprehensive curriculum on the law of armed conflict, human rights and fundamental freedoms, and the rule of law, and that enhances the capacity to exercise responsible civilian control of the military" for "human rights training that includes a comprehensive curriculum on human rights and the law of armed conflict".

Subsec. (c)(4). Pub. L. 115–91, §1204(b)(3), substituted "that the Department of Defense or another department or agency is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, a program of institutional capacity building with appropriate institutions of such foreign country to enhance the capacity of such foreign country to organize, administer, employ, manage, maintain, sustain, or oversee the national security forces of such foreign country." for "that the Department is already undertaking, or will undertake as part of the program, a program of institutional capacity building with appropriate institutions of such foreign country that is complementary to the program with respect to such foreign country under subsection (a)." and struck out at end "The purpose of the program

of institutional capacity building shall be to enhance the capacity of such foreign country to exercise responsible civilian control of the national security forces of such foreign country."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ENHANCING SECURITY PARTNERSHIP WITH JORDAN AND LEBANON

Pub. L. 119–60, div. A, title XII, §1226, Dec. 18, 2025, 139 Stat. 1091, provided that:

"(a) IN GENERAL.—The Secretary of Defense, pursuant to existing authorities, shall seek to provide assistance, including training, equipment, logistics support, supplies, and services, to the Government of Jordan and the Government of Lebanon for the purposes of—

"(1) supporting and enhancing efforts of the military forces of Jordan; and

"(2) with respect to the Government of Lebanon, for increasing the capacity of the Lebanese armed forces in order to disarm the Iranian-backed terrorist group Hezbollah.

"(b) PLAN.—

"(1) IN GENERAL.—Not later than June 30, 2026, the Secretary of Defense, in coordination with the Commander of the United States Central Command and in consultation with the Secretary of State, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the plan of the Department of Defense to provide assistance under subsection (a).

"(2) ELEMENTS.—The plan required by paragraph (1) shall, at a minimum, include the following elements:

"(A) A description of the existing authorities to provide the assistance described in subsection (a) to the Government of Jordan and the Government of Lebanon.

"(B) A description of the strategic objectives of the assistance described in subsection (a), including specific capability gaps that such assistance seeks to address and the recipient units of the military forces of Jordan and Lebanon for such assistance.

"(C) An identification of any opportunities to transfer military equipment, including aircraft and unmanned systems, from existing inventory of the Department of Defense to bolster the capabilities of the military forces of Jordan.

"(D) A rubric for assessing the progress of the Lebanese armed forces in disarming Hezbollah, and options for suspending assistance to the Lebanese armed forces if it is determined that such forces are unwilling to act to disarm Hezbollah."

### BALTIC SECURITY INITIATIVE

Pub. L. 119–60, div. A, title XII, §1247, Dec. 18, 2025, 139 Stat. 1106, provided that:

"(a) IN GENERAL.—Pursuant to the authorities provided in chapter 16 of title 10, United States Code, the Secretary of Defense, in coordination with the Commander of United States European Command, shall establish and carry out an initiative, to be known as the 'Baltic Security Initiative', for the purpose of deepening security cooperation with the military forces of the Baltic countries.

"(b) RELATIONSHIP TO EXISTING AUTHORITIES.—The initiative required by subsection (a) shall be carried out pursuant to the authorities provided in title 10, United States Code.

"(c) OBJECTIVES.—The objectives of the initiative required by subsection (a) should include—

"(1) to achieve United States national security objectives by—

"(A) deterring aggression by the Russian Federation; and

"(B) implementing NATO's Strategic Concept, which seeks to strengthen the Alliance's deterrence and defense posture by denying potential adversaries any possible opportunities for aggression;

"(2) to enhance regional planning and cooperation among the military forces of the Baltic countries, particularly with respect to long-term regional capability projects, including—

"(A) long-range precision fire systems and capabilities;

"(B) integrated air and missile defense;

"(C) maritime domain awareness;

"(D) land forces development, including stockpiling large caliber ammunition;

"(E) command, control, communications, computers, intelligence, surveillance, and reconnaissance;

"(F) special operations forces development;

"(G) coordination with and security enhancements for Poland; and

"(H) other military capabilities, as determined by the Secretary of Defense; and

"(3) with respect to the military forces of the Baltic countries, to improve cyber defenses and resilience to hybrid threats.

"(d) STRATEGY.—

"(1) IN GENERAL.—Not later than 120 [probably should be "120 days"] after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in coordination with the Commander of United States European Command, shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth a strategy to achieve the objectives described in subsection (c).

"(2) CONSIDERATIONS.—The strategy required by this subsection shall include a consideration of—

"(A) security cooperation programs for the Baltic countries that are authorized as of the date on which the report containing the strategy is submitted;

"(B) the ongoing security threats to NATO's eastern flank posed by Russian aggression, including as a result of the Russian Federation's 2022 invasion of Ukraine with support from Belarus;

"(C) the ongoing security threats to the Baltic countries posed by the presence, coercive economic policies, and other malign activities of the People's Republic of China; and

"(D) a description of how NATO allies are supporting the Baltic countries to achieve the objectives described in subsection (c).

"(e) SENSE OF CONGRESS.—It is the sense of Congress that Baltic countries that participate in the initiative required by subsection (a) should make investments in Baltic defense in amounts that, at a minimum, match with total amounts provided by the Department of Defense for the initiative.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Baltic countries' means—

"(A) Estonia;

"(B) Latvia; and

"(C) Lithuania; and

"(2) the term 'NATO' means the North Atlantic Treaty Organization.

"(g) SUNSET.—The requirement under subsection (a) shall terminate on December 31, 2028."

## STRATEGY TO STRENGTHEN MULTILATERAL DEFENSE IN THE INDO-PACIFIC

Pub. L. 119–60, div. A, title XII, §1254, Dec. 18, 2025, 139 Stat. 1115, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of State, shall develop and implement a strategy to strengthen multilateral defense against regional aggression in the Indo-Pacific region by expanding multilateral coordination with United States allies and partners in the region.

"(b) STRATEGY REQUIREMENTS.—The strategy required by subsection (a) shall describe current activities and initiatives and identify future actions to be taken over the next 5 years by the Department of Defense to—

"(1) expand existing bilateral engagements into multilateral forums with a focus on defense-related planning and military exercises;

"(2) prioritize the acquisition and fielding of military capabilities necessary for enhancing multilateral defense, including long-range precision fires and integrated air defenses amongst United States allies and partners in the Indo-Pacific region;

"(3) leverage reciprocal access agreements between the United States and its Indo-Pacific allies, particularly Japan, the Philippines, South Korea, and Australia, to expand regional access for allied and partner militaries, including for purposes of enhancing interoperability, prepositioning munitions stockpiles, and jointly supporting and leveraging shared facilities, operational access, and infrastructure;

"(4) improve command and control structures to enable enhanced multilateral coordination with Indo-Pacific allies and partners;

"(5) expand information-sharing and maritime domain awareness among the United States and Indo-Pacific allies and partners;

"(6) expand the scope and scale of multilateral military exercises and operations in the region, including more frequent combined maritime operations through the Taiwan Strait and in the South China Sea; and

"(7) consider foreseeable strategic and operational contingencies affecting the security of strategic transit routes in the Indo-Pacific region.

"(c) SUBMISSION; INTERIM REPORT.—

"(1) SUBMISSION OF STRATEGY.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees

[Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate the strategy required by subsection (a), including an identification of—

"(A) any changes to funding or policy required to strengthen multilateral defense among the United States and allies and partners in the Indo-Pacific against regional aggression; and

"(B) any additional resources necessary to develop or to implement the requirements described in subsection (b).

"(2) INTERIM REPORT ON IMPLEMENTATION.—Not later than March 15, 2027, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report on the progress of the implementation of the strategy required by subsection (a), including a description of any gap in resources or authority that limits the ability of the Department to execute such strategy."

## INDO-PACIFIC CAMPAIGNING INITIATIVE

Pub. L. 118–31, div. A, title XIII, §1304, Dec. 22, 2023, 137 Stat. 489, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish, and the Commander of the United States Indo-Pacific Command shall carry out, an Indo-Pacific Campaigning Initiative (in this section referred to as the 'Initiative') for purposes of—

"(1) strengthening United States alliances and partnerships with foreign military partners in the Indo-Pacific region;

"(2) deterring military aggression by potential adversaries against the United States and allies and partners of the United States;

"(3) dissuading strategic competitors from seeking to achieve their objectives through the conduct of military activities below the threshold of traditional armed conflict;

"(4) improving the understanding of the United States Armed Forces with respect to the operating environment in the Indo-Pacific region;

"(5) shaping the perception of potential adversaries with respect to United States military capabilities and the military capabilities of allies and partners of the United States in the Indo-Pacific region; and

"(6) improving the ability of the United States Armed Forces to coordinate and operate with foreign military partners in the Indo-Pacific region.

"(b) BRIEFING AND REPORT.—

"(1) BRIEFING.—Not later than March 1, 2024, the Secretary shall provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with a briefing that describes ongoing and planned campaigning activities in the Indo-Pacific region for fiscal year 2024.

"(2) REPORT.—Not later than December 1, 2024, the Secretary shall submit to the congressional defense committees a report that—

"(A) summarizes the campaigning activities conducted in the Indo-Pacific region during fiscal year 2024; and

"(B) includes—

"(i) an assessment of the value each such activity contributes to meeting strategic or operational objectives relative to the commitment of resources of such activity;

"(ii) lessons learned in carrying out such activities;

"(iii) any identified resource or authority gap that has negatively impacted the implementation of the Initiative; and

"(iv) proposed plans for additional campaigning activities in the Indo-Pacific region to fulfill the purposes described in subsection (a).

"(c) CAMPAIGNING DEFINED.—In this section, the term 'campaigning'—

"(1) means the conduct and sequencing of logically linked military activities to achieve strategy aligned objectives, including modifying the security environment over time to the benefit of the United States and the allies and partners of the United States while limiting, frustrating, and disrupting competitor activities; and

"(2) includes deliberately planned military activities in the Indo-Pacific region involving bilateral and multilateral engagements with foreign partners, training, exercises, demonstrations, experiments, and other activities to achieve the objectives described in subsection (a)."

## ENHANCING MAJOR DEFENSE PARTNERSHIP WITH INDIA

Pub. L. 118–31, div. A, title XIII, §1316, Dec. 22, 2023, 137 Stat. 498, provided that: "The Secretary of Defense, in coordination with the Secretary of State and the head of any other relevant Federal department or

agency, shall seek to ensure that India is appropriately considered for cooperative defense activities consistent with the status of India as a major defense partner of the United States, including with respect to the following lines of effort:

"(1) Eligibility for funding to initiate or facilitate cooperative research, development, testing, or evaluation projects with the Department of Defense, with priority given to projects in the areas of—

"(A) intelligence, surveillance, and reconnaissance;

"(B) undersea domain awareness;

"(C) air combat and support;

"(D) munitions; and

"(E) mobility.

"(2) Eligibility to enter into agreements with the Department of Defense for cooperative bilateral or multilateral provision of training to build capacity in the areas of—

"(A) counterterrorism operations;

"(B) counter-weapons of mass destruction operations;

"(C) counter-illicit drug trafficking operations;

"(D) counter-transnational organized crime operations;

"(E) maritime and border security operations;

"(F) military intelligence operations;

"(G) air domain awareness operations; and

"(H) cyberspace security and defensive cyberspace operations.

"(3) Eligibility to enter into a memorandum of understanding or other formal agreement with the Department of Defense for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(4) Eligibility for entities from India to bid on contracts for the maintenance, repair, or overhaul of Department of Defense equipment located outside the United States."

## MILITARY CYBERSECURITY COOPERATION WITH HASHEMITE KINGDOM OF JORDAN

Pub. L. 117–263, div. A, title XV, §1508, Dec. 23, 2022, 136 Stat. 2885, provided that:

"(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, acting through the Under Secretary of Defense for Policy, in concurrence with the Secretary of State and in coordination with the Commander of the United States Cyber Command and the Commander of the United States Central Command, shall seek to engage the Ministry of Defense of the Hashemite Kingdom of Jordan for the purpose of expanding cooperation of military cybersecurity activities.

"(b) COOPERATION EFFORTS.—In expanding the cooperation of military cybersecurity activities between the Department of Defense and the Ministry of Defense of the Hashemite Kingdom of Jordan under subsection (a), the Secretary of Defense may carry out the following efforts:

"(1) Bilateral cybersecurity training activities and exercises.

"(2) Efforts to—

"(A) actively defend military networks, infrastructure, and systems;

"(B) eradicate malicious cyber activity that has compromised those networks, infrastructure, and systems; and

"(C) leverage United States commercial and military cybersecurity technology and services to harden and defend those networks, infrastructure, and systems.

"(3) Establishment of a regional cybersecurity center.

"(c) BRIEFINGS.—

"(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall provide to the appropriate congressional committees a briefing on the implementation of this section.

"(2) CONTENTS.—The briefing under paragraph (1) shall include the following:

"(A) An overview of efforts undertaken pursuant to this section.

"(B) A description of the feasibility and advisability of expanding the cooperation of military cybersecurity activities between the Department of Defense and the Ministry of Defense of the Hashemite Kingdom of Jordan.

"(C) Identification of any challenges and resources that need to be addressed so as to expand such cooperation.

"(D) Any other matter the Secretary determines relevant.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

## PILOT PROGRAM TO IMPROVE CYBER COOPERATION WITH COVERED FOREIGN MILITARY PARTNERS IN SOUTHEAST ASIA

Pub. L. 116–283, div. A, title XII, §1256, Jan. 1, 2021, 134 Stat. 3956, as amended by Pub. L. 118–31, div. A, title XIII, §1315(a)–(g)(1), Dec. 22, 2023, 137 Stat. 497, 498; Pub. L. 119–60, div. A, title XII, §1261, Dec. 18, 2025, 139 Stat. 1118, provided that:

"(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may establish, using existing authorities of the Department of Defense, a pilot program with covered foreign military partners—

"(1) to enhance the cyber security, resilience, and readiness of the military forces of covered foreign military partners; and

"(2) to increase regional cooperation between the United States and covered foreign military partners on defensive cyber issues.

"(b) ELEMENTS.—The activities of the pilot program under subsection (a) shall include the following:

"(1) Provision of training to military officers and civilian officials in the ministries of defense of covered foreign military partners.

"(2) The facilitation of regular dialogues and trainings among the Department of Defense and the ministries of defense of covered foreign military partners with respect to the development of infrastructure to protect against foreign cyber attacks.

"(3) To undertake, as part of cyber cooperation, training that includes curricula expressly relating to human rights, the rule of law, and internet freedom.

"(c) REPORTS.—

"(1) DESIGN OF PILOT PROGRAM.—Not later than June 1, 2021, the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to the appropriate committees of Congress a report on the design of the pilot program under subsection (a).

"(2) PROGRESS REPORT.—Not later than December 31, 2021, and annually thereafter until the date on which the pilot program terminates under subsection (e), the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to the appropriate committees of Congress a report on the pilot program that includes—

"(A) a description of the activities conducted and the results of such activities;

"(B) an assessment of reforms relevant to cybersecurity and technology in enhancing the cyber security, resilience, and readiness of the military forces of covered foreign military partners;

"(C) an assessment of the effectiveness of curricula relating to human rights, the rule of law, and internet freedom; and

"(D) the content and curriculum of any program made available to participants of such program.

"(d) CERTIFICATION.—Not later than 30 days before the date on which the pilot program under subsection (a) is scheduled to commence with any covered foreign military partner, the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to the appropriate committees of Congress a certification indicating whether such program would credibly enable, enhance, or facilitate violations of internet freedom or other human rights abuses in the covered foreign military partner.

"(e) TERMINATION.—The pilot program under subsection (a) shall terminate on December 31, 2028.

"(f) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

"(2) COVERED FOREIGN MILITARY PARTNER.—The term 'covered foreign military partner' means the following:

"(A) Vietnam.

"(B) Thailand.

"(C) Indonesia.

"(D) The Philippines.

"(E) Malaysia."

## GUIDANCE

Pub. L. 114–328, div. A, title XII, §1241(d)(4), Dec. 23, 2016, 130 Stat. 2504, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall prescribe, and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], initial policy guidance on roles, responsibilities, and processes in connection with programs and activities authorized by section 333 of title 10, United States Code, as so added. Not later than 270 days after the date of the enactment of this Act, the Secretary shall prescribe, and submit to the congressional defense committees, final policy guidance on roles, responsibilities, and processes in connection with such programs and activities."

## TRAINING FOR EASTERN EUROPEAN NATIONAL SECURITY FORCES IN THE COURSE OF MULTILATERAL EXERCISES

Pub. L. 114–92, div. A, title XII, §1251, Nov. 25, 2015, 129 Stat. 1070, as amended by Pub. L. 114–328, div. A, title XII, §1233, Dec. 23, 2016, 130 Stat. 2489; Pub. L. 115–91, div. A, title XII, §1205, Dec. 12, 2017, 131 Stat. 1643; Pub. L. 116–92, div. A, title XII, §1247(a), Dec. 20, 2019, 133 Stat. 1662; Pub. L. 116–283, div. A, title XII, §1243, Jan. 1, 2021, 134 Stat. 3947; Pub. L. 117–81, div. A, title XII, §1233, Dec. 27, 2021, 135 Stat. 1974; Pub. L. 118–31, div. A, title XII, §1249, Dec. 22, 2023, 137 Stat. 464; Pub. L. 118–159, div. A, title XIII, §1302, Dec. 23, 2024, 138 Stat. 2110, provided that:

"(a) AUTHORITY.—The Secretary of Defense may provide the training specified in subsection (b), and pay the incremental expenses incurred by a country as the direct result of participation in such training, for the national security forces provided for under subsection (c).

"(b) TYPES OF TRAINING.—The training provided to the national security forces of a country under subsection (a) shall be limited to training that is—

"(1) provided in the course of the conduct of a multilateral exercise in which the United States Armed Forces are a participant;

"(2) comparable to or complimentary of the types of training the United States Armed Forces receive in the course of such multilateral exercise; and

"(3) for any purpose as follows:

"(A) To enhance and increase the interoperability of the security forces to be trained to increase their ability to participate in coalition efforts led by the United States or the North Atlantic Treaty Organization (NATO).

"(B) To increase the capacity of such security forces to respond to external threats.

"(C) To increase the capacity of such security forces to respond to hybrid warfare.

"(D) To increase the capacity of such security forces to respond to calls for collective action within the North Atlantic Treaty Organization.

"(c) ELIGIBLE COUNTRIES.—

"(1) IN GENERAL.—Training may be provided under subsection (a) to the national security forces of the countries determined by the Secretary of Defense, with the concurrence of the Secretary of State, to be appropriate recipients of such training from among the countries as follows:

"(A) Countries that are a signatory to the Partnership for Peace Framework Documents, but not a member of the North Atlantic Treaty Organization.

"(B) Countries that became a member of the North Atlantic Treaty Organization after January 1, 1999.

"(C) The Republic of Kosovo.

"(D) The Republic of Cyprus.

"(2) ELIGIBLE COUNTRIES.—Before providing training under subsection (a), the Secretary of Defense shall, in coordination with the Secretary of State, submit to the Committees on Armed Services of the Senate and the House of Representatives a list of the countries determined pursuant to paragraph (1) to be eligible for the provision of training under subsection (a).

"(d) FUNDING OF INCREMENTAL EXPENSES.—

"(1) ANNUAL FUNDING.—Of the amounts specified in paragraph (2) for a fiscal year, up to a total of $28,000,000 may be used to pay incremental expenses under subsection (a) in that fiscal year.

"(2) AMOUNTS.—The amounts specified in this paragraph are as follows:

"(A) Amounts authorized to be appropriated for a fiscal year for operation and maintenance, Army, and available for the Combatant Commands Direct Support Program for that fiscal year.

"(B) Amounts authorized to be appropriated for a fiscal year for operation and maintenance, Defense-wide, and available for the Wales Initiative Fund for that fiscal year.

"(C) Amounts authorized to be appropriated for a fiscal year for overseas contingency operations

for operation and maintenance, Army, and available for additional activities for the European Deterrence Initiative for that fiscal year.

"(3) AVAILABILITY OF FUNDS FOR ACTIVITIES ACROSS FISCAL YEARS.—Amounts available in a fiscal year pursuant to this subsection may be used for incremental expenses of training that begins in that fiscal year and ends in the next fiscal year.

"(4) REGULATIONS.—

"(A) IN GENERAL.—The Secretary of Defense shall prescribe regulations for payment of incremental expenses under subsection (a). Not later than 120 days after the date of the enactment of this paragraph [Dec. 12, 2017], the Secretary shall submit the regulations to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

"(B) PROCEDURES TO BE INCLUDED.—The regulations required under subparagraph (A) shall include procedures—

"(i) to require reimbursement of incremental expenses from non-developing countries determined pursuant to subsection (c) to be eligible for the provision of training under subsection (a); and

"(ii) to provide for a waiver of the requirement of reimbursement of incremental expenses under clause (i), on a case-by-case basis, if the Secretary of Defense determines special circumstances exist to provide for the waiver.

"(C) QUARTERLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, on a quarterly basis, a report that includes a description of each waiver of the requirement of reimbursement of incremental expenses under subparagraph (B)(i) that was in effect at any time during the preceding calendar quarter.

"(D) NON-DEVELOPING COUNTRY DEFINED.—In this paragraph, the term 'non-developing country' means a country that is not a developing country, as such term is defined in section 301(4) of title 10, United States Code.

"(e) BRIEFING TO CONGRESS ON USE OF AUTHORITY.—Not later than 90 days after the end of each fiscal year in which the authority in subsection (a) is used, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the use of the authority during such fiscal year, including each country with which training under the authority was conducted and the types of training provided.

"(f) CONSTRUCTION OF AUTHORITY.—The authority provided in subsection (a)—

"(1) is in addition to any other authority provided by law authorizing the provision of training for the national security forces of a foreign country, including chapter 16 of title 10, United States Code; and

"(2) shall not be construed to include authority for the training of irregular forces, groups, or individuals.

"(g) INCREMENTAL EXPENSES DEFINED.—In this section, the term 'incremental expenses' has the meaning given such term in section 301(5) of title 10, United States Code.

"(h) TERMINATION OF AUTHORITY.—The authority under this section shall terminate on December 31, 2027. Any activity under this section initiated before that date may be completed, but only using funds available for the period beginning on October 1, 2015, and ending on December 31, 2027."

## INDO-PACIFIC MARITIME SECURITY INITIATIVE; INDO-PACIFIC MARITIME DOMAIN AWARENESS INITIATIVE

Pub. L. 118–31, div. A, title XIII, §1305, Dec. 22, 2023, 137 Stat. 490, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the Secretary of State, shall seek to establish an initiative with allies and partners of the United States, including Australia, Japan, and India, to be known as the 'Indo-Pacific Maritime Domain Awareness Initiative' (in this section referred to as the 'Initiative'), to bolster maritime domain awareness in the Indo-Pacific region.

"(b) USE OF AUTHORITIES.—In carrying out the Initiative, the Secretary of Defense may use the authorities provided in chapter 16 of title 10, United States Code, and other applicable statutory authorities available to the Secretary of Defense.

"(c) PURPOSES.—The purposes of the Initiative are as follows:

"(1) To enhance the ability of allies and partners of the United States in the Indo-Pacific region to monitor the maritime domain of such region.

"(2) To utilize emerging technologies to support maritime domain awareness objectives.

"(3) To provide a comprehensive understanding of the maritime domain in the Indo-Pacific region, including by facilitating information sharing among such allies and partners."

Pub. L. 114–92, div. A, title XII, §1263, Nov. 25, 2015, 129 Stat. 1073, as amended by Pub. L. 114–328, div. A, title XII, §1289, Dec. 23, 2016, 130 Stat. 2555; Pub. L. 115–232, div. A, title XII, §1252, Aug. 13, 2018, 132 Stat. 2053; Pub. L. 116–92, div. A, title XII, §§1251, 1252(a), Dec. 20, 2019, 133 Stat. 1666–1668; Pub. L. 117–81, div. A, title XII, §1241, Dec. 27, 2021, 135 Stat. 1976; Pub. L. 117–263, div. A, title XII, §1252, Dec. 23, 2022, 136 Stat. 2850; Pub. L. 118–159, div. A, title XIII, §1312, Dec. 23, 2024, 138 Stat. 2112, provided that:

"(a) ASSISTANCE AND TRAINING.—

"(1) IN GENERAL.—The Secretary of Defense is authorized, with the concurrence of the Secretary of State, with the primary goal of increasing multilateral maritime security cooperation and maritime domain awareness of foreign countries in the area of responsibility of the United States Indo-Pacific Command—

"(A) to provide assistance to—

"(i) the national military or other security forces of any such country that has among its functional responsibilities a maritime security mission; and

"(ii) any other national-level governmental organization of such a country that has among its functional responsibilities a maritime domain awareness mission, for purposes of helping to achieve the maritime domain awareness objectives of such country if such assistance directly contributes to the integration of a maritime domain awareness activity with the national military or other security forces described in clause (i); and

"(B) to provide training to—

"(i) ministry, agency, and headquarters-level organizations for such forces; or

"(ii) other national-level governmental organizations described in paragraph (A)(ii).

"(2) DESIGNATION OF ASSISTANCE AND TRAINING.—The provision of assistance and training under this section may be referred to as the 'Indo-Pacific Maritime Security Initiative'.

"(b) RECIPIENT COUNTRIES.—The foreign countries that may be provided assistance and training under subsection (a) are the countries located within the area of responsibility of the United States Indo-Pacific Command.

"(c) TYPES OF ASSISTANCE AND TRAINING.—

"(1) AUTHORIZED ELEMENTS OF ASSISTANCE.—Assistance provided under subsection (a)(1)(A) may include the provision of equipment, supplies, training, and small-scale construction (as defined in section 301 of title 10, United States Code).

"(2) REQUIRED ELEMENTS OF ASSISTANCE AND TRAINING.—Assistance and training provided under subsection (a) shall include elements that promote the following:

"(A) Observance of and respect for the law of armed conflict, the rule of law, and human rights and fundamental freedoms.

"(B) Respect for legitimate civilian authority within the country to which the assistance is provided.

"(d) PRIORITIES FOR ASSISTANCE AND TRAINING.—In developing programs for assistance or training to be provided under subsection (a), the Secretary of Defense shall prioritize assistance, training, or both, to enhance—

"(1) multilateral cooperation and coordination among recipient countries; or

"(2) the capabilities of a recipient country to more effectively participate in a regional organization of which the recipient country is a member.

"(e) INCREMENTAL EXPENSES OF PERSONNEL OF RECIPIENT COUNTRIES FOR TRAINING .—If the Secretary of Defense determines that the payment of incremental expenses (as defined in section 301 of title 10, United States Code) in connection with training described in subsection (a)(1)(B) will facilitate the participation in such training of organization personnel of recipient countries described in subsection (b), the Secretary may use amounts available under subsection (f) for assistance and training under subsection (a) for the payment of such incremental expenses.

"(f) AVAILABILITY OF FUNDS FOR COAST GUARD PERSONNEL AND CAPABILITIES.—The Secretary of Defense may use funds made available under this section to facilitate the participation of Coast Guard personnel in, and the use of Coast Guard capabilities for, training, exercises, and other activities with foreign countries under this section.

"(g) LIMITATIONS.—

"(1) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (c) that is otherwise prohibited by any provision of law.

"(2) PROHIBITION ON ASSISTANCE TO UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The provision of assistance pursuant to a program under subsection (a) shall be subject to the provisions of section 362 of title 10, United States Code.

"(3) SECURITY COOPERATION.—Assistance, training, and exercises with recipient countries described in subsection (b) shall be planned and prioritized consistent with applicable guidance relating to the security cooperation program and activities of the Department of Defense.

"(4) ASSESSMENT, MONITORING, AND EVALUATION.—The provision of assistance and training pursuant to a program under subsection (a) shall be subject to the provisions of section 383 of title 10, United States Code.

"(h) NOTICE TO CONGRESS ON ASSISTANCE AND TRAINING.—

"(1) IN GENERAL.—Not later than 15 days before exercising the authority under subsection (a) or (e) with respect to a recipient foreign country, the Secretary of Defense shall submit to the appropriate committees of Congress a notification containing the following:

"(A) The recipient foreign country, the specific unit or units or national-level governmental organization whose capacity to engage in activities under a program of assistance or training to be provided under subsection (a) will be built under the program, and the amount, type, and purpose of the support to be provided.

"(B) A detailed justification of the program for the provision of the assistance or training concerned, its relationship to United States security interests, and an explanation of the manner in which such assistance or training will increase multilateral maritime security cooperation or maritime domain awareness.

"(C) The budget for the program, including a timetable of planned expenditures of funds to implement the program, an implementation timeline for the program with milestones (including anticipated delivery schedules for any assistance under the program), the military department or component responsible for management of the program, and the anticipated completion date for the program.

"(D) A description of the arrangements, if any, to support host nation sustainment of any capability developed pursuant to the program, and the source of funds to support sustainment efforts and performance outcomes to be achieved under the program beyond its completion date, if applicable.

"(E) A description of the program objectives and an assessment framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient force.

"(F) Information, including the amount, type, and purpose, on assistance and training provided under subsection (a) during the three preceding fiscal years, if applicable.

"(G) A description of the elements of the theater campaign plan of the United States Indo-Pacific Command and the interagency integrated country strategy that will be advanced by the assistance and training provided under subsection (a).

"(H) A description of whether assistance and training provided under subsection (a) could be provided pursuant to—

"(i) section 333 of title 10, United States Code, or other security cooperation authorities of the Department of Defense; or

"(ii) security cooperation authorities of the Department of State.

"(I) An identification of each such authority described in subparagraph (H).

"(J) Such other matters as the Secretary considers appropriate.

"(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

"(i) ANNUAL MONITORING REPORTS.—

"(1) IN GENERAL.—Not later than March 1, 2022, and annually thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth, for the preceding calendar year, the following:

"(A) The overall strategy for improving multilateral maritime security cooperation and maritime domain awareness across the theater, including an identification of the following:

"(i) Priority countries and associated capabilities across the theater.

"(ii) Strategic objectives for the Indo-Pacific Maritime Security Initiative across the theater, lines of effort, and desired end results for such lines of effort.

"(iii) Significant challenges to improving multilateral maritime security cooperation and maritime domain awareness across the theater and the manner in which the United States Indo-Pacific Command is seeking to address such challenges.

"(B) An assessment, by recipient foreign country, of—

"(i) the country's capabilities relating to maritime security and maritime domain awareness;

"(ii) the country's capability enhancement priorities, including how such priorities relate to the theater campaign strategy, country plan, and theater campaign plan relating to maritime security and maritime domain awareness; and

"(iii) how such capabilities can be leveraged to improve multilateral maritime security cooperation and maritime domain awareness.

"(C) A discussion, by recipient foreign country, of—

"(i) priority capabilities that the Department of Defense plans to enhance under the authority under subsection (a) and priority capabilities the Department plans to enhance under separate United States security cooperation and security assistance authorities; and

"(ii) the anticipated timeline for assistance and training for each such capability.

"(D) Information, by recipient foreign country, on the status of funds allocated for assistance and training provided under subsection (a), including funds allocated but not yet obligated or expended.

"(E) Information, by recipient foreign country, on the delivery and use of assistance and training provided under subsection (a).

"(F) Information, by recipient foreign country, on the timeliness of the provision of assistance and training under subsection (a) as compared to the timeliness of the provision of assistance and training previously provided to the foreign country under subsection (a).

"(G) A description of the reasons the Department of Defense chose to utilize the authority for assistance and training under subsection (a) in the preceding calendar year.

"(H) An explanation of any impediments to timely obligation or expenditure of funds allocated for assistance and training under subsection (a) or any significant delay in the delivery of such assistance and training.

"(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' has the meaning given the term in subsection (h)(2).

"(j) EXPIRATION.—Assistance and training may not be provided under this section after December 31, 2027."

**TRAINING OF SECURITY FORCES AND ASSOCIATED SECURITY MINISTRIES OF FOREIGN COUNTRIES TO PROMOTE RESPECT FOR THE RULE OF LAW AND HUMAN RIGHTS**

Pub. L. 113–291, div. A, title XII, §1206, Dec. 19, 2014, 128 Stat. 3538, as amended by Pub. L. 115–232, div. A, title XII, §1205(c), Aug. 13, 2018, 132 Stat. 2018, authorized the Secretary of Defense to conduct human rights training of security forces and associated security ministries of foreign countries and terminated such authority on Sept. 30, 2020.

## §334. Administrative support and payment of certain expenses for covered foreign defense personnel

(a) IN GENERAL.—The Secretary of Defense may—

(1) provide administrative services and support to the United Nations Command for the performance of duties by covered foreign defense personnel during the period in which the covered foreign defense personnel are assigned to the United Nations Command or the Neutral Nations Supervisory Commission in accordance with the Korean War Armistice Agreement of 1953; and

(2) pay the expenses specified in subsection (b) for covered foreign defense personnel who are—

(A) from a developing country; and

(B) assigned to the headquarters of the United Nations Command.

(b) TYPES OF EXPENSES.—The types of expenses that may be paid under the authority of subsection (a)(2) are the following:

(1) Travel and subsistence expenses directly related to the duties of covered foreign defense

personnel described in subsection (a)(2) in connection with the assignment of such covered foreign defense personnel.

(2) Personal expenses directly related to carrying out such duties.

(3) Expenses for medical care at a military medical facility.

(4) Expenses for medical care at a civilian medical facility, if—

(A) adequate medical care is not available to such covered foreign defense personnel at a local military medical treatment facility;

(B) the Secretary determines that payment of such medical expenses is necessary and in the best interests of the United States; and

(C) medical care is not otherwise available to such covered foreign defense personnel pursuant to a treaty or any other international agreement.

(5) Mission-related travel expenses, if—

(A) such travel is in direct support of the national interests of the United States; and

(B) the Commander of the United Nations Command directs round-trip travel from the headquarters of the United Nations Command to one or more locations.

(c) REIMBURSEMENT.—The Secretary may provide the administrative services and support and pay the expenses authorized by subsection (a) with or without reimbursement.

(d) DEFINITIONS.—In this section:

(1) The term "administrative services and support" means base or installation support services, facilities use, base operations support, office space, office supplies, utilities, copying services, computer support, communication services, fire and police protection, postal services, bank services, transportation services, housing and temporary billeting (including ancillary services), specialized clothing required to perform assigned duties, temporary loan of special equipment, storage services, training services, and repair and maintenance services.

(2) The term "covered foreign defense personnel" means members of the military of a foreign country who are assigned to—

(A) the United Nations Command; or

(B) the Neutral Nations Supervisory Commission.

(3) The term "developing country" has the meaning given the term in section 301(4) of this title.

(4) The term "Neutral Nations Supervisory Commission" means the delegations from Sweden and Switzerland (or successor delegations) appointed in accordance with the Korean War Armistice Agreement of 1953 or its subsequent agreements.

(5) The term "United Nations Command" means the headquarters of the United Nations Command, the United Nations Command Military Armistice Commission, the United Nations Command-Rear, and the United Nations Command Honor Guard.

(Added Pub. L. 117–81, div. A, title XII, §1201(a), Dec. 27, 2021, 135 Stat. 1957.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 334 was renumbered section 254 of this title.

## §335. Payment of personnel expenses necessary for participation in training program conducted by Colombia under the United States-Colombia Action Plan for Regional Security

(a) AUTHORITY.—The Secretary of Defense may pay the expendable training supplies, travel, subsistence, and similar personnel expenses of, and special compensation for, the following that the Secretary considers necessary for participation in the training program conducted by Colombia under

the United States-Colombia Action Plan for Regional Security:

(1) Defense personnel of friendly foreign governments.

(2) With the concurrence of the Secretary of State, other personnel of friendly foreign governments and nongovernmental personnel.

(b) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the authority provided in subsection (a) may only be used for the payment of such expenses of, and special compensation for, such personnel from developing countries.

(2) EXCEPTION.— The Secretary may authorize the payment of such expenses of, and special compensation for, such personnel from a country other than a developing country if the Secretary determines that such payment is—

(A) necessary to respond to extraordinary circumstances; and

(B) in the national security interest of the United States.

(Added Pub. L. 117–263, div. A, title XII, §1201(a), Dec. 23, 2022, 136 Stat. 2822.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 335 was renumbered section 255 of this title.

## [§336. Repealed. Pub. L. 96–513, title V, §511(11)(B), Dec. 12, 1980, 94 Stat. 2921]

Section, added Pub. L. 90–496, §12, Aug. 23, 1968, 82 Stat. 841, included Virgin Islands within "State". See section 255 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

# SUBCHAPTER V—EDUCATIONAL AND TRAINING ACTIVITIES

Sec.
341. Department of Defense State Partnership Program.
342. Regional Centers for Security Studies.
343. Western Hemisphere Institute for Security Cooperation.
344. Participation in multinational centers of excellence.
345. Irregular Warfare Center and Regional Defense Fellowship Program.
346. Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces.
347. International engagement authorities for service academies.
348. Aviation Leadership Program.
349. Inter-American Air Forces Academy.
350. Inter-European Air Forces Academy.
351. Inter-American Defense College.
352. Naval Small Craft Instruction and Technical Training School.

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–263, div. A, title XII, §1204(b), Dec. 23, 2022, 136 Stat. 2829, added item 345 and

struck out former item 345 "Regional Defense Combating Terrorism and Irregular Warfare Fellowship Program".

**2021**—Pub. L. 116–283, div. A, title XII, §1206(b), Jan. 1, 2021, 134 Stat. 3913, added item 344 and struck out former item 344 "Participation in multinational military centers of excellence".

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(a)(15), Dec. 20, 2019, 133 Stat. 1813, struck out "Sec." after item 350.

**2018**—Pub. L. 115–232, div. A, title XII, §§1204(c)(1)(C), 1207(b), 1208(a)(2), 1209(b)(2), Aug. 13, 2018, 132 Stat. 2017, 2020, 2021, 2023, substituted "Centers for Security Studies" for "centers for security studies" in item 342, inserted "and Irregular Warfare" after "Terrorism" in item 345, and added items 351 and 352.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEFENSE INSTITUTE OF INTERNATIONAL LEGAL STUDIES

Pub. L. 115–91, div. A, title XII, §1207, Dec. 12, 2017, 131 Stat. 1645, provided that:

"(a) IN GENERAL.—The Secretary of Defense may operate an institute to be known as the 'Defense Institute of International Legal Studies' (in this section referred to as the 'Institute') in accordance with this section to further the United States security and foreign policy objectives of—

"(1) promoting an understanding of and appreciation for the rule of law; and

"(2) encouraging the international development of internal capacities of foreign governments for civilian control of the military, military justice, the legal aspects of peacekeeping, good governance and anti-corruption in defense reform, and human rights.

"(b) ACTIVITIES.—In carrying out the purposes specified in subsection (a), the Institute may conduct activities as follows:

"(1) Exchange of ideas on best practices and lessons learned in order to improve compliance with international legal norms.

"(2) Education and training involving professional legal engagement with foreign military personnel and related civilians, both within and outside the United States.

"(3) Building the legal capacity of foreign military and other security forces, including equitable, transparent, and accountable defense institutions, civilian control of the military, human rights, and democratic governance.

"(4) Institutional legal capacity building of foreign defense and security institutions.

"(c) DEPARTMENT OF DEFENSE REVIEW.—

"(1) IN GENERAL.—The Secretary shall conduct a comprehensive review of the mission, workforce, funding, and other support of the Institute.

"(2) ELEMENTS.—The review shall include, but not be limited to, the following:

"(A) An assessment of the scope of the mission of the Institute, taking into account the increasing security cooperation authorities and requirements of the Department of Defense, including core rule of law training in the United States and abroad, defense legal institution building, and statutorily required human rights and legal capacity building of foreign security forces.

"(B) An assessment of the workforce of the Institute, including whether it is appropriately sized to align with the full scope of the mission of the Institute.

"(C) A review of the funding mechanisms for the activities of the Institute, including the current mechanisms for reimbursing the Institute by the Department of State and by the Department of Defense through the budget of the Defense Security Cooperation Agency.

"(D) An evaluation of the feasibility and advisability of the provision of funds appropriated for the Department of Defense directly to the Institute, and the actions, if any, required to authorize the Institute to receive such funds directly.

"(E) A description of the challenges, if any, faced by the Institute to increase its capacity to provide residence courses to meet demands for training and assistance.

"(F) An assessment of the capacity of the Department of Defense to assess, monitor, and evaluate the effectiveness of the human rights training and other activities of the Institute.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the findings of the review and any recommendations for enhancing the capability of the Institute to fulfill its mission that the Secretary considers appropriate.

"(d) COMPTROLLER GENERAL OF THE UNITED STATES REPORT.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 12,

2017], the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that sets forth the following:

"(A) A description of the mechanisms and authorities used by the Department of Defense and the Department of State to conduct training of foreign security forces on human rights and international humanitarian law.

"(B) A description of the funding used to support the training described in subparagraph (A).

"(C) A description and assessment of the methodology used by each of the Department of Defense and the Department of State to assess the effectiveness of such training.

"(D) Such recommendations for improvements to such training as the Comptroller General considers appropriate.

"(E) Such other matters relating to such training as the Comptroller General considers appropriate.

"(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives."

## §341. Department of Defense State Partnership Program

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to establish a program of activities described in paragraph (2), to support the security cooperation objectives of the United States, between members of the National Guard of a State or territory and any of the following:

(A) The military forces of a foreign country.

(B) The security forces of a foreign country.

(C) Governmental organizations of a foreign country whose primary functions include disaster response or emergency response.

(2) STATE PARTNERSHIP.—Each program established under this subsection shall be known as a "State Partnership".

(b) LIMITATIONS.—

(1) IN GENERAL.—An activity with forces referred to in subsection (a)(1)(B) or organizations described in subsection (a)(1)(C) under a program established under subsection (a) may be carried out only if the Secretary of Defense, with the concurrence of the Secretary of State, determines and notifies the appropriate congressional committees not less than 15 days before initiating such activity that the activity is in the national security interests of the United States.

(2) PROHIBITION ON ACTIVITIES WITH UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The conduct of any assistance activities under a program established under subsection (a) shall be subject to the provisions of section 362 of this title.

(c) COORDINATION OF ACTIVITIES.—The Chief of the National Guard Bureau shall designate a director for each State and territory to be responsible for the coordination of activities under a program established under subsection (a) for such State or territory and reporting on activities under the program.

(d) REGULATIONS.—This section shall be carried out in accordance with such regulations as the Secretary of Defense shall prescribe for purposes of this section. Such regulations shall include accounting procedures to ensure that expenditures of funds to carry out this section are accounted for and appropriate.

(e) AVAILABILITY OF AUTHORIZED FUNDS FOR PROGRAM.—

(1) IN GENERAL.—Funds authorized to be appropriated to the Department of Defense,

including funds authorized to be appropriated for the Army National Guard and Air National Guard, are authorized to be available—

(A) for payment of costs incurred by the National Guard of a State or territory to conduct activities under a program established under subsection (a); and

(B) for payment of incremental expenses of a foreign country to conduct activities under a program established under subsection (a).

(2) LIMITATIONS.—

(A) ACTIVE DUTY REQUIREMENT.—Funds shall not be available under paragraph (1) for the participation of a member of the National Guard of a State or territory in activities in a foreign country unless the member is on active duty in the Armed Forces at the time of such participation.

(B) INCREMENTAL EXPENSES.—The total amount of payments for incremental expenses of foreign countries as authorized under paragraph (1)(B) for activities under programs established under subsection (a) in any fiscal year may not exceed $10,000,000.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede any authority under title 10 as in effect on December 26, 2013.

(Added and amended Pub. L. 114–328, div. A, title XII, §1246(a)–(c), (d)(1), (2)(B), Dec. 23, 2016, 130 Stat. 2520, 2521; Pub. L. 115–232, div. A, title XII, §1210, Aug. 13, 2018, 132 Stat. 2023; Pub. L. 116–92, div. A, title XVII, §1731(a)(16), Dec. 20, 2019, 133 Stat. 1813.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 114–328, is based on text of subsecs. (a) to (g) of section 1205 of Pub. L. 113–66, div. A, title XII, Dec. 26, 2013, 127 Stat. 897, as amended, which was formerly set out as a note under section 107 of Title 32, National Guard, prior to repeal by Pub. L. 114–328, div. A, title XII, §1246(e), Dec. 23, 2016, 130 Stat. 2521.

### AMENDMENTS

**2019**—Subsec. (e)(2)(A). Pub. L. 116–92 inserted period at end.

**2018**—Subsec. (b)(2). Pub. L. 115–232 inserted "assistance" after "any".

**2016**—Subsec. (b). Pub. L. 114–328, §1246(b), substituted "Limitations" for "Limitation" in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, and added par. (2).

Subsec. (d). Pub. L. 114–328, §1246(c)(1), added subsec. (d) and struck out former subsec. (d) which required the Secretary of Defense to prescribe regulations to carry out this section and to notify Congress.

Subsec. (f). Pub. L. 114–328, §1246(d)(2)(B), redesignated subsec. (g) as (f) and struck out former subsec. (f) which required annual reports for fiscal years 2016, 2017, and 2018.

Pub. L. 114–328, §1246(d)(1)(A), substituted "Annual Reports" for "Reports and Notifications" in subsec. heading, added par. (1) and struck out former par. (1) which related to a review and report of programs under the State Partnership Program as in effect on Dec. 26, 2013, redesignated par. (2)(B) as par. (2), substituted "Matters to be included" for "Annual report" in par. (2) heading, and struck out former par. (2)(A) which required reports on activities under programs established under subsec. (a).

Subsec. (f)(2). Pub. L. 114–328, §1246(d)(1)(B)(i), redesignated cls. (i) to (vi) of former par. (2)(B) as subpars. (A) to (F), respectively, of par. (2) and realigned margins.

Subsec. (f)(2)(F). Pub. L. 114–328, §1246(d)(1)(B)(ii), substituted "subparagraph (E)" for "clause (v)".

Subsec. (g). Pub. L. 114–328, §1246(d)(2)(B)(ii), redesignated subsec. (g) as (f).

Pub. L. 114–328, §1246(c)(2), substituted "under title 10 as in effect on December 26, 2013." for "under title 10, United States Code, as in effect on the date of the enactment of this Act."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title XII, §1246(d)(2), Dec. 23, 2016, 130 Stat. 2521, provided that the amendment

made by section 1246(d)(2)(B) is effective as of Jan. 1, 2020.

**STATE PARTNERSHIP PROGRAM SELECTION ANALYSIS**

Pub. L. 119–60, div. A, title XII, §1206, Dec. 18, 2025, 139 Stat. 1082, provided that: "The Secretary of Defense shall make such changes to Department of Defense Instruction 5111.20 (relating to the State Partnership Program), or a successor instruction, as may be necessary to ensure that, in performing selection analysis for the State Partnership Program under section 341 of title 10, United States Code, the Chief of the National Guard Bureau considers—

"(1) the number of current partnerships assigned to the National Guard of a State; and

"(2) the capacity of the National Guard of a State in relation to the number of assigned countries."

## §342. Regional Centers for Security Studies

(a) IN GENERAL.—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, exchange of ideas, and training involving military and civilian participants.

(b) REGIONAL CENTERS SPECIFIED.—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

(B) serves as a forum for bilateral and multilateral research, communication, exchange of ideas, and training involving military and civilian participants.

(2) The Department of Defense Regional Centers for Security Studies are the following:

(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany.

(B) The Daniel K. Inouye Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii.

(C) The William J. Perry Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C.

(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C.

(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

(F) The Ted Stevens Center for Arctic Security Studies, established in 2021 and located in Anchorage, Alaska.

(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2).

(c) REGULATIONS.—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary. The regulations shall prioritize within the respective areas of focus of each Regional Center the functional areas for engagement of territorial and maritime security, transnational and asymmetric threats, and defense sector governance.

(d) PARTICIPATION.—Participants in activities of the Regional Centers may include United States and foreign military, civilian, and nongovernmental personnel.

(e) EMPLOYMENT AND COMPENSATION OF FACULTY.—At each Regional Center, the Secretary may, subject to the availability of appropriations—

(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

(f) PAYMENT OF COSTS.—(1) Participation in activities of a Regional Center shall be on a

reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

(2) For a foreign national participant, payment of costs may be made by the participant, the participant's own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant's government.

(3)(A) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense and security personnel if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

(B)(i) The Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under this subsection of the costs of activities of the Regional Centers for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interest of the United States.

(ii) The amount of reimbursement that may be waived under clause (i) in any fiscal year may not exceed $1,000,000.

(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

(5) Funds available for the payment of personnel expenses under section 312 of this title are also available for the costs of the operation of the Regional Centers.

(6) Funds available to carry out this section, including funds accepted under paragraph (4) and funds available under paragraph (5), shall be available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.

(g) SUPPORT TO OTHER AGENCIES.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

(h) AUTHORITIES SPECIFIC TO MARSHALL CENTER.—(1) The Secretary of Defense may authorize participation by a European or Eurasian country in programs of the George C. Marshall Center for Security Studies (in this subsection referred to as the "Marshall Center") if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(2)(A) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

(B) A member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

(C) Notwithstanding section 219 of title 18, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

(3)(A) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the Marshall Center for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(B) Costs for which reimbursement is waived pursuant to subparagraph (A) shall be paid from appropriations available for the Center.

(i) AUTHORITIES SPECIFIC TO INOUYE CENTER.—(1) The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Daniel K. Inouye Center for Security Studies for military officers and civilian officials of foreign countries if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

(j) ANNUAL REVIEW OF PROGRAM STRUCTURE AND PROGRAMS OF CENTERS.—(1) The Secretary shall on an annual basis review the program and structure of each Regional Center in order to determine whether such Regional Center is appropriately aligned with the strategic priorities of the Department of Defense and the applicable geographic combatant commands.

(2) The Secretary may revise the program, structure, or both of a Regional Center following an annual review under paragraph (1) in order to more appropriately align the Regional Center with strategic priorities and the geographic combatant commands as described in that paragraph.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §912(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–228, §184; amended Pub. L. 107–107, div. A, title X, §1048(c)(2), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108–136, div. A, title IX, §931(b)(2), Nov. 24, 2003, 117 Stat. 1581; Pub. L. 109–163, div. A, title IX, §903(b), Jan. 6, 2006, 119 Stat. 3399; Pub. L. 109–364, div. A, title IX, §904(a)(1), Oct. 17, 2006, 120 Stat. 2351; Pub. L. 110–417, [div. A], title IX, §941(a)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(a)(3), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 112–81, div. A, title X, §1061(2), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 112–239, div. B, title XXVIII, §2854(b)(1), Jan. 2, 2013, 126 Stat. 2161; Pub. L. 113–291, div. B, title XXVIII, §2861(b)(1), Dec. 19, 2014, 128 Stat. 3715; renumbered §342 and amended Pub. L. 114–328, div. A, title XII, §1241(e)(1)–(4), Dec. 23, 2016, 130 Stat. 2505, 2506; Pub. L. 115–91, div. A, title X, §1081(a)(17), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 117–81, div. A, title X, §1082(a), Dec. 27, 2021, 135 Stat. 1922; Pub. L. 119–60, div. A, title XII, §1203, Dec. 18, 2025, 139 Stat. 1081.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (f)(3)(A). Pub. L. 119–60 struck out "from a developing country" after "security personnel".

**2021**—Subsec. (b)(2)(F). Pub. L. 117–81 added subpar. (F).

**2017**—Subsec. (j)(2). Pub. L. 115–91 struck out second period at end.

**2016**—Pub. L. 114–328, §1241(e)(1), renumbered section 184 of this title as this section.

Subsec. (a). Pub. L. 114–328, §1241(e)(2)(A), substituted "exchange of ideas, and training" for "and exchange of ideas".

Subsec. (b)(1)(B). Pub. L. 114–328, §1241(e)(2)(B)(i), substituted "exchange of ideas, and training" for "and exchange of ideas".

Subsec. (b)(3). Pub. L. 114–328, §1241(e)(2)(B)(ii), struck out ", except as specifically provided by law after October 17, 2006" before period at end.

Subsec. (c). Pub. L. 114–328, §1241(e)(2)(C), inserted at end "The regulations shall prioritize within the respective areas of focus of each Regional Center the functional areas for engagement of territorial and maritime security, transnational and asymmetric threats, and defense sector governance."

Subsec. (f)(3). Pub. L. 114–328, §1241(e)(2)(D)(i), designated existing provisions as subpar. (A), substituted "security personnel" for "security civilian government officials", and added subpar. (B).

Subsec. (f)(5). Pub. L. 114–328, §1241(e)(2)(D)(ii), substituted "under section 312 of this title are also available for the costs of the operation of the Regional Centers." for "under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the William J. Perry Center for Hemispheric Defense Studies."

Subsecs. (h), (i). Pub. L. 114–328, §1241(e)(3), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 114–328, §1241(e)(4), added subsec. (j).

**2014**—Subsec. (b)(2)(B). Pub. L. 113–291 substituted "Daniel K. Inouye Asia-Pacific Center for Security Studies" for "Asia-Pacific Center for Security Studies".

**2013**—Subsec. (b)(2)(C). Pub. L. 112–239, §2854(b)(1)(A), substituted "The William J. Perry Center for Hemispheric Defense Studies" for "The Center for Hemispheric Defense Studies".

Subsec. (f)(5). Pub. L. 112–239, §2854(b)(1)(B), substituted "the William J. Perry Center for Hemispheric Defense Studies" for "the Center for Hemispheric Defense Studies".

**2011**—Subsec. (h). Pub. L. 112–81 struck out subsec. (h) which required the Secretary of Defense to submit an annual report on the operation of the Regional Centers for security studies during the preceding fiscal year.

**2009**—Subsec. (b)(3). Pub. L. 111–84 substituted "October 17, 2006" for "the date of the enactment of this section".

**2008**—Subsec. (f)(6). Pub. L. 110–417 added par. (6).

**2006**—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to notification to Congress of the establishment of new regional centers, annual report on the operation of such centers, and definition of "regional center for security studies".

Subsec. (b)(4). Pub. L. 109–163 substituted "under section 2611 of this title." for "under any of the following provisions of law:

"(A) Section 2611 of this title.

"(B) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892).

"(C) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2653; 10 U.S.C. 113 note)."

**2003**—Subsec. (b)(4). Pub. L. 108–136 struck out "foreign" before "gifts".

**2001**—Subsec. (a). Pub. L. 107–107 substituted "October 30, 2000," for "the date of the enactment of this section," in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title IX, §941(a)(2), Oct. 14, 2008, 122 Stat. 4576, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to programs and activities under [former] section 184 of title 10, United States Code (as so amended) [now 10 U.S.C. 342], that begin on or after that date."

### CONSORTIUM TO STUDY IRREGULAR WARFARE

Pub. L. 117–81, div. A, title II, §222, Dec. 27, 2021, 135 Stat. 1600, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense may establish a research consortium of institutions of higher education to study irregular warfare and the responses to irregular threats.

"(b) PURPOSES.—The purposes of the consortium under subsection (a) are as follows:

"(1) To shape the formulation and application of policy through the conduct of research and analysis regarding irregular warfare.

"(2) To maintain open-source databases on issues relevant to understanding terrorism, irregular threats, and social and environmental change.

"(3) To serve as a repository for datasets regarding research on security, social change, and irregular threats developed by institutions of higher education that receive Federal funding.

"(4) To support basic research in social science on emerging threats and stability dynamics relevant to irregular threat problem sets.

"(5) To transition promising basic research—

"(A) to higher stages of research and development; and

"(B) into operational capabilities, as appropriate, by supporting applied research and developing tools to counter irregular threats.

"(6) To facilitate the collaboration of research centers of excellence relating to irregular threats to better distribute expertise to specific issues and scenarios regarding such threats.

"(7) To enhance educational outreach and teaching at professional military education schools to improve—

"(A) the understanding of irregular threats; and

"(B) the integration of data-based responses to such threats.

"(8) To support classified research when necessary in appropriately controlled physical spaces.

"(9) To support the work of a Department of Defense Functional Center for Security Studies in Irregular Warfare if such Center is established pursuant to section 1299L of the William M. (Mac)

Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [set out below].

"(10) To carry out such other research initiatives relating to irregular warfare and irregular threats as the Secretary of Defense determines appropriate.

"(c) PARTNERSHIPS.—If the Secretary of Defense establishes a research consortium under subsection (a), the Secretary shall encourage partnerships between the consortium and university-affiliated research centers and other research institutions, as appropriate.

"(d) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

## TED STEVENS CENTER FOR ARCTIC SECURITY STUDIES

Pub. L. 116–283, div. A, title X, §1089, Jan. 1, 2021, 134 Stat. 3878, provided that:

"(a) PLAN REQUIRED.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in coordination with the Secretary of State, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to establish a Department of Defense Regional Center for Security Studies for the Arctic.

"(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

"(A) A description of the benefits of establishing such a center, including the manner in which the establishment of such a center would benefit United States and Department of Defense interests in the Arctic region.

"(B) A description of the mission and purpose of such a center, including—

"(i) enhancing understanding of the dynamics and national security implications of an emerging Arctic region, including increased access for transit and maneuverability; and

"(ii) other specific policy guidance from the Office of the Secretary of Defense.

"(C) An analysis of suitable reporting relationships with the applicable combatant commands.

"(D) An assessment of suitable locations, which shall include an enumeration and valuation of criteria, which may include—

"(i) the proximity of a location to other academic institutions that study security implications with respect to the Arctic region;

"(ii) the proximity of a location to the designated lead for Arctic affairs of the United States Northern Command; and

"(iii) the proximity of a location to a central hub of assigned Arctic-focused Armed Forces so as to suitably advance relevant professional development of skills unique to the Arctic region.

"(E) A description of the establishment and operational costs of such a center, including for—

"(i) military construction for required facilities;

"(ii) facility renovation;

"(iii) personnel costs for faculty and staff; and

"(iv) other costs the Secretary considers appropriate.

"(F) An evaluation of the existing infrastructure, resources, and personnel available at military installations and at universities and other academic institutions that could reduce the costs described in accordance with subparagraph (E).

"(G) An examination of partnership opportunities with United States allies and partners for potential collaboration and burden sharing.

"(H) A description of potential courses and programs that such a center could carry out, including—

"(i) core, specialized, and advanced courses;

"(ii) potential planning workshops;

"(iii) seminars;

"(iv) confidence-building initiatives; and

"(v) academic research.

"(I) A description of any modification to title 10, United States Code, necessary for the effective operation of such a center.

"(3) FORM.—The plan required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not earlier than 30 days after the submittal of the plan required by subsection (a), and subject to the availability of appropriations, the Secretary of Defense may establish and administer a Department of Defense Regional Center for Security Studies for the Arctic, to be known as the 'Ted Stevens Center for Arctic Security Studies', for the purpose described in section 342(a) of title 10, United States Code.

"(2) LOCATION.—Subject to a determination by the Secretary to establish the Ted Stevens Center for Arctic Security Studies under this section, the Center shall be established at a location determined suitable pursuant to subsection (a)(2)(D)."

**FUNCTIONAL CENTER FOR SECURITY STUDIES IN IRREGULAR WARFARE**

Pub. L. 116–283, div. A, title XII, §1299L, Jan. 1, 2021, 134 Stat. 4012, as amended by Pub. L. 117–263, div. A, title XII, §1204(c), Dec. 23, 2022, 136 Stat. 2830, provided that:

"(a) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in consultation with the Secretary of State, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that assesses the merits and feasibility of establishing and administering a Department of Defense Functional Center for Security Studies in Irregular Warfare.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of the benefits to the United States, and the allies and partners of the United States, of establishing such a functional center, including the manner in which the establishment of such a functional center would enhance and sustain focus on, and advance knowledge and understanding of, matters of irregular warfare, including cybersecurity, nonstate actors, information operations, counterterrorism, stability operations, and the hybridization of such matters.

"(B) A detailed description of the mission and purpose of such a functional center, including applicable policy guidance from the Office of the Secretary of Defense.

"(C) An analysis of appropriate reporting and liaison relationships between such a functional center and—

"(i) the geographic and functional combatant commands;

"(ii) other Department of Defense stakeholders; and

"(iii) other government and nongovernment entities and organizations.

"(D) An enumeration and valuation of criteria applicable to the determination of a suitable location for such a functional center.

"(E) A description of the establishment and operational costs of such a functional center, including for—

"(i) military construction for required facilities;

"(ii) facility renovation;

"(iii) personnel costs for faculty and staff; and

"(iv) other costs the Secretary of Defense considers appropriate.

"(F) An evaluation of the existing infrastructure, resources, and personnel available at military installations, existing regional centers, interagency facilities, and universities and other academic and research institutions that could reduce the costs described in subparagraph (E).

"(G) An examination of partnership opportunities with United States allies and partners for potential collaboration and burden sharing.

"(H) A description of potential courses and programs that such a functional center could carry out, including—

"(i) core, specialized, and advanced courses;

"(ii) planning workshops and structured after-action reviews or debriefs;

"(iii) seminars;

"(iv) initiatives on executive development, relationship building, partnership outreach, and any other matter the Secretary of Defense considers appropriate; and

"(v) focused academic research and studies in support of Department priorities.

"(I) A description of any modification to title 10, United States Code, or any other provision of law, necessary for the effective establishment and administration of such a functional center.

"(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not earlier than 30 days after the submittal of the report required by subsection

(a), and subject to the availability of appropriated funds, the Secretary of Defense may establish and administer a Department of Defense Functional Center for Security Studies in Irregular Warfare.

"(2) LIMITATION.—No other institution or element of the Department may be designated as a Department of Defense functional center, except by an Act of Congress.

"(3) LOCATION.—The location of a Department of Defense Functional Center for Security Studies in Irregular Warfare established under paragraph (1) shall be selected based on an objective, criteria-driven administrative or competitive award process."

**FRAMEWORK FOR OBTAINING CONCURRENCE FOR PARTICIPATION IN ACTIVITIES OF REGIONAL CENTERS FOR SECURITY STUDIES**

Pub. L. 115–232, div. A, title XII, §1214, Aug. 13, 2018, 132 Stat. 2027, provided that: "Not later than 120 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, with the concurrence of the Secretary of State, shall establish and submit to the appropriate congressional committees, as such term is defined in section 301(1) of title 10, United States Code, a Memorandum of Agreement or other arrangement setting forth a framework for the procedures required between the Department of Defense and the Department of State to obtain the concurrence of the Secretary of State, as required by law or policy, to allow non-defense and non-governmental personnel of friendly foreign countries to participate in activities of the Department of Defense Regional Centers for Security Studies."

**REDESIGNATION OF THE ASIA-PACIFIC CENTER FOR SECURITY STUDIES AS THE DANIEL K. INOUYE ASIA-PACIFIC CENTER FOR SECURITY STUDIES**

Pub. L. 113–291, div. B, title XXVIII, §2861(a), Dec. 19, 2014, 128 Stat. 3715, provided that: "The Department of Defense regional center for security studies known as the Asia-Pacific Center for Security Studies is hereby renamed the 'Daniel K. Inouye Asia-Pacific Center for Security Studies'."

Pub. L. 113–291, div. B, title XXVIII, §2861(c), Dec. 19, 2014, 128 Stat. 3716, provided that: "Any reference to the Department of Defense Asia-Pacific Center for Security Studies in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Daniel K. Inouye Asia-Pacific Center for Security Studies."

**REDESIGNATION OF THE CENTER FOR HEMISPHERIC DEFENSE STUDIES AS THE WILLIAM J. PERRY CENTER FOR HEMISPHERIC DEFENSE STUDIES**

Pub. L. 112–239, div. B, title XXVIII, §2854(a), Jan. 2, 2013, 126 Stat. 2161, provided that: "The Department of Defense regional center for security studies known as the Center for Hemispheric Defense Studies is hereby renamed the 'William J. Perry Center for Hemispheric Defense Studies' ".

Pub. L. 112–239, div. B, title XXVIII, §2854(c), Jan. 2, 2013, 126 Stat. 2162, provided that: "Any reference to the Department of Defense Center for Hemispheric Defense Studies in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the William J. Perry Center for Hemispheric Defense Studies."

**TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NONGOVERNMENTAL PERSONNEL**

Pub. L. 110–417, [div. A], title IX, §941(b), Oct. 14, 2008, 122 Stat. 4577, as amended by Pub. L. 111–383, div. A, title IX, §941, Jan. 7, 2011, 124 Stat. 4340; Pub. L. 112–239, div. A, title IX, §953, Jan. 2, 2013, 126 Stat. 1895; Pub. L. 113–66, div. A, title X, §1094(b), Dec. 26, 2013, 127 Stat. 878; Pub. L. 113–291, div. A, title IX, §913, Dec. 19, 2014, 128 Stat. 3474, provided a temporary waiver of reimbursement of costs of activities for nongovernmental personnel, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(e)(5)(A), Dec. 23, 2016, 130 Stat. 2507.

## §343. Western Hemisphere Institute for Security Cooperation

(a) ESTABLISHMENT AND ADMINISTRATION.—(1) The Secretary of Defense may operate an education and training facility for the purpose set forth in subsection (b). The facility shall be known as the "Western Hemisphere Institute for Security Cooperation".

(2) The Secretary may designate the Secretary of a military department as the Department of Defense executive agent for carrying out the responsibilities of the Secretary of Defense under this section.

(b) PURPOSE.—The purpose of the Institute is to provide professional education and training to

eligible personnel of countries of the Western Hemisphere within the context of the democratic principles set forth in the Charter of the Organization of American States (such charter being a treaty to which the United States is a party), while fostering mutual knowledge, transparency, confidence, and cooperation among the participating countries and promoting democratic values, respect for human rights, and knowledge and understanding of United States customs and traditions.

(c) ELIGIBLE PERSONNEL.—(1) Subject to paragraph (2), personnel of countries of the Western Hemisphere are eligible for education and training at the Institute as follows:

(A) Military personnel.

(B) Law enforcement personnel.

(C) Civilian personnel.

(2) The Secretary of State shall be consulted in the selection of foreign personnel for education or training at the Institute.

(d) CURRICULUM.—(1) The curriculum of the Institute shall include mandatory instruction for each student, for at least 8 hours, on human rights, the rule of law, due process, civilian control of the military, and the role of the military in a democratic society.

(2) The curriculum may include instruction and other educational and training activities on the following:

(A) Leadership development.

(B) Counterdrug operations.

(C) Peace support operations.

(D) Disaster relief.

(E) Any other matter that the Secretary determines appropriate.

(e) BOARD OF VISITORS.—(1) There shall be a Board of Visitors for the Institute. The Board shall be composed of the following:

(A) The chairman and ranking minority member of the Committee on Armed Services of the Senate, or a designee of either of them.

(B) The chairman and ranking minority member of the Committee on Armed Services of the House of Representatives, or a designee of either of them.

(C) Six persons designated by the Secretary of Defense including, to the extent practicable, persons from academia and the religious and human rights communities.

(D) One person designated by the Secretary of State.

(E) The senior military officer responsible for training and doctrine for the Army or, if the Secretary of the Navy or the Secretary of the Air Force is designated as the executive agent of the Secretary of Defense under subsection (a)(2), the senior military officer responsible for training and doctrine for the Navy or Marine Corps or for the Air Force or Space Force, respectively, or a designee of the senior military officer concerned.

(F) The commanders of the combatant commands having geographic responsibility for the Western Hemisphere, or the designees of those officers.

(2) A vacancy in a position on the Board shall be filled in the same manner as the position was originally filled.

(3) The Board shall meet at least once each year.

(4)(A) The Board shall inquire into the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Institute, other matters relating to the Institute that the Board decides to consider, and any other matter that the Secretary of Defense determines appropriate.

(B) The Board shall review the curriculum of the Institute to determine whether—

(i) the curriculum complies with applicable United States laws and regulations;

(ii) the curriculum is consistent with United States policy goals toward Latin America and the Caribbean;

(iii) the curriculum adheres to current United States doctrine; and

(iv) the instruction under the curriculum appropriately emphasizes the matters specified in

subsection (d)(1).

(5) Not later than 60 days after its annual meeting, the Board shall submit to the Secretary of Defense a written report of its activities and of its views and recommendations pertaining to the Institute.

(6) Members of the Board shall not be compensated by reason of service on the Board.

(7) With the approval of the Secretary of Defense, the Board may accept and use the services of voluntary and uncompensated advisers appropriate to the duties of the Board without regard to section 1342 of title 31.

(8) Members of the Board and advisers whose services are accepted under paragraph (7) shall be allowed travel and transportation expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Board. Allowances under this paragraph shall be computed—

(A) in the case of members of the Board who are officers or employees of the United States, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5; and

(B) in the case of other members of the Board and advisers, as authorized under section 5703 of title 5 for employees serving without pay.

(9) Chapter 10 of title 5, other than section 1013 of title 5 (relating to termination after two years), shall apply to the Board.

(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(g) FIXED COSTS.—The fixed costs of operating and maintaining the Institute for a fiscal year may be paid from—

(1) any funds available for that fiscal year for operation and maintenance for the executive agent designated under subsection (a)(2); or

(2) if no executive agent is designated under subsection (a)(2), any funds available for that fiscal year for the Department of Defense for operation and maintenance for Defense-wide activities.

(h) TUITION.—Tuition fees charged for persons who attend the Institute may not include the fixed costs of operating and maintaining the Institute.

(i) ANNUAL REPORT.—Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a detailed report on the activities of the Institute during the preceding year. The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report. The report shall be prepared in consultation with the Secretary of State.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §911(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–226, §2166; amended Pub. L. 107–107, div. A, title X, §1048(a)(16), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107–314, div. A, title IX, §932, Dec. 2, 2002, 116 Stat. 2625; Pub. L. 110–181, div. A, title IX, §956, Jan. 28, 2008, 122 Stat. 296; renumbered §343 and amended Pub. L. 114–328, div. A, title XII,

§1241(f), Dec. 23, 2016, 130 Stat. 2507; Pub. L. 116–283, div. A, title IX, §924(b)(12), Jan. 1, 2021, 134 Stat. 3823; Pub. L. 117–286, §4(a)(45), Dec. 27, 2022, 136 Stat. 4310.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (e)(9). Pub. L. 117–286 substituted "Chapter 10 of title 5, other than section 1013 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14".

**2021**—Subsec. (e)(1)(E). Pub. L. 116–283 inserted "or Space Force" after "for the Air Force".

**2016**—Pub. L. 114–328, §1241(f)(1), renumbered section 2166 of this title as this section.

Subsecs. (b), (c). Pub. L. 114–328, §1241(f)(2), substituted "countries" for "nations" wherever appearing.

**2008**—Subsec. (e)(1)(F). Pub. L. 110–181 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "The commander of the unified combatant command having geographic responsibility for Latin America, or a designee of that officer."

**2002**—Subsecs. (f) to (h). Pub. L. 107–314, §932(a), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsec. (i). Pub. L. 107–314, §932(a)(1), (b), redesignated subsec. (h) as (i) and inserted after first sentence "The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report."

**2001**—Subsec. (e)(9). Pub. L. 107–107 substituted "(5 U.S.C. App.)" for "(5 U.S.C. App. 2)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (i) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## §344. Participation in multinational centers of excellence

(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the armed forces and Department of Defense civilian personnel in any multinational center of excellence for purposes of—

(1) enhancing the ability of military forces and civilian personnel of the nations participating in such center to engage in joint exercises or coalition or international military operations; or

(2) improving interoperability between the armed forces and the military forces of friendly foreign nations.

(b) MEMORANDUM OF UNDERSTANDING.—(1) The participation of members of the armed forces or Department of Defense civilian personnel in a multinational center of excellence under subsection (a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, or entered into by the Secretary of State, and the foreign nation or nations concerned.

(2) If Department of Defense facilities, equipment, or funds are used to support a multinational center of excellence under subsection (a), the memoranda of understanding under paragraph (1) with respect to that center shall provide details of any cost-sharing arrangement or other funding arrangement.

(c) AVAILABILITY OF APPROPRIATED FUNDS.—(1) Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

(A) To pay the United States share of the operating expenses of any multinational center of excellence in which the United States participates under this section.

(B) To pay the costs of the participation of members of the armed forces and Department of Defense civilian personnel in multinational centers of excellence under this section, including the costs of expenses of such participants.

(2) No funds may be used under this section to fund the pay or salaries of members of the armed forces and Department of Defense civilian personnel who participate in multinational centers of excellence under this section.

(d) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—Facilities and equipment of the Department of Defense may be used for purposes of the support of multinational centers of excellence under this section that are hosted by the Department.

(e) NOTIFICATION.—Not later than 30 days before the date on which the Secretary of Defense authorizes participation under subsection (a) in a new multinational center of excellence, the Secretary shall notify the congressional defense committees of such participation.

(f) MULTINATIONAL CENTER OF EXCELLENCE DEFINED.—In this section, the term "multinational center of excellence" means—

(1) an entity sponsored by one or more nations that is accredited and approved by the Military Committee of the North Atlantic Treaty Organization (NATO) as offering recognized expertise and experience to personnel participating in the activities of such entity for the benefit of NATO by providing such personnel opportunities to—

(A) enhance education and training;

(B) improve interoperability and capabilities;

(C) assist in the development of doctrine;

(D) validate concepts through experimentation;

(2) the European Centre of Excellence for Countering Hybrid Threats, established in 2017 and located in Helsinki, Finland; and

(3) the International Special Training Centre, established in 1979 and located in Pfullendorf, Germany.

(Added Pub. L. 110–417, [div. A], title XII, §1232(a)(1), Oct. 14, 2008, 122 Stat. 4637, §2350m; amended Pub. L. 112–239, div. A, title X, §1076(f)(25), Jan. 2, 2013, 126 Stat. 1953; renumbered §344 and amended Pub. L. 114–328, div. A, title XII, §1241(g), Dec. 23, 2016, 130 Stat. 2507; Pub. L. 116–283, div. A, title XII, §1206(a), Jan. 1, 2021, 134 Stat. 3912; Pub. L. 117–263, div. A, title XII, §1203, Dec. 23, 2022, 136 Stat. 2826.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (f)(3). Pub. L. 117–263 added par. (3).

**2021**—Pub. L. 116–283, §1206(a)(1)–(3), in section catchline, substituted "multinational centers of excellence" for "multinational military centers of excellence" and, in text, substituted "multinational center of excellence" for "multinational military center of excellence" and "multinational centers of excellence" for "multinational military centers of excellence" wherever appearing.

Subsec. (b)(1). Pub. L. 116–283, §1206(a)(4), inserted "or entered into by the Secretary of State," after "Secretary of State,".

Subsec. (e). Pub. L. 115–283, §1206(a)(7), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 116–283, §1206(a)(5)(B)–(F), substituted "means—" for "means", designated remainder of existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1) and realigned margins, and added par. (2).

Pub. L. 116–283, §1206(a)(5)(A), substituted "Multinational Center Of Excellence" for "Multinational Military Center of Excellence" in heading.

Subsec. (f). Pub. L. 116–283, §1206(a)(6), redesignated subsec. (e) as (f).

**2016**—Pub. L. 114–328, §1241(g)(1), renumbered section 2350m of this title as this section.

Subsecs. (e), (f). Pub. L. 114–328, §1241(g)(2), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required the Secretary of Defense, not later than October 31 of each year, to submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority in this section during the preceding fiscal year.

**2013**—Subsec. (e)(1). Pub. L. 112–239 substituted "Not later than October 31 each year" for "Not later than

October 31, 2009, and annually thereafter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 110–417, [div. A], title XII, §1232(c), Oct. 14, 2008, 122 Stat. 4639, provided that: "The amendments made by this section [enacting this section] shall take effect on October 1, 2008."

## §345. Irregular Warfare Center and Regional Defense Fellowship Program

(a) AUTHORITIES.—

(1) IN GENERAL.—The Secretary of Defense may—

(A) operate and administer a Center for Strategic Studies in Irregular Warfare, to be known as the "Irregular Warfare Center", in accordance with the requirements described in subsection (c); and

(B) carry out a program, to be known as the "Regional Defense Fellowship Program", to provide for the education and training of foreign personnel described in paragraph (2) at military or civilian educational institutions, the Irregular Warfare Center, regional centers, conferences, seminars, or other training programs conducted for purposes of regional defense in connection with irregular warfare or combating terrorism.

(2) COVERED COSTS.—The Secretary may pay the following costs associated with exercising the authorities under this section:

(A) Costs of travel, subsistence, and similar personnel expenses of, and special compensation for—

(i) defense personnel of friendly foreign governments to attend activities of the Irregular Warfare Center or attend the Regional Defense Fellowship Program;

(ii) with the concurrence of the Secretary of State, other personnel of friendly foreign governments and non-governmental personnel to attend activities of the Irregular Warfare Center or attend the Regional Defense Fellowship Program; and

(iii) foreign personnel and United States Government personnel necessary for the administration and execution of the authorities under this section.

(B) Costs associated with the administration and operation of the Irregular Warfare Center, including costs associated with—

(i) research, communication, the exchange of ideas, curriculum development and review, and training of military and civilian participants of the United States and other countries, as the Secretary considers necessary; and

(ii) maintaining an international network of irregular warfare policymakers and practitioners to achieve the objectives of the Department of Defense and the Department of State.

(C) Costs associated with strategic engagement with alumni of the Regional Defense Fellowship Program to address Department of Defense objectives and planning on irregular warfare and combating terrorism topics.

(b) REGULATIONS FOR REGIONAL DEFENSE FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—The authorities granted to the Secretary of Defense under subsection (a)(1)(B) shall be carried out under regulations prescribed by the Secretary of Defense and the Secretary of State.

(2) ELEMENTS.—The regulations shall ensure that—

(A) the Secretary of Defense and the Secretary of State—

(i) jointly develop and plan activities under the program that—

(I) advance United States security cooperation objectives; and
(II) support theater security cooperation planning of the combatant commands; and

(ii) coordinate on the implementation of activities under the program;

(B) each of the Secretary of Defense and the Secretary of State designates an individual at the lowest appropriate level of the Department of Defense or the Department of State, as applicable, who shall be responsible for program coordination; and

(C) to the extent practicable, activities under the program are appropriately coordinated with, and do not duplicate or conflict with, activities under International Military Education and Training (IMET) authorities.

(3) SUBMITTAL TO CONGRESS.—Upon any update of the regulations, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a copy of the regulations as so updated, together with a description of the update.

(c) IRREGULAR WARFARE CENTER.—

(1) MISSION.—The mission of the Irregular Warfare Center shall be to serve as a central mechanism for developing the irregular warfare knowledge of the Department of Defense and advancing the understanding of irregular warfare concepts and doctrine, in collaboration with key partners and allies, by—

(A) coordinating and aligning Department education curricula, standards, and objectives related to irregular warfare;

(B) facilitating research on irregular warfare, strategic competition, and the role of the Department in supporting interagency activities relating to irregular warfare;

(C) engaging and coordinating with Federal departments and agencies and with academia, nongovernmental organizations, civil society, and international partners to discuss and coordinate efforts on security challenges in irregular warfare;

(D) developing curriculum and conducting training and education of military and civilian participants of the United States and other countries, as determined by the Secretary of Defense; and

(E) serving as a coordinating body and central repository for irregular warfare resources, including educational activities and programs, and lessons learned across components of the Department.

(2) EMPLOYMENT AND COMPENSATION OF FACULTY.—With respect to the Irregular Warfare Center—

(A) the Secretary of Defense may, subject to the availability of appropriations, employ a Director, a Deputy Director, and such civilians as professors, instructors, and lecturers, as the Secretary considers necessary; and

(B) compensation of individuals employed under this section shall be as prescribed by the Secretary.

(3) PARTNERSHIP WITH INSTITUTION OF HIGHER EDUCATION.—

(A) IN GENERAL.—In operating the Irregular Warfare Center, to promote integration throughout the United States Government and civil society across the full spectrum of irregular warfare competition and conflict challenges, the Secretary of Defense may partner with an institution of higher education (as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(B) TYPES OF PARTNERSHIPS.—The Secretary may establish a partnership under subparagraph (A) by—

(i) entering into an intergovernmental support agreement pursuant to section 2679 of this title; or

(ii) entering into a contract or cooperative agreement or awarding a grant through the Defense Security Cooperation University.

(C) DETERMINATION REQUIRED.—The Secretary of Defense shall make a determination with respect to the desirability of partnering with an institution of higher education in a Government-owned, contractor-operated partnership, such as the partnership structure used by the Department of Defense for University Affiliated Research Centers, for meeting the mission requirements of the Irregular Warfare Center.

(4) ROLES AND RESPONSIBILITIES.—The Secretary of Defense shall prescribe guidance for the roles and responsibilities of the relevant components of the Department of Defense in the administration, operation, and oversight of the Irregular Warfare Center, which shall include the roles and responsibilities of the following:

(A) The Under Secretary of Defense for Policy and the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in policy oversight and governance structure of the Center.

(B) "The [1] Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, as the Executive Agent in support of the operation of the Center.

(C) Any other official of the Department of Defense, as determined by the Secretary.

(d) LIMITATION.—The total amount of funds used under the authority in subsection (a)(1)(B) in any fiscal year may not exceed $35,000,000. Amounts available under the authority in subsection (a)(1)(B) for a fiscal year may be used for programs that begin in such fiscal year but end in the next fiscal year.

(e) ANNUAL REPORT.—Not later than December 1 of each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:

(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—

(A) the countries of the foreign officers and officials for whom costs were paid; and

(B) for each such country, the total amount of the costs paid.

(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.

(3) An assessment of the effectiveness of the program referred to in subsection (a)(1)(B), including engagement activities for program alumni, in increasing the cooperation of the governments of foreign countries with the United States.

(4) A discussion of any actions being taken to improve the program, including a list of any unfunded or unmet training requirements and requests.

(5) A discussion and justification of how the program fits within the theater security priorities of each of the commanders of the geographic combatant commands.

(6) A discussion of how the training from the previous year incorporated lessons learned from ongoing conflicts.

(f) ANNUAL REVIEW OF IRREGULAR WARFARE CENTER.—Not later than December 1, 2024, and annually thereafter, the Secretary of Defense—

(1) shall conduct a review of the structure and activities of the Irregular Warfare Center to determine whether such structure and activities are appropriately aligned with the strategic priorities of the Department of Defense and the applicable combatant commands; and

(2) may, after an annual review under paragraph (1), revise the relevant structure and activities so as to more appropriately align such structure and activities with the strategic priorities and combatant commands.

(Added Pub. L. 108–136, div. A, title XII, §1221(a)(1), Nov. 24, 2003, 117 Stat. 1651, §2249c;

amended Pub. L. 109–364, div. A, title XII, §1204(a)–(d)(2), Oct. 17, 2006, 120 Stat. 2415; Pub. L. 110–417, [div. A], title XII, §1209(a), Oct. 14, 2008, 122 Stat. 4627; Pub. L. 113–66, div. A, title X, §1032(a), Dec. 26, 2013, 127 Stat. 850; renumbered §345 and amended Pub. L. 114–328, div. A, title XII, §1247(a)–(c), Dec. 23, 2016, 130 Stat. 2521; Pub. L. 115–232, div. A, title XII, §1209(a), (b)(1), Aug. 13, 2018, 132 Stat. 2022, 2023; Pub. L. 117–263, div. A, title XII, §1204(a), Dec. 23, 2022, 136 Stat. 2827; Pub. L. 119–60, div. A, title XII, §1204, Dec. 18, 2025, 139 Stat. 1081.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c)(4)(B). Pub. L. 119–60 substituted " 'The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict" for "The Director of the Defense Security Cooperation Agency".

**2022**—Pub. L. 117–263, §1204(a)(1), amended section catchline generally. Prior to amendment, section catchline read as follows: "Regional Defense Combating Terrorism and Irregular Warfare Fellowship Program".

Subsec. (a). Pub. L. 117–263, §1204(a)(2)(A), substituted "Authorities" for "Program Authorized" in heading.

Subsec. (a)(1). Pub. L. 117–263, §1204(a)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) authorized a program under which the Secretary of Defense could pay any costs for education, training, or other training programs conducted for purposes of regional defense in connection with combating terrorism or irregular warfare.

Subsec. (a)(2). Pub. L. 117–263, §1204(a)(2)(C), (D), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs."

Subsec. (a)(3). Pub. L. 117–263, §1204(a)(2)(C), struck out par. (3). Text read as follows: "The program authorized by this section shall be known as the 'Regional Defense Combating Terrorism and Irregular Warfare Fellowship Program'."

Subsec. (b). Pub. L. 117–263, §1204(a)(3)(A), substituted "Regulations for Regional Defense Fellowship Program" for "Regulations" in heading.

Subsec. (b)(1). Pub. L. 117–263, §1204(a)(3)(B), substituted "The authorities granted to the Secretary of Defense under subsection (a)(1)(B)" for "The program authorized by subsection (a)".

Subsec. (c). Pub. L. 117–263, §1204(a)(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 117–263, §1204(a)(4), (6), redesignated subsec. (c) as (d) and substituted "subsection (a)(1)(B)" for "subsection (a)" in two places. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 117–263, §1204(a)(4), redesignated subsec. (d) as (e).

Subsec. (e)(3). Pub. L. 117–263, §1204(a)(7)(A), substituted "subsection (a)(1)(B)" for "subsection (a)".

Subsec. (e)(6). Pub. L. 117–263, §1204(a)(7)(B), added par. (6).

Subsec. (f). Pub. L. 117–263, §1204(a)(8), added subsec. (f).

**2018**—Pub. L. 115–232, §1209(b)(1), inserted "and Irregular Warfare" after "Terrorism" in section catchline.

Subsec. (a). Pub. L. 115–232, §1209(a)(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program. Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs."

Subsecs. (b) to (d). Pub. L. 115–232, §1209(a)(1), (2), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d)(3). Pub. L. 115–232, §1209(a)(3), struck out "in the global war on terrorism" after "United States".

**2016**—Pub. L. 114–328, §1247(a), (c), renumbered section 2249c of this title as this section and substituted "Regional Defense Combating Terrorism Fellowship Program" for "Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials" in section catchline.

Subsec. (c). Pub. L. 114–328, §1247(b), substituted "to the appropriate committees of Congress" for "to Congress" in introductory provisions.

**2013**—Subsec. (c)(3). Pub. L. 113–66, §1032(a)(1), inserted ", including engagement activities for program alumni," after "subsection (a)".

Subsec. (c)(4). Pub. L. 113–66, §1032(a)(2), inserted ", including a list of any unfunded or unmet training requirements and requests" after "program".

Subsec. (c)(5). Pub. L. 113–66, §1032(a)(3), added par. (5).

**2008**—Subsec. (b). Pub. L. 110–417 substituted "$35,000,000" for "$25,000,000".

**2006**—Pub. L. 109–364, §1204(d)(2), substituted "Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials" for "Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program" in section catchline.

Subsec. (a). Pub. L. 109–364, §1204(a), substituted "the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program" for "the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs" and inserted at end "Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs."

Subsec. (b). Pub. L. 109–364, §1204(b), (c), substituted "$25,000,000" for "$20,000,000" and inserted at end "Amounts available under the authority in subsection (a) for a fiscal year may be used for programs that begin in such fiscal year but end in the next fiscal year."

Subsec. (c)(3). Pub. L. 109–364, §1204(d)(1), substituted "program referred to in subsection (a)" for "Regional Defense Counterterrorism Fellowship Program".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title X, §1032(b), Dec. 26, 2013, 127 Stat. 850, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to a report submitted for a fiscal year beginning after the date of the enactment of this Act [Dec. 26, 2013]."

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title XII, §1209(b), Oct. 14, 2008, 122 Stat. 4627, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date."

#### REGULATIONS

Pub. L. 108–136, div. A, title XII, §1221(b), Nov. 24, 2003, 117 Stat. 1651, provided that: "Not later than December 1, 2003, the Secretary of Defense shall—

"(1) prescribe the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and

"(2) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] of the prescription of such regulations."

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

[1] *So in original.*

## §346. Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces

(a) DISTRIBUTION AUTHORIZED.—To enhance interoperability between the armed forces and

military forces of friendly foreign countries, the Secretary of Defense, with the concurrence of the Secretary of State, may—

(1) provide to personnel referred to in subsection (b) electronically-distributed learning content for the education and training of such personnel for the development or enhancement of allied and friendly military and civilian capabilities for multinational operations, including joint exercises and coalition operations; and

(2) provide information technology, including computer software developed for such purpose, but only to the extent necessary to support the use of such learning content for the education and training of such personnel.

(b) AUTHORIZED RECIPIENTS.—The personnel to whom learning content and information technology may be provided under subsection (a) are military and civilian personnel of a friendly foreign government, with the permission of that government.

(c) EDUCATION AND TRAINING.—Any education and training provided under subsection (a) shall include the following:

(1) Internet-based education and training.

(2) Advanced distributed learning and similar Internet learning tools, as well as distributed training and computer-assisted exercises.

(d) APPLICABILITY OF EXPORT CONTROL REGIMES.—The provision of learning content and information technology under this section shall be subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and any other export control regime under law relating to the transfer of military technology to foreign countries.

(e) GUIDANCE ON UTILIZATION OF AUTHORITY.—

(1) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance on the procedures for the use of the authority in this section.

(2) MODIFICATION.—If the Secretary modifies the guidance issued under paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report setting forth the modified guidance not later than 30 days after the date of such modification.

(Added Pub. L. 110–417, [div. A], title XII, §1205(a)(1), Oct. 14, 2008, 122 Stat. 4623, §2249d; renumbered §346 and amended Pub. L. 114–328, div. A, title XII, §1241(h), Dec. 23, 2016, 130 Stat. 2507.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (d), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### AMENDMENTS

**2016**—Pub. L. 114–328, §1241(h)(1), renumbered section 2249d of this title as this section.

Subsecs. (a), (d). Pub. L. 114–328, §1241(h)(2)(A), substituted "countries" for "nations".

Subsecs. (f), (g). Pub. L. 114–328, §1241(h)(2)(B), struck out subsecs. (f) and (g) which, respectively, required the Secretary of Defense to submit annual reports to the appropriate committees of Congress and defined "appropriate committees of Congress".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 110–417, [div. A], title XII, §1205(d), Oct. 14, 2008, 122 Stat. 4625, provided that: "This section [enacting this section and provisions set out as notes under this section] and the amendments made by this section shall take effect on October 1, 2008."

**AUTHORITY TO PROVIDE MISSION TRAINING THROUGH DISTRIBUTED SIMULATION**

Pub. L. 118–31, div. A, title XII, §1210, Dec. 22, 2023, 137 Stat. 449, provided that:

"(a) AUTHORITY FOR TRAINING AND DISTRIBUTION.—To enhance the interoperability and integration between the United States Armed Forces and the military forces of friendly foreign countries, effective beginning on the date that is 30 days after the date on which the Secretary of Defense submits the report required by subsection (d), the Secretary of Defense, with the concurrence of the Secretary of State, is authorized—

"(1) to provide to military personnel of a friendly foreign country persistent advanced networked training and exercise activities (in this section referred to as 'mission training through distributed simulation'); and

"(2) to provide information technology related to mission training through distributed simulation, including hardware and computer software developed for such activities.

"(b) SCOPE OF MISSION TRAINING.—Mission training through distributed simulation provided under subsection (a) may include advanced distributed network training events and computer-assisted exercises.

"(c) GUIDANCE ON USE OF AUTHORITY.—Not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall develop and issue guidance on the procedures for the use of the authority provided in this section.

"(d) REPORT.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the appropriate committees of Congress a report on the anticipated use of mission training through distributed simulation by military personnel of friendly foreign countries.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of anticipated mission training through distributed simulation activities between the United States Armed Forces and the military forces of friendly foreign countries.

"(B) A description of the current capabilities of the military forces of friendly foreign countries to support mission training through distributed simulation activities with the United States Armed Forces.

"(C) A description of the manner in which the Department intends to use mission training through distributed simulation activities to support implementation of the National Defense Strategy, including in areas of responsibility of the United States European Command and the United States Indo-Pacific Command.

"(D) Any recommendation of the Secretary of Defense for legislative proposals or policy guidance regarding the use of mission training through distributed simulation activities.

"(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

"(e) SUNSET.—The authority provided in this section shall terminate on December 31, 2025."

**GUIDANCE ON UTILIZATION OF AUTHORITY**

Pub. L. 110–417, [div. A], title XII, §1205(b), Oct. 14, 2008, 122 Stat. 4624, provided that:

"(1) SUBMITTAL TO CONGRESS.—Not later than 30 days after issuing the guidance required by section 2249d(e) [now 346(e)] of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such guidance.

"(2) UTILIZATION OF SIMILAR GUIDANCE.—In developing the guidance required by section 2249d(e) [now 346(e)] of title 10, United States Code, as so added, the Secretary may utilize applicable portions of the current guidance developed by the Secretary under subsection (f) of section 1207 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2419) for purposes of the exercise of the authority in such section 1207."

## §347. International engagement authorities for service academies

(a) SELECTION OF PERSONS FROM FOREIGN COUNTRIES TO RECEIVE INSTRUCTION AT SERVICE ACADEMIES.—

(1) ATTENDANCE AUTHORIZED.—

(A) IN GENERAL.—The Secretary of each military department may permit persons from foreign countries to receive instruction at the Service Academy under the jurisdiction of the Secretary. Such persons shall be in addition to—

(i) in the case of the United States Military Academy, the authorized strength of the Corps of the Cadets of the Academy under section 7442 of this title;

(ii) in the case of the United States Naval Academy, the authorized strength of the Brigade of Midshipmen of the Academy under section 8454 of this title; and

(iii) in the case of the United States Air Force Academy, the authorized strength of the Cadet Wing of the Academy under section 9442 of this title.

(B) LIMITATION ON NUMBER.—The number of persons permitted to receive instruction at each Service Academy under this subsection may not be more than 80 at any one time.

(2) DETERMINATION OF FOREIGN COUNTRIES FROM WHICH PERSONS MAY BE SELECTED.—The Secretary of a military department, upon approval by the Secretary of Defense, shall determine—

(A) the countries from which persons may be selected for appointment under this subsection to the Service Academy under the jurisdiction of that Secretary; and

(B) the number of persons that may be selected from each country.

(3) QUALIFICATIONS AND SELECTION.—The Secretary of each military department—

(A) may establish entrance qualifications and methods of competition for selection among individual applicants under this subsection; and

(B) shall select those persons who will be permitted to receive instruction at the Service Academy under the jurisdiction of the Secretary under this subsection.

(4) SELECTION PRIORITY TO PERSONS WITH NATIONAL SERVICE OBLIGATION UPON GRADUATION.—In selecting persons to receive instruction under this subsection from among applicants from the countries approved under paragraph (2), the Secretary of the military department concerned shall give a priority to persons who have a national service obligation to their countries upon graduation from the Service Academy concerned.

(5) PAY, ALLOWANCES, AND EMOLUMENTS OF PERSONS ADMITTED.—A person receiving instruction under this subsection is entitled to the pay, allowances, and emoluments of a cadet or midshipman appointed from the United States, and from the same appropriations.

(6) REIMBURSEMENT OF COSTS BY FOREIGN COUNTRIES FROM WHICH PERSONS ARE ADMITTED.—

(A) REIMBURSEMENT REQUIRED.—Each foreign country from which a cadet or midshipman is permitted to receive instruction at one of the Service Academies under this subsection shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (5). The Secretaries of the military departments shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet or midshipman appointed from the United States.

(B) WAIVER AUTHORITY.—The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet or midshipman under subparagraph (A). In the case of a partial waiver, the Secretary of Defense shall establish the amount waived.

(7) APPLICABILITY OF ACADEMY REGULATIONS, ETC.—

(A) IN GENERAL.—Except as the Secretary of the military department concerned determines, a person receiving instruction under this subsection at the Service Academy under the jurisdiction of that Secretary is subject to the same regulations governing admission,

attendance, discipline, resignation, discharge, dismissal, and graduation as a cadet or midshipman at that Academy appointed from the United States.

(B) CLASSIFIED INFORMATION.—The Secretary of the military department concerned may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection at the Service Academy under the jurisdiction of that Secretary that differ from the regulations that apply to a cadet or midshipman at that Academy appointed from the United States.

(8) INELIGIBILITY FOR APPOINTMENT IN THE UNITED STATES ARMED FORCES .—A person receiving instruction at a Service Academy under this subsection is not entitled to an appointment in an armed force of the United States by reason of graduation from the Academy.

(9) INAPPLICABILITY OF REQUIREMENT FOR TAKING OATH OF ADMISSION.—A person receiving instruction under this subsection is not subject to section 7446(d), 8458(d), or 9446(d) of this title, as the case may be.

(b) EXCHANGE PROGRAMS WITH FOREIGN MILITARY ACADEMIES.—

(1) EXCHANGE PROGRAMS AUTHORIZED.—The Secretary of a military department may permit a student enrolled at a military academy of a foreign country to receive instruction at the Service Academy under the jurisdiction of that Secretary in exchange for a cadet or midshipman receiving instruction at that foreign military academy pursuant to an exchange agreement entered into between the Secretary and appropriate officials of the foreign country. A student receiving instruction at a Service Academy under the exchange program under this subsection shall be in addition to persons receiving instruction at the Academy under subsection (a).

(2) LIMITATIONS ON NUMBER AND DURATION OF EXCHANGES.—An exchange agreement under this subsection between the Secretary and a foreign country shall provide for the exchange of students on a one-for-one basis each fiscal year. Not more than 100 cadets or midshipmen from each Service Academy and a comparable number of students from foreign military academies participating in the exchange program may be exchanged during any fiscal year. The duration of an exchange may not exceed the equivalent of one academic semester at a Service Academy.

(3) COSTS AND EXPENSES.—

(A) NO PAY AND ALLOWANCES.—A student from a military academy of a foreign country is not entitled to the pay, allowances, and emoluments of a cadet or midshipman by reason of attendance at a Service Academy under the exchange program, and the Department of Defense may not incur any cost of international travel required for transportation of such a student to and from the sponsoring foreign country.

(B) SUBSISTENCE, TRANSPORTATION, ETC.—The Secretary of the military department concerned may provide a student from a foreign country under the exchange program, during the period of the exchange, with subsistence, transportation within the continental United States, clothing, health care, and other services to the same extent that the foreign country provides comparable support and services to the exchanged cadet or midshipman in that foreign country.

(C) SOURCE OF FUNDS.—A Service Academy shall bear all costs of the exchange program from funds appropriated for that Academy and from such additional funds as may be available to that Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program.

(D) LIMITATION ON EXPENDITURES.—Expenditures in support of the exchange program from funds appropriated for each Academy may not exceed $1,000,000 during any fiscal year.

(4) APPLICATION OF OTHER LAWS.—Paragraphs (7), (8), and (9) of subsection (a) shall apply with respect to a student enrolled at a military academy of a foreign country while attending a Service Academy under the exchange program.

(5) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations to implement this subsection. Such regulations may include qualification criteria and methods of selection for students of foreign military academies to participate in the exchange program.

(c) FOREIGN AND CULTURAL EXCHANGE ACTIVITIES.—

(1) ATTENDANCE AUTHORIZED.—The Secretary of a military department may authorize the Service Academy under the jurisdiction of that Secretary to permit students, officers, and other representatives of a foreign country to attend that Academy for periods of not more than four weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross-cultural interactions and understanding, and cultural immersion of cadets or midshipmen, as the case may be.

(2) EFFECT OF ATTENDANCE.—Persons attending a Service Academy under paragraph (1) are not considered to be students enrolled at that Academy and are in addition to persons receiving instruction at that Academy under subsection (a) or (b).

(3) FINANCIAL MATTERS.—

(A) COSTS AND EXPENSES.—The Secretary of a military department may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Service Academy under the jurisdiction of that Secretary under paragraph (1).

(B) SOURCE OF FUNDS.—Each Service Academy shall bear the costs of the attendance of persons at that Academy under paragraph (1) from funds appropriated for that Academy and from such additional funds as may be available to that Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

(C) LIMITATION ON EXPENDITURES.—Expenditures from appropriated funds in support of activities under this subsection for any Service Academy may not exceed $40,000 during any fiscal year.

(d) SERVICE ACADEMY DEFINED.—In this section, the term "Service Academy" means the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

(Added Pub. L. 114–328, div. A, title XII, §1248(a), Dec. 23, 2016, 130 Stat. 2522; amended Pub. L. 115–91, div. A, title X, §1081(a)(18), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 115–232, div. A, title VIII, §809(a), title XII, §1204(c)(1)(D), Aug. 13, 2018, 132 Stat. 1840, 2017; Pub. L. 118–159, div. A, title V, §551, Dec. 23, 2024, 138 Stat. 1893.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4344 to 4345a, 6957 to 6957b, and 9344 to 9345a, prior to repeal by Pub. L. 114–328.

### AMENDMENTS

**2024**—Subsec. (a)(1)(B). Pub. L. 118–159 substituted "80" for "60".

**2018**—Subsec. (a)(1)(A)(i). Pub. L. 115–232, §809(a), substituted "section 7442" for "section 4342".

Subsec. (a)(1)(A)(ii). Pub. L. 115–232, §809(a), substituted "section 8454" for "section 6954".

Subsec. (a)(1)(A)(iii). Pub. L. 115–232, §809(a), substituted "section 9442" for "section 9342".

Subsec. (a)(7). Pub. L. 115–232, §1204(c)(1)(D)(i), substituted "etc." for "etc.." in heading.

Subsec. (a)(9). Pub. L. 115–232, §809(a), substituted "section 7446(d), 8458(d), or 9446(d)" for "section 4346(d), 6958(d), or 9346(d)".

Subsec. (b)(3)(B). Pub. L. 115–232, §1204(c)(1)(D)(ii), substituted "etc" for "etc." in heading.

**2017**—Subsec. (a)(1)(A)(i), (iii). Pub. L. 115–91 inserted "section" after "Academy under".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §348. Aviation Leadership Program

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may carry out an Aviation Leadership Program to provide undergraduate pilot training and necessary related training to personnel of the air forces of friendly, developing foreign countries. Training under this section shall include language training and programs to promote better awareness and understanding of the democratic institutions and social framework of the United States.

(b) SUPPLIES AND CLOTHING.—(1) The Secretary of the Air Force may, under such conditions as the Secretary may prescribe, provide to a person receiving training under this section—

(A) transportation incident to the training;

(B) supplies and equipment to be used during the training;

(C) flight clothing and other special clothing required for the training; and

(D) billeting, food, and health services.

(2) The Secretary may authorize such expenditures from the appropriations of the Air Force as the Secretary considers necessary for the efficient and effective maintenance of the Program in accordance with this section.

(c) ALLOWANCES.—The Secretary of the Air Force may pay to a person receiving training under this section a living allowance at a rate to be prescribed by the Secretary, taking into account the amount of living allowances authorized for a member of the armed forces under similar circumstances.

(Added Pub. L. 114–328, div. A, title XII, §1241(i)(1), Dec. 23, 2016, 130 Stat. 2507.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in chapter 905 of this title prior to repeal by Pub. L. 114–328.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONGRESSIONAL FINDINGS**

Pub. L. 103–160, div. A, title XI, §1178(a), Nov. 30, 1993, 107 Stat. 1768, provided that: "The Congress finds the following:

"(1) The training in the United States of pilots from the air forces of friendly foreign nations furthers the interests of the United States, promotes closer relations with such nations, and advances the national security.

"(2) Many friendly foreign nations cannot afford to reimburse the United States for the cost of such training.

"(3) It is in the interest of the United States that the Secretary of the Air Force establish a program to train in the United States pilots from the air forces of friendly, less developed foreign nations."

## §349. Inter-American Air Forces Academy

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and

training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(b) LIMITATIONS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Military personnel of a foreign country may be provided education and training under this section only with the concurrence of the Secretary of State.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—Education and training may not be provided under this section to the military personnel of any country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(c) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.

(Added Pub. L. 101–510, div. A, title III, §330(a), Nov. 5, 1990, 104 Stat. 1535, §9415; renumbered §349 and amended Pub. L. 114–328, div. A, title XII, §1241(j), Dec. 23, 2016, 130 Stat. 2508.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 5 of part II of such Act is classified generally to part V of subchapter II (§2347 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

**AMENDMENTS**

**2016**—Pub. L. 114–328, §1241(j)(1), renumbered section 9415 of this title as this section.

Subsecs. (b), (c). Pub. L. 114–328, §1241(j)(2), added subsec. (b) and redesignated former subsec. (b) as (c).

## §350. Inter-European Air Forces Academy

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-European Air Forces Academy (in this section referred to as the "Academy").

(b) PURPOSE.—The purpose of the Academy shall be to provide military education and training to military personnel of countries that are—

(1) members of the North Atlantic Treaty Organization;

(2) signatories to the Partnership for Peace Framework Documents; or

(3)(A) within the United States Africa Command area of responsibility; and

(B) eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(c) LIMITATIONS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Military personnel of a country may be provided education and training under this section only with the concurrence of the Secretary of State.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—Education and training may not be provided under this section to the military personnel of any country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(d) SUPPLIES AND CLOTHING.—The Secretary of the Air Force may, under such conditions as the Secretary may prescribe, provide to a person receiving education and training under this section

the following:

(1) Transportation incident to such education and training.

(2) Supplies and equipment to be used during such education and training.

(3) Billeting, food, and health services in connection with the receipt of such education and training.

(e) LIVING ALLOWANCE.—The Secretary of the Air Force may pay to a person receiving education and training under this section a living allowance at a rate to be prescribed by the Secretary, taking into account the rates of living allowances authorized for a member of the Armed Forces under similar circumstances.

(f) FUNDING.—Amounts for the operations and maintenance of the Academy, and for the provision of education and training through the Academy, may be paid from funds available for the Air Force for operation and maintenance.

(Added Pub. L. 114–328, div. A, title XII, §1241(k)(1), Dec. 23, 2016, 130 Stat. 2508; amended Pub. L. 116–283, div. A, title XII, §1205, Jan. 1, 2021, 134 Stat. 3912.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Foreign Assistance Act of 1961, referred to in subsec. (b)(3)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 5 of part II of the Act is classified generally to part V (§2347 et seq.) of subchapter II of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

**CODIFICATION**

Text of section, as added by Pub. L. 114–328, is based on text of subsecs. (a) to (f) of section 1268 of Pub. L. 113–291, div. A, title XII, Dec. 19, 2014, 128 Stat. 3585, which was formerly set out as a note under section 9411 of this title, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(k)(2), Dec. 23, 2016, 130 Stat. 2509.

**AMENDMENTS**

**2021**—Subsec. (b). Pub. L. 116–283 substituted "that are—" for "that are members of the North Atlantic Treaty Organization or signatories to the Partnership for Peace Framework Documents." and added pars (1) to (3).

## §351. Inter-American Defense College

(a) AUTHORITY TO SUPPORT.—The Secretary of Defense may authorize members of the armed forces and civilian personnel of the Department of Defense to participate in the operation of and the provision of support to the Inter-American Defense College and provide logistic support, supplies, and services to the Inter-American Defense College, including the use of Department of Defense facilities and equipment, as the Secretary considers necessary to—

(1) assist the Inter-American Defense College in its mission to develop and offer to military officers and civilian officials from member states of the Organization of American States advanced academic courses on matters related to military and defense issues, the inter-American system, and related disciplines; and

(2) ensure that the Inter-American Defense College provides an academic program of a level of quality, rigor, and credibility that is commensurate with the standards of Department of Defense senior service colleges and that includes the promotion of security cooperation, human rights, humanitarian assistance and disaster response, peacekeeping, and democracy in the Western Hemisphere.

(b) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of Defense, with the concurrence of the Secretary of State, shall enter into a memorandum of understanding with the

Inter-American Defense Board for the participation of members of the armed forces and civilian personnel of the Department of Defense in the operation of and provision of host nation support to the Inter-American Defense College under subsection (a).

(2) If Department of Defense facilities, equipment, or funds will be used to support the Inter-American Defense College under subsection (a), a memorandum of understanding entered into under paragraph (1) shall include a description of any cost-sharing arrangement or other funding arrangement relating to the use of such facilities, equipment, or funds.

(3) A memorandum of understanding entered into under paragraph (1) shall also include a curriculum and a plan for academic program development.

(c) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for operation and maintenance may be used to pay costs that the Secretary determines are necessary for the participation of members of the armed forces and civilian personnel of the Department of Defense in the operation of and provision of host nation support to the Inter-American Defense College, including—

(A) the costs of expenses of such participants;

(B) the cost of hiring and retaining qualified professors, instructors, and lecturers;

(C) curriculum support costs, including administrative costs, academic outreach, and curriculum support personnel;

(D) the cost of translation and interpretation services;

(E) the cost of information and educational technology;

(F) the cost of utilities; and

(G) the cost of maintenance and repair of facilities.

(2) No funds may be used under this section to provide for the pay of members of the armed forces or civilian personnel of the Department of Defense who participate in the operation of and the provision of host nation support to the Inter-American Defense College under this section.

(3) Funds available to carry out this section for a fiscal year may be used for activities that begin in such fiscal year and end in the next fiscal year.

(d) WAIVER OF REIMBURSEMENT.—The Secretary of Defense may waive reimbursement for developing countries (as such term is defined in section 301 of this title) of the costs of funding and other host nation support provided to the Inter-American Defense College under this section if the Secretary determines that the provision of such funding or support without reimbursement is in the national security interest of the United States.

(e) LOGISTIC SUPPORT, SUPPLIES, AND SERVICES DEFINED.—In this section, the term "logistic support, supplies, and services" has the meaning given that term in section 2350 of this title.

(Added Pub. L. 115–232, div. A, title XII, §1207(a), Aug. 13, 2018, 132 Stat. 2019.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 351 was renumbered section 261 of this title.

## §352. Naval Small Craft Instruction and Technical Training School

(a) IN GENERAL.—The Secretary of Defense shall operate an education and training facility known as the "Naval Small Craft Instruction and Technical Training School" (in this section referred to as the "School").

(b) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of a military department as the Department of Defense executive agent for carrying out the responsibilities of the Secretary of Defense under this section.

(c) PURPOSE.—The purpose of the School shall be to provide to the military and other security forces of one or more friendly foreign countries education and training under any other provision of

law related to naval small craft instruction and training and to increase professionalism, readiness, and respect for human rights through formal courses of instruction or mobile training teams for—

(1) the operation, employment, maintenance, and logistics of specialized equipment;

(2) participation in—

(A) joint exercises; or

(B) coalition or international military operations; and

(3) improved interoperability between—

(A) the armed forces; and

(B) the military and other security forces of the one or more friendly foreign countries.

(d) LIMITATION ON PERSONNEL ELIGIBLE TO RECEIVE EDUCATION AND TRAINING .—The Secretary of Defense may not provide education or training at the School to any personnel of a country that is prohibited from receiving such education or training under any other provision of law.

(e) COSTS.—(1) The fixed costs of the School may be paid from amounts made available for the Navy as follows:

(A) The costs of operating and maintaining the School may be paid from amounts made available to the Navy for operation and maintenance.

(B) The costs of the equipment requirements of the School may be paid from amounts made available to the Navy for procurement.

(C) The costs of the facilities construction requirements of the School may be paid from amounts made available to the Navy for military construction.

(2) The food procurement and service costs of the School that may be paid from amounts made available to the Navy for operation and maintenance are as follows:

(A) The costs of providing food services to personnel, visitors, and international students at the School.

(B) The costs of operating, maintaining, and sustaining a dining facility or contracted food services at the School.

(3) Tuition fees charged for personnel who attend the School may not include any amount for the fixed costs of operating and maintaining the School.

(f) ANNUAL REPORT.—Not later than March 15 each year, the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to the appropriate congressional committees a detailed report on the activities and operating costs of the School during the preceding fiscal year.

(Added Pub. L. 115–232, div. A, title XII, §1208(a)(1), Aug. 13, 2018, 132 Stat. 2021; amended Pub. L. 118–159, div. A, title XII, §1202(a), Dec. 23, 2024, 138 Stat. 2093; Pub. L. 119–60, div. A, title XII, §1205, Dec. 18, 2025, 139 Stat. 1081.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1205(1), substituted "shall" for "may".

Subsec. (e)(3). Pub. L. 119–60, §1205(2), added par. (3).

**2024**—Subsec. (e). Pub. L. 118–159 amended subsec. (e) generally. Prior to amendment, text read as follows: "The fixed costs of operation and maintenance of the School in a fiscal year may be paid from amounts made available for such fiscal year for operation and maintenance of the Department of Defense."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### UPDATES REQUIRED

Pub. L. 118–159, div. A, title XII, §1202(b), Dec. 23, 2024, 138 Stat. 2093, provided that: "Not later than

90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall update the Security Assistance Management Manual (DSCA 5105.38–M) and volume 15 of the Department of Defense Financial Management Regulation (DoD 7000.14–R) in accordance with the amendment made by this section [amending this section]."

**LIMITATION ON USE OF FUNDS**

Pub. L. 115–232, div. A, title XII, §1208(c), Aug. 13, 2018, 132 Stat. 2022, provided that:

"(1) IN GENERAL.—Nothing in section 352 of title 10, United States Code (as so added), may be construed as authorizing the use of funds appropriated for the Department of Defense for any purpose described in paragraph (2) unless specifically authorized by an Act of Congress other than that section or this Act [see Tables for classification].

"(2) PURPOSES.—The purposes described in this paragraph are the following:

"(A) The operation of a facility other than the Naval Small Craft Instruction and Technical Training School that is in operation as of the date of the enactment of this Act [Aug. 13, 2018] for the provision of education and training authorized to be provided by the School.

"(B) The construction or expansion of any facility of the School."

## SUBCHAPTER VI—LIMITATIONS ON USE OF DEPARTMENT OF DEFENSE FUNDS

Sec.
361. Prohibition on providing financial assistance to terrorist countries.
362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights.

### §361. Prohibition on providing financial assistance to terrorist countries

(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) [1] of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A));

(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

(3) any other country that, as determined by the President—

(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

(B) otherwise supports international terrorism.

(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

(A) that it is in the national security interests of the United States to do so; or

(B) that the waiver should be granted for humanitarian reasons.

(2) The President shall—

(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

(B) publish a notice of the waiver in the Federal Register.

(c) DEFINITION.—In this section, the term "international terrorism" has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).

(Added Pub. L. 104–106, div. A, title XIII, §1341(a), Feb. 10, 1996, 110 Stat. 485, §2249a; amended Pub. L. 105–85, div. A, title X, §1073(a)(40), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §361 and amended Pub. L. 114–328, div. A, title X, §1081(b)(3)(B), title XII, §1241(l)(1), Dec. 23, 2016, 130 Stat. 2418, 2509.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)), referred to in subsec. (a)(1), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. For similar provisions, see section 4813(c)(1)(A)(i) of Title 50, War and National Defense, as enacted by Pub. L. 115–232.

### AMENDMENTS

**2016**—Pub. L. 114–328, §1241(l)(1), renumbered section 2249a of this title as this section.

Subsec. (a)(1). Pub. L. 114–328, §1081(b)(3)(B), substituted "(50 U.S.C. 4605(j)(1)(A))" for "(50 U.S.C. App. 2405(j)(1)(A))".

**1999**—Subsec. (b)(2)(A). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1997**—Subsec. (a)(1). Pub. L. 105–85 substituted "50 U.S.C. App. 2405(j)(1)(A)" for "50 App. 2405(j)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

[1] *See References in Text note below.*

## §362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights

(a) IN GENERAL.—(1) Of the amounts made available to the Department of Defense, none may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.

(2) The Secretary of Defense shall, in consultation with the Secretary of State, ensure that prior to a decision to provide any training, equipment, or other assistance to a unit of a foreign security force full consideration is given to any credible information available to the Department of State relating to human rights violations by such unit.

(b) EXCEPTION.—The prohibition in subsection (a)(1) shall not apply if the Secretary of Defense, after consultation with the Secretary of State, determines that the government of such country has taken all necessary corrective steps, or if the equipment or other assistance is necessary to assist in disaster relief operations or other humanitarian or national security emergencies.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a)(1) if the Secretary determines that the waiver is required by extraordinary circumstances.

(d) PROCEDURES.—The Secretary of Defense shall establish, and periodically update, procedures to ensure that any information in the possession of the Department of Defense about gross violations of human rights by units of foreign security forces is shared on a timely basis with the Department of State.

(e) REPORT.—Not later than 15 days after the application of any exception under subsection (b) or the exercise of any waiver under subsection (c), the Secretary of Defense shall submit to the

appropriate committees of Congress a report—

(1) in the case of an exception under subsection (b), providing notice of the use of the exception and stating the grounds for the exception; and

(2) in the case of a waiver under subsection (c), describing—

(A) the information relating to the gross violation of human rights;

(B) the extraordinary circumstances that necessitate the waiver;

(C) the purpose and duration of the training, equipment, or other assistance; and

(D) the United States forces and the foreign security force unit involved.

(Added Pub. L. 113–291, div. A, title XII, §1204(a)(1), Dec. 19, 2014, 128 Stat. 3531, §2249e; renumbered §362 and amended Pub. L. 114–328, div. A, title XII, §1241(l), Dec. 23, 2016, 130 Stat. 2509.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, §1241(l)(1), renumbered section 2249e of this title as this section.

Subsec. (f). Pub. L. 114–328, §1241(l)(2), struck out subsec. (f) which defined "appropriate committees of Congress" for this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PLAN TO PROVIDE CONSISTENCY OF ADMINISTRATION OF AUTHORITIES RELATING TO VETTING OF UNITS OF SECURITY FORCES OF FOREIGN COUNTRIES; MODIFICATION OF ASSESSMENT, MONITORING, AND EVALUATION OF SECURITY COOPERATION PROGRAMS AND ACTIVITIES

Pub. L. 116–92, div. A, title XII, §1206, Dec. 20, 2019, 133 Stat. 1622, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense and Secretary of State shall jointly develop, implement, and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a plan to provide consistency in administration of section 362 of title 10, United States Code, and section 620M of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d).

"(b) MATTERS TO BE INCLUDED.—The plan required by subsection (a) shall contain the following:

"(1) Common standards and procedures which shall be used by the Department of Defense and Department of State to obtain and verify information regarding the vetting of units of the security forces of foreign countries for gross violation of human rights under the authorities described in subsection (a), including—

"(A) public guidelines for external sources to report information; and

"(B) methods and criteria employed by the Department of Defense and Department of State to determine whether sources, source reporting, and allegations are credible.

"(2) Measures to ensure the Department of Defense has read-only access to the International Vetting and Security Tracking (INVEST) system, and any successor or equivalent system.

"(3) Measures to ensure the authorities described in subsection (a) are applied to any foreign forces, irregular forces, groups, and individuals that receive training, equipment, or other assistance from the United States military.

"(c) FORM.—The plan required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

"(d) INTEGRATION OF HUMAN RIGHTS AND CIVILIAN PROTECTION INTO ASSESSMENT, MONITORING, AND EVALUATION OF SECURITY COOPERATION PROGRAMS AND ACTIVITIES.—

"(1) REPORTS REQUIRED.—The Secretary of Defense shall submit to the appropriate congressional committees an interim report and a final report on the steps the Secretary will take to incorporate partner units' activities, as such activities relate to human rights and protection of civilians, into the program elements described in section 383(b)(1) of title 10, United States Code.

"(2) DEADLINES.—

"(A) INTERIM REPORT.—The interim report required under paragraph (1) shall be submitted to

the appropriate congressional committees not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019] and shall include a summary of the progress of the Secretary in implementing the steps described in such paragraph.

"(B) FINAL REPORT.—The final report required under paragraph (1) shall be submitted to the appropriate congressional committees not later than one year after the date of enactment of this Act and shall specifically identify the actions the Secretary took to implement the steps described in paragraph (1).

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the following:

"(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

"(B) The Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

**HUMAN RIGHTS VETTING OF AFGHAN NATIONAL DEFENSE AND SECURITY FORCES**

Pub. L. 115–91, div. A, title XII, §1216, Dec. 12, 2017, 131 Stat. 1650, provided that: "The Secretary of Defense may establish within the Department of Defense one or more permanent positions to oversee and support, in coordination with the Department of State, the implementation of section 362 of title 10, United States Code, with respect to the Afghan National Defense and Security Forces."

**ANNUAL REPORTS**

Pub. L. 113–291, div. A, title XII, §1204(b), Dec. 19, 2014, 128 Stat. 3533, as amended by Pub. L. 115–232, div. A, title XII, §1204(c)(2), Aug. 13, 2018, 132 Stat. 2017, provided that:

"(1) IN GENERAL.—Not later than March 31, 2015, and every March 31 thereafter through 2024, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth for the preceding fiscal year the following:

"(A) The total number of cases submitted for vetting for purposes of section 362 of title 10, United States Code (as added by subsection (a)), and the total number of such cases approved, or suspended or rejected for human rights reasons, non-human rights reasons, or administrative reasons.

"(B) In the case of units rejected for non-human rights reasons, a detailed description of the reasons relating to the rejection.

"(C) A description of the interagency processes that were used to evaluate compliance with requirements to conduct vetting.

"(D) An addendum that includes any comments by the commanders of the combatant commands about the impact of section 362 of title 10, United States Code (as so added), on their theater security cooperation plan.

"(E) Such other matters with respect to the administration of section 362 of title 10, United States Code (as so added), as the Secretary considers appropriate.

"(2) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

"(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' has the meaning given that term in section 301(1) of title 10, United States Code."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1204(b) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## [§371. Renumbered §271]

## [§372. Renumbered §272]

## [§373. Renumbered §273]

## [§374. Renumbered §274]

## [§375. Renumbered §275]

## [§376. Renumbered §276]

## [§377. Renumbered §277]

## [§378. Renumbered §278]

## [§379. Renumbered §279]

## [§380. Renumbered §280]

## SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS MATTERS

Sec.
381. Consolidated budget.
382. Execution and administration of programs and activities.
383. Assessment, monitoring, and evaluation of programs and activities.
384. Department of Defense security cooperation workforce development.
385. Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives.
386. Annual report.

## §381. Consolidated budget

(a) CONSOLIDATED BUDGET.—The budget of the President for each fiscal year, as submitted to Congress by the President pursuant to section 1105 of title 31, shall set forth by budget function and as a separate item the amounts requested for the Department of Defense for such fiscal year for all security cooperation programs and activities of the Department of Defense, including the military departments, to be conducted in such fiscal year, including the specific country or region and the applicable authority, to the extent practicable.

(b) SEMIANNUAL REPORT ON USE OF FUNDS.—The Secretary shall submit to the appropriate committees of Congress a report on the obligation and expenditure of funds for security cooperation programs and activities of the Department of Defense—

(1) by not later than August 31 of each year, for the first six-month period of that year; and

(2) by not later than February 28 of each year, for the second six-month period of the preceding year.

(Added Pub. L. 114–328, div. A, title XII, §1249(a), Dec. 23, 2016, 130 Stat. 2526; amended Pub. L. 116–92, div. A, title XII, §1204, Dec. 20, 2019, 133 Stat. 1622; Pub. L. 118–31, div. A, title X, §1061(a), Dec. 22, 2023, 137 Stat. 398; Pub. L. 118–159, div. A, title XVII, §1701(a)(6), Dec. 23, 2024, 138 Stat. 2203.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 381 was renumbered section 281 of this title.

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 substituted "Defense—" for "Defense—." in introductory provisions.

**2023**—Subsec. (b). Pub. L. 118–31, in heading, substituted "Semiannual Report" for "Quarterly Report", and, in text, substituted "The" for "Not later than 60 days after the end of each calendar quarter, the" and "Defense—" for "Defense during such calendar quarter" and added pars. (1) and (2).

**2019**—Subsec. (b). Pub. L. 116–92 substituted "60 days" for "30 days".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE; APPLICABILITY**

Pub. L. 114–328, div. A, title XII, §1249(b), Dec. 23, 2016, 130 Stat. 2526, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply as follows:

"(1) Subsection (a) of section 381 of title 10, United States Code, as added by subsection (a), shall apply to budgets submitted to Congress by the President pursuant to section 1105 of title 31, United States Code, for each fiscal year after fiscal year 2018.

"(2) Subsection (b) of such section 381, as so added, shall apply to calendar quarters beginning on or after the date of the enactment of this Act."

## §382. Execution and administration of programs and activities

(a) POLICY OVERSIGHT AND RESOURCE ALLOCATION.—The Secretary of Defense shall assign responsibility for the oversight of strategic policy and guidance and responsibility for overall resource allocation for security cooperation programs and activities of the Department of Defense to a single official and office in the Office of the Secretary of Defense at the level of Under Secretary of Defense or below.

(b) EXECUTION AND ADMINISTRATION OF CERTAIN PROGRAMS AND ACTIVITIES.—

(1) IN GENERAL.—The Director of the Defense Security Cooperation Agency shall be responsible for the execution and administration of all security cooperation programs and activities of the Department of Defense involving the provision of defense articles, military training, and other defense-related services by grant, loan, cash sale, or lease.

(2) DESIGNATION OF RESPONSIBILITY.—The Director may designate an element of an armed force, combatant command, Defense Agency, Department of Defense Field Activity, or other element or organization of the Department of Defense to execute and administer security cooperation programs and activities described in paragraph (1) if the Director determines that the designation will achieve maximum effectiveness, efficiency, and economy in the activities for which designated.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to implement security cooperation programs and activities of the Department of Defense authorized by this chapter.

(2) BUDGET JUSTIFICATION.—Funds necessary for implementing security cooperation programs and activities of the Department of Defense under this chapter for a fiscal year shall be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(Added Pub. L. 114–328, div. A, title XII, §1241(m), Dec. 23, 2016, 130 Stat. 2509.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 382 was renumbered section 282 of this title.

## §383. Assessment, monitoring, and evaluation of programs and activities

(a) PROGRAM REQUIRED.—The Secretary of Defense shall maintain a program of assessment, monitoring, and evaluation in support of the security cooperation programs and activities of the Department of Defense.

(b) PROGRAM ELEMENTS AND REQUIREMENTS.—

(1) ELEMENTS.—The program under subsection (a) shall provide for the following:

(A) Initial assessments of partner capability requirements, potential programmatic risks, baseline information, and indicators of efficacy for purposes of planning, monitoring, and evaluation of security cooperation programs and activities of the Department of Defense.

(B) Monitoring of implementation of such programs and activities in order to measure progress in execution and, to the extent possible, achievement of desired outcomes.

(C) Evaluation of the efficiency and effectiveness of such programs and activities in achieving desired outcomes.

(D) Identification of lessons learned in carrying out such programs and activities, and development of recommendation for improving future security cooperation programs and activities of the Department of Defense.

(E) Incorporation of lessons learned from prior security cooperation programs and activities of the Department of Defense that were carried out any time on or after September 11, 2001.

(2) BEST PRACTICES.—The program shall be conducted in accordance with international best practices, interagency standards, and, if applicable, the Government Performance and Results Act of 1993 (Public Law 103–62), and the amendments made by that Act, and the GPRA Modernization Act of 2010 (Public Law 111–352), and the amendments made by that Act.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to carry out the program required by subsection (a).

(2) BUDGET JUSTIFICATION.—Funds described in paragraph (1) for a fiscal year shall be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(d) REPORTS.—

(1) REPORTS TO CONGRESS.—The Secretary shall submit to the congressional defense committees each year a report on the program under subsection (a) during the previous year. Each report shall include, for the year covered by such report, the following:

(A) A description of the activities under the program.

(B) An evaluation of the lessons learned, including a description of challenges in executing the program, and best practices identified through activities under the program.

(2) INFORMATION FOR THE PUBLIC ON EVALUATIONS.—The Secretary shall make available to the public, on an Internet website of the Department of Defense available to the public, a summary of each evaluation conducted pursuant to subsection (b)(1)(C). In making a summary so available, the Secretary may redact or omit any information that the Secretary determines should not be disclosed to the public in order to protect the interest of the United States or the foreign country or countries covered by such evaluation.

(Added Pub. L. 114–328, div. A, title XII, §1241(m), Dec. 23, 2016, 130 Stat. 2510; amended Pub. L. 115–232, div. A, title XII, §1211(c), Aug. 13, 2018, 132 Stat. 2024; Pub. L. 118–159, div. A, title XII, §1203, Dec. 23, 2024, 138 Stat. 2094.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Government Performance and Results Act of 1993, referred to in subsec. (b)(2), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The GPRA Modernization Act of 2010, referred to in subsec. (b)(2), is Pub. L. 111–352, Jan. 4, 2011, 124 Stat. 3866, which enacted sections 1115, 1116, and 1120 to 1125 of Title 31, Money and Finance, and section 306 of Title 5, Government Organization and Employees, amended section 1105 of Title 31, repealed sections 1115 and 1116 of Title 31 and section 306 of Title 5, and enacted provisions set out as notes under section 1115 of Title 31 and section 5105 of Title 5. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1101 of Title 31 and Tables.

**PRIOR PROVISIONS**

A prior section 383 was renumbered section 283 of this title.

**AMENDMENTS**

**2024**—Subsec. (d)(1)(B). Pub. L. 118–159 inserted ", including a description of challenges in executing the program," after "lessons learned".

**2018**—Subsec. (b)(1)(E). Pub. L. 115–232 added subpar. (E).

## §384. Department of Defense security cooperation workforce development

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to be known as the "Department of Defense Security Cooperation Workforce Development Program" (in this section referred to as the "Program") to oversee the development and management of a professional workforce supporting security cooperation programs and activities of the Department of Defense, including—

(1) assessment, planning, monitoring, execution, evaluation, and administration of such programs and activities under this chapter; and

(2) execution of security assistance programs and activities under the Foreign Assistance Act of 1961 and the Arms Export Control Act by the Department of Defense.

(b) PURPOSE.—The purpose of the Program is to improve the quality and professionalism of the security cooperation workforce in order to ensure that the workforce—

(1) has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate support to the assessment, planning, monitoring, execution, evaluation, and administration of security cooperation programs and activities described in subsection (a), and ensure that the Department receives the best value for the expenditure of public resources on such programs and activities; and

(2) is assigned in a manner that ensures personnel with the appropriate level of expertise and experience are assigned in sufficient numbers to fulfill requirements for the security cooperation programs and activities of the Department of Defense and the execution of security assistance programs and activities described in subsection (a)(2).

(c) ELEMENTS.—The Program shall consist of elements relating to the development and management of the security cooperation workforce for the purposes specified in subsection (b),

including the following elements on training, certification, assignment, career development, and tracking of personnel of the security cooperation workforce:

(1) Establishment of a comprehensive system to track and account for all Department of Defense personnel in the security cooperation workforce, using systems of record in the military departments, the Office of the Secretary of Defense, the combatant commands, Defense Agencies, Department of Defense Field Activities, and the National Guard.

(2) Establishment of a management information system, pursuant to regulations prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Policy and the Director of the Defense Security Cooperation Agency, to ensure that all organizations and elements of the Department provide standardized information and data to the Secretary on persons serving in security cooperation positions. Such management information system shall, at a minimum, provide for the collection and retention of information concerning the qualification, assignments, and tenure of persons in the security cooperation workforce.

(3) Implementation and management of the security cooperation human capital initiative under subsection (e).

(4) Establishment of a defense security cooperation service, pursuant to regulations prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Policy and the Director of the Defense Security Cooperation Agency, to ensure that security cooperation organizations of the United States located at overseas missions possess the requisite personnel, and that such personnel possess the skills needed, to properly perform their missions, which shall include—

(A) members of the armed forces and civilians assigned to security cooperation organizations of United States missions overseas who are performing security cooperation functions, regardless of funding source; and

(B) personnel of the Department of Defense performing functions in furtherance of section 515 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i).

(5) Such other elements as the Secretary of Defense determines appropriate.

(d) MANAGEMENT.—

(1) IN GENERAL.—The Program shall be managed by the Director of the Defense Security Cooperation Agency.

(2) MANAGING ENTITY.—

(A) DESIGNATION.—The Secretary of Defense, acting through the Under Secretary of Defense for Policy and the Director of the Defense Security Cooperation Agency, shall designate the Defense Security Cooperation University to serve as the lead entity for managing the implementation of the Program.

(B) DUTIES.—The Defense Security Cooperation University shall carry out the management and implementation of the Program, consistent with objectives formulated by the Secretary of Defense, which shall include the following:

(i) Providing for comprehensive tracking of and accounting for all Department of Defense employees engaged in the security cooperation enterprise.

(ii) Providing training requirements specified at the requisite proficiency levels for each position.

(C) REPORTING.—The Secretary of Defense shall ensure that, not less frequently than semi-annually, each military department, the Office of the Secretary of Defense, and each combatant command, Defense Agency, Department of Defense Field Activity, and unit of the National Guard submits to the Defense Security Cooperation University a formal manpower document as determined by the Director of the Defense Security Cooperation Agency that—

(i) lists each position in the security cooperation workforce of the organization concerned as determined by the Director of the Defense Security Cooperation Agency; and

(ii) uniquely codes every position within component manpower systems for the security

cooperation workforce for the management and career development of the security cooperation workforce, as determined by the Director of the Defense Security Cooperation Agency.

(3) SECURITY COOPERATION WORKFORCE MANAGEMENT INFORMATION SYSTEM.—The Secretary of Defense, acting through the Director of the Defense Security Cooperation Agency, shall prescribe regulations to ensure that each military department, the Office of the Secretary of Defense, and each combatant command, Defense Agency, Department of Defense Field Activity, and unit of the National Guard provides standardized information and data to the Secretary on persons serving in positions within the security cooperation workforce.

(e) SECURITY COOPERATION HUMAN CAPITAL INITIATIVE.—

(1) IN GENERAL.—The Secretary shall implement a security cooperation human capital initiative within the Defense Security Cooperation University to identify, account for, and manage the career progression of personnel in the security cooperation workforce.

(2) ELEMENTS.—The security cooperation human capital initiative shall do the following:

(A) Provide direction to the Department of Defense on the establishment of professional career paths for the personnel of the security cooperation workforce, addressing training and education standards, promotion opportunities and requirements, retention policies, and scope of workforce demands.

(B) Provide for a mechanism to identify and define training and certification requirements for security cooperation positions in the Department and a means to track workforce skills and certifications.

(C) Provide for a mechanism to establish a program of professional certification in Department of Defense security cooperation for personnel of the security cooperation workforce in different career tracks and levels of competency based on requisite training and experience.

(D) Establish requirements for training and professional development associated with each level of certification provided for under subparagraph (C).

(E) Provide for a mechanism for assigning appropriately certified personnel of the security cooperation workforce to assignments associated with key positions in connection with security cooperation programs and activities.

(F) Identify the appropriate composition of career and temporary personnel necessary to constitute the security cooperation workforce.

(G) Identify specific positions throughout the security cooperation workforce to be managed and assigned through the Program.

(H) Identify career paths that provide a competency-based road map for security cooperation employees to aid in their career planning and professional development.

(I) Develop a competency-based approach to the security cooperation workforce that enables components of the Department of Defense to incorporate competencies in recruitment and retention tools such as job analysis, position descriptions, vacancy announcements, selection assessment questionnaires, and employee training and development plans.

(J) Align with the Department of Defense and Defense Security Cooperation Agency strategic planning, budget process, performance management goals, and metrics to ensure the appropriate workforce mix and skill sets to accomplish the security cooperation mission.

(K) Include assessment measures intended to assess progress in implementing the security cooperation workforce using results-oriented performance measures.

(f) FOREIGN MILITARY SALES CENTER OF EXCELLENCE.—

(1) ESTABLISHMENT.—The Secretary of Defense shall direct an educational institution of the Department of Defense with the requisite expertise in foreign military sales and in education, training, research, and analysis of the security cooperation workforce within the Department of Defense to serve as a Foreign Military Sales Center of Excellence to improve the training and education of personnel engaged in foreign military sales planning and execution.

(2) OBJECTIVES.—The objectives of the Foreign Military Sales Center of Excellence shall include—

(A) conducting research on and promoting best practices for ensuring that foreign military sales are timely and effective; and

(B) enhancing existing curricula for the purpose of ensuring that the foreign military sales workforce is fully trained and prepared to execute the foreign military sales program.

(g) DEFENSE SECURITY COOPERATION UNIVERSITY.—

(1) CHARTER.—The Secretary of Defense shall develop and promulgate a charter for the operation of the Defense Security Cooperation University.

(2) MISSION.—The charter required by paragraph (1) shall set forth the mission, and associated structures and organizations, of the Defense Security Cooperation University, which shall include—

(A) management and implementation of international military training and education security cooperation programs and authorities executed by the Department of Defense;

(B) management and provision of institutional capacity-building services executed by the Department of Defense; and

(C) advancement of the profession of security cooperation through research, data collection, analysis, publication, and learning.

(3) COOPERATIVE RESEARCH AND DEVELOPMENT ARRANGEMENTS.—

(A) IN GENERAL.—In engaging in research and development projects pursuant to subsection (a) of section 4001 of this title by a contract, cooperative agreement, or grant pursuant to subsection (b)(1) of such section, the Secretary of Defense may enter into such contract or cooperative agreement, or award such grant, through the Defense Security Cooperation University.

(B) TREATMENT AS GOVERNMENT-OPERATED FEDERAL LABORATORY.—The Defense Security Cooperation University shall be considered a Government-operated Federal laboratory for purposes of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(4) ACCEPTANCE OF RESEARCH GRANTS.—

(A) IN GENERAL.—The Secretary of Defense, through the Under Secretary of Defense for Policy, may authorize the President of the Defense Security Cooperation University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Defense Security Cooperation University for a scientific, literary, or educational purpose.

(B) QUALIFYING GRANTS.—A qualifying research grant under this paragraph is a grant that is awarded on a competitive basis by an entity described in subparagraph (C) for a research project with a scientific, literary, or educational purpose.

(C) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this paragraph only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(D) ADMINISTRATION OF GRANT FUNDS.—The Director of the Defense Security Cooperation Agency shall establish an account for administering funds received as research grants under this section. The President of the Defense Security Cooperation University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(E) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Defense Security Cooperation University may be used to pay expenses incurred by the Defense Security Cooperation University in applying for, and otherwise pursuing, the award of qualifying research grants.

(F) REGULATIONS.—The Secretary of Defense, through the Under Secretary of Defense for Policy, shall prescribe regulations for the administration of this subsection.

(h) SOURCE OF FUNDS.—

(1) IN GENERAL.—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to carry out the Program.

(2) BUDGET JUSTIFICATION.—Funds necessary to carry out the Program as described in paragraph (1) for a fiscal year shall be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(i) USE OF FUNDS.—Amounts available for use for the Program may be transferred to any account of the military departments or the Defense Agencies for purposes of the Program.

(j) SECURITY COOPERATION WORKFORCE DEFINED.—In this section, the term "security cooperation workforce" means the following:

(1) Members of the armed forces and civilian employees of the Department of Defense working in the security cooperation organizations of United States missions overseas.

(2) Members of the armed forces and civilian employees of the Department of Defense in the geographic combatant commands and functional combatant commands responsible for planning, monitoring, or conducting security cooperation activities.

(3) Members of the armed forces and civilian employees of the Department of Defense in the military departments performing security cooperation activities, including activities in connection with the acquisition and development of technology release policies.

(4) Other military and civilian personnel of Defense Agencies and Field Activities who perform security cooperation activities.

(5) Personnel of the Department of Defense who perform assessments, monitoring, or evaluations of security cooperation programs and activities of the Department of Defense, including assessments under section 383 of this title.

(6) Other members of the armed forces or civilian employees of the Department of Defense who contribute significantly to the security cooperation programs and activities of the Department of Defense by virtue of their assigned duties, as determined pursuant to the security cooperation human capital initiative under subsection (e).

(k) REPORT ON SECURITY COOPERATION WORKFORCE.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this subsection, and not less frequently than once every 2 years thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Department of Defense security cooperation workforce.

(2) ELEMENTS.—Each report under paragraph (1) shall—

(A) identify current and projected security cooperation workforce manpower requirements, including expeditionary requirements within the context of total force planning, needed to meet the security cooperation mission;

(B) identify critical skill gaps (such as recruitment in the existing or projected workforce) and development of strategies to manage the security cooperation workforce to address those gaps;

(C) address development, validation, implementation, and assessment of security cooperation workforce and Department-wide competencies for security cooperation and associated occupational series using the Department taxonomy;

(D) produce a comparison between competency proficiency levels against target proficiency levels at enterprise and individual levels to identify competency gaps and gap closure strategies, for competencies needed at the time of the report and in the future;

(E) identify any exceptions and waivers granted with respect to the application of qualification, assignment, and tenure policies, procedures, and practices to persons, billets or positions;

(F) indicate relative promotion rates for security cooperation workforce personnel;

(G) identify the funds requested or allocated for the Department of Defense security cooperation workforce and address whether such funds are sufficient to—

(i) address the critical skill gaps identified pursuant to subparagraph (B); and

(ii) provide incentives to recruit and retain high-quality personnel in the security cooperation workforce; and

(H) include any other matters the Secretary of Defense determines appropriate.

(l) COMPTROLLER GENERAL EVALUATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of this section.

(2) REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation conducted under paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of this section; and

(B) such legislative and administrative recommendations as the Comptroller General considers appropriate to meet the objectives of this section.

(Added Pub. L. 114–328, div. A, title XII, §1250(a), Dec. 23, 2016, 130 Stat. 2526; amended Pub. L. 118–31, div. A, title XII, §1204(a), Dec. 22, 2023, 137 Stat. 442.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (e)(1), (2), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

The date of the enactment of this subsection, referred to in subsecs. (k)(1) and (l)(2), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### PRIOR PROVISIONS

A prior section 384 was renumbered section 284 of this title.

### AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31, §1204(a)(1), amended subsec. (c) generally. Prior to amendment, text read as follows: "The Program shall consist of such elements relating to the development and management of the security cooperation workforce as the Secretary considers appropriate for the purposes specified in subsection (b), including elements on training, certification, assignment, and career development of personnel of the security cooperation workforce."

Subsec. (d). Pub. L. 118–31, §1204(a)(2), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Program shall be managed by the Director of the Defense Security Cooperation Agency."

Subsec. (e). Pub. L. 118–31, §1204(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to guidance for the execution and administration of the Department of Defense Security Cooperation Workforce Development Program.

Subsecs. (f) to (h). Pub. L. 118–31, §1204(a)(5), (6), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h). Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (h)(6). Pub. L. 118–31, §1204(a)(4), substituted "security cooperation human capital initiative under subsection (e)" for "guidance issued under subsection (e)".

Subsecs. (i), (j). Pub. L. 118–31, §1204(a)(5), redesignated subsecs. (g) and (h) as (i) and (j), respectively.

Subsecs. (k), (l). Pub. L. 118–31, §1204(a)(7), added subsecs. (k) and (l).

## §385. Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives

(a) SUPPORT AUTHORIZED.—Subject to subsection (c), the Secretary of Defense is authorized to support other departments and agencies of the United States Government for the purpose of implementing or supporting foreign assistance programs and activities described in subsection (b) that advance security cooperation objectives of the Department of Defense.

(b) FOREIGN ASSISTANCE PROGRAMS AND ACTIVITIES.—The foreign assistance programs and activities described in this subsection are foreign assistance programs and activities that—

(1) are necessary for the effectiveness of one or more programs of the Department of Defense relating to security cooperation conducted pursuant to an authority in this chapter; and

(2) cannot be carried out by the Department.

(c) ANNUAL LIMITATION ON AMOUNT OF SUPPORT.—The amount of support provided pursuant to subsection (a) in any fiscal year may not exceed $75,000,000.

(d) NOTICE AND WAIT.—If a determination is made to transfer funds in connection with the provision of support pursuant to subsection (a) for a program or activity, the transfer may not occur until—

(1) the Secretary and the head of the department or agency to receive the funds jointly submit to the congressional defense committees a notice on the transfer, which notice shall include—

(A) a detailed description of the purpose and estimated cost of such program or activity;

(B) a detailed description of the security cooperation objectives of the Department, including the theater campaign plan of the combatant command concerned, that will be advanced;

(C) a justification why such program or activity will advance such objectives;

(D) a justification why such program or activity cannot be carried out by the Department;

(E) an identification of any funds programmed or obligated by the department or agency other than the Department on such program or activity; and

(F) a timeline for the provision of such support; and

(2) a period of 30 days elapses after the date of the submittal of the notice pursuant to paragraph (1).

(Added Pub. L. 114–328, div. A, title XII, §1241(m), Dec. 23, 2016, 130 Stat. 2511; amended Pub. L. 115–232, div. A, title XII, §1204(c)(1)(E), Aug. 13, 2018, 132 Stat. 2017.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (d)(1)(B). Pub. L. 115–232 substituted "including" for "include".

## §386. Annual report

(a) ANNUAL REPORT REQUIRED.—Not later than March 31 of each year, the Secretary of Defense shall submit to the appropriate congressional committees a report that sets forth, on a

country-by-country basis, an overview of security cooperation activities carried out by the Department of Defense during the fiscal year in which such report is submitted, using the authorities specified in subsection (b).

(b) ELEMENTS OF REPORT.—Each report required under subsection (a) shall include, with respect to each country and for the entirety of the period covered by such report, the following:

(1) A narrative summary that provides—

(A) a brief overview of the primary security cooperation objectives for the activities encompassed by the report; and

(B) a description of how such activities advance the theater security cooperation strategy of the relevant geographic combatant command.

(2) A table that includes an aggregated amount with respect to each of the following:

(A) With respect to section 331 of this title, the value of all logistic support, supplies, and services for which notice is required by such section.

(B) With respect to amounts made available for section 332(a) of this title, the Department of Defense cost to provide any Department personnel as advisors to a ministry of defense.

(C) With respect to amounts made available for section 332(b) of this title, the Department of Defense incremental execution costs to conduct activities under such section.

(D) With respect to section 333 of this title, the value of all programs for which notice is required by such section.

(E) With respect to section 335 of this title, the total Department of Defense costs to fund expenses to attend training provided by the Government of Colombia that began during the period of the report.

(F) With respect to amounts made available for section 341 of this title, the Department of Defense manpower and travel costs to conduct bilateral state partnership program engagements with the partner country.

(G) With respect to amounts made available for section 342 of this title, the Department of Defense-funded, foreign-partner travel costs to attend a regional center activity that began during the period of the report.

(H) With respect to amounts made available for section 345 of this title, the estimated Department of Defense execution cost to complete all training that began during the period of the report.

(I) With respect to amounts made available for section 2561 of this title, the planned execution cost of completing humanitarian assistance activities for the partner country that were approved for the period of the report.

(3) A table that includes aggregated totals for each of the following:

(A) Pursuant to section 311 of this title, the number of personnel from a partner country assigned to a Department of Defense organization.

(B) The number of new programs carried out during the period of the report that required notice under section 331 of this title.

(C) Pursuant to section 332(a) of this title, the number of Department of Defense personnel assigned as advisors to a ministry of defense.

(D) Pursuant to section 332(b) of this title, the number of activities conducted by the Department of Defense.

(E) The number of new programs carried out during the period of the report that required notice under section 333 of this title.

(F) With respect to section 335 of this title, the number of partner country officials who participated in training provided by the Government of Colombia that began during the period of the report.

(G) With respect to section 341 of this title, the number of Department of Defense bilateral state partnership program engagements with the partner country that began during the period of the report.

(H) With respect to section 342 of this title, the number of partner country officials who participated in regional center activity that began during the period of the report.

(I) Pursuant to the authorities under sections 343, 345, 348, 349, 350 and 352 of this title, the total number of partner country personnel who began training during the period of the report.

(J) Pursuant to section 347 of this title, the number of cadets from the partner country that were enrolled in the Service Academies during the period of the report.

(K) Pursuant to amounts made available to carry out section 2561 of this title, the number of new humanitarian assistance projects funded through the Overseas Humanitarian Disaster and Civic Aid account that were approved during the period of the required report.

(4) A table that includes the following:

(A) For each person from the partner country assigned to a Department of Defense organization pursuant to section 311 of this title—

(i) whether the person is a member of the armed forces or a civilian;

(ii) the rank of the person (if applicable); and

(iii) the component of the Department of Defense and location to which such person is assigned.

(B) With respect to each civilian employee of the Department of Defense or member of the armed forces that was assigned, pursuant to section 332(a) of this title, as an advisor to a ministry of defense during the period of the report, a description of the object of the Department of Defense for such support and the name of the ministry or regional organization to which the employee or member was assigned.

(C) With respect to each activity commenced under section 332(b) of this title during the period of the report—

(i) the name of the supported ministry or regional organization;

(ii) the component of the Department of Defense that conducted the activity;

(iii) the duration of the activity; and

(iv) a description of the objective of the activity.

(D) For each program that required notice to Congress under section 333 of this title during the period of the report—

(i) the units of the national security forces of the foreign country to which assistance was provided;

(ii) the type of operation capability assisted;

(iii) a description of the nature of the assistance being provided; and

(iv) the estimated cost included in the notice provided for such assistance.

(E) With respect to each Government of Colombia training activity which included Department of Defense funded participants under section 335 of this title that commenced during the period of the report—

(i) the units of the defense personnel of the friendly foreign country to which the Department of Defense funded assistance was provided;

(ii) the units of the Government of Colombia that conducted the training activity;

(iii) the duration of the training activity provided by the Government of Colombia; and

(iv) a description of the objective of the training activity provided by the Government of Colombia.

(F) With respect to each activity commenced under section 341 of this title during the period of the report—

(i) a description of the activity;

(ii) the duration of the activity;

(iii) the number of participating members of the National Guard; and

(iv) the number of participating personnel of foreign country.

(G) With respect to each activity of a Regional Center for Security Studies commenced under section 342 of this title during the period of the report—

(i) a description of the activity;

(ii) the name of the Regional Center that sponsored the activity;

(iii) the location and duration of the training; and

(iv) the number of officials from the foreign country who participated the activity.

(H) With respect to each training event that commenced under section 343, 345, 348, 349, 350, or 352 of this title during the period of the report—

(i) a description of the training;

(ii) the location and duration of the training; and

(iii) the number of personnel of the foreign country trained.

(I) With respect to each new project approved under section 2561 of this title during the period of the report and funded through the Overseas Humanitarian Disaster and Civic Aid account—

(i) the title of the project;

(ii) a description of the assistance to be provided; and

(iii) the anticipated costs to provide such assistance.

(Added and amended Pub. L. 114–328, div. A, title XII, §§1246(d)(2)(A), 1251(a)–(f), Dec. 23, 2016, 130 Stat. 2521, 2529–2531; Pub. L. 115–232, div. A, title XII, §1204(b)(1)(A), Aug. 13, 2018, 132 Stat. 2017; Pub. L. 117–263, div. A, title XII, §1202(d), Dec. 23, 2022, 136 Stat. 2823; Pub. L. 118–31, div. A, title XVIII, §1801(a)(4), Dec. 22, 2023, 137 Stat. 683; Pub. L. 118–159, div. A, title XII, §1205(b), Dec. 23, 2024, 138 Stat. 2094.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 114–328, was based on text of subsecs. (a) to (e) of section 1211 of Pub. L. 113–291, div. A, title XII, Dec. 19, 2014, 128 Stat. 3544, which was not classified to the Code. Section was subsequently amended generally by Pub. L. 117–263.

### AMENDMENTS

**2024**—Subsec. (b)(2). Pub. L. 118–159, §1205(b)(1), added subpar. (A) and redesignated former subpars. (A) to (H) as (B) to (I), respectively.

Subsec. (b)(3)(B) to (K). Pub. L. 118–159, §1205(b)(2), added subpar. (B) and redesignated former subpars. (B) to (J) as (C) to (K), respectively.

**2023**—Subsec. (b)(2)(E). Pub. L. 118–31, §1801(a)(4)(A), substituted "bilateral" for "bi-lateral".

Subsec. (b)(4)(E)(iii). Pub. L. 118–31, §1801(a)(4)(B)(i), inserted "and" after semicolon at end.

Subsec. (b)(4)(H). Pub. L. 118–31, §1801(a)(4)(B)(ii), substituted "section" for "sections" in introductory provisions.

**2022**—Pub. L. 117–263 amended section generally. Prior to amendment, section related to annual report required by Secretary of Defense to the appropriate congressional committees setting forth a description of each program carried out to provide training, equipment, or other assistance or reimbursement.

**2018**—Subsec. (c)(1). Pub. L. 115–232 substituted "Sections 246, 251, 252, 253, 321," for "Sections 311, 321, 331, 332, 333,".

**2016**—Subsec. (a). Pub. L. 114–328, §1251(b)(6), which directed striking out "under the authorities in subsection (c)" after "submitted", was executed by striking out "under the authorities specified in subsection (c)" after "submitted", to reflect the probable intent of Congress.

Pub. L. 114–328, §1251(b)(1)–(5), in heading, substituted "Annual Report Required" for "Biennial Report Required", and, in text, substituted "Not later than January 31 of each year beginning in 2018, the Secretary of Defense" for "Not later than February 1 of each of 2016, 2018, and 2020, the Secretary of Defense", "appropriate congressional committees" for "congressional defense committees", "assistance" for "security

assistance", and "the fiscal year" for "the two fiscal years" and inserted "under the authorities in subsection (c)" after "Department of Defense".

Subsec. (b)(1). Pub. L. 114–328, §1251(c)(1), inserted ", duration," after "purpose".

Subsec. (b)(2). Pub. L. 114–328, §1251(c)(2), substituted "The cost and expenditures" for "The cost".

Subsec. (b)(4) to (6). Pub. L. 114–328, §1251(c)(3), added pars. (4) to (6).

Subsec. (c)(1). Pub. L. 114–328, §1246(d)(2)(A), which directed amendment of subsec. (c)(1) by inserting "341," after "333,", was executed by making the insertion after "321," to reflect the probable intent of Congress and the intervening amendment by Pub. L. 115–232. See 2018 Amendment note above.

Pub. L. 114–328, §1251(d)(1), added par. (1) and struck out former par. (1) which read as follows: "Section 127d of title 10, United States Code, relating to authority to provide logistic support, supplies, and services to allied forces participating in a combined operation with the Armed Forces."

Subsec. (c)(2), (3). Pub. L. 114–328, §1251(d)(6), substituted "of this title" for "of title 10, United States Code".

Subsec. (c)(4). Pub. L. 114–328, §1251(d)(2), (3), (6), redesignated par. (6) as (4), substituted "of this title" for "of title 10, United States Code", and struck out former par. (4) which read as follows: "Section 2010 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in combined exercises."

Subsec. (c)(5). Pub. L. 114–328, §1251(d)(2), (3), (6), redesignated par. (8) as (5), substituted "of this title" for "of title 10, United States Code", and struck out former par. (5) which read as follows: "Section 2011 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in Joint Combined Exercise Training."

Subsec. (c)(6). Pub. L. 114–328, §1251(d)(3), redesignated par. (9) as (6). Former par. (6) redesignated (4).

Subsec. (c)(7). Pub. L. 114–328, §1251(d)(2), (3), redesignated par. (13) as (7) and struck out former par. (7) which read as follows: "Section 2282 of title 10, United States Code (as added by section 1205 of this Act), relating to authority to build the capacity of foreign military forces, or the predecessor authority to such section in section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456)."

Subsec. (c)(8), (9). Pub. L. 114–328, §1251(d)(3), redesignated pars. (14) and (15) as (8) and (9), respectively. Former pars. (8) and (9) redesignated (5) and (6), respectively.

Subsec. (c)(10). Pub. L. 114–328, §1251(d)(2), (3), redesignated par. (16) as (10) and struck out former par. (10) which read as follows: "Section 1205 of the National Defense Authorization Act for Fiscal Year 2014 (32 U.S.C. 107 note), relating to authority for National Guard State Partnership program."

Subsec. (c)(11), (12). Pub. L. 114–328, §1251(d)(2), (4), added pars. (11) and (12) and struck out former pars. (11) and (12) which read as follows:

"(11) Section 1081 of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 168 note), relating to the Ministry of Defense Advisors program.

"(12) Section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 2151 note), relating to the Global Security Contingency Fund."

Subsec. (c)(13). Pub. L. 114–328, §1251(d)(5), redesignated par. (17) as (13). Former par. (13) redesignated (7).

Subsec. (c)(14) to (16). Pub. L. 114–328, §1251(d)(3), redesignated pars. (14) to (16) as (8) to (10), respectively.

Subsec. (c)(17). Pub. L. 114–328, §1251(d)(5), redesignated par. (17) as (13).

Subsec. (d). Pub. L. 114–328, §1251(e), designated existing provisions as par. (1) and inserted heading, substituted "Except as provided in paragraph (2), if any information" for "If any information", and added par. (2).

Subsec. (e). Pub. L. 114–328, §1251(f), inserted "that may also include other sensitive information" after "annex".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title XII, §1246(d)(2), Dec. 23, 2016, 130 Stat. 2521, provided that the amendment made by section 1246(d)(2)(A) is effective as of January 1, 2020.

### APPLICABILITY OF AMENDMENT TO ANNUAL REPORT REQUIREMENTS

Pub. L. 117–263, div. A, title XII, §1202(e), Dec. 23, 2022, 136 Stat. 2826, provided that: "With respect to a report that was required to be submitted under section 386 of title 10, United States Code, prior to the date of

the enactment of this Act [Dec. 23, 2022], that has not been submitted as of such date and relates to a year preceding fiscal year 2023, such a report may be submitted in accordance with—

"(1) the requirements of such section 386 as amended by subsection (d); or

"(2) the requirements of such section 386 as in effect on the day before the date of the enactment of this Act."

# CHAPTER 19—CYBER AND INFORMATION OPERATIONS MATTERS

Sec.
391. Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors.
391a. Annual reports on support by military departments for United States Cyber Command.
391b. Strategic cybersecurity program.
392. Executive agents for cyber test and training ranges.
392a. Principal Cyber Advisors.
393. Reporting on penetrations of networks and information systems of certain contractors.
394. Authorities concerning military cyber operations.
395. Notification requirements for sensitive military cyber operations.
396. Notification requirements for cyber weapons.
397. Principal Information Operations Advisor.
398. Military information support operations in information environment.
398a. Pilot program for sharing cyber capabilities and related information with foreign operational partners.
399. Notifications relating to military operations in the information environment: requirement to notify Chief of Mission.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XV, §§1501(1), 1502(a)(1), title XVIII, §1801(a)(6), Dec. 22, 2023, 137 Stat. 533, 683, added item 391b and made identical amendments redesignating item 398 "Pilot program for sharing cyber capabilities and related information with foreign operational partners" as 398a. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title X, §1052(b), title XV, §§1501(b)(1), 1502(a), 1521, 1551(b), Dec. 23, 2022, 136 Stat. 2777, 2877, 2879, 2897, 2919, added items 391a, 392a, and 399 and two items 398.

**2019**—Pub. L. 116–92, div. A, title XVI, §1631(a)(2)(A), Dec. 20, 2019, 133 Stat. 1742, substituted "CYBER AND INFORMATION OPERATIONS MATTERS" for "CYBER MATTERS" in chapter heading and added item 397.

**2018**—Pub. L. 115–232, div. A, title XVI, §1631(c)(2), Aug. 13, 2018, 132 Stat. 2123, added items 394 to 396.

**2015**—Pub. L. 114–92, div. A, title X, §1081(a)(4), title XVI, §1641(c)(2), Nov. 25, 2015, 129 Stat. 1001, 1116, substituted "Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors" for "Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors" in item 391 and added item 393.

**2014**—Pub. L. 113–291, div. A, title XVI, §1633(d), Dec. 19, 2014, 128 Stat. 3643, added item 392.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPARTMENT OF DEFENSE DATA ONTOLOGY GOVERNANCE WORKING GROUP

Pub. L. 119–60, div. A, title XV, §1504, Dec. 18, 2025, 139 Stat. 1140, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a working group to develop and implement a common data ontology and governance structure across the Department of Defense.

"(2) DESIGNATION.—The working group established under to [sic] paragraph (1) shall be known as the 'Department of Defense Data Ontology Governance Working Group' (in this section the 'Working Group').

"(3) USE OF EXISTING STRUCTURES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary of Defense may designate an existing forum, council, or organizational body to serve as the Working Group if such entity satisfies the requirements of subsections (b) and (c).

"(B) RULE OF CONSTRUCTION.—For the purposes of this section, a forum, council, or organizational body designated under subparagraph (A) is deemed to be a working group established by the Secretary of Defense under paragraph (1).

"(b) PURPOSE.—The purpose of the Working Group is to inform and to progress the Department of Defense's foundational data ontology work by developing and implementing domain-specific data ontologies and governance structures across the Department of Defense to expand data interoperability, enhance information sharing, and enable more effective decision making throughout the Department.

"(c) MEMBERSHIP.—The Working Group shall consist of—

"(1) the Chief Digital and Artificial Intelligence Officer of the Department of Defense;

"(2) the Chief Information Officer of the Department of Defense;

"(3) the Chief Data Officers of the Department of Defense;

"(4) the Chief Information Officers of the military departments and the combatant commands;

"(5) such representatives from defense intelligence elements as the Secretary of Defense considers appropriate;

"(6) the Under Secretary of Defense for Research and Engineering and the service acquisition executive for each military department; and

"(7) such other officers or employees of the Department of Defense as the Secretary considers appropriate.

"(d) DUTIES.—The Working Group shall—

"(1) coordinate with and build upon any existing data ontology development efforts for foundational data ontologies within the Department of Defense and the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) to ensure complementary and nonduplicative efforts;

"(2) incorporate Department-wide data and data from defense intelligence elements into the development of domain-specific data ontologies Department-wide;

"(3) develop and maintain domain-specific data ontologies that address functional areas within the Department;

"(4) establish a process to identify and designate functional area leads responsible for leading the development, review, approval, and respective guidance of domain-specific data ontologies for the functional areas of such elements;

"(5) develop a structure for governing data ontologies of the Department that includes—

"(A) a centralized, accessible repository for domain-specific data ontologies of the Department;

"(B) clear ownership and role definitions for data ontology management, including authorities regarding access and modification;

"(C) standardized governance procedures for updating, reviewing, and maintaining the data ontologies;

"(D) adherence to established data ontology engineering principles that promote interoperability and reusability across domains;

"(E) infrastructure requirements that include on premises, multi-cloud and hybrid environments;

"(F) access to information networks that are on all classification levels; and

"(G) integration of domain-specific ontologies with existing Department data management practices and systems.

"(e) FUNCTIONAL AREA LEADS.—

"(1) SELECTION CRITERIA.—In designating functional area leads under subsection (d)(4), the Working Group shall select individuals who possess extensive subject matter expertise in their respective functional areas and maintain substantial equities or responsibilities within the functional area.

"(2) REPRESENTATION.—The Working Group shall designate functional area leads under subsection (d)(4) in a manner that ensures appropriate representation across the Department of Defense, including the military departments, combatant commands, defense agencies, and field activities.

"(3) RESPONSIBILITIES.—Each functional area lead designated under subsection (d)(4) shall be responsible for—

"(A) leading the development and maintenance of domain-specific data ontologies within the functional areas for which such entity is designated as the functional area lead;

"(B) reviewing and approving domain-specific data ontology elements specific to such functional

areas;

"(C) ensuring alignment between domain-specific data ontologies specific to such functional areas and the enterprise-wide foundational data ontology;

"(D) developing guidance specific to such domain-specific data ontologies for data ontology implementation; and

"(E) serving as the authoritative source for knowledge on domains in such functional areas within the data ontology governance structure.

"(f) TIMELINE AND DELIVERABLES.—

"(1) ESTABLISHMENT.—The Secretary of Defense shall ensure that the Working Group is established pursuant to subsection (a) not later than June 1, 2026, and the Working Group shall remain in effect for a period of not less than 5 years beginning on the date of the establishment of the Working Group, unless the Secretary determines that it is necessary to transition the Working Group into a permanent organization.

"(2) FUNCTIONAL AREA LEAD DESIGNATION.—Not later than August 1, 2026, the Working Group shall identify and designate functional area leads in accordance with subsections (d)(4) and (e).

"(3) DEPARTMENT-LEVEL POLICY.—Not later than June 1, 2027, the Working Group shall develop and distribute a Department of Defense-wide policy on the data ontology governance structure, including guidelines for the development, maintenance, and integration of domain-specific ontologies.

"(4) IMPLEMENTATION.—Not later than June 1, 2028, the Working Group shall implement the governance structure developed under subsection (d)(5).

"(g) BRIEFING AND REPORT.—

"(1) BRIEFING.—Not later than July 1, 2027, the Working Group shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on progress of the Working Group in carrying out this section.

"(2) REPORT.—Not later than June 30, 2028, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the data ontology governance structure, including the status of the implementation of such structure for domain-specific ontologies, and recommendations for sustainment and further development.

"(h) DEFINITIONS.—In this section:

"(1) The term 'data ontology' means a formal, structured representation and categorization of data elements, their properties, and the relationships between them within an information system or knowledge domain that enables consistent interpretation, integration, and analysis of data across different systems and users.

"(2) The term 'Defense intelligence element' has the meaning given such term in section 429 of title 10, United States Code.

"(3) The term 'domain-specific data ontology' means a data ontology that is specific to a particular functional areas [sic] within the Department of Defense.

"(4) The term 'foundational data ontology' means a top-level, domain-independent data ontology that establishes universal categories and primitives applicable across information systems and upon which domain-specific ontologies are based.

"(5) The term 'functional area' means a specialized functional, operational, or subject-matter areas within the Department.

"(6) The terms 'military department' and 'service acquisition executive' have the meanings given such terms, respectively, in title 10, United States Code."

## PROHIBITION ON ACCESS TO DEPARTMENT OF DEFENSE CLOUD-BASED RESOURCES BY CERTAIN INDIVIDUALS

Pub. L. 119–60, div. A, title XVI, §1692, Dec. 18, 2025, 139 Stat. 1206, provided that:

"(a) ACCESS PROHIBITION.—

"(1) PROHIBITION FOR INDIVIDUALS LOCATED IN COVERED NATIONS.—The Secretary of Defense shall prohibit any individual physically located in a covered nation from having any of the accesses described in paragraph (2).

"(2) ACCESSES DESCRIBED.—The accesses described in this paragraph are the following:

"(A) Physical access to any facility, hardware, or equipment that hosts or operates a Department of Defense cloud computing system.

"(B) Logical or remote access to a Department of Defense cloud computing system, including with respect to management interfaces, virtualization platforms, security controls, or monitoring systems.

"(C) Logical or remote access to Department of Defense data or workloads on a Department of

Defense cloud computing system, including with respect to applications, configurations, network architecture, data schemas, security settings, access logs or other information that could compromise the confidentiality, integrity, or availability of the system, software, or data.

"(D) Indirect access to confidential and technical information not publicly available about a Department of Defense cloud computing system through observation, documentation, briefings, or other communication means (excluding administrative data normally shared to support business operations and compliance requirements applied to publicly traded companies).

"(b) DEPARTMENT OF DEFENSE GUIDANCE, DIRECTIVES, PROCEDURES, REQUIREMENTS, AND REGULATIONS.—The Secretary shall—

"(1) review all relevant guidance, directives, procedures, requirements, and regulations of the Department of Defense, including the Cloud Computing Security Requirements Guide, the Security Technical Implementation Guides, and related instructions of the Department; and

"(2) make such revisions as may be necessary to ensure conformity and compliance with subsection (a).

"(c) BRIEFINGS.—The Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] briefings on the implementation of this section as follows:

"(1) Not later than June 1, 2026, an initial briefing on the implementation status, including policies, procedures, and controls implemented to carry out this section.

"(2) Not later than June 1, 2027, and annually thereafter through 2028, briefings on the implementation progress, effectiveness of controls, security incidents, and recommendations for legislative or administrative action.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or restrict—

"(1) software development activities, including the development, modification, or contribution to open-source code and software; or

"(2) collaboration on or access to publicly available open-source software components that may be incorporated into Department of Defense cloud computing systems.

"(e) DEFINITIONS.—ln this section:

"(1) The term 'covered nation' has the meaning given that term in section 4872 of title 10, United States Code.

"(2) The term 'Department of Defense cloud computing system' means any cloud computing (as defined by section 239.7601 of the Defense Federal Acquisition Regulation Supplement) environment accredited by the Secretary of Defense for controlled unclassified information or classified information, or a cloud computing environment that is a national security system (as defined by section 3552(b)(6) of title 44)."

## ESTABLISHMENT OF THE DEPARTMENT OF DEFENSE HACKATHON PROGRAM

Pub. L. 118–159, div. A, title XV, §1503, Dec. 23, 2024, 138 Stat. 2132, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Chief Digital and Artificial Intelligence Officer of the Department of Defense, in coordination with the Chairman of the Joint Chiefs of Staff and the Chief Information Officer of the Department of Defense, shall establish a program (to be known as the 'Department of Defense Hackathon Program') under which the commanders of combatant commands and the Secretaries of the military departments shall carry out not fewer than four Hackathons each year.

"(b) PROGRAM MANAGEMENT.—The Chief Digital and Artificial Intelligence Officer of the Department of Defense shall develop and implement standards for carrying out Hackathons, provide supporting technical infrastructure to the host of each Hackathon, and determine the hosts each year under subsection (c)(1).

"(c) HOSTS.—

"(1)(A) Each year, two commanders of combatant commands shall each carry out a Hackathon and two Secretaries of military departments shall each carry out a Hackathon, as determined by the Chief Digital and Artificial Intelligence Officer of the Department of Defense in accordance with this subsection.

"(B) The commanders of combatant commands and the Secretaries of military departments carrying out Hackathons pursuant to subparagraph (A) shall change each year.

"(C) Each host of a Hackathon shall—

"(i) provide to the participants invited to participate in such Hackathon a per diem allowance in accordance with section 5702 of title 5, United States Code, or section 452 of title 37, United States Code, as applicable; and

"(ii) not later than 60 days after the completion of such Hackathon, make available to the Department of Defense a report on such Hackathon.

"(2) Any commander of a combatant command or Secretary of a military department may carry out a Hackathon in addition to the Hackathons required under paragraph (1).

"(d) HACKATHON OBJECTIVES.—

"(1) The host of each Hackathon shall establish objectives for the Hackathon that address a critical, technical challenge of the combatant command or military department of the host, as applicable, through the use of individuals with specialized and relevant skills, including data scientists, developers, software engineers, and other specialists as determined appropriate by the Chief Digital and Artificial Intelligence Officer of the Department of Defense or the host.

"(2) In addition to the objectives established by the host of a Hackathon under paragraph (1), the objectives for each Hackathon shall include—

"(A) fostering innovation across the Department of Defense, including in military departments and the combatant commands; and

"(B) creating repeatable processes enabling the commanders of combatant commands and the Secretaries of the military departments to more rapidly identify and develop solutions to critical, technical challenges across the Department of Defense.

"(e) DEFINITIONS.—In this section—

"(1) the term 'Hackathon' means an event carried out under the Program at which employees across the Department of Defense meet to collaboratively attempt to develop functional software or hardware solutions during the event to solve a critical, technical challenge determined by the host;

"(2) the term 'host', with respect to a Hackathon, means the commander of the combatant command or the Secretary of the military department carrying out the Hackathon;

"(3) the term 'military department' has the meaning given such term in section 101(a) of title 10, United States Code; and

"(4) the term 'Program' means the program established under subsection (a)."

## ALIGNMENT OF DEPARTMENT OF DEFENSE CYBER INTERNATIONAL STRATEGY WITH NATIONAL DEFENSE STRATEGY AND DEPARTMENT OF DEFENSE CYBER STRATEGY

Pub. L. 117–263, div. A, title XV, §1506, Dec. 23, 2022, 136 Stat. 2882, provided that:

"(a) ALIGNMENT REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, acting through the Under Secretary of Defense for Policy and in coordination with the commanders of the combatant commands and the Director of the Joint Staff, shall undertake efforts to align the cybersecurity cooperation enterprise of the Department of Defense and the cyberspace operational partnerships of the Department with—

"(1) the national defense strategy published in 2022 pursuant to section 113(g) of title 10, United States Code;

"(2) the Cyber Strategy of the Department published during fiscal year 2023; and

"(3) the current International Cyberspace Security Cooperation Guidance of the Department, as of the date of the enactment of this Act.

"(b) ELEMENTS.—The alignment efforts under subsection (a) shall include the following efforts within the Department of Defense:

"(1) Efforts to build the internal capacity of the Department to support international strategy policy engagements with allies and partners of the United States.

"(2) Efforts to coordinate and align cyberspace operations with foreign partners of the United States, including alignment between hunt-forward missions and other cyber international strategy activities conducted by the Department, including identification of processes, working groups, and methods to facilitate coordination between geographic combatant commands and the United States Cyber Command.

"(3) Efforts to deliberately cultivate operational and intelligence-sharing partnerships with key allies and partners of the United States to advance the cyberspace operations objectives of the Department.

"(4) Efforts to identify key allied and partner networks, infrastructure, and systems that the Joint Force will rely upon for warfighting and to—

"(A) support the cybersecurity and cyber defense of those networks, infrastructure, and systems;

"(B) build partner capacity to actively defend those networks, infrastructure, and systems;

"(C) eradicate malicious cyber activity that has compromised those networks, infrastructure, and systems, such as when identified through hunt-forward operations; and

"(D) leverage the commercial and military cybersecurity technology and services of the United States to harden and defend those networks, infrastructure, and systems.

"(5) Efforts to secure the environments and networks of mission partners of the United States used to hold intelligence and information originated by the United States.

"(6) Prioritization schemas, funding requirements, and efficacy metrics to drive cyberspace security investments in the tools, technologies, and capacity-building efforts that will have the greatest positive impact on the resilience and ability of the Department to execute its operational plans and achieve integrated deterrence.

"(c) ORGANIZATION.—The Under Secretary of Defense for Policy shall lead efforts to implement this section. In doing so, the Under Secretary shall consult with the Secretary of State, the National Cyber Director, the Director of the Cybersecurity and Infrastructure Security Agency, and the Director of the Federal Bureau of Investigation, to align plans and programs as appropriate.

"(d) ANNUAL BRIEFINGS.—

"(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than once each fiscal year until September 30, 2025, the Under Secretary of Defense for Policy shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the implementation of this section.

"(2) CONTENTS.—Each briefing under paragraph (1) shall include the following:

"(A) An overview of efforts undertaken pursuant to this section.

"(B) An accounting of all the security cooperation activities of the Department germane to cyberspace and changes made pursuant to implementation of this section.

"(C) A detailed schedule with target milestones and required expenditures for all planned activities related to the efforts described in subsection (b).

"(D) Interim and final metrics for building the cyberspace security cooperation enterprise of the Department.

"(E) Identification of such additional funding, authorities, and policies, as the Under Secretary determines may be required.

"(F) Such recommendations as the Under Secretary may have for legislative action to improve the effectiveness of cyberspace security cooperation of the Department with foreign partners and allies.

"(e) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act and not less frequently than once each year thereafter until January 1, 2025, the Under Secretary of Defense for Policy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report summarizing the cyber international strategy activities of the Department, including within the cybersecurity cooperation enterprise of the Department and the cyber operational partnerships of the Department."

**ENHANCEMENT OF CYBERSPACE TRAINING AND SECURITY COOPERATION**

Pub. L. 117–263, div. A, title XV, §1507, Dec. 23, 2022, 136 Stat. 2883, provided that:

"(a) ENHANCED TRAINING.—

"(1) REQUIREMENT.—The Under Secretary of Defense for Intelligence and Security and the Under Secretary of Defense for Policy, in coordination with the Commander of United States Cyber Command, the Director of the Defense Security Cooperation Agency, and the Director of the Defense Intelligence Agency, shall develop enhanced guidance for and implement training on cyberspace security cooperation at the Defense Security Cooperation University and the Joint Military Attaché School.

"(2) TIMING.—The Under Secretaries shall develop the enhanced guidance and implement the training under paragraph (1)—

"(A) by not later than one year after the date of the enactment of this Act [Dec. 23, 2022] with respect to the Joint Military Attaché School; and

"(B) by not later than September 30, 2025, with respect to the Defense Security Cooperation University.

"(3) ELEMENTS.—The Under Secretaries shall ensure that the training on cyberspace security cooperation under paragraph (1)—

"(A) is tailored to the trainees' anticipated embassy role and functions; and

"(B) provides familiarity with—

"(i) the different purposes of cyberspace engagements with partners and allies of the United States, including threat awareness, cybersecurity, mission assurance, and operations;

"(ii) the types of cyberspace security cooperation programs and activities available for partners and allies of the United States, including bilateral and multilateral cyberspace engagements, information and intelligence sharing, training, and exercises;

"(iii) the United States Cyber Command cyberspace operations with partners, including an

overview of the Hunt Forward mission and process;

"(iv) the roles and responsibilities of the United States Cyber Command, the geographic combatant commands, and the Defense Security Cooperation Agency for cybersecurity cooperation within the Department of Defense; and

"(v) such other matters as the Under Secretaries, in coordination with the Commander of United States Cyber Command, consider appropriate.

"(4) REQUIREMENTS.—The baseline familiarization training developed under subsection (a) shall be a required element for all participants in the Defense Security Cooperation University, the Attaché Training Program, and the Attaché Staff Training Program of the Joint Military Attaché School.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Intelligence and Security and the Under Secretary of Defense for Policy, in coordination with the Commander of the United States Cyber Command, the Director of the Defense Security Cooperation Agency, and the Director of the Defense Intelligence Agency, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the requirements and considerations to implement enhanced training and coordination to advance cyberspace security cooperation with foreign partners. The study may consider such areas as the following:

"(1) Sufficiency of the training provided in the Defense Security Cooperation University and the Joint Military Attaché School.

"(2) Additional training requirements, familiarization requirements, or both such requirements necessary for officers assigned to particular locations or positions.

"(3) Areas for increased cooperation.

"(4) A plan for completing the activities required by subsection (a).

"(5) Additional resources required to complete such activities.

"(c) BRIEFING.—Not later than 30 days after the date on which the Under Secretary of Defense for Intelligence and Security and the Under Secretary of Defense for Policy submit the report under subsection (b), the Under Secretaries, in coordination with the Commander of the United States Cyber Command, the Director of the Defense Security Cooperation Agency, and the Director of the Defense Intelligence Agency, shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the findings from the report on enhancing training and coordination to advance cyberspace security cooperation described in such subsection. Such briefing shall include a discussion on the enhanced training meeting the elements under subsection (a)(3) and a plan for future updates and sustainment of such training."

## §391. Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors

(a) DESIGNATION OF DEPARTMENT COMPONENT TO RECEIVE REPORTS.—The Secretary of Defense shall designate a component of the Department of Defense to receive reports of cyber incidents from contractors in accordance with this section and section 393 of this title or from other governmental entities.

(b) PROCEDURES FOR REPORTING CYBER INCIDENTS.—The Secretary of Defense shall establish procedures that require an operationally critical contractor to report in a timely manner to component designated under subsection (a) each time a cyber incident occurs with respect to a network or information system of such operationally critical contractor.

(c) PROCEDURE REQUIREMENTS.—

(1) DESIGNATION AND NOTIFICATION.—The procedures established pursuant to subsection (a) shall include a process for—

(A) designating operationally critical contractors; and

(B) notifying a contractor that it has been designated as an operationally critical contractor.

(2) RAPID REPORTING.—The procedures established pursuant to subsection (a) shall require each operationally critical contractor to rapidly report to the component of the Department designated pursuant to subsection (d)(2)(A) on each cyber incident with respect to any network or information systems of such contractor. Each such report shall include the following:

(A) An assessment by the contractor of the effect of the cyber incident on the ability of the contractor to meet the contractual requirements of the Department.

(B) The technique or method used in such cyber incident.

(C) A sample of any malicious software, if discovered and isolated by the contractor, involved in such cyber incident.

(D) A summary of information compromised by such cyber incident.

(3) DEPARTMENT ASSISTANCE AND ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT PERSONNEL.—The procedures established pursuant to subsection (a) shall—

(A) include mechanisms for Department personnel to, if requested, assist operationally critical contractors in detecting and mitigating penetrations; and

(B) provide that an operationally critical contractor is only required to provide access to equipment or information as described in subparagraph (A) to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of such contractor and, if so, what information was exfiltrated.

(4) PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.—The procedures established pursuant to subsection (a) shall provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(5) DISSEMINATION OF INFORMATION.—The procedures established pursuant to subsection (a) shall limit the dissemination of information obtained or derived through the procedures to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) PROTECTION FROM LIABILITY OF OPERATIONALLY CRITICAL CONTRACTORS .—(1) No cause of action shall lie or be maintained in any court against any operationally critical contractor, and such action shall be promptly dismissed, for compliance with this section and contract requirements established pursuant to Defense Federal Acquisition Regulation Supplement clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, that is conducted in accordance with procedures established pursuant to subsection (b) and such contract requirements.

(2)(A) Nothing in this section shall be construed—

(i) to require dismissal of a cause of action against an operationally critical contractor that has engaged in willful misconduct in the course of complying with the procedures established pursuant to subsection (b); or

(ii) to undermine or limit the availability of otherwise applicable common law or statutory defenses.

(B) In any action claiming that paragraph (1) does not apply due to willful misconduct described in subparagraph (A), the plaintiff shall have the burden of proving by clear and convincing evidence the willful misconduct by each operationally critical contractor subject to such claim and that such willful misconduct proximately caused injury to the plaintiff.

(C) In this subsection, the term "willful misconduct" means an act or omission that is taken—

(i) intentionally to achieve a wrongful purpose;

(ii) knowingly without legal or factual justification; and

(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

(e) DEFINITIONS.—In this section:

(1) CYBER INCIDENT.—The term "cyber incident" means actions taken through the use of computer networks that result in an actual or potentially adverse effect on an information system or the information residing therein.

(2) OPERATIONALLY CRITICAL CONTRACTOR.—The term "operationally critical contractor" means a contractor designated by the Secretary for purposes of this section as a critical source of supply for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

(Added Pub. L. 113–291, div. A, title XVI, §1632(a), Dec. 19, 2014, 128 Stat. 3639; amended Pub. L. 114–92, div. A, title XVI, §1641(b), (c)(1), Nov. 25, 2015, 129 Stat. 1115, 1116; Pub. L. 116–283, div. A, title XVII, §1704, Jan. 1, 2021, 134 Stat. 4082.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (d)(1). Pub. L. 116–283 inserted "and contract requirements established pursuant to Defense Federal Acquisition Regulation Supplement clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting," after "compliance with this section" and "and such contract requirements" before period at end.

**2015**—Subsec. (a). Pub. L. 114–92, §1641(c)(1), substituted "and section 393 of this title" for "and with section 941 of the National Defense Authorization Act for Fiscal Year 2013 (10 U.S.C. 2224 note)".

Subsecs. (d), (e). Pub. L. 114–92, §1641(b), added subsec. (d) and redesignated former subsec. (d) as (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SENIOR MILITARY ADVISOR FOR CYBER POLICY AND DEPUTY PRINCIPAL CYBER ADVISOR

Pub. L. 116–92, div. A, title IX, §905, Dec. 20, 2019, 133 Stat. 1557, as amended by Pub. L. 116–283, div. A, title XVII, §1713(b), Jan. 1, 2021, 134 Stat. 4090; Pub. L. 117–81, div. A, title XV, §1503(b), Dec. 27, 2021, 135 Stat. 2021; Pub. L. 117–263, div. A, title X, §1081(c), Dec. 23, 2022, 136 Stat. 2797, which authorized the Secretary of Defense to designate an officer within the Office of the Under Secretary of Defense for Policy to serve within that Office as Senior Military Advisor for Cyber Policy, and concurrently, as Deputy Principal Cyber Advisor, was transferred to section 392a of this chapter and designated as subsec. (b) of that section by Pub. L. 117–263, div. A, title XV, §1501(b)(3)(A), Dec. 23, 2022, 136 Stat. 2878.

### CYBER GOVERNANCE STRUCTURES AND PRINCIPAL CYBER ADVISORS ON MILITARY CYBER FORCE MATTERS

Pub. L. 116–92, div. A, title XVI, §1657, Dec. 20, 2019, 133 Stat. 1767, which authorized each of the secretaries of the military departments, in consultation with the service chiefs, to appoint an independent Principal Cyber Advisor for each service to act as the principal advisor to the relevant secretary on all cyber matters affecting that military service, was transferred to section 392a of this chapter and designated as subsec. (c) of that section by Pub. L. 117–263, div. A, title XV, §1501(b)(4)(A), Dec. 23, 2022, 136 Stat. 2878.

### CONSORTIA OF UNIVERSITIES TO ADVISE SECRETARY OF DEFENSE ON CYBERSECURITY MATTERS

Pub. L. 116–92, div. A, title XVI, §1659, Dec. 20, 2019, 133 Stat. 1770, as amended by Pub. L. 117–81, div. A, title XV, §1530, Dec. 27, 2021, 135 Stat. 2049; Pub. L. 117–263, div. A, title XV, §1505, Dec. 23, 2022, 136 Stat. 2881; Pub. L. 118–31, div. A, title XV, §1531(c)(3), Dec. 22, 2023, 137 Stat. 562, provided that:

"(a) ESTABLISHMENT AND FUNCTION.—The Secretary of Defense shall establish a consortium of universities to assist the Secretary on cybersecurity matters relating to the following:

"(1) To provide the Secretary a formal mechanism to communicate with consortium members regarding the Department of Defense's cybersecurity strategic plans, cybersecurity requirements, and

priorities for basic and applied cybersecurity research.

"(2) To advise the Secretary on the needs of academic institutions related to cybersecurity and research conducted on behalf of the Department and provide feedback to the Secretary from members of the consortium or consortia.

"(3) To serve as a focal point or focal points for the Secretary and the Department for the academic community on matters related to cybersecurity, cybersecurity research, conceptual and academic developments in cybersecurity, and opportunities for closer collaboration between academia and the Department.

"(4) To provide to the Secretary access to the expertise of the institutions of the consortium or consortia on matters relating to cybersecurity.

"(5) To align the efforts of such members in support of the Department.

"(b) MEMBERSHIP.—The consortium established under subsection (a) shall be open to all universities that have been designated as centers of academic excellence by the Director of the National Security Agency or the Secretary of Homeland Security.

"(c) ORGANIZATION.—

"(1) DESIGNATION OF ADMINISTRATIVE CHAIR.—The Secretary of Defense shall designate the National Defense University College of Information and Cyberspace to function as the administrative chair of the consortium established pursuant to subsection (a).

"(2) DUTIES OF ADMINISTRATIVE CHAIR.—The administrative chair designated under paragraph (1) for the consortium shall—

"(A) act as the leader of the consortium;

"(B) be the liaison between the consortium and the Secretary;

"(C) distribute requests from the Secretary for advice and assistance to appropriate members of the consortium and coordinate responses back to the Secretary; and

"(D) act as a clearinghouse for Department of Defense requests relating to assistance on matters relating to cybersecurity and to provide feedback to the Secretary from members of the consortium.

"(3) EXECUTIVE COMMITTEE.—The Secretary, in consultation with the administrative chair, may form an executive committee for the consortium that is comprised of representatives of the Federal Government to assist the chair with the management and functions of the consortium.

"(d) CONSULTATION.—The Secretary shall meet with such members of the consortium as the Secretary considers appropriate, not less frequently than twice each year or at such periodicity as is agreed to by the Secretary and the consortium.

"(e) PROCEDURES.—The Secretary shall establish procedures for organizations within the Department to access the work product produced by and the research, capabilities, and expertise of a consortium established under subsection (a) and the universities that constitute such consortium.

"(f) SUPPORT CENTER.—

"(1) ESTABLISHMENT.—The Secretary shall establish a center to provide support to the consortium established under subsection (a).

"(2) COMPOSITION.—

"(A) REQUIREMENT.—The center established under paragraph (1) shall be composed of one or two universities, as the Secretary considers appropriate, that—

"(i) have been designated as centers of academic excellence by the Director of the National Security Agency or the Secretary of Homeland Security; and

"(ii) are eligible for access to classified information.

"(B) PUBLICATION.—The Secretary shall publish in the Federal Register the process for selection of universities to serve as the center established under paragraph (1).

"(3) FUNCTIONS.—The functions of the center established under paragraph (1) are as follows:

"(A) To promote the consortium established under subsection (a).

"(B) To distribute on behalf of the Department requests for information or assistance to members of the consortium.

"(C) To collect and assemble responses from requests distributed under subparagraph (B).

"(D) To provide additional administrative support for the consortium.

"(g) DISCHARGE THROUGH DIRECTOR.—In carrying out this section, the Secretary of Defense shall act through the Director of the office established under section 2192c of title 10, United States Code."

## ISSUANCE OF PROCEDURES

Pub. L. 113–291, div. A, title XVI, §1632(b), Dec. 19, 2014, 128 Stat. 3640, provided that: "The Secretary shall establish the procedures required by subsection (b) of section 391 of title 10, United States Code, as

added by subsection (a) of this section, not later than 90 days after the date of the enactment of this Act [Dec. 19, 2014]."

**ASSESSMENT OF DEPARTMENT POLICIES**

Pub. L. 113–291, div. A, title XVI, §1632(c), Dec. 19, 2014, 128 Stat. 3640, provided that:

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Act [Dec. 19, 2014], the Secretary of Defense shall complete an assessment of—

"(A) requirements that were in effect on the day before the date of the enactment of this Act for contractors to share information with Department components regarding cyber incidents (as defined in subsection (d) [now (e)] of such section 391 [10 U.S.C. 391(e)]) with respect to networks or information systems of contractors; and

"(B) Department policies and systems for sharing information on cyber incidents with respect to networks or information systems of Department contractors.

"(2) ACTIONS FOLLOWING ASSESSMENT.—Upon completion of the assessment required by paragraph (1), the Secretary shall—

"(A) designate a Department component under subsection (a) of such section 391; and

"(B) issue or revise guidance applicable to Department components that ensures the rapid sharing by the component designated pursuant to such section 391 or section 941 of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239] (10 U.S.C. 2224 note) of information relating to cyber incidents with respect to networks or information systems of contractors with other appropriate Department components."

## §391a. Annual reports on support by military departments for United States Cyber Command

(a) REPORTS.—Not later than 15 days after the date on which the Secretary of Defense submits to Congress the defense budget materials (as defined in section 239 of this title) for a fiscal year, the Commander of the United States Cyber Command shall submit to the congressional defense committees a report containing the following:

(1) An evaluation of whether each military department is meeting the requirements established by the Commander and validated by the Office of the Secretary of Defense, and is effectively implementing the plan required by section 1534 of the National Defense Authorization Act for Fiscal Year 2023, and the requirements established pursuant to section 1533 of such Act.

(2) For each military department evaluated under paragraph (1)—

(A) a certification that the military department is meeting such requirements; or

(B) a detailed explanation regarding how the military department is not meeting such requirements.

(b) ELEMENTS OF EVALUATION.—Each evaluation under subsection (a)(1) shall include, with respect to the military department being evaluated, the following:

(1) The adequacy of the policies, procedures, and execution of manning, training, and equipping personnel for employment within the Cyber Mission Force.

(2) The sufficiency and robustness of training curricula for personnel to be assigned to either the Cyber Mission Force or units within the cyberspace operations forces, and the compliance by the military department with training standards.

(3) The adequacy of the policies and procedures relating to the assignment and assignment length of members of the Army, Navy, Air Force, Marine Corps, or Space Force to the Cyber Mission Force.

(4) The efficacy of the military department in filling key work roles within the Cyber Mission Force, including the proper force mix of civilian, military, and contractor personnel, and the means necessary to meet requirements established by the Commander and validated by the Secretary of Defense.

(5) The adequacy of the investment to advance cyber-peculiar science and technology, particularly with respect to capability development for the Cyber Mission Force.

(6) The sufficiency of the policies, procedures, and investments relating to the establishment and management of military occupational specialty, designator, rating, or Air Force specialty code for personnel responsible for cyberspace operations, including an assessment of the effectiveness of the combination of policies determining availability and retention of sufficient numbers of proficient personnel in key work roles, including length of service commitment, the use of bonuses and special pays, alternative compensation mechanisms, and consecutive tours in preferred assignments.

(7) In coordination with the Principal Cyber Advisor of the Department of Defense, an evaluation of the use by the military department of the shared lexicon of the Department of Defense specific to cyberspace activities.

(8) The readiness of personnel serving in the Cyber Mission Force and the cyberspace operations forces to accomplish assigned missions.

(9) The adequacy of actions taken during the period of evaluation by the military department to respond to findings from any previous years' evaluations.

(10) Any other element determined relevant by the Commander.

(Added Pub. L. 117–263, div. A, title XV, §1502(a), Dec. 23, 2022, 136 Stat. 2879.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Sections 1533 and 1534 of the National Defense Authorization Act for Fiscal Year 2023, referred to in subsec. (a)(1), are sections 1533 and 1534 of Pub. L. 117–263, also known as the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, which are set out as notes under section 167b of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**FIRST REPORT**

Pub. L. 117–263, div. A, title XV, §1502(b), Dec. 23, 2022, 136 Stat. 2880, provided that: "The Commander of the United States Cyber Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the first report under section 391a of title 10, United States Code, as added by subsection (a), as soon as practicable after the date of the submission of the defense budget materials for fiscal year 2024."

## §391b. Strategic cybersecurity program

(a) IN GENERAL.—(1) There is a program to be known as the "Strategic Cybersecurity Program" (in this section referred to as the "Program") to ensure the ability of the Department of Defense to conduct the most critical military missions of the Department.

(2) The Secretary of Defense shall designate a principal staff assistant from within the Office of the Secretary of Defense whose office shall serve as the office of primary responsibility for the Program, and provide policy, direction, and oversight regarding the execution of the responsibilities of the program manager selected pursuant to subsection (c)(1).

(b) MEMBERSHIP.—In addition to the office of primary responsibility for the Program under subsection (a)(2) and the program manager selected pursuant to subsection (c)(1), membership in the Program shall include the following:

(1) The Vice Chairman of the Joint Chiefs of Staff.

(2) The Commanders of the United States Cyber Command, United States European Command, United States Indo-Pacific Command, United States Northern Command, United States Strategic Command, United States Space Command, United States Transportation Command.

(3) The Under Secretary of Defense for Acquisition and Sustainment.

(4) The Under Secretary of Defense for Policy.

(5) The Chief Information Officer of the Department of Defense.

(6) The Chief Digital and Artificial Intelligence Officer of the Department of Defense.

(7) The chief information officers of the military departments.

(8) The Principal Cyber Advisor of the Department of Defense.

(9) The Principal Cyber Advisors of the military departments.

(10) Each senior official identified pursuant to subsection (i) of section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1118).

(11) Such other officials as may be determined necessary by the Secretary of Defense.

(c) PROGRAM OFFICE.—(1) There is in the Cybersecurity Directorate of the National Security Agency a program office to support the Program by identifying threats to, vulnerabilities in, and remediations for, the missions and mission elements specified in subsection (d)(1). Such program office shall be headed by a program manager selected by the Director of the National Security Agency.

(2) The Chief Information Officer of the Department of Defense, in exercising authority, direction, and control over the Cybersecurity Directorate of the National Security Agency, shall ensure that the program office under paragraph (1) is responsive to the requirements and direction of the program manager selected pursuant to such paragraph.

(3) The Secretary may augment the personnel assigned to the program office under paragraph (1) by assigning personnel as appropriate from among members of any covered armed force (including the reserve components thereof), civilian employees of the Department of Defense (including the Defense Intelligence Agency), and personnel of the research laboratories of the Department of Defense, who have particular expertise in the areas of responsibility referred to in subsection (d).

(d) DESIGNATION OF MISSION ELEMENTS OF PROGRAM.—(1) The Under Secretary of Defense for Policy, the Under Secretary of Defense for Acquisition and Sustainment, and the Vice Chairman of the Joint Chiefs of Staff shall identify and designate for inclusion in the Program all of the systems, critical infrastructure, kill chains, and processes, including systems and components in development, that comprise the following military missions of the Department of Defense:

(A) Nuclear deterrence and strike.

(B) Select long-range conventional strike missions germane to the warfighting plans of the United States European Command and the United States Indo-Pacific Command.

(C) Offensive cyber operations.

(D) Homeland missile defense.

(2) The Vice Chairman of the Joint Chiefs of Staff shall coordinate the identification and prioritization of the missions and mission components, and the development and approval of requirements relating to the cybersecurity of the missions and mission components, of the Program.

(e) ADDITIONAL RESPONSIBILITIES OF HEAD OF OFFICE OF PRIMARY RESPONSIBILITY.—In addition to providing policy, direction, and oversight as specified in subsection (a)(2), the head of the office of primary responsibility for the Program designated under such subsection shall be responsible—

(1) for overseeing and providing direction on any covered statutory requirement that is ongoing, recurrent (including on an annual basis), or unfulfilled, including by—

(A) reviewing any materials required to be submitted to Congress under the covered statutory requirement prior to such submission; and

(B) ensuring such submissions occur by the applicable deadline under the covered statutory requirement; and

(2) recording and monitoring the remediation of identified vulnerabilities in constituent systems, infrastructure, kill chains, and processes of the missions specified in subsection (d)(1).

(f) RESPONSIBILITIES OF PROGRAM MANAGER.—The program manager selected pursuant to subsection (c)(1) shall be responsible for the following:

(1) Conducting end-to-end vulnerability assessments of the constituent systems, infrastructure, kill chains, and processes of the missions specified in subsection (d)(1).

(2) Prioritizing and facilitating the remediation of identified vulnerabilities in such constituent systems, infrastructure, kill chains, and processes.

(3) Conducting, prior to the Milestone B approval for any proposed such system or infrastructure germane to the missions of the Program, appropriate reviews of the acquisition and system engineering plans for that proposed system or infrastructure, in accordance with the policy and guidance of the Under Secretary of Defense for Acquisition and Sustainment regarding the components of such reviews and the range of systems and infrastructure to be reviewed.

(4) Advising the Secretaries of the military departments, the commanders of the combatant commands, and the Joint Staff on the vulnerabilities and cyberattack vectors that pose substantial risk to the missions of the Program and their constituent systems, critical infrastructure, kill chains, or processes.

(5) Ensuring that the Program builds upon (including through the provision of oversight and direction by the head of the office of primary responsibility for the Program pursuant to subsection (e), as applicable), and does not duplicate, other efforts of the Department of Defense relating to cybersecurity, including the following:

(A) The evaluation of cyber vulnerabilities of major weapon systems of the Department of Defense required under section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1118).

(B) The evaluation of cyber vulnerabilities of critical infrastructure of the Department of Defense required under section 1650 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 2224 note).

(C) The activities of the cyber protection teams of the Department of Defense.

(g) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—The Secretary of Defense shall define and issue guidance on the roles and responsibilities for components of the Department of Defense other than those specified in this section with respect to the Program, including—

(1) the roles and responsibilities of the acquisition and sustainment organizations of the military departments in supporting and implementing remedial actions;

(2) the alignment of Cyber Protection Teams with the prioritized missions of the Program;

(3) the role of the Director of Operational Test and Evaluation in conducting periodic assessments, including through cyber red teams, of the cybersecurity of missions in the Program; and

(4) the role of the Principal Cyber Adviser in coordinating and monitoring the execution of the Program.

(h) ANNUAL REPORTING.—Not later than December 31 of each year, the head of the office of primary responsibility for the Program, in coordination with the appropriate members of the Program under subsection (b), shall submit to the congressional defense committees an annual report on the efforts carried out pursuant to this section or any covered provision of law, including with respect to such efforts concerning—

(1) the evaluation of cyber vulnerabilities of each major weapon system of the Department of Defense and related mitigation activities under section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1118);

(2) the evaluation of cyber vulnerabilities of the critical infrastructure of the Department of Defense under section 1650 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 2224 note);

(3) operational technology and the mapping of mission-relevant terrain in cyberspace under section 1505 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 394 note);

(4) the assessments of the vulnerabilities to and mission risks presented by radio-frequency enabled cyber attacks with respect to the operational technology embedded in weapons systems,

aircraft, ships, ground vehicles, space systems, sensors, and datalink networks of the Department of Defense under section 1559 of the National Defense Authorization Act for Fiscal Year 2023; and

(5) the work of the Program in general, including information relating to staffing and accomplishments.

(i) ANNUAL BUDGET DISPLAY.—(1) On an annual basis for each fiscal year, concurrently with the submission of the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code, the head of the office of primary responsibility for the Program, in coordination with the appropriate members of the Program under subsection (b), shall submit to the congressional defense committees a consolidated budget justification display that covers all programs and activities associated with this section and any covered provision of law, including with respect to the matters listed in subsection (h).

(2) Each display under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) For the purpose of facilitating the annual budget display requirement under paragraph (1), the Chief Information Officer of the Department of Defense shall provide to the head of the office of primary responsibility for the Program and the appropriate members of the Program under subsection (b) fiscal guidance on the programming of funds in support of the Program.

(j) DEFINITIONS.—In this section:

(1) The term "covered armed force" means the Army, Navy, Air Force, Marine Corps, or Space Force.

(2) The term "covered statutory requirement" means a requirement under any covered provision of law.

(3) The term "covered provision of law" means the following:

(A) Section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1118).

(B) Section 1650 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 2224 note).

(C) Section 1505 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 394 note).

(D) Section 1559 of the National Defense Authorization Act for Fiscal Year 2023.

(Added Pub. L. 118–31, div. A, title XV, §1502(a)(1), Dec. 22, 2023, 137 Stat. 533; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(7), Dec. 23, 2024, 138 Stat. 2203.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1647 of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsecs. (b)(10), (f)(5)(A), (h)(1), and (j)(3)(A), is section 1647 of Pub. L. 114–92, which is set out as a note under section 2224 of this title.

Section 1559 of the National Defense Authorization Act for Fiscal Year 2023, referred to in subsecs. (h)(4) and (j)(3)(D), is section 1559 of Pub. L. 117–263, which is set out as a note under section 2224 of this title.

**AMENDMENTS**

**2024**—Subsec. (e)(1)(B). Pub. L. 118–159 substituted semicolon for colon after "requirement".

## §392. Executive agents for cyber test and training ranges

(a) EXECUTIVE AGENT.—The Secretary of Defense, in consultation with the Principal Cyber Advisor, shall—

(1) designate a senior official from among the personnel of the Department of Defense to act as the executive agent for cyber and information technology test ranges; and

(2) designate a senior official from among the personnel of the Department of Defense to act as the executive agent for cyber and information technology training ranges.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

(1) ESTABLISHMENT.—The Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agents designated under subsection (a). Such roles, responsibilities, and authorities shall include the development of a biennial integrated plan for cyber and information technology test and training resources.

(2) BIENNIAL INTEGRATED PLAN.—The biennial integrated plan required under paragraph (1) shall include plans for the following:

(A) Developing and maintaining a comprehensive list of cyber and information technology ranges, test facilities, test beds, and other means of testing, training, and developing software, personnel, and tools for accommodating the mission of the Department. Such list shall include resources from both governmental and nongovernmental entities.

(B) Organizing and managing designated cyber and information technology test ranges, including—

(i) establishing the priorities for cyber and information technology ranges to meet Department objectives;

(ii) enforcing standards to meet requirements specified by the United States Cyber Command, the training community, and the research, development, testing, and evaluation community;

(iii) identifying and offering guidance on the opportunities for integration amongst the designated cyber and information technology ranges regarding test, training, and development functions;

(iv) finding opportunities for cost reduction, integration, and coordination improvements for the appropriate cyber and information technology ranges;

(v) adding or consolidating cyber and information technology ranges in the future to better meet the evolving needs of the cyber strategy and resource requirements of the Department;

(vi) finding opportunities to continuously enhance the quality and technical expertise of the cyber and information technology test workforce through training and personnel policies; and

(vii) coordinating with interagency and industry partners on cyber and information technology range issues.

(C) Defining a cyber range architecture that—

(i) may add or consolidate cyber and information technology ranges in the future to better meet the evolving needs of the cyber strategy and resource requirements of the Department;

(ii) coordinates with interagency and industry partners on cyber and information technology range issues;

(iii) allows for integrated closed loop testing in a secure environment of cyber and electronic warfare capabilities;

(iv) supports science and technology development, experimentation, testing and training; and

(v) provides for interconnection with other existing cyber ranges and other kinetic range facilities in a distributed manner.

(D) Certifying all cyber range investments of the Department of Defense.

(E) Performing such other assessments or analyses as the Secretary considers appropriate.

(3) STANDARD FOR CYBER EVENT DATA.—The executive agents designated under subsection (a), in consultation with the Chief Information Officer of the Department of Defense, shall jointly select a standard language from open-source candidates for representing and communicating cyber event and threat data. Such language shall be machine-readable for the Joint Information Environment and associated test and training ranges.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Department of Defense provide the executive agents designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agents.

(d) COMPLIANCE WITH EXISTING DIRECTIVE.—The Secretary shall carry out this section in compliance with Directive 5101.1.

(e) DEFINITIONS.—In this section:

(1) The term "designated cyber and information technology range" includes the National Cyber Range, the Joint Information Operations Range, the Defense Information Assurance Range, and the C4 Assessments Division of J6 of the Joint Staff.

(2) The term "Directive 5101.1" means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(3) The term "executive agent" has the meaning given the term "DoD Executive Agent" in Directive 5101.1.

(Added Pub. L. 113–291, div. A, title XVI, §1633(a), Dec. 19, 2014, 128 Stat. 3641.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DESIGNATION AND ROLES AND RESPONSIBILITIES; SELECTION OF STANDARD LANGUAGE**

Pub. L. 113–291, div. A, title XVI, §1633(b), (c), Dec. 19, 2014, 128 Stat. 3642, provided that:

"(b) DESIGNATION AND ROLES AND RESPONSIBILITIES.—The Secretary of Defense shall—

"(1) not later than 120 days after the date of the enactment of this Act [Dec. 19, 2014], designate the executive agents required under subsection (a) of section 392 of title 10, United States Code, as added by subsection (a) of this section; and

"(2) not later than one year after the date of the enactment of this Act, prescribe the roles, responsibilities, and authorities required under subsection (b) of such section 392.

"(c) SELECTION OF STANDARD LANGUAGE.—Not later than June 1, 2015, the executive agents designated under subsection (a) of section 392 of title 10, United States Code, as added by subsection (a) of this section, shall select the standard language under subsection (b)(3) of such section 392."

## §392a. Principal Cyber Advisors

(a) PRINCIPAL CYBER ADVISOR TO SECRETARY OF DEFENSE.—

(1) ESTABLISHMENT.—There is a Principal Cyber Advisor in the Department of Defense.

(2) RESPONSIBILITIES.—The Principal Cyber Advisor shall be responsible for the following:

(A) Acting as the principal advisor to the Secretary on military cyber forces and activities.

(B) Overall integration of Cyber Operations Forces activities relating to cyberspace operations, including associated policy and operational considerations, resources, personnel, technology development and transition, and acquisition.

(C) Assessing and overseeing the implementation of the cyber strategy of the Department and execution of the cyber posture review of the Department on behalf of the Secretary.

(D) Coordinating activities pursuant to subparagraphs (A) and (B) of paragraph (3) with the Principal Information Operations Advisor, the Chief Information Officer of the Department, and other officials as determined by the Secretary of Defense, to ensure the integration of activities in support of cyber, information, and electromagnetic spectrum operations.

(E) Such other matters relating to the offensive military cyber forces of the Department as the Secretary shall specify for the purposes of this subsection.

(3) CROSS-FUNCTIONAL TEAM.—Consistent with section 911 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note), the Principal

Cyber Advisor shall—

(A) integrate the cyber expertise and perspectives of appropriate organizations within the Office of the Secretary of Defense, Joint Staff, military departments, the Defense Agencies and Field Activities, and combatant commands, by establishing and maintaining a full-time cross-functional team of subject matter experts from those organizations; and

(B) select team members, and designate a team leader, from among those personnel nominated by the heads of such organizations.

(4) BUDGET REVIEW.—(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require the Secretaries of the military departments and the heads of the Defense agencies with responsibilities associated with any activity specified in paragraph (2) to transmit the proposed budget for such activities for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Principal Cyber Advisor for review under subparagraph (B) before submitting the proposed budget to the Under Secretary of Defense (Comptroller).

(B) The Principal Cyber Advisor shall review each proposed budget transmitted under subparagraph (A) and, not later than January 31 of the year preceding the fiscal year for which the budget is proposed, shall submit to the Secretary of Defense a report containing the comments of the Principal Cyber Advisor with respect to all such proposed budgets, together with the certification of the Principal Cyber Advisor regarding whether each proposed budget is adequate.

(C) Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report specifying each proposed budget that the Principal Cyber Advisor did not certify to be adequate. The report of the Secretary shall include the following matters:

(i) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets specified in the report.

(ii) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(b) SENIOR MILITARY ADVISOR FOR CYBER POLICY AND DEPUTY PRINCIPAL CYBER ADVISOR.—

(1) ADVISOR.—

(A) IN GENERAL.—The Secretary of Defense shall, acting through the Joint Staff, designate an officer within the Office of the Under Secretary of Defense for Policy to serve within that Office as the Senior Military Advisor for Cyber Policy, and concurrently, as the Deputy Principal Cyber Advisor.

(B) OFFICERS ELIGIBLE FOR DESIGNATION.—The officer designated pursuant to this paragraph shall be designated from among commissioned regular officers of the Armed Forces in a general or flag officer grade who are qualified for designation.

(C) GRADE.—The officer designated pursuant to this paragraph shall have the grade of major general or rear admiral (upper half) while serving in that position, without vacating the officer's permanent grade.

(2) SCOPE OF POSITIONS.—

(A) IN GENERAL.—The officer designated pursuant to paragraph (1) is each of the following:

(i) The Senior Military Advisor for Cyber Policy to the Assistant Secretary of Defense for Cyber Policy.

(ii) The Deputy Principal Cyber Advisor to the Secretary of Defense.

(B) DIRECTION AND CONTROL AND REPORTING.—In carrying out duties under this section, the officer designated pursuant to paragraph (1) shall be subject to the authority, direction, and control of, and shall report directly to, the Assistant Secretary of Defense for

Cyber Policy.

(3) DUTIES.—

(A) DUTIES AS SENIOR MILITARY ADVISOR FOR CYBER POLICY.—The duties of the officer designated pursuant to paragraph (1) as Senior Military Advisor for Cyber Policy are as follows:

(i) To serve as the principal uniformed military advisor on military cyber forces and activities to the Assistant Secretary of Defense for Cyber Policy.

(ii) To assess and advise the Assistant Secretary of Defense for Cyber Policy on aspects of policy relating to military cyberspace operations, resources, personnel, cyber force readiness, cyber workforce development, and defense of Department of Defense networks.

(iii) To advocate, in consultation with the Joint Staff, and senior officers of the Armed Forces and the combatant commands, for consideration of military issues within the Office of the Assistant Secretary of Defense for Cyber Policy, including coordination and synchronization of Department cyber forces and activities.

(B) DUTIES AS DEPUTY PRINCIPAL CYBER ADVISOR.—The duties of the officer designated pursuant to paragraph (1) as Deputy Principal Cyber Advisor are as follows:

(i) To synchronize, coordinate, and oversee implementation of the Cyber Strategy of the Department of Defense and other relevant policy and planning.

(ii) To advise the Secretary of Defense on cyber programs, projects, and activities of the Department, including with respect to policy, training, resources, personnel, manpower, and acquisitions and technology.

(iii) To oversee implementation of Department policy and operational directives on cyber programs, projects, and activities, including with respect to resources, personnel, manpower, and acquisitions and technology.

(iv) To assist in the overall supervision of Department cyber activities relating to offensive missions.

(v) To assist in the overall supervision of Department defensive cyber operations, including activities of component-level cybersecurity service providers and the integration of such activities with activities of the Cyber Mission Force.

(vi) To advise senior leadership of the Department on, and advocate for, investment in capabilities to execute Department missions in and through cyberspace.

(vii) To identify shortfalls in capabilities to conduct Department missions in and through cyberspace, and make recommendations on addressing such shortfalls in the Program Budget Review process.

(viii) To coordinate and consult with stakeholders in the cyberspace domain across the Department in order to identify other issues on cyberspace for the attention of senior leadership of the Department.

(ix) On behalf of the Principal Cyber Advisor, to lead the cross-functional team established pursuant to section 932(c)(3) of the National Defense Authorization Act for Fiscal Year 2014 (10 U.S.C. 2224 note) [1] in order to synchronize and coordinate military and civilian cyber forces and activities of the Department.

(c) CYBER GOVERNANCE STRUCTURES AND PRINCIPAL CYBER ADVISORS ON MILITARY CYBER FORCE MATTERS.—

(1) DESIGNATION.—

(A) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, each of the secretaries of the military departments, in consultation with the service chiefs, shall appoint an independent Principal Cyber Advisor for each service to act as the principal advisor to the relevant secretary on all cyber matters affecting that military service.

(B) NATURE OF POSITION.—Each Principal Cyber Advisor position under subparagraph (A) shall—

(i) be a senior civilian leadership position, filled by a senior member of the Senior Executive Service, not lower than the equivalent of a 3-star general officer, or by exception a comparable military officer with extensive cyber experience;

(ii) exclusively occupy the Principal Cyber Advisor position and not assume any other position or responsibility in the relevant military department;

(iii) be independent of the relevant service's chief information officer; and

(iv) report directly to and advise the secretary of the relevant military department and advise the relevant service's senior uniformed officer.

(C) NOTIFICATION.—Each of the secretaries of the military departments shall notify the Committees on Armed Services of the Senate and House of Representatives of his or her Principal Cyber Advisor appointment. In the case that the appointee is a military officer, the notification shall include a justification for the selection and an explanation of the appointee's ability to execute the responsibilities of the Principal Cyber Advisor.

(2) RESPONSIBILITIES OF PRINCIPAL CYBER ADVISORS.—Each Principal Cyber Advisor under paragraph (1) shall be responsible for advising both the secretary of the relevant military department and the senior uniformed military officer of the relevant military service and implementing the Department of Defense Cyber Strategy within the service by coordinating and overseeing the execution of the service's policies and programs relevant to the following:

(A) The recruitment, resourcing, and training of military cyberspace operations forces, assessment of these forces against standardized readiness metrics, and maintenance of these forces at standardized readiness levels.

(B) Acquisition of offensive, defensive, and Department of Defense Information Networks cyber capabilities for military cyberspace operations.

(C) Cybersecurity management and operations.

(D) Acquisition of cybersecurity tools and capabilities, including those used by cybersecurity service providers.

(E) Evaluating, improving, and enforcing a culture of cybersecurity warfighting and accountability for cybersecurity and cyberspace operations.

(F) Cybersecurity and related supply chain risk management of the industrial base.

(G) Cybersecurity of Department of Defense information systems, information technology services, and weapon systems, including the incorporation of cybersecurity threat information as part of secure development processes, cybersecurity testing, and the mitigation of cybersecurity risks.

(3) COORDINATION.—To ensure service compliance with the Department of Defense Cyber Strategy, each Principal Cyber Advisor under paragraph (1) shall work in close coordination with the following:

(A) Service chief information officers.

(B) Service cyber component commanders.

(C) Principal Cyber Advisor to the Secretary of Defense.

(D) Department of Defense Chief Information Officer.

(E) Defense Digital Service.

(4) BUDGET CERTIFICATION AUTHORITY.—

(A) IN GENERAL.—Each of the secretaries of the military departments shall require service components with responsibilities associated with cyberspace operations forces, offensive or defensive cyberspace operations and capabilities, and cyberspace issues relevant to the duties specified in paragraph (2) to transmit the proposed budget for such responsibilities for a fiscal year and for the period covered by the future-years defense program submitted to Congress

under section 221 of title 10, United States Code, for that fiscal year to the relevant service's Principal Cyber Advisor for review under subparagraph (B) before submitting the proposed budget to the department's comptroller.

(B) REVIEW.—Each Principal Cyber Advisor under paragraph (1)(A) shall review each proposed budget transmitted under subparagraph (A) and submit to the secretary of the relevant military department a report containing the comments of the Principal Cyber Advisor with respect to all such proposed budgets, together with the certification of the Principal Cyber Advisor regarding whether each proposed budget is adequate.

(C) REPORT.—Not later than March 31 of each year, each of the secretaries of the military departments shall submit to the congressional defense committees a report specifying each proposed budget for the subsequent fiscal year contained in the most-recent report submitted under subparagraph (B) that the Principal Cyber Advisor did not certify to be adequate. The report of the secretary shall include a discussion of the actions that the secretary took or proposes to take, together with any additional comments that the Secretary considers appropriate regarding the adequacy or inadequacy of the proposed budgets.

(5) PRINCIPAL CYBER ADVISORS' BRIEFING TO CONGRESS.—Not later than February 1, 2021, and biannually thereafter, each Principal Cyber Advisor under paragraph (1) shall brief the Committees on Armed Services of the Senate and House of Representatives on that Advisor's activities and ability to perform the functions specified in paragraph (2).

(Added and amended Pub. L. 117–263, div. A, title XV, §1501(b), Dec. 23, 2022, 136 Stat. 2877; Pub. L. 118–31, div. A, title XVIII, §1801(a)(5), Dec. 22, 2023, 137 Stat. 683; Pub. L. 118–159, div. A, title XVII, §1701(a)(8), Dec. 23, 2024, 138 Stat. 2203; Pub. L. 119–60, div. A, title XV, §1502, Dec. 18, 2025, 139 Stat. 1138.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 911 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (a)(3), is section 911 of Pub. L. 114–328, which is set out as a note under section 111 of this title.

Section 932(c)(3) of the National Defense Authorization Act for Fiscal Year 2014, referred to in subsec. (b)(3)(B)(ix), is section 932(c)(3) of Pub. L. 113–66, which was formerly set out as a note under section 2224 of this title and was transferred to this section and redesignated as subsec. (a)(3) by Pub. L. 117–263, §1501(b)(2)(A), (B), Dec. 23, 2022, 136 Stat. 2878.

The date of the enactment of this Act, referred to in subsec. (c)(1)(A), means the date of enactment of Pub. L. 116–92, which had originally enacted the text of subsec. (c) of this section and was approved Dec. 20, 2019. See Codification note below.

### CODIFICATION

The text of section 932(c) of Pub. L. 113–66, formerly set out as a note under section 2224 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 117–263, §1501(b)(2), was based on Pub. L. 113–66, div. A, title IX, §932, Dec. 26, 2013, 127 Stat. 829, as amended by Pub. L. 116–283, div. A, title XVII, §1713(a), Jan. 1, 2021, 134 Stat. 4089; Pub. L. 117–81, div. A, title XV, §1503(a), Dec. 27, 2021, 135 Stat. 2021; Pub. L. 117–263, div. A, title X, §1081(d), title XV, §1501(a), Dec. 23, 2022, 136 Stat. 2797, 2877.

The text of section 905 of Pub. L. 116–92, formerly set out as a note under section 391 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 117–263, §1501(b)(3), was based on Pub. L. 116–92, div. A, title IX, §905, Dec. 20, 2019, 133 Stat. 1557, as amended by Pub. L. 116–283, div. A, title XVII, §1713(b), Jan. 1, 2021, 134 Stat. 4090; Pub. L. 117–81, div. A, title XV, §1503(b), Dec. 27, 2021, 135 Stat. 2021; Pub. L. 117–263, div. A, title X, §1081(c), Dec. 23, 2022, 136 Stat. 2797.

The text of section 1657 of Pub. L. 116–92, formerly set out as a note under section 391 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 117–263, §1501(b)(4), was based on Pub. L. 116–92, div. A, title XVI, §1657, Dec. 20, 2019, 133 Stat. 1767.

### AMENDMENTS

**2025**—Subsec. (b)(2)(A)(i). Pub. L. 119–60, §1502(1)(A), substituted "the Assistant Secretary of Defense for Cyber Policy" for "the Under Secretary of Defense for Policy".

Subsec. (b)(2)(B). Pub. L. 119–60, §1502(1)(B), substituted "the Assistant Secretary of Defense for Cyber Policy." for "the following:

"(i) The Under Secretary with respect to Senior Military Advisor for Cyber Policy duties.

"(ii) The Principal Cyber Advisor with respect to Deputy Principal Cyber Advisor duties."

Subsec. (b)(3)(A)(i). Pub. L. 119–60, §1502(2)(A), substituted "the Assistant Secretary of Defense for Cyber Policy" for "the Under Secretary of Defense for Policy".

Subsec. (b)(3)(A)(ii). Pub. L. 119–60, §1502(2)(B), substituted "Assistant Secretary of Defense for Cyber Policy" for "Under Secretary".

Subsec. (b)(3)(A)(iii). Pub. L. 119–60, §1502(2)(C), substituted "Assistant Secretary of Defense for Cyber Policy" for "Under Secretary of Defense for Policy".

Subsec. (b)(3)(A)(iv). Pub. L. 119–60, §1502(2)(D), struck out cl. (iv) which read as follows: "To maintain open lines of communication between the Chief Information Officer of the Department of Defense, senior civilian leaders within the Office of the Under Secretary, and senior officers on the Joint Staff, the Armed Forces, and the combatant commands on cyber matters, and to ensure that military leaders are informed on cyber policy decisions."

**2024**—Subsec. (b)(3)(B)(ix). Pub. L. 118–159 inserted "section" before "932(c)(3)".

**2023**—Subsec. (b)(2)(B). Pub. L. 118–31, §1801(a)(5)(A), substituted "designated" for "designed" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 118–31, §1801(a)(5)(B), substituted "subparagraph (B)" for "clause (ii)".

**2022**—Subsec. (a). Pub. L. 117–263, §1501(b)(2)(A), (B), (D), transferred section 932(c) of Pub. L. 113–66 to this section, redesignated it as subsec. (a), and inserted "to Secretary of Defense" after "Advisor" in heading. See Codification note above.

Subsec. (a)(1). Pub. L. 117–263, §1501(b)(2)(C), added par. (1) and struck out former par. (1) which related to designation of a Principal Cyber Advisor by the Secretary of Defense.

Subsec. (b). Pub. L. 117–263, §1501(b)(3)(A), transferred section 905 of Pub. L. 116–92 to this section, redesignated it as subsec. (b), redesignated each subordinate provision to conform to such redesignation, and realigned margins. See Codification note above.

Subsec. (b)(1)(B), (C). Pub. L. 117–263, §1501(b)(3)(B)(i), substituted "this paragraph" for "this subsection".

Subsec. (b)(2), (3). Pub. L. 117–263, §1501(b)(3)(B)(ii), substituted "paragraph (1)" for "subsection (a)" in introductory provisions of subpars. (A) and (B).

Subsec. (c). Pub. L. 117–263, §1501(b)(4)(A), transferred section 1657 of Pub. L. 116–92 to this section, redesignated it as subsec. (c), redesignated each subordinate provision to conform to such redesignation, and realigned margins. See Codification note above.

Subsec. (c)(1)(B). Pub. L. 117–263, §1501(b)(4)(B)(ii), substituted "subparagraph (A)" for "paragraph (1)" in introductory provisions.

Subsec. (c)(2), (3). Pub. L. 117–263, §1501(b)(4)(B)(v), substituted "paragraph (1)" for "subsection (a)" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 117–263, §1501(b)(4)(B)(i), (vi), substituted "paragraph (2)" for "subsection (b)" and "clause (ii)" for "subparagraph (B)".

Subsec. (c)(4)(B). Pub. L. 117–263, §1501(b)(4)(B)(ii), (iv), substituted "paragraph (1)(A)" for "subsection (a)(1)" and "subparagraph (A)" for "paragraph (1)".

Subsec. (c)(4)(C). Pub. L. 117–263, §1501(b)(4)(B)(iii), substituted "subparagraph (B)" for "paragraph (2)".

Subsec. (c)(5). Pub. L. 117–263, §1501(b)(4)(B)(v), (vi), substituted "paragraph (1)" for "subsection (a)" and "paragraph (2)" for "subsection (b)".

Subsec. (c)(6). Pub. L. 117–263, §1501(b)(4)(B)(vii), struck out par. (6) which authorized each of the secretaries of the military departments to review relevant military department's current governance model for cybersecurity with respect to current authorities and responsibilities.

Subsec. (c)(6)(B). Pub. L. 117–263, §1501(b)(4)(B)(ii), (v), substituted "subparagraph (A)" for "paragraph (1)" in introductory provisions and "paragraph (1)" for "subsection (a)" in cl. (i).

Subsec. (c)(6)(C). Pub. L. 117–263, §1501(b)(4)(B)(ii), substituted "subparagraph (A)" for "paragraph (1)".

[1] *See References in Text note below.*

## §393. Reporting on penetrations of networks and information systems of certain contractors

(a) PROCEDURES FOR REPORTING PENETRATIONS.—The Secretary of Defense shall establish procedures that require each cleared defense contractor to report to a component of the Department of Defense designated by the Secretary for purposes of such procedures when a network or information system of such contractor that meets the criteria established pursuant to subsection (b) is successfully penetrated.

(b) NETWORKS AND INFORMATION SYSTEMS SUBJECT TO REPORTING.—

(1) CRITERIA.—The Secretary of Defense shall designate a senior official to, in consultation with the officials specified in paragraph (2), establish criteria for covered networks to be subject to the procedures for reporting system penetrations under subsection (a).

(2) OFFICIALS.—The officials specified in this subsection are the following:

(A) The Under Secretary of Defense for Policy.

(B) The Under Secretary of Defense for Acquisition and Sustainment.

(C) the Under Secretary of Defense for Research and Engineering.

(D) The Under Secretary of Defense for Intelligence and Security.

(E) The Chief Information Officer of the Department of Defense.

(F) The Commander of the United States Cyber Command.

(c) PROCEDURE REQUIREMENTS.—

(1) RAPID REPORTING.—The procedures established pursuant to subsection (a) shall require each cleared defense contractor to rapidly report to a component of the Department of Defense designated pursuant to subsection (a) of each successful penetration of the network or information systems of such contractor that meet the criteria established pursuant to subsection (b). Each such report shall include the following:

(A) A description of the technique or method used in such penetration.

(B) A sample of the malicious software, if discovered and isolated by the contractor, involved in such penetration.

(C) A summary of information created by or for the Department in connection with any Department program that has been potentially compromised due to such penetration.

(2) ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT OF DEFENSE PERSONNEL.—The procedures established pursuant to subsection (a) shall—

(A) include mechanisms for Department of Defense personnel to, upon request, obtain access to equipment or information of a cleared defense contractor necessary to conduct forensic analysis in addition to any analysis conducted by such contractor;

(B) provide that a cleared defense contractor is only required to provide access to equipment or information as described in subparagraph (A) to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of such contractor and, if so, what information was exfiltrated; and

(C) provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(3) DISSEMINATION OF INFORMATION.—The procedures established pursuant to subsection (a) shall limit the dissemination of information obtained or derived through such procedures to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) PROTECTION FROM LIABILITY OF CLEARED DEFENSE CONTRACTORS.—(1) No cause of action shall lie or be maintained in any court against any cleared defense contractor, and such action shall be promptly dismissed, for compliance with this section that is conducted in accordance with the procedures established pursuant to subsection (a).

(2)(A) Nothing in this section shall be construed—

(i) to require dismissal of a cause of action against a cleared defense contractor that has engaged in willful misconduct in the course of complying with the procedures established pursuant to subsection (a); or

(ii) to undermine or limit the availability of otherwise applicable common law or statutory defenses.

(B) In any action claiming that paragraph (1) does not apply due to willful misconduct described in subparagraph (A), the plaintiff shall have the burden of proving by clear and convincing evidence the willful misconduct by each cleared defense contractor subject to such claim and that such willful misconduct proximately caused injury to the plaintiff.

(C) In this subsection, the term "willful misconduct" means an act or omission that is taken—

(i) intentionally to achieve a wrongful purpose;

(ii) knowingly without legal or factual justification; and

(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

(e) DEFINITIONS.—In this section:

(1) CLEARED DEFENSE CONTRACTOR.—The term "cleared defense contractor" means a private entity granted clearance by the Department of Defense to access, receive, or store classified information for the purpose of bidding for a contract or conducting activities in support of any program of the Department of Defense.

(2) COVERED NETWORK.—The term "covered network" means a network or information system of a cleared defense contractor that contains or processes information created by or for the Department of Defense with respect to which such contractor is required to apply enhanced protection.

(Added and amended Pub. L. 114–92, div. A, title XVI, §1641(a), Nov. 25, 2015, 129 Stat. 1114; Pub. L. 116–92, div. A, title IX, §902(8), title XVI, §1621(e)(1)(A)(vi), Dec. 20, 2019, 133 Stat. 1543, 1733; Pub. L. 116–283, div. A, title X, §1081(a)(15), Jan. 1, 2021, 134 Stat. 3871; Pub. L. 117–81, div. A, title X, §1081(a)(9), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### CODIFICATION

Section, as added and amended by Pub. L. 114–92, is based on Pub. L. 112–239, div. A, title IX, §941, Jan. 2, 2013, 126 Stat. 1889, which was formerly set out as a note under section 2224 of this title before being transferred to this chapter and renumbered as this section.

### AMENDMENTS

**2021**—Subsec. (b)(2)(D). Pub. L. 117–81 inserted period at end.

Pub. L. 116–283 substituted "of Defense for Intelligence and Security" for "of Defense for Intelligence."

**2019**—Subsec. (b)(2)(B). Pub. L. 116–92, §902(8)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (b)(2)(C). Pub. L. 116–92, §1621(e)(1)(A)(vi), which directed amendment of subpar. (C) by substituting "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence", could not be executed because the words "Under Secretary of Defense for Intelligence" did not appear. Similar amendment was subsequently directed to subpar. (D) by Pub. L. 116–283, see 2021 Amendment note above.

Pub. L. 116–92, §902(8)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D) to (F). Pub. L. 116–92, §902(8)(C), redesignated subpars. (C) to (E) as (D) to (F), respectively.

**2015**—Pub. L. 114–92, §1641(a)(1), substituted "Reporting on penetrations of networks and information systems of certain contractors" for "Reports to Department of Defense on penetrations of networks and information systems of certain contractors" in section catchline.

Pub. L. 114–92, §1641(a), transferred section 941 of Pub. L. 112–239 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (c)(3). Pub. L. 114–92, §1641(a)(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The procedures established pursuant to subsection (a) shall prohibit the dissemination outside the Department of Defense of information obtained or derived through such procedures that is not created by or for the Department except with the approval of the contractor providing such information."

Subsec. (d). Pub. L. 114–92, §1641(a)(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act—

"(A) the Secretary of Defense shall establish the procedures required under subsection (a); and

"(B) the senior official designated under subsection (b)(1) shall establish the criteria required under such subsection.

"(2) APPLICABILITY DATE.—The requirements of this section shall apply on the date on which the Secretary of Defense establishes the procedures required under this section."

## §394. Authorities concerning military cyber operations

(a) IN GENERAL.—The Secretary of Defense shall develop, prepare, and coordinate; make ready all armed forces for purposes of; and, when appropriately authorized to do so, conduct, military cyber activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, to defend the United States and its allies, including in response to malicious cyber activity carried out against the United States or a United States person by a foreign power.

(b) AFFIRMATION OF AUTHORITY.—Congress affirms that the activities or operations referred to in subsection (a), when appropriately authorized, include the conduct of military activities or operations in cyberspace short of hostilities (as such term is used in the War Powers Resolution (Public Law 93–148; 50 U.S.C. 1541 et seq.)) or in areas in which hostilities are not occurring, including for the purpose of preparation of the environment, information operations, force protection, and deterrence of hostilities, or counterterrorism operations involving the Armed Forces of the United States.

(c) CLANDESTINE ACTIVITIES OR OPERATIONS.—A clandestine military activity or operation in cyberspace shall be considered a traditional military activity for the purposes of section 503(e)(2) of the National Security Act of 1947 (50 U.S.C. 3093(e)(2)).

(d) CONGRESSIONAL OVERSIGHT.—The Secretary shall brief the congressional defense committees about any military activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, occurring during the previous quarter during the quarterly briefing required by section 484 of this title.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the Secretary to conduct military activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, to authorize specific military activities or operations, or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or reporting of sensitive military cyber activities or operations required by section 395 of this title.

(f) DEFINITIONS.—In this section:

(1) The term "clandestine military activity or operation in cyberspace" means a military activity or military operation carried out in cyberspace, or associated preparatory actions, authorized by the President or the Secretary that—

(A) is marked by, held in, or conducted with secrecy, where the intent is that the activity or operation will not be apparent or acknowledged publicly; and

(B) is to be carried out—

(i) as part of a military operation plan approved by the President or the Secretary in anticipation of hostilities or as directed by the President or the Secretary;

(ii) to deter, safeguard, or defend against attacks or malicious cyber activities against the United States or Department of Defense information, networks, systems, installations, facilities, or other assets; or

(iii) in support of information related capabilities.

(2) The term "foreign power" has the meaning given such term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(3) The term "United States person" has the meaning given such term in such section.

(Added Pub. L. 114–92, div. A, title XVI, §1642(a), Nov. 25, 2015, 129 Stat. 1116, §130g; renumbered §394 and amended Pub. L. 115–232, div. A, title XVI, §§1631(a), 1632, Aug. 13, 2018, 132 Stat. 2123.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsecs. (b) and (e), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The Authorization for Use of Military Force, referred to in subsec. (e), is Pub. L. 107–40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

### AMENDMENTS

**2018**—Pub. L. 115–232, §1632, designated existing provisions as subsec. (a), inserted heading, substituted "conduct, military cyber activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, to defend the United States and its allies, including in response" for "conduct, a military cyber operation in response", struck out "(as such terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801))" after "foreign power", and added subsecs. (b) to (f).

Pub. L. 115–232, §1631(a), renumbered section 130g of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROHIBITION ON THE ELIMINATION OF CERTAIN CYBER ASSESSMENT CAPABILITIES FOR TEST AND EVALUATION

Pub. L. 119–60, div. A, title XV, §1507, Dec. 18, 2025, 139 Stat. 1145, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not take any action to divest, consolidate, or curtail any current cyber assessment capabilities or red teams certified by the National Security Agency supporting operational test and evaluation for programs of the Department of Defense unless, prior to taking such action, the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the certification described in subsection (b) with respect to such action.

"(b) CERTIFICATION.— The certification described in this subsection with respect to an action described in subsection (a) is a certification that the decision to take such action and the analysis related to operational effects on users of cyber assessment capabilities provided by the Director of Operational Test and Evaluation of such action comply with the applicable requirements under section 4173(c)(1)(B) of title 10, United States Code, and which includes the following:

"(1) The analytic basis for making the decision to take such action, including any cost, workload, and workforce requirements, as well as any analysis related to operational effects on users of cyber assessment capabilities provided by the Director of Operational Test and Evaluation of such action.

"(2) An independent review by the Director of Cost Assessment and Program Evaluation of all the analysis included in the certification under paragraph (1).

"(3) A comprehensive plan to sustain the critical cyber assessment capabilities for test and evaluation currently managed by the Director of Operational Test and Evaluation while transitioning such capabilities

to another element of the Department of Defense or, if supporting analyses identify the elements of the Department to which such capabilities are proposed to be transferred, a plan for the transition of such capabilities to such elements, including a timeline for such transfer and measures to ensure no reductions in such capabilities during such transition.

"(4) A detailed assessment of the funding requirements for maintaining and enhancing cyber assessment capabilities for test and evaluation of the Department of Defense, including how these funding requirements will be incorporated into annual budget request documents of the Department of Defense.

"(5) A review of staffing, tools, and specialized resources required to support cyber operational test and evaluation across major defense acquisition programs (as defined in section 4201 of title 10, United States Code) and information technology programs of the Department of Defense . [sic]

"(6) A summary of the efforts of the Department of Defense to integrate intelligence-informed threat data into operational cyber testing, including any legal or technical barriers to such integration and proposed solutions to such barriers.

"(7) A plan to improve coordination and information-sharing between cyber operational test and evaluation stakeholders, the United States Cyber Command, and the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) following the transition described in paragraph (3).

"(8) Proposed metrics for evaluating mission effects in contested cyber environments that are in accordance with guidance issued by the Director of Operational Test and Evaluation, titled 'Cyber Operational Test and Evaluation Guidebook' and dated January 31, 2025.

"(9) An assessment of the effectiveness and future needs of cyber assessment programs of the Department of Defense, including an identification of any current or future requirements of such programs for resources that are or are projected to not be met."

## ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING SECURITY IN THE DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title XV, §1512, Dec. 18, 2025, 139 Stat. 1147, provided that:

"(a) CYBERSECURITY POLICY FOR ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING USE.—Not later than 180 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in consultation with other appropriate Federal agencies, shall develop and implement a Department of Defense-wide policy for the cybersecurity and associated governance of artificial intelligence and machine learning systems and applications, as well as the models for artificial intelligence and machine learning used in national defense applications.

"(b) POLICY ELEMENTS.—The policy required under subsection (a) shall address the following:

"(1) Protection against security threats specific to artificial intelligence and machine learning, including model serialization attacks, model tampering, data leakage, adversarial prompt injection, model extraction, model jailbreaks, and supply chain attacks.

"(2) Use of cybersecurity measures throughout the life cycle of systems using artificial intelligence or machine learning.

"(3) Adoption of industry-recognized frameworks to guide the development and implementation of artificial intelligence and machine learning security best practices.

"(4) Standards for governance, testing, auditing, and monitoring of systems using artificial intelligence and machine learning to ensure the integrity and resilience of such systems against corruption and unauthorized manipulation.

"(5) Training requirements for the workforce of the Department of Defense to ensure personnel are prepared to identify and mitigate vulnerabilities that are specific to artificial intelligence and machine learning.

"(c) REVIEW AND REPORT.—

"(1) REVIEW.—The Secretary of Defense shall conduct a comprehensive review to identify and assess the effectiveness of the artificial intelligence and machine learning cybersecurity and associated governance practices of the Department of Defense.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than August 31, 2026, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the findings of the review conducted under paragraph (1).

"(B) CONTENTS.—The report required under subparagraph (A) shall include—

"(i) an assessment of the current security practices for artificial intelligence and machine learning across the Department of Defense;

"(ii) an assessment of the cybersecurity risks posed by the use of authorized and unauthorized artificial intelligence software, including models developed by companies headquartered in or operating from foreign countries of concern, by the Department;

"(iii) an identification of gaps in the existing security measures of the Department related to threats specific to the use of artificial intelligence and machine learning;

"(iv) an analysis of the potential of security management, access, and runtime capabilities for artificial intelligence in the commercial sector for use by the Department to defend systems using artificial intelligence from threats, minimize data exposure resulting from the use of such systems, and maintain the trustworthiness of applications of the Department that use artificial intelligence;

"(v) an evaluation of the alignment of the policies of the Department with industry frameworks;

"(vi) recommend actions to enhance the security, integrity, and governance of artificial intelligence and machine learning models used by the Department; and

"(vii) an identification of any additional authorities, resources, or legislative actions required for the Department to effectively implement artificial intelligence and machine learning model security policy required by subsection (a).

"(d) DEFINITIONS.—In this section:

"(1) [no par. (2) has been enacted] The terms 'artificial intelligence' and 'machine learning' have the meanings given such terms, respectively, in section 5001 [probably should be "5002"] of the National Artificial Intelligence Initiative Act of 2020 (15 U.S.C. 9401)."

## SUPPORT FOR CYBER THREAT TABLETOP EXERCISE PROGRAM WITH THE DEFENSE INDUSTRIAL BASE

Pub. L. 118–159, div. A, title XV, §1504, Dec. 23, 2024, 138 Stat. 2133, provided that:

"(a) DEVELOPMENT OF CYBER THREAT TABLETOP EXERCISE PROGRAM.—

"(1) IN GENERAL.— Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, acting through the Assistant Secretary of Defense for Cyber Policy, shall establish a program (to be known as the 'Cyber Threat Tabletop Exercise Program') to prepare the Department of Defense and the defense industrial base for cyber attacks preceding or during times of conflict or wars through the use of tabletop exercises.

"(2) PARTICIPATION.—

"(A) IN GENERAL.—In carrying out the program, the Secretary of Defense, acting through the Assistant Secretary of Defense for Cyber Policy, shall consult and coordinate with the following:

"(i) The Chief Information Officer of the Department of Defense.

"(ii) The Under Secretary of Defense for Acquisition and Sustainment.

"(iii) The Commander of the United States Cyber Command.

"(iv) The Commander of the United States Northern Command.

"(v) The Commander of the Army Interagency Training and Education Center.

"(vi) The Director of the Defense Cyber Crime Center.

"(vii) Such other individuals and entities as the Assistant Secretary of Defense for Cyber Policy determines appropriate.

"(B) SOLICITATION.—The Assistant Secretary of Defense for Cyber Policy may solicit such individuals and entities in the Department of Defense and the defense industrial base as the Assistant Secretary determines appropriate to participate in the program.

"(3) CYBER THREAT TABLETOP EXERCISE PROGRAM.——

"(A) IN GENERAL.—The program shall consist of the following:

"(i) A series of tabletop exercises that simulate cyber attack scenarios affecting the defense industrial base, which the Assistant Secretary of Defense for Cyber Policy shall carry out on a biannual basis beginning not later than one year after the date of the enactment of this Act until December 30, 2030, and in which the Department of Defense and entities in the defense industrial base shall participate.

"(ii) A series of tabletop exercises for use by individual entities or collections of entities in the defense industrial base that simulate cyber attack scenarios affecting the defense industrial base and which are designed to test and improve the responses and plans of such entities to such scenarios.

"(B) TABLETOP EXERCISE DEVELOPMENT.—

"(i) IN GENERAL.—The Assistant Secretary of Defense for Cyber Policy shall develop and update the tabletop exercises described in subparagraph (A).

"(ii) REALISTIC ATTACKS.—The Assistant Secretary of Defense for Cyber Policy shall

ensure that the cyber attacks simulated by the tabletop exercises described in subparagraph (A) are based on the cyber attack capabilities and activities of current and potential adversaries of the United States.

"(4) PROCEDURES FOR IDENTIFICATION OF VULNERABILITIES AND LESSONS LEARNED .—Not later than one year after the date of the enactment of this Act, the Assistant Secretary of Defense for Cyber Policy shall establish procedures to—

"(A) identify vulnerabilities in the cybersecurity of the Department of Defense and the defense industrial base pursuant to the tabletop exercises carried out under the program; and

"(B) identify other lessons learned that can improve national security or the quality of such tabletop exercises.

"(b) ANNUAL REPORT.—Not later than September 30, 2025, and annually thereafter until the [sic] October 1, 2029, the Secretary of Defense, acting through the Assistant Secretary of Defense for Cyber Policy, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the activities of the Department of Defense pursuant to this section during the preceding year.

"(c) PROGRAM DEFINED.—In this section, the term 'program' means the program established under subsection (a)."

## AUTHORITY FOR COUNTERING ILLEGAL TRAFFICKING BY MEXICAN TRANSNATIONAL CRIMINAL ORGANIZATIONS IN CYBERSPACE

Pub. L. 118–31, div. A, title XV, §1505, Dec. 22, 2023, 137 Stat. 539, provided that:

"(a) AUTHORITY.—In accordance with sections 124 and 394 of title 10, United States Code, the Secretary of Defense, in support of and in coordination with the heads of other relevant Federal departments and agencies and in consultation with the Government of Mexico as appropriate, may conduct detection, monitoring, and other operations in cyberspace to counter Mexican transnational criminal organizations that are engaged in any of the following activities that cross the southern border of the United States:

"(1) Smuggling of illegal drugs, controlled substances, or precursors thereof.

"(2) Human trafficking.

"(3) Weapons trafficking.

"(4) Other illegal activities.

"(b) CERTAIN ENTITIES.—The authority under paragraph (1) [probably should be "subsection (a)"] may be used to counter Mexican transnational criminal organizations, including entities cited in the most recent National Drug Threat Assessment published by the United States Drug Enforcement Administration, that are engaged in any of the activities described in such paragraph."

## MANAGEMENT OF DATA ASSETS BY CHIEF DIGITAL AND ARTIFICIAL INTELLIGENCE OFFICER

Pub. L. 118–31, div. A, title XV, §1523, Dec. 22, 2023, 137 Stat. 553, provided that:

"(a) IN GENERAL.—The Secretary of Defense, subject to existing authorities and limitations and acting through the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall provide the digital infrastructure and procurement vehicles necessary to manage data assets and data analytics capabilities at scale to enable an understanding of foreign key terrain and relational frameworks in cyberspace to support the planning of cyber operations, the generation of indications and warnings regarding military operations and capabilities, and the calibration of actions and reactions in strategic competition.

"(b) RESPONSIBILITIES OF CHIEF DIGITAL AND ARTIFICIAL INTELLIGENCE OFFICER.—The Chief Digital and Artificial Intelligence Officer shall—

"(1) develop a baseline of data assets exclusive to foreign key terrain and relational frameworks in cyberspace maintained by the intelligence agencies of the Department of Defense, the military departments, the combatant commands, and any other components of the Department of Defense;

"(2) develop and oversee the implementation of plans to enhance such data assets that the Chief Digital and Artificial Intelligence Officer determines are essential to support the purposes set forth in subsection (a); and

"(3) ensure that such activities and plans are undertaken in cooperation and in coordination with the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, to ensure that any data collection, procurement, acquisition, use, or retention measure conducted pursuant to this section is in compliance with applicable laws and regulations, including standards pertaining to data related to United States persons or any persons in the United States.

"(c) OTHER MATTERS.—The Chief Digital and Artificial Intelligence Officer shall—

"(1) designate or establish one or more Department of Defense executive agents for enhancing data assets and the acquisition of data analytic tools for users;

"(2) ensure that data assets referred to in subsection (b) that are in the possession of a component of the Department of Defense are accessible for the purposes described in subsection (a); and

"(3) ensure that advanced analytics, including artificial intelligence technology, are developed and applied to the analysis of the data assets referred to in subsection (b) in support of the purposes described in subsection (a).

"(d) SEMIANNUAL BRIEFINGS.—Not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], and not less frequently than semiannually thereafter, the Chief Digital and Artificial Intelligence Officer shall provide to the appropriate congressional committees a briefing on the implementation of this section.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Department of Defense to collect, procure, or otherwise acquire data, including commercially available data, in any manner that is not authorized by law, or to make use of data assets in any manner, or for any purpose, that is not otherwise authorized by law.

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(2) the Permanent Select Committee on Intelligence of the House of Representatives; and

"(3) the Select Committee on Intelligence of the Senate."

## PROTECTION OF CRITICAL INFRASTRUCTURE

Pub. L. 117–263, div. A, title XV, §1511, Dec. 23, 2022, 136 Stat. 2892, provided that:

"(a) IN GENERAL.—In the event that the President determines that there is an active, systematic, and ongoing campaign of attacks in cyberspace by a foreign power against the Government or the critical infrastructure of the United States, the President may authorize the Secretary of Defense, acting through the Commander of the United States Cyber Command, to conduct military cyber activities or operations pursuant to section 394 of title 10, United States Code, in foreign cyberspace to deter, safeguard, or defend against such attacks.

"(b) AFFIRMATION OF SCOPE OF CYBER ACTIVITIES OR OPERATIONS.—Congress affirms that the cyber activities or operations referred to in subsection (a), when appropriately authorized, shall be conducted consistent with section 394 of title 10, United States Code.

"(c) DEFINITION OF CRITICAL INFRASTRUCTURE.—In this section, the term 'critical infrastructure' has the meaning given that term in subsection (e) [of section 1016] of the Critical Infrastructure[s] Protection Act of 2001 (42 U.S.C. 5195c(e))."

## OPERATIONAL TECHNOLOGY AND MISSION-RELEVANT TERRAIN IN CYBERSPACE

Pub. L. 117–81, div. A, title XV, §1505, Dec. 27, 2021, 135 Stat. 2023, as amended by Pub. L. 118–31, div. A, title XV, §1502(a)(2)(E), Dec. 22, 2023, 137 Stat. 538, provided that:

"(a) MISSION-RELEVANT TERRAIN.—Not later than January 1, 2025, the Secretary of Defense shall complete mapping of mission-relevant terrain in cyberspace for Defense Critical Assets and Task Critical Assets at sufficient granularity to enable mission thread analysis and situational awareness, including required—

"(1) decomposition of missions reliant on such Assets;

"(2) identification of access vectors;

"(3) internal and external dependencies;

"(4) topology of networks and network segments;

"(5) cybersecurity defenses across information and operational technology on such Assets; and

"(6) identification of associated or reliant weapon systems.

"(b) COMBATANT COMMAND RESPONSIBILITIES.—Not later than January 1, 2024, the Commanders of United States European Command, United States Indo-Pacific Command, United States Northern Command, United States Strategic Command, United States Space Command, United States Transportation Command, and other relevant Commands, in coordination with the Commander of United States Cyber Command, in order to enable effective mission thread analysis, cyber situational awareness, and effective cyber defense of Defense Critical Assets and Task Critical Assets under their control or in their areas of responsibility, shall develop, institute, and make necessary modifications to—

"(1) internal combatant command processes, responsibilities, and functions;

"(2) coordination with service components under their operational control, United States Cyber

Command, Joint Forces Headquarters-Department of Defense Information Network, and the service cyber components;

"(3) combatant command headquarters' situational awareness posture to ensure an appropriate level of cyber situational awareness of the forces, facilities, installations, bases, critical infrastructure, and weapon systems under their control or in their areas of responsibility, including, in particular, Defense Critical Assets and Task Critical Assets; and

"(4) documentation of their mission-relevant terrain in cyberspace.

"(c) DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER RESPONSIBILITIES.—

"(1) IN GENERAL.—Not later than November 1, 2023, the Chief Information Officer of the Department of Defense shall establish or make necessary changes to policy, control systems standards, risk management framework and authority to operate policies, and cybersecurity reference architectures to provide baseline cybersecurity requirements for operational technology in forces, facilities, installations, bases, critical infrastructure, and weapon systems across the Department of Defense Information Network.

"(2) IMPLEMENTATION OF POLICIES.—The Chief Information Officer of the Department of Defense shall leverage acquisition guidance, concerted assessment of the Department's operational technology enterprise, and coordination with the military department principal cyber advisors and chief information officers to drive necessary change and implementation of relevant policy across the Department's forces, facilities, installations, bases, critical infrastructure, and weapon systems.

"(3) ADDITIONAL RESPONSIBILITIES.—The Chief Information Officer of the Department of Defense shall ensure that policies, control systems standards, and cybersecurity reference architectures—

"(A) are implementable by components of the Department;

"(B) limit adversaries' ability to reach or manipulate control systems through cyberspace;

"(C) appropriately balance non-connectivity and monitoring requirements;

"(D) include data collection and flow requirements;

"(E) interoperate with and are informed by the operational community's workflows for defense of information and operational technology in the forces, facilities, installations, bases, critical infrastructure, and weapon systems across the Department;

"(F) integrate and interoperate with Department mission assurance construct; and

"(G) are implemented with respect to Defense Critical Assets and Task Critical Assets.

"(d) UNITED STATES CYBER COMMAND OPERATIONAL RESPONSIBILITIES.—Not later than January 1, 2025, the Commander of United States Cyber Command shall make necessary modifications to the mission, scope, and posture of Joint Forces Headquarters-Department of Defense Information Network to ensure that Joint Forces Headquarters—

"(1) has appropriate visibility of operational technology in the forces, facilities, installations, bases, critical infrastructure, and weapon systems across the Department of Defense Information Network, including, in particular, Defense Critical Assets and Task Critical Assets;

"(2) can effectively command and control forces to defend such operational technology; and

"(3) has established processes for—

"(A) incident and compliance reporting;

"(B) ensuring compliance with Department of Defense cybersecurity policy; and

"(C) ensuring that cyber vulnerabilities, attack vectors, and security violations, including, in particular, those specific to Defense Critical Assets and Task Critical Assets, are appropriately managed.

"(e) UNITED STATES CYBER COMMAND FUNCTIONAL RESPONSIBILITIES.—Not later than January 1, 2025, the Commander of United States Cyber Command shall—

"(1) ensure in its role of Joint Forces Trainer for the Cyberspace Operations Forces that operational technology cyber defense is appropriately incorporated into training for the Cyberspace Operations Forces;

"(2) delineate the specific force composition requirements within the Cyberspace Operations Forces for specialized cyber defense of operational technology, including the number, size, scale, and responsibilities of defined Cyber Operations Forces elements;

"(3) develop and maintain, or support the development and maintenance of, a joint training curriculum for operational technology-focused Cyberspace Operations Forces;

"(4) support the Chief Information Officer of the Department of Defense as the Department's senior official for the cybersecurity of operational technology under this section;

"(5) develop and institutionalize, or support the development and institutionalization of, tradecraft for defense of operational technology across local defenders, cybersecurity service providers, cyber protection teams, and service-controlled forces;

"(6) develop and institutionalize integrated concepts of operation, operational workflows, and cybersecurity architectures for defense of information and operational technology in the forces, facilities,

installations, bases, critical infrastructure, and weapon systems across the Department of Defense Information Network, including, in particular, Defense Critical Assets and Task Critical Assets, including—

"(A) deliberate and strategic sensoring of such Network and Assets;

"(B) instituting policies governing connections across and between such Network and Assets;

"(C) modelling of normal behavior across and between such Network and Assets;

"(D) engineering data flows across and between such Network and Assets;

"(E) developing local defenders, cybersecurity service providers, cyber protection teams, and service-controlled forces' operational workflows and tactics, techniques, and procedures optimized for the designs, data flows, and policies of such Network and Assets;

"(F) instituting of model defensive cyber operations and Department of Defense Information Network operations tradecraft; and

"(G) integrating of such operations to ensure interoperability across echelons; and

"(7) advance the integration of the Department of Defense's mission assurance, cybersecurity compliance, cybersecurity operations, risk management framework, and authority to operate programs and policies.

"(f) SERVICE RESPONSIBILITIES.—Not later than January 1, 2025, the Secretaries of the military departments, through the service principal cyber advisors, chief information officers, the service cyber components, and relevant service commands, shall make necessary investments in operational technology in the forces, facilities, installations, bases, critical infrastructure, and weapon systems across the Department of Defense Information Network and the service-controlled forces responsible for defense of such operational technology to—

"(1) ensure that relevant local network and cybersecurity forces are responsible for defending operational technology across the forces, facilities, installations, bases, critical infrastructure, and weapon systems, including, in particular, Defense Critical Assets and Task Critical Assets;

"(2) ensure that relevant local operational technology-focused system operators, network and cybersecurity forces, mission defense teams and other service-retained forces, and cyber protection teams are appropriately trained, including through common training and use of cyber ranges, as appropriate, to execute the specific requirements of cybersecurity operations in operational technology;

"(3) ensure that all Defense Critical Assets and Task Critical Assets are monitored and defended by Cybersecurity Service Providers;

"(4) ensure that operational technology is appropriately sensored and appropriate cybersecurity defenses, including technologies associated with the More Situational Awareness for Industrial Control Systems Joint Capability Technology Demonstration, are employed to enable defense of Defense Critical Assets and Task Critical Assets;

"(5) implement Department of Defense Chief Information Officer policy germane to operational technology, including, in particular, with respect to Defense Critical Assets and Task Critical Assets;

"(6) plan for, designate, and train dedicated forces to be utilized in operational technology-centric roles across the military services and United States Cyber Command; and

"(7) ensure that operational technology, as appropriate, is not easily accessible via the internet and that cybersecurity investments accord with mission risk to and relevant access vectors for Defense Critical Assets and Task Critical Assets.

"(g) OFFICE OF THE SECRETARY OF DEFENSE RESPONSIBILITIES.—Not later than January 1, 2023, the Secretary of Defense shall—

"(1) assess and finalize Office of the Secretary of Defense components' roles and responsibilities for the cybersecurity of operational technology in the forces, facilities, installations, bases, critical infrastructure, and weapon systems across the Department of Defense Information Network;

"(2) assess the need to establish centralized or dedicated funding for remediation of cybersecurity gaps in operational technology across the Department of Defense Information Network;

"(3) make relevant modifications to the Department of Defense's mission assurance construct, Mission Assurance Coordination Board, and other relevant bodies to drive—

"(A) prioritization of kinetic and non-kinetic threats to the Department's missions and minimization of mission risk in the Department's war plans;

"(B) prioritization of relevant mitigations and investments to harden and assure the Department's missions and minimize mission risk in the Department's war plans; and

"(C) completion of mission relevant terrain mapping of Defense Critical Assets and Task Critical Assets and population of associated assessment and mitigation data in authorized repositories;

"(4) make relevant modifications to the Strategic Cybersecurity Program; and

"(5) drive and provide oversight of the implementation of this section.

"(h) IMPLEMENTATION.—

"(1) IN GENERAL.—In implementing this section, the Secretary of Defense shall prioritize the cybersecurity and cyber defense of Defense Critical Assets and Task Critical Assets and shape cyber investments, policy, operations, and deployments to ensure cybersecurity and cyber defense.

"(2) APPLICATION.—This section shall apply to assets owned and operated by the Department of Defense, as well as to applicable non-Department assets essential to the projection, support, and sustainment of military forces and operations worldwide.

"(i) DEFINITION.—In this section:

"(1) MISSION-RELEVANT TERRAIN IN CYBERSPACE.—'mission-relevant [sic] terrain in cyberspace' has the meaning given such term as specified in Joint Publication 6-0.

"(2) OPERATIONAL TECHNOLOGY.—The term 'operational technology' means control systems or controllers, communication architectures, and user interfaces that monitor or control infrastructure and equipment operating in various environments, such as weapon systems, utility or energy production and distribution, or medical, logistics, nuclear, biological, chemical, or manufacturing facilities."

## FRAMEWORK FOR CYBER HUNT FORWARD OPERATIONS

Pub. L. 116–283, div. A, title XVII, §1720, Jan. 1, 2021, 134 Stat. 4107, provided that:

"(a) FRAMEWORK REQUIRED.—Not later than April 1, 2021, the Secretary of Defense shall develop a standard, comprehensive framework to enhance the consistency, execution, and effectiveness of cyber hunt forward operations.

"(b) ELEMENTS.—The framework developed pursuant to subsection (a) shall include the following:

"(1) Identification of the selection criteria for proposed cyber hunt forward operations, including specification of necessary thresholds for the justification of operations and thresholds for partner cooperation.

"(2) The roles and responsibilities of the following organizations in the support of the planning and execution of cyber hunt forward operations:

"(A) United States Cyber Command.

"(B) Service cyber components.

"(C) The Office of the Under Secretary of Defense for Policy.

"(D) Geographic combatant commands.

"(E) Cyber Operations-Integrated Planning Elements and Joint Cyber Centers.

"(F) Embassies and consulates of the United States.

"(3) Pre-deployment planning guidelines to maximize the operational success of each unique operation, including guidance that takes into account the highly variable nature of the following aspects at the tactical level:

"(A) Team composition, including necessary skillsets [sic], recommended training, and guidelines on team size and structure.

"(B) Relevant factors to determine mission duration in a country of interest.

"(C) Agreements with partner countries required pre-deployment.

"(D) Criteria for potential follow-on operations.

"(E) Equipment and infrastructure required to support the missions.

"(4) Metrics to measure the effectiveness of each operation, including means to evaluate the value of discovered malware and infrastructure, the effect on the adversary, and the potential for future engagements with the partner country.

"(5) Roles and responsibilities for United States Cyber Command and the National Security Agency in the analysis of relevant mission data.

"(6) A detailed description of counterintelligence support for cyber hunt forward operations.

"(7) A standardized force presentation model across service components and combatant commands.

"(8) Review of active and reserve component personnel policies to account for deployment and redeployment operations, including the following:

"(A) Global Force Management.

"(B) Contingency, Exercise, and Deployment orders to be considered for and applied towards deployment credit and benefits.

"(9) Such other matters as the Secretary determines relevant.

"(c) BRIEFING.—

"(1) IN GENERAL.—Not later than May 1, 2021, the Secretary of Defense shall provide to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a briefing on the framework developed pursuant to subsection (a).

"(2) CONTENTS.—The briefing required by paragraph (1) shall include the following:

"(A) An overview of the framework developed pursuant to subsection (a).

"(B) An explanation of the tradeoffs associated with the use of Department of Defense resources for cyber hunt forward missions in the context of competing priorities.

"(C) Such recommendations as the Secretary may have for legislative action to improve the effectiveness of cyber hunt forward missions."

## TAILORED CYBERSPACE OPERATIONS ORGANIZATIONS

Pub. L. 116–283, div. A, title XVII, §1723, Jan. 1, 2021, 134 Stat. 4110, as amended by Pub. L. 117–263, div. A, title XV, §1504, Dec. 23, 2022, 136 Stat. 2880, provided that:

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of the Navy and the Chief of Naval Operations, in consultation with the Commander of United States Cyber Command, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a study of the Navy Cyber Warfare Development Group (NCWDG).

"(2) ELEMENTS.—The study required under paragraph (1) shall include the following:

"(A) An examination of NCWDG's structure, manning, authorities, funding, and operations.

"(B) A review of organizational relationships—

"(i) within the Navy; and

"(ii) to other Department of Defense organizations, as well as non-Department of Defense organizations.

"(C) Recommendations for how the NCWDG can be strengthened and improved, without growth in size.

"(D) Such other information as determined necessary or appropriate by the Secretary of the Navy.

"(3) RELEASE.—

"(A) TO CONGRESS.—Not later than 7 days after completion of the study required under paragraph (1), the Secretary of the Navy shall brief the congressional defense committees on the findings of the study.

"(B) TO SERVICE SERVICES.— The Secretary of the Navy shall transmit to the secretaries of the military services and the Assistant Secretary of Defense for Special Operations and Irregular Warfare the study required under paragraph (1).

"(b) DESIGNATION.—Notwithstanding any other provision of law, the Secretary of the Navy shall designate the NCWDG as a screened command.

"(c) AUTHORITY TO REPLICATE.—After review of the study required under subsection (a) and consulting the Commander of United States Cyber Command in accordance with procedures established by the Secretary of Defense, the secretaries of the military services may establish tailored cyberspace operations organizations of comparable size to NCWDG within the military service, respectively, of each such secretary. Such counterpart organizations shall have the same authorities as the NCWDG. On behalf of United States Special Operations Command, the Assistant Secretary of Defense for Special Operations and Irregular Warfare may authorize a tailored cyberspace operations organization within United States Special Operations Command of similar size and equivalent authorities as NCWDG.

"(d) BRIEFING TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the secretaries of the military services and the Assistant Secretary of Defense for Special Operations and Irregular Warfare shall brief the congressional defense committees on—

"(1) the utilization of the authority provided pursuant to subsection (c); and

"(2) if appropriate based on such utilization, details on how the military service, respectively, of each such secretary intends to establish tailored cyberspace operations organizations.

"(e) IMPLEMENTATION.—Not later than May 1, 2023, the Commanding Officer of Navy Cyber Warfare Development Group shall submit to the congressional defense committees an independent review of the study under subsection (a). The review shall include, at a minimum, evaluations of—

"(1) the value of the study to the Navy Cyber Warfare Development Group and to the Navy;

"(2) any recommendations not considered or included as part of the study;

"(3) the implementation of subsection (b); and

"(4) other matters as determined by the Commanding Officer.

"(f) UPDATE TO CONGRESS.—Not later than July 1, 2023, the Secretaries of the military departments and the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall provide to the congressional defense committees a briefing on activities taken during the period following the date of the

briefing provided under subsection (d), including an examination of establishing Tailored Cyberspace Operations Organizations and use of the authority provided pursuant to subsection (c).

"(g) AIR FORCE ACTIONS.—Not later than July 1, 2023, the Secretary of the Air Force shall submit to the congressional defense committees a review of the activities of the Navy Cyber Warfare Development Group, including with respect to the authorities of the Group. The review shall include the following:

"(1) An assessment of whether such authorities shall be conferred on the 90th Cyberspace Operations Squadron of the Air Force.

"(2) A consideration of whether the 90th Cyberspace Operations Squadron should be designated a controlled tour, as defined by the Secretary."

## NOTIFICATION OF DELEGATION OF AUTHORITIES TO THE SECRETARY OF DEFENSE FOR MILITARY OPERATIONS IN CYBERSPACE

Pub. L. 116–92, div. A, title XVI, §1642, Dec. 20, 2019, 133 Stat. 1751, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall provide written notification to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate of the following:

"(1) Authorities delegated to the Secretary by the President for military operations in cyberspace that are otherwise held by the National Command Authority, not later than 15 days after any such delegation. A notification under this paragraph shall include a description of the authorities delegated to the Secretary.

"(2) Concepts of operations approved by the Secretary pursuant to delegated authorities described in paragraph (1), not later than 15 days after any such approval. A notification under this paragraph shall include the following:

"(A) A description of authorized activities to be conducted or planned to be conducted pursuant to such authorities.

"(B) The defined military objectives relating to such authorities.

"(C) A list of countries in which such authorities may be exercised.

"(D) A description of relevant orders issued by the Secretary in accordance with such authorities.

"(b) PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Defense shall establish and submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate procedures for complying with the requirements of subsection (a), consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify such committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

"(2) SUFFICIENCY.—The Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to such committees pursuant to this section.

"(3) NOTIFICATION IN EVENT OF UNAUTHORIZED DISCLOSURE.—In the event of an unauthorized disclosure of authorities covered by this section, the Secretary of Defense shall ensure, to the maximum extent practicable, that the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate are notified immediately. Notification under this paragraph may be verbal or written, but in the event of a verbal notification, a written notification signed by the Secretary shall be provided by not later than 48 hours after the provision of such verbal notification."

## ANNUAL MILITARY CYBERSPACE OPERATIONS REPORT

Pub. L. 116–92, div. A, title XVI, §1644, Dec. 20, 2019, 133 Stat. 1752, as amended by Pub. L. 118–31, div. A, title X, §1061(d), Dec. 22, 2023, 137 Stat. 399, provided that:

"(a) IN GENERAL.—Not later than March 1 of each year, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written report summarizing all named military cyberspace effects operations conducted in the previous calendar year, including cyber effects conducted for either offensive or defensive purposes. Each such summary should be organized by adversarial country and should include the following for each named operation:

"(1) An identification of the objective and purpose.

"(2) Descriptions of the impacted countries, organizations, or forces, and nature of the impact.

"(3) A description of methodologies used for the cyber effects operation or cyber effects enabling operation.

"(4) An identification of the Cyber Mission Force teams, or other Department of Defense entity or units, that conducted such operation, and supporting teams, entities, or units.

"(5) An identification of the infrastructures on which such operations occurred.

"(6) A description of relevant legal, operational, and funding authorities.

"(7) Additional costs beyond baseline operations and maintenance and personnel costs directly associated with the conduct of the cyber effects operation or cyber effects enabling operation.

"(8) Any other matters the Secretary determines relevant.

"(b) CLASSIFICATION.—The Secretary of Defense shall provide each report required under subsection (a) at a classification level the Secretary determines appropriate.

"(c) LIMITATION.—This section does not apply to cyber-enabled military information support operations or military deception operations or cyber effects operations for which Congress has otherwise been provided notice."

## POLICY OF THE UNITED STATES ON CYBERSPACE, CYBERSECURITY, CYBER WARFARE, AND CYBER DETERRENCE

Pub. L. 115–232, div. A, title XVI, §1636, Aug. 13, 2018, 132 Stat. 2126, provided that:

"(a) IN GENERAL.—It shall be the policy of the United States, with respect to matters pertaining to cyberspace, cybersecurity, and cyber warfare, that the United States should employ all instruments of national power, including the use of offensive cyber capabilities, to deter if possible, and respond to when necessary, all cyber attacks or other malicious cyber activities of foreign powers that target United States interests with the intent to—

"(1) cause casualties among United States persons or persons of United States allies;

"(2) significantly disrupt the normal functioning of United States democratic society or government (including attacks against critical infrastructure that could damage systems used to provide key services to the public or government);

"(3) threaten the command and control of the Armed Forces, the freedom of maneuver of the Armed Forces, or the industrial base or other infrastructure on which the United States Armed Forces rely to defend United States interests and commitments; or

"(4) achieve an effect, whether individually or in aggregate, comparable to an armed attack or imperil a vital interest of the United States.

"(b) RESPONSE OPTIONS.—In carrying out the policy set forth in subsection (a), the United States shall plan, develop, and, when appropriate, demonstrate response options to address the full range of potential cyber attacks on United States interests that could be conducted by potential adversaries of the United States.

"(c) DENIAL OPTIONS.—In carrying out the policy set forth in subsection (a) through response options developed pursuant to subsection (b), the United States shall, to the greatest extent practicable, prioritize the defensibility and resiliency against cyber attacks and malicious cyber activities described in subsection (a) of infrastructure critical to the political integrity, economic security, and national security of the United States.

"(d) COST-IMPOSITION OPTIONS.—In carrying out the policy set forth in subsection (a) through response options developed pursuant to subsection (b), the United States shall develop and, when appropriate, demonstrate, or otherwise make known to adversaries the existence of, cyber capabilities to impose costs on any foreign power targeting the United States or United States persons with a cyber attack or malicious cyber activity described in subsection (a).

"(e) MULTI-PRONG RESPONSE.—In carrying out the policy set forth in subsection (a) through response options developed pursuant to subsection (b), the United States shall leverage all instruments of national power.

"(f) UPDATE ON PRESIDENTIAL POLICY.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the President shall transmit, in unclassified and classified forms, as appropriate, to the appropriate congressional committees a report containing an update to the report provided to the Congress on the policy of the United States on cyberspace, cybersecurity, and cyber warfare pursuant to section 1633 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 130g note) [now 10 U.S.C. 394 note].

"(2) CONTENTS.—The report required under paragraph (1) shall include the following:

"(A) An assessment of the current posture in cyberspace, including assessments of—

"(i) whether past responses to major cyber attacks have had the desired deterrent effect; and

"(ii) how adversaries have responded to past United States responses.

"(B) Updates on the Administration's efforts in the development of—

"(i) cost imposition strategies;

"(ii) varying levels of cyber incursion and steps taken to date to prepare for the imposition of the consequences referred to in clause (i); and

"(iii) the Cyber Deterrence Initiative.

"(C) Information relating to the Administration's plans, including specific planned actions, regulations, and legislative action required, for—

"(i) advancing technologies in attribution, inherently secure technology, and artificial intelligence society-wide;

"(ii) improving cybersecurity in and cooperation with the private sector;

"(iii) improving international cybersecurity cooperation; and

"(iv) implementing the policy referred to in paragraph (1), including any realignment of government or government responsibilities required, writ large.

"(f) [probably should be "(g)"] RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit the authority of the President or Congress to authorize the use of military force.

"(g) [probably should be "(h)"] DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Permanent Select Committee on Intelligence of the House of Representatives;

"(C) the Select Committee on Intelligence of the Senate;

"(D) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

"(E) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

"(2) FOREIGN POWER.—The term 'foreign power' has the meaning given such term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)."

Pub. L. 115–91, div. A, title XVI, §1633, Dec. 12, 2017, 131 Stat. 1738, provided that:

"(a) IN GENERAL.—The President shall—

"(1) develop a national policy for the United States relating to cyberspace, cybersecurity, and cyber warfare; and

"(2) submit to the appropriate congressional committees a report on the policy.

"(b) ELEMENTS.—The national policy required under subsection (a) shall include the following elements:

"(1) Delineation of the instruments of national power available to deter or respond to cyber attacks or other malicious cyber activities by a foreign power or actor that targets United States interests.

"(2) Available or planned response options to address the full range of potential cyber attacks on United States interests that could be conducted by potential adversaries of the United States.

"(3) Available or planned denial options that prioritize the defensibility and resiliency against cyber attacks and malicious cyber activities that are carried out against infrastructure critical to the political integrity, economic security, and national security of the United States.

"(4) Available or planned cyber capabilities that may be used to impose costs on any foreign power targeting the United States or United States persons with a cyber attack or malicious cyber activity.

"(5) Development of multi-prong response options, such as—

"(A) boosting the cyber resilience of critical United States strike systems (including cyber, nuclear, and non-nuclear systems) in order to ensure the United States can credibly threaten to impose unacceptable costs in response to even the most sophisticated large-scale cyber attack;

"(B) developing offensive cyber capabilities and specific plans and strategies to put at risk targets most valued by adversaries of the United States and their key decision makers; and

"(C) enhancing attribution capabilities and developing intelligence and offensive cyber capabilities to detect, disrupt, and potentially expose malicious cyber activities.

"(c) LIMITATION ON AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2018 for procurement, research, development, test and evaluation, and operations and maintenance, for the covered activities of the Defense Information Systems Agency, not more than 60 percent may be obligated or expended until the date on which the President submits to the appropriate congressional committees the report under subsection (a)(2).

"(2) COVERED ACTIVITIES DESCRIBED.—The covered activities referred to in paragraph (1) are the activities of the Defense Information Systems Agency in support of—

"(A) the White House Communication Agency; and

"(B) the White House Situation Support Staff.

"(d) DEFINITIONS.—In this section:

"(1) The term 'foreign power' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(2) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

"(C) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate."

## ACTIVE DEFENSE AGAINST THE RUSSIAN FEDERATION, PEOPLE'S REPUBLIC OF CHINA, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, AND ISLAMIC REPUBLIC OF IRAN ATTACKS IN CYBERSPACE

Pub. L. 115–232, div. A, title XVI, §1642, Aug. 13, 2018, 132 Stat. 2132, provided that:

"(a) AUTHORITY TO DISRUPT, DEFEAT, AND DETER CYBER ATTACKS.—

"(1) IN GENERAL.—In the event that the National Command Authority determines that the Russian Federation, People's Republic of China, Democratic People's Republic of Korea, or Islamic Republic of Iran is conducting an active, systematic, and ongoing campaign of attacks against the Government or people of the United States in cyberspace, including attempting to influence American elections and democratic political processes, the National Command Authority may authorize the Secretary of Defense, acting through the Commander of the United States Cyber Command, to take appropriate and proportional action in foreign cyberspace to disrupt, defeat, and deter such attacks under the authority and policy of the Secretary of Defense to conduct cyber operations and information operations as traditional military activities.

"(2) NOTIFICATION AND REPORTING.—

"(A) NOTIFICATION OF OPERATIONS.—In exercising the authority provided in paragraph (1), the Secretary shall provide notices to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] in accordance with section 395 of title 10, United States Code (as transferred and redesignated pursuant to section 1631).

"(B) QUARTERLY REPORTS BY COMMANDER OF THE UNITED STATES CYBER COMMAND.—

"(i) IN GENERAL.—In any fiscal year in which the Commander of the United States Cyber Command carries out an action under paragraph (1), the Secretary of Defense shall, not less frequently than quarterly, submit to the congressional defense committees a report on the actions of the Commander under such paragraph in such fiscal year.

"(ii) MANNER OF REPORTING.—Reports submitted under clause (i) shall be submitted in a manner that is consistent with the recurring quarterly report required by section 484 of title 10, United States Code.

"(b) PRIVATE SECTOR COOPERATION.—The Secretary may make arrangements with private sector entities, on a voluntary basis, to share threat information related to malicious cyber actors, and any associated false online personas or compromised infrastructure, associated with a determination under subsection (a)(1), consistent with the protection of sources and methods and classification guidelines, as necessary.

"(c) ANNUAL REPORT.—Not less frequently than once each year, the Secretary shall submit to the congressional defense committees, the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)), the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report on—

"(1) the scope and intensity of the information operations and attacks through cyberspace by the countries specified in subsection (a)(1) against the government or people of the United States observed by the cyber mission forces of the United States Cyber Command and the National Security Agency; and

"(2) adjustments of the Department of Defense in the response directed or recommended by the Secretary with respect to such operations and attacks.

"(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

"(1) limit the authority of the Secretary to conduct military activities or operations in cyberspace, including clandestine activities or operations in cyberspace; or

"(2) affect the War Powers Resolution (Public Law 93–148; 50 U.S.C. 1541 et seq.) or the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note)."

## PILOT PROGRAM TO MODEL CYBER ATTACKS ON CRITICAL INFRASTRUCTURE

Pub. L. 115–232, div. A, title XVI, §1649, Aug. 13, 2018, 132 Stat. 2137, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Assistant Secretary of Defense for Homeland Defense and Global Security shall carry out a pilot program to model cyber attacks on critical infrastructure in order to identify and develop means of improving Department of Defense responses to requests for defense support to civil authorities for such attacks.

"(2) RESEARCH EXERCISES.—The pilot program shall source data from and include consideration of the 'Jack Voltaic' research exercises conducted by the Army Cyber Institute, industry partners of the Institute, and the cities of New York, New York, and Houston, Texas.

"(b) PURPOSE.—The purpose of the pilot program shall be to accomplish the following:

"(1) The development and demonstration of risk analysis methodologies, and the application of commercial simulation and modeling capabilities, based on artificial intelligence and hyperscale cloud computing technologies, as applicable—

"(A) to assess defense critical infrastructure vulnerabilities and interdependencies to improve military resiliency;

"(B) to determine the likely effectiveness of attacks described in subsection (a)(1), and countermeasures, tactics, and tools supporting responsive military homeland defense operations;

"(C) to train personnel in incident response;

"(D) to conduct exercises and test scenarios;

"(E) to foster collaboration and learning between and among departments and agencies of the Federal Government, State and local governments, and private entities responsible for critical infrastructure; and

"(F) improve intra-agency and inter-agency coordination for consideration and approval of requests for defense support to civil authorities.

"(2) The development and demonstration of the foundations for establishing and maintaining a program of record for a shared high-fidelity, interactive, affordable, cloud-based modeling and simulation of critical infrastructure systems and incident response capabilities that can simulate complex cyber and physical attacks and disruptions on individual and multiple sectors on national, regional, State, and local scales.

"(c) REPORT.—

"(1) IN GENERAL.—At the same time the budget of the President for fiscal year 2021 is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Assistant Secretary shall, in consultation with the Secretary of Homeland Security, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program.

"(2) CONTENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of the results of the pilot program as of the date of the report.

"(B) A description of the risk analysis methodologies and modeling and simulation capabilities developed and demonstrated pursuant to the pilot program, and an assessment of the potential for future growth of commercial technology in support of the homeland defense mission of the Department of Defense.

"(C) Such recommendations as the Secretary considers appropriate regarding the establishment of a program of record for the Department on further development and sustainment of risk analysis methodologies and advanced, large-scale modeling and simulation on critical infrastructure and cyber warfare.

"(D) Lessons learned from the use of novel risk analysis methodologies and large-scale modeling and simulation carried out under the pilot program regarding vulnerabilities, required capabilities, and reconfigured force structure, coordination practices, and policy.

"(E) Planned steps for implementing the lessons described in subparagraph (D).

"(F) Any other matters the Secretary determines appropriate."

## IDENTIFICATION OF COUNTRIES OF CONCERN REGARDING CYBERSECURITY

Pub. L. 115–232, div. A, title XVI, §1654, Aug. 13, 2018, 132 Stat. 2148, provided that:

"(a) IDENTIFICATION OF COUNTRIES OF CONCERN.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall create a list of countries that pose a risk to the cybersecurity of United States defense and national security systems and infrastructure. Such list shall reflect the level of threat posed by each country included on such list. In creating such list, the Secretary shall take in to account the following:

"(1) A foreign government's activities that pose force protection or cybersecurity risk to the personnel, financial systems, critical infrastructure, or information systems of the United States or coalition forces.

"(2) A foreign government's willingness and record of providing financing, logistics, training or intelligence to other persons, countries or entities posing a force protection or cybersecurity risk to the personnel, financial systems, critical infrastructure, or information systems of the United States or coalition forces.

"(3) A foreign government's engagement in foreign intelligence activities against the United States for the purpose of undermining United States national security.

"(4) A foreign government's knowing participation in transnational organized crime or criminal activity.

"(5) A foreign government's cyber activities and operations to affect the supply chain of the United States Government.

"(6) A foreign government's use of cyber means to unlawfully or inappropriately obtain intellectual property from the United States Government or United States persons.

"(b) UPDATES.—The Secretary shall continuously update and maintain the list under subsection (a) to preempt obsolescence.

"(c) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress the list created pursuant to subsection (a) and any accompanying analysis that contributed to the creation of the list."

## QUADRENNIAL COMPREHENSIVE CYBER POSTURE REVIEW

Pub. L. 115–91, div. A, title XVI, §1644, Dec. 12, 2017, 131 Stat. 1748, as amended by Pub. L. 116–92, div. A, title XVI, §1635, Dec. 20, 2019, 133 Stat. 1748; Pub. L. 116–283, div. A, title XVII, §1706, Jan. 1, 2021, 134 Stat. 4083, provided that:

"(a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—In order to clarify the near-term policy and strategy of the United States with respect to cyber deterrence, the Secretary of Defense shall, not later than December 31, 2022, and quadrennially thereafter, conduct a comprehensive review of the cyber posture of the United States over the posture review period.

"(b) CONSULTATION.—The Secretary of Defense shall conduct each review under subsection (a) in consultation with the Director of National Intelligence, the Attorney General, the Secretary of Homeland Security, and the Secretary of State, as appropriate.

"(c) ELEMENTS OF REVIEW.—Each review conducted under subsection (a) shall include, for the posture review period, the following elements:

"(1) The assessment and definition of the role of cyber forces in the national defense and military strategies of the United States.

"(2) Review of the following:

"(A) The role of cyber operations in combatant commander warfighting plans.

"(B) The ability of combatant commanders to respond to adversary cyber attacks.

"(C) The international partner cyber capacity-building programs of the Department.

"(3) A review of the law, policies, and authorities relating to, and necessary for, the United States to maintain a safe, reliable, and credible cyber posture for defending against and responding to cyber attacks and for deterrence in cyberspace, including the following:

"(A) An assessment of the need for further delegation of cyber-related authorities, including those germane to information warfare, to the Commander of United States Cyber Command.

"(B) An evaluation of the adequacy of mission authorities for all cyber-related military components, defense agencies, directorates, centers, and commands.

"(4) A review of the need for or for updates to a declaratory policy relating to the responses of the United States to cyber attacks of significant consequence.

"(5) A review of norms for the conduct of offensive cyber operations for deterrence and in crisis and conflict.

"(6) A review of a strategy to deter, degrade, or defeat malicious cyber activity targeting the United States (which may include activities, capability development, and operations other than cyber activities, cyber capability development, and cyber operations), including—

"(A) a review and assessment of various approaches to competition and deterrence in cyberspace, determined in consultation with experts from Government, academia, and industry;

"(B) a comparison of the strengths and weaknesses of the approaches identified pursuant to subparagraph (A) relative to the threat of each other; and

"(C) an assessment as to how the cyber strategy will inform country-specific campaign plans

focused on key leadership of Russia, China, Iran, North Korea, and any other country the Secretary considers appropriate.

"(7) Identification of the steps that should be taken to bolster stability in cyberspace and, more broadly, stability between major powers, taking into account—

"(A) the analysis and gaming of escalation dynamics in various scenarios; and

"(B) consideration of the spiral escalatory effects of countries developing increasingly potent offensive cyber capabilities.

"(8) A comprehensive force structure assessment of the Cyber Operations Forces of the Department for the posture review period, including the following:

"(A) A determination of the appropriate size and composition of the Cyber Mission Forces to accomplish the mission requirements of the Department.

"(B) An assessment of the Cyber Mission Forces' personnel, capabilities, equipment, funding, operational concepts, and ability to execute cyber operations in a timely fashion.

"(C) An assessment of the personnel, capabilities, equipment, funding, and operational concepts of Cybersecurity Service Providers and other elements of the Cyber Operations Forces.

"(9) An assessment of whether the Cyber Mission Force has the appropriate level of interoperability, integration, and interdependence with special operations and conventional forces.

"(10) An evaluation of the adequacy of mission authorities for the Joint Force Provider and Joint Force Trainer responsibilities of United States Cyber Command, including the adequacy of the units designated as Cyber Operations Forces to support such responsibilities.

"(11) An assessment of the missions and resourcing of the combat support agencies in support of cyber missions of the Department.

"(12) An assessment of the potential costs, benefits, and value, if any, of establishing a cyber force as a separate uniformed service.

"(13) Any recurrent problems or capability gaps that remain unaddressed since the previous posture review.

"(14) Such other matters as the Secretary considers appropriate.

"(d) REPORT.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of each cyber posture review conducted under subsection (a).

"(2) FORM OF REPORT.—Each report under paragraph (1) may be submitted in unclassified form or classified form, as necessary.

"(e) POSTURE REVIEW PERIOD DEFINED.—In this section, the term 'posture review period' means the eight-year period that begins on the date of each review conducted under subsection (a)."

## §395. Notification requirements for sensitive military cyber operations

(a) IN GENERAL.—Except as provided in subsection (d), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military cyber operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a sensitive military cyber operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military cyber operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification, signed by the Secretary, or the Secretary's designee, shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) SENSITIVE MILITARY CYBER OPERATION DEFINED.—(1) In this section, the term "sensitive military cyber operation" means an action described in paragraph (2) that—

(A) is carried out by the armed forces of the United States;

(B) is intended to achieve a cyber effect against a foreign terrorist organization or a country, including its armed forces and the proxy forces of that country located elsewhere—

(i) with which the armed forces of the United States are not involved in hostilities (as that term is used in section 4 of the War Powers Resolution (50 U.S.C. 1543)); or

(ii) with respect to which the involvement of the armed forces of the United States in hostilities has not been acknowledged publicly by the United States; and

(C)(i) is determined to—

(I) have a medium or high collateral effects estimate;

(II) have a medium or high intelligence gain or loss;

(III) have a medium or high probability of political retaliation, as determined by the political military assessment contained within the associated concept of operations;

(IV) have a medium or high probability of detection when detection is not intended; or

(V) result in medium or high collateral effects; or

(ii) is a matter the Secretary determines to be appropriate.

(2) The actions described in this paragraph are the following:

(A) An offensive cyber operation.

(B) A defensive cyber operation.

(d) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

(2) to a covert action (as that term is defined in section 503 of the National Security Act of 1947 (50 U.S.C. 3093)).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(Added Pub. L. 115–91, div. A, title XVI, §1631(a), Dec. 12, 2017, 131 Stat. 1736, §130j; renumbered §395 and amended Pub. L. 115–232, div. A, title X, §1081(a)(1), title XVI, §1631(a), Aug. 13, 2018, 132 Stat. 1983, 2123; Pub. L. 116–92, div. A, title XVI, §1632, Dec. 20, 2019, 133 Stat. 1745; Pub. L. 116–283, div. A, title XVII, §1702, Jan. 1, 2021, 134 Stat. 4080.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (e), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The Authorization for Use of Military Force, referred to in subsec. (e), is Pub. L. 107–40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

The National Security Act of 1947, referred to in subsec. (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283 amended subsec. (c) generally. Prior to amendment, subsec. (c)

defined "sensitive military cyber operation" as used in this section.

**2019**—Subsec. (b)(3). Pub. L. 116–92, §1632(1), inserted ", signed by the Secretary, or the Secretary's designee," after "written notification".

Subsec. (c)(1)(B), (C). Pub. L. 116–92, §1632(2)(A), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(2)(B). Pub. L. 116–92, §1632(2)(B), struck out "outside the Department of Defense Information Networks to defeat an ongoing or imminent threat" after "A defensive cyber operation".

**2018**—Pub. L. 115–232, §1631(a), renumbered section 130j of this title as this section.

Subsec. (d)(2). Pub. L. 115–232, §1081(a)(1), substituted "section 503 of the National Security Act of 1947 (50 U.S.C. 3093)" for "section 3093 of title 50, United States Code".

## §396. Notification requirements for cyber weapons

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of the following:

(1) With respect to a cyber capability that is intended for use as a weapon, on a quarterly basis, the aggregated results of all reviews of the capability for legality under international law pursuant to Department of Defense Directive 5000.01 carried out by any military department concerned.

(2) The use as a weapon of any cyber capability that has been approved for such use under international law by a military department no later than 48 hours following such use.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a cyber capability covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the cyber capability concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

(2) to a covert action (as that term is defined in section 503 of the National Security Act of 1947 (50 U.S.C. 3093)).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(Added Pub. L. 115–91, div. A, title XVI, §1631(a), Dec. 12, 2017, 131 Stat. 1737, §130k; renumbered §396 and amended Pub. L. 115–232, div. A, title X, §1081(a)(1), title XVI, §1631(a), Aug. 13, 2018, 132 Stat. 1983, 2123.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (d), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which

is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The Authorization for Use of Military Force, referred to in subsec. (d), is Pub. L. 107–40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

The National Security Act of 1947, referred to in subsec. (d), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §1631(a), renumbered section 130k of this title as this section.

Subsec. (c)(2). Pub. L. 115–232, §1081(a)(1), substituted "section 503 of the National Security Act of 1947 (50 U.S.C. 3093)" for "section 3093 of title 50, United States Code".

## §397. Principal Information Operations Advisor

(a) DESIGNATION.—Not later than 30 days after the enactment of this Act, the Secretary of Defense shall designate, from among officials appointed to a position in the Department of Defense by and with the advice and consent of the Senate, a Principal Information Operations Advisor to act as the principal advisor to the Secretary on all aspects of information operations conducted by the Department.

(b) RESPONSIBILITIES.—The Principal Information Operations Advisor shall have the following responsibilities:

(1) Oversight of policy, strategy, planning, resource management, operational considerations, personnel, and technology development across all the elements of information operations of the Department.

(2) Overall integration and supervision of the deterrence of, conduct of, and defense against information operations.

(3) Promulgation of policies to ensure adequate coordination and deconfliction with the Department of State, the intelligence community (as such term is defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)), and other relevant agencies and departments of the Federal Government.

(4) Coordination with the head of the Global Engagement Center to support the purpose of the Center (as set forth by section 1287(a)(2) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 22 U.S.C. 2656 note)) and liaison with the Center and other relevant Federal Government entities to support such purpose.

(5) Establishing and supervising a rigorous risk management process to mitigate the risk of potential exposure of United States persons to information intended exclusively for foreign audiences.

(6) Promulgation of standards for the attribution or public acknowledgment, if any, of operations in the information environment.

(7) Development of guidance for, and promotion of, the capability of the Department to liaison with the private sector and academia on matters relating to the influence activities of malign actors.

(8) Such other matters relating to information operations as the Secretary shall specify for purposes of this subsection.

(Added Pub. L. 116–92, div. A, title XVI, §1631(a)(1), Dec. 20, 2019, 133 Stat. 1741; amended Pub. L. 116–283, div. A, title X, §1081(a)(16), Jan. 1, 2021, 134 Stat. 3871.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The enactment of this Act, referred to in subsec. (a), probably means the date of enactment of Pub. L. 116–92, which added this section and was approved Dec. 20, 2019.

## AMENDMENTS

**2021**—Subsec. (b)(5). Pub. L. 116–283 substituted "persons" for "Persons".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ASSESSMENT AND OPTIMIZATION OF DEPARTMENT OF DEFENSE INFORMATION AND INFLUENCE OPERATIONS CONDUCTED THROUGH CYBERSPACE

Pub. L. 117–263, div. A, title XV, §1522, Dec. 23, 2022, 136 Stat. 2897, provided that:

"(a) ASSESSMENT AND PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], the Principal Information Operations Advisor and the Principal Cyber Advisor to the Secretary of Defense shall complete both an assessment and an optimization plan for information and influence operations conducted through cyberspace.

"(b) ELEMENTS.—The assessment under subsection (a) shall include the following:

"(1) An inventory of the components of the Department of Defense conducting information and influence operations conducted through cyberspace.

"(2) An examination of sufficiency of resources allocated for information and influence operations conducted through cyberspace.

"(3) An evaluation of the command and control, oversight, and management of matters related to information and influence operations conducted through cyberspace across the Office of the Secretary of Defense and the Joint Staff.

"(4) An evaluation of the existing execution, coordination, synchronization, deconfliction, and consultative procedures and mechanisms for information and influence operations conducted through cyberspace.

"(5) Any other matters determined relevant by the Principal Information Operations Advisor and the Principal Cyber Advisor to the Secretary of Defense.

"(c) OPTIMIZATION PLAN.—The optimization plan under subsection (a) shall include the following:

"(1) Actions that the Department will implement to improve the execution, coordination, synchronization, deconfliction, and consultative procedures and mechanisms for information and influence operations conducted through cyberspace.

"(2) An evaluation of potential organizational changes required to optimize information and influence operations conducted through cyberspace.

"(3) Any other matters determined relevant by the Principal Information Operations Advisor and the Principal Cyber Advisor to the Secretary of Defense.

"(d) BRIEFINGS.—Not later than 30 days after completing the assessment and optimization plan under subsection (a), the Principal Information Operations Advisor and the Principal Cyber Advisor to the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the assessment and plan.

"(e) IMPLEMENTATION.—Not later than 180 days after the date on which the briefing is provided under subsection (d), the Secretary of Defense shall implement the optimization plan under subsection (a)."

### CONDUCTING OF MILITARY OPERATIONS IN THE INFORMATION ENVIRONMENT

Pub. L. 116–92, div. A, title XVI, §1631(b)–(i), Dec. 20, 2019, 133 Stat. 1742–1745, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(6), title XVII, §1749(b), Jan. 1, 2021, 134 Stat. 3873, 4142, provided that:

"(b) AFFIRMING THE AUTHORITY OF THE SECRETARY OF DEFENSE TO CONDUCT MILITARY OPERATIONS IN THE INFORMATION ENVIRONMENT.—(1) Congress affirms that the Secretary of Defense is authorized to conduct military operations, including clandestine operations, in the information environment to defend the United States, allies of the United States, and interests of the United States, including in response to malicious influence activities carried out against the United States or a United States person by a foreign power.

"(2) The military operations referred to in paragraph (1), when appropriately authorized include the conduct of military operations short of hostilities and in areas outside of areas of active hostilities for the purpose of preparation of the environment, influence, force protection, and deterrence of hostilities.

"(c) TREATMENT OF CLANDESTINE MILITARY OPERATIONS IN THE INFORMATION ENVIRONMENT AS TRADITIONAL MILITARY ACTIVITIES.—A clandestine military operation in the information environment shall be considered a traditional military activity for the purposes of section 503(e)(2) of the National Security Act of 1947 (50 U.S.C. 3093(e)(2)).

"(d) QUARTERLY INFORMATION OPERATIONS BRIEFINGS.—(1) Not less frequently than once each quarter, the Secretary of Defense shall provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on significant military operations, including all clandestine operations in the information environment, carried out by the Department of Defense during the immediately preceding quarter.

"(2) Each briefing under paragraph (1) shall include, with respect to the military operations in the information environment described in such paragraph, the following:

"(A) An update, disaggregated by geographic and functional command, that describes the operations carried out by the commands.

"(B) An overview of authorities and legal issues applicable to the operations, including any relevant legal limitations.

"(C) An outline of any interagency activities and initiatives relating to the operations.

"(D) Such other matters as the Secretary considers appropriate.

"(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit, expand, or otherwise alter the authority of the Secretary to conduct military operations, including clandestine operations, in the information environment, to authorize specific military operations, or to limit, expand, or otherwise alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.) or an authorization for use of military force that was in effect on the day before the date of the enactment of this Act [Dec. 20, 2019].

"(f) CROSS-FUNCTIONAL TEAM.—

"(1) ESTABLISHMENT.—The Principal Information Operations Advisor shall integrate the expertise in all elements of information operations and perspectives of appropriate organizations within the Office of the Secretary of Defense, Joint Staff, military departments, Defense Agencies, and combatant commands by establishing and maintaining a full-time cross-functional team composed of subject-matter experts selected from those organizations.

"(2) SELECTION AND ORGANIZATION.—The cross-functional team established under paragraph (1) shall be selected, organized, and managed in a manner consistent with section 911 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note).

"(g) STRATEGY AND POSTURE REVIEW.—

"(1) STRATEGY AND POSTURE REVIEW REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, acting through the Principal Information Operations Advisor under section 397 of title 10, United States Code (as added by subsection (a)) and the cross-functional team established under subsection (f)(1), shall—

"(A) develop or update, as appropriate, a strategy for operations in the information environment, including how such operations will be synchronized across the Department of Defense and the global, regional, and functional interests of the combatant commands;

"(B) conduct an information operations posture review, including an analysis of capability gaps that inhibit the Department's ability to successfully execute the strategy developed or updated pursuant to subparagraph (A);

"(C) designate Information Operations Force Providers and Information Operations Joint Force Trainers for the Department of Defense;

"(D) develop and persistently manage a joint lexicon for terms related to information operations, including 'information operations', 'information environment', 'operations in the information environment', and 'information related capabilities'[;] and [sic]

"(E) determine the collective set of combat capabilities that will be treated as part of operations in the information environment, including cyber warfare, space warfare, military information support operations, electronic warfare, public affairs, and civil affairs; and

"(F) designate a Department of Defense entity to develop, apply, and continually refine an assessment capability for defining and measuring the impact of Department information operations, which entity shall be organizationally independent of Department components performing or otherwise engaged in operational support to Department information operations.

"(2) COORDINATION ON CERTAIN CYBER MATTERS.—For any matters in the strategy and posture review under paragraph (1) that involve or relate to Department of Defense cyber capabilities, the Principal Information Operations Advisor shall fully collaborate with the Principal Cyber Advisor to the Secretary of Defense.

"(3) ELEMENTS.—At a minimum, the strategy developed or updated pursuant to paragraph (1)(A) shall include the following:

"(A) The establishment of lines of effort, objectives, and tasks that are necessary to implement such strategy and eliminate the capability gaps identified under paragraph (1)(B).

"(B) In partnership with the Principal Cyber Advisor to the Secretary of Defense and in coordination with any other component or Department of Defense entity as selected by the Secretary of Defense, an evaluation of any organizational changes that may be required within the Office of the Secretary of Defense, including potential changes to Under Secretary or Assistant Secretary-level positions to comprehensively conduct oversight of policy development, capabilities, and other aspects of operations in the information environment as determined pursuant to the information operations posture review under paragraph (1)(B).

"(C) An assessment of various models for operationalizing information operations, including the feasibility and advisability of establishing an Army Information Warfare Command.

"(D) A review of the role of information operations in combatant commander operational planning, the ability of combatant commanders to respond to hostile acts by adversaries, and the ability of combatant commanders to engage and build capacity with allies.

"(E) A review of the law, policies, and authorities relating to, and necessary for, the United States to conduct military operations, including clandestine military operations, in the information environment.

"(4) SUBMISSION TO CONGRESS.—Upon completion, the Secretary of Defense shall present the strategy for operations in the information environment and the information operations posture review under subparagraphs (A) and (B), respectively, of paragraph (1) to the Committees on Armed Services of the House of Representatives and the Senate.

"(h) REPORT.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall provide the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report for the structuring and manning of information operations capabilities and forces across the Department of Defense. The Secretary shall provide such Committees with quarterly updates on such plan.

"(2) ELEMENTS.—The plan required under paragraph (1) shall address the following:

"(A) How the Department of Defense will organize to develop a combined information operations strategy and posture review under subsection (g).

"(B) How the Department will fulfill the roles and responsibilities of the Principal Information Operations Advisor under section 397 of title 10, United States Code (as added by subsection (a)).

"(C) How the Department will establish the information operations cross-functional team under subsection (f)(1).

"(D) How the Department will utilize boards and working groups involving senior-level Department representatives on information operations.

"(E) Such other matters as the Secretary of Defense considers appropriate.

"(i) DEFINITIONS.—In this section:

"(1) The terms 'foreign power' and 'United States person' have the meanings given such terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(2) The term 'hostilities' has the same meaning as such term is used in the War Powers Resolution (50 U.S.C. 1541 et seq.).

"(3) The term 'clandestine military operation in the information environment' means an operation or activity, or associated preparatory actions, authorized by the President or the Secretary of Defense, that—

"(A) is marked by, held in, or conducted with secrecy, where the intent is that the operation or activity will not be apparent or acknowledged publicly; and

"(B) is to be carried out—

"(i) as part of a military operation plan approved by the President or the Secretary of Defense;

"(ii) to deter, safeguard, or defend against attacks or malicious influence activities against the United States, allies of the United States, and interests of the United States;

"(iii) in support of hostilities or military operations involving the United States armed forces; or

"(iv) in support of military operations short of hostilities and in areas where hostilities are not occurring for the purpose of preparation of the environment, influence, force protection, and deterrence."

[Amendment by Pub. L. 116–283, §1749(b), to section 1631(g) of Pub. L. 116–92, set out above, was executed to reflect the probable intent of Congress, notwithstanding errors in the directory language.]

[Pub. L. 116–283, div. A, title X, §1081(c), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(c)(6) of Pub. L. 116–283 to section 1631(i) of Pub. L. 116–92, set out above, is effective as of Dec. 20, 2020 (probably should be Dec. 20, 2019) and as if included in Pub. L. 116–92.]

## §398. Military information support operations in information environment

(a) CONGRESSIONAL NOTIFICATION REQUIREMENT.—(1) Not later than 48 hours after the execution of any new military information support operation plan (in this section referred to as a "MISO plan") approved by the commander of a combatant command, or any change in scope of any existing MISO plan, including any underlying MISO supporting plan, the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of such approval or execution of change in scope.

(2) A notification under paragraph (1) with respect to a MISO plan shall include each of the following:

(A) A description of the military information support operation program (in this section referred to as a "MISO program") supported by the MISO plan.

(B) A description of the objectives of the MISO plan.

(C) A description of the intended target audience for military information support operation activities under the MISO plan.

(D) A description of the tactics, techniques, and procedures to be used in executing the MISO plan.

(E) A description of the personnel engaged in supporting or facilitating the operation.

(F) The amount of funding anticipated to be obligated and expended to execute the MISO plan during the current and subsequent fiscal years.

(G) The expected duration and desired outcome of the MISO plan.

(H) Any other elements the Secretary determines appropriate.

(3) To the maximum extent practicable, the Secretary shall ensure that the congressional defense committees are notified promptly of any unauthorized disclosure of a clandestine military support operation covered by this section. A notification under this subsection may be verbal or written, but in the event of a verbal notification, the Secretary shall provide a written notification by not later than 48 hours after the provision of the verbal notification.

(b) ANNUAL REPORT.—Not later than 90 days after the last day of any fiscal year during which the Secretary conducts a MISO plan, the Secretary shall submit to the congressional defense committees a report on all such MISO plans conducted during such fiscal year. Such report shall include each of the following:

(1) A list of each MISO program and the combatant command responsible for the program.

(2) For each MISO plan—

(A) a description of the plan and any supporting plans, including the objectives for the plan;

(B) a description of the intended target audience for the activities carried out under the plan and the means of distribution; and

(C) the cost of executing the plan.

(c) PROHIBITION ON CLANDESTINE OPERATIONS DESIGNED TO INFLUENCE OPINIONS AND POLITICS IN UNITED STATES.—None of the funds authorized to be appropriated or otherwise made available for the Department of Defense for any fiscal year may be used to conduct a clandestine military information support operation that is designed to influence—

(1) any political process taking place in the United States;

(2) the opinions of United States persons;

(3) United States policies; or

(4) media produced by United States entities for United States persons.

(Added Pub. L. 117–263, div. A, title X, §1052(a), Dec. 23, 2022, 136 Stat. 2776.)

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**CODIFICATION**

Another section 398 was renumbered section 398a of this title.

## §398a. Pilot program for sharing cyber capabilities and related information with foreign operational partners

(a) AUTHORITY TO ESTABLISH PILOT PROGRAM TO SHARE CYBER CAPABILITIES .—The Secretary of Defense may, with the concurrence of the Secretary of State, provide cyber capabilities and related information developed or procured by the Department of Defense to foreign countries or organizations described in subsection (b) without compensation, to meet operational imperatives if the Secretary of Defense determines that the provision of such cyber capabilities is in the national security interests of the United States.

(b) LIST OF FOREIGN COUNTRIES.—The Secretary of Defense, with the concurrence of the Secretary of State, shall—

(1) establish—

(A) a list of foreign countries that the Secretary of Defense considers suitable for sharing of cyber capabilities and related information under the authority established under subsection (a); and

(B) criteria for establishing the list under subparagraph (A);

(2) not later than 14 days after establishing the list required by paragraph (1), submit to the appropriate committees of Congress such list; and

(3) notify the appropriate committees of Congress in writing of any changes to the list established under paragraph (1) at least 14 days prior to the adoption of any such changes.

(c) PROCEDURES.—Prior to the first use of the authority provided by subsection (a), the Secretaries of Defense and State shall—

(1) establish and submit to the appropriate committees of Congress procedures for a coordination process for subsection (a) that is consistent with the operational timelines required to support the national security of the United States; and

(2) notify the appropriate committees of Congress in writing of any changes to the procedures established under paragraph (1) at least 14 days prior to the adoption of any such changes.

(d) NOTIFICATION REQUIRED.—(1) The Secretary of Defense and Secretary of State jointly shall promptly submit to the appropriate committees of Congress notice in writing of any use of the authority provided by subsection (a) no later than 48 hours following the use of the authority.

(2) Notification under paragraph (1) shall include a certification that the provision of the cyber capabilities was in the national security interests of the United States.

(3) The notification under paragraph (1) shall include an analysis of whether the transfer and the underlying operational imperative could have been met using another authority.

(e) TERMINATION.—The authority established under subsection (a) shall terminate on the date that is 3 years after the date on which this authority becomes law.

(f) PERFORMANCE METRICS.—(1) The Secretary of Defense shall maintain performance metrics to track the results of sharing cyber capabilities and related information with foreign operational partners under a pilot program authorized by subsection (a).

(2) The performance metrics under paragraph (1) shall include the following:

(A) Whom the cyber capability was used against.

(B) The effect of the cyber capability, including whether and how the transfer of the cyber capability improved the operational cyber posture of the United States and achieved operational objectives of the United States, or had no effect.

(C) Such other outcome-based or appropriate performance metrics as the Secretary considers appropriate for evaluating the effectiveness of a pilot program carried out under subsection (a).

(g) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—
(A) the congressional defense committees;
(B) the Committee on Foreign Relations of the Senate; and
(C) Committee on Foreign Affairs of the House of Representatives.

(2) The term "cyber capability" means a device or computer program, including any combination of software, firmware, or hardware, designed to create an effect in or through cyberspace.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as amending, diminishing, or otherwise impacting reporting or other obligations under the War Powers Resolution.

(Added Pub. L. 117–263, div. A, title XV, §1551(a), Dec. 23, 2022, 136 Stat. 2918, §398; renumbered §398a and amended Pub. L. 118–31, div. A, title XV, §1501, title XVIII, §1801(a)(6), (7), Dec. 22, 2023, 137 Stat. 533, 683.)

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**REFERENCES IN TEXT**

The War Powers Resolution, referred to in subsec. (h), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

**AMENDMENTS**

**2023**—Pub. L. 118–31, §§1501(1), 1801(a)(6), made identical amendments, renumbering section 398 of this title relating to pilot program for sharing cyber capabilities and related information with foreign operational partners as this section.

Subsec. (b)(1)(A). Pub. L. 118–31, §1801(a)(7)(A)(i), substituted "subsection (a)" for "paragraph (a)".

Subsec. (b)(2). Pub. L. 118–31, §1801(a)(7)(A)(ii), substituted "paragraph (1)" for "paragraph (a)".

Subsec. (b)(3). Pub. L. 118–31, §1801(a)(7)(A)(iii), substituted "paragraph (1)" for "clause (1)".

Subsec. (e). Pub. L. 118–31, §1801(a)(7)(B), substituted "subsection (a)" for "paragraph (a)".

Subsecs. (f) to (h). Pub. L. 118–31, §1501(2), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

## §399. Notifications relating to military operations in the information environment: requirement to notify Chief of Mission

The Secretary may not authorize a military operation in the information environment under this title intended to cause an effect in a country unless the Secretary fully informs the chief of mission for that country under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) of the planned operation.

(Added Pub. L. 117–263, div. A, title XV, §1521, Dec. 23, 2022, 136 Stat. 2897.)

# CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

Sec.
401. Humanitarian and civic assistance provided in conjunction with military operations.
402. Transportation of humanitarian relief supplies to foreign countries.
[403. Repealed.]
404. Foreign disaster assistance.
405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.

[406. Renumbered.]
407. Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations.
408. Assistance in support of Department of Defense accounting for missing United States Government personnel.
409. Center for Complex Operations.
[410. Repealed.]

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**PRIOR PROVISIONS**

Chapter was comprised of subchapter I, sections 401 to 404, and subchapter II, section 410, prior to amendment by Pub. L. 104–106, div. A, title V, §571(c), Feb. 10, 1996, 110 Stat. 353, which struck out headings for subchapters I and II.

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title X, §1042(a)(1), Dec. 22, 2023, 137 Stat. 388, substituted "Assistance in support of" for "Equipment and training of foreign personnel to assist in" in item 408. Amendment was made pursuant to operation of section 102 of this title.

**2011**—Pub. L. 112–81, div. A, title X, §1092(b)(2), Dec. 31, 2011, 125 Stat. 1606, added item 407 and struck out former item 407 "Humanitarian demining assistance: authority; limitations".

**2008**—Pub. L. 110–417, [div. A], title X, §1031(b), Oct. 14, 2008, 122 Stat. 4590, added item 409.

Pub. L. 110–181, div. A, title XII, §1207(b), Jan. 28, 2008, 122 Stat. 367, added item 408.

**2006**—Pub. L. 109–364, div. A, title XII, §1203(b)(2), Oct. 17, 2006, 120 Stat. 2415, added item 407.

**1996**—Pub. L. 104–106, div. A, title X, §1061(g)(2), title XIII, §1301(b), Feb. 10, 1996, 110 Stat. 443, 473, which directed amendment of table of sections at beginning of subchapter I of this chapter by striking out item 403 and adding item 405, were executed by striking out item 403 "International peacekeeping activities" and adding item 405 in analysis for this chapter to reflect the probable intent of Congress and amendments by Pub. L. 104–106, §571(c)(1), (2). See below.

Pub. L. 104–106, div. A, title V, §571(c)(1), (2), Feb. 10, 1996, 110 Stat. 353, struck out subchapter analysis, consisting of items for subchapter I "Humanitarian Assistance" and subchapter II "Civil-Military Cooperation" and struck out subchapter I heading "HUMANITARIAN ASSISTANCE".

**1994**—Pub. L. 103–337, div. A, title XIV, §1412(b), Oct. 5, 1994, 108 Stat. 2913, added item 404.

**1992**—Pub. L. 102–484, div. A, title X, §1081(b)(2), title XIII, §1342(c)(2), Oct. 23, 1992, 106 Stat. 2516, 2558, added subchapter analysis, subchapter I heading, and item 403.

**1987**—Pub. L. 100–180, div. A, title III, §332(b)(6), Dec. 4, 1987, 101 Stat. 1080, substituted "HUMANITARIAN AND OTHER ASSISTANCE" for "HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS" in chapter heading, "Humanitarian and civic assistance provided in conjunction with military operations" for "Armed forces participation in humanitarian and civic assistance activities" in item 401, and "Transportation of humanitarian relief supplies to foreign countries" for "Approval of Secretary of State" in item 402, and struck out items 403 "Payment of expenses", 404 "Annual report to Congress", 405 "Definition of humanitarian and civic assistance", and 406 "Expenditure limitation".

## §401. Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement,

and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(b) Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

[(2), (3) Repealed. Pub. L. 109–364, div. A, title XII, §1203(a)(3), Oct. 17, 2006, 120 Stat. 2413.]

(4) Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1), except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance.

(d) The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

(e) In this section, the term "humanitarian and civic assistance" means any of the following:

(1) Medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided.

(2) Construction of rudimentary surface transportation systems.

(3) Well drilling and construction of basic sanitation facilities.

(4) Rudimentary construction and repair of public facilities.

(Added Pub. L. 99–661, div. A, title III, §333(a)(1), Nov. 14, 1986, 100 Stat. 3857; amended Pub. L. 100–180, div. A, title III, §332(b)(1)–(5), Dec. 4, 1987, 101 Stat. 1080; Pub. L. 100–456, div. A, title XII, §1233(g)(1), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103–160, div. A, title XI, §1182(a)(1), title XV, §1504(b), Nov. 30, 1993, 107 Stat. 1771, 1839; Pub. L. 104–106, div. A, title XIII, §1313(a), (b), title XV, §1502(a)(8), Feb. 10, 1996, 110 Stat. 474, 475, 503; Pub. L. 104–201, div. A, title X, §1074(a)(2), title XIII, §1304, Sept. 23, 1996, 110 Stat. 2658, 2704; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title XII, §1235], Oct. 30, 2000, 114 Stat. 1654, 1654A–331; Pub. L. 108–375, div. A, title XII, §1221, Oct. 28, 2004, 118 Stat. 2089; Pub. L. 109–163, div. A, title XII, §1201, Jan. 6, 2006, 119 Stat. 3455; Pub. L. 109–364, div. A, title XII, §1203(a), Oct. 17, 2006, 120 Stat. 2413; Pub. L. 112–239, div. A, title X, §1076(f)(7), Jan. 2, 2013, 126 Stat. 1952.)

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### AMENDMENTS

**2013**—Subsec. (d). Pub. L. 112–239 substituted "Committee on Foreign Affairs" for "Committee on International Relations" in introductory provisions.

**2006**—Subsec. (a)(4). Pub. L. 109–364, §1203(a)(1), struck out par. (4) which read as follows: "The Secretary of Defense shall ensure that no member of the armed forces, while providing assistance under this section that is described in subsection (e)(5)—

"(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(B) provides such assistance as part of a military operation that does not involve the armed forces."

Subsec. (b). Pub. L. 109–364, §1203(a)(2), struck out "(1)" before "Humanitarian" and struck out par. (2) which read as follows: "Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision."

Subsec. (c)(2). Pub. L. 109–364, §1203(a)(3), struck out par. (2) which read as follows: "Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

"(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

"(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the activities described in subsection (e)(5), including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section."

Subsec. (c)(3). Pub. L. 109–364, §1203(a)(3), struck out par. (3) which read as follows: "The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed $10,000,000."

Pub. L. 109–163, §1201(a), substituted "$10,000,000" for "$5,000,000".

Subsec. (e)(1). Pub. L. 109–163, §1201(b), inserted "surgical," before "dental," in two places and ", including education, training, and technical assistance related to the care provided" before period at end.

Subsec. (e)(5). Pub. L. 109–364, §1203(a)(4), struck out par. (5) which read as follows: "Detection and clearance of landmines and other explosive remnants of war, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war."

**2004**—Subsec. (a)(4)(A). Pub. L. 108–375, §1221(b)(1), inserted "or other explosive remnants of war" after "landmines".

Subsec. (c)(2)(B). Pub. L. 108–375, §1221(b)(2), substituted "equipment or supplies for clearing landmines or other explosive remnants of war" for "landmine clearing equipment or supplies".

Subsec. (e)(5). Pub. L. 108–375, §1221(a), inserted "and other explosive remnants of war" after "landmines" in two places.

**2000**—Subsec. (e)(1). Pub. L. 106–398 substituted "areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively" for "rural areas of a country".

**1999**—Subsec. (d). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1996**—Subsec. (a)(4). Pub. L. 104–201, §1074(a)(2)(A), substituted "armed forces" for "Armed Forces" in two places.

Pub. L. 104–106, §1313(b), added par. (4).

Subsec. (b). Pub. L. 104–201, §1304(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(2) to (4). Pub. L. 104–201, §1304(a), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (d). Pub. L. 104–106, §1502(a)(8), substituted "Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations" for "Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs".

Subsec. (e). Pub. L. 104–201, §1074(a)(2)(B), inserted "any of the following" after "means" in introductory provisions.

Pub. L. 104–106, §1313(a)(1), substituted "means:" for "means—" in introductory provisions.

Subsec. (e)(1). Pub. L. 104–106, §1313(a)(2), (3), substituted "Medical" for "medical" and "country." for "country;".

Subsec. (e)(2). Pub. L. 104–106, §1313(a)(2), (3), substituted "Construction" for "construction" and "systems." for "systems;".

Subsec. (e)(3). Pub. L. 104–106, §1313(a)(2), (4), substituted "Well" for "well" and "facilities." for "facilities; and".

Subsec. (e)(4). Pub. L. 104–106, §1313(a)(2), substituted "Rudimentary" for "rudimentary".

Subsec. (e)(5). Pub. L. 104–106, §1313(a)(5), added par. (5).

**1993**—Subsec. (c)(2). Pub. L. 103–160, §1504(b), inserted before period ", except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance".

Subsec. (f). Pub. L. 103–160, §1182(a)(1), struck out subsec. (f) which read as follows: "Not more than $16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991."

**1988**—Subsec. (c)(2). Pub. L. 100–456 substituted "paragraph (1)" for "subsection (a)".

**1987**—Pub. L. 100–180, §332(b)(1)(A), substituted "Humanitarian and civic assistance provided in conjunction with military operations" for "Armed forces participation in humanitarian and civic assistance activities" in section catchline.

Subsec. (a). Pub. L. 100–180, §332(b)(1)(B), (C), (5), redesignated former subsec. (a) as par. (1) and former cls. (1) and (2) as cls. (A) and (B), respectively, redesignated former subsecs. (b) and (c) as pars. (2) and (3), respectively, and substituted "section" for "chapter" wherever appearing.

Subsec. (b). Pub. L. 100–180, §332(b)(2), (5), struck out section catchline of former section 402 "Approval of Secretary of State", designated text of former section 402 as subsec. (b) of this section, and substituted "section" for "chapter".

Subsec. (c). Pub. L. 100–180, §332(b)(3), (5), struck out section catchline of former section 403 "Payment of expenses", redesignated former section 403(a) and (b) as subsec. (c)(1) and (2), respectively, of this section, and substituted "section" for "chapter" wherever appearing.

Subsec. (d). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 404 "Annual report to Congress", designated text of former section 404 as subsec. (d) of this section, and substituted "section" for "chapter".

Subsec. (e). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 405 "Definition of humanitarian and civic assistance", designated text of former section 405 as subsec. (e) of this section, and substituted "section" for "chapter".

Subsec. (f). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 406 "Expenditure limitation", designated text of former section 406 as subsec. (f) of this section, and substituted "section" for "chapter".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### AUTHORITY TO CONDUCT ACTIVITIES TO ENHANCE THE CAPABILITY OF FOREIGN COUNTRIES TO RESPOND TO INCIDENTS INVOLVING WEAPONS OF MASS DESTRUCTION

Pub. L. 113–66, div. A, title XII, §1204, Dec. 26, 2013, 127 Stat. 896, as amended by Pub. L. 113–291, div. A, title XII, §1202, Dec. 19, 2014, 128 Stat. 3530; Pub. L. 114–92, div. A, title XII, §1273, Nov. 25, 2015, 129 Stat. 1076, provided authority to conduct activities to enhance the capability of foreign countries to respond to incidents involving weapons of mass destruction, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(d)(5)(B)(i), Dec. 23, 2016, 130 Stat. 2504, effective as of the date that is 270 days after Dec. 23, 2016.

### REQUIREMENT TO ENSURE THE EFFECTIVENESS AND EFFICIENCY OF HEALTH ENGAGEMENTS

Pub. L. 112–239, div. A, title VII, §715, Jan. 2, 2013, 126 Stat. 1803, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Under Secretary of Defense for Policy and the Assistant Secretary of Defense for Health Affairs, shall develop a process to ensure that health

engagements conducted by the Department of Defense are effective and efficient in meeting the national security goals of the United States.

"(b) PROCESS GOALS.—The Assistant Secretary of Defense for Health Affairs shall ensure that each process developed under subsection (a)—

"(1) assesses the operational mission capabilities of the health engagement;

"(2) uses the collective expertise of the Federal Government and non-governmental organizations to ensure collaboration and partnering activities; and

"(3) assesses the stability and resiliency of the host nation of such engagement.

"(c) ASSESSMENT TOOL.—The Assistant Secretary of Defense for Health Affairs may establish a measure of effectiveness learning tool to assess the process developed under subsection (a) to ensure the applicability of the process to health engagements conducted by the Department of Defense.

"(d) HEALTH ENGAGEMENT DEFINED.—In this section, the term 'health engagement' means a health stability operation conducted by the Department of Defense outside the United States in coordination with a foreign government or international organization to establish, reconstitute, or maintain the health sector of a foreign country."

## HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES

Pub. L. 103–337, div. A, title XIV, §1413, Oct. 5, 1994, 108 Stat. 2913, required Secretary of Defense to carry out program for humanitarian purposes to provide assistance to other nations in detection and clearance of landmines, specified that such assistance was to be provided through instruction, education, training, and advising of personnel of those nations in procedures determined effective for detecting and clearing landmines, specified forms of assistance, required Secretary to ensure that no member of Armed Forces engaged in physical detection, lifting, or destroying of landmines (unless done for concurrent purpose of supporting United States military operations) or gave such assistance as part of military operation not involving Armed Forces, made funds available, specified uses of funds, and required Secretary to provide notice to Congress of activities carried out under the program, prior to repeal by Pub. L. 104–106, div. A, title XIII, §1313(c), Feb. 10, 1996, 110 Stat. 475.

## HUMANITARIAN AND CIVIC ASSISTANCE

Pub. L. 103–160, div. A, title XV, §1504, Nov. 30, 1993, 107 Stat. 1839, provided that:

"(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

"(b) LIMITATION ON USE OF FUNDS.—[Amended section 401(c)(2) of this title.]

"(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 [now 2561] of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

"(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547 [now 2557], and 2551 [now 2561] of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

"(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) [107 Stat. 1616] shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 [now 2561] of title 10, United States Code.

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Appropriations, the Committee on Armed Services [now Committee on National Security], and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate."

## HUMANITARIAN ASSISTANCE; EMERGENCY TRANSPORTATION OF INDIVIDUALS

Pub. L. 102–396, title II, Oct. 6, 1992, 106 Stat. 1884, provided: "That where required and notwithstanding

any other provision of law, funds made available under this heading [Humanitarian Assistance] for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations."

**APPROPRIATION OF FUNDS FOR HUMANITARIAN AND CIVIC ASSISTANCE; ANNUAL REPORT TO CONGRESS ON OBLIGATIONS; USE OF CIVIC ACTION TEAMS IN TRUST TERRITORIES OF PACIFIC ISLANDS AND FREELY ASSOCIATED STATES OF MICRONESIA**

Pub. L. 109–148, div. A, title VIII, §8009, Dec. 30, 2005, 119 Stat. 2699, which appropriated funds pursuant to this section and authorized obligations for humanitarian and civic assistance costs under this chapter, with such obligations being reported as required by subsec. (d) of this section, and authorized the use of Civic Action Teams for the provision of assistance in the Trust Territories of the Pacific Islands and freely associated states of Micronesia and the provision of medical services at Army medical facilities in Hawaii upon a determination by the Secretary of the Army, was from the Department of Defense Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108–287, title VIII, §8009, Aug. 5, 2004, 118 Stat. 971.

Pub. L. 108–87, title VIII, §8009, Sept. 30, 2003, 117 Stat. 1073.

Pub. L. 107–248, title VIII, §8009, Oct. 23, 2002, 116 Stat. 1538.

Pub. L. 107–117, div. A, title VIII, §8009, Jan. 10, 2002, 115 Stat. 2249, as amended by Pub. L. 108–136, div. A, title X, §1031(j), Nov. 24, 2003, 117 Stat. 1605.

Pub. L. 106–259, title VIII, §8009, Aug. 9, 2000, 114 Stat. 676.

Pub. L. 106–79, title VIII, §8009, Oct. 25, 1999, 113 Stat. 1232.

Pub. L. 105–262, title VIII, §8009, Oct. 17, 1998, 112 Stat. 2298.

Pub. L. 105–56, title VIII, §8009, Oct. 8, 1997, 111 Stat. 1222.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8010], Sept. 30, 1996, 110 Stat. 3009–71, 3009–90.

Pub. L. 104–61, title VIII, §8011, Dec. 1, 1995, 109 Stat. 653.

Pub. L. 103–335, title VIII, §8011, Sept. 30, 1994, 108 Stat. 2619.

Pub. L. 103–139, title VIII, §8012, Nov. 11, 1993, 107 Stat. 1439.

Pub. L. 102–396, title IX, §9021, Oct. 6, 1992, 106 Stat. 1904.

Pub. L. 102–172, title VIII, §8021, Nov. 26, 1991, 105 Stat. 1175.

Pub. L. 101–511, title VIII, §8021, Nov. 5, 1990, 104 Stat. 1879.

Pub. L. 101–165, title IX, §9031, Nov. 21, 1989, 103 Stat. 1135.

Pub. L. 100–463, title VIII, §8051, Oct. 1, 1988, 102 Stat. 2270–25.

Pub. L. 100–202, §101(b) [title VIII, §8063], Dec. 22, 1987, 101 Stat. 1329–43, 1329–73.

## §402. Transportation of humanitarian relief supplies to foreign countries

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people or entity for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution or use of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the entity requesting the transport of supplies under this section

to ensure that the supplies are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d)(1) The Secretary of Defense may use the authority provided by subsection (a) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available.

(2) Notwithstanding subsection (a), the Secretary of Defense may require reimbursement for costs incurred by the Department of Defense to transport supplies under this subsection.

(e) Not later than July 31 each year, the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.

(Added Pub. L. 100–180, div. A, title III, §332(a), Dec. 4, 1987, 101 Stat. 1079; amended Pub. L. 101–510, div. A, title XIII, §1311(2), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 104–106, div. A, title XV, §1502(a)(8), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title III, §312(a), (b), Nov. 24, 2003, 117 Stat. 1429.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 402 was renumbered section 401(b) of this title.

### AMENDMENTS

**2003**—Subsec. (b)(1)(C). Pub. L. 108–136, §312(b)(1), inserted "or entity" after "people".

Subsec. (b)(1)(E). Pub. L. 108–136, §312(b)(2), inserted "or use" after "distribution".

Subsec. (b)(3). Pub. L. 108–136, §312(b)(3), substituted "entity requesting the transport of supplies under this section to ensure that the supplies" for "donor to ensure that supplies to be transported under this section".

Subsecs. (d), (e). Pub. L. 108–136, §312(a), added subsec. (d) and redesignated former subsec. (d) as (e).

**1999**—Subsec. (d). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (d). Pub. L. 104–106 substituted "Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations" for "Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs".

**1990**—Subsec. (d). Pub. L. 101–510 substituted "Not later than July 31 each year" for "At the end of each six-month period" and "the 12-month period ending on the preceding June 30" for "such six-month period".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY DEPARTMENT OF DEFENSE

Pub. L. 106–309, title IV, §403, Oct. 17, 2000, 114 Stat. 1097, provided that:

"(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

"(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications."

**FIRST REPORT DEADLINE**

Pub. L. 100–180, div. A, title III, §332(d), Dec. 4, 1987, 101 Stat. 1080, directed that first report under section 402(d) of this title be submitted not more than six months after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Pub. L. 98–525; 98 Stat. 2638).

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

## [§403. Repealed. Pub. L. 104–106, div. A, title X, §1061(g)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 102–484, div. A, title XIII, §1342(c)(1), Oct. 23, 1992, 106 Stat. 2557; amended Pub. L. 103–160, div. A, title XV, §1501(b), (c), Nov. 30, 1993, 107 Stat. 1836, related to international peacekeeping activities.

## §404. Foreign disaster assistance

(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives or serious harm to the environment.

(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

(1) The manmade or natural disaster for which disaster assistance is necessary.

(2) The threat to human lives or the environment presented by the disaster.

(3) The United States military personnel and material resources that are involved or expected to be involved.

(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

(5) The anticipated duration of the disaster assistance activities.

(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.

(e) LIMITATION ON TRANSPORTATION ASSISTANCE.—Transportation services authorized under subsection (b) may be provided in response to a manmade or natural disaster to prevent serious harm to the environment, when human lives are not at risk, only if other sources to provide such transportation are not readily available.

(Added Pub. L. 103–337, div. A, title XIV, §1412(a), Oct. 5, 1994, 108 Stat. 2912; amended Pub. L.

108–136, div. A, title III, §312(c), Nov. 24, 2003, 117 Stat. 1430.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 404 was renumbered section 401(d) of this title.

### AMENDMENTS

**2003**—Subsec. (a). Pub. L. 108–136, §312(c)(1), inserted "or serious harm to the environment" after "loss of lives".

Subsec. (c)(2). Pub. L. 108–136, §312(c)(2), inserted "or the environment" after "human lives".

Subsec. (e). Pub. L. 108–136, §312(c)(3), added subsec. (e).

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 12966. FOREIGN DISASTER ASSISTANCE

Ex. Ord. No. 12966, July 14, 1995, 60 F.R. 36949, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Defense Authorization Act for Fiscal Year 1995, Public Law 103–337 (the "Act") [see Tables for classification] and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. This order governs the implementation of section 404 of title 10, United States Code, as added by amendment set forth in section 1412(a) of the Act. Pursuant to 10 U.S.C. 404(a), the Secretary of Defense is hereby directed to provide disaster assistance outside the United States to respond to manmade or natural disasters when the Secretary of Defense determines that such assistance is necessary to prevent loss of lives. The Secretary of Defense shall exercise the notification functions required of the President by 10 U.S.C. 404(c).

SEC. 2. The Secretary of Defense shall provide disaster assistance only: (a) at the direction of the President; or

(b) with the concurrence of the Secretary of State; or

(c) in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State, in which case the Secretary of Defense shall advise, and seek the concurrence of, the Secretary of State as soon as practicable thereafter.

For the purpose of section 2(b) of this order, only the Secretary of State, or the Deputy Secretary of State, or persons acting in those capacities, shall have the authority to withhold concurrence. Concurrence of the Secretary of State is not required for the execution of military operations undertaken pursuant to, and consistent with, assistance provided in accordance with parts (b) and (c) of this section, or with respect to matters relating to the internal financial processes of the Department of Defense.

SEC. 3. In providing assistance covered by this order, the Secretary of Defense shall consult with the Administrator of the Agency for International Development, in the Administrator's capacity as the President's Special Coordinator for International Disaster Assistance.

SEC. 4. This order does not affect any activity or program authorized under any other provision of law, except that referred to in section 1 of this order.

SEC. 5. This order is effective at 12:01 a.m., e.d.t. on July 15, 1995.

WILLIAM J. CLINTON.

## §405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary

contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

(Added Pub. L. 104–106, div. A, title XIII, §1301(a), Feb. 10, 1996, 110 Stat. 473.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 405 was renumbered section 401(e) of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED NATIONS FORCES**

Pub. L. 105–261, div. A, title XII, §1231(b), Oct. 17, 1998, 112 Stat. 2155, provided that: "No funds available to the Department of Defense may be used—

"(1) for a monetary contribution to the United Nations for the establishment of a standing international force under the United Nations; or

"(2) to assign or detail any member of the Armed Forces to duty with a United Nations Stand By Force."

## [§406. Renumbered §401(f)]

## §407. Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may provide humanitarian demining assistance and stockpiled conventional munitions assistance to a country if the Secretary concerned determines that the assistance will promote either—

(A) the security interests of both the United States and the country to which the assistance is to be provided; or

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian demining assistance and stockpiled conventional munitions assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance under this section—

(A) engages in the physical detection, lifting, or destroying of landmines, unexploded explosive ordnance, or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.

(b) LIMITATIONS.—(1) Humanitarian demining assistance and stockpiled conventional munitions assistance may not be provided under this section unless the Secretary of State specifically approves the provision of such assistance.

(2) Any authority provided under any other provision of law to provide humanitarian demining assistance or stockpiled conventional munitions assistance to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section.

(c) EXPENSES.—(1) Expenses incurred as a direct result of providing humanitarian demining assistance or stockpiled conventional munitions assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for the purpose of the provision by the Department of Defense of overseas humanitarian assistance.

(2) Expenses covered by paragraph (1) include the following:

(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting humanitarian demining activities or stockpiled conventional munitions activities, including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war, or stockpiled conventional munitions, as applicable, that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

(C) Travel, transportation, and subsistence expenses of foreign personnel to attend training provided by the Department of Defense under this section.

(d) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on activities carried out under this section during the preceding fiscal year, including—

(1) a list of the countries to which humanitarian demining assistance or stockpiled conventional munitions assistance was provided during the preceding fiscal year;

(2) the type and description of humanitarian demining assistance or stockpiled conventional munitions assistance provided to each country during the preceding fiscal year, as specified in paragraph (1), and whether such assistance was primarily related to the humanitarian demining efforts or stockpiled conventional munitions assistance;

(3) a list of countries to which humanitarian demining assistance or stockpiled conventional munitions assistance could not be provided during the preceding fiscal year due to insufficient numbers of Department of Defense personnel to carry out such activities or insufficient funding;

(4) the amount expended in providing such assistance to each such country during the preceding fiscal year; and

(5) a description of interagency efforts to coordinate and improve research, development, test, and evaluation for humanitarian demining technology and mechanical clearance methods, including the transfer of relevant counter-improvised explosive device technology with potential humanitarian demining applications.

(e) DEFINITIONS.—In this section:

(1) The term "humanitarian demining assistance", as it relates to training and support, means detection and clearance of landmines, unexploded explosive ordnance, and other explosive remnants of war, and includes activities related to the furnishing of education, training, and technical assistance with respect to explosive safety, the detection and clearance of landmines, unexploded explosive ordnance, and other explosive remnants of war.

(2) The term "stockpiled conventional munitions assistance", as it relates to the support of humanitarian assistance efforts, means training and support in the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance, small arms, and light weapons, including man-portable air-defense systems. Such term includes activities related to the furnishing of education, training, and technical assistance with respect to explosive safety and the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance, small arms, and light weapons, including man-portable air-defense systems.

(Added Pub. L. 109–364, div. A, title XII, §1203(b)(1), Oct. 17, 2006, 120 Stat. 2413; amended Pub. L. 112–81, div. A, title X, §1092(a), (b)(1), Dec. 31, 2011, 125 Stat. 1605, 1606; Pub. L. 113–66, div. A, title X, §1083, Dec. 26, 2013, 127 Stat. 871; Pub. L. 113–291, div. A, title X, §§1041,

1071(f)(5), Dec. 19, 2014, 128 Stat. 3492, 3510; Pub. L. 114–328, div. A, title X, §1082, Dec. 23, 2016, 130 Stat. 2420; Pub. L. 115–91, div. A, title X, §1043, Dec. 12, 2017, 131 Stat. 1554; Pub. L. 117–263, div. A, title X, §1043, Dec. 23, 2022, 136 Stat. 2770.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a)(1). Pub. L. 117–263, §1043(a)(1)(A), substituted "provide" for "carry out" and "to a country" for "in a country" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 117–263, §1043(a)(1)(B), substituted "to which the assistance is to be provided" for "in which the activities are to be carried out".

Subsec. (c)(2)(C). Pub. L. 117–263, §1043(b)(1), added subpar. (C).

Subsec. (c)(3). Pub. L. 117–263, §1043(b)(2), struck out par. (3) which read as follows: "The cost of equipment, services, and supplies provided in any fiscal year under this section may not exceed $15,000,000."

Subsec. (d). Pub. L. 117–263, §1043(c), substituted "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on" for "include in the annual report under section 401 of this title a separate discussion of" in introductory provisions.

Subsec. (d)(1). Pub. L. 117–263, §1043(a)(2)(A), substituted "to which" for "in which" and "provided" for "carried out".

Subsec. (d)(2). Pub. L. 117–263, §1043(a)(2)(B), substituted "provided to" for "carried out in".

Subsec. (d)(3). Pub. L. 117–263, §1043(a)(2)(C), substituted "to which" for "in which" and "provided" for "carried out".

Subsec. (d)(4). Pub. L. 117–263, §1043(a)(2)(D), substituted "in providing such assistance to each such country" for "in carrying out such assistance in each such country".

**2017**—Subsec. (a)(3). Pub. L. 115–91, §1043(a)(1), struck out "or stockpiled conventional munitions assistance" after "demining assistance" in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 115–91, §1043(a)(2), inserted ", unexploded explosive ordnance," after "landmines" and struck out ", or stockpiled conventional munitions, as applicable" after "war".

Subsec. (e)(1). Pub. L. 115–91, §1043(b), inserted ", unexploded explosive ordnance," after "landmines" in two places and substituted period at end for ", and the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance."

Subsec. (e)(2). Pub. L. 115–91, §1043(c), struck out ", the detection and clearance of landmines and other explosive remnants of war," after "explosive safety".

**2016**—Subsec. (c)(3). Pub. L. 114–328 substituted "$15,000,000" for "$10,000,000".

**2014**—Subsec. (a)(3)(A). Pub. L. 113–291, §1071(f)(5), struck out comma after "as applicable".

Subsec. (d)(3). Pub. L. 113–291, §1041(a), inserted "or insufficient funding" after "such activities".

Subsec. (e)(2). Pub. L. 113–291, §1041(b), substituted "small arms, and light weapons, including man-portable air-defense systems. Such term includes" for "and includes" and inserted before period at end ", small arms, and light weapons, including man-portable air-defense systems".

**2013**—Subsec. (d)(5). Pub. L. 113–66 added par. (5).

**2011**—Pub. L. 112–81, §1092(b)(1), amended section catchline generally, substituting "Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations" for "Humanitarian demining assistance: authority; limitations".

Subsec. (a)(1). Pub. L. 112–81, §1092(a)(1)(A), inserted "and stockpiled conventional munitions assistance" after "humanitarian demining assistance" in introductory provisions.

Subsec. (a)(2). Pub. L. 112–81, §1092(a)(1)(B), inserted "and stockpiled conventional munitions assistance" after "Humanitarian demining assistance".

Subsec. (a)(3). Pub. L. 112–81, §1092(a)(1)(C)(i), inserted "or stockpiled conventional munitions assistance" after "humanitarian demining assistance" in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 112–81, §1092(a)(1)(C)(ii), inserted ", or stockpiled conventional munitions, as applicable," after "explosive remnants of war".

Subsec. (b)(1). Pub. L. 112–81, §1092(a)(2)(A), which directed amendment by inserting "and stockpiled conventional munitions assistance" after "humanitarian demining assistance", was executed by making the insertion after "Humanitarian demining assistance" to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 112–81, §1092(a)(2)(B), inserted "or stockpiled conventional munitions assistance" after "humanitarian demining assistance".

Subsec. (c)(1). Pub. L. 112–81, §1092(a)(3)(A), inserted "or stockpiled conventional munitions assistance" after "humanitarian demining assistance".

Subsec. (c)(2)(B). Pub. L. 112–81, §1092(a)(3)(B), inserted "or stockpiled conventional munitions activities" after "humanitarian demining activities" and inserted ", or stockpiled conventional munitions, as applicable," after "explosive remnants of war".

Subsec. (d). Pub. L. 112–81, §1092(a)(4)(A), inserted "or stockpiled conventional munitions assistance" after "humanitarian demining assistance" wherever appearing.

Subsec. (d)(2). Pub. L. 112–81, §1092(a)(4)(B), inserted ", and whether such assistance was primarily related to the humanitarian demining efforts or stockpiled conventional munitions assistance" after "paragraph (1)".

Subsec. (e). Pub. L. 112–81, §1092(a)(5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "In this section, the term 'humanitarian demining assistance', as it relates to training and support, means detection and clearance of landmines and other explosive remnants of war, including activities related to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### AUTHORITY TO TRANSFER SURPLUS MINE-RESISTANT AMBUSH-PROTECTED VEHICLES AND SPARE PARTS

Pub. L. 112–239, div. A, title X, §1053, Jan. 2, 2013, 126 Stat. 1937, provided that:

"(a) AUTHORITY.—The Secretary of Defense is authorized to transfer surplus Mine-Resistant Ambush-Protected vehicles, including spare parts for such vehicles, to non-profit United States humanitarian demining organizations for purposes of demining activities and training of such organizations.

"(b) TERMS AND CONDITIONS.—Any transfer of vehicles or spare parts under subsection (a) shall be subject to the following terms and conditions:

"(1) The transfer shall be made on a loan basis.

"(2) The costs of operation and maintenance of the vehicles shall be borne by the recipient organization.

"(3) Any other terms and conditions as the Secretary of Defense determines to be appropriate.

"(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] in writing not less than 60 days before making any transfer of vehicles or spare parts under subsection (a). Such notification shall include the name of the organization, the number and model of the vehicle to be transferred, a listing of any spare parts to be transferred, and any other information the Secretary considers appropriate."

## §408. Assistance in support of Department of Defense accounting for missing United States Government personnel

(a) IN GENERAL.—The Secretary of Defense may provide assistance to and procure goods and services from any foreign nation to assist the Department of Defense with recovery of and accounting for missing United States Government personnel.

(b) TYPES OF ASSISTANCE.—The assistance provided under subsection (a) may include the following:

(1) Equipment.

(2) Supplies.

(3) Services.

(4) Training of personnel.

(5) Funds.

(c) APPROVAL BY SECRETARY OF STATE.—Assistance may not be provided under this

section to any foreign nation unless the Secretary of State specifically approves the provision of such assistance.

(d) LIMITATIONS.—(1) Except as provided in paragraph (2), the amount of assistance provided under this section in any fiscal year may not exceed $15,000,000.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary submits to the congressional defense committees notice of the waiver together with the reasons why the waiver is necessary.

(3) No assistance may be provided under this section to a foreign nation the government of which the Secretary of State determines has repeatedly provided support for international terrorism pursuant to—

(A) section 1754(c)(1)(A) of the Export Control Reform Act of 2018 (50 U.S.C. 4813(c)(1)(A));
(B) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or
(C) section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(e) CONSTRUCTION WITH OTHER ASSISTANCE.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations under law.

(f) ANNUAL REPORT.—Not later than December 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the preceding fiscal year.

(Added Pub. L. 110–181, div. A, title XII, §1207(a), Jan. 28, 2008, 122 Stat. 367; amended Pub. L. 112–81, div. A, title X, §1064(5), Dec. 31, 2011, 125 Stat. 1587; Pub. L. 118–31, div. A, title X, §1042(a), Dec. 22, 2023, 137 Stat. 388; Pub. L. 119–60, div. A, title X, §1041, Dec. 18, 2025, 139 Stat. 1035.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §1041(1), inserted "and procure goods and services from" after "assistance to".

Subsec. (d)(1). Pub. L. 119–60, §1041(2), substituted "$15,000,000" for "$5,000,000".

**2023**—Pub. L. 118–31, §1042(a)(1), substituted "Assistance in support of" for "Equipment and training of foreign personnel to assist in" in section catchline.

Subsec. (b)(5). Pub. L. 118–31, §1042(a)(2), added par. (5).

Subsec. (d). Pub. L. 118–31, §1042(a)(3), in heading, substituted "Limitations" for "Limitation", and, in text, substituted "(1) Except as provided in paragraph (2), the" for "The" and "$5,000,000" for "$1,000,000" and added pars. (2) and (3).

Subsec. (f). Pub. L. 118–31, §1042(a)(4), (5), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "Whenever the Secretary of Defense provides assistance to a foreign nation under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. Each such report shall identify the nation to which the assistance was provided and include a description of the type and amount of the assistance provided."

**2011**—Subsec. (f). Pub. L. 112–81 amended subsec. (f) generally. Prior to amendment, text read as follows:

"(1) Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year ending in such year.

"(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

"(A) A listing of each foreign nation provided assistance under this section.
"(B) For each nation so provided assistance, a description of the type and amount of such assistance."

## §409. Center for Complex Operations

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the "Center for Complex Operations" (in this section referred to as the "Center").

(b) PURPOSES.—The purposes of the Center established under subsection (a) shall be the

following:

(1) To provide for effective coordination in the preparation of Department of Defense personnel and other United States Government personnel for complex operations.

(2) To foster unity of effort during complex operations among—

(A) the departments and agencies of the United States Government;

(B) foreign governments and militaries;

(C) international organizations and international nongovernmental organizations; and

(D) domestic nongovernmental organizations.

(3) To conduct research; collect, analyze, and distribute lessons learned; and compile best practices in matters relating to complex operations.

(4) To identify gaps in the education and training of Department of Defense personnel, and other relevant United States Government personnel, relating to complex operations, and to facilitate efforts to fill such gaps.

(c) CONCURRENCE OF THE SECRETARY OF STATE.—The Secretary of Defense shall seek the concurrence of the Secretary of State to the extent the efforts and activities of the Center involve the entities referred to in subparagraphs (B) and (C) of subsection (b)(2).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term "complex operation" means an operation as follows:

(A) A stability operation.

(B) A security operation.
(C) A transition and reconstruction operation.
(D) A counterinsurgency operation.
(E) An operation consisting of irregular warfare.

(2) The term "gift or donation" means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 110–417, [div. A], title X, §1031(a), Oct. 14, 2008, 122 Stat. 4589.)

## [§410. Repealed. Pub. L. 104–106, div. A, title V, §571(a)(1), Feb. 10, 1996, 110 Stat. 353]

Section, added Pub. L. 102–484, div. A, title X, §1081(b)(1), Oct. 23, 1992, 106 Stat. 2515, related to Civil-Military Cooperative Action Program.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR ILLEGAL DRUGS

Pub. L. 102–484, div. A, title X, §1045, Oct. 23, 1992, 106 Stat. 2494, required Secretary of Defense to conduct pilot outreach program to reduce demand for illegal drugs, required program to include outreach activities by active and reserve components of Armed Forces and focus primarily on youths in general and inner-city youths in particular, and related to payment of travel and living expenses, funding, duration of program, and reporting requirements, prior to repeal by Pub. L. 104–106, div. A, title V, §571(b), Feb. 10, 1996, 110 Stat. 353.

### CONGRESSIONAL FINDINGS

Pub. L. 102–484, div. A, title X, §1081(a), Oct. 23, 1992, 106 Stat. 2514, related to findings of Congress as to use of military resources to assist in addressing domestic needs, prior to repeal by Pub. L. 104–106, div. A, title V, §571(a)(2), Feb. 10, 1996, 110 Stat. 353.

# CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS


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### EDITORIAL NOTES

### AMENDMENTS

**1991**—Pub. L. 102–88, title V, §504(a)(1), Aug. 14, 1991, 105 Stat. 437, added items for subchapters I and II.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### MILITARY INTELLIGENCE COLLECTION AND ANALYSIS PARTNERSHIPS

Pub. L. 118–31, div. A, title XVI, §1621, Dec. 22, 2023, 137 Stat. 590, provided that:

"(a) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may accept and expend funds from one or more foreign partners for the foreign partner (or partners, as the case may be) to share with the Defense Intelligence Agency the expenses of joint and combined military intelligence collection and analysis activities.

"(2) LIMITATIONS.—

"(A) PREVIOUSLY DENIED FUNDS.—Funds accepted under this section may not be expended, in whole or in part, by or for the benefit of the Defense Intelligence Agency for any purpose for which Congress has previously denied funds.

"(B) JOINT BENEFIT.—The authority under paragraph (1) may not be used to acquire items or services for the sole benefit of the United States.

"(b) ANNUAL REPORT.—Not later than March 1, 2025, and annually thereafter for four years, the Director of the Defense Intelligence Agency shall submit to the appropriate congressional committees a report on any funds accepted or expended under this section during the preceding calendar year, including an identification of the foreign partner or partners involved and a description of the purpose of such funds.

"(c) TERMINATION.—The authority to accept and expend funds from a foreign partner pursuant to this section shall terminate on December 31, 2028.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives."

## INCORPORATION OF CONTROLLED UNCLASSIFIED INFORMATION GUIDANCE INTO PROGRAM CLASSIFICATION GUIDES AND PROGRAM PROTECTION PLANS

Pub. L. 117–263, div. A, title VIII, §884, Dec. 23, 2022, 136 Stat. 2746, provided that:

"(a) UPDATES REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall, acting through the Under Secretary of Defense for Intelligence and Security and the Under Secretary of Defense for Research and Engineering, ensure that all program classification guides (for classified programs) and all program protection plans (for unclassified programs) include guidance for the proper marking for controlled unclassified information at their next regularly scheduled update.

"(2) ELEMENTS.—Guidance under paragraph (1) shall include the following:

"(A) A requirement to use document portion markings for controlled unclassified information.

"(B) A process to ensure controlled unclassified information document portion markings are used properly and consistently.

"(b) MONITORING OF PROGRESS.—In tracking the progress in carrying out subsection (a), the Under Secretary of Defense for Intelligence and Security and the Under Secretary of Defense for Research and Engineering shall implement a process for monitoring progress that includes the following:

"(1) Tracking of all program classification guides and program protection plans so they include document portion marking for controlled unclassified information, and the dates when controlled unclassified information guidance updates are completed.

"(2) Updated training in order to ensure that all government and contractor personnel using the guides described in subsection (a)(1) receive instruction, as well as periodic spot checks, to ensure that training is sufficient and properly implemented to ensure consistent application of document portion marking guidance.

"(3) A process for feedback to ensure that any identified gaps or lessons learned are incorporated into guidance and training instructions.

"(c) REQUIRED COMPLETION.—The Secretary shall ensure that the updates required by subsection (a) are completed before January 1, 2029."

## ENHANCED INDICATIONS AND WARNING FOR DETERRENCE AND DISSUASION

Pub. L. 117–263, div. A, title XII, §1256, Dec. 23, 2022, 136 Stat. 2851, provided that:

"(a) ESTABLISHMENT OF PROGRAM FOR ENHANCED INDICATIONS AND WARNING.—

"(1) AUTHORITY.—The Director of the Defense Intelligence Agency may establish a program to increase warning time of potential aggression by adversary nation states, focusing especially on the United States Indo-Pacific Command and United States European Command areas of operations.

"(2) DESIGNATION.—If the Director establishes the program under paragraph (1), the program shall be known as the 'Program for Enhanced Indications and Warning' (in this section referred to as the 'Program').

"(3) PURPOSE.—The purpose of the Program that may be established under paragraph (1) is to gain increased warning time to provide time for the Department of Defense to mount deterrence and dissuasion

actions to persuade adversaries to refrain from aggression, including through potential revelations or demonstrations of capabilities and actions to create doubt in the minds of adversary leaders regarding the prospects for military success.

"(b) HEAD OF PROGRAM.—

"(1) APPOINTMENT.—If the Director establishes the Program, the Director shall appoint a defense intelligence officer to serve as the mission manager for the Program.

"(2) DESIGNATION.—The mission manager for the Program shall be known as the 'Program Manager for Enhanced Indications and Warning' (in this section referred to as the 'Program Manager').

"(c) SOURCES OF INFORMATION AND ANALYSIS.—If the Director establishes the Program, the Program Manager shall ensure that the Program makes use of all available sources of information, from public, commercial, and classified sources across the intelligence community and the Department of Defense, and advanced analytics, including artificial intelligence, to establish a system capable of discerning deviations from normal patterns of behavior and activity that may indicate preparations for military actions.

"(d) INTEGRATION WITH OTHER PROGRAMS.—

"(1) SUPPORT.—If the Director establishes the Program, the Program shall be supported, as appropriate, by the Chief Digital and Artificial Intelligence Officer, the Maven project, by capabilities sponsored by the Office of the Under Secretary of Defense for Intelligence and Security, and programs already underway within the Defense Intelligence Agency.

"(2) AGREEMENTS.—If the Director establishes the Program, the Director shall seek to engage in agreements to integrate information and capabilities from other components of the intelligence community to facilitate the purpose of the Program.

"(e) BRIEFINGS.—If the Director establishes the Program, not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022] and not less frequently than once each year thereafter through 2027, the Program Manager shall provide the appropriate committees of Congress a briefing on the status of the activities of the Program.

"(f) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)).

"(2) The term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## NOTIFICATION OF CERTAIN THREATS TO UNITED STATES ARMED FORCES BY FOREIGN GOVERNMENTS

Pub. L. 117–81, div. A, title XVI, §1621, Dec. 27, 2021, 135 Stat. 2084, provided that:

"(a) DETERMINATION THAT FOREIGN GOVERNMENT INTENDS TO CAUSE THE DEATH OF OR SERIOUS BODILY INJURY TO MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall carry out the notification requirement under subsection (b) whenever the Secretary, in consultation with the Director of National Intelligence, determines with high confidence that, on or after the date of the enactment of this Act [Dec. 27, 2021], an official of a foreign government has taken a substantial step that is intended to cause the death of, or serious bodily injury to, any member of the United States Armed Forces, whether through direct means or indirect means, including through a promise or agreement by the foreign government to pay anything of pecuniary value to an individual or organization in exchange for causing such death or serious bodily injury.

"(b) NOTICE TO CONGRESS.—

"(1) NOTIFICATION.—Except as provided by paragraph (2), not later than 14 days after making a determination under subsection (a), the Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such determination. Such notification shall include, at a minimum, the following:

"(A) A description of the nature and extent of the effort by the foreign government to target members of the United States Armed Forces.

"(B) An assessment of what specific officials, agents, entities, and departments within the foreign government authorized the effort.

"(C) An assessment of the motivations of the foreign government for undertaking such an effort.

"(D) An assessment of whether the effort of the foreign government was a substantial factor in the death or serious bodily injury of any member of the United States Armed Forces.

"(E) Any other information the Secretary determines appropriate.

"(2) WAIVER.—On a case-by-case basis, the Secretary may waive the notification requirement under paragraph (1) if the Secretary—

"(A) determines that the waiver is in the national security interests of the United States; and

"(B) submits to the congressional defense committees a written justification of such determination.

"(c) DEFINITIONS.—In this section:

"(1) The term 'anything of pecuniary value' has the meaning given that term in section 1958(b)(1) of title 18, United States Code.

"(2) The term 'determines with high confidence'—

"(A) means that the official making the determination—

"(i) has concluded that the judgments in the determination are based on sound analytic argumentation and high-quality, consistent reporting from multiple sources, including through clandestinely obtained documents, clandestine and open source reporting, and in-depth expertise;

"(ii) with respect to such judgments, has concluded that the intelligence community has few intelligence gaps and few assumptions underlying the analytic line and that the intelligence community has concluded that the potential for deception is low; and

"(iii) has examined long-standing analytic judgments and considered alternatives in making the determination; but

"(B) does not mean that the official making the determination has concluded that the judgments in the determination are fact or certainty.

"(3) The term 'direct means' means without the use of intermediaries.

"(4) The term 'foreign government' means the government of a foreign country with which the United States is at peace.

"(5) The term 'indirect means' means through, or with the assistance of, intermediaries."

## STRATEGY AND PLAN TO IMPLEMENT CERTAIN DEFENSE INTELLIGENCE REFORMS

Pub. L. 117–81, div. A, title XVI, §1622, Dec. 27, 2021, 135 Stat. 2086, provided that:

"(a) STRATEGY AND PLAN.—The Secretary of Defense, in coordination with the Director of National Intelligence, shall develop and implement a strategy and plan to enable the Defense Intelligence Enterprise to more effectively fulfill the intelligence and information requirements of the commanders of the combatant commands with respect to efforts by the combatant commands to expose and counter foreign malign influence, coercion, and subversion activities undertaken by, or at the direction, on behalf, or with substantial support of the governments of, covered foreign countries.

"(b) MATTERS INCLUDED IN PLAN.—The plan under subsection (a) shall include the following:

"(1) A plan to improve policies and procedures of the Defense Intelligence Enterprise to assemble and release facts about the foreign malign influence, coercion, and subversion activities of a covered foreign country described in such subsection in a timely way and in forms that allow for greater distribution and release.

"(2) A plan to develop and publish validated priority intelligence requirements of the commanders of the combatant commands.

"(3) A plan to better leverage open-source and commercially available information and independent analyses to support the efforts by the combatant commands described in such subsection.

"(4) A review by each element of the Defense Intelligence Enterprise of the approaches used by that element—

"(A) with respect to intelligence that has not been processed or analyzed, to separate out data from the sources and methods by which the data is obtained (commonly known as 'tearlining'); and

"(B) with respect to finished intelligence products that relate to foreign malign influence, coercion, and subversion activities of a covered foreign country described in such subsection, to downgrade the classification level of the product.

"(6) [(5)] An identification of any additional resources or legislative authority necessary to better meet the intelligence and information requirements described in such subsection.

"(7) [(6)] An assignment of responsibilities and timelines for the implementation of the plans described in paragraphs (1), (2), and (3).

"(8) [(7)] Any other matters the Secretary determines relevant.

"(c) SUBMISSION.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, in coordination with the Director of National Intelligence, shall submit to the appropriate congressional committees and the Comptroller General of the United States the plan developed

under subsection (a).

"(d) COMPTROLLER GENERAL REVIEW.—

"(1) REQUIREMENT.—The Comptroller General shall conduct a review of—

"(A) the plan submitted under subsection (c); and

"(B) the activities and future plans of the Defense Intelligence Enterprise for meeting the intelligence and information requirements described in subsection (a).

"(2) ELEMENTS.—The review under paragraph (1) shall include the following:

"(A) The extent to which the plan submitted under subsection (c) includes the elements identified in subsection (b).

"(B) The extent to which the Defense Intelligence Enterprise has clearly assigned roles, responsibilities, and processes for fulfilling the intelligence and information requirements described in subsection (a).

"(C) The extent to which the Defense Intelligence Enterprise is planning to obtain additional capabilities and resources to improve the quality and timeliness of intelligence and information provided to the commanders of the combatant commands to aid in the efforts described in subsection (a).

"(D) The extent to which the Defense Intelligence Enterprise is identifying, obtaining, and using commercial and publicly available information to aid in such efforts.

"(E) Any other related issues that the Comptroller General determines appropriate.

"(3) BRIEFING AND REPORT.—Not later than 120 days after the date on which the Comptroller General receives the plan under subsection (c), the Comptroller General shall provide to the appropriate congressional committees a briefing on any initial findings about the plan. After such briefing, the Comptroller General shall submit to the committees a report on the plan at a date mutually agreed upon by the Comptroller General and the committees.

"(e) CONGRESSIONAL BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], and annually thereafter through December 31, 2026, the Secretary, in coordination with the Director of National Intelligence, shall provide to the appropriate congressional committees a briefing on the strategy and plan under subsection (a).

"(f) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means the following:

"(A) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(B) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'covered foreign country' means any of the following:

"(A) The People's Republic of China.

"(B) The Russian Federation.

"(C) The Islamic Republic of Iran.

"(D) The Democratic People's Republic of Korea.

"(E) Any other foreign country the Secretary of Defense and the Director of National Intelligence determine appropriate.

"(3) The term 'Defense Intelligence Enterprise' has the meaning given that term in section 426(b)(4) of title 10, United States Code."

## LIMITATION ON USE OF FUNDS

Pub. L. 115–31, div. C, title VIII, §8037, May 5, 2017, 131 Stat. 255, provided that: "Notwithstanding any other provision of law, funds made available in this Act [div. C of Pub. L. 115–31, see Tables for classification] and hereafter for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands."

## DEPARTMENT OF DEFENSE INTELLIGENCE PRIORITIES

Pub. L. 113–66, div. A, title IX, §922, Dec. 26, 2013, 127 Stat. 828, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall—

"(1) establish a written policy governing the internal coordination and prioritization of intelligence priorities of the Office of the Secretary of Defense, the Joint Staff, the combatant commands, and the military departments to improve identification of the intelligence needs of the Department of Defense;

"(2) identify any significant intelligence gaps of the Office of the Secretary of Defense, the Joint Staff, the combatant commands, and the military departments; and

"(3) provide to the congressional defense committees [Committees on Armed Services and

Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a briefing on the policy established under paragraph (1) and the gaps identified under paragraph (2)."

**DEFENSE CLANDESTINE SERVICE**

Pub. L. 113–66, div. A, title IX, §923, Dec. 26, 2013, 127 Stat. 828, as amended by Pub. L. 115–91, div. A, title X, §1051(s)(2), Dec. 12, 2017, 131 Stat. 1566, provided that:

"(a) CERTIFICATION REQUIRED.—Not more than 50 percent of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise available to the Department of Defense for the Defense Clandestine Service for fiscal year 2014 may be obligated or expended for the Defense Clandestine Service until such time as the Secretary of Defense certifies to the covered congressional committees that—

"(1) the Defense Clandestine Service is designed primarily to—

"(A) fulfill priorities of the Department of Defense that are unique to the Department of Defense or otherwise unmet; and

"(B) provide unique capabilities to the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))); and

"(2) the Secretary of Defense has designed metrics that will be used to ensure that the Defense Clandestine Service is employed as described in paragraph (1).

"(b) NOTIFICATION OF FUTURE CHANGES TO DESIGN.—Following the submittal of the certification referred to in subsection (a), in the event that any significant change is made to the Defense Clandestine Service, the Secretary shall promptly notify the covered congressional committees of the nature of such change.

"(c) QUARTERLY BRIEFINGS.—The Secretary of Defense shall quarterly provide to the covered congressional committees a briefing on the deployments and collection activities of personnel of the Defense Clandestine Service.

"(d) COVERED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'covered congressional committees' means the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate."

## SUBCHAPTER I—GENERAL MATTERS

Sec.

421. Funds for foreign cryptologic support.
422. Use of funds for certain incidental purposes.
423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency.
424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies.
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426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities.
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429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority.
429a. Expenditure of funds for Department of Defense intelligence and counterintelligence activities.
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430a. Executive agent for management and oversight of alternative compensatory control measures.
430b. Executive agent for open-source intelligence tools.
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430e. Vendor support to clandestine activities.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVI, §1621(a), title XVII, §1701(a)(8), Dec. 18, 2025, 139 Stat. 1180, 1208, substituted "Intelligence Oversight Official" for "intelligence oversight official" in item 430c and added item 430e. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title IX, §921(a), title XVI, §§1612(a), 1614(a)(1), Dec. 23, 2024, 138 Stat. 2036, 2167, 2168, added items 429a, 430c, and 430d. Amendments were made pursuant to operation of section 102 of this title.

**2015**—Pub. L. 114–92, div. A, title X, §§1081(a)(5), 1083(a)(2), title XVI, §1631(b), Nov. 25, 2015, 129 Stat. 1001, 1004, 1111, added items 430 to 430b.

**2013**—Pub. L. 113–66, div. A, title X, §1071(b), Dec. 26, 2013, 127 Stat. 868, added item 427.

**2012**—Pub. L. 112–87, title IV, §433(b), Jan. 3, 2012, 125 Stat. 1895, added item 429.

**2011**—Pub. L. 112–81, div. A, title X, §1061(4)(B), Dec. 31, 2011, 125 Stat. 1583, struck out item 427 "Intelligence oversight activities of Department of Defense: annual reports".

Pub. L. 111–383, div. A, title X, §1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, made technical correction to directory language of Pub. L. 111–84, §921(b)(2). See 2009 Amendment note below.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(5), Oct. 28, 2009, 123 Stat. 2472, redesignated item 438 as 428.

Pub. L. 111–84, div. A, title IX, §921(b)(2), Oct. 28, 2009, 123 Stat. 2432, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, added item 423 and struck out former item 423 "Authority to use proceeds from counterintelligence operations of the military departments".

**2008**—Pub. L. 110–417, [div. A], title VIII, §845(a)(2), Oct. 14, 2008, 122 Stat. 4542, added item 438.

**2006**—Pub. L. 109–364, div. A, title IX, §932(b), Oct. 17, 2006, 120 Stat. 2363, added item 427.

**2003**—Pub. L. 108–136, div. A, title IX, §§921(d)(5)(B)(ii), 923(c)(2), Nov. 24, 2003, 117 Stat. 1569, 1576, substituted "Disclosure of organizational and personnel information: exemption for specified intelligence agencies" for "Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency" in item 424 and added item 426.

**2001**—Pub. L. 107–108, title V, §501(b)(3), Dec. 28, 2001, 115 Stat. 1404, substituted "Use of funds for certain incidental purposes" for "Counterintelligence official reception and representation expenses" in item 422.

**1997**—Pub. L. 105–107, title V, §503(d)(2), Nov. 20, 1997, 111 Stat. 2263, added items 424 and 425 and struck out former items 424 "Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency" and 425 "Disclosure of personnel information: exemption for National Reconnaissance Office".

**1993**—Pub. L. 103–178, title V, §503(a)(2), Dec. 3, 1993, 107 Stat. 2039, added item 425.

**1991**—Pub. L. 102–88, title V, §504(a)(1), Aug. 14, 1991, 105 Stat. 437, added subchapter heading.

**1989**—Pub. L. 101–189, div. A, title XVI, §1622(c)(2), Nov. 29, 1989, 103 Stat. 1604, substituted "Funds for foreign cryptologic support" for "Funds for Foreign Cryptologic Support" in item 421.

**1988**—Pub. L. 100–453, title VII, §§701(b), 703(b), Sept. 29, 1988, 102 Stat. 1912, 1913, in item 421 substituted "Funds for Foreign Cryptologic Support" for "Funds transfers for foreign cryptologic support" and added item 424.

**1987**—Pub. L. 100–180, div. A, title XII, §1231(3), Dec. 4, 1987, 101 Stat. 1160, substituted "departments" for "department" in item 423.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STRATEGY TO ADDRESS MALIGN ACTIVITIES BY THE PEOPLE'S LIBERATION ARMY

Pub. L. 118–159, div. A, title XIII, §1347, Dec. 23, 2024, 138 Stat. 2126, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a transregional, multi-functional, and multi-domain strategy to coordinate activities among combatant commands for identifying and, if necessary and appropriate, addressing malign activities by the People's Liberation Army of the People's Republic of China.

"(b) COMBATANT COMMAND LIAISONS.—Concurrently with the submission of the strategy required by subsection (a), the Secretary shall designate, within each combatant command (other than the United States Indo-Pacific Command), an official liaison for coordinated transregional, multi-functional, and multi-domain efforts to address malign activities by the People's Liberation Army."

## §421. Funds for foreign cryptologic support

(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

(Added Pub. L. 96–450, title IV, §401(a), Oct. 14, 1980, 94 Stat. 1977, §140a; amended Pub. L. 97–258, §3(b)(2), Sept. 13, 1982, 96 Stat. 1063; renumbered §128 and amended Pub. L. 99–433, title I, §§101(a)(3), 110(d)(5), Oct. 1, 1986, 100 Stat. 994, 1002; renumbered §421, Pub. L. 100–26, §9(a)(2), Apr. 21, 1987, 101 Stat. 287; Pub. L. 100–453, title VII, §701(a), Sept. 29, 1988, 102 Stat. 1911; Pub. L. 101–189, div. A, title XVI, §1622(c)(3), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 113–291, div. A, title X, §1071(c)(3), Dec. 19, 2014, 128 Stat. 3508.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2014**—Subsec. (c). Pub. L. 113–291 substituted "(50 U.S.C. 3091 et seq.)" for "(50 U.S.C. 413 et seq.)".

**1989**—Subsec. (c). Pub. L. 101–189 substituted "House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds" for "House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds".

**1988**—Pub. L. 100–453 struck out "transfers" after "Funds" in section catchline and amended text generally. Prior to amendment, text read as follows: "The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support."

**1987**—Pub. L. 100–26 renumbered section 128 of this title as this section.

**1986**—Pub. L. 99–433 renumbered section 140a of this title as section 128 of this title and substituted "Funds" for "Secretary of Defense: funds" in section catchline.

**1982**—Pub. L. 97–258 struck out provision that payments under this section could be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**COMPREHENSIVE INDEPENDENT STUDY OF NATIONAL CRYPTOGRAPHY POLICY**

Pub. L. 103–160, div. A, title II, §267, Nov. 30, 1993, 107 Stat. 1611, directed Secretary of Defense, not later than 90 days after Nov. 30, 1993, to request National Research Council of National Academy of Sciences to conduct a comprehensive study to assess effect of cryptographic technologies on national security, law enforcement, commercial, and privacy interests, and effect of export controls on commercial interests, with cooperation of other agencies, and report findings and conclusions within 2 years after processing of security clearances to Secretary of Defense, and directed Secretary to submit a report in unclassified form to Committee on Armed Services, Committee on the Judiciary, and Select Committee on Intelligence of Senate and to Committee on Armed Services, Committee on the Judiciary, and Permanent Select Committee on Intelligence of House of Representatives, not later than 120 days after the report is submitted to the Secretary.

## §422. Use of funds for certain incidental purposes

(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.

(Added Pub. L. 99–569, title IV, §401(c), Oct. 27, 1986, 100 Stat. 3195, §140a; renumbered §422, Pub. L. 100–26, §9(a)(3), Apr. 21, 1987, 101 Stat. 287; amended Pub. L. 107–108, title V, §501(a)–(b)(2), Dec. 28, 2001, 115 Stat. 1404.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–108 substituted "Use of funds for certain incidental purposes" for "Counterintelligence official reception and representation expenses" in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**1987**—Pub. L. 100–26 renumbered section 140a of this title as this section.

## §423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency

(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, use of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency, including effective internal systems of accounting and administrative controls.

(Added Pub. L. 99–569, title IV, §403(a), Oct. 27, 1986, 100 Stat. 3196, §140b; renumbered §423 and amended Pub. L. 100–26, §9(a)(3), (b)(3), Apr. 21, 1987, 101 Stat. 287; Pub. L. 111–84, div. A,

title IX, §921(a), (b)(1), Oct. 28, 2009, 123 Stat. 2432.)

### EDITORIAL NOTES

### AMENDMENTS

**2009**—Pub. L. 111–84 inserted "or the Defense Intelligence Agency" after "military departments" wherever appearing.

**1987**—Pub. L. 100–26 renumbered section 140b of this title as this section and struck out "United States Code," after "section 3302 of title 31," in subsec. (a).

## §424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies

(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

(1) The Defense Intelligence Agency.

(2) The National Reconnaissance Office.

(3) The National Geospatial-Intelligence Agency.

(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.

(Added Pub. L. 104–201, div. A, title XI, §1112(d), Sept. 23, 1996, 110 Stat. 2683; amended Pub. L. 108–136, div. A, title IX, §921(d)(5)(A), (B)(i), Nov. 24, 2003, 117 Stat. 1569.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 424, added Pub. L. 100–178, title VI, §603(a), Dec. 2, 1987, 101 Stat. 1016, §1607; renumbered §424 and amended Pub. L. 100–453, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1912, related to disclosure of organizational and personnel information with respect to the Defense Intelligence Agency prior to repeal by Pub. L. 104–201, div. A, title XI, §§1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996.

### AMENDMENTS

**2003**—Pub. L. 108–136, §921(d)(5)(B)(i), substituted "Disclosure of organizational and personnel information: exemption for specified intelligence agencies" for "Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency" in section catchline.

Subsec. (b)(3). Pub. L. 108–136, §921(d)(5)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

**DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF UNITED STATES**

Pub. L. 103–359, title V, §503, Oct. 14, 1994, 108 Stat. 3430, provided that:

"(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

"(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) the term 'United States' includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(2) the term 'United States person' means any citizen, national, or permanent resident alien of the United States."

**EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION**

Pub. L. 102–496, title IV, §406, Oct. 24, 1992, 106 Stat. 3186, which provided that, except as required by President and except with respect to provision of information to Congress, nothing in Pub. L. 102–496 or any other provision of law was to be construed to require disclosure of name, title, or salary of any person employed by, or assigned or detailed to, National Reconnaissance Office or disclosure of number of such persons, was repealed and restated in former section 425 of this title by Pub. L. 103–178, title V, §503(a)(1), (b), Dec. 3, 1993, 107 Stat. 2038, 2039.

## §425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies

(a) PROHIBITION.—Except with the written permission of both the Secretary of Defense and the Director of National Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary and the Director, any of the following (or any colorable imitation thereof):

(1) The words "Defense Intelligence Agency", the initials "DIA", or the seal of the Defense Intelligence Agency.

(2) The words "National Reconnaissance Office", the initials "NRO", or the seal of the National Reconnaissance Office.

(3) The words "National Imagery and Mapping Agency", the initials "NIMA", or the seal of the National Imagery and Mapping Agency.

(4) The words "Defense Mapping Agency", the initials "DMA", or the seal of the Defense Mapping Agency.

(5) The words "National Geospatial-Intelligence Agency", the initials "NGA," or the seal of the National Geospatial-Intelligence Agency.

(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added and amended Pub. L. 105–107, title V, §503(a), (b), Nov. 20, 1997, 111 Stat. 2262; Pub. L. 108–136, div. A, title IX, §921(d)(6), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, §931(a)(6), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(6), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 202(b) of this title, which was transferred to this section by Pub. L. 105–107, §503(b), was based on Pub. L. 97–269, title V, §501(a), Sept. 27, 1982, 96 Stat. 1145, §191; renumbered §201, Pub. L. 99–433, title III, §301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered §202, Pub. L. 102–190, div. A, title IX, §922(a)(1), Dec. 5, 1991, 105 Stat. 1453.

### PRIOR PROVISIONS

A prior section 425, added Pub. L. 103–178, title V, §503(a)(1), Dec. 3, 1993, 107 Stat. 2038, related to disclosure of information about personnel at National Reconnaissance Office prior to repeal by Pub. L. 104–201, div. A, title XI, §§1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996. See section 424 of this title.

### AMENDMENTS

**2009**—Subsec. (a). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(6). See 2008 Amendment note below.

**2008**—Subsec. (a). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(6), amended subsec. (a) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence" in introductory provisions. Pub. L. 110–417, §932(a)(6), was repealed by Pub. L. 111–84.

**2003**—Subsec. (a)(5). Pub. L. 108–136 added par. (5).

**1997**—Subsec. (b). Pub. L. 105–107, §503(b), renumbered section 202(b) of this title as subsec. (b) of this section and inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Reference to National Imagery and Mapping Agency considered to be reference to National Geospatial-Intelligence Agency, see section 921(a) of Pub. L. 108–136, set out as a note under section 441 of this title.

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

## §426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities

(a) ISR INTEGRATION COUNCIL.—(1) The Under Secretary of Defense for Intelligence and Security shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

(A) to assist the Secretary of Defense in carrying out the responsibilities of the Secretary under section 105(a) of the National Security Act of 1947 (50 U.S.C. 3038(a));

(B) to assist the Under Secretary with respect to matters relating to—

(i) integration of intelligence and counterintelligence capabilities and activities under section 137(b) of this title of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

(ii) coordination of related developmental activities of such departments, agencies, and combatant commands; and

(C) to otherwise provide a means to facilitate such integration and coordination.

(2) The Council shall be composed of—

(A) the Under Secretary, who shall chair the Council;

(B) the directors of the intelligence agencies of the Department of Defense;

(C) the senior intelligence officers of the armed forces and the regional and functional combatant commands;

(D) the Director for Intelligence of the Joint Chiefs of Staff; and

(E) the Director for Operations of the Joint Chiefs of Staff.

(3) The Under Secretary shall invite the participation of the Director of National Intelligence (or a representative of the Director) in the proceedings of the Council.

(4) The Under Secretary may designate additional participants to attend the proceedings of the Council, as the Under Secretary determines appropriate.

(b) ANNUAL BRIEFINGS ON THE INTELLIGENCE AND COUNTERINTELLIGENCE REQUIREMENTS OF THE COMBATANT COMMANDS.—(1) The Chairman of the Joint Chiefs of Staff shall provide to the congressional defense committees and the congressional intelligence committees a briefing on the following:

(A) The intelligence and counterintelligence requirements, by specific intelligence capability type, of each of the relevant combatant commands.

(B) For the year preceding the year in which the briefing is provided, the fulfillment rate for each of the relevant combatant commands of the validated intelligence and counterintelligence requirements, by specific intelligence capability type, of such combatant command.

(C) A risk analysis identifying the critical gaps and shortfalls in efforts to address operational and strategic requirements of the Department of Defense that would result from the failure to fulfill the validated intelligence and counterintelligence requirements of the relevant combatant commands.

(D) A mitigation plan to balance and offset the gaps and shortfalls identified under subparagraph (C), including with respect to spaceborne, airborne, ground, maritime, and cyber intelligence, surveillance, and reconnaissance capabilities.

(E) For the year preceding the year in which the briefing is provided—

(i) the number of intelligence and counterintelligence requests of each commander of a relevant combatant command determined by the Joint Chiefs of Staff to be a validated requirement, and the total of capacity of such requests provided to each such commander;

(ii) with respect to such validated requirements—

(I) the quantity of intelligence and counterintelligence capabilities or activities, by specific intelligence capability type, that the Joint Chiefs of Staff requested each military department to provide; and

(II) the total of capacity of such requests so provided by each such military department; and

(iii) a qualitative assessment of the alignment of intelligence and counterintelligence capabilities and activities with the program of analysis for each combat support agency and intelligence center of a military service that is part of—

(I) the Defense Intelligence Enterprise; and

(II) the intelligence community.

(2) The Under Secretary of Defense for Intelligence and Security shall provide to the congressional defense committees and the congressional intelligence committees a briefing on short-, mid-, and long-term strategies to address the validated intelligence and counterintelligence requirements of the relevant combatant commands, including with respect to spaceborne, airborne, ground, maritime, and cyber intelligence, surveillance, and reconnaissance capabilities.

(3) The briefings required by paragraphs (1) and (2) shall be provided at the same time that the President's budget is submitted pursuant to section 1105(a) of title 31 for each of fiscal years 2021

through 2025.

(4) In this subsection:

(A) The term "congressional intelligence committees" has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(B) The term "Defense Intelligence Enterprise" means the organizations, infrastructure, and measures, including policies, processes, procedures, and products, of the intelligence, counterintelligence, and security components of each of the following:

(i) The Department of Defense.

(ii) The Joint Staff.

(iii) The combatant commands.

(iv) The military departments.

(v) Other elements of the Department of Defense that perform national intelligence, defense intelligence, intelligence-related, counterintelligence, or security functions.

(C) The term "fulfillment rate" means the percentage of combatant command intelligence and counterintelligence requirements satisfied by available, acquired, or realigned intelligence and counterintelligence capabilities or activities.

(D) The term "intelligence community" has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(Added Pub. L. 108–136, div. A, title IX, §923(c)(1), Nov. 24, 2003, 117 Stat. 1575; amended Pub. L. 109–364, div. A, title X, §1071(a)(3), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, §931(a)(7), (8), Jan. 28, 2008, 122 Stat. 285; Pub. L. 111–383, div. A, title IX, §922(b), Jan. 7, 2011, 124 Stat. 4331; Pub. L. 115–232, div. A, title XVI, §1625(b), Aug. 13, 2018, 132 Stat. 2121; Pub. L. 116–92, div. A, title XVI, §§1621(e)(1)(A)(vii), 1622, Dec. 20, 2019, 133 Stat. 1733.)

## EDITORIAL NOTES

### CODIFICATION

Subsec. (c) of this section was based on Pub. L. 113–291, div. A, title XVI, §1626, Dec. 19, 2014, 128 Stat. 3635; Pub. L. 115–91, div. A, title XVI, §1624, Dec. 12, 2017, 131 Stat. 1732; Pub. L. 115–232, div. A, title XVI, §1625(a), Aug. 13, 2018, 132 Stat. 2121, which was transferred to this chapter, redesignated as subsec. (c) of this section by Pub. L. 115–232, §1625(b), and subsequently repealed.

### AMENDMENTS

**2019**—Pub. L. 116–92, §1621(e)(1)(A)(vii), substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence" wherever appearing.

Subsec. (a). Pub. L. 116–92, §1622(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to establishment and composition of an Intelligence, Surveillance, and Reconnaissance (ISR) Integration Council.

Subsecs. (b), (c). Pub. L. 116–92, §1622(b), added subsec. (b) and struck out former subsecs. (b) and (c) which related to ISR Integration Roadmap and annual briefing on intelligence, surveillance, and reconnaissance requirements of the combatant commands, respectively.

**2018**—Subsec. (c). Pub. L. 115–232 transferred section 1626 of Pub. L. 113–291, as amended, to this section and redesignated it as subsec. (c). See Codification note above.

**2011**—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

**2008**—Subsecs. (a)(3), (b)(2). Pub. L. 110–181 substituted "Director of National Intelligence" for "Director of Central Intelligence".

**2006**—Subsec. (a)(1)(B). Pub. L. 109–364 substituted "coordination" for "coordiation".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

Pub. L. 108–136, div. A, title IX, §923(a), (b), Nov. 24, 2003, 117 Stat. 1574, 1575, as amended by Pub. L. 111–383, div. A, title IX, §922(a), Jan. 7, 2011, 124 Stat. 4330, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

"(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

"(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

"(4) The current funding structure of a National Intelligence Program (NIP) and a Military Intelligence Program (MIP) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

"(5) The position of Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security] was established in 2002 by Public Law 107–314 [see 10 U.S.C. 137] in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

"(b) GOAL.—It shall be a goal of the Department of Defense to fully integrate the intelligence, surveillance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs."

## §427. Conflict Records Research Center

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the "Conflict Records Research Center" (in this section referred to as the "Center").

(b) PURPOSES.—The purposes of the Center shall be the following:

(1) To establish a digital research database, including translations, and to facilitate research and analysis of records captured from countries, organizations, and individuals, now or once hostile to the United States, with rigid adherence to academic freedom and integrity.

(2) Consistent with the protection of national security information, personally identifiable information, and intelligence sources and methods, to make a significant portion of these records available to researchers as quickly and responsibly as possible while taking into account the integrity of the academic process and risks to innocents or third parties.

(3) To conduct and disseminate research and analysis to increase the understanding of factors related to international relations, counterterrorism, and conventional and unconventional warfare and, ultimately, enhance national security.

(4) To collaborate with members of academic and broad national security communities, both domestic and international, on research, conferences, seminars, and other information exchanges to identify topics of importance for the leadership of the United States Government and the scholarly community.

(c) CONCURRENCE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The Secretary of Defense shall seek the concurrence of the Director of National Intelligence to the extent the efforts and activities of the Center involve the entities referred to in subsection (b)(4).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the

operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term "captured record" means a document, audio file, video file, or other material captured during combat operations from countries, organizations, or individuals, now or once hostile to the United States.

(2) The term "gift or donation" means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 113–66, div. A, title X, §1071(a), Dec. 26, 2013, 127 Stat. 867.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 427, added Pub. L. 109–364, div. A, title IX, §932(a), Oct. 17, 2006, 120 Stat. 2362, related to submission of an annual report on intelligence oversight activities of the Department of Defense, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(4)(A), Dec. 31, 2011, 125 Stat. 1583.

## §428. Defense industrial security

(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense.

(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES .—The Secretary may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

(Added Pub. L. 110–417, [div. A], title VIII, §845(a)(1), Oct. 14, 2008, 122 Stat. 4541, §438; renumbered §428, Pub. L. 111–84, div. A, title X, §1073(a)(4), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111–383, div. A, title X, §1075(b)(11), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 115–91, div. A, title X, §1051(a)(3), Dec. 12, 2017, 131 Stat. 1560.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order 12829, referred to in subsec. (b), is set out as a note under section 3161 of Title 50, War and National Defense.

### AMENDMENTS

**2017**—Subsec. (f). Pub. L. 115–91 struck out subsec. (f) which related to biennial reports on expenditures and activities of the Department of Defense in carrying out the requirements of this section.

**2011**—Subsec. (f). Pub. L. 111–383 struck out ", United States Code," after "title 31".

**2009**—Pub. L. 111–84 renumbered section 438 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### FACILITY CLEARANCE ACCELERATION FOR MEMBERS OF DEFENSE INDUSTRIAL CONSORTIUMS

Pub. L. 119–60, div. A, title XVIII, §1845, Dec. 18, 2025, 139 Stat. 1261, provided that:

"(a) ACCELERATION OF FACILITY CLEARANCE.—The Secretary of Defense shall ensure that each entity that is a member of the collaborative forum described in section 1844(a) of this Act [set out in a note under section 4811 of this title]—

"(1) is sponsored for a facility clearance;

"(2) is provided access to sensitive compartmented information facilities and classified networks where the member can perform classified work; and

"(3) not less than quarterly, is invited to in-person meetings with relevant personnel of the Department of Defense to discuss classified information.

"(b) PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report detailing a plan to increase the number of facility clearances provided to members described in subsection (a) or to companies awarded contracts in accordance with Executive Order 12968 [50 U.S.C. 3161 note]. Such plan shall include—

"(1) an assessment of any existing related efforts to increase sensitive compartmented information facilities and how such efforts might be accelerated and elevated in priority;

"(2) target metrics for increased facility clearances in association with membership in the collaborative forum described in subsection (a) or to companies awarded contracts in accordance with Executive Order 12968;

"(3) an identification of any additional funding or authorities required to support increased processing of facility clearances; and

"(4) any other matters the Secretary of Defense considers relevant."

### ESTABLISHMENT OF PILOT PROGRAM FOR ACCESS TO SHARED CLASSIFIED COMMERCIAL INFRASTRUCTURE

Pub. L. 118–159, div. A, title VIII, §874, Dec. 23, 2024, 138 Stat. 2012, provided that:

"(a) PILOT PROGRAM REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a pilot program on streamlining access for small business concerns and institutions of higher learning to shared classified commercial infrastructure—

"(1) to expand access to secret or collateral accredited facilities and sensitive compartmented information facilities and special access program facilities to securely perform work under existing classified contracts;

"(2) to reduce the cost and administrative requirements for a facility to receive and maintain accreditation and certification as an accredited facility;

"(3) to increase opportunities for small business concerns and institutions of higher learning to have access to and compete for classified contracts; and

"(4) to identify policy barriers that prevent components of the Department of Defense from more broadly using shared classified commercial infrastructure and prototyping proposed solutions.

"(b) DESIGNATION OF PRINCIPAL CIVILIAN OFFICIAL.—

"(1) IN GENERAL.—The Secretary shall designate an existing civilian official of the Department of Defense who shall be responsible for the administration of the pilot program established under subsection (a).

"(2) RESPONSIBILITIES.—The responsibilities of the civilian official designated under paragraph (1) shall include the following:

"(A) To seek to enter into a contact or other agreement with one or more private entities—

"(i) for access for contractors and components of the Department of Defense to shared classified commercial infrastructure; and

"(ii) to facilitate the use of such infrastructure by covered small business concerns and institutions of higher learning.

"(B) In consultation with the Office of the Director of National Intelligence, to coordinate with the Director of the Defense Counterintelligence and Security Agency, the Director of the Defense Intelligence Agency, and the Director of the Defense Information Systems Agency to update or prescribe policies and regulations governing the process and timelines pertaining to how shared commercial classified infrastructure may obtain relevant facility authorizations and access to secure information technology networks from the Department of Defense.

"(C) To make recommendations to the Secretary of Defense regarding the modernization, streamlining, and acceleration of the approval process of the Department of Defense for contacts, subcontracts, and co-use or joint use agreements for shared classified commercial infrastructure.

"(D) The development and maintenance of metrics tracking the outcomes of each request made under the pilot program for the accreditation of shared commercial classified infrastructure as an accredited facility.

"(c) REQUIREMENTS.—

"(1) POLICIES AND REGULATIONS.—As part of the pilot program established under subsection (a), the Director of the Defense Counterintelligence and Security Agency, the Director of the Defense Intelligence Agency, and the Director of the Defense Information Systems Agency shall each update or prescribe policies and regulations governing the processes and timelines pertaining to how shared commercial classified infrastructure may obtain relevant facility sponsorship, associated authorizations and accreditation, and access to relevant secure information technology networks from the Department of Defense.

"(2) MODERNIZATION, STREAMLINING, AND ACCELERATION.—The Secretary of Defense shall ensure that the pilot program established under subsection (a) includes efforts to modernize, streamline, and accelerate the approval process of the Department of Defense for shared, co-use, and joint use agreements to facilitate the access of small business concerns and institutions of higher learning performing under contracts or other agreements with the Department to classified environments.

"(d) REPORTS.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, a report on the pilot program established under subsection (a)—

"(A) after the establishment of such pilot program, but not later than two years after the establishment of such pilot program; and

"(B) after the termination of such pilot program pursuant to subsection (e), but not later than 120 days after such termination.

"(2) CONTENTS.—Each report submitted pursuant to paragraph (1) shall include the following:

"(A) A list of each request made under the pilot program for the accreditation of a facility as an accredited facility, including the date on which the request was made to the civilian official designated under subsection (b) and to the relevant facility accreditation agency.

"(B) A list of the total number of personnel authorized to conduct inspections under the pilot program for the accreditation and certification of facilities as accredited facilities.

"(C) Actions taken by the civilian official designated under subsection (b) to streamline the process of the Department of Defense for approval of co-use and joint use agreements to facilitate the access of small business concerns and institutions of higher learning performing under contracts or other agreements with the Department to classified environments, including any updated or new policies or guidance issued as a result of the pilot program.

"(D) A list of all unutilized and currently accredited sensitive compartmented information facilities owned and operated by the Department of Defense that are located within 25 miles of a facility described in subsection (a)(1).

"(E) A list of the metrics or other measures used by the Department of Defense to assess the benefits to the Department from the pilot program established under subsection (a), and any other metrics the Secretary of Defense deems appropriate.

"(e) TERMINATION.—The authority to carry out the pilot program required by subsection (a) and the requirements of this section shall terminate on September 30, 2030.

"(f) DEFINITIONS.—In this section:

"(1) The term 'institution of higher learning' has the meaning given such term in section 3452(f) of title 38, United States Code.

"(2) The term 'shared commercial classified infrastructure' means fully managed, shared, classified infrastructure (including physical facilities), and associated services that are operated by a private third-party for the benefit of appropriately cleared government and contractor personnel who have limited or constrained access to secret collateral and sensitive compartmented information facilities.

"(3) The term 'small business concern' has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632)."

## PILOT PROGRAM FOR DEPARTMENT OF DEFENSE CONTROLLED UNCLASSIFIED INFORMATION IN THE HANDS OF INDUSTRY

Pub. L. 115–232, div. A, title X, §1048, Aug. 13, 2018, 132 Stat. 1961, provided that:

"(a) IN GENERAL.—The Secretary of Defense—

"(1) shall establish and implement a pilot program for oversight of designated Department of Defense controlled unclassified information in the hands of defense contractors with foreign ownership, control, or influence concerns; and

"(2) may designate an entity within the Department to be responsible for the pilot program under paragraph (1).

"(b) PROGRAM REQUIREMENTS.—The pilot program under subsection (a) shall have the following elements:

"(1) The use of a capability to rapidly identify companies subject to foreign ownership, control, or influence that are processing designated controlled unclassified information, including unclassified controlled technical information.

"(2) The use, in consultation with the Chief of Information Officer of the Department, of a capability or means for assessing industry compliance with Department cybersecurity standards.

"(3) A means of demonstrating whether and under what conditions the risk to national security posed by access to Department controlled unclassified information, including unclassified controlled technical information, by a company under foreign ownership, control, or influence company can be mitigated and how such mitigation could be enforced.

"(c) BRIEFING REQUIRED.—By not later than 30 days after the completion of the pilot program under this section, but in no case later than December 1, 2019, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the results of the pilot program and any decisions about whether to implement the pilot program on a Department-wide basis."

## REQUIREMENTS RELATING TO MULTI-USE SENSITIVE COMPARTMENTED INFORMATION FACILITIES

Pub. L. 115–91, div. A, title XVI, §1628, Dec. 12, 2017, 131 Stat. 1735, provided that:

"(a) IN GENERAL.—In order to facilitate access for small business concerns and nontraditional defense contractors to affordable secure spaces, the Secretary of Defense, in consultation with the Director of National Intelligence, shall develop processes and procedures necessary to build, certify, and maintain certifications for multi-use sensitive compartmented information facilities not tied to a single contract and where multiple companies can securely work on multiple projects at different security levels.

"(b) DEFINITIONS.—In this section:

"(1) The term 'small business concern' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

"(2) The term 'nontraditional defense contractors' has the meaning given that term in section 2302 of title 10, United States Code [now 10 U.S.C. 3014]."

**REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION**

Pub. L. 111–383, div. A, title VIII, §845, Jan. 7, 2011, 124 Stat. 4285, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall develop a plan to ensure that covered entities employ and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

"(b) COVERED ENTITY.—A covered entity under this section is an entity—

"(1) to which the Department of Defense has granted a facility clearance; and

"(2) that is not subject to foreign ownership control or influence mitigation measures.

"(c) GUIDANCE.—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

"(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary's decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures."

**SUBMISSION OF FIRST BIENNIAL REPORT**

Pub. L. 110–417, [div. A], title VIII, §845(b), Oct. 14, 2008, 122 Stat. 4542, required the first biennial report under former subsec. (f) of this section to be submitted no later than Sept. 1, 2009.

## §429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority

(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS .—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may also receive transfers from the Director of National Intelligence if made pursuant to section 102A of the National Security Act of 1947 (50 U.S.C. 3024) and transfers and reimbursements arising from transactions, as authorized by law, between a Defense intelligence element and another entity. Appropriation balances in each such account may be transferred back to the account or accounts from which such appropriations originated as appropriation refunds.

(b) RECORDATION OF TRANSFERS.—Transfers made pursuant to subsection (a) shall be recorded as expenditure transfers.

(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the same limitations provided in the law making the appropriation.

(d) OBLIGATION AND EXPENDITURE OF FUNDS.—Unless otherwise specifically authorized by law, funds transferred pursuant to subsection (a) shall only be obligated and expended in accordance with chapter 15 of title 31 and all other applicable provisions of law.

(e) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term "Defense intelligence element" means any of the Department of Defense agencies, offices, and elements included within the definition of "intelligence community" under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(Added Pub. L. 112–87, title IV, §433(a), Jan. 3, 2012, 125 Stat. 1894; amended Pub. L. 113–291, div. A, title X, §1071(c)(5), (f)(6), Dec. 19, 2014, 128 Stat. 3508, 3510.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Subsec. (a). Pub. L. 113–291, §1071(c)(5)(A), substituted "section 102A of the National Security Act of 1947 (50 U.S.C. 3024)" for "Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1)".

Subsec. (c). Pub. L. 113–291, §1071(f)(6), substituted "law" for "act".

Subsec. (e). Pub. L. 113–291, §1071(c)(5)(B), substituted "(50 U.S.C. 3003(4))" for "(50 U.S.C. 401a(4))".

## §429a. Expenditure of funds for Department of Defense intelligence and counterintelligence activities

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Defense may expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence activities for any purpose the Secretary determines to be proper with regard to intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature. Such a determination is final and conclusive upon the accounting officers of the United States.

(b) LIMITATION ON AMOUNT.—The Secretary of Defense may not expend more than five percent of the amounts described in subsection (a) for any fiscal year for objects described in that subsection unless—

(1) the Secretary notifies the congressional defense committees and the congressional intelligence committees of the intent to expend the amounts and purpose of the expenditure; and

(2) 30 days have elapsed from the date on which the Secretary provides the notice described in paragraph (1).

(c) CERTIFICATION.—For each expenditure of funds under this section, the Secretary shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(d) REPORT.—Not later than December 31 of each year, the Secretary of Defense shall submit to the congressional defense committees and the congressional intelligence committees a report on expenditures made under this section during the fiscal year preceding the year in which the report is submitted. Each such report shall include, for each expenditure under this section during the fiscal year covered by the report, a description, the purpose, the program element, and the certification required under section (c).

(e) LIMITATION ON DELEGATIONS.—The Secretary of Defense may not delegate the authority under this section with respect to any expenditure in excess of $200,000.

(f) NONAPPLICATION OF SECTION 127.—The authority provided by subsection (a) shall be the exclusive authority available to the Secretary of Defense to expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature.

(g) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

(Added and amended Pub. L. 118–159, div. A, title XVI, §1614(a)–(e)(1), Dec. 23, 2024, 138 Stat. 2168, 2169.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of section 1057 of Pub. L. 116–92, which was transferred to this subchapter, inserted after section 429 of this title, redesignated as this section, and amended by Pub. L. 118–159, div. A, title XVI, §1614(a)–(e)(1), Dec. 23, 2024, 138 Stat. 2168, 2169, was based on Pub. L. 116–92, div. A, title X, §1057, Dec. 20, 2019, 133 Stat. 1593.

**AMENDMENTS**

**2024**—Pub. L. 118–159, §1614(a), transferred section 1057 of Pub. L. 116–92 to this subchapter, inserted it after section 429 of this title, redesignated it as this section, and conformed "SEC." preceding section designation and catchline text to the style used in this title. See Codification note above.

Subsec. (a). Pub. L. 118–159, §1614(b), struck out "for any of fiscal years 2020 through 2025" after "Military Intelligence Program".

Subsec. (d). Pub. L. 118–159, §1614(c), substituted "Not later than December 31 of each year" for "Not later than December 31 of each of 2020 through 2025".

Subsec. (e). Pub. L. 118–159, §1614(d), substituted "$200,000" for "$100,000".

Subsecs. (f), (g). Pub. L. 118–159, §1614(e)(1), added subsec. (f) and redesignated former subsec. (f) as (g).

## §430. Tactical Exploitation of National Capabilities Executive Agent

(a) DESIGNATION.—The Under Secretary of Defense for Intelligence and Security shall designate a civilian employee of the Department or a member of the armed forces to serve as the Tactical Exploitation of National Capabilities Executive Agent.

(b) DUTIES.—The Executive Agent designated under subsection (a) shall—

(1) report directly to the Under Secretary of Defense for Intelligence and Security;

(2) work with the combatant commands, military departments, and the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)) to—

(A) develop methods to increase warfighter effectiveness through the exploitation of national capabilities; and

(B) promote cross-domain integration of such capabilities into military operations, training, intelligence, surveillance, and reconnaissance activities.

(Added Pub. L. 113–291, div. A, title XVI, §1621(a), Dec. 19, 2014, 128 Stat. 3631; amended Pub. L. 116–92, div. A, title XVI, §1621(e)(1)(A)(viii), Dec. 20, 2019, 133 Stat. 1733; Pub. L. 116–283, div. A, title X, §1081(a)(17), Jan. 1, 2021, 134 Stat. 3871.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b)(1). Pub. L. 116–283 inserted "and Security" after "for Intelligence".

**2019**—Subsec. (a). Pub. L. 116–92 substituted "Under Secretary of Defense for Intelligence and Security" for "Under Secretary of Defense for Intelligence".

## §430a. Executive agent for management and oversight of alternative compensatory control measures

(a) EXECUTIVE AGENT.—The Secretary of Defense shall designate a senior official from among the personnel of the Department of Defense to act as the Department of Defense executive agent for the management and oversight of alternative compensatory control measures.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—The Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a). Such roles, responsibilities, and authorities shall include the development of an annual management and oversight plan for Department-wide accountability and reporting to the congressional defense committees.

(Added Pub. L. 114–92, div. A, title X, §1083(a)(1), Nov. 25, 2015, 129 Stat. 1003.)

## §430b. Executive agent for open-source intelligence tools

(a) DESIGNATION.—Not later than April 1, 2016, the Secretary of Defense shall designate a senior official of the Department of Defense to serve as the executive agent for the Department for open-source intelligence tools.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.— (1) Not later than July 1, 2016, in accordance with Directive 5101.1, the Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

(2) The roles and responsibilities of the executive agent designated under subsection (a) shall include the following:

(A) Developing and maintaining a comprehensive list of open-source intelligence tools and technical standards.

(B) Establishing priorities for the development, acquisition, and integration of open-source intelligence tools into the intelligence enterprise, and other command and control systems as needed.

(C) Certifying all open-source intelligence tools with respect to compliance with the standards required by the framework and guidance for the Intelligence Community Information Technology Enterprise, the Defense Intelligence Information Enterprise, and the Joint Information Environment.

(D) Assessing and making recommendations regarding the protection of privacy in the acquisition, analysis, and dissemination of open-source information available around the world.

(E) Performing such other assessments or analyses as the Secretary considers appropriate.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary shall ensure that the military departments, the Defense Agencies, and other elements of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

(d) DEFINITIONS.—In this section:

(1) The term "Directive 5101.1" means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(2) The term "executive agent" has the meaning given the term "DoD Executive Agent" in Directive 5101.1.

(3) The term "open-source intelligence tools" means tools for the systematic collection, processing, and analysis of publicly available information for known or anticipated intelligence requirements.

(Added Pub. L. 114–92, div. A, title XVI, §1631(a), Nov. 25, 2015, 129 Stat. 1110.)

## §430c. Senior Intelligence Oversight Official

(a) ESTABLISHMENT.—The Secretary of Defense, or a designee of the Secretary determined by regulations prescribed by the Secretary, shall designate a civilian employee of the Department of Defense in the Senior Executive Service to serve as the Senior Intelligence Oversight Official.

(b) RESPONSIBILITIES.—The Senior Intelligence Oversight Official shall conduct independent

oversight of all intelligence, counterintelligence, and intelligence-related activities of the Department of Defense and shall have such other related responsibilities as may be determined by the Secretary.

(c) ACCESS.—The Senior Intelligence Oversight Official shall have—

(1) access to all information necessary to carry out the responsibilities and functions of the Senior Intelligence Oversight Official, as determined by the Secretary; and

(2) direct access to the Secretary of Defense and the Deputy Secretary of Defense, as circumstances require in the determination of the Senior Intelligence Oversight Official.

(Added Pub. L. 118–159, div. A, title IX, §921(a), Dec. 23, 2024, 138 Stat. 2036; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(8), Dec. 18, 2025, 139 Stat. 1208.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60 substituted "Intelligence Oversight Official" for "intelligence oversight official" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REVIEW OF REGULATIONS**

Pub. L. 118–159, div. A, title IX, §921(b), Dec. 23, 2024, 138 Stat. 2036, provided that: "The Secretary of Defense shall review and update, as appropriate, Department of Defense Directive 5148.13, and any associated or successor regulation or directive, to conform to section 430c of title 10, United States Code, as added by subsection (a)."

## §430d. Cyber intelligence capability

(a) REQUIREMENT.—Not later than October 1, 2026, the Secretary of Defense, in consultation with the Director of National Intelligence, shall ensure that the Department of Defense has a dedicated cyber intelligence capability in support of the military cyber operations requirements for the warfighting missions of the United States Cyber Command, the other combatant commands, the military departments, the Defense Agencies, the Joint Staff, and the Office of the Secretary of Defense with respect to foundational, scientific and technical, and all-source intelligence on cyber technology development, capabilities, concepts of operation, operations, and plans and intentions of cyber threat actors.

(b) NONDUPLICATION.—In carrying out subsection (a), the Secretary may not unnecessarily duplicate intelligence activities of the Department of Defense.

(c) RESOURCES.—(1) The Secretary shall ensure the defense budget materials submitted for each fiscal year beginning with fiscal year 2027 include a request for funds necessary to carry out subsection (a).

(2) The Secretary shall carry out subsection (a) using funds made available for the United States Cyber Command under the Military Intelligence Program.

(3) The National Security Agency may not provide information technology services for the dedicated cyber intelligence capability under subsection (a) unless such services are provided under the Military Intelligence Program or the Information Systems Security Program.

(d) DEFENSE BUDGET MATERIALS DEFINED.—In this section, the term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(Added Pub. L. 118–159, div. A, title XVI, §1612(a), Dec. 23, 2024, 138 Stat. 2167.)

## §430e. Vendor support to clandestine activities

(a) OVERSIGHT, DECONFLICTION, AND RISK ASSESSMENT CAPABILITY.—The

Secretary of Defense shall establish, maintain, continuously update, and use a secure, centralized technical capability to facilitate oversight, deconfliction, and risk assessments of all commercial vendor support to the Department of Defense for clandestine activities. Such capability shall—

(1) enable the Department of Defense to perform oversight, deconfliction, and risk assessments of past, ongoing, or planned clandestine activity involving support from commercial vendors, including all subcontractors; and

(2) include use of the minimum information required to—

(A) identify potential conflicts between clandestine activities;

(B) identify the need for additional coordination with respect to clandestine activities; and

(C) conduct aggregate risk assessments of clandestine activities involving support from commercial vendors; and [1]

(b) EXCLUSIONS.—(1) Notwithstanding subsection (a), if the Secretary of Defense determines that information concerning a commercial vendor should not be used by the centralized technical capability required by subsection (a) due to operational, counterintelligence, or other national security concerns, the Secretary may exclude such information from use by such centralized technical capability.

(2) Not later than 7 days after making a determination under paragraph (1), the Secretary shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives notice of the determination that includes the following information disaggregated by the element of the Department of Defense with respect to which such commercial vendor provides support:

(A) The number of commercial vendors with respect to which the Secretary made the determination under paragraph (1).

(B) A description of the types of activities supported by such commercial vendors.

(C) The rationale for excluding the information concerning such commercial vendors from such capability.

(c) DECONFLICTION.—The Secretary of Defense shall ensure the centralized technical capability required by subsection (a) is used in each case where a commercial vendor is expected to provide support to a clandestine activity to—

(1) deconflict the use of commercial vendors in support of clandestine activities of the Department of Defense; and

(2) assess operational risk and counterintelligence exposure attributable to the use of commercial vendors in support of clandestine activities of the Department of Defense.

(d) CLANDESTINE ACTIVITY DEFINED.—In this section, the term "clandestine activity" means any activity where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.

(Added Pub. L. 119–60, div. A, title XVI, §1621(a), Dec. 18, 2025, 139 Stat. 1180.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION DEADLINE AND REPORTS

Pub. L. 119–60, div. A, title XVI, §1621(b), Dec. 18, 2025, 139 Stat. 1181, provided that:

"(1) IMPLEMENTATION DEADLINE AND CERTIFICATION.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall—

"(A) implement the requirements of section 430e of title 10, United States Code, as added by subsection (a) of this section; and

"(B) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a certification that such requirements have been implemented.

"(2) SUBMISSION OF PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall—

"(A) submit to the committees described in paragraph (1)(B) a report containing the plan to implement the requirements of such section 430e; and

"(B) provide to such committees a briefing with respect to such plan.

"(3) PROGRESS REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the committees described in paragraph (1)(B) a briefing describing the progress of the Secretary towards implementing the requirements of such section 430e."

[1] *So in original.*

## SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

Sec.
431. Authority to engage in commercial activities as security for intelligence collection activities.
432. Use, disposition, and auditing of funds.
433. Relationship with other Federal laws.
434. Reservation of defenses and immunities.
435. Limitations.
436. Regulations.
437. Congressional oversight.

**EDITORIAL NOTES**

**AMENDMENTS**

**1992**—Pub. L. 102–484, div. A, title X, §1052(1), Oct. 23, 1992, 106 Stat. 2499, inserted "Sec." above item "431".

**1991**—Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

### §431. Authority to engage in commercial activities as security for intelligence collection activities

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 2028.

(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

(1)(A) be pre-coordinated with the Director of the Central Intelligence Agency using procedures mutually agreed upon by the Secretary of Defense and the Director; and

(B) where appropriate, be supported by the Director; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) DEFINITIONS.—In this subchapter:

(1) The term "commercial activities" means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.

(2) The term "intelligence collection activities" means the collection of foreign intelligence and counterintelligence information.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 437; amended Pub. L. 104–93, title V, §503, Jan. 6, 1996, 109 Stat. 973; Pub. L. 105–272, title V, §501, Oct. 20, 1998, 112 Stat. 2404; Pub. L. 106–398, §1 [[div. A], title X, §1077], Oct. 30, 2000, 114 Stat. 1654, 1654A–282; Pub. L. 107–314, div. A, title X, §1053, Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108–375, div. A, title IX, §921, Oct. 28, 2004, 118 Stat. 2029; Pub. L. 109–364, div. A, title IX, §931, Oct. 17, 2006, 120 Stat. 2362; Pub. L. 110–181, div. A, title IX, §931(b)(1), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(7), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 111–383, div. A, title IX, §921, Jan. 7, 2011, 124 Stat. 4330; Pub. L. 113–291, div. A, title XVI, §1623, Dec. 19, 2014, 128 Stat. 3632; Pub. L. 115–91, div. A, title XVI, §1622, Dec. 12, 2017, 131 Stat. 1732; Pub. L. 118–31, div. A, title XVIII, §1802, Dec. 22, 2023, 137 Stat. 685; Pub. L. 118–159, div. A, title XVI, §1611, Dec. 23, 2024, 138 Stat. 2166.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §1611(1), substituted "December 31, 2028" for "December 31, 2024".

Subsec. (b)(1). Pub. L. 118–159, §1611(2), added par. (1) and struck out former par. (1) which read as follows: "be coordinated with, and (where appropriate) be supported by, the Director of the Central Intelligence Agency; and".

**2023**—Subsec. (a). Pub. L. 118–31 substituted "December 31, 2024" for "December 31, 2023".

**2017**—Subsec. (a). Pub. L. 115–91 substituted "December 31, 2023" for "December 31, 2017".

**2014**—Subsec. (a). Pub. L. 113–291 substituted "December 31, 2017" for "December 31, 2015".

**2011**—Subsec. (a). Pub. L. 111–383 substituted "December 31, 2015" for "December 31, 2010".

**2009**—Subsec. (b)(1). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(7). See 2008 Amendment note below.

**2008**—Subsec. (b)(1). Pub. L. 110–417, §932(a)(7), which directed the amendment of subsec. (b)(1) by substituting "Director of National Intelligence" for "Director of Central Intelligence", was repealed by Pub. L. 111–84.

Pub. L. 110–181 substituted "Director of the Central Intelligence Agency" for "Director of Central Intelligence".

**2006**—Subsec. (a). Pub. L. 109–364 substituted "2010" for "2006".

**2004**—Subsec. (a). Pub. L. 108–375 substituted "2006" for "2004".

**2002**—Subsec. (a). Pub. L. 107–314 substituted "2004" for "2002".

**2000**—Subsec. (a). Pub. L. 106–398 substituted "2002" for "2000".

**1998**—Subsec. (a). Pub. L. 105–272 substituted "2000" for "1998".

**1996**—Subsec. (a). Pub. L. 104–93 substituted "1998" for "1995".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE

Pub. L. 102–88, title V, §504(b), Aug. 14, 1991, 105 Stat. 440, provided that: "The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

"(1) the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 14, 1991]; or

"(2) the effective date of regulations first prescribed under section 436 of such title, as added by

subsection (a)."

## §432. Use, disposition, and auditing of funds

(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

(b) AUDITS.—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be reported to the congressional defense committees and the congressional intelligence committees (as defined in section 437(c) of this title) by not later than December 31 of each year.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 438; amended Pub. L. 113–66, div. A, title IX, §921(a), Dec. 26, 2013, 127 Stat. 827; Pub. L. 115–91, div. A, title XVI, §1623, Dec. 12, 2017, 131 Stat. 1732.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (b)(2). Pub. L. 115–91 struck out "promptly" before "reported" and inserted before period at end "by not later than December 31 of each year".

**2013**—Subsec. (b)(2). Pub. L. 113–66 substituted "the congressional defense committees and the congressional intelligence committees (as defined in section 437(c) of this title)." for "the intelligence committees (as defined in section 437(d) of this title)."

## §433. Relationship with other Federal laws

(a) IN GENERAL.—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY .—(1) If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431 of this title, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

(1) The receipt and use of appropriated and nonappropriated funds.

(2) The acquisition or management of property or services.

(3) Information disclosure, retention, and management.

(4) The employment of personnel.

(5) Payments for travel and housing.

(6) The establishment of legal entities or government instrumentalities.

(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

## §434. Reservation of defenses and immunities

The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

## §435. Limitations

(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE .—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

(2) In this subsection, the term "United States person" means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

## §436. Regulations

The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to section 433(b) of this title, or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

(4) designate a single office within the Department of Defense to be responsible for the oversight of all activities authorized under this subchapter;

(5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and

(6) provide for appropriate internal audit controls and oversight for such activities.

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439; amended Pub. L. 113–66,

div. A, title IX, §921(b), Dec. 26, 2013, 127 Stat. 827.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Par. (4). Pub. L. 113–66 substituted "Department of Defense" for "Defense Intelligence Agency" and "oversight" for "management and supervision".

## §437. Congressional oversight

(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to congressional defense committees and the congressional intelligence committees not less than 30 days before they take effect.

(b) CURRENT INFORMATION.—The Secretary of Defense shall ensure that congressional defense committees and the congressional intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(Added Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 440; amended Pub. L. 107–306, title VIII, §811(b)(4)(A), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108–136, div. A, title X, §1031(a)(7), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 108–375, div. A, title X, §1084(d)(3), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112–81, div. A, title X, §1061(5), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113–66, div. A, title IX, §921(c), Dec. 26, 2013, 127 Stat. 827.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Subsec. (a). Pub. L. 113–66, §921(c)(1), substituted "congressional defense committees and the congressional intelligence committees" for "the intelligence committees".

Subsec. (b). Pub. L. 113–66, §921(c)(2), substituted "The Secretary" for "Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary" and "congressional defense committees and the congressional intelligence committees" for "the intelligence committees".

Subsec. (c). Pub. L. 113–66, §921(c)(3), added subsec. (c).

**2011**—Subsec. (c). Pub. L. 112–81 struck out subsec. (c) which related to submission of an annual report on certain authorized commercial activities.

**2004**—Subsec. (c). Pub. L. 108–375 inserted "(50 U.S.C. 415b)" after "National Security Act of 1947".

**2003**—Subsec. (b). Pub. L. 108–136, §1031(a)(7)(A), struck out at end "The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter."

Subsec. (c). Pub. L. 108–136, §1031(a)(7)(B), substituted "report) the following:" for "report)—" in introductory provisions, "A" for "a" in pars. (1) to (3), a period for the semicolon at end of par. (1) and for "; and" at end of par. (2), and added par. (4).

**2002**—Subsec. (c). Pub. L. 107–306, §811(b)(4)(A)(i), in introductory provisions, substituted "Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))" for "Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress".

Subsec. (d). Pub. L. 107–306, §811(b)(4)(A)(ii), struck out heading and text of subsec. (d). Text read as follows: "In this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives."

# CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY


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**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 22 was renumbered chapter 23 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XVI, §1621(g)(2), Jan. 1, 2021, 134 Stat. 4054, substituted "Geomatics" for "Geodetic" in item for subchapter II.

**2003**—Pub. L. 108–136, div. A, title IX, §921(d)(1), Nov. 24, 2003, 117 Stat. 1568, substituted "NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY" FOR "NATIONAL IMAGERY AND MAPPING AGENCY" in chapter heading.

## SUBCHAPTER I—MISSIONS AND AUTHORITY


Sec.

441. Establishment.

442. Missions.

443. Imagery intelligence and geospatial information: support for foreign countries, regional organizations, and security alliances.

444. Support from Central Intelligence Agency.

[445. Repealed.]


**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Pub. L. 112–239, div. A, title IX, §921(b)(2), Jan. 2, 2013, 126 Stat. 1878, added item 443 and struck out former item 443 "Imagery intelligence and geospatial information: support for foreign countries".

**1997**—Pub. L. 105–107, title V, §503(d)(3), Nov. 20, 1997, 111 Stat. 2263, struck out item 445 "Protection of agency identifications and organizational information".

### §441. Establishment

(a) ESTABLISHMENT.—The National Geospatial-Intelligence Agency is a combat support agency of the Department of Defense and has significant national missions.

(b) DIRECTOR.—(1) The Director of the National Geospatial-Intelligence Agency is the head of the agency.

(2) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

(3) If an officer of the armed forces on active duty is appointed to the position of Director, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

(c) DIRECTOR OF NATIONAL INTELLIGENCE COLLECTION TASKING AUTHORITY .—Unless otherwise directed by the President, the Director of National Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

(1) approve collection requirements levied on national imagery collection assets;

(2) determine priorities for such requirements; and

(3) resolve conflicts in such priorities.

(d) AVAILABILITY AND CONTINUED IMPROVEMENT OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION FUNCTION.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall take all necessary steps to ensure the full availability and continued improvement of imagery intelligence support for all-source analysis and production.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(a)(9), (10), (c)(1)(A), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(8), (9), (b)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsecs. (c), (d). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(8), (9), (b)(1). See 2008 Amendment notes below.

**2008**—Subsec. (c). Pub. L. 110–181, §931(a)(9), (c)(1)(A), and Pub. L. 110–417, §932(b)(1), amended subsec. (c) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence" in heading and text. Pub. L. 110–417, §932(b)(1), was repealed by Pub. L. 111–84.

Pub. L. 110–181, §931(a)(9), and Pub. L. 110–417, §932(a)(8), amended subsec. (c) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(8), was repealed by Pub. L. 111–84.

Subsec. (d). Pub. L. 110–181, §931(a)(10), and Pub. L. 110–417, §932(a)(9), amended subsec. (d) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(9), was repealed by Pub. L. 111–84.

**2003**—Subsecs. (a), (b)(1). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XI, §1101, Sept. 23, 1996, 110 Stat. 2676, provided that: "This title [enacting this chapter, section 424 of this title, and sections 404e and 404f of Title 50, War and National Defense, amending sections 193, 201, and 451 to 456 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44, Public Printing and Documents, and sections 401a and 403–5 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under this section and section 193 of this title, and amending provisions set out as a note under section 501 of Title 44] may be cited as the 'National Imagery and Mapping Agency Act of 1996'."

### SAVINGS PROVISIONS

Pub. L. 104–201, div. A, title XI, §1116, Sept. 23, 1996, 110 Stat. 2686, as amended by Pub. L. 105–85, div. A, title X, §1073(c)(8), Nov. 18, 1997, 111 Stat. 1904, provided that:

"(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

"(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title [see Short Title of 1996 Amendment note above] or any function that the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is authorized to perform by law, and

"(2) which are in effect at the time this title takes effect, or were final before the effective date of this title [Oct. 1, 1996] and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] or other authorized official, a court of competent jurisdiction, or by operation of law.

"(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1111 [set out below], but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted."

## ESTABLISHMENT OF ADVISORY BOARD FOR NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

Pub. L. 117–263, div. F, title LXIV, §6432, Dec. 23, 2022, 136 Stat. 3532, provided that:

"(a) ESTABLISHMENT.—There is established in the National Geospatial-Intelligence Agency an advisory board (in this section referred to as the 'Board').

"(b) DUTIES.—The Board shall—

"(1) study matters relating to the mission of the National Geospatial-Intelligence Agency, including with respect to integration of commercial capabilities, promoting innovation, advice on next generation tasking, collection, processing, exploitation, and dissemination capabilities, strengthening functional management, acquisition, and such other matters as the Director of the National Geospatial-Intelligence Agency considers appropriate; and

"(2) advise and report directly to the Director with respect to such matters.

"(c) MEMBERS.—

"(1) NUMBER AND APPOINTMENT.—

"(A) IN GENERAL.—The Board shall be composed of 6 members appointed by the Director from among individuals with demonstrated academic, government, business, or other expertise relevant to the mission and functions of the Agency.

"(B) NOTIFICATION.—Not later than 30 days after the date on which the Director appoints a member to the Board, the Director shall notify the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] and the congressional defense committees (as defined in section 101(a) of title 10, United States Code) of such appointment.

"(C) INITIAL APPOINTMENTS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Director shall appoint the initial 6 members to the Board.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

"(4) CHAIR.—The Board shall have a Chair, who shall be appointed by the Director from among the members.

"(5) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United

States Code.

"(6) EXECUTIVE SECRETARY.—The Director may appoint an executive secretary, who shall be an employee of the Agency, to support the Board.

"(d) MEETINGS.—The Board shall meet not less than quarterly, but may meet more frequently at the call of the Director.

"(e) REPORTS.—Not later than March 31 of each year, the Board shall submit to the Director and to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives a report on the activities and significant findings of the Board during the preceding year.

"(f) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the Board.

"(g) TERMINATION.—The Board shall terminate on the date that is 5 years after the date of the first meeting of the Board."

## ELEVATION OF THE COMMERCIAL AND BUSINESS OPERATIONS OFFICE OF THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

Pub. L. 117–263, div. F, title LXIV, §6433, Dec. 23, 2022, 136 Stat. 3533, provided that: "Beginning not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], the head of the commercial and business operations office of the National Geospatial-Intelligence Agency shall report directly to the Director of the National Geospatial-Intelligence Agency."

## LEVERAGING COMMERCIAL SATELLITE REMOTE SENSING

Pub. L. 116–283, div. A, title XVI, §1612, Jan. 1, 2021, 134 Stat. 4049, as amended by Pub. L. 117–81, div. A, title XVI, §1606, Dec. 27, 2021, 135 Stat. 2079, provided that:

"(a) IN GENERAL.—In acquiring geospatial intelligence, the Secretary of Defense and the Director of National Intelligence, in coordination with the Director of the National Reconnaissance Office and the Director of the National Geospatial-Intelligence Agency, shall leverage, to the extent practicable, the capabilities of the industry of the United States, including through the use of domestic commercial geospatial-intelligence services and acquisition of domestic commercial satellite imagery.

"(b) OBTAINING FUTURE GEOSPATIAL-INTELLIGENCE DATA.—The Director of the National Reconnaissance Office, as part of an analysis of alternatives for the future acquisition of space systems, and the Director of the National Geospatial-Intelligence Agency, as part of an analysis of alternatives for the future acquisition of analysis tools for geospatial intelligence, shall each—

"(1) consider whether there is a cost-effective domestic commercial capability or service available that can meet any or all of the geospatial-intelligence requirements of the Department of Defense, the intelligence community, or both;

"(2) if a cost-effective domestic commercial capability or service is available as described in paragraph (1)—

"(A) give preference to using such domestic commercial capability or service to meet requirements; and

"(B) determine—

"(i) whether it is in the national interest to develop a governmental space system or service for geospatial intelligence;

"(ii) whether such a governmental space system or service would be duplicative to such a domestic commercial capability or service; and

"(iii) the costs for developing such a governmental space system or service; and

"(3) include, as part of the established acquisition reporting requirements to the appropriate congressional committees, any determination made under paragraphs (1) and (2).

"(c) DEFINITIONS.—In this section:

"(1) The term 'acquisition of commercial satellite imagery' means the acquisition of satellite imagery derived from electro-optical, infrared, synthetic aperture radar, hyperspectral, and radio frequency, data.

"(2) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Select Committee on Intelligence of the Senate; and

"(C) the Permanent Select Committee on Intelligence of the House of Representatives.

"(3) The term 'commercial geospatial-intelligence services' means services including analytic tools, products, or data that can describe, assess, and visually depict natural or manmade features, objects, or activities that can be geographically referenced on the Earth, regardless of collection phenomenology.

"(4) The term 'domestic' includes, with respect to commercial capabilities or services covered by this section, capabilities or services provided by companies that operate in the United States and have active mitigation agreements pursuant to the National Industrial Security Program, unless the Director of the National Reconnaissance Office or the Director of the National Geospatial-Intelligence Agency submits to the appropriate congressional committees a written determination that excluding such companies is warranted on the basis of national security or strategic policy needs.

"(5) The term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

Pub. L. 108–136, div. A, title IX, §921(a), (g), Nov. 24, 2003, 117 Stat. 1568, 1570, provided that:

"(a) REDESIGNATION.—The National Imagery and Mapping Agency of the Department of Defense is hereby redesignated as the National Geospatial-Intelligence Agency.

"(g) REFERENCES.—Any reference to the National Imagery and Mapping Agency in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the National Geospatial-Intelligence Agency."

## CONGRESSIONAL FINDINGS

Pub. L. 104–201, div. A, title XI, §1102, Sept. 23, 1996, 110 Stat. 2676, provided that: "Congress makes the following findings:

"(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

"(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

"(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

"(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

"(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

"(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence."

## ESTABLISHMENT OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY; TRANSFER OF FUNCTIONS

Pub. L. 104–201, div. A, title XI, §1111, Sept. 23, 1996, 110 Stat. 2677, provided that:

"(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency].

"(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

"(1) The Defense Mapping Agency.

"(2) The Central Imagery Office.

"(3) Other elements of the Department of Defense as specified in the classified annex to this Act [see section 1002 of Pub. L. 104–201, set out as a note under section 114 of this title].

"(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

"(1) The National Photographic Interpretation Center.

"(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

"(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency], the Secretary of Defense, in

consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised."

**TRANSFERS OF PERSONNEL AND ASSETS**

Pub. L. 104–201, div. A, title XI, §1113, Sept. 23, 1996, 110 Stat. 2684, provided that:

"(a) PERSONNEL AND ASSETS.—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) [set out above] are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

"(b) DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.—Not earlier than two years after the effective date of this subtitle [Oct. 1, 1996], the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

"(c) RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

"(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

"(2) provide by written agreement for the transfer of such items."

**CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF DEFENSE MAPPING AGENCY**

Pub. L. 104–201, div. A, title XI, §1115, Sept. 23, 1996, 110 Stat. 2686, provided that: "In the case of an employee of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] who, on the day before the effective date of this title [Oct. 1, 1996], was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee."

**DEFINITIONS**

Pub. L. 104–201, div. A, title XI, §1117, Sept. 23, 1996, 110 Stat. 2686, provided that: "In this subtitle [subtitle A (§§1111–1118) of title XI of div. A of Pub. L. 104–201, enacting this chapter, section 424 of this title, and sections 3045 and 3046 of Title 50, War and National Defense, amending sections 193 and 451 to 456 of this title, section 1336 of Title 44, Public Printing and Documents, and section 3038 of Title 50, renumbering chapter 22 and sections 2792 to 2796 and 2798 of this title as chapter 23 and sections 451 to 455 and 456 of this title, respectively, repealing sections 424 and 425 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 501 of Title 44], the terms 'function', 'imagery', 'imagery intelligence', and 'geospatial information' have the meanings given those terms in section 467 of title 10, United States Code, as added by section 1112."

## §442. Missions

(a) NATIONAL SECURITY MISSIONS.—(1) The National Geospatial-Intelligence Agency shall, in support of the national security objectives of the United States, provide geospatial intelligence consisting of the following:

(A) Imagery.

(B) Imagery intelligence.

(C) Geospatial information.

(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

(3) Geospatial intelligence provided in carrying out paragraphs (1) and (2) shall be timely, relevant, and accurate.

(b) NAVIGATION INFORMATION.—The National Geospatial-Intelligence Agency shall improve the means for safe navigation by providing, under the authority of the Secretary of Defense, accurate geospatial information for use by the departments and agencies of the United States, the merchant marine, and navigators generally.

(c) MAPS, CHARTS, ETC.—The National Geospatial-Intelligence Agency shall acquire, prepare, and distribute maps, safe-for-navigation charts and datasets, books, and geomatics products as authorized under subchapter II of this chapter.

(d) NATIONAL MISSIONS.—The National Geospatial-Intelligence Agency also has national missions as specified in section 110(a) of the National Security Act of 1947 (50 U.S.C. 3045(a)).

(e) SYSTEMS.—The National Geospatial-Intelligence Agency may, in furtherance of a mission of the Agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

(1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or

(2) any other department or agency of the United States.

(f) VALIDATION.—The National Geospatial-Intelligence Agency shall assist the Joint Chiefs of Staff, combatant commands, and the military departments in establishing, coordinating, consolidating, and validating mapping, charting, geomatics data, and safety of navigation capability requirements through a formal process governed by the Joint Staff. Consistent with validated requirements, the National Geospatial-Intelligence Agency shall provide aeronautical and nautical charts that are safe for navigation, maps, books, datasets, models, and geomatics products.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108–136, div. A, title IX, §921(c)(1), (d)(2)(A), (f), Nov. 24, 2003, 117 Stat. 1568, 1570; Pub. L. 111–259, title IV, §432, Oct. 7, 2010, 124 Stat. 2732; Pub. L. 113–291, div. A, title X, §1071(c)(6), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 116–283, div. A, title XVI, §1621(a), Jan. 1, 2021, 134 Stat. 4052.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283, §1621(a)(1), substituted "the means for safe navigation" for "means of navigating vessels of the Navy and the merchant marine" and "geospatial information for use by the departments and agencies of the United States, the merchant marine, and navigators generally." for "and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally."

Subsec. (c). Pub. L. 116–283, §1621(a)(2), substituted "shall acquire, prepare, and" for "shall prepare and", "safe-for-navigation charts and datasets" for "charts", and "geomatics" for "geodetic".

Subsec. (f). Pub. L. 116–283, §1621(a)(3), added subsec. (f).

**2014**—Subsec. (d). Pub. L. 113–291 substituted "(50 U.S.C. 3045(a))" for "(50 U.S.C. 404e(a))".

**2010**—Subsec. (a)(2). Pub. L. 111–259, §432(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111–259, §432(1), (3), redesignated par. (2) as (3) and substituted "paragraphs (1) and (2)" for "paragraph (1)".

**2003**—Subsec. (a)(1). Pub. L. 108–136, §921(c)(1)(A), (d)(2)(A), in introductory provisions, substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" and inserted "geospatial intelligence consisting of" after "provide".

Subsec. (a)(2). Pub. L. 108–136, §921(c)(1)(B), substituted "Geospatial intelligence" for "Imagery, intelligence, and information".

Subsecs. (b), (c). Pub. L. 108–136, §921(d)(2)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

Subsec. (d). Pub. L. 108–136, §921(d)(2)(A), (f), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" and "section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a))" for "section 120(a) of the National Security Act of 1947".

Subsec. (e). Pub. L. 108–136, §921(d)(2)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## §443. Imagery intelligence and geospatial information: support for foreign countries, regional organizations, and security alliances

(a) USE OF APPROPRIATED FUNDS.—The Director of the National Geospatial-Intelligence Agency may use appropriated funds available to the National Geospatial-Intelligence Agency to provide foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member with imagery intelligence and geospatial information support.

(b) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—The Director may use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support, notwithstanding provisions of law relating to the expenditure of funds of the United States, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the National Geospatial-Intelligence Agency for a purpose for which Congress had previously denied funds;

(2) proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

(d) COORDINATION WITH DIRECTOR OF NATIONAL INTELLIGENCE.—The Director of the Agency shall coordinate with the Director of National Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2679; amended Pub. L. 105–85, div. A, title X, §1073(a)(7), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(a)(11), (c)(1)(B), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(10), (b)(2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 112–239, div. A, title IX, §921(a), (b)(1), Jan. 2, 2013, 126 Stat. 1878.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Pub. L. 112–239, §921(b)(1), substituted "foreign countries, regional organizations, and security alliances" for "foreign countries" in section catchline.

Subsec. (a). Pub. L. 112–239, §921(a), substituted "foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member" for "foreign countries".

**2009**—Subsec. (d). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(10), (b)(2). See 2008 Amendment note below.

**2008**—Subsec. (d). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(10), (b)(2), amended subsec. (d) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence" in heading and text. Pub. L. 110–417, §932(a)(10), (b)(2), was repealed by Pub. L. 111–84.

**2003**—Subsecs. (a), (b)(1). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" wherever appearing.

**1997**—Subsec. (b)(1). Pub. L. 105–85 substituted semicolon for period after "denied funds".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## §444. Support from Central Intelligence Agency

(a) SUPPORT AUTHORIZED.—The Director of the Central Intelligence Agency may provide support in accordance with this section to the Director of the National Geospatial-Intelligence Agency. The Director of the National Geospatial-Intelligence Agency may accept support provided under this section.

(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of the Central Intelligence Agency may provide administrative and contract services to the National Geospatial-Intelligence Agency as if that agency were an organizational element of the Central Intelligence Agency.

(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3515), an installation of the National Geospatial-Intelligence Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

(c) DETAIL OF PERSONNEL.—The Director of the Central Intelligence Agency may detail personnel of the Central Intelligence Agency indefinitely to the National Geospatial-Intelligence Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Geospatial-Intelligence Agency may transfer funds available for that agency to the Director of the Central Intelligence Agency for the Central Intelligence Agency.

(2) The Director of the Central Intelligence Agency—

(A) may accept funds transferred under paragraph (1); and

(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949

(50 U.S.C. 3501 et seq.), to provide administrative and contract services or detail personnel to the National Geospatial-Intelligence Agency under this section.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(b)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(c), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(7), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Central Intelligence Agency Act of 1949, referred to in subsec. (e)(2)(B), is act June 20, 1949, ch. 227, 63 Stat. 208, which is classified generally to chapter 46 (§3501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2014**—Subsec. (b)(2). Pub. L. 113–291, §1071(c)(7)(A), substituted "(50 U.S.C. 3515)" for "(50 U.S.C. 403o)".

Subsec. (e)(2)(B). Pub. L. 113–291, §1071(c)(7)(B), substituted "(50 U.S.C. 3501 et seq.)" for "(50 U.S.C. 403a et seq.)".

**2009**—Pub. L. 111–84 repealed Pub. L. 110–417, §932(c). See 2008 Amendment note below.

**2008**—Pub. L. 110–181 and Pub. L. 110–417, §932(c), amended section identically, substituting "Director of the Central Intelligence Agency" for "Director of Central Intelligence" wherever appearing. Pub. L. 110–417, §932(c), was repealed by Pub. L. 111–84.

**2003**—Subsecs. (a), (b)(1), (2), (c), (e)(1), (2)(B). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## [§445. Repealed. Pub. L. 105–107, title V, §503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 105–85, div. A, title X, §1073(a)(8), Nov. 18, 1997, 111 Stat. 1900, related to protection of agency identifications and organizational information.

## SUBCHAPTER II—MAPS, CHARTS, AND GEOMATICS PRODUCTS

Sec.
451. Maps, charts, books, and datasets.
452. Pilot charts.
453. Sale of maps, charts, and navigational publications: prices; use of proceeds.
454. Exchange of mapping, charting, and geomatics data with foreign countries, international organizations, nongovernmental organizations, and academic institutions.
455. Maps, charts, and geomatics data: public availability; exceptions.
456. Civil actions barred.

457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XVI, §1621(b)(2), (c)(2), (d)(2), (g)(1), Jan. 1, 2021, 134 Stat. 4053, 4054, substituted "GEOMATICS" for "GEODETIC" in subchapter heading, added items 451, 454, and 455, and struck out former items 451 "Maps, charts, and books", 454 "Exchange of mapping, charting, and geodetic data with foreign countries, international organizations, nongovernmental organizations, and academic institutions", and 455 "Maps, charts, and geodetic data: public availability; exceptions".

**2011**—Pub. L. 112–81, div. A, title IX, §923(b)(2), Dec. 31, 2011, 125 Stat. 1539, added item 454 and struck out former item 454 "Exchange of mapping, charting, and geodetic data with foreign countries and international organizations".

**1999**—Pub. L. 106–65, div. A, title X, §§1010(b), 1045(b), Oct. 5, 1999, 113 Stat. 739, 763, substituted "Sale of maps, charts, and navigational publications: prices; use of proceeds" for "Prices of maps, charts, and navigational publications" in item 453 and added item 457.

## §451. Maps, charts, books, and datasets

The Secretary of Defense may—

(1) have the National Geospatial-Intelligence Agency prepare nautical and aeronautical charts, topographic and geomatics maps, books, models, and datasets required in navigation and have those materials published and furnished to navigators; and

(2) acquire (by purchase, lease, license, or barter) all necessary rights, including copyrights and other intellectual property rights, required to prepare, publish, and furnish to navigators the products described in paragraph (1).

(Added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2792; renumbered §451 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 116–283, div. A, title XVI, §1621(b)(1), Jan. 1, 2021, 134 Stat. 4053.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2792 | 10:7392. | |

In the section, the words "Secretary of Defense" and "Defense Mapping Agency" are substituted for "Secretary of the Navy" and "United States Naval Oceanographic Office", respectively, for consistency with 10:2791. The words "under such regulations as he prescribes" are omitted as unnecessary.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 451 was renumbered section 481 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1621(b)(1)(A), substituted "books, and datasets" for "and books" in section catchline.

Par. (1). Pub. L. 116–283, §1621(b)(1)(B), substituted "nautical and aeronautical charts, topographic and geomatics maps, books, models, and datasets" for "maps, charts, and nautical books".

Par. (2). Pub. L. 116–283, §1621(b)(1)(C), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions."

**2003**—Par. (1). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**1996**—Pub. L. 104–201 renumbered section 2792 of this title as this section and substituted "National

Imagery and Mapping Agency" for "Defense Mapping Agency" in par. (1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

## §452. Pilot charts

(a) There shall be conspicuously printed on pilot charts prepared in the National Geospatial-Intelligence Agency the following: "Prepared from data furnished by the National Geospatial-Intelligence Agency of the Department of Defense and by the Department of Commerce, and published at the National Geospatial-Intelligence Agency under the authority of the Secretary of Defense".

(b) The Secretary of Commerce shall furnish to the National Geospatial-Intelligence Agency, as quickly as possible, all meteorological information received by the Secretary that is necessary for, and of the character used in, preparing pilot charts.

(Added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2793; renumbered §452 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2793 | 10:7393. | |

The words "Secretary of Defense" and "Defense Mapping Agency" are substituted for "Secretary of the Navy" and "United States Naval Oceanographic Office", respectively, for consistency with 10:2791. The words "Secretary of Commerce" are substituted for "Weather Bureau of the Department of Commerce" to reflect the transfer of functions from the Weather Bureau to the Secretary of Commerce under Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The word "quickly" is substituted for "expeditiously" for consistency in title 10.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 452 was renumbered section 482 of this title.

**AMENDMENTS**

**2003**—Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" wherever appearing.

**1996**—Pub. L. 104–201 renumbered section 2793 of this title as this section and substituted "National Imagery and Mapping Agency" for "Defense Mapping Agency" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

## §453. Sale of maps, charts, and navigational publications: prices; use of proceeds

(a) PRICES.—All maps, charts, and other publications offered for sale by the National

Geospatial-Intelligence Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.

(b) USE OF PROCEEDS TO PAY FOREIGN LICENSING FEES.—(1) The Secretary of Defense may pay any NGA foreign data acquisition fee out of the proceeds of the sale of maps, charts, and other publications of the Agency, and those proceeds are hereby made available for that purpose.

(2) In this subsection, the term "NGA foreign data acquisition fee" means any licensing or other fee imposed by a foreign country or international organization for the acquisition or use of data or products by the National Geospatial-Intelligence Agency.

(Added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2794; renumbered §453 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 106–65, div. A, title X, §1010(a), Oct. 5, 1999, 113 Stat. 739; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), (B), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2794 | 10:7394. | |

The words "Secretary of Defense" and "Defense Mapping Agency" are substituted for "Secretary of the Navy" and "United States Naval Oceanographic Office", respectively, for consistency with 10:2791. The word "prescribed" is substituted for "determined" for consistency in title 10. The last sentence, which provided that money from sales be covered into the Treasury, is omitted because of 31:3302.

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (a). Pub. L. 108–136, §921(d)(2)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

Subsec. (b)(1). Pub. L. 108–136, §921(d)(2)(B), substituted "NGA" for "NIMA".

Subsec. (b)(2). Pub. L. 108–136, §921(d)(2)(A), (B), substituted "NGA" for "NIMA" and "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**1999**—Pub. L. 106–65 amended section catchline and text generally. Prior to amendment, text read as follows: "All maps, charts, and other publications offered for sale by the National Imagery and Mapping Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense."

**1996**—Pub. L. 104–201 renumbered section 2794 of this title as this section and substituted "National Imagery and Mapping Agency" for "Defense Mapping Agency".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

## §454. Exchange of mapping, charting, and geomatics data with foreign countries, international organizations, nongovernmental organizations, and academic institutions

(a) FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.—The Secretary of Defense may authorize the National Geospatial-Intelligence Agency to exchange or furnish mapping, charting, and geomatics data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.

(b) NONGOVERNMENTAL ORGANIZATIONS AND ACADEMIC INSTITUTIONS.—The Secretary may authorize the National Geospatial-Intelligence Agency to exchange or furnish mapping, charting, and geomatics data, supplies, and services relating to areas outside of the United

States to a nongovernmental organization or an academic institution engaged in geospatial information research or production of such areas pursuant to an agreement for the production or exchange of such data.

(Added Pub. L. 99–569, title VI, §601(a), Oct. 27, 1986, 100 Stat. 3202, §2795; renumbered §454 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 112–81, div. A, title IX, §923(a), (b)(1), Dec. 31, 2011, 125 Stat. 1539; Pub. L. 116–283, div. A, title XVI, §1621(c)(1), Jan. 1, 2021, 134 Stat. 4053.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "geomatics" for "geodetic" in section catchline and in two places in text.

**2011**—Pub. L. 112–81, §923(b)(1), amended section catchline generally, substituting "Exchange of mapping, charting, and geodetic data with foreign countries, international organizations, nongovernmental organizations, and academic institutions" for "Exchange of mapping, charting, and geodetic data with foreign countries and international organizations".

Pub. L. 112–81, §923(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2003**—Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**1996**—Pub. L. 104–201 renumbered section 2795 of this title as this section and substituted "National Imagery and Mapping Agency" for "Defense Mapping Agency".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

## §455. Maps, charts, and geomatics data: public availability; exceptions

(a) The National Geospatial-Intelligence Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geomatics product in the possession of, or under the control of, the Department of Defense—

(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only;

(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods, or capabilities, used to obtain source material for production of the geomatics product; or

(C) that contains information that the Director of the National Geospatial-Intelligence Agency has determined in writing would, if disclosed, jeopardize or interfere with ongoing military or intelligence operations, reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities.

(2) In this subsection, the term "geomatics product" means imagery, imagery intelligence, or

geospatial information.

(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

(2) Regulations under this section shall address the conditions under which release of geomatics products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

(A) in the case of allies of the United States; and

(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.

(Added Pub. L. 102–88, title V, §502(a)(1), Aug. 14, 1991, 105 Stat. 435, §2796; amended Pub. L. 103–359, title V, §502, Oct. 14, 1994, 108 Stat. 3430; renumbered §455 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 105–85, div. A, title IX, §933(a), (b)(1), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 106–398, §1 [[div. A], title X, §1074], Oct. 30, 2000, 114 Stat. 1654, 1654A–280; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 116–283, div. A, title XVI, §1621(d)(1), Jan. 1, 2021, 134 Stat. 4053.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "geomatics" for "geodetic" in section catchline and wherever appearing in text.

**2003**—Subsecs. (a), (b)(1)(C). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**2000**—Subsec. (b)(1)(C). Pub. L. 106–398 substituted ", reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities" for "or reveal military operational or contingency plans".

**1997**—Subsec. (b)(1)(B). Pub. L. 105–85, §933(a), inserted ", or capabilities," after "methods".

Subsec. (b)(2). Pub. L. 105–85, §933(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product."

**1996**—Pub. L. 104–201 renumbered section 2796 of this title as this section and substituted "National Imagery and Mapping Agency" for "Defense Mapping Agency" in subsecs. (a) and (b)(1)(C).

**1994**—Subsec. (b)(1)(C). Pub. L. 103–359 inserted "jeopardize or interfere with ongoing military or intelligence operations or" after "disclosed,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

### REGULATIONS

Pub. L. 102–88, title V, §502(b), Aug. 14, 1991, 105 Stat. 436, directed that regulations to implement section 2796 (now 455) of this title be published in the Federal Register for public comment in accordance with subsec. (c) of that section not later than 90 days after Aug. 14, 1991.

## §456. Civil actions barred

No civil action may be brought against the United States on the basis of the content of geospatial information prepared or disseminated by the National Geospatial-Intelligence Agency.

(Added Pub. L. 103–337, div. A, title X, §1074(b), Oct. 5, 1994, 108 Stat. 2861, §2798; renumbered §456 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub.

L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 116–283, div. A, title XVI, §1621(e), Jan. 1, 2021, 134 Stat. 4053.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 added text of section and struck out former text which read as follows:

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the National Geospatial-Intelligence Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the National Geospatial-Intelligence Agency prepares or disseminates navigational aids."

**2003**—Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" wherever appearing.

**1996**—Pub. L. 104–201 renumbered section 2798 of this title as this section and substituted "National Imagery and Mapping Agency" for "Defense Mapping Agency" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title X, §1074(d), Oct. 5, 1994, 108 Stat. 2861, provided that: "Section 2798 [now 456] of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act [Oct. 5, 1994] and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date."

## §457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure

(a) AUTHORITY.—The Secretary of Defense may withhold from public disclosure operational files described in subsection (b) to the same extent that operational files may be withheld under section 701 of the National Security Act of 1947 (50 U.S.C. 3141).

(b) COVERED OPERATIONAL FILES.—The authority under subsection (a) applies to operational files in the possession of the National Geospatial-Intelligence Agency that—

(1) as of September 22, 1996, were maintained by the National Photographic Interpretation Center; or

(2) concern the activities of the Agency that, as of such date, were performed by the National Photographic Interpretation Center.

(c) OPERATIONAL FILES DEFINED.—In this section, the term "operational files" has the meaning given that term in section 701(b) of the National Security Act of 1947 (50 U.S.C. 3141(b)).

(Added Pub. L. 106–65, div. A, title X, §1045(a), Oct. 5, 1999, 113 Stat. 762; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 113–291, div. A, title X, §1071(c)(8), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (a). Pub. L. 113–291, §1071(c)(8)(A), substituted "(50 U.S.C. 3141)" for "(50 U.S.C. 431)".

Subsec. (c). Pub. L. 113–291, §1071(c)(8)(B), substituted "(50 U.S.C. 3141(b))" for "(50 U.S.C. 431(b))".

**2003**—Subsec. (b). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in introductory provisions.

## SUBCHAPTER III—PERSONNEL MANAGEMENT

Sec.
461. Management rights.
462. Financial assistance to certain employees in acquisition of critical skills.

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Pub. L. 107–108, title V, §504(b), Dec. 28, 2001, 115 Stat. 1406, added item 462.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON ESTABLISHING A GEOSPATIAL WORKFORCE DEVELOPMENT PROGRAM

Pub. L. 118–159, div. F, title LXVI, §6618, Dec. 23, 2024, 138 Stat. 2509, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of establishing a program to develop a skilled workforce in geospatial technologies, methodologies, and capabilities to support the defense intelligence requirements of the Department of Defense.

"(2) DESIGNATION.—The pilot program carried out pursuant to paragraph (1) shall be known as the 'Geospatial Workforce Pilot Program' (in this section referred to as the 'Pilot Program').

"(b) GOALS.—In carrying out the Pilot Program, the Secretary shall seek—

"(1) to assess the demand for geospatial technology skills in both military and civilian sectors in proximity to facilities of the National Geospatial-Intelligence Agency in the United States;

"(2) to expand, align, and accelerate the education, training, and certification of a geospatial workforce;

"(3) to support a global research hub for geospatial science and technology;

"(4) to foster partnerships with secondary and postsecondary educational institutions, industry leaders, and local governments to support the workforce development;

"(5) to increase employment opportunities and economic growth in regions that are in proximity to National Geospatial-Intelligence Agency locations in the United States through enhanced geospatial capabilities; and

"(6) to support Department of Defense operations and infrastructure with a skilled geospatial workforce.

"(c) LOCATION.—

"(1) IN GENERAL.—In selecting a location for the pilot program required under subsection (a), the Secretary shall prioritize a location—

"(A) where the Secretary can partner with an eligible institution of higher education that—

"(i) conducts research;

"(ii) is in close proximity to National Geospatial-Intelligence Agency facilities outside of the National Capital Region;

"(iii) offers programs of education in geospatial or related matters; and

"(iv) has a demonstrated ability to build the professional workforce, by impacting kindergarten through college learning and beyond, as demonstrated by an educational partnership agreement and a collaborative research and development agreement with the National Geospatial-Intelligence Agency;

"(B) that has a significant presence of Department of Defense installations or related activities; and

"(C) that demonstrates a strong potential to recruit from a broad spectrum of academic candidates for growth in geospatial technology sectors;[.]

"(2) ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION.—For purposes of the Pilot Program, an

eligible institution of higher education is an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that—

"(A) is an institution of higher education described in paragraph (1)(A);

"(B) has a demonstrated capacity for research and development in geospatial technologies; and

"(C) engages in partnerships with local schools and community organizations to promote geospatial education at all levels.

"(d) IMPLEMENTATION.—In carrying out the Pilot Program, the Secretary shall—

"(1) collaborate with local and regional educational institutions, including public research institutions, to develop curriculum and training modules tailored to geospatial technology skills;

"(2) engage with industry partners to ensure the training meets current and future workforce demands;

"(3) provide funding and resources for training facilities, instructors, and materials;

"(4) monitor and evaluate the effectiveness of the training programs and make necessary adjustments to improve outcomes; and

"(5) ensure, in carrying out the pilot program under subsection (a), the Department's activities do not detract from, interfere with, or otherwise hinder the efforts carried out by Geomatics Emerging Scientist Consortium for Education, Research, and Capabilities Enhancement (GEO-ESCON), or any successor program.

"(e) CITIZENSHIP REQUIREMENT.—The Secretary shall ensure that participation in the Pilot Program is limited to citizens of the United States.

"(f) TERMINATION.—The requirement to carry out a pilot program under subsection (a) shall terminate on September 30, 2030.

"(g) REPORTS.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall submit to the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the establishment of the Pilot Program.

"(2) ANNUAL REPORT.—

"(A) REQUIREMENT.—Not later than one year after the date of the commencement of the Pilot Program, and not less frequently than once each year thereafter through fiscal year 2030, the Secretary shall submit to the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives an annual report on the Pilot Program.

"(B) ELEMENTS.—Each report submitted pursuant to subparagraph (A) shall include, for the period covered by the report, the following with respect to the goals described in subsection (b):

"(i) An assessment of the demand for geospatial technology skills.

"(ii) The progress in developing and implementing the Pilot Program.

"(iii) Employment outcomes and economic impact.

"(iv) Recommendations for expanding or modifying the Pilot Program."

## §461. Management rights

(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Geospatial-Intelligence Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regulation is inapplicable to the National Geospatial-Intelligence Agency.

(b) BARGAINING UNITS.—The Director of the National Geospatial-Intelligence Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on September 30, 1996.

(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Geospatial-Intelligence Agency determines that the responsibilities of a position within a collective

bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

(2) A determination described in paragraph (1) that is made by the Director of the National Geospatial-Intelligence Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2681; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), (C), Nov. 24, 2003, 117 Stat. 1568.)

### EDITORIAL NOTES

### AMENDMENTS

**2003**—Subsec. (a). Pub. L. 108–136, §921(d)(2)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in two places.

Subsec. (b). Pub. L. 108–136, §921(d)(2)(C), substituted "The Director of the National Geospatial-Intelligence Agency" for "The National Imagery and Mapping Agency" and "on September 30, 1996" for "on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (title XI of the National Defense Authorization Act for Fiscal Year 1997)".

Subsec. (c). Pub. L. 108–136, §921(d)(2)(A), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency" in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## §462. Financial assistance to certain employees in acquisition of critical skills

The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Geospatial-Intelligence Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(Added Pub. L. 107–108, title V, §504(a), Dec. 28, 2001, 115 Stat. 1405; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 113–291, div. A, title X, §1071(c)(9), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291 substituted "(50 U.S.C. 3614)" for "(50 U.S.C. 402 note)".

**2003**—Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

## SUBCHAPTER IV—DEFINITIONS

Sec.
467. Definitions.

## §467. Definitions

In this chapter:

(1) The term "function" means any duty, obligation, responsibility, privilege, activity, or program.

(2)(A) The term "imagery" means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

(i) products produced by space-based national intelligence reconnaissance systems; and

(ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

(B) Such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

(3) The term "imagery intelligence" means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

(4) The term "geospatial information" means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on or about the earth and includes—

(A) data and information derived from, among other things, remote sensing, mapping, and surveying technologies; and

(B) mapping, charting, geomatics data, and related products and services.

(5) The term "geospatial intelligence" means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on or about the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2682; amended Pub. L. 105–85, div. A, title IX, §933(b)(2), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 108–136, div. A, title IX, §921(b), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 116–283, div. A, title XVI, §1621(f), Jan. 1, 2021, 134 Stat. 4054.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Par. (4). Pub. L. 116–283, §1621(f)(1)(A), inserted "or about" after "boundaries on" in introductory provisions.

Par. (4)(A). Pub. L. 116–283, §1621(f)(1)(B), struck out "statistical" before "data".

Par. (4)(B). Pub. L. 116–283, §1621(f)(1)(C), substituted "geomatics" for "geodetic" and inserted "and services" after "products".

Par. (5). Pub. L. 116–283, §1621(f)(2), inserted "or about" after "activities on".

**2003**—Par. (5). Pub. L. 108–136 added par. (5).

**1997**—Par. (4). Pub. L. 105–85 inserted "and" at end of subpar. (A), substituted "geodetic data, and related products." for "and geodetic data; and" in subpar. (B), and struck out subpar. (C) which read as follows: "geodetic products, as defined in section 455(c) of this title."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

# CHAPTER 23—MISCELLANEOUS STUDIES AND REPORTS

Sec.
480. Reports to Congress: submission in electronic form.
481. Racial and ethnic issues; gender issues: surveys.
481a. Workplace and gender relations issues: surveys of Department of Defense civilian employees.
482. Readiness reports.
483. Notifications related to basing decision-making process.
484. Quarterly cyber operations briefings.
485. Quarterly briefings on counterterrorism operations, irregular warfare, and sensitive activities.
[486, 487. Repealed.]
488. Management and review of electromagnetic spectrum.
[489 to 491. Repealed or Renumbered.]

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title V, §566(b)(1), title XII, §1204(b), title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 1905, 2094, 2199, added item 485 and struck out items 485 "Monthly counterterrorism operations briefings", 486 "Annual reports on racial and ethnic demographics in the military justice system", and 487 "Biannual briefing on missile defense and related activities". Amendments striking out items 486 and 487 were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title XVI, §1651, Dec. 23, 2022, 136 Stat. 2947, added item 487.

**2021**—Pub. L. 117–81, div. A, title V, §549G(a)(2), Dec. 27, 2021, 135 Stat. 1728, added item 486.

Pub. L. 116–283, div. B, title XXVIII, §2871(c), Jan. 1, 2021, 134 Stat. 4366, added item 483.

**2019**—Pub. L. 116–92, div. A, title III, §361(c), Dec. 20, 2019, 133 Stat. 1327, added item 482 and struck out former item 482 "Quarterly reports: personnel and unit readiness".

**2016**—Pub. L. 114–328, div. A, title X, §§1031(c), 1065(a)(2), Dec. 23, 2016, 130 Stat. 2389, 2410, substituted "Monthly counterterrorism operations briefings" for "Quarterly counterterrorism operations briefings" in item 485 and "Management and review of electromagnetic spectrum" for "Management of electromagnetic spectrum" in item 488.

**2014**—Pub. L. 113–291, div. A, title III, §331(b), title X, §1073(a)(2), Dec. 19, 2014, 128 Stat. 3344, 3518, added item 481a and struck out item 489 "Annual report on Department of Defense operation and financial support for military museums".

**2013**—Pub. L. 113–66, div. A, title X, §§1042(a)(2), 1072(b)(2), 1084(a)(1)(B), Dec. 26, 2013, 127 Stat. 857, 869, 871, added item 485, substituted "Management of electromagnetic spectrum" for "Management of electromagnetic spectrum: biennial strategic plan" in item 488, and struck out item 483 "Reports on transfers from high-priority readiness appropriations".

Pub. L. 112–239, div. A, title IX, §939(c), title X, §1031(b)(3)(A)(ii), Jan. 2, 2013, 126 Stat. 1888, 1918, added item 484 and struck out items 490a "Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system" and 491 "Nuclear employment strategy of the United States: reports on modification of strategy".

**2011**—Pub. L. 112–81, div. A, title X, §§1041(c), 1046(b)(2), 1061(6)(B), (7)(B), (8)(B), (9)(B), (10)(B), Dec. 31, 2011, 125 Stat. 1575, 1579, 1583, added items 490a and 491 and struck out items 484 "Annual report on aircraft inventory", 485 "Joint and service concept development and experimentation", 486 "Quadrennial report on emerging operational concepts", 487 "Unit operations tempo and personnel tempo: annual report", and 490 "Space cadre management: biennial report".

**2008**—Pub. L. 110–417, [div. A], title II, §241(b), Oct. 14, 2008, 122 Stat. 4398, added item 485 and struck out former item 485 "Joint warfighting experimentation".

Pub. L. 110–181, div. A, title IX, §912(b), Jan. 28, 2008, 122 Stat. 281, added item 490.

**2004**—Pub. L. 108–375, div. A, title X, §1033(b), Oct. 28, 2004, 118 Stat. 2048, added item 489.

**2003**—Pub. L. 108–136, div. A, title X, §1054(b), Nov. 24, 2003, 117 Stat. 1615, added item 488.

**2002**—Pub. L. 107–314, div. A, title V, §561(a)(2), Dec. 2, 2002, 116 Stat. 2554, substituted "Racial and ethnic issues; gender issues: surveys" for "Race relations, gender discrimination, and hate group activity: annual survey and report" in item 481.

**2001**—Pub. L. 107–107, div. A, title X, §1042(b), Dec. 28, 2001, 115 Stat. 1218, added item 480.

**1999**—Pub. L. 106–65, div. A, title II, §241(a)(2), title III, §361(d)(3), title IX, §923(b)(2), Oct. 5, 1999, 113 Stat. 550, 575, 725, added items 486 and 487 and repealed Pub. L. 105–261, §373(d)(2). See 1998 Amendment note below.

**1998**—Pub. L. 105–261, div. A, title IX, §923(b)(2), title X, §1069(a)(1), Oct. 17, 1998, 112 Stat. 2105, 2135, substituted "Annual report" for "Report" in item 484 and added item 485.

Pub. L. 105–261, div. A, title III, §373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which directed amendment of analysis, effective June 1, 2001, by striking out item 482, was repealed by Pub. L. 106–65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

**1997**—Pub. L. 105–85, div. A, title III, §§322(a)(2), 323(b), 324(a)(2), Nov. 18, 1997, 111 Stat. 1675, 1677, substituted "Quarterly reports: personnel and unit readiness" for "Quarterly readiness reports" in item 482 and added items 483 and 484.

**1996**—Pub. L. 104–201, div. A, title V, §571(c)(2), title XI, §§1112(a)(1), 1123(a)(4), Sept. 23, 1996, 110 Stat. 2532, 2677, 2688, substituted "Race relations, gender discrimination, and hate group activity: annual survey and report" for "Racial and ethnic issues; biennial survey; biennial report" in item 451, renumbered chapter 22 of this title as this chapter, and redesignated items 451 and 452 as 481 and 482, respectively.

Pub. L. 104–106, div. A, title III, §361(a)(2), Feb. 10, 1996, 110 Stat. 273, added item 452.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### QUESTIONS IN SURVEYS REGARDING EXTREMIST ACTIVITY IN THE WORKPLACE

Pub. L. 116–92, div. A, title V, §593, Dec. 20, 2019, 133 Stat. 1415, as amended by Pub. L. 116–283, div. A, title V, §553, Jan. 1, 2021, 134 Stat. 3633, provided that:

"(a) QUESTIONS REQUIRED.—The Secretary of Defense shall include in appropriate surveys administered by the Department of Defense questions regarding whether respondents have ever—

"(1) experienced or witnessed extremist, racist, anti-Semitic, or supremacist activity in the workplace; or

"(2) reported such activity.

"(b) BRIEFING.—Not later than March 1, 2021, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing including—

"(1) the text of the questions included in surveys under subsection (a); and

"(2) which surveys include such questions."

## §480. Reports to Congress: submission in electronic form

(a) REQUIREMENT.—Whenever the Secretary of Defense or any other official of the Department of Defense submits to Congress (or any committee of either House of Congress) a report that the Secretary (or other official) is required by law to submit, the Secretary (or other official) shall provide to Congress (or such committee) a copy of the report in an electronic medium.

(b) EXCEPTION.—Subsection (a) does not apply to a report submitted in classified form.

(c) DEFINITION.—In this section, the term "report" includes any certification, notification, or other communication in writing.

(Added Pub. L. 107–107, div. A, title X, §1042(a), Dec. 28, 2001, 115 Stat. 1218; amended Pub. L. 107–314, div. A, title X, §1042, Dec. 2, 2002, 116 Stat. 2646.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (a). Pub. L. 107–314 substituted "shall provide to Congress (or" for "shall, upon request by any committee of Congress to which the report is submitted or referred, provide to Congress (or each".

## §481. Racial and ethnic issues; gender issues: surveys

(a) IN GENERAL.—(1) The Secretary of Defense shall carry out four surveys in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess gender issues and discrimination, among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called "hate group" activity.

(2) The four surveys shall be as follows:

(A) To identify and assess racial and ethnic issues and discrimination among members of the armed forces serving on active duty.

(B) To identify and assess racial and ethnic issues and discrimination among members of the armed forces in the reserve components.

(C) To identify and assess gender issues and discrimination among members of the armed forces serving on active duty.

(D) To identify and assess gender issues and discrimination members of the armed forces in the reserve components.

(3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the "Armed Forces Workplace and Equal Opportunity Surveys". The surveys under this section relating to gender issues and discrimination shall be known as the "Armed Forces Workplace and Gender Relations Surveys".

(4) Each survey under this section shall be conducted separately from any other survey conducted by the Department of Defense.

(b) ARMED FORCES WORKPLACE AND EQUAL OPPORTUNITY SURVEYS.—The Armed Forces Workplace and Equal Opportunity Surveys shall be conducted so as to solicit information on racial and ethnic issues, including issues relating to harassment and discrimination, and the climate in the armed forces for forming professional relationships among members of the armed forces of various racial and ethnic groups. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

(c) ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.—The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment, assault (including unwanted sexual contact), and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

(2) The specific types of assault (including unwanted sexual contact) that have occurred, and the number of times each respondent has been assaulted during the preceding year.

(3) Indicators of the assault (including unwanted sexual contact) that give reason to believe that the victim was targeted, or discriminated against, or both, for a status in a group.

(4) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

(5) The effectiveness of current processes for complaints on and investigations into gender-based discrimination, harassment, and assault (including unwanted sexual contact).

(6) Any other issues relating to discrimination, harassment, or assault (including unwanted

sexual contact) as the Secretary of Defense considers appropriate.

(d) WHEN SURVEYS REQUIRED.—(1) The Armed Forces Workplace and Gender Relations Surveys of the Active Duty and the Armed Forces Workplace and Gender Relations Survey of the Reserve Components shall each be conducted once every two years. The surveys may be conducted within the same year or in two separate years, and shall be conducted in a manner designed to reduce the burden of the surveys on members of the armed forces.

(2) The two Armed Forces Workplace and Equal Opportunity Surveys shall be conducted at least once every four years. The surveys may be conducted within the same year or in two separate years, and shall be conducted in a manner designed to reduce the burden of the surveys on members of the armed forces.

(3)(A) The Secretary of Defense may postpone the conduct of a survey under this section if the Secretary determines that conducting such survey is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary shall ensure that a survey postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(e) REPORTS TO CONGRESS.—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

(Added Pub. L. 103–337, div. A, title V, §554(a)(1), Oct. 5, 1994, 108 Stat. 2773, §451; renumbered §481 and amended Pub. L. 104–201, div. A, title V, §571(c)(1), title XI, §1121(a), Sept. 23, 1996, 110 Stat. 2532, 2687; Pub. L. 107–314, div. A, title V, §561(a)(1), Dec. 2, 2002, 116 Stat. 2553; Pub. L. 112–239, div. A, title V, §570, Jan. 2, 2013, 126 Stat. 1752; Pub. L. 116–92, div. A, title V, §591(a), Dec. 20, 2019, 133 Stat. 1414; Pub. L. 116–283, div. A, title V, §552(a), Jan. 1, 2021, 134 Stat. 3631; Pub. L. 118–31, div. A, title V, §591, Dec. 22, 2023, 137 Stat. 286.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c)(3) to (6). Pub. L. 118–31 added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

**2021**—Subsec. (d). Pub. L. 116–283 amended subsec. (d) generally. Prior to amendment, subsec. (d) provided for timing and frequency of Armed Forces Workplace and Gender Relations Surveys and Armed Forces Workplace and Equal Opportunity Surveys.

**2019**—Subsec. (c). Pub. L. 116–92 inserted "(including unwanted sexual contact)" after "assault" wherever appearing.

**2013**—Subsec. (a)(1). Pub. L. 112–239, §570(b)(1), substituted "four surveys" for "four quadrennial surveys (each in a separate year)".

Subsec. (c). Pub. L. 112–239, §570(a)(1), substituted "harassment, assault, and discrimination" for "harassment and discrimination" in introductory provisions.

Subsec. (c)(2) to (4). Pub. L. 112–239, §570(a)(2)–(4), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted "discrimination, harassment, and assault" for "discrimination" in par. (4).

Subsec. (c)(5). Pub. L. 112–239, §570(a)(5), added par. (5).

Subsec. (d). Pub. L. 112–239, §570(b)(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "Each of the four quadrennial surveys conducted under this section shall be conducted in a different year from any other survey conducted under this section, so that one such survey is conducted during each year."

**2002**—Pub. L. 107–314 substituted "Racial and ethnic issues; gender issues: surveys" for "Race relations, gender discrimination, and hate group activity: annual survey and report" as section catchline and amended text generally, substituting provisions requiring four quadrennial surveys and report for provisions requiring an annual survey and report.

**1996**—Pub. L. 104–201, §1121(a), renumbered section 451 of this title as this section.

Pub. L. 104–201, §571(c)(1), substituted "Race relations, gender discrimination, and hate group activity: annual survey and report" for "Racial and ethnic issues; biennial survey; biennial report" as section catchline and amended text generally, substituting provisions requiring an annual survey and report for provisions requiring a biennial survey and report.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §591(c), Dec. 20, 2019, 133 Stat. 1414, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 481a of this title] shall take effect on the date of the enactment of this Act [Dec. 20, 2019] and shall apply with respect to surveys under sections 481 and 481a of title 10, United States Code, that are initiated after such date."

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title V, §561(b), Dec. 2, 2002, 116 Stat. 2554, provided that: "The first survey under section 481 of title 10, United States Code, as amended by subsection (a)(1), shall be carried out during 2003."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### BEST PRACTICES FOR THE RETENTION OF CERTAIN FEMALE MEMBERS OF THE ARMED FORCES

Pub. L. 117–263, div. A, title V, §537, Dec. 23, 2022, 136 Stat. 2577, provided that: "The Secretaries of the military departments shall share and implement best practices regarding the use of retention and exit survey data to identify barriers and lessons learned to improve the retention of female members of the Armed Forces under the jurisdiction of such Secretaries."

### ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES

Pub. L. 107–314, div. A, title V, §562, Dec. 2, 2002, 116 Stat. 2554, provided that:

"(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to Congress, for each of fiscal years 2002 through 2006, a report on the status of female members of the Armed Forces. Information in the annual report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

"(b) MATTERS TO BE INCLUDED.—The report for a fiscal year under subsection (a) shall include the following information:

"(1) The positions, weapon systems, and fields of skills for which, by policy, female members are not eligible for assignment, as follows:

"(A) In the report for fiscal year 2002—

"(i) an identification of each position, weapon system, and field of skills for which, by policy, female members are not eligible; and

"(ii) the rationale for the applicability of the policy to each such position, weapon system, and field.

"(B) In the report for each fiscal year after fiscal year 2002, the positions, weapon systems, and fields for which policy on the eligibility of female members for assignment has changed during that fiscal year, including a discussion of how the policy has changed and the rationale for the change.

"(2) Information on joint spouse assignments, as follows:

"(A) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were jointly assigned during that fiscal year, as defined in the applicable Department of Defense and military department personnel assignment policies.

"(B) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were assigned during that fiscal year, but were not jointly assigned (as so defined).

"(3) Promotion selection rates for female members, for male members, and for all personnel in the reports submitted by promotion selection boards in that fiscal year for promotion to grades E–7, E–8, and E–9, and, in the case of commissioned officers, promotion to grades O–4, O–5, and O–6.

"(4) Retention rates for female members in each grade and for male members in each grade during that fiscal year.

"(5) Selection rates for female members and for male members for assignment to grade O–6 and grade O–5 command positions in reports of command selection boards that were submitted during that fiscal year.

"(6) Selection rates for female members and for male members for attendance at intermediate service schools (ISS) and, separately, for attendance at senior service schools (SSS) in reports of selection boards that were submitted during that fiscal year.

"(7) The extent of assignments of female members during that fiscal year in each field in which at least 80 percent of the Armed Forces personnel assigned in the field are men.

"(8) The incidence of sexual harassment complaints made during that fiscal year, stated as the number of cases in which complaints of sexual harassment were filed under procedures of military departments that are applicable to the submission of sexual harassment complaints, together with the number and percent of the complaints that were substantiated.

"(9) Satisfaction (based on surveys) of female active-duty members, female dependents of active-duty members, and female dependents of nonactive duty members entitled to health care provided by the Department of Defense with access to, and quality of, women's health care benefits provided by the Department of Defense.

"(c) TIME FOR REPORT.—The report for a fiscal year under this section shall be submitted not later than 120 days after the end of that fiscal year."

**FIRST REPORT REQUIRED UNDER SUBSECTION (C)**

Pub. L. 103–337, div. A, title V, §554(b), Oct. 5, 1994, 108 Stat. 2773, required Secretary of Defense to submit first report under former subsec. (c) of this section not later than May 1, 1995.

## §481a. Workplace and gender relations issues: surveys of Department of Defense civilian employees

(a) IN GENERAL.—(1) The Secretary of Defense shall carry out every other fiscal year a survey of civilian employees of the Department of Defense to solicit information on gender issues, including issues relating to gender-based assault (including unwanted sexual contact), harassment, and discrimination, and the climate in the Department for forming professional relationships between male and female civilian employees of the Department.

(2) Each survey under this section shall be known as a "Department of Defense Civilian Employee Workplace and Gender Relations Survey".

(b) ELEMENTS.—Each survey conducted under this section shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships between male and female civilian employees of the Department of Defense.

(2) The specific types of assault (including unwanted sexual contact) on civilian employees of the Department by other personnel of the Department (including contractor personnel) that have occurred, and the number of times each respondent has been so assaulted during the preceding fiscal year.

(3) The effectiveness of Department policies designed to improve professional relationships between male and female civilian employees of the Department.

(4) The effectiveness of current processes for complaints on and investigations into gender-based assault (including unwanted sexual contact), harassment, and discrimination involving civilian employees of the Department.

(5) Any other issues relating to assault (including unwanted sexual contact), harassment, or discrimination involving civilian employees of the Department that the Secretary considers appropriate.

(c) REPORT TO CONGRESS.—Upon the completion of a survey under this section, the

Secretary shall submit to Congress a report containing the results of the survey.

(d) POSTPONEMENT.—(1) The Secretary of Defense may postpone the conduct of a survey under this section if the Secretary determines that conducting such survey is not practicable due to a war or national emergency declared by the President or Congress.

(2) The Secretary shall ensure that a survey postponed under paragraph (1) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(3) The Secretary shall notify Congress of a determination under paragraph (1) not later than 30 days after the date on which the Secretary makes such determination.

(Added Pub. L. 113–291, div. A, title X, §1073(a)(1), Dec. 19, 2014, 128 Stat. 3517; amended Pub. L. 116–92, div. A, title V, §591(b), Dec. 20, 2019, 133 Stat. 1414; Pub. L. 116–283, div. A, title V, §552(c), Jan. 1, 2021, 134 Stat. 3632.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283 added subsec. (d).

**2019**—Subsecs. (a), (b). Pub. L. 116–92 inserted "(including unwanted sexual contact)" after "assault" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2019 AMENDMENT**

Amendment by Pub. L. 116–92 effective Dec. 20, 2019, and applicable with respect to surveys under this section that are initiated after such date, see section 591(c) of Pub. L. 116–92, set out as a note under section 481 of this title.

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**INITIAL SURVEY**

Pub. L. 113–291, div. A, title X, §1073(a)(3), Dec. 19, 2014, 128 Stat. 3518, provided that: "The Secretary of Defense shall carry out the first survey required by section 481a of title 10, United States Code (as added by this subsection), during fiscal year 2016."

## §482. Readiness reports

(a) REPORTS AND BRIEFINGS.—(1) Not later than 30 days after the end of the second and fourth quarter of each calendar year, the Secretary of Defense shall submit to Congress a report regarding the military readiness of the active and reserve components and the Space Force. The Secretary of Defense shall submit each such report in writing and shall also submit a copy of each such report to the Chairman of the Joint Chiefs of Staff.

(2) Not later than 30 days after the end of the first and third quarter of each calendar year, the Secretary of Defense shall provide to Congress a briefing regarding the military readiness of the active and reserve components and the Space Force.

(3) Each report under this subsection shall contain the elements required by subsection (b) for the quarter covered by the report, and each briefing shall address any changes to the elements described in subsection (b) since the submittal of the most recently submitted report.

(b) REQUIRED ELEMENTS.—The elements described in this subsection are each of the following:

(1) A description of each readiness problem or deficiency that affects the ground, sea, air, space, cyber, or special operations forces, and any other area determined appropriate by the Secretary of Defense.

(2) The key contributing factors, indicators, and other relevant information related to each identified problem or deficiency.

(3) The short-term mitigation strategy the Department will employ to address each readiness problem or deficiency until a resolution is in place, as well as the timeline, cost, and any legislative remedies required to support the resolution.

(4) A summary of combat readiness ratings for the key force elements assessed, including specific information on personnel, supply, equipment, and training problems or deficiencies that affect the combat readiness ratings for each force element.

(5) The total number of upgrades and the total number of downgrades of the combat readiness of a unit that were issued by the commander of the unit, disaggregated by armed force.

(6) A summary of the readiness of supporting capabilities, including infrastructure, prepositioned equipment and supplies, and mobility assets, and other supporting logistics capabilities.

(7) A summary of the readiness of the combat support and related agencies, any readiness problem or deficiency affecting any mission essential tasks of any such agency, and actions recommended to address any such problem or deficiency.

(8) A list of all Class A and Class B mishaps, and a summary count of all Class C mishaps, that occurred in operations related to combat support and training events involving aviation, ground, or naval platforms, weapons, space, or Government vehicles, as defined by Department of Defense Instruction 6055.07, or a successor instruction.

(9) Information on the extent to which units of the armed forces have removed serviceable parts, supplies, or equipment from one vehicle, vessel, or aircraft in order to render a different vehicle, vessel, or aircraft operational.

(10) Information regarding the extent to which any member of the armed forces is assigned or detailed outside the member's unit or away from training in order to perform any function that had previously been performed by civilian employees of the Federal Government.

(11) A summary of the joint medical estimate under section 732(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1817) prepared by the Joint Staff Surgeon, with a mitigation plan to correct any readiness problem or deficiency and the timeline, cost, and any legislative action required to correct any such problem or deficiency.

(12) Such other information as determined necessary or appropriate by the Secretary of Defense.

(c) CONSIDERATION OF READINESS ASSESSMENTS.—The information required under subsection (b) to be included in the report for a quarter shall be based on readiness assessments that are provided during that quarter—

(1) to any council, committee, or other body of the Department of Defense—

(A) that has responsibility for readiness oversight; and

(B) whose membership includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

(d) SEMI-ANNUAL JOINT FORCE READINESS REVIEW.—(1) Not later than 30 days after the last day of the first and third quarter of each calendar year, the Chairman of the Joint Chiefs of Staff shall submit to Congress a written report on the capability of the armed forces, the combat support and related agencies, operational contract support, and the geographic and functional combatant commands to execute their wartime missions based upon their posture and readiness as of the time the review is conducted.

(2) The Chairman shall produce the report required under this subsection using information derived from the quarterly reports required by subsection (a).

(3) Each report required by this subsection shall include an assessment by each commander of a geographic or functional combatant command of the readiness of the command to conduct operations in a multidomain battle that integrates ground, sea, air, space, cyber, and special operations forces.

(4) The Chairman shall submit to the Secretary of Defense a copy of each report under this subsection.

(e) CLASSIFICATION OF REPORTS.—A report under this section shall be submitted in unclassified form. To the extent the Secretary of Defense determines necessary, the report may also be submitted in classified form.

(Added Pub. L. 104–106, div. A, title III, §361(a)(1), Feb. 10, 1996, 110 Stat. 272, §452; renumbered §482, Pub. L. 104–201, div. A, title XI, §1121(a), Sept. 23, 1996, 110 Stat. 2687; amended Pub. L. 105–85, div. A, title III, §322(a)(1), Nov. 18, 1997, 111 Stat. 1673; Pub. L. 106–65, div. A, title III, §361(d)(3), (e), Oct. 5, 1999, 113 Stat. 575; Pub. L. 110–181, div. A, title III, §351(b), Jan. 28, 2008, 122 Stat. 70; Pub. L. 113–66, div. A, title III, §331(a), Dec. 26, 2013, 127 Stat. 737; Pub. L. 113–291, div. A, title III, §321, Dec. 19, 2014, 128 Stat. 3342; Pub. L. 114–328, div. A, title III, §331, Dec. 23, 2016, 130 Stat. 2078; Pub. L. 115–91, div. A, title III, §331(a), Dec. 12, 2017, 131 Stat. 1353; Pub. L. 115–232, div. A, title III, §332, Aug. 13, 2018, 132 Stat. 1725; Pub. L. 116–92, div. A, title III, §361(b), Dec. 20, 2019, 133 Stat. 1325; Pub. L. 117–81, div. A, title III, §361, Dec. 27, 2021, 135 Stat. 1660; Pub. L. 117–263, div. A, title III, §353, Dec. 23, 2022, 136 Stat. 2534; Pub. L. 118–31, div. A, title XVII, §1722(a)(4), Dec. 22, 2023, 137 Stat. 668; Pub. L. 118–159, div. A, title III, §341, Dec. 23, 2024, 138 Stat. 1857; Pub. L. 119–60, div. A, title III, §331, Dec. 18, 2025, 139 Stat. 816.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 732(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to subsec. (b)(11), is section 732(b)(1) of Pub. L. 115–232, div. A, title VII, Aug. 13, 2018, 132 Stat. 1817, which is not classified to the Code.

### AMENDMENTS

**2025**—Subsec. (b)(8). Pub. L. 119–60 substituted "Class A and Class B mishaps, and a summary count of all Class C mishaps," for "Class A, Class B, and Class C mishaps".

**2024**—Subsec. (b)(5). Pub. L. 118–159 amended par. (5) generally. Prior to amendment, par. (5) read as follows: "A summary of each upgrade or downgrade of the combat readiness of a unit that was issued by the commander of the unit, together with the rationale of the commander for the issuance of such upgrade or downgrade."

**2023**—Subsec. (a)(1), (2). Pub. L. 118–31 inserted "and the Space Force" after "active and reserve components".

**2022**—Subsec. (b)(11), (12). Pub. L. 117–263 added par. (11) and redesignated former par. (11) as (12).

**2021**—Subsec. (b)(10), (11). Pub. L. 117–81 added par. (10) and redesignated former par. (10) as (11).

**2019**—Pub. L. 116–92, §361(b)(1), substituted "Readiness reports" for "Quarterly reports: personnel and unit readiness" in section catchline.

Subsec. (a). Pub. L. 116–92, §361(b)(2), in heading substituted "Reports and Briefings" for "Quarterly Reports Required" and in text designated existing provisions as par. (1), substituted "the second and fourth quarter of each calendar year" for "each calendar-year quarter", substituted "The Secretary of Defense shall submit each such report in writing and shall also submit a copy of each such report to the Chairman of the Joint Chiefs of Staff." for "The reports for the first and third quarters of a calendar year shall contain the information required by subsections (b), (d), (e), (f), and (g). The reports for the second and fourth quarters of a calendar year shall contain the information required by subsection (j).", and added pars. (2) and (3).

Subsec. (b). Pub. L. 116–92, §361(b)(3), added subsec. (b) and struck out former subsec. (b) which related to specific descriptions of readiness problems in second and fourth quarter reports.

Subsecs. (d) to (j). Pub. L. 116–92, §361(b)(4)–(6), added subsec. (d), redesignated subsec. (i) as (e), and struck out former subsecs. (d) to (h) and (j) which related to combatant command assessments, risk assessment

of dependence on contractor support, military readiness of combat support and related agencies, major exercise assessments, information collected pursuant to section 117(c)(7) of this title, and mitigation plans to address readiness shortfalls and operational deficiencies, respectively.

**2018**—Subsec. (b)(1). Pub. L. 115–232, §332(1), inserted "in the ground, sea, air, space, and cyber forces, and in such other such areas as determined by the Secretary of Defense," after "deficiency".

Subsec. (d). Pub. L. 115–232, §332(2)(A), struck out "Assigned Mission" after "Command" in heading.

Subsec. (d)(2), (3). Pub. L. 115–232, §332(2)(B)–(D), added par. (2), redesignated former par. (2) as (3), and struck out former par. (3) which read as follows: "The assessment included in the report under paragraph (1) by the Commander of the United States Strategic Command shall include a separate assessment prepared by the Commander of United States Cyber Command relating to the readiness of United States Cyber Command and the readiness of the cyber force of each of the military departments."

**2017**—Subsec. (a). Pub. L. 115–91, §331(a)(1), substituted "The reports for the first and third quarters of a calendar year" for "Each report" and inserted at end "The reports for the second and fourth quarters of a calendar year shall contain the information required by subsection (j).".

Subsec. (b). Pub. L. 115–91, §331(a)(2)(A), (B), in heading, struck out "and Remedial Actions" after "Problems" and in introductory provisions, substituted "A report for the second or fourth quarter of a calendar year" for "Each report".

Subsec. (b)(2), (3). Pub. L. 115–91, §331(a)(2)(C)–(E), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "planned remedial actions; and".

Subsec. (d)(1). Pub. L. 115–91, §331(a)(3), substituted "A report for the second or fourth quarter of a calendar year" for "Each report".

Subsec. (e). Pub. L. 115–91, §331(a)(4), substituted "A report for the second or fourth quarter of a calendar year" for "Each report".

Subsec. (f)(1). Pub. L. 115–91, §331(a)(5), substituted "A report for the second or fourth quarter of a calendar year" for "Each report" in introductory provisions.

Subsec. (g)(1). Pub. L. 115–91, §331(a)(6), substituted "A report for the second or fourth quarter of a calendar year" for "Each report" in introductory provisions.

Subsec. (j). Pub. L. 115–91, §331(a)(7), added subsec. (j).

**2016**—Subsec. (a). Pub. L. 114–328, §331(a), (b)(1), substituted "Not later than 30 days after the end of each calendar-year quarter" for "Not later than 45 days after the end of each calendar-year quarter" and "subsections (b), (d), (e), (f), and (g)" for "subsections (b), (d), (e), (f), (g), (h), and (i)".

Subsecs. (d) to (j). Pub. L. 114–328, §331(b)(2), (3), (c), added subsec. (h), redesignated subsecs. (f) to (j) as (d) to (g) and (i), respectively, and struck out former subsecs. (d) and (e), which related to prepositioned stocks and readiness of National Guard to perform civil support missions, respectively.

**2014**—Subsec. (a). Pub. L. 113–291, §321(1), substituted "the military readiness of the active and reserve components." for "military readiness." and "subsections (b), (d), (e), (f), (g), (h), and (i)." for "subsections (b), (d), (f), (g), (h), (i), (j), and (k), and the reports for the second and fourth quarters of a calendar year shall also contain the information required by subsection (e)."

Subsec. (d). Pub. L. 113–291, §321(2), (3), added subsec. (d) and struck out former subsec. (d) which related to comprehensive readiness indicators for active components.

Subsec. (e). Pub. L. 113–291, §321(2), (4), redesignated subsec. (g) as (e) and struck out former subsec. (e) which related to logistics indicators.

Subsec. (e)(1). Pub. L. 113–291, §321(5), substituted "National Response Framework" for "National Response Plan".

Subsec. (f). Pub. L. 113–291, §321(2), (4), redesignated subsec. (h) as (f) and struck out former subsec. (f) which related to unit readiness indicators.

Subsec. (f)(3). Pub. L. 113–291, §321(6), added par. (3).

Subsec. (g). Pub. L. 113–291, §321(4), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsec. (h). Pub. L. 113–291, §321(7), inserted "AND RELATED" after "SUPPORT" in heading and substituted "combat support and related agencies" for "combat support agencies" in introductory provisions of par. (1) and for "combat support agency" in introductory provisions of par. (2).

Pub. L. 113–291, §321(4), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 113–291, §321(8), added subsec. (i). Former subsec. (i) redesignated (g).

Subsec. (j). Pub. L. 113–291, §321(4), redesignated subsec. (l) as (j). Former subsec. (j) redesignated (h).

Subsec. (k). Pub. L. 113–291, §321(2), struck out subsec. (k) which related to major exercise assessments.

Subsec. (l). Pub. L. 113–291, §321(4), redesignated subsec. (l) as (j).

**2013**—Subsec. (a). Pub. L. 113–66, §331(a)(1), substituted "Each report" for "The report for a quarter" and "(f), (g), (h), (i), (j), and (k), and the reports for the second and fourth quarters of a calendar year shall also

contain the information required by subsection (e)" for "(e), and (f)".

Subsec. (d)(1)(A). Pub. L. 113–66, §331(a)(2)(A)(i), substituted ", including an assessment of the manning of units (authorized versus assigned numbers of personnel) for units not scheduled for deployment and the timing of the arrival of personnel into units preparing for deployments." for ", including the extent to which members of the armed forces are serving in positions outside of their military occupational specialty, serving in grades other than the grades for which they are qualified, or both."

Subsec. (d)(1)(B). Pub. L. 113–66, §331(a)(2)(A)(ii), inserted "unit" before "personnel strength".

Subsec. (d)(2). Pub. L. 113–66, §331(a)(2)(B), amended par. (2) generally. Prior to amendment, text read as follows:

"(A) Recruit quality.

"(B) Borrowed manpower.

"(C) Personnel stability."

Subsec. (d)(3), (4). Pub. L. 113–66, §331(a)(2)(C), (D), redesignated par. (4) as (3), substituted "Mission rehearsals" for "Training commitments" in subpar. (D), and struck out former par. (3). Prior to amendment, text of par. (3) read as follows:

"(A) Personnel morale.

"(B) Recruiting status."

Subsec. (d)(5) to (7). Pub. L. 113–66, §331(a)(5)(A), redesignated pars. (5) to (7) of subsec. (d) as pars. (1) to (3), respectively, of subsec. (e).

Subsec. (e). Pub. L. 113–66, §331(a)(4), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 113–66, §331(a)(5)(A), redesignated par. (5) of subsec. (d) as par. (1) of subsec. (e).

Subsec. (e)(1)(E). Pub. L. 113–66, §331(a)(5)(B), struck out subpar. (E) which read as follows: "Condition of nonpacing items."

Subsec. (e)(2). Pub. L. 113–66, §331(a)(5)(A), redesignated par. (6) of subsec. (d) as par. (2) of subsec. (e).

Subsec. (e)(2)(A). Pub. L. 113–66, §331(a)(5)(C)(i), substituted "Depot maintenance" for "Maintenance".

Subsec. (e)(2)(B). Pub. L. 113–66, §331(a)(5)(C)(ii), added subpar. (B).

Subsec. (e)(3). Pub. L. 113–66, §331(a)(5)(A), redesignated par. (7) of subsec. (d) as par. (3) of subsec. (e).

Subsecs. (f), (g). Pub. L. 113–66, §331(a)(3), redesignated subsecs. (e) and (f) as (f) and (g), respectively. Former subsec. (g) redesignated (l).

Subsecs. (h) to (k). Pub. L. 113–66, §331(a)(6), added subsecs. (h) to (k).

Subsec. (l). Pub. L. 113–66, §331(a)(3), redesignated subsec. (g) as (l).

**2008**—Subsec. (a). Pub. L. 110–181, §351(b)(1), substituted "(e), and (f)" for "and (e)".

Subsecs. (f), (g). Pub. L. 110–181, §351(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

**1999**—Pub. L. 106–65, §361(d)(3), repealed Pub. L. 105–261, §373(d)(2). See 1998 Amendment note below.

Subsec. (a). Pub. L. 106–65, §361(e), substituted "45 days" for "30 days".

**1998**—Pub. L. 105–261, §373(d)(2), which directed the repeal of this section effective June 1, 2001, was repealed by Pub. L. 106–65, §361(d)(3).

**1997**—Pub. L. 105–85 substituted "Quarterly reports: personnel and unit readiness" for "Quarterly readiness reports" in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (c) relating to requirement for submission of quarterly readiness reports, matters to be included in reports, and form of reports.

**1996**—Pub. L. 104–201 renumbered section 452 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF PUB. L. 105–261

Pub. L. 105–261, div. A, title III, §373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which provided that the repeal of this section was to be effective June 1, 2001, was repealed by Pub. L. 106–65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

### EFFECTIVE DATE

Pub. L. 104–106, div. A, title III, §361(b), Feb. 10, 1996, 110 Stat. 273, provided that: "Section 452 [now 482] of title 10, United States Code, as added by subsection (a), shall take effect with the calendar-year quarter during which this Act is enacted [enacted Feb. 10, 1996]."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of quarterly reports to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**PROHIBITION ON SUBJECTIVE UPGRADES BY COMMANDERS OF UNIT RATINGS IN MONTHLY READINESS REPORTING ON MILITARY UNITS**

Pub. L. 116–92, div. A, title III, §365, Dec. 20, 2019, 133 Stat. 1328, provided that:

"(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall modify Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3401.02B, on Force Readiness Reporting, to prohibit the commander of a military unit who is responsible for monthly reporting of the readiness of the unit under the instruction from making any upgrade of the overall rating of the unit (commonly referred to as the 'C-rating') for such reporting purposes based in whole or in part on subjective factors.

"(b) WAIVER.—

"(1) IN GENERAL.—The modification required by subsection (a) shall authorize an officer in a general or flag officer grade in the chain of command of a commander described in that subsection to waive the prohibition described in that subsection in connection with readiness reporting on the unit concerned if the officer considers the waiver appropriate in the circumstances.

"(2) REPORTING ON WAIVERS.—Each report on personnel and unit readiness submitted to Congress for a calendar year quarter pursuant to section 482 of title 10, United States Code, shall include information on each waiver, if any, issued pursuant to paragraph (1) during such calendar year quarter."

**QUARTERLY REPORTS ON PERSONNEL AND UNIT READINESS**

Pub. L. 110–181, div. A, title III, §351(c)(2), Jan. 28, 2008, 122 Stat. 71, provided that: "The amendment made by subsection (b) [amending this section] shall apply with respect to the quarterly report required under section 482 of title 10, United States Code, for the second quarter of fiscal year 2009 and each subsequent report required under that section."

**QUARTERLY READINESS REPORT REQUIREMENT**

Pub. L. 105–261, div. A, title III, §373(d)(1), Oct. 17, 1998, 112 Stat. 1992, which provided that effective Jan. 15, 2000, or the date on which the first report of the Secretary of Defense is submitted under section 117(e) of this title, whichever is later, the Secretary of Defense was to cease to submit reports under this section, was repealed by Pub. L. 106–65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

**IMPLEMENTATION PLAN TO EXAMINE READINESS INDICATORS**

Pub. L. 105–85, div. A, title III, §322(b), Nov. 18, 1997, 111 Stat. 1675, directed the Secretary of Defense, not later than Jan. 15, 1998, to submit to the congressional defense committees a plan specifying the manner in which the additional reporting requirement of subsec. (d) of this section would be implemented and the criteria proposed to be used to evaluate the readiness indicators identified in subsec. (d).

**TRANSITION TO COMPLETE REPORT**

Pub. L. 105–85, div. A, title III, §322(d), Nov. 18, 1997, 111 Stat. 1675, provided that until the report under this section for the third quarter of 1998 was submitted, the Secretary of Defense was authorized to omit the information required by subsec. (d) of this section if the Secretary determined that it was impracticable to comply.

## §483. Notifications related to basing decision-making process

(a) NOTIFICATION REQUIRED.—At each point in the decision-making process specified in subsection (b), the Secretary concerned shall notify the congressional defense committees of the decision-making process to be used or the decision-making process used, whichever applies—

(1) to select a military installation to serve as the first permanent location for a new major headquarters, covered military unit, or major weapon system; or

(2) to make a permanent change in the basing of a major headquarters, covered military unit, or major weapon system by relocating the major headquarters, covered military unit, or major weapon system from its current military installation to a different military installation.

(b) DEADLINES FOR SUBMISSION OF NOTICE.—The Secretary concerned shall provide the

notice required by subsection (a) within seven days after each of the following decision points during the decision-making process:

(1) When the Secretary concerned issues any formal internal guidance to begin the decision-making process regarding the location or relocation of a major headquarters, covered military unit, or major weapon system.

(2) When the Secretary concerned selects between two and five military installations as the most likely candidate locations for a major headquarters, covered military unit, or major weapon system in order to subject those installations to additional analysis.

(3) When the Secretary concerned selects a specific military installation as the preferred location for the major headquarters, covered military unit, or major weapon system.

(c) REQUIRED ELEMENTS OF NOTIFICATION.—In a notice required by subsection (a), the Secretary concerned shall include at a minimum the following:

(1) A description of the manner in which the joint and all-domain training capabilities at each candidate location, if applicable to the type of basing decision-making process at issue, will be or was, whichever applies, comparatively analyzed among candidate military installations, separate from and in addition to the mission criteria to be used or that was used to make the basing decision.

(2) A description of the manner in which the airspace and training areas available at each candidate location, if applicable to the type of basing decision-making process at issue, will be or was, whichever applies, comparatively analyzed among candidate military installations, separate from and in addition to the mission criteria to be used or that was used to make the basing decision.

(3) A description of the manner in which community support for the basing decision-making process described in subsection (a) will be or was, whichever applies, comparatively analyzed among candidate military installations, including consultation with appropriate State officials and officials of units of local government in which each installation is located regarding matters affecting the local community, such as transportation, utility infrastructure, housing, education, and family support activities. In any case in which the Secretary concerned selects as the preferred location a military installation with less community support compared to other locations, as indicated by such a comparative analysis, an explanation of the operational considerations that formed the basis for such selection.

(4) An explanation of how each candidate location will be or was, whichever applies, scored against the factors referred to in the preceding paragraphs, including the weight assigned to each factor.

(5) A summary of any internal score cards that will be or were, whichever applies, used to make the basing decision.

(6) With respect to any decision of the Secretary concerned that would result in a significant increase in the number of members of the Armed Forces assigned to a military installation, a description of the consultation with appropriate State and local entities regarding the basing decision to ensure consideration of matters affecting the local community, including requirements for transportation, utility infrastructure, housing, education, and family support activities.

(d) NOTICE AND WAIT REQUIREMENTS.—No irrevocable action may be taken to effect or implement a basing decision reached through the decision-making process described in subsection (a) until the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, the notice referred to in subsection (b)(3) regarding a preferred location for the major headquarters, covered military unit, or major weapon system.

(e) ANNUAL REPORTING REQUIREMENT.—

(1) REPORT REQUIRED.—Not later than 10 days after the date on which the budget request for a fiscal year is submitted to Congress under section 1105 of title 31, the Secretary concerned shall submit to the Committees on Armed Services of the House of Representatives and the Senate

a report providing the following:

(A) An update on the status and anticipated completion date of each decision-making process that was commenced or was underway during the previous two fiscal years regarding the location or relocation of a major headquarters, covered military unit, or major weapon system.

(B) A list and description of anticipated basing decisions to be made regarding the location or relocation of a major headquarters, covered military unit, or major weapon system over the period covered by the future-years defense plan.

(C) A timeline for a congressional engagement plan to brief the Committees on Armed Services of the House of Representatives and the Senate during the decision-making process and when decision notifications would be provided to interested Members of Congress.

(2) ELEMENTS OF REPORT.—To satisfy the requirements of paragraph (1)(B), a report under this subsection shall include at a minimum the following:

(A) An estimate of the number of members of the armed forces and civilian personnel potentially impacted by the basing decision.

(B) The locations to be considered, if already known.

(C) The expected timeline for beginning the decision-making process and reaching a final determination.

(f) DEFINITIONS.—In this section:

(1) The term "covered military unit" means a unit of the armed forces whose initial assignment to a military installation or relocation from a military installation to a different military installation requires the preparation of an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) The term "major headquarters" means the headquarters of a military unit or command that is the appropriate command of a general officer or flag officer.

(3) The term "major weapon system" means a weapon system that is treatable as a major system under section 3041(a) and (b) of this title.

(4) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(5) The term "Secretary concerned" means—

(A) the Secretary of the military department concerned; and

(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and the Joint Staff.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), div. B, title XXVIII, §2871(b), Jan. 1, 2021, 134 Stat. 4294, 4363; Pub. L. 117–81, div. A, title X, §1081(a)(10), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 117–263, div. B, title XXVIII, §2861, Dec. 23, 2022, 136 Stat. 3010; Pub. L. 118–159, div. B, title XXVIII, §2801, Dec. 23, 2024, 138 Stat. 2247.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (f)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 483, added Pub. L. 105–85, div. A, title III, §323(a), Nov. 18, 1997, 111 Stat. 1675; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A],

title III, §372], Oct. 30, 2000, 114 Stat. 1654, 1654A–80, related to reports on transfers from high-priority readiness appropriations, prior to repeal by Pub. L. 113–66, div. A, title X, §1084(a)(1)(A), Dec. 26, 2013, 127 Stat. 871.

**AMENDMENTS**

**2024**—Subsec. (f)(4). Pub. L. 118–159 struck out ", which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam" before period at end.

**2022**—Subsec. (c)(6). Pub. L. 117–263 added par. (6).

**2021**—Subsec. (f)(3). Pub. L. 117–81 inserted "this" before "title".

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was executed by substituting "section 3041(a) and (b) of this title" for "section 2302(5) of title". Section 1806(c)(2) of Pub. L. 116–283 first redesignated section 2302(5) of this title as section 3041(a) and subsequently designated the third sentence thereof as subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §484. Quarterly cyber operations briefings

(a) BRIEFINGS REQUIRED.—The Under Secretary of Defense for Policy, the Commander of United States Cyber Command, and the Chairman of the Joint Chiefs of Staff, or designees from each of their offices, shall provide to the congressional defense committees quarterly briefings on all offensive and significant defensive military operations in cyberspace, including clandestine cyber activities, carried out by the Department of Defense during the immediately preceding quarter.

(b) ELEMENTS.—Each briefing under subsection (a) shall include, with respect to the military operations in cyberspace described in such subsection, the following:

(1) An update, set forth separately for each applicable geographic and functional command, that describes the operations carried out in the area of operations of that command or by that command.

(2) An update, set forth for each applicable geographic and functional command, that describes defensive cyber operations executed to protect or defend forces, networks, and equipment in the area of operations of that command.

(3) An update on relevant authorities and legal issues applicable to operations, including any presidential directives and delegations of authority received since the last quarterly update.

(4) An overview of critical operational challenges posed by major adversaries or encountered in operational activities conducted since the last quarterly update.

(5) An overview of the readiness of the Cyber Mission Forces to perform assigned missions that—

(A) addresses all of the abilities of such Forces to conduct cyberspace operations based on capability and capacity of personnel, equipment, training, and equipment condition—

(i) using both quantitative and qualitative metrics; and

(ii) in a way that is common to all military departments; and

(B) is consistent with readiness reporting pursuant to section 482 of this title.

(6) Any other matters that the briefers determine to be appropriate.

(c) DOCUMENTS.—Each briefing under subsection (a) shall include a classified placemat, summarizing the elements specified in paragraphs (1), (2), (3), and (5) of subsection (b), and an unclassified memorandum, summarizing the briefing's contents.

(Added Pub. L. 112–239, div. A, title IX, §939(a), Jan. 2, 2013, 126 Stat. 1888; amended Pub. L. 115–91, div. A, title XVI, §1632(a), Dec. 12, 2017, 131 Stat. 1738; Pub. L. 116–92, div. A, title XVI, §1634(a), Dec. 20, 2019, 133 Stat. 1747; Pub. L. 116–283, div. A, title XVII, §1703, Jan. 1, 2021, 134 Stat. 4081.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 484, added Pub. L. 105–85, div. A, title III, §324(a)(1), Nov. 18, 1997, 111 Stat. 1677, which related to annual report on aircraft inventory, was repealed by Pub. L. 112–81, div. A, title X, §1061(6)(A), Dec. 31, 2011, 125 Stat. 1583.

### AMENDMENTS

**2021**—Subsecs. (a) to (c). Pub. L. 116–283 added subsecs. (a) to (c) and struck out former subsecs. (a) and (b) which related to required quarterly cyber operations briefings and their elements.

**2019**—Subsec. (b)(4), (5). Pub. L. 116–92 added par. (4) and redesignated former par. (4) as (5).

**2017**—Pub. L. 115–91 designated existing provisions as subsec. (a), inserted heading, substituted "congressional defense committees" for "Committees on Armed Services of the House of Representatives and the Senate", and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title XVI, §1634(d), Dec. 20, 2019, 133 Stat. 1748, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Dec. 20, 2019]."

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title XVI, §1632(b), Dec. 12, 2017, 131 Stat. 1738, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 12, 2017], and shall apply with respect to briefings required [to] be provided under section 484 of title 10, United States Code, on or after that date."

### INITIAL BRIEFING

Pub. L. 112–239, div. A, title IX, §939(b), Jan. 2, 2013, 126 Stat. 1888, provided that: "The first briefing required under section 484 of title 10, United States Code, as added by subsection (a), shall be provided not later than March 1, 2013."

## §485. Quarterly briefings on counterterrorism operations, irregular warfare, and sensitive activities

(a) BRIEFINGS REQUIRED.—The Secretary of Defense shall provide to the congressional defense committees quarterly briefings on counterterrorism operations and related activities (including the use of military force under the notion of collective self-defense of foreign partners), irregular warfare activities, and other sensitive activities conducted by the Department of Defense.

(b) ELEMENTS.—Each briefing under subsection (a) shall include each of the following:

(1) A global update on activity within each geographic combatant command and how such activity supports the respective theater campaign plan.

(2) An overview of authorities and legal issues, including limitations.

(3) An overview of interagency activities and initiatives.

(4) Any other matters the Secretary considers appropriate.

(Added Pub. L. 113–66, div. A, title X, §1042(a)(1), Dec. 26, 2013, 127 Stat. 857; amended Pub. L. 114–328, div. A, title X, §1031(a), (b), Dec. 23, 2016, 130 Stat. 2389; Pub. L. 117–81, div. A, title X, §1031, Dec. 27, 2021, 135 Stat. 1900; Pub. L. 118–159, div. A, title XII, §1204(a), Dec. 23, 2024, 138 Stat. 2094.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 485, added Pub. L. 105–261, div. A, title IX, §923(b)(1), Oct. 17, 1998, 112 Stat. 2105; amended Pub. L. 106–65, div. A, title IX, §931, title X, §1067(1), Oct. 5, 1999, 113 Stat. 726, 774; Pub. L. 107–107, div. A, title IX, §922, Dec. 28, 2001, 115 Stat. 1198; Pub. L. 110–417, [div. A], title II, §241(a), Oct. 14, 2008, 122 Stat. 4395, related to biennial reports on joint and service concept development and experimentation, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(7)(A), Dec. 31, 2011, 125 Stat. 1583.

**AMENDMENTS**

**2024**—Pub. L. 118–159, §1204(a)(1), substituted "Quarterly briefings on counterterrorism operations, irregular warfare, and sensitive activities" for "Monthly counterterrorism operations briefings" in section catchline.

Subsec. (a). Pub. L. 118–159, §1204(a)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall provide to the congressional defense committees monthly briefings outlining Department of Defense counterterrorism operations and related activities, including the use of military force under the notion of collective self-defense of foreign partners."

**2021**—Subsec. (a). Pub. L. 117–81 inserted ", including the use of military force under the notion of collective self-defense of foreign partners" after "activities".

**2016**—Pub. L. 114–328, §1031(b), substituted "Monthly" for "Quarterly" in section catchline.

Subsec. (a). Pub. L. 114–328, §1031(a), substituted "monthly" for "quarterly".

## [§486. Repealed. Pub. L. 118–159, div. A, title V, §566(b)(1), Dec. 23, 2024, 138 Stat. 1905]

Section, added Pub. L. 117–81, div. A, title V, §549G(a)(1), Dec. 27, 2021, 135 Stat. 1727; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(9), Dec. 23, 2024, 138 Stat. 2203, required the Secretary of each military department to submit annual reports on racial, ethnic, and sex demographics in the military justice system and required the Secretary of Defense to forward any reports received to Congress.

A prior section 486, added Pub. L. 106–65, div. A, title II, §241(a)(1), Oct. 5, 1999, 113 Stat. 549, related to quadrennial report on emerging operational concepts, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(8)(A), Dec. 31, 2011, 125 Stat. 1583.

## [§487. Repealed. Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 117–263, div. A, title XVI, §1651, Dec. 23, 2022, 136 Stat. 2947, required biannual briefing on missile defense and related activities by specified officials. See section 5552 of this title.

A prior section 487, added Pub. L. 106–65, div. A, title IX, §923(b)(1), Oct. 5, 1999, 113 Stat. 724; amended Pub. L. 108–136, div. A, title V, §541(c), Nov. 24, 2003, 117 Stat. 1477; Pub. L. 108–375, div. A, title X, §1084(d)(4), Oct. 28, 2004, 118 Stat. 2061, related to annual report on unit operations tempo and personnel tempo, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(9)(A), Dec. 31, 2011, 125 Stat. 1583.

## §488. Management and review of electromagnetic spectrum

(a) ORGANIZATION.—The Secretary of Defense shall—

(1) ensure the effective organization and management of the electromagnetic spectrum used by

the Department of Defense; and

(2) establish an enduring review and evaluation process that—

(A) considers all requirements relating to such spectrum; and

(B) ensures that all users of such spectrum, regardless of the classification of such uses, are involved in the decision-making process of the Department concerning the potential sharing, reassigning, or reallocating of such spectrum, or the relocation of the uses by the Department of such spectrum.

(b) REPORTS.—(1) From time to time as the Secretary and the Chairman of the Joint Chiefs of Staff determine useful for the effective oversight of the access by the Department to electromagnetic spectrum, but not less frequently than every two years, the Secretary and the Chairman shall jointly submit to the congressional defense committees a report on national policy plans regarding implications for such access in bands identified for study for potential reallocation, or under consideration for potential reallocation, by the Policy and Plans Steering Group established by the National Telecommunications and Information Administration.

(2) Each report under paragraph (1) shall address, with respect to the electromagnetic spectrum used by the Department that is covered by the report, the implications to the missions of the Department resulting from sharing, reassigning, or reallocating the spectrum, or relocating the uses by the Department of such spectrum, if the Secretary and the Chairman jointly determine that such sharing, reassigning, reallocating, or relocation—

(A) would potentially create a loss of essential military capability to the missions of the Department, as determined under feasibility assessments to ensure comparable capability; or

(B) would not likely be possible within the 10-year period beginning on the date of the report.

(Added Pub. L. 108–136, div. A, title X, §1054(a), Nov. 24, 2003, 117 Stat. 1615; amended Pub. L. 113–66, div. A, title X, §1072(a), (b)(1), Dec. 26, 2013, 127 Stat. 868, 869; Pub. L. 113–291, div. A, title X, §1071(f)(7), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–328, div. A, title X, §1065(a)(1), Dec. 23, 2016, 130 Stat. 2409.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section required Secretary of Defense, in consultation with Director of National Intelligence and Secretary of Commerce, to prepare strategic plan for the management of the electromagnetic spectrum.

**2014**—Subsec. (a). Pub. L. 113–291 inserted a comma after "Every three years" in introductory provisions.

**2013**—Pub. L. 113–66, §1072(b)(1), struck out ": biennial strategic plan" after "spectrum" in section catchline.

Subsec. (a). Pub. L. 113–66, §1072(a)(1), substituted "three years" for "other year, and in time for submission to Congress under subsection (b),", inserted ", in consultation with the Director of National Intelligence and the Secretary of Commerce," after "Secretary of Defense", substituted "the national security of the United States. Each such strategic plan shall include each of the following:" for "the mission of the Department of Defense.", and added pars. (1) to (3).

Subsec. (b). Pub. L. 113–66, §1072(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 113–66, §1072(a)(3), designated existing provisions as par. (1) and added par. (2).

Pub. L. 113–66, §1072(a)(2), redesignated subsec. (b) as (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ISSUANCE OF INSTRUCTION OR DIRECTIVE

Pub. L. 114–328, div. A, title X, §1065(b), Dec. 23, 2016, 130 Stat. 2410, provided that: "The Secretary of Defense shall—

"(1) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], issue a Department of Defense Instruction or a Department of Defense Directive to carry out section 488(a) of title 10, United States Code, as amended by subsection (a); and

"(2) upon the date of the issuance of the instruction or directive issued under paragraph (1), submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] such instruction or directive."

## [§489. Repealed. Pub. L. 113–291, div. A, title III, §331(a), Dec. 19, 2014, 128 Stat. 3344]

Section, added Pub. L. 108–375, div. A, title X, §1033(a), Oct. 28, 2004, 118 Stat. 2047, related to annual report on Department of Defense operation and financial support for military museums.

## [§490. Repealed. Pub. L. 112–81, div. A, title X, §1061(10)(A), Dec. 31, 2011, 125 Stat. 1583]

Section, added Pub. L. 110–181, div. A, title IX, §912(a), Jan. 28, 2008, 122 Stat. 280; amended Pub. L. 111–84, div. A, title X, §1073(a)(6), Oct. 28, 2009, 123 Stat. 2472, related to management of space cadre personnel and submission of a biennial report.

## [§490a. Renumbered §492]

# CHAPTER 24—NUCLEAR POSTURE

Sec.
491. Nuclear weapons employment strategy of the United States: reports on modification of strategy.
492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system.
492a. Biennial report on the plan for the nuclear weapons stockpile, nuclear weapons complex, nuclear weapons delivery systems, and nuclear weapons command and control system.
492b. Biannual briefing on nuclear weapons and related activities.
493. Reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States.
493a. Industrial base monitoring for B–21 and Sentinel programs.
494. Nuclear force reductions.
495. Strategic delivery systems.
496. Consideration of expansion of nuclear forces of other countries.
497. Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe.
497a. Notification required for reduction or consolidation of dual-capable aircraft based in Europe.
498. Unilateral change in nuclear weapons stockpile of the United States.
499. Annual assessment of cyber resiliency of nuclear command and control system.
499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces.
499b. Participation in United States Strategic Command strategic deterrence exercises.
499c. Portfolio management framework for nuclear forces.

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title XVI, §1624(1), Dec. 23, 2024, 138 Stat. 2173, substituted "Biennial" for "Annual" in item 492a. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title XVI, §§1631, 1632, 1634(a), Dec. 23, 2022, 136 Stat. 2934, 2938, added items 492b, 493a, and 499c.

**2021**—Pub. L. 117–81, div. A, title XVI, §1631, Dec. 27, 2021, 135 Stat. 2089, added item 499b.

**2019**—Pub. L. 116–92, div. A, title XVI, §1665(c)(2), Dec. 20, 2019, 133 Stat. 1774, added item 492a.

**2017**—Pub. L. 115–91, div. A, title XVI, §§1651(b), 1652(b), Dec. 12, 2017, 131 Stat. 1757, 1758, added items 499 and 499a.

**2013**—Pub. L. 113–66, div. A, title X, §1051(b)(2), Dec. 26, 2013, 127 Stat. 859, added item 497a.

Pub. L. 112–239, div. A, title X, §§1031(b)(1), (3)(C)(i), 1033(b)(2)(A), 1035(b), 1036(b), 1037(b)(2), 1038(b), Jan. 2, 2013, 126 Stat. 1918, 1919, 1921, 1924, 1925, 1927, added chapter heading and items 491 to 498.

## §491. Nuclear weapons employment strategy of the United States: reports on modification of strategy

(a) REPORTS.—By not later than 60 days before the date on which the President implements a nuclear weapons employment strategy of the United States that differs from the nuclear weapons employment strategy of the United States then in force, the President shall submit to Congress a report setting forth the following:

(1) A description of the modifications to the nuclear weapons employment strategy, plans, and options of the United States made by the strategy so issued.

(2) An assessment of effects of such modification for the nuclear posture of the United States.

(3) The implication of such changes on the flexibility and resilience of the strategic forces of the United States and the ability of such forces to support the goals of the United States with respect to nuclear deterrence, extended deterrence, assurance, and defense.

(4) The extent to which such modifications include an increased reliance on conventional or non-nuclear global strike capabilities or missile defenses of the United States.

(b) ANNUAL BRIEFINGS.—Not later than March 15 of each year, the Secretary of Defense shall provide to the congressional defense committees a briefing regarding the nuclear weapons employment strategy, plans, and options of the United States.

(c) REPORTS ON NUCLEAR POSTURE REVIEW IMPLEMENTATION STUDY DECISIONS .—During each of fiscal years 2022 through 2031, not later than 60 days before the date on which the President carries out the results of the decisions made pursuant to a Nuclear Posture Review Implementation Study that would alter the nuclear weapons employment strategy, guidance, plans, or options of the United States, the President shall—

(1) ensure that the report required by section 492a of this title is transmitted to Congress, if so required under such section;

(2) ensure that the report required under section 494(a)(2)(A) of this title is transmitted to Congress, if so required under such section; and

(3) transmit to the congressional defense committees a report providing the high-, medium-, and low- confidence assessments of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) as to whether the United States will have significant warning of a strategic surprise or breakout caused by foreign nuclear weapons developments.

(Added Pub. L. 112–81, div. A, title X, §1046(b)(1), Dec. 31, 2011, 125 Stat. 1579; amended Pub. L. 112–239, div. A, title X, §§1031(a), 1032, Jan. 2, 2013, 126 Stat. 1917, 1919; Pub. L. 113–66, div. A, title X, §1052(b), Dec. 26, 2013, 127 Stat. 861; Pub. L. 113–291, div. A, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 117–263, div. A, title XVI, §1637, Dec. 23, 2022, 136 Stat. 2940; Pub. L. 118–31, div. A, title XVIII, §1801(a)(8), Dec. 22, 2023, 137 Stat. 684.)

### EDITORIAL NOTES

### CODIFICATION

Section was formerly part of chapter 23 of this title, prior to being transferred to this chapter by Pub. L. 112–239, §1031(a)(1).

## AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31 substituted "pursuant to a" for "pursuant to the a" in introductory provisions.

**2022**—Subsec. (c). Pub. L. 117–263, §1637(1), (2), struck out "2010" after "Reports on" in heading and substituted "2022 through 2031" for "2012 through 2021" and "a" for "2010" in introductory provisions.

Subsec. (c)(1). Pub. L. 117–263, §1637(3), added par. (1) and struck out former par. (1) which read as follows: "ensure that the annual report required under section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is transmitted to Congress, if so required;".

**2014**—Subsec. (c)(3). Pub. L. 113–291 substituted "(50 U.S.C. 3003(4))" for "(50 U.S.C. 401a(4))".

**2013**—Pub. L. 112–239, §1031(a)(2)(A)–(D), inserted "weapons" after "Nuclear" in section catchline, substituted "nuclear weapons employment strategy" for "nuclear employment strategy" in two places in introductory provisions and "to the nuclear weapons employment strategy, plans, and options of" for "to nuclear employment strategy of" in par. (1), and added par. (4).

Subsec. (a). Pub. L. 112–239, §1032(a), substituted "By not later than 60 days before the date on which the President implements" for "On the date on which the President issues" in introductory provisions.

Pub. L. 112–239, §1031(a)(2)(E), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 112–239, §1031(a)(2)(F), added subsec. (b).

Subsec. (c). Pub. L. 113–66, §1052(b), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows:

"(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system of the United States that is reported to the Secretary of Defense or the Nuclear Weapons Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

"(2) In this subsection, the term 'anomaly' means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system."

Pub. L. 112–239, §1031(a)(2)(F), added subsec. (c).

Subsec. (d). Pub. L. 113–66, §1052(b)(2), redesignated subsec. (d) as (c).

Pub. L. 112–239, §1032(b), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REPORTS AND BRIEFINGS ON RECOMMENDATIONS OF THE CONGRESSIONAL COMMISSION ON THE STRATEGIC POSTURE OF THE UNITED STATES

Pub. L. 118–159, div. A, title XVI, §1637(a), Dec. 23, 2024, 138 Stat. 2180, provided that:

"(a) STATEMENT OF POLICY.—It is the policy of the United States that—

"(1) the deterrence of strategic attacks, and in particular nuclear attacks, against the United States and its allies is the highest defense priority of the United States; and

"(2) the Secretary of Defense and the Secretary of Energy are provided with all necessary authorities and resources required to ensure the maintenance of a modern, effective strategic deterrent to meet the emerging suite of unprecedented strategic threats against the United States."

### STATEMENT OF POLICY ON USE OF ARTIFICIAL INTELLIGENCE EFFORTS

Pub. L. 118–159, div. A, title XVI, §1638(b), Dec. 23, 2024, 138 Stat. 2181, provided that: "It is the policy of the United States that the use of artificial intelligence efforts should not compromise the integrity of nuclear safeguards, whether through the functionality of weapons systems, the validation of communications from command authorities, or the principle of requiring positive human actions in execution of decisions by the President with respect to the employment of nuclear weapons."

### CONGRESSIONAL NOTIFICATION OF NUCLEAR COOPERATION BETWEEN RUSSIA AND CHINA

Pub. L. 118–31, div. A, title XVI, §1649, Dec. 22, 2023, 137 Stat. 601, provided that: "If the Commander of the United States Strategic Command determines, after consultation with the Director of the Defense Intelligence Agency, that militarily significant cooperation between the Russian Federation and the People's Republic of China related to nuclear or strategic capabilities is likely to occur or has likely occurred, the

Commander shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification of such determination that includes—

"(1) a description of the military significant cooperation; and

"(2) an assessment of the implication of such cooperation for the United States with respect to nuclear deterrence, extended deterrence, assurance, and defense."

## PLAN TO TRAIN OFFICERS IN NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS

Pub. L. 115–232, div. A, title XVI, §1668, Aug. 13, 2018, 132 Stat. 2156, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of the Air Force, the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the Commander of the United States Strategic Command, shall develop a plan to train, educate, manage, and track officers of the Armed Forces in nuclear command, control, and communications.

"(b) ELEMENTS.—The plan required by subsection (a) shall address—

"(1) manpower requirements at various grades;

"(2) desired career paths and promotion timing; and

"(3) any other matters the Secretary of Defense considers relevant to develop a mature cadre of officers with nuclear command, control, and communications expertise.

"(c) SUBMISSION OF PLAN.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan required by subsection (a).

"(d) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall implement the plan required by subsection (a)."

## ESTABLISHMENT OF NUCLEAR COMMAND AND CONTROL INTELLIGENCE FUSION CENTER

Pub. L. 115–91, div. A, title XVI, §1655, Dec. 12, 2017, 131 Stat. 1760, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense and the Director of National Intelligence shall jointly establish an intelligence fusion center to effectively integrate and unify the protection of nuclear command, control, and communications programs, systems, and processes and continuity of government programs, systems, and processes.

"(b) CHARTER.—In establishing the fusion center under subsection (a), the Secretary and the Director shall develop a charter for the fusion center that includes the following:

"(1) To carry out the duties of the fusion center, a description of—

"(A) the roles and responsibilities of officials and elements of the Federal Government, including a detailed description of the organizational relationships of such officials and the elements of the Federal Government that are key stakeholders;

"(B) the organization reporting chain of the fusion center;

"(C) the staffing of the fusion center;

"(D) the processes of the fusion center; and

"(E) how the fusion center integrates with other elements of the Federal Government.

"(2) The management and administration processes required to carry out the fusion center, including with respect to facilities and security authorities.

"(3) Procedures to ensure that the appropriate number of staff of the fusion center have the security clearance necessary to access information on the programs, systems, and processes that relate, either wholly or substantially, to nuclear command, control, and communications or continuity of government, including with respect to both the programs, systems, and processes that are designated as special access programs (as described in section 4.3 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor Executive order) and the programs, systems, and processes that contain sensitive compartmented information.

"(c) COORDINATION.—In establishing the fusion center under subsection (a), the Secretary and the Director shall coordinate with the elements of the Federal Government that the Secretary and Director determine appropriate.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary and the Director shall jointly submit to the appropriate congressional committees a report containing—

"(A) the charter for the fusion center developed under subsection (b); and

"(B) a plan on the budget and staffing of the fusion center.

"(2) ANNUAL REPORTS.—At the same time as the President submits to Congress the annual budget request under section 1105 of title 31, United States Code, for fiscal year 2019 and each fiscal year thereafter, the Secretary and the Director shall submit to the appropriate congressional committees a report on the fusion center, including, with respect to the period covered by the report—

"(A) any updates to the plan on the budget and staffing of the fusion center;

"(B) any updates to the charter developed under subsection (b); and

"(C) a summary of the activities and accomplishments of the fusion center.

"(3) SUNSET.—No report is required under this subsection after December 31, 2021.

"(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## SECURITY OF NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM FROM COMMERCIAL DEPENDENCIES

Pub. L. 115–91, div. A, title XVI, §1656, Dec. 12, 2017, 131 Stat. 1761, provided that:

"(a) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall certify to the congressional defense committees whether the Secretary uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, to carry out—

"(1) the nuclear deterrence mission of the Department of Defense, including with respect to nuclear command, control, and communications, integrated tactical warning and attack assessment, and continuity of government; or

"(2) the homeland defense mission of the Department, including with respect to ballistic missile defense.

"(b) PROHIBITION AND MITIGATION.—

"(1) PROHIBITION.—Except as provided by paragraph (2), beginning on the date that is one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense may not procure or obtain, or extend or renew a contract to procure or obtain, any equipment, system, or service to carry out the missions described in paragraphs (1) and (2) of subsection (a) that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

"(2) WAIVER.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis for a single one-year period if the Secretary—

"(A) determines such waiver to be in the national security interests of the United States; and

"(B) certifies to the congressional committees that—

"(i) there are sufficient mitigations in place to guarantee the ability of the Secretary to carry out the missions described in paragraphs (1) and (2) of subsection (a); and

"(ii) the Secretary is removing the use of covered telecommunications equipment or services in carrying out such missions.

"(3) DELEGATION.—The Secretary may not delegate the authority to make a waiver under paragraph (2) to any official other than the Deputy Secretary of Defense or the co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of title 10, United States Code.

"(c) DEFINITIONS.—In this section:

"(1) The term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

"(2) The term 'covered foreign country' means any of the following:

"(A) The People's Republic of China.

"(B) The Russian Federation.

"(3) The term 'covered telecommunications equipment or services' means any of the following:

"(A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

"(B) Telecommunications services provided by such entities or using such equipment.

"(C) Telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected

to, the government of a covered foreign country."

## SECURITY CLASSIFICATION GUIDE FOR PROGRAMS RELATING TO NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND NUCLEAR DETERRENCE

Pub. L. 115–91, div. A, title XVI, §1658, Dec. 12, 2017, 131 Stat. 1763, provided that:

"(a) REQUIREMENT FOR SECURITY CLASSIFICATION GUIDE.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall require the issuance of a security classification guide for each covered program to ensure the protection of sensitive information from public disclosure.

"(b) REQUIREMENTS.—Each security classification guide issued pursuant to subsection (a) shall be—

"(1) approved by—

"(A) the Council on Oversight of the National Leadership Command, Control, and Communications System with respect to covered programs under paragraph (1) or (2) of subsection (c) [probably should be "subsection (e)"]; or

"(B) the Nuclear Weapons Council with respect to covered programs under paragraph (3) of such subsection; and

"(2) issued not later than March 19, 2019, with respect to a covered program in existence as of such date.

"(c) ANNUAL NOTIFICATIONS.—On an annual basis during the three-year period beginning on the date of the enactment of this Act [Dec. 12, 2017], the Deputy Secretary of Defense, without delegation, shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the status of implementing subsection (a), including a description of any challenges to such implementation.

"(d) EXCLUSION.—This section shall not apply with respect to restricted data covered by chapter 12 of the Atomic Energy Act of 1954 (42 U.S.C. 2161 et seq.).

"(e) COVERED PROGRAM DEFINED.—In this section, the term 'covered program' means programs of the Department of Defense in existence on or after the date of the enactment of this Act [Dec. 12, 2017] relating to any of the following:

"(1) Continuity of government.

"(2) Nuclear command, control, and communications.

"(3) Nuclear deterrence."

## EVALUATION AND ENHANCED SECURITY OF SUPPLY CHAIN FOR NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND CONTINUITY OF GOVERNMENT PROGRAMS

Pub. L. 115–91, div. A, title XVI, §1659, Dec. 12, 2017, 131 Stat. 1764, provided that:

"(a) EVALUATIONS OF SUPPLY CHAIN VULNERABILITIES.—

"(1) IN GENERAL.—Not later than December 31, 2019, and in accordance with the plan under paragraph (2)(A), the Secretary of Defense shall conduct evaluations of the supply chain vulnerabilities of each covered program.

"(2) PLAN.—

"(A) DEVELOPMENT.—The Secretary shall develop a plan to carry out the evaluations under paragraph (1), including with respect to the personnel and resources required to carry out such evaluations.

"(B) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the plan under subparagraph (A).

"(3) WAIVER.—The Secretary may waive, on a case-by-case basis with respect to a weapons system, a program, or a system of systems, of a covered program, either the requirement to conduct an evaluation under paragraph (1) or the deadline specified in such paragraph if the Secretary certifies to the congressional defense committees before such date that all known supply chain vulnerabilities of such weapons system, program, or system of systems have minimal consequences for the capability of such weapons system, program, or system of systems to meet operational requirements or otherwise satisfy mission requirements.

"(4) RISK MITIGATION STRATEGIES.—In carrying out an evaluation under paragraph (1) with respect to a covered program specified in subparagraph (B) or (C) of subsection (c)(2), the Secretary shall develop strategies for mitigating the risks of supply chain vulnerabilities identified in the course of such evaluation.

"(b) PRIORITIZATION OF CERTAIN SUPPLY CHAIN RISK MANAGEMENT EFFORTS.—

"(1) INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall issue a Department of Defense Instruction, or update such an Instruction, establishing the prioritization of supply chain risk management programs, including supply chain risk management threat assessment reporting, to ensure that acquisition and sustainment programs relating to covered programs receive the highest priority of such supply chain risk management programs and reporting.

"(2) REQUIREMENTS.—

"(A) ESTABLISHMENT.—The Secretary shall establish requirements to carry out supply chain risk management threat assessment collections and analyses under acquisition and sustainment programs relating to covered programs.

"(B) SUBMISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees the requirements established under subparagraph (A).

"(c) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'covered programs' means programs relating to any of the following:

"(A) Nuclear weapons.

"(B) Nuclear command, control, and communications.

"(C) Continuity of government.

"(D) Ballistic missile defense."

## STATEMENT OF POLICY ON THE NUCLEAR TRIAD

Pub. L. 114–92, div. A, title XVI, §1664, Nov. 25, 2015, 129 Stat. 1128, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the triad of strategic nuclear delivery systems plays a critical role in ensuring the national security of the United States; and

"(2) retaining all three legs of the nuclear triad is among the highest priorities of the Department of Defense and will best maintain strategic stability at a reasonable cost, while hedging against potential technical problems and vulnerabilities.

"(b) STATEMENT OF POLICY.—It is the policy of the United States—

"(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

"(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise missiles;

"(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

"(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

"(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

"(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent;

"(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members; and

"(5) to achieve a modern and responsive nuclear infrastructure to support the full spectrum of deterrence requirements."

Pub. L. 113–291, div. A, title XVI, §1652, Dec. 19, 2014, 128 Stat. 3654, provided that: "It is the policy of the United States—

"(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

"(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise

missiles;

"(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

"(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

"(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

"(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent; and

"(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF REPORTING FUNCTIONS SPECIFIED IN SECTION 491 OF TITLE 10, UNITED STATES CODE**

Memorandum of President of the United States, June 19, 2013, 78 F.R. 37923, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting functions conferred upon the President by section 491 of title 10, United States Code.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## §492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system

(a) BIENNIAL ASSESSMENTS.—(1) For each even-numbered year, each covered official shall assess the safety, security, reliability, sustainability, performance, and military effectiveness of, and the ability to meet operational availability requirements for, the systems described in paragraph (2) for which such official has responsibility.

(2) The systems described in this paragraph are the following:

(A) Each type of delivery platform for nuclear weapons.

(B) The nuclear command and control system.

(b) BIENNIAL REPORT.—(1) Not later than December 1 of each even-numbered year, each covered official shall submit to the Secretary of Defense and the Nuclear Weapons Council established by section 179 of this title a report on the assessments conducted under subsection (a).

(2) Each report under paragraph (1) shall include the following:

(A) The results of the assessment.

(B) An identification and discussion of any capability gaps or shortfalls with respect to the systems described in subsection (a)(2) covered under the assessment.

(C) An identification and discussion of any risks with respect to meeting mission or capability requirements.

(D) In the case of an assessment by the Commander of the United States Strategic Command, if the Commander identifies any deficiency with respect to a nuclear weapons delivery platform covered under the assessment, a discussion of the relative merits of any other nuclear weapons delivery platform type or compensatory measure that would accomplish the mission of such nuclear weapons delivery platform.

(E) An identification and discussion of any matter having an adverse effect on the capability of the covered official to accurately determine the matters covered by the assessment.

(c) REPORT TO PRESIDENT AND CONGRESS.—(1) Not later than March 1 of each year following a year for which a report under subsection (b) is submitted, the Secretary of Defense shall submit to the President a report containing—

(A) each report under subsection (b) submitted during the previous year, as originally submitted to the Secretary;

(B) any comments that the Secretary considers appropriate with respect to each such report;

(C) any conclusions that the Secretary considers appropriate with respect to the safety, security, reliability, sustainability, performance, or military effectiveness of the systems described in subsection (a)(2); and

(D) any other information that the Secretary considers appropriate.

(2) Not later than March 15 of each year during which a report under paragraph (1) is submitted, the President shall transmit to the congressional defense committees the report submitted to the President under paragraph (1), including any comments the President considers appropriate.

(3) Each report under this subsection may be in classified form if the Secretary of Defense determines it necessary.

(d) COVERED OFFICIAL DEFINED.—In this section, the term "covered official" means—

(1) the Commander of the United States Strategic Command;

(2) the Director of the Strategic Systems Program of the Navy;

(3) the Commander of the Global Strike Command of the Air Force; and

(4) the Commander of the United States Air Forces in Europe.

(Added Pub. L. 112–81, div. A, title X, §1041(a), Dec. 31, 2011, 125 Stat. 1573, §490a; renumbered §492, Pub. L. 112–239, div. A, title X, §1031(b)(3)(A)(i), Jan. 2, 2013, 126 Stat. 1918; amended Pub. L. 113–291, div. A, title XVI, §1642, Dec. 19, 2014, 128 Stat. 3650; Pub. L. 116–92, div. A, title XVI, §1666, Dec. 20, 2019, 133 Stat. 1774.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (d)(4). Pub. L. 116–92 added par. (4).

**2014**—Subsec. (a)(1). Pub. L. 113–291 inserted ", and the ability to meet operational availability requirements for," after "military effectiveness of".

**2013**—Pub. L. 112–239 renumbered section 490a of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### INITIAL ASSESSMENT AND REPORTS

Pub. L. 112–81, div. A, title X, §1041(b), Dec. 31, 2011, 125 Stat. 1574, as amended by Pub. L. 112–239, div. A, title X, §1031(b)(4), Jan. 2, 2013, 126 Stat. 1919; Pub. L. 113–66, div. A, title X, §1091(b)(6), Dec. 26, 2013, 127 Stat. 876, provided that: "Not later than 30 days after the date of enactment of this Act [Dec. 31, 2011], each covered official, as such term is defined in subsection (d) of section 492 of title 10, United States Code, shall conduct an initial assessment as described by subsection (a) of such section and submit an initial report as described by subsection (b) of such section. The requirements of subsection (c) of such section shall apply with respect to the report submitted under this subsection."

[Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(6) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.]

## §492a. Biennial report on the plan for the nuclear weapons stockpile, nuclear weapons complex, nuclear weapons delivery systems, and nuclear weapons command and control system

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 30 days after the submission to Congress of the budget of the President under section 1105(a) of title 31, United States Code, for each of the odd-numbered fiscal years 2013 through 2029, the President, in consultation with the Secretary of Defense and the Secretary of Energy, shall transmit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a detailed report on the plan for the nuclear weapons stockpile, nuclear weapons complex, nuclear weapons delivery systems, and nuclear weapons command and control system.

(2) ELEMENTS.—Each report required under paragraph (1) shall include the following:

(A) A detailed description of the plan to enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States.

(B) A detailed description of the plan to sustain and modernize the nuclear weapons complex, including improving the safety of facilities, modernizing the infrastructure, and maintaining the key capabilities and competencies of the nuclear weapons workforce, including designers and technicians.

(C) A detailed description of the plan to maintain, modernize, and replace delivery systems for nuclear weapons.

(D) A detailed description of the plan to sustain and modernize the nuclear weapons command and control system.

(E) A detailed description of any plans to retire, dismantle, or eliminate any nuclear warheads or bombs, nuclear weapons delivery systems, or any platforms (including silos and submarines) which carry such nuclear warheads, bombs, or delivery systems.

(F) In accordance with paragraph (3), a detailed estimate of the budget requirements associated with sustaining and modernizing the nuclear deterrent of the United States and the nuclear weapons stockpile of the United States, including the costs associated with the plans outlined under subparagraphs (A) through (E), over the 10-year period following the date of the report, including the applicable and appropriate costs associated with the procurement, military construction, operation and maintenance, and research, development, test, and evaluation accounts of the Department of Defense. The Secretary may include information and data for a period beyond such 10-year period if the Secretary determines that such information and data is accurate and useful in understanding the long-term nuclear modernization plan.

(G) A detailed description of the steps taken to implement the plan submitted in the previous report, including difficulties encountered in implementing the plan in the previous report.

(3) BUDGET ESTIMATE CONTENTS AND METHODOLOGY.— Each budget estimate under paragraph (2)(F) shall include a detailed description of the costs included in such estimate and the methodology used to create such estimate.

(4) EXTENSION OF DEADLINE FOR REPORT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary of Defense and the Secretary of Energy jointly determine that a report required by paragraph (1) for a fiscal year will not be able to be transmitted to the committees specified in that paragraph by the time required under that paragraph, such Secretaries shall—

(i) promptly, and before the submission to Congress of the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code, notify those committees of the expected date for the transmission of the report; and

(ii) not later than 30 days after the submission of that budget to Congress, provide a briefing to those committees on the content of the report.

(B) LIMITATION.—In no case may the President transmit a report required by paragraph (1) for a fiscal year to the committees specified in that paragraph later than 60 days after the submission to Congress of the budget of the President for that fiscal year.

(b) ESTIMATE OF COSTS BY CONGRESSIONAL BUDGET OFFICE.—Not later than July 1 of each year in which the President transmits a report required under subsection (a), the Director of

the Congressional Budget Office shall submit to the congressional defense committees a report that includes—

(1) an estimate of the costs during the 10-year period beginning on the date of such report associated with fielding and maintaining the current nuclear weapons and nuclear weapon delivery systems of the United States;

(2) an estimate of the costs during such period of any life extension, modernization, or replacement of any current nuclear weapons or nuclear weapon delivery systems of the United States that is anticipated as of the date of such report, including an estimate of the acquisition costs during such period for programs relating to such life extension, modernization, or replacement;

(3) an estimate of the relative percentage of total defense spending during such period represented by the costs estimated under subparagraphs (A) and (B); and

(4) an estimate of the relative percentage of total acquisition costs of the military departments and of the Department of Defense during such period represented by the acquisition costs estimated under subparagraph (B).

(c) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall—

(1) periodically review reports submitted under subsection (a) for accuracy and completeness with respect to the matters described in paragraphs (2)(F) and (3) of such subsection; and

(2) submit to the congressional defense committees a summary of each such review.

(d) INDEPENDENT ASSESSMENT BY UNITED STATES STRATEGIC COMMAND.—

(1) IN GENERAL.—Not later than 150 days after the submission to Congress of the budget of the President under section 1105(a) of title 31, for each fiscal year the Commander of United States Strategic Command shall complete an independent assessment of any operational effects of the sufficiency of the execution, as of the date of the assessment, of the acquisition, construction, and recapitalization programs of the Department of Defense and the National Nuclear Security Administration to modernize the nuclear forces of the United States and meet current and future deterrence requirements.

(2) CONTENTS.—Each assessment required under paragraph (1) shall include an evaluation of the ongoing execution of modernization programs associated with—

(A) the nuclear weapons design, production, and sustainment infrastructure;

(B) the nuclear weapons stockpile;

(C) the delivery systems for nuclear weapons; and

(D) the nuclear command, control, and communications system.

(3) ROUTING AND SUBMISSION.—

(A) SUBMISSION TO NUCLEAR WEAPONS COUNCIL.—Not later than 15 days after completion of an assessment required by paragraph (1), the Commander of United States Strategic Command shall—

(i) submit the assessment to the Chairman of the Nuclear Weapons Council; and

(ii) notify the congressional defense committees that the assessment has been submitted to the Chairman of the Nuclear Weapons Council.

(B) SUBMISSION TO CONGRESS.—Not later than 15 days after the Chairman of the Nuclear Weapons Council receives an assessment required by paragraph (1), the Chairman shall transmit the assessment, without change, to the congressional defense committees.

(Added and amended Pub. L. 116–92, div. A, title XVI, §1665(c)(1), Dec. 20, 2019, 133 Stat. 1773; Pub. L. 116–283, div. A, title XVI, §1633, Jan. 1, 2021, 134 Stat. 4059; Pub. L. 117–263, div. A, title XVI, §1635, Dec. 23, 2022, 136 Stat. 2939; Pub. L. 118–31, div. A, title XVI, §1633, Dec. 22, 2023, 137 Stat. 592; Pub. L. 118–159, div. A, title XVI, §1624, Dec. 23, 2024, 138 Stat. 2173.)

**EDITORIAL NOTES**

**CODIFICATION**

Section, as added and amended by Pub. L. 116–92, is based on Pub. L. 112–81, div. A, title X, §1043, Dec. 31, 2011, 125 Stat. 1576, as amended by Pub. L. 112–239, div. A, title X, §1041(a), Jan. 2, 2013, 126 Stat. 1931; Pub. L. 113–66, div. A, title X, §1054, Dec. 26, 2013, 127 Stat. 861; Pub. L. 113–291, div. A, title XVI, §1643, Dec. 19, 2014, 128 Stat. 3650; Pub. L. 115–91, div. A, title XVI, §1665, Dec. 12, 2017, 131 Stat. 1767; Pub. L. 115–232, div. A, title XVI, §1670, Aug. 13, 2018, 132 Stat. 2157; Pub. L. 116–92, div. A, title XVI, §1665(a), (b), Dec. 20, 2019, 133 Stat. 1773, which was transferred to this chapter and renumbered as this section.

**AMENDMENTS**

**2024**—Pub. L. 118–159, §1624(1), substituted "Biennial" for "Annual" in section catchline.

Subsec. (a)(1). Pub. L. 118–159, §1624(2)(A), inserted "the odd-numbered" after "for each of".

Subsec. (a)(2)(G). Pub. L. 118–159, §1624(2)(B), substituted "report" for "year" in two places.

Subsec. (b). Pub. L. 118–159, §1624(3), struck out par. (1) designation and heading "Budgets for odd-numbered fiscal years" before "Not later than July 1"; redesignated subpars. (A) to (D) of former par. (1) as pars. (1) to (4), respectively; substituted "report required under subsection (a)" for "covered odd-numbered fiscal year report" in introductory provisions; struck out "covered odd-numbered fiscal year" before "report" in pars. (1) and (2); and struck out former pars. (2) and (3) which provided for budget updates in even-numbered fiscal years and defined terms for covered even-numbered and odd-numbered fiscal year reports, respectively.

**2023**—Subsec. (d). Pub. L. 118–31 added subsec. (d).

**2022**—Subsec. (a)(1). Pub. L. 117–263 substituted "2029" for "2024".

**2021**—Subsec. (c)(1). Pub. L. 116–283, §1633(1), substituted "periodically review reports submitted" for "review each report".

Subsec. (c)(2). Pub. L. 116–283, §1633(2), struck out "not later than 180 days after the date on which such report under subsection (a) is submitted," before "submit to the congressional defense committees".

**2019**—Pub. L. 116–92, §1665(c)(1)(D), conformed section designation and catchline to the style of this title.

Pub. L. 116–92, §1665(c)(1)(A)–(C), transferred section 1043 of Pub. L. 112–81, as amended, to this chapter and renumbered it as this section. See Codification note above.

## §492b. Biannual briefing on nuclear weapons and related activities

(a) IN GENERAL.—On or about May 1 and November 1 of each year, the officials specified in subsection (b) shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on matters relating to nuclear weapons policies, operations, technology development, and other similar topics as requested by such committees.

(b) OFFICIALS SPECIFIED.—The officials specified in this subsection are the following:

(1) The Assistant Secretary of Defense for Acquisition.

(2) The Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs.

(3) The Assistant Secretary of Defense for Space Policy.

(4) The Deputy Administrator for Defense Programs of the National Nuclear Security Administration.

(5) The Director for Strategy, Plans, and Policy of the Joint Staff.

(6) The Director for Capability and Resource Integration for the United States Strategic Command.

(c) DELEGATION.—An official specified in subsection (b) may delegate the authority to provide a briefing under subsection (a) to a member of the Senior Executive Service who reports to the official.

(d) TERMINATION.—The requirement to provide a briefing under subsection (a) shall terminate on January 1, 2028.

(Added Pub. L. 117–263, div. A, title XVI, §1631, Dec. 23, 2022, 136 Stat. 2934; amended Pub. L.

118–159, div. A, title XVI, §1621(d)(2), Dec. 23, 2024, 138 Stat. 2171.)

### EDITORIAL NOTES

### CODIFICATION

As enacted by Pub. L. 117–263, "SEC." preceding section designation and catchline text were editorially conformed to the style used in this title.

### AMENDMENTS

**2024**—Subsec. (b)(2). Pub. L. 118–159 substituted "Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs" for "Nuclear, Chemical, and Biological Defense Programs".

## §493. Reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States

Whenever after December 31, 2011, the President proposes a modification of the force structure for the strategic nuclear weapons delivery systems of the United States, the President shall submit to Congress a report on the modification not less than 180 days before the intended effective date of the modification. The report shall include a description of the manner in which such modification will maintain for the United States a range of strategic nuclear weapons delivery systems appropriate for the current and anticipated threats faced by the United States when compared with the current force structure of strategic nuclear weapons delivery systems.

(Added and amended Pub. L. 112–239, div. A, title X, §1031(b)(3)(B), (C)(ii), Jan. 2, 2013, 126 Stat. 1918, 1919; Pub. L. 113–66, div. A, title X, §1091(b)(5), Dec. 26, 2013, 127 Stat. 876; Pub. L. 117–81, div. A, title XVI, §1634, Dec. 27, 2021, 135 Stat. 2091.)

### EDITORIAL NOTES

### CODIFICATION

The text of this section is based on Pub. L. 112–81, div. A, title X, §1077, Dec. 31, 2011, 125 Stat. 1596. Section 1077 of Pub. L. 112–81, formerly classified to section 2514 of Title 50, War and National Defense, was transferred to this section by Pub. L. 112–239, §1031(b)(3)(B)(i)–(iii).

### AMENDMENTS

**2021**—Pub. L. 117–81 inserted "not less than 180 days before the intended effective date of the modification" after "report on the modification".

**2013**—Pub. L. 112–239, §1031(b)(3)(C)(ii), made technical amendments to conform section enumerator and catchline to the style of this title. See Codification note above.

Pub. L. 112–239, §1031(b)(3)(B)(iv), as amended by Pub. L. 113–66, §1091(b)(5), substituted "December 31, 2011," for "the date of the enactment of this Act".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(5) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.

## §493a. Industrial base monitoring for B–21 and Sentinel programs

(a) DESIGNATION.—The Secretary of the Air Force, acting through the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics, shall designate a senior official, who shall report to the Assistant Secretary, to monitor the combined industrial base supporting the acquisition of—

(1) B–21 aircraft; and
(2) the Sentinel intercontinental ballistic missile weapon system.

(b) REQUIREMENTS FOR MONITORING.—In monitoring the combined industrial base described in subsection (a), the senior official designated under such subsection shall—
(1) have the authority to select staff to assist the senior official from among civilian employees of the Department and members of the armed forces, who may provide such assistance concurrently while serving in another position;
(2) monitor the acquisition by the combined industrial base of—
(A) materials, technologies, and components associated with nuclear weapons systems; and
(B) commodities purchased on a large scale;

(3) monitor the hiring or contracting by the combined industrial base of personnel with critical skills; and
(4) assess whether personnel with critical skills and knowledge, intellectual property on manufacturing processes, and facilities and equipment necessary to design, develop, manufacture, repair, and support a program are available and affordable within the scopes of the B–21 aircraft program and the Sentinel intercontinental ballistic missile weapon system program.

(c) ANNUAL REPORT.—At the same time as the submission of the budget of the President pursuant to section 1105(a) of title 31 for a fiscal year, the Secretary shall submit to the congressional defense committees a report with respect to the status of the combined industrial base described in subsection (a).

(Added Pub. L. 117–263, div. A, title XVI, §1632, Dec. 23, 2022, 136 Stat. 2934.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONDITIONAL REQUIREMENTS FOR SENTINEL INTERCONTINENTAL BALLISTIC MISSILE PROGRAM**

Pub. L. 118–159, div. A, title XVI, §1629, Dec. 23, 2024, 138 Stat. 2176, provided that:
"(a) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment shall ensure, to the maximum extent practicable that—
"(1) the contract structure for the Sentinel intercontinental ballistic missile (previously referred to as the 'ground-based strategic weapon') program allows for maximum Federal Government oversight of—
"(A) the Aerospace Vehicle Segment program area;
"(B) the Launch Control Center program area; and
"(C) the Launch Control Facility program area;
"(2) such Federal Government oversight includes Federal Government control of—
"(A) preliminary and critical design reviews entrance criteria, exit criteria; and
"(B) certification of completion at the subsystem level through total system architecture; and
"(3) there are opportunities for competition throughout the lifecycle of the Sentinel intercontinental ballistic missile program, including competition across each of the program areas specified in paragraph (1).
"(b) REPORT.—If the Under Secretary completes a revised Milestone B approval for such program, the Under Secretary shall, not later than 60 days after the date on which the Under Secretary completes such approval, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes a description of how the Under Secretary intends to satisfy the requirements of subsection (a).
"(c) MILESTONE B APPROVAL DEFINED.—In this section, the term 'Milestone B approval' has the meaning given in section 4172 of title 10, United States Code."

## §494. Nuclear force reductions

(a) IMPLEMENTATION OF NEW START TREATY.—
(1) SENSE OF CONGRESS.—It is the Sense of Congress that—

(A) the United States is committed to maintaining a safe, secure, reliable, and credible nuclear deterrent;

(B) the United States should undertake and support an enduring stockpile stewardship program and maintain and modernize nuclear weapons production capabilities and capacities to ensure the safety, security, reliability, and credibility of the United States nuclear deterrent and to meet requirements for hedging against possible international developments or technical problems;

(C) the United States should maintain nuclear weapons laboratories and plants and preserve the intellectual infrastructure, including competencies and skill sets; and

(D) the United States should provide the necessary resources to achieve these goals, using as a starting point the levels set forth in the President's 10-year plan provided to Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(2) INSUFFICIENT FUNDING.—

(A) REPORT.—During each year in which the New START Treaty is in force, if the President determines that an appropriations Act is enacted that fails to meet the resource levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) or if at any time determines that more resources are required to carry out such plan than were estimated, the President shall transmit to the appropriate congressional committees, within 60 days of making such a determination, a report detailing—

(i) a plan to address the resource shortfall;

(ii) if more resources are required to carry out the plan than were estimated—

(I) the proposed level of funding required; and

(II) an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(iii) any effects caused by the shortfall on the safety, security, reliability, or credibility of the nuclear forces of the United States;

(iv) whether and why, in light of the shortfall, remaining a party to the New START Treaty is still in the national interest of the United States; and

(v) a detailed explanation of why the modernization timelines established in the 2010 Nuclear Posture Review are no longer applicable.

(B) PRIOR NOTIFICATION.—If the President transmits a report under subparagraph (A), the President shall notify the appropriate congressional committees of any determination by the President to reduce the number of deployed nuclear warheads of the United States by not later than 60 days before taking any action to carry out such reduction.

(C) EXCEPTION.—The limitation in subparagraph (B) shall not apply to—

(i) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

(ii) nuclear warheads that are retired or awaiting dismantlement on the date of the report under subparagraph (A).

(D) DEFINITIONS.—In this paragraph:

(i) The term "appropriate congressional committees" means—

(I) the congressional defense committees; and

(II) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(ii) The term "New START Treaty" means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(b) ANNUAL REPORT ON THE NUCLEAR WEAPONS STOCKPILE OF THE UNITED STATES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) sustained investments in the nuclear weapons stockpile and the nuclear security complex are needed to ensure a safe, secure, reliable, and credible nuclear deterrent; and

(B) such investments could enable additional future reductions in the hedge stockpile.

(2) REPORT REQUIRED.—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the nuclear weapons stockpile of the United States that includes the following:

(A) An accounting of the weapons in the stockpile as of the end of the fiscal year preceding the submission of the report that includes all weapons in the active and inactive stockpiles, both deployed and non-deployed, and all categories and readiness states of such weapons.

(B) The planned force levels for each category of nuclear weapon over the course of the future-years defense program submitted to Congress under section 221 of this title for the fiscal year following the fiscal year in which the report is submitted.

(c) NET ASSESSMENT OF NUCLEAR FORCE LEVELS REQUIRED WITH RESPECT TO CERTAIN PROPOSALS TO REDUCE THE NUCLEAR WEAPONS STOCKPILE OF THE UNITED STATES.—

(1) IN GENERAL.—If, during any year beginning after December 31, 2021, the President makes a proposal described in paragraph (2)—

(A) the Commander of United States Strategic Command shall conduct a net assessment of the current and proposed nuclear forces of the United States and of other countries that possess nuclear weapons to determine whether the nuclear forces of the United States are anticipated to be capable of meeting the objectives of the United States with respect to nuclear deterrence, extended deterrence, assurance of allies, and defense;

(B) the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the assessment described in subparagraph (A), unchanged, together with the explanatory views of the Secretary, as the Secretary deems appropriate; and

(C) the Administrator of the National Nuclear Security Administration shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the current capacities of the United States nuclear weapons infrastructure to respond to a strategic development or technical problem in the United States nuclear weapons stockpile.

(2) PROPOSAL DESCRIBED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a proposal described in this paragraph is a proposal to reduce the number of nuclear weapons in the active or inactive stockpiles of the United States to a level that is lower than the level on December 31, 2021.

(B) EXCEPTIONS.—A proposal described in this paragraph does not include—

(i) reductions that are a direct result of activities associated with routine stockpile stewardship, including stockpile surveillance, logistics, or maintenance; or

(ii) nuclear weapons retired or awaiting dismantlement on December 31, 2021.

(3) TERMINATION.—The requirement in paragraph (1) shall terminate on February 1, 2025.

(d) PREVENTION OF ASYMMETRY IN REDUCTIONS.—

(1) CERTIFICATION.—During any year in which the President recommends to reduce the

number of nuclear weapons in the active and inactive stockpiles of the United States by a number that is greater than a de minimis reduction, the President shall certify in writing to the congressional defense committees whether such reductions will cause the number of nuclear weapons in such stockpiles to be fewer than the high-confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation.

(2) NOTIFICATION.—If the President certifies under paragraph (1) that the recommended number of nuclear weapons in the active and inactive stockpiles of the United States is fewer than the high-confidence assessment of the intelligence community with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation, the President shall transmit to the congressional defense committees a report by the Commander of the United States Strategic Command, without change, detailing whether the recommended reduction would create a strategic imbalance or degrade deterrence and extended deterrence between the total number of nuclear weapons of the United States and the total number of nuclear weapons of the Russian Federation. The President shall transmit such report by not later than 60 days before the date on which the President carries out any such recommended reductions.

(3) EXCEPTION.—The notification in paragraph (2) shall not apply to—

(A) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

(B) nuclear warheads that are retired or awaiting dismantlement on the date of the certification under paragraph (1).

(4) ADDITIONAL VIEWS.—On the date on which the President transmits to the congressional defense committees a report by the Commander of the United States Strategic Command under paragraph (2), the President may transmit to such committees a report by the President with respect to whether the recommended reductions covered by the report of the Commander will impact the deterrence or extended deterrence capabilities of the United States.

(Added and amended Pub. L. 112–239, div. A, title X, §§1033(b)(1), (2)(B), 1034, Jan. 2, 2013, 126 Stat. 1920–1922; Pub. L. 113–66, div. A, title X, §1091(a)(7), Dec. 26, 2013, 127 Stat. 875; Pub. L. 113–291, div. A, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 115–91, div. A, title X, §1081(a)(19), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 115–232, div. A, title X, §1081(a)(5), Aug. 13, 2018, 132 Stat. 1983; Pub. L. 117–81, div. A, title XVI, §1632, Dec. 27, 2021, 135 Stat. 2090.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, referred to in subsec. (a)(1)(D), (2)(A), is section 1251 of Pub. L. 111–84, which is set out as a note under section 6114 of this title.

### CODIFICATION

The text of this section is based on Pub. L. 112–81, div. A, title X, §1045, Dec. 31, 2011, 125 Stat. 1577; Pub. L. 112–239, div. A, title X, §1076(a)(19), Jan. 2, 2013, 126 Stat. 1949. Section 1045 of Pub. L. 112–81, formerly classified to section 2523b of Title 50, War and National Defense, was transferred to this section by Pub. L. 112–239, §1033(b)(1)(A)–(C).

### AMENDMENTS

**2021**—Subsec. (c)(1), (2)(A), (B)(ii). Pub. L. 117–81, §1632(1), substituted "December 31, 2021" for "December 31, 2011".

Subsec. (c)(3). Pub. L. 117–81, §1632(2), substituted "February 1, 2025" for "December 31, 2017".

**2018**—Subsec. (b)(2). Pub. L. 115–232 substituted "March 1 of each year" for "March 1, 2012, and annually thereafter" in introductory provisions.

**2017**—Subsec. (b)(2)(B). Pub. L. 115–91 substituted "of this title" for "of title 10".

**2014**—Subsec. (d)(1). Pub. L. 113–291 substituted "(50 U.S.C. 3003(4))" for "(50 U.S.C. 401a(4))".

**2013**—Pub. L. 112–239, §1033(b)(2)(B), made technical amendments to conform section enumerator and catchline to the style of this title. See Codification note above.

Subsec. (a)(2). Pub. L. 112–239, §1033(b)(1)(D), amended par. (2) generally. Prior to amendment, par. (2) related to a Presidential report to Congress regarding resource shortfalls.

Subsec. (c)(1), (2)(A), (B)(ii). Pub. L. 113–66 substituted "December 31, 2011" for "the date of the enactment of this Act".

Subsec. (d). Pub. L. 112–239, §1034, added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1033(b)(4), Jan. 2, 2013, 126 Stat. 1922, provided that: "The amendment made by paragraph (1)(D) [amending this section] shall take effect on October 1, 2012."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (b) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### REPORT ON IMPLEMENTATION OF THE NEW START TREATY

Pub. L. 114–92, div. A, title XII, §1247, Nov. 25, 2015, 129 Stat. 1066, provided that:

"(a) REPORT.—

"(1) IN GENERAL.—During each year described in paragraph (2), the President shall transmit to the appropriate congressional committees a report explaining the reasons that the continued implementation of the New START Treaty is in the national security interests of the United States.

"(2) YEAR DESCRIBED.—A year described in this paragraph is a year in which the President implements the New START Treaty and determines that any of the following circumstances apply:

"(A) The Russian Federation illegally occupies Ukrainian territory.

"(B) The Russian Federation is not respecting the sovereignty of all Ukrainian territory.

"(C) The Russian Federation is not in full compliance with the INF treaty.

"(D) The Russian Federation is not in compliance with the CFE Treaty and has not lifted its suspension of Russian observance of its treaty obligations.

"(E) The Russian Federation is not reducing its deployed strategic delivery vehicles.

"(b) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

"(2) CFE TREATY.—The term 'CFE Treaty' means the Treaty on Conventional Armed Forces in Europe, signed at Paris November 19, 1990, and entered into force July 17, 1992.

"(3) INF TREATY.—The term 'INF Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, commonly referred to as the Intermediate-Range Nuclear Forces (INF) Treaty, signed at Washington December 8, 1987, and entered into force June 1, 1988.

"(4) NEW START TREATY.—The term 'New START Treaty' means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011."

[For delegation of functions vested in President by section 1247 of Pub. L. 114–92, set out above, see Memorandum of President of the United States, July 26, 2016, 81 F.R. 51773, set out below.]

### RETENTION OF MISSILE SILOS

Pub. L. 113–291, div. A, title XVI, §1644, Dec. 19, 2014, 128 Stat. 3651, provided that:

"(a) REQUIREMENT.—During the period in which the New START Treaty (as defined in section 494(a)(2)(D) of title 10, United States Code) is in effect, the Secretary of Defense shall preserve each

intercontinental ballistic missile silo that contains a deployed missile as of the date of the enactment of this Act [Dec. 19, 2014] in, at minimum, a warm status that enables such silo to—

"(1) remain a fully functioning element of the interconnected and redundant command and control system of the missile field; and

"(2) be made fully operational with a deployed missile.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (b) shall be construed to prohibit the Secretary of Defense from temporarily placing an intercontinental ballistic missile silo offline to perform maintenance activities."

## IMPLEMENTATION OF NEW START TREATY

Pub. L. 113–66, div. A, title X, §1056(a)(2), (3), (f), Dec. 26, 2013, 127 Stat. 862–864, provided that:

"(a) IMPLEMENTATION.—

"(2) CONSOLIDATED BUDGET DISPLAY.—The Secretary [of Defense] shall include with the defense budget materials for each fiscal year specified in paragraph (3) a consolidated budget justification display that individually covers each program and activity associated with the implementation of the New START Treaty for the period covered by the future-years defense program submitted under section 221 of title 10, United States Code, at or about the time as such defense budget materials are submitted.

"(3) FISCAL YEAR SPECIFIED.—A fiscal year specified in this paragraph is each fiscal year that occurs during the period beginning with fiscal year 2015 and ending on the date on which the New START Treaty is no longer in force.

"(f) DEFINITIONS.—In this section:

"(1) The term 'defense budget materials' has the meaning given that term in section 231(f) of title 10, United States Code [now 10 U.S.C. 231(h)].

"(2) The term 'New START Treaty' means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011."

## "CONGRESSIONAL DEFENSE COMMITTEES" DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of this title, see section 3 of Pub. L. 112–81, Dec. 31, 2011, 125 Stat. 1316. See also note under section 101 of this title.

## EXECUTIVE DOCUMENTS

### DELEGATION OF REPORTING FUNCTIONS SPECIFIED IN SECTION 1045 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012, AND CONDITION 9 OF THE RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN FEDERATION ON THE MEASURES FOR THE FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE "NEW START TREATY")

Memorandum of President of the United States, Mar. 16, 2012, 77 F.R. 16649, provided:

Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretaries of Defense and Energy the reporting functions conferred upon the President by section 1045 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) [see Codification note above], and by section (a)(9)(B) of the Resolution of Advice and Consent to Ratification of the New START Treaty. Subsection (a)(9)(B)(iv) of the Resolution shall be fulfilled in coordination with the Secretary of State.

The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

### DELEGATION OF AUTHORITY UNDER SECTION 1247 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Memorandum of President of the United States, July 26, 2016, 81 F.R. 51773, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate the functions and authorities vested in the President by section 1247 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) (the "Act") to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## §495. Strategic delivery systems

(a) ANNUAL CERTIFICATION.—The President shall annually certify in writing to the congressional defense committees whether plans to modernize or replace strategic delivery systems are fully funded at levels equal to or more than the levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549), including plans regarding—

(1) a heavy bomber and air-launched cruise missile;

(2) an intercontinental ballistic missile;

(3) a submarine-launched ballistic missile;

(4) a ballistic missile submarine; and

(5) maintaining the nuclear command and control system (as first reported under section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576)).

(b) ADDITIONAL REPORT MATTERS FOLLOWING CERTAIN CERTIFICATIONS.—If in any year prior to the expiration of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011 (commonly referred to as the "New START Treaty"), the President certifies under subsection (a) that plans to modernize or replace strategic delivery systems are not fully funded, the President shall include in the next annual report transmitted to Congress under section 492(a) [1] of this title the following:

(1) A determination of whether or not the lack of full funding will result in a loss of military capability when compared with the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010.

(2) If the determination under paragraph (1) is that the lack of full funding will result in a loss of military capability—

(A) a plan to preserve or retain the military capability that would otherwise be lost; or

(B) a report setting forth—

(i) an assessment of the impact of the lack of full funding on the strategic delivery systems specified in subsection (a); and

(ii) a description of the funding required to restore or maintain the capability.

(3) A certification by the President of whether or not the President is committed to accomplishing the modernization and replacement of strategic delivery systems and will meet the obligations concerning nuclear modernization as set forth in declaration 12 of the Resolution of Advice and Consent to Ratification of the New START Treaty.

(c) PRIOR NOTIFICATION.—Not later than 60 days before the date on which the President carries out any reduction to the number of strategic delivery systems, the President shall—

(1) make the certification under subsection (a) for the fiscal year for which the reductions are proposed to be carried out;

(2) transmit the additional report matters under subsection (b) for such fiscal year, if such additional report matters are so required; and

(3) certify to the congressional defense committees whether the Russian Federation is in compliance with its strategic arms control obligations with the United States and is not engaged in activity in violation of, or inconsistent with, such obligations.

(d) TREATMENT OF CERTAIN REDUCTIONS.—Any certification under subsection (a) shall not take into account the following:

(1) Reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and delivery systems.

(2) Strategic delivery systems that are retired or awaiting dismantlement on the date of the certification under subsection (a).

(e) DEFINITIONS.—In this section:

(1) The term "New START Treaty" means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(2) The term "strategic delivery system" means a delivery system for nuclear weapons.

(Added Pub. L. 112–239, div. A, title X, §1035(a), Jan. 2, 2013, 126 Stat. 1923; amended Pub. L. 112–240, title VIII, §801(a), Jan. 2, 2013, 126 Stat. 2369; Pub. L. 115–232, div. A, title X, §1081(a)(6), Aug. 13, 2018, 132 Stat. 1983; Pub. L. 118–31, div. A, title XVI, §1632, Dec. 22, 2023, 137 Stat. 592.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, referred to in subsecs. (a) and (b)(1), is section 1251 of Pub. L. 111–84, which is set out as a note under section 6114 of this title.

Section 1043 of the National Defense Authorization Act for Fiscal Year 2012, referred to in subsec. (a)(5), is section 1043 of Pub. L. 112–81, Dec. 31, 2011, 125 Stat. 1576, which is not classified to the Code.

Section 492(a) of this title, referred to in subsec. (b), relates to biennial assessments by certain military officials of delivery platforms for nuclear weapons and the nuclear command and control system. Section 492a(a) of this title requires the President to transmit biennial reports to Congress on certain nuclear matters.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, in introductory provisions, substituted "prior to the expiration of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011 (commonly referred to as the 'New START Treaty')," for "before fiscal year 2020" and "492(a) of this title" for "1043 of the National Defense Authorization Act for Fiscal Year 2012".

**2018**—Subsec. (a). Pub. L. 115–232 substituted "The" for "Beginning in fiscal year 2013, the" in introductory provisions.

**2013**—Subsec. (c)(3). Pub. L. 112–240 substituted "whether the Russian Federation" for "that the Russian Federation" and inserted "strategic" before "arms control obligations".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–240, title VIII, §801(b), Jan. 2, 2013, 126 Stat. 2369, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239]."

### CONGRESSIONAL NOTIFICATION OF DECISION TO DELAY STRATEGIC DELIVERY SYSTEM TEST EVENT

Pub. L. 118–31, div. A, title XVI, §1648, Dec. 22, 2023, 137 Stat. 600, provided that:

"(a) NOTIFICATION.—Not later than five days after the Secretary of Defense makes a decision to delay a scheduled test event for a strategic delivery system, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written notice of such decision.

"(b) REPORT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after the submission of a notification required under subsection (a) with respect to a decision to delay a scheduled test event, the Secretary shall submit to the congressional defense committees a report on the decision.

"(2) ELEMENTS REQUIRED.—A report submitted under paragraph (1) shall include each of the following with respect to the scheduled test event covered by the report:

"(A) A description of the objectives of the test.

"(B) An explanation for the decision to cancel the test.

"(C) An estimate of expenditures related to the cancelled test.

"(D) An assessment of the effect of the test cancellation on—

"(i) confidence in the reliability of the strategic nuclear weapons delivery system involved; and

"(ii) any research, development, test, and evaluation activities related to the test.

"(E) A plan to reschedule the test event.

"(3) EXCEPTION.—A report shall not be required under paragraph (1) in the case of a decision to delay a scheduled test event due to any of the following circumstances:

"(A) Unfavorable weather conditions.

"(B) Safety concerns.

"(C) Technical issues related to the delivery system or test facility.

"(D) Operational or security concerns at the test facility or on the test range."

## RETENTION OF CAPABILITY TO REDEPLOY MULTIPLE INDEPENDENTLY TARGETABLE REENTRY VEHICLES

Pub. L. 113–66, div. A, title X, §1057, Dec. 26, 2013, 127 Stat. 864, as amended by Pub. L. 118–31, div. A, title XVI, §1638, Dec. 22, 2023, 137 Stat. 594, provided that:

"(a) DEPLOYMENT CAPABILITY.—The Secretary of the Air Force shall ensure that the Air Force is capable of—

"(1) deploying multiple independently targetable reentry vehicles to Minuteman III and Sentinel intercontinental ballistic missiles; and

"(2) commencing such deployment not later than 180 days after the date on which the President determines such deployment necessary.

"(b) WARHEAD CAPABILITY.—The Nuclear Weapons Council established by section 179 of title 10, United States Code, shall ensure that—

"(1) the nuclear weapons stockpile contains a sufficient number of nuclear warheads that are capable of being deployed as multiple independently targetable reentry vehicles with respect to Minuteman III and Sentinel intercontinental ballistic missiles; and

"(2) such deployment is capable of being commenced not later than 180 days after the date on which the President determines such deployment necessary."

## SENSES OF CONGRESS ON ENSURING THE MODERNIZATION OF THE NUCLEAR FORCES OF THE UNITED STATES

Pub. L. 113–66, div. A, title X, §1062(a), Dec. 26, 2013, 127 Stat. 866, provided that: "It is the policy of the United States to—

"(1) modernize or replace the triad of strategic nuclear delivery systems;

"(2) proceed with a robust stockpile stewardship program;

"(3) maintain and modernize the nuclear weapons production capabilities that will ensure the safety, security, reliability, and performance of the nuclear forces of the United States at the levels required by the New START Treaty; and

"(4) underpin deterrence by meeting the requirements for hedging against possible international developments or technical problems, in accordance with the policies of the United States."

# EXECUTIVE DOCUMENTS

## DELEGATION OF AUTHORITY PURSUANT TO SECTION 1035 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

Memorandum of President of the United States, June 29, 2015, 80 F.R. 37921, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America,

including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of Defense the authority to fulfill the certification requirement specified in section 1035 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239) [probably means section 495 of this title, as added by section 1035 of Pub. L. 112–239].

Any reference in this memorandum to section 1035 of the National Defense Authorization Act for Fiscal Year 2013 shall be deemed to be a reference to any future provision that is the same or substantially the same provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *See References in Text note below.*

## §496. Consideration of expansion of nuclear forces of other countries

(a) REPORT AND CERTIFICATION.—Not later than 60 days before the President recommends any reductions to the nuclear forces of the United States—

(1) the President shall transmit to the appropriate congressional committees a report detailing, for each country with nuclear weapons, the high-, medium-, and low- confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) with respect to—

(A) the number of each type of nuclear weapons possessed by such country;

(B) the modernization plans for such weapons of such country;

(C) the production capacity of nuclear warheads and strategic delivery systems (as defined in section 495(e)(2) of this title) of such country;

(D) the nuclear doctrine of such country; and

(E) the impact of such recommended reductions on the deterrence and extended deterrence capabilities of the United States; and

(2) the Commander of the United States Strategic Command shall certify to the appropriate congressional committees whether such recommended reductions in the nuclear forces of the United States will—

(A) impair the ability of the United States to address—

(i) unplanned strategic or geopolitical events; or

(ii) technical challenge; or

(B) degrade the deterrence or assurance provided by the United States to friends and allies of the United States.

(b) FORM.—The reports required by subsection (a)(1) shall be submitted in unclassified form, but may include a classified annex.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Added Pub. L. 112–239, div. A, title X, §1036(a), Jan. 2, 2013, 126 Stat. 1924; amended Pub. L. 113–291, div. A, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (a)(1). Pub. L. 113–291 substituted "(50 U.S.C. 3003(4))" for "(50 U.S.C. 401a(4))" in introductory provisions.

## §497. Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe

(a) NOTIFICATION.—Upon any decision to reduce, consolidate, or withdraw the nuclear forces of the United States that are based in Europe, the President shall transmit to the appropriate congressional committees a notification containing—

(1) justification for such reduction, consolidation, or withdrawal; and

(2) an assessment of how member states of the North Atlantic Treaty Organization, in light of such reduction, consolidation, or withdrawal, assess the credibility of the deterrence capability of the United States in support of its commitments undertaken pursuant to article 5 of the North Atlantic Treaty, signed at Washington, District of Columbia, on April 4, 1949, and entered into force on August 24, 1949 (63 Stat. 2241; TIAS 1964).

(b) PRIOR NOTIFICATION REQUIRED.—

(1) IN GENERAL.—The President shall transmit the notification required by subsection (a) by not later than 120 days before the date on which the President commences a reduction, consolidation, or withdrawal of the nuclear forces of the United States that are based in Europe described in such notification.

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to a reduction, consolidation, or withdrawal of nuclear weapons of the United States that are based in Europe made to ensure the safety, security, reliability, and credibility of such weapons.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committees on Armed Services of the House of Representatives and the Senate; and

(2) the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Added Pub. L. 112–239, div. A, title X, §1037(b)(1), Jan. 2, 2013, 126 Stat. 1926; amended Pub. L. 117–81, div. A, title XVI, §1635, Dec. 27, 2021, 135 Stat. 2091.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b)(1). Pub. L. 117–81 substituted "120 days" for "60 days".

## §497a. Notification required for reduction or consolidation of dual-capable aircraft based in Europe

(a) NOTIFICATION.—Not less than 90 days before the date on which the Secretary of Defense reduces or consolidates the dual-capable aircraft of the United States that are based in Europe, the Secretary shall submit to the congressional defense committees a notification of such planned reduction or consolidation, including the following:

(1) The reasons for such planned reduction or consolidation.

(2) Any effects of such planned reduction or consolidation on the extended deterrence mission of the United States.

(3) The manner in which the military requirements of the North Atlantic Treaty Organization (NATO) will continue to be met in light of such planned reduction or consolidation.

(4) A statement by the Secretary on the response of NATO to such planned reduction or consolidation.

(5) Whether there is any change in the force posture of the Russian Federation as a result of such planned reduction or consolidation, including with respect to the nonstrategic nuclear

weapons of Russia that are within range of the member states of NATO.

(b) DUAL-CAPABLE AIRCRAFT DEFINED.—In this section, the term "dual-capable aircraft" means aircraft that can perform both conventional and nuclear missions.

(Added Pub. L. 113–66, div. A, title X, §1051(b)(1), Dec. 26, 2013, 127 Stat. 858.)

## §498. Unilateral change in nuclear weapons stockpile of the United States

(a) IN GENERAL.—Other than pursuant to a treaty to which the Senate has provided advice and consent pursuant to section 2 of article II of the Constitution of the United States, if the President has under consideration to unilaterally change the size of the total stockpile of nuclear weapons of the United States, or the total number of deployed nuclear weapons (as defined under the New START Treaty), by more than 20 percent, prior to doing so the President shall initiate a Nuclear Posture Review.

(b) TERMS OF REFERENCE.—Prior to the initiation of a Nuclear Posture Review under this section, the President shall determine the terms of reference for the Nuclear Posture Review, which the President shall provide to the congressional defense committees.

(c) NUCLEAR POSTURE REVIEW.—Upon completion of a Nuclear Posture Review under this section, the President shall submit the Nuclear Posture Review to the congressional defense committees prior to implementing any change described in subsection (a).

(d) CONSTRUCTION.—This section shall not apply to changes to the nuclear weapons stockpile resulting from obligations pursuant to a treaty to which the Senate has provided advice and consent pursuant to section 2 of article II of the Constitution.

(e) FORM.—A Nuclear Posture Review under this section shall be submitted in unclassified form, but may include a classified annex.

(f) NEW START TREATY DEFINED.—In this section, the term "New START Treaty" means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(Added Pub. L. 112–239, div. A, title X, §1038(a), Jan. 2, 2013, 126 Stat. 1927; amended Pub. L. 113–66, div. A, title X, §1091(a)(6), Dec. 26, 2013, 127 Stat. 875; Pub. L. 117–81, div. A, title XVI, §1633, Dec. 27, 2021, 135 Stat. 2090.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81, §1633(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Other than pursuant to a treaty, if the President has under consideration to unilaterally change the size of the total stockpile of nuclear weapons of the United States by more than 25 percent, prior to doing so the President shall initiate a Nuclear Posture Review."

Subsec. (c). Pub. L. 117–81, §1633(2), substituted "described in subsection (a)" for "in the nuclear weapons stockpile by more than 25 percent".

Subsec. (d). Pub. L. 117–81, §1633(3), substituted "obligations pursuant to a treaty to which the Senate has provided advice and consent pursuant to section 2 of article II of the Constitution" for "treaty obligations".

Subsec. (f). Pub. L. 117–81, §1633(4), added subsec. (f).

**2013**—Pub. L. 113–66 inserted a period after the enumerator in section catchline.

## §499. Annual assessment of cyber resiliency of nuclear command and control system

(a) IN GENERAL.—Not less frequently than annually, the Commander of the United States Strategic Command and the Commander of the United States Cyber Command (in this section

referred to collectively as the "Commanders") shall jointly conduct an assessment of the cyber resiliency of the nuclear command and control system.

(b) ELEMENTS.—In conducting the assessment required by subsection (a), the Commanders shall—

(1) conduct an assessment of the sufficiency and resiliency of the nuclear command and control system to operate through a cyber attack from the Russian Federation, the People's Republic of China, or any other country or entity the Commanders identify as a potential threat; and

(2) develop recommendations for mitigating any concerns of the Commanders resulting from the assessment.

(c) REPORTS REQUIRED.—(1) For each assessment conducted under subsection (a), the Commanders shall jointly submit to the Chairman of the Joint Chiefs of Staff, for submission to the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of this title, a report on the assessment that includes the following:

(A) The recommendations developed under subsection (b)(2).

(B) A statement of the degree of confidence of each of the Commanders in the mission assurance of the nuclear deterrent against a top tier cyber threat.

(C) A detailed description of the approach used to conduct the assessment required by subsection (a) and the technical basis of conclusions reached in conducting that assessment.

(D) Any other comments of the Commanders.

(2) The Council shall submit to the Secretary of Defense each report required by paragraph (1) and any comments of the Council on each report.

(3) Not later than 90 days after the date of the submission of a report under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees the report, any comments of the Council on the report under paragraph (2), and any comments of the Secretary on the report.

(d) QUARTERLY BRIEFINGS.—(1) Not less than once every quarter, the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff shall jointly provide to the Committees on Armed Services of the House of Representatives and the Senate—

(A) a briefing on any intrusion or anomaly in the nuclear command, control, and communications system that was identified during the previous quarter, including—

(i) an assessment of any known, suspected, or potential impacts of such intrusions and anomalies to the mission effectiveness of military capabilities as of the date of the briefing; and

(ii) with respect to cyber intrusions of contractor networks known or suspected to have resulted in the loss or compromise of design information regarding the nuclear command, control, and communications system; or

(B) if no such intrusion or anomaly occurred with respect to the quarter to be covered by that briefing, a notification of such lack of intrusions and anomalies.

(2) In this subsection:

(A) The term "anomaly" means a malicious, suspicious or abnormal cyber incident that potentially threatens the national security or interests of the United States, or that is likely to result in demonstrable harm to the national security of the United States.

(B) The term "intrusion" means an unauthorized and malicious cyber incident that compromises a nuclear command, control, and communications system by breaking the security of such a system or causing it to enter into an insecure state.

(e) TERMINATION.—The requirements of this section shall terminate on December 31, 2032.

(Added Pub. L. 115–91, div. A, title XVI, §1651(a), Dec. 12, 2017, 131 Stat. 1756; amended Pub. L. 117–81, div. A, title XV, §1534, Dec. 27, 2021, 135 Stat. 2054; Pub. L. 117–263, div. A, title XVI, §1636(a), (b), Dec. 23, 2022, 136 Stat. 2940.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (d). Pub. L. 117–263, §1636(a), amended subsec. (d) generally. Prior to amendment, text read as follows: "Not less than once every quarter, the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff shall jointly provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on any known or suspected critical intelligence parameter breaches that were identified during the previous quarter, including an assessment of any known or suspected impacts of such breaches to the mission effectiveness of military capabilities as of the date of the briefing or thereafter."

Subsec. (e). Pub. L. 117–263, §1636(b), substituted "December 31, 2032" for "December 31, 2027".

**2021**—Subsec. (c). Pub. L. 117–81, §1534(1), substituted "Reports" for "Report" in heading.

Subsec. (c)(1). Pub. L. 117–81, §1534(2), substituted "For each assessment conducted under subsection (a), the Commanders" for "The Commanders" and "the assessment" for "the assessment required by subsection (a)" in introductory provisions.

Subsec. (c)(2). Pub. L. 117–81, §1534(3), which directed substitution of "each report" for "the report", was executed by making the substitution in both places it appeared, to reflect the probable intent of Congress.

Subsec. (c)(3). Pub. L. 117–81, §1534(4), substituted "Not later than 90 days after the date of the submission of a report under paragraph (1), the Secretary" for "The Secretary" and struck out "required by paragraph (1)" before ", any comments".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CYBERSECURITY ENHANCEMENTS FOR NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS NETWORK

Pub. L. 118–31, div. A, title XV, §1512, Dec. 22, 2023, 137 Stat. 542, provided that:

"(a) ESTABLISHMENT OF CROSS-FUNCTIONAL TEAM.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], and consistent with section 911(c) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note), the Secretary of Defense shall establish a cross-functional team to develop and direct the implementation of a threat-driven cyber defense construct for the systems and networks that support the nuclear command, control, and communications (commonly referred to as 'NC3') mission (in this section referred to as the 'cross-functional team').

"(2) COMPOSITION OF CROSS-FUNCTIONAL TEAM.—

"(A) IN GENERAL.—The cross functional team shall be composed of senior officers selected from among each of the military departments, the Defense Information Systems Agency, the National Security Agency, the United States Cyber Command, the United States Strategic Command, and any other organization or element of the Department of Defense determined appropriate by the Secretary.

"(B) LEADERSHIP.—The Secretary shall designate a senior officer from those selected under subparagraph (A) to serve as the leader of the cross-functional team.

"(C) STAFF.—The Secretary shall ensure the heads of the organizations and elements specified in subparagraph (A) detail staff to support the cross-functional team in carrying out the duties under paragraph (3).

"(3) DUTIES.—The duties of the cross-functional team shall be to enhance the cyber defense of the systems and networks that support the nuclear command, control, and communications mission.

"(b) REQUIRED CONSTRUCT, PLAN OF ACTION, AND MILESTONES.—Not later than one year after the date of the enactment of this Act, the leader of the cross-functional team designated pursuant to subsection (a)(2)(B) shall develop a threat-driven cyber defense construct, and associated plans and milestones, to enhance the security of the systems and networks that support the nuclear command, control, and communications mission. Such construct shall be based on—

"(1) the application of the principles of the approach to cybersecurity commonly referred to as 'zero trust architecture';

"(2) an analysis of appropriately comprehensive endpoint and network telemetry data; and

"(3) control capabilities enabling rapid investigation and remediation of indicators of compromise and threats to mission execution.

"(c) ANNUAL BRIEFINGS.—During the 60-day period beginning on the date that is 30 days before the date on which the President submits to Congress the budget of the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 2025 through 2028, the Secretary shall provide to the

appropriate congressional committees a briefing on the implementation of this section.

"(d) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the cross-functional team under this section shall terminate on October 31, 2028.

"(2) EXTENSION AUTHORITY.—The Secretary of Defense may extend the date of termination under paragraph (1) as the Secretary determines appropriate.

"(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives."

**ENSURING CYBER RESILIENCY OF NUCLEAR COMMAND AND CONTROL SYSTEM**

Pub. L. 116–283, div. A, title XVII, §1747, Jan. 1, 2021, 134 Stat. 4140, provided that:

"(a) PLAN FOR IMPLEMENTATION OF FINDINGS AND RECOMMENDATIONS FROM FIRST ANNUAL ASSESSMENT OF CYBER RESILIENCY OF NUCLEAR COMMAND AND CONTROL SYSTEM.—Not later than October 1, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan, including a schedule and resourcing plan, for the implementation of the findings and recommendations included in the first report submitted under section 499(c)(3) of title 10, United States Code.

"(b) CONCEPT OF OPERATIONS AND OVERSIGHT MECHANISM FOR CYBER DEFENSE OF NUCLEAR COMMAND AND CONTROL SYSTEM.—Not later than October 1, 2021, the Secretary shall develop and establish—

"(1) a concept of operations for defending the nuclear command and control system against cyber attacks, including specification of the—

"(A) roles and responsibilities of relevant entities within the Office of the Secretary, the military services, combatant commands, the Defense Agencies, and the Department of Defense Field Activities; and

"(B) cybersecurity capabilities to be acquired and employed and operational tactics, techniques, and procedures, including cyber protection team and sensor deployment strategies, to be used to monitor, defend, and mitigate vulnerabilities in nuclear command and control systems; and

"(2) an oversight mechanism or governance model for overseeing the implementation of the concept of operations developed and established under paragraph (1), related development, systems engineering, and acquisition activities and programs, and the plan required by subsection (a), including specification of the—

"(A) roles and responsibilities of relevant entities within the Office of the Secretary, the military services, combatant commands, the Defense Agencies, and the Department of Defense Field Activities in overseeing the defense of the nuclear command and control system against cyber attacks;

"(B) responsibilities and authorities of the Strategic Cybersecurity Program in overseeing and, as appropriate, executing—

"(i) vulnerability assessments; and

"(ii) development, systems engineering, and acquisition activities; and

"(C) processes for coordination of activities, policies, and programs relating to the cybersecurity and defense of the nuclear command and control system."

## §499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces

(a) IN GENERAL.—The Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation, and the Administrator for Nuclear Security, acting through the Director for Cost Estimating and Program Evaluation, shall collect and store cost, programmatic, and technical data relating to programs and projects of the nuclear security enterprise and nuclear forces.

(b) SHARING OF DATA.—If the Director of Cost Assessment and Program Evaluation or the Director for Cost Estimating and Program Evaluation requests data relating to programs or projects

from any element of the Department of Defense or from any element of the nuclear security enterprise of the National Nuclear Security Administration, that element shall provide that data in a timely manner.

(c) STORAGE OF DATA.—(1) Data collected by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation under this section shall be—

(A) stored in the data storage system of the Defense Cost and Resource Center, or successor center, or in a data storage system of the National Nuclear Security Administration that is comparable to the data storage system of the Defense Cost and Resource Center; and

(B) made accessible to other Federal agencies as such Directors consider appropriate.

(2) The Secretary and the Administrator shall ensure that the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation have sufficient information system support, as determined by such Directors, to facilitate the timely hosting, handling, and sharing of data relating to programs and projects of the nuclear security enterprise under this section at the appropriate level of classification.

(3) The Deputy Administrator for Naval Reactors of the National Nuclear Security Administration may coordinate with the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation to ensure that, at the discretion of the Deputy Administrator, data relating to programs and projects of the Office of Naval Reactors are correctly represented in the data storage system pursuant to paragraph (1)(A).

(d) CONTRACT REQUIREMENTS.—The Secretary and the Administrator shall ensure that any relevant contract relating to a program or project of the nuclear security enterprise and nuclear forces that is entered into after December 11, 2017, appropriately includes—

(1) requirements and standards for data collection; and

(2) requirements for reporting on cost, programmatic, and technical data using procedures, standards, and formats approved by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation.

(e) NUCLEAR SECURITY ENTERPRISE DEFINED.—In this section, the term "nuclear security enterprise" has the meaning given that term in section 6101.

(Added Pub. L. 115–91, div. A, title XVI, §1652(a), Dec. 12, 2017, 131 Stat. 1757; amended Pub. L. 115–232, div. A, title X, §1081(a)(7), Aug. 13, 2018, 132 Stat. 1983; Pub. L. 119–60, div. C, title XXXI, §3111(c)(1)(B), Dec. 18, 2025, 139 Stat. 1460.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (e). Pub. L. 119–60 substituted "section 6101" for "section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501)".

**2018**—Subsec. (d). Pub. L. 115–232 substituted "after December 11, 2017," for "on or after the date of the enactment of this section" in introductory provisions.

## §499b. Participation in United States Strategic Command strategic deterrence exercises

(a) PARTICIPATION.—In the case of annual strategic deterrence exercises held by the United States Strategic Command during fiscal years 2022 through 2032—

(1) the Assistant to the President for National Security Affairs is encouraged to participate in each such exercise that occurs during an even-numbered year;

(2) the Deputy Assistant to the President for National Security Affairs is encouraged to participate in each such exercise that occurs during an odd-numbered year;

(3) the Under Secretary of Defense for Policy shall participate, in whole or in part, in each such exercise;

(4) the Vice Chairman of the Joint Chiefs of Staff shall participate, in whole or in part, in each such exercise;

(5) appropriate senior staff of the Executive Office of the President or appropriate organizations supporting the White House relating to continuity of government activities are encouraged to participate in each such exercise;

(6) appropriate general or flag officers of the military departments, and appropriate employees of Federal agencies in Senior Executive Service positions (as defined in section 3132 of title 5), shall participate, in whole or in part, in each such exercise, to provide relevant expertise to the Assistant to the President for National Security Affairs and the Deputy Assistant to the President for National Security Affairs; and

(7) in the case of such an exercise for which a unified combatant command has a geographic area of responsibility relevant to the scenario planned to be used for the exercise, not fewer than two of the following individuals from that command shall participate, in whole or in part, in the exercise:

(A) The Commander.

(B) The Deputy Commander.

(C) The Director of the Joint Staff for Operations.

(D) The Director of the Joint Staff for Strategic Plans and Policy.

(b) BRIEFING.—Not fewer than once every four years (or more frequently if appropriate) during the period specified in subsection (a), the President shall be provided a briefing on the annual strategic deterrence exercise held by the United States Strategic Command during the year in which the briefing is provided, including the principal findings resulting from the exercise.

(c) REPORTS.—(1) Not later than 30 days after the completion of an annual strategic deterrence exercise described in subsection (a), the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff and the Secretary of Defense a report on the exercise, which, at a minimum, shall include the following:

(A) A description of the purpose and scope of the exercise.

(B) An identification of the principal personnel participating in the exercise.

(C) A statement of the principal findings resulting from the exercise that specifically relate to the nuclear command, control, and communications or senior leader decision-making process and a description of any deficiencies in that process identified a result of the exercise.

(D) Whether the President was briefed on the exercise and the principal findings resulting from the exercise.

(2) Not later than 60 days after the completion of an annual strategic deterrence exercise described in subsection (a), the Secretary shall submit to the congressional defense committees—

(A) an unedited copy of the report of the Commander submitted under paragraph (1); and

(B) any additional recommendations or other matters the Secretary considers appropriate.

(Added Pub. L. 117–81, div. A, title XVI, §1631, Dec. 27, 2021, 135 Stat. 2089.)

## §499c. Portfolio management framework for nuclear forces

(a) REQUIREMENT.—Not later than January 1, 2024, the Secretary of Defense shall—

(1) implement a portfolio management framework for nuclear forces of the United States that—

(A) specifies the portfolio of nuclear forces covered by the framework;

(B) establishes a portfolio governance structure for such forces that takes advantage of, or is modeled on, an existing portfolio governance structure, such as the Deputy's Management Action Group described in Department of Defense Directive 5105.79;

(C) outlines the approach of the Secretary for identifying and managing risk relating to such

forces and prioritizing the efforts among such forces, including how the Secretary, acting through the Under Secretary of Defense for Acquisition and Sustainment, will coordinate such identification, management, and prioritization with the Administrator for Nuclear Security using the coordination processes of the Nuclear Weapons Council; and

(D) incorporates the findings and recommendations identified by the Comptroller General of the United States in the report titled "Nuclear Enterprise: DOD and NNSA Could Further Enhance How They Manage Risk and Prioritize Efforts" (GAO–22–104061) and dated January 2022; and

(2) complete a comprehensive assessment of the portfolio management capabilities required to identify and manage risk in the portfolio of nuclear forces, including how to draw upon public and private sector resources and the program management expertise within the Defense Acquisition University.

(b) ANNUAL BRIEFINGS; NOTIFICATIONS.—(1) In conjunction with the submission of the budget of the President to Congress pursuant to section 1105 of title 31 for fiscal year 2025 and each fiscal year thereafter through the date specified in subsection (c), the Secretary shall provide to the congressional defense committees a briefing on identifying and managing risk relating to nuclear forces and prioritizing the efforts among such forces, including, with respect to the period covered by the briefing—

(A) the current and projected operational requirements for nuclear forces that were used for such identification, management, and prioritization;

(B) key areas of risk identified; and

(C) a description of the actions proposed or carried out to mitigate such risk.

(2) The Secretary may provide the briefings under paragraph (1) in classified form.

(3) If a House of Congress adopts a bill authorizing or appropriating funds that, as determined by the Secretary, provides funds in an amount that will result in a significant delay in the nuclear certification or delivery of nuclear forces, the Secretary shall notify the congressional defense committees of the determination.

(c) TERMINATION.—The requirements of this section shall terminate 90 days after the date on which the Secretary certifies to the congressional defense committees that each of the following have achieved full operational capability:

(1) The LGM–35A Sentinel intercontinental ballistic missile weapon system.

(2) The Columbia-class ballistic missile submarine program.

(3) The long-range standoff weapon program.

(4) The B–21 Raider bomber aircraft program.

(5) The F–35A dual-capable aircraft program.

(d) NUCLEAR FORCES DEFINED.—In this section, the term "nuclear forces" includes, at a minimum—

(1) nuclear weapons;

(2) the delivery platforms and systems for nuclear weapons;

(3) nuclear command, control, and communications systems; and

(4) the infrastructure and facilities of the Department of Defense and the National Nuclear Security Administration that support nuclear weapons, the delivery platforms and systems for nuclear weapons, and nuclear command, control, and communications systems, including with respect to personnel, construction, operation, and maintenance.

(Added Pub. L. 117–263, div. A, title XVI, §1634(a), Dec. 23, 2022, 136 Stat. 2938.)

## CHAPTER 25—ELECTROMAGNETIC WARFARE

Sec.[1]
500. Electromagnetic Spectrum Operations Executive Committee.
500a. Guidance on electromagnetic spectrum operations mission area and joint electromagnetic spectrum operations.
500b. Annual report on electromagnetic spectrum operations strategy of the Department of Defense.
500c. Annual assessment of budget with respect to electromagnetic spectrum operations capabilities.
500d. Electromagnetic spectrum superiority implementation plan.
500e. Electromagnetic Spectrum Enterprise Operational Lead for Joint Electromagnetic Spectrum Operations.
500f. Evaluations of abilities of armed forces and combatant commands to perform electromagnetic spectrum operations missions.
500g. Integration of electronic warfare into Tier 1 and Tier 2 joint training exercises.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVI, §1682(a), Dec. 18, 2025, 139 Stat. 1203, added item 500g. Amendment was made pursuant to operation of section 102 of this title.

[1] *Editorially supplied.*

## §500. Electromagnetic Spectrum Operations Executive Committee

(a) IN GENERAL.—There is within the Department of Defense an Electromagnetic Spectrum Operations Executive Committee (in this section referred to as the "Executive Committee").

(b) PURPOSES.—The Executive Committee shall—

(1) serve as the principal forum within the Department of Defense to inform, coordinate, and evaluate matters relating to electromagnetic warfare;

(2) provide senior oversight, coordination, and budget and capability harmonization with respect to such matters; and

(3) act as an advisory body to the Secretary of Defense, the Deputy Secretary of Defense, and the Management Action Group of the Deputy Secretary with respect to such matters.

(c) RESPONSIBILITIES.—The Executive Committee shall—

(1) advise key senior level decision-making bodies of the Department of Defense with respect to the development and implementation of acquisition investments relating to electromagnetic warfare and electromagnetic spectrum operations of the Department, including relevant acquisition policies, projects, programs, modeling, and test and evaluation infrastructure;

(2) provide a forum to enable synchronization and integration support with respect to the development and acquisition of electromagnetic warfare capabilities by—

(A) aligning the processes of the Department for requirements, research, development, acquisition, testing, and sustainment; and

(B) carrying out other related duties; and

(3) act as the senior level review forum for the portfolio of capability investments of the Department relating to electromagnetic warfare and electromagnetic spectrum operations and other related matters.

(d) COORDINATION WITH INTELLIGENCE COMMUNITY.—The Executive Committee, acting through the Under Secretary of Defense for Intelligence and Security, shall coordinate with the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) to generate requirements, facilitate collaboration, establish interfaces, and align efforts of the

Department of Defense with respect to capabilities and acquisition activities related to electromagnetic spectrum operations in areas of dependency or mutual interest.

(e) MEETINGS.—(1) The Executive Committee shall hold meetings not less frequently than quarterly and as necessary to address particular issues.

(2) The Executive Committee may hold meetings by video conference.

(f) MEMBERSHIP.—The Executive Committee shall be composed of the following principal members:

(1) The Under Secretary of Defense for Acquisition and Sustainment.

(2) The Vice Chairman of the Joint Chiefs of Staff.

(3) The Under Secretary of Defense for Intelligence and Security.

(4) The Under Secretary of Defense for Policy.

(5) The Commander of the United States Strategic Command.

(6) The Chief Information Officer of the Department of Defense.

(7) Such other Federal officers or employees as the Secretary of Defense considers appropriate, consistent with other authorities of the Department of Defense and publications of the Joint Staff, including the Charter for the Electronic Warfare Executive Committee, dated March 17, 2015.

(g) CO-CHAIRS OF EXECUTIVE COMMITTEE.—(1) The Under Secretary of Defense for Acquisition and Sustainment and the Vice Chairman of the Joint Chiefs of Staff, or their designees, shall serve as co-chairs of the Executive Committee.

(2) The co-chairs of the Executive Committee shall—

(A) preside at all Executive Committee meetings or have their designees preside at such meetings;

(B) provide administrative control of the Executive Committee;

(C) jointly guide the activities and actions of the Executive Committee;

(D) approve all agendas for and summaries of meetings of the Executive Committee;

(E) charter tailored working groups to conduct mission area analysis, as required, under subsection (i); and

(F) perform such other duties as may be necessary to ensure the good order and functioning of the Executive Committee.

(h) ELECTROMAGNETIC SPECTRUM OPERATIONS CAPABILITY TEAM.—(1) There is within the Executive Committee an electromagnetic spectrum operations capability team, which shall—

(A) serve as a flag officer level focus group and executive secretariat subordinate to the Executive Committee; and

(B) in that capacity—

(i) provide initial senior level coordination on key electromagnetic spectrum operations issues;

(ii) prepare recommended courses of action to present to the Executive Committee; and

(iii) perform other related duties.

(2) The electromagnetic spectrum operations capability team shall be co-chaired by one representative from the Office of the Under Secretary of Defense for Acquisition and Sustainment and one representative from the Force Structure, Resources, and Assessment Directorate of the Joint Staff (J–8).

(3) The principal members of the Executive Committee shall designate representatives from their respective staffs to the electromagnetic spectrum operations capability team.

(i) MISSION AREA WORKING GROUPS.—(1) The Executive Committee shall establish mission area working groups on a temporary basis—

(A) to address specific issues and mission areas relating to electromagnetic spectrum operations;

(B) to involve subject matter experts and components of the Department of Defense with expertise in electromagnetic spectrum operations; and

(C) to perform other related duties.

(2) The Executive Committee shall dissolve a mission area working group established under paragraph (1) once the issue the working group was established to address is satisfactorily resolved.

(j) ADMINISTRATION.—The Under Secretary of Defense for Acquisition and Sustainment shall administratively support the Executive Committee, including by designating not fewer than two officials of the Department of Defense to support the day-to-day operations of the Executive Committee.

(k) REPORT TO CONGRESS.—Not later than February 28, 2024, and annually thereafter through 2030, the Executive Committee shall submit to the congressional defense committees a summary of activities of the Executive Committee during the preceding fiscal year.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 611.)

## §500a. Guidance on electromagnetic spectrum operations mission area and joint electromagnetic spectrum operations

The Secretary of Defense shall—

(1) establish processes and procedures to develop, integrate, and enhance the electromagnetic spectrum operations mission area and the conduct of joint electromagnetic spectrum operations in all domains across the Department of Defense; and

(2) ensure that such processes and procedures provide for integrated defense-wide strategy, planning, and budgeting with respect to the conduct of such operations by the Department, including activities conducted to counter and deter such operations by malign actors.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 613, §501; renumbered §500a, Pub. L. 118–159, div. A, title XVII, §1701(a)(10), Dec. 23, 2024, 138 Stat. 2203.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159 renumbered section 501 of this title, relating to guidance on electromagnetic spectrum operations mission area and joint electromagnetic spectrum operations, as this section.

## §500b. Annual report on electromagnetic spectrum operations strategy of the Department of Defense

(a) IN GENERAL.—At the same time as the President submits to Congress the budget of the President under section 1105(a) of title 31 for each of fiscal years 2025 through 2029, the Secretary of Defense, in coordination with the Chief Information Officer of the Department of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretary of each of the military departments, shall submit to the congressional defense committees an annual report on the Electromagnetic Spectrum Superiority Strategy of the Department of Defense.

(b) CONTENTS OF REPORT.—Each report required under subsection (a) shall include each of the following:

(1) A description and overview of—

(A) the electromagnetic spectrum strategy of the Department of Defense;

(B) how such strategy supports the national defense strategy under section 113(g) of this title; and

(C) the organizational structure assigned to oversee the development of the Department's electromagnetic spectrum strategy, requirements, capabilities, programs, and projects.

(2) A list of all the electromagnetic spectrum operations acquisition programs and research and

development projects of the Department of Defense and a description of how each program or project supports the Department's electromagnetic spectrum strategy.

(3) For each unclassified program or project on the list required by paragraph (2)—

(A) the senior acquisition executive and organization responsible for oversight of the program or project;

(B) whether or not validated requirements exist for the program or project and, if such requirements do exist, the date on which the requirements were validated and the organizational authority that validated such requirements;

(C) the total amount of funding appropriated, obligated, and forecasted by fiscal year for the program or project, including the program element or procurement line number from which the program or project receives funding;

(D) the development or procurement schedule for the program or project;

(E) an assessment of the cost, schedule, and performance of the program or project as it relates to the program baseline for the program or project, as of the date of the submission of the report, and the original program baseline for such program or project, if such baselines are not the same;

(F) the technology readiness level of each critical technology that is part of the program or project;

(G) whether or not the program or project is redundant or overlaps with the efforts of another military department; and

(H) the capability gap that the program or project is being developed or procured to fulfill.

(4) A classified annex that contains the items described in subparagraphs (A) through (H) of paragraph (3) for each classified program or project on the list required by paragraph (2).

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 614, §502; renumbered §500b, Pub. L. 118–159, div. A, title XVII, §1701(a)(10), Dec. 23, 2024, 138 Stat. 2203.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159 renumbered section 502 of this title, relating to annual reports on the electromagnetic spectrum operations strategy of the Department of Defense, as this section.

## §500c. Annual assessment of budget with respect to electromagnetic spectrum operations capabilities

At the same time as the President submits to Congress the budget of the President under section 1105(a) of title 31 for each of fiscal years 2025 through 2029, the Secretary of Defense shall submit to the congressional defense committees an assessment by the Electromagnetic Spectrum Operations Executive Committee as to whether sufficient funds are requested in such budget for anticipated activities in such fiscal year for each of the following:

(1) The development of an electromagnetic battle management capability for joint electromagnetic spectrum operations.

(2) The establishment and operation of associated joint electromagnetic spectrum operations cells.

(3) The development of a capability for modeling and simulating multi-domain joint electromagnetic spectrum operations to—

(A) assess the ability of the joint force to conduct such operations in support of the operational plans of the combatant commands; and

(B) inform improvements to such operations.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 615, §503; renumbered §500c and amended Pub. L. 118–159, div. A, title XVI, §1653, title XVII, §1701(a)(10), Dec. 23,

2024, 138 Stat. 2201, 2203.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §1701(a)(10), renumbered section 503 of this title, relating to the annual assessment of the budget with respect to electromagnetic spectrum operations capabilities, as this section.

Par. (3). Pub. L. 118–159, §1653, added par. (3).

## §500d. Electromagnetic spectrum superiority implementation plan

(a) IN GENERAL.—The Chief Information Officer of the Department of Defense shall be responsible for oversight of the electromagnetic superiority implementation plan.

(b) REPORT REQUIRED.—Concurrent with the submission of the budget of the President to Congress under section 1105(a) of title 31 for each of fiscal years 2025 through 2029, the Chief Information Officer shall submit to the congressional defense committees a report that includes the following with respect to the electromagnetic superiority implementation plan:

(1) The implementation plan in effect as of the date of the report, noting any revisions from the preceding plan.

(2) A statement of the elements of the implementation plan that have been achieved.

(3) For each element that has been achieved, an assessment of whether the element is having its intended effect.

(4) For any element that has not been achieved, an assessment of progress made in achieving the element, including a description of any obstacles that may hinder further progress.

(5) For any element that has been removed from the implementation plan, a description of the reason for the removal of the element and an assessment of the impact of not pursuing achievement of the element.

(6) Such additional matters as the Chief Information Officer considers appropriate.

(c) ELECTROMAGNETIC SUPERIORITY IMPLEMENTATION PLAN DEFINED.—In this section, the term "electromagnetic superiority implementation plan" means the Electromagnetic Superiority Implementation Plan signed by the Secretary of Defense on July 15, 2021, and any successor plan.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 615, §504; renumbered §500d, Pub. L. 118–159, div. A, title XVII, §1701(a)(10), Dec. 23, 2024, 138 Stat. 2203.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159 renumbered section 504 of this title, relating to an electromagnetic spectrum superiority implementation plan, as this section.

## §500e. Electromagnetic Spectrum Enterprise Operational Lead for Joint Electromagnetic Spectrum Operations

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, the Secretary of Defense shall establish an Electromagnetic Spectrum Enterprise Operational Lead for Joint Electromagnetic Spectrum Operations (in this section referred to as the "operational lead") at the United States Strategic Command. The operational lead shall report to the Commander of the United States Strategic Command.

(b) FUNCTION.—The operational lead shall be responsible for—

(1) synchronizing, assessing, and making recommendations to the Chairman of the Joint Chiefs

of Staff with respect to the readiness of the combatant commands to conduct joint electromagnetic spectrum operations; and

(2) the evaluation of tactics, techniques, and procedures for dynamic spectrum sharing technologies for joint electromagnetic operations.

(c) BRIEFINGS REQUIRED.—Concurrent with the submission of the budget of the President to Congress under section 1105(a) of title 31 for each of fiscal years 2025 through 2029, the Chairman, acting through the operational lead, shall provide to the congressional defense committees a briefing on the following:

(1) Progress made in achieving full operational capability to conduct joint electromagnetic spectrum operations and any impediments to achieving such capability.

(2) The readiness of the combatant commands to conduct such operations.

(3) Recommendations for overcoming any deficiencies in the readiness of the combatant commands to conduct such operations and any material gaps contributing to such deficiencies.

(4) An assessment of any current gaps in evaluation mechanisms for future joint use of dynamic spectrum sharing technologies.

(5) The feasibility and advisability of establishing designated virtual ranges for the evaluation of tactics, techniques, and procedures for dynamic spectrum sharing technologies.

(6) Such other matters as the Chairman considers important to ensuring that the combatant commands are capable of conducting such operations.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 616, §505; renumbered §500e, Pub. L. 118–159, div. A, title XVII, §1701(a)(10), Dec. 23, 2024, 138 Stat. 2203; amended Pub. L. 119–60, div. A, title XVI, §1681, Dec. 18, 2025, 139 Stat. 1203.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (a), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

**AMENDMENTS**

**2025**—Subsec. (b). Pub. L. 119–60, §1681(1), substituted "responsible for—" for "responsible for" and "; and" for period at end, inserted par. (1) designation before "synchronizing", and added par. (2).

Subsec. (c)(4) to (6). Pub. L. 119–60, §1681(2), added pars. (4) and (5) and redesignated former par. (4) as (6).

**2024**—Pub. L. 118–159 renumbered section 505 of this title, relating to establishment of an Electromagnetic Spectrum Enterprise Operational Lead for Joint Electromagnetic Spectrum Operations, as this section.

## §500f. Evaluations of abilities of armed forces and combatant commands to perform electromagnetic spectrum operations missions

(a) EVALUATIONS OF ARMED FORCES.—(1) Not later than October 1, 2024, and annually thereafter through 2029, the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Chief of Space Operations shall each carry out an evaluation of the ability of the armed force concerned to perform electromagnetic spectrum operations missions required by each of the following:

(A) The Electromagnetic Spectrum Superiority Strategy.

(B) The Joint Staff-developed concept of operations for electromagnetic spectrum operations.

(C) The operations and contingency plans of the combatant commands.

(2) Not later than December 31 of each year in which evaluations are required under paragraph (1), each official specified in that paragraph shall certify to the congressional defense committees

that the evaluation required to be carried out by that official has occurred.

(3) Each evaluation under paragraph (1) shall include an assessment of the following:

(A) Current programs of record, including—

(i) the ability of weapon systems to perform missions in contested electromagnetic spectrum environments; and

(ii) the ability of electromagnetic attack with capabilities to disrupt adversary operations.

(B) Future programs of record, including—

(i) the need for distributed or network-centric electromagnetic warfare and signals intelligence capabilities; and

(ii) the need for automated and machine learning- or artificial intelligence-assisted electromagnetic spectrum operations capabilities.

(C) Order of battle.

(D) Individual and unit training.

(E) Tactics, techniques, and procedures, including—

(i) maneuver, distribution of assets, and the use of decoys; and

(ii) integration of non-kinetic and kinetic fires.

(F) Other matters relevant to evaluating the ability of the armed force concerned to perform electromagnetic spectrum operations missions described in paragraph (1).

(b) EVALUATIONS OF COMBATANT COMMANDS.—(1) Not later than October 1, 2024, and annually thereafter through 2029, the Chairman of the Joint Chiefs of Staff, acting through the Electromagnetic Spectrum Enterprise Operational Lead for Joint Electromagnetic Spectrum Operations established under section 500e [1] (in this section referred to as the "operational lead"), shall carry out an evaluation of the plans and posture of the combatant commands to execute the electromagnetic spectrum operations envisioned in each of the following:

(A) The Electromagnetic Spectrum Superiority Strategy.

(B) The Joint Staff-developed concept of operations for electromagnetic spectrum operations.

(2) Each evaluation under paragraph (1) shall include an assessment, as relevant, of the following:

(A) Operation and contingency plans.

(B) The manning, organizational alignment, and capability of joint electromagnetic spectrum operations cells.

(C) Mission rehearsal and exercises.

(D) Force positioning, posture, and readiness.

(3) Not later than December 31 of each year in which an evaluation is required under paragraph (A), the Chairman of the Joint Chiefs of Staff, acting through the operational lead, shall brief the congressional defense committees on the results of the evaluation.

(Added Pub. L. 118–31, div. A, title XVI, §1682(a), Dec. 22, 2023, 137 Stat. 616, §506; renumbered §500f, Pub. L. 118–159, div. A, title XVII, §1701(a)(10), Dec. 23, 2024, 138 Stat. 2203.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159 renumbered section 506 of this title, relating to evaluations of the abilities of armed forces and combatant commands to perform electromagnetic spectrum operations missions, as this section.

[1] *So in original. Probably should refer to section 505 of this chapter.*

## §500g. Integration of electronic warfare into Tier 1 and Tier 2 joint training exercises

(a) REQUIREMENT.—During fiscal years 2026 through 2030, the Chairman of the Joint Chiefs of Staff shall require the integration of offensive and defensive electronic warfare capabilities into Tier 1 and Tier 2 joint training exercises.

(b) INCLUSION OF OPPOSING FORCE.—The Chairman shall require exercises conducted under subsection (a) to include an opposing force design based on an intelligence assessment of the electromagnetic order of battle and capabilities of an adversary that is current as of the date of the exercise.

(c) WAIVER.—The Chairman may waive the application of subsection (a) or (b) with respect to an exercise if the Chairman determines that—

(1) the exercise does not require—

(A) a demonstration of electronic warfare capabilities; or

(B) a militarily significant threat from electronic warfare attack; or

(2) the integration of offensive and defensive electronic warfare capabilities into the exercise is cost prohibitive or not technically feasible based on the overall goals of the exercise.

(d) BRIEFING.—Concurrent with the submission of the budget of the President to Congress pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 2026 through 2030, the Chairman shall provide the congressional defense committees with a briefing on exercises conducted under subsection (a) that includes—

(1) a description of such exercises planned and included in the budget submission for that fiscal year; and

(2) the results of each such exercise conducted in the preceding fiscal year, including—

(A) the extent to which offensive and defensive electronic warfare capabilities were integrated into the exercise;

(B) an evaluation and assessment of the exercise to determine the impact of the opposing force on the participants in the exercise, including—

(i) joint lessons learned;

(ii) high interest training issues; and

(iii) high interest training requirements; and

(C) an assessment as to whether offensive and defensive electronic warfare capabilities were part of an overall joint fires and, if so, a description of the manner in which such capabilities were incorporated into the joint fires.

(e) DEFINITIONS.—In this section:

(1) The term "electromagnetic order of battle" has the meaning given such term in Joint Publication 3–85 entitled "Joint Electromagnetic Spectrum Operations", dated May 2020.

(2) The terms "high interest training issue", "high interest training requirement", "Tier 1", and "Tier 2" have the meanings given such terms in the Joint Training Manual for the Armed Forces of the United States (Document No. CJCSM 3500.03E), dated April 20, 2015.

(3) The term "joint fires" has the meaning given such term in the publication of the Joint Staff entitled "Insights and Best Practices Focus Paper on Integration and Synchronization of Joint Fires", dated July 2018.

(Added Pub. L. 119–60, div. A, title XVI, §1682(a), Dec. 18, 2025, 139 Stat. 1203.)

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**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 111–383, div. A, title X, §1075(b)(1), Jan. 7, 2011, 124 Stat. 4368, substituted "1030" for "1031" in item for chapter 53.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(7), Oct. 28, 2009, 123 Stat. 2472, substituted "1580" for "1581" in item for chapter 81.

**2006**—Pub. L. 109–366, §3(a)(2), Oct. 17, 2006, 120 Stat. 2630, added item for chapter 47A.

**2001**—Pub. L. 107–107, div. A, title X, §1048(a)(1), Dec. 28, 2001, 115 Stat. 1222, struck out period after "1111" in item for chapter 56.

**2000**—Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, added item for chapter 56.

**1999**—Pub. L. 106–65, div. A, title V, §586(c)(1), title VII, §721(c)(2), Oct. 5, 1999, 113 Stat. 638, 694, added item for chapter 50 and substituted "Deceased Personnel" for "Death Benefits" and "1471" for "1475" in item for chapter 75.

**1997**—Pub. L. 105–85, div. A, title V, §591(a)(2), Nov. 18, 1997, 111 Stat. 1762, added item for chapter 80.

**1996**—Pub. L. 104–201, div. A, title XVI, §1633(c)(3), Sept. 23, 1996, 110 Stat. 2751, substituted "Civilian Defense Intelligence Employees" for "Defense Intelligence Agency and Central Imagery Office Civilian Personnel" in item for chapter 83.

Pub. L. 104–106, div. A, title V, §§568(a)(2), 569(b)(2), title X, §1061(a)(2), Feb. 10, 1996, 110 Stat. 335, 351, 442, added items for chapters 76 and 88 and struck out item for chapter 89 "Volunteers Investing in Peace and Security".

**1994**—Pub. L. 103–359, title V, §501(b)(2), Oct. 14, 1994, 108 Stat. 3429, substituted "Defense Intelligence Agency and Central Imagery Office Civilian Personnel" for "Defense Intelligence Agency Civilian Personnel" in item for chapter 83.

**1992**—Pub. L. 102–484, div. A, title XIII, §1322(a)(2), Oct. 23, 1992, 106 Stat. 2553, added item for chapter 89.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(ii), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993, struck out item for chapter 85 "Procurement Management Personnel".

Pub. L. 102–190, div. A, title XI, §1112(b)(2), Dec. 5, 1991, 105 Stat. 1501, substituted "Original Appointments of Regular Officers in Grades Above Warrant Officer Grades" for "Appointments in Regular Components" in item for chapter 33 and added item for chapter 33A.

Pub. L. 102–25, title VII, §701(e)(1), Apr. 6, 1991, 105 Stat. 114, added item for chapter 85.

**1990**—Pub. L. 101–510, div. A, title V, §502(a)(2), title XII, §1202(b), Nov. 5, 1990, 104 Stat. 1557, 1656, added items for chapters 58 and 87 and struck out item for chapter 85 "Procurement Management Personnel".

**1988**—Pub. L. 100–370, §1(c)(3), July 19, 1988, 102 Stat. 841, added item for chapter 54.

**1986**—Pub. L. 99–433, title IV, §401(b), Oct. 1, 1986, 100 Stat. 1030, added item for chapter 38.

**1985**—Pub. L. 99–145, title IX, §924(a)(2), Nov. 8, 1985, 99 Stat. 698, added item for chapter 85.

**1983**—Pub. L. 98–94, title IX, §925(a)(2), title XII, §1268(15), Sept. 24, 1983, 97 Stat. 648, 707, added item for chapter 74, and substituted "or" for "and" in item for chapter 60.

**1981**—Pub. L. 97–89, title VII, §701(a)(2), Dec. 4, 1981, 95 Stat. 1160, added item for chapter 83.

**1980**—Pub. L. 96–513, title V, §§501(1), 511(29), (54)(B), Dec. 12, 1980, 94 Stat. 2907, 2922, 2925, added item for chapter 32, substituted "531" for "541" as section number in item for chapter 33, substituted "34" for "35" as chapter number of chapter relating to appointments as reserve officers, added items for chapters 35 and 36, substituted "Reserve Components: Standards and Procedures for Retention and Promotion" for "Retention of Reserves" in item for chapter 51, added item for chapter 60, substituted "1251" for "1255" as section number in item for chapter 63, substituted "Retirement of Warrant Officers" for "Retirement" in item for chapter 65, substituted "1370" for "1371" as section number in item for chapter 69, and amended item for chapter 73 to read: "Annuities Based on Retired or Retainer Pay".

**1972**—Pub. L. 92–425, §2, Sept. 21, 1972, 86 Stat. 711, amended item for chapter 73 by inserting "; Survivor Benefit Plan" after "Pay" which could not be executed as directed in view of amendment by Pub. L. 87–381. See 1961 Amendment note below.

**1968**—Pub. L. 90–377, §2, July 5, 1968, 82 Stat. 288, added item for chapter 48.

**1967**—Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220, struck out item for chapter 80 "Exemplary Rehabilitation Certificates".

**1966**—Pub. L. 89–690, §2, Oct. 15, 1966, 80 Stat. 1017, added item for chapter 80.

**1962**—Pub. L. 87–649, §3(2), Sept. 7, 1962, 76 Stat. 493, added item for chapter 40.

**1961**—Pub. L. 87–381, §1(2), Oct. 4, 1961, 75 Stat. 810, substituted "Retired Servicemen's Family Protection Plan" for "Annuities Based on Retired or Retainer Pay" in item for chapter 73.

**1958**—Pub. L. 85–861, §§1(21), (26), (33), 33(a)(4)(B), Sept. 2, 1958, 72 Stat. 1443, 1450, 1455, 1564, substituted "General Service Requirements" for "Service Requirements for Reserves" in item for chapter 37, "971" for "[No present sections]" in item for chapter 49, "Medical and Dental Care" for "Voting by Members of Armed Forces" in item for chapter 55, and struck out "Care of the Dead" and substituted "1475" for "1481" in item for chapter 75.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF BLAST SAFETY OFFICER POSITIONS

Pub. L. 119–60, div. A, title V, §508, Dec. 18, 2025, 139 Stat. 859, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2026, the Secretary of Defense shall establish blast safety officer positions in the Army, Navy, Marine Corps, Air Force, and Space Force.

"(b) DUTIES.—Duties of a blast safety officer shall include the following, in accordance with standards established pursuant to section 735 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 1071 note):

"(1) Overseeing the blast overpressure assessment and risk management program for members of the Armed Forces where activities present a potential blast overpressure exposure, including monitoring exposures, ensuring adherence to established risk management practices, and elevating risk decisions to commanders to ensure risks are appropriately managed and exposures are minimized.

"(2) Ensuring that members of the Armed Forces with potential blast overpressure exposure receive training and education on associated health risks and mitigation protocols (including minimum safe distances).

"(3) Overseeing the application of exposure controls, including personal protective equipment and engineering controls, and ensuring wearable sensors are employed for such members, with exposure data documented in the Defense Occupational and Environmental Health Readiness System.

"(4) Coordinating with occupational and environmental health professionals to ensure that blast exposed members receive appropriate medical surveillance follow-up, with results documented, reported, and integrated into existing Department of Defense occupational and environmental health processes and systems.

"(5) Maintaining blast overpressure exposure logs in the Defense Occupational and Environmental Health Readiness System to inform long-term risk management and medical surveillance.

"(6) Coordinating with range safety officers and personnel to integrate blast overpressure risk management into range safety programs, including range design, operation, and modification.

"(c) ASSIGNMENTS.—The Secretary of a military department concerned shall assign a blast safety officer to each component of an Armed Force where blast overpressure hazards are reasonably anticipated and in such a manner so as to ensure coverage across operational environments.

"(d) TRAINING; CERTIFICATION.—A blast safety officer shall receive training and maintain a certification in blast safety."

### MILITARY ENTRANCE PROCESSING COMMAND: ACCELERATION OF REVIEW OF MEDICAL RECORDS

Pub. L. 118–159, div. A, title V, §534(a), Dec. 23, 2024, 138 Stat. 1887, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall implement a program to use health care providers, from any component of the Armed Forces under the jurisdiction of such Secretary, to support United States Military Entrance Processing Command (in this section, referred to as 'MEPCOM') and accelerate the review of medical records, as determined necessary by the Secretary."

### REIMBURSEMENT OF APPLICANTS TO CERTAIN ARMED FORCES FOR CERTAIN MEDICAL COSTS INCURRED DURING MILITARY ENTRANCE PROCESSING

Pub. L. 118–159, div. A, title V, §537, Dec. 23, 2024, 138 Stat. 1888, provided that:

"(a) AUTHORITY.—The Secretary of Defense may reimburse an individual who applies to join a covered Armed Force for costs incurred by such individual for a medical appointment required for military entrance processing.

"(b) MAXIMUM AMOUNT.—The maximum amount an individual may be reimbursed under this section is $100.

"(c) BRIEFINGS.—Not later than 16 months after the date of the enactment of this Act [Dec. 23, 2024] and once each year thereafter for two years, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a briefing on reimbursements under this section. Such a briefing

shall include, with respect to the most recent one-year period after such date, the following elements:

"(1) The number of individuals reimbursed.

"(2) The total funds spent each on such reimbursements.

"(3) The number of civilian employees hired by the Secretary to carry out this section.

"(4) The effect, if any, of such reimbursements on—

"(A) the time required to complete military entrance processing; and

"(B) recruitment.

"(5) Other information the Secretary determines appropriate.

"(d) SUNSET.—The authority to reimburse under this section shall terminate on the day that is three years after the date of the enactment of this Act [Dec. 23, 2024].

"(e) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force."

## PILOT PROGRAM ON DELEGATION OF AUTHORITY TO APPROVE RESERVE COMPONENT RECRUITS WITH CERTAIN MEDICAL CONDITIONS

Pub. L. 118–159, div. A, title VII, §740, Dec. 23, 2024, 138 Stat. 1962, provided that:

"(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall implement a pilot program to authorize each Secretary concerned (as defined in section 101(a) of title 10, United States Code) to delegate authority to the Commander of the United States Military Entrance Processing Command to approve a service medical waiver for an individual to be enlisted or appointed in a reserve component for a medical condition the Secretary concerned identifies under subsection (c).

"(b) MEDICAL CONSULTATION PROCESS.—If a Secretary concerned delegates authority to the Commander under the pilot program, the Secretary concerned shall establish a medical consultation process for the Commander to seek input from the Secretary concerned if a health care provider of the United States Military Entrance Processing Command determines that more specific medical guidance on fitness for duty is needed from the Secretary concerned before approving a service medical waiver for a medical condition described in subsection (c).

"(c) MEDICAL CONDITIONS IDENTIFIED.—If a Secretary concerned delegates authority to the Commander under the pilot program, the Secretary concerned shall identify not more than three preexisting disqualifying conditions under Department of Defense Instruction 6130.03 that regularly or automatically receive medical waivers under the policies of the Secretary concerned as of the date of the enactment of this Act.

"(d) DURATION.—The Secretary of Defense shall carry out the pilot program for a two-year period.

"(e) BRIEFING; REPORT.—

"(1) BRIEFING.—Not later than 90 days after the date on which the Secretary of Defense commences carrying out the pilot program, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing describing the implementation of the pilot program, including a list of the medical conditions identified under subsection (c).

"(2) REPORT.—Not later than 90 days after the date on which the Secretary concludes the pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the pilot program, including—

"(A) the number of service medical waivers issued, disaggregated by medical condition identified under subsection (c);

"(B) a risk assessment of implementation of the pilot program;

"(C) a comparison of the average number of days to review and adjudicate medical waivers before and during the pilot program; and

"(D) a recommendation on whether to make the authority under the pilot program permanent."

## REQUIREMENT TO BASE MILITARY ACCESSIONS AND PROMOTIONS ON MERIT AND PERFORMANCE

Pub. L. 118–31, div. A, title V, §529C, Dec. 22, 2023, 137 Stat. 257, as amended by Pub. L. 119–60, div. A, title V, §525, Dec. 18, 2025, 139 Stat. 866, provided that:

"(a) MERIT REQUIREMENT.—A military accession, promotion, or command selection in the Department of Defense shall be based on individual merit and demonstrated performance.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023]."

## PILOT PROGRAM ON CARDIAC SCREENINGS FOR MILITARY ACCESSIONS

Pub. L. 118–31, div. A, title V, §547, Dec. 22, 2023, 137 Stat. 266, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2024, the Secretary of Defense shall carry out a pilot program to provide an electrocardiogram to individuals who undergo military accession screenings. Each such electrocardiogram shall be provided—

"(1) on a mandatory basis;

"(2) at no cost to the recipient; and

"(3) in a facility of the Department of Defense or by a member or employee of the military health system.

"(b) PURPOSES.—In carrying out the pilot program, the Secretary shall—

"(1) determine the costs (including protocols and personnel and equipment for each location where the Secretary carries out the pilot program) and benefits to the Department of providing an electrocardiogram to every individual who undergoes a military accession screening;

"(2) develop and implement appropriate processes to assess the long-term impacts of electrocardiogram results on military service; and

"(3) consult with experts in cardiology to develop appropriate clinical practice guidelines for cardiac screenings, diagnosis, and treatment.

"(c) BRIEFING.—Not later than 180 days after the date on which the pilot program terminates, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the pilot program. Such briefing shall include the following:

"(1) The results of all electrocardiograms provided to individuals under the pilot program—

"(A) disaggregated by Armed Force, race, and gender; and

"(B) without any personally identifiable information.

"(2) The rate of significant cardiac issues detected pursuant to electrocardiograms provided under the pilot program, disaggregated by Armed Force, race, and gender.

"(3) The number of individuals, if any, who were disqualified from accession based solely on the result of an electrocardiogram provided under the pilot program.

"(4) The cost of carrying out the pilot program.

"(d) TERMINATION.—The pilot program shall terminate after three years after its implementation."

## STANDARDIZATION OF POLICIES RELATING TO SERVICE IN ARMED FORCES BY INDIVIDUALS DIAGNOSED WITH HBV

Pub. L. 117–263, div. A, title VII, §739, Dec. 23, 2022, 136 Stat. 2676, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, in coordination with the Secretaries concerned, shall—

"(1) review regulations, establish policies, and issue guidance relating to service in the Armed Forces by individuals diagnosed with HBV, consistent with the health care standards and clinical guidelines of the Department of Defense; and

"(2) identify areas where the regulations, policies, and guidance of the Department relating to individuals diagnosed with HBV (including with respect to enlistments, assignments, deployments, and retention standards) may be standardized across the Armed Forces.

"(b) DEFINITIONS.—In this section:

"(1) The term 'HBV' means the Hepatitis B Virus.

"(2) The term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## STRATEGY AND ANNUAL REPORT ON CRITICAL LANGUAGE PROFICIENCY OF SPECIAL OPERATIONS FORCES

Pub. L. 117–81, div. A, title III, §364, Dec. 27, 2021, 135 Stat. 1662, provided that:

"(a) STRATEGY.—

"(1) STRATEGY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, in coordination with the Secretaries of the military departments, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a strategy to improve the language proficiency of the special operations forces of the Armed Forces, including by identifying individuals who have proficiency in a critical language and recruiting and retaining such individuals in the special operations forces.

"(2) ELEMENTS.—The strategy under paragraph (1) shall include the following:

"(A) A baseline of foreign language proficiency requirements to be implemented within the special operations forces, disaggregated by Armed Force and by critical language.

"(B) Annual recruitment targets for the number of candidates with demonstrated proficiency in a critical language to be selected for participation in the initial assessment and qualification programs of the special operations forces.

"(C) A description of current and planned efforts of the Secretaries concerned and the Assistant Secretary to meet such annual recruitment targets.

"(D) A description of any training programs used to enhance or maintain foreign language proficiency within the special operations forces, including any nongovernmental programs used.

"(E) An annual plan to enhance and maintain foreign language proficiency within the special operations forces of each Armed Force.

"(F) An annual plan to retain members of the special operation forces of each Armed Force who have proficiency in a foreign language.

"(G) A description of current and projected capabilities and activities that the Assistant Secretary determines are necessary to maintain proficiency in critical languages within the special operations forces.

"(H) A plan to implement a training program for members of the special operations forces who serve in positions that the Assistant Secretary determines require proficiency in a critical language to support the Department of Defense in strategic competition.

"(b) REPORTS REQUIRED.—Not later than December 31, 2022, and annually thereafter until December 31, 2025, the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, in coordination with the Secretaries of the military departments, shall submit to the congressional defense committees a report on the strategy required under subsection (a), including progress in achieving the objectives of the strategy with respect to the recruitment, training, and retention of members of the special operations forces who have proficiency in a critical language.

"(c) DEFINITIONS.—In this section:

"(1) The term 'critical language' means a language identified by the Director of the National Security Education Program as critical to national security.

"(2) The terms 'military departments' and 'Secretary concerned' have the meanings given such terms in section 101 of title 10, United States Code.

"(3) The term 'proficiency' means proficiency in a language, as assessed by the Defense Language Proficiency Test.

"(4) The term 'special operations forces' means forces described under section 167(j) of title 10, United States Code."

## IMPROVEMENTS TO MILITARY ACCESSIONS IN THE ARMED FORCES

Pub. L. 118–31, div. A, title V, §545, Dec. 22, 2023, 137 Stat. 265, provided that:

"(a) IMPROVEMENTS.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], and once four years thereafter, the Secretary of Defense shall—

"(1) conduct an assessment of the prescribed medical standards and medical screening processes required for the appointment of an individual as an officer, or enlistment of an individual as a member, in each covered Armed Force;

"(2) taking into account the findings of such assessment—

"(A) update such standards and processes, as may be necessary; and

"(B) take such steps as may be necessary to improve the waiver process for individuals who do not meet such prescribed medical standards; and

"(3) submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing, with respect to the most recently conducted assessment under paragraph (1)—

"(A) the findings of that assessment and a description of the actions carried out pursuant to paragraph (2); and

"(B) recommendations by the Secretary for any legislative action the Secretary determines necessary to further improve such standards and processes.

"(b) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Air Force, Marine Corps, or Space Force."

Pub. L. 117–81, div. A, title V, §522, Dec. 27, 2021, 135 Stat. 1686, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall take the following steps regarding military accessions in each Armed Force under the jurisdiction of the Secretary of a military department:

"(1) Assess the prescribed medical standards for appointment as an officer, or enlistment as a member, in such Armed Force.

"(2) Determine how to update the medical screening processes for appointment or enlistment.

"(3) Determine how to standardize operations across the military entrance processing stations.

"(4) Determine how to improve aptitude testing methods and standardized testing requirements.

"(5) Determine how to improve the waiver process for individuals who do not meet medical standards for accession.

"(6) Determine, by reviewing data from calendar years 2017 through 2021, whether military accessions (including such accessions pursuant to waivers) vary, by geographic region.

"(7) Determine, by reviewing data from calendar years 2017 through 2021, whether access to military health records has suppressed the number of such military accessions, authorized Secretaries of the military departments, by—

"(A) children of members of such Armed Forces;

"(B) retired members of such Armed Forces; or

"(C) recently separated members of such Armed Forces.

"(8) Implement improvements determined under paragraphs (1) through (7).

"(b) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Secretary shall brief the Committees on Armed Services of the Senate and House of Representatives on the results of carrying out this section and recommendations regarding legislation the Secretary determines necessary to improve such military accessions."

## PRIMARY PREVENTION WORKFORCE

Pub. L. 117–81, div. A, title V, §549B, Dec. 27, 2021, 135 Stat. 1722, as amended by Pub. L. 117–263, div. A, title V, §547(b), Dec. 23, 2022, 136 Stat. 2585, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Primary Prevention Workforce to provide a comprehensive and integrated program across the Department of Defense enterprise for the primary prevention of interpersonal and self-directed violence, including sexual assault, sexual harassment, domestic violence, child abuse and maltreatment, problematic juvenile sexual behavior, suicide, workplace violence, and substance misuse.

"(b) PRIMARY PREVENTION WORKFORCE MODEL.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth a holistic model for a dedicated and capable Primary Prevention Workforce in the Department of Defense.

"(2) ELEMENTS.—The model required under paragraph (1) shall include the following elements:

"(A) A description of Primary Prevention Workforce roles, responsibilities, and capabilities, including—

"(i) the conduct of research and analysis;

"(ii) advising all levels of military commanders and leaders;

"(iii) designing and writing strategic and operational primary prevention policies and programs;

"(iv) integrating and analyzing data; and

"(v) implementing, evaluating, and adapting primary prevention programs and activities, to include developing evidence-based training and education programs for Department personnel that is appropriately tailored by rank, occupation, and environment.

"(B) The design and structure of the Primary Prevention Workforce, including—

"(i) consideration of military, civilian, and hybrid manpower options;

"(ii) the comprehensive integration of the workforce from strategic to tactical levels of the Department of Defense and its components; and

"(iii) mechanisms for individuals in workforce roles to report to and align with installation-level and headquarters personnel.

"(C) Strategies, plans, and systematic approaches for recruiting, credentialing, promoting, and sustaining the diversity of work force roles comprising a professional workforce dedicated to primary prevention.

"(D) The creation of a professional, primary prevention credential that standardizes a common base of education and experience across the prevention workforce, coupled with knowledge development and skill building requirements built into the career cycle of prevention practitioners such that competencies and expertise increase over time.

"(E) Any other matter the Secretary of Defense determines necessary and appropriate to presenting an accurate and complete model of the Primary Prevention Workforce.

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretaries of the military departments and the Chief of the National Guard Bureau each shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing how the military services and the National Guard, as applicable, will adapt and implement the primary prevention workforce model set forth in the report required under subsection (b).

"(2) ELEMENTS.—Each report submitted under paragraph (1) shall include a description of—

"(A) expected milestones to implement the prevention workforce in the component at issue;

"(B) challenges associated with implementation of the workforce and the strategies for addressing such challenges; and

"(C) additional authorities that may be required to optimize implementation and operation of the workforce.

"(3) COMPTROLLER GENERAL REPORT.—Not later than one year after the date of the enactment of this paragraph [Dec. 23, 2022], the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that—

"(A) compares the sexual harassment and prevention training of the Department of Defense with similar programs at other departments and agencies of the Federal Government; and

"(B) includes relevant data collected by colleges and universities and other relevant outside entities on hazing and bullying and interpersonal and self-directed violence.

"(d) OPERATING CAPABILITY DEADLINE.—The Primary Prevention Workforce authorized under this section shall attain initial operating capability in each military department and military service and in the National Guard by not later than the effective date specified in section 539C [10 U.S.C. 801 note].

"(e) INCORPORATION OF RESEARCH AND FINDINGS.—The Secretary of Defense shall ensure that the findings and conclusions from the primary prevention research agenda established under section 549A [10 U.S.C. 1561 note prec.] are regularly incorporated, as appropriate, within the primary prevention workforce established under subsection (a)."

## CADRE OF SOFTWARE DEVELOPMENT AND ACQUISITION EXPERTS

Pub. L. 117–81, div. A, title VIII, §836, Dec. 27, 2021, 135 Stat. 1837, provided that:

"(a) IN GENERAL.—Not later than January 1, 2023, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish a cadre of personnel who are experts in software development, acquisition, and sustainment to improve the effectiveness of software development, acquisition, and sustainment programs or activities of the Department of Defense.

"(b) STRUCTURE.—The Under Secretary of Defense for Acquisition and Sustainment—

"(1) shall ensure the cadre has the appropriate number of members;

"(2) shall establish an appropriate leadership structure and office within which the cadre shall be managed; and

"(3) shall determine the appropriate officials to whom members of the cadre shall report.

"(c) ASSIGNMENT.—The Under Secretary of Defense for Acquisition and Sustainment shall establish processes to assign members of the cadre to provide—

"(1) expertise on matters relating to software development, acquisition, and sustainment; and

"(2) support for appropriate programs or activities of the Department of Defense.

"(d) ADMINISTRATION.—

"(1) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the President of the Defense Acquisition University and in consultation with academia and industry, shall develop a career path, including development opportunities, exchanges, talent management programs, and training, for the cadre. The Under Secretary may use existing personnel and acquisition authorities to establish the cadre, as appropriate, including—

"(A) section 9903 of title 5, United States Code;

"(B) authorities relating to services contracting;

"(C) the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.); and

"(D) authorities relating to exchange programs with industry.

"(2) ASSIGNMENTS.—Civilian personnel from within the Office of the Secretary of Defense, Joint Staff, military departments, Defense Agencies, and combatant commands may be assigned to serve as

members of the cadre.

"(3) PREFERENCE.—In establishing the cadre, the Under Secretary shall give preference to civilian employees of the Department of Defense.

"(e) SUPPORT OF MEMBERS OF THE ARMED FORCES.—The Under Secretary of Defense for Acquisition and Sustainment shall continue to support efforts of the Secretaries concerned to place members of the Armed Forces in software development, acquisition, and sustainment positions and develop software competence in members of the Armed Forces, including those members with significant technical skill sets and experience but who lack formal education, training, or a technology-focused military occupation specialty.

"(f) FUNDING.—The Under Secretary of Defense for Acquisition and Sustainment is authorized to use amounts in the Defense Acquisition Workforce Development Account (established under section 1705 of title 10, United States Code) for the purpose of recruitment, training, and retention of members of the cadre, including by using such amounts to pay salaries of newly hired members of the cadre for up to three years.

"(g) COMPLIANCE.—In carrying out this section, the Under Secretary of Defense for Acquisition and Sustainment shall ensure compliance with applicable total force management policies, requirements, and restrictions provided in sections 129a, 2329 [now 10 U.S.C. 4506], and 2461 of title 10, United States Code."

## DIGITAL TALENT RECRUITING OFFICER

Pub. L. 117–81, div. A, title IX, §909, Dec. 27, 2021, 135 Stat. 1876, provided that:

"(a) DIGITAL TALENT RECRUITING FOR THE DEPARTMENT OF DEFENSE.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall designate a chief digital recruiting officer within the office of the Under Secretary of Defense for Personnel and Readiness to carry out the responsibilities set forth in paragraph (2).

"(2) RESPONSIBILITIES.—The chief digital recruiting officer shall be responsible for—

"(A) identifying Department of Defense needs for, and skills gaps in, specific types of civilian digital talent;

"(B) recruiting individuals with the skills that meet the needs and skills gaps identified under subparagraph (A), in partnership with the military departments and other organizations and elements of the Department;

"(C) ensuring Federal scholarship for service programs are incorporated into civilian recruiting strategies;

"(D) when appropriate and within authority granted under other Federal law, offering recruitment and referral bonuses; and

"(E) partnering with human resource teams in the military departments and other organizations and elements of the Department to help train all Department of Defense human resources staff on the available hiring flexibilities to accelerate the hiring of individuals with the skills that fill the needs and skills gaps identified under subparagraph (A).

"(3) RESOURCES.—The Secretary of Defense shall ensure that the chief digital recruiting officer is provided with personnel and resources sufficient to carry out the duties set forth in paragraph (2).

"(4) ROLE OF CHIEF HUMAN CAPITAL OFFICER.—

"(A) IN GENERAL.—The chief digital recruiting officer shall report directly to the Chief Human Capital Officer of the Department of Defense.

"(B) INCORPORATION.—The Chief Human Capital Officer shall ensure that the chief digital recruiting officer is incorporated into the agency human capital operating plan and recruitment strategy. In carrying out this paragraph, the Chief Human Capital Officer shall ensure that the chief digital recruiting officer's responsibilities are deconflicted with any other recruitment initiatives and programs.

"(b) DIGITAL TALENT DEFINED.—For the purposes of this section, the term 'digital talent' includes positions and capabilities in, or related to, software development, engineering, and product management; data science; artificial intelligence; distributed ledger technologies; autonomy; data management; product and user experience design; and cybersecurity.

"(c) ANNUAL BRIEFING REQUIREMENT.—Not later than one year after the date of the enactment of this Act, and on an annual basis thereafter, the chief digital recruiting officer shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) the efforts of the Department of Defense to recruit digital talent to positions in the Department; and

"(2) a summary of any accomplishments and challenges with respect to such recruiting.

"(d) SUNSET.—The requirements under subsection (a) shall expire on September 30, 2025."

## MEASURING AND INCENTIVIZING PROGRAMMING PROFICIENCY

Pub. L. 116–283, div. A, title II, §241(a), (b), Jan. 1, 2021, 134 Stat. 3486, 3487, provided that:

"(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall carry out the following activities:

"(1) Leverage existing civilian software development and software architecture certification programs to implement coding language proficiency and artificial intelligence competency tests within the Department of Defense that—

"(A) measure an individual's competency in using machine learning tools, in a manner similar to the way the Defense Language Proficiency Test measures competency in foreign language skills;

"(B) enable the identification of members of the Armed Forces and civilian employees of the Department of Defense who have varying levels of quantified coding comprehension and skills and a propensity to learn new programming paradigms, algorithms, and data analytics; and

"(C) include hands-on coding demonstrations and challenges.

"(2) Update existing recordkeeping systems to track artificial intelligence and programming certification testing results in a manner that is comparable to the system used for tracking and documenting foreign language competency, and use that recordkeeping system to ensure that workforce coding and artificial intelligence comprehension and skills are taken into consideration when making assignments.

"(3) Implement a system of rewards, including appropriate incentive pay and retention incentives, for members of the Armed Forces and civilian employees of the Department of Defense who perform successfully on specific language coding proficiency and artificial intelligence competency tests and make their skills available to the Department.

"(b) INFORMATION SHARING WITH OTHER FEDERAL AGENCIES.—The Secretary of Defense shall share information on the activities carried out under subsection (a) with the Secretary of Homeland Security, the Attorney General, the Director of National Intelligence, and the heads of such other organizations of the intelligence community as the Secretary determines appropriate, for purposes of—

"(1) making information about the coding language proficiency and artificial intelligence competency tests developed under such subsection available to other Federal national security agencies; and

"(2) encouraging the heads of such agencies to implement tracking and reward systems that are comparable to those implemented by the Department of Defense pursuant to such subsection."

## EVALUATION OF BARRIERS TO MINORITY PARTICIPATION IN CERTAIN UNITS OF THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §557, Jan. 1, 2021, 134 Stat. 3637, provided that:

"(a) STUDY REQUIRED.—

"(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Jan. 1, 2021], the Under Secretary of Defense for Personnel and Readiness shall seek to enter into an agreement with a federally funded research and development center with relevant expertise to conduct an evaluation of the barriers to minority participation in covered units of the Armed Forces.

"(2) ELEMENTS.—The evaluation required under paragraph (1) shall include the following elements:

"(A) A description of the racial, ethnic, and gender composition of covered units.

"(B) A comparison of the participation rates of minority populations in covered units to participation rates of the general population as members and as officers of the Armed Forces.

"(C) A comparison of the percentage of minority officers in the grade of O–7 or higher who have served in each covered unit to such percentage for all such officers in the Armed Force of that covered unit.

"(D) An identification of barriers to minority (including English language learners) participation in the recruitment, accession, assessment, and training processes.

"(E) The status and effectiveness of the response to the recommendations contained in the report of the RAND Corporation titled 'Barriers to Minority Participation in Special Operations Forces' and any follow-up recommendations.

"(F) Recommendations to increase the numbers of minority officers in the Armed Forces.

"(G) Recommendations to increase minority participation in covered units.

"(H) Any other matters the Secretary determines appropriate.

"(3) REPORT TO CONGRESS.—The Secretary shall—

"(A) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the study by not later than January 1, 2022; and

"(B) provide interim briefings to such committees upon request.

"(b) DESIGNATION.—The study conducted under subsection (a) shall be known as the 'Study on Reducing Barriers to Minority Participation in Elite Units in the Armed Services'.

"(c) IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than March 1, 2023, the Secretary of Defense shall commence the implementation of each recommendation included in the final report submitted under subsection (a)(3).

"(2) EXCEPTIONS.—

"(A) DELAYED IMPLEMENTATION.—The Secretary of Defense may commence implementation of a recommendation described [in] paragraph (1) later than March 1, 2023, if—

"(i) the Secretary submits to the congressional defense committees, not later than January 1, 2023, written notice of the intent of the Secretary to delay implementation of the recommendation; and

"(ii) includes, as part of such notice, a specific justification for the delay in implementing the recommendation.

"(B) NONIMPLEMENTATION.—The Secretary of Defense may elect not to implement a recommendation described in paragraph (1), if—

"(i) the Secretary submits to the congressional defense committees, not later than January 1, 2023, written notice of the intent of the Secretary not to implement the recommendation; and

"(ii) includes, as part of such notice—

"(I) the reasons for the Secretary's decision not to implement the recommendation; and

"(II) a summary of alternative actions the Secretary will carry out to address the purposes underlying the recommendation.

"(3) IMPLEMENTATION PLAN.—For each recommendation that the Secretary implements under this subsection, the Secretary shall submit to the congressional defense committees an implementation plan that includes—

"(A) a summary of actions the Secretary has carried out, or intends to carry out, to implement the recommendation; and

"(B) a schedule, with specific milestones, for completing the implementation of the recommendation.

"(d) COVERED UNITS DEFINED.—In this section, the term 'covered units' means the following:

"(1) Army Special Forces.

"(2) Army Rangers.

"(3) Navy SEALs.

"(4) Air Force Combat Control Teams.

"(5) Air Force Pararescue.

"(6) Air Force Special Reconnaissance.

"(7) Marine Raider Regiments.

"(8) Marine Corps Force Reconnaissance.

"(9) Coast Guard Maritime Security Response Team.

"(10) Any other forces designated by the Secretary of Defense as special operations forces.

"(11) Pilot and navigator military occupational specialties."

## PERSONAL PROTECTIVE EQUIPMENT MATTERS

Pub. L. 116–283, div. A, title X, §1091, Jan. 1, 2021, 134 Stat. 3882, provided that:

"(a) BRIEFINGS ON FIELDING OF NEWEST GENERATIONS OF PPE TO THE ARMED FORCES.—

"(1) BRIEFINGS REQUIRED.—Not later than January 31, 2021, each Secretary of a military department shall submit to Congress a briefing on the fielding of the newest generations of personal protective equipment to the Armed Forces under the jurisdiction of such Secretary.

"(2) ELEMENTS.—Each briefing under paragraph (1) shall include, for each Armed Force covered by such briefing, the following:

"(A) A description and assessment of the fielding of newest generations of personal protective equipment to members of such Armed Force, including the following:

"(i) The number (aggregated by total number and by sex) of members of such Armed Force issued the Army Soldiers Protective System and the Modular Scalable Vest Generation II body armor as of December 31, 2020.

"(ii) The number (aggregated by total number and by sex) of members of such Armed Force issued Marine Corps Plate Carrier Generation III body armor as of that date.

"(iii) The number (aggregated by total number and by sex) of members of such Armed Force

fitted with legacy personal protective equipment as of that date.

"(B) A description and assessment of the barriers, if any, to the fielding of such generations of equipment to such members.

"(C) A description and assessment of challenges in the fielding of such generations of equipment to such members, including cost overruns, contractor delays, and other challenges.

"(b) SYSTEM FOR TRACKING DATA ON INJURIES AMONG MEMBERS OF THE ARMED FORCES IN USE OF NEWEST GENERATION PPE.—

"(1) SYSTEM REQUIRED.—

"(A) IN GENERAL.—The Secretary of Defense shall develop and maintain a system for tracking data on injuries among members of the Armed Forces in and during the use of newest generation personal protective equipment.

"(B) SCOPE OF SYSTEM.—The system required by this paragraph may, at the election of the Secretary, be new for purposes of this subsection or within or a modification of an appropriate existing system.

"(2) BRIEFING.—Not later than January 31, 2025, the Secretary shall submit to Congress a briefing on the prevalence among members of the Armed Forces of preventable injuries attributable to ill-fitting or malfunctioning personal protective equipment.

"(c) ASSESSMENTS OF MEMBERS OF THE ARMED FORCES OF INJURIES INCURRED IN CONNECTION WITH ILL-FITTING OR MALFUNCTIONING PPE.—

"(1) IN GENERAL.—Each health assessment specified in paragraph (2) that is undertaken after the date of the enactment of this Act [Jan. 1, 2021] shall include the following:

"(A) One or more questions on whether members incurred an injury in connection with ill-fitting or malfunctioning personal protective equipment during the period covered by such assessment, including the nature of such injury.

"(B) In the case of any member who has so incurred such an injury, one or more elements of self-evaluation of such injury by such member for purposes of facilitating timely documentation and enhanced monitoring of such members and injuries.

"(2) ASSESSMENTS.—The health assessments specified in this paragraph are the following:

"(A) The annual Periodic Health Assessment of members of the Armed Forces.

"(B) The post-deployment health assessment of members of the Armed Forces."

## POLICY ON THE TALENT MANAGEMENT OF DIGITAL EXPERTISE AND SOFTWARE PROFESSIONALS

Pub. L. 116–92, div. A, title II, §230, Dec. 20, 2019, 133 Stat. 1273, as amended by Pub. L. 118–159, div. A, title II, §221(a), Dec. 23, 2024, 138 Stat. 1828, provided that:

"(a) POLICY.—

"(1) IN GENERAL.—It shall be a policy of the Department of Defense to promote and maintain digital expertise and software development as core competencies of civilian and military workforces of the Department, and as a capability to support the National Defense Strategy, which policy shall be achieved by—

"(A) the recruitment, development, and incentivization of retention in and to the civilian and military workforce of the Department of individuals with aptitude, experience, proficient expertise, or a combination thereof in digital expertise and software development;

"(B) at the discretion of the Secretaries of the military departments, the development and maintenance of civilian and military career tracks related to digital expertise, and related digital competencies for members of the Armed Forces, including the development and maintenance of training, education, talent management, incentives, and promotion policies in support of members at all levels of such career tracks; and

"(C) the development and application of appropriate readiness standards and metrics to measure and report on the overall capability, capacity, utilization, and readiness of digital engineering professionals to develop and deliver operational capabilities and employ modern business practices.

"(2) DIGITAL ENGINEERING DEFINED.—For purposes of this section, the term 'digital engineering' means the discipline and set of skills involved in the creation, processing, transmission, integration, and storage of digital data, including data science, machine learning, software engineering, software product management, and artificial intelligence product management.

"(b) IMPLEMENTATION PLAN.—Not later than May 1, 2020, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan that describes how the Department of Defense will execute the policy described in subsection (a).

"(c) RESPONSIBILITY.—

"(1) APPOINTMENT OF OFFICER.—Not later than April 30, 2025, the Secretary of Defense shall appoint a civilian official responsible for the development and implementation of the policy and implementation plan set forth in subsections (a) and (b), respectively. The official shall be known as the 'Chief Digital Engineering Recruitment and Management Officer of the Department of Defense'.

"(2) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities specified in paragraph (1), the Officer appointed under such paragraph shall—

"(A) fully define and identify the artificial intelligence workforce of the Department of Defense, including by—

"(i) clarifying the roles and responsibilities of the artificial intelligence workforce and the relationship between the artificial intelligence workforce and the overall Department of Defense innovation workforce and digital workforce;

"(ii) coding artificial intelligence workforce roles in workforce data systems; and

"(iii) developing a qualification program for artificial intelligence workforce roles; and

"(B) update the Department of Defense Human Capital Operating Plan to be consistent with the Strategic Management Plan of the Department and the Annual Performance Plan of the Department relating to artificial intelligence workforce issues, including—

"(i) addressing the human capital implementation actions planned to support the strategic goals and priorities identified in the Agency Strategic Plan and Annual Performance Plan; and

"(ii) ensuring the use of consistent artificial intelligence terminology.

"(3) EXPIRATION OF APPOINTMENT.—The appointment of the Officer under paragraph (1) shall expire on September 30, 2030."

## ACTIVITIES ON IDENTIFICATION AND DEVELOPMENT OF ENHANCED PERSONAL PROTECTIVE EQUIPMENT AGAINST BLAST INJURY

Pub. L. 115–232, div. A, title II, §226, Aug. 13, 2018, 132 Stat. 1685, as amended by Pub. L. 116–283, div. A, title X, §1081(d)(2), Jan. 1, 2021, 134 Stat. 3873, provided that:

"(a) ACTIVITIES REQUIRED.—During calendar year 2019, the Secretary of the Army shall, in consultation with the Director of Operational Test and Evaluation, carry out a set of activities to identify and develop personal equipment to provide enhanced protection against injuries caused by blasts in combat and training.

"(b) ACTIVITIES.—

"(1) CONTINUOUS EVALUATION PROCESS.—For purposes of the activities required by subsection (a), the Secretary shall establish a process to continuously solicit from government, industry, academia, and other appropriate entities personal protective equipment that is ready for testing and evaluation in order to identify and evaluate equipment or clothing that is more effective in protecting members of the Armed Forces from the harmful effects of blast injuries, including traumatic brain injuries, and would be suitable for expedited procurement and fielding.

"(2) GOALS.—The goals of the activities shall include:

"(A) Development of streamlined requirements for procurement of personal protective equipment.

"(B) Appropriate testing of personal protective equipment prior to procurement and fielding.

"(C) Development of expedited mechanisms for deployment of effective personal protective equipment.

"(D) Identification of areas of research in which increased investment has the potential to improve the quality of personal protective equipment and the capability of the industrial base to produce such equipment.

"(E) Such other goals as the Secretary considers appropriate.

"(3) PARTNERSHIPS FOR CERTAIN ASSESSMENTS.—As part of the activities, the Secretary should continue to establish partnerships with appropriate academic institutions for purposes of assessing the following:

"(A) The ability of various forms of personal protective equipment to protect against common blast injuries, including traumatic brain injuries.

"(B) The value of real-time data analytics to track the effectiveness of various forms of personal protective equipment to protect against common blast injuries, including traumatic brain injuries.

"(C) The availability of commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) that may serve as personal protective technology to protect against traumatic brain injury resulting from blasts.

"(D) The extent to which the equipment determined through the assessment to be most effective

to protect against common blast injuries is readily modifiable for different body types and to provide lightweight material options to enhance maneuverability.

"(c) AUTHORITIES.—In carrying out activities under subsection (a), the Secretary may use any authority as follows:

"(1) Experimental procurement authority under section 2373 of title 10, United States Code [now 10 U.S.C. 4023].

"(2) Other transactions authority under section 2371 [now 10 U.S.C. 4021] and 2371b [now 10 U.S.C. 4022] of title 10, United States Code.

"(3) Authority to award technology prizes under section 2374a of title 10, United States Code [now 10 U.S.C. 4025].

"(4) Authority under the Defense Acquisition Challenge Program under section 2359b of title 10, United States Code [now 10 U.S.C. 4062].

"(5) Any other authority on acquisition, technology transfer, and personnel management that the Secretary considers appropriate.

"(d) CERTAIN TREATMENT OF ACTIVITIES.—Any activities under this section shall be deemed to have been through the use of competitive procedures for the purposes of section 2304 of title 10, United States Code [now 10 U.S.C. 3201 et seq.].

"(e) ON-GOING ASSESSMENT FOLLOWING ACTIVITIES.—After the completion of activities under subsection (a), the Secretary shall, on an on-going basis, do the following:

"(1) Evaluate the extent to which personal protective equipment identified through the activities would—

"(A) enhance survivability of personnel from blasts in combat and training; and

"(B) enhance prevention of brain damage, and reduction of any resultant chronic brain dysfunction, from blasts in combat and training.

"(2) In the case of personal protective equipment so identified that would provide enhancements as described in paragraph (1), estimate the costs that would be incurred to procure such enhanced personal protective equipment, and develop a schedule for the procurement of such equipment.

"(3) Estimate the potential health care cost savings that would occur from expanded use of personal protective equipment described in paragraph (2).

"(f) REPORT.—Not later than December 1, 2019, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the activities under subsection (a) as of the date of the report.

"(g) FUNDING.—Of the amount authorized to be appropriated for fiscal year 2019 by this Act for research, development, test, and evaluation, as specified in the funding tables in division D [div. D of Pub. L. 115–232, 132 Stat. 2328], $10,000,000 may be used to carry out this section."

[Pub. L. 116–283, div. A, title X, §1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(2) of Pub. L. 116–283 to section 226 of Pub. L. 115–232, set out above, is effective as of Aug. 13, 2018, and as if included in Pub. L. 115–232.]

## ENHANCED PROTECTIONS FOR PROSPECTIVE MEMBERS AND NEW MEMBERS OF THE ARMED FORCES DURING ENTRY-LEVEL PROCESSING AND TRAINING

Pub. L. 113–66, div. A, title XVII, §1741, Dec. 26, 2013, 127 Stat. 977, as amended by Pub. L. 113–291, div. A, title V, §531(e), Dec. 19, 2014, 128 Stat. 3364, provided that:

"(a) DEFINING INAPPROPRIATE AND PROHIBITED RELATIONSHIPS, COMMUNICATION, CONDUCT, AND CONTACT BETWEEN CERTAIN MEMBERS.—

"(1) POLICY REQUIRED.—The Secretary of a military department and the Secretary of the Department in which the Coast Guard is operating shall maintain a policy that defines and prescribes, for the persons described in paragraph (2), what constitutes an inappropriate and prohibited relationship, communication, conduct, or contact, including when such an action is consensual, between a member of the Armed Forces described in paragraph (2)(A) and a prospective member or member of the Armed Forces described in paragraph (2)(B).

"(2) COVERED MEMBERS.—The policy required by paragraph (1) shall apply to—

"(A) a member of the Armed Forces who exercises authority or control over, or supervises, a person described in subparagraph (B) during the entry-level processing or training of the person; and

"(B) a prospective member of the Armed Forces or a member of the Armed Forces undergoing entry-level processing or training.

"(3) INCLUSION OF CERTAIN MEMBERS REQUIRED.—The members of the Armed Forces covered by paragraph (2)(A) shall include, at a minimum, military personnel assigned or attached to duty—

"(A) for the purpose of recruiting or assessing persons for enlistment or appointment as a commissioned officer, warrant officer, or enlisted member of the Armed Forces;

"(B) at a Military Entrance Processing Station; or

"(C) at an entry-level training facility or school of an Armed Force.

"(b) EFFECT OF VIOLATIONS.—A member of the Armed Forces who violates the policy required by subsection (a) shall be subject to prosecution under the Uniform Code of Military Justice.

"(c) PROCESSING FOR ADMINISTRATIVE SEPARATION.—

"(1) IN GENERAL.—(A) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall require the processing for administrative separation of any member of the Armed Forces described in subsection (a)(2)(A) in response to the first substantiated violation by the member of the policy required by subsection (a), when the member is not otherwise punitively discharged or dismissed from the Armed Forces for that violation.

"(B) The Secretary of a military department shall revise regulations applicable to the Armed Forces under the jurisdiction of that Secretary as necessary to ensure compliance with the requirement under subparagraph (A).

"(2) REQUIRED ELEMENTS.—(A) In imposing the requirement under paragraph (1), the Secretaries shall ensure that any separation decision regarding a member of the Armed Forces is based on the full facts of the case and that due process procedures are provided under existing law or regulations or additionally prescribed, as considered necessary by the Secretaries, pursuant to subsection (f).

"(B) The requirement imposed by paragraph (1) shall not be interpreted to limit or alter the authority of the Secretary of a military department and the Secretary of the Department in which the Coast Guard is operating to process members of the Armed Forces for administrative separation—

"(i) for reasons other than a substantiated violation of the policy required by subsection (a); or

"(ii) under other provisions of law or regulation.

"(3) SUBSTANTIATED VIOLATION.—For purposes of paragraph (1), a violation by a member of the Armed Forces described in subsection (a)(2)(A) of the policy required by subsection (a) shall be treated as substantiated if—

"(A) there has been a court-martial conviction for violation of the policy, but the adjudged sentence does not include discharge or dismissal; or

"(B) a nonjudicial punishment authority under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), has determined that a member has committed an offense in violation of the policy and imposed nonjudicial punishment upon the member.

"(d) REPORT ON NEED FOR UCMJ PUNITIVE ARTICLE.—Not later than 120 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the recommendations of the Secretary regarding the need to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to create an additional article under subchapter X of such chapter to address violations of the policy required by subsection (a).

"(e) DEFINITIONS.—In this section:

"(1) The term 'entry-level processing or training', with respect to a member of the Armed Forces, means the period beginning on the date on which the member became a member of the Armed Forces and ending on the date on which the member physically arrives at that member's first duty assignment following completion of initial entry training (or its equivalent), as defined by the Secretary of the military department concerned or the Secretary of the Department in which the Coast Guard is operating.

"(2) The term 'prospective member of the Armed Forces' means a person who is pursuing or has recently pursued becoming a member of the Armed Forces and who has had a face-to-face meeting with a member of the Armed Forces assigned or attached to duty described in subsection (a)(3)(A) regarding becoming a member of the Armed Forces, regardless of whether the person eventually becomes a member of the Armed Forces.

"(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall issue such regulations as may be necessary to carry out this section. The Secretary of Defense shall ensure that, to the extent practicable, the regulations are uniform for each armed force under the jurisdiction of that Secretary."

# CHAPTER 31—ENLISTMENTS

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## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title IV, §403(b), Jan. 1, 2021, 134 Stat. 3556, added item 517 and struck out former item 517 "Authorized daily average: members in pay grades E–8 and E–9".

**2004**—Pub. L. 108–375, div. A, title V, §551(a)(2), Oct. 28, 2004, 118 Stat. 1911, added item 511.

**2003**—Pub. L. 108–136, div. A, title X, §1031(a)(8)(B), Nov. 24, 2003, 117 Stat. 1597, substituted "provision of meals and refreshments" for "use of funds" in item 520c.

**2002**—Pub. L. 107–314, div. A, title V, §531(a)(2), Dec. 2, 2002, 116 Stat. 2544, added item 510.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1076(g)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–282, struck out item 520a "Criminal history information for military recruiting purposes".

**1996**—Pub. L. 104–201, div. A, title III, §361(b), Sept. 23, 1996, 110 Stat. 2491, added item 520c.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(3), Oct. 5, 1994, 108 Stat. 3013, as amended by Pub. L. 104–106, div. A, title XV, §1501(a)(8)(A), Feb. 10, 1996, 110 Stat. 495, struck out items 510 "Reserve components: qualifications", 511 "Reserve components: terms", and 512 "Reserve components: transfers".

**1989**—Pub. L. 101–189, div. A, title V, §501(a)(2), Nov. 29, 1989, 103 Stat. 1435, added item 513.

**1985**—Pub. L. 99–145, title XIII, §1303(a)(4)(B), Nov. 8, 1985, 99 Stat. 738, substituted "enlistment" for "enlistments" in item 520b.

**1984**—Pub. L. 98–525, title XIV, §1401(a)(2), Oct. 19, 1984, 98 Stat. 2614, added item 520b.

**1982**—Pub. L. 97–252, title XI, §1114(b)(3), (c)(2), Sept. 8, 1982, 96 Stat. 749, 750, inserted "; compilation of directory information" in item 503, and added item 520a.

**1980**—Pub. L. 96–342, title III, §302(b)(2), Sept. 8, 1980, 94 Stat. 1083, added item 520.

**1968**—Pub. L. 90–623, §2(2), Oct. 22, 1968, 82 Stat. 1314, struck out "or national emergency" after "extension of enlistments during war" in item 506.

Pub. L. 90–235, §2(a)(1)(C), Jan. 2, 1968, 81 Stat. 755, redesignated item 501 as 502, and added items 501, 503 to 509, 518 and 519.

**1962**—Pub. L. 87–649, §2(2), Sept. 7, 1962, 76 Stat. 492, added item 517.

**1958**—Pub. L. 85–861, §1(9)(B), (C), Sept. 2, 1958, 72 Stat. 1440, struck out item 513 "Reserve components: promotions" and added item 516.

## §501. Definition

In this chapter "enlistment" means original enlistment or reenlistment.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 753.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 501 was renumbered section 500a of this title.

**PRIOR PROVISIONS**

A prior section 501 was renumbered 502 of this title.

## §502. Enlistment oath: who may administer

(a) ENLISTMENT OATH.—Each person enlisting in an armed force shall take the following oath:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God."

(b) WHO MAY ADMINISTER.—The oath may be taken before the President, the Vice-President, the Secretary of Defense, any commissioned officer, or any other person designated under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 17, §501; Pub. L. 87–751, §1, Oct. 5, 1962, 76 Stat. 748; renumbered §502, Pub. L. 90–235, §2(a)(1)(A), Jan. 2, 1968, 81 Stat. 753; Pub. L. 101–189, div. A, title VI, §653(a)(1), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 109–364, div. A, title V, §595(a), Oct. 17, 2006, 120 Stat. 2235.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 501 | 50:737. | May 5, 1950, ch. 169, §8, 64 Stat. 146. |

The words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1. The words "of any armed force" are inserted in the last sentence, since they are necessarily implied by their use in the source statute.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Uniform Code of Military Justice, referred to in the oath, is classified to chapter 47 (§801 et seq.) of this title.

**CODIFICATION**

Another section 502 was renumbered section 500b of this title.

**AMENDMENTS**

**2006**—Pub. L. 109–364 designated existing provisions as subsec. (a), inserted heading, struck out concluding provisions which read as follows: "This oath may be taken before any commissioned officer of any armed force.", and added subsec. (b).

**1989**—Pub. L. 101–189 struck out "or affirmation" after "This oath".

**1962**—Pub. L. 87–751 substituted "support and defend the Constitution of the United States against all

enemies, foreign and domestic; that I will bear true faith and allegiance to the same" for "bear true faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever" and inserted "So help me God" in the oath, and "or affirmation" in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1962 AMENDMENT**

Pub. L. 87–751, §3, Oct. 5, 1962, 76 Stat. 748, provided that: "This Act [amending this section and section 304 of Title 32, National Guard] does not affect any oath taken before one year after its enactment [Oct. 5, 1962]."

## §503. Enlistments: recruiting campaigns; compilation of directory information

(a) RECRUITING CAMPAIGNS.—(1) The Secretary concerned shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, and Regular Coast Guard and the Space Force.

(2) The Secretary of Defense shall act on a continuing basis to enhance the effectiveness of recruitment programs of the Department of Defense (including programs conducted jointly and programs conducted by the separate armed forces) through an aggressive program of advertising and market research targeted at prospective recruits for the armed forces and those who may influence prospective recruits. Subchapter I of chapter 35 of title 44 shall not apply to actions taken as part of that program.

(3) PII regarding a prospective recruit collected or compiled under this subsection shall be kept confidential, and a person who has had access to such PII may not disclose the information except for purposes of this section or other purpose authorized by law.

(4) In the course of conducting a recruiting campaign, the Secretary concerned shall—

(A) notify a prospective recruit of data collection policies of the armed force concerned; and

(B) permit the prospective recruit to elect not to participate in such data collection.

(5) In this subsection, the term "PII" means personally identifiable information.

(b) COMPILATION OF DIRECTORY INFORMATION.—(1) The Secretary of Defense may collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade (or its equivalent) or higher and who is enrolled in a secondary school in the United States or its territories, possessions, or the Commonwealth of Puerto Rico.

(2) The Secretary may make directory information collected and compiled under this subsection available to the armed forces for military recruiting purposes. Such information may not be disclosed for any other purpose.

(3) Directory information pertaining to any person may not be maintained for more than 3 years after the date the information pertaining to such person is first collected and compiled under this subsection.

(4) Directory information collected and compiled under this subsection shall be confidential, and a person who has had access to such information may not disclose such information except for the purposes described in paragraph (2).

(5) The Secretary of Defense shall prescribe regulations to carry out this subsection. Regulations prescribed under this subsection shall be submitted to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. Regulations prescribed by the Secretaries concerned to carry out this subsection shall be as uniform as practicable.

(6) Nothing in this subsection shall be construed as requiring, or authorizing the Secretary of Defense to require, that any educational institution furnish directory information to the Secretary.

(c) ACCESS TO SECONDARY SCHOOLS.—(1)(A) Each local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965—

(i) shall provide to a military recruiter, for the purpose of recruiting students who are at least 17

years old, access—

(I) to the campus of a secondary school under the jurisdiction of such local educational agency; and

(II) that is equivalent to access provided to such campus to a prospective employer of such students, an institution of higher education, or another recruiter;

(ii) shall, upon the request of a military recruiter for the purpose described in clause (i), provide access to at least one in-person recruitment event (such as a career fair) per academic year; and

(iii) shall, upon the request of a military recruiter for the purpose described in clause (i), provide, not later than 30 days after receiving such request, access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone and mobile phone listings, notwithstanding subsection (a)(5) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(B) A local educational agency may not release a student's name, address, electronic mail address, and telephone listing under subparagraph (A)(iii) without the prior written consent of a parent of the student if the student, or a parent of the student, has submitted a request to the local educational agency that the student's information not be released for a purpose covered by that subparagraph without prior written parental consent. Each local educational agency shall notify parents of the rights provided under the preceding sentence.

(2) If a local educational agency denies a request by the Department of Defense for recruiting access, the Secretary of Defense, in cooperation with the Secretary of the military department concerned, shall designate an officer in a grade not below the grade of colonel or, in the case of the Navy, captain, or a senior executive of that military department to meet with representatives of that local educational agency in person, at the offices of that agency, for the purpose of arranging for recruiting access. The designated officer or senior executive shall seek to have that meeting within 120 days of the date of the denial of the request for recruiting access.

(3) If, after a meeting under paragraph (2) with representatives of a local educational agency that has denied a request for recruiting access or (if the educational agency declines a request for the meeting) after the end of such 120-day period, the Secretary of Defense determines that the agency continues to deny recruiting access, the Secretary shall transmit to the chief executive of the State in which the agency is located a notification of the denial of recruiting access and a request for assistance in obtaining that access. The notification shall be transmitted within 60 days after the date of the determination. The Secretary shall provide to the Secretary of Education a copy of such notification and any other communication between the Secretary and that chief executive with respect to such access.

(4) If a local educational agency continues to deny recruiting access one year after the date of the transmittal of a notification regarding that agency under paragraph (3), the Secretary—

(A) shall determine whether the agency denies recruiting access to at least two of the armed forces (other than the Coast Guard when it is not operating as a service in the Navy); and

(B) upon making an affirmative determination under subparagraph (A), shall transmit a notification of the denial of recruiting access to—

(i) the specified congressional committees;

(ii) the Senators of the State in which the local educational agency is located; and

(iii) the member of the House of Representatives who represents the district in which the local educational agency is located.

(5) The requirements of this subsection do not apply to a private secondary school that maintains a religious objection to service in the armed forces and which objection is verifiable through the corporate or other organizational documents or materials of that school.

(6) The Secretary of Defense shall submit an annual report to Congress not later than February 1 each calendar year, detailing each notification of denial of recruiting access issued under paragraph (3).

(7) In this subsection:

(A) The term "local educational agency" means—

(i) a local educational agency, within the meaning of that term in section 8101 of the Elementary and Secondary Education Act of 1965; and

(ii) a private secondary school.

(B) The term "recruiting access" means access requested as described in paragraph (1).

(C) The term "senior executive" has the meaning given that term in section 3132(a)(3) of title 5.

(D) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(E) The term "specified congressional committees" means the following:

(i) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(ii) The Committee on Armed Services and the Committee on Education and the Workforce of the House of Representatives.

(F) The term "member of the House of Representatives" includes a Delegate or Resident Commissioner to Congress.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 754; amended Pub. L. 97–252, title XI, §1114(b)(1), (2), Sept. 8, 1982, 96 Stat. 749; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title V, §571, title X, §1067(1), Oct. 5, 1999, 113 Stat. 622, 774; Pub. L. 106–398, §1 [[div. A], title V, §§562, 563(a)–(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–131 to 1654A–133; Pub. L. 107–107, div. A, title V, §544(a), title X, §1048(a)(5)(A), Dec. 28, 2001, 115 Stat. 1112, 1222; Pub. L. 108–136, div. A, title V, §543, Nov. 24, 2003, 117 Stat. 1478; Pub. L. 108–375, div. A, title X, §1084(d)(5), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 114–95, title IX, §9215(uuu)(1), Dec. 10, 2015, 129 Stat. 2190; Pub. L. 116–283, div. A, title V, §521(a), Jan. 1, 2021, 134 Stat. 3597; Pub. L. 117–263, div. A, title V, §531(a), Dec. 23, 2022, 136 Stat. 2574; Pub. L. 118–31, div. A, title V, §541, title XVII, §1717(b)(1), Dec. 22, 2023, 137 Stat. 264, 655; Pub. L. 119–60, div. A, title V, §531, Dec. 18, 2025, 139 Stat. 868.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(1)(A), (6)(A)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of Title 20, Education. Section 8101 of the Act is classified to section 7801 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

### CODIFICATION

Another section 503 was renumbered section 500c of this title.

### AMENDMENTS

**2025**—Subsec. (c)(1)(A)(i) to (iii). Pub. L. 119–60 added cls. (i) to (iii) and struck out former cls. (i) to (iii) which read as follows:

"(i) shall provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students;

"(ii) shall provide to military recruiters access to career fairs or similar events upon a request made by military recruiters for military recruiting purposes; and

"(iii) shall, upon a request made by military recruiters for military recruiting purposes, provide, not later than 60 days after receiving such request, access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings, notwithstanding subsection (a)(5) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g)."

**2023**—Subsec. (a)(1). Pub. L. 118–31, §1717(b)(1), inserted "and the Space Force" after "Regular Coast

Guard".

Subsec. (c)(1)(A). Pub. L. 118–31, §541(1)(A), added cl. (ii), redesignated former cl. (ii) as (iii), and inserted in cl. (iii) ", not later than 60 days after receiving such request," after "provide".

Subsec. (c)(1)(B). Pub. L. 118–31, §541(1)(B), substituted "subparagraph (A)(iii)" for "subparagraph (A)(ii)".

Subsec. (c)(6), (7). Pub. L. 118–31, §541(2), (3), added par. (6) and redesignated former par. (6) as (7).

**2022**—Subsec. (a)(3) to (5). Pub. L. 117–263 added pars. (3) to (5).

**2021**—Subsec. (c)(1)(A)(ii). Pub. L. 116–283, §521(a)(1)(A), substituted "electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings, notwithstanding subsection (a)(5) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g)." for "and telephone listings, notwithstanding section 444(a)(5)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(5)(B))."

Subsec. (c)(1)(B). Pub. L. 116–283, §521(a)(1)(B), substituted "electronic mail address, and telephone listing" for "and telephone listing".

Subsec. (d). Pub. L. 116–283, §521(a)(2), struck out subsec. (d). Text read as follows: "In this section, the term 'directory information' has the meaning given that term in subsection (a)(5)(A) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g)."

**2015**—Subsec. (c)(6)(A)(i). Pub. L. 114–95 substituted "section 8101 of the Elementary and Secondary Education Act of 1965" for "section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)".

**2004**—Subsec. (c)(1)(B). Pub. L. 108–375 substituted "educational" for "education" after "Each local".

**2003**—Subsec. (c)(5). Pub. L. 108–136, §543(a), substituted "apply to a private secondary school that" for "apply to—

"(A) a local educational agency with respect to access to secondary school students or access to directory information concerning such students for any period during which there is in effect a policy of that agency, established by majority vote of the governing body of the agency, to deny recruiting access to those students or to that directory information, respectively; or

"(B) a private secondary school which".

Subsec. (c)(6)(A)(i). Pub. L. 108–136, §543(b), substituted "9101" and "7801" for "14101" and "8801", respectively.

**2001**—Subsec. (c). Pub. L. 107–107, §544(a), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, par. (1) read as follows: "Each local educational agency shall (except as provided under paragraph (5)) provide to the Department of Defense, upon a request made for military recruiting purposes, the same access to secondary school students, and to directory information concerning such students, as is provided generally to post-secondary educational institutions or to prospective employers of those students."

Subsec. (c)(6)(A)(i). Pub. L. 107–107, §1048(a)(5)(A), substituted "14101" for "14101(18)" and "8801" for "8801(18)".

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title V, §§562, 563(c)(1)], inserted heading, designated existing provisions as par. (1), and added par. (2).

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §563(c)(2)], inserted heading.

Subsec. (b)(7). Pub. L. 106–398, §1 [[div. A], title V, §563(b)(1)], struck out par. (7) which read as follows: "In this subsection, 'directory information' means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational agency or institution attended by the student."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title V, §563(a)], amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Each local educational agency is requested to provide to the Department of Defense, upon a request made for military recruiting purposes, the same access to secondary school students, and to directory information concerning such students, as is provided generally to post-secondary educational institutions or to prospective employers of those students."

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title V, §563(b)(2)], added subsec. (d).

**1999**—Subsec. (b)(5). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

Subsec. (c). Pub. L. 106–65, §571, added subsec. (c).

**1996**—Subsec. (b)(5). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1982**—Pub. L. 97–252, §1114(b)(2), inserted "; compilation of directory information" in section catchline.

Subsec. (a). Pub. L. 97–252, §1114(b)(1)(A), designated existing provisions as subsec. (a).
Subsec. (b). Pub. L. 97–252, §1114(b)(1)(B), added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §544(b), Dec. 28, 2001, 115 Stat. 1113, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on July 1, 2002, immediately after the amendment to section 503(c) of title 10, United States Code, made, effective that date, by section 563(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–131)."

Pub. L. 107–107, div. A, title X, §1048(a)(5)(B), Dec. 28, 2001, 115 Stat. 1222, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect on July 1, 2002, immediately after the amendment to such section [this section] effective that date by section 563(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–131)."

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §563(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–133, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on July 1, 2002."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### REGULATIONS TO ENSURE NOTICE TO RECRUITS OF OPTIONS FOR NATURALIZATION

Pub. L. 117–81, div. A, title V, §523(a), Dec. 27, 2021, 135 Stat. 1687, provided that: "The Secretary of each military department shall prescribe regulations that ensure that a military recruit, who is not a citizen of the United States, receives proper notice of options for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.)[.] Such notice shall inform the recruit of existing programs or services that may aid in the naturalization process of such recruit."

### COMMUNITY COLLEGE ENLISTED TRAINING CORPS DEMONSTRATION PROGRAM

Pub. L. 118–31, div. A, title V, §548, Dec. 22, 2023, 137 Stat. 267, provided that:

"(a) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—Not later than August 1, 2025, the Secretary concerned shall establish within each military department an Enlisted Training Corps demonstration program for the purpose of introducing students to the military, and preparing selected students for enlisted service in the Army, Navy, Air Force, Marine Corps, or Space Force.

"(2) LOCATION.—Demonstration programs established under this section shall be located at a community or junior college. No program may be established at a military college or military junior college as defined for purposes of section 2107a of title 10, United States Code.

"(b) ELIGIBILITY FOR MEMBERSHIP.—To be eligible for membership in a program under this section, a person must be a student at an institution where a unit of the Enlisted Training Corps is located.

"(c) INSTRUCTORS.—The Secretary concerned may assign as an instructor for a unit established under this section an individual eligible to serve as an instructor under section 2111 or section 2031 of title 10, United States Code. Instructors who are not currently members on active duty shall be paid in a manner consistent with section 2031 of title 10, United States Code.

"(d) FINANCIAL ASSISTANCE.—The Secretary of the military department concerned may provide financial assistance to persons enrolled in a unit of the Enlisted Training Corps in exchange for an agreement in writing that the person enlist in the active component of the military department concerned upon graduation

or disenrollment from the community college. Financial assistance provided under this subsection may include tuition, living expenses, stipend, or other payment.

"(e) CURRICULUM.—The Secretary concerned shall ensure that any programs created under this section include as part of the curriculum the following:

"(1) An introduction to the benefits of military service.

"(2) Military history.

"(3) Military customs and courtesies.

"(4) Physical fitness requirements.

"(5) Instruction on ethical behavior and decision making.

"(f) REPORTING REQUIREMENT.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], and annually thereafter until the date specified by subsection (g), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of the demonstration program required by this section.

"(g) SUNSET.—The requirements of this provision shall sunset on September 30, 2030."

## CERTIFICATION REQUIREMENT REGARDING CONTRACTING FOR MILITARY RECRUITING

Pub. L. 118–31, div. A, title XV, §1555, Dec. 22, 2023, 137 Stat. 581, as amended by Pub. L. 118–159, div. A, title XV, §1542, Dec. 23, 2024, 138 Stat. 2149; Pub. L. 119–60, div. A, title XV, §1541, Dec. 18, 2025, 139 Stat. 1166, provided that:

"(a) CERTIFICATION REQUIREMENT.—Prior to the Secretary of Defense entering into any contract or other agreement (or extending, renewing, or otherwise modifying an existing contract or other agreement) with an entity for the purpose of that entity placing military recruitment advertisements on behalf of the Department of Defense, the Secretary shall require, as a condition of such contract or agreement, that the entity certify to the Secretary that the entity does not—

"(1) rate or rank news or information sources for the factual accuracy of their content;

"(2) provide ratings or opinions on news or in formation [sic] sources regarding misinformation, bias, adherence to journalistic standards, or ethics; or

"(3) acquire or use any service that provides any ratings, rankings, or opinions described in paragraph (1) or (2) from any other person for military recruiting contracts.

"(b) SUNSET.—The requirement under this section shall terminate on December 31, 2030."

[Pub. L. 119–60, §1541(3), which directed amendment of subsec. (c), as so redesignated, of section 1555 of Pub. L. 118–31, set out above, was executed to subsec. (b) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (b) by section 1541(2) of Pub. L. 119–60.]

## PILOT PROGRAM ON RECRUITING

Pub. L. 117–263, div. A, title V, §531(b), Dec. 23, 2022, 136 Stat. 2575, provided that:

"(1) AUTHORITY.—The Secretary of Defense may conduct a pilot program (such a program shall be referred to as a 'Military Recruiting Modernization Program') to evaluate the feasibility and effectiveness of collecting and using PRI with modern technologies to allow the Secretary to more effectively and efficiently use recruiting resources.

"(2) TREATMENT OF PROSPECTIVE RECRUIT INFORMATION.—PRI collected under a pilot program under this subsection—

"(A) may be used by the Armed Forces and entities into which the Secretary has entered into an agreement regarding military recruitment only for purposes of military recruitment;

"(B) shall be kept confidential. [sic]

"(C) may not be maintained more than three years after collection; and [sic]

"(3) OPT-OUT.—A pilot program under this subsection may allow a prospective recruit to opt-out of the collection of PRI regarding such prospective recruit.

"(4) TERMINATION.—Any such pilot program shall terminate three years after implementation.

"(5) INTERIM BRIEFING.—Not later than 90 days after the implementing a pilot program under this subsection, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the pilot program. Such briefing shall include the following:

"(A) The definition, prescribed by the Secretary, of PRI.

"(B) How the Secretary intends to handle privacy concerns related to the collection of PRI.

"(C) Legal concerns over the collection, use, and maintenance of PRI.

"(6) FINAL REPORT.—Not later than 120 days after the completion of a pilot program under this subsection, the Under Secretary of Defense for Personnel and Readiness shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. Such report

shall include the following:

"(A) A summary of whether and how the pilot program modernized recruiting efforts.

"(B) A description of any efficiencies identified under the pilot program.

"(C) Any violations of privacy laws arising from the pilot program.

"(D) Legislative recommendations of the Under Secretary arising from this pilot program.

"(7) DEFINITIONS.—In this section:

"(A) The term 'PRI' means information, prescribed by the Secretary of Defense, regarding a prospective recruit.

"(B) The term 'prospective recruit' means an individual who is eligible to join the Armed Forces and is—

"(i) 17 years of age or older; or

"(ii) in the eleventh grade (or its equivalent) or higher."

## ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST SPECIAL PURPOSE ADJUNCT TO ADDRESS COMPUTATIONAL THINKING

Pub. L. 116–283, div. A, title V, §594, Jan. 1, 2021, 134 Stat. 3666, as amended by Pub. L. 117–81, div. A, title V, §581, Dec. 27, 2021, 135 Stat. 1755, provided that: "Not later than October 1, 2024, the Secretary of Defense shall establish a special purpose test adjunct to the Armed Services Vocational Aptitude Battery test to address computational thinking skills relevant to military applications, including problem decomposition, abstraction, pattern recognition, analytical ability, the identification of variables involved in data representation, and the ability to create algorithms and solution expressions."

## PROGRAMS ON DIRECT COMMISSIONS TO CYBER POSITIONS

Pub. L. 114–328, div. A, title V, §509, Dec. 23, 2016, 130 Stat. 2109, as amended by Pub. L. 116–283, div. A, title V, §509A, Jan. 1, 2021, 134 Stat. 3586, provided that:

"(a) PROGRAMS AUTHORIZED.—Each Secretary of a military department may carry out a program to improve the ability of an Armed Force under the jurisdiction of the Secretary to recruit cyber professionals.

"(b) ELEMENTS.—Under a program established under this section, an individual who meets educational, physical, and other requirements determined appropriate by the Secretary of the military department concerned may receive an original appointment as a commissioned officer in a cyber specialty.

"(c) CONSULTATION.—In developing a program for the Army or the Air Force under this section, the Secretary of the Army and the Secretary of the Air Force may consult with the Secretary of the Navy with respect to an existing, similar program carried out by the Secretary of the Navy."

## TEMPORARY AUTHORITY TO DEVELOP AND PROVIDE ADDITIONAL RECRUITMENT INCENTIVES

Pub. L. 114–92, div. A, title V, §522, Nov. 25, 2015, 129 Stat. 811, as amended by Pub. L. 117–263, div. A, title V, §532, Dec. 23, 2022, 136 Stat. 2576, provided that:

"(a) ADDITIONAL RECRUITMENT INCENTIVES AUTHORIZED.—The Secretary of a military department may develop and provide incentives, not otherwise authorized by law, to encourage individuals to accept an appointment as a commissioned officer, to accept an appointment as a warrant officer, or to enlist in an Armed Force under the jurisdiction of the Secretary.

"(b) RELATION TO OTHER PERSONNEL AUTHORITIES.—A recruitment incentive developed under subsection (a) may be provided—

"(1) without regard to the lack of specific authority for the recruitment incentive under title 10 or 37, United States Code; and

"(2) notwithstanding any provision of such titles, or any rule or regulation prescribed under such provision, relating to methods of providing incentives to individuals to accept appointments or enlistments in the Armed Forces, including the provision of group or individual bonuses, pay, or other incentives.

"(c) NOTICE AND WAIT REQUIREMENT.—The Secretary of a military department may not provide a recruitment incentive developed under subsection (a) until—

"(1) the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan regarding provision of the recruitment incentive, which includes—

"(A) a description of the incentive, including the purpose of the incentive and the potential recruits to be addressed by the incentive;

"(B) a description of the provisions of titles 10 and 37, United States Code, from which the incentive would require a waiver and the rationale to support the waiver;

"(C) a statement of the anticipated outcomes as a result of providing the incentive; and

"(D) a description of the method to be used to evaluate the effectiveness of the incentive; and

"(2) the expiration of the 30-day period beginning on the date on which the plan was received by Congress.

"(d) LIMITATION ON NUMBER OF INCENTIVES.—The Secretary of a military department may not provide more than three recruitment incentives under the authority of this section.

"(e) LIMITATION ON NUMBER OF INDIVIDUALS RECEIVING INCENTIVES.—The number of individuals who receive one or more of the recruitment incentives provided under subsection (a) by the Secretary of a military department during a fiscal year for an Armed Force under the jurisdiction of the Secretary may not exceed 20 percent of the accession objective of that Armed Force for that fiscal year.

"(f) DURATION OF DEVELOPED INCENTIVE.—A recruitment incentive developed under subsection (a) may be provided for not longer than a three-year period beginning on the date on which the incentive is first provided, except that the Secretary of the military department concerned may extend the period if the Secretary determines that additional time is needed to fully evaluate the effectiveness of the incentive.

"(g) REPORTING REQUIREMENTS.—If the Secretary of a military department provides an recruitment incentive under subsection (a) for a fiscal year, the Secretary shall submit to the congressional defense committees a report, not later than 60 days after the end of the fiscal year, containing—

"(1) a description of each incentive provided under subsection (a) during that fiscal year; and

"(2) an assessment of the impact of the incentives on the recruitment of individuals for an Armed Force under the jurisdiction of the Secretary.

"(h) TERMINATION OF AUTHORITY TO PROVIDE INCENTIVES.—Notwithstanding subsection (f), the authority to provide recruitment incentives under this section expires on December 31, 2025."

[For termination, effective Dec. 30, 2021, of reporting requirements in section 522(g) of Pub. L. 114–92, set out above, see section 1702(a), (b), of Pub. L. 116–92, set out as a Termination of Reporting Requirements note under section 111 of this title.]

## POLICY ON MILITARY RECRUITMENT AND ENLISTMENT OF GRADUATES OF SECONDARY SCHOOLS

Pub. L. 113–66, div. A, title V, §573, Dec. 26, 2013, 127 Stat. 772, as amended by Pub. L. 114–95, title IX, §9215(eee), Dec. 10, 2015, 129 Stat. 2186, provided that:

"(a) CONDITIONS ON USE OF TEST, ASSESSMENT, OR SCREENING TOOLS.—In the case of any test, assessment, or screening tool utilized under the policy on recruitment and enlistment required by subsection (b) of section 532 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1403; 10 U.S.C. 503 note) for the purpose of identifying persons for recruitment and enlistment in the Armed Forces, the Secretary of Defense shall—

"(1) implement a means for ensuring that graduates of a secondary school (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]), including all persons described in subsection (a)(2) of section 532 of the National Defense Authorization Act for Fiscal Year 2012, are required to meet the same standard on the test, assessment, or screening tool; and

"(2) use uniform testing requirements and grading standards.

"(b) RULE OF CONSTRUCTION.—Nothing in section 532(b) of the National Defense Authorization Act for Fiscal Year 2012 or this section shall be construed to permit the Secretary of Defense or the Secretary of a military department to create or use a different grading standard on any test, assessment, or screening tool utilized for the purpose of identifying graduates of a secondary school (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]), including all persons described in subsection (a)(2) of section 532 of the National Defense Authorization Act for Fiscal Year 2012, for recruitment and enlistment in the Armed Forces."

Pub. L. 112–81, div. A, title V, §532, Dec. 31, 2011, 125 Stat. 1403, as amended by Pub. L. 114–95, title IX, §9215(ddd), Dec. 10, 2015, 129 Stat. 2185, provided that:

"(a) EQUAL TREATMENT FOR SECONDARY SCHOOL GRADUATES.—

"(1) EQUAL TREATMENT.—For the purposes of recruitment and enlistment in the Armed Forces, the Secretary of a military department shall treat a graduate described in paragraph (2) in the same manner as a graduate of a secondary school (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]).

"(2) COVERED GRADUATES.—Paragraph (1) applies with respect to [a] person who—

"(A) receives a diploma from a secondary school that is legally operating; or

"(B) otherwise completes a program of secondary education in compliance with the education laws of the State in which the person resides.

"(b) POLICY ON RECRUITMENT AND ENLISTMENT.—Not later than 180 days after the date of the

enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall prescribe a policy on recruitment and enlistment that incorporates the following:

"(1) Means for identifying persons described in subsection (a)(2) who are qualified for recruitment and enlistment in the Armed Forces, which may include the use of a non-cognitive aptitude test, adaptive personality assessment, or other operational attrition screening tool to predict performance, behaviors, and attitudes of potential recruits that influence attrition and the ability to adapt to a regimented life in the Armed Forces.

"(2) Means for assessing how qualified persons fulfill their enlistment obligation.

"(3) Means for maintaining data, by each diploma source, which can be used to analyze attrition rates among qualified persons.

"(c) RECRUITMENT PLAN.—As part of the policy required by subsection (b), the Secretary of each of the military departments shall develop a recruitment plan that includes a marketing strategy for targeting various segments of potential recruits with all types of secondary education credentials.

"(d) COMMUNICATION PLAN.—The Secretary of each of the military departments shall develop a communication plan to ensure that the policy and recruitment plan are understood by military recruiters."

## RECRUITMENT AND ENLISTMENT OF HOME-SCHOOLED STUDENTS IN THE ARMED FORCES

Pub. L. 109–163, div. A, title V, §591, Jan. 6, 2006, 119 Stat. 3280, provided that:

"(a) POLICY ON RECRUITMENT AND ENLISTMENT.—

"(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home-schooled students in the Armed Forces.

"(2) UNIFORMITY ACROSS THE ARMED FORCES.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

"(b) ELEMENTS.—The policy under subsection (a) shall include the following:

"(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

"(2) A communication plan to ensure that the policy described in subsection (c) is understood by recruiting officials of all the Armed Forces, to include field recruiters at the lowest level of command.

"(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

"(c) HOME SCHOOL GRADUATES.—In prescribing the policy under subsection (a), the Secretary of Defense shall prescribe a single set of criteria to be used by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

"(d) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given such term in section 101(a)(9) of title 10, United States Code."

## TEMPORARY ARMY AUTHORITY TO PROVIDE ADDITIONAL RECRUITMENT INCENTIVES

Pub. L. 109–163, div. A, title VI, §681, Jan. 6, 2006, 119 Stat. 3320, as amended by Pub. L. 111–84, div. A, title VI, §621, Oct. 28, 2009, 123 Stat. 2358, provided that:

"(a) AUTHORITY TO DEVELOP AND PROVIDE RECRUITMENT INCENTIVES.—The Secretary of the Army may develop and provide incentives not otherwise authorized by law to encourage individuals to accept commissions as officers or to enlist in the Army.

"(b) RELATION TO OTHER PERSONNEL AUTHORITIES.—A recruitment incentive developed under subsection (a) may be provided—

"(1) without regard to the lack of specific authority for the incentive under title 10 or 37, United States Code; and

"(2) notwithstanding any provision of such titles, or any rule or regulation prescribed under such provision, relating to methods of—

"(A) determining requirements for, and the compensation of, members of the Army who are assigned duty as military recruiters; or

"(B) providing incentives to individuals to accept commissions or enlist in the Army, including the provision of group or individual bonuses, pay, or other incentives.

"(c) WAIVER OF OTHERWISE APPLICABLE LAWS.—A provision of title 10 or 37, United States Code, may not be waived with respect to, or otherwise determined to be inapplicable to, the provision of a recruitment incentive developed under subsection (a) without the approval of the Secretary of Defense.

"(d) NOTICE AND WAIT REQUIREMENT.—A recruitment incentive developed under subsection (a) may not be provided to individuals until—

"(1) the Secretary of the Army submits to Congress, the appropriate elements of the Department of Defense, and the Comptroller General a plan that includes—

"(A) a description of the incentive, including the purpose of the incentive and the potential recruits to be addressed by the incentive;

"(B) a description of the provisions of titles 10 and 37, United States Code, from which the incentive would require a waiver and the rationale to support the waiver;

"(C) a statement of the anticipated outcomes as a result of providing the incentive; and

"(D) the method to be used to evaluate the effectiveness of the incentive; and

"(2) a 45-day period beginning on the date on which the plan was received by Congress expires.

"(e) LIMITATION ON NUMBER OF INCENTIVES.—Not more than four recruitment incentives may be provided at the same time under the authority of this section.

"(f) LIMITATION ON NUMBER OF INDIVIDUALS RECEIVING INCENTIVES.—The number of individuals who receive one or more of the recruitment incentives provided under subsection (a) during a fiscal year may not exceed the number of individuals equal to 20 percent of the accession mission of the Army for that fiscal year.

"(g) DURATION OF DEVELOPED INCENTIVE.—A recruitment incentive developed under subsection (a) may be provided for not longer than a three-year period beginning on the date on which the incentive is first provided, except that the Secretary of the Army may extend the period if the Secretary determines that additional time is needed to fully evaluate the effectiveness of the incentive.

"(h) REPORTING REQUIREMENTS.—

"(1) SECRETARY OF THE ARMY REPORT.—The Secretary of the Army shall submit to Congress an annual report on the recruitment incentives provided under subsection (a) during the preceding year, including—

"(A) a description of the incentives provided under subsection (a) during that fiscal year; and

"(B) an assessment of the impact of the incentives on the recruitment of individuals as officers or enlisted members.

"(2) COMPTROLLER GENERAL REPORT.—As soon as practicable after receipt of each plan under subsection (d), the Comptroller General shall submit to Congress a report evaluating the expected outcomes of the recruitment incentive covered by the plan in terms of cost effectiveness and mission achievement.

"(i) DURATION OF AUTHORITY.—

"(1) IN GENERAL.—The Secretary may not develop an incentive under this section, or first provide an incentive developed under this section to an individual, after December 31, 2012.

"(2) CONTINUATION OF INCENTIVES.—Nothing in paragraph (1) shall be construed to prohibit or limit the continuing provision to an individual after the date specified in that paragraph of an incentive first provided the individual under this section before that date."

## ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS FOR RECRUITMENT OF HOME SCHOOLED AND NATIONAL GUARD CHALLENGE PROGRAM GED RECIPIENTS

Pub. L. 108–375, div. A, title V, §593, Oct. 28, 2004, 118 Stat. 1934, as amended by Pub. L. 109–364, div. A, title X, §1071(g)(4), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(a) ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS.—(1) The Secretary of the Army shall carry out an initiative—

"(A) to develop screening methods and process improvements for recruiting specified GED recipients so as to achieve attrition patterns, among the GED recipients so recruited, that match attrition patterns for Army recruits who are high school diploma graduates; and

"(B) subject to subsection (b), to implement such screening methods and process improvements on a test basis.

"(2) For purposes of this section, the term 'specified GED recipients' means persons who receive a General Educational Development (GED) certificate as a result of home schooling or the completion of a program under the National Guard Challenge program.

"(b) SECRETARY OF DEFENSE REVIEW.—Before the screening methods and process improvements developed under subsection (a)(1) are put into effect under subsection (a)(2), the Secretary of Defense shall review the proposed screening methods and process improvements. Based on such review, the Secretary of Defense either shall approve the use of such screening methods and process improvements for testing (with such modifications as the Secretary may direct) or shall disapprove the use of such methods and process improvements on a test basis.

"(c) SECRETARY OF DEFENSE DECISION.—If the Secretary of Defense determines under subsection

(b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, then upon completion of the test period, the Secretary of Defense shall, after reviewing the results of the test program, determine whether the new screening methods and process improvements developed by the Army should be extended throughout the Department for recruit candidates identified by the new procedures to be considered tier 1 recruits.

"(d) REPORTS.—(1) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should not be implemented on a test basis, the Secretary of Defense shall, not later than 90 days thereafter, notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of such determination, together with the reasons of the Secretary for such determination.

"(2) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, the Secretary of the Army shall submit to the committees specified in paragraph (1) a report on the results of the testing. The report shall be submitted not later than March 31, 2009, except that if the Secretary of Defense directs an earlier termination of the testing initiative, the Secretary of the Army shall submit the report under this paragraph not later than 180 days after such termination. Such report shall include the determination of the Secretary of Defense under subsection (c). If that determination is that the methods and processes tested should not be extended to the other services, the report shall include the Secretary's rationale for not recommending such extension."

## DEPARTMENT OF DEFENSE JOINT ADVERTISING, MARKET RESEARCH, AND STUDIES PROGRAM

Pub. L. 108–136, div. A, title V, §548, Nov. 24, 2003, 117 Stat. 1481, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a joint advertising, market research, and studies program to complement the recruiting advertising programs of the military departments and improve the ability of the military departments to attract and recruit qualified individuals to serve in the Armed Forces.

"(b) FUNDING.—Of the amount authorized to be appropriated by section 301(5) [117 Stat. 1426] for operation and maintenance for Defense-wide activities, $7,500,000 may be made available to carry out the joint advertising, market research, and studies program."

## NOTIFICATION TO LOCAL EDUCATIONAL AGENCIES

Pub. L. 107–107, div. A, title V, §544(c), Dec. 28, 2001, 115 Stat. 1113, directed the Secretary of Education to provide to local educational agencies notice of the provisions of subsec. (c) of this section, as amended by Pub. L. 107–107, not later than 120 days after Dec. 28, 2001.

## ARMY RECRUITING PILOT PROGRAMS

Pub. L. 106–398, §1 [[div. A], title V, §561], Oct. 30, 2000, 114 Stat. 1654, 1654A–129, as amended by Pub. L. 107–107, div. A, title V, §543, Dec. 28, 2001, 115 Stat. 1112, provided that:

"(a) REQUIREMENT FOR PROGRAMS.—The Secretary of the Army shall carry out pilot programs to test various recruiting approaches under this section for the following purposes:

"(1) To assess the effectiveness of the recruiting approaches for creating enhanced opportunities for recruiters to make direct, personal contact with potential recruits.

"(2) To improve the overall effectiveness and efficiency of Army recruiting activities.

"(b) OUTREACH THROUGH MOTOR SPORTS.—(1) One of the pilot programs shall be a pilot program of public outreach that associates the Army with motor sports competitions to achieve the objectives set forth in paragraph (2).

"(2) The events and activities undertaken under the pilot program shall be designed to provide opportunities for Army recruiters to make direct, personal contact with high school students to achieve the following objectives:

"(A) To increase enlistments by students graduating from high school.

"(B) To reduce attrition in the Delayed Entry Program of the Army by sustaining the personal commitment of students who have elected delayed entry into the Army under the program.

"(3) Under the pilot program, the Secretary of the Army shall provide for the following:

"(A) For Army recruiters or other Army personnel—

"(i) to organize Army sponsored career day events in association with national motor sports competitions; and

"(ii) to arrange for or encourage attendance at the competitions by high school students, teachers, guidance counselors, and administrators of high schools located near the competitions.

"(B) For Army recruiters and other soldiers to attend national motor sports competitions—

"(i) to display exhibits depicting the contemporary Army and career opportunities in the Army; and

"(ii) to discuss those opportunities with potential recruits.

"(C) For the Army to sponsor a motor sports racing team as part of an integrated program of recruitment and publicity for the Army.

"(D) For the Army to sponsor motor sports competitions for high school students at which recruiters meet with potential recruits.

"(E) For Army recruiters or other Army personnel to compile in an Internet accessible database the names, addresses, telephone numbers, and electronic mail addresses of persons who are identified as potential recruits through activities under the pilot program.

"(F) Any other activities associated with motor sports competition that the Secretary determines appropriate for Army recruitment purposes.

"(c) OUTREACH AT VOCATIONAL SCHOOLS AND COMMUNITY COLLEGES.—(1) One of the pilot programs shall be a pilot program under which Army recruiters are assigned, as their primary responsibility, at postsecondary vocational institutions and community colleges for the purpose of recruiting students graduating from those institutions and colleges, recent graduates of those institutions and colleges, and students withdrawing from enrollments in those institutions and colleges.

"(2) The Secretary of the Army shall select the institutions and colleges to be invited to participate in the pilot program.

"(3) The conduct of the pilot program at an institution or college shall be subject to an agreement which the Secretary shall enter into with the governing body or authorized official of the institution or college, as the case may be.

"(4) Under the pilot program, the Secretary shall provide for the following:

"(A) For Army recruiters to be placed in postsecondary vocational institutions and community colleges to serve as a resource for guidance counselors and to recruit for the Army.

"(B) For Army recruiters to recruit from among students and graduates described in paragraph (1).

"(C) For the use of telemarketing, direct mail, interactive voice response systems, and Internet website capabilities to assist the recruiters in the postsecondary vocational institutions and community colleges.

"(D) For any other activities that the Secretary determines appropriate for recruitment activities in postsecondary vocational institutions and community colleges.

"(5) In this subsection, the term 'postsecondary vocational institution' has the meaning given the term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

"(d) CONTRACT RECRUITING INITIATIVES.—(1) One of the pilot programs shall be a program that expands in accordance with this subsection the scope of the Army's contract recruiting initiatives that are ongoing as of the date of the enactment of this Act [Oct. 30, 2000]. Under the pilot program, the Secretary of the Army shall select at least 10 recruiting companies to apply the initiatives in efforts to recruit personnel for the Army.

"(2) Under the pilot program, the Secretary shall provide for the following:

"(A) For replacement of the Regular Army and Army Reserve recruiters by contract recruiters in the 10 recruiting companies selected under paragraph (1).

"(B) For operation of the 10 companies under the same rules as the other Army recruiting companies.

"(C) For use of the offices, facilities, and equipment of the 10 companies by the contract recruiters.

"(D) For reversion to performance of the recruiting activities by Regular Army and Army Reserve soldiers in the 10 companies upon termination of the pilot program.

"(E) For any other uses of contractor personnel for Army recruiting activities that the Secretary determines appropriate.

"(e) DURATION OF PILOT PROGRAMS.—The pilot programs required by this section shall be carried out during the period beginning on October 1, 2000, and, subject to subsection (f), ending on September 30, 2007.

"(f) AUTHORITY TO EXPAND OR EXTEND PILOT PROGRAMS.—The Secretary may expand the scope of any of the pilot programs (under subsection (b)(3)(F), (c)(4)(D), (d)(2)(E), or otherwise) or extend the period for any of the pilot programs. Before doing so in the case of a pilot program, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the expansion of the pilot program (together with the scope of the expansion) or the continuation of the pilot program (together with the period of the extension), as the case may be.

"(g) REPORTS.—Not later than February 1, 2008, the Secretary of the Army shall submit to the

Committees on Armed Services of the Senate and the House of Representatives a separate report on each of the pilot programs carried out under this section. The report on a pilot program shall include the following:

"(1) The Secretary's assessment of the value of the actions taken in the administration of the pilot program for increasing the effectiveness and efficiency of Army recruiting.

"(2) Any recommendations for legislation or other action that the Secretary considers appropriate to increase the effectiveness and efficiency of Army recruiting."

## PILOT PROGRAM TO ENHANCE MILITARY RECRUITING BY IMPROVING MILITARY AWARENESS OF SCHOOL COUNSELORS AND EDUCATORS

Pub. L. 106–398, §1 [[div. A], title V, §564], Oct. 30, 2000, 114 Stat. 1654, 1654A–133, as amended by Pub. L. 109–364, div. A, title X, §1046(d), Oct. 17, 2006, 120 Stat. 2394, directed the Secretary of Defense to conduct a three-year pilot program in a qualifying interactive Internet site beginning not later than 180 days after Oct. 30, 2000, to determine if cooperation with military recruiters by local educational agencies and by institutions of higher education could be enhanced by improving the understanding of school counselors and educators about military recruiting and military career opportunities.

## MEASURES TO IMPROVE RECRUIT QUALITY AND REDUCE RECRUIT ATTRITION

Pub. L. 105–85, div. A, title V, subtitle D, Nov. 18, 1997, 111 Stat. 1738, provided that:

"SEC. 531. REFORM OF MILITARY RECRUITING SYSTEMS.

"(a) IN GENERAL.—The Secretary of Defense shall carry out reforms in the recruiting systems of the Army, Navy, Air Force, and Marine Corps in order to improve the quality of new recruits and to reduce attrition among recruits.

"(b) SPECIFIC REFORMS.—As part of the reforms in military recruiting systems to be undertaken under subsection (a), the Secretary shall take the following steps:

"(1) Improve the system of pre-enlistment waivers and separation codes used for recruits by (A) revising and updating those waivers and codes to allow more accurate and useful data collection about those separations, and (B) prescribing regulations to ensure that those waivers and codes are interpreted in a uniform manner by the military services.

"(2) Develop a reliable database for (A) analyzing (at both the Department of Defense and service-level) data on reasons for attrition of new recruits, and (B) undertaking Department of Defense or service-specific measures (or both) to control and manage such attrition.

"(3) Require that the Secretary of each military department (A) adopt or strengthen incentives for recruiters to thoroughly prescreen potential candidates for recruitment, and (B) link incentives for recruiters, in part, to the ability of a recruiter to screen out unqualified candidates before enlistment.

"(4) Require that the Secretary of each military department include as a measurement of recruiter performance the percentage of persons enlisted by a recruiter who complete initial combat training or basic training.

"(5) Assess trends in the number and use of waivers over the 1991–1997 period that were issued to permit applicants to enlist with medical or other conditions that would otherwise be disqualifying.

"(6) Require the Secretary of each military department to implement policies and procedures (A) to ensure the prompt separation of recruits who are unable to successfully complete basic training, and (B) to remove those recruits from the training environment while separation proceedings are pending.

"(c) REPORT.—Not later than March 31, 1998, the Secretary shall submit to Congress a report of the trends assessed under subsection (b)(5). The information on those trends provided in the report shall be shown by armed force and by category of waiver. The report shall include recommendations of the Secretary for changing, revising, or limiting the use of waivers referred to in that subsection.

"SEC. 532. IMPROVEMENTS IN MEDICAL PRESCREENING OF APPLICANTS FOR MILITARY SERVICE.

"(a) IN GENERAL.—The Secretary of Defense shall improve the medical prescreening of applicants for entrance into the Army, Navy, Air Force, or Marine Corps.

"(b) SPECIFIC STEPS.—As part of those improvements, the Secretary shall take the following steps:

"(1) Require that each applicant for service in the Army, Navy, Air Force, or Marine Corps (A) provide to the Secretary the name of the applicant's medical insurer and the names of past medical providers, and (B) sign a release allowing the Secretary to request and obtain medical records of the applicant.

"(2) Require that the forms and procedures for medical prescreening of applicants that are used by recruiters and by Military Entrance Processing Commands be revised so as to ensure that medical questions

are specific, unambiguous, and tied directly to the types of medical separations most common for recruits during basic training and follow-on training.

"(3) Add medical screening tests to the examinations of recruits carried out by Military Entrance Processing Stations, provide more thorough medical examinations to selected groups of applicants, or both, to the extent that the Secretary determines that to do so could be cost effective in reducing attrition at basic training.

"(4) Provide for an annual quality control assessment of the effectiveness of the Military Entrance Processing Commands in identifying medical conditions in recruits that existed before enlistment in the Armed Forces, each such assessment to be performed by an agency or contractor other than the Military Entrance Processing Commands.

"SEC. 533. IMPROVEMENTS IN PHYSICAL FITNESS OF RECRUITS.

"(a) IN GENERAL.—The Secretary of Defense shall take steps to improve the physical fitness of recruits before they enter basic training.

"(b) SPECIFIC STEPS.—As part of those improvements, the Secretary shall take the following steps:

"(1) Direct the Secretary of each military department to implement programs under which new recruits who are in the Delayed Entry Program are encouraged to participate in physical fitness activities before reporting to basic training.

"(2) Develop a range of incentives for new recruits to participate in physical fitness programs, as well as for those recruits who improve their level of fitness while in the Delayed Entry Program, which may include access to Department of Defense military fitness facilities, and access to military medical facilities in the case of a recruit who is injured while participating in physical activities with recruiters or other military personnel.

"(3) Evaluate whether partnerships between recruiters and reserve components, or other innovative arrangements, could provide a pool of qualified personnel to assist in the conduct of physical training programs for new recruits in the Delayed Entry Program."

## DENIAL OF FUNDS FOR PREVENTING ROTC ACCESS TO CAMPUS OR FEDERAL MILITARY RECRUITING ON CAMPUS; EXCEPTIONS

Pub. L. 104–208, div. A, title I, §101(e) [title V, §514], Sept. 30, 1996, 110 Stat. 3009–233, 3009–270, which provided that none of the funds made available in any Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for any fiscal year could be provided by contract or by grant to a covered educational entity if the Secretary of Defense determined that the covered educational entity had a policy or practice that prohibited or prevented the maintaining, establishing, or operation of a unit of the Senior Reserve Officer Training Corps at the covered educational entity, or a student at the covered educational entity from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education, or prohibited or prevented entry to campuses, or access to students on campuses, for purposes of Federal military recruiting or access by military recruiters for purposes of Federal military recruiting to student names, addresses, and telephone listings and, if known, student ages, levels of education, and majors, was repealed and restated in section 983 of this title by Pub. L. 106–65, div. A, title V, §549(a)(1), (b)(2), Oct. 5, 1999, 113 Stat. 609, 611.

## MILITARY RECRUITING ON CAMPUS

Pub. L. 103–337, div. A, title V, §558, Oct. 5, 1994, 108 Stat. 2776, as amended by Pub. L. 104–324, title II, §206(a), Oct. 19, 1996, 110 Stat. 3908, which provided that no funds available to the Department of Defense or the Department of Transportation could be provided by grant or contract to any institution of higher education that had a policy of denying or preventing the Secretary of Defense or the Secretary of Transportation from obtaining for military recruiting purposes entry to campuses or access to students on campuses or access to directory information pertaining to students, was repealed and restated in section 983 of this title by Pub. L. 106–65, div. A, title V, §549(a)(1), (b)(1), Oct. 5, 1999, 113 Stat. 609, 611.

## MILITARY RECRUITING INFORMATION

Pub. L. 97–252, title XI, §1114(a), Sept. 8, 1982, 96 Stat. 748, provided that: "The Congress finds that in order for Congress to carry out effectively its constitutional authority to raise and support armies, it is essential—

"(1) that the Secretary of Defense obtain and compile directory information pertaining to students enrolled in secondary schools throughout the United States; and

"(2) that such directory information be used only for military recruiting purposes and be retained in the case of each person with respect to whom such information is obtained and compiled for a limited period of

time."

**ACCESS OF ARMED FORCES RECRUITING PERSONNEL TO SECONDARY EDUCATIONAL INSTITUTIONS; RELEASE OF DATA**

Pub. L. 96–342, title III, §302(d), Sept. 8, 1980, 94 Stat. 1083, provided that: "It is the sense of the Congress—

"(1) that secondary educational institutions in the United States, the Commonwealth of Puerto Rico, and the territories of the United States should cooperate with the Armed Forces by allowing recruiting personnel access to such institutions; and

"(2) that it is appropriate for such institutions to release to the Armed Forces information regarding students at such institutions (including such data as names, addresses, and education levels) which is relevant to recruiting individuals for service in the Armed Forces."

## §504. Persons not qualified

(a) INSANITY, DESERTION, FELONS, ETC.—No person who is insane, intoxicated, or a deserter from an armed force, or who has been convicted of a felony, may be enlisted in any armed force. However, the Secretary concerned may authorize exceptions, in meritorious cases, for the enlistment of deserters and persons convicted of felonies.

(b) CITIZENSHIP OR RESIDENCY.—(1) A person may be enlisted in any armed force only if the person is one of the following:

(A) A national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(B) An alien who is lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(C) A person described in section 341 of one of the following compacts:

(i) The Compact of Free Association between the Federated States of Micronesia and the United States (section 201(a) of Public Law 108–188 (117 Stat. 2784; 48 U.S.C. 1921 note)).

(ii) The Compact of Free Association between the Republic of the Marshall Islands and the United States (section 201(b) of Public Law 108–188 (117 Stat. 2823; 48 U.S.C. 1921 note)).

(iii) The Compact of Free Association between Palau and the United States (section 201 of Public Law 99–658 (100 Stat. 3678; 48 U.S.C. 1931 note)).

(2) Notwithstanding paragraph (1), and subject to paragraph (3), the Secretary concerned may authorize the enlistment of a person not described in paragraph (1) if the Secretary determines that such person possesses a critical skill or expertise—

(A) that is vital to the national interest; and

(B) that the person will use in the primary daily duties of that person as a member of the armed forces.

(3)(A) No person who enlists under paragraph (2) may report to initial training until after the Secretary concerned has completed all required background investigations and security and suitability screening as determined by the Secretary of Defense regarding that person.

(B) A Secretary concerned may not authorize more than 1,000 enlistments under paragraph (2) per military department in a calendar year until after—

(i) the Secretary of Defense submits to Congress written notice of the intent of that Secretary concerned to authorize more than 1,000 such enlistments in a calendar year; and

(ii) a period of 30 days has elapsed after the date on which Congress receives the notice.

(c) ALTERNATIVE SERVICE IN AREAS OF NATIONAL INTEREST.—(1) The Secretary of Defense shall carry out a program to provide to an individual described in paragraph (2) information about opportunities to work in areas of national interest to the United States.

(2) An individual described in this paragraph is an individual who seeks to originally enlist in an armed force but is denied enlistment.

(3) In carrying out the program required by paragraph (1), the Secretary shall—

(A) identify job opportunities in the defense industrial base, cybersecurity or intelligence support, research and development in defense technologies, national emergency and disaster preparedness, or any other non-military field the Secretary considers in the national interests of the United States;

(B) provide available information about training or certification programs to obtain the skills necessary for such a job; and

(C) seek to enter into agreements with entities in the fields described in subparagraph (A).

(4) The Secretary of Defense shall annually submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the program required by this subsection. Such report shall include, with respect to the year preceding the date of the report, the following elements:

(A) The number of individuals described in paragraph (2) provided information described in paragraph (3)(A).

(B) The number of individuals described in paragraph (2) provided information described in paragraph (3)(B).

(C) The number of agreements described in paragraph (3)(C) into which the Secretary entered.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 754; amended Pub. L. 109–163, div. A, title V, §542(a), Jan. 6, 2006, 119 Stat. 3253; Pub. L. 115–232, div. A, title V, §521(a), Aug. 13, 2018, 132 Stat. 1755; Pub. L. 119–60, div. A, title V, §532(a), Dec. 18, 2025, 139 Stat. 869.)

## EDITORIAL NOTES

### CODIFICATION

Another section 504 was renumbered section 500d of this title.

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60 added subsec. (c).

**2018**—Subsec. (b)(2). Pub. L. 115–232, §521(a)(1), inserted "and subject to paragraph (3)," after "Notwithstanding paragraph (1)," substituted "person possesses a critical skill or expertise—" for "enlistment is vital to the national interest.", and added subpars. (A) and (B).

Subsec. (b)(3). Pub. L. 115–232, §521(a)(2), added par. (3).

**2006**—Pub. L. 109–163 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROVISION OF INFORMATION REGARDING FEDERAL SERVICE TO CERTAIN PERSONS INELIGIBLE TO ENLIST IN CERTAIN ARMED FORCES

Pub. L. 118–159, div. A, title V, §536, Dec. 23, 2024, 138 Stat. 1888, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall prescribe regulations directing the Secretary of a military department to provide, to a person described in subsection (b), information regarding opportunities for Federal, or other public, service for which the person may be qualified.

"(b) CERTAIN PERSONS NOT QUALIFIED TO ENLIST.—A person described in this subsection is a person ineligible to serve in a covered Armed Force.

"(c) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force."

### PROHIBITION ON WAIVER FOR COMMISSIONING OR ENLISTMENT IN THE ARMED FORCES FOR ANY INDIVIDUAL CONVICTED OF A FELONY SEXUAL OFFENSE

Pub. L. 112–239, div. A, title V, §523, Jan. 2, 2013, 126 Stat. 1723, which provided that an individual may not be provided a waiver for commissioning or enlistment in the Armed Forces if convicted of rape or other sexual offenses, was repealed by Pub. L. 113–66, div. A, title XVII, §1711(b), Dec. 26, 2013, 127 Stat. 963. See section 657 of this title.

## §505. Regular components: qualifications, term, grade

(a) The Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than seventeen years of age nor more than forty-two years of age. However, no person under eighteen years of age may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control.

(b) A person is enlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard in the grade or rating prescribed by the Secretary concerned.

(c) The Secretary concerned may accept original enlistments of persons for the duration of their minority or for a period of at least two but not more than eight years, in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be.

(d)(1) The Secretary concerned may accept a reenlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for a period determined under this subsection.

(2) In the case of a member who has less than 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the period for which the member reenlists shall be at least two years but not more than eight years.

(3) In the case of a member who has at least 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the Secretary concerned may accept a reenlistment for either—

(A) a specified period of at least two years but not more than eight years; or

(B) an unspecified period.

(4) No enlisted member is entitled to be reenlisted for a period that would expire before the end of the member's current enlistment.

(e) ENLISTMENTS IN THE SPACE FORCE.—For enlistments in the Space Force, see sections 20301 and 20302 of this title.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 754; amended Pub. L. 93–290, May 24, 1974, 88 Stat. 173; Pub. L. 95–485, title VIII, §820(a), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 98–94, title X, §1023, Sept. 24, 1983, 97 Stat. 671; Pub. L. 104–201, div. A, title V, §511, Sept. 23, 1996, 110 Stat. 2514; Pub. L. 109–163, div. A, title V, §§543, 544, Jan. 6, 2006, 119 Stat. 3253; Pub. L. 110–417, [div. A], title V, §531(a), Oct. 14, 2008, 122 Stat. 4449; Pub. L. 116–283, div. A, title IX, §924(b)(5)(A), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1717(b)(2), Dec. 22, 2023, 137 Stat. 655.)

### EDITORIAL NOTES

### CODIFICATION

Another section 505 was renumbered section 500e of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31, §1717(b)(2)(A), struck out "Regular Space Force," after "Regular Marine Corps," wherever appearing.

Subsec. (e). Pub. L. 118–31, §1717(b)(2)(B), added subsec. (e).

**2021**—Pub. L. 116–283 substituted "Regular Marine Corps, Regular Space Force," for "Regular Marine Corps," wherever appearing.

**2008**—Subsec. (d)(2), (3)(A). Pub. L. 110–417 substituted "eight years" for "six years".

**2006**—Subsec. (a). Pub. L. 109–163, §543, in first sentence, substituted "forty-two years of age" for "thirty-five years of age".

Subsec. (c). Pub. L. 109–163, §544, substituted "eight years" for "six years".

**1996**—Subsec. (d). Pub. L. 104–201 amended subsec. (d) generally. Prior to amendment, subsec. (d) read

as follows: "The Secretary concerned may accept reenlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for period of at least two but not more than six years. No enlisted member is entitled to be reenlisted for a period that would expire before the end of his current enlistment."

**1983**—Subsecs. (c), (d). Pub. L. 98–94 substituted "at least two but not more than six years" for "two, three, four, five, or six years".

**1978**—Subsecs. (d), (e). Pub. L. 95–485 redesignated subsec. (e) as (d). Former subsec. (d), which provided that in the Regular Army female persons may be enlisted only in the Women's Army Corps, was struck out.

**1974**—Subsec. (a). Pub. L. 93–290, §1, struck out provisions which prohibited the Secretary from accepting original enlistments from female persons less than 18 years of age, and which required consent of the parent or guardian for an original enlistment of a female person under 21 years of age.

Subsec. (c). Pub. L. 93–290, §2, substituted provisions permitting the Secretary to accept original enlistments of persons for the duration of their minority or for a period of two, three, four, five, or six years, for provisions which limited the Secretary to accept original enlistments from male persons for the duration of their minority or for a period of two, three, four, five, or six years, and from female persons for a period of two, three, four, five, or six years.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §506. Regular components: extension of enlistments during war

An enlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Space Force, or Regular Coast Guard in effect at the beginning of a war, or entered into during a war, unless sooner terminated by the President, continues in effect until six months after the termination of that war.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 754; amended Pub. L. 116–283, div. A, title IX, §924(b)(5)(B), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1717(b)(3), Dec. 22, 2023, 137 Stat. 655.)

### EDITORIAL NOTES

### CODIFICATION

Another section 506 was renumbered section 500f of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31 struck out "Regular" before "Space Force".

**2021**—Pub. L. 116–283 substituted "Regular Marine Corps, Regular Space Force," for "Regular Marine Corps,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §507. Extension of enlistment for members needing medical care or hospitalization

(a) An enlisted member of an armed force on active duty whose term of enlistment expires while he is suffering from disease or injury incident to service and not due to his misconduct, and who needs medical care or hospitalization, may be retained on active duty, with his consent, until he recovers to the extent that he is able to meet the physical requirements for reenlistment, or it is determined that recovery to that extent is impossible.

(b) This section does not prevent the retention in service, without his consent, of an enlisted member of an armed force under section 972 of this title.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 754.)

## §508. Reenlistment: qualifications

(a) No person whose service during his last term of enlistment was not honest and faithful may be reenlisted in an armed force. However, the Secretary concerned may authorize the reenlistment in the armed force under his jurisdiction of such a person if his conduct after that service has been good.

(b) A person discharged from a Regular component may be reenlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Space Force, or Regular Coast Guard, as the case may be, under such regulations as the Secretary concerned may prescribe.

(c) This section does not deprive a person of any right to be reenlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Space Force, or Regular Coast Guard under any other provision of law.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 755; amended Pub. L. 116–283, div. A, title IX, §924(b)(5)(C), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1717(b)(4), Dec. 22, 2023, 137 Stat. 655.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsecs. (b), (c). Pub. L. 118–31 struck out "Regular" before "Space Force".

**2021**—Subsecs. (b), (c). Pub. L. 116–283 substituted "Regular Marine Corps, Regular Space Force," for "Regular Marine Corps,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §509. Voluntary extension of enlistments: periods and benefits

(a) Under such regulations as the Secretary concerned may prescribe, the term of enlistment of a member of an armed force may be extended or reextended with his written consent for any period. However, the total of all such extensions of an enlistment may not exceed four years.

(b) When a member is discharged from an enlistment that has been extended under this section, he has the same rights, privileges, and benefits that he would have if discharged at the same time from an enlistment not so extended.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 755.)

## §510. Enlistment incentives for pursuit of skills to facilitate national service

(a) ENLISTMENT INCENTIVE PROGRAM.—The Secretary of Defense shall carry out an enlistment incentive program in accordance with this section under which a person who is a National Call to Service participant shall be entitled to one of the incentives specified in subsection (e). The program shall be carried out during the period ending on December 31, 2007, and may be carried out after that date.

(b) NATIONAL CALL TO SERVICE PARTICIPANT.—In this section, the term "National Call to Service participant" means a person who has not previously served in the armed forces who enters into an original enlistment pursuant to a written agreement with the Secretary of a military department (in such form and manner as may be prescribed by that Secretary) under which the person agrees to perform a period of national service as specified in subsection (c).

(c) NATIONAL SERVICE.—The total period of national service to which a National Call to Service participant is obligated under the agreement under this section shall be specified in the agreement. Under the agreement, the participant shall—

(1) upon completion of initial entry training (as prescribed by the Secretary of Defense), serve on active duty in a military occupational specialty designated by the Secretary of Defense under subsection (d) for a period of 15 months;

(2) upon completion of the period of active duty specified in paragraph (1) and without a break in service, serve either (A) an additional period of active duty as determined by the Secretary of Defense, or (B) a period of 24 months in an active status in the Selected Reserve or the Space Force; and

(3) upon completion of the period of service specified in paragraph (2), and without a break in service, serve the remaining period of obligated service specified in the agreement—

(A) on active duty in the armed forces;

(B) in the Selected Reserve;

(C) in the Individual Ready Reserve;

(D) in the Space Force;

(E) in Americorps or another domestic national service program jointly designated by the Secretary of Defense and the head of such program for purposes of this section; or

(F) in any combination of service referred to in subparagraphs (A) through (E) that is approved by the Secretary of the military department concerned pursuant to regulations prescribed by the Secretary of Defense and specified in the agreement.

(d) DESIGNATED MILITARY OCCUPATIONAL SPECIALTIES.—The Secretary of Defense shall designate military occupational specialties for purposes of subsection (c)(1). Such military occupational specialties shall be military occupational specialties that, as determined by the Secretary, will facilitate pursuit of national service by National Call to Service participants and shall include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into an agreement under subsection (b) is to enter an officer training program.

(e) INCENTIVES.—The incentives specified in this subsection are as follows:

(1) Payment of a bonus in the amount of $5,000.

(2) Payment in an amount not to exceed $18,000 of outstanding principal and interest on qualifying student loans of the National Call to Service participant.

(3) Entitlement to an allowance for educational assistance at the monthly rate equal to the monthly rate payable for basic educational assistance allowances under section 3015(a)(1) of title 38 for a total of 12 months.

(4) Entitlement to an allowance for educational assistance at the monthly rate equal to 50 percent of the monthly rate payable for basic educational assistance allowances under section 3015(b)(1) of title 38 for a total of 36 months.

(f) ELECTION OF INCENTIVE.—A National Call to Service participant shall elect in the agreement under subsection (b) which incentive under subsection (e) to receive. An election under this subsection is irrevocable.

(g) PAYMENT OF BONUS AMOUNTS.—(1) Payment to a National Call to Service participant of the bonus elected by the National Call to Service participant under subsection (e)(1) shall be made in such time and manner as the Secretary of Defense shall prescribe.

(2)(A) Payment of outstanding principal and interest on the qualifying student loans of a National Call to Service participant, as elected under subsection (e)(2), shall be made in such time and manner as the Secretary of Defense shall prescribe.

(B) Payment under this paragraph of the outstanding principal and interest on the qualifying student loans of a National Call to Service participant shall be made to the holder of such student loans, as identified by the National Call to Service participant to the Secretary of the military department concerned for purposes of such payment.

(3) Payment of a bonus or incentive in accordance with this subsection shall be made by the Secretary of the military department concerned.

(h) COORDINATION WITH MONTGOMERY GI BILL BENEFITS.—(1)(A) Subject to subparagraph (B), a National Call to Service participant who elects an incentive under paragraph (3) or (4) of subsection (e) is not entitled to additional educational assistance under chapter 1606 of this title or to basic educational assistance under subchapter II of chapter 30 of title 38.

(B) If a National Call to Service participant meets all eligibility requirements specified in chapter 1606 of this title or chapter 30 of title 38 for entitlement to allowances for educational assistance under either such chapter, the participant may become eligible for allowances for educational assistance benefits under either such chapter up to the maximum allowance provided less the total amount of allowance paid under paragraph (3) or (4) of subsection (e).

(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters II and III of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran" and the term "person", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).

(3)(A) Except as provided in paragraph (1), nothing in this section shall prohibit a National Call to Service participant who satisfies through service under subsection (c) the eligibility requirements for educational assistance under chapter 1606 of this title or basic educational assistance under chapter 30 of title 38 from an entitlement to such educational assistance under chapter 1606 of this title or basic educational assistance under chapter 30 of title 38, as the case may be.

(B)(i) A participant who made an election not to receive educational assistance under either such chapter at the applicable time specified under law or who was denied the opportunity to make an election may revoke that election or make an initial election, as the case may be, at such time and in such manner as the Secretary concerned may specify. A revocation or initial election under the preceding sentence is irrevocable.

(ii) The participant making a revocation or initial election under clause (i) shall be eligible for educational assistance under either such chapter at such time as the participant satisfies through service the applicable eligibility requirements under either such chapter.

(i) REPAYMENT.—If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefitted from an incentive under paragraph (1) or (2) of subsection (e) fails to complete the total period of service specified in the agreement, the National

Call to Service participant shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(j) FUNDING.—(1) Amounts for the payment of incentives under paragraphs (1) and (2) of subsection (e) shall be derived from amounts available to the Secretary of the military department concerned for the payment of pay, allowances and other expenses of the members of the armed force concerned.

(2) Amounts for the payment of incentives under paragraphs (3) and (4) of subsection (e) shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.

(k) REGULATIONS.—The Secretary of Defense and the Secretaries of the military departments shall prescribe regulations for purposes of the program under this section.

(l) DEFINITIONS.—In this section:

(1) The term "Americorps" means the Americorps program carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

(2) The term "qualifying student loan" means a loan, the proceeds of which were used to pay any part or all of the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) The term "Secretary of a military department" includes, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast Guard is operating.

(Added Pub. L. 107–314, div. A, title V, §531(a)(1), Dec. 2, 2002, 116 Stat. 2541; amended Pub. L. 108–136, div. A, title V, §535(a), Nov. 24, 2003, 117 Stat. 1474; Pub. L. 109–163, div. A, title V, §545, title VI, §687(c)(1), Jan. 6, 2006, 119 Stat. 3254, 3333; Pub. L. 109–364, div. A, title X, §1071(e)(2), Oct. 17, 2006, 120 Stat. 2401; Pub. L. 115–91, div. A, title VI, §618(a)(1)(A), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 118–31, div. A, title XVII, §1717(b)(5), Dec. 22, 2023, 137 Stat. 655; Pub. L. 118–159, div. A, title XVII, §1701(a)(11), Dec. 23, 2024, 138 Stat. 2203.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (l)(1), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle C of title I of the Act is classified generally to division C (§12571 et seq.) of subchapter I of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 510 was renumbered section 12102 of this title.

### AMENDMENTS

**2024**—Subsec. (h)(2)(B). Pub. L. 118–159 substituted "subchapters II and III" for "subchapters I and II".

**2023**—Subsec. (c)(2). Pub. L. 118–31, §1717(b)(5)(A), inserted "or the Space Force" after "Selected Reserve".

Subsec. (c)(3)(D) to (F). Pub. L. 118–31, §1717(b)(5)(B), added subpar. (D), redesignated former subpars. (D) and (E) as (E) and (F), respectively, and in subpar. (F) substituted "subparagraphs (A) through (E)" for "subparagraphs (A) through (D)".

**2017**—Subsec. (i). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Subsec. (c)(3)(D). Pub. L. 109–163, §545(a), substituted "in Americorps or another domestic national service program" for "in the Peace Corps, Americorps, or another national service program".

Subsec. (d). Pub. L. 109–163, §545(b), as amended by Pub. L. 109–364, inserted "and shall include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into an agreement under subsection (b) is to enter an officer training program" before period at end.

Subsec. (h)(2). Pub. L. 109–163, §545(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(2)(A) The Secretary of Defense shall, to the maximum extent practicable, administer the receipt by

National Call to Service participants of incentives under paragraph (3) or (4) of subsection (e) as if such National Call to Service participants were, in receiving such incentives, receiving educational assistance for members of the Selected Reserve under chapter 1606 of this title.

"(B) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, prescribe regulations for purposes of subparagraph (A). Such regulations shall, to the maximum extent practicable, take into account the administrative provisions of chapters 30 and 36 of title 38 that are specified in section 16136 of this title."

Subsec. (i). Pub. L. 109–163, §687(c)(1), amended heading and text of subsec. (i) generally. Prior to amendment, text consisted of pars. (1) to (4) which related to pro rata repayments by failed National Call to Service participants, the nature of the debt owed, waiver and discharge in bankruptcy.

**2003**—Subsec. (j). Pub. L. 108–136 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Amounts for payment of incentives under subsection (e), including payment of allowances for educational assistance under that subsection, shall be derived from amounts available to the Secretary of the military department concerned for payment of pay, allowances, and other expenses of the members of the armed force concerned."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(2) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

### SAVINGS PROVISION

Pub. L. 109–163, div. A, title VI, §687(f), Jan. 6, 2006, 119 Stat. 3336, provided that: "In the case of any bonus, incentive pay, special pay, or similar payment, such as education assistance or a stipend, which the United States became obligated to pay before April 1, 2006, under a provision of law amended by subsection (b), (c), or (d) of this section [amending this section and sections 2005, 2007, 2105, 2123, 2130a, 2173, 2200a, 4348, 6959, 9348, 16135, 16203, 16303, and 16401 of this title, section 182 of Title 14, Coast Guard, and sections 301b, 301d, 301e, 302, 302a, 302b, 302d to 302h, 302j, 307a, 308, 308b, 308c, 308g to 308i, 309, 312, 312b, 314 to 319, and 321 to 327 of Title 37, Pay and Allowances of the Uniformed Services], such provision of law, as in effect on the day before the date of the enactment of this Act [Jan. 6, 2006], shall continue to apply to the payment, or any repayment, of the bonus, incentive pay, special pay, or similar payment under such provision of law."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### COMMENCEMENT OF PROGRAM

Pub. L. 107–314, div. A, title V, §531(b), Dec. 2, 2002, 116 Stat. 2544, directed the Secretary of Defense to prescribe the date, not later than Oct. 1, 2003, on which the program provided for under this section was to commence.

### IMPLEMENTATION REPORT

Pub. L. 107–314, div. A, title V, §531(d), Dec. 2, 2002, 116 Stat. 2544, directed the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives, no later than Mar. 31, 2003, a report on the Secretary's plans for implementation of this section.

### EFFECTIVENESS REPORTS

Pub. L. 107–314, div. A, title V, §531(e), Dec. 2, 2002, 116 Stat. 2545, directed the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives, no later than Mar. 31, 2005, and Mar. 31, 2007, reports on the effectiveness of the program under this section in attracting new recruits to national service.

## §511. College First Program

(a) PROGRAM AUTHORITY.—The Secretary of each military department may establish a program to increase the number of, and the level of the qualifications of, persons entering the armed forces as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service.

(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—The Secretary concerned may—

(1) exercise the authority under section 513 of this title—

(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component, or as a member of the Space Force, notwithstanding the scope of the authority under subsection (a) of that section, in the case of the Army National Guard of the United States or Air National Guard of the United States; and

(B) to authorize, notwithstanding the period limitation in subsection (b) of that section, a delay of the enlistment of any such person in a regular component under that subsection for the period during which the person is enrolled in, and pursuing a program of education at, an institution of higher education, or a program of vocational or technical training, on a full-time basis that is to be completed within the maximum period of delay determined for that person under subsection (c); and

(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B).

(c) MAXIMUM PERIOD OF DELAY.—The period of delay authorized a person under paragraph (1)(B) of subsection (b) may not exceed the 30-month period beginning on the date of the person's enlistment accepted under paragraph (1)(A) of such subsection.

(d) ALLOWANCE.—(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37. The Secretary concerned may supplement that stipend by an amount not to exceed $225 per month.

(2) An allowance may not be paid to a person under this section for more than 24 months.

(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32. Satisfactory performance shall be determined under regulations prescribed by the Secretary concerned.

(4) An allowance under this section is in addition to any other pay or allowance to which a member of a reserve component is entitled by reason of participation in the Ready Reserve of that component.

(e) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge of a person in bankruptcy under title 11 that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 does not discharge that person from a debt arising under paragraph (1).

(4) The Secretary concerned may waive, in whole or in part, a debt arising under paragraph (1) in

any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(f) SPECIAL PAY AND BONUSES.—Upon enlisting in the regular component of the member's armed force, a person who initially enlisted as a Reserve under this section may, at the discretion of the Secretary concerned, be eligible for all regular special pays, bonuses, education benefits, and loan repayment programs.

(Added Pub. L. 108–375, div. A, title V, §551(a)(1), Oct. 28, 2004, 118 Stat. 1909; amended Pub. L. 118–31, div. A, title XVII, §1717(b)(6), Dec. 22, 2023, 137 Stat. 655.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 511 was renumbered section 12103 of this title.

**AMENDMENTS**

**2023**—Subsec. (b)(1)(A). Pub. L. 118–31 inserted "or as a member of the Space Force," after "reserve component,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONTINUATION FOR ARMY OF PRIOR ARMY COLLEGE FIRST PROGRAM**

Pub. L. 108–375, div. A, title V, §551(b), Oct. 28, 2004, 118 Stat. 1911, provided that: "The Secretary of the Army shall treat the program under section 511 of title 10, United States Code, as added by subsection (a), as a continuation of the program under section 573 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65] ([formerly] 10 U.S.C. 513 note), and for such purpose the Secretary may treat such section 511 as having been enacted on October 1, 2004."

## [§512. Renumbered §12104]

## §513. Enlistments: Delayed Entry Program

(a) A person with no prior military service who is qualified under section 505 of this title and applicable regulations for enlistment in a regular component of an armed force, or who is qualified under section 20301 of this title and applicable regulations for enlistment in the Space Force, may (except as provided in subsection (c)) be enlisted as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, or be enlisted as a member of the Space Force, for a term of not less than six years nor more than eight years.

(b)(1) Unless sooner ordered to active duty under chapter 39 of this title or another provision of law, a person enlisted under subsection (a) shall, within 365 days after such enlistment, be discharged from the reserve component in which enlisted and immediately be enlisted in the regular component of an armed force.

(2) The Secretary concerned may extend the 365-day period described in paragraph (1) for any person for up to an additional 365 days if the Secretary determines that it is in the best interests of the armed force of which that person is a member to do so.

(3)(A) The Secretary concerned may extend by up to an additional 365 days the period of extension under paragraph (2) for a person who enlisted before October 1, 2017, under section 504(b)(2) of this title if the Secretary determines that the period of extension under this paragraph is required for the performance of adequate background and security reviews of that person.

(B) A person whose period of extension under paragraph (2) is extended under this paragraph shall undergo all security and suitability screening requirements and receive a favorable military security

suitability determination before entering into service in a regular or reserve component. Screening priority shall be given to those persons who were enlisted for a military occupational specialty that requires specialized language or medical skills that are vital to the national interest.

(C) The authority to make an extension under this paragraph shall expire one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018. The expiration of such authority shall not effect the validity of any extension made in accordance with this paragraph on or before that date.

(4) During the period beginning on the date on which the person enlists under subsection (a) and ending on the date on which the person is enlisted in a regular component under this subsection, the person shall be in the Ready Reserve of the armed force concerned.

(c) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. 3801 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act (50 U.S.C. 3806(c)(2)(A)), may not be enlisted under subsection (a).

(d) This section shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(Added Pub. L. 101–189, div. A, title V, §501(a)(1), Nov. 29, 1989, 103 Stat. 1435; amended Pub. L. 101–510, div. A, title XIV, §1484(k)(2), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 104–201, div. A, title V, §512, Sept. 23, 1996, 110 Stat. 2514; Pub. L. 106–65, div. A, title V, §572(a), Oct. 5, 1999, 113 Stat. 623; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title V, §515(b)(1)(A), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(ii), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 115–91, div. A, title V, §526, Dec. 12, 2017, 131 Stat. 1382; Pub. L. 118–31, div. A, title XVII, §1717(b)(7), Dec. 22, 2023, 137 Stat. 655.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (b)(3)(C), means the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

The Military Selective Service Act, referred to in subsec. (c), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

### PRIOR PROVISIONS

A prior section 513, act Aug. 10, 1956, ch. 1041, 70A Stat. 18, related to promotion of enlisted members of Reserve components, prior to repeal by Pub. L. 85–861, §36B(1), Sept. 2, 1958, 72 Stat. 1570.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 inserted ", or who is qualified under section 20301 of this title and applicable regulations for enlistment in the Space Force," after "armed force" and ", or be enlisted as a member of the Space Force," after "Coast Guard Reserve".

**2017**—Subsec. (b). Pub. L. 115–91 redesignated second sentence of par. (1) as (2) and inserted "described in paragraph (1)" after "the 365-day period", added par. (3), and redesignated former par. (2) as (4) and substituted "this subsection" for "paragraph (1)".

**2016**—Subsec. (c). Pub. L. 114–328 substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)" and inserted "(50 U.S.C. 3806(c)(2)(A))" after "of that Act".

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2002**—Subsec. (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (b)(1). Pub. L. 106–65 substituted "additional 365 days" for "additional 180 days" in second sentence.

**1996**—Subsec. (b). Pub. L. 104–201 inserted "The Secretary concerned may extend the 365-day period for any person for up to an additional 180 days if the Secretary determines that it is in the best interests of the armed force of which that person is a member to do so." after first sentence, "(1)" before "Unless", and "(2)" before "During" and substituted "paragraph (1)" for "the preceding sentence".

**1990**—Subsecs. (b), (c). Pub. L. 101–510 substituted "subsection (a)" for "paragraph (1)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title V, §572(b), Oct. 5, 1999, 113 Stat. 623, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to enlistments entered into, on or after that date."

**ARMY COLLEGE FIRST PILOT PROGRAM**

Pub. L. 106–65, div. A, title V, §573, Oct. 5, 1999, 113 Stat. 623, as amended by Pub. L. 107–107, div. A, title V, §542(a)–(c), Dec. 28, 2001, 115 Stat. 1110, 1111; Pub. L. 107–314, div. A, title V, §535, title X, §1062(j)(1), Dec. 2, 2002, 116 Stat. 2548, 2651, directed the Secretary of the Army to establish a pilot program, known as the "Army College First" program, to be in effect from Oct. 1, 1999, to Sept. 30, 2004, to assess whether the Army could increase the number and qualifications of persons entering the Army as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service, and to submit to committees of Congress a report on the program not later than Feb. 1, 2004. See section 511 of this title and section 551(b) of Pub. L. 108–375, set out as a note under section 511 of this title.

## §514. Bounties prohibited; substitutes prohibited

(a) No bounty may be paid to induce any person to enlist in an armed force. A clothing allowance or enlistment bonus authorized by law is not a bounty for the purposes of this subsection.

(b) No person liable for active duty in an armed force under this subtitle may furnish a substitute for that active duty. No person may be enlisted or appointed in an armed force as a substitute for another person.

(Aug. 10, 1956, ch. 1041, 70A Stat. 19.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 514(a) | 50 App.:458 (1st sentence, less applicability to induction). | June 24, 1948, ch. 625, §8 (less applicability to induction), 62 Stat. 614. |
| 514(b) | 50 App.:458 (last sentence, less applicability to induction). | |

In subsection (b), the words "active duty" are substituted for the words "training and service". The word "may" is substituted for the words "shall be permitted or allowed". The last sentence is substituted for 50 App.:458 (words between 1st and last semicolons). 50 App.:458 (words after last semicolon) is omitted as applicable only to induction.

## §515. Reenlistment after discharge as warrant officer

A person who has been discharged from a regular component of an armed force under section 1165 or 1166 of this title may, upon his request and in the discretion of the Secretary concerned, be enlisted in that armed force in the grade prescribed by the Secretary. However, a person discharged under section 1165 of this title may not be enlisted in a grade lower than the grade that he held immediately before appointment as a warrant officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 19.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 515 | 10:600d (last 36 words of last sentence).<br>34:135d (last 36 words of last sentence).<br>10:600m (last 21 words of 3d sentence).<br>34:430a (last 21 words of 3d sentence). | May 29, 1954, ch. 249, §§6 (last 36 words of last sentence), 15 (last 21 words of 3d sentence), 68 Stat. 159, 164. |

The first 20 words are inserted for clarity. The word "request" is substituted for the word "application".

## §516. Effect upon enlisted status of acceptance of appointment as cadet or midshipman

(a) The enlistment or period of obligated service of an enlisted member of the armed forces who accepts an appointment as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy or in the Navy Reserve, may not be terminated because of the acceptance of that appointment. However, while serving as a cadet or midshipman at an Academy, he is entitled only to the pay, allowances, compensation, pensions, and other benefits provided by law for such a cadet or midshipman or, if he is a midshipman in the Navy Reserve, to the compensation and emoluments of a midshipman in the Navy Reserve.

(b) If a person covered by subsection (a) is separated from service as a cadet or midshipman, or from service as a midshipman in the Navy Reserve, for any reason other than his appointment as a commissioned officer of a regular or reserve component of an armed force or in the Space Force, or because of a physical disability, he resumes his enlisted status and shall complete the period of service for which he was enlisted or for which he has an obligation, unless he is sooner discharged. In computing the unexpired part of an enlistment or period of obligated service for the purposes of this subsection, all service as a cadet or midshipman is counted as service under that enlistment or period of obligated service.

(Added Pub. L. 85–861, §1(9)(A), Sept. 2, 1958, 72 Stat. 1439; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(B), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 118–31, div. A, title XVII, §1717(b)(8), Dec. 22, 2023, 137 Stat. 655.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 516(a)<br>516(b) | 50:1411.<br>50:1412. | June 25, 1956, ch. 439, §§1, 2, 70 Stat. 333. |

In subsection (a), the words "on or after June 25, 1956" are omitted as executed. The words "Regular, Reserve" and "during the continuation of the cadet or midshipman status of such member" are omitted as surplusage. The words "if he is a midshipman in the Naval Reserve * * * of a midshipman in the Naval Reserve" are substituted for the words "accruing to such reserve midshipman by virtue of his status in the Naval Reserve".

In subsection (b), the words "a person covered by subsection (a)" are substituted for 50:1412 (1st 84 words of 1st sentence). The words "his appointment as a commissioned officer of" are substituted for the words "the acceptance of a commission in". The words "and shall complete the period of service for which he was enlisted or for which he has an obligation, unless he is sooner discharged" are substituted for 50:1412 (2d

sentence). The words "promoted or" are omitted as unnecessary, since the only kind of promotion involved is that to officer, in which case the member is discharged from his enlisted status. The words "as service under that enlistment" are substituted for the words "as time serviced under such contract".

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31 inserted "or in the Space Force," after "armed force".
**2006**—Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §517. Authorized enlisted end strength: members in pay grades E–8 and E–9

(a) The authorized end strength for enlisted members on active duty (other than for training) in an armed force in pay grades E–8 and E–9 as of the last day of a fiscal year may not be more than 3.0 percent and 1.25 percent, respectively, of the number of enlisted members of that armed force who are on active duty (other than for training). In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.

[(b) Repealed. Pub. L. 116–283, div. A, title IV, §403(a)(3), Jan. 1, 2021, 134 Stat. 3556.]

(c) Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section.

(Added Pub. L. 87–649, §2(1), Sept. 7, 1962, 76 Stat. 492; amended Pub. L. 96–584, §4, Dec. 23, 1980, 94 Stat. 3377; Pub. L. 97–86, title V, §503(1), (2), Dec. 1, 1981, 95 Stat. 1107, 1108; Pub. L. 97–252, title V, §503(a), Sept. 8, 1982, 96 Stat. 727; Pub. L. 98–94, title V, §503(a), Sept. 24, 1983, 97 Stat. 631; Pub. L. 98–525, title IV, §§413(a), 414(a)(2), Oct. 19, 1984, 98 Stat. 2517, 2518; Pub. L. 99–145, title IV, §413(a), Nov. 8, 1985, 99 Stat. 619; Pub. L. 100–180, div. A, title IV, §413(a), Dec. 4, 1987, 101 Stat. 1083; Pub. L. 101–189, div. A, title IV, §413(a), Nov. 29, 1989, 103 Stat. 1433; Pub. L. 102–190, div. A, title IV, §413(a), Dec. 5, 1991, 105 Stat. 1352; Pub. L. 103–160, div. A, title IV, §413(a), Nov. 30, 1993, 107 Stat. 1642; Pub. L. 103–337, div. A, title V, §552(a), title XVI, §1662(a)(4), Oct. 5, 1994, 108 Stat. 2772, 2988; Pub. L. 105–261, div. A, title IV, §407(a), title X, §1069(a)(2), Oct. 17, 1998, 112 Stat. 1996, 2135; Pub. L. 106–398, §1 [[div. A], title IV, §421(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–95; Pub. L. 107–107, div. A, title IV, §403, Dec. 28, 2001, 115 Stat. 1069; Pub. L. 108–375, div. A, title IV, §416(f), Oct. 28, 2004, 118 Stat. 1868; Pub. L. 110–181, div. A, title IV, §406, Jan. 28, 2008, 122 Stat. 89; Pub. L. 116–283, div. A, title IV, §403(a), Jan. 1, 2021, 134 Stat. 3556.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 517 | 37:232(c) (last sentence). | Oct. 12, 1949, ch. 681, §201(c) (last sentence); added May 20, 1958, Pub. |

| | | |
|---|---|---|
| | | L. 85–422, §1(3) (last sentence), 72 Stat. 124. |

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §403(a)(1), substituted "enlisted end strength" for "daily average" in section catchline.

Subsec. (a). Pub. L. 116–283, §403(a)(2), in first sentence, substituted "end strength for" for "daily average number of", "as of the last day of a fiscal year" for "in a fiscal year", and "3.0 percent" for "2.5 percent" and struck out before period at end "on the first day of that fiscal year".

Subsec. (b). Pub. L. 116–283, §403(a)(3), struck out subsec. (b) which read as follows: "Whenever the number of members serving in pay grade E–9 is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8."

**2008**—Subsec. (a). Pub. L. 110–181 substituted "1.25 percent" for "1 percent".

**2004**—Subsec. (a). Pub. L. 108–375 substituted "as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title." for "(other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force."

**2001**—Subsec. (a). Pub. L. 107–107 substituted "2.5 percent" for "2 percent (or, in the case of the Army, 2.5 percent)".

**2000**—Subsec. (c). Pub. L. 106–398 added subsec. (c).

**1998**—Subsec. (a). Pub. L. 105–261, §1069(a)(2), substituted "The authorized" for "Except as provided in section 307 of title 37, the authorized".

Pub. L. 105–261, §407(a), substituted "a fiscal year" for "a calendar year" and "the first day of that fiscal year" for "January 1 of that year".

**1994**—Subsec. (a). Pub. L. 103–337, §552(a), inserted "(or, in the case of the Army, 2.5 percent)" after "may not be more than 2 percent".

Subsec. (b). Pub. L. 103–337, §1661(a)(4)(B), redesignated subsec. (c) as (b) and struck out "or whenever the number of members serving in pay grade E–9 for duty described in subsection (b) is less than the number authorized for that grade under subsection (b)," after "under subsection (a),".

Pub. L. 103–337, §1662(a)(4)(A), struck out subsec. (b) which limited the number of enlisted members in pay grades E–8 and E–9 who could be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard.

Subsec. (c). Pub. L. 103–337, §1662(a)(4)(B), redesignated subsec. (c) as (b).

**1993**—Subsec. (b). Pub. L. 103–160, in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the Air Force to 328 and 840 from 279 and 800, respectively.

**1991**—Subsec. (b). Pub. L. 102–190, in table, increased fiscal year limitation on number of enlisted men in pay grade E–8 on active duty affecting reserve components of the Air Force from 670 to 800, and increased limitation on number of enlisted men in pay grade E–9 on active duty affecting reserve components of the Army from 557 to 569, the Air Force from 231 to 279, and the Marine Corps from 13 to 14.

**1989**—Subsec. (b). Pub. L. 101–189, §413(a)(2), in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Army, to 557 and 2,585 from 542 and 2,504, respectively; Navy, to 202 and 429 from 200 and 425, respectively; Air Force, to 231 and 670 from 224 and 637, respectively. Marine Corps figures remained unchanged.

Pub. L. 101–189, §413(a)(1), in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Army, to 542 and 2,504 from 529 and 2,350, respectively; Navy, to 200 and 425 from 180 and 400, respectively; Air Force, to 224 and 637 from 150 and 425, respectively. Marine Corps figures remained unchanged.

**1987**—Subsec. (b). Pub. L. 100–180, §413(a)(2), in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces:

Army, to 529 and 2,350 from 517 and 2,295, respectively; Navy, to 180 and 400 from 175 and 390, respectively; Air Force, to 150 and 425 from 125 and 425, respectively. Marine Corps figures remained unchanged.

Pub. L. 100–180, §413(a)(1), in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Navy, to 175 and 390 from 165 and 381, respectively; Air Force, to 125 and 425 from 80 and 358, respectively; Marine Corps, to 13 and 74 from 9 and 74, respectively. Army figures remained unchanged.

**1985**—Subsec. (b). Pub. L. 99–145 in table, changed fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Navy, to 165 and 381 from 156 and 381, respectively; Air Force, to 80 and 358 from 87 and 455, respectively. Army and Marine Corps figures remained unchanged.

**1984**—Subsec. (b). Pub. L. 98–525, §414(a)(2), inserted "(other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training)" and substituted "or the National Guard" for "of the armed forces" and "for that grade and armed force" for "prescribed for the grade and the armed force".

Pub. L. 98–525, §413(a), in table, increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Army, to 2,295 and 517 from 1,494 and 314; Air Force, to 455 and 87 from 617 and 143; Marine Corps, to 74 and 9 from 56 and 6. Navy figures remained unchanged.

**1983**—Subsec. (b). Pub. L. 98–94 increased fiscal year limitation on number of enlisted men in pay grades E–8 and E–9 on active duty affecting reserve components of the armed forces: Army, to 1,494 and 314 from 1,244 and 265; Navy, to 381 and 156 from 329 and 156; Air Force, to 617 and 143 from 441 and 132; Marine Corps figures remained unchanged.

**1982**—Subsec. (b). Pub. L. 97–252 increased the numbers in columns from 222, 146, 76, and 4 in the line for E–9 to 265, 156, 132, and 6, respectively, and from 908, 319, 307, and 12 in line for E–8 to 1,244, 329, 441, and 56, respectively.

**1981**—Subsec. (b). Pub. L. 97–86, §503(1), inserted column for "Marine Corps" in table and increased numbers in existing columns headed "Army", "Navy", and "Air Force" from 209, 140, and 71 in line for E–9 to 222, 146, and 76, respectively, and from 823, 302, and 302 in line for E–8 to 908, 319, and 307, respectively.

Subsec. (c). Pub. L. 97–86, §503(2), added subsec. (c).

**1980**—Pub. L. 96–584 designated existing provisions as subsec. (a), inserted provisions respecting computation of limitations, and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title IV, §407(b), Oct. 17, 1998, 112 Stat. 1996, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1999."

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title V, §552(c), Oct. 5, 1994, 108 Stat. 2772, provided that: "The amendment made by subsection (a) [amending this section] shall not apply with respect to the number of enlisted members of the Army on active duty in pay grade E–8 during 1994."

Amendment by section 1662(a)(4) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title IV, §413(a)(2), Nov. 29, 1989, 103 Stat. 1433, provided that the amendment made by that section is effective Oct. 1, 1990.

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–180, div. A, title IV, §413(a)(2), Dec. 4, 1987, 101 Stat. 1083, provided that the amendment made by that section is effective Oct. 1, 1988.

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title IV, §413(c), Nov. 8, 1985, 99 Stat. 620, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 524 [now 12011] of this title] shall take effect on

October 1, 1985."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title IV, §413(c), Oct. 19, 1984, 98 Stat. 2518, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 524 [now 12011] of this title] shall take effect on October 1, 1984."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title V, §503(c), Sept. 24, 1983, 97 Stat. 631, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 524 [now 12011] of this title] shall take effect on October 1, 1983."

**EFFECTIVE DATE**

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**TEMPORARY EXEMPTION FROM ENLISTED END STRENGTH GRADE RESTRICTIONS FOR THE COAST GUARD**

Pub. L. 119–60, div. G, title LXXI, §7102(c), Dec. 18, 2025, 139 Stat. 1664, provided that: "Section 517(a) of title 10, United States Code, shall not apply with respect to the Coast Guard until October 1, 2027."

**TEMPORARY EXEMPTION FROM END STRENGTH GRADE RESTRICTIONS FOR THE SPACE FORCE**

Pub. L. 117–263, div. A, title V, §526, Dec. 23, 2022, 136 Stat. 2572, provided that: "Section 517 and section 523 (as amended by section 501 of this Act) of title 10, United States Code, shall not apply to the Space Force until January 1, 2024."

Similar provisions were contained in the following prior acts:

Pub. L. 117–81, div. A, title V, §528(a), Dec. 27, 2021, 135 Stat. 1690.

Pub. L. 116–283, div. A, title IX, §929, Jan. 1, 2021, 134 Stat. 3832.

**AUTHORIZED ACTIVE DUTY STRENGTHS FOR ARMY ENLISTED MEMBERS IN PAY GRADE E–8; SPECIAL RULE FOR 1995**

Pub. L. 103–337, div. A, title V, §552(b), Oct. 5, 1994, 108 Stat. 2772, provided that the percentage applicable to enlisted members of the Army in pay grade E–8 under subsec. (a) of this section during 1995 would be 2.3 percent, rather than the percentage provided by the amendment made by Pub. L. 103–337, §552(a).

**AUTHORITY TO WAIVE GRADE STRENGTH LAWS FOR FISCAL YEAR 1991; CERTIFICATION; RELATIONSHIP TO OTHER SUSPENSION AUTHORITY**

Pub. L. 102–25, title II, §§201(b), 202, 205(b), Apr. 6, 1991, 105 Stat. 79, 80, authorized Secretary of a military department to suspend, for fiscal year 1991, the operation of any provision of this section and section 523, 524 (now 12011), 525, or 526 of this title with respect to that military department, that such Secretary may exercise such authority only after submission to the congressional defense committees of a certification in writing that such authority is necessary because of personnel actions associated with Operation Desert Storm, and that such authority is in addition to the authority provided in section 527 of this title.

## §518. Temporary enlistments

Temporary enlistments may be made only in the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, without specification of component.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 755; amended Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(iii), Jan. 1, 2021, 134 Stat. 3821.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §519. Temporary enlistments: during war or emergency

Except as provided in section 505 of this title and except for enlistments as Reserves of an armed force—

(1) temporary enlistments in an armed force entered into in time of war or of emergency declared by Congress shall be for the duration of the war or emergency plus six months; and

(2) only persons at least eighteen years of age and otherwise qualified under regulations to be prescribed by the Secretary concerned are eligible for such enlistments.

(Added Pub. L. 90–235, §2(a)(1)(B), Jan. 2, 1968, 81 Stat. 755.)

## §520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level

(a)(1) The number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during any fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 4 percent of the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in such armed force during such fiscal year.

(2) Upon the request of the Secretary concerned, the Secretary of Defense may authorize an armed force to increase the limitation specified in paragraph (1) to not exceed 20 percent of the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in such armed force during such fiscal year. The Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives not later than 30 days after using such authority.

(b) A person who is not a high school graduate may not be accepted for enlistment in the armed forces unless the score of that person on the Armed Forces Qualification Test is at or above the thirty-first percentile; however, a person may not be denied enlistment in the armed forces solely because of his not having a high school diploma if his enlistment is needed to meet established strength requirements.

(Added Pub. L. 96–342, title III, §302(b)(1), Sept. 8, 1980, 94 Stat. 1082; amended Pub. L. 96–579, §9, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 97–86, title IV, §402(b)(1), Dec. 1, 1981, 95 Stat. 1104; Pub. L. 98–94, title XII, §1268(3), Sept. 24, 1983, 97 Stat. 705; Pub. L. 100–370, §1(a)(1), July 19, 1988, 102 Stat. 840; Pub. L. 118–31, div. A, title V, §542, Dec. 22, 2023, 137 Stat. 264; Pub. L. 118–159, div. A, title XVII, §1701(a)(12), Dec. 23, 2024, 138 Stat. 2203.)

**HISTORICAL AND REVISION NOTES**

**1988 ACT**

Amendment of subsection (b) is based on Pub. L. 93–307, title IV, §401, June 8, 1974, 88 Stat. 234, as amended by Pub. L. 93–365, title VII, §705, Aug. 5, 1974, 88 Stat. 406.

**EDITORIAL NOTES**

## AMENDMENTS

**2024**—Subsec. (a)(2). Pub. L. 118–159 substituted "armed force" for "armed forced".

**2023**—Subsec. (a). Pub. L. 118–31 designated existing provisions as par. (1), substituted "may not exceed 4 percent" for "may not exceed 20 percent", and added par. (2).

**1988**—Subsec. (b). Pub. L. 100–370 inserted before period at end "; however, a person may not be denied enlistment in the armed forces solely because of his not having a high school diploma if his enlistment is needed to meet established strength requirements".

**1983**—Subsec. (a). Pub. L. 98–94 struck out provisions under which, for fiscal years beginning on October 1, 1980, and October 1, 1981, the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in the armed forces during such fiscal years whose score on the Armed Forces Qualification Test was at or above the tenth percentile and below the thirty-first percentile could not exceed 25 percent of the number of such persons enlisted or inducted into the armed forces during such fiscal years, and, in the provisions remaining applicable to fiscal years beginning after Sept. 30, 1982, substituted "20 percent of the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in such armed force" for "20 percent of the number of such persons enlisted or inducted into such armed force".

**1981**—Pub. L. 97–86 designated existing provisions as subsec. (a) and added subsec. (b).

**1980**—Pub. L. 96–579 struck out subsec. (a) designation and subsec. (b) authorizing the Secretary of Defense for national security reasons to waive the enlistment and induction limitation based on percentile limits conditioned upon notification of the Congress and a concurrent resolution of approval.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–86, title IV, §402(b)(2), Dec. 1, 1981, 95 Stat. 1105, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act [Dec. 1, 1981]."

### FUTURE SERVICEMEMBER PREPARATORY COURSE

Pub. L. 118–31, div. A, title V, §546, Dec. 22, 2023, 137 Stat. 266, as amended by Pub. L. 118–159, div. A, title V, §531, Dec. 23, 2024, 138 Stat. 1886; Pub. L. 119–60, div. A, title V, §534, Dec. 18, 2025, 139 Stat. 870, provided that:

"(a) REQUIREMENT.—If the number of nonprior service enlisted personnel covered under section 520 of title 10, United States Code, exceeds 10 percent of the total number of persons originally enlisted in an Armed Force during a fiscal year, the Secretary concerned shall establish a future servicemember preparatory course within the Armed Force concerned.

"(b) PURPOSE.—The course established under subsection (a) shall be designed to improve the physical and aptitude qualifications of military recruits.

"(c) CRITERIA.—Each course established under this section shall comply with the following requirements:

"(1) ENROLLMENT.—All nonprior service enlisted persons whose score on the Armed Forces Qualification Test is below the thirty-first percentile must be enrolled in the course prior to attending initial basic training.

"(2) GRADUATION REQUIREMENT.—Prior to attending initial basic training, all enlisted persons attending the course established under this section must achieve a score on the Armed Forces Qualification Test that is—

"(A) at least 10 points higher than the individual's most recent score taken prior to the individual's date of enlistment; or

"(B) no longer subject to the restrictions of section 520 of title 10, United States Code.

"(3) EFFECT OF COURSE FAILURE.—Any enlisted person who fails to achieve meaningful progress, as determined by the Secretary concerned, within 90 days of enlistment shall be separated under regulations prescribed by the Secretary concerned.

"(4) EFFECT OF COURSE GRADUATION.—The Secretary concerned may exclude from the population to be considered for purposes of determining the percentage limitations imposed by section 520(a) of title 10, United States Code, any enlisted person who has graduated from a future servicemember preparatory course established pursuant to this section with a score on the Armed Forces Qualification Test that is at or above the thirty-first percentile, provided that—

"(A) the Armed Forces Qualifications Test score that is at or above the thirty-first percentile is

obtained within the same fiscal year in which the individual was originally enlisted to serve on active duty; and

"(B) such score is obtained during the period the individual was originally enlisted to serve on active duty, as determined by the Secretary concerned.

"(d) REPORT.—If a preparatory course under this section is established by the Secretary concerned, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the structure and results of the course for the preceding fiscal year by December 1st of the subsequent fiscal year. The report shall include the following elements:

"(1) The percentage of nonprior service enlisted persons who scored below the thirty-first percentile on the Armed Forces Qualification Test upon original enlistment.

"(2) The percentage of nonprior service enlisted persons who scored below the thirty-first percentile on the Armed Forces Qualification Test following graduation from the preparatory course or subsequent reclassification, as applicable.

"(3) The number of individuals who attended the preparatory course.

"(4) The number of individuals who graduated the preparatory course.

"(5) The average improvement in the Armed Forces Qualification Test score for individuals who graduated from the preparatory course.

"(6) The determination of the Secretary regarding the effectiveness of the preparatory course.

"(7) Recommendations of the Secretary regarding—

"(A) how to improve the preparatory course;

"(B) whether to expand the preparatory course.

"(8) Any other matter the Secretary determines relevant.

"(e) SUNSET.—The requirements of this section shall expire on September 30th, 2028."

**PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTMENT IN ARMED FORCES**

Pub. L. 105–261, div. A, title V, §571, Oct. 17, 1998, 112 Stat. 2033, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, directed the Secretary of Defense to establish a pilot program during the period Oct. 1, 1998, to Sept. 30, 2003, to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining eligibility of those persons to enlist in the Armed Forces, and to submit to committees of Congress a report on the program not later than Feb. 1, 2004.

**MAXIMUM NUMBER OF ARMY ENLISTEES AND INDUCTEES WHO ARE NOT HIGH SCHOOL GRADUATES**

Pub. L. 96–342, title III, §302(a), Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97–86, title IV, §402(a), Dec. 1, 1981, 95 Stat. 1104; Pub. L. 97–252, title IV, §403, Sept. 8, 1982, 96 Stat. 725; Pub. L. 98–94, title IV, §402, Sept. 24, 1983, 97 Stat. 629; Pub. L. 98–525, title IV, §402, Oct. 19, 1984, 98 Stat. 2516; Pub. L. 99–145, title IV, §402, Nov. 8, 1985, 99 Stat. 618, provided that the number of male individuals enlisted or inducted into the Army during the fiscal year beginning on Oct. 1, 1985, who were not high school graduates could not exceed, as of Sept. 30, 1986, 35 percent of all male individuals enlisted or inducted into the Army during such fiscal year.

**DENIAL OF ENLISTMENT FOR LACK OF HIGH SCHOOL DIPLOMA PROHIBITED**

Pub. L. 93–307, title IV, §401, June 8, 1974, 88 Stat. 234, as amended by Pub. L. 93–365, title VII, §705, Aug. 5, 1974, 88 Stat. 406, which provided that no volunteer for enlistment into the Armed Forces shall be denied enlistment solely because of his not having a high school diploma when his enlistment is needed to meet established strength requirements, was repealed and restated in sections 520(b) and 3262 of this title by Pub. L. 100–370, §1(a), July 19, 1988, 102 Stat. 840.

## [§520a. Repealed. Pub. L. 106–398, §1 [[div. A], title X, §1076(g)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–282]

Section, added Pub. L. 97–252, title XI, §1114(c)(1), Sept. 8, 1982, 96 Stat. 749; amended Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5,

1999, 113 Stat. 774, related to criminal history information for military recruiting purposes.

## §520b. Applicants for enlistment: authority to use funds for the issue of authorized articles

Funds appropriated to the Department of Defense may be used for the issue of authorized articles to applicants for enlistment.

(Added Pub. L. 98–525, title XIV, §1401(a)(1), Oct. 19, 1984, 98 Stat. 2614; amended Pub. L. 99–145, title XIII, §1303(a)(4)(A), Nov. 8, 1985, 99 Stat. 738.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8006], 98 Stat. 1904, 1923.
Dec. 8, 1983, Pub. L. 98–212, title VII, §709, 97 Stat. 1439.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §709], 96 Stat. 1833, 1851.
Dec. 29, 1981, Pub. L. 97–114, title VII, §709, 95 Stat. 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §709, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §709, 93 Stat. 1153.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §809, 92 Stat. 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §808, 91 Stat. 900.
Sept. 22, 1976, Pub. L. 94–419, title VII, §708, 90 Stat. 1292.
Feb. 9, 1976, Pub. L. 94–212, title VII, §708, 90 Stat. 169.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §808, 88 Stat. 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §708, 87 Stat. 1039.
Oct. 26, 1972, Pub. L. 92–570, title VII, §708, 86 Stat. 1197.
Dec. 18, 1971, Pub. L. 92–204, title VII, §708, 85 Stat. 728.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §808, 84 Stat. 2031.
Dec. 29, 1969, Pub. L. 91–171, title VI, §608, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §507, 82 Stat. 1130.
Sept. 29, 1967, Pub. L. 90–96, title VI, §607, 81 Stat. 242.
Oct. 15, 1966, Pub. L. 89–687, title VI, §607, 80 Stat. 991.
Sept. 29, 1965, Pub. L. 89–213, title VI, §607, 79 Stat. 874.
Aug. 19, 1964, Pub. L. 88–446, title V, §507, 78 Stat. 475.
Oct. 17, 1963, Pub. L. 88–149, title V, §507, 77 Stat. 264.
Aug. 9, 1962, Pub. L. 87–577, title V, §507, 76 Stat. 328.
Aug. 17, 1961, Pub. L. 87–144, title II, §201, 75 Stat. 367, 369.
July 7, 1960, Pub. L. 86–601, title II, §201, 74 Stat. 340, 342.
Aug. 18, 1959, Pub. L. 86–166, title II, §201, 73 Stat. 368, 370.
Aug. 22, 1958, Pub. L. 85–724, title III, §301, title V, §501, 72 Stat. 714, 721.
Aug. 2, 1957, Pub. L. 85–117, title III, §301, title V, §501, 71 Stat. 314, 321.
July 2, 1956, ch. 488, title III, §301, title V, §501, 70 Stat. 457, 464.
July 13, 1955, ch. 358, title III, §301, title V, §501, 69 Stat. 304, 312.
June 30, 1954, ch. 432, title IV, §401, title VI, §601, 68 Stat. 339, 347.
Aug. 1, 1953, ch. 305, title III, §301, title V, §501, 67 Stat. 339, 348.
July 10, 1952, ch. 630, title III, §301, title V, §501, 66 Stat. 520, 530.
Oct. 18, 1951, ch. 512, title III, §301, title V, §501, 65 Stat. 429, 443.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, 64 Stat. 735, 750.
Oct. 29, 1949, ch. 787, title III, §301, title V, §501, 63 Stat. 992, 1015.
June 24, 1948, ch. 632, 62 Stat. 655.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 557.
July 16, 1946, ch. 583, §1, 60 Stat. 547, 548.
July 3, 1945, ch. 265, §1, 59 Stat. 390.
June 28, 1944, ch. 303, §1, 58 Stat. 580.
July 1, 1943, ch. 185, §1, 57 Stat. 354.

July 2, 1942, ch. 477, §1, 56 Stat. 617.
June 30, 1941, ch. 262, §1, 55 Stat. 373.
June 13, 1940, ch. 343, §1, 54 Stat. 358, 359.
Apr. 26, 1939, ch. 88, §1, 53 Stat. 600.
June 11, 1938, ch. 37, §1, 52 Stat. 649.
July 1, 1937, ch. 423, §1, 50 Stat. 450.
May 15, 1936, ch. 404, §1, title I, 49 Stat. 1286.
Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 128.
Apr. 26, 1934, ch. 165, title I, 48 Stat. 621.
Mar. 4, 1933, ch. 281, title I, 47 Stat. 1577.
July 14, 1932, ch. 482, title I, 47 Stat. 670, 671.
Feb. 23, 1931, ch. 279, title I, 46 Stat. 1283, 1284.
May 28, 1930, ch. 348, title I, 46 Stat. 438.
Feb. 28, 1929, ch. 366, title I, 45 Stat. 1356.
Mar. 23, 1928, ch. 232, title I, 45 Stat. 332.
Feb. 23, 1927, ch. 167, title I, 44 Stat. 1113.
Apr. 15, 1926, ch. 146, title I, 44 Stat. 262.
Feb. 12, 1925, ch. 225, title I, 43 Stat. 900.

### AMENDMENTS

**1985**—Pub. L. 99–145 substituted "enlistment" for "enlistments".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 98–525, title XIV, §1404, Oct. 19, 1984, 98 Stat. 2621, provided that: "The amendments made by sections 1401 [enacting this section and sections 956, 979 to 981, 1047 to 1050, 1074b [now 1074c], 1093, 1589, 2007 to 2009, 2484, 2638, and 2639 of this title, amending sections 1074, 1077, 1079, 2104, and 7204 of this title, and repealing section 7208 of this title], 1402 [enacting section 306a of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 206 and 404 of Title 37], and 1403 [amending provisions set out as a note under section 138 of this title and repealing provisions set out as notes under sections 138 and 2102 of this title] take effect on October 1, 1985."

## §520c. Recruiting functions: provision of meals and refreshments

Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons:

(1) Persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title.

(2) Persons who are objects of armed forces recruiting efforts.

(3) Persons whose assistance in recruiting efforts of the military departments is determined to be influential by the Secretary concerned.

(4) Members of the armed forces and Federal employees when attending recruiting functions in accordance with a requirement to do so.

(5) Other persons whose presence at recruiting functions will contribute to recruiting efforts.

(Added Pub. L. 104–201, div. A, title III, §361(a), Sept. 23, 1996, 110 Stat. 2491; amended Pub. L. 107–107, div. A, title V, §545, Dec. 28, 2001, 115 Stat. 1113; Pub. L. 108–136, div. A, title X, §1031(a)(8)(A), Nov. 24, 2003, 117 Stat. 1596.)

### EDITORIAL NOTES

### AMENDMENTS

**2003**—Pub. L. 108–136 substituted "provision of meals and refreshments" for "use of funds" in section catchline, struck out "(a) PROVISION OF MEALS AND REFRESHMENTS.—" before "Under regulations",

and struck out heading and text of subsec. (b). Text read as follows: "Not later than February 1 of each of the years 1998 through 2002, the Secretary of Defense shall submit to Congress a report on the extent to which the authority under subsection (a) was exercised during the fiscal year ending in the preceding year."

**2001**—Subsec. (a)(4). Pub. L. 107–107, §545(b)(1), substituted "recruiting functions" for "recruiting events".

Subsec. (a)(5). Pub. L. 107–107, §545(b)(2), substituted "presence at recruiting functions" for "presence at recruiting efforts".

Subsec. (c). Pub. L. 107–107, §545(a), struck out heading and text of subsec. (c). Text read as follows: "The authority in subsection (a) may not be exercised after September 30, 2001."

# CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

Sec.
521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories.
[522. Repealed.]
523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.
[524. Renumbered.]
525. Distribution of commissioned officers on active duty in general officer and flag officer grades.
526. Authorized strength: general officers and flag officers on active duty.
[526a. Renumbered.]
527. Authority to suspend sections 523, 525, and 526.
528. Officers serving in certain intelligence positions: military status; application of distribution and strength limitations; pay and allowances.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title V, §501(a), Dec. 22, 2023, 137 Stat. 240, renumbered item 526a as 526, struck out "after December 31, 2022" after "Authorized strength" in item 526, and struck out former items 526 "Authorized strength: general and flag officers on active duty" and 526a "Authorized strength after December 31, 2022: general officers and flag officers on active duty". Renumbering, amendment, and striking of item 526 were made pursuant to operation of section 102 of this title.

**2016**—Pub. L. 114–328, div. A, title V, §501(h)(3), Dec. 23, 2016, 130 Stat. 2102, added item 526a.

**2011**—Pub. L. 112–81, div. A, title V, §502(d)(2)(B), 125 Stat. 1388, added item 528 and struck out former item 528 "Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances."

**2006**—Pub. L. 109–364, div. A, title V, §501(b)(2), Oct. 17, 2006, 120 Stat. 2176, substituted "Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances" for "Exclusion: officers serving in certain intelligence positions" in item 528.

Pub. L. 109–163, div. A, title V, §507(b), Jan. 6, 2006, 119 Stat. 3228, substituted "Exclusion: officers serving in certain intelligence positions" for "Exclusion: Associate Director of Central Intelligence for Military Support" in item 528.

**2004**—Pub. L. 108–375, div. A, title V, §501(b)(2), Oct. 28, 2004, 118 Stat. 1873, struck out item 522 "Authorized total strengths: regular commissioned officers on active duty".

**2003**—Pub. L. 108–136, div. A, title V, §507(b), Nov. 24, 2003, 117 Stat. 1458, added item 528.

**2001**—Pub. L. 107–107, div. A, title V, §501(b), Dec. 28, 2001, 115 Stat. 1079, struck out item 528 "Limitation on number of officers on active duty in grades of general and admiral".

**1994**—Pub. L. 103–337, div. A, title IV, §405(b)(2), title XVI, §1671(b)(4), Oct. 5, 1994, 108 Stat. 2745, 3013, struck out item 524 "Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain", struck out "524," after "523," in item 527, and added item 528.

**1988**—Pub. L. 100–370, §1(b)(3), July 19, 1988, 102 Stat. 840, struck out former item 526 "Authority to suspend sections 523, 524, and 525", and added items 526 and 527.

**1984**—Pub. L. 98–525, title IV, §414(a)(4)(B)(ii), inserted references to the National Guard and to full-time National Guard duty in item 524.

## §521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories

(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the total authorized active-duty strength as of the end of the fiscal year for officers in grades above chief warrant officer, W–5, for each of the armed forces under the jurisdiction of the Secretary of a military department.

(b) Under regulations prescribed by the Secretary of Defense, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.

(Added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2841; amended Pub. L. 102–190, div. A, title XI, §1131(1)(A), Dec. 5, 1991, 105 Stat. 1505.)

### EDITORIAL NOTES

### AMENDMENTS

**1991**—Subsec. (a). Pub. L. 102–190 substituted "chief warrant officer, W–5," for "warrant officer (W–4)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title XI, §1132, Dec. 5, 1991, 105 Stat. 1506, provided that: "This title [enacting sections 571 to 583 and 742 of this title, amending this section, sections 522, 597 [now 12241], 598 [now 12242], 603, 628, 644, 741, 1166, 1174, 1305, 1406, 5414, 5457, 5458, 5501 to 5503, 5596, 5600, 5665, 6389, and 6391 of this title, sections 286a and 334 of Title 14, Coast Guard, and sections 201, 301, 301c, 305a, and 406 of Title 37, Pay and Allowances of the Uniformed Services, repealing sections 555 to 565, 602, and 745 of this title, and enacting provisions set out as notes under sections 555 and 571 of this title and section 1009 of Title 37] and the amendments made by this title shall take effect on February 1, 1992."

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

### EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS

Pub. L. 102–484, div. A, title V, §502, Oct. 23, 1992, 106 Stat. 2402, directed the Secretary of Defense to provide for an independent, federally funded research and development center to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of post-Cold War officer strength reductions on that officer personnel management system, required the center to submit to the Secretary of Defense a report on the results of the review and evaluation not later than Dec. 31, 1993, and directed the Secretary to transmit the report to committees of Congress within 60 days after receipt.

### STRENGTH OF ACTIVE DUTY OFFICER CORPS

Pub. L. 100–456, div. A, title IV, §402(c), Sept. 29, 1988, 102 Stat. 1963, provided that:

"(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed—

"(A) in the case of the Army, 106,427; and

"(B) in the case of the Air Force, 102,438.

"(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 [Pub. L. 99–661, set out below] shall be excluded in counting officers under this subsection."

Pub. L. 100–180, div. A, title IV, §402, Dec. 4, 1987, 101 Stat. 1081, as amended by Pub. L. 100–456, div. A, title IV, §402(b), Sept. 29, 1988, 102 Stat. 1963, provided that:

"(a) AUTHORITY TO INCREASE FOR FISCAL YEAR 1988.—Subject to subsection (b), the Secretary of Defense may increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 403(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3859) [set out below] applicable to the total number of commissioned officers of the Army, Navy, Air Force, and Marine Corps that may be serving on active duty as of September 30, 1988.

"(b) CERTIFICATION AND REPORT.—The Secretary may exercise the authority under subsection (a) only if—

"(1) the Secretary makes a determination that such increase is necessary in order to avoid severe personnel management problems in the Army, Navy, Air Force, and Marine Corps during fiscal year 1988 and certifies such determination to the Committees on Armed Services of the Senate and the House of Representatives; and

"(2) the Secretary submits to those Committees with such certification a report providing legislative recommendations for temporary changes in chapter 36 of title 10, United States Code, and other provisions of law enacted by the Defense Officer Personnel Management Act (Public Law 96–513) [see Tables for classification] that the Secretary considers necessary in order to implement the required officer reductions under such section 403 [set out below] with the least possible adverse effect on the Armed Forces."

Pub. L. 99–661, div. A, title IV, §403, Nov. 14, 1986, 100 Stat. 3859, as amended by Pub. L. 100–456, div. A, title IV, §402(a), Sept. 29, 1988, 102 Stat. 1963; Pub. L. 101–189, div. A, title VI, §653(e)(2), Nov. 29, 1989, 103 Stat. 1463; Pub. L. 103–337, div. A, title XVI, §1677(e), Oct. 5, 1994, 108 Stat. 3020, provided that:

"(a) REDUCTION IN SIZE OF OFFICER CORPS.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

| Column 1 | Column 2 |
|---|---|
| On and after: | Percentage of total commissioned officers serving on active duty as of September 30, 1986: |
| September 30, 1987 | 99 |
| September 30, 1988 | 97 |

"(b) EXCLUSIONS.—In computing the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:

"(1) Reserve officers—

"(A) on active duty for training;

"(B) on active duty under section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10, United States Code, or under section 708 of title 32, United States Code;

"(C) on active duty under section 12301(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;

"(D) on active duty to pursue special work;

"(E) ordered to active duty under section 12304 of title 10, United States Code; or

"(F) on full-time National Guard duty.

"(2) Retired officers on active duty under a call or order to active duty for 180 days or less.

"(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) [now 50 U.S.C. 3809(b)(2)] for the administration of the Selective Service System.

"(c) APPORTIONMENT OF REDUCTIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required."

## [§522. Repealed. Pub. L. 108–375, div. A, title V, §501(b)(1), Oct. 28, 2004, 118 Stat. 1873]

Section, added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2841; amended Pub. L. 98–525, title V, §522, Oct. 19, 1984, 98 Stat. 2523; Pub. L. 102–190, div. A, title XI, §1131(1)(B), Dec. 5, 1991, 105 Stat. 1505, related to authorized total strengths of regular commissioned officers on active duty.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as an Effective Date of 2004 Amendment note under section 531 of this title.

## §523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

(a)(1) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Army, Air Force, or Marine Corps at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

| Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|---|---|
| | Major | Lieutenant Colonel | Colonel |
| Army: | | | |
| 20,000 | 7,768 | 5,253 | 1,613 |
| 25,000 | 8,689 | 5,642 | 1,796 |
| 30,000 | 9,611 | 6,030 | 1,980 |
| 35,000 | 10,532 | 6,419 | 2,163 |
| 40,000 | 11,454 | 6,807 | 2,347 |
| 45,000 | 12,375 | 7,196 | 2,530 |
| 50,000 | 13,297 | 7,584 | 2,713 |
| 55,000 | 14,218 | 7,973 | 2,897 |
| 60,000 | 15,140 | 8,361 | 3,080 |

| | | | |
|---|---|---|---|
| 65,000 | 16,061 | 8,750 | 3,264 |
| 70,000 | 16,983 | 9,138 | 3,447 |
| 75,000 | 17,903 | 9,527 | 3,631 |
| 80,000 | 18,825 | 9,915 | 3,814 |
| 85,000 | 19,746 | 10,304 | 3,997 |
| 90,000 | 20,668 | 10,692 | 4,181 |
| 95,000 | 21,589 | 11,081 | 4,364 |
| 100,000 | 22,511 | 11,469 | 4,548 |
| 110,000 | 24,354 | 12,246 | 4,915 |
| 120,000 | 26,197 | 13,023 | 5,281 |
| 130,000 | 28,040 | 13,800 | 5,648 |
| 170,000 | 35,412 | 16,908 | 7,116 |
| Air Force: | | | |
| 35,000 | 9,216 | 7,090 | 2,125 |
| 40,000 | 10,025 | 7,478 | 2,306 |
| 45,000 | 10,835 | 7,866 | 2,487 |
| 50,000 | 11,645 | 8,253 | 2,668 |
| 55,000 | 12,454 | 8,641 | 2,849 |
| 60,000 | 13,264 | 9,029 | 3,030 |
| 65,000 | 14,073 | 9,417 | 3,211 |
| 70,000 | 14,883 | 9,805 | 3,392 |
| 75,000 | 15,693 | 10,193 | 3,573 |
| 80,000 | 16,502 | 10,582 | 3,754 |
| 85,000 | 17,312 | 10,971 | 3,935 |
| 90,000 | 18,121 | 11,360 | 4,115 |
| 95,000 | 18,931 | 11,749 | 4,296 |
| 100,000 | 19,741 | 12,138 | 4,477 |
| 105,000 | 20,550 | 12,527 | 4,658 |
| 110,000 | 21,360 | 12,915 | 4,838 |
| 115,000 | 22,169 | 13,304 | 5,019 |
| 120,000 | 22,979 | 13,692 | 5,200 |
| 125,000 | 23,789 | 14,081 | 5,381 |
| Marine Corps: | | | |
| 10,000 | 2,802 | 1,615 | 633 |
| 12,500 | 3,247 | 1,768 | 658 |
| 15,000 | 3,691 | 1,922 | 684 |
| 17,500 | 4,135 | 2,076 | 710 |
| 20,000 | 4,579 | 2,230 | 736 |
| 22,500 | 5,024 | 2,383 | 762 |
| 25,000 | 5,468 | 2,537 | 787 |
| Space Force: [1] | | | |
| 3,900 | 1,016 | 782 | 234 |
| 4,300 | 1,135 | 873 | 262 |
| 5,000 | 1,259 | 845 | 315 |
| 7,000 | 1,659 | 1,045 | 415 |
| 10,000 | 2,259 | 1,345 | 565. |

[1] Table heading editorially supplied.

(2) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Navy at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of lieutenant commander, commander, and captain may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

| Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|---|---|
| | Lieutenant Commander | Commander | Captain |
| Navy: | | | |
| 30,000 | 7,698 | 5,269 | 2,222 |
| 33,000 | 8,189 | 5,501 | 2,334 |
| 36,000 | 8,680 | 5,733 | 2,447 |
| 39,000 | 9,172 | 5,965 | 2,559 |
| 42,000 | 9,663 | 6,197 | 2,671 |
| 45,000 | 10,155 | 6,429 | 2,784 |
| 48,000 | 10,646 | 6,660 | 2,896 |
| 51,000 | 11,136 | 6,889 | 3,007 |
| 54,000 | 11,628 | 7,121 | 3,120 |
| 57,000 | 12,118 | 7,352 | 3,232 |
| 60,000 | 12,609 | 7,583 | 3,344 |
| 63,000 | 13,100 | 7,813 | 3,457 |
| 66,000 | 13,591 | 8,044 | 3,568 |
| 70,000 | 14,245 | 8,352 | 3,718 |
| 90,000 | 17,517 | 9,890 | 4,467. |

(3) If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is between any two consecutive figures listed in the first column of the appropriate table in paragraph (1) or (2), the corresponding authorized strengths for each of the grades shown in that table for that armed force are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is greater or less than the figures listed in the first column of the appropriate table in paragraph (1) or (2), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table in the same proportion as reflected in the nearest limit shown in the table.

(b) Officers in the following categories shall be excluded in computing and determining authorized strengths under this section:

(1) Reserve officers—

(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32; or

(C) on full-time National Guard duty.

(2) General and flag officers.

(3) Medical officers.

(4) Dental officers.

(5) Warrant officers.

(6) Retired officers on active duty under a call or order to active duty for 180 days or less.

(7) Retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. 3809(b)(2)) for the administration of the Selective Service System.

(8) Permanent professors of the United States Military Academy and the United States Air Force Academy and professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy), but not to exceed 50 from any such academy.

(9) Officers who are Senior Military Acquisition Advisors under section 1725 of this title, but not to exceed 15.

(c) Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

(d) An officer may not be reduced in grade, or have his pay or allowances reduced, because of a reduction in the number of commissioned officers authorized for his grade under this section.

(Added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2842; amended Pub. L. 98–525, title IV, §414(a)(3), Oct. 19, 1984, 98 Stat. 2518; Pub. L. 99–145, title V, §511(a), Nov. 8, 1985, 99 Stat. 623; Pub. L. 99–433, title V, §531(a)(1), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 102–190, div. A, title IV, §431, Dec. 5, 1991, 105 Stat. 1354; Pub. L. 103–337, div. A, title XVI, §1673(c)(3), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–201, div. A, title IV, §403(a), (b), Sept. 23, 1996, 110 Stat. 2504, 2505; Pub. L. 107–314, div. A, title IV, §406, Dec. 2, 2002, 116 Stat. 2526; Pub. L. 108–375, div. A, title IV, §§404, 416(g), Oct. 28, 2004, 118 Stat. 1864, 1868; Pub. L. 109–364, div. A, title X, §1071(g)(1)(B), Oct. 17, 2006, 120 Stat. 2402; Pub. L. 110–181, div. A, title IV, §§404, 405, Jan. 28, 2008, 122 Stat. 88; Pub. L. 112–81, div. A, title V, §501, Dec. 31, 2011, 125 Stat. 1386; Pub. L. 114–328, div. A, title VIII, §866(b), title X, §1081(b)(1)(A)(iii), Dec. 23, 2016, 130 Stat. 2306, 2418; Pub. L. 117–263, div. A, title V, §501, Dec. 23, 2022, 136 Stat. 2557.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a)(1). Pub. L. 117–263, in table, inserted items relating to number of officers authorized to serve on active duty in the Space Force after items relating to Marine Corps.

**2016**—Subsec. (b)(7). Pub. L. 114–328, §1081(b)(1)(A)(iii), substituted "(50 U.S.C. 3809(b)(2))" for "(50 U.S.C. App. 460(b)(2))".

Subsec. (b)(9). Pub. L. 114–328, §866(b), added par. (9).

**2011**—Subsec. (a)(1). Pub. L. 112–81, in table, increased number of officers authorized to serve on active duty in the Marine Corps in each grade covered as follows: Major to 2,802, 3,247, 3,691, 4,135, 4,579, 5,024, and 5,468 from 2,525, 2,900, 3,275, 3,650, 4,025, 4,400, and 4,775, respectively; Lieutenant Colonel to 1,615, 1,768, 1,922, 2,076, 2,230, 2,383, and 2,537 from 1,480, 1,600, 1,720, 1,840, 1,960, 2,080, and 2,200, respectively; and Colonel to 633, 658, 684, 710, 736, 762, and 787 from 571, 632, 653, 673, 694, 715, and 735, respectively.

**2008**—Subsec. (a)(1). Pub. L. 110–181, §404, in table, increased number of officers authorized to serve on active duty in the Army in the grade of Major to 7,768, 8,689, 9,611, 10,532, 11,454, 12,375, 13,297, 14,218, 15,140, 16,061, 16,983, 17,903, 18,825, 19,746, 20,668, 21,589, 22,511, 24,354, 26,197, 28,040, and 35,412 from 6,948, 7,539, 8,231, 8,922, 9,614, 10,305, 10,997, 11,688, 12,380, 13,071, 13,763, 14,454, 15,146, 15,837, 16,529, 17,220, 17,912, 19,295, 20,678, 22,061, and 27,593, respectively.

Subsec. (a)(2). Pub. L. 110–181, §405, amended table generally, extensively revising the numbers in each grade covered.

**2006**—Subsec. (b)(1). Pub. L. 109–364 made technical correction to directory language of Pub. L. 108–375, §416(g)(1). See 2004 Amendment note below.

**2004**—Subsec. (b)(1). Pub. L. 108–375, §416(g)(1), as amended by Pub. L. 109–364, amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"(1) Reserve officers—

"(A) on active duty for training;

"(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32;

"(C) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;

"(D) on active duty to pursue special work;

"(E) ordered to active duty under section 12304 of this title; or

"(F) on full-time National Guard duty."

Subsec. (b)(7). Pub. L. 108–375, §416(g)(2), substituted "Retired officers" for "Reserve or retired officers".

Subsec. (b)(8). Pub. L. 108–375, §404, added par. (8).

**2002**—Subsec. (a)(1). Pub. L. 107–314, in table, increased number of officers authorized to serve on active duty in the Marine Corps in the grade of Colonel to 571, 632, 653, 673, 694, 715, and 735 from 571, 592, 613, 633, 654, 675, and 695, respectively.

**1996**—Subsec. (a)(1). Pub. L. 104–201, §403(a), amended table generally, expanding the range of numbers of commissioned officers covered and extensively revising the numbers in each grade covered.

Subsec. (a)(2). Pub. L. 104–201, §403(b), amended table generally, expanding the range of numbers of commissioned officers covered and extensively revising the numbers in each grade covered.

**1994**—Subsec. (b)(1)(B). Pub. L. 103–337, §1671(c)(3)(A), substituted "10211, 10302 through 10305, or 12402" for "265, 3021, 3496, 5251, 5252, 8021, or 8496".

Subsec. (b)(1)(C). Pub. L. 103–337, §1671(c)(3)(B), substituted "12301(d)" for "672(d)".

Subsec. (b)(1)(E). Pub. L. 103–337, §1671(c)(3)(C), substituted "12304" for "673b".

**1991**—Subsec. (a)(1). Pub. L. 102–190, in table, decreased numbers of officers authorized to serve on active duty in the Air Force in the grade of Colonel to 3,392, 3,573, 3,754, 3,935, 4,115, 4,296, 4,477, 4,658, 4,838, 5,019, 5,200, and 5,381 from 3,642, 3,823, 4,004, 4,185, 4,365, 4,546, 4,727, 4,908, 5,088, 5,269, 5,450, and 5,631, respectively.

**1986**—Subsec. (b)(1)(B). Pub. L. 99–433 substituted "3021" and "8021" for "3033" and "8033", respectively.

**1985**—Subsec. (a)(1). Pub. L. 99–145 increased fiscal year limitation on authorized number of Marine Corps majors to 2,766, 3,085, 3,404, 3,723, and 4,042 from 2,717, 2,936, 3,154, 3,373, and 3,591, respectively.

**1984**—Subsec. (b)(1)(C). Pub. L. 98–525, §414(a)(3)(A), struck out "or section 502 or 503 of title 32" after "section 672(d) of this title".

Subsec. (b)(1)(F). Pub. L. 98–525, §414(a)(3)(B)–(D), added subpar. (F).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(B) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title IV, §403(d), Sept. 23, 1996, 110 Stat. 2506, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and repealing provisions set out as notes below] shall take effect on September 1, 1997."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title V, §511(b), Nov. 8, 1985, 99 Stat. 623, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985."

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## TEMPORARY EXCLUSION OF MENTAL HEALTH CARE PROVIDERS FROM AUTHORIZED STRENGTHS OF CERTAIN OFFICERS ON ACTIVE DUTY

Pub. L. 118–159, div. A, title IV, §403(a), Dec. 23, 2024, 138 Stat. 1863, provided that: "During fiscal years 2025 through 2027, officers who are licensed mental health providers (including clinical psychologists, licensed clinical social workers, mental health nurse practitioners, and psychiatric physician assistants) shall be excluded in computing and determining authorized strengths under section 523 of title 10, United States Code."

## TEMPORARY EXEMPTION FROM END STRENGTH GRADE RESTRICTIONS FOR THE SPACE FORCE

This section not to apply to the Space Force until Jan. 1, 2024, see section 526 of Pub. L. 117–263, set out as a note under section 517 of this title.

## TEMPORARY VARIATION IN DOPMA AUTHORIZED END STRENGTH LIMITATIONS FOR ACTIVE DUTY AIR FORCE AND NAVY OFFICERS IN CERTAIN GRADES

Pub. L. 104–106, div. A, title IV, §402, Feb. 10, 1996, 110 Stat. 286, provided that the numbers of officers of the Air Force authorized under subsec. (a)(1) of this section to be serving on active duty in the grades of major, lieutenant colonel, and colonel for fiscal years 1996 and 1997 and the numbers of officers in the Navy authorized under subsec. (a)(2) of this section to be serving on active duty in the grades of lieutenant commander, commander, and captain for fiscal years 1996 and 1997 were limited to numbers in tables, prior to repeal by Pub. L. 104–201, div. A, title IV, §403(c)(3), Sept. 23, 1996, 110 Stat. 2506.

## TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR ARMY MAJORS AND LIEUTENANT COLONELS

Pub. L. 103–337, div. A, title IV, §402, Oct. 5, 1994, 108 Stat. 2743, provided that number of officers of the Army authorized under subsec. (a)(1) of this section to be serving on active duty in grades of major and lieutenant colonel for fiscal years 1995 through 1997 was limited to numbers set forth in table prior to repeal by Pub. L. 104–201, div. A, title IV, §403(c)(2), Sept. 23, 1996, 110 Stat. 2506.

## TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS

Pub. L. 103–160, div. A, title IV, §402, Nov. 30, 1993, 107 Stat. 1639, as amended by Pub. L. 103–337, div. A, title IV, §403, Oct. 5, 1994, 108 Stat. 2743, provided that number of officers of the Marine Corps authorized under subsec. (a)(1) of this section to be serving on active duty in grades of major and lieutenant colonel for fiscal years 1994 through 1997 was limited to numbers set forth in table prior to repeal by Pub. L. 104–201, div. A, title IV, §403(c)(1), Sept. 23, 1996, 110 Stat. 2505.

## TEMPORARY INCREASE IN OFFICER GRADE LIMITATIONS

Pub. L. 101–189, div. A, title IV, §403, Nov. 29, 1989, 103 Stat. 1431, authorized the Secretary of Defense, until Sept. 30, 1991, to increase the strength-in-grade limitations specified in subsec. (a) of this section by a total of 250 positions, to be distributed among grades and services as the Secretary considers appropriate and directed the Secretary to submit to Congress a comprehensive report on the adequacy of the strength-in-grade limitations prescribed in subsec. (a) of this section.

## TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

Pub. L. 101–189, div. A, title IV, §402, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101–510, div. A, title IV, §404, Nov. 5, 1990, 104 Stat. 1545, provided that the number of officers authorized under subsec. (a) of this section to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1992 was reduced by 250.

Pub. L. 100–456, div. A, title IV, §403, Sept. 29, 1988, 102 Stat. 1963, provided that the number of officers authorized under this section to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1989 was reduced by 125, and the number of such officers authorized to be serving on active duty during fiscal year 1990 was reduced by 250.

## CEILINGS ON COMMISSIONED OFFICERS ON ACTIVE DUTY

Pub. L. 95–79, title VIII, §811(a), July 30, 1977, 91 Stat. 335, as amended by Pub. L. 96–107, title VIII, §817, Nov. 9, 1979, 93 Stat. 818; Pub. L. 96–342, title X, §1003, Sept. 8, 1980, 94 Stat. 1120; Pub. L. 97–86, title VI, §602, Dec. 1, 1981, 95 Stat. 1110, which provided that after Oct. 1, 1981, the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel,

and on active duty in the Navy above the grade of captain, could not exceed 1,073, and that in time of war, or of national emergency declared by Congress, the President could suspend the operation of this provision, was repealed and restated in section 526 of this title by Pub. L. 100–370, §1(b)(1)(B), (4).

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions increasing for the fiscal year ending on Sept. 30, 1981, the maximum number of officers authorized by this section to be serving on active duty, see section 627 of Pub. L. 96–513, set out as a note under section 611 of this title.

## [§524. Renumbered §12011]

## §525. Distribution of commissioned officers on active duty in general officer and flag officer grades

(a) For purposes of the applicable limitation in section 526(a) of this title on general and flag officers on active duty, no appointment of an officer on the active duty list or the Space Force officer list may be made—

(1) in the Army, if that appointment would result in more than—
(A) 8 officers in the grade of general;
(B) 46 officers in a grade above the grade of major general; or
(C) 90 officers in the grade of major general;

(2) in the Air Force, if that appointment would result in more than—
(A) 9 officers in the grade of general;
(B) 44 officers in a grade above the grade of major general; or
(C) 73 officers in the grade of major general;

(3) in the Navy, if that appointment would result in more than—
(A) 6 officers in the grade of admiral;
(B) 34 officers in a grade above the grade of rear admiral; or
(C) 49 officers in the grade of rear admiral;

(4) in the Marine Corps, if that appointment would result in more than—
(A) 2 officers in the grade of general;
(B) 18 officers in a grade above the grade of major general; or
(C) 21 officers in the grade of major general; and

(5) in the Space Force, if that appointment would result in more than—
(A) 2 officers on sustained duty orders in the grade of general;
(B) 7 officers on sustained duty orders in a grade above the grade of major general; or
(C) 6 officers on sustained duty orders in the grade of major general.

(b) The limitations of subsection (a) do not include the following:

(1) An officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment, except that the Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but no more than three officers from each armed forces may be on active duty who are excluded under this paragraph.

(2) The number of officers required to serve in joint duty assignments as authorized by the Secretary of Defense under section 526(b) for each military service.

(c)(1) Subject to paragraph (3), the President—

(A) may make appointments in the Army, Air Force, Marine Corps, and Space Force in the grades of lieutenant general and general in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

(B) may make appointments in the Navy in the grades of vice admiral and admiral in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) For each appointment made under the authority of paragraph (1) in the Army, Air Force, Marine Corps, or Space Force in the grade of lieutenant general or general or in the Navy in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one. When such an appointment is made, the President shall specify the armed force in which the reduction required by this paragraph is to be made.

(3)(A) The number of officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under the authority of paragraph (1) may not exceed 15.

(B) The number of officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under the authority of paragraph (1) may not exceed 5.

(4) Upon the termination of the appointment of an officer in the grade of lieutenant general or vice admiral or general or admiral that was made in connection with an increase under paragraph (1) in the number of officers that may be serving on active duty in that armed force in that grade, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of that increase shall no longer be in effect.

(d) An officer continuing to hold the grade of general or admiral under section 601(b)(5) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Chief of Space Operations shall not be counted for purposes of this section.

(e) The following officers shall not be counted for purposes of this section:

(1) An officer of that armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

(2) At the discretion of the Secretary of Defense, an officer of that armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first.

(f) An officer while serving as Attending Physician to the Congress is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above brigadier general or rear admiral (lower half) under subsection (a).

(g) A naval officer while serving as the Medical Officer of the Marine Corps is in addition to the number that would otherwise be permitted for the Navy for officers serving on active duty in the grade of rear admiral (lower half) under subsection (a).

(h)(1) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for a period in excess of 365 days, but not to exceed three years, except that the number of officers from each reserve component who are covered by this subsection and are not serving in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed 5 per component, unless authorized by the Secretary of Defense.

(2) Not later than 30 days after authorizing a number of reserve component general or flag officers in excess of the number specified in paragraph (1), the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives of such

authorization, and shall include with such notice a statement of the reason for such authorization.

(3) The limitations of this section do not apply to a Space Force general officer serving in a Space Force active status but not on sustained duty orders, and who is on active service for a period in excess of 365 days but not to exceed three years. Unless authorized by the Secretary of Defense, the number of Space Force general officers covered by this subsection and not serving in a joint duty assignment for purposes of chapter 38 of this title may not exceed two. Not later than 30 days after authorizing more than two Space Force general officers covered by this subsection, the Secretary of Defense shall provide the notification required in accordance with paragraph (2).

(Added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2844; amended Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–433, title II, §202(a), Oct. 1, 1986, 100 Stat. 1010; Pub. L. 100–180, div. A, title V, §511(a), Dec. 4, 1987, 101 Stat. 1088; Pub. L. 101–510, div. A, title IV, §405, Nov. 5, 1990, 104 Stat. 1546; Pub. L. 103–337, div. A, title IV, §405(a), Oct. 5, 1994, 108 Stat. 2744; Pub. L. 104–106, div. A, title IV, §403(a), Feb. 10, 1996, 110 Stat. 286; Pub. L. 104–201, div. A, title IV, §404(b), Sept. 23, 1996, 110 Stat. 2506; Pub. L. 105–261, div. A, title IV, §§404, 406, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 106–65, div. A, title V, §§509(b), (c), 532(b), Oct. 5, 1999, 113 Stat. 592, 604; Pub. L. 106–398, §1 [[div. A], title V, §507(g)], Oct. 30, 2000, 114 Stat. 1654, 1654A–105; Pub. L. 107–314, div. A, title IV, §§404(a), (b), 405(b), Dec. 2, 2002, 116 Stat. 2525, 2526; Pub. L. 108–136, div. A, title V, §504(b), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 109–163, div. A, title V, §503(a), Jan. 6, 2006, 119 Stat. 3226; Pub. L. 109–364, div. A, title V, §507(b), Oct. 17, 2006, 120 Stat. 2180; Pub. L. 110–181, div. A, title V, §§501(b), 543(d), Jan. 28, 2008, 122 Stat. 94, 115; Pub. L. 110–417, [div. A], title V, §§503(d), 504(b), Oct. 14, 2008, 122 Stat. 4433, 4434; Pub. L. 111–84, div. A, title V, §502(b)–(d), Oct. 28, 2009, 123 Stat. 2273–2275; Pub. L. 111–383, div. A, title X, §1075(b)(12), (d)(2), Jan. 7, 2011, 124 Stat. 4369, 4372; Pub. L. 112–81, div. A, title V, §§502(a)(1), (b)(2), 511(a)(3), Dec. 31, 2011, 125 Stat. 1386, 1387, 1391; Pub. L. 114–328, div. A, title V, §503(a), Dec. 23, 2016, 130 Stat. 2107; Pub. L. 116–283, div. A, title V, §501(c)(1), Jan. 1, 2021, 134 Stat. 3563; Pub. L. 117–263, div. A, title V, §§502, 503, Dec. 23, 2022, 136 Stat. 2557, 2558; Pub. L. 118–159, div. A, title V, §§501, 509B(b), Dec. 23, 2024, 138 Stat. 1868, 1872; Pub. L. 119–60, div. A, title V, §501(a), title XVII, §1701(a)(9), Dec. 18, 2025, 139 Stat. 853, 1208.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §501(a)(1)(A), inserted "or the Space Force officer list" after "officer on the active duty list" in introductory provisions.

Subsec. (a)(4)(C). Pub. L. 119–60, §1701(a)(9), struck out period after "21".

Subsec. (a)(5)(A). Pub. L. 119–60, §501(a)(1)(B)(i), substituted "officers on sustained duty orders in the grade of general" for "officers in the grade of general".

Subsec. (a)(5)(B). Pub. L. 119–60, §501(a)(1)(B)(ii), substituted "officers on sustained duty orders in a grade above" for "officers in a grade above".

Subsec. (a)(5)(C). Pub. L. 119–60, §501(a)(1)(B)(iii), substituted "officers on sustained duty orders in the grade" for "officers in the grade".

Subsec. (h)(3). Pub. L. 119–60, §501(a)(2), added par. (3).

**2024**—Subsec. (a)(4)(B). Pub. L. 118–159, §501(1), substituted "18 officers" for "17 officers".

Subsec. (a)(4)(C). Pub. L. 118–159, §501(2), substituted "21. officers" for "22 officers".

Subsecs. (g), (h). Pub. L. 118–159, §509B(b), added subsec. (g) and redesignated former subsec. (g) as (h).

**2022**—Subsec. (a). Pub. L. 117–263, §502(1)(A), substituted "made—" for "made as follows:" in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 117–263, §503(1), substituted "34" for "33".

Subsec. (a)(3)(C). Pub. L. 117–263, §503(2), substituted "49" for "50".

Subsec. (a)(5). Pub. L. 117–263, §502(1)(B), (C), added par. (5).

Subsec. (c)(1)(A). Pub. L. 117–263, §502(2)(A), substituted "Marine Corps, and Space Force" for "and Marine Corps".

Subsec. (c)(2). Pub. L. 117–263, §502(2)(B), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (d). Pub. L. 117–263, §502(3), substituted "Commandant of the Marine Corps, or Chief of Space Operations" for "or Commandant of the Marine Corps".

**2021**—Subsec. (a)(1)(A). Pub. L. 116–283 substituted "8" for "7".

**2016**—Subsec. (a)(4)(B). Pub. L. 114–328, §503(a)(1), substituted "17" for "15".

Subsec. (a)(4)(C). Pub. L. 114–328, §503(a)(2), substituted "22" for "23".

**2011**—Subsec. (a). Pub. L. 112–81, §502(b)(2)(A)–(C), substituted "46" for "45" in par. (1)(B), "44" for "43" in par. (2)(B), and "33" for "32" in par. (3)(B).

Subsec. (a)(4)(C). Pub. L. 112–81, §502(b)(2)(D), substituted "23" for "22".

Subsec. (b). Pub. L. 112–81, §502(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to exclusions from limitations on appointment of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy.

Subsec. (b)(1)(D). Pub. L. 112–81, §511(a)(3)(A), struck out subpar. (D) which read as follows: "An officer while serving as Chief of the National Guard Bureau."

Subsec. (c)(3)(B). Pub. L. 111–383, §1075(d)(2), made technical amendment to directory language of Pub. L. 111–84, §502(c)(3). See 2009 Amendment note below.

Subsec. (d). Pub. L. 111–383, §1075(b)(12)(A), substituted "section 601(b)(5)" for "section 601(b)(4)".

Subsec. (g)(1). Pub. L. 111–383, §1075(b)(12)(B), substituted "and are not" for "and is not" and inserted period at end.

Subsec. (g)(2), (3). Pub. L. 112–81, §511(a)(3)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The exception in paragraph (1) does apply to the position of Chief of the National Guard Bureau."

**2009**—Subsecs. (a), (b). Pub. L. 111–84, §502(b), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to limitations on appointments in a grade above brigadier general in the Army, Air Force, or Marine Corps or in a grade above rear admiral (lower half) in the Navy and limitations on appointments in a grade above major general in the Army, Air Force, or Marine Corps or in a grade above rear admiral in the Navy, respectively.

Subsec. (c)(1)(A). Pub. L. 111–84, §502(c)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "may make appointments in the Army, Air Force, and Marine Corps in the grade of lieutenant general and in the Army and Air Force in the grade of general in excess of the applicable numbers determined under subsection (b)(1), and may make appointments in the Marine Corps in the grade of general in addition to the Commandant and Assistant Commandant, if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and".

Subsec. (c)(1)(B). Pub. L. 111–84, §502(c)(1)(B), substituted "this section" for "subsection (b)(2)".

Subsec. (c)(3)(A). Pub. L. 111–84, §502(c)(2), substituted "15" for "the number equal to 10 percent of the total number of officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps under subsection (b)".

Subsec. (c)(3)(B). Pub. L. 111–84, §502(c)(3), as amended by Pub. L. 111–383, §1075(d)(2), substituted "5" for "the number equal to 15 percent of the total number of general officers and flag officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps".

Subsec. (e). Pub. L. 111–84, §502(d)(1), in introductory provisions, substituted "The following officers shall not be counted for purposes of this section:" for "In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, the following officers shall not be counted:".

Subsec. (g). Pub. L. 111–84, §502(d)(2), added subsec. (g).

**2008**—Subsec. (a). Pub. L. 110–417, §504(b), designated existing provisions as par. (1) and added par. (2).

Pub. L. 110–417, §503(d)(1), substituted "the Army or Air Force, or more than 51 percent of the general officers of the Marine Corps," for "that armed force".

Subsec. (b)(1), (2)(A). Pub. L. 110–417, §503(d)(2)(A), substituted "16.4 percent" for "16.3 percent" wherever appearing.

Pub. L. 110–181, §543(d), substituted "16.3 percent" for "15.7 percent" wherever appearing.

Subsec. (b)(2)(B). Pub. L. 110–417, §503(d)(2)(B), substituted "19 percent" for "17.5 percent".

Subsec. (e)(2). Pub. L. 110–181, §501(b), added par. (2) and struck out former par. (2) which read as follows: "An officer of that armed force who has been relieved from a position designated under section 601(a) of this title and is under orders to assume another such position, but only during the 60-day period beginning on the date on which those orders are published."

**2006**—Subsec. (e). Pub. L. 109–163 added subsec. (e).

Subsec. (f). Pub. L. 109–364 added subsec. (f).

**2003**—Subsec. (b)(5)(C). Pub. L. 108–136 struck out subpar. (C) which read as follows: "This paragraph

shall cease to be effective at the end of December 31, 2004."

**2002**—Subsec. (b)(2)(B). Pub. L. 107–314, §404(b), substituted "17.5 percent" for "16.2 percent".

Subsec. (b)(5)(C). Pub. L. 107–314, §405(b), substituted "December 31, 2004" for "September 30, 2003".

Subsec. (b)(8). Pub. L. 107–314, §404(a), added par. (8).

**2000**—Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title V, §507(g)(1)], in first sentence, substituted "Army or Air Force" for "Army, Air Force, or Marine Corps" and "15.7 percent" for "15 percent" and, in second sentence, substituted "Of" for "In the case of the Army and Air Force, of" and "15.7 percent" for "15 percent" and inserted "of the Army or Air Force" after "general officers".

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title V, §507(g)(2)], designated existing provisions as subpar. (A), substituted "15.7 percent" for "15 percent" in two places, and added subpar. (B).

**1999**—Subsec. (b)(5)(A). Pub. L. 106–65, §509(c), inserted at end "Any increase by reason of the preceding sentence in the number of officers of an armed force serving on active duty in grades above major general or rear admiral may only be realized by an increase in the number of lieutenant generals or vice admirals, as the case may be, serving on active duty, and any such increase may not be construed as authorizing an increase in the limitation on the total number of general or flag officers for that armed force under section 526(a) of this title or in the number of general and flag officers that may be designated under section 526(b) of this title."

Subsec. (b)(5)(C). Pub. L. 106–65, §509(b), substituted "September 30, 2003" for "September 30, 2000".

Subsec. (b)(7). Pub. L. 106–65, §532(b), added par. (7).

**1998**—Subsec. (b)(4)(B). Pub. L. 105–261, §404, substituted "seven" for "six".

Subsec. (b)(6). Pub. L. 105–261, §406, added par. (6).

**1996**—Subsec. (b)(5)(C). Pub. L. 104–201 substituted "September 30, 2000" for "September 30, 1997".

Subsec. (d). Pub. L. 104–106 added subsec. (d).

**1994**—Subsec. (b)(5). Pub. L. 103–337 added par. (5).

**1990**—Subsec. (b)(3). Pub. L. 101–510, §405(b), substituted "that would otherwise be permitted for" for "authorized".

Subsec. (b)(4). Pub. L. 101–510, §405(a), added par. (4).

**1987**—Pub. L. 100–180 added subsec. (c).

**1986**—Subsec. (b)(3). Pub. L. 99–433 inserted "or Vice Chairman".

**1985**—Subsec. (a). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore" in two places.

**1981**—Subsec. (a). Pub. L. 97–86 substituted "commodore" for "commodore admiral" in two places.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, §502(a)(2), Dec. 31, 2011, 125 Stat. 1387, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 2012."

Pub. L. 112–81, div. A, title V, §502(b)(3), Dec. 31, 2011, 125 Stat. 1387, as amended by Pub. L. 112–239, div. A, title V, §501(c), Jan. 2, 2013, 126 Stat. 1714, provided that:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and section 526 of this title] shall take effect on October 1, 2013.

"(B) MARINE CORPS OFFICERS.—The amendments made by paragraphs (1)(A)(iv) [amending section 526 of this title] and (2)(D) [amending this section] shall take effect on October 1, 2012."

Pub. L. 111–383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(2) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111–84 as enacted.

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title IV, §404(d), Dec. 2, 2002, 116 Stat. 2526, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the receipt by Congress of the report required by subsection (c) [set out below]."

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under

section 101 of this title.

## IMPLEMENTATION OF 2000 AMENDMENTS

Pub. L. 106–398, §1 [[div. A], title V, §507(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A–106, provided that:

"(1) An appointment or reappointment, in the case of the incumbent in a reserve component chief position, shall be made to each of the reserve component chief positions not later than 12 months after the date of the enactment of this Act [Oct. 30, 2000], in accordance with the amendments made by subsections (a) through (e) [amending sections 3038, 5143, 5144, 8038, and 10506 of this title].

"(2) An officer serving in a reserve component chief position on the date of the enactment of this Act [Oct. 30, 2000] may be reappointed to that position under the amendments made by subsection (a) through (e), if eligible and otherwise qualified in accordance with those amendments. If such an officer is so reappointed, the appointment may be made for the remainder of the officer's original term or for a full new term, as specified at the time of the appointment.

"(3) An officer serving on the date of the enactment of this Act [Oct. 30, 2000] in a reserve component chief position may continue to serve in that position in accordance with the provisions of law in effect immediately before the amendments made by this section [amending this section and sections 3038, 5143, 5144, 8038, and 10506 of this title and repealing section 12505 of this title] until a successor is appointed under paragraph (1) (or that officer is reappointed under paragraph (1)).

"(4) The amendments made by subsection (g) [amending this section] shall be implemented so that each increase authorized by those amendments in the number of officers in the grades of lieutenant general and vice admiral is implemented on a case-by-case basis with an initial appointment made after the date of the enactment of this Act [Oct. 30, 2000], as specified in paragraph (1), to a reserve component chief position.

"(5) For purposes of this subsection, the term 'reserve component chief position' means a position specified in section 3038, 5143, 5144, or 8038 [now 7038, 8083, 8084, or 9038] of title 10, United States Code, or the position of Director, Army National Guard or Director, Air National Guard under section 10506(a)(1) of such title."

## SAVINGS PROVISION

Pub. L. 100–180, div. A, title V, §511(b), Dec. 4, 1987, 101 Stat. 1088, provided that: "An officer of the Armed Forces on active duty holding an appointment in the grade of lieutenant general or vice admiral or general or admiral on September 30, 1987, shall not have that appointment terminated by reason of the numerical limitations determined under section 525(b) of title 10, United States Code. In the case of an officer of the Marine Corps serving in the grade of general by reason of an appointment authorized by section 511(3) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3869) [see below], that appointment shall not be terminated except as provided in section 601 of title 10, United States Code."

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## AVAILABILITY ON THE INTERNET OF CERTAIN INFORMATION ABOUT OFFICERS SERVING IN GENERAL OR FLAG OFFICER GRADES

Pub. L. 116–92, div. A, title V, §510A, Dec. 20, 2019, 133 Stat. 1347, provided that:

"(a) AVAILABILITY REQUIRED.—

"(1) IN GENERAL.—The Secretary of each military department shall make available on an internet website of such department available to the public information specified in paragraph (2) on each officer in a general or flag officer grade under the jurisdiction of such Secretary, including any such officer on the reserve active-status list.

"(2) INFORMATION.—The information on an officer specified by this paragraph to be made available pursuant to paragraph (1) is the information as follows:

"(A) The officer's name.

"(B) The officer's current grade, duty position, command or organization, and location of assignment.

"(C) A summary list of the officer's past duty assignments while serving in a general or flag officer grade.

"(b) ADDITIONAL PUBLIC NOTICE ON CERTAIN OFFICERS.—Whenever an officer in a grade of O–7 or above is assigned to a new billet or reassigned from a current billet, the Secretary of the military department having jurisdiction of such officer shall make available on an internet website of such department available to the public a notice of such assignment or reassignment.

"(c) LIMITATION ON WITHHOLDING OF CERTAIN INFORMATION OR NOTICE.—

"(1) LIMITATION.—The Secretary of a military department may not withhold the information or notice specified in subsections (a) and (b) from public availability pursuant to subsection (a), unless and until the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives in writing of the information or notice that will be so withheld, together with justification for withholding the information or notice from public availability.

"(2) LIMITED DURATION OF WITHHOLDING.—The Secretary concerned may withhold from the public under paragraph (1) information or notice on an officer only on the basis of individual risk or national security, and may continue to withhold such information or notice only for so long as the basis for withholding remains in force."

## REDUCTION IN NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND AUTHORIZED STRENGTH AFTER DECEMBER 31, 2022, OF SUCH GENERAL AND FLAG OFFICERS

Pub. L. 114–328, div. A, title V, §501(a)–(g), Dec. 23, 2016, 130 Stat. 2096–2099, as amended by Pub. L. 118–159, div. A, title V, §502(b), Dec. 23, 2024, 138 Stat. 1868, provided that:

"(a) REDUCTION IN NUMBER OF GENERAL AND FLAG OFFICERS BY DECEMBER 31, 2022.—

"(1) REQUIRED REDUCTION.—Except as otherwise provided by an Act enacted after the date of the enactment of this Act [Dec. 23, 2016] that expressly modifies the requirements of this paragraph, by not later than December 31, 2022, the Secretary of Defense shall reduce the number of general and flag officers on active duty by 110 from the aggregate authorized number of general and flag officers authorized by sections 525 and 526 of title 10, United States Code, as of December 31, 2015.

"(2) DISTRIBUTION OF AUTHORIZED POSITIONS.—Effective as of December 31, 2022, and reflecting the reduction required by paragraph (1), authorized general and flag officer positions shall be distributed among the Army, Navy, Air Force, Marine Corps, and joint pool as follows:

"(A) The Army is authorized 220 positions in the general officer grades.

"(B) The Navy is authorized 151 positions in the flag officer grades.

"(C) The Air Force is authorized 187 positions in the general officer grades.

"(D) The Marine Corps is authorized 62 positions in the general officer grades.

"(E) The joint pool is authorized 232 positions in the general or flag officer grades, to be distributed as follows:

"(i) 82 positions in the general officer grades from the Army.

"(ii) 60 positions in the flag officer grades from the Navy.

"(iii) 69 positions in the general officer grades from the Air Force.

"(iv) 21 positions in the general officer grades from the Marine Corps.

"(b) PLAN TO ACHIEVE REQUIRED REDUCTION AND DISTRIBUTION.—

"(1) PLAN REQUIRED.—Utilizing the study conducted under subsection (c), the Secretary of Defense shall develop a plan to achieve, by the date specified in subsection (a)(1)—

"(A) the reduction required by such subsection in the number of general and flag officers; and

"(B) the distribution of authorized positions required by subsection (a)(2).

"(2) SUBMISSION OF PLAN.—When the budget for the Department of Defense for fiscal year 2019 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the plan developed under this subsection.

"(3) PROGRESS REPORTS.—The Secretary of Defense shall include with the budget for the Department of Defense for each of fiscal years 2020, 2021, and 2022 a report describing and assessing the progress of the Secretary in implementing the plan developed under this subsection.

"(c) STUDY FOR PURPOSES OF PLAN.—

"(1) STUDY REQUIRED.—For purposes of complying with subsection (a) and preparing the plan required by subsection (b), the Secretary of Defense shall conduct a comprehensive and deliberate global manpower study of requirements for general and flag officers with the goal of identifying—

"(A) the requirement justification for each general or flag officer position in terms of overall force structure, scope of responsibility, command and control requirements, and force readiness and execution;

"(B) an additional 10 percent reduction in the aggregate number of authorized general officer and

flag officer positions after the reductions required by subsection (a); and

"(C) an appropriate redistribution of all general officer and flag officer positions within the reductions so identified.

"(2) SUBMISSION OF STUDY RESULTS.—Not later than April 1, 2017, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of the study conducted under this subsection, including the justification for general and flag officer position to be retained and the reductions identified by general and flag officer position.

"(3) INTERIM REPORT.—If practicable before the date specified in paragraph (2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report describing the progress made toward the completion of the study under this subsection, including—

"(A) the specific general and flag officer positions that have been evaluated;

"(B) the results of that evaluation; and

"(C) recommendations for achieving the additional 10 percent reduction in the aggregate number of authorized general officer and flag officer positions to be identified under paragraph (1)(C) and recommendations for redistribution of general and flag officer positions that have been developed to that point.

"(d) EXCLUSIONS.—

"(1) RELATED TO JOINT DUTY ASSIGNMENTS.—For purposes of complying with subsection (a), the Secretary of Defense may exclude—

"(A) a general or flag officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment, except that the Secretary may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but not more than three officers on active duty from each Armed Force may be covered by the additional extension at the same time; and

"(B) the number of officers required to serve in joint duty assignments for each Armed Force as authorized by the Secretary under section 526a(b) of title 10, United States Code, as added by subsection (h) of this section.

"(2) RELATED TO RELIEF FROM CHIEF OF STAFF DUTY.—For purposes of complying with subsection (a), the Secretary of Defense may exclude an officer who continues to hold the grade of general or admiral under section 601(b)(5) of title 10, United States Code, after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps.

"(3) RELATED TO RETIREMENT, SEPARATION, RELEASE, OR RELIEF.—For purposes of complying with subsection (a), the Secretary of Defense may exclude the following officers:

"(A) An officer of an Armed Force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

"(B) An officer of an Armed Force who has been relieved from a position designated under section 601(a) of title 10, United States Code, or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first.

"(e) SECRETARIAL AUTHORITY TO GRANT EXCEPTIONS TO LIMITATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense may alter the reduction otherwise required by subsection (a)(1) in the number of general and flag officer or the distribution of authorized positions otherwise required by subsection (a)(2) in the interest of the national security of the United States.

"(2) NOTICE TO CONGRESS OF EXCEPTIONS.—Not later than 30 days after authorizing a number of general or flag officers in excess of the number required as a result of the reduction required by subsection (a)(1) or altering the distribution of authorized positions under subsection (a)(2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives written notice of such exception, including a statement of the reason for such exception and the anticipated duration of the exception.

"(f) ORDERLY TRANSITION FOR OFFICERS RECENTLY ASSIGNED TO POSITIONS TO BE ELIMINATED.—

"(1) COVERED OFFICERS.—In order to provide an orderly transition for personnel in general or flag

officer positions to be eliminated pursuant to the plan prepared under subsection (b), any general or flag officer who has not completed, as of December 31, 2022, at least 24 months in a position to be eliminated pursuant to the plan may remain in the position until the last day of the month that is 24 months after the month in which the officer assumed the duties of the position.

"(2) REPORT TO CONGRESS ON COVERED OFFICERS.—The Secretary of Defense shall include in the annual report required by section 526(j) of title 10, United States Code, in 2020 a description of the positions in which an officer will remain pursuant to paragraph (1), including the latest date on which the officer may remain in such position pursuant to that paragraph.

"(3) NOTICE TO CONGRESS ON DETACHMENT OF COVERED OFFICERS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a notice on the date on which each officer covered by paragraph (1) is detached from the officer's position pursuant to such paragraph.

"(g) RELATION TO SUBSEQUENT GENERAL OR FLAG NOMINATIONS.—

"(1) NOTICE TO SENATE WITH NOMINATION.—In order to help achieve the requirements of the plan required by subsection (b), effective 30 days after the commencement of the implementation of the plan, the Secretary of Defense shall include with each nomination of an officer to a grade above colonel or captain (in the case of the Navy) that is forwarded by the President to the Senate for appointment, by and with the advice and consent of the Senate, a certification to the Committee on Armed Services of the Senate that the appointment of the officer to the grade concerned will not interfere with achieving the reduction required by subsection (a)(1) in the number of general and flag officer positions or the distribution of authorized positions required by subsection (a)(2).

"(2) IMPLEMENTATION.—Not later than 120 days after the date of the submission of the plan required by subsection (b), the Secretary of Defense shall revise applicable guidance of the Department of Defense on general and flag officer authorizations in order to ensure that—

"(A) the achievement of the reductions required pursuant to subsection (a) is incorporated into the planning for the execution of promotions by the military departments and for the joint pool;

"(B) to the extent practicable, the resulting grades for general and flag officer positions are uniformly applied to positions of similar duties and responsibilities across the military departments and the joint pool; and

"(C) planning achieves a reduction in the headquarters functions and administrative and support activities and staffs of the Department of Defense and the military departments commensurate with the achievement of the reductions required pursuant to subsection (a)."

## DELAYED AUTHORITY TO ALTER DISTRIBUTION REQUIREMENTS FOR COMMISSIONED OFFICERS ON ACTIVE DUTY IN GENERAL OFFICER AND FLAG OFFICER GRADES AND LIMITATIONS ON AUTHORIZED STRENGTHS OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY

Pub. L. 110–417, [div. A], title V, §506, Oct. 14, 2008, 122 Stat. 4434, related to distribution requirements for commissioned officers on active duty in general officer and flag officer grades and limitations on authorized strengths of general and flag officers on active duty, prior to repeal by Pub. L. 111–84, div. A, title V, §502(j), Oct. 28, 2009, 123 Stat. 2277.

## REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS

Pub. L. 107–314, div. A, title IV, §404(c), Dec. 2, 2002, 116 Stat. 2525, provided that:

"(1) The Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

"(A) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

"(B) Statutory designation of the positions and grades of any additional general and flag officers in the commands specified in chapter 1006 of title 10, United States Code, and the reserve component offices specified in sections 3038, 5143, 5144, and 8038 [now 7038, 8083, 8084, and 9038] of such title.

"(2) The provisions of subsection (b) through (e) of section 1213 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2694) shall apply to the report under paragraph (1) in the same manner as they applied to the report required by subsection (a) of that section."

## REPORT ON MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS

Pub. L. 103–337, div. A, title IV, §405(d), Oct. 5, 1994, 108 Stat. 2745, directed the Secretary of Defense to submit to Congress a report on the implementation of the amendments made by Pub. L. 103–337, §405,

enacting sections 528 and 604 of this title and amending this section, not later than Mar. 1, 1996.

**TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY**

Pub. L. 103–337, div. A, title IV, §406, Oct. 5, 1994, 108 Stat. 2746, provided that: "The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act [Oct. 5, 1994], while so serving, shall not be counted for purposes of the limitations contained in [former] section 525(b)(2) of title 10, United States Code."

**TEMPORARY INCREASE IN NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY**

Temporary increases in the number of officers authorized in particular grades under this section were contained in the following authorization acts:

Pub. L. 99–661, div. A, title V, §511, Nov. 14, 1986, 100 Stat. 3869.
Pub. L. 99–570, title III, §3058, Oct. 27, 1986, 100 Stat. 3207–79.
Pub. L. 99–145, title V, §515, Nov. 8, 1985, 99 Stat. 630.
Pub. L. 98–525, title V, §511, Oct. 19, 1984, 98 Stat. 2521.
Pub. L. 98–94, title X, §1001, Sept. 24, 1983, 97 Stat. 654.
Pub. L. 97–252, title XI, §1116, Sept. 8, 1982, 96 Stat. 750.

## §526. Authorized strength: general officers and flag officers on active duty

(a) LIMITATIONS.—The number of general officers on active duty in the Army, Air Force, Marine Corps, and Space Force, and the number of flag officers on active duty in the Navy, may not exceed the number specified for the armed force concerned as follows:

(1) For the Army, 219.
(2) For the Navy, 150.
(3) For the Air Force, 168.
(4) For the Marine Corps, 64.
(5) For the Space Force, 24.

(b) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Defense may designate up to 232 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion from the limitations in subsection (a).

(2) MINIMUM NUMBER.—Unless the Secretary of Defense determines that a lower number is in the best interest of the Department of Defense, the minimum number of officers serving in positions designated under paragraph (1) for each armed force shall be as follows:

(A) For the Army, 75.
(B) For the Navy, 53.
(C) For the Air Force, 68.
(D) For the Marine Corps, 17.
(E) For the Space Force, 6.

(c) EXCLUSION OF CERTAIN OFFICERS OF RESERVE COMPONENTS AND OF THE SPACE FORCE.—The limitations of this section do not apply to the following:

(1) A general or flag officer of a reserve component or of the Space Force who is on active duty—

(A) for training; or
(B) under a call or order specifying a period of less than 180 days.

(2)(A) A general or flag officer of a reserve component who is authorized by the Secretary of the military department concerned to serve on active duty for a period of at least 180 days and not longer than 365 days.

(B) The Secretary of the military department concerned may authorize a number, determined

under subparagraph (C), of officers in the reserve component of each armed force under the jurisdiction of that Secretary to serve as described in subparagraph (A).

(C) Each number described in subparagraph (B) may not exceed 10 percent of the number of general or flag officers, as the case may be, authorized to serve in the armed force concerned under section 12004 of this title. In determining a number under this subparagraph, any fraction shall be rounded down to the next whole number that is greater than zero.

(D) The Secretary of the Air Force may authorize not more than two of the general officers authorized to serve in the Space Force under section 20110 of this title to serve on active service for a period of at least 180 days and not longer than 365 days.

(3)(A) A general or flag officer of a reserve component, or a Space Force general officer in a Space Force active status not on sustained duty, who is on active duty for a period longer than 365 days and not longer than three years.

(B) The number of officers described in subparagraph (A) who do not serve in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed five per armed force, unless authorized by the Secretary of Defense.

(d) EXCLUSION OF CERTAIN OFFICERS PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.—The limitations of this section do not apply to—

(1) an officer of an armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer;

(2) an officer of an armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first; or

(3) a Space Force officer in the grade of brigadier general or above who is pending transition off of sustained duty orders, but only during the 60-day period preceding the end date of such orders.

(e) TEMPORARY EXCLUSION FOR ASSIGNMENT TO CERTAIN TEMPORARY BILLETS.—

(1) IN GENERAL.—The limitations in subsection (a) do not apply to a general officer or flag officer assigned to a temporary joint duty assignment designated by the Secretary of Defense.

(2) DURATION OF EXCLUSION.—A general officer or flag officer assigned to a temporary joint duty assignment as described in paragraph (1) may not be excluded under this subsection from the limitations in subsection (a) for a period of longer than one year.

(f) EXCLUSION OF OFFICERS DEPARTING FROM JOINT DUTY ASSIGNMENTS.—The limitations in subsection (a) do not apply to an officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment. The Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, except that not more than three officers on active duty from each armed force may be covered by the additional extension at the same time.

(g) EXCLUSION OF MEDICAL OFFICER OF MARINE CORPS.—The limitations of this section do not apply to the flag officer who is serving as the Medical Officer of the Marine Corps.

(h) SECRETARY OF DEFENSE ADAPTIVE FORCE ACCOUNT.—The limitations in subsection (a) and in section 525(a) of this title do not apply to a general officer or flag officer assigned to the Secretary of Defense Adaptive Force Account as designated by the Secretary of Defense. The total number of positions designated as the Secretary of Defense Adaptive Force Account for purposes of this subsection shall not exceed 35.

(i) ACTIVE-DUTY BASELINE.—

(1) NOTICE AND WAIT REQUIREMENTS.—If the Secretary of a military department proposes an action that would increase above the baseline the number of general officers or flag

officers of an armed force under the jurisdiction of that Secretary who would be on active duty and would count against the statutory limit applicable to that armed force under subsection (a), the action shall not take effect until after the end of the 60-calendar day period beginning on the date on which the Secretary provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the Senate and the House of Representatives.

(2) BASELINE DEFINED.—In paragraph (1), the term "baseline" for an armed force means the lower of—

(A) the statutory limit of general officers or flag officers of that armed force under subsection (a); or

(B) the actual number of general officers or flag officers of that armed force who, as of January 1, 2023, counted toward the statutory limit of general officers or flag officers of that armed force under subsection (a).

(j) JOINT DUTY ASSIGNMENT BASELINE.—

(1) NOTICE AND WAIT REQUIREMENT.—If the Secretary of Defense, the Secretary of a military department, or the Chairman of the Joint Chiefs of Staff proposes an action that would increase above the baseline the number of general officers and flag officers of the armed forces in joint duty assignments who count against the statutory limit under subsection (b)(1), the action shall not take effect until after the end of the 60-calendar day period beginning on the date on which such Secretary or the Chairman, as the case may be, provides notice of the proposed action, including the rationale for the action, to the Committees on Armed Services of the Senate and the House of Representatives.

(2) BASELINE DEFINED.—In paragraph (1), the term "baseline" means the lower of—

(A) the statutory limit on general officer and flag officer positions that are joint duty assignments under subsection (b)(1); or

(B) the actual number of general officers and flag officers who, as of January 1, 2023, were in joint duty assignments counted toward the statutory limit under subsection (b)(1).

(k) ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report specifying the following:

(1) The numbers of general officers and flag officers who, as of January 1 of the calendar year in which the report is submitted, counted toward the service-specific limits of subsection (a).

(2) The number of general officers and flag officers in joint duty assignments who, as of such January 1, counted toward the statutory limit under subsection (b)(1).

(l) TRANSFER OF AUTHORIZATIONS AMONG THE MILITARY SERVICES.—(1) The Secretary of Defense may increase the maximum number of brigadier generals or major generals in the Army, Air Force, Marine Corps, or Space Force, or rear admirals (lower half) or rear admirals in the Navy, allowed under subsection (a) and section 525 of this title and the President may appoint officers in the equivalent grades equal to the number increased by the Secretary of Defense if each appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) For each increase and appointment made under the authority of paragraph (1) in the Army, Navy, Air Force, Marine Corps, or Space Force, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one. When such an increase and appointment is made, the Secretary of Defense shall specify the armed force in which the reduction required by this paragraph is to be made.

(3) The total number of general officers and flag officers increased under paragraph (1), combined with the total number of general officers and flag officers increased under section 526(k)(1) of this title, may not exceed 15 at any one time.

(4) The Secretary may not increase the maximum number of general officers or flag officers under paragraph (1) until the date that is 30 days after the date on which the Secretary provides, to the Committees on Armed Services of the Senate and the House of Representatives, written notice of—

(A) such increase; and

(B) each offsetting reduction under paragraph (2), specifying the armed force and billet so reduced.

(Added Pub. L. 114–328, div. A, title V, §501(h)(1), Dec. 23, 2016, 130 Stat. 2100, §526a; amended Pub. L. 116–283, div. A, title V, §501(a), Jan. 1, 2021, 134 Stat. 3562; Pub. L. 117–81, div. A, title V, §501(b), Dec. 27, 2021, 135 Stat. 1679; Pub. L. 117–263, div. A, title V, §504, Dec. 23, 2022, 136 Stat. 2558; renumbered §526 and amended Pub. L. 118–31, div. A, title V, §501(a)(2), (4), (b), title XVIII, §1801(a)(9), Dec. 22, 2023, 137 Stat. 240, 684; Pub. L. 118–159, div. A, title V, §§502(a), 509B(c), Dec. 23, 2024, 138 Stat. 1868, 1873; Pub. L. 119–60, div. A, title V, §§501(b), 502, Dec. 18, 2025, 139 Stat. 853, 854.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 526, added Pub. L. 100–370, §1(b)(1)(B), July 19, 1988, 102 Stat. 840; amended Pub. L. 101–510, div. A, title IV, §403(a), Nov. 5, 1990, 104 Stat. 1545; Pub. L. 102–484, div. A, title IV, §403, Oct. 23, 1992, 106 Stat. 2398; Pub. L. 103–337, div. A, title IV, §404, title V, §512, Oct. 5, 1994, 108 Stat. 2744, 2752; Pub. L. 104–106, div. A, title XV, §§1502(a)(1), 1503(a)(3), Feb. 10, 1996, 110 Stat. 502, 510; Pub. L. 104–201, div. A, title IV, §405, Sept. 23, 1996, 110 Stat. 2506; Pub. L. 105–261, div. A, title IV, §405, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 106–65, div. A, title V, §553, title X, §1067(1), Oct. 5, 1999, 113 Stat. 615, 774; Pub. L. 107–314, div. A, title IV, §405(c), title X, §1041(a)(3), Dec. 2, 2002, 116 Stat. 2526, 2645; Pub. L. 108–136, div. A, title V, §504(c), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 109–163, div. A, title V, §§503(b), 510, 515(b)(1)(C), Jan. 6, 2006, 119 Stat. 3226, 3231, 3233; Pub. L. 109–364, div. A, title V, §507(c), Oct. 17, 2006, 120 Stat. 2180; Pub. L. 110–181, div. A, title V, §502, title XVIII, §1824(c), Jan. 28, 2008, 122 Stat. 95, 501; Pub. L. 110–417, [div. A], title V, §§503(a)–(c), 525, Oct. 14, 2008, 122 Stat. 4433, 4448; Pub. L. 111–84, div. A, title V, §502(e)–(g), Oct. 28, 2009, 123 Stat. 2275, 2276; Pub. L. 112–81, div. A, title V, §502(b)(1), (c)(1), Dec. 31, 2011, 125 Stat. 1387; Pub. L. 112–239, div. A, title V, §501(a), Jan. 2, 2013, 126 Stat. 1714; Pub. L. 113–66, div. A, title V, §501(a), (b)(2), Dec. 26, 2013, 127 Stat. 748, 749; Pub. L. 114–328, div. A, title V, §§501(h)(2), 503(b), Dec. 23, 2016, 130 Stat. 2102, 2107; Pub. L. 116–92, div. A, title XVII, §1731(a)(17), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title V, §501(c)(2), Jan. 1, 2021, 134 Stat. 3563; Pub. L. 117–81, div. A, title V, §501(a), Dec. 27, 2021, 135 Stat. 1678, related to authorized strength of general officers on active duty in the Army, Air Force, and Marine Corps, and the number of flag officers on active duty in the Navy, prior to repeal by Pub. L. 118–31, div. A, title V, §501(a)(1), Dec. 22, 2023, 137 Stat. 240.

Another prior section 526 was renumbered section 527 of this title.

### AMENDMENTS

**2025**—Subsec. (a)(3). Pub. L. 119–60, §502(1), substituted "168" for "171".

Subsec. (a)(5). Pub. L. 119–60, §502(2), substituted "24" for "21".

Subsec. (c). Pub. L. 119–60, §501(b)(1)(A), inserted "and of the Space Force" after "Components" in heading.

Subsec. (c)(1). Pub. L. 119–60, §501(b)(1)(B), inserted "or of the Space Force" after "a reserve component" in introductory provisions.

Subsec. (c)(2)(D). Pub. L. 119–60, §501(b)(1)(C), added subpar. (D).

Subsec. (c)(3)(A). Pub. L. 119–60, §501(b)(1)(D), inserted ", or a Space Force general officer in a Space Force active status not on sustained duty," after "a reserve component".

Subsec. (d)(3). Pub. L. 119–60, §501(b)(2), added par. (3).

**2024**—Subsecs. (g), (h). Pub. L. 118–159, §509(c), added subsec. (g) and redesignated subsec. (g), as added by section 502(a)(2), as (h).

Pub. L. 118–159, §502(a)(2), added subsec. (g), which was subsequently redesignated (h).

Subsecs. (i) to (l). Pub. L. 118–159, §§502(a)(1), 509B(c)(1), successively redesignated subsecs. (g) to (j) first as (h) to (k), then as (i) to (l), respectively.

**2023**—Pub. L. 118–31, §501(a)(4), struck out "after December 31, 2022" after "Authorized strength" in section catchline.

Pub. L. 118–31, §501(a)(2), renumbered section 526a of this title as this section.

Subsec. (a). Pub. L. 118–31, §501(b)(1)(A), struck out "after December 31, 2022," after "in the Navy," in

introductory provisions.

Subsec. (a)(1). Pub. L. 118–31, §501(b)(1)(B), substituted "219" for "218".

Subsec. (a)(2). Pub. L. 118–31, §501(b)(1)(C), substituted "150" for "149".

Subsec. (a)(3). Pub. L. 118–31, §501(b)(1)(D), substituted "171" for "170".

Subsec. (a)(4). Pub. L. 118–31, §501(b)(1)(E), substituted "64" for "62".

Subsecs. (i), (j). Pub. L. 118–31, §§501(b)(2), 1801(a)(9), amended section identically, redesignating subsec. (i) relating to transfer of authorizations among the military services as (j).

**2022**—Subsec. (a). Pub. L. 117–263, §504(1)(A), substituted "Marine Corps, and Space Force" for "and Marine Corps" in introductory provisions.

Subsec. (a)(1). Pub. L. 117–263, §504(1)(B), substituted "218" for "220".

Subsec. (a)(2). Pub. L. 117–263, §504(1)(C), substituted "149" for "151".

Subsec. (a)(3). Pub. L. 117–263, §504(1)(D), substituted "170" for "187".

Subsec. (a)(5). Pub. L. 117–263, §504(1)(E), added par. (5).

Subsec. (b)(2)(E). Pub. L. 117–263, §504(2), added subpar. (E).

**2021**—Subsecs. (c) to (h). Pub. L. 116–283, §501(a), added subsec. (c) and redesignated former subsecs. (c) to (g) as (d) to (h), respectively. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 117–81 added subsec. (i) relating to transfer of authorizations among military services.

Pub. L. 116–283, §501(a)(1), redesignated subsec. (h) as (i) relating to annual report.

## [§526a. Renumbered §526]

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EXCLUSION OF OFFICERS SERVING AS LEAD SPECIAL TRIAL COUNSEL FROM LIMITATIONS ON AUTHORIZED STRENGTHS FOR GENERAL AND FLAG OFFICERS

Pub. L. 117–263, div. A, title V, §506, Dec. 23, 2022, 136 Stat. 2558, which related to certain general or flag officers serving in the position of lead special trial counsel pursuant to an appointment under section 1044f(a)(2) of this title, was repealed by Pub. L. 118–31, div. A, title V, §501(c), Dec. 22, 2023, 137 Stat. 240.

## §527. Authority to suspend sections 523, 525, and 526

In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of section 523, 525, or 526 of this title. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

(Added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2845, §526; renumbered §527 and amended Pub. L. 100–370, §1(b)(1)(A), (2), July 19, 1988, 102 Stat. 840; Pub. L. 103–337, div. A, title XVI, §1671(c)(4), Oct. 5, 1994, 108 Stat. 3014.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The National Emergencies Act, referred to in text, is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the National Emergencies Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

### AMENDMENTS

**1994**—Pub. L. 103–337 struck out "524," after "523," in section catchline and in text.

**1988**—Pub. L. 100–370 renumbered section 526 of this title as this section, substituted "524, 525, and 526" for "524, and 525" in section catchline, and "524, 525, or 526" for "524, or 525" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### AUTHORITY TO WAIVE GRADE STRENGTH LAWS FOR FISCAL YEAR 1991; CERTIFICATION; RELATIONSHIP TO OTHER SUSPENSION AUTHORITY

Pub. L. 102–25, title II, §§201(b), 202, 205(b), Apr. 6, 1991, 105 Stat. 79, 80, authorized Secretary of a military department to suspend, for fiscal year 1991, the operation of any provision of section 517, 523, 524, 525, or 526 of this title with respect to that military department, that such Secretary may exercise such authority only after submission to the congressional defense committees of a certification in writing that such authority is necessary because of personnel actions associated with Operation Desert Storm, and that such authority is in addition to the authority provided in this section.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under this section to suspend operation of sections 523, 524 [now 12011], and 525 of this title, relating to authorized strength of commissioned officers, delegated to Secretary of Defense to perform during a time of war or national emergency, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, provided that, during a national emergency declared by President, the exercise of any such authority be specifically directed by President in accordance with section 1631 of Title 50, War and National Defense, and that Secretary ensure that actions taken pursuant to any authority so delegated be accounted for as required by section 1641 of Title 50, see Ex. Ord. No. 12396, §§2, 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, set out as a note under section 12302 of this title.

## §528. Officers serving in certain intelligence positions: military status; application of distribution and strength limitations; pay and allowances

(a) MILITARY STATUS.—An officer of the armed forces, while serving in a position covered by this section—

(1) shall not be subject to supervision or control by the Secretary of Defense or any other officer or employee of the Department of Defense, except as directed by the Secretary of Defense concerning reassignment from such position; and

(2) may not exercise, by reason of the officer's status as an officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

(b) DIRECTOR AND DEPUTY DIRECTOR OF CIA.—When the position of Director or Deputy

Director of the Central Intelligence Agency is held by an officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(c) ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA.—When the position of Associate Director of Military Affairs, Central Intelligence Agency, or any successor position, is held by an officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(d) OFFICERS SERVING IN OFFICE OF DNI.—When a position in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence is held by a general officer or flag officer of the armed forces, the position, so long as the officer serves in the position, shall be designated, pursuant to subsection (b) of section 526 of this title, as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section. However, not more than five of such positions may be included among the excluded positions at any time.

(e) EFFECT OF APPOINTMENT.—Except as provided in subsection (a), the appointment or assignment of an officer of the armed forces to a position covered by this section shall not affect—

(1) the status, position, rank, or grade of such officer in the armed forces; or

(2) any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(f) MILITARY PAY AND ALLOWANCES.—(1) An officer of the armed forces on active duty who is appointed or assigned to a position covered by this section shall, while serving in such position and while remaining on active duty, continue to receive military pay and allowances and shall not receive the pay prescribed for such position.

(2) Funds from which pay and allowances under paragraph (1) are paid to an officer while so serving shall be reimbursed as follows:

(A) For an officer serving in a position within the Central Intelligence Agency, such reimbursement shall be made from funds available to the Director of the Central Intelligence Agency.

(B) For an officer serving in a position within the Office of the Director of National Intelligence, such reimbursement shall be made from funds available to the Director of National Intelligence.

(g) COVERED POSITIONS.—The positions covered by this section are the positions specified in subsections (b) and (c) and the positions designated under subsection (d).

(Added Pub. L. 108–136, div. A, title V, §507(a), Nov. 24, 2003, 117 Stat. 1458; amended Pub. L. 109–163, div. A, title V, §507(a), Jan. 6, 2006, 119 Stat. 3228; Pub. L. 109–364, div. A, title V, §501(a), (b)(1), Oct. 17, 2006, 120 Stat. 2175, 2176; Pub. L. 110–417, [div. A], title IX, §933, Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–259, title VIII, §803, Oct. 7, 2010, 124 Stat. 2746; Pub. L. 112–81, div. A, title V, §502(d)(1), (2)(A), Dec. 31, 2011, 125 Stat. 1387, 1388.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 528, added Pub. L. 103–337, div. A, title IV, §405(b)(1), Oct. 5, 1994, 108 Stat. 2744; amended Pub. L. 104–106, div. A, title IV, §403(b), title XV, §1503(a)(4), Feb. 10, 1996, 110 Stat. 287, 511; Pub. L. 104–201, div. A, title X, §1074(a)(3), Sept. 23, 1996, 110 Stat. 2658, which related to limitation on number of officers on active duty in grades of general and admiral, was repealed by Pub. L. 107–107, div. A, title V, §501(a), Dec. 28, 2001, 115 Stat. 1079.

### AMENDMENTS

**2011**—Pub. L. 112–81, §502(d)(2)(A), substituted "Officers serving in certain intelligence positions:

military status; application of distribution and strength limitations; pay and allowances" for "Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances" in section catchline.

Subsecs. (b) to (d). Pub. L. 112–81, §502(d)(1), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which related to Director and Deputy Director of CIA, Associate Director of Military Affairs of CIA, and Officers Serving in the Office of DNI, respectively.

**2010**—Subsec. (c). Pub. L. 111–259 substituted "Associate Director of Military Affairs, CIA" for "Associate Director of CIA for Military Affairs" in heading and "Associate Director of Military Affairs, Central Intelligence Agency, or any successor position" for "Associate Director of the Central Intelligence Agency for Military Affairs" in text.

**2008**—Subsec. (c). Pub. L. 110–417 substituted "Military Affairs" for "Military Support" in heading and text.

**2006**—Pub. L. 109–364, §501(b)(1), amended section catchline generally, substituting "Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances" for "Exclusion: officers serving in certain intelligence positions".

Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) When none of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, an officer of the armed forces assigned to the position of Associate Director of Central Intelligence for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer's armed force.

"(b) The positions referred to in subsection (a) are the following:

"(1) Director of Central Intelligence.

"(2) Deputy Director of Central Intelligence.

"(3) Deputy Director of Central Intelligence for Community Management."

Subsecs. (a), (b). Pub. L. 109–364, §501(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

"(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency."

Subsecs. (e) to (g). Pub. L. 109–364, §501(a)(2), added subsecs. (e) to (g).

# CHAPTER 33—ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES

Sec.
531. Original appointments of commissioned officers.
532. Qualifications for original appointment as a commissioned officer.
533. Service credit upon original appointment as a commissioned officer.
541. Graduates of the United States Military, Naval, and Air Force Academies.
[555 to 565. Repealed.]

## EDITORIAL NOTES

### AMENDMENTS

**1991**—Pub. L. 102–190, div. A, title XI, §1112(b)(1), Dec. 5, 1991, 105 Stat. 1501, substituted "ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES" for "APPOINTMENTS IN REGULAR COMPONENTS" as chapter heading, struck out analysis of subchapters listing subchapter I "Original Appointments of Regular Officers in Grades above Warrant Officer Grades" and subchapter II "Appointments of Regular Warrant Officers", and struck out subchapter I heading.

**1980**—Pub. L. 96–513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845, inserted an analysis of subchapters immediately following chapter heading, added subchapter I heading, and, in analysis of sections following subchapter I heading, added items 531, 532, and 533 preceding item 541, re-enacted item 541 without change,

and struck out, following item 541, items 555 to 565. The items 555 to 565 formerly set out in the analysis of sections immediately following chapter heading were transferred to a position following a new heading for subchapter II preceding section 555.

## §531. Original appointments of commissioned officers

(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, Regular Marine Corps, and Space Force, and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, Regular Marine Corps, and Space Force, and in the grades of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.

(b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title.

(c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, Regular Marine Corps, or Space Force may be made by the Secretary of Defense in the case of a reserve commissioned officer upon the transfer of such officer from the reserve active-status list of a reserve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).

(Added Pub. L. 96–513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845; amended Pub. L. 97–22, §3(a), July 10, 1981, 95 Stat. 124; Pub. L. 108–375, div. A, title V, §501(a)(4), (c)(5), Oct. 28, 2004, 118 Stat. 1873, 1874; Pub. L. 116–92, div. A, title V, §501(a), Dec. 20, 2019, 133 Stat. 1343; Pub. L. 116–283, div. A, title IX, §924(b)(4)(A), (13), Jan. 1, 2021, 134 Stat. 3822, 3823; Pub. L. 118–31, div. A, title XVII, §1716(b)(2), Dec. 22, 2023, 137 Stat. 633; Pub. L. 118–159, div. A, title V, §521(c)(1), Dec. 23, 2024, 138 Stat. 1880.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(1). Pub. L. 118–159, §521(c)(1)(A), substituted "Regular Marine Corps, and Space Force, and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy" for "and Regular Marine Corps in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, and in the equivalent grades in the Space Force".

Subsec. (a)(2). Pub. L. 118–159, §521(c)(1)(B), substituted "Regular Marine Corps, and Space Force, and in the grades of lieutenant commander, commander, and captain in the Regular Navy" for "and Regular Marine Corps in the grades of lieutenant commander, commander, and captain in the Regular Navy, and in the equivalent grades in the Space Force".

**2023**—Pub. L. 118–31 struck out "Regular" before "Space Force" wherever appearing.

**2021**—Subsec. (a)(1). Pub. L. 116–283, §924(b)(13)(A), substituted "in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, and in the equivalent grades in the Regular Space Force" for "and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy".

Subsec. (a)(2). Pub. L. 116–283, §924(b)(13)(B), substituted "in the grades of lieutenant commander, commander, and captain in the Regular Navy, and in the equivalent grades in the Regular Space Force" for "and in the grades of lieutenant commander, commander, and captain in the Regular Navy".

Subsec. (c). Pub. L. 116–283, §924(b)(4)(A), substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2019**—Subsec. (c). Pub. L. 116–92 substituted "the Secretary of Defense" for "the Secretary concerned".

**2004**—Subsec. (a). Pub. L. 108–375, §501(a)(4), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Original appointments in the grades of second lieutenant through colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign through captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate."

Subsec. (c). Pub. L. 108–375, §501(c)(5), added subsec. (c).

**1981**—Pub. L. 97–22 designated existing provisions as subsec. (a) and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title V, §501(g), Oct. 28, 2004, 118 Stat. 1875, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 647 of this title, amending this section and sections 532, 619, 641, 1174, 2114, 12201, 12203, and 12731 of this title, and repealing section 522 of this title] shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act [Oct. 28, 2004].

"(2) The amendment made by subsection (a)(1) [amending section 532 of this title] shall take effect on May 1, 2005."

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

### PROGRAM TO INCREASE USE OF CERTAIN NURSES BY MILITARY DEPARTMENTS

Pub. L. 101–189, div. A, title VII, §708, Nov. 29, 1989, 103 Stat. 1475, provided that:

"(a) PROGRAM REQUIRED.—(1) Not later than September 30, 1991, the Secretary of each military department shall implement a program to appoint persons who have an associate degree or diploma in nursing (but have not received a baccalaureate degree in nursing) as officers and to assign such officers to duty as nurses.

"(2) An officer appointed pursuant to the program required by subsection (a) shall be appointed in a warrant officer grade or in a commissioned grade not higher than O–3. Such officer may not be promoted above the grade of O–3 unless the officer receives a baccalaureate degree in nursing.

"(b) REPORT ON IMPLEMENTATION.—Not later than April 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken by the Secretaries of the military departments to implement the program required by this section."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 13384. ASSIGNMENT OF FUNCTIONS RELATING TO ORIGINAL APPOINTMENTS AS COMMISSIONED OFFICERS AND CHIEF WARRANT OFFICER APPOINTMENTS IN THE ARMED FORCES

Ex. Ord. No. 13384, July 27, 2005, 70 F.R. 43739, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Assignment of Functions to the Secretary of Defense*. The Secretary of Defense shall perform the functions of the President under the following provisions of title 10, United States Code:

(a) subsection 531(a)(1); and

(b) the second sentence of subsection 571(b).

SEC. 2. *Reassignment of Functions Assigned*. The Secretary of Defense may not reassign the functions assigned to him by this order.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to limit or otherwise affect the authority of the President as Commander in Chief of the Armed Forces of the United States, or under the Constitution and laws of the United States to nominate or to make or terminate appointments.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

GEORGE W. BUSH.

## §532. Qualifications for original appointment as a commissioned officer

(a) Under regulations prescribed by the Secretary of Defense, an original appointment as a commissioned officer (other than as a commissioned warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be given only to a person who—

(1) is a citizen of the United States;

(2) is of good moral character;

(3) is physically qualified for active service; and

(4) has such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

(b)(1) Original appointments in the Regular Army in the Medical Corps or Dental Corps, and original appointments in the Regular Air Force with a view to designation of an officer as a medical or dental officer, may be made in the grades of first lieutenant through colonel. Original appointments in the Regular Navy in the Medical Corps or Dental Corps may be made in the grades of lieutenant (junior grade) through captain. Such appointments may be made only from persons who are qualified doctors of medicine, osteopathy, or dentistry.

(2) To be eligible for an original appointment as a medical officer, a doctor of osteopathy must—

(A) be a graduate of a college of osteopathy whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;

(B) be licensed to practice medicine, surgery, or osteopathy in a State or in the District of Columbia;

(C) under regulations prescribed by the Secretary of Defense, have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who become doctors of medicine and who would be qualified for an original appointment in the grade for which that person is being considered for appointment; and

(D) have such other qualifications as the Secretary of the military department concerned prescribes after considering the recommendations, if any, of the Surgeon General of the armed force concerned.

(c) Original appointments in the Regular Navy or Regular Marine Corps of officers designated for limited duty shall be made under section 8139 or 8146 of this title.

[(d) Repealed. Pub. L. 115–232, div. A, title V, §501(b), Aug. 13, 2018, 132 Stat. 1739.]

[(e) Repealed. Pub. L. 108–375, div. A, title V, §501(a)(1), Oct. 28, 2004, 118 Stat. 1872.]

(f) The Secretary of Defense may waive the requirement of paragraph (1) of subsection (a) with respect to a person who has been lawfully admitted to the United States for permanent residence, or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title, when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.

(Added Pub. L. 96–513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845; amended Pub. L. 97–22, §3(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–295, §1(7), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 102–190, div. A, title V, §501, Dec. 5, 1991, 105 Stat. 1354; Pub. L. 103–160, div. A, title V, §510, Nov. 30, 1993, 107 Stat. 1648; Pub. L. 108–375, div. A, title V, §501(a)(1)–(3)(A), Oct. 28, 2004, 118 Stat.

1872; Pub. L. 109–163, div. A, title V, §534(c), Jan. 6, 2006, 119 Stat. 3248; Pub. L. 111–383, div. A, title V, §501(a), Jan. 7, 2011, 124 Stat. 4206; Pub. L. 115–232, div. A, title V, §501(a), (b), title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1739, 1840; Pub. L. 116–283, div. A, title IX, §924(b)(4)(B), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1716(b)(3), Dec. 22, 2023, 137 Stat. 633.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force" in introductory provisions.

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps" in introductory provisions.

**2018**—Subsec. (a)(2) to (5). Pub. L. 115–232, §501(a), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: "is able to complete 20 years of active commissioned service before his sixty-second birthday;".

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 8139 or 8146" for "section 5589 or 5596".

Subsec. (d). Pub. L. 115–232, §501(b), struck out subsec. (d) which read as follows:

"(1) A person receiving an original appointment as a medical or dental officer, as a chaplain, or as an officer designated for limited duty in the Regular Navy or Regular Marine Corps is not subject to clause (2) of subsection (a).

"(2) A commissioned officer appointed in a medical skill other than as a medical officer or dental officer (as defined in regulations prescribed by the Secretary of Defense) is not subject to clause (2) of subsection (a)."

**2011**—Subsec. (d)(2). Pub. L. 111–383 struck out "reserve" before "commissioned officer".

**2006**—Subsec. (f). Pub. L. 109–163 inserted ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title," after "for permanent residence".

**2004**—Subsec. (a)(2). Pub. L. 108–375, §501(a)(2), substituted "sixty-second birthday" for "fifty-fifth birthday".

Subsec. (e). Pub. L. 108–375, §501(a)(1), struck out subsec. (e) which read as follows: "After September 30, 1996, no person may receive an original appointment as a commissioned officer in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps until that person has completed one year of service on active duty as a commissioned officer (other than a warrant officer) of a reserve component."

Subsec. (f). Pub. L. 108–375, §501(a)(3)(A), added subsec. (f).

**1993**—Subsec. (d). Pub. L. 103–160 designated existing provisions as par. (1) and added par. (2).

**1991**—Subsec. (e). Pub. L. 102–190 added subsec. (e).

**1982**—Pub. L. 97–295 inserted "a" after "original appointment as" in section catchline.

**1981**—Subsec. (d). Pub. L. 97–22 substituted "medical or dental officer, as a chaplain, or as an officer designated for limited duty in the Regular Navy or Regular Marine Corps" for "medical officer or dental officer or as a chaplain".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title V, §501(c), Aug. 13, 2018, 132 Stat. 1739, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 13, 2018], and shall apply with respect to original appointments of regular commissioned officers of the Armed Forces made on or after that date."

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 501(a)(1) of Pub. L. 108–375 effective on May 1, 2005, and amendment by section 501(a)(2), (3)(A) of Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this

title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**APPOINTMENT OF CITIZENS OF NORTHERN MARIANA ISLANDS AS COMMISSIONED OFFICERS**

Pub. L. 98–94, title X, §1006, Sept. 24, 1983, 97 Stat. 661, provided that a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States an intent to become a citizen, and not a national, of the United States, and who is otherwise qualified for military service under applicable laws and regulations, may be appointed as an officer in the Armed Forces of the United States, may be appointed or enrolled in the Senior Reserve Officers' Training Corps program of any of the Armed Forces under chapter 103 of title 10, United States Code, and may be selected to be a participant in the Armed Forces Health Professions Scholarship program under chapter 105 of such title, and that this section shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands. The Commonwealth was established as of 12:01 a.m., Nov. 4, 1986, see section 2(a), (b) of Proc. No. 5564, set out as a note under section 1801 of Title 48, Territories and Insular Possessions.

## §533. Service credit upon original appointment as a commissioned officer

(a)(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade (other than a warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Space Force, such person shall be credited at the time of such appointment with any active commissioned service (other than service as a commissioned warrant officer) that he performed in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service before such appointment.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, Marine Corps, and Space Force, to authorize the Secretary of the military department concerned to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall credit a person who is receiving an original appointment in a commissioned grade (other than a commissioned warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Space Force and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed, designated, or assigned in officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate

medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed forces.

(D) Additional credit as follows:

(i) For special training or experience in a particular officer field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned.

(ii) During fiscal years 2021 through 2025, for advanced education in an officer field so designated, if such education is directly related to the operational needs of the armed force concerned.

(E) Additional credit for experience as a physician or dentist, if appointed as a medical or dental officer in the Army or Navy or, in the case of the Air Force, with a view to designation as a medical or dental officer.

(2) The amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, Marine Corps, or Space Force, or captain in the Navy.

(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

(c) Constructive service credited an officer under subsection (b) shall be used only for determining the officer's—

(1) initial grade as a regular officer;

(2) rank in grade; and

(3) service in grade for promotion eligibility.

(d)(1) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

(2) A graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Academy.

(e) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army, Navy, Air Force, or Marine Corps in grades below major or lieutenant commander is critically below the number needed by such armed force in such grades, he may authorize the Secretary of the military department concerned to credit any person receiving an original appointment in the Judge Advocate General's Corps of the Army or Navy, or any person receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain or, in the case of an officer of the Navy, lieutenant and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.

(f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Space Force shall—

(1) in the case of an officer on the active-duty list immediately before that appointment as a

regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and

(2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.

(Added Pub. L. 96–513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2846; amended Pub. L. 97–22, §3(c), July 10, 1981, 95 Stat. 125; Pub. L. 98–94, title X, §1007(c)(1), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100–180, div. A, title VII, §714(a), Dec. 4, 1987, 101 Stat. 1112; Pub. L. 103–160, div. A, title V, §509(a), Nov. 30, 1993, 107 Stat. 1647; Pub. L. 113–66, div. A, title V, §502, Dec. 26, 2013, 127 Stat. 750; Pub. L. 115–91, div. A, title V, §512(b), Dec. 12, 2017, 131 Stat. 1377; Pub. L. 115–232, div. A, title V, §502(a), Aug. 13, 2018, 132 Stat. 1739; Pub. L. 116–283, div. A, title V, §502(a), title IX, §924(b)(1)(B), (4)(C), (14), Jan. 1, 2021, 134 Stat. 3563, 3820, 3822, 3823; Pub. L. 118–31, div. A, title XVII, §1716(b)(4), Dec. 22, 2023, 137 Stat. 633; Pub. L. 118–159, div. A, title V, §521(c)(2), Dec. 23, 2024, 138 Stat. 1881.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b)(2). Pub. L. 118–159 substituted "Marine Corps, or Space Force, or captain in the Navy" for "or Marine Corps, captain in the Navy, or an equivalent grade in the Space Force".

**2023**—Subsecs. (a)(1), (b)(1), (f). Pub. L. 118–31 struck out "Regular" before "Space Force".

**2021**—Subsec. (a)(1). Pub. L. 116–283, §924(b)(4)(C), substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

Subsec. (a)(2). Pub. L. 116–283, §924(b)(1)(B), substituted "Marine Corps, and Space Force" for "and Marine Corps".

Subsec. (b)(1). Pub. L. 116–283, §924(b)(4)(C), substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps" in introductory provisions.

Subsec. (b)(1)(D). Pub. L. 116–283, §502(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "Additional credit for special training or experience in a particular officer career field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned."

Subsec. (b)(2). Pub. L. 116–283, §924(b)(14), substituted ", captain in the Navy, or an equivalent grade in the Space Force" for "or captain in the Navy".

Subsec. (f). Pub. L. 116–283, §924(b)(4)(C), substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps" in introductory provisions.

**2018**—Subsec. (a)(2). Pub. L. 115–232, §502(a)(2)(A), struck out "or (g)" after "subsection (b)".

Subsec. (b)(1)(D). Pub. L. 115–232, §502(a)(1)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: "Additional credit, in unusual cases, based on special experience in a particular field."

Subsec. (b)(2). Pub. L. 115–232, §502(a)(1)(B), substituted "The amount" for "Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount" and "in the grade of colonel in the Army, Air Force, or Marine Corps or captain in the Navy" for "in the grade of major in the Army, Air Force, or Marine Corps or lieutenant commander in the Navy".

Subsec. (c). Pub. L. 115–232, §502(a)(2)(A), struck out "or (g)" after "subsection (b)" in introductory provisions.

Subsec. (g). Pub. L. 115–232, §502(a)(2)(B), struck out subsec. (g) which related to constructive service credited to commissioned officers with cyberspace-related experience or advanced education serving on active duty.

**2017**—Subsec. (g)(4). Pub. L. 115–91 substituted "2023" for "2018".

**2013**—Subsec. (a)(2). Pub. L. 113–66, §502(1), inserted "or (g)" after "subsection (b)".

Subsec. (c). Pub. L. 113–66, §502(1), inserted "or (g)" after "subsection (b)" in introductory provisions.

Subsec. (g). Pub. L. 113–66, §502(2), added subsec. (g).

**1993**—Subsec. (b)(1)(A). Pub. L. 103–160, §509(a)(1), in second sentence, substituted "In determining" for "Except as provided in clause (E), in determining" and "advanced education required" for "postsecondary education in excess of four that are required".

Subsec. (b)(1)(E), (F). Pub. L. 103–160, §509(a)(2), (3), redesignated subpar. (F) as (E) and struck out former subpar. (E) which read as follows: "Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed, designated, or assigned was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence."

**1987**—Subsec. (b)(1)(B). Pub. L. 100–180 designated existing provisions as cl. (i) and added cl. (ii).

**1983**—Subsec. (a)(1). Pub. L. 98–94 inserted ", the National Oceanic and Atmospheric Administration, or the Public Health Service".

**1981**—Subsec. (b)(1)(A). Pub. L. 97–22, §3(c)(1), inserted ", designated, or assigned" in first sentence after "persons appointed" and substituted "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree" for "(Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary concerned shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree".

Subsec. (b)(1)(B). Pub. L. 97–22, §3(c)(2), substituted "appointment, designation, or assignment, if such advanced education" for "appointment as an officer, if such advanced education".

Subsec. (b)(1)(E). Pub. L. 97–22, §3(c)(3), substituted "person being appointed, designated, or assigned was admitted" for "person being appointed was admitted".

Subsec. (d)(1). Pub. L. 97–22, §3(c)(4), inserted provision that, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

Subsec. (f). Pub. L. 97–22, §3(c)(5), substituted "A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall (1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and (2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer" for "An officer of a reserve component who receives an original appointment as an officer (other than a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be appointed in the grade and with the date of rank to which he would have been entitled had he been serving on active duty as an officer of a reserve component on the date of such original appointment as a regular officer".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### ANNUAL REPORT

Pub. L. 116–283, div. A, title V, §502(c), Jan. 1, 2021, 134 Stat. 3564, provided that:

"(1) IN GENERAL.—Not later than February 1, 2022, and every four years thereafter [sic], each Secretary

of a military department shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the use of the authorities in subparagraph (D) of section 553(b)(1) [probably means section 533(b)(1)] of title 10, United States Code (as amended by subsection (a)), and subparagraph (D) of section 12207(b)(1) of such title (as amended by subsection (b)) (each referred to in this subsection as a 'constructive credit authority') during the preceding fiscal year for the Armed Forces under the jurisdiction of such Secretary.

"(2) ELEMENTS.—Each report under paragraph (1) shall include, for the fiscal year and Armed Forces covered by such report, the following:

"(A) The manner in which constructive service credit was calculated under each constructive credit authority.

"(B) The number of officers credited constructive service credit under each constructive credit authority.

"(C) A description and assessment of the utility of the constructive credit authorities in meeting the operational needs of the Armed Force concerned.

"(D) Such other matters in connection with the constructive credit authorities as the Secretary of the military department concerned considers appropriate."

**RATIFICATION OF SERVICE CREDIT AWARDED PRIOR TO NOVEMBER 30, 1993**

Pub. L. 103–160, div. A, title V, §509(e), Nov. 30, 1993, 107 Stat. 1648, provided that: "To the extent that service credit awarded before the date of the enactment of this Act [Nov. 30, 1993] under section 533, 3353, 5600, or 8353 of title 10, United States Code, based on advanced education in medicine or dentistry was awarded consistent with that section as amended by this section (whether or not properly awarded under that section as in effect before such amendment), the awarding of that service credit is hereby ratified."

**TRANSITION PROVISION UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For savings provision relating to constructive service previously granted, see section 625 of Pub. L. 96–513, set out as a note under section 611 of this title.

## §541. Graduates of the United States Military, Naval, and Air Force Academies

(a) Notwithstanding any other provision of law, each cadet at the United States Military Academy or the United States Air Force Academy, and each midshipman at the United States Naval Academy, is entitled, before graduating from that Academy, to state his preference for appointment, upon graduation, as a commissioned officer in either the Army, Navy, Air Force, Marine Corps, or Space Force.

(b) With the consent of the Secretary of the military department administering the Academy from which the cadet or midshipman is to be graduated, and of the Secretary of the military department having jurisdiction over the armed force for which that graduate stated his preference, the graduate is entitled to be accepted for appointment in that armed force. However, not more than 12½ percent of any graduating class at an Academy may be appointed in armed forces not under the jurisdiction of the military department administering that Academy.

(c) The Secretary of Defense shall, by regulation, provide for the equitable distribution of appointments in cases where more than 12½ percent of the graduating class of any Academy request appointment in armed forces not under the jurisdiction of the military department administering that Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 19; Pub. L. 116–283, div. A, title IX, §924(b)(3)(B), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 541(a) | 10:1092c–1(a) (1st 59 words of 1st sentence).<br>10:1856(a) (1st 59 words of 1st sentence). | Apr. 1, 1954, ch. 127, §8, 68 Stat. 48. |

| | | |
|---|---|---|
| | 34:1057–1(a) (1st 59 words of 1st sentence). | |
| 541(b) | 10:1092c–1(a) (1st sentence, less 1st 59 words). | |
| | 10:1856(a) (1st sentence, less 1st 59 words). | |
| | 34:1057–1(a) (1st sentence, less 1st 59 words). | |
| 541(c) | 10:1092c–1 (less (a)). | |
| | 10:1856 (less (a)). | |
| | 34:1057–1 (less (a)). | |

In subsection (a), the words "is entitled * * * to" are substituted for the words "shall * * * be afforded an opportunity to".

In subsection (b), the words "is entitled" are substituted for the word "shall".

In subsection (c), the words "and fair" are omitted as surplusage. 10:1092c–1(c), 10:1856(c), and 34:1057–1(c) are omitted as covered by section 51(a) of the bill.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Act Aug. 10, 1956, ch. 1041, §52(a), 70A Stat. 641, provided that: "Section 541 of title 10, United States Code, enacted by section 1 of this Act, takes effect (1) in the year in which the initial class graduates from the United States Air Force Academy, or (2) upon the rescission of the agreement under which graduates of the United States Military Academy and the United States Naval Academy may volunteer for appointment in the Air Force, whichever is earlier."

### APPOINTMENT OF UNITED STATES MILITARY ACADEMY GRADUATES IN AIR FORCE

Act Aug. 10, 1956, ch. 1041, §44, 70A Stat. 637, provided that a cadet who had graduated from the United States Military Academy could, upon graduation and before the effective date of section 541 of this title, be appointed a second lieutenant in the Regular Air Force, and set forth provisions relating to date of appointment, service credit, rank among graduates, and increase in authorized strength.

## [§§555 to 565. Repealed. Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1492]

Section 555, acts Aug. 10, 1956, ch. 1041, 70A Stat. 20; Sept. 7, 1962, Pub. L. 87–649, §§6(f)(2), 14c(2), 76 Stat. 494, 501; July 30, 1977, Pub. L. 95–79, title III, §302(a)(4), 91 Stat. 326; Nov. 8, 1985, Pub. L. 99–145, title V, §531(a), title XIII, §1303(a)(5), 99 Stat. 633, 739, related to warrant officer grades. See section 571(a) and (b) of this title.

Section 556, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to credit for service of persons originally appointed in regular warrant officer grades under section 555 of this title. See section 572 of this title.

Section 557, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to qualifications for promotion of regular warrant officers.

Section 558, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to appointment of selection boards to consider promotions of regular warrant officers. See section 573(a), (b), (e), and (f) of this title.

Section 559, act Aug. 10, 1956, ch. 1041, 70A Stat. 21, related to eligibility of regular warrant officers for promotion.

Section 560, acts Aug. 10, 1956, ch. 1041, 70A Stat. 21; Sept. 2, 1958, Pub. L. 85–861, §33(a)(3), 72 Stat. 1564, related to selection procedure for promotion of warrant officers. See section 576(a) to (e) of this title.

Section 561, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to effect of failure of selection of regular warrant officers for promotion. See section 577 of this title.

Section 562, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to disapproval of promotion of regular warrant officers by Secretary concerned, President, or Senate. See section 579 of this title.

Section 563, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to effective date of promotion of regular warrant officer.

Section 564, acts Aug. 10, 1956, ch. 1041, 70A Stat. 22; Sept. 7, 1962, Pub. L. 87–649, §6(f)(3), 76 Stat. 494; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115; Dec. 12, 1980, Pub. L. 96–513, title V, §501(6), 94 Stat. 2907, related to effect of second failure of promotion for regular warrant officers. See section 580(a) to (d) of this title.

Section 565, act Aug. 10, 1956, ch. 1041, 70A Stat. 24, related to suspension of laws for promotion or mandatory retirement or separation of regular warrant officers during war or emergency.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

### PRESERVATION OF EXISTING LAW FOR COAST GUARD

Pub. L. 102–190, div. A, title XI, §1125(a), Dec. 5, 1991, 105 Stat. 1505, provided that sections 555 to 565 of this title, as in effect on the day before Feb. 1, 1992, would continue to apply to the Coast Guard on and after that date, prior to repeal by Pub. L. 103–337, div. A, title V, §541(f)(1), Oct. 5, 1994, 108 Stat. 2766.

# CHAPTER 33A—APPOINTMENT, PROMOTION, AND INVOLUNTARY SEPARATION AND RETIREMENT FOR MEMBERS ON THE WARRANT OFFICER ACTIVE-DUTY LIST

Sec.
571. Warrant officers: grades.
572. Warrant officers: original appointment; service credit.
573. Convening of selection boards.
574. Warrant officer active-duty lists; competitive categories; number to be recommended for promotion; promotion zones.
575. Recommendations for promotion by selection boards.
576. Information to be furnished to selection boards; selection procedures.
577. Promotions: effect of failure of selection for.
578. Promotions: how made; effective date.
579. Removal from a promotion list.
580. Regular warrant officers twice failing of selection for promotion: involuntary retirement or separation.
580a. Enhanced authority for selective early discharges.
581. Selective retirement.
582. Warrant officer active-duty list: exclusions.
583. Definitions.

### EDITORIAL NOTES

### AMENDMENTS

**1993**—Pub. L. 103–160, div. A, title V, §504(b), Nov. 30, 1993, 107 Stat. 1645, added item 580a.

**1992**—Pub. L. 102–484, div. A, title X, §1052(6), Oct. 23, 1992, 106 Stat. 2499, inserted "to be" after "Information" in item 576 and substituted "Promotions:" for "Promotions;" in item 578.

## §571. Warrant officers: grades

(a) The regular warrant officer grades in the armed forces corresponding to the pay grades prescribed for warrant officers by section 201(b) of title 37 are as follows:

Warrant officer grade:
Chief warrant officer, W–5.
Chief warrant officer, W–4.
Chief warrant officer, W–3.
Chief warrant officer, W–2.
Warrant officer, W–1.

(b) Appointments in the grade of regular warrant officer, W–1, shall be made by warrant, except that with respect to an armed force under the jurisdiction of the Secretary of a military department, the Secretary concerned may provide by regulation that appointments in that grade in that armed force shall be made by commission. Appointments in regular chief warrant officer grades shall be made by commission by the President, and appointments (whether by warrant or commission) in the grade of regular warrant officer, W–1, shall be made by the President, except that appointments in that grade in the Coast Guard shall be made by the Secretary concerned.

(c) An appointment may not be made in any of the armed forces in the regular warrant officer grade of chief warrant officer, W–5, if the appointment would result in more than 5 percent of the warrant officers of that armed force on active duty being in the grade of chief warrant officer, W–5. In computing the limitation prescribed in the preceding sentence, there shall be excluded warrant officers described in section 582 of this title.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1493; amended Pub. L. 102–484, div. A, title X, §1052(2), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–337, div. A, title V, §541(a)(2), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 111–383, div. A, title V, §502(a), Jan. 7, 2011, 124 Stat. 4207.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 555 of this title prior to repeal by Pub. L. 102–190, §1112(a).

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 111–383 substituted ", except that with respect to an armed force under the jurisdiction of the Secretary of a military department, the Secretary concerned may provide by regulation that appointments in that grade in that armed force shall be made by commission" for "by the Secretary concerned" and inserted ", and appointments (whether by warrant or commission) in the grade of regular warrant officer, W–1, shall be made by the President, except that appointments in that grade in the Coast Guard shall be made by the Secretary concerned" after "commission by the President".

**1994**—Subsec. (a). Pub. L. 103–337 substituted "armed forces" for "Army, Navy, Air Force, and Marine Corps".

**1992**—Subsec. (a). Pub. L. 102–484 inserted a period at end of each item in table.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title V, §541(h), Oct. 5, 1994, 108 Stat. 2767, provided that: "This section [enacting section 215 of Title 14, Coast Guard, amending this section, sections 573 to 576, 580, 580a, 581, and 583 of this title, and sections 41, 214, 286a, and 334 of Title 14, repealing sections 212 and 213 of Title 14, enacting provisions set out as notes under this section, and repealing a provision set out as a note under former section 555 of this title] and the amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 5, 1994]."

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## SHORT TITLE

Pub. L. 102–190, div. A, title XI, §1101, Dec. 5, 1991, 105 Stat. 1491, provided that: "This title [enacting this chapter and section 742 of this title, amending sections 521, 522, 597, 598 [now 12242], 603, 628, 644, 741, 1166, 1174, 1305, 1406, 5414, 5457, 5458, 5501 to 5503, 5596, 5600, 5665, 6389, and 6391 of this title, sections 286a and 334 of Title 14, Coast Guard, and sections 201, 301, 301c, 305a, and 406 of Title 37, Pay and Allowances of the Uniformed Services, repealing sections 555 to 565, 602, and 745 of this title, and enacting provisions set out as notes under this section, sections 521 and 555 of this title, and section 1009 of Title 37] may be cited as the 'Warrant Officer Management Act'."

## TRANSITION AND SAVINGS PROVISIONS

Pub. L. 103–337, div. A, title V, §541(c), (d), Oct. 5, 1994, 108 Stat. 2765, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(3), Feb. 10, 1996, 110 Stat. 513, provided that:

"(c) TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1) A regular warrant officer of the Coast Guard who on the effective date of this section [see Effective Date of 1994 Amendment note above] is on active duty and—

"(A) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade;

"(B) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer, W–5; or

"(C) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which that warrant officer is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the grade in which that warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

"(2) An officer referred to in subparagraph (A) of paragraph (1) who is not promoted to the grade to which that warrant officer is considered under such subsection to have been recommended for promotion because that officer's name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the temporary grade in which that warrant officer was serving on the effective date of this section as if that warrant officer were serving in the permanent grade.

"(3) The date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade in which that warrant officer is serving on the effective date of this section is the date of that officer's temporary appointment in that grade.

"(d) TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1)(A) Except as provided in paragraph (2), a reserve warrant officer of the Coast Guard who on the effective date of this section [see Effective Date of 1994 Amendment note above] is subject to placement on the warrant officer active-duty list and who—

"(i) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade; or

"(ii) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W–5, that is the same as or higher than that warrant officer's permanent grade;

shall be considered to have been recommended by a board convened under section 598 [now 12242] of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which the warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

"(B) The date of rank of a warrant officer referred to in subparagraph (A)(i) who is promoted to the grade in which that warrant officer is considered under such subparagraph to have been recommended for promotion is the date of the temporary appointment of that warrant officer in that grade.

"(2) A reserve warrant officer of the Coast Guard who on the effective date of this section—

"(A) is subject to placement on the warrant officer active-duty list;

"(B) is serving on active duty in a temporary grade; and

"(C) holds a permanent grade higher than the temporary grade in which that warrant officer is serving;

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a

grade equal to or lower than the permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, the appointment of that warrant officer to such grade shall be a temporary appointment."

Pub. L. 102–190, div. A, title XI, §§1121–1124, Dec. 5, 1991, 105 Stat. 1503–1505, provided that:

"SEC. 1121. TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.

"(a) CERTAIN OFFICERS TO BE CONSIDERED AS RECOMMENDED FOR PROMOTION.—A regular warrant officer of the Armed Forces (other than the Coast Guard) who on the effective date of this title [Feb. 1, 1992] is on active duty and—

"(1) is serving in a temporary grade below chief warrant officer, W–5, that is higher than his permanent grade;

"(2) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer, W–5; or

"(3) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which he is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as added by this title, for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

"(b) BOARD CONSIDERATION FOR OFFICERS REMOVED FROM PROMOTION LIST.—An officer referred to in paragraph (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by this title, for promotion to the permanent grade equivalent to the temporary grade in which he was serving on the effective date of this title as if he were serving in his permanent grade.

"(c) DATE OF RANK.—The date of rank of an officer referred to in subsection (a)(1) who is promoted to the grade in which he is serving on the effective date of this title is the date of his temporary appointment in that grade.

"SEC. 1122. TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.

"(a) CERTAIN OFFICERS TO BE CONSIDERED AS RECOMMENDED FOR PROMOTION.—(1) Except as provided in subsection (b), a reserve warrant officer of the Armed Forces (other than the Coast Guard) who on the effective date of this title [Feb. 1, 1992] is subject to placement on the warrant officer active-duty list and who—

"(A) is serving in a temporary grade below chief warrant officer, W–5, that is higher than his permanent grade; or

"(B) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W–5, that is the same as or higher than his permanent grade;

shall be considered to have been recommended by a board convened under section 598 [now 12242] of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

"(2) The date of rank of a warrant officer referred to in paragraph (1)(A) who is promoted to the grade in which he is considered under such paragraph to have been recommended for promotion is the date of his temporary appointment in that grade.

"(b) RESERVES ON ACTIVE DUTY.—A reserve warrant officer who on the effective date of this title—

"(1) is subject to placement on the warrant officer active-duty list;

"(2) is serving on active duty in a temporary grade; and

"(3) holds a permanent grade higher than the temporary grade in which he is serving,

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than his permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, his appointment to such grade shall be a temporary appointment.

"SEC. 1123. CONTINUATION OF CERTAIN TEMPORARY APPOINTMENTS OF NAVY AND MARINE CORPS WARRANT OFFICERS.

"A warrant officer of the Navy or Marine Corps who, on the effective date of this title [Feb. 1, 1992], is subject to placement on the warrant officer active-duty list and who—

"(1) was appointed as a temporary warrant officer under section 5596 [now 8146] of title 10, United States Code, and

"(2) has retained a permanent enlisted status,

shall, while continuing on active duty, retain such temporary status and grade. Such an officer shall be considered for promotion to a higher warrant officer grade under this title [see Short Title note above] as if that temporary grade is a permanent grade. If the officer is recommended for promotion, the officer's appointment to that grade shall be a temporary appointment.

"SEC. 1124. SAVINGS PROVISION FOR CERTAIN REGULAR ARMY WARRANT OFFICERS FACING MANDATORY RETIREMENT FOR LENGTH OF SERVICE.

"(a) SAVINGS PROVISION.—Subject to subsection (b), a regular warrant officer of the Army who on the effective date of this title [Feb. 1, 1992]—

"(1) is a permanent regular chief warrant officer; or

"(2) is on a list of officers recommended for promotion to a regular chief warrant officer grade,

may be retained on active duty until he completes 30 years of active service or 24 years of active warrant officer service, whichever is later, that could be credited to him under section 511 of the Career Compensation Act of 1949 (70 Stat. 114) [act Oct. 12, 1949, formerly set out as a note under section 580 of this title] (as in effect on the day before the effective date of this part [Feb. 1, 1992]), and then be retired under the appropriate provision of title 10, United States Code, on the first day of the month after the month in which he completes that service.

"(b) EXCEPTIONS.—Subsection (a) does not apply to a regular warrant officer who—

"(1) is sooner retired or separated under another provision of law;

"(2) is promoted to the regular grade of chief warrant officer, W–5; or

"(3) is continued on active duty under section 580(e) of title 10, United States Code, as added by this title."

**ESTABLISHMENT OF PERMANENT GRADE OF CHIEF WARRANT OFFICER, W–5**

Pub. L. 103–337, div. A, title V, §541(a)(1), Oct. 5, 1994, 108 Stat. 2764, provided that: "The grade of chief warrant officer, W–5, is hereby established in the Coast Guard."

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

Pub. L. 102–190, div. A, title XI, §1111(a), Dec. 5, 1991, 105 Stat. 1491, provided that: "The grade of chief warrant officer, W–5, is hereby established in the Army, Navy, Air Force, and Marine Corps."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Authority of President under subsec. (b) of this section to appoint by commission regular chief warrant officers and reserve chief warrant officers in the Coast Guard delegated to Secretary of Homeland Security by Ex. Ord. No. 14106, §1(g), (h), Aug. 14, 2023, 88 F.R. 55905, set out in a note under section 2101 of Title 14, Coast Guard.

Functions of President under second sentence of subsec. (b) of this section delegated to Secretary of Defense by section 1(b) of Ex. Ord. No. 13384, July 27, 2005, 70 F.R. 43739, set out as a note under section 531 of this title.

## §572. Warrant officers: original appointment; service credit

(a) For the purposes of promotion, persons originally appointed in regular or reserve warrant officer grades shall be credited with such service as the Secretary concerned may prescribe. However, such a person may not be credited with a period of service greater than the period of active service performed in the grade, or pay grade corresponding to the grade, in which so appointed, or in any higher grade or pay grade.

(b) The Secretary concerned shall credit a person who is receiving an original appointment as a warrant officer in the regular component of an armed force under the jurisdiction of such Secretary

concerned, and who has advanced education or training or special experience, with constructive service for such education, training, or experience, as follows:

(1) For special training or experience in a particular warrant officer field designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned, as determined by such Secretary concerned.

(2) For advanced education in a warrant officer field designated by the Secretary concerned, if such education is directly related to the operational needs of the armed force concerned, as determined by such Secretary concerned.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1493; amended Pub. L. 117–263, div. A, title V, §507(a), Dec. 23, 2022, 136 Stat. 2558.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 556 of this title prior to repeal by Pub. L. 102–190, §1112(a).

**AMENDMENTS**

**2022**—Pub. L. 117–263 designated existing provisions as subsec. (a) and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §573. Convening of selection boards

(a)(1) Whenever the Secretary concerned determines that the needs of the service so require, he shall convene a selection board to recommend for promotion to the next higher warrant officer grade warrant officers on the warrant officer active-duty list who are in the grade of chief warrant officer, W–2, chief warrant officer, W–3, or chief warrant officer, W–4.

(2) Warrant officers serving on the warrant officer active-duty list in the grade of warrant officer, W–1, shall be promoted to the grade of chief warrant officer, W–2, in accordance with regulations prescribed by the Secretary concerned. Such regulations shall require that an officer have served not less than 18 months on active duty in the grade of warrant officer, W–1, before promotion to the grade of warrant officer, W–2.

(b) A selection board shall consist of five or more officers who are on the active-duty list of the same armed force as the warrant officers under consideration by the board. At least five members of a selection board must be serving in a permanent grade above major or lieutenant commander. The Secretary concerned may appoint warrant officers, senior in grade to those under consideration, as additional members of the selection board. If warrant officers are appointed members of the selection board and if competitive categories have been established by the Secretary under section 574(b) of this title, at least one must be appointed from each warrant officer competitive category under consideration by the board, unless there is an insufficient number of warrant officers in the competitive category concerned who are senior in grade to those under consideration and qualified, as determined by the Secretary concerned, to be appointed as additional members of the board. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

(c) The Secretary concerned may convene selection boards to recommend regular warrant officers for continuation on active duty under section 580 of this title and for retirement under section 581 of this title.

(d) When reserve warrant officers of one of the armed forces are to be considered by a selection

board convened under subsection (a), the membership of the board shall, if practicable, include at least one reserve officer of that armed force, with the exact number of reserve officers to be determined by the Secretary concerned.

(e) No officer may serve on two consecutive boards under this section, if the second board considers any warrant officer who was considered by the first board.

(f) The Secretary concerned shall prescribe all other matters relating to the functions and duties of the boards, including the number of members constituting a quorum, and instructions concerning notice of convening of boards and communications with boards.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1493; amended Pub. L. 103–337, div. A, title V, §541(b)(1), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 104–106, div. A, title XV, §1503(a)(5), Feb. 10, 1996, 110 Stat. 511; Pub. L. 116–283, div. A, title V, §503(a)(2), Jan. 1, 2021, 134 Stat. 3564.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 558 of this title prior to repeal by Pub. L. 102–190, §1112(a).

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283 inserted at end "The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable."

**1996**—Subsec. (a)(2). Pub. L. 104–106 substituted "active-duty list" for "active duty list".

**1994**—Subsec. (a)(1). Pub. L. 103–337, §541(b)(1)(A), substituted "Secretary concerned" for "Secretary of a military department".

Subsec. (a)(2). Pub. L. 103–337, §541(b)(1)(B), struck out "of the military department" after "Secretary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

### OTHER SELECTION BOARDS

Pub. L. 116–283, div. A, title V, §503(c), Jan. 1, 2021, 134 Stat. 3565, provided that:

"(1) IN GENERAL.—The Secretary of Defense shall ensure that the members of each selection board described in paragraph (2) represent the diverse population of the Armed Force concerned to the extent practicable.

"(2) SELECTION BOARD DESCRIBED.—A selection board described in this paragraph (1) is any selection board used with respect to the promotion, education, or command assignments of members of the Armed Forces that is not covered by the amendments made by this section [amending this section and sections 612 and 14102 of this title]."

## §574. Warrant officer active-duty lists; competitive categories; number to be recommended for promotion; promotion zones

(a) The Secretary concerned shall maintain for each armed force under the jurisdiction of that Secretary a single list of all warrant officers (other than warrant officers described in section 582 of this title) who are on active duty.

(b) The Secretary concerned may establish competitive categories for promotion. Warrant officers

in the same competitive category shall compete among themselves for promotion.

(c) Before convening a selection board under section 573 of this title, the Secretary concerned shall determine for each grade (or grade and competitive category) to be considered by the board the following:

(1) The maximum number of warrant officers to be recommended for promotion.

(2) A promotion zone for warrant officers on the warrant officer active-duty list.

(d) The position of a warrant officer on the warrant officer active-duty list shall be determined as follows:

(1) Warrant officers shall be carried in the order of seniority of the grade in which they are serving on active duty.

(2) Warrant officers serving in the same grade shall be carried in the order of their rank in that grade.

(3) A warrant officer on the warrant officer active-duty list who receives a temporary appointment or a temporary assignment in a grade other than a warrant officer grade or chief warrant officer grade shall retain his position on the warrant officer active-duty list while so serving.

(e) A chief warrant officer may not be considered for promotion to the next higher grade under this chapter until the officer has completed two years of service on active duty in the grade in which the officer is serving.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1494; amended Pub. L. 102–484, div. A, title X, §1052(3), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–337, div. A, title V, §541(b)(2), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 104–201, div. A, title V, §506(a), Sept. 23, 1996, 110 Stat. 2512.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (e). Pub. L. 104–201 substituted "two years of service" for "three years of service".

**1994**—Subsecs. (a), (b). Pub. L. 103–337 substituted "Secretary concerned" for "Secretary of each military department".

**1992**—Subsec. (d)(3). Pub. L. 102–484 substituted "active-duty list" for "active duty list" before "while".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §575. Recommendations for promotion by selection boards

(a) A selection board convened under section 573(a) of this title shall recommend for promotion to the next higher grade those warrant officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for warrant officers with particular skills, considers best qualified for promotion within each grade (or grade and competitive category) considered by the board.

(b)(1) In the case of a selection board to consider warrant officers for selection for promotion to the grade of chief warrant officer, W–3, chief warrant officer, W–4, or chief warrant officer, W–5,

the Secretary concerned shall establish the number of warrant officers that the selection board may recommend from among warrant officers being considered from below the promotion zone within each grade (or grade and competitive category). The number of warrant officers recommended for promotion from below the promotion zone does not increase the maximum number of warrant officers which the board is authorized under section 574 of this title to recommend for promotion.

(2) The number of officers recommended for promotion from below the promotion zone may not exceed 10 percent of the total number recommended, except that the Secretary of Defense and the Secretary of Homeland Security, when the Coast Guard is not operating as a service in the Navy, may authorize such percentage to be increased to not more than 15 percent. If the number determined under this subsection with respect to a promotion zone within a grade (or grade and competitive category) is less than one, the board may recommend one such officer for promotion from below the zone within that grade (or grade and competitive category).

(c) A selection board convened under section 573(a) of this title may not recommend a warrant officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board; and

(2) a majority of the members of the board find that the officer is fully qualified for promotion.

(d) Each time a selection board is convened under section 573(a) of this title to consider warrant officers in a competitive category for promotion to the next higher grade, each warrant officer in the promotion zone, and each warrant officer above the promotion zone, for the grade and competitive category under consideration (except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title) shall be considered for promotion.

(e)(1) In selecting the warrant officers to be recommended for promotion, a selection board shall, when authorized by the Secretary concerned, recommend warrant officers of particular merit, pursuant to guidelines and procedures prescribed by the Secretary concerned, from among those warrant officers selected for promotion, to be placed higher on the promotion list contained in the report of such board under section 576(c) of this title.

(2) A selection board may recommend that a warrant officer be placed higher on a promotion list under paragraph (1) only if the warrant officer receives the recommendation of at least a majority of the members of the board, unless the Secretary concerned establishes an alternative requirement. Any such alternate requirement shall be furnished to the board as part of the guidelines furnished to the board under section 576 of this title.

(3) For the warrant officers recommended to be placed higher on a promotion list under paragraph (1), the board shall recommend the order in which those warrant officers should be placed on the list.

(f)(1) Upon the request of a warrant officer, the Secretary concerned may exclude the warrant officer from consideration for promotion under this section.

(2) The Secretary concerned may approve a request of a warrant officer under paragraph (1) only if—

(A) the basis for the request is to allow the officer to complete—

(i) an assignment in support of career progression;

(ii) advanced education;

(iii) an assignment such Secretary determines is of significant value to the Armed Force concerned; or

(iv) a career progression requirement delayed by an assignment or education;

(B) such Secretary determines that such exclusion from consideration is in the best interest of the Armed Force concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests exclusion from consideration.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1495; amended Pub. L. 103–337, div. A, title V, §§501(a), 541(b)(3), Oct. 5, 1994, 108 Stat. 2748, 2764; Pub. L. 104–201, div. A, title V, §506(b), Sept. 23, 1996, 110 Stat. 2512; Pub. L. 106–65, div. A, title V, §505, Oct. 5,

1999, 113 Stat. 591; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 117–263, div. A, title V, §508(a), Dec. 23, 2022, 136 Stat. 2559.)

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsecs. (e), (f). Pub. L. 117–263 added subsecs. (e) and (f).

**2002**—Subsec. (b)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (b)(2). Pub. L. 106–65 inserted at end "If the number determined under this subsection with respect to a promotion zone within a grade (or grade and competitive category) is less than one, the board may recommend one such officer for promotion from below the zone within that grade (or grade and competitive category)."

**1996**—Subsec. (b)(1). Pub. L. 104–201 inserted "chief warrant officer, W–3," after "promotion to the grade of" in first sentence.

**1994**—Subsec. (b)(2). Pub. L. 103–337, §541(b)(3), inserted "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

Subsec. (d). Pub. L. 103–337, §501(a), inserted "(except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 541(b)(3) of Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §576. Information to be furnished to selection boards; selection procedures

(a) The Secretary concerned shall furnish to each selection board convened under section 573 of this title the following:

(1) The maximum number of warrant officers that may be recommended for promotion from those serving in any grade (or grade and competitive category) to be considered, as determined in accordance with section 574 of this title.

(2) The names and pertinent records of all officers in each grade (or grade and competitive category) to be considered.

(3) Such information or guidelines relating to the needs of the armed force concerned for warrant officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a grade or competitive category, as the Secretary concerned determines to be relevant in relation to the requirements of that armed force.

(b) From each promotion zone for a grade (or grade and competitive category), the selection board shall recommend for promotion to the next higher warrant officer grade those warrant officers whom it considers best qualified for promotion, but no more than the number specified by the Secretary concerned.

(c) The names of warrant officers selected for promotion under this section shall be arranged in

the report of such board in the following order of priority:

(1) Warrant officers recommended under section 575(e) of this title to be placed higher on the promotion list, in the order in which the board determines.

(2) Warrant officers otherwise recommended for promotion, in the order of seniority on the warrant officer active-duty list.

(d) Under such regulations as the Secretary concerned may prescribe, the selection board shall report the names of those warrant officers considered by it whose records establish, in its opinion, their unfitness or unsatisfactory performance. A regular warrant officer whose name is so reported shall be considered, under regulations provided by the Secretary concerned, for retirement or separation under section 1166 of this title.

(e) The report of the selection board shall be submitted to the Secretary concerned. The Secretary may approve or disapprove all or part of the report.

(f)(1) Upon receipt of the report of a selection board submitted to him under subsection (e), the Secretary concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under this section.

(2) If, on the basis of a review of the report under paragraph (1), the Secretary concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under this section, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 573 of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with subsection (e).

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1496; amended Pub. L. 103–337, div. A, title V, §§501(b), 541(b)(4), Oct. 5, 1994, 108 Stat. 2748, 2764; Pub. L. 117–263, div. A, title V, §508(b), Dec. 23, 2022, 136 Stat. 2560.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 560 of this title prior to repeal by Pub. L. 102–190, §1112(a).

### AMENDMENTS

**2022**—Subsec. (c). Pub. L. 117–263 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The names of warrant officers selected for promotion under this section shall be arranged in the board's report in order of the seniority on the warrant officer active-duty list."

**1994**—Subsec. (a). Pub. L. 103–337, §541(b)(4)(A), struck out "of the military department" after "The Secretary" in introductory provisions.

Subsec. (e). Pub. L. 103–337, §541(b)(4)(B), struck out "of the military department" after "submitted to the Secretary".

Subsec. (f)(1). Pub. L. 103–337, §501(b), struck out after first sentence "Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (e)."

Subsec. (f)(2). Pub. L. 103–337, §541(b)(4)(C), struck out "of the military department" after "paragraph (1), the Secretary".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 541(b)(4) of Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this

title.

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §577. Promotions: effect of failure of selection for

A warrant officer who has been considered for promotion by a selection board convened under section 573 of this title, but not selected, shall be considered for promotion by each subsequent selection board that considers officers in his grade (or grade and competitive category) until he is retired or separated or he is selected for promotion. However, the Secretary concerned may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, a warrant officer who has an established separation date that is within 90 days after the date on which the board is convened or an approved retirement date.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497; amended Pub. L. 118–159, div. A, title V, §503(a), Dec. 23, 2024, 138 Stat. 1868.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 561 of this title prior to repeal by Pub. L. 102–190, §1112(a).

**AMENDMENTS**

**2024**—Pub. L. 118–159 inserted "or an approved retirement date" after "an established separation date that is within 90 days after the date on which the board is convened".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §578. Promotions: how made; effective date

(a) When the report of a selection board convened under this chapter is approved by the Secretary concerned, the Secretary shall place the names of the warrant officers approved for promotion on a single promotion list for each grade (or grade and competitive category), in the order set forth in section 576(c) of this title.

(b) Promotions of warrant officers on the warrant officer promotion list shall be made when, in accordance with regulations issued by the Secretary concerned, additional warrant officers in that grade (or grade and competitive category), are needed.

(c) A regular warrant officer who is promoted is appointed in the regular grade to which promoted, and a reserve warrant officer who is promoted is appointed in the reserve grade to which promoted. The date of appointment in that grade and date of rank shall be prescribed by the Secretary concerned. A warrant officer is entitled to the pay and allowances for the grade to which appointed from the date specified in the appointment order.

(d) Promotions shall be made in the order in which the names of warrant officers appear on the promotion list and after warrant officers previously selected for promotion in the applicable grade (or grade and competitive category) have been promoted.

(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer

expressly declines the appointment.

(f) A warrant officer who has served continuously as an officer since subscribing to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.

(g) Notwithstanding subsection (d), and subject to regulations prescribed by the Secretary of Defense, in the case of a warrant officer who is selected for promotion by a selection board convened under this chapter, and prior to the placement of the warrant officer's name on the applicable promotion list as approved for transfer to a new component within the same or a different armed force, the Secretary concerned may place the warrant officer's name on a corresponding promotion list of the new component without regard to the warrant officer's competitive category. A warrant officer's promotion under this subsection shall be made pursuant to section 12242 of this title.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497; amended Pub. L. 102–484, div. A, title X, §1052(4), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–337, div. A, title V, §501(c), Oct. 5, 1994, 108 Stat. 2748; Pub. L. 117–263, div. A, title V, §508(c), Dec. 23, 2022, 136 Stat. 2560; Pub. L. 118–31, div. A, title V, §503(a), Dec. 22, 2023, 137 Stat. 240; Pub. L. 118–159, div. A, title XVII, §1701(a)(13), Dec. 23, 2024, 138 Stat. 2203.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (g). Pub. L. 118–159 substituted "as approved" for "is approved".

**2023**—Subsec. (g). Pub. L. 118–31 added subsec. (g).

**2022**—Subsec. (a). Pub. L. 117–263 substituted "set forth in section 576(c) of this title" for "of the seniority of such officers on the warrant officer active-duty list".

**1994**—Subsecs. (e), (f). Pub. L. 103–337 added subsecs. (e) and (f).

**1992**—Pub. L. 102–484 substituted "Promotions:" for "Promotions;" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §579. Removal from a promotion list

(a) The name of a warrant officer recommended for promotion by a selection board convened under this chapter may be removed from the report of the selection board by the President.

(b) The Secretary concerned may remove the name of a warrant officer who is on a promotion list as a result of being recommended for promotion by a selection board convened under this chapter at any time before the promotion is effective.

(c) An officer whose name is removed from the list of officers recommended for promotion by a selection board continues to be eligible for consideration for promotion.

(d) If the next selection board that considers the warrant officer for promotion under this chapter selects the warrant officer for promotion and the warrant officer is promoted, the Secretary concerned may, upon his promotion, grant him the same effective date for pay and allowances and the same date of rank, and the same position on the warrant officer active-duty list as the warrant officer would have had if his name had not been so removed.

(e) If the next selection board does not select the warrant officer for promotion, or if his name is again removed under subsection (a) from the list of officers recommended for promotion by the selection board or under subsection (b) from the warrant officer promotion list, he shall be treated for all purposes as if he has twice failed of selection for promotion.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 562 of this title prior to repeal by Pub. L. 102–190, §1112(a).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §580. Regular warrant officers twice failing of selection for promotion: involuntary retirement or separation

(a)(1) Unless retired or separated sooner under some other provision of law, a regular chief warrant officer who has twice failed of selection for promotion to the next higher regular warrant officer grade shall be retired under paragraph (2) or (3) or separated from active duty under paragraph (4).

(2) If a warrant officer described in paragraph (1) has more than 20 years of creditable active service on (A) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (B) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be retired. The date of such retirement shall be not later than the first day of the seventh calendar month beginning after the applicable date under the preceding sentence, except as provided by section 8301 of title 5. A warrant officer retired under this paragraph shall receive retired pay computed under section 1401 of this title.

(3) If a warrant officer described in paragraph (1) has at least 18 but not more than 20 years of creditable active service on (A) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (B) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be retired not later than the date determined under the next sentence unless he is selected for promotion to the next higher regular warrant officer grade before that date. The date of the retirement of a warrant officer under the preceding sentence shall be on a date specified by the Secretary concerned, but not later than the first day of the seventh calendar month beginning after the date upon which he completes 20 years of active service, except as provided by section 8301 of title 5. A warrant officer retired under this paragraph shall receive retired pay computed under section 1401 of this title.

(4)(A) If a warrant officer described in paragraph (1) has less than 18 years of creditable active service on (i) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (ii) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be separated (except as provided in subparagraph (C)). The date of such separation shall be not later than the first day of the seventh calendar month beginning after the applicable date under the preceding sentence.

(B) A warrant officer separated under this paragraph shall receive separation pay computed under section 1174 of this title, or severance pay computed under section 286a [1] of title 14, as appropriate, except in a case in which—

(i) upon his request and in the discretion of the Secretary concerned, he is enlisted in the grade prescribed by the Secretary; or

(ii) he is serving on active duty in a grade above chief warrant officer, W–5, and he elects, with the consent of the Secretary concerned, to remain on active duty in that status.

(C) If on the date on which a warrant officer is to be separated under subparagraph (A) the warrant officer has at least 18 years of creditable active service, the warrant officer shall be retained on active duty until retired under paragraph (3) in the same manner as if the warrant officer had had at least 18 years of service on the applicable date under subparagraph (A) or (B) of that paragraph.

(5) A warrant officer who is subject to retirement or discharge under this subsection is not eligible for further consideration for promotion.

(6) In this subsection, the term "creditable active service" means active service that could be credited to a warrant officer under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under this section of a warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which he would otherwise be required to retire or be separated under this section.

(c) The Secretary concerned may defer, until such date as he prescribes, the retirement under subsection (a) of a warrant officer who is serving on active duty in a grade above chief warrant officer, W–5, and who elects to continue to so serve.

(d) If a warrant officer who also holds a grade above chief warrant officer, W–5, is retired or separated under subsection (a), his commission in the higher grade shall be terminated on the date on which he is so retired or separated.

(e)(1) A regular warrant officer subject to discharge or retirement under this section may, subject to the needs of the service, be continued on active duty if—

(A) in the case of a warrant officer in the grade of chief warrant officer, W–2, or chief warrant officer, W–3, the warrant officer is selected for continuation on active duty by a selection board convened under section 573(c) of this title; and

(B) in the case of a warrant officer in the grade of chief warrant officer, W–4, the warrant officer is selected for continuation on active duty by the Secretary concerned under such procedures as the Secretary may prescribe.

(2)(A) A warrant officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in accordance with this section.

(B) A warrant officer in the grade of chief warrant officer, W–4, who is retained on active duty pursuant to procedures prescribed under paragraph (1)(B) is eligible for further consideration for promotion while remaining on active duty.

(3) Each warrant officer who is continued on active duty under this subsection, not subsequently promoted or continued on active duty, and not on a list of warrant officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

(A) be discharged upon the expiration of his period of continued service; or

(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding subparagraph (A), a warrant officer who would otherwise be discharged under such subparagraph and who is within two years of qualifying for retirement under section 1293 of this title shall, unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

(4) The retirement or discharge of a warrant officer pursuant to this subsection shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(5) Continuation of a warrant officer on active duty under this subsection pursuant to the action of a selection board convened under section 573(c) of this title is subject to the approval of the Secretary concerned.

(6) The Secretary of Defense and the Secretary of Homeland Security, when the Coast Guard is not operating as a service in the Navy, shall prescribe regulations for the administration of this subsection.

(f) A warrant officer subject to discharge or retirement under this section, but against whom any action has been commenced with a view to trying the officer by court-martial, may be continued on active duty, without prejudice to such action, until the completion of such action.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1498; amended Pub. L. 103–160, div. A, title V, §505(a), Nov. 30, 1993, 107 Stat. 1645; Pub. L. 103–337, div. A, title V, §541(b)(5), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–364, div. A, title V, §505(a), (b), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 111–383, div. A, title V, §541, Jan. 7, 2011, 124 Stat. 4218.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 286a of title 14, referred to in subsec. (a)(4)(B), was redesignated section 2147 of title 14 by Pub. L. 115–282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216, and references to section 286a of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(6), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note below.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 564 of this title prior to repeal by Pub. L. 102–190, §1112(a).

### AMENDMENTS

**2011**—Subsec. (f). Pub. L. 111–383 added subsec. (f).

**2006**—Subsec. (e)(1). Pub. L. 109–364, §505(a), substituted "continued on active duty if—" and subpars. (A) and (B) for "continued on active duty if he is selected for continuation on active duty by a selection board convened under section 573(c) of this title."

Subsec. (e)(2). Pub. L. 109–364, §505(b), designated existing provisions as subpar. (A) and added subpar. (B).

**2002**—Subsec. (e)(6). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Subsec. (a)(4)(B). Pub. L. 103–337, §541(b)(5)(A), inserted ", or severance pay computed under section 286a of title 14, as appropriate," after "section 1174 of this title".

Subsec. (e)(6). Pub. L. 103–337, §541(b)(5)(B), inserted "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

**1993**—Subsec. (a)(4)(A). Pub. L. 103–160, §505(a)(1), inserted "(except as provided in subparagraph (C))" after "shall be separated".

Subsec. (a)(4)(C). Pub. L. 103–160, §505(a)(2), added subpar. (C).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title V, §505(b), Nov. 30, 1993, 107 Stat. 1646, provided that: "The amendments made by subsection (a) [amending this section] shall apply to warrant officers who have not been separated pursuant to section 580(a)(4) of title 10, United States Code, before the date of enactment of this Act [Nov.

30, 1993]."

**EFFECTIVE DATE**

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

**RETIRED AND RETAINER PAY OF MEMBERS ON RETIRED LISTS OR RECEIVING RETAINER PAY**

Act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, as amended May 19, 1952, ch. 310, §4, 66 Stat. 80; Apr. 23, 1956, ch. 208, §1, 70 Stat. 114, set forth methods of computing retired pay, retirement pay, retainer pay, or equivalent pay on and after Oct. 1, 1949, for members of the uniformed services who had retired for reasons other than for physical disability before Oct. 1, 1949, members who had transferred to the Fleet Reserve or the Fleet Marine Corps Reserve before such date, and certain members of the Army Nurse Corps or the Navy Nurse Corps who had retired before such date, and provided that the amount of such pay would not exceed 75 percentum of the monthly basic pay upon which the computation had been based.

[1] *See References in Text note below.*

## §580a. Enhanced authority for selective early discharges

(a) The Secretary of Defense may authorize the Secretary of a military department, during the period beginning on October 1, 2015, and ending on October 1, 2019, to take the action set forth in subsection (b) with respect to regular warrant officers of an armed force under the jurisdiction of that Secretary.

(b) The Secretary of a military department may, with respect to regular warrant officers of an armed force, when authorized to do so under subsection (a), convene selection boards under section 573(c) of this title to consider for discharge regular warrant officers on the warrant officer active-duty list—

(1) who have served at least one year of active duty in the grade currently held;

(2) whose names are not on a list of warrant officers recommended for promotion; and

(3) who are not eligible to be retired under any provision of law and are not within two years of becoming so eligible.

(c)(1) In the case of an action under subsection (b), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all regular warrant officers described in that subsection in a particular grade and competitive category; or

(B) the names of all regular warrant officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

(2) The Secretary concerned shall specify the total number of warrant officers to be recommended for discharge by a selection board convened pursuant to subsection (b). That number may not be more than 30 percent of the number of officers considered—

(A) in each grade in each competitive category; or

(B) in each grade, year group, or specialty (or combination thereof) in each competitive category.

(3) A warrant officer who is recommended for discharge by a selection board convened pursuant to subsection (b) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

(4) Selection of warrant officers for discharge under this subsection shall be based on the needs of the service.

(d) The discharge of any warrant officer pursuant to this section shall be considered involuntary

for purposes of any other provision of law.

(e) This section applies to the Secretary of Homeland Security in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.

(Added Pub. L. 103–160, div. A, title V, §504(a), Nov. 30, 1993, 107 Stat. 1644; amended Pub. L. 103–337, div. A, title V, §541(g), title X, §1070(a)(3), Oct. 5, 1994, 108 Stat. 2767, 2855; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114–92, div. A, title V, §501, Nov. 25, 2015, 129 Stat. 806.)

### EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a). Pub. L. 114–92, §501(1), substituted "October 1, 2015, and ending on October 1, 2019" for "November 30, 1993, and ending on October 1, 1999".

Subsec. (c)(3) to (5). Pub. L. 114–92, §501(2), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "The total number of regular warrant officers described in subsection (b) from any of the armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the number of warrant officers of that armed force (or the number of warrant officers of that armed force in that grade) authorized to be serving on active duty as of the end of that fiscal year."

**2002**—Subsec. (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Subsec. (a). Pub. L. 103–337, §1070(a)(3), substituted "November 30, 1993," for "the date of the enactment of this section".

Subsec. (e). Pub. L. 103–337, §541(g), added subsec. (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 541(g) of Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

## §581. Selective retirement

(a) A regular warrant officer who holds a warrant officer grade above warrant officer, W–1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

(b) A warrant officer who is recommended for retirement under this section and whose retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for retirement.

(c) The retirement of a warrant officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(d)(1) The Secretary concerned shall prescribe regulations for the administration of this section.

(2) Such regulations shall require that when the Secretary concerned submits a list of regular warrant officers to a selection board convened under section 573(c) of this title to consider regular

warrant officers for selection for retirement under this section, the list shall include—

(A) the name of each warrant officer on the active-duty list in the same grade or same grade and competitive category whose position on the active-duty list is between that of the most junior regular warrant officer in that grade whose name is submitted to the board and that of the most senior regular warrant officer in that grade whose name is submitted to the board; or

(B) with respect to a group of warrant officers designated under subparagraph (A) who are in a particular grade and competitive category, only those warrant officers in that grade and competitive category who are also in a particular year group or specialty, or any combination thereof determined by the Secretary concerned.

(3) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e)(1) The Secretary concerned may defer for not more than three months the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(2) An officer recommended for early retirement under this section, if approved for deferral under paragraph (1), shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 102–484, div. A, title X, §1052(5), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–337, div. A, title V, §541(b)(6), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 104–106, div. A, title V, §504(a), Feb. 10, 1996, 110 Stat. 295; Pub. L. 113–291, div. A, title V, §§501, 502(a), Dec. 19, 2014, 128 Stat. 3353.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (d). Pub. L. 113–291, §501, redesignated second sentence of par. (1) as (2) and former par. (2) as (3), and, in par. (2), substituted "the list shall include—" for "the list shall include each", inserted "(A) the name of each" before "warrant officer on the active-duty list", substituted "; or" for period at end, and added subpar. (B).

Subsec. (e). Pub. L. 113–291, §502(a), designated existing provisions as par. (1), substituted "three months" for "90 days", and added par. (2).

**1996**—Subsec. (e). Pub. L. 104–106 added subsec. (e).

**1994**—Subsec. (a). Pub. L. 103–337 struck out "in the Army, Navy, Air Force, or Marine Corps" after "A regular warrant officer".

**1992**—Subsec. (d)(2). Pub. L. 102–484 substituted "board" for "Board" in two places in first sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §582. Warrant officer active-duty list: exclusions

Warrant officers in the following categories are not subject to this chapter:

(1) Reserve warrant officers—

(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or

(B) on full-time National Guard duty.

(2) Retired warrant officers on active duty (other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date).

(3) Students enrolled in the Army Physician's Assistant Program.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 103–337, div. A, title V, §501(d), Oct. 5, 1994, 108 Stat. 2748; Pub. L. 104–106, div. A, title XV, §1501(c)(5), Feb. 10, 1996, 110 Stat. 498; Pub. L. 108–375, div. A, title IV, §416(i), Oct. 28, 2004, 118 Stat. 1869.)

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Par. (1). Pub. L. 108–375 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Reserve warrant officers—

"(A) on active duty for training;

"(B) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;

"(C) on active duty to pursue special work;

"(D) ordered to active duty under section 12304 of this title; or

"(E) on full-time National Guard duty."

**1996**—Par. (1)(B). Pub. L. 104–106 substituted "section 12301(d)" for "section 672(d)".

Par. (1)(D). Pub. L. 104–106 substituted "section 12304" for "section 673b".

**1994**—Par. (2). Pub. L. 103–337 inserted before period at end "(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §583. Definitions

In this chapter:

(1) The term "promotion zone" means a promotion eligibility category consisting of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) in the case of grades below chief warrant officer, W–5, have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of warrant officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); and

(B) are senior to the warrant officer designated by the Secretary concerned to be the junior warrant officer in the promotion zone eligible for promotion to the next higher grade.

(2) The term "warrant officers above the promotion zone" means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as warrant officers in the promotion zone; and

(C) are senior to the senior warrant officer in the promotion zone.

(3) The term "warrant officers below the promotion zone" means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as warrant officers in the promotion zone; and

(C) are junior to the junior warrant officer in the promotion zone.

(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a [1] of title 14.

(Added Pub. L. 102–190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1501; amended Pub. L. 103–337, div. A, title V, §541(f)(7), Oct. 5, 1994, 108 Stat. 2767.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 41a of title 14, referred to in par. (4), was redesignated section 2102 of title 14 by Pub. L. 115–282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216, and references to section 41a of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

#### AMENDMENTS

**1994**—Par. (4). Pub. L. 103–337 added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of this title.

#### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

[1] *See References in Text note below.*

## CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

Sec.
591. Reference to chapters 1205 and 1207.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991, amended analysis generally, substituting item 591 for former items 591 to 600a.

**1992**—Pub. L. 102–484, div. A, title V, §515(b), Oct. 23, 1992, 106 Stat. 2407, added item 596.

**1986**—Pub. L. 99–661, div. A, title V, §508(d)(1)(B), Nov. 14, 1986, 100 Stat. 3867, added item 600a.

**1980**—Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2849, substituted "34" for "35" as chapter number.

**1958**—Pub. L. 85–861, §1(11), Sept. 2, 1958, 72 Stat. 1440, added item 592 and struck out item 596 "Officers: promotion".

## §591. Reference to chapters 1205 and 1207

Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).

(Added Pub. L. 103–337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 591 to 594, 595, and 596 were renumbered sections 12201 to 12204, 12208, and 12205 of this title, respectively.

Another prior section 596, act Aug. 10, 1956, ch. 1041, 70A Stat. 25, related to promotion of officers in the Reserve components, prior to repeal by Pub. L. 85–861, §36B(2), Sept. 2, 1958, 72 Stat. 1570.

Prior sections 596a, 596b, 597 to 599, 600, and 600a were renumbered sections 12206, 12207, 12241 to 12243, 12209, and 12210 of this title, respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

Sec.
601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals.
602. Flexibility in determining terms of appointment for certain senior officer positions.
603. Appointments in time of war or national emergency.
604. Senior joint officer positions: recommendations to the Secretary of Defense.
605. Promotion to certain grades for officers with critical skills: colonel, lieutenant colonel, major, captain; captain, commander, lieutenant commander, lieutenant.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title V, §504(b), Dec. 22, 2023, 137 Stat. 241, added item 602.

**2018**—Pub. L. 115–232, div. A, title V, §503(a)(2), Aug. 13, 2018, 132 Stat. 1742, added item 605.

**1994**—Pub. L. 103–337, div. A, title IV, §405(c)(2), Oct. 5, 1994, 108 Stat. 2745, added item 604.

**1991**—Pub. L. 102–190, div. A, title XI, §1113(d)(1)(B), Dec. 5, 1991, 105 Stat. 1502, struck out item 602

"Warrant officers: temporary promotions" and substituted "Appointments in time of war or national emergency" for "Commissioned officer grades: time of war or national emergency" in item 603.

## §601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

(a) The President may designate positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral. The President may assign to any such position an officer of the Army, Navy, Air Force, Marine Corps, or Space Force who is serving on active duty in any grade above colonel or, in the case of an officer of the Navy, any grade above captain. An officer assigned to any such position has the grade specified for that position if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Except as provided in subsection (b), the appointment of an officer to a grade under this section for service in a position of importance and responsibility ends on the date of the termination of the assignment of the officer to that position.

(b) An officer who is appointed to the grade of general, admiral, lieutenant general, or vice admiral for service in a position designated under subsection (a) or by law to carry that grade shall continue to hold that grade—

(1) while serving in that position;

(2) while under orders transferring him to another position designated under subsection (a) or by law to carry one of those grades, beginning on the day his assignment to the first position is terminated and ending on the day before the day on which he assumes the second position;

(3) while hospitalized, beginning on the day of the hospitalization and ending on the day he is discharged from the hospital, but not for more than 180 days;

(4) at the discretion of the Secretary of Defense, while the officer is awaiting orders after being relieved from the position designated under subsection (a) or by law to carry one of those grades, but not for more than 60 days beginning on the day the officer is relieved from the position, unless, during such period, the officer is placed under orders to another position designated under subsection (a) or by law to carry one of those grades, in which case paragraph (2) will also apply to the officer; and

(5) while awaiting retirement, beginning on the day he is relieved from the position designated under subsection (a) or by law to carry one of those grades and ending on the day before his retirement, but—

(A) subject to subparagraph (B), not for more than 60 days; and

(B) with respect to an officer awaiting retirement following not less than one year of consecutive deployment outside of the United States to a combat zone (as defined in section 112(c) of the Internal Revenue Code of 1986) or in support of a contingency operation, not for more than 90 days.

(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

(2) An officer serving in a grade above major general or rear admiral who holds the permanent grade of brigadier general or rear admiral (lower half) shall be considered for promotion to the permanent grade of major general or rear admiral, as appropriate, as if he were serving in his permanent grade.

(d)(1) When an officer is recommended to the President for an initial appointment to the grade of lieutenant general or vice admiral, or for an initial appointment to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of that officer as a member of the Joint Staff and in other joint duty assignments. The Secretary of Defense shall submit the Chairman's evaluation to the President at the same time the recommendation for the appointment is submitted to the President.

(2) Whenever a vacancy occurs in a position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral

or lieutenant general or vice admiral or in an office that is designated by law to carry such a grade, the Secretary of Defense shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.

(e) Prior to making a recommendation to the Secretary of Defense for the nomination of an officer for appointment to a position of importance and responsibility under this section, which appointment would result in the initial appointment of the officer concerned in the grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force or vice admiral or admiral in the Navy, the Secretary concerned shall consider all officers determined to be among the best qualified for such position.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2849; amended Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title V, §523, Oct. 19, 1984, 98 Stat. 2523; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–433, title IV, §403, Oct. 1, 1986, 100 Stat. 1031; Pub. L. 102–190, div. A, title V, §502(a), Dec. 5, 1991, 105 Stat. 1354; Pub. L. 104–106, div. A, title IV, §403(c), Feb. 10, 1996, 110 Stat. 287; Pub. L. 110–181, div. A, title V, §501(a), Jan. 28, 2008, 122 Stat. 94; Pub. L. 116–283, div. A, title V, §551(b)(1), title IX, §924(b)(3)(C), Jan. 1, 2021, 134 Stat. 3630, 3821; Pub. L. 117–263, div. A, title V, §505, Dec. 23, 2022, 136 Stat. 2558; Pub. L. 118–31, div. A, title XVII, §1741(a)(4), Dec. 22, 2023, 137 Stat. 679.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 112 of the Internal Revenue Code of 1986, referred to in subsec. (b)(5)(B), is classified to section 112 of Title 26, Internal Revenue Code.

### AMENDMENTS

**2023**—Subsec. (e). Pub. L. 118–31 substituted "Marine Corps, or Space Force or" for "or Marine Corps," and struck out "or the commensurate grades in the Space Force," after "in the Navy,".

**2022**—Subsec. (b)(5). Pub. L. 117–263 substituted "retirement, but—" and subpars. (A) and (B) for "retirement, but not for more than 60 days."

**2021**—Subsec. (a). Pub. L. 116–283, §924(b)(3)(C), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (e). Pub. L. 116–283, §551(b)(1), added subsec. (e).

**2008**—Subsec. (b)(4), (5). Pub. L. 110–181 added par. (4) and redesignated former par. (4) as (5).

**1996**—Subsec. (b). Pub. L. 104–106, §403(c)(1), in introductory provisions substituted "designated under subsection (a) or by law" for "of importance and responsibility designated".

Subsec. (b)(1). Pub. L. 104–106, §403(c)(2), struck out "of importance and responsibility" after "position".

Subsec. (b)(2). Pub. L. 104–106, §403(c)(3), substituted "designated under subsection (a) or by law" for "designating".

Subsec. (b)(4). Pub. L. 104–106, §403(c)(4), inserted "under subsection (a) or by law" after "designated".

**1991**—Subsec. (b)(4). Pub. L. 102–190 substituted "60 days" for "90 days".

**1986**—Subsec. (d). Pub. L. 99–433 added subsec. (d).

**1985**—Subsec. (c)(2). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Subsec. (b). Pub. L. 98–525 amended subsec. (b) generally, which prior to amendment had provided that if the assignment of an officer who was serving in a position designated to carry the grade of general, admiral, lieutenant general, or vice admiral was terminated (1) by the assignment of such officer to another position designated to carry one of those grades, such officers would hold, during the period beginning on the day of that termination and ending on the day before the day on which he assumed the other position, the grade that he had held on the day before the termination; (2) by the hospitalization of such officer, such officer would hold, during the period beginning on the day of that termination and ending on the day he was discharged from the hospital, but not for more than 180 days, the grade that he had held on the day before the termination; or (3) by the retirement of such officer, such officer would hold, during the period beginning on the day of that termination and ending on the day before his retirement, but not for more than 90 days, the grade that he had held on the day before the termination.

**1981**—Subsec. (c)(2). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1991 AMENDMENT**

Pub. L. 102–190, div. A, title V, §502(b), Dec. 5, 1991, 105 Stat. 1355, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act [Dec. 5, 1991]."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions relating to temporary appointments of officers serving in grades above major general or rear admiral, see section 623 of Pub. L. 96–513, set out as a note under section 611 of this title.

## §602. Flexibility in determining terms of appointment for certain senior officer positions

The Secretary of Defense may extend or reduce the duration of an appointment made under section 152, 154, 7033, 8033, 8043, 9033, or 9082 of this title by up to six months if the Secretary determines that such an extension or reduction is necessary either in the interests of national defense, or to ensure an appropriate staggering of terms of senior military leadership.

(Added Pub. L. 118–31, div. A, title V, §504(a), Dec. 22, 2023, 137 Stat. 241.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 602, Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2849, related to temporary promotions of warrant officers, prior to repeal by Pub. L. 102–190, div. A, title XI, §1113(a), Dec. 5, 1991, 105 Stat. 1502.

## §603. Appointments in time of war or national emergency

(a) In time of war, or of national emergency declared by the Congress or the President after November 30, 1980, the President may appoint any qualified person (whether or not already a member of the armed forces) to any officer grade in the Army, Navy, Air Force, Marine Corps, or Space Force, except that appointments under this section may not be made in grades above major general or rear admiral. Appointments under this section shall be made by the President alone, except that an appointment in the grade warrant officer, W–1, shall be made by warrant by the Secretary concerned.

(b) Any appointment under this section is a temporary appointment and may be vacated by the President at any time.

(c)(1) Any person receiving an original appointment under this section is entitled to service credit as authorized under section 533 of this title.

(2) An appointment under this section of a person who is not on active duty becomes effective when that person begins active duty under that appointment.

(d) An appointment under this section does not change the permanent status of a member of the

armed forces so appointed. A member who is appointed under this section shall not incur any reduction in the pay and allowances to which the member was entitled, by virtue of his permanent status, at the time of his appointment under this section.

(e)(1) An officer who receives an appointment to a higher grade under this section is considered to have accepted such appointment on the date of the order announcing the appointment unless he expressly declines the appointment.

(2) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.

(f) Unless sooner terminated, an appointment under this section terminates on the earliest of the following:

(1) The second anniversary of the appointment.

(2) The end of the six-month period beginning on the last day of the war or national emergency during which the appointment was made.

(3) The date the person appointed is released from active duty.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2850; amended Pub. L. 101–189, div. A, title VI, §653(a)(2), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 102–190, div. A, title XI, §1113(b), (d)(1)(A), Dec. 5, 1991, 105 Stat. 1502; Pub. L. 116–283, div. A, title IX, §924(b)(3)(D), Jan. 1, 2021, 134 Stat. 3821.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**1991**—Pub. L. 102–190, §1113(d)(1)(A), substituted "Appointments in time of war or national emergency" for "Commissioned officer grades: time of war or national emergency" in section catchline.

Subsec. (a). Pub. L. 102–190, §1113(b), struck out "commissioned" before "officer grade in the Army" and "in warrant officer grades or" before "in grades above major general" and inserted before period at end ", except that an appointment in the grade warrant officer, W–1, shall be made by warrant by the Secretary concerned".

**1989**—Subsec. (f). Pub. L. 101–189 substituted "terminates on the earliest of the following:" for "terminates—" in introductory provisions, and made numerous amendments to style and punctuation. Prior to amendment, subsec. (f) read as follows: "Unless sooner terminated, an appointment under this section terminates—

"(1) on the second anniversary of the appointment;

"(2) at the end of the six-month period beginning on the last day of the war or national emergency during which the appointment was made; or

"(3) on the date the person appointed is released from active duty;

whichever is earliest."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under subsecs. (a) and (b) to make or vacate certain temporary commissioned

appointments delegated to Secretary of Defense to perform during a time of war or national emergency, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, provided that, during a national emergency declared by President, exercise of any such authority be specifically directed by President in accordance with section 1631 of Title 50, War and National Defense, and that Secretary ensure any authority so delegated be accounted for as required by section 1641 of Title 50, see Ex. Ord. No. 12396, §§2, 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

**EX. ORD. NO. 13321. APPOINTMENTS DURING NATIONAL EMERGENCY**

Ex. Ord. No. 13321, Dec. 17, 2003, 68 F.R. 74465, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq*.), and section 301 of title 3, United States Code, and in order to further respond to the national emergency I declared in Proclamation 7463 of September 14, 2001 [50 U.S.C. 1621 note], I hereby order as follows:

SECTION 1. *Emergency Appointments Authority*. The emergency appointments authority at section 603 of title 10, United States Code, is invoked and made available to the Secretary of Defense in accordance with the terms of that statute and of Executive Order 12396 of December 9, 1982 [3 U.S.C. 301 note].

SEC. 2. *Judicial Review*. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any person.

SEC. 3. *Administration*. This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE W. BUSH.

## §604. Senior joint officer positions: recommendations to the Secretary of Defense

(a) JOINT 4-STAR OFFICER POSITIONS.—(1) Whenever a vacancy occurs, or is anticipated to occur, in a position specified in subsection (b)—

(A) the Secretary of Defense shall require the Secretary of the Army to submit the name of at least one Army officer, the Secretary of the Navy to submit the name of at least one Navy officer and the name of at least one Marine Corps officer, and the Secretary of the Air Force to submit the name of at least one Air Force officer and the name of at least one Space Force officer for consideration by the Secretary for recommendation to the President for appointment to that position; and

(B) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursuant to subparagraph (A)) for consideration by the Secretary for recommendation to the President for appointment to that position.

(2) Whenever the Secretaries of the military departments are required to submit the names of officers under paragraph (1)(A), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that paragraph (and of any officer whose name the Chairman submits to the Secretary under paragraph (1)(B) for consideration for the same vacancy). The Chairman's evaluation shall primarily consider the performance of the officer as a member of the Joint Staff and in other joint duty assignments, but may include consideration of other aspects of the officer's performance as the Chairman considers appropriate.

(b) COVERED POSITIONS.—Subsection (a) applies to the following positions:

(1) Commander of a combatant command.

(2) Commander, United States Forces, Korea.

(Added Pub. L. 103–337, div. A, title IV, §405(c)(1), Oct. 5, 1994, 108 Stat. 2745; amended Pub. L. 104–201, div. A, title IV, §404(a), Sept. 23, 1996, 110 Stat. 2506; Pub. L. 106–65, div. A, title V, §509(a), Oct. 5, 1999, 113 Stat. 592; Pub. L. 107–314, div. A, title IV, §405(a), Dec. 2, 2002, 116 Stat. 2526; Pub. L. 108–136, div. A, title V, §504(a), Nov. 24, 2003, 117 Stat. 1456; Pub. L.

114–328, div. A, title V, §502(e), Dec. 23, 2016, 130 Stat. 2102; Pub. L. 116–283, div. A, title IX, §924(b)(15), Jan. 1, 2021, 134 Stat. 3823.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(1)(A). Pub. L. 116–283 inserted "and the name of at least one Space Force officer" after "Air Force officer".

**2016**—Subsec. (b)(3). Pub. L. 114–328 struck out par. (3) which read as follows: "Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe."

**2003**—Subsec. (c). Pub. L. 108–136 struck out heading and text of subsec. (c). Text read as follows: "This section shall cease to be effective at the end of December 31, 2004."

**2002**—Subsec. (c). Pub. L. 107–314 substituted "December 31, 2004" for "September 30, 2003".

**1999**—Subsec. (c). Pub. L. 106–65 substituted "September 30, 2003" for "September 30, 2000".

**1996**—Subsec. (c). Pub. L. 104–201 substituted "September 30, 2000" for "September 30, 1997".

## §605. Promotion to certain grades for officers with critical skills: colonel, lieutenant colonel, major, captain; captain, commander, lieutenant commander, lieutenant

(a) IN GENERAL.—An officer in the grade of first lieutenant, captain, major, or lieutenant colonel in the Army, Air Force, Marine Corps, or Space Force, or lieutenant (junior grade), lieutenant, lieutenant commander, or commander in the Navy, who is described in subsection (b) may be temporarily promoted to the grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable, under regulations prescribed by the Secretary of the military department concerned. Appointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) COVERED OFFICERS.—An officer described in this subsection is any officer in a grade specified in subsection (a) who—

(1) has a skill in which the armed force concerned has a critical shortage of personnel (as determined by the Secretary of the military department concerned); and

(2) is serving in a position (as determined by the Secretary of the military department concerned) that—

(A) is designated to be held by a captain, major, lieutenant colonel, or colonel in the Army, Air Force, Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable; and

(B) requires that an officer serving in such position have the skill possessed by such officer.

(c) PRESERVATION OF POSITION AND STATUS OF OFFICERS APPOINTED.—An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in regard to other promotions or appointments, or abridge the rights or benefits of the officer.

(d) BOARD RECOMMENDATION REQUIRED.—A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the military department concerned for the purpose of recommending officers for such promotions.

(e) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of the temporary promotion under this section from the date the appointment is made.

(f) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy; or

(2) on the date the officer is detached from a position described in subsection (b)(2), unless the officer is on a promotion list to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, in which case the appointment terminates on the date the officer is promoted to that grade.

(g) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated by the Secretary of the military department concerned for the purposes of this section. The number of positions so designated may not exceed the following:

(1) In the case of the Army—
(A) as captain, 120;
(B) as major, 350;
(C) as lieutenant colonel, 200; and
(D) as colonel, 100.

(2) In the case of the Air Force—
(A) as captain 95;
(B) as major, 305;
(C) as lieutenant colonel, 165; and
(D) as colonel, 75.

(3) In the case of the Space Force—
(A) as captain, 5;
(B) as major, 20;
(C) as lieutenant colonel, 10; and
(D) as colonel, 5.

(4) In the case of the Marine Corps—
(A) as captain, 50;
(B) as major, 175;
(C) as lieutenant colonel, 100; and
(D) as colonel, 50.

(5) In the case of the Navy—
(A) as lieutenant, 100;
(B) as lieutenant commander, 425;
(C) as commander, 175; and
(D) as captain, 80.

(Added Pub. L. 115–232, div. A, title V, §503(a)(1), Aug. 13, 2018, 132 Stat. 1740; amended Pub. L. 118–31, div. A, title V, §505, title XVII, §1716(d), Dec. 22, 2023, 137 Stat. 241, 653.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1716(d)(1), substituted "Marine Corps, or Space Force," for "or Marine Corps," wherever appearing.

Subsec. (g)(2) to (4). Pub. L. 118–31, §1716(d)(2), added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which read as follows: "In the case of the Air Force—

"(A) as captain, 100;

"(B) as major, 325;
"(C) as lieutenant colonel, 175; and
"(D) as colonel, 80."

Former par. (4) redesignated (5).

Subsec. (g)(4)(B). Pub. L. 118–31, §505, substituted "425" for "325".

Subsec. (g)(5). Pub. L. 118–31, §1716(d)(2), redesignated par. (4) as (5).

# CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST


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| **I.** | **Selection Boards** | **611** |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title V, §507(a)(2), Aug. 13, 2018, 132 Stat. 1748, added item for subchapter VI.

## SUBCHAPTER I—SELECTION BOARDS


| Sec. | |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, div. A, title V, §547(d)(1), Oct. 17, 2006, 120 Stat. 2216, added item 613a.

**1991**—Pub. L. 102–190, div. A, title V, §504(a)(2)(B), Dec. 5, 1991, 105 Stat. 1357, struck out "; communications with boards" after "selection boards" in item 614.

### §611. Convening of selection boards

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, Marine Corps, or Space Force and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned

recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) Whenever the needs of the service require, the Secretary of the military department concerned may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2851; amended Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 107–107, div. A, title V, §505(a)(3), Dec. 28, 2001, 115 Stat. 1086; Pub. L. 118–159, div. A, title V, §521(d)(1), Dec. 23, 2024, 138 Stat. 1881.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2001**—Subsec. (a). Pub. L. 107–107, §505(a)(3)(A), substituted "Whenever the needs of the service require, the Secretary of the military department concerned" for "Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require," and inserted at end "The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion."

Subsec. (b). Pub. L. 107–107, §505(a)(3)(B), substituted "Whenever the needs of the service require, the Secretary of the military department concerned" for "Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require,".

Subsec. (c). Pub. L. 107–107, §505(a)(3)(C), added subsec. (c).

**1985**—Subsec. (a). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1981**—Subsec. (a). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSITION FROM GRADE OF COMMODORE TO GRADE OF REAR ADMIRAL (LOWER HALF)

Pub. L. 99–145, title V, §514(e), Nov. 8, 1985, 99 Stat. 630, provided that:

"(1) An officer who on the day before the date of the enactment of this Act [Nov. 8, 1985] is serving in or has the grade of commodore shall as of the date of the enactment of this Act be serving in or have the grade of rear admiral (lower half).

"(2) An officer who on the day before the date of the enactment of this Act is on a list of officers selected for promotion to the grade of commodore shall as of the date of the enactment of this Act be considered to be on a list of officers selected for promotion to the grade of rear admiral (lower half)."

### TRANSITION PROVISIONS COVERING 1980 AMENDMENTS BY DEFENSE OFFICER PERSONNEL MANAGEMENT ACT [PUB. L. 96–513]

Parts A to C of title VI of Pub. L. 96–513, Dec. 12, 1980, 94 Stat. 2940, as amended by Pub. L. 97–22, §8(a)–(n), July 10, 1981, 95 Stat. 132–135; Pub. L. 97–86, title IV, §405(d)(1), (2)(A), (e), (f), Dec. 1, 1981, 95 Stat. 1106, eff. Sept. 15, 1981; Pub. L. 98–525, title V, §§530–532, Oct. 19, 1984, 98 Stat. 2527; Pub. L.

100–456, div. A, title V, §503, Sept. 29, 1988, 102 Stat. 1967, provided that:

**"PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE**

**"REGULAR OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE**

"SEC. 601. (a) Except as provided in sections 603 and 604, any regular officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981, except as otherwise provided in section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title] is on active duty and—

"(1) is serving in a temporary grade below lieutenant general that is higher than his regular grade;

"(2) is on a list of officers recommended for promotion to a temporary grade below lieutenant general; or

"(3) is on a list of officers recommended for promotion to a regular grade higher than the grade in which he is serving;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

"(b) An officer referred to in clause (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such subsection to have been recommended for promotion shall be considered under chapter 36 of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the temporary grade in which he was serving on the effective date of this Act [Sept. 15, 1981] as if he were serving in his regular grade.

"(c) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in subsection (a)(1) who is promoted to the temporary grade in which he is serving on the effective date of this Act [Sept. 15, 1981] is the date of his temporary appointment in that grade.

"(d)(1) Any delay of a promotion of an officer referred to in clause (2) or (3) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) or (3) of subsection (a) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.

**"RESERVE OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE**

"SEC. 602. (a)(1) Except as provided in subsection (b) and sections 605 and 606, any reserve officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981] is subject to placement on the active-duty list of his armed force and—

"(A) is serving in a temporary grade below lieutenant general that is higher than his reserve grade; or

"(B) is on a list of officers recommended for promotion to a temporary grade below lieutenant general that is the same as or higher than his reserve grade;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the reserve grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

"(2) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade to which he is considered under such paragraph to have been recommended for promotion is the date of his temporary appointment in that grade.

"(b) A reserve officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981]—

"(1) is subject to placement on the active-duty list of his armed force;

"(2) is serving on active duty in a temporary grade; and

"(3) either holds a reserve grade higher than the temporary grade in which he is serving or is on a list of officers recommended for promotion to a reserve grade higher than the temporary grade in which he is serving,

shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under

such chapter to such a grade, his appointment to such grade shall be a temporary appointment.

"(c)(1) Any delay of a promotion of an officer referred to in clause (B) of subsection (a)(1) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion has been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (B) of subsection (a)(1) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.

**"REGULAR OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION**

"SEC. 603. (a) An officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981]—

"(1) holds the regular grade of first lieutenant, captain, or major; and

"(2) has been considered once but not recommended for promotion to the next higher regular grade by a selection board convened under the laws in effect on the day before the effective date of this Act,

shall, within one year after the effective date of this Act, be considered for promotion to the next higher regular grade by a selection board convened by the Secretary concerned under the laws in effect on the day before the effective date of this Act.

"(b)(1)(A) An officer described in subsection (a) who is recommended for promotion by the selection board which considers him pursuant to such subsection shall be considered to have been recommended for promotion to the next higher regular grade or the grade in which he is serving, whichever grade is higher, by a board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who was serving in the temporary grade equivalent to the grade to which he is considered to have been recommended for promotion and who is promoted to that grade is the date of his temporary appointment in that grade.

"(2) An officer described in subsection (a) who is not recommended for promotion by such board shall, unless continued on active duty under section 637 of such title, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws applicable on the day before the effective date of this Act [Sept. 15, 1981].

**"REGULAR OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION**

"SEC. 604. An officer of the Army or Air Force who on the day before the effective date of this Act [Sept. 15, 1981]—

"(1) holds the regular grade of first lieutenant, captain, or major; and

"(2) has twice failed of selection for promotion to the next higher regular grade,

shall, unless continued on active duty under section 637 of title 10, United States Code, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws in effect on the day before the effective date of this Act.

**"RESERVE OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION**

"SEC. 605. (a) A reserve officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981]—

"(1) is on active duty and subject to placement on the active-duty list of his armed force;

"(2) holds the reserve grade of first lieutenant, captain, or major; and

"(3) has been considered once but not selected for promotion to the next higher reserve grade under section 3366, 3367, 8366, or 8367 [see section 14301 et seq. of this title], as appropriate, of title 10, United States Code,

shall, unless sooner promoted, be considered again for promotion to that grade by a selection board convened under section 3366, 3367, 8366, or 8367, as appropriate, of such title.

"(b)(1) An officer described in subsection (a) who is serving on active duty in a temporary grade higher than his reserve grade on the effective date of this Act [Sept. 15, 1981] and who is recommended by the selection board which considers him pursuant to such subsection for promotion to the reserve grade equivalent to the temporary grade in which he is serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who is promoted to the reserve grade equivalent to the temporary grade in which he is serving on such date is the date of his temporary appointment in that grade.

"(2) An officer described in subsection (a) who is serving on active duty in a temporary grade equivalent to or lower than his reserve grade on the effective date of this Act [Sept. 15, 1981] and who is recommended by the selection board which considers him pursuant to such subsection for promotion to a reserve grade higher than the temporary grade in which he was serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 3366, 3367, 8366, or 8367 [see section 14301 et seq. of this title], as appropriate, of such title. If such an officer is not ordered to active duty in his reserve grade, he shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under such chapter to such a grade, his appointment to such grade shall be a temporary appointment to such grade.

"(3) An officer described in subsection (a) who is not recommended for promotion by the selection board which considers him pursuant to such subsection shall be governed by section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

**"RESERVE OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION**

"SEC. 606. An officer of the Army or Air Force who on the day before the effective date of this Act [Sept. 15, 1981]—

"(1) was on active duty and subject to placement on the active-duty list of his armed force; and

"(2) held the reserve grade of first lieutenant, captain, or major; and

"(3) was considered to have twice failed of selection for promotion to the next higher reserve grade,

shall be governed by [former] section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

**"ENTITLEMENT TO SEVERANCE PAY OR SEPARATION PAY OF OFFICERS SEPARATED OR DISCHARGED PURSUANT TO THIS PART**

"SEC. 607. (a) An officer who is discharged in accordance with section 603(b)(2) or 604 is entitled, at his election, to—

"(1) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act [Sept. 15, 1981]; or

"(2) separation pay, if eligible therefor, under section 1174(a) of title 10, United States Code, as added by this Act.

"(b) An officer who is separated in accordance with section 605(b)(3) or 606 is entitled, at his election, to—

"(1) readjustment pay under section 687 of title 10, United States Code, as in effect on the day before the effective date of this Act [Sept. 15, 1981]; or

"(2) separation pay, if eligible therefor, under section 1174(c) of title 10, United States Code, as added by this Act.

**"SPECIAL TENURE PROVISIONS FOR OFFICERS SERVING IN TEMPORARY GRADES OF BRIGADIER GENERAL AND MAJOR GENERAL**

"SEC. 608. (a) Notwithstanding section 635 or 636 of title 10, United States Code, as added by this Act, but subject to subsection (b), a regular officer of the Army or Air Force—

"(1) who on the effective date of this Act [Sept. 15, 1981] is serving in or is on a list of officers recommended for promotion to the temporary grade of brigadier general or major general;

"(2) whose regular grade on such date is below such temporary grade; and

"(3) who is promoted pursuant to section 601(a) to the regular grade equivalent to such temporary grade,

shall be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act to officers in the permanent grade he held on such date. However, such an officer shall not be subject to a mandatory retirement date which is earlier than the first day of the month following the month of the thirtieth day after he completes 30 years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act.

"(b)(1) The Secretary of the Army or the Secretary of the Air Force, as appropriate, may convene selection boards under this section for the purpose of recommending from among officers described in subsection (a) officers to be selected to be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act [Sept. 15, 1981] to officers in the permanent grade to which such officers were promoted pursuant to section 601(a) or to officers in a lower permanent grade higher than the permanent grade held by such officers on the day before the effective date of this Act.

"(2) Upon the recommendation of a selection board convened under this section, the Secretary concerned may select officers described in subsection (a) to be subject to mandatory retirement in accordance with the provisions of section 3922, 3923, 8922, or 8923, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act [Sept. 15, 1981], rather than in the manner described in subsection (a).

"(3) Any selection board convened under this section shall be convened in accordance with the provisions of section 3297 or 8297, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act [Sept. 15, 1981].

"(c) This section does not apply to an officer who—

"(1) is sooner retired or separated under another provision of law;

"(2) is promoted to the permanent grade of brigadier general pursuant to section 601(a) and is subsequently promoted to the permanent grade of major general under chapter 36 of title 10, United States Code, as added by this Act; or

"(3) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

**"RIGHT OF MAJORS AND COLONELS TO COMPLETE YEARS OF SERVICE ALLOWED UNDER PRIOR LAW**

"SEC. 609. (a)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981]—

"(A) holds the regular grade of major; or

"(B) is on a list of officers recommended for promotion to the regular grade of major,

shall be retained on active duty until he completes twenty-one years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code (as in effect on the day before the effective date of this Act), and then be retired under the provisions of section 3913 or 8913 of such title (as in effect on the day before the effective date of this Act) on the first day of the month after the month in which he completes that service.

"(2) Paragraph (1) does not apply to an officer who—

"(A) is sooner retired or separated under another provision of law;

"(B) is promoted to the regular grade of lieutenant colonel; or

"(C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

"(b)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981]—

"(A) holds the regular grade of colonel; or

"(B) is on a list of officers recommended for promotion to the regular grade of colonel,

shall be retired under section 3921 or 8921 [now 7321 or 9321], as appropriate, of such title (as in effect on the day before the effective date of this Act).

"(2) Paragraph (1) does not apply to an officer who—

"(A) is sooner retired or separated under another provision of law;

"(B) is promoted to the regular grade of brigadier general; or

"(C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

**"REGULAR OFFICERS WHOSE RETIREMENT HAS BEEN DEFERRED**

"SEC. 610. A regular officer of the Army or Air Force serving on active duty on the effective date of this Act [Sept. 15, 1981] whose retirement under chapter 367 or 867 [now 741 or 941] of title 10, United States Code, has been deferred before that date—

"(1) under a provision of such chapter; or

"(2) by virtue of a suspension, under any provision of law, of provisions of such chapter which would otherwise require such retirement,

may continue to serve on active duty to complete the period for which his retirement was deferred or until such suspension is removed.

**"PART B—TRANSITION PROVISIONS RELATING ONLY TO THE NAVY AND MARINE CORPS**

**"OFFICERS SERVING IN A TEMPORARY GRADE BELOW VICE ADMIRAL OR LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION**

"SEC. 611. (a) Subject to subsection (b), any regular officer of the Navy or Marine Corps, and any reserve

officer of the Navy and Marine Corps who on the effective date of this Act [Sept. 15, 1981] is subject to placement on the active-duty list, who on the effective date of this Act—

"(1) is serving on active duty in a temporary grade below vice admiral or lieutenant general that is higher than his permanent grade; or

"(2) is on a promotion list,

shall be considered to have been recommended for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be, by a board convened under section 611(a) of title 10, United States Code, as added by this Act.

"(b) This section does not apply to an officer—

"(1) serving in a temporary grade which, by its own terms, is limited in duration;

"(2) designated for limited duty in a grade to which he was appointed under section 5596 [now 8146] of title 10, United States Code, before the effective date of this Act [Sept. 15, 1981]; or

"(3) recommended for promotion or promoted to a grade under section 5787 of such title, as in effect before the effective date of this Act.

"(c)(1) Any delay of a promotion of an officer referred to in clause (2) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date, shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) of subsection (a) which was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.

## "OFFICERS FAILED OF SELECTION FOR PROMOTION

"SEC. 612. (a) Except as provided in subsection (b), an officer of the Navy or Marine Corps who on the effective date of this Act [Sept. 15, 1981] is considered to have failed of selection for promotion one or more times to a grade below the grade of captain, in the case of an officer of the Navy, or below the grade of colonel, in the case of an officer of the Marine Corps, is subject to chapter 36 of title 10, United States Code, as added by this Act, as if such failure or failures had occurred under the provisions of such chapter.

"(b) An officer who during fiscal year 1981—

"(1) failed twice of selection for promotion to the grade of either lieutenant or lieutenant commander, in the case of an officer in the Navy, or to either captain or major, in the case of an officer in the Marine Corps; and

"(2) had not previously failed of selection for promotion to that grade,

may not, because of such failures of selection, be involuntarily separated, involuntarily discharged, or retired under chapter 36 of title 10, United States Code, as added by this Act, before June 30, 1982, unless the officer so requests.

## "RIGHT OF CERTAIN OFFICERS TO RETIRE UNDER PRIOR LAW

"SEC. 613. (a)(1) Subject to paragraph (2), an officer who on September 15, 1981—

"(A) holds the grade of lieutenant commander, commander, or captain in the Regular Navy or the grade of major, lieutenant colonel, or colonel in the Regular Marine Corps; or

"(B) is on a promotion list to any such grade,

shall be retired on the date provided under the laws in effect on September 14, 1981, except that an officer for whom no means can be established under the laws in effect on September 14, 1981, for computing creditable service in determining whether the officer is subject to involuntary retirement shall be retired under chapter 573 [now 843] of title 10, United States Code, as in effect on September 14, 1981, on the basis of the years of service of such officer as determined under regulations prescribed under section 624(b).

"(2) This subsection does not apply to an officer—

"(A) removed from active duty under section 1184 of title 10, United States Code, as added by this Act;

"(B) promoted to a higher grade in the Regular Navy or Regular Marine Corps;

"(C) continued on active duty under section 637 of title 10, United States Code, as added by this Act; or

"(D) selected for early retirement under section 638 of title 10, United States Code.

"(b)(1) An officer of the Navy who on September 14, 1981—

"(A) has the grade of rear admiral in the Regular Navy; or

"(B) was on a promotion list to such grade,

shall be continued on active duty or retired in accordance with the laws in effect on September 14, 1981.

"(2) An officer of the Marine Corps who on September 14, 1981—

"(A) has the grade of brigadier general in the Regular Marine Corps; or

"(B) was on a promotion list to such grade,

shall be retired in accordance with the laws in effect on September 14, 1981.

**"TRANSITION PROVISIONS TO NEW COMMODORE GRADE**

"SEC. 614. (a)(1) An officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981]—

"(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

"(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the upper half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of rear admiral.

"(2) An officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981]—

"(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half; or

"(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of commodore, but shall retain the title of rear admiral.

"(3) An officer who on the day before the effective date of this Act [Sept. 15, 1981] was on a list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

"(b) An officer who on the day before the effective date of this Act [Sept. 15, 1981]—

"(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

"(2) was on a list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

"(c) Except as otherwise provided by law, an officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981] held the grade of rear admiral on the retired list or the temporary disability retired list retains the grade of rear admiral and is entitled after such date to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

"(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

"(2) ranks among commissioned officers of the armed forces as and is entitled to the basic pay of—

"(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

"(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

"(d)(1) An officer of the Navy who—

"(A) on the effective date of this Act [Sept. 15, 1981]—

"(i) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half or was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date; or

"(ii) was on a list of officers recommended for promotion to the grade of rear admiral; and

"(B) after such date holds the permanent grade of commodore pursuant to subsection (a),

shall not be subject to the provisions of chapter 36 of title 10, United States Code, as added by this Act, relating to selection for promotion and promotion to the next higher grade.

"(2) Officers to whom this subsection applies become entitled to hold the permanent grade of rear admiral under the circumstances prescribed for entitlement to the basic pay of a rear admiral of the upper half under the provisions of subsections (a) through (d) of section 202 of title 37, United States Code, as in effect on the day before the effective date of this Act [Sept. 15, 1981]. For the purposes of this subsection, officers serving in the permanent grade of rear admiral or commodore in accordance with subsection (a) shall be considered as serving in the grade of rear admiral, as such grade was in effect on the day before the effective date of this Act.

"(e) Unless entitled to a higher grade under another provision of law, an officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981]—

"(1) was serving on active duty; and

"(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform and insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.

"(f) A reserve officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981] was in an active status and was serving in the grade of rear admiral or was on a list of reserve officers recommended for promotion to the grade of rear admiral is not subject to [former] subsection (f) of section 6389 [now 8373] of title 10, United States Code, as added by this Act.

**"FEMALE OFFICERS**

"SEC. 615. (a) Except as provided under subsection (c), each regular officer who on the effective date of this Act [Sept. 15, 1981] is serving on the active list in the line of the Navy or on the active list of the Marine Corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in the line of the Navy or in the Marine Corps, as appropriate, in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

"(b) Each officer of the Navy who on the effective date of this Act [Sept. 15, 1981] is serving in a staff corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in that corps in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

"(c) Any officer who on the effective date of this Act [Sept. 15, 1981] is serving on the active list in the line of the Navy under an appointment made under section 5590 of title 10, United States Code, and who meets the qualifications for appointment in a staff corps of the Navy may, request appointment in a staff corps and, with the approval of the Secretary of the Navy, be appointed in that staff corps. Any appointment under this subsection shall be in lieu of the reappointment of the officer under subsection (a).

"(d) Each officer reappointed in a staff corps pursuant to subsection (b) or appointed in a staff corps under subsection (c) shall be considered for all purposes as having been originally appointed in such staff corps in accordance with the provisions of title 10, United States Code, as amended by this Act.

"(e) Except as otherwise specifically provided by law, all provisions of law relating to appointment, promotion, separation, and retirement which are applicable to male officers of the Regular Navy or Regular Marine Corps, as appropriate, apply to officers reappointed pursuant to subsection (a) or (b) or appointed under subsection (c).

"(f)(1) As soon as practicable after completion of the appointments and reappointments provided for in subsections (a), (b), and (c), the name of each officer so appointed or reappointed shall be entered on the appropriate active-duty list of the Navy or the Marine Corps in a position among officers of her grade determined in accordance with regulations prescribed by the Secretary of the Navy. Such officers shall be placed on the appropriate active-duty list without change in their relative positions held on the lineal list or any list for promotion established for them while they were serving under an appointment under any provision of title 10, United States Code, repealed by this Act.

"(2) Any female officer—

"(A) who, by virtue of her date of rank and other considerations, would be placed on a list of officers eligible for consideration for promotion in a position senior to an officer who has failed of selection for promotion one or more times; and

"(B) who is considered to have failed of selection for promotion once or is considered to have never failed of selection for promotion,

shall, for purposes of determining her eligibility for consideration for promotion to the next higher grade, be considered with those officers who are considered to have failed of selection for promotion once, or who are considered never to have failed of selection for promotion, as the case may be.

"(3) A female officer who is considered to have failed of selection for promotion one or more times and whose position on the active-duty list is junior to the position of any male officer who is considered to have failed of selection for promotion a fewer number of times or not at all may not derive any advantage in the selection process by virtue of such position on the active-duty list.

"(g) Except as provided in section 638 of title 10, United States Code, as added by this Act, a regular officer of the Navy or Marine Corps appointed under section 5590 of such title who—

"(1) before the effective date of this Act [Sept. 15, 1981] had not twice failed of selection for promotion to the next higher grade; and

"(2) is not selected for promotion to a higher regular grade on or after such effective date,

may not be retired earlier than such officer would have been retired had this Act not been enacted.

"(h)(1) Any officer who—

"(A) on the effective date of this Act [Sept. 15, 1981] is a lieutenant in the Navy or a captain in the Marine Corps;

"(B) under section 6396(c) or 6401 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 13 years of active commissioned service; and

"(C) because of the enactment of this Act, is subject to discharge under section 632 of such title because such officer has twice failed of selection for promotion,

shall, if such officer has not completed 13 years of active commissioned service at the time otherwise prescribed for the discharge of such officer under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 13 years of active commissioned service.

"(2) Any officer who—

"(A) on the effective date of this Act [Sept. 15, 1981] is a lieutenant (junior grade) in the Navy or a first lieutenant in the Marine Corps;

"(B) under section 6396(d) or 6402 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 7 years of active commissioned service; and

"(C) because of the enactment of this Act, is subject to discharge under section 631 of such title because such officer has twice failed of selection for promotion,

shall, if that officer has not completed 7 years of active commissioned service at the time otherwise prescribed for such discharge under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 7 years of active commissioned service.

## "LIMITED-DUTY OFFICERS

"SEC. 616. (a) An officer of the Regular Navy or Regular Marine Corps who on the effective date of this Act [Sept. 15, 1981] is an officer who was designated for limited duty before that date under section 5589 [now 8139] of title 10, United States Code, is subject to section 6383 [now 8372] of such title (as in effect on the day before the effective date of this Act), unless promoted to a higher permanent grade under chapter 36 of title 10, United States Code, as added by this Act.

"(b) Any female member of the Navy who on April 2, 1981, was appointed under section 591 [now 12201] or 5590 of title 10, United States Code, in the grade of ensign as an officer designated for limited duty may after September 14, 1981, be reappointed as an officer designated for limited duty under section 5596 [now 8146] of title 10, United States Code, as amended by this Act. A member so reappointed shall have a date of rank as an ensign of April 2, 1981, and shall have the same permanent pay grade and status as that member held on April 1, 1981.

"(c) An officer of the Navy or Marine Corps who on September 15, 1981, was an officer designated for limited duty under section 5589 [now 8139] of title 10, United States Code, and who on the date of the enactment of this subsection [Oct. 19, 1984] is serving in a temporary grade above the grade of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, may be reappointed under section 5589 [now 8139] of title 10, United States Code (as in effect on or after September 15, 1981), in the same permanent grade and with the same date of rank held by that officer on the active-duty list immediately before such reappointment if he is otherwise eligible for appointment under that section.

## "CERTAIN NAVY LIEUTENANTS HOLDING TEMPORARY APPOINTMENTS IN THE GRADE OF LIEUTENANT COMMANDER

"SEC. 617. Any officer who on the effective date of this Act [Sept. 15, 1981] holds a temporary appointment in the grade of lieutenant commander under section 5787d of title 10, United States Code, shall on and after such date be considered to be serving in such grade as if such appointment had been made under [former] section 5721 of such title, as added by this Act.

## "DIRECTOR OF BUDGET AND REPORTS OF THE NAVY

"SEC. 618. (a) An officer of the Navy who on the day before the effective date of this Act [Sept. 15, 1981] was serving on active duty and entitled to rank and privileges of retirement under section 5064 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall have his rank and retirement privileges determined under the laws in effect on such date.

### "CONTINGENCY AUTHORITY FOR NAVY PROMOTIONS UNDER PRIOR LAW

"SEC. 619. If necessary because of unforeseen circumstances, the Secretary of the Navy, during fiscal year 1982, may convene boards to select officers for promotion under chapters 545 and 549 of title 10, United States Code, as in effect on September 14, 1981, and officers so selected may be promoted in accordance with such chapters. An officer promoted to a higher grade under the authority of this section shall be subject to sections 613 and 629 as if he held that grade on September 14, 1981, and shall have a date of rank to be determined under section 741 of title 10, United States Code, as amended by this Act.

### "RETENTION ON ACTIVE DUTY OF CERTAIN RESERVE LIEUTENANT COMMANDERS

"SEC. 620. Notwithstanding section 6389 [now 8373] of title 10, United States Code, an officer who on September 14, 1981—

"(1) holds the grade of lieutenant commander in the Naval Reserve [now Navy Reserve];

"(2) is on active duty as the result of recall orders accepted subsequent to a break in active commissioned service;

"(3) is subject to placement on the active-duty list; and

"(4) is considered—

"(A) to have failed of selection for promotion to the grade of commander one or more times under chapter 545 of title 10, United States Code, as in effect on September 14, 1981; or

"(B) to have been later considered to have failed of selection for promotion to the grade of commander one or more times under chapter 36 of title 10, United States Code, as added by this Act,

may be retained on active duty by the Secretary of the Navy for such period as the Secretary considers appropriate.

## "PART C—GENERAL TRANSITION PROVISIONS

### "ESTABLISHMENT OF INITIAL ACTIVE-DUTY LISTS

"SEC. 621. (a)(1) Not later than 6 months after the effective date of this Act [Sept. 15, 1981], all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the active-duty list for their armed force under chapter 36 of title 10, United States Code, as added by this Act, shall be placed on such list with the same relative seniority which they held on the day before the effective date of this Act. An officer placed on an active-duty list under this section shall be considered to have been placed on such list as of the effective date of this Act.

"(2) Regulations prescribed under section 620 of title 10, United States Code, as added by this Act, shall be applicable to the placement of officers on the active-duty list under paragraph (1).

"(b) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the Secretary of the military department concerned, in order to maintain the relative seniority among officers of the Army, Navy, Air Force, and Marine Corps as it existed on September 14, 1981, may adjust the date of rank of officers—

"(1) below the grade of brigadier general or commodore during the one-year period beginning on September 15, 1981; and

"(2) above the grade of colonel or, in the case of the Navy, captain until there are no longer any officers to whom section 614(d) is applicable.

### "OFFICERS SERVING IN THE SAME TEMPORARY GRADE AND PERMANENT GRADE; DATE OF RANK

"SEC. 622. (a) Any officer of the Army, Navy, Air Force, or Marine Corps who on the effective date of this Act [Sept. 15, 1981] is serving on active duty in a temporary grade which is the same as his permanent grade shall on such date be serving in such grade subject to this title and the amendments made by this Act. The date of rank of such officer in that grade is the date of his temporary appointment to that grade.

### "OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL OR REAR ADMIRAL

"SEC. 623. (a) Any officer who on the day before the effective date of this Act [Sept. 15, 1981] held a temporary appointment in the grade of lieutenant general or general under section 3066, 5232, or 8066 of title 10, United States Code, or a temporary appointment in the grade of vice admiral or admiral under section 5231 of such title, shall on and after such date be considered to be serving in such grade as if such appointment had been made under section 601 of such title, as added by this Act.

"(b)(1) Any designation of a position as a position of importance and responsibility made by the President under section 3066 or 8066 of title 10, United States Code, before the effective date of this Act [Sept. 15, 1981], shall remain in effect, unless changed by the President, as a designation of such position as a position

of importance and responsibility under section 601 of such title, as added by this Act.

"(2) Any position held by an officer under section 5231 or 5232 of title 10, United States Code, on the effective date of this Act [Sept. 15, 1981] shall, unless changed by the President, be deemed to be a position of importance and responsibility designated by the President under section 601 of title 10, United States Code.

"(c) Any officer who before the effective date of this Act [Sept. 15, 1981] served in the grade of lieutenant general, general, vice admiral, or admiral but was not serving in such grade on the day before the effective date of this Act shall for the purposes of [former] section 1370(c) of title 10, United States Code, as added by this Act, be deemed to have held such position under an appointment made under section 601 of such title, as added by this Act.

**"YEARS OF SERVICE FOR INVOLUNTARY RETIREMENT OR DISCHARGE**

"SEC. 624. (a) In determining whether any officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act [Sept. 15, 1981] is subject to involuntary retirement or discharge under chapter 36 of title 10, United States Code, as added by this Act, the years of service of the officer for such purpose shall be computed by adding—

"(1) the amount of service creditable to such officer on the day before the effective date of this Act for the purpose of determining whether the officer is subject to involuntary retirement or discharge; and

"(2) all subsequent active commissioned service of such officer.

"(b) In the case of an officer subject to placement on the active-duty list on September 15, 1981, for whom no means of computing service creditable in determining whether the officer is subject to involuntary retirement or discharge existed under the law in effect on the day before the effective date of this Act [Sept. 15, 1981], the amount of creditable service of such officer for such purpose for the period before the effective date of this Act shall be determined under regulations prescribed by the Secretary of the military department concerned, except that such an officer may not be credited with an amount of service less than the amount of his active commissioned service.

**"SAVINGS PROVISION FOR CONSTRUCTIVE SERVICE PREVIOUSLY GRANTED**

"SEC. 625. (a) The amendments made by this Act do not affect the crediting of years of service to any person who on the day before the effective date of this Act [Sept. 15, 1981]—

"(1) had been credited with years of service upon an original appointment as an officer or after such an appointment; or

"(2) was participating in a program leading to an appointment as an officer in the Army, Navy, Air Force, or Marine Corps and the crediting of years of service.

"(b)(1) Any officer who on the effective date of this Act [Sept. 15, 1981] is an officer of the Army or Navy in the Medical or Dental Corps of his armed force, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service creditable to him for such purposes under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act.

"(2) Any person who on the day before the effective date of this Act [Sept. 15, 1981] was enrolled in the Uniformed Services University of the Health Sciences under chapter 104 of this title or the Armed Forces Health Professions Scholarship Program under chapter 105 of this title and who on or after the effective date of this Act graduates from such university or completes such program, as the case may be, and is appointed in one of the categories specified in paragraph (1) is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service that would have been credited to him under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act, had such clauses not been repealed by this Act.

**"MISCELLANEOUS PROVISIONS RELATING TO YEARS OF SERVICE**

"SEC. 626. (a) For the purpose of computing the years of service for pay and allowances of an officer of the Army, Navy, Air Force, or Marine Corps, including retired pay, severance pay, readjustment pay, separation pay, and basic pay, the total years of service of such officer shall be computed by adding to that service so creditable on the day before the effective date of this Act [Sept. 15, 1981] all subsequent service as computed under title 10, United States Code, as amended by this Act.

"(b) An officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the effective date of this Act [Sept. 15, 1981] and who is retired under section 1251 of title 10, United States Code, as added by this Act, shall be entitled to retired pay in an amount equal to not less than 50 percent of the basic pay upon which his retired pay is based.

"(c) The service that an officer of the Army, Navy, Air Force, or Marine Corps has in a particular grade is

the sum of—

"(A) the years, months, and days of service in that grade accrued under the laws in effect before the effective date of this Act [Sept. 15, 1981]; and

"(B) the years, months, and days of service in that grade accrued under the laws in effect on and after the effective date of this Act.

**"TRANSITION TO OFFICER GRADE-STRENGTH TABLES DURING FISCAL YEAR 1981**

"SEC. 627. For the fiscal year ending on September 30, 1981, the maximum number of officers authorized to be serving on active duty as of the end of such fiscal year in each of the grades of major, lieutenant colonel, and colonel for the Army, Air Force, and Marine Corps, and in each of the grades of lieutenant commander, commander, and captain for the Navy, under section 523 of title 10, United States Code, as added by this Act, is increased by the number equal to one-half the difference between (1) the actual number of officers of that armed force serving on active duty in that grade on September 30, 1980 (excluding officers in categories specified in subsection (b) of such section), and (2) the number specified in the table contained in such section for such armed force and grade based upon the total number of commissioned officers of such armed force on active duty on September 30, 1981 (excluding officers in categories specified in subsection (b) of such section).

**"RIGHT OF COMMISSIONED OFFICERS WITH PERMANENT ENLISTED OR WARRANT OFFICER STATUS TO RETIRE IN HIGHEST ENLISTED OR WARRANT OFFICER GRADE HELD**

"SEC. 628. (a) A member of the Army, Navy, Air Force, or Marine Corps who—

"(1) on the day before the effective date of this Act [Sept. 15, 1981] had a permanent status as an enlisted member or as a warrant officer (or had a statutory right to be enlisted or to be appointed as a warrant officer) and was serving as an officer under a temporary appointment; and

"(2) on or after the effective date of this Act and before completing 10 years of commissioned service for purposes of retirement eligibility under section 3911, 6323, or 8911 [now 7311, 8323, or 9311] of title 10, United States Code, completes 20 years of total service, as determined under section 1405 of such title, is entitled to retire or transfer to the Fleet Reserve or Fleet Marine Corps Reserve in the highest grade he held as an enlisted member or a warrant officer.

**"SAVINGS PROVISION FOR RETIRED GRADE FOR OFFICERS NOT SUBSEQUENTLY PROMOTED**

"SEC. 629. In applying [former] section 1370(a)(2) of title 10, United States Code, as added by this Act, to an officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act [Sept. 15, 1981] and who on or after the effective date of this Act is not promoted to a grade higher than the grade he held on the day before the effective date of this Act or, in the case of an officer who was on a list of officers recommended for promotion on such date, is not promoted to a grade higher than the grade to which he was recommended for promotion, 'two years' shall be substituted for 'three years'. The Secretary of the military department concerned may waive the requirements of this section and of section 1370(a)(2) of title 10, United States Code, as added by this Act, with respect to any officer described in the preceding sentence.

**"EXEMPTION OF CERTAIN OFFICERS FROM SELECTIVE EARLY RETIREMENT PROVISIONS**

"SEC. 630. An officer of the Army, Navy, Air Force, or Marine Corps who was recommended for continuation on the active list under the Act entitled 'An Act to provide improved opportunity for promotion for certain officers in the naval service, and for other purposes', approved August 11, 1959 (Public Law 86–155; 10 U.S.C. 5701 note), or under section 10 of the Act entitled 'An Act relating to the promotion and separation of certain officers of the regular components of the armed forces', approved July 12, 1960 (Public Law 86–616; 10 U.S.C. 3297 note), is not subject to section 638 of title 10, United States Code, as added by this Act, relating to selective early retirement.

**"SAVINGS PROVISION FOR ENTITLEMENT TO READJUSTMENT PAY OR SEVERANCE PAY UNDER PRIOR PROVISIONS OF LAW**

"SEC. 631. (a) A member of the Army, Navy, Air Force, or Marine Corps who—

"(1) was on active duty (other than for training) on Sept. 14, 1981; and

"(2) after such date is involuntarily discharged or released from active duty under any provision of title 10, United States Code, as in effect after such date,

is entitled to receive any readjustment payment or severance pay to which he would have been entitled under laws in effect on Sept. 14, 1981, unless (in the case of a member discharged or released on or after the date of the enactment of the Department of Defense Authorization Act, 1985 [Oct. 19, 1984]) the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay.

"(b) If a member who is entitled to receive a readjustment payment or severance pay under subsection (a) is also eligible to receive separation pay under section 1174 of title 10, United States Code, as added by this Act, the member may not receive both the readjustment payment and severance pay under laws in effect on Sept. 14, 1981, and separation pay under such section, but shall elect which he will receive. If the number fails to make an election in a timely manner, he shall be paid the amount which is more favorable to him.

**"OFFICERS ON ACTIVE DUTY IN GRADE ABOVE GENERAL**

"SEC. 632. Section 1251 of title 10, United States Code, as added by this Act, relating to mandatory retirement for age, shall not apply to any officer who on the effective date of this Act [Sept. 15, 1981] was on active duty in a grade above general.

**"DEFINITIONS**

"SEC. 633. For the purposes of this title:

"(1) The term 'officer' does not include warrant officers.

"(2) The term 'active-duty list' means the active-duty list established by the Secretary of the military department concerned pursuant to section 620 of title 10, United States Code, as added by this Act.

**"SAVINGS PROVISION FOR RETIRED GRADE OF CERTAIN RESERVE OFFICERS**

"SEC. 634. Unless entitled to a higher grade under any other provision of law, a member of the Army or Air Force who is a reserve officer and who—

"(1) is on active duty on September 14, 1981; and

"(2) after such date retires under section 3911 or 8911 [now 7311 or 9311] of title 10, United States Code,

is entitled to retire in the reserve grade which he held or to which he had been selected for promotion on September 14, 1981.

**"SAVINGS PROVISION FOR ORIGINAL APPOINTMENT IN CERTAIN GRADES UNDER EXISTING REGULATIONS**

"SEC. 635. Any person who before September 15, 1981—

"(1) was selected for participation in a postbaccalaureate educational program leading to an appointment as a commissioned officer or had completed a postbaccalaureate program and was selected for appointment as a commissioned officer of the Army, Navy, Air Force, or Marine Corps;

"(2) under regulations of the Secretary of the military department concerned in effect on December 12, 1980, would have been appointed and ordered to active duty in a grade specified or determined in accordance with such regulations; and

"(3) had not been so appointed and ordered to active duty,

may be appointed and ordered to active duty in such grade with a date of rank and position on the active-duty list junior to that of all other officers of the same grade and competitive category serving on active duty.

**"RETENTION IN GRADE OF CERTAIN RESERVE OFFICERS**

"SEC. 636. A reserve officer of the Army, Navy, Air Force, or Marine Corps who on September 14, 1981—

"(1) is serving on active duty (A) under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) [now 50 U.S.C. 3809(b)(2)] for the administration of the Selective Service System, or (B) under section 708 of title 32; and

"(2) is serving in a temporary grade or is selected for promotion to a temporary grade,

may continue to serve in or may be promoted to and serve in such grade until promoted to a higher grade, separated, or retired.

**"SAVINGS PROVISION REGARDING DISCHARGE OF REGULAR OFFICERS**

"SEC. 637. An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps who on September 14, 1981, was serving on active duty may not be discharged under section 630(1)(A) of title 10, United States Code, as added by this Act, on or after the day on which that officer completes three years of continuous service as a regular commissioned officer.

**"REPAYMENT OF READJUSTMENT AND SEVERANCE PAY**

"SEC. 638. Notwithstanding section 1174(h) of title 10, United States Code, as added by this Act, a person who received readjustment or severance pay before September 15, 1981, and who, on or after September 15, 1981, becomes entitled to retired or retainer pay under any provision of title 10 or title 14, United States Code, shall be required to repay that readjustment pay or severance pay in accordance with the laws in effect on September 14, 1981.

**"SAVINGS PROVISION FOR PROMOTION CONSIDERATION OF CERTAIN RETIRED OFFICERS**

"SEC. 639. Notwithstanding sections 619, 620, and 641(4) of title 10, United States Code, a retired officer serving on active duty on the date of the enactment of this section [Oct. 19, 1984] who on September 14, 1981, was on active duty as a retired officer recalled to active duty and who—

"(1) was eligible for consideration for promotion on that date; and

"(2) has served continuously on active duty since that date,

may be considered for promotion (under regulations prescribed by the Secretary of the military department concerned) by a selection board that convenes after the date of the enactment of this section as if he had been placed on the active-duty list pursuant to section 621 of this Act."

[In determining retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of title 10 in such determination with respect to such officers deemed to be a reference to section 1370a of title 10, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.]

## §612. Composition of selection boards

(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers of the same armed force as the officers under consideration by the board. Each member of a selection board (except as provided in paragraphs (2), (3), and (4)) shall be an officer on the active-duty list. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be determined by the Secretary of the military department concerned, in the Secretary's discretion. Notwithstanding the first sentence of this paragraph, in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or rear admiral (lower half), no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade who are eligible to serve on the board.

(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board

officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(5) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(b) No officer may be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who—

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of—

(A) any selection board of the Marine Corps or the Space Force; or

(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2851; amended Pub. L. 97–22, §4(a), July 10, 1981, 95 Stat. 125; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–433, title IV, §402(a), Oct. 1, 1986, 100 Stat. 1030; Pub. L. 106–398, §1 [[div. A], title V, §504(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–101; Pub. L. 111–383, div. A, title V, §522(a), Jan. 7, 2011, 124 Stat. 4214; Pub. L. 116–283, div. A, title V, §503(a)(1), Jan. 1, 2021, 134 Stat. 3564; Pub. L. 118–159, div. A, title V, §521(d)(2), Dec. 23, 2024, 138 Stat. 1881.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c)(3)(A). Pub. L. 118–159 inserted "or the Space Force" after "of the Marine Corps".

**2021**—Subsec. (a)(1). Pub. L. 116–283 inserted at end "The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable."

**2011**—Subsec. (c). Pub. L. 111–383 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Each selection board convened under section 611(a) of this title that will consider officers who are serving in, or have served in, joint duty assignments shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is currently serving in a joint duty assignment. The Secretary of Defense may waive the preceding sentence in the case of any selection board of the Marine Corps."

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title V, §504(a)(1)], struck out "who are on the active-duty list" after "five or more officers" in second sentence and inserted after second sentence "Each member of a selection board (except as provided in paragraphs (2), (3), and (4)) shall be an officer on the active-duty list."

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title V, §504(a)(2)], substituted "of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be" for "of that armed force, with the exact number of reserve officers to be" and "the Secretary's discretion. Notwithstanding the first sentence of this paragraph," for "his discretion, except that".

**1986**—Subsec. (c). Pub. L. 99–433 added subsec. (c).

**1985**—Subsec. (a)(3). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1981**—Subsec. (a)(2). Pub. L. 97–22, §4(a)(1), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), a selection board" for "A selection board", and added subpar. (B).

Subsec. (a)(3). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Pub. L. 97–22, §4(a)(2), inserted ", with the exact number of reserve officers to be determined by the Secretary of the military department concerned in his discretion" after "at least one reserve officer of that armed force" and inserted "who are eligible to serve on the board" after "the next higher grade".

Subsec. (a)(4). Pub. L. 97–22, §4(a)(3), substituted "Except as provided in paragraphs (2) and (3)" for

"Except as provided in paragraph (3)" and "officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve" for "retired officers of the same armed force who hold a retired grade higher than the grade of the officers under consideration by the board" and designated as par. (5) provisions that retired general or flag officers on active duty for the purpose of serving on a selection board not be counted against any limitation on the number of general and flag officers who may be on active duty.

Subsec. (a)(5). Pub. L. 97–22, §4(a)(3), added par. (5) consisting of provisions, formerly contained in par. (4).

Subsec. (b). Pub. L. 97–22, §4(a)(4), inserted "convened under section 611(a) of this title" after "selection boards".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §504(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–102, provided that: "The amendments made by subsection (a) [amending this section] shall apply to any selection board convened under section 611(a) of title 10, United States Code, on or after August 1, 1981."

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–433, title IV, §406(f), Oct. 1, 1986, 100 Stat. 1034, provided that: "The amendments made by section 402 [amending this section and sections 615 and 618 of this title] shall take effect with respect to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 120-day period beginning on the date of the enactment of this Act [Oct. 1, 1986]."

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### AUTHORITY TO WAIVE PROHIBITION ON OFFICERS SERVING ON SUCCESSIVE SELECTION BOARDS FOR BOARDS TO CONSIDER OFFICERS FOR PROMOTION TO MAJOR GENERAL OR REAR ADMIRAL

Pub. L. 119–60, div. A, title V, §507, Dec. 18, 2025, 139 Stat. 859, provided that: "Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may, during the three-year period following the date of the enactment of this Act [Dec. 18, 2025], waive the limitation in section 612(b)(1) [probably should be "612(b)"] of title 10, United States Code, in the case of a selection board that will consider officers for recommendation for promotion to the grade of major general or rear admiral if the Secretary of the military department determines that qualified officers on the active-duty list or Space Force officer list or otherwise authorized to serve on the board are not available in sufficient number to comprise that selection board."

## §613. Oath of members of selection boards

Each member of a selection board shall swear that he will perform his duties as a member of the board without prejudice or partiality and having in view both the special fitness of officers and the efficiency of his armed force.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2851.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §613a. Nondisclosure of board proceedings

(a) PROHIBITION ON DISCLOSURE.—The proceedings of a selection board convened under section 573, 611, 628, or 20211 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.

(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, NOTES, AND RECORDS.—The discussions and deliberations of a selection board described in subsection (a) and any written or documentary record of such discussions and deliberations—

(1) are immune from legal process;

(2) may not be admitted as evidence; and

(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.

(c) APPLICABILITY.—This section applies to all selection boards convened under section 573, 611, 628, or 20211 of this title, regardless of the date on which the board was convened.

(Added Pub. L. 109–364, div. A, title V, §547(a)(1), Oct. 17, 2006, 120 Stat. 2215; amended Pub. L. 111–383, div. A, title V, §503(a), Jan. 7, 2011, 124 Stat. 4207; Pub. L. 118–31, div. A, title XVII, §1722(b)(1), Dec. 22, 2023, 137 Stat. 668.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsecs. (a), (c). Pub. L. 118–31 substituted "573, 611, 628, or 20211" for "573, 611, or 628".

**2011**—Subsec. (a). Pub. L. 111–383, §503(a)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The proceedings of a selection board convened under section 611 this title may not be disclosed to any person not a member of the board."

Subsec. (b). Pub. L. 111–383, §503(a)(2), substituted "Notes, and Records" for "and Records" in heading.

Subsec. (c). Pub. L. 111–383, §503(a)(3), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 109–364, div. A, title V, §547(c), Oct. 17, 2006, 120 Stat. 2216, provided that: "Section 613a of title 10, United States Code, as added by subsection (a), shall apply with respect to the proceedings of all selection boards convened under section 611 of that title, including selection boards convened before the date of the enactment of this Act [Oct. 17, 2006]. Section 14104 of such title, as amended by subsection (b), shall apply with respect to the proceedings of all selection boards convened under section 14101 of that title, including selection boards convened before the date of the enactment of this Act."

## §614. Notice of convening of selection boards

(a) At least 30 days before a selection board is convened under section 611(a) of this title to recommend officers in a grade for promotion to the next higher grade, the Secretary concerned (1) shall notify in writing the officers eligible for consideration for promotion of the date on which the board is to convene and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification, or (2) shall issue a general written notice to the

armed force concerned regarding the convening of the board which shall include the convening date of the board and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification.

(b) An officer eligible for consideration by a selection board convened under section 611(a) of this title may send a written communication to the board, to arrive not later than 10 calendar days before the date the board convenes, calling attention to any matter concerning himself that the officer considers important to his case. The selection board shall give consideration to any timely communication under this subsection.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 97–22, §4(b), July 10, 1981, 95 Stat. 126; Pub. L. 102–190, div. A, title V, §504(a)(2)(A), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 109–163, div. A, title V, §505(a), Jan. 6, 2006, 119 Stat. 3227; Pub. L. 115–91, div. A, title V, §501(a), Dec. 12, 2017, 131 Stat. 1373.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 substituted "10 calendar days before" for "the day before" in first sentence.

**2006**—Subsec. (b). Pub. L. 109–163 inserted "the day before" after "not later than" in first sentence.

**1991**—Pub. L. 102–190 struck out "; communications with boards" after "selection boards" in section catchline.

**1981**—Subsec. (a). Pub. L. 97–22 substituted "which shall include the convening date of the board" for ", the names of the officers eligible for consideration by the board as of the date of the notification, the convening date of the board,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title V, §501(c), Dec. 12, 2017, 131 Stat. 1373, provided that: "The amendments made by this section [amending this section and section 14106 of this title] shall apply with respect to promotion selection boards convened on or after the date of the enactment of this Act [Dec. 12, 2017]."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §505(c), Jan. 6, 2006, 119 Stat. 3227, provided that: "The amendments made by this section [amending this section and section 14106 of this title] shall take effect on March 1, 2006, and shall apply with respect to selection boards convened on or after that date."

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102–190, set out as a note under section 615 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §615. Information furnished to selection boards

(a)(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 611(a) or 20211 of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

(2) No information concerning a particular eligible officer may be furnished to a selection board

except for the following:

(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the selection board.

(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 614(b) of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1), is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

(3)(A) In the case of an eligible officer considered for promotion to a grade specified in subparagraph (B), any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

(B) A grade specified in this subparagraph is as follows:

(i) In the case of a regular officer or an officer in the Space Force, a grade above captain or, in the case of the Navy, lieutenant.

(ii) In the case of a reserve officer, a grade above lieutenant colonel or, in the case of the Navy, commander.

(C) The standards and procedures referred to in subparagraph (A) shall require the furnishing to the selection board, and to each individual member of the board, the information described in that subparagraph with regard to an officer in a grade specified in subparagraph (B) at each stage or phase of the selection board, concurrent with the screening, rating, assessment, evaluation, discussion, or other consideration by the board or member of the official military personnel file of the officer, or of the officer.

(D) With respect to the consideration of an officer for promotion to a grade at or below major general or in the case of the Navy, rear admiral, the requirements in subparagraphs (A) and (C) may be met through the convening and actions of a special selection review board with respect to the officer under section 628a of this title.

(4) Information provided to a selection board in accordance with paragraphs (2) and (3) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the selection board.

(5) Paragraphs (2), (3), and (4) do not apply to the furnishing of appropriate administrative processing information to the selection board by administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

(6) Information furnished to a selection board that is described in subparagraph (B), (C), or (D) of paragraph (2), or in paragraph (3), may not be furnished to a later selection board unless—

(A) the information has been properly placed in the official military personnel file of the officer concerned; or

(B) the information is provided to the later selection board in accordance with paragraph (2) or (3), as applicable.

(7)(A) Before information described in paragraph (2)(B) or (3) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

(i) that such information is made available to such officer; and

(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the selection board.

(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished with an appropriate summary of the information.

(b) The Secretary of the military department concerned shall furnish each selection board convened under section 611(a) of this title with—

(1) the maximum number, as determined in accordance with section 622 of this title, of officers in each competitive category under consideration that the board may recommend for promotion to the next higher grade;

(2) the names of all officers in each competitive category to be considered by the board for promotion;

(3) the pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board;

(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;

(5) guidelines, based upon guidelines received by the Secretary from the Secretary of Defense under subsection (c), for the purpose of ensuring that the board gives appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers; and

(6) such other information and guidelines as may be necessary to enable the board to properly perform its functions.

(c) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall furnish to the Secretaries of the military departments guidelines for the purpose of ensuring that each selection board convened under section 611(a) of this title gives appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers.

(d) Information or guidelines furnished to a selection board under subsection (b) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

(e) The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a selection board convened under section 611(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of the Navy, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 99–433, title IV, §402(b), Oct. 1, 1986, 100 Stat. 1030; Pub. L. 100–456, div. A, title V, §501(a), Sept. 29, 1988, 102 Stat. 1965; Pub. L. 101–189, div. A, title V, §519, Nov. 29, 1989, 103 Stat. 1444; Pub. L. 102–190, div. A, title V, §504(a)(1), Dec. 5, 1991, 105 Stat. 1355; Pub. L. 102–484, div. A, title X, §1052(7), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 109–163, div. A, title V, §506(a), Jan. 6, 2006, 119 Stat. 3227; Pub. L. 111–383, div. A, title V, §522(b), Jan. 7, 2011, 124 Stat. 4215; Pub. L. 116–92,

div. A, title V, §502(a), (b), Dec. 20, 2019, 133 Stat. 1344; Pub. L. 116–283, div. A, title V, §505(c)(1), (2), Jan. 1, 2021, 134 Stat. 3572; Pub. L. 118–31, div. A, title XVII, §1722(b)(2), Dec. 22, 2023, 137 Stat. 668.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a)(1). Pub. L. 118–31, §1722(b)(2)(A), inserted "or 20211" after "section 611(a)".

Subsec. (a)(3)(B)(i). Pub. L. 118–31, §1722(b)(2)(B)(i), which directed amendment of subpar. (B) by substituting "regular officer or an officer in the Space Force, a grade above captain or, in the case of the Navy, lieutenant." for " 'regular officer' and all that follows", was executed only through the end of cl. (i) of subpar. (B) by making the substitution for "regular officer, a grade above captain, in the case of the Navy, lieutenant, or in the case of the Space Force, the equivalent grade." to reflect the probable intent of Congress.

Subsec. (a)(3)(D). Pub. L. 118–31, §1722(b)(2)(B)(ii), substituted "major general or" for "major general," and struck out "or, in the case of the Space Force, the equivalent grade," after "rear admiral,".

**2021**—Subsec. (a)(3)(B)(i). Pub. L. 116–283, §505(c)(1), substituted ", in the case of the Navy, lieutenant, or in the case of the Space Force, the equivalent grade" for "or, in the case of the Navy, lieutenant".

Subsec. (a)(3)(D). Pub. L. 116–283, §505(c)(2), added subpar. (D).

**2019**—Subsec. (a)(3). Pub. L. 116–92 designated existing provisions as subpar. (A), substituted "a grade specified in subparagraph (B)" for "a grade above colonel or, in the case of the Navy, captain", and added subpars. (B) and (C).

**2011**—Subsecs. (b)(5), (c). Pub. L. 111–383 substituted "of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers" for "in joint duty assignments of officers who are serving, or have served, in such assignments".

**2006**—Subsec. (a)(3). Pub. L. 109–163, §506(a)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 109–163, §506(a)(2)(A), substituted "paragraphs (2) and (3)" for "paragraph (2)".

Pub. L. 109–163, §506(a)(1)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109–163, §506(a)(2)(B), substituted ", (3), and (4)" for "and (3)".

Pub. L. 109–163, §506(a)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 109–163, §506(a)(2)(C)(i), inserted ", or in paragraph (3)," after "paragraph (2)" in introductory provisions.

Pub. L. 109–163, §506(a)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (a)(6)(B). Pub. L. 109–163, §506(a)(2)(C)(ii), inserted "or (3), as applicable" before period at end.

Subsec. (a)(7). Pub. L. 109–163, §506(a)(1)(A), redesignated par. (6) as (7).

Subsec. (a)(7)(A). Pub. L. 109–163, §506(a)(2)(D), inserted "or (3)" after "paragraph (2)(B)" in introductory provisions.

**1992**—Subsec. (b)(5). Pub. L. 102–484, §1052(7)(A), substituted "subsection (c)" for "subsection (b)".

Subsec. (d). Pub. L. 102–484, §1052(7)(B), substituted "subsection (b)" for "subsection (a)".

**1991**—Pub. L. 102–190 added subsec. (a) and redesignated former subsecs. (a) to (d) as (b) to (e), respectively.

**1989**—Subsec. (d). Pub. L. 101–189 added subsec. (d).

**1988**—Subsec. (a)(4). Pub. L. 100–456, §501(a)(1), added cl. (4) and struck out former cl. (4) which read as follows: "information relating to the needs of the armed force concerned for officers having particular skills;".

Subsec. (c). Pub. L. 100–456, §501(a)(2), added subsec. (c).

**1986**—Pub. L. 99–433 designated existing provisions as subsec. (a), added par. (5), redesignated former par. (5) as (6), and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §502(c), Dec. 20, 2019, 133 Stat. 1344, as amended by Pub. L. 116–283, div. A, title V, §505(c)(3), Jan. 1, 2021, 134 Stat. 3572, provided that:

"(1) EFFECTIVE DATE.—The amendments made by this section [amending this section] shall take effect on December 20, 2019, and shall, except as provided in paragraph (2), apply with respect to the proceedings of promotion selection boards convened under section 611(a) of title 10, United States Code, after that date.

"(2) DELAYED APPLICABILITY FOR BOARDS FOR PROMOTION TO NON-GENERAL AND FLAG OFFICER GRADES.—The amendments made this section shall apply with respect to the proceedings of promotion selection boards convened under section 611(a) of title 10, United States Code, for consideration of officers for promotion to a grade below the grade of brigadier general or, in the case of the Navy, rear admiral (lower half), only if such boards are so convened after January 1, 2021."

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–163, div. A, title V, §506(c), Jan. 6, 2006, 119 Stat. 3228, provided that: "The amendments made by this section [amending this section and section 14107 of this title] shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date."

**EFFECTIVE DATE OF 1991 AMENDMENT**

Pub. L. 102–190, div. A, title V, §504(e), Dec. 5, 1991, 105 Stat. 1358, provided that: "The amendments made by this section [amending this section and sections 614, 616, 618, and 619 of this title] shall apply to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Dec. 5, 1991]."

**EFFECTIVE DATE OF 1988 AMENDMENT**

Pub. L. 100–456, div. A, title V, §501(e), Sept. 29, 1988, 102 Stat. 1966, provided that: "The amendments made by this section [amending this section and sections 616 to 618 of this title] shall take effect 60 days after the date of the enactment of this Act [Sept. 29, 1988] and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that effective date."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–433 effective with respect to selection boards convened under section 611(a) of this title after end of 120-day period beginning on Oct. 1, 1986, see section 406(f) of Pub. L. 99–433, set out as a note under section 612 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**PILOT PROGRAM ON PEER AND SUBORDINATE ASSESSMENTS OF CERTAIN OFFICERS**

Pub. L. 118–159, div. A, title V, §509F, Dec. 23, 2024, 138 Stat. 1874, provided that:

"(a) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary concerned shall implement, in a covered Armed Force, a five-year pilot program, pursuant to which—

"(1) an officer described in subsection (b) shall be assessed by peers and subordinates; and

"(2) the results of such assessments may be available to a command selection or command qualification board concerned; and

"(3) the command selection or command qualification board may consider such results in determining whether to recommend such officer for such selection or qualification.

"(b) COVERED OFFICERS.—An officer described in this subsection is a regular officer—

"(1) eligible for consideration for command;

"(2) in grade O-5 or O-6; and

"(3) in a career field—

"(A) specified in subsection (c); or

"(B) determined by the Secretary concerned.

"(c) COVERED CAREER FIELDS.—The career fields specified in this subsection are the following:

"(1) In the Navy, surface warfare, submarine warfare, special warfare, or explosive ordnance disposal.

"(2) In the Marine Corps, infantry, logistics, or field artillery.

"(3) In the Air Force, operations or logistics.

"(4) In the Space Force, space operations.

"(d) SELECTION OF ASSESSORS.—The Secretary concerned may select an individual to assess an officer under the pilot program if the Secretary determines such individual has worked with the officer closely enough to have an informed opinion regarding the officer's leadership abilities. An officer may not have any input regarding the selection of an individual who shall assess such officer.

"(e) REPORT.—Not later than three months after the termination of a pilot program, a Secretary concerned

shall submit to the Committees on Armed Services of the House of Representatives and Senate a report regarding the pilot program. Elements of each such report shall include the following:

"(1) The determination of the Secretary concerned whether the pilot program improved the command selection or command qualification process of the covered Armed Force.

"(2) The rationale and findings of the Secretary concerned in determining whether to use such assessments in the command selection or command qualification process of such covered Armed Force.

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force.

"(2) The terms 'regular' and 'Secretary concerned' have the meanings given such term in section 101 of title 10, United States Code."

**EXCLUSION OF OFFICIAL PHOTOGRAPHS OF MEMBERS FROM RECORDS FURNISHED TO PROMOTION SELECTION BOARDS**

Pub. L. 116–283, div. A, title V, §524(a)–(c), Jan. 1, 2021, 134 Stat. 3599, provided that:

"(a) ACTIVE DUTY OFFICERS.—The Secretary of Defense shall include in the regulations prescribed pursuant to section 615(a) of title 10, United States Code, a prohibition on the inclusion of an official photograph of an officer in the information furnished to a selection board pursuant to section 615(b) of such title.

"(b) RESERVE OFFICERS.—The Secretary of Defense shall include in regulations prescribed pursuant to section 14107(a)(1) of title 10, United States Code, a prohibition on the inclusion of an official photograph of an officer in the information furnished to a selection board pursuant to section 14107(a)(2) of such title.

"(c) ENLISTED MEMBERS.—Each Secretary of a military department shall prescribe regulations that prohibit the inclusion of an official photograph of an enlisted member in the information furnished to a board that considers enlisted members under the jurisdiction of such Secretary for promotion."

## §616. Recommendations for promotion by selection boards

(a) A selection board convened under section 611(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under section 615(b) of this title), considers best qualified for promotion within each competitive category considered by the board.

(b) The Secretary of the military department concerned shall establish the number of officers such a selection board may recommend for promotion from among officers being considered from below the promotion zone in any competitive category. Such number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the service so require. If the number determined under this subsection is less than one, the board may recommend one such officer. The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers which the board is authorized under section 615 of this title to recommend for promotion.

(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable.

(d)(1) Subject to paragraph (2), the number of officers recommended for promotion by a selection board convened under section 611(a) of this title may not exceed the number equal to 95 percent of the number of officers included in the promotion zone established under section 623 of this title for consideration by the board, except, the Secretary concerned may authorize a greater number of officers so recommended that is less than 100 percent of the number of officers so included, for medical and dental officers recommended for promotion to major or lieutenant commander, if the Secretary concerned determines that such greater number is necessary to maintain or improve medical readiness.

(2) During the period beginning on January 1, 2025, and ending on December 31, 2030, the number of officers recommended for promotion by a selection board convened under section 611(a) of this title may not equal or exceed 100 percent of the number of officers included in the promotion zone established under section 623 of this title for consideration by the board, for nurse officers recommended for promotion to major or lieutenant commander, if the Secretary concerned determines that such greater number is necessary to maintain or improve medical readiness.

(e) Except as otherwise provided by law, an officer on the active-duty list may not be promoted to a higher grade under this chapter unless he is considered and recommended for promotion to that grade by a selection board convened under this chapter.

(f) The recommendations of a selection board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 617 of this title, is signed by each member of the board.

(g) The Secretary convening a selection board under section 611(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a selection board or any member of a selection board in the formulation of the board's recommendations.

(h)(1) In selecting the officers to be recommended for promotion, a selection board shall, when authorized by the Secretary of the military department concerned, recommend officers of particular merit, pursuant to guidelines and procedures prescribed by the Secretary, from among those officers selected for promotion, to be placed higher on the promotion list established by the Secretary under section 624(a)(1) of this title.

(2) An officer may be recommended to be placed higher on a promotion list under paragraph (1) only if the officer receives the recommendation of at least a majority of the members of the board, unless the Secretary concerned establishes an alternative requirement. Any such alternative requirement shall be furnished to the board as part of the guidelines furnished to the board under section 615 of this title.

(3) For the officers recommended to be placed higher on a promotion list under paragraph (1), the board shall recommend, pursuant to guidelines and procedures prescribed by the Secretary concerned, the order in which those officers should be placed on the list.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 100–456, div. A, title V, §501(b), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102–190, div. A, title V, §504(b), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 102–484, div. A, title X, §1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 109–364, div. A, title V, §512(a), Oct. 17, 2006, 120 Stat. 2184; Pub. L. 115–232, div. A, title V, §504(a), title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1742, 1840; Pub. L. 116–92, div. A, title V, §503(a), Dec. 20, 2019, 133 Stat. 1344; Pub. L. 116–283, div. A, title V, §504(a), Jan. 1, 2021, 134 Stat. 3565; Pub. L. 118–31, div. A, title V, §506, Dec. 22, 2023, 137 Stat. 242; Pub. L. 118–159, div. A, title V, §504, Dec. 23, 2024, 138 Stat. 1869.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d). Pub. L. 118–159 designated existing provisions as par. (1), substituted "Subject to paragraph (2), the number" for "The number", and added par. (2).

**2023**—Subsec. (d). Pub. L. 118–31 inserted before period at end ", except, the Secretary concerned may authorize a greater number of officers so recommended that is less than 100 percent of the number of officers so included, for medical and dental officers recommended for promotion to major or lieutenant commander, if the Secretary concerned determines that such greater number is necessary to maintain or improve medical readiness".

**2021**—Subsec. (h)(1). Pub. L. 116–283, §504(a)(1), substituted "shall" for "may" and inserted "pursuant to guidelines and procedures prescribed by the Secretary," after "officers of particular merit,".

Subsec. (h)(3). Pub. L. 116–283, §504(a)(2), inserted ", pursuant to guidelines and procedures prescribed by the Secretary concerned," after "shall recommend".

**2019**—Subsecs. (d) to (h). Pub. L. 116–92 added subsec. (d) and redesignated former subsecs. (d) to (g) as (e) to (h), respectively.

**2018**—Subsec. (c)(3). Pub. L. 115–232, §809(a), substituted "section 7233, 8167, or 9233" for "section 3583, 5947, or 8583".

Subsec. (g). Pub. L. 115–232, §504(a), added subsec. (g).

**2006**—Subsec. (c)(3). Pub. L. 109–364 added par. (3).

**1992**—Pub. L. 102–484 substituted "section 615(b)" for "section 615(a)".

**1991**—Subsecs. (e), (f). Pub. L. 102–190 added subsecs. (e) and (f).

**1988**—Subsec. (a). Pub. L. 100–456 inserted "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title V, §504(b), Jan. 1, 2021, 134 Stat. 3565, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply with respect to officers recommended for promotion by promotion selection boards convened on or after that date."

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §503(b), Dec. 20, 2019, 133 Stat. 1344, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019], and shall apply with respect to consideration by promotion selection boards convened under section 611(a) of title 10, United States Code, of promotion zones that are established under section 623 of that title on or after that date."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §512(c), Oct. 17, 2006, 120 Stat. 2184, provided that: "The amendments made by this section [amending this section and section 14108 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to selection boards convened on or after that date."

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102–190, set out as a note under section 615 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective 60 days after Sept. 29, 1988, and applicable with respect to

selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100–456, set out as a note under section 615 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §617. Reports of selection boards

(a) Each selection board convened under section 611(a) of this title shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 615(b) of this title) among those officers whose names were furnished to the selection board.

(b) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular or reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under chapter 60 or 1411 of this title to show cause for his retention on active duty.

(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any officer considered and not recommended for promotion by the board who submitted to the board a request not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.

(d) A selection board convened under section 611(a) of this title shall, when authorized under section 616(h) of this title, include in its report to the Secretary concerned the names of those officers recommended by the board to be placed higher on the promotion list and the order in which the board recommends that those officers should be placed on the list.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2853; amended Pub. L. 100–456, div. A, title V, §501(c), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102–484, div. A, title X, §1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–337, div. A, title XVI, §1623, Oct. 5, 1994, 108 Stat. 2961; Pub. L. 105–261, div. A, title V, §502(b), Oct. 17, 1998, 112 Stat. 2003; Pub. L. 106–65, div. A, title V, §503(a), Oct. 5, 1999, 113 Stat. 590; Pub. L. 115–232, div. A, title V, §504(b), Aug. 13, 2018, 132 Stat. 1742; Pub. L. 116–283, div. A, title X, §1081(a)(18), Jan. 1, 2021, 134 Stat. 3871.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283 substituted "section 616(h)" for "section 616(g)".

**2018**—Subsec. (d). Pub. L. 115–232 added subsec. (d).

**1999**—Subsec. (c). Pub. L. 106–65 struck out "regular" before "officer".

**1998**—Subsec. (c). Pub. L. 105–261 added subsec. (c).

**1994**—Subsec. (b). Pub. L. 103–337 inserted "or reserve" after "any regular" and "or 1411" after "chapter 60".

**1992**—Subsec. (a). Pub. L. 102–484 substituted "section 615(b)" for "section 615(a)".

**1988**—Subsec. (a)(2). Pub. L. 100–456 inserted "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title V, §503(b), Oct. 5, 1999, 113 Stat. 590, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to boards convened under section 611(a) of title 10, United States Code, on or after the date of the enactment of this Act [Oct. 5, 1999]."

**EFFECTIVE DATE OF 1998 AMENDMENT**

Pub. L. 105–261, div. A, title V, §502(c), Oct. 17, 1998, 112 Stat. 2003, provided that: "The amendments made by this section [amending this section and section 1174 of this title] shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after the date of the enactment of this Act [Oct. 17, 1998]."

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100–456, set out as a note under section 615 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §618. Action on reports of selection boards

(a)(1) Upon receipt of the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(b) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (b) or (c), as appropriate.

(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 615(b) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.

(b)(1) After completing the requirements of subsection (a), the Secretary concerned, in the case of the report of a selection board that considered officers who are serving on, or have served on, the Joint Staff or are joint qualified officers, shall submit the report to the Chairman of the Joint Chiefs of Staff.

(2) The Chairman, in accordance with guidelines furnished to the Chairman by the Secretary of Defense, shall review the report for the purpose of determining if—

(A) the selection board acted consistent with the guidelines of the Secretary of Defense under section 615(c) of this title to ensure that selection boards give appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers; and

(B) the selection board otherwise gave appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers.

(3) After reviewing the report, the Chairman shall return the report, with his determinations and comments, to the Secretary concerned.

(4) If the Chairman determines that the board acted contrary to the guidelines of the Secretary of Defense under section 615(c) of this title or otherwise failed to give appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers, the Secretary concerned may—

(A) return the report, together with the Chairman's determinations and comments, to the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) for further proceedings in accordance with subsection (a);

(B) convene a special selection board in the manner provided for under section 628 of this title; or

(C) take other appropriate action to satisfy the concerns of the Chairman.

(5) If, after completion of all actions taken under paragraph (4), the Secretary concerned and the Chairman remain in disagreement with respect to the report of a selection board, the Secretary concerned shall indicate such disagreement, and the reasons for such disagreement, as part of his transmittal of the report of the selection board to the Secretary of Defense under subsection (c). Such transmittal shall include any comments submitted by the Chairman.

(c)(1) After his final review of the report of a selection board, the Secretary concerned shall submit the report, with his recommendations thereon, to the Secretary of Defense for transmittal to the President for his approval or disapproval. The Secretary of Defense shall, before transmitting the report of a selection board to the President, take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman transmitted to him under subsection (b)(5). If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.

(2) If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title.

(d)(1) Except as provided in paragraph (2), the name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

(2) In the case of an officer recommended by a selection board for promotion to a grade below brigadier general or rear admiral (lower half), the name of the officer may also be removed from the report of the selection board by the Secretary of Defense or the Deputy Secretary of Defense.

(3) The Secretary of Defense shall notify the congressional defense committees of the removal of the name of an officer from the report of a selection board by the President or the Secretary or Deputy Secretary of Defense under paragraph (1) or paragraph (2), respectively, for any reason other than misconduct—

(A) not later than 30 days after the name of an officer is removed; and

(B) prior to submission to the Senate of a promotion list with respect to such report pursuant to section 624(c) of this title.

(e)(1) The names of the officers recommended for promotion in the report of a selection board shall be disseminated to the armed force concerned as follows:

(A) In the case of officers recommended for promotion to a grade below brigadier general or rear admiral (lower half), such names may be disseminated upon, or at any time after, the transmittal of the report to the President.

(B) In the case of officers recommended for promotion to a grade above colonel or, in the case of the Navy, captain, such names may be disseminated upon, or at any time after, the approval of the report by the President.

(C) In the case of officers whose names have not been sooner disseminated, such names shall be promptly disseminated upon confirmation by the Senate.

(2) A list of names of officers disseminated under paragraph (1) may not include—

(A) any name removed by the President from the report of the selection board containing that name, if dissemination is under the authority of subparagraph (B) of such paragraph; or

(B) the name of any officer whose promotion the Senate failed to confirm, if dissemination is under the authority of subparagraph (C) of such paragraph.

[(f) Repealed. Pub. L. 109–364, div. A, title V, §547(a)(2), Oct. 17, 2006, 120 Stat. 2216.]

(g) If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from a report of a selection board and the recommendation is accompanied by information that was not presented to that selection board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2853; amended Pub. L. 98–525, title V, §524(a), Oct. 19, 1984, 98 Stat. 2524; Pub. L. 99–433, title IV, §402(c), Oct. 1, 1986, 100 Stat. 1030; Pub. L. 100–456, div. A, title V, §501(d), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102–190, div. A, title V, §504(c), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 102–484, div. A, title X, §1052(8), (9), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 106–398, §1 [[div. A], title V, §503(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–100; Pub. L. 109–364, div. A, title V, §§513(a), 547(a)(2), Oct. 17, 2006, 120 Stat. 2184, 2216; Pub. L. 111–383, div. A, title V, §522(c), Jan. 7, 2011, 124 Stat. 4215; Pub. L. 119–60, div. A, title V, §503(a)(1), Dec. 18, 2025, 139 Stat. 855.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (d)(3). Pub. L. 119–60 added par. (3).

**2011**—Subsec. (b)(1). Pub. L. 111–383, §522(c)(1), substituted "are serving on, or have served on, the Joint Staff or are joint qualified officers" for "are serving, or have served, in joint duty assignments".

Subsec. (b)(2). Pub. L. 111–383, §522(c)(2), substituted "of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers" for "in joint duty assignments of officers who are serving, or have served, in such assignments" in subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 111–383, §522(c)(3), substituted "who are serving on, or have served on, the Joint Staff or are joint qualified officers" for "in joint duty assignments" in introductory provisions.

**2006**—Subsec. (d). Pub. L. 109–364, §513(a), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the name" for "The name", and added par. (2).

Subsec. (f). Pub. L. 109–364, §547(a)(2), struck out subsec. (f) which read as follows: "Except as authorized or required by this section, proceedings of a selection board convened under section 611(a) of this title may not be disclosed to any person not a member of the board."

**2000**—Subsec. (e). Pub. L. 106–398 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If such names have not been sooner disseminated, such names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate."

**1992**—Subsec. (a)(1), (2). Pub. L. 102–484, §1052(8), substituted "section 615(b)" for "section 615(a)".

Subsec. (b)(2)(A), (4). Pub. L. 102–484, §1052(9), substituted "section 615(c)" for "section 615(b)".

**1991**—Subsec. (g). Pub. L. 102–190 added subsec. (g).

**1988**—Subsec. (a). Pub. L. 100–456, §501(d)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "If, after reviewing the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a

subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title."

Subsec. (c)(1). Pub. L. 100–456, §501(d)(2), struck out ", modification," after "for his approval" and inserted at end "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense."

**1986**—Subsec. (b). Pub. L. 99–433, §402(c)(1), (2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 99–433, §402(c)(1), (3), redesignated subsec. (b) as (c) and in par. (1) inserted provisions directing the Secretary of Defense, before transmitting the report, to take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman. Former subsec. (c) redesignated (d).

Subsecs. (d) to (f). Pub. L. 99–433, §402(c)(1), redesignated subsecs. (c) to (e) as (d) to (f), respectively.

**1984**—Subsec. (b)(2). Pub. L. 98–525 substituted "If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title" for "The Secretary concerned may submit to a board of officers convened under section 1181 of this title the name of any officer who is named in the report of a selection board as having a record which indicates that the officer should be required to show cause for his retention on active duty".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §513(c), Oct. 17, 2006, 120 Stat. 2185, provided that: "The amendments made by this section [amending this section and section 14111 of this title] shall apply with respect to selection boards convened on or after the date of the enactment of this Act [Oct. 17, 2006]."

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102–190, set out as a note under section 615 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100–456, set out as a note under section 615 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–433 effective with respect to selection boards convened under section 611(a) of this title after end of 120-day period beginning on Oct. 1, 1986, see section 406(f) of Pub. L. 99–433, set out as a note under section 612 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(1) to approve, modify, or disapprove report of a selection board delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(a), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

Nothing in section 1 of Ex. Ord. No. 12396 deemed to delegate authority vested in President by subsec. (c) of this section to remove a name from a selection board report, see section 1(g) of Ex. Ord. No. 12396.

## SUBCHAPTER II—PROMOTIONS

Sec.
619. Eligibility for consideration for promotion: time-in-grade and other requirements.
619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions.
620. Active-duty lists.
621. Competitive categories for promotion.
622. Numbers to be recommended for promotion.
623. Establishment of promotion zones.
624. Promotions: how made.
625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half).
626. Acceptance of promotions; oath of office.

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Pub. L. 110–417, [div. A], title V, §521(b)(2), Oct. 14, 2008, 122 Stat. 4444, added item 619a and struck out former item 619a "Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions".

**1993**—Pub. L. 103–160, div. A, title IX, §931(c)(2), Nov. 30, 1993, 107 Stat. 1734, added items 619 and 619a and struck out former item 619 "Eligibility for consideration for promotion".

**1985**—Pub. L. 99–145, title V, §514(b)(4)(B), Nov. 8, 1985, 99 Stat. 628, substituted "rear admiral (lower half)" for "commodore" in item 625.

**1981**—Pub. L. 97–86, title IV, §405(b)(4)(B), Dec. 1, 1981, 95 Stat. 1106, substituted "commodore" for "commodore admiral" in item 625.

## §619. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), except that the minimum period of service in effect under this subparagraph before October 1, 2008, shall be eighteen months.

(2) Subject to paragraph (5), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a

permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

(4) When the needs of the service require, the Secretary of the military department concerned may prescribe a shorter period of service in grade, but not less than two years, for eligibility for consideration for promotion, in the case of officers designated for limited duty to whom paragraph (2) applies.

(5) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in subparagraph (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(6) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

(b) CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1) Except as provided in paragraph (2), an officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.

(2) Paragraph (1) does not apply to a regular officer who is ineligible for consideration for promotion under section 631(c) of this title or to a reserve officer who has failed of selection for promotion to the grade of captain or, in the case of an officer of the Navy, lieutenant for the second time.

(c) OFFICERS TO BE CONSIDERED BY PROMOTION BOARDS.—(1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion.

(2) The Secretary of the military department concerned—

(A) may, in accordance with standards and procedures prescribed by the Secretary of Defense in regulations which shall apply uniformly among the military departments, limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion;

(B) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer is placed on the active-duty list during which the officer shall be ineligible for consideration for promotion; and

(C) may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened or an approved retirement date.

(3)(A) The Secretary of Defense may authorize the Secretaries of the military departments to preclude from consideration by selection boards for promotion to the grade of brigadier general or rear admiral (lower half) officers in the grade of colonel or, in the case of the Navy, captain who—

(i) have been considered and not selected for promotion to the grade of brigadier general or rear admiral (lower half) by at least two selection boards; and

(ii) are determined, in accordance with standards and procedures prescribed pursuant to subparagraph (B), as not being exceptionally well qualified for promotion.

(B) If the Secretary of Defense authorizes the Secretaries of the military departments to have the

authority described in subparagraph (A), the Secretary shall prescribe by regulation the standards and procedures for the exercise of such authority. Those regulations shall apply uniformly among the military departments and shall include the following provisions:

(i) A requirement that the Secretary of a military department may exercise such authority in the case of a particular selection board only if the Secretary of Defense approves the exercise of that authority for that board.

(ii) A requirement that an officer may be precluded from consideration by a selection board under this paragraph only upon the recommendation of a preselection board of officers convened by the Secretary of the military department concerned and composed of at least three officers all of whom are serving in a grade higher than the grade of such officer.

(iii) A requirement that such a preselection board may not recommend that an officer be precluded from such consideration unless the Secretary concerned has given the officer advance written notice of the convening of such board and of the military records that will be considered by the board and has given the officer a reasonable period before the convening of the board in which to submit comments to the board.

(iv) A requirement that the Secretary convening such a preselection board shall provide general guidance to the board in accordance with standards and procedures prescribed by the Secretary of Defense in those regulations.

(v) A requirement that the preselection board may recommend that an officer be precluded from consideration by a selection board only on the basis of the general guidance provided by the Secretary of the military department concerned, information in the officer's official military personnel records that has been described in the notice provided the officer as required pursuant to clause (iii), and any communication to the board received from that officer before the board convenes.

(d) CERTAIN OFFICERS NOT TO BE CONSIDERED.—A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of his selection for promotion to that grade by an earlier selection board convened under that section.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under that section, in the case of such a report that has not yet been approved by the President.

(3) An officer of the Marine Corps who is an officer designated for limited duty and who holds a grade above major.

(4) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 624(a)(3) of this title.

(5) An officer in the grade of captain or, in the case of the Navy, lieutenant who is not a citizen of the United States.

(6) An officer excluded under subsection (e).

(e) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—(1) The Secretary of a military department may provide that an officer under the jurisdiction of the Secretary may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 611(a) of this title to consider officers for promotion to the next higher grade.

(2) The Secretary concerned may only approve a request under paragraph (1) if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Department, training, or a career progression requirement delayed by the assignment, education, or training;

(B) the Secretary determines the exclusion from consideration is in the best interest of the military department concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which the

officer requests the exclusion from consideration.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2854; amended Pub. L. 97–22, §4(c), July 10, 1981, 95 Stat. 126; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title V, §§525(a), (b), 529(a), Oct. 19, 1984, 98 Stat. 2524, 2525, 2526; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–433, title IV, §404, Oct. 1, 1986, 100 Stat. 1032; Pub. L. 100–180, div. A, title XIII, §§1305(a), 1314(b)(4), Dec. 4, 1987, 101 Stat. 1173, 1175; Pub. L. 100–456, div. A, title V, §515(a)(1), (b), Sept. 29, 1988, 102 Stat. 1970; Pub. L. 102–190, div. A, title V, §504(d), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 103–160, div. A, title IX, §931(b), (c)(1), Nov. 30, 1993, 107 Stat. 1734; Pub. L. 103–337, div. A, title X, §1070(b)(7), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105–85, div. A, title V, §503(a), Nov. 18, 1997, 111 Stat. 1724; Pub. L. 107–107, div. A, title V, §§504, 505(c)(1)(A), Dec. 28, 2001, 115 Stat. 1085, 1087; Pub. L. 108–375, div. A, title V, §501(a)(3)(B), Oct. 28, 2004, 118 Stat. 1873; Pub. L. 109–364, div. A, title V, §506, Oct. 17, 2006, 120 Stat. 2179; Pub. L. 115–232, div. A, title V, §505(a), Aug. 13, 2018, 132 Stat. 1742; Pub. L. 116–283, div. A, title IX, §924(b)(3)(E), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 117–81, div. A, title V, §502, Dec. 27, 2021, 135 Stat. 1680; Pub. L. 118–31, div. A, title XVII, §1722(b)(3), Dec. 22, 2023, 137 Stat. 668; Pub. L. 118–159, div. A, title V, §§503(b), 505(a)(1), Dec. 23, 2024, 138 Stat. 1868, 1869.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c)(2)(C). Pub. L. 118–159, §503(b), inserted "or an approved retirement date" after "an established separation date that is within 90 days after the date the board is convened".

Subsec. (e)(2)(A). Pub. L. 118–159, §505(a)(1), inserted "training," after "Department," and substituted "assignment, education, or training" for "assignment or education".

**2023**—Subsec. (a). Pub. L. 118–31 substituted "or Marine Corps" for "Marine Corps, or Space Force" wherever appearing.

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

Subsec. (a)(2). Pub. L. 117–81, §502(1), substituted "paragraph (5)" for "paragraph (4)".

Subsec. (a)(4) to (6). Pub. L. 117–81, §502(2), (3), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

**2018**—Subsec. (d)(6). Pub. L. 115–232, §505(a)(1), added par. (6).

Subsec. (e). Pub. L. 115–232, §505(a)(2), added subsec. (e).

**2006**—Subsec. (a)(1)(B). Pub. L. 109–364 substituted "October 1, 2008" for "October 1, 2005".

**2004**—Subsec. (d)(5). Pub. L. 108–375 added par. (5).

**2001**—Subsec. (a). Pub. L. 107–107, §504(b)(1), inserted heading.

Subsec. (a)(1)(B). Pub. L. 107–107, §504(a), inserted ", except that the minimum period of service in effect under this subparagraph before October 1, 2005, shall be eighteen months" before period at end.

Subsec. (a)(4). Pub. L. 107–107, §504(c), substituted "subparagraph (A)" for "clause (A)".

Subsec. (b). Pub. L. 107–107, §504(b)(2), inserted heading.

Subsec. (c). Pub. L. 107–107, §504(b)(3), inserted heading.

Subsec. (d). Pub. L. 107–107, §504(b)(4), inserted heading.

Subsec. (d)(4). Pub. L. 107–107, §505(c)(1)(A), added par. (4).

**1997**—Subsec. (d). Pub. L. 105–85, §503(a)(1), substituted "grade any of the following officers:" for "grade—" in introductory provisions.

Subsec. (d)(1). Pub. L. 105–85, §503(a)(2), substituted "An officer" for "an officer" and a period for "; or".

Subsec. (d)(2). Pub. L. 105–85, §503(a)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 105–85, §503(a)(3), redesignated par. (2) as (3) and substituted "An officer" for "an officer".

**1994**—Pub. L. 103–337 made technical correction to directory language of Pub. L. 103–160, §931(c)(1). See 1993 Amendment note below.

**1993**—Pub. L. 103–160, §931(c)(1), as amended by Pub. L. 103–337, inserted ": time-in-grade and other requirements" in section catchline.

Subsec. (e). Pub. L. 103–160, §931(b), struck out subsec. (e) which specified certain requirements for

appointment to grade of brigadier general or rear admiral (lower half). See section 619a of this title.

**1991**—Subsec. (c)(2). Pub. L. 102–190, §504(d)(1), added subpar. (A), redesignated subpars. (C) and (D) as (B) and (C) respectively, and struck out former subpars. (A) and (B) which read as follows:

"(A) may, by regulation, prescribe procedures to limit the officers to be considered by a selection board—

"(i) from below the promotion zone; or

"(ii) in the case of a selection board to recommend officers for promotion to the grade of brigadier general or rear admiral (lower half),

to those officers who are determined to be exceptionally well qualified for promotion;

"(B) may, by regulation, prescribe criteria for determining which officers below the promotion zone or in the grades of colonel and, in the case of officers of the Navy, captain are exceptionally well qualified for promotion for the purposes of clause (A);".

Subsec. (c)(3). Pub. L. 102–190, §504(d)(2), added par. (3).

**1988**—Subsec. (e)(1). Pub. L. 100–456, §515(a)(1)(A), substituted "January 1, 1994" for "January 1, 1992" in second sentence.

Subsec. (e)(2)(D), (E). Pub. L. 100–456, §515(b)(1), added subpars. (D) and (E) and struck out former subpar. (D) which read as follows: "until January 1, 1992, in the case of an officer who served before October 1, 1986, in an assignment (other than a joint duty assignment) that involved significant experience in joint matters (as determined by the Secretary)."

Subsec. (e)(3)(C). Pub. L. 100–456, §515(b)(2), substituted "paragraph (2) (other than under subparagraph (A) of that paragraph)" for "paragraph (2)(B), (2)(C), or (2)(D)".

Subsec. (e)(5). Pub. L. 100–456, §515(a)(1)(B), added par. (5).

**1987**—Subsec. (e)(1). Pub. L. 100–180, §1305(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "An officer may not be selected for promotion to the grade of brigadier general or rear admiral (lower half) unless the officer has served in a joint duty assignment."

Subsec. (e)(2)(D). Pub. L. 100–180, §1314(b)(4), substituted "October 1, 1986," for "the date of the enactment of this subsection".

**1986**—Subsec. (e). Pub. L. 99–433 added subsec. (e).

**1985**—Subsecs. (a)(2)(B), (c)(2)(A)(ii). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Subsec. (b). Pub. L. 98–525, §525(a), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), an officer" for "An officer", and added par. (2).

Subsec. (c)(2)(D). Pub. L. 98–525, §525(b), added subpar. (D).

Subsec. (d)(2). Pub. L. 98–525, §529(a), struck out "Navy or" before "Marine Corps" and struck out "lieutenant commander or" before "major".

**1981**—Subsec. (a)(2)(B). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Subsec. (c)(2)(A). Pub. L. 97–22, §4(c)(1), struck out "and" after "promotion;".

Subsec. (c)(2)(A)(ii). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Subsec. (c)(2)(B). Pub. L. 97–22, §4(c)(2), substituted "for the purposes of clause (A); and" for the period at end of cl. (B).

Subsec. (c)(2)(C). Pub. L. 97–22, §4(c)(3), added cl. (C).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title V, §503(d), Nov. 18, 1997, 111 Stat. 1725, provided that: "The amendments made by this section [amending this section and section 14301 of this title] shall take effect on the date of the enactment of this Act [Nov. 18, 1997] and shall apply with respect to selection boards that are convened under section 611(a), 14101(a), or 14502 of title 10, United States Code, on or after that date."

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title X, §1070(b), Oct. 5, 1994, 108 Stat. 2856, provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, as enacted.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102–190, set out as a note under section 615 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions

(a) GENERAL RULE.—An officer on the active-duty list of the Army, Navy, Air Force, Marine Corps, or Space Force may not be appointed to the grade of brigadier general or rear admiral (lower half) unless the officer has been designated as a joint qualified officer in accordance with section 661 of this title.

(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

(1) When necessary for the good of the service.

(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(3) In the case of—

(A) a medical officer, dental officer, veterinary officer, medical service officer, nurse, or biomedical science officer;

(B) a chaplain; or

(C) a judge advocate.

(4) In the case of an officer selected by a promotion board for appointment to the grade of brigadier general or rear admiral (lower half) while serving in a joint duty assignment if the officer's total consecutive service in joint duty assignments is not less than two years and the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title.

(5) In the case of an officer who served in a joint duty assignment that began before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for the officer's service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.

(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary shall provide that the first duty assignment as a general or flag officer of the officer for whom the waiver is granted shall be in a joint duty assignment.

(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the

Secretary of Defense to grant a waiver under subsection (b) (other than under paragraph (1) of that subsection) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to brigadier general or, in the case of the Navy, rear admiral (lower half) is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(g) LIMITATION FOR GENERAL AND FLAG OFFICERS PREVIOUSLY RECEIVING JOINT DUTY ASSIGNMENT WAIVER.—A general officer or flag officer who before January 1, 1999, received a waiver of subsection (a) under the authority of this subsection (as in effect before that date) may not be appointed to the grade of lieutenant general or vice admiral until the officer completes a full tour of duty in a joint duty assignment.

(Added Pub. L. 103–160, div. A, title IX, §931(a), Nov. 30, 1993, 107 Stat. 1732; amended Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title V, §508, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107–107, div. A, title V, §525(a), (b), Dec. 28, 2001, 115 Stat. 1099; Pub. L. 108–375, div. A, title V, §533, Oct. 28, 2004, 118 Stat. 1901; Pub. L. 110–417, [div. A], title V, §521(a), (b)(1), Oct. 14, 2008, 122 Stat. 4444; Pub. L. 116–283, div. A, title IX, §924(b)(3)(F), Jan. 1, 2021, 134 Stat. 3821.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2008**—Pub. L. 110–417, §521(b)(1), substituted "Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions" for "Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions" in section catchline.

Subsec. (a). Pub. L. 110–417, §521(a)(1), substituted "unless the officer has been designated as a joint qualified officer" for "unless—

"(1) the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title); and

"(2) for appointments after September 30, 2008, the officer has been selected for the joint specialty".

Subsec. (b). Pub. L. 110–417, §521(a)(2)(A), substituted "subsection (a)" for "paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a)," in introductory provisions.

Subsec. (b)(4). Pub. L. 110–417, §521(a)(2)(B), substituted "is not less than two years and the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title" for "within that immediate organization is not less than two years".

Subsec. (h). Pub. L. 110–417, §521(a)(3), struck out heading and text of subsec. (h). Text read as follows: "An officer of the Navy designated as a qualified nuclear propulsion officer who before January 1, 1997, is appointed to the grade of rear admiral (lower half) without regard to subsection (a) may not be appointed to the grade of rear admiral until the officer completes a full tour of duty in a joint duty assignment."

**2004**—Subsec. (a)(2). Pub. L. 108–375, §533(a), substituted "September 30, 2008" for "September 30, 2007".

Subsec. (b)(4). Pub. L. 108–375, §533(b), substituted "if the officer's" for "if—

"(A) at least 180 days of that joint duty assignment have been completed on the date of the convening of that selection board; and

"(B) the officer's".

**2001**—Subsec. (a). Pub. L. 107–107, §525(a), substituted "unless—" and pars. (1) and (2) for "unless the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title)."

Subsec. (b). Pub. L. 107–107, §525(b), in introductory provisions, substituted "may waive paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a), in the following circumstances:" for "may waive subsection (a) in the following circumstances:".

**1999**—Subsec. (g). Pub. L. 106–65, §508(a), amended heading and text of subsec. (g) generally. Prior to

amendment, subsec. (g) authorized the Secretary until Jan. 1, 1999, to waive subsecs. (a) and (d) for certain officers and contained restrictions on appointments of those officers.

Subsec. (h). Pub. L. 106–65, §508(b), substituted "An officer of the Navy" for "(1) Until January 1, 1997, an officer of the Navy" and "who before January 1, 1997, is" for "may be" and struck out ". An officer so appointed" before "may not be appointed" and par. (2) which read as follows: "Not later than March 1 of each year from 1994 through 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation during the preceding calendar year of the transition plan developed by the Secretary pursuant to section 1305(b) of Public Law 100–180 (10 U.S.C. 619a note) with respect to service by qualified nuclear propulsion officers in joint duty assignments."

**1996**—Subsec. (h)(2). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROPOSED LEGISLATIVE CHANGES

Pub. L. 107–107, div. A, title V, §525(c), Dec. 28, 2001, 115 Stat. 1099, directed the Secretary of Defense to submit to Congress, not later than Dec. 1, 2002, a draft proposal for such legislative changes to this section as the Secretary considered were needed to implement the amendment made to this section by section 525(a), (b) of Pub. L. 107–107.

### REPORT ON PLANS FOR COMPLIANCE

Pub. L. 103–160, div. A, title IX, §931(d), Nov. 30, 1993, 107 Stat. 1734, directed the Secretary of Defense to certify to Congress, not later than Feb. 1, 1994, that the Army, Navy, Air Force, and Marine Corps had each developed and implemented a plan for officer personnel assignment and promotion policies so as to ensure compliance with the requirements of this section, and provided that each such plan should ensure that by Jan. 1, 1999, the service covered by the plan would have enough officers who had completed a full tour of duty in a joint duty assignment so as to permit the orderly promotion of officers to brigadier general or, in the case of the Navy, rear admiral (lower half).

### PLAN FOR SERVICE BY QUALIFIED NUCLEAR PROPULSION OFFICERS IN JOINT DUTY ASSIGNMENTS BY JANUARY 1, 1997; IMPLEMENTATION; REPORT

Pub. L. 103–160, div. A, title IX, §931(f)(2), Nov. 30, 1993, 107 Stat. 1734, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(8)(A), Oct. 5, 1994, 108 Stat. 2857, directed the Secretary of Defense to revise the transition plan developed pursuant to Pub. L. 100–180, §1305(b), formerly set out below, and to report on the revisions.

Pub. L. 100–456, div. A, title V, §515(a)(3), Sept. 29, 1988, 102 Stat. 1970, directed the Secretary of Defense to revise the transition plan developed pursuant to Pub. L. 100–180, §1305(b), formerly set out below, and to report on the revisions.

Pub. L. 100–180, div. A, title XIII, §1305(b)–(d), Dec. 4, 1987, 101 Stat. 1173, 1174, as amended by Pub. L. 100–456, div. A, title V, §515(a)(2), Sept. 29, 1988, 102 Stat. 1970; Pub. L. 103–160, div. A, title IX, §931(f)(1), (3), Nov. 30, 1993, 107 Stat. 1734; Pub. L. 103–337, div. A, title X, §1070(b)(8), Oct. 5, 1994, 108 Stat. 2857, directed the Secretary of Defense to develop and carry out a transition plan, to be implemented no later than six months after Dec. 4, 1987, for ensuring that during the period before Jan. 1, 1997, the maximum practicable number of officers of the Navy who were qualified nuclear propulsion officers had served in joint duty assignments and that by Jan. 1, 1997, the maximum practicable number of qualified nuclear propulsion officers in the grade of captain had qualified for appointment to the grade of rear admiral (lower half) by completing a full tour of duty in a joint duty assignment, and directed the Secretary to submit to committees of Congress on the date on which the plan was implemented a copy of the plan and a report explaining how the plan had fulfilled objectives.

## §620. Active-duty lists

(a) The Secretary of the military department concerned shall maintain a single list of all officers (other than officers described in section 641 of this title) who are on active duty for each armed force under his jurisdiction (other than the Coast Guard when it is operating as a service in the Navy).

(b) Officers shall be carried on the active-duty list of the armed force of which they are members in the order of seniority of the grade in which they are serving on active duty. Officers serving in the same grade shall be carried in the order of their rank in that grade.

(c) An officer whose position on the active-duty list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on the active-duty list that he would have held if he had not received that appointment or assignment.

(d) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2855; amended Pub. L. 103–337, div. A, title XVI, §1624, Oct. 5, 1994, 108 Stat. 2961; Pub. L. 104–106, div. A, title XV, §1501(a)(1), Feb. 10, 1996, 110 Stat. 495.)

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (d). Pub. L. 104–106 made technical amendment to Pub. L. 103–337, §1624. See 1994 Amendment note below.

**1994**—Subsec. (d). Pub. L. 103–337, §1624, as amended by Pub. L. 104–106, added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Regulations prescribed under this section applicable to establishment of initial active-duty lists, see section 621(a) of Pub. L. 96–513, set out as a note under section 611 of this title.

## §621. Competitive categories for promotion

Under regulations prescribed by the Secretary of Defense, the Secretary of each military

department shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §622. Numbers to be recommended for promotion

Before convening a selection board under section 611(a) of this title for any grade and competitive category, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, and (3) the number of officers authorized by the Secretary of the military department concerned to serve on active duty in the grade and competitive category under consideration. Based on such determinations, the Secretary of the military department concerned shall determine the maximum number of officers in such competitive category which the selection board may recommend for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §623. Establishment of promotion zones

(a) Before convening a selection board under section 611(a) of this title to consider officers for promotion to any grade above first lieutenant or lieutenant (junior grade), the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

(b) The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category. Such determination shall be made on the basis of an estimate of—

(1) the number of officers needed in that competitive category in the next higher grade in each of the next five years;

(2) the number of officers to be serving in that competitive category in the next higher grade in each of the next five years;

(3) in the case of a promotion zone for officers to be promoted to a grade to which section 523 of this title is applicable, the number of officers authorized for such grade under such section to be on active duty on the last day of each of the next five fiscal years; and

(4) the number of officers that should be placed in that promotion zone in each of the next five

years to provide to officers in those years relatively similar opportunity for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §624. Promotions: how made

(a)(1) When the report of a selection board convened under section 611(a) of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the active-duty list or based on particular merit, as determined by the promotion board. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.

(2) Except as provided in subsection (d), officers on a promotion list for a competitive category shall be promoted to the next higher grade when additional officers in that grade and competitive category are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted. Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.

(3)(A) Except as provided in subsection (d), officers on the active-duty list in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the active-duty list in a grade who the Secretary of the military department concerned determines—

(i) are fully qualified for promotion to the next higher grade; and

(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title upon the convening of such a board.

(E) If the Secretary of the military department concerned determines that one or more officers or former officers were not placed on an all-fully-qualified-list under this paragraph because of administrative error, the Secretary may prepare a supplemental all-fully-qualified-officers list containing the names of any such officers for approval in accordance with this paragraph.

(b)(1) A regular officer who is promoted under this section is appointed in the regular grade to which promoted and a reserve officer who is promoted under this section is appointed in the reserve grade to which promoted.

(2) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

(c) Appointments under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments under this section in the grade of first lieutenant or captain, in the case of officers of the Army, Air Force, Marine Corps, or Space Force, or lieutenant

(junior grade) or lieutenant, in the case of officers of the Navy, shall be made by the President alone.

(d)(1) Under regulations prescribed by the Secretary of Defense, the appointment of an officer under this section may be delayed if—

(A) sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and such charges have not been disposed of;

(B) an investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer;

(C) a board of officers has been convened under chapter 60 of this title to review the record of the officer;

(D) a criminal proceeding in a Federal or State court is pending against the officer;

(E) substantiated adverse information about the officer that is material to the decision to appoint the officer is under review by the Secretary of Defense or the Secretary concerned; or

(F) the Secretary of the military department concerned determines that credible information of an adverse nature, including a substantiated adverse finding or conclusion described in section 615(a)(3)(A) of this title, with respect to the officer will result in the convening of a special selection review board under section 628a of this title to review the officer and recommend whether the recommendation for promotion of the officer should be sustained.

If no disciplinary action is taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not ordered removed from active duty by the Secretary concerned under chapter 60 of this title, if the officer is acquitted of the charges brought against him, or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion, as the case may be, then unless action to delay an appointment has also been taken under paragraph (2) the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.

(2) Under regulations prescribed by the Secretary of Defense, the appointment of an officer under this section may also be delayed in any case in which there is cause to believe that the officer has not met the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, or is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected for promotion. If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to such grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to such grade, the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and shall, upon such promotion, have the same date of rank, the same effective date for pay and allowances in the higher grade to which appointed, and the same position on the active-duty list as he would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.

(3) In the case of an officer whose promotion is delayed pursuant to paragraph (1)(F) and whose recommendation for promotion is sustained, authorities for the promotion of the officer are specified in section 628a(f) of this title.

(4)(A) Except as provided in subparagraph (B), the appointment of an officer may not be delayed

under this subsection unless the officer has been given written notice of the grounds for the delay, unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable. An officer whose promotion has been delayed under this subsection shall be afforded an opportunity to make a written statement to the Secretary concerned in response to the action taken. Any such statement shall be given careful consideration by the Secretary.

(B) In the case of an officer whose promotion is delayed pursuant to paragraph (1)(F), requirements applicable to notice and opportunity for response to such delay are specified in section 628a(c)(3) of this title.

(5) An appointment of an officer may not be delayed under this subsection for more than six months after the date on which the officer would otherwise have been appointed unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against such officer in a Federal or State court, more than 90 days after final action has been taken in any court-martial case against such officer, or more than 18 months after the date on which such officer would otherwise have been appointed, whichever is later.

(e) Notwithstanding subsection (a)(2), in the case of an officer who is selected for promotion by a selection board convened under this chapter, and prior to the placement of the officer's name on the applicable promotion list as approved for transfer to the reserve active-status list of the same or a different armed force, the Secretary concerned may place the officer's name on a corresponding promotion list on the reserve active-status list without regard to the officer's competitive category. An officer's promotion under this subsection shall be made pursuant to section 14308 of this title.

(f) Notwithstanding subsection (a)(3), in the case of an officer who is placed on an all-fully-qualified-officers list, and is subsequently approved for transfer to the reserve active-status list, the Secretary concerned may place the officer's name on an appropriate all-fully-qualified-officers list on the reserve active-status list. An officer's promotion under this subsection shall be made pursuant to section 14308 of this title.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2857; amended Pub. L. 97–22, §4(d), July 10, 1981, 95 Stat. 126; Pub. L. 97–295, §1(8), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–525, title V, §526, Oct. 19, 1984, 98 Stat. 2525; Pub. L. 107–107, div. A, title V, §505(a)(1), (c)(2)(A), (d)(1), Dec. 28, 2001, 115 Stat. 1085, 1087, 1088; Pub. L. 107–314, div. A, title X, §1062(a)(2), Dec. 2, 2002, 116 Stat. 2649; Pub. L. 109–364, div. A, title V, §511(a), (d)(1), Oct. 17, 2006, 120 Stat. 2181, 2183; Pub. L. 110–181, div. A, title X, §1063(c)(3), Jan. 28, 2008, 122 Stat. 322; Pub. L. 114–92, div. A, title V, §502(a), Nov. 25, 2015, 129 Stat. 806; Pub. L. 115–232, div. A, title V, §504(c), title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1742, 1840; Pub. L. 116–283, div. A, title V, §505(a)(3), title IX, §924(b)(3)(G), Jan. 1, 2021, 134 Stat. 3568, 3821; Pub. L. 118–31, div. A, title V, §503(b)(1), Dec. 22, 2023, 137 Stat. 241; Pub. L. 118–159, div. A, title XVII, §1701(a)(14), Dec. 23, 2024, 138 Stat. 2203.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (e). Pub. L. 118–159 substituted "as approved" for "is approved".

**2023**—Subsecs. (e), (f). Pub. L. 118–31 added subsecs. (e) and (f).

**2021**—Subsec. (c). Pub. L. 116–283, §924(b)(3)(G), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (d)(1)(F). Pub. L. 116–283, §505(a)(3)(A), added subpar. (F).

Subsec. (d)(3). Pub. L. 116–283, §505(a)(3)(C), added par. (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 116–283, §505(a)(3)(B), (D), redesignated par. (3) as (4), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), the appointment" for "The appointment", and added subpar. (B). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 116–283, §505(a)(3)(B), redesignated par. (4) as (5).

**2018**—Subsec. (a)(1). Pub. L. 115–232, §504(c), inserted "or based on particular merit, as determined by the promotion board" after "active-duty list".

Subsec. (d)(1), (2). Pub. L. 115–232, §809(a), substituted "section 7233, 8167, or 9233" for "section 3583, 5947, or 8583" in concluding provisions of par. (1) and in two places in par. (2).

**2015**—Subsec. (a)(3)(E). Pub. L. 114–92 added subpar. (E).

**2008**—Subsec. (d)(1). Pub. L. 110–181 amended directory language of Pub. L. 109–364, §511(a)(2)(D)(i). See 2006 Amendment note below.

**2006**—Subsec. (a)(1). Pub. L. 109–364, §511(d)(1), inserted at end "A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence."

Subsec. (d)(1). Pub. L. 109–364, §511(a)(2)(D)(ii), inserted "or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion," after "brought against him," in concluding provisions.

Pub. L. 109–364, §511(a)(2)(D)(i), as amended by Pub. L. 110–181, struck out "or" after "chapter 60 of this title,".

Pub. L. 109–364, §511(a)(1), substituted "prescribed by the Secretary of Defense" for "prescribed by the Secretary concerned" in introductory provisions.

Subsec. (d)(1)(E). Pub. L. 109–364, §511(a)(2)(A)–(C), added subpar. (E).

Subsec. (d)(2). Pub. L. 109–364, §511(a)(3), in first sentence inserted "has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or" before "is mentally, physically," and in second sentence substituted "If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to such grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to such grade" for "If the Secretary concerned later determines that the officer is qualified for promotion to such grade".

Pub. L. 109–364, §511(a)(1), substituted "prescribed by the Secretary of Defense" for "prescribed by the Secretary concerned".

**2002**—Subsec. (d)(1). Pub. L. 107–314 substituted "paragraph (2)" for "subsection (d)(2)" in concluding provisions.

**2001**—Subsec. (a)(3). Pub. L. 107–107, §505(a)(1), added par. (3).

Subsec. (c). Pub. L. 107–107, §505(d)(1), inserted ", in the case of officers of the Army, Air Force, or Marine Corps," after "captain" and ", in the case of officers of the Navy," after "(junior grade) or lieutenant".

Subsec. (d)(1). Pub. L. 107–107, §505(c)(2)(A)(i), inserted "(including an approved all-fully-qualified-officers list, if applicable)" after "retained on the promotion list" in concluding provisions.

Subsec. (d)(2). Pub. L. 107–107, §505(c)(2)(A)(ii), inserted "shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and" after "to such grade, the officer" in second sentence.

**1984**—Subsec. (d)(1), (2). Pub. L. 98–525 inserted provision for a determination by the Secretary concerned that the officer was unqualified for promotion for any part of the delay in the officer's promotion, with the inserted provision that if the Secretary made such a determination, the Secretary could adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considered appropriate under the circumstances.

**1982**—Subsec. (d)(4). Pub. L. 97–295 substituted "this subsection" for "the subsection".

**1981**—Subsec. (a)(1). Pub. L. 97–22, §4(d)(1)(A), struck out "or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President," after "by the President,".

Subsec. (a)(2). Pub. L. 97–22, §4(d)(1)(B), inserted provision that officers to be promoted to grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.

Subsec. (c). Pub. L. 97–22, §4(d)(2), substituted "under this section in the grade of first lieutenant or captain or lieutenant (junior grade) or lieutenant" for "in the grade of first lieutenant or lieutenant (junior grade) under this section".

Subsec. (d)(1). Pub. L. 97–22, §4(d)(3)(A), (B), substituted "Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may be delayed" for "The Secretary concerned may delay the appointment of an officer under this section" in provisions preceding subpar. (A) and, in provisions following subpar. (D), inserted "then unless action to delay an appointment has also been taken under subsection (d)(2)" after "as the case may be,".

Subsec. (d)(2). Pub. L. 97–22, §4(d)(3)(C), substituted "Under regulations prescribed by the Secretary

concerned, the appointment of an officer under this section may also be delayed in any case in which" for "The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that".

Subsec. (d)(3). Pub. L. 97–22, §4(d)(3)(D), (E), inserted ", unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable" after "grounds for the delay" and struck out "by the Secretary" after "the action taken".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c) is effective Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §511(e), Oct. 17, 2006, 120 Stat. 2184, provided that: "The amendments made by this section [amending this section and sections 14308 and 14311 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to officers on promotion lists established on or after the date of the enactment of this Act."

#### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

#### DEADLINE FOR UNIFORM REGULATIONS ON DELAY OF PROMOTIONS

Pub. L. 109–364, div. A, title V, §511(c), Oct. 17, 2006, 120 Stat. 2183, provided that:

"(1) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 624(d) of title 10, United States Code (as amended by subsection (a)(1) of this section), and the regulations required by section 14311 of such title (as amended by subsection (b)(1) of this section) not later than March 1, 2008.

"(2) SAVINGS CLAUSE FOR EXISTING REGULATIONS.—Until the Secretary of Defense prescribes regulations pursuant to paragraph (1), regulations prescribed by the Secretaries of the military departments under the sections referred to in paragraph (1) shall remain in effect."

### EXECUTIVE DOCUMENTS

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) to appoint officers in grades of first lieutenant and captain in Army, Air Force, and Marine Corps or in grades of lieutenant (junior grade) and lieutenant in Navy delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(c), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

## §625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half)

(a) The President may vacate the promotion to the grade of brigadier general or rear admiral (lower half) of an officer who has served less than 18 months in that grade after promotion to that grade under this chapter.

(b) An officer of the Army, Air Force, or Marine Corps whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if

he is a reserve officer. An officer of the Navy whose promotion is vacated under this section holds the regular grade of captain, if he is a regular officer, or the reserve grade of captain, if he is a reserve officer.

(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position he would have held had he not been promoted to the grade of brigadier general or rear admiral (lower half).

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2858; amended Pub. L. 97–86, title IV, §405(b)(1), (4)(A), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), (4)(A), Nov. 8, 1985, 99 Stat. 628; Pub. L. 116–283, div. A, title IX, §924(b)(3)(H), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 118–31, div. A, title XVII, §1722(b)(4), Dec. 22, 2023, 137 Stat. 668.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31 substituted "or Marine Corps" for "Marine Corps, or Space Force".

**2021**—Subsec. (b). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**1985**—Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore" in section catchline and subsecs. (a) and (c).

**1981**—Pub. L. 97–86 substituted "commodore" for "commodore admiral" in section catchline and subsecs. (a) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §626. Acceptance of promotions; oath of office

(a) An officer who is appointed to a higher grade under section 624 of this title is considered to have accepted such appointment on the date on which the appointment is made unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 624 of this title.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2858.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

# SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

Sec.
627. Failure of selection for promotion.
628. Special selection boards.
628a. Special selection review boards.
629. Removal from a list of officers recommended for promotion.
630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).
631. Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade).
632. Effect of failure of selection for promotion: captains and majors of the Army, Air Force, Marine Corps, and Space Force and lieutenants and lieutenant commanders of the Navy.
633. Retirement for years of service: regular and Space Force lieutenant colonels; regular Navy commanders.
634. Retirement for years of service: regular and Space Force colonels; regular Navy captains.
635. Retirement for years of service: regular and Space Force brigadier generals; regular Navy rear admirals (lower half).
636. Retirement for years of service: regular and Space Force officers in grades above brigadier general; regular Navy officers in grades above rear admiral (lower half).

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title XVII, §1722(b)(6)(E), Dec. 22, 2023, 137 Stat. 670, substituted "and Space Force lieutenant colonels; regular Navy" for "lieutenant colonels and" in item 633, "and Space Force colonels; regular" for "colonels and" in item 634, "and Space Force brigadier generals; regular Navy" for "brigadier generals and" in item 635, and "and Space Force officers in grades above brigadier general; regular Navy officers in grades above" for "officers in grades above brigadier general and" in item 636. Amendments were made pursuant to operation of section 102 of this title.

Pub. L. 118–31, div. A, title V, §508(a)(2), Dec. 22, 2023, 137 Stat. 242, which directed amendment of the analysis for this chapter by adding item 632 and striking out former item 632 "Effect of failure of selection for promotion: captains and majors of the Army, Air Force, and Marine Corps and lieutenants and lieutenant commanders of the Navy", was executed by making the amendment to the analysis for this subchapter to reflect the probable intent of Congress.

**2021**—Pub. L. 116–283, div. A, title V, §505(a)(2), Jan. 1, 2021, 134 Stat. 3568, added item 628a.

**2008**—Pub. L. 110–181, div. A, title V, §503(a)(3), Jan. 28, 2008, 122 Stat. 95, substituted "six years" for "five years" in item 630.

**2001**—Pub. L. 107–107, div. A, title V, §505(d)(4), Dec. 28, 2001, 115 Stat. 1088, struck out "regular" before "commissioned officers" in item 630, struck out "regular" before "first lieutenants" in item 631, and struck out "regular" before "captains and majors" and before "lieutenants and lieutenant commanders" in item 632.

**1997**—Pub. L. 105–85, div. A, title V, §506(c), Nov. 18, 1997, 111 Stat. 1726, substituted "regular officers in grades above brigadier general and rear admiral (lower half)" for "regular major generals and rear admirals" in item 636.

**1985**—Pub. L. 99–145, title V, §514(b)(5)(B), Nov. 8, 1985, 99 Stat. 628, substituted "rear admirals (lower half)" for "commodores" in item 635.

**1981**—Pub. L. 97–86, title IV, §405(b)(5)(B), Dec. 1, 1981, 95 Stat. 1106, substituted "commodores" for "commodore admirals" in item 635.

## §627. Failure of selection for promotion

An officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain who is in or above the promotion zone established for his grade and competitive category under section 623 of this title and is considered but not selected for promotion by a selection board

convened under section 611(a) of this title shall be considered to have failed of selection for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2859.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §628. Special selection boards

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion from in or above the promotion zone by a promotion board was not so considered, the Secretary shall convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.

(2) A special selection board convened under paragraph (1) shall consider the record of the person whose name was referred to it for consideration as that record would have appeared to the board that should have considered him. That record shall be compared with a sampling of the records of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that should have considered him.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person shall be considered to have failed of selection for promotion.

(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—(1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

(A) the action of the promotion board that considered the person was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or

(B) the board did not have before it for its consideration material information.

(2) A special selection board convened under paragraph (1) shall consider the record of the person whose name was referred to it for consideration as that record, if corrected, would have appeared to the board that considered him. That record shall be compared with the records of a sampling of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that considered him.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion a person whose name was referred to it for consideration, the person incurs no additional failure of

selection for promotion.

(c) REPORTS OF BOARDS.—(1) Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each person it recommends for promotion and certifying that the board has carefully considered the record of each person whose name was referred to it.

(2) The provisions of sections 617(b) and 618 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a selection board convened under section 611(a) of this title. However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d), 576(f), and 613a of this title (rather than the provisions of sections 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title.

(d) APPOINTMENT OF PERSONS SELECTED BY BOARDS.—(1) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade a person whose name was referred to it for consideration, that person shall, as soon as practicable, be appointed to that grade in accordance with subsections (b), (c), and (d) of section 624 of this title. However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title).

(2) A person who is appointed to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon that appointment, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active-duty list as he would have had if he had been recommended for promotion to that grade by the board which should have considered, or which did consider, him. In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.

(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a special selection board under this section dies before the completion of proceedings under this section with respect to that person, this section shall be applied to that person posthumously.

(f) CONVENING OF BOARDS.—A board convened under this section—

(1) shall be convened under regulations prescribed by the Secretary of Defense;

(2) shall be composed in accordance with section 612 of this title or, in the case of board to consider a warrant officer or former warrant officer, in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned; and

(3) shall be subject to the provisions of section 613 of this title.

(g) JUDICIAL REVIEW.—(1)(A) A court of the United States may review a determination by the Secretary of a military department under subsection (a)(1) or (b)(1) not to convene a special selection board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

(i) arbitrary or capricious;

(ii) not based on substantial evidence;

(iii) a result of material error of fact or material administrative error; or

(iv) otherwise contrary to law.

(B) If a court sets aside a determination by the Secretary of a military department not to convene a special selection board under this section, it shall remand the case to the Secretary concerned, who

shall provide for consideration by such a board.

(2) A court of the United States may review the action of a special selection board convened under this section or an action of the Secretary of the military department concerned on the report of such a board. In any such case, a court may set aside the action only if the court finds that the action was—

(A) arbitrary or capricious;

(B) not based on substantial evidence;

(C) a result of material error of fact or material administrative error; or

(D) otherwise contrary to law.

(3)(A) If, six months after receiving a complete application for consideration by a special selection board under this section in any case, the Secretary concerned has not convened such a board and has not denied consideration by such a board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied the consideration of the case by such a board.

(B) If, six months after the convening of a special selection board under this section in any case, the Secretary concerned has not taken final action on the report of the board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

(C) Under regulations prescribed under subsection (j), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(h) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States may, with respect to a claim based to any extent on the failure of a person to be selected for promotion by a promotion board—

(1) consider the claim unless the person has first been referred by the Secretary concerned to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

(2) except as provided in subsection (g), grant any relief on the claim unless the person has been selected for promotion by a special selection board convened under this section to consider the person for recommendation for promotion and the report of the board has been approved by the President.

(i) EXISTING JURISDICTION.—Nothing in this section limits—

(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

(j) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (g), other than to paragraph (3)(C) of that subsection.

(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special selection board may be provided for under this section, including the following:

(A) The circumstances under which consideration of a person's case by a special selection board is contingent upon application by or for that person.

(B) Any time limits applicable to the filing of an application for such consideration.

(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

(k) PROMOTION BOARD DEFINED.—In this section, the term "promotion board" means a selection board convened by the Secretary of a military department under section 573(a) or 611(a) of this title.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2859; amended Pub. L. 98–525, title V, §527(a), Oct. 19, 1984, 98 Stat. 2525; Pub. L. 102–190, div. A, title XI, §1131(4), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 102–484, div. A, title X, §1052(10), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 105–261, div. A, title V, §501(a)–(e), Oct. 17, 1998, 112 Stat. 2000–2002; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 107–107, div. A, title V, §§503(b), 505(c)(3)(A), Dec. 28, 2001, 115 Stat. 1083, 1088; Pub. L. 109–364, div. A, title V, §514(a), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 111–383, div. A, title V, §503(b), Jan. 7, 2011, 124 Stat. 4208; Pub. L. 114–92, div. A, title V, §502(c)(1), Nov. 25, 2015, 129 Stat. 807.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a)(1). Pub. L. 114–92 struck out "or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed," after "not so considered,".

**2011**—Subsec. (c)(2). Pub. L. 111–383 substituted "sections 576(d), 576(f), and 613a" for "sections 576(d) and 576(f)".

**2006**—Subsec. (a)(1). Pub. L. 109–364, §514(a)(1), inserted "from in or above the promotion zone" after "for selection for promotion".

Subsec. (b)(1)(A). Pub. L. 109–364, §514(a)(2), inserted "in a matter material to the decision of the board" after "contrary to law".

**2001**—Subsec. (a)(1). Pub. L. 107–107, §505(c)(3)(A), inserted "or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed," after "not so considered,".

Subsecs. (g) to (k). Pub. L. 107–107, §503(b), added subsecs. (g) to (j) and redesignated former subsec. (g) as (k).

**2000**—Subsec. (c)(2). Pub. L. 106–398 substituted "sections" for "section" after "rather than the provisions of".

**1998**—Subsec. (a). Pub. L. 105–261, §501(a)(1), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: "In the case of an officer who is eligible for promotion who the Secretary of the military department concerned determines was not considered for selection for promotion by a selection board because of administrative error, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall convene a special selection board under this subsection (composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned) to determine whether such officer should be recommended for promotion."

Subsec. (a)(2). Pub. L. 105–261, §501(a)(2), substituted "the person whose name was referred to it for consideration as that record" for "the officer as his record".

Subsec. (a)(3). Pub. L. 105–261, §501(a)(3), substituted "a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person" for "an officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain whose name was referred to it for consideration, the officer".

Subsec. (b). Pub. L. 105–261, §501(b)(1), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: "In the case of an officer who is eligible for promotion who was considered for selection for promotion by a selection board but was not selected, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, may convene a special selection board under this subsection (composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned) to determine whether such officer should be recommended for promotion if the Secretary concerned determines that—

"(A) the action of the board which considered the officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the board did not have before it for its consideration material information."

Subsec. (b)(2). Pub. L. 105–261, §501(b)(2), substituted "the person whose name was referred to it for consideration as that record" for "the officer as his record".

Subsec. (b)(3). Pub. L. 105–261, §501(b)(3)(A), substituted "a person" for "an officer" and "the person" for "the officer".

Subsec. (c). Pub. L. 105–261, §501(c)(1)(A), inserted heading.

Subsec. (c)(1). Pub. L. 105–261, §501(c)(1)(B), substituted "person" for "officer" in two places.

Subsec. (c)(2). Pub. L. 105–261, §501(c)(1)(C), inserted at end "However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d) and 576(f) of this title (rather than the provisions of section 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title."

Subsec. (d). Pub. L. 105–261, §501(c)(2)(A), inserted heading.

Subsec. (d)(1). Pub. L. 105–261, §501(c)(2)(B)–(E), substituted "a person" for "an officer", "that person" for "such officer", and "that grade in" for "the next higher grade in" and inserted at end "However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title)."

Subsec. (d)(2). Pub. L. 105–261, §501(c)(3), substituted "A person who is appointed" for "An officer who is promoted" and "that appointment" for "such promotion" and inserted at end "In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section."

Subsec. (e). Pub. L. 105–261, §501(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The provisions of section 613 of this title apply to members of special selection boards convened under this section."

Subsecs. (f), (g). Pub. L. 105–261, §501(e), added subsecs. (f) and (g).

**1992**—Subsec. (b)(1). Pub. L. 102–484 substituted "section 573" for "section 558".

**1991**—Subsec. (a)(1). Pub. L. 102–190 substituted "section 573" for "section 558".

**1984**—Subsecs. (a)(1), (b)(1). Pub. L. 98–525 substituted "(composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 558 of this title and regulations prescribed by the Secretary of the military department concerned)" for "(composed in accordance with section 612 of this title)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §514(c), Oct. 17, 2006, 120 Stat. 2185, provided that: "The amendments made by this section [amending this section and section 14502 of this title] shall take effect on March 1, 2007, and shall apply with respect to selection boards convened on or after that date."

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §503(c), Dec. 28, 2001, 115 Stat. 1084, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 1558 of this title and amending this section] shall apply with respect to any proceeding pending on or after the date of the enactment of this Act [Dec. 28, 2001] without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date.

"(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act."

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### RATIFICATION OF CODIFIED PRACTICE

Pub. L. 105–261, div. A, title V, §501(f), Oct. 17, 1998, 112 Stat. 2002, provided that the consideration by a special selection board convened under this section before Oct. 17, 1998, of a person who, at the time of consideration, had been a retired officer or former officer of the Armed Forces (including a deceased retired or former officer) was ratified.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under subsec. (d)(1) to approve, modify, or disapprove report of a selection board delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(a), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

## §628a. Special selection review boards

(a) IN GENERAL.—(1)(A) If the Secretary of the military department concerned determines that a person recommended by a promotion board for promotion to a grade at or below the grade of major general or rear admiral in the Navy is the subject of credible information of an adverse nature, including any substantiated adverse finding or conclusion described in section 615(a)(3)(A) of this title, that was not furnished to the promotion board during its consideration of the person for promotion as otherwise required by such section, the Secretary shall convene a special selection review board under this section to review the person and recommend whether the recommendation for promotion of the person should be sustained.

(B) Nothing in this section shall be construed to prevent a Secretary concerned from deferring consideration of adverse information concerning an officer subject to this section until the next regularly scheduled promotion board applicable to such officer, in lieu of furnishing such adverse information to a special selection review board under this section.

(2) If a person and the recommendation for promotion of the person is subject to review under this section by a special selection review board convened under this section, the name of the person—

(A) shall not be disseminated or publicly released on the list of officers recommended for promotion by the promotion board recommending the promotion of the person; and

(B) shall not be forwarded for appointment or nomination to the Secretary of Defense, the President, or the Senate, as applicable.

(b) CONVENING.—(1) Any special selection review board convened under this section shall be convened in accordance with the provisions of section 628(f) of this title.

(2) Any special selection review board convened under this section may review such number of persons, and recommendations for promotion of such persons, as the Secretary of the military department concerned shall specify in convening such special selection review board.

(c) INFORMATION CONSIDERED.—(1) In reviewing a person and recommending whether the recommendation for promotion of the person should be sustained under this section, a special selection review board convened under this section shall be furnished and consider the following:

(A) The record and information concerning the person furnished in accordance with section 615(a)(2) of this title to the promotion board that recommended the person for promotion.

(B) Any credible information of an adverse nature on the person, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry described in section 615(a)(3)(A) of this title.

(2) The furnishing of information to a special selection review board under paragraph (1)(B) shall be governed by the standards and procedures referred to in paragraph (3)(C) of section 615(a) of this title applicable to the furnishing of information described in paragraph (3)(A) of such section to selection boards in accordance with that section.

(3)(A) Before information on a person described in paragraph (1)(B) is furnished to a special

selection review board for purposes of this section, the Secretary of the military department concerned shall ensure that—

(i) such information is made available to the person; and

(ii) subject to subparagraphs (C) and (D), the person is afforded a reasonable opportunity to submit comments on such information to the special selection review board before its review of the person and the recommendation for promotion of the person under this section.

(B) If information on a person described in paragraph (1)(B) is not made available to the person as otherwise required by subparagraph (A)(i) due to the classification status of such information, the person shall, to the maximum extent practicable, be furnished a summary of such information appropriate to the person's authorization for access to classified information.

(C)(i) An opportunity to submit comments on information is not required for a person under subparagraph (A)(ii) if—

(I) such information was made available to the person in connection with the furnishing of such information under section 615(a) of this title to the promotion board that recommended the promotion of the person subject to review under this section; and

(II) the person submitted comments on such information to that promotion board.

(ii) The comments on information of a person described in clause (i)(II) shall be furnished to the special selection review board.

(D) A person may waive either or both of the following:

(i) The right to submit comments to a special selection review board under subparagraph (A)(ii).

(ii) The furnishing of comments to a special selection review board under subparagraph (C)(ii).

(d) CONSIDERATION.—(1) In considering the record and information on a person under this section, the special selection review board shall compare such record and information with an appropriate sampling of the records of those officers of the same competitive category who were recommended for promotion by the promotion board that recommended the person for promotion, and an appropriate sampling of the records of those officers who were considered by and not recommended for promotion by that promotion board.

(2) Records and information shall be presented to a special selection review board for purposes of paragraph (1) in a manner that does not indicate or disclose the person or persons for whom the special selection review board was convened.

(3) In considering whether the recommendation for promotion of a person should be sustained under this section, a special selection review board shall, to the greatest extent practicable, apply standards used by the promotion board that recommended the person for promotion.

(4) The recommendation for promotion of a person may be sustained under this section only if the special selection review board determines that the person—

(A) ranks in the upper half of an order of merit created by the special selection review board or ranks on an order of merit created by the special selection review board as better qualified for promotion than the sample officer highest on the order of merit list who was considered by and not recommended for promotion by the promotion board concerned; and

(B) is comparable in qualification for promotion to those sample officers who were recommended for promotion by that promotion board.

(5) A recommendation for promotion of a person may be sustained under this section only by a vote of a majority of the members of the special selection review board.

(6) If a special selection review board does not sustain a recommendation for promotion of a person under this section, the person shall be considered to have failed of selection for promotion.

(e) REPORTS.—(1) Each special selection review board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the

board, containing the name of each person whose recommendation for promotion it recommends for sustainment and certifying that the board has carefully considered the record and information of each person whose name was referred to it.

(2) The provisions of sections 617(b) and 618 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 611(a) of this title. However, in the case of an officer on the Space Force officer list, the provisions of sections 618, 20215, and 20216 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 20211 of this title.

(f) APPOINTMENT OF PERSONS.—(1) If the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of a person whose name was referred to it for review under this section, and the President approves the report, the person shall, as soon as practicable, be appointed to that grade in accordance with subsections (b) and (c) of section 624 of this title. However, if the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of an officer on the Space Force officer list who was referred to it for review under this section, and the President approves the report, the officer shall, as soon as practicable, be appointed to the grade in accordance with subsections (b) and (c) of section 20252 of this title.

(2) A person who is appointed to the next higher grade as described in paragraph (1) shall, upon that appointment, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active-duty list as the person would have had pursuant to the original recommendation for promotion of the promotion board concerned.

(g) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly across the military departments.

(2) Any regulation prescribed by the Secretary of a military department to supplement the regulations prescribed pursuant to paragraph (1) may not take effect without the approval of the Secretary of Defense, in writing.

(h) PROMOTION BOARD DEFINED.—In this section, the term "promotion board" means a selection board convened by the Secretary of a military department under section 611(a) of this title.

(Added Pub. L. 116–283, div. A, title V, §505(a)(1), Jan. 1, 2021, 134 Stat. 3565; amended Pub. L. 117–263, div. A, title V, §521, Dec. 23, 2022, 136 Stat. 2570; Pub. L. 118–31, div. A, title V, §507(a), title XVII, §1722(b)(5), Dec. 22, 2023, 137 Stat. 242, 668; Pub. L. 118–159, div. A, title V, §506(a), title XVII, §1701(a)(15), Dec. 23, 2024, 138 Stat. 1870, 2203.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d)(4)(A). Pub. L. 118–159, §506(a), inserted "ranks in the upper half of an order of merit created by the special selection review board or" before "ranks on an order of merit created by the special selection review board as better qualified".

Subsec. (e)(2). Pub. L. 118–159, §1701(a)(15)(A), substituted "apply to the report and proceedings of a promotion board convened under section 20211" for "apply to report and proceedings of a promotion board convened under section 20211".

Subsec. (f). Pub. L. 118–159, §1701(a)(15)(B), substituted "section 20252" for "section 20251".

**2023**—Subsec. (a)(1)(A). Pub. L. 118–31, §1722(b)(5)(A), substituted "major general or" for "major general," and struck out ", or an equivalent grade in the Space Force" after "in the Navy".

Subsec. (a)(2)(B). Pub. L. 118–31, §507(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "shall not be forwarded to the Secretary of Defense, the President, or the Senate, as applicable, or included on a promotion list under section 624(a) of this title."

Subsec. (e)(2). Pub. L. 118–31, §1722(b)(5)(B), inserted at end: "However, in the case of an officer on the Space Force officer list, the provisions of sections 618, 20215, and 20216 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply

to report and proceedings of a promotion board convened under section 20211 of this title."

Subsec. (f)(1). Pub. L. 118–31, §1722(b)(5)(C), inserted at end: "However, if the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of an officer on the Space Force officer list who was referred to it for review under this section, and the President approves the report, the officer shall, as soon as practicable, be appointed to the grade in accordance with subsections (b) and (c) of section 20251 of this title."

**2022**—Subsec. (a)(1). Pub. L. 117–263, §521(1), which directed amendment of par. (1) by inserting subpar. (A) designation before "If the Secretary concerned", was executed by inserting the designation before "If the Secretary of the military department concerned", to reflect the probable intent of Congress.

Subsec. (a)(1)(B). Pub. L. 117–263, §521(2), added subpar. (B).

## §629. Removal from a list of officers recommended for promotion

(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a list of officers recommended for promotion by a selection board convened under this chapter. The President shall notify the congressional defense committees not later than 30 days after removing the name of an officer from such list for any reason other than misconduct.

(b) REMOVAL DUE TO SENATE NOT GIVING ADVICE AND CONSENT.—If, after consideration of a list of officers approved for promotion by the President to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate, the Senate does not give its advice and consent to the appointment of an officer whose name is on the list, that officer's name shall be removed from the list.

(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 624(a) of this title to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

(3) Paragraph (1) does not apply when the military department concerned is not able to obtain and provide to the Senate the information the Senate requires to give its advice and consent to the appointment concerned because that information is under the control of a department or agency of the Federal Government other than the Department of Defense.

(4) In this subsection, the term "promotion eligibility period" means, with respect to an officer whose name is on a list of officers approved for promotion under section 624(a) of this title to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.

(d) ADMINISTRATIVE REMOVAL.—Under regulations prescribed by the Secretary concerned, if an officer on the active-duty list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—(1) An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board convened for his grade and competitive category and he is promoted, the Secretary of the military department concerned may, upon such promotion, grant him the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if his name had not been so removed.

(2) If such an officer who is in a grade below the grade of colonel or, in the case of the Navy, captain is not recommended for promotion by the next selection board convened for his grade and

competitive category, or if his name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, he shall be considered for all purposes to have twice failed of selection for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2860; amended Pub. L. 109–364, div. A, title V, §515(a), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 110–181, div. A, title X, §1063(a)(2), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111–383, div. A, title V, §504(a), Jan. 7, 2011, 124 Stat. 4208; Pub. L. 114–328, div. A, title V, §504, Dec. 23, 2016, 130 Stat. 2107; Pub. L. 115–91, div. A, title V, §502, Dec. 12, 2017, 131 Stat. 1373; Pub. L. 119–60, div. A, title V, §503(a)(2), Dec. 18, 2025, 139 Stat. 855.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 inserted at end "The President shall notify the congressional defense committees not later than 30 days after removing the name of an officer from such list for any reason other than misconduct."

**2017**—Subsec. (c)(3). Pub. L. 115–91, which directed amendment of par. (3) by substituting "the military department concerned is not able to obtain and provide to the Senate the information the Senate requires" for "the Senate is not able to obtain the information necessary", was executed by making the substitution for "the Senate is not able to obtain information necessary", to reflect the probable intent of Congress.

**2016**—Subsec. (c)(3), (4). Pub. L. 114–328 added par. (3) and redesignated former par. (3) as (4).

**2011**—Subsecs. (d), (e). Pub. L. 111–383 added subsec. (d) and redesignated former subsec. (d) as (e).

**2008**—Subsec. (d)(1). Pub. L. 110–181 inserted comma after "(a)".

**2006**—Subsec. (a). Pub. L. 109–364, §515(a)(4)(A), inserted heading.

Subsec. (b). Pub. L. 109–364, §515(a)(1), inserted heading and inserted "to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate" after "the President".

Subsec. (c). Pub. L. 109–364, §515(a)(2)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–364, §515(a)(2)(A), (4)(B), redesignated subsec. (c) as (d) and inserted heading.

Subsec. (d)(1). Pub. L. 109–364, §515(a)(3), substituted "(b), or (c)" for "or (b)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §515(c), Oct. 17, 2006, 120 Stat. 2187, provided that: "The amendments made by this section [amending this section and section 14310 of this title] shall apply to any promotion list approved by the President after January 1, 2007."

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) to remove name of any officer from a promotion list to any grade below commodore or brigadier general delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(b), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

Functions of President under subsec. (c)(2) delegated to Secretary of Defense, with authority for Secretary to redelegate, see Ex. Ord. No. 13598, §§1(b), 2, Jan. 27, 2012, 77 F.R. 5371, set out as a note under section 301 of Title 3, The President.

## §630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade)

The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

(1) may discharge any officer on the active-duty list who—

(A) has less than six years of active commissioned service; or

(B) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade); and

(2) shall, unless the officer has been promoted, discharge any officer described in paragraph (1)(B) at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98–525, title XIV, §1405(11), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 107–107, div. A, title V, §505(d)(2), (4)(A), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 108–136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 110–181, div. A, title V, §503(a)(1), (2), Jan. 28, 2008, 122 Stat. 95.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Pub. L. 110–181, §503(a)(2), substituted "six years" for "five years" in section catchline.

Par. (1)(A). Pub. L. 110–181, §503(a)(1), substituted "six years" for "five years".

**2003**—Par. (2). Pub. L. 108–136 substituted "paragraph" for "clause".

**2001**—Pub. L. 107–107, §505(d)(4)(A), struck out "regular" before "commissioned officers" in section catchline.

Par. (1). Pub. L. 107–107, §505(d)(2), struck out "regular" before "officer" in introductory provisions and before "grade of first lieutenant" in subpar. (B).

**1984**—Par. (2). Pub. L. 98–525 substituted "18-month" for "eighteen-month".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §631. Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade)

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies), each officer of the Army, Air Force, Marine Corps, or Space Force on the active-duty list who holds the grade of first lieutenant and has failed of selection for promotion to the grade of captain for the second time, and each officer of the Navy on the active-duty list who holds the grade of lieutenant (junior grade) and has failed of selection for promotion to the grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.

(d) For the purposes of this chapter, an officer of the Army, Air Force, Marine Corps, or Space Force who holds the grade of first lieutenant, and an officer of the Navy who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 624(a)(3) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98–525, title V, §525(c), Oct. 19, 1984, 98 Stat. 2525; Pub. L. 107–107, div. A, title V, §505(a)(2), (d)(3), (4)(B), Dec. 28, 2001, 115 Stat. 1086, 1088; Pub. L. 108–136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(I), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 118–159, div. A, title V, §505(b)(1), Dec. 23, 2024, 138 Stat. 1869.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(1), (2). Pub. L. 118–159 substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the board which considered him for the second time".

**2021**—Subsecs. (a), (d). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" in introductory provisions in subsec. (a) and in subsec. (d).

**2018**—Subsec. (a). Pub. L. 115–232 substituted "section 8146(e) or 8372" for "section 5596(e) or 6383" in introductory provisions and "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911" in par. (3).

**2003**—Subsec. (a)(3). Pub. L. 108–136 substituted "paragraph" for "clause".

**2001**—Pub. L. 107–107, §505(d)(4)(B), struck out "regular" before "first lieutenants" in section catchline.

Subsec. (a). Pub. L. 107–107, §505(d)(3), in introductory provisions, substituted "Army, Air Force, or Marine Corps on the active-duty list" for "Regular Army, Regular Air Force, or Regular Marine Corps" and "Navy on the active-duty list" for "Regular Navy" and struck out "regular" before "grade" wherever appearing.

Subsec. (d). Pub. L. 107–107, §505(a)(2), added subsec. (d).

**1984**—Subsec. (c). Pub. L. 98–525 added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §632. Effect of failure of selection for promotion: captains and majors of the Army, Air Force, Marine Corps, and Space Force and lieutenants and lieutenant commanders of the Navy

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies) and except as provided under section 637(a) of this title, each officer of the Army, Air Force, Marine Corps, or Space Force on the active-duty list who holds the grade of captain or major, and each officer of the Navy on the active-duty list who holds the grade of lieutenant or lieutenant commander, who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) except as provided in paragraph (3) and in subsection (c), be discharged on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, be retained on active duty until he is qualified for retirement and then retired under that section, unless he is sooner retired or discharged under another provision of law.

(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(c)(1) If an officer is subject to discharge under subsection (a)(1) and, as of the date on which the officer is to be discharged under that subsection, the officer has not completed the officer's active duty service obligation, the officer shall be retained on active duty until completion of such active duty service obligation, and then be discharged under subsection (a)(1), unless sooner retired or discharged under another provision of law.

(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the active duty service obligation of that officer is not in the best interest of the service.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 107–107, div. A, title V, §505(d)(3), (4)(C), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 108–136, div. A, title V, §505(a), (b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 108–375, div. A, title X, §1084(d)(6), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(J), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 118–31, div. A, title V, §508(a)(1), Dec. 22, 2023, 137 Stat. 242; Pub. L. 118–159, div. A, title V, §§505(b)(2), 507, Dec. 23, 2024, 138 Stat. 1869, 1871.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a)(2). Pub. L. 118–159, §505(b)(2), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the board which considered him for the second time".

Subsec. (c). Pub. L. 118–159, §507, amended subsec. (c) generally. Prior to amendment, subsec. (c) related to retention of discharged health professions officers on active duty until completion of such active duty service obligation.

**2023**—Pub. L. 118–31, §508(a)(1)(A), substituted "Marine Corps, and Space Force" for "and Marine Corps" in section catchline.

Subsec. (a)(1). Pub. L. 118–31, §508(a)(1)(B), substituted "Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "President approves the report of the board which considered him for the second time".

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" in introductory provisions.

**2018**—Subsec. (a). Pub. L. 115–232 substituted "section 8146(e) or 8372" for "section 5596(e) or 6383" in introductory provisions and "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911" in par. (3).

**2004**—Subsec. (c)(1). Pub. L. 108–375 substituted "paragraph (3)" for "paragraph (2)" and "under that subsection" for "under that paragraph" before ", the officer has not".

**2003**—Subsec. (a)(1). Pub. L. 108–136, §505(a)(1), inserted "except as provided in paragraph (3) and in subsection (c)," before "be discharged".

Subsec. (a)(3). Pub. L. 108–136, §505(b), substituted "paragraph" for "clause".

Subsec. (c). Pub. L. 108–136, §505(a)(2), added subsec. (c).

**2001**—Pub. L. 107–107, §505(d)(4)(C), struck out "regular" before "captains and majors" and before "lieutenants and lieutenant commanders" in section catchline.

Subsec. (a). Pub. L. 107–107, §505(d)(3), in introductory provisions, substituted "Army, Air Force, or Marine Corps on the active-duty list" for "Regular Army, Regular Air Force, or Regular Marine Corps" and "Navy on the active-duty list" for "Regular Navy" and struck out "regular" before "grade" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §505(c), Nov. 24, 2003, 117 Stat. 1457, provided that: "The amendments made by subsection (a) [amending this section] shall not apply in the case of an officer who as of the date of the enactment of this Act [Nov. 24, 2003] is required to be discharged under section 632(a)(1) of title 10, United States Code, by reason of having failed of selection for promotion to the next higher regular grade a second time."

#### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §633. Retirement for years of service: regular and Space Force lieutenant colonels; regular Navy commanders

(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—(1) Except as provided in subsection (b) and as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of lieutenant colonel, and each officer of the Regular Navy who holds the regular grade of commander, who is not on a list of officers recommended for promotion to the regular grade of colonel or captain, respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 28 years of active commissioned service.

(2) Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of lieutenant colonel who is not on a list of officers recommended for promotion to the grade of colonel shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) An officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 8146(e) or 8372 of this title applies.

(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 98–525, title V, §529(b), title XIV, §1405(12), Oct. 19, 1984, 98 Stat. 2526, 2622; Pub. L. 102–484, div. A, title V, §504(a), Oct. 23, 1992, 106 Stat. 2403; Pub. L. 103–160, div. A, title V, §561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §504(a), Oct. 17, 1998, 112 Stat. 2004; Pub. L. 109–163, div. A, title V, §509(a)(1), Jan. 6, 2006, 119 Stat. 3229; Pub. L. 114–328, div. A, title V, §505(b)(1), Dec. 23, 2016, 130 Stat. 2108; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(4)(D), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1722(b)(6)(A), (E)(i), Dec. 22, 2023, 137 Stat. 669, 670.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1722(b)(6)(E)(i), substituted "and Space Force lieutenant colonels; regular Navy" for "lieutenant colonels and" in section catchline.

Subsec. (a). Pub. L. 118–31, §1722(b)(6)(A), designated existing provisions as par. (1), substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force", and added par. (2).

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2018**—Subsec. (b)(1). Pub. L. 115–232 substituted "section 8146(e) or 8372" for "section 5596(e) or 6383".

**2016**—Subsec. (a). Pub. L. 114–328 inserted "or 637a" after "637(b)".

**2006**—Pub. L. 109–163 designated existing provisions as subsec. (a), inserted heading, substituted "Except as provided in subsection (b) and as provided" for "Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies and except as provided", and added subsec. (b).

**1998**—Pub. L. 105–261 substituted "Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies" for "Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies" and struck out at end "During the period beginning on July 1, 1993, and ending on October 1, 1999, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies."

**1993**—Pub. L. 103–160 substituted "October 1, 1999" for "October 1, 1995".

**1992**—Pub. L. 102–484 inserted at end "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies."

**1984**—Pub. L. 98–525, §1405(12), substituted "28" for "twenty-eight".

Pub. L. 98–525, §529(b), substituted "Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies" for "Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §634. Retirement for years of service: regular and Space Force colonels; regular Navy captains

(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—(1) Except as provided in subsection (b) and as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of colonel, and each officer of the Regular Navy who holds the regular grade of captain, who is not on a list of officers recommended for promotion to the regular grade of brigadier general or rear admiral (lower half), respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 30 years of active commissioned service.

(2) Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of colonel who is not on a list of officers recommended for promotion to the grade of brigadier general shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) An officer of the Navy who is designated for limited duty to whom section 8372(a)(4) of this title applies.

(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title XIV, §1405(13), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–484, div. A, title V, §504(b), Oct. 23, 1992, 106 Stat. 2403; Pub. L. 103–160, div. A, title V, §561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §504(b), Oct. 17, 1998, 112 Stat. 2004; Pub. L. 109–163, div. A, title V, §509(a)(2), Jan. 6, 2006, 119 Stat. 3229; Pub. L. 114–328, div. A, title V, §505(b)(2), Dec. 23, 2016, 130 Stat. 2108; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(4)(E), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1722(b)(6)(B), (E)(ii), Dec. 22, 2023, 137 Stat. 669, 670.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, §1722(b)(6)(E)(ii), substituted "and Space Force colonels; regular" for "colonels and" in section catchline.

Subsec. (a). Pub. L. 118–31, §1722(b)(6)(B), designated existing provisions as par. (1), substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force", and added par. (2).

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2018**—Subsec. (b)(1). Pub. L. 115–232 substituted "section 8372(a)(4)" for "section 6383(a)(4)".

**2016**—Subsec. (a). Pub. L. 114–328 inserted "or 637a" after "637(b)".

**2006**—Pub. L. 109–163 designated existing provisions as subsec. (a), inserted heading, substituted "Except as provided in subsection (b) and as provided" for "Except an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except as provided", and added subsec. (b).

**1998**—Pub. L. 105–261 inserted "an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except" after "Except" and struck out at end "During the period beginning on July 1, 1993, and ending on October 1, 1999, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies."

**1993**—Pub. L. 103–160 substituted "October 1, 1999" for "October 1, 1995".

**1992**—Pub. L. 102–484 inserted at end "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies."

**1985**—Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Pub. L. 98–525 substituted "30" for "thirty".

**1981**—Pub. L. 97–86 substituted "commodore" for "commodore admiral".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §635. Retirement for years of service: regular and Space Force brigadier generals; regular Navy rear admirals (lower half)

(a) ARMY, NAVY, AIR FORCE, AND MARINE CORPS.—Except as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of brigadier general, and each officer of the Regular Navy who holds the regular grade of rear admiral (lower half), who is not on a list of officers recommended for promotion to the regular grade of major general or rear admiral, respectively, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 30 years of active commissioned service, whichever is later.

(b) SPACE FORCE.—Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of brigadier general who is not on a list of officers recommended for promotion to the grade of major general shall, if not earlier retired, be retired as specified in subsection (a).

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2863; amended Pub. L. 97–86, title IV, §405(b)(1), (5)(A), Dec. 1, 1981, 95 Stat. 1105, 1106; Pub. L. 98–525, title XIV, §1405(13), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–145, title V, §514(b)(1), (5)(A), Nov. 8, 1985, 99 Stat. 628; Pub. L. 114–328, div. A, title V, §505(b)(3), Dec. 23, 2016, 130 Stat. 2108; Pub. L. 116–283, div. A, title IX, §924(b)(4)(F), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1722(b)(6)(C), (E)(iii), Dec. 22, 2023, 137 Stat. 669, 670.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31 substituted "and Space Force brigadier generals; regular Navy" for "brigadier generals and" in section catchline; designated existing provisions as subsec. (a), inserted heading, and substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force"; and added subsec. (b).

**2021**—Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular

Marine Corps".

**2016**—Pub. L. 114–328 inserted "or 637a" after "637(b)".

**1985**—Pub. L. 99–145 substituted "rear admirals (lower half)" for "commodores" in section catchline and "rear admiral (lower half)" for "commodore" in text.

**1984**—Pub. L. 98–525 substituted "30" for "thirty".

**1981**—Pub. L. 97–86 substituted "commodores" for "commodore admirals" in section catchline and "commodore" for "commodore admiral" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §636. Retirement for years of service: regular and Space Force officers in grades above brigadier general; regular Navy officers in grades above rear admiral (lower half)

(a) MAJOR GENERALS AND REAR ADMIRALS SERVING IN GRADE.—(1) Except as provided in subsection (b) or (c) and under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of major general, and each officer of the Regular Navy who holds the regular grade of rear admiral, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 35 years of active commissioned service, whichever is later.

(2) Except as provided in subsection (b) or (c) and under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of major general shall, if not earlier retired, be retired as specified in paragraph (1).

(b) LIEUTENANT GENERALS AND VICE ADMIRALS.—In the administration of subsection (a) in the case of an officer who is serving in the grade of lieutenant general or vice admiral, the number of years of active commissioned service applicable to the officer is 38 years.

(c) GENERALS AND ADMIRALS.—In the administration of subsection (a) in the case of an officer who is serving in the grade of general or admiral, the number of years of active commissioned service applicable to the officer is 40 years.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2863; amended Pub. L. 98–525, title XIV, §1405(14), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 105–85, div. A, title V, §506(a), (b), Nov. 18, 1997, 111 Stat. 1726; Pub. L. 114–328, div. A, title V, §505(b)(4), Dec. 23, 2016, 130 Stat. 2108; Pub. L. 116–283, div. A, title IX, §924(b)(4)(G), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1722(b)(6)(D), (E)(iv), Dec. 22, 2023, 137 Stat. 669, 670.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1722(b)(6)(E)(iv), substituted "and Space Force officers in grades above brigadier general; regular Navy officers in grades above" for "officers in grades above brigadier general and" in section catchline.

Subsec. (a). Pub. L. 118–31, §1722(b)(6)(D), designated existing provisions as par. (1), substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force", and added par. (2).

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2016**—Subsec. (a). Pub. L. 114–328 inserted "or 637a" after "637(b)".

**1997**—Pub. L. 105–85, §506(b), substituted "regular officers in grades above brigadier general and rear admiral (lower half)" for "regular major generals and rear admirals" in section catchline.

Pub. L. 105–85, §506(a), designated existing provisions as subsec. (a), inserted heading, substituted "Except as provided in subsection (b) or (c) and" for "Except as provided", and added subsecs. (b) and (c).

**1984**—Pub. L. 98–525 substituted "35" for "thirty-five".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT

Sec.
637. Selection of regular officers for continuation on active duty.
637a. Continuation on active duty: officers in certain military specialties and career tracks.
638. Selective early retirement.
638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges.
638b. Voluntary retirement incentive.
639. Continuation on active duty to complete disciplinary action.
640. Deferment of retirement or separation for medical reasons.

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, div. A, title V, §505(a)(2), Dec. 23, 2016, 130 Stat. 2108, added item 637a.

**2011**—Pub. L. 112–81, div. A, title V, §504(a)(2), 125 Stat. 1390, added item 638b.

**1990**—Pub. L. 101–510, div. A, title V, §521(a)(2), Nov. 5, 1990, 104 Stat. 1561, added item 638a.

## §637. Selection of regular officers for continuation on active duty

(a)(1) An officer subject to discharge or retirement in accordance with section 632 of this title may, subject to the needs of the service, be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

(2) An officer who holds the regular grade of captain in the Army, Air Force, Marine Corps, or Space Force, or the regular grade of lieutenant in the Navy, and who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes 20 years of active commissioned service unless he is promoted to the regular grade of major or lieutenant commander, respectively.

(3) An officer who holds the regular grade of major or lieutenant commander who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes 24 years of active commissioned service unless he is promoted to the regular grade of lieutenant colonel or commander, respectively.

(4) An officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in

accordance with section 632 of this title.

(5) Each officer who is continued on active duty under this subsection, is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

(A) be discharged upon the expiration of his period of continued service; or

(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding the provisions of clause (A), any officer who would otherwise be discharged under such clause and is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, shall unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

(6) The retirement or discharge of an officer pursuant to this subsection shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(b)(1) An officer subject to retirement under section 633 or 634 of this title may, subject to the needs of the service, have his retirement deferred and be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

(2) An officer subject to retirement under section 635 or 636 of this title who is serving in the grade of brigadier general, rear admiral (lower half), major general, or rear admiral may, subject to the needs of the service, have his retirement deferred and be continued on active duty by the Secretary concerned. An officer subject to retirement under section 635 or 636 of this title who is serving in a grade above major general or rear admiral may have his retirement deferred and be continued on active duty by the President.

(3) Any deferral of retirement and continuation on active duty under this subsection shall be for a period not to exceed five years, except as provided under section 1251 or 1253 of this title.

(c) Continuation of an officer on active duty under this section pursuant to the action of a selection board convened under section 611(b) of this title is subject to the approval of the Secretary of the military department concerned. The period of the continuation on active duty of an officer under this section may be reduced by the Secretary concerned in the case of any officer as provided in section 638a of this title.

(d) For purposes of this section, a period of continuation on active duty under this section expires or is completed on the earlier of (1) the date originally established for the termination of such period, or (2) the date established for the termination of such period by any shortening of such period under section 638a of this title.

(e) The Secretary of Defense shall prescribe regulations for the administration of this section.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2863; amended Pub. L. 97–22, §4(e), July 10, 1981, 95 Stat. 127; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title XIV, §1405(15), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 101–510, div. A, title V, §521(b)(1), Nov. 5, 1990, 104 Stat. 1561; Pub. L. 110–181, div. A, title V, §504, Jan. 28, 2008, 122 Stat. 95; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(K), Jan. 1, 2021, 134 Stat. 3821.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2018**—Subsec. (a)(5). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911" in concluding provisions.

**2008**—Subsec. (b)(3). Pub. L. 110–181 substituted "except as provided under section 1251 or 1253 of this title" for "but such period may not (except as provided under section 1251(b) of this title) extend beyond the

date of the officer's sixty-second birthday".

**1990**—Subsec. (c). Pub. L. 101–510, §521(b)(1)(A), inserted at end "The period of the continuation on active duty of an officer under this section may be reduced by the Secretary concerned in the case of any officer as provided in section 638a of this title."

Subsecs. (d), (e). Pub. L. 101–510, §521(b)(1)(B), (C), added subsec. (d) and redesignated former subsec. (d) as (e).

**1985**—Subsec. (b)(2). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Subsec. (a)(2). Pub. L. 98–525, §1405(15)(A), substituted "20" for "twenty".

Subsec. (a)(3). Pub. L. 98–525, §1405(15)(B), substituted "24" for "twenty-four".

**1981**—Subsec. (b)(1). Pub. L. 97–22, §4(e)(1), substituted "section 633 or 634" for "section 633, 634, 635, or 636".

Subsec. (b)(2). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Pub. L. 97–22, §4(e)(2), inserted provision that an officer subject to retirement under section 635 or 636 of this title who is serving in the grade of brigadier general, commodore admiral, major general, or rear admiral may, subject to the needs of the service, have his retirement deferred and be continued on active duty by the Secretary concerned and struck out requirement that the deferral of the retirement of an officer subject to retirement under section 635 or 636 of this title serving in a grade above major general or rear admiral was subject to the needs of the service.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

#### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

#### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §637a. Continuation on active duty: officers in certain military specialties and career tracks

(a) IN GENERAL.—The Secretary of the military department concerned may authorize an officer in a grade above grade O–2 to remain on active duty after the date otherwise provided for the separation or retirement of the officer in section 632, 633, 634, 635, or 636 of this title, as applicable, if the officer has a military occupational specialty, rating, or specialty code in a military specialty designated pursuant to subsection (b).

(b) MILITARY SPECIALTIES.—Each Secretary of a military department shall designate the military specialties in which a military occupational specialty, rating, or specialty code, as applicable, assigned to members of the armed forces under the jurisdiction of such Secretary authorizes the members to be eligible for continuation on active duty as provided in subsection (a).

(c) DURATION OF CONTINUATION.—An officer continued on active duty pursuant to this section shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 40 years of active service.

(d) REGULATIONS.—The Secretaries of the military departments shall carry out this section in accordance with regulations prescribed by the Secretary of Defense. The regulations shall specify the criteria to be used by the Secretaries of the military departments in designating military specialties for purposes of subsection (b).

(Added Pub. L. 114–328, div. A, title V, §505(a)(1), Dec. 23, 2016, 130 Stat. 2107; amended Pub. L. 115–232, div. A, title V, §506, title X, §1081(a)(8), Aug. 13, 2018, 132 Stat. 1743, 1983; Pub. L. 116–92, div. A, title V, §504, Dec. 20, 2019, 133 Stat. 1345.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Subsec. (a). Pub. L. 116–92 inserted "separation or" after "provided for the".

**2018**—Subsec. (a). Pub. L. 115–232, §506, substituted "grade O–2" for "grade O–4" and inserted "632," before "633,".

Subsec. (d). Pub. L. 115–232, §1081(a)(8), substituted "specialties" for "specialities".

## §638. Selective early retirement

(a)(1) A regular officer on the active-duty list of the Army, Navy, Air Force, Marine Corps, or Space Force may be considered for selective early retirement by a selection board convened under section 611(b) of this title if the officer is described in any of subparagraphs (A) through (D) as follows:

(A) An officer holding the regular grade of lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion.

(B) An officer holding the regular grade of colonel or, in the case of an officer of the Navy, captain who has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

(C) An officer holding the regular grade of brigadier general or rear admiral (lower half) who has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

(D) An officer holding the regular grade of major general or rear admiral who has served at least three and one-half years of active duty in that grade.

(2) The Secretary of the military department concerned shall specify the number of officers described in paragraphs (1)(A) and (1)(B) which a selection board convened under section 611(b) of this title may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

(3) A regular officer on the active-duty list of the Army, Navy, Air Force, Marine Corps, or Space Force may also be considered for early retirement under the circumstances prescribed in section 638a of this title.

(b)(1)(A) An officer in a grade below brigadier general or rear admiral (lower half) who is recommended for early retirement under this section or section 638a of this title and whose early retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(B) If an officer described in subparagraph (A) is not eligible for retirement under any provision of law, the officer shall be retained on active duty until the officer is qualified for retirement under section 7311, 8323, or 9311 of this title, and then be retired under that section, unless the officer is sooner retired or discharged under some other provision of law, with such retirement under that section occurring not later than the later of the following:

(i) The first day of the month beginning after the month in which the officer becomes qualified for retirement under that section.

(ii) The first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(2) An officer who holds the regular grade of brigadier general, major general, rear admiral (lower half), or rear admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approved the report of the board which recommended the officer for early retirement.

(3)(A) The Secretary concerned may defer for not more than three months the retirement of an officer otherwise approved for early retirement under this section or section 638a of this title in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(B) An officer recommended for early retirement under paragraph (1)(A) or section 638a of this title, if approved for deferral under subparagraph (A), shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(C) The Secretary concerned may defer the retirement of an officer otherwise approved for early retirement under paragraph (1)(B), but in no case later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(D) An officer recommended for early retirement under paragraph (2), if approved for deferral under subparagraph (A), shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the thirteenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(c) So long as an officer in a grade below brigadier general or rear admiral (lower half) holds the same grade, he may not be considered for early retirement under this section more than once in any five-year period.

(d) The retirement of an officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(e)(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2)(A) Such regulations shall require that when the Secretary of the military department concerned submits a list of officers to a selection board convened under section 611(b) of this title to consider officers for selection for early retirement under this section, such list (except as provided in subparagraph (B)) shall include each officer on the active-duty list in the same grade and competitive category whose position on the active-duty list is between that of the most junior officer in that grade and competitive category whose name is submitted to the board and that of the most senior officer in that grade and competitive category whose name is submitted to the board.

(B) A list under subparagraph (A) may not include an officer in that grade and competitive category (i) who has been approved for voluntary retirement under section 7311, 8323, or 9311 of this title, or (ii) who is to be involuntarily retired under any provision of law during the fiscal year in which the selection board is convened or during the following fiscal year.

(C) An officer not considered by a selection board convened under section 611(b) of this title by reason of subparagraph (B) shall be retired on the date approved for the retirement of that officer as

of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2864; amended Pub. L. 97–22, §4(f), July 10, 1981, 95 Stat. 127; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 100–456, div. A, title V, §504, Sept. 29, 1988, 102 Stat. 1967; Pub. L. 101–510, div. A, title V, §521(b)(2), Nov. 5, 1990, 104 Stat. 1561; Pub. L. 102–190, div. A, title V, §503(a), Dec. 5, 1991, 105 Stat. 1355; Pub. L. 103–160, div. A, title V, §506, Nov. 30, 1993, 107 Stat. 1646; Pub. L. 104–106, div. A, title V, §504(b), Feb. 10, 1996, 110 Stat. 295; Pub. L. 113–291, div. A, title V, §502(b), Dec. 19, 2014, 128 Stat. 3354; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(3)(L), Jan. 1, 2021, 134 Stat. 3821.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(1), (3). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" in introductory provisions of par. (1) and in par. (3).

**2018**—Subsecs. (b)(1)(B), (e)(2)(B). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**2014**—Subsec. (b)(1). Pub. L. 113–291, §502(b)(1), added par. (1) and struck out former par. (1) which read as follows: "An officer in a grade below brigadier general or rear admiral (lower half) who is recommended for early retirement under this section or section 638a of this title and whose early retirement is approved by the Secretary concerned shall—

"(A) be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement; or

"(B) if the officer is not eligible for retirement under any provision of law, be retained on active duty until he is qualified for retirement under section 3911, 6323, or 8911 of this title, and then be retired under that section, unless he is sooner retired or discharged under some other provision of law."

Subsec. (b)(3). Pub. L. 113–291, §502(b)(2), designated existing provisions as subpar. (A), substituted "three months" for "90 days", and added subpars. (B) to (D).

**1996**—Subsec. (b)(3). Pub. L. 104–106 added par. (3).

**1993**—Subsec. (e)(2)(B). Pub. L. 103–160 inserted "(i)" after "grade and competitive category", inserted "(ii)" after "of this title, or", and struck out comma after "any provision of law".

**1991**—Subsec. (e). Pub. L. 102–190 designated existing provisions as pars. (1) and (2)(A), in par. (2)(A) inserted "(except as provided in subparagraph (B))" after "under this section, such list", and added subpars. (B) and (C).

**1990**—Subsec. (a)(3). Pub. L. 101–510, §521(b)(2)(A), added par. (3).

Subsec. (b)(1). Pub. L. 101–510, §521(b)(2)(B), inserted "or section 638a of this title" after "under this section".

**1988**—Subsec. (a). Pub. L. 100–456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps—

"(1) who holds the regular grade of lieutenant colonel or commander and has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion;

"(2) who holds the regular grade of colonel or, in the case of an officer of the Navy, captain and has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion;

"(3) who holds the regular grade of brigadier general or rear admiral (lower half) and has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion; or

"(4) who holds the regular grade of major general or rear admiral and has served at least three and one-half years of active duty in that grade,

may be considered for early retirement by a selection board convened under section 611(b) of this title. The

Secretary of the military department concerned shall specify the number of officers described in clauses (1) and (2) which such a board may recommend for early retirement, but such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category."

**1985**—Subsecs. (a)(3), (b), (c). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore" wherever appearing.

**1981**—Subsec. (a)(3). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Subsec. (a)(3), (4). Pub. L. 97–22 substituted "three and one-half years of active duty" for "four years of active duty".

Subsecs. (b), (c). Pub. L. 97–86 substituted "commodore" for "commodore admiral" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges

(a)(1) The Secretary of Defense may authorize the Secretary of a military department to take any of the actions set forth in subsection (b) with respect to officers of an armed force under the jurisdiction of that Secretary.

(2) Any authority provided to the Secretary of a military department under paragraph (1) shall expire on the date specified by the Secretary of Defense, but such expiration date may not be later than December 31, 2030.

(b) Actions which the Secretary of a military department may take with respect to officers of an armed force when authorized to do so under subsection (a) are the following:

(1) Shortening the period of the continuation on active duty established under section 637 of this title for a regular officer who is serving on active duty pursuant to a selection under that section for continuation on active duty.

(2) Providing that regular officers on the active-duty list may be considered for early retirement by a selection board convened under section 611(b) of this title in the case of officers described in any of subparagraphs (A) through (C) as follows:

(A) Officers in the regular grade of lieutenant colonel or commander who have failed of selection for promotion at least one time and whose names are not on a list of officers recommended for promotion.

(B) Officers in the regular grade of colonel or, in the case of the Navy, captain who have served on active duty in that grade for at least two years and whose names are not on a list of officers recommended for promotion.

(C) Officers, other than those described in subparagraphs (A) and (B), holding a regular grade below the grade of colonel, or in the case of the Navy, captain, who are eligible for retirement under section 7311, 8323, or 9311 of this title, or who after two additional years or less of active service would be eligible for retirement under one of those sections and whose names are not on a list of officers recommended for promotion.

(3) Convening selection boards under section 611(b) of this title to consider for discharge regular officers on the active-duty list in a grade below lieutenant colonel or commander—

(A) who have served at least one year of active duty in the grade currently held;

(B) whose names are not on a list of officers recommended for promotion; and

(C) who are not eligible to be retired under any provision of law (other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993) and are not within two years of becoming so eligible.

(4) Convening selection boards under section 611(b) of this title to consider for early retirement or discharge regular officers on the active-duty list in a grade below lieutenant colonel or commander—

(A) who have served at least one year of active duty in the grade currently held; and

(B) whose names are not on a list of officers recommended for promotion.

(c)(1) In the case of an action under subsection (b)(2), the total number of officers described in that subsection that a selection board convened under section 611(b) of this title pursuant to the authority of that subsection may recommend for early retirement may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

(2) In the case of an action authorized under subsection (b)(2), the Secretary of Defense may also authorize the Secretary of the military department concerned when convening a selection board under section 611(b) of this title to consider regular officers on the active-duty list for early retirement to include within the officers to be considered by the board reserve officers on the active-duty list on the same basis as regular officers.

(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.

(4) In the case of an action under subsection (b)(2), the Secretary of Defense may also authorize the Secretary of the military department concerned to waive the five-year period specified in section 638(c) of this title if the Secretary of Defense determines that it is necessary for the Secretary of that military department to have such authority in order to meet mission needs.

(d)(1) In the case of an action under subsection (b)(3), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all officers described in that subsection in a particular grade and competitive category; or

(B) the names of all officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

(2) The total number of officers to be recommended for discharge by a selection board convened pursuant to subsection (b)(3) may not be more than 30 percent of the number of officers considered.

(3) An officer who is recommended for discharge by a selection board convened pursuant to the authority of subsection (b)(3) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

(4) Selection of officers for discharge under this subsection shall be based on the needs of the service.

(e)(1) In the case of action under subsection (b)(4), the Secretary of the military department concerned shall specify the total number of officers described in that subsection that a selection

board convened under section 611(b) of this title pursuant to the authority of that subsection may recommend for early retirement or discharge. Officers who are eligible, or are within two years of becoming eligible, to be retired under any provision of law (other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484)), if selected by the board, shall be retired or retained until becoming eligible to retire under section 7311, 8323, or 9311 of this title, and those officers who are otherwise ineligible to retire under any provision of law shall, if selected by the board, be discharged.

(2) In the case of action under subsection (b)(4), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all eligible officers described in that subsection, whether or not they are eligible to be retired under any provision of law, in a particular grade and competitive category; or

(B) the names of all eligible officers described in that subsection in a particular grade and competitive category, whether or not they are eligible to be retired under any provision of law, who are also in particular year groups, specialties, or retirement categories, or any combination thereof, with that competitive category.

(3) The number of officers specified under paragraph (1) may not be more than 30 percent of the number of officers considered.

(4) An officer who is recommended for discharge by a selection board convened pursuant to the authority of subsection (b)(4) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

(5) Selection of officers for discharge under this subsection shall be based on the needs of the service.

(f) The discharge or retirement of an officer pursuant to this section shall be considered to be involuntary for purposes of any other provision of law.

(Added Pub. L. 101–510, div. A, title V, §521(a)(1), Nov. 5, 1990, 104 Stat. 1559; amended Pub. L. 102–190, div. A, title V, §503(b), Dec. 5, 1991, 105 Stat. 1355; Pub. L. 102–484, div. A, title V, §503, title LXIV, §4403(g)(2), Oct. 23, 1992, 106 Stat. 2402, 2703; Pub. L. 103–160, div. A, title V, §561(b), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §561(c), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–364, div. A, title VI, §623(b), Oct. 17, 2006, 120 Stat. 2256; Pub. L. 112–239, div. A, title V, §502, Jan. 2, 2013, 126 Stat. 1714; Pub. L. 113–66, div. A, title V, §503(a), Dec. 26, 2013, 127 Stat. 750; Pub. L. 113–291, div. A, title V, §503, Dec. 19, 2014, 128 Stat. 3355; Pub. L. 114–92, div. A, title V, §503, Nov. 25, 2015, 129 Stat. 807; Pub. L. 114–328, div. A, title V, §§506, 508(b), Dec. 23, 2016, 130 Stat. 2108, 2109; Pub. L. 115–91, div. A, title V, §503, Dec. 12, 2017, 131 Stat. 1373; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 119–60, div. A, title VI, §602, Dec. 18, 2025, 139 Stat. 905.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsecs. (b)(3)(C) and (e)(1), is section 4403 of Pub. L. 102–484, which is set out as a note under section 1293 of this title.

### AMENDMENTS

**2025**—Subsec. (a)(2). Pub. L. 119–60 substituted "December 31, 2030" for "December 31, 2025".

**2018**—Subsecs. (b)(2)(C), (e)(1). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**2017**—Subsec. (c)(1). Pub. L. 115–91, §503(1), added par. (1) and struck out former par. (1) which read as follows: "In the case of an action under subsection (b)(2), the Secretary of the military department concerned shall specify the number of officers described in that subsection which a selection board convened under

section 611(b) of this title pursuant to the authority of that subsection may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category."

Subsec. (d)(2). Pub. L. 115–91, §503(2), added par. (2) and struck out former par. (2) which read as follows: "The Secretary concerned shall specify the total number of officers to be recommended for discharge by a selection board convened pursuant to subsection (b)(3). That number may not be more than 30 percent of the number of officers considered."

**2016**—Subsec. (a)(2). Pub. L. 114–328, §508(b), substituted "December 31, 2025" for "December 31, 2018".

Subsec. (b)(4). Pub. L. 114–328, §506(1), added par. (4).

Subsecs. (e), (f). Pub. L. 114–328, §506(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f).

**2015**—Subsec. (d)(2). Pub. L. 114–92 substituted "officers considered." for "officers considered—

"(A) in each grade in each competitive category, except that through December 31, 2018, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade; or

"(B) in each grade, year group, or specialty (or combination thereof) in each competitive category, except that through December 31, 2018, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade."

**2014**—Subsec. (d)(3) to (5). Pub. L. 113–291 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "The total number of officers described in subsection (b)(3) from any of the armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the number of officers of that armed force (or the number of officers of that armed force in that grade) authorized to be serving on active duty as of the end of that fiscal year."

**2013**—Subsec. (a). Pub. L. 112–239, §502(1), designated existing provisions as par. (1), struck out ", during the period beginning on October 1, 1990, and ending on December 31, 2001, and for the purpose of subsection (b)(4) during the period beginning on October 1, 2006, and ending on December 31, 2012," after "military department", and added par. (2).

Subsec. (b)(2)(A). Pub. L. 113–66, §503(a)(1), substituted "have failed of selection for promotion at least one time and whose names are not on a list of officers recommended for promotion" for "would be subject to consideration for selection for early retirement under section 638(a)(1)(A) of this title except that they have failed of selection for promotion only one time (rather than two or more times)".

Subsec. (b)(2)(B). Pub. L. 113–66, §503(a)(2), substituted "have served on active duty in that grade for at least two years and whose names are not on a list of officers recommended for promotion" for "would be subject to consideration for selection for early retirement under section 638(a)(1)(B) of this title except that they have served on active duty in that grade less than four years (but not less than two years)".

Subsec. (b)(3), (4). Pub. L. 112–239, §502(2), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "Suspending section 638(c) of this title."

Subsec. (c)(4). Pub. L. 112–239, §502(3), added par. (4).

Subsec. (d). Pub. L. 112–239, §502(4), substituted "subsection (b)(3)" for "subsection (b)(4)" wherever appearing and "except that through December 31, 2018," for "except that during the period beginning on October 1, 2006, and ending on December 31, 2012," in subpars. (A) and (B) of par. (2).

**2006**—Subsec. (a). Pub. L. 109–364, §623(b)(1), inserted "and for the purpose of subsection (b)(4) during the period beginning on October 1, 2006, and ending on December 31, 2012," after "December 31, 2001,".

Subsec. (d)(2)(A). Pub. L. 109–364, §623(b)(2)(A), inserted ", except that during the period beginning on October 1, 2006, and ending on December 31, 2012, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade" before "; or" at end.

Subsec. (d)(2)(B). Pub. L. 109–364, §623(b)(2)(B), inserted ", except that during the period beginning on October 1, 2006, and ending on December 31, 2012, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade" before period at end.

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

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

**1993**—Subsec. (a). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

**1992**—Subsec. (b)(4)(C). Pub. L. 102–484, §4403(g)(2), inserted "(other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993)" after "any provision of law".

Subsec. (c)(3). Pub. L. 102–484, §503, added par. (3).

**1991**—Subsec. (b)(2)(C). Pub. L. 102–190, §503(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "Officers holding a regular grade below the grade of colonel or, in the case of the Navy, captain who are not eligible for retirement under section 3911, 6323, or 8911 of this title but who after two additional years of active service as a commissioned officer would be eligible for retirement under one of those sections and whose names are not on a list of officers recommended for promotion."

Subsec. (c). Pub. L. 102–190, §503(b)(2), designated existing provisions as par. (1) and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §638b. Voluntary retirement incentive

(a) INCENTIVE FOR VOLUNTARY RETIREMENT FOR CERTAIN OFFICERS.—The Secretary of Defense may authorize the Secretary of a military department to provide a voluntary retirement incentive payment in accordance with this section to an officer of the armed forces under that Secretary's jurisdiction who is specified in subsection (c) as being eligible for such a payment.

(b) LIMITATIONS.—(1) Any authority provided the Secretary of a military department under this section shall expire as specified by the Secretary of Defense, but not later than December 31, 2018.

(2) The total number of officers who may be provided a voluntary retirement incentive payment under this section may not exceed 675 officers.

(c) ELIGIBLE OFFICERS.—(1) Except as provided in paragraph (2), an officer of the armed forces is eligible for a voluntary retirement incentive payment under this section if the officer—

(A) has served on active duty for more than 20 years, but not more than 29 years, on the approved date of retirement;

(B) meets the minimum length of commissioned service requirement for voluntary retirement as a commissioned officer in accordance with section 7311, 8323, or 9311 of this title, as applicable to that officer;

(C) on the approved date of retirement, has 12 months or more remaining on active-duty service before reaching the maximum retirement years of active service for the member's grade as specified in section 633 or 634 of this title;

(D) on the approved date of retirement, has 12 months or more remaining on active-duty service before reaching the maximum retirement age under any other provision of law; and

(E) meets any additional requirements for such eligibility as is specified by the Secretary concerned, including any requirement relating to years of service, skill rating, military specialty or competitive category, grade, any remaining period of obligated service, or any combination thereof.

(2) The following officers are not eligible for a voluntary retirement incentive payment under this section:

(A) An officer being evaluated for disability under chapter 61 of this title.

(B) An officer projected to be retired under section 1201 or 1204 of this title.

(C) An officer projected to be discharged with disability severance pay under section 1212 of this title.

(D) A member transferred to the temporary disability retired list under section 1202 or 1205 of this title.

(E) An officer subject to pending disciplinary action or subject to administrative separation or

mandatory discharge under any other provision of law or regulation.

(d) AMOUNT OF PAYMENT.—The amount of the voluntary retirement incentive payment paid an officer under this section shall be an amount determined by the Secretary concerned, but not to exceed an amount equal to 12 times the amount of the officer's monthly basic pay at the time of the officer's retirement. The amount may be paid in a lump sum at the time of retirement.

(e) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraph (2), a member of the armed forces who, after having received all or part of a voluntary retirement incentive under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary retirement incentive received.

(2) Members who are involuntarily recalled to active duty or full-time National Guard duty under any provision of law shall not be subject to this subsection.

(3) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interest of the United States. The authority in this paragraph may be delegated only to the Under Secretary of Defense for Personnel and Readiness and the Principal Deputy Under Secretary of Defense of Personnel and Readiness.

(Added Pub. L. 112–81, div. A, title V, §504(a)(1), Dec. 31, 2011, 125 Stat. 1389; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (c)(1)(B). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §639. Continuation on active duty to complete disciplinary action

When any action has been commenced against an officer with a view to trying such officer by court-martial and such officer is to be separated or retired in accordance with this chapter, the Secretary of the military department concerned may delay the separation or retirement of the officer, without prejudice to such action, until the completion of the action.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2866.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §640. Deferment of retirement or separation for medical reasons

(a) If the Secretary of the military department concerned determines that the evaluation of the physical condition of an officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the member's well being before the date on which the officer would otherwise be required to retire or be separated under this title, the Secretary may defer the retirement or separation of the officer under this title.

(b) A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2866; amended Pub. L. 107–107, div. A, title V, §507, Dec. 28, 2001, 115 Stat. 1090.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–107 amended text generally. Prior to amendment, text read as follows: "The Secretary of the military department concerned may defer the retirement or separation under this title of any officer if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which the officer would otherwise be required to retire or be separated under this title."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

Sec.
641. Applicability of chapter.
642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay.
643. Chaplains: discharge or retirement upon loss of professional qualifications.
[644. Repealed.]
645. Definitions.
646. Consideration of performance as a member of the Joint Staff.
647. Force shaping authority.

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375, div. A, title V, §501(c)(1)(B), Oct. 28, 2004, 118 Stat. 1874, added item 647.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(5), Oct. 5, 1994, 108 Stat. 3013, struck out item 644 "Authority to suspend officer personnel laws".

**1984**—Pub. L. 98–525, title XIII, §1301(d)(2), Oct. 19, 1984, 98 Stat. 2612, added item 646.

## §641. Applicability of chapter

Officers in the following categories are not subject to this chapter (other than section 640 and, in

the case of warrant officers, section 628):

(1) Reserve officers—

(A) on active duty authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

(B) on active duty under section 7038, 8083, 8084, 9038, 10211, 10301 through 10305, 10502, 10505, 10506(a), 10506(b), 10507, or 12402 of this title or section 708 of title 32; or

(C) on full-time National Guard duty.

(2) The director of admissions, dean, and permanent professors at the United States Military Academy, the registrar, dean, and permanent professors at the United States Air Force Academy, and permanent professors of the Navy (as defined in regulations prescribed by the Secretary of the Navy).

(3) Warrant officers.

(4) Retired officers on active duty.

(5) Students at the Uniformed Services University of the Health Sciences.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2866; amended Pub. L. 98–525, title IV, §414(a)(5), title V, §527(b), Oct. 19, 1984, 98 Stat. 2519, 2525; Pub. L. 99–433, title V, §531(a)(2), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103–337, div. A, title XVI, §1671(c)(5), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–106, div. A, title XV, §1501(c)(6), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104–201, div. A, title XII, §1212(e), Sept. 23, 1996, 110 Stat. 2694; Pub. L. 106–398, §1 [[div. A], title V, §521], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 107–107, div. A, title V, §511(a), Dec. 28, 2001, 115 Stat. 1092; Pub. L. 108–375, div. A, title IV, §416(j), title V, §501(d), Oct. 28, 2004, 118 Stat. 1869, 1874; Pub. L. 109–364, div. A, title VI, §621(c), Oct. 17, 2006, 120 Stat. 2255; Pub. L. 110–181, div. A, title V, §508(b), Jan. 28, 2008, 122 Stat. 97; Pub. L. 115–91, div. A, title VI, §618(b), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 103–337, div. A, title XVI, §§1624, 1691(b)(1), Oct. 5, 1994, 108 Stat. 2961, 3026, which directed amendment of this section effective Oct. 1, 1996, by inserting "(a)" before "Officers in the following" and by adding at the end a new subsec. (b), was amended by Pub. L. 104–106, div. A, title XV, §1501(a)(1)(A), Feb. 10, 1996, 110 Stat. 495, and, as so amended, amends section 620 of this title instead of this section.

### AMENDMENTS

**2018**—Par. (1)(B). Pub. L. 115–232 substituted "section 7038, 8083, 8084, 9038," for "section 3038, 5143, 5144, 8038,".

**2017**—Par. (6). Pub. L. 115–91 struck out par. (6) which read as follows: "Officers appointed pursuant to an agreement under section 329 of title 37."

**2008**—Par. (2). Pub. L. 110–181 substituted ", the registrar" for "and the registrar" and inserted ", and permanent professors of the Navy (as defined in regulations prescribed by the Secretary of the Navy)" before period at end.

**2006**—Par. (6). Pub. L. 109–364 added par. (6).

**2004**—Par. (1). Pub. L. 108–375, §416(j), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"(1) Reserve officers—

"(A) on active duty for training;

"(B) on active duty under section 3038, 5143, 5144, 8038, 10211, 10301 through 10305, 10502, 10505, 10506(a), 10506(b), 10507, or 12402 of this title or section 708 of title 32;

"(C) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;

"(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), if the call or order to active duty, under regulations prescribed by the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;

"(E) on active duty to pursue special work;

"(F) ordered to active duty under section 12304 of this title;

"(G) on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System; or

"(H) on full-time National Guard duty."

Par. (1)(F). Pub. L. 108–375, §501(d), which directed substitution of "sections 12302 and 12304" for "section 12304" in subpar. (F), could not be executed because par. (1) did not contain a subpar. (F) subsequent to amendment by Pub. L. 108–375, §416(j). See above.

**2001**—Par. (1)(D). Pub. L. 107–107 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "on the reserve active-status list who are on active duty under section 12301(d) of this title, other than as provided in subparagraph (C), under a call or order to active duty specifying a period of three years or less;".

**2000**—Par. (1)(D) to (H). Pub. L. 106–398 added subpar. (D) and redesignated former subpars. (D) to (G) as (E) to (H), respectively.

**1996**—Par. (1)(B). Pub. L. 104–201 inserted "5143, 5144," after "3038,".

Pub. L. 104–106 substituted "10502, 10505, 10506(a), 10506(b), 10507" for "10501".

**1994**—Par. (1)(B). Pub. L. 103–337, §1671(c)(5)(A), substituted "3038, 8038, 10211, 10301 through 10305, 10501, or 12402" for "175, 265, 3021, 3038, 3040, 3496, 5251, 5252, 8021, 8038, or 8496".

Par. (1)(C). Pub. L. 103–337, §1671(c)(5)(B), substituted "12301(d)" for "672(d)".

Par. (1)(E). Pub. L. 103–337, §1671(c)(5)(C), substituted "12304" for "673b".

**1986**—Par. (1)(B). Pub. L. 99–433 substituted "3021, 3038, 3040, 3496, 5251, 5252, 8021, 8038" for "3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033".

**1984**—Pub. L. 98–525, §527(b), substituted "(other than section 640 and, in the case of warrant officers, section 628)" for "(other than section 640)" in provisions preceding par. (1).

Par. (1)(C). Pub. L. 98–525, §414(a)(5)(A), struck out "or under section 502 or 503 of title 32" after "section 672(d) of this title".

Par. (1)(G). Pub. L. 98–525, §414(a)(5)(B)–(D), added subpar. (G).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 501(d) of Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### RETROACTIVE APPLICATION

Pub. L. 107–107, div. A, title V, §511(b), Dec. 28, 2001, 115 Stat. 1092, provided that:

"(1) The Secretary of the military department concerned may provide that an officer who was excluded from the active-duty list under section 641(1)(D) of title 10, United States Code, as amended by section 521 of

the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–108), shall be considered to have been on the active-duty list during the period beginning on the date on which the officer was so excluded and ending on the date of the enactment of this Act [Dec. 28, 2001].

"(2) The Secretary of the military department concerned may provide that a Reserve officer who was placed on the active-duty list on or after October 30, 1997, shall be placed on the reserve active-status list if the officer otherwise meets the conditions specified in section 641(1)(D) of title 10, United States Code, as amended by subsection (a)."

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay

(a) An officer who is discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1174 of this title.

(b) An officer who is retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2867.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §643. Chaplains: discharge or retirement upon loss of professional qualifications

Under regulations prescribed by the Secretary of Defense, a commissioned officer on the active-duty list of the Army, Navy, or Air Force who is appointed or designated as a chaplain may, if he fails to maintain the qualifications needed to perform his professional function, be discharged or, if eligible for retirement, may be retired.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2867.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [§644. Repealed. Pub. L. 103–337, div. A, title XVI, §1622(b), Oct. 5, 1994, 108 Stat. 2961]

Section, added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2867; amended Pub. L. 102–190, div. A, title XI, §1115, Dec. 5, 1991, 105 Stat. 1503, related to authority to suspend officer personnel laws. See section 123 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## §645. Definitions

In this chapter:

(1) The term "promotion zone" means a promotion eligibility category consisting of the officers on an active-duty list in the same grade and competitive category—

(A) who—

(i) in the case of officers in grades below colonel, for officers of the Army, Air Force, Marine Corps, and Space Force, or captain, for officers of the Navy, have neither (I) failed of selection for promotion to the next higher grade, nor (II) been removed from a list of officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); or

(ii) in the case of officers in the grade of colonel or brigadier general, for officers of the Army, Air Force, Marine Corps, and Space Force, or captain or rear admiral (lower half), for officers of the Navy, have neither (I) not been recommended for promotion to the next higher grade when considered in the promotion zone, nor (II) been removed from a list of officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); and

(B) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade.

(2) The term "officers above the promotion zone" means a group of officers on an active-duty list in the same grade and competitive category who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as those officers in the promotion zone for that competitive category; and

(C) are senior to the senior officer in the promotion zone for that competitive category.

(3) The term "officers below the promotion zone" means a group of officers on the active-duty list in the same grade and competitive category who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as the officers in the promotion zone for that competitive category; and

(C) are junior to the junior officer in the promotion zone for that competitive category.

(Added Pub. L. 96–513, title I, §105, Dec. 12, 1980, 94 Stat. 2867; amended Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title V, §533(a), Oct. 19, 1984, 98 Stat. 2528; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–25, title VII, §701(i)(1), Apr. 6, 1991, 105 Stat. 115; Pub. L. 118–159, div. A, title V, §521(e), Dec. 23, 2024, 138 Stat. 1881.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Par. (1)(A). Pub. L. 118–159 substituted "Marine Corps, and Space Force," for "and Marine Corps,"

in cls. (i) and (ii).

**1991**—Pars. (1) to (3). Pub. L. 102–25 inserted "The term" after par. designations and lowercased initial letter of quoted phrases.

**1985**—Par. (1)(A)(ii). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Par. (1)(A)(i)(II), (ii)(II). Pub. L. 98–525, §533(a)(1), inserted "(other than after having been placed on that list after a selection from below the promotion zone)".

Par. (1)(B). Pub. L. 98–525, §533(a)(2), inserted "in the promotion zone" after "the junior officer" and struck out "in the promotion zone" after "higher grade".

**1981**—Par. (1)(A)(ii). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §646. Consideration of performance as a member of the Joint Staff

The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall ensure that officer personnel policies of the Army, Navy, Air Force, Marine Corps, and Space Force concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.

(Added Pub. L. 98–525, title XIII, §1301(d)(1), Oct. 19, 1984, 98 Stat. 2612; amended Pub. L. 116–283, div. A, title IX, §924(b)(1)(C), Jan. 1, 2021, 134 Stat. 3820.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

## §647. Force shaping authority

(a) AUTHORITY.—The Secretary concerned may, solely for the purpose of restructuring an armed force under the jurisdiction of that Secretary—

(1) discharge an officer described in subsection (b); or

(2) transfer such an officer from the active-duty list of that armed force to the reserve active-status list of a reserve component.

(b) COVERED OFFICERS.—(1) The authority under this section may be exercised in the case of an officer (other than an officer of the Space Force) who—

(A) has completed not more than six years of service as a commissioned officer in the armed forces; or

(B) has completed more than six years of service as a commissioned officer in the armed forces, but has not completed a minimum service obligation applicable to that member.

(2) In this subsection, the term "minimum service obligation" means the initial period of required active duty service together with any additional period of required active duty service incurred during the initial period of required active duty service.

(c) APPOINTMENT OF TRANSFERRED OFFICERS.—An officer of the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps who is transferred to a reserve active-status list under this section shall be discharged from the regular component concerned and appointed as a reserve commissioned officer under section 12203 of this title.

(d) REGULATIONS.—The Secretary concerned shall prescribe regulations for the exercise of the Secretary's authority under this section.

(e) SPACE FORCE.—For a similar provision with respect to officers of the Space Force, see section 20405 of this title.

(Added Pub. L. 108–375, div. A, title V, §501(c)(1)(A), Oct. 28, 2004, 118 Stat. 1873; amended Pub. L. 110–181, div. A, title V, §503(b), Jan. 28, 2008, 122 Stat. 95; Pub. L. 116–283, div. A, title IX, §924(b)(4)(H), (16), Jan. 1, 2021, 134 Stat. 3822, 3823; Pub. L. 118–31, div. A, title XVII, §1718(b), Dec. 22, 2023, 137 Stat. 658.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31, §1718(b)(1), inserted "(other than an officer of the Space Force)" after "in the case of an officer" in introductory provisions.

Subsec. (c). Pub. L. 118–31, §1718(b)(2), which directed amendment of subsec. (c) by substituting "or Regular Marine Corps" for "Regular Marine Corps, of Regular Space Force", was executed by making the substitution for "Regular Marine Corps, or Regular Space Force" to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 118–31, §1718(b)(3), added subsec. (e).

**2021**—Subsec. (a)(2). Pub. L. 116–283, §924(b)(16), struck out "of that armed force" before period at end.

Subsec. (c). Pub. L. 116–283, §924(b)(4)(H), substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2008**—Subsec. (b)(1)(A), (B). Pub. L. 110–181 substituted "six years" for "5 years".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as an Effective Date of 2004 Amendment note under section 531 of this title.

## SUBCHAPTER VI—ALTERNATIVE PROMOTION AUTHORITY FOR OFFICERS IN DESIGNATED COMPETITIVE CATEGORIES

Sec.
649a. Officers in designated competitive categories.
649b. Selection for promotion.
649c. Eligibility for consideration for promotion.
649d. Opportunities for consideration for promotion.
649e. Promotions.
649f. Failure of selection for promotion.
649g. Retirement: retirement for years of service; selective early retirement.
649h. Continuation on active duty.
649i. Continuation on active duty: officers in certain military specialties and career tracks.
649j. Other administrative authorities.
649k. Regulations.

## §649a. Officers in designated competitive categories

(a) AUTHORITY TO DESIGNATE COMPETITIVE CATEGORIES OF OFFICERS.—Each Secretary of a military department may designate one or more competitive categories for promotion of officers under section 621 of this title that are under the jurisdiction of such Secretary as a competitive category of officers whose promotion, retirement, and continuation on active duty shall be subject to the provisions of this subchapter.

(b) LIMITATION ON EXERCISE OF AUTHORITY.—The Secretary of a military department may not designate a competitive category of officers for purposes of this subchapter until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the designation of the competitive category. The report on the designation of a competitive category shall set forth the following:

(1) A detailed description of officer requirements for officers within the competitive category.

(2) An explanation of the number of opportunities for consideration for promotion to each particular grade, and an estimate of promotion timing, within the competitive category.

(3) An estimate of the size of the promotion zone for each grade within the competitive category.

(4) A description of any other matters the Secretary considered in determining to designate the competitive category for purposes of this subchapter.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1744.)

## §649b. Selection for promotion

(a) IN GENERAL.—Except as provided in this section, the selection for promotion of officers in any competitive category of officers designated for purposes of this subchapter shall be governed by the provisions of subchapter I of this chapter.

(b) NO RECOMMENDATION FOR PROMOTION OF OFFICERS BELOW PROMOTION ZONE.—Section 616(b) of this title shall not apply to the selection for promotion of officers described in subsection (a).

(c) RECOMMENDATION FOR OFFICERS TO BE EXCLUDED FROM FUTURE CONSIDERATION FOR PROMOTION.—In making recommendations pursuant to section 616 of this title for purposes of the administration of this subchapter, a selection board convened under section 611(a) of this title may recommend that an officer considered by the board be excluded from future consideration for promotion under this chapter.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1744.)

## §649c. Eligibility for consideration for promotion

(a) IN GENERAL.—Except as provided by this section, eligibility for promotion of officers in any competitive category of officers designated for purposes of this subchapter shall be governed by the provisions of section 619 of this title.

(b) INAPPLICABILITY OF CERTAIN TIME-IN-GRADE REQUIREMENTS.—Paragraphs (2) through (4) [1] of section 619(a) of this title shall not apply to the promotion of officers described in subsection (a).

(c) INAPPLICABILITY TO OFFICERS ABOVE AND BELOW PROMOTION ZONE.—The following provisions of section 619(c) of this title shall not apply to the promotion of officers described in subsection (a):

(1) The reference in paragraph (1) of that section to an officer above the promotion zone.

(2) Paragraph (2)(A) of that section.

(d) INAPPLICABILITY OF REQUIREMENT RELATING TO OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.—Section 645(1)(A)(i)(I) of this title shall not apply to the promotion of officers described in subsection (a) to the extent that such section is inconsistent with a number of opportunities for promotion specified pursuant to section 649d of this title.

(e) INELIGIBILITY OF CERTAIN OFFICERS.—The following officers are not eligible for promotion under this subchapter:

(1) An officer described in section 619(d) of this title.

(2) An officer not included within the promotion zone.

(3) An officer who has failed of promotion to a higher grade the maximum number of times specified for opportunities for promotion for such grade within the competitive category concerned pursuant to section 649d of this title.

(4) An officer recommended by a selection board to be removed from consideration for promotion in accordance with section 649b(c) of this title.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1745; amended Pub. L. 116–283, div. A, title V, §506, Jan. 1, 2021, 134 Stat. 3573.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Paragraph (4) of section 619(a) of this title, referred to in subsec. (b), was redesignated paragraph (5) of section 619(a) of this title by Pub. L. 117–81, div. A, title V, §502(2), Dec. 27, 2021, 135 Stat. 1680.

**AMENDMENTS**

**2021**—Subsecs. (d), (e). Pub. L. 116–283 added subsec. (d) and redesignated former subsec. (d) as (e).

[1] *See References in Text note below.*

## §649d. Opportunities for consideration for promotion

(a) SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.—In designating a competitive category of officers pursuant to section 649a of this title, the Secretary of a military department shall specify the number of opportunities for consideration for promotion to be afforded officers of the armed force concerned within the category for promotion to each grade above the grade of first lieutenant or lieutenant (junior grade), as applicable.

(b) LIMITED AUTHORITY OF SECRETARY OF MILITARY DEPARTMENT TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of a military department may modify the number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as previously specified by the Secretary pursuant subsection (a) or this subsection, not more frequently than once every five years.

(c) DISCRETIONARY AUTHORITY OF SECRETARY OF DEFENSE TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of Defense may modify the number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as previously specified or modified pursuant to any provision of this section, at the discretion of the Secretary.

(d) LIMITATION ON NUMBER OF OPPORTUNITIES SPECIFIED.—The number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as specified or modified pursuant to any provision of this section, may not exceed five opportunities.

(e) EFFECT OF CERTAIN REDUCTION IN NUMBER OF OPPORTUNITIES SPECIFIED .—If, by reason of a reduction in the number of opportunities for consideration for promotion under this section, an officer would no longer have one or more opportunities for consideration for promotion that were available to the officer before the reduction, the officer shall be afforded one additional opportunity for consideration for promotion after the reduction.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1745.)

## §649e. Promotions

Sections 620 through 626 of this title shall apply in promotions of officers in competitive categories of officers designated for purposes of this subchapter.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1746.)

## §649f. Failure of selection for promotion

(a) IN GENERAL.—Except as provided in this section, sections 627 through 632 of this title shall apply to promotions of officers in competitive categories of officers designated for purposes of this subchapter.

(b) INAPPLICABILITY OF FAILURE OF SELECTION FOR PROMOTION TO OFFICERS ABOVE PROMOTION ZONE.—The reference in section 627 of this title to an officer above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(c) SPECIAL SELECTION BOARD MATTERS.—The reference in section 628(a)(1) of this title to a person above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(d) EFFECT OF FAILURE OF SELECTION.—In the administration of this subchapter pursuant to subsection (a)—

(1) an officer described in subsection (a) shall not be deemed to have failed twice of selection for promotion for purposes of section 629(e)(2) of this title until the officer has failed selection of promotion to the next higher grade the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to section 649d of this title; and

(2) any reference in section 631(a) or 632(a) of this title to an officer who has failed of selection for promotion to the next higher grade for the second time shall be deemed to refer instead to an officer described in subsection (a) who has failed of selection for promotion to the next higher grade for the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to such section 649d.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1746.)

## §649g. Retirement: retirement for years of service; selective early retirement

(a) RETIREMENT FOR YEARS OF SERVICES.—Sections 633 through 636 of this title shall apply to the retirement of officers in competitive categories of officers designated for purposes of this subchapter.

(b) SELECTIVE EARLY RETIREMENT.—Sections 638 and 638a of this title shall apply to the retirement of officers described in subsection (a).

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1747.)

## §649h. Continuation on active duty

(a) IN GENERAL.—An officer subject to discharge or retirement pursuant to this subchapter may, subject to the needs of the service, be continued on active duty if the officer is selected for continuation on active duty in accordance with this section by a selection board convened under section 611(b) of this title.

(b) IDENTIFICATION OF POSITIONS FOR OFFICERS CONTINUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Officers may be selected for continuation on active duty pursuant to this section only for assignment to positions identified by the Secretary of the military department concerned for which vacancies exist or are anticipated to exist.

(2) IDENTIFICATION.—Before convening a selection board pursuant to section 611(b) of this

title for purposes of selection of officers for continuation on active duty pursuant to this section, the Secretary of the military department concerned shall specify for purposes of the board the positions identified by the Secretary to which officers selected for continuation on active duty may be assigned.

(c) RECOMMENDATION FOR CONTINUATION.—A selection board may recommend an officer for continuation on active duty pursuant to this section only if the board determines that the officer is qualified for assignment to one or more positions identified pursuant to subsection (b) on the basis of skills, knowledge, and behavior required of an officer to perform successfully in such position or positions.

(d) APPROVAL OF SECRETARY OF MILITARY DEPARTMENT.—Continuation of an officer on active duty under this section pursuant to the action of a selection board is subject to the approval of the Secretary of the military department concerned.

(e) NONACCEPTANCE OF CONTINUATION.—An officer who is selected for continuation on active duty pursuant to this section, but who declines to continue on active duty, shall be discharged or retired, as appropriate, in accordance with section 632 of this title.

(f) PERIOD OF CONTINUATION.—

(1) IN GENERAL.—An officer continued on active duty pursuant to this section shall remain on active duty, and serve in the position to which assigned (or in another position to which assigned with the approval of the Secretary of the military department concerned), for a total of not more than three years after the date of assignment to the position to which first so assigned.

(2) ADDITIONAL CONTINUATION.—An officer whose continued service pursuant to this section would otherwise expire pursuant to paragraph (1) may be continued on active duty if selected for continuation on active duty in accordance with this section before the date of expiration pursuant to that paragraph.

(g) EFFECT OF EXPIRATION OF CONTINUATION.—Each officer continued on active duty pursuant to this subsection who is not selected for continuation on active duty pursuant to subsection (f)(2) at the completion of the officer's term of continued service shall, unless sooner discharged or retired under another provision of law—

(1) be discharged upon the expiration of the term of continued service; or

(2) if eligible for retirement under another other provision of law, be retired under that law on the first day of the first month following the month in which the officer completes the term of continued service.

(h) TREATMENT OF DISCHARGE OR RETIREMENT.—The discharge or retirement of an officer pursuant to this section shall be considered to be an involuntary discharge or retirement for purposes of any other provision of law.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1747.)

## §649i. Continuation on active duty: officers in certain military specialties and career tracks

In addition to continuation on active duty provided for in section 649h of this title, an officer to whom section 637a of this title applies may be continued on active duty in accordance with the provisions of such section 637a.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

## §649j. Other administrative authorities

The following provisions of this title shall apply to officers in competitive categories of officers

designated for purposes of this subchapter:

(1) Section 638b, relating to voluntary retirement incentives.

(2) Section 639, relating to continuation on active duty to complete disciplinary action.

(3) Section 640, relating to deferment of retirement or separation for medical reasons.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(18), Dec. 20, 2019, 133 Stat. 1813.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92 struck out "(a) IN GENERAL.—" before "The" in introductory provisions.

## §649k. Regulations

The Secretary of Defense shall prescribe regulations regarding the administration of this subchapter. The elements of such regulations shall include mechanisms to clarify the manner in which provisions of other subchapters of this chapter shall be used in the administration of this subchapter in accordance with the provisions of this subchapter.

(Added Pub. L. 115–232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

# CHAPTER 37—GENERAL SERVICE REQUIREMENTS

Sec.

651. Members: required service.

652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.

653. Minimum service requirement for certain flight crew positions.

654. Minimum service requirement for certain cyberspace occupational specialties.

655. Designation of persons having interest in status of a missing member.

[656. Repealed.]

657. Prohibition on service in the armed forces by individuals convicted of certain sexual offenses.

658. Medical accession standards for members of the armed forces.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title V, §533, title IX, §901(c), Dec. 18, 2025, 139 Stat. 870, 1007, struck out item 656 "Diversity in military leadership: plan; mentoring and career counseling program" and added item 658. Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title V, §509(b), Dec. 22, 2023, 137 Stat. 243, added item 654. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title V, §571(a)(3)(B), Jan. 1, 2021, 134 Stat. 3643, added item 656 and struck out former item 656 "Diversity in military leadership: plan".

**2013**—Pub. L. 113–66, div. A, title XVII, §1711(a)(2), Dec. 26, 2013, 127 Stat. 963, added item 657.

Pub. L. 112–239, div. A, title V, §519(a)(2), Jan. 2, 2013, 126 Stat. 1721, added item 656.

**2010**—Pub. L. 111–321, §2(f)(1)(B), Dec. 22, 2010, 124 Stat. 3516, struck out item 654 "Policy concerning homosexuality in the armed forces".

**2006**—Pub. L. 109–163, div. A, title V, §541(a)(2), Jan. 6, 2006, 119 Stat. 3252, added item 652.

**1996**—Pub. L. 104–106, div. A, title V, §569(d)(2), Feb. 10, 1996, 110 Stat. 352, added item 655.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(6), Oct. 5, 1994, 108 Stat. 3013, struck out item 652 "Ready Reserves: requirement of notification of change of status".

**1993**—Pub. L. 103–160, div. A, title V, §571(a)(2), Nov. 30, 1993, 107 Stat. 1673, added item 654.

**1989**—Pub. L. 101–189, div. A, title VI, §634(a)(2), Nov. 29, 1989, 103 Stat. 1454, added item 653.

**1978**—Pub. L. 95–485, title IV, §405(d)(2), Oct. 20, 1978, 92 Stat. 1616, added item 652.

**1958**—Pub. L. 85–861, §33(a)(4)(A), Sept. 2, 1958, 72 Stat. 1564, substituted "GENERAL SERVICE REQUIREMENTS" for "SERVICE REQUIREMENTS FOR RESERVES" in chapter heading.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROHIBITION AGAINST MEMBERS OF THE ARMED FORCES PARTICIPATING IN CRIMINAL STREET GANGS

Pub. L. 110–181, div. A, title V, §544, Jan. 28, 2008, 122 Stat. 116, provided that: "The Secretary of Defense shall prescribe regulations to prohibit the active participation by members of the Armed Forces in a criminal street gang."

## EXECUTIVE DOCUMENTS

### EXECUTIVE ORDER NO. 14004

Ex. Ord. No. 14004, Jan. 25, 2021, 86 F.R. 7471, enabling all qualified Americans to serve their country in uniform regardless of gender identity, was revoked by Ex. Ord. No. 14148, §2(p), Jan. 20, 2025, 90 F.R. 8238, and Ex. Ord. No. 14168, §7(b), Jan. 20, 2025, 90 F.R. 8617.

### EX. ORD. NO. 14183. PRIORITIZING MILITARY EXCELLENCE AND READINESS

Ex. Ord. No. 14183, Jan. 27, 2025, 90 F.R. 8757, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and as Commander in Chief of the Armed Forces of the United States, and to ensure the readiness and effectiveness of our Armed Forces, it is hereby ordered:

SECTION 1. *Purpose*. The United States military has a clear mission: to protect the American people and our homeland as the world's most lethal and effective fighting force. Success in this existential mission requires a singular focus on developing the requisite warrior ethos, and the pursuit of military excellence cannot be diluted to accommodate political agendas or other ideologies harmful to unit cohesion.

Recently, however, the Armed Forces have been afflicted with radical gender ideology to appease activists unconcerned with the requirements of military service like physical and mental health, selflessness, and unit cohesion. Longstanding Department of Defense (DoD) policy (DoD Instruction (DoDI) 6130.03) provides that it is the policy of the DoD to ensure that service members are "[f]ree of medical conditions or physical defects that may reasonably be expected to require excessive time lost from duty for necessary treatment or hospitalization." As a result, many mental and physical health conditions are incompatible with active duty, from conditions that require substantial medication or medical treatment to bipolar and related disorders, eating disorders, suicidality, and prior psychiatric hospitalization.

Consistent with the military mission and longstanding DoD policy, expressing a false "gender identity" divergent from an individual's sex cannot satisfy the rigorous standards necessary for military service. Beyond the hormonal and surgical medical interventions involved, adoption of a gender identity inconsistent with an individual's sex conflicts with a soldier's commitment to an honorable, truthful, and disciplined lifestyle, even in one's personal life. A man's assertion that he is a woman, and his requirement that others honor this falsehood, is not consistent with the humility and selflessness required of a service member.

For the sake of our Nation and the patriotic Americans who volunteer to serve it, military service must be reserved for those mentally and physically fit for duty. The Armed Forces must adhere to high mental and physical health standards to ensure our military can deploy, fight, and win, including in austere conditions and without the benefit of routine medical treatment or special provisions.

SEC. 2. *Policy*. It is the policy of the United States Government to establish high standards for troop readiness, lethality, cohesion, honesty, humility, uniformity, and integrity. This policy is inconsistent with the medical, surgical, and mental health constraints on individuals with gender dysphoria. This policy is also inconsistent with shifting pronoun usage or use of pronouns that inaccurately reflect an individual's sex.

SEC. 3. *Definitions*. The definitions in the Executive Order [No. 14168] of January 20, 2025 (Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government) [5 U.S.C. 601 note] shall apply to this order.

SEC. 4. *Implementation*. (a) Within 60 days of the date of this order [Jan. 27, 2025], the Secretary of Defense (Secretary) shall update DoDI 6130.03 Volume 1 (Medical Standards for Military Service: Appointment, Enlistment, or Induction

(May 6, 2018), Incorporating Change 5 of May 28, 2024) and DoDI 6130.03 Volume 2 (Medical Standards

for Military Service: Retention (September 4, 2020), Incorporating Change 1 of June 6, 2022) to reflect the purpose and policy of this Order.

(b) The Secretary shall promptly issue directives for DoD to end invented and identification-based pronoun usage to best achieve the policy outlined in section 2 of this order.

(c) Within 30 days of the date of this order, the Secretary shall:

(i) identify all additional steps and issue guidance necessary to fully implement this order; and

(ii) submit to the President through the Assistant to the President for National Security Affairs a report that summarizes these steps.

(d) Absent extraordinary operational necessity, the Armed Forces shall neither allow males to use or share sleeping, changing, or bathing facilities designated for females, nor allow females to use or share sleeping, changing, or bathing facilities designated for males.

(e) Within 30 days of the issuance of the respective updates, directives, and guidance under subsections (a), (b), and (c) of this section, the Secretary of Homeland Security shall, with respect to the Coast Guard, issue updates, directives, and guidance consistent with the updates, directives, and guidance issued under subsections (a), (b), and (c) of this section.

SEC. 5. *Implementing the Revocation of Executive Order 14004*. (a) Pursuant to the Executive Order of January 20, 2025 (Initial Rescissions of Harmful Executive Orders and Actions), Executive Order 14004 of January 25, 2021 (Enabling All Qualified Americans To Serve Their Country in Uniform) [formerly set out above], has been revoked. Accordingly, all policies, directives, and guidance issued pursuant to Executive Order 14004 shall be rescinded to the extent inconsistent with the provisions of this order.

(b) The Secretary and, with respect to the Coast Guard, the Secretary of Homeland Security, shall take all necessary steps to implement the revocations described in subsection (a) of this section and ensure that all military departments and services fully comply with the provisions of this order.

SEC. 6. *Severability*. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

**MILITARY SERVICE BY TRANSGENDER INDIVIDUALS**

Memorandum of President of the United States, Aug. 25, 2017, 82 F.R. 41319, which related to transgender military personnel, was revoked by Memorandum of President of the United States, §1, Mar. 23, 2018, 83 F.R. 13367, formerly set out below.

Memorandum of President of the United States, Mar. 23, 2018, 83 F.R. 13367, which related to military service by transgender individuals, was revoked by Ex. Ord. No. 14004, §2, Jan. 25, 2021, 86 F.R. 7472, set out above.

## §651. Members: required service

(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. 3806(d)(1)), shall serve in the armed forces for a total initial period of not less than six years nor more than eight years, as provided in regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as service in the Navy, unless such person is sooner discharged under such regulations because of personal hardship. Any part of such service that is not active duty or that is active duty for training shall be performed in a reserve component.

(b) Each person covered by subsection (a) who is not a Reserve, and who is qualified, shall, upon

his release from active duty, be transferred to a reserve component to complete the service required by subsection (a).

(c)(1) For the armed forces under the jurisdiction of the Secretary of Defense, the Secretary may waive the initial period of required service otherwise established pursuant to subsection (a) in the case of the initial appointment of a commissioned officer in a critically short health professional specialty specified by the Secretary for purposes of this subsection or in the case of an unrestricted officer designated within a cyberspace occupational specialty.

(2) The minimum period of obligated service for an officer under a waiver under this subsection shall be the greater of—

(A) two years;

(B) in the case of an officer who has accepted an accession bonus or executed a contract or agreement for the multiyear receipt of special pay for service in the armed forces, the period of obligated service specified in such contract or agreement; or

(C) in the case of an unrestricted officer designated within a cyberspace occupational specialty, the period of obligated service specified in the enlistment agreement of such officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27; Pub. L. 85–861, §§1(12), 36B(3), Sept. 2, 1958, 72 Stat. 1440, 1570; Pub. L. 89–718, §5, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 95–79, title VIII, §803(a), July 30, 1977, 91 Stat. 333; Pub. L. 96–107, title VIII, §805(b), Nov. 9, 1979, 93 Stat. 813; Pub. L. 96–513, title V, §511(18), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 98–94, title X, §1022(b)(1), Sept. 24, 1983, 97 Stat. 670; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–181, div. A, title V, §505, Jan. 28, 2008, 122 Stat. 96; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(iv), Dec. 23, 2016, 130 Stat. 2418; Pub. L. 116–92, div. A, title XVII, §1731(a)(19), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title IX, §924(b)(17), Jan. 1, 2021, 134 Stat. 3823; Pub. L. 117–81, div. A, title X, §1081(a)(11), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 118–31, div. A, title V, §509(a), Dec. 22, 2023, 137 Stat. 243.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 651(a) | 50 App.:454(d)(3) (1st sentence, and less applicability to members of National Security Training Corps). | June 24, 1948, ch. 625, §4(d)(3) (less 4th sentence, and less applicability to members of National Security Training Corps); added June 19, 1951, ch. 144, §1(g) (last par., less 4th sentence, and less applicability to members of National Security Training Corps), 65 Stat. 79; July 9, 1952, ch. 608, §813, 66 Stat. 509. |
| 651(b) | 50 App.:454(d)(3) (2d sentence, and less applicability to members of National Security Training Corps). | |
| 651(c) | 50 App.:454(d)(3) (3d and last sentences). | |

In subsection (a), the word "male" is inserted, since the source statute (Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.)) applies only to male persons. The words "subsequent to the date of enactment of this paragraph [June 19, 1951]" are omitted as executed. The words "becomes a member" are substituted for the words "is inducted, enlisted, or appointed * * * in". The words "in the armed forces" are substituted for the words "on active training and service in the Armed Forces * * * and in a reserve component". The last sentence is substituted for the words "or in training in the National Security Training Corps". The words "under any provision of law" and "including the reserve components thereof" are omitted as surplusage.

In subsection (b), the words "who is not a Reserve" are inserted, since the eight year obligation for Reserves is covered by subsection (a). The words "active duty" are substituted for the words "active training and service". The last eight words are substituted for the words "and shall serve therein for the remainder of the period which he is required to serve under this paragraph". The words "physically and mentally" and 50 App.:454(d)(3) (last 15 words of 2d sentence) are omitted as surplusage.

In [former] subsection (c), the words "who is released from active duty" are inserted for clarity. The words "shall become a member" are substituted for the words "it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to". The words "there is a vacancy" are substituted for the words "enlistment, enrollment, or appointment in, or assignment to". 50 App.:454(d)(3) (last sentence) is omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 651(a) | 50 App.:454(d)(3) (2d sentence). | Aug. 9, 1955, ch. 665, §3(a) (last sentence), 69 Stat. 603. |

In subsection (a), the word "male" is inserted, since the source statute applies only to male persons. The words "subsequent to the date of enactment of the Reserve Forces Act of 1955" are omitted as executed. The words "becomes a member" are substituted for the words "is inducted, enlisted, or appointed . . . in". The last sentence is substituted for the words "on active training and service . . . and in a reserve component". The requirement of transfer to and service in a reserve component, after active training and service is covered by subsection (b) of this section. The words "under any provision of law" and "including the reserve components thereof" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c)(1). Pub. L. 118–31, §509(a)(1), inserted before period at end "or in the case of an unrestricted officer designated within a cyberspace occupational specialty".

Subsec. (c)(2)(C). Pub. L. 118–31, §509(a)(2), added subpar. (C).

**2021**—Subsec. (a). Pub. L. 117–81 inserted comma after "3806(d)(1))".

Subsec. (b). Pub. L. 116–283 struck out "of his armed force" after "reserve component".

**2019**—Subsec. (a). Pub. L. 116–92 inserted "shall serve" before "in the armed forces".

**2016**—Subsec. (a). Pub. L. 114–328 substituted "(50 U.S.C. 3806(d)(1))" for "(50 U.S.C. App. 456(d)(1)) shall serve".

**2008**—Subsec. (c). Pub. L. 110–181 added subsec. (c).

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1983**—Subsec. (a). Pub. L. 98–94 amended subsec. (a) generally, substituting a reference to service in the armed forces for a total initial period of not less than six years nor more than eight years under prescribed regulations for the prior reference to service in the armed forces for a total of six years.

**1980**—Subsec. (a). Pub. L. 96–513, substituted "Secretary of Transportation" for "Secretary of the Treasury", and "section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))" for "section 456(d)(1) of title 50, appendix".

**1979**—Subsec. (a). Pub. L. 96–107 struck out "before his twenty-sixth birthday" after "force".

**1977**—Subsec. (a). Pub. L. 95–79 struck out "male" after "Each" and "after August 9, 1955," after "who".

**1966**—Subsec. (a). Pub. L. 89–718 struck out reference to persons who enlisted under section 1013 of title 50 in the description of persons not required to serve in the armed forces for a total of six years.

**1958**—Subsec. (a). Pub. L. 85–861, §1(12), restricted section to male persons who became members of the armed forces after Aug. 9, 1955, excluded persons enlisted under section 1013 of Title 50 or deferred under the next to last sentence of section 456(d)(1) of Title 50, Appendix, reduced from eight to six years the required period of service, required any part of such service that is not active duty or is active duty for training to be performed in a reserve component, and struck out provisions which permitted members of the armed forces to count service in the National Security Training Corps as if it were service in the armed forces for the purposes of this subsection.

Subsec. (c). Pub. L. 85–861, §36B(3), repealed subsec. (c) which required members released from active duty to become members of an organized unit of a reserve component of an officers' training program.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title X, §1022(b)(2), Sept. 24, 1983, 97 Stat. 671, provided that: "The amendment made by paragraph (1) [amending this section] shall apply only with respect to persons who enter the Armed Forces 60 or more days after the date of the enactment of this Act [Sept. 24, 1983]."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1979 AMENDMENT**

Amendment by Pub. L. 96–107 applicable to individuals who become members of an Armed Force after Nov. 9, 1979, see section 805(c) of Pub. L. 96–107, set out as a note under section 511 of this title.

**EFFECTIVE DATE OF 1977 AMENDMENT**

Pub. L. 95–79, title VIII, §803(b), July 30, 1977, 91 Stat. 333, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the first day of the seventh calendar month beginning after the month in which this Act is enacted [July 1977] and shall apply to any female person who becomes a member of an Armed Force on or after such day."

## §652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

(a) RULE FOR GROUND COMBAT PERSONNEL POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, not less than 30 calendar days before such change is implemented, submit to Congress a report providing notice of the proposed change.

(2) A change referred to in paragraph (1) is a change that—

(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or

(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

(3) The Secretary shall include in any report under paragraph (1)—

(A) a detailed description of, and justification for, the proposed change; and

(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) [1] to males only.

(4) In this subsection, the term "ground combat exclusion policy" means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

[(5) Repealed. Pub. L. 114–92, div. A, title V, §524(a)(2), Nov. 25, 2015, 129 Stat. 813.]

(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification

identifiers.

(b) OTHER PERSONNEL POLICY CHANGES.—(1) Except in a case covered by section 8225 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 calendar days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

(A) Any type of unit not covered by subsection (a).

(B) Any class of combat vessel.

(C) Any type of combat platform.

(Added Pub. L. 109–163, div. A, title V, §541(a)(1), Jan. 6, 2006, 119 Stat. 3251; amended Pub. L. 114–92, div. A, title V, §524, Nov. 25, 2015, 129 Stat. 813; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a)(3)(B), is act June 24, 1948, ch. 625, 62 Stat. 604, which was classified principally to section 451 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 49 (§3801 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

### PRIOR PROVISIONS

A prior section 652, added Pub. L. 95–485, title IV, §405(d)(1), Oct. 20, 1978, 92 Stat. 1616, related to Ready Reserve requirement of notification of change of status, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10205 of this title.

Provisions similar to those in this section were contained in Pub. L. 103–160, div. A, title V, §542, Nov. 30, 1993, 107 Stat. 1659, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 109–163, §541(c).

### AMENDMENTS

**2018**—Subsec. (b). Pub. L. 115–232 substituted "section 8225" for "section 6035".

**2015**—Subsec. (a)(1). Pub. L. 114–92, §524(a)(1), substituted "not less than 30 calendar days before such change is implemented" for "before any such change is implemented" and struck out at end "Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received."

Subsec. (a)(5). Pub. L. 114–92, §524(a)(2), struck out par. (5) which read as follows: "For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die."

Subsec. (b)(1). Pub. L. 114–92, §524(b), inserted "calendar" before "days".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §653. Minimum service requirement for certain flight crew positions

(a) PILOTS.—The minimum service obligation of any member who successfully completes training in the armed forces as a pilot shall be 8 years, if the member is trained to fly fixed-wing jet aircraft, or 6 years, if the member is trained to fly any other type of aircraft.

(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum service obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 6 years.

(c) DEFINITION.—In this section, the term "service obligation" means the period of active duty or, in the case of a member of a reserve component who completed flight training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve required to be served after—

(1) completion of undergraduate pilot training, in the case of training as a pilot;

(2) completion of undergraduate navigator training, in the case of training as a navigator; or

(3) completion of undergraduate training as a naval flight officer, in the case of training as a naval flight officer.

(Added Pub. L. 101–189, div. A, title VI, §634(a)(1), Nov. 29, 1989, 103 Stat. 1454; amended Pub. L. 101–510, div. A, title XIV, §1484(k)(3), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102–484, div. A, title V, §506(a), Oct. 23, 1992, 106 Stat. 2404.)

### EDITORIAL NOTES

### AMENDMENTS

**1992**—Subsecs. (a), (b). Pub. L. 102–484, §506(a)(1), substituted "service obligation" for "active duty obligation".

Subsec. (c). Pub. L. 102–484, §506(a)(2), substituted "the term 'service obligation' means the period of active duty or, in the case of a member of a reserve component who completed flight training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve" for "the term 'active duty obligation' means the period of active duty".

**1990**—Subsec. (a). Pub. L. 101–510, §1484(k)(3)(A), substituted "or" for "and" before "6 years".

Subsec. (c). Pub. L. 101–510, §1484(k)(3)(B), inserted a comma after first reference to "training" in pars. (1) and (2) and after first reference to "naval flight officer" in par. (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title V, §506(b), Oct. 23, 1992, 106 Stat. 2405, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as of November 29, 1989."

### EFFECTIVE DATE

Pub. L. 101–189, div. A, title VI, §634(b), Nov. 29, 1989, 103 Stat. 1454, provided that:

"(1) Except as provided in paragraphs (2) and (3), section 653 of title 10, United States Code, as added by subsection (a)(1), shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

"(2) Such section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after December 31, 1991, and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after December 31, 1991.

"(3) The minimum service requirements provided for such section shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified

in section 653 of such title.

"(4) For purposes of this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(8) of title 10, United States Code [now 10 U.S.C. 101(a)(9)]."

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

## §654. Minimum service requirement for certain cyberspace occupational specialties

(a) CYBERSPACE OPERATIONS OFFICER.—The minimum service obligation for any member who successfully completes training in the armed forces in direct accession to the cyberspace operations officer occupational specialty of the Marine Corps shall be eight years.

(b) SERVICE OBLIGATION DEFINED.—In this section, the term "service obligation" means the period of active duty or, in the case of a member of a reserve component who completed cyberspace operations training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve, required to be served after completion of cyberspace operations training.

(Added Pub. L. 118–31, div. A, title V, §509(b), Dec. 22, 2023, 137 Stat. 243.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 654, added Pub. L. 103–160, div. A, title V, §571(a)(1), Nov. 30, 1993, 107 Stat. 1670, related to policy concerning homosexuality in the armed forces, prior to repeal by Pub. L. 111–321, §2(f)(1)(A), Dec. 22, 2010, 124 Stat. 3516.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DON'T ASK, DON'T TELL REPEAL

Pub. L. 111–321, Dec. 22, 2010, 124 Stat. 3515, repealed former section 654 of this title effective 60 days after the later of the Secretary of Defense receiving a report, which was released Nov. 30, 2010, and the President transmitting to the congressional defense committees a written certification, which was transmitted July 22, 2011.

## §655. Designation of persons having interest in status of a missing member

(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person or persons, if any, other than that person's primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if such whereabouts and status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

(b) The Secretary concerned shall, upon the request of a member, permit the member to revise the person or persons specified by the member under subsection (a) at any time. Any such revision shall be in writing.

(Added Pub. L. 104–106, div. A, title V, §569(d)(1), Feb. 10, 1996, 110 Stat. 352.)

## [§656. Repealed. Pub. L. 119–60, div. A, title IX, §901(c), Dec. 18, 2025, 139 Stat. 1007]

Section, added Pub. L. 112–239, div. A, title V, §519(a)(1), Jan. 2, 2013, 126 Stat. 1720; amended Pub. L. 116–283, div. A, title V, §571(a)(1)–(3)(A), Jan. 1, 2021, 134 Stat. 3642, 3643, related to diversity in military leadership.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### STRATEGIC PLAN FOR DIVERSITY AND INCLUSION

Pub. L. 116–92, div. A, title V, §529, Dec. 20, 2019, 133 Stat. 1358, required Secretary of Defense to design and implement five-year strategic plan for diversity and inclusion in Department of Defense, with implementation to begin not later than one year after Dec. 20, 2019.

## §657. Prohibition on service in the armed forces by individuals convicted of certain sexual offenses

(a) PROHIBITION ON COMMISSIONING OR ENLISTMENT.—A person who has been convicted of an offense specified in subsection (b) under Federal or State law may not be processed for commissioning or permitted to enlist in the armed forces.

(b) COVERED OFFENSES.—An offense specified in this subsection is any felony offense as follows:

(1) Rape or sexual assault.

(2) Forcible sodomy.

(3) Incest.

(4) An attempt to commit an offense specified in paragraph (1) through (3), as punishable under applicable Federal or State law.

(Added Pub. L. 113–66, div. A, title XVII, §1711(a)(1), Dec. 26, 2013, 127 Stat. 962.)

## §658. Medical accession standards for members of the armed forces

(a) ESTABLISHMENT OF STANDARDS.—(1) The Secretary of Defense shall prescribe uniform medical accession standards for the appointment, enlistment, or induction of individuals into the armed forces.

(2) The Secretary of Defense shall make readily available and understandable to applicants for military service the medical accession standards established under paragraph (1), including an explanation of the process for a review or waiver of a medical disqualification under subsection (b).

(b) PROCESS FOR REVIEW OR WAIVER OF MEDICAL DISQUALIFICATIONS.—(1) The Secretary of Defense shall establish a process for the review of medical disqualifications of persons seeking to become a member of the armed forces and for granting waivers of those medical disqualifications. Determinations shall be based on all available information regarding the medical condition and the operational needs of the military service concerned.

(2) The waiver process shall include criteria permitting waivers when such action is in the interests of national security, defined as a compelling governmental interest in accessing an individual whose service would directly support the Department's warfighting capabilities.

(c) REPORTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report identifying—

(A) the number of persons disqualified from service as a member of the armed forces during the preceding calendar year due to medical history;

(B) the number and type of approvals granted under subsection (b) during the preceding calendar year; and

(C) any revisions to the medical accession standards established under subsection (a) or the waiver process established under subsection (b) since the preceding report.

(2) In any fiscal year in which the accession of a person into the Coast Guard is approved under the process established under subsection (b), the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report identifying the information required under paragraph (1)(B) with respect to such member.

(Added Pub. L. 119–60, div. A, title V, §533, Dec. 18, 2025, 139 Stat. 870.)

# CHAPTER 38—JOINT OFFICER MANAGEMENT

Sec.
661. Management policies for joint qualified officers.
662. Promotion policy objectives for joint officers.
663. Joint duty assignments after completion of joint professional military education.
664. Length of joint duty assignments.
665. Procedures for monitoring careers of joint qualified officers.
666. Reserve officers not on the active-duty list.
[667. Repealed.]
668. Definitions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Pub. L. 113–291, div. A, title V, §505(b), Dec. 19, 2014, 128 Stat. 3356, struck out item 667 "Annual report to Congress".

**2008**—Pub. L. 110–417, [div. A], title V, §522(a)(3), (c)(3), Oct. 14, 2008, 122 Stat. 4445, added items 661 and 665 and struck out former items 661 "Management policies for officers who are joint qualified" and 665 "Procedures for monitoring careers of joint officers".

**2006**—Pub. L. 109–364, div. A, title V, §516(e)(2), Oct. 17, 2006, 120 Stat. 2189, substituted "officers who are joint qualified" for "joint specialty officers" in item 661.

**2004**—Pub. L. 108–375, div. A, title V, §532(c)(2)(B), Oct. 28, 2004, 118 Stat. 1900, substituted "Joint duty assignments after completion of joint professional military education" for "Education" in item 663.

## §661. Management policies for joint qualified officers

(a) ESTABLISHMENT.—The Secretary of Defense shall establish policies, procedures, and practices for the effective management of officers of the Army, Navy, Air Force, and Marine Corps on the active-duty list, and officers of the Space Force on the Space Force officer list, who are particularly trained in, and oriented toward, joint matters (as defined in section 668 of this title). Such officers shall be identified or designated (in addition to their principal military occupational specialty) as a joint qualified officer or in such other manner as the Secretary of Defense directs.

(b) LEVELS, DESIGNATION, AND NUMBERS.—(1)(A) The Secretary of Defense shall establish different levels of joint qualification, as well as the criteria for qualification at each level. Such levels of joint qualification shall be established by the Secretary with the advice of the Chairman of the Joint Chiefs of Staff. Each level shall, as a minimum, have both joint education criteria and joint experience criteria. The purpose of establishing such qualification levels is to ensure a systematic, progressive, career-long development of officers in joint matters and to ensure that officers serving as general and flag officers have the requisite experience and education to be highly proficient in joint matters.

(B) The number of officers who are joint qualified shall be determined by the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff. Such number shall be large enough to meet the requirements of subsection (d).

(2) Certain officers shall be designated as joint qualified by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff.

(3) An officer may be designated as joint qualified under paragraph (2) only if the officer—

(A) meets the education and experience criteria of subsection (c);

(B) meets such additional criteria as prescribed by the Secretary of Defense; and

(C) holds the grade of captain or, in the case of the Navy, lieutenant or a higher grade.

(4) The authority of the Secretary of Defense under paragraph (2) to designate officers as joint qualified may be delegated only to the Deputy Secretary of Defense or an Under Secretary of Defense.

(c) EDUCATION AND EXPERIENCE REQUIREMENTS.—(1) An officer may not be designated as joint qualified until the officer—

(A) successfully completes an appropriate program of joint professional military education, as described in subsections (b) and (c) of section 2155 of this title, at a joint professional military education school; and

(B) successfully completes—

(i) a full tour of duty in a joint assignment, as described in section 664(d) of this title; or

(ii) such other assignments and experiences in a manner that demonstrate the officer's mastery of knowledge, skills, and abilities in joint matters, as determined under such regulations and policy as the Secretary of Defense may prescribe.

(2) Subject to paragraphs (3) through (6), the Secretary of Defense may waive the requirement under paragraph (1)(A) that an officer has successfully completed a program of education, as described in subsections (b) and (c) of section 2155 of this title.

(3) In the case of an officer in a grade below brigadier general or rear admiral (lower half), a waiver under paragraph (2) may be granted only if—

(A) the officer has completed two full tours of duty in a joint duty assignment, as described in section 664(d) of this title, in such a manner as to demonstrate the officer's mastery of knowledge, skills, and abilities on joint matters; and

(B) the Secretary of Defense determines that the types of joint duty experiences completed by the officer have been of sufficient breadth to prepare the officer adequately for service as a general or flag officer in a joint duty assignment position.

(4) In the case of a general or flag officer, a waiver under paragraph (2) may be granted only—

(A) under unusual circumstances justifying the variation from the education requirement under paragraph (1)(A); and

(B) under circumstances in which the waiver is necessary to meet a critical need of the armed forces, as determined by the Chairman of the Joint Chiefs of Staff.

(5) In the case of officers in grades below brigadier general or rear admiral (lower half), the total number of waivers granted under paragraph (2) for officers in the same pay grade during a fiscal year may not exceed 10 percent of the total number of officers in that pay grade designated as joint qualified during that fiscal year.

(6) There may not be more than 32 general and flag officers on active duty at the same time who, while holding a general or flag officer position, were designated joint qualified (or were selected for the joint specialty before October 1, 2007) and for whom a waiver was granted under paragraph (2).

(d) NUMBER OF JOINT DUTY ASSIGNMENTS.—(1) The Secretary of Defense shall ensure that approximately one-half of the joint duty assignment positions in grades above major or, in the case of the Navy, lieutenant commander are filled at any time by officers who have the appropriate level of joint qualification.

(2) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall designate an appropriate number of joint duty assignment positions as critical joint duty assignment positions. A position may be designated as a critical joint duty assignment position only if the duties and responsibilities of the position make it important that the occupant be particularly trained in, and oriented toward, joint matters.

(3)(A) Subject to subparagraph (B), a position designated under paragraph (2) may be held only by an officer who—

(i) was designated as joint qualified in accordance with this chapter; or

(ii) was selected for the joint specialty before October 1, 2007.

(B) The Secretary of Defense may waive the requirement in subparagraph (A) with respect to the assignment of an officer to a position designated under paragraph (2). Any such waiver shall be granted on a case-by-case basis. The authority of the Secretary to grant such a waiver may be delegated only to the Chairman of the Joint Chiefs of Staff or a designee of the Chairman who is an officer of the armed forces in grade O–9 or higher.

(4) The Secretary of Defense shall ensure that, of those joint duty assignment positions that are filled by general or flag officers, a substantial portion are among those positions that are designated under paragraph (2) as critical joint duty assignment positions.

(e) CAREER GUIDELINES.—The Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish career guidelines for officers to achieve joint qualification and for officers who have been designated as joint qualified. Such guidelines shall include guidelines for—

(1) selection;

(2) military education;

(3) training;

(4) types of duty assignments; and

(5) such other matters as the Secretary considers appropriate.

(f) TREATMENT OF CERTAIN SERVICE.—Any service by an officer in the grade of captain or, in the case of the Navy, lieutenant in a joint duty assignment shall be considered to be service in a joint duty assignment for purposes of all laws (including section 619a of this title) establishing a requirement or condition with respect to an officer's service in a joint duty assignment.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1025; amended Pub. L. 100–180, div. A, title XIII, §1301–1302(b), Dec. 4, 1987, 101 Stat. 1168, 1169; Pub. L. 100–456, div. A, title V, §§511, 512(a), 517(a), 518, Sept. 29, 1988, 102 Stat. 1968, 1971; Pub. L. 101–189, div. A, title XI, §§1113, 1122, Nov. 29, 1989, 103 Stat. 1554, 1556; Pub. L. 104–106, div. A, title V, §501(a), (d), title XV, §1503(a)(6), Feb. 10, 1996, 110 Stat. 290, 292, 511; Pub. L. 107–107, div. A, title V, §521(a), Dec. 28, 2001, 115 Stat. 1097; Pub. L. 107–314, div. A, title V, §502(c), title X, §1062(a)(3), Dec. 2, 2002, 116 Stat. 2530, 2649; Pub. L. 109–364, div. A, title V, §516(a)–(e)(1), Oct. 17, 2006, 120 Stat. 2187–2189; Pub. L. 110–417, [div. A], title V, §522(a)(1), (2), Oct. 14, 2008, 122 Stat. 4444, 4445; Pub. L. 115–91, div. A, title X, §1081(a)(20), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 116–92, div. A, title V, §505, Dec. 20, 2019, 133 Stat. 1345; Pub. L. 116–283, div. A, title IX, §924(b)(1)(D), Jan. 1, 2021, 134 Stat. 3820; Pub. L. 118–31, div. A, title XVII, §1722(c), Dec. 22, 2023, 137 Stat. 670.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 substituted "and Marine Corps" for "Marine Corps, and Space Force" and inserted ", and officers of the Space Force on the Space Force officer list," after "active-duty list".

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**2019**—Subsec. (d)(3)(B). Pub. L. 116–92 inserted "or a designee of the Chairman who is an officer of the armed forces in grade O–9 or higher" after "Chairman of the Joint Chiefs of Staff".

**2017**—Subsec. (c)(1)(B)(i), (3)(A). Pub. L. 115–91 substituted "664(d)" for "664(f)".

**2008**—Pub. L. 110–417 amended section catchline generally, substituting "Management policies for joint qualified officers" for "Management policies for officers who are joint qualified", and in subsec. (a), substituted "as a joint qualified officer or in such other manner as the Secretary of Defense directs" for "in such manner as the Secretary of Defense directs".

**2006**—Pub. L. 109–364, §516(e)(1), substituted "officers who are joint qualified" for "joint specialty officers" in section catchline.

Subsec. (a). Pub. L. 109–364, §516(a), struck out at end "For purposes of this chapter, officers to be managed by such policies, procedures, and practices are referred to as having, or having been nominated for, the 'joint specialty'."

Subsecs. (b) to (d). Pub. L. 109–364, §516(b), amended subsecs. (b) to (d) generally. Prior to amendment, subsecs. (b) to (d) related to numbers and selection of officers with the joint specialty, education and experience requirements, and number of joint duty assignments.

Subsec. (e). Pub. L. 109–364, §516(c), substituted "officers to achieve joint qualification and for officers who have been designated as joint qualified" for "officers with the joint specialty" in introductory provisions.

Subsec. (f). Pub. L. 109–364, §516(d), substituted "619a" for "619(e)(1)".

**2002**—Subsec. (b)(2). Pub. L. 107–314, §1062(a)(3), substituted "December 28, 2001," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002".

Subsec. (c)(3)(E). Pub. L. 107–314, §502(c), substituted "paragraph" for "subparagraph".

**2001**—Subsec. (b)(2). Pub. L. 107–107, in introductory provisions, substituted "Each officer on the active-duty list on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 who has not before that date been nominated for the joint specialty by the Secretary of a military department, and each officer who is placed on the active-duty list after such date, who meets the requirements of subsection (c) shall automatically be considered to have been nominated for the joint specialty. From among those officers considered to be nominated for the joint specialty, the Secretary may select for the joint specialty only officers—" for "The Secretaries of the military departments shall nominate officers for selection for the joint specialty. Nominations shall be made from among officers—".

**1996**—Subsec. (c)(3)(D). Pub. L. 104–106, §501(d)(1), in third sentence, substituted "In the case of officers in grades below brigadier general and rear admiral (lower half), the total number" for "The total number".

Subsec. (c)(3)(E). Pub. L. 104–106, §501(d)(2), added subpar. (E).

Subsec. (d)(2)(A). Pub. L. 104–106, §501(a), substituted "800" for "1,000".

Subsec. (d)(2)(B). Pub. L. 104–106, §1503(a)(6)(A), substituted "Each position designated by the Secretary under subparagraph (A)" for "Until January 1, 1994, at least 80 percent of the positions designated by the Secretary under subparagraph (A) shall be held at all times by officers who have the joint specialty. On and after January 1, 1994, each position so designated".

Subsec. (d)(2)(C). Pub. L. 104–106, §1503(a)(6)(B), struck out "the second sentence of" after "the requirement in".

Subsec. (d)(2)(D). Pub. L. 104–106, §1503(a)(6)(C), struck out subpar. (D) which read as follows: "During the period beginning on October 1, 1992, and ending on January 1, 1993, the Secretary of Defense shall submit to Congress a report on the operation, to the date of the report, of the first sentence of subparagraph (B) and on the Secretary's projection for the use of the waiver authority provided under subparagraph (C), including the Secretary's estimate of the average annual number of waivers to be provided under subparagraph (C)."

**1989**—Subsec. (c)(1)(B), (3)(A). Pub. L. 101–189, §1113, substituted "(as described in section 664(f) of this title (other than in paragraph (2) thereof))" for "(as described in section 664(f)(1) or (f)(3) of this title)".

Subsec. (c)(4). Pub. L. 101–189, §1122, added par. (4).

**1988**—Subsec. (c)(3)(D). Pub. L. 100–456, §511, inserted "for officers in the same pay grade" after "under this paragraph", substituted "10 percent" for "5 percent", and inserted "in that pay grade" after "numbers of officers".

Subsec. (d)(2). Pub. L. 100–456, §512(a), designated existing provisions as subpar. (A), struck out sentence at end which directed that each position so designated by the Secretary could be held only by an officer who had the joint specialty, and added subpars. (B) to (D).

Subsec. (d)(4). Pub. L. 100–456, §517(a), substituted "25 percent" for "one-third".

Subsec. (f). Pub. L. 100–456, §518, added subsec. (f).

**1987**—Subsec. (b)(3). Pub. L. 100–180, §1301(a)(1), added par. (3).

Subsec. (c)(1)(B). Pub. L. 100–180, §1301(b)(1), inserted "(as described in section 664(f)(1) or (f)(3) of this title)" after "joint duty assignment".

Subsec. (c)(2)(A). Pub. L. 100–180, §1301(b)(2)(A)–(C), designated existing provisions as subpar. (A), substituted "An officer (other than a general or flag officer) who has a military occupational specialty that is" for "An officer who has" and "full tour of duty in a joint duty assignment (as described in section 664(f)(2) of this title)" for "joint duty assignment of not less than two years", and struck out provisions that an officer selected for the joint specialty complete generally applicable requirements for selection under par. (1)(B) as soon as practicable after such officer's selection.

Subsec. (c)(2)(B). Pub. L. 100–180, §1301(b)(2)(D), added subpar. (B).

Subsec. (c)(3). Pub. L. 100–180, §1301(b)(3), added par. (3).

Subsec. (d)(1). Pub. L. 100–180, §1302(a)(1), added subpars. (A) and (B) and substituted "by officers who—" for "by officers who have (or have been nominated for) the joint specialty." in introductory provisions.

Subsec. (d)(2) to (4). Pub. L. 100–180, §1302(b), added pars. (2) to (4) and struck out former par. (2) which read as follows: "The Secretary of Defense shall designate not fewer than 1,000 joint duty assignment positions as critical joint duty assignment positions. Each such position shall be held only by an officer with the joint specialty."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §516(f), Oct. 17, 2006, 120 Stat. 2189, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2007."

### DESIGNATION OF AT LEAST ONE GENERAL OFFICER OF THE MARINE CORPS RESERVE AS A JOINT QUALIFIED OFFICER

Pub. L. 118–31, div. A, title V, §516, Dec. 22, 2023, 137 Stat. 249, provided that: "The Secretary of Defense shall ensure that at least one general officer of the Marine Corps Reserve is designated as a joint qualified officer."

### TREATMENT OF CURRENT JOINT SPECIALTY OFFICERS

Pub. L. 109–364, div. A, title V, §516(g), Oct. 17, 2006, 120 Stat. 2189, provided that: "For the purposes of chapter 38 of title 10, United States Code, and sections 154, 164, and 619a of such title, an officer who, as of September 30, 2007, has been selected for or has the joint specialty under section 661 of such title, as in effect on that date, shall be considered after that date to be an officer designated as joint qualified by the Secretary of Defense under section 661(b)(2) of such title, as amended by this section."

### IMPLEMENTATION PLAN

Pub. L. 109–364, div. A, title V, §516(h), Oct. 17, 2006, 120 Stat. 2189, provided that:

"(1) PLAN REQUIRED.—Not later than March 31, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for the implementation of the joint officer management system, which will take effect on October 1, 2007, as provided in subsection (f) [set out above], as a result of the amendments made by this section [amending this section] and other provisions of this Act [see Tables for classification] to provisions of chapter 38 of title 10, United States Code.

"(2) ELEMENTS OF PLAN.—In developing the plan required by this subsection, the Secretary shall pay particular attention to matters related to the transition of officers from the joint specialty system in effect before October 1, 2007, to the joint officer management system in effect after that date. At a minimum, the plan shall include the following:

"(A) The policies and criteria to be used for designating officers as joint qualified on the basis of service performed by such officers before that date, had the amendments made by this section and other provisions of this Act to provisions of chapter 38 of title 10, United States Code, taken effect before the date of the enactment of this Act [Oct. 17, 2006].

"(B) The policies and criteria prescribed by the Secretary of Defense to be used in making determinations under section 661(c)(1)(B)(ii) of such title, as amended by this section.

"(C) The recommendations of the Secretary for any legislative changes that may be necessary to effectuate the joint officer management system."

### EXCLUSION OF CERTAIN OFFICERS FROM LIMITATION ON AUTHORITY TO GRANT A WAIVER OF REQUIRED COMPLETION OR SEQUENCING FOR JOINT PROFESSIONAL MILITARY EDUCATION

Pub. L. 107–314, div. A, title V, §502(a), (b), Dec. 2, 2002, 116 Stat. 2530, provided for exclusion from the limitation set forth in former subsec. (c)(3)(D) of this section of any officer selected for the joint specialty who, on Dec. 28, 2001, had met the requirements for nomination for the joint specialty, but had not been nominated before that date, and who had been automatically nominated before Dec. 2, 2002, and provided that such exclusion would terminate on Oct. 1, 2006.

### INDEPENDENT STUDY OF JOINT OFFICER MANAGEMENT AND JOINT PROFESSIONAL MILITARY EDUCATION REFORMS

Pub. L. 107–107, div. A, title V, §526, Dec. 28, 2001, 115 Stat. 1099, directed the Secretary of Defense to provide for an independent study of the joint officer management system and the joint professional military education system and to require the entity conducting the study to submit a report to Congress on the study not later than one year after Dec. 28, 2001.

**STUDY OF DISTRIBUTION OF GENERAL AND FLAG OFFICER POSITIONS IN JOINT DUTY ASSIGNMENTS**

Pub. L. 102–484, div. A, title IV, §404, Oct. 23, 1992, 106 Stat. 2398, directed Secretary of Defense to conduct a study of whether joint organizations of Department of Defense are fully staffed with appropriate number of general and flag officers and, not later than one year after Oct. 23, 1992, submit a report to Congress.

**TRANSITION TO JOINT OFFICER PERSONNEL POLICY**

Pub. L. 99–433, title IV, §406(a)–(c), Oct. 1, 1986, 100 Stat. 1033, as amended by Pub. L. 100–456, div. A, title V, §516, Sept. 29, 1988, 102 Stat. 1971, provided that:

"(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code, shall be implemented as rapidly as possible and (except as provided under paragraph (2)) not later than October 1, 1989.

"(2) The first sentence of section 661(d)(2)(B) of such title shall apply with respect to positions designated under the first sentence of section 661(d)(2)(A) of that title as critical joint duty assignment positions which become vacant after January 1, 1989.

"(b) JOINT SPECIALTY.—

"(1) INITIAL SELECTIONS.—(A) In making the initial selections of officers for the joint specialty under section 661 of title 10, United States Code (as added by section 401 of this Act), the Secretary of Defense may waive the requirement of either subparagraph (A) or (B) (but not both) of subsection (c)(1) of such section in the case of any officer in a grade above captain or, in the case of the Navy, lieutenant.

"(B) In applying such subparagraph (B) to the initial selections of officers for the joint specialty, the Secretary may in the case of any officer—

"(i) waive the requirement that a joint duty assignment be served after the officer has completed an appropriate program at a joint professional military education school;

"(ii) waive the requirement for the length of a joint duty assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

"(iii) consider as a joint duty assignment any tour of duty begun by an officer before October 1, 1986, that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.

"(C) A waiver under subparagraph (A) of this paragraph or under any provision of subparagraph (B) of this paragraph may only be made on a case-by-case basis.

"(D) The authority of the Secretary of Defense to grant a waiver under subparagraph (A) or (B) of this paragraph may be delegated only to the Deputy Secretary of Defense.

"(2) REQUIREMENT FOR HIGH STANDARDS.—In exercising the authority provided by paragraph (1), the Secretary of Defense shall ensure that the highest standards of performance, education, and experience are established and maintained for officers selected for the joint specialty.

"(3) SUNSET.—The authority provided by paragraph (1) shall expire on October 1, 1989.

"(c) CAREER GUIDELINES.—The career guidelines required to be established by section 661(e) of such title, the procedures required to be established by section 665(a) of such title, and the personnel policies required to be established by section 666 of such title (as added by section 401) shall be established not later than the end of the eight-month period beginning on the date of the enactment of this Act [Oct. 1, 1986]. The provisions of section 665(b) of such title shall be implemented not later than the end of such period."

## §662. Promotion policy objectives for joint officers

The Secretary of Defense shall ensure that the qualifications of officers assigned to joint duty assignments are such that—

(1) officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

(2) officers in the grade of major (or in the case of the Navy, lieutenant commander) or above who have been designated as a joint qualified officer are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1026; amended Pub. L. 100–456, div. A, title V, §513, Sept. 29, 1988, 102 Stat. 1969; Pub. L. 101–510, div. A, title XIII, §1311(3), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 104–201, div. A, title V, §510, Sept. 23, 1996, 110 Stat. 2514; Pub. L. 107–107, div. A, title V, §521(b), Dec. 28, 2001, 115 Stat. 1097; Pub. L. 107–314, div. A, title X, §1062(a)(4), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–375, div. A, title V, §535, Oct. 28, 2004, 118 Stat. 1901; Pub. L. 109–364, div. A, title V, §517, Oct. 17, 2006, 120 Stat. 2190; Pub. L. 110–181, div. A, title X, §1063(a)(3), Jan. 28, 2008, 122 Stat. 321; Pub. L. 110–417, [div. A], title V, §523, Oct. 14, 2008, 122 Stat. 4446; Pub. L. 111–84, div. A, title X, §1073(c)(2), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 113–291, div. A, title V, §505(a)(2), Dec. 19, 2014, 128 Stat. 3356.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291 struck out subsec. (a) designation and heading "Qualifications.—" before "The Secretary of Defense" and struck out subsec. (b) which related to annual report.

**2009**—Subsec. (a)(2). Pub. L. 111–84 made technical amendment to directory language of Pub. L. 110–417, §523(1). See 2008 Amendment note below.

**2008**—Subsec. (a)(2). Pub. L. 110–417, §523(1), as amended by Pub. L. 111–84, substituted "officers in the grade of major (or in the case of the Navy, lieutenant commander) or above who have been designated as a joint qualified officer" for "officers who are serving in or have served in joint duty assignments".

Subsec. (b). Pub. L. 110–417, §523(2), inserted "or on the Joint Staff, and officers who have been designated as a joint qualified officer in the grades of major (or in the case of the Navy, lieutenant commander) through colonel (or in the case of the Navy, captain)" after "joint duty assignments".

Pub. L. 110–181 substituted "paragraphs (1) and (2) of subsection (a)" for "paragraphs (1), (2), and (3) of subsection (a)".

**2006**—Subsec. (a). Pub. L. 109–364 inserted "and" at end of par. (1), added par. (2), and struck out former pars. (2) and (3) which read as follows:

"(2) officers who have the joint specialty are expected, as a group, to be promoted—

"(A) during the period beginning on December 28, 2001, and ending on December 27, 2006, at a rate not less than the rate for officers of the same armed force in the same grade and competitive category; and

"(B) after December 27, 2006, at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

"(3) officers who are serving in, or have served in, joint duty assignments (other than officers covered in paragraphs (1) and (2)) are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category."

**2004**—Subsec. (a)(2). Pub. L. 108–375 substituted "December 27, 2006" for "December 27, 2004" in two places.

**2002**—Subsec. (a)(2)(A). Pub. L. 107–314, §1062(a)(4)(A), substituted "during the period beginning on December 28, 2001, and ending on December 27, 2004," for "during the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002,".

Subsec. (a)(2)(B). Pub. L. 107–314, §1062(a)(4)(B), substituted "after December 27, 2004" for "after the end of the period specified in subparagraph (A)".

**2001**—Subsec. (a)(2). Pub. L. 107–107 substituted "promoted—" for "promoted at a rate", added subpar. (A), designated "not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and" as subpar. (B), and inserted "after the end of the period specified in subparagraph (A), at a rate" after subpar. (B) designation.

**1996**—Subsec. (b). Pub. L. 104–201, §510(b), in first sentence, substituted "paragraphs" for "clauses" and, in second sentence, inserted "for any fiscal year" after "such objectives" and substituted "report for that fiscal year" for "periodic report required by this subsection".

Pub. L. 104–201, §510(a), substituted "Annual Report" for "Report" in heading and "Not later than January 1 of each year, the Secretary of Defense shall submit to Congress a report on the promotion rates during the preceding fiscal year" for "The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates" in text.

**1990**—Subsec. (b). Pub. L. 101–510 substituted "the Secretary shall include in the periodic report required by this subsection information on such failure and on" for "the Secretary shall immediately notify Congress of such failure and of".

**1988**—Subsec. (a)(1), (3). Pub. L. 100–456 inserted "to the next higher grade" after "promoted".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(2) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

## §663. Joint duty assignments after completion of joint professional military education

(a) JOINT QUALIFIED OFFICERS.—The Secretary of Defense shall ensure that each officer designated as a joint qualified officer who graduates from a school within the National Defense University specified in subsection (c) shall be assigned to a joint duty assignment for that officer's next duty assignment after such graduation (unless the officer receives a waiver of that requirement by the Secretary in an individual case).

(b) OTHER OFFICERS.—(1) The Secretary of Defense shall ensure that a high proportion (which shall be greater than 50 percent) of the officers graduating from a school within the National Defense University specified in subsection (c) who are not designated as a joint qualified officer shall receive assignments to a joint duty assignment (or, as authorized by the Secretary in an individual case, to a joint assignment other than a joint duty assignment) as their next duty assignment after such graduation or, to the extent authorized in paragraph (2), as their second duty assignment after such graduation.

(2) The Secretary may, if the Secretary determines that it is necessary to do so for the efficient management of officer personnel, establish procedures to allow up to one-half of the officers subject to the assignment requirement in paragraph (1) to be assigned to such an assignment as their second (rather than first) assignment after such graduation from a school referred to in paragraph (1).

(c) COVERED SCHOOLS WITHIN THE NATIONAL DEFENSE UNIVERSITY.—For purposes of this section, a school within the National Defense University specified in this subsection is one of the following:

(1) The National War College.

(2) The Dwight D. Eisenhower School for National Security and Resource Strategy.

(3) The Joint Forces Staff College.

(d) EXCEPTION FOR OFFICERS GRADUATING FROM OTHER-THAN-IN-RESIDENCE PROGRAMS.—(1) Subsection (a) does not apply to an officer graduating from a school within the National Defense University specified in subsection (c) following pursuit of a program on an other-than-in-residence basis.

(2) Subsection (b) does not apply with respect to any group of officers graduating from a school within the National Defense University specified in subsection (c) following pursuit of a program on an other-than-in-residence basis.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1027; amended Pub. L. 101–189, div. A, title XI, §1123(c)(1), Nov. 29, 1989, 103 Stat. 1557; Pub. L. 102–190, div. A, title IX,

§912(a), Dec. 5, 1991, 105 Stat. 1452; Pub. L. 103–160, div. A, title IX, §933(a), Nov. 30, 1993, 107 Stat. 1735; Pub. L. 107–107, div. A, title X, §1048(a)(6), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107–314, div. A, title X, §1062(a)(5), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–375, div. A, title V, §532(b)–(c)(2)(A), Oct. 28, 2004, 118 Stat. 1900; Pub. L. 109–364, div. A, title V, §518, Oct. 17, 2006, 120 Stat. 2190; Pub. L. 110–417, [div. A], title V, §522(b), Oct. 14, 2008, 122 Stat. 4445; Pub. L. 112–81, div. A, title V, §503, div. B, title XXVIII, §2861(c), Dec. 31, 2011, 125 Stat. 1388, 1701.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b)(1). Pub. L. 112–81, §503(a)(1), inserted "(or, as authorized by the Secretary in an individual case, to a joint assignment other than a joint duty assignment)" after "to a joint duty assignment".

Subsec. (b)(2). Pub. L. 112–81, §503(a)(2), substituted "the assignment" for "the joint duty assignment" and "such an assignment" for "a joint duty assignment".

Subsec. (c)(2). Pub. L. 112–81, §2861(c), substituted "Dwight D. Eisenhower School for National Security and Resource Strategy" for "Industrial College of the Armed Forces".

Subsec. (d). Pub. L. 112–81, §503(b), added subsec. (d).

**2008**—Subsecs. (a), (b)(1). Pub. L. 110–417, in subsec. (a), substituted "Qualified" for "Specialty" in heading and "designated as a joint qualified officer" for "with the joint specialty" in text, and, in subsec. (b)(1), substituted "are not designated as a joint qualified officer" for "do not have the joint specialty".

**2006**—Subsecs. (a), (b)(1). Pub. L. 109–364, §518(a)(1), (2)(A), substituted "a school within the National Defense University specified in subsection (c)" for "a joint professional military education school".

Subsec. (b)(2). Pub. L. 109–364, §518(a)(2)(B), substituted "a school referred to in paragraph (1)" for "a joint professional military education school".

Subsec. (c). Pub. L. 109–364, §518(b), added subsec. (c).

**2004**—Pub. L. 108–375, §532(c)(2)(A), substituted "Joint duty assignments after completion of joint professional military education" for "Education" in section catchline.

Subsec. (a). Pub. L. 108–375, §532(c)(1)(A), (B), redesignated subsec. (d)(1) as (a), inserted heading, and struck out heading and text of former subsec. (a) which related to capstone course for new general and flag officers. See section 2153 of this title.

Subsec. (b). Pub. L. 108–375, §532(c)(1)(C)–(F), redesignated subsec. (d)(2)(A) as (b)(1) and substituted "in paragraph (2)" for "in subparagraph (B)", redesignated subsec. (d)(2)(B) as (b)(2) and substituted "in paragraph (1)" for "in subparagraph (A)", and inserted subsec. heading.

Pub. L. 108–375, §532(b), transferred subsec. (b), relating to joint military education schools, to section 2152(b) of this title.

Subsec. (c). Pub. L. 108–375, §532(b), transferred subsec. (c), relating to other professional military education schools, to section 2152(c) of this title.

Subsec. (d). Pub. L. 108–375, §532(c)(1)(B), (C), (E), redesignated par. (1) as subsec. (a), redesignated subpars. (A) and (B) of par. (2) as pars. (1) and (2), respectively, of subsec. (b), and struck out heading "Post-Education Joint Duty Assignments".

Subsec. (e). Pub. L. 108–375, §532(c)(1)(A), struck out heading and text of subsec. (e) which related to the duration of the principal course of instruction offered at the Joint Forces Staff College. See section 2156 of this title.

**2002**—Subsec. (e)(2). Pub. L. 107–314 substituted "Joint Forces Staff College" for "Armed Forces Staff College".

**2001**—Subsec. (e). Pub. L. 107–107 substituted "Joint Forces Staff College" for "Armed Forces Staff College" in subsec. heading and in text of par. (1).

**1993**—Subsec. (d). Pub. L. 103–160 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "POST-EDUCATION DUTY ASSIGNMENTS.—The Secretary of Defense shall ensure that—

"(1) unless waived by the Secretary in an individual case, each officer with the joint specialty who graduates from a joint professional military education school shall be assigned to a joint duty assignment for that officer's next duty assignment; and

"(2) a high proportion (which shall be greater than 50 percent) of the other officers graduating from a joint professional military education school also receive assignments to a joint duty assignment as their next duty assignment."

**1991**—Subsec. (e). Pub. L. 102–190 designated existing provisions as par. (1) and added par. (2).

**1989**—Subsec. (e). Pub. L. 101–189 added subsec. (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title IX, §933(b), Nov. 30, 1993, 107 Stat. 1736, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to officers graduating from joint professional military education schools after the date of the enactment of this Act [Nov. 30, 1993]."

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title IX, §912(b), Dec. 5, 1991, 105 Stat. 1452, as amended by Pub. L. 102–484, div. A, title IX, §921, Oct. 23, 1992, 106 Stat. 2473, provided that the amendment made by section 912(a)(2) of Pub. L. 102–190 to this section was not to apply with respect to the Armed Forces Staff College until Jan. 1, 1994.

### IMPLEMENTATION OF SUBSECTION (E)

Pub. L. 101–189, div. A, title XI, §1123(c)(2), Nov. 29, 1989, 103 Stat. 1557, provided that: "Subsection (e) of such section, as added by paragraph (1), shall be implemented by the Secretary of Defense not later than two years after the date of the enactment of this Act [Nov. 29, 1989]."

### EDUCATION REQUIREMENTS; JOINT OFFICER MANAGEMENT PROGRAM

Pub. L. 99–433, title IV, §406(d), Oct. 1, 1986, 100 Stat. 1033, provided that:

"(1) CAPSTONE COURSE.—Subsection (a) of section 663 of such title [10 U.S.C. 663(a)] (as added by section 401) shall apply with respect to officers selected in reports of officer selection boards submitted to the Secretary concerned after the end of the 120-day period beginning on the date of the enactment of this Act [Oct. 1, 1986].

"(2) REVIEW OF MILITARY EDUCATION SCHOOLS.—(A) The first review under subsections (b) and (c) of such section shall be completed not later than 120 days after the date of the enactment of this Act. The Secretary of Defense shall submit to Congress a report on the results of the review at each Department of Defense school not later than 60 days thereafter.

"(B) Such subsections shall be implemented so that the revised curricula take effect with respect to courses beginning after July 1987.

"(3) POST-EDUCATION DUTY ASSIGNMENTS.—Subsection (d) of such section shall take effect with respect to classes graduating from joint professional military education schools after January 1987."

## §664. Length of joint duty assignments

(a) GENERAL RULE.—The length of a joint duty assignment shall be not less than two years.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) in the case of any officer.

(c) EXCLUSIONS FROM TOUR LENGTH.—The Secretary of Defense may exclude the following service from the requirement in subsection (a):

(1) Service in a joint duty assignment in which the full tour of duty in the assignment is not completed by the officer because of—

(A) retirement;

(B) release from active duty;

(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

(D) a qualifying reassignment from a joint duty assignment as prescribed by the Secretary of Defense in regulations.

(2) Service in a joint duty assignment in a case in which the officer's tour of duty in that assignment brings the officer's accrued service for purposes of subsection (d)(2) to the requirement in subsection (a).

(d) FULL TOUR OF DUTY.—An officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of any of the following:

(1) A joint duty assignment that meets the requirement in subsection (a).

(2) Accrued joint experience in joint duty assignments as described in subsection (e).

(3) A joint duty assignment with respect to which the Secretary of Defense has granted a waiver under subsection (b), but only in a case in which the Secretary determines that the service completed by that officer in that duty assignment shall be considered to be a full tour of duty in a joint duty assignment.

(4) A second and subsequent joint duty assignment that is less than the period required under subsection (a).

(e) ACCRUED JOINT EXPERIENCE.—For the purposes of subsection (d)(2), the Secretary of Defense may prescribe, by regulation, certain joint experience, such as temporary duty in joint assignments, joint individual training, and participation in joint exercises, that may be aggregated to equal a full tour of duty. The Secretary shall prescribe the regulations with the advice of the Chairman of the Joint Chiefs of Staff.

(f) CONSTRUCTIVE CREDIT.—The Secretary of Defense may award constructive credit in the case of an officer (other than a general or flag officer) who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (d)(1). The amount of constructive service that may be credited to such officer shall be the amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1028; amended Pub. L. 100–180, div. A, title XIII, §1303(a), Dec. 4, 1987, 101 Stat. 1170; Pub. L. 100–456, div. A, title V, §§514, 517(b), Sept. 29, 1988, 102 Stat. 1969, 1971; Pub. L. 104–106, div. A, title V, §501(b), (e), (f), Feb. 10, 1996, 110 Stat. 290, 292; Pub. L. 106–65, div. A, title X, §1066(a)(5), Oct. 5, 1999, 113 Stat. 770; Pub. L. 107–107, div. A, title V, §522, Dec. 28, 2001, 115 Stat. 1097; Pub. L. 109–364, div. A, title V, §519(d)(1), Oct. 17, 2006, 120 Stat. 2191; Pub. L. 110–417, [div. A], title V, §524, Oct. 14, 2008, 122 Stat. 4446; Pub. L. 114–328, div. A, title V, §510, Dec. 23, 2016, 130 Stat. 2110; Pub. L. 115–232, div. A, title X, §1081(a)(9), Aug. 13, 2018, 132 Stat. 1983.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (d)(1). Pub. L. 115–232 substituted "the requirement" for "the the requirement".

**2016**—Subsec. (a). Pub. L. 114–328, §510(a), substituted "assignment shall be not less than two years." for "assignment—

"(1) for general and flag officers shall be not less than two years; and

"(2) for other officers shall be not less than three years."

Subsec. (c). Pub. L. 114–328, §510(b), (g)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "The Secretary may for purposes of section 661(c)(1)(B) of this title authorize a joint duty assignment of less than the period prescribed by subsection (a), but not less than two years, without the requirement for a waiver under subsection (b) in the case of an officer—

"(1) who has a military occupational specialty designated under section 668(d) of this title as a critical occupational specialty; and

"(2) for whom such joint duty assignment is the initial joint duty assignment."

Subsec. (c)(2). Pub. L. 114–328, §510(g)(2), substituted "subsection (d)(2)" for "subsection (f)(3)".

Subsec. (d). Pub. L. 114–328, §510(g)(1), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (c).

Pub. L. 114–328, §510(c)(1), substituted "the requirement in subsection (a)" for "the standards prescribed in subsection (a)" in introductory provisions.

Subsec. (d)(1)(D). Pub. L. 114–328, §510(c)(2), substituted "assignment as prescribed by the Secretary of Defense in regulations." for "assignment—

"(i) for unusual personal reasons, including extreme hardship and medical conditions, beyond the control of the officer or the armed forces; or

"(ii) to another joint duty assignment immediately after—

"(I) the officer was promoted to a higher grade, if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(II) the officer's position was eliminated in a reorganization."

Subsec. (d)(2). Pub. L. 114–328, §510(g)(3), substituted "subsection (e)" for "subsection (g)".

Pub. L. 114–328, §510(c)(3)–(5), redesignated par. (3) as (2), substituted "the requirement in subsection (a)" for "the applicable standard prescribed in subsection (a)", and struck out former par. (2) which read as follows: "Service in a joint duty assignment outside the United States or in Alaska or Hawaii which is less than the applicable standard prescribed in subsection (a)."

Subsec. (d)(3). Pub. L. 114–328, §510(c)(4), redesignated par. (3) as (2).

Subsec. (e). Pub. L. 114–328, §510(d), (g)(1), (4), redesignated subsec. (g) as (e), substituted "subsection (d)(2)" for "subsection (f)(3)", and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows:

"(1) The Secretary shall ensure that the average length of joint duty assignments during any fiscal year, measured by the lengths of the joint duty assignments ending during that fiscal year, meets the standards prescribed in subsection (a).

"(2) In computing the average length of joint duty assignments for purposes of paragraph (1), the Secretary may exclude the following service:

"(A) Service described in subsection (c).

"(B) Service described in subsection (d).

"(C) Service described in subsection (f)(6)."

Subsec. (f). Pub. L. 114–328, §510(g)(1), (5), redesignated subsec. (h) as (f) and substituted "subsection (d)(1)" for "paragraphs (1), (2), and (4) of subsection (f)". Former subsec. (f) redesignated (d).

Subsec. (f)(1). Pub. L. 114–328, §510(e)(1), substituted "the requirement in subsection (a)" for "standards prescribed in subsection (a)".

Subsec. (f)(2) to (6). Pub. L. 114–328, §510(e)(2)–(4), redesignated pars. (3), (5), and (6) as (2), (3), and (4), respectively, struck out ", but not less than two years" before period at end of par. (4), and struck out former pars. (2) and (4) which read as follows:

"(2) A joint duty assignment under the circumstances described in subsection (c)."

"(4) A joint duty assignment outside the United States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length."

Subsec. (g). Pub. L. 114–328, §510(g)(1), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 114–328, §510(g)(1), redesignated subsec. (h) as (f).

Pub. L. 114–328, §510(f), struck out par. (1) designation before "The Secretary of Defense may", substituted "award" for "accord", and struck out par. (2) which read as follows: "For the purpose of computing under subsection (e) the average length of joint duty assignments during a fiscal year, the amount of any constructive service credited under this subsection with respect to a joint duty assignment to be counted in that computation shall be excluded."

**2008**—Subsec. (d)(1)(D). Pub. L. 110–417, §524(a)(1), added subpar. (D) and struck out former subpar. (D) which read as follows: "a qualifying reassignment (as described in subsection (g)(4))."

Subsec. (d)(3). Pub. L. 110–417, §524(a)(2), added par. (3) and struck out former par. (3) which read as follows: "Service in a joint duty assignment in a case in which—

"(A) the officer's tour of duty in that assignment brings the officer's cumulative service for purposes of subsection (f)(3) to the applicable standard prescribed in subsection (a); and

"(B) the length of time served in that assignment (in any case other than an assignment which is described in subsection (g)(4)(B)) was not less than two years."

Subsec. (e)(2). Pub. L. 110–417, §524(b), added par. (2) and struck out former par. (2) which read as follows: "In computing the average length of joint duty assignments for purposes of paragraph (1), the Secretary may exclude the following service:

"(A) Service described in subsection (c), except that not more than 12½ percent of all joint duty assignments shown on the list published pursuant to section 668(b)(2)(A) of this title may be so excluded in any year.

"(B) Service described in subsection (d).

"(C) Service described in subsection (f)(6), except that no more than 10 percent of all joint duty assignments shown on the list published pursuant to section 668(b)(2)(A) of this title may be so excluded in any year."

Subsec. (f). Pub. L. 110–417, §524(c), in par. (3) substituted "Accrued joint experience" for "Cumulative

service", in par. (4) struck out "(except that not more than 6 percent of all joint duty assignments may be considered to be under this paragraph at any time)" before period at end, added par. (6), and struck out former par. (6) which read as follows "A second joint duty assignment that is less than the period required under subsection (a), but not less than two years, without regard to whether a waiver was granted for such assignment under subsection (b).".

Subsec. (g). Pub. L. 110–417, §524(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to cumulative service of an officer in joint duty assignments.

Subsec. (h). Pub. L. 110–417, §524(e), substituted "paragraphs (1), (2), and (4) of subsection (f)" for "subsection (f)(1), (f)(2), (f)(4), or (g)(2)" in par. (1) and struck out par. (3) which read as follows: "This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment."

Subsec. (i). Pub. L. 110–417, §524(f), struck out subsec. (i) which related to joint duty credit for certain joint task force assignments.

**2006**—Subsec. (c). Pub. L. 109–364, in introductory provisions, substituted "661(c)(1)(B)" for "661(c)(2)", redesignated pars. (2) and (3) as (1) and (2), respectively, in par. (1), substituted "668(d)" for "661(c)(2)", and struck out former par. (1) which read as follows: "who is nominated for the joint specialty;".

**2001**—Subsec. (i)(4)(E). Pub. L. 107–107, §522(1), substituted "Except as provided in subparagraph (F), the joint task force" for "The joint task force".

Subsec. (i)(4)(F). Pub. L. 107–107, §522(2), added subpar. (F).

**1999**—Subsec. (i)(2)(A). Pub. L. 106–65 substituted "February 10, 1996" for "the date of the enactment of this subsection" in introductory provisions.

**1996**—Subsec. (e)(1). Pub. L. 104–106, §501(f), struck out "(after fiscal year 1990)" after "any fiscal year".

Subsec. (e)(2)(C). Pub. L. 104–106, §501(e)(1), added subpar. (E).

Subsec. (f). Pub. L. 104–106, §501(e)(2)(A), substituted "completion of any of the following:" for "completion of—" in introductory provisions.

Subsec. (f)(1). Pub. L. 104–106, §501(e)(2)(B), (D), substituted "A joint duty" for "a joint duty" and "subsection (a)." for "subsection (a);".

Subsec. (f)(2). Pub. L. 104–106, §501(e)(2)(B), (D), substituted "A joint duty" for "a joint duty" and "subsection (c)." for "subsection (c);".

Subsec. (f)(3). Pub. L. 104–106, §501(e)(2)(C), (D), substituted "Cumulative" for "cumulative" and "subsection (g)." for "subsection (g);".

Subsec. (f)(4). Pub. L. 104–106, §501(e)(2)(B), (D), substituted "A joint duty" for "a joint duty" and "any time)." for "any time); or".

Subsec. (f)(5). Pub. L. 104–106, §501(e)(2)(B), substituted "A joint duty" for "a joint duty".

Subsec. (f)(6). Pub. L. 104–106, §501(e)(2)(E), added par. (6).

Subsec. (i). Pub. L. 104–106, §501(b), added subsec. (i).

**1988**—Subsec. (a)(1). Pub. L. 100–456, §514(1)(A), substituted "two years" for "three years".

Subsec. (a)(2). Pub. L. 100–456, §514(1)(B), substituted "three years" for "three and one-half years".

Subsec. (c)(1). Pub. L. 100–456, §514(2), substituted "is" for "has been" and struck out "before such assignment begins" after "specialty".

Subsec. (d)(2). Pub. L. 100–456, §514(3), inserted "which is less than the applicable standard prescribed in subsection (a)" after "Hawaii".

Subsec. (e)(2)(A). Pub. L. 100–456, §517(b), substituted "12½ percent" for "10 percent".

Subsec. (f)(4), (5). Pub. L. 100–456, §514(4), added pars. (4) and (5).

Subsec. (g)(3). Pub. L. 100–456, §514(5), substituted "shall be excluded if the officer served less than 10 months in that assignment" for "shall be excluded—

"(A) if the officer served less than 10 months in that assignment; and

"(B) to the extent that the assignment was served more than eight years before the date of computation of the cumulative service."

Subsec. (h). Pub. L. 100–456, §514(6), added subsec. (h).

**1987**—Subsec. (b). Pub. L. 100–180 added subsec. (b) and struck out former subsec. (b) which read as follows: "The Secretary of Defense may waive subsection (a) in the case of any officer, but the Secretary shall ensure that the average length of joint duty assignments meets the standards prescribed in that subsection."

Subsec. (c). Pub. L. 100–180 added subsec. (c) and struck out former subsec. (c), "Certain officers with critical combat operations skills", which read as follows: "Joint duty assignments of less than the period prescribed by subsection (a), but not less than two years, may be authorized for the purposes of section 661(c)(2) of this title. Such an assignment may not be counted for the purposes of determining the average length of joint duty assignments under subsection (b)."

Subsec. (d). Pub. L. 100–180 added subsec. (d) and struck out former subsec. (d), "Exception", which read as follows:

"(1) Subsection (a) does not apply in the case of an officer who fails to complete a joint duty assignment as the result of—

"(A) retirement;

"(B) separation from active duty; or

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title.

"(2) In computing the average length of joint duty assignments for purposes of this section, the Secretary of Defense shall exclude joint duty assignments not completed because of a reason specified in paragraph (1)."

Subsecs. (e) to (g). Pub. L. 100–180 added subsecs. (e) to (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §519(e), Oct. 17, 2006, 120 Stat. 2191, provided that: "The amendments made by this section [amending this section, former section 667, and section 668 of this title] shall take effect on October 1, 2007."

### RETROACTIVE JOINT SERVICE CREDIT FOR DUTY IN CERTAIN JOINT TASK FORCES

Pub. L. 107–107, div. A, title V, §523, Dec. 28, 2001, 115 Stat. 1097, provided that, in accordance with subsec. (i) of this section, the Secretary of Defense was authorized to award joint service credit to any officer who served on the staff of a United States joint task force headquarters in certain operations and during certain periods, and the Secretary was required to submit to Congress a report of the numbers, by service, grade, and operation, of the officers given joint service credit not later than one year after Dec. 28, 2001.

### JOINT DUTY CREDIT FOR CERTAIN DUTY PERFORMED DURING OPERATIONS DESERT SHIELD AND DESERT STORM

Pub. L. 103–160, div. A, title IX, §932, Nov. 30, 1993, 107 Stat. 1735, provided extension of authority until the end of the 90-day period beginning on Nov. 30, 1993, to give certain officers joint duty credit pursuant to Pub. L. 102–484, §933, formerly set out below.

Pub. L. 102–484, div. A, title IX, §933, Oct. 23, 1992, 106 Stat. 2476, as amended by Pub. L. 103–35, title II, §202(a)(9), May 31, 1993, 107 Stat. 101; Pub. L. 103–160, div. A, title IX, §932(c)(1), Nov. 30, 1993, 107 Stat. 1735, temporarily authorized the Secretary of Defense to give an officer who had completed service during the period beginning on Aug. 2, 1990, and ending on Feb. 28, 1991, in an assignment in the Persian Gulf combat zone, credit, on a case-by-case basis, for having completed a full tour of duty in a joint duty assignment, or credit countable for determining cumulative service in joint duty assignments, for the purposes of any provision of this title, notwithstanding the length of such service or whether that service had been within the definition of "joint duty assignment" in section 668 of this title, and provided that such authority would expire at the end of the six-month period beginning on Oct. 23, 1992.

### LENGTH OF JOINT DUTY ASSIGNMENTS

Pub. L. 99–433, title IV, §406(e), Oct. 1, 1986, 100 Stat. 1034, provided that: "Subsection (a) of section 664 of title 10, United States Code (as added by section 401), shall apply to officers assigned to joint duty assignments after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 1, 1986]. In computing an average under subsection (b) of such section, only joint duty assignments to which such subsection applies shall be considered."

### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For waiver of the requirements of this section for the length of a joint duty assignment, see section 532(c) of Pub. L. 99–433, formerly set out as a note under section 3033 of this title.

## §665. Procedures for monitoring careers of joint qualified officers

(a) PROCEDURES.—(1) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish procedures for overseeing the careers of—

(A) officers designated as a joint qualified officer; and

(B) other officers who serve in joint duty assignments.

(2) Such oversight shall include monitoring of the implementation of the career guidelines established under section 661(e) of this title.

(b) FUNCTION OF JOINT STAFF.—The Secretary shall take such action as necessary to enhance the capabilities of the Joint Staff so that it can—

(1) monitor the promotions and career assignments of officers designated as a joint qualified officer and of other officers who have served in joint duty assignments; and

(2) otherwise advise the Chairman on joint personnel matters.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1028; amended Pub. L. 110–417, [div. A], title V, §522(c)(1), (2), Oct. 14, 2008, 122 Stat. 4445.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Pub. L. 110–417 in section catchline substituted "joint qualified officers" for "joint officers" and in subsecs. (a)(1)(A) and (b)(1) substituted "designated as a joint qualified officer" for "with the joint specialty".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSITION TO JOINT OFFICER PERSONNEL POLICY**

Procedures under subsec. (a) of this section to be established not later than the end of the eight-month period beginning Oct. 1, 1986, and provisions of subsec. (b) of this section to be implemented not later than the end of such period, see section 406(c) of Pub. L. 99–433, set out as a note under section 661 of this title.

## §666. Reserve officers not on the active-duty list

The Secretary of Defense shall establish personnel policies emphasizing education and experience in joint matters for reserve officers not on the active-duty list. Such policies shall, to the extent practicable for the reserve components, be similar to the policies provided by this chapter.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1028.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSITION TO JOINT OFFICER PERSONNEL POLICY**

Personnel policies under this section to be established not later than the end of the eight-month period beginning Oct. 1, 1986, see section 406(c) of Pub. L. 99–433, set out as a note under section 661 of this title.

## [§667. Repealed. Pub. L. 113–291, div. A, title V, §505(a)(1), Dec. 19, 2014, 128 Stat. 3356]

Section, added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1029; amended Pub. L. 100–180, div. A, title XIII, §1304(a), Dec. 4, 1987, 101 Stat. 1172; Pub. L. 100–456, div. A, title V, §512(b), Sept. 29, 1988, 102 Stat. 1968; Pub. L. 101–189, div. A, title XI, §1123(d), Nov. 29, 1989, 103 Stat. 1557; Pub. L. 104–106, div. A, title V, §501(c), Feb. 10, 1996, 110 Stat. 292; Pub. L. 107–107, div. A, title V, §524, title X, §1048(a)(7), Dec. 28, 2001, 115 Stat. 1098, 1223; Pub. L. 109–364, div. A, title V, §519(d)(2), Oct. 17, 2006, 120 Stat. 2191; Pub. L. 110–417, [div. A], title V, §522(d), Oct. 14, 2008, 122 Stat. 4445; Pub. L. 111–84, div. A, title V, §503, Oct. 28, 2009, 123 Stat. 2277, related to annual report to Congress.

## §668. Definitions

(a) JOINT MATTERS.—(1) In this chapter, the term "joint matters" means matters related to any of the following:

(A) The development or achievement of strategic objectives through the synchronization, coordination, and organization of integrated forces in operations conducted across domains, such as land, sea, or air, in space, or in the information environment, including matters relating to any of the following:

(i) National military strategy.

(ii) Strategic planning and contingency planning.

(iii) Command and control, intelligence, fires, movement and maneuver, protection or sustainment of operations under unified command.

(iv) National security planning with other departments and agencies of the United States.

(v) Combined operations with military forces of allied nations.

(B) Acquisition matters conducted by members of the armed forces and covered under chapter 87 of this title involved in developing, testing, contracting, producing, or fielding of multi-service programs or systems.

(C) Other matters designated in regulation by the Secretary of Defense in consultation with the Chairman of the Joint Chiefs of Staff.

(2) In the context of joint matters, the term "integrated forces" refers to military forces that are involved in achieving unified action with participants from—

(A) more than one military department; or

(B) a military department and one or more of the following:

(i) Other departments and agencies of the United States.

(ii) The military forces or agencies of other countries.

(iii) Non-governmental persons or entities.

(b) JOINT DUTY ASSIGNMENT.—(1) The Secretary of Defense shall by regulation define the term "joint duty assignment" for the purposes of this chapter. That definition—

(A) shall be limited to assignments in which—

(i) the preponderance of the duties of the officer involve joint matters and

(ii) the officer gains significant experience in joint matters; and

(B) shall exclude student assignments for joint training and education.

(2) The Secretary shall publish a joint duty assignment list showing—

(A) the positions that are joint duty assignment positions under such regulation and the number of such positions and, of those positions, those that are positions held by general or flag officers and the number of such positions; and

(B) of the positions listed under subparagraph (A), those that are critical joint duty assignment positions and the number of such positions and, of those positions, those that are positions held by general or flag officers and the number of such positions.

(c) CLARIFICATION OF "TOUR OF DUTY".—For purposes of this chapter, a tour of duty in which an officer serves in more than one joint duty assignment without a break between such assignments shall be considered to be a single tour of duty in a joint duty assignment.

(Added Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1029; amended Pub. L. 100–180, div. A, title XIII, §§1302(c)(1), 1303(b), Dec. 4, 1987, 101 Stat. 1170, 1172; Pub. L. 100–456, div. A, title V, §519(b), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 108–375, div. A, title V, §534(a), (b), Oct. 28, 2004, 118 Stat. 1901; Pub. L. 109–364, div. A, title V, §519(a)–(c), Oct. 17, 2006, 120 Stat. 2190, 2191; Pub. L. 111–383, div. A, title V, §521, Jan. 7, 2011, 124 Stat. 4214; Pub. L. 112–239, div. A, title V, §503, Jan. 2, 2013, 126 Stat. 1715; Pub. L. 114–92, div. A, title VIII, §843, Nov. 25, 2015, 129 Stat. 915; Pub. L. 114–328, div. A, title V, §510A, Dec. 23, 2016, 130 Stat. 2111.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (a)(1). Pub. L. 114–328, §510A(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In this chapter, the term 'joint matters' means matters related to the achievement of unified action by integrated military forces in operations conducted across domains such as land, sea, or air, in space, or in the information environment, including matters relating to—

"(A) national military strategy;

"(B) strategic planning and contingency planning;

"(C) command and control of operations under unified command;

"(D) national security planning with other departments and agencies of the United States;

"(E) combined operations with military forces of allied nations; or

"(F) acquisition matters addressed by military personnel and covered under chapter 87 of this title."

Subsec. (a)(2). Pub. L. 114–328, §510A(b), substituted "integrated forces" for "integrated military forces" and "achieving unified action with" for "the planning or execution (or both) of operations involving" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 114–328, §510A(c), added subpar. (A) and struck out former subpar. (A) which read as follows: "shall be limited to assignments in which the officer gains significant experience in joint matters; and".

Subsec. (d). Pub. L. 114–328, §510A(d), struck out subsec. (d). Text read as follows:

"(1) In this chapter, the term 'critical occupational specialty' means a military occupational specialty involving combat operations within the combat arms, in the case of the Army, or the equivalent arms, in the case of the Navy, Air Force, and Marine Corps, that the Secretary of Defense designates as critical.

"(2) At a minimum, the Secretary of Defense shall designate as a critical occupational specialty under paragraph (1) any military occupational specialty within a combat arms (or the equivalent) that is experiencing a severe shortage of trained officers in that specialty, as determined by the Secretary."

**2015**—Subsec. (a)(1)(F). Pub. L. 114–92 added subpar. (F).

**2013**—Subsec. (b)(1)(B). Pub. L. 112–239 substituted "student assignments for joint training and education" for "assignments for joint training and education, except an assignment as an instructor responsible for preparing and presenting courses in areas of the curricula designated in section 2155(c) of this title as part of a program designated by the Secretary of Defense as joint professional military education Phase II".

**2011**—Subsec. (a)(1). Pub. L. 111–383, §521(1)(A), substituted "integrated" for "multiple" in introductory provisions.

Subsec. (a)(1)(D). Pub. L. 111–383, §521(1)(B), substituted "or" for "and".

Subsec. (a)(2). Pub. L. 111–383, §521(2), added par. (2) and struck out former par. (2), which read as follows: "In the context of joint matters, the term 'multiple military forces' refers to forces that involve participants from the armed forces and one or more of the following:

"(A) Other departments and agencies of the United States.

"(B) The military forces or agencies of other countries.

"(C) Non-governmental persons or entities."

**2006**—Subsec. (a). Pub. L. 109–364, §519(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "In this chapter, the term 'joint matters' means matters relating to the integrated employment of land, sea, and air forces, including matters relating to—

"(1) national military strategy;

"(2) strategic planning and contingency planning; and

"(3) command and control of combat operations under unified command."

Subsec. (b)(1). Pub. L. 109–364, §519(b), substituted provisions limiting the definition of "joint duty assignment" to assignments in which the officer gains significant experience in joint matters and excluding assignments for joint training and education, except an assignment as an instructor responsible for courses as part of a program designated as joint professional military education Phase II, for provisions limiting the definition of "joint duty assignment" to assignments in which the officer gains significant experience in joint matters and excluding assignments for joint training or joint education and assignments within an officer's own military department.

Subsec. (d). Pub. L. 109–364, §519(c), added subsec. (d).

**2004**—Subsec. (b)(2). Pub. L. 108–375, §534(a), substituted "a joint duty assignment list" for "a list" in introductory provisions.

Subsec. (c). Pub. L. 108–375, §534(b), struck out "within the same organization" before "without a break".

**1988**—Subsecs. (c), (f). Pub. L. 100–456 redesignated subsec. (f) as (c).

**1987**—Subsec. (b)(2). Pub. L. 100–180, §1302(c)(1), inserted "and, of those positions, those that are positions held by general or flag officers and the number of such positions" in subpars. (A) and (B).

Subsec. (f). Pub. L. 100–180, §1303(b), added subsec. (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Oct. 1, 2007, see section 519(e) of Pub. L. 109–364, set out as a note under section 664 of this title.

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title V, §534(c), Oct. 28, 2004, 118 Stat. 1901, provided that: "The amendment made by subsection (b) [amending this section] shall not apply in the case of a joint duty assignment completed by an officer before the date of the enactment of this Act [Oct. 28, 2004], except in the case of an officer who has continued in joint duty assignments, without a break in service in such assignments, between the end of such assignment and the date of the enactment of this Act."

### PUBLICATION OF REVISED JOINT DUTY ASSIGNMENT LIST

Pub. L. 100–180, div. A, title XIII, §1302(c)(2), Dec. 4, 1987, 101 Stat. 1170, directed the Secretary of Defense to publish a revised list under subsec. (b)(2) of this section not later than six months after Dec. 4, 1987, which would take into account the amendments to this section and section 661 of this title made by Pub. L. 100–180, §1302.

### TRANSITION TO JOINT OFFICER PERSONNEL POLICY

The list of positions required to be published by subsec. (b)(2) of this section to be published not later than six months after Oct. 1, 1986, see section 406(a)(2) of Pub. L. 99–433, set out as a note under section 661 of this title.

# CHAPTER 39—ACTIVE DUTY

Sec.
671. Members not to be assigned outside United States before completing training.
671a. Members: service extension during war.
671b. Members: service extension when Congress is not in session.
672. Reference to chapter 1209.
673. Consideration of application for permanent change of station or unit transfer for members on active duty who are the victim of a sexual assault or related offense.
674. Temporary administrative reassignment or removal of a member on active duty accused of committing a sexual assault or related offense.
[675 to 687. Renumbered.]
688. Retired members: authority to order to active duty; duties.
688a. Authority to order to active duty in high-demand, low-density assignments.
689. Retired members: grade in which ordered to active duty and upon release from active duty.
690. Retired members ordered to active duty: limitation on number.
[691. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title V, §521(b), Dec. 22, 2023, 137 Stat. 249, substituted "Authority to order to active duty in high-demand, low-density assignments" for "Retired members: temporary authority to order to active duty in high-demand, low-density assignments" in item 688a.

**2022**—Pub. L. 117–263, div. A, title IV, §402(a)(2), Dec. 23, 2022, 136 Stat. 2551, struck out item 691 "Permanent end strength levels to support the National Defense Strategy".

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(12), Dec. 27, 2021, 135 Stat. 1920, inserted period at end of item 691.

Pub. L. 116–283, div. A, title IV, §402(b), Jan. 1, 2021, 134 Stat. 3556, added item 691 and struck out former item 691 "Permanent end strength levels to support two major regional contingencies".

**2013**—Pub. L. 113–66, div. A, title XVII, §1713(b), Dec. 26, 2013, 127 Stat. 964, added item 674.

**2011**—Pub. L. 112–81, div. A, title V, §582(b), Dec. 31, 2011, 125 Stat. 1432, added item 673.

**2006**—Pub. L. 109–364, div. A, title VI, §621(d)(2)(B), Oct. 17, 2006, 120 Stat. 2255, substituted "Retired members: temporary authority to order to active duty in high-demand, low-density assignments" for "Retired aviators: temporary authority to order to active duty" in item 688a.

**2002**—Pub. L. 107–314, div. A, title V, §503(a)(2), Dec. 2, 2002, 116 Stat. 2530, added item 688a.

**1996**—Pub. L. 104–201, div. A, title V, §521(c), Sept. 23, 1996, 110 Stat. 2517, added items 688, 689, and 690 and struck out former item 688 "Retired members".

Pub. L. 104–106, div. A, title IV, §401(b)(2), title XV, §1501(c)(7), Feb. 10, 1996, 110 Stat. 286, 499, struck out items 687 "Ready Reserve: muster duty" and 690 "Limitation on duty with Reserve Officer Training Corps units" and added item 691.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(7), Oct. 5, 1994, 108 Stat. 3013, substituted "Reference to chapter 1209" for "Reserve components generally" in item 672 and struck out former items 673 to 686 and 689.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(4)(B), Dec. 5, 1991, 105 Stat. 1472, substituted "Corps" for "Corp" in item 690.

Pub. L. 102–25, title VII, §701(e)(3), Apr. 6, 1991, 105 Stat. 114, transferred item 687 "Limitation on duty with Reserve Officer Training Corp units" to appear after item 689 and redesignated that item as 690.

**1990**—Pub. L. 101–510, div. A, title V, §559(a)(2), Nov. 5, 1990, 104 Stat. 1571, added item 687 "Limitation on duty with Reserve Officer Training Corp units".

**1989**—Pub. L. 101–189, div. A, title V, §502(a)(2), Nov. 29, 1989, 103 Stat. 1436, added item 687.

**1987**—Pub. L. 100–180, div. A, title XII, §1231(4), Dec. 4, 1987, 101 Stat. 1160, amended analysis by transferring item 686 from the end to a position immediately below item 685.

**1986**—Pub. L. 99–661, div. A, title IV, §412(b)(2), Nov. 14, 1986, 100 Stat. 3862, added item 686 at end of analysis.

**1983**—Pub. L. 98–94, title X, §§1017(b)(4), 1021(b), Sept. 24, 1983, 97 Stat. 669, 670, substituted "Retired members" for "Regular components: retired members" in item 688, and added item 673c.

**1980**—Pub. L. 96–513, title V, §501(8), Dec 12, 1980, 94 Stat. 2907, struck out item 687 "Non-Regulars: readjustment payment upon involuntary release from active duty" and added items 688 and 689.

**1979**—Pub. L. 96–107, title III, §303(a)(2), Nov. 9, 1979, 93 Stat. 806, struck out item 686 "Reports to Congress".

**1976**—Pub. L. 94–286, §1, May 14, 1976, 90 Stat. 517, added item 673b.

**1968**—Pub. L. 90–235, §1(a)(1)(B), Jan. 2, 1968, 81 Stat. 753, added items 671a and 671b.

**1967**—Pub. L. 90–40, §6(2), June 30, 1967, 81 Stat. 106, added item 673a.

**1962**—Pub. L. 87–651, title I, §102(b), Sept. 7, 1962, 76 Stat. 508, added item 687.

**1958**—Pub. L. 85–861, §1(16), Sept. 2, 1958, 72 Stat. 1441, added items 684 and 685.

## §671. Members not to be assigned outside United States before completing training

(a) A member of the armed forces may not be assigned to active duty on land outside the United States and its territories and possessions until the member has completed the basic training requirements of the armed force of which he is a member.

(b) In time of war or a national emergency declared by Congress or the President, the period of required basic training (or its equivalent) may not (except as provided in subsection (c)) be less than 12 weeks.

(c)(1) A period of basic training (or equivalent training) shorter than 12 weeks may be established by the Secretary concerned for members of the armed forces who have been credentialed in a medical profession or occupation and are serving in a health-care occupational specialty, as

determined under regulations prescribed under paragraph (2). Any such period shall be established under regulations prescribed under paragraph (2) and may be established notwithstanding section 4(a) of the Military Selective Service Act (50 U.S.C. 3803(a)).

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations for the purposes of paragraph (1). The regulations prescribed by the Secretary of Defense shall apply uniformly to the military departments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27; Pub. L. 94–106, title VIII, §802(b), Oct. 7, 1975, 89 Stat. 537; Pub. L. 99–661, div. A, title V, §501, Nov. 14, 1986, 100 Stat. 3863; Pub. L. 103–160, div. A, title V, §511, Nov. 30, 1993, 107 Stat. 1648; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(v), Dec. 23, 2016, 130 Stat. 2418.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 671 | 50 App.:454(a) (words between semicolon and proviso of 6th par.). | June 24, 1948, ch. 625, §4(a) (words between semicolon and proviso of 6th par.); restated June 19, 1951, ch. 144, §1(d) (words between semicolon and proviso of 6th par.), 65 Stat. 78. |

The words "four months of basic training or its equivalent" are substituted for the words "the equivalent of at least four months of basic training". The words "who is enlisted, inducted, appointed, or ordered to active duty after the date of enactment of the 1951 Amendments to the Universal Military Training and Service Act [June 19, 1951]" and "at any installation located" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (c)(1). Pub. L. 114–328 substituted "(50 U.S.C. 3803(a))" for "(50 U.S.C. App. 454(a))".

**2002**—Subsec. (c)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1993**—Subsec. (b). Pub. L. 103–160, §511(1), inserted "(except as provided in subsection (c))" after "may not".

Subsec. (c). Pub. L. 103–160, §511(2), added subsec. (c).

**1986**—Pub. L. 99–661 amended section generally. Prior to amendment, section read as follows: "No member of an armed force may be assigned to active duty on land outside the United States and its Territories and possessions, until he has had twelve weeks of basic training or its equivalent."

**1975**—Pub. L. 94–106 reduced minimum period of basic training from four months to twelve weeks.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §671a. Members: service extension during war

Unless terminated at an earlier date by the Secretary concerned, the period of active service of any member of an armed force is extended for the duration of any war in which the United States may be engaged and for six months thereafter.

(Added Pub. L. 90–235, §1(a)(1)(A), Jan. 2, 1968, 81 Stat. 753.)

## §671b. Members: service extension when Congress is not in session

(a) Notwithstanding any other provision of law, when the President determines that the national interest so requires, he may, if Congress is not in session, having adjourned sine die, authorize the Secretary of Defense to extend for not more than six months enlistments, appointments, periods of active duty, periods of active duty for training, periods of obligated service, or other military status, in any component of the armed forces, that expire before the thirtieth day after Congress next convenes or reconvenes.

(b) An extension under this section continues until the sixtieth day after Congress next convenes or reconvenes or until the expiration of the period of extension specified by the Secretary of Defense, whichever occurs earlier, unless sooner terminated by law or Executive order.

(Added Pub. L. 90–235, §1(a)(1)(A), Jan. 2, 1968, 81 Stat. 753; amended Pub. L. 101–189, div. A, title VI, §653(a)(3), Nov. 29, 1989, 103 Stat. 1462.)

### EDITORIAL NOTES

### AMENDMENTS

**1989**—Subsec. (a). Pub. L. 101–189 substituted "armed forces" for "Armed Forces of the United States".

## §672. Reference to chapter 1209

Provisions of law relating to service of members of reserve components on active duty are set forth in chapter 1209 of this title (beginning with section 12301).

(Added Pub. L. 103–337, div. A, title XVI, §1662(e)(4), Oct. 5, 1994, 108 Stat. 2992.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 672 was renumbered section 12301 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §673. Consideration of application for permanent change of station or unit transfer for members on active duty who are the victim of a sexual assault or related offense

(a) TIMELY CONSIDERATION AND ACTION.—The Secretary concerned shall provide for timely determination and action on an application for consideration of a change of station or unit transfer submitted by a member of the armed forces serving on active duty who was a victim of a sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) so as to reduce the possibility of retaliation against the member for reporting the sexual assault or other offense.

(b) REGULATIONS.—The Secretary concerned shall issue regulations to carry out this section, within guidelines provided by the Secretary of Defense. These guidelines shall provide that the application submitted by a member described in subsection (a) for a change of station or unit transfer must be approved or disapproved by the member's commanding officer within five calendar days of the submission of the application. Additionally, if the application is disapproved by the commanding

officer, the member shall be given the opportunity to request review by the first general officer or flag officer in the chain of command of the member, and that decision must be made within five calendar days of submission of the request for review.

(Added Pub. L. 112–81, div. A, title V, §582(a), Dec. 31, 2011, 125 Stat. 1432; amended Pub. L. 113–66, div. A, title X, §1091(a)(8), title XVII, §1712, Dec. 26, 2013, 127 Stat. 876, 963; Pub. L. 115–91, div. A, title X, §1081(c)(2)(A), Dec. 12, 2017, 131 Stat. 1599; Pub. L. 116–283, div. A, title V, §531(a), Jan. 1, 2021, 134 Stat. 3601.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 673 was renumbered section 12302 of this title.

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283 substituted "five calendar days" for "72 hours" in two places.

**2017**—Subsec. (a). Pub. L. 115–91 substituted "920c, or 930" for "920a, or 920c" and "120c, or 130" for "120a, or 120c".

**2013**—Subsec. (a). Pub. L. 113–66, §1091(a)(8), inserted "of the Uniform Code of Military Justice" after "120c".

Subsec. (b). Pub. L. 113–66, §1712, substituted "The Secretary concerned" for "The Secretaries of the military departments".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title V, §531(b), Jan. 1, 2021, 134 Stat. 3601, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply to decisions on applications for permanent change of station or unit transfer made under section 673 of title 10, United States Code, on or after that date."

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note) [amendments effective Jan. 1, 2019], see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### STANDARDIZATION OF POLICIES RELATED TO EXPEDITED TRANSFER IN CASES OF SEXUAL ASSAULT OR DOMESTIC VIOLENCE

Pub. L. 115–232, div. A, title V, §536, Aug. 13, 2018, 132 Stat. 1761, provided that:

"(a) POLICIES FOR MEMBERS.—The Secretary of Defense shall modify, in accordance with section 673 of title 10, United States Code, all policies that the Secretary determines necessary to establish a standardized expedited transfer process for a member of the Army, Navy, Air Force, or Marine Corps who is the alleged victim of—

"(1) sexual assault (regardless of whether the case is handled under the Sexual Assault Prevention and Response Program or Family Advocacy Program); or

"(2) physical domestic violence (as defined by the Secretary in regulations prescribed under this section) committed by the spouse or intimate partner of the member, regardless of whether the spouse or intimate partner is a member of the Armed Forces.

"(b) POLICY FOR DEPENDENTS OF MEMBERS.—The Secretary of Defense shall establish a policy to allow the transfer of a member of the Army, Navy, Air Force, or Marine Corps whose dependent is the victim of sexual assault perpetrated by a member of the Armed Forces who is not related to the victim."

## [§673a. Renumbered §12303]

## [§673b. Renumbered §12304]

## [§673c. Renumbered §12305]

## §674. Temporary administrative reassignment or removal of a member on active duty accused of committing a sexual assault or related offense

(a) GUIDANCE FOR TIMELY CONSIDERATION AND ACTION.—The Secretary concerned may provide guidance, within guidelines provided by the Secretary of Defense, for commanders regarding their authority to make a timely determination, and to take action, regarding whether a member of the armed forces serving on active duty who is alleged to have committed an offense under section 920, 920b, 920c, or 930 of this title (article 120, 120b, 120c, or 130 of the Uniform Code of Military Justice) or an attempt to commit such an offense as punishable under section 880 of this title (article 80 of the Uniform Code of Military Justice) should be temporarily reassigned or removed from a position of authority or from an assignment, not as a punitive measure, but solely for the purpose of maintaining good order and discipline within the member's unit.

(b) TIME FOR DETERMINATION.—A determination described in subsection (a) may be made at any time after receipt of notification of an unrestricted report of a sexual assault or other sex-related offense that identifies the member as an alleged perpetrator.

(Added Pub. L. 113–66, div. A, title XVII, §1713(a), Dec. 26, 2013, 127 Stat. 963; amended Pub. L. 113–291, div. A, title X, §1071(f)(8), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 115–91, div. A, title X, §1081(c)(2)(B), Dec. 12, 2017, 131 Stat. 1599.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 674 was renumbered section 12306 of this title.

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91 substituted "920b, 920c, or 930" for "920a, 920b, 920c, or 925" and "120b, 120c, or 130" for "120a, 120b, 120c, or 125".

**2014**—Subsec. (b). Pub. L. 113–291 substituted "after receipt" for "afer receipt".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note) [amendments effective Jan. 1, 2019], see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

## [§675. Renumbered §12307]

## [§676. Renumbered §12308]

## [§677. Renumbered §12309]

## [§678. Renumbered §12310]

## [§679. Renumbered §12311]

## [§680. Renumbered §12312]

## [§681. Renumbered §12313]

## [§682. Renumbered §12314]

## [§683. Renumbered §12315]

## [§684. Renumbered §12316]

## [§685. Renumbered §12317]

## [§686. Renumbered §12318]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 686, acts Aug. 10, 1956, ch. 1041, 70A Stat. 32; Apr. 21, 1976, Pub. L. 94–273, §11(2), 90 Stat. 378, provided for an annual officer grade distribution report, prior to repeal by Pub. L. 96–107, title III, §303(a)(1), Nov. 9, 1979, 93 Stat. 806.

## [§687. Renumbered §12319]

**EDITORIAL NOTES**

**CODIFICATION**

Another section 687 was renumbered section 12321 of this title.

**PRIOR PROVISIONS**

A prior section 687, added Pub. L. 87–651, title I, §102(a), Sept. 7, 1962, 76 Stat. 506; amended Pub. L. 89–718, §6, Nov. 2, 1966, 80 Stat. 1115, related to readjustment payment upon involuntary release of non-regulars from active duty, prior to repeal by Pub. L. 96–513, title I, §109(a), Dec. 12, 1980, 94 Stat. 2870, effective Sept. 15, 1981.

## §688. Retired members: authority to order to active duty; duties

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time.

(b) COVERED MEMBERS.—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps.

(2) A member of the Retired Reserve who was retired under section 1293, 7311, 7314, 8323, 9311, or 9314 of this title.

(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

(4) A retired member of the Space Force.

(c) DUTIES OF MEMBER ORDERED TO ACTIVE DUTY.—The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

(d) EXCLUSION OF OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS .—The following officers may not be ordered to active duty under this section:

(1) An officer who retired under section 638 of this title.

(2) An officer who—

(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 7311, 8323, or 9311 of this title; and

(B) was retired pursuant to that request.

(e) LIMITATION OF PERIOD OF RECALL SERVICE.—(1) A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under that subsection for more than 12 months within the 24 months following the first day of the active duty to which ordered under that subsection.

(2) Paragraph (1) does not apply to the following officers:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of active duty to which ordered.

(C) An officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(f) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsections (d) and (e) do not apply in time of war or of national emergency declared by Congress or the President.

(Added Pub. L. 104–201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2515; amended Pub. L. 105–85, div. A, title V, §502, Nov. 18, 1997, 111 Stat. 1724; Pub. L. 107–107, div. A, title V, §509(a), Dec. 28, 2001, 115 Stat. 1091; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(4)(I), Jan. 1, 2021, 134 Stat. 3822; Pub. L. 118–31, div. A, title XVII, §1719A(b)(1), Dec. 22, 2023, 137 Stat. 664.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 688, added Pub. L. 96–513, title I, §106, Dec. 12, 1980, 94 Stat. 2868; amended Pub. L. 98–94, title X, §1017(b)(1)–(3), Sept. 24, 1983, 97 Stat. 669; Pub. L. 99–145, title V, §516, Nov. 8, 1985, 99 Stat. 630; Pub. L. 102–190, div. A, title V, §506(a), Dec. 5, 1991, 105 Stat. 1359; Pub. L. 103–160, div. A,

title V, §563, Nov. 30, 1993, 107 Stat. 1669, provided that certain retired members of the armed forces could be ordered to active duty, prior to repeal by Pub. L. 104–201, div. A, title V, §521(a), (b), Sept. 23, 1996, 110 Stat. 2515, 2517, effective Sept. 30, 1997. See sections 688 to 690 of this title.

**AMENDMENTS**

**2023**—Subsec. (b)(1). Pub. L. 118–31, §1719A(b)(1)(A), substituted "or Regular Marine Corps" for "Regular Marine Corps, or Regular Space Force".

Subsec. (b)(4). Pub. L. 118–31, §1719A(b)(1)(B), added par. (4).

**2021**—Subsec. (b)(1). Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps".

**2018**—Subsec. (b)(2). Pub. L. 115–232 substituted "section 1293, 7311, 7314, 8323, 9311, or 9314" for "section 1293, 3911, 3914, 6323, 8911, or 8914".

Subsec. (d)(2)(A). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**2001**—Subsec. (e)(2)(D). Pub. L. 107–107 added subpar. (D).

**1997**—Subsec. (e). Pub. L. 105–85 designated existing provisions as par. (1) and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title V, §509(c), Dec. 28, 2001, 115 Stat. 1091, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 690 of this title] shall apply with respect to officers serving on active duty as a defense attaché or service attaché on or after the date of the enactment of this Act [Dec. 28, 2001]."

**EFFECTIVE DATE**

Pub. L. 104–201, div. A, title V, §521(b), Sept. 23, 1996, 110 Stat. 2517, provided that: "The amendments made by this section [enacting this section and sections 689 and 690 of this title, amending section 6151 of this title, and repealing former section 688 of this title] shall take effect on September 30, 1997."

## §688a. Authority to order to active duty in high-demand, low-density assignments

(a) AUTHORITY.—The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements. Any such order may be made only with the consent of the member ordered to active duty and in accordance with an agreement between the Secretary and the member.

(b) DURATION.—The period of active duty of a member under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

(c) LIMITATION.—No more than a total of 1,000 members may be on active duty at any time under subsection (a).

(d) RELATIONSHIP TO OTHER AUTHORITY.—The authority to order a retired member to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—Retired members ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

(f) EXCEPTIONS DURING PERIODS OF WAR OR NATIONAL EMERGENCY.—The limitation in subsection (c) shall not apply during a time of war or of national emergency declared by

Congress or the President.

(g) HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED.—In this section, the term "high-demand, low-density military capability" means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

(Added Pub. L. 107–314, div. A, title V, §503(a)(1), Dec. 2, 2002, 116 Stat. 2530; amended Pub. L. 109–364, div. A, title VI, §621(b), (d)(2)(A), Oct. 17, 2006, 120 Stat. 2254, 2255; Pub. L. 111–383, div. A, title V, §531(a), Jan. 7, 2011, 124 Stat. 4215; Pub. L. 115–91, div. A, title V, §527, Dec. 12, 2017, 131 Stat. 1383; Pub. L. 116–283, div. A, title V, §511, Jan. 1, 2021, 134 Stat. 3587; Pub. L. 118–31, div. A, title V, §521(a), Dec. 22, 2023, 137 Stat. 249.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §521(a)(1), substituted "Authority" for "Retired members: temporary authority" in section catchline.

Subsecs. (f) to (h). Pub. L. 118–31, §521(a)(2)–(4), redesignated subsecs. (g) and (h) as (f) and (g), respectively, substituted "limitation in subsection (c)" for "limitations in subsections (c) and (f)" in subsec. (f), and struck out former subsec. (f) which related to expiration of authority under this section.

**2021**—Subsecs. (g), (h). Pub. L. 116–283 added subsec. (g) and redesignated former subsec. (g) as (h).

**2017**—Subsec. (f). Pub. L. 115–91 substituted "outside a period as follows:" for "after December 31, 2011." and added pars. (1) and (2).

**2011**—Subsec. (f). Pub. L. 111–383 substituted "December 31, 2011" for "December 31, 2010".

**2006**—Pub. L. 109–364, §621(d)(2)(A), substituted "Retired members: temporary authority to order to active duty in high-demand, low-density assignments" for "Retired aviators: temporary authority to order to active duty" in section catchline.

Subsec. (a). Pub. L. 109–364, §621(b)(1), in first sentence, substituted "The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements" for "The Secretary of a military department may order to active duty a retired officer having expertise as an aviator to fill staff positions normally filled by aviators on active duty" and, in second sentence, substituted "member" for "officer" in two places.

Subsec. (b). Pub. L. 109–364, §621(b)(2), substituted "a member" for "an officer".

Subsec. (c). Pub. L. 109–364, §621(b)(3), substituted "1,000 members" for "500 officers".

Subsec. (d). Pub. L. 109–364, §621(b)(4), substituted "member to active duty under" for "officer to active duty under".

Subsec. (e). Pub. L. 109–364, §621(b)(5), substituted "Retired members" for "Officers".

Subsec. (f). Pub. L. 109–364, §621(b)(6), substituted "A retired member" for "An officer" and "December 31, 2010" for "September 30, 2008".

Subsec. (g). Pub. L. 109–364, §621(b)(7), added subsec. (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSITION PROVISION

Pub. L. 107–314, div. A, title V, §503(c), Dec. 2, 2002, 116 Stat. 2531, provided that: "Any officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 589) who continues on active duty under such order to active duty after the date of the enactment of this Act [Dec. 2, 2002] shall be counted for purposes of the limitation under subsection (c) of section 688a of title 10, United States Code, as added by subsection (a)."

## §689. Retired members: grade in which ordered to active duty and upon release from active duty

(a) GENERAL RULE FOR GRADE IN WHICH ORDERED TO ACTIVE DUTY.—Except as provided in subsections (b) and (c), a retired member ordered to active duty under section 688 or 688a of this title shall be ordered to active duty in the member's retired grade.

(b) MEMBERS RETIRED IN O–9 AND O–10 GRADES.—A retired member ordered to active duty under section 688 or 688a of this title whose retired grade is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held by such member while serving on active duty.

(c) MEMBERS WHO PREVIOUSLY SERVED IN GRADE HIGHER THAN RETIRED GRADE.—(1) A retired member ordered to active duty under section 688 or 688a of this title who has previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty in the highest grade in which the member had so served satisfactorily, except that such a member may not be so ordered to active duty in a grade above major general or rear admiral.

(2) A retired member ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be treated for purposes of section 690 of this title as if the member was promoted to that higher grade while on that tour of active duty.

(3) If, upon being released from that tour of active duty, such a retired member has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade that is a higher grade than the member's retired grade, the member is entitled to placement on the retired list in that grade.

(d) GRADE UPON RELEASE FROM ACTIVE DUTY.—A member ordered to active duty under section 688 or 688a of this title who, while on active duty, is promoted to a grade that is higher than that member's retired grade is entitled, upon that member's release from that tour of active duty, to placement on the retired list in the highest grade in which the member served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(Added Pub. L. 104–201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2516; amended Pub. L. 107–314, div. A, title V, §503(b)(1), Dec. 2, 2002, 116 Stat. 2531.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 689 was renumbered section 12320 of this title.

Provisions similar to those in this section were contained in section 688(b) and (d) of this title prior to repeal by Pub. L. 104–201, §521(a).

### AMENDMENTS

**2002**—Subsecs. (a), (b), (c)(1), (d). Pub. L. 107–314 inserted "or 688a" after "section 688".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 30, 1997, see section 521(b) of Pub. L. 104–201, set out as a note under section 688 of this title.

### APPLICABILITY

Pub. L. 107–314, div. A, title V, §503(b)(2), Dec. 2, 2002, 116 Stat. 2531, provided that: "The provisions of section 689(d) of title 10, United States Code, shall apply with respect to an officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 589) before the date of the enactment of this Act [Dec. 2, 2002] in the same manner as such provisions apply to an officer ordered to active duty under section 688 of such title."

## §690. Retired members ordered to active duty: limitation on number

(a) GENERAL AND FLAG OFFICERS.—Not more than 15 retired general officers of the Army, Air Force, Marine Corps, or Space Force, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

(b) LIMITATION BY SERVICE.—(1) Not more than 25 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under section 688 of this title.

(2) In the administration of paragraph (1), the following officers shall not be counted:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

(C) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) Any member of the Retiree Council of the Army, Navy, or Air Force for the period on active duty to attend the annual meeting of the Retiree Council.

(E) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(c) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does not apply in time of war or of national emergency declared by Congress or the President.

(Added Pub. L. 104–201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2516; amended Pub. L. 106–65, div. A, title V, §507, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107–107, div. A, title V, §509(b), Dec. 28, 2001, 115 Stat. 1091; Pub. L. 118–31, div. A, title XVII, §1741(b)(1), Dec. 22, 2023, 137 Stat. 680.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 690 was renumbered section 12321 of this title.

Provisions similar to those in subsecs. (a) and (c) of this section were contained in section 688(c) of this title prior to repeal by Pub. L. 104–201, §521(a).

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 substituted "Marine Corps, or Space Force," for "or Marine Corps,".

**2001**—Subsec. (b)(2)(E). Pub. L. 107–107 added subpar. (E).

**1999**—Subsec. (b)(2)(D). Pub. L. 106–65 added subpar. (D).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 applicable with respect to officers serving on active duty as a defense attaché or service attaché on or after Dec. 28, 2001, see section 509(c) of Pub. L. 107–107, set out as a note under section 688 of this title.

### EFFECTIVE DATE

Section effective Sept. 30, 1997, see section 521(b) of Pub. L. 104–201, set out as a note under section 688 of this title.

## [§691. Repealed. Pub. L. 117–263, div. A, title IV, §402(a)(1), Dec. 23, 2022, 136 Stat. 2551]

Section, added Pub. L. 104–106, div. A, title IV, §401(b)(1), Feb. 10, 1996, 110 Stat. 285; amended Pub. L. 104–201, div. A, title IV, §402, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 105–85, div. A, title IV, §402, Nov. 18, 1997, 111 Stat. 1719; Pub. L. 105–261, div. A, title IV, §402(a), (b), Oct. 17, 1998, 112 Stat. 1995, 1996; Pub. L. 106–65, div. A, title IV, §402(a), title X, §1066(b)(1), Oct. 5, 1999, 113 Stat. 585, 772; Pub. L. 106–398, §1 [[div. A], title IV, §§402(a), 403], Oct. 30, 2000, 114 Stat. 1654, 1654A–92; Pub. L. 107–107, div. A, title IV, §402, Dec. 28, 2001, 115 Stat. 1069; Pub. L. 107–314, div. A, title IV, §402, Dec. 2, 2002, 116 Stat. 2524; Pub. L. 108–136, div. A, title IV, §402, Nov. 24, 2003, 117 Stat. 1450; Pub. L. 108–375, div. A, title IV, §402, Oct. 28, 2004, 118 Stat. 1862; Pub. L. 109–163, div. A, title IV, §402, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109–364, div. A, title IV, §402, Oct. 17, 2006, 120 Stat. 2169; Pub. L. 110–181, div. A, title IV, §402, Jan. 28, 2008, 122 Stat. 86; Pub. L. 110–417, [div. A], title IV, §402, Oct. 14, 2008, 122 Stat. 4428; Pub. L. 111–84, div. A, title IV, §402, Oct. 28, 2009, 123 Stat. 2265; Pub. L. 111–383, div. A, title IV, §402, Jan. 7, 2011, 124 Stat. 4202; Pub. L. 112–81, div. A, title IV, §402, Dec. 31, 2011, 125 Stat. 1382; Pub. L. 112–239, div. A, title IV, §402, Jan. 2, 2013, 126 Stat. 1708; Pub. L. 113–66, div. A, title IV, §402(a), Dec. 26, 2013, 127 Stat. 744; Pub. L. 113–291, div. A, title IV, §402, Dec. 19, 2014, 128 Stat. 3349; Pub. L. 114–92, div. A, title IV, §402, Nov. 25, 2015, 129 Stat. 801; Pub. L. 114–328, div. A, title IV, §402, Dec. 23, 2016, 130 Stat. 2091; Pub. L. 115–91, div. A, title IV, §402, Dec. 12, 2017, 131 Stat. 1368; Pub. L. 115–232, div. A, title IV, §402, Aug. 13, 2018, 132 Stat. 1735; Pub. L. 116–92, div. A, title IV, §402, Dec. 20, 2019, 133 Stat. 1334; Pub. L. 116–283, div. A, title IV, §402(a), Jan. 1, 2021, 134 Stat. 3555; Pub. L. 117–81, div. A, title IV, §402, Dec. 27, 2021, 135 Stat. 1673, related to permanent end strength levels to support the National Defense Strategy.

# CHAPTER 40—LEAVE

Sec.
701. Entitlement and accumulation.
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703. Reenlistment leave.
704. Use of leave; regulations.
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708. Educational leave of absence.
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710. Career flexibility to enhance retention of members.
710a. Parental leave for members of certain reserve components of the armed forces.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVII, §1701(a)(10), Dec. 18, 2025, 139 Stat. 1208, which directed renumbering of item 711 as 710a, could not be executed because of the intervening amendment by Pub. L. 118–159, §603(b)(2). See 2024 Amendment note below.

Pub. L. 119–60, div. A, title XVII, §1701(a)(10), Dec. 18, 2025, 139 Stat. 1208, substituted "Parental leave for members of certain reserve components of the armed forces" for "Parental leave for members of the reserve component of the armed forces" in item 710a.

**2024**—Pub. L. 118–159, div. A, title VI, §603(b)(2), Dec. 23, 2024, 138 Stat. 1931, renumbered item 711

as 710a. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title VI, §601(a)(2), Dec. 22, 2023, 137 Stat. 288, added item 711.

**2018**—Pub. L. 115–232, div. A, title V, §551(b)(1), Aug. 13, 2018, 132 Stat. 1768, added item 710.

**2016**—Pub. L. 114–328, div. A, title V, §§521(b)(2), 522(b), Dec. 23, 2016, 130 Stat. 2115, 2116, added items 704a and 709a.

**2011**—Pub. L. 111–383, div. A, title V, §532(b), Jan. 7, 2011, 124 Stat. 4216, added item 705a.

**2003**—Pub. L. 108–136, div. A, title VI, §621(b)(2), Nov. 24, 2003, 117 Stat. 1505, struck out "enlisted" before "members" in item 705.

**2002**—Pub. L. 107–314, div. A, title V, §§506(d), 572(b), 574(b)(2)(B), Dec. 2, 2002, 116 Stat. 2536, 2558, substituted "Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas" for "Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas" in item 705, added items 706, 707a, and 709, and struck out former item 706 "Administration of leave required to be taken pending review of certain court-martial convictions".

**1984**—Pub. L. 98–525, title VII, §707(a)(2), Oct. 19, 1984, 98 Stat. 2572, added item 708.

**1981**—Pub. L. 97–81, §2(b)(2), Nov. 20, 1981, 95 Stat. 1087, added items 706 and 707.

**1980**—Pub. L. 96–579, §5(b)(2), Dec. 23, 1980, 94 Stat. 3367, added item 705.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PILOT PROGRAMS ON CAREER FLEXIBILITY TO ENHANCE RETENTION OF MEMBERS OF THE ARMED FORCES**

Pub. L. 110–417, [div. A], title V, §533, Oct. 14, 2008, 122 Stat. 4449, as amended by Pub. L. 112–81, div. A, title V, §531, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1403, 1465; Pub. L. 112–239, div. A, title V, §522, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1722, 1948; Pub. L. 113–291, div. A, title V, §522, Dec. 19, 2014, 128 Stat. 3360; Pub. L. 114–92, div. A, title V, §523, Nov. 25, 2015, 129 Stat. 812, which related to pilot programs under which active members of the Armed Forces could be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation, was repealed by Pub. L. 115–232, div. A, title V, §551(b)(2), Aug. 13, 2018, 132 Stat. 1769. See section 710 of this title.

## §701. Entitlement and accumulation

(a) A member of an armed force is entitled to leave at the rate of 2½ calendar days for each month of active service, excluding periods of—

(1) absence from duty without leave;

(2) absence over leave;

(3) confinement as the result of a sentence of a court-martial; and

(4) leave required to be taken under section 876a of this title.

Full-time training, or other full-time duty for a period of more than 29 days, performed under section 316, 502, 503, 504, or 505 of title 32 by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, and for which he is entitled to pay, is active service for the purposes of this section.

(b) Except as provided in subsections (e) and (f), a member may not accumulate more than 60 days' leave. However, leave taken during a fiscal year may be charged to leave accumulated during that fiscal year without regard to this limitation.

(c) A member who retired after August 9, 1946, who is continued on, or is recalled to active duty, may have his leave which accumulated during his service before retirement carried over to his period of service after retirement.

(d) Leave taken before discharge is considered to be active service.

(e)(1) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize a member described in paragraph (2) to retain not more than 30 days of excess leave.

(2) A member described in this paragraph is a member who—

(A)(i) serves on active duty for a continuous period of at least 120 days for which the member is entitled to special pay under section 310(a) of title 37; or

(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purposes of this section;

(B) except for this subsection, would lose any excess leave at the end of the fiscal year; and

(C) receives, from the first officer in a grade above O-6 in the chain of command of such member, written authorization to retain such excess leave.

(3) Excess leave retained by a member under this subsection shall be forfeited unless used before the end of the second fiscal year after the end of the fiscal year in which the service or assignment described in paragraph (2)(A) terminated.

(4) In this subsection, the term "excess leave" means leave accrued by a member in excess of the number of days of leave authorized to be accumulated under subsection (b).

(f) A member who is in a missing status, as defined in section 551(2) of title 37, accumulates leave without regard to the limitations in subsections (b) and (e). Notwithstanding the death of a member while in a missing status, he continues to earn leave through the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of title 37.

Leave accumulated while in missing status shall be accounted for separately. It may not be taken, but shall be paid for under section 501(h) of title 37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than 150 days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of 150 days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37.

(g) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.

(h)(1)(A) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in paragraph (2) is allowed up to a total of 12 weeks of parental leave during the one-year period beginning after the following events:

(i) The birth or adoption of a child of the member and in order to care for such child.

(ii) The placement of a minor child with the member for adoption or long-term foster care.

(B)(i) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize leave described under subparagraph (A) to be taken after the one-year period described in such paragraph in the case of a member described in paragraph (2) who, except for this subparagraph, would lose unused parental leave at the end of the one-year period described in subparagraph (A) as a result of—

(I) operational requirements;

(II) professional military education obligations; or

(III) other circumstances that the Secretary determines reasonable and appropriate.

(ii) The regulations prescribed under clause (i) shall require that any leave authorized to be taken after the one-year period described in subparagraph (A) shall be taken within a reasonable period of time, as determined by the Secretary of Defense, after cessation of the circumstances warranting the

extended deadline.

(iii) The regulations prescribed under clause (i) shall authorize a member described in such clause to take leave described under subparagraph (A) during the two-year period beginning after an event described in clause (i) or (ii) of such subparagraph with the approval of the first general officer or flag officer in the chain of command of such member.

(2) Paragraph (1) applies to the following members:

(A) A member on active duty.

(B) A member of a reserve component performing active Guard and Reserve duty.

(C) A member of a reserve component subject to an active duty recall or mobilization order in excess of 12 months.

(D) A member of the Space Force in a space force active status, not on sustained duty.

(3)(A) A member who has given birth may receive medical convalescent leave in conjunction with such birth. Medical convalescent leave in excess of the leave under paragraph (1) may be authorized if such additional medical convalescent leave—

(i) is specifically recommended, in writing, by the medical provider of the member to address a diagnosed medical condition; and

(ii) is approved by the commander of the member.

(B) Convalescent leave may be authorized under subparagraph (A) only for a medical condition of a member and may not be authorized for a member in connection with a condition of a dependent or other family member of the member.

(4) Any leave taken by a member under this subsection, including leave under paragraphs (1) and (3), may be taken in more than one increment in connection with such birth or adoption in accordance with regulations prescribed by the Secretary concerned.

(5)(A) Any leave authorized by this subsection that is not taken within one year of such birth or adoption shall be forfeited, subject to the exceptions in paragraph (1)(B)(ii).

(B) Any leave authorized by this subsection for a member of a reserve component, or of the Space Force, on active duty that is not taken by the time the member is separated from active duty shall be forfeited at that time.

(6) The period of active duty of a member of a reserve component, or of the Space Force, may not be extended in order to permit the member to take leave authorized by this subsection.

(7)(A) Leave authorized by this subsection is in addition to any other leave provided under other provisions of this section.

(B) Medical convalescent leave under paragraph (3) is in addition to any other leave provided under other provisions of this subsection.

(i) A member of a reserve component, or of the Space Force, who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b) and (e), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section.

(j) A member of the armed forces who gives birth while on active duty may be deployed during the period of 12 months beginning on the date of such birth only with the approval of a health care provider employed at a military medical treatment facility and—

(1) at the election of such member; or

(2) in the interest of national security, as determined by the Secretary of Defense.

(k) A member of the armed forces who, while on active duty, gives birth, loses a pregnancy, or has a stillbirth, may be required to meet body composition standards or pass a physical fitness test during the period of 12 months beginning on the date of such birth, loss of pregnancy, or stillbirth only with the approval of a health care provider employed at a military medical treatment facility and—

(1) at the election of such member; or

(2) in the interest of national security, as determined by the Secretary of Defense.

(l)(1)(A) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in subparagraph (B) is allowed up to two weeks of leave to be used in connection with the death of an immediate family member.

(B) Subparagraph (A) applies to the following members:

(i) A member on active duty.

(ii) A member of a reserve component performing active Guard and Reserve duty.

(iii) A member of a reserve component subject to an active duty recall or mobilization order in excess of 12 months.

(2) Under the regulations prescribed for purposes of this subsection, a member taking leave under paragraph (1) shall not have his or her leave account reduced as a result of taking such leave if such member's accrued leave is fewer than 30 days. Members with 30 or more days of accrued leave shall be charged for bereavement leave until such point that the member's accrued leave is less than 30 days. Any remaining bereavement leave taken by such member in accordance with paragraph (1) after such point shall not be chargeable to the member.

(3) In this section, the term "immediate family member", with respect to a member of the armed forces, means—

(A) the member's spouse; or

(B) a child of the member.

(m)(1) Except as provided by subsection (h)(3), and under regulations prescribed by the Secretary of Defense, a member of the armed forces diagnosed with a medical condition is allowed convalescent leave if—

(A) the medical or behavioral health provider of the member—

(i) determines that the member is not yet fit for duty as a result of that condition; and

(ii) recommends such leave for the member to provide for the convalescence of the member from that condition; and

(B) the commanding officer of the member or the commander of the military medical treatment facility authorizes such leave for the member.

(2) A member may take not more than 30 days of convalescent leave under paragraph (1) with respect to a condition described in that paragraph unless—

(A) such leave in excess of 30 days is authorized by—

(i) the Secretary concerned; or

(ii) an individual at the level designated by the Secretary concerned, but not below the grade of O–5 or the civilian equivalent; or

(B) the member is authorized to receive convalescent leave under subsection (h)(3) in conjunction with the birth of a child.

(3)(A) Convalescent leave may be authorized under paragraph (1) only for a medical condition of a member and may not be authorized for a member in connection with a condition of a dependent or other family member of the member.

(B) In authorizing convalescent leave for a member under paragraph (1) with respect to a condition described in that paragraph, the commanding officer of the member or the commander of the military medical treatment facility, as the case may be, shall—

(i) limit the duration of such leave to the minimum necessary in relation to the diagnosis, prognosis, and probable final disposition of the condition of the member; and

(ii) authorize leave tailored to the specific medical needs of the member rather than (except for convalescent leave provided for under subsection (h)(3)) authorizing leave based on a

predetermined formula.

(4) A member taking convalescent leave under paragraph (1) shall not have the member's leave account reduced as a result of taking such leave.

(5) In this subsection, the term "military medical treatment facility" means a facility described in subsection (b), (c), or (d) of section 1073d of this title.

(Added Pub. L. 87–649, §3(1), Sept. 7, 1962, 76 Stat. 492; amended Pub. L. 89–151, §3, Aug. 28, 1965, 79 Stat. 586; Pub. L. 90–245, §1, Jan. 2, 1968, 81 Stat. 782; Pub. L. 92–596, §1, Oct. 27, 1972, 86 Stat. 1317; Pub. L. 96–579, §10, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 97–81, §2(a), Nov. 20, 1981, 95 Stat. 1085; Pub. L. 98–94, title X, §1031(a), Sept. 24, 1983, 97 Stat. 671; Pub. L. 98–525, title XIV, §1405(18), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–661, div. A, title V, §506(a), Nov. 14, 1986, 100 Stat. 3864; Pub. L. 102–190, div. A, title VI, §638, Dec. 5, 1991, 105 Stat. 1384; Pub. L. 108–136, div. A, title V, §542(a), Nov. 24, 2003, 117 Stat. 1478; Pub. L. 109–163, div. A, title V, §593(a), title VI, §682, Jan. 6, 2006, 119 Stat. 3280, 3321; Pub. L. 110–181, div. A, title V, §551(a)–(c), Jan. 28, 2008, 122 Stat. 117; Pub. L. 110–417, [div. A], title V, §532(a), Oct. 14, 2008, 122 Stat. 4449; Pub. L. 111–84, div. A, title V, §504, Oct. 28, 2009, 123 Stat. 2277; Pub. L. 111–383, div. A, title V, §516(a), Jan. 7, 2011, 124 Stat. 4213; Pub. L. 112–239, div. A, title V, §521, Jan. 2, 2013, 126 Stat. 1722; Pub. L. 114–328, div. A, title V, §521(a), Dec. 23, 2016, 130 Stat. 2113; Pub. L. 116–92, div. A, title V, §§571, 572, Dec. 20, 2019, 133 Stat. 1403; Pub. L. 117–81, div. A, title VI, §§621(a), 622(a), Dec. 27, 2021, 135 Stat. 1770, 1771; Pub. L. 117–263, div. A, title VI, §§631(a), (b), 632(a), 633(a), (b), Dec. 23, 2022, 136 Stat. 2631–2633; Pub. L. 118–31, div. A, title XVII, §1722(d)(1), title XVIII, §1801(a)(10), Dec. 22, 2023, 137 Stat. 670, 684; Pub. L. 118–159, div. A, title VI, §602, Dec. 23, 2024, 138 Stat. 1931; Pub. L. 119–60, div. A, title VI, §631(a), Dec. 18, 2025, 139 Stat. 911.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 701(a) | 37:31a(a) (1st, 2d, and last sentences). | Aug. 9, 1946, ch. 931, §3(a) (less 4th, 5th, 6th, and 7th sentences), (b) (less proviso), 60 Stat. 963; Sept. 23, 1950, ch. 998, §1, 64 Stat. 978; Aug. 10, 1956, ch. 1041, §23, 70A, Stat. 630. |
| 701(b) | 37:31a(b) (less proviso). | |
| 701(c) | 37:31a(a) (8th sentence). | |
| 701(d) | 37:31a(a) (3d sentence). | |
| 701(e) | 37:31a(a) (9th sentence). | |

In subsection (a), the 2d sentence of section 31a(a) of existing title 37 is omitted as inconsistent with subsection (b).

In subsection (b), the words "(other than a member on terminal leave on September 1, 1946)" and "at any time after August 31, 1946" are omitted as executed. The words "or regulation" are omitted, since a regulation cannot override a statute. The words "or have to his credit" are omitted as surplusage.

In subsections (b) and (c), the word "accrued" is omitted as covered by the word "accumulated".

In subsection (e), the words "before or after August 9, 1946" and section 31a(a) (words after semicolon in 9th sentence) of existing title 37 are omitted as executed.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (h)(1)(B)(iii). Pub. L. 119–60 added cl. (iii).

**2024**—Subsec. (k). Pub. L. 118–159, in introductory provisions, substituted ", while on active duty, gives birth, loses a pregnancy, or has a stillbirth," for "gives birth while on active duty" and "such birth, loss of pregnancy, or stillbirth" for "such birth".

**2023**—Subsec. (h)(2)(D). Pub. L. 118–31, §1722(d)(1)(A)(i), added subpar. (D).

Subsec. (h)(5)(B), (6). Pub. L. 118–31, §1722(d)(1)(A)(ii), inserted ", or of the Space Force," after "member of a reserve component".

Subsec. (i). Pub. L. 118–31, §1722(d)(1)(B), inserted ", or of the Space Force," after "member of a reserve

component".

Subsec. (l)(1)(B). Pub. L. 118–31, §1801(a)(10), redesignated cls. (A) to (C) as (i) to (iii), respectively.

**2022**—Subsec. (b). Pub. L. 117–263, §631(b)(1), substituted "subsections (e) and (f)" for "subsections (d), (f), and (g)".

Subsec. (d). Pub. L. 117–263, §631(a), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "Notwithstanding subsection (b), during the period beginning on October 1, 2008, through September 30, 2015, a member may accumulate up to 75 days of leave."

Subsec. (e). Pub. L. 117–263, §632(a), added subsec. (e) and struck out former subsec. (e) which related to authority to allow certain members of the armed forces who would lose accumulated leave in excess of 60 or 75 days, as the case may be, to retain accumulated total of 120 days of leave.

Pub. L. 117–263, §631(a)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 117–263, §631(b)(2), substituted "subsections (b) and (e)" for "subsections (b), (d), and (f)" in introductory provisions.

Pub. L. 117–263, §631(a)(2), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 117–263, §631(a)(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 117–263, §631(a)(2), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (h)(3). Pub. L. 117–263, §633(b), which directed amendment of par. (4) of subsec. (h) by designating existing provisions as subpar. (A), redesignating former subpars. (A) and (B) as cls. (i) and (ii) of subpar. (A), and adding subpar. (B), was executed to par. (3) to reflect the probable intent of Congress and the intervening redesignation of par. (4) as (3) by Pub. L. 117–81, §621(a)(1)(B), effective one year after Dec. 27, 2021. See 2021 Amendment note below.

Subsec. (i). Pub. L. 117–263, §631(b)(3), substituted "subsections (b) and (e)" for "subsections (b), (d), and (f)".

Pub. L. 117–263, §631(a)(2), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsecs. (j) to (l). Pub. L. 117–263, §631(a)(2), redesignated subsecs. (k) to (m) as (j) to (l), respectively. Former subsec. (j) redesignated (i).

Subsec. (m). Pub. L. 117–263, §633(a), added subsec. (m).

Pub. L. 117–263, §631(a)(2), redesignated subsec. (m) as (l).

**2021**—Subsec. (i)(1)(A). Pub. L. 117–81, §621(a)(1)(A)(i), substituted "a member of the armed forces described in paragraph (2) is allowed up to a total of 12 weeks of parental leave during the one-year period beginning after the following events:" and cls. (i) and (ii) for "a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the birth of a child is allowed up to twelve weeks of total leave, including up to six weeks of medical convalescent leave, to be used in connection with such birth."

Subsec. (i)(1)(B). Pub. L. 117–81, §621(a)(1)(A)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: "Under the regulations prescribed for purposes of this subsection, a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the adoption of a child is allowed up to six weeks of total leave to be used in connection with such adoption."

Subsec. (i)(3). Pub. L. 117–81, §621(a)(1)(C), substituted "A member who has given birth may receive medical convalescent leave in conjunction with such birth. Medical convalescent leave in excess of the leave under paragraph (1) may be authorized if such additional medical convalescent leave" for "Notwithstanding paragraph (1)(A), a member may receive more than six weeks of medical convalescent leave in connection with the birth of a child, but only if the additional medical convalescent leave" in introductory provisions.

Pub. L. 117–81, §621(a)(1)(B), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "The Secretary shall prescribe in the regulations referred to in paragraph (1) a definition of the term 'primary caregiver' for purposes of this subsection."

Subsec. (i)(4). Pub. L. 117–81, §621(a)(1)(D), substituted "paragraphs (1) and (3)" for "paragraphs (1) and (4)".

Pub. L. 117–81, §621(a)(1)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (i)(5). Pub. L. 117–81, §621(a)(1)(B), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (i)(5)(A). Pub. L. 117–81, §621(a)(1)(E), inserted ", subject to the exceptions in paragraph (1)(B)(ii)" after "shall be forfeited".

Subsec. (i)(6). Pub. L. 117–81, §621(a)(1)(B), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (i)(7). Pub. L. 117–81, §621(a)(1)(B), redesignated par. (9) as (7). Former par. (7) redesignated (6).

Subsec. (i)(7)(B). Pub. L. 117–81, §621(a)(1)(F), substituted "paragraph (3)" for "paragraph (4)".

Subsec. (i)(8). Pub. L. 117–81, §621(a)(1)(B), struck out par. (8) which read as follows: "Under the regulations prescribed for purposes of this subsection, a member taking leave under paragraph (1) may, as a

condition for taking such leave, be required—

"(A) to accept an extension of the member's current service obligation, if any, by one week for every week of leave taken under paragraph (1); or

"(B) to incur a reduction in the member's leave account by one week for every week of leave taken under paragraph (1)."

Subsec. (i)(9), (10). Pub. L. 117–81, §621(a)(1)(B), redesignated par. (9) as (7) and struck out par. (10) which read as follows:

"(A) Subject to subparagraph (B), a member taking leave under paragraph (1) during a period of obligated service shall not be eligible for terminal leave, or to sell back leave, at the end such period of obligated service.

"(B) Under the regulations for purposes of this subsection, the Secretary concerned may waive, whether in whole or in part, the applicability of subparagraph (A) to a member who reenlists at the end of the member's period of obligated service described in that subparagraph if the Secretary determines that the waiver is in the interests of the armed force concerned."

Subsecs. (j), (k). Pub. L. 117–81, §621(a)(2), redesignated subsecs. (k) and (l) as (j) and (k), respectively, and struck out former subsec. (j) which related to leave for secondary caregivers in case of birth of child or adoption of child.

Subsec. (l). Pub. L. 117–81, §621(a)(3), added subsec. (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 117–81, §622(a), added subsec. (m).

**2019**—Subsec. (i)(5). Pub. L. 116–92, §571, substituted "in more than one increment" for "only in one increment" and inserted "in accordance with regulations prescribed by the Secretary concerned" before period at end.

Subsec. (l). Pub. L. 116–92, §572, added subsec. (l).

**2016**—Subsecs. (i), (j). Pub. L. 114–328 added subsecs. (i) and (j) and struck out former subsecs. (i) and (j) which read as follows:

"(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption.

"(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

"(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection.

"(4) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.

"(j)(1) Under regulations prescribed by the Secretary concerned, a married member of the armed forces on active duty whose wife gives birth to a child shall receive 10 days of leave to be used in connection with the birth of the child.

"(2) Leave under paragraph (1) is in addition to other leave authorized under this section."

**2013**—Subsec. (d). Pub. L. 112–239 substituted "September 30, 2015" for "September 30, 2013".

**2011**—Subsec. (k). Pub. L. 111–383 added subsec. (k).

**2009**—Subsec. (d). Pub. L. 111–84 substituted "September 30, 2013" for "December 31, 2010".

**2008**—Subsec. (b). Pub. L. 110–181, §551(a)(1), substituted "subsections (d), (f), and (g)" for "subsection (f) and subsection (g)".

Subsec. (d). Pub. L. 110–181, §551(a)(2), added subsec. (d).

Subsec. (f)(1)(A). Pub. L. 110–181, §551(b)(1), substituted "at the end of the fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d)" for "any accumulated leave in excess of 60 days at the end of the fiscal year".

Subsec. (f)(1)(C). Pub. L. 110–181, §551(b)(2), substituted "the days of leave authorized to be accumulated under subsection (b) or (d) that are" for "60 days" and inserted "(or fourth fiscal year, if accumulated while subsection (d) is in effect)" after "third fiscal year".

Subsec. (f)(2). Pub. L. 110–181, §551(b)(3), substituted "except for this paragraph, would lose at the end of that fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), shall be permitted to retain such leave until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated" for "except for this paragraph—

"(A) would lose any accumulated leave in excess of 60 days at the end of that fiscal year, shall be permitted to retain such leave (not to exceed 90 days) until the end of the succeeding fiscal year; or

"(B) would lose any accumulated leave in excess of 60 days at the end of the succeeding fiscal year (other than by reason of subparagraph (A)), shall be permitted to retain such leave (not to exceed 90 days)

until the end of the next succeeding fiscal year."

Subsec. (g). Pub. L. 110–181, §551(c), substituted "limitations in subsections (b), (d), and (f)" for "60-day limitation in subsection (b) and the 90-day limitation in subsection (f)" in introductory provisions.

Subsec. (j). Pub. L. 110–417 added subsec. (j).

**2006**—Subsec. (f)(1)(B). Pub. L. 109–163, §682, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "This subsection applies to a member who serves on active duty for a continuous period of at least 120 days—

"(i) in an area in which the member is entitled to special pay under section 310(a) of title 37; or

"(ii) while assigned to a deployable ship or mobile unit or to other duty comparable to that specified in clause (i) that is designated for the purpose of this subsection."

Subsec. (i). Pub. L. 109–163, §593(a), added subsec. (i).

**2003**—Subsec. (f)(1). Pub. L. 108–136 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Under uniform regulations to be prescribed by the Secretary concerned, and approved by the Secretary of Defense, a member who serves on active duty for a continuous period of at least 120 days in an area in which he is entitled to special pay under section 310(a) of title 37 or a member assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section, may accumulate 90 days' leave. Except as provided in paragraph (2), leave in excess of 60 days accumulated under this subsection is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the service terminated."

**1991**—Subsec. (f). Pub. L. 102–190 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), leave" for "Leave" in last sentence, and added par. (2).

**1986**—Subsec. (h). Pub. L. 99–661 added subsec. (h).

**1984**—Subsec. (g). Pub. L. 98–525 substituted "60-day" for "sixty-day", "90-day" for "ninety-day", and "150" for "one hundred and fifty" in two places.

**1983**—Subsec. (f). Pub. L. 98–94 substituted "the end of the third fiscal year" for "the end of the fiscal year".

**1981**—Subsec. (a)(2). Pub. L. 97–81, §2(a)(1), struck out "and" at end of par. (2).

Subsec. (a)(3). Pub. L. 97–81, §2(a)(2), substituted "; and" for a period at end of par. (3).

Subsec. (a)(4). Pub. L. 97–81, §2(a)(3), added par. (4).

**1980**—Subsec. (f). Pub. L. 96–579 inserted "or a member assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section," after "title 37".

**1972**—Subsec. (b). Pub. L. 92–596, §1(1), inserted reference to subsec. (g).

Subsec. (g). Pub. L. 92–596, §1(2), added subsec. (g).

**1968**—Subsec. (b). Pub. L. 90–245, §1(1), inserted reference to subsec. (f).

Subsec. (f). Pub. L. 90–245, §1(2), added subsec. (f).

**1965**—Subsec. (d). Pub. L. 89–151 repealed subsec. (d) which provided that accumulated leave did not survive the death of a member during active service.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title VI, §631(d), Dec. 23, 2022, 136 Stat. 2631, provided that: "The amendments made by this section [amending this section, section 2508 of Title 14, Coast Guard, and sections 501 and 502 of Title 37, Pay and Allowances of the Uniformed Services] take effect on January 1, 2023."

Pub. L. 117–263, div. A, title VI, §632(c), Dec. 23, 2022, 136 Stat. 2632, provided that: "The amendment made by subsection (a) [amending this section] takes effect on January 1, 2023."

Pub. L. 117–263, div. A, title VI, §633(c), Dec. 23, 2022, 136 Stat. 2633, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2023."

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title VI, §621(b), Dec. 27, 2021, 135 Stat. 1771, provided that: "The amendments made by subsection (a) [amending this section] shall take effect one year after the date of the enactment of this Act [Dec. 27, 2021]."

Pub. L. 117–81, div. A, title VI, §622(b), Dec. 27, 2021, 135 Stat. 1772, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Dec. 27, 2021]."

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title V, §532(b), Oct. 14, 2008, 122 Stat. 4449, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 14, 2008] and applies only with respect to children born on or after that date."

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–163, div. A, title V, §593(b), Jan. 6, 2006, 119 Stat. 3281, provided that: "Subsection (i) of section 701 of title 10, United States Code (as added by subsection (a)), shall take effect on January 1, 2006, and shall apply only with respect to adoptions completed on or after that date."

**EFFECTIVE DATE OF 2003 AMENDMENT**

Pub. L. 108–136, div. A, title V, §542(b), Nov. 24, 2003, 117 Stat. 1478, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2003, or the date of the enactment of this Act [Nov. 24, 2003], whichever is later."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title X, §1031(b)(1), (2), Sept. 24, 1983, 97 Stat. 671, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Sept. 24, 1983] and shall apply to leave accumulated under section 701(f) of such title [this title] after September 30, 1980.

"(2) A member of the Armed Forces who was authorized under section 701(f) of such title to accumulate 90 days' leave during fiscal year 1980, 1981, or 1982 and lost any leave at the end of fiscal year 1981, 1982, or 1983, respectively, because of the provisions of the last sentence of such section, as in effect on the day before the date of the enactment of this Act, shall be credited with the amount of the leave lost and may retain leave in excess of 60 days until (A) September 30, 1984, or (B) the end of the third fiscal year after the year in which such leave was accumulated, whichever is later, but in no case may such a member accumulate leave in excess of 90 days."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–81 to take effect at the end of the 60-day period beginning on Nov. 20, 1981, and to apply to each member whose sentence by court-martial is approved on or after Jan. 20, 1982, under section 864 or 865 of this title by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983 (Pub. L. 98–209), or under section 860 of this title by the officer empowered to act on the sentence on or after that effective date, see section 7(a) and (b)(1) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

**EFFECTIVE DATE OF 1972 AMENDMENT**

Pub. L. 92–596, §3, Oct. 27, 1972, 86 Stat. 1318, provided that: "The first and second sections of this Act [amending this section and section 501 of Title 37, Pay and Allowances of the Uniformed Services] become effective as of February 28, 1961."

**EFFECTIVE DATE OF 1968 AMENDMENT**

Pub. L. 90–245, §2, Jan. 2, 1968, 81 Stat. 782, provided that: "Section 1 of this Act [amending this section] applies only to active duty performed after January 1, 1968."

**EFFECTIVE DATE OF 1965 AMENDMENT**

Amendment by Pub. L. 89–151 effective only in the case of members who die on or after Aug. 28, 1965, see section 4 of Pub. L. 89–151, set out as a note under section 501 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE**

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**REGULATIONS**

Pub. L. 119–60, div. A, title VI, §631(b), Dec. 18, 2025, 139 Stat. 911, provided that: "Not later than 180 days after the date of the enactment of this section [Dec. 18, 2025], the Secretary of Defense shall—

"(1) prescribe regulations under subparagraph (B) of section 701(h)(1) of title 10, United States Code, to implement the amendment made by subsection (a) [amending this section]; and

"(2) submit to the Committees on Armed Forces of the Senate and House of Representatives a report

regarding the implementation of this section."

Pub. L. 117–81, div. A, title VI, §621(c), Dec. 27, 2021, 135 Stat. 1771, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall prescribe regulations implementing the amendments made by subsection (a) [amending this section]."

**TRANSITION RULE**

Pub. L. 117–263, div. A, title VI, §632(b), Dec. 23, 2022, 136 Stat. 2632, provided that: "Leave in excess of 90 days, accumulated by a member of the Armed Forces under section 701 of such title [meaning title 10, United States Code] before the effective date under subsection (c) [set out as a note above], is forfeited unless—

"(1) used by the member on or before September 30, 2026; or

"(2) the retention of such leave is otherwise authorized by law."

**ANNUAL REPORTS ON USE OF LEAVE**

Pub. L. 117–81, div. A, title VI, §621(d), Dec. 27, 2021, 135 Stat. 1771, provided that: "Not later than January 1, 2023, and annually thereafter, each Secretary of a military department shall submit, to the Committees on Armed Services of the Senate and House of Representatives, a report regarding the use, during the preceding fiscal year, of leave under subsections (i) and (j) [now subsecs. (h) and (i)] of section 701 of such title, as amended by subsection (a), disaggregated by births, adoptions, and foster placements, including the number of members of the Armed Forces who—

"(1) used the maximum amount of primary caregiver leave; and

"(2) used leave in multiple increments."

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

**ACCUMULATION OF LEAVE AFTER SEPTEMBER 30, 1980, PURSUANT TO FORMER SUBSECTION (F)**

Pub. L. 97–39, title VII, §702, Aug. 14, 1981, 95 Stat. 943, provided that: "The amendment made by section 10 of the Military Pay and Allowances Benefits Act of 1980 (Public Law 96–579; 94 Stat. 3368) [amending this section] shall apply with respect to the accumulation of leave by members of the Armed Forces who after September 30, 1979, are assigned (1) to a deployable ship or mobile unit, or (2) to other duty designated after the date of the enactment of this Act [Aug. 14, 1981] as duty qualifying for the purpose of [former] section 701(f) of title 10, United States Code, as amended by that amendment."

For savings provision extending period for which certain accrued leave under former subsec. (f) of this section may be retained by members of Armed Forces, see section 1115 of Pub. L. 101–510, set out as a Treatment of Accumulated Leave note under section 501 of Title 37, Pay and Allowances of the Uniformed Services.

## §702. Cadets and midshipmen

(a) GRADUATION LEAVE.—Graduates of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy who, upon graduation, are appointed in a component of an armed force, may, in the discretion of the Secretary concerned or his designated representative, be granted graduation leave of not more than 60 days. Leave granted under this subsection is in addition to any other leave and may not be deducted from or charged against other leave authorized by this chapter, and must be completed within three months of the date of graduation. Leave under this subsection may not be carried forward as credit beyond the date of reporting to the first permanent duty station or to a port of embarkation for permanent duty outside the United States or in Alaska or Hawaii.

(b) INVOLUNTARY LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.—(1) Under regulations prescribed under subsection (d), the Secretary concerned

may place an academy cadet or midshipman on involuntary leave for any period during which the Superintendent of the Academy at which the cadet or midshipman is admitted has suspended the cadet or midshipman from duty at the Academy—

(A) pending separation from the Academy;

(B) pending return to the Academy to repeat an academic semester or year; or

(C) for other good cause.

(2) A cadet or midshipman placed on involuntary leave under paragraph (1) is not entitled to any pay under section 203(c) of title 37 for the period of the leave.

(3) Return of an academy cadet or midshipman to a pay status at the Academy concerned from involuntary leave status under paragraph (1) does not restore any entitlement of the cadet or midshipman to pay for the period of the involuntary leave.

(c) CONVALESCENT LEAVE.—An academy cadet or midshipman diagnosed with a medical condition is allowed convalescent leave under section 701(m) of this title.

(d) INAPPLICABLE LEAVE PROVISIONS.—Except as provided by subsection (c), sections 701, 703, and 704 of this title and subsection (a) do not apply to academy cadets or midshipmen or cadets or midshipmen serving elsewhere in the armed forces.

(e) REGULATIONS.—The Secretary concerned, or his designated representative, may prescribe regulations relating to leave for cadets and midshipmen.

(f) DEFINITION.—In this section, the term "academy cadet or midshipman" means—

(1) a cadet of the United States Military Academy;

(2) a midshipman of the United States Naval Academy;

(3) a cadet of the United States Air Force Academy; or

(4) a cadet of the United States Coast Guard Academy.

(Added Pub. L. 87–649, §3(1), Sept. 7, 1962, 76 Stat. 492; amended Pub. L. 96–513, title V, §511(20), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 103–160, div. A, title V, §532, Nov. 30, 1993, 107 Stat. 1657; Pub. L. 105–261, div. A, title V, §562, Oct. 17, 1998, 112 Stat. 2027; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 119–60, div. A, title VI, §632, Dec. 18, 2025, 139 Stat. 912.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 702(a) | 37:31a(c). | Aug. 9, 1946, ch. 931, §3(c); added June 2, 1950, ch. 217, §1, 64 Stat. 194. |
| | 37:32(f) (last 8 words). | Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963. |
| 702(b) | 37:38 (less applicability to payment for leave). | Aug. 9, 1946, ch. 931, §10 (less applicability to payment for leave); added Aug. 4, 1947, ch. 475, §3 (less applicability to payment for leave), 61 Stat. 749. |
| | 37:32(f) (last 8 words). | Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963. |

In subsection (a), the words "outside the United States or in Alaska or Hawaii" are substituted for the words "outside the continental limits of the United States" to conform to the interpretation of those words in other sections of title 10 and revised title 37.

In subsections (a) and (b), the words ", or his designated representative," are substituted for the last 8 words of section 32(f) of existing title 37.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (c). Pub. L. 119–60, §632(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 119–60, §632(1), (3), redesignated subsec. (c) as (d) and substituted "Except as provided by subsection (c), sections 701" for "Sections 701". Former subsec. (d) redesignated (e).

Subsecs. (e), (f). Pub. L. 119–60, §632(1), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

**2000**—Subsec. (b)(2). Pub. L. 106–398 substituted "section 203(c)" for "section 230(c)".

**1998**—Subsec. (a). Pub. L. 105–261, §562(c)(1), inserted heading.

Subsec. (b). Pub. L. 105–261, §562(a)(3), added subsec. (b). Former first and second sentences of subsec. (b) redesignated subsecs. (c) and (d), respectively.

Subsec. (c). Pub. L. 105–261, §562(a)(2), (b)(1), (c)(2), redesignated first sentence of subsec. (b) as subsec. (c), inserted heading, and substituted "academy cadets or midshipmen" for "cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, midshipmen at the United States Naval Academy,".

Subsec. (d). Pub. L. 105–261, §562(a)(1), (c)(3), redesignated second sentence of subsec. (b) as subsec. (d) and inserted heading.

Subsec. (e). Pub. L. 105–261, §562(b)(2), added subsec. (e).

**1993**—Subsec. (a). Pub. L. 103–160 struck out "regular" before "component" in first sentence.

**1980**—Subsec. (b). Pub. L. 96–513 substituted "Sections 701, 703, and 704 of this title and subsection (a)" for "Sections 701, 702(a), 703, and 704 of this chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE**

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §703. Reenlistment leave

(a) Leave for not more than 90 days may be authorized, in the discretion of the Secretary concerned, or his designated representative, to a member of an armed force who reenlists. Leave authorized under this section shall be deducted from leave accrued during active service before reenlistment or charged against leave that may accrue during future active service, or both.

(b) Under regulations prescribed by the Secretary of Defense, and notwithstanding subsection (a), a member who is on active duty in an area described in section 310(a)(2) or paragraph (1) or (3) of section 351(a) of title 37 and who, by reenlistment, extension of enlistment, or other voluntary action, extends his required tour of duty in that area for at least six months may be—

(1) authorized not more than thirty days of leave, exclusive of travel time, at an authorized place selected by the member; and

(2) transported at the expense of the United States to and from that place.

Leave under this subsection may not be charged or credited to leave that accrued or that may accrue under section 701 of this title. The provisions of this subsection shall be effective only in the case of members who extend their required tours of duty on or before June 30, 1973.

(Added Pub. L. 87–649, §3(1), Sept. 7, 1962, 76 Stat. 493; amended Pub. L. 89–735, Nov. 2, 1966,

80 Stat. 1163; Pub. L. 90–330, June 5, 1968, 82 Stat. 170; Pub. L. 91–302, July 2, 1970, 84 Stat. 368; Pub. L. 92–481, Oct. 9, 1972, 86 Stat. 795; Pub. L. 115–91, div. A, title VI, §618(c), Dec. 12, 2017, 131 Stat. 1426.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 703 | 37:31a(a) (4th and 7th sentences). | Aug. 9, 1946, ch. 931, §3(a) (4th and 7th sentences), 60 Stat. 963. |
| | 37:32(f) (last 8 words) | Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963. |

The 4th sentence of section 31a(a) of existing title 37 is omitted as executed. The words ", or his designated representative," are substituted for the last 8 words of section 32(f) of existing title 37.

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (b). Pub. L. 115–91 inserted "or paragraph (1) or (3) of section 351(a)" after "section 310(a)(2)" in introductory provisions.

**1972**—Subsec. (b). Pub. L. 92–481 substituted "June 30, 1973" for "June 30, 1972".

**1970**—Subsec. (b). Pub. L. 91–302 substituted "June 30, 1972" for "June 30, 1970".

**1968**—Subsec. (b). Pub. L. 90–330 substituted "June 30, 1970" for "June 30, 1968".

**1966**—Pub. L. 89–735 designated existing provisions as subsec. (a) and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §704. Use of leave; regulations

(a) Under regulations prescribed by the Secretary concerned, or his designated representative, leave may be taken by a member on a calendar-day basis as vacation or absence from duty with pay, annually as accruing, or otherwise.

(b) Regulations prescribed under subsection (a) shall—

(1) provide equal treatment of officers and enlisted members;

(2) establish to the fullest extent practicable uniform policies for the several armed forces;

(3) provide that leave shall be taken annually as accruing to the extent consistent with military requirements and other exigencies; and

(4) provide for the determination of the number of calendar days of leave to which a member is entitled, including the number of calendar days of absence from duty or vacation to be counted or charged against leave.

(c) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary concerned shall prescribe regulations to facilitate the granting of leave to a member of the armed forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation; and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or

pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the armed forces is a natural parent of a child; or

(B) to determine an obligation of a member of the armed forces to provide child support.

(3) DEFINITIONS.—In this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of this title.

(B) The term "child support" has the meaning given that term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(Added Pub. L. 87–649, §3(1), Sept. 7, 1962, 76 Stat. 493; amended Pub. L. 108–375, div. A, title X, §1084(k), Oct. 28, 2004, 118 Stat. 2064.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 704(a) | 37:31a(a) (5th sentence). | Aug. 9, 1946, ch. 391, §§3(a) (5th and 6th sentences), 4(e), 60 Stat. 963; Aug. 4, 1947, ch. 475, §1 (5th par.), 61 Stat. 749. |
| 704(b) | 37:31a(a) (6th sentence).<br>37:33(e).<br>37:32(f) (last 8 words). | Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963. |

In subsection (a), the 1st 18 words of the 5th sentence of section 31a(a) of existing title 37 are omitted as executed. The words ", or his designated representative," are substituted for the last 8 words of section 32(f) of existing title 37.

In subsection (b), 37:33(e) (less 1st sentence) is omitted as executed.

## EDITORIAL NOTES

### CODIFICATION

The text of section 363(b) of Pub. L. 104–193, which was set out as a note under this section and was transferred to the end of this section and redesignated as subsec. (c), was based on Pub. L. 104–193, title III, §363(b), Aug. 22, 1996, 110 Stat. 2248, as amended by Pub. L. 107–296, title XVII, §1704(e)(1)(B), Nov. 25, 2002, 116 Stat. 2315.

### AMENDMENTS

**2004**—Subsec. (c). Pub. L. 108–375, §1084(k)(1)–(3), transferred section 363(b) of Pub. L. 104–193 to the end of this section and redesignated it as subsec. (c). See Codification note above.

Subsec. (c)(1). Pub. L. 108–375, §1084(k)(4)(A), (B)(i), in introductory provisions, substituted "Secretary concerned" for "Secretary of each military department, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy," and "armed forces" for "Armed Forces".

Subsec. (c)(1)(B). Pub. L. 108–375, §1084(k)(4)(B)(ii), struck out "(as defined in section 101 of title 10, United States Code)" after "contingency operation".

Subsec. (c)(2)(A), (B). Pub. L. 108–375, §1084(k)(4)(A), substituted "armed forces" for "Armed Forces".

Subsec. (c)(3). Pub. L. 108–375, §1084(k)(4)(C)(i), substituted "In this subsection:" for "For purposes of this subsection—" in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 108–375, §1084(k)(4)(C)(ii), substituted "this title" for "title 10, United States Code".

Subsec. (c)(3)(B). Pub. L. 108–375, §1084(k)(4)(C)(iii), substituted "that term" for "such term".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS INVOLVING PARENTAL SUPPORT OBLIGATIONS**

Pub. L. 104–193, title III, §363(b), Aug. 22, 1996, 110 Stat. 2248, as amended by Pub. L. 107–296, title XVII, §1704(e)(1)(B), Nov. 25, 2002, 116 Stat. 2315, formerly set out as a note under this section, was transferred to subsec. (c) of this section.

## §704a. Administration of leave: prohibition on authorizing, granting, or assigning leave not expressly authorized by law

No member or category of members of the armed forces may be authorized, granted, or assigned leave, including uncharged leave, not expressly authorized by a provision of this chapter or another statute unless expressly authorized by an Act of Congress enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017.

(Added Pub. L. 114–328, div. A, title V, §521(b)(1), Dec. 23, 2016, 130 Stat. 2115.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in text, is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

## §705. Rest and recuperation absence: qualified members extending duty at designated locations overseas

(a) Under regulations prescribed by the Secretary concerned, a member of an armed force who—

(1) is entitled to basic pay;

(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the 48 contiguous States and the District of Columbia that is designated by the Secretary concerned for the purposes of this section; and

(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year;

may, in lieu of receiving special pay under section 314 or 352 of title 37 for duty performed during such extension of duty, elect to receive one of the benefits specified in subsection (b). Receipt of any such benefit is in addition to any other leave or transportation to which the member may be entitled.

(b) The benefits authorized by subsection (a) are—

(1) a period of rest and recuperation absence for not more than 30 days; or

(2) a period of rest and recuperation absence for not more than 15 days for members whose qualifying tour of duty is 12 months or less, or for not more than 20 days for members whose qualifying tour of duty is longer than 12 months, and round-trip transportation at Government expense from the location of the extended tour of duty to the nearest port in the 48 contiguous States and return, or to an alternative destination and return at a cost not to exceed the cost of round-trip transportation from the location of the extended tour of duty to such nearest port.

(c) The provisions of this section shall not be effective unless the Secretary concerned determines that the application of this section will not adversely affect combat or unit readiness.

(Added Pub. L. 96–579, §5(b)(1), Dec. 23, 1980, 94 Stat. 3366; amended Pub. L. 107–314, div. A, title V, §574(a)–(b)(2)(A), Dec. 2, 2002, 116 Stat. 2558; Pub. L. 108–136, div. A, title VI, §621(b), Nov. 24, 2003, 117 Stat. 1505; Pub. L. 110–181, div. A, title V, §552, Jan. 28, 2008, 122 Stat. 117; Pub. L. 115–91, div. A, title VI, §618(d), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91 inserted "or 352" after "section 314" in concluding provisions.

**2008**—Subsec. (b)(2). Pub. L. 110–181 inserted "for members whose qualifying tour of duty is 12 months or less, or for not more than 20 days for members whose qualifying tour of duty is longer than 12 months," after "for not more than 15 days".

2003–Pub. L. 108–136, §621(b)(2), struck out "enlisted" before "members" in section catchline.

Subsec. (a). Pub. L. 108–136, §621(b)(1), substituted "a member" for "an enlisted member" in introductory provisions.

**2002**—Pub. L. 107–314, §574(b)(2)(A), substituted "recuperation absence: qualified enlisted members" for "recuperative absence for qualified enlisted members" in section catchline.

Subsec. (b). Pub. L. 107–314 substituted "recuperation" for "recuperative" in pars. (1) and (2) and inserted before period at end of par. (2) ", or to an alternative destination and return at a cost not to exceed the cost of round-trip transportation from the location of the extended tour of duty to such nearest port".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 96–579, §5(c)(2), Dec. 23, 1980, 94 Stat. 3367, provided: "Section 705 of title 10, United States Code, as added by subsection (b), shall take effect upon the date of the enactment of this section [Dec. 23, 1980] and shall apply only with respect to periods of extended duty overseas beginning on or after such date of enactment."

## §705a. Rest and recuperation absence: certain members undergoing extended deployment to a combat zone

(a) REST AND RECUPERATION AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may provide a member of the armed forces described in subsection (b) the benefits described in subsection (c).

(b) COVERED MEMBERS.—A member of the armed forces described in this subsection is any member who—

(1) is assigned or deployed for at least 270 days in an area or location—

(A) that is designated by the President as a combat zone; and

(B) in which hardship duty pay is authorized to be paid under section 305 or 352(a) of title 37; and

(2) meets such other criteria as the Secretary of Defense may prescribe in the regulations required by subsection (a).

(c) BENEFITS.—The benefits described in this subsection are the following:

(1) A period of rest and recuperation absence for not more than 15 days.

(2) Round-trip transportation at Government expense from the area or location in which the member is serving in connection with the exercise of the period of rest and recuperation.

(d) CONSTRUCTION WITH OTHER LEAVE.—Any benefits provided a member under this section are in addition to any other leave or absence to which the member may be entitled.

(Added Pub. L. 111–383, div. A, title V, §532(a), Jan. 7, 2011, 124 Stat. 4216; amended Pub. L. 115–91, div. A, title VI, §618(e), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

**AMENDMENTS**

**2017**—Subsec. (b)(1)(B). Pub. L. 115–91 inserted "or 352(a)" after "section 305".

## §706. Administration of leave required to be taken

(a) A period of leave required to be taken under section 876a or 1182(c)(2) of this title shall be charged against any accrued leave to the member's credit on the day before the day such leave begins unless the member elects to be paid for such accrued leave under subsection (b). If the member does not elect to be paid for such accrued leave under subsection (b), or does not have sufficient accrued leave to his credit to cover the total period of leave required to be taken, the leave not covered by accrued leave shall be charged as excess leave. If the member elects to be paid for accrued leave under subsection (b), the total period of leave required to be taken shall be charged as excess leave.

(b)(1) A member who is required to take leave under section 876a or 1182(c)(2) of this title and who has accrued leave to his credit on the day before the day such leave begins may elect to be paid for such accrued leave. Any such payment shall be based on the rate of basic pay to which the member was entitled on the day before the day such leave began. If the member does not elect to be paid for such accrued leave, the member is entitled to pay and allowances during the period of accrued leave required to be taken.

(2) Except as provided in paragraph (1) and in sections 707 and 707a of this title, a member may not accrue or receive pay or allowances during a period of leave required to be taken under section 876a or 1182(c)(2) of this title.

(c) A member required to take leave under section 876a or 1182(c)(2) of this title is not entitled to any right or benefit under chapter 43 of title 38 solely because of employment during the period of such leave.

(Added Pub. L. 97–81, §2(b)(1), Nov. 20, 1981, 95 Stat. 1085; amended Pub. L. 102–568, title V, §506(c)(5), Oct. 29, 1992, 106 Stat. 4341; Pub. L. 103–337, div. A, title X, §1070(e)(1), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 103–353, §2(b)(3), Oct. 13, 1994, 108 Stat. 3169; Pub. L. 104–106, div. A, title XV, §1503(a)(7), Feb. 10, 1996, 110 Stat. 511; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 107–314, div. A, title V, §506(c), Dec. 2, 2002, 116 Stat. 2535.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–314, §506(c)(2), struck out "pending review of certain court-martial convictions" at end of section catchline.

Subsec. (a). Pub. L. 107–314, §506(c)(1)(A), inserted "or 1182(c)(2)" after "section 876a".

Subsec. (b). Pub. L. 107–314, §506(c)(1), inserted "or 1182(c)(2)" after "section 876a" in pars. (1) and (2) and substituted "sections 707 and 707a" for "section 707" in par. (2).

Subsec. (c). Pub. L. 107–314, §506(c)(1)(A), inserted "or 1182(c)(2)" after "section 876a".

**2000**—Subsec. (c). Pub. L. 106–398 struck out "(1)" before "A member required" and struck out par. (2) which read as follows: "Section 974 of this title does not apply to a member required to take leave under section 876a of this title during the period of such leave."

**1996**—Subsec. (c)(1). Pub. L. 104–106 substituted "chapter 43 of title 38" for "section 4301 of title 38".

**1994**—Subsec. (c)(1). Pub. L. 103–353, which directed the amendment of par. (1) by substituting "chapter 43" for "section 4321", could not be executed because intervening amendment by Pub. L. 103–337 had substituted "section 4301" for "section 4321". See below.

Pub. L. 103–337 substituted "4301" for "4321".

**1992**—Subsec. (c)(1). Pub. L. 102–568 substituted "section 4321" for "section 2021".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of Title 38, Veterans' Benefits.

**EFFECTIVE DATE**

Pub. L. 97–81, §7, Nov. 20, 1981, 95 Stat. 1089, as amended by Pub. L. 98–209, §12(b), Dec. 6, 1983, 97 Stat. 1407, provided that:

"(a) The amendments made by this Act [enacting this section and sections 707 and 876a of this title and amending sections 701, 813, 832, 838, 867, and 869 of this title] shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act.

"(b)(1) The amendments made by section 2 [enacting this section and sections 707 and 876a of this title and amending section 701 of this title] shall apply to each member whose sentence by court-martial is approved on or after January 20, 1982—

"(A) under section 864 or 865 (article 64 or 65) of title 10, United States Code, by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983 [see Effective Date of 1983 Amendment note set out under section 801 of this title]; or

"(B) under section 860 (article 60) of title 10, United States Code, by the officer empowered to act on the sentence on or after the effective date of the Military Justice Act of 1983.

"(2) The amendments made by section 3 [amending section 813 of this title] shall apply to each person held as the result of a court-martial sentence announced on or after the effective date of such amendments.

"(3) The amendment made by section 4(a) [amending section 832 of this title] shall apply with respect to investigations under section 832 (article 32) of title 10, United States Code, that begin on or after the effective date of such amendment.

"(4) The amendment made by section 4(b) [amending section 838 of this title] shall apply to trials by courts-martial in which all charges are referred to trial on or after the effective date of such amendment.

"(5) The amendment made by section 5 [amending section 867 of this title] shall apply to any accused with respect to a Court of Military Review [now Court of Criminal Appeals] decision that is dated on or after the effective date of such amendment."

## §707. Payment upon disapproval of certain court-martial sentences for excess leave required to be taken

(a) A member—

(1) who is required to take leave under section 876a of this title, any period of which is charged as excess leave under section 706(a) of this title; and

(2) whose sentence by court-martial to a dismissal or a dishonorable or bad-conduct discharge is set aside or disapproved by a Court of Criminal Appeals under section 866 of this title or by the United States Court of Appeals for the Armed Forces under section 867 of this title,

shall be paid, as provided in subsection (b), for the period of leave charged as excess leave, unless a rehearing or new trial is ordered and a dismissal or a dishonorable or bad-conduct discharge is included in the result of the rehearing or new trial and such dismissal or discharge is later executed.

(b)(1) A member entitled to be paid under this section shall be deemed, for purposes of this section, to have accrued pay and allowances for each day of leave required to be taken under section 876a of this title that is charged as excess leave (except any day of accrued leave for which the member has been paid under section 706(b)(1) of this title and which has been charged as excess leave). If the pay grade of the member was reduced to a lower grade as a result of the court-martial sentence (including any reduction in pay grade under section 858a of this title) and such reduction has not been set aside, disapproved, or otherwise vacated, pay and allowances to be paid under this section shall be deemed to have accrued in such lower grade. Otherwise, such pay and allowances shall be deemed to have accrued in the pay grade held by the member on the day before the day on which his court-martial sentence was approved by the convening authority.

(2) Such a member shall be paid the amount of pay and allowances that he is deemed to have accrued, reduced by the total amount of his income from wages, salaries, tips, other personal service

income, unemployment compensation, and public assistance benefits from any Government agency during the period he is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made as follows:

(A) Payment shall be made within 60 days from the date of the order setting aside or disapproving the sentence by court-martial to a dismissal or a dishonorable or bad-conduct discharge if no rehearing or new trial has been ordered.

(B) Payment shall be made within 180 days from the date of the order setting aside or disapproving the sentence by court-martial to a dismissal or a dishonorable or bad-conduct discharge if a rehearing or new trial has been ordered but charges have not been referred to a rehearing or new trial within 120 days from the date of that order.

(C) If a rehearing or new trial has been ordered and a dismissal or a dishonorable or bad-conduct discharge is not included in the result of such rehearing or new trial, payment shall be made within 60 days of the date of the announcement of the result of such rehearing or new trial.

(D) If a rehearing or new trial has been ordered and a dismissal or a dishonorable or bad-conduct discharge is included in the result of such rehearing or new trial, but such dismissal or discharge is not later executed, payment shall be made within 60 days of the date of the order which set aside, disapproved, or otherwise vacated such dismissal or discharge.

(3) If a member is entitled to be paid under this section but fails to provide sufficient information in a timely manner regarding his income when such information is requested under regulations prescribed under subsection (c), the periods of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. Such regulations may provide for the method of determining a member's income during any period the member is deemed to have accrued pay and allowances, including a requirement that the member provide income tax returns and other documentation to verify the amount of his income.

(Added Pub. L. 97–81, §2(b)(1), Nov. 20, 1981, 95 Stat. 1086; amended Pub. L. 103–337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831.)

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Subsec. (a)(2). Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" and "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section to take effect at end of 60-day period beginning on Nov. 20, 1981, to apply to each member whose sentence by court-martial is approved on or after Jan. 20, 1982, under section 864 or 865 of this title by officer exercising general court-martial jurisdiction under provisions of such section as it existed on day before effective date of Military Justice Act of 1983 (Pub. L. 98–209), or under section 860 of this title by officer empowered to act on sentence on or after that effective date, see section 7(a), (b)(1) of Pub. L. 97–81, set out as a note under section 706 of this title.

## §707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken

(a) An officer—

(1) who is required to take leave under section 1182(c)(2) or 20503 of this title, any period of which is charged as excess leave under section 706(a) of this title, and

(2) whose recommendation for removal from active duty in a report of a board of inquiry is not approved by the Secretary concerned under section 1184 of this title,

shall be paid, as provided in subsection (b), for the period of leave charged as excess leave.

(b)(1) An officer entitled to be paid under this section shall be deemed, for purposes of this section, to have accrued pay and allowances for each day of leave required to be taken under section 1182(c)(2) of this title that is charged as excess leave (except any day of accrued leave for which the officer has been paid under section 706(b)(1) of this title and which has been charged as excess leave).

(2) The officer shall be paid the amount of pay and allowances that is deemed to have accrued to the officer under paragraph (1), reduced by the total amount of his income from wages, salaries, tips, other personal service income, unemployment compensation, and public assistance benefits from any Government agency during the period the officer is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made within 60 days after the date on which the Secretary concerned decides not to remove the officer from active duty.

(3) If an officer is entitled to be paid under this section, but fails to provide sufficient information in a timely manner regarding the officer's income when such information is requested under regulations prescribed under subsection (c), the period of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. The regulations may provide for the method of determining an officer's income during any period the officer is deemed to have accrued pay and allowances, including a requirement that the officer provide income tax returns and other documentation to verify the amount of the officer's income.

(Added Pub. L. 107–314, div. A, title V, §506(b), Dec. 2, 2002, 116 Stat. 2535; amended Pub. L. 118–31, div. A, title XVII, §1722(d)(2), Dec. 22, 2023, 137 Stat. 670.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (a)(1). Pub. L. 118–31 inserted "or 20503" after "section 1182(c)(2)".

## §708. Educational leave of absence

(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Homeland Security and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for the purpose of permitting the member to pursue a program of education. The period of a leave of absence granted under this section may not exceed two years, except that the period may exceed two years but may not exceed three years in the case of an eligible member pursuing a program of education in a health care profession.

(b)(1) A member may not be granted a leave of absence under this section unless—

(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for housing under section 403 of title 37, basic allowance for subsistence under section 402 of such title, or any other pay and allowances to which he would otherwise be entitled for such period.

(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of determining the member's time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 3021 of title 38, relating to entitlement to supplemental educational assistance.

(d)(1) In time of war, or of national emergency declared by the President or the Congress after October 19, 1984, the Secretary concerned may cancel any leave of absence granted under this section.

(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

(e) In this section, the term "eligible member" means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.

(Added Pub. L. 98–525, title VII, §707(a)(1), Oct. 19, 1984, 98 Stat. 2571; amended Pub. L. 100–26, §7(i)(2), (k)(3), Apr. 21, 1987, 101 Stat. 282, 284; Pub. L. 103–337, div. A, title X, §1070(e)(2), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 105–85, div. A, title VI, §603(d)(2)(A), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title V, §554, Oct. 28, 2004, 118 Stat. 1913; Pub. L. 109–364, div. A, title X, §1071(g)(3), Oct. 17, 2006, 120 Stat. 2402.)

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (a). Pub. L. 109–364 made technical correction to directory language of Pub. L. 108–375, §554(1). See 2004 Amendment note below.

**2004**—Subsec. (a). Pub. L. 108–375, §554(2), inserted at end "The period of a leave of absence granted under this section may not exceed two years, except that the period may exceed two years but may not exceed three years in the case of an eligible member pursuing a program of education in a health care profession."

Pub. L. 108–375, §554(1), as amended by Pub. L. 109–364, struck out "for a period of not to exceed two years" after "leave of absence".

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1997**—Subsec. (c)(1). Pub. L. 105–85 substituted "basic allowance for housing under section 403 of title 37, basic allowance for subsistence under section 402 of such title," for "basic allowance for quarters or basic allowance for subsistence".

**1994**—Subsec. (c)(2). Pub. L. 103–337 substituted "section 3021 of title 38" for "section 1421 of title 38".

**1987**—Subsec. (d)(1). Pub. L. 100–26, §7(i)(2), substituted "October 19, 1984" for "the date of the enactment of this section".

Subsec. (e). Pub. L. 100–26, §7(k)(3), inserted "the term" after "In this section,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(3) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE**

Pub. L. 98–525, title VII, §707(b), Oct. 19, 1984, 98 Stat. 2572, provided that: "Section 708 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1985."

## §709. Emergency leave of absence

(a) EMERGENCY LEAVE OF ABSENCE.—The Secretary concerned may grant a member of the armed forces emergency leave of absence for a qualifying emergency.

(b) LIMITATIONS.—An emergency leave of absence under this section—

(1) may be granted only once for any member;

(2) may be granted only to prevent the member from entering unearned leave status or excess leave status; and

(3) may not extend for a period of more than 14 days.

(c) QUALIFYING EMERGENCY.—In this section, the term "qualifying emergency", with respect to a member of the armed forces, means a circumstance that—

(1) is due to—

(A) a medical condition of a member of the immediate family of the member; or

(B) any other hardship that the Secretary concerned determines appropriate for purposes of this section; and

(2) is verified to the Secretary's satisfaction based upon information or opinion from a source in addition to the member that the Secretary considers to be objective and reliable.

(d) MILITARY DEPARTMENT REGULATIONS.—Regulations prescribed under this section by the Secretaries of the military department shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.

(e) DEFINITIONS.—In this section:

(1) The term "unearned leave status" means leave approved to be used by a member of the armed forces that exceeds the amount of leave credit that has been accrued as a result of the member's active service and that has not been previously used by the member.

(2) The term "excess leave status" means leave approved to be used by a member of the armed forces that is unearned leave for which a member is unable to accrue leave credit during the member's current term of service before the member's separation.

(Added Pub. L. 107–314, div. A, title V, §572(a), Dec. 2, 2002, 116 Stat. 2557.)

## §709a. Expenses incurred in connection with leave canceled due to contingency operations: reimbursement

(a) AUTHORIZATION TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces under the jurisdiction of the Secretary for travel and related expenses (to the extent not otherwise reimbursable under law) incurred by the member as a result of the cancellation of previously approved leave when—

(1) the leave is canceled in connection with the member's participation in a contingency operation; and

(2) the cancellation occurs within 48 hours of the time the leave would have commenced.

(b) REGULATIONS.—The Secretary of Defense and, in the case of the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security shall prescribe regulations to establish the criteria for the applicability of subsection (a).

(c) CONCLUSIVENESS OF SETTLEMENT.—The settlement of an application for reimbursement under subsection (a) is final and conclusive.

(Added Pub. L. 114–328, div. A, title V, §522(a), Dec. 23, 2016, 130 Stat. 2115.)

## §710. Career flexibility to enhance retention of members

(a) PROGRAMS AUTHORIZED.—(1) Each Secretary of a military department may carry out programs under which members of the regular components or of the Space Force and members on Active Guard and Reserve duty of the armed forces under the jurisdiction of such Secretary may be inactivated from active service in order to meet personal or professional needs and returned to active service at the end of such period of inactivation from active service.

(2) Notwithstanding subsection (b)(1), if the Secretary of a military department carries out a program under paragraph (1), such Secretary shall, pursuant to this section, inactivate a member who completes a detail under section 2004c of this title upon the completion of such detail for such period of time as the Secretary determines appropriate so such member may perform religious ministry that meets professional requirements for appointment as a chaplain in the military department concerned.

(b) PERIOD OF INACTIVATION FROM ACTIVE SERVICE; EFFECT OF INACTIVATION .—(1) The period of inactivation from active service under a program under this section of a member participating in the program shall be such period as the Secretary of the military department concerned shall specify in the agreement of the member under subsection (c), except that such period may not exceed three years.

(2) Any service by a Reserve officer, or a Space Force officer in a space force active status not on active duty under section 20105(b) of this title, while participating in a program under this section shall be excluded from computation of the total years of service of that officer pursuant to section 14706(a) of this title.

(3) Any period of participation of a member in a program under this section shall not count toward—

(A) eligibility for retirement or transfer to the Ready Reserve under either chapter 571 or 1223 of this title; or

(B) computation of retired or retainer pay under chapter 71 or 1223 of this title.

(c) AGREEMENT.—Each member of the armed forces who participates in a program under this section shall enter into a written agreement with the Secretary of the military department concerned under which agreement that member shall agree as follows:

(1) To accept an appointment or enlist, as applicable, and serve in the Ready Reserve of an armed force during the period of the inactivation of the member from active service under the program or, in the case of a member of the Space Force on sustained duty, to accept release from sustained duty orders and to serve in a space force active status.

(2) To undergo during the period of the inactivation of the member from active service under the program such inactive service training as the Secretary concerned shall require in order to ensure that the member retains proficiency, at a level determined by the Secretary concerned to be sufficient, in the military skills, professional qualifications, and physical readiness of the member during the inactivation of the member from active service.

(3) Following completion of the period of the inactivation of the member from active service under the program, to serve one month as a member of the armed forces on active service for each month of the period of the inactivation of the member from active service under the program.

(d) CONDITIONS OF RELEASE.—The Secretary of Defense shall prescribe regulations specifying the guidelines regarding the conditions of release that must be considered and addressed in the agreement required by subsection (c). At a minimum, the Secretary shall prescribe the procedures and standards to be used to instruct a member on the obligations to be assumed by the member under paragraph (2) of such subsection while the member is released from active service.

(e) ORDER TO ACTIVE SERVICE.—Under regulations prescribed by the Secretary of the military department concerned, a member of the armed forces participating in a program under this section may, in the discretion of such Secretary, be required to terminate participation in the program and be ordered to active service.

(f) PAY AND ALLOWANCES.—(1) During each month of participation in a program under this section, a member who participates in the program shall be paid basic pay in an amount equal to two-thirtieths of the amount of monthly basic pay to which the member would otherwise be entitled under section 204 of title 37 as a member of the uniformed services on active service in the grade and years of service of the member when the member commences participation in the program.

(2)(A) A member who participates in a program shall not, while participating in the program, be paid any special or incentive pay or bonus to which the member is otherwise entitled under an agreement under chapter 5 of title 37 that is in force when the member commences participation in the program.

(B) The inactivation from active service of a member participating in a program shall not be treated as a failure of the member to perform any period of service required of the member in connection with an agreement for a special or incentive pay or bonus under chapter 5 of title 37 that is in force when the member commences participation in the program.

(3)(A) Subject to subparagraph (B), upon the return of a member to active service after completion by the member of participation in a program—

(i) any agreement entered into by the member under chapter 5 of title 37 for the payment of a special or incentive pay or bonus that was in force when the member commenced participation in the program shall be revived, with the term of such agreement after revival being the period of the agreement remaining to run when the member commenced participation in the program; and

(ii) any special or incentive pay or bonus shall be payable to the member in accordance with the terms of the agreement concerned for the term specified in clause (i).

(B)(i) Subparagraph (A) shall not apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to a member if, at the time of the return of the member to active service as described in that subparagraph—

(I) such pay or bonus is no longer authorized by law; or

(II) the member does not satisfy eligibility criteria for such pay or bonus as in effect at the time of the return of the member to active service.

(ii) Subparagraph (A) shall cease to apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to a member if, during the term of the revived agreement of the member under subparagraph (A)(i), such pay or bonus ceases being authorized by law.

(C) A member who is ineligible for payment of a special or incentive pay or bonus otherwise covered by this paragraph by reason of subparagraph (B)(i)(II) shall be subject to the requirements for repayment of such pay or bonus in accordance with the terms of the applicable agreement of the member under chapter 5 of title 37.

(D) Any service required of a member under an agreement covered by this paragraph after the member returns to active service as described in subparagraph (A) shall be in addition to any service required of the member under an agreement under subsection (c).

(4)(A) Subject to subparagraph (B), a member who participates in a program is entitled, while participating in the program, to the travel and transportation allowances authorized by section 452 of title 37 for—

(i) travel performed from the residence of the member, at the time of release from active service to participate in the program, to the location in the United States designated by the member as his

residence during the period of participation in the program; and

(ii) travel performed to the residence of the member upon return to active service at the end of the participation of the member in the program.

(B) An allowance is payable under this paragraph only with respect to travel of a member to and from a single residence.

(5) A member who participates in a program is entitled to carry forward the leave balance existing as of the day on which the member begins participation and accumulated in accordance with section 701 of this title, but not to exceed 60 days.

(g) PROMOTION.—(1)(A) An officer participating in a program under this section shall not, while participating in the program, be eligible for consideration for promotion under chapter 36, 1405, or 2005 of this title.

(B) Upon the return of an officer to active service after completion by the officer of participation in a program—

(i) the Secretary of the military department concerned shall adjust the date of rank of the officer in such manner as the Secretary of Defense shall prescribe in regulations for purposes of this section; and

(ii) the officer shall be eligible for consideration for promotion when officers of the same competitive category, grade, and seniority are eligible for consideration for promotion.

(2) An enlisted member participating in a program shall not be eligible for consideration for promotion during the period that—

(A) begins on the date of the inactivation of the member from active service under the program; and

(B) ends at such time after the return of the member to active service under the program that the member is treatable as eligible for promotion by reason of time in grade and such other requirements as the Secretary of the military department concerned shall prescribe in regulations for purposes of the program.

(h) CONTINUED ENTITLEMENTS.—A member participating in a program under this section shall, while participating in the program, be treated as a member of the armed forces on active duty for a period of more than 30 days for purposes of—

(1) the entitlement of the member and of the dependents of the member to medical and dental care under the provisions of chapter 55 of this title;

(2) retirement or separation for physical disability under the provisions of chapters 55 and 61 of this title;

(3) the entitlement of the member and of the survivors of the member to all death benefits under the provisions of chapter 75 of this title;

(4) the provision of all travel and transportation allowances for the survivors of deceased members to attend burial ceremonies under section 453(f) of title 37; and

(5) the eligibility of the member for general benefits as provided in part II of title 38.

(Added Pub. L. 115–232, div. A, title V, §551(a), Aug. 13, 2018, 132 Stat. 1766; amended Pub. L. 116–92, div. A, title VI, §602, Dec. 20, 2019, 133 Stat. 1423; Pub. L. 116–283, div. A, title IX, §924(b)(18), Jan. 1, 2021, 134 Stat. 3823; Pub. L. 117–81, div. A, title V, §521, Dec. 27, 2021, 135 Stat. 1686; Pub. L. 117–263, div. A, title VI, §626(c)(1), Dec. 23, 2022, 136 Stat. 2628; Pub. L. 118–31, div. A, title XVII, §1722(d)(3), Dec. 22, 2023, 137 Stat. 670; Pub. L. 119–60, div. A, title V, §504(a), Dec. 18, 2025, 139 Stat. 855.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 designated existing provisions as par. (1) and added par. (2).

**2023**—Subsec. (a). Pub. L. 118–31, §1722(d)(3)(A), inserted "or of the Space Force" after "regular

components".

Subsec. (b)(2). Pub. L. 118–31, §1722(d)(3)(B), which directed amendment of par. (2) by inserting ", or a Space Force officer in a space force active status not on active duty under section 20105(b) of this title," after "officer", was executed by making the insertion after "officer" the first place appearing, to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 118–31, §1722(d)(3)(C), inserted before period at end "or, in the case of a member of the Space Force on sustained duty, to accept release from sustained duty orders and to serve in a space force active status".

Subsec. (g)(1)(A). Pub. L. 118–31, §1722(d)(3)(D), substituted "chapter 36, 1405, or 2005" for "chapter 36 or 1405".

**2022**—Subsec. (f)(4)(A). Pub. L. 117–263, §626(c)(1)(A), substituted "section 452" for "section 474".

Subsec. (h)(4). Pub. L. 117–263, §626(c)(1)(B), substituted "section 453(f)" for "section 481f".

**2021**—Subsec. (c)(1). Pub. L. 116–283 substituted "an armed force" for "the armed force concerned".

Subsec. (c)(3). Pub. L. 117–81 substituted "one month" for "two months".

**2019**—Subsec. (h)(3) to (5). Pub. L. 116–92 added pars. (3) to (5).

## §710a. Parental leave for members of certain reserve components of the armed forces

(a)(1) Under regulations prescribed by the Secretary of Defense, a member of a reserve component of the armed forces described in subsection (b) is allowed parental leave for a duration of up to 12 inactive-duty training periods, under section 206 of title 37, during the one-year period beginning after the following events:

(A) the birth or adoption of a child of the member and to care for such child; or

(B) the placement of a minor child with the member for adoption or long-term foster care.

(2)(A) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize leave described under paragraph (1) to be taken after the one-year period described in paragraph (1) in the case of a member described in subsection (b) who, except for this subparagraph, would lose unused parental leave at the end of the one-year period described in paragraph (1) as a result of—

(i) operational requirements;

(ii) professional military education obligations; or

(iii) other circumstances that the Secretary determines reasonable and appropriate.

(B) The regulations prescribed under subparagraph (A) shall require that any leave authorized to be taken after the one-year period described in paragraph (1) shall be taken within a reasonable period of time, as determined by the Secretary of Defense, after cessation of the circumstances warranting the extended deadline.

(b) A member described in this subsection is a member of—

(1) the selected reserve who is entitled to compensation under section 206 of title 37; or

(2) the individual ready reserve who is entitled to compensation under section 206 of title 37

when attending or participating in a sufficient number of periods of inactive-duty training during a year to count the year as a qualifying year of creditable service toward eligibility for retired pay.

(Added Pub. L. 118–31, div. A, title VI, §601(a)(1), Dec. 22, 2023, 137 Stat. 288, §711; renumbered 710a and amended Pub. L. 118–159, div. A, title VI, §603(a), (b), Dec. 23, 2024, 138 Stat. 1931; Pub. L. 119–60, div. A, title XVII, §1701(a)(10), (11), Dec. 18, 2025, 139 Stat. 1208.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §1701(a)(10), made amendment identical to that made by Pub. L. 118–159, §603(b)(2). See 2024 Amendment note below.

Subsec. (a)(2)(A). Pub. L. 119–60, §1701(a)(11)(A), made amendment identical to that made by Pub. L. 118–159, §603(b)(1)(A). See 2024 Amendment note below.

Subsec. (a)(2)(B). Pub. L. 119–60, §1701(a)(11)(B), made amendments identical to that made by Pub. L. 118–159, §603(b)(1)(A), (B). See 2024 Amendment note below.

**2024**—Pub. L. 118–159, §603(b)(2), renumbered section 711 of this title relating to parental leave for members of certain reserve components of the armed forces as this section.

Subsec. (a)(2). Pub. L. 118–159, §603(b)(1)(A), substituted "paragraph (1)" for "subparagraph (A)" wherever appearing.

Subsec. (a)(2)(B). Pub. L. 118–159, §603(b)(1)(B), substituted "subparagraph (A)" for "clause (i)" and a period for ".;" at end.

Subsec. (b). Pub. L. 118–159, §603(a), struck out "is a member of the Army, Navy, Marine Corps, Air Force, or Space Force who" after "described in this subsection" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title VI, §603(c), Dec. 23, 2024, 138 Stat. 1931, provided that:"The amendments made by this section [amending and renumbering this section] shall take effect on October 1, 2025."

### EFFECTIVE DATE

Pub. L. 118–31, div. A, title VI, §601(e), Dec. 22, 2023, 137 Stat. 289, provided that: "This section [enacting this section and amending section 12732 of this title, section 206 of Title 37, Pay and Allowances of the Uniformed Services, and provisions set out as a note under section 12732 of this title] and the amendments made by this section shall take effect on October 1, 2024, and apply with respect to periods of parental leave that commence on or after such date."

# CHAPTER 41—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.
711. Senior members of Military Staff Committee of United Nations: appointment.
711a. American National Red Cross: detail of commissioned officers.
712. Foreign governments: detail to assist.
713. State Department: assignment or detail as couriers and building inspectors.
714. Senior leaders of the Department of Defense and other specified persons: authority to provide protection.
715. Attending Physician to the Congress: grade.
716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.
717. Members of the armed forces: participation in international sports.
[718. Repealed.]
719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration.
[720 to 722. Repealed.]
723. Support of civil authorities: requirement for use of members of the Armed Forces and Federal law enforcement personnel.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title X, §1043(b)(2), Dec. 18, 2025, 139 Stat. 1037, added item 723 and struck out former item 723 "Support of Federal authorities in response to civil disturbances: requirement for use of members of the Armed Forces and Federal law enforcement personnel".

**2024**—Pub. L. 118–159, div. A, title V, §522(a)(1), Dec. 23, 2024, 138 Stat. 1883, struck out "within the United States" after "provide protection" in item 714. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title X, §§1064(b), 1081(a)(19), Jan. 1, 2021, 134 Stat. 3860, 3871, moved item 714 to appear immediately after item 713, inserted period at end of item 715, and added item 723.

**2018**—Pub. L. 115–232, div. A, title V, §508(b), Aug. 13, 2018, 132 Stat. 1749, added item 715.

**2016**—Pub. L. 114–328, div. A, title IX, §952(c)(2), Dec. 23, 2016, 130 Stat. 2375, added item 714 at the end of this analysis.

Pub. L. 114–328, div. A, title V, §502(g)(2), (h)(2), Dec. 23, 2016, 130 Stat. 2103, struck out items 720 "Chief of Staff to President: appointment" and 722 "Attending Physician to the Congress: grade".

**2009**—Pub. L. 111–84, div. A, title V, §502(i)(2), Oct. 28, 2009, 123 Stat. 2277, struck out item 721 "General and flag officers: limitation on appointments, assignments, details, and duties outside an officer's own service".

**2006**—Pub. L. 109–364, div. A, title V, §507(a)(1)(B), Oct. 17, 2006, 120 Stat. 2180, added item 722.

**2003**—Pub. L. 108–136, div. A, title V, §503(b), Nov. 24, 2003, 117 Stat. 1456, struck out item 714 "Defense attaché in France: required grade".

**1997**—Pub. L. 105–85, div. A, title V, §§501(b), 597(b), Nov. 18, 1997, 111 Stat. 1724, 1766, added items 714 and 721.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(8), Oct. 5, 1994, 108 Stat. 3013, struck out item 715 "Reserve components: detail of members of regular and reserve components to assist".

**1986**—Pub. L. 99–433, title I, §110(a)(2), Oct. 1, 1986, 100 Stat. 1001, struck out item 718 "Secretary of Defense: detail of officers to assist".

**1983**—Pub. L. 98–94, title X, §1007(a)(2), Sept. 24, 1983, 97 Stat. 662, included reference to the Public Health Service in item 716.

**1980**—Pub. L. 96–513, title V, §§501(9)(B), 511(23)(C), Dec. 12, 1980, 94 Stat. 2908, 2922, substituted "assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration" for "assignment or detail to Environmental Science Services Administration" in item 719 and added item 720.

Pub. L. 96–215, §2(b), Mar. 25, 1980, 94 Stat. 123, inserted "and to and from National Oceanic and Atmospheric Administration" after "between armed forces" in item 716.

**1970**—Pub. L. 91–392, §2, Sept. 1, 1970, 84 Stat. 834, substituted "armed forces" for "Army, Navy, Air Force, and Marine Corps" in item 716.

**1968**—Pub. L. 90–235, §4(a)(1)(B), Jan. 2, 1968, 81 Stat. 759, added item 711a.

**1966**—Pub. L. 89–683, §1(2), Oct. 15, 1966, 80 Stat. 960, added item 719.

**1962**—Pub. L. 87–651, title I, §103(b), title II, §205(b), Sept. 7, 1962, 76 Stat. 508, 519, redesignated item 716, relating to participation of members of the armed forces in international sports, as 717, and added item 718.

**1960**—Pub. L. 86–533, §1(5)(B), June 29, 1960, 74 Stat. 246, repealed item 714 "Reports to Congress on length of tours of duty outside United States by members of Army and Air Force".

**1958**—Pub. L. 85–861, §1(18), Sept. 2, 1958, 72 Stat. 1442, added item 716, relating to participation of members of the armed forces in international sports.

Pub. L. 85–599, §11(1), Aug. 6, 1958, 72 Stat. 521, added item 716, relating to transfers of commissioned officers.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM AUTHORITY TO ENHANCE CYBERSECURITY AND RESILIENCY OF CRITICAL INFRASTRUCTURE

Pub. L. 115–232, div. A, title XVI, §1650, Aug. 13, 2018, 132 Stat. 2138, provided that:

"(a) AUTHORITY.—The Secretary of Defense, in coordination with the Secretary of Homeland Security, is authorized to provide, detail, or assign technical personnel to the Department of Homeland Security on a non-reimbursable basis to enhance cybersecurity cooperation, collaboration, and unity of Government efforts.

"(b) SCOPE OF ASSISTANCE.—The authority under subsection (a) shall be limited in any fiscal year to the provision of not more than 50 technical cybersecurity personnel from the Department of Defense to the Department of Homeland Security, including the national cybersecurity and communications integration center (NCCIC) of the Department, or other locations as agreed upon by the Secretary of Defense and the Secretary of Homeland Security.

"(c) LIMITATION.—The authority under subsection (a) may not negatively impact the primary missions of the Department of Defense or the Department of Homeland Security.

"(d) ESTABLISHMENT OF PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of Homeland Security shall

establish procedures to carry out subsection (a), including procedures relating to the protection of and safeguards for maintenance of information held by the NCCIC regarding United States persons.

"(2) LIMITATION.—Nothing in this subsection may be construed as providing authority to the Secretary of Defense to establish procedures regarding the NCCIC with respect to any matter outside the scope of this section.

"(e) NO EFFECT ON OTHER AUTHORITY TO PROVIDE SUPPORT.—Nothing in this section may be construed to limit the authority of an Executive department, military department, or independent establishment to provide any appropriate support, including cybersecurity support, or to provide, detail, or assign personnel, under any other law, rule, or regulation.

"(f) DEFINITIONS.—In this section, each of the terms 'Executive department', 'military department', and 'independent establishment', has the meaning given each of such terms, respectively, in chapter 1 of title 5, United States Code.

"(g) TERMINATION OF AUTHORITY.—This section shall terminate on September 30, 2022."

**EXCHANGE PROGRAM FOR NUCLEAR WEAPONS PROGRAM EMPLOYEES**

Pub. L. 115–232, div. A, title XVI, §1667, Aug. 13, 2018, 132 Stat. 2155, provided that:

"(a) PROGRAM AUTHORIZED.—The Chairman of the Nuclear Weapons Council established under section 179 of title 10, United States Code, and the Administrator for Nuclear Security, shall jointly establish an exchange program under which—

"(1) the Chairman shall arrange for the temporary assignment of civilian and military personnel working on nuclear weapons policy, production, and force structure issues in the Office of the Secretary of Defense, the Joint Staff, the Navy, or the Air Force to the Office of the Deputy Administrator for Defense Programs in the National Nuclear Security Administration; and

"(2) the Administrator shall arrange for the temporary assignment of civilian personnel working on programs related to nuclear weapons in the Office of the Deputy Administrator for Defense Programs to the elements of the Department of Defense specified in paragraph (1).

"(b) PURPOSES.—The purposes of the exchange program established under subsection (a) are—

"(1) to familiarize personnel from the Department of Defense and the National Nuclear Security Administration with the equities, priorities, processes, culture, and employees of the other agency;

"(2) for participants in the exchange program to return the expertise gained through their exchanges to their original agencies at the conclusion of their exchanges; and

"(3) to improve communication between and integration of the agencies that support the formation and oversight of nuclear weapons policy through lasting relationships across the chain of command.

"(c) PARTICIPANTS.—

"(1) NUMBER OF PARTICIPANTS.—The Chairman and the Administrator shall each select not fewer than five and not more than 10 participants per year for participation in the exchange program established under subsection (a). The Chairman and the Administrator may determine how many participants to select under this paragraph without regard to the number of participants selected from the other agency.

"(2) CRITERIA FOR SELECTION.—

"(A) IN GENERAL.—The Chairman and the Administrator shall select participants for the exchange program established under subsection (a) from among mid-career employees and based on—

"(i) the qualifications and desire to participate in the program of the employee; and

"(ii) the technical needs and capacities of the Department of Defense and the National Nuclear Security Administration, as applicable.

"(B) DEPARTMENT OF DEFENSE.—In selecting participants from the Department of Defense for the exchange program established under subsection (a), the Chairman shall ensure that there is a mix of military personnel and civilian employees of the Department.

"(d) TERMS.—Exchanges pursuant to the exchange program established under subsection (a) shall be for terms of one to two years, as determined and negotiated by the Chairman and the Administrator. Such terms may begin and end on a rolling basis.

"(e) GUIDANCE AND IMPLEMENTATION.—

"(1) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Chairman and the Administrator shall jointly develop and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] interim guidance on the form and contours of the exchange program established under subsection (a).

"(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the

Chairman and the Administrator shall implement the guidance developed under paragraph (1)."

**REPORTS ON MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE SERVING IN THE LEGISLATIVE BRANCH**

Pub. L. 109–364, div. A, title XI, §1104, Oct. 17, 2006, 120 Stat. 2409, as amended by Pub. L. 112–81, div. A, title X, §1066(c), Dec. 31, 2011, 125 Stat. 1588, provided that:

"(a) REPORTS ON DETAILS AND FELLOWSHIPS OF LONG DURATION.—Whenever a member of the Armed Forces or a civilian employee of the Department of Defense serves continuously in the Legislative Branch for more than 12 consecutive months in one or a combination of covered legislative details or fellowships, the Secretary of Defense shall submit to the congressional defense committees, within 90 days, and quarterly thereafter for as long as the service continues, a report on the service of the member or employee.

"(b) REPORTS ON CERTAIN MILITARY DETAILS AND FELLOWSHIPS.—If a member of the Armed Forces is assigned to a covered legislative detail or fellowship as the last tour of duty of such member before retirement or separation from the Armed Forces in contravention of the regulations of the Department of Defense, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the assignment of such member to such covered legislative detail or fellowship. The report shall include a rationale for the waiver of the regulations of the Department in order to permit the detail or fellowship.

"(c) REPORT ELEMENTS.—Each report under subsection (a) or (b) shall set forth, for each member of the Armed Forces or civilian employee of the Department of Defense covered by such report, the following:

"(1) The name of such member or employee.

"(2) In the case of a member, the Armed Force of such member.

"(3) The committee or member of Congress to which such member or employee is detailed or assigned.

"(4) A general description of the projects or tasks undertaken or to be undertaken, as applicable, by such member or employee as a detailee, fellow, or both.

"(5) The anticipated termination date of the current detail or fellowship of such member or employee.

"(d) COVERED LEGISLATIVE DETAIL OR FELLOWSHIP DEFINED.—In this section, the term 'covered legislative detail or fellowship' means the following:

"(1) A detail under the provisions of Department of Defense Directive 1000.17.

"(2) A legislative fellowship (including a legislative fellowship under the provisions of Department of Defense Directive 1322.6)."

## §711. Senior members of Military Staff Committee of United Nations: appointment

The President, by and with the advice and consent of the Senate, may appoint an officer of the Army, an officer of the Navy or the Marine Corps, and an officer of the Air Force or the Space Force, as senior members of the Military Staff Committee of the United Nations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 32; Pub. L. 114–328, div. A, title V, §502(f), Dec. 23, 2016, 130 Stat. 2103; Pub. L. 116–283, div. A, title IX, §924(b)(19), Jan. 1, 2021, 134 Stat. 3823.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 711 | 10:506b(c) (less last 12 words). | Aug. 7, 1947, ch. 512, §504(c) (less last 12 words), 61 Stat 886. |

The words "Within the limitations as to numbers in grade prescribed in this Act", so far as they relate to the Army and the Air Force, are omitted as executed by the declaration of the national emergency on December 16, 1950, in accordance with an opinion of the Judge Advocate General of the Army (JAGA 1951/6180, 17 Oct. 1951). So far as they relate to the Navy and the Marine Corps they are omitted as surplusage. The words "may appoint" are inserted to make it explicit that the revised section prescribes the appointment as well as the rank and pay that go with it. The word "grade" is substituted for the word "rank". The words "Navy or Marine Corps" are substituted for the words "Navy, including the Marine Corps". The words "Army, * * * Air Force" are substituted for the words "Army less the Air Corps * * * Air Corps". The words "pay and allowances of a

vice admiral or lieutenant general" are omitted as surplusage, since this is implicit upon appointment to the grade. The words "and Naval" are omitted to conform to the name "Military Staff Committee" established by Article 47 of the United Nations Charter.

**EDITORIAL NOTES**

**CODIFICATION**

**ANOTHER SECTION 711 WAS RENUMBERED 710A OF THIS TITLE.**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2016**—Pub. L. 114–328 struck out second sentence which read as follows: "An officer so appointed has the grade of lieutenant general or vice admiral, as the case may be, while serving under that appointment."

## §711a. American National Red Cross: detail of commissioned officers

Commissioned officers of the Army, Navy, and Air Force may be detailed for duty with the American National Red Cross, by the Secretary of the military department concerned, as follows:

(1) for duty with the Service to the Armed Forces Division—

(A) one or more officers of the Army Medical Department;

(B) one or more officers of the Medical Department of the Navy; and

(C) one or more officers selected from among medical officers, dental officers, veterinary officers, medical service officers, nurses, and medical specialists of the Air Force; and

(2) to be in charge of the first-aid department—

(A) an officer of the Medical Corps of the Army;

(B) an officer of the Medical Corps of the Navy; or

(C) a medical officer of the Air Force.

(Added Pub. L. 90–235, §4(a)(1)(A), Jan. 2, 1968, 81 Stat. 759; amended Pub. L. 90–329, June 4, 1968, 82 Stat. 170; Pub. L. 96–513, title V, §511(21), Dec. 12, 1980, 94 Stat. 2921.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Pub. L. 96–513 struck out "(a)" before "Commissioned".

**1968**—Subsec. (a)(1)(A). Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §712. Foreign governments: detail to assist

(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Force, Marine Corps, and Space Force to assist in military matters—

(1) any republic in North America, Central America, or South America;

(2) the Republic of Cuba, Haiti, or Santo Domingo; and

(3) during a war or a declared national emergency, any other country that he considers it

advisable to assist in the interest of national defense.

(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 32; Pub. L. 85–477, ch. V, §502(k), June 30, 1958, 72 Stat. 275; Pub. L. 116–283, div. A, title IX, §924(b)(1)(E), Jan. 1, 2021, 134 Stat. 3820.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 712(a) | 10:540 (less provisos).<br>34:441a (less provisos). | May 19, 1926, ch. 334, 44 Stat, 565;<br>May 14, 1935, ch. 109, 49 Stat. 218; |
| 712(b) | 10:540 (provisos).<br>34:441a (provisos). | Oct. 1, 1942, ch. 571, 56 Stat. 763. |

In subsection (a), the words "and the Commonwealth of the Philippine Islands", in the Act of May 19, 1926, ch. 334, added by the Act of May 14, 1935, ch. 109, 49 Stat. 218, are not contained in 10:540 or 34:441a. They are also omitted from the revised section, since Proclamation No. 2695, effective July 4, 1946, 60 Stat. 1352 (48 U.S.C. 1240 (note)), proclaimed the independence of the Philippine Islands. Similar provisions relating to the Philippines are now contained in section 5 of the Act of June 26, 1946, ch. 500, 60 Stat. 315. The word "members" is substituted for the words "officers and enlisted men", in 10:540 and 34:441a.

In subsection (b), the words "entitled to credit for all service" are substituted for the words "and shall be allowed the same credit for longevity, retirement, and for all other purposes", in 10:540 and 34:441a.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps" in introductory provisions.

**1958**—Subsec. (b). Pub. L. 85–477 struck out provisions which authorized members of the armed forces to accept compensation or emoluments from countries to which they are detailed, and inserted provisions permitting arrangements for reimbursement or other sharing of cost.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1958 AMENDMENT**

Pub. L. 85–477, ch. V, §502(k), June 30, 1958, 72 Stat. 275, provided that the amendment made by that section is effective nine months after June 30, 1958.

## §713. State Department: assignment or detail as couriers and building inspectors

(a) Upon the request of the Secretary of State, the Secretary of a military department may assign or detail members of the armed forces under his jurisdiction for duty—

(1) as inspectors of buildings owned or occupied abroad by the United States;

(2) as inspectors or supervisors of buildings under construction or repair abroad by or for the United States; and

(3) as couriers of the Department of State.

(b) The Secretary concerned may assign or detail a member for duty under subsection (a) with or without reimbursement from the Department of State. However, a member so assigned or detailed

may be paid the traveling expenses authorized for officers of the Foreign Service of the United States. These expenses shall be paid from appropriations of the Department of State.

(Aug. 10, 1956, ch. 1041, 70A Stat. 33.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 713(a) | 22:956 (words before semicolon of 1st sentence). | Aug. 13, 1946, ch. 957, §561, 60 Stat. 1011. |
| 713(b) | 22:956 (less words before semicolon of 1st sentence). | |

In subsection (a), the words "members of the armed forces under his jurisdiction" are substituted for the words "military and naval personnel serving under their supervision".

In subsection (b), the words "The Secretary concerned may" are substituted for the words "in the discretion of the head of the department concerned".

## §714. Senior leaders of the Department of Defense and other specified persons: authority to provide protection

(a) PROTECTION FOR DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the armed forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security to the following persons who, by nature of their positions, require continuous security and protection:

(1) Secretary of Defense.
(2) Deputy Secretary of Defense.
(3) Chairman of the Joint Chiefs of Staff.
(4) Vice Chairman of the Joint Chiefs of Staff.
(5) Secretaries of the military departments.
(6) Members of the Joint Chiefs of Staff in addition to the Chairman and Vice Chairman.
(7) Commanders of combatant commands.

(b) PROTECTION FOR FORMER OR RETIRED DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the armed forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security to a former or retired official who—

(1) previously served in a position identified in paragraphs (1) through (7) [1]; and
(2) faces serious and credible threats arising from duties performed while employed by the Department of Defense.

(c) PROTECTION FOR ADDITIONAL PERSONNEL.—

(1) AUTHORITY TO PROVIDE.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the armed forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security to individuals other than individuals described in subsection (a) or (b) if the Secretary determines that such protection and security are necessary because—

(A) there is a serious and credible threat to the safety of the individual for whom protection is to be provided; or
(B) compelling operational considerations make such protection essential to the conduct of

official Department of Defense business.

(2) PERSONNEL.—Individuals authorized to receive physical protection and personal security under this subsection include the following:

(A) Any official or employee of the Department of Defense or member of the armed forces.

(B) A former or retired official who faces serious and credible threats arising from duties performed while employed by the Department.

(C) A head of a foreign state, an official representative of a foreign government, or any other distinguished foreign visitor to the United States who is primarily conducting official business with the Department of Defense.

(D) Any member of the immediate family of a person authorized to receive physical protection and personal security under this section.

(E) An individual who has been designated by the President, and who has received the advice and consent of the Senate, to serve as Secretary of Defense, but who has not yet been appointed as Secretary of Defense.

(3) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to authorize the provision of physical protection and personal security under this subsection may be delegated only to the Deputy Secretary of Defense or the Under Secretary of Defense for Intelligence and Security.

(4) TEMPORARY PROTECTION.—The Secretary of Defense may temporarily provide physical protection and personal security under this subsection to an individual—

(A) pending the determination of the Secretary under paragraph (4) regarding such individual; and

(B) for a period not to exceed 30 days.

(d) REQUIREMENT FOR WRITTEN DETERMINATION.—A determination of the Secretary of Defense whether to provide physical protection and personal security under subsection (b) or (c), or reimbursement under subsection (h), shall be in writing, shall be based on a threat assessment by an appropriate law enforcement, security, or intelligence organization, and shall include the name and title of the officer, employee, or other individual affected, the reason for such determination, the duration of any authorized protection and security for such officer, employee, or individual, and the nature of any arrangements for such protection and security.

(e) DURATION OF PROTECTION.—The Secretary of Defense shall require periodic reviews, not less than once every six months, of the duration of protection provided to individuals under subsection (b) or (c).

(f) SUBMISSIONS TO CONGRESS.—

(1) IN GENERAL.— Except as provided in paragraph (4), the Secretary of Defense shall submit to the congressional defense committee determinations made pursuant to this section as follows:

(A) An initial determination made under subsection (d), not later than 15 days after the date on which the determination is made, including the justification for such determination and a current threat assessment by an appropriate law enforcement, security, or intelligence organization.

(B) A determination to deny the renewal of physical protection and security under subsection (b) or (c), or reimbursement under subsection (j), not later than 15 days after the date on which the determination is made, including—

(i) the justification for such determination;

(ii) a current threat assessment by an appropriate law enforcement, security, or intelligence organization; and

(iii) a certification that threats to the individual arising from duties performed while employed by the Department of Defense can be sufficiently mitigated without physical protection and security or reimbursement.

(C) A determination to terminate physical protection and security under subsection (b) or (c), or reimbursement under subsection (j), during a previously authorized period of protection, not later than 48 hours after the date on which the determination is made, including—

(i) the justification for such determination;

(ii) a current threat assessment by an appropriate law enforcement, security, or intelligence organization; and

(iii) a certification that threats to the individual arising from duties performed while employed by the Department of Defense can be sufficiently mitigated without protection and security or reimbursement.

(D) A determination to deny a request for reimbursement of an individual described in subsection (b), not later than 15 days after the date on which the determination is made, including—

(i) the justification for such determination;

(ii) a current threat assessment by an appropriate law enforcement, security, or intelligence organization; and

(iii) a certification that threats to the individual arising from duties performed while employed by the Department of Defense can be sufficiently mitigated without reimbursement.

(2) FORM OF REPORT.—A report submitted under paragraph (1) may be made in classified form.

(3) REGULATIONS AND GUIDELINES.—The Secretary of Defense shall submit to the congressional defense committees the regulations and guidelines prescribed pursuant to subsections (b) and (c)(1), and a description of any changes to such guidelines, not less than 20 days before the date on which such regulations take effect.

(4) EXCEPTIONS.—Paragraph (1) does not apply to determinations made with respect to the following individuals:

(A) An individual described in subsection (c)(2)(C) who is otherwise sponsored by the Secretary of Defense, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, or the Vice Chairman of the Joint Chiefs of Staff.

(B) An individual described in subsection (c)(2)(E).

(g) NOTIFICATION TO CERTAIN PROTECTED PERSONNEL.—The Secretary of Defense shall provide written notification to any individual receiving physical protection and personal security under subsection (a) or (b), or reimbursement under subsection (j), at least 90 days prior to terminating or denying the renewal of protection and security protection or reimbursement, as the case may be, for such individual.

(h) DEFINITIONS.—In this section, the terms "qualified members of the armed forces" and "qualified civilian employees of the Department of Defense" refer collectively to members or employees who are assigned to investigative, law enforcement, or security duties of any of the following:

(1) The Army Criminal Investigation Command.

(2) The Naval Criminal Investigative Service.

(3) The Air Force Office of Special Investigations.

(4) The Defense Criminal Investigative Service.

(5) The Pentagon Force Protection Agency.

(i) CONSTRUCTION.—

(1) NO ADDITIONAL LAW ENFORCEMENT OR ARREST AUTHORITY.—Other than the authority to provide protection and security under this section, nothing in this section may be construed to bestow any additional law enforcement or arrest authority upon the qualified

members of the armed forces and qualified civilian employees of the Department of Defense.

(2) POSSE COMITATUS.—Nothing in this section shall be construed to abridge section 1385 of title 18.

(3) AUTHORITIES OF OTHER DEPARTMENTS.—Nothing in this section may be construed to preclude or limit, in any way, the express or implied powers of the Secretary of Defense or other Department of Defense officials, or the duties and authorities of the Secretary of State, the Director of the United States Secret Service, the Director of the United States Marshals Service, or any other Federal law enforcement agency.

(j) REIMBURSEMENT.—The Secretary of Defense may reimburse a former or retired official who faces serious and credible threats arising from duties performed while employed by the Department for security services and equipment procured at the personal expense of the official, not to exceed an aggregate of $15,000,000 in any fiscal year for all former and retired officials authorized by the Secretary of Defense for such reimbursement.

(Added and amended Pub. L. 114–328, div. A, title IX, §952(c)(1), (4)–(6), Dec. 23, 2016, 130 Stat. 2375, 2376; Pub. L. 118–31, div. A, title V, §529A, Dec. 22, 2023, 137 Stat. 256; Pub. L. 118–159, div. A, title V, §522, title XVII, §1701(a)(16), Dec. 23, 2024, 138 Stat. 1883, 2204; Pub. L. 119–60, div. A, title X, §1042, title XVII, §1701(a)(12), Dec. 18, 2025, 139 Stat. 1035, 1208.)

## EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 114–328, is based on text of subsecs. (a) to (d) of section 1074 of Pub. L. 110–181, div. A, title X, Jan. 28, 2008, 122 Stat. 330, as amended, which was formerly set out as a note under section 113 of this title, prior to repeal by Pub. L. 114–328, div. A, title IX, §952(c)(3), Dec. 23, 2016, 130 Stat. 2375.

### PRIOR PROVISIONS

A prior section 714, added Pub. L. 105–85, div. A, title V, §597(a), Nov. 18, 1997, 111 Stat. 1766, related to required grade of officer selected for assignment to position of defense attaché to United States embassy in France, prior to repeal by Pub. L. 108–136, div. A, title V, §503(a), Nov. 24, 2003, 117 Stat. 1456.

Another prior section 714, act Aug. 10, 1956, ch. 1041, 70A Stat. 33, related to reports to Congress on length of tours of duty outside the United States by members of the Army and Air Force, prior to repeal by Pub. L. 86–533, §1(5)(A), June 29, 1960, 74 Stat. 246.

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1042(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 119–60, §1042(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (h).

Subsec. (c)(1). Pub. L. 119–60, §1042(4)(A), substituted "subsection (a) or (b)" for "paragraphs (1) through (7) of subsection (a)".

Subsec. (c)(4), (5). Pub. L. 119–60, §1042(4)(B), redesignated par. (7) as (4) and struck out former pars. (4) and (5) which related to requirement for written determination and duration of protection, respectively.

Subsec. (c)(6). Pub. L. 119–60, §1042(4)(B), struck out par. (6) which related to submission to Congress of certain determinations and regulations and guidelines.

Subsec. (c)(6)(A). Pub. L. 119–60, §1701(a)(12), which directed amendment of subsec. (b)(6)(A) by inserting "a" before "determination" in the second sentence, could not be executed because of the intervening amendment by Pub. L. 119–60, §1042(2), (4)(B), redesignating subsec. (b) as (c) and striking par. (6). See above.

Subsec. (c)(7). Pub. L. 119–60, §1042(4)(B), redesignated par. (7) as (4).

Subsecs. (d) to (g). Pub. L. 119–60, §1042(5), added subsecs. (d) to (g). Former subsecs. (d) and (e) redesignated (i) and (j).

Subsecs. (h) to (j). Pub. L. 119–60, §1042(1), redesignated subsecs. (c) to (e) as (h) to (j), respectively.

**2024**—Pub. L. 118–159, §522(a)(1), which directed striking out "WITHIN THE UNITED STATES" in section catchline, was executed by striking out "within the United States" after "provide protection" to reflect the probable intent of Congress and the style used in the catchline of this section.

Subsecs. (a), (b)(1). Pub. L. 118–159, §522(a)(2), (3), struck out "within the United States" after "personal

security" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 118–159, §1701(a)(16), substituted "a serious" for "an serious".

Subsec. (b)(3). Pub. L. 118–159, §522(b), inserted "or the Under Secretary of Defense for Intelligence and Security" after "only to the Deputy Secretary of Defense".

Subsec. (b)(4). Pub. L. 118–159, §522(c), inserted "whether" before "to provide", and substituted "any authorized" for "the authorized" and "any arrangements for such" for "the arrangements for the".

Subsec. (b)(6)(A). Pub. L. 118–159, §522(d), substituted "an initial determination made under paragraph (4), or a determination to deny the renewal of protection and security" for "each determination made under paragraph (4) to provide protection and security to an individual" and inserted at end "In the case of determination to continue protection and security, the Secretary shall make such submission not less than twice each year."

Subsec. (b)(7). Pub. L. 118–159, §522(e), added par. (7).

**2023**—Subsec. (b)(1)(A). Pub. L. 118–31, §529A(a)(1), substituted "serious and credible threat" for "imminent and credible threat".

Subsec. (b)(2)(B). Pub. L. 118–31, §529A(a)(2), struck out "for a period of up to two years beginning on the date on which the official separates from the Department" before period at end.

Subsec. (b)(5). Pub. L. 118–31, §529A(a)(3), amended par. (5) generally. Prior to amendment, par. (5) consisted of subpars. (A) to (C) relating to initial period of protection, subsequent period of protection, and requirement for compliance with regulations, respectively.

Subsec. (b)(6)(A). Pub. L. 118–31, §529A(a)(4), struck out "and of each determination under paragraph (5)(B) to extend such protection and security" after "an individual".

Subsec. (e). Pub. L. 118–31, §529A(b), added subsec. (e).

**2016**—Subsec. (a). Pub. L. 114–328, §952(c)(4)(A), substituted "armed forces" for "Armed Forces" in introductory provisions.

Subsec. (a)(6). Pub. L. 114–328, §952(c)(5)(A)(i), substituted "Members of the Joint Chiefs of Staff in addition to the Chairman and Vice Chairman" for "Chiefs of the Services".

Subsec. (a)(7), (8). Pub. L. 114–328, §952(c)(5)(A)(ii), (iii), redesignated par. (8) as (7) and struck out former par. (7) which read as follows: "Chief of the National Guard Bureau.".

Subsec. (b)(1). Pub. L. 114–328, §952(c)(4)(A), (5)(B), in introductory provisions, substituted "armed forces" for "Armed Forces" and "through (7)" for "through (8)".

Subsec. (b)(2)(A). Pub. L. 114–328, §952(c)(6), struck out ", military member," after "official" and inserted "or member of the armed forces" after "of the Department of Defense".

Subsec. (c). Pub. L. 114–328, §952(c)(4)(B), substituted "section, the terms 'qualified members of the armed forces' and" for "section:

"(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term 'congressional defense committees' means the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

"(2) QUALIFIED MEMBERS OF THE ARMED FORCES AND QUALIFIED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—The terms 'qualified members of the Armed Forces' and"; redesignated subpars. (A) to (E) of former par. (2) as pars. (1) to (5), respectively, of subsec. (c); and realigned margins.

Subsec. (d)(1). Pub. L. 114–328, §952(c)(4)(A), substituted "armed forces" for "Armed Forces".

Subsec. (d)(2). Pub. L. 114–328, §952(c)(4)(C), struck out ", United States Code" after "title 18".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### TEMPORARY EXTENSION OF AUTHORITY TO PROVIDE SECURITY FOR FORMER DEPARTMENT OF DEFENSE OFFICIALS

Pub. L. 117–263, div. A, title XI, §1105, Dec. 23, 2022, 136 Stat. 2817, provided authority to provide security for former Department of Defense Officials from Dec. 23, 2022, to Jan. 1, 2024.

[1] *So in original. Probably should be followed by "of subsection (a)".*

## §715. Attending Physician to the Congress: grade

A general officer serving as Attending Physician to the Congress, while so serving, holds the

grade of major general. A flag officer serving as Attending Physician to the Congress, while so serving, holds the grade of rear admiral (upper half).

(Added Pub. L. 115–232, div. A, title V, §508(a), Aug. 13, 2018, 132 Stat. 1749.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 715, act Aug. 10, 1956, ch. 1041, 70A Stat. 33, related to detail of members of regular and reserve components to assist those components prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, effective Dec. 1, 1994. See section 12501 of this title.

## §716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service

(a) Notwithstanding any other provision of law, the President, within authorized strengths and with the consent of the officer involved, may transfer any commissioned officer of a uniformed service from his uniformed service to, and appoint him in, another uniformed service. The Secretary of Defense, the Secretary of Homeland Security, the Secretary of Commerce, and the Secretary of Health and Human Services shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments.

(b) An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before the transfer.

(Added Pub. L. 85–599, §11(2), Aug. 6, 1958, 72 Stat. 521; amended Pub. L. 91–392, §1, Sept. 1, 1970, 84 Stat. 834; Pub. L. 96–215, §2(a), Mar. 25, 1980, 94 Stat. 123; Pub. L. 97–295, §1(10), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–94, title X, §1007(a)(1), Sept. 24, 1983, 97 Stat. 661; Pub. L. 99–348, title III, §304(a)(1), July 1, 1986, 100 Stat. 703; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 716 was renumbered section 717 of this title.

**AMENDMENTS**

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1986**—Subsec. (c). Pub. L. 99–348 struck out subsec. (c) which defined "uniformed service" for purposes of this section. See section 101(43) of this title.

**1983**—Pub. L. 98–94 amended section generally, substituting "transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service" for "transfers between armed forces and to and from National Oceanic and Atmospheric Administration" in section catchline and adding subsec. (c). Prior to amendment subsecs. (a) and (b) read as follows:

"(a) Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from his armed force or from the National Oceanic and Atmospheric Administration to, and appoint him in, another armed force or the National Oceanic and Atmospheric Administration. The Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Commerce shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments.

"(b) An officer transferred under this section—

"(1) may not be assigned precedence or relative rank higher than that which he held on the day before his transfer; and

"(2) shall be credited for retirement and pay purposes with the same years of service with which he has been credited on the day before his transfer."

**1982**—Subsec. (a). Pub. L. 97–295 struck out the comma after "policies".

**1980**—Pub. L. 96–215 inserted "and to and from National Oceanic and Atmospheric Administration" in

section catchline, divided existing unlettered provisions into subsecs. (a) and (b)(1), inserted references to National Oceanic and Atmospheric Administration and to Secretary of Commerce in subsec. (a) as so redesignated, and added subsec. (b)(2).

**1970**—Pub. L. 91–392 substituted "armed forces" for "Army, Navy, Air Force, and Marine Corps" in section catchline and "his armed force", "another armed force", "An officer transferred under this section may not be assigned", and "before his transfer" for "the Army, Navy, Air Force, or Marine Corps", "any other of those armed forces", "No officer transferred pursuant to this authority shall be assigned", and "prior to such transfer" in text, respectively, and authorized interservice transfers of officers of the Coast Guard.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under subsec. (a) of this section delegated to Secretary of Commerce by section 1(m) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

## §717. Members of the armed forces: participation in international sports

(a) The Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may permit members of the armed forces under his jurisdiction to train for, attend, and participate in any of the following sports competitions:

(1) The Pan-American Games and the Olympic Games, and qualifying events and preparatory competition for those games.

(2) The Paralympic Games, if eligible to participate in those games, and qualifying events and preparatory competition for those games.

(3) Any other international competition in amateur sports, if the Secretary of State determines that the interests of the United States will be served by participation in that competition, and qualifying events and preparatory competition for that competition.

(b) Subject to subsections (c) and (d), the Secretary of Defense or the Secretary of Homeland Security, as the case may be, may spend such funds, and acquire and use such supplies, as he determines to be necessary to provide for—

(1) the training of members of the armed forces for the competitions covered by subsection (a);

(2) their attendance at and participation in those competitions; and

(3) the training of animals of the armed forces for, and their attendance at and participation in, those competitions.

(c)(1) Not more than $3,000,000, to be apportioned among the military departments as the Secretary of Defense prescribes, may be spent during each successive four-year period beginning on October 1, 1980, for the participation of members of the Army, Navy, Air Force, Marine Corps, and Space Force in the competitions covered by subsection (a).

(2) Not more than $100,000 may be spent during each successive four-year period beginning on October 1, 1980, for the participation of members of the Coast Guard in the competitions covered by subsection (a).

(d) Appropriations available to the Department of Defense or to the Department of Homeland Security, as the case may be, may be used to carry out this section.

(Added Pub. L. 85–861, §1(17), Sept. 2, 1958, 72 Stat. 1442, §716; renumbered §717, Pub. L.

87–651, title I, §103(a), Sept. 7, 1962, 76 Stat. 508; amended Pub. L. 89–348, §1(12), Nov. 8, 1965, 79 Stat. 1311; Pub. L. 89–718, §7, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §511(22), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 98–525, title XV, §1534, Oct. 19, 1984, 98 Stat. 2632; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title V, §561, Jan. 6, 2006, 119 Stat. 3266; Pub. L. 116–283, div. A, title IX, §924(b)(1)(F), Jan. 1, 2021, 134 Stat. 3820.)

HISTORICAL AND REVISION NOTES
1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 716 [now 717] | 22:1981.<br>22:1982.<br>22:1983. | Mar. 14, 1955, ch. 11 (less last 2 pars.), 69 Stat. 11. |

In subsection (a), the first 27 words are substituted for section 1 of the source statute. The reference to the Second Pan-American Games, the Seventh Olympic Winter Games, and the Games of the XVI Olympiad are omitted as covered by clause (1) of the revised subsection. The words "subject to the limitation contained in subsection (b) herein" are omitted as covered by revised subsection (b). The words "any other" are substituted for the words "other * * * not specified in (1) above".

In subsection (b), the word "entry" is substituted for the word "commitment" for clarity. The words "or the Secretary of the Treasury, as the case may be" are inserted since, under subsection (a), the Secretary of the Treasury has the prescribed authority with respect to members of the Coast Guard when it is not operating as a service in the Navy.

In subsection (c), the words "materiel, and equipment" are omitted as covered by the word "supplies" as defined in section 101(26) of this title.

**1962 ACT**

This section corrects a duplication in numbering occasioned by the addition of a duplicate section 716 by Pub. L. 85–861. (The first section 716 was added by Pub. L. 85–599.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (c)(1). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**2006**—Subsec. (a). Pub. L. 109–163 substituted "participate in any of the following sports competitions:

"(1) The Pan-American Games and the Olympic Games, and qualifying events and preparatory competition for those games.

"(2) The Paralympic Games, if eligible to participate in those games, and qualifying events and preparatory competition for those games.

"(3) Any other"

for "participate in—

"(1) Pan-American Games and Olympic Games and qualifying events and preparatory competition for those games; and

"(2) any other".

**2002**—Subsecs. (a), (b), (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1984**—Subsec. (a)(1). Pub. L. 98–525, §1534(1), included qualifying events and preparatory competition.

Subsec. (a)(2). Pub. L. 98–525, §1534(2), included qualifying events and preparatory competition.

Subsec. (b). Pub. L. 98–525, §1534(3), struck out reference to subsec. (e).

Subsec. (c). Pub. L. 98–525, §1534(4), (6), designated existing provisions as par. (1), substituted "$3,000,000" for "$800,000" and "October 1, 1980" for "March 14, 1955", redesignated subsec. (d) as par. (2), and substituted "October 1, 1980" for "March 14, 1955".

Subsecs. (d), (e). Pub. L. 98–525, §1534(7), redesignated subsec. (e) as (d). Former subsec. (d) redesignated par. (2) of subsec. (c).

**1980**—Subsec. (a). Pub. L. 96–513, §511(22)(A), substituted "Transportation" for "the Treasury".

Subsec. (b). Pub. L. 96–513, §511(22), redesignated subsec. (c) as (b) and substituted reference to subsec.

(c) for reference to subsec. (f), and "Transportation" for "the Treasury".

Subsecs. (c), (d). Pub. L. 96–513, §511(22)(C), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsecs. (e), (f). Pub. L. 96–513, §511(22) (A), (C), redesignated subsec. (f) as (e) and substituted "Transportation" for "the Treasury". Former subsection (e) redesignated (d).

**1966**—Subsec. (b). Pub. L. 89–718 repealed subsec. (b) which required the Secretary of Defense or the Secretary of the Treasury to report to the Committees on Armed Services of the Senate and House of Representatives the details of the proposed participation by members of the Armed Forces under his jurisdiction in international amateur sports competition. See also Pub. L. 89–348, §1(12), Nov. 8, 1965, 79 Stat. 1311, which earlier repealed the reporting requirement of subsec. (b).

**1965**—Subsec. (b). Pub. L. 89–348 repealed provision of subsec. (b) which required the Secretary of Defense or the Secretary of the Treasury, as the case may be, to report to the Committees on the Armed Services of the Senate and House of Representatives the details of the proposed participation by members of the Armed Forces under his jurisdiction in international amateur sports competition.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## [§718. Repealed. Pub. L. 99–433, title I, §110(a)(1), Oct. 1, 1986, 100 Stat. 1001]

Section, added Pub. L. 87–651, title II, §205(a), Sept. 7, 1962, 76 Stat. 519, provided that officers of the armed forces could be detailed for duty as assistants or personal aides to the Secretary of Defense.

## §719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration

Upon the request of the Secretary of Commerce, the Secretary of a military department may assign or detail members of the armed forces under his jurisdiction for duty in the National Oceanic and Atmospheric Administration, Department of Commerce, with reimbursement from the Department of Commerce. Notwithstanding any other provision of law, a member so assigned or detailed may exercise the functions, and assume the title, of any position in that Administration without affecting his status as a member of an armed force, but he is not entitled to the compensation fixed for that position.

(Added Pub. L. 89–683, §1(1), Oct. 15, 1966, 80 Stat. 960; amended Pub. L. 96–513, title I, §511(23)(A), (B), Dec. 12, 1980, 94 Stat. 2921.)

### EDITORIAL NOTES

### AMENDMENTS

**1980**—Pub. L. 96–513 substituted "of members of the armed forces to National Oceanic and Atmospheric" for "to Environmental Science Services" in section catchline, and substituted "National Oceanic and Atmospheric" for "Environmental Science Services" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## [§720. Repealed. Pub. L. 114–328, div. A, title V, §502(g)(1), Dec. 23, 2016, 130 Stat. 2103]

Section, added Pub. L. 96–513, title V, §501(9)(A), Dec. 12, 1980, 94 Stat. 2907, related to appointment of Chief of Staff to President.

## [§721. Repealed. Pub. L. 111–84, div. A, title V, §502(i)(1), Oct. 28, 2009, 123 Stat. 2276]

Section, added Pub. L. 105–85, div. A, title V, §501(a), Nov. 18, 1997, 111 Stat. 1723; amended Pub. L. 107–314, div. A, title X, §1041(a)(4), Dec. 2, 2002, 116 Stat. 2645, related to limitation on appointments, assignments, details, and duties outside a general or flag officer's own service.

## [§722. Repealed. Pub. L. 114–328, div. A, title V, §502(h)(1), Dec. 23, 2016, 130 Stat. 2103]

Section, added Pub. L. 109–364, div. A, title V, §507(a)(1)(A), Oct. 17, 2006, 120 Stat. 2180, related to grade of Attending Physician to the Congress.

## §723. Support of civil authorities: requirement for use of members of the Armed Forces and Federal law enforcement personnel

(a) RESPONSE TO CIVIL DISTURBANCES.—Whenever a member of the armed forces (including the National Guard) or Federal law enforcement personnel provide support to Federal authorities to respond to a civil disturbance, each individual employed in the capacity of providing such support shall visibly display—

(1) the individual's name or other individual identifier that is unique to that individual; and

(2) the name of the armed force, Federal entity, or other organization by which such individual is employed.

(b) SUPPORT TO CIVILIAN LAW ENFORCEMENT AGENCIES BY MEMBERS OF THE ARMED FORCES.—Whenever a member of the armed forces (including the National Guard) provides support to civilian law enforcement agencies, each such member providing such support shall visibly display the name of the armed force in which such member operates.

(c) EXCEPTION.—The requirements under subsections (a) and (b) shall not apply to individuals referred to in any such subsection who—

(1) do not wear a uniform or other distinguishing clothing or equipment in the regular performance of their official duties; or

(2) are engaged in undercover operations in the regular performance of their official duties.

(Added Pub. L. 116–283, div. A, title X, §1064(a), Jan. 1, 2021, 134 Stat. 3860; amended Pub. L. 119–60, div. A, title X, §1043(a)(1), (b)(1), Dec. 18, 2025, 139 Stat. 1037.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §1043(b)(1), substituted "civil authorities" for "Federal authorities in response to civil disturbances" in section catchline.

Subsec. (a). Pub. L. 119–60, §1043(a)(1), substituted "Response to Civil Disturbances" for "Requirement"

in heading.

Subsec. (b). Pub. L. 119–60, §1043(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 119–60, §1043(a)(2), (4), redesignated subsec. (b) as (c) and, in introductory provisions, substituted "requirements under subsections (a) and (b)" for "requirement under subsection (a)" and "any such subsection" for "such subsection".

# CHAPTER 43—RANK AND COMMAND

Sec.
741. Rank: commissioned officers of the armed forces.
742. Rank: warrant officers.
743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps; Chief of Space Operations.
[744, 745. Repealed.]
747. Command: when different commands of Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard join.
749. Command: commissioned officers in same grade or corresponding grades on duty at same place.
750. Command: retired officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title IX, §924(b)(2)(C), (20)(C), Jan. 1, 2021, 134 Stat. 3821, 3824, added items 743 and 747 and struck out former items 743 "Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps" and 747 "Command: when different commands of Army, Navy, Air Force, Marine Corps, and Coast Guard join".

**2016**—Pub. L. 114–328, div. A, title V, §502(i)(2), Dec. 23, 2016, 130 Stat. 2103, struck out item 744 "Physician to White House: assignment; grade".

**1991**—Pub. L. 102–190, div. A, title XI, §1114(c), Dec. 5, 1991, 105 Stat. 1502, added item 742 and struck out item 745 "Warrant officers: rank".

**1987**—Pub. L. 100–180, div. A, title XIII, §1314(b)(5)(B), Dec. 4, 1987, 101 Stat. 1175, inserted "; Commandant of the Marine Corps" after "Air Force" in item 743.

**1980**—Pub. L. 96–513, title V, §501(10)(A), Dec. 12, 1980, 94 Stat. 2908, as amended Pub. L. 97–22, §10(a)(1), July 10, 1981, 95 Stat. 136, substituted "armed forces" for "Army, Navy, Air Force, and Marine Corps" in item 741.

Pub. L. 96–513, title V, §501(10)(B), Dec. 12, 1980, 94 Stat. 2908, added item 750.

**1968**—Pub. L. 90–235, §5(a)(1)(B), Jan. 2, 1968, 81 Stat. 761, added items 747 and 749.

**1958**—Pub. L. 85–861, §1(19), Sept. 2, 1958, 72 Stat. 1442, struck out item 742 "Rank: officers of regular and reserve components".

## §741. Rank: commissioned officers of the armed forces

(a) Among the grades listed below, the grades of general and admiral are equivalent and are senior to other grades and the grades of second lieutenant and ensign are equivalent and are junior to other grades. Intermediate grades rank in the order listed as follows:

| *Army, Air Force, Marine Corps, and Space Force* | *Navy and Coast Guard* |
|---|---|
| General | Admiral. |
| Lieutenant general | Vice admiral. |
| Major general | Rear admiral. |
| Brigadier general | Rear admiral (lower half). |
| Colonel | Captain. |

| | |
|---|---|
| Lieutenant colonel | Commander. |
| Major | Lieutenant commander. |
| Captain | Lieutenant. |
| First lieutenant | Lieutenant (junior grade). |
| Second lieutenant | Ensign. |

(b) Rank among officers of the same grade or of equivalent grades is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer.

(c) Rank among officers of the Army, Navy, Air Force, Marine Corps, and Space Force of the same grade or of equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, Marine Corps, and Space Force.

(d)(1) The date of rank of an officer of the Army, Navy, Air Force, Marine Corps, or Space Force who holds a grade as the result of an original appointment shall be determined by the Secretary of the military department concerned at the time of such appointment. The date of rank of an officer of the Army, Navy, Air Force, Marine Corps, or Space Force who holds a grade as the result of an original appointment and who at the time of such appointment was awarded service credit for prior commissioned service or constructive credit for advanced education or training, or special experience shall be determined so as to reflect such prior commissioned service or constructive service. Determinations by the Secretary concerned under this paragraph shall be made under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, Marine Corps, and Space Force.

(2) Except as otherwise provided by law, the date of rank of an officer who holds a grade as the result of a promotion is the date of his appointment to that grade.

(3) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, Marine Corps, and Space Force, the date of rank of a reserve commissioned officer (other than a warrant officer) of the Army, Navy, Air Force, Marine Corps, or Space Force who is to be placed on the active-duty list and who has not been on continuous active duty since his original appointment as a reserve commissioned officer in a grade above chief warrant officer, W–5, or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list may, effective on the date on which he is placed on the active-duty list or reserve active-status list, be changed by the Secretary concerned to a later date to reflect such officer's qualifications and experience. The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.

(4)(A) The Secretary concerned may adjust the date of rank of an officer appointed under section 624(a) of this title to a higher grade that is not a general officer or flag officer grade if the appointment of that officer to that grade is delayed from the date on which (as determined by the Secretary) it would otherwise have been made by reason of unusual circumstances (as determined by the Secretary) that cause an unintended delay in—

(i) the processing or approval of the report of the selection board recommending the appointment of that officer to that grade; or

(ii) the processing or approval of the promotion list established on the basis of that report.

(B) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be consistent—

(i) with the officer's position on the promotion list for that grade and competitive category when additional officers in that grade and competitive category were needed; and

(ii) with compliance with the applicable authorized strengths for officers in that grade and competitive category.

(C) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be the effective date for—

(i) the officer's pay and allowances for that grade; and

(ii) the officer's position on the active-duty list.

(D) When under subparagraph (A) the Secretary concerned adjusts the date of rank of an officer in a grade to which the officer was appointed by and with the advice and consent of the Senate and the adjustment is to a date before the date of the advice and consent of the Senate to that appointment, the Secretary shall promptly transmit to the Committee on Armed Services of the Senate a notification of that adjustment. Any such notification shall include the name of the officer and a discussion of the reasons for the adjustment of date of rank.

(E) Any adjustment in date of rank under this paragraph shall be made under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, Marine Corps, and Space Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 33; Pub. L. 96–513, title I, §107, Dec. 12, 1980, 94 Stat. 2869; Pub. L. 97–22, §4(h), July 10, 1981, 95 Stat. 127; Pub. L. 97–86, title IV, §405(b)(8), Dec. 1, 1981, 95 Stat. 1106; Pub. L. 97–295, §1(11), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–557, §25(c), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 99–145, title V, §514(b)(8), Nov. 8, 1985, 99 Stat. 629; Pub. L. 102–190, div. A, title XI, §1131(1)(A), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103–337, div. A, title XVI, §1626, Oct. 5, 1994, 108 Stat. 2962; Pub. L. 104–106, div. A, title XV, §1501(a)(3), Feb. 10, 1996, 110 Stat. 495; Pub. L. 107–107, div. A, title V, §506(a), Dec. 28, 2001, 115 Stat. 1089; Pub. L. 116–283, div. A, title IX, §924(b)(1)(G), (3)(M), Jan. 1, 2021, 134 Stat. 3820, 3821; Pub. L. 118–31, div. A, title XVII, §1741(a)(2), Dec. 22, 2023, 137 Stat. 679.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 741(a) | 10:517 (1st and 2d sentences, less applicability to rank within grade).<br>14:43.<br>34:651 (less applicability to establishment of commissioned grades, and less applicability to rank within grade).<br>34:241.<br>34:241a (1st and 2d sentences, less applicability to rank within grade). | Aug. 7, 1947, ch. 512, §§314(j), 516, 61 Stat. 865, 908.<br>R.S. 1603 (less applicability to establishment of commissioned grades).<br>R.S. 1466.<br>Aug. 4, 1949, ch. 393, §1(43), 63 Stat. 498. |
| 741(b) | 10:517 (1st and 2d sentences, as applicable to rank within grade).<br>34:241a (1st and 2d sentences, as applicable to rank within grade).<br>34:626–1(j).<br>34:651 (less applicability to establishment of commissioned grades, and as applicable to rank within grade). | |

| | | |
|---|---|---|
| 741(c) | 10:517 (less 1st and 2d sentences).<br>34:241a (less 1st and 2d sentences). | |

In subsection (a), the word "Regular", pertaining to major generals and brigadier generals, in 10:517 and 34:241a, is omitted, since the last sentence of 10:517 and 34:241a establish the rank of nonregular officers of the Army and the Air Force, with respect to officers of the Regular Army and the Regular Air Force. The effect of establishing their rank with respect to regular officers, when read in connection with the provisions prescribing the rank of officers of the regular components with officers of the other services, under 10:517 (less last sentence), 34:241a (less last sentence), and 34:241, is therefore to establish the rank of nonregular officers with respect to officers of the other listed services. This allows a consolidation of 10:517 (less last sentence, as applicable to rank), 34:241, and 34:241a (less last sentence, as applicable to rank), together with 34:651, into a table of rank among officers of the Army, Navy, Air Force, and Marine Corps. The words "lineal rank only being considered", in 34:241, are covered by setting forth the grades in tabular form. The words "whether on the active or retired list", in 34:241, are omitted, since retired officers of the Navy continue to be officers of the Navy. The words "Lieutenant (junior grade)" are substituted for the word "masters", in R.S. 1466, to reflect the change made in the name of that grade by the Act of March 3, 1883, ch. 97 (2d par.), 22 Stat. 472.

In subsections (a) and (b), the words "entitled to pay" and "entitled to the pay", respectively, are inserted, since rear admiral is one grade with two ranks depending on the amount of pay to which the incumbent is entitled.

In subsection (b), the words "in such grades", in 10:517 and 34:241a, are omitted as surplusage.

In subsection (c), the words "A commissioned officer of the Army or the Air Force" are substituted for the words "All officers of the Army of the United States, including all components thereof", since rank among officers of the Regular Army and Regular Air Force is determined under sections 3573, 3574, 8573, and 8574 of this title.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 substituted "Marine Corps, and Space Force" for "and Marine Corps" in table.

**2021**—Subsec. (c). Pub. L. 116–283, §924(b)(1)(G), substituted "Marine Corps, and Space Force" for "and Marine Corps" in two places.

Subsec. (d). Pub. L. 116–283, §924(b)(3)(M), substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

Pub. L. 116–283, §924(b)(1)(G), substituted "Marine Corps, and Space Force" for "and Marine Corps" wherever appearing.

**2001**—Subsec. (d)(4). Pub. L. 107–107 added par. (4).

**1996**—Subsec. (d)(3). Pub. L. 104–106 made technical correction to directory language of Pub. L. 103–337, §1626(1). See 1994 Amendment note below.

**1994**—Subsec. (d)(3). Pub. L. 103–337, §1626(3), inserted at end "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title."

Pub. L. 103–337, §1626(2), inserted "or reserve active-status list" after "he is placed on the active-duty list".

Pub. L. 103–337, §1626(1), as amended by Pub. L. 104–106, inserted "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list may, effective on the date on which he is placed on the active-duty list" after "warrant officer, W–5,".

**1991**—Subsec. (d)(3). Pub. L. 102–190 substituted "chief warrant officer, W–5," for "warrant officer (W–4)".

**1985**—Subsec. (a). Pub. L. 99–145 substituted "Rear admiral (lower half)" for "Commodore" in table.

**1984**—Subsec. (a). Pub. L. 98–557 struck out "(Navy) and Rear admiral (upper half) (Coast Guard)" after "Rear admiral" and "(Navy) and Rear admiral (lower half) (Coast Guard)" after "Commodore" in table.

**1982**—Subsec. (c). Pub. L. 97–295 substituted "the" for "the the" after "uniformly among".

**1981**—Pub. L. 97–22, §4(h)(4), substituted "armed forces" for "Army, Navy, Air Force, and Marine Corps" in section catchline.

Subsec. (a). Pub. L. 97–86 substituted "Commodore" for "Commodore admiral" in right column of table opposite Brigadier general.

Pub. L. 97–22, §4(h)(1), inserted reference to the Coast Guard in column heading and inserted references to Rear admiral (upper half) (Coast Guard) and Rear admiral (lower half) (Coast Guard).

Subsec. (c). Pub. L. 97–22, §4(h)(2), inserted "of the Army, Navy, Air Force, and Marine Corps" after "Rank among officers".

Subsec. (d)(1). Pub. L. 97–22, §4(h)(3)(A), inserted "of the Army, Navy, Air Force, or Marine Corps" after "officer" in two places.

Subsec. (d)(3). Pub. L. 97–22, §4(h)(3)(B), inserted "of the Army, Navy, Air Force, or Marine Corps" after "(other than a warrant officer)".

**1980**—Pub. L. 96–513 completely revised section to restructure and redefine various ranks of commissioned officers of the Army, Air Force, Marine Corps, and Navy and relationships of officers in those ranks among themselves.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §506(c), Dec. 28, 2001, 115 Stat. 1090, provided that:

"(1) Paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a), and paragraph (2) of section 14308(c) of such title, as added by subsection (b), shall apply with respect to any report of a selection board recommending officers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after the date of the enactment of this Act [Dec. 28, 2001].

"(2) The Secretary of the military department concerned may apply the applicable paragraph referred to in paragraph (1) in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before the date of the enactment of this Act if the Secretary determines that such appointment would have been made on an earlier date that is on or after October 1, 2001, and was delayed under the circumstances specified in paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a)."

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for

treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §742. Rank: warrant officers

(a) Among warrant officer grades, warrant officer grades of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Rank among warrant officers of the same grade, and date of rank of warrant officers, is determined in the same manner as prescribed in section 741 of this title for officers in grades above warrant officer grades.

(Added Pub. L. 102–190, div. A, title XI, §1114(a), Dec. 5, 1991, 105 Stat. 1502.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 742, act Aug. 10, 1956, ch. 1041, 70A Stat. 34, related to rank of regular officers and reserve officers, prior to repeal by Pub. L. 85–861, §36B(4), Sept. 2, 1958, 72 Stat. 1570.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps; Chief of Space Operations

The Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Chief of Space Operations rank among themselves according to dates of appointment to those offices, and rank above all other officers on the active-duty list of the Army, Navy, Air Force, Marine Corps, and Space Force, except the Chairman and the Vice Chairman of the Joint Chiefs of Staff.

(Aug. 10, 1956, ch. 1041, 70A Stat. 34; Pub. L. 96–513, title I, §501(11), Dec. 12, 1980, 94 Stat. 2908; Pub. L. 99–433, title II, §202(b), Oct. 1, 1986, 100 Stat. 1010; Pub. L. 100–180, div. A, title XIII, §1314(a)(2), (b)(5)(A), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 116–283, div. A, title IX, §924(b)(1)(H), (20)(A), (B), Jan. 1, 2021, 134 Stat. 3820, 3823.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 743 | 5:626c(b). | July 26, 1947, ch. 343, §208(b), 61 Stat. 503; Sept. 19, 1951, ch. 407, §402, 65 Stat. 333. |

5:626c(b) (1st sentence) is omitted as superseded by sections 8031(a)(1) and 8034(a) of this title. 5:626c(b) (2d sentence) is omitted as covered by section 8034(d) of this title. 5:626c(b) (3d and 4th sentences) is omitted as executed. 5:626c(b) (5th sentence) is omitted as covered by section 8034(b) of this title. 5:626c(b) (proviso of last sentence) is omitted as executed, since the incumbents to whom it is applied no longer hold the offices mentioned. The exception as to the Chairman of the Joint Chiefs of Staff is included because of section 142(c) of this title. The words "and the Marine Corps" are inserted, since under section 5081 of this title the Chief of Naval Operations takes precedence over all other officers of the naval service.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §924(b)(20)(B), amended section catchline generally. Prior to amendment, section catchline read as follows: "Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps".

Pub. L. 116–283, §924(b)(20)(A), substituted "the Commandant of the Marine Corps, and the Chief of Space Operations" for "and the Commandant of the Marine Corps".

Pub. L. 116–283, §924(b)(1)(H), substituted "Marine Corps, and Space Force" for "and Marine Corps".

**1987**—Pub. L. 100–180, §1314(b)(5)(A), inserted "; Commandant of the Marine Corps" after "Air Force" in section catchline.

Pub. L. 100–180, §1314(a)(2), made technical correction in directory language of Pub. L. 99–433. See 1986 Amendment note below.

**1986**—Pub. L. 99–433, as amended by Pub. L. 100–180, §1314(a)(2), inserted reference to the Commandant of the Marine Corp and the Vice Chairman of the Joint Chiefs of Staff.

**1980**—Pub. L. 96–513 substituted "active-duty list" for "active list".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–180, div. A, title XIII, §1314(e)(1), Dec. 4, 1987, 101 Stat. 1176, provided that: "The amendments made by subsection (a) [amending this section, sections 2431 to 2434 of this title, and provisions set out as notes under sections 111 and 3033 of this title] shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433)."

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## [§744. Repealed. Pub. L. 114–328, div. A, title V, §502(i)(1), Dec. 23, 2016, 130 Stat. 2103]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 34, related to assignment and grade of physician to the White House.

## [§745. Repealed. Pub. L. 102–190, div. A, title XI, §1114(b), Dec. 5, 1991, 105 Stat. 1502]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 34, related to ranking of warrant officers. See section 742 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

## §747. Command: when different commands of Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard join

When different commands of the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard join or serve together, the officer highest in rank in the Army, Navy, Air Force, Marine Corps,

Space Force, or Coast Guard on duty there, who is otherwise eligible to command, commands all those forces unless otherwise directed by the President.

(Added Pub. L. 90–235, §5(a)(1)(A), Jan. 2, 1968, 81 Stat. 760; amended Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(iv), (B), Jan. 1, 2021, 134 Stat. 3821.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §924(b)(2)(B), amended section catchline generally. Prior to amendment, section catchline read as follows: "Command: when different commands of Army, Navy, Air Force, Marine Corps, and Coast Guard join".

Pub. L. 116–283, §924(b)(2)(A)(iv), substituted "Marine Corps, Space Force," for "Marine Corps," in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §749. Command: commissioned officers in same grade or corresponding grades on duty at same place

(a) When the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, has on duty in the same area, field command, or organization two or more commissioned officers of the same grade who are otherwise eligible to command, the President may assign the command without regard to rank in that grade.

(b) When officers of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard are on duty in the same area, field, command, or organization and two or more commissioned officers of different services, who are otherwise eligible to command, have the same grade or corresponding grades, the President may assign the command without regard to rank in that grade.

(Added Pub. L. 90–235, §5(a)(1)(A), Jan. 2, 1968, 81 Stat. 760; amended Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(v), Jan. 1, 2021, 134 Stat. 3821.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps," in subsecs. (a) and (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### EXECUTIVE DOCUMENTS

### DELEGATION OF AUTHORITY

For delegation of authority of President under this section, see section 1 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

## §750. Command: retired officers

A retired officer has no right to command except when on active duty.

(Added Pub. L. 96–513, title I, §108, Dec. 12, 1980, 94 Stat. 2870.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

# CHAPTER 45—THE UNIFORM

Sec.
771. Unauthorized wearing prohibited.
771a. Disposition on discharge.
772. When wearing by persons not on active duty authorized.
773. When distinctive insignia required.
774. Religious apparel: wearing while in uniform.
775. Issue of uniform without charge.
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777a. Wearing of insignia of higher grade before appointment to a grade above major general or rear admiral (frocking): authority; restrictions.

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 111–383, div. A, title V, §505(a)(2), Jan. 7, 2011, 124 Stat. 4210, added item 777a.

**1996**—Pub. L. 104–106, div. A, title V, §503(a)(2), Feb. 10, 1996, 110 Stat. 294, added item 777.

**1992**—Pub. L. 102–484, div. A, title III, §377(b), Oct. 23, 1992, 106 Stat. 2387, added item 775 and redesignated former item 775 as 776.

**1987**—Pub. L. 100–180, div. A, title V, §508(b), Dec. 4, 1987, 101 Stat. 1087, added item 774 and redesignated former item 774 as 775.

**1968**—Pub. L. 90–235, §8(1)(B), Jan. 2, 1968, 81 Stat. 764, added item 771a.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REQUIREMENTS RELATING TO REDUCTION OF OUT-OF-POCKET COSTS OF MEMBERS OF THE ARMED FORCES FOR UNIFORM ITEMS

Pub. L. 117–263, div. A, title III, §390, Dec. 23, 2022, 136 Stat. 2549, provided that:

"(a) TRACKING REQUIREMENT.—The Secretary of Defense shall take such steps as may be necessary to track the expected useful life of uniform items for officers and enlisted members of the Armed Forces, for the purposes of—

"(1) estimating the rate at which such uniform items are replaced;

"(2) determining the resulting out-of-pocket costs for such members over time;

"(3) determining the necessity of establishing a uniform replacement allowance for officers of the

Armed Forces, based on the replacement rate estimated pursuant to paragraph (1) and the out-of-pocket costs determined pursuant to paragraph (2); and

"(4) determining the adequacy of the uniform allowance for enlisted members of the Armed Forces.

"(b) REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the expected useful life of required uniform items for members of the Armed Forces, projected changes to such required uniform items, and related costs anticipated by the Secretary (disaggregated by Armed Force). Such report shall include—

"(1) pricing information for each such item, including items that are not considered uniquely military; and

"(2) an assessment of the necessity of establishing a uniform replacement allowance for officers of the Armed Forces, as determined pursuant to subsection (a)(3)."

## PILOT PROGRAM FOR TEMPORARY ISSUANCE OF MATERNITY-RELATED UNIFORM ITEMS

Pub. L. 116–283, div. A, title III, §361, Jan. 1, 2021, 134 Stat. 3546, provided that:

"(a) PILOT PROGRAM.—The Director of the Defense Logistics Agency, in coordination with the Secretaries concerned, shall carry out a pilot program for issuing maternity-related uniform items to pregnant members of the Armed Forces, on a temporary basis and at no cost to such member. In carrying out the pilot program, the Director shall take the following actions:

"(1) The Director shall maintain a stock of each type of maternity-related uniform item determined necessary by the Secretary concerned, including service uniforms items, utility uniform items, and other items relating to the command and duty assignment of the member requiring issuance.

"(2) The Director shall ensure that such items have not been treated with the chemical permethrin.

"(3) The Director, in coordination with the Secretary concerned, shall determine a standard number of maternity-related uniform items that may be issued per member.

"(4) The Secretary concerned shall ensure that any member receiving a maternity-related uniform item returns such item to the relevant office established under paragraph (1) on the date on which the Secretary concerned determines the member no longer requires such item.

"(5) The Secretary concerned shall inspect, process, repair, clean, and re-stock items returned by a member pursuant to paragraph (4) for re-issuance from such relevant office.

"(6) The Director, in coordination with the Secretaries concerned, may issue such guidance and regulations as necessary to carry out the pilot program.

"(b) TERMINATION.—No maternity-related uniform items may be issued to a member of the Armed Forces under the pilot program after September 30, 2026.

"(c) REPORT.—Not later than September 30, 2025, the Director of the Defense Logistics Agency, in coordination with the Secretaries concerned, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program. Such report shall include each of the following:

"(1) For each year during which the pilot program was carried out, the number of members of the Armed Forces who received a maternity-related uniform item under the pilot program.

"(2) An overview of the costs associated with, and any savings realized by, the pilot program, including a comparison of the cost of maintaining a stock of maternity-related uniform items for issuance under the pilot program versus the cost of providing allowances to members for purchasing such items.

"(3) A recommendation on whether the pilot program should be extended after the date of termination under subsection (b) and whether legislation is necessary for such extension.

"(4) Any other matters that the Secretary of Defense determines appropriate."

## FUNCTIONAL BADGE OR INSIGNIA UPON COMMISSION FOR CHAPLAINS

Pub. L. 116–92, div. A, title V, §510B, Dec. 20, 2019, 133 Stat. 1348, provided that: "A military chaplain shall receive a functional badge or insignia upon commission."

## NOTIFICATION REQUIREMENTS RELATING TO CHANGES TO UNIFORM OF MEMBERS OF THE UNIFORMED SERVICES

Pub. L. 115–232, div. A, title III, §356, Aug. 13, 2018, 132 Stat. 1732, as amended by Pub. L. 116–283, div. A, title III, §348, Jan. 1, 2021, 134 Stat. 3542, provided that:

"(a) CONTRACTOR NOTIFICATION.—The Director of the Defense Logistics Agency shall notify a contractor when one of the uniformed services plans to make a change to a uniform component that is provided by that contractor. Such a notification shall be made not less than 12 months prior to any

announcement of a public solicitation for the manufacture of the new uniform component.

"(b) WAIVER.—If the Secretary of a military department or the Director of the Defense Logistics Agency determines that the notification requirement under subsection (a) would adversely affect operational safety, force protection, or the national security interests of the United States, the Secretary or the Director may waive such requirement."

## REVISED POLICY ON GROUND COMBAT AND CAMOUFLAGE UTILITY UNIFORMS

Pub. L. 113–66, div. A, title III, §352(a)–(f), Dec. 26, 2013, 127 Stat. 742, 743, provided that:

"(a) ESTABLISHMENT OF POLICY.—It is the policy of the United States that the Secretary of Defense shall eliminate the development and fielding of Armed Force-specific combat and camouflage utility uniforms and families of uniforms in order to adopt and field a common combat and camouflage utility uniform or family of uniforms for specific combat environments to be used by all members of the Armed Forces.

"(b) PROHIBITION.—Except as provided in subsection (c), after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of a military department may not adopt any new camouflage pattern design or uniform fabric for any combat or camouflage utility uniform or family of uniforms for use by an Armed Force, unless—

"(1) the new design or fabric is a combat or camouflage utility uniform or family of uniforms that will be adopted by all Armed Forces;

"(2) the Secretary adopts a uniform already in use by another Armed Force; or

"(3) the Secretary of Defense grants an exception based on unique circumstances or operational requirements.

"(c) EXCEPTIONS.—Nothing in subsection (b) shall be construed as—

"(1) prohibiting the development of combat and camouflage utility uniforms and families of uniforms for use by personnel assigned to or operating in support of the unified combatant command for special operations forces described in section 167 of title 10, United States Code;

"(2) prohibiting engineering modifications to existing uniforms that improve the performance of combat and camouflage utility uniforms, including power harnessing or generating textiles, fire resistant fabrics, and anti-vector, anti-microbial, and anti-bacterial treatments;

"(3) prohibiting the Secretary of a military department from fielding ancillary uniform items, including headwear, footwear, body armor, and any other such items as determined by the Secretary;

"(4) prohibiting the Secretary of a military department from issuing vehicle crew uniforms;

"(5) prohibiting cosmetic service-specific uniform modifications to include insignia, pocket orientation, closure devices, inserts, and undergarments; or

"(6) prohibiting the continued fielding or use of pre-existing service-specific or operation-specific combat uniforms as long as the uniforms continue to meet operational requirements.

"(d) REGISTRATION REQUIRED.—The Secretary of a military department shall formally register with the Joint Clothing and Textiles Governance Board all uniforms in use by an Armed Force under the jurisdiction of the Secretary and all such uniforms planned for use by such an Armed Force.

"(e) LIMITATION ON RESTRICTION.—The Secretary of a military department may not prevent the Secretary of another military department from authorizing the use of any combat or camouflage utility uniform or family of uniforms.

"(f) GUIDANCE REQUIRED.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall issue guidance to implement this section.

"(2) CONTENT.—At a minimum, the guidance required by paragraph (1) shall require the Secretary of each of the military departments—

"(A) in cooperation with the commanders of the combatant commands, including the unified combatant command for special operations forces, to establish, by not later than 180 days after the date of the enactment of this Act, joint criteria for combat and camouflage utility uniforms and families of uniforms, which shall be included in all new requirements documents for such uniforms;

"(B) to continually work together to assess and develop new technologies that could be incorporated into future combat and camouflage utility uniforms and families of uniforms to improve war fighter survivability;

"(C) to ensure that new combat and camouflage utility uniforms and families of uniforms meet the geographic and operational requirements of the commanders of the combatant commands; and

"(D) to ensure that all new combat and camouflage utility uniforms and families of uniforms achieve interoperability with all components of individual war fighter systems, including body armor, organizational clothing and individual equipment, and other individual protective systems."

**POLICY ON GROUND COMBAT AND CAMOUFLAGE UTILITY UNIFORMS**

Pub. L. 111–84, div. A, title III, §352, Oct. 28, 2009, 123 Stat. 2262, related to policy on ground combat and camouflage utility uniforms, prior to repeal by Pub. L. 113–66, div. A, title III, §352(g), Dec. 26, 2013, 127 Stat. 743.

## §771. Unauthorized wearing prohibited

Except as otherwise provided by law, no person except a member of the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, may wear—

(1) the uniform, or a distinctive part of the uniform, of the Army, Navy, Air Force, Marine Corps, or Space Force; or

(2) a uniform any part of which is similar to a distinctive part of the uniform of the Army, Navy, Air Force, Marine Corps, or Space Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 34; Pub. L. 116–283, div. A, title IX, §924(b)(3)(N), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 771 | 10:1393 (1st par., less provisos). | June 3, 1916, ch. 134, §125 (1st par., less provisos), 39 Stat. 216. |

The words "Except as otherwise provided by law" are inserted to give effect to exceptions in other revised sections of this title and to provisions of other laws giving such organizations as the Coast and Geodetic Survey and the Public Health Service permission to wear military uniforms under certain conditions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

## §771a. Disposition on discharge

(a) Except as provided in subsections (b) and (c), when an enlisted member of an armed force is discharged, the exterior articles of uniform in his possession that were issued to him, other than those that he may wear from the place of discharge to his home under section 772(d) of this title, shall be retained for military use.

(b) When an enlisted member of an armed force is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably—

(1) the exterior articles of uniform in his possession shall be retained for military use;

(2) under such regulations as the Secretary concerned prescribes, a suit of civilian clothing and an overcoat when necessary, both to cost not more than $30, may be issued to him; and

(3) if he would be otherwise without funds to meet his immediate needs, he may be paid an amount, fixed by the Secretary concerned, of not more than $25.

(c) When an enlisted member of the Army National Guard or the Air National Guard who has been called into Federal service is released from that service, the exterior articles of uniform in his possession shall be accounted for as property issued to the Army National Guard or the Air National Guard, as the case may be, of the State or territory, Puerto Rico, or the District of Columbia of whose Army National Guard or Air National Guard he is a member, as prescribed in section 708 of title 32.

(Added Pub. L. 90–235, §8(1)(A), Jan. 2, 1968, 81 Stat. 763; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1988**—Subsec. (c). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

## §772. When wearing by persons not on active duty authorized

(a) A member of the Army National Guard or the Air National Guard may wear the uniform prescribed for the Army National Guard or the Air National Guard, as the case may be.

(b) A member of the Naval Militia may wear the uniform prescribed for the Naval Militia.

(c) A retired officer of the Army, Navy, Air Force, Marine Corps, or Space Force may bear the title and wear the uniform of his retired grade.

(d) A person who is discharged honorably or under honorable conditions from the Army, Navy, Air Force, Marine Corps, or Space Force may wear his uniform while going from the place of discharge to his home, within three months after his discharge.

(e) A person not on active duty who served honorably in time of war in the Army, Navy, Air Force, Marine Corps, or Space Force may bear the title, and, when authorized by regulations prescribed by the President, wear the uniform, of the highest grade held by him during that war.

(f) While portraying a member of the Army, Navy, Air Force, Marine Corps, or Space Force, an actor in a theatrical or motion-picture production may wear the uniform of that armed force if the portrayal does not tend to discredit that armed force.

(g) An officer or resident of a veterans' home administered by the Department of Veterans Affairs may wear such uniform as the Secretary of the military department concerned may prescribe.

(h) While attending a course of military instruction conducted by the Army, Navy, Air Force, Marine Corps, or Space Force, a civilian may wear the uniform prescribed by that armed force if the wear of such uniform is specifically authorized under regulations prescribed by the Secretary of the military department concerned.

(i) Under such regulations as the Secretary of the Air Force may prescribe, a citizen of a foreign country who graduates from an Air Force or Space Force school may wear the appropriate aviation or space badges of the Air Force or Space Force.

(j) A person in any of the following categories may wear the uniform prescribed for that category:

(1) Members of the Boy Scouts of America.

(2) Members of any other organization designated by the Secretary of a military department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 35; Pub. L. 99–145, title XIII, §1301(a)(1), Nov. 8, 1985, 99 Stat. 735; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 104–201, div. A, title V, §551(b), Sept. 23, 1996, 110 Stat. 2525; Pub. L. 116–283, div. A, title IX, §924(b)(3)(O), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 118–31, div. A, title XVII, §1741(b)(2), Dec. 22, 2023, 137 Stat. 680.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 772(a) | 10:1393 (words before 1st semicolon of 1st proviso of 1st par.). | June 3, 1916, ch. 134, §12 (words before 4th semicolon, and words after 7th semicolon, of 1st proviso of 1st par.; and last proviso of last par.), 39 Stat. 216; July 9, 1918, ch. 143, subch. XVII, §10 (last proviso), 40 Stat. 892; June 4, 1920, ch. 228, §8, 41 Stat. 836; June 6, 1942, ch. 382, 56 Stat. 328; May 24, 1949, ch. 139, §15(b) (last proviso), 63 Stat. 91; |
| 772(b) | 10:1393 (15th through 18th words after 1st semicolon of 1st proviso of 1st par.).<br>10:1023 (1st sentence). | |
| 772(c) | 34:43g(i).<br>34:389 (less 1st and 3d sentences). | |

| | | |
|---|---|---|
| 772(d) | 10:1393 (words between 3d and 4th semicolons of 1st proviso of 1st par.).<br>10:1028b. | July 6, 1953, ch. 180, §1, 67 Stat. 140. |
| 772(e) | 10:1393 (words between 2d and 3d semicolons of 1st proviso of 1st par.).<br>34:399d. | R.S. 1256 (1st sentence). |
| 772(f) | 10:1393 (words between 8th and 9th semicolons of 1st proviso of 1st par.). | R.S. 1457 (less 1st and 3d sentences); May 5, 1950, ch. 169, §14(f), 64 Stat. 147. |
| 772(g) | 10:1393 (last proviso of last par.). | Apr. 16, 1947, ch. 38, §207(j), 61 Stat. 50; as redesignated (i); Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882. |
| 772(h) | 10:1393 (words between 7th and 8th semicolons of 1st proviso of 1st par.). | |
| 772(i) | 10:1393 (words after 9th semicolon of 1st proviso of 1st par.). | June 21, 1930, ch. 563, §2; restated Aug. 4, 1949, ch. 393, §12, 63 Stat. 559; July 6, 1953, ch. 180, §2, 67 Stat. 140. |
| 772(j) | 10:1393 (words between 1st and 2d semicolons of 1st proviso of 1st par., less 15th through 18th words). | |

In subsections (a), (b), (d), (f), (g), (h), (i), and (j), the rules stated in the corresponding clauses of the first proviso of the first paragraph, and the last proviso of the last paragraph, of 10:1393, are restated to make positive the authority of the persons described in those subsections to wear the uniform prescribed for the appropriate organization or activity.

In subsection (c), the words "bear the title", in 34:43g(i), applicable only to retired officers of the Navy Nurse Corps, are made applicable to other retired officers, to make explicit what has heretofore been implicit, that a retired officer may continue to bear the title of his retired grade.

In subsection (e), the words between the second and third semicolons of the first proviso of the first paragraph of 10:1393 are omitted as superseded by 10:1028b and 34:399d, which authorize the wearing of the uniform by members who are discharged honorably or under honorable conditions. The words "when authorized by regulations prescribed by" are substituted for the words "occasions authorized by regulations of".

In subsection (f), the words "while portraying a member of the Army, Navy, Air Force, or Marine Corps, an actor in a theatrical or motion-picture production" are substituted for the words "any person from wearing the uniform of the United States Army, Navy, or Marine Corps, in any playhouse or theater or in moving-picture films while actually engaged in representing therein a military or naval character".

In subsection (g), the word "resident" is substituted for the word "members", since the word "members" related to members of the now disbanded National Home for disabled volunteer soldiers to which were admitted "members" of an organization called the "Disabled Volunteer Soldiers". The words "veterans' home" are substituted for the words "national home for veterans", since there are now no "national homes" administered by the Veterans' Administration.

In subsection (h), the words "authorized and" and "for wear during such course of instruction" are omitted as surplusage. The word "naval" is omitted as covered by the word "military". The words "Army, Navy, Air Force, or Marine Corps" are substituted for the words "military or naval authorities". The words "that armed force" are substituted for the words "such military or naval authorities".

In subsection (i), the words "Air Force school" are substituted for the words "Air Force advanced flying schools or Air Force service schools". The words "in such manner" are omitted as surplusage.

## EDITORIAL NOTES

### CONSTITUTIONALITY

For information regarding the constitutionality of certain provisions of this section as enacted by act Aug. 10, 1956, see the Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court on the Constitution Annotated website, constitution.congress.gov.

**AMENDMENTS**

**2023**—Subsec. (i). Pub. L. 118–31, §1741(b)(2)(B), substituted "aviation or space badges of the Air Force or Space Force" for "aviation badges of the Air Force".

Pub. L. 118–31, §1741(b)(2)(A), which directed amendment of subsec. (i) by substituting "an Air Force or Space Force school" for "an Air Force School", was executed by making the substitution for "an Air Force school" to reflect the probable intent of Congress.

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

**1996**—Subsec. (h). Pub. L. 104–201 inserted before period at end "if the wear of such uniform is specifically authorized under regulations prescribed by the Secretary of the military department concerned".

**1989**—Subsec. (g). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1985**—Subsec. (c). Pub. L. 99–145 struck out provisions relating to a retired officer of the Navy Nurse Corps.

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 10554. DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS**

Ex. Ord. No. 10554, Aug. 18, 1954, 19 F.R. 5295, as amended by Ex. Ord. No. 13286, §77, Feb. 28, 2003, 68 F.R. 10631, provided:

The authority vested in the President (1) by section 125 of the act of June 3, 1916, 39 Stat. 216, as amended by the first section of the act of July 6, 1953, 67 Stat. 140, and (2) by section 2 of the act of June 21, 1930, 46 Stat. 793, as amended by section 2 of said act of July 6, 1953, to prescribe regulations authorizing occasions upon which the uniform may be worn by persons who have served honorably in the armed forces of the United States in time of war is hereby delegated to the Secretary of Defense so far as it pertains to the uniforms of the Army, Navy, Air Force, and Marine Corps, and to the Secretary of Homeland Security so far as it pertains to the uniform of the Coast Guard.

## §773. When distinctive insignia required

(a) A person for whom one of the following uniforms is prescribed may wear it, if it includes distinctive insignia prescribed by the Secretary of the military department concerned to distinguish it from the uniform of the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be:

(1) The uniform prescribed by the university, college, or school for an instructor or member of the organized cadet corps of—

(A) a State university or college, or a public high school, having a regular course of military instruction; or

(B) an educational institution having a regular course of military instruction, and having a member of the Army, Navy, Air Force, Marine Corps, or Space Force as instructor in military science and tactics.

(2) The uniform prescribed by a military society composed of persons discharged honorably or under honorable conditions from the Army, Navy, Air Force, Marine Corps, or Space Force to be worn by a member of that society when authorized by regulations prescribed by the President.

(b) A uniform prescribed under subsection (a) may not include insignia of grade the same as, or similar to, those prescribed for officers of the Army, Navy, Air Force, Marine Corps, or Space Force.

(c) Under such regulations as the Secretary of the military department concerned may prescribe, any person who is permitted to attend a course of instruction prescribed for members of a reserve officers' training corps, and who is not a member of that corps, may, while attending that course of instruction, wear the uniform of that corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 35; Pub. L. 85–355, Mar. 28, 1958, 72 Stat. 66; Pub. L. 116–283, div. A, title IX, §924(b)(3)(P), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 773(a) | 10:1393 (words between 4th and 7th semicolons of 1st proviso, and 2d proviso, of 1st par.). | June 3, 1916, ch. 134, §125 (words between 4th and 7th semicolons of 1st proviso, and 2d and last provisos, of 1st par.), 39 Stat. 216; June 4, 1920, ch. 228, §8, 41 Stat. 836; Sept. 15, 1951, ch. 402, 65 Stat. 323; July 6, 1953, ch. 180, §1, 67 Stat. 140. |
| 773(b) | 10:1393 (last proviso of 1st par.). | |

In subsection (a), the word "mark" is omitted as surplusage.

In subsection (a)(2), the words "persons discharged honorably or under honorable conditions from" are substituted for the words "entirely of honorably discharged officers or enlisted men, or both, of". The words "Regular or Volunteer" are omitted as surplusage. The words "when authorized by regulations prescribed by" are substituted for the words "upon occasions authorized by regulations of".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsecs. (a), (b). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" in subsec. (a) wherever appearing and in subsec. (b).

**1958**—Subsec. (c). Pub. L. 85–355 added subsec. (c).

## §774. Religious apparel: wearing while in uniform

(a) GENERAL RULE.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

(b) EXCEPTIONS.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or

(2) if the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

(c) REGULATIONS.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

(d) RELIGIOUS APPAREL DEFINED.—In this section, the term "religious apparel" means apparel the wearing of which is part of the observance of the religious faith practiced by the member.

(Added Pub. L. 100–180, div. A, title V, §508(a)(2), Dec. 4, 1987, 101 Stat. 1086.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 774 was renumbered section 776 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 100–180, div. A, title V, §508(c), Dec. 4, 1987, 101 Stat. 1087, directed the Secretary concerned to prescribe the regulations required by subsec. (c) of this section not later than the end of the 120-day period beginning on Dec. 4, 1987.

## §775. Issue of uniform without charge

(a) ISSUE OF UNIFORM.—The Secretary concerned may issue a uniform, without charge, to any of the following members:

(1) A member who is being repatriated after being held as a prisoner of war.

(2) A member who is being treated at or released from a medical treatment facility as a consequence of being wounded or injured during military hostilities.

(3) A member who, as a result of the member's duties, has unique uniform requirements.

(4) Any other member, if the Secretary concerned determines, under exceptional circumstances, that the issue of the uniform to that member would significantly benefit the morale and welfare of the member and be advantageous to the armed force concerned.

(b) RETENTION OF UNIFORM AS A PERSONAL ITEM.—Notwithstanding section 771a of this title, a uniform issued to a member under this section may be retained by the member as a personal item.

(Added Pub. L. 102–484, div. A, title III, §377(a)(2), Oct. 23, 1992, 106 Stat. 2386.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 775 was renumbered section 776 of this title.

## §776. Applicability of chapter

This chapter applies in—

(1) the United States;

(2) the territories, commonwealths, and possessions of the United States; and

(3) all other places under the jurisdiction of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 36, §774; Pub. L. 99–661, div. A, title XIII, §1343(a)(1), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–26, §3(6), Apr. 21, 1987, 101 Stat. 273; renumbered §775, Pub. L. 100–180, div. A, title V, §508(a)(1), Dec. 4, 1987, 101 Stat. 1086; renumbered §776, Pub. L. 102–484, div. A, title III, §377(a)(1), Oct. 23, 1992, 106 Stat. 2386.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 774 | 10:1393 (less 1st and last pars.). | June 3, 1916, ch. 134, §125 (less 1st and last pars.), 39 Stat. 216; Apr. 15, 1948, ch. 188, 62 Stat. 172; June 25, 1948, ch. 645, §21 (as applicable to §125 of the Act of June 3, 1916, ch. 134), 62 Stat. 864; May 24, 1949, ch. 139, §§15(b) (less last par.), 142 (as applicable to the Act of Apr. 15, 1948, ch. 188), 63 Stat. 91, 110. |

The words "the Canal Zone, Guam, American Samoa, and the Virgin Islands as well as to * * * other" are omitted as covered by the words "possessions, and all other places under its jurisdiction".

### EDITORIAL NOTES

### AMENDMENTS

**1992**—Pub. L. 102–484 renumbered section 775 of this title as this section.

**1987**—Pub. L. 100–180 renumbered section 774 of this title as this section.

Pub. L. 100–26 amended directory language of Pub. L. 99–661. See 1986 Amendment note below.

**1986**—Pub. L. 99–661, as amended by Pub. L. 100–26, amended section generally. Prior to amendment, section read as follows: "This chapter applies in the United States, the Territories, Commonwealths, and possessions, and all other places under its jurisdiction."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–26, §12(a), Apr. 21, 1987, 101 Stat. 289, provided that: "The amendments made by section 3 [amending this section and sections 1032, 1408, 1450, 1588, 2007, 2364, and 5150 of this title, and section 4703 of Title 20, Education, and amending provisions set out as a note under section 1006 of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in Public Law 99–661 when enacted on November 14, 1986."

## §777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

(a) AUTHORITY.—An officer in a grade below the grade of major general or, in the case of the Navy, rear admiral, who has been selected for promotion to the next higher grade may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that next higher grade. An officer who is so authorized to wear the insignia of the next higher grade is said to be "frocked" to that grade.

(b) RESTRICTIONS.—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

(1) the Senate has given its advice and consent to the appointment of the officer to that grade;

(2) the officer is serving in, or has received orders to serve in, a position for which that grade is authorized; and

(3) in the case of an officer selected for promotion to a grade above colonel or, in the case of an officer of the Navy, a grade above captain—

(A) authority for that officer to wear the insignia of that grade has been approved by the Secretary of Defense (or a civilian officer within the Office of the Secretary of Defense whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval authority); and

(B) the Secretary of Defense has submitted to Congress a written notification of the intent to authorize the officer to wear the insignia for that grade.

(c) BENEFITS NOT TO BE CONSTRUED AS ACCRUING.—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of the next higher grade may not be construed as conferring authority for that officer to—

(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

(B) assume any legal authority associated with that grade.

(2) The period for which an officer wears the insignia of the next higher grade under such authority may not be taken into account for any of the following purposes:

(A) Seniority in that grade.

(B) Time of service in that grade.

(d) LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.—(1) The total number of colonels, Navy captains, brigadier generals, and rear admirals (lower half) on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the next higher grade may not exceed 85.

(2) The number of officers of an armed force on the active-duty list, or for the Space Force, the Space Force officer list, who are authorized as described in subsection (a) to wear the insignia for a grade to which a limitation on total number applies under section 523(a) of this title for a fiscal year may not exceed 1 percent, or, for the grades of colonel and Navy captain, 2 percent, of the total number provided for the officers in that grade in that armed force in the administration of the limitation under that section for that fiscal year.

(Added Pub. L. 104–106, div. A, title V, §503(a)(1), Feb. 10, 1996, 110 Stat. 294; amended Pub. L. 105–85, div. A, title V, §505, Nov. 18, 1997, 111 Stat. 1726; Pub. L. 106–65, div. A, title V, §502, Oct. 5, 1999, 113 Stat. 590; Pub. L. 108–136, div. A, title V, §509(a), Nov. 24, 2003, 117 Stat. 1458; Pub. L. 108–375, div. A, title V, §503, Oct. 28, 2004, 118 Stat. 1875; Pub. L. 109–163, div. A, title V, §§503(c), 504, Jan. 6, 2006, 119 Stat. 3226; Pub. L. 111–383, div. A, title V, §505(b), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 118–31, div. A, title XVII, §1722(e), Dec. 22, 2023, 137 Stat. 671.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d)(2). Pub. L. 118–31 inserted ", or for the Space Force, the Space Force officer list," after "active-duty list".

**2011**—Subsec. (b)(3)(B). Pub. L. 111–383 struck out "and a period of 30 days has elapsed after the date of the notification" after "grade".

**2006**—Subsec. (a). Pub. L. 109–163, §503(c), inserted "in a grade below the grade of major general or, in the case of the Navy, rear admiral," after "An officer" in first sentence.

Subsec. (d)(1). Pub. L. 109–163, §504(1), substituted "colonels, Navy captains, brigadier generals, and rear admirals (lower half)" for "brigadier generals and Navy rear admirals (lower half)" and "the next higher grade may not exceed 85" for "the grade of major general or rear admiral, as the case may be, may not exceed 30".

Subsec. (d)(2), (3). Pub. L. 109–163, §504(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The total number of colonels and Navy captains on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the grade of brigadier general or rear admiral (lower half), as the case may be, may not exceed 55."

**2004**—Subsec. (d). Pub. L. 108–375 added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

**2003**—Subsec. (b)(3). Pub. L. 108–136 added par. (3).

**1999**—Subsec. (d)(1). Pub. L. 106–65 substituted "55." for "the following:" and struck out subpars. (A) to (C) which read as follows:

"(A) During fiscal years 1996 and 1997, 75.

"(B) During fiscal year 1998, 55.

"(C) After fiscal year 1998, 35."

**1997**—Subsec. (d)(2). Pub. L. 105–85 inserted ", or, for the grades of colonel and Navy captain, 2 percent," after "1 percent".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §509(b), Nov. 24, 2003, 117 Stat. 1459, provided that: "Paragraph (3) of subsection (b) of section 777 of title 10, United States Code, as added by subsection (a), shall not apply with respect to the wearing by an officer of insignia for a grade that was authorized under that section before the date of the enactment of this Act [Nov. 24, 2003]."

### TEMPORARY VARIATION OF LIMITATIONS ON NUMBERS OF FROCKED OFFICERS

Pub. L. 104–106, div. A, title V, §503(b), Feb. 10, 1996, 110 Stat. 294, provided that in the administration of former subsec. (d)(2) of this section, the percent limitation applied under that section for fiscal year 1996

would be 2 percent, rather than 1 percent.

## §777a. Wearing of insignia of higher grade before appointment to a grade above major general or rear admiral (frocking): authority; restrictions

(a) AUTHORITY.—An officer serving in a grade below the grade of lieutenant general or, in the case of the Navy, vice admiral, who has been selected for appointment to the grade of lieutenant general or general, or, in the case of the Navy, vice admiral or admiral, and an officer serving in the grade of lieutenant general or vice admiral who has been selected for appointment to the grade of general or admiral, may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that higher grade for a period of up to 14 days before assuming the duties of a position for which the higher grade is authorized. An officer who is so authorized to wear the insignia of a higher grade is said to be "frocked" to that grade.

(b) RESTRICTIONS.—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

(1) the Senate has given its advice and consent to the appointment of the officer to that grade;

(2) the officer has received orders to serve in a position outside the military department of that officer for which that grade is authorized;

(3) the Secretary of Defense (or a civilian officer within the Office of the Secretary of Defense whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval authority) has given approval for the officer to wear the insignia for that grade before assuming the duties of a position for which that grade is authorized; and

(4) the Secretary of Defense has submitted to Congress a written notification of the intent to authorize the officer to wear the insignia for that grade.

(c) BENEFITS NOT TO BE CONSTRUED AS ACCRUING.—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of a higher grade may not be construed as conferring authority for that officer to—

(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

(B) assume any legal authority associated with that grade.

(2) The period for which an officer wears the insignia of a higher grade under such authority may not be taken into account for any of the following purposes:

(A) Seniority in that grade.

(B) Time of service in that grade.

(d) LIMITATION ON NUMBER OF OFFICERS FROCKED.—The total number of officers who are authorized to wear the insignia for a higher grade under this section shall count against the limitation in section 777(d) of this title on the total number of officers authorized to wear the insignia of a higher grade.

(Added Pub. L. 111–383, div. A, title V, §505(a)(1), Jan. 7, 2011, 124 Stat. 4208.)

# CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE


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**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, div. A, title IX, §924(c)(3)(B), Oct. 5, 1994, 108 Stat. 2832, substituted "United States Court of Appeals for the Armed Forces" for "Court of Military Appeals" in item for subchapter XII.

**1989**—Pub. L. 101–189, div. A, title XIII, §1304(a)(1), Nov. 29, 1989, 103 Stat. 1576, added item for subchapter XII.

**1983**—Pub. L. 98–209, §5(h)(1), Dec. 6, 1983, 97 Stat. 1400, substituted "IX. Post-Trial Procedure and Review of Courts-Martial" for "IX. Review of Courts-Martial".

**1958**—Pub. L. 85–861, §33(a)(6), Sept. 2, 1958, 72 Stat. 1564, substituted 801, 807, 815, 816, 822, 830, 836, 855, 859, 877 and 935 for 1901, 1913, 1929, 1931, 1943, 1959, 1971, 2009, 2017, 2053 and 2169, respectively.

## SUBCHAPTER I—GENERAL PROVISIONS


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| 802. | 2. | Persons subject to this chapter. |
| 803. | 3. | Jurisdiction to try certain personnel. |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Pub. L. 113–66, div. A, title XVII, §1701(a)(2), Dec. 26, 2013, 127 Stat. 953, added item 806b.

**1989**—Pub. L. 101–189, div. A, title XIII, §1304(a)(2), Nov. 29, 1989, 103 Stat. 1576, added item 806a.

### §801. Article 1. Definitions

In this chapter (the Uniform Code of Military Justice):

(1) The term "Judge Advocate General" means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security.

(2) The Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy, shall be considered as one armed force.

(3) The term "commanding officer" includes only commissioned officers.

(4) The term "officer in charge" means a member of the Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority.

(5) The term "superior commissioned officer" means a commissioned officer superior in rank or command.

(6) The term "cadet" means a cadet of the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

(7) The term "midshipman" means a midshipman of the United States Naval Academy and any other midshipman on active duty in the naval service.

(8) The term "military" refers to any or all of the armed forces.

(9) The term "accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused.

(10) The term "military judge" means a judge advocate designated under section 826(c) of this title (article 26(c)) who is detailed under section 826(a) or section 830a of this title (article 26(a) or 30a).

(11) The term "military magistrate" means a commissioned officer certified for duty as a military magistrate in accordance with section 826a of this title (article 26a).

(12) The term "legal officer" means any commissioned officer of the Navy, Marine Corps, or Coast Guard designated to perform legal duties for a command.

(13) The term "judge advocate" means—

(A) an officer of the Judge Advocate General's Corps of the Army, the Navy, or the Air Force;

(B) an officer of the Marine Corps who is designated as a judge advocate; or

(C) a commissioned officer of the Coast Guard designated for special duty (law).

(14) The term "record", when used in connection with the proceedings of a court-martial, means—

(A) an official written transcript, written summary, or other writing relating to the proceedings; or

(B) an official audiotape, videotape, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.

(15) The term "classified information" means (A) any information or material that has been determined by an official of the United States pursuant to law, an Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(16) The term "national security" means the national defense and foreign relations of the United States.

(17) The term "covered offense" means—

(A) an offense under section 917a (article 117a), section 918 (article 118), section 919 (article 119), section 919a (article 119a), section 920 (article 120), section 920a (article 120a), section 920b (article 120b), section 920c (article 120c), section 925 (article 125), section 928b (article 128b), section 930 (article 130), section 932 (article 132), the standalone offense of child pornography punishable under section 934 (article 134), or the standalone offense of sexual

harassment punishable under section 934 (article 134) of this title in each instance in which a formal complaint is made and such formal complaint is substantiated in accordance with regulations prescribed by the Secretary concerned;

(B) a conspiracy to commit an offense specified in subparagraph (A) as punishable under section 881 of this title (article 81);

(C) a solicitation to commit an offense specified in subparagraph (A) as punishable under section 882 of this title (article 82); or

(D) an attempt to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 880 of this title (article 80).

(18) The term "special trial counsel" means a judge advocate detailed as a special trial counsel in accordance with section 824a of this title (article 24a) and includes a judge advocate appointed as a lead special trial counsel pursuant to section 1044f(a)(2) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 36; Pub. L. 89–670, §10(g), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90–179, §1(1), (2), Dec. 8, 1967, 81 Stat. 545; Pub. L. 90–632, §2(1), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 98–209, §§2(a), 6(a), Dec. 6, 1983, 97 Stat. 1393, 1400; Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100–456, div. A, title XII, §1233(f)(1), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 104–106, div. A, title XI, §1141(b), Feb. 10, 1996, 110 Stat. 467; Pub. L. 107–296, title XVII, §1704(b)(2), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–241, title II, §218(a), July 11, 2006, 120 Stat. 526; Pub. L. 114–328, div. E, title LI, §5101, Dec. 23, 2016, 130 Stat. 2894; Pub. L. 115–91, div. A, title X, §1081(a)(21), (c)(1)(A), Dec. 12, 2017, 131 Stat. 1595, 1597; Pub. L. 117–81, div. A, title V, §533, Dec. 27, 2021, 135 Stat. 1695; Pub. L. 117–263, div. A, title V, §541(a)(1), (b)(1), Dec. 23, 2022, 136 Stat. 2579, 2580.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 801 | 50:551 (less (9)). | May 5, 1950, ch. 169, §1 (Art. 1 (less (9))), 64 Stat. 108. |

The words "In this chapter" are substituted for the introductory clause.

In the introductory clause and throughout the revised chapter the word "chapter" is substituted for the word "code".

Clauses (1), (2), and (5) of 50:551 are omitted as respectively covered by the definitions in clauses (4), (6), and (14) of section 101 of this title. The words "commissioned officer" are substituted for the word "officer" for clarity throughout this chapter, since the latter term was defined in the limited sense of commissioned officer in clause (5) of 50:551, and is now covered by section 101(14) of this title.

In clauses (1), (4)–(7), and (9)–(12) of the revised section, the word "means" is substituted for the words "shall be construed to refer to" and "shall be construed to refer * * * to".

In clause (1), the words "service in" are substituted for the words "part of" to conform to section 1 of title 14. The words "Department of the Treasury" are substituted for the words "Treasury Department".

Clauses (3) and (4) are inserted for clarity.

In clause (6), the words "the United States Air Force Academy" are inserted to reflect its establishment by the Air Force Academy Act (63 Stat. 47).

In clause (8), the word "refers" is substituted for the words "shall be construed to refer".

In clause (12), the words "Marine Corps" are inserted to make explicit that the clause applies to the Marine Corps. The word "commissioned" is inserted for clarity.

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Par. (17)(A). Pub. L. 117–263, §541(b)(1), struck out "or" after "section 932 (article 132)," and substituted ", or the standalone offense of sexual harassment punishable under section 934 (article 134) of this title in each instance in which a formal complaint is made and such formal complaint is substantiated in accordance with regulations prescribed by the Secretary concerned" for "of this title".

Pub. L. 117–263, §541(a)(1), substituted "section 919a (article 119a), section 920 (article 120), section 920a (article 120a)" for "section 920 (article 120)".

**2021**—Par. (11). Pub. L. 117–81, §533(1), added par. (11).

Pars. (17), (18). Pub. L. 117–81, §533(2), added pars. (17) and (18).

**2017**—Pub. L. 115–91, §1081(c)(1)(A), which directed insertion of "(the Uniform Code of Military Justice)" after "chapter" in introductory provisions, was not executed in light of the prior amendment by section 1081(a)(21) of Pub. L. 115–91, to reflect the probable intent of Congress. See Amendment note below and section 1081(c)(4) of Pub. L. 115–91, set out as an Effective Date of 2017 Amendment note below.

Pub. L. 115–91, §1081(a)(21), inserted "(the Uniform Code of Military Justice)" after "chapter" in introductory provisions.

**2016**—Cl. (10). Pub. L. 114–328, §5101(a), amended cl. (10) generally. Prior to amendment, cl. (10) read as follows: "The term 'military judge' means an official of a general or special court-martial detailed in accordance with section 826 of this title (article 26)."

Cl. (13)(A). Pub. L. 114–328, §5101(b)(1), substituted "the Army, the Navy, or the Air Force" for "the Army or the Navy".

Cl. (13)(B). Pub. L. 114–328, §5101(b)(2), struck out "the Air Force or" after "an officer of".

**2006**—Cl. (11). Pub. L. 109–241, §218(a)(1), struck out cl. (11) which read as follows: "The term 'law specialist' means a commissioned officer of the Coast Guard designated for special duty (law)."

Cl. (13)(C). Pub. L. 109–241, §218(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "an officer of the Coast Guard who is designated as a law specialist."

**2002**—Cl. (1). Pub. L. 107–296 substituted "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security" for "the General Counsel of the Department of Transportation".

**1996**—Cls. (15), (16). Pub. L. 104–106 added cls. (15) and (16).

**1988**—Cl. (1). Pub. L. 100–456 substituted "term 'Judge" for "term 'judge".

**1987**—Cls. (1), (3) to (14). Pub. L. 100–180 inserted "The term" after each clause designation and revised first word in quotes in each clause to make initial letter of such word lowercase.

**1983**—Cl. (13). Pub. L. 98–209, §2(a), added officers of the Coast Guard who are designated as law specialists to definition of "Judge Advocate".

Cl. (14). Pub. L. 98–209, §6(a), added cl. (14).

**1968**—Cl. (10). Pub. L. 90–632 substituted "military judge" for "law officer" as term being defined and inserted reference to special court-martial in the definition thereof.

**1967**—Cl. (11). Pub. L. 90–179, §1(1), struck out "Navy or" before "Coast Guard".

Cl. (13). Pub. L. 90–179, §1(2), added cl. (13).

**1966**—Pub. L. 89–670 substituted the General Counsel of the Department of Transportation for the General Counsel of the Department of the Treasury in definition of "Judge Advocate General" applicable to the Coast Guard when operating as a service in the Navy.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §541(a)(2), Dec. 23, 2022, 136 Stat. 2580, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect immediately after the coming into effect of the amendments made by section 533 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1695) [amending this section] as provided in section 539C of that Act (10 U.S.C. 801 note) and shall apply with respect to offenses that occur after that date."

Pub. L. 117–263, div. A, title V, §541(b)(2), Dec. 23, 2022, 136 Stat. 2580, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 2025, and shall apply with respect to offenses that occur after that date."

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title V, §539C, Dec. 27, 2021, 135 Stat. 1699, as amended by Pub. L. 118–31, div. A, title V, §531(c)(2), Dec. 22, 2023, 137 Stat. 259, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part 1 (§§531–539C) of subtitle D of title V of div. A of Pub. L. 117–81, enacting sections 824a and 1044f of this title and amending this section and sections 822, 823, 827, 832, 834, 844, 853a, 865 to 867, and 869 of this title] shall take effect on the date that is two years after the date of the enactment of this Act [Dec. 27, 2021]

and, except as provided in section 824a(d) of title 10, United States Code (article 24a(d) of the Uniform Code of Military Justice), shall apply with respect to offenses that occur after that date.

"(b) REGULATIONS.—

"(1) REQUIREMENT.—The President shall prescribe regulations to carry out this part not later than two years after the date of the enactment of this Act.

"(2) IMPACT OF DELAY OF ISSUANCE.—If the President does not prescribe the regulations necessary to carry out this part before the date that is two years after the date of the enactment of this Act, the amendments made by this part shall take effect on the date on which such regulations are prescribed and shall apply with respect to offenses that occur on or after that date."

**EFFECTIVE DATE OF 2017 AMENDMENT**

Pub. L. 115–91, div. A, title V, §531(p), Dec. 12, 2017, 131 Stat. 1388, provided that: "The amendments made by this section [amending sections 806b, 830a, 838, 853a, 856, 858a, 858b, 862, 863, 866, 946, 1059, and 1408 of this title and provisions set out as a note below] shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E [§§5001–5542] of Public Law 114–328 [enacting, amending, and transferring numerous sections throughout this chapter]) take effect as provided for in section 5542 of that Act (130 Stat. 2967) [set out below]."

Pub. L. 115–91, div. A, title X, §1081(c)(4), Dec. 12, 2017, 131 Stat. 1599, provided that: "The amendments made by this subsection [amending this section and sections 673, 674, 806b, 816, 839, 843, 848, 853, 853a, 864, 865, 866, 869, 882, 919a, 920, 928, 932, 937, 1034, and 1044e of this title and section 8312 of Title 5, Government Organization and Employees] shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E [§§5001–5542] of Public Law 114–328 [enacting, amending, and transferring numerous sections throughout this chapter]) take effect as provided for in section 5542 of that Act (130 Stat. 2967) [set out below]."

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114–328, div. E, title LXIII, §5542, Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115–91, div. A, title V, §531(n)(1), Dec. 12, 2017, 131 Stat. 1387, provided that:

"(a) IN GENERAL.—Except as otherwise provided in this division [div. E (§§5001–5542) of Pub. L. 114–328, see Tables for classification], the amendments made by this division [enacting, amending, and transferring numerous sections throughout this chapter] shall take effect on the date designated by the President [Jan. 1, 2019, with certain conditions and exceptions, see Ex. Ord. No. 13825, set out below], which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act [Dec. 23, 2016].

"(b) IMPLEMENTING REGULATIONS.—The President shall prescribe regulations implementing this division and the amendments made by this division by not later than one year after the date of the enactment of this Act, except as otherwise provided in this division.

"(c) APPLICABILITY.—

"(1) IN GENERAL.—Subject to the provisions of this division and the amendments made by this division, the President shall prescribe in regulations whether, and to what extent, the amendments made by this division shall apply to a case in which a specification alleges the commission, before the effective date of such amendments, of one or more offenses or to a case in which one or more actions under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), have been taken before the effective date of such amendments.

"(2) INAPPLICABILITY TO CASES IN WHICH CHARGES ALREADY REFERRED TO TRIAL ON EFFECTIVE DATE.—Except as otherwise provided in this division or the amendments made by this division, the amendments made by this division shall not apply to any case in which charges are referred to trial by court-martial before the effective date of such amendments. Proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

"(3) PUNITIVE ARTICLE AMENDMENTS.—

"(A) IN GENERAL.—The amendments made by title LX [§§5401–5452 of div. E of Pub. L. 114–328, enacting, amending, and transferring numerous sections within subchapter X of this chapter, see Tables for classification] shall not apply to any offense committed before the effective date of such amendments.

"(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to invalidate the prosecution of any offense committed before the effective date of such amendments.

"(4) SENTENCING AMENDMENTS.—The regulations prescribing the authorized punishments for any offense committed before the effective date of the amendments made by title LVIII [§§5301–5303 of div. E of Pub. L. 114–328, amending sections 856 to 857a, 858a, 858b, and 871 of this title] shall apply to

the authorized punishments for the offense, as in effect at the time the offense is committed."

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–209, §12(a), Dec. 6, 1983, 97 Stat. 1407, provided that:

"(1) The amendments made by this Act [see Short Title of 1983 Amendment note below] shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act [Dec. 6, 1983], except that the amendments made by sections 9, 11 and 13 [amending sections 802, 815, 825, 867, 1552, and 1553 of this title and enacting provisions set out as a note under section 867 of this title] shall be effective on the date of the enactment of this Act. The amendments made by section 11 [amending sections 1552 and 1553 of this title] shall only apply with respect to cases filed after the date of enactment of this Act with the boards established under sections 1552 and 1553 of title 10, United States Code.

"(2) The amendments made by section 3(c) and 3(e) [amending sections 826, 827, and 838 of this title] do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.

"(3) The amendments made by section 4 [amending section 834 of this title] shall not apply to any case in which charges were referred to trial before the effective date of such amendments, and proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

"(4) The amendments made by sections 5, 6, and 7 [amending this section and sections 849, 854, 857, 860 to 867, 869, 871, and 876a of this title and enacting provisions set out as a note under section 869 of this title] shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

"(5) The amendments made by section 8 [enacting section 912a of this title] shall not apply to any offense committed before the effective date of such amendments. Nothing in this provision shall be construed to invalidate the prosecution of any offense committed before the effective date of such amendments."

## EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–632, §4, Oct. 24, 1968, 82 Stat. 1343, provided that:

"(a) Except for the amendments made by paragraphs (30) and (33) of section 2, this Act [see Short Title of 1968 Amendment note below] shall become effective on the first day of the tenth month following the month in which it is enacted [October 1968].

"(b) The amendment made by paragraph (30) of section 2 [amending section 869 of this title] shall become effective upon the date of enactment of this Act [Oct. 24, 1968].

"(c) The amendment made by paragraph (33) [amending section 873 of this title] shall apply in the case of all court-martial sentences approved by the convening authority on or after, or not more than two years before, the date of its enactment [Oct. 24, 1968]."

## EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

## EFFECTIVE DATE

Act Aug. 10, 1956, ch. 1041, §51, 70A Stat. 640, provided that: "Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957."

## SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XI, §1101, Feb. 10, 1996, 110 Stat. 461, provided that: "This title [enacting sections 857a, 858b, and 876b of this title, amending this section and sections 802, 832, 847, 857, 860, 862, 866, 895, 920, and 937 of this title, repealing section 804 of Title 37, Pay and Allowances of the Uniformed Services, enacting provisions set out as notes under sections 802, 857, 858b, and 876b of this title, and amending provisions set out as a note under section 942 of this title] may be cited as the 'Military Justice Amendments of 1995'."

## SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, §801(a), Nov. 14, 1986, 100 Stat. 3905, provided that: "This title [enacting section 850a of this title, amending sections 802, 803, 806, 825, 843, 860, 936, and 937 of this title, and enacting provisions set out as notes under sections 802, 806, 825, 843, 850a, and 860 of this title] may be cited as the 'Military Justice Amendments of 1986'."

**SHORT TITLE OF 1983 AMENDMENT**

Pub. L. 98–209, §1(a), Dec. 6, 1983, 97 Stat. 1393, provided that: "This Act [enacting sections 912a of this title and section 1259 of Title 28, Judiciary and Judicial Procedure, amending this section, sections 802, 806, 815, 816, 825, 826, 827, 829, 834, 838, 842, 849, 854, 857, 860 to 867, 869, 870, 871, 876a, 936, 1552, and 1553 of this title, and section 2101 of Title 28, and enacting provisions set out as notes under sections 801, 867, and 869 of this title and amending provisions set out as a note under section 706 of this title] may be cited as the 'Military Justice Act of 1983'."

**SHORT TITLE OF 1981 AMENDMENT**

Pub. L. 97–81, §1(a), Nov. 20, 1981, 95 Stat. 1085, provided that: "This Act [enacting sections 706, 707, and 876a of this title, amending sections 701, 813, 832, 838, 867, and 869 of this title, and enacting provisions set out as a note under section 706 of this title] may be cited as the 'Military Justice Amendments of 1981'."

**SHORT TITLE OF 1968 AMENDMENT**

Pub. L. 90–632, §1, Oct. 24, 1968, 82 Stat. 1335, provided: "That this Act [amending this section and sections 806, 816, 818, 819, 820, 825, 826, 827, 829, 835, 837, 838, 839, 840, 841, 842, 845, 849, 851, 852, 854, 857, 865, 866, 867, 868, 869, 870, 871, 873, and 936 of this title and enacting provisions set out as notes under this section and sections 826 and 866 of this title] may be cited as the 'Military Justice Act of 1968'."

**REDESIGNATION OF NAVY LAW SPECIALISTS AS JUDGE ADVOCATES**

Navy law specialists redesignated judge advocates, see section 8 of Pub. L. 90–179, set out as a note under section 5148 of this title.

**SAVINGS PROVISION**

Rights, duties, and proceedings not affected by Pub. L. 90–179 establishing Judge Advocate General's Corps in Navy, see section 10 of Pub. L. 90–179, set out as a note under section 5148 of this title.

**LEGISLATIVE CONSTRUCTION**

Act Aug. 10, 1956, ch. 1041, §49(e), 70A Stat. 640, provided that: "In chapter 47 of title 10, United States Code [this chapter], enacted by section 1 of this Act, no inference of a legislative construction is to be drawn from the part in which any article is placed nor from the catchlines of the part or the article as set out in that chapter."

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**APPLICABILITY TO THE UNITED STATES COAST GUARD**

Pub. L. 117–81, div. A, title V, §539B, Dec. 27, 2021, 135 Stat. 1699, provided that: "The Secretary of Defense shall consult and enter into an agreement with the Secretary of Homeland Security to apply the provisions of this part [part 1 (§§531–539C) of subtitle D of title V of div. A of Pub. L. 117–81, enacting sections 824a and 1044f of this title, amending this section and sections 822, 823, 827, 832, 834, 844, 853a, 865 to 867, and 869 of this title, and enacting provisions set out as a note under this section] and the amendments made by this part, and the policies, mechanisms, and processes established pursuant to such provisions, to the United States Coast Guard when it is operating as a service in the Department of Homeland Security."

**ASSESSMENT OF RACIAL, ETHNIC, AND GENDER DISPARITIES IN THE MILITARY JUSTICE SYSTEM**

Pub. L. 116–92, div. A, title V, §540I, Dec. 20, 2019, 133 Stat. 1369, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall provide for the carrying out of the activities described in subsections (b) and (c) in order to improve the ability of the Department of Defense to detect and address

racial, ethnic, and gender disparities in the military justice system.

"(b) SECRETARY OF DEFENSE AND RELATED ACTIVITIES.—The activities described in this subsection are the following, to be commenced or carried out (as applicable) by not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019]:

"(1) For each court-martial conducted by an Armed Force after the date of the enactment of this Act, the Secretary of Defense shall require the head of the Armed Force concerned—

"(A) to record the race, ethnicity, and gender of the victim and the accused, and such other demographic information about the victim and the accused as the Secretary considers appropriate;

"(B) to include data based on the information described in subparagraph (A) in the annual military justice reports of the Armed Force.

"(2) The Secretary of Defense, in consultation with the Secretaries of the military departments and the Secretary of Homeland Security, shall issue guidance that—

"(A) establishes criteria to determine when data indicating possible racial, ethnic, or gender disparities in the military justice process should be further reviewed; and

"(B) describes how such a review should be conducted.

"(3) The Secretary of Defense, in consultation with the Secretaries of the military departments and the Secretary of Homeland Security, shall—

"(A) conduct an evaluation to identify the causes of any racial, ethnic, or gender disparities identified in the military justice system;

"(B) take steps to address the causes of any such disparities, as appropriate.

"(c) DAC–IPAD ACTIVITIES.—

"(1) IN GENERAL.—The activities described in this subsection are the following, to be conducted by the independent committee DAC–IPAD:

"(A) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense in an unrestricted report made pursuant to Department of Defense Instruction 6495.02, including an unrestricted report involving a spouse or intimate partner, in all cases completed in each fiscal year assessed.

"(B) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces against whom charges were preferred pursuant to Rule for Courts-Martial 307 for a penetrative sexual assault offense or contact sexual assault offense in all cases completed in each fiscal year assessed.

"(C) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces who were convicted of a penetrative sexual assault offense or contact sexual assault offense in all cases completed in each fiscal year assessed.

"(2) INFORMATION FROM FEDERAL AGENCIES.—

"(A) IN GENERAL.—Upon request by the chair of the committee, a department or agency of the Federal Government shall provide information that the committee considers necessary to conduct reviews and assessments required by paragraph (1), including military criminal investigation files, charge sheets, records of trial, and personnel records.

"(B) HANDLING, STORAGE, AND RETURN.—The committee shall handle and store all records received and reviewed under this subsection in accordance with applicable privacy laws and Department of Defense policy, and shall return all records so received in a timely manner.

"(3) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the committee shall submit to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of Representatives, a report setting forth the results of the reviews and assessments required by paragraph (1). The report shall include such recommendations for legislative or administrative action as the committee considers appropriate in light of such results.

"(4) DEFINITIONS.—In this subsection:

"(A) The term 'independent committee DAC–IPAD' means the independent committee established by the Secretary of Defense under section 546 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3374) [10 U.S.C. 1561 note], commonly known as the 'DAC-IPAD'.

"(B) The term 'case' means an unrestricted report of any penetrative sexual assault offense or contact sexual assault offense made against a member of the Armed Forces pursuant to Department of Defense Instruction 6495.02, including any unrestricted report involving a spouses or intimate partner for which an investigation has been opened by a criminal investigative organization.

"(C) The term 'completed', with respect to a case, means that the case was tried to verdict, dismissed without further action, or dismissed and then resolved by non-judicial or administrative

proceedings.

"(D) The term 'contact sexual assault offense' means aggravated sexual contact, abusive sexual contact, wrongful sexual contact, and attempts to commit such offenses under the Uniform Code of Military Justice.

"(E) The term 'penetrative sexual assault offense' means rape, aggravated sexual assault, sexual assault, forcible sodomy, and attempts to commit such offenses under the Uniform Code of Military Justice."

## PILOT PROGRAMS ON DEFENSE INVESTIGATORS IN THE MILITARY JUSTICE SYSTEM

Pub. L. 116–92, div. A, title V, §540J, Dec. 20, 2019, 133 Stat. 1371, provided that:

"(a) IN GENERAL.—Each Secretary of a military department shall carry out a pilot program on defense investigators within the military justice system under the jurisdiction of such Secretary in order to do the following:

"(1) Determine whether the presence of defense investigators within such military justice system will—

"(A) make such military justice system more effective in providing an effective defense for the accused; and

"(B) make such military justice system more fair and efficient.

"(2) Otherwise assess the feasibility and advisability of defense investigators as an element of such military justice system.

"(b) ELEMENTS.—

"(1) INTERVIEW OF VICTIM.—A defense investigator may question a victim under a pilot program only upon a request made through the Special Victims' Counsel or other counsel if the victim does not have such counsel.

"(2) UNIFORMITY ACROSS MILITARY JUSTICE SYSTEMS.—The Secretary of Defense shall ensure that the personnel and activities of defense investigators under the pilot programs are, to the extent practicable, uniform across the military justice systems of the military departments.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than three years after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall, in consultation with the Secretaries of the military departments, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs under subsection (a).

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of each pilot program, including the personnel and activities of defense investigators under such pilot program.

"(B) An assessment of the feasibility and advisability of establishing and maintaining defense investigators as an element of the military justice systems of the military departments.

"(C) If the assessment under subparagraph (B) is that the establishment and maintenance of defense investigators as an element of the military justice systems of the military departments is feasible and advisable, such recommendations for legislative and administrative action as the Secretary of Defense considers appropriate to establish and maintain defense investigators as an element of the military justice systems.

"(D) Any other matters the Secretary of Defense considers appropriate."

## CHIEF MEDICAL OFFICER AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA

Pub. L. 116–92, div. A, title X, §1046, Dec. 20, 2019, 133 Stat. 1586, provided that:

"(a) CHIEF MEDICAL OFFICER.—

"(1) IN GENERAL.—There shall be at United States Naval Station, Guantanamo Bay, Cuba, a Chief Medical Officer of United States Naval Station, Guantanamo Bay (in this section referred to as the 'Chief Medical Officer').

"(2) GRADE.—The individual serving as Chief Medical Officer shall be an officer of the Armed Forces who holds a grade not below the grade of colonel, or captain in the Navy.

"(3) CHAIN OF COMMAND.—Notwithstanding sections 162 and 164 of title 10, United States Code, the Chief Medical Officer shall be assigned and report to the Assistant Secretary of Defense for Health Affairs, with duty at United States Naval Station, Guantanamo Bay, Cuba, in the performance of duties and the exercise of powers of the Chief Medical Officer under this section.

"(b) DUTIES.—

"(1) IN GENERAL.—The Chief Medical Officer shall oversee the provision of medical care to

individuals detained at Guantanamo.

"(2) QUALITY OF CARE.—The Chief Medical Officer shall ensure that medical care provided as described in paragraph (1) meets applicable standards of care.

"(c) POWERS.—

"(1) IN GENERAL.—The Chief Medical Officer shall make medical determinations relating to medical care for individuals detained at Guantanamo, including—

"(A) decisions regarding assessment, diagnosis, and treatment; and

"(B) determinations concerning medical accommodations to living conditions and operating procedures for detention facilities.

"(2) RESOLUTION OF DECLINATION TO FOLLOW DETERMINATIONS.—If the commander of Joint Task Force Guantanamo or the Commander of United States Southern Command declines to follow a determination of the Chief Medical Officer under paragraph (1), the matter covered by such determination shall be resolved by the Assistant Secretary of Defense for Health Affairs, in consultation with the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, not later than seven days after receipt by both Assistant Secretaries of written notification of the matter from the Chief Medical Officer.

"(3) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall, to the extent practicable in accordance with existing procedures and requirements, process expeditiously any application and adjudication for a security clearance required by the Chief Medical Officer to carry out the Chief Medical Officer's duties and powers under this section.

"(d) ACCESS TO INDIVIDUALS, INFORMATION, AND ASSISTANCE.—

"(1) IN GENERAL.—The Chief Medical Officer may secure directly from the Department of Defense access to any individual, information, or assistance that the Chief Medical Officer considers necessary to enable the Chief Medical Officer to carry out this section, including full access to the following:

"(A) Any individual detained at Guantanamo.

"(B) Any medical records of any individual detained at Guantanamo.

"(C) Medical professionals of the Department who are working, or have worked, at United States Naval Station, Guantanamo Bay.

"(2) ACCESS UPON REQUEST.—Upon request of the Chief Medical Officer, the Department shall make available to the Chief Medical Officer on an expeditious basis access to individuals, information, and assistance as described in paragraph (1).

"(3) LACK OF EXPEDITIOUS AVAILABILITY.—If access to individuals, information, or assistance is not made available to the Chief Medical Officer upon request on an expeditious basis as required by paragraph (2), the Chief Medical Officer shall notify the Assistant Secretary of Defense for Health Affairs and the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, who shall take actions to resolve the matter expeditiously.

"(e) DEFINITIONS.—In this section:

"(1) INDIVIDUAL DETAINED AT GUANTANAMO DEFINED.—The term 'individual detained at Guantanamo' means an individual located at United States Naval Station, Guantanamo Bay, Cuba, as of October 1, 2009, who—

"(A) is not a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or a member of the Armed Forces of the United States; and

"(B) is—

"(i) in the custody or under the control of the Department of Defense; or

"(ii) otherwise detained at United States Naval Station, Guantanamo Bay.

"(2) MEDICAL CARE.—The term 'medical care' means physical and mental health care.

"(3) STANDARD OF CARE.—The term 'standard of care' means evaluation and treatment that is accepted by medical experts and reflected in peer-reviewed medical literature as the appropriate medical approach for a condition, symptoms, illness, or disease and that is widely used by healthcare professionals."

## SENTENCING IN CERTAIN TRANSITIONAL CASES

Pub. L. 115–91, div. A, title V, §531(o), Dec. 12, 2017, 131 Stat. 1387, provided that:

"(1) IN GENERAL.—In any transition-period court-martial, the relevant sentencing sections of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), shall be applied as follows:

"(A) Except as provided in subparagraph (B), the relevant sentencing sections shall be applied as if the amendments to such sections made by the Military Justice Act of 2016 (division E of Public Law 114–328 [enacting, amending, and transferring numerous sections throughout this chapter]) and this section [see section 531(p) of Pub. L. 115–91, set out as an Effective Date of 2017 Amendment note above] had not been enacted.

"(B) If the accused so requests, the relevant sentencing sections shall be applied as amended by the Military Justice Act of 2016 (division E of Public Law 114–328) and this section.

"(2) DEFINITIONS.—In this subsection:

"(A) TRANSITION-PERIOD COURT-MARTIAL.—The term 'transition-period court-martial' means a court-martial under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that consists of both of the following:

"(i) A prosecution of one or more offenses committed before the date designated by the President under section 5542(a) of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2967) [set out above].

"(ii) A prosecution of one or more offenses committed on or after that date.

"(B) RELEVANT SENTENCING SECTIONS.—The term 'relevant sentencing sections' means section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), and any other sections (articles) of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that, by regulation prescribed by the President, are designated as relevant to sentencing for the purposes of paragraph (1)."

## IMPROVED IMPLEMENTATION OF CHANGES TO UNIFORM CODE OF MILITARY JUSTICE

Pub. L. 114–92, div. A, title V, §543, Nov. 25, 2015, 129 Stat. 820, provided that: "The Secretary of Defense shall examine the Department of Defense process for implementing statutory changes to the Uniform Code of Military Justice for the purpose of developing options for streamlining such process. The Secretary shall adopt procedures to ensure that legal guidance is published as soon as practicable whenever statutory changes to the Uniform Code of Military Justice are implemented."

## REENACTMENT AND MODIFICATION OF CERTAIN PRIOR REQUIREMENTS FOR CERTIFICATIONS RELATING TO TRANSFER OF DETAINEES AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES

Pub. L. 114–92, div. A, title X, §1034(a)–(f), Nov. 25, 2015, 129 Stat. 969, 970, provided that:

"(a) CERTIFICATION REQUIRED PRIOR TO TRANSFER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise available to the Department of Defense to transfer any individual detained at Guantanamo to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity unless the Secretary submits to the appropriate committees of Congress the certification described in subsection (b) not later than 30 days before the transfer of the individual.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction (which the Secretary shall notify the appropriate committees of Congress of promptly after issuance).

"(b) CERTIFICATION.—A certification described in this subsection is a written certification made by the Secretary that—

"(1) the transfer concerned is in the national security interests of the United States;

"(2) the government of the foreign country or the recognized leadership of the foreign entity to which the individual detained at Guantanamo concerned is to be transferred—

"(A) is not a designated state sponsor of terrorism or a designated foreign terrorist organization;

"(B) maintains control over each detention facility in which the individual is to be detained if the individual is to be housed in a detention facility;

"(C) has taken or agreed to take appropriate steps to substantially mitigate any risk the individual could attempt to reengage in terrorist activity or otherwise threaten the United States or its allies or interests; and

"(D) has agreed to share with the United States any information that is related to the individual;

"(3) if the country to which the individual is to be transferred is a country to which the United States transferred an individual who was detained at United States Naval Station, Guantanamo Bay, Cuba, at any time after September 11, 2001, and such transferred individual subsequently engaged in any terrorist activity, the Secretary has—

"(A) considered such circumstances; and

"(B) determined that the actions to be taken as described in paragraph (2)(C) will substantially mitigate the risk of recidivism with regard to the individual to be transferred; and

"(4) includes an intelligence assessment, in classified or unclassified form, of the capacity, willingness, and past practices (if applicable) of the foreign country or foreign entity concerned in relation to the certification of the Secretary under this subsection.

"(c) COORDINATION WITH PROHIBITION ON TRANSFER TO CERTAIN COUNTRIES.—While the prohibition in section 1033 [of Pub. L. 114–92, 129 Stat. 968] is in effect, no certification may be made under subsection (b) in connection with the transfer of an individual detained at Guantanamo to a country specified in such section.

"(d) RECORD OF COOPERATION.—In assessing the risk that an individual detained at Guantanamo will engage in terrorist activity or other actions that could affect the national security of the United States if released for the purpose of making a certification under subsection (b), the Secretary may give favorable consideration to any such individual—

"(1) who has substantially cooperated with United States intelligence and law enforcement authorities, pursuant to a pre-trial agreement, while in the custody of or under the effective control of the Department of Defense; and

"(2) for whom agreements and effective mechanisms are in place, to the extent relevant and necessary, to provide for continued cooperation with United States intelligence and law enforcement authorities.

"(e) REPORT.—Whenever the Secretary makes a certification under subsection (b) with respect to an individual detained at Guantanamo, the Secretary shall submit to the appropriate committees of Congress, together with such certification, a report that shall include, at a minimum, the following:

"(1) A detailed statement of the basis for the transfer of the individual.

"(2) An explanation why the transfer of the individual is in the national security interests of the United States.

"(3) A description of actions taken to mitigate the risks of reengagement by the individual as described in subsection (b)(2)(C), including any actions taken to address factors relevant to an applicable prior case of reengagement described in subsection (b)(3).

"(4) A copy of any Periodic Review Board findings relating to the individual.

"(5) A copy of the final recommendation by the Guantanamo Detainee Review Task Force established pursuant to Executive Order 13492 [set out below] relating to the individual and, if applicable, updated information related to any change to such recommendation.

"(6) An assessment whether, as of the date of the certification, the country to which the individual is to be transferred is facing a threat that could substantially affect its ability to exercise control over the individual.

"(7) A classified summary of—

"(A) the individual's record of cooperation, if any, while in the custody of or under the effective control of the Department of Defense; and

"(B) any agreements and mechanisms in place to provide for continuing cooperation.

"(f) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) The term 'individual detained at Guantanamo' means any individual located at United States Naval Station, Guantanamo Bay, Cuba, as of October 1, 2009, who—

"(A) is not a citizen of the United States or a member of the Armed Forces of the United States; and

"(B) is—

"(i) in the custody or under the control of the Department of Defense; or

"(ii) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

"(3) The term 'foreign terrorist organization' means any organization so designated by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

"(4) The term 'state sponsor of terrorism' has the meaning given that term in section 301(13) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8541(13))."

## TRANSFERS TO FOREIGN COUNTRIES OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA

Pub. L. 113–66, div. A, title X, §1035(a)–(e), Dec. 26, 2013, 127 Stat. 851–853, which related to authority, determinations, and notification regarding transfers to foreign countries of individuals detained at United

States Naval Station, Guantanamo Bay, Cuba, was repealed by Pub. L. 114–92, div. A, title X, §1034(g), Nov. 25, 2015, 129 Stat. 971.

## NOTICE TO CONGRESS ON USE OF NAVAL VESSELS FOR DETENTION OF INDIVIDUALS

Pub. L. 112–239, div. A, title X, §1024(a), Jan. 2, 2013, 126 Stat 1912, provided that: "Not later than 30 days after first detaining an individual pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) on a naval vessel outside the United States, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives notice of the detention. In the case of such an individual who is transferred or released before the submittal of the notice of the individual's detention, the Secretary shall also submit to such Committees notice of the transfer or release."

## NOTICE REQUIRED PRIOR TO TRANSFER OF CERTAIN INDIVIDUALS DETAINED AT THE DETENTION FACILITY AT PARWAN, AFGHANISTAN

Pub. L. 112–239, div. A, title X, §1025, Jan. 2, 2013, 126 Stat. 1913, provided that:

"(a) NOTICE REQUIRED.—The Secretary of Defense shall submit to the appropriate congressional committees notice in writing of the proposed transfer of any individual detained pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) who is a national of a country other than the United States or Afghanistan from detention at the Detention Facility at Parwan, Afghanistan, to the custody of the Government of Afghanistan or of any other country. Such notice shall be provided not later than 10 days before such a transfer may take place.

"(b) ASSESSMENTS REQUIRED.—Prior to any transfer referred to under subsection (a), the Secretary shall ensure that an assessment is conducted as follows:

"(1) In the case of the proposed transfer of such an individual by reason of the individual being released, an assessment of the threat posed by the individual and the security environment of the country to which the individual is to be transferred.

"(2) In the case of the proposed transfer of such an individual to a country other than Afghanistan for the purpose of the prosecution of the individual, an assessment regarding the capacity, willingness, and historical track record of the country with respect to prosecuting similar cases, including a review of the primary evidence against the individual to be transferred and any significant admissibility issues regarding such evidence that are expected to arise in connection with the prosecution of the individual.

"(3) In the case of the proposed transfer of such an individual for reintegration or rehabilitation in a country other than Afghanistan, an assessment regarding the capacity, willingness, and historical track records of the country for reintegrating or rehabilitating similar individuals.

"(4) In the case of the proposed transfer of such an individual to the custody of the Government of Afghanistan for prosecution or detention, an assessment regarding the capacity, willingness, and historical track record of Afghanistan to prosecute or detain long-term such individuals.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate."

## REQUIREMENTS FOR CERTIFICATIONS RELATING TO THE TRANSFER OF DETAINEES AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES

Pub. L. 112–239, div. A, title X, §1028, Jan. 2, 2013, 126 Stat. 1914, related to requirements for certifications relating to the transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities, prior to repeal by Pub. L. 113–66, div. A, title X, §1035(f)(2), Dec. 26, 2013, 127 Stat. 853.

## RIGHTS UNAFFECTED

Pub. L. 112–239, div. A, title X, §1029, Jan. 2, 2013, 126 Stat. 1917, provided that: "Nothing in the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) or the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81 [see Tables for classification]) shall be construed to deny the availability of the writ of habeas corpus or to deny any Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would be entitled to the availability of such writ or to such rights in the absence of such laws."

## NOTIFICATION OF TRANSFER OF A DETAINEE HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA

Pub. L. 112–87, title III, §308, Jan. 3, 2012, 125 Stat. 1883, provided that:

"(a) REQUIREMENT FOR NOTIFICATION.—The President shall submit to Congress, in classified form, at least 30 days prior to the transfer or release of an individual detained at Naval Station, Guantanamo Bay, Cuba, as of June 24, 2009, to the country of such individual's nationality or last habitual residence or to any other foreign country or to a freely associated State the following information:

"(1) The name of the individual to be transferred or released.

"(2) The country or the freely associated State to which such individual is to be transferred or released.

"(3) The terms of any agreement with the country or the freely associated State for the acceptance of such individual, including the amount of any financial assistance related to such agreement.

"(4) The agencies or departments of the United States responsible for ensuring that the agreement described in paragraph (3) is carried out.

"(b) DEFINITION.—In this section, the term 'freely associated States' means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

"(c) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this section shall be construed to supersede or otherwise affect the following provisions of law:

"(1) Section 1028 of the National Defense Authorization Act for Fiscal Year 2012 [Pub. L. 112–81, formerly set out below].

"(2) Section 8120 of the Department of Defense Appropriations Act, 2012 [div. A of Pub. L. 112–74, 125 Stat. 833]."

[Memorandum of President of the United States, Jan. 27, 2012, 77 F.R. 11371, delegated to the Secretary of State, in consultation with the Secretary of Defense, the function to provide to Congress the information specified in section 308(a) of Pub. L. 112–87, set out above.]

## DETENTION AUTHORITY AND PROCEDURES, TRANSFER CERTIFICATIONS AND PROSECUTION CONSULTATION REQUIREMENT

Pub. L. 112–81, div. A, title X, §§1021–1025, 1028, 1029, Dec. 31, 2011, 125 Stat. 1562–1565, 1567, 1569, as amended by Pub. L. 113–66, div. A, title X, §1035(f)(1), Dec. 26, 2013, 127 Stat. 853, provided that:

"SEC. 1021. AFFIRMATION OF AUTHORITY OF THE ARMED FORCES OF THE UNITED STATES TO DETAIN COVERED PERSONS PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.

"(a) IN GENERAL.—Congress affirms that the authority of the President to use all necessary and appropriate force pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) includes the authority for the Armed Forces of the United States to detain covered persons (as defined in subsection (b)) pending disposition under the law of war.

"(b) COVERED PERSONS.—A covered person under this section is any person as follows:

"(1) A person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored those responsible for those attacks.

"(2) A person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces.

"(c) DISPOSITION UNDER LAW OF WAR.—The disposition of a person under the law of war as described in subsection (a) may include the following:

"(1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force.

"(2) Trial under chapter 47A of title 10, United States Code (as amended by the Military Commissions Act of 2009 (title XVIII of Public Law 111–84)).

"(3) Transfer for trial by an alternative court or competent tribunal having lawful jurisdiction.

"(4) Transfer to the custody or control of the person's country of origin, any other foreign country, or any other foreign entity.

"(d) CONSTRUCTION.—Nothing in this section is intended to limit or expand the authority of the President or the scope of the Authorization for Use of Military Force.

"(e) AUTHORITIES.—Nothing in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States.

"(f) REQUIREMENT FOR BRIEFINGS OF CONGRESS.—The Secretary of Defense shall regularly brief Congress regarding the application of the authority described in this section, including the organizations, entities, and individuals considered to be 'covered persons' for purposes of subsection (b)(2).

"SEC. 1022. MILITARY CUSTODY FOR FOREIGN AL-QAEDA TERRORISTS.

"(a) CUSTODY PENDING DISPOSITION UNDER LAW OF WAR.—

"(1) IN GENERAL.—Except as provided in paragraph (4), the Armed Forces of the United States shall hold a person described in paragraph (2) who is captured in the course of hostilities authorized by the Authorization for Use of Military Force (Public Law 107–40) in military custody pending disposition under the law of war.

"(2) COVERED PERSONS.—The requirement in paragraph (1) shall apply to any person whose detention is authorized under section 1021 who is determined—

"(A) to be a member of, or part of, al-Qaeda or an associated force that acts in coordination with or pursuant to the direction of al-Qaeda; and

"(B) to have participated in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners.

"(3) DISPOSITION UNDER LAW OF WAR.—For purposes of this subsection, the disposition of a person under the law of war has the meaning given in section 1021(c), except that no transfer otherwise described in paragraph (4) of that section shall be made unless consistent with the requirements of section 1028.

"(4) WAIVER FOR NATIONAL SECURITY.—The President may waive the requirement of paragraph (1) if the President submits to Congress a certification in writing that such a waiver is in the national security interests of the United States.

"(b) APPLICABILITY TO UNITED STATES CITIZENS AND LAWFUL RESIDENT ALIENS.—

"(1) UNITED STATES CITIZENS.—The requirement to detain a person in military custody under this section does not extend to citizens of the United States.

"(2) LAWFUL RESIDENT ALIENS.—The requirement to detain a person in military custody under this section does not extend to a lawful resident alien of the United States on the basis of conduct taking place within the United States, except to the extent permitted by the Constitution of the United States.

"(c) IMPLEMENTATION PROCEDURES.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 31, 2011], the President shall issue, and submit to Congress, procedures for implementing this section.

"(2) ELEMENTS.—The procedures for implementing this section shall include, but not be limited to, procedures as follows:

"(A) Procedures designating the persons authorized to make determinations under subsection (a)(2) and the process by which such determinations are to be made.

"(B) Procedures providing that the requirement for military custody under subsection (a)(1) does not require the interruption of ongoing surveillance or intelligence gathering with regard to persons not already in the custody or control of the United States.

"(C) Procedures providing that a determination under subsection (a)(2) is not required to be implemented until after the conclusion of an interrogation which is ongoing at the time the determination is made and does not require the interruption of any such ongoing interrogation.

"(D) Procedures providing that the requirement for military custody under subsection (a)(1) does not apply when intelligence, law enforcement, or other Government officials of the United States are granted access to an individual who remains in the custody of a third country.

"(E) Procedures providing that a certification of national security interests under subsection (a)(4) may be granted for the purpose of transferring a covered person from a third country if such a transfer is in the interest of the United States and could not otherwise be accomplished.

"(d) AUTHORITIES.—Nothing in this section shall be construed to affect the existing criminal enforcement and national security authorities of the Federal Bureau of Investigation or any other domestic law enforcement agency with regard to a covered person, regardless whether such covered person is held in military custody.

"(e) EFFECTIVE DATE.—This section shall take effect on the date that is 60 days after the date of the enactment of this Act, and shall apply with respect to persons described in subsection (a)(2) who are taken into the custody or brought under the control of the United States on or after that effective date.

"SEC. 1023. PROCEDURES FOR PERIODIC DETENTION REVIEW OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

"(a) PROCEDURES REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall submit to the appropriate committees of Congress a report

setting forth procedures for implementing the periodic review process required by Executive Order No. 13567 [set out below] for individuals detained at United States Naval Station, Guantanamo Bay, Cuba, pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note).

"(b) COVERED MATTERS.—The procedures submitted under subsection (a) shall, at a minimum—

"(1) clarify that the purpose of the periodic review process is not to determine the legality of any detainee's law of war detention, but to make discretionary determinations whether or not a detainee represents a continuing threat to the security of the United States;

"(2) clarify that the Secretary of Defense is responsible for any final decision to release or transfer an individual detained in military custody at United States Naval Station, Guantanamo Bay, Cuba, pursuant to the Executive Order referred to in subsection (a), and that in making such a final decision, the Secretary shall consider the recommendation of a periodic review board or review committee established pursuant to such Executive Order, but shall not be bound by any such recommendation;

"(3) clarify that the periodic review process applies to any individual who is detained as an unprivileged enemy belligerent at United States Naval Station, Guantanamo Bay, Cuba, at any time; and

"(4) ensure that appropriate consideration is given to factors addressing the need for continued detention of the detainee, including—

"(A) the likelihood the detainee will resume terrorist activity if transferred or released;

"(B) the likelihood the detainee will reestablish ties with al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners if transferred or released;

"(C) the likelihood of family, tribal, or government rehabilitation or support for the detainee if transferred or released;

"(D) the likelihood the detainee may be subject to trial by military commission; and

"(E) any law enforcement interest in the detainee.

"(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"SEC. 1024. PROCEDURES FOR STATUS DETERMINATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth the procedures for determining the status of persons detained pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) for purposes of section 1021.

"(b) ELEMENTS OF PROCEDURES.—The procedures required by this section shall provide for the following in the case of any unprivileged enemy belligerent who will be held in long-term detention under the law of war pursuant to the Authorization for Use of Military Force:

"(1) A military judge shall preside at proceedings for the determination of status of an unprivileged enemy belligerent.

"(2) An unprivileged enemy belligerent may, at the election of the belligerent, be represented by military counsel at proceedings for the determination of status of the belligerent.

"(c) APPLICABILITY.—The Secretary of Defense is not required to apply the procedures required by this section in the case of a person for whom habeas corpus review is available in a Federal court.

"(d) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the appropriate committees of Congress a report on any modification of the procedures submitted under this section. The report on any such modification shall be so submitted not later than 60 days before the date on which such modification goes into effect.

"(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"SEC. 1025. REQUIREMENT FOR NATIONAL SECURITY PROTOCOLS GOVERNING DETAINEE COMMUNICATIONS.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall develop and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a national security

protocol governing communications to and from individuals detained at United States Naval Station, Guantanamo Bay, Cuba, pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), and related issues.

"(b) CONTENTS.—The protocol developed pursuant to subsection (a) shall include Department of Defense policies and procedures regarding each of the following:

"(1) Detainee access to military or civilian legal representation, or both, including any limitations on such access and the manner in which any applicable legal privileges will be balanced with national security considerations.

"(2) Detainee communications with persons other than Federal Government personnel and members of the Armed Forces, including meetings, mail, phone calls, and video teleconferences, including—

"(A) any limitations on categories of information that may be discussed or materials that may be shared; and

"(B) the process by which such communications or materials are to be monitored or reviewed.

"(3) The extent to which detainees may receive visits by persons other than military or civilian representatives.

"(4) The measures planned to be taken to implement and enforce the provisions of the protocol.

"(c) UPDATES.—The Secretary of Defense shall notify the congressional defense committees of any significant change to the policies and procedures described in the protocol submitted pursuant to subsection (a) not later than 30 days after such change is made.

"(d) FORM OF PROTOCOL.—The protocol submitted pursuant to subsection (a) may be submitted in classified form.

"[SEC. 1028. REPEALED. PUB. L. 113–66, DIV. A, TITLE X, §1035(F)(1), DEC. 26, 2013, 127 STAT. 853.]

"SEC. 1029. REQUIREMENT FOR CONSULTATION REGARDING PROSECUTION OF TERRORISTS.

"(a) IN GENERAL.—Before seeking an indictment of, or otherwise charging, an individual described in subsection (b) in a Federal court, the Attorney General shall consult with the Director of National Intelligence and the Secretary of Defense about—

"(1) whether the more appropriate forum for prosecution would be a Federal court or a military commission; and

"(2) whether the individual should be held in civilian custody or military custody pending prosecution.

"(b) APPLICABILITY.—The consultation requirement in subsection (a) applies to—

"(1) a person who is subject to the requirements of section 1022, in accordance with a determination made pursuant to subsection (a)(2) of such section; and

"(2) any other person who is held in military detention outside of the United States pursuant to the authority affirmed by section 1021."

[Memorandum of President of the United States, Feb. 28, 2012, 77 F.R. 12435, delegated the waiver authority conferred upon the President by section 1022(a)(4) of Pub. L. 112–81, set out above, to the Attorney General, in consultation with other senior national security officials, including the Secretaries of State, Defense, and Homeland Security, Director of National Intelligence, Chairman of the Joint Chiefs of Staff, Director of the Central Intelligence Agency, and Director of the Federal Bureau of Investigation, as well as any other officials the President may designate.]

## PROHIBITION ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL

Pub. L. 111–84, div. A, title X, §1038, Oct. 28, 2009, 123 Stat. 2451, provided that:

"(a) PROHIBITION.—Except as provided in subsection (b), effective one year after the date of the enactment of this Act [Oct. 28, 2009], no enemy prisoner of war, civilian internee, retained personnel, other detainee, or any other individual who is in the custody or under the effective control of the Department of Defense or otherwise under detention in a Department of Defense facility in connection with hostilities may be interrogated by contractor personnel.

"(b) AUTHORIZED FUNCTIONS OF CONTRACTOR PERSONNEL.—Contractor personnel with proper training and security clearances may be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, including as trainers of and advisors to interrogators, in interrogations of persons as described in subsection (a) if—

"(1) such personnel are subject to the same rules, procedures, policies, and laws pertaining to detainee operations and interrogations as apply to government personnel in such positions in such interrogations; and

"(2) appropriately qualified and trained military or civilian personnel of the Department of Defense are available to oversee the contractor's performance and to ensure that contractor personnel do not perform activities that are prohibited under this section.

"(c) DISCHARGE BY GOVERNMENT PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that, by not later than one year after the date of the enactment of this Act, the Department of Defense has the resources needed to ensure that interrogations described in subsection (a) are conducted by appropriately qualified government personnel.

"(d) WAIVER.—

"(1) WAIVERS AUTHORIZED.—The Secretary of Defense may waive the prohibition under subsection (a) for a period of 60 days if the Secretary determines such a waiver is vital to the national security interests of the United States. The Secretary may renew a waiver issued pursuant to this paragraph for an additional 30-day period, if the Secretary determines that such a renewal is vital to the national security interests of the United States.

"(2) LIMITATION ON DELEGATION.—

"(A) IN GENERAL.—The waiver authority under paragraph (1) may not be delegated to any official below the level of the Deputy Secretary of Defense, except in the case of a waiver for an individual interrogation that is based on military exigencies, in which case the delegation of the waiver authority shall be done pursuant to regulations that the Secretary of Defense shall prescribe but in no instance may the latter delegation be below the level of combatant commander of the theater in which the individual is in the custody or under the effective control of the Department of Defense or otherwise under detention in a Department of Defense facility within that theater.

"(B) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe the regulations referred to in subparagraph (A) by not later than 30 days after the date of the enactment of this Act.

"(3) CONGRESSIONAL NOTIFICATION.—Not later than five days after the Secretary issues a waiver pursuant to paragraph (1), the Secretary shall submit to Congress written notification of the waiver."

## NO MIRANDA WARNINGS FOR AL QAEDA TERRORISTS

Pub. L. 111–84, div. A, title X, §1040, Oct. 28, 2009, 123 Stat. 2454, provided that:

"(a) NO MIRANDA WARNINGS.—

"(1) IN GENERAL.—Absent a court order requiring the reading of such statements, no member of the Armed Forces and no official or employee of the Department of Defense or a component of the intelligence community (other than the Department of Justice) may read to a foreign national who is captured or detained outside the United States as an enemy belligerent and is in the custody or under the effective control of the Department of Defense or otherwise under detention in a Department of Defense facility the statement required by *Miranda* v. *Arizona* (384 U.S. 436 (1966)), or otherwise inform such an individual of any rights that the individual may or may not have to counsel or to remain silent consistent with *Miranda* v. *Arizona* (384 U.S. 436 (1966)).

"(2) NONAPPLICABILITY TO DEPARTMENT OF JUSTICE.—This subsection shall not apply to the Department of Justice.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'foreign national' means an individual who is not a citizen or national of the United States.

"(B) The term 'enemy belligerent' includes a privileged belligerent against the United States and an unprivileged enemy belligerent, as those terms are defined in section 948a of title 10, United States Code, as amended by section 1802 of this Act.

"(b) REPORT REQUIRED ON NOTIFICATION OF DETAINEES OF RIGHTS UNDER *Miranda* v. *Arizona*.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on how the reading of rights under *Miranda* v. *Arizona* (384 U.S. 436 (1966)) to individuals detained by the United States in Afghanistan may affect—

"(1) the tactical questioning of detainees at the point of capture by United States Armed Forces deployed in support of Operation Enduring Freedom;

"(2) post-capture theater-level interrogations and intelligence-gathering activities conducted as part of Operation Enduring Freedom;

"(3) the overall counterinsurgency strategy and objectives of the United States for Operation Enduring Freedom;

"(4) United States military operations and objectives in Afghanistan; and

"(5) potential risks to members of the Armed Forces operating in Afghanistan."

## REQUIREMENT FOR VIDEOTAPING OR OTHERWISE ELECTRONICALLY RECORDING

## STRATEGIC INTELLIGENCE INTERROGATIONS OF PERSONS IN THE CUSTODY OF OR UNDER THE EFFECTIVE CONTROL OF THE DEPARTMENT OF DEFENSE

Pub. L. 111–84, div. A, title X, §1080, Oct. 28, 2009, 123 Stat. 2479, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(15), Jan. 7, 2011, 124 Stat. 4373, provided that:

"(a) VIDEOTAPING OR OTHER ELECTRONIC RECORDING REQUIRED.—In accordance with the Army Field Manual on Human Intelligence Collector Operations (FM 2–22.3, September 2006), or any successor thereto, and the guidelines developed pursuant to subsection (f), the Secretary of Defense shall ensure that each strategic intelligence interrogation of any person who is in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility is videotaped or otherwise electronically recorded.

"(b) CLASSIFICATION OF INFORMATION.—To protect United States national security, the safety of the individuals conducting or assisting in the conduct of a strategic intelligence interrogation, and the privacy of persons described in subsection (a), the Secretary of Defense shall provide for the appropriate classification of videotapes or other electronic recordings made pursuant to subsection (a). The use of such classified videotapes or other electronic recordings in proceedings conducted under the Detainee Treatment Act of 2005 (title XIV of Public Law 109–163 and title X of Public Law 109–148), chapter 47A of title 10, United States Code, as amended by section 1802 of this Act, or at any other judicial or administrative forum under any other provision of law shall be governed by applicable rules, regulations, and laws that protect classified information.

"(c) STRATEGIC INTELLIGENCE INTERROGATION DEFINED.—For purposes of this section, the term 'strategic intelligence interrogation' means an interrogation of a person described in subsection (a) conducted at a theater-level detention facility.

"(d) EXCLUSION.—Nothing in this section shall be construed as requiring—

"(1) any member of the Armed Forces engaged in direct combat operations to videotape or otherwise electronically record an interrogation of a person described in subsection (a); or

"(2) the videotaping of or otherwise electronically recording of tactical questioning, as such term is defined in the Army Field Manual on Human Intelligence Collector Operations (FM 2–22.3, September 2006), or any successor thereto.

"(e) WAIVER.—

"(1) WAIVERS AUTHORIZED.—The Secretary of Defense may, as an exceptional measure, as part of a specific interrogation plan for a specific person described in subsection (a), waive the requirement in that subsection on a case-by-case basis for a period not to exceed 30 days, if the Secretary—

"(A) makes a determination in writing that such a waiver is necessary to the national security interests of the United States; and

"(B) by not later than five days after the date on which such a determination is made, submits to the Committees on Armed Services of the Senate and House of Representatives, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence notice of that determination, including a justification for that determination.

"(2) SUSPENSIONS AUTHORIZED.—The Secretary may temporarily suspend the requirement under subsection (a) at a specific theater-level detention facility for a period not to exceed 30 days, if the Secretary—

"(A) makes a determination in writing that such a suspension is vital to the national security interests of the United States; and

"(B) by not later than five days after the date on which such a determination is made, submits to the Committees on Armed Services of the Senate and House of Representatives, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence notice of that determination, including a justification for that determination.

"(3) LIMITATION ON DELEGATION OF AUTHORITY.—This authority of the Secretary under this subsection may only be delegated as follows:

"(A) In the case of the authority under paragraph (1), such authority may not be delegated below the level of the combatant commander of the theater in which the detention facility holding the person is located.

"(B) In the case of the authority under paragraph (2), such authority may not be delegated below the level of the Deputy Secretary of Defense.

"(4) EXTENSIONS.—The Secretary may extend a waiver under paragraph (1) for one additional 30-day period, or a suspension under paragraph (2) for one additional 30-day period, if—

"(A) the Secretary—

"(i) in the case of such a waiver, makes a determination in writing that such an extension is

necessary to the national security interests of the United State [sic]; or

"(ii) in the case of such a suspension, makes a determination in writing that such an extension is vital to the national security interests of the United States; and

"(B) by not later than five days after the date on which such a determination is made, the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence notice of that determination, including a justification for that determination.

"(f) GUIDELINES.—

"(1) DEVELOPMENT OF GUIDELINES.—The Secretary of Defense, acting through the Judge Advocates General (as defined in section 801(1) of title 10, United States Code, (Article 1 of the Uniform Code of Military Justice)), shall develop and adopt uniform guidelines for videotaping or otherwise electronically recording strategic intelligence interrogations as required under subsection (a). Such guidelines shall, at a minimum—

"(A) promote full compliance with the laws of the United States;

"(B) promote the exploitation of intelligence;

"(C) address the retention, maintenance, and disposition of videotapes or other electronic recordings, consistent with subparagraphs (A) and (B) and with the interests of justice; and

"(D) ensure the safety of all participants in the interrogations.

"(2) SUBMITTAL TO CONGRESS.—Not later than 30 days after the date of the enactment of this section [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the guidelines developed under paragraph (1). Such report shall be in an unclassified form but may include a classified annex."

## REPORTS ON GUANTANAMO BAY PRISONER POPULATION

Pub. L. 111–32, title III, §319, June 24, 2009, 123 Stat. 1874, as amended by Pub. L. 114–92, div. A, title X, §§1038(a), 1039, Nov. 25, 2015, 129 Stat. 974; Pub. L. 116–92, div. E, title LVII, §5701(a)(2), Dec. 20, 2019, 133 Stat. 2159, provided that:

"(a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act [June 24, 2009] and annually thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

"(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

"(1) The majority leader and minority leader of the Senate.

"(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

"(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

"(4) The Chairman and Vice Chairman of the Committee on Appropriations of the Senate.

"(5) The Speaker of the House of Representatives.

"(6) The minority leader of the House of Representatives.

"(7) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

"(8) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives.

"(9) The Chairman and Ranking Member of the Committee on Appropriations of the House of Representatives.

"(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

"(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

"(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

"(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

"(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

"(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

"(6) A summary of all known contact between any individual formerly detained at Naval Station Guantanamo Bay and any individual known or suspected to be associated with a foreign terrorist group, which contact included information or discussion about planning for or conduct of hostilities against the United States or its allies or the organizational, logistical, or resource needs or activities of any terrorist group or activity.

"(7) For each individual described in paragraph (4), the date on which such individual was released or transferred from Naval Station Guantanamo Bay and the date on which it is confirmed that such individual is suspected or confirmed of reengaging in terrorist activities.

"(8) The average period of time described in paragraph (7) for all the individuals described in paragraph (4).

"(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

"(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

"(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

"(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer."

[Pub. L. 114–92, div. A, title X, §1038(b), Nov. 25, 2015, 129 Stat. 974, provided that: "Nothing in the amendment made by subsection (a) [amending section 319(c) of Pub. L. 111–32, set out above, by adding par. (6)] shall be construed to terminate, alter, modify, override, or otherwise affect any reporting of information required under section 319(c) of the Supplemental Appropriations Act, 2009 [Pub. L. 111–32, set out above] before the date of the enactment of this section [Nov. 25, 2015]."]

[Memorandum of President of the United States, July 17, 2009, 74 F.R. 35765, provided that the reporting function conferred upon the President by section 319(a), (c)(1) to (3) of Pub. L. 111–32, set out above, is assigned to the Attorney General, and the reporting function specified in section 319(a), (c)(4), (5), (d) of Pub. L. 111–32 is assigned to the Director of National Intelligence, in consultation with the Secretary of Defense.]

## POLICY ON ROLE OF MILITARY MEDICAL AND BEHAVIORAL SCIENCE PERSONNEL IN INTERROGATION OF DETAINEES

Pub. L. 109–163, div. A, title VII, §750, Jan. 6, 2006, 119 Stat. 3364, provided that:

"(a) POLICY REQUIRED.—The Secretary of Defense shall establish the policy of the Department of Defense on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces. The policy shall apply uniformly throughout the Armed Forces.

"(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the policy established under subsection (a). The report shall set forth the policy, and shall include such additional matters on the policy as the Secretary considers appropriate."

## DETAINEE INTERROGATION, STATUS REVIEW, AND TREATMENT

Pub. L. 109–163, div. A, title XIV, §§1402, 1405, 1406, Jan. 6, 2006, 119 Stat. 3475, 3476, 3479, as amended by Pub. L. 111–84, div. A, title XVIII, §1803(b)(2), as added Pub. L. 111–383, div. A, title X, §1075(d)(21), Jan. 7, 2011, 124 Stat. 4374, provided that:

"SEC. 1402. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

"(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

"(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

"SEC. 1405. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

"(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

"(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

"(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

"(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the 'Designated Civilian Official') shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

"(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

"(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

"(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

"(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

"(B) the probative value, if any, of any such statement.

"(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act [Jan. 6, 2006].

"(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

"(d) ANNUAL REPORT.—

"(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

"(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

"(A) The number of detainees whose status was reviewed.

"(B) The procedures used at each location.

"(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

"(1) IN GENERAL.—[Amended section 2241 of Title 28, Judiciary and Judicial Procedure.]

"(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

"(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

"(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

"(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to

applicable procedures specified by the Secretary of Defense.

"(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

"(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

"(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

"(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

"[(3) Repealed. Pub. L. 111–84, div. A, title XVIII, §1803(b)(2), as added Pub. L. 111–383, div. A, title X, §1075(d)(21), Jan. 7, 2011, 124 Stat. 4374.]

"(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

"(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

"(g) UNITED STATES DEFINED.—For purposes of this section, the term 'United States', when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(38)] and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

"(h) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act [Jan. 6, 2006].

"(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

"SEC. 1406. TRAINING OF IRAQI SECURITY FORCES REGARDING TREATMENT OF DETAINEES.

"(a) REQUIRED POLICIES.—

"(1) IN GENERAL.—The Secretary of Defense shall prescribe policies designed to ensure that all military and civilian Department of Defense personnel or contractor personnel of the Department of Defense responsible for the training of any unit of the Iraqi Security Forces provide training to such units regarding the international obligations and laws applicable to the humane treatment of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

"(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment that such training has been provided.

"(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006].

"(b) ARMY FIELD MANUAL.—

"(1) TRANSLATION.—The Secretary of Defense shall provide for the unclassified portions of the United States Army Field Manual on Intelligence Interrogation to be translated into Arabic and any other language the Secretary determines appropriate for use by members of the Iraqi security forces.

"(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be distributed to all appropriate officials of the Iraqi Government, including, but not limited to, the Iraqi Minister of Defense, the Iraqi Minister of Interior, senior Iraqi military personnel, and appropriate members of the Iraqi Security Forces with a recommendation that the principles that underlay the manual be adopted by the Iraqis as the basis for their policies on interrogation of detainees.

"(c) TRANSMITTAL TO CONGRESSIONAL COMMITTEES.—Not less than 30 days after the date on which policies are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

"(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act [Jan. 6, 2006], and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the

Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1405(d) of Pub. L. 109–163, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

Pub. L. 109–148, div. A, title X, §§1002, 1005, 1006, Dec. 30, 2005, 119 Stat. 2739, 2740, 2744, as amended by Pub. L. 109–366, §§9, 10, Oct. 17, 2006, 120 Stat. 2636, 2637; Pub. L. 110–181, div. A, title X, §1063(d)(2), Jan. 28, 2008, 122 Stat. 323; Pub. L. 111–84, div. A, title XVIII, §1803(b)(1), formerly §1803(b), Oct. 28, 2009, 123 Stat. 2612, as renumbered §1803(b)(1) by Pub. L. 111–383, div. A, title X, §1075(d)(21), Jan. 7, 2011, 124 Stat. 4374, provided that:

"SEC. 1002. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

"(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

"(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

"SEC. 1005. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

"(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 30, 2005], the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

"(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

"(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

"(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the 'Designated Civilian Official') shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

"(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

"(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

"(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

"(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

"(B) the probative value (if any) of any such statement.

"(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act [Dec. 30, 2005].

"(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

"(d) ANNUAL REPORT.—

"(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

"(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

"(A) The number of detainees whose status was reviewed.

"(B) The procedures used at each location.

"(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

"(1) IN GENERAL.—[Amended section 2241 of Title 28, Judiciary and Judicial Procedure.]

"(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

"(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

"(i) who is, at the time a request for review by such court is filed, detained by the United States; and

"(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

"(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

"(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor of the Government's evidence); and

"(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

"(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

"[(3) Repealed. Pub. L. 111–84, div. A, title XVIII, §1803(b)(1), formerly §1803(b), Oct. 28, 2009, 123 Stat. 2612, as renumbered §1803(b)(1) by Pub. L. 111–383, div. A, title X, §1075(d)(21), Jan. 7, 2011, 124 Stat. 4374.]

"(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

"(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

"(g) UNITED STATES DEFINED.—For purposes of this section, the term 'United States', when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(38)] and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

"(h) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act [Dec. 30, 2005].

"(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

"SEC. 1006. TRAINING OF IRAQI FORCES REGARDING TREATMENT OF DETAINEES.

"(a) REQUIRED POLICIES.—

"(1) IN GENERAL.—The Secretary of Defense shall ensure that policies are prescribed regarding procedures for military and civilian personnel of the Department of Defense and contractor personnel of the Department of Defense in Iraq that are intended to ensure that members of the Armed Forces, and all

persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, ensure that all personnel of Iraqi military forces who are trained by Department of Defense personnel and contractor personnel of the Department of Defense receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

"(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment of such training having been provided.

"(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act [Dec. 30, 2005].

"(b) ARMY FIELD MANUAL.—

"(1) TRANSLATION.—The Secretary of Defense shall provide for the United States Army Field Manual on Intelligence Interrogation to be translated into arabic [sic] and any other language the Secretary determines appropriate for use by members of the Iraqi military forces.

"(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be provided to each unit of the Iraqi military forces trained by Department of Defense personnel or contractor personnel of the Department of Defense.

"(c) TRANSMITTAL OF REGULATIONS.—Not less than 30 days after the date on which regulations, policies, and orders are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

"(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act [Dec. 30, 2005], and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section."

## SENSE OF CONGRESS CONCERNING DETAINEES; ACTIONS TO PREVENT ABUSE

Pub. L. 108–375, div. A, title X, §§1091, 1092, Oct. 28, 2004, 118 Stat. 2068, 2069, provided that:

"SEC. 1091. SENSE OF CONGRESS AND POLICY CONCERNING PERSONS DETAINED BY THE UNITED STATES.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are inconsistent with the professionalism, dedication, standards, and training required of individuals who serve in the United States Armed Forces;

"(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives;

"(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

"(4) the Armed Forces are moving swiftly and decisively to identify, try, and, if found guilty, punish persons who perpetrated such abuse;

"(5) the Department of Defense and appropriate military authorities must continue to undertake corrective action, as appropriate, to address chain-of-command deficiencies and the systemic deficiencies identified in the incidents in question;

"(6) the Constitution, laws, and treaties of the United States and the applicable guidance and regulations of the United States Government prohibit the torture or cruel, inhuman, or degrading treatment of foreign prisoners held in custody by the United States;

"(7) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

"(8) no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of United States.

"(b) POLICY.—It is the policy of the United States to—

"(1) ensure that no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States;

"(2) investigate and prosecute, as appropriate, all alleged instances of unlawful treatment of detainees in a manner consistent with the international obligations, laws, or policies of the United States;

"(3) ensure that all personnel of the United States Government understand their obligations in both

wartime and peacetime to comply with the legal prohibitions against torture, cruel, inhuman, or degrading treatment of detainees in the custody of the United States;

"(4) ensure that, in a case in which there is doubt as to whether a detainee is entitled to prisoner of war status under the Geneva Conventions, such detainee receives the protections accorded to prisoners of war until the detainee's status is determined by a competent tribunal; and

"(5) expeditiously process and, if appropriate, prosecute detainees in the custody of the United States, including those in the custody of the United States Armed Forces at Guantanamo Bay, Cuba.

"(c) DETAINEES.—For purposes of this section, the term 'detainee' means a person in the custody or under the physical control of the United States as a result of armed conflict.

"SEC. 1092. ACTIONS TO PREVENT THE ABUSE OF DETAINEES.

"(a) POLICIES REQUIRED.—The Secretary of Defense shall ensure that policies are prescribed not later than 150 days after the date of the enactment of this Act [Oct. 28, 2004] regarding procedures for Department of Defense personnel and contractor personnel of the Department of Defense intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, treat persons detained by the United States Government in a humane manner consistent with the international obligations and laws of the United States and the policies set forth in section 1091(b).

"(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies under that subsection shall specify, at a minimum, procedures for the following:

"(1) Ensuring that each commander of a Department of Defense detention facility or interrogation facility—

"(A) provides all assigned personnel with training, and documented acknowledgment of receiving training, regarding the law of war, including the Geneva Conventions; and

"(B) establishes standard operating procedures for the treatment of detainees.

"(2) Ensuring that each Department of Defense contract in which contract personnel in the course of their duties interact with individuals detained by the Department of Defense on behalf of the United States Government include a requirement that such contract personnel have received training, and documented acknowledgment of receiving training, regarding the international obligations and laws of the United States applicable to the detention of personnel.

"(3) Providing all detainees with information, in their own language, of the applicable protections afforded under the Geneva Conventions.

"(4) Conducting periodic unannounced and announced inspections of detention facilities in order to provide continued oversight of interrogation and detention operations.

"(5) Ensuring that, to the maximum extent practicable, detainees and detention facility personnel of a different gender are not alone together.

"(c) SECRETARY OF DEFENSE CERTIFICATION.—The Secretary of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogation of individuals detained by the Department of Defense on behalf of the United States Government have fulfilled an annual training requirement on the law of war, the Geneva Conventions, and the obligations of the United States under international law."

## EXECUTIVE DOCUMENTS

### DETENTION, TREATMENT, AND TRIAL OF CERTAIN NON-CITIZENS IN THE WAR AGAINST TERRORISM

Military Order of President of the United States, dated Nov. 13, 2001, 66 F.R. 57833, provided:

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force Joint Resolution (Public Law 107–40, 115 Stat. 224) [50 U.S.C. 1541 note] and sections 821 and 836 of title 10, United States Code, it is hereby ordered as follows:

SECTION 1. *Findings.*

(a) International terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces.

(b) In light of grave acts of terrorism and threats of terrorism, including the terrorist attacks on September 11, 2001, on the headquarters of the United States Department of Defense in the national capital region, on the

World Trade Center in New York, and on civilian aircraft such as in Pennsylvania, I proclaimed a national emergency on September 14, 2001 (Proc. 7463, Declaration of National Emergency by Reason of Certain Terrorist Attacks [50 U.S.C. 1621 note]).

(c) Individuals acting alone and in concert involved in international terrorism possess both the capability and the intention to undertake further terrorist attacks against the United States that, if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government.

(d) The ability of the United States to protect the United States and its citizens, and to help its allies and other cooperating nations protect their nations and their citizens, from such further terrorist attacks depends in significant part upon using the United States Armed Forces to identify terrorists and those who support them, to disrupt their activities, and to eliminate their ability to conduct or support such attacks.

(e) To protect the United States and its citizens, and for the effective conduct of military operations and prevention of terrorist attacks, it is necessary for individuals subject to this order pursuant to section 2 hereof to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals.

(f) Given the danger to the safety of the United States and the nature of international terrorism, and to the extent provided by and under this order, I find consistent with section 836 of title 10, United States Code, that it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts.

(g) Having fully considered the magnitude of the potential deaths, injuries, and property destruction that would result from potential acts of terrorism against the United States, and the probability that such acts will occur, I have determined that an extraordinary emergency exists for national defense purposes, that this emergency constitutes an urgent and compelling government interest, and that issuance of this order is necessary to meet the emergency.

SEC. 2. *Definition and Policy.*

(a) The term "individual subject to this order" shall mean any individual who is not a United States citizen with respect to whom I determine from time to time in writing that:

(1) there is reason to believe that such individual, at the relevant times,

(i) is or was a member of the organization known as al Qaida;

(ii) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or

(iii) has knowingly harbored one or more individuals described in subparagraphs (i) or (ii) of subsection 2(a)(1) of this order; and

(2) it is in the interest of the United States that such individual be subject to this order.

(b) It is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4.

(c) It is further the policy of the United States that any individual subject to this order who is not already under the control of the Secretary of Defense but who is under the control of any other officer or agent of the United States or any State shall, upon delivery of a copy of such written determination to such officer or agent, forthwith be placed under the control of the Secretary of Defense.

SEC. 3. *Detention Authority of the Secretary of Defense*. Any individual subject to this order shall be—

(a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States;

(b) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

(c) afforded adequate food, drinking water, shelter, clothing, and medical treatment;

(d) allowed the free exercise of religion consistent with the requirements of such detention; and

(e) detained in accordance with such other conditions as the Secretary of Defense may prescribe.

SEC. 4. *Authority of the Secretary of Defense Regarding Trials of Individuals Subject to this Order*. [Superseded by Ex. Ord. No. 13425, set out as a note under section 948b of this title.]

SEC. 5. *Obligation of Other Agencies to Assist the Secretary of Defense.*

Departments, agencies, entities, and officers of the United States shall, to the maximum extent permitted by law, provide to the Secretary of Defense such assistance as he may request to implement this order.

SEC. 6. *Additional Authorities of the Secretary of Defense.*

(a) As a military function and in light of the findings in section 1, the Secretary of Defense shall issue such orders and regulations as may be necessary to carry out any of the provisions of this order.

(b) The Secretary of Defense may perform any of his functions or duties, and may exercise any of the powers provided to him under this order (other than under section 4(c)(8) hereof) in accordance with section 113(d) of title 10, United States Code.

SEC. 7. *Relationship to Other Law and Forums.*

(a) Nothing in this order shall be construed to—

(1) authorize the disclosure of state secrets to any person not otherwise authorized to have access to them;

(2) limit the authority of the President as Commander in Chief of the Armed Forces or the power of the President to grant reprieves and pardons; or

(3) limit the lawful authority of the Secretary of Defense, any military commander, or any other officer or agent of the United States or of any State to detain or try any person who is not an individual subject to this order.

(b) With respect to any individual subject to this order—

(1) military tribunals shall have exclusive jurisdiction with respect to offenses by the individual; and

(2) the individual shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly, or to have any such remedy or proceeding sought on the individual's behalf, in (i) any court of the United States, or any State thereof, (ii) any court of any foreign nation, or (iii) any international tribunal.

(c) This order is not intended to and does not create any right, benefit, or privilege, substantive or procedural, enforceable at law or equity by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

(d) For purposes of this order, the term "State" includes any State, district, territory, or possession of the United States.

(e) I reserve the authority to direct the Secretary of Defense, at any time hereafter, to transfer to a governmental authority control of any individual subject to this order. Nothing in this order shall be construed to limit the authority of any such governmental authority to prosecute any individual for whom control is transferred.

SEC. 8. *Publication.*

This order shall be published in the Federal Register.

GEORGE W. BUSH.

[For supersedure of provisions of Military Order of President of the United States, dated Nov. 13, 2001, set out above, related to trial by military commission, see Ex. Ord. No. 13425, Feb. 14, 2007, 72 F.R. 7737, set out as a note under section 948b of this title.]

## EX. ORD. NO. 13492. REVIEW AND DISPOSITION OF INDIVIDUALS DETAINED AT THE GUANTANAMO BAY NAVAL BASE AND CLOSURE OF DETENTION FACILITIES

Ex. Ord. No. 13492, Jan. 22, 2009, 74 F.R. 4897, as amended by Ex. Ord. No. 13823, §2(a), Jan. 30, 2018, 83 F.R. 4831, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to effect the appropriate disposition of individuals currently detained by the Department of Defense at the Guantanamo Bay Naval Base (Guantanamo) and promptly to close detention facilities at Guantanamo, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

SECTION 1. *Definitions*. As used in this order:

(a) "Common Article 3" means Article 3 of each of the Geneva Conventions.

(b) "Geneva Conventions" means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).

(c) "Individuals currently detained at Guantanamo" and "individuals covered by this order" mean individuals currently detained by the Department of Defense in facilities at the Guantanamo Bay Naval Base whom the Department of Defense has ever determined to be, or treated as, enemy combatants.

SEC. 2. *Findings*.

(a) Over the past 7 years, approximately 800 individuals whom the Department of Defense has ever determined to be, or treated as, enemy combatants have been detained at Guantanamo. The Federal Government has moved more than 500 such detainees from Guantanamo, either by returning them to their home country or by releasing or transferring them to a third country. The Department of Defense has determined that a number of the individuals currently detained at Guantanamo are eligible for such transfer or release.

(b) Some individuals currently detained at Guantanamo have been there for more than 6 years, and most have been detained for at least 4 years. In view of the significant concerns raised by these detentions, both within the United States and internationally, prompt and appropriate disposition of the individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice. Merely closing the facilities without promptly determining the appropriate disposition of the individuals detained would not adequately serve those interests. To the extent practicable, the prompt and appropriate disposition of the individuals detained at Guantanamo should precede the closure of the detention facilities at Guantanamo.

(c) The individuals currently detained at Guantanamo have the constitutional privilege of the writ of habeas corpus. Most of those individuals have filed petitions for a writ of habeas corpus in Federal court challenging the lawfulness of their detention.

(d) It is in the interests of the United States that the executive branch undertake a prompt and thorough review of the factual and legal bases for the continued detention of all individuals currently held at Guantanamo, and of whether their continued detention is in the national security and foreign policy interests of the United States and in the interests of justice. The unusual circumstances associated with detentions at Guantanamo require a comprehensive interagency review.

(e) New diplomatic efforts may result in an appropriate disposition of a substantial number of individuals currently detained at Guantanamo.

(f) Some individuals currently detained at Guantanamo may have committed offenses for which they should be prosecuted. It is in the interests of the United States to review whether and how any such individuals can and should be prosecuted.

(g) It is in the interests of the United States that the executive branch conduct a prompt and thorough review of the circumstances of the individuals currently detained at Guantanamo who have been charged with offenses before military commissions pursuant to the Military Commissions Act of 2006, Public Law 109–366, as well as of the military commission process more generally.

SEC. 3. [Revoked by Ex. Ord. No. 13823, §2(a), Jan. 30, 2018, 83 F.R. 4831, set out below.]

SEC. 4. *Immediate Review of All Guantanamo Detentions.*

(a) *Scope and Timing of Review*. A review of the status of each individual currently detained at Guantanamo (Review) shall commence immediately.

(b) *Review Participants*. The Review shall be conducted with the full cooperation and participation of the following officials:

(1) the Attorney General, who shall coordinate the Review;

(2) the Secretary of Defense;

(3) the Secretary of State;

(4) the Secretary of Homeland Security;

(5) the Director of National Intelligence;

(6) the Chairman of the Joint Chiefs of Staff; and

(7) other officers or full-time or permanent part-time employees of the United States, including employees with intelligence, counterterrorism, military, and legal expertise, as determined by the Attorney General, with the concurrence of the head of the department or agency concerned.

(c) *Operation of Review*. The duties of the Review participants shall include the following:

(1) *Consolidation of Detainee Information*. The Attorney General shall, to the extent reasonably practicable, and in coordination with the other Review participants, assemble all information in the possession of the Federal Government that pertains to any individual currently detained at Guantanamo and that is relevant to determining the proper disposition of any such individual. All executive branch departments and agencies shall promptly comply with any request of the Attorney General to provide information in their possession or control pertaining to any such individual. The Attorney General may seek further information relevant to the Review from any source.

(2) *Determination of Transfer*. The Review shall determine, on a rolling basis and as promptly as possible with respect to the individuals currently detained at Guantanamo, whether it is possible to transfer or release the individuals consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of Defense may effect their transfer or release. The

Secretary of Defense, the Secretary of State, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible.

(3) *Determination of Prosecution*. In accordance with United States law, the cases of individuals detained at Guantanamo not approved for release or transfer shall be evaluated to determine whether the Federal Government should seek to prosecute the detained individuals for any offenses they may have committed, including whether it is feasible to prosecute such individuals before a court established pursuant to Article III of the United States Constitution, and the Review participants shall in turn take the necessary and appropriate steps based on such determinations.

(4) *Determination of Other Disposition*. With respect to any individuals currently detained at Guantanamo whose disposition is not achieved under paragraphs (2) or (3) of this subsection, the Review shall select lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of such individuals. The appropriate authorities shall promptly implement such dispositions.

(5) *Consideration of Issues Relating to Transfer to the United States*. The Review shall identify and consider legal, logistical, and security issues relating to the potential transfer of individuals currently detained at Guantanamo to facilities within the United States, and the Review participants shall work with the Congress on any legislation that may be appropriate.

SEC. 5. *Diplomatic Efforts*. The Secretary of State shall expeditiously pursue and direct such negotiations and diplomatic efforts with foreign governments as are necessary and appropriate to implement this order.

SEC. 6. *Humane Standards of Confinement*. No individual currently detained at Guantanamo shall be held in the custody or under the effective control of any officer, employee, or other agent of the United States Government, or at a facility owned, operated, or controlled by a department or agency of the United States, except in conformity with all applicable laws governing the conditions of such confinement, including Common Article 3 of the Geneva Conventions. The Secretary of Defense shall immediately undertake a review of the conditions of detention at Guantanamo to ensure full compliance with this directive. Such review shall be completed within 30 days and any necessary corrections shall be implemented immediately thereafter.

SEC. 7. *Military Commissions*. The Secretary of Defense shall immediately take steps sufficient to ensure that during the pendency of the Review described in section 4 of this order, no charges are sworn, or referred to a military commission under the Military Commissions Act of 2006 and the Rules for Military Commissions, and that all proceedings of such military commissions to which charges have been referred but in which no judgment has been rendered, and all proceedings pending in the United States Court of Military Commission Review, are halted.

SEC. 8. *General Provisions*.

(a) Nothing in this order shall prejudice the authority of the Secretary of Defense to determine the disposition of any detainees not covered by this order.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## EX. ORD. NO. 13567. PERIODIC REVIEW OF INDIVIDUALS DETAINED AT GUANTÁNAMO BAY NAVAL STATION PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE

Ex. Ord. No. 13567, Mar. 7, 2011, 76 F.R. 13277, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force of September 2001 (AUMF), Public Law 107–40, and in order to ensure that military detention of individuals now held at the U.S. Naval Station, Guantánamo Bay, Cuba (Guantánamo), who were subject to the interagency review under section 4 of Executive Order 13492 of January 22, 2009, continues to be carefully evaluated and justified, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

SECTION 1. *Scope and Purpose*. (a) The periodic review described in section 3 of this order applies only to those detainees held at Guantánamo on the date of this order, whom the interagency review established by Executive Order 13492 has (i) designated for continued law of war detention; or (ii) referred for prosecution, except for those detainees against whom charges are pending or a judgment of conviction has been entered.

(b) This order is intended solely to establish, as a discretionary matter, a process to review on a periodic basis the executive branch's continued, discretionary exercise of existing detention authority in individual

cases. It does not create any additional or separate source of detention authority, and it does not affect the scope of detention authority under existing law. Detainees at Guantánamo have the constitutional privilege of the writ of habeas corpus, and nothing in this order is intended to affect the jurisdiction of Federal courts to determine the legality of their detention.

(c) In the event detainees covered by this order are transferred from Guantánamo to another U.S. detention facility where they remain in law of war detention, this order shall continue to apply to them.

SEC. 2. *Standard for Continued Detention*. Continued law of war detention is warranted for a detainee subject to the periodic review in section 3 of this order if it is necessary to protect against a significant threat to the security of the United States.

SEC. 3. *Periodic Review*. The Secretary of Defense shall coordinate a process of periodic review of continued law of war detention for each detainee described in section 1(a) of this order. In consultation with the Attorney General, the Secretary of Defense shall issue implementing guidelines governing the process, consistent with the following requirements:

(a) *Initial Review*. For each detainee, an initial review shall commence as soon as possible but no later than 1 year from the date of this order. The initial review will consist of a hearing before a Periodic Review Board (PRB). The review and hearing shall follow a process that includes the following requirements:

(1) Each detainee shall be provided, in writing and in a language the detainee understands, with advance notice of the PRB review and an unclassified summary of the factors and information the PRB will consider in evaluating whether the detainee meets the standard set forth in section 2 of this order. The written summary shall be sufficiently comprehensive to provide adequate notice to the detainee of the reasons for continued detention.

(2) The detainee shall be assisted in proceedings before the PRB by a Government-provided personal representative (representative) who possesses the security clearances necessary for access to the information described in subsection (a)(4) of this section. The representative shall advocate on behalf of the detainee before the PRB and shall be responsible for challenging the Government's information and introducing information on behalf of the detainee. In addition to the representative, the detainee may be assisted in proceedings before the PRB by private counsel, at no expense to the Government.

(3) The detainee shall be permitted to (i) present to the PRB a written or oral statement; (ii) introduce relevant information, including written declarations; (iii) answer any questions posed by the PRB; and (iv) call witnesses who are reasonably available and willing to provide information that is relevant and material to the standard set forth in section 2 of this order.

(4) The Secretary of Defense, in coordination with other relevant Government agencies, shall compile and provide to the PRB all information in the detainee disposition recommendations produced by the Task Force established under Executive Order 13492 that is relevant to the determination whether the standard in section 2 of this order has been met and on which the Government seeks to rely for that determination. In addition, the Secretary of Defense, in coordination with other relevant Government agencies, shall compile any additional information relevant to that determination, and on which the Government seeks to rely for that determination, that has become available since the conclusion of the Executive Order 13492 review. All mitigating information relevant to that determination must be provided to the PRB.

(5) The information provided in subsection (a)(4) of this section shall be provided to the detainee's representative. In exceptional circumstances where it is necessary to protect national security, including intelligence sources and methods, the PRB may determine that the representative must receive a sufficient substitute or summary, rather than the underlying information. If the detainee is represented by private counsel, the information provided in subsection (a)(4) of this section shall be provided to such counsel unless the Government determines that the need to protect national security, including intelligence sources and methods, or law enforcement or privilege concerns, requires the Government to provide counsel with a sufficient substitute or summary of the information. A sufficient substitute or summary must provide a meaningful opportunity to assist the detainee during the review process.

(6) The PRB shall conduct a hearing to consider the information described in subsection (a)(4) of this section, and other relevant information provided by the detainee or the detainee's representative or counsel, to determine whether the standard in section 2 of this order is met. The PRB shall consider the reliability of any information provided to it in making its determination.

(7) The PRB shall make a prompt determination, by consensus and in writing, as to whether the detainee's continued detention is warranted under the standard in section 2 of this order. If the PRB determines that the standard is not met, the PRB shall also recommend any conditions that relate to the detainee's transfer. The PRB shall provide a written summary of any final determination in unclassified form to the detainee, in a language the detainee understands, within 30 days of the determination when practicable.

(8) The Secretary of Defense shall establish a secretariat to administer the PRB review and hearing process.

The Director of National Intelligence shall assist in preparing the unclassified notice and the substitutes or summaries described above. Other executive departments and agencies shall assist in the process of providing the PRB with information required for the review processes detailed in this order.

(b) *Subsequent Full Review*. The continued detention of each detainee shall be subject to subsequent full reviews and hearings by the PRB on a triennial basis. Each subsequent review shall employ the procedures set forth in section 3(a) of this order.

(c) *File Reviews*. The continued detention of each detainee shall also be subject to a file review every 6 months in the intervening years between full reviews. This file review will be conducted by the PRB and shall consist of a review of any relevant new information related to the detainee compiled by the Secretary of Defense, in coordination with other relevant agencies, since the last review and, as appropriate, information considered during any prior PRB review. The detainee shall be permitted to make a written submission in connection with each file review. If, during the file review, a significant question is raised as to whether the detainee's continued detention is warranted under the standard in section 2 of this order, the PRB will promptly convene a full review pursuant to the standards in section 3(a) of this order.

(d) *Review of PRB Determinations*. The Review Committee (Committee), as defined in section 9(d) of this order, shall conduct a review if (i) a member of the Committee seeks review of a PRB determination within 30 days of that determination; or (ii) consensus within the PRB cannot be reached.

SEC. 4. *Effect of Determination to Transfer*. (a) If a final determination is made that a detainee does not meet the standard in section 2 of this order, the Secretaries of State and Defense shall be responsible for ensuring that vigorous efforts are undertaken to identify a suitable transfer location for any such detainee, outside of the United States, consistent with the national security and foreign policy interests of the United States and the commitment set forth in section 2242(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277).

(b) The Secretary of State, in consultation with the Secretary of Defense, shall be responsible for obtaining appropriate security and humane treatment assurances regarding any detainee to be transferred to another country, and for determining, after consultation with members of the Committee, that it is appropriate to proceed with the transfer.

(c) The Secretary of State shall evaluate humane treatment assurances in all cases, consistent with the recommendations of the Special Task Force on Interrogation and Transfer Policies established by Executive Order 13491 of January 22, 2009.

SEC. 5. *Annual Committee Review*. (a) The Committee shall conduct an annual review of sufficiency and efficacy of transfer efforts, including:

(1) the status of transfer efforts for any detainee who has been subject to the periodic review under section 3 of this order, whose continued detention has been determined not to be warranted, and who has not been transferred more than 6 months after the date of such determination;

(2) the status of transfer efforts for any detainee whose petition for a writ of habeas corpus has been granted by a U.S. Federal court with no pending appeal and who has not been transferred;

(3) the status of transfer efforts for any detainee who has been designated for transfer or conditional detention by the Executive Order 13492 review and who has not been transferred; and

(4) the security and other conditions in the countries to which detainees might be transferred, including a review of any suspension of transfers to a particular country, in order to determine whether further steps to facilitate transfers are appropriate or to provide a recommendation to the President regarding whether continuation of any such suspension is warranted.

(b) After completion of the initial reviews under section 3(a) of this order, and at least once every 4 years thereafter, the Committee shall review whether a continued law of war detention policy remains consistent with the interests of the United States, including national security interests.

SEC. 6. *Continuing Obligation of the Departments of Justice and Defense to Assess Feasibility of Prosecution*. As to each detainee whom the interagency review established by Executive Order 13492 has designated for continued law of war detention, the Attorney General and the Secretary of Defense shall continue to assess whether prosecution of the detainee is feasible and in the national security interests of the United States, and shall refer detainees for prosecution, as appropriate.

SEC. 7. *Obligation of Other Departments and Agencies to Assist the Secretary of Defense*. All departments, agencies, entities, and officers of the United States, to the maximum extent permitted by law, shall provide the Secretary of Defense such assistance as may be requested to implement this order.

SEC. 8. *Legality of Detention*. The process established under this order does not address the legality of any detainee's law of war detention. If, at any time during the periodic review process established in this order, material information calls into question the legality of detention, the matter will be referred immediately to the Secretary of Defense and the Attorney General for appropriate action.

SEC. 9. *Definitions*. (a) "Law of War Detention" means: detention authorized by the Congress under the AUMF, as informed by the laws of war.

(b) "Periodic Review Board" means: a board composed of senior officials tasked with fulfilling the functions described in section 3 of this order, one appointed by each of the following departments and offices: the Departments of State, Defense, Justice, and Homeland Security, as well as the Offices of the Director of National Intelligence and the Chairman of the Joint Chiefs of Staff.

(c) "Conditional Detention" means: the status of those detainees designated by the Executive Order 13492 review as eligible for transfer if one of the following conditions is satisfied: (1) the security situation improves in Yemen; (2) an appropriate rehabilitation program becomes available; or (3) an appropriate third-country resettlement option becomes available.

(d) "Review Committee" means: a committee composed of the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff.

SEC. 10. *General Provisions*. (a) Nothing in this order shall prejudice the authority of the Secretary of Defense or any other official to determine the disposition of any detainee not covered by this order.

(b) This order shall be implemented subject to the availability of necessary appropriations and consistent with applicable law including: the Convention Against Torture; Common Article 3 of the Geneva Conventions; the Detainee Treatment Act of 2005; and other laws relating to the transfer, treatment, and interrogation of individuals detained in an armed conflict.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Nothing in this order, and no determination made under this order, shall be construed as grounds for release of detainees covered by this order into the United States.

BARACK OBAMA.

## EX. ORD. NO. 13823. PROTECTING AMERICA THROUGH LAWFUL DETENTION OF TERRORISTS

Ex. Ord. No. 13823, Jan. 30, 2018, 83 F.R. 4831, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Findings*. (a) Consistent with long-standing law of war principles and applicable law, the United States may detain certain persons captured in connection with an armed conflict for the duration of the conflict.

(b) Following the terrorist attacks of September 11, 2001, the 2001 Authorization for Use of Military Force (AUMF) and other authorities authorized the United States to detain certain persons who were a part of or substantially supported al-Qa'ida, the Taliban, or associated forces engaged in hostilities against the United States or its coalition partners. Today, the United States remains engaged in an armed conflict with al-Qa'ida, the Taliban, and associated forces, including with the Islamic State of Iraq and Syria.

(c) The detention operations at the U.S. Naval Station Guantánamo Bay are legal, safe, humane, and conducted consistent with United States and international law.

(d) Those operations are continuing given that a number of the remaining individuals at the detention facility are being prosecuted in military commissions, while others must be detained to protect against continuing, significant threats to the security of the United States, as determined by periodic reviews.

(e) Given that some of the current detainee population represent the most difficult and dangerous cases from among those historically detained at the facility, there is significant reason for concern regarding their reengagement in hostilities should they have the opportunity.

SEC. 2. *Status of Detention Facilities at U.S. Naval Station Guantánamo Bay*. (a) Section 3 of Executive Order 13492 of January 22, 2009 (Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities) [formerly set out above], ordering the closure of detention facilities at U.S. Naval Station Guantánamo Bay, is hereby revoked.

(b) Detention operations at U.S. Naval Station Guantánamo Bay shall continue to be conducted consistent with all applicable United States and international law, including the Detainee Treatment Act of 2005 [see Short Title note set out under section 2000dd of Title 42, The Public Health and Welfare].

(c) In addition, the United States may transport additional detainees to U.S. Naval Station Guantánamo Bay when lawful and necessary to protect the Nation.

(d) Within 90 days of the date of this order, the Secretary of Defense shall, in consultation with the Secretary of State, the Attorney General, the Secretary of Homeland Security, the Director of National

Intelligence, and the heads of any other appropriate executive departments and agencies as determined by the Secretary of Defense, recommend policies to the President regarding the disposition of individuals captured in connection with an armed conflict, including policies governing transfer of individuals to U.S. Naval Station Guantánamo Bay.

(e) Unless charged in or subject to a judgment of conviction by a military commission, any detainees transferred to U.S. Naval Station Guantánamo Bay after the date of this order shall be subject to the procedures for periodic review established in Executive Order 13567 of March 7, 2011 (Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force) [set out above], to determine whether continued law of war detention is necessary to protect against a significant threat to the security of the United States.

SEC. 3. *Rules of Construction*. (a) Nothing in this order shall prevent the Secretary of Defense from transferring any individual away from the U.S. Naval Station Guantánamo Bay when appropriate, including to effectuate an order affecting the disposition of that individual issued by a court or competent tribunal of the United States having lawful jurisdiction.

(b) Nothing in this order shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful permanent residents of the United States, or any persons who are captured or arrested in the United States.

(c) Nothing in this order shall prevent the Attorney General from, as appropriate, investigating, detaining, and prosecuting a terrorist subject to the criminal laws and jurisdiction of the United States.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## AMENDMENTS TO THE MANUAL FOR COURTS-MARTIAL, UNITED STATES

Additions and amendments to the Manual for Courts-Martial, United States, prescribed by Ex. Ord. No. 12473, Apr. 13, 1984, 49 F.R. 17152, were contained in the following:

## AMENDMENTS TO THE MANUAL FOR COURTS-MARTIAL, UNITED STATES

Additions and amendments to the Manual for Courts-Martial, United States, prescribed by Ex. Ord. No. 12473, Apr. 13, 1984, 49 F.R. 17152, were contained in the following:

**2024**—Ex. Ord. No. 14130, Dec. 20, 2024, 89 F.R. 105343.

**2023**—Ex. Ord. No. 14103, July 28, 2023, 88 F.R. 50535.

**2022**—Ex. Ord. No. 14062, Jan. 26, 2022, 87 F.R. 4763.

**2018**—Ex. Ord. No. 13825, Mar. 1, 2018, 83 F.R. 9889.

**2016**—Ex. Ord. No. 13730, May 20, 2016, 81 F.R. 33331; Ex. Ord. No. 13740, Sept. 16, 2016, 81 F.R. 65175.

**2015**—Ex. Ord. No. 13696, June 17, 2015, 80 F.R. 35783.

**2014**—Ex. Ord. No. 13669, June 13, 2014, 79 F.R. 34999.

**2013**—Ex. Ord. No. 13643, May 15, 2013, 78 F.R. 29559.

**2011**—Ex. Ord. No. 13593, Dec. 13, 2011, 76 F.R. 78451.

**2010**—Ex. Ord. No. 13552, Aug. 31, 2010, 75 F.R. 54263.

**2008**—Ex. Ord. No. 13468, July 24, 2008, 73 F.R. 43827.

**2007**—Ex. Ord. No. 13430, Apr. 18, 2007, 72 F.R. 20213; Ex. Ord. No. 13447, Sept. 28, 2007, 72 F.R. 56179.

**2005**—Ex. Ord. No. 13387, Oct. 14, 2005, 70 F.R. 60697.

**2004**—Ex. Ord. No. 13365, Dec. 3, 2004, 69 F.R. 71333.

**2002**—Ex. Ord. No. 13262, Apr. 11, 2002, 67 F.R. 18773.

**1999**—Ex. Ord. No. 13140, Oct. 6, 1999, 64 F.R. 55115.

**1998**—Ex. Ord. No. 13086, May 27, 1998, 63 F.R. 30065.

**1995**—Ex. Ord. No. 12960, May 12, 1995, 60 F.R. 26647.

**1994**—Ex. Ord. No. 12936, Nov. 10, 1994, 59 F.R. 59075.
**1993**—Ex. Ord. No. 12888, Dec. 23, 1993, 58 F.R. 69153.
**1991**—Ex. Ord. No. 12767, June 27, 1991, 56 F.R. 30284.
**1990**—Ex. Ord. No. 12708, Mar. 23, 1990, 55 F.R. 11353.
**1987**—Ex. Ord. No. 12586, Mar. 3, 1987, 52 F.R. 7103.
**1986**—Ex. Ord. No. 12550, Feb. 19, 1986, 51 F.R. 6497.
**1984**—Ex. Ord. No. 12484, July 13, 1984, 49 F.R. 28825.

## §802. Art. 2. Persons subject to this chapter

(a) The following persons are subject to this chapter:

(1) Members of a regular component of the armed forces, and members of the Space Force on active duty under section 20105 of this title, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

(2) Cadets, aviation cadets, and midshipmen.

(3)(A) While on inactive-duty training and during any of the periods specified in subparagraph (B)—

(i) members of a reserve component or the Space Force; and

(ii) members of the Army National Guard of the United States or the Air National Guard of the United States, but only when in Federal service.

(B) The periods referred to in subparagraph (A) are the following:

(i) Travel to and from the inactive-duty training site of the member, pursuant to orders or regulations.

(ii) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations.

(iii) Intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component, or retired members of the Space Force who qualified for a non-regular retirement and are receiving retired pay, who are receiving hospitalization from an armed force.

(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

(8) Members of the National Oceanic and Atmospheric Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) In time of declared war or a contingency operation, persons serving with or accompanying an armed force in the field.

(11) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(13) Individuals belonging to one of the eight categories enumerated in Article 4 of the

Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316), who violate the law of war.

(14) Retired members of the Space Force who qualified for a regular retirement under section 20601 or 20603 of this title and are receiving retired pay.

(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

(c) Notwithstanding any other provision of law, a person serving with an armed force who—

(1) submitted voluntarily to military authority;

(2) met the mental competency and minimum age qualifications of sections 504 and 505 of this title at the time of voluntary submission to military authority;

(3) received military pay or allowances; and

(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.

(d)(1) A member of a reserve component or the Space Force who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

(A) a preliminary hearing under section 832 of this title (article 32);

(B) trial by court-martial; or

(C) nonjudicial punishment under section 815 of this title (article 15).

(2) A member of a reserve component or the Space Force may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

(A) on active duty; or

(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces or the Space Force.

(5) A member ordered to active duty under paragraph (1), unless the order to active duty was approved by the Secretary concerned, may not—

(A) be sentenced to confinement; or

(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).

(e) The provisions of this section are subject to section 876b(d)(2) of this title (article 76b(d)(2)).

(Aug. 10, 1956, ch. 1041, 70A Stat. 37; Pub. L. 86–70, §6(b), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, §4(b), July 12, 1960, 74 Stat. 411; Pub. L. 87–651, title I, §104, Sept. 7, 1962, 76 Stat. 508; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–107, title VIII, §801(a), Nov. 9, 1979, 93 Stat. 810; Pub. L. 96–513, title V, §511(24), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 98–209, §13(a), Dec. 6, 1983, 97 Stat. 1408; Pub. L. 99–661, div. A, title VIII, §804(a), Nov. 14, 1986, 100 Stat. 3906; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 104–106, div. A, title XI, §1133(b), Feb. 10, 1996, 110 Stat. 466; Pub. L. 109–364, div. A, title V, §552, Oct. 17, 2006, 120 Stat. 2217; Pub. L. 109–366, §4(a)(1), Oct. 17, 2006, 120 Stat. 2631; Pub. L. 111–84, div. A, title XVIII, §1803(a)(1), Oct. 28, 2009, 123 Stat. 2612; Pub. L. 113–66, div. A,

title XVII, §1702(c)(3)(A), Dec. 26, 2013, 127 Stat. 957; Pub. L. 114–328, div. E, title LI, §5102, Dec. 23, 2016, 130 Stat. 2894; Pub. L. 118–31, div. A, title XVII, §1722(f)(1), Dec. 22, 2023, 137 Stat. 671; Pub. L. 118–159, div. A, title V, §561, Dec. 23, 2024, 138 Stat. 1903.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 802 | 50:552. | May 5, 1950, ch. 169, §1 (Art. 2), 64 Stat. 109. |

In clause (1), the words "Members of" are substituted for the words "All persons belonging to". The words "all" and "the same" are omitted as surplusage. The word "when" is inserted after the word "dates".

In clauses (1) and (8), the words "of the United States" are omitted as surplusage.

In clause (3), the words "Members of a reserve component" are substituted for the words "Reserve personnel". The word "orders" in the last clause is omitted as surplusage.

In clause (4), the word "receive" is omitted as surplusage.

In clauses (4) and (5), the word "members" is substituted for the word "personnel".

In clause (8), the word "members" is substituted for the word "personnel".

In clauses (11) and (12), the word "outside" is substituted for the word "without" wherever it occurs. The words "the continental limits of" are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia. The words "the provision of", "all", and "territories" are omitted as surplusage.

In clause (12), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 802(11), (12) | 50:552(11) and (12). | Aug. 1, 1956, ch. 852, §23, 70 Stat. 911. |

The Act of August 1, 1956, was enacted during the pendency of the codification bill.

## EDITORIAL NOTES

### CODIFICATION

Another section 1722(f) of Pub. L. 118–31 amended section 973 of this title.

### AMENDMENTS

**2024**—Subsec. (a)(14). Pub. L. 118–159 inserted "20601 or" before "20603".

**2023**—Subsec. (a)(1). Pub. L. 118–31, §1722(f)(1)(A)(i), inserted "and members of the Space Force on active duty under section 20105 of this title," after "regular component of the armed forces,".

Subsec. (a)(3)(A)(i). Pub. L. 118–31, §1722(f)(1)(A)(ii), inserted "or the Space Force" after "reserve component".

Subsec. (a)(5). Pub. L. 118–31, §1722(f)(1)(A)(iii), inserted ", or retired members of the Space Force who qualified for a non-regular retirement and are receiving retired pay," after "a reserve component".

Subsec. (a)(14). Pub. L. 118–31, §1722(f)(1)(A)(iv), added par. (14).

Subsec. (d)(1). Pub. L. 118–31, §1722(f)(1)(B)(i), inserted "or the Space Force" after "reserve component" in introductory provisions.

Subsec. (d)(2). Pub. L. 118–31, §1722(f)(1)(B)(ii), inserted "or the Space Force" after "a reserve component" in introductory provisions.

Subsec. (d)(4). Pub. L. 118–31, §1722(f)(1)(B)(iii), inserted "or the Space Force" after "in a regular component of the armed forces".

**2016**—Subsec. (a)(3). Pub. L. 114–328 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service."

**2013**—Subsec. (d)(1)(A). Pub. L. 113–66 substituted "a preliminary hearing under section 832" for

"investigation under section 832".

**2009**—Subsec. (a)(13). Pub. L. 111–84 amended par. (13) generally. Prior to amendment, par. (13) read as follows: "Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war."

**2006**—Subsec. (a)(10). Pub. L. 109–364 substituted "declared war or a contingency operation" for "war".

Subsec. (a)(13). Pub. L. 109–366 added par. (13).

**1996**—Subsec. (e). Pub. L. 104–106 added subsec. (e).

**1988**—Subsec. (a)(11), (12). Pub. L. 100–456 struck out "the Canal Zone," before "the Commonwealth".

**1986**—Subsec. (a)(3). Pub. L. 99–661, §804(a)(1), substituted "on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service" for "they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this chapter".

Subsec. (d). Pub. L. 99–661, §804(a)(2), added subsec. (d).

**1983**—Subsec. (a)(11), (12). Pub. L. 98–209, §13(a)(1), substituted "outside the Canal Zone" for "outside the following: the Canal Zone" and inserted "the Commonwealth of" before "Puerto Rico".

Subsec. (b). Pub. L. 98–209, §13(a)(2), struck out "of this section" after "subsection (a)".

**1980**—Subsec. (a)(8). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1979**—Pub. L. 96–107 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

**1966**—Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in cl. (8).

**1962**—Pub. L. 87–651 inserted "Guam," after "Puerto Rico," in cls. (11) and (12).

**1960**—Pub. L. 86–624 struck out "the main group of the Hawaiian Islands," before "Puerto Rico" in cls. (11) and (12).

**1959**—Pub. L. 86–70 struck out "that part of Alaska east of longitude 172 degrees west," before "the Canal Zone" in cls. (11) and (12).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title XVII, §1702(d)(1), Dec. 26, 2013, 127 Stat. 958, as amended by Pub. L. 113–291, div. A, title V, §531(g)(1), Dec. 19, 2014, 128 Stat. 3365, provided that: "The amendments made by subsections (a) and (c)(3) [amending this section and sections 832, 834, 838, 847, and 948b of this title] shall take effect on the later of December 26, 2014, or the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014] and shall apply with respect to preliminary hearings conducted on or after that effective date."

[Pub. L. 113–291, div. A, title V, §531(g)(1), Dec. 19, 2014, 128 Stat. 3365, provided that the amendment by section 531(g)(1) to section 1702(d)(1) of Pub. L. 113–66, set out above, is effective as of Dec. 26, 2013, and as if included in section 1702(d)(1) of Pub. L. 113–66, as enacted.]

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, §804(e), Nov. 14, 1986, 100 Stat. 3908, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 803 of this title] shall apply only to an offense committed on or after the effective date of this title [see section 808 of Pub. L. 99–661, set out below]."

Pub. L. 99–661, div. A, title VIII, §808, Nov. 14, 1986, 100 Stat. 3909, provided that: "Except as provided in sections 802(b), 805(c), and 807(b) [set out as notes under sections 850a, 843, and 806, respectively, of this

title], this title and the amendments made by this title [enacting section 850a of this title, amending this section and sections 803, 806, 825, 843, 860, 936, and 937 of this title, and enacting provisions set out as notes under this section and sections 801, 806, 825, 843, 850a, and 860 of this title] shall take effect on the earlier of—

"(1) the last day of the 120-day period beginning on the date of the enactment of this Act [Nov. 14, 1986]; or

"(2) the date specified in an Executive order for such amendments to take effect."

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO MEMBERS OF THE ARMED FORCES ORDERED TO DUTY OVERSEAS IN INACTIVE DUTY FOR TRAINING STATUS

Pub. L. 109–364, div. A, title V, §551, Oct. 17, 2006, 120 Stat. 2217, provided that: "Not later than March 1, 2007, the Secretaries of the military departments shall prescribe regulations, or amend current regulations, in order to provide that members of the Armed Forces who are ordered to duty at locations overseas in an inactive duty for training status are subject to the jurisdiction of the Uniform Code of Military Justice, pursuant to the provisions of section 802(a)(3) of title 10, United States Code (article 2(a)(3) of the Uniform Code of Military Justice), continuously from the commencement of execution of such orders to the conclusion of such orders."

### ADVISORY COMMITTEE ON CRIMINAL LAW JURISDICTION OVER CIVILIANS ACCOMPANYING ARMED FORCES IN TIME OF ARMED CONFLICT

Pub. L. 104–106, div. A, title XI, §1151, Feb. 10, 1996, 110 Stat. 467, directed the Secretary of Defense and the Attorney General, not later than 45 days after Feb. 10, 1996, to jointly appoint an advisory committee to review and make recommendations concerning the appropriate forum for criminal jurisdiction over civilians accompanying the Armed Forces outside the United States in time of armed conflict, directed the committee to transmit to the Secretary of Defense and the Attorney General a report setting forth its findings and recommendations not later than Dec. 15, 1996, directed the Secretary of Defense and the Attorney General to jointly transmit the report of the committee to Congress not later than Jan. 15, 1997, and provided that the committee would terminate 30 days after the date on which the report had been submitted to Congress.

## EXECUTIVE DOCUMENTS

### TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5, Government Organization and Employees.

### EX. ORD. NO. 10631. CODE OF CONDUCT FOR MEMBERS OF THE ARMED FORCES

Ex. Ord. No. 10631, Aug. 17, 1955, 20 F.R. 6057, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12017, Nov. 3, 1977, 42 F.R. 57941; Ex. Ord. No. 12633, Mar. 28, 1988, 53 F.R. 10355; Ex. Ord. No. 13286, §76, Feb. 28, 2003, 68 F.R. 106231, provided:

By virtue of the authority vested in me as President of the United States, and as Commander in Chief of the armed forces of the United States, I hereby prescribe the Code of Conduct for Members of the Armed Forces of the United States which is attached to this order and hereby made a part thereof.

All members of the Armed Forces of the United States are expected to measure up to the standards

embodied in this Code of Conduct while in combat or in captivity. To ensure achievement of these standards, members of the armed forces liable to capture shall be provided with specific training and instruction designed to better equip them to counter and withstand all enemy efforts against them, and shall be fully instructed as to the behavior and obligations expected of them during combat or captivity.

The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard except when it is serving as part of the Navy) shall take such action as is deemed necessary to implement this order and to disseminate and make the said Code known to all members of the armed forces of the United States.

**CODE OF CONDUCT FOR MEMBERS OF THE UNITED STATES ARMED FORCES**

I

I am an American, fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

II

I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

III

If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

IV

If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

V

When questioned, should I become a prisoner of war, I am required to give name, rank, service number and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

VI

I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

## §803. Art. 3. Jurisdiction to try certain personnel

(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.

(b) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to section 843 of this title (article 43), subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

(c) No person who has deserted from the armed forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

(d) A member of a reserve component or the Space Force who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.

(Aug. 10, 1956, ch. 1041, 70A Stat. 38; Pub. L. 99–661, div. A, title VIII, §804(b), Nov. 14, 1986, 100 Stat. 3907; Pub. L. 102–484, div. A, title X, §1063, Oct. 23, 1992, 106 Stat. 2505; Pub. L. 118–31, div. A, title XVII, §1722(f)(2), Dec. 22, 2023, 137 Stat. 671.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 803(a)<br>803(b)<br>803(c) | 50:553(a).<br>50:553(b).<br>50:553(c). | May 5, 1950, ch. 169, §1 (Art. 3), 64 Stat. 109. |

In subsection (a), the words "the provisions of" are omitted as surplusage. The words "no * * * may" are substituted for the words "any * * * shall not". The word "for" is substituted for the word "of" before the words "five years". The words "of a State, a Territory, or" are substituted for the words "any State or Territory thereof or of". The word "court-martial" is substituted for the word "courts-martial".

In subsection (b), the words "Each person" are substituted for the words "All persons". The words "who is later" are substituted for the word "subsequently". The words "his discharge is" are substituted for the words "said discharge shall * * * be". The words "the provisions of" are omitted as surplusage. The word "is" is substituted for the words "shall * * * be". The words "he is" are substituted for the words "they shall be". The word "before" is substituted for the words "prior to".

In subsection (c), the words "No * * * may" are substituted for the words "Any * * * shall not". The word "later" is substituted for the word "subsequent".

**EDITORIAL NOTES**

**CODIFICATION**

Another section 1722(f) of Pub. L. 118–31 amended section 973 of this title.

**AMENDMENTS**

**2023**—Subsec. (d). Pub. L. 118–31 inserted "or the Space Force" after "reserve component".

**1992**—Subsec. (a). Pub. L. 102–484 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Subject to section 843 of this title (article 43), no person charged with having committed, while in a status in which he was subject to this chapter, an offense against this chapter, punishable by confinement for five years or more and for which the person cannot be tried in the courts of the United States or of a State, a Territory, or the District of Columbia, may be relieved from amenability to trial by court-martial by reason of the termination of that status."

**1986**—Subsec. (d). Pub. L. 99–661 added subsec. (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1992 AMENDMENT**

Pub. L. 102–484, div. A, title X, §1067, Oct. 23, 1992, 106 Stat. 2506, provided that: "The amendments made by sections 1063, 1064, 1065, and 1066 [amending this section and sections 857, 863, 911, 918, and 920 of this title] shall take effect on the date of the enactment of this Act [Oct. 23, 1992] and shall apply with respect to offenses committed on or after that date."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–661 applicable to offenses committed on or after the earlier of (1) the last day of the 120-day period beginning on Nov. 14, 1986; or (2) the date specified in an Executive order, see sections 804(e) and 808 of Pub. L. 99–661, set out as notes under section 802 of this title.

## §804. Art. 4. Dismissed officer's right to trial by court-martial

(a) If any commissioned officer, dismissed by order of the President, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the President, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court-martial may, as part of its

sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal or death, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

(b) If the President fails to convene a general court-martial within six months from the presentation of an application for trial under this article, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

(c) If a discharge is substituted for a dismissal under this article, the President alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the President, that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

(d) If an officer is discharged from any armed force by administrative action or is dropped from the rolls by order of the President, he has no right to trial under this article.

(Aug. 10, 1956, ch. 1041, 70A Stat. 38.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 804(a) | 50:554(a). | May 5, 1950, ch. 169, §1 (Art. 4), 64 Stat. 110. |
| 804(b) | 50:554(b). | |
| 804(c) | 50:554(c). | |
| 804(d) | 50:554(d). | |

In subsection (a), the word "If" is substituted for the word "When". The word "commissioned" is inserted before the word "officer". The word "considered" is substituted for the word "held".

In subsections (a) and (b), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (c), the word "If" is substituted for the word "Where". The words "the authority of" are omitted as surplusage. The words "grade and with such rank" are substituted for the words "rank and precedence", since a person is appointed to a grade, not to a position of precedence, and the word "rank" is the accepted military word denoting the general idea of precedence. The words "the existence of a" are substituted for the word "position" for clarity. The word "receive" is omitted as surplusage.

In subsection (d), the word "If" is substituted for the word "When". The words "he has no" are substituted for the words "there shall not be a".

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

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

## §805. Art. 5. Territorial applicability of this chapter

This chapter applies in all places.

(Aug. 10, 1956, ch. 1041, 70A Stat. 39.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 805 | 50:555. | May 5, 1950, ch. 169, §1 (Art. 5), 64 |

| | | |
|---|---|---|
| | | Stat. 110. |

The word "applies" is substituted for the words "shall be applicable".

## §806. Art. 6. Judge advocates and legal officers

(a)(1) A member of the armed forces may only serve as a judge advocate if such member—

(A) is admitted to the practice of law before the highest court of a State, territory, commonwealth, or the District of Columbia;

(B) maintains a license status that provides current eligibility to actively practice law before such court;

(C) is subject to the disciplinary review process of the jurisdiction in which such member maintains such a license status; and

(D) is in compliance with any other requirements of such jurisdiction to remain eligible to practice law in such jurisdiction.

(2) The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard and the Staff Judge Advocate to the Commandant of the Marine Corps may suspend the authority of a judge advocate of the Army, Navy, Air Force, Coast Guard, or Marine Corps, respectively, to perform legal duties if such judge advocate becomes noncompliant with the requirements of paragraph (1). A member of the armed forces who is suspended or disbarred from the practice of law within a jurisdiction may not perform legal duties.

(b)(1) The assignment for duty of judge advocates of the Army, Navy, Air Force, and Coast Guard shall be made upon the recommendation of the Judge Advocate General of the armed force of which they are members. The assignment for duty of judge advocates of the Marine Corps shall be made by direction of the Commandant of the Marine Corps. The Judge Advocates General, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, or senior members of their staffs, shall make frequent inspections in the field in supervision of the administration of military justice.

(2) The assignment for duty of judge advocates pursuant to this subsection shall include qualified judge advocates in numbers sufficient to provide legal advice to all commanders responsible for planning and organizing military operations (including commanders of and within commands assigned to a combatant command or the United States element of the North American Aerospace Defense Command as established pursuant to sections 161 and 162 of this title) and all commanders authorized to convene courts-martial under sections 822 through 824 of this title (articles 22 through 24). The qualifications of judge advocates assigned to provide legal advice to commanders under this paragraph shall include—

(A) the qualifications set forth in subsection (a)(1); and

(B) any additional education, expertise, or experience determined to be necessary to fulfill the requirements of this paragraph by the Judge Advocate General of the armed force concerned, or in the case of the Marine Corps, by the Staff Judge Advocate to the Commandant of the Marine Corps.

(c) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the Judge Advocate General.

(d)(1) No person who, with respect to a case, serves in a capacity specified in paragraph (2) may later serve as a staff judge advocate or legal officer to any reviewing or convening authority upon the same case.

(2) The capacities referred to in paragraph (1) are, with respect to the case involved, any of the following:

(A) Preliminary hearing officer, court member, military judge, military magistrate, or appellate

judge.

(B) Counsel who have acted in the same case or appeared in any proceeding before a military judge, military magistrate, preliminary hearing officer, or appellate court.

(e)(1) A judge advocate who is assigned or detailed to perform the functions of a civil office in the Government of the United States under section 973(b)(2)(B) of this title may perform such duties as may be requested by the agency concerned, including representation of the United States in civil and criminal cases.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations providing that reimbursement may be a condition of assistance by judge advocates assigned or detailed under section 973(b)(2)(B) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 39; Pub. L. 90–179, §1(3), Dec. 8, 1967, 81 Stat. 545; Pub. L. 90–632, §2(2), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 98–209, §2(b), Dec. 6, 1983, 97 Stat. 1393; Pub. L. 99–661, div. A, title VIII, §807(a), Nov. 14, 1986, 100 Stat. 3909; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–239, div. A, title V, §531(d)(1), Jan. 2, 2013, 126 Stat. 1726; Pub. L. 114–328, div. E, title LI, §5103, Dec. 23, 2016, 130 Stat. 2895; Pub. L. 119–60, div. A, title V, §§561(a), 562, Dec. 18, 2025, 139 Stat. 881, 882.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 806(a) | 50:556(a). | May 5, 1950, ch. 169, §1 (Art. 6), 64 Stat. 110. |
| 806(b) | 50:556(b). | |
| 806(c) | 50:556(c). | |

In subsection (b), the word "entitled" is substituted for the word "authorized".

In subsection (c), the words "may later" are substituted for the words "shall subsequently".

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §561(a), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 119–60, §562, designated existing provisions as par. (1) and added par. (2).

Pub. L. 119–60, §561(a), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsecs. (c) to (e). Pub. L. 119–60, §561(a), redesignated subsecs. (b) to (d) as (c) to (e), respectively.

**2016**—Subsec. (c). Pub. L. 114–328 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "No person who has acted as member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer in any case may later act as a staff judge advocate or legal officer to any reviewing authority upon the same case."

**2013**—Subsec. (a). Pub. L. 112–239 substituted "The Judge Advocates General, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, or senior members of their staffs, shall" for "The Judge Advocate General or senior members of his staff shall".

**2002**—Subsec. (d)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1986**—Subsec. (d). Pub. L. 99–661 added subsec. (d).

**1983**—Subsec. (a). Pub. L. 98–209 substituted "Air Force, and" for "and Air Force and law specialists of the".

**1968**—Subsec. (c). Pub. L. 90–632 substituted "military judge" for "law officer".

**1967**—Subsec. (a). Pub. L. 90–179 substituted reference to judge advocates of the Navy for reference to law specialists of the Navy and provided for the assignment of judge advocates of the Marine Corps.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with

implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–661, div. A, title VIII, §807(b), Nov. 14, 1986, 100 Stat. 3909, provided that: "The amendment made by subsection (a) [amending this section]—

"(1) shall take effect on the date of the enactment of this Act [Nov. 14, 1986]; and

"(2) may not be construed to invalidate an action taken by a judge advocate, pursuant to an assignment or detail under section 973(b)(2)(B) of title 10, United States Code, before the date of the enactment of this Act."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §806a. Art. 6a. Investigation and disposition of matters pertaining to the fitness of military judges

(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military appellate judge, military judge, or military magistrate to perform the duties of the position involved. To the extent practicable, the procedures shall be uniform for all armed forces.

(b) The President shall transmit a copy of the procedures prescribed pursuant to this section to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(Added Pub. L. 101–189, div. A, title XIII, §1303, Nov. 29, 1989, 103 Stat. 1576; amended Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 114–328, div. E, title LI, §5104, Dec. 23, 2016, 130 Stat. 2895.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (a). Pub. L. 114–328 substituted "military appellate judge, military judge, or military magistrate to perform the duties of the position involved." for "military judge or military appellate judge to perform the duties of the judge's position."

**1999**—Subsec. (b). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of

Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §806b. Art. 6b. Rights of the victim of an offense under this chapter

(a) RIGHTS OF A VICTIM OF AN OFFENSE UNDER THIS CHAPTER.—A victim of an offense under this chapter has the following rights:

(1) The right to be reasonably protected from the accused.

(2) The right to reasonable, accurate, and timely notice of any of the following:

(A) A public hearing concerning the continuation of confinement prior to trial of the accused.

(B) A preliminary hearing under section 832 of this title (article 32) relating to the offense.

(C) A court-martial relating to the offense.

(D) A post-trial motion, filing, or hearing that may address the finding or sentence of a court-martial with respect to the accused, unseal privileged or private information of the victim, or result in the release of the accused.

(E) A public proceeding of the service clemency and parole board relating to the offense.

(F) The release or escape of the accused, unless such notice may endanger the safety of any person.

(3) The right not to be excluded from any public hearing or proceeding described in paragraph (2) unless the military judge or preliminary hearing officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this chapter would be materially altered if the victim heard other testimony at that hearing or proceeding.

(4) The right to be reasonably heard at any of the following:

(A) A public hearing concerning the continuation of confinement prior to trial of the accused.

(B) A sentencing hearing relating to the offense.

(C) A public proceeding of the service clemency and parole board relating to the offense.

(5) The reasonable right to confer with the counsel representing the Government at any proceeding described in paragraph (2).

(6) The right to receive restitution as provided in law.

(7) The right to proceedings free from unreasonable delay.

(8) The right to be informed in a timely manner of any plea agreement, separation-in-lieu-of-trial agreement, or non-prosecution agreement relating to the offense, unless providing such information would jeopardize a law enforcement proceeding or would violate the privacy concerns of an individual other than the accused.

(9) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this chapter.

(b) VICTIM OF AN OFFENSE UNDER THIS CHAPTER DEFINED.—In this section, the term "victim of an offense under this chapter" means an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under this chapter.

(c) APPOINTMENT OF INDIVIDUALS TO ASSUME RIGHTS FOR CERTAIN VICTIMS .—In the case of a victim of an offense under this chapter who is under 18 years of age (but who is not a member of the armed forces), incompetent, incapacitated, or deceased, the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this section. However, in no event may the individual so designated be the accused.

(d) RULE OF CONSTRUCTION.—Nothing in this section (article) shall be construed—

(1) to authorize a cause of action for damages;

(2) to create, to enlarge, or to imply any duty or obligation to any victim of an offense under this chapter or other person for the breach of which the United States or any of its officers or employees could be held liable in damages; or

(3) to impair the exercise of discretion under sections 830 and 834 of this title (articles 30 and

34).

(e) ENFORCEMENT BY COURT OF CRIMINAL APPEALS.—(1) If the victim of an offense under this chapter believes that a preliminary hearing ruling under section 832 of this title (article 32) or a court-martial ruling violates the rights of the victim afforded by a section (article) or rule specified in paragraph (4), the victim may petition the Court of Criminal Appeals for a writ of mandamus to require the preliminary hearing officer or the court-martial to comply with the section (article) or rule.

(2) If the victim of an offense under this chapter is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court-martial trying the accused for the offense, the victim may petition the Court of Criminal Appeals for a writ of mandamus to quash such order.

(3)(A) A petition for a writ of mandamus described in this subsection shall be forwarded directly to the Court of Criminal Appeals, by such means as may be prescribed by the President, subject to section 830a of this title (article 30a).

(B) To the extent practicable, a petition for a writ of mandamus described in this subsection shall have priority over all other proceedings before the Court of Criminal Appeals.

(C) Review of any decision of the Court of Criminal Appeals on a petition for a writ of mandamus described in this subsection shall have priority in the Court of Appeals for the Armed Forces, as determined under the rules of the Court of Appeals for the Armed Forces.

(4) Paragraph (1) applies with respect to the protections afforded by the following:

(A) This section (article).

(B) Section 832 (article 32) of this title.

(C) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background.

(D) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

(E) Military Rule of Evidence 514, relating to the victim advocate-victim privilege.

(F) Military Rule of Evidence 615, relating to the exclusion of witnesses.

(f) COUNSEL FOR ACCUSED INTERVIEW OF VICTIM OF ALLEGED OFFENSE.—(1) Upon notice by counsel for the Government to counsel for the accused of the name of an alleged victim of an offense under this chapter who counsel for the Government intends to call as a witness at a proceeding under this chapter, counsel for the accused shall make any request to interview the victim through the Special Victims' Counsel or other counsel for the victim, if applicable.

(2) If requested by an alleged victim who is subject to a request for interview under paragraph (1), any interview of the victim by counsel for the accused shall take place only in the presence of the counsel for the Government, a counsel for the victim, or, if applicable, a victim advocate.

(Added Pub. L. 113–66, div. A, title XVII, §1701(a)(1), Dec. 26, 2013, 127 Stat. 952; amended Pub. L. 113–291, div. A, title V, §§531(f), 535, Dec. 19, 2014, 128 Stat. 3364, 3368; Pub. L. 114–92, div. A, title V, §531, Nov. 25, 2015, 129 Stat. 814; Pub. L. 114–328, div. E, title LI, §5105, title LVI, §5203(e)(1), Dec. 23, 2016, 130 Stat. 2895, 2906; Pub. L. 115–91, div. A, title V, §531(a), title X, §1081(a)(22), (c)(1)(B), Dec. 12, 2017, 131 Stat. 1384, 1595, 1597; Pub. L. 116–283, div. A, title V, §541, Jan. 1, 2021, 134 Stat. 3611; Pub. L. 117–81, div. A, title V, §541, Dec. 27, 2021, 135 Stat. 1708.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2)(D) to (F). Pub. L. 116–283 added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (a)(8), (9). Pub. L. 117–81 added par. (8) and redesignated former par. (8) as (9).

**2017**—Subsec. (b). Pub. L. 115–91, §1081(c)(1)(B), which directed striking out "(the Uniform Code of Military Justice)" after "this chapter", was not executed in light of the prior amendment by section 1081(a)(22)

of Pub. L. 115–91, to reflect the probable intent of Congress. See Amendment note below and Effective Date of 2017 Amendment note below.

Pub. L. 115–91, §1081(a)(22), struck out "(the Uniform Code of Military Justice)" after "this chapter".

Subsec. (e)(3). Pub. L. 115–91, §531(a), designated existing provisions as subpar. (A), substituted "prescribed by the President, subject to section 830a of this title (article 30a)" for "prescribed by the President, and, to the extent practicable, shall have priority over all other proceedings before the court", and added subpars. (B) and (C).

**2016**—Subsec. (a)(3). Pub. L. 114–328, §5203(e)(1), substituted "preliminary hearing officer" for "investigating officer".

Subsec. (c). Pub. L. 114–328, §5105(a), substituted "the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this section." for "the military judge shall designate a representative of the estate of the victim, a family member, or another suitable individual to assume the victim's rights under this section."

Subsec. (d)(3). Pub. L. 114–328, §5105(b), added par. (3).

Subsec. (f). Pub. L. 114–328, §5105(c), added subsec. (f).

**2015**—Subsec. (e). Pub. L. 114–92 amended subsec. (e) generally. Prior to amendment, text read as follows:

"(1) If the victim of an offense under this chapter believes that a court-martial ruling violates the victim's rights afforded by a Military Rule of Evidence specified in paragraph (2), the victim may petition the Court of Criminal Appeals for a writ of mandamus to require the court-martial to comply with the Military Rule of Evidence.

"(2) Paragraph (1) applies with respect to the protections afforded by the following:

"(A) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

"(B) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background."

**2014**—Subsec. (b). Pub. L. 113–291, §531(f)(1), substituted "an individual" for "a person".

Subsec. (c). Pub. L. 113–291, §531(f)(2), in heading, substituted "APPOINTMENT OF INDIVIDUALS TO ASSUME RIGHTS" for "LEGAL GUARDIAN" and, in text, inserted "(but who is not a member of the armed forces)" after "under 18 years of age" and substituted "designate a representative" for "designate a legal guardian from among the representatives", "another suitable individual" for "other suitable person", and "the individual" for "the person".

Subsec. (e). Pub. L. 113–291, §535, added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 531(a) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

Amendment by section 1081(c)(1)(B) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### NOTICE TO VICTIMS OF ALLEGED SEX-RELATED AND DOMESTIC VIOLENCE-RELATED OFFENSES OF PENDENCY OF FURTHER ADMINISTRATIVE ACTION FOLLOWING A DETERMINATION NOT TO REFER TO TRIAL BY COURT-MARTIAL

Pub. L. 116–92, div. A, title V, §549, Dec. 20, 2019, 133 Stat. 1379, as amended by Pub. L. 117–81, div. A, title V, §545, Dec. 27, 2021, 135 Stat. 1711; Pub. L. 118–159, div. A, title V, §569C, Dec. 23, 2024, 138 Stat. 1907, provided that: "Notwithstanding section 552a of title 5, United States Code, and under regulations prescribed by the Secretary of Defense, upon a determination not to refer a case of an alleged sex-related offense (as defined in section 1044e(h) of title 10, United States Code), or a case of an alleged domestic violence-related offense (as defined by the Secretary), for trial by court-martial under chapter 47 of title 10,

United States Code (the Uniform Code of Military Justice), the commander making such determination shall ensure that the victim (or the victim's legal counsel if so requested by the victim) is periodically notified of the status of a final determination on further action on such case, whether non-judicial punishment under section 815 of such title (article 15 of the Uniform Code of Military Justice), other administrative action, or no further action. Such notifications shall continue not less frequently than monthly until such final determination. Upon such final determination, the commander shall ensure that the victim (or the victim's legal counsel if so requested by the victim) is notified of the type of action taken on such case, the outcome of the action (including any punishments assigned or characterization of service, as applicable), and such other information as the commander determines to be relevant."

**IMPLEMENTATION**

Pub. L. 113–66, div. A, title XVII, §1701(b), Dec. 26, 2013, 127 Stat. 953, provided that:

"(1) ISSUANCE.—Not later than one year after the date of the enactment of this Act [Dec. 26, 2013]—

"(A) the Secretary of Defense shall recommend to the President changes to the Manual for Courts-Martial to implement section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), as added by subsection (a); and

"(B) the Secretary of Defense and Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall prescribe such regulations as each such Secretary considers appropriate to implement such section.

"(2) MECHANISMS FOR AFFORDING RIGHTS.—The recommendations and regulations required by paragraph (1) shall include the following:

"(A) Mechanisms for ensuring that victims are notified of, and accorded, the rights specified in section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), as added by subsection (a).

"(B) Mechanisms for ensuring that members of the Armed Forces and civilian personnel of the Department of Defense and the Coast Guard make their best efforts to ensure that victims are notified of, and accorded, the rights specified in such section.

"(C) Mechanisms for the enforcement of such rights, including mechanisms for application for such rights and for consideration and disposition of applications for such rights.

"(D) The designation of an authority within each Armed Force to receive and investigate complaints relating to the provision or violation of such rights.

"(E) Disciplinary sanctions for members of the Armed Forces and other personnel of the Department of Defense and Coast Guard who willfully or wantonly fail to comply with requirements relating to such rights."

## SUBCHAPTER II—APPREHENSION AND RESTRAINT


| Sec. | Art. | |
|---|---|---|
| 807. | 7. | Apprehension. |
| 808. | 8. | Apprehension of deserters. |
| 809. | 9. | Imposition of restraint. |
| 810 | 10. | Restraint of persons charged. |
| 811 | 11. | Reports and receiving of prisoners. |
| 812 | 12. | Prohibition of confinement of members of the armed forces with enemy prisoners and certain others. |
| 813 | 13. | Punishment prohibited before trial. |
| 814 | 14. | Delivery of offenders to civil authorities. |


**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(1). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(1), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted "Restraint of persons charged" for "Restraint of persons charged with offenses" in item 810 and "Prohibition of confinement of members of the armed forces with enemy prisoners and certain others" for "Confinement with enemy prisoners prohibited" in item 812.

## §807. Art. 7. Apprehension

(a) Apprehension is the taking of a person into custody.

(b) Any person authorized under regulations governing the armed forces to apprehend persons subject to this chapter or to trial thereunder may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this chapter and to apprehend persons subject to this chapter who take part therein.

(Aug. 10, 1956, ch. 1041, 70A Stat. 39.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 807(a) | 50:561(a). | May 5, 1950, ch. 169, §1 (Art. 7), 64 Stat. 111. |
| 807(b) | 50:561(b). | |
| 807(c) | 50:561(c). | |

In subsection (a), the words "into custody" and "of a person" are transposed.

In subsection (c), the words "All" and "shall" are omitted as surplusage. The word "Commissioned" is inserted before the word "officers" for clarity. The word "therein" is substituted for the words "in the same".

## §808. Art. 8. Apprehension of deserters

Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Commonwealth, possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40; Pub. L. 109–163, div. A, title X, §1057(a)(4), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 808 | 50:562. | May 5, 1950, ch. 169, §1 (Art. 8), 64 Stat. 111. |

The word "may" is substituted for the words "It shall be lawful for * * * to". The words "a State, Territory, Commonwealth, or possession, or the District of Columbia" are substituted for the words "any State, District, Territory, or possession of the United States". The words "of the United States", before the words "and deliver", are omitted as surplusage. The words "those forces" are substituted for the words "the armed forces of the United States", after the words "custody of".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163 substituted "Commonwealth, possession," for "Territory, Commonwealth, or possession,".

## §809. Art. 9. Imposition of restraint

(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this chapter. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) A commissioned officer, a warrant officer, or a civilian subject to this chapter or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(d) No person may be ordered into arrest or confinement except for probable cause.

(e) Nothing in this article limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 809(a) | 50:563(a). | May 5, 1950, ch. 169, §1 (Art. 9), 64 Stat. 111. |
| 809(b) | 50:563(b). | |
| 809(c) | 50:563(c). | |
| 809(d) | 50:563(d). | |
| 809(e) | 50:563(e). | |

In subsection (b), the word "commissioned" is inserted before the word "officer" for clarity. The words "member" and "members", respectively, are substituted for the words "person" and "persons".

In subsection (c), the words "A commissioned" are substituted for the word "An" for clarity. The word "commissioned" is inserted after the word "another" for clarity.

In subsection (d), the word "may" is substituted for the word "shall".

In subsection (e), the word "limits" is substituted for the words "shall be construed to limit".

## §810. Art. 10. Restraint of persons charged

(a) IN GENERAL.—(1) Subject to paragraph (2), any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.

(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.—(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken—

(A) to inform the person of the specific offense of which the person is accused; and

(B) to try the person or to dismiss the charges and release the person.

(2) To facilitate compliance with paragraph (1), the President shall prescribe regulations setting forth procedures relating to referral for trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under section

832 of this title (article 32).

(Aug. 10, 1956, ch. 1041, 70A Stat. 40; Pub. L. 114–328, div. E, title LII, §5121, Dec. 23, 2016, 130 Stat. 2896.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 810 | 50:564. | May 5, 1950, ch. 169, §1 (Art. 10), 64 Stat. 111. |

The word "he" is substituted for the words "such person".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §811. Art. 11. Reports and receiving of prisoners

(a) No provost marshal, commander of a guard, or master at arms may refuse to receive or keep any prisoner committed to his charge by a commissioned officer of the armed forces, when the committing officer furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard or master at arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 811(a)<br>811(b) | 50:565(a).<br>50:565(b). | May 5, 1950, ch. 169, §1 (Art. 11), 64 Stat. 112. |

In subsection (a), the word "may" is substituted for the word "shall". The words "a commissioned" are substituted for the word "an" for clarity.

## §812. Art. 12. Prohibition of confinement of members of the armed forces with enemy prisoners and certain others

No member of the armed forces may be placed in confinement in immediate association with—

(1) enemy prisoners; or

(2) other individuals—
(A) who are detained under the law of war and are foreign nationals; and
(B) who are not members of the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41; Pub. L. 114–328, div. E, title LII, §5122, Dec. 23, 2016, 130 Stat. 2896.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 812 | 50:566. | May 5, 1950, ch. 169, §1 (Art. 12), 64 Stat. 112. |

The words "of the United States" are omitted as surplusage. The word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §813. Art. 13. Punishment prohibited before trial

No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41; Pub. L. 97–81, §3, Nov. 20, 1981, 95 Stat. 1087.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 813 | 50:567. | May 5, 1950, ch. 169, §1 (Art. 13), 64 Stat. 112. |

The words "the provisions of" are omitted as surplusage. The word "results" is changed to the singular. The word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**1981**—Pub. L. 97–81 substituted "No person, while being held for trial, may be subjected" for "Subject to section 857 of this title (article 57), no person, while being held for trial or the result of trial, may be subjected".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–81 to take effect at the end of the 60-day period beginning on Nov. 20, 1981, and to apply to each person held as the result of a court-martial sentence announced on or after that date, see section 7(a) and (b)(2) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

## §814. Art. 14. Delivery of offenders to civil authorities

(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 814(a) | 50:568(a). | May 5, 1950, ch. 169, §1 (Art. 14), 64 Stat. 112. |
| 814(b) | 50:568(b). | |

In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (b), the word "interrupts" is substituted for the words "shall be held to interrupt". The word "his" is substituted for the words "the said court-martial".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES**

Pub. L. 100–456, div. A, title VII, §721, Sept. 29, 1988, 102 Stat. 2001, directed the Secretary of Defense to ensure that the Secretaries of the military departments had issued uniform regulations pursuant to this section not later than 90 days after Sept. 29, 1988, and to transmit to committees of Congress a copy of such regulations and any recommendations for additional legislation not later than 120 days after Sept. 29, 1988.

# SUBCHAPTER III—NON-JUDICIAL PUNISHMENT


| Sec. | Art. | |
|---|---|---|
| 815. | 15. | Commanding officer's non-judicial punishment. |


## §815. Art. 15. Commanding officer's non-judicial punishment

(a) Under such regulations as the President may prescribe, and under such additional regulations as may be prescribed by the Secretary concerned, limitations may be placed on the powers granted by this article with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers,

the applicability of this article to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the Secretary concerned, a commanding officer exercising general court-martial jurisdiction or an officer of general or flag rank in command may delegate his powers under this article to a principal assistant.

(b) Subject to subsection (a), any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial—

(1) upon officers of his command—

(A) restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days;

(B) if imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command—

(i) arrest in quarters for not more than 30 consecutive days;

(ii) forfeiture of not more than one-half of one month's pay per month for two months;

(iii) restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

(iv) detention of not more than one-half of one month's pay per month for three months;

(2) upon other personnel of his command—

(A) if imposed upon a person attached to or embarked in a vessel, confinement for not more than three consecutive days;

(B) correctional custody for not more than seven consecutive days;

(C) forfeiture of not more than seven days' pay;

(D) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(E) extra duties, including fatigue or other duties, for not more than 14 consecutive days;

(F) restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days;

(G) detention of not more than 14 days' pay;

(H) if imposed by an officer of the grade of major or lieutenant commander, or above—

(i) the punishment authorized under clause (A);

(ii) correctional custody for not more than 30 consecutive days;

(iii) forfeiture of not more than one-half of one month's pay per month for two months;

(iv) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E–4 may not be reduced more than two pay grades;

(v) extra duties, including fatigue or other duties, for not more than 45 consecutive days;

(vi) restrictions to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

(vii) detention of not more than one-half of one month's pay per month for three months.

Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, confinement, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition,

forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, "correctional custody" is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

(c) An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized under subsection (b)(2)(A)–(G) as the Secretary concerned may specifically prescribe by regulation.

(d) The officer who imposes the punishment authorized in subsection (b), or his successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating—

(1) arrest in quarters to restriction;
(2) confinement to correctional custody;
(3) correctional custody or confinement to extra duties or restriction, or both; or
(4) extra duties to restriction;

the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

(e) A person punished under this article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposed the punishment. Before acting on an appeal from a punishment of—

(1) arrest in quarters for more than seven days;
(2) correctional custody for more than seven days;
(3) forfeiture of more than seven days' pay;
(4) reduction of one or more pay grades from the fourth or a higher pay grade;
(5) extra duties for more than 14 days;
(6) restriction for more than 14 days; or
(7) detention of more than 14 days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate or a lawyer of the Department of Homeland Security for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (b).

(f) The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(g) The Secretary concerned may, by regulation, prescribe the form of records to be kept of proceedings under this article and may also prescribe that certain categories of those proceedings shall be in writing.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41; Pub. L. 87–648, §1, Sept. 7, 1962, 76 Stat. 447; Pub. L. 90–179, §1(4), Dec. 8, 1967, 81 Stat. 545; Pub. L. 90–623, §2(4), Oct. 22, 1968, 82 Stat. 1314; Pub.

L. 98–209, §§2(c), 13(b), Dec. 6, 1983, 97 Stat. 1393, 1408; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114–328, div. E, title LIII, §5141, Dec. 23, 2016, 130 Stat. 2897.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 815(a) | 50:571(a). | May 5, 1950, ch. 169, §1 (Art. 15), 64 Stat. 112. |
| 815(b) | 50:571(b). | |
| 815(c) | 50:571(c). | |
| 815(d) | 50:571(d). | |
| 815(e) | 50:571(e). | |

In subsection (a), the words "not more than" are substituted for the words "a period not to exceed", "not to exceed", and "a period not exceeding".

In subsection (a)(1), the words "and warrant officers" are omitted, since the word "officer", as defined in section 101(14) of this title, includes warrant officers.

In clause (1)(C), the words "one month's pay" are substituted for the words "his pay per month for a period not exceeding one month".

In subsection (b), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

In subsection (c), the word "subsections" is substituted for the word "subdivisions". The words "enlisted members" are substituted for the words "enlisted persons".

In subsections (d) and (e), the words "authority of" are omitted as surplusage.

In subsection (d), the word "considers" is substituted for the word "deems". The word "may" is substituted for the words "shall have power to * * * to".

In subsection (e), the words "is not" are substituted for the words "shall not be".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (b)(2). Pub. L. 114–328, §5141(1)(B), struck out "on bread and water or diminished rations" after "in quarters, confinement" in concluding provisions.

Subsec. (b)(2)(A). Pub. L. 114–328, §5141(1)(A), struck out "on bread and water or diminished rations" after "confinement".

Subsec. (d)(2), (3). Pub. L. 114–328, §5141(2), struck out "on bread and water or diminished rations" after "confinement".

**2002**—Subsec. (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in concluding provisions.

**1983**—Pub. L. 98–209, §13(b)(1), substituted "non-judicial" for "nonjudicial" in section catchline.

Subsec. (b). Pub. L. 98–209, §13(b)(2)(A), struck out "of this section" after "subsection (a)" in provisions preceding par. (1).

Subsec. (b)(2)(H)(i). Pub. L. 98–209, §13(b)(2)(B), substituted "clause (A)" for "subsection (b)(2)(A)".

Subsec. (e). Pub. L. 98–209, §2(c), substituted "or a lawyer of the" for "of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or".

**1968**—Subsec. (e). Pub. L. 90–623 substituted "or a law specialist or lawyer of the Coast Guard or Department of Transportation" for "or a law specialist or lawyer of the Marine Corps, Coast Guard, or Treasury Department".

**1967**—Subsec. (e). Pub. L. 90–179 inserted reference to judge advocate of the Marine Corps and substituted reference to judge advocate of the Navy for reference to law specialist of the Navy.

**1962**—Subsec. (a). Pub. L. 87–648 redesignated former subsec. (b) as (a), inserted references to such regulations as the President may prescribe, permitted limitations to be placed on the categories of warrant officers exercising command authorized to exercise powers under this article, and on the kinds of courts-martial to which a case may be referred upon demand therefor, promulgation of regulations prescribing rules with respect to the suspension of punishment authorized by this article, and the delegation of powers to a principal assistant by a commanding officer exercising general court-martial jurisdiction or an officer of general or flag rank in command, if so authorized by the Secretary's regulations, and prohibited, except for

members attached to or embarked in a vessel, imposition of punishment under this article on any member of the armed forces who, before imposition of such punishment, demands trial by court-martial. Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87–648 redesignated former subsec. (a) as (b), enlarged authority of commanding officers to impose punishment upon officers by increasing the number of days restriction from not more than 14 to not more than 30 days, and the number of months one-half of one month's pay may be ordered forfeited by an officer exercising general court-martial jurisdiction from one to two months, empowering officers exercising general court-martial jurisdiction and officers of general or flag rank in command to impose arrest in quarters for not more than 30 consecutive days, restriction, with or without suspension from duty, for not more than 60 consecutive days, and detention of not more than one-half of one month's pay per month for three months, and officers of general or flag rank in command to order forfeiture of not more than one-half of one month's pay per month for two months, and the authority of commanding officers to impose punishment upon other personnel of his command to permit correctional custody for not more than seven consecutive days, forfeiture of not more than seven days' pay, and detention of not more than 14 days' pay, empowered officers of the grade of major or lieutenant commander, or above, to impose the punishments prescribed in clauses (i) to (vii) of subpar. (2) (H) upon personnel of his command other than officers, changed provisions which permitted reduction to next inferior grade, if the grade from which demoted was established by the command or an equivalent or lower command to permit reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, and provisions which permitted extra duties for not more than two consecutive weeks, and not more than two hours per day, holidays included, to authorize extra duties, including fatigue or other duties, for not more than 14 consecutive days, inserted provisions limiting detention of pay for a stated period of not more than one year, prohibiting two or more of the punishments of arrest in quarters, confinement on bread and water or diminished rations, correctional custody, extra duties, and restriction to be combined to run consecutively in the maximum amount imposable for each, combining of forfeiture of pay with detention without an apportionment, and service of correctional custody, if practicable, in immediate association with persons awaiting trial or held in confinement pursuant to court-martial, requiring apportionment of punishments combined to run consecutively, and in those cases where forfeiture of pay is combined with detention of pay, defining "correctional custody", and struck out provisions which permitted withholding of privileges of officers and other personnel for not more than two consecutive weeks and which authorized confinement for not more than seven consecutive days if imposed upon a person attached to or embarked in a vessel. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 87–648 substituted "under subsection (b)(2)(A)–(G) as the Secretary concerned may specifically prescribe by regulation" for "to be imposed by commanding officers as the Secretary concerned may by regulation specifically prescribe, as provided in subsections (a) and (b)," and deleted "for minor offenses" after "an officer in charge may".

Subsecs. (d), (e). Pub. L. 87–648 added subsec. (d), redesignated former subsec. (d) as (e), inserted provisions requiring the authority who is to act on an appeal from any of the seven enumerated punishments to refer the case to a judge advocate of the Army or Air Force, a law specialist of the Navy, or a law specialist or lawyer of the Marine Corps, Coast Guard, or Treasury Department for advice, and authorizing such referral of any case on appeal from punishments under subsec. (b) of this section, and substituted "The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposed the punishment" for "The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment, and restore all rights, privileges, and property affected." Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 87–648 redesignated former subsec. (e) as (f) and added subsec. (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by section 13(b) of Pub. L. 98–209 effective Dec. 6, 1983, and amendment by section 2(c) of Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Pub. L. 87–648, §2, Sept. 7, 1962, 76 Stat. 450, provided that: "This Act [amending this section] becomes effective on the first day of the fifth month following the month in which it is enacted [September 1962]."

## SUBCHAPTER IV—COURT-MARTIAL JURISDICTION


| Sec. | Art. | |
|---|---|---|
| 816. | 16. | Courts-martial classified. |
| 817. | 17. | Jurisdiction of courts-martial in general. |
| 818. | 18. | Jurisdiction of general courts-martial. |
| 819. | 19. | Jurisdiction of special courts-martial. |
| 820. | 20. | Jurisdiction of summary courts-martial. |
| 821. | 21. | Jurisdiction of courts-martial not exclusive. |


### §816. Art. 16. Courts-martial classified

(a) IN GENERAL.—The three kinds of courts-martial in each of the armed forces are the following:

(1) General courts-martial, as described in subsection (b).

(2) Special courts-martial, as described in subsection (c).

(3) Summary courts-martial, as described in subsection (d).

(b) GENERAL COURTS-MARTIAL.—General courts-martial are of the following three types:

(1) A general court-martial consisting of a military judge and eight members, subject to sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29).

(2) In a capital case, a general court-martial consisting of a military judge and the number of members determined under section 825a of this title (article 25a), subject to sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29).

(3) A general court-martial consisting of a military judge alone, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

(c) SPECIAL COURTS-MARTIAL.—Special courts-martial are of the following two types:

(1) A special court-martial consisting of a military judge and four members, subject to sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29).

(2) A special court-martial consisting of a military judge alone—

(A) if the case is so referred, subject to section 819 of this title (article 19) and such

limitations as the President may prescribe by regulation; or

(B) if the case is referred under paragraph (1) and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

(d) SUMMARY COURT-MARTIAL.—A summary court-martial consists of one commissioned officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 42; Pub. L. 90–632, §2(3), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 98–209, §3(a), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 107–107, div. A, title V, §582(a), Dec. 28, 2001, 115 Stat. 1124; Pub. L. 114–328, div. E, title LIV, §5161, Dec. 23, 2016, 130 Stat. 2897; Pub. L. 115–91, div. A, title X, §1081(c)(1)(C), Dec. 12, 2017, 131 Stat. 1597; Pub. L. 118–31, div. A, title V, §531(b)(1), Dec. 22, 2023, 137 Stat. 258.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 816 | 50:576. | May 5, 1950, ch. 169, §1 (Art. 16), 64 Stat. 113. |

The word "The" is substituted for the words "There shall be". The word "are" is substituted for the word "namely". The words "not less than five members" are substituted for the words "any number of members not less than five". The words "not less than three members" are substituted for the words "any number of members not less than three". The word "commissioned" is inserted before the word "officer" in clause (3) for clarity.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c)(2)(A). Pub. L. 118–31 struck out "by the convening authority" after "is so referred".

**2017**—Subsecs. (b), (c). Pub. L. 115–91 substituted "sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29)" for "sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29)" wherever appearing.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section defined the three kinds of courts-martial in each of the armed forces.

**2001**—Par. (1)(A). Pub. L. 107–107 inserted "or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a)" after "five members".

**1983**—Par. (1)(B). Pub. L. 98–209 substituted "orally on the record or in writing" for "in writing".

**1968**—Pub. L. 90–632 provided that a general or special court-martial shall consist of only a military judge if the accused, before the court is assembled, so requests in writing and the military judge approves, with the added requirements that the accused know the identity of the military judge and have the advice of counsel, and that the election be available in the case of a special court-martial only if a military judge has been detailed to the court.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title V, §531(e), Dec. 22, 2023, 137 Stat. 260, provided that: "The amendments made by subsection (b) and subsection (c)(1) [amending this section and sections 824a and 825 of this title] shall take effect immediately after the coming into effect of the amendments made by part 1 of subtitle D of title V of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) as provided in section 539C of that Act (10 U.S.C. 801 note)."

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section

1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title V, §582(d), Dec. 28, 2001, 115 Stat. 1125, provided that: "The amendments made by this section [enacting section 825a of this title and amending this section and section 829 of this title] shall apply with respect to offenses committed after December 31, 2002."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §817. Art. 17. Jurisdiction of courts-martial in general

(a) Each armed force has court-martial jurisdiction over all persons subject to this chapter. The exercise of jurisdiction by one armed force over personnel of another armed force shall be in accordance with regulations prescribed by the President.

(b) In all cases, departmental review after that by the officer with authority to convene a general court-martial for the command which held the trial, where that review is required under this chapter, shall be carried out by the department that includes the armed force of which the accused is a member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 43.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 817(a) | 50:577(a). | May 5, 1950, ch. 169, §1 (Art. 17), 64 Stat. 114. |
| 817(b) | 50:577(b). | |

In subsection (a), the word "has" is substituted for the words "shall have".

In subsection (b), the word "after" is substituted for the words "subsequent to". The words "the provisions of" are omitted as surplusage. The words "department that includes the" are inserted before the words "armed force", since the review is carried out by the department and not by the armed force.

## §818. Art. 18. Jurisdiction of general courts-martial

(a) Subject to section 817 of this title (article 17), general courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when specifically authorized by this chapter. General courts-martial also have jurisdiction to try any person who by the law of war is subject to trial by a military tribunal and may adjudge any punishment permitted by the law of war.

(b) A general court-martial of the kind specified in section 816(b)(3) of this title (article 16(b)(3)) shall not have jurisdiction to try any person for any offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case.

(c) Consistent with sections 819 and 820 of this title (articles 19 and 20), only general courts-martial have jurisdiction over the following offenses:

(1) A violation of subsection (a) or (b) of section 920 of this title (article 120).

(2) A violation of subsection (a) or (b) of section 920b of this title (article 120b).

(3) An attempt to commit an offense specified in paragraph (1) or (2) that is punishable under section 880 of this title (article 80).

(Aug. 10, 1956, ch. 1041, 70A Stat. 43; Pub. L. 90–632, §2(4), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 113–66, div. A, title XVII, §1705(b), Dec. 26, 2013, 127 Stat. 959; Pub. L. 114–328, div. E, title LIV, §5162, Dec. 23, 2016, 130 Stat. 2898.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 818 | 50:578. | May 5, 1950, ch. 169, §1 (Art. 18), 64 Stat. 114. |

The word "shall" is omitted as surplusage wherever it occurs.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (b). Pub. L. 114–328, §5162(1), substituted "section 816(b)(3) of this title (article 16(b)(3))" for "section 816(1)(B) of this title (article 16(1)(B))".

Subsec. (c). Pub. L. 114–328, §5162(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "Consistent with sections 819, 820, and 856(b) of this title (articles 19, 20, and 56(b)), only general courts-martial have jurisdiction over an offense specified in section 856(b)(2) of this title (article 56(b)(2))."

**2013**—Pub. L. 113–66 designated the first two sentences as subsec. (a), designated third sentence as subsec. (b) and substituted "A general court-martial" for "However, a general court-martial", and added subsec. (c).

**1968**—Pub. L. 90–632 provided that a general court-martial consisting of only a military judge has no jurisdiction in cases in which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2013 AMENDMENT**

Pub. L. 113–66, div. A, title XVII, §1705(c), Dec. 26, 2013, 127 Stat. 960, provided that: "The amendments made by this section [amending this section and section 856 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 26, 2013], and apply to offenses specified in section 856(b)(2) of title 10, United States Code (article 56(b)(2) of the Uniform Code of Military Justice), as added by subsection (a)(1), committed on or after that date."

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §819. Art. 19. Jurisdiction of special courts-martial

(a) IN GENERAL.—Subject to section 817 of this title (article 17), special courts-martial have jurisdiction to try persons subject to this chapter for any noncapital offense made punishable by this chapter and, under such regulations as the President may prescribe, for capital offenses. Special courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dishonorable discharge, dismissal, confinement for more

than one year, hard labor without confinement for more than three months, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than one year.

(b) ADDITIONAL LIMITATION.—Neither a bad-conduct discharge, nor confinement for more than six months, nor forfeiture of pay for more than six months may be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)).

(c) MILITARY MAGISTRATE.—If charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)), the military judge, with the consent of the parties, may designate a military magistrate to preside over the special court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 43; Pub. L. 90–632, §2(5), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 106–65, div. A, title V, §577(a), Oct. 5, 1999, 113 Stat. 625; Pub. L. 107–107, div. A, title X, §1048(g)(4), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 114–328, div. E, title LIV, §5163, Dec. 23, 2016, 130 Stat. 2898.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 819 | 50:579. | May 5, 1950, ch. 169, §1 (Art. 19), 64 Stat. 114. |

The word "shall" in the first sentence is omitted as surplusage. The words "for more than" are substituted for the words "in excess of". The words "more than" are substituted for the words "a period exceeding". The word "may" is substituted for the word "shall" in the last sentence.

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 designated existing provisions as subsec. (a) and inserted heading, struck out "A bad-conduct discharge, confinement for more than six months, or forfeiture of pay for more than six months may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under section 827(b) of this title (article 27(b)) was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. In any such case in which a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed." after "one year.", and added subsecs. (b) and (c).

**2001**—Pub. L. 107–107, §1048(g)(4), amended directory language of Pub. L. 106–65, §577(a)(2). See 1999 Amendment note below.

**1999**—Pub. L. 106–65, §577(a)(2), as amended by Pub. L. 107–107, §1048(g)(4), inserted ", confinement for more than six months, or forfeiture of pay for more than six months" after "A bad-conduct discharge" in third sentence.

Pub. L. 106–65, §577(a)(1), substituted "one year" for "six months" in two places in second sentence.

**1968**—Pub. L. 90–632 provided that before a bad-conduct discharge may be adjudged by a special court-martial the accused must be detailed counsel who is legally qualified under the Code and a military judge must be detailed to the trial, with a detailed written statement appended to the record if a military judge was not detailed to the trial, because of physical conditions and military exigencies, stating the reasons that a military judge could not be so detailed.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title X, §1048(g), Dec. 28, 2001, 115 Stat. 1228, provided that the amendment made by section 1048(g)(4) is effective as of Oct. 5, 1999, and as if included in Pub. L. 106–65 as enacted.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title V, §577(b), Oct. 5, 1999, 113 Stat. 625, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the first day of the sixth month beginning after the date of the enactment of this Act [Oct. 5, 1999] and shall apply with respect to charges referred on or after that effective date to trial by special courts-martial."

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §820. Art. 20. Jurisdiction of summary courts-martial

(a) IN GENERAL.—Subject to section 817 of this title (article 17), summary courts-martial have jurisdiction to try persons subject to this chapter, except officers, cadets, aviation cadets, and midshipmen, for any noncapital offense made punishable by this chapter. No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate. Summary courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dismissal, dishonorable or bad-conduct discharge, confinement for more than one month, hard-labor without confinement for more than 45 days, restriction to specified limits for more than two months, or forfeiture of more than two-thirds of one month's pay.

(b) NON-CRIMINAL FORUM.—A summary court-martial is a non-criminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.

(Aug. 10, 1956, ch. 1041, 70A Stat. 43; Pub. L. 90–632, §2(6), Oct. 24, 1968, 82 Stat. 1336; Pub. L. 114–328, div. E, title LIV, §5164, Dec. 23, 2016, 130 Stat. 2899.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 820 | 50:580. | May 5, 1950, ch. 169, §1 (Art. 20), 64 Stat. 114. |

The word "shall" in the first sentence is omitted as surplusage. The word "may" is substituted for the word "shall" in the second sentence. The words "the provisions of" are omitted as surplusage. The word "If" is substituted for the word "Where". The words "for more than" are substituted for the words "in excess of". The words "more than" are substituted for the words "pay in excess of".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**1968**—Pub. L. 90–632 substituted provisions prohibiting trial by summary court-martial in all cases if the person objects thereto for provisions allowing such trial over the person's objection if he has previously been offered and has refused article 15 punishment.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §821. Art. 21. Jurisdiction of courts-martial not exclusive

The provisions of this chapter conferring jurisdiction upon courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by military commissions, provost courts, or other military tribunals. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 821 | 50:581. | May 5, 1950, ch. 169, §1 (Art. 21), 64 Stat. 115. |

The words "do not deprive" are substituted for the words "shall not be construed as depriving". The words "with respect to" are substituted for the words "in respect of".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–366 inserted last sentence.

# SUBCHAPTER V—COMPOSITION OF COURTS-MARTIAL


| Sec. | Art. | |
|---|---|---|
| 822. | 22. | Who may convene general courts-martial. |
| 823. | 23. | Who may convene special courts-martial. |
| 824. | 24. | Who may convene summary courts-martial. |
| 824a. | 24a. | Special trial counsel. |
| 825. | 25. | Who may serve on courts-martial. |
| 825a. | 25a. | Number of court-martial members in capital cases. |
| 826. | 26. | Military judge of a general or special court-martial. |
| 826a. | 26a. | Military magistrates. |
| 827. | 27. | Detail of trial counsel and defense counsel. |
| 828. | 28. | Detail or employment of reporters and interpreters. |
| 829. | 29. | Assembly and impaneling of members; detail of new members and military judges. |


**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title V, §531(b), Dec. 27, 2021, 135 Stat. 1693, added item 824a.

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), (B), Dec. 12, 2017, 131 Stat. 1601, amended Pub. L. 114–328, §5541(2). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(2), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), (B), Dec. 12, 2017, 131 Stat. 1601, added items 825a, 826a, and 829 and struck out former items 825a "Art. 25a. Number of members in capital cases" and 829 "Art. 29. Absent and additional members".

**2001**—Pub. L. 107–107, div. A, title V, §582(b)(2), Dec. 28, 2001, 115 Stat. 1124, added item 825a.

**1968**—Pub. L. 90–632, §2(8), Oct. 24, 1968, 82 Stat. 1336, substituted "Military judge of a general or special court-martial" for "Law officer of a general court-martial" in item 826.

## §822. Art. 22. Who may convene general courts-martial

(a) General courts-martial may be convened by—

(1) the President of the United States;

(2) the Secretary of Defense;

(3) the commanding officer of a unified or specified combatant command;

(4) the Secretary concerned;

(5) the commanding officer of an Army Group, an Army, an Army Corps, a division, a separate brigade, or a corresponding unit of the Army or Marine Corps;

(6) the commander of a fleet; the commanding officer of a naval station or larger shore activity of the Navy beyond the United States;

(7) the commanding officer of an air command, an air force, an air division, or a separate wing of the Air Force or Marine Corps, or the commanding officer of a corresponding unit of the Space Force;

(8) any other commanding officer designated by the Secretary concerned; or

(9) any other commanding officer in any of the armed forces when empowered by the President.

(b)(1) If any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by him.

(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a general court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 99–433, title II, §211(b), Oct. 1, 1986, 100 Stat. 1017; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 114–328, div. E, title LV, §5181, Dec. 23, 2016, 130 Stat. 2899; Pub. L. 116–283, div. A, title IX, §924(b)(21)(A), Jan. 1, 2021, 134 Stat. 3824; Pub. L. 117–81, div. A, title V, §534(a), Dec. 27, 2021, 135 Stat. 1696.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 822(a) | 50:586(a). | May 5, 1950, ch. 169, §1 (Art. 22), 64 Stat. 115. |
| 822(b) | 50:586(b). | |

Subsection (a)(2) is substituted for the words "the Secretary of a Department".

In subsection (a)(4), the words "continental limits of the" are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsection (a)(6), the words "any other commanding officer" are substituted for the words "such other commanding officers as may be".

In subsection (b), the word "If" is substituted for the word "When". The words "if considered" are substituted for the words "when deemed".

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(7). Pub. L. 116–283 substituted "Marine Corps, or the commanding officer of a corresponding unit of the Space Force" for "Marine Corps".

Subsec. (b). Pub. L. 117–81 designated existing provisions as par. (1) and added par. (2).

**2016**—Subsec. (a)(6). Pub. L. 114–328 struck out "in chief" after "the commander".

**2006**—Subsec. (a)(5). Pub. L. 109–163 struck out "a Territorial Department," before "an Army Group".

**1986**—Subsec. (a)(2) to (9). Pub. L. 99–433 added pars. (2) and (3) and redesignated existing pars. (2) to (7) as (4) to (9), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### TRAINING FOR SEXUAL ASSAULT INITIAL DISPOSITION AUTHORITIES ON EXERCISE OF DISPOSITION AUTHORITY FOR SEXUAL ASSAULT AND COLLATERAL OFFENSES

Pub. L. 116–92, div. A, title V, §540A, Dec. 20, 2019, 133 Stat. 1365, provided that:

"(a) IN GENERAL.—The training for sexual assault initial disposition authorities on the exercise of disposition authority under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), shall include comprehensive training on the exercise of disposition authority with respect to cases for which disposition authority is withheld to such authorities pursuant to the memorandum described in subsection (b) for the purpose of promoting confidence and trust in the military justice process with respect to such cases.

"(b) MEMORANDUM DESCRIBED.—The memorandum described in this subsection is the memorandum of the Secretary of Defense titled 'Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases' and dated April 20, 2012, or any successor memorandum."

## §823. Art. 23. Who may convene special courts-martial

(a) Special courts-martial may be convened by—

(1) any person who may convene a general court-martial;

(2) the commanding officer of a district, garrison, fort, camp, station, Air Force or Space Force military installation, auxiliary air field, or other place where members of the Army, the Air Force, or the Space Force are on duty;

(3) the commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the Army;

(4) the commanding officer of a wing, group, or separate squadron of the Air Force or a corresponding unit of the Space Force;

(5) the commanding officer of any naval or Coast Guard vessel, shipyard, base, or station; the commanding officer of any Marine brigade, regiment, detached battalion, or corresponding unit; the commanding officer of any Marine barracks, wing, group, separate squadron, station, base, auxiliary air field, or other place where members of the Marine Corps are on duty;

(6) the commanding officer of any separate or detached command or group of detached units of any of the armed forces placed under a single commander for this purpose; or

(7) the commanding officer or officer in charge of any other command when empowered by the

Secretary concerned.

(b)(1) If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered advisable by him.

(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a special court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 116–283, div. A, title IX, §924(b)(21)(B), Jan. 1, 2021, 134 Stat. 3824; Pub. L. 117–81, div. A, title V, §534(b), title X, §1081(a)(13), Dec. 27, 2021, 135 Stat. 1696, 1920.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 823(a)<br>823(b) | 50:587(a).<br>50:587(b). | May 5, 1950, ch. 169, §1 (Art. 23), 64 Stat. 115. |

In subsection (a)(7), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

In subsection (b), the word "If" is substituted for the word "When". The words "if considered" are substituted for the words "when deemed".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(2). Pub. L. 117–81, §1081(a)(13), inserted comma after "Army".

Pub. L. 116–283, §924(b)(21)(B)(i), substituted "Air Force or Space Force military installation" for "Air Force base" and "the Air Force, or the Space Force" for "or the Air Force".

Subsec. (a)(4). Pub. L. 116–283, §924(b)(21)(B)(ii), inserted "or a corresponding unit of the Space Force" after "Air Force".

Subsec. (b). Pub. L. 117–81, §534(b), designated existing provisions as par. (1) and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 534(b) of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §824. Art. 24. Who may convene summary courts-martial

(a) Summary courts-martial may be convened by—

(1) any person who may convene a general or special court-martial;

(2) the commanding officer of a detached company, or other detachment of the Army;

(3) the commanding officer of a detached squadron or other detachment of the Air Force or a corresponding unit of the Space Force; or

(4) the commanding officer or officer in charge of any other command when empowered by the

Secretary concerned.

(b) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 45; Pub. L. 116–283, div. A, title IX, §924(b)(21)(C), Jan. 1, 2021, 134 Stat. 3824.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 824(a)<br>824(b) | 50:588(a).<br>50:588(b). | May 5, 1950, ch. 169, §1 (Art. 24), 64 Stat. 116. |

In subsection (a)(4), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

In subsection (b), the words "only one commissioned" are substituted for the words "but one" for clarity. The word "considered" is substituted for the word "deemed".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(3). Pub. L. 116–283 inserted "or a corresponding unit of the Space Force" after "Air Force".

## §824a. Art. 24a. Special trial counsel

(a) DETAIL OF SPECIAL TRIAL COUNSEL.—Each Secretary concerned shall promulgate regulations for the detail of commissioned officers to serve as special trial counsel.

(b) QUALIFICATIONS.—A special trial counsel shall be a commissioned officer who—

(1)(A) is a judge advocate who is qualified under section 806(a)(1) of this title (article 6(a)(1)); and

(B) is certified to be qualified, by reason of education, training, experience, and temperament, for duty as a special trial counsel by—

(i) the Judge Advocate General of the armed force of which the officer is a member; or

(ii) in the case of the Marine Corps, the Staff Judge Advocate to the Commandant of the Marine Corps; and

(2) in the case of a lead special trial counsel appointed pursuant to section 1044f(a)(2) of this title, is in a grade no lower than O–7.

(c) DUTIES AND AUTHORITIES.—

(1) IN GENERAL.—Special trial counsel shall carry out the duties described in this chapter and any other duties prescribed by the Secretary concerned, by regulation.

(2) DETERMINATION OF COVERED OFFENSE; RELATED CHARGES.—

(A) AUTHORITY.—A special trial counsel shall have exclusive authority to determine if a reported offense is a covered offense and shall exercise authority over any such offense in accordance with this chapter. Any determination to prefer or refer charges shall not act to disqualify the special trial counsel as an accuser.

(B) KNOWN AND RELATED OFFENSES.—If a special trial counsel determines that a reported offense is a covered offense, the special trial counsel may also exercise authority over

any offense that the special trial counsel determines to be related to the covered offense and any other offense alleged to have been committed by a person alleged to have committed the covered offense.

(3) DISMISSAL; REFERRAL; PLEA BARGAINS.—Subject to paragraph (5), with respect to charges and specifications alleging any offense over which a special trial counsel exercises authority, a special trial counsel shall have exclusive authority to, in accordance with this chapter—

(A) on behalf of the Government, withdraw or dismiss the charges and specifications or make a motion to withdraw or dismiss the charges and specifications;

(B) refer the charges and specifications for trial by a special or general court-martial;

(C) enter into a plea agreement; and

(D) determine if an authorized rehearing is impracticable.

(4) BINDING DETERMINATION.—The determination of a special trial counsel to refer charges and specifications to a court-martial for trial shall be binding on any applicable convening authority for the referral of such charges and specifications.

(5) DEFERRAL TO COMMANDER OR CONVENING AUTHORITY.—If a special trial counsel exercises authority over an offense and elects not to prefer charges and specifications for such offense or, with respect to charges and specifications for such offense preferred by a person other than a special trial counsel, elects not to refer such charges and specifications, a commander or convening authority may exercise any of the authorities of such commander or convening authority under this chapter with respect to such offense, except that such commander or convening authority may not refer charges and specifications for a covered offense for trial by special or general court-martial.

(d) SPECIAL TRIAL COUNSEL AUTHORITY OVER CERTAIN OTHER OFFENSES.—

(1) OFFENSES OCCURRING BEFORE EFFECTIVE DATE.—A special trial counsel may, at the sole and exclusive discretion of the special trial counsel, exercise authority over the following offenses:

(A) An offense under section 917a (article 117a), 918 (article 118), section 919 (article 119), section 919a (article 119a), section 920 (article 120), section 920a (article 120a), section 920b (article 120b), section 920c (article 120c), section 928b (article 128b), or the standalone offense of child pornography punishable under section 934 (article 134) of this title that occurred on or before December 27, 2023.

(B) An offense under section 925 (article 125), section 930 (article 130), or section 932 (article 132) of this title that occurred on or after January 1, 2019, and before December 28, 2023.

(C) An offense under section 920a (article 120a) of this title, an offense under section 925 (article 125) of this title alleging an act of nonconsensual sodomy, or the standalone offense of kidnapping punishable under section 934 (article 134) of this title that occurred before January 1, 2019.

(D) A conspiracy to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 881 of this title (article 81).

(E) A solicitation to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 882 of this title (article 82).

(F) An attempt to commit an offense specified in subparagraph (A), (B), (C), (D), or (E) as punishable under section 880 of this title (article 80).

(2) THE STANDALONE OFFENSE OF SEXUAL HARASSMENT.—After January 1, 2025, a special trial counsel may, at the sole and exclusive discretion of the special trial counsel, exercise authority over the following offenses:

(A) The standalone offense of sexual harassment punishable under section 934 of this title

(article 134) in each instance in which—

(i) the offense occurs after January 26, 2022, and on or before January 1, 2025; and

(ii) a formal complaint is substantiated in accordance with regulations prescribed by the Secretary concerned.

(B) A conspiracy to commit an offense specified in subparagraph (A) as punishable under section 881 of this title (article 81).

(C) A solicitation to commit an offense specified in subparagraph (A) as punishable under section 882 of this title (article 82).

(D) An attempt to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 880 of this title (article 80).

(3) EFFECT OF EXERCISE OF AUTHORITY.—

(A) TREATMENT AS COVERED OFFENSE.—If a special trial counsel exercises authority over an offense pursuant to paragraph (1) or (2), the offense over which the special trial counsel exercises authority shall be considered a covered offense for purposes of this chapter.

(B) KNOWN OR RELATED OFFENSES.—If a special trial counsel exercises authority over an offense pursuant to subsection (c)(2)(A) or paragraph (1) or (2) of this subsection, the special trial counsel may exercise the authority of the special trial counsel under subparagraph (B) of subsection (c)(2) with respect to other offenses described in that subparagraph without regard to the date on which the other offenses occur.

(Added Pub. L. 117–81, div. A, title V, §531(a), Dec. 27, 2021, 135 Stat. 1692; amended Pub. L. 117–263, div. A, title V, §542(a), Dec. 23, 2022, 136 Stat. 2581; Pub. L. 118–31, div. A, title V, §531(c)(1), Dec. 22, 2023, 137 Stat. 258; Pub. L. 118–159, div. A, title V, §562, Dec. 23, 2024, 138 Stat. 1903; Pub. L. 119–60, div. A, title V, §561(b)(2), Dec. 18, 2025, 139 Stat. 882.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1)(A). Pub. L. 119–60 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "is a member of the bar of a Federal court or a member of the bar of the highest court of a State; and".

**2024**—Subsec. (d)(1)(A). Pub. L. 118–159, §562(1), substituted "section 919a (article 119a), section 920 (article 120), section 920a (article 120a)," for "section 920 (article 120),".

Subsec. (d)(2), (3). Pub. L. 118–159, §562(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(3)(A). Pub. L. 118–159, §562(4)(A), inserted "or (2)" after "paragraph (1)".

Subsec. (d)(3)(B). Pub. L. 118–159, §562(4)(B), substituted "subsection (c)(2)(A) or paragraph (1) or (2) of this subsection" for "paragraph (1)".

**2023**—Subsec. (d). Pub. L. 118–31 added subsec. (d).

**2022**—Subsec. (c)(3). Pub. L. 117–263, §542(a)(1), substituted "Subject to paragraph (5)" for "Subject to paragraph (4)" in introductory provisions.

Subsec. (c)(3)(D). Pub. L. 117–263, §542(a)(2), substituted "an authorized rehearing" for "an ordered rehearing".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by Pub. L. 118–31 effective immediately after amendment by part 1 of subtitle D of title V of Pub. L. 117–81, see section 531(e) of Pub. L. 118–31, set out as a note under section 816 of this title.

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §542(b), Dec. 23, 2022, 136 Stat. 2581, provided that: "The amendments made by subsection (a) [amending this section] shall take effect immediately after the coming into effect of

the amendments made by section 531 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1692) [enacting this section] as provided in section 539C of that Act (10 U.S.C. 801 note)."

**EFFECTIVE DATE**

Section effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as an Effective Date of 2021 Amendment note under section 801 of this title.

**RESIDUAL PROSECUTORIAL DUTIES AND OTHER JUDICIAL FUNCTIONS OF CONVENING AUTHORITIES IN COVERED CASES**

Pub. L. 117–263, div. A, title V, §541(c), Dec. 23, 2022, 136 Stat. 2580, provided that: "The President shall prescribe regulations to ensure that residual prosecutorial duties and other judicial functions of convening authorities, including granting immunity, ordering depositions, and hiring experts, with respect to charges and specifications over which a special trial counsel exercises authority pursuant to section 824a of title 10, United States Code (article 24a of the Uniform Code of Military Justice) (as added by section 531 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1692)), are transferred to the military judge, the special trial counsel, or other authority as appropriate in such cases by no later than the effective date established in section 539C of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 801 note), in consideration of due process for all parties involved in such a case."

## §825. Art. 25. Who may serve on courts-martial

(a) Any commissioned officer on active duty is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer on active duty is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c)(1) Any enlisted member on active duty is eligible to serve on a general or special court-martial for the trial of any other enlisted member.

(2) Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that—

(A) the membership of the court-martial be comprised entirely of officers; or

(B) enlisted members comprise at least one-third of the membership of the court-martial,

regardless of whether enlisted members have been detailed to the court-martial.

(3) Except as provided in paragraph (4), after such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

(4) If, because of physical conditions or military exigencies, a sufficient number of eligible officers or enlisted members, as the case may be, is not available to carry out paragraph (2), the trial may nevertheless be held. In that event, the convening authority shall make a detailed written statement of the reasons for nonavailability. The statement shall be appended to the record.

(d)(1) Except as provided in paragraph (2) for capital offenses, the accused in a court-martial with a military judge and members shall be sentenced by the military judge.

(2) In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death, the accused shall be sentenced in accordance with section 853(c) of this title (article 53(c)).

(3) In a capital case, if the accused is convicted of a non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with section 853(b) of this title (article 53(b)), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.

(e)(1) When it can be avoided, no member of an armed force may be tried by a court-martial any

member of which is junior to the member being tried in rank or grade.

(2) When convening a court-martial, the convening authority shall detail as members thereof such members of the armed forces as, in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a general or special court-martial when the member is the accuser or a witness for the prosecution or has acted as preliminary hearing officer or as counsel in the same case.

(3) The convening authority shall detail not less than the number of members necessary to impanel the court-martial under section 829 of this title (article 29).

(4) When convening a court-martial, the convening authority shall detail as members thereof members of the armed forces under such regulations as the President may prescribe for the randomized selection of qualified personnel, to the maximum extent practicable.

(f) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under such regulations as the Secretary concerned may prescribe, the convening authority may delegate the authority of the convening authority under this subsection to the staff judge advocate or legal officer of the convening authority or to any other principal assistant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 45; Pub. L. 90–632, §2(7), Oct. 24, 1968, 82 Stat. 1336; Pub. L. 98–209, §§3(b), 13(c), Dec. 6, 1983, 97 Stat. 1394, 1408; Pub. L. 99–661, div. A, title VIII, §803(a), Nov. 14, 1986, 100 Stat. 3906; Pub. L. 114–328, div. E, title LV, §5182, title LVI, §5203(e)(2), Dec. 23, 2016, 130 Stat. 2899, 2906; Pub. L. 117–263, div. A, title V, §543(a), Dec. 23, 2022, 136 Stat. 2582; Pub. L. 118–31, div. A, title V, §531(b)(2), Dec. 22, 2023, 137 Stat. 258.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 825(a) | 50:589(a). | May 5, 1950, ch. 169, §1 (Art. 25), 64 Stat. 116. |
| 825(b) | 50:589(b). | |
| 825(c) | 50:589(c). | |
| 825(d) | 50:589(d). | |

In subsection (a), the word "commissioned" is inserted before the word "officer" for clarity. The word "is" is substituted for the words "shall be".

In subsections (a), (b), and (c)(1), the words "with the armed forces" are omitted as surplusage.

In subsection (b), the word "is" is substituted for the words "shall be". The words "a commissioned" are substituted for the word "an" for clarity.

In subsection (c), the words "member" and "members", respectively are substituted for the words "person" and "persons". The words "of an armed force" are inserted for clarity.

In subsection (c)(1), the word "is" is substituted for the words "shall be". The word "before" is substituted for the words "prior to". The words "the accused may not" are substituted for the words "no enlisted person shall", for clarity. The word "If" is substituted for the word "Where".

In subsection (c)(2), the word "means" is substituted for the words "shall mean". The words "Secretary concerned" are substituted for the words "Secretary of the Department". The word "may" is substituted for the word "shall". The word "than", before the words "a body", is omitted as surplusage.

In subsection (d)(1), the word "may" is substituted for the word "shall". The word "member" is substituted for the word "person".

In subsection (d)(2), the word "is" is substituted for the words "shall be". The word "detail" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense. The words "member of an armed force" and "members of the armed forces", respectively, are substituted for the words "person" and "persons".

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d)(1). Pub. L. 118–31, §531(b)(2)(A)(i), substituted "shall be sentenced by the military

judge" for "may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members".

Subsec. (d)(2). Pub. L. 118–31, §531(b)(2)(A)(ii), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In a capital case, the accused shall be sentenced by the members for all offenses for which the court-martial may sentence the accused to death in accordance with section 853(c) of this title (article 53(c))."

Subsec. (e)(1). Pub. L. 118–31, §531(b)(2)(B)(i), substituted "the member being tried" for "him".

Subsec. (e)(2). Pub. L. 118–31, §531(b)(2)(B)(ii), substituted "the opinion of the convening authority" for "his opinion" and "the member" for "he".

Subsec. (f). Pub. L. 118–31, §531(b)(2)(C), substituted "the authority of the convening authority" for "his authority" and "the staff judge advocate or legal officer of the convening authority" for "his staff judge advocate or legal officer".

**2022**—Subsec. (e)(4). Pub. L. 117–263 added par. (4).

**2016**—Subsec. (c). Pub. L. 114–328, §5182(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to service on general and special courts-martial by enlisted members.

Subsec. (d). Pub. L. 114–328, §5182(b)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114–328, §5182(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 114–328, §5203(e)(2), which directed amendment of this section by substituting "preliminary hearing officer" for "investigating officer" in subsec. (d)(2), was executed by making the substitution in subsec. (e)(2) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (e) by Pub. L. 114–328, §5182(b)(1).

Subsec. (e)(3). Pub. L. 114–328, §5182(c), added par. (3).

Subsec. (f). Pub. L. 114–328, §5182(b)(1), redesignated subsec. (e) as (f).

**1986**—Subsec. (c)(1). Pub. L. 99–661 substituted "has requested orally on the record or in writing" for "has requested in writing".

**1983**—Subsec. (c)(2). Pub. L. 98–209, §13(c), struck out "the word" before " 'unit' ".

Subsec. (e). Pub. L. 98–209, §3(b), added subsec. (e).

**1968**—Subsec. (c)(1). Pub. L. 90–632 inserted requirement that an accused's request for inclusion of enlisted members on his court-martial be made before conclusion of a pre-trial session called by the military judge under section 839(a) or before the court is assembled for his trial and substituted "assembled" for "convened" to describe the calling together of the court for the trial in provision allowing such calling together without requested enlisted members if such members cannot be obtained.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by Pub. L. 118–31 effective immediately after amendment by part 1 of subtitle D of title V of Pub. L. 117–81, see section 531(e) of Pub. L. 118–31, set out as a note under section 816 of this title.

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §543(b), Dec. 23, 2022, 136 Stat. 2582, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date that is two years after the date of the enactment of this Act [Dec. 23, 2022] and shall apply with respect to courts-martial convened on or after that effective date."

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, §803(b), Nov. 14, 1986, 100 Stat. 3906, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to a case in which arraignment is completed on or after the effective date of this title."

Title VIII of Pub. L. 99–661 effective the earlier of (1) the last day of the 120-day period beginning on Nov. 14, 1986; or (2) the date specified in an Executive order for such amendment to take effect, see section 808 of Pub. L. 99–661, set out as a note under section 802 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by section 13(c) of Pub. L. 98–209 effective Dec. 6, 1983, and amendment by section 3(b) of Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

**REGULATIONS**

Pub. L. 117–263, div. A, title V, §543(c), Dec. 23, 2022, 136 Stat. 2582, provided that: "Not later than the effective date specified in subsection (b) [see Effective Date of 2022 Amendment note above], the President shall prescribe regulations implementing the requirement under paragraph (4) of section 825(e) of title 10, United States Code (article 25(e) of the Uniform Code of Military Justice), as added by subsection (a) of this section."

## §825a. Art. 25a. Number of court-martial members in capital cases

(a) IN GENERAL.—In a case in which the accused may be sentenced to death, the number of members shall be 12.

(b) CASE NO LONGER CAPITAL.—Subject to section 829 of this title (article 29)—

(1) if a case is referred for trial as a capital case and, before the members are impaneled, the accused may no longer be sentenced to death, the number of members shall be eight; and

(2) if a case is referred for trial as a capital case and, after the members are impaneled, the accused may no longer be sentenced to death, the number of members shall remain 12.

(Added Pub. L. 107–107, div. A, title V, §582(b)(1), Dec. 28, 2001, 115 Stat. 1124; amended Pub. L. 114–328, div. E, title LV, §5183, Dec. 23, 2016, 130 Stat. 2900.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "In a case in which the accused may be sentenced to a penalty of death, the number of members shall be not less than 12, unless 12 members are not reasonably available because of physical conditions or military exigencies, in which case the convening authority shall specify a lesser number of members not less than five, and the court may be assembled and the trial held with not less than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE**

Section applicable with respect to offenses committed after Dec. 31, 2002, see section 582(d) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 816 of this title.

## §826. Art. 26. Military judge of a general or special court-martial

(a) A military judge shall be detailed to each general and special court-martial. The Secretary concerned shall prescribe regulations providing for the manner in which military judges are detailed

for such courts-martial and for the persons who are authorized to detail military judges for such courts-martial. The military judge shall preside over each open session of the court-martial to which he has been detailed.

(b) A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court or a member of the bar of the highest court of a State and who is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military judge by the Judge Advocate General of the armed force of which such military judge is a member.

(c)(1) In accordance with regulations prescribed under subsection (a), a military judge of a general or special court-martial shall be designated for detail by the Judge Advocate General of the armed force of which the military judge is a member.

(2) Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to the military judge's performance of duty as a military judge.

(3) A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial—

(A) may perform such duties only when the officer is assigned and directly responsible to the Judge Advocate General of the armed force of which the military judge is a member; and

(B) may perform duties of a judicial or nonjudicial nature other than those relating to the officer's primary duty as a military judge of a general court-martial when such duties are assigned to the officer by or with the approval of that Judge Advocate General.

(4) In accordance with regulations prescribed by the President, assignments of military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.

(d) No person is eligible to act as military judge in a case if he is the accuser or a witness for the prosecution or has acted as preliminary hearing officer or a counsel in the same case.

(e) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

(f) A military judge may be detailed under subsection (a) to a court-martial or a proceeding under section 830a of this title (article 30a) that is convened in a different armed force, when so permitted by the Judge Advocate General of the armed force of which the military judge is a member.

(g) In accordance with regulations prescribed by the President, each Judge Advocate General shall designate a chief trial judge from among the members of the applicable trial judiciary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 46; Pub. L. 90–632, §2(9), Oct. 24, 1968, 82 Stat. 1336; Pub. L. 98–209, §3(c)(1), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 114–328, div. E, title LV, §5184, title LVI, §5203(e)(3), Dec. 23, 2016, 130 Stat. 2901, 2906.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 826(a)<br>826(b) | 50:590(a).<br>50:590(b). | May 5, 1950, ch. 169, §1 (Art. 26), 64 Stat. 117. |

In subsection (a), the words "a commissioned" are substituted for the word "an" for clarity. The words "of the United States" are omitted as surplusage. The word "is" is substituted for the words "shall be". The word "if" is substituted for the word "when". The word "detail" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (a). Pub. L. 114–328, §5184(a), inserted "and special" after "each general" and struck out "Subject to regulations of the Secretary concerned, a military judge may be detailed to any special court-martial." before "The military judge".

Subsec. (b). Pub. L. 114–328, §5184(b), substituted "qualified, by reason of education, training, experience, and judicial temperament, for duty" for "qualified for duty".

Subsec. (c). Pub. L. 114–328, §5184(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The military judge of a general court-martial shall be designated by the Judge Advocate General, or his designee, of the armed force of which the military judge is a member for detail in accordance with regulations prescribed under subsection (a). Unless the court-martial was convened by the President or the Secretary concerned, neither the convening authority nor any member of his staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to his performance of duty as a military judge. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform such duties only when he is assigned and directly responsible to the Judge Advocate General, or his designee, of the armed force of which the military judge is a member and may perform duties of a judicial or nonjudicial nature other than those relating to his primary duty as a military judge of a general court-martial when such duties are assigned to him by or with the approval of that Judge Advocate General or his designee."

Subsec. (d). Pub. L. 114–328, §5203(e)(3), substituted "preliminary hearing officer" for "investigating officer".

Subsec. (f). Pub. L. 114–328, §5184(d), added subsec. (f).

Subsec. (g). Pub. L. 114–328, §5184(e), added subsec. (g).

**1983**—Subsec. (a). Pub. L. 98–209, §3(c)(1)(A), amended subsec. (a) generally, inserting provision requiring the Secretary concerned to prescribe regulations providing for the manner in which military judges are detailed for courts-martial and for the persons who are authorized to detail military judges for such courts-martial.

Subsec. (c). Pub. L. 98–209, §3(c)(1)(B), substituted "in accordance with regulations prescribed under subsection (a). Unless" for "by the convening authority, and, unless".

**1968**—Pub. L. 90–632 substituted "military judge" for "law officer" and inserted reference to special court-martial.

Subsec. (a). Pub. L. 90–632 substituted reference to military judge for references to law officer and such law officer's requisite qualifications, inserted reference to special court-martial and regulations of the Secretary concerned governing the convening of a special court-martial, inserted provisions directing the military judge to preside over the open sessions of the court-martial to which he was assigned, and struck out provisions making law officers ineligible in a case in which he was the accuser or a witness for the prosecution or acted as investigating officer or as counsel.

Subsecs. (b) to (d). Pub. L. 90–632 added subsecs. (b) to (d). Former subsec. (b) redesignated as subsec. (e) and amended.

Subsec. (e). Pub. L. 90–632 redesignated former subsec. (b) as (e) and substituted "military judge" for "law officer" and struck out provision allowing consultation with members of the court on the form of the findings as provided in section 839 of this title (article 39).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to affect the designation or detail of a military judge or military counsel to a court-martial before that date, see section 12(a)(1), (2) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

### STATUTORY REFERENCES TO LAW OFFICER DEEMED REFERENCES TO MILITARY

**JUDGE**

Pub. L. 90–632, §3(a), Oct. 24, 1968, 82 Stat. 1343, provided that: "Whenever the term law officer is used, with reference to any officer detailed to a court-martial pursuant to section 826(a) (article 26(a)) of title 10, United States Code [subsec. (a) of this section], in any provision of Federal law (other than provisions amended by this Act [see Short Title of 1968 Amendment note set out under section 801 of this title] or in any regulation, document, or record of the United States, such term shall be deemed to mean military judge."

## §826a. Art. 26a. Military magistrates

(a) QUALIFICATIONS.—A military magistrate shall be a commissioned officer of the armed forces who—

(1) is a member of the bar of a Federal court or a member of the bar of the highest court of a State; and

(2) is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military magistrate by the Judge Advocate General of the armed force of which the officer is a member.

(b) DUTIES.—In accordance with regulations prescribed by the Secretary concerned, in addition to duties when designated under section 819 or 830a of this title (article 19 or 30a), a military magistrate may be assigned to perform other duties of a nonjudicial nature.

(Added Pub. L. 114–328, div. E, title LV, §5185, Dec. 23, 2016, 130 Stat. 2901.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §827. Art. 27. Detail of trial counsel and defense counsel

(a)(1) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The Secretary concerned shall prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

(2) No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(b) Trial counsel, defense counsel, or assistant defense counsel detailed for a general court-martial—

(1) must be a judge advocate who is qualified under section 806(a)(1) of this title (article 6(a)(1)); and

(2) must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.

(c)(1) Defense counsel and assistant defense counsel detailed for a special court-martial shall have the qualifications set forth in subsection (b).

(2) Trial counsel and assistant trial counsel detailed for a special court-martial and assistant trial

counsel detailed for a general court-martial must be determined to be competent to perform such duties by the Judge Advocate General, under such rules as the President may prescribe.

(d) To the greatest extent practicable, in any capital case, at least one defense counsel shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.

(e) For each general and special court-martial for which charges and specifications were referred by a special trial counsel—

(1) a special trial counsel shall be detailed as trial counsel; and

(2) a special trial counsel may detail other trial counsel as necessary who are judge advocates.

(Aug. 10, 1956, ch. 1041, 70A Stat. 46; Pub. L. 90–179, §1(5), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90–632, §2(10), Oct. 24, 1968, 82 Stat. 1337; Pub. L. 98–209, §§2(d), 3(c)(2), Dec. 6, 1983, 97 Stat. 1393, 1394; Pub. L. 114–328, div. E, title LV, §5186, Dec. 23, 2016, 130 Stat. 2902; Pub. L. 117–81, div. A, title V, §535, Dec. 27, 2021, 135 Stat. 1696; Pub. L. 119–60, div. A, title V, §561(b)(1), Dec. 18, 2025, 139 Stat. 881.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 827(a) | 50:591(a). | May 5, 1950, ch. 169, §1 (Art. 27), 64 Stat. 117. |
| 827(b) | 50:591(b). | |
| 827(c) | 50:591(c). | |

The words, "detail" and "detailed" are substituted for the words "appoint" and "appointed" throughout the revised section, since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (a), the word "and" is substituted for the words "together with". The word "considers" is substituted for the word "deems". The words "necessary or" are omitted as surplusage, since what is necessary is also appropriate. The word "may" is substituted for the word "shall". The word "later" is substituted for the word "subsequently".

In subsections (b) and (c), the word "must" is substituted for the word "shall", since the clauses prescribe conditions and not commands.

In subsection (b), the word "for" is substituted for the words "in the case of". The words "person * * * a person who is" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1). Pub. L. 119–60 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; or must be a member of the bar of a Federal court or of the highest court of a State; and".

**2021**—Subsec. (e). Pub. L. 117–81 added subsec. (e).

**2016**—Subsec. (a)(2). Pub. L. 114–328, §5186(1), substituted "No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel," for "No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel,".

Subsec. (b). Pub. L. 114–328, §5186(2), substituted "Trial counsel, defense counsel, or assistant defense counsel" for "Trial counsel or defense counsel" in introductory provisions.

Subsecs. (c), (d). Pub. L. 114–328, §5186(3), added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: "In the case of a special court-martial—

"(1) the accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under section 827(b) of this title (article 27(b)) unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel

having such qualifications cannot be obtained, the court may be convened and the trial held but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;

"(2) if the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

"(3) if the trial counsel is a judge advocate or a member of the bar of a Federal court or the highest court of a State, the defense counsel detailed by the convening authority must be one of the foregoing."

**1983**—Subsec. (a)(1). Pub. L. 98–209, §3(c)(2)(A), designated first sentence of existing provisions as par. (1), substituted provisions requiring that trial counsel and defense counsel be detailed for each general and special court-martial, and permitting the detailing of assistant trial counsel and assistant and associate defense counsel for each general and special court-martial for provisions requiring that for each general and special court-martial the authority convening the court had to detail trial counsel and defense counsel and such assistants as he considered appropriate, and inserted provision requiring the Secretary concerned to prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

Subsec. (a)(2). Pub. L. 98–209, §3(c)(2)(B), designated existing provision, less first sentence, as par. (2) and substituted "assistant or associate defense counsel" for "assistant defense counsel".

Subsec. (b)(1). Pub. L. 98–209, §2(d)(1), substituted "judge advocate" for "judge advocate of the Army, Navy, Air Force, or Marine Corps or a law specialist of the Coast Guard,".

Subsec. (c)(3). Pub. L. 98–209, §2(d)(2), struck out ", or a law specialist," after "is a judge advocate".

**1968**—Subsec. (a). Pub. L. 90–632, §2(10)(A), substituted "military judge" for "law officer".

Subsec. (c). Pub. L. 90–632, §2(10)(B), redesignated former pars. (1) and (2) as pars. (2) and (3), respectively, and added par. (1).

**1967**—Subsec. (b)(1). Pub. L. 90–179 inserted reference to judge advocate of the Marine Corps and substituted reference to judge advocate of the Navy for reference to law specialist of the Navy.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but amendment by section 3(c)(2) of Pub. L. 98–209 not to affect the designation or detail of a military judge or military counsel to a court-martial before that date, see section 12(a)(1), (2) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

### MILITARY DEFENSE COUNSEL

Pub. L. 117–81, div. A, title V, §549D, Dec. 27, 2021, 135 Stat. 1726, provided that: "Each Secretary of a military department shall—

"(1) ensure that military defense counsel have timely and reliable access to and funding for defense investigators, expert witnesses, trial support, pre-trial and post-trial support, paralegal support, counsel travel, and other necessary resources;

"(2) ensure that military defense counsel detailed to represent a member of the Armed Forces accused of a covered offense (as defined in section 801(17) of title 10, United States Code (article 1(17) of the Uniform Code of Military Justice), as added by section 533 of this Act) are well-trained and experienced,

highly skilled, and competent in the defense of cases involving covered offenses; and

"(3) take or direct such other actions regarding military defense counsel as may be warranted in the interest of the fair administration of justice."

**EFFECTIVE PROSECUTION AND DEFENSE IN COURTS-MARTIAL AND PILOT PROGRAMS ON PROFESSIONAL MILITARY JUSTICE DEVELOPMENT FOR JUDGE ADVOCATES**

Pub. L. 114–328, div. A, title V, §542, Dec. 23, 2016, 130 Stat. 2126, as amended by Pub. L. 115–91, div. A, title V, §532, Dec. 12, 2017, 131 Stat. 1388, provided that:

"(a) PROGRAM FOR EFFECTIVE PROSECUTION AND DEFENSE.—The Secretary concerned shall carry out a program to ensure that—

"(1) trial counsel and defense counsel detailed to prosecute or defend a court-martial have sufficient experience and knowledge to effectively prosecute or defend the case or there is adequate supervision and oversight of trial counsel and defense counsel so detailed to ensure effective prosecution and defense in the court-martial; and

"(2) a deliberate professional developmental process is in place to ensure effective prosecution and defense in all courts-martial.

"(b) MILITARY JUSTICE EXPERIENCE DESIGNATORS OR SKILL IDENTIFIERS.—The Secretary concerned shall establish and use a system of military justice experience designators or skill identifiers for purposes of identifying judge advocates with skill and experience in military justice proceedings in order to ensure that judge advocates with experience and skills identified through such experience designators or skill identifiers are assigned to develop less experienced judge advocates in the prosecution and defense in courts-martial under a program carried out pursuant to subsection (a).

"(c) USE OF CIVILIAN EMPLOYEES TO ADVISE LESS EXPERIENCED JUDGE ADVOCATES IN PROSECUTION AND DEFENSE.—The Secretary concerned may use highly qualified experts and other civilian employees who are under the jurisdiction of the Secretary concerned, are available, and are experienced in the prosecution or defense of complex criminal cases to provide assistance to, and consult with, less experienced judge advocates throughout the court-martial process.

"(d) PILOT PROGRAMS ON PROFESSIONAL DEVELOPMENTAL PROCESS FOR JUDGE ADVOCATES.—

"(1) PURPOSE.—The Secretary concerned shall carry out a pilot program to assess the feasibility and advisability of a military justice career track for judge advocates under the jurisdiction of the Secretary.

"(2) ADDITIONAL MATTERS.—A pilot program may also assess such other matters related to professional military justice development for judge advocates as the Secretary concerned considers appropriate.

"(3) DURATION.—Each pilot program shall be for a period of five years.

"(4) ELEMENTS.—Each pilot program shall include the following:

"(A) A military justice career track for judge advocates that leads to judge advocates with military justice expertise in the grade of colonel, or in the grade of captain in the case of judge advocates of the Navy.

"(B) The use of skill identifiers to identify judge advocates for participation in the pilot program from among judge advocates having appropriate skill and experience in military justice matters.

"(C) Guidance for promotion boards considering the selection for promotion of officers participating in the pilot program in order to ensure that judge advocates who are participating in the pilot program have the same opportunity for promotion as all other judge advocate officers being considered for promotion by such boards.

"(D) Such other matters as the Secretary concerned considers appropriate.

"(5) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 23, 2016], the Secretary concerned shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs conducted under this section. The report shall include the following:

"(A) A description and assessment of each pilot program.

"(B) Such recommendations as the Secretary considers appropriate in light of the pilot programs, including whether any pilot program should be extended or made permanent.

"(e) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code."

## §828. Art. 28. Detail or employment of reporters and interpreters

Under such regulations as the Secretary concerned may prescribe, the convening authority of a court-martial, military commission, or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court or commission. Under like regulations the convening authority of a court-martial, military commission, or court of inquiry may detail or employ interpreters who shall interpret for the court or commission. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 828 | 50:592. | May 5, 1950, ch. 169, §1 (Art. 28), 64 Stat. 117. |

The words "Secretary concerned" are substituted for the words "Secretary of the Department". The words, "detail or employ" are substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–366 inserted last sentence.

## §829. Art. 29. Assembly and impaneling of members; detail of new members and military judges

(a) ASSEMBLY.—The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused—

(1) as a result of a challenge;
(2) under subsection (b)(1)(B); or
(3) by order of the military judge or the convening authority for disability or other good cause.

(b) IMPANELING.—(1) Under rules prescribed by the President, the military judge of a general or special court-martial with members shall—

(A) after determination of challenges, impanel the court-martial; and
(B) excuse the members who, having been assembled, are not impaneled.

(2) In a general court-martial, the military judge shall impanel—

(A) 12 members in a capital case; and
(B) eight members in a noncapital case.

(3) In a special court-martial, the military judge shall impanel four members.

(c) ALTERNATE MEMBERS.—In addition to members under subsection (b), the military judge shall impanel alternate members, if the convening authority authorizes alternate members.

(d) DETAIL OF NEW MEMBERS.—(1) If, after members are impaneled, the membership of the court-martial is reduced to—

(A) fewer than 12 members with respect to a general court-martial in a capital case;
(B) fewer than six members with respect to a general court-martial in a noncapital case; or
(C) fewer than four members with respect to a special court-martial;

the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide

the membership specified in paragraph (2).

(2) The membership referred to in paragraph (1) is as follows:

(A) 12 members with respect to a general court-martial in a capital case.

(B) At least six but not more than eight members with respect to a general court-martial in a noncapital case.

(C) Four members with respect to a special court-martial.

(e) DETAIL OF NEW MILITARY JUDGE.—If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

(f) EVIDENCE.—(1) In the case of new members under subsection (d), the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

(2) In the case of a new military judge under subsection (e), the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 90–632, §2(11), Oct. 24, 1968, 82 Stat. 1337; Pub. L. 98–209, §3(d), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 107–107, div. A, title V, §582(c), Dec. 28, 2001, 115 Stat. 1124; Pub. L. 114–328, div. E, title LV, §5187, Dec. 23, 2016, 130 Stat. 2902.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 829(a) | 50:593(a). | May 5, 1950, ch. 169, §1 (Art. 29), 64 Stat. 117. |
| 829(b) | 50:593(b). | |
| 829(c) | 50:593(c). | |

In subsections (a), (b), and (c), the word "may" is substituted for the word "shall".

In subsections (b) and (c), the word "details" is substituted for the word "appoints", since the filling of the position involved is not appointment to an office in the constitutional sense.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to absent and additional members of a general or special court-martial.

**2001**—Subsec. (b). Pub. L. 107–107 designated existing provisions as par. (1), substituted "the applicable minimum number of members" for "five members" in two places, and added par. (2).

**1983**—Subsec. (a). Pub. L. 98–209 substituted "unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause" for "except for physical disability or as a result of a challenge or by order of the convening authority for good cause".

**1968**—Subsec. (a). Pub. L. 90–632, §2(11)(A), substituted "court has been assembled for the trial of the accused" for "accused has been arraigned".

Subsec. (b). Pub. L. 90–632, §2(11)(B), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and inserted provisions requiring that only the evidence which has been introduced before members of the court be read to the court and that all evidence, not merely testimony, be included.

Subsec. (c). Pub. L. 90–632, §2(11)(C), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and substituted evidence previously introduced for testimony of previously examined witnesses as the body of evidence which the verbatim record must cover.

Subsec. (d) Pub. L. 90–632, §2(11)(D), added subsec. (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Amendment by Pub. L. 107–107 applicable with respect to offenses committed after Dec. 31, 2002, see section 582(d) of Pub. L. 107–107, set out as a note under section 816 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

# SUBCHAPTER VI—PRE-TRIAL PROCEDURE


| Sec. | Art. | |
|---|---|---|
| 830. | 30. | Charges and specifications. |
| 830a. | 30a. | Proceedings conducted before referral. |
| 831. | 31. | Compulsory self-incrimination prohibited. |
| 832. | 32. | Preliminary hearing required before referral to general court-martial. |
| 833. | 33. | Disposition guidance. |
| 834. | 34. | Advice to convening authority before referral for trial. |
| 835. | 35. | Service of charges; commencement of trial. |


**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92, div. A, title V, §531(b)(2), Dec. 20, 2019, 133 Stat. 1359, substituted "Proceedings conducted before referral" for "Certain proceedings conducted before referral" in item 830a.

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), (C), Dec. 12, 2017, 131 Stat. 1601, amended Pub. L. 114–328, §5541(3). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(3), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), (C), Dec. 12, 2017, 131 Stat. 1601, added item 830a and substituted "Preliminary hearing required before referral to general court-martial" for "Preliminary hearing" in item 832, "Disposition guidance" for "Forwarding of charges" in item 833, "Advice to convening authority before referral for trial" for "Advice of staff judge advocate and reference for trial" in item 834, and "Service of charges; commencement of trial" for "Service of charges" in item 835.

**2013**—Pub. L. 113–66, div. A, title XVII, §1702(a)(2), Dec. 26, 2013, 127 Stat. 955, substituted "Preliminary hearing" for "Investigation" in item 832.

## §830. Art. 30. Charges and specifications

(a) IN GENERAL.—Charges and specifications—

(1) may be preferred only by a person subject to this chapter; and

(2) shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

(b) REQUIRED CONTENT.—The writing under subsection (a) shall state that—

(1) the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

(2) the matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.

(c) DUTY OF PROPER AUTHORITY.—When charges and specifications are preferred under subsection (a), the proper authority shall, as soon as practicable—

(1) inform the person accused of the charges and specifications; and

(2) determine what disposition should be made of the charges and specifications in the interest of justice and discipline.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 114–328, div. E, title LVI, §5201, Dec. 23, 2016, 130 Stat. 2904.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 830(a)<br>830(b) | 50:601(a).<br>50:601(b). | May 5, 1950, ch. 169, §1 (Art. 30), 64 Stat. 118. |

In subsection (a), the word "they" is substituted for the words "the same". The word "commissioned" is inserted for clarity.

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows:

"(a) Charges and specifications shall be signed by a person subject to this chapter under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

"(1) that the signer has personal knowledge of or has investigated, the matters set forth therein; and

"(2) that they are true in fact to the best of his knowledge and belief.

"(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### TIMELY DISPOSITION OF NONPROSECUTABLE SEX-RELATED OFFENSES

Pub. L. 116–92, div. A, title V, §540C, Dec. 20, 2019, 133 Stat. 1366, provided that:

"(a) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall develop and implement a policy to ensure the timely disposition of nonprosecutable sex-related offenses.

"(b) NONPROSECUTABLE SEX-RELATED OFFENSE DEFINED.—In this section, the term 'nonprosecutable sex-related offense' means an alleged sex-related offense (as that term is defined in section 1044e(g) of title 10, United States Code) that a court-martial convening authority has declined to refer for trial by a general or special court-martial under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), due to a determination that there is insufficient evidence to support prosecution of the sex-related offense."

## §830a. Art. 30a. Proceedings conducted before referral

(a) IN GENERAL.—(1) The President shall prescribe regulations for matters relating to proceedings conducted before referral of charges and specifications to court-martial for trial, including the following:

(A) Pre-referral investigative subpoenas.

(B) Pre-referral warrants or orders for electronic communications.

(C) Pre-referral matters referred by an appellate court.

(D) Pre-referral matters under subsection (c) or (e) of section 806b of this title (article 6b).

(E) Pre-referral matters relating to the following:

(i) Pre-trial confinement of an accused.

(ii) The mental capacity or mental responsibility of an accused.

(iii) A request for an individual military counsel.

(2) In addition to the matters specified in paragraph (1), the regulations prescribed under that paragraph shall—

(A) set forth the matters that a military judge may rule upon in such proceedings;

(B) include procedures for the review of such rulings;

(C) include appropriate limitations to ensure that proceedings under this section extend only to matters that would be subject to consideration by a military judge in a general or special court-martial; and

(D) provide such limitations on the relief that may be ordered under this section as the President considers appropriate.

(3) If any matter in a proceeding under this section becomes a subject at issue with respect to charges that have been referred to a general or special court-martial, the matter shall be transferred to the military judge detailed to the court-martial.

(b) DETAIL OF MILITARY JUDGE.—The Secretary concerned shall prescribe regulations providing for the manner in which military judges are detailed to proceedings under subsection (a)(1).

(c) DISCRETION TO DESIGNATE MAGISTRATE TO PRESIDE.—In accordance with regulations prescribed by the Secretary concerned, a military judge detailed to a proceeding under subsection (a)(1), other than a proceeding described in subparagraph (B) of that subsection, may designate a military magistrate to preside over the proceeding.

(Added Pub. L. 114–328, div. E, title LVI, §5202, Dec. 23, 2016, 130 Stat. 2904; amended Pub. L. 115–91, div. A, title V, §531(b), Dec. 12, 2017, 131 Stat. 1384; Pub. L. 116–92, div. A, title V, §531(a), (b)(1), Dec. 20, 2019, 133 Stat. 1359.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, §531(b)(1), substituted "Proceedings conducted before referral" for "Certain proceedings conducted before referral" in section catchline.

Subsec. (a)(1), (2). Pub. L. 116–92, §531(a), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) Proceedings may be conducted to review, or otherwise act on, the following matters before referral of charges and specifications to court-martial for trial in accordance with regulations prescribed by the President:

"(A) Pre-referral investigative subpoenas.

"(B) Pre-referral warrants or orders for electronic communications.

"(C) Pre-referral matters referred by an appellate court.

"(D) Pre-referral matters under subsection (c) or (e) of section 806b of this title (article 6b).

"(2) The regulations prescribed under paragraph (1) shall—

"(A) include procedures for the review of such rulings that may be ordered under this section as the President considers appropriate; and

"(B) provide such limitations on the relief that may be ordered under this section as the President considers appropriate."

**2017**—Subsec. (a)(1). Pub. L. 115–91, §531(b)(1), inserted ", or otherwise act on," after "to review" in introductory provisions.

Subsec. (a)(1)(D). Pub. L. 115–91, §531(b)(2), added subpar. (D).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after this section takes effect as provided for in section 5542 of Pub. L. 114–328 (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §831. Art. 31. Compulsory self-incrimination prohibited

(a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 48.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 831(a) | 50:602(a). | May 5, 1950, ch. 169, §1 (Art 31), 64 Stat. 118. |
| 831(b) | 50:602(b). | |
| 831(c) | 50:602(c). | |
| 831(d) | 50:602(d). | |

The word "may" is substituted for the word "shall" throughout the revised section.

## §832. Art. 32. Preliminary hearing required before referral to general court-martial

(a) IN GENERAL.—(1)(A) Except as provided in subparagraph (B), a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer detailed in accordance with subparagraph (C).

(B) Under regulations prescribed by the President, a preliminary hearing need not be held if the accused submits a written waiver to—

(i) except as provided in clause (ii), the convening authority and the convening authority determines that a hearing is not required; and

(ii) with respect to charges and specifications over which the special trial counsel is exercising authority in accordance with section 824a of this title (article 24a), the special trial counsel and the special trial counsel determines that a hearing is not required.

(C)(i) Except as provided in clause (ii), the convening authority shall detail a hearing officer.

(ii) If a special trial counsel is exercising authority over the charges and specifications subject to a preliminary hearing under this section (article), the special trial counsel shall request a hearing officer and a hearing officer shall be provided by the convening authority, in accordance with regulations prescribed by the President.

(2) The purpose of the preliminary hearing shall be limited to determining the following:

(A) Whether or not the specification alleges an offense under this chapter.

(B) Whether or not there is probable cause to believe that the accused committed the offense charged.

(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense.

(D) A recommendation as to the disposition that should be made of the case.

(b) HEARING OFFICER.—(1) A preliminary hearing under this section shall be conducted by an impartial hearing officer, who—

(A) whenever practicable, shall be a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)); or

(B) when it is not practicable to appoint a judge advocate because of exceptional circumstances, is not a judge advocate so certified.

(2) In the case of a hearing officer under paragraph (1)(B), a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)) shall be available to provide legal advice to the hearing officer.

(3) Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the Government at the preliminary hearing.

(c) REPORT TO CONVENING AUTHORITY OR SPECIAL TRIAL COUNSEL.—After a preliminary hearing under this section, the hearing officer shall submit to the convening authority or, in the case of a preliminary hearing in which the hearing officer is provided at the request of a special trial counsel to the special trial counsel, a written report (accompanied by a recording of the preliminary hearing under subsection (e)) that includes the following:

(1) For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under subsection (a)(2), including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial.

(2) Recommendations for any necessary modifications to the form of the charges or specifications.

(3) An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense, that, under such rules as the President may prescribe, is relevant to disposition under sections 830 and 834 of this title (articles 30 and 34).

(4) A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection (f).

(d) RIGHTS OF ACCUSED AND VICTIM.—(1) The accused shall be advised of the charges against the accused and of the accused's right to be represented by counsel at the preliminary hearing

under this section. The accused has the right to be represented at the preliminary hearing as provided in section 838 of this title (article 38) and in regulations prescribed under that section.

(2) The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence that is relevant to the issues for determination under subsection (a)(2).

(3) A victim may not be required to testify at the preliminary hearing. A victim who declines to testify shall be deemed to be not available for purposes of the preliminary hearing. A declination under this paragraph shall not serve as the sole basis for ordering a deposition under section 849 of this title (article 49).

(4) The presentation of evidence and examination (including cross-examination) of witnesses at a preliminary hearing shall be limited to the matters relevant to determinations under subsection (a)(2).

(e) RECORDING OF PRELIMINARY HEARING.—A preliminary hearing under subsection (a) shall be recorded by a suitable recording device. The victim may request the recording and shall have access to the recording under such rules as the President may prescribe.

(f) EFFECT OF EVIDENCE OF UNCHARGED OFFENSE.—If evidence adduced in a preliminary hearing under subsection (a) indicates that the accused committed an uncharged offense, the hearing officer may consider the subject matter of that offense without the accused having first been charged with the offense if the accused—

(1) is present at the preliminary hearing;

(2) is informed of the nature of each uncharged offense considered; and

(3) is afforded the opportunities for representation, cross-examination, and presentation consistent with subsection (d).

(g) EFFECT OF VIOLATION.—The requirements of this section are binding on all persons administering this chapter, but failure to follow the requirements does not constitute jurisdictional error. A defect in a report under subsection (c) is not a basis for relief if the report is in substantial compliance with that subsection.

(h) VICTIM DEFINED.—In this section, the term "victim" means a person who—

(1) is alleged to have suffered a direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification being considered; and

(2) is named in one of the specifications.

(Aug. 10, 1956, ch. 1041, 70A Stat. 48; Pub. L. 97–81, §4(a), Nov. 20, 1981, 95 Stat. 1088; Pub. L. 104–106, div. A, title XI, §1131, Feb. 10, 1996, 110 Stat. 464; Pub. L. 113–66, div. A, title XVII, §1702(a)(1), Dec. 26, 2013, 127 Stat. 954; Pub. L. 113–291, div. A, title V, §531(a)(4)(A), Dec. 19, 2014, 128 Stat. 3363; Pub. L. 114–328, div. E, title LVI, §5203(a)–(d), Dec. 23, 2016, 130 Stat. 2905, 2906; Pub. L. 117–81, div. A, title V, §536, Dec. 27, 2021, 135 Stat. 1696.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 832(a) | 50:603(a). | May 5, 1950, ch. 169, §1 (Art. 32), 64 Stat. 118. |
| 832(b) | 50:603(b). | |
| 832(c) | 50:603(c). | |
| 832(d) | 50:603(d). | |

In subsection (a), the word "may" is substituted for the word "shall". The words "consideration of the" and "a recommendation as to" are inserted in the interest of accuracy and precision of statement.

In subsection (b), the word "detailed" is substituted for the word "appointed", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (c), the word "before" is substituted for the words "prior to the time". The words "of this section" are omitted as surplusage.

In subsection (d), the word "are" is substituted for the words "shall be." The word "does" is substituted for the words "in any case shall".

**EDITORIAL NOTES**

## AMENDMENTS

**2021**—Subsec. (a)(1)(A). Pub. L. 117–81, §536(a)(1), substituted "hearing officer detailed in accordance with subparagraph (C)." for "hearing officer, detailed by the convening authority in accordance with subsection (b)."

Subsec. (a)(1)(B). Pub. L. 117–81, §536(a)(2), substituted "written waiver to—" and cls. (i) and (ii) for "written waiver to the convening authority and the convening authority determines that a hearing is not required."

Subsec. (a)(1)(C). Pub. L. 117–81, §536(a)(3), added subpar. (C).

Subsec. (c). Pub. L. 117–81, §536(b), inserted "or Special Trial Counsel" after "Convening Authority" in heading and substituted "to the convening authority or, in the case of a preliminary hearing in which the hearing officer is provided at the request of a special trial counsel to the special trial counsel," for "to the convening authority" in introductory provisions.

**2016**—Pub. L. 114–328, §5203(a), substituted "Preliminary hearing required before referral to general court-martial" for "Preliminary hearing" in section catchline.

Subsecs. (a) to (c). Pub. L. 114–328, §5203(a), added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which related to requirement of preliminary hearing, hearing officer, and report of hearing results, respectively.

Subsec. (d)(1). Pub. L. 114–328, §5203(b)(1), substituted "this section" for "subsection (a)".

Subsec. (d)(2). Pub. L. 114–328, §5203(b)(2), substituted "that is relevant to the issues for determination under subsection (a)(2)." for "in defense and mitigation, relevant to the limited purposes of the hearing, as provided for in paragraph (4) and subsection (a)(2)."

Subsec. (d)(3). Pub. L. 114–328, §5203(b)(3), inserted at end "A declination under this paragraph shall not serve as the sole basis for ordering a deposition under section 849 of this title (article 49)."

Subsec. (d)(4). Pub. L. 114–328, §5203(b)(4), substituted "determinations under subsection (a)(2)" for "the limited purposes of the hearing, as provided in subsection (a)(2)".

Subsec. (e). Pub. L. 114–328, §5203(c), substituted "under such rules as the President may prescribe" for "as prescribed by the Manual for Courts-Martial".

Subsec. (g). Pub. L. 114–328, §5203(d), inserted at end "A defect in a report under subsection (c) is not a basis for relief if the report is in substantial compliance with that subsection."

**2014**—Subsec. (a)(1). Pub. L. 113–291 inserted ", unless such hearing is waived by the accused" after "preliminary hearing".

**2013**—Pub. L. 113–66 substituted "Preliminary hearing" for "Investigation" in section catchline and amended text generally. Prior to amendment, section provided that no charge or specification may be referred to general court-martial for trial until thorough and impartial investigation of all the matters had been made.

**1996**—Subsecs. (d), (e). Pub. L. 104–106 added subsec. (d) and redesignated former subsec. (d) as (e).

**1981**—Subsec. (b). Pub. L. 97–81 substituted "The accused has the right to be represented at that investigation as provided in section 838 of this title (article 38) and in regulations prescribed under that section" for "Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec.

19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113–66, set out as a note under section 802 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–81 to take effect at end of 60-day period beginning on Nov. 20, 1981, and to apply with respect to investigations under this section that begin on or after that date, see section 7(a) and (b)(3) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

## §833. Art. 33. Disposition guidance

The President shall direct the Secretary of Defense to issue, in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy, non-binding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under sections 830 and 834 of this title (articles 30 and 34). Such guidance shall take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the Attorney General to attorneys for the Government with respect to disposition of Federal criminal cases in accordance with the principle of fair and evenhanded administration of Federal criminal law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 49; Pub. L. 114–328, div. E, title LVI, §5204, Dec. 23, 2016, 130 Stat. 2906.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 833 | 50:604. | May 5, 1950, ch. 169, §1 (Art. 33), 64 Stat. 119. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the officer exercising general court-martial jurisdiction. If that is not practicable, he shall report in writing to that officer the reasons for delay."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §834. Art. 34. Advice to convening authority before referral for trial

(a) GENERAL COURT-MARTIAL.—

(1) STAFF JUDGE ADVOCATE ADVICE REQUIRED BEFORE REFERRAL.—Subject to subsection (c), before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that—

(A) the specification alleges an offense under this chapter;
(B) there is probable cause to believe that the accused committed the offense charged; and
(C) a court-martial would have jurisdiction over the accused and the offense.

(2) STAFF JUDGE ADVOCATE RECOMMENDATION AS TO DISPOSITION.—Together with the written advice provided under paragraph (1), the staff judge advocate shall provide a written recommendation to the convening authority as to the disposition that should be made of the specification in the interest of justice and discipline.

(3) STAFF JUDGE ADVOCATE ADVICE AND RECOMMENDATION TO ACCOMPANY REFERRAL.—When a convening authority makes a referral for trial by general court-martial, the written advice of the staff judge advocate under paragraph (1) and the written recommendation of the staff judge advocate under paragraph (2) with respect to each specification shall accompany the referral.

(b) SPECIAL COURT-MARTIAL; CONVENING AUTHORITY CONSULTATION WITH JUDGE ADVOCATE.—Subject to subsection (c), before referral of charges and specifications to a special court-martial for trial, the convening authority shall consult a judge advocate on relevant legal issues.

(c) COVERED OFFENSES.—A referral to a general or special court-martial for trial of charges and specifications over which a special trial counsel exercises authority may only be made—

(1) by a special trial counsel, subject to a special trial counsel's written determination accompanying the referral that—

(A) each specification under a charge alleges an offense under this chapter;
(B) there is probable cause to believe that the accused committed the offense charged; and
(C) a court-martial would have jurisdiction over the accused and the offense; or

(2) in the case of charges and specifications that do not allege a covered offense and as to which a special trial counsel declines to prefer or, in the case of charges and specifications preferred by a person other than a special trial counsel, refer charges, by the convening authority in accordance with this section.

(d) GENERAL AND SPECIAL COURTS-MARTIAL; CORRECTION OF CHARGES AND SPECIFICATIONS BEFORE REFERRAL.—Before referral for trial by general court-martial or special court-martial, changes may be made to charges and specifications—

(1) to correct errors in form; and

(2) when applicable, to conform to the substance of the evidence contained in a report under section 832(c) of this title (article 32(c)).

(e) REFERRAL DEFINED.—In this section, the term "referral" means the order of a convening authority or, with respect to charges and specifications over which a special trial counsel exercises authority in accordance with section 824a of this title (article 24a), a special trial counsel, that charges and specifications against an accused be tried by a specified court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 49; Pub. L. 98–209, §4, Dec. 6, 1983, 97 Stat. 1395; Pub. L. 113–66, div. A, title XVII, §1702(c)(3)(B), Dec. 26, 2013, 127 Stat. 957; Pub. L. 113–291, div. A, title V, §531(a)(4)(B), Dec. 19, 2014, 128 Stat. 3363; Pub. L. 114–328, div. E, title LVI, §5205, Dec. 23, 2016, 130 Stat. 2907; Pub. L. 117–81, div. A, title V, §537, Dec. 27, 2021, 135 Stat. 1697.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 834(a)<br>834(b) | 50:605(a).<br>50:605(b). | May 5, 1950, ch. 169, §1 (Art. 34), 64 Stat. 119. |

In subsection (a), the word "may" is substituted for the word "shall".

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 117–81, §537(1), substituted "Subject to subsection (c), before referral" for "Before referral" in introductory provisions.

Subsec. (b). Pub. L. 117–81, §537(2), substituted "Subject to subsection (c), before referral" for "Before referral".

Subsecs. (c), (d). Pub. L. 117–81, §537(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 117–81, §537(5), inserted "or, with respect to charges and specifications over which a special trial counsel exercises authority in accordance with section 824a of this title (article 24a), a special trial counsel," after "convening authority".

Pub. L. 117–81, §537(3), redesignated subsec. (d) as (e).

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to reference of charge to staff judge advocate for consideration and advice before trial, written and signed statement of advice by the staff judge advocate, and corrections to charges and specifications, respectively.

**2014**—Subsec. (a)(2). Pub. L. 113–291 inserted "(if there is such a report)" after "(article 32)".

**2013**—Subsec. (a)(2). Pub. L. 113–66 substituted "a preliminary hearing under section 832 of this title (article 32)" for "investigation under section 832 of this title (article 32) (if there is such a report)".

**1983**—Subsec. (a). Pub. L. 98–209, §4(a), substituted "judge advocate" for "judge advocate or legal officer", and provisions that the convening authority may not refer a specification under a charge to a general court-martial for trial unless he has been advised in writing by the staff judge advocate that the specification alleges an offense under this chapter, the specification is warranted by the evidence indicated in the report of investigation under section 832 of this title (article 32) (if there is such a report), and a court-martial would have jurisdiction over the accused and the offense, for provision that the convening authority could not refer a charge to a general court-martial for trial unless he found that the charge alleged an offense under this chapter and was warranted by evidence indicated in the report of investigation.

Subsecs. (b), (c). Pub. L. 98–209, §4(b), added subsec. (b) and redesignated former subsec. (b) as (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113–66, set out as a note under section 802 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which charges were referred to trial before that date, and proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (3) of Pub. L. 98–209, set out as a note under section 801 of this title.

### REVIEW OF DECISIONS NOT TO REFER CHARGES OF CERTAIN SEX-RELATED OFFENSES FOR TRIAL BY COURT-MARTIAL

Pub. L. 113–66, div. A, title XVII, §1744, Dec. 26, 2013, 127 Stat. 980, as amended by Pub. L. 113–291, div. A, title V, §541, Dec. 19, 2014, 128 Stat. 3371, provided that:

"(a) REVIEW REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall require the Secretaries of the military departments to provide for review of decisions not to refer charges for trial by court-martial in cases where a sex-related offense has been alleged by a victim of the alleged offense.

"(2) SPECIFIC REVIEW REQUIREMENTS.—As part of a review conducted pursuant to paragraph (1), the Secretary of a military department shall require that—

"(A) consideration be given to the victim's statement provided during the course of the criminal investigation regarding the alleged sex-related offense perpetrated against the victim; and

"(B) a determination be made whether the victim's statement and views concerning disposition of the alleged sex-related offense were considered by the convening authority in making the referral decision.

"(b) SEX-RELATED OFFENSE DEFINED.—In this section, the term 'sex-related offense' means any of the following:

"(1) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

"(2) Forcible sodomy under section 925 of such title (article 125 of the Uniform Code of Military Justice).

"(3) An attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of such title (article 80 of the Uniform Code of Military Justice).

"(c) REVIEW OF CERTAIN CASES NOT REFERRED TO COURT-MARTIAL.—

"(1) CASES NOT REFERRED FOLLOWING STAFF JUDGE ADVOCATE RECOMMENDATION FOR REFERRAL FOR TRIAL.—In any case where a staff judge advocate, pursuant to section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), recommends that charges of a sex-related offense be referred for trial by court-martial and the convening authority decides not to refer any charges to a court-martial, the convening authority shall forward the case file to the Secretary of the military department concerned for review as a superior authorized to exercise general court-martial convening authority.

"(2) CASES NOT REFERRED BY CONVENING AUTHORITY UPON REQUEST FOR REVIEW BY CHIEF PROSECUTOR.—

"(A) IN GENERAL.—In any case where a convening authority decides not to refer a charge of a sex-related offense to trial by court-martial, the Secretary of the military department concerned shall review the decision as a superior authority authorized to exercise general court-martial convening authority if the chief prosecutor of the Armed Force concerned, in response to a request by the detailed counsel for the Government, requests review of the decision by the Secretary.

"(B) CHIEF PROSECUTOR DEFINED.—In this paragraph, the term 'chief prosecutor' means the chief prosecutor or equivalent position of an Armed Force, or, if an Armed Force does not have a chief prosecutor or equivalent position, such other trial counsel as shall be designated by the Judge Advocate General of that Armed Force, or in the case of the Marine Corps, the Staff Judge Advocate to the Commandant of the Marine Corps.

"(d) REVIEW OF CASES NOT REFERRED TO COURT-MARTIAL FOLLOWING STAFF JUDGE ADVOCATE RECOMMENDATION NOT TO REFER FOR TRIAL.—In any case where a staff judge advocate, pursuant to section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), recommends that charges of a sex-related offense should not be referred for trial by court-martial and the convening authority decides not to refer any charges to a court-martial, the convening authority shall forward the case file for review to the next superior commander authorized to exercise general court-martial convening authority.

"(e) ELEMENTS OF CASE FILE.—A case file forwarded to higher authority for review pursuant to subsection (c) or (d) shall include the following:

"(1) All charges and specifications preferred under section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice).

"(2) All reports of investigations of such charges, including the military criminal investigative organization investigation report and the report prepared under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), as amended by section 1702.

"(3) A certification that the victim of the alleged sex-related offense was notified of the opportunity to express views on the victim's preferred disposition of the alleged offense for consideration by the convening authority.

"(4) All statements of the victim provided to the military criminal investigative organization and to the victim's chain of command relating to the alleged sex-related offense and any statement provided by the victim to the convening authority expressing the victim's view on the victim's preferred disposition of the alleged offense.

"(5) The written advice of the staff judge advocate to the convening authority pursuant to section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice).

"(6) A written statement explaining the reasons for the convening authority's decision not to refer any charges for trial by court-martial.

"(7) A certification that the victim of the alleged sex-related offense was informed of the convening authority's decision to forward the case as provided in subsection (c) or (d).

"(f) NOTICE ON RESULTS OR REVIEW.—The victim of the alleged sex-related offense shall be notified of the results of the review conducted under subsection (c) or (d) in the manner prescribed by the victims and witness assistance program of the Armed Force concerned.

"(g) VICTIM ALLEGATION OF SEX-RELATED OFFENSE.—The Secretary of Defense shall require the Secretaries of the military departments to develop a system to ensure that a victim of a possible sex-related offense under the Uniform Code of Military Justice is given the opportunity to state, either at the time of making an unrestricted report of the allegation or during the criminal investigation of the allegation, whether or not the victim believes that the offense alleged is a sex-related offense subject to the requirements of this section."

## §835. Art. 35. Service of charges; commencement of trial

(a) IN GENERAL.—Trial counsel detailed for a court-martial under section 827 of this title (article 27) shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

(b) COMMENCEMENT OF TRIAL.—(1) Subject to paragraphs (2) and (3), no trial or other proceeding of a general court-martial or a special court-martial (including any session under section 839(a) of this title (article 39(a)) may be held over the objection of the accused—

(A) with respect to a general court-martial, from the time of service through the fifth day after the date of service; or

(B) with respect to a special court-martial, from the time of service through the third day after the date of service.

(2) An objection under paragraph (1) may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable period under paragraph (1)(A) or (1)(B). If the first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

(3) This subsection shall not apply in time of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 49; Pub. L. 90–632, §2(12), Oct. 24, 1968, 82 Stat. 1337; Pub. L. 114–328, div. E, title LVI, §5206, Dec. 23, 2016, 130 Stat. 2908.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 835 | 50:606. | May 5, 1950, ch. 169, §1 (Art. 35), 64 Stat. 119. |

The word "may" is substituted for the word "shall". The word "after" is substituted for the words "subsequent to".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy

of the charges upon which trial is to be had. In time of peace no person may, against his objection, be brought to trial, or be required to participate by himself or counsel in a session called by the military judge under section 839(a) of this title (article 39(a)), in a general court-martial case within a period of five days after the service of charges upon him, or in a special court-martial case within a period of three days after the service of charges upon him."

**1968**—Pub. L. 90–632 inserted reference to a session called by the military judge under section 839(a) of this title (article 39(a)).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## SUBCHAPTER VII—TRIAL PROCEDURE


| Sec. | Art. | |
|---|---|---|
| 836. | 36. | President may prescribe rules. |
| 837. | 37. | Command influence. |
| 838. | 38. | Duties of trial counsel and defense counsel. |
| 839. | 39. | Sessions. |
| 840. | 40. | Continuances. |
| 841. | 41. | Challenges. |
| 842. | 42. | Oaths. |
| 843. | 43. | Statute of limitations. |
| 844. | 44. | Former jeopardy. |
| 845. | 45. | Pleas of the accused. |
| 846. | 46. | Opportunity to obtain witnesses and other evidence in trials by court-martial. |
| 847. | 47. | Refusal of person not subject to chapter to appear, testify, or produce evidence. |
| 848. | 48. | Contempt. |
| 849. | 49. | Depositions. |
| 850. | 50. | Admissibility of sworn testimony from records of courts of inquiry. |
| 850a. | 50a. | Defense of lack of mental responsibility. |
| 851. | 51. | Voting and rulings. |
| 852. | 52. | Votes required for conviction, sentencing, and other matters. |
| 853. | 53. | Findings and sentencing. |
| 853a. | 53a. | Plea agreements. |
| 854. | 54. | Record of trial. |


### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(20), Jan. 1, 2021, 134 Stat. 3871, added item 837 and struck out former item 837 "837. Art. 37. Command influence".

**2019**—Pub. L. 116–92, div. A, title V, §532(b), Dec. 20, 2019, 133 Stat. 1361, in item 837 substituted "Art. 37. Command influence" for "37. Unlawfully influencing action of court".

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(4). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(4), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added item 853a and substituted "Opportunity to obtain witnesses and other evidence in trials by court-martial" for "Opportunity to obtain witnesses and other evidence" in item 846, "Refusal of person not subject to chapter to appear, testify, or produce evidence" for "Refusal to appear or testify" in item 847, "Contempt" for "Contempts" in item 848, "Admissibility of sworn testimony from records of courts of inquiry" for "Admissibility of records of courts of inquiry" in item 850, "Votes required for conviction, sentencing, and other matters" for "Number of votes required" in item 852, and "Findings and sentencing" for "Court to announce action" in item 853.

**1986**—Pub. L. 99–661, div. A, title VIII, §802(a)(2), Nov. 14, 1986, 100 Stat. 3906, added item 850a.

## §836. Art. 36. President may prescribe rules

(a) Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry, may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not, except as provided in chapter 47A of this title, be contrary to or inconsistent with this chapter.

(b) All rules and regulations made under this article shall be uniform insofar as practicable, except insofar as applicable to military commissions established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 50; Pub. L. 96–107, title VIII, §801(b), Nov. 9, 1979, 93 Stat. 811; Pub. L. 101–510, div. A, title XIII, §1301(4), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 109–366, §4(a)(3), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 836(a) | 50:611(a). | May 5, 1950, ch. 169, §1 (Art. 36), 64 Stat. 120. |
| 836(b) | 50:611(b). | |

In subsection (a), the word "considers" is substituted for the word "deems". The word "may" is substituted for the word "shall".

In subsection (b), the word "under" is substituted for the words "in pursuance of".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–366, §4(a)(3)(A), inserted ", except as provided in chapter 47A of this title," after "but which may not".

Subsec. (b). Pub. L. 109–366, §4(a)(3)(B), inserted before period at end ", except insofar as applicable to military commissions established under chapter 47A of this title".

**1990**—Subsec. (b). Pub. L. 101–510 struck out "and shall be reported to Congress" after "as practicable".

**1979**—Subsec. (a). Pub. L. 96–107 substituted provisions authorizing pretrial, trial, and post-trial procedures for cases under this chapter triable in courts-martial, military commissions and other military tribunals, for provisions authorizing procedure in cases before courts-martial, military commissions, and other military tribunals.

## §837. Art. 37. Command influence

(a)(1) No court-martial convening authority, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding.

(2) No court-martial convening authority, nor any other commanding officer, may deter or attempt to deter a potential witness from participating in the investigatory process or testifying at a court-martial. The denial of a request to travel at government expense or refusal to make a witness available shall not by itself constitute unlawful command influence.

(3) No person subject to this chapter may attempt to coerce or, by any unauthorized means, attempt to influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority or preliminary hearing officer with respect to such acts taken pursuant to this chapter as prescribed by the President.

(4) Conduct that does not constitute a violation of paragraphs (1) through (3) may include, for example—

(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing persons on the substantive and procedural aspects of courts-martial;

(B) statements regarding criminal activity or a particular criminal offense that do not advocate a particular disposition, or a particular court-martial finding or sentence, or do not relate to a particular accused; or

(C) statements and instructions given in open court by the military judge or counsel.

(5)(A) Notwithstanding paragraphs (1) through (3), but subject to subparagraph (B)—

(i) a superior convening authority or officer may generally discuss matters to consider regarding the disposition of alleged violations of this chapter with a subordinate convening authority or officer; and

(ii) a subordinate convening authority or officer may seek advice from a superior convening authority or officer regarding the disposition of an alleged offense under this chapter.

(B) No superior convening authority or officer may direct a subordinate convening authority or officer to make a particular disposition in a specific case or otherwise substitute the discretion of such authority or such officer for that of the subordinate convening authority or officer.

(b) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces or in determining whether a member of the armed forces should be retained on active duty, no person subject to this chapter may, in preparing any such report (1) consider or evaluate the performance of duty of any such member as a member of a court-martial, or (2) give a less favorable rating or evaluation of any member of the armed forces because of the zeal with which such member, as counsel, represented any person in a court-martial proceeding.

(c) No finding or sentence of a court-martial may be held incorrect on the ground of a violation of this section unless the violation materially prejudices the substantial rights of the accused.

(d)(1) A superior convening authority or commanding officer may withhold the authority of a subordinate convening authority or officer to dispose of offenses in individual cases, types of cases, or generally.

(2) Except as provided in paragraph (1) or as otherwise authorized by this chapter, a superior convening authority or commanding officer may not limit the discretion of a subordinate convening authority or officer to act with respect to a case for which the subordinate convening authority or officer has authority to dispose of the offenses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 50; Pub. L. 90–632, §2(13), Oct. 24, 1968, 82 Stat. 1338; Pub. L. 116–92, div. A, title V, §532(a), Dec. 20, 2019, 133 Stat. 1359.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 837 | 50:612. | May 5, 1950, ch. 169, §1 (Art. 37), 64 Stat. 120. |

The word "may" is substituted for the word "shall".

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, §532(a)(1), substituted "Command influence" for "Unlawfully influencing action of court" in section catchline.

Subsec. (a). Pub. L. 116–92, §532(a)(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. The foregoing provisions of the subsection shall not apply with respect to (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (2) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel."

Subsec. (b). Pub. L. 116–92, §532(a)(3), substituted "advanced in grade" for "advanced, in grade" and "person in a court-martial proceeding" for "accused before a court-martial".

Subsecs. (c), (d). Pub. L. 116–92, §532(a)(4), added subsecs. (c) and (d).

**1968**—Pub. L. 90–632 designated existing provisions as subsec. (a), substituted "military judge" for "law officer", inserted provisions specifically exempting instructional or general informational lectures on military justice and statements and instructions given in open court by the military judge, president of a special court-martial, or counsel from prohibitions of subsec. (a), and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §532(c), Dec. 20, 2019, 133 Stat. 1361, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019] and shall apply with respect to violations of section 837 of title 10, United States Code (article 37 of the Uniform Code of Military Justice), committed on or after such date."

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §838. Art. 38. Duties of trial counsel and defense counsel

(a) The trial counsel of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of the proceedings.

(b)(1) The accused has the right to be represented in his defense before a general or special court-martial or at a preliminary hearing under section 832 of this title (article 32) as provided in this subsection.

(2) The accused may be represented by civilian counsel if provided by him.

(3) The accused may be represented—

(A) by military counsel detailed under section 827 of this title (article 27); or

(B) by military counsel of his own selection if that counsel is reasonably available (as

determined under regulations prescribed under paragraph (7)).

(4) If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph (3) shall act as associate counsel unless excused at the request of the accused.

(5) Except as provided under paragraph (6), if the accused is represented by military counsel of his own selection under paragraph (3)(B), any military counsel detailed under paragraph (3)(A) shall be excused.

(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 827 of this title (article 27) to detail counsel, in his sole discretion—

(A) may detail additional military counsel as assistant defense counsel; and

(B) if the accused is represented by military counsel of his own selection under paragraph (3)(B), may approve a request from the accused that military counsel detailed under paragraph (3)(A) act as associate defense counsel.

(7) The Secretary concerned shall, by regulation, define "reasonably available" for the purpose of paragraph (3)(B) and establish procedures for determining whether the military counsel selected by an accused under that paragraph is reasonably available. Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the armed force of which the accused is a member. To the maximum extent practicable, such regulations shall establish uniform policies among the armed forces while recognizing the differences in the circumstances and needs of the various armed forces. The Secretary concerned shall submit copies of regulations prescribed under this paragraph to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(c) In any court-martial proceeding resulting in a conviction, the defense counsel—

(1) may forward for attachment to the record of proceedings a brief of such matters as he determines should be considered in behalf of the accused on review (including any objection to the contents of the record which he considers appropriate);

(2) may assist the accused in the submission of any matter under section 860, 860a, or 860b of this title (article 60, 60a, or 60b); and

(3) may take other action authorized by this chapter.

(d) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section 827 of this title (article 27), perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

(Aug. 10, 1956, ch. 1041, 70A Stat. 50; Pub. L. 90–632, §2(14), Oct. 24, 1968, 82 Stat. 1338; Pub. L. 97–81, §4(b), Nov. 20, 1981, 95 Stat. 1088; Pub. L. 98–209, §3(e), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–66, div. A, title XVII, §1702(c)(3)(C), Dec. 26, 2013, 127 Stat. 957; Pub. L. 114–328, div. E, title LVII, §5221, Dec. 23, 2016, 130 Stat. 2909; Pub. L. 115–91, div. A, title V, §531(c), Dec. 12, 2017, 131 Stat. 1384.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 838(a) | 50:613(a). | May 5, 1950, ch. 169, §1 (Art. 38), 64 Stat. 120. |
| 838(b) | 50:613(b). | |
| 838(c) | 50:613(c). | |

| | | |
|---|---|---|
| 838(d) | 50:613(d). | |
| 838(e) | 50:613(e). | |

In subsection (b), the word "has" is substituted for the words "shall have". The word "under" is substituted for the words "pursuant to". The word "duly" is omitted as surplusage. The words "detailed" and "who were detailed" are substituted for the word "appointed", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (c), the word "considers" is substituted for the words "may deem".

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (c)(2). Pub. L. 115–91 substituted "section 860, 860a, or 860b of this title (article 60, 60a, or 60b)" for "section 860 of this title (article 60)".

**2016**—Subsec. (e). Pub. L. 114–328 struck out ", under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 827 of this title (article 27)," after "court-martial may".

**2013**—Subsec. (b)(1). Pub. L. 113–66 substituted "a preliminary hearing under section 832" for "an investigation under section 832".

**1999**—Subsec. (b)(7). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b)(7). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1983**—Subsec. (b)(6). Pub. L. 98–209, §3(e)(1), substituted "the person authorized under regulations prescribed under section 827 of this title (article 27) to detail counsel" for "a convening authority".

Subsec. (b)(7). Pub. L. 98–209, §3(e)(2), inserted provision that such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the armed force of which the accused is a member.

Subsec. (c). Pub. L. 98–209, §3(e)(3), designated existing provisions as par. (1), made minor changes in phraseology and punctuation, and added pars. (2) and (3).

**1981**—Subsec. (b). Pub. L. 97–81 revised subsec. (b) by dividing its provisions into seven numbered paragraphs and inserted provisions relating to the right to counsel at an investigation under section 832 of this title (article 32), authorizing the promulgation of regulations relating to the "reasonable availability" of military counsel, and authorizing the detailing of additional military counsel for the accused under specified circumstances.

**1968**—Subsec. (b). Pub. L. 90–632 substituted "military judge or by the president of a court-martial without a military judge" for "president of the court".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113–66, set out as a note under section 802 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month after Dec. 6, 1983, but not to affect the designation or detail of a military judge or military counsel to a court-martial before that date, see section 12(a)(1), (2) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–81 to take effect at end of 60-day period beginning on Nov. 20, 1981, and to apply to trials by courts-martial in which all charges are referred to trial on or after that date, see section 7(a) and (b)(4) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective on first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §839. Art. 39. Sessions

(a) At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to section 835 of this title (article 35), call the court into session without the presence of the members for the purpose of—

(1) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(2) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) holding the arraignment and receiving the pleas of the accused;

(4) conducting a sentencing proceeding and sentencing the accused under section 853(b)(1) of this title (article 53(b)(1)); and

(5) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 836 of this title (article 36) and which does not require the presence of the members of the court.

(b) Proceedings under subsection (a) shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of members of the court and without regard to section 829 of this title (article 29). If authorized by regulations of the Secretary concerned, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).

(c) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

(d) The findings, holdings, interpretations, and other precedents of military commissions under chapter 47A of this title—

(1) may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial under this chapter; and

(2) may not form the basis of any holding, decision, or other determination of a court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 90–632, §2(15), Oct. 24, 1968, 82 Stat. 1338; Pub. L. 101–510, div. A, title V, §541(a), Nov. 5, 1990, 104 Stat. 1565; Pub. L. 109–163, div. A, title V, §556, Jan. 6, 2006, 119 Stat. 3266; Pub. L. 111–84, div. A, title XVIII, §1803(a)(2), Oct. 28, 2009, 123 Stat. 2612; Pub. L. 114–328, div. E, title LVII, §5222, Dec. 23, 2016, 130 Stat. 2909; Pub. L. 115–91, div. A, title X, §1081(c)(1)(D), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 839 | 50:614. | May 5, 1950, ch. 169, §1 (Art. 39), 64 Stat. 121. |

The word "When" is substituted for the word "Whenever". The words "deliberates or votes" are substituted for the words "is to deliberate or vote". The word "may" is substituted for the word "shall". The word "shall" is inserted before the words "be in the presence" for clarity.

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a)(4). Pub. L. 115–91 substituted "under section 853(b)(1) of this title (article 53(b)(1))" for "in non-capital cases unless the accused requests sentencing by members under section 825 of this title (article 25)".

**2016**—Subsec. (a)(3). Pub. L. 114–328, §5222(1)(A), struck out "if permitted by regulations of the Secretary concerned," before "holding" and "and" after "accused;".

Subsec. (a)(4), (5). Pub. L. 114–328, §5222(1)(B), (C), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 114–328, §5222(2), struck out ", in cases in which a military judge has been detailed to the court," after "the trial counsel, and".

**2009**—Subsec. (d). Pub. L. 111–84 added subsec. (d).

**2006**—Pub. L. 109–163 redesignated concluding provisions of subsec. (a) as subsec. (b), substituted "Proceedings under subsection (a) shall be conducted" for "These proceedings shall be conducted", inserted at end "If authorized by regulations of the Secretary concerned, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).", and redesignated former subsec. (b) as (c).

**1990**—Subsec. (a). Pub. L. 101–510 inserted at end "These proceedings may be conducted notwithstanding the number of members of the court and without regard to section 829 of this title (article 29)."

**1968**—Pub. L. 90–632 added subsec. (a), designated existing provisions as subsec. (b), substituted "military judge" for "law officer", and struck out provisions authorizing the court after voting on the findings in a general court-martial to request the law officer and the reporter to appear before the court to put the findings in proper form.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title V, §541(e), Nov. 5, 1990, 104 Stat. 1565, provided that: "The amendments made by subsections (a) through (d) [amending this section and section 841 of this title] shall apply only to a court-martial convened on or after the date of the enactment of this Act [Nov. 5, 1990]."

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §840. Art. 40. Continuances

The military judge or a summary court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 90–632, §2(16), Oct. 24, 1968, 82 Stat. 1339; Pub. L. 114–328, div. E, title LVII, §5223, Dec. 23, 2016, 130 Stat. 2909.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 840 | 50:615. | May 5, 1950, ch. 169, §1 (Art. 40), 64 Stat. 121. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 substituted "summary court-martial" for "court-martial without a military judge".
**1968**—Pub. L. 90–632 inserted reference to military judge.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §841. Art. 41. Challenges

(a)(1) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) If exercise of a challenge for cause reduces the court below the number of members required by section 816 of this title (article 16), all parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.

(b)(1) Each accused and the trial counsel are entitled initially to one peremptory challenge of members of the court. The military judge may not be challenged except for cause.

(2) If exercise of a peremptory challenge reduces the court below the number of members required by section 816 of this title (article 16), the parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.

(c) Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 90–632, §2(17), Oct. 24, 1968, 82 Stat. 1339; Pub. L. 101–510, div. A, title V, §541(b)–(d), Nov. 5, 1990, 104 Stat. 1565; Pub. L. 111–383, div. A, title X,

§1075(b)(13), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 114–328, div. E, title LVII, §5224, Dec. 23, 2016, 130 Stat. 2909.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 841(a)<br>841(b) | 50:616(a).<br>50:616(b). | May 5, 1950, ch. 169, §1 (Art. 41), 64 Stat. 121. |

In subsection (a), the word "may" is substituted for the word "shall" before the words "not receive".

In subsection (b), the word "the" is inserted before the word "trial". The word "is" is substituted for the words "shall be". The word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (a)(1). Pub. L. 114–328, §5224(1), struck out ", or, if none, the court," before "shall determine".

Subsec. (a)(2). Pub. L. 114–328, §5224(2), struck out "minimum" after "below the".

Subsec. (b)(2). Pub. L. 114–328, §5224(3), struck out "minimum" after "below the".

**2011**—Subsec. (c). Pub. L. 111–383 substituted "trial counsel" for "trail counsel".

**1990**—Subsec. (a). Pub. L. 101–510, §541(b), designated existing provision as par. (1) and added par. (2).

Subsec. (b). Pub. L. 101–510, §541(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challenged except for cause."

Subsec. (c). Pub. L. 101–510, §541(d), added subsec. (c).

**1968**—Subsec. (a). Pub. L. 90–632, §2(17)(A), (B), inserted reference to the military judge and struck out references to the law officer of a general court-martial.

Subsec. (b). Pub. L. 90–632, §2(17)(C), substituted "military judge" for "law officer".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101–510 applicable only to court-martial convened on or after Nov. 5, 1990, see section 541(e) of Pub. L. 101–510, set out as a note under section 839 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §842. Art. 42. Oaths

(a) Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary concerned. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense

counsel, or assistant or associate defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate or other person is detailed to that duty.

(b) Each witness before a court-martial shall be examined on oath.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 90–632, §2(18), Oct. 24, 1968, 82 Stat. 1339; Pub. L. 98–209, §§2(e), 3(f), Dec. 6, 1983, 97 Stat. 1393, 1395.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 842(a)<br>842(b) | 50:617(a).<br>50:617(b). | May 5, 1950, ch. 169, §1 (Art. 42), 64 Stat. 121. |

In subsection (a), the word "all" and the word "the" before the words "members", "trial", "defense", and "reporter" are omitted as surplusage.

In subsections (a) and (b), the words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of Title 1.

In subsection (b), the words "Each witness" are substituted for the words "All witnesses".

**EDITORIAL NOTES**

**AMENDMENTS**

**1983**—Subsec. (a). Pub. L. 98–209 struck out ", law specialist," after "judge advocate" in two places, substituted "assistant or associate defense counsel" for "assistant defense counsel".

**1968**—Subsec. (a). Pub. L. 90–632 struck out requirement that the oath given to court-martial personnel be taken in the presence of the accused and provided that the form of the oath, the time and place of its taking, the manner of recording thereof, and whether the oath shall be taken for all cases or for a particular case shall be as prescribed by regulations of the Secretary concerned and contemplated secretarial regulations allowing the administration of an oath to certified legal personnel on a one-time basis.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §843. Art. 43. Statute of limitations

(a) NO LIMITATION FOR CERTAIN OFFENSES.—A person charged with absence without leave or missing movement in time of war, with murder, rape or sexual assault, or rape or sexual assault of a child, maiming of a child, kidnapping of a child, or with any other offense punishable by death, may be tried and punished at any time without limitation.

(b) FIVE-YEAR LIMITATION FOR TRIAL BY COURT-MARTIAL.—(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received during the life of the child or within ten years after the date on which the offense was committed, whichever provides a longer period, by an officer exercising summary court-martial jurisdiction with respect to that person.

(B) In subparagraph (A), the term "child abuse offense" means an act that involves abuse of a person who has not attained the age of 16 years and constitutes any of the following offenses:

(i) Any offense in violation of section 920, 920a, 920b, 920c, or 930 of this title (article 120, 120a, 120b, 120c, or 130), unless the offense is covered by subsection (a).

(ii) Aggravated assault, assault consummated by a battery, or assault with intent to commit specified offenses in violation of section 928 of this title (article 128).

(C) In subparagraph (A), the term "child abuse offense" includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117 of title 18 or under section 1591 of that title.

(3) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

(c) TOLLING FOR ABSENCE WITHOUT LEAVE OR FLIGHT FROM JUSTICE.—Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).

(d) TOLLING FOR ABSENCE FROM US OR MILITARY JURISDICTION.—Periods in which the accused was absent from territory in which the United States has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

(e) EXTENSION FOR OFFENSES IN TIME OF WAR DETRIMENTAL TO PROSECUTION OF WAR.—For an offense the trial of which in time of war is certified to the President by the Secretary concerned to be detrimental to the prosecution of the war or inimical to the national security, the period of limitation prescribed in this article is extended to six months after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

(f) EXTENSION FOR OTHER OFFENSES IN TIME OF WAR.—When the United States is at war, the running of any statute of limitations applicable to any offense under this chapter—

(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not;

(2) committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States; or

(3) committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency;

is suspended until three years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

(g) DEFECTIVE OR INSUFFICIENT CHARGES.—(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations—

(A) has expired; or

(B) will expire within 180 days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

(2) The conditions referred to in paragraph (1) are that the new charges and specifications must—

(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications).

(h) FRAUDULENT ENLISTMENT OR APPOINTMENT.—A person charged with fraudulent

enlistment or fraudulent appointment under section 904a(1) of this title (article 104a(1)) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

(1) In the case of an enlisted member, during the period of the enlistment or five years, whichever provides a longer period.

(2) In the case of an officer, during the period of the appointment or five years, whichever provides a longer period.

(i) DNA EVIDENCE.—If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 99–661, div. A, title VIII, §805(a), (b), Nov. 14, 1986, 100 Stat. 3908; Pub. L. 108–136, div. A, title V, §551, Nov. 24, 2003, 117 Stat. 1481; Pub. L. 109–163, div. A, title V, §§552(e), 553, Jan. 6, 2006, 119 Stat. 3263, 3264; Pub. L. 109–364, div. A, title X, §1071(a)(4), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111–383, div. A, title X, §1075(b)(14), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112–81, div. A, title V, §541(d)(1), Dec. 31, 2011, 125 Stat. 1410; Pub. L. 112–239, div. A, title X, §1076(f)(8), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–66, div. A, title XVII, §1703(a), (b), Dec. 26, 2013, 127 Stat. 958; Pub. L. 113–291, div. A, title V, §531(d)(2)(A), Dec. 19, 2014, 128 Stat. 3364; Pub. L. 114–328, div. E, title LVII, §5225(a)–(e), Dec. 23, 2016, 130 Stat. 2909, 2910; Pub. L. 115–91, div. A, title X, §1081(c)(1)(E), Dec. 12, 2017, 131 Stat. 1598; Pub. L. 116–92, div. A, title V, §533(a), Dec. 20, 2019, 133 Stat. 1361.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 843(a) | 50:618(a). | May 5, 1950, ch. 169, §1 (Art. 43), 64 Stat. 121. |
| 843(b) | 50:618(b). | |
| 843(c) | 50:618(c). | |
| 843(d) | 50:618(d). | |
| 843(e) | 50:618(e). | |
| 843(f) | 50:618(f). | |

In subsection (b), the word "inclusive" is omitted as surplusage.

In subsections (b) and (c), the words "is not" are substituted for the words "shall not be".

In subsection (e), the words "For an" are substituted for the words "In the case of any". The word "is" is substituted for the words "shall be". The words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (f), the word "is" is substituted for the words "shall be".

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a). Pub. L. 116–92, §533(a)(1), inserted "maiming of a child, kidnapping of a child," after "sexual assault of a child,".

Subsec. (b)(2)(B)(ii) to (iv). Pub. L. 116–92, §533(a)(2), redesignated cl. (iii) as (ii) and struck out former cls. (ii) and (iv) which read as follows:

"(ii) Maiming in violation of section 928a of this title (article 128a).

"(iv) Kidnapping in violation of section 925 of this title (article 125)."

**2017**—Subsec. (i). Pub. L. 115–91 substituted "DNA EVIDENCE" for "DNA EVIDENCE" in heading.

**2016**—Pub. L. 114–328, §5225(e), inserted headings in subsecs. (a) to (g).

Subsec. (b)(2)(A). Pub. L. 114–328, §5225(a), substituted "ten years" for "five years".

Subsec. (b)(2)(B)(i) to (v). Pub. L. 114–328, §5225(d), added pars. (i) to (iv) and struck out former pars. (i)

to (v) which read as follows:

"(i) Any offense in violation of section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c), unless the offense is covered by subsection (a).

"(ii) Maiming in violation of section 924 of this title (article 124).

"(iii) Forcible sodomy in violation of section 925 of this title (article 125).

"(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

"(v) Kidnaping, assault with intent to commit murder, voluntary manslaughter, rape, or forcible sodomy, or indecent acts in violation of section 934 of this title (article 134)."

Subsec. (h). Pub. L. 114–328, §5225(b), added subsec. (h).

Subsec. (i). Pub. L. 114–328, §5225(c), added subsec. (i).

**2014**—Subsec. (b)(2)(B)(iii). Pub. L. 113–291, §531(d)(2)(A)(i), substituted "Forcible sodomy" for "Sodomy".

Subsec. (b)(2)(B)(v). Pub. L. 113–291, §531(d)(2)(A)(ii), substituted "forcible sodomy" for "sodomy".

**2013**—Subsec. (a). Pub. L. 113–66, §1703(a), substituted "rape or sexual assault, or rape or sexual assault of a child" for "rape, or rape of a child".

Subsec. (b)(2)(B)(i). Pub. L. 113–66, §1703(b), inserted ", unless the offense is covered by subsection (a)" before period at end.

Subsec. (b)(2)(B)(v). Pub. L. 112–239 substituted "Kidnaping," for "Kidnaping,,".

**2011**—Subsec. (b)(2)(B)(i). Pub. L. 112–81, §541(d)(1)(A), substituted "section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c)" for "section 920 of this title (article 120)".

Subsec. (b)(2)(B)(v). Pub. L. 112–81, §541(d)(1)(B), struck out "indecent assault" after "Kidnaping," and "or liberties with a child" after "indecent acts".

Pub. L. 111–383 substituted "Kidnaping, indecent assault," for "Kidnaping; indecent assault;".

**2006**—Subsec. (a). Pub. L. 109–163, §553(a), substituted "with murder or rape, or with any other offense punishable by death" for "or with any offense punishable by death".

Pub. L. 109–163, §552(e), substituted ", rape, or rape of a child," for "or rape,".

Subsec. (b)(2)(A). Pub. L. 109–163, §553(b)(1), substituted "during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period," for "before the child attains the age of 25 years".

Subsec. (b)(2)(B). Pub. L. 109–163, §553(b)(2)(A), struck out "sexual or physical" before "abuse of a person" in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 109–163, §553(b)(2)(B), substituted "Any offense" for "Rape or carnal knowledge".

Subsec. (b)(2)(B)(iii). Pub. L. 109–364, §1071(a)(4)(A), substituted "125" for "126".

Subsec. (b)(2)(B)(v). Pub. L. 109–163, §553(b)(2)(C), substituted "Kidnaping; indecent assault;" for "Indecent assault,".

Subsec. (b)(2)(C). Pub. L. 109–364, §1071(a)(4)(B), substituted "under chapter 110 or 117 of title 18 or under section 1591 of that title" for "under chapter 110 or 117, or under section 1591, of title 18".

Pub. L. 109–163, §553(b)(3), added subpar. (C).

**2003**—Subsec. (b)(2), (3). Pub. L. 108–136 added par. (2) and redesignated former par. (2) as (3).

**1986**—Subsecs. (a) to (c). Pub. L. 99–661, §805(a), amended subsecs. (a) to (c) generally. Prior to amendment, subsecs. (a) to (c) read as follows:

"(a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

"(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919–932 of this title (articles 119–132) is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

"(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 815 of this title (article 15)."

Subsec. (g). Pub. L. 99–661, §805(b), added subsec. (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §533(b), Dec. 20, 2019, 133 Stat. 1361, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019] and shall apply with respect to the prosecution of offenses committed before, on, or after the date of the enactment of this Act if the applicable limitation period has not yet expired."

## EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 1081(c)(1)(E) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. E, title LVII, §5225(f), Dec. 23, 2016, 130 Stat. 2910, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(17), Dec. 12, 2017, 131 Stat. 1600, provided that: "The amendments made by subsections (a), (b), (c), and (d) [amending this section] shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section [Dec. 23, 2016] if the applicable limitation period has not yet expired."

[Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(17) to section 5225(f) of Pub. L. 114–328, set out above, is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.]

Amendment by section 5225(e) of Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title XVII, §1703(c), Dec. 26, 2013, 127 Stat. 958, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 26, 2013], and shall apply with respect to an offense covered by section 920(b) or 920b(b) of title 10, United States Code (article 120(b) or 120b(b) of the Uniform Code of Military Justice), that is committed on or after that date."

## EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, §541(f), Dec. 31, 2011, 125 Stat. 1411, provided that: "The amendments made by this section [enacting sections 920b and 920c of this title and amending this section and sections 918 and 920 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 31, 2011] and shall apply with respect to offenses committed on or after such effective date."

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §552(f), Jan. 6, 2006, 119 Stat. 3263, provided that: "The amendments made by this section [amending this section and sections 918 and 920 of this title and enacting provisions set out as notes under section 920 of this title] shall take effect on October 1, 2007."

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, §805(c), Nov. 14, 1986, 100 Stat. 3908, provided that: "The amendments made by this section [amending this section] shall apply to an offense committed on or after the date of the enactment of this Act [Nov. 14, 1986]."

## APPLICABILITY OF SUBSECTIONS (B)(2)(B) AND (H)

Pub. L. 115–91, div. A, title V, §531(n)(2), (3), Dec. 12, 2017, 131 Stat. 1387, provided that:

"(2) CHILD ABUSE OFFENSES.—With respect to offenses committed before the date designated by the President under section 5542(a) of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2967) [10 U.S.C. 801 note], subsection (b)(2)(B) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), shall be applied as in effect on December 22, 2016.

"(3) FRAUDULENT ENLISTMENT OR APPOINTMENT OFFENSES.—With respect to the period beginning on December 23, 2016, and ending on the day before the date designated by the President under section 5542(a) of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2967), in the application of subsection (h) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), as added by section 5225(b) of that Act (130 Stat. 2909), the reference in such subsection (h) to section 904a(1) of title 10, United States Code (article 104a(1) of the Uniform Code of Military Justice),

shall be deemed to be a reference to section 883(1) of title 10, United States Code (article 83(1) of the Uniform Code of Military Justice)."

## §844. Art. 44. Former jeopardy

(a) No person may, without his consent, be tried a second time for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

(c)(1) A court-martial with a military judge alone is a trial in the sense of this section (article) if, without fault of the accused—

(A) after introduction of evidence; and

(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or the special trial counsel or on motion of the prosecution for failure of available evidence or witnesses.

(2) A court-martial with a military judge and members is a trial in the sense of this section (article) if, without fault of the accused—

(A) after the members, having taken an oath as members under section 842 of this title (article 42) and after completion of challenges under section 841 of this title (article 41), are impaneled; and

(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or the special trial counsel or on motion of the prosecution for failure of available evidence or witnesses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 52; Pub. L. 114–328, div. E, title LVII, §5226, Dec. 23, 2016, 130 Stat. 2910; Pub. L. 117–81, div. A, title V, §538, Dec. 27, 2021, 135 Stat. 1698.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 844(a) | 50:619(a). | May 5, 1950, ch. 169, §1 (Art. 44), 64 Stat. 122. |
| 844(b) | 50:619(b). | |
| 844(c) | 50:619(c). | |

In subsection (a), the word "may" is substituted for the word "shall".

In subsection (b), the word "is" is substituted for the words "shall be held to be".

In subsection (c), the word "after" is substituted for the words "subsequent to". The word "before" is substituted for the words "prior to". The word "is" is substituted for the words "shall be".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (c). Pub. L. 117–81 inserted "or the special trial counsel" after "the convening authority" in two places.

**2016**—Subsec. (c). Pub. L. 114–328 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable

with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §845. Art. 45. Pleas of the accused

(a) IRREGULAR AND SIMILAR PLEAS.—If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

(b) PLEAS OF GUILTY.—A plea of guilty by the accused may not be received to any charge or specification alleging an offense for which the death penalty is mandatory. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

(c) HARMLESS ERROR.—A variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused.

(Aug. 10, 1956, ch. 1041, 70A Stat. 52; Pub. L. 90–632, §2(19), Oct. 24, 1968, 82 Stat. 1339; Pub. L. 114–328, div. E, title LVII, §5227, Dec. 23, 2016, 130 Stat. 2911.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 845(a) | 50:620(a). | May 5, 1950, ch. 169, §1 (Art. 45), 64 Stat. 122. |
| 845(b) | 50:620(b). | |

In subsection (b), the word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (a). Pub. L. 114–328, §5227(c)(1), inserted heading.

Subsec. (b). Pub. L. 114–328, §5227(c)(2), inserted heading.

Pub. L. 114–328, §5227(a), substituted "is mandatory" for "may be adjudged" and struck out "or by a court-martial without a military judge" after "by the military judge" and ", if permitted by regulations of the Secretary concerned," after "charge or specification may".

Subsec. (c). Pub. L. 114–328, §5227(b), added subsec. (c).

**1968**—Subsec. (a). Pub. L. 90–632, §2(19)(A), substituted "after arraignment" for "arraigned before a court-martial".

Subsec. (b). Pub. L. 90–632, §2(19)(B), inserted provisions covering the making and accepting of a guilty plea to charges or specifications other than charges and specifications alleging an offense for which the death penalty may be adjudged.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with

implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §846. Art. 46. Opportunity to obtain witnesses and other evidence in trials by court-martial

(a) OPPORTUNITY TO OBTAIN WITNESSES AND OTHER EVIDENCE.—In a case referred for trial by court-martial, the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe.

(b) SUBPOENA AND OTHER PROCESS GENERALLY.—Any subpoena or other process issued under this section (article)—

(1) shall be similar to that which courts of the United States having criminal jurisdiction may issue;

(2) shall be executed in accordance with regulations prescribed by the President; and

(3) shall run to any part of the United States and to the Commonwealths and possessions of the United States.

(c) SUBPOENA AND OTHER PROCESS FOR WITNESSES.—A subpoena or other process may be issued to compel a witness to appear and testify—

(1) before a court-martial, military commission, or court of inquiry;

(2) at a deposition under section 849 of this title (article 49); or

(3) as otherwise authorized under this chapter.

(d) SUBPOENA AND OTHER PROCESS FOR EVIDENCE.—

(1) IN GENERAL.—A subpoena or other process may be issued to compel the production of evidence—

(A) for a court-martial, military commission, or court of inquiry;

(B) for a deposition under section 849 of this title (article 49);

(C) for an investigation of an offense under this chapter; or

(D) as otherwise authorized under this chapter.

(2) INVESTIGATIVE SUBPOENA.—An investigative subpoena under paragraph (1)(C) may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the Government to issue such a subpoena or a military judge issues such a subpoena pursuant to section 830a of this title (article 30a).

(3) WARRANT OR ORDER FOR WIRE OR ELECTRONIC COMMUNICATIONS.—With respect to an investigation of an offense under this chapter, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the United States under chapter 121 of title 18, subject to such limitations as the President may prescribe by regulation.

(e) REQUEST FOR RELIEF FROM SUBPOENA OR OTHER PROCESS.—If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) shall review the request and shall—

(1) order that the subpoena or other process be modified or withdrawn, as appropriate; or

(2) order the person to comply with the subpoena or other process.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 113–66, div. A, title XVII, §1704, Dec. 26, 2013, 127 Stat. 958; Pub. L. 113–291, div. A, title V, §531(b), Dec. 19, 2014, 128 Stat. 3363; Pub. L. 114–328, div. E, title LVII, §5228(a), Dec. 23, 2016, 130 Stat. 2911.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 846 | 50:621. | May 5, 1950, ch. 169, §1 (Art. 46), 64 Stat. 122. |

The word "Commonwealths" is inserted to reflect the present status of Puerto Rico.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328, §5228(a)(5), amended section catchline generally, substituting "Opportunity to obtain witnesses and other evidence in trials by court-martial" for "Opportunity to obtain witnesses and other evidence".

Subsec. (a). Pub. L. 114–328, §5228(a)(1), substituted "In a case referred for trial by court-martial, the trial counsel, the defense counsel," for "The counsel for the Government, the counsel for the accused,".

Subsec. (b). Pub. L. 114–328, §5228(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to request by counsel for accused to interview the victim of an alleged sex-related offense.

Subsec. (c). Pub. L. 114–328, §5228(a)(3), amended subsec. (c) generally. Prior to amendment, text read as follows: "Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Commonwealths and possessions."

Subsecs. (d), (e). Pub. L. 114–328, §5228(a)(4), added subsecs. (d) and (e).

**2014**—Subsec. (a). Pub. L. 113–291, §531(b)(2), (3)(B), substituted "counsel for the Government" for "trial counsel" and "counsel for the accused" for "defense counsel".

Subsec. (b). Pub. L. 113–291, §531(b)(3)(A), which directed substitution of "COUNSEL FOR ACCUSED" for "DEFENSE COUNSEL" in heading of section, was executed by making the substitution in the heading of subsec. (b) to reflect the probable intent of Congress.

Pub. L. 113–291, §531(b)(2), (3)(B), substituted "counsel for the Government" for "trial counsel" and "counsel for the accused" for "defense counsel" wherever appearing.

Subsec. (b)(1). Pub. L. 113–291, §531(b)(1), substituted "through the Special Victims' Counsel or other counsel for the victim, if applicable" for "through trial counsel".

**2013**—Pub. L. 113–66 designated first sentence as subsec. (a) and second sentence as subsec. (c), inserted headings, and added subsec. (b).

**2006**—Pub. L. 109–163 substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §847. Art. 47. Refusal of person not subject to chapter to appear, testify, or produce evidence

(a) IN GENERAL.—(1) Any person described in paragraph (2) who—

(A) willfully neglects or refuses to appear; or

(B) willfully refuses to qualify as a witness or to testify or to produce any evidence which that person is required to produce;

is guilty of an offense against the United States.

(2) The persons referred to in paragraph (1) are the following:

(A) Any person not subject to this chapter who—

(i) is issued a subpoena or other process described in subsection (c) of section 846 of this title (article 46); and

(ii) is provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage.

(B) Any person not subject to this chapter who is issued a subpoena or other process described in subsection (d) of section 846 of this title (article 46).

(b) Any person who commits an offense named in subsection (a) shall be tried on indictment or information in a United States district court or in a court of original criminal jurisdiction in any of the Commonwealths or possessions of the United States, and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be fined or imprisoned, or both, at the court's discretion.

(c) The United States attorney or the officer prosecuting for the United States in any such court of original criminal jurisdiction shall, upon the certification of the facts to him by the military court, commission, court of inquiry, board, or convening authority, file an information against and prosecute any person violating this article.

(d) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

(Aug. 10, 1956, ch. 1041. 70A Stat. 53; Pub. L. 104–106, div. A, title XI, §1111, Feb. 10, 1996, 110 Stat. 461; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 112–81, div. A, title V, §542(a), (b), Dec. 31, 2011, 125 Stat. 1411; Pub. L. 113–66, div. A, title XVII, §1702(c)(3)(D), Dec. 26, 2013, 127 Stat. 958; Pub. L. 114–328, div. E, title LVII, §5229, Dec. 23, 2016, 130 Stat. 2913.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 847(a) | 50:622(a). | May 5, 1950, ch. 169, §1 (Art. 47), 64 Stat. 123. |
| 847(b) | 50:622(b). | |
| 847(c) | 50:622(c). | |
| 847(d) | 50:622(d). | |

In subsection (a), the word "Any" is substituted for the word "Every". The word "is" is substituted for the words "shall be deemed".

In subsection (b), the words "named in subsection (a)" are substituted for the words "denounced by this article". The words "Territories, Commonwealths, or" are substituted for the word "Territorial". The words "not more than" are substituted for the words "a period not exceeding".

In subsection (c), the words "It shall be the duty of * * * to" are omitted as surplusage. The words "United States Attorney" are substituted for the words "United States district attorney", to conform to the terminology of section 501 of title 28. The word "shall" is inserted after the word "jurisdiction".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, §5229(b), amended section catchline generally, substituting "Refusal of person not subject to chapter to appear, testify, or produce evidence" for "Refusal to appear or testify".

Subsec. (a). Pub. L. 114–328, §5229(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any person not subject to this chapter who—

"(1) has been duly subpoenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board, or has been duly issued a subpoena duces tecum for a preliminary hearing pursuant to section 832 of this title (article 32);

"(2) has been provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage; and

"(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;

is guilty of an offense against the United States."

**2013**—Subsec. (a)(1). Pub. L. 113–66 substituted "a preliminary hearing pursuant to section 832 of this title (article 32)" for "an investigation pursuant to section 832(b) of this title (article 32(b))".

**2011**—Subsec. (a). Pub. L. 112–81, §542(b), substituted "subpoenaed" for "subpenaed" in two places.

Subsec. (a)(1). Pub. L. 112–81, §542(a)(1)(A), substituted "board, or has been duly issued a subpoena duces tecum for an investigation pursuant to section 832(b) of this title (article 32(b));" for "board;".

Subsec. (a)(2). Pub. L. 112–81, §542(a)(1)(B), substituted "provided a means for reimbursement from the Government for fees and mileage" for "duly paid or tendered the fees and mileage of a witness" and inserted "or, in the case of extraordinary hardship, is advanced such fees and mileage" before semicolon.

Subsec. (c). Pub. L. 112–81, §542(a)(2), substituted "board, or convening authority" for "or board".

**2006**—Subsec. (b). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

**1996**—Subsec. (b). Pub. L. 104–106 inserted "indictment or" after "shall be tried on" and substituted "shall be fined or imprisoned, or both, at the court's discretion" for "shall be punished by a fine of not more than $500, or imprisonment for not more than six months, or both".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113–66, set out as a note under section 802 of this title.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, §542(c), Dec. 31, 2011, 125 Stat. 1411, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to subpoenas issued after the date of the enactment of this Act [Dec. 31, 2011]."

## §848. Art. 48. Contempt

(a) AUTHORITY TO PUNISH.—(1) With respect to any proceeding under this chapter, a judicial officer specified in paragraph (2) may punish for contempt any person who—

(A) uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding;

(B) disturbs the proceeding by any riot or disorder; or

(C) willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

(2) A judicial officer referred to in paragraph (1) is any of the following:

(A) Any judge of the Court of Appeals for the Armed Forces and any judge of a Court of Criminal Appeals under section 866 of this title (article 66).

(B) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter.

(C) Any military magistrate designated to preside under section 819 of this title (article 19).

(D) The president of a court of inquiry.

(b) PUNISHMENT.—The punishment for contempt under subsection (a) may not exceed confinement for 30 days, a fine of $1,000, or both.

(c) REVIEW.—A punishment under this section—

(1) if imposed by a military judge or military magistrate, may be reviewed by the Court of Criminal Appeals in accordance with the uniform rules of procedure for the Courts of Criminal Appeals under section 866(h) of this title (article 66(h));

(2) if imposed by a judge of the Court of Appeals for the Armed Forces or a judge of a Court of Criminal Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of section 867 or 867a of this title (article 67 or 67a); and

(3) if imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with rules prescribed by the President.

(d) INAPPLICABILITY TO MILITARY COMMISSIONS UNDER CHAPTER 47A.—This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631; Pub. L. 111–383, div. A, title V, §542(a), Jan. 7, 2011, 124 Stat. 4218; Pub. L. 114–328, div. E, title LVII, §5230, Dec. 23, 2016, 130 Stat. 2913; Pub. L. 115–91, div. A, title X, §1081(c)(1)(F), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 848 | 50:623. | May 5, 1950, ch. 169, §1 (Art. 48), 64 Stat. 123. |

The word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (c)(1). Pub. L. 115–91 substituted "section 866(h) of this title (article 66(h))" for "section 866(g) of this title (article 66(g))".

**2016**—Pub. L. 114–328, §5230(c), amended section catchline generally, substituting "Contempt" for "Contempts".

Subsec. (a). Pub. L. 114–328, §5230(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "A judge detailed to a court-martial, a court of inquiry, the United States Court of Appeals for the Armed Forces, a military Court of Criminal Appeals, a provost court, or a military commission may punish for contempt any person who—

"(1) uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial, court, or military commission;

"(2) disturbs the proceedings of the court-martial, court, or military commission by any riot or disorder; or

"(3) willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial, court, or military commission."

Subsecs. (c), (d). Pub. L. 114–328, §5230(b), added subsec. (c) and redesignated former subsec. (c) as (d).

**2011**—Pub. L. 111–383 amended section generally. Prior to amendment, text read as follows: "A court-martial, provost court, or military commission may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The

punishment may not exceed confinement for 30 days or a fine of $100, or both. This section does not apply to a military commission established under chapter 47A of this title."

**2006**—Pub. L. 109–366 inserted last sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title V, §542(b), Jan. 7, 2011, 124 Stat. 4218, provided that: "Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to acts of contempt committed after the date of the enactment of this Act [Jan. 7, 2011]."

## §849. Art. 49. Depositions

(a) IN GENERAL.—(1) Subject to paragraph (2), a convening authority or a military judge may order depositions at the request of any party.

(2) A deposition may be ordered under paragraph (1) only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

(3) A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

(4) A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

(A) Whenever practicable, by an impartial judge advocate certified under section 827(b) of this title (article 27(b)).

(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by (i) the laws of the United States or (ii) the laws of the place where the deposition is taken.

(b) REPRESENTATION BY COUNSEL.—Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under section 827 of this title (article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in section 838(b) of this title (article 38(b)).

(c) ADMISSIBILITY AND USE AS EVIDENCE.—A deposition order under subsection (a) does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as provided by subsection (d), a party may use all or part of a deposition as provided by the rules of evidence.

(d) CAPITAL CASES.—Testimony by deposition may be presented in capital cases only by the defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 90–632, §2(20), Oct. 24, 1968, 82 Stat. 1340; Pub. L. 98–209, §6(b), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 113–291, div. A, title V, §532, Dec. 19, 2014, 128 Stat. 3366; Pub. L.

114–328, div. E, title LVII, §5231, Dec. 23, 2016, 130 Stat. 2914.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 849(a) | 50:624(a). | May 5, 1950, ch. 169, §1 (Art. 49), 64 Stat. 123. |
| 849(b) | 50:624(b). | |
| 849(c) | 50:624(c). | |
| 849(d) | 50:624(d). | |
| 849(e) | 50:624(e). | |
| 849(f) | 50:624(f). | |

In subsection (a), the word "commissioned" is inserted for clarity.

In subsection (d), the word "Commonwealth" is inserted to reflect the present status of Puerto Rico. The words "of Columbia" are inserted after the word "District" for clarity. The words "the distance of" are omitted as surplusage.

In subsections (e) and (f), the words "the requirements of" and the words "of this article" are omitted as surplusage. The word "presented" is substituted for the word "adduced" in subsection (e).

In subsection (f), the word "directs" is substituted for the words "shall have directed". The words "by law" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to ordering depositions, notice, military and civil officers authorized to take depositions, use of depositions as evidence, testimony by deposition by the defense in capital cases, and use of deposition as evidence in cases in which the death penalty is authorized, respectively.

**2014**—Subsec. (a). Pub. L. 113–291 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "At any time after charges have been signed as provided in section 830 of this title (article 30), any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness."

**2006**—Subsec. (d)(1). Pub. L. 109–163 struck out "Territory," after "State,".

**1983**—Subsecs. (d), (f). Pub. L. 98–209 inserted "or, in the case of audiotape, videotape, or similar material, may be played in evidence" after "read in evidence".

**1968**—Subsec. (a). Pub. L. 90–632 inserted reference to the taking of depositions being forbidden by the military judge or the court-martial without a military judge if the case is being heard.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective on first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of

Pub. L. 90–632, set out as a note under section 801 of this title.

## §850. Art. 50. Admissibility of sworn testimony from records of courts of inquiry

(a) USE AS EVIDENCE BY ANY PARTY.—In any case not capital and not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial or military commission if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence. This section does not apply to a military commission established under chapter 47A of this title.

(b) USE AS EVIDENCE BY DEFENSE.—Such testimony may be read in evidence only by the defense in capital cases or cases extending to the dismissal of a commissioned officer.

(c) USE IN COURTS OF INQUIRY AND MILITARY BOARDS.—Such testimony may also be read in evidence before a court of inquiry or a military board.

(d) AUDIOTAPE OR VIDEOTAPE.—Sworn testimony that—

(1) is recorded by audiotape, videotape, or similar method; and

(2) is contained in the duly authenticated record of proceedings of a court of inquiry;

is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c).

(Aug. 10, 1956, ch. 1041, 70A Stat. 54; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631; Pub. L. 114–328, div. E, title LVII, §5232, Dec. 23, 2016, 130 Stat. 2915.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 850(a) | 50:625(a). | May 5, 1950, ch. 169, §1 (Art. 50), 64 Stat. 124. |
| 850(b) | 50:625(b). | |
| 850(c) | 50:625(c). | |

In subsections (a) and (b), the word "commissioned" is inserted for clarity.

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, §5232(b), amended section catchline generally, substituting "Admissibility of sworn testimony from records of courts of inquiry" for "Admissibility of records of courts of inquiry".

Subsec. (a). Pub. L. 114–328, §5232(c)(1), inserted heading.

Subsec. (b). Pub. L. 114–328, §5232(c)(2), inserted heading.

Subsec. (c). Pub. L. 114–328, §5232(c)(3), inserted heading.

Subsec. (d). Pub. L. 114–328, §5232(a), added subsec. (d).

**2006**—Subsec. (a). Pub. L. 109–366 inserted last sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §850a. Art. 50a. Defense of lack of mental responsibility

(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused—

(1) guilty;

(2) not guilty; or

(3) not guilty only by reason of lack of mental responsibility.

(d) Subsection (c) does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused—

(1) guilty;

(2) not guilty; or

(3) not guilty only by reason of lack of mental responsibility.

(e) Notwithstanding the provisions of section 852 of this title (article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if—

(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

(2) in the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.

(Added Pub. L. 99–661, div. A, title VIII, §802(a)(1), Nov. 14, 1986, 100 Stat. 3905; Pub. L. 114–328, div. E, title LVII, §5233, Dec. 23, 2016, 130 Stat. 2915.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (c). Pub. L. 114–328, in introductory provisions, struck out ", or the president of a court-martial without a military judge," after "the military judge".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE

Pub. L. 99–661, div. A, title VIII, §802(b), Nov. 14, 1986, 100 Stat. 3906, provided that: "Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act [Nov. 14, 1986]."

## §851. Art. 51. Voting and rulings

(a) Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the

members of the court.

(b) The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial.

(c) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them—

(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(3) that, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) that the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the United States.

(d) Subsections (a), (b), and (c) do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

(Aug. 10, 1956, ch. 1041, 70A Stat. 54; Pub. L. 90–632, §2(21), Oct. 24, 1968, 82 Stat. 1340; Pub. L. 114–328, div. E, title LVII, §5234, Dec. 23, 2016, 130 Stat. 2915.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 851(a) | 50:626(a). | May 5, 1950, ch. 169, §1 (Art. 51), 64 Stat. 124. |
| 851(b) | 50:626(b). | |
| 851(c) | 50:626(c). | |

In subsection (a), the words "in each case" are omitted as surplusage.

In subsection (b), the word "is" is substituted for the words "shall be" in the second sentence. The word "constitutes" is substituted for the words "shall constitute". The word "However," is substituted for the word "but". The word "his" is substituted for the words "any such". The words "the ruling is" are substituted for the words "such ruling be". The words "voice vote" are substituted for the words "vote * * * viva voce".

In subsection (c), the word "must" is substituted for the word "shall" in clause (2), since a condition is prescribed, not a command. The words "United States" are substituted for the word "Government".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328, §5234(1), struck out ", and by members of a court-martial without a military judge upon questions of challenge," after "on the sentence".

Subsec. (b). Pub. L. 114–328, §5234(2), struck out "and, except for questions of challenge, the president of a court-martial without a military judge" after "The military judge" and substituted "is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial." for ", or by the president of a court-martial without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change his ruling at any time during trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in section 852 of this title (article 52), beginning with the junior in rank."

Subsec. (c). Pub. L. 114–328, §5234(3), struck out "or the president of a court-martial without a military

judge" after "the military judge" in introductory provisions.

**1968**—Subsec. (a). Pub. L. 90–632, §2(21)(A), limited the balloting on the question of challenges to courts-martial without military judges.

Subsec. (b). Pub. L. 90–632, §2(21)(B), substituted "military judge" for "law officer" and inserted reference to the military judge's ruling upon challenges for cause when a military judge is part of a court-martial and reference to questions of law.

Subsec. (c). Pub. L. 90–632, §2(21)(C), substituted "military judge" for "law officer" and made minor changes in phraseology eliminating the division between general and special court-martials.

Subsec. (d). Pub. L. 90–632, §2(21)(D), added subsec. (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §852. Art. 52. Votes required for conviction, sentencing, and other matters

(a) IN GENERAL.—No person may be convicted of an offense in a general or special court-martial, other than—

(1) after a plea of guilty under section 845(b) of this title (article 45(b));

(2) by a military judge in a court-martial with a military judge alone, under section 816 of this title (article 16); or

(3) in a court-martial with members under section 816 of this title (article 16), by the concurrence of at least three-fourths of the members present when the vote is taken.

(b) LEVEL OF CONCURRENCE REQUIRED.—

(1) IN GENERAL.—Except as provided in subsection (a) and in paragraph (2), all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

(2) SENTENCING.—A sentence of death requires (A) a unanimous finding of guilty of an offense in this chapter expressly made punishable by death and (B) a unanimous determination by the members that the sentence for that offense shall include death. All other sentences imposed by members shall be determined by the concurrence of at least three-fourths of the members present when the vote is taken.

(Aug. 10, 1956, ch. 1041, 70A Stat. 55; Pub. L. 90–632, §2(22), Oct. 24, 1968, 82 Stat. 1340; Pub. L. 114–328, div. E, title LVII, §5235, Dec. 23, 2016, 130 Stat. 2916.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 852(a)<br>852(b)<br>852(c) | 50:627(a).<br>50:627(b)<br>50:627(c). | May 5, 1950, ch. 169, §1 (Art. 52), 64 Stat. 125. |

In subsections (a) and (b), the word "may" is substituted for the word "shall".

In subsection (b)(2), the words "for more than" are substituted for the words "in excess of".

In subsection (c), the word "disqualifies" is substituted for the words "shall disqualify". The word "is" is

substituted for the words "shall be" in the last two sentences.

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to number of votes required for conviction of an offense for which the death penalty is mandatory, sentences, and all other questions, respectively.

**1968**—Subsec. (a)(2). Pub. L. 90–632, §2(22)(A), inserted reference to the exception provided in section 845(b) of this title (article 45(b)).

Subsec. (c). Pub. L. 90–632, §2(22)(B), provided that a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by a vote of less than a majority vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §853. Art. 53. Findings and sentencing

(a) ANNOUNCEMENT.—A court-martial shall announce its findings and sentence to the parties as soon as determined.

(b) SENTENCING GENERALLY.—

(1) GENERAL AND SPECIAL COURTS-MARTIAL.—Except as provided in subsection (c) for capital offenses, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused. The sentence determined by the military judge constitutes the sentence of the court-martial.

(2) SUMMARY COURTS-MARTIAL.—If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

(c) SENTENCING FOR CAPITAL OFFENSES.—

(1) IN GENERAL.—In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death—

(A) the members shall determine—

(i) whether the sentence for that offense shall be death or life in prison without eligibility for parole; or

(ii) whether the matter shall be returned to the military judge for determination of a lesser punishment; and

(B) the military judge shall sentence the accused for that offense in accordance with the determination of the members under subparagraph (A).

(2) LESSER AUTHORIZED PUNISHMENTS.—In accordance with regulations prescribed by the President, the military judge may include in any sentence to death or life in prison without eligibility for parole other lesser punishments authorized under this chapter.

(3) OTHER NON-CAPITAL OFFENSES.—In a capital case, if the accused is convicted of a

non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with subsection (b), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 114–328, div. E, title LVII, §5236, Dec. 23, 2016, 130 Stat. 2916; Pub. L. 115–91, div. A, title X, §1081(c)(1)(G), Dec. 12, 2017, 131 Stat. 1598; Pub. L. 117–81, div. A, title V, §539E(a), Dec. 27, 2021, 135 Stat. 1700.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 853 | 50:628. | May 5, 1950, ch. 169, §1 (Art. 53), 64 Stat. 125. |

The word "A" is substituted for the word "Every".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b)(1). Pub. L. 117–81, §539E(a)(1), amended par. (1) generally. Prior to amendment, par. (1) provided that, except for capital offenses, accused who is convicted in trial by general or special court-martial shall be sentenced by military judge or, if court-martial consisted of military judge and members, accused may elect sentencing by members.

Subsec. (c)(1). Pub. L. 117–81, §539E(a)(2)(A), amended par. (1) generally. Prior to amendment, text read as follows: "In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death, the members shall determine whether the sentence for that offense shall be death or a lesser authorized punishment."

Subsec. (c)(2). Pub. L. 117–81, §539E(a)(2)(B), substituted "the military judge" for "the court-martial".

**2017**—Subsec. (b)(1)(B). Pub. L. 115–91 struck out "in a trial" after "convicted of an offense".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "A court-martial shall announce its findings and sentence to the parties as soon as determined."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 117–81, div. A, title V, §539E(f), Dec. 27, 2021, 135 Stat. 1706, provided that: "The amendments made by this section [amending this section and sections 853a, 856, and 866 of this title and repealing provisions set out as a note under section 856 of this title] shall take effect on the date that is two years after the date of the enactment of this Act [Dec. 27, 2021] and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act."

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §853a. Art. 53a. Plea agreements

(a) IN GENERAL.—(1) Subject to paragraph (3), at any time before the announcement of findings under section 853 of this title (article 53), the convening authority and the accused may enter into a plea agreement with respect to such matters as—

(A) the manner in which the convening authority will dispose of one or more charges and specifications; and

(B) limitations on the sentence that may be adjudged for one or more charges and specifications.

(2) The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

(3) With respect to charges and specifications over which a special trial counsel exercises authority pursuant to section 824a of this title (article 24a), a plea agreement under this section may only be entered into between a special trial counsel and the accused. Such agreement shall be subject to the same limitations and conditions applicable to other plea agreements under this section (article).

(b) ACCEPTANCE OF PLEA AGREEMENT.—Subject to subsection (c), the military judge of a general or special court-martial shall accept a plea agreement submitted by the parties, except that—

(1) in the case of an offense with a sentencing parameter set forth in regulations prescribed by the President pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge may reject a plea agreement that proposes a sentence that is outside the sentencing parameter if the military judge determines that the proposed sentence is plainly unreasonable; and

(2) in the case of an offense for which the President has not established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge may reject a plea agreement that proposes a sentence if the military judge determines that the proposed sentence is plainly unreasonable.

(c) LIMITATION ON ACCEPTANCE OF PLEA AGREEMENTS.—The military judge of a general or special court-martial shall reject a plea agreement that—

(1) contains a provision that has not been accepted by both parties;

(2) contains a provision that is not understood by the accused;

(3) except as provided in subsection (c), contains a provision for a sentence that is less than the mandatory minimum sentence applicable to an offense referred to in section 856(b)(2) of this title (article 56(b)(2));

(4) is prohibited by law; or

(5) is contrary to, or is inconsistent with, a regulation prescribed by the President with respect to terms, conditions, or other aspects of plea agreements.

(d) LIMITED CONDITIONS FOR ACCEPTANCE OF PLEA AGREEMENT FOR SENTENCE BELOW MANDATORY MINIMUM FOR CERTAIN OFFENSES.—With respect to an offense referred to in section 856(b)(2) of this title (article 56(b)(2))—

(1) the military judge may accept a plea agreement that provides for a sentence of bad conduct discharge; and

(2) upon recommendation of the trial counsel, in exchange for substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the military judge may accept a plea agreement that provides for a sentence that is less than the mandatory minimum sentence for the offense charged.

(e) BINDING EFFECT OF PLEA AGREEMENT.—Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties (including the convening authority and the special trial counsel in the case of a plea agreement entered into under subsection (a)(3)) and the court-martial.

(Added Pub. L. 114–328, div. E, title LVII, §5237, Dec. 23, 2016, 130 Stat. 2917; amended Pub. L. 115–91, div. A, title V, §531(d), title X, §1081(c)(1)(H), Dec. 12, 2017, 131 Stat. 1384, 1598; Pub. L. 117–81, div. A, title V, §§539, 539E(b), Dec. 27, 2021, 135 Stat. 1698, 1701.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (b), is section 539E(e) of Pub. L. 117–81, which is set out as a note under section 856 of this title.

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 117–81, §539(a)(1), substituted "Subject to paragraph (3), at any time" for "At any time" in introductory provisions.

Subsec. (a)(3). Pub. L. 117–81, §539(a)(2), added par. (3).

Subsecs. (b), (c). Pub. L. 117–81, §539E(b), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 117–81, §539E(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 117–81, §539(b), inserted "(including the convening authority and the special trial counsel in the case of a plea agreement entered into under subsection (a)(3))" after "parties".

Subsec. (e). Pub. L. 117–81, §539E(b)(1), redesignated subsec. (d) as (e).

**2017**—Subsec. (b)(4), (5). Pub. L. 115–91, §531(d)(1), added pars. (4) and (5).

Subsec. (d). Pub. L. 115–91, §1081(c)(1)(H), which directed substitution of "court-martial" for "military judge" the second place it appeared, could not be executed because of the prior amendment by Pub. L. 115–91, §531(d)(2). See below.

Pub. L. 115–91, §531(d)(2), substituted "shall bind the parties and the court-martial" for "shall bind the parties and the military judge".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 539 of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

Amendment by section 539E(b) of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after Dec. 27, 2021, see section 539E(f) of Pub. L. 117–81, set out as a note under section 853 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 531(d) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

Amendment by section 1081(c)(1)(H) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §854. Art. 54. Record of trial

(a) GENERAL AND SPECIAL COURTS-MARTIAL.—Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court-reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the President may prescribe by regulation.

(b) SUMMARY COURTS-MARTIAL.—Each summary court-martial shall keep a separate

record of the proceedings in each case, and the record shall be certified in the manner required by such regulations as the President may prescribe.

(c) CONTENTS OF RECORD.—(1) Except as provided in paragraph (2), the record shall contain such matters as the President may prescribe by regulation.

(2) In accordance with regulations prescribed by the President, a complete record of proceedings and testimony shall be prepared in any case of a sentence of death, dismissal, discharge, confinement for more than six months, or forfeiture of pay for more than six months.

(d) COPY TO ACCUSED.—A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is certified.

(e) COPY TO VICTIM.—In the case of a general or special court-martial, upon request, a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records are certified. The victim shall be notified of the opportunity to receive the records of the proceedings.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 90–632, §2(23), Oct. 24, 1968, 82 Stat. 1340; Pub. L. 98–209, §6(c), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 106–398, §1 [[div. A], title V, §555(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127; Pub. L. 112–81, div. A, title V, §586(e), Dec. 31, 2011, 125 Stat. 1435; Pub. L. 114–328, div. E, title LVII, §5238, Dec. 23, 2016, 130 Stat. 2918.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 854(a) | 50:629(a). | May 5, 1950, ch. 169, §1 (Art. 54), 64 Stat. 125. |
| 854(b) | 50:629(b). | |
| 854(c) | 50:629(c). | |

In subsection (a), the word "If" is substituted for the words "In case". The words "any of those" are substituted for the word "such" in the last sentence.

In subsection (b), the words "and the" are substituted for the word "which" before the word "record". The words "the matter and shall be authenticated in the manner required by such regulations as" are substituted for the words "such matter and be authenticated in such manner as may be required by regulations which".

In subsection (c), the words "it is" are inserted before the word "authenticated".

## EDITORIAL NOTES

### CODIFICATION

Another section 586(e) of Pub. L. 112–81 is set out in a note under section 1561 of this title.

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328, §5238(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. In a court-martial consisting of only a military judge the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection."

Subsec. (b). Pub. L. 114–328, §5238(2), substituted "SUMMARY COURTS-MARTIAL.—Each summary court-martial" for "Each special and summary court-martial" and "certified" for "authenticated".

Subsec. (c). Pub. L. 114–328, §5238(3), added subsec. (c) and struck out former subsec. (c) which related to preparation of complete record of proceedings.

Subsec. (d). Pub. L. 114–328, §5238(4), inserted heading and substituted "certified" for "authenticated".

Subsec. (e). Pub. L. 114–328, §5238(5), inserted heading and substituted ", upon request," for "involving a sexual assault or other offense covered by section 920 of this title (article 120)," and "certified" for "authenticated".

**2011**—Subsec. (e). Pub. L. 112–81 added subsec. (e).

**2000**—Subsec. (c)(1)(B). Pub. L. 106–398 inserted ", confinement for more than six months, or forfeiture of pay for more than six months" after "bad-conduct discharge".

**1983**—Subsec. (a). Pub. L. 98–209, §6(c)(1), struck out provision that if the proceedings had resulted in an acquittal of all charges and specifications or, if not affecting a general or flag officer, in a sentence not including discharge and not in excess of that which could otherwise be adjudged by a special court-martial, the record had to contain such matters as might be prescribed by regulations of the President.

Subsec. (b). Pub. L. 98–209, §6(c)(2), substituted "the record" for "the record shall contain the matter and".

Subsecs. (c), (d). Pub. L. 98–209, §6(c)(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

**1968**—Subsec. (a). Pub. L. 90–632 provided for authentication of a record of trial by general court-martial by the signature of the military judge, for alternate methods of authentication if the military judge for specified reasons is unable to authenticate it, for authentication when a court-martial consists only of a military judge, and for summarized records of trial in specified cases.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §555(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of April 1, 2000, and shall apply with respect to charges referred on or after that date to trial by special court-martial."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## SUBCHAPTER VIII—SENTENCES


| Sec. | Art. | |
|---|---|---|
| 855. | 55. | Cruel and unusual punishments prohibited. |
| 856. | 56. | Sentencing. |
| [856a. | 56a. | Repealed.] |
| 857. | 57. | Effective date of sentences. |
| [857a. | 57a. | Repealed.] |
| 858. | 58. | Execution of confinement. |
| 858a. | 58a. | Sentences: reduction in enlisted grade. |
| 858b. | 58b. | Sentences: forfeiture of pay and allowances during confinement. |


### EDITORIAL NOTES

**AMENDMENTS**

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(5). See 2016 Amendment note below.

Pub. L. 115–91, div. A, title V, §531(f)(3), Dec. 12, 2017, 131 Stat. 1385, added item 858a and struck out former item 858a "Sentences: reduction in enlisted grade upon approval".

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(5), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted "Sentencing" for "Maximum and minimum limits" in item 856 and struck out items 856a "Art. 56a. Sentence of confinement for life without eligibility for parole" and 857a "Art. 57a. Deferment of sentences".

**2013**—Pub. L. 113–66, div. A, title XVII, §1705(a)(2)(B), Dec. 26, 2013, 127 Stat. 959, substituted "Maximum and minimum limits" for "Maximum limits" in item 856.

**1997**—Pub. L. 105–85, div. A, title V, §581(a)(2), Nov. 18, 1997, 111 Stat. 1760, added item 856a.

**1996**—Pub. L. 104–106, div. A, title XI, §§1122(a)(2), 1123(b), Feb. 10, 1996, 110 Stat. 463, 464, added items 857a and 858b.

**1960**—Pub. L. 86–633, §1(2), July 12, 1960, 74 Stat. 468, added item 858a.

## §855. Art. 55. Cruel and unusual punishments prohibited

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 855 | 50:636. | May 5, 1950, ch. 169, §1 (Art. 55), 64 Stat. 126. |

The word "may" is substituted for the word "shall".

## §856. Art. 56. Sentencing

(a) SENTENCE MAXIMUMS.—The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

(b) SENTENCE MINIMUMS FOR CERTAIN OFFENSES.—(1) Except as provided in subsection (c) [1] of section 853a of this title (article 53a), punishment for any offense specified in paragraph (2) shall include dismissal or dishonorable discharge, as applicable.

(2) The offenses referred to in paragraph (1) are as follows:

(A) Rape under subsection (a) of section 920 of this title (article 120).

(B) Sexual assault under subsection (b) of such section (article).

(C) Rape of a child under subsection (a) of section 920b of this title (article 120b).

(D) Sexual assault of a child under subsection (b) of such section (article).

(E) An attempt to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 880 of this title (article 80).

(F) Conspiracy to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 881 of this title (article 81).

(c) IMPOSITION OF SENTENCE.—

(1) IN GENERAL.—In sentencing an accused under section 853 of this title (article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces, taking into consideration—

(A) the nature and circumstances of the offense and the history and characteristics of the

accused;

(B) the impact of the offense on—

(i) the financial, social, psychological, or medical well-being of any victim of the offense; and

(ii) the mission, discipline, or efficiency of the command of the accused and any victim of the offense;

(C) the need for the sentence—

(i) to reflect the seriousness of the offense;

(ii) to promote respect for the law;

(iii) to provide just punishment for the offense;

(iv) to promote adequate deterrence of misconduct;

(v) to protect others from further crimes by the accused;

(vi) to rehabilitate the accused; and

(vii) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service;

(D) the sentences available under this chapter; and

(E) the applicable sentencing parameters or sentencing criteria set forth in regulations prescribed by the President pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022.

(2) APPLICATION OF SENTENCING PARAMETERS IN GENERAL AND SPECIAL COURTS-MARTIAL.—

(A) REQUIREMENT TO SENTENCE WITHIN PARAMETERS.—Except as provided in subparagraph (B), in a general or special court-martial in which the accused is convicted of an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge shall sentence the accused for that offense within the applicable parameter.

(B) EXCEPTION.—The military judge may impose a sentence outside a sentencing parameter upon finding specific facts that warrant such a sentence. If the military judge imposes a sentence outside a sentencing parameter under this subparagraph, the military judge shall include in the record a written statement of the factual basis for the sentence.

(3) USE OF SENTENCING CRITERIA IN GENERAL AND SPECIAL COURTS-MARTIAL .—In a general or special court-martial in which the accused is convicted of an offense for which the President has established sentencing criteria pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge shall consider the applicable sentencing criteria in determining the sentence for that offense.

(4) OFFENSE-BASED SENTENCING IN GENERAL AND SPECIAL COURTS-MARTIAL .—In announcing the sentence under section 853 of this title (article 53) in a general or special court-martial, the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

(5) INAPPLICABILITY TO DEATH PENALTY.—Sentencing parameters and sentencing criteria shall not apply to a determination of whether an offense should be punished by death.

(6) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.—

(A) IN GENERAL.—If an offense is subject to a sentence of confinement for life, a court-martial may impose a sentence of confinement for life without eligibility for parole.

(B) TERM OF CONFINEMENT.—An accused who is sentenced to confinement for life without eligibility for parole shall be confined for the remainder of the accused's life unless—

(i) the sentence is set aside or otherwise modified as a result of—
(I) action taken by the convening authority or the Secretary concerned; or
(II) any other action taken during post-trial procedure or review under any other provision of subchapter IX of this chapter;

(ii) the sentence is set aside or otherwise modified as a result of action taken by a court of competent jurisdiction; or
(iii) the accused receives a pardon or another form of Executive clemency.

(d) APPEAL OF SENTENCE BY THE UNITED STATES.—(1) With the approval of the Judge Advocate General concerned, and consistent with standards and procedures set forth in regulations prescribed by the President, the Government may appeal a sentence to the Court of Criminal Appeals, on the grounds that—
(A) the sentence violates the law;
(B) in the case of a sentence for an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the sentence is a result of an incorrect application of the parameter; or
(C) the sentence is plainly unreasonable.

(2) An appeal under this subsection must be filed within 60 days after the date on which the judgment of a court-martial is entered into the record under section 860c of this title (article 60c).

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 113–66, div. A, title XVII, §1702(a)(1), (2)(A), Dec. 26, 2013, 127 Stat. 959; Pub. L. 114–328, div. E, title LVIII, §5301(a), Dec. 23, 2016, 130 Stat. 2919; Pub. L. 115–91, div. A, title V, §531(e), Dec. 12, 2017, 131 Stat. 1385; Pub. L. 117–81, div. A, title V, §539E(c), title X, §1081(a)(14), Dec. 27, 2021, 135 Stat. 1701, 1920.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 856 | 50:637. | May 5, 1950, ch. 169, §1 (Art. 56), 64 Stat. 126. |

The word "may" is substituted for the word "shall".

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Subsection (c) of section 853a of this title, referred to in subsec. (b)(1), was redesignated subsec. (d) of section 853a of this title by Pub. L. 117–81, div. A, title V, §539E(b)(1), Dec. 27, 2021, 135 Stat. 1701.

Section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsecs. (c)(1)(E), (2)(A), (3), (d)(1)(B), is section 539E(e) of Pub. L. 117–81, which is set out as a note below.

**AMENDMENTS**

**2021**—Subsec. (b)(1). Pub. L. 117–81, §1081(a)(14), substituted "subsection (c) of section 853a" for "subsection (d) of section 853a".

Subsec. (c)(1)(E). Pub. L. 117–81, §539E(c)(1)(A), added subpar. (E).

Subsec. (c)(2) to (6). Pub. L. 117–81, §539E(c)(1)(B), added pars. (2) to (6) and struck out former pars. (2) to (4) which related to sentencing by military judge, sentencing by members, and sentence of confinement for life without eligibility for parole, respectively.

Subsec. (d)(1)(B). Pub. L. 117–81, §539E(c)(4)(C), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (d)(1)(C). Pub. L. 117–81, §539E(c)(4)(D), struck out ", as determined in accordance with standards and procedures prescribed by the President" after "unreasonable".

Pub. L. 117–81, §539E(c)(4)(A), (B), redesignated subpar. (B) as (C).

**2017**—Subsec. (d)(1). Pub. L. 115–91, §531(e)(1), inserted "and consistent with standards and procedures

set forth in regulations prescribed by the President," after "concerned," in introductory provisions.

Subsec. (d)(1)(B). Pub. L. 115–91, §531(e)(2), inserted ", as determined in accordance with standards and procedures prescribed by the President" before period at end.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to maximum and minimum sentencing limits.

**2013**—Pub. L. 113–66 substituted "Maximum and minimum limits" for "Maximum limits" in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 539E(c) of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after Dec. 27, 2021, see section 539E(f) of Pub. L. 117–81, set out as a note under section 853 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective 180 days after Dec. 26, 2013, and applicable to offenses specified in subsec. (b)(2) of this section committed on or after that date, see section 1705(c) of Pub. L. 113–66, set out as a note under section 818 of this title.

### ESTABLISHMENT OF SENTENCING PARAMETERS AND SENTENCING CRITERIA

Pub. L. 117–81, div. A, title V, §539E(e), Dec. 27, 2021, 135 Stat. 1704, provided that:

"(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act [Dec. 27, 2021], the President shall prescribe regulations establishing sentencing parameters and sentencing criteria related to offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), in accordance with this subsection. Such parameters and criteria—

"(A) shall cover sentences of confinement; and

"(B) may cover lesser punishments, as the President determines appropriate.

"(2) SENTENCING PARAMETERS.—Sentencing parameters established under paragraph (1) shall—

"(A) identify a delineated sentencing range for an offense that is appropriate for a typical violation of the offense, taking into consideration—

"(i) the severity of the offense;

"(ii) the guideline or offense category that would apply to the offense if the offense were tried in a United States district court;

"(iii) any military-specific sentencing factors;

"(iv) the need for the sentencing parameter to be sufficiently broad to allow for individualized consideration of the offense and the accused; and

"(v) any other relevant sentencing guideline.

"(B) include no fewer than 5 and no more than 12 offense categories;

"(C) assign such offense under this chapter [probably should be "chapter 47 of title 10, United States Code (the Uniform Code of Military Justice)"] to an offense category unless the offense is identified as unsuitable for sentencing parameters under paragraph (4)(F)(ii); and

"(D) delineate the confinement range for each offense category by setting an upper confinement limit and a lower confinement limit.

"(3) SENTENCING CRITERIA.—Sentencing criteria established under paragraph (1) shall identify offense-specific factors the military judge should consider and any collateral effects of available punishments that may aid the military judge in determining an appropriate sentence when there is no applicable sentencing

parameter for a specific offense.

"(4) MILITARY SENTENCING PARAMETERS AND CRITERIA BOARD.—

"(A) IN GENERAL.—There is established within the Department of Defense a board, to be known as the 'Military Sentencing Parameters and Criteria Board' (referred to in this subsection as the 'Board').

"(B) VOTING MEMBERS.—The Board shall have 5 voting members, as follows:

"(i) The 4 chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), except that, if the chief trial judge of the Coast Guard is not available, the Judge Advocate General of the Coast Guard may designate as a voting member a judge advocate of the Coast Guard with substantial military justice experience.

"(ii) A trial judge of the Navy, designated under regulations prescribed by the President, if the chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), do not include a trial judge of the Navy.

"(iii) A trial judge of the Marine Corps, designated under regulations prescribed by the President, if the chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), do not include a trial judge of the Marine Corps.

"(C) NONVOTING MEMBERS.—The Chief Judge of the Court of Appeals for the Armed Forces, the Chairman of the Joint Chiefs of Staff, and the General Counsel of the Department of Defense shall each designate one nonvoting member of the Board. The Secretary of Defense may appoint one additional nonvoting member of the Board at the Secretary's discretion.

"(D) CHAIR AND VICE-CHAIR.—The Secretary of Defense shall designate one voting member as chair of the Board and one voting member as vice-chair.

"(E) VOTING REQUIREMENT.—An affirmative vote of at least three members is required for any action of the Board under this subsection.

"(F) DUTIES OF BOARD.—The Board shall have the following duties:

"(i) As directed by the Secretary of Defense, the Board shall submit to the President for approval—

"(I) sentencing parameters for all offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) (other than offenses that the Board identifies as unsuitable for sentencing parameters in accordance with clause (ii)); and

"(II) sentencing criteria to be used by military judges in determining appropriate sentences for offenses that are identified as unsuitable for sentencing parameters in accordance with clause (ii).

"(ii) Identify each offense under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that is unsuitable for sentencing parameters. The Board shall identify an offense as unsuitable for sentencing parameters if—

"(I) the nature of the offense is indeterminate and unsuitable for categorization; and

"(II) there is no similar criminal offense under the laws of the United States or the laws of the District of Columbia.

"(iii) In developing sentencing parameters and criteria, the Board shall consider the sentencing data collected by the Military Justice Review Panel pursuant to section 946(f)(2) of title 10, United States Code (article 146(f)(2) of the Uniform Code of Military Justice).

"(iv) In addition to establishing parameters for sentences of confinement under clause (i)(I), the Board shall consider the appropriateness of establishing sentencing parameters for punitive discharges, fines, reductions, forfeitures, and other lesser punishments authorized under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

"(v) The Board shall regularly—

"(I) review, and propose revision to, in consideration of comments and data coming to the Board's attention, the sentencing parameters and sentencing criteria prescribed under paragraph (1); and

"(II) submit to the President, through the Secretary of Defense, proposed amendments to the sentencing parameters and sentencing criteria, together with statements explaining the basis for the proposed amendments.

"(vi) The Board shall develop means of measuring the degree to which applicable sentencing, penal, and correctional practices are effective with respect to the sentencing factors and policies set forth in this section.

"(vii) In fulfilling its duties and in exercising its powers, the Board shall consult authorities on, and individual and institutional representatives of, various aspects of the military criminal justice system.

The Board may establish separate advisory groups consisting of individuals with current or recent experience in command and in senior enlisted positions, individuals with experience in the trial of courts-martial, and such other groups as the Board deems appropriate.

"(viii) The Board shall submit to the President, through the Secretary of Defense, proposed amendments to the rules for courts-martial with respect to sentencing proceedings and maximum punishments, together with statements explaining the basis for the proposed amendments."

### GUIDELINES ON SENTENCES FOR OFFENSES COMMITTED UNDER THE UNIFORM CODE OF MILITARY JUSTICE

Pub. L. 116–92, div. A, title V, §537, Dec. 20, 2019, 133 Stat. 1363, which required the Secretary of Defense to develop nonbinding guidelines on sentences for offenses under chapter 47 of this title, not later than one year after date on which first report of Military Justice Review Panel is submitted to Committees on Armed Services of Senate and House of Representatives pursuant to section 946(f)(5) of this title, was repealed by Pub. L. 117–81, div. A, title V, §539E(g), Dec. 27, 2021, 135 Stat. 1706. See section 539E(e) of Pub. L. 117–81, set out as a note above.

### EXECUTIVE DOCUMENTS

### PRESCRIPTION OF METHOD OF DESIGNATING A MEMBER OF THE MILITARY SENTENCING PARAMETERS AND CRITERIA BOARD

Memorandum of President of the United States, June 21, 2022, 87 F.R. 37971, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 539E(e)(4)(B) of the National Defense Authorization Act for Fiscal Year 2022, Public Law 117–81, 135 Stat. 1541, 1700 (2021) [set out in a note above], I hereby order as follows:

(1) If the chief trial judges designated under article 26(g) of the Uniform Code of Military Justice, 10 U.S.C. 826(g), do not include a trial judge of the Navy, then the Judge Advocate General of the Navy shall designate as a voting member of the Military Sentencing Parameters and Criteria Board (Board) either the Chief Judge of the Department of the Navy or a Navy trial judge assigned to the Navy and Marine Corps Trial Judiciary.

(2) If the chief trial judges designated under article 26(g) of the Uniform Code of Military Justice, 10 U.S.C. 826(g), do not include a trial judge of the Marine Corps, then the Staff Judge Advocate to the Commandant of the Marine Corps, in consultation with the Judge Advocate General of the Navy, shall designate as a voting member of the Board a Marine Corps trial judge assigned to the Navy and Marine Corps Trial Judiciary.

This memorandum constitutes the regulations provided for in subsections (ii) and (iii) of section 539E(e)(4)(B) of the National Defense Authorization Act for Fiscal Year 2022.

You are authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

[1] *See References in Text note below.*

## [§856a. Repealed. Pub. L. 114–328, div. E, title LVIII, §5301(b), Dec. 23, 2016, 130 Stat. 2920]

Section, added Pub. L. 105–85, div. A, title V, §581(a)(1), Nov. 18, 1997, 111 Stat. 1759, related to sentence of confinement for life without eligibility for parole.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §857. Art. 57. Effective date of sentences

(a) EXECUTION OF SENTENCES.—A court-martial sentence shall be executed and take effect as follows:

(1) FORFEITURE AND REDUCTION.—A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

(A) the date that is 14 days after the date on which the sentence is adjudged; or

(B) in the case of a summary court-martial, the date on which the sentence is approved by the convening authority.

(2) CONFINEMENT.—Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

(3) APPROVAL OF SENTENCE OF DEATH.—If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as the President sees fit. That part of the sentence providing for death may not be suspended.

(4) APPROVAL OF DISMISSAL.—If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the Secretary sees fit. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

(5) COMPLETION OF APPELLATE REVIEW.—If a sentence extends to death, dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may be executed, in accordance with service regulations, after completion of appellate review (and, with respect to death or dismissal, approval under paragraph (3) or (4), as appropriate).

(6) OTHER SENTENCES.—Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

(b) DEFERRAL OF SENTENCES.—

(1) IN GENERAL.—On application by an accused, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(2) DEFERRAL OF CERTAIN PERSONS SENTENCED TO CONFINEMENT.—In any case in which a court-martial sentences a person referred to in paragraph (3) to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

(3) COVERED PERSONS.—Paragraph (2) applies to a person subject to this chapter who—

(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

(4) STATE DEFINED.—In this subsection, the term "State" includes the District of Columbia and any Commonwealth, territory, or possession of the United States.

(5) DEFERRAL WHILE REVIEW PENDING.—In any case in which a court-martial sentences a person to confinement, but in which review of the case under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.

(c) APPELLATE REVIEW.—

(1) COMPLETION OF APPELLATE REVIEW.—Appellate review is complete under this section when—

(A) a review under section 865 of this title (article 65) is completed; or

(B) a review under section 866 of this title (article 66) is completed by a Court of Criminal Appeals and—

(i) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

(ii) such a petition is rejected by the Court of Appeals for the Armed Forces; or

(iii) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

(I) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

(II) such a petition is rejected by the Supreme Court; or

(III) review is otherwise completed in accordance with the judgment of the Supreme Court.

(2) COMPLETION AS FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 90–632, §2(24), Oct. 24, 1968, 82 Stat. 1341; Pub. L. 98–209, §5(f), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 102–484, div. A, title X, §1064, Oct. 23, 1992, 106 Stat. 2505; Pub. L. 104–106, div. A, title XI, §§1121(a), 1123(a)(1), (2), Feb. 10, 1996, 110 Stat. 462–464; Pub. L. 114–328, div. E, title LVIII, §5302(a), Dec. 23, 2016, 130 Stat. 2921.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 857(a) | 50:638(a). | May 5, 1950, ch. 169, §1 (Art. 57), 64 Stat. 126. |
| 857(b) | 50:638(b). | |
| 857(c) | 50:638(c). | |

In subsection (a), the word "may" is substituted for the word "shall".
In subsection (b), the word "begins" is substituted for the words "shall begin".
In subsection (c), the word "are" is substituted for the words "shall become".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to effective date of

sentences.

**1996**—Subsec. (a). Pub. L. 104–106, §1121(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title (article 60(c))."

Subsecs. (d), (e). Pub. L. 104–106, §1123(a)(1), (2), redesignated subsecs. (d) and (e) as section 857a(a) and (b), respectively, of this title.

**1992**—Subsec. (e). Pub. L. 102–484 added subsec. (e).

**1983**—Subsec. (a). Pub. L. 98–209 substituted provision that no forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title, for provision that whenever a sentence of a court-martial as lawfully adjudged and approved included a forfeiture of pay or allowances in addition to confinement not suspended or deferred, the forfeiture could apply to pay or allowances becoming due on or after the date the sentence was approved by the convening authority, and that no forfeiture could extend to any pay or allowances accrued before that date.

**1968**—Subsec. (a). Pub. L. 90–632 inserted reference to deferral of sentence of confinement.

Subsec. (b). Pub. L. 90–632 inserted reference to deferral of sentence of confinement.

Subsec. (d). Pub. L. 90–632 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XI, §1121(b), Feb. 10, 1996, 110 Stat. 462, provided that: "The amendment made by subsection (a) [amending this section] shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act [Feb. 10, 1996]."

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable with respect to offenses committed on or after that date, see section 1067 of Pub. L. 102–484, set out as a note under section 803 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## [§857a. Repealed. Pub. L. 114–328, div. E, title LVIII, §5302(b)(1), Dec. 23, 2016, 130 Stat. 2923]

Section, added Pub. L. 90–632, §2(24), Oct. 24, 1968, 82 Stat. 1341, §857(d); amended Pub. L. 102–484, div. A, title X, §1064, Oct. 23, 1992, 106 Stat. 2505; renumbered §857a and amended Pub. L. 104–106, div. A, title XI, §1123(a), Feb. 10, 1996, 110 Stat. 463, related to deferment of sentence to confinement.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective on Jan. 1, 2019, as designated by the President, with implementing regulations and

provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §858. Art. 58. Execution of confinement

(a) Under such instructions as the Secretary concerned may prescribe, a sentence of confinement adjudged by a court-martial or other military tribunal, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the armed forces or in any penal or correctional institution under the control of the United States, or which the United States may be allowed to use. Persons so confined in a penal or correctional institution not under the control of one of the armed forces are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

(b) The omission of the words "hard labor" from any sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 858(a) | 50:639(a). | May 5, 1950, ch. 169, §1 (Art. 58), 64 Stat. 126. |
| 858(b) | 50:639(b). | |

In subsection (a), the words "Secretary concerned" are substituted for the words "Department concerned", since the "Department" as an entity, cannot issue instructions. The word "are" is substituted for the words "shall be". The words "of Columbia" are inserted after "District" for clarity.

In subsection (b), the word "from" is substituted for the word "in". The words "does not deprive" are substituted for the words "shall not be construed as depriving".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 struck out "Territory," after "State,".

## §858a. Art. 58a. Sentences: reduction in enlisted grade

(a) A court-martial sentence of an enlisted member in a pay grade above E–1, as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c), that includes—

(1) a dishonorable or bad-conduct discharge;
(2) confinement; or
(3) hard labor without confinement;

reduces that member to pay grade E–1, if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

(b) If the sentence of a member who is reduced in pay grade under subsection (a) is set aside or reduced, or, as finally affirmed, does not include any punishment named in subsection (a)(1), (2), or

(3), the rights and privileges of which he was deprived because of that reduction shall be restored to him and he is entitled to the pay and allowances to which he would have been entitled, for the period the reduction was in effect, had he not been so reduced.

(Added Pub. L. 86–633, §1(1), July 12, 1960, 74 Stat. 468; amended Pub. L. 114–328, div. E, title LVIII, §5303, Dec. 23, 2016, 130 Stat. 2923; Pub. L. 115–91, div. A, title V, §531(f)(1), (2), Dec. 12, 2017, 131 Stat. 1385.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Pub. L. 115–91, §531(f)(2), struck out "upon approval" after "reduction in enlisted grade" in section catchline.

Subsec. (a). Pub. L. 115–91, §531(f)(1), substituted ", if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date" for ", effective on the date" in concluding provisions.

**2016**—Subsec. (a). Pub. L. 114–328, §5303(1), in introductory provisions, substituted "A" for "Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a" and "as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)" for "as approved by the convening authority", and, in concluding provisions, substituted "on which the judgment is so entered" for "of that approval".

Subsec. (b). Pub. L. 114–328, §5303(2), substituted "reduced, or, as finally affirmed" for "disapproved, or, as finally approved".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §858b. Art. 58b. Sentences: forfeiture of pay and allowances during confinement

(a)(1) A court-martial sentence described in paragraph (2) shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under section 857 of this title (article 57) and may be deferred as provided in that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds of all pay due that member during such period.

(2) A sentence covered by this section is any sentence that includes—

(A) confinement for more than six months or death; or

(B) confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal.

(b) In a case involving an accused who has dependents, the convening authority or other person acting under section 860a or 860b of this title (article 60a or 60b) may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

(c) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a)(2), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.

(Added Pub. L. 104–106, div. A, title XI, §1122(a)(1), Feb. 10, 1996, 110 Stat. 463; amended Pub. L. 104–201, div. A, title X, §1068(a)(1), Sept. 23, 1996, 110 Stat. 2655; Pub. L. 105–85, div. A, title X, §1073(a)(9), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 114–328, div. E, title LVIII, §5302(b)(3), Dec. 23, 2016, 130 Stat. 2923; Pub. L. 115–91, div. A, title V, §531(g), Dec. 12, 2017, 131 Stat. 1385.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 substituted "section 860a or 860b of this title (article 60a or 60b)" for "section 860 of this title (article 60)".

**2016**—Subsec. (a)(1). Pub. L. 114–328 substituted "section 857 of this title (article 57)" for "section 857(a) of this title (article 57(a))".

**1997**—Subsec. (a)(1). Pub. L. 105–85 substituted "forfeiture of pay, or of pay and allowances, due that member" for "forfeiture of pay and (if adjudged by a general court-martial) allowances due that member" in first sentence.

**1996**—Subsec. (a)(1). Pub. L. 104–201, §1068(a)(1)(B), substituted "two-thirds of all pay" for "two-thirds of all pay and allowances" in third sentence.

Pub. L. 104–201, §1068(a)(1)(A), which directed amendment of first sentence by inserting "(if adjudged by a general court-martial)" after "all pay and", was executed by making the insertion after "of pay and" in first sentence to reflect the probable intent of Congress.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title X, §1068(a)(2), Sept. 23, 1996, 110 Stat. 2655, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date."

### EFFECTIVE DATE

Pub. L. 104–106, div. A, title XI, §1122(b), Feb. 10, 1996, 110 Stat. 463, provided that: "The section (article) added by the amendment made by subsection (a)(1) [this section] shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act [Feb. 10, 1996]."

# SUBCHAPTER IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

| Sec. | Art. | |
|---|---|---|
| 859. | 59. | Error of law; lesser included offense. |
| 860. | 60. | Post-trial processing in general and special courts-martial. |
| 860a | 60a. | Limited authority to act on sentence in specified post-trial circumstances. |
| 860b | 60b. | Post-trial actions in summary courts-martial and certain general and special courts-martial. |
| 860c | 60c. | Entry of judgment. |
| 861. | 61. | Waiver of right to appeal; withdrawal of appeal. |
| 862. | 62. | Appeal by the United States. |
| 863. | 63. | Rehearings. |
| 864. | 64. | Judge advocate review of finding of guilty in summary court-martial. |
| 865. | 65. | Transmittal and review of records. |
| 866. | 66. | Courts of Criminal Appeals. |
| 867. | 67. | Review by the Court of Appeals for the Armed Forces. |
| 867a | 67a. | Review by the Supreme Court. |
| 868. | 68. | Branch offices. |
| 869. | 69. | Review by Judge Advocate General. |
| 870. | 70. | Appellate counsel. |
| [871. | 71. | Repealed.] |
| 872. | 72. | Vacation of suspension. |
| 873. | 73. | Petition for a new trial. |
| 874. | 74. | Remission and suspension. |
| 875. | 75. | Restoration. |
| 876. | 76. | Finality of proceedings, findings, and sentences. |
| 876a | 76a. | Leave required to be taken pending review of certain court-martial convictions. |
| 876b | 76b. | Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment. |


## EDITORIAL NOTES

### AMENDMENTS

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(6)(A) to (C). See 2016 Amendment notes below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(6)(D), Dec. 23, 2016, 130 Stat. 2967, struck out item 871 "Art. 71. Execution of sentence; suspension of sentence".

Pub. L. 114–328, div. E, title LXIII, §5541(6)(B), (C), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted "Judge advocate review of finding of guilty in summary court-martial" for "Review by a judge advocate" in item 864, "Transmittal and review of records" for "Disposition of records" in item 865, "Courts of Criminal Appeals" for "Review by Court of Criminal Appeals" in item 866, and "Review by Judge Advocate General" for "Review in the office of the Judge Advocate General" in item 869.

Pub. L. 114–328, div. E, title LXIII, §5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added items 860a to 860c and substituted "Post-trial processing in general and special courts-martial" for "Action by the convening authority" in item 860.

Pub. L. 114–328, div. E, title LXIII, §5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, which directed amendment of analysis by striking out item "61" and inserting item 861, was amended by striking out item 861 "Waiver or withdrawal of appeal" and adding new item 861 to reflect the probable intent of Congress.

**1996**—Pub. L. 104–106, div. A, title XI, §1133(a)(2), Feb. 10, 1996, 110 Stat. 466, added item 876b.

**1994**—Pub. L. 103–337, div. A, title IX, §924(c)(4)(C), Oct. 5, 1994, 108 Stat. 2832, substituted "Court of Criminal Appeals" for "Court of Military Review" in item 866 and "Court of Appeals for the Armed Forces" for "Court of Military Appeals" in item 867.

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(i)(1), Nov. 5, 1990, 104 Stat. 1718, added item 867a.

**1983**—Pub. L. 98–209, §§5(a)(2), (b)(2), (c)(2), (h)(2), 6(d)(2), 7(a)(2), Dec. 6, 1983, 97 Stat. 1397, 1398, 1400–1402, substituted "Post-trial Procedure and Review of Courts-Martial" for "Review of Courts-Martial" as subchapter heading, "Action by the convening authority" for "Initial action on the record" in item 860, "Waiver or withdrawal of appeal" for "Same—General court-martial records" in item 861, "Appeal by the United States" for "Reconsideration and revision" in item 862, "Review by a judge advocate" for "Approval by the convening authority" in item 864, and "Disposition of records" for "Disposition of records after review by the convening authority" in item 865.

**1981**—Pub. L. 97–81, §2(c)(2), Nov. 20, 1981, 95 Stat. 1087, added item 876a.

**1968**—Pub. L. 90–632, §2(25), Oct. 24, 1968, 82 Stat. 1341, substituted "Court of Military Review" for "board of review" in item 866 (article 66).

## §859. Art. 59. Error of law; lesser included offense

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 859(a) | 50:646(a). | May 5, 1950, ch. 169, §1 (Art. 59), 64 Stat. 127. |
| 859(b) | 50:646(b). | |

The word "may" is substituted for the word "shall".

## §860. Art. 60. Post-trial processing in general and special courts-martial

(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled "Statement of Trial Results", which shall set forth—

(A) each plea and finding;

(B) the sentence, if any; and

(C) such other information as the President may prescribe by regulation.

(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

(1) may affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any post-trial action by the convening authority; and

(2) are subject to resolution by the military judge before entry of judgment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 98–209, §5(a)(1), Dec. 6, 1983, 97 Stat. 1395; Pub. L. 99–661, div. A, title VIII, §806(a)–(c), Nov. 14, 1986, 100 Stat. 3908, 3909; Pub. L. 104–106, div. A, title XI, §1132, Feb. 10, 1996, 110 Stat. 464; Pub. L. 113–66, div. A, title XVII, §§1702(b), (c)(1), 1706, Dec. 26, 2013, 127 Stat. 955–957, 960; Pub. L. 113–291, div. A, title V, §531(a)(1)–(3), (5), Dec. 19, 2014, 128 Stat. 3362, 3363; Pub. L. 114–328, div. E, title LIX, §5321, Dec. 23, 2016, 130 Stat. 2924.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 860 | 50:647. | May 5, 1950, ch. 169, §1 (Art. 60), 64 Stat. 127. |

The word "a" is substituted for the word "every". The word "by" before the words "any officer" is omitted as surplusage. The word "person" is substituted for the word "officer" before the words "who convened", since, under sections 823 and 824 of this title (articles 23 and 24), noncommissioned officers who are "officers in charge" may convene special and summary courts-martial.

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to action by the convening authority.

**2014**—Subsec. (c)(3)(A). Pub. L. 113–291, §531(a)(1)(A), inserted "and may be taken only with respect to a qualifying offense" after "is not required".

Subsec. (c)(3)(B)(i). Pub. L. 113–291, §531(a)(1)(B), struck out ", other than a charge or specification for a qualifying offense," after "specification" and inserted ", but may take such action with respect to a qualifying offense" before semicolon.

Subsec. (c)(3)(B)(ii). Pub. L. 113–291, §531(a)(1)(C), struck out ", other than a charge or specification for a qualifying offense," after "to a charge or specification" and inserted ", but may take such action with respect to a qualifying offense" before period.

Subsec. (c)(3)(C). Pub. L. 113–291, §531(a)(2), struck out "(other than a qualifying offense)" after "offense".

Subsec. (c)(4)(C)(ii). Pub. L. 113–291, §531(a)(5), inserted "pursuant to section 856(b) of this title (article 56(b))" after "applies".

Subsec. (d)(2)(A)(i). Pub. L. 113–291, §531(a)(3)(A)(i), inserted ", if applicable" before semicolon.

Subsec. (d)(2)(A)(ii). Pub. L. 113–291, §531(a)(3)(A)(ii), struck out "if applicable," before "the date".

Subsec. (d)(5). Pub. L. 113–291, §531(a)(3)(B), substituted "harm" for "loss".

**2013**—Subsec. (b)(1). Pub. L. 113–66, §1706(c), substituted "subsection (e)" for "subsection (d)".

Subsec. (b)(2). Pub. L. 113–66, §1702(c)(1)(A), substituted "or another person authorized to act under this section" for "or other person taking action under this section".

Subsec. (b)(5). Pub. L. 113–66, §1706(b), added par. (5).

Subsec. (c). Pub. L. 113–66, §1702(b), amended subsec. (c) generally. Prior to amendment, text related to the command prerogative of the convening authority to modify the findings and sentence of a court-martial.

Subsec. (d). Pub. L. 113–66, §1706(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 113–66, §1702(c)(1)(B), substituted "or another person authorized to act under this section" for "or other person taking action under this section" in first sentence.

Subsec. (e). Pub. L. 113–66, §1706(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 113–66, §1702(c)(1)(C), substituted "or another person authorized to act under this section" for "or other person taking action under this section, in his sole discretion,".

Subsec. (e)(3). Pub. L. 113–66, §1702(c)(1)(D), substituted "or another person authorized to act under this section" for "or other person taking action under this section".

Subsec. (f). Pub. L. 113–66, §1706(a)(1), redesignated subsec. (e) as (f).

**1996**—Subsec. (b)(1). Pub. L. 104–106 inserted after first sentence "Any such submission shall be in writing."

**1986**—Subsec. (b)(1). Pub. L. 99–661, §806(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special courts-martial, the accused may make such a submission to the convening authority within 20 days after the sentence is announced. In the case of all summary courts-martial the accused

may make such a submission to the convening authority within seven days after the sentence is announced. If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional 20 days; and

"(B) in the case of all other courts-martial, for not more than an additional 10 days."

Subsec. (b)(2). Pub. L. 99–661, §806(a)(2), (3), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 99–661, §806(a)(1), (2), redesignated par. (2) as (3), inserted a comma after "case", and struck out former par. (3) which read as follows: "In no event shall the accused in any general or special court-martial case have less than a seven-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, for good cause, may extend this period for up to an additional 10 days."

Subsec. (c)(2). Pub. L. 99–661, §806(b), struck out "and, if applicable, under subsection (d)," after "under subsection (b)".

Subsec. (d). Pub. L. 99–661, §806(c), substituted "who may submit any matter in response under subsection (b)" for "who shall have five days from the date of receipt in which to submit any matter in response. The convening authority or other person taking action under this section, for good cause, may extend that period for up to an additional 20 days."

**1983**—Pub. L. 98–209 amended section generally, substituting "Action by the convening authority" for "Initial action on the record" as section catchline, and, in text, substituting new provision for provision that after a trial by court-martial the record had to be forwarded to the convening authority, and action thereon could be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or any officer exercising general court-martial jurisdiction.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title XVII, §1702(d)(2), Dec. 26, 2013, 127 Stat. 958, as amended by Pub. L. 113–291, div. A, title V, §531(g)(2)(A), Dec. 19, 2014, 128 Stat. 3365, provided that:

"(A) Except as provided in subparagraph (B), the amendments made by subsection (b) and paragraphs (1) and (2) of subsection (c) [amending this section and section 871 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 26, 2013] and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.

"(B) With respect to the findings and sentence of a court-martial that includes both a conviction for an offense committed before the effective date specified in subparagraph (A) and a conviction for an offense committed on or after that effective date, the convening authority shall have the same authority to take action on such findings and sentence as was in effect on the day before such effective date, except with respect to a mandatory minimum sentence under section 856(b) of title 10, United States Code (article 56(b) of the Uniform Code of Military Justice)."

[Pub. L. 113–291, div. A, title V, §531(g)(2)(B), Dec. 19, 2014, 128 Stat. 3366, provided that: "The amendments made by subparagraph (A) [amending section 1702(d)(2) of Pub. L. 113–66, set out above] shall not apply to the findings and sentence of a court-martial with respect to which the convening authority has taken action before the date that is 30 days after the date of the enactment of this Act [Dec. 19, 2014]."]

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, §806(c) [(d)], Nov. 14, 1986, 100 Stat. 3909, provided that: "The amendments made by this section [amending this section] shall apply in cases in which the sentence is adjudged on or after the effective date of this title."

Title VIII of Pub. L. 99–661 effective the earlier of (1) the last day of the 120-day period beginning on Nov. 14, 1986; or (2) the date specified in an Executive order for such amendment to take effect, see section 808 of Pub. L. 99–661, set out as a note under section 802 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

## §860a. Art. 60a. Limited authority to act on sentence in specified post-trial circumstances

(a) IN GENERAL.—(1) The convening authority of a general or special court-martial described in paragraph (2)—

(A) may act on the sentence of the court-martial only as provided in subsection (b), (c), or (d); and

(B) may not act on the findings of the court-martial.

(2) The courts-martial referred to in paragraph (1) are the following:

(A) A general or special court-martial in which the maximum sentence of confinement established under subsection (a) of section 856 of this title (article 56) for any offense of which the accused is found guilty is more than two years.

(B) A general or special court-martial in which the total of the sentences of confinement imposed, running consecutively, is more than six months.

(C) A general or special court-martial in which the sentence imposed includes a dismissal, dishonorable discharge, or bad-conduct discharge.

(D) A general or special court-martial in which the accused is found guilty of a violation of subsection (a) or (b) of section 920 of this title (article 120), section 920b of this title (article 120b), or such other offense as the Secretary of Defense may specify by regulation.

(3) Except as provided in subsection (d), the convening authority may act under this section only before entry of judgment.

(4) Under regulations prescribed by the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

(b) REDUCTION, COMMUTATION, AND SUSPENSION OF SENTENCES GENERALLY .—(1) Except as provided in subsection (c) or (d), the convening authority may not reduce, commute, or suspend any of the following sentences:

(A) A sentence of confinement, if the total period of confinement imposed for all offenses involved, running consecutively, is greater than six months.

(B) A sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

(C) A sentence of death.

(2) The convening authority may reduce, commute, or suspend any sentence not specified in paragraph (1).

(c) SUSPENSION OF CERTAIN SENTENCES UPON RECOMMENDATION OF MILITARY JUDGE.—(1) Upon recommendation of the military judge, as included in the Statement of Trial Results, together with an explanation of the facts supporting the recommendation, the convening authority may suspend—

(A) a sentence of confinement, in whole or in part; or

(B) a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

(2) The convening authority may not, under paragraph (1)—

(A) suspend a mandatory minimum sentence; or

(B) suspend a sentence to an extent in excess of the suspension recommended by the military

judge.

(d) REDUCTION OF SENTENCE FOR SUBSTANTIAL ASSISTANCE BY ACCUSED.—(1) Upon a recommendation by the trial counsel, if the accused, after sentencing and before entry of judgment, provides substantial assistance in the investigation or prosecution of another person, the convening authority may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

(2) Upon a recommendation by a trial counsel, designated in accordance with rules prescribed by the President, if the accused, after entry of judgment, provides substantial assistance in the investigation or prosecution of another person, a convening authority, designated under such regulations, may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

(3) In evaluating whether the accused has provided substantial assistance under this subsection, the convening authority may consider the presentence assistance of the accused.

(e) SUBMISSIONS BY ACCUSED AND VICTIM.—(1) In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of an offense. Such rules shall include—

(A) procedures for notice of the opportunity to make such submissions;

(B) the deadlines for such submissions; and

(C) procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

(2) The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

(f) DECISION OF CONVENING AUTHORITY.—(1) The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

(2) If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

(3) If, under subsection (d)(2), the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the chief trial judge for appropriate modification of the entry of judgment, which shall be transmitted to the Judge Advocate General for appropriate action.

(Added Pub. L. 114–328, div. E, title LIX, §5322, Dec. 23, 2016, 130 Stat. 2924.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §860b. Art. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial

(a) IN GENERAL.—(1) In a court-martial not specified in section 860a(a)(2) of this title (article 60a(a)(2)), the convening authority may—

(A) dismiss any charge or specification by setting aside the finding of guilty;

(B) change a finding of guilty to a charge or specification to a finding of guilty to a lesser

included offense;

(C) disapprove the findings and the sentence and dismiss the charges and specifications;

(D) disapprove the findings and the sentence and order a rehearing as to the findings and the sentence;

(E) disapprove, commute, or suspend the sentence, in whole or in part; or

(F) disapprove the sentence and order a rehearing as to the sentence.

(2) In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph (1).

(3) Except as provided in paragraph (4), the convening authority may act under this section only before entry of judgment.

(4) The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under section 860a(d)(2) of this title (article 60a(d)(2)). Such action shall be forwarded to the chief trial judge, who shall ensure appropriate modification to the entry of judgment and shall transmit the entry of judgment to the Judge Advocate General for appropriate action.

(5) Under regulations prescribed by the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

(b) LIMITATIONS ON REHEARINGS.—The convening authority may not order a rehearing under this section—

(1) as to the findings, if there is insufficient evidence in the record to support the findings;

(2) to reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or

(3) to reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter.

(c) SUBMISSIONS BY ACCUSED AND VICTIM.—In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by section 860a(e) of this title (article 60a(e)).

(d) DECISION OF CONVENING AUTHORITY.—(1) In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

(2) If the convening authority acts on the findings or the sentence under subsection (a)(1), the decision of the convening authority shall include a written explanation of the reasons for such action.

(Added Pub. L. 114–328, div. E, title LIX, §5323, Dec. 23, 2016, 130 Stat. 2926.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §860c. Art. 60c. Entry of judgment

(a) ENTRY OF JUDGMENT OF GENERAL OR SPECIAL COURT-MARTIAL.—(1) In accordance with rules prescribed by the President, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following:

(A) The Statement of Trial Results under section 860 of this title (article 60).

(B) Any modifications of, or supplements to, the Statement of Trial Results by reason of—
(i) any post-trial action by the convening authority; or
(ii) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

(2) Under rules prescribed by the President, the judgment under paragraph (1) shall be—
(A) provided to the accused and to any victim of the offense; and
(B) made available to the public.

(b) SUMMARY COURT-MARTIAL JUDGMENT.—The findings and sentence of a summary court-martial, as modified by any post-trial action by the convening authority under section 860b of this title (article 60b), constitutes the judgment of the court-martial and shall be recorded and distributed under rules prescribed by the President.

(Added Pub. L. 114–328, div. E, title LIX, §5324, Dec. 23, 2016, 130 Stat. 2927.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

## §861. Art. 61. Waiver of right to appeal; withdrawal of appeal

(a) WAIVER OF RIGHT TO APPEAL.—After entry of judgment in a general or special court-martial, under procedures prescribed by the Secretary concerned, the accused may waive the right to appellate review in each case subject to such review under section 866 of this title (article 66). Such a waiver shall be—
(1) signed by the accused and by defense counsel; and
(2) attached to the record of trial.

(b) WITHDRAWAL OF APPEAL.—In a general or special court-martial, the accused may withdraw an appeal at any time.

(c) DEATH PENALTY CASE EXCEPTION.—Notwithstanding subsections (a) and (b), an accused may not waive the right to appeal or withdraw an appeal with respect to a judgment that includes a sentence of death.

(d) WAIVER OR WITHDRAWAL AS BAR.—Except as provided by section 869(c)(2) of this title (article 69(c)(2)), a waiver or withdrawal under this section bars review under section 866 of this title (article 66).

(Aug. 10, 1956, ch. 1041, 70A Stat. 58; Pub. L. 98–209, §5(b)(1), Dec. 6, 1983, 97 Stat. 1397; Pub. L. 114–328, div. E, title LIX, §5325, Dec. 23, 2016, 130 Stat. 2928; Pub. L. 117–263, div. A, title V, §544(a), Dec. 23, 2022, 136 Stat. 2582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 861 | 50:648. | May 5, 1950, ch. 169, §1 (Art. 61), 64 Stat. 127. |

The word "each" is substituted for the word "every".

**EDITORIAL NOTES**

### AMENDMENTS

**2022**—Subsec. (d). Pub. L. 117–263 substituted "Except as provided by section 869(c)(2) of this title (article 69(c)(2)), a waiver" for "A waiver".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to waiver or withdrawal of appeal.

**1983**—Pub. L. 98–209 amended section generally, substituting "Waiver or withdrawal of appeal" for "Same—General court-martial records" as section catchline, and, in text, substituting provisions relating to waiver or withdrawal of appeal for provisions relating to initial action by the convening authority on general court-martial records.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §544(d), Dec. 23, 2022, 136 Stat. 2583, provided that: "The amendments made by this section [amending this section and sections 866 and 869 of this title] shall not apply to—

"(1) any matter that was submitted before the date of the enactment of this Act [Dec. 23, 2022] to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice); or

"(2) any matter that was submitted before the date of the enactment of this Act to a Judge Advocate General under section 869 of such title (article 69 of the Uniform Code of Military Justice)."

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

## §862. Art. 62. Appeal by the United States

(a)(1) In a trial by general or special court-martial, or in a pretrial proceeding under section 830a of this title (article 30a), the United States may appeal the following:

(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

(C) An order or ruling which directs the disclosure of classified information.

(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

(E) A refusal of the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information.

(F) A refusal by the military judge to enforce an order described in subparagraph (E) that has previously been issued by appropriate authority.

(G) An order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.

(2)(A) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and (if the order or ruling appealed is one which excludes evidence) that the evidence excluded is substantial proof of a fact material in the proceeding.

(B) An appeal of an order or ruling may not be taken when prohibited by section 844 of this title (article 44).

(3) An appeal under this section shall be diligently prosecuted by appellate Government counsel.

(b) An appeal under this section shall be forwarded by a means prescribed under regulations of the President directly to the Court of Criminal Appeals and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Court of Criminal Appeals may act only with respect to matters of law.

(c) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

(d) The United States may appeal a ruling or order of a military magistrate in the same manner as had the ruling or order been made by a military judge, except that the issue shall first be presented to the military judge who designated the military magistrate or to a military judge detailed to hear the issue.

(e) The provisions of this section shall be liberally construed to effect its purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 58; Pub. L. 98–209, §5(c)(1), Dec. 6, 1983, 97 Stat. 1398; Pub. L. 103–337, div. A, title IX, §924(c)(2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 104–106, div. A, title XI, §1141(a), Feb. 10, 1996, 110 Stat. 466; Pub. L. 114–328, div. E, title LIX, §5326, Dec. 23, 2016, 130 Stat. 2928; Pub. L. 115–91, div. A, title V, §531(h), Dec. 12, 2017, 131 Stat. 1385.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 862(a) | 50:649(a). | May 5, 1950, ch. 169, §1 (Art. 62), 64 Stat. 127. |
| 862(b) | 50:649(b). | |

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (b). Pub. L. 115–91 struck out ", notwithstanding section 866(c) of this title (article 66(c))" after "matters of law".

**2016**—Subsec. (a)(1). Pub. L. 114–328, §5326(1)(A), in introductory provisions, substituted "general or special court-martial, or in a pretrial proceeding under section 830a of this title (article 30a), the United States may appeal the following:" for "court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal the following (other than an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification):".

Subsec. (a)(1)(G). Pub. L. 114–328, §5326(1)(B), added subpar. (G).

Subsec. (a)(2). Pub. L. 114–328, §5326(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsecs. (d), (e). Pub. L. 114–328, §5326(3), added subsecs. (d) and (e).

**1996**—Subsec. (a)(1). Pub. L. 104–106 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal an order or ruling of the military judge which terminates the proceedings with respect to a charge or specification or which excludes evidence that is substantial proof of a fact material in the proceeding. However, the United States may not appeal an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification."

**1994**—Subsec. (b). Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" in two places.

**1983**—Pub. L. 98–209 amended section generally, substituting "Appeal by the United States" for "Reconsideration and revision" as section catchline, and, in text, substituting provisions relating to appeals by the United States for provisions relating to the convening authority returning the record to the court for reconsideration and appropriate action.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

## §863. Art. 63. Rehearings

(a) Each rehearing under this chapter shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be adjudged, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

(b) If the sentence adjudged by the first court-martial was in accordance with a plea agreement under section 853a of this title (article 53a) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial, subject to such limitations as the President may prescribe by regulation.

(c) If, after appeal by the Government under section 856(d) of this title (article 56(d)), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Court of Criminal Appeals or Court of Appeals for the Armed Forces, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the President may prescribe by regulation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 58; Pub. L. 98–209, §5(d), Dec. 6, 1983, 97 Stat. 1398; Pub. L. 102–484, div. A, title X, §1065, Oct. 23, 1992, 106 Stat. 2506; Pub. L. 114–328, div. E, title LIX, §5327, Dec. 23, 2016, 130 Stat. 2929; Pub. L. 115–91, div. A, title V, §531(i), Dec. 12, 2017, 131 Stat. 1385.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 863(a) | 50:650(a). | May 5, 1950, ch. 169, §1 (Art. 63), 64 Stat. 127. |
| 863(b) | 50:650(b). | |

In subsection (a), the words "In such a" are substituted for the words "in which".

In subsection (b), the word "Each" is substituted for the word "Every". The word "may" is substituted for the word "shall" in the second sentence.

**EDITORIAL NOTES**

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 inserted ", subject to such limitations as the President may prescribe by regulation" before period at end.

**2016**—Pub. L. 114–328 designated existing provisions as subsec. (a), substituted "may be adjudged" for "may be approved" in second sentence, struck out at end "If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.", and added subsecs. (b) and (c).

**1992**—Pub. L. 102–484 substituted "approved" for "imposed" in second sentence and inserted "approved" before last reference to "sentence" in third sentence.

**1983**—Pub. L. 98–209 struck out subsec. (a) which provided that if the convening authority disapproved the findings and sentence of a court-martial he could, except where there was lack of sufficient evidence in the record to support the findings, order a rehearing, stating the reasons for disapproval, and that if he disapproved the findings without reordering a rehearing, he had to dismiss the charges, and redesignated former subsec. (b) as entire section, and, as so redesignated, inserted "under this chapter" after "Each rehearing", and inserted provision that if the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable with respect to offenses committed on or after that date, see section 1067 of Pub. L. 102–484, set out as a note under section 803 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

## §864. Art. 64. Judge advocate review of finding of guilty in summary court-martial

(a) IN GENERAL.—Under regulations prescribed by the Secretary concerned, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

(1) Conclusions as to whether—

(A) the court had jurisdiction over the accused and the offense;

(B) the charge and specification stated an offense; and
(C) the sentence was within the limits prescribed as a matter of law.

(2) A response to each allegation of error made in writing by the accused.
(3) If the case is sent for action under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

(b) RECORD.—The record of trial and related documents in each case reviewed under subsection (a) shall be sent for action to the person exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that person's successor in command) if—
(1) the judge advocate who reviewed the case recommends corrective action; or
(2) such action is otherwise required by regulations of the Secretary concerned.

(c)(1) The person to whom the record of trial and related documents are sent under subsection (b) may—
(A) disapprove or approve the findings or sentence, in whole or in part;
(B) remit, commute, or suspend the sentence in whole or in part;
(C) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or
(D) dismiss the charges.

(2) If a rehearing is ordered but the convening authority finds a rehearing impracticable, he shall dismiss the charges.
(3) If the opinion of the judge advocate in the judge advocate's review under subsection (a) is that corrective action is required as a matter of law and if the person required to take action under subsection (b) does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the Judge Advocate General for review under section 869 of this title (article 69).

(Aug. 10, 1956, ch. 1041, 70A Stat. 58; Pub. L. 98–209, §7(a)(1), Dec. 6, 1983, 97 Stat. 1401; Pub. L. 114–328, div. E, title LIX, §5328, Dec. 23, 2016, 130 Stat. 2929; Pub. L. 115–91, div. A, title X, §1081(c)(1)(I), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 864 | 50:651. | May 5, 1950, ch. 169, §1 (Art. 64), 64 Stat. 128. |

The word "may" is substituted for the word "shall". The word "is" is substituted for the words "shall constitute".

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (a). Pub. L. 115–91 substituted "(a) IN GENERAL.—" for "(a) (a) IN GENERAL.—".
**2016**—Pub. L. 114–328, §5328(b)(1), substituted "Judge advocate review of finding of guilty in summary court-martial" for "Review by a judge advocate" in section catchline.
Subsec. (a). Pub. L. 114–328, §5328(a), inserted subsec. (a) designation, heading, and first two sentences, and struck out former first two sentences which read as follows: "Each case in which there has been a finding of guilty that is not reviewed under section 866 or 869(a) of this title (article 66 or 69(a)) shall be reviewed by a judge advocate under regulations of the Secretary concerned. A judge advocate may not review a case under this subsection if he has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense."
Subsec. (b). Pub. L. 114–328, §5328(b)(2)(A), inserted heading.
Subsec. (b)(2), (3). Pub. L. 114–328, §5328(b)(2)(B)–(D), redesignated par. (3) as (2) and struck out former

par. (2) which read as follows: "the sentence approved under section 860(c) of this title (article 60(c)) extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or".

Subsec. (c)(3). Pub. L. 114–328, §5328(b)(3), substituted "section 869 of this title (article 69)." for "section 869(b) of this title (article 69(b))."

**1983**—Pub. L. 98–209 amended section generally, substituting "Review by a judge advocate" for "Approval by the convening authority" in section catchline, and, in text, substituting provisions relating to review by a judge advocate for provision that in acting on the findings and sentence of a court-martial, the convening authority could approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he found correct in law and fact and as he in his discretion determined should be approved, and that unless he indicated otherwise, approval of the sentence was approval of the findings and sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

## §865. Art. 65. Transmittal and review of records

(a) TRANSMITTAL OF RECORDS.—

(1) FINDING OF GUILTY IN GENERAL OR SPECIAL COURT-MARTIAL.—If the judgment of a general or special court-martial entered under section 860c of this title (article 60c) includes a finding of guilty, the record shall be transmitted to the Judge Advocate General.

(2) OTHER CASES.—In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.

(b) CASES FOR DIRECT APPEAL.—

(1) AUTOMATIC REVIEW.—If the judgment includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more, the Judge Advocate General shall forward—

(A) the record of trial to the Court of Criminal Appeals for review under section 866(b)(3) of this title (article 66(b)(3)); and

(B) a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Court of Criminal Appeals.

(2) CASES ELIGIBLE FOR DIRECT APPEAL REVIEW.—

(A) IN GENERAL.—If the case is eligible for direct review under section 866(b)(1) of this title (article 66(b)(1)), the Judge Advocate General shall, upon written request of the accused—

(i) forward a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and to represent the accused before the Court of Criminal Appeals; and

(ii) forward a copy of the record of trial to civilian counsel provided by the accused.

(B) INAPPLICABILITY.—Subparagraph (A) shall not apply if the accused waives the right to appeal under section 861 of this title (article 61).

(c) NOTICE OF RIGHT TO APPEAL.—

(1) IN GENERAL.—The Judge Advocate General shall provide notice to the accused of the right to file an appeal under section 866(b)(1) of this title (article 66(b)(1)) by means of depositing in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in the official service record of the accused.

(2) INAPPLICABILITY UPON WAIVER OF APPEAL.—Paragraph (1) shall not apply if the accused waives the right to appeal under section 861 of this title (article 61).

(d) REVIEW BY JUDGE ADVOCATE GENERAL.—

(1) BY WHOM.—A review conducted under this subsection may be conducted by an attorney within the Office of the Judge Advocate General or another attorney designated under regulations prescribed by the Secretary concerned.

(2) REVIEW OF CASES NOT ELIGIBLE FOR DIRECT APPEAL.—

(A) IN GENERAL.—A review under subparagraph (B) shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph (1) or (3) of section 866(b) of this title (article 66(b)).

(B) SCOPE OF REVIEW.—A review referred to in subparagraph (A) shall include a written decision providing each of the following:

(i) A conclusion as to whether the court had jurisdiction over the accused and the offense.

(ii) A conclusion as to whether the charge and specification stated an offense.

(iii) A conclusion as to whether the sentence was within the limits prescribed as a matter of law.

(iv) A response to each allegation of error made in writing by the accused.

(3) REVIEW WHEN DIRECT APPEAL IS WAIVED, WITHDRAWN, OR NOT FILED.—

(A) IN GENERAL.—A review under subparagraph (B) shall be completed in each general and special court-martial if—

(i) the accused waives the right to appeal or withdraws appeal under section 861 of this title (article 61); or

(ii) the accused does not file a timely appeal in a case eligible for direct appeal under subparagraph (A), (B), or (C) of section 866(b)(1) of this title (article 66(b)(1)).

(B) SCOPE OF REVIEW.—A review referred to in subparagraph (A) shall include a written decision limited to providing conclusions on the matters specified in clauses (i), (ii), and (iii) of paragraph (2)(B).

(e) REMEDY.—

(1) IN GENERAL.—If after a review of a record under subsection (d), the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the Judge Advocate General, who may set aside the findings or sentence, in whole or in part.

(2) REHEARING.—In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

(3) REMEDY WITHOUT REHEARING.—

(A) DISMISSAL WHEN NO REHEARING ORDERED.—If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

(B) DISMISSAL WHEN REHEARING IMPRACTICABLE.—

(i) IN GENERAL.—Subject to clause (ii), if the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

(ii) CASES REFERRED BY SPECIAL TRIAL COUNSEL.—If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.

(Aug. 10, 1956, ch. 1041, 70A Stat. 59; Pub. L. 90–179, §1(6), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90–632, §2(26), Oct. 24, 1968, 82 Stat. 1341; Pub. L. 96–513, title V, §511(25), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 98–209, §6(d)(1), Dec. 6, 1983, 97 Stat. 1401; Pub. L. 114–328, div. E, title LIX, §5329, Dec. 23, 2016, 130 Stat. 2930; Pub. L. 115–91, div. A, title X, §1081(c)(1)(J), Dec. 12, 2017, 131 Stat. 1598; Pub. L. 117–81, div. A, title V, §539A(a), Dec. 27, 2021, 135 Stat. 1698; Pub. L. 118–159, div. A, title V, §563, Dec. 23, 2024, 138 Stat. 1903.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 865(a) | 50:652(a). | May 5, 1950, ch. 169, §1 (Art. 65), 64 Stat. 128. |
| 865(b) | 50:652(b). | |
| 865(c) | 50:652(c). | |

In subsection (b), the word "If" is substituted for the word "Where".

In subsections (a) and (b), the words "send" and "sent" are substituted for the words "forward" and "forwarded", respectively.

In subsection (c), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b)(1). Pub. L. 118–159, §563(1), substituted "forward—" for "forward", inserted subpar. (A) designation before "the record", and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 118–159, §563(2)(A)(i), substituted "shall, upon written request of the accused" for "shall" in introductory provisions.

Subsec. (b)(2)(A)(i). Pub. L. 118–159, §563(2)(A)(ii), struck out ", upon request of the accused," after "review the case and".

Subsec. (b)(2)(A)(ii). Pub. L. 118–159, §563(2)(A)(iii), struck out "upon written request of the accused," before "forward a copy".

Subsec. (b)(2)(B). Pub. L. 118–159, §563(2)(B), substituted "accused" for "accused—", struck out cl. (i) designation before "waives", and struck out cl. (ii) which read as follows: "declines in writing the detailing of appellate defense counsel under subparagraph (A)(i)."

**2021**—Subsec. (e)(3)(B). Pub. L. 117–81 substituted "impracticable" for "impractical" in subpar. heading, designated existing provisions as cl. (i), inserted cl. (i) heading, substituted "Subject to clause (ii), if the Judge Advocate General" for "If the Judge Advocate General" and "impracticable" for "impractical", and added cl. (ii).

**2017**—Subsec. (b)(1). Pub. L. 115–91 substituted "section 866(b)(3) of this title (article 66(b)(3))" for "section 866(b)(2) of this title (article 66(b)(2))".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to disposition of records.

**1983**—Pub. L. 98–209 amended section generally, substituting "Disposition of records" for "Disposition of records after review by the convening authority" in section catchline, and, in text, substituting provisions relating to disposition of records for prior provisions relating to disposition of records that required when the convening authority had taken final action in a general court-martial case, he had to send the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the appropriate Judge Advocate General, required that where sentences of special courts-martial included a bad-conduct discharge, the record had to be sent for review either to the officer exercising general

court-martial jurisdiction over the command to be reviewed or directly to the appropriate Judge Advocate General to be reviewed by a Court of Military Review, and required that all other special and summary court-martial records had to be reviewed by a judge advocate of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or Department of Transportation, and had to be transmitted and disposed of as the Secretary concerned might prescribe by regulation.

**1980**—Subsec. (c). Pub. L. 96–513 substituted "Department of Transportation" for "Department of the Treasury".

**1968**—Subsec. (b). Pub. L. 90–632 substituted "Court of Military Review" for "board of review" wherever appearing.

**1967**—Subsec. (c). Pub. L. 90–179 inserted reference to judge advocate of the Marine Corps and substituted reference to judge advocate of the Navy for reference to law specialist of the Navy.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §866. Art. 66. Courts of Criminal Appeals

(a) COURTS OF CRIMINAL APPEALS.—

(1) IN GENERAL.—Each Judge Advocate General shall establish a Court of Criminal Appeals which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing court-martial cases, the court may sit in panels or as a whole in accordance with rules prescribed under subsection (h). Any decision of a panel may be reconsidered by the court sitting as a whole in accordance with such rules. Appellate military judges who are assigned to a Court of Criminal Appeals may be commissioned officers or civilians, each of whom must be a member of a bar of a Federal court or of the highest court of a State and must be certified by the Judge Advocate General as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate

military judge. The Judge Advocate General shall designate as chief judge one of the appellate military judges of the Court of Criminal Appeals established by him. The chief judge shall determine on which panels of the court the appellate judges assigned to the court will serve and which military judge assigned to the court will act as the senior judge on each panel. In accordance with regulations prescribed by the President, assignments of appellate military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.

(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualifications specified in paragraph (1), any commissioned officer or civilian assigned as an appellate military judge to a Court of Criminal Appeals shall have not fewer than 12 years of experience in the practice of law before such assignment.

(b) REVIEW.—

(1) APPEALS BY ACCUSED.—A Court of Criminal Appeals shall have jurisdiction over—

(A) a timely appeal from the judgment of a court-martial, entered into the record under section 860c(a) of this title (article 60c(a)), that includes a finding of guilty; and

(B) a summary court-martial case in which the accused filed an application for review with the Court under section 869(d)(1) of this title (article 69(d)(1)) and for which the application has been granted by the Court.

(2) REVIEW OF CERTAIN SENTENCES.—A Court of Criminal Appeals shall have jurisdiction over all cases that the Judge Advocate General orders sent to the Court for review under section 856(d) of this title (article 56(d)).

(3) AUTOMATIC REVIEW.—A Court of Criminal Appeals shall have jurisdiction over a court-martial in which the judgment entered into the record under section 860c of this title (article 60c) includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more.

(c) TIMELINESS.—An appeal under subsection (b)(1) is timely if—

(1) in the case of an appeal under subparagraph (A) of such subsection, it is filed before the later of—

(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)); or

(B) the date set by the Court of Criminal Appeals by rule or order; and

(2) in the case of an appeal under subparagraph (B) of such subsection, an application for review with the Court is filed not later than the earlier of the dates established under section 869(d)(2)(B) of this title (article 69(d)(2)(B)).

(d) DUTIES.—

(1) CASES APPEALED BY ACCUSED.—

(A) IN GENERAL.—In any case before the Court of Criminal Appeals under subsection (b), the Court may act only with respect to the findings and sentence as entered into the record under section 860c of this title (article 60c). The Court may affirm only such findings of guilty as the Court finds correct in law, and in fact in accordance with subparagraph (B).

(B) FACTUAL SUFFICIENCY REVIEW.—(i) In an appeal of a finding of guilty under subsection (b), the Court may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.

(ii) After an accused has made such a showing, the Court may weigh the evidence and determine controverted questions of fact subject to—

(I) appropriate deference to the fact that the trial court saw and heard the witnesses and other evidence; and

(II) appropriate deference to findings of fact entered into the record by the military judge.

(iii) If, as a result of the review conducted under clause (ii), the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding, or affirm a lesser finding.

(2) ERROR OR EXCESSIVE DELAY.—In any case before the Court of Criminal Appeals under subsection (b), the Court may provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under section 860c of this title (article 60c).

(e) CONSIDERATION OF SENTENCE.—

(1) IN GENERAL.—In considering a sentence on appeal, other than as provided in section 856(d) of this title (article 56(d)), the Court of Criminal Appeals may consider—

(A) whether the sentence violates the law;

(B) whether the sentence is inappropriately severe—

(i) if the sentence is for an offense for which the President has not established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022; or

(ii) in the case of an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, if the sentence is above the upper range of such sentencing parameter;

(C) in the case of a sentence for an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, whether the sentence is a result of an incorrect application of the parameter;

(D) whether the sentence is plainly unreasonable; and

(E) in review of a sentence to death or to life in prison without eligibility for parole determined by the members in a capital case under section 853(c) of this title (article 53(c)), whether the sentence is otherwise appropriate, under rules prescribed by the President.

(2) RECORD ON APPEAL.—In an appeal under this subsection or section 856(d) of this title (article 56(d)), other than review under subsection (b)(2) of this section, the record on appeal shall consist of—

(A) any portion of the record in the case that is designated as pertinent by any party;

(B) the information submitted during the sentencing proceeding; and

(C) any information required by rule or order of the Court of Criminal Appeals.

(f) LIMITS OF AUTHORITY.—

(1) SET ASIDE OF FINDINGS.—

(A) IN GENERAL.—If the Court of Criminal Appeals sets aside the findings, the Court—

(i) may affirm any lesser included offense; and

(ii) may, except when prohibited by section 844 of this title (article 44), order a rehearing.

(B) DISMISSAL WHEN NO REHEARING ORDERED.—If the Court of Criminal Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.

(C) DISMISSAL WHEN REHEARING IMPRACTICABLE.—

(i) IN GENERAL.—Subject to clause (ii), if the Court of Criminal Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

(ii) CASES REFERRED BY SPECIAL TRIAL COUNSEL.—If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.

(2) SET ASIDE OF SENTENCE.—If the Court of Criminal Appeals sets aside the sentence, the Court may—

(A) modify the sentence to a lesser sentence; or

(B) order a rehearing.

(3) ADDITIONAL PROCEEDINGS.—If the Court of Criminal Appeals determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address a substantial issue, subject to such limitations as the Court may direct and under such regulations as the President may prescribe. If the Court of Appeals for the Armed Forces determines that additional proceedings are warranted, the Court of Criminal Appeals shall order a hearing or other proceeding in accordance with the direction of the Court of Appeals for the Armed Forces.

(g) ACTION IN ACCORDANCE WITH DECISIONS OF COURTS.—The Judge Advocate General shall, unless there is to be further action by the President, the Secretary concerned, the Court of Appeals for the Armed Forces, or the Supreme Court, instruct the appropriate authority to take action in accordance with the decision of the Court of Criminal Appeals.

(h) RULES OF PROCEDURE.—The Judge Advocates General shall prescribe uniform rules of procedure for Courts of Criminal Appeals and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the offices of the Judge Advocates General and by Courts of Criminal Appeals.

(i) PROHIBITION ON EVALUATION OF OTHER MEMBERS OF COURTS.—No member of a Court of Criminal Appeals shall be required, or on his own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other member of the same or another Court of Criminal Appeals, an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces, or in determining whether a member of the armed forces should be retained on active duty.

(j) INELIGIBILITY OF MEMBERS OF COURTS TO REVIEW RECORDS OF CASES INVOLVING CERTAIN PRIOR MEMBER SERVICE.—No member of a Court of Criminal Appeals shall be eligible to review the record of any trial if such member served as investigating officer in the case or served as a member of the court-martial before which such trial was conducted, or served as military judge, trial or defense counsel, or reviewing officer of such trial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 59; Pub. L. 90–632, §2(27), Oct. 24, 1968, 82 Stat. 1341; Pub. L. 98–209, §§7(b), (c), 10(c)(1), Dec. 6, 1983, 97 Stat. 1402, 1406; Pub. L. 103–337, div. A, title IX, §924(b)(2), (c)(1), (4)(A), Oct. 5, 1994, 108 Stat. 2831, 2832; Pub. L. 104–106, div. A, title XI, §1153, Feb. 10, 1996, 110 Stat. 468; Pub. L. 114–328, div. E, title LIX, §5330, Dec. 23, 2016, 130 Stat. 2932; Pub. L. 115–91, div. A, title V, §531(j), title X, §1081(c)(1)(K), Dec. 12, 2017, 131 Stat. 1385, 1598; Pub. L. 116–283, div. A, title V, §542(a), (b), Jan. 1, 2021, 134 Stat. 3611; Pub. L. 117–81, div. A, title V, §§539A(b), 539E(d), Dec. 27, 2021, 135 Stat. 1698, 1703; Pub. L. 117–263, div. A, title V, §544(b), Dec. 23, 2022, 136 Stat. 2582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 866(a) | 50:653(a). | May 5, 1950, ch. 169, §1 (Art. 66), 64 Stat. 128. |
| 866(b) | 50:653(b). | |
| 866(c) | 50:653(c). | |
| 866(d) | 50:653(d). | |
| 866(e) | 50:653(e). | |
| 866(f) | 50:653(f). | |

In subsection (a), the word "Each" is substituted for the words "The * * * of each of the armed forces". The word "must" is substituted for the word "shall" after the word "whom", since a condition is prescribed, not a command. The words "of the United States" are omitted as surplusage.

In subsections (a) and (b), the word "commissioned" is inserted before the word "officer".

In subsection (c), the word "may" is substituted for the word "shall" and for the words "shall have authority to".

In subsection (e), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (f), the words "of the armed forces" and "proceedings in and before" are omitted as surplusage.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (e)(1)(B), (C), is section 539E(e) of Pub. L. 117–81, which is set out as a note under section 856 of this title.

### AMENDMENTS

**2022**—Subsec. (b)(1). Pub. L. 117–263, §544(b)(1), substituted "shall have jurisdiction over—" and subpars. (A) and (B) for "shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under section 860c of this title (article 60c), as follows:

"(A) On appeal by the accused in a case in which the sentence extends to confinement for more than six months and the case is not subject to automatic review under paragraph (3).

"(B) On appeal by the accused in a case in which the Government previously filed an appeal under section 862 of this title (article 62).

"(C) On appeal by the accused in a case that the Judge Advocate General has sent to the Court of Criminal Appeals for review of the sentence under section 856(d) of this title (article 56(d)).

"(D) In a case in which the accused filed an application for review with the Court under section 869(d)(1)(B) of this title (article 69(d)(1)(B)) and the application has been granted by the Court."

Subsec. (c). Pub. L. 117–263, §544(b)(2), substituted "is timely if—" and pars. (1) and (2) for "is timely if it is filed as follows:

"(1) In the case of an appeal by the accused under subsection (b)(1)(A) or (b)(1)(B), if filed before the later of—

"(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)); or

"(B) the date set by the Court of Criminal Appeals by rule or order.

"(2) In the case of an appeal by the accused under subsection (b)(1)(C), if filed before the later of—

"(A) the end of the 90-day period beginning on the date the accused is notified that the application for review has been granted by letter placed in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record; or

"(B) the date set by the Court of Criminal Appeals by rule or order."

**2021**—Subsec. (a). Pub. L. 116–283, §542(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(1). Pub. L. 116–283, §542(b), amended par. (1) generally. Prior to amendment, text read as follows: "In any case before the Court of Criminal Appeals under subsection (b), the Court may act only with respect to the findings and sentence as entered into the record under section 860c of this title (article 60c). The Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the Court may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses."

Subsec. (d)(1)(A). Pub. L. 117–81, §539E(d)(1), struck out at end "The Court may affirm only the sentence, or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved."

Subsec. (e). Pub. L. 117–81, §539E(d)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) provided that, in considering sentence on appeal or review, Court of Criminal Appeals may consider whether the sentence violates the law and whether the sentence is plainly unreasonable and detailed what should be included in record on appeal or review.

Subsec. (f)(1)(C). Pub. L. 117–81, §539A(b), substituted "Impracticable" for "impracticable" in subpar. heading, designated existing provisions as cl. (i), inserted cl. (i) heading, substituted "Subject to clause (ii), if the Court of Criminal Appeals" for "If the Court of Criminal Appeals", and added cl. (ii).

**2017**—Subsec. (e)(2)(C). Pub. L. 115–91, §531(j)(1), inserted "by regulation prescribed by the President or" after "required".

Subsec. (f)(3). Pub. L. 115–91, §§531(j)(2)(A) and 1081(c)(1)(K), amended par. (3) identically, substituting "If the Court of Criminal Appeals" for "If the Court".

Pub. L. 115–91, §531(j)(2)(B), inserted at end "If the Court of Appeals for the Armed Forces determines that additional proceedings are warranted, the Court of Criminal Appeals shall order a hearing or other proceeding in accordance with the direction of the Court of Appeals for the Armed Forces."

**2016**—Pub. L. 114–328, §5330(d), substituted "Courts of Criminal Appeals" for "Review by Court of Criminal Appeals" in section catchline.

Subsec. (a). Pub. L. 114–328, §5330(e)(1), inserted heading.

Pub. L. 114–328, §5330(a), substituted "subsection (h)" for "subsection (f)", inserted "and must be certified by the Judge Advocate General as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge" after "highest court of a State", and inserted at end "In accordance with regulations prescribed by the President, assignments of appellate military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations."

Subsecs. (b) to (f). Pub. L. 114–328, §5330(b)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) to (d) which related to referral of records in certain cases to a Court of Criminal Appeals, criteria by which a Court of Criminal Appeals may act in a referred case, and possible outcomes if a Court of Criminal Appeals sets aside the findings and sentence. Former subsecs. (e) and (f) redesignated (g) and (h), respectively.

Subsec. (g). Pub. L. 114–328, §5330(b)(1), (c), (e)(2), redesignated subsec. (e) as (g), inserted heading, substituted "appropriate authority" for "convening authority", and struck out last sentence which read as follows: "If the Court of Criminal Appeals has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges."

Subsecs. (h) to (j). Pub. L. 114–328, §5330(b)(1), (e)(3)–(5), redesignated subsecs. (f) to (h) as (h) to (j), respectively, and inserted headings.

**1996**—Subsec. (f). Pub. L. 104–106 substituted "Courts of Criminal Appeals" for "Courts of Military Review" in two places.

**1994**—Pub. L. 103–337, §924(c)(4)(A), substituted "Court of Criminal Appeals" for "Court of Military Review" in section catchline.

Pub. L. 103–337, §924(b)(2), substituted "Court of Criminal Appeals" for "Court of Military Review" wherever appearing.

Pub. L. 103–337, §924(c)(1), substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals" in subsec. (e).

**1983**—Subsec. (a). Pub. L. 98–209, §7(b), inserted provision that any decision of a panel may be reconsidered by the court sitting as a whole in accordance with the rules.

Subsec. (b). Pub. L. 98–209, §7(c), amended subsec. (b) generally, designating existing provisions as par. (1), struck out provision extending applicability of provisions to sentences affecting a general or flag officer, and added par. (2).

Subsec. (e). Pub. L. 98–209, §10(c)(1), substituted "the Court of Military Appeals, or the Supreme Court" for "or the Court of Military Appeals".

**1968**—Subsec. (a). Pub. L. 90–632, §2(27)(A), (B), substituted "Court of Military Review" for "board of review" in section catchline and, in subsec. (a), substituted "Court of Military Review" for "board of review" as name of reviewing body established by each Judge Advocate General, and inserted provisions setting out procedures for such Courts of Military Review, their composition and functions.

Subsecs. (b) to (e). Pub. L. 90–632, §2(27)(C), substituted "Court of Military Review" for "board of review" wherever appearing.

Subsec. (f). Pub. L. 90–632, §2(27)(D), substituted "Courts of Military Review" for "boards of review" in two places.

Subsecs. (g), (h). Pub. L. 90–632, §2(27)(E), added subsecs. (g) and (h).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## CHANGE OF NAME

Pub. L. 103–337, div. A, title IX, §924(b)(1), Oct. 5, 1994, 108 Stat. 2831, provided that: "Each Court of Military Review shall hereafter be known and designated as a Court of Criminal Appeals."

**EFFECTIVE DATE OF 2022 AMENDMENT**

Amendment by Pub. L. 117–263 not applicable to any matter that was submitted before Dec. 23, 2022, to a Court of Criminal Appeals established under this section, see section 544(d)(1) of Pub. L. 117–263, set out as a note under section 861 of this title.

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 539A(b) of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

Amendment by section 539E(d) of Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after Dec. 27, 2021, see section 539E(f) of Pub. L. 117–81, set out as a note under section 853 of this title.

Pub. L. 116–283, div. A, title V, §542(e), Jan. 1, 2021, 134 Stat. 3612, provided that:

"(1) QUALIFICATIONS OF CERTAIN JUDGES.—The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply with respect to the assignment of appellate military judges on or after that date.

"(2) REVIEW AMENDMENTS.—The amendments made by subsections (b) and (c) [amending this section and section 867 of this title] shall take effect on the date of the enactment of this Act, and shall apply with respect to any case in which every finding of guilty entered into the record under section 860c of title 10, United States Code (article 60c of the Uniform Code of Military Justice), is for an offense that occurred on or after that date."

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by section 531(j) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

Amendment by section 1081(c)(1)(K) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but amendments by section 7(b), (c) of Pub. L. 98–209 not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

**STATUTORY REFERENCES TO BOARD OF REVIEW DEEMED REFERENCES TO COURT OF MILITARY REVIEW**

Pub. L. 90–632, §3(b), Oct. 24, 1968, 82 Stat. 1343, provided that: "Whenever the term board of review is used, with reference to or in connection with the appellate review of courts-martial cases, in any provision of Federal law (other than provisions amended by this Act) [see Short Title of 1968 Amendment note under section 801 of this title] or in any regulation, document, or record of the United States, such term shall be deemed to mean Court of Military Review [now Court of Criminal Appeals]."

## §867. Art. 67. Review by the Court of Appeals for the Armed Forces

(a) The Court of Appeals for the Armed Forces shall review the record in—

(1) all cases in which the sentence, as affirmed by a Court of Criminal Appeals, extends to death;

(2) all cases reviewed by a Court of Criminal Appeals which the Judge Advocate General, after appropriate notification to the other Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps, orders sent to the Court of Appeals for the Armed Forces for review; and

(3) all cases reviewed by a Court of Criminal Appeals in which, upon petition of the accused and on good cause shown, the Court of Appeals for the Armed Forces has granted a review.

(b) The accused may petition the Court of Appeals for the Armed Forces for review of a decision of a Court of Criminal Appeals within 60 days from the earlier of—

(1) the date on which the accused is notified of the decision of the Court of Criminal Appeals; or

(2) the date on which a copy of the decision of the Court of Criminal Appeals, after being served on appellate counsel of record for the accused (if any), is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.

The Court of Appeals for the Armed Forces shall act upon such a petition promptly in accordance with the rules of the court.

(c)(1) In any case reviewed by it, the Court of Appeals for the Armed Forces may act only with respect to—

(A) the findings and sentence set forth in the entry of judgment, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals;

(B) a decision, judgment, or order by a military judge, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals; or

(C) the findings set forth in the entry of judgment, as affirmed, dismissed, set aside, or modfied by the Court of Criminal Appeals as incorrect in fact under section 866(d)(1)(B) of this title (article 66(d)(1)(B)).

(2) In a case which the Judge Advocate General orders sent to the Court of Appeals for the Armed Forces, that action need be taken only with respect to the issues raised by him.

(3) In a case reviewed upon petition of the accused, that action need be taken only with respect to issues specified in the grant of review.

(4) The Court of Appeals for the Armed Forces shall take action only with respect to matters of law.

(d) If the Court of Appeals for the Armed Forces sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

(e) After it has acted on a case, the Court of Appeals for the Armed Forces may direct the Judge Advocate General to return the record to the Court of Criminal Appeals for further review in accordance with the decision of the court. Otherwise, unless there is to be further action by the President or the Secretary concerned, the Judge Advocate General shall instruct the convening authority to take action in accordance with that decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, he may dismiss the charges. Notwithstanding the preceding sentence, if a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.

(Aug. 10, 1956, ch. 1041, 70A Stat. 60; Pub. L. 88–426, title IV, §403(j), Aug. 14, 1964, 78 Stat. 434; Pub. L. 90–340, §1, June 15, 1968, 82 Stat. 178; Pub. L. 90–632, §2(28), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 96–579, §12(a), Dec. 23, 1980, 94 Stat. 3369; Pub. L. 97–81, §5, Nov. 20, 1981, 95 Stat. 1088; Pub. L. 97–295, §1(12), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–209, §§7(d), 9(a), 10(c)(2), 13(d), Dec. 6, 1983, 97 Stat. 1402, 1404, 1406, 1408; Pub. L. 100–26, §7(a)(2), Apr. 21, 1987, 101 Stat. 275; Pub. L. 100–456, div. A, title VII, §722(a), (c), Sept. 29, 1988, 102 Stat. 2002, 2003; Pub. L. 101–189, div. A, title XIII, §1301(a), Nov. 29, 1989, 103 Stat. 1569; Pub. L. 103–337, div. A, title IX, §924(c)(1), (2), (4)(B), Oct. 5, 1994, 108 Stat. 2831, 2832; Pub. L. 114–328, div. E, title LIX, §5331, Dec. 23, 2016, 130 Stat. 2934; Pub. L. 116–283, div. A, title V, §542(c), Jan. 1, 2021, 134 Stat. 3612; Pub. L. 117–81, div. A, title V, §539A(c), Dec. 27, 2021, 135 Stat. 1699.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 867(a) | 50:654(a). | May 5, 1950, ch. 169, §1 (Art. 67), 64 Stat. 129; Mar. 2, 1955, ch. 9, §1(i), 69 Stat. 10. |
| 867(b) | 50:654(b). | |
| 867(c) | 50:654(c). | |
| 867(d) | 50:654(d). | |
| 867(e) | 50:654(e). | |
| 867(f) | 50:654(f). | |
| 867(g) | 50:654(g). | |

In subsection (a)(1), the word "is" is substituted for the words "is hereby established". The words "all" and "which shall be" are omitted as surplusage. The word "consists" is substituted for the words "shall consist". The word "civil" is substituted for the word "civilian". The word "may" is substituted for the word "shall" before the words "be appointed". The word "is" is substituted for the word "shall" before the words "any person". The words "is entitled to" are substituted for the words "shall receive". The word "is" is substituted for the words "shall be" in the fourth sentence. The word "may" is substituted for the words "shall have power to * * * to". The word "does" is substituted for the word "shall" in the next to the last sentence. In the last sentence, the words "is entitled * * * to" are substituted for the word "shall". The word "outside" is substituted for the words "at a place other than his official station. The official station of such judges for such purpose shall be". The words "also" and "actually" are omitted as surplusage.

In subsection (a)(2), the words "February 28, 1951," are substituted for the words "the effective date of this subdivision". The word "shall" in the first sentence, and the word "shall" before the word "expire" in the second sentence, are omitted as surplusage. The word "before" is substituted for the words "prior to". The word "may" is substituted for the word "shall" before the words "be appointed".

In subsection (a)(3), the word "for" is substituted for the words "upon the ground of".

In subsection (b), the words "the following cases" are omitted as surplusage.

In subsections (b) and (d), the word "sent" is substituted for the word "forwarded".

In subsection (c), the word "when" is inserted after the word "time". The words "a grant of" are omitted as surplusage.

In subsection (d), the word "may" is substituted for the word "shall" in the first sentence.

In subsection (f), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (g), the words "of the armed forces" are omitted as surplusage. The words "policies as to sentences" are substituted for the words "sentence policies". The word "considered" is substituted for the word "deemed". The words "Secretaries of the military departments, and the Secretary of the Treasury" are substituted for the words "Secretaries of the Departments".

### 1982 ACT

In subsection (d), the words "Court of Military Review" are substituted for "board of review" because of section 3(b) of the Military Justice Act of 1968 (Pub. L. 90–632, Oct. 24, 1968, 82 Stat. 1343).

The change in subsection (g) reflects the transfer of functions from the Secretary of the Treasury to the Secretary of Transportation under 49:1655(b).

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(1)(C). Pub. L. 116–283 added subpar. (C).

Subsec. (e). Pub. L. 117–81 inserted at end "Notwithstanding the preceding sentence, if a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines."

**2016**—Subsec. (a)(2). Pub. L. 114–328, §5331(a), inserted ", after appropriate notification to the other Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps," after "the Judge Advocate General".

Subsec. (c). Pub. L. 114–328, §5331(b), designated first sentence as par. (1) and substituted "only with respect to—" and subpars. (A) and (B) for "only with respect to the issues raised by him." and designated second to fourth sentences as pars. (2) to (4), respectively.

**1994**—Pub. L. 103–337, §924(c)(4)(B), substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals" in section catchline.

Pub. L. 103–337, §924(c)(2), substituted "Court of Criminal Appeals" for "Court of Military Review" wherever appearing in subsecs. (a) to (c) and (e).

Pub. L. 103–337, §924(c)(1), substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals" wherever appearing.

**1989**—Pub. L. 101–189 redesignated subsecs. (b) to (f) as (a) to (e), respectively, struck out former subsec. (a) which related to establishment of the United States Court of Military Appeals, and appointment, removal, allowances and compensation, etc., of judges of such court, struck out subsec. (g) which related to a committee required to make annual comprehensive surveys of the operation of this chapter, struck out subsec. (h) which related to review of decisions of the Court of Military Appeals by the Supreme Court, and struck out subsec. (i) which related to annuities for judges and former or retired judges, and survivors and former spouses of judges and former judges.

**1988**—Subsec. (a)(4). Pub. L. 100–456, §722(c), inserted "or an annuity under subsection (i) or subchapter III of chapter 83 or chapter 84 of title 5" after "retired pay" in two places.

Subsec. (i). Pub. L. 100–456, §722(a), added subsec. (i).

**1987**—Subsec. (g)(1). Pub. L. 100–26 substituted "the Staff Judge Advocate to the Commandant of the Marine Corps" for "the Director, Judge Advocate Division, Headquarters, United States Marine Corps".

**1983**—Subsec. (a)(3). Pub. L. 98–209, §13(d), inserted "Circuit" after "District of Columbia".

Subsec. (b)(1). Pub. L. 98–209, §7(d), struck out "affects a general or flag officer or" before "extends to death".

Subsec. (g). Pub. L. 98–209, §9(a), designated existing provisions as par. (1), substituted "A committee consisting of the judges of the Court of Military Appeals, the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, the Director, Judge Advocate Division, Headquarters, United States Marine Corps, and two members of the public appointed by the Secretary of Defense shall meet at least annually. The committee shall make an annual comprehensive survey of the operation of this chapter. After each such survey, the committee shall report" for "The Court of Military Appeals and the Judge Advocates General shall meet annually to make a comprehensive survey of the operation of this chapter and report", and added pars. (2) and (3).

Subsec. (h). Pub. L. 98–209, §10(c)(2), added subsec. (h).

**1982**—Subsec. (d). Pub. L. 97–295, §1(12)(A), substituted "Court of Military Review" for "board of review" after "incorrect in law by the".

Subsec. (g). Pub. L. 97–295, §1(12)(B), substituted "Secretary of Transportation" for "Secretary of the Treasury" after "military departments, and the".

**1981**—Subsec. (c). Pub. L. 97–81 substituted provisions authorizing the accused to petition the Court of Military Appeals for review of a decision of a Court of Military Review within 60 days from the earlier of (1) the date on which the accused is notified of the decision of the Court of Military Review, or (2) the date on which a copy of the decision of the Court of Military Review, after being served on appellate counsel of record for the accused (if any), is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record, and directing the Court of Military Appeals to act upon such a petition promptly in accordance with the rules of the court for provision which had given the accused 30 days from the time when he was notified of the decision of a board of review to petition the Court of Military Appeals for review and which had directed the court to act upon such a petition within 30 days of the receipt thereof.

**1980**—Subsec. (a)(1). Pub. L. 96–579 struck out third sentence prescribing expiration of terms of office of all successors of judges of the Court of Military Appeals serving on June 15, 1968, fifteen years after expiration of term of their predecessors subject to requirement that any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed should be appointed only for the unexpired term of the predecessor.

**1968**—Subsec. (a)(1). Pub. L. 90–340 changed the name of the Court of Military Appeals to the United States Court of Military Appeals, and established it under Article I of the United States Constitution, provided that the terms of office of all successors of the judges serving on June 15, 1968, shall expire 15 years after the expiration of the terms for which their predecessors were appointed but that any judge appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed only for the unexpired term of his predecessor, substituted provisions that each judge is entitled to the same salary and travel allowances as are judges of the United States Court of Appeals for provisions that entitled each judge to a salary of $33,000 a year and a travel and maintenance allowance, for expenses incurred while attending court or transacting official business outside the District of Columbia, not to exceed $15 a day, and provided for the precedence of the chief judge, and of the other judges based on their seniority.

Subsec. (a)(2). Pub. L. 90–340 redesignated former par. (3) as (2) and changed the name of the Court of Military Appeals to the United States Court of Military Appeals. Provisions of former par. (2) pertaining to the terms of office of judges were placed in par. (1). Provisions of former par. (2) pertaining to the terms of office of the three judges first taking office after February 28, 1951, and expiring, as designated by the President at the time of nomination, one on May 1, 1956, one on May 1, 1961, and one on May 1, 1966, were struck out.

Subsec. (a)(3). Pub. L. 90–340 redesignated former par. (4) as (3) and changed the name of the Court of Military Appeals to the United States Court of Military Appeals, and provided that a judge appointed to fill a temporary vacancy due to illness or disability may only be a judge of the Court of Appeals for the District of Columbia. Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 90–340 added par. (4). Former par. (4) redesignated (3).

Subsecs. (b), (f). Pub. L. 90–632 substituted "Court of Military Review" for "board of review" wherever appearing.

**1964**—Subsec. (a)(1). Pub. L. 88–426 increased salary of judges from $25,500 to $33,000.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

Amendment by Pub. L. 116–283 effective on Jan. 1, 2021, and applicable with respect to any case in which every finding of guilty entered into the record under section 860c of this title is for an offense that occurred on or after that date, see section 542(e)(2) of Pub. L. 116–283, set out in a note under section 866 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VII, §722(d), Sept. 29, 1988, 102 Stat. 2003, provided that: "Subsection (i) of section 867 of title 10, United States Code, as added by subsection (a), shall apply with respect to judges of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] whose term of service on such court ends on or after the date of the enactment of this Act [Sept. 29, 1988] and to the survivors of such judges."

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by sections 9(a) and 13(d) Pub. L. 98–209 effective Dec. 6, 1983, and amendment by sections 7(d) and 10(c)(2) of Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but amendment by section 7(d) of Pub. L. 98–209 not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same

manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–81 to take effect at end of 60-day period beginning on Nov. 20, 1981, and to apply to any accused with respect to a Court of Military Review [now Court of Criminal Appeals] decision that is dated on or after that date, see section 7(a), (b)(5) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88–426, see section 501 of Pub. L. 88–426.

### COMMISSION TO STUDY AND MAKE RECOMMENDATIONS CONCERNING SENTENCING AUTHORITY, JURISDICTION, TENURE, AND RETIREMENT OF MILITARY JUDGES; ESTABLISHMENT; COMPOSITION; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 98–209, §9(b), Dec. 6, 1983, 97 Stat. 1404, as amended by Pub. L. 98–525, title XV, §1521, Oct. 19, 1984, 98 Stat. 2628, directed Secretary of Defense to establish a commission to study the sentencing authority, jurisdiction, tenure, and retirement system of military judges, and to report, not later than Dec. 15, 1984, its findings and recommendations to committees of Congress and to the committee established under former section 867(g) of this title.

### TERMS OF OFFICE OF JUDGES OF UNITED STATES COURT OF MILITARY APPEALS

Pub. L. 96–579, §12(b), Dec. 23, 1980, 94 Stat. 3369, provided that the term of office of a judge of United States Court of Military Appeals serving on such court on Dec. 23, 1980, expire (1) on the date the term of such judge would have expired under the law in effect on the day before Dec. 23, 1980, or (2) ten years after the date on which such judge took office as a judge of the United States Court of Military Appeals, whichever is later.

### CONTINUATION OF POWERS AND JURISDICTION OF COURT OF MILITARY APPEALS; STATUS OF JUDGES

Pub. L. 90–340, §2, June 15, 1968, 82 Stat. 178, provided that: "The United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] established under this Act [which amended subsec. (a) of this section] is a continuation of the Court of Military Appeals as it existed prior to the effective date of this Act [June 15, 1968], and no loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Court of Military Appeals before the effective date of this Act shall result. A judge of the Court of Military Appeals so serving on the day before the effective date of this Act shall, for all purposes, be a judge of the United States Court of Military Appeals under this Act."

## EXECUTIVE DOCUMENTS

### SALARY INCREASES

**1987**—Salaries of judges increased to $95,000 per annum, on recommendation of President, see note set out under section 358 of Title 2, The Congress.

**1977**—Salaries of judges increased to $57,500 per annum, on recommendation of President, see note set out under section 358 of Title 2.

**1969**—Salaries of judges increased from $33,000 to $42,500 per annum, commencing first day of pay period which begins after Feb. 14, 1969, on recommendation of President, see note set out under section 358 of Title 2.

### EXECUTIVE ORDER NO. 12063

Ex. Ord. No. 12063, June 5, 1978, 43 F.R. 24659, which related to the United States Court of Military Appeals Nominating Commission, was revoked by Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

## §867a. Art. 67a. Review by the Supreme Court

(a) Decisions of the United States Court of Appeals for the Armed Forces are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28.

(b) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.

(Added Pub. L. 101–189, div. A, title XIII, §1301(b), Nov. 29, 1989, 103 Stat. 1569; amended Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114–328, div. E, title LIX, §5332, Dec. 23, 2016, 130 Stat. 2935; Pub. L. 118–31, div. A, title V, §533(a)(2)(A), Dec. 22, 2023, 137 Stat. 261.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 struck out at end "The Supreme Court may not review by a writ of certiorari under this section any action of the United States Court of Appeals for the Armed Forces in refusing to grant a petition for review."

**2016**—Subsec. (a). Pub. L. 114–328 inserted "United States" before "Court of Appeals" in second sentence.

**1994**—Subsec. (a). Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals" in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title V, §533(b), Dec. 22, 2023, 137 Stat. 261, provided that:

"(1) IN GENERAL.—The amendments made by subsection (a) [amending this section and sections 1259 and 2101 of Title 28, Judiciary and Judicial Procedure] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 22, 2023] and shall apply with respect to any action of the United States Court of Appeals for the Armed Forces in granting or refusing to grant a petition for review submitted to such Court for the first time on or after such effective date.

"(2) INAPPLICABILITY TO PENDING DECISIONS.—With respect to a petition submitted to the United States Court of Appeals for the Armed Forces before the effective date specified in paragraph (1) and on which the Court has not taken action as of such date, the provisions of the United States Code amended by subsection (a) shall apply as if such amendments had not been enacted. Any action of the United States Court of Appeals for the Armed Forces in granting or refusing to grant such a petition is final and conclusive.

"(3) FINALITY OF DECISIONS BEFORE EFFECTIVE DATE.—Any action of the United States Court of Appeals for the Armed Forces in granting or refusing to grant a petition for review before the effective date specified in paragraph (1) is final and conclusive.

"(4) RULES REQUIRED.—The Supreme Court shall prescribe rules to carry out section 2101(g) of title 28, United States Code, as amended by subsection (a)(2)(B) of this section, by not later than the effective date specified in paragraph (1)."

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §868. Art. 68. Branch offices

The Secretary concerned may direct the Judge Advocate General to establish a branch office with any command. The branch office shall be under an Assistant Judge Advocate General who, with the consent of the Judge Advocate General, may establish a Court of Criminal Appeals with one or more panels. That Assistant Judge Advocate General and any Court of Criminal Appeals established by

him may perform for that command under the general supervision of the Judge Advocate General, the respective duties which the Judge Advocate General and a Court of Criminal Appeals established by the Judge Advocate General would otherwise be required to perform as to all cases involving sentences not requiring approval by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 61; Pub. L. 90–632, §2(29), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 103–337, div. A, title IX, §924(c)(2), Oct. 5, 1994, 108 Stat. 2831.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 868 | 50:655. | May 5, 1950, ch. 169, §1 (Art. 68), 64 Stat. 130. |

The word "considers" is substituted for the word "deems". The word "may" is substituted for the words "shall be empowered to". The word "respective" is inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" wherever appearing.

**1968**—Pub. L. 90–632 substituted the Secretary concerned for the President as the individual authorized to direct the Judge Advocate General to establish a branch office under an Assistant Judge Advocate General with any command and substituted "Court of Military Review" for "board of review" as the name of the body established by the Assistant Judge Advocate General in charge of the branch office.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## §869. Art. 69. Review by Judge Advocate General

(a) IN GENERAL.—Upon application by the accused or receipt of the record pursuant to section 864(c)(3) of this title (article 64(c)(3)) and subject to subsections (b), (c), and (d), the Judge Advocate General may—

(1) with respect to a summary court-martial, modify or set aside, in whole or in part, the findings and sentence; or

(2) with respect to a general or special court-martial, order such court-martial to be reviewed under section 866 of this title (article 66).

(b) TIMING.—(1) To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than—

(A) for a summary court-martial, one year after the date of completion of review under section 864 of this title (article 64); or

(B) for a general or special court-martial, one year after the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)), unless the accused submitted a waiver or withdrawal of appellate review under section 861 of this title (article 61) before being provided notice of appellate rights, in which case the application must be submitted to the Judge Advocate General not later than one year after the entry of judgment under section 860c of this title (article 60c).

(2) The Judge Advocate General may, for good cause shown, extend the period for submission of

an application, except that—

(A) in the case of an application for review of a summary court martial, the Judge Advocate may not consider an application submitted more than three years after the completion date referred to in paragraph (1)(A); and

(B) in case of an application for review of a general or special court-martial, the Judge Advocate may not consider an application submitted more than three years after the end of the applicable period under paragraph (1)(B).

(c) SCOPE.—(1)(A) In a case reviewed under section 864 of this title (article 64), the Judge Advocate General may set aside the findings or sentence, in whole or in part, on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.

(B) In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

(C) If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

(D)(i) Subject to clause (ii), if the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impracticable, the convening authority shall dismiss the charges.

(ii) If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.

(2) In a case reviewed under section 865(b) of this title (article 65(b)), review under this section is limited to the issue of whether the waiver or withdrawal of an appeal was invalid under the law. If the Judge Advocate General determines that the waiver or withdrawal of an appeal was invalid, the Judge Advocate General shall send the case to the Court of Criminal Appeals.

(d) COURT OF CRIMINAL APPEALS.—(1) A Court of Criminal Appeals may review the action taken by the Judge Advocate General under subsection (c)(1) in a case submitted to the Court of Criminal Appeals by the accused in an application for review.

(2) The Court of Criminal Appeals may grant an application under paragraph (1) only if—

(A) the application demonstrates a substantial basis for concluding that the action on review under subsection (c) constituted prejudicial error; and

(B) the application is filed not later than the earlier of—

(i) 60 days after the date on which the accused is notified of the decision of the Judge Advocate General; or

(ii) 60 days after the date on which a copy of the decision of the Judge Advocate General is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.

(3) The submission of an application for review under this subsection does not constitute a proceeding before the Court of Criminal Appeals for purposes of section 870(c)(1) of this title (article 70(c)(1)).

(e) ACTION ONLY ON MATTERS OF LAW.—Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Criminal Appeals under subsection (d), the Court may take action only with respect to matters of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 61; Pub. L. 90–632, §2(30), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 97–81, §6, Nov. 20, 1981, 95 Stat. 1089; Pub. L. 98–209, §7(e)(1), Dec. 6, 1983, 97 Stat. 1402; Pub. L. 101–189, div. A, title XIII, §§1302(a), 1304(b)(1), Nov. 29, 1989, 103 Stat. 1576, 1577; Pub. L. 103–337, div. A, title IX, §924(c)(2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114–328, div. E, title LIX, §5333, Dec. 23, 2016, 130 Stat. 2935; Pub. L. 115–91, div. A, title X, §1081(c)(1)(L), Dec. 12, 2017, 131 Stat. 1598; Pub. L. 117–81, div. A, title V, §539A(d), Dec. 27, 2021, 135 Stat. 1699; Pub. L. 117–263, div. A, title V, §544(c), Dec. 23, 2022, 136 Stat. 2582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 869 | 50:656. | May 5, 1950, ch. 169, §1 (Art. 69), 64 Stat. 130. |

The word "may" is substituted for the word "will". The word "under" is substituted for the words "pursuant to the provisions of".

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a). Pub. L. 117–263, §544(c)(1), amended subsec. (a) generally. Prior to amendment, text read as follows: "Upon application by the accused and subject to subsections (b), (c), and (d), the Judge Advocate General may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under section 866 of this title (article 66)."

Subsec. (b). Pub. L. 117–263, §544(c)(2), designated existing provisions as par. (1), substituted "not later than—" and subpars. (A) and (B) for "not later than one year after the date of completion of review under section 864 or 865 of this title (article 64 or 65), as the case may be. The Judge Advocate General may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three years after such completion date." and added par. (2).

Subsec. (c)(1)(A). Pub. L. 117–263, §544(c)(3)(A), substituted "section 864 of this title (article 64)" for "section 864 or 865(b) of this title (article 64 or 65(b))".

Subsec. (c)(2). Pub. L. 117–263, §544(c)(3)(B), substituted "the Judge Advocate General shall send the case to the Court of Criminal Appeals" for "the Judge Advocate General shall order appropriate corrective action under rules prescribed by the President".

Subsec. (d)(1). Pub. L. 117–263, §544(c)(4)(A), substituted "under subsection (c)(1) in a case submitted" for "under subsection (c)—

"(A) in a case sent to the Court of Criminal Appeals by order of the Judge Advocate General; or

"(B) in a case submitted".

Subsec. (d)(2). Pub. L. 117–263, §544(c)(4)(B), substituted "paragraph (1)" for "paragraph (1)(B)" in introductory provisions.

**2021**—Subsec. (c)(1)(D). Pub. L. 117–81 designated existing provisions as cl. (i), substituted "Subject to clause (ii), if the Judge Advocate General" for "If the Judge Advocate General" and "impracticable" for "impractical", and added cl. (ii).

**2017**—Subsec. (c)(1)(A). Pub. L. 115–91 inserted comma after "in whole or in part".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to review in the office of the Judge Advocate General.

**1994**—Subsecs. (d), (e). Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" wherever appearing.

**1989**—Subsec. (a). Pub. L. 101–189, §1304(b)(1), which directed amendment of subsec. (a) by striking "section 867(b)(2) of this title (article 67(b)(2))" in the third sentence and inserting in lieu thereof "section 867(a)(2) of this title (article 67(a)(2))", could not be executed because of the intervening amendment by Pub. L. 101–189, §1302(a)(1), which struck out the third sentence, see below.

Pub. L. 101–189, §1302(a)(1), struck out the third sentence, which read as follows: "If the Judge Advocate General so directs, the record shall be reviewed by a Court of Military Review under section 866 of this title (article 66), but in that event there may be no further review by the Court of Military Appeals except under section 867(b)(2) of this title (article 67(b)(2))."

Subsecs. (d), (e). Pub. L. 101–189, §1302(a)(2), added subsecs. (d) and (e).

**1983**—Pub. L. 98–209 amended section generally. Prior to amendment section provided that every record of trial by general court-martial, in which there had been a finding of guilty and a sentence, the appellate review of which was not otherwise provided for by section 866 of this title, was to be examined in the office of the Judge Advocate General; that if any part of the findings or sentence was found unsupported in law, or if the Judge Advocate General so directed, the record was to be reviewed by a board of review in accordance with section 866 of this title, but in that event there could be no further review by the Court of Military Appeals except under section 867(b)(2) of this title, that notwithstanding section 876 of this title, the findings or sentence, or both, in a court-martial case which had been finally reviewed, but had not been reviewed by a Court of Military Review could be vacated or modified, in whole or in part, by the Judge Advocate General on

the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused; and that when such a case was considered upon application of the accused, the application had to be filed in the Office of the Judge Advocate General by the accused before: (1) October 1, 1983, or (2) the last day of the two-year period beginning on the date the sentence was approved by the convening authority or, in a special court-martial case which required action under section 865(b) of this title, the officer exercising general court-martial jurisdiction, whichever was later, unless the accused established good cause for failure to file within that time.

**1981**—Pub. L. 97–81 inserted provision that, when a case is considered upon application of the accused, the application must be filed in the Office of the Judge Advocate General by the accused before (1) October 1, 1983, or (2) the last day of the two-year period beginning on the date the sentence is approved by the convening authority or, in a special court-martial case which requires action under section 865(b) of this title (article 65(b)), the officer exercising general court-martial jurisdiction, whichever is later, unless the accused establishes good cause for failure to file within that time.

**1968**—Pub. L. 90–632 authorized the Judge Advocate General to either vacate or modify the findings or sentence, or both, in whole or in part, in any court-martial case which has been finally reviewed, but which has not been reviewed by a Court of Military Review, because of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–263 not applicable to any matter that was submitted before Dec. 23, 2022, to a Judge Advocate General under this section, see section 544(d)(2) of Pub. L. 117–263, set out as a note under section 861 of this title.

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title XIII, §1302(b), Nov. 29, 1989, 103 Stat. 1576, provided that: "Subsection (e) of section 869 of title 10, United States Code, as added by subsection (a), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act [Nov. 29, 1989]."

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–81 effective at end of 60-day period beginning on Nov. 20, 1981, see section 7(a) of Pub. L. 97–81, set out as an Effective Date note under section 706 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 effective Oct. 24, 1968, see section 4(b) of Pub. L. 90–632, set out as a note under section 801 of this title.

**TWO-YEAR PERIOD FOR APPLICATIONS FOR MODIFICATION OR SET-ASIDE INAPPLICABLE TO APPLICATIONS FILED ON OR BEFORE OCTOBER 1, 1983**

Pub. L. 98–209, §7(e)(2), Dec. 6, 1983, 97 Stat. 1403, provided that the two-year period specified under the second sentence of subsec. (b) of this section did not apply to any application filed in the office of the appropriate Judge Advocate General on or before Oct. 1, 1983, and that the application in such a case would be considered in the same manner and with the same effect as if such two-year period had not been enacted.

## §870. Art. 70. Appellate counsel

(a) The Judge Advocate General shall detail in his office one or more commissioned officers as appellate Government counsel, and one or more commissioned officers as appellate defense counsel, who are qualified under section 827(b)(1) of this title (article 27(b)(1)).

(b) Appellate Government counsel shall represent the United States before the Court of Criminal Appeals or the Court of Appeals for the Armed Forces when directed to do so by the Judge Advocate General. Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.

(c) Appellate defense counsel shall represent the accused before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court—

(1) when requested by the accused;

(2) when the United States is represented by counsel; or

(3) when the Judge Advocate General has sent the case to the Court of Appeals for the Armed Forces.

(d) The accused has the right to be represented before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court by civilian counsel if provided by him.

(e) Military appellate counsel shall also perform such other functions in connection with the review of court martial cases as the Judge Advocate General directs.

(f) To the greatest extent practicable, in any capital case, at least one defense counsel under subsection (c) shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 62; Pub. L. 90–632, §2(31), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 98–209, §10(c)(3), Dec. 6, 1983, 97 Stat. 1406; Pub. L. 103–337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114–328, div. E, title LIX, §5334, Dec. 23, 2016, 130 Stat. 2936.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 870(a) | 50:657(a). | May 5, 1950, ch. 169, §1 (Art. 70), 64 Stat. 130. |
| 870(b) | 50:657(b). | |
| 870(c) | 50:657(c). | |
| 870(d) | 50:657(d). | |
| 870(e) | 50:657(e). | |

In subsection (a), the word "detail" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense. The word "commissioned" is inserted for clarity. The word "are" is substituted for the words "shall be". The words "the provisions of" are omitted as surplusage.

In subsections (b) and (c), the word "shall" is substituted for the words "It shall be the duty of * * * to".

In subsection (c)(3), the word "sent" is substituted for the word "transmitted".
In subsection (d), the word "has" is substituted for the words "shall have".
In subsection (e), the word "directs" is substituted for the words "shall direct".

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (f). Pub. L. 114–328 added subsec. (f).

**1994**—Subsecs. (b) to (d). Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" and "Court of Appeals for the Armed Forces" for "Court of Military Appeals" wherever appearing.

**1983**—Subsec. (b). Pub. L. 98–209, §10(c)(3)(A), inserted provision that Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.

Subsecs. (c), (d). Pub. L. 98–209, §10(c)(3)(B), amended subsecs. (c) and (d) generally, inserting references to the Supreme Court.

**1968**—Subsecs. (b) to (d). Pub. L. 90–632 substituted "Court of Military Review" for "board of review" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

## [§871. Repealed. Pub. L. 114–328, div. E, title LVIII, §5302(b)(2), Dec. 23, 2016, 130 Stat. 2923]

Section, Aug. 10, 1956, ch. 1041, 70A Stat. 62; Pub. L. 90–632, §2(32), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 98–209, §5(e), Dec. 6, 1983, 97 Stat. 1399; Pub. L. 103–337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 113–66, div. A, title XVII, §1702(c)(2), Dec. 26, 2013, 127 Stat. 957, related to execution and suspension of various types of sentences.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §872. Art. 72. Vacation of suspension

(a) Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The special court-martial convening authority may detail a judge advocate, who is

certified under section 827(b) of this title (article 27(b)), to conduct the hearing. The probationer shall be represented at the hearing by counsel if the probationer so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the officer exercising general court-martial jurisdiction over the probationer. If the officer exercising general court-martial jurisdiction vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in section 857 of this title (article 57). The vacation of the suspension of a dismissal is not effective until approved by the Secretary concerned.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 63; Pub. L. 114–328, div. E, title LIX, §5335, Dec. 23, 2016, 130 Stat. 2936.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 872(a) | 50:659(a). | May 5, 1950, ch. 169, §1 (Art. 72), 64 Stat. 131. |
| 872(b) | 50:659(b). | |
| 872(c) | 50:659(c). | |

In subsection (a), the word "Before" is substituted for the words "Prior to".

In subsection (b), the words "be effective * * * to" are omitted as surplusage.

The second sentence is restated to make it clear that the execution of the rest of the court-martial sentence is not automatic. The word "is" is substituted for the words "shall * * * be" in the last sentence. The word "sent" is substituted for the word "forwarded". The words "Secretary concerned" are substituted for the words "Secretary of the Department".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (a). Pub. L. 114–328, §5335(a), (b)(1), inserted "The special court-martial convening authority may detail a judge advocate, who is certified under section 827(b) of this title (article 27(b)), to conduct the hearing." after first sentence and substituted "if the probationer so desires" for "if he so desires" in last sentence.

Subsec. (b). Pub. L. 114–328, §5335(b)(2), substituted "If the officer exercising general court-martial jurisdiction" for "If he" and "section 857 of this title (article 57)" for "section 871(c) of this title (article 71(c))".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §873. Art. 73. Petition for a new trial

At any time within three years after the date of the entry of judgment under section 860c of this title (article 60c), the accused may petition the Judge Advocate General for a new trial on the grounds of newly discovered evidence or fraud on the court. If the accused's case is pending before a Court of Criminal Appeals or before the Court of Appeals for the Armed Forces, the Judge Advocate General shall refer the petition to the appropriate court for action. Otherwise the Judge Advocate General shall act upon the petition.

(Aug. 10, 1956, ch. 1041, 70A Stat. 63; Pub. L. 90–632, §2(33), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 103–337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114–328, div. E, title LIX, §5336, Dec. 23, 2016, 130 Stat. 2937.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 873 | 50:660. | May 5, 1950, ch. 169, §1 (Art. 73), 64 Stat. 132. |

The words "the ground" are substituted for the word "grounds". The words "as the case may be" are substituted for the word "respectively", since the prescribed action is alternative, not distributive.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 substituted "three years after the date of the entry of judgment under section 860c of this title (article 60c)" for "two years after approval by the convening authority of a court-martial sentence".

**1994**—Pub. L. 103–337 substituted "Court of Criminal Appeals" for "Court of Military Review" and "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

**1968**—Pub. L. 90–632 extended time during which accused may petition Judge Advocate General for a new trial from 1 to 2 years and struck out provisions which limited right to petition for a new trial to cases of death, dismissal, a punitive discharge, or a year or more in confinement.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–632 to apply in the case of all court-martial sentences approved by the convening authority on or after, or not more than two years before Oct. 24, 1968, see section 4(c) of Pub. L. 90–632, set out as a note under section 801 of this title.

## §874. Art. 74. Remission and suspension

(a) The Secretary concerned and, when designated by him, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the President. However, in the case of a sentence of confinement for life without eligibility for parole that is adjudged for an offense committed after October 29, 2000, after the sentence is ordered executed, the authority of the Secretary concerned under the preceding sentence (1) may not be delegated, and (2) may be exercised only after the service of a period of confinement of not less than 20 years.

(b) The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 63; Pub. L. 106–398, §1 [[div. A], title V, §553(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–125; Pub. L. 107–107, div. A, title X, §1048(a)(8), Dec. 28, 2001, 115 Stat. 1223.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 874(a)<br>874(b) | 50:661(a).<br>50:661(b). | May 5, 1950, ch. 169, § 1 (Art. 74), 64 Stat. 132. |

In subsections (a) and (b), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Subsec. (a). Pub. L. 107–107 inserted "that is adjudged for an offense committed after October 29, 2000" after "a sentence of confinement for life without eligibility for parole".

**2000**—Subsec. (a). Pub. L. 106–398 inserted at end "However, in the case of a sentence of confinement for life without eligibility for parole, after the sentence is ordered executed, the authority of the Secretary concerned under the preceding sentence (1) may not be delegated, and (2) may be exercised only after the service of a period of confinement of not less than 20 years."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106–398, §1 [[div. A], title V, §553(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–125, provided that: "The amendment made by subsection (a) [amending this section] shall not apply with respect to a sentence of confinement for life without eligibility for parole that is adjudged for an offense committed before the date of the enactment of this Act [Oct. 30, 2000]."

## §875. Art. 75. Restoration

(a) Under such regulations as the President may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the President alone to such commissioned grade and with such rank as in the opinion of the President that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

(d) The President shall prescribe regulations, with such limitations as the President considers appropriate, governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.

(Aug. 10, 1956, ch. 1041, 70A Stat. 63; Pub. L. 114–328, div. E, title LIX, §5337, Dec. 23, 2016, 130 Stat. 2937.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 875(a)<br>875(b)<br>875(c) | 50:662(a).<br>50:662(b).<br>50:662(c). | May 5, 1950, ch. 169, §1 (Art. 75), 64 Stat. 132. |

In subsections (b) and (c), the word "If" is substituted for the word "Where". The word "imposed" is substituted for the word "sustained". The words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (c), the word "issue" is substituted for the word "issuance". The word "commissioned" is inserted for clarity. The words "grade and with such rank" are substituted for the words "rank and precedence", since a person is appointed to a grade, not a position of precedence, and the word "rank" is the accepted military word denoting the general idea of precedence. The words "the existence of a" are substituted for the word "position". The word "receive" is omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (d). Pub. L. 114–328 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

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

## §876. Art. 76. Finality of proceedings, findings, and sentences

The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon a petition for a new trial as provided in section 873 of this title (article 73) and to action by the Secretary concerned as provided in section 874 of this title (article 74) and the authority of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 64.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 876 | 50:663. | May 5, 1950, ch. 169, §1 (Art. 76), 64 Stat. 132. |

The word "under" is substituted for the words "pursuant to". The word "are" is substituted for the words "shall be". The words "Secretary concerned" are substituted for the words "Secretary of a Department".

## §876a. Art. 76a. Leave required to be taken pending review of certain court-martial convictions

Under regulations prescribed by the Secretary concerned, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this subchapter if the sentence includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date of the entry of judgment under section 860c of this title (article 60c) or at any time after such date, and such leave may be continued until the date on which action under this subchapter is completed or may be terminated at any earlier time.

(Added Pub. L. 97–81, §2(c)(1), Nov. 20, 1981, 95 Stat. 1087; amended Pub. L. 98–209, §5(g), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 114–328, div. E, title LIX, §5338, Dec. 23, 2016, 130 Stat. 2937.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 struck out ", as approved under section 860 of this title (article 60)," after "if the sentence" and substituted "of the entry of judgment under section 860c of this title (article 60c)" for "on which the sentence is approved under section 860 of this title (article 60)".

**1983**—Pub. L. 98–209 substituted "under section 860 of this title (article 60)" for "under section 864 or 865 of this title (article 64 or 65) by the officer exercising general court-martial jurisdiction" and "by the officer exercising general court-martial jurisdiction", respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE

Section to take effect at end of 60-day period beginning on Nov. 20, 1981, to apply to each member whose sentence by court-martial is approved on or after Jan. 20, 1982, under section 864 or 865 of this title by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983 (Pub. L. 98–209), or under section 860 of this title by the officer empowered to act on the sentence on or after that effective date, see section 7(a), (b)(1) of Pub. L. 97–81, set out as a note under section 706 of this title.

## §876b. Art. 76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment

(a) PERSONS INCOMPETENT TO STAND TRIAL.—(1) In the case of a person determined under this chapter to be presently suffering from a mental disease or defect rendering the person mentally incompetent to the extent that the person is unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case, the general court-martial convening authority for that person shall commit the person to the custody of the Attorney General.

(2) The Attorney General shall take action in accordance with section 4241(d) of title 18.

(3) If at the end of the period for hospitalization provided for in section 4241(d) of title 18, it is determined that the committed person's mental condition has not so improved as to permit the trial to

proceed, action shall be taken in accordance with section 4246 of such title.

(4)(A) When the director of a facility in which a person is hospitalized pursuant to paragraph (2) determines that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the director shall promptly transmit a notification of that determination to the Attorney General and to the general court-martial convening authority for the person. The director shall send a copy of the notification to the person's counsel.

(B) Upon receipt of a notification, the general court-martial convening authority shall promptly take custody of the person unless the person covered by the notification is no longer subject to this chapter. If the person is no longer subject to this chapter, the Attorney General shall take any action within the authority of the Attorney General that the Attorney General considers appropriate regarding the person.

(C) The director of the facility may retain custody of the person for not more than 30 days after transmitting the notifications required by subparagraph (A).

(5) In the application of section 4246 of title 18 to a case under this subsection, references to the court that ordered the commitment of a person, and to the clerk of such court, shall be deemed to refer to the general court-martial convening authority for that person. However, if the person is no longer subject to this chapter at a time relevant to the application of such section to the person, the United States district court for the district where the person is hospitalized or otherwise may be found shall be considered as the court that ordered the commitment of the person.

(b) PERSONS FOUND NOT GUILTY BY REASON OF LACK OF MENTAL RESPONSIBILITY.—(1) If a person is found by a court-martial not guilty only by reason of lack of mental responsibility, the person shall be committed to a suitable facility until the person is eligible for release in accordance with this section.

(2) The court-martial shall conduct a hearing on the mental condition in accordance with subsection (c) of section 4243 of title 18. Subsections (b) and (d) of that section shall apply with respect to the hearing.

(3) A report of the results of the hearing shall be made to the general court-martial convening authority for the person.

(4) If the court-martial fails to find by the standard specified in subsection (d) of section 4243 of title 18 that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect—

(A) the general court-martial convening authority may commit the person to the custody of the Attorney General; and

(B) the Attorney General shall take action in accordance with subsection (e) of section 4243 of title 18.

(5) Subsections (f), (g), and (h) of section 4243 of title 18 shall apply in the case of a person hospitalized pursuant to paragraph (4)(B), except that the United States district court for the district where the person is hospitalized shall be considered as the court that ordered the person's commitment.

(c) GENERAL PROVISIONS.—(1) Except as otherwise provided in this subsection and subsection (d)(1), the provisions of section 4247 of title 18 apply in the administration of this section.

(2) In the application of section 4247(d) of title 18 to hearings conducted by a court-martial under this section or by (or by order of) a general court-martial convening authority under this section, the reference in that section to section 3006A of such title does not apply.

(d) APPLICABILITY.—(1) The provisions of chapter 313 of title 18 referred to in this section apply according to the provisions of this section notwithstanding section 4247(j) of title 18.

(2) If the status of a person as described in section 802 of this title (article 2) terminates while the person is, pursuant to this section, in the custody of the Attorney General, hospitalized, or on conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the provisions of this section establishing requirements and procedures regarding a person

no longer subject to this chapter shall continue to apply to that person notwithstanding the change of status.

(Added Pub. L. 104–106, div. A, title XI, §1133(a)(1), Feb. 10, 1996, 110 Stat. 464.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 104–106, div. A, title XI, §1133(c), Feb. 10, 1996, 110 Stat. 466, provided that: "Section 876b of title 10, United States Code (article 76b of the Uniform Code of Military Justice), as added by subsection (a), shall take effect at the end of the six-month period beginning on the date of the enactment of this Act [Feb. 10, 1996] and shall apply with respect to charges referred to courts-martial after the end of that period."

## SUBCHAPTER X—PUNITIVE ARTICLES


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| 901. | 101. | Improper use of countersign. |
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| 920a. | 120a. | Mails: deposit of obscene matter. |
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| 921. | 121. | Larceny and wrongful appropriation. |
| 921a. | 121a. | Fraudulent use of credit cards, debit cards, and other access devices. |
| 921b. | 121b. | False pretenses to obtain services. |
| 922. | 122. | Robbery. |
| 922a. | 122a. | Receiving stolen property. |
| 923. | 123. | Offenses concerning Government computers. |
| 923a. | 123a. | Making, drawing, or uttering check, draft, or order without sufficient funds. |
| 924. | 124. | Frauds against the United States. |
| 924a. | 124a. | Bribery. |
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| 925. | 125. | Kidnapping. |

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| 926. | 126. | Arson; burning property with intent to defraud. |
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| 928. | 128. | Assault. |
| 928a. | 128a. | Maiming. |
| 928b. | 128b. | Domestic violence. |
| 929. | 129. | Burglary; unlawful entry. |
| [929a | 129a. | Omitted.] |
| 930. | 130. | Stalking. |
| 931. | 131. | Perjury. |
| 931a. | 131a. | Subornation of perjury. |
| 931b. | 131b. | Obstructing justice. |
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| 931d. | 131d. | Wrongful refusal to testify. |
| 931e. | 131e. | Prevention of authorized seizure of property. |
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| 932. | 132. | Retaliation. |
| 933. | 133. | Conduct unbecoming an officer. |
| 934. | 134. | General article. |

[1] Editorially added, see second 2017 Amendment note below.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title V, §542(b), Dec. 27, 2021, 135 Stat. 1709, substituted "Conduct unbecoming an officer" for "Conduct unbecoming an officer and a gentleman" in item 933.

**2018**—Pub. L. 115–232, div. A, title V, §532(a)(2), Aug. 13, 2018, 132 Stat. 1759, added item 928b.

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(18), Dec. 12, 2017, 131 Stat. 1600, amended Pub. L. 114–328, §5452. See 2016 Amendment note below.

Pub. L. 115–91, div. A, title V, §533(b), Dec. 12, 2017, 131 Stat. 1390, added item 917a. As amended generally by section 5452 of Pub. L. 114–328, which was enacted Dec. 23, 2016, but effective Jan. 1, 2019 (see 2016 Amendment note below), analysis no longer included item 917a, but item was added back editorially, to reflect the probable intent of Congress.

**2016**—Pub. L. 114–328, div. E, title LX, §5452, Dec. 23, 2016, 130 Stat. 2958, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(18), Dec. 12, 2017, 131 Stat. 1600, amended analysis generally, substituting items 877 to 934 for former items 877 to 934.

**2013**—Pub. L. 113–66, div. A, title XVII, §1707(b), Dec. 26, 2013, 127 Stat. 961, substituted "Forcible sodomy; bestiality" for "Sodomy" in item 925.

**2011**—Pub. L. 112–81, div. A, title V, §541(e), Dec. 31, 2011, 125 Stat. 1410, substituted "Rape and sexual assault generally" for "Rape, sexual assault, and other sexual misconduct" in item 920 and added items 920b and 920c.

**2006**—Pub. L. 109–163, div. A, title V, §552(a)(2), Jan. 6, 2006, 119 Stat. 3262, substituted "Rape, sexual assault, and other sexual misconduct" for "Rape and carnal knowledge" in item 920.

Pub. L. 109–163, div. A, title V, §551(a)(2), Jan. 6, 2006, 119 Stat. 3256, added item 920a.

**2004**—Pub. L. 108–212, §3(b), Apr. 1, 2004, 118 Stat. 570, added item 919a.

**1997**—Pub. L. 105–85, div. A, title X, §1073(a)(10), Nov. 18, 1997, 111 Stat. 1900, struck out "Art." before "95" in item 895.

**1996**—Pub. L. 104–106, div. A, title XI, §1112(b), Feb. 10, 1996, 110 Stat. 461, inserted "flight," after "Resistance," in item 895.

**1992**—Pub. L. 102–484, div. A, title X, §1066(a)(2), Oct. 23, 1992, 106 Stat. 2506, substituted "operation of a vehicle, aircraft, or vessel" for "driving" in item 911.

**1985**—Pub. L. 99–145, title V, §534(b), Nov. 8, 1985, 99 Stat. 635, added item 906a.
**1983**—Pub. L. 98–209, §8(b), Dec. 6, 1983, 97 Stat. 1404, added item 912a.
**1961**—Pub. L. 87–385, §1(2), Oct. 4, 1961, 75 Stat. 814, added item 923a.

## §877. Art. 77. Principals

Any person punishable under this chapter who—

(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or

(2) causes an act to be done which if directly performed by him would be punishable by this chapter;

is a principal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 877 | 50:671. | May 5, 1950, ch. 169, §1 (Art. 77), 64 Stat. 134. |

## §878. Art. 78. Accessory after the fact

Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 878 | 50:672. | May 5, 1950, ch. 169, §1 (Art. 78), 64 Stat. 134. |

## §879. Art. 79. Conviction of offense charged, lesser included offenses, and attempts

(a) IN GENERAL.—An accused may be found guilty of any of the following:

(1) The offense charged.

(2) A lesser included offense.

(3) An attempt to commit the offense charged.

(4) An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

(b) LESSER INCLUDED OFFENSE DEFINED.—In this section (article), the term "lesser included offense" means—

(1) an offense that is necessarily included in the offense charged; and

(2) any lesser included offense so designated by regulation prescribed by the President.

(c) REGULATORY AUTHORITY.—Any designation of a lesser included offense in a regulation referred to in subsection (b) shall be reasonably included in the greater offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65; Pub. L. 114–328, div. E, title LX, §5402, Dec. 23, 2016, 130

Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 879 | 50:673. | May 5, 1950, ch. 169, §1 (Art. 79), 64 Stat. 134. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §880. Art. 80. Attempts

(a) An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 880(a) | 50:674(a). | May 5, 1950, ch. 169, §1 (Art. 80), 64 Stat. 134. |
| 880(b) | 50:674(b). | |
| 880(c) | 50:674(c). | |

In subsection (a), the words "even though" are substituted for the word "but" for clarity.

## §881. Art. 81. Conspiracy

(a) Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66; Pub. L. 109–366, §4(b), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 881 | 50:675. | May 5, 1950, ch. 169, §1 (Art. 81), 64 Stat. 134. |

The words "or persons" are omitted as surplusage, since under section 1 of title 1 words importing the singular may apply to several persons.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–366 designated existing provisions as subsec. (a) and added subsec. (b).

## §882. Art. 82. Soliciting commission of offenses

(a) SOLICITING COMMISSION OF OFFENSES GENERALLY.—Any person subject to this chapter who solicits or advises another to commit an offense under this chapter (other than an offense specified in subsection (b)) shall be punished as a court-martial may direct.

(b) SOLICITING DESERTION, MUTINY, SEDITION, OR MISBEHAVIOR BEFORE THE ENEMY.—Any person subject to this chapter who solicits or advises another to violate section 885 of this title (article 85), section 894 of this title (article 94), or section 899 of this title (article 99)—

(1) if the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

(2) if the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66; Pub. L. 114–328, div. E, title LX, §5403, Dec. 23, 2016, 130 Stat. 2939; Pub. L. 115–91, div. A, title X, §1081(c)(1)(M), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 882(a)<br>882(b) | 50:676(a).<br>50:676(b). | May 5, 1950, ch. 169, §1, (Art. 82), 64 Stat. 134. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (b). Pub. L. 115–91 substituted "section 899" for "section 99" in introductory provisions.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to solicitation of desertion, mutiny, misbehavior before the enemy, or sedition.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of

Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §883. Art. 83. Malingering

Any person subject to this chapter who, with the intent to avoid work, duty, or service—

(1) feigns illness, physical disablement, mental lapse, or mental derangement; or

(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5404, Dec. 23, 2016, 130 Stat. 2940.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 883 was renumbered section 904a of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §884. Art. 84. Breach of medical quarantine

Any person subject to this chapter—

(1) who is ordered into medical quarantine by a person authorized to issue such order; and

(2) who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5405, Dec. 23, 2016, 130 Stat. 2940.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 884 was renumbered section 904b of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §885. Art. 85. Desertion

(a) Any member of the armed forces who—

(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk

important service; or

(3) without being regularly separated from one of the armed forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States;

is guilty of desertion.

(b) Any commissioned officer of the armed forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 885(a)<br>885(b)<br>885(c) | 50:679(a).<br>50:679(b).<br>50:679(c). | May 5, 1950, ch. 169, §1 (Art. 85), 64 Stat. 135. |

In subsection (a), the word "unit" is substituted for the words "place of service" to conform to clause (2) of this section and section 886(3) of this title. The word "proper" is omitted as surplusage.

In subsection (b), the word "commissioned" is inserted for clarity. The word "before" is substituted for the words "prior to". The words "its acceptance" are substituted for the words "the acceptance of the same". The words "after tender of" are substituted for the words "having tendered" for clarity. The word "due" is omitted as surplusage.

In subsection (c), the words "attempt to desert" are substituted for the words "attempted desertion".

## §886. Art. 86. Absence without leave

Any member of the armed forces who, without authority—

(1) fails to go to his appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 886 | 50:680. | May 5, 1950, ch. 169, §1 (Art. 86), 64 Stat. 135. |

The words "proper" and "other" are omitted as surplusage.

## §887. Art. 87. Missing movement; jumping from vessel

(a) MISSING MOVEMENT.—Any person subject to this chapter who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of

duty to move shall be punished as a court-martial may direct.

(b) JUMPING FROM VESSEL INTO THE WATER.—Any person subject to this chapter who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 114–328, div. E, title LX, §5406, Dec. 23, 2016, 130 Stat. 2940.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 887 | 50:681. | May 5, 1950, ch. 169, §1 (Art. 87), 64 Stat. 135. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §887a. Art. 87a. Resistance, flight, breach of arrest, and escape

Any person subject to this chapter who—

(1) resists apprehension;
(2) flees from apprehension;
(3) breaks arrest; or
(4) escapes from custody or confinement;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69, §895; Pub. L. 104–106, div. A, title XI, §1112(a), Feb. 10, 1996, 110 Stat. 461; renumbered §887a, Pub. L. 114–328, div. E, title LX, §5401(2), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 895 | 50:689. | May 5, 1950, ch. 169, §1 (Art. 95), 64 Stat. 136. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 895 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §887b. Art. 87b. Offenses against correctional custody and restriction

(a) ESCAPE FROM CORRECTIONAL CUSTODY.—Any person subject to this chapter—

(1) who is placed in correctional custody by a person authorized to do so;

(2) who, while in correctional custody, is under physical restraint; and

(3) who escapes from the physical restraint before being released from the physical restraint by proper authority;

shall be punished as a court-martial may direct.

(b) BREACH OF CORRECTIONAL CUSTODY.—Any person subject to this chapter—

(1) who is placed in correctional custody by a person authorized to do so;

(2) who, while in correctional custody, is under restraint other than physical restraint; and

(3) who goes beyond the limits of the restraint before being released from the correctional custody or relieved of the restraint by proper authority;

shall be punished as a court-martial may direct.

(c) BREACH OF RESTRICTION.—Any person subject to this chapter—

(1) who is ordered to be restricted to certain limits by a person authorized to do so; and

(2) who, with knowledge of the limits of the restriction, goes beyond those limits before being released by proper authority;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5407, Dec. 23, 2016, 130 Stat. 2941.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §888. Art. 88. Contempt toward officials

Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Homeland Security, or the Governor or legislature of any State, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 96–513, title V, §511(25), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 888 | 50:682. | May 5, 1950, ch. 169, §1 (Art. 88), 64 Stat. 135. |

The word "commissioned" is inserted for clarity. The words "the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession" are substituted for the words "Vice President, Congress, Secretary of Defense, or a Secretary of a Department, a Governor or a legislature of any State, Territory, or other possession of the United States".

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Pub. L. 109–163 struck out "Territory," after "State,".
**2002**—Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".
**1980**—Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer

(a) DISRESPECT.—Any person subject to this chapter who behaves with disrespect toward that person's superior commissioned officer shall be punished as a court-martial may direct.

(b) ASSAULT.—Any person subject to this chapter who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished—

(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 114–328, div. E, title LX, §5408, Dec. 23, 2016, 130 Stat. 2941.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 889 | 50:683. | May 5, 1950, ch. 169, §1 (Art. 89), 64 Stat. 135. |

The word "commissioned" is inserted for clarity.

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (b) of this section were contained in section 890 of this title, prior to amendment by Pub. L. 114–328, div. E, title LX, §5409, Dec. 23, 2016, 130 Stat. 2942.

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person

subject to this chapter who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §890. Art. 90. Willfully disobeying superior commissioned officer

Any person subject to this chapter who willfully disobeys a lawful command of that person's superior commissioned officer shall be punished—

(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68; Pub. L. 114–328, div. E, title LX, §5409, Dec. 23, 2016, 130 Stat. 2942.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 890 | 50:684. | May 5, 1950, ch. 169, §1 (Art. 90), 64 Stat. 135. |

The word "commissioned" is inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to the offense of assaulting or willfully disobeying a superior commissioned officer. See section 889(b) of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §891. Art. 91. Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer

Any warrant officer or enlisted member who—

(1) strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

(2) willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 891 | 50:685. | May 5, 1950, ch. 169, §1 (Art. 91), 64 Stat. 136. |

The word "member" is substituted for the word "person".

## §892. Art. 92. Failure to obey order or regulation

Any person subject to this chapter who—

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 892 | 50:686. | May 5, 1950, ch. 169, §1 (Art. 92), 64 Stat. 136. |

The word "order" is substituted for the word "same".

## §893. Art. 93. Cruelty and maltreatment

Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 893 | 50:687. | May 5, 1950, ch. 169, §1 (Art. 93), 64 Stat. 136. |

## §893a. Art. 93a. Prohibited activities with military recruit or trainee by person in position of special trust

(a) ABUSE OF TRAINING LEADERSHIP POSITION.—Any person subject to this chapter—

(1) who is an officer, a noncommissioned officer, or a petty officer;

(2) who is in a training leadership position with respect to a specially protected junior member of the armed forces; and

(3) who engages in prohibited sexual activity with such specially protected junior member of the armed forces;

shall be punished as a court-martial may direct.

(b) ABUSE OF POSITION AS MILITARY RECRUITER.—Any person subject to this chapter—

(1) who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

(2) who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program;

shall be punished as a court-martial may direct.

(c) CONSENT.—Consent is not a defense for any conduct at issue in a prosecution under this section (article).

(d) DEFINITIONS.—In this section (article):

(1) SPECIALLY PROTECTED JUNIOR MEMBER OF THE ARMED FORCES.—The term "specially protected junior member of the armed forces" means—

(A) a member of the armed forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

(B) a member of the armed forces who is a cadet, a midshipman, an officer candidate, or a student in any other officer qualification program; and

(C) a member of the armed forces in any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

(2) TRAINING LEADERSHIP POSITION.—The term "training leadership position" means, with respect to a specially protected junior member of the armed forces, any of the following:

(A) Any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the armed forces, or any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

(B) Faculty and staff of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

(3) APPLICANT FOR MILITARY SERVICE.—The term "applicant for military service" means a person who, under regulations prescribed by the Secretary concerned, is an applicant for original enlistment or appointment in the armed forces.

(4) MILITARY RECRUITER.—The term "military recruiter" means a person who, under regulations prescribed by the Secretary concerned, has the primary duty to recruit persons for military service.

(5) PROHIBITED SEXUAL ACTIVITY.—The term "prohibited sexual activity" means, as specified in regulations prescribed by the Secretary concerned, inappropriate physical intimacy under circumstances described in such regulations.

(Added Pub. L. 114–328, div. E, title LX, §5410, Dec. 23, 2016, 130 Stat. 2942.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §894. Art. 94. Mutiny or sedition

(a) Any person subject to this chapter who—

(1) with intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished by death or such other punishment as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 894(a)<br>894(b) | 50:688(a).<br>50:688(b). | May 5, 1950, ch. 169, §1 (Art. 94), 64 Stat. 136. |

In subsection (a)(1) and (2), the words "or persons" are omitted, since, under section 1 of title 1, words importing the singular may apply to several persons.

In subsection (a)(3), the word "a" is substituted for the words "an offense of". The words "commissioned officer" are inserted after the word "superior", for clarity.

## §895. Art. 95. Offenses by sentinel or lookout

(a) DRUNK OR SLEEPING ON POST, OR LEAVING POST BEFORE BEING RELIEVED .—Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved, shall be punished—

(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

(2) if the offense is committed other than in time of war, by such punishment, other than death, as a court-martial may direct.

(b) LOITERING OR WRONGFULLY SITTING ON POST.—Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72, §913; renumbered §895 and amended Pub. L. 114–328, div. E, title LX, §§5401(8), 5411, Dec. 23, 2016, 130 Stat. 2938, 2943.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 913 | 50:707. | May 5, 1950, ch. 169, §1 (Art. 113), 64 Stat. 139. |

**PRIOR PROVISIONS**

A prior section 895 was renumbered section 887a of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328, §5411, amended section generally. Prior to amendment, text read as follows: "Any sentinel or look-out who is found drunk or sleeping upon his post, or leaves it before he is regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a

court-martial may direct, but if the offense is committed at any other time, by such punishment other than death as a court-martial may direct."

Pub. L. 114–328, §5401(8), renumbered section 913 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §895a. Art. 95a. Disrespect toward sentinel or lookout

(a) DISRESPECTFUL LANGUAGE TOWARD SENTINEL OR LOOKOUT.—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

(b) DISRESPECTFUL BEHAVIOR TOWARD SENTINEL OR LOOKOUT.—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5412, Dec. 23, 2016, 130 Stat. 2943.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §896. Art. 96. Release of prisoner without authority; drinking with prisoner

(a) RELEASE OF PRISONER WITHOUT AUTHORITY.—Any person subject to this chapter—

(1) who, without authority to do so, releases a prisoner; or

(2) who, through neglect or design, allows a prisoner to escape;

shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

(b) DRINKING WITH PRISONER.—Any person subject to this chapter who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69; Pub. L. 114–328, div. E, title LX, §5413, Dec. 23, 2016, 130 Stat. 2944.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 896 | 50:690. | May 5, 1950, ch. 169, §1 (Art. 96), 64 Stat. 136. |

The words "whether or not the prisoner was committed in strict compliance with law" are substituted for the word "duly", to reflect the long standing construction expressed in the Manual for Courts-Martial, United States, 1951, par. 175a.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §897. Art. 97. Unlawful detention

Any person subject to this chapter who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 897 | 50:691. | May 5, 1950, ch. 169, §1 (Art. 97), 64 Stat. 137. |

## §898. Art. 98. Misconduct as prisoner

Any person subject to this chapter who, while in the hands of the enemy in time of war—

(1) for the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) while in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71, §905; renumbered §898, Pub. L. 114–328, div. E, title LX, §5401(6), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 905 | 50:699. | May 5, 1950, ch. 169, §1 (Art. 105), 64 Stat. 138. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 898 was renumbered section 931f of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 905 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §899. Art. 99. Misbehavior before the enemy

Any member of the armed forces who before or in the presence of the enemy—

(1) runs away;

(2) shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) casts away his arms or ammunition;

(5) is guilty of cowardly conduct;

(6) quits his place of duty to plunder or pillage;

(7) causes false alarms in any command, unit, or place under control of the armed forces;

(8) willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies when engaged in battle;

shall be punished by death or such other punishment as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 899 | 50:693. | May 5, 1950, ch. 169, §1 (Art. 99), 64 Stat. 137. |

## §900. Art. 100. Subordinate compelling surrender

Any person subject to this chapter who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished by death or such other punishment as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 70.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 900 | 50:694. | May 5, 1950, ch. 169, §1 (Art. 100), 64 Stat. 137. |

## §901. Art. 101. Improper use of countersign

Any person subject to this chapter who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished by death or such other punishment as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 70.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 901 | 50:695. | May 5, 1950, ch. 169, §1 (Art. 101), 64 Stat. 137. |

## §902. Art. 102. Forcing a safeguard

Any person subject to this chapter who forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 70.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 902 | 50:696. | May 5, 1950, ch. 169, §1 (Art. 102), 64 Stat. 137. |

## §903. Art. 103. Spies

Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death or such other punishment as a court-martial or a military commission may direct. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71, §906; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631; renumbered §903 and amended Pub. L. 114–328, div. E, title LX, §§5401(7), 5414, Dec. 23, 2016, 130 Stat. 2938, 2944.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 906 | 50:700. | May 5, 1950, ch. 169, §1 (Art. 106), 64 Stat. 138. |

The words "of the United States" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 903 was renumbered section 908a of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328, §5414, inserted "or such other punishment as a court-martial or a military

commission may direct" after "punished by death".

Pub. L. 114–328, §5401(7), renumbered section 906 of this title as this section.

**2006**—Pub. L. 109–366 inserted last sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EXECUTIVE DOCUMENTS

### PROCLAMATION NO. 2561. ENEMIES DENIED ACCESS TO UNITED STATES COURTS

Proc. No. 2561, July 2, 1942, 7 F.R. 5101, 56 Stat. 1964, provided:

Whereas the safety of the United States demands that all enemies who have entered upon the territory of the United States as part of an invasion or predatory incursion, or who have entered in order to commit sabotage, espionage or other hostile or warlike acts, should be promptly tried in accordance with the law of war;

Now, therefore, I, Franklin D. Roosevelt, President of the United States of America and Commander in Chief of the Army and Navy of the United States, by virtue of the authority vested in me by the Constitution and the statutes of the United States, do hereby proclaim that all persons who are subjects, citizens or residents of any nation at war with the United States or who give obedience to or act under the direction of any such nation, and who during time of war enter or attempt to enter the United States or any territory or possession thereof, through coastal or boundary defenses, and are charged with committing or attempting or preparing to commit sabotage, espionage, hostile or warlike acts, or violations of the law of war, shall be subject to the law of war and to the jurisdiction of military tribunals; and that such persons shall not be privileged to seek any remedy or maintain any proceeding directly or indirectly, or to have any such remedy or proceeding sought on their behalf, in the courts of the United States, or of its States, territories, and possessions, except under such regulations as the Attorney General, with the approval of the Secretary of War, may from time to time prescribe.

## §903a. Art. 103a. Espionage

(a)(1) Any person subject to this chapter who, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any entity described in paragraph (2), either directly or indirectly, anything described in paragraph (3) shall be punished as a court-martial may direct, except that if the accused is found guilty of an offense that directly concerns (A) nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large scale attack, (B) war plans, (C) communications intelligence or cryptographic information, or (D) any other major weapons system or major element of defense strategy, the accused shall be punished by death or such other punishment as a court-martial may direct.

(2) An entity referred to in paragraph (1) is—

(A) a foreign government;

(B) a faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States; or

(C) a representative, officer, agent, employee, subject, or citizen of such a government, faction, party, or force.

(3) A thing referred to in paragraph (1) is a document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense.

(b)(1) No person may be sentenced by court-martial to suffer death for an offense under this

section (article) unless—

(A) the members of the court-martial unanimously find at least one of the aggravating factors set out in subsection (c); and

(B) the members unanimously determine that any extenuating or mitigating circumstances are substantially outweighed by any aggravating circumstances, including the aggravating factors set out in subsection (c).

(2) Findings under this subsection may be based on—

(A) evidence introduced on the issue of guilt or innocence;

(B) evidence introduced during the sentencing proceeding; or

(C) all such evidence.

(3) The accused shall be given broad latitude to present matters in extenuation and mitigation.

(c) A sentence of death may be adjudged by a court-martial for an offense under this section (article) only if the members unanimously find, beyond a reasonable doubt, one or more of the following aggravating factors:

(1) The accused has been convicted of another offense involving espionage or treason for which either a sentence of death or imprisonment for life was authorized by statute.

(2) In the commission of the offense, the accused knowingly created a grave risk of substantial damage to the national security.

(3) In the commission of the offense, the accused knowingly created a grave risk of death to another person.

(4) Any other factor that may be prescribed by the President by regulations under section 836 of this title (article 36).

(Added Pub. L. 99–145, title V, §534(a), Nov. 8, 1985, 99 Stat. 634, §906a; renumbered §903a, Pub. L. 114–328, div. E, title LX, §5401(7), Dec. 23, 2016, 130 Stat. 2938.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 906a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §903b. Art. 103b. Aiding the enemy

Any person who—

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, provides military education, military training, or tactical advice to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall suffer death or such other punishment as a court-martial or military commission may direct. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 70, §904; Pub. L. 109–366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631; renumbered §903b, Pub. L. 114–328, div. E, title LX, §5401(5), Dec. 23, 2016, 130 Stat. 2938;

Pub. L. 118–159, div. A, title V, §564, Dec. 23, 2024, 138 Stat. 1904.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 904 | 50:698. | May 5, 1950, ch. 169, §1 (Art. 104), 64 Stat. 138. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Par. (2). Pub. L. 118–159 inserted "provides military education, military training, or tactical advice to," after "gives intelligence to,".

**2016**—Pub. L. 114–328 renumbered section 904 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §904. Art. 104. Public records offenses

Any person subject to this chapter who, willfully and unlawfully—

(1) alters, conceals, removes, mutilates, obliterates, or destroys a public record; or

(2) takes a public record with the intent to alter, conceal, remove, mutilate, obliterate, or destroy the public record;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5415, Dec. 23, 2016, 130 Stat. 2944.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 904 was renumbered section 903b of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §904a. Art. 104a. Fraudulent enlistment, appointment, or separation

Any person who—

(1) procures his own enlistment or appointment in the armed forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures his own separation from the armed forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66, §883; renumbered §904a, Pub. L. 114–328, div. E, title LX, §5401(1), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 883 | 50:677. | May 5, 1950, ch. 169, §1 (Art. 83), 64 Stat. 134. |

In clauses (1) and (2), the words "means of" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 883 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §904b. Art. 104b. Unlawful enlistment, appointment, or separation

Any person subject to this chapter who effects an enlistment or appointment in or a separation from the armed forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66, §884; renumbered §904b, Pub. L. 114–328, title LX, §5401(1), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 884 | 50:678. | May 5, 1950, ch. 169, §1 (Art. 84), 64 Stat. 135. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 884 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §905. Art. 105. Forgery

Any person subject to this chapter who, with intent to defraud—

(1) falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or

(2) utters, offers, issues, or transfers such a writing, known by him to be so made or altered;

is guilty of forgery and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74, §923; renumbered §905, Pub. L. 114–328, div. E, title LX, §5401(12), Dec. 23, 2016, 130 Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 923 | 50:717. | May 5, 1950, ch. 169, §1 (Art. 123), 64 Stat. 141. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 905 was renumbered section 898 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 923 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §905a. Art. 105a. False or unauthorized pass offenses

(a) WRONGFUL MAKING, ALTERING, ETC.—Any person subject to this chapter who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

(b) WRONGFUL SALE, ETC.—Any person subject to this chapter who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

(c) WRONGFUL USE OR POSSESSION.—Any person subject to this chapter who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5416, Dec. 23, 2016, 130 Stat. 2944.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No.

13825, set out as notes under section 801 of this title.

## §906. Art. 106. Impersonation of officer, noncommissioned or petty officer, or agent or official

(a) IN GENERAL.—Any person subject to this chapter who, wrongfully and willfully, impersonates—

(1) an officer, a noncommissioned officer, or a petty officer;

(2) an agent of superior authority of one of the armed forces; or

(3) an official of a government;

shall be punished as a court-martial may direct.

(b) IMPERSONATION WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, wrongfully, willfully, and with intent to defraud, impersonates any person referred to in paragraph (1), (2), or (3) of subsection (a) shall be punished as a court-martial may direct.

(c) IMPERSONATION OF GOVERNMENT OFFICIAL WITHOUT INTENT TO DEFRAUD .—Any person subject to this chapter who, wrongfully, willfully, and without intent to defraud, impersonates an official of a government by committing an act that exercises or asserts the authority of the office that the person claims to have shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, title LX, §5417, Dec. 23, 2016, 130 Stat. 2945.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 906 was renumbered section 903 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §906a. Art. 106a. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button

Any person subject to this chapter—

(1) who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and

(2) who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5418, Dec. 23, 2016, 130 Stat. 2945.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 906a was renumbered section 903a of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §907. Art. 107. False official statements; false swearing

(a) FALSE OFFICIAL STATEMENTS.—Any person subject to this chapter who, with intent to deceive—

(1) signs any false record, return, regulation, order, or other official document, knowing it to be false; or

(2) makes any other false official statement knowing it to be false;

shall be punished as a court-martial may direct.

(b) FALSE SWEARING.—Any person subject to this chapter—

(1) who takes an oath that—

(A) is administered in a matter in which such oath is required or authorized by law; and

(B) is administered by a person with authority to do so; and

(2) who, upon such oath, makes or subscribes to a statement;

if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71; Pub. L. 114–328, div. E, title LX, §5419, Dec. 23, 2016, 130 Stat. 2946.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 907 | 50:701. | May 5, 1950, ch. 169, §1 (Art. 107), 64 Stat. 138. |

The word "it" is substituted for the words "the same".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §907a. Art. 107a. Parole violation

Any person subject to this chapter—

(1) who, having been a prisoner as the result of a court-martial conviction or other criminal

proceeding, is on parole with conditions; and

(2) who violates the conditions of parole;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5420, Dec. 23, 2016, 130 Stat. 2946.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §908. Art. 108. Military property of United States—Loss, damage, destruction, or wrongful disposition

Any person subject to this chapter who, without proper authority—

(1) sells or otherwise disposes of;

(2) willfully or through neglect damages, destroys, or loses; or

(3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States, shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 908 | 50:702. | May 5, 1950, ch. 169, §1 (Art. 108), 64 Stat. 138. |

## §908a. Art. 108a. Captured or abandoned property

(a) All persons subject to this chapter shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this chapter who—

(1) fails to carry out the duties prescribed in subsection (a);

(2) buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) engages in looting or pillaging;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 70, §903; renumbered §908a, Pub. L. 114–328, div. E, title LX, §5401(4), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 903(a)<br>903(b) | 50:697(a).<br>50:697(b). | May 5, 1950, ch. 169, §1 (Art. 103), 64 Stat. 138. |

In subsection (b)(1), the words "of this section" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 903 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §909. Art. 109. Property other than military property of United States—Waste, spoilage, or destruction

Any person subject to this chapter who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 909 | 50:703. | May 5, 1950, ch. 169, §1 (Art. 109), 64 Stat. 139. |

## §909a. Art. 109a. Mail matter: wrongful taking, opening, etc.

(a) TAKING.—Any person subject to this chapter who, with the intent to obstruct the correspondence of, or to pry into the business or secrets of, any person or organization, wrongfully takes mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

(b) OPENING, SECRETING, DESTROYING, STEALING.—Any person subject to this chapter who wrongfully opens, secretes, destroys, or steals mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5421, Dec. 23, 2016, 130 Stat. 2946.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §910. Art. 110. Improper hazarding of vessel or aircraft

(a) WILLFUL AND WRONGFUL HAZARDING.—Any person subject to this chapter who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished by death or such other punishment as a court-martial may direct.

(b) NEGLIGENT HAZARDING.—Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71; Pub. L. 114–328, div. E, title LX, §5422, Dec. 23, 2016, 130 Stat. 2947.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 910(a)<br>910(b) | 50:704(a).<br>50:704(b). | May 5, 1950, ch. 169, §1 (Art. 110), 64 Stat. 139. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows:

"(a) Any person subject to this chapter who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces shall suffer death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel of the armed forces shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §911. Art. 111. Leaving scene of vehicle accident

(a) DRIVER.—Any person subject to this chapter—

(1) who is the driver of a vehicle that is involved in an accident that results in personal injury or property damage; and

(2) who wrongfully leaves the scene of the accident—

(A) without providing assistance to an injured person; or

(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

(b) SENIOR PASSENGER.—Any person subject to this chapter—

(1) who is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;

(2) who is the superior commissioned or noncommissioned officer of the driver of the vehicle or is the commander of the vehicle; and

(3) who wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident—

(A) without providing assistance to an injured person; or

(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5423, Dec. 23, 2016, 130 Stat. 2947.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 911 was renumbered section 913 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §912. Art. 112. Drunkenness and other incapacitation offenses

(a) DRUNK ON DUTY.—Any person subject to this chapter who is drunk on duty shall be punished as a court-martial may direct.

(b) INCAPACITATION FOR DUTY FROM DRUNKENNESS OR DRUG USE.—Any person subject to this chapter who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

(c) DRUNK PRISONER.—Any person subject to this chapter who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72; Pub. L. 114–328, div. E, title LX, §5424, Dec. 23, 2016, 130 Stat. 2947.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 912 | 50:706. | May 5, 1950, ch. 169, §1 (Art. 112), 64 Stat. 139. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter other than a sentinel or look-out, who is found drunk on duty, shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §912a. Art. 112a. Wrongful use, possession, etc., of controlled substances

(a) Any person subject to this chapter who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces a substance described in subsection (b) shall be punished as a court-martial may direct.

(b) The substances referred to in subsection (a) are the following:

(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance.

(2) Any substance not specified in clause (1) that is listed on a schedule of controlled substances prescribed by the President for the purposes of this article.

(3) Any other substance not specified in clause (1) or contained on a list prescribed by the President under clause (2) that is listed in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(Added Pub. L. 98–209, §8(a), Dec. 6, 1983, 97 Stat. 1403.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective first day of eighth calendar month beginning after Dec. 6, 1983, but not applicable to any offense committed before that date and not to be construed to invalidate the prosecution of any offense committed before that date, see section 12(a)(1), (5) of Pub. L. 98–209, set out as an Effective Date of 1983 Amendment note under section 801 of this title.

**PROCEDURES FOR FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE**

Pub. L. 100–180, div. A, title XII, §1248, Dec. 4, 1987, 101 Stat. 1166, provided that:

"(a) ESTABLISHMENT OF PROCEDURES.—The Secretary of Defense shall establish procedures to ensure that whenever, in connection with a criminal investigation conducted by or for a military department, a physiological specimen is obtained from a person for the purpose of determining whether that person has used a controlled substance—

"(1) the specimen is in a condition that is suitable for forensic examination when delivered to a forensic laboratory; and

"(2) the investigative agency that submits the specimen to the laboratory receives a written statement of the results of the forensic examination from the laboratory within such period as is necessary to use such results in a court-martial or other criminal proceeding resulting from the investigation.

"(b) TRANSPORTATION OF SPECIMENS.—The procedures prescribed under subsection (a)—

"(1) shall ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

"(2) insofar as practicable, shall require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in subsection (a)(1).

"(c) TESTS FOR USE OF LSD.—Procedures established under subsection (a) shall ensure that whenever the controlled substance with respect to which a physiological specimen is to be examined is lysergic acid diethylamide (LSD), the specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of that specimen, whether the person providing the specimen has used lysergic acid diethylamide (LSD).

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal or administrative proceeding.

"(e) CONTROLLED SUBSTANCES COVERED.—For purposes of this section, a controlled substance is a substance described in section 912a(b) of title 10, United States Code.

"(f) REPORT.—Not later than March 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, a report describing the procedures established under this section."

## §913. Art. 113. Drunken or reckless operation of a vehicle, aircraft, or vessel

(a) Any person subject to this chapter who—

(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or

when the alcohol concentration in the person's blood or breath is equal to or exceeds the applicable limit under subsection (b),

shall be punished as a court-martial may direct.

(b)(1) For purposes of subsection (a), the applicable limit on the alcohol concentration in a person's blood or breath is as follows:

(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the lesser of—

(i) the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State; or

(ii) the blood alcohol content limit specified in paragraph (3).

(B) In the case of the operation or control of a vehicle, aircraft, or vessel outside the United States, the applicable blood alcohol content limit is the blood alcohol content limit specified in paragraph (3) or such lower limit as the Secretary of Defense may by regulation prescribe.

(2) In the case of a military installation that is in more than one State, if those States have different blood alcohol content limits under their respective State laws, the Secretary may select one such blood alcohol content limit to apply uniformly on that installation.

(3) For purposes of paragraph (1), the blood alcohol content limit with respect to alcohol concentration in a person's blood is 0.08 grams of alcohol per 100 milliliters of blood and with respect to alcohol concentration in a person's breath is 0.08 grams of alcohol per 210 liters of breath, as shown by chemical analysis. The Secretary may by regulation prescribe limits that are lower than the limits specified in the preceding sentence, if such lower limits are based on scientific developments, as reflected in Federal law of general applicability.

(4) In this subsection:

(A) The term "blood alcohol content limit" means the amount of alcohol concentration in a person's blood or breath at which operation or control of a vehicle, aircraft, or vessel is prohibited.

(B) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and the term "State" includes each of those jurisdictions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72, §911; Pub. L. 99–570, title III, §3055, Oct. 27, 1986, 100 Stat. 3207–76; Pub. L. 102–484, div. A, title X, §1066(a)(1), Oct. 23, 1992, 106 Stat. 2506; Pub. L. 103–160, div. A, title V, §576(a), Nov. 30, 1993, 107 Stat. 1677; Pub. L. 107–107, div. A, title V, §581, Dec. 28, 2001, 115 Stat. 1123; Pub. L. 108–136, div. A, title V, §552, Nov. 24, 2003, 117 Stat. 1481; renumbered §913 and amended Pub. L. 114–328, div. E, title LX, §§5401(9), 5425, Dec. 23, 2016, 130 Stat. 2939, 2948.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 911 | 50:705. | May 5, 1950, ch. 169, §1 (Art. 111), 64 Stat. 139. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 913 was renumbered section 895 of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328, §5401(9), renumbered section 911 of this title as this section.

Subsec. (b)(3). Pub. L. 114–328, §5425, substituted "0.08 grams" for "0.10 grams" in two places and

inserted at end "The Secretary may by regulation prescribe limits that are lower than the limits specified in the preceding sentence, if such lower limits are based on scientific developments, as reflected in Federal law of general applicability."

**2003**—Subsec. (a)(2). Pub. L. 108–136, §552(1), substituted "is equal to or exceeds" for "is in excess of".

Subsec. (b)(1)(A). Pub. L. 108–136, §552(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State and subject to the maximum blood alcohol content limit specified in paragraph (3)."

Subsec. (b)(1)(B), (3). Pub. L. 108–136, §552(2)(B), struck out "maximum" before "blood alcohol content specified" in par. (1)(B) and before "blood alcohol content" in par. (3).

Subsec. (b)(4)(A). Pub. L. 108–136, §552(2)(C), substituted "amount of alcohol concentration in a person's blood or breath at which operation or control of a vehicle, aircraft, or vessel is prohibited." for "maximum permissible alcohol concentration in a person's blood or breath for purposes of operation or control of a vehicle, aircraft, or vessel."

**2001**—Pub. L. 107–107 designated existing provisions as subsec. (a), substituted "in excess of the applicable limit under subsection (b)" for "0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams or more of alcohol per 210 liters of breath, as shown by chemical analysis" in par. (2), and added subsec. (b).

**1993**—Par. (2). Pub. L. 103–160 inserted "or more" after "0.10 grams" in two places.

**1992**—Pub. L. 102–484 substituted "operation of a vehicle, aircraft, or vessel" for "driving" in section catchline and amended text generally. Prior to amendment, text read as follows: "Any person subject to this chapter who operates any vehicle while drunk, or in a reckless or wanton manner, or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), shall be punished as a court-martial may direct."

**1986**—Pub. L. 99–570 inserted "or while impaired by a substance described in section 912a(b) of this title (article 112a(b)),".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title V, §576(b), Nov. 30, 1993, 107 Stat. 1677, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if included in the amendment to section 911 of title 10, United States Code, made by section 1066(a)(1) of Public Law 102–484 on October 23, 1992."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable with respect to offenses committed on or after that date, see section 1067 of Pub. L. 102–484, set out as a note under section 803 of this title.

## §914. Art. 114. Endangerment offenses

(a) RECKLESS ENDANGERMENT.—Any person subject to this chapter who engages in conduct that—

(1) is wrongful and reckless or is wanton; and

(2) is likely to produce death or grievous bodily harm to another person;

shall be punished as a court-martial may direct.

(b) DUELING.—Any person subject to this chapter—

(1) who fights or promotes, or is concerned in or connives at fighting, a duel; or

(2) who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority;

shall be punished as a court-martial may direct.

(c) FIREARM DISCHARGE, ENDANGERING HUMAN LIFE.—Any person subject to this chapter who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

(d) CARRYING CONCEALED WEAPON.—Any person subject to this chapter who unlawfully carries a dangerous weapon concealed on or about his person shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72; Pub. L. 114–328, div. E, title LX, §5426, Dec. 23, 2016, 130 Stat. 2948.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 914 | 50:708. | May 5, 1950, ch. 169, §1 (Art. 114), 64 Stat. 139. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority, shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §915. Art. 115. Communicating threats

(a) COMMUNICATING THREATS GENERALLY.—Any person subject to this chapter who wrongfully communicates a threat to injure the person, property, or reputation of another shall be punished as a court-martial may direct.

(b) COMMUNICATING THREAT TO USE EXPLOSIVE, ETC.—Any person subject to this chapter who wrongfully communicates a threat to injure the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct.

(c) COMMUNICATING FALSE THREAT CONCERNING USE OF EXPLOSIVE, ETC.—Any person subject to this chapter who maliciously communicates a false threat concerning injury to the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct. As used in the preceding sentence, the term "false threat" means a threat that, at the time the threat is communicated, is known to be false by the person communicating the threat.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72; Pub. L. 114–328, div. E, title LX, §5427, Dec. 23, 2016, 130 Stat. 2948.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 915 | 50:709. | May 5, 1950, ch. 169, §1 (Art. 115), 64 Stat. 139. |

**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 114–328 amended section generally. Prior to amendment, section related to the offense of malingering. See section 883 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §916. Art. 116. Riot or breach of peace

Any person subject to this chapter who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 916 | 50:710. | May 5, 1950, ch. 169, §1 (Art. 116), 64 Stat. 139. |

## §917. Art. 117. Provoking speeches or gestures

Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 917 | 50:711. | May 5, 1950, ch. 169, §1 (Art. 117), 64 Stat. 139. |

## §917a. Art. 117a. Wrongful broadcast or distribution of intimate visual images

(a) PROHIBITION.—Any person subject to this chapter—

(1) who knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who—

(A) is at least 18 years of age at the time the intimate visual image or visual image of sexually explicit conduct was created;

(B) is identifiable from the intimate visual image or visual image of sexually explicit conduct itself, or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct; and

(C) does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(2) who knows or reasonably should have known that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(3) who knows or reasonably should have known that the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct is likely—

(A) to cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct; or

(B) to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships; and

(4) whose conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment,

is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished as a court-martial may direct.

(b) DEFINITIONS.—In this section:

(1) BROADCAST.—The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(2) DISTRIBUTE.—The term "distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means.

(3) INTIMATE VISUAL IMAGE.—The term "intimate visual image" means a visual image that depicts a private area of a person.

(4) PRIVATE AREA.—The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

(5) REASONABLE EXPECTATION OF PRIVACY.—The term "reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving the person, would not be visible to the public.

(6) SEXUALLY EXPLICIT CONDUCT.—The term "sexually explicit conduct" means actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse.

(7) VISUAL IMAGE.—The term "visual image" means the following:

(A) Any developed or undeveloped photograph, picture, film, or video.

(B) Any digital or computer image, picture, film, or video made by any means, including those transmitted by any means, including streaming media, even if not stored in a permanent format.

(C) Any digital or electronic data capable of conversion into a visual image.

(Added Pub. L. 115–91, div. A, title V, §533(a), Dec. 12, 2017, 131 Stat. 1389.)

## §918. Art. 118. Murder

Any person subject to this chapter who, without justification or excuse, unlawfully kills a human being, when such person—

(1) has a premeditated design to kill;

(2) intends to kill or inflict great bodily harm;

(3) is engaged in an act which is inherently dangerous to another and evinces a wanton disregard of human life; or

(4) is engaged in the perpetration or attempted perpetration of burglary, rape, rape of a child, sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, robbery, or aggravated arson;

is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under clause (1) or (4), such person shall suffer death or imprisonment for life as a court-martial may direct, unless such person is otherwise sentenced in accordance with a plea agreement entered into between the parties under section 853a of this title (article 53a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 72; Pub. L. 102–484, div. A, title X, §1066(b), Oct. 23, 1992, 106 Stat. 2506; Pub. L. 109–163, div. A, title V, §552(d), Jan. 6, 2006, 119 Stat. 3263; Pub. L. 112–81, div. A, title V, §541(d)(2), Dec. 31, 2011, 125 Stat. 1410; Pub. L. 113–291, div. A, title V, §531(d)(2)(B), Dec. 19, 2014, 128 Stat. 3364; Pub. L. 114–328, div. E, title LX, §5428, Dec. 23, 2016, 130 Stat. 2949; Pub. L. 118–31, div. A, title V, §531(a), Dec. 22, 2023, 137 Stat. 257.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 918 | 50:712. | May 5, 1950, ch. 169, §1 (Art. 118), 64 Stat. 140. |

The words "of this section" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31 substituted "such person" for "he" in introductory and concluding provisions and substituted "direct, unless such person is otherwise sentenced in accordance with a plea agreement entered into between the parties under section 853a of this title (article 53a)." for " direct." in concluding provisions.

**2016**—Par. (4). Pub. L. 114–328 struck out "forcible sodomy," after "burglary,".

**2014**—Par. (4). Pub. L. 113–291 substituted "forcible sodomy" for "sodomy".

**2011**—Par. (4). Pub. L. 112–81 substituted "sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child," for "aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child,".

**2006**—Par. (4). Pub. L. 109–163 substituted "rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child," for "rape,".

**1992**—Par. (3). Pub. L. 102–484 substituted "another" for "others".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–81 effective 180 days after Dec. 31, 2011, and applicable with respect to offenses committed on or after such effective date, see section 541(f) of Pub. L. 112–81, set out as a note under section 843 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 effective on Oct. 1, 2007, see section 552(f) of Pub. L. 109–163, set out as a note under section 843 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable with respect to offenses committed

on or after that date, see section 1067 of Pub. L. 102–484, set out as a note under section 803 of this title.

## §919. Art. 119. Manslaughter

(a) Any person subject to this chapter who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being—

(1) by culpable negligence; or

(2) while perpetrating or attempting to perpetrate an offense, other than those named in clause (4) of section 918 of this title (article 118), directly affecting the person;

is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 919(a) | 50:713(a). | May 5, 1950, ch. 169, §1 (Art. 119), 64 Stat. 140. |
| 919(b) | 50:713(b). | |

The word "named" is substituted for the word "specified".

## §919a. Art. 119a. Death or injury of an unborn child

(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section and shall, upon conviction, be punished by such punishment, other than death, as a court-martial may direct, which shall be consistent with the punishments prescribed by the President for that conduct had that injury or death occurred to the unborn child's mother.

(2) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

(3) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under paragraph (1), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

(4) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 926, 928, and 928a of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 126, 128, and 128a).

(c) Nothing in this section shall be construed to permit the prosecution—

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

(3) of any woman with respect to her unborn child.

(d) In this section, the term "unborn child" means a child in utero, and the term "child in utero" or "child, who is in utero" means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

(Added Pub. L. 108–212, §3(a), Apr. 1, 2004, 118 Stat. 569; amended Pub. L. 114–328, div. E, title LX, §5401(13)(B), Dec. 23, 2016, 130 Stat. 2939; Pub. L. 115–91, div. A, title X, §1081(c)(1)(N), Dec. 12, 2017, 131 Stat. 1598.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (b). Pub. L. 115–91 substituted "926, 928, and 928a" for "928a, 926, and 928" and "126, 128, and 128a" for "128a 126, and 128".

**2016**—Subsec. (b). Pub. L. 114–328 substituted "928a," for "924," and "128a" for "124,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §919b. Art. 119b. Child endangerment

Any person subject to this chapter—

(1) who has a duty for the care of a child under the age of 16 years; and

(2) who, through design or culpable negligence, endangers the child's mental or physical health, safety, or welfare;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5429, Dec. 23, 2016, 130 Stat. 2949.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §920. Art. 120. Rape and sexual assault generally

(a) RAPE.—Any person subject to this chapter who commits a sexual act upon another person by—

(1) using unlawful force against that other person;

(2) using force causing or likely to cause death or grievous bodily harm to any person;

(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;

(4) first rendering that other person unconscious; or

(5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;

is guilty of rape and shall be punished as a court-martial may direct.

(b) SEXUAL ASSAULT.—Any person subject to this chapter who—

(1) commits a sexual act upon another person by—

(A) threatening or placing that other person in fear;

(B) making a fraudulent representation that the sexual act serves a professional purpose; or

(C) inducing a belief by any artifice, pretense, or concealment that the person is another person;

(2) commits a sexual act upon another person—

(A) without the consent of the other person; or

(B) when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

(3) commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to—

(A) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or

(B) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person;

is guilty of sexual assault and shall be punished as a court-martial may direct.

(c) AGGRAVATED SEXUAL CONTACT.—Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(d) ABUSIVE SEXUAL CONTACT.—Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (b) (sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

(e) PROOF OF THREAT.—In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

(f) DEFENSES.—An accused may raise any applicable defenses available under this chapter or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in any prosecution under this section.

(g) DEFINITIONS.—In this section:

(1) SEXUAL ACT.—The term "sexual act" means—

(A) the penetration, however slight, of the penis into the vulva or anus or mouth;

(B) contact between the mouth and the penis, vulva, scrotum, or anus; or

(C) the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(2) SEXUAL CONTACT.—The term "sexual contact" means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object.

(3) GRIEVOUS BODILY HARM.—The term "grievous bodily harm" means serious bodily

injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

(4) FORCE.—The term "force" means—

(A) the use of a weapon;

(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or

(C) inflicting physical harm sufficient to coerce or compel submission by the victim.

(5) UNLAWFUL FORCE.—The term "unlawful force" means an act of force done without legal justification or excuse.

(6) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—The term "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action.

(7) CONSENT.—

(A) The term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance does not constitute consent. Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent.

(B) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph (B) or (C) of subsection (b)(1).

(C) All the surrounding circumstances are to be considered in determining whether a person gave consent.

(8) INCAPABLE OF CONSENTING.—The term "incapable of consenting" means the person is—

(A) incapable of appraising the nature of the conduct at issue; or

(B) physically incapable of declining participation in, or communicating unwillingess to engage in, the sexual act at issue.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73; Pub. L. 102–484, div. A, title X, §1066(c), Oct. 23, 1992, 106 Stat. 2506; Pub. L. 104–106, div. A, title XI, §1113, Feb. 10, 1996, 110 Stat. 462; Pub. L. 109–163, div. A, title V, §552(a)(1), Jan. 6, 2006, 119 Stat. 3256; Pub. L. 112–81, div. A, title V, §541(a), Dec. 31, 2011, 125 Stat. 1404; Pub. L. 112–239, div. A, title X, §1076(f)(9), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 114–328, div. E, title LX, §5430(a), (b), Dec. 23, 2016, 130 Stat. 2949; Pub. L. 115–91, div. A, title X, §1081(c)(1)(O), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 920(a) | 50:714(a). | May 5, 1950, ch. 169, §1 (Art. 120), 64 Stat. 140. |
| 920(b) | 50:714(b). | |
| 920(c) | 50:714(c). | |

In subsection (c), the words "either of" are inserted for clarity.

**EDITORIAL NOTES**

## AMENDMENTS

**2017**—Subsec. (g)(2). Pub. L. 115–91 substituted "breast" for "brest".

**2016**—Subsec. (b)(1)(B) to (D). Pub. L. 114–328, §5430(a)(1), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "causing bodily harm to that other person;".

Subsec. (b)(2). Pub. L. 114–328, §5430(a)(2), inserted dash after "another person", added subpar. (A), and inserted subpar. (B) designation before "when the person".

Subsec. (g)(1). Pub. L. 114–328, §5430(b)(1), amended par. (1) generally. Prior to amendment, par. (1) defined "sexual act".

Subsec. (g)(2). Pub. L. 114–328, §5430(b)(2), amended par. (2) generally. Prior to amendment, par. (2) defined "sexual contact".

Subsec. (g)(3) to (6). Pub. L. 114–328, §5430(b)(3), redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which defined "bodily harm".

Subsec. (g)(7). Pub. L. 114–328, §5430(b)(3)(B), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Subsec. (g)(7)(A). Pub. L. 114–328, §5430(b)(4)(A)(iii), substituted "does not" for "shall not" in last sentence.

Pub. L. 114–328, §5430(b)(4)(A)(i), (ii), which directed amendment of subpar. (A) by striking out "or submission resulting from the use of force, threat of force, or placing another in fear" in the second sentence and by inserting "Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent." after the second sentence, was executed by striking out "or submission resulting from the use of force, threat of force, or placing another person in fear" after "physical resistance" in the third sentence and by making the insertion after the third sentence, to reflect the probable intent of Congress.

Subsec. (g)(7)(B). Pub. L. 114–328, §5430(b)(4)(B), which directed substitution of "subparagraph (B) or (C)" for "subparagraph (B) or (D)", was executed by making the substitution for "subparagraph (C) or (D)", to reflect the probable intent of Congress.

Subsec. (g)(7)(C). Pub. L. 114–328, §5430(b)(4)(C), struck out "Lack of consent may be inferred based on the circumstances of the offense." at beginning and ", or whether a person did not resist or ceased to resist only because of another person's actions" before period at end.

Subsec. (g)(8). Pub. L. 114–328, §5430(b)(5), added par. (8). Former par. (8) redesignated (7).

**2013**—Subsec. (g)(7). Pub. L. 112–239 struck out second period at end.

**2011**—Pub. L. 112–81, §541(a)(11), substituted "Art. 120. Rape and sexual assault generally" for "Art. 120. Rape, sexual assault, and other sexual misconduct" in section catchline.

Subsec. (a). Pub. L. 112–81, §541(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to rape.

Subsec. (b). Pub. L. 112–81, §541(a)(3), redesignated subsec. (c) as (b) and amended it generally. Pub. L. 112–81, §541(a)(2), struck out subsec. (b) which related to rape of a child.

Subsec. (c). Pub. L. 112–81, §541(a)(4), redesignated subsec. (e) as (c) and substituted "commits" for "engages in" and "upon" for "with". Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 112–81, §541(a)(5), redesignated subsec. (h) as (d) and substituted "commits" for "engages in", "upon" for "with", and "subsection (b) (sexual assault)" for "subsection (c) (aggravated sexual assault)".

Pub. L. 112–81, §541(a)(2), struck out subsec. (d) which related to aggravated sexual assault of a child.

Subsec. (e). Pub. L. 112–81, §541(a)(7), redesignated subsec. (p) as (e) and substituted "a person made" for "the accused made" and "the person actually" for "the accused actually" and inserted "or had the ability to carry out the threat" before period at end. Former subsec. (e) redesignated (c).

Subsec. (f). Pub. L. 112–81, §541(a)(8), redesignated subsec. (q) as (f) and amended it generally.

Pub. L. 112–81, §541(a)(2), struck out subsec. (f) which related to aggravated sexual abuse of a child.

Subsec. (g). Pub. L. 112–81, §541(a)(2), (10), redesignated subsec. (t) as (g) and struck out former subsec. (g) which related to aggravated sexual contact with a child.

Subsec. (g)(1)(A). Pub. L. 112–81, §541(a)(10)(A)(i), inserted "or anus or mouth" after "vulva".

Subsec. (g)(1)(B). Pub. L. 112–81, §541(a)(10)(A)(ii), substituted "vulva or anus or mouth," for "genital opening" and "any part of the body" for "a hand or finger".

Subsec. (g)(2). Pub. L. 112–81, §541(a)(10)(B), amended par. (2) generally. Prior to amendment, par. (2) defined "sexual contact".

Subsec. (g)(3). Pub. L. 112–81, §541(a)(10)(D), redesignated par. (8) as (3) and inserted ", including any nonconsensual sexual act or nonconsensual sexual contact" before period at end. Former par. (3) redesignated

(4).

Subsec. (g)(4). Pub. L. 112–81, §541(a)(10)(E), struck out at end "It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18."

Pub. L. 112–81, §541(a)(10)(C), redesignated par. (3) as (4) and struck out former par. (4) which defined "dangerous weapon or object".

Subsec. (g)(5). Pub. L. 112–81, §541(a)(10)(F), (H), added par. (5) and struck out former par. (5) which defined "force".

Subsec. (g)(6). Pub. L. 112–81, §541(a)(10)(H), added par. (6). Former par. (6) redesignated (7).

Subsec. (g)(7). Pub. L. 112–81, §541(a)(10)(G), (I), redesignated par. (6) as (7), struck out "under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact)," after "person in fear' ", and substituted "the wrongful action contemplated by the communication or action." for "death, grievous bodily harm, or kidnapping".

Pub. L. 112–81, §541(a)(10)(F), struck out par. (7) which defined "threatening or placing that other person in fear".

Subsec. (g)(8). Pub. L. 112–81, §541(a)(10)(K), redesignated par. (14) as (8), designated introductory provisions as subpar. (A), in first sentence, struck out "words or overt acts indicating" before "a freely given" and "sexual" before "conduct", in third sentence, struck out "accused's" before "use of force", in fourth sentence, inserted "or social or sexual" before "relationship" and struck out "sexual" before "conduct" and last sentence, including subpars. (A) and (B), which related to a person who cannot consent to sexual activity, and added subpars. (B) and (C). Former par. (8) redesignated (3).

Subsec. (g)(9) to (13). Pub. L. 112–81, §541(a)(10)(J), struck out pars. (9) to (13) which defined "child", "lewd act", "indecent liberty", "indecent conduct", and "act of prostitution", respectively.

Subsec. (g)(14). Pub. L. 112–81, §541(a)(10)(K), redesignated par. (14) as (8).

Subsec. (g)(15), (16). Pub. L. 112–81, §541(a)(10)(L), struck out pars. (15) and (16) which defined "mistake of fact as to consent" and "affirmative defense", respectively.

Subsec. (h). Pub. L. 112–81, §541(a)(5), redesignated subsec. (h) as (d).

Subsecs. (i), (j). Pub. L. 112–81, §541(a)(2), struck out subsecs. (i) and (j) which related to abusive sexual contact with a child and indecent liberty with a child, respectively.

Subsecs. (k) to (n). Pub. L. 112–81, §541(a)(6), struck out subsecs. (k) to (n) which related to indecent act, forcible pandering, wrongful sexual contact, and indecent exposure, respectively.

Subsec. (o). Pub. L. 112–81, §541(a)(2), struck out subsec. (o) which related to age of child.

Subsec. (p). Pub. L. 112–81, §541(a)(7), redesignated subsec. (p) as (e).

Subsec. (q). Pub. L. 112–81, §541(a)(8), redesignated subsec. (q) as (f).

Subsecs. (r), (s). Pub. L. 112–81, §541(a)(9), struck out subsecs. (r) and (s) which related to consent and mistake of fact as to consent and other affirmative defenses not precluded, respectively.

Subsec. (t). Pub. L. 112–81, §541(a)(10), redesignated subsec. (t) as (g).

**2006**—Pub. L. 109–163 amended section generally, substituting subsecs. (a) to (t) relating to rape, sexual assault, and other sexual misconduct for subsecs. (a) to (d) relating to rape and carnal knowledge.

**1996**—Subsec. (b). Pub. L. 104–106, §1113(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct."

Subsec. (d). Pub. L. 104–106, §1113(b), added subsec. (d).

**1992**—Subsec. (a). Pub. L. 102–484 struck out "with a female not his wife" after "intercourse" and "her" after "without".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 112–81 effective 180 days after Dec. 31, 2011, and applicable with respect to offenses committed on or after such effective date, see section 541(f) of Pub. L. 112–81, set out as a note under section 843 of this title.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–163, div. A, title V, §552(c), Jan. 6, 2006, 119 Stat. 3263, provided that: "Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to offenses committed on or after the effective date specified in subsection (f) [see note below]."

Amendment by Pub. L. 109–163 effective on Oct. 1, 2007, see section 552(f) of Pub. L. 109–163, set out as a note under section 843 of this title.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable with respect to offenses committed on or after that date, see section 1067 of Pub. L. 102–484, set out as a note under section 803 of this title.

**INTERIM MAXIMUM PUNISHMENTS**

Pub. L. 109–163, div. A, title V, §552(b), Jan. 6, 2006, 119 Stat. 3263, provided that: "Until the President otherwise provides pursuant to section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), the punishment which a court-martial may direct for an offense under section 920 of such title (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), may not exceed the following limits:

"(1) SUBSECTIONS (a) AND (b).—For an offense under subsection (a) (rape) or subsection (b) (rape of a child), death or such other punishment as a court-martial may direct.

"(2) SUBSECTION (c).—For an offense under subsection (c) (aggravated sexual assault), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

"(3) SUBSECTIONS (d) AND (e).—For an offense under subsection (d) (aggravated sexual assault of a child) or subsection (e) (aggravated sexual contact), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

"(4) SUBSECTIONS (f) AND (g).—For an offense under subsection (f) (aggravated sexual abuse of a child) or subsection (g) (aggravated sexual contact with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

"(5) SUBSECTIONS (h) THROUGH (j).—For an offense under subsection (h) (abusive sexual contact), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.

"(6) SUBSECTIONS (k) AND (l).—For an offense under subsection (k) (indecent act) or subsection (l) (forcible pandering), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

"(7) SUBSECTIONS (m) AND (n).—For an offense under subsection (m) (wrongful sexual contact) or subsection (n) (indecent exposure), dishonorable discharge, forfeiture of all pay and allowances, and confinement for one year."

[See 2011 Amendment notes above for extensive amendment of section 920 of title 10 by Pub. L. 112–81, effective 180 days after Dec. 31, 2011, and applicable with respect to offenses committed on or after such effective date.]

## §920a. Art. 120a. Mails: deposit of obscene matter

Any person subject to this chapter who, wrongfully and knowingly, deposits obscene matter for mailing and delivery shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5431, Dec. 23, 2016, 130 Stat. 2951.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 920a was renumbered section 930 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §920b. Art. 120b. Rape and sexual assault of a child

(a) RAPE OF A CHILD.—Any person subject to this chapter who—

(1) commits a sexual act upon a child who has not attained the age of 12 years; or

(2) commits a sexual act upon a child who has attained the age of 12 years by—

(A) using force against any person;

(B) threatening or placing that child in fear;

(C) rendering that child unconscious; or

(D) administering to that child a drug, intoxicant, or other similar substance;

is guilty of rape of a child and shall be punished as a court-martial may direct.

(b) SEXUAL ASSAULT OF A CHILD.—Any person subject to this chapter who commits a sexual act upon a child who has attained the age of 12 years is guilty of sexual assault of a child and shall be punished as a court-martial may direct.

(c) SEXUAL ABUSE OF A CHILD.—Any person subject to this chapter who commits a lewd act upon a child is guilty of sexual abuse of a child and shall be punished as a court-martial may direct.

(d) AGE OF CHILD.—

(1) UNDER 12 YEARS.—In a prosecution under this section, it need not be proven that the accused knew the age of the other person engaging in the sexual act or lewd act. It is not a defense that the accused reasonably believed that the child had attained the age of 12 years.

(2) UNDER 16 YEARS.—In a prosecution under this section, it need not be proven that the accused knew that the other person engaging in the sexual act or lewd act had not attained the age of 16 years, but it is a defense in a prosecution under subsection (b) (sexual assault of a child) or subsection (c) (sexual abuse of a child), which the accused must prove by a preponderance of the evidence, that the accused reasonably believed that the child had attained the age of 16 years, if the child had in fact attained at least the age of 12 years.

(e) PROOF OF THREAT.—In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

(f) CONSENT.—Lack of consent is not an element and need not be proven in any prosecution under this section. A child cannot consent to any sexual act, lewd act, or use of force.

(g) DEFINITIONS.—In this section:

(1) SEXUAL ACT AND SEXUAL CONTACT.—The terms "sexual act" and "sexual contact" have the meanings given those terms in section 920(g) of this title (article 120(g)), except that the term "sexual act" also includes the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(2) FORCE.—The term "force" means—

(A) the use of a weapon;

(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a child; or

(C) inflicting physical harm.

In the case of a parent-child or similar relationship, the use or abuse of parental or similar

authority is sufficient to constitute the use of force.

(3) THREATENING OR PLACING THAT CHILD IN FEAR.—The term "threatening or placing that child in fear" means a communication or action that is of sufficient consequence to cause the child to fear that non-compliance will result in the child or another person being subjected to the action contemplated by the communication or action.

(4) CHILD.—The term "child" means any person who has not attained the age of 16 years.

(5) LEWD ACT.—The term "lewd act" means—

(A) any sexual contact with a child;

(B) intentionally exposing one's genitalia, anus, buttocks, or female areola or nipple to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person;

(C) intentionally communicating indecent language to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

(D) any indecent conduct, intentionally done with or in the presence of a child, including via any communication technology, that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(Added Pub. L. 112–81, div. A, title V, §541(b), Dec. 31, 2011, 125 Stat. 1407; amended Pub. L. 112–239, div. A, title X, §1076(a)(3), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 114–328, div. E, title LX, §5430(c), Dec. 23, 2016, 130 Stat. 2950; Pub. L. 118–159, div. A, title V, §565, Dec. 23, 2024, 138 Stat. 1904.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (f). Pub. L. 118–159 redesignated subsec. (g) as (f), struck out "not legally married to the person committing the sexual act, lewd act, or use of force" before "cannot consent to any sexual act", and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "In a prosecution under subsection (b) (sexual assault of a child) or subsection (c) (sexual abuse of a child), it is a defense, which the accused must prove by a preponderance of the evidence, that the persons engaging in the sexual act or lewd act were at that time married to each other, except where the accused commits a sexual act upon the person when the accused knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring or when the other person is incapable of consenting to the sexual act due to impairment by any drug, intoxicant, or other similar substance, and that condition was known or reasonably should have been known by the accused."

Subsecs. (g), (h). Pub. L. 118–159, §565(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

**2016**—Subsec. (h)(1). Pub. L. 114–328 inserted before period at end ", except that the term 'sexual act' also includes the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person".

**2013**—Pub. L. 112–239 made technical amendment to directory language of Pub. L. 112–81, which enacted this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(3) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

**EFFECTIVE DATE**

Amendment by Pub. L. 112–81 effective 180 days after Dec. 31, 2011, and applicable with respect to offenses committed on or after such effective date, see section 541(f) of Pub. L. 112–81, set out as an Effective Date of 2011 Amendment note under section 843 of this title.

## §920c. Art. 120c. Other sexual misconduct

(a) INDECENT VIEWING, VISUAL RECORDING, OR BROADCASTING.—Any person subject to this chapter who, without legal justification or lawful authorization—

(1) knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;

(2) knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy; or

(3) knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs (1) and (2);

is guilty of an offense under this section and shall be punished as a court-martial may direct.

(b) FORCIBLE PANDERING.—Any person subject to this chapter who compels another person to engage in an act of prostitution with any person is guilty of forcible pandering and shall be punished as a court-martial may direct.

(c) INDECENT EXPOSURE.—Any person subject to this chapter who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

(d) DEFINITIONS.—In this section:

(1) ACT OF PROSTITUTION.—The term "act of prostitution" means a sexual act or sexual contact (as defined in section 920(g) of this title (article 120(g))) on account of which anything of value is given to, or received by, any person.

(2) PRIVATE AREA.—The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

(3) REASONABLE EXPECTATION OF PRIVACY.—The term "under circumstances in which that other person has a reasonable expectation of privacy" means—

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public.

(4) BROADCAST.—The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(5) DISTRIBUTE.—The term "distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means.

(6) INDECENT MANNER.—The term "indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(Added Pub. L. 112–81, div. A, title V, §541(c), Dec. 31, 2011, 125 Stat. 1409.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Amendment by Pub. L. 112–81 effective 180 days after Dec. 31, 2011, and applicable with respect to offenses committed on or after such effective date, see section 541(f) of Pub. L. 112–81, set out as an Effective Date of 2011 Amendment note under section 843 of this title.

## §921. Art. 121. Larceny and wrongful appropriation

(a) Any person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind—

(1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 921(a) | 50:715(a). | May 5, 1950, ch. 169, §1 (Art. 121), 64 Stat. 140. |
| 921(b) | 50:715(b). | |

In subsection (a), the words "whatever" and "true" are omitted as surplusage. The word "it" is substituted for the words "the same" in clauses (1) and (2).

## §921a. Art. 121a. Fraudulent use of credit cards, debit cards, and other access devices

(a) IN GENERAL.—Any person subject to this chapter who, knowingly and with intent to defraud, uses—

(1) a stolen credit card, debit card, or other access device;

(2) a revoked, cancelled, or otherwise invalid credit card, debit card, or other access device; or

(3) a credit card, debit card, or other access device without the authorization of a person whose authorization is required for such use;

to obtain money, property, services, or anything else of value shall be punished as a court-martial may direct.

(b) ACCESS DEVICE DEFINED.—In this section (article), the term "access device" has the meaning given that term in section 1029 of title 18.

(Added Pub. L. 114–328, div. E, title LX, §5432, Dec. 23, 2016, 130 Stat. 2951.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §921b. Art. 121b. False pretenses to obtain services

Any person subject to this chapter who, with intent to defraud, knowingly uses false pretenses to obtain services shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5433, Dec. 23, 2016, 130 Stat. 2951.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §922. Art. 122. Robbery

Any person subject to this chapter who takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73; Pub. L. 114–328, div. E, title LX, §5434, Dec. 23, 2016, 130 Stat. 2951.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 922 | 50:716. | May 5, 1950, ch. 169, §1 (Art. 122), 64 Stat. 140. |

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who with intent to steal takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §922a. Art. 122a. Receiving stolen property

Any person subject to this chapter who wrongfully receives, buys, or conceals stolen property, knowing the property to be stolen property, shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5435, Dec. 23, 2016, 130 Stat. 2952.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §923. Art. 123. Offenses concerning Government computers

(a) IN GENERAL.—Any person subject to this chapter who—

(1) knowingly accesses a Government computer, with an unauthorized purpose, and by doing so obtains classified information, with reason to believe such information could be used to the injury of the United States, or to the advantage of any foreign nation, and intentionally communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted such information to any person not entitled to receive it;

(2) intentionally accesses a Government computer, with an unauthorized purpose, and thereby obtains classified or other protected information from any Government computer; or

(3) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization to a Government computer;

shall be punished as a court-martial may direct.

(b) DEFINITIONS.—In this section:

(1) The term "computer" has the meaning given that term in section 1030 of title 18.

(2) The term "Government computer" means a computer owned or operated by or on behalf of the United States Government.

(3) The term "damage" has the meaning given that term in section 1030 of title 18.

(Added Pub. L. 114–328, div. E, title LX, §5436, Dec. 23, 2016, 130 Stat. 2952.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 923 was renumbered section 905 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §923a. Art. 123a. Making, drawing, or uttering check, draft, or order without sufficient funds

Any person subject to this chapter who—

(1) for the procurement of any article or thing of value, with intent to defraud; or

(2) for the payment of any past due obligation, or for any other purpose, with intent to deceive;

makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct. The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is

refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment. In this section, the word "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order.

(Added Pub. L. 87–385, §1(1), Oct. 4, 1961, 75 Stat. 814.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 87–385, §2, Oct. 4, 1961, 75 Stat. 814, provided that: "This Act [enacting this section] becomes effective on the first day of the fifth month following the month in which it is enacted [October 1961]."

## §924. Art. 124. Frauds against the United States

Any person subject to this chapter—

(1) who, knowing it to be false or fraudulent—

(A) makes any claim against the United States or any officer thereof; or

(B) presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof;

(2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof—

(A) makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

(B) makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(C) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) who, having charge, possession, custody or control of any money, or other property of the United States, furnished or intended for the armed forces thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the armed forces thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States;

shall, upon conviction, be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 75, §932; renumbered §924, Pub. L. 114–328, div. E, title LX, §5401(14), Dec. 23, 2016, 130 Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 932 | 50:726. | May 5, 1950, ch. 169, §1 (Art. 132), 64 Stat. 142. |

The word "it" is substituted for the words "the same" throughout the revised section.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 924 was renumbered section 928a of this title.

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 932 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §924a. Art. 124a. Bribery

(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

(1) who occupies an official position or who has official duties; and

(2) who wrongfully asks, accepts, or receives a thing of value with the intent to have the person's decision or action influenced with respect to an official matter in which the United States is interested;

shall be punished as a court-martial may direct.

(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or gives a thing of value to another person, who occupies an official position or who has official duties, with the intent to influence the decision or action of the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5437, Dec. 23, 2016, 130 Stat. 2952.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §924b. Art. 124b. Graft

(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

(1) who occupies an official position or who has official duties; and

(2) who wrongfully asks, accepts, or receives a thing of value as compensation for or in recognition of services rendered or to be rendered by the person with respect to an official matter in which the United States is interested;

shall be punished as a court-martial may direct.

(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or gives a thing of value to another person, who occupies

an official position or who has official duties, as compensation for or in recognition of services rendered or to be rendered by the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5438, Dec. 23, 2016, 130 Stat. 2953.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §925. Art. 125. Kidnapping

Any person subject to this chapter who wrongfully—

(1) seizes, confines, inveigles, decoys, or carries away another person; and

(2) holds the other person against that person's will;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74; Pub. L. 113–66, div. A, title XVII, §1707(a), Dec. 26, 2013, 127 Stat. 961; Pub. L. 113–291, div. A, title V, §531(d)(1), Dec. 19, 2014, 128 Stat. 3364; Pub. L. 114–328, div. E, title LX, §5439, Dec. 23, 2016, 130 Stat. 2953.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 925(a) | 50:719(a). | May 5, 1950, ch. 169, §1 (Art. 125), 64 Stat. 141. |
| 925(b) | 50:719(b). | |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to the offenses of forcible sodomy and bestiality.

**2014**—Subsec. (a). Pub. L. 113–291 substituted "unlawful force" for "force".

**2013**—Pub. L. 113–66 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

"(b) Any person found guilty of sodomy shall be punished as a court-martial may direct."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EXECUTIVE DOCUMENTS**

**GRANTING PARDON FOR CERTAIN VIOLATIONS OF ARTICLE 125 UNDER THE UNIFORM CODE OF MILITARY JUSTICE**

Proc. No. 10780, June 26, 2024, 89 F.R. 54329, provided:

Our Nation has made tremendous progress in advancing the cause of equality for LGBTQI+ Americans, including in the military. Despite their courage and great sacrifice, thousands of LGBTQI+ service members were forced out of the military because of their sexual orientation or gender identity. Many of these patriotic Americans were subject to a court-martial. While my Administration has taken meaningful action to remedy these problems, the impact of that historical injustice remains. As Commander in Chief, I am committed to maintaining the finest fighting force in the world. That means making sure that every member of our military feels safe and respected.

Accordingly, acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Joseph R. Biden Jr., do hereby grant a full, complete, and unconditional pardon to persons convicted of unaggravated offenses based on consensual, private conduct with persons age 18 and older under former Article 125 of the Uniform Code of Military Justice (UCMJ), as previously codified at 10 U.S.C. 925, as well as attempts, conspiracies, and solicitations to commit such acts under Articles 80, 81, and 82, UCMJ, 10 U.S.C. 880, 881, 882. This proclamation applies to convictions during the period from Article 125's effective date of May 31, 1951, through the December 26, 2013, enactment of section 1707 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66) [amending this section, see 2013 Amendment note above].

The purpose of this proclamation is to pardon only offenses based on consensual, private conduct between individuals 18 and older that do not involve any aggravating factor, including:

(1) conduct that would violate 10 U.S.C. 893a, prohibiting activities with military recruits or trainees by a person in a position of special trust;

(2) conduct that was committed with an individual who was coerced or, because of status, might not have felt able to refuse consent;

(3) conduct on the part of the applicant constituting fraternization under Article 134 of the UCMJ [10 U.S.C. 934];

(4) conduct committed with the spouse of another military member; or

(5) any factors other than those listed above that were identified by the United States Court of Appeals for the Armed Forces in *United States v. Marcum* as being outside the scope of *Lawrence v. Texas* as applied in the military context, 60 M.J. 198, 207-08 (2004).

The Military Departments (Army, Navy, or Air Force), or in the case of the Coast Guard, the Department of Homeland Security, in conjunction with the Department of Justice, shall provide information about and publicize application procedures for certificates of pardon. An applicant for a certificate of pardon under this proclamation is to submit an application to the Military Department (Army, Navy, or Air Force) that conducted the court-martial or, in the case of a Coast Guard court-martial, to the Department of Homeland Security. If the relevant Department determines that the applicant satisfies the criteria under this proclamation, following a review of relevant military justice records, the Department shall submit that determination to the Attorney General, acting through the Pardon Attorney, who shall then issue a certificate of pardon along with information on the process to apply for an upgrade of military discharge. My Administration strongly encourages veterans who receive a certificate of pardon to apply for an upgrade of military discharge.

Although the pardon under this proclamation applies only to the convictions described above, there are other LGBTQI+ individuals who served our Nation and were convicted of other crimes because of their sexual orientation or gender identity. It is the policy of my Administration to expeditiously consider and to make final pardon determinations with respect to such individuals.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of June, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-eighth.

J.R. BIDEN, JR.

## §926. Art. 126. Arson; burning property with intent to defraud

(a) AGGRAVATED ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein, to the knowledge of that person, there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

(b) SIMPLE ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets fire to the property of another is guilty of simple arson and shall be punished as a

court-martial may direct.

(c) BURNING PROPERTY WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, willfully, maliciously, and with intent to defraud, burns or sets fire to any property shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74; Pub. L. 114–328, div. E, title LX, §5440, Dec. 23, 2016, 130 Stat. 2953.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 926(a)<br>926(b) | 50:720(a).<br>50:720(b). | May 5, 1950, ch. 169, §1 (Art. 126), 64 Stat. 141. |

In subsection (b), the words "of this section" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to the offenses of aggravated arson and simple arson.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §927. Art. 127. Extortion

Any person subject to this chapter who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 927 | 50:721. | May 5, 1950, ch. 169, §1 (Art. 127), 64 Stat. 141. |

The words "of any description" are omitted as surplusage.

## §928. Art. 128. Assault

(a) ASSAULT.—Any person subject to this chapter who, unlawfully and with force or violence—

(1) attempts to do bodily harm to another person;

(2) offers to do bodily harm to another person; or

(3) does bodily harm to another person;

is guilty of assault and shall be punished as a court-martial may direct.

(b) AGGRAVATED ASSAULT.—Any person subject to this chapter—

(1) who, with the intent to do bodily harm, offers to do bodily harm with a dangerous weapon;

(2) who, in committing an assault, inflicts substantial bodily harm or grievous bodily harm on another person; or

(3) who commits an assault by strangulation or suffocation;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

(c) ASSAULT WITH INTENT TO COMMIT SPECIFIED OFFENSES.—

(1) IN GENERAL.—Any person subject to this chapter who commits assault with intent to commit an offense specified in paragraph (2) shall be punished as a court-martial may direct.

(2) OFFENSES SPECIFIED.—The offenses referred to in paragraph (1) are murder, voluntary manslaughter, rape, sexual assault, rape of a child, sexual assault of a child, robbery, arson, burglary, and kidnapping.

(Aug. 10, 1956, ch. 1041, 70A Stat. 75; Pub. L. 114–328, div. E, title LX, §5441, Dec. 23, 2016, 130 Stat. 2954; Pub. L. 115–91, div. A, title X, §1081(c)(1)(P), Dec. 12, 2017, 131 Stat. 1599; Pub. L. 115–232, div. A, title V, §531(a), Aug. 13, 2018, 132 Stat. 1759.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 928(a) | 50:722(a). | May 5, 1950, ch. 169, §1 (Art. 128), 64 Stat. 141. |
| 928(b) | 50:722(b). | |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (b)(3). Pub. L. 115–232 added par. (3).

**2017**—Subsec. (b)(2). Pub. L. 115–91 struck out comma after "substantial bodily harm".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to the offenses of assault and aggravated assault.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Pub. L. 115–232, div. A, title V, §531(b), Aug. 13, 2018, 132 Stat. 1759, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2019, immediately after the coming into effect of the amendment made by section 5441 of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2954) [which amended this section] as provided in section 5542 of that Act (130 Stat. 2967; 10 U.S.C. 801 note)."

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §928a. Art. 128a. Maiming

Any person subject to this chapter who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which—

(1) seriously disfigures his person by any mutilation thereof;

(2) destroys or disables any member or organ of his body; or

(3) seriously diminishes his physical vigor by the injury of any member or organ;

is guilty of maiming and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74, §924; renumbered §928a, Pub. L. 114–328, div. E, title LX, §5401(13)(A), Dec. 23, 2016, 130 Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 924 | 50:718. | May 5, 1950, ch. 169, §1 (Art. 124), 64 Stat. 141. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 924 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §928b. Art. 128b. Domestic violence

(a) IN GENERAL.—Any person who—

(1) commits a violent offense against a spouse, an intimate partner, a dating partner, or an immediate family member of that person;

(2) with intent to threaten or intimidate a spouse, an intimate partner, a dating partner, or an immediate family member of that person—

(A) commits an offense under this chapter against any person; or

(B) commits an offense under this chapter against any property, including an animal;

(3) with intent to threaten or intimidate a spouse, an intimate partner, a dating partner, or an immediate family member of that person, violates a protection order;

(4) with intent to commit a violent offense against a spouse, an intimate partner, a dating partner, or an immediate family member of that person, violates a protection order; or

(5) assaults a spouse, an intimate partner, a dating partner, or an immediate family member of that person by strangling or suffocating;

shall be punished as a court-martial may direct.

(b) DEFINITIONS.—In this section, the terms "dating partner", "immediate family", and "intimate partner" have the meanings given such terms in section 930 of this title (article 130).

(Added Pub. L. 115–232, div. A, title V, §532(a)(1), Aug. 13, 2018, 132 Stat. 1759; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(20), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 118–31, div. A, title V, §531(d)(1), Dec. 22, 2023, 137 Stat. 259.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 designated existing provisions as subsec. (a), inserted heading, inserted "a dating

partner," after "an intimate partner," wherever appearing, and added subsec. (b).

**2019**—Pub. L. 116–92 inserted section catchline. Identical section catchline had been editorially supplied.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 115–232, div. A, title V, §532(b), Aug. 13, 2018, 132 Stat. 1760, provided that: "The amendments made by this section [enacting this section] shall take effect on January 1, 2019, immediately after the coming into effect of the amendments made by the Military Justice Act of 2016 (division E of Public Law 114–328) [see Tables for classification] as provided in section 5542 of that Act (130 Stat. 2967; 10 U.S.C. 801 note)."

## §929. Art. 129. Burglary; unlawful entry

(a) BURGLARY.—Any person subject to this chapter who, with intent to commit an offense under this chapter, breaks and enters the building or structure of another shall be punished as a court-martial may direct.

(b) UNLAWFUL ENTRY.—Any person subject to this chapter who unlawfully enters—

(1) the real property of another; or

(2) the personal property of another which amounts to a structure usually used for habitation or storage;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 75; Pub. L. 114–328, div. E, title LX, §5442, Dec. 23, 2016, 130 Stat. 2954.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 929 | 50:723. | May 5, 1950, ch. 169, §1 (Art. 129), 64 Stat. 142. |

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who, with intent to commit an offense punishable under sections 918–928 of this title (articles 118–128), breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## [§929a. Art. 129a. Omitted]

### EDITORIAL NOTES

### CODIFICATION

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 75, §930; renumbered §929a, Pub. L. 114–328, div. E, title LX, §5401(10), Dec. 23, 2016, 130 Stat. 2939, which related to the offense of housebreaking, was omitted in the general amendment of sections 929 and 929a of this title by Pub. L. 114–328, div. E, title LX, §5442, Dec. 23, 2016, 130 Stat. 2954. See section 929(b) of this title.

## §930. Art. 130. Stalking

(a) IN GENERAL.—Any person subject to this chapter—

(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, to his or her intimate partner, or to his or her dating partner;

(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, to his or her intimate partner, or to his or her dating partner; and

(3) whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, to his or her intimate partner, or to his or her dating partner;

is guilty of stalking and shall be punished as a court-martial may direct.

(b) DEFINITIONS.—In this section:

(1) The term "conduct" means conduct of any kind, including use of surveillance, the mails, an interactive computer service, an electronic communication service, or an electronic communication system.

(2) The term "course of conduct" means—

(A) a repeated maintenance of visual or physical proximity to a specific person;

(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person; or

(C) a pattern of conduct composed of repeated acts evidencing a continuity of purpose.

(3) The term "dating partner", in the case of a specific person, means a person who is or has been in a social relationship of a romantic or intimate nature with such specific person based on a consideration of—

(A) the length of the relationship;

(B) the type of relationship;

(C) the frequency of interaction between the persons involved in the relationship; and

(D) the extent of physical intimacy or sexual contact between the persons involved in the relationship.

(4) The term "repeated", with respect to conduct, means two or more occasions of such conduct.

(5) The term "immediate family", in the case of a specific person, means—

(A) that person's spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis; or

(B) any other person living in his or her household and related to him or her by blood or marriage.

(6) The term "intimate partner", in the case of a specific person, means—

(A) a former spouse of the specific person, a person who shares a child in common with the specific person, or a person who cohabits with or has cohabited as a spouse with the specific person; or

(B) a person who has been in a social relationship of a romantic or intimate nature with the specific person, as determined by the length of the relationship, the type of relationship, and the

frequency of interaction between the persons involved in the relationship.

(Added Pub. L. 109–163, div. A, title V, §551(a)(1), Jan. 6, 2006, 119 Stat. 3256, §920a; renumbered §930 and amended Pub. L. 114–328, div. E, title LX, §§5401(11), 5443, Dec. 23, 2016, 130 Stat. 2939, 2955; Pub. L. 118–31, div. A, title V, §531(d)(2), Dec. 22, 2023, 137 Stat. 259.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 930 was renumbered section 929a of this title and subsequently omitted from the Code.

**AMENDMENTS**

**2023**—Subsec. (a). Pub. L. 118–31, §531(d)(2)(A), substituted "to his or her intimate partner, or to his or her dating partner" for "or to his or her intimate partner" wherever appearing.

Subsec. (b)(3) to (6). Pub. L. 118–31, §531(d)(2)(B), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section set out elements of stalking and defined terms.

Pub. L. 114–328, §5401(11), renumbered section 920a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE**

Pub. L. 109–163, div. A, title V, §551(b), Jan. 6, 2006, 119 Stat. 3256, provided that: "Section 920a of title 10, United States Code (article 120a of the Uniform Code of Military Justice), as added by subsection (a), applies to offenses committed after the date that is 180 days after the date of the enactment of this Act [Jan. 6, 2006]."

## §931. Art. 131. Perjury

Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly—

(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, subscribes any false statement material to the issue or matter of inquiry;

is guilty of perjury and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 75; Pub. L. 94–550, §3, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 97–295, §1(13), Oct. 12, 1982, 96 Stat. 1289.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 931 | 50:725. | May 5, 1950, ch. 169, §1 (Art. 131), 64 Stat. 142. |

The words "in a" are inserted before the words "course of justice".

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Par. (2). Pub. L. 97–295 struck out "United States Code," after "title 28,".

**1976**—Pub. L. 94–550 divided existing provisions into an introductory phrase, par. (1), and a closing phrase, and added par. (2).

## §931a. Art. 131a. Subornation of perjury

(a) IN GENERAL.—Any person subject to this chapter who induces and procures another person—

(1) to take an oath; and

(2) to falsely testify, depose, or state upon such oath;

shall, if the conditions specified in subsection (b) are satisfied, be punished as a court-martial may direct.

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The oath is administered with respect to a matter for which such oath is required or authorized by law.

(2) The oath is administered by a person having authority to do so.

(3) Upon the oath, the other person willfully makes or subscribes a statement.

(4) The statement is material.

(5) The statement is false.

(6) When the statement is made or subscribed, the person subject to this chapter and the other person do not believe that the statement is true.

(Added Pub. L. 114–328, div. E, title LX, §5444, Dec. 23, 2016, 130 Stat. 2956.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931b. Art. 131b. Obstructing justice

Any person subject to this chapter who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5445, Dec. 23, 2016, 130 Stat. 2956.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931c. Art. 131c. Misprision of serious offense

Any person subject to this chapter—

(1) who knows that another person has committed a serious offense; and

(2) wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5446, Dec. 23, 2016, 130 Stat. 2956.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931d. Art. 131d. Wrongful refusal to testify

Any person subject to this chapter who, in the presence of a court-martial, a board of officers, a military commission, a court of inquiry, a preliminary hearing, or an officer taking a deposition, of or for the United States, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5447, Dec. 23, 2016, 130 Stat. 2957.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931e. Art. 131e. Prevention of authorized seizure of property

Any person subject to this chapter who, knowing that one or more persons authorized to make searches and seizures are seizing, are about to seize, or are endeavoring to seize property, destroys, removes, or otherwise disposes of the property with intent to prevent the seizure thereof shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5448, Dec. 23, 2016, 130 Stat. 2957.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931f. Art. 131f. Noncompliance with procedural rules

Any person subject to this chapter who—

(1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this chapter; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this chapter regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69, §898; renumbered §931f, Pub. L. 114–328, div. E, title LX, §5401(3), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 898 | 50:692. | May 5, 1950, ch. 169, §1 (Art. 98), 64 Stat. 137. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 renumbered section 898 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §931g. Art. 131g. Wrongful interference with adverse administrative proceeding

Any person subject to this chapter who, having reason to believe that an adverse administrative proceeding is pending against any person subject to this chapter, wrongfully acts with the intent—

(1) to influence, impede, or obstruct the conduct of the proceeding; or

(2) otherwise to obstruct the due administration of justice;

shall be punished as a court-martial may direct.

(Added Pub. L. 114–328, div. E, title LX, §5449, Dec. 23, 2016, 130 Stat. 2957.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §932. Art. 132. Retaliation

(a) IN GENERAL.—Any person subject to this chapter who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication—

(1) wrongfully takes or threatens to take an adverse personnel action against any person; or

(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;

shall be punished as a court-martial may direct.

(b) DEFINITIONS.—In this section:

(1) The term "protected communication" means the following:

(A) A lawful communication to a Member of Congress or an Inspector General.

(B) A communication to a covered individual or organization in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

(i) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

(ii) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) The term "Inspector General" has the meaning given that term in section 1034(j) of this title.

(3) The term "covered individual or organization" means any recipient of a communication specified in clauses (i) through (v) of section 1034(b)(1)(B) of this title.

(4) The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

(Added Pub. L. 114–328, div. E, title LX, §5450, Dec. 23, 2016, 130 Stat. 2957; amended Pub. L. 115–91, div. A, title X, §1081(c)(1)(Q), Dec. 12, 2017, 131 Stat. 1599.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 932 was renumbered section 924 of this title.

**AMENDMENTS**

**2017**—Subsec. (b)(2). Pub. L. 115–91 substituted "section 1034(j)" for "section 1034(h)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

**EFFECTIVE DATE**

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §933. Art. 133. Conduct unbecoming an officer

Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76; Pub. L. 117–81, div. A, title V, §542(a), Dec. 27, 2021, 135 Stat. 1709.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 933 | 50:727. | May 5, 1950, ch. 169, §1 (Art. 133), 64 Stat. 142. |

The word "commissioned" is inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81 struck out "and a gentleman" after "an officer" in section catchline and text.

## §934. Art. 134. General article

Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. As used in the preceding sentence, the term "crimes and offenses not capital" includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76; Pub. L. 114–328, div. E, title LX, §5451, Dec. 23, 2016, 130 Stat. 2958.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 934 | 50:728. | May 5, 1950, ch. 169, §1 (Art. 134), 64 Stat. 142. |

The words "shall be" are inserted before the word "punished".

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328 inserted at end "As used in the preceding sentence, the term 'crimes and offenses not capital' includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**INCLUSION OF SEXUAL HARASSMENT AS GENERAL PUNITIVE ARTICLE**

Pub. L. 117–81, div. A, title V, §539D, Dec. 27, 2021, 135 Stat. 1699, provided that:

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], the President shall—

"(1) prescribe regulations establishing sexual harassment, as described in this section, as an offense punishable under section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice); and

"(2) revise the Manual for Courts-Martial to include such offense.

"(b) ELEMENTS OF OFFENSE.—The regulations and the revisions to the Manual for Courts-Martial required under subsection (a) shall provide that the required elements constituting the offense of sexual harassment are—

"(1) that the accused knowingly made sexual advances, demands or requests for sexual favors, or knowingly engaged in other conduct of a sexual nature;

"(2) that such conduct was unwelcome;

"(3) that, under the circumstances, such conduct—

"(A) would cause a reasonable person to believe, and a certain person did believe, that submission to such conduct would be made, either explicitly or implicitly, a term or condition of that person's job, pay, career, benefits, or entitlements;

"(B) would cause a reasonable person to believe, and a certain person did believe, that submission to, or rejection of, such conduct would be used as a basis for decisions affecting that person's job, pay, career, benefits, or entitlements; or

"(C) was so severe, repetitive, or pervasive that a reasonable person would perceive, and a certain person did perceive, an intimidating, hostile, or offensive working environment; and

"(4) that, under the circumstances, the conduct of the accused was—

"(A) to the prejudice of good order and discipline in the armed forces;

"(B) of a nature to bring discredit upon the armed forces; or

"(C) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces."

## SUBCHAPTER XI—MISCELLANEOUS PROVISIONS


| Sec. | Art. | |
|---|---|---|
| 935. | 135. | Courts of inquiry. |
| 936. | 136. | Authority to administer oaths. |
| 937. | 137. | Articles to be explained. |
| 938. | 138. | Complaints of wrongs. |
| 939. | 139. | Redress of injuries to property. |
| 940. | 140. | Delegation by the President. |
| 940a. | 140a. | Case management; data collection and accessibility. |


### EDITORIAL NOTES

### AMENDMENTS

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(7). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(7), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added item 940a and substituted "Authority to administer oaths" for "Authority to administer oaths and to act as notary" in item 936.

## §935. Art. 135. Courts of inquiry

(a) Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the Secretary concerned for that purpose, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c)(1) Any person subject to this chapter whose conduct is subject to inquiry shall be designated as a party.

(2) Any person who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and who has a direct interest in the

subject of inquiry has the right to be designated as a party upon request to the court.

(3) Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76; Pub. L. 114–328, div. E, title LXI, §5501, Dec. 23, 2016, 130 Stat. 2960.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 935(a) | 50:731(a). | May 5, 1950, ch. 169, §1 (Art. 135), 64 Stat. 143. |
| 935(b) | 50:731(b). | |
| 935(c) | 50:731(c). | |
| 935(d) | 50:731(d). | |
| 935(e) | 50:731(e). | |
| 935(f) | 50:731(f). | |
| 935(g) | 50:731(g). | |
| 935(h) | 50:731(h). | |

In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

In subsection (b), the word "commissioned" is inserted for clarity. The word "consists" is substituted for the words "shall consist".

In subsection (c), the word "has" is substituted for the words "shall have".

In subsection (e), the words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1.

In subsection (g), the word "may" is substituted for the word "shall".

In subsection (h), the word "If" is substituted for the words "In case".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (c). Pub. L. 114–328 designated first through third sentences as pars. (1) to (3), respectively, and, in par. (2), substituted "who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and" for "subject to this chapter or employed by the Department of Defense".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with

implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

## §936. Art. 136. Authority to administer oaths

(a) The following persons on active duty or performing inactive-duty training may administer oaths for the purposes of military administration, including military justice:

(1) All judge advocates.

(2) All summary courts-martial.

(3) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(4) All commanding officers of the Navy, Marine Corps, and Coast Guard.

(5) All staff judge advocates and legal officers, and acting or assistant staff judge advocates and legal officers.

(6) All other persons designated by regulations of the armed forces or by statute.

(b) The following persons on active duty or performing inactive-duty training may administer oaths necessary in the performance of their duties:

(1) The president, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial.

(2) The president and the counsel for the court of any court of inquiry.

(3) All officers designated to take a deposition.

(4) All persons detailed to conduct an investigation.

(5) All recruiting officers.

(6) All other persons designated by regulations of the armed forces or by statute.

(c) Each judge and senior judge of the United States Court of Appeals for the Armed Forces shall have the powers relating to oaths, affirmations, and acknowledgments provided to justices and judges of the United States by section 459 of title 28.

(Aug. 10, 1956, ch. 1041, 70A Stat. 77; Pub. L. 86–589, July 5, 1960, 74 Stat. 329; Pub. L. 90–179, §1(7), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90–632, §2(34), Oct. 24, 1968, 82 Stat. 1343; Pub. L. 98–209, §2(f), Dec. 6, 1983, 97 Stat. 1393; Pub. L. 99–661, div. A, title VIII, §804(c), Nov. 14, 1986, 100 Stat. 3907; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–510, div. A, title V, §551(b), Nov. 5, 1990, 104 Stat. 1566; Pub. L. 110–181, div. A, title V, §542, Jan. 28, 2008, 122 Stat. 114; Pub. L. 114–328, div. A, title V, §541(a), div. E, title LXI, §5502, Dec. 23, 2016, 130 Stat. 2124, 2960.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 936(a) | 50:732(a). | May 5, 1950, ch. 169, §1 (Art. 136), 64 Stat. 143. |
| 936(b) | 50:732(b). | |
| 936(c) | 50:732(c). | |
| 936(d) | 50:732(d). | |

In subsection (a), the word "may" is substituted for the words "shall have authority to". The word "shall" before the words "have the general powers" is omitted as surplusage. The words "the continental limits" are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsections (a) and (b), the words "in the armed forces" are omitted as surplusage.

In subsection (b), the word "may" is substituted for the words "shall have authority to".

In subsection (c), the words "of any character" are omitted as surplusage. The word "may" is substituted for the word "shall".

In subsection (d), the word "is" is substituted for the words "shall be".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Pub. L. 114–328, §5502, struck out "and to act as notary" after "oaths" in section catchline.

Subsec. (c). Pub. L. 114–328, §541(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The judges of the United States Court of Appeals for the Armed Forces may administer the oaths authorized by subsections (a) and (b)."

**2008**—Subsec. (c). Pub. L. 110–181 added subsec. (c).

**1990**—Subsec. (a). Pub. L. 101–510, §551(b)(1), struck out ", and have the general powers of a notary public and of a consul of the United States, in the performance of all notarial acts to be executed by members of any of the armed forces, wherever they may be, by persons serving with, employed by, or accompanying the armed forces outside the United States and outside Puerto Rico, Guam, and the Virgin Islands, and by other persons subject to this chapter outside of the United States" after "including military justice" in introductory provisions.

Subsecs. (c), (d). Pub. L. 101–510, §551(b)(2), struck out subsecs. (c) and (d) which read as follows:

"(c) No fee may be paid to or received by any person for the performance of any notarial act herein authorized.

"(d) The signature without seal of any such person acting as notary, together with the title of his office, is prima facie evidence of his authority."

**1988**—Subsec. (a). Pub. L. 100–456 struck out "the Canal Zone," before "Puerto Rico,".

**1986**—Subsecs. (a), (b). Pub. L. 99–661 inserted "or performing inactive-duty training" after "active duty".

**1983**—Subsec. (a)(1). Pub. L. 98–209, §2(f)(1), struck out "of the Army, Navy, Air Force, and Marine Corps" after "All judge advocates".

Subsec. (a)(2) to (7). Pub. L. 98–209, §2(f)(2), struck out par. (2) which included law specialists among those persons authorized to administer oaths and to act as notaries under this section, and redesignated pars. (3) to (7) as (2) to (6), respectively.

**1968**—Subsec. (b). Pub. L. 90–632 substituted "military judge" for "law officer" in par. (1).

**1967**—Subsec. (a)(1). Pub. L. 90–179 inserted references to judge advocates of the Navy and the Marine Corps.

**1960**—Subsec. (a). Pub. L. 86–589 permitted the administration of oaths and the performance of notarial acts for persons serving, employed by, or accompanying the armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by section 5502 of Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 effective the earlier of (1) the last day of the 120-day period beginning on Nov. 14, 1986; or (2) the date specified in an Executive order for such amendment to take effect, see section 808 of Pub. L. 99–661, set out as a note under section 802 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98–209, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90–632, set out as a note under section 801 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for

treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §937. Art. 137. Articles to be explained

(a) ENLISTED MEMBERS.—(1) The sections (articles) of this chapter specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within fourteen days after)—

(A) the member's initial entrance on active duty;

(B) the member's initial entrance into a duty status with a reserve component; or

(C) the member's initial entrance on active duty or into a space force active status.

(2) Such sections (articles) shall be explained again—

(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training;

(B) after a member of the Space Force has completed six months of sustained duty or in the case of a member not on sustained duty, after the member has completed basic or recruit training; and

(C) at the time when the member reenlists.

(3) This subsection applies with respect to sections 802, 803, 807–815, 825, 827, 831, 837, 838, 855, 877–934, and 937–939 of this title (articles 2, 3, 7–15, 25, 27, 31, 37, 38, 55, 77–134, and 137–139).

(b) OFFICERS.—(1) The sections (articles) of this chapter specified in paragraph (2) shall be carefully explained to each officer at the time of (or within six months after)—

(A) the initial entrance of the officer on active duty as an officer; or

(B) the initial commissioning of the officer in a reserve component or the Space Force.

(2) This subsection applies with respect to the sections (articles) specified in subsection (a)(3) and such other sections (articles) as the Secretary concerned may prescribe by regulation.

(c) TRAINING FOR CERTAIN OFFICERS.—Under regulations prescribed by the Secretary concerned, officers with the authority to convene courts-martial or to impose non-judicial punishment shall receive periodic training regarding the purposes and administration of this chapter. Under regulations prescribed by the Secretary of Defense, officers assigned to duty in a joint command or a combatant command, who have such authority, shall receive additional specialized training regarding the purposes and administration of this chapter with respect to joint commands and the combatant commands.

(d) AVAILABILITY AND MAINTENANCE OF TEXT.—The text of this chapter and the text of the regulations prescribed by the President under this chapter shall be—

(1) made available to a member on active duty, to a member of a reserve component, or to a member of the Space Force, upon request by the member, for the member's personal examination; and

(2) maintained by the Secretary of Defense in electronic formats that are updated periodically and made available on the Internet.

(Aug. 10, 1956, ch. 1041, 70A Stat. 78; Pub. L. 99–661, div. A, title VIII, §804(d), Nov. 14, 1986, 100 Stat. 3907; Pub. L. 104–106, div. A, title XI, §1152, Feb. 10, 1996, 110 Stat. 468; Pub. L. 114–328, div. E, title LXI, §5503, Dec. 23, 2016, 130 Stat. 2960; Pub. L. 115–91, div. A, title X, §1081(c)(1)(R), Dec. 12, 2017, 131 Stat. 1599; Pub. L. 118–31, div. A, title XVII, §1722(f)(3), Dec. 22, 2023, 137 Stat. 671; Pub. L. 118–159, div. A, title XVII, §1701(a)(17), Dec. 23, 2024, 138 Stat. 2204.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 937 | 50:733. | May 5, 1950, ch. 169, §1 (Art. 137), 64 Stat. 144. |

The word "each" is substituted for the word "every". The word "member" is substituted for the word "person". The words "in [any of] the armed forces of the United States" are omitted as surplusage.

## EDITORIAL NOTES

### CODIFICATION

Another section 1722(f) of Pub. L. 118–31 amended section 973 of this title.

### AMENDMENTS

**2024**—Subsec. (a)(2)(B). Pub. L. 118–159 inserted "the" before "Space Force".

**2023**—Subsec. (a)(1)(C). Pub. L. 118–31, §1722(f)(3)(A), added subpar. (C).

Subsec. (a)(2)(B), (C). Pub. L. 118–31, §1722(f)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (b)(1)(B). Pub. L. 118–31, §1722(f)(3)(C), inserted "or the Space Force" after "in a reserve component".

Subsec. (d)(1). Pub. L. 118–31, §1722(f)(3)(D), substituted ", to a member of a reserve component, or to a member of the Space Force," for "or to a member of a reserve component,".

**2017**—Subsec. (a)(1). Pub. L. 115–91, §1081(c)(1)(R)(i), struck out "(the Uniform Code of Military Justice)" after "this chapter" in introductory provisions.

Subsec. (b). Pub. L. 115–91, §1081(c)(1)(R)(ii), which directed amendment of subsec. (b) by striking out "(the Uniform Code of Military Justice)" after "this chapter" in the matter preceding subparagraph (A), was executed by making the amendment in introductory provisions of par. (1) of subsec. (b), to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 115–91, §1081(c)(1)(R)(iii), struck out "(the Uniform Code of Military Justice)" after "this chapter" in introductory provisions.

**2016**—Subsec. (a). Pub. L. 114–328, §5503(1), inserted heading.

Subsec. (a)(1). Pub. L. 114–328, §5503(1), substituted "The sections (articles) of this chapter (the Uniform Code of Military Justice)" for "The sections of this title (articles of the Uniform Code of Military Justice)" in introductory provisions.

Subsecs. (b) to (d). Pub. L. 114–328, §5503(2), (3), added subsecs. (b) to (d) and struck out former subsec. (b) which read as follows: "The text of the Uniform Code of Military Justice and of the regulations prescribed by the President under such Code shall be made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination."

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "within fourteen days" for "within six days".

**1986**—Pub. L. 99–661 amended section generally, inserting provisions relating to reserve components.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 effective the earlier of (1) the last day of the 120-day period beginning on Nov. 14, 1986; or (2) the date specified in an Executive order for such amendment to take effect, see section 808 of Pub. L. 99–661, set out as a note under section 802 of this title.

## §938. Art. 138. Complaints of wrongs

Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon.

(Aug. 10, 1956, ch. 1041, 70A Stat. 78.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 938 | 50:734. | May 5, 1950, ch. 169, §1 (Art. 138), 64 Stat. 144. |

The words "commanding officer" are substituted for the word "commander". The word "who" is inserted after the word "and". The word "commissioned" is inserted after the word "superior" for clarity. The words "The officer exercising general court-martial jurisdiction" are substituted for the words "That officer" for clarity. The word "send" is substituted for the word "transmit". The word "Secretary" is substituted for the word "Department" for accuracy, since the "Department", as an entity, could not act upon the complaint.

## §939. Art. 139. Redress of injuries to property

(a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

(Aug. 10, 1956, ch. 1041, 70A Stat. 78.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 939(a)<br>939(b) | 50:735(a).<br>50:735(b). | May 5, 1950, ch. 169, §1 (Art. 139), 64 Stat. 144. |

In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of the Department". The word "under" is substituted for the words "subject to". The words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1. The words "it has" are substituted for the words "shall have" in the second sentence. The word "is" is substituted for the words "shall be" before the words "subject" and "conclusive". The word "commissioned" is inserted for clarity.

In subsection (b), the word "If" is substituted for the word "Where". The word "considered" is substituted

for the word "deemed".

## §940. Art. 140. Delegation by the President

The President may delegate any authority vested in him under this chapter, and provide for the subdelegation of any such authority.

(Aug. 10, 1956, ch. 1041, 70A Stat. 78.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 940 | 50:736. | May 5, 1950, ch. 169, §1 (Art. 140), 64 Stat. 145. |

The word "may" is substituted for the words "is authorized to * * * to".

## §940a. Art. 140a. Case management; data collection and accessibility

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall prescribe uniform standards and criteria for conduct of each of the following functions at all stages of the military justice system (including with respect to the Coast Guard), including pretrial, trial, post-trial, and appellate processes, using, insofar as practicable, the best practices of Federal and State courts:

(1) Collection and analysis of data concerning substantive offenses and procedural matters in a manner that facilitates case management and decision making within the military justice system, and that enhances the quality of periodic reviews under section 946 of this title (article 146).

(2) Case processing and management.

(3) Timely, efficient, and accurate production and distribution of records of trial within the military justice system.

(4) Facilitation of public access to docket information, filings, and records, taking into consideration restrictions appropriate to judicial proceedings and military records.

(b) PROTECTION OF CERTAIN PERSONALLY IDENTIFIABLE INFORMATION.—Records of trial, docket information, filings, and other records made publicly accessible in accordance with the uniform standards and criteria for conduct established by the Secretary under subsection (a) shall restrict access to personally identifiable information of minors and victims of crime (including victims of sexual assault and domestic violence), as practicable to the extent such information is restricted in electronic filing systems of Federal and State courts.

(c) INAPPLICABILITY TO CERTAIN DOCKETS AND RECORDS.—Nothing in this section shall be construed to provide public access to docket information, filings, or records that are classified, subject to a judicial protective order, or ordered sealed.

(d) PRESERVATION OF COURT-MARTIAL RECORDS WITHOUT REGARD TO OUTCOME.—The standards and criteria prescribed by the Secretary of Defense under subsection (a) shall provide for the preservation of general and special court-martial records, without regard to the outcome of the proceeding concerned, for not fewer than 15 years.

(Added Pub. L. 114–328, div. E, title LXI, §5504(a), Dec. 23, 2016, 130 Stat. 2961; amended Pub. L. 116–92, div. A, title V, §534(a), Dec. 20, 2019, 133 Stat. 1361; Pub. L. 116–283, div. A, title V, §543, Jan. 1, 2021, 134 Stat. 3613.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283 added subsec. (d).

**2019**—Pub. L. 116–92 designated existing provisions as subsec. (a), inserted heading, in introductory provisions substituted "The Secretary of Defense, in consultation with the Secretary of Homeland Security," for "The Secretary of Defense" and inserted "(including with respect to the Coast Guard)" after "military justice system", in par. (4) inserted "public" before "access to docket information", and added subsecs. (b) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 114–328, div. E, title LXI, §5504(b), Dec. 23, 2016, 130 Stat. 2961, provided that:

"(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall carry out section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a).

"(2) STANDARDS AND CRITERIA.—Not later than 4 years after the date of the enactment of this Act, the standards and criteria under section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a), shall take effect."

Except as otherwise provided, section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

### APPLICATION OF EXISTING STANDARDS AND CRITERIA TO COAST GUARD

Pub. L. 116–92, div. A, title V, §534(b), Dec. 20, 2019, 133 Stat. 1362, provided that: "The Secretary of Homeland Security shall apply to the Coast Guard the standards and criteria for conduct established by the Secretary of Defense under section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as in effect on the day before the date of the enactment of this Act [Dec. 20, 2019], until such time as the Secretary of Defense, in consultation with the Secretary of Homeland Security, prescribes revised standards and criteria for conduct under such section that implement the amendments made by subsection (a) of this section [amending this section]."

## SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES


| Sec. | Art. | |
|---|---|---|
| 941. | 141. | Status. |
| 942. | 142. | Judges. |
| 943. | 143. | Organization and employees. |
| 944. | 144. | Procedure. |
| 945. | 145. | Annuities for judges and survivors. |
| 946. | 146. | Military Justice Review Panel. |
| 946a. | 146a. | Annual reports. |


### EDITORIAL NOTES

### AMENDMENTS

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114–328, §5541(8). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. E, title LXIII, §5541(8), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added item 946a and substituted "Military Justice Review Panel" for "Code committee" in item 946.

**1994**—Pub. L. 103–337, div. A, title IX, §924(c)(3)(A), Oct. 5, 1994, 108 Stat. 2831, substituted "UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES" for "COURT OF MILITARY APPEALS" as subchapter heading.

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(i)(2), Nov. 5, 1990, 104 Stat. 1718, redesignated subchapter XI as XII.

## §941. Art. 141. Status

There is a court of record known as the United States Court of Appeals for the Armed Forces. The court is established under article I of the Constitution. The court is located for administrative purposes only in the Department of Defense.

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1570; amended Pub. L. 103–337, div. A, title IX, §924(a)(2), Oct. 5, 1994, 108 Stat. 2831.)

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 103–337, div. A, title IX, §924(a)(1), Oct. 5, 1994, 108 Stat. 2831, provided that: "The United States Court of Military Appeals shall hereafter be known and designated as the United States Court of Appeals for the Armed Forces."

## §942. Art. 142. Judges

(a) NUMBER.—The United States Court of Appeals for the Armed Forces consists of five judges.

(b) APPOINTMENT; QUALIFICATION.—(1) Each judge of the court shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, for a specified term determined under paragraph (2). A judge may serve as a senior judge as provided in subsection (e).

(2)(A) The term of a judge shall expire as follows:

(i) In the case of a judge who is appointed after January 31 and before July 31 of any year, the term shall expire on July 31 of the year in which the fifteenth anniversary of the appointment occurs.

(ii) In the case of a judge who is appointed after July 31 of any year and before February 1 of the following year, the term shall expire fifteen years after such July 31.

(B) If at the time of the appointment of a judge the date that is otherwise applicable under subparagraph (A) for the expiration of the term of service of the judge is the same as the date for the expiration of the term of service of a judge already on the court, then the term of the judge being appointed shall expire on the first July 31 after such date on which no term of service of a judge already on the court will expire.

(3) No person may be appointed to be a judge of the court unless the person is a member of the bar of a Federal court or the highest court of a State.

(4) A person may not be appointed as a judge of the court within seven years after retirement from active duty as a commissioned officer of a regular component of an armed force.

(c) REMOVAL.—Judges of the court may be removed from office by the President, upon notice and hearing, for—

(1) neglect of duty;

(2) misconduct; or
(3) mental or physical disability.

A judge may not be removed by the President for any other cause.
(d) PAY AND ALLOWANCES.—Each judge of the court is entitled to the same salary and travel allowances as are, and from time to time may be, provided for judges of the United States Courts of Appeals.
(e) SENIOR JUDGES.—(1)(A) A former judge of the court who is receiving retired pay or an annuity under section 945 of this title (article 145) or under subchapter III of chapter 83 or chapter 84 of title 5 shall be a senior judge. The chief judge of the court may call upon an individual who is a senior judge of the court under this subparagraph, with the consent of the senior judge, to perform judicial duties with the court—
(i) during a period a judge of the court is unable to perform his duties because of illness or other disability;
(ii) during a period in which a position of judge of the court is vacant; or
(iii) in any case in which a judge of the court recuses himself.

(B) If, at the time the term of a judge expires, no successor to that judge has been appointed, the chief judge of the court may call upon that judge (with that judge's consent) to continue to perform judicial duties with the court until the vacancy is filled. A judge who, upon the expiration of the judge's term, continues to perform judicial duties with the court without a break in service under this subparagraph shall be a senior judge while such service continues.
(2) A senior judge shall be paid for each day on which he performs judicial duties with the court an amount equal to the difference between—
(A) the daily equivalent of the annual rate of pay provided for a judge of the court; and
(B) the daily equivalent of the annuity of the judge under section 945 of this title (article 145), the applicable provisions of title 5, or any other retirement system for employees of the Federal Government under which the senior judge receives an annuity.

(3) A senior judge, while performing duties referred to in paragraph (1), shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of the court.
(4) A senior judge shall be considered to be an officer or employee of the United States with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in paragraph (1). For the purposes of section 205 of title 18, a senior judge shall be considered to be a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the United States shall apply to a senior judge only during such periods.
(5) The court shall prescribe rules for the use and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.
(6) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—
(A) a period during which a senior judge performs duties referred to in paragraph (1) shall not be considered creditable service;
(B) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in paragraph (1);
(C) no contribution shall be made by the Federal Government to any retirement system with

respect to a senior judge for any period during which the senior judge performs duties referred to in paragraph (1); and

(D) a senior judge shall not be considered to be a reemployed annuitant for any period during which the senior judge performs duties referred to in paragraph (1).

(f) SERVICE OF ARTICLE III JUDGES.—(1) The Chief Justice of the United States, upon the request of the chief judge of the court, may designate a judge of a United States court of appeals or of a United States district court to perform the duties of judge of the United States Court of Appeals for the Armed Forces—

(A) during a period a judge of the court is unable to perform his duties because of illness or other disability;

(B) in any case in which a judge of the court recuses himself; or

(C) during a period when there is a vacancy on the court and in the opinion of the chief judge of the court such a designation is necessary for the proper dispatch of the business of the court.

(2) The chief judge of the court may not request that a designation be made under paragraph (1) unless the chief judge has determined that no person is available to perform judicial duties with the court as a senior judge under subsection (e).

(3) A designation under paragraph (1) may be made only with the consent of the designated judge and the concurrence of the chief judge of the court of appeals or district court concerned.

(4) Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the court shall be paid from funds available for the payment of per diem and such allowances for judges of the court.

(g) EFFECT OF VACANCY ON COURT.—A vacancy on the court does not impair the right of the remaining judges to exercise the powers of the court.

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1570; amended Pub. L. 101–510, div. A, title V, §541(f), Nov. 5, 1990, 104 Stat. 1565; Pub. L. 102–190, div. A, title X, §1061(b)(1)(A), (B), (2), Dec. 5, 1991, 105 Stat. 1474; Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–66, div. A, title V, §531(a), Dec. 26, 2013, 127 Stat. 759; Pub. L. 113–291, div. A, title V, §540(a), Dec. 19, 2014, 128 Stat. 3371; Pub. L. 114–328, div. A, title V, §541(b)(2), (c), (d), Dec. 23, 2016, 130 Stat. 2125.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (b)(2). Pub. L. 114–328, §541(b)(2), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), realigned margins, and added subpar. (B).

Subsec. (b)(3). Pub. L. 114–328, §541(c), substituted "No" for "Not more than three of the judges of the court may be appointed from the same political party, and no".

Subsec. (e)(2). Pub. L. 114–328, §541(d), substituted "equal to the difference between—" and subpars. (A) and (B) for "equal to the daily equivalent of the annual rate of pay provided for a judge of the court. Such pay shall be in lieu of retired pay and in lieu of an annuity under section 945 of this title (article 145), subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, or any other retirement system for employees of the Federal Government."

**2014**—Subsec. (b)(2)(A). Pub. L. 113–291, §540(a)(1), substituted "January 31" for "March 31", "July 31 of any year" for "October 1 of any year", and "July 31 of the year" for "September 30 of the year".

Subsec. (b)(2)(B). Pub. L. 113–291, §540(a)(2), substituted "July 31" for "September 30" in two places and "February 1" for "April 1".

**2013**—Subsec. (b)(4). Pub. L. 113–66 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "For purposes of appointment of judges to the court, a person retired from the armed forces after 20 or more years of active service (whether or not such person is on the retired list) shall not be considered to be

in civilian life."

**1999**—Subsec. (e)(5). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (e)(5). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1994**—Subsecs. (a), (f)(1). Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

**1991**—Subsec. (e)(1). Pub. L. 102–190, §1061(b)(1)(A)(i)–(iv), designated existing provisions as subpar. (A), struck out "(2)(A)" before "The chief judge", moved sentence beginning "The chief judge of the court" to end of par. (1)(A), substituted "an individual who is a senior judge of the court under this subparagraph" for "a senior judge of the court", and added subpar. (B).

Subsec. (e)(2). Pub. L. 102–190, §1061(b)(1)(A)(ii), (v), redesignated par. (2)(B) as (2) and incorporated former par. (2)(A) into par. (1)(A).

Subsec. (e)(3), (4), (6). Pub. L. 102–190, §1061(b)(1)(B), substituted "paragraph (1)" for "paragraph (2)" wherever appearing.

Subsec. (f)(1)(C). Pub. L. 102–190, §1061(b)(2)(A), added subpar. (C).

Subsec. (f)(2) to (4). Pub. L. 102–190, §1061(b)(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

**1990**—Subsec. (b)(1). Pub. L. 101–510, §541(f)(1), substituted "civilian life" for "civil life".

Subsec. (b)(4). Pub. L. 101–510, §541(f)(2), added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §541(b)(3), Dec. 23, 2016, 130 Stat. 2125, provided that: "The amendments made by paragraph (2) [amending this section] shall apply with respect to appointments to the United States Court of Appeals for the Armed Forces that are made on or after the date of the enactment of this Act [Dec. 23, 2016]."

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title V, §531(b), Dec. 26, 2013, 127 Stat. 759, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 26, 2013], and shall apply with respect to appointments to the United States Court of Appeals for the Armed Forces that occur on or after that date."

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title X, §1061(b)(1)(D), Dec. 5, 1991, 105 Stat. 1474, provided that: "The amendments made by this paragraph [amending this section and section 945 of this title] shall take effect as of November 29, 1989."

### EFFECTIVE DATE FOR REPEAL OF TERMINATION OF AUTHORITY FOR CHIEF JUSTICE OF UNITED STATES TO DESIGNATE ARTICLE III JUDGES FOR TEMPORARY SERVICE ON COURT OF APPEALS FOR THE ARMED FORCES

Pub. L. 104–201, div. A, title X, §1074(c)(2), Sept. 23, 1996, 110 Stat. 2660, provided that: "The authority provided under section 942(f) of title 10, United States Code, shall be effective as if section 1142 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 467) [repealing section 1301(i) of Pub. L. 101–189, set out below] had been enacted on September 29, 1995."

### SAVING PROVISION

Pub. L. 113–291, div. A, title V, §540(b), Dec. 19, 2014, 128 Stat. 3371, provided that: "No person who is serving as a judge of the court on the date of the enactment of this Act [Dec. 19, 2014], and no survivor of any such person, shall be deprived of any annuity provided by section 945 of title 10, United States Code, by the operation of the amendments made by subsection (a) [amending this section]."

### EARLY RETIREMENT AUTHORIZED FOR ONE CURRENT JUDGE

Pub. L. 114–328, div. A, title V, §541(b)(1), Dec. 23, 2016, 130 Stat. 2125, provided that: "If the judge of the United States Court of Appeals for the Armed Forces who is the junior in seniority of the two judges of the

court whose terms of office under section 942(b)(2) of title 10, United States Code (article 142(b)(2) of the Uniform Code of Military Justice), expire on July 31, 2021, chooses to retire one year early, that judge—

"(A) may retire from service on the court effective August 1, 2020; and

"(B) shall be treated, upon such retirement, for all purposes as having completed a term of service for which the judge was appointed as a judge of the court."

## TRANSITIONAL PROVISIONS

Pub. L. 101–189, div. A, title XIII, §1301(d)–(i), Nov. 29, 1989, 103 Stat. 1574–1576, as amended by Pub. L. 104–106, div. A, title XI, §1142, Feb. 10, 1996, 110 Stat. 467; Pub. L. 104–201, div. A, title X, §1068(c), Sept. 23, 1996, 110 Stat. 2655, provided that:

"(d) TRANSITION FROM THREE-JUDGE COURT TO FIVE-JUDGE COURT.—(1) Effective during the period before October 1, 1990—

"(A) the number of members of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] shall (notwithstanding subsection (a) of section 942 of title 10, United States Code, as enacted by subsection (c)) be three; and

"(B) the maximum number of members of the court who may be appointed from the same political party shall (notwithstanding subsection (b)(3) of section 942) be two.

"(2) In the application of paragraph (2) of section 942(b) of title 10, United States Code (as enacted by subsection (c)) to the judge who is first appointed to one of the two new positions of the court created as of October 1, 1990, as designated by the President at the time of appointment, the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven.

"(e) TRANSITION RULES RELATING TO RETIREMENT OF NEW JUDGES.—(1) Except as otherwise provided in paragraphs (2) and (3), a judge to whom subsection (d)(2) applies shall be eligible for an annuity as provided in section 945 of title 10, United States Code, as enacted by subsection (c).

"(2) The annuity of a judge referred to in paragraph (1) is computed under subsection (b) of such section 945 only if the judge—

"(A) completes the term of service for which he is first appointed;

"(B) is reappointed as a judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] at any time after the completion of such term of service;

"(C) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

"(D) elects to receive an annuity under such section in accordance with subsection (a)(2) of such section.

"(3) In the case of a judge referred to in paragraph (1) who is separated from civilian service after completing the term of service for which he is first appointed as a judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with section 945(a)(2) of title 10, United States Code) shall be 1/15 of the amount computed under subsection (b) of such section times the number of years (including any fraction thereof) of such judge's service as a judge of the court.

"(f) APPLICABILITY OF AMENDED RETIREMENT PROVISIONS.—Except as otherwise provided in subsections (c) and (d), section 945 of title 10, United States Code, as enacted by subsection (c), applies with respect to judges of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] whose terms of service on such court end after September 28, 1988, and to the survivors of such judges.

"(g) TERMS OF CURRENT JUDGES.—Section 942(b) of title 10, United States Code, as enacted by subsection (c), shall not apply to the term of office of a judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] serving on such court on the date of the enactment of this Act [Nov. 29, 1989]. The term of office of such a judge shall expire on the later of (A) the date the term of such judge would have expired under section 867(a)(1) of title 10, United States Code, as in effect on the day before such date of enactment, or (B) September 30 of the year in which the term of such judge would have expired under such section 867(a)(1).

"(h) CIVIL SERVICE STATUS OF CURRENT EMPLOYEES.—Section 943(c) of title 10, United States Code, as enacted by subsection (c), shall not be applied to change the civil service status of any attorney who is an employee of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] on the day before the date of the enactment of this Act [Nov. 29, 1989]."

## §943. Art. 143. Organization and employees

(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Appeals for the Armed Forces shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

(A) have served for one or more years as judges of the court; and

(B) have not previously served as chief judge.

(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of five years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

(4)(A) The term of a chief judge shall be terminated before the end of five years if—

(i) the chief judge leaves regular active service as a judge of the court; or

(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.

(b) PRECEDENCE OF JUDGES.—The chief judge of the court shall have precedence and preside at any session that he attends. The other judges shall have precedence and preside according to the seniority of their original commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) STATUS OF CERTAIN POSITIONS.—(1) Attorney positions of employment under the Court of Appeals for the Armed Forces are excepted from the competitive service. A position of employment under the court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service. Appointments to positions referred to in the preceding sentences shall be made by the court, without the concurrence of any other officer or employee of the executive branch, in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.

(2) In making appointments to the positions described in paragraph (1), preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1572; amended Pub. L. 102–484, div. A, title X, §1061(a)(1), Oct. 23, 1992, 106 Stat. 2503; Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 104–201, div. A, title X, §1068(b), Sept. 23, 1996, 110 Stat. 2655; Pub. L. 105–85, div. A, title X, §1073(a)(11), Nov. 18, 1997, 111 Stat. 1900.)

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Subsec. (c). Pub. L. 105–85 made technical amendment to heading and substituted "under the court" for "under the Court" in second sentence and "positions referred to in the preceding sentences" for "such positions" in third sentence.

**1996**—Subsec. (c). Pub. L. 104–201 substituted "Certain" for "Attorney" in heading and inserted "A position of employment under the Court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service." after first sentence in par. (1).

**1994**—Subsecs. (a)(1), (c). Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

**1992**—Subsec. (a). Pub. L. 102–484 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "CHIEF JUDGE.—The President shall designate from time to time one of the judges of the United States Court of Military Appeals to be chief judge of the court."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSITION PROVISION

Pub. L. 102–484, div. A, title X, §1061(b), Oct. 23, 1992, 106 Stat. 2504, provided that: "For purposes of section 943(a) (article 943(a)) of title 10, United States Code, as amended by subsection (a)—

"(1) the person serving as the chief judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] on the date of the enactment of this Act [Oct. 23, 1992] shall be deemed to have been designated as the chief judge under such section; and

"(2) the five-year term provided in paragraph (3) of such section shall be deemed to have begun on the date on which such judge was originally designated as the chief judge under section 867(a) or 943 of title 10, United States Code, as the case may be, as that provision of law was in effect on the date of the designation."

### INAPPLICABILITY OF SUBSECTION (C)

Subsec. (c) of this section not to be applied to change civil service status of any attorney who is an employee of United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] on Nov. 28, 1989, see section 1301(h) of Pub. L. 101–189, set out as a Transitional Provisions note under section 942 of this title.

## §944. Art. 144. Procedure

The United States Court of Appeals for the Armed Forces may prescribe its rules of procedure and may determine the number of judges required to constitute a quorum.

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1572; amended Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831.)

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

## §945. Art. 145. Annuities for judges and survivors

(a) RETIREMENT ANNUITIES FOR JUDGES.—(1) A person who has completed a term of service for which he was appointed as a judge of the United States Court of Appeals for the Armed Forces is eligible for an annuity under this section upon separation from civilian service in the Federal Government. A person who continues service with the court as a senior judge under section 942(e)(1)(B) of this title (article 142(e)(1)(B)) upon the expiration of the judge's term shall be considered to have been separated from civilian service in the Federal Government only upon the termination of that continuous service.

(2) A person who is eligible for an annuity under this section shall be paid that annuity if, at the time he becomes eligible to receive that annuity, he elects to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a

deferred annuity) under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

(3)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (2) is made affecting any right or interest under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 based on service as a judge of the United States Court of Appeals for the Armed Forces.

(B) Upon receiving any notification under subparagraph (A) in the case of a person making an election under paragraph (2), the Director shall determine the amount of the person's lump-sum credit under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.

(b) AMOUNT OF ANNUITY.—The annuity payable under this section to a person who makes an election under subsection (a)(2) is 80 percent of the rate of pay for a judge in active service on the United States Court of Appeals for the Armed Forces as of the date on which the person is separated from civilian service.

(c) RELATION TO THRIFT SAVINGS PLAN.—Nothing in this section affects any right of any person to participate in the thrift savings plan under section 8351 of title 5 or subchapter III of chapter 84 of such title.

(d) SURVIVOR ANNUITIES.—The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of persons receiving annuities under this section by reason of elections made by such persons under subsection (a)(2). That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under other retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the person as a condition for the survivor annuity. An election by a judge (including a senior judge) or former judge to receive an annuity under this section terminates any right or interest which any other individual may have to a survivor annuity under any other retirement system for civilian employees of the Federal Government based on the service of that judge or former judge as a civilian officer or employee of the Federal Government (except with respect to an election under subsection (f)(1)(B)).

(e) COST-OF-LIVING INCREASES.—The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this section in order to take account of changes in the cost of living. The Secretary shall prescribe by regulation procedures for increases in annuities under this section. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

(f) ELECTION OF JUDICIAL RETIREMENT BENEFITS.—(1) A person who is receiving an annuity under this section by reason of service as a judge of the court and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this section, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by that person at the time of his retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

(2) An election by a person to be paid an annuity or salary pursuant to paragraph (1)(B) terminates

(A) any election previously made by such person to provide a survivor annuity pursuant to subsection (d), and (B) any right of any other individual to receive a survivor annuity pursuant to subsection (d) on the basis of the service of that person.

(g) SOURCE OF PAYMENT OF ANNUITIES.—Annuities and survivor annuities paid under this section shall be paid out of the Department of Defense Military Retirement Fund.

(h) ELIGIBILITY TO ELECT BETWEEN RETIREMENT SYSTEMS.—(1) This subsection applies with respect to any person who—

(A) prior to being appointed as a judge of the United States Court of Appeals for the Armed Forces, performed civilian service of a type making such person subject to the Civil Service Retirement System; and

(B) would be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986, by virtue of being appointed as such a judge, but for the fact that such person has not had a break in service of sufficient duration to be considered someone who is being reemployed by the Federal Government.

(2) Any person with respect to whom this subsection applies shall be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986 to the same extent and in the same manner (including subject to the condition set forth in section 301(d) of such Act) as if such person's appointment constituted reemployment with the Federal Government.

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1572; amended Pub. L. 102–190, div. A, title X, §1061(b)(1)(C), Dec. 5, 1991, 105 Stat. 1474; Pub. L. 102–484, div. A, title X, §§1052(11), 1062(a)(1), Oct. 23, 1992, 106 Stat. 2499, 2504; Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114–328, div. A, title V, §541(e), Dec. 23, 2016, 130 Stat. 2125.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 301(a)(2) and (d) of the Federal Employees' Retirement System Act of 1986, referred to in subsec. (h), is section 301(a)(2) and (d) of Pub. L. 99–335, which is set out in a note under section 8331 of Title 5, Government Organization and Employees.

### AMENDMENTS

**2016**—Subsec. (d). Pub. L. 114–328, §541(e)(1), substituted "subsection (f)(1)(B)" for "subsection (g)(1)(B)".

Subsecs. (f) to (i). Pub. L. 114–328, §541(e)(2), (3), redesignated subsecs. (g) to (i) as (f) to (h), respectively, and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "A person who is receiving an annuity under this section by reason of service as a judge of the court and who is appointed to a position in the Federal Government shall, during the period of such person's service in such position, be entitled to receive only the annuity under this section or the pay for that position, whichever is higher."

**1994**—Subsecs. (a)(1), (3)(A), (b), (i)(1)(A). Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

**1992**—Subsec. (a)(1). Pub. L. 102–484, §1052(11), substituted "section 942(e)(1)(B) of this title (article 142(e)(1)(B))" for "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))".

Subsec. (i). Pub. L. 102–484, §1062(a)(1), added subsec. (i).

**1991**—Subsec. (a)(1). Pub. L. 102–190 inserted at end "A person who continues service with the court as a senior judge under section 943(e)(1)(B) of this title (art. 143(e)(1)(B)) upon the expiration of the judge's term shall be considered to have been separated from civilian service in the Federal Government only upon the termination of that continuous service."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title X, §1062(a)(2), Oct. 23, 1992, 106 Stat. 2505, provided that: "The

amendment made by paragraph (1) [amending this section] shall apply with respect to any appointment which takes effect on or after the date of the enactment of this Act [Oct. 23, 1992]."

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Nov. 29, 1989, see section 1061(b)(1)(D) of Pub. L. 102–190, set out as a note under section 942 of this title.

**EFFECTIVE DATE**

Except as otherwise provided, section applicable with respect to judges of United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] whose terms of service on such court end after Sept. 28, 1988, and to survivors of such judges, see section 1301(f) of Pub. L. 101–189, set out as a Transitional Provisions note under section 942 of this title.

**ADDITIONAL ELECTIONS**

Pub. L. 102–484, div. A, title X, §1062(b), Oct. 23, 1992, 106 Stat. 2505, provided that:

"(1) Any individual who is a judge in active service on the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] shall be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986 [Pub. L. 99–335, 5 U.S.C. 8331 note] if—

"(A) such individual is such a judge on the date of the enactment of this Act [Oct. 23, 1992]; and

"(B) as of the date of the election, such individual is—

"(i) subject to the Civil Service Retirement System; or

"(ii) covered by Social Security but not subject to the Federal Employees' Retirement System.

"(2) An election under this subsection—

"(A) shall not be effective unless it is—

"(i) made within 30 days after the date of the enactment of this Act; and

"(ii) in compliance with the condition set forth in section 301(d) of the Federal Employees' Retirement System Act of 1986 [Pub. L. 99–335, 5 U.S.C. 8331 note]; and

"(B) may not be revoked.

"(3) For the purpose of this subsection, a judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] shall be considered to be 'covered by Social Security' if such judge's service is employment for the purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of the Internal Revenue Code of 1986 [26 U.S.C. 3101 et seq.]."

## §946. Art. 146. Military Justice Review Panel

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the "Military Justice Review Panel" (in this section referred to as the "Panel").

(b) MEMBERS.—

(1) NUMBER OF MEMBERS.—The Panel shall be composed of thirteen members.

(2) APPOINTMENT OF CERTAIN MEMBERS.—Each of the following shall appoint one member of the Panel:

(A) The Secretary of Defense (in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy).

(B) The Attorney General.

(C) The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps.

(3) APPOINTMENT OF REMAINING MEMBERS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall appoint the remaining members of the Panel, taking into consideration recommendations made by each of the following:

(A) The chairman and ranking minority member of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(B) The Chief Justice of the United States.

(C) The Chief Judge of the United States Court of Appeals for the Armed Forces.

(4) ESTABLISHMENT OF STAGGERED TERMS.—Notwithstanding subsection (e), members of the Panel appointed to serve on the Panel to fill vacancies that exist due to terms of appointment expiring during the period beginning on August 1, 2030, and ending on November 30, 2030, shall be appointed to terms as follows:

(A) Three members designated by the Secretary of Defense shall serve a term of two years.

(B) Three members designated by the Secretary of Defense shall serve a term of four years.

(C) Three members designated by the Secretary of Defense shall serve a term of six years.

(D) Four members designated by the Secretary of Defense shall serve a term of eight years.

(c) QUALIFICATIONS OF MEMBERS.—The members of the Panel shall be appointed from among private United States citizens with expertise in criminal law, as well as appropriate and diverse experience in investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial, Federal civilian courts, or State courts.

(d) CHAIR.—The Secretary of Defense shall select the chair of the Panel from among the members.

(e) TERM; VACANCIES.—

(1) TERM.—Subject to subsection (b)(4) and paragraphs (2) and (3) of this subsection, each member shall be appointed for a term of eight years, and no member may serve more than one term.

(2) VACANCY.—Any vacancy in the Panel shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy in the Panel that occurs before the expiration of the term of appointment of the predecessor of such member shall be appointed for the remainder of the term of such predecessor.

(3) AVAILABILITY OF REAPPOINTMENT FOR CERTAIN MEMBERS.—Notwithstanding paragraph (1), a member of the Panel may be appointed to a single additional term if—

(A) the appointment of the member is to fill a vacancy described in subsection (b)(4); or

(B) the member was initially appointed—

(i) to a term of four years or less in accordance with subsection (b)(4); or

(ii) to fill a vacancy that occurs before the expiration of the term of the predecessor of such member and for which the remainder of the term of such predecessor is four years or less.

(f) REVIEWS AND REPORTS.—

(1) INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.—During fiscal year 2021, the Panel shall conduct an initial review and assessment of the implementation of the amendments made to this chapter during the preceding five years. In conducting the initial review and assessment, the Panel may review such other aspects of the operation of this chapter as the Panel considers appropriate.

(2) SENTENCING DATA COLLECTION AND REPORT.—During fiscal year 2020, the Panel shall gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing under section 856 of this title (article 56). The sentencing data shall include the number of accused who request member sentencing and the number who request sentencing by military judge alone, the offenses which the accused were convicted of, and the resulting sentence for each offense in each case. The Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall provide the sentencing data in the format and for the duration established by the chair of the Panel. The analysis under this paragraph shall be included in the assessment required by paragraph (1).

(3) PERIODIC COMPREHENSIVE REVIEWS.—During fiscal year 2024 and every eight years thereafter, the Panel shall conduct a comprehensive review and assessment of the operation of this chapter.

(4) PERIODIC INTERIM REVIEWS.—During fiscal year 2028 and every eight years thereafter, the Panel shall conduct an interim review and assessment of such other aspects of the operation of this chapter as the Panel considers appropriate. In addition, at the request of the

Secretary of Defense, the Panel may, at any time, review and assess other specific matters relating to the operation of this chapter.

(5) REPORTS.—With respect to each review and assessment under this subsection, the Panel shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives. Each report—

(A) shall set forth the results of the review and assessment concerned, including the findings and recommendations of the Panel; and

(B) shall be submitted not later than December 31 of the calendar year in which the review and assessment is concluded.

(g) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

(h) INFORMATION FROM FEDERAL AGENCIES.—Upon request of the chair of the Panel, a department or agency of the Federal Government shall provide information that the Panel considers necessary to carry out its duties under this section.

(i) ADMINISTRATIVE MATTERS.—

(1) MEMBERS TO SERVE WITHOUT PAY.—Members of the Panel shall serve without pay, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Panel.

(2) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the Panel.

(j) CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall not apply to the Panel.

(Added Pub. L. 101–189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1574; amended Pub. L. 103–337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–239, div. A, title V, §532, Jan. 2, 2013, 126 Stat. 1726; Pub. L. 114–328, div. E, title LXII, §5521, Dec. 23, 2016, 130 Stat. 2962; Pub. L. 115–91, div. A, title V, §531(k), Dec. 12, 2017, 131 Stat. 1386; Pub. L. 117–286, §4(a)(46), Dec. 27, 2022, 136 Stat. 4310; Pub. L. 118–31, div. A, title V, §532, Dec. 22, 2023, 137 Stat. 260.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b)(4). Pub. L. 118–31, §532(a), added par. (4).

Subsec. (e). Pub. L. 118–31, §532(b), amended subsec. (e) generally. Prior to amendment, text read as follows: "Each member shall be appointed for a term of eight years, and no member may serve more than one term. Any vacancy shall be filled in the same manner as the original appointment."

**2022**—Subsec. (j). Pub. L. 117–286 substituted "Chapter 10 of Title 5" for "Federal Advisory Committee Act" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

**2017**—Subsec. (f)(1). Pub. L. 115–91, §531(k)(1), substituted "fiscal year 2021" for "fiscal year 2020".

Subsec. (f)(2). Pub. L. 115–91, §531(k)(2), substituted "The analysis under this paragraph shall be included in the assessment required by paragraph (1)." for "Not later than October 31, 2020, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives through the Secretary of Defense a report setting forth the Panel's findings and recommendations on the need for sentencing reform."

Subsec. (f)(5). Pub. L. 115–91, §531(k)(3), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "Not later than December 31 of each year during which the Panel conducts a review and assessment under this subsection, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of such review and assessment, including the Panel's findings and recommendations."

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to establishment, membership, and duties of Code committee.

**2013**—Subsec. (c)(2)(B), (C). Pub. L. 112–239 added subpar. (B) and redesignated former subpar. (B) as (C).

**2002**—Subsec. (c)(1)(B). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (c)(1)(A). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (c)(1)(A). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1994**—Subsec. (b)(1). Pub. L. 103–337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### FULL FUNCTIONALITY OF MILITARY JUSTICE REVIEW PANEL

Pub. L. 117–81, div. A, title V, §549E, Dec. 27, 2021, 135 Stat. 1726, provided that: "Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall establish or reconstitute, maintain, and ensure the full functionality of the Military Justice Review Panel established pursuant to section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice)) [sic]."

## §946a. Art. 146a. Annual reports

(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of completed and pending cases before the Court, and such other matters as the Court considers appropriate regarding the operation of this chapter.

(b) SERVICE REPORTS.—Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

(1) Data on the number and status of pending cases.

(2) Data on the number and status of completed cases, including—

(A) information on race, ethnicity, rank, and sex demographic for the victim and the accused;

(B) the enumerated offenses preferred and referred;

(C) the types of court-martial; and

(D) the results for each case, including cases that resulted in nonjudicial punishment or administrative separation.

(3) Information on the appellate review process, including—

(A) information on compliance with processing time goals;

(B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies;

(C) an analysis of each case in which a provision of this chapter was held unconstitutional; and

(D) an analysis of each case in which a Court of Criminal Appeals made a final determination that a finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case.

(4)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates—

(i) to participate competently as trial counsel and defense counsel in cases under this chapter;

(ii) to preside as military judges in cases under this chapter; and

(iii) to perform the duties of Special Victims' Counsel, when so designated under section 1044e of this title.

(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

(5) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

(6) Such other matters regarding the operation of this chapter as may be appropriate.

(c) SUBMISSION.—Each report under this section shall be submitted—

(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.

(Added Pub. L. 114–328, div. E, title LXII, §5522, Dec. 23, 2016, 130 Stat. 2964; amended Pub. L. 116–283, div. A, title V, §542(d), Jan. 1, 2021, 134 Stat. 3612; Pub. L. 118–159, div. A, title V, §566(a), Dec. 23, 2024, 138 Stat. 1904.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b)(2) to (6). Pub. L. 118–159 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

**2021**—Subsec. (b)(2)(D). Pub. L. 116–283 added subpar. (D).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328 and Ex. Ord.

13825, set out as notes under section 801 of this title.

# CHAPTER 47A—MILITARY COMMISSIONS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **General Provisions** | **948a.** |
| **II.** | **Composition of Military Commissions** | **948h.** |
| **III.** | **Pre-Trial Procedure** | **948q.** |
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| **V.** | **Classified Information Procedures** | **949p–1.** |
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| **VIII.** | **Punitive Matters** | **950p.** |


**EDITORIAL NOTES**

**CODIFICATION**

This chapter was originally added by Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2600, and amended by Pub. L. 110–181, Jan. 28, 2008, 122 Stat. 3. This chapter is shown here, however, as having been added by Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574, without reference to those intervening amendments because of the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(10), Aug. 13, 2018, 132 Stat. 1983, substituted "VII. Post-Trial Procedure and Review of Military Commissions" for "VII. Post-Trial Procedures and Review of Military Commissions ... 950a." in item relating to subchapter VII.

[1] *Starting section number editorially supplied.*

# SUBCHAPTER I—GENERAL PROVISIONS


| Sec. | |
|---|---|
| 948a. | Definitions. |
| 948b. | Military commissions generally. |
| 948c. | Persons subject to military commissions. |
| 948d. | Jurisdiction of military commissions. |


## §948a. Definitions

In this chapter:

(1) ALIEN.—The term "alien" means an individual who is not a citizen of the United States.

(2) CLASSIFIED INFORMATION.—The term "classified information" means the following:

(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(3) COALITION PARTNER.—The term "coalition partner", with respect to hostilities engaged in by the United States, means any State or armed force directly engaged along with the United States in such hostilities or providing direct operational support to the United States in connection with such hostilities.

(4) GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF

WAR.—The term "Geneva Convention Relative to the Treatment of Prisoners of War" means the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

(5) GENEVA CONVENTIONS.—The term "Geneva Conventions" means the international conventions signed at Geneva on August 12, 1949.

(6) PRIVILEGED BELLIGERENT.—The term "privileged belligerent" means an individual belonging to one of the eight categories enumerated in Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War.

(7) UNPRIVILEGED ENEMY BELLIGERENT.—The term "unprivileged enemy belligerent" means an individual (other than a privileged belligerent) who—

(A) has engaged in hostilities against the United States or its coalition partners;

(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

(C) was a part of al Qaeda at the time of the alleged offense under this chapter.

(8) NATIONAL SECURITY.—The term "national security" means the national defense and foreign relations of the United States.

(9) HOSTILITIES.—The term "hostilities" means any conflict subject to the laws of war.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948a, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2601, related to definitions, prior to the general amendment of this chapter by Pub. L. 111–84.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title XVIII, §1801, Oct. 28, 2009, 123 Stat. 2574, provided that: "This title [enacting this chapter, amending sections 802 and 839 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 801 of this title] may be cited as the 'Military Commissions Act of 2009'."

### SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–366, §1(a), Oct. 17, 2006, 120 Stat. 2600, provided that: "This Act [see Tables for classification] may be cited as the 'Military Commissions Act of 2006'."

### PROHIBITION ON ENFORCEMENT OF MILITARY COMMISSION RULINGS PREVENTING MEMBERS OF THE ARMED FORCES FROM CARRYING OUT OTHERWISE LAWFUL DUTIES BASED ON MEMBER SEX

Pub. L. 114–328, div. A, title X, §1056, Dec. 23, 2016, 130 Stat. 2400, provided that:

"(a) PROHIBITION.—No order, ruling, finding, or other determination of a military commission may be construed or implemented to prohibit or restrict a member of the Armed Forces from carrying out duties otherwise lawfully assigned to such member to the extent that the basis for such prohibition or restriction is the sex of such member.

"(b) APPLICABILITY TO PRIOR ORDERS, ETC..—The prohibition or restriction described in subsection (a) shall, upon motion, apply to any order, ruling, finding, or other determination described in that subsection that was issued before the date of the enactment of this Act [Dec. 23, 2016] in a military commission and is still effective as of the date of such motion.

"(c) MILITARY COMMISSION DEFINED.—In this section, the term 'military commission' means a military commission established under chapter 47A of title 10, United States Code, and any military commission otherwise established or convened by law."

### PROCEEDINGS UNDER PRIOR STATUTE

Pub. L. 111–84, div. A, title XVIII, §1804, Oct. 28, 2009, 123 Stat. 2612, provided that:

"(a) PRIOR CONVICTIONS.—The amendment made by section 1802 [generally amending this chapter] shall have no effect on the validity of any conviction pursuant to chapter 47A of title 10, United States Code (as such chapter was in effect on the day before the date of the enactment of this Act [Oct. 28, 2009]).

"(b) COMPOSITION OF MILITARY COMMISSIONS.—Notwithstanding the amendment made by section 1802—

"(1) any commission convened pursuant to chapter 47A of title 10, United States Code (as such chapter was in effect on the day before the date of the enactment of this Act), shall be deemed to have been convened pursuant to chapter 47A of title 10, United States Code (as amended by section 1802);

"(2) any member of the Armed Forces detailed to serve on a commission pursuant to chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), shall be deemed to have been detailed pursuant to chapter 47A of title 10, United States Code (as so amended);

"(3) any military judge detailed to a commission pursuant to chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), shall be deemed to have been detailed pursuant to chapter 47A of title 10, United States Code (as so amended);

"(4) any trial counsel or defense counsel detailed for a commission pursuant to chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), shall be deemed to have been detailed pursuant to chapter 47A of title 10, United States Code (as so amended);

"(5) any court reporters detailed to or employed by a commission pursuant to chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), shall be deemed to have been detailed or employed pursuant to chapter 47A of title 10, United States Code (as so amended); and

"(6) any appellate military judge or other duly appointed appellate judge on the Court of Military Commission Review pursuant to chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), shall be deemed to have been detailed or appointed to the United States Court of Military Commission Review pursuant to chapter 47A of title 10, United States Code (as so amended).

"(c) CHARGES AND SPECIFICATIONS.—Notwithstanding the amendment made by section 1802—

"(1) any charges or specifications sworn or referred pursuant to chapter 47A of title 10, United States Code (as such chapter was in effect on the day before the date of the enactment of this Act), shall be deemed to have been sworn or referred pursuant to chapter 47A of title 10, United States Code (as amended by section 1802); and

"(2) any charges or specifications described in paragraph (1) may be amended, without prejudice, as needed to properly allege jurisdiction under chapter 47A of title 10, United States Code (as so amended), and crimes triable under such chapter.

"(d) PROCEDURES AND REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in subsections (a) through (c) and subject to paragraph (2), any commission convened pursuant to chapter 47A of title 10, United States Code (as such chapter was in effect on the day before the date of the enactment of this Act), shall be conducted after the date of the enactment of this Act in accordance with the procedures and requirements of chapter 47A of title 10, United States Code (as amended by section 1802).

"(2) TEMPORARY CONTINUATION OF PRIOR PROCEDURES AND REQUIREMENTS.—Any military commission described in paragraph (1) may be conducted in accordance with any procedures and requirements of chapter 47A of title 10, United States Code (as in effect on the day before the date of the enactment of this Act), that are not inconsistent with the provisions of chapter 47A of title 10, United States Code, (as so amended), until the earlier of—

"(A) the date of the submittal to Congress under section 1805 of the revised rules for military commissions under chapter 47A of title 10, United States Code (as so amended); or

"(B) the date that is 90 days after the date of the enactment of this Act."

**SUBMITTAL TO CONGRESS OF REVISED RULES FOR MILITARY COMMISSIONS**

Pub. L. 111–84, div. A, title XVIII, §1805, Oct. 28, 2009, 123 Stat. 2614, provided that:

"(a) DEADLINE FOR SUBMITTAL.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the revised rules for military commissions prescribed by the Secretary for purposes of chapter 47A of title 10, United States Code (as amended by section 1802).

"(b) TREATMENT OF REVISED RULES UNDER REQUIREMENT FOR NOTICE AND WAIT REGARDING MODIFICATION OF RULES.—The revised rules submitted to Congress under subsection (a)

shall not be treated as a modification of the rules in effect for military commissions for purposes of section 949a(d) of title 10, United States Code (as so amended)."

**ANNUAL REPORTS TO CONGRESS ON TRIALS BY MILITARY COMMISSION**

Pub. L. 111–84, div. A, title XVIII, §1806, Oct. 28, 2009, 123 Stat. 2614, provided that:

"(a) ANNUAL REPORTS REQUIRED.—Not later than January 31 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under chapter 47A of title 10, United States Code (as amended by section 1802), during the preceding year.

"(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1806 of Pub. L. 111–84, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

**CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS**

Pub. L. 109–366, §2, Oct. 17, 2006, 120 Stat. 2600, provided that: "The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require."

## §948b. Military commissions generally

(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unprivileged enemy belligerents for violations of the law of war and other offenses triable by military commission.

(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided therein or in this chapter, and many of the provisions of chapter 47 of this title are by their terms inapplicable to military commissions. The judicial construction and application of chapter 47 of this title, while instructive, is therefore not of its own force binding on military commissions established under this chapter.

(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to preliminary hearing.

(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by the terms of such provisions or by this chapter.

(e) GENEVA CONVENTIONS NOT ESTABLISHING PRIVATE RIGHT OF ACTION.—No alien unprivileged enemy belligerent subject to trial by military commission under this chapter may invoke the Geneva Conventions as a basis for a private right of action.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2575; amended Pub. L. 113–66, div. A, title XVII, §1702(c)(3)(E), Dec. 26, 2013, 127 Stat. 958.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948b, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2602, related to military commissions generally, prior to the general amendment of this chapter by Pub. L. 111–84.

### AMENDMENTS

**2013**—Subsec. (d)(1)(C). Pub. L. 113–66 substituted "preliminary hearing" for "pretrial investigation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113–66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113–66, set out as a note under section 802 of this title.

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 13425. TRIAL OF ALIEN UNLAWFUL ENEMY COMBATANTS BY MILITARY COMMISSION

Ex. Ord. No. 13425, Feb. 14, 2007, 72 F.R. 7737, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Military Commissions Act of 2006 (Public Law 109–366), the Authorization for Use of Military Force (Public Law 107–40), and section 948b(b) of title 10, United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment of Military Commissions*. There are hereby established military commissions to try alien unlawful enemy combatants for offenses triable by military commission as provided in chapter 47A of title 10.

SEC. 2. *Definitions*. As used in this order:

(a) "unlawful enemy combatant" has the meaning provided for that term in section 948a(1) of title 10; and

(b) "alien" means a person who is not a citizen of the United States.

SEC. 3. *Supersedure*. This order supersedes any provision of the President's Military Order of November 13, 2001 (66 *Fed. Reg*. 57,833), that relates to trial by military commission, specifically including:

(a) section 4 of the Military Order; and

(b) any requirement in section 2 of the Military Order, as it relates to trial by military commission, for a determination of:

(i) reason to believe specified matters; or

(ii) the interest of the United States.

SEC. 4. *General Provisions*. (a) This order shall be implemented in accordance with applicable law and subject to the availability of appropriations.

(b) The heads of executive departments and agencies shall provide such information and assistance to the Secretary of Defense as may be necessary to implement this order and chapter 47A of title 10.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

## §948c. Persons subject to military commissions

Any alien unprivileged enemy belligerent is subject to trial by military commission as set forth in this chapter.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2576.)

### EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 948c, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2602, related to persons subject to military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948d. Jurisdiction of military commissions

A military commission under this chapter shall have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter, sections 904 and 906 of this title (articles 104 and 106 of the Uniform Code of Military Justice), or the law of war, whether such offense was committed before, on, or after September 11, 2001, and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when specifically authorized under this chapter. A military commission is a competent tribunal to make a finding sufficient for jurisdiction.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2576.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948d, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2603, related to jurisdiction of military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

A prior section 948e, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2603, which required the Secretary of Defense to submit an annual report to congressional committees, was omitted in the general amendment of this chapter by Pub. L. 111–84. See section 1806 of Pub. L. 111–84, set out as a note under section 948a of this title.

# SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

Sec.
948h. Who may convene military commissions.
948i. Who may serve on military commissions.
948j. Military judge of a military commission.
948k. Detail of trial counsel and defense counsel.
948*l*. Detail or employment of reporters and interpreters.
948m. Number of members; excuse of members; absent and additional members.

## §948h. Who may convene military commissions

Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2576.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948h, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2603, related to who may convene military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948i. Who may serve on military commissions

(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter, including commissioned officers of the reserve

components of the armed forces on active duty, commissioned officers of the National Guard on active duty in Federal service, or retired commissioned officers recalled to active duty.

(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members thereof such members of the armed forces eligible under subsection (a) who, in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2576.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948i, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2603, related to who may serve on military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948j. Military judge of a military commission

(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which such military judge has been detailed.

(b) ELIGIBILITY.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge of general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

(c) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person is eligible to act as military judge in a case of a military commission under this chapter if such person is the accuser or a witness or has acted as investigator or a counsel in the same case.

(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may such military judge vote with the members.

(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to such officer by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter may not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to such judge's performance of duty as a military judge on the military commission.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2577.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948j, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2604, related to military

judges of military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948k. Detail of trial counsel and defense counsel

(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable.

(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such military commissions.

(b) TRIAL COUNSEL.—Subject to subsection (e), a trial counsel detailed for a military commission under this chapter shall be—

(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice)) who is—

(A) a graduate of an accredited law school or a member of the bar of a Federal court or of the highest court of a State; and

(B) certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which such judge advocate is a member; or

(2) a civilian who is—

(A) a member of the bar of a Federal court or of the highest court of a State; and

(B) otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

(c) DEFENSE COUNSEL.—(1) Subject to subsection (e), a military defense counsel detailed for a military commission under this chapter shall be a judge advocate (as so defined) who is—

(A) a graduate of an accredited law school or a member of the bar of a Federal court or of the highest court of a State; and

(B) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which such judge advocate is a member.

(2) The Secretary of Defense shall prescribe regulations for the appointment and performance of defense counsel in capital cases under this chapter.

(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2577.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948k, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2604, related to detail of trial counsel and defense counsel, prior to the general amendment of this chapter by Pub. L. 111–84.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### GRADE OF CHIEF PROSECUTOR AND CHIEF DEFENSE COUNSEL IN MILITARY COMMISSIONS ESTABLISHED TO TRY INDIVIDUALS DETAINED AT GUANTANAMO

Pub. L. 113–66, div. A, title X, §1037, Dec. 26, 2013, 127 Stat. 854, provided that:

"(a) IN GENERAL.—For purposes of any military commission established under chapter 47A of title 10, United States Code, to try an alien unprivileged enemy belligerent (as such terms are defined in section 948a of such title) who is detained at United States Naval Station, Guantanamo Bay, Cuba, the chief defense counsel and the chief prosecutor shall have the same grade (as that term is defined in section 101(b)(7) of such title).

"(b) WAIVER.—

"(1) IN GENERAL.—The Secretary of Defense may temporarily waive the requirement specified in subsection (a), if the Secretary determines that compliance with such subsection would—

"(A) be infeasible due to a non-availability of qualified officers of the same grade to fill the billets of chief defense counsel and chief prosecutor; or

"(B) cause a significant disruption to proceedings established under chapter 47A of title 10, United States Code.

"(2) REPORTS.—Not later than 30 days after the Secretary issues a waiver under paragraph (1), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the following:

"(A) A copy of the waiver and the determination of the Secretary to issue the waiver.

"(B) A statement of the basis for the determination, including an explanation of the non-availability of qualified officers or the significant disruption concerned.

"(C) Notice of the time period during which the waiver is in effect.

"(c) GUIDANCE.—Not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall issue guidance to ensure that the office of the chief defense counsel and the office of the chief prosecutor receive equitable resources, personnel support, and logistical support for conducting their respective duties in connection with any military commission established under chapter 47A of title 10, United States Code, to try an alien unprivileged enemy belligerent (as such terms are defined in section 948a of such title) who is detained at United States Naval Station, Guantanamo Bay, Cuba."

## §948*l*. Detail or employment of reporters and interpreters

(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the military commission qualified court reporters, who shall prepare a verbatim record of the proceedings of and testimony taken before the military commission.

(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the military commission, and, as necessary, for trial counsel and defense counsel for the military commission, and for the accused.

(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the military commission, who shall also be responsible for preparing the record of the proceedings of the military commission.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2578.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948l, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2605, related to detail or employment of reporters and interpreters, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948m. Number of members; excuse of members; absent and additional members

(a) NUMBER OF MEMBERS.—(1) Except as provided in paragraph (2), a military commission under this chapter shall have at least five primary members and as many alternate members as the convening authority shall detail. Alternate members shall be designated in the order in which they will replace an excused primary member.

(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of primary members prescribed by section 949m(c) of this title.

(b) PRIMARY MEMBERS.—Primary members of a military commission under this chapter are voting members.

(c) ALTERNATE MEMBERS.—(1) A military commission may include alternate members to replace primary members who are excused from service on the commission.

(2) Whenever a primary member is excused from service on the commission, an alternate member, if available, shall replace the excused primary member and the trial may proceed.

(d) EXCUSE OF MEMBERS.—No primary or alternate member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

(1) as a result of challenge;

(2) by the military judge for physical disability or other good cause;

(3) by order of the convening authority for good cause; or

(4) in the case of an alternate member, in order to reduce the number of alternate members required for service on the commission, as determined by the convening authority.

(e) ABSENT AND ADDITIONAL MEMBERS.—Whenever the number of primary members of a military commission under this chapter is reduced below the number of primary members required by subsection (a) and there are no remaining alternate members to replace the excused primary members, the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides. An alternate member who was present for the introduction of all evidence shall not be considered to be a new or additional member.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2579; amended Pub. L. 113–66, div. A, title X, §1031(a), Dec. 26, 2013, 127 Stat. 849.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948m, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2606, related to number of members, excuse of members, and absent and additional members of a military commission, prior to the general amendment of this chapter by Pub. L. 111–84.

### AMENDMENTS

**2013**—Subsec. (a)(1). Pub. L. 113–66, §1031(a)(1)(A), substituted "at least five primary members and as many alternate members as the convening authority shall detail" for "at least five members" and inserted at end "Alternate members shall be designated in the order in which they will replace an excused primary member."

Subsec. (a)(2). Pub. L. 113–66, §1031(a)(1)(B), inserted "primary" before "members".

Subsecs. (b), (c). Pub. L. 113–66, §1031(a)(2)(B), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 113–66, §1031(a)(2)(A), (3), redesignated subsec. (b) as (d), inserted "primary or alternate" before "member" in introductory provisions, and added par. (4).

Subsec. (e). Pub. L. 113–66, §1031(a)(2)(A), (4), redesignated subsec. (c) as (e), substituted "Whenever the

number of primary members of a military commission under this chapter is reduced below the number of primary members required by subsection (a) and there are no remaining alternate members to replace the excused primary members" for "Whenever a military commission under this chapter is reduced below the number of members required by subsection (a)", and inserted at end "An alternate member who was present for the introduction of all evidence shall not be considered to be a new or additional member."

## SUBCHAPTER III—PRE-TRIAL PROCEDURE

Sec.
948q. Charges and specifications.
948r. Exclusion of statements obtained by torture or cruel, inhuman, or degrading treatment; prohibition of self-incrimination; admission of other statements of the accused.
948s. Service of charges.

## §948q. Charges and specifications

(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

(2) that such matters are true in fact to the best of the signer's knowledge and belief.

(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges and specifications against the accused as soon as practicable.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2579.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 948q, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2606, related to charges and specifications, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948r. Exclusion of statements obtained by torture or cruel, inhuman, or degrading treatment; prohibition of self-incrimination; admission of other statements of the accused

(a) EXCLUSION OF STATEMENTS OBTAIN BY TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT.—No statement obtained by the use of torture or by cruel, inhuman, or degrading treatment (as defined by section 1003 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd)), whether or not under color of law, shall be admissible in a military commission under this chapter, except against a person accused of torture or such treatment as evidence that the statement was made.

(b) SELF-INCRIMINATION PROHIBITED.—No person shall be required to testify against himself or herself at a proceeding of a military commission under this chapter.

(c) OTHER STATEMENTS OF THE ACCUSED.—A statement of the accused may be admitted in evidence in a military commission under this chapter only if the military judge finds—

(1) that the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

(2) that—

(A) the statement was made incident to lawful conduct during military operations at the point of capture or during closely related active combat engagement, and the interests of justice would best be served by admission of the statement into evidence; or

(B) the statement was voluntarily given.

(d) DETERMINATION OF VOLUNTARINESS.—In determining for purposes of subsection (c)(2)(B) whether a statement was voluntarily given, the military judge shall consider the totality of the circumstances, including, as appropriate, the following:

(1) The details of the taking of the statement, accounting for the circumstances of the conduct of military and intelligence operations during hostilities.

(2) The characteristics of the accused, such as military training, age, and education level.

(3) The lapse of time, change of place, or change in identity of the questioners between the statement sought to be admitted and any prior questioning of the accused.

(Added by Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2580.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948r, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2607; amended Pub. L. 110–181, div. A, title X, §1063(a)(4), Jan. 28, 2008, 122 Stat. 321, related to prohibition of compulsory self-incrimination and treatment of statements obtained by torture and other statements, prior to the general amendment of this chapter by Pub. L. 111–84.

## §948s. Service of charges

The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had in English and, if appropriate, in another language that the accused understands, sufficiently in advance of trial to prepare a defense.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2580.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 948s, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2607, related to service of charges, prior to the general amendment of this chapter by Pub. L. 111–84.

# SUBCHAPTER IV—TRIAL PROCEDURE

Sec.
949a. Rules.
949b. Unlawfully influencing action of military commission and United States Court of Military Commission Review.
949c. Duties of trial counsel and defense counsel.
949d. Sessions.
949e. Continuances.
949f. Challenges.
949g. Oaths.
949h. Former jeopardy.
949i. Pleas of the accused.
949j. Opportunity to obtain witnesses and other evidence.

949k. Defense of lack of mental responsibility.
949*l*. Voting and rulings.
949m. Number of votes required.
949n. Military commission to announce action.
949*o*. Record of trial.

## §949a. Rules

(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense. Such procedures may not be contrary to or inconsistent with this chapter. Except as otherwise provided in this chapter or chapter 47 of this title, the procedures and rules of evidence applicable in trials by general courts-martial of the United States shall apply in trials by military commission under this chapter.

(b) EXCEPTIONS.—(1) In trials by military commission under this chapter, the Secretary of Defense, in consultation with the Attorney General, may make such exceptions in the applicability of the procedures and rules of evidence otherwise applicable in general courts-martial as may be required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need consistent with this chapter.

(2) Notwithstanding any exceptions authorized by paragraph (1), the procedures and rules of evidence in trials by military commission under this chapter shall include, at a minimum, the following rights of the accused:

(A) To present evidence in the accused's defense, to cross-examine the witnesses who testify against the accused, and to examine and respond to all evidence admitted against the accused on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

(B) To be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

(C)(i) When none of the charges sworn against the accused are capital, to be represented before a military commission by civilian counsel if provided at no expense to the Government, and by either the defense counsel detailed or the military counsel of the accused's own selection, if reasonably available.

(ii) When any of the charges sworn against the accused are capital, to be represented before a military commission in accordance with clause (i) and, to the greatest extent practicable, by at least one additional counsel who is learned in applicable law relating to capital cases and who, if necessary, may be a civilian and compensated in accordance with regulations prescribed by the Secretary of Defense.

(D) To self-representation, if the accused knowingly and competently waives the assistance of counsel, subject to the provisions of paragraph (4).

(E) To the suppression of evidence that is not reliable or probative.

(F) To the suppression of evidence the probative value of which is substantially outweighed by—

(i) the danger of unfair prejudice, confusion of the issues, or misleading the members; or

(ii) considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(3) In making exceptions in the applicability in trials by military commission under this chapter from the procedures and rules otherwise applicable in general courts-martial, the Secretary of Defense may provide the following:

(A) Evidence seized outside the United States shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or authorization.

(B) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as

the evidence complies with the provisions of section 948r of this title.

(C) Evidence shall be admitted as authentic so long as—

(i) the military judge of the military commission determines that there is sufficient evidence that the evidence is what it is claimed to be; and

(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

(D) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission only if—

(i) the proponent of the evidence makes known to the adverse party, sufficiently in advance to provide the adverse party with a fair opportunity to meet the evidence, the proponent's intention to offer the evidence, and the particulars of the evidence (including information on the circumstances under which the evidence was obtained); and

(ii) the military judge, after taking into account all of the circumstances surrounding the taking of the statement, including the degree to which the statement is corroborated, the indicia of reliability within the statement itself, and whether the will of the declarant was overborne, determines that—

(I) the statement is offered as evidence of a material fact;

(II) the statement is probative on the point for which it is offered;

(III) direct testimony from the witness is not available as a practical matter, taking into consideration the physical location of the witness, the unique circumstances of military and intelligence operations during hostilities, and the adverse impacts on military or intelligence operations that would likely result from the production of the witness; and

(IV) the general purposes of the rules of evidence and the interests of justice will best be served by admission of the statement into evidence.

(4)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (2)(D) shall conform the accused's deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (2)(D). In such case, the military counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

(d) NOTICE TO CONGRESS OF MODIFICATION OF RULES.—Not later than 60 days before the date on which any proposed modification of the rules in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the proposed modification.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2581; amended Pub. L. 112–81, div. A, title X, §1034(a), Dec. 31, 2011, 125 Stat. 1572.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 949a, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2608, related to rules, prior to the general amendment of this chapter by Pub. L. 111–84.

### AMENDMENTS

**2011**—Subsec. (b)(2)(C)(i), (ii). Pub. L. 112–81 substituted "sworn" for "preferred".

## §949b. Unlawfully influencing action of military commission and United States Court of Military Commission Review

(a) MILITARY COMMISSIONS.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or their functions in the conduct of the proceedings.

(2) No person may attempt to coerce or, by any unauthorized means, influence—

(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

(B) the action of any convening, approving, or reviewing authority with respect to their judicial acts; or

(C) the exercise of professional judgment by trial counsel or defense counsel.

(3) The provisions of this subsection shall not apply with respect to—

(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

(B) statements and instructions given in open proceedings by a military judge or counsel.

(b) UNITED STATES COURT OF MILITARY COMMISSION REVIEW.—(1) No person may attempt to coerce or, by any unauthorized means, influence—

(A) the action of a judge on the United States Court of Military Commissions Review in reaching a decision on the findings or sentence on appeal in any case; or

(B) the exercise of professional judgment by trial counsel or defense counsel appearing before the United States Court of Military Commission Review.

(2) No person may censure, reprimand, or admonish a judge on the United States Court of Military Commission Review, or counsel thereof, with respect to any exercise of their functions in the conduct of proceedings under this chapter.

(3) The provisions of this subsection shall not apply with respect to—

(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

(B) statements and instructions given in open proceedings by a judge on the United States Court of Military Commission Review, or counsel.

(4) No appellate military judge on the United States Court of Military Commission Review may be reassigned to other duties, except under circumstances as follows:

(A) The appellate military judge voluntarily requests to be reassigned to other duties and the Secretary of Defense, or the designee of the Secretary, in consultation with the Judge Advocate General of the armed force of which the appellate military judge is a member, approves such reassignment.

(B) The appellate military judge retires or otherwise separates from the armed forces.

(C) The appellate military judge is reassigned to other duties by the Secretary of Defense, or the designee of the Secretary, in consultation with the Judge Advocate General of the armed force of which the appellate military judge is a member, based on military necessity and such reassignment is consistent with service rotation regulations (to the extent such regulations are applicable).

(D) The appellate military judge is withdrawn by the Secretary of Defense, or the designee of the Secretary, in consultation with the Judge Advocate General of the armed force of which the appellate military judge is a member, for good cause consistent with applicable procedures under

chapter 47 of this title (the Uniform Code of Military Justice).

(c) PROHIBITION ON CONSIDERATION OF ACTIONS ON COMMISSION IN EVALUATION OF FITNESS.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2583; amended Pub. L. 112–81, div. A, title X, §1034(b), Dec. 31, 2011, 125 Stat. 1573.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949b, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2609, related to unlawfully influencing action of military commission, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2011**—Subsec. (b)(1)(A). Pub. L. 112–81, §1034(b)(1), substituted "a judge on" for "a military appellate judge or other duly appointed judge under this chapter on".

Subsec. (b)(2). Pub. L. 112–81, §1034(b)(2), substituted "a judge on" for "a military appellate judge on".

Subsec. (b)(3)(B). Pub. L. 112–81, §1034(b)(3), substituted "a judge on" for "an appellate military judge or a duly appointed appellate judge on".

## §949c. Duties of trial counsel and defense counsel

(a) TRIAL COUNSEL.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

(b) DEFENSE COUNSEL.—(1) The accused shall be represented in the accused's defense before a military commission under this chapter as provided in this subsection.

(2) The accused may be represented by military counsel detailed under section 948k of this title or by military counsel of the accused's own selection, if reasonably available.

(3) The accused may be represented by civilian counsel if retained by the accused, provided that such civilian counsel—

(A) is a United States citizen;

(B) is admitted to the practice of law in a State, district, or possession of the United States, or before a Federal court;

(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

(D) has been determined to be eligible for access to information classified at the level Secret or higher; and

(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

(4) If the accused is represented by civilian counsel, military counsel shall act as associate counsel.

(5) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in such person's sole discretion, may detail additional military counsel to represent the accused.

(6) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

(7) Civilian defense counsel shall protect any classified information received during the course of representation of the accused in accordance with all applicable law governing the protection of classified information, and may not divulge such information to any person not authorized to receive it.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2585.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949c, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2610, related to duties of trial counsel and defense counsel, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949d. Sessions

(a) SESSIONS WITHOUT PRESENCE OF MEMBERS.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

(2) Except as provided in subsections (b), (c), and (d), any proceedings under paragraph (1) shall be conducted in the presence of the accused, defense counsel, and trial counsel, and shall be made part of the record.

(b) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

(c) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter.

(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

(B) ensure the physical safety of individuals.

(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

(d) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

(1) to ensure the physical safety of individuals; or

(2) to prevent disruption of the proceedings by the accused.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2585.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949d, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2611, related to sessions of military commissions, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949e. Continuances

The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2586.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949e, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2613, related to continuances, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949f. Challenges

(a) CHALLENGES AUTHORIZED.—The military judge and primary or alternate members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the military commission. The military judge shall determine the relevance and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) PEREMPTORY CHALLENGES.—The accused and trial counsel are each entitled to one peremptory challenge, but the military judge may not be challenged except for cause. Nothing in this section prohibits the military judge from awarding to each party such additional peremptory challenges as may be required in the interests of justice.

(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, the accused and trial counsel are each entitled to one peremptory challenge against members not previously subject to peremptory challenge.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2586; amended Pub. L. 113–66, div. A, title X, §1031(b), Dec. 26, 2013, 127 Stat. 850.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949f, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2613, related to challenges, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2013**—Subsec. (a). Pub. L. 113–66, §1031(b)(1), inserted "primary or alternate" before "members".

Subsec. (b). Pub. L. 113–66, §1031(b)(2), inserted at end "Nothing in this section prohibits the military judge from awarding to each party such additional peremptory challenges as may be required in the interests of justice."

## §949g. Oaths

(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording thereof, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as provided in regulations prescribed by the Secretary of Defense. The regulations may provide that—

(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

(c) OATH DEFINED.—In this section, the term "oath" includes an affirmation.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2587.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949g, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2613, related to oaths, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949h. Former jeopardy

(a) IN GENERAL.—No person may, without the person's consent, be tried by a military commission under this chapter a second time for the same offense.

(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2587.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949h, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2614, related to former jeopardy, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949i. Pleas of the accused

(a) PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, including a charge or specification that has been referred capital, a finding of guilty of the charge or specification may be entered by the military judge immediately

without a vote by the members. The finding shall constitute the finding of the military commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

(c) PRE-TRIAL AGREEMENTS.—(1) A plea of guilty made by the accused that is accepted by a military judge under subsection (b) and not withdrawn prior to announcement of the sentence may form the basis for an agreement reducing the maximum sentence approved by the convening authority, including the reduction of a sentence of death to a lesser punishment, or that the case will be referred to a military commission under this chapter without seeking the penalty of death. Such an agreement may provide for terms and conditions in addition to a guilty plea by the accused in order to be effective.

(2) A plea agreement under this subsection may not provide for a sentence of death imposed by a military judge alone. A sentence of death may only be imposed by the unanimous vote of all members of a military commission concurring in the sentence of death as provided in section 949m(b)(2)(D) of this title.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2587; amended Pub. L. 112–81, div. A, title X, §1030(b), Dec. 31, 2011, 125 Stat. 1570; Pub. L. 113–291, div. A, title X, §1071(f)(9), Dec. 19, 2014, 128 Stat. 3510.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949i, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2614, related to pleas of the accused, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2014**—Subsec. (b). Pub. L. 113–291 substituted a comma for ",," after "referred capital".

**2011**—Subsec. (b). Pub. L. 112–81, §1030(b)(1), in the first sentence, inserted ", including a charge or specification that has been referred capital," after "military judge", "by the military judge" after "may be entered", and "by the members" after "vote".

Subsec. (c). Pub. L. 112–81, §1030(b)(2), added subsec. (c).

## §949j. Opportunity to obtain witnesses and other evidence

(a) IN GENERAL.—(1) Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense. The opportunity to obtain witnesses and evidence shall be comparable to the opportunity available to a criminal defendant in a court of the United States under article III of the Constitution.

(2) Process issued in military commissions under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

(A) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

(B) shall run to any place where the United States shall have jurisdiction thereof.

(b) DISCLOSURE OF EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel in a military commission under this chapter shall disclose to the defense the existence of any evidence that reasonably tends to—

(A) negate the guilt of the accused of an offense charged; or

(B) reduce the degree of guilt of the accused with respect to an offense charged.

(2) The trial counsel shall, as soon as practicable, disclose to the defense the existence of evidence that reasonably tends to impeach the credibility of a witness whom the government intends to call at trial.

(3) The trial counsel shall, as soon as practicable upon a finding of guilt, disclose to the defense the existence of evidence that is not subject to paragraph (1) or paragraph (2) but that reasonably may be viewed as mitigation evidence at sentencing.

(4) The disclosure obligations under this subsection encompass evidence that is known or reasonably should be known to any government officials who participated in the investigation and prosecution of the case against the defendant.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2587.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949j, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2614, related to the opportunity to obtain witnesses and other evidence, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949k. Defense of lack of mental responsibility

(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members as to the defense of lack of mental responsibility under this section and shall charge the members to find the accused—

(1) guilty;

(2) not guilty; or

(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2588.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949k, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2615, related to the defense of lack of mental responsibility, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949*l*. Voting and rulings

(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

(2) Any ruling made by the military judge upon a question of law or an interlocutory question

(other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change such a ruling at any time during the trial.

(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

(1) that the accused must be presumed to be innocent until the accused's guilt is established by legal and competent evidence beyond a reasonable doubt;

(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted;

(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2589.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949l, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2615, related to voting and rulings, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949m. Number of votes required

(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the primary members present at the time the vote is taken.

(b) SENTENCES.—(1) Except as provided in paragraphs (2) and (3), sentences shall be determined by a military commission by the concurrence of two-thirds of the primary members present at the time the vote is taken.

(2) No person may be sentenced to death by a military commission, except insofar as—

(A) the penalty of death has been expressly authorized under this chapter, chapter 47 of this title, or the law of war for an offense of which the accused has been found guilty;

(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

(C) the accused was convicted of the offense by the concurrence of all the primary members present at the time the vote is taken, or a guilty plea was accepted and not withdrawn prior to announcement of the sentence in accordance with section 949i(b) of this title; and

(D) all primary members present at the time the vote was taken on the sentence concurred in the sentence of death.

(3) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the primary members present at the time the vote is taken.

(4) The primary members present for a vote on a sentence need not be the same primary members who voted on the conviction if the requirements of section 948m(d) of this title are met.

(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of primary members of the military commission under this chapter shall be not less than 12 primary members.

(2) In any case described in paragraph (1) in which 12 primary members are not reasonably available for a military commission because of physical conditions or military exigencies, the convening authority shall specify a lesser number of primary members for the military commission

(but not fewer than 9 primary members), and the military commission may be assembled, and the trial held, with not less than the number of primary members so specified. In any such case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of primary members were not reasonably available.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2589; amended Pub. L. 112–81, div. A, title X, §1030(a), Dec. 31, 2011, 125 Stat. 1570; Pub. L. 113–66, div. A, title X, §1031(c), Dec. 26, 2013, 127 Stat. 850.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949m, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2616, related to number of votes required for conviction and sentences and number of members required on military commission for penalty of death, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2013**—Pub. L. 113–66, §1031(c)(1), inserted "primary" before "members" wherever appearing.

Subsec. (b)(4). Pub. L. 113–66, §1031(c)(2), added par. (4).

**2011**—Subsec. (b)(2)(C). Pub. L. 112–81, §1030(a)(1), inserted before semicolon ", or a guilty plea was accepted and not withdrawn prior to announcement of the sentence in accordance with section 949i(b) of this title".

Subsec. (b)(2)(D). Pub. L. 112–81, §1030(a)(2), inserted "on the sentence" after "vote was taken".

## §949n. Military commission to announce action

A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949n, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, required a military commission to announce its findings and sentence as soon as determined, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949*o*. Record of trial

(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall receive a redacted

version of the record consistent with the requirements of subchapter V of this chapter. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 949o, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, related to record of trial, prior to the general amendment of this chapter by Pub. L. 111–84.

## SUBCHAPTER V—CLASSIFIED INFORMATION PROCEDURES

Sec.
949p–1. Protection of classified information: applicability of subchapter.
949p–2. Pretrial conference.
949p–3. Protective orders.
949p–4. Discovery of, and access to, classified information by the accused.
949p–5. Notice by accused of intention to disclose classified information.
949p–6. Procedure for cases involving classified information.
949p–7. Introduction of classified information into evidence.

### §949p–1. Protection of classified information: applicability of subchapter

(a) PROTECTION OF CLASSIFIED INFORMATION.—Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. Under no circumstances may a military judge order the release of classified information to any person not authorized to receive such information.

(b) ACCESS TO EVIDENCE.—Any information admitted into evidence pursuant to any rule, procedure, or order by the military judge shall be provided to the accused.

(c) DECLASSIFICATION.—Trial counsel shall work with the original classification authorities for evidence that may be used at trial to ensure that such evidence is declassified to the maximum extent possible, consistent with the requirements of national security. A decision not to declassify evidence under this section shall not be subject to review by a military commission or upon appeal.

(d) CONSTRUCTION OF PROVISIONS.—The judicial construction of the Classified Information Procedures Act (18 U.S.C. App.) shall be authoritative in the interpretation of this subchapter, except to the extent that such construction is inconsistent with the specific requirements of this chapter.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Classified Information Procedures Act, referred to in subsec. (d), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

### §949p–2. Pretrial conference

(a) MOTION.—At any time after service of charges, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution.

(b) CONFERENCE.—Following a motion under subsection (a), or sua sponte, the military judge shall promptly hold a pretrial conference. Upon request by either party, the court shall hold such conference ex parte to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

(c) MATTERS TO BE ESTABLISHED AT PRETRIAL CONFERENCE.—

(1) TIMING OF SUBSEQUENT ACTIONS.—At the pretrial conference, the military judge shall establish the timing of—

(A) requests for discovery;

(B) the provision of notice required by section 949p–5 of this title; and

(C) the initiation of the procedure established by section 949p–6 of this title.

(2) OTHER MATTERS.—At the pretrial conference, the military judge may also consider any matter—

(A) which relates to classified information; or

(B) which may promote a fair and expeditious trial.

(d) EFFECT OF ADMISSIONS BY ACCUSED AT PRETRIAL CONFERENCE.—No admission made by the accused or by any counsel for the accused at a pretrial conference under this section may be used against the accused unless the admission is in writing and is signed by the accused and by the counsel for the accused.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2591.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Classified Information Procedures Act, referred to in subsec. (b), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

## §949p–3. Protective orders

Upon motion of the trial counsel, the military judge shall issue an order to protect against the disclosure of any classified information that has been disclosed by the United States to any accused in any military commission under this chapter or that has otherwise been provided to, or obtained by, any such accused in any such military commission.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2591.)

## §949p–4. Discovery of, and access to, classified information by the accused

(a) LIMITATIONS ON DISCOVERY OR ACCESS BY THE ACCUSED.—

(1) DECLARATIONS BY THE UNITED STATES OF DAMAGE TO NATIONAL SECURITY.—In any case before a military commission in which the United States seeks to delete, withhold, or otherwise obtain other relief with respect to the discovery of or access to any classified information, the trial counsel shall submit a declaration invoking the United States' classified information privilege and setting forth the damage to the national security that the discovery of or access to such information reasonably could be expected to cause. The declaration shall be signed by a knowledgeable United States official possessing authority to classify information.

(2) STANDARD FOR AUTHORIZATION OF DISCOVERY OR ACCESS.—Upon the submission of a declaration under paragraph (1), the military judge may not authorize the discovery of or access to such classified information unless the military judge determines that such classified information would be noncumulative, relevant, and helpful to a legally cognizable

defense, rebuttal of the prosecution's case, or to sentencing, in accordance with standards generally applicable to discovery of or access to classified information in Federal criminal cases. If the discovery of or access to such classified information is authorized, it shall be addressed in accordance with the requirements of subsection (b).

(b) DISCOVERY OF CLASSIFIED INFORMATION.—

(1) SUBSTITUTIONS AND OTHER RELIEF.—The military judge, in assessing the accused's discovery of or access to classified information under this section, may authorize the United States—

(A) to delete or withhold specified items of classified information;

(B) to substitute a summary for classified information; or

(C) to substitute a statement admitting relevant facts that the classified information or material would tend to prove.

(2) EX PARTE PRESENTATIONS.—The military judge shall permit the trial counsel to make a request for an authorization under paragraph (1) in the form of an ex parte presentation to the extent necessary to protect classified information, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.). If the military judge enters an order granting relief following such an ex parte showing, the entire presentation (including the text of any written submission, verbatim transcript of the ex parte oral conference or hearing, and any exhibits received by the court as part of the ex parte presentation) shall be sealed and preserved in the records of the military commission to be made available to the appellate court in the event of an appeal.

(3) ACTION BY MILITARY JUDGE.—The military judge shall grant the request of the trial counsel to substitute a summary or to substitute a statement admitting relevant facts, or to provide other relief in accordance with paragraph (1), if the military judge finds that the summary, statement, or other relief would provide the accused with substantially the same ability to make a defense as would discovery of or access to the specific classified information.

(c) RECONSIDERATION.—An order of a military judge authorizing a request of the trial counsel to substitute, summarize, withhold, or prevent access to classified information under this section is not subject to a motion for reconsideration by the accused, if such order was entered pursuant to an ex parte showing under this section.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2592.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Classified Information Procedures Act, referred to in subsec. (b)(2), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

## §949p–5. Notice by accused of intention to disclose classified information

(a) NOTICE BY ACCUSED.—

(1) NOTIFICATION OF TRIAL COUNSEL AND MILITARY JUDGE.—If an accused reasonably expects to disclose, or to cause the disclosure of, classified information in any manner in connection with any trial or pretrial proceeding involving the prosecution of such accused, the accused shall, within the time specified by the military judge or, where no time is specified, within 30 days before trial, notify the trial counsel and the military judge in writing. Such notice shall include a brief description of the classified information. Whenever the accused learns of additional

classified information the accused reasonably expects to disclose, or to cause the disclosure of, at any such proceeding, the accused shall notify trial counsel and the military judge in writing as soon as possible thereafter and shall include a brief description of the classified information.

(2) LIMITATION ON DISCLOSURE BY ACCUSED.—No accused shall disclose, or cause the disclosure of, any information known or believed to be classified in connection with a trial or pretrial proceeding until—

(A) notice has been given under paragraph (1); and

(B) the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 949p–6 of this title and the time for the United States to appeal such determination under section 950d of this title has expired or any appeal under that section by the United States is decided.

(b) FAILURE TO COMPLY.—If the accused fails to comply with the requirements of subsection (a), the military judge—

(1) may preclude disclosure of any classified information not made the subject of notification; and

(2) may prohibit the examination by the accused of any witness with respect to any such information.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2593.)

## §949p–6. Procedure for cases involving classified information

(a) MOTION FOR HEARING.—

(1) REQUEST FOR HEARING.—Within the time specified by the military judge for the filing of a motion under this section, either party may request the military judge to conduct a hearing to make all determinations concerning the use, relevance, or admissibility of classified information that would otherwise be made during the trial or pretrial proceeding.

(2) CONDUCT OF HEARING.—Upon a request by either party under paragraph (1), the military judge shall conduct such a hearing and shall rule prior to conducting any further proceedings.

(3) IN CAMERA HEARING UPON DECLARATION TO COURT BY APPROPRIATE OFFICIAL OF RISK OF DISCLOSURE OF CLASSIFIED INFORMATION.—Any hearing held pursuant to this subsection (or any portion of such hearing specified in the request of a knowledgeable United States official) shall be held in camera if a knowledgeable United States official possessing authority to classify information submits to the military judge a declaration that a public proceeding may result in the disclosure of classified information. Classified information is not subject to disclosure under this section unless the information is relevant and necessary to an element of the offense or a legally cognizable defense and is otherwise admissible in evidence.

(4) MILITARY JUDGE TO MAKE DETERMINATIONS IN WRITING.—As to each item of classified information, the military judge shall set forth in writing the basis for the determination.

(b) NOTICE AND USE OF CLASSIFIED INFORMATION BY THE GOVERNMENT.—

(1) NOTICE TO ACCUSED.—Before any hearing is conducted pursuant to a request by the trial counsel under subsection (a), trial counsel shall provide the accused with notice of the classified information that is at issue. Such notice shall identify the specific classified information at issue whenever that information previously has been made available to the accused by the United States. When the United States has not previously made the information available to the accused in connection with the case the information may be described by generic category, in such forms as the military judge may approve, rather than by identification of the specific information of concern to the United States.

(2) ORDER BY MILITARY JUDGE UPON REQUEST OF ACCUSED.—Whenever the trial counsel requests a hearing under subsection (a), the military judge, upon request of the accused,

may order the trial counsel to provide the accused, prior to trial, such details as to the portion of the charge or specification at issue in the hearing as are needed to give the accused fair notice to prepare for the hearing.

(c) SUBSTITUTIONS.—

(1) IN CAMERA PRETRIAL HEARING.—Upon request of the trial counsel pursuant to the Military Commission Rules of Evidence, and in accordance with the security procedures established by the military judge, the military judge shall conduct a classified in camera pretrial hearing concerning the admissibility of classified information.

(2) PROTECTION OF SOURCES, METHODS, AND ACTIVITIES BY WHICH EVIDENCE ACQUIRED.—When trial counsel seeks to introduce evidence before a military commission under this chapter and the Executive branch has classified the sources, methods, or activities by which the United States acquired the evidence, the military judge shall permit trial counsel to introduce the evidence, including a substituted evidentiary foundation pursuant to the procedures described in subsection (d), while protecting from disclosure information identifying those sources, methods, or activities, if—

(A) the evidence is otherwise admissible; and

(B) the military judge finds that—

(i) the evidence is reliable; and

(ii) the redaction is consistent with affording the accused a fair trial.

(d) ALTERNATIVE PROCEDURE FOR DISCLOSURE OF CLASSIFIED INFORMATION.—

(1) MOTION BY THE UNITED STATES.—Upon any determination by the military judge authorizing the disclosure of specific classified information under the procedures established by this section, the trial counsel may move that, in lieu of the disclosure of such specific classified information, the military judge order—

(A) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove;

(B) the substitution for such classified information of a summary of the specific classified information; or

(C) any other procedure or redaction limiting the disclosure of specific classified information.

(2) ACTION ON MOTION.—The military judge shall grant such a motion of the trial counsel if the military judge finds that the statement, summary, or other procedure or redaction will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

(3) HEARING ON MOTION.—The military judge shall hold a hearing on any motion under this subsection. Any such hearing shall be held in camera at the request of a knowledgeable United States official possessing authority to classify information.

(4) SUBMISSION OF STATEMENT OF DAMAGE TO NATIONAL SECURITY IF DISCLOSURE ORDERED.—The trial counsel may, in connection with a motion under paragraph (1), submit to the military judge a declaration signed by a knowledgeable United States official possessing authority to classify information certifying that disclosure of classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the trial counsel, the military judge shall examine such declaration during an ex parte presentation.

(e) SEALING OF RECORDS OF IN CAMERA HEARINGS.—If at the close of an in camera hearing under this section (or any portion of a hearing under this section that is held in camera), the military judge determines that the classified information at issue may not be disclosed or elicited at the trial or pretrial proceeding, the record of such in camera hearing shall be sealed and preserved for use in the event of an appeal. The accused may seek reconsideration of the military judge's determination prior to or during trial.

(f) PROHIBITION ON DISCLOSURE OF CLASSIFIED INFORMATION BY THE ACCUSED; RELIEF FOR ACCUSED WHEN THE UNITED STATES OPPOSES DISCLOSURE.—

(1) ORDER TO PREVENT DISCLOSURE BY ACCUSED.—Whenever the military judge denies a motion by the trial counsel that the judge issue an order under subsection (a), (c), or (d) and the trial counsel files with the military judge a declaration signed by a knowledgeable United States official possessing authority to classify information objecting to disclosure of the classified information at issue, the military judge shall order that the accused not disclose or cause the disclosure of such information.

(2) RESULT OF ORDER UNDER PARAGRAPH (1).—Whenever an accused is prevented by an order under paragraph (1) from disclosing or causing the disclosure of classified information, the military judge shall dismiss the case, except that, when the military judge determines that the interests of justice would not be served by dismissal of the case, the military judge shall order such other action, in lieu of dismissing the charge or specification, as the military judge determines is appropriate. Such action may include, but need not be limited to, the following:

(A) Dismissing specified charges or specifications.

(B) Finding against the United States on any issue as to which the excluded classified information relates.

(C) Striking or precluding all or part of the testimony of a witness.

(3) TIME FOR THE UNITED STATES TO SEEK INTERLOCUTORY APPEAL.—An order under paragraph (2) shall not take effect until the military judge has afforded the United States—

(A) an opportunity to appeal such order under section 950d of this title; and

(B) an opportunity thereafter to withdraw its objection to the disclosure of the classified information at issue.

(g) RECIPROCITY.—

(1) DISCLOSURE OF REBUTTAL INFORMATION.—Whenever the military judge determines that classified information may be disclosed in connection with a trial or pretrial proceeding, the military judge shall, unless the interests of fairness do not so require, order the United States to provide the accused with the information it expects to use to rebut the classified information. The military judge may place the United States under a continuing duty to disclose such rebuttal information.

(2) SANCTION FOR FAILURE TO COMPLY.—If the United States fails to comply with its obligation under this subsection, the military judge—

(A) may exclude any evidence not made the subject of a required disclosure; and

(B) may prohibit the examination by the United States of any witness with respect to such information.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2593.)

## §949p–7. Introduction of classified information into evidence

(a) PRESERVATION OF CLASSIFICATION STATUS.—Writings, recordings, and photographs containing classified information may be admitted into evidence in proceedings of military commissions under this chapter without change in their classification status.

(b) PRECAUTIONS BY MILITARY JUDGES.—

(1) PRECAUTIONS IN ADMITTING CLASSIFIED INFORMATION INTO EVIDENCE .—The military judge in a trial by military commission, in order to prevent unnecessary disclosure of classified information, may order admission into evidence of only part of a writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein, unless the whole ought in fairness be considered.

(2) CLASSIFIED INFORMATION KEPT UNDER SEAL.—The military judge shall allow

classified information offered or accepted into evidence to remain under seal during the trial, even if such evidence is disclosed in the military commission, and may, upon motion by the United States, seal exhibits containing classified information for any period after trial as necessary to prevent a disclosure of classified information when a knowledgeable United States official possessing authority to classify information submits to the military judge a declaration setting forth the damage to the national security that the disclosure of such information reasonably could be expected to cause.

(c) TAKING OF TESTIMONY.—

(1) OBJECTION BY TRIAL COUNSEL.—During the examination of a witness, trial counsel may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

(2) ACTION BY MILITARY JUDGE.—Following an objection under paragraph (1), the military judge shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring trial counsel to provide the military judge with a proffer of the witness' response to the question or line of inquiry and requiring the accused to provide the military judge with a proffer of the nature of the information sought to be elicited by the accused. Upon request, the military judge may accept an ex parte proffer by trial counsel to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

(d) DISCLOSURE AT TRIAL OF CERTAIN STATEMENTS PREVIOUSLY MADE BY A WITNESS.—

(1) MOTION FOR PRODUCTION OF STATEMENTS IN POSSESSION OF THE UNITED STATES.—After a witness called by the trial counsel has testified on direct examination, the military judge, on motion of the accused, may order production of statements of the witness in the possession of the United States which relate to the subject matter as to which the witness has testified. This paragraph does not preclude discovery or assertion of a privilege otherwise authorized.

(2) INVOCATION OF PRIVILEGE BY THE UNITED STATES.—If the United States invokes a privilege, the trial counsel may provide the prior statements of the witness to the military judge during an ex parte presentation to the extent necessary to protect classified information from disclosure, in accordance with the practice of the Federal courts under the Classified Information Procedures Act (18 U.S.C. App.).

(3) ACTION BY MILITARY JUDGE ON MOTION.—If the military judge finds that disclosure of any portion of the statement identified by the United States as classified would be detrimental to the national security in the degree to warrant classification under the applicable Executive Order, statute, or regulation, that such portion of the statement is consistent with the testimony of the witness, and that the disclosure of such portion is not necessary to afford the accused a fair trial, the military judge shall excise that portion from the statement. If the military judge finds that such portion of the statement is inconsistent with the testimony of the witness or that its disclosure is necessary to afford the accused a fair trial, the military judge, shall, upon the request of the trial counsel, review alternatives to disclosure in accordance with section 949p–6(d) of this title.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2596.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Classified Information Procedures Act, referred to in subsecs. (c)(2) and (d)(2), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

## SUBCHAPTER VI—SENTENCES

Sec.
949s. Cruel or unusual punishments prohibited.
949t. Maximum limits.
949u. Execution of confinement.

## §949s. Cruel or unusual punishments prohibited

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2598.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 949s, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, prohibited cruel or unusual punishments, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949t. Maximum limits

The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2598.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 949t, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, related to maximum limits of punishment, prior to the general amendment of this chapter by Pub. L. 111–84.

## §949u. Execution of confinement

(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

(1) in any place of confinement under the control of any of the armed forces; or

(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES .—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2598.)

### EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 949u, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, related to execution of a sentence of confinement, prior to the general amendment of this chapter by Pub. L. 111–84.

## SUBCHAPTER VII—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

Sec.
950a. Error of law; lesser included offense.
950b. Review by the convening authority.
950c. Appellate referral; waiver or withdrawal of appeal.
950d. Interlocutory appeals by the United States.
950e. Rehearings.
950f. Review by United States Court of Military Commission Review.
950g. Review by United States Court of Appeals for the District of Columbia Circuit; writ of certiorari to Supreme Court.
950h. Appellate counsel.
950i. Execution of sentence; suspension of sentence.
950j. Finality of proceedings, findings, and sentences.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(11), Aug. 13, 2018, 132 Stat. 1983, substituted "United States Court of Appeals" for "United States Court of Court of Appeals" in item 950g.

## §950a. Error of law; lesser included offense

(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2599.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950a, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2618, related to error of law and lesser included offense, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950b. Review by the convening authority

(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section

949o(c) of this title.

(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

(3) The accused may waive the accused's right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing, and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

(c) ACTION BY CONVENING AUTHORITY.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

(2) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in the sole discretion of the convening authority, only—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(3)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

(B) Subject to regulations prescribed by the Secretary of Defense, action under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

(C) In taking action under this paragraph, the convening authority may, in the sole discretion of the convening authority, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

(d) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in the sole discretion of the convening authority, order a proceeding in revision or a rehearing.

(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

(i) there is an apparent error or omission in the record; or

(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

(B) In no case may a proceeding in revision—

(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings.

A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2599; amended Pub. L. 113–291, div. A, title X, §1071(f)(10), Dec. 19, 2014, 128 Stat. 3510.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950b, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2618, related to review by the convening authority, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2014**—Subsec. (b)(2)(A). Pub. L. 113–291 substituted "given" for "give".

## §950c. Appellate referral; waiver or withdrawal of appeal

(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided in subsection (b), in each case in which the final decision of a military commission under this chapter (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the United States Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

(b) WAIVER OF RIGHT OF REVIEW.—(1) Except in a case in which the sentence as approved under section 950b of this title extends to death, an accused may file with the convening authority a statement expressly waiving the right of the accused to appellate review by the United States Court of Military Commission Review under section 950f of this title of the final decision of the military commission under this chapter.

(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice of the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2600.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950c, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2620, related to appellate referral and waiver or withdrawal of appeal, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950d. Interlocutory appeals by the United States

(a) INTERLOCUTORY APPEAL.—Except as provided in subsection (b), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Military Commission Review of any order or ruling of the military judge—

(1) that terminates proceedings of the military commission with respect to a charge or specification;

(2) that excludes evidence that is substantial proof of a fact material in the proceeding;

(3) that relates to a matter under subsection (c) or (d) of section 949d of this title; or

(4) that, with respect to classified information—

(A) authorizes the disclosure of such information;

(B) imposes sanctions for nondisclosure of such information; or

(C) refuses a protective order sought by the United States to prevent the disclosure of such information.

(b) LIMITATION.—The United States may not appeal under subsection (a) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

(c) SCOPE OF APPEAL RIGHT WITH RESPECT TO CLASSIFIED INFORMATION.—The United States has the right to appeal under paragraph (4) of subsection (a) whenever the military judge enters an order or ruling that would require the disclosure of classified information, without regard to whether the order or ruling appealed from was entered under this chapter, another provision of law, a rule, or otherwise. Any such appeal may embrace any preceding order, ruling, or reasoning constituting the basis of the order or ruling that would authorize such disclosure.

(d) TIMING AND ACTION ON INTERLOCUTORY APPEALS RELATING TO CLASSIFIED INFORMATION.—

(1) APPEAL TO BE EXPEDITED.—An appeal taken pursuant to paragraph (4) of subsection (a) shall be expedited by the United States Court of Military Commission Review.

(2) APPEALS BEFORE TRIAL.—If such an appeal is taken before trial, the appeal shall be taken within 10 days after the order or ruling from which the appeal is made and the trial shall not commence until the appeal is decided.

(3) APPEALS DURING TRIAL.—If such an appeal is taken during trial, the military judge shall adjourn the trial until the appeal is decided, and the court of appeals—

(A) shall hear argument on such appeal within 4 days of the adjournment of the trial (excluding weekends and holidays);

(B) may dispense with written briefs other than the supporting materials previously submitted to the military judge;

(C) shall render its decision within four days of argument on appeal (excluding weekends and holidays); and

(D) may dispense with the issuance of a written opinion in rendering its decision.

(e) NOTICE AND TIMING OF OTHER APPEALS.—The United States shall take an appeal of an order or ruling under subsection (a), other than an appeal under paragraph (4) of that subsection, by filing a notice of appeal with the military judge within 5 days after the date of the order or ruling.

(f) METHOD OF APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed by the Secretary of Defense, directly to the United States Court of Military Commission Review.

(g) APPEALS COURT TO ACT ONLY WITH RESPECT TO MATTER OF LAW.—In ruling on an appeal under paragraph (1), (2), or (3) of subsection (a), the appeals court may act only with respect to matters of law.

(h) SUBSEQUENT APPEAL RIGHTS OF ACCUSED NOT AFFECTED.—An appeal under paragraph (4) of subsection (a), and a decision on such appeal, shall not affect the right of the accused, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the military judge on remand of a ruling appealed from during trial.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2601.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 950d, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2620, related to appeal by the United States, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950e. Rehearings

(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

(A) the accused may not be tried for any offense of which the accused was found not guilty by the first military commission; and

(B) no sentence in excess of or more than the original sentence may be imposed unless—

(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

(ii) the sentence prescribed for the offense is mandatory.

(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2602.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950e, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2621, related to rehearings, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950f. Review by United States Court of Military Commission Review

(a) ESTABLISHMENT.—There is a court of record to be known as the "United States Court of Military Commission Review" (in this section referred to as the "Court"). The Court shall consist of one or more panels, each composed of not less than three judges on the Court. For the purpose of reviewing decisions of military commissions under this chapter, the Court may sit in panels or as a whole, in accordance with rules prescribed by the Secretary of Defense.

(b) JUDGES.—(1) Judges on the Court shall be assigned or appointed in a manner consistent with the provisions of this subsection.

(2) The Secretary of Defense may assign persons who are appellate military judges to be judges on the Court. Any judge so assigned shall be a commissioned officer of the armed forces, and shall meet the qualifications for military judges prescribed by section 948j(b) of this title.

(3) The President may appoint, by and with the advice and consent of the Senate, additional judges to the United States Court of Military Commission Review.

(4) No person may serve as a judge on the Court in any case in which that person acted as a military judge, counsel, or reviewing official.

(5)(A) For purposes of sections 203, 205, 207, 208, and 209 of title 18, the term "special Government employee" shall include a judge of the Court appointed under paragraph (3).

(B) A person appointed as a judge of the Court under paragraph (3) shall be considered to be an officer or employee of the United States with respect to such person's status as a judge, but only during periods in which such person is performing the duties of such a judge. Any provision of law that prohibits or limits the political or business activities of an employee of the United States shall only apply to such a judge during such periods.

(6) (A) The term of an appellate military judge assigned or appointed to the Court under this subsection shall expire on the earlier of the date on which—

(i) the judge leaves active duty; or

(ii) the judge is reassigned to other duties in accordance with section 949b(b)(4) of this title.

(B) The term of a civilian judge of the Court appointed under paragraph (3) shall expire on the date that is 10 years after the date on which the judge was appointed.

(7) Judges of the Court may be removed from office by the President (in the case of a judge appointed under paragraph (3)) or the Secretary of Defense (in the case of an appellate military judge assigned under paragraph (2)) upon notice and hearing, for—

(A) neglect of duty;
(B) misconduct; or
(C) mental or physical disability.

(c) CASES TO BE REVIEWED.—The Court shall, in accordance with procedures prescribed under regulations of the Secretary, review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter properly raised by the accused.

(d) STANDARD AND SCOPE OF REVIEW.—In a case reviewed by the Court under this section, the Court may act only with respect to the findings and sentence as approved by the convening authority. The Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the Court may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the military commission saw and heard the witnesses.

(e) REHEARINGS.—If the Court sets aside the findings or sentence, the Court may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the Court sets aside the findings or sentence and does not order a rehearing, the Court shall order that the charges be dismissed.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2603; amended Pub. L. 112–81, div. A, title X, §1034(c), Dec. 31, 2011, 125 Stat. 1573; Pub. L. 115–91, div. A, title X, §1082, Dec. 12, 2017, 131 Stat. 1602; Pub. L. 115–232, div. A, title V, §541(a), Aug. 13, 2018, 132 Stat. 1761; Pub. L. 118–159, div. A, title V, §567(a), Dec. 23, 2024, 138 Stat. 1905.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 950f, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2621; amended Pub. L. 110–181, div. A, title X, §1063(a)(6), Jan. 28, 2008, 122 Stat. 322, related to review by Court of Military Commission Review, prior to the general amendment of this chapter by Pub. L. 111–84.

### AMENDMENTS

**2024**—Subsec. (b)(6). Pub. L. 118–159, §567(a)(1), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and realigned margins; substituted "The term of an appellate military judge assigned or appointed to the Court under this subsection" for "The term of an appellate military judge assigned to the Court under paragraph (2) or appointed to the Court under paragraph (3)"; and added subpar. (B).

Subsec. (b)(7). Pub. L. 118–159, §567(a)(2), added par. (7).

**2018**—Subsec. (b)(6). Pub. L. 115–232 added par. (6).

**2017**—Subsec. (b)(5). Pub. L. 115–91 added par. (5).

**2011**—Subsec. (a). Pub. L. 112–81 substituted "judges on the Court" for "appellate military judges" in second sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title V, §567(b), Dec. 23, 2024, 138 Stat. 1905, provided that:

"(1) IN GENERAL.—The amendments made by subsection (a) [amending this section] shall take effect on

the date that is 180 days after the date of the enactment of this Act [Dec. 23, 2024].

"(2) APPLICABILITY TO EXISTING CIVILIAN JUDGES.—The term of any civilian judge of the United States Court of Military Commission Review who will have served as such a judge for a period of 10 or more years as of the effective date described in paragraph (1) shall expire on such effective date."

**EFFECTIVE DATE OF 2018 AMENDMENT**

Pub. L. 115–232, div. A, title V, §541(b), Aug. 13, 2018, 132 Stat. 1762, provided that: "The amendment made by subsection (a) [amending this section] shall apply to each judge of the United States Court of Military Commission Review serving on that court on the date of the enactment of this Act [Aug. 13, 2018] and each judge assigned or appointed to that court on or after such date."

## §950g. Review by United States Court of Appeals for the District of Columbia Circuit; writ of certiorari to Supreme Court

(a) EXCLUSIVE APPELLATE JURISDICTION.—Except as provided in subsection (b), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority and, where applicable, as affirmed or set aside as incorrect in law by the United States Court of Military Commission Review) under this chapter.

(b) EXHAUSTION OF OTHER APPEALS.—The United States Court of Appeals for the District of Columbia Circuit may not review a final judgment described in subsection (a) until all other appeals under this chapter have been waived or exhausted.

(c) TIME FOR SEEKING REVIEW.—A petition for review by the United States Court of Appeals for the District of Columbia Circuit must be filed in the Court of Appeals—

(1) not later than 20 days after the date on which written notice of the final decision of the United States Court of Military Commission Review is served on the parties; or

(2) if the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the United States Court of Military Commission Review, not later than 20 days after the date on which such notice is submitted.

(d) SCOPE AND NATURE OF REVIEW.—The United States Court of Appeals for the District of Columbia Circuit may act under this section only with respect to the findings and sentence as approved by the convening authority and as affirmed or set aside as incorrect in law by the United States Court of Military Commission Review, and shall take action only with respect to matters of law, including the sufficiency of the evidence to support the verdict.

(e) REVIEW BY SUPREME COURT.—The Supreme Court may review by writ of certiorari pursuant to section 1254 of title 28 the final judgment of the United States Court of Appeals for the District of Columbia Circuit under this section.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2603; amended Pub. L. 112–81, div. A, title X, §1034(d), Dec. 31, 2011, 125 Stat. 1573.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950g, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court, prior to the general amendment of this chapter by Pub. L. 111–84.

**AMENDMENTS**

**2011**—Subsec. (a). Pub. L. 112–81, §1034(d)(1), inserted "as affirmed or set aside as incorrect in law by" after "where applicable,".

Subsec. (c). Pub. L. 112–81, §1034(d)(2)(A), substituted "in the Court of Appeals—" for "by the accused in the Court of Appeals not later than 20 days after the date on which—" in introductory provisions.

Subsec. (c)(1). Pub. L. 112–81, §1034(d)(2)(B), inserted "not later than 20 days after the date on which"

before "written notice" and substituted "on the parties" for "on the accused or on defense counsel".

Subsec. (c)(2). Pub. L. 112–81, §1034(d)(2)(C), inserted "if" before "the accused submits" and inserted before period at end ", not later than 20 days after the date on which such notice is submitted".

## §950h. Appellate counsel

(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

(1) shall represent the United States in any appeal or review proceeding under this chapter before the United States Court of Military Commission Review; and

(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the United States Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (7) of that section.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2604.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950h, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to appellate counsel, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950i. Execution of sentence; suspension of sentence

(a) IN GENERAL.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

(c) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when review is completed in accordance with the judgment of the United States Court of Military Commission Review and—

(A) the time for the accused to file a petition for review by the United States Court of Appeals for the District of Columbia Circuit has expired, the accused has not filed a timely petition for such review, and the case is not otherwise under review by the Court of Appeals; or

(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

(i) a petition for a writ of certiorari is not timely filed;

(ii) such a petition is denied by the Supreme Court; or

(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

(d) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2605.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950i, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2623, related to execution of sentence, procedures for execution of sentence of death, and suspension of sentence prior to the general amendment of this chapter by Pub. L. 111–84.

## §950j. Finality of proceedings, findings, and sentences

The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, subject only to action by the Secretary or the convening authority as provided in section 950i(c) of this title and the authority of the President.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2605.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950j, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2623; amended Pub. L. 110–181, div. A, title X, §1063(a)(7), Jan. 28, 2008, 122 Stat. 322, related to finality of proceedings, findings, and sentences, prior to the general amendment of this chapter by Pub. L. 111–84.

# SUBCHAPTER VIII—PUNITIVE MATTERS

Sec.
950p. Definitions; construction of certain offenses; common circumstances.
950q. Principals.
950r. Accessory after the fact.
950s. Conviction of lesser offenses.
950t. Crimes triable by military commission.

## §950p. Definitions; construction of certain offenses; common circumstances

(a) DEFINITIONS.—In this subchapter:

(1) The term "military objective" means combatants and those objects during hostilities which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or

war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a definite military advantage to the attacker under the circumstances at the time of an attack.

(2) The term "protected person" means any person entitled to protection under one or more of the Geneva Conventions, including civilians not taking an active part in hostilities, military personnel placed out of combat by sickness, wounds, or detention, and military medical or religious personnel.

(3) The term "protected property" means any property specifically protected by the law of war, including buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, but only if and to the extent such property is not being used for military purposes or is not otherwise a military objective. The term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

(b) CONSTRUCTION OF CERTAIN OFFENSES.—The intent required for offenses under paragraphs (1), (2), (3), (4), and (12) of section 950t of this title precludes the applicability of such offenses with regard to collateral damage or to death, damage, or injury incident to a lawful attack.

(c) COMMON CIRCUMSTANCES.—An offense specified in this subchapter is triable by military commission under this chapter only if the offense is committed in the context of and associated with hostilities.

(d) EFFECT.—The provisions of this subchapter codify offenses that have traditionally been triable by military commission. This chapter does not establish new crimes that did not exist before the date of the enactment of this subchapter, as amended by the National Defense Authorization Act for Fiscal Year 2010, but rather codifies those crimes for trial by military commission. Because the provisions of this subchapter codify offenses that have traditionally been triable under the law of war or otherwise triable by military commission, this subchapter does not preclude trial for offenses that occurred before the date of the enactment of this subchapter, as so amended.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2606.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this subchapter, as amended by the National Defense Authorization Act for Fiscal Year 2010, referred to in subsec. (d), is the date of enactment of Pub. L. 111–84, which was approved Oct. 28, 2009.

**PRIOR PROVISIONS**

A prior section 950p, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to statement of substantive offenses, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950q. Principals

Any person punishable under this chapter who—

(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

(3) is a superior commander who, with regard to acts punishable by this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof,

is a principal.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2606.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950q, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to principals, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950r. Accessory after the fact

Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2607.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950r, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to accessory after the fact, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950s. Conviction of lesser offenses

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2607.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 950s, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to conviction of lesser included offense, prior to the general amendment of this chapter by Pub. L. 111–84.

## §950t. Crimes triable by military commission

The following offenses shall be triable by military commission under this chapter at any time without limitation:

(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

(11) TORTURE.—

(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this paragraph, the term "severe mental pain or suffering" has the meaning given that term in section 2340(2) of title 18.

(12) CRUEL OR INHUMAN TREATMENT.—Any person subject to this chapter who subjects another person in their custody or under their physical control, regardless of nationality or physical location, to cruel or inhuman treatment that constitutes a grave breach of common Article 3 of the Geneva Conventions shall be punished, if death results to the victim, by death or such other

punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including privileged belligerents, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term "serious bodily injury" means bodily injury which involves—

(i) a substantial risk of death;

(ii) extreme physical pain;

(iii) protracted and obvious disfigurement; or

(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including privileged belligerents, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall be punished as a military commission under this chapter may direct.

(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessary, shall be punished as a military commission under this chapter may direct.

(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital

opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24) of this section), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term "material support or resources" has the meaning given that term in section 2339A(b) of title 18.

(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

(27) SPYING.—Any person subject to this chapter who, in violation of the law of war and with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

(28) ATTEMPTS.—

(A) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

(B) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(C) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

(29) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this subchapter, and who knowingly

does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(30) SOLICITATION.—Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, shall be punished as a military commission under this chapter may direct.

(31) CONTEMPT.—A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

(32) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to the military commission.

(Added Pub. L. 111–84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2607; amended Pub. L. 115–232, div. A, title X, §1081(a)(12), Aug. 13, 2018, 132 Stat. 1983.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 950t to 950w were omitted in the general amendment of this chapter by Pub. L. 111–84.

Section 950t, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2625, related to attempts to commit any offense punishable by this chapter.

Section 950u, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2625, related to solicitation.

Section 950v, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2625, related to definitions, construction, and crimes triable by military commissions.

Section 950w, added Pub. L. 109–366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2630, related to perjury, obstruction of justice, and contempt.

**AMENDMENTS**

**2018**—Par. (9). Pub. L. 115–232, §1081(a)(12)(A), substituted "attack, or" for "attack. or".

Par. (16). Pub. L. 115–232, §1081(a)(12)(B), substituted "shall be punished" for "shall punished".

Par. (22). Pub. L. 115–232, §1081(a)(12)(C), inserted period at end.

# CHAPTER 48—MILITARY CORRECTIONAL FACILITIES

Sec.
951. Establishment; organization; administration.
952. Parole.
953. Remission or suspension of sentence; restoration to duty; reenlistment.
954. Voluntary extension; probation.
955. Prisoners transferred to or from foreign countries.
956. Deserters, prisoners, members absent without leave: expenses and rewards.

**EDITORIAL NOTES**

**AMENDMENTS**

**1984**—Pub. L. 98–525, title XIV, §1401(b)(2), Oct. 19, 1984, 98 Stat. 2615, added item 956.

**1980**—Pub. L. 96–513, title V, §511(26), Dec. 13, 1980, 94 Stat. 2922, added item 955.

## §951. Establishment; organization; administration

(a) The Secretaries concerned may provide for the establishment of such military correctional facilities as are necessary for the confinement of offenders against chapter 47 of this title.

(b) The Secretary concerned shall—

(1) designate an officer for each armed force under his jurisdiction to administer military correctional facilities established under this chapter;

(2) provide for the education, training, rehabilitation, and welfare of offenders confined in a military correctional facility of his department; and

(3) provide for the organization and equipping of offenders selected for training with a view to their honorable restoration to duty or possible reenlistment.

(c) There shall be an officer in command of each major military correctional facility. Under regulations to be prescribed by the Secretary concerned, the officer in command shall have custody and control of offenders confined within the facility which he commands, and shall usefully employ those offenders as he considers best for their health and reformation, with a view to their restoration to duty, enlistment for future service, or return to civilian life as useful citizens.

(d) There may be made or repaired at each military correctional facility such supplies for the armed forces or other agencies of the United States as can properly and economically be made or repaired at such facilities.

(Added Pub. L. 90–377, §1, July 5, 1968, 82 Stat. 287; amended Pub. L. 96–513, title V, §511(27), Dec. 12, 1980, 94 Stat. 2922.)

## EDITORIAL NOTES

### AMENDMENTS

**1980**—Subsec. (d). Pub. L. 96–513 substituted "at such facilities" for "as such facilities".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### OFFENSES AGAINST MINORS

Pub. L. 105–119, title I, §115(a)(8)(C), Nov. 26, 1997, 111 Stat. 2466, as amended by Pub. L. 109–248, title I, §141(i), July 27, 2006, 120 Stat. 604, provided that:

"(i) The Secretary of Defense shall specify categories of conduct punishable under the Uniform Code of Military Justice which are sex offenses as that term is defined in the Sex Offender Registration and Notification Act [34 U.S.C. 20901 et seq.], and such other conduct as the Secretary deems appropriate for inclusion for purposes of this subparagraph.

"(ii) In relation to persons sentenced by a court martial for conduct in the categories specified under clause (i), the Secretary shall prescribe procedures and implement a system to—

"(I) provide notice concerning the release from confinement or sentencing of such persons;

"(II) inform such persons concerning registration obligations; and

"(III) track and ensure compliance with registration requirements by such persons during any period of parole, probation, or other conditional release or supervision related to the offense.

"(iii) The procedures and requirements established by the Secretary under this subparagraph shall, to the maximum extent practicable, be consistent with those specified for Federal offenders under the Sex Offender Registration and Notification Act.

"(iv) If a person within the scope of this subparagraph is confined in a facility under the control of the Bureau of Prisons at the time of release, the Bureau of Prisons shall provide notice of release and inform the person concerning registration obligations under the procedures specified in section 4042(c) of title 18, United States Code."

### NOTIFICATION OF VICTIMS AND WITNESSES OF STATUS OF PRISONERS IN MILITARY CORRECTIONAL FACILITIES

Pub. L. 103–160, div. A, title V, §552, Nov. 30, 1993, 107 Stat. 1662, directed the Secretary of Defense to prescribe procedures, not later than six months after Nov. 30, 1993, for notice of the status of offenders confined in military correctional facilities to be provided to victims and witnesses, to implement a centralized system for the provision of such notice not later than six months after such procedures had been prescribed, to notify Congress upon implementation of the centralized system of notice, and to submit to Congress a report after such system had been in operation for one year, and directed that the requirement to establish procedures and implement a centralized system of notice would expire 90 days after receipt of the report.

## §952. Parole

(a) The Secretary concerned may provide a system of parole for offenders who are confined in military correctional facilities and who were at the time of commission of their offenses subject to the authority of that Secretary.

(b) In a case in which parole for an offender serving a sentence of confinement for life is denied, only the President or the Secretary concerned may grant the offender parole on appeal of that denial. The authority to grant parole on appeal in such a case may not be delegated.

(Added Pub. L. 90–377, §1, July 5, 1968, 82 Stat. 287; amended Pub. L. 105–85, div. A, title V, §582(a), Nov. 18, 1997, 111 Stat. 1760.)

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Pub. L. 105–85 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title V, §582(b), Nov. 18, 1997, 111 Stat. 1760, provided that: "Subsection (b) of section 952 of title 10, United States Code (as added by subsection (a)), shall apply only with respect to any decision to deny parole made after the date of the enactment of this Act [Nov. 18, 1997]."

## §953. Remission or suspension of sentence; restoration to duty; reenlistment

For offenders who were at the time of commission of their offenses subject to his authority and who merit such action, the Secretary concerned shall establish—

(1) a system for the remission or suspension of the unexecuted part of the sentences of selected offenders;

(2) a system for the restoration to duty of such offenders who have had the unexecuted part of their sentences remitted or suspended and who have not been discharged; and

(3) a system for the enlistment of such offenders who have had the unexecuted part of their sentences remitted and who have been discharged.

(Added Pub. L. 90–377, §1, July 5, 1968, 82 Stat. 287.)

## §954. Voluntary extension; probation

The Secretary concerned may provide for persons who were subject to his authority at the time of commission of their offenses a system for retention of selected offenders beyond expiration of normal service obligation in order to voluntarily serve a period of probation with a view to honorable restoration to duty.

(Added Pub. L. 90–377, §1, July 5, 1968, 82 Stat. 288; amended Pub. L. 105–85, div. A, title X, §1073(a)(12), Nov. 18, 1997, 111 Stat. 1900.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Pub. L. 105–85 substituted "his authority" for "this authority".

## §955. Prisoners transferred to or from foreign countries

(a) When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders, the Secretary concerned may, with the concurrence of the Attorney General, transfer to such foreign country any offender against chapter 47 of this title. Such transfer shall be effected subject to the terms of such treaty and chapter 306 of title 18.

(b) Whenever the United States is party to an agreement on the status of forces under which the United States may request that it take custody of a prisoner belonging to its armed forces who is confined by order of a foreign court, the Secretary concerned may provide for the carrying out of the terms of such confinement in a military correctional facility of his department or in any penal or correctional institution under the control of the United States or which the United States may be allowed to use. Except as otherwise specified in such agreement, such person shall be treated as if he were an offender against chapter 47 of this title.

(Added Pub. L. 95–144, §4, Oct. 28, 1977, 91 Stat. 1221; amended Pub. L. 96–513, title V, §511(28), Dec. 12, 1980, 94 Stat. 2922.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Subsec. (a). Pub. L. 96–513 substituted "such" for "said" in two places, "Such" for "Said", and struck out ", United States Code" after "18".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §956. Deserters, prisoners, members absent without leave: expenses and rewards

Funds appropriated to the Department of Defense may be used for the following purposes:

(1) Expenses for the apprehension and delivery of deserters, prisoners, and members absent without leave, including the payment of rewards, in an amount not to exceed $75, for the apprehension of any such person.

(2) Expenses of prisoners confined in nonmilitary facilities.

(3) Payment of a gratuity of not to exceed $25 to each prisoner upon release from confinement in a military or contract prison facility.

(4) The issue of authorized articles to prisoners and other persons in military custody.

(5) Under such regulations as the Secretary concerned may prescribe, expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in the custody of the Army, Navy, or Air Force whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in the custody of the Army, Navy, or Air Force pursuant to Presidential proclamation.

(Added Pub. L. 98–525, title XIV, §1401(b)(1), Oct. 19, 1984, 98 Stat. 2614.)

## EDITORIAL NOTES

## PRIOR PROVISIONS

Provisions similar to those in pars. (1) to (5) of this section were contained in the following appropriation acts, with the exception of the provisions similar to par. (2) which first appeared in the act of July 1, 1943:

Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8006], 98 Stat. 1904, 1923.
Dec. 8, 1983, Pub. L. 98–212, title VII, §§706, 709, 97 Stat. 1437, 1439.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §§706, 709], 96 Stat. 1833, 1850, 1851.
Dec. 29, 1981, Pub. L. 97–114, title VII, §§706, 709, 95 Stat. 1578, 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §§706, 709, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §§706, 709, 93 Stat. 1152, 1153.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §§806, 809, 92 Stat. 1243, 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §§805, 808, 91 Stat. 899, 900.
Sept. 22, 1976, Pub. L. 94–419, title VII, §§705, 708, 90 Stat. 1291, 1292.
Feb. 9, 1976, Pub. L. 94–212, title VII, §§705, 708, 90 Stat. 168, 169.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §§805, 808, 88 Stat. 1224, 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §§705, 708, 87 Stat. 1038, 1039.
Oct. 26, 1972, Pub. L. 92–570, title VII, §§705, 708, 86 Stat. 1196, 1197.
Dec. 18, 1971, Pub. L. 92–204, title VII, §§705, 708, 85 Stat. 727, 728.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §§805, 808, 84 Stat. 2030, 2031.
Dec. 29, 1969, Pub. L. 91–171, title VI, §§605, 608, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §§504, 507, 82 Stat. 1129, 1130.
Sept. 29, 1967, Pub. L. 90–96, title VI, §§604, 607, 81 Stat. 242.
Oct. 15, 1966, Pub. L. 89–687, title VI, §§604, 607, 80 Stat. 991.
Sept. 29, 1965, Pub. L. 89–213, title VI, §§604, 607, 79 Stat. 873, 874.
Aug. 19, 1964, Pub. L. 88–446, title V, §§504, 507, 78 Stat. 474, 475.
Oct. 17, 1963, Pub. L. 88–149, title V, §§504, 507, 77 Stat. 264.
Aug. 9, 1962, Pub. L. 87–577, title I, §101, title V, §§504, 507, 76 Stat. 318, 328.
Aug. 17, 1961, Pub. L. 87–144, title I, §101, title II, §201, title VI, §§604, 607, 75 Stat. 365–369, 375, 376.
July 7, 1960, Pub. L. 86–601, title I, §101, title II, §201, title V, §§504, 507, 74 Stat. 338–340, 342, 350.
Aug. 18, 1959, Pub. L. 86–166, title I, §101, title II, §201, title V, §§604, 607, 73 Stat. 366–368, 370, 378, 379.
Aug. 22, 1958, Pub. L. 85–724, title III, §301, title V, §501, title VI, §604, 72 Stat. 713, 714, 721, 722, 723.
Aug. 2, 1957, Pub. L. 85–117, title III, §301, title V, §501, title VI, §604, 71 Stat. 313, 314, 321, 323.
July 2, 1956, ch. 488, title III, §301, title V, §501, title VI, §604, 70 Stat. 456, 457, 464, 465, 467.
July 13, 1955, ch. 358, title III, §301, title V, §501, title VI, §606, 69 Stat. 303, 304, 312, 313, 315.
June 30, 1954, ch. 432, title IV, §401, title VI, §601, title VII, §706, 68 Stat. 338, 339, 347, 348, 350.
Aug. 1, 1953, ch. 305, title III, §301, title V, §501, title VI, §610, 67 Stat. 338, 339, 348, 350.
July 10, 1952, ch. 630, title III, §301, title V, §501, title VI, §612, 66 Stat. 519, 520, 530, 532.
Oct. 18, 1951, ch. 512, title III, §301, title V, §501, title VI, §612, 65 Stat. 426, 429, 443, 446.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, title VI, §614, 64 Stat. 732, 735, 750, 753.
Oct. 29, 1949, ch. 787, title III, §301, title V, §501, title VI, §616, 63 Stat. 990–992, 1015, 1020.
June 24, 1948, ch. 632, §§1, 11, 62 Stat. 653, 655, 669.
July 30, 1947, ch. 357, title I, §§1, 12, 61 Stat. 555, 557, 572.
July 16, 1946, ch. 583, §§1, 13, 60 Stat. 546–548, 565.
July 3, 1945, ch. 265, §§1, 15, 59 Stat. 388–390, 406.
June 28, 1944, ch. 303, §§1, 15, 58 Stat. 578, 580, 595.
July 1, 1943, ch. 185, §§1, 15, 57 Stat. 352, 354, 369.
July 2, 1942, ch. 477, §§1, 14, 56 Stat. 615, 617, 633.
Dec. 17, 1941, ch. 591, title I, §103, 55 Stat. 813.
June 30, 1941, ch. 262, §1, 55 Stat. 371, 373.
June 13, 1940, ch. 343, §1, 54 Stat. 357–359.
Apr. 26, 1939, ch. 88, §1, 53 Stat. 598, 600.
June 11, 1938, ch. 37, §1, 52 Stat. 648, 649.
July 1, 1937, ch. 423, §1, 50 Stat. 448, 450.
May 15, 1936, ch. 404, §1, title I, 49 Stat. 1284, 1286.
Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 127, 128.
Apr. 26, 1934, ch. 165, title I, 48 Stat. 619, 621.

Mar. 4, 1933, ch. 281, title I, 47 Stat. 1575, 1577.
July 14, 1932, ch. 482, title I, 47 Stat. 668, 670, 671.
Feb. 23, 1931, ch. 279, title I, 46 Stat. 1281–1284.
May 28, 1930, ch. 348, title I, 46 Stat. 436, 438.
Feb. 28, 1929, ch. 366, title I, 45 Stat. 1354, 1356.
Mar. 23, 1928, ch. 232, title I, 45 Stat. 330, 332.
Feb. 23, 1927, ch. 167, title I, 44 Stat. 1110, 1113.
Apr. 15, 1926, ch. 146, title I, 44 Stat. 259, 262.
Feb. 12, 1925, ch. 225, title I, 43 Stat. 900.

Provisions similar to those in par. (5) of this section were contained in Pub. L. 98–212, title VII, §706, Dec. 8, 1983, 97 Stat. 1437, which was set out as a note under section 138 of this title, prior to repeal by Pub. L. 98–525, §§1403(a)(1), eff. Oct. 1, 1985.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

# CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
971. Service credit: officers may not count service performed while serving as cadet or midshipman.
972. Members: effect of time lost.
973. Duties: officers on active duty; performance of civil functions restricted.
974. Military musical units and musicians: performance policies; restriction on performance in competition with local civilian musicians.
[975. Renumbered.]
976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.
977. Conversion of military medical and dental positions to civilian medical and dental positions: limitation.
978. Drug and alcohol abuse and dependency: testing of new entrants.
979. Prohibition on loan and grant assistance to persons convicted of certain crimes.
980. Limitation on use of humans as experimental subjects.
981. Limitation on number of enlisted aides.
982. Members: service on State and local juries.
983. Institutions of higher education that prevent ROTC access or military recruiting on campus: denial of grants and contracts from Department of Defense, Department of Education, and certain other departments and agencies.
985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits.
986. Policy regarding identification of gender or personal pronouns in official correspondence.
987. Terms of consumer credit extended to members and dependents: limitations.
988. Prohibition on ownership or trading of stocks in certain companies by certain officials of the Department of Defense.
989. Prohibition on former members of the armed forces accepting post-service employment with certain foreign governments.

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title V, §§522, 523(b), Dec. 22, 2023, 137 Stat. 249, 252, added items 986

and 989. Addition of item 986 was made pursuant to operation of section 102 of this title.

**2019**—Pub. L. 116–92, div. A, title IX, §921(b), Dec. 20, 2019, 133 Stat. 1561, added item 988.

**2016**—Pub. L. 114–328, div. A, title VII, §721(a)(2), Dec. 23, 2016, 130 Stat. 2228, added item 977.

**2009**—Pub. L. 111–84, div. A, title V, §591(b), Oct. 28, 2009, 123 Stat. 2337, substituted "Military musical units and musicians: performance policies; restriction on performance in competition with local civilian musicians" for "Uniform performance policies for military bands and other musical units" in item 974.

**2008**—Pub. L. 110–181, div. A, title V, §590(a)(2), title X, §1072(b)(2), Jan. 28, 2008, 122 Stat. 138, 330, added item 974 and struck out item 986 "Security clearances: limitations".

Pub. L. 110–181, div. A, title X, §1063(c)(6), Jan. 28, 2008, 122 Stat. 323, amended directory language of Pub. L. 109–364, §670(b). See 2006 Amendment note below.

**2006**—Pub. L. 109–364, div. A, title VI, §670(b), Oct. 17, 2006, 120 Stat. 2269, as amended by Pub. L. 110–181, div. A, title X, §1063(c)(6), Jan. 28, 2008, 122 Stat. 323, added item 987.

Pub. L. 109–163, div. A, title VI, §662(c)(2), Jan. 6, 2006, 119 Stat. 3315, substituted "Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits" for "Persons convicted of capital crimes: denial of certain burial-related benefits" in item 985.

**2004**—Pub. L. 108–375, div. A, title VI, §651(f)(1), Oct. 28, 2004, 118 Stat. 1972, struck out item 977 "Operation of commissary stores: assignment of active duty members generally prohibited".

**2001**—Pub. L. 107–107, div. A, title X, §1048(g)(2), Dec. 28, 2001, 115 Stat. 1228, amended directory language of Pub. L. 106–65. See 1999 Amendment note below.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1071(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–276, added item 986.

**1999**—Pub. L. 106–65, div. A, title V, §549(a)(2), Oct. 5, 1999, 113 Stat. 611, as amended by Pub. L. 107–107, div. A, title X, §1048(g)(2), Dec. 28, 2001, 115 Stat. 1228, substituted "Institutions of higher education that prevent ROTC access or military recruiting on campus: denial of grants and contracts from Department of Defense, Department of Education, and certain other departments and agencies" for "Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts" in item 983.

**1998**—Pub. L. 105–261, div. A, title V, §569(b), Oct. 17, 1998, 112 Stat. 2032, struck out item 974 "Civilian employment: enlisted members".

**1997**—Pub. L. 105–85, div. A, title X, §1077(a)(2), Nov. 18, 1997, 111 Stat. 1915, added item 985.

**1996**—Pub. L. 104–201, div. A, title V, §581(c)(3), Sept. 23, 1996, 110 Stat. 2538, struck out "enlisted" after "count" in item 971.

Pub. L. 104–106, div. A, title V, §§541(b), 561(c)(2), Feb. 10, 1996, 110 Stat. 316, 322, substituted "Members: effect of time lost" for "Enlisted members: required to make up time lost" in item 972 and added item 983.

**1993**—Pub. L. 103–160, div. A, title III, §351(b), Nov. 30, 1993, 107 Stat. 1627, added item 977.

**1989**—Pub. L. 101–189, div. A, title XVI, §1622(b)(3), Nov. 29, 1989, 103 Stat. 1604, struck out item 975 "Prohibition on the sale of certain defense articles from the stocks of the Department of Defense".

**1988**—Pub. L. 100–456, div. A, title V, §521(a)(2), Sept. 29, 1988, 102 Stat. 1973, substituted "Drug and alcohol abuse and dependency: testing of new entrants" for "Mandatory testing for drug, chemical, and alcohol abuse" in item 978.

**1987**—Pub. L. 100–180, div. A, title V, §513(a)(2), Dec. 4, 1987, 101 Stat. 1091, substituted "Mandatory testing for drug, chemical, and alcohol abuse" for "Denial of entrance into the armed forces of persons dependent on drugs or alcohol" in item 978.

**1986**—Pub. L. 99–661, div. A, title V, §502(b), Nov. 14, 1986, 100 Stat. 3864, added item 982.

**1984**—Pub. L. 98–525, title XIV, §1401(c)(2), Oct. 19, 1984, 98 Stat. 2615, added items 979 to 981.

**1982**—Pub. L. 97–306, title IV, §408(c)(2), Oct. 14, 1982, 96 Stat. 1446, struck out item 977 "Denial of certain benefits to persons who fail to complete at least two years of an original enlistment".

Pub. L. 97–295, §1(14)(B), Oct. 12, 1982, 96 Stat. 1290, added item 978.

**1980**—Pub. L. 96–513, title V, §501(12), Dec. 12, 1980, 94 Stat. 2908, substituted "officers on active duty" for "Regular officers" in item 973.

Pub. L. 96–342, title X, §1002(b), Sept. 8, 1980, 94 Stat. 1119, added item 977.

**1979**—Pub. L. 96–107, title VIII, §821(b), Nov. 9, 1979, 93 Stat. 820, redesignated item 975 relating to membership in military unions as 976.

**1978**—Pub. L. 95–610, §2(b), Nov. 8, 1978, 92 Stat. 3088, added item 975 relating to military unions.

Pub. L. 95–485, title VIII, §815(b), Oct. 20, 1978, 92 Stat. 1626, added item 975 relating to sale of certain defense articles.

**1968**—Pub. L. 90–235, §§4(a)(5)(B), 6(a)(6)(B), Jan. 2, 1968, 81 Stat. 759, 762, added items 973 and 974.
**1958**—Pub. L. 85–861, §1(20), Sept. 2, 1958, 72 Stat. 1442, added items 971 and 972.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ENHANCEMENT OF RECUSAL FOR CONFLICTS OF PERSONAL INTEREST REQUIREMENTS FOR DEPARTMENT OF DEFENSE OFFICERS AND EMPLOYEES

Pub. L. 117–81, div. A, title XI, §1117, Dec. 27, 2021, 135 Stat. 1955, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), in addition to the prohibition set forth in section 208 of title 18, United States Code, an officer or employee of the Department of Defense may not knowingly participate personally and substantially in any particular matter involving specific parties where any of the following organizations is a party or represents a party to the matter:

"(1) Any organization, including a trade organization, for which the officer or employee has served as an employee, officer, director, trustee, or general partner in the past 2 years.

"(2) Any organization with which the officer or employee is seeking employment.

"(b) AUTHORIZATION.—An agency designee may authorize the officer or employee to participate in a matter described in paragraph (a) based on a determination, made in light of all relevant circumstances, that the interest of the Government in the officer or employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to terminate, alter, or make inapplicable any other prohibition or limitation in law or regulation on the participation of officers or employees of the Department of Defense in particular matters having an effect on their or related financial or other personal interests."

### PROHIBITION ON LOBBYING ACTIVITIES WITH RESPECT TO THE DEPARTMENT OF DEFENSE BY CERTAIN OFFICERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT FOLLOWING SEPARATION FROM MILITARY SERVICE OR EMPLOYMENT WITH THE DEPARTMENT

Pub. L. 115–91, div. A, title X, §1045, Dec. 12, 2017, 131 Stat. 1555, provided that:

"(a) TWO-YEAR PROHIBITION.—

"(1) PROHIBITION.—An individual described in paragraph (2) may not engage in lobbying activities with respect to the Department of Defense during the two-year period beginning on the date of retirement or separation from service in the Armed Forces or the date of retirement or separation from service with the Department, as applicable.

"(2) COVERED INDIVIDUALS.—An individual described in this paragraph is the following:

"(A) An officer of the Armed Forces in grade O–9 or higher at the time of retirement or separation from the Armed Forces.

"(B) A civilian employee of the Department of Defense who had a civilian grade equivalent to a military grade specified in subparagraph (A) at the time of the employee's retirement or separation from service with the Department.

"(b) ONE-YEAR PROHIBITION.—

"(1) PROHIBITION.—An individual described in paragraph (2) may not engage in lobbying activities with respect to the Department of Defense during the one-year period beginning on the date of retirement or separation from service in the Armed Forces or the date of retirement or separation from service with the Department, as applicable.

"(2) COVERED INDIVIDUALS.—An individual described in this paragraph is the following:

"(A) An officer of the Armed Forces in grade O–7 or O–8 at the time of retirement or separation from the Armed Forces.

"(B) A civilian employee of the Department of Defense who had a civilian grade equivalent to a military grade specified in subparagraph (A) at the time of the employee's retirement or separation from service with the Department.

"(c) DEFINITIONS.—In this section:

"(1) The term 'lobbying activities with respect to the Department of Defense' means the following:

"(A) Lobbying contacts and other lobbying activities with covered executive branch officials with respect to the Department of Defense.

"(B) Lobbying contacts with covered executive branch officials described in subparagraphs (C) through (F) of section 3(3) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(3)) in the Department of Defense.

"(2) The terms 'lobbying activities' and 'lobbying contacts' have the meaning given such terms in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).

"(3) The term 'covered executive branch official' has the meaning given that term in section 3(3) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(3))."

## §971. Service credit: officers may not count service performed while serving as cadet or midshipman

(a) PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY OR IN NAVY RESERVE.—The period of service under an enlistment or period of obligated service while also performing service as a cadet or midshipman or serving as a midshipman in the Navy Reserve may not be counted in computing, for any purpose, the length of service of an officer of an armed force or an officer in the Commissioned Corps of the Public Health Service.

(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

(1) An officer of the Navy or Marine Corps.

(2) A commissioned officer of the Army, Air Force, or Space Force.

(3) An officer of the Coast Guard.

(4) An officer in the Commissioned Corps of the Public Health Service.

(c) SERVICE AS A CADET OR MIDSHIPMAN DEFINED.—In this section, the term "service as a cadet or midshipman" means—

(1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or

(2) service as a midshipman at the United States Naval Academy.

(Added Pub. L. 85–861, §1(20), Sept. 2, 1958, 72 Stat. 1442; amended Pub. L. 90–235, §6(a) (1), Jan. 2, 1968, 81 Stat. 761; Pub. L. 98–557, §17(a), Oct. 30, 1984, 98 Stat. 2867; Pub. L. 101–189, div. A, title VI, §652(a)(1)(A), (2), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 104–201, div. A, title V, §581, Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title X, §1073(a)(13), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 109–163, div. A, title V, §515(b)(1)(D), (2), Jan. 6, 2006, 119 Stat. 3233, 3234; Pub. L. 116–283, div. A, title IX, §924(b)(22), Jan. 1, 2021, 134 Stat. 3824.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 971 | 50:1414. | June 25, 1956, ch. 439, §4, 70 Stat. 333. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b)(2). Pub. L. 116–283 substituted ", Air Force, or Space Force" for "or Air Force".

**2006**—Subsec. (a). Pub. L. 109–163 substituted "NAVY RESERVE" for "NAVAL RESERVE" in heading and "Navy Reserve" for "Naval Reserve" in text.

**1997**—Subsec. (b)(4). Pub. L. 105–85 substituted "Commissioned Corps" for "commissioned corps".

**1996**—Pub. L. 104–201, §581(c)(3), struck out "enlisted" after "count" in section catchline.

Subsec. (a). Pub. L. 104–201, §581(a), (c)(2), inserted heading, substituted "while also performing service as a cadet or midshipman or serving as a midshipman" for "while also serving as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy or", and inserted before period at end "or an officer in the Commissioned Corps of the Public Health Service".

Subsec. (b). Pub. L. 104–201, §581(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "In computing length of service for any purpose—

"(1) no officer of the Navy or Marine Corps may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy;

"(2) no commissioned officer of the Army or Air Force may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; and

"(3) no officer of the Coast Guard may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy."

Subsec. (c). Pub. L. 104–201, §581(c)(1), added subsec. (c).

**1989**—Subsec. (a). Pub. L. 101–189, §652(a)(1)(A), struck out ", under an appointment accepted after June 25, 1956," after "Naval Reserve".

Subsec. (b)(1). Pub. L. 101–189, §652(a)(2)(A), struck out ", if he was appointed as a midshipman or cadet after March 4, 1913" after "United States Coast Guard Academy".

Subsec. (b)(2). Pub. L. 101–189, §652(a)(2)(B), struck out ", if he was appointed as a midshipman or cadet after August 24, 1912" after "United States Coast Guard Academy".

**1984**—Subsec. (b)(3). Pub. L. 98–557 added par. (3).

**1968**—Pub. L. 90–235 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### APPLICATION OF SUBSECTION (A) TO SERVICE UNDER APPOINTMENT ACCEPTED BEFORE JUNE 26, 1956

Pub. L. 101–189, div. A, title VI, §652(a)(1)(B), Nov. 29, 1989, 103 Stat. 1461, provided that the computing limitation in subsection (a) of this section did not apply to service under an appointment as a cadet or midshipman accepted before June 26, 1956.

## §972. Members: effect of time lost

(a) ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.—An enlisted member of an armed force who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or

(4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted.

(b) OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.—In the case of an officer of an armed force who after February 10, 1996—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without proper

authority, as determined by competent authority;

(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or

(4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under section 205 of title 37, the officer's length of service.

(c) WAIVER OF RECOUPMENT OF TIME LOST FOR CONFINEMENT.—The Secretary concerned shall waive liability for a period of confinement in connection with a trial under subsection (a)(3), or exclusion of a period of confinement in connection with a trial under subsection (b)(3), in a case upon the occurrence of any of the following events:

(1) For each charge—

(A) the charge is dismissed before or during trial in a final disposition of the charge; or

(B) the trial results in an acquittal of the charge.

(2) For each charge resulting in a conviction in such trial—

(A) the conviction is set aside in a final disposition of such charge, other than in a grant of clemency; or

(B) a judgment of acquittal or a dismissal is entered upon a reversal of the conviction on appeal.

(Added Pub. L. 85–861, §1(20), Sept. 2, 1958, 72 Stat. 1443; amended Pub. L. 104–106, div. A, title V, §561(a)–(c)(1), Feb. 10, 1996, 110 Stat. 321, 322; Pub. L. 105–85, div. A, title X, §1073(a)(14), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108–375, div. A, title V, §572, Oct. 28, 2004, 118 Stat. 1921.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 972 | 10 App.:629a.<br>34 App.:183b. | July 24, 1956, ch. 692, §1, 70 Stat. 631. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (c). Pub. L. 108–375 added subsec. (c).

**1997**—Subsec. (b). Pub. L. 105–85 substituted "February 10, 1996" for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" in introductory provisions.

**1996**—Pub. L. 104–106, §561(c)(1), substituted "Members: effect of time lost" for "Enlisted members: required to make up time lost" as section catchline.

Pub. L. 104–106, §561(a), designated existing provisions as subsec. (a), inserted heading, added par. (3), redesignated par. (5) as (4), struck out former pars. (3) and (4), and added subsec. (b). Prior to amendment, subsec. (a)(3) and (4) read as follows:

"(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

"(4) is confined for more than one day under a sentence that has become final; or".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–106, div. A, title V, §561(e), Feb. 10, 1996, 110 Stat. 323, provided that: "The amendments made by this section [enacting section 6328 of this title and amending this section and sections 1405, 3925,

3926, 8925, and 8926 of this title] shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any period of time covered by section 972 of title 10, United States Code, that occurs after that date."

## §973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b)(1) This subsection applies—

(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days;

(C) to a reserve officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days; and

(D) to an officer on the Space Force officer list serving on active duty under section 20105(b) of this title or under a call or order to active duty for a period in excess of 270 days.

(2)(A) Except as otherwise authorized by law, an officer to whom this subsection applies may not hold, or exercise the functions of, a civil office in the Government of the United States—

(i) that is an elective office;

(ii) that requires an appointment by the President by and with the advice and consent of the Senate; or

(iii) that is a position in the Executive Schedule under sections 5312 through 5317 of title 5.

(B) An officer to whom this subsection applies may hold or exercise the functions of a civil office in the Government of the United States that is not described in subparagraph (A) when assigned or detailed to that office or to perform those functions.

(3) Except as otherwise authorized by law, an officer to whom this subsection applies by reason of subparagraph (A) of paragraph (1) may not hold or exercise, by election or appointment, the functions of a civil office in the government of a State (or of any political subdivision of a State).

(4)(A) An officer to whom this subsection applies by reason of subparagraph (B) or (C) of paragraph (1) may not hold, by election or appointment, a civil office in the government of a State (or of any political subdivision of a State) if the holding of such office while this subsection so applies to the officer—

(i) is prohibited under the laws of that State; or

(ii) as determined by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, interferes with the performance of the officer's duties as an officer of the armed forces.

(B) Except as otherwise authorized by law, while an officer referred to in subparagraph (A) is serving on active duty, the officer may not exercise the functions of a civil office held by the officer as described in that subparagraph.

(5) Nothing in this subsection shall be construed to invalidate any action undertaken by an officer in furtherance of assigned official duties.

(6) In this subsection, the term "State" includes the District of Columbia and a territory, possession, or commonwealth of the United States.

(c) An officer to whom subsection (b) applies may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation.

(d) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating in the Navy, shall prescribe regulations to implement this section.

(Added Pub. L. 90–235, §4(a)(5)(A), Jan. 2, 1968, 81 Stat. 759; amended Pub. L. 96–513, title I,

§116, Dec. 12, 1980, 94 Stat. 2878; Pub. L. 98–94, title X, §1002(a), Sept. 24, 1983, 97 Stat. 655; Pub. L. 101–510, div. A, title V, §556, Nov. 5, 1990, 104 Stat. 1570; Pub. L. 106–65, div. A, title V, §506, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §545, Nov. 24, 2003, 117 Stat. 1479; Pub. L. 118–31, div. A, title XVII, §1722(f), Dec. 22, 2023, 137 Stat. 672.)

## EDITORIAL NOTES

### CODIFICATION

Another section 1722(f) of Pub. L. 118–31 amended sections 802, 803, and 937 of this title.

### AMENDMENTS

**2023**—Subsec. (b)(1)(D). Pub. L. 118–31 added subpar. (D).

**2003**—Subsec. (b)(3). Pub. L. 108–136, §545(2), inserted "by reason of subparagraph (A) of paragraph (1)" after "applies" and substituted "(or of any political subdivision of a State)" for ", the District of Columbia, or a territory, possession, or commonwealth of the United States (or of any political subdivision of any such government)".

Subsec. (b)(4), (5). Pub. L. 108–136, §545(1), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(6). Pub. L. 108–136, §545(4), added par. (6).

**2002**—Subsec. (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (b)(1)(B), (C). Pub. L. 106–65 substituted "270 days" for "180 days".

**1990**—Subsecs. (c), (d). Pub. L. 101–510 added subsec. (c) and redesignated former subsec. (c) as (d).

**1983**—Subsec. (b). Pub. L. 98–94 amended subsec. (b) generally. Prior to amendment subsec. (b) provided that, except as otherwise provided by law, no regular officer of an armed force on active duty could hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State, and that acceptance of such a civil office or the exercise of its functions by such an officer terminated his military appointment.

Subsec. (c). Pub. L. 98–94 added subsec. (c).

**1980**—Pub. L. 96–513, §116(c), substituted "officers on active duty" for "regular officers" in section catchline.

Subsec. (a). Pub. L. 96–513, §116(a), substituted "of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Subsec. (b). Pub. L. 96–513, §116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### CONSTRUCTION AND APPLICABILITY OF SECTION 973(B)

Pub. L. 98–94, title X, §1002(b), (c), Sept. 24, 1983, 97 Stat. 655, 656, provided that:

"(b) Nothing in section 973(b) of title 10, United States Code, as in effect before the date of the enactment of this Act [Sept. 24, 1983], shall be construed—

"(1) to invalidate any action undertaken by an officer of an Armed Force in furtherance of assigned official duties; or

"(2) to have terminated the military appointment of an officer of an Armed Force by reason of the acceptance of a civil office, or the exercise of its functions, by that officer in furtherance of assigned official duties.

"(c) Nothing in section 973(b)(3) of title 10, United States Code, as added by subsection (a), shall preclude

a Reserve office to whom such section applies from holding or exercising the functions of an office described in such section for the term to which the Reserve officer was elected or appointed if, before the date of the enactment of this Act [Sept. 24, 1983], the Reserve officer accepted appointment or election to that office in accordance with the laws and regulations in effect at the time of such appointment or election."

## §974. Military musical units and musicians: performance policies; restriction on performance in competition with local civilian musicians

(a) MILITARY MUSICIANS PERFORMING IN AN OFFICIAL CAPACITY.—(1) A military musical unit, and a member of the armed forces who is a member of such a unit performing in an official capacity, may not engage in the performance of music in competition with local civilian musicians.

(2) For purposes of paragraph (1), the following shall, except as provided in paragraph (3), be included among the performances that are considered to be a performance of music in competition with local civilian musicians:

(A) A performance that is more than incidental to an event that—

(i) is not supported, in whole or in part, by United States Government funds; and

(ii) is not free to the public.

(B) A performance of background, dinner, dance, or other social music at an event that—

(i) is not supported, in whole or in part, by United States Government funds; and

(ii) is held at a location not on a military installation.

(3) For purposes of paragraph (1), the following shall not be considered to be a performance of music in competition with local civilian musicians:

(A) A performance (including background, dinner, dance, or other social music) at an official United States Government event that is supported, in whole or in part, by United States Government funds.

(B) A performance at a concert, parade, or other event, that—

(i) is a patriotic event or a celebration of a national holiday; and

(ii) is free to the public.

(C) A performance that is incidental to an event that—

(i) is not supported, in whole or in part, by United States Government funds; or

(ii) is not free to the public.

(D) A performance (including background, dinner, dance, or other social music) at—

(i) an event that is sponsored by a military welfare society, as defined in section 2566 of this title;

(ii) an event that is a traditional military event intended to foster the morale and welfare of members of the armed forces and their families; or

(iii) an event that is specifically for the benefit or recognition of members of the armed forces, their family members, veterans, civilian employees of the Department of Defense, or former civilian employees of the Department of Defense, to the extent provided in regulations prescribed by the Secretary of Defense.

(E) A performance (including background, dinner, dance, or other social music)—

(i) to uphold the standing and prestige of the United States with dignitaries and distinguished or prominent persons or groups of the United States or another nation; or

(ii) in support of fostering and sustaining a cooperative relationship with another nation.

(b) PROHIBITION OF MILITARY MUSICIANS ACCEPTING ADDITIONAL REMUNERATION FOR OFFICIAL PERFORMANCES.—A military musical unit, and a member

of the armed forces who is a member of such a unit performing in an official capacity, may not receive remuneration for an official performance, other than applicable military pay and allowances.

(c) RECORDINGS.—(1) When authorized under regulations prescribed by the Secretary of Defense for purposes of this section, a military musical unit may produce recordings for distribution to the public, at a cost not to exceed expenses of production and distribution.

(2) Amounts received in payment for a recording distributed to the public under this subsection shall be credited to the appropriation or account providing the funds for the production of the recording. Any amount so credited shall be merged with amounts in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

(d) PRIVATE DONATIONS.—(1) The Secretary concerned may accept contributions of money, personal property, or services on the condition that such money, property, or services be used for the benefit of a military musical unit under the jurisdiction of the Secretary.

(2) Any contribution of money under paragraph (1) shall be credited to the appropriation or account providing the funds for such military musical unit. Any amount so credited shall be merged with amounts in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

(e) PERFORMANCES AT FOREIGN LOCATIONS.—Subsection (a) does not apply to a performance outside the United States, its commonwealths, or its possessions.

(f) MILITARY MUSICAL UNIT DEFINED.—In this section, the term "military musical unit" means a band, ensemble, chorus, or similar musical unit of the armed forces.

(Added Pub. L. 110–181, div. A, title V, §590(a)(1), Jan. 28, 2008, 122 Stat. 136; amended Pub. L. 111–84, div. A, title V, §591(a), Oct. 28, 2009, 123 Stat. 2335; Pub. L. 113–66, div. A, title III, §351, Dec. 26, 2013, 127 Stat. 741; Pub. L. 115–91, div. A, title X, §1051(a)(4), Dec. 12, 2017, 131 Stat. 1560.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 974, added Pub. L. 90–235, §6(a)(6)(A), Jan. 2, 1968, 81 Stat. 762; amended Pub. L. 101–510, div. A, title III, §327(e), Nov. 5, 1990, 104 Stat. 1532, related to civilian employment by enlisted members, prior to repeal by Pub. L. 105–261, div. A, title V, §569(a), Oct. 17, 1998, 112 Stat. 2032.

**AMENDMENTS**

**2017**—Subsec. (d)(3). Pub. L. 115–91 struck out par. (3) which read as follows: "Not later than January 30 of each year, the Secretary concerned shall submit to Congress a report on any contributions of money, personal property, and services accepted under paragraph (1) during the fiscal year preceding the fiscal year during which the report is submitted."

**2013**—Subsecs. (d) to (f). Pub. L. 113–66 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2009**—Pub. L. 111–84 amended section generally. Prior to amendment, section related to uniform performance policies for military bands and other musical units.

## [§975. Renumbered §2390]

## §976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

(a) In this section:

(1) The term "member of the armed forces" means (A) a member of the armed forces who is serving on active duty, (B) a member of the National Guard who is serving on full-time National

Guard duty, or (C) a member of a Reserve component or the Space Force while performing inactive-duty training.

(2) The term "military labor organization" means any organization that engages in or attempts to engage in—

(A) negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

(B) representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

(C) striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to—

(i) negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

(ii) recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

(iii) make any change with respect to the terms or conditions of military service of individual members of the armed forces.

(3) The term "civilian officer or employee" means an employee, as such term is defined in section 2105 of title 5.

(b) It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization—

(1) to join or maintain membership in such organization; or

(2) to attempt to enroll any other member of the armed forces as a member of such organization.

(c) It shall be unlawful for any person—

(1) to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or

(2) to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members;

(3) to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to—

(A) negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces,

(B) recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

(C) make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or

(4) to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d).

(d) It shall be unlawful for any military labor organization to represent, or attempt to represent,

any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

(e) No member of the armed forces, and no civilian officer or employee, may—

(1) negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or

(2) permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d).

Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

(f) Whoever violates subsection (b), (c), or (d) shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than $25,000.

(g) Nothing in this section shall limit the right of any member of the armed forces—

(1) to join or maintain membership in any organization or association not constituting a "military labor organization" as defined in subsection (a)(2) of this section;

(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

(3) to seek or receive information or counseling from any source;

(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

(5) to petition the Congress for redress of grievances; or

(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.

(Added Pub. L. 95–610, §2(a), Nov. 8, 1978, 92 Stat. 3085, §975; renumbered §976, Pub. L. 96–107, title VIII, §821(a), Nov. 9, 1979, 93 Stat. 820; amended Pub. L. 98–525, title IV, §414(a)(6), Oct. 19, 1984, 98 Stat. 2519; Pub. L. 99–661, div. A, title XIII, §1343(a)(2), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 105–85, div. A, title X, §1073(a)(15), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 118–31, div. A, title XVII, §1741(b)(3), Dec. 22, 2023, 137 Stat. 680.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a)(1)(C). Pub. L. 118–31 inserted "or the Space Force" after "member of a Reserve component".

**1997**—Subsec. (f). Pub. L. 105–85 substituted "shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than $25,000." for "shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000."

**1987**—Subsec. (a)(1) to (3). Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in each paragraph and substituted lowercase letter.

**1986**—Subsec. (a)(1). Pub. L. 99–661 struck out the second of two commas before "(B)".

**1984**—Subsec. (a)(1). Pub. L. 98–525 added cl. (B) and redesignated existing cl. (B) as (C).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### FINDINGS; PURPOSE

Pub. L. 95–610, §1, Nov. 8, 1978, 92 Stat. 3085, provided that:

"(a) The Congress makes the following findings:

"(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

"(2) Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

"(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

"(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

"(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

"(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

"(b) The purpose of this Act [enacting this section] is to promote the readiness of the armed forces to defend the United States."

## §977. Conversion of military medical and dental positions to civilian medical and dental positions: limitation

(a) PROCESS.—The Secretary of Defense, in collaboration with the Secretaries of the military departments, shall establish a process to define the military medical and dental personnel requirements necessary to meet operational medical force readiness requirements.

(b) REQUIREMENTS RELATING TO CONVERSION.—A military medical or dental position within the Department of Defense may be converted to a civilian medical or dental position if the Secretary determines that the position is not necessary to meet operational medical force readiness requirements, as determined pursuant to subsection (a).

(c) GRADE OR LEVEL CONVERTED.—In carrying out a conversion under subsection (b), the Secretary of Defense—

(1) shall convert the applicable military position to a civilian position with a level of compensation commensurate with the skills and experience necessary to carry out the duties of such civilian position; and

(2) may not place any limitation on the grade or level to which the military position is so converted.

(d) DEFINITIONS.—In this section:

(1) The term "military medical or dental position" means a position for the performance of health care functions within the armed forces held by a member of the armed forces.

(2) The term "civilian medical or dental position" means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

(3) The term "conversion", with respect to a military medical or dental position, means a change of the position to a civilian medical or dental position, effective as of the date of the manning authorization document of the military department making the change (through a change in designation from military to civilian in the document, the elimination of the listing of the position as a military position in the document, or through any other means indicating the change in the document or otherwise).

(Added Pub. L. 114–328, div. A, title VII, §721(a)(1), Dec. 23, 2016, 130 Stat. 2227.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 977, added Pub. L. 103–160, div. A, title III, §351(a), Nov. 30, 1993, 107 Stat. 1626; amended Pub. L. 105–85, div. A, title X, §1073(a)(16), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 106–65, div. A, title X, §1066(a)(6), Oct. 5, 1999, 113 Stat. 770, related to prohibition of assignment of active duty members to operation of commissary stores, prior to repeal by Pub. L. 108–375, div. A, title VI, §651(e)(1), Oct. 28, 2004, 118 Stat. 1972.

Another prior section 977, added Pub. L. 96–342, title X, §1002(a), Sept. 8, 1980, 94 Stat. 1119; amended Pub. L. 97–22, §11(a)(1), July 10, 1981, 95 Stat. 137, provided that no one who originally enlisted after Sept. 7, 1980, in a regular armed services component and failed to serve at least 24 months of such enlistment would be eligible for Federal benefits otherwise receivable because of active service under such enlistment, except that such exclusion was not applicable to one discharged under section 1173 of chapter 61 of this title or to one later proved to be suffering from a disability resulting from an injury or disease incurred during enlistment, prior to repeal by Pub. L. 97–306, title IV, §408(c)(1), Oct. 14, 1982, 96 Stat. 1446. See section 5303A of Title 38, Veterans' Benefits, and provisions set out as notes under that section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title VII, §721(a)(3), Dec. 23, 2016, 130 Stat. 2228, provided that: "The Secretary of Defense may not carry out section 977(b) of title 10, United States Code, as added by paragraph (1), until the date that is 180 days after the date on which the Secretary submits the report under subsection (b)."

## §978. Drug and alcohol abuse and dependency: testing of new entrants

(a)(1) The Secretary concerned shall require that, except as provided under paragraph (2), each person applying for an original enlistment or appointment in the armed forces shall be required, before becoming a member of the armed forces, to—

(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

(B) be evaluated for drug and alcohol dependency.

(2) The Secretary concerned may provide that, in lieu of undergoing the testing and evaluation described in paragraph (1) before becoming a member of the armed forces, a member of the armed forces under the Secretary's jurisdiction may be administered that testing and evaluation after the member's initial entry on active duty. In any such case, the testing and evaluation shall be carried out within 72 hours of the member's initial entry on active duty.

(3) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) within 72 hours of such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers' Training Corps program to undergo such testing and evaluation before such an appointment is executed.

(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not (unless that person subsequently consents to such testing and evaluation)—

(1) be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces; or

(2) if such person is already a member of the armed forces, be retained in the armed forces.

An original appointment of any such person as an officer shall be terminated.

(c)(1) A person determined, as the result of testing conducted under subsection (a)(1), to be dependent on drugs or alcohol shall be denied entrance into the armed forces.

(2) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(2), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

(3) A person who is denied entrance into the armed forces under paragraph (1), or whose enlistment or appointment is voided under paragraph (2), shall be referred to a civilian treatment facility.

(4) The Secretary concerned may place on excess leave any member of the armed forces whose test results under subsection (a)(2) are positive for drug or alcohol use. The Secretary may continue such member's status on excess leave pending disposition of the member's case and processing for administrative separation.

(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Homeland Security. Those regulations shall apply uniformly throughout the armed forces.

(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).

(Added Pub. L. 97–295, §1(14)(A), Oct. 12, 1982, 96 Stat. 1289; amended Pub. L. 100–180, div. A, title V, §513(a)(1), Dec. 4, 1987, 101 Stat. 1091; Pub. L. 100–456, div. A, title V, §521(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 101–189, div. A, title V, §513(a)–(c), Nov. 29, 1989, 103 Stat. 1440; Pub. L. 101–510, div. A, title XIV, §1484(k)(4), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 103–160, div. A, title V, §572, Nov. 30, 1993, 107 Stat. 1673; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 978 | 10:1071 (note). | Sept. 28, 1971, Pub. L. 92–129, §501(a)(2), (b), 85 Stat. 361. |

The word "regulations" is added for consistency. The word "persons" is omitted as surplus. The word "person" is substituted for "individuals" for consistency. The text of subsection (b) is omitted as executed.

## EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1993**—Subsec. (a)(3). Pub. L. 103–160 substituted "within 72 hours of such appointment" for "during the physical examination given the applicant before such appointment" and "before such an appointment is executed" for "during the precommissioning physical examination given such person".

**1990**—Subsec. (c)(3). Pub. L. 101–510 struck out "a" before "whose enlistment".

**1989**—Subsec. (a)(1). Pub. L. 101–189, §513(a)(2), added par. (1) and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), the Secretary concerned shall require each member of the armed forces under the Secretary's jurisdiction, within 72 hours after the member's initial entry on active duty after enlistment or appointment, to—

"(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

"(B) be evaluated for drug and alcohol dependency."

Subsec. (a)(2), (3). Pub. L. 101–189, §513(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 101–189, §513(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "A person who refuses to consent to testing and evaluation required by subsection (a) may not be retained in the armed forces, and any original appointment of such person as an officer shall be terminated, unless that person consents to such testing and evaluation."

Subsec. (c)(1). Pub. L. 101–189, §513(b)(2)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (c)(2). Pub. L. 101–189, §513(b)(2)(A), (C), redesignated par. (1) as (2) and substituted "subsection (a)(2)" for "subsection (a)(1)(B)". Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 101–189, §513(b)(2)(A), (D), redesignated par. (2) as (3), inserted "who is denied entrance into the armed forces under paragraph (1), or a" after "A person", and substituted "paragraph (2)," for

"paragraph (1)".

Subsec. (c)(4). Pub. L. 101–189, §513(c), added par. (4).

**1988**—Pub. L. 100–456 substituted "Drug and alcohol abuse and dependency: testing of new entrants" for "Mandatory testing for drug, chemical, and alcohol abuse" in section catchline, and amended text generally. Prior to amendment, text read as follows:

"(a) Before a person becomes a member of the armed forces, such person shall be required to undergo testing for drug, chemical, and alcohol use and dependency.

"(b) A person who refuses to consent to testing required by subsection (a) may not be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces unless that person consents to such testing.

"(c) A person determined, as the result of testing conducted under subsection (a), to be dependent on drugs, chemicals, or alcohol shall be—

"(1) denied entrance into the armed forces; and

"(2) referred to a civilian treatment facility.

"(d) The testing required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces."

**1987**—Pub. L. 100–180 substituted "Mandatory testing for drug, chemical, and alcohol abuse" for "Denial of entrance into the armed forces of persons dependent on drugs or alcohol" in section catchline, and amended text generally, revising and restating as subsecs. (a) to (d) provisions formerly contained in subsecs. (a) and (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title V, §513(d), Nov. 29, 1989, 103 Stat. 1441, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect as of October 1, 1989."

#### REGULATIONS; IMPLEMENTATION OF PROGRAM

Pub. L. 100–456, div. A, title V, §521(b), (c), Sept. 29, 1988, 102 Stat. 1973, provided that:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 60 days after the date of the enactment of this Act [Sept. 29, 1988].

"(c) EFFECTIVE DATE.—The testing and evaluation program prescribed by that section shall be implemented not later than October 1, 1989."

#### IMPLEMENTATION

Pub. L. 100–180, div. A, title V, §513(b), Dec. 4, 1987, 101 Stat. 1091, as amended by Pub. L. 100–456, div. A, title V, §521(d), Sept. 29, 1988, 102 Stat. 1973, provided that:

"(1) The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 45 days after the date of the enactment of this Act [Dec. 4, 1987].

"(2) [Repealed. Pub. L. 100–456, div. A, title V, §521(d), Sept. 29, 1988, 102 Stat. 1973]."

## §979. Prohibition on loan and grant assistance to persons convicted of certain crimes

Funds appropriated to the Department of Defense may not be used to provide a loan, a guarantee of a loan, or a grant to any person who has been convicted by a court of general jurisdiction of any crime which involves the use of (or assisting others in the use of) force, trespass, or the seizure of property under the control of an institution of higher education to prevent officials or students of the institution from engaging in their duties or pursuing their studies.

(Added Pub. L. 98–525, title XIV, §1401(c)(1), Oct. 19, 1984, 98 Stat. 2615.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8027], Oct. 12, 1984, 98 Stat. 1904, 1928.
Pub. L. 98–212, title VII, §732, Dec. 8, 1983, 97 Stat. 1444.
Pub. L. 97–377, title I, §101(c) [title VII, §735], Dec. 21, 1982, 96 Stat. 1833, 1856.
Pub. L. 97–114, title VII, §736, Dec. 29, 1981, 95 Stat. 1585.
Pub. L. 96–527, title VII, §737, Dec. 15, 1980, 94 Stat. 3087.
Pub. L. 96–154, title VII, §739, Dec. 21, 1979, 93 Stat. 1159.
Pub. L. 95–457, title VIII, §839, Oct. 13, 1978, 92 Stat. 1250.
Pub. L. 95–111, title VIII, §838, Sept. 21, 1977, 91 Stat. 906.
Pub. L. 94–419, title VII, §737, Sept. 22, 1976, 90 Stat. 1297.
Pub. L. 94–212, title VII, §737, Feb. 9, 1976, 90 Stat. 175.
Pub. L. 93–437, title VIII, §838, Oct. 8, 1974, 88 Stat. 1231.
Pub. L. 93–238, title VII, §740, Jan. 2, 1974, 87 Stat. 1045.
Pub. L. 92–570, title VII, §740, Oct. 26, 1972, 86 Stat. 1203.
Pub. L. 92–204, title VII, §741, Dec. 18, 1971, 85 Stat. 734.
Pub. L. 91–668, title VIII, §841, Jan. 11, 1971, 84 Stat. 2037.
Pub. L. 91–171, title VI, §641, Dec. 29, 1969, 83 Stat. 486.
Pub. L. 90–580, title V, §540, Oct. 17, 1968, 82 Stat. 1136.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §980. Limitation on use of humans as experimental subjects

(a) Funds appropriated to the Department of Defense may not be used for research involving a human being as an experimental subject unless—

(1) the informed consent of the subject is obtained in advance; or

(2) in the case of research intended to be beneficial to the subject, the informed consent of the subject or a legal representative of the subject is obtained in advance.

(b)(1) The Secretary of Defense may waive the prohibition in this section with respect to a specific research project to advance the development of a medical product necessary to the armed forces if the research project may directly benefit the subject and is carried out in accordance with all other applicable laws.

(2) The Secretary may delegate the authority provided by paragraph (1) to the Under Secretary of Defense for Research and Engineering.

(Added Pub. L. 98–525, title XIV, §1401(c)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 107–107, div. A, title VII, §733, Dec. 28, 2001, 115 Stat. 1170; Pub. L. 118–31, div. A, title II, §212, Dec. 22, 2023, 137 Stat. 183.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8029], Oct. 12, 1984, 98 Stat. 1904, 1929.
Pub. L. 98–212, title VII, §734, Dec. 8, 1983, 97 Stat. 1444.

Pub. L. 97–377, title I, §101(c) [title VII, §737], Dec. 21, 1982, 96 Stat. 1833, 1857.
Pub. L. 97–114, title VII, §738, Dec. 29, 1981, 95 Stat. 1585.
Pub. L. 96–527, title VII, §739, Dec. 15, 1980, 94 Stat. 3088.
Pub. L. 96–154, title VII, §741, Dec. 21, 1979, 93 Stat. 1159.
Pub. L. 95–457, title VIII, §841, Oct. 13, 1978, 92 Stat. 1251.
Pub. L. 95–111, title VIII, §840, Sept. 21, 1977, 91 Stat. 906.
Pub. L. 94–419, title VII, §739, Sept. 22, 1976, 90 Stat. 1297.
Pub. L. 94–212, title VII, §740, Feb. 9, 1976, 90 Stat. 175.
Pub. L. 93–437, title VIII, §841, Oct. 8, 1974, 88 Stat. 1231.
Pub. L. 93–238, title VII, §743, Jan. 2, 1974, 87 Stat. 1045.
Pub. L. 92–570, title VII, §745, Oct. 26, 1972, 86 Stat. 1203.

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31 designated existing provisions as par. (1) and added par. (2).
**2001**—Pub. L. 107–107 designated existing provisions as subsec. (a) and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §981. Limitation on number of enlisted aides

(a) Subject to subsection (b), the total number of enlisted members that may be assigned or otherwise detailed to duty as enlisted aides on the personal staffs of officers of the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard (when operating as a service of the Navy) during a fiscal year is the number equal to the sum of (1) four times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of general or admiral, and (2) two times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of lieutenant general or vice admiral.

(b) Not more than 300 enlisted members may be assigned to duty at any time as enlisted aides for officers of the Army, Navy, Air Force, Marine Corps, and Space Force.

(c) Not later than March 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

(1) specifying the number of enlisted aides authorized and allocated for general officers and flag officers of the Army, Navy, Air Force, Marine Corps, Space Force, and joint pool as of September 30 of the previous year; and

(2) justifying, on a billet-by-billet basis, the authorization and assignment of each enlisted aide to each general officer and flag officer position.

(Added Pub. L. 98–525, title XIV, §1401(c)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 113–291, div. A, title V, §504(a), Dec. 19, 2014, 128 Stat. 3355; Pub. L. 118–31, div. A, title XVII, §1741(b)(4), Dec. 22, 2023, 137 Stat. 680.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in subsec. (a) of this section were contained in Pub. L. 94–106, title VIII, §820(a), Oct. 7, 1975, 89 Stat. 544, prior to repeal by Pub. L. 98–525, §§1403(c), 1404, eff. Oct. 1, 1985.

Provisions similar to those in subsec. (b) of this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8034], Oct. 12, 1984, 98 Stat. 1904, 1930.
Pub. L. 98–212, title VII, §742, Dec. 8, 1983, 97 Stat. 1446.
Pub. L. 97–377, title I, §101(c) [title VII, §745], Dec. 21, 1982, 96 Stat. 1833, 1858.
Pub. L. 97–114, title VII, §746, Dec. 29, 1981, 95 Stat. 1586.

Pub. L. 96–527, title VII, §747, Dec. 15, 1980, 94 Stat. 3089.
Pub. L. 96–154, title VII, §748, Dec. 21, 1979, 93 Stat. 1160.
Pub. L. 95–457, title VIII, §848, Oct. 13, 1978, 92 Stat. 1252.
Pub. L. 95–111, title VIII, §849, Sept. 21, 1977, 91 Stat. 908.
Pub. L. 94–419, title VII, §748, Sept. 22, 1976, 90 Stat. 1299.
Pub. L. 94–212, title VII, §745, Feb. 9, 1976, 90 Stat. 175.
Pub. L. 93–437, title VIII, §848, Oct. 8, 1974, 88 Stat. 1232.

**AMENDMENTS**

**2023**—Subsec. (a). Pub. L. 118–31, §1741(b)(4)(A), substituted "Air Force, Marine Corps, Space Force," for "Marine Corps, Air Force,".

Subsec. (b). Pub. L. 118–31, §1741(b)(4)(B), substituted "Marine Corps, and Space Force" for "and Marine Corps".

Subsec. (c)(1). Pub. L. 118–31, §1741(b)(4)(C), inserted "Space Force," after "Marine Corps,".

**2014**—Subsec. (c). Pub. L. 113–291 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §982. Members: service on State and local juries

(a) A member of the armed forces on active duty may not be required to serve on a State or local jury if the Secretary concerned determines that such service—

(1) would unreasonably interfere with the performance of the member's military duties; or

(2) would adversely affect the readiness of the unit, command, or activity to which the member is assigned.

(b) A determination by the Secretary concerned under this section is conclusive.

(c) The Secretary concerned shall prescribe regulations for the administration of this section.

(d) In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.

(Added Pub. L. 99–661, div. A, title V, §502(a), Nov. 14, 1986, 100 Stat. 3863.)

## §983. Institutions of higher education that prevent ROTC access or military recruiting on campus: denial of grants and contracts from Department of Defense, Department of Education, and certain other departments and agencies

(a) DENIAL OF FUNDS FOR PREVENTING ROTC ACCESS TO CAMPUS.—No funds

described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents—

(1) the Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (in accordance with section 654 [1] of this title and other applicable Federal laws) at that institution (or any subelement of that institution); or

(2) a student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

(b) DENIAL OF FUNDS FOR PREVENTING MILITARY RECRUITING ON CAMPUS.—No funds described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents—

(1) the Secretary of a military department or the Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer;

(2) access by military recruiters for purposes of military recruiting, with respect to students (who are 17 years of age or older) enrolled at that institution (or any subelement of that institution)—

(A) names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the institution, if available), and telephone listings, which information shall be made available not later than the 60th day following the date of a request; and

(B) date and place of birth, levels of education, academic majors, degrees received, and the most recent educational institution enrolled in by the student.

(c) EXCEPTIONS.—The limitation established in subsection (a) or (b) shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Defense determines that—

(1) the institution (and each subelement of that institution) has ceased the policy or practice described in that subsection; or

(2) the institution of higher education involved has a longstanding policy of pacifism based on historical religious affiliation.

(d) COVERED FUNDS.—(1) Except as provided in paragraph (2), the limitations established in subsections (a) and (b) apply to the following:

(A) Any funds made available for the Department of Defense.

(B) Any funds made available for any department or agency for which regular appropriations are made in a Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

(C) Any funds made available for the Department of Homeland Security.

(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

(E) Any funds made available for the Department of Transportation.

(F) Any funds made available for the Central Intelligence Agency.

(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.

(e) NOTICE OF DETERMINATIONS.—Whenever the Secretary of Defense makes a

determination under subsection (a), (b), or (c), the Secretary—

(1) shall transmit a notice of the determination to the Secretary of Education and to the head of each other department and agency the funds of which are subject to the determination; and

(2) shall publish in the Federal Register a notice of the determination and the effect of the determination on the eligibility of the institution of higher education (and any subelement of that institution) for contracts and grants.

(Added Pub. L. 104–106, div. A, title V, §541(a), Feb. 10, 1996, 110 Stat. 315; amended Pub. L. 106–65, div. A, title V, §549(a)(1), Oct. 5, 1999, 113 Stat. 609; Pub. L. 107–296, title XVII, §1704(b)(1), (3), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title V, §552(a)–(d), Oct. 28, 2004, 118 Stat. 1911, 1912; Pub. L. 112–81, div. A, title X, §1061(11), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 112–239, div. A, title V, §586, title X, §1076(f)(10), Jan. 2, 2013, 126 Stat. 1768, 1952; Pub. L. 116–283, div. A, title V, §521(b), Jan. 1, 2021, 134 Stat. 3597; Pub. L. 118–31, div. A, title V, §543, Dec. 22, 2023, 137 Stat. 265.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 654 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 111–321, §2(f)(1)(A), Dec. 22, 2010, 124 Stat. 3516.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 103–337, div. A, title V, §558, Oct. 5, 1994, 108 Stat. 2776, as amended, and Pub. L. 104–208, div. A, title I, §101(e) [title V, §514], Sept. 30, 1996, 110 Stat. 3009–233, 3009–270, which were set out as notes under section 503 of this title, prior to repeal by Pub. L. 106–65, §549(b).

### AMENDMENTS

**2023**—Subsec. (b)(1). Pub. L. 118–31, §543(1), substituted "employer;" for "employer; or".

Subsec. (b)(2). Pub. L. 118–31, §543(2)(A), (B), in introductory provisions, substituted ", with respect" for "to the following information pertaining" and "institution)—" for "institution):".

Subsec. (b)(2)(A). Pub. L. 118–31, §543(2)(C), substituted "names" for "Names" and "telephone listings, which information shall be made available not later than the 60th day following the date of a request; and" for "telephone listings.".

Subsec. (b)(2)(B). Pub. L. 118–31, §543(2)(D), substituted "date" for "Date".

**2021**—Subsec. (b)(2)(A). Pub. L. 116–283 substituted "electronic mail addresses (which shall be the electronic mail addresses provided by the institution, if available), and telephone listings" for "and telephone listings".

**2013**—Subsec. (b)(1). Pub. L. 112–239, §1076(f)(10), substituted "or the Secretary" for "or Secretary".

Subsec. (f). Pub. L. 112–239, §586, struck out subsec. (f). Text read as follows: "The Secretary of Defense shall publish in the Federal Register once every six months a list of each institution of higher education that is currently ineligible for contracts and grants by reason of a determination of the Secretary under subsection (a) or (b)."

**2011**—Subsec. (e)(1). Pub. L. 112–81 substituted "Secretary of Education and" for "Secretary of Education," and struck out ", and to Congress" after "determination".

**2004**—Subsec. (a). Pub. L. 108–375, §552(d), struck out "(including a grant of funds to be available for student aid)" after "by grant" in introductory provisions.

Subsec. (b). Pub. L. 108–375, §552(b)(2)(A), (d), in introductory provisions, substituted "subsection (d)(1)" for "subsection (d)(2)" and struck out "(including a grant of funds to be available for student aid)" after "by grant".

Subsec. (b)(1). Pub. L. 108–375, §552(a), substituted "access to campuses" for "entry to campuses" and inserted before semicolon "in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer".

Subsec. (d)(1). Pub. L. 108–375, §552(b)(1)(A)(i), (c)(1), in introductory provisions, substituted "Except as provided in paragraph (2), the" for "The" and "limitations established in subsections (a) and (b) apply" for "limitation established in subsection (a) applies".

Subsec. (d)(1)(B). Pub. L. 108–375, §552(b)(1)(A)(ii), inserted "for any department or agency for which

regular appropriations are made" after "made available".

Subsec. (d)(1)(C) to (F). Pub. L. 108–375, §552(b)(1)(A)(iii), added subpars. (C) to (F).

Subsec. (d)(2). Pub. L. 108–375, §552(b)(1)(B), (c)(2), added par. (2) and struck out former par. (2) which read as follows: "The limitation established in subsection (b) applies to the following:

"(A) Funds described in paragraph (1).

"(B) Any funds made available for the Department of Homeland Security."

Subsec. (e)(1). Pub. L. 108–375, §552(b)(2)(B), inserted ", to the head of each other department and agency the funds of which are subject to the determination," after "Secretary of Education".

**2002**—Subsec. (b)(1). Pub. L. 107–296, §1704(b)(1), substituted "Secretary of Homeland Security" for "Secretary of Transportation".

Subsec. (d)(2)(B). Pub. L. 107–296, §1704(b)(3), substituted "Department of Homeland Security" for "Department of Transportation".

**1999**—Pub. L. 106–65 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to denial of Department of Defense grants and contracts to institutions of higher education that have anti-ROTC policies.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title V, §552(f), Oct. 28, 2004, 118 Stat. 1912, provided that: "The amendments made by this section [amending this section and repealing provisions set out as a note under this section] shall apply with respect to funds appropriated for fiscal year 2005 and thereafter."

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### FUNDS AVAILABLE SOLELY FOR STUDENT FINANCIAL ASSISTANCE

Pub. L. 106–79, title VIII, §8120, Oct. 25, 1999, 113 Stat. 1260, provided that during fiscal year 2000 and thereafter, any Federal grant of funds to an institution of higher education to be available solely for student financial assistance or related administrative costs could be used for the purpose for which the grant was made without regard to any provision to the contrary in section 101(e) [title V, §514] of Pub. L. 104–208 (formerly 10 U.S.C. 503 note), or section 983 of this title, prior to repeal by Pub. L. 108–375, div. A, title V, §552(e), Oct. 28, 2004, 118 Stat. 1912.

[1] *See References in Text note below.*

## §985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits

(a) PROHIBITION OF PERFORMANCE OF MILITARY HONORS.—The Secretary of a military department and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may not provide military honors (under section 1491 of this title or any other authority) at the funeral or burial of any of the following persons:

(1) A person described in section 2411(b) of title 38.

(2) A person who is a veteran (as defined in section 1491(h) of this title) or who died while on active duty or a member of a reserve component, when the circumstances surrounding the person's death or other circumstances as specified by the Secretary of Defense are such that to provide military honors at the funeral or burial of the person would bring discredit upon the person's service (or former service).

(b) DISQUALIFICATION FROM BURIAL IN MILITARY CEMETERIES.—Except as provided in subsection (c), a person who is ineligible for interment in a national cemetery under the control of the National Cemetery Administration by reason of section 2411(b) of title 38 is not entitled to or eligible for, and may not be provided, burial in—

(1) Arlington National Cemetery;
(2) the Soldiers' and Airmen's National Cemetery; or
(3) any other cemetery administered by the Secretary of a military department or the Secretary of Defense.

(c) UNCLAIMED REMAINS OF MILITARY PRISONERS.—Subsection (b) shall not preclude the burial at the United States Disciplinary Barracks Cemetery at Fort Leavenworth, Kansas, of a military prisoner, including a military prisoner who is a person described in section 2411(b) of title 38, who dies while in custody of a military department and whose remains are not claimed by the person authorized to direct disposition of the remains or by other persons legally authorized to dispose of the remains.

(d) DEFINITION.—In this section, the term "burial" includes inurnment.

(Added Pub. L. 105–85, div. A, title X, §1077(a)(1), Nov. 18, 1997, 111 Stat. 1914; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title VI, §662(b)(1)–(3), (c)(1), Jan. 6, 2006, 119 Stat. 3315; Pub. L. 115–232, div. A, title V, §592, Aug. 13, 2018, 132 Stat. 1788.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (b). Pub. L. 115–232, §592(1), substituted "Except as provided in subsection (c), a person who is ineligible" for "A person who is ineligible" in introductory provisions.

Subsecs. (c), (d). Pub. L. 115–232, §592(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

**2006**—Pub. L. 109–163, §662(c)(1), substituted "Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits" for "Persons convicted of capital crimes: denial of certain burial-related benefits" in section catchline.

Subsec. (a). Pub. L. 109–163, §662(b)(1)(B), substituted "any of the following persons:" for "a person who has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole." and added pars. (1) and (2).

Pub. L. 109–163, §662(b)(1)(A), inserted "(under section 1491 of this title or any other authority)" after "military honors".

Subsec. (b). Pub. L. 109–163, §662(b)(2), in introductory provisions, substituted "who is ineligible for interment in a national cemetery under the control of the National Cemetery Administration by reason of section 2411(b) of title 38" for "convicted of a capital offense under Federal law".

Subsec. (c). Pub. L. 109–163, §662(b)(3), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "In this section:

"(1) The term 'capital offense' means an offense for which the death penalty may be imposed.

"(2) The term 'burial' includes inurnment.

"(3) The term 'State' includes the District of Columbia and any commonwealth or territory of the United States."

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §662(e), Jan. 6, 2006, 119 Stat. 3316, provided that: "The amendments made by this section [amending this section, section 1491 of this title, and section 2411 of Title 38, Veterans' Benefits and enacting provisions set out as notes under this section and section 2411 of Title 38] shall apply with respect to funerals and burials that occur on or after the date of the enactment of this Act [Jan. 6, 2006]."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Pub. L. 105–85, div. A, title X, §1077(b), Nov. 18, 1997, 111 Stat. 1915, provided that: "Section 985 of title 10, United States Code, as added by subsection (a), applies with respect to persons dying after January 1, 1997."

**REGULATIONS**

Pub. L. 109–163, div. A, title VI, §662(d)(2), Jan. 6, 2006, 119 Stat. 3316, provided that: "The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary of a military department or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law."

## §986. Policy regarding identification of gender or personal pronouns in official correspondence

The Secretary of Defense may not require or prohibit a member of the armed forces or a civilian employee of the Department of Defense to identify the gender or personal pronouns of such member or employee in any official correspondence of the Department.

(Added Pub. L. 118–31, div. A, title V, §522(b), Dec. 22, 2023, 137 Stat. 249.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 986, added Pub. L. 106–398, §1 [[div. A], title X, §1071(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–275; amended Pub. L. 107–107, div. A, title X, §1048(c)(3), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108–375, div. A, title X, §1062, Oct. 28, 2004, 118 Stat. 2056, prohibited the Department of Defense from granting or renewing security clearances for certain persons, prior to repeal by Pub. L. 110–181, div. A, title X, §1072(b)(1), (3), Jan. 28, 2008, 122 Stat. 329, 330, effective Jan. 1, 2008.

## §987. Terms of consumer credit extended to members and dependents: limitations

(a) INTEREST.—A creditor who extends consumer credit to a covered member of the armed forces or a dependent of such a member shall not require the member or dependent to pay interest with respect to the extension of such credit, except as—

(1) agreed to under the terms of the credit agreement or promissory note;

(2) authorized by applicable State or Federal law; and

(3) not specifically prohibited by this section.

(b) ANNUAL PERCENTAGE RATE.—A creditor described in subsection (a) may not impose an annual percentage rate of interest greater than 36 percent with respect to the consumer credit extended to a covered member or a dependent of a covered member.

(c) MANDATORY LOAN DISCLOSURES.—

(1) INFORMATION REQUIRED.—With respect to any extension of consumer credit (including any consumer credit originated or extended through the internet) to a covered member or a dependent of a covered member, a creditor shall provide to the member or dependent the following information orally and in writing before the issuance of the credit:

(A) A statement of the annual percentage rate of interest applicable to the extension of credit.

(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(C) A clear description of the payment obligations of the member or dependent, as applicable.

(2) TERMS.—Such disclosures shall be presented in accordance with terms prescribed by the

regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(d) PREEMPTION.—

(1) INCONSISTENT LAWS.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such law, rule, or regulation is inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides protection to a covered member or a dependent of such a member in addition to the protection provided by this section.

(2) DIFFERENT TREATMENT UNDER STATE LAW OF MEMBERS AND DEPENDENTS PROHIBITED.—States shall not—

(A) authorize creditors to charge covered members and their dependents annual percentage rates of interest for any consumer credit or loans higher than the legal limit for residents of the State; or

(B) permit violation or waiver of any State consumer lending protections covering consumer credit for the benefit of residents of the State on the basis of nonresident or military status of a covered member or dependent of such a member, regardless of the member's or dependent's domicile or permanent home of record.

(e) LIMITATIONS.—It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which—

(1) the creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the borrower by the same creditor with the proceeds of other credit extended to the same covered member or a dependent;

(2) the borrower is required to waive the borrower's right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.);

(3) the creditor requires the borrower to submit to arbitration or imposes onerous legal notice provisions in the case of a dispute;

(4) the creditor demands unreasonable notice from the borrower as a condition for legal action;

(5) the creditor uses a check or other method of access to a deposit, savings, or other financial account maintained by the borrower, or the title of a vehicle as security for the obligation;

(6) the creditor requires as a condition for the extension of credit that the borrower establish an allotment to repay an obligation; or

(7) the borrower is prohibited from prepaying the loan or is charged a penalty or fee for prepaying all or part of the loan.

(f) PENALTIES AND REMEDIES.—

(1) MISDEMEANOR.—A creditor who knowingly violates this section shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(3) CONTRACT VOID.—Any credit agreement, promissory note, or other contract prohibited under this section is void from the inception of such contract.

(4) ARBITRATION.—Notwithstanding section 2 of title 9, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member, or any person who was a covered member or dependent of that member when the agreement was made.

(5) CIVIL LIABILITY.—

(A) IN GENERAL.—A person who violates this section with respect to any person is civilly liable to such person for—

(i) any actual damage sustained as a result, but not less than $500 for each violation;
(ii) appropriate punitive damages;
(iii) appropriate equitable or declaratory relief; and
(iv) any other relief provided by law.

(B) COSTS OF THE ACTION.—In any successful action to enforce the civil liability described in subparagraph (A), the person who violated this section is also liable for the costs of the action, together with reasonable attorney fees as determined by the court.

(C) EFFECT OF FINDING OF BAD FAITH AND HARASSMENT.—In any successful action by a defendant under this section, if the court finds the action was brought in bad faith and for the purpose of harassment, the plaintiff is liable for the attorney fees of the defendant as determined by the court to be reasonable in relation to the work expended and costs incurred.

(D) DEFENSES.—A person may not be held liable for civil liability under this paragraph if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(E) JURISDICTION, VENUE, AND STATUTE OF LIMITATIONS.—An action for civil liability under this paragraph may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

(i) two years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

(ii) five years after the date on which the violation that is the basis for such liability occurs.

(6) ADMINISTRATIVE ENFORCEMENT.—The provisions of this section (other than paragraph (1) of this subsection) shall be enforced by the agencies specified in section 108 of the Truth in Lending Act (15 U.S.C. 1607) in the manner set forth in that section or under any other applicable authorities available to such agencies by law.

(g) SERVICEMEMBERS CIVIL RELIEF ACT PROTECTIONS UNAFFECTED.—Nothing in this section may be construed to limit or otherwise affect the applicability of section 207 of the Servicemembers Civil Relief Act (50 U.S.C. 3937).

(h) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section.

(2) Such regulations shall establish the following:

(A) Disclosures required of any creditor that extends consumer credit to a covered member or dependent of such a member.

(B) The method for calculating the applicable annual percentage rate of interest on such obligations, in accordance with the limit established under this section.

(C) A maximum allowable amount of all fees, and the types of fees, associated with any such extension of credit, to be expressed and disclosed to the borrower as a total amount and as a percentage of the principal amount of the obligation, at the time at which the transaction is entered into.

(D) Definitions of "creditor" under paragraph (5) and "consumer credit" under paragraph (6) of subsection (i), consistent with the provisions of this section.

(E) Such other criteria or limitations as the Secretary of Defense determines appropriate, consistent with the provisions of this section.

(3) In prescribing regulations under this subsection, and not less often than once every two years thereafter, the Secretary of Defense shall consult with the following:

(A) The Federal Trade Commission.

(B) The Board of Governors of the Federal Reserve System.
(C) The Office of the Comptroller of the Currency.
(D) The Federal Deposit Insurance Corporation.
(E) The Bureau of Consumer Financial Protection.
(F) The National Credit Union Administration.
(G) The Treasury Department.

(i) DEFINITIONS.—In this section:

(1) COVERED MEMBER.—The term "covered member" means a member of the armed forces who is—

(A) on active duty under a call or order that does not specify a period of 30 days or less; or
(B) on active Guard and Reserve Duty.

(2) DEPENDENT.—The term "dependent", with respect to a covered member, means a person described in subparagraph (A), (D), (E), or (I) of section 1072(2) of this title.

(3) INTEREST.—The term "interest" includes all cost elements associated with the extension of credit, including fees, service charges, renewal charges, credit insurance premiums, any ancillary product sold with any extension of credit to a servicemember or the servicemember's dependent, as applicable, and any other charge or premium with respect to the extension of consumer credit.

(4) ANNUAL PERCENTAGE RATE.—The term "annual percentage rate" has the same meaning as in section 107 of the Truth and Lending Act (15 U.S.C. 1606), as implemented by regulations of the Board of Governors of the Federal Reserve System. For purposes of this section, such term includes all fees and charges, including charges and fees for single premium credit insurance and other ancillary products sold in connection with the credit transaction, and such fees and charges shall be included in the calculation of the annual percentage rate.

(5) CREDITOR.—The term "creditor" means a person—

(A) who—

(i) is engaged in the business of extending consumer credit; and
(ii) meets such additional criteria as are specified for such purpose in regulations prescribed under this section; or

(B) who is an assignee of a person described in subparagraph (A) with respect to any consumer credit extended.

(6) CONSUMER CREDIT.—The term "consumer credit" has the meaning provided for such term in regulations prescribed under this section, except that such term does not include (A) a residential mortgage, or (B) a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured.

(Added Pub. L. 109–364, div. A, title VI, §670(a), Oct. 17, 2006, 120 Stat. 2266; amended Pub. L. 112–239, div. A, title VI, §§661(a), (b), 662(a), (b), 663, Jan. 2, 2013, 126 Stat. 1785, 1786; Pub. L. 114–328, div. A, title X, §1081(b)(2)(A), Dec. 23, 2016, 130 Stat. 2418.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (c)(1)(B), (2), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Servicemembers Civil Relief Act, referred to in subsec. (e)(2), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which is classified generally to chapter 50 (§3901 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 3901 of Title 50 and Tables.

## AMENDMENTS

**2016**—Subsec. (e)(2). Pub. L. 114–328, §1081(b)(2)(A)(i), inserted "(50 U.S.C. 3901 et seq.)" before semicolon at end.

Subsec. (g). Pub. L. 114–328, §1081(b)(2)(A)(ii), substituted "(50 U.S.C. 3937)" for "(50 U.S.C. App. 527)".

**2013**—Subsec. (d)(2)(A). Pub. L. 112–239, §661(a)(1), inserted "any consumer credit or" before "loans".

Subsec. (d)(2)(B). Pub. L. 112–239, §661(a)(2), inserted "covering consumer credit" after "State consumer lending protections".

Subsec. (f)(5), (6). Pub. L. 112–239, §662(a), (b), added pars. (5) and (6).

Subsec. (h)(3). Pub. L. 112–239, §661(b)(1), inserted "and not less often than once every two years thereafter," after "under this subsection," in introductory provisions.

Subsec. (h)(3)(E). Pub. L. 112–239, §661(b)(2), added subpar. (E) and struck out former subpar. (E) which read as follows: "The Office of Thrift Supervision."

Subsec. (i)(2). Pub. L. 112–239, §663, amended par. (2) generally. Prior to amendment, par. (2) defined the term "dependent".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VI, §661(c), Jan. 2, 2013, 126 Stat. 1785, provided that:

"(1) MODIFICATION OF REGULATIONS.—The Secretary of Defense shall modify the regulations prescribed under subsection (h) of section 987 of title 10, United States Code, to take into account the amendments made by subsection (a) [amending this section].

"(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on—

"(A) the date that is one year after the date of the enactment of this Act [Jan. 2, 2013]; or

"(B) such earlier date as the Secretary shall specify in the modification of regulations required by paragraph (1).

"(3) PUBLICATION OF EARLIER DATE.—If the Secretary specifies an earlier effective date for the amendments made by subsection (a) pursuant to paragraph (2)(B), the Secretary shall publish notice of such earlier effective date in the Federal Register not later than 90 days before such earlier effective date."

Pub. L. 112–239, div. A, title VI, §662(c), Jan. 2, 2013, 126 Stat. 1786, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to consumer credit extended on or after the date of the enactment of this Act [Jan. 2, 2013]."

### EFFECTIVE DATE

Pub. L. 109–364, div. A, title VI, §670(c), Oct. 17, 2006, 120 Stat. 2269, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), section 987 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2007, or on such earlier date as may be prescribed by the Secretary of Defense, and shall apply with respect to extensions of consumer credit on or after such effective date.

"(2) AUTHORITY TO PRESCRIBE REGULATIONS.—Subsection (h) of such section shall take effect on the date of the enactment of this Act [Oct. 17, 2006].

"(3) PUBLICATION OF EARLIER EFFECTIVE DATE.—If the Secretary of Defense prescribes an effective date for section 987 of title 10, United States Code, as added by subsection (a), earlier than October 1, 2007, the Secretary shall publish that date in the Federal Register. Such publication shall be made not less than 90 days before that earlier effective date."

### MEETINGS WITH PRIVATE SECTOR USERS OF SYSTEMS

Pub. L. 114–92, div. A, title V, §594(b)(3), Nov. 25, 2015, 129 Stat. 834, provided that: "The Director of the Defense Manpower Data Center shall meet regularly with private sector users of Defense Manpower Data Center systems used to identify covered borrowers and covered policyholders under military consumer protection laws to learn about issues facing such users and to develop ways of addressing such issues. The first meeting pursuant to this requirement shall take place with [within] three months after the date of the enactment of this Act [Nov. 25, 2015]."

### INTERIM REGULATIONS

Pub. L. 109–364, div. A, title VI, §670(d), Oct. 17, 2006, 120 Stat. 2269, provided for the prescription of interim regulations to carry out this section, with interim rules not superseded by final rules expiring no later

than 270 days after the effective date of this section (see Effective Date note above).

## §988. Prohibition on ownership or trading of stocks in certain companies by certain officials of the Department of Defense

(a) PROHIBITION.—Except as provided in subsection (b), a covered official of the Department of Defense may not own or purchase publicly traded stock of a company if that company is one of the 10 entities awarded the most amount of contract funds by the Department of Defense in a fiscal year during the five preceding fiscal years.

(b) EXCEPTIONS.—This section shall not apply to the purchase or ownership of a publicly traded stock of a company otherwise described in subsection (a) as follows:

(1) If the aggregate market value of the holdings of the covered official, and the spouse and minor children of the covered official, in the stock of that company, both before and after purchase (in the case of a purchase), does not exceed the de minimis threshold established in section 2640.202(a)(2) of title 5, Code of Federal Regulations.

(2) If the stock is purchased and owned as part of an Excepted Investment Fund or mutual fund.

(c) DEFINITIONS.—In this section:

(1) The term "covered official of the Department of Defense" means any of the following:

(A) A civilian appointed to a position in the Department of Defense by the President, by and with the advice and consent of the Senate.

(B) If serving in a key acquisition position (as designated by the Secretary of Defense or the Secretary concerned for purposes of this section), the following:

(i) A member of the armed forces in a grade above O–6.

(ii) A civilian officer or employee in a Senior Executive Service, Senior-Level, or Scientific or Professional position.

(2) The term "Excepted Investment Fund" means a widely-held investment fund described in section 102(f)(8) of the Ethics in Government Act of 1978 (5 U.S.C. App.).[1]

(Added Pub. L. 116–92, div. A, title IX, §921(a), Dec. 20, 2019, 133 Stat. 1560.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 102(f)(8) of the Ethics in Government Act of 1978, referred to in subsec. (c)(2), is section 102(f)(8) of Pub. L. 95–521, which was set out in the Appendix to Title 5, Government Organization and Employees, and was repealed and restated as section 13104(f)(8) of Title 5 by Pub. L. 117–286, §§3(c), (7), Dec. 27, 2022, 136 Stat. 4284, 4361.

[1] *See References in Text note below.*

## §989. Prohibition on former members of the armed forces accepting post-service employment with certain foreign governments

(a) IN GENERAL.—Except as provided by subsection (b), a covered individual may not occupy a covered post-service position.

(b) TEMPORARY WAIVER.—

(1) IN GENERAL.—The Secretary of Defense shall establish a process under which a covered individual may be granted a temporary waiver of the prohibition under subsection (a) if—

(A) the individual, or a Federal agency on behalf of, and with the consent of, the individual, submits to the Secretary a written application for a waiver in such form and manner as the

Secretary determines appropriate; and

(B) the Secretary determines that the waiver is necessary to advance the national security interests of the United States.

(2) PERIOD OF WAIVER.—A waiver issued under paragraph (1) shall apply for a period not exceeding 5 years. The Secretary may renew such a waiver.

(3) REVOCATION.—The Secretary may revoke a waiver issued under paragraph (1) to a covered individual with respect to a covered-post service position if the Secretary determines that the employment of the individual in the covered-post service position poses a threat to national security.

(4) NOTIFICATION.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary issues a waiver under paragraph (1) or revokes a waiver under paragraph (3), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives written notification of the waiver or revocation, as the case may be.

(B) ELEMENTS.—A notification required by subparagraph (A) shall include the following:

(i) With respect to a waiver issued to a covered individual—

(I) the details of the application, including the position held by the individual in the armed forces;

(II) the nature of the post-service position of the individual;

(III) a description of the national security interests that will be advanced by reason of issuing such a waiver; and

(IV) the specific reasons why the Secretary determines that issuing the waiver will advance such interests.

(ii) With respect to a revocation of a waiver issued to a covered individual—

(I) the details of the waiver, including any renewals of the waiver, and the dates of such waiver and renewals; and

(II) the specific reasons why the Secretary determined that the revocation is warranted.

(c) CERTIFICATION OF PROHIBITION.—In implementing the prohibition under subsection (a), the Secretary shall establish a process under which each member of the armed forces is, before the member retires or is otherwise separated from the armed forces—

(1) informed in writing of the prohibition, and the penalties for violations of the prohibition; and

(2) required to certify that the member understands the prohibition and those penalties.

(d) PENALTIES.—In the case of a covered individual who knowingly and willfully fails to comply with the prohibition under subsection (a), the Secretary may, as applicable—

(1) withhold any pay, allowances, or benefits that would otherwise be provided to the individual by the Department of Defense; and

(2) revoke any security clearance of the individual.

(e) ANNUAL REPORTS.—

(1) REQUIREMENT.—Not later than March 31, 2024, and annually thereafter, the Secretary shall submit to the congressional defense committees a report on covered post-service employment occurring during the year covered by the report.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

(A) The number of former covered individuals who occupy a covered post-service position, broken down by—

(i) the name of the employer;

(ii) the foreign government, including by the specific foreign individual, agency, or entity, for whom the covered post-service employment is being performed; and

(iii) the nature of the services provided as part of the covered post-service employment.

(B) An assessment by the Secretary of whether—

(i) the Department of Defense maintains adequate systems and processes for ensuring that former members of the armed forces are submitting required reports relating to their employment by foreign governments;

(ii) all covered individuals who occupy a covered post-service position are in compliance with this section;

(iii) the services provided by the covered individuals who occupy a covered post-service position pose a current or future threat to the national security of the United States; and

(iv) there is any credible information or reporting that any covered individual who occupies a covered post-service position has engaged in activities that violate Federal law.

(3) FORM OF REPORT.—Each report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(f) NOTIFICATIONS OF DETERMINATIONS OF CERTAIN THREATS.—

(1) REQUIREMENT.—In addition to the annual reports under subsection (d), if the Secretary determines that the services provided by a covered individual who occupies a covered post-service position pose a threat described in clause (iii) of paragraph (2)(B) of that subsection, or include activities described in clause (iv) of such paragraph, the Secretary shall notify the congressional defense committees of that determination by not later than 30 days after making the determination.

(2) ELEMENTS.—A notification required by paragraph (1) shall include the following:

(A) The name of the covered individual.

(B) The name of the employer.

(C) The foreign government, including the specific foreign individual, agency, or entity, for whom the covered post-service employment is being performed.

(D) As applicable, a description of the risk to national security and the activities that may violate Federal law.

(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to indemnify or shield covered individuals from prosecution under any relevant provision of title 18.

(h) DEFINITIONS.—In this section:

(1) COVERED INDIVIDUAL.—The term "covered individual" means an individual who has retired or otherwise separated from an active or reserve component of the Armed Forces.

(2) COVERED POST-SERVICE EMPLOYMENT.—The term "covered post-service employment" means direct or indirect employment by, representation of, or any provision of advice or services relating to national security, intelligence, the military, or internal security to—

(A) the government of—

(i) a country of concern (as defined in section 1(m) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(m))); or

(ii) a country the Secretary of Defense determines acts as a proxy or passthrough for services for a country of concern; or

(B) any company, entity, or other person the activities of which are directly or indirectly supervised, directed, controlled, financed, or subsidized, in whole or in major part, by a government described in subparagraph (A).

(3) COVERED POST-SERVICE POSITION.—The term "covered post-service position" means a position of employment described in paragraph (2).

(Added Pub. L. 118–31, div. A, title V, §523(a), Dec. 22, 2023, 137 Stat. 250.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**COUNTERINTELLIGENCE BRIEFINGS FOR MEMBERS OF THE ARMED FORCES**

Pub. L. 119–60, div. F, title LXV, §6511, Dec. 18, 2025, 139 Stat. 1629, provided that:

"(a) DEFINITIONS.—In this section:

"(1) COVERED INDIVIDUAL.—The term 'covered individual' has the meaning given such term in section 989(h) of title 10, United States Code.

"(2) GOVERNMENT OF CONCERN; COMPANY OF CONCERN.—The terms 'government of concern' and 'company of concern' mean, respectively, a government described in subparagraph (A) of section 989(h)(2) of title 10, United States Code, and a company, entity, or other person described in subparagraph (B) of such section.

"(b) IN GENERAL.—The Under Secretary of Defense for Intelligence and Security shall issue appropriate policy to require the military departments to conduct counterintelligence briefings for members of the Armed Forces as part of the process required by section 989(c) of title 10, United States Code.

"(c) ELEMENTS.—Each briefing provided under subsection (b) shall provide members of the Armed Forces with—

"(1) awareness of methods commonly used by governments and companies of concern to solicit and learn from covered individuals sensitive military techniques, tactics, and procedures of the Armed Forces;

"(2) recommended practices for covered individuals to avoid an activity that could subject such individuals to civil or criminal penalties;

"(3) the contact information for the counterintelligence authorities to whom covered individuals should report attempted recruitment or a related suspicious contact; and

"(4) an overview of the prohibition and penalties under subsections (a) and (c) of section 989 of title 10, United States Code.

"(d) PROVISION OF BRIEFINGS AT CERTAIN TRAININGS.—The Under Secretary may mandate the briefings required by subsection (b) during the trainings required by Department of Defense Directive 5240.06 (relating to counterintelligence awareness and reporting), or successor document."

# CHAPTER 50—MISCELLANEOUS COMMAND RESPONSIBILITIES

Sec.

991. Management of deployments of members and measurement and data collection of unit operating and personnel tempo.

992. Financial literacy training: financial services.

993. Notification of permanent reduction of sizable numbers of members of the armed forces.

994. Military working dogs: veterinary care for retired military working dogs.

995. Accountability for contractors using military working dogs.

996. Individual Longitudinal Exposure Record.

997. Establishment of women's initiative teams.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title V, §§521(a), 522(a), Dec. 18, 2025, 139 Stat. 863, 864, added items 996 and 997. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title III, §382(a), Dec. 23, 2022, 136 Stat. 2543, added item 995.

**2015**—Pub. L. 114–92, div. A, title VI, §661(e)(2), Nov. 25, 2015, 129 Stat. 858, substituted "Financial literacy training: financial services" for "Consumer education: financial services" in item 992.

**2013**—Pub. L. 112–239, div. A, title III, §371(b)(2), Jan. 2, 2013, 126 Stat. 1706, added item 994.

**2011**—Pub. L. 112–81, div. A, title V, §522(d)(2), div. B, title XXVIII, §2864(b), Dec. 31, 2011, 125 Stat. 1401, 1702, substituted "Management of deployments of members and measurement and data collection of unit operating and personnel tempo" for "Management of deployments of members" in item 991 and added item 993.

**2006**—Pub. L. 109–163, div. A, title V, §578(a)(2), Jan. 6, 2006, 119 Stat. 3276, added item 992.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS TO PROHIBIT ABANDONMENT**

Pub. L. 117–263, div. A, title III, §382(e), Dec. 23, 2022, 136 Stat. 2543, provided that: "Not later than two years after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue regulations to prohibit the abandonment of military working dogs used in support of a military operation outside of the continental United States."

**MINIMUM STANDARDS FOR MILITARY WORKING DOG KENNELS AND FACILITIES**

Pub. L. 119–60, div. A, title III, §378, Dec. 18, 2025, 139 Stat. 842, provided that:

"(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in consultation with the Secretary of each military department, veterinary experts, and military working dog program managers, shall establish minimum standards for kennels and other facilities used to house military working dogs. Such minimum standards shall include each of the following:

"(1) Requirements for space and design to ensure each military working dog has sufficient space to stand, turn around, lie down comfortably, and engage in natural behaviors.

"(2) Standards for environmental conditions to ensure adequate ventilation, temperature control, and protection from extreme weather conditions.

"(3) Standards for sanitation and hygiene to ensure kennels and other facilities can be easily cleaned and disinfected.

"(4) Requirements related to safety and security to prevent military working dogs from escaping and being injured and preventing access to kennels and other facilities by unauthorized individuals.

"(5) Standards for access to veterinary care to address the routine and emergency medical care needs of military working dogs, either at a military veterinary treatment facility or through sufficient on-site veterinary capabilities.

"(6) Requirements related to daily access to exercise areas.

"(7) Required annual inspections to ensure compliance with such standards.

"(8) Such other standards and requirements as the Secretary of Defense determines are appropriate.

"(b) IMPLEMENTATION AND COMPLIANCE.—

"(1) EXISTING FACILITIES.—

"(A) ASSESSMENT.—Not later than one year after the date of the establishment of the standards required under subsection (a), the Secretary of Defense, acting through the Executive Agent for the Department of Defense Military Working Dog Program, shall ensure that each kennel and other facility used to house military working dogs under the jurisdiction of the Department of Defense is assessed to determine the extent to which such kennel or facility is in compliance with such standards.

"(B) MODIFICATION.—Not later than three years after the date of the enactment of this Act, the Secretary, acting through the Executive Agent, shall ensure that each such kennel and facility is modified to the extent required to comply with such standards.

"(2) NEW FACILITIES.—The Secretary, acting through the Executive Agent, shall ensure that any kennel or other facility used to house military working dogs under the jurisdiction of the Department that is constructed or renovated after the date of the enactment of this Act is in compliance with such standards before such kennel or facility is used to house such a military working dog.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive a specific requirement or standard developed under subsection (a), on a case-by-case basis, if the Secretary determines that such a waiver is required to provide for a temporary deployment or due to exigent circumstances. The Secretary may not issue a waiver under this subsection unless the Secretary—

"(1) provides for the implementation of alternative measures to ensure the welfare of any dogs affected by the waiver; and

"(2) submits to the Committees on Armed Services of the Senate and House of Representatives a report containing notice of the waiver, a justification for such waiver, and a description of the alternative measures provided under paragraph (1)."

## §991. Management of deployments of members and measurement and data collection of unit operating and personnel tempo

(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has

been deployed—

(A) out of the preceding 365 days would exceed the one-year high-deployment threshold; or

(B) out of the preceding 730 days would exceed the two-year high-deployment threshold.

(2) In this subsection:

(A) The term "one-year high-deployment threshold" means—

(i) 220 days; or

(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

(B) The term "two-year high-deployment threshold" means—

(i) 400 days; or

(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

(3) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if the deployment, or continued deployment, is approved by the Secretary of Defense. The authority of the Secretary under the preceding sentence may only be delegated to a civilian officer of the Department of Defense appointed by the President, by and with the advice and consent of the Senate.

(4) The Secretary of Defense shall prescribe a policy that addresses each of the following:

(A) The amount of dwell time a regular member of the armed forces or unit remains at the member's or unit's permanent duty station or home port, as the case may be, between deployments.

(B) The amount of dwell time a reserve member of the armed forces remains at the member's permanent duty station after completing a deployment of 30 days or more in length.

(b) DEPLOYMENT DEFINED.—(1) For the purposes of this section, a member of the armed forces shall be considered to be deployed or in a deployment on any day on which, pursuant to orders, the member is performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station or homeport, as the case may be.

(2) In the case of a member of a reserve component who is performing active service pursuant to orders that do not establish a permanent change of station, the housing referred to in paragraph (1) is any housing (which may include the member's residence) that the member usually occupies for use during off-duty time when on garrison duty at the member's permanent duty station or homeport, as the case may be.

(3) For the purposes of this section, a member is not deployed or in a deployment when the member is—

(A) performing service as a student or trainee at a school (including any Government school);

(B) performing administrative, guard, or detail duties in garrison at the member's permanent duty station; or

(C) unavailable solely because of—

(i) a hospitalization of the member at the member's permanent duty station or homeport or in the immediate vicinity of the member's permanent residence; or

(ii) a disciplinary action taken against the member.

(4) The Secretary of Defense may prescribe a definition of deployment for the purposes of this section other than the definition specified in paragraphs (1) and (2). Any such definition may not take effect until 90 days after the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the revised standard definition of deployment.

(c) RECORDKEEPING.—(1) The Secretary of Defense shall—

(A) establish a system for tracking and recording the number of days that each member of the

armed forces is deployed;

(B) prescribe policies and procedures for measuring operating tempo and personnel tempo; and

(C) maintain a central data collection repository to provide information for research, actuarial analysis, interagency reporting, and evaluation of Department of Defense programs and policies.

(2) The data collection repository shall be able to identify—

(A) the active and reserve component units of the armed forces that are participating at the battalion, squadron, or an equivalent level (or a higher level) in contingency operations, major training events, and other exercises and contingencies of such a scale that the exercises and contingencies receive an official designation; and

(B) the duration of their participation.

(3) For each of the armed forces, the data collection repository shall be able to indicate, for a fiscal year—

(A) the number of members who received the high-deployment allowance under section 436 of title 37 (or who would have been eligible to receive the allowance if the duty assignment was not excluded by the Secretary of Defense);

(B) the number of members who received each rate of allowance paid (estimated in the case of members described in the parenthetical phrase in subparagraph (A));

(C) the number of months each member received the allowance (or would have received it in the case of members described in the parenthetical phrase in subparagraph (A)); and

(D) the total amount expended on the allowance.

(4) For each of the armed forces, the data collection repository shall be able to indicate, for a fiscal year, the number of days that high demand, low density units (as defined by the Chairman of the Joint Chiefs of Staff) were deployed, and whether these units met the force goals for limiting deployments, as described in the personnel tempo policies applicable to that armed force.

(d) NATIONAL SECURITY WAIVER AUTHORITY.—(1) The Secretary of the military department concerned may suspend the applicability of this section to a member or any group of members under the Secretary's jurisdiction when the Secretary determines that such a waiver is necessary in the national security interests of the United States.

(2)(A) Whenever a waiver is in effect under paragraph (1), the member or group of members covered by the waiver shall be subject to specific and measurable deployment thresholds established and maintained for purposes of this subsection.

(B) Thresholds under this paragraph may be applicable—

(i) uniformly, Department of Defense-wide; or

(ii) separately, with respect to each armed force or the United States Special Operations Command.

(C) If thresholds under this paragraph are applicable Department-wide, such thresholds shall be established and maintained by the Under Secretary of Defense for Personnel and Readiness. If such thresholds are applicable only to one armed force or the Under States Special Operations Command, such thresholds shall be established and maintained respectively by the Secretary of the Army, the Secretary of the Navy (other than with respect to the Marine Corps), the Secretary of the Air Force, the Commandant of the Marine Corps (with respect to the Marine Corps), and the Commander of the United States Special Operations Command, as applicable.

(D) In undertaking recordkeeping for purposes of subsection (c), the Under Secretary shall, in conjunction with the officials and officers referred to in subparagraph (C), collect complete and reliable personnel tempo data of members described in subparagraph (A) in order to ensure that the Department, the armed forces, and the United States Special Operations Command fully and completely monitor personnel tempo under any waiver authorized under paragraph (1) and the effect of such waiver on the armed forces.

(e) INAPPLICABILITY TO COAST GUARD.—This section does not apply to a member of the

Coast Guard when the Coast Guard is not operating as a service in the Navy.

(f) OTHER DEFINITIONS.—In this section:

(1)(A) Subject to subparagraph (B), the term "dwell time" means the time a member of the armed forces or a unit spends at the permanent duty station or home port after returning from a deployment.

(B) The Secretary of Defense may modify the definition of dwell time specified in subparagraph (A). If the Secretary establishes a different definition of such term, the Secretary shall transmit the new definition to Congress.

(2) The term "operating tempo" means the rate at which units of the armed forces are involved in all military activities, including contingency operations, exercises, and training deployments.

(3) The term "personnel tempo" means the amount of time members of the armed forces are engaged in their official duties at a location or under circumstances that make it infeasible for a member to spend off-duty time in the housing in which the member resides.

(Added Pub. L. 106–65, div. A, title V, §586(a), Oct. 5, 1999, 113 Stat. 637; amended Pub. L. 106–398, §1 [[div. A], title V, §574(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136, 1654A–137; Pub. L. 107–107, div. A, title V, §515(a), Dec. 28, 2001, 115 Stat. 1093; Pub. L. 108–136, div. A, title V, §541(a), Nov. 24, 2003, 117 Stat. 1475; Pub. L. 112–81, div. A, title V, §522(a)–(d)(1), Dec. 31, 2011, 125 Stat. 1399–1401; Pub. L. 116–92, div. A, title V, §§506, 507(a), Dec. 20, 2019, 133 Stat. 1345; Pub. L. 116–283, div. A, title X, §1081(a)(21), Jan. 1, 2021, 134 Stat. 3871.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(4)(A). Pub. L. 116–283 struck out period after "The amount".

**2019**—Subsec. (a)(3). Pub. L. 116–92, §506(a), substituted "be delegated to a civilian officer of the Department of Defense appointed by the President, by and with the advice and consent of the Senate." for "be delegated to—

"(A) a civilian officer of the Department of Defense appointed by the President, by and with the advise and consent of the Senate, or a member of the Senior Executive Service; or

"(B) a general or flag officer in that member's chain of command (including an officer in the grade of colonel, or in the case of the Navy, captain, serving in a general or flag officer position who has been selected for promotion to the grade of brigadier general or rear admiral (lower half) in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President)."

Subsec. (a)(4). Pub. L. 116–92, §506(b), substituted "addresses each of the following:" for "addresses the amount", inserted "(A) The amount." before "of dwell time", and "regular" before "member", and added subpar. (B).

Subsec. (d). Pub. L. 116–92, §507(a), designated existing provisions as par. (1) and added par. (2).

**2011**—Pub. L. 112–81, §522(d)(1), substituted "Management of deployments of members and measurement and data collection of unit operating and personnel tempo" for "Management of deployments of members" in section catchline.

Subsec. (a)(4). Pub. L. 112–81, §522(a), added par. (4).

Subsec. (c). Pub. L. 112–81, §522(b), amended subsec. (c) generally. Prior to amendment, text read as follows: "The Secretary of each military department shall establish a system for tracking and recording the number of days that each member of the armed forces under the jurisdiction of the Secretary is deployed."

Subsec. (f). Pub. L. 112–81, §522(c), added subsec. (f).

**2003**—Subsec. (a). Pub. L. 108–136 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) The deployment (or potential deployment) of a member of the armed forces shall be managed, during any period when the member is a high-deployment days member, by the officer in the chain of command of that member who is the lowest-ranking general or flag officer in that chain of command. That officer shall ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed out of the preceding 365 days would exceed 220. However, the member may be deployed, or continued in a deployment, without regard to the preceding sentence if such deployment, or continued deployment, is approved—

"(A) in the case of a member who is assigned to a combatant command in a position under the

operational control of the officer in that combatant command who is the service component commander for the members of that member's armed force in that combatant command, by that officer; and

"(B) in the case of a member not assigned as described in subparagraph (A), by the service chief of that member's armed force (or, if so designated by that service chief, by an officer of the same armed force on active duty who is in the grade of general or admiral or who is the personnel chief for that armed force).

"(2) In this section, the term 'high-deployment days member' means a member who has been deployed 182 days or more out of the preceding 365 days.

"(3) In paragraph (1)(B), the term 'service chief' means the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps."

**2001**—Subsec. (b)(2). Pub. L. 107–107 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(2) In the case of a member of a reserve component performing active service, the member shall be considered deployed or in a deployment for the purposes of paragraph (1) on any day on which, pursuant to orders that do not establish a permanent change of station, the member is performing the active service at a location that—

"(A) is not the member's permanent training site; and

"(B) is—

"(i) at least 100 miles from the member's permanent residence; or

"(ii) a lesser distance from the member's permanent residence that, under the circumstances applicable to the member's travel, is a distance that requires at least three hours of travel to traverse."

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title V, §574(a)(1)], substituted ". However, the member may be deployed, or continued in a deployment, without regard to the preceding sentence if such deployment, or continued deployment, is approved—" and subpars. (A) and (B) for "unless an officer in the grade of general or admiral in the member's chain of command approves the deployment, or continued deployment, of the member."

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title V, §574(a)(2)], added par. (3).

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title V, §574(b)(1)], inserted "or homeport, as the case may be" before period at end.

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title V, §574(b)(3)], added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 106–398, §1 [[div. A], title V, §574(b)(2)], redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(C). Pub. L. 106–398, §1 [[div. A], title V, §574(b)(4)], added subpar. (C).

Subsec. (b)(4). Pub. L. 106–398, §1 [[div. A], title V, §574(b)(2)], redesignated par. (3) as (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §515(b), Dec. 28, 2001, 115 Stat. 1094, provided that: "The amendment made by this section [amending this section] shall apply with respect to duty performed on or after October 1, 2001."

### EFFECTIVE DATE

Pub. L. 106–65, div. A, title V, §586(d)(1), Oct. 5, 1999, 113 Stat. 639, provided that: "Section 991 of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2000. No day on which a member of the Armed Forces is deployed (as defined in subsection (b) of that section) before that date may be counted in determining the number of days on which a member has been deployed for purposes of that section."

### REGULATIONS

Pub. L. 106–65, div. A, title V, §586(e), Oct. 5, 1999, 113 Stat. 639, provided that: "Not later than June 1, 2000, the Secretary of each military department shall prescribe in regulations the policies and procedures for implementing such provisions of law for that military department."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and

the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**TREATMENT OF OPERATIONAL DATA FROM AFGHANISTAN**

Pub. L. 117–81, div. A, title X, §1088, Dec. 27, 2021, 135 Stat. 1924, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) an immense amount of operational data and intelligence has been developed over the past two decades of war in Afghanistan; and

"(2) this information is valuable and must be appropriately retained.

"(b) OPERATIONAL DATA.—The Secretary of Defense shall—

"(1) archive and standardize operational data from Afghanistan across the myriad of defense information systems; and

"(2) ensure the Afghanistan operational data is structured, searchable, and usable across the joint force.

"(c) BRIEFING.—Not later than March 4, 2022, the Under Secretary of Defense for Intelligence and Security shall provide to the Committee on Armed Services of the House of Representatives a briefing on how the Department of Defense has removed, retained, and assured long-term access to operational data from Afghanistan across each military department and command. Such briefing shall address the manner in which the Department of Defense—

"(1) is standardizing and archiving intelligence and operational data from Afghanistan across the myriad of defense information systems; and

"(2) ensuring access to such data across the joint force."

**DEADLINE FOR IMPLEMENTATION OF SUBSECTION (D)(2)**

Pub. L. 116–92, div. A, title V, §507(b), Dec. 20, 2019, 133 Stat. 1346, provided that: "Paragraph (2) of section 991(d) of title 10, United States Code, as added by subsection (a), shall be fully implemented by not later than March 1, 2020."

**FAMILY CARE PLANS AND DEFERMENT OF DEPLOYMENT OF SINGLE PARENT OR DUAL MILITARY COUPLES WITH MINOR DEPENDENTS**

Pub. L. 110–181, div. A, title V, §586, Jan. 28, 2008, 122 Stat. 132, as amended by Pub. L. 114–328, div. A, title VI, §618(a), Dec. 23, 2016, 130 Stat. 2160, provided that: "The Secretary of Defense shall establish appropriate procedures to ensure that an adequate family care plan is in place for a member of the Armed Forces with minor dependents who is a single parent or whose spouse is also a member of the Armed Forces when the member may be deployed in an area for which imminent danger pay is authorized under section 310 or 351 of title 37, United States Code. Such procedures should allow the member to request a deferment of deployment due to unforeseen circumstances, and the request for such a deferment should be considered and responded to promptly."

**POLICY ON CONCURRENT DEPLOYMENT TO COMBAT ZONES OF BOTH MILITARY SPOUSES OF MILITARY FAMILIES WITH MINOR CHILDREN**

Pub. L. 108–136, div. A, title V, §585, Nov. 24, 2003, 117 Stat. 1492, provided that:

"(a) PUBLICATION OF POLICY.—Not later than 180 days after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall—

"(1) prescribe the policy of the Department of Defense on concurrent deployment to a combat zone of both spouses of a dual-military family with one or more minor children; and

"(2) transmit the policy to the Committees on Armed Services of the Senate and the House of Representatives.

"(b) DUAL-MILITARY FAMILY DEFINED.—In this section, the term 'dual-military family' means a family in which both spouses are members of the Armed Forces."

**REVIEW OF MANAGEMENT OF DEPLOYMENTS OF INDIVIDUAL MEMBERS**

Pub. L. 106–398, §1 [[div. A], title V, §574(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138, as amended by Pub. L. 107–107, div. A, title V, §592(b), Dec. 28, 2001, 115 Stat. 1125, directed the Secretary of Defense to submit to committees of Congress a report on the administration of this section during fiscal year 2001 not later than Mar. 31, 2002.

## §992. Financial literacy training: financial services

(a) REQUIREMENT FOR FINANCIAL LITERACY TRAINING PROGRAM FOR MEMBERS .—(1) The Secretary concerned shall carry out a program to provide comprehensive financial literacy training to members of the armed forces under the jurisdiction of the Secretary on—

(A) financial services that are available under law to members;

(B) financial services that are routinely offered by private sector sources to members;

(C) practices relating to the marketing of private sector financial services to members;

(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

(E) such other financial practices as the Secretary considers appropriate.

(2) Training under this subsection shall be provided to a member of the armed forces—

(A) as a component of the initial entry training of the member;

(B) upon arrival at the first duty station of the member;

(C) upon arrival at each subsequent duty station, in the case of a member in pay grade E–6 or below or in pay grade O–3 or below;

(D) when the member vests in the Thrift Savings Plan (TSP) under section 8432(g)(2)(C) of title 5;

(E) when the member becomes entitled to receive continuation pay under section 356 of title 37, at which time the training shall include, at a minimum, information on options available to the member regarding the use of continuation pay;

(F) at each major life event during the service of the member, such as—

(i) marriage;

(ii) divorce;

(iii) birth of first child; or

(iv) disabling sickness or condition;

(G) during leadership training;

(H) during pre-deployment training and during post-deployment training;

(I) at transition points in the service of the member, such as—

(i) transition from a regular component to a reserve component;

(ii) separation from service; or

(iii) retirement; and

(J) as a component of periodically recurring required training that is provided to the member at a military installation.

(3) The training provided at a military installation under paragraph (2)(J) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

(4) The Secretary concerned shall prescribe regulations setting forth any other events and circumstances (in addition to the events and circumstances described in paragraph (2)) upon which the training required by this subsection shall be provided.

(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

(i) shall provide counseling on financial services under this subsection through a full-time financial services counselor at such installation;

(ii) shall provide such counseling at such installation—

(I) through members of the armed forces in pay grade E–7 or above, or civilians, who provide such counseling as part of their other duties for the armed forces or the Department of Defense;

(II) by contract, including contract for services by telephone and by the Internet; or

(III) through qualified representatives of nonprofit organizations and agencies under formal agreements with the Department of Defense to provide such counseling; and

(iii) may not provide financial services through any individual unless such individual agrees to submit financial disclosures annually to the Secretary.

(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation in accordance with the requirements established under subparagraph (A)(ii) and (iii).

(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

(4)(A) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

(B) In carrying out the requirements of subparagraph (A), the Secretary concerned shall establish a requirement that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), submit financial disclosures annually to the Secretary.

(C) The Secretary concerned shall review all financial disclosures submitted pursuant to subparagraph (B) to ensure the counselor, or the individual providing counseling, is free from conflict as required under this paragraph.

(D) If the Secretary concerned determines that a financial services counselor under paragraph (2)(A)(i), or any other individual providing counseling on financial services under paragraph (2), is not free from conflict as required under this paragraph, the Secretary shall ensure that the counselor, or the individual providing counseling, does not provide such services until such time as the Secretary determines that such conflict is resolved.

(c) LIFE INSURANCE.—In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

(d) PROVISION OF RETIREMENT INFORMATION.—In each training under subsection (a) and in each meeting to provide counseling under subsection (b), a member of the armed forces shall be provided with—

(1) all forms relating to retirement that are relevant to the member, including with respect to the Thrift Savings Plan; and

(2) information with respect to how to find additional information.

(e) FINANCIAL LITERACY AND PREPAREDNESS SURVEY.—(1) The Director of the Defense Manpower Data Center shall annually include in the status of forces survey a survey of the status of the financial literacy and preparedness of members of the armed forces.

(2) The results of the annual financial literacy and preparedness survey—

(A) shall be used by each of the Secretaries concerned as a benchmark to evaluate and update training provided under this section; and

(B) shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

(f) FINANCIAL SERVICES DEFINED.—In this section, the term "financial services" includes the following:

(1) Life insurance, casualty insurance, and other insurance.

(2) Investments in securities or financial instruments.

(3) Banking, credit, loans, deferred payment plans, and mortgages.

(4) Health insurance, budget management, Thrift Savings Plan (TSP), retirement lump sum payments (including rollover options and tax consequences), and Survivor Benefit Plan (SBP).

(Added Pub. L. 109–163, div. A, title V, §578(a)(1), Jan. 6, 2006, 119 Stat. 3274; amended Pub. L. 111–84, div. A, title X, §1073(a)(8), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 114–92, div. A, title VI, §661(b)–(e)(1), Nov. 25, 2015, 129 Stat. 857, 858; Pub. L. 118–31, div. A, title V, §524(a), Dec. 22, 2023, 137 Stat. 253; Pub. L. 118–159, div. A, title V, §541, Dec. 23, 2024, 138 Stat. 1891.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(2)(C). Pub. L. 118–159, §541(a)(1), substituted "grade E–6" for "grade E–4".

Subsec. (a)(2)(D). Pub. L. 118–159, §541(a)(2), (3), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: "on the date of promotion of the member, in the case of a member in pay grade E–5 or below or in pay grade O–4 or below;".

Subsec. (a)(2)(E) to (J). Pub. L. 118–159, §541(a)(3), redesignated subpars. (F) to (K) as (E) to (J), respectively. Former subpar. (E) redesignated (D).

Subsecs. (d) to (f). Pub. L. 118–159, §541(b), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2023**—Subsec. (b)(2)(A)(i). Pub. L. 118–31, §524(a)(1)(A), struck out "and" after "installation;".

Subsec. (b)(2)(A)(ii). Pub. L. 118–31, §524(a)(1)(B)(i), (ii), in introductory provisions, substituted "shall" for "may" and "installation—" for "installation by any means elected by the Secretary from among the following:".

Subsec. (b)(2)(A)(ii)(I). Pub. L. 118–31, §524(a)(1)(B)(iii), substituted "through" for "Through" and "Defense;" for "Defense."

Subsec. (b)(2)(A)(ii)(II). Pub. L. 118–31, §524(a)(1)(B)(iv), substituted "by contract" for "By contract" and "Internet; or" for "Internet."

Subsec. (b)(2)(A)(ii)(III). Pub. L. 118–31, §524(a)(1)(B)(v), substituted "through" for "Through" and "counseling; and" for "counseling."

Subsec. (b)(2)(A)(iii). Pub. L. 118–31, §524(a)(1)(C), added cl. (iii).

Subsec. (b)(2)(B). Pub. L. 118–31, §524(a)(2), substituted "installation in accordance with the requirements established under subparagraph (A)(ii) and (iii)." for "installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned."

Subsec. (b)(4). Pub. L. 118–31, §524(a)(3), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

**2015**—Pub. L. 114–92, §661(e)(1), substituted "Financial literacy training: financial services" for "Consumer education: financial services" in section catchline.

Subsec. (a). Pub. L. 114–92, §661(b)(1), substituted "Financial Literacy Training" for "Consumer Education" in heading.

Subsec. (a)(1). Pub. L. 114–92, §661(b)(2), substituted "financial literacy training" for "education" in introductory provisions.

Subsec. (a)(2). Pub. L. 114–92, §661(b)(3), added par. (2) and struck out former par. (2) which read as follows: "Training under this subsection shall be provided to members as—

"(A) a component of members initial entry orientation training; and

"(B) a component of periodically recurring required training that is provided for the members at military installations."

Subsec. (a)(3). Pub. L. 114–92, §661(b)(4), substituted "paragraph (2)(J)" for "paragraph (2)(B)".

Subsec. (a)(4). Pub. L. 114–92, §661(b)(5), added par. (4).

Subsec. (d). Pub. L. 114–92, §661(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114–92, §661(c)(1), redesignated subsec. (d) as (e).
Subsec. (e)(4). Pub. L. 114–92, §661(d), added par. (4).
**2009**—Subsec. (b)(4). Pub. L. 111–84 struck out period after "under this section".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §578(b), Jan. 6, 2006, 119 Stat. 3276, provided that: "The amendments made by this section [enacting this section] shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act [Jan. 6, 2006]."

### INCLUSION OF INFORMATION ON FREE CREDIT MONITORING IN ANNUAL FINANCIAL LITERACY BRIEFING

Pub. L. 116–92, div. A, title V, §560A, Dec. 20, 2019, 133 Stat. 1393, provided that: "The Secretary of each military department shall ensure that the annual financial literacy education briefing provided to members of the Armed Forces includes information on the availability of free credit monitoring services pursuant to section 605A(k) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(k))."

### IMPLEMENTATIONS

Pub. L. 114–92, div. A, title VI, §661(f), Nov. 25, 2015, 129 Stat. 859, provided that: "Not later than six months after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of the military department concerned and the Secretary of the Department in which the Coast Guard is operating shall commence providing financial literacy training under section 992 of title 10, United States Code, as amended by subsections (b), (c), and (d) of this section, to members of the Armed Forces."

### COUNSELING ON MORTGAGE FORECLOSURES FOR MEMBERS OF THE ARMED FORCES RETURNING FROM SERVICE ABROAD

Pub. L. 110–289, div. B, title II, §2202, July 30, 2008, 122 Stat. 2849, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall develop and implement a program to advise members of the Armed Forces (including members of the National Guard and Reserve) who are returning from service on active duty abroad (including service in Operation Iraqi Freedom and Operation Enduring Freedom) on actions to be taken by such members to prevent or forestall mortgage foreclosures.

"(b) ELEMENTS.—The program required by subsection (a) shall include the following:

"(1) Credit counseling.

"(2) Home mortgage counseling.

"(3) Such other counseling and information as the Secretary considers appropriate for purposes of the program.

"(c) TIMING OF PROVISION OF COUNSELING.—Counseling and other information under the program required by subsection (a) shall be provided to a member of the Armed Forces covered by the program as soon as practicable after the return of the member from service as described in subsection (a)."

### MILITARY PERSONNEL FINANCIAL SERVICES PROTECTION

Pub. L. 109–290, Sept. 29, 2006, 120 Stat. 1317, provided that:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Military Personnel Financial Services Protection Act'.

"(b) TABLE OF CONTENTS.—[Omitted]

"SEC. 2. CONGRESSIONAL FINDINGS.

"Congress finds that—

"(1) members of the Armed Forces perform great sacrifices in protecting our Nation in the War on Terror;

"(2) the brave men and women in uniform deserve to be offered first-rate financial products in order to provide for their families and to save and invest for retirement;

"(3) members of the Armed Forces are being offered high-cost securities and life insurance products by some financial services companies engaging in abusive and misleading sales practices;

"(4) one securities product offered to service members, known as the 'mutual fund contractual plan', largely disappeared from the civilian market in the 1980s, due to excessive sales charges;

"(5) with respect to a mutual fund contractual plan, a 50 percent sales commission is assessed against

the first year of contributions, despite an average commission on other securities products of less than 6 percent on each sale;

"(6) excessive sales charges allow abusive and misleading sales practices in connection with mutual fund contractual plan;

"(7) certain life insurance products being offered to members of the Armed Forces are improperly marketed as investment products, providing minimal death benefits in exchange for excessive premiums that are front-loaded in the first few years, making them entirely inappropriate for most military personnel; and

"(8) the need for regulation of the marketing and sale of securities and life insurance products on military bases necessitates Congressional action.

"SEC. 3. DEFINITIONS.

"For purposes of this Act, the following definitions shall apply:

"(1) LIFE INSURANCE PRODUCT.—

"(A) IN GENERAL.—The term 'life insurance product' means any product, including individual and group life insurance, funding agreements, and annuities, that provides insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of insurance.

"(B) INCLUDED INSURANCE.—The term 'life insurance product' includes the granting of—

"(i) endowment benefits;

"(ii) additional benefits in the event of death by accident or accidental means;

"(iii) disability income benefits;

"(iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, or special benefit in the event of total and permanent disability;

"(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related facility;

"(vi) burial insurance; and

"(vii) optional modes of settlement or proceeds of life insurance.

"(C) EXCLUSIONS.—Such term does not include workers compensation insurance, medical indemnity health insurance, or property and casualty insurance.

"(2) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners (or any successor thereto).

"SEC. 4. PROHIBITION ON FUTURE SALES OF PERIODIC PAYMENT PLANS.

"(a) AMENDMENT.—[Amended section 80a–27 of Title 15, Commerce and Trade.]

"(b) TECHNICAL AMENDMENT.—[Amended section 80a–27 of Title 15.]

"(c) REPORT ON REFUNDS, SALES PRACTICES, AND REVENUES FROM PERIODIC PAYMENT PLANS.—Not later than 6 months after the date of enactment of this Act [Sept. 29, 2006], the Securities and Exchange Commission shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing—

"(1) any measures taken by a broker or dealer registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) to voluntarily refund payments made by military service members on any periodic payment plan certificate, and the amounts of such refunds;

"(2) after such consultation with the Secretary of Defense, as the Commission considers appropriate, the sales practices of such brokers or dealers on military installations over the 5 years preceding the date of submission of the report and any legislative or regulatory recommendations to improve such practices; and

"(3) the revenues generated by such brokers or dealers in the sales of periodic payment plan certificates over the 5 years preceding the date of submission of the report, and the products marketed by such brokers or dealers to replace the revenue generated from the sales of periodic payment plan certificates prohibited under subsection (a).

"SEC. 5. REQUIRED DISCLOSURES REGARDING OFFERS OR SALES OF SECURITIES ON MILITARY INSTALLATIONS.

[Amended section 78o–3 of Title 15.]

"SEC. 6. METHOD OF MAINTAINING BROKER AND DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.

[Amended section 78o–3 of Title 15.]

"SEC. 7. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.

"(a) INVESTMENT ADVISERS.—[Amended section 80b–4 of Title 15.]

"(b) CONFORMING AMENDMENTS.—

"(1) INVESTMENT ADVISERS ACT OF 1940.—[Amended section 80b–3a of Title 15.]

"(2) NATIONAL SECURITIES MARKETS IMPROVEMENT ACT OF 1996.—[Repealed provisions set out as a note under section 80b–10 of Title 15.]

"SEC. 8. STATE INSURANCE AND SECURITIES JURISDICTION ON MILITARY INSTALLATIONS.

"(a) CLARIFICATION OF JURISDICTION.—Any provision of law, regulation, or order of a State with respect to regulating the business of insurance or securities shall apply to insurance or securities activities conducted on Federal land or facilities in the United States and abroad, including military installations, except to the extent that such law, regulation, or order—

"(1) directly conflicts with any applicable Federal law, regulation, or authorized directive; or

"(2) would not apply if such activity were conducted on State land.

"(b) PRIMARY STATE JURISDICTION.—To the extent that multiple State laws would otherwise apply pursuant to subsection (a) to an insurance or securities activity of an individual or entity on Federal land or facilities, the State having the primary duty to regulate such activity and the laws of which shall apply to such activity in the case of a conflict shall be—

"(1) the State within which the Federal land or facility is located; or

"(2) if the Federal land or facility is located outside of the United States, the State in which—

"(A) in the case of an individual engaged in the business of insurance, such individual has been issued a resident license;

"(B) in the case of an entity engaged in the business of insurance, such entity is domiciled;

"(C) in the case of an individual engaged in the offer or sale (or both) of securities, such individual is registered or required to be registered to do business or the person solicited by such individual resides; or

"(D) in the case of an entity engaged in the offer or sale (or both) of securities, such entity is registered or is required to be registered to do business or the person solicited by such entity resides.

"SEC. 9. REQUIRED DEVELOPMENT OF MILITARY PERSONNEL PROTECTION STANDARDS REGARDING INSURANCE SALES; ADMINISTRATIVE COORDINATION.

"(a) STATE STANDARDS.—Congress intends that—

"(1) the States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States (including installations located outside of the United States); and

"(2) each State identify its role in promoting the standards described in paragraph (1) in a uniform manner, not later than 12 months after the date of enactment of this Act [Sept. 29, 2006].

"(b) STATE REPORT.—It is the sense of Congress that the NAIC should, after consultation with the Secretary of Defense and, not later than 12 months after the date of enactment of this Act, conduct a study to determine the extent to which the States have met the requirement of subsection (a), and report the results of such study to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(c) ADMINISTRATIVE COORDINATION; SENSE OF CONGRESS.—It is the sense of the Congress that senior representatives of the Secretary of Defense, the Securities and Exchange Commission, and the NAIC should meet not less frequently than twice a year to coordinate their activities to implement this Act and monitor the enforcement of relevant regulations relating to the sale of financial products on military installations of the United States.

"SEC. 10. REQUIRED DISCLOSURES REGARDING LIFE INSURANCE PRODUCTS.

"(a) REQUIREMENT.—Except as provided in subsection (e), no person may sell, or offer for sale, any life insurance product to any member of the Armed Forces or a dependent thereof on a military installation of the United States, unless a disclosure in accordance with this section is provided to such member or dependent at the time of the sale or offer.

"(b) DISCLOSURE.—A disclosure in accordance with this section is a written disclosure that—

"(1) states that subsidized life insurance is available to the member of the Armed Forces from the Federal Government under the Servicemembers' Group Life Insurance program (also referred to as 'SGLI'), under subchapter III of chapter 19 of title 38, United States Code;

"(2) states the amount of insurance coverage available under the SGLI program, together with the costs

to the member of the Armed Forces for such coverage;

"(3) states that the life insurance product that is the subject of the disclosure is not offered or provided by the Federal Government, and that the Federal Government has in no way sanctioned, recommended, or encouraged the sale of the life insurance product being offered;

"(4) fully discloses any terms and circumstances under which amounts accumulated in a savings fund or savings feature under the life insurance product that is the subject of the disclosure may be diverted to pay, or reduced to offset, premiums due for continuation of coverage under such product;

"(5) states that no person has received any referral fee or incentive compensation in connection with the offer or sale of the life insurance product, unless such person is a licensed agent of the person engaged in the business of insurance that is issuing such product;

"(6) is made in plain and readily understandable language and in a type font at least as large as the font used for the majority of the solicitation material used with respect to or relating to the life insurance product; and

"(7) with respect to a sale or solicitation on Federal land or facilities located outside of the United States, lists the address and phone number at which consumer complaints are received by the State insurance commissioner for the State having the primary jurisdiction and duty to regulate the sale of such life insurance products pursuant to section 8.

"(c) VOIDABILITY.—The sale of a life insurance product in violation of this section shall be voidable from its inception, at the sole option of the member of the Armed Forces, or dependent thereof, as applicable, to whom the product was sold.

"(d) ENFORCEMENT.—If it is determined by a Federal or State agency, or in a final court proceeding, that any person has intentionally violated, or willfully disregarded the provisions of, this section, in addition to any other penalty under applicable Federal or State law, such person shall be prohibited from further engaging in the business of insurance with respect to employees of the Federal Government on Federal land, except—

"(1) with respect to existing policies; and

"(2) to the extent required by the Federal Government pursuant to previous commitments.

"(e) EXCEPTIONS.—This section shall not apply to any life insurance product specifically contracted by or through the Federal Government.

"SEC. 11. IMPROVING LIFE INSURANCE PRODUCT STANDARDS.

"(a) IN GENERAL.—It is the sense of Congress that the NAIC should, after consultation with the Secretary of Defense, and not later than 6 months after the date of enactment of this Act [Sept. 29, 2006], conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on—

"(1) ways of improving the quality of and sale of life insurance products sold on military installations of the United States, which may include—

"(A) limiting such sales authority to persons that are certified as meeting appropriate best practices procedures; and

"(B) creating standards for products specifically designed to meet the particular needs of members of the Armed Forces, regardless of the sales location; and

"(2) the extent to which life insurance products marketed to members of the Armed Forces comply with otherwise applicable provisions of State law.

"(b) CONDITIONAL GAO REPORT.—If the NAIC does not submit the report as described in subsection (a), the Comptroller General of the United States shall—

"(1) study any proposals that have been made to improve the quality of and sale of life insurance products sold on military installations of the United States; and

"(2) not later than 6 months after the expiration of the period referred to in subsection (a), submit a report on such proposals to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

"SEC. 12. REQUIRED REPORTING OF DISCIPLINARY ACTIONS.

"(a) REPORTING BY INSURERS.—Beginning 1 year after the date of enactment of this Act [Sept. 29, 2006], no insurer may enter into or renew a contractual relationship with any other person that sells or solicits the sale of any life insurance product on any military installation of the United States, unless the insurer has implemented a system to report to the State insurance commissioner of the State of domicile of the insurer and the State of residence of that other person—

"(1) any disciplinary action taken by any Federal or State government entity with respect to sales or solicitations of life insurance products on a military installation that the insurer knows, or in the exercise of due diligence should have known, to have been taken; and

"(2) any significant disciplinary action taken by the insurer with respect to sales or solicitations of life insurance products on a military installation of the United States.

"(b) REPORTING BY STATES.—It is the sense of Congress that, not later than 1 year after the date of enactment of this Act, the States should collectively implement a system to—

"(1) receive reports of disciplinary actions taken against persons that sell or solicit the sale of any life insurance product on any military installation of the United States by insurers or Federal or State government entities with respect to such sales or solicitations; and

"(2) disseminate such information to all other States and to the Secretary of Defense.

"(c) DEFINITION.—As used in this section, the term 'insurer' means a person engaged in the business of insurance.

"SEC. 13. REPORTING BARRED PERSONS SELLING INSURANCE OR SECURITIES.

"(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a list of the name, address, and other appropriate information relating to persons engaged in the business of securities or insurance that have been barred or otherwise limited in any manner that is not generally applicable to all such type of persons, from any or all military installations of the United States, or that have engaged in any transaction that is prohibited by this Act.

"(b) NOTICE AND ACCESS.—The Secretary of Defense shall ensure that—

"(1) the appropriate Federal and State agencies responsible for securities and insurance regulation are promptly notified upon the inclusion in or removal from the list required by subsection (a) of a person under the jurisdiction of one or more of such agencies; and

"(2) the list is kept current and easily accessible—

"(A) for use by such agencies; and

"(B) for purposes of enforcing or considering any such bar or limitation by the appropriate Federal personnel, including commanders of military installations.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall issue regulations in accordance with this subsection to provide for the establishment and maintenance of the list required by this section, including appropriate due process considerations.

"(2) TIMING.—

"(A) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of enactment of this Act [Sept. 29, 2006], the Secretary of Defense shall prepare and submit to the appropriate Committees of Congress a copy of the regulations required by this subsection that are proposed to be published for comment. The Secretary may not publish such regulations for comment in the Federal Register until the expiration of the 15-day period beginning on the date of such submission to the appropriate Committees of Congress.

"(B) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall submit to the appropriate Committees of Congress a copy of the regulations under this section to be published in final form.

"(C) EFFECTIVE DATE.—Final regulations under this paragraph shall become effective 30 days after the date of their submission to the appropriate Committees of Congress under subparagraph (B).

"(d) DEFINITION.—For purposes of this section, the term 'appropriate Committees of Congress' means—

"(1) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives; and

"(2) the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

"SEC. 14. STUDY AND REPORTS BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.

"(a) STUDY.—The Inspector General of the Department of Defense shall conduct a study on the impact of Department of Defense Instruction 1344.07 (as in effect on the date of enactment of this Act [Sept. 29, 2006]) and the reforms included in this Act on the quality and suitability of sales of securities and insurance products marketed or otherwise offered to members of the Armed Forces.

"(b) REPORTS.—Not later than 12 months after the date of enactment of this Act, the Inspector General of the Department of Defense shall submit an initial report on the results of the study conducted under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and shall submit followup reports to those committees on December 31, 2008 and December 31, 2010."

**REQUIREMENT FOR REGULATIONS ON POLICIES AND PROCEDURES ON PERSONAL**

**COMMERCIAL SOLICITATIONS ON DEPARTMENT OF DEFENSE INSTALLATIONS**

Pub. L. 109–163, div. A, title V, §577(a), Jan. 6, 2006, 119 Stat. 3274, provided that: "As soon as practicable after the date of the enactment of this Act [Jan. 6, 2006], and not later than March 31, 2006, the Secretary of Defense shall prescribe regulations, or modify existing regulations, on the policies and procedures relating to personal commercial solicitations, including the sale of life insurance and securities, on Department of Defense installations."

## §993. Notification of permanent reduction of sizable numbers of members of the armed forces

(a) NOTIFICATION.—The Secretary of Defense or the Secretary of the military department concerned shall notify Congress under subsection (b) of a plan to reduce more than 1,000 members of the armed forces assigned at a military installation. In calculating the number of members to be reduced, the Secretary shall take into consideration both direct reductions and indirect reductions.

(b) NOTICE REQUIREMENTS.—No irrevocable action may be taken to effect or implement a reduction described under subsection (a) until—

(1) the Secretary of Defense or the Secretary of the military department concerned—

(A) submits to Congress a notice of the proposed reduction and the number of military and civilian personnel assignments affected, including reductions in base operations support services and personnel to occur because of the proposed reduction; and

(B) includes in the notice a justification for the reduction and an evaluation of the costs and benefits of the reduction and of the local economic, strategic, and operational consequences of the reduction; and

(2) a period of 90 days expires following the day on which the notice is submitted to Congress.

(c) EXCEPTIONS.—

(1) BASE CLOSURE PROCESS.—Subsections (a) and (b) do not apply in the case of the realignment of a military installation pursuant to a base closure law.

(2) NATIONAL SECURITY OR EMERGENCY.—Subsections (a) and (b) do not apply if the President certifies to Congress that the reduction in military personnel at a military installation must be implemented for reasons of national security or a military emergency.

(d) DEFINITIONS.—In this section:

(1) The term "indirect reduction" means subsequent planned reductions or relocations in base operations support services and personnel able to occur due to the direct reductions.

(2) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(Added Pub. L. 112–81, div. B, title XXVIII, §2864(a), Dec. 31, 2011, 125 Stat. 1702; amended Pub. L. 112–239, div. B, title XXVIII, §2851, Jan. 2, 2013, 126 Stat. 2159.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Subsec. (a). Pub. L. 112–239, §2851(a), inserted at end "In calculating the number of members to be reduced, the Secretary shall take into consideration both direct reductions and indirect reductions."

Subsec. (b)(1) to (3). Pub. L. 112–239, §2851(b), added pars. (1) and (2) and struck out former pars. (1) to (3), which read as follows:

"(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees

on Armed Services of the Senate and the House of Representatives of the proposed reduction and the number of personnel assignments affected;

"(2) submits a justification for the reduction and an evaluation of the local strategic and operational impact of such reduction; and

"(3) a period of 21 days has expired following submission of the notice and evaluation required under this subsection, or if sooner, a period of 14 days has expired following the date on which an electronic version of the notice and justification has been submitted to such committees."

Subsec. (d). Pub. L. 112–239, §2851(c), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SPECIAL OPERATIONS FORCE STRUCTURE

Pub. L. 118–31, div. A, title X, §1075, Dec. 22, 2023, 137 Stat. 410, provided that:

"(a) REPORT.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing an assessment of the optimal force structure for special operations forces. Such report shall include—

"(1) a description of the role of special operations forces in implementing the most recent national defense strategy under section 113(g) of title 10, United States Code;

"(2) a detailed accounting of the demand for special operations forces by the geographic combatant commands;

"(3) an assessment of current and projected capabilities and capacities of the general purpose forces of the United States Armed Forces, including forces that enable special operations, that could affect force structure capability and capacity requirements of special operations forces;

"(4) an assessment of the size, composition, and organizational structure of the special operations command headquarters of each of the Armed Forces and subordinate headquarters elements;

"(5) an assessment of the adequacy of special operations force structure for meeting the goals of the National Military Strategy under section 153(b) of title 10, United States Code;

"(6) a description of the role of special operations forces in supporting the Joint Concept for Competing; and

"(7) any other matters the Secretary of Defense determines relevant.

"(b) NOTIFICATION REQUIRED.—Except as provided in subsection (d), not later than 15 days before making any reduction in the number of special operations forces by more than 1,000 personnel and prior to implementing or announcing such reduction, the Secretary of Defense shall submit to the congressional defense committees written notification of the decision to make such reduction.

"(c) CONTENTS OF NOTIFICATION.—A notification required under subsection (b) shall include—

"(1) details of the planned changes to force structure and personnel requirements and a justification for the planned changes, including—

"(A) which units or occupational skills are planned to be reduced or reallocated; and

"(B) to which units or capabilities the force structure is planned to be transferred or reallocated;

"(2) an accounting of the personnel planned to be transferred under the force structure change, including which units such personnel are planned to be transferred to and from;

"(3) an analysis of the expected implications of the planned change on the ability of the Department of Defense to carry out operational and campaign plans of combatant commanders, support the Joint Concept for Competing, and meet the goals of the most recent national defense strategy under section 113(g) of title 10, United States Code; and

"(4) any other matters the Secretary of Defense determines relevant.

"(d) EXCEPTION.—The notification requirement under subsection (b) shall not apply with respect to a reduction in the number of special operations forces if the Secretary of Defense submits to the congressional defense committees certification that such reduction needs to be implemented expeditiously for reasons of military urgency.

"(e) DEFINITIONS.—In this section:

"(1) The term 'special operations forces' means the forces described in section 167(j) of title 10, United States Code.

"(2) The term 'force structure', when used with respect to an organization, means—

"(A) the mission of the organization;

"(B) the personnel required to operate the organization; and

"(C) the equipment required to execute the mission of the organization."

**NOTIFICATION OF NECESSARY ASSESSMENTS OR STUDIES**

Pub. L. 113–66, div. A, title X, §1074(b), Dec. 26, 2013, 127 Stat. 870, provided that: "The Secretary of the Army, when making a congressional notification in accordance with section 993 of title 10, United States Code, shall include the Secretary's assessment of whether or not the changes covered by the notification require an Environmental Assessment or Environmental Impact Statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and, if an assessment or study is required, the plan for conducting such assessment or study."

## §994. Military working dogs: veterinary care for retired military working dogs

(a) IN GENERAL.—The Secretary of Defense may establish and maintain a system to provide for the veterinary care of retired military working dogs. No funds may be provided by the Federal Government for this purpose.

(b) ELIGIBLE DOGS.—A retired military working dog eligible for veterinary care under this section is any military working dog adopted under section 2583 of this title.

(c) STANDARDS OF CARE.—The veterinary care provided under the system authorized by this section shall meet such standards as the Secretary shall establish and from time to time update.

(Added Pub. L. 112–239, div. A, title III, §371(b)(1), Jan. 2, 2013, 126 Stat. 1706.)

## §995. Accountability for contractors using military working dogs

(a) ANNUAL REPORTING REQUIREMENT FOR CONTRACTORS.—Each covered contract shall specify that the contractor is required to submit to the Under Secretary of Defense (Comptroller), on an annual basis for the duration of the covered contract, a report containing an identification of—

(1) the number of military working dogs that are in the possession of the covered contractor and located outside of the continental United States in support of a military operation, if any; and

(2) the primary location of any such military working dogs.

(b) COVERED CONTRACT DEFINED.—In this section the term "covered contract" means a contract that the Secretary of Defense determines involves military working dogs.

(Added Pub. L. 117–263, div. A, title III, §382(a), Dec. 23, 2022, 136 Stat. 2543.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 117–263, div. A, title III, §382(b), Dec. 23, 2022, 136 Stat. 2543, provided that: "Section 995 of title 10, United States Code, as added by subsection (a), shall apply with respect to a contract entered into on or after the date of the enactment of this Act [Dec. 23, 2022]."

**DEADLINE FOR GUIDANCE**

Pub. L. 117–263, div. A, title III, §382(d), Dec. 23, 2022, 136 Stat. 2543, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense (Comptroller) shall issue the guidance on the annual reporting requirement under section 995 of title 10, United States Code, as added by subsection (a)."

## §996. Individual Longitudinal Exposure Record

(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a data system that is a central web portal for exposure-related data that compiles, collates, presents, and provides available

occupational and environmental exposure information to support the needs of the Department of Defense and the Department of Veterans Affairs. Such data system shall be referred to as the "Individual Longitudinal Exposure Record".

(b) ELEMENTS.—The Individual Longitudinal Exposure Record includes the following elements:

(1) Service records of members of the armed forces.

(2) All data available to the Secretary regarding how, where, and when members of the armed forces have been exposed to various occupational or environmental hazards.

(3) Medical records of members relating to exposures described in paragraph (2), including diagnoses, treatment plans, and laboratory data.

(c) SERVICE RECORDS.—If a member is a member described in paragraph (2) of subsection (b), the Secretary shall include the data described in such paragraph in the service record of such member.

(d) DATA SHARING.—The Secretary shall provide access to information in the Individual Longitudinal Exposure Record to the following:

(1) The Secretary of Veterans Affairs.

(2) The Director of the Defense Health Agency, for use by health care providers, epidemiologists, and researchers of the Department of Defense.

(3) The Under Secretary for Health of the Department of Veterans Affairs, for use by health care providers, epidemiologists, and researchers of such department.

(4) The Under Secretary for Benefits of the Department of Veterans Affairs, for use by personnel of such department regarding compensation and benefits for service-connected disabilities or death.

(e) ANNUAL BRIEFING.—(1) The Secretary of Defense shall submit, to the committees specified in paragraph (2), an annual briefing regarding the Individual Longitudinal Exposure Record, including an explanation of how the Secretary intends to include in the Individual Longitudinal Exposure Record data described in subsection (b)(2) in cases where part or all of such data is classified.

(2) The committees specified in this paragraph are the following:

(A) The Committee on Armed Services of the Senate.

(B) The Committee on Armed Services of House of Representatives.

(C) The Committee on Veterans' Affairs of the Senate.

(D) The Committee on Veterans' Affairs of the House of Representatives.

(Added Pub. L. 119–60, div. A, title V, §521(a), Dec. 18, 2025, 139 Stat. 863.)

## §997. Establishment of women's initiative teams

(a) ESTABLISHMENT.—The Secretary concerned shall establish a women's initiative team in each of the Army, Navy, Air Force, Marine Corps, and Space Force to identify and address barriers, if any, to the service, recruitment, retention, and advancement of women in those armed forces.

(b) DUTIES.—Each women's initiative team established under subsection (a) shall—

(1) identify and address issues, if any, that hinder service by women in the armed force in which such team is established;

(2) support the recruitment and retention of women in such armed force;

(3) recommend policy changes that support the needs of women members of such armed force; and

(4) foster a sense of community.

(c) COMPOSITION.—Each women's initiative team established under subsection (a) shall be composed of members of the armed force in which such team is established of a variety of ranks,

backgrounds, and occupational specialities.

(d) COLLABORATION.—A women's initiative team established under subsection (a) shall work collaboratively with the leadership of the armed force in which such team is established and other stakeholders to carry out the duties described in subsection (b).

(Added Pub. L. 119–60, div. A, title V, §522(a), Dec. 18, 2025, 139 Stat. 864.)

# CHAPTER 51—RESERVE COMPONENTS: STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

Sec.
1001. Reference to chapter 1219.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, div. A, title XVI, §1662(h)(5), Oct. 5, 1994, 108 Stat. 2997, added item 1001 and struck out former items 1001 to 1007.

**1960**—Pub. L. 86–559, §1(3)(C), June 30, 1960, 74 Stat. 265, inserted "or serving as United States property and fiscal officers" in item 1007.

**1958**—Pub. L. 85–861, §1(23), Sept. 2, 1958, 72 Stat. 1445, added items 1002, 1005, 1006, and 1007.

## §1001. Reference to chapter 1219

Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).

(Added Pub. L. 103–337, div. A, title XVI, §1662(h)(5), Oct. 5, 1994, 108 Stat. 2997.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 1001 and 1002 were renumbered sections 12641 and 12642 of this title, respectively.

A prior section 1003, act Aug. 10, 1956, ch. 1041, 70A Stat. 79, related to age limitations for reserve officers, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(h)(3), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, eff. Dec. 1, 1994.

Prior sections 1004 to 1007 were renumbered sections 12644 to 12647 of this title, respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions.
1031. Administration of oath.
1032. Disability and death compensation: dependents of members held as captives.
1033. Participation in management of specified non-Federal entities: authorized activities.
1034. Protected communications; prohibition of retaliatory personnel actions.
1035. Deposits of savings.

[1036. Repealed.]
1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail.
1038. Service credit: certain service in Women's Army Auxiliary Corps.
1039. Crediting of minority service.
1040. Transportation of dependent patients.
1041. Replacement of certificate of discharge.
1042. Copy of certificate of service.
1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service.
1044. Legal assistance.
1044a. Authority to act as notary.
1044b. Military powers of attorney: requirement for recognition by States.
1044c. Advance medical directives of members and dependents: requirement for recognition by States.
1044d. Military testamentary instruments: requirement for recognition by States.
1044e. Special Victims' Counsel for victims of sex-related offenses.
1044f. Policies with respect to special trial counsel.
1045. Voluntary withholding of State income tax from retired or retainer pay.
1046. Overseas temporary foster care program.
1047. Allowance for civilian clothing.
1048. Gratuity payment to persons discharged for fraudulent enlistment.
1049. Subsistence: miscellaneous persons.
[1050 to 1051c. Repealed or Renumbered.]
1052. Adoption expenses: reimbursement.
1053. Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement.
[1053a. Repealed.]
1054. Defense of certain suits arising out of legal malpractice.
1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord.
1056. Relocation assistance programs.
1056a. Reintegration of recovered Department of Defense personnel; post-isolation support activities for other recovered personnel.
1057. Use of armed forces insignia on State license plates.
1058. Responsibilities of military law enforcement officials at scenes of domestic violence.
1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits; lodging expenses.
1060. Military service of retired members with newly democratic nations: consent of Congress.
1060a. Special supplemental food program.
1060b. Military ID cards: dependents and survivors of retirees.
1060c. Provision of veterinary services.

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title VII, §733(1), Dec. 23, 2024, 138 Stat. 1956, struck out "in emergencies" after "veterinary services" in item 1060c. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title VI, §632(1), Dec. 22, 2023, 137 Stat. 296, inserted "; lodging expenses" after "benefits" in item 1059. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §532(b), Dec. 27, 2021, 135 Stat. 1695, added item 1044f.

**2019**—Pub. L. 116–92, div. A, title VII, §735(b), Dec. 20, 2019, 133 Stat. 1463, added item 1060c.

**2016**—Pub. L. 114–328, div. A, title XII, §§1241(o)(4), 1243(b)(2), 1253(a)(2)(B), Dec. 23, 2016, 130 Stat.

2512, 2516, 2532, struck out items 1050 "Latin American cooperation: payment of personnel expenses", 1050a "African cooperation: payment of personnel expenses", 1051 "Multilateral, bilateral, or regional cooperation programs: payment of personnel expenses", 1051a "Liaison officers of certain foreign nations; administrative services and support; travel, subsistence, medical care, and other personal expenses", 1051b "Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance", and 1051c "Multilateral, bilateral, or regional cooperation programs: assignments to improve education and training in information security".

**2013**—Pub. L. 113–66, div. A, title VI, §621(a)(2)(B), (c)(2)(B), title XVII, §1716(a)(2), Dec. 26, 2013, 127 Stat. 783, 784, 969, added item 1044e and struck out items 1036 "Escorts for dependents of members: transportation and travel allowances" and 1053a "Expenses incurred in connection with leave canceled due to contingency operations: reimbursement".

**2011**—Pub. L. 112–81, div. A, title V, §588(b), title IX, §951(a)(2), Dec. 31, 2011, 125 Stat. 1437, 1549, added items 1051c and 1056a.

Pub. L. 111–383, div. A, title XII, §1204(b), Jan. 7, 2011, 124 Stat. 4387, added item 1050a.

**2008**—Pub. L. 110–417, [div. A], title XII, §1231(c)(2), Oct. 14, 2008, 122 Stat. 4637, added item 1051 and struck out former item 1051 "Bilateral or regional cooperation programs: payment of personnel expenses".

Pub. L. 110–181, div. A, title VI, §671(b)(2), title XII, §1203(e)(2), Jan. 28, 2008, 122 Stat. 184, 365, added items 1030 and 1051a and struck out former item 1051a "Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses".

**2006**—Pub. L. 109–364, div. A, title V, §598(b)(2), Oct. 17, 2006, 120 Stat. 2237, struck out "; issuance of permanent ID card after attaining 75 years of age" after "retirees" in item 1060b.

**2004**—Pub. L. 108–375, div. A, title V, §583(a)(2), Oct. 28, 2004, 118 Stat. 1929, added item 1060b.

**2003**—Pub. L. 108–136, div. A, title XII, §1222(b), Nov. 24, 2003, 117 Stat. 1652, added item 1051b.

**2002**—Pub. L. 107–314, div. A, title XII, §1201(a)(2), Dec. 2, 2002, 116 Stat. 2663, added item 1051a.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §§551(b), 579(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–125, 1654A–142, added items 1044d, 1052, 1053, and 1053a, and struck out former items 1052 "Reimbursement for adoption expenses" and 1053 "Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay".

**1997**—Pub. L. 105–85, div. A, title V, §593(a)(2), Nov. 18, 1997, 111 Stat. 1763, added item 1033.

**1996**—Pub. L. 104–106, div. A, title VII, §749(a)(2), Feb. 10, 1996, 110 Stat. 389, added item 1044c.

Pub. L. 104–106, div. A, title XV, §1504(a)(2), Feb. 10, 1996, 110 Stat. 513, made technical correction to Pub. L. 103–337, §531(g)(2). See 1994 Amendment note below.

**1994**—Pub. L. 103–337, div. A, title V, §531(g)(2), Oct. 5, 1994, 108 Stat. 2758, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(2), Feb. 10, 1996, 110 Stat. 513, substituted "Protected communications;" for "Communicating with a Member of Congress or Inspector General;" in item 1034.

Pub. L. 103–337, div. A, title V, §535(c)(2), title VI, §653(b), title X, §1070(a)(5)(B), (6)(B), title XVI, §1671(b)(9), Oct. 5, 1994, 108 Stat. 2763, 2795, 2855, 3013, struck out item 1033 "Compensation: Reserve on active duty accepting from any person", redesignated item 1058 "Dependents of members separated for dependent abuse: transitional compensation" as item 1059 and amended it generally, redesignated item 1058 "Military service of retired members with newly democratic nations: consent of Congress" as item 1060, and added item 1060a.

Pub. L. 103–337, div. A, title X, §1070(b)(4), Oct. 5, 1994, 108 Stat. 2856, made technical correction to Pub. L. 103–160, §554(a)(2). See 1993 Amendment note below.

**1993**—Pub. L. 103–160, div. A, title V, §§551(a)(2), 574(b), title XIV, §1433(b)(2), Nov. 30, 1993, 107 Stat. 1662, 1675, 1834, added item 1044b and items 1058 "Responsibilities of military law enforcement officials at scenes of domestic violence" and 1058 "Military service of retired members with newly democratic nations: consent of Congress".

Pub. L. 103–160, div. A, title V, §554(a)(2), Nov. 30, 1993, 107 Stat. 1666, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(4), Oct. 5, 1994, 108 Stat. 2856, added item 1058 "Dependents of members separated for dependent abuse: transitional compensation".

**1992**—Pub. L. 102–484, div. A, title VI, §651(b), title X, §1080(b), Oct. 23, 1992, 106 Stat. 2426, 2514, added items 1046 and 1057.

**1991**—Pub. L. 102–190, div. A, title VI, §651(a)(2), Dec. 5, 1991, 105 Stat. 1386, added item 1052.

Pub. L. 102–25, title VII, §701(e)(8)(B), Apr. 6, 1991, 105 Stat. 115, struck out "mandatory" after "error in" in item 1053.

**1990**—Pub. L. 101–510, div. A, title V, §§502(b)(2), 551(a)(2), title XIV, §1481(c)(2), Nov. 5, 1990, 104 Stat. 1557, 1566, 1705, added items 1044a and 1056 and struck out item 1046 "Preseparation counseling requirement".

**1989**—Pub. L. 101–189, div. A, title VI, §664(a)(3)(B), Nov. 29, 1989, 103 Stat. 1466, substituted "Reimbursement for financial institution charges incurred because of Government" for "Relief for expenses because of" in item 1053.

**1988**—Pub. L. 100–456, div. A, title VI, §621(a)(2), title VIII, §846(a)(2), Sept. 29, 1988, 102 Stat. 1983, 2030, substituted "Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions" for "Communicating with a Member of Congress" in item 1034 and added item 1055.

Pub. L. 100–370, §1(c)(2)(B), July 19, 1988, 102 Stat. 841, struck out item 1052 "Period for use of commissary stores; eligibility attributable to active duty for training".

**1987**—Pub. L. 100–26, §7(e)(1)(B), Apr. 21, 1987, 101 Stat. 281, added item 1032 and struck out second item 1051 "Disability and death compensation: dependents of members held as captives".

**1986**—Pub. L. 99–661, div. A, title VI, §§656(a)(2), 662(a)(2), title XIII, §§1322(b), 1356(a)(2), Nov. 14, 1986, 100 Stat. 3891, 3894, 3989, 3998, added item 1051 "Bilateral or regional cooperation programs: payment of personnel expenses" and items 1052 to 1054.

Pub. L. 99–399, title VIII, §806(b)(2), Aug. 27, 1986, 100 Stat. 886, added item 1051 "Disability and death compensation: dependents of members held as captives".

**1985**—Pub. L. 99–145, title XIII, §1303(a)(6), Nov. 8, 1985, 99 Stat. 739, substituted "Atmospheric" for "Atomospheric" in item 1043.

**1984**—Pub. L. 98–525, title VI, §§651(b), 654(b), title VII, §708(a)(2), title XIV, §§1401(d)(2), 1405(19)(B)(ii), Oct. 19, 1984, 98 Stat. 2549, 2552, 2572, 2616, 2623, added items 1044 to 1050 and substituted "Member" for "member" in item 1034.

**1983**—Pub. L. 98–94, title X, §1007(b)(2), Sept. 24, 1983, 97 Stat. 662, added item 1043.

**1982**—Pub. L. 97–258, §2(b)(2)(A), Sept. 13, 1982, 96 Stat. 1052, added item 1042.

**1980**—Pub. L. 96–513, title V, §511(33)(B), Dec. 12, 1980, 94 Stat. 2922, redesignated item 1040 as added by Pub. L. 90–285 as item 1041.

**1977**—Pub. L. 95–105, title V, §509(d)(2), Aug. 17, 1977, 91 Stat. 860, struck out item 1032 "Dual capacity: Reserve accepting employment with foreign government or concern".

**1968**—Pub. L. 90–235, §7(a)(2)(B), Jan. 2, 1968, 81 Stat. 763, added item 1040: "Replacement of certificate of discharge". Another item 1040: "Transportation of dependent patients", was added by Pub. L. 89–140, §1(2), Aug. 28, 1965, 79 Stat. 579.

**1966**—Pub. L. 89–538, §1(2), Aug. 14, 1966, 80 Stat. 347, substituted "Deposits of savings" for "Enlisted members' deposits" in item 1035.

**1965**—Pub. L. 89–140, §1(2), Aug. 28, 1965, 79 Stat. 579, added item 1040 "Transportation of dependent patients".

Pub. L. 89–132, §9(b), Aug. 21, 1965, 79 Stat. 548, added item 1040 "Free postage from combat zone" which was repealed by Pub. L. 89–315, §3(b), Nov. 1, 1965, 79 Stat. 1165.

**1961**—Pub. L. 87–165, §1(2), Aug. 25, 1961, 75 Stat. 401, added item 1039.

**1959**—Pub. L. 86–160, §1(2), Aug. 14, 1959, 73 Stat. 358, added item 1036.

Pub. L. 86–142, §1(2), Aug. 7, 1959, 73 Stat. 289, added item 1038.

**1958**—Pub. L. 85–861, §1(24)(B), Sept. 2, 1958, 72 Stat. 1445, added item 1037.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROMOTION OF TAX PREPARATION ASSISTANCE PROGRAMS

Pub. L. 118–159, div. A, title VI, §653, Dec. 23, 2024, 138 Stat. 1939, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that each member of a covered Armed Force receives, not later than March 1 of each year, via email or other electronic means, a notice regarding the MilTax program and other tax preparation assistance programs furnished by the Secretary.

"(b) REPORT.—Not later than six months after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding the rates of participation by members of the covered Armed Forces in the programs described in subsection (a).

"(c) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force."

### FLEXIBLE WORKPLACE PROGRAMS

Pub. L. 117–263, div. A, title XI, §1107, Dec. 23, 2022, 136 Stat. 2818, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall promulgate

guidance to the military departments to promote consistency in policies relating to flexible workplace programs. Such guidance shall address at a minimum the conditions under which an employee is allowed to perform all or a portion of assigned duties—

"(1) at a telecommuting center established pursuant to statute; or

"(2) through the use of flexible workplace services agreements."

## POLICY TO IMPROVE RESPONSES TO PREGNANCY AND CHILDBIRTH BY CERTAIN MEMBERS OF THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §555, Jan. 1, 2021, 134 Stat. 3636, provided that:

"(a) POLICY REQUIRED.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a policy to ensure that the career of a member of the Armed Forces is not unduly affected because the member is a covered member. The policy shall address the following:

"(1) Enforcement and implementation of the applicable requirements of the Pregnancy Discrimination Act (Public Law 95–555 [amending section 2000e of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 2000e of Title 42]; 42 U.S.C. 2000e(k)).

"(2) The need for individual determinations regarding the ability of members of the Armed Forces to serve during and after pregnancy.

"(3) Responses to the effects specific to covered members who reintegrate into home life after deployment.

"(4) Education and training on pregnancy discrimination to diminish stigma, stereotypes, and negative perceptions regarding covered members, including with regards to commitment to the Armed Forces and abilities.

"(5) Opportunities to maintain readiness when positions are unfilled due to pregnancy, medical conditions arising from pregnancy or childbirth, pregnancy convalescence, or parental leave.

"(6) Reasonable accommodations for covered members in general and specific accommodations based on career field or military occupational specialty.

"(7) Consideration of deferments at military educational institutions for covered members.

"(8) Extended assignments and performance reporting periods for covered members.

"(9) A mechanism by which covered members may report harassment or discrimination, including retaliation, relating to being a covered member.

"(b) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives—

"(1) a briefing summarizing the policy developed under this section; and

"(2) a copy of the policy.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered member' means a member of an Armed Force under the jurisdiction of the Secretary of a military department who—

"(A) is pregnant;

"(B) gives birth to a child; or

"(C) incurs a medical condition arising from pregnancy or childbirth.

"(2) The term 'military educational institution' means a postsecondary educational institution established within the Department of Defense."

## TRAINING ON CERTAIN DEPARTMENT OF DEFENSE INSTRUCTIONS FOR MEMBERS OF THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §556, Jan. 1, 2021, 134 Stat. 3637, provided that: "In accordance with Department of Defense Instruction 1300.17, dated September 1, 2020, and applicable law, the Secretary of Defense shall implement training on relevant Federal statutes, Department of Defense Instructions, and the regulations of each military department, including the responsibility of commanders to maintain good order and discipline."

## ACCESS TO WIRELESS HIGH-SPEED INTERNET AND NETWORK CONNECTIONS FOR CERTAIN MEMBERS OF THE ARMED FORCES

Pub. L. 114–328, div. A, title III, §347, Dec. 23, 2016, 130 Stat. 2086, provided that:

"(a) IN GENERAL.—In providing members of the Armed Forces with access to high-speed wireless Internet and network connections at military installations outside the United States, the Secretary of Defense may provide such access without charge to the members and their dependents.

"(b) CONTRACT AUTHORITY.—The Secretary may enter into contracts for the purpose of carrying out subsection (a)."

## PROTECTION OF RIGHTS OF CONSCIENCE OF MEMBERS OF THE ARMED FORCES AND CHAPLAINS OF SUCH MEMBERS

Pub. L. 112–239, div. A, title V, §533, Jan. 2, 2013, 126 Stat. 1727, as amended by Pub. L. 113–66, div. A, title V, §532(a), Dec. 26, 2013, 127 Stat. 759, provided that:

"(a) PROTECTION OF RIGHTS OF CONSCIENCE.—

"(1) ACCOMMODATION.—Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces shall accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

"(2) DISCIPLINARY OR ADMINISTRATIVE ACTION.—Nothing in paragraph (1) precludes disciplinary or administrative action for conduct that is proscribed by chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

"(b) PROTECTION OF CHAPLAIN DECISIONS RELATING TO CONSCIENCE, MORAL PRINCIPLES, OR RELIGIOUS BELIEFS.—No member of the Armed Forces may—

"(1) require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain; or

"(2) discriminate or take any adverse personnel action against a chaplain, including denial of promotion, schooling, training, or assignment, on the basis of the refusal by the chaplain to comply with a requirement prohibited by paragraph (1).

"(c) REGULATIONS.—The Secretary of Defense shall issue regulations implementing the protections afforded by this section."

[Pub. L. 113–66, div. A, title V, §532(b), Dec. 26, 2013, 127 Stat. 759, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall prescribe the implementing regulations required by subsection (c) of such section [section 533 of Pub. L. 112–239, set out above]. In prescribing such regulations, the Secretary shall consult with the official military faith-group representatives who endorse military chaplains."]

## FREEDOM OF CONSCIENCE OF MILITARY CHAPLAINS WITH RESPECT TO THE PERFORMANCE OF MARRIAGES

Pub. L. 112–81, div. A, title V, §544, Dec. 31, 2011, 125 Stat. 1412, provided that: "A military chaplain who, as a matter of conscience or moral principle, does not wish to perform a marriage may not be required to do so."

## PROHIBITION ON INFRINGING ON THE INDIVIDUAL RIGHT TO LAWFULLY ACQUIRE, POSSESS, OWN, CARRY, AND OTHERWISE USE PRIVATELY OWNED FIREARMS, AMMUNITION, AND OTHER WEAPONS

Pub. L. 111–383, div. A, title X, §1062, Jan. 7, 2011, 124 Stat. 4363, as amended by Pub. L. 112–239, div. A, title X, §1057, Jan. 2, 2013, 126 Stat. 1938, provided that:

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall not prohibit, issue any requirement relating to, or collect or record any information relating to the otherwise lawful acquisition, possession, ownership, carrying, or other use of a privately owned firearm, privately owned ammunition, or another privately owned weapon by a member of the Armed Forces or civilian employee of the Department of Defense on property that is not—

"(1) a military installation; or

"(2) any other property that is owned or operated by the Department of Defense.

"(b) EXISTING REGULATIONS AND RECORDS.—

"(1) REGULATIONS.—Any regulation promulgated before the date of enactment of this Act [Jan. 7, 2011] shall have no force or effect to the extent that it requires conduct prohibited by this section.

"(2) RECORDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall destroy any record containing information described in subsection (a) that was collected before the date of enactment of this Act.

"(c) RULE OF CONSTRUCTION.—Subsection (a) shall not be construed to limit the authority of the Secretary of Defense to—

"(1) create or maintain records relating to, or regulate the possession, carrying, or other use of a firearm, ammunition, or other weapon by a member of the Armed Forces or civilian employee of the

Department of Defense while—

"(A) engaged in official duties on behalf of the Department of Defense; or

"(B) wearing the uniform of an Armed Force;

"(2) create or maintain records relating to an investigation, prosecution, or adjudication of an alleged violation of law (including regulations not prohibited under subsection (a)), including matters related to whether a member of the Armed Forces constitutes a threat to the member or others; or

"(3) authorize a health professional that is a member of the Armed Forces or a civilian employee of the Department of Defense or a commanding officer to inquire if a member of the Armed Forces plans to acquire, or already possesses or owns, a privately-owned firearm, ammunition, or other weapon, if such health professional or such commanding officer has reasonable grounds to believe such member is at risk for suicide or causing harm to others.

"(d) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall—

"(1) conduct a comprehensive review of the privately owned weapons policy of the Department of Defense, including legal and policy issues regarding the regulation of privately owned firearms off of a military installation, as recommended by the Department of Defense Independent Review Related to Fort Hood; and

"(2) submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report regarding the findings of and recommendations relating to the review conducted under paragraph (1), including any recommendations for adjustments to the requirements under this section.

"(e) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' has the meaning given that term under section 2687(e)(1) [now 2687(g)(1)] of title 10, United States Code."

## DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT

Pub. L. 108–136, div. A, title III, §344, Nov. 24, 2003, 117 Stat. 1448, as amended by Pub. L. 108–375, div. A, title III, §341, Oct. 28, 2004, 118 Stat. 1857; Pub. L. 109–163, div. A, title III, §375, Jan. 6, 2006, 119 Stat. 3213; Pub. L. 109–364, div. A, title III, §355(a)–(c), Oct. 17, 2006, 120 Stat. 2162, 2163; Pub. L. 111–383, div. A, title X, §1075(g)(3), Jan. 7, 2011, 124 Stat. 4376, provided that:

"(a) PROVISION OF BENEFIT.—(1) The Secretary of Defense shall provide, wherever practicable, prepaid phone cards, packet based telephony service, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who (as determined by the Secretary) are eligible for combat zone tax exclusion benefits due to their service in direct support of a contingency operation to enable those members to make telephone calls without cost to the member.

"(2) As soon as possible after the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Oct. 17, 2006], the Secretary shall provide, wherever practicable, prepaid phone cards, packet based telephony service, or an equivalent telecommunications benefit which includes access to telephone service to members of the Armed Forces who, although are no longer directly supporting a contingency operation, are hospitalized as a result of wounds or other injuries incurred while serving in direct support of a contingency operation.

"(b) MONTHLY BENEFIT.—The value of the benefit provided under subsection (a) to any member in any month, to the extent the benefit is provided from amounts available to the Department of Defense, may not exceed—

"(1) $40; or

"(2) 120 calling minutes, if the cost to the Department of Defense of providing such number of calling minutes is less than the amount specified in paragraph (1).

"(c) TERMINATION OF BENEFIT.—The authority to provide a benefit under subsection (a)(1) to a member directly supporting a contingency operation shall terminate on the date that is 60 days after the date on which the Secretary determines that the contingency operation has ended.

"(d) FUNDING.—(1)(A) In carrying out the program under this section, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, free or reduced-cost services of private sector entities, and programs to enhance morale and welfare.

"(B) The Secretary may not award a contract to a commercial firm for the purposes of subparagraph (A) other than through the use of competitive procedures.

"(2) The Secretary may accept gifts and donations in order to defray the costs of the program under this section. Such gifts and donations may be accepted from—

"(A) any foreign government;

"(B) any foundation or other charitable organization, including any that is organized or operates under the laws of a foreign country; and

"(C) any source in the private sector of the United States or a foreign country.

"(e) DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT OR INTERNET ACCESS.—If the Secretary of Defense determines that, in order to implement this section as quickly as practicable, it is necessary to provide additional telephones or Internet service in any area to facilitate telephone or packet based telephony calling for which benefits are provided under this section, the Secretary may, consistent with the availability of resources, award competitively bid contracts to one or more commercial entities for the provision and installation of telephones or Internet access in that area.

"(f) NO COMPROMISE OF MILITARY MISSION.—The Secretary of Defense should not take any action under this section that would compromise the military objectives or mission of the Department of Defense.

"(g) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code. The term includes Operation Iraqi Freedom and Operation Enduring Freedom."

## §1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions

(a) AUTHORITY TO PAY BONUS.—

(1) AUTHORITY.—The Secretary of Defense may authorize the appropriate Secretary to pay a bonus under this section to an individual referred to in paragraph (2) who refers to a military recruiter a person who has not previously served in an armed force and, after such referral, takes an oath of enlistment that leads to appointment as a commissioned officer, or accepts an appointment as a commissioned officer, in an armed force in a health profession designated by the appropriate Secretary for purposes of this section.

(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following individuals are eligible for a referral bonus under this section:

(A) A member of the armed forces in a regular component of the armed forces.

(B) A member of the armed forces in a reserve component of the armed forces.

(C) A member of the armed forces in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired or retainer pay.

(D) A civilian employee of a military department or the Department of Defense.

(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when the individual concerned contacts a military recruiter on behalf of a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession; or

(2) when a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession contacts a military recruiter and informs the recruiter of the role of the individual concerned in initially recruiting the person.

(c) CERTAIN REFERRALS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the armed forces or civilian employee of a military department or the Department of Defense may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member of the armed forces or civilian employee of a military department or the Department of Defense serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the appropriate Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(3) JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS.—A member of the

armed forces detailed under subsection (c)(1) of section 2031 of this title to serve as an administrator or instructor in the Junior Reserve Officers' Training Corps program or a retired member of the armed forces employed as an administrator or instructor in the program under subsection (d) of such section may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus payable for a referral under subsection (a) may not exceed $2,000. The amount shall be payable as provided in subsection (e).

(e) PAYMENT.—A bonus payable for a referral of a person under subsection (a) shall be paid as follows:

(1) Not more than $1,000 shall be paid upon the execution by the person of an agreement to serve as an officer in a health profession in an armed force for not less than three years.

(2) Not more than $1,000 shall be paid upon the completion by the person of the initial period of military training as an officer.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of this title.

(g) COORDINATION WITH RECEIPT OF RETIRED PAY.—A bonus paid under this section to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under this title, title 37 or 38, or any other provision of law.

(h) APPROPRIATE SECRETARY DEFINED.—In this section, the term "appropriate Secretary" means—

(1) the Secretary of the Army, with respect to matters concerning the Army;

(2) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

(3) the Secretary of the Air Force, with respect to matters concerning the Air Force and the Space Force; and

(4) the Secretary of Defense, with respect to personnel of the Department of Defense.

(i) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2011.

(Added Pub. L. 110–181, div. A, title VI, §671(b)(1), Jan. 28, 2008, 122 Stat. 182; amended Pub. L. 110–417, [div. A], title VI, §615(a), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §616(1), Oct. 28, 2009, 123 Stat. 2354; Pub. L. 111–383, div. A, title VI, §616(1), title X, §1075(b)(15), Jan. 7, 2011, 124 Stat. 4238, 4369; Pub. L. 116–283, div. A, title IX, §924(b)(23), Jan. 1, 2021, 134 Stat. 3824.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (h)(3). Pub. L. 116–283 inserted "and the Space Force" after "concerning the Air Force".
**2011**—Subsec. (e)(1). Pub. L. 111–383, §1075(b)(15), substituted "three years." for "3 years,".
Subsec. (i). Pub. L. 111–383, §616(1), substituted "December 31, 2011" for "December 31, 2010".
**2009**—Subsec. (i). Pub. L. 111–84 substituted "December 31, 2010" for "December 31, 2009".
**2008**—Subsec. (i). Pub. L. 110–417 substituted "December 31, 2009" for "December 31, 2008".

## §1031. Administration of oath

The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath—

(1) required for the enlistment or appointment of any person in the armed forces; or

(2) required by law in connection with such an enlistment or appointment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 109–364, div. A, title V, §595(b), Oct. 17, 2006, 120 Stat. 2235.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1031 | 10:19.<br>34:217a–2. | May 22, 1950, ch. 193, §1, 64 Stat. 187. |

The words "(including the reserve component)" are omitted, since the words "any component of an armed force" include the reserve components. The words "any oath required for the enlistment or appointment of any person" are substituted for the words "the oath required for the enlistment of any person, the oath required for the appointment of any person to commissioned or warrant officer grade, and any other oath required by law in connection with the enlistment or appointment of any person".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364 substituted "The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath" for "Any commissioned officer of any component of an armed force, whether or not on active duty, may administer any oath" in introductory provisions.

## §1032. Disability and death compensation: dependents of members held as captives

(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

(1) was caused by hostile action; and

(2) was a result of the relationship of the dependent to the member of the uniformed services.

(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

(d) In this section:

(1) The term "dependent" has the meaning given that term in section 551 of title 37.

(2) The term "Secretary concerned" has the meaning given that term in section 101 of that title.

(Added Pub. L. 99–399, title VIII, §806(b)(1), Aug. 27, 1986, 100 Stat. 885, §1051; amended Pub. L. 99–661, div. A, title XIII, §1343(a)(25), Nov. 14, 1986, 100 Stat. 3994; renumbered §1032 and amended Pub. L. 100–26, §§3(8), 7(e)(1)(A), Apr. 21, 1987, 101 Stat. 274, 281; Pub. L. 101–189, div. A, title XVI, §1622(e)(2), Nov. 29, 1989, 103 Stat. 1605.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1032, act Aug. 10, 1956, ch. 1041, 70A Stat. 80, provided that a Reserve may accept civil employment with a foreign government or concern, prior to repeal by Pub. L. 95–105, title V, §509(d)(1), Aug. 17, 1977, 91 Stat. 860.

**AMENDMENTS**

**1989**—Subsec. (d)(1). Pub. L. 101–189, §1622(e)(2)(A), substituted "The term 'dependent' has" for " 'Dependent' has".

Subsec. (d)(2). Pub. L. 101–189, §1622(e)(2)(B), inserted "The term" after "(2)".

**1987**—Pub. L. 100–26, §7(e)(1)(A), renumbered the second section 1051 of this title as this section.

Subsec. (d)(1), (2). Pub. L. 100–26, §3(8), amended directory language of Pub. L. 99–661. See 1986 Amendment note below.

**1986**—Subsec. (d). Pub. L. 99–661, §1343(a)(25), as amended by Pub. L. 100–26, §3(8), substituted "title 37" for "that title" in par. (1), and "has the meaning given that term" for "and 'uniformed services' have the meanings given those terms" in par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(8) of Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

### EFFECTIVE DATE

Pub. L. 99–399, title VIII, §806(b)(3), Aug. 27, 1986, 100 Stat. 886, provided that: "Section 1051 [now 1032] of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981."

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 4 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

## §1033. Participation in management of specified non-Federal entities: authorized activities

(a) AUTHORIZATION.—The Secretary concerned may authorize a member of the armed forces under the Secretary's jurisdiction to serve without compensation as a director, officer, or trustee, or to otherwise participate, in the management of an entity designated under subsection (b). Any such authorization shall be made on a case-by-case basis, for a particular member to participate in a specific capacity with a specific designated entity. Such authorization may be made only for the purpose of providing oversight and advice to, and coordination with, the designated entity, and participation of the member in the activities of the designated entity may not extend to participation in the day-to-day operations of the entity.

(b) DESIGNATED ENTITIES.—(1) The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall designate those entities for which authorization under subsection (a) may be provided. The list of entities so designated may not be revised more frequently than semiannually. In making such designations, the Secretary shall designate each military welfare society and may designate any other entity described in paragraph (3). No other entities may be designated.

(2) In this section, the term "military welfare society" means the following:

(A) Army Emergency Relief.

(B) Air Force Aid Society, Inc.

(C) Navy-Marine Corps Relief Society.

(D) Coast Guard Mutual Assistance.

(3) An entity described in this paragraph is an entity that is not operated for profit and is any of the following:

(A) An entity that regulates and supports the athletic programs of the service academies

(including athletic conferences).

(B) An entity that regulates international athletic competitions.

(C) An entity that accredits service academies and other schools of the armed forces (including regional accrediting agencies).

(D) An entity that (i) regulates the performance, standards, and policies of military health care (including health care associations and professional societies), and (ii) has designated the position or capacity in that entity in which a member of the armed forces may serve if authorized under subsection (a).

(E) An entity that, operating in a foreign nation where United States military personnel are serving at United States military activities, promotes understanding and tolerance between such personnel (and their families) and the citizens of that host foreign nation through programs that foster social relations between those persons.

(c) PUBLICATION OF DESIGNATED ENTITIES AND OF AUTHORIZED PERSONS.—A designation of an entity under subsection (b), and an authorization under subsection (a) of a member of the armed forces to participate in the management of such an entity, shall be published in the Federal Register.

(d) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(Added Pub. L. 105–85, div. A, title V, §593(a)(1), Nov. 18, 1997, 111 Stat. 1762; amended Pub. L. 106–65, div. A, title V, §583, Oct. 5, 1999, 113 Stat. 634; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1033, act Aug. 10, 1956, ch. 1041, 70A Stat. 80, related to Reserves continuing to accept compensation while on active duty that they were receiving prior to being ordered to active duty, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, eff. Dec. 1, 1994.

**AMENDMENTS**

**2002**—Subsecs. (b)(1), (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (b)(3)(E). Pub. L. 106–65 added subpar. (E).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §1034. Protected communications; prohibition of retaliatory personnel actions

(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTOR GENERAL PROHIBITED.—(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

(2) Paragraph (1) does not apply to a communication that is unlawful.

(b) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—(1) No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing or being perceived as making or preparing—

(A) a communication to a Member of Congress or an Inspector General that (under subsection

(a)) may not be restricted;

(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

(i) a Member of Congress;

(ii) an Inspector General (as defined in subsection (j)) or any other Inspector General appointed under chapter 4 of title 5;

(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization;

(iv) any person or organization in the chain of command;

(v) a court-martial proceeding; or

(vi) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications; or

(C) testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication under subparagraph (A) or (B), or filing, causing to be filed, participating in, or otherwise assisting in an action brought under this section.

(2)(A) The actions considered for purposes of this section to be a personnel action prohibited by this subsection shall include any action prohibited by paragraph (1), including any of the following:

(i) The threat to take any unfavorable action.

(ii) The withholding, or threat to withhold, any favorable action.

(iii) The making of, or threat to make, a significant change in the duties or responsibilities of a member of the armed forces not commensurate with the member's grade.

(iv) The failure of a superior to respond to any retaliatory action or harassment (of which the superior had actual knowledge) taken by one or more subordinates against a member.

(v) The conducting of a retaliatory investigation of a member.

(B) In this paragraph, the term "retaliatory investigation" means an investigation requested, directed, initiated, or conducted for the primary purpose of punishing, harassing, or ostracizing a member of the armed forces for making a protected communication.

(C) Nothing in this paragraph shall be construed to limit the ability of a commander to consult with a superior in the chain of command, an inspector general, or a judge advocate general on the disposition of a complaint against a member of the armed forces for an allegation of collateral misconduct or for a matter unrelated to a protected communication. Such consultation shall provide an affirmative defense against an allegation that a member requested, directed, initiated, or conducted a retaliatory investigation under this section.

(c) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.—(1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall take the action required under paragraph (4).

(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

(A) A violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violation of section 920, 920b, 920c, or 930 of this title (article 120, 120b, 120c, or 130 of the Uniform Code of Military Justice), sexual harassment, or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(C) A threat by another member of the armed forces or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to members of the armed forces or civilians or damage to military, Federal, or civilian property.

(3) A communication described in paragraph (2) shall not be excluded from the protections provided in this section because—

(A) the communication was made to a person who participated in an activity that the member reasonably believed to be covered by paragraph (2);

(B) the communication revealed information that had previously been disclosed;

(C) of the member's motive for making the communication;

(D) the communication was not made in writing;

(E) the communication was made while the member was off duty; and

(F) the communication was made during the normal course of duties of the member.

(4)(A) An Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine, in accordance with regulations prescribed under subsection (h), whether there is sufficient evidence to warrant an investigation of the allegation.

(B) If the Inspector General receiving such an allegation is an Inspector General within a military department, that Inspector General shall promptly notify the Inspector General of the Department of Defense of the allegation. Such notification shall be made in accordance with regulations prescribed under subsection (h).

(C) If an allegation under paragraph (1) is submitted to an Inspector General within a military department and if the determination of that Inspector General under subparagraph (A) is that there is not sufficient evidence to warrant an investigation of the allegation, that Inspector General shall forward the matter to the Inspector General of the Department of Defense for review.

(D) Upon determining that an investigation of an allegation under paragraph (1) is warranted, the Inspector General making the determination shall expeditiously investigate the allegation. In the case of a determination made by the Inspector General of the Department of Defense, that Inspector General may delegate responsibility for the investigation to an appropriate Inspector General within a military department.

(E) If the Inspector General makes a preliminary determination in an investigation under subparagraph (D) that, more likely than not, a personnel action prohibited by subsection (b) has occurred and the personnel action will result in an immediate hardship to the member alleging the personnel action, the Inspector General shall promptly notify the Secretary of the military department concerned or the Secretary of Homeland Security, as applicable, of the hardship, and such Secretary shall take such action as such Secretary considers appropriate.

(F) In the case of an investigation under subparagraph (D) within the Department of Defense, the results of the investigation shall be determined by, or approved by, the Inspector General of the Department of Defense (regardless of whether the investigation itself is conducted by the Inspector General of the Department of Defense or by an Inspector General within a military department).

(5) Neither an initial determination under paragraph (4)(A) nor an investigation under paragraph (4)(D) is required in the case of an allegation made more than one year after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

(6) The Inspector General of the Department of Defense, or the Inspector General of the Department of Homeland Security (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the Inspector General conducting the investigation of an allegation under this subsection is one or both of the following:

(A) Outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

(B) At least one organization higher in the chain of command than the organization of the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

(d) INSPECTOR GENERAL INVESTIGATION OF UNDERLYING ALLEGATIONS.—Upon receiving an allegation under subsection (c), the Inspector General receiving the allegation shall conduct a separate investigation of the information that the member making the allegation believes

constitutes evidence of wrongdoing (as described in subparagraph (A), (B), or (C) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate. In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned.

(e) REPORTS ON INVESTIGATIONS.—(1) After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(4)(F), the Inspector General conducting the investigation shall submit a report on the results of the investigation to the Secretary of Defense and the Secretary of the military department concerned (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and shall transmit a copy of the report on the results of the investigation to the member of the armed forces who made the allegation investigated. The report shall be transmitted to such Secretaries, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(4)(E).

(2) In the copy of the report transmitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5. However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(3)(A) Not later than 180 days after the commencement of an investigation of an allegation under subsection (c)(4), and every 180 days thereafter until the transmission of the report on the investigation under paragraph (1) to the member concerned, the Inspector General conducting the investigation shall submit a notice on the investigation described in subparagraph (B) to the following:

(i) The member.

(ii) The Secretary of Defense.

(iii) The Secretary of the military department concerned, or the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(B) Each notice on an investigation under subparagraph (A) shall include the following:

(i) A description of the current progress of the investigation.

(ii) An estimate of the time remaining until the completion of the investigation and the transmittal of the report required by paragraph (1) to the member concerned.

(4) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(f) ACTION IN CASE OF SUBSTANTIATED VIOLATIONS.—(1) Not later than 30 days after receiving a report from the Inspector General under subsection (e), the Secretary of Homeland Security or the Secretary of the military department concerned, as applicable, shall determine whether corrective or disciplinary action should be taken. If the Secretary concerned determines that corrective or disciplinary action should be taken, the Secretary shall take appropriate corrective or disciplinary action.

(2) If the Inspector General determines that a personnel action prohibited by subsection (b) has occurred, the Secretary concerned shall—

(A) order such action as is necessary to correct the record of a personnel action prohibited by

subsection (b), including referring the report to the appropriate board for the correction of military records; and

(B) submit to the Inspector General a report on the actions taken by the Secretary pursuant to this paragraph, and provide for the inclusion of a summary of the report under this subparagraph (with any personally identifiable information redacted) in the semiannual report to Congress of the Inspector General of the Department of Defense or the Inspector General of the Department of Homeland Security, as applicable, under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).[1]

(3) If the Secretary concerned determines under paragraph (1) that an order for corrective or disciplinary action is not appropriate, not later than 30 days after making the determination, such Secretary shall—

(A) provide to the Secretary of Defense and the member or former member a notice of the determination and the reasons for not taking action; and

(B) when appropriate, refer the report to the appropriate board for the correction of military records for further review under subsection (g).

(g) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1) for which there is a report of the Inspector General under subsection (e)(1), a correction board—

(A) shall review the report of the Inspector General;

(B) may request the Inspector General to gather further evidence;

(C) may receive oral argument, examine and cross-examine witnesses, and take depositions; and

(D) shall consider a request by a member or former member in determining whether to hold an evidentiary hearing.

(3) If the board holds an administrative hearing, the member or former member who filed the application described in paragraph (1)—

(A) may be provided with representation by a judge advocate if—

(i) the Inspector General, in the report under subsection (e)(1), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

(ii) the Judge Advocate General concerned determines that the member or former member would benefit from judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (e)(1).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(h) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (f), the member or former member of the armed forces (except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(i) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(j) DEFINITIONS.—In this section:

(1) The term "Member of Congress" includes any Delegate or Resident Commissioner to Congress.

(2) The term "Inspector General" means any of the following:

(A) The Inspector General of the Department of Defense.

(B) The Inspector General of the Department of Homeland Security, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(C) Any officer of the armed forces or employee of the Department of Defense who is assigned or detailed to serve as an Inspector General at any level in the Department of Defense.

(3) The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 98–525, title XIV, §1405(19)(A), (B)(i), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 100–456, div. A, title VIII, §846(a)(1), Sept. 29, 1988, 102 Stat. 2027; Pub. L. 101–225, title II, §202, Dec. 12, 1989, 103 Stat. 1910; Pub. L. 103–337, div. A, title V, §531(a)–(g)(1), Oct. 5, 1994, 108 Stat. 2756–2758; Pub. L. 105–261, div. A, title IX, §933, Oct. 17, 1998, 112 Stat. 2107; Pub. L. 106–398, §1 [[div. A], title IX, §903], Oct. 30, 2000, 114 Stat. 1654, 1654A–224; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title V, §591(a), Oct. 28, 2004, 118 Stat. 1933; Pub. L. 110–181, div. A, title X, §1063(a)(8), Jan. 28, 2008, 122 Stat. 322; Pub. L. 112–81, div. A, title V, §523, Dec. 31, 2011, 125 Stat. 1401; Pub. L. 113–66, div. A, title XVII, §§1714, 1715, Dec. 26, 2013, 127 Stat. 964–966; Pub. L. 114–328, div. A, title V, §§531(a)–(d), 532(a), (b), Dec. 23, 2016, 130 Stat. 2118–2120; Pub. L. 115–91, div. A, title X, §1081(c)(2)(C), Dec. 12, 2017, 131 Stat. 1599; Pub. L. 116–92, div. A, title XVII, §1731(a)(21), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 117–286, §4(b)(27), Dec. 27, 2022, 136 Stat. 4346.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1034 | 50 App.:454(a) (last par.) | June 24, 1948, ch. 625, §4(a) (last par.); restated June 19, 1951, ch. 144, §1(d) (last par.), 65 Stat. 78. |

The words "prevented", "directly or indirectly", "concerning any subject", "or Members", and "and safety" are omitted as surplusage. The word "unlawful" is substituted for the words "in violation of law".

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 5 of the Inspector General Act of 1978, referred to in subsec. (f)(2)(B), is section 5 of Pub. L. 95–452, which was set out in the Appendix to Title 5, Government Organization and Employees, and was

repealed and restated as section 405 of Title 5 by Pub. L. 117–286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4212, 4361.

## AMENDMENTS

**2022**—Subsec. (b)(1)(B)(ii). Pub. L. 117–286 substituted "chapter 4 of title 5;" for "the Inspector General Act of 1978;".

**2019**—Subsec. (b)(1)(B)(ii). Pub. L. 116–92 substituted "subsection (j)" for "subsection (i)".

**2017**—Subsec. (c)(2)(A). Pub. L. 115–91 substituted "section 920, 920b, 920c, or 930 of this title (article 120, 120b, 120c, or 130 of the Uniform Code of Military Justice)" for "sections 920 through 920c of this title (articles 120 through 120c of the Uniform Code of Military Justice)".

**2016**—Subsec. (b)(2). Pub. L. 114–328, §531(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Any action prohibited by paragraph (1) (including the threat to take any unfavorable action, the withholding or threat to withhold any favorable action, or making or threatening to make a significant change in the duties or responsibilities of a member of the armed forces not commensurate with the member's grade) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection."

Subsec. (c)(4)(E), (F). Pub. L. 114–328, §531(b)(1), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (e)(1). Pub. L. 114–328, §531(b)(2), substituted "subsection (c)(4)(F)" for "subsection (c)(4)(E)".

Subsec. (e)(3). Pub. L. 114–328, §531(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (1) within 180 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense and the Secretary of the military department concerned (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and to the member making the allegation a notice—

"(A) of that determination (including the reasons why the report may not be submitted within that time); and

"(B) of the time when the report will be submitted."

Subsec. (f). Pub. L. 114–328, §532(a)(1), substituted "Substantiated Violations" for "Violations" in heading.

Subsec. (f)(1). Pub. L. 114–328, §532(a)(2), substituted "corrective or disciplinary action should be taken. If the Secretary concerned determines that corrective or disciplinary action should be taken, the Secretary shall take appropriate corrective or disciplinary action." for "there is sufficient basis to conclude whether a personnel action prohibited by subsection (b) has occurred."

Subsec. (f)(2). Pub. L. 114–328, §532(b)(1), substituted "the Inspector General determines" for "the Secretary concerned determines under paragraph (1)" and "the Secretary concerned shall" for "the Secretary shall" in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 114–328, §532(b)(2), inserted before semicolon ", including referring the report to the appropriate board for the correction of military records".

Subsec. (f)(2)(B). Pub. L. 114–328, §532(b)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: "take any appropriate disciplinary action against the individual who committed such prohibited personnel action."

Subsec. (g)(2). Pub. L. 114–328, §531(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In resolving an application described in paragraph (1), a correction board—

"(A) shall review the report of the Inspector General submitted under subsection (e)(1);

"(B) may request the Inspector General to gather further evidence; and

"(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing."

**2013**—Subsec. (b)(1). Pub. L. 113–66, §1714(a)(1)(A), substituted "preparing or being perceived as making or preparing—" for "preparing—" in introductory provisions.

Subsec. (b)(1)(B)(v), (vi). Pub. L. 113–66, §1714(a)(1)(C), added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (b)(1)(C). Pub. L. 113–66, §1714(a)(1)(B), (C)(ii), (D), added subpar. (C).

Subsec. (b)(2). Pub. L. 113–66, §1714(a)(2), substituted a comma for "and" after "unfavorable action" and inserted ", or making or threatening to make a significant change in the duties or responsibilities of a member of the armed forces not commensurate with the member's grade" after "favorable action".

Subsec. (c)(1). Pub. L. 113–66, §1714(b)(1), substituted "paragraph (4)" for "paragraph (3)".

Subsec. (c)(2)(A). Pub. L. 113–66, §1715, substituted "rape, sexual assault, or other sexual misconduct in

violation of sections 920 through 920c of this title (articles 120 through 120c of the Uniform Code of Military Justice), sexual harassment, or" for "sexual harassment or".

Subsec. (c)(3) to (6). Pub. L. 113–66, §1714(b)(2)–(5), added par. (3), redesignated former pars. (3) to (5) as (4) to (6), respectively, in par. (5), substituted "paragraph (4)(A)" for "paragraph (3)(A)", "paragraph (4)(D)" for "paragraph (3)(D)", and "one year" for "60 days", and in par. (6), substituted "one or both of the following:" and subpars. (A) and (B) for "outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action."

Subsec. (d). Pub. L. 113–66, §1714(c), substituted "subparagraph (A), (B), or (C) of subsection (c)(2)" for "subparagraph (A) or (B) of subsection (c)(2)".

Subsec. (e)(1). Pub. L. 113–66, §1714(d)(1), substituted "subsection (c)(4)(E)" for "subsection (c)(3)(E)" in two places and "transmitted to such Secretaries" for "transmitted to the Secretary" and inserted "and the Secretary of the military department concerned" after "the Secretary of Defense".

Subsec. (e)(3). Pub. L. 113–66, §1714(d)(2), inserted "and the Secretary of the military department concerned" after "the Secretary of Defense" in introductory provisions.

Subsec. (f). Pub. L. 113–66, §1714(e)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 113–66, §1714(e)(1), (f), redesignated subsec. (f) as (g), and in par. (3), substituted "board holds" for "board elects to hold" in introductory provisions and "the member or former member would benefit from" for "the case is unusually complex or otherwise requires" in subpar. (A)(ii). Former subsec. (g) redesignated (h).

Subsecs. (h) to (j). Pub. L. 113–66, §1714(e)(1), redesignated subsecs. (g) to (i) as (h) to (j), respectively.

**2011**—Subsec. (c)(2)(C). Pub. L. 112–81 added subpar. (C).

**2008**—Subsec. (b)(2). Pub. L. 110–181 inserted "unfavorable" before "action and the withholding".

**2004**—Subsec. (b)(1)(B)(iv), (v). Pub. L. 108–375 added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: "any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications."

**2002**—Subsecs. (c)(5), (e)(1), (3), (h), (i)(2)(B). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2000**—Subsec. (c)(3)(A). Pub. L. 106–398, §1 [[div. A], title IX, §903(a)], inserted ", in accordance with regulations prescribed under subsection (h)," after "shall expeditiously determine".

Subsec. (i)(2). Pub. L. 106–398, §1 [[div. A], title IX, §903(b)(1)], inserted "any of" after "means" in introductory provisions.

Subsec. (i)(2)(C) to (G). Pub. L. 106–398, §1 [[div. A], title IX, §903(b)(2), (3)], added subpar. (C) and struck out former subpars. (C) to (G) which read as follows:

"(C) The Inspector General of the Army, in the case of a member of the Army.

"(D) The Naval Inspector General, in the case of a member of the Navy.

"(E) The Inspector General of the Air Force, in the case of a member of the Air Force.

"(F) The Deputy Naval Inspector General for Marine Corps Matters, in the case of a member of the Marine Corps.

"(G) An officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces."

**1998**—Subsec. (b)(1)(B)(ii). Pub. L. 105–261, §933(f)(2), substituted "subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978" for "subsection (j))".

Subsec. (c)(1). Pub. L. 105–261, §933(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation. If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action."

Subsec. (c)(2)(B). Pub. L. 105–261, §933(b), substituted "Gross mismanagement" for "Mismanagement".

Subsec. (c)(3) to (5). Pub. L. 105–261, §933(a)(1)(B), added pars. (3) to (5) and struck out former par. (3) which read as follows: "The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the

personnel action that is the subject of the allegation."

Subsec. (d). Pub. L. 105–261, §933(a)(2), inserted "receiving the allegation" after ", the Inspector General" and "In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned." at end.

Subsec. (e)(1). Pub. L. 105–261, §933(c)(1), substituted "After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E), the Inspector General conducting the investigation shall submit a report on" for "Not later than 30 days after completion of an investigation under subsection (c) or (d), the Inspector General shall submit a report on" and inserted "shall transmit a copy of the report on the results of the investigation to" before "the member of the armed forces" and "The report shall be transmitted to the Secretary, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E)." at end.

Subsec. (e)(2). Pub. L. 105–261, §933(c)(2), substituted "transmitted" for "submitted" and inserted at end "However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member."

Subsec. (e)(3). Pub. L. 105–261, §933(c)(3), substituted "180 days" for "90 days".

Subsec. (h). Pub. L. 105–261, §933(f)(1), redesignated subsec. (i) as (h).

Pub. L. 105–261, §933(d), struck out heading and text of subsec. (h). Text read as follows: "After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter."

Subsec. (i). Pub. L. 105–261, §933(f)(1), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 105–261, §933(f)(1), redesignated subsec. (j) as (i).

Subsec. (j)(2). Pub. L. 105–261, §933(e), substituted "means the following:" for "means—" in introductory provisions, added subpars. (A) to (F), redesignated former subpar. (B) as (G) and substituted "An officer" for "an officer" in that subpar., and struck out former subpar. (A) which read as follows: "an Inspector General appointed under the Inspector General Act of 1978; and".

**1994**—Pub. L. 103–337, §531(g)(1), substituted "Protected communications" for "Communicating with a Member of Congress or Inspector General" in section catchline.

Subsec. (b). Pub. L. 103–337, §531(a), inserted "(1)" before "No person may take", substituted "or preparing—" for "or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted.", added subpars. (A) and (B), inserted "(2)" before "Any action prohibited", and substituted "paragraph (1)" for "the preceding sentence".

Subsec. (c). Pub. L. 103–337, §531(b)(3), substituted "Allegations of Prohibited Personnel Actions" for "Certain Allegations" in heading.

Subsec. (c)(1). Pub. L. 103–337, §531(b)(1), inserted at end "If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action."

Subsec. (c)(2). Pub. L. 103–337, §531(b)(2), added par. (2) and struck out former par. (2) which read as follows: "A communication described in this paragraph is a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted in which the member of the armed forces makes a complaint or discloses information that the member reasonably believes constitutes evidence of—

"(A) a violation of a law or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."

Subsec. (c)(4). Pub. L. 103–337, §531(c)(2), struck out par. (4) which read as follows: "If the Inspector General has not already done so, the Inspector General shall commence a separate investigation of the

information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (2). The Inspector General is not required to make such an investigation if the information that the member believes evidences wrongdoing relates to actions which took place during combat."

Subsec. (c)(5). Pub. L. 103–337, §531(d)(1), redesignated subsec. (c)(5) as subsec. (e)(1).

Subsec. (c)(6), (7). Pub. L. 103–337, §531(d)(4), redesignated subsec. (c)(6) and (7) as subsec. (e)(3) and (4), respectively.

Subsec. (d). Pub. L. 103–337, §531(c)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 103–337, §531(d)(1), redesignated subsec. (c)(5) as subsec. (e) and inserted subsec. heading and par. (1) designation before "Not later than 30 days". Former subsec. (e) redesignated (g).

Subsec. (e)(1). Pub. L. 103–337, §531(d)(2), substituted "subsection (c) or (d)" for "this subsection" and "the member of the armed forces who made the allegation investigated" for "the member of the armed forces concerned" and struck out at end "In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5."

Subsec. (e)(2). Pub. L. 103–337, §531(d)(3), added par. (2).

Subsec. (e)(3). Pub. L. 103–337, §531(d)(4), (5), redesignated subsec. (c)(6) as subsec. (e)(3) and substituted "paragraph (1)" for "paragraph (5)".

Subsec. (e)(4). Pub. L. 103–337, §531(d)(4), redesignated subsec. (c)(7) as subsec. (e)(4).

Subsec. (f). Pub. L. 103–337, §531(c)(1), (f)(1), redesignated subsec. (d) as (f) and substituted "subsection (e)(1)" for "subsection (c)(5)" in pars. (2)(A), (3)(A)(i) and (B). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 103–337, §531(c)(1), (f)(2), redesignated subsec. (e) as (g) and substituted "subsection (f)" for "subsection (d)". Former subsec. (g) redesignated (i).

Subsecs. (h), (i). Pub. L. 103–337, §531(c)(1), redesignated subsecs. (f) and (g) as (h) and (i), respectively. Former subsec. (h) redesignated (j).

Subsec. (j). Pub. L. 103–337, §531(c)(1), (e), redesignated subsec. (h) as (j) and added par. (3).

**1989**—Subsec. (c)(1). Pub. L. 101–225, §202(1), inserted "when the Coast Guard is not operating as a service in the Navy" after "Coast Guard".

Subsec. (c)(5). Pub. L. 101–225, §202(2), inserted "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" after "Secretary of Defense".

Subsec. (c)(6). Pub. L. 101–225, §202(3), inserted "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" after "Secretary of Defense".

Subsec. (e). Pub. L. 101–225, §202(4), inserted "(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" after "armed forces".

**1988**—Pub. L. 100–456 substituted "Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions" for "Communicating with a Member of Congress" in section catchline, and amended text generally. Prior to amendment, text read as follows: "No person may restrict any member of an armed force in communicating with a Member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States."

**1984**—Pub. L. 98–525 substituted "Member" for "member" in section catchline and text.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §532(c), Dec. 23, 2016, 130 Stat. 2121, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply with respect to reports received by the Secretaries of the military departments and the Secretary of Homeland Security under section 1034(e) of title 10, United States Code, on or after that date."

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title V, §591(b), Oct. 28, 2004, 118 Stat. 1933, provided that: "The amendments

made by this section [amending this section] apply with respect to any unfavorable personnel action taken or threatened, and any withholding of or threat to withhold a favorable personnel action, on or after the date of the enactment of this Act [Oct. 28, 2004]."

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VIII, §846(d), Sept. 29, 1988, 102 Stat. 2030, provided that: "The amendment to section 1034 of title 10, United States Code, made by subsection (a)(1), shall apply with respect to any personnel action taken (or threatened to be taken) on or after the date of the enactment of this Act [Sept. 29, 1988] as a reprisal prohibited by subsection (b) of that section."

## REGULATIONS

Pub. L. 103–337, div. A, title V, §531(h), (i), Oct. 5, 1994, 108 Stat. 2758, provided that:

"(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe regulations to implement the amendments made by this section [amending this section] not later than 120 days after the date of the enactment of this Act [Oct. 5, 1994].

"(i) CONTENT OF REGULATIONS.—In prescribing regulations under section 1034 of title 10, United States Code, as amended by this section, the Secretary of Defense and the Secretary of Transportation shall provide for appropriate procedural protections for the subject of any investigation carried out under the provisions of that section, including a process for appeal and review of investigative findings."

Pub. L. 100–456, div. A, title VIII, §846(b), Sept. 29, 1988, 102 Stat. 2030, provided that: "The Secretary of Defense and the Secretary of Transportation shall prescribe the regulations required by subsection (g) [now (i)] of section 1034 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act [Sept. 29, 1988]."

## UNIFORM STANDARDS FOR INSPECTOR GENERAL INVESTIGATIONS OF PROHIBITED PERSONNEL ACTIONS AND OTHER MATTERS

Pub. L. 114–328, div. A, title V, §531(e), Dec. 23, 2016, 130 Stat. 2120, provided that:

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Inspector General of the Department of Defense shall prescribe uniform standards for the following:

"(A) The investigation of allegations of prohibited personnel actions under section 1034 of title 10, United States Code (as amended by this section), by the Inspector General and the Inspectors General of the military departments.

"(B) The training of the staffs of the Inspectors General referred to in subparagraph (A) on the conduct of investigations described in that subparagraph.

"(2) USE.—Commencing 180 days after prescription of the standards required by paragraph (1), the Inspectors General referred to in that paragraph shall comply with such standards in the conduct of investigations described in that paragraph and in the training of the staffs of such Inspectors General in the conduct of such investigations."

## NOTICE TO CONGRESS OF CERTAIN DEPARTMENT OF DEFENSE NONDISCLOSURE AGREEMENTS

Pub. L. 112–239, div. A, title X, §1054, Jan. 2, 2013, 126 Stat. 1937, provided that:

"(a) NOTICE REQUIRED.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of any request or requirement for members of the Armed Forces or civilian employees of the Department of Defense to enter into nondisclosure agreements that could restrict the ability of such members or employees to communicate with Congress. Each such notice shall include the following:

"(1) The basis in law for the agreement.

"(2) An explanation for the restriction of the ability to communicate with Congress.

"(3) A description of the category of individuals requested or required to enter into the agreement.

"(4) A copy of the language contained in the agreement.

"(b) TIMING OF NOTIFICATION.—

"(1) REQUESTS OR REQUIREMENTS BEFORE DATE OF ENACTMENT.—In the case of nondisclosure agreements described in subsection (a) that members or employees were first requested or required to enter into on or before the date of the enactment of this Act [Jan. 2, 2013], the notice required by

subsection (a) shall be submitted not later than 60 days after the date of enactment.

"(2) REQUESTS OR REQUIREMENTS AFTER DATE OF ENACTMENT.—In the case of nondisclosure agreements described in subsection (a) that members or employees were first requested or required to enter into after the date of the enactment of this Act, the notice required by subsection (a) shall be submitted not later than 30 days after the date on which the Secretary first requests or requires that the members or employees enter into the agreements."

**WHISTLEBLOWER PROTECTIONS FOR MEMBERS OF ARMED FORCES**

Pub. L. 102–190, div. A, title VIII, §843, Dec. 5, 1991, 105 Stat. 1449, provided that:

"(a) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations prohibiting members of the Armed Forces from taking or threatening to take any unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, as a reprisal against any member of the Armed Forces for making or preparing a lawful communication to any employee of the Department of Defense or any member of the Armed Forces who is assigned to or belongs to an organization which has as its primary responsibility audit, inspection, investigation, or enforcement of any law or regulation.

"(b) VIOLATIONS BY PERSONS SUBJECT TO THE UCMJ.—The Secretary shall provide in the regulations that a violation of the prohibition by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is punishable as a violation of section 892 of such title (article 92 of the Uniform Code of Military Justice).

"(c) DEADLINE.—The regulations required by this section shall be prescribed not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991]."

**REPORT ON ACTIVITIES OF INSPECTOR GENERAL**

Pub. L. 100–456, div. A, title VIII, §846(c), Sept. 29, 1988, 102 Stat. 2030, directed Inspector General of Department of Defense (and Inspector General of Department of Transportation with respect to Coast Guard) to submit, not later than Feb. 1, 1990, a report to Congress on activities of Inspector General under this section, with that report to include, in the case of each case handled by Inspector General under this section, a description of (A) nature of allegation described in subsec. (c) of this section; (B) evaluation and recommendation of Inspector General with respect to allegation; (C) any action of appropriate board for correction of military records with respect to allegation; (D) if allegation was determined to be meritorious, any corrective action taken; and (E) views of member or former member of armed forces making allegation (determined on basis of interview under subsec. (f) of this section) on disposition of case.

[1] *See References in Text note below.*

## §1035. Deposits of savings

(a) Under joint regulations prescribed by the Secretaries concerned, a member of the armed forces who is on a permanent duty assignment outside the United States or its possessions may deposit during that tour of duty not more than his unallotted current pay and allowances in amounts of $5 or more, with any branch, office, or officer of a uniformed service. Amounts so deposited shall be deposited in the Treasury and kept as a separate fund, and shall be accounted for in the same manner as public funds.

(b) Interest at a rate prescribed by the President, not to exceed 10 percent a year, will accrue on amounts deposited under this section. However, the maximum amount upon which interest may be paid under this subsection to any member is $10,000, except that such limitation shall not apply to deposits made on or after September 1, 1966, in the case of those members in a missing status during the Vietnam conflict, the Persian Gulf conflict, or a contingency operation. Interest under this subsection shall terminate 90 days after the member's return to the United States or its possessions.

(c) Except as provided in joint regulations prescribed by the Secretaries concerned, payments of deposits, and interest thereon, may not be made to the member while he is on duty outside the United States or its possessions.

(d) An amount deposited under this section, with interest thereon, is exempt from liability for the member's debts, including any indebtedness to the United States or any instrumentality thereof, and is not subject to forfeiture by sentence of a court-martial.

(e) The Secretary concerned, or his designee, may in the interest of a member who is in a missing status or his dependents, initiate, stop, modify, and change allotments, and authorize a withdrawal of deposits, made under this section, even though the member had an opportunity to deposit amounts under this section and elected not to do so. Interest may be computed from the day the member entered a missing status, or September 1, 1966, whichever is later.

(f) The Secretary of Defense may authorize a member of the armed forces who is on a temporary duty assignment outside of the United States or its possessions in support of a contingency operation to make deposits of unallotted current pay and allowances during that duty as provided in subsection (a). The Secretary shall prescribe regulations establishing standards and procedures for the administration of this subsection.

(g) In this section:

(1) The term "missing status" has the meaning given that term in section 551(2) of title 37.

(2) The term "Vietnam conflict" means the period beginning on February 28, 1961, and ending on May 7, 1975.

(3) The term "Persian Gulf conflict" means the period beginning on January 16, 1991, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 89–538, §1(1), Aug. 14, 1966, 80 Stat. 347; Pub. L. 90–122, §1, Nov. 3, 1967, 81 Stat. 361; Pub. L. 91–200, Feb. 26, 1970, 84 Stat. 16; Pub. L. 98–525, title XIV, §1405(20), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99–661, div. A, title XIII, §1343(a)(3), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 102–25, title III, §310, Apr. 6, 1991, 105 Stat. 84; Pub. L. 102–190, div. A, title VI, §639, Dec. 5, 1991, 105 Stat. 1384.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1035(a) | 10:908(a) (less words after last semicolon).<br>34:937 (less words after last semicolon). | July 15, 1954, ch. 513, §§1–3, 68 Stat. 485. |
| 1035(b) | 10:908b (1st 20, and last 13, words).<br>34:938 (1st 20, and last 13, words). | |
| 1035(c) | 10:908a (words after last semicolon).<br>10:908b (less 1st 20, and last 13, words).<br>34:937 (words after last semicolon).<br>34:938 (less 1st 20, and last 13, words). | |
| 1035(d) | 10:908c.<br>34:939. | |

In subsection (a), the words "in amounts of $5 or more" are substituted for the words "in sums not less than $5". 10:908a (words before 1st semicolon of last sentence) and 34:937 (words before 1st semicolon of last sentence) are omitted as covered by subsection (c).

In subsection (b), the word "accrues" is substituted for the words "shall be paid".

In subsection (c), the words "not less than $5" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1991**—Subsec. (b). Pub. L. 102–190, §639(a), substituted ", the Persian Gulf conflict, or a contingency operation" for "or during the Persian Gulf conflict" before period at end of second sentence and struck out at end "For purposes of this subsection, the Vietnam conflict begins on February 28, 1961, and ends on May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law."

Pub. L. 102–25, §310(a), (c)(1), struck out ", as defined in section 551(2) of title 37," after "missing status", inserted "or during the Persian Gulf conflict" before period at end of second sentence, and substituted "May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law" for "the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

Subsec. (e). Pub. L. 102–25, §310(c)(2), struck out "(as defined in section 551(2) of title 37)" after "in a missing status".

Subsec. (f). Pub. L. 102–190, §639(b), added subsec. (f) and redesignated former subsec. (f) as (g).

Pub. L. 102–25, §310(b), added subsec. (f).

Subsec. (g). Pub. L. 102–190, §639(b)(1), (c), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. (g) read as follows: "In this section, the term 'missing status' has the meaning given such term in section 551(2) of title 37."

**1986**—Subsec. (a). Pub. L. 99–661 substituted "armed forces" for "armed force".

**1984**—Subsec. (b). Pub. L. 98–525 substituted "percent" for "per centum", "subsection" for "Act" after "paid under this", and "90" for "ninety".

**1970**—Subsec. (b). Pub. L. 91–200 permitted accrual of interest on savings above $10,000 ceiling in case of soldiers involved in Vietnam conflicts who have made deposits on or after Sept. 1, 1966, and who are in missing status contemplated by section 551(2) of Title 37, and set out duration of Vietnam conflict as starting Feb. 28, 1961, and ending on the date that the President may designate by Executive order.

**1967**—Subsec. (e). Pub. L. 90–122 added subsec. (e).

**1966**—Subsec. (a). Pub. L. 89–538 permitted not only enlisted personnel but any member of the armed forces, provided he is on permanent duty outside the United States, to participate in the savings program organized under this section and changed the fund into which such savings deposits are made.

Subsec. (b). Pub. L. 89–538 changed rate of interest from 4 per centum per annum to a rate prescribed by the President, not to exceed 10 per centum per annum, did away with the necessity that amounts be on deposit for six months or more, set a maximum of $10,000 upon which interest shall be paid, and provided for termination of interest 90 days after the member's return to the United States or its possessions.

Subsec. (c). Pub. L. 89–538 substituted provisions that, unless changed by joint regulations of the Secretaries concerned, payments of deposits and interest may not be made to the individual while stationed outside of the United States, for provisions that payment of deposits and interest could be made only to the member upon discharge, or before discharge as prescribed by the Secretary concerned, or to the member's heirs or legal representatives.

Subsec. (d). Pub. L. 89–538 reenacted subsec. (d) substantially without change.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90–122, §2, Nov. 3, 1967, 81 Stat. 361, provided that: "This Act [amending this section] becomes effective as of September 1, 1966."

### SAVINGS PROGRAM FOR OVERSEAS PERSONNEL

Pub. L. 101–510, div. A, title XI, §1114, Nov. 5, 1990, 104 Stat. 1636, as amended by Pub. L. 102–25, title III, §314(1), (3), Apr. 6, 1991, 105 Stat. 86, directed the Secretary of Defense to prescribe regulations establishing standards and procedures for the administration of a program to authorize members of the Armed Forces serving outside the United States during the Persian Gulf conflict to make deposits of unallotted current pay and allowances and to earn interest under this section.

### ADJUSTMENT OF DEPOSIT ACCOUNTS OF CERTAIN ENLISTED MEN

Pub. L. 89–738, Nov. 2, 1966, 80 Stat. 1165, provided: "That the Secretary of a military department or his designee, shall adjust the deposit account of any enlisted member or former enlisted member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who, after July 14, 1954, and before the effective date of this Act [Nov. 2, 1966], upon discharge and immediate reenlistment or retirement and immediate recall to active duty, continued, without withdrawal and redeposit, his account for deposits made under section 1035 of

title 10, United States Code, or prior laws authorizing enlisted members' deposits, to show that his deposits and interest accrued thereon were withdrawn and redeposited on the date of such reenlistment or recall to active duty.

"SEC. 2. The Secretary of the military department concerned, or his designee, shall pay to a former enlisted member described in section 1 of this Act any amount found due as a result of the adjustment prescribed by that section if he submits an application within two years following the date of enactment of this Act [Nov. 2, 1966]. If the member is currently serving on active duty and has an active deposit account, the amount due him will automatically be credited to such account. In the case of a deceased member, application under this section shall be made within two years following the date of enactment of this Act [Nov. 2, 1966] by the person determined to be eligible under section 2771 of Title 10, United States Code.

"SEC. 3. All payments heretofore made which would, but for the fact of such payment, be payable under this Act are validated. However, if such a payment has been repaid to the United States, the fact of payment shall not affect entitlement under this Act."

## RATES OF INTEREST ON DEPOSITS MADE BEFORE AUG. 14, 1966

Pub. L. 89–538, §2, Aug. 14, 1966, 80 Stat. 347, provided that:

"(a) Notwithstanding the first section of this Act [amending this section], an amount on deposit under section 1035 of title 10, United States Code, on the date of enactment of this Act [Aug. 14, 1966], shall accrue interest at the rate and under the conditions in effect on the day before the date of enactment of this Act [Aug. 14, 1966], until the member's current enlistment terminates or earlier, as may be jointly prescribed by the Secretaries concerned. However, a member who is on a permanent duty assignment outside the United States or its possessions on the date of enactment of this Act [Aug. 14, 1966], or who reports for that duty on or after that date but before the termination of his current enlistment, will be entitled to interest on such deposit, on and after that date, at the rate and under the conditions prescribed pursuant to section 1 [amending this section]. Payments of deposits, and interest thereon, may be made to the member's heirs or legal representatives.

"(b) Any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] while a member was assigned to permanent duty within the United States and its possessions, and any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] by a member on permanent duty assignment outside the United States and its possessions which are in excess of his unallotted pay and allowances for that period, shall accrue interest at the rate in effect before enactment of this Act."

## EXTENSION OF COVERAGE TO PUBLIC HEALTH SERVICE AND COAST AND GEODETIC SURVEY PERSONNEL; RULES AND REGULATIONS

Pub. L. 89–538, §3(c), Aug. 14, 1966, 80 Stat. 348, provided that: "Regulations prescribed by the Secretary of Commerce and the Secretary of Health, Education, and Welfare [now Health and Human Services] under subsections (a) and (b) [extending savings deposits benefits to commissioned officers of the Public Health Service and the Coast and Geodetic Survey (now the National Oceanic and Atmospheric Administration), respectively] shall be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of title 10, United States Code."

## PUBLIC HEALTH SERVICE

Authority vested by this section in "the Secretary concerned" to be exercised with respect to commissioned officers of the Public Health Service, by the Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in "the Secretary concerned" to be exercised, with respect to commissioned officer corps of the National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## EXECUTIVE DOCUMENTS

## EX. ORD. NO. 11298. INTEREST RATE

Ex. Ord. No. 11298, Aug. 14, 1966, 31 F.R. 10915, provided:

By virtue of the authority vested in me by Section 1035 of Title 10 of the United States Code, as amended by the Act of August 14, 1966, I hereby prescribe that amounts deposited by members of the uniformed

services under that Section shall accrue interest at the rate of ten percent per annum, compounded quarterly.

This order shall be effective September 1, 1966.

LYNDON B. JOHNSON.

## [§1036. Repealed. Pub. L. 113–66, div. A, title VI, §621(a)(2)(A), Dec. 26, 2013, 127 Stat. 783]

Section, added Pub. L. 86–160, §1(1), Aug. 14, 1959, 73 Stat. 358; amended Pub. L. 98–94, title IX, §913(a), Sept. 24, 1983, 97 Stat. 640, provided for transportation and travel allowances for escorts for dependents of members.

## §1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail

(a) Under regulations to be prescribed by him, the Secretary concerned may employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation, before the judicial tribunals and administrative agencies of any foreign nation, of persons subject to the Uniform Code of Military Justice and of persons not subject to the Uniform Code of Military Justice who are employed by or accompanying the armed forces in an area outside the United States and the territories and possessions of the United States, the Northern Mariana Islands, and the Commonwealth of Puerto Rico. So far as practicable, these regulations shall be uniform for all armed forces.

(b) The person on whose behalf a payment is made under this section is not liable to reimburse the United States for that payment, unless he is responsible for forfeiture of bail provided under subsection (a).

(c) Appropriations available to the military department concerned or the Department of Homeland Security, as the case may be, for the pay of persons under its jurisdiction may be used to carry out this section.

(Added Pub. L. 85–861, §1(24)(A), Sept. 2, 1958, 72 Stat. 1445; amended Pub. L. 96–513, title I, §511(31), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 99–145, title VI, §681(a), Nov. 8, 1985, 99 Stat. 665; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1037(a) | 50:751.<br>50:752. | July 24, 1956, ch. 689 (less §3), 70 Stat. 630. |
| 1037(b) | 50:754. | |
| 1037(c) | 50:755. | |

In subsection (a), the words "Under regulations to be prescribed by him" and the last sentence are substituted for 50:752.

In subsection (b), the words "subject to the Uniform Code of Military Justice" are omitted as surplusage.

In subsection (c), the words "the terms and provisions of" are omitted as surplusage.

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a), is classified to chapter 47 (§801 et seq.) of this title.

### AMENDMENTS

**2002**—Subsec. (c). Pub. L. 107–296 substituted "Department of Homeland Security" for "Department of

Transportation".

**1985**—Subsec. (a). Pub. L. 99–145 provided for payment of expenses for legal representation of civilians overseas.

**1980**—Subsec. (c). Pub. L. 96–513 substituted "Department of Transportation" for "Department of the Treasury".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title VI, §681(b), Nov. 8, 1985, 99 Stat. 665, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to costs incurred after September 30, 1985."

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §1038. Service credit: certain service in Women's Army Auxiliary Corps

In computing years of active service of any female member of the armed forces, there shall be credited for all purposes, except the right to promotion, in addition to any other service that may be credited, all active service performed in the Women's Army Auxiliary Corps after May 13, 1942, and before September 30, 1943, if that member performed active service in the armed forces after September 29, 1943. Service as an officer in the Women's Army Auxiliary Corps shall be credited as active service in the status of a commissioned officer, and service as an enrolled member of the Corps shall be credited as active service in the status of an enlisted member.

(Added Pub. L. 86–142, §1(1), Aug. 7, 1959, 73 Stat. 289.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### ELECTION OF PENSION OR COMPENSATION

Pub. L. 86–142, §2, Aug. 7, 1959, 73 Stat. 289, provided that a person entitled to a pension or compensation under any law administered by the Veterans' Administration, based on the active service described in section 1 of Pub. L. 86–142, which added section 1038 to Title 10, Armed Forces, could elect within 1 year after Aug. 7, 1959 to receive that pension or compensation in lieu of any compensation under the Federal Employees' Compensation Act; that such an election is irrevocable; and that the election does not entitle that person to the pension or compensation for any period before the date of election.

#### BACK PAY OR ALLOWANCES

Pub. L. 86–142, §3, Aug. 7, 1959, 73 Stat. 289, provided that: "No person is entitled to back pay or allowances because of any service credited under section 1 of this Act [enacting this section]."

## §1039. Crediting of minority service

For the purpose of determining eligibility for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, entitlement to retired or retainer pay, and years of service in computing retired or retainer pay of a member of the armed forces, any service which would be creditable but for the fact that it was performed by him under an enlistment or induction entered into before he attained the age prescribed by law for that enlistment or induction, shall be credited.

(Added Pub. L. 87–165, §1(1), Aug. 25, 1961, 75 Stat. 401.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 87–165, §2, Aug. 25, 1961, 75 Stat. 401, provided that: "Section 1 [enacting this section] applies to service performed, and retirements or transfers to the Fleet Reserve or the Fleet Marine Corps Reserve effected, before and after this Act takes effect [Aug. 25, 1961]."

## §1040. Transportation of dependent patients

(a)(1) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States or in Alaska or Hawaii and who is on active duty for a period of more than 30 days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be appropriate under the circumstances. If a dependent is unable to travel unattended, travel and transportation allowances may be furnished to necessary attendants. The dependents and any attendants shall be furnished such travel and transportation allowances as specified in regulations prescribed under section 464 of title 37. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.

(2)(A) Except as provided by subparagraph (E), for purposes of paragraph (1), required medical attention of a dependent includes, in the case of a dependent authorized to accompany a member at a location described in that paragraph, obstetrical anesthesia services for childbirth equivalent to the obstetrical anesthesia services for childbirth available in a military treatment facility in the United States.

(B) In the case of a dependent at a remote location outside the continental United States who elects services described in subparagraph (A) and for whom air transportation would be needed to travel under paragraph (1) to the nearest appropriate medical facility in which adequate medical care is available, the Secretary may authorize the dependent to receive transportation under that paragraph to the continental United States and be treated at the military treatment facility that can provide appropriate obstetrical services that is nearest to the closest port of entry into the continental United States from such remote location.

(C) The second through sixth sentences of paragraph (1) shall apply to a dependent provided transportation by reason of this paragraph.

(D) The total cost incurred by the United States for the provision of transportation and expenses (including per diem) with respect to a dependent by reason of this paragraph may not exceed the cost the United States would otherwise incur for the provision of transportation and expenses with respect to that dependent under paragraph (1) if the transportation and expenses were provided to that dependent without regard to this paragraph.

(E) The Secretary may not provide transportation to a dependent under this paragraph if the Secretary determines that—

(i) the dependent would otherwise receive obstetrical anesthesia services at a military treatment facility; and

(ii) such facility, in carrying out the required number of necessary obstetric cases, would not maintain competency of its obstetrical staff unless the facility provides such services to such dependent.

(b) This section does not authorize transportation and travel expenses for a dependent for elective surgery which is determined to be not medically indicated by a medical authority designated under joint regulations to be prescribed under this section.

(c) In this section, the term "dependent" has the meaning given that term in section 1072 of this title.

(Added Pub. L. 89–140, §1(1), Aug. 28, 1965, 79 Stat. 579; amended Pub. L. 96–513, title V, §511(32), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 98–94, title IX, §913(b), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98–525, title VI, §611, title XIV, §1405(21), Oct. 19, 1984, 98 Stat. 2538, 2623; Pub. L. 99–348, title III, §304(a)(2), July 1, 1986, 100 Stat. 703; Pub. L. 99–661, div. A, title VI, §616(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 112–81, div. A, title VII, §705, Dec. 31, 2011, 125 Stat. 1473; Pub. L. 113–66, div. A, title VI, §621(b), Dec. 26, 2013, 127 Stat. 783; Pub. L. 113–291, div. A, title X, §1071(f)(11), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–92, div. A, title VII, §721, Nov. 25, 2015, 129 Stat. 869.)

## EDITORIAL NOTES

### CODIFICATION

Another section 1040 was renumbered section 1041 of this title.

Another section 1040, related to free postage from combat zones, was added by Pub. L. 89–132, §9(a), Aug. 21, 1965, 79 Stat. 548, prior to repeal by Pub. L. 89–315, §3(a), Nov. 1, 1965, 79 Stat. 1164. See section 3401 et seq. of Title 39, Postal Service.

### AMENDMENTS

**2015**—Subsec. (a)(2)(F). Pub. L. 114–92 struck out subpar. (F) which read as follows: "The authority under this paragraph shall expire on September 30, 2016."

**2014**—Subsec. (a)(1). Pub. L. 113–291 substituted "37." for "37..".

**2013**—Subsec. (a)(1). Pub. L. 113–66, §621(b)(1), substituted "travel and transportation allowances may be furnished to necessary attendants. The dependents and any attendants shall be furnished such travel and transportation allowances as specified in regulations prescribed under section 464 of title 37." for "round-trip transportation and travel expenses may be furnished necessary attendants. In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States".

Subsec. (d). Pub. L. 113–66, §621(b)(2), struck out subsec. (d) which read as follows: "Transportation and travel expenses authorized by this section shall be furnished in accordance with joint regulations to be prescribed by the Secretary of Transportation, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Health and Human Services, which shall require the use of transportation facilities of the United States insofar as practicable."

**2011**—Subsec. (a). Pub. L. 112–81 designated existing provisions as par. (1) and added par. (2).

**1986**—Subsec. (a). Pub. L. 99–661 substituted "In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance" for ", and such expenses may be paid in advance".

Subsec. (c). Pub. L. 99–348 substituted "In this section, the term 'dependent' has the meaning given that term in" for " 'Dependent' and 'uniformed services' in this section have the meanings of those terms as defined in".

**1984**—Subsec. (a). Pub. L. 98–525, §1405(21), substituted "30" for "thirty".

Pub. L. 98–525, §611, made provisions of section applicable to a dependent accompanying a member of the uniformed services stationed in Alaska or Hawaii.

**1983**—Subsec. (a). Pub. L. 98–94 inserted ", and such expenses may be paid in advance" after "attendants".

**1980**—Subsec. (d). Pub. L. 96–513 substituted "Secretary of Transportation" and "Secretary of Health and Human Services" for "Secretary of the Treasury" and "Secretary of Health, Education, and Welfare", respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VI, §616(b), Nov. 14, 1986, 100 Stat. 3880, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to travel performed on or after the date of the enactment of this Act [Nov. 14, 1986]."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title VI, §611, Oct. 19, 1984, 98 Stat. 2538, provided that the amendment made by that section is effective Oct. 1, 1984.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §913(c), Sept. 24, 1983, 97 Stat. 640, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1036 of this title] shall apply to travel performed by escorts or attendants of dependents on or after the date of the enactment of this Act [Sept. 24, 1983]."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1041. Replacement of certificate of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from an armed force or that it was destroyed without his procurement or connivance, the Secretary concerned may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this section may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

(Added Pub. L. 90–235, §7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762, §1040; renumbered §1041, Pub. L. 96–513, title V, §511(33)(A), Dec. 12, 1980, 94 Stat. 2922.)

## §1042. Copy of certificate of service

A fee for a copy of a certificate showing service in the armed forces may not be charged to—

(1) a person discharged or released from the armed forces honorably or under honorable conditions;

(2) the next of kin of the person; or

(3) a legal representative of the person.

(Added Pub. L. 97–258, §2(b)(2)(B), Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1042 | 31:483b. | June 19, 1956, ch. 409, 70 Stat. 297. |

The words "armed forces" are substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard" because of 10:101(4). The words "honorably or" are added for consistency with 10:1040.

## §1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service

Active commissioned service in the National Oceanic and Atmospheric Administration or the Public Health Service shall be credited as active commissioned service in the armed forces for purposes of determining the retirement eligibility and computing the retired pay of a member of the armed forces.

(Added Pub. L. 98–94, title X, §1007(b)(1), Sept. 24, 1983, 97 Stat. 662.)

## §1044. Legal assistance

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to the following persons:

(1) Members of the armed forces who are on active duty.

(2) Members and former members entitled to retired or retainer pay or equivalent pay.

(3) Officers of the commissioned corps of the Public Health Service or the commissioned officer corps of the National Oceanic and Atmospheric Administration who are on active duty or entitled to retired or equivalent pay.

(4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).

(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, satisfies the additional qualifications and training requirements specified in subsection (d) of such section.

(3) In this subsection, the term "military legal assistance" includes—

(A) legal assistance provided under this section; and

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, 1044d, 1044e, 1565b(a)(1)(A), and 2894(b)(4) of this title.

(e) The Secretary concerned shall define "dependent" for the purposes of this section.

(Added Pub. L. 98–525, title VI, §651(a), Oct. 19, 1984, 98 Stat. 2549; amended Pub. L. 104–201, div. A, title V, §583, Sept. 23, 1996, 110 Stat. 2538; Pub. L. 106–398, §1 [[div. A], title V, §524(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 109–163, div. A, title V, §555, Jan. 6, 2006, 119 Stat. 3265; Pub. L. 110–181, div. A, title V, §541, Jan. 28, 2008, 122 Stat. 114; Pub. L. 111–84, div. A, title V, §513, Oct. 28, 2009, 123 Stat. 2282; Pub. L. 112–239, div. A, title V, §531(d)(2), Jan.

2, 2013, 126 Stat. 1726; Pub. L. 113–66, div. A, title XVII, §1716(a)(3)(A), (B), Dec. 26, 2013, 127 Stat. 969; Pub. L. 113–291, div. A, title X, §1071(f)(12), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–92, div. A, title V, §535(c), Nov. 25, 2015, 129 Stat. 816; Pub. L. 116–92, div. B, title XXX, §3022(b), Dec. 20, 2019, 133 Stat. 1934; Pub. L. 117–263, div. K, title CXVII, §11707, Dec. 23, 2022, 136 Stat. 4158.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a)(3). Pub. L. 117–263 inserted "or the commissioned officer corps of the National Oceanic and Atmospheric Administration" after "Public Health Service".

**2019**—Subsec. (d)(3)(B). Pub. L. 116–92 substituted "1565b(a)(1)(A), and 2894(b)(4)" for "and 1565b(a)(1)(A)".

**2015**—Subsec. (d)(2). Pub. L. 114–92 substituted "satisfies the additional qualifications and training requirements specified in subsection (d)" for "meets the additional qualifications specified in subsection (d)(2)".

**2014**—Subsec. (d)(2). Pub. L. 113–291 substituted "such section." for "such section..".

**2013**—Subsec. (b). Pub. L. 112–239 inserted ", and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps," after "jurisdiction of the Secretary".

Subsec. (d)(2). Pub. L. 113–66, §1716(a)(3)(A), inserted before period at end "and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, meets the additional qualifications specified in subsection (d)(2) of such section."

Subsec. (d)(3)(B). Pub. L. 113–66, §1716(a)(3)(B), substituted "1044d, 1044e, and 1565b(a)(1)(A)" for "and 1044d".

**2009**—Subsec. (a)(4). Pub. L. 111–84 substituted "the Secretary), for a period of time (prescribed by the Secretary)" for "the Secretary of Defense), for a period of time, prescribed by the Secretary of Defense,".

**2008**—Subsec. (a)(6), (7). Pub. L. 110–181 added pars. (6) and (7).

**2006**—Subsecs. (d), (e). Pub. L. 109–163 added subsec. (d) and redesignated former subsec. (d) as (e).

**2000**—Subsec. (a)(4). Pub. L. 106–398, §1 [[div. A], title V, §524(a)(2)], added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 106–398, §1 [[div. A], title V, §524(b)], substituted "(3), and (4)" for "and (3)".

Pub. L. 106–398, §1 [[div. A], title V, §524(a)(1)], redesignated par. (4) as (5).

**1996**—Subsec. (a). Pub. L. 104–201, §583(d)(1), substituted "to the following persons:" for "to—" in introductory provisions.

Subsec. (a)(1). Pub. L. 104–201, §583(c), (d)(2), (3), substituted "Members" for "members", struck out "under his jurisdiction" after "armed forces", and substituted a period for the semicolon at end.

Subsec. (a)(2). Pub. L. 104–201, §583(c), (d)(2), (4), substituted "Members and" for "members and", struck out "under his jurisdiction" after "former members", and substituted a period for "; and" at end.

Subsec. (a)(3), (4). Pub. L. 104–201, §583(a), added pars. (3) and (4) and struck out former par. (3) which read as follows: "dependents of members and former members described in clauses (1) and (2)."

Subsec. (c). Pub. L. 104–201, §583(b), substituted "uniformed services described in subsection (a)" for "armed forces" and inserted "such" after "dependent of".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS

Pub. L. 106–398, §1 [[div. A], title V, §524(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–108, provided that: "Regulations to implement the amendments made by this section [amending this section] shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000]."

### LEGAL COUNSEL FOR VICTIMS OF ALLEGED DOMESTIC VIOLENCE OFFENSES

Pub. L. 116–92, div. A, title V, §548, Dec. 20, 2019, 133 Stat. 1378, provided that:

"(a) IN GENERAL.—Not later than December 1, 2020, the Secretary of Defense shall carry out a program to provide legal counsel (referred to in this section as 'Counsel') to victims of alleged domestic violence offenses who are otherwise eligible for military legal assistance under section 1044 of title 10, United States Code.

"(b) FORM OF IMPLEMENTATION.—The program required under subsection (a) may be carried out as part of another program of the Department of Defense or through the establishment of a separate program.

"(c) TRAINING AND TERMS.—The Secretary of Defense shall ensure that Counsel—

"(1) receive specialized training in legal issues commonly associated with alleged domestic violence offenses; and

"(2) to the extent practicable, serve as Counsel for a period of not less than 2 years.

"(d) ATTORNEY-CLIENT RELATIONSHIP.—The relationship between a Counsel and a victim in the provision of legal advice and assistance shall be the relationship between an attorney and client.

"(e) PARALEGAL SUPPORT.—The Secretary of Defense shall ensure that sufficient trained paralegal support is provided to Counsel under the program.

"(f) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the program under subsection (a).

"(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

"(A) A description and assessment of the manner in which the Department of Defense will implement the program required under subsection (a).

"(B) An explanation of whether the program will be carried out as part of another program of the Department or through the establishment of a separate program.

"(C) A comprehensive description of the additional personnel, resources, and training that will be required to implement the program, including identification of the specific number of additional billets that will be needed to staff the program.

"(D) Recommendations for any modifications to law that may be necessary to effectively and efficiently implement the program.

"(g) ALLEGED DOMESTIC VIOLENCE OFFENSE DEFINED.—In this section, the term 'alleged domestic violence offense' means any allegation of—

"(1) a violation of section 928(b), 928b(1), 928b(5), or 930 of title 10, United States Code (article 128(b), 128b(1), 128b(5), or 130 of the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member;

"(2) a violation of any other provision of subchapter X of chapter 47 of such title (the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member; or

"(3) an attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of such title (article 80 of the Uniform Code of Military Justice)."

## §1044a. Authority to act as notary

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the uniformed services.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the uniformed services, including reserve members when not in a duty status, who are designated by regulations of the uniformed services or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of

a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(6) All civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel (as defined in section 1044d(g) of this title).

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(Added Pub. L. 101–510, div. A, title V, §551(a)(1), Nov. 5, 1990, 104 Stat. 1566; amended Pub. L. 104–201, div. A, title V, §573, Sept. 23, 1996, 110 Stat. 2534; Pub. L. 107–107, div. A, title XI, §1103, Dec. 28, 2001, 115 Stat. 1236; Pub. L. 114–328, div. A, title V, §523(b), Dec. 23, 2016, 130 Stat. 2116; Pub. L. 116–259, title II, §205(b)(1), Dec. 23, 2020, 134 Stat. 1167.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2020**—Subsec. (a)(1). Pub. L. 116–259, §205(b)(1)(A), substituted "uniformed services" for "armed forces".

Subsec. (b)(4). Pub. L. 116–259, §205(b)(1)(B), substituted "uniformed services" for "armed forces" in two places.

**2016**—Subsec. (b)(6). Pub. L. 114–328 added par. (6).

**2001**—Subsec. (b)(2). Pub. L. 107–107, §1103(a), substituted "legal assistance attorneys" for "legal assistance officers".

Subsec. (b)(5). Pub. L. 107–107, §1103(b), added par. (5).

**1996**—Subsec. (b)(1). Pub. L. 104–201, §573(1), substituted ", including reserve judge advocates when not in a duty status" for "on active duty or performing inactive-duty training".

Subsec. (b)(3). Pub. L. 104–201, §573(2), substituted "adjutants, including reserve members when not in a duty status" for "adjutants on active duty or performing inactive-duty training".

Subsec. (b)(4). Pub. L. 104–201, §573(3), substituted "members of the armed forces, including reserve members when not in a duty status," for "persons on active duty or performing inactive-duty training".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1044b. Military powers of attorney: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW .—A military power of attorney—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for powers of attorney under the laws of a State; and

(2) shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the State concerned.

(b) MILITARY POWER OF ATTORNEY.—For purposes of this section, a military power of attorney is any general or special power of attorney that is notarized in accordance with section 1044a of this title or other applicable State or Federal law.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, each military power of attorney shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a military power of attorney that does not include a statement described in that paragraph.

(d) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(Added Pub. L. 103–160, div. A, title V, §574(a), Nov. 30, 1993, 107 Stat. 1674.)

## §1044c. Advance medical directives of members and dependents: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW .—An advance medical directive executed by a person eligible for legal assistance—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to an advance medical directive that does not include a statement described in that paragraph.

(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce advance medical directives under the laws of the State.

(e) DEFINITIONS.—In this section:

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(2) The term "person eligible for legal assistance" means a person who is eligible for legal assistance under section 1044 of this title.

(3) The term "legal assistance" means legal services authorized under section 1044 of this title.

(Added Pub. L. 104–106, div. A, title VII, §749(a)(1), Feb. 10, 1996, 110 Stat. 388.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title VII, §749(b), Feb. 10, 1996, 110 Stat. 389, provided that: "Section 1044c of title 10, United States Code, shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to advance medical directives referred to in that section that are executed before, on, or after that date."

## §1044d. Military testamentary instruments: requirement for recognition by States

(a) TESTAMENTARY INSTRUMENTS TO BE GIVEN LEGAL EFFECT.—A military testamentary instrument—

(1) is exempt from any requirement of form, formality, or recording before probate that is provided for testamentary instruments under the laws of a State; and

(2) has the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is presented for probate.

(b) MILITARY TESTAMENTARY INSTRUMENTS.—For purposes of this section, a military testamentary instrument is an instrument that is prepared with testamentary intent in accordance with regulations prescribed under this section and that—

(1) is executed in accordance with subsection (c) by (or on behalf of) a person, as a testator, who is eligible for military legal assistance;

(2) makes a disposition of property of the testator; and

(3) takes effect upon the death of the testator.

(c) REQUIREMENTS FOR EXECUTION OF MILITARY TESTAMENTARY INSTRUMENTS .—An instrument is valid as a military testamentary instrument only if—

(1) the instrument is executed by the testator (or, if the testator is unable to execute the instrument personally, the instrument is executed in the presence of, by the direction of, and on behalf of the testator);

(2) the execution of the instrument is notarized by—

(A) a military legal assistance counsel;

(B) a person who is authorized to act as a notary under section 1044a of this title who—

(i) is not an attorney; and

(ii) is supervised by a military legal assistance counsel; or

(C) a State-licensed notary employed by a military department or the Coast Guard who is supervised by a military legal assistance counsel;

(3) the instrument is executed in the presence of at least two disinterested witnesses (in addition to the person notarizing the instrument in accordance with paragraph (2)), each of whom attests to witnessing the testator's execution of the instrument by signing it; and

(4) the instrument is executed in accordance with such additional requirements as may be provided in regulations prescribed under this section.

(d) SELF-PROVING MILITARY TESTAMENTARY INSTRUMENTS.—(1) If the document setting forth a military testamentary instrument meets the requirements of paragraph (2), then the signature of a person on the document as the testator, an attesting witness, a notary, or the presiding attorney, together with a written representation of the person's status as such and the person's military grade (if any) or other title, is prima facie evidence of the following:

(A) That the signature is genuine.

(B) That the signatory had the represented status and title at the time of the execution of the will.

(C) That the signature was executed in compliance with the procedures required under the regulations prescribed under subsection (f).

(2) A document setting forth a military testamentary instrument meets the requirements of this paragraph if it includes (or has attached to it), in a form and content required under the regulations prescribed under subsection (f), each of the following:

(A) A certificate, executed by the testator, that includes the testator's acknowledgment of the testamentary instrument.

(B) An affidavit, executed by each witness signing the testamentary instrument, that attests to the circumstances under which the testamentary instrument was executed.

(C) A notarization, including a certificate of any administration of an oath required under the regulations, that is signed by the notary or other official administering the oath.

(e) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed under this section, each military testamentary instrument shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a testamentary instrument that does not include a statement described in that paragraph.

(f) REGULATIONS.—Regulations for the purposes of this section shall be prescribed jointly by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy.

(g) DEFINITIONS.—In this section:

(1) The term "person eligible for military legal assistance" means a person who is eligible for legal assistance under section 1044 of this title.

(2) The term "military legal assistance counsel" means—

(A) a judge advocate (as defined in section 801(13) of this title); or

(B) a civilian attorney serving as a legal assistance officer under the provisions of section 1044 of this title.

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 106–398, §1 [[div. A], title V, §551(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–123; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114–328, div. A, title V, §523(a), Dec. 23, 2016, 130 Stat. 2116.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (c)(2). Pub. L. 114–328, §523(a)(1), added par. (2) and struck out former par. (2) which read as follows: "the instrument is executed in the presence of a military legal assistance counsel acting as presiding attorney;".

Subsec. (c)(3). Pub. L. 114–328, §523(a)(2), substituted "person notarizing the instrument in accordance with paragraph (2)" for "presiding attorney".

**2002**—Subsec. (f). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §1044e. Special Victims' Counsel for victims of sex-related offenses

(a) DESIGNATION; PURPOSES.—(1) The Secretary concerned shall designate legal counsel (to be known as "Special Victims' Counsel") for the purpose of providing legal assistance to an individual described in paragraph (2) who is the victim of an alleged sex-related offense, regardless of whether the report of that offense is restricted or unrestricted.

(2) An individual described in this paragraph is any of the following:

(A) An individual eligible for military legal assistance under section 1044 of this title.

(B) An individual who is—

(i) not covered under subparagraph (A);

(ii) a member of a reserve component of the armed forces; and
(iii) a victim of an alleged sex-related offense as described in paragraph (1)—
(I) during a period in which the individual served on active duty, full-time National Guard duty, or inactive-duty training; or
(II) during any period, regardless of the duty status of the individual, if the circumstances of the alleged sex-related offense have a nexus to the military service of the victim, as determined under regulations prescribed by the Secretary of Defense.

(C) A civilian employee of the Department of Defense who is not eligible for military legal assistance under section 1044(a)(7) of this title, but who is the victim of an alleged sex-related offense, and the Secretary of Defense or the Secretary of the military department concerned waives the condition in such section for the purposes of offering Special Victims' Counsel services to the employee.

(b) TYPES OF LEGAL ASSISTANCE AUTHORIZED.—The types of legal assistance authorized by subsection (a) include the following:
(1) Legal consultation regarding potential criminal liability of the victim stemming from or in relation to the circumstances surrounding the alleged sex-related offense and the victim's right to seek military defense services.
(2) Legal consultation regarding the Victim Witness Assistance Program, including—
(A) the rights and benefits afforded the victim;
(B) the role of the Victim Witness Assistance Program liaison and what privileges do or do not exist between the victim and the liaison; and
(C) the nature of communication made to the liaison in comparison to communication made to a Special Victims' Counsel or a legal assistance attorney under section 1044 of this title.

(3) Legal consultation regarding the responsibilities and support provided to the victim by the Sexual Assault Response Coordinator, a unit or installation Sexual Assault Victim Advocate, or domestic abuse advocate, to include any privileges that may exist regarding communications between those persons and the victim.
(4) Legal consultation regarding the potential for civil litigation against other parties (other than the United States).
(5) Legal consultation regarding the military justice system, including (but not limited to)—
(A) the roles and responsibilities of the trial counsel, the defense counsel, and investigators;
(B) any proceedings of the military justice process in which the victim may observe;
(C) the Government's authority to compel cooperation and testimony; and
(D) the victim's responsibility to testify, and other duties to the court.

(6) Representing the victim at any proceedings in connection with the reporting, military investigation, and military prosecution of the alleged sex-related offense.
(7) Legal consultation regarding eligibility and requirements for services available from appropriate agencies or offices for emotional and mental health counseling and other medical services;
(8) Legal consultation and assistance—
(A) in personal civil legal matters in accordance with section 1044 of this title;
(B) in any proceedings of the military justice process in which a victim can participate as a witness or other party;
(C) in understanding the availability of, and obtaining any protections offered by, civilian and military protecting or restraining orders; and
(D) in understanding the eligibility and requirements for, and obtaining, any available military and veteran benefits, such as transitional compensation benefits found in section 1059 of this title, section 1408(h) of this title, and other State and Federal victims' compensation programs.

(9) Legal consultation and assistance in connection with—

(A) any complaint against the Government, including an allegation under review by an inspector general and a complaint regarding equal employment opportunities;

(B) any request to the Government for information, including a request under section 552a of title 5 (commonly referred to as a "Freedom of Information Act request"); and

(C) any correspondence or other communications with Congress.

(10) Legal consultation and assistance in connection with an incident of retaliation, whether such incident occurs before, during, or after the conclusion of any criminal proceedings, including—

(A) in understanding the rights and protections afforded to victims of retaliation;

(B) in the filing of complaints; and

(C) in any resulting military justice proceedings.

(11) Such other legal assistance as the Secretary of Defense (or, in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating) may authorize in the regulations prescribed under subsection (i).

(c) NATURE OF RELATIONSHIP.—The relationship between a Special Victims' Counsel and a victim in the provision of legal advice and assistance shall be the relationship between an attorney and client.

(d) QUALIFICATIONS.—(1) An individual may not be designated as a Special Victims' Counsel under this section unless the individual—

(A) meets the qualifications specified in section 1044(d)(2) of this title; and

(B) is certified as competent to be designated as a Special Victims' Counsel by the Judge Advocate General of the armed force in which the judge advocate is a member or by which the civilian attorney is employed, and within the Marine Corps, by the Staff Judge Advocate to the Commandant of the Marine Corps.

(2) The Secretary of Defense shall—

(A) develop a policy to standardize the time period within which a Special Victims' Counsel receives training; and

(B) establish the baseline training requirements for a Special Victims' Counsel.

(e) ADMINISTRATIVE RESPONSIBILITY.—(1) Consistent with the regulations prescribed under subsection (i), the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary concerned, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of individuals designated as Special Victims' Counsel.

(2) The Secretary of Defense (and, in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating) shall conduct a periodic evaluation of the Special Victims' Counsel programs operated under this section.

(3) The Secretary of Defense, in collaboration with the Secretaries of the military departments and the Secretary of the Department in which the Coast Guard is operating, shall establish—

(A) guiding principles for the Special Victims' Counsel program, to include ensuring that—

(i) Special Victims' Counsel are assigned to locations that maximize the opportunity for face-to-face communication between counsel and clients; and

(ii) effective means of communication are available to permit counsel and client interactions when face-to-face communication is not feasible;

(B) performance measures and standards to measure the effectiveness of the Special Victims' Counsel program and client satisfaction with the program; and

(C) processes by which the Secretaries of the military departments and the Secretary of the Department in which the Coast Guard is operating will evaluate and monitor the Special Victims' Counsel program using such guiding principles and performance measures and standards.

(f) AVAILABILITY OF SPECIAL VICTIMS' COUNSEL.—(1) An individual described in subsection (a)(2) who is the victim of an alleged sex-related offense shall be offered the option of receiving assistance from a Special Victims' Counsel upon report of an alleged sex-related offense or at the time the victim seeks assistance from a Sexual Assault Response Coordinator, a Sexual Assault Victim Advocate, a military criminal investigator, a victim/witness liaison, a trial counsel, a healthcare provider, or any other personnel designated by the Secretary concerned for purposes of this subsection.

(2) Subject to such exceptions for exigent circumstances as the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating may prescribe, notice of the availability of a Special Victims' Counsel shall be provided to an individual described in subsection (a)(2) before any military criminal investigator or trial counsel interviews, or requests any statement from, the individual regarding the alleged sex-related offense.

(3) The assistance of a Special Victims' Counsel under this subsection shall be available to an individual described in subsection (a)(2) regardless of whether the individual elects unrestricted or restricted reporting of the alleged sex-related offense. The individual shall also be informed that the assistance of a Special Victims' Counsel may be declined, in whole or in part, but that declining such assistance does not preclude the individual from subsequently requesting the assistance of a Special Victims' Counsel.

(4)(A) Subject to subparagraph (B), if a Special Victims' Counsel is not available at a military installation for access by a member of the armed forces who requests access to a Special Victims' Counsel, a Special Victims' Counsel shall be made available at such installation for access by such member by not later than 72 hours after such request.

(B) If the Secretary concerned determines that, due to exigent circumstances related to military activities, a Special Victims' Counsel cannot be made available to a member of the armed forces within the time period required by subparagraph (A), the Secretary concerned shall ensure that a Special Victims' Counsel is made available to such member as soon as is practical under such circumstances.

(g) STAFFING CASELOAD LEVELS.—Commencing not later than four years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, each Secretary concerned shall ensure that the number of Special Victims' Counsels serving in each military department (and with respect to the Coast Guard) is sufficient to ensure that the average caseload of a Special Victims' Counsel does not exceed, to the extent practicable, 25 cases any given time.

(h) ALLEGED SEX-RELATED OFFENSE DEFINED.—In this section, the term "alleged sex-related offense" means any allegation of—

(1) a violation of section 920, 920b, 920c, or 930 of this title (article 120, 120b, 120c, or 130 of the Uniform Code of Military Justice); or

(2) an attempt to commit an offense specified in a paragraph (1) as punishable under section 880 of this title (article 80 of the Uniform Code of Military Justice).

(i) REGULATIONS.—The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall prescribe regulations to carry out this section.

(Added Pub. L. 113–66, div. A, title XVII, §1716(a)(1), Dec. 26, 2013, 127 Stat. 966; amended Pub. L. 113–291, div. A, title V, §§531(c), 533, 534(a), Dec. 19, 2014, 128 Stat. 3364, 3366, 3367; Pub. L. 114–92, div. A, title V, §§532–534(a), 535(a), (b), Nov. 25, 2015, 129 Stat. 815, 816; Pub. L. 115–91, div. A, title X, §1081(c)(2)(D), Dec. 12, 2017, 131 Stat. 1599; Pub. L. 116–92, div. A, title V, §§541, 542(a), Dec. 20, 2019, 133 Stat. 1374, 1375; Pub. L. 116–283, div. A, title X, §1081(a)(22), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 117–81, div. A, title X, §1081(a)(15), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (g), is the date of enactment of Pub. L. 116–92 which was approved Dec. 20, 2019.

### AMENDMENTS

**2021**—Subsecs. (b)(11), (e). Pub. L. 116–283 substituted "subsection (i)" for "subsection (h)".

Subsec. (g). Pub. L. 117–81 substituted "number of Special Victims' Counsels" for "number of Special Victims' Counsel".

**2019**—Subsec. (b)(8)(D). Pub. L. 116–92, §541(a), substituted ", section 1408(h) of this title, and other" for "and other".

Subsec. (b)(10), (11). Pub. L. 116–92, §541(b), added par. (10) and redesignated former par. (10) as (11).

Subsec. (f)(4). Pub. L. 116–92, §542(a), added par. (4).

Subsecs. (g) to (i). Pub. L. 116–92, §541(c), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

**2017**—Subsec. (g)(1). Pub. L. 115–91 substituted "920b, 920c, or 930" for "920a, 920b, 920c, or 925" and "120b, 120c, or 130" for "120a, 120b, 120c, or 125".

**2015**—Subsec. (a)(2)(C). Pub. L. 114–92, §532, added subpar. (C).

Subsec. (b)(9), (10). Pub. L. 114–92, §533, added par. (9) and redesignated former par. (9) as (10).

Subsec. (d). Pub. L. 114–92, §535(a), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (e)(3). Pub. L. 114–92, §535(b), added par. (3).

Subsec. (f)(2), (3). Pub. L. 114–92, §534(a), added par. (2) and redesignated former par. (2) as (3).

**2014**—Subsec. (a). Pub. L. 113–291, §533(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary concerned shall designate legal counsel (to be known as 'Special Victims' Counsel') for the purpose of providing legal assistance to an individual eligible for military legal assistance under section 1044 of this title who is the victim of an alleged sex-related offense, regardless of whether the report of that offense is restricted or unrestricted."

Subsec. (b)(4). Pub. L. 113–291, §531(c)(1), substituted "the United States" for "the Department of Defense".

Subsec. (b)(6). Pub. L. 113–291, §534(a), substituted "Representing the victim" for "Accompanying the victim".

Subsec. (d)(2). Pub. L. 113–291, §531(c)(2), inserted ", and within the Marine Corps, by the Staff Judge Advocate to the Commandant of the Marine Corps" before period at end.

Subsec. (e)(1). Pub. L. 113–291, §531(c)(3), inserted "concerned" after "jurisdiction of the Secretary".

Subsec. (f). Pub. L. 113–291, §533(b), substituted "described in subsection (a)(2)" for "eligible for military legal assistance under section 1044 of this title" in pars. (1) and (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

### CIVILIAN POSITIONS TO SUPPORT SPECIAL VICTIMS' COUNSEL

Pub. L. 117–81, div. A, title V, §546, Dec. 27, 2021, 135 Stat. 1712, provided that:

"(a) CIVILIAN SUPPORT POSITIONS.—Each Secretary of a military department may establish one or more civilian positions within each office of the Special Victims' Counsel under the jurisdiction of such Secretary.

"(b) DUTIES.—The duties of each position under subsection (a) shall be—

"(1) to provide support to Special Victims' Counsel, including legal, paralegal, and administrative support; and

"(2) to ensure the continuity of legal services and the preservation of institutional knowledge in the provision of victim legal services notwithstanding transitions in the military personnel assigned to offices of the Special Victims' Counsel.

"(c) SPECIAL VICTIMS' COUNSEL DEFINED.—In this section, the term 'Special Victims' Counsel'

means Special Victims' Counsel described in section 1044e of title 10, United States Code, and in the case of the Navy and Marine Corps, includes counsel designated as 'Victims' Legal Counsel'."

**NOTIFICATION OF SIGNIFICANT EVENTS AND DOCUMENTATION OF PREFERENCE FOR PROSECUTION JURISDICTION FOR VICTIMS OF SEXUAL ASSAULT**

Pub. L. 116–92, div. A, title V, §538, Dec. 20, 2019, 133 Stat. 1363, provided that:

"(a) NOTIFICATION TO VICTIMS OF EVENTS IN MILITARY JUSTICE PROCESS.—

"(1) NOTIFICATION REQUIRED.—A member of the Armed Forces who is the victim of an alleged sexual assault by another member of the Armed Forces shall receive notification of each significant event in the military justice process that relates to the investigation, prosecution, and confinement of such other member for such assault.

"(2) DOCUMENTATION.—Appropriate documentation of each notification made pursuant to paragraph (1) shall be created and maintained in an appropriate system of records of the military department concerned.

"(b) DOCUMENTATION OF VICTIM'S PREFERENCE FOR PROSECUTION JURISDICTION.—In the case of a member of the Armed Forces who is the victim of an alleged sexual assault committed by another member of the Armed Forces who is subject to prosecution for such offense both by court-martial under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), and by a civilian court under Federal or State law, appropriate documentation of the preference, if any, of such victim for prosecution of such offense by court-martial or by a civilian court as provided for by Rule for Courts-Martial 306(e) (as set forth in the Manual for Courts-Martial, 2019 edition, or any successor rule), shall be created and maintained in an appropriate system of records of the military department concerned.

"(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall prescribe regulations implementing this section."

**TRAINING FOR SPECIAL VICTIMS' COUNSEL ON CIVILIAN CRIMINAL JUSTICE MATTERS IN THE STATES OF THE MILITARY INSTALLATIONS TO WHICH ASSIGNED**

Pub. L. 116–92, div. A, title V, §550C, Dec. 20, 2019, 133 Stat. 1382, provided that:

"(a) TRAINING.—

"(1) IN GENERAL.—Except as provided in subsection (c), upon the assignment of a Special Victims' Counsel (including a Victim Legal Counsel of the Navy) to a military installation in the United States, such Counsel shall be provided appropriate training on the law and policies of the State or States in which such military installation is located with respect to the criminal justice matters specified in paragraph (2). The purpose of the training is to assist such Counsel in providing victims of alleged sex-related offenses with information necessary to make an informed decision regarding preference as to the jurisdiction (whether court-martial or State court) in which such offenses will be prosecuted.

"(2) CRIMINAL JUSTICE MATTERS.—The criminal justice matters specified in this paragraph, with respect to a State, are the following:

"(A) Victim rights.

"(B) Prosecution of criminal offenses.

"(C) Sentencing for conviction of criminal offenses.

"(D) Protective orders.

"(b) ALLEGED SEX-RELATED OFFENSE DEFINED.—In this section, the term 'alleged sex-related offense' means any allegation of—

"(1) a violation of section 920, 920b, 920c, or 930 of title 10, United States Code (article 120, 120b, 120c, or 130 of the Uniform Code of Military Justice); or

"(2) an attempt to commit an offense specified in a paragraph (1) as punishable under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

"(c) EXCEPTION.—The requirements of this section do not apply to a Special Victims' Counsel of the Coast Guard."

**SPECIAL VICTIMS' COUNSEL TRAINING REGARDING THE UNIQUE CHALLENGES OFTEN FACED BY MALE VICTIMS OF SEXUAL ASSAULT**

Pub. L. 115–91, div. A, title V, §536, Dec. 12, 2017, 131 Stat. 1392, provided that: "The baseline Special Victims' Counsel training established under section 1044e(d)(2) of title 10, United States Code, shall include training for Special Victims' Counsel to recognize and deal with the unique challenges often faced by male victims of sexual assault."

**ENHANCEMENT OF VICTIMS' RIGHTS IN CONNECTION WITH PROSECUTION OF**

**CERTAIN SEX-RELATED OFFENSES**

Pub. L. 113–291, div. A, title V, §534(b)–(e), Dec. 19, 2014, 128 Stat. 3367, 3368, provided that:

"(b) CONSULTATION REGARDING VICTIM'S PREFERENCE IN PROSECUTION VENUE.—

"(1) CONSULTATION PROCESS REQUIRED.—The Secretary of Defense shall establish a process to ensure consultation with the victim of an alleged sex-related offense that occurs in the United States to solicit the victim's preference regarding whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense.

"(2) CONVENING AUTHORITY CONSIDERATION OF PREFERENCE.—The preference expressed by the victim of an alleged sex-related offense under paragraph (1) regarding the prosecution of the offense, while not binding, should be considered by the convening authority in making the determination regarding whether to refer the charge or specification for the offense to a court-martial for trial.

"(3) NOTICE TO APPROPRIATE JURISDICTION OF VICTIM'S PREFERENCE FOR CIVILIAN PROSECUTION.—If the victim of an alleged sex-related offense expresses a preference under paragraph (1) for prosecution of the offense in a civilian court, the convening authority described in paragraph (2) shall ensure that the civilian authority with jurisdiction over the offense is notified of the victim's preference for civilian prosecution.

"(4) NOTICE TO VICTIM OF STATUS OF CIVILIAN PROSECUTION WHEN VICTIM EXPRESSES PREFERENCE FOR CIVILIAN PROSECUTION.—Following notification of the civilian authority with jurisdiction over an alleged sex-related offense of the preference of the victim of the offense for prosecution of the offense in a civilian court, the convening authority shall be responsible for notifying the victim if the convening authority learns of any decision by the civilian authority to prosecute or not prosecute the offence in a civilian court.

"(c) MODIFICATION OF MANUAL FOR COURTS-MARTIAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], Part III of the Manual for Courts-Martial shall be modified to provide that when a victim of an alleged sex-related offense has a right to be heard in connection with the prosecution of the alleged sex-related such offense, the victim may exercise that right through counsel, including through a Special Victims' Counsel under section 1044e of title 10, United States Code (as amended by subsection (a)).

"(d) NOTICE TO COUNSEL ON SCHEDULING OF PROCEEDINGS.—The Secretary concerned shall establish policies and procedures designed to ensure that any counsel of the victim of an alleged sex-related offense, including a Special Victims' Counsel under section 1044e of title 10, United States Code (as amended by subsection (a)), is provided prompt and adequate notice of the scheduling of any hearing, trial, or other proceeding in connection with the prosecution of such offense in order to permit such counsel the opportunity to prepare for such proceeding.

"(e) DEFINITIONS.—In this section:

"(1) The term 'alleged sex-related offense' has the meaning given that term in section 1044e(g) [now 1044e(h)] of title 10, United States Code.

"(2) The term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of such title."

**IMPLEMENTATION**

Pub. L. 113–66, div. A, title XVII, §1716(a)(4), Dec. 26, 2013, 127 Stat. 969, provided that: "Section 1044e of title 10, United States Code, as added by paragraph (1), shall be implemented within 180 days after the date of the enactment of this Act [Dec. 26, 2013]."

**ENHANCED TRAINING REQUIREMENT**

Pub. L. 113–66, div. A, title XVII, §1716(b), Dec. 26, 2013, 127 Stat. 969, provided that: "The Secretary of each military department, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall implement, consistent with the guidelines provided under section 1044e of title 10, United States Code, as added by subsection (a), in-depth and advanced training for all military and civilian attorneys providing legal assistance under section 1044 or 1044e of such title to support victims of alleged sex-related offenses."

## §1044f. Policies with respect to special trial counsel

(a) POLICIES REQUIRED.—The Secretary of Defense shall establish policies with respect to the appropriate mechanisms and procedures that the Secretaries of the military departments shall

establish relating to the activities of special trial counsel, including expected milestones for such Secretaries to fully implement such mechanisms and procedures. Subject to subsection (c), the policies shall—

(1) provide for the establishment of a dedicated office within each military service from which office the activities of the special trial counsel of the military service concerned shall be supervised and overseen;

(2) provide for the appointment of one lead special trial counsel, who shall—

(A) be a judge advocate of that service in a grade no lower than O–7, with significant experience in military justice;

(B) be responsible for the overall supervision and oversight of the activities of the special trial counsel of that service; and

(C) report directly to the Secretary concerned, without intervening authority;

(3) ensure that within each office created pursuant to paragraph (1), the special trial counsel and other personnel assigned or detailed to the office—

(A) are independent of the military chains of command of both the victims and those accused of covered offenses and any other offenses over which a special trial counsel at any time exercises authority in accordance with section 824a of this title (article 24a); and

(B) conduct assigned activities free from unlawful or unauthorized influence or coercion;

(4) provide that special trial counsel shall be well-trained, experienced, highly skilled, and competent in handling cases involving covered offenses; and

(5) provide that commanders of the victim and the accused in a case involving a covered offense shall have the opportunity to provide input to the special trial counsel regarding case disposition, but that the input is not binding on the special trial counsel.

(b) UNIFORMITY.—The Secretary of Defense shall ensure that any lack of uniformity in the implementation of policies, mechanisms, and procedures established under subsection (a) does not render unconstitutional any such policy, mechanism, or procedure.

(c) SPECIAL TRIAL COUNSEL OF DEPARTMENT OF THE AIR FORCE.—In establishing policies under subsection (a), the Secretary of Defense shall—

(1) in lieu of providing for separate offices for the Air Force and Space Force under subsection (a)(1), provide for the establishment of a single dedicated office from which office the activities of the special trial counsel of the Department of the Air Force shall be supervised and overseen; and

(2) in lieu of providing for separate lead special trial counsels for the Air Force and Space Force under subsection (a)(2), provide for the appointment of one lead special trial counsel who shall be responsible for the overall supervision and oversight of the activities of the special trial counsel of the Department of the Air Force.

(d) MILITARY SERVICE DEFINED.—In this section, the term "military service" means the Army, Navy, Air Force, Marine Corps, and Space Force.

(Added Pub. L. 117–81, div. A, title V, §532(a), Dec. 27, 2021, 135 Stat. 1694; amended Pub. L. 117–263, div. A, title V, §545(a), Dec. 23, 2022, 136 Stat. 2584.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a). Pub. L. 117–263, §545(a)(1), substituted "Subject to subsection (c), the policies shall" for "The policies shall" in introductory provisions.

Subsecs. (c), (d). Pub. L. 117–263, §545(a)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2022 AMENDMENT**

Pub. L. 117–263, div. A, title V, §545(b), Dec. 23, 2022, 136 Stat. 2584, provided that: "The amendments made subsection (a) [amending this section] shall take effect immediately after the coming into effect of the amendments made by section 532 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1694) [enacting this section] as provided in section 539C of that Act (10 U.S.C. 801 note)."

**EFFECTIVE DATE**

Section effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117–81, set out as an Effective Date of 2021 Amendment note under section 801 of this title.

## §1045. Voluntary withholding of State income tax from retired or retainer pay

(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar month shall be retained by the Secretary concerned and disbursed to the States during the following calendar month.

(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

(e) In this section:

(1) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) The term "Secretary concerned" includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98–525, title VI, §654(a), Oct. 19, 1984, 98 Stat. 2551; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109–163, div. A, title VI, §661, Jan. 6, 2006, 119 Stat. 3314.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163, in third sentence, substituted "any calendar month" for "any calendar quarter" and "during the following calendar month" for "during the month following that calendar quarter".
**1987**—Subsec. (e)(1), (2). Pub. L. 100–26 inserted "The term" after each par. designation.

## §1046. Overseas temporary foster care program

(a) PROGRAM AUTHORIZED.—The Secretary concerned may establish a program to provide temporary foster care services outside the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.

(Added Pub. L. 102–484, div. A, title VI, §651(a), Oct. 23, 1992, 106 Stat. 2425.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1046, added Pub. L. 98–525, title VII, §708(a)(1), Oct. 19, 1984, 98 Stat. 2572, related to preseparation counseling, prior to repeal by Pub. L. 101–510, div. A, title V, §502(b)(1), Nov. 5, 1990, 104 Stat. 1557.

## §1047. Allowance for civilian clothing

(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing and luggage to a member at a cost not to exceed $250, or reimburse a member for the purchase of civilian clothing and luggage in an amount not to exceed $250, in the case of a member who—

(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.

(b) CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than $40, to an enlisted member who is—

(1) discharged for misconduct or unsuitability or under conditions other than honorable;

(2) sentenced by a civil court to confinement in a prison;

(3) interned or discharged as an alien enemy; or

(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

(Added Pub. L. 98–525, title XIV, §1401(d)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 108–375, div. A, title V, §584(a), Oct. 28, 2004, 118 Stat. 1929; Pub. L. 110–181, div. A, title VI, §634, Jan. 28, 2008, 122 Stat. 155.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8024], 98 Stat. 1904, 1928.
Dec. 8, 1983, Pub. L. 98–212, title VII, §727, 97 Stat. 1443.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §730], 96 Stat. 1833, 1855.

Dec. 29, 1981, Pub. L. 97–114, title VII, §730, 95 Stat. 1584.
Dec. 15, 1980, Pub. L. 96–527, title VII, §731, 94 Stat. 3086.
Dec. 21, 1979, Pub. L. 96–154, title VII, §731, 93 Stat. 1157.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §831, 92 Stat. 1249.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §830, 91 Stat. 905.
Sept. 22, 1976, Pub. L. 94–419, title VII, §730, 90 Stat. 1296.
Feb. 9, 1976, Pub. L. 94–212, title VII, §730, 90 Stat. 173.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §831, 88 Stat. 1230.
Jan. 2, 1974, Pub. L. 93–238, title VII, §732, 87 Stat. 1044.
Oct. 26, 1972, Pub. L. 92–570, title VII, §732, 86 Stat. 1201.
Dec. 18, 1971, Pub. L. 92–204, title VII, §733, 85 Stat. 733.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §833, 84 Stat. 2036.
Dec. 29, 1969, Pub. L. 91–171, title VI, §633, 83 Stat. 485.
Oct. 17, 1968, Pub. L. 90–580, title V, §532, 82 Stat. 1135.
Sept. 29, 1967, Pub. L. 90–96, title VI, §632, 81 Stat. 247.
Oct. 15, 1966, Pub. L. 89–687, title VI, §633, 80 Stat. 996.
Sept. 29, 1965, Pub. L. 89–213, title VI, §633, 79 Stat. 879.
Aug. 19, 1964, Pub. L. 88–446, title V, §533, 78 Stat. 480.
Oct. 17, 1963, Pub. L. 88–149, title V, §533, 77 Stat. 269.
Aug. 9, 1962, Pub. L. 87–577, title V, §534, 76 Stat. 333.
Aug. 17, 1961, Pub. L. 87–144, title VI, §634, 75 Stat. 381.
July 7, 1960, Pub. L. 86–601, title II, §201, 74 Stat. 340–342.
Aug. 18, 1959, Pub. L. 86–166, title II, §201, 73 Stat. 368–370.
Aug. 22, 1958, Pub. L. 85–724, title III, §301, title IV, §401, title V, §501, 72 Stat. 714, 717, 721.
Aug. 2, 1957, Pub. L. 85–117, title III, §301, title IV, §401, title V, §501, 71 Stat. 314, 316, 321.
July 2, 1956, ch. 488, title III, §301, title IV, §401, title V, §501, 70 Stat. 457, 459, 464.
July 13, 1955, ch. 358, title III, §301, title IV, §401, title V, §501, 69 Stat. 304, 306, 312.
June 30, 1954, ch. 432, title IV, §401, title V, §501, title VI, §601, 68 Stat. 339, 342, 347.
Aug. 1, 1953, ch. 305, title III, §301, title IV, §401, title V, §501, 67 Stat. 339, 342, 348.
July 10, 1952, ch. 630, title III, §301, title IV, §401, title V, §501, 66 Stat. 520, 524, 529.
Oct. 18, 1951, ch. 512, title III, §301, title IV, §401, title V, §501, 65 Stat. 429, 437, 443.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title IV, §401, title V, §501, 64 Stat. 735, 743, 749.
Oct. 29, 1949, ch. 787, title III, §301, title IV, §401, title V, §501, 63 Stat. 993, 1006, 1014.
June 24, 1948, ch. 632, 62 Stat. 655.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 557.
July 16, 1946, ch. 583, §1, 60 Stat. 548.
July 3, 1945, ch. 265, §1, 59 Stat. 391.
June 28, 1944, ch. 303, §1, 58 Stat. 580.
July 1, 1943, ch. 185, §1, 57 Stat. 354.
July 2, 1942, ch. 477, §1, 56 Stat. 617.
June 30, 1941, ch. 262, §1, 55 Stat. 373.
June 13, 1940, ch. 343, §1, 54 Stat. 359.
Apr. 26, 1939, ch. 88, §1, 53 Stat. 600.
June 11, 1938, ch. 37, §1, 52 Stat. 650.
July 1, 1937, ch. 423, §1, 50 Stat. 450.
May 15, 1936, ch. 404, §1, title I, 49 Stat. 1286.
Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 129.
Apr. 26, 1934, ch. 165, title I, 48 Stat. 622.
Mar. 4, 1933, ch. 281, title I, 47 Stat. 1577.
July 14, 1932, ch. 482, title I, 47 Stat. 671.
Feb. 23, 1931, ch. 279, title I, 46 Stat. 1284.
May 28, 1930, ch. 348, title I, 46 Stat. 438.
Feb. 28, 1929, ch. 366, title I, 45 Stat. 1356.
Mar. 23, 1928, ch. 232, title I, 45 Stat. 332.
Feb. 23, 1927, ch. 167, title I, 44 Stat. 1113.
Apr. 15, 1926, ch. 146, title I, 44 Stat. 262.

**AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–181 inserted "and luggage" after "civilian clothing" in two places in introductory provisions.

**2004**—Pub. L. 108–375 added subsec. (a), designated existing provisions as subsec. (b), and inserted subsec. (b) heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT; RETROACTIVE APPLICATION

Pub. L. 108–375, div. A, title V, §584(b), (c), Oct. 28, 2004, 118 Stat. 1930, provided that:

"(b) EFFECTIVE DATE.—Subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), shall take effect as of October 1, 2004, and (subject to subsection (c)) shall apply with respect to clothing furnished, and reimbursement for clothing purchased, on or after that date.

"(c) RETROACTIVE APPLICATION.—With respect to the period beginning on October 1, 2004, and ending on the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall provide for subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), to be applied as a continuation of the authority provided in section 1319 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 571), as continued in effect during fiscal year 2004 by section 1103 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1214)."

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §1048. Gratuity payment to persons discharged for fraudulent enlistment

The Secretary concerned may pay a gratuity of not to exceed $25 to a person discharged for fraudulent enlistment.

(Added Pub. L. 98–525, title XIV, §1401(d)(1), Oct. 19, 1984, 98 Stat. 2616.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8006], 98 Stat. 1904, 1923.
Dec. 8, 1983, Pub. L. 98–212, title VII, §709, 97 Stat. 1439.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §709], 96 Stat. 1833, 1851.
Dec. 29, 1981, Pub. L. 97–114, title VII, §709, 95 Stat. 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §709, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §709, 93 Stat. 1153.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §809, 92 Stat. 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §808, 91 Stat. 900.
Sept. 22, 1976, Pub. L. 94–419, title VII, §708, 90 Stat. 1292.
Feb. 9, 1976, Pub. L. 94–212, title VII, §708, 90 Stat. 169.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §808, 88 Stat. 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §708, 87 Stat. 1039.
Oct. 26, 1972, Pub. L. 92–570, title VII, §708, 86 Stat. 1197.
Dec. 18, 1971, Pub. L. 92–204, title VII, §708, 85 Stat. 728.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §808, 84 Stat. 2031.
Dec. 29, 1969, Pub. L. 91–171, title VI, §608, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §507, 82 Stat. 1130.
Sept. 29, 1967, Pub. L. 90–96, title VI, §607, 81 Stat. 242.
Oct. 15, 1966, Pub. L. 89–687, title VI, §607, 80 Stat. 991.
Sept. 29, 1965, Pub. L. 89–213, title VI, §607, 79 Stat. 874.
Aug. 19, 1964, Pub. L. 88–446, title V, §507, 78 Stat. 475.
Oct. 17, 1963, Pub. L. 88–149, title V, §507, 77 Stat. 264.

Aug. 9, 1962, Pub. L. 87–577, title V, §507, 76 Stat. 328.
Aug. 17, 1961, Pub. L. 87–144, title VI, §607, 75 Stat. 376.
July 7, 1960, Pub. L. 86–601, title V, §507, 74 Stat. 350.
Aug. 18, 1959, Pub. L. 86–166, title V, §607, 73 Stat. 379.
Aug. 22, 1958, Pub. L. 85–724, title III, §301, title V, §501, 72 Stat. 713, 722.
Aug. 2, 1957, Pub. L. 85–117, title III, §301, title V, §501, 71 Stat. 313, 321.
July 2, 1956, ch. 488, title III, §301, title V, §501, 70 Stat. 456, 465.
July 13, 1955, ch. 358, title III, §301, title V, §501, 69 Stat. 303, 313.
June 30, 1954, ch. 432, title IV, §401, title VI, §601, 68 Stat. 339, 348.
Aug. 1, 1953, ch. 305, title III, §301, title V, §501, 67 Stat. 338, 348.
July 10, 1952, ch. 630, title III, §301, title V, §501, 66 Stat. 519, 530.
Oct. 18, 1951, ch. 512, title III, §301, title V, §501, 65 Stat. 426, 443.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, 64 Stat. 732, 750.
Oct. 29, 1949, ch. 787, title III, §301, title V, §501, 63 Stat. 991, 1015.
June 24, 1948, ch. 632, 62 Stat. 653.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 555.
July 16, 1946, ch. 583, §1, 60 Stat. 546.
July 3, 1945, ch. 265, §1, 59 Stat. 389.
June 28, 1944, ch. 303, §1, 58 Stat. 578.
July 1, 1943, ch. 185, §1, 57 Stat. 352.
July 2, 1942, ch. 477, §1, 56 Stat. 615.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §1049. Subsistence: miscellaneous persons

The following persons may be provided subsistence at the expense of the United States:

(1) Enlisted members while sick in hospitals.
(2) Applicants for enlistment and selective service registrants called for induction.
(3) Prisoners.
(4) Civilian employees, as authorized by law.
(5) Supernumeraries, when necessitated by emergent military circumstances.

(Added Pub. L. 98–525, title XIV, §1401(d)(1), Oct. 19, 1984, 98 Stat. 2616.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8006], 98 Stat. 1904, 1923.
Dec. 8, 1983, Pub. L. 98–212, title VII, §709, 97 Stat. 1439.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §709], 96 Stat. 1833, 1851.
Dec. 29, 1981, Pub. L. 97–114, title VII, §709, 95 Stat. 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §709, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §709, 93 Stat. 1153.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §809, 92 Stat. 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §808, 91 Stat. 900.
Sept. 22, 1976, Pub. L. 94–419, title VII, §708, 90 Stat. 1292.
Feb. 9, 1976, Pub. L. 94–212, title VII, §708, 90 Stat. 169.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §808, 88 Stat. 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §708, 87 Stat. 1039.
Oct. 26, 1972, Pub. L. 92–570, title VII, §708, 86 Stat. 1197.

Dec. 18, 1971, Pub. L. 92–204, title VII, §708, 85 Stat. 728.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §808, 84 Stat. 2031.
Dec. 29, 1969, Pub. L. 91–171, title VI, §608, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §507, 82 Stat. 1130.
Sept. 29, 1967, Pub. L. 90–96, title VI, §607, 81 Stat. 242.
Oct. 15, 1966, Pub. L. 89–687, title VI, §607, 80 Stat. 991.
Sept. 29, 1965, Pub. L. 89–213, title VI, §607, 79 Stat. 874.
Aug. 19, 1964, Pub. L. 88–446, title V, §507, 78 Stat. 475.
Oct. 17, 1963, Pub. L. 88–149, title V, §507, 77 Stat. 264.
Aug. 9, 1962, Pub. L. 87–577, title V, §507, 76 Stat. 328.
Aug. 17, 1961, Pub. L. 87–144, title II, §201, title VI, §607, 75 Stat. 367, 376.
July 7, 1960, Pub. L. 86–601, title II, §201, title V, §507, 74 Stat. 340, 350.
Aug. 18, 1959, Pub. L. 86–166, title II, §201, title V, §607, 73 Stat. 368, 379.
Aug. 22, 1958, Pub. L. 85–724, title III, §301, title V, §501, 72 Stat. 713, 714, 721, 722.
Aug. 2, 1957, Pub. L. 85–117, title III, §301, title V, §501, 71 Stat. 313, 314, 321.
July 2, 1956, ch. 488, title III, §301, title V, §501, 70 Stat. 456, 457, 465.
July 13, 1955, ch. 358, title III, §301, title V, §501, 69 Stat. 303, 312.
June 30, 1954, ch. 432, title IV, §401, title VI, §601, 68 Stat. 339, 348.
Aug. 1, 1953, ch. 305, title III, §301, title V, §501, 67 Stat. 338, 339, 348.
July 10, 1952, ch. 630, title III, §301, title V, §501, 66 Stat. 519, 520, 529.
Oct. 18, 1951, ch. 512, title III, §301, title V, §501, 65 Stat. 428, 443.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, 64 Stat. 734, 749, 750.
Oct. 29, 1949, ch. 787, title III, §301, title V, §501, 63 Stat. 991, 992, 1015.
June 24, 1948, ch. 632, 62 Stat. 654.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 556.
July 16, 1946, ch. 583, §1, 60 Stat. 546, 547.
July 3, 1945, ch. 265, §1, 59 Stat. 389, 390.
June 28, 1944, ch. 303, §1, 58 Stat. 579.
July 1, 1943, ch. 185, §1, 57 Stat. 353.
July 2, 1942, ch. 477, §1, 56 Stat. 616.
June 30, 1941, ch. 262, §1, 55 Stat. 372.
June 13, 1940, ch. 343, §1, 54 Stat. 357.
Apr. 26, 1939, ch. 88, §1, 53 Stat. 599.
June 11, 1938, ch. 37, §1, 52 Stat. 648.
July 1, 1937, ch. 423, §1, 50 Stat. 448.
May 15, 1936, ch. 404, §1, title I, 49 Stat. 1285.
Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 127.
Apr. 26, 1934, ch. 165, title I, 48 Stat. 620.
Mar. 4, 1933, ch. 281, title I, 47 Stat. 1576.
July 14, 1932, ch. 482, title I, 47 Stat. 669.
Feb. 23, 1931, ch. 279, title I, 46 Stat. 1282.
May 28, 1930, ch. 348, title I, 46 Stat. 437.
Feb. 28, 1929, ch. 366, title I, 45 Stat. 1354.
Mar. 23, 1928, ch. 232, title I, 45 Stat. 331.
Feb. 23, 1927, ch. 167, title I, 44 Stat. 1111.
Apr. 15, 1926, ch. 146, title I, 44 Stat. 260.
Feb. 12, 1925, ch. 225, title I, 43 Stat. 898.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## [§1050. Repealed. Pub. L. 114–328, div. A, title XII, §1243(b)(1), Dec. 23, 2016, 130 Stat. 2516]

Section, added Pub. L. 98–525, title XIV, §1401(d)(1), Oct. 19, 1984, 98 Stat. 2616; amended Pub. L. 105–261, div. A, title IX, §905(b), Oct. 17, 1998, 112 Stat. 2093, related to the payment of personnel expenses for Latin American cooperation.

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8006], Oct. 12, 1984, 98 Stat. 1904, 1923.
Pub. L. 98–212, title VII, §709, Dec. 8, 1983, 97 Stat. 1439.
Pub. L. 97–377, title I, §101(c) [title VII, §709], Dec. 21, 1982, 96 Stat. 1833, 1851.
Pub. L. 97–114, title VII, §709, Dec. 29, 1981, 95 Stat. 1579.
Pub. L. 96–527, title VII, §709, Dec. 15, 1980, 94 Stat. 3081.
Pub. L. 96–154, title VII, §709, Dec. 21, 1979, 93 Stat. 1153.
Pub. L. 95–457, title VIII, §809, Oct. 13, 1978, 92 Stat. 1244.
Pub. L. 95–111, title VIII, §808, Sept. 21, 1977, 91 Stat. 900.
Pub. L. 94–419, title VII, §708, Sept. 22, 1976, 90 Stat. 1292.
Pub. L. 94–212, title VII, §708, Feb. 9, 1976, 90 Stat. 169.
Pub. L. 93–437, title VIII, §808, Oct. 8, 1974, 88 Stat. 1225.
Pub. L. 93–238, title VII, §708, Jan. 2, 1974, 87 Stat. 1039.
Pub. L. 92–570, title VII, §708, Oct. 26, 1972, 86 Stat. 1197.
Pub. L. 92–204, title VII, §708, Dec. 18, 1971, 85 Stat. 728.
Pub. L. 91–668, title VIII, §808, Jan. 11, 1971, 84 Stat. 2031.
Pub. L. 91–171, title VI, §608, Dec. 29, 1969, 83 Stat. 480.
Pub. L. 90–580, title V, §507, Oct. 17, 1968, 82 Stat. 1130.
Pub. L. 90–96, title VI, §607, Sept. 29, 1967, 81 Stat. 242.
Pub. L. 89–687, title VI, §607, Oct. 15, 1966, 80 Stat. 991.
Pub. L. 89–213, title VI, §607, Sept. 29, 1965, 79 Stat. 874.
Pub. L. 88–446, title V, §507, Aug. 19, 1964, 78 Stat. 475.
Pub. L. 88–149, title V, §507, Oct. 17, 1963, 77 Stat. 264.
Pub. L. 87–577, title V, §507, Aug. 9, 1962, 76 Stat. 328.
Pub. L. 87–144, title II, §201, Aug. 17, 1961, 75 Stat. 367, 369.
Pub. L. 86–601, title II, §201, July 7, 1960, 74 Stat. 341, 343.
Pub. L. 86–166, title II, §201, Aug. 18, 1959, 73 Stat. 369, 371.
Pub. L. 85–724, title III, §301, title V, §501, Aug. 22, 1958, 72 Stat. 714, 721.
Pub. L. 85–117, title III, §301, title V, §501, Aug. 2, 1957, 71 Stat. 314, 321.
July 2, 1956, ch. 488, title III, §301, title V, §501, 70 Stat. 457, 465.
July 13, 1955, ch. 358, title III, §301, title V, §501, 69 Stat. 304, 312.
June 30, 1954, ch. 432, title IV, §401, title VI, §601, 68 Stat. 340, 347.
Aug. 1, 1953, ch. 305, title III, §301, title V, §501, 67 Stat. 339, 347.
July 10, 1952, ch. 630, title III, §301, title V, §501, 66 Stat. 521, 529.
Oct. 18, 1951, ch. 512, title III, §301, title V, §501, 65 Stat. 426, 442.
Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title V, §501, 64 Stat. 732, 749.
Oct. 29, 1949, ch. 787, title III, §301, title V, §501, 63 Stat. 989, 1014.
June 24, 1948, ch. 632, 62 Stat. 650.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 568.
July 16, 1946, ch. 583, §1, 60 Stat. 560.
July 3, 1945, ch. 265, §1, 59 Stat. 401.
June 28, 1944, ch. 303, §1, 58 Stat. 591.
July 1, 1943, ch. 185, §1, 57 Stat. 365.
July 2, 1942, ch. 477, §1, 56 Stat. 628.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION FOR FISCAL YEARS 2017, 2018, AND 2019

Pub. L. 114–328, div. A, title XII, §1243(c), Dec. 23, 2016, 130 Stat. 2516, as amended by Pub. L. 115–91, div. A, title XII, §1208, Dec. 12, 2017, 131 Stat. 1647, provided that: "The authority under section 1050 of

title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 23, 2016], shall continue to apply with respect to the Inter-American Defense College during fiscal years 2017, 2018, and 2019 under regulations prescribed by the Secretary of Defense."

## [§§1050a to 1051a. Repealed. Pub. L. 114–328, div. A, title XII, §1243(b)(1), Dec. 23, 2016, 130 Stat. 2516]

Section 1050a, added Pub. L. 111–383, div. A, title XII, §1204(a), Jan. 7, 2011, 124 Stat. 4386, related to the payment of personnel expenses for African cooperation.

Section 1051, added Pub. L. 99–661, div. A, title XIII, §1322(a), Nov. 14, 1986, 100 Stat. 3989; amended Pub. L. 101–189, div. A, title IX, §936, Nov. 29, 1989, 103 Stat. 1538; Pub. L. 101–510, div. A, title XIII, §1301(5), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–484, div. A, title XIII, §1362, Oct. 23, 1992, 106 Stat. 2560; Pub. L. 107–314, div. A, title XII, §1202(a), Dec. 2, 2002, 116 Stat. 2663; Pub. L. 109–163, div. A, title XII, §1203, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 110–417, [div. A], title XII, §1231(a), (b)(1), (c)(1), Oct. 14, 2008, 122 Stat. 4636, 4637, related to the payment of expenses for multilateral, bilateral, or regional cooperation programs.

Section 1051a, added Pub. L. 107–314, div. A, title XII, §1201(a)(1), Dec. 2, 2002, 116 Stat. 2662; amended Pub. L. 109–13, div. A, title I, §1010, May 11, 2005, 119 Stat. 244; Pub. L. 109–163, div. A, title XII, §1205, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 110–181, div. A, title XII, §1203(a)–(e)(1), Jan. 28, 2008, 122 Stat. 364, 365; Pub. L. 111–84, div. A, title XII, §1205(a), Oct. 28, 2009, 123 Stat. 2514; Pub. L. 113–291, div. A, title XII, §1203, Dec. 19, 2014, 128 Stat. 3530, related to the payment of travel, subsistence, medical care, and other personal expenses and the provision of administrative services and support to liaison officers of certain foreign nations.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### AIR FORCE SCHOLARSHIPS FOR PARTNERSHIP FOR PEACE NATIONS TO PARTICIPATE IN THE EURO-NATO JOINT JET PILOT TRAINING PROGRAM

Pub. L. 111–383, div. A, title XII, §1206, Jan. 7, 2011, 124 Stat. 4387, permitted the Secretary of the Air Force to establish and maintain a demonstration scholarship program, until Sept. 30, 2012, to allow personnel of the air forces of countries that are signatories of the Partnership for Peace Framework Document to receive undergraduate pilot training and necessary related training through the Euro-NATO Joint Jet Pilot Training (ENJJPT) program.

## [§1051b. Renumbered §313]

## [§1051c. Repealed. Pub. L. 114–328, div. A, title XII, §1253(a)(1)(B), Dec. 23, 2016, 130 Stat. 2532]

Section, added Pub. L. 112–81, div. A, title IX, §951(a)(1), Dec. 31, 2011, 125 Stat. 1548, related to assignments to improve education and training in information security as part of multilateral, bilateral, or regional cooperation programs.

## §1052. Adoption expenses: reimbursement

(a) AUTHORIZATION TO REIMBURSE.—The Secretary of Defense shall carry out a program under which a member of the armed forces may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42

U.S.C. 673(c))).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than $2,000 may be paid under this section to a member of the armed forces, or to two such members who are spouses of each other, for expenses incurred in the adoption of a child.

(2) Not more than $5,000 may be paid under this section to a member of the armed forces, or to two such members who are spouses of each other, for adoptions by such member (or members) in any calendar year.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term "qualifying adoption expenses" means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency or other source authorized to place children for adoption under State or local law. Such term does not include any expense incurred—

(A) by an adopting parent for travel; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(2) The term "reasonable and necessary expenses" includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees (including court costs) in connection with services that are unavailable to a member of the armed forces under section 1044 or 1044a of this title; and

(D) medical expenses, including hospital expenses of the biological mother of the child to be adopted and of a newborn infant to be adopted.

(3) The term "qualified adoption agency" means any of the following:

(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.

(D) A foreign government or an agency authorized by a foreign government to place children for adoption, in any case in which—

(i) the adopted child is entitled to automatic citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431); or

(ii) a certificate of citizenship has been issued for such child under section 322 of that Act (8 U.S.C. 1433).

(Added Pub. L. 102–190, div. A, title VI, §651(a)(1), Dec. 5, 1991, 105 Stat. 1385; amended Pub. L. 102–484, div. A, title X, §1052(12), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 104–201, div. A, title VI, §652(a), Sept. 23, 1996, 110 Stat. 2582; Pub. L. 106–398, §1 [[div. A], title V, §579(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–141; Pub. L. 108–375, div. A, title VI, §661, Oct. 28, 2004, 118 Stat. 1974; Pub. L. 109–163, div. A, title V, §592(a), Jan. 6, 2006, 119 Stat. 3280.)

## EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 1052 was renumbered section 1063 of this title and subsequently repealed.

**AMENDMENTS**

**2006**—Subsec. (g)(1). Pub. L. 109–163 inserted "or other source authorized to place children for adoption under State or local law" after "qualified adoption agency" in introductory provisions.

**2004**—Subsec. (g)(3)(D). Pub. L. 108–375 added subpar. (D).

**2000**—Pub. L. 106–398 substituted "Adoption expenses: reimbursement" for "Reimbursement for adoption expenses" in section catchline.

**1996**—Subsec. (g)(1). Pub. L. 104–201, §652(a)(1), substituted "qualified adoption agency." for "State or local government agency which has responsibility under State or local law for child placement through adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption."

Subsec. (g)(3). Pub. L. 104–201, §652(a)(2), added par. (3).

**1992**—Subsec. (b). Pub. L. 102–484 inserted close parenthesis before period at end.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 102–190, div. A, title VI, §651(c), Dec. 5, 1991, 105 Stat. 1387, provided that: "The amendments made by subsections (a) and (b) [enacting this section and section 514 of Title 14, Coast Guard] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to adoptions completed on or after that date."

**REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING PERIOD BETWEEN TEST AND PERMANENT PROGRAM**

Pub. L. 102–484, div. A, title VI, §652, Oct. 23, 1992, 106 Stat. 2426, provided that this section and section 514 (now 2903) of Title 14, Coast Guard, would apply with respect to the reimbursement of adoption expenses incurred for an adoption proceeding completed during the period beginning on Oct. 1, 1990, and ending on Dec. 4, 1991, to the extent that such expenses would have been covered if the proceeding had been completed after Dec. 4, 1991, but only if an application for such reimbursement had been made within one year after Oct. 23, 1992.

## §1053. Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement

(a)(1) A member of the armed forces (or a former member of the armed forces entitled to retired pay under chapter 1223 of this title) who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed by the Secretary concerned for a covered late-deposit charge.

(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance or average balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the person concerned to be deposited late or in an incorrect manner or amount.

(b) Reimbursements under this section shall be made from appropriations available for the pay and allowances of members of the armed force concerned.

(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

(d) In this section:

(1) The term "financial institution" means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.

(2) The term "pay" includes (A) retired pay, and (B) allowances.

(Added Pub. L. 99–661, div. A, title VI, §662(a)(1), Nov. 14, 1986, 100 Stat. 3893; amended Pub. L. 101–189, div. A, title VI, §664(a)(1)–(3)(A), Nov. 29, 1989, 103 Stat. 1466; Pub. L. 102–25, title

VII, §701(e)(8)(A), Apr. 6, 1991, 105 Stat. 115; Pub. L. 104–106, div. A, title XV, §1501(c)(8), Feb. 10, 1996, 110 Stat. 499; Pub. L. 105–261, div. A, title V, §564(a), Oct. 17, 1998, 112 Stat. 2029; Pub. L. 106–398, §1 [[div. A], title V, §579(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–141.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Pub. L. 106–398 substituted "Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement" for "Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay" in section catchline.

**1998**—Subsec. (d)(1). Pub. L. 105–261 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31."

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "chapter 1223" for "chapter 67".

**1991**—Pub. L. 102–25 struck out "mandatory" after "error in" in section catchline.

**1989**—Pub. L. 101–189, §664(a)(3)(A), amended section catchline generally, substituting "Reimbursement for financial institution charges incurred because of Government" for "Relief for expenses because of".

Subsec. (a). Pub. L. 101–189, §664(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an administrative or mechanical error on the part of the Government that causes such member's pay to be deposited late or in an incorrect amount or manner."

Subsec. (d). Pub. L. 101–189, §664(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In this section, the term 'financial institution' has the meaning given that term in section 3332 of title 31."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title VI, §664(c), Nov. 29, 1989, 103 Stat. 1467, provided that: "The amendments made by subsection (a) [amending this section], and section 1594 of title 10, United States Code, as added by subsection (b), shall apply with respect to pay and allowances deposited (or scheduled to be deposited) on or after the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989]."

### EFFECTIVE DATE

Pub. L. 99–661, div. A, title VI, §662(c), Nov. 14, 1986, 100 Stat. 3894, provided that: "Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act [Nov. 14, 1986]."

## [§1053a. Repealed. Pub. L. 113–66, div. A, title VI, §621(c)(2)(A), Dec. 26, 2013, 127 Stat. 784]

Section, added Pub. L. 106–398, §1 [[div. A], title V, §579(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–141, related to reimbursement for expenses incurred in connection with leave canceled due to contingency operations.

## §1054. Defense of certain suits arising out of legal malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for

damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32) or within the Coast Guard, in connection with providing legal services while acting within the scope of the person's duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person (or an attested true copy thereof) to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

(1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;

(2) to the Attorney General; and

(3) to the head of the agency concerned.

(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

(1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and

(2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to a cause of action arising out of a negligent or wrongful act or omission in the provision of legal assistance.

(f) The head of the agency concerned may hold harmless or provide liability insurance for any person described in subsection (a) for damages for injury or loss of property caused by such person's negligent or wrongful act or omission in the provision of authorized legal assistance while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with an entity other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

(g) In this section, the term "head of the agency concerned" means the Secretary of Defense, the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate.

(Added Pub. L. 99–661, div. A, title XIII, §1356(a)(1), Nov. 14, 1986, 100 Stat. 3996; amended Pub. L. 100–448, §15(a), Sept. 28, 1988, 102 Stat. 1845.)

## EDITORIAL NOTES

### AMENDMENTS

**1988**—Subsec. (a). Pub. L. 100–448, §15(a)(1), inserted "or within the Coast Guard" after "of title 32)".

Subsec. (g). Pub. L. 100–448, §15(a)(2), inserted reference to the Secretary of the department in which the Coast Guard is operating.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–448, §15(b), Sept. 28, 1988, 102 Stat. 1845, provided that: "The amendments made by subsection (a) [amending this section] shall apply only to claims accruing on or after the date of the enactment of this Act [Sept. 28, 1988], regardless of when the alleged negligent act or omission occurred."

### EFFECTIVE DATE

Pub. L. 99–661, div. A, title XIII, §1356(b), Nov. 14, 1986, 100 Stat. 3998, provided that: "Section 1054 of title 10, United States Code, as added by subsection (a), shall apply only to claims accruing on or after the date of the enactment of this Act [Nov. 14, 1986], regardless of when the alleged negligent or wrongful act or omission occurred."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord

(a) The Secretary of Defense may carry out a program under which the Secretary of a military department agrees to indemnify a landlord who leases a rental unit to a member of the armed forces against a breach of the lease by the member or for damage to the rental unit caused by the member. In exchange for agreement for such indemnification by the Secretary, the landlord shall be required to waive any requirement for payment by the member of a security deposit that the landlord would otherwise require.

(b)(1) For purposes of carrying out a program authorized by subsection (a), the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any landlord who agrees to waive the requirement for a security deposit in connection with the lease of a rental unit to a member of the armed forces under the jurisdiction of the Secretary. An agreement under this paragraph shall provide that—

(A) the term of the agreement shall remain in effect during the term of the member's lease and during any lease renewal periods with the lessor;

(B) the member shall not pay a security deposit;

(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the landlord for breach of the lease by the member and for damage to the rental unit caused by the member or by a guest or dependent of the member;

(D) the total liability of the Secretary for a breach of the lease or for damage described in subparagraph (C) may not exceed an amount equal to the amount that the Secretary determines would have been required by the landlord as a security deposit in the absence of an agreement authorized in this paragraph;

(E) the Secretary may not compensate the landlord for any claim for breach of the lease or for damage described in subparagraph (C) until the landlord exhausts any remedies available to the landlord (including submission to binding arbitration by a panel composed of military personnel and persons from the private sector) against the member for the breach or damage; and

(F) the Secretary shall be subrogated to the rights of the landlord in any case in which the Secretary compensates the landlord for breach of the lease or for damage described in subparagraph (C).

(2) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

(c)(1) The Secretary of a military department who compensates a landlord under subsection (b) for a breach of a lease or for damage described in subsection (b)(1)(C) may issue a special order under section 1007 of title 37 to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the landlord as compensation for the breach or damage.

(2) Before the Secretary of a military department issues a special order under section 1007 of title 37 to authorize the withholding of any amount from the pay of a member for a breach or damage referred to in paragraph (1), the Secretary concerned shall provide the member with the same notice and opportunity for hearing and record inspection as provided an individual under section 5514(a)(2) of title 5. The Secretary concerned shall prescribe regulations, subject to the approval of the President, to carry out this paragraph. Such regulations shall be as uniform for the military departments as practicable.

(d) In this section, the term "landlord" means a person who leases a rental unit to a member of the armed forces.

(Added Pub. L. 100–456, div. A, title VI, §621(a)(1), Sept. 29, 1988, 102 Stat. 1982.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 100–456, div. A, title VI, §621(b), Sept. 29, 1988, 102 Stat. 1983, provided that: "Section 1055 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1988."

## §1056. Relocation assistance programs

(a) REQUIREMENT TO PROVIDE ASSISTANCE.—The Secretary of Defense shall carry out a program to provide relocation assistance to members of the armed forces and their families as provided in this section. In addition, the Secretary of Defense shall make every effort, consistent with readiness objectives, to stabilize and lengthen tours of duty to minimize the adverse effects of relocation.

(b) TYPES OF ASSISTANCE.—(1) The Secretary of each military department, under regulations prescribed by the Secretary of Defense, shall provide relocation assistance, through military relocation assistance programs described in subsection (c), to members of the armed forces who are ordered to make a change of permanent station which includes a move to a new location (and for dependents of such members who are authorized to move in connection with the change of permanent station).

(2) The relocation assistance provided shall include the following:

(A) Provision of destination area information and preparation (to be provided before the change of permanent station takes effect), with emphasis on information with regard to moving costs, housing costs and availability, child care, spouse employment opportunities, cultural adaptation, community orientation, education systems, school enrollment procedures, and State-specific provisions under the Interstate Compact on Educational Opportunity for Military Children.

(B) Provision of counseling about financial management, home buying and selling, renting, stress management aimed at intervention and prevention of abuse, property management, and shipment and storage of household goods (including motor vehicles and pets).

(C) Provision of settling-in services, with emphasis on available government living quarters, private housing, child care, spouse employment assistance information, cultural adaptation, community orientation, and educational resources for dependent children, including school transition assistance, academic continuity, and special education services.

(D) Provision of home finding services, with emphasis on services for locating adequate, affordable temporary and permanent housing.

(E) Educational planning and support services for dependent children with disabilities, including procedures for transferring individualized education programs and coordinating with the Exceptional Family Member Program.

(F) Provision of information regarding available assistance under this section and any other assistance relating to a change of permanent station available under any other provision of law, including—

(i) information on family assistance programs authorized under section 1788 of this title, including financial planning resources, spouse employment support, and community integration services;

(ii) guidance on available housing assistance, including on-base housing options, rental protections, and resources for off-base relocation;

(iii) mental health and well-being support services, including those accessible during the period of transition for a change of permanent station;

(iv) educational resources for dependent children, including school transition assistance and special education services;

(v) information on available legal and financial counseling programs; and

(vi) any other assistance programs that support members of the armed forces and their families during relocation.

(3) The Secretary of each military department shall ensure that relocation assistance required to be provided under this subsection is provided not later than 45 days before the date on which a change of permanent station takes effect for a member of the armed forces under the jurisdiction of such Secretary.

(4) The Secretary of each military department shall—

(A) incorporate the information required to be provided under this subsection into accessible materials and briefings provided to members of the armed forces relating to a change of permanent station;

(B) ensure that the program under this section provides accessible materials and briefings at military installations and through online resources;

(C) develop a communication strategy, including digital outreach and printed materials, to increase awareness of the program under this section and assistance available under other provisions of law relating to a change of permanent station; and

(D) assess the satisfaction of members of the armed forces with the information provided under this subsection.

(c) MILITARY RELOCATION ASSISTANCE PROGRAMS.—(1) The Secretary shall provide for the establishment of military relocation assistance programs to provide the relocation assistance described in subsection (b). The Secretary shall establish such a program in each geographic area in which at least 500 members of the armed forces are assigned to or serving at a military installation. A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the techniques and delivery of professional relocation assistance.

(2) The Secretary shall ensure that information available through each military relocation assistance program shall be managed through a computerized information system that can interact with all other military relocation assistance programs of the military departments, including programs located outside the continental United States.

(3) Duties of each military relocation assistance program shall include assisting personnel offices on the military installation in using the computerized information available through the program to help provide members of the armed forces who are deciding whether to reenlist information on locations of possible future duty assignments.

(d) DIRECTOR.—The Secretary of Defense shall establish the position of Director of Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Force Management and Personnel). The Director shall oversee development and implementation of the

military relocation assistance programs under this section.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

(Added Pub. L. 101–510, div. A, title XIV, §1481(c)(1), Nov. 5, 1990, 104 Stat. 1705; amended Pub. L. 104–106, div. A, title IX, §903(d), title X, §1062(a), Feb. 10, 1996, 110 Stat. 402, 443; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 107–107, div. A, title X, §1048(a)(9), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 119–60, div. A, title VI, §662(a), Dec. 18, 2025, 139 Stat. 914.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, div. A, title VI, §661(a)–(g), Nov. 29, 1989, 103 Stat. 1463, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101–510, §1481(c)(3).

### AMENDMENTS

**2025**—Subsec. (b)(2)(A). Pub. L. 119–60, §662(a)(1)(A), substituted "community orientation, education systems, school enrollment procedures, and State-specific provisions under the Interstate Compact on Educational Opportunity for Military Children" for "and community orientation".

Subsec. (b)(2)(C). Pub. L. 119–60, §662(a)(1)(B), substituted "community orientation, and educational resources for dependent children, including school transition assistance, academic continuity, and special education services" for "and community orientation".

Subsec. (b)(2)(E), (F). Pub. L. 119–60, §662(a)(1)(C), added subpars. (E) and (F).

Subsec. (b)(3), (4). Pub. L. 119–60, §662(a)(2), added pars. (3) and (4).

**2001**—Subsec. (c)(2). Pub. L. 107–107 struck out ", not later than September 30, 1991," before "information available".

**1996**—Subsec. (d). Pub. L. 104–106, §903(a), (d), which directed repeal of subsec. (d), eff. Jan. 31, 1997, was repealed by Pub. L. 104–201.

Subsecs. (f), (g). Pub. L. 104–106, §1062(a), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: "ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance Programs, shall submit to Congress a report on the program under this section and on military family relocation matters. The report shall include the following:

"(1) An assessment of available, affordable private-sector housing for members of the armed forces and their families.

"(2) An assessment of the actual nonreimbursed costs incurred by members of the armed forces and their families who are ordered to make a change of permanent station.

"(3) Information (shown by military installation) on the types of locations at which members of the armed forces assigned to duty at military installations live, including the number of members of the armed forces who live on a military installation and the number who do not live on a military installation.

"(4) Information on the effects of the relocation assistance programs established under this section on the quality of life of members of the armed forces and their families and on retention and productivity of members of the armed forces."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION OF RELOCATION ASSISTANCE PROGRAMS

Pub. L. 101–510, div. A, title XIV, §1481(c)(4), Nov. 5, 1990, 104 Stat. 1705, provided that: "The program required to be carried out by section 1056 of title 10, United States Code, as added by paragraph (1), shall be established by the Secretary of Defense not later than October 1, 1990. The Secretary shall prescribe regulations to implement that section not later than July 1, 1990."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and

functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## OVERSIGHT REQUIREMENTS FOR CONTRACTS RELATING TO RELOCATION LOGISTICS FOR HOUSEHOLD GOODS

Pub. L. 119–60, div. A, title III, §346, Dec. 18, 2025, 139 Stat. 827, provided that:

"(a) REQUIREMENTS.—The Secretary of Defense shall ensure that any covered contract includes the following oversight requirements:

"(1) The prime contractor shall submit to the Secretary a document summarizing the key terms and conditions of each subcontract relating to capacity, performance, or compliance with the requirements of the subcontract, which shall include the following:

"(A) The guaranteed capacity of each subcontractor to perform the work required under the subcontract (including with respect to location, volume, and peak season commitment).

"(B) Performance metrics and service level agreements applicable to each subcontractor.

"(C) Provisions for monitoring and enforcing subcontractor performance.

"(D) Termination clauses and penalties for noncompliance.

"(E) Data sharing and security requirements.

"(2) Each subcontractor shall provide to the prime contractor, upon request, certifications and copies of training completion relating to compliance with the requirements under the subcontract.

"(3) The prime contractor shall submit to the Secretary regular performance reports on each subcontractor, including metrics relating to on-time pickup, on-time delivery, damage claim rates, customer satisfaction, and compliance with the requirements of the subcontract.

"(4) The prime contractor shall submit to the Secretary a subcontractor management plan outlining the processes of the prime contractor for selecting, monitoring, and managing subcontractors, including a description of how the prime contractor ensures subcontractor compliance with applicable laws, regulations, and the requirements of the subcontract.

"(5) The prime contractor shall maintain a comprehensive risk management plan that addresses potential disruptions to the performance of work by subcontractors of the prime contractor, such as financial instability, natural disasters, or labor disputes.

"(6) Not less frequently than on a monthly basis for the duration of the covered contract, the prime contractor shall submit to the Secretary the subcontractor rating system used by the prime contractor, with current scoring results under such system.

"(7) The prime contractor shall submit to the Secretary the subcontractor rates for each move to be performed under the subcontract.

"(8) The prime contractor shall establish clear escalation procedures for addressing subcontractor performance issues, including steps for resolving disputes, implementing corrective actions, and terminating non-performing subcontractors.

"(9) The Federal Government may audit subcontractor records with reasonable notice to the prime contractor.

"(10) The covered contract shall include a fixed-price line item for monthly overhead costs, separate from the rates associated with the costs of individual moves performed under the covered contract.

"(11) The prime contractor shall establish a database that the Secretary may access on a real-time basis to ensure compliance with this section.

"(b) ADDITIONAL CONSIDERATIONS.—During the development of an acquisition strategy and execution strategy for any covered contract, the Secretary shall consider, in addition to the requirements under subsection (a), the following:

"(1) Entering into a single contract pursuant to the requirements of the Federal Acquisition Regulation if the move to be performed under such contract would involve the use of a shipping lane that accounts for more than one percent of the total volume of permanent change of station moves and entering into a services contract if the move to be performed under such contract would not involve the use of such a lane.

"(2) Tiered incentive awards for higher levels of capacity.

"(c) COVERED CONTRACT.—In this section, the term 'covered contract'—

"(1) means a contract with an entity that provides relocation logistics for the household goods of members of the Armed Forces undergoing a permanent change of station (commonly referred to as a 'single move manager'); and

"(2) does not include a contract or other agreement for the relocation of a private vehicle owned or

leased by a member of the Armed Forces."

## §1056a. Reintegration of recovered Department of Defense personnel; post-isolation support activities for other recovered personnel

(a) REINTEGRATION AND SUPPORT AUTHORIZED.—The Secretary of Defense may carry out the following:

(1) Reintegration activities for recovered persons who are Department of Defense personnel.

(2) Post-isolation support activities for or on behalf of other recovered persons who are officers or employees of the United States Government, military or civilian officers or employees of an allied or coalition partner of the United States, or other United States or foreign nationals.

(b) ACTIVITIES AUTHORIZED.—(1) The activities authorized by subsection (a) for or on behalf of a recovered person may include the following:

(A) The provision of food, clothing, necessary medical support, and essential sundry items for the recovered person.

(B) In accordance with regulations prescribed by the Secretary of Defense, travel and transportation allowances for not more than three family members, or other designated individuals, determined by the commander or head of a military medical treatment facility to be beneficial for the reintegration of the recovered person and whose presence may contribute to improving the physical and mental health of the recovered person.

(C) Transportation or reimbursement for transportation in connection with the attendance of the recovered person at events or functions determined by the commander or head of a military medical treatment facility to contribute to the physical and mental health of the recovered person.

(2) Medical support may be provided under paragraph (1)(A) to a recovered person who is not a member of the armed forces for not more than 20 days.

(c) DEFINITIONS.—In this section:

(1) The term "post-isolation support", in the case of a recovered person, means—

(A) the debriefing of the recovered person following a separation as described in paragraph (2);

(B) activities to promote or support the physical and mental health of the recovered person following such a separation; and

(C) other activities to facilitate return of the recovered person to military or civilian life as expeditiously as possible following such a separation.

(2) The term "recovered person" means an individual who is returned alive from separation (whether as an individual or a group) while participating in or in association with a United States-sponsored military activity or mission in which the individual was detained in isolation or held in captivity by a hostile entity.

(3) The term "reintegration", in the case of a recovered person, means—

(A) the debriefing of the recovered person following a separation as described in paragraph (2);

(B) activities to promote or support for the physical and mental health of the recovered person following such a separation; and

(C) other activities to facilitate return of the recovered person to military duty or employment with the Department of Defense as expeditiously as possible following such a separation.

(Added Pub. L. 112–81, div. A, title V, §588(a), Dec. 31, 2011, 125 Stat. 1436.)

## §1057. Use of armed forces insignia on State license plates

(a) The Secretary concerned may approve an application by a State to use or imitate the seal or

other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on motor vehicle license plates issued by the State to an individual who is a member or former member of the armed forces.

(b) The Secretary concerned may prescribe any regulations necessary regarding the display of the seal or other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on the license plates described in subsection (a).

(c) In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

(Added Pub. L. 102–484, div. A, title X, §1080(a), Oct. 23, 1992, 106 Stat. 2514.)

## §1058. Responsibilities of military law enforcement officials at scenes of domestic violence

(a) IMMEDIATE ACTIONS REQUIRED.—Under regulations prescribed pursuant to subsection (c), the Secretary concerned shall ensure, in any case of domestic violence in which a military law enforcement official at the scene determines that physical injury has been inflicted or a deadly weapon or dangerous instrument has been used, that military law enforcement officials—

(1) take immediate measures to reduce the potential for further violence at the scene; and

(2) within 24 hours of the incident, provide a report of the domestic violence to the appropriate commander and to a local military family advocacy representative exercising responsibility over the area in which the incident took place.

(b) FAMILY ADVOCACY COMMITTEE.—Under regulations prescribed pursuant to subsection (c), the Secretary concerned shall ensure that, whenever a report is provided to a commander under subsection (a)(2), a multidisciplinary family advocacy committee meets, with all due practicable speed, to review the situation and to make recommendations to the commander for appropriate action.

(c) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe by regulation the definition of "domestic violence" for purposes of this section and such other regulations as may be necessary for purposes of this section.

(d) MILITARY LAW ENFORCEMENT OFFICIAL.—In this section, the term "military law enforcement official" means a person authorized under regulations governing the armed forces to apprehend persons subject to the Uniform Code of Military Justice (chapter 47 of this title) or to trial thereunder.

(Added Pub. L. 103–160, div. A, title V, §551(a)(1), Nov. 30, 1993, 107 Stat. 1661; amended Pub. L. 103–337, div. A, title X, §1070(a)(4), (b)(3), Oct. 5, 1994, 108 Stat. 2855, 2856; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### CODIFICATION

Other sections 1058 were renumbered sections 1059 and 1060 of this title.

### AMENDMENTS

**2002**—Subsec. (c). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Pub. L. 103–337, §1070(b)(3), made technical correction to directory language of Pub. L. 103–160, §551(a)(1), which enacted this section.

Subsec. (d). Pub. L. 103–337, §1070(a)(4), substituted "subject to the Uniform Code of Military Justice (chapter 47 of this title)" for "subject to this chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Pub. L. 103–337, div. A, title X, §1070(b), Oct. 5, 1994, 108 Stat. 2856, provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, as enacted.

**DEADLINE FOR PRESCRIBING PROCEDURES**

Pub. L. 103–160, div. A, title V, §551(b), Nov. 30, 1993, 107 Stat. 1662, provided that: "The Secretary of Defense shall prescribe procedures to carry out section 1058 of title 10, United States Code, as added by subsection (a), not later than six months after the date of the enactment of this Act [Nov. 30, 1993]."

## §1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits; lodging expenses

(a) AUTHORITY TO PAY COMPENSATION.—The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy), and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may each establish a program to pay monthly transitional compensation in accordance with this section to dependents or former dependents of a member of the armed forces described in subsection (b). Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.

(b) PUNITIVE AND OTHER ADVERSE ACTIONS COVERED.—This section applies in the case of a member of the armed forces on active duty for a period of more than 30 days—

(1) who is convicted of a dependent-abuse offense (as defined in subsection (c)) and whose conviction results in the member—

(A) being separated from active duty pursuant to a sentence of a court-martial; or

(B) forfeiting all pay and allowances pursuant to a sentence of a court-martial;

(2) who is administratively separated, voluntarily or involuntarily, from active duty in accordance with applicable regulations if the basis for the separation includes a dependent-abuse offense; or

(3) who is—

(A) convicted of a dependent-abuse offense in a district court of the United States or a State court; and

(B) separated from active duty pursuant to a sentence of a court-martial, or administratively separated, voluntarily or involuntarily, from active duty, for an offense other than the dependent-abuse offense.

(c) DEPENDENT-ABUSE OFFENSES.—For purposes of this section, a dependent-abuse offense is conduct by an individual while a member of the armed forces on active duty for a period of more than 30 days—

(1) that involves abuse of the spouse or a dependent child of the member; and

(2) that is a criminal offense specified in regulations prescribed by the Secretary of Defense under subsection (m).

(d) RECIPIENTS OF PAYMENTS.—In the case of any individual described in subsection (b), the Secretary shall pay such compensation to dependents or former dependents of the individual as follows:

(1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, such compensation shall be paid to the spouse or former spouse to whom the individual was married at that time, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.

(2) If there is a spouse or former spouse who is or, but for subsection (g), would be eligible for compensation under this section and if there is a dependent child of the individual described in subsection (b) who does not reside in the same household as that spouse or former spouse, compensation under this section shall be paid to each such dependent child of the individual described in subsection (b) who does not reside in that household.

(3) If there is no spouse or former spouse who is (or but for subsection (g) would be) eligible under paragraph (1), such compensation shall be paid to the dependent children of the individual described in subsection (b).

(4) For purposes of this subsection, an individual's status as a "dependent child" shall be determined as of the date on which the individual described in subsection (b) is convicted of the dependent-abuse offense or, in a case described in subsection (b)(2), as of the date on which the separation action is initiated by a commander of the individual described in subsection (b).

(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

(A) in the case of a member convicted by a court-martial for a dependent-abuse offense or an offense described in subsection (b)(3)(B), shall commence—

(i) as of the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(ii) if there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) if the sentence includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances;

(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations, shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

(2) Transitional compensation with respect to a member shall be paid for a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned.

(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction for a dependent-abuse offense and the conviction is disapproved or is otherwise not part of the judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) or the punishment is disapproved or is otherwise not part of the judgment under such section (article), any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The

recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).

(f) AMOUNT OF PAYMENT.—(1) Payment to a spouse or former spouse under this section for any month shall be at the rate in effect for that month for the payment of dependency and indemnity compensation under section 1311(a)(1) of title 38.

(2) If a spouse or former spouse to whom compensation is paid under this section has custody of a dependent child of the member who resides in the same household as that spouse or former spouse, the amount of such compensation paid for any month shall be increased for each such dependent child by the amount in effect for that month under section 1311(b) of title 38.

(3) If compensation is paid under this section to a child or children pursuant to subsection (d)(2) or (d)(3), such compensation shall be paid in equal shares, with the amount of such compensation for any month determined in accordance with the rates in effect for that month under section 1313 of title 38.

(4) Payment to a child under this section shall not cover any period before the birth of the child.

(g) SPOUSE AND FORMER SPOUSE FORFEITURE PROVISIONS.—(1) If a former spouse receiving compensation under this section remarries, the Secretary shall terminate payment of such compensation, effective as of the date of such marriage. The Secretary may not renew payment of compensation under this section to such former spouse in the event of the termination of such subsequent marriage.

(2) If after a punitive or other adverse action is executed in the case of a former member as described in subsection (b) the former member resides in the same household as the spouse or former spouse, or dependent child, to whom compensation is otherwise payable under this section, the Secretary shall terminate payment of such compensation, effective as of the time the former member begins residing in such household. Compensation paid for a period after the former member's separation, but before the former member resides in the household, shall not be recouped. If the former member subsequently ceases to reside in such household before the end of the period of eligibility for such payments, the Secretary may not resume such payments.

(3) In a case in which the victim of the dependent-abuse offense resulting in a punitive or other adverse action described in subsection (b) was a dependent child, the Secretary concerned may not pay compensation under this section to a spouse or former spouse who would otherwise be eligible to receive such compensation if the Secretary determines (under regulations prescribed under subsection (m)) that the spouse or former spouse was an active participant in the conduct constituting the dependent-abuse offense.

(h) EFFECT OF CONTINUATION OF MILITARY PAY.—In the case of payment of transitional compensation by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of transitional compensation shall not be made for any period for which an order—

(1) suspends, in whole or in part, that part of a sentence that includes forfeiture of the member's pay and allowance; or

(2) otherwise results in continuation, in whole or in part, of the member's pay and allowances.

(i) COORDINATION OF BENEFITS.—The Secretary concerned may not make payments to a spouse or former spouse under both this section and section 1408(h)(1) of this title. In the case of a spouse or former spouse for whom a court order provides for payments by the Secretary pursuant to section 1408(h)(1) of this title and to whom the Secretary offers payments under this section, the spouse or former spouse shall elect which to receive.

(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another

provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).

(k) LODGING EXPENSES.—A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to lodging expenses for a period not longer than 30 days.

(l) EXCEPTIONAL ELIGIBILITY FOR DEPENDENTS OF MEMBERS OR FORMER MEMBERS.—(1) The Secretary concerned, under regulations prescribed under subsection (m), may authorize eligibility for benefits under this section for dependents and former dependents of a member or former member of the armed forces in a case in which the dependents or former dependents are not otherwise eligible for such benefits and the Secretary concerned determines that the member or former member engaged in conduct that is a dependent-abuse offense under this section and the member or former member was separated from active duty other than as described in subsection (b).

(2) In a case in which the Secretary concerned, under the authority of paragraph (1), authorizes benefits to be provided under this section, such benefits shall be provided in the same manner as if the member or former member were an individual described in subsection (b), except that, under regulations prescribed under subsection (m), the Secretary shall make such adjustments to the commencement and duration of payment provisions of subsection (e), and may make adjustments to other provisions of this section, as the Secretary considers necessary in light of the circumstances in order to provide benefits substantially equivalent to the benefits provided in the case of an individual described in subsection (b).

(3) For purposes of the provision of benefits under this section pursuant to this subsection, a member shall be considered separated from active duty upon the earliest of—

(A) the date an administrative separation is initiated by a commander of the member;

(B) the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(C) the date the member's term of service expires.

(4) The Secretary concerned may delegate the authority under paragraph (1) to authorize eligibility for benefits under this section for dependents and former dependents of a member or former member to the first general or flag officer (or civilian equivalent) in the chain of command of the member.

(m) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy). The Secretary of Homeland Security shall prescribe regulations to carry out this section with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) Regulations prescribed under paragraph (1) shall include the criminal offenses, or categories of offenses, under the Uniform Code of Military Justice (chapter 47 of this title), Federal criminal law, the criminal laws of the States and other jurisdictions of the United States, and the laws of other nations that are to be considered to be dependent-abuse offenses for the purposes of this section.

(n) DEPENDENT CHILD DEFINED.—In this section, the term "dependent child", with respect to a member or former member of the armed forces referred to in subsection (b), means an unmarried child, including an adopted child or a stepchild, who was residing with the member or eligible spouse at the time of the dependent-abuse offense referred to in subsection (b) or who was carried during pregnancy at the time of the dependent-abuse offense and was subsequently born alive to the eligible spouse or former spouse and—

(1) who is under 18 years of age;

(2) who is 18 years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child's support; or

(3) who is 18 years of age or older but less than 23 years of age, is enrolled in a full-time course

of study in an institution of higher learning approved by the Secretary of Defense and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child's support.

(Added Pub. L. 103–160, div. A, title V, §554(a)(1), Nov. 30, 1993, 107 Stat. 1663, §1058; renumbered §1059 and amended Pub. L. 103–337, div. A, title V, §535(a)–(c)(1), title X, §1070(a)(5)(A), Oct. 5, 1994, 108 Stat. 2762, 2763, 2855; Pub. L. 104–106, div. A, title VI, §636(a), (b), title XV, §1503(a)(8), Feb. 10, 1996, 110 Stat. 367, 511; Pub. L. 105–261, div. A, title V, §570(a), (b), Oct. 17, 1998, 112 Stat. 2032; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §§572(a), (b)(1), (c), 573(a), 574, Nov. 24, 2003, 117 Stat. 1484–1486; Pub. L. 112–239, div. A, title V, §564(a), Jan. 2, 2013, 126 Stat. 1748; Pub. L. 113–291, div. A, title VI, §621, Dec. 19, 2014, 128 Stat. 3401; Pub. L. 115–91, div. A, title V, §531(l), Dec. 12, 2017, 131 Stat. 1386; Pub. L. 116–92, div. A, title VI, §621, Dec. 20, 2019, 133 Stat. 1426; Pub. L. 117–81, div. A, title V, §549(a), Dec. 27, 2021, 135 Stat. 1715; Pub. L. 118–31, div. A, title VI, §§631, 632, Dec. 22, 2023, 137 Stat. 296.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §632(3), substituted "subsection (m)" for "subsection (k)" wherever appearing.

Pub. L. 118–31, §632(1), inserted "; lodging expenses" after "benefits" in section catchline.

Subsec. (b)(3). Pub. L. 118–31, §631(a), added par. (3).

Subsec. (e)(1)(A). Pub. L. 118–31, §631(b)(1)(A), inserted "or an offense described in subsection (b)(3)(B)" after "offense" in introductory provisions.

Subsec. (e)(1)(A)(ii). Pub. L. 118–31, §631(b)(1)(B), substituted "allowances;" for "allowances; and".

Subsec. (e)(1)(B). Pub. L. 118–31, §631(b)(2), struck out "(if the basis for the separation includes a dependent-abuse offense)" after "with such regulations".

Subsec. (k). Pub. L. 118–31, §632(4), added subsec. (k). Former subsec. (k) redesignated (m).

Subsec. (l). Pub. L. 118–31, §632(2), which directed redesignation of subsec. (m) as (l), was executed by making the redesignation and moving subsec. (l) so as to appear before subsec. (m), to reflect the probable intent of Congress. Former subsec. (l) redesignated (n).

Pub. L. 118–31, §631(c), in introductory provisions, substituted "referred to in subsection (b) or" for "resulting in the separation of the former member or" and "and was subsequently" for "resulting in the separation of the former member and was subsequently".

Subsec. (m). Pub. L. 118–31, §632(2), redesignated subsec. (k) as (m). Former subsec. (m) redesignated (l).

Subsec. (m)(4). Pub. L. 118–31, §631(d), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

"(A) Except as provided in subparagraph (B), the authority of the Secretary concerned under paragraph (1) may not be delegated.

"(B) During the two year period following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, the authority of the Secretary concerned under paragraph (1) may be delegated to an official at the Assistant Secretary-level or above. Any exercise of such delegated authority shall be reported to the Secretary concerned on a quarterly basis."

Subsec. (n). Pub. L. 118–31, §632(2), redesignated subsec. (l) as (n).

**2021**—Subsec. (m)(4). Pub. L. 117–81 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The authority of the Secretary concerned under paragraph (1) may not be delegated."

**2019**—Subsec. (m). Pub. L. 116–92, §621(1), (2), inserted "Members or" before "Former Members" in heading and "member or" before "former member" wherever appearing in pars. (1) and (2).

Subsec. (m)(3), (4). Pub. L. 116–92, §621(3), (4), added par. (3) and redesignated former par. (3) as (4).

**2017**—Subsec. (e)(1)(A)(ii). Pub. L. 115–91, §531(l)(1), substituted "the date of entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) if the sentence includes" for "the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes".

Subsec. (e)(3)(A). Pub. L. 115–91, §531(l)(2), substituted "conviction for a dependent-abuse offense and the conviction is disapproved or is otherwise not part of the judgment under section 860c of this title (article

60c of the Uniform Code of Military Justice) or the punishment is disapproved or is otherwise not part of the judgment under such section (article)," for "conviction by a court-martial for a dependent-abuse offense and each such conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated to a lesser punishment that does not include any such punishment,".

**2014**—Subsec. (d)(4). Pub. L. 113–291 substituted "as of the date on which the separation action is initiated by a commander of the individual described in subsection (b)" for "as of the date on which the individual described in subsection (b) is separated from active duty".

**2013**—Subsec. (f)(4). Pub. L. 112–239, §564(a)(1), added par. (4).

Subsec. (l). Pub. L. 112–239, §564(a)(2), substituted "or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member or who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member and was subsequently born alive to the eligible spouse or former spouse" for "at the time of the dependent-abuse offense resulting in the separation of the former member" in introductory provisions.

**2003**—Subsec. (b)(2). Pub. L. 108–136, §574, inserted ", voluntarily or involuntarily," after "administratively separated".

Subsec. (e)(1)(A). Pub. L. 108–136, §572(a), substituted "shall commence—" and cls. (i) and (ii) for "shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and".

Subsec. (e)(2). Pub. L. 108–136, §572(b)(1), substituted "a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned" for "a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months".

Subsec. (e)(3)(A). Pub. L. 108–136, §572(c), substituted "conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated" for "punishment applicable to the member under the sentence is remitted, set aside, or mitigated".

Subsec. (m). Pub. L. 108–136, §573(a), added subsec. (m).

**2002**—Subsecs. (a), (k)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1998**—Subsec. (d)(1). Pub. L. 105–261, §570(a)(1), struck out "(except as otherwise provided in this subsection)" after "such compensation shall" and inserted before period at end ", including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse".

Subsec. (d)(2). Pub. L. 105–261, §570(a)(2), substituted "is or, but for subsection (g), would be eligible" for "(but for subsection (g)) would be eligible" and "compensation under this section shall" for "such compensation shall".

Subsec. (d)(4). Pub. L. 105–261, §570(a)(3), substituted "For purposes of this subsection" for "For purposes of paragraphs (2) and (3)".

Subsec. (f)(2). Pub. L. 105–261, §570(b), substituted "has custody of a dependent child of the member who resides in the same household as that spouse or former spouse" for "has custody of a dependent child or children of the member".

**1996**—Subsec. (a). Pub. L. 104–106, §636(a), inserted at end "Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program."

Subsec. (c)(2). Pub. L. 104–106, §1503(a)(8), substituted "subsection (k)" for "subsection (j)".

Subsec. (d). Pub. L. 104–106, §636(b)(1), in introductory provisions, substituted "the case of any individual described in subsection (b)" for "any case of a separation from active duty as described in subsection (b)" and "dependents of the individual" for "dependents of the former member".

Subsec. (d)(1). Pub. L. 104–106, §636(b)(2), substituted "If the individual" for "If the former member" and "to whom the individual" for "to whom the member".

Subsec. (d)(2). Pub. L. 104–106, §636(b)(3), substituted "individual described in subsection (b)" for "former member" in two places.

Subsec. (d)(3). Pub. L. 104–106, §636(b)(4), substituted "individual described in subsection (b)" for "former member".

Subsec. (d)(4). Pub. L. 104–106, §636(b)(5), substituted "individual described in subsection (b)" for "member" in two places.

Subsec. (g)(3). Pub. L. 104–106, §1503(a)(8), substituted "subsection (k))" for "subsection (j))".

**1994**—Pub. L. 103–337, §1070(a)(5)(A), renumbered section 1058 of this title as this section.

Pub. L. 103–337, §535(c)(1), inserted "; commissary and exchange benefits" at end of section catchline.

Subsec. (e). Pub. L. 103–337, §535(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section shall commence as of the date of the discontinuance of the member's pay and allowances pursuant to the separation or sentencing of the member and, except as provided in paragraph (2), shall be paid for a period of 36 months.

"(2) If as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months."

Subsecs. (j) to (l). Pub. L. 103–337, §535(b), added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, §564(b), Jan. 2, 2013, 126 Stat. 1749, provided that: "No benefits shall accrue by reason of the amendments made by this section [amending this section] for any month that begins before the date of the enactment of this Act [Jan. 2, 2013]."

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §572(d), Nov. 24, 2003, 117 Stat. 1485, provided that: "The amendments made by this section [amending this section] shall apply only with respect to cases in which a court-martial sentence is adjudged on or after the date of the enactment of this Act [Nov. 24, 2003]."

Pub. L. 108–136, div. A, title V, §573(b), Nov. 24, 2003, 117 Stat. 1485, provided that: "The authority under subsection (m) of section 1059 of title 10, United States Code, as added by subsection (a), may be exercised with respect to eligibility for benefits under that section only for dependents and former dependents of individuals who are separated from active duty in the Armed Forces on or after the date of the enactment of this Act [Nov. 24, 2003]."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title V, §570(c), Oct. 17, 1998, 112 Stat. 2032, provided that: "No benefits shall accrue by reason of the amendments made by this section [amending this section] for any month that begins before the date of the enactment of this Act [Oct. 17, 1998]."

### EFFECTIVE DATE

Pub. L. 103–160, div. A, title V, §554(b), Nov. 30, 1993, 107 Stat. 1666, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(5), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title VI, §636(c), Feb. 10, 1996, 110 Stat. 367, provided that:

"(1) The section of title 10, United States Code, added by subsection (a)(1) [this section] shall apply with respect to a member of the Armed Forces who, after November 29, 1993—

"(A) is separated from active duty as described in subsection (b) of such section; or

"(B) forfeits all pay and allowances as described in such subsection.

"(2) Payments of transitional compensation under that section in the case of any person eligible to receive payments under that section shall be made for each month after November 1993 for which that person may be paid transitional compensation in accordance with that section."

**DURATION OF TRANSITIONAL COMPENSATION PAYMENTS**

Pub. L. 108–136, div. A, title V, §572(b)(2), Nov. 24, 2003, 117 Stat. 1485, provided that: "Policies under subsection (e)(2) of section 1059 of title 10, United States Code, as amended by paragraph (1), for the duration of transitional compensation payments under that section shall be prescribed under such subsection not later than six months after the date of the enactment of this Act [Nov. 24, 2003]."

## §1060. Military service of retired members with newly democratic nations: consent of Congress

(a) CONSENT OF CONGRESS.—Subject to subsection (b), Congress consents to a retired member of the uniformed services—

(1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and

(2) accepting compensation associated with such employment, office, or position.

(b) APPROVAL REQUIRED.—The consent provided in subsection (a) for a retired member of the uniformed services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

(c) DETERMINATION OF NEWLY DEMOCRATIC NATIONS.—The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation for the purposes of this section.

[(d) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.]

(e) CONTINUED ENTITLEMENT TO RETIRED PAY AND BENEFITS.—The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member's status as a retired member of the uniformed services, and the eligibility of dependents of such retired member to receive benefits on the basis of such retired member's status as a retired member of the uniformed services, may not be terminated by reason of employment or holding of an office or position consented to in subsection (a).

(f) RETIRED MEMBER DEFINED.—In this section, the term "retired member" means a member or former member of the uniformed services who is entitled to receive retired or retainer pay.

(g) CIVIL EMPLOYMENT BY FOREIGN GOVERNMENTS.—For a provision of law providing the consent of Congress to civil employment by foreign governments, see section 908 of title 37.

(Added Pub. L. 103–160, div. A, title XIV, §1433(b)(1), Nov. 30, 1993, 107 Stat. 1834, §1058; renumbered §1060, Pub. L. 103–337, div. A, title X, §1070(a)(6)(A), Oct. 5, 1994, 108 Stat. 2855; amended Pub. L. 104–106, div. A, title XV, §1502(a)(13), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (d). Pub. L. 108–136 struck out heading and text of subsec. (d). Text read as follows: "The Secretary concerned and the Secretary of State shall notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives of each approval under subsection (b) and each determination under subsection (c)."

**1999**—Subsec. (d). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the

Committee on National Security".

**1996**—Subsec. (d). Pub. L. 104–106 substituted "Committee on National Security and the Committee on International Relations" for "Committee on Armed Services and the Committee on Foreign Affairs".

**1994**—Pub. L. 103–337 renumbered section 1058 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 103–160, div. A, title XIV, §1433(d), Nov. 30, 1993, 107 Stat. 1835, provided that this section was to take effect as of Jan. 1, 1993, prior to repeal by Pub. L. 103–236, title I, §182(b), Apr. 30, 1994, 108 Stat. 418.

### RESTORATION OF WITHHELD BENEFITS

Pub. L. 103–236, title I, §182(a), Apr. 30, 1994, 108 Stat. 418, as amended by Pub. L. 103–337, div. A, title X, §1070(d)(7), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 103–415, §1(j), Oct. 25, 1994, 108 Stat. 4301, provided that: "With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense have approved the employment or the holding of a position pursuant to the provisions of section 1060 of title 10, United States Code, before April 30, 1994, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993."

### CONGRESSIONAL FINDINGS

Pub. L. 103–160, div. A, title XIV, §1433(a), Nov. 30, 1993, 107 Stat. 1833, provided that: "The Congress makes the following findings:

"(1) It is in the national security interest of the United States to promote democracy throughout the world.

"(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

"(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

"(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy."

## §1060a. Special supplemental food program

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to provide supplemental foods and nutrition education to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

(b) FUNDING MECHANISM.—The Secretary of Defense shall use funds available for the Department of Defense to carry out the program under subsection (a).

(c) PROGRAM ADMINISTRATION.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). In determining eligibility for benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under such section 17 shall be considered eligible for the duration of the certification period under that special supplemental nutrition program.

(B) In determining eligibility for families of individuals participating in the program under this section, the Secretary of Defense shall, to the extent practicable, use the criterion described in subparagraph (A), including nutritional risk standards. In the application of such criterion, the Secretary shall exclude from income any basic allowance for housing as permitted under section 17(d)(2)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)).

(2) The program benefits provided under the program shall be similar to benefits provided by State

and local agencies in the United States, particularly with respect to nutrition education.

(3) The Secretary of Agriculture shall provide technical assistance to the Secretary of Defense, if so requested by the Secretary of Defense, for the purpose of carrying out the program under subsection (a).

(d) DEPARTURE FROM STANDARDS.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

(e) REBATE AGREEMENTS WITH FOOD PRODUCERS.—(1) In the administration of the program under this section, the Secretary of Defense may enter into a contract with a producer of a particular brand of food that provides for—

(A) the Secretary of Defense to procure that particular brand of food, exclusive of other brands of the same or similar food, for the purpose of providing the food in commissary stores or Navy Exchange Markets of the Department of Defense as a supplemental food under the program; and

(B) the producer to rebate to the Secretary amounts equal to agreed portions of the amounts paid by the Secretary for the procurement of that particular brand of food for the program.

(2) The Secretary of Defense shall use competitive procedures under chapter 137 [1] of this title to enter into contracts under this subsection.

(3) The period covered by a contract entered into under this subsection, including any period of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years. No such contract may be extended by a modification of the contract, by exercise of an option, or by any other means. Nothing in this paragraph prohibits a contractor under a contract entered into under this subsection for any year from submitting an offer for, and being awarded, a contract that is to be entered into under this subsection for a successive year.

(4) Amounts rebated under a contract entered into under paragraph (1) shall be credited to the appropriation available for carrying out the program under this section in the fiscal year in which rebated, shall be merged with the other sums in that appropriation, and shall be available for the program for the same period as the other sums in the appropriation.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

(g) DEFINITIONS.—In this section:

(1) The term "eligible civilian" means—

(A) a dependent of a member of the armed forces residing with the member outside the United States;

(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

(2) The term "national of the United States" means—

(A) a citizen of the United States; or

(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(3) The term "dependent" has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.

(4) The terms "nutrition education" and "supplemental foods" have the meanings given the terms in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(Added Pub. L. 103–337, div. A, title VI, §653(a), Oct. 5, 1994, 108 Stat. 2794; amended Pub. L.

104–106, div. A, title XV, §1503(a)(9), Feb. 10, 1996, 110 Stat. 511; Pub. L. 105–85, div. A, title VI, §655(b)(1), Nov. 18, 1997, 111 Stat. 1805; Pub. L. 106–65, div. A, title VI, §674(a)–(d), Oct. 5, 1999, 113 Stat. 675; Pub. L. 106–398, §1 [[div. A], title VI, §662], Oct. 30, 2000, 114 Stat. 1654, 1654A–167; Pub. L. 107–107, div. A, title III, §334, Dec. 28, 2001, 115 Stat. 1059; Pub. L. 107–314, div. A, title III, §324, Dec. 2, 2002, 116 Stat. 2511.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (e)(2), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

The Immigration and Nationality Act, referred to in subsec. (g)(2)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

### AMENDMENTS

**2002**—Subsec. (e)(1)(A). Pub. L. 107–314, §324(a), inserted "or Navy Exchange Markets" after "commissary stores".

Subsec. (e)(3). Pub. L. 107–314, §324(b), in first sentence, substituted "subsection, including any period of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years" for "subsection may not exceed one year".

**2001**—Subsecs. (e) to (g). Pub. L. 107–107 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**2000**—Subsec. (c)(1)(B). Pub. L. 106–398 added second sentence and struck out former second sentence which read as follows: "The Secretary shall also consider the value of housing in kind provided to the individual when determining program eligibility."

**1999**—Subsec. (a). Pub. L. 106–65, §674(a), substituted "Program Required" for "Authority" in heading and "The Secretary of Defense shall carry out a program to provide supplemental foods and nutrition education" for "The Secretary of Defense may carry out a program to provide special supplemental food benefits" in text.

Subsec. (b). Pub. L. 106–65, §674(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). The Secretary of Defense may use funds available for the Department of Defense to carry out the program under subsection (a)."

Subsec. (c)(1)(A). Pub. L. 106–65, §674(c)(1), inserted at end "In determining eligibility for benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under such section 17 shall be considered eligible for the duration of the certification period under that special supplemental nutrition program."

Subsec. (c)(1)(B). Pub. L. 106–65, §674(c)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section."

Subsec. (c)(2). Pub. L. 106–65, §674(c)(3), inserted ", particularly with respect to nutrition education" before period at end.

Subsec. (c)(3). Pub. L. 106–65, §674(c)(4), added par. (3).

Subsec. (f)(4). Pub. L. 106–65, §674(d), added par. (4).

**1997**—Subsec. (b). Pub. L. 105–85 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)."

**1996**—Subsec. (f)(2)(B). Pub. L. 104–106 substituted ", as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)" for "(as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM TO INCREASE ACCESS TO FOOD ON MILITARY INSTALLATIONS OF THE ARMY

Pub. L. 118–159, div. A, title VI, §654, Dec. 23, 2024, 138 Stat. 1939, as amended by Pub. L. 119–60, div. A, title VI, §663, Dec. 18, 2025, 139 Stat. 915, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of a military department shall implement a pilot program to increase access to food on military installations under the jurisdiction of the Secretary for members of the Armed Forces who reside on such military installations.

"(b) ACCESS.—Food made available under the program under this section shall be accessible with a common access card (or other means determined appropriate by the Secretary of the military department concerned) at dining facilities, commissaries, exchanges, restaurants, and other locations where such members can obtain food.

"(c) TERMINATION.—The pilot program under this section shall terminate five years after the date of the enactment of this Act.

"(d) REPORTING.—

"(1) PROGRESS REPORTS.—At the end of each calendar quarter until the pilot program terminates, the Secretary of a military department shall submit to the Committees on Armed Services of the Senate and House of Representatives a progress report regarding implementation of the pilot program.

"(2) FINAL REPORT.—Not later than 90 days after the pilot program terminates, the Secretary of a military department shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report regarding the pilot program. Such report shall include the following elements:

"(A) Lessons learned from the pilot program.

"(B) The recommendation of the Secretary whether to expand or make permanent the pilot program.

"(C) If the Secretary recommends expansion, the military installations covered by such recommended expansion.

"(D) Limitations to the operation or expansion of the pilot program.

"(E) Any information the Secretary determines appropriate."

### FOOD INSECURITY AMONG MILITARY FAMILIES: DATA COLLECTION; TRAINING; REPORT

Pub. L. 117–263, div. A, title VI, §645, Dec. 23, 2022, 136 Stat. 2637, provided that:

"(a) DATA COLLECTION.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Personnel and Readiness, in coordination with the Under Secretary for Food, Nutrition, and Consumer Services of the Department of Agriculture, shall—

"(1) develop a survey, in collaboration with the Department of Agriculture, to determine how many members of the Armed Forces serving on active duty, and dependents of such members, are food insecure;

"(2) issue the survey to such members and dependents;

"(3) collect data related to the number of such members and dependents who—

"(A) are eligible for the basic needs allowance under section 402b of title 37, United States Code;

"(B) receive such basic needs allowance; and

"(C) are surveyed on the use, by such members and dependents, of Federal nutrition assistance programs, including—

"(i) the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

"(ii) the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(iii) the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

"(4) develop and carry out a plan to train and designate an individual who will assist members at military installations on how and where to refer such members and their dependents for participation in

Federal nutrition assistance programs described in paragraph (3)(C); and

"(5) coordinate efforts of the Department of Defense to address food insecurity and nutrition.

"(b) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], and annually thereafter for the four subsequent years, the Under Secretary of Defense for Personnel & Readiness shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committees on Agriculture and Education and Labor [now Committee on Education and the Workforce] of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report including the following:

"(1) The number of members of the Armed Forces serving on active duty and their dependents who are food insecure.

"(2) The number of such members and their dependents who use the Federal nutrition assistance programs described in subsection (a)(3).

"(3) The number of such members and their dependents described in subsection (a)(3).

"(4) The status of implementation of the plan under subsection (a)(5) [sic; probably should be "subsection (a)(4)"]."

**REPORT ON IMPLEMENTATION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM**

Pub. L. 105–85, div. A, title VI, §655(b)(2), Nov. 18, 1997, 111 Stat. 1805, directed the Secretary of Defense to submit to Congress a report including plans to implement the program authorized under this section not later than 90 days after Nov. 18, 1997.

[1] *See References in Text note below.*

## §1060b. Military ID cards: dependents and survivors of retirees

(a) ISSUANCE OF PERMANENT ID CARD.—(1) In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent as follows:

(A) A retiree dependent who has attained 75 years of age.

(B) A retiree dependent who is permanently disabled.

(2) A permanent ID card shall be issued to a retiree dependent under paragraph (1)(A) upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military card or, if earlier, upon the request of the retiree dependent after attaining age 75.

(b) DEFINITIONS.—In this section:

(1) The term "military ID card" means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

(2) The term "retiree dependent" means a person who is a dependent of a retired member of the uniformed services, or a survivor of a deceased retired member of the uniformed services, who is eligible for any benefit from the Department of Defense.

(Added Pub. L. 108–375, div. A, title V, §583(a)(1), Oct. 28, 2004, 118 Stat. 1929; amended Pub. L. 109–364, div. A, title V, §598(a), (b)(1), Oct. 17, 2006, 120 Stat. 2237.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, §598(b)(1), struck out "; issuance of permanent ID card after attaining 75 years of age" after "retirees" in section catchline.

Subsec. (a). Pub. L. 109–364, §598(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent who has attained 75 years of age. Such a permanent ID card shall be issued upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military ID card or, if earlier, upon the request of such a retiree dependent after attaining age 75."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 108–375, div. A, title V, §583(b), Oct. 28, 2004, 118 Stat. 1929, provided that: "Section 1060b of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2004."

## §1060c. Provision of veterinary services

(a) IN GENERAL.—A veterinary professional described in subsection (b) may provide veterinary services in any State, the District of Columbia, or a territory or possession of the United States, without regard to where such veterinary professional or the patient animal are located, if the provision of such services is within the scope of the authorized duties of such veterinary professional for the Department of Defense.

(b) VETERINARY PROFESSIONAL DESCRIBED.—A veterinary professional described in this subsection is an individual who is—

(1)(A) a member of the armed forces, a civilian employee of the Department of Defense, or otherwise credentialed and privileged at a Federal veterinary institution or location designated by the Secretary of Defense for purposes of this section; or

(B) a member of the National Guard performing training or duty under section 502(f) of title 32;

(2) certified as a veterinary professional by a certification recognized by the Secretary of Defense; and

(3) currently licensed by a State, the District of Columbia, or a territory or possession of the United States to provide veterinary services.

(Added Pub. L. 116–92, div. A, title VII, §735(a), Dec. 20, 2019, 133 Stat. 1462; amended Pub. L. 118–159, div. A, title VII, §733, Dec. 23, 2024, 138 Stat. 1956.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §733(1), struck out "in emergencies" after "veterinary services" in section catchline.

Subsec. (a). Pub. L. 118–159, §733(2), struck out "for the purposes described in subsection (c)" after "veterinary services".

Subsec. (c). Pub. L. 118–159, §733(3), struck out subsec. (c) which described the purposes of veterinary services in response to certain emergencies.

# CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

Sec.
1061. Survivors of certain Reserve and Guard members.
1062. Certain former spouses and surviving spouses.
1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60.
1064. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.
1065. Use of commissary stores and MWR facilities: certain veterans, caregivers for veterans, and Foreign Service officers.
1066. Use of commissary stores and MWR facilities: certain civilian employees.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title VI, §651(b)(1), Dec. 18, 2025, 139 Stat. 913, substituted "certain" for "protective services" in item 1066. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title VI, §633(c), Dec. 22, 2023, 137 Stat. 297, inserted "and surviving spouses" after "spouses" in item 1062. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(16), Dec. 27, 2021, 135 Stat. 1920, added item 1065 and struck out former item 1065 "Use of commissary stores and MWR facilities: certain veterans and caregivers for veterans".

Pub. L. 116–283, div. A, title VI, §631(b), title X, §1081(a)(23), Jan. 1, 2021, 134 Stat. 3682, 3872, added items 1065 and 1066.

**2018**—Pub. L. 115–232, div. A, title VI, §621(b)(2), Aug. 13, 2018, 132 Stat. 1799, added item 1065.

**2003**—Pub. L. 108–136, div. A, title VI, §651(c), Nov. 24, 2003, 117 Stat. 1522, added items 1063 and 1064 and struck out former items 1063 "Use of commissary stores: members of Ready Reserve", 1063a "Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency", 1064 "Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60", and 1065 "Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents".

**2002**—Pub. L. 107–314, div. A, title III, §322(b)(2), Dec. 2, 2002, 116 Stat. 2510, inserted "or national emergency" after "disaster" in item 1063a.

**2001**—Pub. L. 107–107, div. A, title III, §331(d)(3), Dec. 28, 2001, 115 Stat. 1058, struck out "with at least 50 creditable points" after "Ready Reserve" in item 1063.

**1998**—Pub. L. 105–261, div. A, title III, §362(e), Oct. 17, 1998, 112 Stat. 1985, added items 1063, 1063a, and 1064 and struck out former items 1063 "Period for use of commissary stores: eligibility for members of the Ready Reserve" and 1064 "Use of commissary stores by certain members and former members".

**1996**—Pub. L. 104–106, div. A, title III, §342(b), Feb. 10, 1996, 110 Stat. 266, substituted "Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents" for "Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents" in item 1065.

**1992**—Pub. L. 102–484, div. A, title III, §365(c)(2), Oct. 23, 1992, 106 Stat. 2382, substituted "eligibility for members of the Ready Reserve" for "eligibility attributable to active duty for training".

**1990**—Pub. L. 101–510, div. A, title III, §321(d), Nov. 5, 1990, 104 Stat. 1528, added items 1064 and 1065.

## §1061. Survivors of certain Reserve and Guard members

(a) BENEFITS.—The Secretary of Defense shall prescribe regulations to allow dependents of members of the uniformed services described in subsection (b) to use commissary and exchange stores on the same basis as dependents of members of the uniformed services who die while on active duty for a period of more than 30 days.

(b) COVERED DEPENDENTS.—A dependent referred to in subsection (a) is a dependent of a member of a uniformed service who died—

(1) while on active duty, active duty for training, or inactive-duty training (regardless of the period of such duty); or

(2) while traveling to or from the place at which the member was to perform, or has performed, active duty, active duty for training, or inactive-duty training (regardless of the period of such duty).

(Added Pub. L. 100–370, §1(c)(1), July 19, 1988, 102 Stat. 841.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–145, title III, §308, Nov. 8, 1985, 99 Stat. 618.

## §1062. Certain former spouses and surviving spouses

(a) CERTAIN UNREMARRIED FORMER SPOUSES.—The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of this title is entitled to use commissary stores

and MWR retail facilities to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

(b) CERTAIN REMARRIED SURVIVING SPOUSES.—The Secretary of Defense shall prescribe such regulations as may be necessary to provide that a surviving spouse of a deceased member of the armed forces, regardless of the marital status of the surviving spouse, is entitled to use commissary stores and MWR retail facilities to the same extent and on the same basis as an unremarried surviving spouse of a member of the uniformed services.

(c) MWR RETAIL FACILITIES DEFINED.—In this section, the term "MWR retail facilities" has the meaning given that term in section 1063 of this title.

(Added Pub. L. 100–370, §1(c)(1), July 19, 1988, 102 Stat. 841; amended Pub. L. 118–31, div. A, title VI, §633(a), (c), Dec. 22, 2023, 137 Stat. 297.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 97–252, title X, §1005, Sept. 8, 1982, 96 Stat. 737.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 inserted "and surviving spouses" at end of section catchline, designated existing provisions as subsec. (a), inserted heading, substituted "use commissary stores and MWR retail facilities" for "commissary and exchange privileges", and added subsecs. (b) and (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 118–31, div. A, title VI, §633(b), Dec. 22, 2023, 137 Stat. 297, provided that: "The Secretary of Defense shall prescribe regulations under section 1062(b) of title 10, United States Code, as added by subsection (a)(3), not later than October 1, 2025."

## §1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60

(a) MEMBERS OF THE SELECTED RESERVE.—A member of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use commissary stores and MWR retail facilities on the same basis as members on active duty.

(b) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—Subject to such regulations as the Secretary of Defense may prescribe, a member of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use commissary stores and MWR retail facilities on the same basis as members serving on active duty.

(c) RESERVE AND SPACE FORCE RETIREES UNDER AGE 60.—A member or former member of a reserve component or the Space Force under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title shall be permitted to use commissary stores and MWR retail facilities on the same basis as members of the armed forces entitled to retired pay under any other provision of law.

(d) MEMBERS OF THE SPACE FORCE.—A member of the Space Force in a space force active status who is not on sustained duty shall be permitted to use commissary stores and MWR retail facilities under the same conditions as specified in subsection (a) for a member of the Selected Reserve.

(e) DEPENDENTS.—(1) Dependents of a member who is permitted under subsection (a), (b), or (d) to use commissary stores and MWR retail facilities shall be permitted to use stores and such facilities on the same basis as dependents of members on active duty.

(2) Dependents of a member who is permitted under subsection (c) to use commissary stores and MWR retail facilities shall be permitted to use stores and such facilities on the same basis as

dependents of members of the armed forces entitled to retired pay under any other provision of law.

(f) MWR RETAIL FACILITY DEFINED.—In this section, the term "MWR retail facilities" means exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(Added Pub. L. 101–510, div. A, title III, §321(c), Nov. 5, 1990, 104 Stat. 1528, §1065; amended Pub. L. 104–106, div. A, title III, §342(a), Feb. 10, 1996, 110 Stat. 265; renumbered §1063 and amended Pub. L. 108–136, div. A, title VI, §651(a), (b)(4), (5), Nov. 24, 2003, 117 Stat. 1521, 1522; Pub. L. 118–31, div. A, title XVII, §1722(h), Dec. 22, 2023, 137 Stat. 672.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1063, added Pub. L. 99–661, div. A, title VI, §656(a)(1), Nov. 14, 1986, 100 Stat. 3891, §1052; renumbered §1063, Pub. L. 100–370, §1(c)(2)(A), July 19, 1988, 102 Stat. 841; amended Pub. L. 101–510, div. A, title III, §321(a)(1), Nov. 5, 1990, 104 Stat. 1527; Pub. L. 102–484, div. A, title III, §365(a), (c)(1), Oct. 23, 1992, 106 Stat. 2382; Pub. L. 104–106, div. A, title XV, §1501(c)(9), Feb. 10, 1996, 110 Stat. 499; Pub. L. 105–261, div. A, title III, §362(a), (d)(1), Oct. 17, 1998, 112 Stat. 1984, 1985; Pub. L. 107–107, div. A, title III, §331(a)–(d)(2), Dec. 28, 2001, 115 Stat. 1057, related to use of commissary stores by members of Ready Reserve, prior to repeal by Pub. L. 108–136, div. A, title VI, §651(b)(1), Nov. 24, 2003, 117 Stat. 1521.

### AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31, §1722(h)(1), inserted "and Space Force" after "Reserve" in heading and "or the Space Force" after "reserve component" in text.

Subsec. (d). Pub. L. 118–31, §1722(h)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 118–31, §1722(h)(2), (4), redesignated subsec. (d) as (e) and substituted "subsection (a), (b), or (d)" for "subsection (a) or (b)" in par. (1). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 118–31, §1722(h)(2), redesignated subsec. (e) as (f).

**2003**—Pub. L. 108–136, §651(b)(4), (5), renumbered section 1065 of this title as this section and substituted "Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60" for "Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents" in section catchline.

Subsecs. (a) to (c). Pub. L. 108–136, §651(a)(1), inserted "commissary stores and" after "use".

Subsec. (d). Pub. L. 108–136, §651(a)(2), inserted "commissary stores and" after "permitted under subsection (a) or (b) to use" and "stores and" after "permitted to use" in par. (1), and inserted "commissary stores and" after "permitted under subsection (c) to use" and "stores and" after "permitted to use" in par. (2).

**1996**—Pub. L. 104–106 substituted "Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents" for "Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) UNRESTRICTED USE REQUIRED.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) and members who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age, and the dependents of such members, shall be permitted to use the exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces. Such use shall be permitted on the same basis as members on active duty.

"(b) ELIGIBILITY TO USE AUTHORIZED.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use the facilities referred to in subsection (a) on the same basis as members serving on active duty."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 101–510, div. A, title III, §321(e)(1), Nov. 5, 1990, 104 Stat. 1528, provided that: "The

amendments made by subsections (b) and (c) [enacting this section and former section 1064 of this title] shall take effect 120 days after the date of the enactment of this Act [Nov. 5, 1990]."

**REGULATIONS**

Pub. L. 101–510, div. A, title III, §321(e)(2), Nov. 5, 1990, 104 Stat. 1528, provided that: "The Secretary of Defense shall prescribe such regulations as may be necessary for the proper administration of sections [former] 1064 and 1065 [now 1063] of title 10, United States Code, as added by this section, not later than 90 days after the date of the enactment of this Act [Nov. 5, 1990]."

## [§1063a. Renumbered §1064]

## §1064. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency

(a) ELIGIBILITY OF MEMBERS.—A member of the National Guard who, although not in Federal service, is called or ordered to duty in response to a federally declared disaster or national emergency shall be permitted to use commissary stores and MWR retail facilities during the period of such duty on the same basis as members of the armed forces on active duty.

(b) ELIGIBILITY OF DEPENDENTS.—A dependent of a member of the National Guard who is permitted under subsection (a) to use commissary stores and MWR retail facilities shall be permitted to use such stores and facilities, during the same period as the member, on the same basis as dependents of members of the armed forces on active duty.

(c) DEFINITIONS.—In this section:

(1) FEDERALLY DECLARED DISASTER.—The term "federally declared disaster" means a disaster or other situation for which a Presidential declaration of major disaster is issued under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(2) MWR RETAIL FACILITIES.—The term "MWR retail facilities" has the meaning given that term in section 1063(e) [1] of this title.

(3) NATIONAL EMERGENCY.—The term "national emergency" means a national emergency declared by the President or Congress.

(Added Pub. L. 105–261, div. A, title III, §362(c), Oct. 17, 1998, 112 Stat. 1985, §1063a; amended Pub. L. 107–314, div. A, title III, §322(a), (b)(1), Dec. 2, 2002, 116 Stat. 2510; renumbered §1064 and amended Pub. L. 108–136, div. A, title VI, §651(b)(2), (3), Nov. 24, 2003, 117 Stat. 1521.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1063(e) of this title, referred to in subsec. (c)(2), was redesignated section 1063(f) of this title by Pub. L. 118–31, div. A, title XVII, 1722(h)(2), Dec. 22, 2023, 137 Stat. 672.

**PRIOR PROVISIONS**

A prior section 1064, added Pub. L. 101–510, div. A, title III, §321(b), Nov. 5, 1990, 104 Stat. 1528; amended Pub. L. 104–106, div. A, title XV, §1501(c)(8), Feb. 10, 1996, 110 Stat. 499; Pub. L. 105–261, div. A, title III, §362(b), (d)(2), Oct. 17, 1998, 112 Stat. 1984, 1985, related to use of commissary stores by persons qualified for retired pay but under age 60, prior to repeal by Pub. L. 108–136, div. A, title VI, §651(b)(1), Nov. 24, 2003, 117 Stat. 1521.

**AMENDMENTS**

**2003**—Pub. L. 108–136, §651(b)(3), renumbered section 1063a of this title as this section.

Subsec. (c)(2). Pub. L. 108–136, §651(b)(2), substituted "section 1063(e)" for "section 1065(e)".

**2002**—Pub. L. 107–314, §322(b)(1), inserted "or national emergency" after "disaster" in section catchline.

Subsec. (a). Pub. L. 107–314, §322(a)(1), inserted "or national emergency" after "disaster".

Subsec. (c)(3). Pub. L. 107–314, §322(a)(2), added par. (3).

[1] *See References in text note below.*

## §1065. Use of commissary stores and MWR facilities: certain veterans, caregivers for veterans, and Foreign Service officers

(a) ELIGIBILITY OF VETERANS AWARDED THE PURPLE HEART.—A veteran who was awarded the Purple Heart shall be permitted to use commissary stores and MWR facilities on the same basis as a member of the armed forces entitled to retired or retainer pay.

(b) ELIGIBILITY OF VETERANS WHO ARE MEDAL OF HONOR RECIPIENTS.—A veteran who is a Medal of Honor recipient shall be permitted to use commissary stores and MWR facilities on the same basis as a member of the armed forces entitled to retired or retainer pay.

(c) ELIGIBILITY OF VETERANS WHO ARE FORMER PRISONERS OF WAR.—A veteran who is a former prisoner of war shall be permitted to use commissary stores and MWR facilities on the same basis as a member of the armed forces entitled to retired or retainer pay.

(d) ELIGIBILITY OF VETERANS WITH SERVICE-CONNECTED DISABILITIES.—A veteran with a service-connected disability shall be permitted to use commissary stores and MWR facilities on the same basis as a member of the armed forces entitled to retired or retainer pay.

(e) ELIGIBILITY OF CAREGIVERS FOR VETERANS.—A caregiver or family caregiver shall be permitted to use commissary stores and MWR facilities on the same basis as a member of the armed forces entitled to retired or retainer pay.

(f) ELIGIBILITY OF FOREIGN SERVICE OFFICERS ON MANDATORY HOME LEAVE .—A Foreign Service officer on mandatory home leave may be permitted to use military lodging referred to in subsection (h).

(g) USER FEE AUTHORITY.—(1) The Secretary of Defense shall prescribe regulations that impose a user fee on individuals who are eligible solely under this section to purchase merchandise at a commissary store or MWR retail facility.

(2) The Secretary shall set the user fee under this subsection at a rate that the Secretary determines will offset any increase in expenses arising from this section borne by the Department of the Treasury on behalf of commissary stores associated with the use of credit or debit cards for customer purchases, including expenses related to card network use and related transaction processing fees.

(3) The Secretary shall deposit funds collected pursuant to a user fee under this subsection in the General Fund of the Treasury.

(4) Any fee under this subsection is in addition to the uniform surcharge under section 2484(d) of this title.

(h) DEFINITIONS.—In this section:

(1) The term "MWR facilities" includes—

(A) MWR retail facilities, as that term is defined in section 1063(e) [1] of this title; and

(B) military lodging operated by the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(2) The term "Medal of Honor recipient" has the meaning given that term in section 1074h(c) of this title.

(3) The terms "veteran", "former prisoner of war", and "service-connected" have the meanings given those terms in section 101 of title 38.

(4) The terms "caregiver" and "family caregiver" have the meanings given those terms in section in section 1720G(d) of title 38.

(5) The term "Foreign Service officer" has the meaning given that term in section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903).

(6) The term "mandatory home leave" means leave under section 903 of the Foreign Service Act of 1980 (22 U.S.C. 4083).

(Added Pub. L. 115–232, div. A, title VI, §621(b)(1), Aug. 13, 2018, 132 Stat. 1798; amended Pub. L. 116–92, div. A, title VI, §641(a), Dec. 20, 2019, 133 Stat. 1430.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1063(e) of this title, referred to in subsec. (h)(1)(A), was redesignated section 1063(f) of this title by Pub. L. 118–31, div. A, title XVII, 1722(h)(2), Dec. 22, 2023, 137 Stat. 672.

### PRIOR PROVISIONS

A prior section 1065 was renumbered section 1063 of this title.

### AMENDMENTS

**2019**—Pub. L. 116–92, §641(a)(1), substituted "veterans, caregivers for veterans, and Foreign Service officers" for "veterans and caregivers for veterans" in section catchline.

Subsecs. (f) to (h). Pub. L. 116–92, §641(a)(2), (3), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsec. (h)(5), (6). Pub. L. 116–92, §641(a)(4), added pars. (5) and (6).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VI, §641(b), Dec. 20, 2019, 133 Stat. 1431, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2020, as if originally incorporated in section 621 of Public Law 115–232."

### EFFECTIVE DATE

Pub. L. 115–232, div. A, title VI, §621(b)(3), Aug. 13, 2018, 132 Stat. 1799, provided that: "Section 1065 of title 10, United States Code, as added by paragraph (1), shall take effect on January 1, 2020."

[1] *See References in Text note below.*

## §1066. Use of commissary stores and MWR facilities: certain civilian employees

(a) ELIGIBILITY OF CERTAIN CIVILIAN EMPLOYEES.—(1) An individual employed as a protective services civilian employee at a military installation may be permitted to purchase food and hygiene items at a commissary store or MWR retail facility located on that military installation.

(2) A civil service mariner of the Military Sealift Command may be permitted to use commissary stores and MWR retail facilities on the same basis as members of the armed forces on active duty.

(b) USER FEE AUTHORITY.—(1) The Secretary of Defense shall prescribe regulations that impose a user fee on individuals who are eligible solely under this section to purchase merchandise at a commissary store or MWR retail facility.

(2) The Secretary shall set the user fee under this subsection at a rate that the Secretary determines will offset any increase in expenses arising from this section borne by the Department of the Treasury on behalf of commissary stores associated with the use of credit or debit cards for customer purchases, including expenses related to card network use and related transaction processing fees.

(3) The Secretary shall deposit funds collected pursuant to a user fee under this subsection in the General Fund of the Treasury.

(4) Any fee under this subsection is in addition to the uniform surcharge under section 2484(d) of this title.

(c) DEFINITIONS.—In this section:

(1) The term "MWR retail facility" has the meaning given that term in section 1063 of this title.

(2) The term "protective services civilian employee" means a position in any of the following series (or successor classifications) of the General Schedule:

(A) Security Administration (GS–0080).
(B) Fire Protection and Prevention (GS–0081).
(C) Police (GS–0083).
(D) Security Guard (GS–0085).
(E) Emergency Management (GS–0089).

(Added Pub. L. 116–283, div. A, title VI, §631(a), Jan. 1, 2021, 134 Stat. 3681; amended Pub. L. 119–60, div. A, title VI, §651, Dec. 18, 2025, 139 Stat. 912.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, §651(b)(1), substituted "certain" for "protective services" in section catchline.
Subsec. (a). Pub. L. 119–60, §651(b)(2), substituted "Certain" for "Protective Services" in heading.
Pub. L. 119–60, §651(a), designated existing provisions as par. (1) and added par. (2).

# CHAPTER 55—MEDICAL AND DENTAL CARE

Sec.
1071. Purpose of this chapter.
1072. Definitions.
1073. Administration of this chapter.
1073a. Contracts for health care: best value contracting.
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1073d. Military medical treatment facilities.
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1074. Medical and dental care for members and certain former members.
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1075. TRICARE Select.
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1076. Medical and dental care for dependents: general rule.
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1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents.
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1079. Contracts for medical care for spouses and children: plans.
1079a. TRICARE program: treatment of refunds and other amounts collected.
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1080. Contracts for medical care for spouses and children: election of facilities.
1081. Contracts for medical care for spouses and children: review and adjustment of payments.
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1084. Determinations of dependency.
1085. Medical and dental care from another executive department: reimbursement.
1086. Contracts for health benefits for certain members, former members, and their dependents.
1086a. Certain former spouses: extension of period of eligibility for health benefits.
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1087. Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services.
1088. Air evacuation patients: furnished subsistence.
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1092. Studies and demonstration projects relating to delivery of health and medical care.
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1095a. Medical care: members held as captives and their dependents.
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1095f. TRICARE program: referrals and preauthorizations under TRICARE Prime.
1095g. TRICARE program: waiver of recoupment of erroneous payments caused by administrative error.
1096. Military-civilian health services partnership program; medical surge program.
1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care.
1097a. TRICARE Prime: automatic enrollment.
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1097c. TRICARE program: relationship with employer-sponsored group health plans.
1097d. TRICARE program: notice of change to benefits.
1098. Incentives for participation in cost-effective health care plans.
1099. Health care enrollment system and payment options.
1100. Defense Health Program Account.
1101. Resource allocation methods: capitation or diagnosis-related groups.
1102. Confidentiality of medical quality assurance records: qualified immunity for participants.
1103. Contracts for medical and dental care: State and local preemption.
1104. Sharing of health-care resources with the Department of Veterans Affairs.
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1106. Submittal of claims: standard form; time limits.
1107. Notice of use of an investigational new drug or a drug unapproved for its applied use.
1107a. Emergency use products.
1108. Health care coverage through Federal Employees Health Benefits program: demonstration project.
1109. Organ and tissue donor program.
1110. System for tracking and recording vaccine information; anthrax vaccine immunization program.
1110a. Notification of certain individuals regarding options for enrollment under Medicare part B.
1110b. TRICARE program: extension of dependent coverage.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VII, §712(1), Dec. 18, 2025, 139 Stat. 919, inserted "; medical surge program" after "program" in item 1096. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title VII, §711, Dec. 23, 2024, 138 Stat. 1947, added item 1091a. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title VII, §§701(c)(2), 713(b), 714(a)(2), 716(c), Dec. 27, 2021, 135 Stat. 1779, 1784, 1786, 1789, added items 1073f, 1090a, 1090b, 1104a, and 1110 and struck out former items 1090a "Commanding officer and supervisor referrals of members for mental health evaluations" and 1110 "Anthrax vaccine immunization program; procedures for exemptions and monitoring reactions".

Pub. L. 116–283, div. A, title VII, §712(b), Jan. 1, 2021, 134 Stat. 3692, added item 1073e.

**2019**—Pub. L. 116–92, div. A, title VII, §702(b)(3), Dec. 20, 2019, 133 Stat. 1436, added items 1097a and 1099 and struck out former items 1097a "TRICARE Prime: automatic enrollments; payment options" and 1099 "Health care enrollment system".

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(13), Aug. 13, 2018, 132 Stat. 1984, inserted period at end of item 1077a.

**2017**—Pub. L. 115–91, div. A, title VII, §703(a)(2), Dec. 12, 2017, 131 Stat. 1435, added item 1074*o*.

**2016**—Pub. L. 114–328, div. A, title VII, §§702(a)(2), 703(a)(2), 704(b), 711(b), 728(b)(2), Dec. 23, 2016, 130 Stat. 2195, 2198, 2201, 2214, 2234, added items 1073c, 1073d, 1076f, and 1077a, and substituted "Recurring reports and publication of certain data" for "Recurring reports" in item 1073b.

Pub. L. 114–328, div. A, title VII, §§701(a)(2), (b)(2), (j)(2), (k), Dec. 23, 2016, 130 Stat. 2184, 2185, 2192, 2193, applicable with respect to the provision of health care under the TRICARE program beginning on

Jan. 1, 2018, added items 1075 and 1075a and substituted "TRICARE Reserve Select" for "TRICARE Standard" in item 1076d, "TRICARE Retired Reserve" for "TRICARE Standard" in item 1076e, "TRICARE program" for "CHAMPUS" in item 1079a, and "and preauthorizations under TRICARE Prime" for "for specialty health care" in item 1095f.

**2015**—Pub. L. 114–92, div. A, title VII, §711(b), Nov. 25, 2015, 129 Stat. 864, added item 1095g.

**2014**—Pub. L. 113–291, div. A, title VII, §§701(a)(2), 704(b), 711(b), Dec. 19, 2014, 128 Stat. 3408, 3413, 3414, added items 1074n, 1079c, and 1097d.

**2011**—Pub. L. 112–81, div. A, title VII, §§702(a)(2), 704(b), 711(a)(2), Dec. 31, 2011, 125 Stat. 1471, 1473, 1476, added items 1074m, 1078b, and 1090a.

Pub. L. 111–383, div. A, title VII, §702(a)(2), Jan. 7, 2011, 124 Stat. 4245, added item 1110b.

**2009**—Pub. L. 111–84, div. A, title VII, §§705(b), 707(b), Oct. 28, 2009, 123 Stat. 2375, 2376, added items 1076e and 1110a.

**2008**—Pub. L. 110–181, div. A, title XVI, §1617(b), Jan. 28, 2008, 122 Stat. 449, as amended by Pub. L. 110–417, [div. A], title X, §1061(b)(14), Oct. 14, 2008, 122 Stat. 4613, added item 1074l.

**2006**—Pub. L. 109–364, div. A, title VII, §707(b), Oct. 17, 2006, 120 Stat. 2284, added item 1097c.

Pub. L. 109–364, div. A, title VII, §706(e), Oct. 17, 2006, 120 Stat. 2282, struck out item 1076b "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" and substituted "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" for "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" in item 1076d, effective Oct. 1, 2007.

Pub. L. 109–163, div. A, title VII, §§701(f)(2), 702(a)(2), Jan. 6, 2006, 119 Stat. 3340, 3342, substituted "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" for "TRICARE program: coverage for members of the Ready Reserve" in item 1076b and "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" for "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty" in item 1076d.

**2004**—Pub. L. 108–375, div. A, title V, §555(a)(2), title VI, §607(a)(2), title VII, §§701(a)(2), 733(a)(2), 739(a)(2), title X, §1084(d)(7), Oct. 28, 2004, 118 Stat. 1914, 1946, 1981, 1998, 2002, 2061, added items 1073b, 1074b, 1076d, and 1092a, reenacted item 1076b without change, and struck out item 1075 "Officers and certain enlisted members: subsistence charges".

**2003**—Pub. L. 108–136, div. A, title XVI, §1603(b)(2), Nov. 24, 2003, 117 Stat. 1690, added item 1107a.

Pub. L. 108–106, title I, §1115(b), Nov. 6, 2003, 117 Stat. 1218, added item 1076b.

**2001**—Pub. L. 107–107, div. A, title VII, §§701(a)(2), (f)(2), 731(b), 732(a)(2), 736(c)(2), title X, §1048(a)(10), Dec. 28, 2001, 115 Stat. 1158, 1161, 1169, 1173, 1223, struck out item 1074b "Transitional medical and dental care: members on active duty in support of contingency operations", transferred item 1074i to appear after item 1074h, and added items 1074j, 1074k, 1079b, and 1086b.

**2000**—Pub. L. 106–398, §1 [[div. A], title VII, §§706(a)(2), 728(a)(2), 751(b)(2), 758(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–175, 1654A–189, 1654A–194, 1654A–200, added items 1074h, 1074i, 1095f, and 1110.

**1999**—Pub. L. 106–65, div. A, title VII, §§701(a)(2), 711(b), 713(a)(2), 714(b), 715(a)(2), 716(a)(2), 722(b), Oct. 5, 1999, 113 Stat. 680, 687, 689–691, 695, added items 1073a, 1074g, 1076a, 1095c, 1095d, 1095e, and 1097b and struck out former items 1076a "Dependents' dental program" and 1076b "Selected Reserve dental insurance".

**1998**—Pub. L. 105–261, div. A, title VII, §§711(b), 712(a)(2), 721(a)(2), 734(b)(2), 741(b)(2), Oct. 17, 1998, 112 Stat. 2058, 2059, 2065, 2073, 2074, added items 1094a, 1095b, 1097a, 1108, and 1109.

**1997**—Pub. L. 105–85, div. A, title VII, §§738(b), 764(b), 765(a)(2), 766(b), Nov. 18, 1997, 111 Stat. 1815, 1826–1828, added items 1074e, 1074f, 1106, and 1107 and struck out former item 1106 "Submittal of claims under CHAMPUS".

**1996**—Pub. L. 104–201, div. A, title VII, §§701(a)(2)(B), 703(a)(2), 733(a)(2), Sept. 23, 1996, 110 Stat. 2587, 2590, 2598, substituted "Certain primary and preventive health care services" for "Primary and preventive health care services for women" in item 1074d and added items 1076c and 1079a.

Pub. L. 104–106, div. A, title VII, §§705(a)(2), 735(d)(2), 738(b)(2), Feb. 10, 1996, 110 Stat. 373, 383, added item 1076b and substituted "Performance of abortions: restrictions" for "Restriction on use of funds for abortions" in item 1093 and "Defense Health Program Account" for "Military Health Care Account" in item 1100.

**1993**—Pub. L. 103–160, div. A, title VII, §§701(a)(2), 712(a)(2), 714(b)(2), 716(a)(2), Nov. 30, 1993, 107

Stat. 1686, 1689, 1690, 1692, added item 1074d, substituted "Personal services contracts" for "Contracts for direct health care providers" in item 1091 and "Resource allocation methods: capitation or diagnosis-related groups" for "Diagnosis-related groups" in item 1101, added item 1105, and struck out former item 1105 "Issuance of nonavailability of health care statements".

**1992**—Pub. L. 102–484, div. D, title XLIV, §4408(a)(2), Oct. 23, 1992, 106 Stat. 2712, added item 1078a.

**1991**—Pub. L. 102–190, div. A, title VI, §640(b), title VII, §§715(b), 716(a)(2), Dec. 5, 1991, 105 Stat. 1385, 1403, 1404, added item 1074b, redesignated former item 1074b as 1074c, and added items 1105 and 1106.

**1990**—Pub. L. 101–510, div. A, title VII, §713(d)(2)[(3)], Nov. 5, 1990, 104 Stat. 1584, substituted "Health care services incurred on behalf of covered beneficiaries: collection from third-party payers" for "Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents" in item 1095.

**1989**—Pub. L. 101–189, div. A, title VII, §§722(b), 731(b)(2), Nov. 29, 1989, 103 Stat. 1478, 1482, added items 1086a and 1104.

**1987**—Pub. L. 100–180, div. A, title VII, §725(a)(2), Dec. 4, 1987, 101 Stat. 1116, added item 1103.

Pub. L. 100–26, §7(e)(2), Apr. 21, 1987, 101 Stat. 281, redesignated item 1095 "Medical care: members held as captives and their dependents" as item 1095a.

**1986**—Pub. L. 99–661, div. A, title VI, §604(a)(2), title VII, §§701(a)(2), 705(a)(2), Nov. 14, 1986, 100 Stat. 3875, 3897, 3904 substituted "active duty for a period of more than 30 days" for "active duty; injuries, diseases, and illnesses incident to duty" in item 1074a and added items 1096 to 1102.

Pub. L. 99–399, title VIII, §801(c)(2), Aug. 27, 1986, 100 Stat. 886, added item 1095 "Medical care: members held as captives and their dependents".

Pub. L. 99–272, title II, §2001(a)(2), Apr. 7, 1986, 100 Stat. 101, added item 1095 "Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents".

**1985**—Pub. L. 99–145, title VI, §§651(a)(2), 653(a)(2), Nov. 8, 1985, 99 Stat. 656, 658, added items 1076a and 1094.

**1984**—Pub. L. 98–525, title VI, §631(a)(2), title XIV, §1401(e)(2)(B), (5)(B), Oct. 19, 1984, 98 Stat. 2543, 2616, 2618, substituted in item 1074a "Medical and dental care: members on duty other than active duty; injuries, diseases, and illnesses incident to duty" for "Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive duty training" and added items 1074b and 1093.

**1983**—Pub. L. 98–94, title IX, §§932(a)(2), 933(a)(2), title X, §1012(a)(2), title XII, §1268(5)(B), Sept. 24, 1983, 97 Stat. 650, 651, 665, 706, added items 1074a, 1091, and 1092, and struck out "; reports" at end of item 1081.

**1982**—Pub. L. 97–295, §1(15)(B), Oct. 12, 1982, 96 Stat. 1290, added item 1090.

**1980**—Pub. L. 96–513, title V, §511(34)(D), Dec. 12, 1980, 94 Stat. 2923, in items 1071 and 1073 substituted "this chapter" for "sections 1071–1087 of this title", and in item 1086 substituted "benefits" for "care".

**1976**—Pub. L. 94–464, §1(b), Oct. 8, 1976, 90 Stat. 1986, added item 1089.

**1970**—Pub. L. 91–481, §2(2), Oct. 21, 1970, 84 Stat. 1082, added item 1088.

**1966**—Pub. L. 89–614, §2(9), Sept. 30, 1966, 80 Stat. 866, substituted "1087" for "1085" in items 1071 and 1073, "Medical care" and "authorized care in facilities of uniformed services" for "Medical and dental care" and "specific inclusions and exclusions" in item 1077, "Contracts for health care" for "Contracts for medical care for spouses and children" in item 1082, and added items 1086 and 1087.

**1965**—Pub. L. 89–264, §2, Oct. 19, 1965, 79 Stat. 989, substituted "executive department" for "uniformed service" in item 1085.

**1958**—Pub. L. 85–861, §1(25)(A), (C), Sept. 2, 1958, 72 Stat. 1445, 1450, substituted "Medical and Dental Care" for "Voting by Members of Armed Forces" in heading of chapter, and substituted items 1071 to 1085 for former items 1071 to 1086.

## §1071. Purpose of this chapter

The purpose of this chapter is to create and maintain high morale in the uniformed services by providing an improved and uniform program of medical and dental care for members and certain former members of those services, and for their dependents.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1445; amended Pub. L. 89–614, §2(1),

Sept. 30, 1966, 80 Stat. 862; Pub. L. 96–513, title V, §511(34)(A), (B), Dec. 12, 1980, 94 Stat. 2922.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1071 | 37:401. | June 7, 1956, ch. 374, §101, 70 Stat. 250. |

The words "and certain former members" are inserted to reflect the fact that many of the persons entitled to retired pay are former members only. The words "and dental" are inserted to reflect the fact that members and, in certain limited situations, dependents are entitled to dental care under sections 1071–1085 of this title.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1071, act Aug. 10, 1956, ch. 1041, 70A Stat. 81, which stated the purpose of former sections 1071 to 1086 of this title, and provided for their construction, was repealed by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which was classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930.

### AMENDMENTS

**1980**—Pub. L. 96–513 substituted "Purpose of this chapter" for "Purpose of sections 1071–1087 of this title" in section catchline, and substituted reference to this chapter for reference to sections 1071–1087 of this title in text.

**1966**—Pub. L. 89–614 substituted "1087" for "1085" in section catchline and text.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–614, §3, Sept. 30, 1966, 80 Stat. 866, provided that: "The amendments made by this Act [see Short Title of 1966 Amendment note below] shall become effective January 1, 1967, except that those amendments relating to outpatient care in civilian facilities for spouses and children of members of the uniformed services who are on active duty for a period of more than 30 days shall become effective on October 1, 1966."

### SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XVI, §1601, Jan. 28, 2008, 122 Stat. 431, provided that: "This title [enacting sections 1074l, 1216a, and 1554a of this title, amending sections 1074, 1074f, 1074i, 1145, 1201, 1203, 1212, and 1599c of this title and section 6333 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section, sections 1074, 1074f, 1074i, 1074l, 1212, and 1554a of this title, and section 6333 of Title 5] may be cited as the 'Wounded Warrior Act'."

### SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–180, div. A, title VII, §701, Dec. 4, 1987, 101 Stat. 1108, provided that: "This title [enacting sections 1103, 2128 to 2130 [now 16201 to 16203], and 6392 of this title, amending sections 533, 591, 1079, 1086, 1251, 2120, 2122, 2123, 2124, 2127, 2172 [now 16302], 3353, 3855, 5600, 8353, and 8855 of this title, section 302 of Title 37, Pay and Allowances of the Uniformed Services, and section 3809 of Title 50, War and National Defense, enacting provisions set out as notes under sections 1073, 1074, 1079, 1092, 1103, 2121, 2124, 12201, and 16201 of this title, amending provisions set out as notes under sections 1073 and 1101 of this title, and repealing provisions set out as notes under sections 2121 and 2124 of this title] may be cited as the 'Military Health Care Amendments of 1987'."

## SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–614, §1, Sept. 30, 1966, 80 Stat. 862, provided: "That this Act [enacting sections 1086 and 1087 of this title, amending this section and sections 1072 to 1074, 1076 to 1079, 1082, and 1084 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Military Medical Benefits Amendments of 1966'."

## PILOT PROGRAM ON WASTEWATER SURVEILLANCE SYSTEM OF DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title VII, §733, Dec. 18, 2025, 139 Stat. 932, provided that:

"(a) PILOT PROGRAM REQUIRED.—Commencing not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall carry out a pilot program under which the Secretary shall develop and implement a comprehensive wastewater surveillance system at not fewer than four installations of a military department at which the Secretary seeks to identify the prevalence of infectious diseases among members of the Armed Forces at the installation (in this section referred to as the 'pilot program').

"(b) TECHNOLOGIES AND DATA SYSTEM USED.—In carrying out the pilot program, the Secretary shall ensure the system developed and implemented under subsection (a) is comprised of appropriate technologies and a uniform data system across the Department of Defense.

"(c) DURATION.—The pilot program shall be carried out during a two-year period beginning on the date of the commencement of the pilot program.

"(d) REPORT.—Not later than 90 days after the termination of the pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes the following:

"(1) A summary of the findings from the wastewater surveillance system under the pilot program.

"(2) Recommendations for interventions or policy changes based on trends observed under the pilot program.

"(3) An assessment of the effectiveness of the pilot program in enhancing force health protection and readiness."

## PILOT PROGRAM TO ASSIST CERTAIN MEMBERS OF THE ARMED FORCES AND DEPENDENTS WITH ADDITIONAL SUPPLEMENTAL COVERAGE RELATING TO CANCER

Pub. L. 119–60, div. A, title VII, §734, Dec. 18, 2025, 139 Stat. 933, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2027, the Secretary of Defense shall establish a pilot program under which a covered individual may obtain supplemental insurance for noncovered expenses under a fixed indemnity supplemental benefit plan described in subsection (b)(1) (in this section referred to as the 'pilot program'). The Secretary shall carry out such program until the date on which the last agreement terminates pursuant to subsection (b)(2).

"(b) AGREEMENT.—

"(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall enter into an agreement with not fewer than two companies to each offer one or more fixed indemnity supplemental benefit plans that—

"(A) meet the requirements for a supplemental insurance plan under section 199.2 of title 32, Code of Federal Regulations, and the exceptions under section 199.8(b)(4) of such title, as in effect on the date of the enactment of this Act [Dec. 18, 2025];

"(B) are provided under a separate policy, certificate, or contract; and

"(C) are designed to help participants pay noncovered expenses.

"(2) DURATION OF AGREEMENT.—An agreement entered into under paragraph (1) shall be for a period of not more than three years, and may not be renewed.

"(c) PROVISION OF INFORMATION.—The Secretary shall provide information to covered individuals regarding the pilot program by making available on a publicly accessible internet website the following information:

"(1) A notice of availability of a fixed indemnity supplemental benefit plan provided under the pilot program.

"(2) A description of how to enroll in such plan.

"(3) A description and explanation of such plan, including the diagnoses, screenings, and treatments covered by the plan.

"(4) A description of the costs to the individual through premiums and remittances to a company

providing such plan.

"(5) A notice that—

"(A) the availability of a fixed indemnity supplemental benefit plan provided under the pilot program does not affect the health care benefits provided to covered individuals under the TRICARE program; and

"(B) covered individuals are not required to purchase such a plan in order to receive health care benefits covered under the TRICARE program.

"(d) ENROLLMENT.—

"(1) ELECTION.—A covered individual may elect to enroll in a fixed indemnity supplemental benefit plan provided under the pilot program.

"(2) VERIFICATION OF ELIGIBILITY.—The Secretary shall establish procedures to determine the eligibility of applicants seeking to enroll in a fixed indemnity supplemental benefit plan provided under the pilot program.

"(e) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—None of the amounts authorized to be appropriated by this Act or otherwise made available for fiscal year 2026 or any fiscal year thereafter to carry out the pilot program may be used to subsidize the cost of a fixed indemnity supplemental benefit plan provided under the pilot program.

"(f) BRIEFING.—Not later than one year after the date on which the pilot program commences and annually thereafter during the life of the pilot program, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing regarding the pilot program, including the following:

"(1) A description of the insurance products provided through a fixed indemnity supplemental benefit plan provided under the pilot program.

"(2) The number of covered individuals who enrolled in such a plan.

"(3) Feedback and examples of use cases by such individuals.

"(4) A determination by the Secretary with respect to whether the pilot program should be made permanent.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means the following:

"(A) A member of the regular component of the Army, Navy, Marine Corps, Air Force, or Space Force.

"(B) A dependent (as defined in section 1072 of title 10, United States Code) of such a member who is enrolled in the TRICARE program.

"(2) The term 'noncovered expense' means, with respect to a covered individual, any expenses relating to the screening for and diagnosis and treatment of cancer that are not otherwise covered by the health care benefits the individuals [sic] receives under chapter 55 of title 10, United States Code, or any other benefit provided by the Secretary of Defense.

"(3) The term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

## PROGRAM TO PREVENT PERINATAL MENTAL HEALTH CONDITIONS IN PREGNANT AND POSTPARTUM MEMBERS OF THE ARMED FORCES

Pub. L. 118–159, div. A, title VII, §705, Dec. 23, 2024, 138 Stat. 1943, provided that:

"(a) REQUIREMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall carry out a program to improve clinical and nonclinical services targeting mental health conditions in pregnant and postpartum members of the Armed Forces and spouses of members during the perinatal period.

"(b) ELEMENTS.—The Secretary shall ensure that the program under subsection (a) includes the following:

"(1) Access to support resources during the perinatal period, including—

"(A) identification of symptoms of perinatal mental health conditions, brief intervention by primary care providers, referral to care, and treatment;

"(B) targeted nonmedical counseling services through the Department of Defense Military and Family Life Counseling Program of the Office of Military Family Readiness Policy under section 1781 of title 10, United States Code;

"(C) existing parenting resiliency programs of the military departments;

"(D) adherence to clinical practice guidelines in military medical treatment facilities in support of members of the uniformed services and dependents with a diagnosed mental health condition requiring

clinical intervention, including through primary care services and women's health clinics, in collaboration with behavioral health services; and

"(E) prenatal and postnatal support programs at military medical treatment facilities that provide group counseling modeled after best clinical practices, such as the Centering Pregnancy program.

"(2) A process for informing pregnant and postpartum members of the Armed Forces and spouses of members of nonmedical and clinical support services during the perinatal period.

"(3) A communications strategy to increase awareness of the services available under the program.

"(c) REPORT.—Not later than December 31, 2025, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the program under subsection (a) that includes the following:

"(1) A description of the range of activities included in the program and data assessing the effectiveness or shortcomings of such activities.

"(2) How resources are allocated for the purpose of establishing and maintaining perinatal support programs at military medical treatment facilities.

"(3) Measurements for adherence to evidence-based protocols at military medical treatment facilities with respect to identifying potential mental health issues.

"(4) Assessment of current training and credentials required for health care providers providing perinatal services and consideration for further certifications, such as the Perinatal Mental Health Certification.

"(5) Feasibility and advisability of adding specialized perinatal mental health support services via a helpline through Military One Source.

"(6) Recommendations for administrative or legislative changes to improve the effectiveness of the program.

"(d) PERINATAL PERIOD DEFINED.—In this section, the term 'perinatal period' means the period beginning with pregnancy through one year following childbirth."

## ESTABLISHMENT OF DEFENSE INTREPID NETWORK FOR TRAUMATIC BRAIN INJURY AND BRAIN HEALTH AS PROGRAM OF RECORD

Pub. L. 118–159, div. A, title VII, §721, Dec. 23, 2024, 138 Stat. 1951, provided that:

"(a) IN GENERAL.—Not later than January 1, 2026, the Secretary of Defense shall establish the Defense Intrepid Network for Traumatic Brain Injury and Brain Health (in this section referred to as the 'Network') headquartered at the National Intrepid Center of Excellence as a program of record subject to milestone reviews and compliance with the requirements under this section.

"(b) DUTIES.—The duties of the Network are as follows:

"(1) To provide clinical care to prevent, diagnose, treat, and rehabilitate members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, symptoms from blast overpressure or blast exposure, and other mental health conditions.

"(2) To promote standardization of care among the 10 Intrepid Spirit Centers throughout the continental United States, brain health clinics in Alaska and Germany, and other sites as designated by the Director of the Defense Health Agency as being a part of the long-term brain health strategy of the Department of Defense.

"(3) To support and conduct research and education on traumatic brain injury, post-traumatic stress disorder, blast overpressure or blast exposure, and other mental health conditions.

"(c) ANNUAL BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], and annually thereafter for a period of five years, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that shall include, for the year covered by the briefing—

"(1) the number of individuals to whom the Network has provided services;

"(2) the number of individuals who return to active duty in the Armed Forces after receiving services from the Network, and the stage in their career at which they seek treatment at the Network;

"(3) the number of individuals whose families are able to participate in programs provided by the Network; and

"(4) the number of individuals on a waitlist for treatment at the Network and the average period those individuals are on the waitlist."

## BRAIN HEALTH AND TRAUMA PROGRAM

Pub. L. 118–159, div. A, title VII, §722, Dec. 23, 2024, 138 Stat. 1951, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish an intensive comprehensive brain health and trauma program to—

"(1) provide multidisciplinary specialist evaluations, treatment initiation, and aftercare for members of the Armed Forces and dependents of members; and

"(2) make evidence-based improvements in such evaluations, treatment, and aftercare.

"(b) PROGRAM ELEMENTS.—The Secretary shall ensure that the program under subsection (a) includes the following:

"(1) Initiatives of the Defense Health Agency that provide coordinated evaluations, treatment, and aftercare for traumatic brain injuries and related conditions, that incorporates specialized evaluations, innovative and evidence-based treatments, and comprehensive follow-up care.

"(2) Collaboration with private sector nonprofit health care organizations involved in innovative clinical activities in brain health and trauma care, including transitional and residential brain injury treatment programs.

"(3) One or more pilot programs for demonstrating the effectiveness of intensive outpatient multidisciplinary specialist treatment and care coordination.

"(4) Incorporation of evidence-based therapy with complementary and alternative medicine approaches.

"(5) Thorough evaluations of the effectiveness of innovative activities for diagnosis, treatment, and aftercare of brain trauma and promotion of brain health.

"(c) BRIEFING.—Not later than December 31, 2025, the Secretary shall provide to the Armed Services Committees of the Senate and House of Representatives a briefing on the program under subsection (a). Such briefing shall include the following:

"(1) A description of the range of activities included in the program and data assessing the effectiveness or shortcomings of such activities.

"(2) The scope of each pilot program carried out under subsection (b)(3).

"(3) Recommendations for administrative or legislative changes to improve the effectiveness of the program."

## BLAST OVERPRESSURE AND TRAUMATIC BRAIN INJURY OVERSIGHT STRATEGY AND ACTION PLAN

Pub. L. 118–159, div. A, title VII, §724, Dec. 23, 2024, 138 Stat. 1954, provided that:

"(a) STRATEGY AND PLAN REQUIRED.—The Secretary of Defense shall develop and implement a traumatic brain injury oversight strategy and action plan that includes, at a minimum, the following:

"(1) Assigned roles and responsibilities for the components of the Office of the Secretary of Defense for the mitigation, identification, and treatment of traumatic brain injury and the monitoring and documentation of blast overpressure exposure.

"(2) Standardized monitoring, treatment, and referral guidelines for traumatic brain injury programs across all covered Armed Forces.

"(3) A review and update of the current brain injury diagnostic tools used by such programs.

"(4) Standardized, 72-hour follow-up requirements for all traumatic brain injury patients, including protocols for the treatment and observation during such follow-up appointments.

"(5) Oversight and documentation standards to aid in data collection.

"(b) IMPLEMENTATION.—The Secretary shall implement the oversight strategy and action plan under subsection (a) not later than one year after the date of the enactment of this Act [Dec. 23, 2024].

"(c) SUBMISSION TO GAO.—Upon development of the oversight strategy and action plan under subsection (a), the Secretary shall submit to the Comptroller General of the United States the oversight strategy and action plan.

"(d) COVERED ARMED FORCES DEFINED.—In this section, the term 'covered Armed Forces' means the Army, Navy, Marine Corps, Air Force, and Space Force."

## ESTABLISHMENT OF REQUIREMENTS RELATING TO BLAST OVERPRESSURE EXPOSURE

Pub. L. 118–159, div. A, title VII, §725, Dec. 23, 2024, 138 Stat. 1955, provided that: "Not later than two years after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish—

"(1) performance parameters to minimize exposure to blast overpressure when drafting requirements for new weapon systems for the Department of Defense, taking into account the thresholds for blast exposure and overpressure safety identified pursuant to section 735(b)(1) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 1071 note), as amended by section 723;

"(2) with respect to contractual agreements entered into by any entity and the Department of Defense as part of the defense weapon acquisition process on or after the date on which such parameters are established, a requirement that the entity shall provide to the Secretary blast overpressure measurements

and safety data for a weapon system procured under such agreement that produces blast overpressure that exceeds such thresholds; and

"(3) a requirement that any test plan for a new weapon system shall incorporate testing for blast overpressure measurements and safety data."

## MEDICAL COUNTERMEASURES FOR OVERSEAS PERSONNEL OF THE DEPARTMENT OF DEFENSE FOR ACUTE RADIATION SYNDROME AND THERMAL BURNS

Pub. L. 118–159, div. A, title VII, §734, Dec. 23, 2024, 138 Stat. 1956, provided that:

"(a) PROGRAM REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a program to develop requirements for the procurement, pre-positioning, and maintenance of medical countermeasures approved, cleared, licensed, or authorized by the Food and Drug Administration to diagnose, prevent, and treat acute radiation syndrome and thermal burns for use by covered personnel.

"(b) PROGRAM SPECIFICATIONS.—In carrying out the program required by subsection (a), the Secretary of Defense shall consider, in coordination with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands, the following:

"(1) The number of covered personnel in areas in which the use of tactical nuclear weapons is a substantial threat.

"(2) Peer-reviewed and published scientific studies regarding safety and efficacy of the potential countermeasures described in subsection (a).

"(3) Operational requirements of the Department.

"(4) Appropriate doctrine, training, and operational plans for effective use of such countermeasures.

"(5) A feasible schedule for implementation of the program.

"(c) COVERED PERSONNEL DEFINED.—In this section, the term 'covered personnel' means—

"(1) members of the Armed Forces deployed outside the United States; and

"(2) civilian employees of the Department of Defense deployed outside the United States."

## ACCOUNTABILITY FOR WOUNDED WARRIORS UNDERGOING DISABILITY EVALUATION

Pub. L. 117–263, div. A, title VII, §711, Dec. 23, 2022, 136 Stat. 2656, provided that:

"(a) POLICY.—Not later than April 1, 2023, the Secretary of Defense, in consultation with the Secretaries concerned, shall establish a policy to ensure accountability for actions taken under the authorities of the Defense Health Agency and the Armed Forces, respectively, concerning wounded, ill, and injured members of the Armed Forces during the integrated disability evaluation system process. Such policy shall include the following:

"(1) A restatement of the requirement that, in accordance with section 1216(b) of title 10, United States Code, a determination of fitness for duty of a member of the Armed Forces under chapter 61 of title 10, United States Code, is the responsibility of the Secretary concerned.

"(2) A description of the role of the Director of the Defense Health Agency in supporting the Secretaries concerned in carrying out determinations of fitness for duty as specified in paragraph (1).

"(3) A description of how the medical evaluation board processes of the Armed Forces are integrated with the Defense Health Agency, including with respect to case management, appointments, and other relevant matters.

"(4) A requirement that, in determining fitness for duty of a member of the Armed Forces under chapter 61 of title 10, United States Code, the Secretary concerned shall consider the results of any medical evaluation of the member provided under the authority of the Defense Health Agency pursuant to section 1073c of title 10, United States Code.

"(5) A description of how the Director of the Defense Health Agency adheres to the medical evaluation processes of the Armed Forces, including an identification of each applicable regulation or policy to which the Director is required to so adhere.

"(6) An assessment of the feasibility of affording various additional due process protections to members of the Armed Forces undergoing the medical evaluation board process.

"(7) A restatement of the requirement that wounded, ill, and injured members of the Armed Forces may not be denied any due process protection afforded under applicable law or regulation of the Department of Defense or the Armed Forces.

"(8) A description of the types of due process protections specified in paragraph (7), including an identification of each specific due process protection.

"(b) CLARIFICATION OF RESPONSIBILITIES REGARDING MEDICAL EVALUATION BOARDS .—[Amended section 1073c of this title.]

"(c) BRIEFING.—Not later than February 1, 2023, the Secretary of Defense shall provide to the

Committees on Armed Services of the House of Representatives and the Senate a briefing on the status of the implementation of subsections (a) and (b).

"(d) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the implementation of subsections (a) and (b), lessons learned as a result of such implementation, and the recommendations of the Secretary relating to the policy on wounded, ill, and injured members of the Armed Forces undergoing the integrated disability evaluation system process.

"(e) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## ACCESS TO CERTAIN DEPENDENT MEDICAL RECORDS BY REMARRIED FORMER SPOUSES

Pub. L. 117–263, div. A, title VII, §721, Dec. 23, 2022, 136 Stat. 2663, provided that:

"(a) ACCESS.—The Secretary of Defense may authorize a remarried former spouse who is a custodial parent of a dependent child to retain electronic access to the privileged medical records of such dependent child, notwithstanding that the former spouse is no longer a dependent under section 1072(2) of title 10, United States Code.

"(b) DEFINITIONS.—In this section:

"(1) The term 'dependent' has the meaning given that term in section 1072 of title 10, United States Code.

"(2) The term 'dependent child' means a dependent child of a remarried former spouse and a member or former member of a uniformed service.

"(3) The term 'remarried former spouse' means a remarried former spouse of a member or former member of a uniformed service."

## BRAIN HEALTH INITIATIVE OF DEPARTMENT OF DEFENSE

Pub. L. 117–263, div. A, title VII, §735, Dec. 23, 2022, 136 Stat. 2668, as amended by Pub. L. 118–159, div. A, title VII, §723, Dec. 23, 2024, 138 Stat. 1952, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretaries concerned, shall establish a comprehensive initiative for brain health to be known as the 'Warfighter Brain Health Initiative' (in this section referred to as the 'Initiative') for the purpose of unifying efforts and programs across the Department of Defense to improve the cognitive performance and brain health of members of the Armed Forces.

"(b) OBJECTIVES.—The objectives of the Initiative shall be the following:

"(1) To enhance, maintain, and restore the cognitive performance of members of the Armed Forces through education, training, prevention, protection, monitoring, detection, diagnosis, treatment, and rehabilitation, including through the following activities:

"(A) The establishment of a program to monitor cognitive brain health across the Department of Defense, with the goal of detecting any need for cognitive enhancement or restoration resulting from potential brain exposures of members of Armed Forces, to mitigate possible evolution of injury or disease progression.

"(B) In accordance with subsection (c), the identification and dissemination of thresholds for blast exposure and overpressure safety and associated emerging scientific evidence that—

"(i) cover brain injury and impulse noise;

"(ii) measure impact over 24-hour, 72-hour to 96-hour, monthly, annual, and lifetime periods;

"(iii) are designed to prevent cognitive deficits after firing;

"(iv) account for the cumulative impact of firing multiple weapon systems during the same period;

"(v) include minimum safe distances and levels of exposure for observers and instructors; and

"(vi) address shoulder-fired heavy weapons.

"(C) The modification of high-risk training and operational activities to mitigate the negative effects of repetitive blast exposure.

"(D) The identification of individuals who perform high-risk training or occupational activities, for purposes of increased monitoring of the brain health of such individuals.

"(E) The development and operational fielding of non-invasive, portable, point-of-care medical devices, to inform the diagnosis and treatment of traumatic brain injury.

"(F) The establishment of a standardized monitoring program that documents and analyzes blast

exposures that may affect the brain health of members of the Armed Forces.

"(G) The consideration of the findings and recommendations of the report of the National Academies of Science, Engineering, and Medicine titled 'Traumatic Brain Injury: A Roadmap for Accelerating Progress' and published in 2022 (relating to the acceleration of progress in traumatic brain injury research and care), or any successor report, in relation to the activities of the Department relating to brain health, as applicable.

"(H) The establishment of a standardized treatment program based on interventions that have shown benefit to individuals with brain health issues after a brain injury and the provision of that treatment program to individuals with brain health issues after a brain injury resulting from a potential brain exposure described in subparagraph (A) or high-risk training or occupational activities described in subparagraph (D).

"(I) The establishment of policies to encourage members of the Armed Forces to seek medical treatment for brain health when needed, prevent retaliation against such members who seek such medical treatment, and address other barriers to seeking medical treatment for brain health due to the impact of blast exposure, blast overpressure, or traumatic brain injury.

"(J) The modification of existing weapons systems to reduce blast exposure of the individual using the weapon and those within the minimum safe distance.

"(2) To harmonize and prioritize the efforts of the Department of Defense into a single approach to brain health.

"(c) THRESHOLDS FOR BLAST EXPOSURE AND OVERPRESSURE SAFETY.—

"(1) TIMING.—

"(A) INITIAL THRESHOLDS.—Not later than January 1, 2027, the Secretary of Defense shall identify and disseminate the thresholds for blast exposure and overpressure safety under subsection (b)(1)(B).

"(B) PERIODIC UPDATES.—On a quinquennial basis, the Secretary shall review and, as necessary, update the thresholds for blast exposure and overpressure safety under subsection (b)(1)(B).

"(2) FORMAL TRAINING REQUIREMENT.—The Secretary shall ensure that training on the thresholds for blast exposure and overpressure safety is provided to members of the Armed Forces before training, deployment, or entering other high-risk environments where exposure to blast overpressure is likely.

"(3) CENTRAL REPOSITORY.—Not later than January 1, 2027, the Secretary shall establish a central repository of blast-related characteristics, such as pressure profiles and common blast loads associated with specific systems and the environments in which the systems are used.

"(4) WAIVERS.—

"(A) PROTOCOLS.—The Secretary may waive the thresholds for blast exposure and overpressure safety under subsection (b)(1)(B) for operational or training requirements that the Secretary determines are essential to national security. The Secretary shall include in each such waiver a justification for exceeding such thresholds.

"(B) TRACKING SYSTEM.—The Secretary shall establish a Department of Defense-wide tracking system for waivers issued under subparagraph (A) that includes data contributed by the Secretary of each military department.

"(C) REPORT ON WAIVERS.—Not later than one year after issuing a waiver under subparagraph (A) and annually thereafter for a period of five years, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such waivers that includes—

"(i) the number of waivers issued, disaggregated by military department; and

"(ii) a description of actions taken by the Secretary concerned to track the health effects of exceeding thresholds for blast exposure and overpressure safety on members of the Armed Forces, document such effects in medical records, and provide care to such members.

"(d) PILOT PROGRAM RELATING TO MONITORING OF BLAST COVERAGE.—

"(1) AUTHORITY.—The Director of the Defense Health Agency may conduct, as part of the Initiative, a pilot program under which the Director shall monitor blast overpressure exposure through the use of commercially available, off-the-shelf, wearable sensors or other remote measurement technology, and document and evaluate data collected as a result of such monitoring.

"(2) LOCATIONS.—Monitoring activities under a pilot program conducted pursuant to paragraph (1) shall be carried out in each training environment that the Director determines poses a risk for blast overpressure exposure.

"(3) DOCUMENTATION AND SHARING OF DATA.—If the Director conducts a pilot program

pursuant to paragraph (1), the Director shall—

"(A) ensure that any data collected pursuant to such pilot program that is related to the health effects of the blast overpressure exposure of a member of the Armed Forces who participated in the pilot program is documented and maintained by the Secretary of Defense in an electronic health record for the member; and

"(B) to the extent practicable, and in accordance with applicable provisions of law relating to data privacy, make data collected pursuant to such pilot program available to other academic and medical researchers for the purpose of informing future research and treatment options.

"(4) WEAPONS USE.—Monitoring activities under a pilot program conducted pursuant to paragraph (1) shall be carried out for any member of the Armed Forces firing tier 1 weapons in training or combat, as identified by the Secretary of Defense.

"(e) REPORTS ON WARFIGHTER BRAIN HEALTH INITIATIVE.—Not later than December 31, 2025, and not less frequently than annually thereafter for a period of five years, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes the following:

"(1) A description of the activities taken under the Initiative and resources expended under the Initiative during the prior fiscal year.

"(2) The number of members of the Armed Forces impacted by blast overpressure and blast exposure in the prior fiscal year, including—

"(A) the number of members who reported adverse health effects from blast overpressure or blast exposure;

"(B) the number of members exposed to blast overpressure or blast exposure;

"(C) the number of members who received treatment for injuries related to blast overpressure or blast exposure, including at facilities of the Department of Defense and at facilities in the private sector; and

"(D) the type of care that members receive from facilities of the Department of Defense and the type of care that members receive from facilities in the private sector.

"(3) A summary of the progress made during the prior fiscal year with respect to the objectives of the Initiative under subsection (b).

"(4) A description of the steps the Secretary is taking to ensure that activities under the Initiative are being implemented across the Department of Defense and the military departments.

"(f) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## ESTABLISHMENT OF PARTNERSHIP PROGRAM BETWEEN UNITED STATES AND UKRAINE FOR MILITARY TRAUMA CARE AND RESEARCH

Pub. L. 117–263, div. A, title VII, §736, Dec. 23, 2022, 136 Stat. 2670, as amended by Pub. L. 118–31, div. A, title VII, §721, Dec. 22, 2023, 137 Stat. 305, provided that: "Not later than February 24, 2023, the Secretary of Defense shall seek to enter into a partnership with the appropriate counterpart from the Government of Ukraine for the establishment of a joint program on military trauma care and research. Such program shall consist of the following:

"(1) The sharing of relevant lessons learned from the Russo-Ukraine War.

"(2) The conduct of relevant joint conferences and exchanges with military medical professionals from Ukraine and the United States.

"(3) Collaboration with the armed forces of Ukraine on matters relating to health policy, health administration, and medical supplies and equipment, including through knowledge exchanges.

"(4) The conduct of joint research and development on the health effects of new and emerging weapons.

"(5) The entrance into agreements with military medical schools of Ukraine for reciprocal education programs under which students at the Uniformed Services University of the Health Sciences receive specialized military medical instruction at the such military medical schools of Ukraine and military medical personnel of Ukraine receive specialized military medical instruction at the Uniformed Services University of the Health Sciences, pursuant to section 2114(f) of title 10, United States Code.

"(6) The provision of support to Ukraine for the purpose of facilitating the establishment in Ukraine of a program substantially similar to the Wounded Warrior Program in the United States.

"(7) The provision of training and support to Ukraine for the treatment of individuals with extremity trauma, amputations, post-traumatic stress disorder, traumatic brain injuries, and any other mental health conditions associated with post-traumatic stress disorder or traumatic brain injuries, including—

"(A) the exchange of subject matter expertise;

"(B) training and support relating to advanced clinical skills development; and

"(C) training and support relating to clinical case management support.

"(8) The provision of training to the armed forces of Ukraine in the following areas:

"(A) Health matters relating to chemical, biological, radiological, nuclear and explosive weapons.

"(B) Preventive medicine and infectious disease.

"(C) Post traumatic stress disorder.

"(D) Suicide prevention.

"(9) The maintenance of a list of medical supplies and equipment needed.

"(10) Such other elements as the Secretary of Defense may determine appropriate."

## BIENNIAL BRIEFING ON INDIVIDUAL LONGITUDINAL EXPOSURE RECORD

Pub. L. 117–168, title VIII, §802, Aug. 10, 2022, 136 Stat. 1801, provided that:

"(a) IN GENERAL.—Not later than one year after the date on which the Individual Longitudinal Exposure Record achieves full operational capability, as determined by the Secretary of Defense, and every two years thereafter, the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall provide the appropriate committees of Congress a briefing on—

"(1) the quality of the databases of the Department of Defense that provide the information presented in such Individual Longitudinal Exposure Record; and

"(2) the usefulness of such Individual Longitudinal Exposure Record or system in supporting members of the Armed Forces and veterans in receiving health care and benefits from the Department of Defense and the Department of Veterans Affairs.

"(b) ELEMENTS.—Each briefing required by subsection (a) shall include, for the period covered by the report, the following:

"(1) An identification of potential exposures to occupational or environmental hazards captured by the current systems of the Department of Defense for environmental, occupational, and health monitoring, and recommendations for how to improve those systems.

"(2) An analysis of the quality and accuracy of the location data used by the Department of Defense in determining potential exposures to occupational or environmental hazards by members of the Armed Forces and veterans, and recommendations for how to improve the quality of such data if necessary.

"(c) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

"(B) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

"(2) INDIVIDUAL LONGITUDINAL EXPOSURE RECORD.—The term 'Individual Longitudinal Exposure Record' has the meaning given such term in section 1171 of title 38, United States Code, as added by section 202."

## APPEALS TO PHYSICAL EVALUATION BOARD DETERMINATIONS OF FITNESS FOR DUTY

Pub. L. 117–81, div. A, title V, §524, Dec. 27, 2021, 135 Stat. 1687, as amended by Pub. L. 119–60, div. A, title V, §524(a), Dec. 18, 2025, 139 Stat. 865, provided that: "The Secretary of Defense shall incorporate a formal appeals process (including timelines established by the Secretary of Defense) into the policies and procedures applicable to the implementation of the Integrated Disability Evaluation System of the Department of Defense. The appeals process shall include the following:

"(1) The Secretary concerned shall ensure that a member of the Armed Forces may submit a formal appeal made with respect to determinations of fitness for duty to a Physical Evaluation Board of such Secretary. The Secretary concerned may require submission of a statement of contention as part of the appeal submission.

"(2) The appeals process shall include, at the request of such member, an impartial hearing on a fitness for duty determination to be conducted by the Secretary concerned.

"(3) Such member shall have the option to be represented at a hearing by legal counsel."

## IMPROVEMENT OF POSTPARTUM CARE FOR MEMBERS OF THE ARMED FORCES AND DEPENDENTS

Pub. L. 117–81, div. A, title VII, §707, Dec. 27, 2021, 135 Stat. 1782, provided that:

"(a) CLINICAL PRACTICE GUIDELINES FOR POSTPARTUM CARE IN MILITARY MEDICAL

TREATMENT FACILITIES.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall establish clinical practice guidelines for the provision of postpartum care in military medical treatment facilities. Such guidelines shall take into account the recommendations of established professional medical associations and address the following matters:

"(1) Postpartum mental health assessments, including the appropriate intervals for furnishing such assessments and screening questions for such assessments (including questions relating to postpartum anxiety and postpartum depression).

"(2) Pelvic health evaluation and treatment, including the appropriate timing for furnishing a medical evaluation for pelvic health, considerations for providing consultations for physical therapy for pelvic health (including pelvic floor health), and the appropriate use of telehealth services.

"(3) Pelvic health rehabilitation services.

"(4) Obstetric hemorrhage treatment, including through the use of pathogen reduced resuscitative products.

"(b) POLICY ON SCHEDULING OF APPOINTMENTS FOR POSTPARTUM HEALTH CARE SERVICES.—

"(1) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a policy for the scheduling of appointments for postpartum health care services in military medical treatment facilities. In developing the policy, the Secretary shall consider the extent to which it is appropriate to facilitate concurrent scheduling of appointments for postpartum care with appointments for well-baby care.

"(2) PILOT PROGRAM AUTHORIZED.—The Secretary may carry out a pilot program in one or more military medical treatment facilities to evaluate the effect of concurrent scheduling, to the degree clinically appropriate, of the appointments specified in paragraph (1).

"(c) POLICY ON POSTPARTUM PHYSICAL FITNESS TESTS AND BODY COMPOSITION ASSESSMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a policy, which shall be standardized across each Armed Force to the extent practicable, for the time periods after giving birth that a member of the Armed Forces (including the reserve components) may be excused from, or provided an alternative to, a physical fitness test or a body composition assessment.

"(d) BRIEFING.—Not later than 270 days after the date of enactment of this Act, the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the implementation of the requirements under this section."

## IMPLEMENTATION OF INTEGRATED PRODUCT FOR MANAGEMENT OF POPULATION HEALTH ACROSS MILITARY HEALTH SYSTEM

Pub. L. 117–81, div. A, title VII, §722, Dec. 27, 2021, 135 Stat. 1792, provided that:

"(a) INTEGRATED PRODUCT.—The Secretary of Defense shall develop and implement an integrated product for the management of population health across the military health system. Such integrated product shall serve as a repository for the health care, demographic, and other relevant data of all covered beneficiaries, including with respect to data on health care services furnished to such beneficiaries through the purchased care and direct care components of the TRICARE program, and shall—

"(1) be compatible with the electronic health record system maintained by the Secretary for members of the Armed Forces;

"(2) enable the collection and stratification of data from multiple sources to measure population health goals, facilitate disease management programs of the Department, improve patient education, and integrate wellness services across the military health system; and

"(3) enable predictive modeling to improve health outcomes for patients and to facilitate the identification and correction of medical errors in the treatment of patients, issues regarding the quality of health care services provided, and gaps in health care coverage.

"(b) CONSIDERATIONS IN DEVELOPMENT.—In developing the integrated product under subsection (a), the Secretary shall harmonize such development with any policies of the Department relating to a digital health strategy (including the digital health strategy under section 723 [135 Stat. 1792]), coordinate with improvements to the electronic health record system specified in subsection (a)(1) to ensure the compatibility required under such subsection, and consider methods to improve beneficiary interface.

"(c) DEFINITIONS.—In this section:

"(1) The terms 'covered beneficiary' and 'TRICARE program' have the meanings given such terms in section 1072 of title 10, United States Code.

"(2) The term 'integrated product' means an electronic system of systems (or solutions or products) that provides for the integration and sharing of data to meet the needs of an end user in a timely and

cost-effective manner."

## MANDATORY TRAINING ON HEALTH EFFECTS OF BURN PITS

Pub. L. 117–81, div. A, title VII, §725, Dec. 27, 2021, 135 Stat. 1795, provided that: "The Secretary of Defense shall provide to each medical provider of the Department of Defense mandatory training with respect to the potential health effects of burn pits."

## ACCESS BY COVERED INDIVIDUALS TO CERTAIN FACILITIES OF DEPARTMENT OF DEFENSE FOR ASSESSMENT AND TREATMENT OF ANOMALOUS HEALTH CONDITIONS

Pub. L. 117–81, div. A, title VII, §732, Dec. 27, 2021, 135 Stat. 1797, as amended by Pub. L. 117–263, div. A, title X, §1044(b), Dec. 23, 2022, 136 Stat. 2772, provided that:

"(a) ASSESSMENT.—The Secretary of Defense shall provide to covered individuals whom the Secretary determines are experiencing symptoms of certain anomalous health conditions, as defined by the Secretary for purposes of this section, timely access for medical assessment, subject to space availability, to the National Intrepid Center of Excellence, an Intrepid Spirit Center, or an appropriate military medical treatment facility, as determined by the Secretary.

"(b) TREATMENT.—With respect to an individual described in subsection (a) diagnosed with an anomalous health condition or a related affliction, whether diagnosed under an assessment under subsection (a) or otherwise, the Secretary of Defense shall furnish to the individual treatment for the condition or affliction, subject to space availability, at the National Intrepid Center of Excellence, an Intrepid Spirit Center, or an appropriate military medical treatment facility, as determined by the Secretary.

"(c) DEVELOPMENT OF PROCESS.—The Secretary of Defense, in consultation with the heads of such Federal agencies as the Secretary considers appropriate, shall develop a process to ensure that covered individuals are afforded timely access to the National Intrepid Center of Excellence, an Intrepid Spirit Center, or an appropriate military medical treatment facility pursuant to subsection (a) by not later than 60 days after the date of the enactment of this Act [Dec. 27, 2021].

"(d) MODIFICATION OF DEPARTMENT OF DEFENSE TRAUMA REGISTRY.—The Secretary of Defense shall modify the Trauma Registry of the Department of Defense to include data on the demographics, condition-producing event, diagnosis and treatment, and outcomes of anomalous health conditions experienced by covered individuals assessed or treated under this section, subject to the consent of the covered individual and, if applicable, an agreement with the employing agency.

"(e) COVERED INDIVIDUALS DEFINED.—In this section, the term 'covered individuals' means—

"(1) current and former employees of the United States Government and their family members; and

"(2) current and former members of the Armed Forces and their family members."

## MILITARY HEALTH SYSTEM CLINICAL QUALITY MANAGEMENT PROGRAM

Pub. L. 116–283, div. A, title VII, §744, Jan. 1, 2021, 134 Stat. 3708, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Director of the Defense Health Agency, shall implement a comprehensive program to be known as the 'Military Health System Clinical Quality Management Program' (in this section referred to as the 'Program').

"(b) ELEMENTS OF PROGRAM.—The Program shall include, at a minimum, the following:

"(1) The implementation of systematic procedures to eliminate, to the extent feasible, risk of harm to patients at military medical treatment facilities, including through identification, investigation, and analysis of events indicating a risk of patient harm and corrective action plans to mitigate such risks.

"(2) With respect to a potential sentinel event (including those involving members of the Armed Forces) at a military medical treatment facility—

"(A) an analysis of such event, which shall occur and be documented as soon as possible after the event;

"(B) use of such analysis for clinical quality management; and

"(C) reporting of such event to the National Practitioner Data Bank in accordance with guidelines of the Secretary of Health and Human Services under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.), giving special emphasis to the results of external peer reviews of the event.

"(3) Validation of provider credentials and granting of clinical privileges by the Director of the Defense Health Agency for all health care providers at a military medical treatment facility.

"(4) Accreditation of military medical treatment facilities by a recognized external accreditation body.

"(5) Systematic measurement of indicators of health care quality, emphasizing clinical outcome measures, comparison of such indicators with benchmarks from leading health care quality improvement organizations, and transparency with the public of appropriate clinical measurements for military medical

treatment facilities.

"(6) Systematic activities emphasized by leadership at all organizational levels to use all elements of the Program to eliminate unwanted variance throughout the health care system of the Department of Defense and make constant improvements in clinical quality.

"(7) A full range of procedures for productive communication between patients and health care providers regarding actual or perceived adverse clinical events at military medical treatment facilities, including procedures—

"(A) for full disclosure of such events (respecting the confidentiality of peer review information under a medical quality assurance program under section 1102 of title 10, United States Code);

"(B) providing an opportunity for the patient to be heard in relation to quality reviews; and

"(C) to resolve patient concerns by independent, neutral health care resolution specialists.

"(c) ADDITIONAL CLINICAL QUALITY MANAGEMENT ACTIVITIES.—

"(1) IN GENERAL.—In addition to the elements of the Program set forth in subsection (b), the Secretary shall establish and maintain clinical quality management activities in relation to functions of the health care system of the Department separate from delivery of health care services in military medical treatment facilities.

"(2) HEALTH CARE DELIVERY OUTSIDE MILITARY MEDICAL TREATMENT FACILITIES .—In carrying out paragraph (1), the Secretary shall maintain policies and procedures to promote clinical quality in health care delivery on ships and planes, in deployed settings, and in all other circumstances not covered by subsection (b), with the objective of implementing standards and procedures comparable, to the extent practicable, to those under such subsection.

"(3) PURCHASED CARE SYSTEM.—In carrying out paragraph (1), the Secretary shall maintain policies and procedures for health care services provided outside the Department but paid for by the Department, reflecting best practices by public and private health care reimbursement and management systems."

## WOUNDED WARRIOR SERVICE DOG PROGRAM

Pub. L. 116–283, div. A, title VII, §745, Jan. 1, 2021, 134 Stat. 3710, provided that:

"(a) PROGRAM.—The Secretary of Defense shall establish a program, to be known as the 'Wounded Warrior Service Dog Program', to provide assistance dogs to covered members and covered veterans.

"(b) DEFINITIONS.—In this section:

"(1) The term 'assistance dog' means a dog specifically trained to perform physical tasks to mitigate the effects of a covered disability, except that the term does not include a dog specifically trained for comfort or personal defense.

"(2) The term 'covered disability' means any of the following:

"(A) Blindness or visual impairment.

"(B) Loss of use of a limb, paralysis, or other significant mobility issues.

"(C) Loss of hearing.

"(D) Traumatic brain injury.

"(E) Post-traumatic stress disorder.

"(F) Any other disability that the Secretary of Defense considers appropriate.

"(3) The term 'covered member' means a member of the Armed Forces who is—

"(A) receiving medical treatment, recuperation, or therapy under chapter 55 of title 10, United States Code;

"(B) in medical hold or medical holdover status; or

"(C) covered under section 1202 or 1205 of title 10, United States Code.

"(4) The term 'covered veteran' means a veteran who is enrolled in the health care system established under section 1705(a) of title 38, United States Code."

## INCLUSION OF BLAST EXPOSURE HISTORY IN MEDICAL RECORDS OF MEMBERS OF THE ARMED FORCES

Pub. L. 116–92, div. A, title VII, §717, Dec. 20, 2019, 133 Stat. 1453, provided that:

"(a) REQUIREMENT.—If a covered incident occurs with respect to a member of the Armed Forces, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall document blast exposure history in the medical record of the member to assist in determining whether a future illness or injury of the member is service-connected and inform future blast exposure risk mitigation efforts of the Department of Defense.

"(b) ELEMENTS.—A blast exposure history under subsection (a) shall include, at a minimum, the following:

"(1) The date of the exposure.

"(2) The duration of the exposure, and, if known, the measured blast pressure experienced by the individual during such exposure.

"(3) Whether the exposure occurred during combat or training.

"(c) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the types of information included in a blast exposure history under subsection (a).

"(d) COVERED INCIDENT DEFINED.—In this section, the term 'covered incident' means a concussive event or injury that requires a military acute concussive evaluation by a skilled health care provider."

## MODIFICATION TO REFERRALS FOR MENTAL HEALTH SERVICES

Pub. L. 116–92, div. A, title VII, §722, Dec. 20, 2019, 133 Stat. 1457, provided that: "If the Secretary of Defense is unable to provide mental health services in a military medical treatment facility to a member of the Armed Forces within 15 days of the date on which such services are first requested by the member, the Secretary may refer the member to a provider under the TRICARE program (as that term is defined in section 1072 of title 10, United States Code) to receive such services."

## MEDICAL SIMULATION TECHNOLOGY AND LIVE TISSUE TRAINING

Pub. L. 115–232, div. A, title VII, §718, Aug. 13, 2018, 132 Stat. 1816, provided that:

"(a) IN GENERAL.—

"(1) USE OF SIMULATION TECHNOLOGY.—Except as provided by paragraph (2), the Secretary of Defense shall use medical simulation technology, to the maximum extent practicable, before the use of live tissue training to train medical professionals and combat medics of the Department of Defense.

"(2) DETERMINATION.—The use of live tissue training within the Department of Defense may be used as determined necessary by the medical chain of command.

"(b) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff and the Secretaries of the military departments, shall provide a briefing to the Committees on Armed Services of the House of Representatives and the Senate on the use and benefit of medical simulation technology and live tissue training within the Department of Defense to train medical professionals, combat medics, and members of the Special Operations Forces.

"(c) ELEMENTS.—The briefing under subsection (b) shall include the following:

"(1) A discussion of the benefits and needs of both medical simulation technology and live tissue training.

"(2) Ways and means to enhance and advance the use of simulation technologies in training.

"(3) An assessment of current medical simulation technology requirements, gaps, and limitations.

"(4) An overview of Department of Defense medical training programs, as of the date of the briefing, that use live tissue training and medical simulation technologies.

"(5) Any other matters the Secretary determines appropriate."

## INCLUSION OF GAMBLING DISORDER IN HEALTH ASSESSMENTS OF MEMBERS OF THE ARMED FORCES AND RELATED RESEARCH EFFORTS

Pub. L. 115–232, div. A, title VII, §733, Aug. 13, 2018, 132 Stat. 1818, provided that:

"(a) INCLUSION IN NEXT ANNUAL PERIODIC HEALTH ASSESSMENTS.—The Secretary of Defense shall incorporate medical screening questions specific to gambling disorder into the Annual Periodic Health Assessments of members of the Armed Forces conducted by the Department of Defense during the one-year period beginning 180 days after the date of the enactment of this Act [Aug. 13, 2018].

"(b) INCLUSION IN CERTAIN SURVEYS.—The Secretary shall incorporate into ongoing research efforts of the Department questions on gambling disorder, as appropriate, including by restoring such questions to the following:

"(1) The first Health Related Behaviors Survey of Active Duty Military Personnel conducted after the date of the enactment of this Act.

"(2) The first Health Related Behaviors Survey of Reserve Component Personnel conducted after that date.

"(c) REPORTS.—Not later than one year after the date of the completion of the assessment referred to in subsection (a), and of each survey referred to in subsection (b), as modified pursuant to this section, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the findings of the assessment or survey in connection with the prevalence of gambling disorder among members of the Armed Forces."

## JOINT TRAUMA SYSTEM

Pub. L. 114–328, div. A, title VII, §707, Dec. 23, 2016, 130 Stat. 2208, provided that:

"(a) PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate an implementation plan to establish a Joint Trauma System within the Defense Health Agency that promotes improved trauma care to members of the Armed Forces and other individuals who are eligible to be treated for trauma at a military medical treatment facility.

"(2) IMPLEMENTATION.—The Secretary shall implement the plan under paragraph (1) after a 90-day period has elapsed following the date on which the Comptroller General of the United States is required to submit to the Committees on Armed Services of the House of Representatives and the Senate the review under subsection (c). In implementing such plan, the Secretary shall take into account any recommendation made by the Comptroller General under such review.

"(b) ELEMENTS.—The Joint Trauma System described in subsection (a)(1) shall include the following elements:

"(1) Serve as the reference body for all trauma care provided across the military health system.

"(2) Establish standards of care for trauma services provided at military medical treatment facilities.

"(3) Coordinate the translation of research from the centers of excellence of the Department of Defense into standards of clinical trauma care.

"(4) Coordinate the incorporation of lessons learned from the trauma education and training partnerships pursuant to section 708 into clinical practice.

"(c) REVIEW.—Not later than 180 days after the date on which the Secretary submits to the Committees on Armed Services of the House of Representatives and the Senate the implementation plan under subsection (a)(1), the Comptroller General of the United States shall submit to such committees a review of such plan to determine if each element under subsection (b) is included in such plan.

"(d) REVIEW OF MILITARY TRAUMA SYSTEM.—In establishing a Joint Trauma System, the Secretary of Defense may seek to enter into an agreement with a non-governmental entity with subject matter experts to—

"(1) conduct a system-wide review of the military trauma system, including a comprehensive review of combat casualty care and wartime trauma systems during the period beginning on January 1, 2001, and ending on the date of the review, including an assessment of lessons learned to improve combat casualty care in future conflicts; and

"(2) make publicly available a report containing such review and recommendations to establish a comprehensive trauma system for the Armed Forces."

## JOINT TRAUMA EDUCATION AND TRAINING DIRECTORATE

Pub. L. 116–92, div. A, title VII, §721, Dec. 20, 2019, 133 Stat. 1456, provided that:

"(a) PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary of Defense, through the Joint Trauma Education and Training Directorate established under section 708 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1071 note), may develop partnerships with civilian academic medical centers and large metropolitan teaching hospitals to improve combat casualty care for personnel of the Armed Forces.

"(2) PARTNERSHIPS WITH LEVEL I TRAUMA CENTERS.—In carrying out partnerships under paragraph (1), trauma surgeons and physicians of the Department of Defense may partner with level I civilian trauma centers to provide training and readiness for the next generation of medical providers to treat critically injured burn patients.

"(b) SUPPORT OF PARTNERSHIPS.—The Secretary of Defense may make every effort to support partnerships under the Joint Trauma Education and Training Directorate with academic institutions that have level I civilian trauma centers, specifically those centers with a burn center, that offer burn rotations and clinical experience to provide training and readiness for the next generation of medical providers to treat critically injured burn patients.

"(c) LEVEL I CIVILIAN TRAUMA CENTER DEFINED.—In this section, the term 'level I civilian trauma center' has the meaning given that term in section 708 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1071 note)."

Pub. L. 114–328, div. A, title VII, §708, Dec. 23, 2016, 130 Stat. 2209, as amended by Pub. L. 115–232, div. A, title VII, §719, Aug. 13, 2018, 132 Stat. 1817; Pub. L. 117–81, div. A, title III, §373(b), Dec. 27, 2021, 135 Stat. 1667, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Trauma Education and Training Directorate (in this section referred to as the 'Directorate') to ensure that the traumatologists of the Armed Forces maintain readiness and are able to be rapidly deployed for future armed conflicts. The Secretary shall carry out this section in collaboration with the Secretaries of the military departments.

"(b) DUTIES.—The duties of the Directorate are as follows:

"(1) To enter into and coordinate the partnerships under subsection (c).

"(2) To establish the goals of such partnerships necessary for trauma teams led by traumatologists to maintain professional competency in trauma care.

"(3) To establish metrics for measuring the performance of such partnerships in achieving such goals.

"(4) To develop methods of data collection and analysis for carrying out paragraph (3).

"(5) To communicate and coordinate lessons learned from such partnerships with the Joint Trauma System established under section 707 [set out as a note above].

"(6) To develop standardized combat casualty care instruction for all members of the Armed Forces, including the use of standardized trauma training platforms.

"(7) To develop a comprehensive trauma care registry to compile relevant data from point of injury through rehabilitation with respect to both members of the Armed Forces and military working dogs.

"(8) To develop quality of care outcome measures for combat casualty care.

"(9) To inform and advise the conduct of research on the leading causes of morbidity and mortality of members of the Armed Forces and military working dogs in combat.

"(c) PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary may enter into partnerships with civilian academic medical centers and trauma centers to provide integrated combat trauma teams, including forward surgical teams, with maximum exposure to a high volume of patients with critical injuries.

"(2) TRAUMA TEAMS.—Under the partnerships entered into under paragraph (1), trauma teams of the Armed Forces led by traumatologists of the Armed Forces shall embed within trauma centers on an enduring basis.

"(3) SELECTION.—The Secretary shall select civilian academic medical centers and trauma centers to enter into partnerships under paragraph (1) based on patient volume, acuity, and other factors the Secretary determines necessary to ensure that the traumatologists of the Armed Forces and the associated clinical support teams have adequate and continuous exposure to critically injured patients.

"(4) CONSIDERATION.—In entering into partnerships under paragraph (1), the Secretary may consider the experiences and lessons learned by the military departments that have entered into memoranda of understanding with civilian medical centers for trauma care.

"(d) PERSONNEL MANAGEMENT PLAN.—

"(1) PLAN.—The Secretary shall establish a personnel management plan for the following wartime medical specialties:

"(A) Emergency medical services and prehospital care.

"(B) Trauma surgery.

"(C) Critical care.

"(D) Anesthesiology.

"(E) Emergency medicine.

"(F) Other wartime medical specialties the Secretary determines appropriate for purposes of the plan.

"(2) ELEMENTS.—The elements of the plan established under paragraph (1) shall include, at a minimum, the following:

"(A) An accession plan for the number of qualified medical personnel to maintain wartime medical specialties on an annual basis in order to maintain the required number of trauma teams as determined by the Secretary.

"(B) The number of positions required in each such medical specialty.

"(C) Crucial organizational and operational assignments for personnel in each such medical specialty.

"(D) Career pathways for personnel in each such medical specialty.

"(3) IMPLEMENTATION.—The Secretaries of the military departments shall carry out the plan established under paragraph (1).

"(e) IMPLEMENTATION PLAN.—Not later than July 1, 2017, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate an implementation plan for establishing the Joint Trauma Education and Training Directorate under subsection (a), entering into partnerships under subsection (c), and establishing the plan under subsection (d).

"(f) LEVEL I CIVILIAN TRAUMA CENTER DEFINED.—In this section, the term 'level I civilian trauma center' means a comprehensive regional resource that is a tertiary care facility central to the trauma system and is capable of providing total care for every aspect of injury from prevention through rehabilitation."

## STANDARDIZED SYSTEM FOR SCHEDULING MEDICAL APPOINTMENTS AT MILITARY TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §709, Dec. 23, 2016, 130 Stat. 2211, provided that:

"(a) STANDARDIZED SYSTEM.—

"(1) IN GENERAL.—Not later than January 1, 2018, the Secretary of Defense shall implement a system for scheduling medical appointments at military treatment facilities that is standardized throughout the military health system to enable timely access to care for covered beneficiaries.

"(2) LACK OF VARIANCE.—The system implemented under paragraph (1) shall ensure that the appointment scheduling processes and procedures used within the military health system do not vary among military treatment facilities.

"(b) SOLE SYSTEM.—Upon implementation of the system under subsection (a), no military treatment facility may use an appointment scheduling process other than such system.

"(c) SCHEDULING OF APPOINTMENTS.—

"(1) IN GENERAL.—Under the system implemented under subsection (a), each military treatment facility shall use a centralized appointment scheduling capability for covered beneficiaries that includes the ability to schedule appointments manually via telephone as described in paragraph (2) or automatically via a device that is connected to the Internet through an online scheduling system described in paragraph (3).

"(2) TELEPHONE APPOINTMENT PROCESS.—

"(A) IN GENERAL.—In the case of a covered beneficiary who contacts a military treatment facility via telephone to schedule an appointment under the system implemented under subsection (a), the Secretary shall implement standard processes to ensure that the needs of the covered beneficiary are met during the first such telephone call.

"(B) MATTERS INCLUDED.—The standard processes implemented under subparagraph (A) shall include the following:

"(i) The ability of a covered beneficiary, during the telephone call to schedule an appointment, to also schedule wellness visits or follow-up appointments during the 180-day period beginning on the date of the request for the visit or appointment.

"(ii) The ability of a covered beneficiary to indicate the process through which the covered beneficiary prefers to be reminded of future appointments, which may include reminder telephone calls, emails, or cellular text messages to the covered beneficiary at specified intervals prior to appointments.

"(3) ONLINE SYSTEM.—

"(A) IN GENERAL.—The Secretary shall implement an online scheduling system that is available 24 hours per day, seven days per week, for purposes of scheduling appointments under the system implemented under subsection (a).

"(B) CAPABILITIES OF ONLINE SYSTEM.—The online scheduling system implemented under subparagraph (A) shall have the following capabilities:

"(i) An ability to send automated email and text message reminders, including repeat reminders, to patients regarding upcoming appointments.

"(ii) An ability to store appointment records to ensure rapid access by medical personnel to appointment data.

"(d) STANDARDS FOR PRODUCTIVITY OF HEALTH CARE PROVIDERS.—

"(1) IN GENERAL.—The Secretary shall implement standards for the productivity of health care providers at military treatment facilities.

"(2) MATTERS CONSIDERED.—In developing standards under paragraph (1), the Secretary shall consider—

"(A) civilian benchmarks for measuring the productivity of health care providers;

"(B) the optimal number of medical appointments for each health care provider that would be required, as determined by the Secretary, to maintain access of covered beneficiaries to health care from the Department; and

"(C) the readiness requirements of the Armed Forces.

"(e) PLAN.—

"(1) IN GENERAL.—Not later than January 1, 2017, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan to implement the

system required under subsection (a).

"(2) ELEMENTS.—The plan required under paragraph (1) shall include the following:

"(A) A description of the manual appointment process to be used at military treatment facilities under the system required under subsection (a).

"(B) A description of the automated appointment process to be used at military treatment facilities under such system.

"(C) A timeline for the full implementation of such system throughout the military health system.

"(f) BRIEFING.—Not later than February 1, 2018, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the implementation of the system required under subsection (a) and the standards for the productivity of health care providers required under subsection (d).

"(g) REPORT ON MISSED APPOINTMENTS.—

"(1) IN GENERAL.—Not later than March 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the total number of medical appointments at military treatment facilities for which a covered beneficiary failed to appear without prior notification during the one-year period preceding the submittal of the report.

"(2) ELEMENTS.—Each report under paragraph (1) shall include for each military treatment facility the following:

"(A) An identification of the top five reasons for a covered beneficiary missing an appointment.

"(B) A comparison of the number of missed appointments for specialty care versus primary care.

"(C) An estimate of the cost to the Department of Defense of missed appointments.

"(D) An assessment of strategies to reduce the number of missed appointments.

"(h) COVERED BENEFICIARY DEFINED.—In this section, the term 'covered beneficiary' has the meaning given that term in section 1072 of title 10, United States Code."

[For termination, effective Dec. 30, 2021, of reporting requirements in section 709(g) of Pub. L. 114–328, set out above, see section 1702(a), (b), of Pub. L. 116–92, set out as a Termination of Reporting Requirements note under section 111 of this title.]

## EVALUATION AND TREATMENT OF VETERANS AND CIVILIANS AT MILITARY TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §717, Dec. 23, 2016, 130 Stat. 2223, as amended by Pub. L. 115–91, div. A, title VII, §712, Dec. 12, 2017, 131 Stat. 1437, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall authorize a veteran (in consultation with the Secretary of Veterans Affairs) or civilian to be evaluated and treated at a military treatment facility if the Secretary of Defense determines that—

"(1) the evaluation and treatment of the individual is necessary to attain the relevant mix and volume of medical casework required to maintain medical readiness skills and competencies of health care providers at the facility;

"(2) the health care providers at the facility have the competencies, skills, and abilities required to treat the individual; and

"(3) the facility has available space, equipment, and materials to treat the individual.

"(b) PRIORITY OF COVERED BENEFICIARIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the evaluation and treatment of covered beneficiaries at military treatment facilities shall be prioritized ahead of the evaluation and treatment of veterans and civilians at such facilities under subsection (a).

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) in order to provide timely evaluation and treatment for individuals who are—

"(A) severely wounded or injured by acts of terror that occur in the United States; or

"(B) residents of the United States who are severely wounded or injured by acts of terror outside the United States.

"(c) REIMBURSEMENT FOR TREATMENT.—

"(1) CIVILIANS.—A military treatment facility that evaluates or treats an individual (other than an individual described in paragraph (2)) under subsection (a) shall bill the individual and accept reimbursement from the individual or a third-party payer (as that term is defined in section 1095(h) of title 10, United States Code) on behalf of such individual for the costs of any health care services provided to the individual under such subsection.

"(2) VETERANS.—The Secretary of Defense shall enter into a memorandum of agreement with the Secretary of Veterans Affairs under which the Secretary of Veterans Affairs will pay a military treatment facility using a prospective payment methodology (including interagency transfers of funds or obligational

authority and similar transactions) for the costs of any health care services provided at the facility under subsection (a) to individuals eligible for such health care services from the Department of Veterans Affairs.

"(3) USE OF AMOUNTS.—The Secretary of Defense shall make available to a military treatment facility any amounts collected by such facility under paragraph (1) or (2) for health care services provided to an individual under subsection (a).

"(d) COVERED BENEFICIARY DEFINED.—In this section, the term 'covered beneficiary' has the meaning given that term in section 1072 of title 10, United States Code."

**ENHANCEMENT OF USE OF TELEHEALTH SERVICES IN MILITARY HEALTH SYSTEM**

Pub. L. 114–328, div. A, title VII, §718, Dec. 23, 2016, 130 Stat. 2224, provided that:

"(a) INCORPORATION OF TELEHEALTH.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall incorporate, throughout the direct care and purchased care components of the military health system, the use of telehealth services, including mobile health applications—

"(A) to improve access to primary care, urgent care, behavioral health care, and specialty care;

"(B) to perform health assessments;

"(C) to provide diagnoses, interventions, and supervision;

"(D) to monitor individual health outcomes of covered beneficiaries with chronic diseases or conditions;

"(E) to improve communication between health care providers and patients; and

"(F) to reduce health care costs for covered beneficiaries and the Department of Defense.

"(2) TYPES OF TELEHEALTH SERVICES.—The telehealth services required to be incorporated under paragraph (1) shall include those telehealth services that—

"(A) maximize the use of secure messaging between health care providers and covered beneficiaries to improve the access of covered beneficiaries to health care and reduce the number of visits to medical facilities for health care needs;

"(B) allow covered beneficiaries to schedule appointments; and

"(C) allow health care providers, through video conference, telephone or tablet applications, or home health monitoring devices—

"(i) to assess and evaluate disease signs and symptoms;

"(ii) to diagnose diseases;

"(iii) to supervise treatments; and

"(iv) to monitor health outcomes.

"(b) COVERAGE OF ITEMS OR SERVICES.—An item or service furnished to a covered beneficiary via a telecommunications system shall be covered under the TRICARE program to the same extent as the item or service would be covered if furnished in the location of the covered beneficiary.

"(c) REIMBURSEMENT RATES FOR TELEHEALTH SERVICES.—The Secretary shall develop standardized payment methods to reimburse health care providers for telehealth services provided to covered beneficiaries in the purchased care component of the TRICARE program, including by using reimbursement rates that incentivize the provision of telehealth services.

"(d) REDUCTION OR ELIMINATION OF COPAYMENTS.—The Secretary shall reduce or eliminate, as the Secretary considers appropriate, copayments or cost shares for covered beneficiaries in connection with the receipt of telehealth services under the purchased care component of the TRICARE program.

"(e) REPORTS.—

"(1) INITIAL REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the full range of telehealth services to be available in the direct care and purchased care components of the military health system and the copayments and cost shares, if any, associated with those services.

"(B) REIMBURSEMENT PLAN.—The report required under subparagraph (A) shall include a plan to develop standardized payment methods to reimburse health care providers for telehealth services provided to covered beneficiaries in the purchased care component of the TRICARE program, as required under subsection (c).

"(2) FINAL REPORT.—

"(A) IN GENERAL.—Not later than three years after the date on which the Secretary begins incorporating, throughout the direct care and purchased care components of the military health system,

the use of telehealth services as required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the impact made by the use of telehealth services, including mobile health applications, to carry out the actions specified in subparagraphs (A) through (F) of subsection (a)(1).

"(B) ELEMENTS.—The report required under subparagraph (A) shall include an assessment of the following:

"(i) The satisfaction of covered beneficiaries with telehealth services furnished by the Department of Defense.

"(ii) The satisfaction of health care providers in providing telehealth services furnished by the Department.

"(iii) The effect of telehealth services furnished by the Department on the following:

"(I) The ability of covered beneficiaries to access health care services in the direct care and purchased care components of the military health system.

"(II) The frequency of use of telehealth services by covered beneficiaries.

"(III) The productivity of health care providers providing care furnished by the Department.

"(IV) The reduction, if any, in the use by covered beneficiaries of health care services in military treatment facilities or medical facilities in the private sector.

"(V) The number and types of appointments for the receipt of telehealth services furnished by the Department.

"(VI) The savings, if any, realized by the Department by furnishing telehealth services to covered beneficiaries.

"(f) REGULATIONS.—

"(1) INTERIM FINAL RULE.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall prescribe an interim final rule to implement this section.

"(2) FINAL RULE.—Not later than 180 days after prescribing the interim final rule under paragraph (1) and considering public comments with respect to such interim final rule, the Secretary shall prescribe a final rule to implement this section.

"(3) OBJECTIVES.—The regulations prescribed under paragraphs (1) and (2) shall accomplish the objectives set forth in subsection (a) and ensure quality of care, patient safety, and the integrity of the TRICARE program.

"(g) Definitions.—In this section, the terms 'covered beneficiary' and 'TRICARE program' have the meaning given those terms in section 1072 of title 10, United States Code."

## PROGRAM TO ELIMINATE VARIABILITY IN HEALTH OUTCOMES AND IMPROVE QUALITY OF HEALTH CARE SERVICES DELIVERED IN MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §726, Dec. 23, 2016, 130 Stat. 2231, provided that:

"(a) PROGRAM.—Beginning not later than January 1, 2018, the Secretary of Defense shall implement a program—

"(1) to establish best practices for the delivery of health care services for certain diseases or conditions at military medical treatment facilities, as selected by the Secretary;

"(2) to incorporate such best practices into the daily operations of military medical treatment facilities selected by the Secretary for purposes of the program, with priority in selection given to facilities that provide specialty care; and

"(3) to eliminate variability in health outcomes and to improve the quality of health care services delivered at military medical treatment facilities selected by the Secretary for purposes of the program.

"(b) USE OF CLINICAL PRACTICE GUIDELINES.—In carrying out the program under subsection (a), the Secretary shall develop, implement, monitor, and update clinical practice guidelines reflecting the best practices established under paragraph (1) of such subsection.

"(c) DEVELOPMENT.—In developing the clinical practice guidelines under subsection (b), the Secretary shall ensure that such development includes a baseline assessment of health care delivery and outcomes at military medical treatment facilities to evaluate and determine evidence-based best practices, within the direct care component of the military health system and the private sector, for treating the diseases or conditions selected by the Secretary under subsection (a)(1).

"(d) IMPLEMENTATION.—The Secretary shall implement the clinical practice guidelines under subsection (b) in military medical treatment facilities selected by the Secretary under subsection (a)(2) using

means determined appropriate by the Secretary, including by communicating with the relevant health care providers of the evidence upon which the guidelines are based and by providing education and training on the most appropriate implementation of the guidelines.

"(e) MONITORING.—The Secretary shall monitor the implementation of the clinical practice guidelines under subsection (b) using appropriate means, including by monitoring the results in clinical outcomes based on specific metrics included as part of the guidelines.

"(f) UPDATING.—The Secretary shall periodically update the clinical practice guidelines under subsection (b) based on the results of monitoring conducted under subsection (e) and by continuously assessing evidence-based best practices within the direct care component of the military health system and the private sector.

"(g) CONTINUOUS CYCLE.—The Secretary shall establish a continuous cycle of carrying out subsections (c) through (f) with respect to the clinical practice guidelines established under subsection (a)."

## ADOPTION OF CORE QUALITY PERFORMANCE METRICS

Pub. L. 114–328, div. A, title VII, §728(a), Dec. 23, 2016, 130 Stat. 2233, provided that:

"(a) ADOPTION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall adopt, to the extent appropriate, the core quality performance metrics agreed upon by the Core Quality Measures Collaborative for use by the military health system and in contracts awarded to carry out the TRICARE program.

"(2) CORE MEASURES.—The core quality performance metrics described in paragraph (1) shall include the following sets:

"(A) Accountable care organizations, patient centered medical homes, and primary care.

"(B) Cardiology.

"(C) Gastroenterology.

"(D) HIV and hepatitis C.

"(E) Medical oncology.

"(F) Obstetrics and gynecology.

"(G) Orthopedics.

"(H) Such other sets of core quality performance metrics released by the Core Quality Measures Collaborative as the Secretary considers appropriate."

[For definitions of terms used in section 728(a) of Pub. L. 114–328, set out above, see section 728(c) of Pub. L. 114–328, set out below.]

## ACCOUNTABILITY FOR THE PERFORMANCE OF THE MILITARY HEALTH SYSTEM OF CERTAIN LEADERS WITHIN THE SYSTEM

Pub. L. 114–328, div. A, title VII, §730, Dec. 23, 2016, 130 Stat. 2235, provided that:

"(a) IN GENERAL.—Commencing not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense, in consultation with the Secretaries of the military departments, shall incorporate into the annual performance review of each military and civilian leader in the military health system, as determined by the Secretary of Defense, measures of accountability for the performance of the military health system described in subsection (b).

"(b) MEASURES OF ACCOUNTABILITY FOR PERFORMANCE.—The measures of accountability for the performance of the military health system incorporated into the annual performance review of an individual pursuant to this section shall include measures to assess performance and assure accountability for the following:

"(1) Quality of care.

"(2) Access of beneficiaries to care.

"(3) Improvement in health outcomes for beneficiaries.

"(4) Patient safety.

"(5) Such other matters as the Secretary of Defense, in consultation with the Secretaries of the military departments, considers appropriate.

"(c) REPORT ON IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the incorporation of measures of accountability for the performance of the military health system into the annual performance reviews of individuals as required by this section.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A comprehensive plan for the use of measures of accountability for performance in annual

performance reviews pursuant to this section as a means of assessing and assuring accountability for the performance of the military health system.

"(B) The identification of each leadership position in the military health system determined under subsection (a) and a description of the specific measures of accountability for performance to be incorporated into the annual performance reviews of each such position pursuant to this section."

## ESTABLISHMENT OF ADVISORY COMMITTEES FOR MILITARY TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §731, Dec. 23, 2016, 130 Stat. 2236, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish, under such regulations as the Secretary may prescribe, an advisory committee for each military treatment facility.

"(b) STATUS OF CERTAIN MEMBERS OF ADVISORY COMMITTEES.—A member of an advisory committee established under subsection (a) who is not a member of the Armed Forces on active duty or an employee of the Federal Government shall, with the approval of the commanding officer or director of the military treatment facility concerned, be treated as a volunteer under section 1588 of title 10, United States Code, in carrying out the duties of the member under this section.

"(c) DUTIES.—Each advisory committee established under subsection (a) for a military treatment facility shall provide to the commanding officer or director of such facility advice on the administration and activities of such facility as it relates to the experience of care for beneficiaries at such facility."

## PROVISION OF INFORMATION TO MEMBERS OF THE ARMED FORCES ON PRIVACY RIGHTS RELATING TO RECEIPT OF MENTAL HEALTH SERVICES

Pub. L. 113–291, div. A, title V, §523, Dec. 19, 2014, 128 Stat. 3361, provided that:

"(a) PROVISION OF INFORMATION REQUIRED.—The Secretaries of the military departments shall ensure that the information described in subsection (b) is provided—

"(1) to each officer candidate during initial training;

"(2) to each recruit during basic training; and

"(3) to other members of the Armed Forces at such times as the Secretary of Defense considers appropriate.

"(b) REQUIRED INFORMATION.—The information required to be provided under subsection (a) shall include information on the applicability of the Department of Defense Instruction on Privacy of Individually Identifiable Health Information in DoD Health Care Programs and other regulations regarding privacy prescribed pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to records regarding a member of the Armed Forces seeking and receiving mental health services."

## ANTIMICROBIAL STEWARDSHIP PROGRAM AT MEDICAL FACILITIES OF THE DEPARTMENT OF DEFENSE

Pub. L. 113–291, div. A, title VII, §727, Dec. 19, 2014, 128 Stat. 3420, required the Secretary of Defense, no later than 180 days after Dec. 19, 2014, to carry out and report to Congress on an antimicrobial stewardship program at medical facilities of the Department of Defense.

## COMPREHENSIVE POLICY ON IMPROVEMENTS TO CARE AND TRANSITION OF MEMBERS OF THE ARMED FORCES WITH UROTRAUMA

Pub. L. 113–66, div. A, title VII, §703, Dec. 26, 2013, 127 Stat. 791, required development and implementation of a comprehensive policy on improvements to the care, management, and transition of recovering Armed Forces members with urotrauma no later than 180 days after Dec. 26, 2013, with a report to Congress no later than one year after the implementation of the policy.

## ELECTRONIC HEALTH RECORDS OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 113–66, div. A, title VII, §713, Dec. 26, 2013, 127 Stat. 794, which required the Secretaries of Defense and Veterans Affairs to ensure that the electronic health records systems of their departments were interoperable and met certain standards and requirements and adhered to certain principles, was repealed by Pub. L. 116–92, div. A, title VII, §715(i), Dec. 20, 2019, 133 Stat. 1453. See section 1635 of Pub. L. 110–181, set out in a note below.

## RESEARCH AND MEDICAL PRACTICE ON MENTAL HEALTH CONDITIONS

Pub. L. 112–239, div. A, title VII, §725, Jan. 2, 2013, 126 Stat. 1806, required the Secretary of Defense to create a policy on medical practices from research on the diagnosis and treatment of mental health conditions and to submit a report to Congress no later than 180 days after Jan. 2, 2013.

## PLAN FOR REFORM OF THE ADMINISTRATION OF THE MILITARY HEALTH SYSTEM

Pub. L. 112–239, div. A, title VII, §731, Jan. 2, 2013, 126 Stat. 1815, required the Secretary of Defense to develop a detailed plan to carry out reforms to the governance of the military health system and to submit a series of reports to Congress, with the final report due on Sept. 30, 2013.

## PERFORMANCE METRICS AND REPORTS ON WARRIORS IN TRANSITION PROGRAMS OF THE MILITARY DEPARTMENTS

Pub. L. 112–239, div. A, title VII, §738, Jan. 2, 2013, 126 Stat. 1820, as amended by Pub. L. 115–91, div. A, title X, §1051(r)(3), Dec. 12, 2017, 131 Stat. 1565, provided that:

"(a) METRICS REQUIRED.—The Secretary of Defense shall establish a policy containing uniform performance outcome measurements to be used by each Secretary of a military department in tracking and monitoring members of the Armed Forces in Warriors in Transition programs.

"(b) ELEMENTS.—The policy established under subsection (a) shall identify outcome measurements with respect to the following:

"(1) Physical health and behavioral health.

"(2) Rehabilitation.

"(3) Educational and vocational preparation.

"(4) Such other matters as the Secretary considers appropriate.

"(c) MILESTONES.—In establishing the policy under subsection (a), the Secretary of Defense shall establish metrics and milestones for members in Warriors in Transition programs. Such metrics and milestones shall cover members throughout the course of care and rehabilitation in Warriors in Transitions programs by applying to the following occasions:

"(1) When the member commences participation in the program.

"(2) At least once each year the member participates in the program.

"(3) When the member ceases participation in the program or is transferred to the jurisdiction of the Secretary of Veterans Affairs.

"(d) COHORT GROUPS AND PARAMETERS.—The policy established under subsection (a)—

"(1) may differentiate among cohort groups within the population of members in Warriors in Transition programs, as appropriate; and

"(2) shall include parameters for specific outcome measurements in each element under subsection (b) and each metric and milestone under subsection (c).

"(e) WARRIORS IN TRANSITION PROGRAM DEFINED.—In this section, the term 'Warriors in Transition program' means any major support program of the Armed Forces for members of the Armed Forces with severe wounds, illnesses, or injuries that is intended to provide such members with nonmedical case management service and care coordination services, and includes the programs as follows:

"(1) Warrior Transition Units and the Wounded Warrior Program of the Army.

"(2) The Wounded Warrior Safe Harbor program of the Navy.

"(3) The Wounded Warrior Regiment of the Marine Corps.

"(4) The Recovery Care Program and the Wounded Warrior programs of the Air Force.

"(5) The Care Coalition of the United States Special Operations Command."

## SUICIDE PREVENTION POLICIES AND PROGRAMS

Pub. L. 114–92, div. A, title V, §591, Nov. 25, 2015, 129 Stat. 832, provided that:

"(a) DEVELOPMENT OF POLICY.—The Secretary of Defense, in consultation with the Secretaries of the military departments, may develop a policy to coordinate the efforts of the Department of Defense and non-government suicide prevention organizations regarding—

"(1) the use of such non-government organizations to reduce the number of suicides among members of the Armed Forces by comprehensively addressing the needs of members of the Armed Forces who have been identified as being at risk of suicide;

"(2) the delineation of the responsibilities within the Department of Defense regarding interaction with such organizations;

"(3) the collection of data regarding the efficacy and cost of coordinating with such organizations; and

"(4) the preparation and preservation of any reporting material the Secretary determines necessary to carry out the policy.

"(b) SUICIDE PREVENTION EFFORTS.—The Secretary of Defense is authorized to take any necessary measures to prevent suicides by members of the Armed Forces, including by facilitating the access of members of the Armed Forces to successful non-governmental treatment regimen."

Pub. L. 113–291, div. A, title V, §567, Dec. 19, 2014, 128 Stat. 3385, provided that:

"(a) POLICY FOR STANDARD SUICIDE DATA COLLECTION, REPORTING, AND ASSESSMENT.—

"(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy for the development of a standard method for collecting, reporting, and assessing information regarding—

"(A) any suicide or attempted suicide involving a member of the Armed Forces, including reserve components thereof; and

"(B) any death that is reported as a suicide involving a dependent of a member of the Armed Forces.

"(2) PURPOSE OF POLICY.—The purpose of the policy required by this subsection is to improve the consistency and comprehensiveness of—

"(A) the suicide prevention policy developed pursuant to section 582 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 10 U.S.C. 1071 note); and

"(B) the suicide prevention and resilience program for the National Guard and Reserves established pursuant to section 10219 of title 10, United States Code.

"(3) CONSULTATION.—The Secretary of Defense shall develop the policy required by this subsection in consultation with the Secretaries of the military departments and the Chief of the National Guard Bureau.

"(b) SUBMISSION AND IMPLEMENTATION OF POLICY.—

"(1) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall submit the policy developed under subsection (a) to the Committees on Armed Services of the Senate and the House of Representatives.

"(2) IMPLEMENTATION.—The Secretaries of the military departments shall implement the policy developed under subsection (a) not later than 180 days after the date of the submittal of the policy under paragraph (1).

"(c) DEPENDENT DEFINED.—In this section, the term 'dependent', with respect to a member of the Armed Forces, means a person described in section 1072(2) of title 10, United States Code, except that, in the case of a parent or parent-in-law of the member, the income requirements of subparagraph (E) of such section do not apply."

Pub. L. 112–239, div. A, title V, §580, Jan. 2, 2013, 126 Stat. 1764, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall, acting through the Under Secretary of Defense for Personnel and Readiness, establish within the Office of the Secretary of Defense a position with responsibility for oversight of all suicide prevention and resilience programs of the Department of Defense (including those of the military departments and the Armed Forces).

"(b) SCOPE OF RESPONSIBILITIES.—The individual serving in the position established under subsection (a) shall have the responsibilities as follows:

"(1) To establish a uniform definition of resiliency for use in the suicide prevention and resilience programs and preventative behavioral health programs of the Department of Defense (including those of the military departments and the Armed Forces).

"(2) To oversee the implementation of the comprehensive policy on the prevention of suicide among members of the Armed Forces required by section 582."

Pub. L. 112–239, div. A, title V, §582, Jan. 2, 2013, 126 Stat. 1766, provided that:

"(a) COMPREHENSIVE POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall, acting through the Under Secretary of Defense for Personnel and Readiness, develop within the Department of Defense a comprehensive policy on the prevention of suicide among members of the Armed Forces. In developing the policy, the Secretary shall consider recommendations from the operational elements of the Armed Forces regarding the feasibility of the implementation and execution of particular elements of the policy.

"(b) ELEMENTS.—The policy required by subsection (a) shall cover each of the following:

"(1) Increased awareness among members of the Armed Forces about mental health conditions and the stigma associated with mental health conditions and mental health care.

"(2) The means of identifying members who are at risk for suicide (including enhanced means for early identification and treatment of such members).

"(3) The continuous access by members to suicide prevention services, including suicide crisis services.

"(4) The means to evaluate and assess the effectiveness of the suicide prevention and resilience programs and preventative behavioral health programs of the Department of Defense (including those of the military departments and the Armed Forces), including the development of metrics for that purpose.

"(5) The means to evaluate and assess the current diagnostic tools and treatment methods in the

programs referred to in paragraph (4) to ensure clinical best practices are used in such programs.

"(6) The standard of care for suicide prevention to be used throughout the Department.

"(7) The training of mental health care providers on suicide prevention.

"(8) The training standards for behavioral health care providers to ensure that such providers receive training on clinical best practices and evidence-based treatments as information on such practices and treatments becomes available.

"(9) The integration of mental health screenings and suicide risk and prevention for members into the delivery of primary care for such members.

"(10) The standards for responding to attempted or completed suicides among members, including guidance and training to assist commanders in addressing incidents of attempted or completed suicide within their units.

"(11) The means to ensure the protection of the privacy of members seeking or receiving treatment relating to suicide.

"(12) Such other matters as the Secretary considers appropriate in connection with the prevention of suicide among members."

Pub. L. 112–81, div. A, title V, §533(a), (b), Dec. 31, 2011, 125 Stat. 1404, provided that:

"(a) PROGRAM ENHANCEMENT.—The Secretary of Defense shall take appropriate actions to enhance the suicide prevention program of the Department of Defense through the provision of suicide prevention information and resources to members of the Armed Forces from their initial enlistment or appointment through their final retirement or separation.

"(b) COOPERATIVE EFFORT.—The Secretary of Defense shall develop suicide prevention information and resources in consultation with—

"(1) the Secretary of Veterans Affairs, the National Institute of Mental Health, and the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services; and

"(2) to the extent appropriate, institutions of higher education and other public and private entities, including international entities, with expertise regarding suicide prevention."

## TREATMENT OF WOUNDED WARRIORS

Pub. L. 112–81, div. A, title VII, §722, Dec. 31, 2011, 125 Stat. 1479, provided that: "The Secretary of Defense may establish a program to enter into partnerships to enable coordinated, rapid clinical evaluation and the application of evidence-based treatment strategies for wounded service members, with an emphasis on the most common musculoskeletal injuries, that will address the priorities of the Armed Forces with respect to retention and readiness."

## COMPREHENSIVE PLAN ON PREVENTION, DIAGNOSIS, AND TREATMENT OF SUBSTANCE USE DISORDERS AND DISPOSITION OF SUBSTANCE ABUSE OFFENDERS IN THE ARMED FORCES

Pub. L. 111–84, div. A, title V, §596, Oct. 28, 2009, 123 Stat. 2339, provided for a comprehensive review of programs and policies regarding substance abuse disorders in members of the Armed Forces and the development of a plan for improvement and enhancement of such programs and policies by the Secretary of Defense and for a report to Congress on modification and improvements made following an independent study of the programs that was to be completed no later than two years after Oct. 28, 2009.

## COMPREHENSIVE POLICY ON PAIN MANAGEMENT BY THE MILITARY HEALTH CARE SYSTEM

Pub. L. 111–84, div. A, title VII, §711, Oct. 28, 2009, 123 Stat. 2378, provided that:

"(a) COMPREHENSIVE POLICY REQUIRED.—Not later than March 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on pain management by the military health care system.

"(b) SCOPE OF POLICY.—The policy required by subsection (a) shall cover each of the following:

"(1) The management of acute and chronic pain.

"(2) The standard of care for pain management to be used throughout the Department of Defense.

"(3) The consistent application of pain assessments throughout the Department of Defense.

"(4) The assurance of prompt and appropriate pain care treatment and management by the Department when medically necessary.

"(5) Programs of research related to acute and chronic pain, including pain attributable to central and peripheral nervous system damage characteristic of injuries incurred in modern warfare, brain injuries, and chronic migraine headache.

"(6) Programs of pain care education and training for health care personnel of the Department.

"(7) Programs of patient education for members suffering from acute or chronic pain and their

families.

"(c) UPDATES.—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.

"(d) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the commencement of the implementation of the policy required by subsection (a), and on October 1 each year thereafter through 2018, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the policy.

"(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

"(A) A description of the policy implemented under subsection (a), and any revisions to such policy under subsection (c).

"(B) A description of the performance measures used to determine the effectiveness of the policy in improving pain care for beneficiaries enrolled in the military health care system.

"(C) An assessment of the adequacy of Department pain management services based on a current survey of patients managed in Department clinics.

"(D) An assessment of the research projects of the Department relevant to the treatment of the types of acute and chronic pain suffered by members of the Armed Forces and their families.

"(E) An assessment of the training provided to Department health care personnel with respect to the diagnosis, treatment, and management of acute and chronic pain.

"(F) An assessment of the pain care education programs of the Department.

"(G) An assessment of the dissemination of information on pain management to beneficiaries enrolled in the military health care system."

## PLAN TO INCREASE THE MENTAL HEALTH CAPABILITIES OF THE DEPARTMENT OF DEFENSE

Pub. L. 111–84, div. A, title VII, §714, Oct. 28, 2009, 123 Stat. 2381, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(8), Jan. 7, 2011, 124 Stat. 4373, directed each military department to increase by a specified amount the number of active duty mental health personnel no later than 180 days after Oct. 28, 2009, and required the Secretary of Defense to report on the appropriate number of mental health personnel required to meet the mental health care needs of members of the Armed Forces, retired members, and dependents; to develop and implement a plan to significantly increase the number of military and civilian mental health personnel by Sept. 30, 2013; and to report on an assessment of the feasibility and advisability of establishing one or more military mental health specialties for officers or enlisted members of the Armed Forces.

## STUDY AND PLAN TO IMPROVE MILITARY HEALTH CARE

Pub. L. 111–84, div. A, title VII, §721, Oct. 28, 2009, 123 Stat. 2385, provided that:

"(a) STUDY AND REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the health care needs of dependents (as defined in section 1072(2) of title 10, United States Code). The report shall include, at a minimum, the following:

"(1) With respect to both the direct care system and the purchased care system, an analysis of the type of health care facility in which dependents seek care.

"(2) The 10 most common medical conditions for which dependents seek care.

"(3) The availability of and access to health care providers to treat the conditions identified under paragraph (2), both in the direct care system and the purchased care system.

"(4) Any shortfalls in the ability of dependents to obtain required health care services.

"(5) Recommendations on how to improve access to care for dependents.

"(6) With respect to dependents accompanying a member stationed at a military installation outside of the United States, the need for and availability of mental health care services.

"(b) ENHANCED MILITARY HEALTH SYSTEM AND IMPROVED TRICARE.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the other administering Secretaries, shall undertake actions to enhance the capability of the military health system and improve the TRICARE program.

"(2) ELEMENTS.—In undertaking actions to enhance the capability of the military health system and improve the TRICARE program under paragraph (1), the Secretary shall consider the following actions:

"(A) Actions to guarantee the availability of care within established access standards for eligible beneficiaries, based on the results of the study required by subsection (a).

"(B) Actions to expand and enhance sharing of health care resources among Federal health care

programs, including designated providers (as that term is defined in section 721(5) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note)).

"(C) Actions using medical technology to speed and simplify referrals for specialty care.

"(D) Actions to improve regional or national staffing capabilities in order to enhance support provided to military medical treatment facilities facing staff shortages.

"(E) Actions to improve health care access for members of the reserve components and their families, including such access with respect to mental health care and consideration of access issues for members and their families located in rural areas.

"(F) Actions to ensure consistency throughout the TRICARE program to comply with access standards, which are applicable to both commanders of military treatment facilities and managed care support contractors.

"(G) Actions to create new budgeting and resource allocation methodologies to fully support and incentivize care provided by military treatment facilities.

"(H) Actions regarding additional financing options for health care provided by civilian providers.

"(I) Actions to reduce administrative costs.

"(J) Actions to control the cost of health care and pharmaceuticals.

"(K) Actions to audit the Defense Enrollment Eligibility Reporting System to improve system checks on the eligibility of TRICARE beneficiaries.

"(L) Actions, including a comprehensive plan, for the enhanced availability of prevention and wellness care.

"(M) Actions using technology to improve direct communication with beneficiaries regarding health and preventive care.

"(N) Actions to create performance metrics by which to measure improvement in the TRICARE program.

"(O) Such other actions as the Secretary, in consultation with the other administering Secretaries, considers appropriate.

"(c) QUALITY ASSURANCE.—In undertaking actions under this section, the Secretary of Defense and the other administering Secretaries shall continue or enhance the current level of quality health care provided by the Department of Defense and the military departments with no adverse impact to cost, access, or care.

"(d) CONSULTATION.—In considering actions to be undertaken under this section, and in undertaking such actions, the Secretary shall consult with a broad range of national health care and military advocacy organizations.

"(e) REPORTS REQUIRED.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an initial report on the progress made in undertaking actions under this section and future plans for improvement of the military health system.

"(2) REPORT REQUIRED WITH FISCAL YEAR 2012 BUDGET PROPOSAL.—Together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2012 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the Secretary shall submit to the congressional defense committees a report setting forth the following:

"(A) Updates on the progress made in undertaking actions under this section.

"(B) Future plans for improvement of the military health system.

"(C) An explanation of how the budget submission may reflect such progress and plans.

"(3) PERIODIC REPORTS.—The Secretary shall, on a periodic basis, submit to the congressional defense committees a report on the progress being made in the improvement of the TRICARE program under this section.

"(4) ELEMENTS.—Each report under this subsection shall include the following:

"(A) A description and assessment of the progress made as of the date of such report in the improvement of the TRICARE program.

"(B) Such recommendations for administrative or legislative action as the Secretary considers appropriate to expedite and enhance the improvement of the TRICARE program.

"(f) DEFINITIONS.—In this section:

"(1) The term 'administering Secretaries' has the meaning given that term in section 1072(3) of title 10, United States Code.

"(2) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10,

United States Code."

## PROGRAM FOR HEALTH CARE DELIVERY AT MILITARY INSTALLATIONS WITH PROJECTED GROWTH

Pub. L. 110–417, [div. A], title VII, §705, Oct. 14, 2008, 122 Stat. 4499, provided that:

"(a) PROGRAM.—The Secretary of Defense is authorized to develop a plan to establish a program to build cooperative health care arrangements and agreements between military installations projected to grow and local and regional non-military health care systems.

"(b) REQUIREMENTS OF PLAN.—In developing the plan, the Secretary of Defense shall—

"(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on military installations;

"(2) develop methods for determining the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

"(3) develop requirements for Department of Defense health care providers to deliver health care in civilian community hospitals; and

"(4) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and nonmilitary health care systems, personal health information, and data of military personnel and their families.

"(c) COORDINATION WITH OTHER ENTITIES.—The plan shall include requirements for coordination with Federal, State, and local entities, TRICARE managed care support contractors, and other contracted assets around installations selected for participation in the program.

"(d) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the plan in consultation with the Secretaries of the military departments.

"(e) SELECTION OF MILITARY INSTALLATIONS.—Each selected military installation shall meet the following criteria:

"(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

"(2) The military population of an installation will significantly increase by 2013 due to actions related to either Grow the Force initiatives or recommendations of the Defense Base Realignment and Closure Commission.

"(3) There is a military treatment facility on the installation that has—

"(A) no inpatient or trauma center care capabilities; and

"(B) no current or planned capacity that would satisfy the proposed increase in military personnel at the installation.

"(4) There is a civilian community hospital near the military installation, and the military treatment facility has—

"(A) no inpatient services or limited capability to expand inpatient care beds, intensive care, and specialty services; and

"(B) limited or no capability to provide trauma care.

"(f) REPORTS.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and every year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on any plan developed under subsection (a)."

## CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF HEARING LOSS AND AUDITORY SYSTEM INJURIES

Pub. L. 110–417, [div. A], title VII, §721, Oct. 14, 2008, 122 Stat. 4506, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injury to carry out the responsibilities specified in subsection (c).

"(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) RESPONSIBILITIES.—

"(1) IN GENERAL.—The center shall—

"(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical

intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury incurred by a member of the Armed Forces while serving on active duty;

"(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

"(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual hearing outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

"(2) DESIGNATION OF REGISTRY.—The registry under this subsection shall be known as the 'Hearing Loss and Auditory System Injury Registry' (hereinafter referred to as the 'Registry').

"(3) CONSULTATION IN DEVELOPMENT.—The center shall develop the Registry in consultation with audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other hearing loss.

"(4) MECHANISMS.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury described in that paragraph as follows (to the extent applicable):

"(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

"(B) Not later than 180 days after the hearing loss and auditory system injury is reported or recorded in the medical record.

"(5) COORDINATION OF CARE AND BENEFITS.—(A) The center shall provide notice to the National Center for Rehabilitative Auditory Research (NCRAR) of the Department of Veterans Affairs and to the auditory system impairment services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of ongoing auditory system rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces.

"(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces with significant hearing loss or auditory system injury incurred while serving on active duty, including a member with auditory dysfunction related to traumatic brain injury.

"(d) UTILIZATION OF REGISTRY INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on hearing loss or auditory system injury incurred by members of the Armed Forces.

"(e) INCLUSION OF RECORDS OF OIF/OEF VETERANS.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred a hearing loss or auditory system injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry."

## WOUNDED WARRIOR HEALTH CARE IMPROVEMENTS

Pub. L. 115–232, div. A, title VII, §717, Aug. 13, 2018, 132 Stat. 1815, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall review and update policies and procedures relating to the care and management of recovering service members. In conducting such review, the Secretary shall consider best practices—

"(1) in the care of recovering service members;

"(2) in the administrative management relating to such care;

"(3) to carry out applicable provisions of Federal law; and

"(4) recommended by the Comptroller General of the United States in the report titled 'Army Needs to Improve Oversight of Warrior Transition Units'.

"(b) SCOPE OF POLICY.—In carrying out subsection (a), the Secretary shall update policies of the Department of Defense with respect to each of the following:

"(1) The case management coordination of members of the Armed Forces between the military departments and the military medical treatment facilities administered by the Director of the Defense Health

Agency pursuant to section 1073c of title 10, United States Code, including with respect to the coordination of—

"(A) appointments;

"(B) rehabilitative services;

"(C) recuperation in an outpatient status;

"(D) contract care provided by a private health care provider outside of a military medical treatment facility;

"(E) the disability evaluation system; and

"(F) other administrative functions relating to the military department.

"(2) The transition of a member of the Armed Forces who is retired under chapter 61 of title 10, United States Code, from receiving treatment furnished by the Secretary of Defense to treatment furnished by the Secretary of Veterans Affairs.

"(3) Facility standards related to lodging and accommodations for recovering service members and the family members and non-medical attendants of recovering service members.

"(c) REPORT.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense and Secretaries of the military departments shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review conducted under subsection (a), including a description of the policies updated pursuant to subsection (b).

"(d) DEFINITIONS.—In this section, the terms 'disability evaluation system', 'outpatient status', and 'recovering service members' have the meaning given those terms in section 1602 of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note)."

Pub. L. 110–181, div. A, title XVI, §§1602, 1603, 1611–1614, 1616, 1618, 1621–1623, 1631, 1635, 1644, 1648, 1651, 1662, 1671, 1672, 1676, Jan. 28, 2008, 122 Stat. 431–443, 447, 450–455, 458, 460, 467, 473, 476, 479, 481, 484, as amended by Pub. L. 110–417, [div. A], title II, §252, title VII, §§722, 724, title X, §1061(b)(13), Oct. 14, 2008, 122 Stat. 4400, 4508, 4509, 4613; Pub. L. 111–84, div. A, title VI, §632(h), Oct. 28, 2009, 123 Stat. 2362; Pub. L. 112–56, title II, §231, Nov. 21, 2011, 125 Stat. 719; Pub. L. 112–81, div. A, title VI, §631(f)(4)(B), title VII, §707, Dec. 31, 2011, 125 Stat. 1465, 1474; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–175, title I, §105, Sept. 26, 2014, 128 Stat. 1903; Pub. L. 113–291, div. A, title V, §591, title VII, §724, Dec. 19, 2014, 128 Stat. 3394, 3418; Pub. L. 114–58, title II, §204, title IV, §411, Sept. 30, 2015, 129 Stat. 533, 536; Pub. L. 114–92, div. A, title X, §1072(e), (f), Nov. 25, 2015, 129 Stat. 995; Pub. L. 114–228, title II, §204, title IV, §414, Sept. 29, 2016, 130 Stat. 938, 941; Pub. L. 115–62, title II, §203, Sept. 29, 2017, 131 Stat. 1162; Pub. L. 115–251, title I, §126, Sept. 29, 2018, 132 Stat. 3169; Pub. L. 116–92, div. A, title VII, §715(a)–(g), Dec. 20, 2019, 133 Stat. 1446–1451, provided that:

"SEC. 1602. GENERAL DEFINITIONS.

"In this title [see Short Title of 2008 Amendment note above]:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the Senate; and

"(B) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the House of Representatives.

"(2) BENEFITS DELIVERY AT DISCHARGE PROGRAM.—The term 'Benefits Delivery at Discharge Program' means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for which such members may be eligible.

"(3) DISABILITY EVALUATION SYSTEM.—The term 'Disability Evaluation System' means the following:

"(A) A system or process of the Department of Defense for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is comprised of medical evaluation boards, physical evaluation boards, counseling of members, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

"(B) A system or process of the Coast Guard for evaluating the nature and extent of disabilities affecting members of the Coast Guard that is operated by the Secretary of Homeland Security and is similar to the system or process of the Department of Defense described in subparagraph (A).

"(4) ELIGIBLE FAMILY MEMBER.—The term 'eligible family member', with respect to a recovering service member, means a family member (as defined in [former] section 481h(b)(3)(B) of title 37, United States Code) who is on invitational travel orders or serving as a non-medical attendee while caring for the recovering service member for more than 45 days during a one-year period.

"(5) MEDICAL CARE.—The term 'medical care' includes mental health care.

"(6) OUTPATIENT STATUS.—The term 'outpatient status', with respect to a recovering service member, means the status of a recovering service member assigned to—

"(A) a military medical treatment facility as an outpatient; or

"(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

"(7) RECOVERING SERVICE MEMBER.—The term 'recovering service member' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy and is in an outpatient status while recovering from a serious injury or illness related to the member's military service.

"(8) SERIOUS INJURY OR ILLNESS.—The term 'serious injury or illness', in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

"(9) TRICARE PROGRAM.—The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code. [As amended Pub. L. 110–417, [div. A], title X, §1061(b)(13), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111–84, div. A, title VI, §632(h), Oct. 28, 2009, 123 Stat. 2362; Pub. L. 112–81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465.]

"SEC. 1603. CONSIDERATION OF GENDER-SPECIFIC NEEDS OF RECOVERING SERVICE MEMBERS AND VETERANS.

"(a) IN GENERAL.—In developing and implementing the policy required by section 1611(a), and in otherwise carrying out any other provision of this title [see Short Title of 2008 Amendment note above] or any amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall take into account and fully address any unique gender-specific needs of recovering service members and veterans under such policy or other provision.

"(b) REPORTS.—In submitting any report required by this title or an amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent applicable, include a description of the manner in which the matters covered by such report address the unique gender-specific needs of recovering service members and veterans.

"SEC. 1611. COMPREHENSIVE POLICY ON IMPROVEMENTS TO CARE, MANAGEMENT, AND TRANSITION OF RECOVERING SERVICE MEMBERS.

"(a) COMPREHENSIVE POLICY REQUIRED.—

"(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent feasible, jointly develop and implement a comprehensive policy on improvements to the care, management, and transition of recovering service members.

"(2) SCOPE OF POLICY.—The policy shall cover each of the following:

"(A) The care and management of recovering service members.

"(B) The medical evaluation and disability evaluation of recovering service members.

"(C) The return of service members who have recovered to active duty when appropriate.

"(D) The transition of recovering service members from receipt of care and services through the Department of Defense to receipt of care and services through the Department of Veterans Affairs.

"(3) CONSULTATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall develop the policy in consultation with the heads of other appropriate departments and agencies of the Federal Government and with appropriate non-governmental organizations having an expertise in matters relating to the policy.

"(4) UPDATE.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly update the policy on a periodic basis, but not less often than annually, in order to incorporate in the policy, as appropriate, the following:

"(A) The results of the reviews required under subsections (b) and (c).

"(B) Best practices identified through pilot programs carried out under this title.

"(C) Improvements to matters under the policy otherwise identified and agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs.

"(b) REVIEW OF CURRENT POLICIES AND PROCEDURES.—

"(1) REVIEW REQUIRED.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent necessary, jointly and separately conduct a review of all policies and procedures of the Department of Defense and the Department of Veterans Affairs that apply to, or shall be covered by, the policy.

"(2) PURPOSE.—The purpose of the review shall be to identify the most effective and patient-oriented approaches to care and management of recovering service members for purposes of—

"(A) incorporating such approaches into the policy; and

"(B) extending such approaches, where applicable, to the care and management of other injured or ill members of the Armed Forces and veterans.

"(3) ELEMENTS.—In conducting the review, the Secretary of Defense and the Secretary of Veterans Affairs shall—

"(A) identify among the policies and procedures described in paragraph (1) best practices in approaches to the care and management of recovering service members;

"(B) identify among such policies and procedures existing and potential shortfalls in the care and management of recovering service members (including care and management of recovering service members on the temporary disability retired list), and determine means of addressing any shortfalls so identified;

"(C) determine potential modifications of such policies and procedures in order to ensure consistency and uniformity, where appropriate, in the application of such policies and procedures—

"(i) among the military departments;

"(ii) among the Veterans Integrated Services Networks (VISNs) of the Department of Veterans Affairs; and

"(iii) between the military departments and the Veterans Integrated Services Networks; and

"(D) develop recommendations for legislative and administrative action necessary to implement the results of the review.

"(4) DEADLINE FOR COMPLETION.—The review shall be completed not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008].

"(c) CONSIDERATION OF EXISTING FINDINGS, RECOMMENDATIONS, AND PRACTICES.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall take into account the following:

"(1) The findings and recommendations of applicable studies, reviews, reports, and evaluations that address matters relating to the policy, including, but not limited, to the following:

"(A) The Independent Review Group on Rehabilitative Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center, appointed by the Secretary of Defense.

"(B) The Secretary of Veterans Affairs Task Force on Returning Global War on Terror Heroes, appointed by the President.

"(C) The President's Commission on Care for America's Returning Wounded Warriors.

"(D) The Veterans' Disability Benefits Commission established by title XV of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1676; 38 U.S.C. 1101 note).

"(E) The President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, of March 2003.

"(F) The Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance, of 1999, chaired by Anthony J. Principi.

"(G) The President's Commission on Veterans' Pensions, of 1956, chaired by General Omar N. Bradley.

"(2) The experience and best practices of the Department of Defense and the military departments on matters relating to the policy.

"(3) The experience and best practices of the Department of Veterans Affairs on matters relating to the policy.

"(4) Such other matters as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

"(d) TRAINING AND SKILLS OF HEALTH CARE PROFESSIONALS, RECOVERY CARE COORDINATORS, MEDICAL CARE CASE MANAGERS, AND NON-MEDICAL CARE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

"(1) IN GENERAL.—The policy required by subsection (a) shall provide for uniform standards among the military departments for the training and skills of health care professionals, recovery care coordinators, medical care case managers, and non-medical care managers for recovering service members under subsection (e) in order to ensure that such personnel are able to—

"(A) detect early warning signs of post-traumatic stress disorder (PTSD), suicidal or homicidal thoughts or behaviors, and other behavioral health concerns among recovering service members; and

"(B) promptly notify appropriate health care professionals following detection of such signs.

"(2) TRACKING OF NOTIFICATIONS.—In providing for uniform standards under paragraph (1), the policy shall include a mechanism or system to track the number of notifications made by recovery care coordinators, medical care case managers, and non-medical care managers to health care professionals under paragraph (1)(A) regarding early warning signs of post-traumatic stress disorder and suicide in recovering service members.

"(e) SERVICES FOR RECOVERING SERVICE MEMBERS.—The policy required by subsection (a) shall provide for improvements as follows with respect to the care, management, and transition of recovering service members:

"(1) COMPREHENSIVE RECOVERY PLAN FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform standards and procedures for the development of a comprehensive recovery plan for each recovering service member that covers the full spectrum of care, management, transition, and rehabilitation of the service member during recovery.

"(2) RECOVERY CARE COORDINATORS FOR RECOVERING SERVICE MEMBERS.—

"(A) IN GENERAL.—The policy shall provide for a uniform program for the assignment to recovering service members of recovery care coordinators having the duties specified in subparagraph (B).

"(B) DUTIES.—The duties under the program of a recovery care coordinator for a recovering service member shall include, but not be limited to, overseeing and assisting the service member in the service member's course through the entire spectrum of care, management, transition, and rehabilitation services available from the Federal Government, including services provided by the Department of Defense, the Department of Veterans Affairs, the Department of Labor, and the Social Security Administration.

"(C) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY COORDINATORS.—The maximum number of recovering service members whose cases may be assigned to a recovery care coordinator under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given coordinator for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

"(D) TRAINING.—The policy shall specify standard training requirements and curricula for recovery care coordinators under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a coordinator.

"(E) RESOURCES.—The policy shall include mechanisms to ensure that recovery care coordinators under the program have the resources necessary to expeditiously carry out the duties of such coordinators under the program.

"(F) SUPERVISION.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise recovery care coordinators.

"(3) MEDICAL CARE CASE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

"(A) IN GENERAL.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of medical care case managers having the duties specified in subparagraph (B).

"(B) DUTIES.—The duties under the program of a medical care case manager for a recovering service member (or the service member's immediate family or other designee if the service member is incapable of making judgments about personal medical care) shall include, at a minimum, the following:

"(i) Assisting in understanding the service member's medical status during the care, recovery, and transition of the service member.

"(ii) Assisting in the receipt by the service member of prescribed medical care during the care, recovery, and transition of the service member.

"(iii) Conducting a periodic review of the medical status of the service member, which review shall be conducted, to the extent practicable, in person with the service member, or, whenever the conduct of the review in person is not practicable, with the medical care case manager submitting to the manager's supervisor a written explanation why the review in person was not practicable (if the Secretary of the military department concerned elects to require such written explanations for purposes of the program).

"(C) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY MANAGERS .—The maximum number of recovering service members whose cases may be assigned to a medical care

case manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

"(D) TRAINING.—The policy shall specify standard training requirements and curricula for medical care case managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

"(E) RESOURCES.—The policy shall include mechanisms to ensure that medical care case managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

"(F) SUPERVISION AT ARMED FORCES MEDICAL FACILITIES.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise the medical care case managers at each medical facility of the Armed Forces. Persons so appointed may be appointed from the Army Medical Corps, Army Medical Service Corps, Army Nurse Corps, Navy Medical Corps, Navy Medical Service Corps, Navy Nurse Corps, Air Force Medical Service, or other corps or civilian health care professional, as applicable, at the discretion of the Secretary of Defense.

"(4) NON-MEDICAL CARE MANAGERS FOR RECOVERING SERVICE MEMBERS.—

"(A) IN GENERAL.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of non-medical care managers having the duties specified in subparagraph (B).

"(B) DUTIES.—The duties under the program of a non-medical care manager for a recovering service member shall include, at a minimum, the following:

"(i) Communicating with the service member and with the service member's family or other individuals designated by the service member regarding non-medical matters that arise during the care, recovery, and transition of the service member.

"(ii) Assisting with oversight of the service member's welfare and quality of life.

"(iii) Assisting the service member in resolving problems involving financial, administrative, personnel, transitional, and other matters that arise during the care, recovery, and transition of the service member.

"(C) DURATION OF DUTIES.—The policy shall provide that a non-medical care manager shall perform duties under the program for a recovering service member until the service member is returned to active duty or retired or separated from the Armed Forces.

"(D) LIMITATION ON NUMBER OF SERVICE MEMBERS MANAGED BY MANAGERS .—The maximum number of recovering service members whose cases may be assigned to a non-medical care manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

"(E) TRAINING.—The policy shall specify standard training requirements and curricula among the military departments for non-medical care managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

"(F) RESOURCES.—The policy shall include mechanisms to ensure that non-medical care managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

"(G) SUPERVISION AT ARMED FORCES MEDICAL FACILITIES.—The policy shall specify requirements for the appropriate rank and occupational speciality for persons appointed to head and supervise the non-medical care managers at each medical facility of the Armed Forces.

"(5) ACCESS OF RECOVERING SERVICE MEMBERS TO NON-URGENT HEALTH CARE FROM THE DEPARTMENT OF DEFENSE OR OTHER PROVIDERS UNDER TRICARE.—

"(A) IN GENERAL.—The policy shall provide for appropriate minimum standards for access of recovering service members to non-urgent medical care and other health care services as follows:

"(i) In medical facilities of the Department of Defense.

"(ii) Through the TRICARE program.

"(B) MAXIMUM WAITING TIMES FOR CERTAIN CARE.—The standards for access under subparagraph (A) shall include such standards on maximum waiting times of recovering service members as the policy shall specify for care that includes, but is not limited to, the following:

"(i) Follow-up care.

"(ii) Specialty care.

"(iii) Diagnostic referrals and studies.

"(iv) Surgery based on a physician's determination of medical necessity.

"(C) WAIVER BY RECOVERING SERVICE MEMBERS.—The policy shall permit any recovering service member to waive a standard for access under this paragraph under such circumstances and conditions as the policy shall specify.

"(6) ASSIGNMENT OF RECOVERING SERVICE MEMBERS TO LOCATIONS OF CARE.—

"(A) IN GENERAL.—The policy shall provide for uniform guidelines among the military departments for the assignment of recovering service members to a location of care, including guidelines that provide for the assignment of recovering service members, when medically appropriate, to care and residential facilities closest to their duty station or home of record or the location of their designated care giver at the earliest possible time.

"(B) REASSIGNMENT FROM DEFICIENT FACILITIES.—The policy shall provide for uniform guidelines and procedures among the military departments for the reassignment of recovering service members from a medical or medical-related support facility determined by the Secretary of Defense to violate the standards required by section 1648 to another appropriate medical or medical-related support facility until the correction of violations of such standards at the medical or medical-related support facility from which such service members are reassigned.

"(7) TRANSPORTATION AND SUBSISTENCE FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform standards among the military departments on the availability of appropriate transportation and subsistence for recovering service members to facilitate their obtaining needed medical care and services.

"(8) WORK AND DUTY ASSIGNMENTS FOR RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform criteria among the military departments for the assignment of recovering service members to work and duty assignments that are compatible with their medical conditions.

"(9) ACCESS OF RECOVERING SERVICE MEMBERS TO EDUCATIONAL AND VOCATIONAL TRAINING AND REHABILITATION.—The policy shall provide for uniform standards among the military departments on the provision of educational and vocational training and rehabilitation opportunities for recovering service members at the earliest possible point in their recovery.

"(10) TRACKING OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform procedures among the military departments on tracking recovering service members to facilitate—

"(A) locating each recovering service member; and

"(B) tracking medical care appointments of recovering service members to ensure timeliness and compliance of recovering service members with appointments, and other physical and evaluation timelines, and to provide any other information needed to conduct oversight of the care, management, and transition of recovering service members.

"(11) REFERRALS OF RECOVERING SERVICE MEMBERS TO OTHER CARE AND SERVICES PROVIDERS.—The policy shall provide for uniform policies, procedures, and criteria among the military departments on the referral of recovering service members to the Department of Veterans Affairs and other private and public entities (including universities and rehabilitation hospitals, centers, and clinics) in order to secure the most appropriate care for recovering service members, which policies, procedures, and criteria shall take into account, but not be limited to, the medical needs of recovering service members and the geographic location of available necessary recovery care services.

"(f) SERVICES FOR FAMILIES OF RECOVERING SERVICE MEMBERS.—The policy required by subsection (a) shall provide for improvements as follows with respect to services for families of recovering service members:

"(1) SUPPORT FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform guidelines among the military departments on the provision by the military departments of support for family members of recovering service members who are not otherwise eligible for care under section 1672 in caring for such service members during their recovery.

"(2) ADVICE AND TRAINING FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for uniform requirements and standards among the military departments on the provision by the military departments of advice and training, as appropriate, to family members of recovering service members with respect to care for such service members during their recovery.

"(3) MEASUREMENT OF SATISFACTION OF FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS WITH QUALITY OF HEALTH CARE SERVICES.—The policy shall provide for uniform procedures among the military departments on the measurement of the satisfaction of family members of recovering service members with the quality of health care services provided to such service members during their recovery.

"(4) JOB PLACEMENT SERVICES FOR FAMILY MEMBERS OF RECOVERING SERVICE MEMBERS.—The policy shall provide for procedures for application by eligible family members during a one-year period for job placement services otherwise offered by the Department of Defense.

"(g) OUTREACH TO RECOVERING SERVICE MEMBERS AND THEIR FAMILIES ON COMPREHENSIVE POLICY.—The policy required by subsection (a) shall include procedures and mechanisms to ensure that recovering service members and their families are fully informed of the policies required by this section, including policies on medical care for recovering service members, on the management and transition of recovering service members, and on the responsibilities of recovering service members and their family members throughout the continuum of care and services for recovering service members under this section.

"(h) APPLICABILITY OF COMPREHENSIVE POLICY TO RECOVERING SERVICE MEMBERS ON TEMPORARY DISABILITY RETIRED LIST.—Appropriate elements of the policy required by this section shall apply to recovering service members whose names are placed on the temporary disability retired list in such manner, and subject to such terms and conditions, as the Secretary of Defense shall prescribe in regulations for purposes of this subsection.

"SEC. 1612. MEDICAL EVALUATIONS AND PHYSICAL DISABILITY EVALUATIONS OF RECOVERING SERVICE MEMBERS.

"(a) MEDICAL EVALUATIONS OF RECOVERING SERVICE MEMBERS.—

"(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense shall develop a policy on improvements to the processes, procedures, and standards for the conduct by the military departments of medical evaluations of recovering service members.

"(2) ELEMENTS.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:

"(A) Processes for medical evaluations of recovering service members that—

"(i) apply uniformly throughout the military departments; and

"(ii) apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

"(B) Standard criteria and definitions for determining the achievement for recovering service members of the maximum medical benefit from treatment and rehabilitation.

"(C) Standard timelines for each of the following:

"(i) Determinations of fitness for duty of recovering service members.

"(ii) Specialty care consultations for recovering service members.

"(iii) Preparation of medical documents for recovering service members.

"(iv) Appeals by recovering service members of medical evaluation determinations, including determinations of fitness for duty.

"(D) Procedures for ensuring that—

"(i) upon request of a recovering service member being considered by a medical evaluation board, a physician or other appropriate health care professional who is independent of the medical evaluation board is assigned to the service member; and

"(ii) the physician or other health care professional assigned to a recovering service member under clause (i)—

"(I) serves as an independent source for review of the findings and recommendations of the medical evaluation board;

"(II) provides the service member with advice and counsel regarding the findings and recommendations of the medical evaluation board; and

"(III) advises the service member on whether the findings of the medical evaluation board adequately reflect the complete spectrum of injuries and illness of the service member.

"(E) Standards for qualifications and training of medical evaluation board personnel, including physicians, case workers, and physical disability evaluation board liaison officers, in conducting medical evaluations of recovering service members.

"(F) Standards for the maximum number of medical evaluation cases of recovering service members that are pending before a medical evaluation board at any one time, and requirements for the establishment of additional medical evaluation boards in the event such number is exceeded.

"(G) Standards for information for recovering service members, and their families, on the medical evaluation board process and the rights and responsibilities of recovering service members under that process, including a standard handbook on such information (which handbook shall also be available electronically).

"(b) PHYSICAL DISABILITY EVALUATIONS OF RECOVERING SERVICE MEMBERS.—

"(1) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall develop a policy on improvements to the processes, procedures, and standards for the conduct of physical disability evaluations of recovering service members by the military departments and by the Department of Veterans Affairs.

"(2) ELEMENTS.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:

"(A) A clearly-defined process of the Department of Defense and the Department of Veterans Affairs for disability determinations of recovering service members.

"(B) To the extent feasible, procedures to eliminate unacceptable discrepancies and improve consistency among disability ratings assigned by the military departments and the Department of Veterans Affairs, particularly in the disability evaluation of recovering service members, which procedures shall be subject to the following requirements and limitations:

"(i) Such procedures shall apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

"(ii) Under such procedures, each Secretary of a military department shall, to the extent feasible, utilize the standard schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of such schedule by the United States Court of Appeals for Veterans Claims, in making any determination of disability of a recovering service member, except as otherwise authorized by section 1216a of title 10, United States Code (as added by section 1642 of this Act).

"(C) Uniform timelines among the military departments for appeals of determinations of disability of recovering service members, including timelines for presentation, consideration, and disposition of appeals.

"(D) Uniform standards among the military departments for qualifications and training of physical disability evaluation board personnel, including physical evaluation board liaison personnel, in conducting physical disability evaluations of recovering service members.

"(E) Uniform standards among the military departments for the maximum number of physical disability evaluation cases of recovering service members that are pending before a physical disability evaluation board at any one time, and requirements for the establishment of additional physical disability evaluation boards in the event such number is exceeded.

"(F) Uniform standards and procedures among the military departments for the provision of legal counsel to recovering service members while undergoing evaluation by a physical disability evaluation board.

"(G) Uniform standards among the military departments on the roles and responsibilities of non-medical care managers under section 1611(e)(4) and judge advocates assigned to recovering service members undergoing evaluation by a physical disability board, and uniform standards on the maximum number of cases involving such service members that are to be assigned to judge advocates at any one time.

"(c) ASSESSMENT OF CONSOLIDATION OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS DISABILITY EVALUATION SYSTEMS.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the feasability [sic] and advisability of consolidating the disability evaluation systems of the military departments and the disability evaluation system of the Department of Veterans Affairs into a single disability evaluation system. The report shall be submitted together with the report required by section 1611(a).

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) An assessment of the feasability [sic] and advisability of consolidating the disability evaluation systems described in paragraph (1) as specified in that paragraph.

"(B) If the consolidation of the systems is considered feasible and advisable—

"(i) recommendations for various options for consolidating the systems as specified in paragraph (1); and

"(ii) recommendations for mechanisms to evaluate and assess any progress made in consolidating the systems as specified in that paragraph.

"SEC. 1613. RETURN OF RECOVERING SERVICE MEMBERS TO ACTIVE DUTY IN THE ARMED FORCES.

"The Secretary of Defense shall establish standards for determinations by the military departments on the

return of recovering service members to active duty in the Armed Forces.

"SEC. 1614. TRANSITION OF RECOVERING SERVICE MEMBERS FROM CARE AND TREATMENT THROUGH THE DEPARTMENT OF DEFENSE TO CARE, TREATMENT, AND REHABILITATION THROUGH THE DEPARTMENT OF VETERANS AFFAIRS.

"(a) IN GENERAL.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop and implement processes, procedures, and standards for the transition of recovering service members from care and treatment through the Department of Defense to care, treatment, and rehabilitation through the Department of Veterans Affairs.

"(b) ELEMENTS.—The processes, procedures, and standards required under this section shall include the following:

"(1) Uniform, patient-focused procedures to ensure that the transition described in subsection (a) occurs without gaps in medical care and in the quality of medical care, benefits, and services.

"(2) Procedures for the identification and tracking of recovering service members during the transition, and for the coordination of care and treatment of recovering service members during the transition, including a system of cooperative case management of recovering service members by the Department of Defense and the Department of Veterans Affairs during the transition.

"(3) Procedures for the notification of Department of Veterans Affairs liaison personnel of the commencement by recovering service members of the medical evaluation process and the physical disability evaluation process.

"(4) Procedures and timelines for the enrollment of recovering service members in applicable enrollment or application systems of the Department of Veterans Affairs with respect to health care, disability, education, vocational rehabilitation, or other benefits.

"(5) Procedures to ensure the access of recovering service members during the transition to vocational, educational, and rehabilitation benefits available through the Department of Veterans Affairs.

"(6) Standards for the optimal location of Department of Defense and Department of Veterans Affairs liaison and case management personnel at military medical treatment facilities, medical centers, and other medical facilities of the Department of Defense.

"(7) Standards and procedures for integrated medical care and management of recovering service members during the transition, including procedures for the assignment of medical personnel of the Department of Veterans Affairs to Department of Defense facilities to participate in the needs assessments of recovering service members before, during, and after their separation from military service.

"(8) Standards for the preparation of detailed plans for the transition of recovering service members from care and treatment by the Department of Defense to care, treatment, and rehabilitation by the Department of Veterans Affairs, which plans shall—

"(A) be based on standardized elements with respect to care and treatment requirements and other applicable requirements; and

"(B) take into account the comprehensive recovery plan for the recovering service member concerned as developed under section 1611(e)(1).

"(9) Procedures to ensure that each recovering service member who is being retired or separated under chapter 61 of title 10, United States Code, receives a written transition plan, prior to the time of retirement or separation, that—

"(A) specifies the recommended schedule and milestones for the transition of the service member from military service;

"(B) provides for a coordinated transition of the service member from the Department of Defense disability evaluation system to the Department of Veterans Affairs disability system; and

"(C) includes information and guidance designed to assist the service member in understanding and meeting the schedule and milestones specified under subparagraph (A) for the service member's transition.

"(10) Procedures for the transmittal from the Department of Defense to the Department of Veterans Affairs of records and any other required information on each recovering service member described in paragraph (9), which procedures shall provide for the transmission from the Department of Defense to the Department of Veterans Affairs of records and information on the service member as follows:

"(A) The address and contact information of the service member.

"(B) The DD–214 discharge form of the service member, which shall be transmitted under such procedures electronically.

"(C) A copy of the military service record of the service member, including medical records and any results of a physical evaluation board.

"(D) Information on whether the service member is entitled to transitional health care, a

conversion health policy, or other health benefits through the Department of Defense under section 1145 of title 10, United States Code.

"(E) A copy of any request of the service member for assistance in enrolling in, or completed applications for enrollment in, the health care system of the Department of Veterans Affairs for health care benefits for which the service member may be eligible under laws administered by the Secretary of Veterans Affairs.

"(F) A copy of any request by the service member for assistance in applying for, or completed applications for, compensation and vocational rehabilitation benefits to which the service member may be entitled under laws administered by the Secretary of Veterans Affairs.

"(11) A process to ensure that, before transmittal of medical records of a recovering service member to the Department of Veterans Affairs, the Secretary of Defense ensures that the service member (or an individual legally recognized to make medical decisions on behalf of the service member) authorizes the transfer of the medical records of the service member from the Department of Defense to the Department of Veterans Affairs pursuant to the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104–191, see Tables for classification].

"(12) Procedures to ensure that, with the consent of the recovering service member concerned, the address and contact information of the service member is transmitted to the department or agency for veterans affairs of the State in which the service member intends to reside after the retirement or separation of the service member from the Armed Forces.

"(13) Procedures to ensure that, before the transmittal of records and other information with respect to a recovering service member under this section, a meeting regarding the transmittal of such records and other information occurs among the service member, appropriate family members of the service member, representatives of the Secretary of the military department concerned, and representatives of the Secretary of Veterans Affairs, with at least 30 days advance notice of the meeting being given to the service member unless the service member waives the advance notice requirement in order to accelerate transmission of the service member's records and other information to the Department of Veterans Affairs.

"(14) Procedures to ensure that the Secretary of Veterans Affairs gives appropriate consideration to a written statement submitted to the Secretary by a recovering service member regarding the transition.

"(15) Procedures to provide access for the Department of Veterans Affairs to the military health records of recovering service members who are receiving care and treatment, or are anticipating receipt of care and treatment, in Department of Veterans Affairs health care facilities, which procedures shall be consistent with the procedures and requirements in paragraphs (11) and (13).

"(16) A process for the utilization of a joint separation and evaluation physical examination that meets the requirements of both the Department of Defense and the Department of Veterans Affairs in connection with the medical separation or retirement of a recovering service member from military service and for use by the Department of Veterans Affairs in disability evaluations.

"(17) Procedures for surveys and other mechanisms to measure patient and family satisfaction with the provision by the Department of Defense and the Department of Veterans Affairs of care and services for recovering service members, and to facilitate appropriate oversight by supervisory personnel of the provision of such care and services.

"(18) Procedures to ensure the participation of recovering service members who are members of the National Guard or Reserve in the Benefits Delivery at Discharge Program, including procedures to ensure that, to the maximum extent feasible, services under the Benefits Delivery at Discharge Program are provided to recovering service members at—

"(A) appropriate military installations;

"(B) appropriate armories and military family support centers of the National Guard;

"(C) appropriate military medical care facilities at which members of the Armed Forces are separated or discharged from the Armed Forces; and

"(D) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member.

"SEC. 1616. ESTABLISHMENT OF A WOUNDED WARRIOR RESOURCE CENTER.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a wounded warrior resource center (in this section referred to as the 'center') to provide wounded warriors, their families, and their primary caregivers with a single point of contact for assistance with reporting deficiencies in covered military facilities, obtaining health care services, receiving benefits information, receiving legal assistance referral information (where appropriate), receiving other appropriate referral information, and any other difficulties encountered while supporting wounded warriors. The Secretary shall widely disseminate information

regarding the existence and availability of the center, including contact information, to members of the Armed Forces and their dependents. In carrying out this subsection, the Secretary may use existing infrastructure and organizations but shall ensure that the center has the ability to separately keep track of calls from wounded warriors.

"(b) ACCESS.—The center shall provide multiple methods of access, including at a minimum an Internet website and a toll-free telephone number (commonly referred to as a 'hot line') at which personnel are accessible at all times to receive reports of deficiencies or provide information about covered military facilities, health care services, or military benefits.

"(c) CONFIDENTIALITY.—

"(1) NOTIFICATION.—Individuals who seek to provide information through the center under subsection (a) shall be notified, immediately before they provide such information, of their option to elect, at their discretion, to have their identity remain confidential.

"(2) PROHIBITION ON FURTHER DISCLOSURE.—In the case of information provided through use of the toll-free telephone number by an individual who elects to maintain the confidentiality of his or her identity, any individual who, by necessity, has had access to such information for purposes of investigating or responding to the call as required under subsection (d) may not disclose the identity of the individual who provided the information.

"(d) FUNCTIONS.—The center shall perform the following functions:

"(1) CALL TRACKING.—The center shall be responsible for documenting receipt of a call, referring the call to the appropriate office within a military department for answer or investigation, and tracking the formulation and notification of the response to the call.

"(2) INVESTIGATION AND RESPONSE.—The center shall be responsible for ensuring that, not later than 96 hours after a call—

"(A) if a report of deficiencies is received in a call—

"(i) any deficiencies referred to in the call are investigated;

"(ii) if substantiated, a plan of action for remediation of the deficiencies is developed and implemented; and

"(iii) if requested, the individual who made the report is notified of the current status of the report; or

"(B) if a request for information is received in a call—

"(i) the information requested by the caller is provided by the center;

"(ii) all requests for information from the call are referred to the appropriate office or offices of a military department for response; and

"(iii) the individual who made the report is notified, at a minimum, of the current status of the query.

"(3) FINAL NOTIFICATION.—The center shall be responsible for ensuring that, if requested, the caller is notified when the deficiency has been corrected or when the request for information has been fulfilled to the maximum extent practicable, as determined by the Secretary.

"(e) DEFINITIONS.—In this section:

"(1) COVERED MILITARY FACILITY.—The term 'covered military facility' has the meaning provided in section 1648(b) of this Act.

"(2) CALL.—The term 'call' means any query or report that is received by the center by means of the toll-free telephone number or other source.

"(f) EFFECTIVE DATES.—

"(1) TOLL-FREE TELEPHONE NUMBER.—The toll-free telephone number required to be established by subsection (a), shall be fully operational not later than April 1, 2008.

"(2) INTERNET WEBSITE.—The Internet website required to be established by subsection (a), shall be fully operational not later than July 1, 2008. [As amended Pub. L. 110–417, [div. A], title VII, §724, Oct. 14, 2008, 122 Stat. 4509.]

"SEC. 1618. COMPREHENSIVE PLAN ON PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF, AND RESEARCH ON, TRAUMATIC BRAIN INJURY, POST-TRAUMATIC STRESS DISORDER, AND OTHER MENTAL HEALTH CONDITIONS IN MEMBERS OF THE ARMED FORCES.

"(a) COMPREHENSIVE STATEMENT OF POLICY.—The Secretary of Defense and the Secretary of Veterans Affairs shall direct joint planning among the Department of Defense, the military departments, and the Department of Veterans Affairs for the prevention, diagnosis, mitigation, treatment, and rehabilitation of,

and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including planning for the seamless transition of such members from care through the Department of Defense to care through the Department of Veterans Affairs.

"(b) COMPREHENSIVE PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, research, and otherwise respond to traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including—

"(1) an assessment of the current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces;

"(2) the identification of gaps in current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces; and

"(3) the identification of the resources required for the Department in fiscal years 2009 through 2013 to address the gaps in capabilities identified under paragraph (2).

"(c) PROGRAM REQUIRED.—One of the programs contained in the comprehensive plan submitted under subsection (b) shall be a Department of Defense program, developed in collaboration with the Department of Veterans Affairs, under which each member of the Armed Forces who incurs a traumatic brain injury or post-traumatic stress disorder during service in the Armed Forces—

"(1) is enrolled in the program; and

"(2) receives treatment and rehabilitation meeting a standard of care such that each individual who qualifies for care under the program shall—

"(A) be provided the highest quality, evidence-based care in facilities that most appropriately meet the specific needs of the individual; and

"(B) be rehabilitated to the fullest extent possible using up-to-date evidence-based medical technology, and physical and medical rehabilitation practices and expertise.

"(d) PROVISION OF INFORMATION REQUIRED.—The comprehensive plan submitted under subsection (b) shall require the provision of information by the Secretary of Defense to members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions and their families about their options with respect to the following:

"(1) The receipt of medical and mental health care from the Department of Defense and the Department of Veterans Affairs.

"(2) Additional options available to such members for treatment and rehabilitation of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions.

"(3) The options available, including obtaining a second opinion, to such members for a referral to an authorized provider under chapter 55 of title 10, United States Code, as determined under regulations prescribed by the Secretary of Defense.

"(e) ADDITIONAL ELEMENTS OF PLAN.—The comprehensive plan submitted under subsection (b) shall include comprehensive proposals of the Department on the following:

"(1) LEAD AGENT.—The designation by the Secretary of Defense of a lead agent or executive agent for the Department to coordinate development and implementation of the plan.

"(2) DETECTION AND TREATMENT.—The improvement of methods and mechanisms for the detection and treatment of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces in the field.

"(3) REDUCTION OF PTSD.—The development of a plan for reducing post traumatic-stress disorder, incorporating evidence-based preventive and early-intervention measures, practices, or procedures that reduce the likelihood that personnel in combat will develop post-traumatic stress disorder or other stress-related conditions (including substance abuse conditions) into—

"(A) basic and pre-deployment training for enlisted members of the Armed Forces, noncommissioned officers, and officers;

"(B) combat theater operations; and

"(C) post-deployment service.

"(4) RESEARCH.—Requirements for research on traumatic brain injury, post-traumatic stress disorder, and other mental health conditions including (in particular) research on pharmacological and other approaches to treatment for traumatic brain injury, post-traumatic stress disorder, or other mental health

conditions, as applicable, and the allocation of priorities among such research.

"(5) DIAGNOSTIC CRITERIA.—The development, adoption, and deployment of joint Department of Defense-Department of Veterans Affairs evidence-based diagnostic criteria for the detection and evaluation of the range of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, which criteria shall be employed uniformly across the military departments in all applicable circumstances, including provision of clinical care and assessment of future deployability of members of the Armed Forces.

"(6) ASSESSMENT.—The development and deployment of evidence-based means of assessing traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including a system of pre-deployment and post-deployment screenings of cognitive ability in members for the detection of cognitive impairment.

"(7) MANAGING AND MONITORING.—The development and deployment of effective means of managing and monitoring members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions in the receipt of care for traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including the monitoring and assessment of treatment and outcomes.

"(8) EDUCATION AND AWARENESS.—The development and deployment of an education and awareness training initiative designed to reduce the negative stigma associated with traumatic brain injury, post-traumatic stress disorder, and other mental health conditions, and mental health treatment.

"(9) EDUCATION AND OUTREACH.—The provision of education and outreach to families of members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions on a range of matters relating to traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including detection, mitigation, and treatment.

"(10) RECORDING OF BLASTS.—A requirement that exposure to a blast or blasts be recorded in the records of members of the Armed Forces.

"(11) GUIDELINES FOR BLAST INJURIES.—The development of clinical practice guidelines for the diagnosis and treatment of blast injuries in members of the Armed Forces, including, but not limited to, traumatic brain injury.

"(12) GENDER- AND ETHNIC GROUP-SPECIFIC SERVICES AND TREATMENT.—The development of requirements, as appropriate, for gender- and ethnic group-specific medical care services and treatment for members of the Armed Forces who experience mental health problems and conditions, including post-traumatic stress disorder, with specific regard to the availability of, access to, and research and development requirements of such needs.

"(f) COORDINATION IN DEVELOPMENT.—The comprehensive plan submitted under subsection (b) shall be developed in coordination with the Secretary of the Army (who was designated by the Secretary of Defense as executive agent for the prevention, mitigation, and treatment of blast injuries under section 256 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3181; 10 U.S.C. 1071 note)).

"SEC. 1621. CENTER OF EXCELLENCE IN THE PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including mild, moderate, and severe traumatic brain injury, to carry out the responsibilities specified in subsection (c).

"(b) PARTNERSHIPS.—The Secretary shall ensure that the Center collaborates to the maximum extent practicable with the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) RESPONSIBILITIES.—The Center shall have responsibilities as follows:

"(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including research on gender and ethnic group-specific health needs related to traumatic brain injury.

"(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of traumatic brain injury.

"(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with traumatic brain injury.

"(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of traumatic brain injury.

"(5) To facilitate advancements in the study of the short-term and long-term psychological effects of traumatic brain injury.

"(6) To disseminate within the military medical treatment facilities of the Department best practices for training mental health professionals, including neurological health professionals, with respect to traumatic brain injury.

"(7) To conduct basic science and translational research on traumatic brain injury for the purposes of understanding the etiology of traumatic brain injury and developing preventive interventions and new treatments.

"(8) To develop programs and outreach strategies for families of members of the Armed Forces with traumatic brain injury in order to mitigate the negative impacts of traumatic brain injury on such family members and to support the recovery of such members from traumatic brain injury.

"(9) To conduct research on the mental health needs of families of members of the Armed Forces with traumatic brain injury and develop protocols to address any needs identified through such research.

"(10) To conduct longitudinal studies (using imaging technology and other proven research methods) on members of the Armed Forces with traumatic brain injury to identify early signs of Alzheimer's disease, Parkinson's disease, or other manifestations of neurodegeneration, as well as epilepsy, in such members, in coordination with the studies authorized by section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294) [10 U.S.C. 1074 note] and other studies of the Department of Defense and the Department of Veterans Affairs that address the connection between exposure to combat and the development of Alzheimer's disease, Parkinson's disease, and other neurodegenerative disorders, as well as epilepsy.

"(11) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with traumatic brain injury until their transition to care and treatment from the Department of Veterans Affairs.

"(12) To develop a program on comprehensive pain management, including management of acute and chronic pain, to utilize current and develop new treatments for pain, and to identify and disseminate best practices on pain management related to traumatic brain injury.

"(13) Such other responsibilities as the Secretary shall specify.

"SEC. 1622. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

"(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder (PTSD) and other mental health conditions, including mild, moderate, and severe post-traumatic stress disorder and other mental health conditions, to carry out the responsibilities specified in subsection (c).

"(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the National Center on Post-Traumatic Stress Disorder of the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) RESPONSIBILITIES.—The center shall have responsibilities as follows:

"(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder and other mental health conditions, including research on gender- and ethnic group-specific health needs related to post-traumatic stress disorder and other mental health conditions.

"(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of post-traumatic stress disorder.

"(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with post-traumatic stress disorder and other mental health conditions.

"(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of post-traumatic stress disorder and other mental health conditions.

"(5) To facilitate advancements in the study of the short-term and long-term psychological effects of post-traumatic stress disorder and other mental health conditions.

"(6) To disseminate within the military medical treatment facilities of the Department best practices

for training mental health professionals, including neurological health professionals, with respect to post-traumatic stress disorder and other mental health conditions.

"(7) To conduct basic science and translational research on post-traumatic stress disorder for the purposes of understanding the etiology of post-traumatic stress disorder and developing preventive interventions and new treatments.

"(8) To develop programs and outreach strategies for families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions in order to mitigate the negative impacts of post-traumatic stress disorder and other mental health conditions on such family members and to support the recovery of such members from post-traumatic stress disorder and other mental health conditions.

"(9) To conduct research on the mental health needs of families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions and develop protocols to address any needs identified through such research.

"(10) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions until their transition to care and treatment from the Department of Veterans Affairs.

"SEC. 1623. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF MILITARY EYE INJURIES.

"(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries to carry out the responsibilities specified in subsection (c).

"(b) PARTNERSHIPS.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) RESPONSIBILITIES.—

"(1) IN GENERAL.—The center shall—

"(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of significant eye injury incurred by a member of the Armed Forces while serving on active duty;

"(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

"(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual visual outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

"(2) DESIGNATION OF REGISTRY.—The registry under this subsection shall be known as the 'Military Eye Injury Registry' (hereinafter referred to as the 'Registry').

"(3) CONSULTATION IN DEVELOPMENT.—The center shall develop the Registry in consultation with the ophthalmological specialist personnel and optometric specialist personnel of the Department of Defense and the ophthalmological specialist personnel and optometric specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other eye injuries.

"(4) MECHANISMS.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of eye injury described in that paragraph as follows (to the extent applicable):

"(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

"(B) Not later than 180 days after the significant eye injury is reported or recorded in the medical record.

"(5) COORDINATION OF CARE AND BENEFITS.—(A) The center shall provide notice to the Blind Rehabilitation Service of the Department of Veterans Affairs and to the eye care services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for

purposes of ensuring the coordination of the provision of ongoing eye care and visual rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces.

"(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces as follows:

"(i) A member with a significant eye injury incurred while serving on active duty, including a member with visual dysfunction related to traumatic brain injury.

"(ii) A member with an eye injury incurred while serving on active duty who has a visual acuity of 20/200 or less in the injured eye.

"(iii) A member with an eye injury incurred while serving on active duty who has a loss of peripheral vision resulting in 20 degrees or less of visual field in the injured eye.

"(d) UTILIZATION OF REGISTRY INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate ophthalmological and optometric personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on eye injuries incurred by members of the Armed Forces.

"(e) INCLUSION OF RECORDS OF OIF/OEF VETERANS.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred an eye injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry.

"(f) TRAUMATIC BRAIN INJURY POST TRAUMATIC VISUAL SYNDROME.—In carrying out the program at Walter Reed Army Medical Center, District of Columbia, on traumatic brain injury post traumatic visual syndrome, the Secretary of Defense and the Department of Veterans Affairs shall jointly provide for the conduct of a cooperative program for members of the Armed Forces and veterans with traumatic brain injury by military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs selected for purposes of this subsection for purposes of vision screening, diagnosis, rehabilitative management, and vision research, including research on prevention, on visual dysfunction related to traumatic brain injury. [As amended Pub. L. 110–417, [div. A], title VII, §722, Oct. 14, 2008, 122 Stat. 4508.]

"SEC. 1631. MEDICAL CARE AND OTHER BENEFITS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.

"(a) MEDICAL AND DENTAL CARE FOR FORMER MEMBERS.—

"(1) IN GENERAL.—Effective as of the date of the enactment of this Act [Jan. 28, 2008] and subject to regulations prescribed by the Secretary of Defense, the Secretary may authorize that any former member of the Armed Forces with a serious injury or illness may receive the same medical and dental care as a member of the Armed Forces on active duty for medical and dental care not reasonably available to such former member in the Department of Veterans Affairs.

"(2) SUNSET.—The Secretary of Defense may not provide medical or dental care to a former member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided medical or dental care to the former member under this subsection before that date.

"(b) REHABILITATION AND VOCATIONAL BENEFITS.—Effective as of the date of the enactment of this Act [Jan. 28, 2008], a member of the Armed Forces with a severe injury or illness is entitled to such benefits (including rehabilitation and vocational benefits, but not including compensation) from the Secretary of Veterans Affairs to facilitate the recovery and rehabilitation of such member as the Secretary otherwise provides to veterans of the Armed Forces receiving medical care in medical facilities of the Department of Veterans Affairs facilities in order to facilitate the recovery and rehabilitation of such members.

"(c) REHABILITATIVE EQUIPMENT FOR MEMBERS OF THE ARMED FORCES.—

"(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Secretary of Defense may provide an active duty member of the Armed Forces with a severe injury or illness with rehabilitative equipment, including recreational sports equipment that provide an adaption or accommodation for the member, regardless of whether such equipment is intentionally designed to be adaptive equipment.

"(2) CONSULTATION.—In carrying out this subsection, the Secretary of Defense shall consult with the Secretary of Veterans Affairs regarding similar programs carried out by the Secretary of Veterans Affairs. [As amended Pub. L. 112–56, title II, §231, Nov. 21, 2011, 125 Stat. 719; Pub. L. 112–81, div. A, title VII, §707, Dec. 31, 2011, 125 Stat. 1474; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–291, div. A, title VII, §724, Dec. 19, 2014, 128 Stat. 3418; Pub. L. 114–58, title II, §204, Sept. 30, 2015, 129 Stat. 533; Pub. L. 114–228, title II, §204, Sept. 29, 2016, 130 Stat. 938;

Pub. L. 115–62, title II, §203, Sept. 29, 2017, 131 Stat. 1162; Pub. L. 115–251, title I, §126, Sept. 29, 2018, 132 Stat. 3169.]

"SEC. 1635. FULLY INTEROPERABLE ELECTRONIC PERSONAL HEALTH INFORMATION FOR THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.

"(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly—

"(1) develop and implement electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs; and

"(2) accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

"(b) DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS INTERAGENCY PROGRAM OFFICE.—

"(1) IN GENERAL.—There is hereby established an interagency program office of the Department of Defense and the Department of Veterans Affairs (in this section referred to as the 'Office') for the purposes described in paragraph (2). The Office shall carry out decision making authority delegated to the Office by the Secretary of Defense and the Secretary of Veterans Affairs with respect to the definition, coordination, and management of functional, technical, and programmatic activities that are jointly used, carried out, and shared by the Departments.

"(2) PURPOSES.—The purposes of the Office shall be as follows:

"(A) To act as a single point of accountability for the Department of Defense and the Department of Veterans Affairs in the rapid development and implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

"(B) To accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

"(C) To develop and implement a comprehensive interoperability strategy, which shall include—

"(i) the Electronic Health Record Modernization Program of the Department of Veterans Affairs; and

"(ii) the Healthcare Management System Modernization Program of the Department of Defense.

"(D) To pursue the highest level of interoperability for the delivery of health care by the Department of Defense and the Department of Veterans Affairs.

"(E) To accelerate the exchange of health care information between the Departments, and advances in the health information technology marketplace, in order to support the delivery of health care by the Departments.

"(F) To collect the operational and strategic requirements of the Departments relating to the strategy under subsection (a) and communicate such requirements and activities to the Office of the National Coordinator for Health Information Technology of the Department of Health and Human Services for the purpose of implementing title IV of the 21st Century Cures Act (division A of Public Law 114–255) [see Tables for classification], and the amendments made by that title, and other objectives of the Office of the National Coordinator for Health Information Technology.

"(G) To plan for and effectuate the broadest possible implementation of standards, specifically with respect to the Fast Healthcare Interoperability Resources standard or successor standard, the evolution of such standards, and the obsolescence of such standards.

"(H) To actively engage with national and international health standards setting organizations, including by taking membership in such organizations, to ensure that standards established by such organizations meet the needs of the Departments pursuant to the strategy under subsection (a), and oversee and approve adoption of and mapping to such standards by the Departments.

"(I) To express the content and format of health data of the Departments using a common language to improve the exchange of data between the Departments and with the private sector, and to ensure that clinicians of the Departments have access to integrated, computable, comprehensive health records of patients.

"(J) To inform the Chief Information Officer of the Department of Defense and the Chief Information Officer of the Department of Veterans Affairs of any activities of the Office affecting or relevant to cybersecurity.

"(K) To establish an environment that will enable and encourage the adoption by the Departments of innovative technologies for health care delivery.

"(L) To leverage data integration to advance health research and develop an evidence base for the health care programs of the Departments.

"(M) To prioritize the use of open systems architecture by the Departments.

"(N) To ensure ownership and control by patients of personal health information and data in a manner consistent with applicable law.

"(O) To prevent contractors of the Departments or other non-departmental entities from owning or having exclusive control over patient health data, for the purposes of protecting patient privacy and enhancing opportunities for innovation.

"(P) To implement a single lifetime longitudinal personal health record between the Department of Defense and the Department of Veterans Affairs.

"(Q) To attain interoperability capabilities—

"(i) sufficient to enable the provision of seamless health care by health care facilities and providers of the Departments, as well as private sector facilities and providers contracted by the Departments; and

"(ii) that are more adaptable and far reaching than those achievable through biodirectional information exchange between electronic health records of the exchange of read-only data alone.

"(R) To make maximum use of open-application program interfaces and the Fast Healthcare Interoperability Resources standard (or successor standard).

"(c) LEADERSHIP.—

"(1) DIRECTOR.—The Director of the Office shall be the head of the Office.

"(2) DEPUTY DIRECTOR.—The Deputy Director of the Office shall be the deputy head of the Office and shall assist the Director in carrying out the duties of the Director.

"(3) REPORTING.—The Director shall report directly to the Deputy Secretary of Defense and the Deputy Secretary of Veterans Affairs.

"(4) APPOINTMENTS.—

"(A) DIRECTOR.—The Director shall be appointed by the Secretary of Defense, with the concurrence of the Secretary of Veterans Affairs, for a fixed term of four years. For the subsequent term, the Secretary of Veterans Affairs, with the concurrence of the Secretary of Defense, shall appoint the Director for a fixed term of four years, and thereafter, the appointment of the Director for a fixed term of four years shall alternate between the Secretaries.

"(B) DEPUTY DIRECTOR.—The Deputy Director shall be appointed by the Secretary of Veterans Affairs, with the concurrence of the Secretary of Defense, for a fixed term of four years. For the subsequent term, the Secretary of Defense, with the concurrence of the Secretary of Veterans Affairs, shall appoint the Deputy Director for a fixed term of four years, and thereafter, the appointment of the Deputy Director for a fixed term of four years shall alternate between the Secretaries.

"(C) MINIMUM QUALIFICATIONS.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop qualification requirements for the Director and the Deputy Director. Such requirements shall ensure that, at a minimum, the Director and Deputy Director, individually or together, meet the following qualifications:

"(i) Significant experience at a senior management level fielding enterprise-wide technology in a health care setting, or business systems in the public or private sector.

"(ii) Credentials for enterprise-wide program management.

"(iii) Significant experience leading implementation of complex organizational change by integrating the input of experts from various disciplines, such as clinical, business, management, informatics, and technology.

"(5) SUCCESSION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop a leadership succession process for the Office.

"(6) ADDITIONAL GUIDANCE.—The Department of Veterans Affairs-Department of Defense Joint Executive Committee may provide guidance in the discharge of the functions of the Office under this section.

"(7) INFORMATION TO CONGRESS.—Upon request by any of the appropriate committees of Congress, the Director and the Deputy Director shall testify before such committee, or provide a briefing or otherwise provide requested information to such committee, regarding the discharge of the functions of the Office under this section.

"(d) FUNCTION.—The function of the Office shall be to implement, by not later than September 30, 2009, electronic health record systems or capabilities that allow for full interoperability of personal health care

information between the Department of Defense and the Department of Veterans Affairs, which health records shall comply with applicable interoperability standards, implementation specifications, and certification criteria (including for the reporting of quality measures) of the Federal Government.

"(e) IMPLEMENTATION MILESTONES.—

"(1) EVALUATION.—With respect to the electronic health record systems of the Department of Defense and the Department of Veterans Affairs, the Office shall seek to enter into an agreement with an independent entity to conduct an evaluation by not later than October 1, 2021[,] of the following:

"(A) Whether a clinician of the Department of Defense, can access, and meaningfully interact with, a complete patient health record of a veteran, from a military medical treatment facility.

"(B) Whether a clinician of the Department of Veterans Affairs can access, and meaningfully interact with, a complete patient health record of a member of the Armed Forces serving on active duty, from a medical center of the Department of Veterans Affairs.

"(C) Whether clinicians of the Departments can access, and meaningfully interact with, the data elements of the health record of a patient who is a veteran or is a member of the Armed Forces which are generated when the individual receives health care from a community care provider of the Department of Veterans Affairs or a TRICARE program provider of the Department of Defense.

"(D) Whether a community care provider of the Department of the Veterans Affairs and a TRICARE program provider of the Department of Defense on a Health Information Exchange-supported electronic health record can access patient health records of veterans and active-duty members of the Armed Forces from the system of the provider.

"(E) An assessment of interoperability between the legacy electronic health record systems and the future electronic health record systems of the Department of Veterans Affairs and the Department of Defense.

"(F) An assessment of the use of interoperable content between—

"(i) the legacy electronic health record systems and the future electronic health record systems of the Department of Veterans Affairs and the Department of Defense; and

"(ii) third-party applications.

"(2) SYSTEM CONFIGURATION MANAGEMENT.—The Office shall—

"(A) maintain the common configuration baseline for the electronic health record systems of the Department of Defense and the Department of Veterans Affairs; and

"(B) continually evaluate the state of configuration and the impacts on interoperability; and

"(C) promote the enhancement of such electronic health records systems.

"(3) CONSULTATION.—

"(A) ANNUAL MEETING REQUIRED.—Not less than once per year, the Office shall convene a meeting of clinical staff from the Department of Defense, the Department of Veterans Affairs, the Coast Guard, community providers, and other leading clinical experts, for the purpose of assessing the state of clinical use of the electronic health record systems and whether the systems are meeting clinical and patient needs.

"(B) RECOMMENDATIONS.—Clinical staff participating in a meeting under subparagraph (A) shall make recommendations to the Office on the need for any improvements or concerns with the electronic health record systems.

"(4) CLINICAL AND PATIENT SATISFACTION SURVEY.—Beginning October 1, 2021, and on at least a biannual basis thereafter until 2025 at the earliest, the Office shall undertake a clinician and patient satisfaction survey regarding clinical use and patient experience with the electronic health record systems of the Department of Defense and the Department of Veterans Affairs.

"(f) PILOT PROJECTS.—

"(1) AUTHORITY.—In order to assist the Office in the discharge of its function under this section, the Secretary of Defense and the Secretary of Veterans Affairs may, acting jointly, carry out one or more pilot projects to assess the feasibility and advisability of various technological approaches to the achievement of the electronic health record systems or capabilities described in subsection (d).

"(2) SHARING OF PROTECTED HEALTH INFORMATION.—For purposes of each pilot project carried out under this subsection, the Secretary of Defense and the Secretary of Veterans Affairs shall, for purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104–191] (42 U.S.C. 1320d–2 note), ensure the effective sharing of protected health information between the health care system of the Department of Defense and the health care system of the Department of Veterans Affairs as needed to provide all health care services and other benefits allowed by law.

"(g) STAFF AND OTHER RESOURCES.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall assign to the Office such personnel and other resources of the Department of Defense and the Department of Veterans Affairs as are required for the discharge of its function under this section, including the assignment of clinical or technical personnel of the Department of Defense or the Department of Veterans Affairs to the Office.

"(2) ADDITIONAL SERVICES.—Subject to the approval of the Secretary of Defense and the Secretary of Veterans Affairs, the Director may utilize the services of private individuals and entities as consultants to the Office in the discharge of its function under this section. Amounts available to the Office shall be available for payment for such services.

"(3) COST SHARING.—The Secretary of Defense and the Secretary of Veterans shall enter into an agreement on cost sharing and providing resources for the operations and staffing of the Office.

"(4) HIRING AUTHORITY.—The Secretary of Defense and the Secretary of Veterans Affairs shall delegate to the Director the authority under title 5, United States Code, regarding appointments in the competitive service to hire personnel of the Office.

"(h) REPORTS.—

"(1) ANNUAL REPORTS.—Not later than September 30, 2020, and each year thereafter through 2024, the Director shall submit to the Secretary of Defense and the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report on the activities of the Office during the preceding calendar year. Each report shall include the following:

"(A) A detailed description of the activities of the Office during the year covered by such report, including a detailed description of the amounts expended and the purposes for which expended.

"(B) With respect to the objectives of the strategy under paragraph (2)(C) of subsection (b), and the purposes of the Office under such subsection—

"(i) a discussion, description, and assessment of the progress made by the Department of Defense and the Department of Veterans Affairs during the preceding calendar year; and

"(ii) a discussion and description of the goals of the Department of Defense and the Department of Veterans Affairs for the following calendar year, including updates to strategies and plans.

"(C) A detailed financial summary of the activities of the Office, including the funds allocated to the Office by each Department, the expenditures made, and an assessment as to whether the current funding is sufficient to carry out the activities of the Office.

"(D) A detailed description of the status of each of the implementation milestones, including the nature of the evaluation, methodology for testing, and findings with respect to each milestone under subsection (e).

"(E) A detailed description of the state of the configuration baseline, including any activities which decremented or enhanced the state of configuration under subsection (e).

"(F) With respect to the annual meeting required under subsection (e)(3)—

"(i) a detailed description of activities, assessments, and recommendations relating to such meeting; and

"(ii) the response of the Office to any such recommendations.

"(2) AVAILABILITY.—Each report under this subsection shall be made publicly available.

"(i) COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION.—Not later than six months after the date of the enactment of this Act [Jan. 28, 2008] and every six months thereafter until the completion of the implementation of electronic health record systems or capabilities described in subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Department of Defense and the Department of Veterans Affairs in implementing electronic health record systems or capabilities described in subsection (d).

"(j) TECHNOLOGY-NEUTRAL GUIDELINES AND STANDARDS.—The Director, in consultation with industry and appropriate Federal agencies, shall develop, or shall adopt from industry, technology-neutral information technology infrastructure guidelines and standards for use by the Department of Defense and the Department of Veterans Affairs to enable those departments to effectively select and utilize information technologies to meet the requirements of this section.

"(k) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Committees on Veterans' Affairs of the House of Representatives and the Senate.

"(2) The term 'configuration baseline' means a fixed reference in the development cycle or an agreed-upon specification of a product at a point in time that serves as a documented basis for defining incremental change in all aspects of an information technology product.

"(3) The term 'Electronic Health Record Modernization Program' has the meaning given that term in section 503 of the Veterans Benefits and Transition Act of 2018 (Public Law 115–407; 132 Stat. 5376) [38 U.S.C. note prec. 5701].

"(4) The term 'interoperability' means the ability of different information systems, devices, or applications to connect, regardless of the technology platform or the location where care is provided—

"(A) in a coordinated and secure manner, within and across organizational boundaries, and across the complete spectrum of care, including all applicable care settings;

"(B) with relevant stakeholders, including the person whose information is being shared, to access, exchange, integrate, and use computable data regardless of the origin or destination of the data or the applications employed;

"(C) with the capability to reliably exchange information without error;

"(D) with the ability to interpret and to make effective use of such exchanged information;

"(E) with the ability for information that can be used to advance patient care to move between health care entities; and

"(F) without additional intervention by the end user.

"(5) The term 'meaningfully interact' means the ability to view, consume, act upon, and edit information in a clinical setting to facilitate high-quality clinical decision making.

"(6) The term 'seamless health care' means health care which is optimized through access by patients and clinicians to integrated, relevant, and complete information about the clinical experiences of the patient, social and environmental determinants of health, and health trends over time, in order to enable patients and clinicians to—

"(A) move efficiently within and across organizational boundaries;

"(B) make high-quality decisions; and

"(C) effectively carry out complete plans of care.

"(7) The term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to matters concerning the Department of Defense;

"(B) the Secretary of Veterans Affairs, with respect to matters concerning the Department of Veterans Affairs; and

"(C) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

"(8) The term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code. [As amended Pub. L. 110–417, [div. A], title II, §252, Oct. 14, 2008, 122 Stat. 4400; Pub. L. 113–175, title I, §105, Sept. 26, 2014, 128 Stat. 1903; Pub. L. 114–58, title IV, §411, Sept. 30, 2015, 129 Stat. 536; Pub. L. 114–228, title IV, §414, Sept. 29, 2016, 130 Stat. 941; Pub. L. 116–92, div. A, title VII, §715(a)–(g), Dec. 20, 2019, 133 Stat. 1446–1451.]

"SEC. 1644. AUTHORIZATION OF PILOT PROGRAMS TO IMPROVE THE DISABILITY EVALUATION SYSTEM FOR MEMBERS OF THE ARMED FORCES.

"(a) PILOT PROGRAMS.—

"(1) PROGRAMS AUTHORIZED.—For the purposes set forth in subsection (c), the Secretary of Defense may establish and conduct pilot programs with respect to the system of the Department of Defense for the evaluation of the disabilities of members of the Armed Forces who are being separated or retired from the Armed Forces for disability under chapter 61 of title 10, United States Code (in this section referred to as the 'disability evaluation system').

"(2) TYPES OF PILOT PROGRAMS.—In carrying out this section, the Secretary of Defense may conduct one or more of the pilot programs described in paragraphs (1) through (3) of subsection (b) or such other pilot programs as the Secretary of Defense considers appropriate.

"(3) CONSULTATION.—In establishing and conducting any pilot program under this section, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

"(b) SCOPE OF PILOT PROGRAMS.—

"(1) DISABILITY DETERMINATIONS BY DOD UTILIZING VA ASSIGNED DISABILITY RATING.—Under one of the pilot programs authorized by subsection (a), for purposes of making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired

list under chapter 61 of such title, upon a determination by the Secretary of the military department concerned that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

"(A) the Secretary of Veterans Affairs may—

"(i) conduct an evaluation of the member for physical disability; and

"(ii) assign the member a rating of disability in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

"(B) the Secretary of the military department concerned may make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A)(ii).

"(2) DISABILITY DETERMINATIONS UTILIZING JOINT DOD/VA ASSIGNED DISABILITY RATING.—Under one of the pilot programs authorized by subsection (a), in making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, the Secretary of the military department concerned may, upon determining that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

"(A) provide for the joint evaluation of the member for disability by the Secretary of the military department concerned and the Secretary of Veterans Affairs, including the assignment of a rating of disability for the member in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

"(B) make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A).

"(3) ELECTRONIC CLEARING HOUSE.—Under one of the pilot programs authorized by subsection (a), the Secretary of Defense may establish and operate a single Internet website for the disability evaluation system of the Department of Defense that enables participating members of the Armed Forces to fully utilize such system through the Internet, with such Internet website to include the following:

"(A) The availability of any forms required for the utilization of the disability evaluation system by members of the Armed Forces under the system.

"(B) Secure mechanisms for the submission of such forms by members of the Armed Forces under the system, and for the tracking of the acceptance and review of any forms so submitted.

"(C) Secure mechanisms for advising members of the Armed Forces under the system of any additional information, forms, or other items that are required for the acceptance and review of any forms so submitted.

"(D) The continuous availability of assistance to members of the Armed Forces under the system (including assistance through the caseworkers assigned to such members of the Armed Forces) in submitting and tracking such forms, including assistance in obtaining information, forms, or other items described by subparagraph (C).

"(E) Secure mechanisms to request and receive personnel files or other personnel records of members of the Armed Forces under the system that are required for submission under the disability evaluation system, including the capability to track requests for such files or records and to determine the status of such requests and of responses to such requests.

"(4) OTHER PILOT PROGRAMS.—The pilot programs authorized by subsection (a) may also provide for the development, evaluation, and identification of such practices and procedures under the disability evaluation system as the Secretary considers appropriate for purposes set forth in subsection (c).

"(c) PURPOSES.—A pilot program established under subsection (a) may have one or more of the following purposes:

"(1) To provide for the development, evaluation, and identification of revised and improved practices and procedures under the disability evaluation system in order to—

"(A) reduce the processing time under the disability evaluation system of members of the Armed Forces who are likely to be retired or separated for disability, and who have not requested continuation on active duty, including, in particular, members who are severely wounded;

"(B) identify and implement or seek the modification of statutory or administrative policies and requirements applicable to the disability evaluation system that—

"(i) are unnecessary or contrary to applicable best practices of civilian employers and civilian healthcare systems; or

"(ii) otherwise result in hardship, arbitrary, or inconsistent outcomes for members of the

Armed Forces, or unwarranted inefficiencies and delays;

"(C) eliminate material variations in policies, interpretations, and overall performance standards among the military departments under the disability evaluation system; and

"(D) determine whether it enhances the capability of the Department of Veterans Affairs to receive and determine claims from members of the Armed Forces for compensation, pension, hospitalization, or other veterans benefits.

"(2) In conjunction with the findings and recommendations of applicable Presidential and Department of Defense study groups, to provide for the eventual development of revised and improved practices and procedures for the disability evaluation system in order to achieve the objectives set forth in paragraph (1).

"(d) UTILIZATION OF RESULTS IN UPDATES OF COMPREHENSIVE POLICY ON CARE, MANAGEMENT, AND TRANSITION OF RECOVERING SERVICE MEMBERS.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, may incorporate responses to any findings and recommendations arising under the pilot programs conducted under subsection (a) in updating the comprehensive policy on the care and management of covered service members under section 1611(a)(4).

"(e) CONSTRUCTION WITH OTHER AUTHORITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), in carrying out a pilot program under subsection (a)—

"(A) the rules and regulations of the Department of Defense and the Department of Veterans Affairs relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces shall apply to the pilot program only to the extent provided in the report on the pilot program under subsection (g)(1); and

"(B) the Secretary of Defense and the Secretary of Veterans Affairs may waive any provision of title 10, 37, or 38, United States Code, relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces if the Secretaries determine in writing that the application of such provision would be inconsistent with the purpose of the pilot program.

"(2) LIMITATION.—Nothing in paragraph (1) shall be construed to authorize the waiver of any provision of section 1216a of title 10, United States Code, as added by section 1642 of this Act.

"(f) DURATION.—Each pilot program conducted under subsection (a) shall be completed not later than one year after the date of the commencement of such pilot program under that subsection.

"(g) REPORTS.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the appropriate committees of Congress a report on each pilot program that has been commenced as of that date under subsection (a). The report shall include—

"(A) a description of the scope and objectives of the pilot program;

"(B) a description of the methodology to be used under the pilot program to ensure rapid identification under such pilot program of revised or improved practices under the disability evaluation system in order to achieve the objectives set forth in subsection (c)(1); and

"(C) a statement of any provision described in subsection (e)(1)(B) that will not apply to the pilot program by reason of a waiver under that subsection.

"(2) INTERIM REPORT.—Not later than 180 days after the date of the submittal of the report required by paragraph (1) with respect to a pilot program, the Secretary shall submit to the appropriate committees of Congress a report describing the current status of the pilot program.

"(3) FINAL REPORT.—Not later than 90 days after the completion of all of the pilot programs conducted under subsection (a), the Secretary shall submit to the appropriate committees of Congress a report setting forth a final evaluation and assessment of the pilot programs. The report shall include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of such pilot programs.

"SEC. 1648. STANDARDS FOR MILITARY MEDICAL TREATMENT FACILITIES, SPECIALTY MEDICAL CARE FACILITIES, AND MILITARY QUARTERS HOUSING PATIENTS AND ANNUAL REPORT ON SUCH FACILITIES.

"(a) ESTABLISHMENT OF STANDARDS.—The Secretary of Defense shall establish for the military facilities of the Department of Defense and the military departments referred to in subsection (b) standards with respect to the matters set forth in subsection (c). To the maximum extent practicable, the standards shall—

"(1) be uniform and consistent for all such facilities; and

"(2) be uniform and consistent throughout the Department of Defense and the military departments.

"(b) COVERED MILITARY FACILITIES.—The military facilities covered by this section are the following:

"(1) Military medical treatment facilities.

"(2) Specialty medical care facilities.

"(3) Military quarters or leased housing for patients.

"(c) SCOPE OF STANDARDS.—The standards required by subsection (a) shall include the following:

"(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals that may require medical supervision, as applicable, in the United States.

"(2) To the extent not inconsistent with the standards described in paragraph (1), minimally acceptable conditions for the following:

"(A) Appearance and maintenance of facilities generally, including the structure and roofs of facilities.

"(B) Size, appearance, and maintenance of rooms housing or utilized by patients, including furniture and amenities in such rooms.

"(C) Operation and maintenance of primary and back-up facility utility systems and other systems required for patient care, including electrical systems, plumbing systems, heating, ventilation, and air conditioning systems, communications systems, fire protection systems, energy management systems, and other systems required for patient care.

"(D) Compliance of facilities, rooms, and grounds, to the maximum extent practicable, with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(E) Such other matters relating to the appearance, size, operation, and maintenance of facilities and rooms as the Secretary considers appropriate.

"(d) COMPLIANCE WITH STANDARDS.—

"(1) DEADLINE.—In establishing standards under subsection (a), the Secretary shall specify a deadline for compliance with such standards by each facility referred to in subsection (b). The deadline shall be at the earliest date practicable after the date of the enactment of this Act [Jan. 28, 2008], and shall, to the maximum extent practicable, be uniform across the facilities referred to in subsection (b).

"(2) INVESTMENT.—In carrying out this section, the Secretary shall also establish guidelines for investment to be utilized by the Department of Defense and the military departments in determining the allocation of financial resources to facilities referred to in subsection (b) in order to meet the deadline specified under paragraph (1).

"(e) REPORT ON DEVELOPMENT AND IMPLEMENTATION OF STANDARDS.—

"(1) IN GENERAL.—Not later than March 1, 2008, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken to carry out subsection (a).

"(2) ELEMENTS.—The report under paragraph (1) shall include the following:

"(A) The standards established under subsection (a).

"(B) An assessment of the appearance, condition, and maintenance of each facility referred to in subsection (b), including—

"(i) an assessment of the compliance of the facility with the standards established under subsection (a); and

"(ii) a description of any deficiency or noncompliance in each facility with the standards.

"(C) A description of the investment to be allocated to address each deficiency or noncompliance identified under subparagraph (B)(ii). [As amended Pub. L. 114–92, div. A, title X, §1072(e), Nov. 25, 2015, 129 Stat. 995.]

"SEC. 1651. HANDBOOK FOR MEMBERS OF THE ARMED FORCES ON COMPENSATION AND BENEFITS AVAILABLE FOR SERIOUS INJURIES AND ILLNESSES.

"(a) INFORMATION ON AVAILABLE COMPENSATION AND BENEFITS.—Not later than October 1, 2008, the Secretary of Defense shall develop and maintain, in handbook and electronic form, a comprehensive description of the compensation and other benefits to which a member of the Armed Forces, and the family of such member, would be entitled upon the separation or retirement of the member from the Armed Forces as a result of a serious injury or illness. The handbook shall set forth the range of such compensation and benefits based on grade, length of service, degree of disability at separation or retirement, and such other factors affecting such compensation and benefits as the Secretary considers appropriate.

"(b) CONSULTATION.—The Secretary of Defense shall develop and maintain the comprehensive description required by subsection (a), including the handbook and electronic form of the description, in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, and the Commissioner of Social Security.

"(c) UPDATE.—The Secretary of Defense shall update the comprehensive description required by subsection (a), including the handbook and electronic form of the description, on a periodic basis, but not less often than annually.

"(d) PROVISION TO MEMBERS.—The Secretary of the military department concerned shall provide the descriptive handbook under subsection (a) to each member of the Armed Forces described in that subsection as soon as practicable following the injury or illness qualifying the member for coverage under such subsection.

"(e) PROVISION TO REPRESENTATIVES.—If a member is incapacitated or otherwise unable to receive the descriptive handbook to be provided under subsection (a), the handbook shall be provided to the next of kin or a legal representative of the member, as determined in accordance with regulations prescribed by the Secretary of the military department concerned for purposes of this section.

"SEC. 1662. ACCESS OF RECOVERING SERVICE MEMBERS TO ADEQUATE OUTPATIENT RESIDENTIAL FACILITIES.

"All quarters of the United States and housing facilities under the jurisdiction of the Armed Forces that are occupied by recovering service members shall be inspected at least once every two years by the inspectors general of the regional medical commands. [As amended Pub. L. 113–291, div. A, title V, §591, Dec. 19, 2014, 128 Stat. 3394; Pub. L. 114–92, div. A, title X, §1072(f), Nov. 25, 2015, 129 Stat. 995.]

"SEC. 1671. PROHIBITION ON TRANSFER OF RESOURCES FROM MEDICAL CARE.

"Neither the Secretary of Defense nor the Secretaries of the military departments may transfer funds or personnel from medical care functions to administrative functions within the Department of Defense in order to comply with the new administrative requirements imposed by this title [see Short Title of 2008 Amendment note above] or the amendments made by this title.

"SEC. 1672. MEDICAL CARE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES RECOVERING FROM SERIOUS INJURIES OR ILLNESSES.

"(a) MEDICAL CARE AT MILITARY MEDICAL FACILITIES.—

"(1) MEDICAL CARE.—A family member of a recovering service member who is not otherwise eligible for medical care at a military medical treatment facility may be eligible for such care at such facilities, on a space-available basis, if the family member is—

"(A) on invitational orders while caring for the service member;

"(B) a non-medical attendee caring for the service member; or

"(C) receiving per diem payments from the Department of Defense while caring for the service member.

"(2) SPECIFICATION OF FAMILY MEMBERS.—The Secretary of Defense may prescribe in regulations the family members of recovering service members who shall be considered to be a family member of a service member for purposes of this subsection.

"(3) SPECIFICATION OF CARE.—The Secretary of Defense shall prescribe in regulations the medical care that may be available to family members under this subsection at military medical treatment facilities.

"(4) RECOVERY OF COSTS.—The United States may recover the costs of the provision of medical care under this subsection as follows (as applicable):

"(A) From third-party payers, in the same manner as the United States may collect costs of the charges of health care provided to covered beneficiaries from third-party payers under section 1095 of title 10, United States Code.

"(B) As if such care was provided under the authority of section 1784 of title 38, United States Code.

"(b) MEDICAL CARE AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES.—

"(1) MEDICAL CARE.—When a recovering service member is receiving hospital care and medical services at a medical facility of the Department of Veterans Affairs, the Secretary of Veterans Affairs may provide medical care for eligible family members under this section when that care is readily available at that Department facility and on a space-available basis.

"(2) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe in regulations the medical care that may be available to family members under this subsection at medical facilities of the Department of Veterans Affairs.

"SEC. 1676. MORATORIUM ON CONVERSION TO CONTRACTOR PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS AT MILITARY MEDICAL FACILITIES.

"(a) MORATORIUM.—No study or competition may be begun or announced pursuant to section 2461 of title 10, United States Code, or otherwise pursuant to Office of Management and Budget circular A-76, relating to the possible conversion to performance by a contractor of any Department of Defense function carried out at a military medical facility until the Secretary of Defense—

"(1) submits the certification required by subsection (b) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives together with a description of the steps taken by the Secretary in accordance with the certification; and

"(2) submits the report required by subsection (c).

"(b) CERTIFICATION.—The certification referred to in paragraph (a)(1) is a certification that the Secretary has taken appropriate steps to ensure that neither the quality of military medical care nor the availability of qualified personnel to carry out Department of Defense functions related to military medical care will be adversely affected by either—

"(1) the process of considering a Department of Defense function carried out at a military medical facility for possible conversion to performance by a contractor; or

"(2) the conversion of such a function to performance by a contractor.

"(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the public-private competitions being conducted for Department of Defense functions carried out at military medical facilities as of the date of the enactment of this Act by each military department and defense agency. Such report shall include—

"(1) for each such competition—

"(A) the cost of conducting the public-private competition;

"(B) the number of military personnel and civilian employees of the Department of Defense affected;

"(C) the estimated savings identified and the savings actually achieved;

"(D) an evaluation whether the anticipated and budgeted savings can be achieved through a public-private competition; and

"(E) the effect of converting the performance of the function to performance by a contractor on the quality of the performance of the function; and

"(2) an assessment of whether any method of business reform or reengineering other than a public-private competition could, if implemented in the future, achieve any anticipated or budgeted savings."

## DISEASE AND CHRONIC CARE MANAGEMENT

Pub. L. 109–364, div. A, title VII, §734, Oct. 17, 2006, 120 Stat. 2299, required the Secretary of Defense to develop a fully integrated program on disease and chronic care management for the military health care system with uniform policies and practices throughout the system and an implementation plan for the program and to report to Congress no later than Mar. 1, 2008.

## PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES

Pub. L. 109–163, div. A, title II, §256, Jan. 6, 2006, 119 Stat. 3181, as amended by Pub. L. 112–239, div. A, title X, §1076(c)(2)(C), Jan. 2, 2013, 126 Stat. 1950, provided for medical research efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries, including the designation of an executive agent to coordinate and manage such efforts and programs, conduct studies, and develop training protocols, and required an annual report to Congress through 2008.

## ACCESS TO HEALTH CARE SERVICES FOR BENEFICIARIES ELIGIBLE FOR TRICARE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE

Pub. L. 107–314, div. A, title VII, §708, Dec. 2, 2002, 116 Stat. 2585, provided that:

"(a) REQUIREMENT TO ESTABLISH PROCESS.—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall—

"(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

"(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an 'episode of care' for use in the resolution of patient safety and continuity of care issues under such process.

"(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report describing the process prescribed under paragraph (1).

"(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

"(b) COMPTROLLER GENERAL STUDY AND REPORT.—(1) The Comptroller General shall conduct a

study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

"(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are receiving needed health care services in a timely manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

"(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

"(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

"(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

"(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

"(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered beneficiary' has the meaning provided by section 1072(5) of title 10, United States Code.

"(2) The term 'TRICARE program' has the meaning provided by section 1072(7) of such title.

"(3) The term 'TRICARE Prime' has the meaning provided by section 1097a(f) of such title."

## PILOT PROGRAM PROVIDING FOR DEPARTMENT OF VETERANS AFFAIRS SUPPORT IN THE PERFORMANCE OF SEPARATION PHYSICAL EXAMINATIONS

Pub. L. 107–107, div. A, title VII, §734, Dec. 28, 2001, 115 Stat. 1170, authorized the Secretary of Defense and the Secretary of Veterans Affairs to jointly carry out a pilot program, to begin not later than July 1, 2002, and terminate on Dec. 31, 2005, under which the Secretary of Veterans Affairs, in one or more geographic areas, could perform the physical examinations required for separation of members from the uniformed services, and directed the Secretaries to jointly submit to Congress interim and final reports not later than Mar. 1, 2005.

## HEALTH CARE MANAGEMENT DEMONSTRATION PROGRAM

Pub. L. 106–398, §1 [[div. A], title VII, §733], Oct. 30, 2000, 114 Stat. 1654, 1654A–191, as amended by Pub. L. 107–107, div. A, title VII, §737, Dec. 28, 2001, 115 Stat. 1173, directed the Secretary of Defense to carry out a demonstration program on health care management, to begin not later than 180 days after Oct. 30, 2000, and terminate on Dec. 31, 2003, to explore opportunities for improving the planning, programming, budgeting systems, and management of the Department of Defense health care system, and directed the Secretary to submit a report on such program to committees of Congress not later than Mar. 15, 2004.

## PROCESSES FOR PATIENT SAFETY IN MILITARY AND VETERANS HEALTH CARE SYSTEMS

Pub. L. 106–398, §1 [[div. A], title VII, §742], Oct. 30, 2000, 114 Stat. 1654, 1654A–192, provided that:

"(a) ERROR TRACKING PROCESS.—The Secretary of Defense shall implement a centralized process for reporting, compilation, and analysis of errors in the provision of health care under the defense health program that endanger patients beyond the normal risks associated with the care and treatment of such patients. To the extent practicable, that process shall emulate the system established by the Secretary of Veterans Affairs for reporting, compilation, and analysis of errors in the provision of health care under the Department of Veterans Affairs health care system that endanger patients beyond such risks.

"(b) SHARING OF INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs—

"(1) shall share information regarding the designs of systems or protocols established to reduce errors in the provision of health care described in subsection (a); and

"(2) shall develop such protocols as the Secretaries consider necessary for the establishment and administration of effective processes for the reporting, compilation, and analysis of such errors."

## COOPERATION IN DEVELOPING PHARMACEUTICAL IDENTIFICATION TECHNOLOGY

Pub. L. 106–398, §1 [[div. A], title VII, §743], Oct. 30, 2000, 114 Stat. 1654, 1654A–192, provided that: "The Secretary of Defense and the Secretary of Veterans Affairs shall cooperate in developing systems for the use of bar codes for the identification of pharmaceuticals in the health care programs of the Department of Defense and the Department of Veterans Affairs. In any case in which a common pharmaceutical is used in such programs, the bar codes for those pharmaceuticals shall, to the maximum extent practicable, be identical."

## PATIENT CARE REPORTING AND MANAGEMENT SYSTEM

Pub. L. 106–398, §1 [[div. A], title VII, §754], Oct. 30, 2000, 114 Stat. 1654, 1654A–196, as amended by Pub. L. 109–163, div. A, title VII, §741, Jan. 6, 2006, 119 Stat. 3360, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a patient care error reporting and management system.

"(b) PURPOSES OF SYSTEM.—The purposes of the system are as follows:

"(1) To study the occurrences of errors in the patient care provided under chapter 55 of title 10, United States Code.

"(2) To identify the systemic factors that are associated with such occurrences.

"(3) To provide for action to be taken to correct the identified systemic factors.

"(c) REQUIREMENTS FOR SYSTEM.—The patient care error reporting and management system shall include the following:

"(1) A hospital-level patient safety center, within the quality assurance department of each health care organization of the Department of Defense, to collect, assess, and report on the nature and frequency of errors related to patient care.

"(2) For each health care organization of the Department of Defense and for the entire Defense health program, patient safety standards that are necessary for the development of a full understanding of patient safety issues in each such organization and the entire program, including the nature and types of errors and the systemic causes of the errors.

"(3) Establishment of a Department of Defense Patient Safety Center, which shall have the following missions:

"(A) To analyze information on patient care errors that is submitted to the Center by each military health care organization.

"(B) To develop action plans for addressing patterns of patient care errors.

"(C) To execute those action plans to mitigate and control errors in patient care with a goal of ensuring that the health care organizations of the Department of Defense provide highly reliable patient care with virtually no error.

"(D) To provide, through the Assistant Secretary of Defense for Health Affairs, to the Agency for Healthcare Research and Quality of the Department of Health and Human Services any reports that the Assistant Secretary determines appropriate.

"(E) To review and integrate processes for reducing errors associated with patient care and for enhancing patient safety.

"(F) To contract with a qualified and objective external organization to manage the national patient safety database of the Department of Defense.

"(d) MEDICAL TEAM TRAINING PROGRAM.—The Secretary shall expand the health care team coordination program to integrate that program into all Department of Defense health care operations. In carrying out this subsection, the Secretary shall take the following actions:

"(1) Establish not less than two Centers of Excellence for the development, validation, proliferation, and sustainment of the health care team coordination program, one of which shall support all fixed military health care organizations, the other of which shall support all combat casualty care organizations.

"(2) Deploy the program to all fixed and combat casualty care organizations of each of the Armed Forces, at the rate of not less than 10 organizations in each fiscal year.

"(3) Expand the scope of the health care team coordination program from a focus on emergency department care to a coverage that includes care in all major medical specialties, at the rate of not less than one specialty in each fiscal year.

"(4) Continue research and development investments to improve communication, coordination, and team work in the provision of health care.

"(e) CONSULTATION.—The Secretary shall consult with the other administering Secretaries (as defined in section 1072(3) of title 10, United States Code) in carrying out this section."

## CONFIDENTIALITY OF COMMUNICATIONS WITH PROFESSIONALS PROVIDING THERAPEUTIC OR RELATED SERVICES REGARDING SEXUAL OR DOMESTIC ABUSE

Pub. L. 106–65, div. A, title V, §585, Oct. 5, 1999, 113 Stat. 636, required the Secretary of Defense to prescribe in regulations policies and procedures to provide maximum protections for the confidentiality of communications between dependents of Armed Forces members and professionals providing therapeutic or related services regarding sexual or domestic abuse and to report to Congress no later than Jan. 21, 2000.

## HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT

Pub. L. 106–65, div. A, title VII, §723, Oct. 5, 1999, 113 Stat. 695, as amended by Pub. L. 106–398, §1 [[div. A], title VII, §753(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195; Pub. L. 109–163, div. A, title VII, §742, Jan. 6, 2006, 119 Stat. 3360; Pub. L. 109–364, div. A, title X, §1046(e), Oct. 17, 2006, 120 Stat. 2394; Pub. L. 112–81, div. A, title X, §1062(j)(1), Dec. 31, 2011, 125 Stat. 1585; Pub. L. 117–286, §4(a)(47), Dec. 27, 2022, 136 Stat. 4310, provided that:

"(a) PURPOSE.—The purpose of this section is to ensure that the Department of Defense addresses issues of medical quality surveillance and implements solutions for those issues in a timely manner that is consistent with national policy and industry standards.

"(b) DEPARTMENT OF DEFENSE PROGRAM FOR MEDICAL INFORMATICS AND DATA.—The Secretary of Defense shall establish a Department of Defense program, the purposes of which shall be the following:

"(1) To develop parameters for assessing the quality of health care information.

"(2) To develop the defense digital patient record.

"(3) To develop a repository for data on quality of health care.

"(4) To develop capability for conducting research on quality of health care.

"(5) To conduct research on matters of quality of health care.

"(6) To develop decision support tools for health care providers.

"(7) To refine medical performance report cards.

"(8) To conduct educational programs on medical informatics to meet identified needs.

"(c) AUTOMATION AND CAPTURE OF CLINICAL DATA.—(1) Through the program established under subsection (b), the Secretary of Defense shall accelerate the efforts of the Department of Defense to automate, capture, and exchange controlled clinical data and present providers with clinical guidance using a personal information carrier, clinical lexicon, or digital patient record.

"(2) The program shall serve as a primary resource for the Department of Defense for matters concerning the capture, processing, and dissemination of data on health care quality.

"(d) MEDICAL INFORMATICS ADVISORY COMMITTEE.—(1) The Secretary of Defense shall establish a Medical Informatics Advisory Committee (hereinafter referred to as the 'Committee'), the members of which shall be the following:

"(A) The Assistant Secretary of Defense for Health Affairs.

"(B) The Director of the TRICARE Management Activity of the Department of Defense.

"(C) The Surgeon General of the Army.

"(D) The Surgeon General of the Navy.

"(E) The Surgeon General of the Air Force.

"(F) Representatives of the Department of Veterans Affairs, designated by the Secretary of Veterans Affairs.

"(G) Representatives of the Department of Health and Human Services, designated by the Secretary of Health and Human Services.

"(H) Any additional members appointed by the Secretary of Defense to represent health care insurers and managed care organizations, academic health institutions, health care providers (including representatives of physicians and representatives of hospitals), and accreditors of health care plans and organizations.

"(2) The primary mission of the Committee shall be to advise the Secretary on the development, deployment, and maintenance of health care informatics systems that allow for the collection, exchange, and processing of health care quality information for the Department of Defense in coordination with other Federal departments and agencies and with the private sector.

"(3) Specific areas of responsibility of the Committee shall include advising the Secretary on the following:

"(A) The ability of the medical informatics systems at the Department of Defense and Department of Veterans Affairs to monitor, evaluate, and improve the quality of care provided to beneficiaries.

"(B) The coordination of key components of medical informatics systems, including digital patient records, both within the Federal Government and between the Federal Government and the private sector.

"(C) The development of operational capabilities for executive information systems and clinical decision support systems within the Department of Defense and Department of Veterans Affairs.

"(D) Standardization of processes used to collect, evaluate, and disseminate health care quality information.

"(E) Refinement of methodologies by which the quality of health care provided within the Department of Defense and Department of Veterans Affairs is evaluated.

"(F) Protecting the confidentiality of personal health information.

"(4) The Assistant Secretary of Defense for Health Affairs shall consult with the Committee on the issues described in paragraph (3).

"(5) Members of the Committee shall not be paid by reason of their service on the Committee.

"(6) Chapter 10 of title 5, United States Code, shall not apply to the Committee."

[Section 1062(j)(1)(A) of Pub. L. 112–81, which directed the redesignation of pars. (6) and (7) as (5) and (6) of section 723(d) of Pub. L. 106–65, set out above, could not be executed due to the prior identical amendment by section 1046(e) of Pub. L. 109–364.]

## JOINT DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REPORTS RELATING TO INTERDEPARTMENTAL COOPERATION IN DELIVERY OF MEDICAL CARE

Pub. L. 105–261, div. A, title VII, §745, Oct. 17, 1998, 112 Stat. 2075, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(g)(1), Nov. 24, 2003, 117 Stat. 1604, (1) directed the Secretary of Defense and the Secretary of Veterans Affairs to jointly conduct a survey of their respective medical care beneficiary populations to identify the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care, and to submit a report on the results of the survey to committees of Congress not later than Jan. 1, 2000; (2) directed the same Secretaries to jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care and to submit a report on the results of the review to committees of Congress not later than Mar. 1, 1999; (3) directed the Secretary of Defense to review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program; (4) directed the Department of Defense-Department of Veterans Affairs Federal Pharmacy Executive Steering Committee to examine existing pharmaceutical benefits and programs for beneficiaries and review existing methods for contracting for and distributing medical supplies and services and to submit a report on the results of the examination to committees of Congress not later than 60 days after its completion; and (5) directed the Secretary of Defense and the Secretary of Veterans Affairs to jointly submit to committees of Congress a report, not later than Mar. 1, 1999, on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities.

## EXTERNAL PEER REVIEW FOR DEFENSE HEALTH PROGRAM EXTRAMURAL MEDICAL RESEARCH INVOLVING HUMAN SUBJECTS

Pub. L. 104–201, div. A, title VII, §742, Sept. 23, 1996, 110 Stat. 2600, provided that:

"(a) ESTABLISHMENT OF EXTERNAL PEER REVIEW PROCESS.—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

"(b) PEER REVIEW REQUIREMENTS.—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been approved by the external peer review process established under subsection (a).

"(c) MEDICAL RESEARCH PROJECT DEFINED.—For purposes of this section, the term 'medical research project' means a research project that—

"(1) involves the participation of human subjects;

"(2) is conducted solely by a non-Federal entity; and

"(3) is funded through the Defense Health Program account.

"(d) EFFECTIVE DATE.—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date.

"(e) EXCEPTIONS.—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

"(1) A medical research project that the Secretary determines has been substantially completed by

October 1, 1996.

"(2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply."

## ANNUAL BENEFICIARY SURVEY

Pub. L. 102–484, div. A, title VII, §724, Oct. 23, 1992, 106 Stat. 2440, as amended by Pub. L. 103–337, div. A, title VII, §717, Oct. 5, 1994, 108 Stat. 2804, provided that:

"(a) SURVEY REQUIRED.—The administering Secretaries shall conduct annually a formal survey of persons receiving health care under chapter 55 of title 10, United States Code, in order to determine the following:

"(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

"(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

"(3) The health of such persons.

"(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

"(5) Such other matters as the administering Secretaries determine appropriate.

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.

"(c) DEFINITION.—For purposes of this section, the term 'administering Secretaries' has the meaning given such term in section 1072(3) of title 10, United States Code."

## COMPREHENSIVE STUDY OF MILITARY MEDICAL CARE SYSTEM

Pub. L. 102–190, div. A, title VII, §733, Dec. 5, 1991, 105 Stat. 1408, as amended by Pub. L. 102–484, div. A, title VII, §723, Oct. 23, 1992, 106 Stat. 2440, directed Secretary of Defense to conduct a comprehensive study of the military medical care system, not later than Dec. 15, 1992, to submit to congressional defense committees a detailed accounting on progress of the study, including preliminary results of the study, and not later than Dec. 15, 1993, submit to congressional defense committees a final report on the study.

## IDENTIFICATION AND TREATMENT OF DRUG AND ALCOHOL DEPENDENT PERSONS IN THE ARMED FORCES

Pub. L. 92–129, title V, §501, Sept. 28, 1971, 85 Stat. 361, which directed Secretary of Defense to devise ways to identify, treat, and rehabilitate drug and alcohol dependent members of the armed forces, to identify, refuse admission to, and refer to civilian treatment facilities such persons seeking entrance to the armed forces, and to report to Congress on and suggest additional legislation concerning these matters, was repealed and restated as sections 978 and 1090 of this title by Pub. L. 97–295, §§1(14)(A), (15)(A), 6(b), Oct. 12, 1982, 96 Stat. 1289, 1290, 1314.

## DEFINITIONS

Pub. L. 114–328, div. A, title VII, §728(c), Dec. 23, 2016, 130 Stat. 2234, provided that: "In this section [amending section 1073b of this title and enacting provisions set out as a note under this section]:

"(1) The term 'Core Quality Measures Collaborative' means the collaboration between the Centers for Medicare & Medicaid Services, major health insurance companies, national physician organizations, and other entities to reach consensus on core performance measures reported by health care providers.

"(2) The term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

## EXECUTIVE DOCUMENTS

## EX. ORD. NO. 13625. IMPROVING ACCESS TO MENTAL HEALTH SERVICES FOR VETERANS, SERVICE MEMBERS, AND MILITARY FAMILIES

Ex. Ord. No. 13625, Aug. 31, 2012, 77 F.R. 54783, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. *Policy*. Since September 11, 2001, more than two million service members have deployed to Iraq or Afghanistan. Long deployments and intense combat conditions require optimal support for the

emotional and mental health needs of our service members and their families. The need for mental health services will only increase in the coming years as the Nation deals with the effects of more than a decade of conflict. Reiterating and expanding upon the commitment outlined in my Administration's 2011 report, entitled "Strengthening Our Military Families," we have an obligation to evaluate our progress and continue to build an integrated network of support capable of providing effective mental health services for veterans, service members, and their families. Our public health approach must encompass the practices of disease prevention and the promotion of good health for all military populations throughout their lifespans, both within the health care systems of the Departments of Defense and Veterans Affairs and in local communities. Our efforts also must focus on both outreach to veterans and their families and the provision of high quality mental health treatment to those in need. Coordination between the Departments of Veterans Affairs and Defense during service members' transition to civilian life is essential to achieving these goals.

Ensuring that all veterans, service members (Active, Guard, and Reserve alike), and their families receive the support they deserve is a top priority for my Administration. As part of our ongoing efforts to improve all facets of military mental health, this order directs the Secretaries of Defense, Health and Human Services, Education, Veterans Affairs, and Homeland Security to expand suicide prevention strategies and take steps to meet the current and future demand for mental health and substance abuse treatment services for veterans, service members, and their families.

SEC. 2. *Suicide Prevention*. (a) By December 31, 2012, the Department of Veterans Affairs, in continued collaboration with the Department of Health and Human Services, shall expand the capacity of the Veterans Crisis Line by 50 percent to ensure that veterans have timely access, including by telephone, text, or online chat, to qualified, caring responders who can help address immediate crises and direct veterans to appropriate care. Further, the Department of Veterans Affairs shall ensure that any veteran identifying him or herself as being in crisis connects with a mental health professional or trained mental health worker within 24 hours. The Department of Veterans Affairs also shall expand the number of mental health professionals who are available to see veterans beyond traditional business hours.

(b) The Departments of Veterans Affairs and Defense shall jointly develop and implement a national suicide prevention campaign focused on connecting veterans and service members to mental health services. This 12-month campaign, which shall begin on September 1, 2012, will focus on the positive benefits of seeking care and encourage veterans and service members to proactively reach out to support services.

(c) To provide the best mental health and substance abuse prevention, education, and outreach support to our military and their family members, the Department of Defense shall review all of its existing mental health and substance abuse prevention, education, and outreach programs across the military services and the Defense Health Program to identify the key program areas that produce the greatest impact on quality and outcomes, and rank programs within each of these program areas using metrics that assess their effectiveness. By the end of Fiscal Year 2014, existing program resources shall be realigned to ensure that highly ranked programs are implemented across all of the military services and less effective programs are replaced.

SEC. 3. *Enhanced Partnerships Between the Department of Veterans Affairs and Community Providers*. (a) Within 180 days of the date of this order, in those service areas where the Department of Veterans Affairs has faced challenges in hiring and placing mental health service providers and continues to have unfilled vacancies or long wait times, the Departments of Veterans Affairs and Health and Human Services shall establish pilot projects whereby the Department of Veterans Affairs contracts or develops formal arrangements with community-based providers, such as community mental health clinics, community health centers, substance abuse treatment facilities, and rural health clinics, to test the effectiveness of community partnerships in helping to meet the mental health needs of veterans in a timely way. Pilot sites shall ensure that consumers of community-based services continue to be integrated into the health care systems of the Department of Veterans Affairs. No fewer than 15 pilot projects shall be established.

(b) The Department of Veterans Affairs shall develop guidance for its medical centers and service networks that supports the use of community mental health services, including telehealth services and substance abuse services, where appropriate, to meet demand and facilitate access to care. This guidance shall include recommendations that medical centers and service networks use community-based providers to help meet veterans' mental health needs where objective criteria, which the Department of Veterans Affairs shall define in the form of specific metrics, demonstrate such needs. Such objective criteria should include estimates of wait-times for needed care that exceed established targets.

(c) The Departments of Health and Human Services and Veterans Affairs shall develop a plan for a rural mental health recruitment initiative to promote opportunities for the Department of Veterans Affairs and rural communities to share mental health providers when demand is insufficient for either the Department of Veterans Affairs or the communities to independently support a full-time provider.

SEC. 4. *Expanded Department of Veterans Affairs Mental Health Services Staffing*. The Secretary of

Veterans Affairs shall, by December 31, 2013, hire and train 800 peer-to-peer counselors to empower veterans to support other veterans and help meet mental health care needs. In addition, the Secretary shall continue to use all appropriate tools, including collaborative arrangements with community-based providers, pay-setting authorities, loan repayment and scholarships, and partnerships with health care workforce training programs to accomplish the Department of Veterans Affairs' goal of recruiting, hiring, and placing 1,600 mental health professionals by June 30, 2013. The Department of Veterans Affairs also shall evaluate the reporting requirements associated with providing mental health services and reduce paperwork requirements where appropriate. In addition, the Department of Veterans Affairs shall update its management performance evaluation system to link performance to meeting mental health service demand.

SEC. 5. *Improved Research and Development*. (a) The lack of full understanding of the underlying mechanisms of Post-Traumatic Stress Disorder (PTSD), other mental health conditions, and Traumatic Brain Injury (TBI) has hampered progress in prevention, diagnosis, and treatment. In order to improve the coordination of agency research into these conditions and reduce the number of affected men and women through better prevention, diagnosis, and treatment, the Departments of Defense, Veterans Affairs, Health and Human Services, and Education, in coordination with the Office of Science and Technology Policy, shall establish a National Research Action Plan within 8 months of the date of this order.

(b) The National Research Action Plan shall include strategies to establish surrogate and clinically actionable biomarkers for early diagnosis and treatment effectiveness; develop improved diagnostic criteria for TBI; enhance our understanding of the mechanisms responsible for PTSD, related injuries, and neurological disorders following TBI; foster development of new treatments for these conditions based on a better understanding of the underlying mechanisms; improve data sharing between agencies and academic and industry researchers to accelerate progress and reduce redundant efforts without compromising privacy; and make better use of electronic health records to gain insight into the risk and mitigation of PTSD, TBI, and related injuries. In addition, the National Research Action Plan shall include strategies to support collaborative research to address suicide prevention.

(c) The Departments of Defense and Health and Human Services shall engage in a comprehensive longitudinal mental health study with an emphasis on PTSD, TBI, and related injuries to develop better prevention, diagnosis, and treatment options. Agencies shall continue ongoing collaborative research efforts, with an aim to enroll at least 100,000 service members by December 31, 2012, and include a plan for long-term follow-up with enrollees through a coordinated effort with the Department of Veterans Affairs.

SEC. 6. *Military and Veterans Mental Health Interagency Task Force*. There is established an Interagency Task Force on Military and Veterans Mental Health (Task Force), to be co-chaired by the Secretaries of Defense, Veterans Affairs, and Health and Human Services, or their designated representatives.

(a) *Membership*. In addition to the Co-Chairs, the Task Force shall consist of representatives from:

(i) the Department of Education;

(ii) the Office of Management and Budget;

(iii) the Domestic Policy Council;

(iv) the National Security Staff;

(v) the Office of Science and Technology Policy;

(vi) the Office of National Drug Control Policy; and

(vii) such other executive departments, agencies, or offices as the Co-Chairs may designate.

A member agency of the Task Force shall designate a full-time officer or employee of the Federal Government to perform the Task Force functions.

(b) *Mission*. Member agencies shall review relevant statutes, policies, and agency training and guidance to identify reforms and take actions that facilitate implementation of the strategies outlined in this order. Member agencies shall work collaboratively on these strategies and also create an inventory of mental health and substance abuse programs and activities to inform this work.

(c) *Functions*.

(i) Not later than 180 days after the date of this order, the Task Force shall submit recommendations to the President on strategies to improve mental health and substance abuse treatment services for veterans, service members, and their families. Every year thereafter, the Task Force shall provide to the President a review of agency actions to enhance mental health and substance abuse treatment services for veterans, service members, and their families consistent with this order, as well as provide additional recommendations for action as appropriate. The Task Force shall define specific goals and metrics that will aid in measuring progress in improving mental health strategies. The Task Force will include cost analysis in the development of all recommendations, and will ensure any new requirements are supported within existing resources.

(ii) In addition to coordinating and reviewing agency efforts to enhance veteran and military mental health services pursuant to this order, the Task Force shall evaluate:

(1) agency efforts to improve care quality and ensure that the Departments of Defense and Veterans Affairs and community-based mental health providers are trained in the most current evidence-based methodologies for treating PTSD, TBI, depression, related mental health conditions, and substance abuse;

(2) agency efforts to improve awareness and reduce stigma for those needing to seek care; and

(3) agency research efforts to improve the prevention, diagnosis, and treatment of TBI, PTSD, and related injuries, and explore the need for an external research portfolio review.

(iii) In performing its functions, the Task Force shall consult with relevant nongovernmental experts and organizations as necessary.

SEC. 7. *General Provisions*. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

## §1072. Definitions

In this chapter:

(1) The term "uniformed services" means the armed forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

(2) The term "dependent", with respect to a member or former member of a uniformed service, means—

(A) the spouse;

(B) the unremarried widow;

(C) the unremarried widower;

(D) a child who—

(i) has not attained the age of 21;

(ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support; or

(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support;

(E) a parent or parent-in-law who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support and residing in his household;

(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

(G) a person who (i) is the unremarried former spouse of a member or former member who performed at least 20 years of service which is creditable in determining the member or former member's eligibility for retired or retainer pay, or equivalent pay, and on the date of the final

decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member's eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

(H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree; and

(I) an unmarried person who—

(i) is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months;

(ii) either—

(I) has not attained the age of 21;

(II) has not attained the age of 23 and is enrolled in a full time course of study at an institution of higher learning approved by the administering Secretary; or

(III) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this subparagraph pursuant to subclause (I) or (II);

(iii) is dependent on the member or former member for over one-half of the person's support;

(iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and

(v) is not a dependent of a member or a former member under any other subparagraph.

(3) The term "administering Secretaries" means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.

(4) The term "Civilian Health and Medical Program of the Uniformed Services" means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

(5) The term "covered beneficiary" means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.

(6) The term "child", with respect to a member or former member of a uniformed service, means the following:

(A) An unmarried legitimate child.

(B) An unmarried adopted child.

(C) An unmarried stepchild.

(D) An unmarried person—

(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense), or by any other source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption of the person by the member or former member; and

(ii) who otherwise meets the requirements specified in paragraph (2)(D).

(7) The term "TRICARE program" means the various programs carried out by the Secretary of Defense under this chapter and any other provision of law providing for the furnishing of medical and dental care and health benefits to members and former members of the uniformed services and their dependents, including the following health plan options:

(A) TRICARE Prime.

(B) TRICARE Select.
(C) TRICARE for Life.

(8) The term "custodial care" means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—
(A) can be rendered safely and reasonably by a person who is not medically skilled; or
(B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term "domiciliary care" means care provided to a patient in an institution or homelike environment because—
(A) providing support for the activities of daily living in the home is not available or is unsuitable; or
(B) members of the patient's family are unwilling to provide the care.

(10) The term "health care" includes mental health care.
(11) The term "TRICARE Extra" means the preferred-provider option of the TRICARE program made available prior to January 1, 2018, under which TRICARE Standard beneficiaries may obtain discounts on cost sharing as a result of using TRICARE network providers.
(12) The term "TRICARE Select" means the self-managed, preferred-provider network option under the TRICARE program established by section 1075 of this title.
(13) The term "TRICARE for Life" means the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of this title.
(14) The term "TRICARE Prime" means the managed care option of the TRICARE program.
(15) The term "TRICARE Standard" means the TRICARE program made available prior to January 1, 2018, covering health benefits contracted for under the authority of section 1079(a) or 1086(a) of this title and subject to the same rates and conditions as apply to persons covered under those sections.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89–614, §2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title I, §115(b), title V, §511(34)(A), (35), (36), Dec. 12, 1980, 94 Stat. 2877, 2922, 2923; Pub. L. 97–252, title X, §1004(a), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98–525, title VI, §645(a), Oct. 19, 1984, 98 Stat. 2548; Pub. L. 98–557, §19(1), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99–661, div. A, title VII, §701(b), Nov. 14, 1986, 100 Stat. 3898; Pub. L. 101–189, div. A, title VII, §731(a), Nov. 29, 1989, 103 Stat. 1481; Pub. L. 102–484, div. A, title VII, §706, Oct. 23, 1992, 106 Stat. 2433; Pub. L. 103–160, div. A, title VII, §702(a), Nov. 30, 1993, 107 Stat. 1686; Pub. L. 103–337, div. A, title VII, §701(a), Oct. 5, 1994, 108 Stat. 2797; Pub. L. 105–85, div. A, title VII, §711, Nov. 18, 1997, 111 Stat. 1808; Pub. L. 107–107, div. A, title VII, §701(c), Dec. 28, 2001, 115 Stat. 1160; Pub. L. 109–163, div. A, title V, §592(b), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3280, 3440; Pub. L. 110–181, div. A, title VII, §708(a), Jan. 28, 2008, 122 Stat. 190; Pub. L. 114–328, div. A, title VII, §701(j)(1)(A), Dec. 23, 2016, 130 Stat. 2191; Pub. L. 115–91, div. A, title VII, §739(a), Dec. 12, 2017, 131 Stat. 1446.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1072(1) | 37:402(a)(1). | June 7, 1956, ch. 374, §102(a)(1), (4), 70 Stat. 250. |
| 1072(2) | 37:402(a)(4). | |

In clause (1), the words "the armed forces" are substituted for the words "the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard" to reflect section 101(4) of this title.

In clause (2), the words "or to a person who died while a member or retired member of a uniformed service" and "lawful" are omitted as surplusage. The word "former" is substituted for the word "retired", since a retired member or a member of the Fleet Reserve or the Fleet Marine Corps Reserve is already included as a "member" of an armed force.

Clause (2)(E) combines 37:402(a)(4)(E) and (G).

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1072, act Aug. 10, 1956, ch. 1041, 70A Stat. 81, defined terms used in former sections 1071 to 1086 of this title, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2017**—Par. (15). Pub. L. 115–91 amended par. (15) generally. Prior to amendment, par. (15) read as follows: "The term 'TRICARE Standard' means the TRICARE program made available prior to January 1, 2018, covering—

"(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

"(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section."

**2016**—Par. (7). Pub. L. 114–328, §701(j)(1)(A)(i), added par. (7) and struck out former par. (7) which read as follows: "The term 'TRICARE program' means the managed health care program that is established by the Department of Defense under the authority of this chapter, principally section 1097 of this title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services."

Pars. (11) to (15). Pub. L. 114–328, §701(j)(1)(A)(ii), added pars. (11) to (15).

**2008**—Par. (10). Pub. L. 110–181 added par. (10).

**2006**—Par. (2)(I)(i). Pub. L. 109–163, §1057(a)(2), struck out "or a Territory" before "or possession".

Par. (6)(D)(i). Pub. L. 109–163, §592(b), inserted ", or by any other source authorized by State or local law to provide adoption placement," after "(recognized by the Secretary of Defense)".

**2001**—Pars. (8), (9). Pub. L. 107–107 added pars. (8) and (9).

**1997**—Par. (7). Pub. L. 105–85 added par. (7).

**1994**—Par. (2)(D). Pub. L. 103–337, §701(a)(1), substituted "a child who" for "an unmarried legitimate child, including an adopted child or stepchild, who" in introductory provisions.

Par. (6). Pub. L. 103–337, §701(a)(2), added par. (6).

**1993**—Par. (2)(I). Pub. L. 103–160 added subpar. (I).

**1992**—Par. (2)(D). Pub. L. 102–484 added subpar. (D) and struck out former subpar. (D) which read as follows: "an unmarried legitimate child, including an adopted child or a stepchild, who either—

"(i) has not passed his twenty-first birthday;

"(ii) is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) has not passed his twenty-third birthday, is enrolled in a full-time course of study in an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;".

**1989**—Par. (2)(H). Pub. L. 101–189 added subpar. (H).

**1986**—Par. (1). Pub. L. 99–661, §701(b)(1), substituted "The term 'uniformed services' means" for " 'Uniformed services' means".

Par. (2). Pub. L. 99–661, §701(b)(2), substituted "The term 'dependent', with respect to" for " 'Dependent', with respect to".

Par. (3). Pub. L. 99–661, §701(b)(3), substituted "The term 'administering Secretaries' means" for " 'Administering Secretaries' means".

Pars. (4), (5). Pub. L. 99–661, §701(b)(4), added pars. (4) and (5).

**1984**—Par. (2)(D)(iii). Pub. L. 98–557, §19(1)(A), substituted reference to the administering Secretary for reference to the Secretary of Defense or the Secretary of Health and Human Services.

Par. (2)(G). Pub. L. 98–525 added subpar. (G).

Par. (3). Pub. L. 98–557, §19(1)(B), added par. (3).

**1982**—Par. (2)(F). Pub. L. 97–252 added cl. (F).

**1980**—Pub. L. 96–513, §511(34)(A), substituted in introductory material reference to this chapter for reference to sections 1071–1087 of this title.

Par. (1). Pub. L. 96–513, §511(35), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Par. (2). Pub. L. 96–513, §§115(b), 511(36), substituted "spouse" for "wife" in cl. (A), struck out cl. (C) "the husband, if he is in fact dependent on the member or former member for over one-half of his support;", redesignated cls. (D), (E), and (F) as (C), (D), and (E), respectively, in cl. (C) as so redesignated, struck out ", if, because of mental or physical incapacity he was in fact dependent on the member or former member at the time of her death for over one-half of his support" after "the unremarried widower", and in cl. (D)(iii) as so redesignated, substituted "Health and Human Services" for "Health, Education, and Welfare".

**1966**—Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in clause (1).

Pub. L. 89–614 substituted "1087" for "1085" in introductory phrase.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VII, §701(k), Dec. 23, 2016, 130 Stat. 2193, provided that: "The amendments made by this section [enacting sections 1075 and 1075a of this title and amending this section and sections 1076d, 1076e, 1079a, 1095f, 1099, and 1110b of this title] shall apply with respect to the provision of health care under the TRICARE program beginning on January 1, 2018."

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title VII, §702(b), Nov. 30, 1993, 107 Stat. 1686, provided that: "Section 1072(2)(I) of title 10, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994."

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title VII, §731(d), Nov. 29, 1989, 103 Stat. 1482, provided that:

"(1) The amendments made by this section [enacting section 1086a of this title and amending this section and sections 1076 and 1086 of this title] apply to a person referred to in section 1072(2)(H) of title 10, United States Code (as added by subsection (a)), whose decree of divorce, dissolution, or annulment becomes final on or after the date of the enactment of this Act [Nov. 29, 1989].

"(2) The amendments made by this section shall also apply to a person referred to in such section whose decree of divorce, dissolution, or annulment became final during the period beginning on September 29, 1988, and ending on the day before the date of the enactment of this Act, as if the amendments had become effective on September 29, 1988."

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title VI, §645(d), Oct. 19, 1984, 98 Stat. 2549, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and provisions set out as a note under section 1408 of this title and enacting provisions set out as a note under this section] shall be effective on January 1, 1985, and shall apply with respect to health care furnished on or after that date."

### EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 115(b) of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, and amendment by section 511(34)(A), (35), (36) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

## CONTINUATION OF INDIVIDUAL CASE MANAGEMENT SERVICES FOR CERTAIN ELIGIBLE BENEFICIARIES

Pub. L. 107–107, div. A, title VII, §701(d), Dec. 28, 2001, 115 Stat. 1160, provided that:

"(1) Notwithstanding the termination of the Individual Case Management Program by subsection (g) [amending section 1079 of this title and repealing provisions set out as a note under section 1077 of this title], the Secretary of Defense shall, in any case in which the Secretary makes the determination described in paragraph (2), continue to provide payment as if such program were in effect for home health care or custodial care services provided to an eligible beneficiary that would otherwise be excluded from coverage under regulations implementing chapter 55 of title 10, United States Code.

"(2) The determination referred to in paragraph (1) is a determination that discontinuation of payment for services not otherwise provided under such chapter would result in the provision of services inadequate to meet the needs of the eligible beneficiary and would be unjust to such beneficiary.

"(3) For purposes of this subsection, 'eligible beneficiary' means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who, before the effective date of this section [Dec. 28, 2001], was provided custodial care services under the Individual Case Management Program for which the Secretary provided payment."

## IMPROVEMENTS IN ADMINISTRATION OF THE TRICARE PROGRAM; FLEXIBILITY OF CONTRACTING

Pub. L. 107–107, div. A, title VII, §708(a), Dec. 28, 2001, 115 Stat. 1164, provided that:

"(1) During the one-year period following the date of the enactment of this Act [Dec. 28, 2001], section 1072(7) of title 10, United States Code, shall be deemed to be amended by striking 'the competitive selection of contractors to financially underwrite'.

"(2) The terms and conditions of any contract to provide health care services under the TRICARE program entered into during the period described in paragraph (1) shall not be considered to be modified or terminated as a result of the termination of such period."

## TRANSITIONAL PROVISIONS FOR QUALIFICATION FOR CONVERSION HEALTH POLICIES; PREEXISTING CONDITIONS

Pub. L. 101–189, div. A, title VII, §731(e), Nov. 29, 1989, 103 Stat. 1483, provided that:

"(1) In the case of a person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2549) [set out below], on September 28, 1988, the Secretary of Defense shall make a conversion health policy available for purchase by the person during the remaining period the person is considered to be a dependent under that section (or within a reasonable time after that period as prescribed by the Secretary of Defense).

"(2) Purchase of a conversion health policy under paragraph (1) by a person shall entitle the person to health care for preexisting conditions in the same manner and to the same extent as provided by section 1086a(b) of title 10, United States Code (as added by subsection (b)), until the end of the one-year period beginning on the later of—

"(A) the date the person is no longer qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985; and

"(B) the date of the purchase of the policy.

"(3) For purposes of this subsection, the term 'conversion health policy' has the meaning given that term in section 1086a(c) of title 10, United States Code (as added by subsection (b))."

## DEPENDENT; QUALIFICATION AS; EFFECTIVE DATE

Pub. L. 98–525, title VI, §645(c), Oct. 19, 1984, 98 Stat. 2549, as amended by Pub. L. 99–661, div. A, title VI, §646, Nov. 14, 1986, 100 Stat. 3887; Pub. L. 100–271, §1, Mar. 29, 1988, 102 Stat. 45; Pub. L. 100–271, §1, Mar. 29, 1988, 102 Stat. 45, provided that a person who would qualify as a dependent under section 1072(2)(G) of title 10 but for the fact that the person's final decree of divorce, dissolution, or annulment was dated on or after Apr. 1, 1985, would be considered to be a dependent under such section until the later of (1) Dec. 31, 1988, and (2) the last day of the two-year period beginning on the date of such final decree, prior to repeal by Pub. L. 100–456, div. A, title VI, §651(b), Sept. 29, 1988, 102 Stat. 1990, effective Sept. 29, 1988, or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in section 1076(f) of title 10), whichever is later.

## §1073. Administration of this chapter

(a) RESPONSIBLE OFFICIALS.—(1) Except as otherwise provided in this chapter, the Secretary of Defense shall administer this chapter for the armed forces under his jurisdiction, the Secretary of Homeland Security shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter for the National Oceanic and Atmospheric Administration and the Public Health Service. This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).

(2) Except as otherwise provided in this chapter, the Secretary of Defense shall have responsibility for administering the TRICARE program and making any decision affecting such program.

(b) STABILITY IN PROGRAM OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, provide a stable program of benefits under this chapter throughout each fiscal year. To achieve the stability in the case of managed care support contracts entered into under this chapter, the contracts shall be administered so as to implement all changes in benefits and administration on a quarterly basis. However, the Secretary of Defense may implement any such change prior to the next fiscal quarter if the Secretary determines that the change would significantly improve the provision of care to eligible beneficiaries under this chapter.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89–614, §2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §511(34)(A), (C), (35), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; Pub. L. 98–557, §19(2), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 105–12, §9(h), Apr. 30, 1997, 111 Stat. 27; Pub. L. 106–65, div. A, title VII, §725, title X, §1066(a)(7), Oct. 5, 1999, 113 Stat. 698, 770; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–383, div. A, title VII, §711, Jan. 7, 2011, 124 Stat. 4246.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1073 | 37:402(b). | June 7, 1956, ch. 374, §102(b), 70 Stat. 251. |

The words "armed forces under his jurisdiction" are substituted for the words "Army, Navy, Air Force, and Marine Corps and for the Coast Guard when it is operating as a service in the Navy" to reflect section 101(4) of this title.

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a)(1), is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42 and Tables.

#### PRIOR PROVISIONS

A prior section 1073, act Aug. 10, 1956, ch. 1041, 70A Stat. 82, related to right to vote in war-time presidential and congressional election, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

**2011**—Subsec. (a). Pub. L. 111–383 designated existing provisions as par. (1) and added par. (2).

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Pub. L. 106–65, §725, designated existing provisions, as amended by Pub. L. 106–65, §1066(a)(7),

as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 106–65, §1066(a)(7), inserted "(42 U.S.C. 14401 et seq.)" after "Act of 1997".

**1997**—Pub. L. 105–12 inserted at end "This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997."

**1984**—Pub. L. 98–557 inserted provisions which transferred authority to administer chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy from the Secretary of Health and Human Services to the Secretary of Transportation.

**1980**—Pub. L. 96–513 substituted in section catchline "of this chapter" for "of sections 1071–1087 of this title", and substituted in text "this chapter" for "sections 1071–1087 of this title", "those sections", and "them", "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare", and "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

Pub. L. 89–614 substituted "1087" for "1085" in section catchline and text.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### REAL-TIME DATA SHARING AGREEMENT REGARDING MEDICAL CARE PROVIDED TO MEMBERS OF THE COAST GUARD

Pub. L. 118–31, div. A, title VII, §715, Dec. 22, 2023, 137 Stat. 304, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall consult and enter into an agreement with the Secretary of Homeland Security with respect to policies, mechanisms, and processes that the Secretaries concerned shall establish to allow ongoing use by the Coast Guard for access to data, records, and information regarding access by members of the Coast Guard and beneficiaries of such members to military medical facilities or care provided through the TRICARE program that will enhance the ability to monitor, assess, and optimize healthcare services."

### PILOT PROGRAM ON ASSISTANCE FOR MENTAL HEALTH APPOINTMENT SCHEDULING AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 117–81, div. A, title VII, §734, Dec. 27, 2021, 135 Stat. 1799, provided that:

"(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall commence a pilot program, to be carried out for at least a one-year

period, to provide direct assistance for mental health appointment scheduling under the direct care and purchased care components of the TRICARE program, through facilities and clinics selected by the Secretary for participation in the pilot program in a number determined by the Secretary.

"(b) BRIEFINGS.—

"(1) FIRST BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the nature of the pilot program under subsection (a).

"(2) FINAL BRIEFING.—Not later than 90 days after the date on which the pilot program under subsection (a) terminates, the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the pilot program. Such briefing shall include an assessment of—

"(A) the effectiveness of the pilot program with respect to improved access to mental health appointments; and

"(B) any barriers to scheduling mental health appointments under the pilot program observed by health care professionals or other individuals involved in scheduling such appointments.

"(c) TRICARE PROGRAM DEFINED.—In this section, the term 'TRICARE program' has the meaning given such term in section 1072 of title 10, United States Code."

**EXTRAMEDICAL MATERNAL HEALTH PROVIDERS DEMONSTRATION PROJECT**

Pub. L. 116–283, div. A, title VII, §746, Jan. 1, 2021, 134 Stat. 3710, provided that:

"(a) DEMONSTRATION PROJECT REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall commence carrying out a demonstration project designed to evaluate the cost, quality of care, and impact on maternal and fetal outcomes of using extramedical maternal health providers under the TRICARE program to determine the appropriateness of making coverage of such providers under the TRICARE program permanent.

"(b) ELEMENTS OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall include, for participants in the demonstration project, the following:

"(1) Access to doulas.

"(2) Access to lactation consultants or lactation counselors who are not otherwise authorized to provide services under the TRICARE program.

"(c) PARTICIPANTS.—The Secretary shall establish a process under which covered beneficiaries may enroll in the demonstration project to receive the services provided under the demonstration project.

"(d) DURATION.—The Secretary shall carry out the demonstration project for a period of five years beginning on the date on which notification of the commencement of the demonstration project is published in the Federal Register.

"(e) SURVEYS.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and annually thereafter for the duration of the demonstration project, the Secretary shall administer a survey to determine—

"(A) how many members of the Armed Forces or spouses of such members give birth while their spouse or birthing partner is unable to be present due to deployment, training, or other mission requirements;

"(B) how many single members of the Armed Forces give birth alone; and

"(C) how many members of the Armed Forces or spouses of such members use doula, lactation consultant, or lactation counselor support.

"(2) MATTERS COVERED BY SURVEYS.—The surveys administered under paragraph (1) shall include an identification of the following:

"(A) The race, ethnicity, age, sex, relationship status, Armed Force, military occupation, and rank, as applicable, of each individual surveyed.

"(B) If individuals surveyed were members of the Armed Forces or the spouses of such members, or both.

"(C) The length of advanced notice received by individuals surveyed that the member of the Armed Forces would be unable to be present during the birth, if applicable.

"(D) Any resources or support that the individuals surveyed found useful during the pregnancy and birth process, including doula, lactation consultant, or lactation counselor support.

"(f) REPORTS.—

"(1) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the

Senate a plan to implement the demonstration project.

"(2) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than one year after the date on which the demonstration project commences, and annually thereafter for the duration of the demonstration project, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the cost of the demonstration project and the effectiveness of the demonstration project in improving quality of care and the maternal and fetal outcomes of covered beneficiaries enrolled in the demonstration project.

"(B) MATTERS COVERED.—Each report submitted under subparagraph (A) shall address, at a minimum, the following:

"(i) The number of covered beneficiaries who are enrolled in the demonstration project.

"(ii) The number of enrolled covered beneficiaries who have participated in the demonstration project.

"(iii) The results of the surveys under subsection (e).

"(iv) The cost of the demonstration project.

"(v) An assessment of the quality of care provided to participants in the demonstration project.

"(vi) An assessment of the impact of the demonstration project on maternal and fetal outcomes.

"(vii) An assessment of the effectiveness of the demonstration project.

"(viii) Recommendations for adjustments to the demonstration project.

"(ix) The estimated costs avoided as a result of improved maternal and fetal health outcomes due to the demonstration project.

"(x) Recommendations for extending the demonstration project or implementing permanent coverage under the TRICARE program of extramedical maternal health providers.

"(xi) An identification of legislative or administrative action necessary to make the demonstration project permanent.

"(C) FINAL REPORT.—The final report under subparagraph (A) shall be submitted not later than 90 days after the date on which the demonstration project terminates.

"(g) EXPANSION OF DEMONSTRATION PROJECT.—

"(1) REGULATIONS.—If the Secretary determines that the demonstration project is successful, the Secretary may prescribe regulations to include extramedical maternal health providers as health care providers authorized to provide care under the TRICARE program.

"(2) CREDENTIALING AND OTHER REQUIREMENTS.—The Secretary may establish credentialing and other requirements for doulas, lactation consultants, and lactation counselors through public notice and comment rulemaking for purposes of including doulas, lactation consultants, and lactation counselors as health care providers authorized to provide care under the TRICARE program pursuant to regulations prescribed under paragraph (1).

"(h) DEFINITIONS.—In this section:

"(1) The terms 'covered beneficiary' and 'TRICARE program' have the meanings given those terms in section 1072 of title 10, United States Code.

"(2) The term 'extramedical maternal health provider' means a doula, lactation consultant, or lactation counselor."

## RESIDENCY REQUIREMENTS FOR PODIATRISTS

Pub. L. 115–91, div. A, title VII, §720, Dec. 12, 2017, 131 Stat. 1440, provided that:

"(a) REQUIREMENT.—In addition to any other qualification required by law or regulation, the Secretary of Defense shall ensure that to serve as a podiatrist in the Armed Forces, an individual must have successfully completed a three-year podiatric medicine and surgical residency.

"(b) APPLICATION.—Subsection (a) shall apply with respect to an individual who is commissioned as an officer in the Armed Forces on or after the date that is one year after the date of the enactment of this Act [Dec. 12, 2017]."

## AUTHORIZATION OF PHYSICAL THERAPIST ASSISTANTS AND OCCUPATIONAL THERAPY ASSISTANTS TO PROVIDE SERVICES UNDER THE TRICARE PROGRAM

Pub. L. 115–91, div. A, title VII, §721, Dec. 12, 2017, 131 Stat. 1440, provided that:

"(a) ADDITION TO LIST OF AUTHORIZED PROFESSIONAL PROVIDERS OF CARE.—The Secretary of Defense shall revise section 199.6(c) of title 32, Code of Federal Regulations, as in effect on the date of the enactment of this Act [Dec. 12, 2017], to add to the list of individual professional providers of care

who are authorized to provide services to beneficiaries under the TRICARE program, as defined in section 1072 of title 10, United States Code, the following types of health care practitioners:

"(1) Licensed or certified physical therapist assistants who meet the qualifications for physical therapist assistants specified in section 484.4 of title 42, Code of Federal Regulations, or any successor regulation, to furnish services under the supervision of a physical therapist.

"(2) Licensed or certified occupational therapy assistants who meet the qualifications for occupational therapy assistants specified in such section 484.4, or any successor regulation, to furnish services under the supervision of an occupational therapist.

"(b) SUPERVISION.—The Secretary of Defense shall establish in regulations requirements for the supervision of physical therapist assistants and occupational therapy assistants, respectively, by physical therapists and occupational therapists, respectively.

"(c) MANUALS AND OTHER GUIDANCE.—The Secretary of Defense shall update the CHAMPVA Policy Manual and other relevant manuals and subregulatory guidance of the Department of Defense to carry out the revisions and requirements of this section."

## TERMINATION OF TRICARE STANDARD AND TRICARE EXTRA

Pub. L. 114–328, div. A, title VII, §701(e), Dec. 23, 2016, 130 Stat. 2187, provided that: "Beginning on January 1, 2018, the Secretary of Defense may not carry out TRICARE Standard and TRICARE Extra under the TRICARE program. The Secretary shall ensure that any individual who is covered under TRICARE Standard or TRICARE Extra as of December 31, 2017, enrolls in TRICARE Prime or TRICARE Select, as the case may be, as of January 1, 2018, for the individual to continue coverage under the TRICARE program."

[For definitions of terms used in section 701(e) of Pub. L. 114–328, set out above, see section 703(i) of Pub. L. 114–328, set out as a note below.]

## PILOT PROGRAM ON INCORPORATION OF VALUE-BASED HEALTH CARE IN PURCHASED CARE COMPONENT OF TRICARE PROGRAM

Pub. L. 114–328, div. A, title VII, §701(h), Dec. 23, 2016, 130 Stat. 2188, authorized the Secretary of Defense to carry out a pilot program to demonstrate and assess the feasibility of incorporating value-based health care methodology in the purchased care component of the TRICARE program. The Secretary would submit a report on value-based health care methodology to the Committees on Armed Services of the Senate and the House of Representatives no later than 180 days after Dec. 23, 2016. The Comptroller General of the United States would submit a review and assessment of the preliminary results of the pilot program to the Committees on Armed Services of the Senate and the House of Representatives no later than Mar. 1, 2021. The Secretary would submit a review and assessment of the pilot program to the Committees on Armed Services of the Senate and the House of Representatives no later than Jan. 1, 2023. The Secretary could no longer carry out the pilot program after Dec. 31, 2022.

## IMPROVEMENT OF HEALTH OUTCOMES AND CONTROL OF COSTS OF HEALTH CARE UNDER TRICARE PROGRAM THROUGH PROGRAMS TO INVOLVE COVERED BENEFICIARIES

Pub. L. 114–328, div. A, title VII, §729, Dec. 23, 2016, 130 Stat. 2234, as amended by Pub. L. 117–81, div. A, title VII, §719, Dec. 27, 2021, 135 Stat. 1790, provided that:

"(a) MEDICAL INTERVENTION INCENTIVE PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a program to incentivize covered beneficiaries to participate in medical intervention programs established by the Secretary, such as comprehensive disease management programs, that may include lowering fees for enrollment in the TRICARE program by a certain percentage or lowering copayment and cost-share amounts for health care services during a particular year for covered beneficiaries with chronic diseases or conditions described in paragraph (2) who met participation milestones, as determined by the Secretary, in such medical intervention programs.

"(2) CHRONIC DISEASES OR CONDITIONS DESCRIBED.—Chronic diseases or conditions described in this paragraph may include diabetes, chronic obstructive pulmonary disease, asthma, congestive heart failure, hypertension, history of stroke, coronary artery disease, mood disorders, obesity, and such other diseases or conditions as the Secretary determines appropriate.

"(b) LIFESTYLE INTERVENTION INCENTIVE PROGRAM.—The Secretary shall establish a program to incentivize lifestyle interventions for covered beneficiaries, such as smoking cessation and weight reduction, that may include lowering fees for enrollment in the TRICARE program by a certain percentage or

lowering copayment and cost share amounts for health care services during a particular year for covered beneficiaries who met participation milestones, as determined by the Secretary, with respect to such lifestyle interventions, such as quitting smoking or achieving a lower body mass index by a certain percentage.

"(c) HEALTHY LIFESTYLE MAINTENANCE INCENTIVE PROGRAM.—The Secretary shall establish a program to incentivize the maintenance of a healthy lifestyle among covered beneficiaries, such as exercise and weight maintenance, that may include lowering fees for enrollment in the TRICARE program by a certain percentage or lowering copayment and cost-share amounts for health care services during a particular year for covered beneficiaries who met participation milestones, as determined by the Secretary, with respect to the maintenance of a healthy lifestyle, such as maintaining smoking cessation or maintaining a normal body mass index.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 2020, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the programs established under subsections (a), (b), and (c).

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A detailed description of the programs implemented under subsections (a), (b), and (c).

"(B) An assessment of the impact of such programs on—

"(i) improving health outcomes for covered beneficiaries; and

"(ii) lowering per capita health care costs for the Department of Defense.

"(e) REGULATIONS.—Not later than January 1, 2018, the Secretary shall prescribe an interim final rule to carry out this section.

"(f) DEFINITIONS.—In this section, the terms 'covered beneficiary' and 'TRICARE program' have the meaning given those terms in section 1072 of title 10, United States Code."

## ACCESS TO HEALTH CARE UNDER THE TRICARE PROGRAM FOR BENEFICIARIES OF TRICARE PRIME

Pub. L. 114–92, div. A, title VII, §704, Nov. 25, 2015, 129 Stat. 863, as amended by Pub. L. 118–159, div. A, title VII, §701, Dec. 23, 2024, 138 Stat. 1941, provided that:

"(a) ACCESS TO HEALTH CARE.—The Secretary of Defense shall ensure that beneficiaries under TRICARE Prime who are seeking an appointment for health care under TRICARE Prime shall obtain such an appointment within the health care access standards established under subsection (b), including through the use of health care providers in the preferred provider network of TRICARE Prime.

"(b) STANDARDS FOR ACCESS TO CARE.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall establish health care access standards for the receipt of health care under TRICARE Prime, whether received at military medical treatment facilities or from health care providers in the preferred provider network of TRICARE Prime.

"(2) CATEGORIES OF CARE.—The health care access standards established under paragraph (1) shall include standards with respect to the following categories of health care:

"(A) Primary care, including pediatric care, maternity care, gynecological care, and other subcategories of primary care.

"(B) Specialty care, including behavioral health care and other subcategories of specialty care.

"(3) MODIFICATIONS.—The Secretary may modify the health care access standards established under paragraph (1) whenever the Secretary considers the modification of such standards appropriate.

"(4) PUBLICATION.—The Secretary shall publish the health care access standards established under paragraph (1), and any modifications to such standards, in the Federal Register and on a publicly accessible Internet website of the Department of Defense.

"(c) ACCESS TO SPECIALTY BEHAVIORAL HEALTH CARE.—

"(1) MONITORING.—The Secretary shall continuously monitor the ability of beneficiaries under TRICARE Prime to receive an appointment for specialty behavioral health care under TRICARE Prime within the access standards established under subsection (b)(2)(B) for such health care.

"(2) EXPANSION OF BEHAVIORAL HEALTH ACCREDITATION STANDARDS.—

"(A) DETERMINATIONS.—The Secretary shall expand required behavioral health accreditation standards in a State if the Secretary makes the following determinations:

"(i) Access to specialty behavioral health care in that State fails to meet the access standards established under subsection (b)(2)(B) for more than 12 consecutive months.

"(ii) The expanded accreditation standards are adequate to ensure quality of care.

"(B) STATE CREDENTIALS.—The Secretary may include in expanded behavioral health

accreditation standards under subparagraph (A) appropriate credentials issued by State-level organizations.

"(C) BRIEFINGS.—If the Secretary expands behavioral health accreditation standards under subparagraph (A), the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on such expansion, including how such expansion affects access to specialty behavioral health care.

"(D) NOTIFICATIONS.—If the Secretary makes a determination under clause (i) of subparagraph (A), but does not make a determination under clause (ii) of such subparagraph, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a notice explaining both such determinations.

"(3) TERMINATION.—The authority of the Secretary under this subsection shall terminate on January 1, 2028.

"(d) DEFINITIONS.—In this section:

"(1) TRICARE PRIME.—The term 'TRICARE Prime' means the managed care option of the TRICARE program.

"(2) TRICARE PROGRAM.—The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code."

## PORTABILITY OF HEALTH PLANS UNDER THE TRICARE PROGRAM

Pub. L. 114–92, div. A, title VII, §714, Nov. 25, 2015, 129 Stat. 865, provided that:

"(a) HEALTH PLAN PORTABILITY.—

"(1) IN GENERAL.—The Secretary of Defense shall ensure that covered beneficiaries under the TRICARE program who are covered under a health plan under such program are able to seamlessly access health care under such health plan in each TRICARE program region.

"(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall prescribe regulations to carry out paragraph (1).

"(b) MECHANISMS TO ENSURE PORTABILITY.—In carrying out subsection (a), the Secretary shall—

"(1) establish a process for electronic notification of contractors responsible for administering the TRICARE program in each TRICARE region when any covered beneficiary intends to relocate between such regions;

"(2) provide for the automatic electronic transfer between such contractors of information relating to covered beneficiaries who are relocating between such regions, including demographic, enrollment, and claims information; and

"(3) ensure each such covered beneficiary is able to obtain a new primary health care provider within ten days of—

"(A) arriving at the location to which the covered beneficiary has relocated; and

"(B) initiating a request for a new primary health care provider.

"(c) PUBLICATION.—The Secretary shall—

"(1) publish information on any modifications made pursuant to subsection (a) with respect to the ability of covered beneficiaries under the TRICARE program who are covered under a health plan under such program to access health care in each TRICARE region on the primary Internet website of the Department that is available to the public; and

"(2) ensure that such information is made available on the primary Internet website that is available to the public of each current contractor responsible for administering the TRICARE program.

"(d) DEFINITIONS.—In this section, the terms 'covered beneficiary' and 'TRICARE program' have the meaning given such terms in section 1072 of title 10, United States Code."

## LICENSURE OF MENTAL HEALTH PROFESSIONALS IN TRICARE PROGRAM

Pub. L. 114–92, div. A, title VII, §716, Nov. 25, 2015, 129 Stat. 867, provided that:

"(a) QUALIFICATIONS FOR TRICARE CERTIFIED MENTAL HEALTH COUNSELORS DURING TRANSITION PERIOD.—During the period preceding January 1, 2021, for purposes of determining whether a mental health care professional is eligible for reimbursement under the TRICARE program as a TRICARE certified mental health counselor, an individual who holds a masters degree or doctoral degree in counseling from a program that is accredited by a covered institution shall be treated as holding such degree from a mental health counseling program or clinical mental health counseling program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered institution' means any of the following:

"(A) The Accrediting Commission for Community and Junior Colleges Western Association of

Schools and Colleges (ACCJC-WASC).

"(B) The Higher Learning Commission (HLC).

"(C) The Middle States Commission on Higher Education (MSCHE).

"(D) The New England Association of Schools and Colleges Commission on Institutions of Higher Education (NEASC-CIHE).

"(E) The Southern Association of Colleges and Schools (SACS) Commission on Colleges.

"(F) The WASC Senior College and University Commission (WASC-SCUC).

"(G) The Accrediting Bureau of Health Education Schools (ABHES).

"(H) The Accrediting Commission of Career Schools and Colleges (ACCSC).

"(I) The Accrediting Council for Independent Colleges and Schools (ACICS).

"(J) The Distance Education Accreditation Commission (DEAC).

"(2) The term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

## DESIGNATION OF CERTAIN NON-DEPARTMENT MENTAL HEALTH CARE PROVIDERS WITH KNOWLEDGE RELATING TO TREATMENT OF MEMBERS OF THE ARMED FORCES

Pub. L. 114–92, div. A, title VII, §717, Nov. 25, 2015, 129 Stat. 868, provided that:

"(a) MENTAL HEALTH PROVIDER READINESS DESIGNATION.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall develop a system by which any non-Department mental health care provider that meets eligibility criteria established by the Secretary relating to the knowledge described in paragraph (2) receives a mental health provider readiness designation from the Department of Defense.

"(2) KNOWLEDGE DESCRIBED.—The knowledge described in this paragraph is the following:

"(A) Knowledge and understanding with respect to the culture of members of the Armed Forces and family members and caregivers of members of the Armed Forces.

"(B) Knowledge with respect to evidence-based treatments that have been approved by the Department for the treatment of mental health issues among members of the Armed Forces.

"(b) AVAILABILITY OF INFORMATION ON DESIGNATION.—

"(1) REGISTRY.—The Secretary of Defense shall establish and update as necessary a publically available registry of all non-Department mental health care providers that are currently designated under subsection (a)(1).

"(2) PROVIDER LIST.—The Secretary shall update all lists maintained by the Secretary of non-Department mental health care providers that provide mental health care under the laws administered by the Secretary by indicating the providers that are currently designated under subsection (a)(1).

"(c) NON-DEPARTMENT MENTAL HEALTH CARE PROVIDER DEFINED.—In this section, the term 'non-Department mental health care provider'—

"(1) means a health care provider who—

"(A) specializes in mental health;

"(B) is not a health care provider of the Department of Defense at a facility of the Department; and

"(C) provides health care to members of the Armed Forces; and

"(2) includes psychiatrists, psychologists, psychiatric nurses, social workers, mental health counselors, marriage and family therapists, and other mental health care providers designated by the Secretary of Defense."

## PILOT PROGRAM ON URGENT CARE UNDER TRICARE PROGRAM

Pub. L. 114–92, div. A, title VII, §725, Nov. 25, 2015, 129 Stat. 870, provided for a three-year pilot program to allow TRICARE beneficiaries access to urgent care visits without the need for preauthorization and to a nurse advice line and required submission of a final report to Congress no later than 180 days after the program was completed.

## COOPERATIVE HEALTH CARE AGREEMENTS BETWEEN MILITARY INSTALLATIONS AND NON-MILITARY HEALTH CARE SYSTEMS

Pub. L. 111–84, div. A, title VII, §713, Oct. 28, 2009, 123 Stat. 2380, provided that:

"(a) AUTHORITY.—The Secretary of Defense may establish cooperative health care agreements between military installations and local or regional health care systems.

"(b) REQUIREMENTS.—In establishing an agreement under subsection (a), the Secretary shall—

"(1) consult with—

"(A) the Secretary of the military department concerned;

"(B) representatives from the military installation selected for the agreement, including the TRICARE managed care support contractor with responsibility for such installation; and

"(C) Federal, State, and local government officials;

"(2) identify and analyze health care services available in the area in which the military installation is located, including such services available at a military medical treatment facility or in the private sector (or a combination thereof);

"(3) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector; and

"(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including such resources of Federal, State, local, and private entities.

"(c) ANNUAL REPORTS.—Not later than December 31 of each year an agreement entered into under this section is in effect, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each such agreement. Each report shall include, at a minimum, the following:

"(1) A description of the agreement.

"(2) Any cost avoidance, savings, or increases as a result of the agreement.

"(3) A recommendation for continuing or ending the agreement.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the provision of health care services at military medical treatment facilities or other facilities of the Department of Defense to individuals who are not otherwise entitled or eligible for such services under chapter 55 of title 10, United States Code."

## INPATIENT MENTAL HEALTH SERVICE

Pub. L. 110–329, div. C, title VIII, §8095, Sept. 30, 2008, 122 Stat. 3642, provided that: "None of the funds appropriated by this Act [div. C of Pub. L. 110–329, see Tables for classification], and hereafter, available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care."

## SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD AND TRICARE EXTRA

Pub. L. 110–181, div. A, title VII, §711, Jan. 28, 2008, 122 Stat. 190, as amended by Pub. L. 112–81, div. A, title VII, §721, Dec. 31, 2011, 125 Stat. 1478; Pub. L. 113–291, div. A, title VII, §712, Dec. 19, 2014, 128 Stat. 3414, provided that:

"(a) REQUIREMENT FOR SURVEYS.—

"(1) IN GENERAL.—The Secretary of Defense shall conduct surveys of health care providers and beneficiaries who use TRICARE in the United States to determine, utilizing a reconciliation of the responses of providers and beneficiaries to such surveys, each of the following:

"(A) How many health care providers in TRICARE Prime service areas selected under paragraph (3)(A) are accepting new patients under each of TRICARE Standard and TRICARE Extra.

"(B) How many health care providers in geographic areas in which TRICARE Prime is not offered are accepting patients under each of TRICARE Standard and TRICARE Extra.

"(C) The availability of mental health care providers in TRICARE Prime service areas selected under paragraph (3)(C) and in geographic areas in which TRICARE Prime is not offered.

"(2) BENCHMARKS.—The Secretary shall establish for purposes of the surveys required by paragraph (1) benchmarks for primary care and specialty care providers, including mental health care providers, to be utilized to determine the adequacy of the availability of health care providers to beneficiaries eligible for TRICARE.

"(3) SCOPE OF SURVEYS.—The Secretary shall carry out the surveys required by paragraph (1) as follows:

"(A) In the case of the surveys required by subparagraph (A) of that paragraph, in at least 20

TRICARE Prime service areas in the United States in each of fiscal years 2008 through 2015.

"(B) In the case of the surveys required by subparagraph (B) of that paragraph, in 20 geographic areas in which TRICARE Prime is not offered and in which significant numbers of beneficiaries who are members of the Selected Reserve reside.

"(C) In the case of the surveys required by subparagraph (C) of that paragraph, in at least 40 geographic areas.

"(4) PRIORITY FOR SURVEYS.—In prioritizing the areas which are to be surveyed under paragraph (1), the Secretary shall—

"(A) consult with representatives of TRICARE beneficiaries and health care and mental health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard or TRICARE Extra;

"(B) give a high priority to surveying health care and mental health care providers in such areas; and

"(C) give a high priority to surveying beneficiaries and providers located in geographic areas with high concentrations of members of the Selected Reserve.

"(5) INFORMATION FROM PROVIDERS.—The surveys required by paragraph (1) shall include questions seeking to determine from health care and mental health care providers the following:

"(A) Whether the provider is aware of the TRICARE program.

"(B) What percentage of the provider's current patient population uses any form of TRICARE.

"(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care and mental health care services.

"(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider's current patient population.

"(6) INFORMATION FROM BENEFICIARIES.—The surveys required by paragraph (1) shall include questions seeking information to determine from TRICARE beneficiaries whether they have difficulties in finding health care and mental health care providers willing to provide services under TRICARE Standard or TRICARE Extra.

"(b) GAO REVIEW.—

"(1) ONGOING REVIEW.—The Comptroller General shall, on an ongoing basis, review—

"(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care and mental health care providers—

"(i) that currently accept TRICARE Standard or TRICARE Extra beneficiaries as patients under TRICARE Standard in each TRICARE area as of the date of completion of the review; and

"(ii) that would accept TRICARE Standard or TRICARE Extra beneficiaries as new patients under TRICARE Standard or TRICARE Extra, as applicable, within a reasonable time after the date of completion of the review; and

"(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care and mental health care under TRICARE Standard in each TRICARE area, including any pending or resolved requests for waiver of payment limits in order to improve access to health care or mental health care in a specific geographic area.

"(2) REPORTS.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review under paragraph (1) during 2017 and 2020. Each report shall include the following:

"(A) An analysis of the adequacy of the surveys under subsection (a).

"(B) An identification of any impediments to achieving adequacy of availability of health care and mental health care under TRICARE Standard or TRICARE Extra.

"(C) An assessment of the adequacy of Department of Defense education programs to inform health care and mental health care providers about TRICARE Standard and TRICARE Extra.

"(D) An assessment of the adequacy of Department of Defense initiatives to encourage health care and mental health care providers to accept patients under TRICARE Standard and TRICARE Extra.

"(E) An assessment of the adequacy of information available to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care and mental health care under TRICARE Standard and TRICARE Extra.

"(F) An assessment of any need for adjustment of health care and mental health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care and mental health care providers.

"(G) An assessment of the adequacy of Department of Defense programs to inform members of the Selected Reserve about the TRICARE Reserve Select program.

"(H) An assessment of the ability of TRICARE Reserve Select beneficiaries to receive care in their geographic area.

"(c) EFFECTIVE DATE.—This section shall take effect on October 1, 2007.

"(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITY.—Section 723 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1073 note) is repealed, effective as of October 1, 2007.

"(e) DEFINITIONS.—In this section:

"(1) The term 'TRICARE Extra' means the option of the TRICARE program under which TRICARE Standard beneficiaries may obtain discounts on cost-sharing as a result of using TRICARE network providers.

"(2) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

"(3) The term 'TRICARE Prime service area' means a geographic area designated by the Department of Defense in which managed care support contractors develop a managed care network under TRICARE Prime.

"(4) The term 'TRICARE Standard' means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

"(5) The term 'TRICARE Reserve Select' means the option of the TRICARE program that allows members of the Selected Reserve to enroll in TRICARE Standard, pursuant to section 1076d of title 10, United States Code.

"(6) The term 'member of the Selected Reserve' means a member of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces.

"(7) The term 'United States' means the United States (as defined in section 101(a) of title 10, United States Code), its possessions (as defined in such section), and the Commonwealth of Puerto Rico."

## REGULATIONS TO ESTABLISH CRITERIA FOR LICENSED OR CERTIFIED MENTAL HEALTH COUNSELORS UNDER TRICARE

Pub. L. 111–383, div. A, title VII, §724, Jan. 7, 2011, 124 Stat. 4252, provided that: "Not later than June 20, 2011, the Secretary of Defense shall prescribe the regulations required by section 717 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 1073 note)."

Pub. L. 110–181, div. A, title VII, §717(a), Jan. 28, 2008, 122 Stat. 196, provided that: "The Secretary of Defense shall prescribe regulations to establish criteria that licensed or certified mental health counselors shall meet in order to be able to independently provide care to TRICARE beneficiaries and receive payment under the TRICARE program for such services. The criteria shall include requirements for education level, licensure, certification, and clinical experience as considered appropriate by the Secretary."

## INSPECTION OF MILITARY MEDICAL TREATMENT FACILITIES, MILITARY QUARTERS HOUSING MEDICAL HOLD PERSONNEL, AND MILITARY QUARTERS HOUSING MEDICAL HOLDOVER PERSONNEL

Pub. L. 110–28, title III, §3307, May 25, 2007, 121 Stat. 137, as amended by Pub. L. 114–92, div. A, title X, §1072(g), Nov. 25, 2015, 129 Stat. 995, provided that:

"(a) INSPECTION OF MILITARY MEDICAL TREATMENT FACILITIES, MILITARY QUARTERS HOUSING MEDICAL HOLD PERSONNEL, AND MILITARY QUARTERS HOUSING MEDICAL HOLDOVER PERSONNEL.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [May 25, 2007], and annually thereafter, the Secretary of Defense shall inspect each facility of the Department of Defense as follows:

"(A) Each military medical treatment facility.

"(B) Each military quarters housing medical hold personnel.

"(C) Each military quarters housing medical holdover personnel.

"(2) PURPOSE.—The purpose of an inspection under this subsection is to ensure that the facility or quarters concerned meets acceptable standards for the maintenance and operation of medical facilities, quarters housing medical hold personnel, or quarters housing medical holdover personnel, as applicable.

"(b) ACCEPTABLE STANDARDS.—For purposes of this section, acceptable standards for the operation and maintenance of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel are each of the following:

"(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals with medical conditions that may require medical supervision, as applicable, in the

United States.

"(2) Where appropriate, standards under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(c) ADDITIONAL INSPECTIONS ON IDENTIFIED DEFICIENCIES.—

"(1) IN GENERAL.—In the event a deficiency is identified pursuant to subsection (a) at a facility or quarters described in paragraph (1) of that subsection—

"(A) the commander of such facility or quarters, as applicable, shall submit to the Secretary a detailed plan to correct the deficiency; and

"(B) the Secretary shall reinspect such facility or quarters, as applicable, not less often than once every 180 days until the deficiency is corrected.

"(2) CONSTRUCTION WITH OTHER INSPECTIONS.—An inspection of a facility or quarters under this subsection is in addition to any inspection of such facility or quarters under subsection (a).

"(d) REPORT ON STANDARDS.—In the event no standards for the maintenance and operation of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel exist as of the date of the enactment of this Act, or such standards as do exist do not meet acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be, the Secretary shall, not later than 30 days after that date, submit to the congressional defense committees a report setting forth the plan of the Secretary to ensure—

"(1) the adoption by the Department of standards for the maintenance and operation of military medical facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel, as applicable, that meet—

"(A) acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be; and

"(B) where appropriate, standards under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.]; and

"(2) the comprehensive implementation of the standards adopted under paragraph (1) at the earliest date practicable."

## REQUIREMENTS FOR SUPPORT OF MILITARY TREATMENT FACILITIES BY CIVILIAN CONTRACTORS UNDER TRICARE

Pub. L. 109–364, div. A, title VII, §732, Oct. 17, 2006, 120 Stat. 2296, as amended by Pub. L. 112–81, div. A, title X, §1062(d)(3), Dec. 31, 2011, 125 Stat. 1585, provided that:

"(a) ANNUAL INTEGRATED REGIONAL REQUIREMENTS ON SUPPORT.—The Regional Director of each region under the TRICARE program shall develop each year integrated, comprehensive requirements for the support of military treatment facilities in such region that is provided by contract civilian health care and administrative personnel under the TRICARE program.

"(b) PURPOSES.—The purposes of the requirements established under subsection (a) shall be as follows:

"(1) To ensure consistent standards of quality in the support of military treatment facilities by contract civilian health care personnel under the TRICARE program.

"(2) To identify targeted, actionable opportunities throughout each region of the TRICARE program for the most efficient and cost effective delivery of health care and support of military treatment facilities.

"(3) To ensure the most effective use of various available contracting methods in securing support of military treatment facilities by civilian health care personnel under the TRICARE program, including resource-sharing and clinical support agreements, direct contracting, and venture capital investments.

"(c) FACILITATION AND ENHANCEMENT OF CONTRACTOR SUPPORT.—

"(1) IN GENERAL.—The Secretary of Defense shall take appropriate actions to facilitate and enhance the support of military treatment facilities under the TRICARE program in order to assure maximum quality and productivity.

"(2) ACTIONS.—In taking actions under paragraph (1), the Secretary shall—

"(A) require consistent standards of quality for contract civilian health care personnel providing support of military treatment facilities under the TRICARE program, including—

"(i) consistent credentialing requirements among military treatment facilities;

"(ii) consistent performance standards for private sector companies providing health care staffing services to military treatment facilities and clinics, including, at a minimum, those standards established for accreditation of health care staffing firms by the Joint Commission on the Accreditation of Health Care Organizations Health Care Staffing Standards; and

"(iii) additional standards covering—

"(I) financial stability;

"(II) medical management;
"(III) continuity of operations;
"(IV) training;
"(V) employee retention;
"(VI) access to contractor data; and
"(VII) fraud prevention;

"(B) ensure the availability of adequate and sustainable funding support for projects which produce a return on investment to the military treatment facilities;

"(C) ensure that a portion of any return on investment is returned to the military treatment facility to which such savings are attributable;

"(D) remove financial disincentives for military treatment facilities and civilian contractors to initiate and sustain agreements for the support of military treatment facilities by such contractors under the TRICARE program;

"(E) provide for a consistent methodology across all regions of the TRICARE program for developing cost benefit analyses of agreements for the support of military treatment facilities by civilian contractors under the TRICARE program based on actual cost and utilization data within each region of the TRICARE program; and

"(F) provide for a system for monitoring the performance of significant projects for support of military treatment facilities by a civilian contractor under the TRICARE program.

"[(d) Repealed. Pub. L. 112–81, div. A, title X, §1062(d)(3), Dec. 31, 2011, 125 Stat. 1585.]

"(e) EFFECTIVE DATE.—This section shall take effect on October 1, 2006."

## TRICARE STANDARD IN TRICARE REGIONAL OFFICES

Pub. L. 109–163, div. A, title VII, §716, Jan. 6, 2006, 119 Stat. 3345, as amended by Pub. L. 112–81, div. A, title X, §1062(e), Dec. 31, 2011, 125 Stat. 1585, provided that:

"(a) RESPONSIBILITIES OF TRICARE REGIONAL OFFICE.—The responsibilities of each TRICARE Regional Office shall include the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned, including—

"(1) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

"(2) communicating with beneficiaries who receive the TRICARE Standard option;

"(3) outreach to community health care providers to encourage their participation in the TRICARE program; and

"(4) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

"(b) DEFINITION.—In this section, the term 'TRICARE Standard' or 'TRICARE standard option' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program."

## QUALIFICATIONS FOR INDIVIDUALS SERVING AS TRICARE REGIONAL DIRECTORS

Pub. L. 109–163, div. A, title VII, §717, Jan. 6, 2006, 119 Stat. 3345, provided that:

"(a) QUALIFICATIONS.—Effective as of the date of the enactment of this Act [Jan. 6, 2006], no individual may be selected to serve in the position of Regional Director under the TRICARE program unless the individual—

"(1) is—

"(A) an officer of the Armed Forces in a general or flag officer grade;

"(B) a civilian employee of the Department of Defense in the Senior Executive Service; or

"(C) a civilian employee of the Federal Government in a department or agency other than the Department of Defense, or a civilian working in the private sector, who has experience in a position comparable to an officer described in subparagraph (A) or a civilian employee described in subparagraph (B); and

"(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

"(b) TRICARE PROGRAM DEFINED.—In this section, the term 'TRICARE program' has the meaning given such term in section 1072(7) of title 10, United States Code."

## PILOT PROJECTS ON PEDIATRIC EARLY LITERACY AMONG CHILDREN OF MEMBERS OF THE ARMED FORCES

Pub. L. 109–163, div. A, title VII, §740, Jan. 6, 2006, 119 Stat. 3359, as amended by Pub. L. 109–364, div. A, title X, §1071(e)(8), Oct. 17, 2006, 120 Stat. 2402, provided for pilot projects related to encouraging

pediatric early literacy among children of members of the Armed Forces conducted at military medical treatment facilites and required a report to Congress on the projects no later than Mar. 1, 2007.

## SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD

Pub. L. 108–136, div. A, title VII, §723, Nov. 24, 2003, 117 Stat. 1532, as amended by Pub. L. 109–163, div. A, title VII, §711, Jan. 6, 2006, 119 Stat. 3343, required the Secretary of Defense to conduct surveys in the TRICARE market areas in the United States to determine how many health care providers were accepting new patients under TRICARE Standard in each such market area, and required the Comptroller General to review the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers and the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area, prior to repeal by Pub. L. 110–181, div. A, title VII, §711(d), Jan. 28, 2008, 122 Stat. 193, eff. Oct. 1, 2007.

## MODERNIZATION OF TRICARE BUSINESS PRACTICES AND INCREASE OF USE OF MILITARY TREATMENT FACILITIES

Pub. L. 106–398, §1 [[div. A], title VII, §723], Oct. 30, 2000, 114 Stat. 1654, 1654A–186, provided that:

"(a) REQUIREMENT TO IMPLEMENT INTERNET-BASED SYSTEM.—Not later than October 1, 2001, the Secretary of Defense shall implement a system to simplify and make accessible through the use of the Internet, through commercially available systems and products, critical administrative processes within the military health care system and the TRICARE program. The purposes of the system shall be to enhance efficiency, improve service, and achieve commercially recognized standards of performance.

"(b) ELEMENTS OF SYSTEM.—The system required by subsection (a)—

"(1) shall comply with patient confidentiality and security requirements, and incorporate data requirements, that are currently widely used by insurers under medicare and commercial insurers;

"(2) shall be designed to achieve improvements with respect to—

"(A) the availability and scheduling of appointments;

"(B) the filing, processing, and payment of claims;

"(C) marketing and information initiatives;

"(D) the continuation of enrollments without expiration;

"(E) the portability of enrollments nationwide;

"(F) education of beneficiaries regarding the military health care system and the TRICARE program; and

"(G) education of health care providers regarding such system and program; and

"(3) may be implemented through a contractor under TRICARE Prime.

"(c) AREAS OF IMPLEMENTATION.—The Secretary shall implement the system required by subsection (a) in at least one region under the TRICARE program.

"(d) PLAN FOR IMPROVED PORTABILITY OF BENEFITS.—Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to provide portability and reciprocity of benefits for all enrollees under the TRICARE program throughout all TRICARE regions.

"(e) INCREASE OF USE OF MILITARY MEDICAL TREATMENT FACILITIES.—The Secretary shall initiate a program to maximize the use of military medical treatment facilities by improving the efficiency of health care operations in such facilities.

"(f) DEFINITION.—In this section the term 'TRICARE program' has the meaning given such term in section 1072 of title 10, United States Code."

## IMPROVEMENT OF ACCESS TO HEALTH CARE UNDER THE TRICARE PROGRAM

Pub. L. 107–107, div. A, title VII, §735(e), Dec. 28, 2001, 115 Stat. 1172, directed the Secretary of Defense to submit to committees of Congress, not later than Mar. 1, 2002, a report on the Secretary's plans for implementing Pub. L. 106–398, §1 [[div. A], title VII, §721], as amended, set out below.

Pub. L. 106–398, §1 [[div. A], title VII, §721], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, as amended by Pub. L. 107–107, div. A, title VII, §735(a)–(d), Dec. 28, 2001, 115 Stat. 1171, 1172; Pub. L. 113–291, div. A, title VII, §703(b), Dec. 19, 2014, 128 Stat. 3411, provided that:

"(a) WAIVER OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.—In the case of a covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code, the Secretary of Defense may not require with regard to authorized health care services under such chapter that the beneficiary—

"(1) obtain a nonavailability statement or preauthorization from a military medical treatment facility in

order to receive the services from a civilian provider; or

"(2) obtain a nonavailability statement for care in specialized treatment facilities outside the 200-mile radius of a military medical treatment facility.

"(b) WAIVER AUTHORITY.—The Secretary may waive the prohibition in subsection (a) if—

"(1) the Secretary—

"(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

"(B) determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

"(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

"(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

"(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection, the reason for the waiver, and the date that a nonavailability statement will be required; and

"(4) 60 days have elapsed since the date of the notification described in paragraph (3).

"(c) WAIVER EXCEPTION FOR MATERNITY CARE.—Subsection (b) shall not apply with respect to maternity care.

"(d) EFFECTIVE DATE.—This section shall take effect on the earlier of the following:

"(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

"(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 [Dec. 28, 2001].".

Pub. L. 106–65, div. A, title VII, §712(a), (b), Oct. 5, 1999, 113 Stat. 687, required the Secretary of Defense to minimize the authorization and certification requirements to access benefits under the TRICARE program and to submit a report to Congress on actions taken no later than Mar. 31, 2000.

## TRICARE MANAGED CARE SUPPORT CONTRACTS

Pub. L. 106–398, §1 [[div. A], title VII, §724], Oct. 30, 2000, 114 Stat. 1654, 1654A–187, provided for the four-year extension of certain TRICARE managed care support contracts in effect, or in the final stages of acquisition, on Sept. 30, 1999.

Pub. L. 106–259, title VIII, §8090, Aug. 9, 2000, 114 Stat. 694, provided for the 2-year extension of certain TRICARE managed care support contracts in effect, or in final stages of acquisition as of Sept. 30, 2000, and authorized future replacement contracts to include a base contract period for transition and up to seven 1-year option periods.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–79, title VIII, §8095, Oct. 25, 1999, 113 Stat. 1254.

Pub. L. 105–262, title VIII, §8107, Oct. 17, 1998, 112 Stat. 2321.

## REDESIGN OF MILITARY PHARMACY SYSTEM

Pub. L. 105–261, div. A, title VII, §703, Oct. 17, 1998, 112 Stat. 2057, provided that:

"(a) PLAN REQUIRED.—The Secretary of Defense shall submit to Congress a plan that would provide for a system-wide redesign of the military and contractor retail and mail-order pharmacy system of the Department of Defense by incorporating 'best business practices' of the private sector. The Secretary shall work with contractors of TRICARE retail pharmacy and national mail-order pharmacy programs to develop a plan for the redesign of the pharmacy system that—

"(1) may include a plan for an incentive-based formulary for military medical treatment facilities and contractors of TRICARE retail pharmacies and the national mail-order pharmacy; and

"(2) shall include a plan for each of the following:

"(A) A uniform formulary for such facilities and contractors.

"(B) A centralized database that integrates the patient databases of pharmacies of military medical treatment facilities and contractor retail and mail-order programs to implement automated prospective drug utilization review systems.

"(C) A system-wide drug benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(b) SUBMISSION OF PLAN.—The Secretary shall submit the plan required under subsection (a) not later than March 1, 1999.

"(c) SUSPENSION OF IMPLEMENTATION OF PROGRAM.—The Secretary shall suspend any plan to establish a national retail pharmacy program for the Department of Defense until—

"(1) the plan required under subsection (a) is submitted; and

"(2) the Secretary implements cost-saving reforms with respect to the military and contractor retail and mail order pharmacy system."

Pub. L. 105–261, div. A, title VII, §723, Oct. 17, 1998, 112 Stat. 2068, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title VII, §711(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–175, provided that:

"(a) IN GENERAL.—Not later than April 1, 2001, the Secretary of Defense shall implement, with respect to eligible individuals described in subsection (e), the redesign of the pharmacy system under TRICARE (including the mail-order and retail pharmacy benefit under TRICARE) to incorporate 'best business practices' of the private sector in providing pharmaceuticals, as developed under the plan described in section 703 [set out as a note above].

"(b) PROGRAM REQUIREMENTS.—The same coverage for pharmacy services and the same requirements for cost sharing and reimbursement as are applicable under section 1086 of title 10, United States Code, shall apply with respect to the program required by subsection (a).

"(c) EVALUATION.—The Secretary shall provide for an evaluation of the implementation of the redesign of the pharmacy system under TRICARE under this section by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

"(1) An analysis of the costs of the implementation of the redesign of the pharmacy system under TRICARE and to the eligible individuals who participate in the system.

"(2) An assessment of the extent to which the implementation of such system satisfies the requirements of the eligible individuals for the health care services available under TRICARE.

"(3) An assessment of the effect, if any, of the implementation of the system on military medical readiness.

"(4) A description of the rate of the participation in the system of the individuals who were eligible to participate.

"(5) An evaluation of any other matters that the Secretary considers appropriate.

"(d) REPORTS.—The Secretary shall submit two reports on the results of the evaluation under subsection (c), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The first report shall be submitted not later than December 31, 2001, and the second report shall be submitted not later than December 31, 2003.

"(e) ELIGIBLE INDIVIDUALS.—(1) An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

"(A) is 65 years of age or older;

"(B) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

"(C) except as provided in paragraph (2), is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.).

"(2) Paragraph (1)(C) shall not apply in the case of an individual who, before April 1, 2001, has attained the age of 65 and did not enroll in the program described in such paragraph."

## SYSTEM FOR TRACKING DATA AND MEASURING PERFORMANCE IN MEETING TRICARE ACCESS STANDARDS

Pub. L. 105–261, div. A, title VII, §713, Oct. 17, 1998, 112 Stat. 2060, directed the Secretary of Defense to establish a system, no later than Apr. 1, 1999, for tracking data and measuring performance in meeting primary care access standards under the TRICARE program.

## TRICARE AS SUPPLEMENT TO MEDICARE DEMONSTRATION

Pub. L. 105–261, div. A, title VII, §722, Oct. 17, 1998, 112 Stat. 2065, as amended by Pub. L. 106–65, div. A, title X, §§1066(b)(6), 1067(3), Oct. 5, 1999, 113 Stat. 773, 774, required the Secretary of Defense to carry out a demonstration project (known as the TRICARE Senior Supplement) in order to assess the feasibility and

advisability of providing medical care coverage under the TRICARE program to certain members and former members of the uniformed services and their dependents and further required the Secretary to evaluate and terminate the project and submit a report on the evaluation to Congress not later than Dec. 31, 2002.

## STUDY CONCERNING PROVISION OF COMPARATIVE INFORMATION

Pub. L. 105–85, div. A, title VII, §703, Nov. 18, 1997, 111 Stat. 1807, directed the Secretary of Defense to conduct a study on the provision to TRICARE beneficiaries of comparative information on the medical assistance provided by a managed care entity and to submit a report to Congress.

## DISCLOSURE OF CAUTIONARY INFORMATION ON PRESCRIPTION MEDICATIONS

Pub. L. 105–85, div. A, title VII, §744, Nov. 18, 1997, 111 Stat. 1820, directed prescription of regulations, no later than 180 days after Nov. 18, 1997, requiring pharmacies and other pharmaceutical dispensers to provide written cautionary information about usage with the medication.

## COMPETITIVE PROCUREMENT OF OPHTHALMIC SERVICES

Pub. L. 105–85, div. A, title VII, §745, Nov. 18, 1997, 111 Stat. 1820, provided that:

"(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure from private-sector sources, or other sources outside of the Department of Defense, all ophthalmic services related to the provision of single vision and multivision eyeware [sic] for members of the Armed Forces, retired members, and certain covered beneficiaries under chapter 55 of title 10, United States Code, who would otherwise receive such ophthalmic services through the Department of Defense.

"(b) EXCEPTION.—Subsection (a) shall not apply to the extent that the Secretary of Defense determines that the use of sources within the Department of Defense to provide such ophthalmic services—

"(1) is necessary to meet the readiness requirements of the Armed Forces; or

"(2) is more cost effective.

"(c) COMPLETION OF EXISTING ORDERS.—Subsection (a) shall not apply to orders for ophthalmic services received on or before September 30, 1998."

## INCLUSION OF CERTAIN DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM

Pub. L. 104–201, div. A, title VII, subtitle C, Sept. 23, 1996, 110 Stat. 2592, as amended by Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8131(a)], Sept. 30, 1996, 110 Stat. 3009–71, 3009–117; Pub. L. 105–85, div. A, title VII, §§721–723, Nov. 18, 1997, 111 Stat. 1809, 1810; Pub. L. 106–65, div. A, title VII, §707, Oct. 5, 1999, 113 Stat. 684; Pub. L. 107–296, title XVII, §1704(e)(2), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 108–136, div. A, title VII, §714, Nov. 24, 2003, 117 Stat. 1531; Pub. L. 108–199, div. H, §109, Jan. 23, 2004, 118 Stat. 438; Pub. L. 112–81, div. A, title VII, §708, Dec. 31, 2011, 125 Stat. 1474; Pub. L. 113–291, div. A, title X, §1071(b)(11), Dec. 19, 2014, 128 Stat. 3507, provided that:

"SEC. 721. DEFINITIONS.

"In this subtitle:

"(1) The term 'administering Secretaries' means the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Health and Human Services.

"(2) The term 'agreement' means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

"(3) The term 'capitation payment' means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

"(4) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

"(5) The term 'designated provider' means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act [Sept. 23, 1996], was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

"(6) The term 'enrollee' means a covered beneficiary who enrolls with a designated provider.

"(7) The term 'health care services' means the health care services provided under the health plan known as the 'TRICARE PRIME' option under the TRICARE program.

"(8) The term 'Secretary' means the Secretary of Defense.

"(9) The term 'TRICARE program' means the managed health care program that is established by the

Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

"SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

"(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

"(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

"(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 1303(a) of title 41, United States Code[,] shall apply to the agreements as acquisitions of commercial items.

"(3) The implementation of an agreement is subject to availability of funds for such purpose.

"(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

"(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

"(B) October 1, 1997.

"(2) The Secretary may modify the effective date established under paragraph (1) for an agreement to permit a transition period of not more than six months between the date on which the agreement is executed by the parties and the date on which the designated provider commences the delivery of health care services under the agreement.

"(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act [Sept. 23, 1996] under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; [former] 42 U.S.C. 248c [note]) until the agreement required by this section takes effect under subsection (c), including any transitional period provided by the Secretary under paragraph (2) of such subsection.

"(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

"(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

"(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act [Sept. 23, 1996].

"(g) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to the participation agreement of the designated provider under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; [former] 42 U.S.C. 248c note) or pursuant to the agreement entered into under subsection (b).

"SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

"(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

"(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

"(1) The date on which health care services within the health care delivery system of the uniformed

services are rendered through the TRICARE program in the region in which the designated provider operates.

"(2) October 1, 1997.

"(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

"SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

"(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

"(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

"(b) PERMANENT LIMITATION.—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

"(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

"(d) ADDITIONAL ENROLLMENT AUTHORITY.—(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

"(2)(A) The designated provider may market such services to, and enroll, covered beneficiaries who—

"(i) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services;

"(ii) subject to the limitation in subparagraph (B), have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

"(iii) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

"(B) For each fiscal year beginning after September 30, 2003, the number of covered beneficiaries newly enrolled by designated providers pursuant to clause (ii) of subparagraph (A) during such fiscal year may not exceed 10 percent of the total number of the covered beneficiaries who are newly enrolled under such subparagraph during such fiscal year.

"(3) For purposes of this subsection, a covered beneficiary who has other primary health insurance coverage includes any covered beneficiary who has primary health insurance coverage—

"(A) on the date of enrollment with a designated provider pursuant to paragraph (2)(A)(i); or

"(B) on such date of enrollment and during the period after such date while the beneficiary is enrolled with the designated provider.

"(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—(1) Except as provided in paragraph (2), if a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

"(2) After September 30, 2012, a covered beneficiary (other than a beneficiary under section 1079 of title 10, United States Code) who is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq.] due to age may not enroll in the managed care program of a designated provider unless the beneficiary was enrolled in that program on September 30, 2012.

"(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

"(g) OPEN ENROLLMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program under which covered beneficiaries shall be permitted to enroll at any time in a managed care plan offered by a designated provider consistent with the enrollment requirements for the

TRICARE Prime option under the TRICARE program, but without regard to the limitation in subsection (b). The demonstration program under this subsection shall cover designated providers, selected by the Secretary of Defense, and the service areas of the designated providers.

"(2) The demonstration program carried out under this section shall commence on October 1, 1999, and end on September 30, 2001.

"(3) Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program carried out under this subsection. The report shall include, at a minimum, an evaluation of the benefits of the open enrollment opportunity to covered beneficiaries and a recommendation on whether to authorize open enrollments in the managed care plans of designated providers permanently.

"SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

"(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

"(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

"(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

"(d) CONFORMING AMENDMENT.—[Amended section 1074 of this title.]

"SEC. 726. PAYMENTS FOR SERVICES.

"(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

"(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments for health care services to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be. In establishing the ceiling rate for enrollees with the designated providers who are also eligible for the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.

"(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

"(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

"SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

"(a) REPEALS.—[Repealed sections 248c and 248d of Title 42, The Public Health and Welfare, and section 718(c) of Pub. L. 101–510 and section 726 of Pub. L. 104–106, set out as notes under section 248c of Title 42.]

"(b) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997."

[Pub. L. 108–199, div. H, §109, Jan. 23, 2004, 118 Stat. 438, provided that the amendment made by section 109, amending section 724 of Pub. L. 104–201, set out above, is effective immediately after the enactment of Pub. L. 108–136.

[Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8131(b)], Sept. 30, 1996, 110 Stat. 3009–71, 3009–117, provided that: "The amendments made by subsection (a) [amending section 722 of Pub. L. 104–201, set out above] shall take effect as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 [Sept. 23, 1996] as if section 722 of such Act had been enacted as so amended."]

## DEFINITION OF TRICARE PROGRAM

Pub. L. 104–106, div. A, title VII, §711, Feb. 10, 1996, 110 Stat. 374, provided that: "For purposes of this subtitle [subtitle B (§§711–718) of title VII of div. A of Pub. L. 104–106, amending section 1097 of this title, enacting provisions set out as notes below, and amending provisions set out as a note below], the term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services."

## TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS

Pub. L. 104–106, div. A, title VII, §715, Feb. 10, 1996, 110 Stat. 375, as amended by Pub. L. 106–398, §1 [[div. A], title VII, §760(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–200, provided that:

"(a) PROVISION OF TRAINING.—The Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

"(1) to each commander, deputy commander, and managed care coordinator of a military medical treatment facility of the Department of Defense, and any other person, who is selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

"(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

"(b) LIMITATION ON ASSIGNMENT UNTIL COMPLETION OF TRAINING.—No person may be assigned as the commander, deputy commander, or managed care coordinator of a military medical treatment facility or as a TRICARE lead agent or senior member of the staff of a TRICARE lead agent office until the Secretary of the military department concerned submits a certification to the Secretary of Defense that such person has completed the training described in subsection (a)."

[Pub. L. 106–398, §1 [[div. A], title VII, §760(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–200, provided that: "The amendments made by subsection (a) to section 715 of such Act [section 715 of Pub. L. 104–106, set out above]—

["(1) shall apply to a deputy commander, a managed care coordinator of a military medical treatment facility, or a lead agent for coordinating the delivery of health care by military and civilian providers under the TRICARE program, who is assigned to such position on or after the date that is one year after the date of the enactment of this Act [Oct. 30, 2000]; and

["(2) may apply, in the discretion of the Secretary of Defense, to a deputy commander, a managed care coordinator of such a facility, or a lead agent for coordinating the delivery of such health care, who is assigned to such position before the date that is one year after the date of the enactment of this Act."]

## PILOT PROGRAM OF INDIVIDUALIZED RESIDENTIAL MENTAL HEALTH SERVICES

Pub. L. 104–106, div. A, title VII, §716, Feb. 10, 1996, 110 Stat. 375, directed the Secretary of Defense to implement a pilot program to provide residential and wraparound services to certain children who are in need of mental health services and to report to Congress no later than Mar. 1, 1998.

## EVALUATION AND REPORT ON TRICARE PROGRAM EFFECTIVENESS

Pub. L. 104–106, div. A, title VII, §717, Feb. 10, 1996, 110 Stat. 376, as amended by Pub. L. 112–239, div. A, title VII, §714, Jan. 2, 2013, 126 Stat. 1803; Pub. L. 114–92, div. A, title VII, §713, Nov. 25, 2015, 129 Stat. 865, provided that:

"(a) EVALUATION REQUIRED.—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically—

"(1) address the impact of the TRICARE program on members of the Armed Forces (whether in the regular or reserve components) and their dependents, military retirees and their dependents, and dependents of members on active duty with severe disabilities and chronic health care needs with regard to access, costs, and quality of health care services;

"(2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available; and

"(3) address patient safety, quality of care, and access to care at military medical treatment facilities,

including—

"(A) an identification of the number of practitioners providing health care in military medical treatment facilities that were reported to the National Practitioner Data Bank during the year preceding the evaluation; and

"(B) with respect to each military medical treatment facility, an assessment of—

"(i) the current accreditation status of such facility, including any recommendations for corrective action made by the relevant accrediting body;

"(ii) any policies or procedures implemented during such year by the Secretary of the military department concerned that were designed to improve patient safety, quality of care, and access to care at such facility;

"(iii) data on surgical and maternity care outcomes during such year;

"(iv) data on appointment wait times during such year; and

"(v) data on patient safety, quality of care, and access to care as compared to standards established by the Department of Defense with respect to patient safety, quality of care, and access to care.

"(b) ENTITY TO CONDUCT EVALUATION.—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

"(c) ANNUAL REPORT.—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 717(c) of Pub. L. 104–106, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE

Pub. L. 103–160, div. A, title VII, §731, Nov. 30, 1993, 107 Stat. 1696, as amended by Pub. L. 103–337, div. A, title VII, §715, Oct. 5, 1994, 108 Stat. 2803; Pub. L. 104–106, div. A, title VII, §714, Feb. 10, 1996, 110 Stat. 374, provided that:

"(a) USE OF MODEL.—The Secretary of Defense shall prescribe and implement a health benefit option (and accompanying cost-sharing requirements) for covered beneficiaries eligible for health care under chapter 55 of title 10, United States Code, that is modelled on health maintenance organization plans offered in the private sector and other similar Government health insurance programs. The Secretary shall include, to the maximum extent practicable, the health benefit option required under this subsection as one of the options available to covered beneficiaries in all managed health care initiatives undertaken by the Secretary after December 31, 1994.

"(b) ELEMENTS OF OPTION.—The Secretary shall offer covered beneficiaries who enroll in the health benefit option required under subsection (a) reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States. The Secretary shall allow enrollees to seek health care outside of the option, except that the Secretary may prescribe higher out-of-pocket costs than are provided under section 1079 or 1086 of title 10, United States Code, for enrollees who obtain health care outside of the option.

"(c) GOVERNMENT COSTS.—The health benefit option required under subsection (a) shall be administered so that the costs incurred by the Secretary under the TRICARE program are no greater than the costs that would otherwise be incurred to provide health care to the members of the uniformed services and covered beneficiaries who participate in the TRICARE program.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

"(2) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

"(e) REGULATIONS.—Not later than December 31, 1994, the Secretary shall prescribe final regulations to implement the health benefit option required by subsection (a).

"(f) MODIFICATION OF EXISTING CONTRACTS.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a)."

## MANAGED HEALTH CARE PROGRAM AND CONTRACTS FOR MILITARY HEALTH

## SERVICES SYSTEM

Pub. L. 104–61, title VI, Dec. 1, 1995, 109 Stat. 649, provided in part that the date for implementation of the nation-wide managed care military health services system would be extended to Sept. 30, 1997.

Pub. L. 103–139, title VIII, §8025, Nov. 11, 1993, 107 Stat. 1443, provided that: "Notwithstanding any other provision of law, to establish region-wide, at-risk, fixed price managed care contracts possessing features similar to those of the CHAMPUS Reform Initiative, the Secretary of Defense shall submit to the Congress a plan to implement a nation-wide managed health care program for the military health services system not later than December 31, 1993: *Provided*, That the program shall include, but not be limited to: (1) a uniform, stabilized benefit structure characterized by a triple option health benefit feature; (2) a regionally-based health care management system; (3) cost minimization incentives including 'gatekeeping' and annual enrollment procedures, capitation budgeting, and at-risk managed care support contracts; and (4) full and open competition for all managed care support contracts: *Provided further*, That the implementation of the nation-wide managed care military health services system shall be completed by September 30, 1996: *Provided further*, That the Department shall competitively award contracts in fiscal year 1994 for at least four new region-wide, at-risk, fixed price managed care support contracts consistent with the nation-wide plan, that one such contract shall include the State of Florida (which may include Department of Veterans Affairs' medical facilities with the concurrence of the Secretary of Veterans Affairs), one such contract shall include the States of Washington and Oregon, and one such contract shall include the State of Texas: *Provided further* , That any law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods shall be preempted and shall not apply to any region-wide, at-risk, fixed price managed care contract entered into pursuant to chapter 55 of title 10, United States Code: *Provided further*, That the Department shall competitively award within 13 months after the date of enactment of this Act [Nov. 11, 1993] two contracts for stand-alone, at-risk managed mental health services in high utilization, high-cost areas, consistent with the management and service delivery features in operation in Department of Defense managed mental health care contracts: *Provided further*, That the Assistant Secretary of Defense for Health Affairs shall, during the current fiscal year, initiate through competitive procedures a managed health care program for eligible beneficiaries in the area of Homestead Air Force Base with benefits and services substantially identical to those established to serve beneficiary populations in areas where military medical facilities have been terminated, to include retail pharmacy networks available to Medicare-eligible beneficiaries, and shall present a plan to implement this program to the House and Senate Committees on Appropriations not later than January 15, 1994."

## ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES

Pub. L. 102–484, div. A, title VII, §713, Oct. 23, 1992, 106 Stat. 2435, as amended by Pub. L. 103–160, div. A, title VII, §719, Nov. 30, 1993, 107 Stat. 1694, directed the Secretary of Defense to continue to conduct during fiscal years 1993 through 1996 a broad array of reform initiatives for furnishing health care to persons who were eligible to receive health care under chapter 55 of this title and to submit to Congress a report regarding such initiatives not later than Sept. 30, 1994, and further directed the Secretary to take certain steps to ensure the continuation of the CHAMPUS reform initiative in the States of California and Hawaii.

## MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED OR REALIGNED

Pub. L. 102–484, div. A, title VII, §722, Oct. 23, 1992, 106 Stat. 2439, as amended by Pub. L. 108–136, div. A, title VII, §726, Nov. 24, 2003, 117 Stat. 1535; Pub. L. 110–181, div. A, title X, §1063(i), Jan. 28, 2008, 122 Stat. 324; Pub. L. 117–286, §4(a)(48), Dec. 27, 2022, 136 Stat. 4310, directed the Secretary of Defense to establish a working group on the provision of military health care to persons who rely on health care facilities at military installations selected for closure or realignment and provided that the working group would terminate on Dec. 31, 2006.

## REQUIREMENTS PRIOR TO TERMINATION OF MEDICAL SERVICES AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 101–510, div. A, title VII, §716, Nov. 5, 1990, 104 Stat. 1585, prohibited the Secretary of a military department, during the period beginning on Nov. 5, 1990, and ending on Sept. 30, 1995, from taking any action to close a military medical facility or reduce the level of care provided at such a facility until 90 days after the Secretary had submitted to Congress a report describing the reason for the action, projected savings, impact on costs, and alternative methods of providing care.

## REQUIREMENT FOR AVAILABILITY OF ADDITIONAL INSURANCE COVERAGE; FUNDING LIMITATIONS; DEFINITION

Pub. L. 100–180, div. A, title VII, §732(e)–(g), Dec. 4, 1987, 101 Stat. 1120, 1121, required the Secretary of Defense to enter into an agreement that would provide individuals losing health care coverage under CHAMPUS an option to purchase an insurance plan that provided similar benefits to CHAMPUS.

**CHAMPUS REFORM INITIATIVE**

Pub. L. 102–484, div. A, title VII, §712, Oct. 23, 1992, 106 Stat. 2435, as amended by Pub. L. 103–160, div. A, title VII, §720, Nov. 30, 1993, 107 Stat. 1695; Pub. L. 103–337, div. A, title VII, §714(c), Oct. 5, 1994, 108 Stat. 2803, provided that the Secretary of Defense could not expand the CHAMPUS reform initiative beyond California and Hawaii until not less than 90 days after the date on which the Secretary certified that expansion to another location was the most efficient method of providing health care to beneficiaries, with an exception for locations adversely affected by military installation closures or realignments.

Pub. L. 102–190, div. A, title VII, §722, Dec. 5, 1991, 105 Stat. 1406, authorized the Secretary of Defense to enter into a replacement or successor contract upon the termination of the Department of Defense contract in effect on Dec. 5, 1991, under the CHAMPUS reform initiative.

Pub. L. 102–172, title VIII, §8032, Nov. 26, 1991, 105 Stat. 1178, extended the CHAMPUS reform initiative contract for California and Hawaii until Feb. 1, 1994, and required contracts to be competitively awarded for the geographic expansion of the reform initiative in certain other states and regions.

Pub. L. 101–510, div. A, title VII, §715, Nov. 5, 1990, 104 Stat. 1584, required the Secretary of Defense to make certain cost-effectiveness certifications to Congress before the CHAMPUS reform initiative underway in California and Hawaii could expand.

Pub. L. 99–661, div. A, title VII, §702, Nov. 14, 1986, 100 Stat. 3899, as amended by Pub. L. 100–180, div. A, title VII, §732(a), (c), Dec. 4, 1987, 101 Stat. 1119, directed the Secretary of Defense to conduct a project, beginning no later than Sept. 30, 1988, to test new approaches for delivering health care to beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through the competitive selection of contractors to financially underwrite the delivery of health care services.

**DEFINITIONS**

Pub. L. 114–328, div. A, title VII, §701(i), Dec. 23, 2016, 130 Stat. 2190, provided that: "In this section [enacting sections 1075 and 1075a of this title, amending sections 1072, 1076d, 1076e, 1079a, 1095f, 1099, and 1110b of this title, and enacting provisions set out as notes under this section and sections 1072 and 1099 of this title]:

"(1) The terms 'uniformed services', 'covered beneficiary', 'TRICARE Extra', 'TRICARE for Life', 'TRICARE Prime', and 'TRICARE Standard', have the meaning given those terms in section 1072 of title 10, United States Code, as amended by subsection (j).

"(2) The term 'TRICARE Select' means the self-managed, preferred-provider network option under the TRICARE program established by section 1075 of such title, as added by subsection (a).

"(3) The term 'chronic conditions' includes diabetes, chronic obstructive pulmonary disease, asthma, congestive heart failure, hypertension, history of stroke, coronary artery disease, mood disorders, and such other diseases or conditions as the Secretary considers appropriate.

"(4) The term 'high-value medications and services' means prescription medications and clinical services for the management of chronic conditions that the Secretary determines would improve health outcomes and create health value for covered beneficiaries (such as preventive care, primary and specialty care, diagnostic tests, procedures, and durable medical equipment).

"(5) The term 'high-value provider' means an individual or institutional health care provider that provides health care under the purchased care component of the TRICARE program and that consistently improves the experience of care, meets established quality of care and effectiveness metrics, and reduces the per capita costs of health care.

"(6) The term 'value-based health care methodology' means a methodology for identifying specific prescription medications and clinical services provided under the TRICARE program for which reduction of copayments, cost shares, or both, would improve the management of specific chronic conditions because of the high value and clinical effectiveness of such medications and services for such chronic conditions."

## §1073a. Contracts for health care: best value contracting

(a) AUTHORITY.—Under regulations prescribed by the administering Secretaries, health care contracts shall be awarded in the administration of this chapter to the offeror or offerors that will

provide the best value to the United States to the maximum extent consistent with furnishing high-quality health care in a manner that protects the fiscal and other interests of the United States.

(b) FACTORS CONSIDERED.—In the determination of best value under subsection (a)—

(1) consideration shall be given to the factors specified in the regulations; and

(2) greater weight shall be accorded to technical and performance-related factors than to cost and price-related factors.

(c) APPLICABILITY.—The authority under the regulations prescribed under subsection (a) shall apply to any contract in excess of $5,000,000.

(Added Pub. L. 106–65, div. A, title VII, §722(a), Oct. 5, 1999, 113 Stat. 695.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### COMPTROLLER GENERAL REVIEW OF DEFENSE HEALTH AGENCY OVERSIGHT OF TRANSITION BETWEEN MANAGED CARE SUPPORT CONTRACTORS FOR THE TRICARE PROGRAM

Pub. L. 115–232, div. A, title VII, §737, Aug. 13, 2018, 132 Stat. 1821, provided that:

"(a) BRIEFING AND REPORT ON CURRENT TRANSITION.—

"(1) IN GENERAL.—The Comptroller General of the United States shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing and a report on a review by the Comptroller General of the oversight conducted by the Defense Health Agency with respect to the current transition between managed care support contractors for the TRICARE program. The briefing shall be provided by not later than July 1, 2019.

"(2) ELEMENTS.—The briefing and report under paragraph (1) shall each include the following:

"(A) A description and assessment of the extent to which the Defense Health Agency provided guidance and oversight to the outgoing and incoming managed care support contractors for the TRICARE program during the transition described in paragraph (1) and before the start of health care delivery by the incoming contractor.

"(B) A description and assessment of any issues with health care delivery under the TRICARE program as a result of or in connection with the transition, and, with respect to such issues—

"(i) the effect, if any, of the guidance and oversight provided by the Defense Health Agency during the transition on such issues; and

"(ii) the solutions developed by the Defense Health Agency for remediating any deficiencies in managed care support for the TRICARE program in connection with such issues.

"(C) A description and assessment of the extent to which the Defense Health Agency has reviewed any lessons learned from past transitions between managed care support contractors for the TRICARE program, and incorporated such lessons into the transition.

"(D) A review of the Department of Defense briefing provided in accordance with the provisions of the Report of the Committee on Armed Services of the House of Representatives to Accompany H.R. 5515 (115th Congress; House Report 115–676) on TRICARE Managed Care Support Contractor Reporting.

"(b) REPORT ON FUTURE TRANSITIONS.—Not later than 270 days after the completion of any future transition between managed care support contractors for the TRICARE program, the Comptroller General shall submit to the committees of Congress referred to in subsection (a)(1) a report on a review by the Comptroller General of the oversight conducted by the Defense Health Agency with respect to such transition. The report shall include each description and assessment specified in subparagraphs (A) through (C) of subsection (a)(2) with respect to such transition.

"(c) TRICARE PROGRAM DEFINED.—In this section, the term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

### VALUE-BASED PURCHASING AND ACQUISITION OF MANAGED CARE SUPPORT CONTRACTS FOR TRICARE PROGRAM

Pub. L. 118–31, div. A, title VII, §707, Dec. 22, 2023, 137 Stat. 301, provided that:

"(a) AUTHORITY.—To the extent practicable, the Secretary of Defense shall seek to expand the TRICARE Competitive Plans Demonstration Project to not fewer than five locations not later than one year after the date of the enactment of this Act [Dec. 22, 2023].

"(b) TRICARE COMPETITIVE PLANS DEMONSTRATION PROJECT DEFINED.—In this section, the term 'TRICARE Competitive Plans Demonstration Project' means the project designed to test the contract acquisition strategy of providing an opportunity for local, regional, and national health plans to participate in the competition for managed care support functions under the TRICARE program, in accordance with section 705(c)(3) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1073a note)."

Pub. L. 114–328, div. A, title VII, §705, Dec. 23, 2016, 130 Stat. 2201, as amended by Pub. L. 115–91, div. A, title VII, §715, Dec. 12, 2017, 131 Stat. 1438; Pub. L. 116–92, div. A, title VII, §716, Dec. 20, 2019, 133 Stat. 1453, provided that:

"(a) VALUE-BASED HEALTH CARE.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and implement value-based incentive programs as part of any contract awarded under chapter 55 of title 10, United States Code, for the provision of health care services to covered beneficiaries to encourage health care providers under the TRICARE program (including physicians, hospitals, and other persons and facilities involved in providing such health care services) to improve the following:

"(A) The quality of health care provided to covered beneficiaries under the TRICARE program.

"(B) The experience of covered beneficiaries in receiving health care under the TRICARE program.

"(C) The health of covered beneficiaries.

"(2) VALUE-BASED INCENTIVE PROGRAMS.—

"(A) DEVELOPMENT.—In developing value-based incentive programs under paragraph (1), the Secretary shall—

"(i) link payments to health care providers under the TRICARE program to improved performance with respect to quality, cost, and reducing the provision of inappropriate care;

"(ii) consider the characteristics of the population of covered beneficiaries affected by the value-based incentive program;

"(iii) consider how the value-based incentive program would affect the receipt of health care under the TRICARE program by such covered beneficiaries;

"(iv) establish or maintain an assurance that such covered beneficiaries will have timely access to health care during the operation of the value-based incentive program;

"(v) ensure that such covered beneficiaries do not incur any additional costs by reason of the value-based incentive program; and

"(vi) consider such other factors as the Secretary considers appropriate.

"(B) SCOPE AND METRICS.—With respect to a value-based incentive program developed and implemented under paragraph (1), the Secretary shall ensure that—

"(i) the size, scope, and duration of the value-based incentive program is reasonable in relation to the purpose of the value-based incentive program; and

"(ii) the value-based incentive program relies on the core quality performance metrics adopted pursuant to section 728 [amending section 1073b of this title and enacting provisions set out as notes under section 1071 of this title].

"(3) USE OF EXISTING MODELS.—In developing a value-based incentive program under paragraph (1), the Secretary may adapt a value-based incentive program conducted by a TRICARE managed care support contractor, the Centers for Medicare & Medicaid Services, or any other Federal Government, State government, or commercial health care program.

"(b) EXECUTION OF CONTRACTING RESPONSIBILITY.—With respect to any acquisition of managed care support services under the TRICARE program initiated after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018 [Dec. 12, 2017], the Under Secretary of Defense for Acquisition and Sustainment shall be responsible for—

"(1) decisions relating to such acquisition;

"(2) approving the acquisition strategy; and

"(3) conducting pre-solicitation, pre-award, and post-award acquisition reviews.

"(c) ACQUISITION OF CONTRACTS.—

"(1) STRATEGY.—Not later than January 1, 2018, the Secretary of Defense shall develop and implement a strategy to ensure that managed care support contracts under the TRICARE program entered into with private sector entities—

"(A) improve access to health care for covered beneficiaries;

"(B) improve health outcomes for covered beneficiaries;

"(C) improve the quality of health care received by covered beneficiaries;

"(D) enhance the experience of covered beneficiaries in receiving health care; and

"(E) lower per capita costs to the Department of Defense of health care provided to covered beneficiaries.

"(2) APPLICABILITY OF STRATEGY.—

"(A) IN GENERAL.—The strategy required by paragraph (1) shall apply to all managed care support contracts under the TRICARE program entered into with private sector entities.

"(B) MODIFICATION OF CONTRACTS.—Contracts entered into prior to the implementation of the strategy required by paragraph (1) shall be modified to ensure consistency with such strategy.

"(3) LOCAL, REGIONAL, AND NATIONAL HEALTH PLANS.—In developing and implementing the strategy required by paragraph (1), the Secretary shall ensure that local, regional, and national health plans have an opportunity to participate in the competition for managed care support contracts under the TRICARE program.

"(4) CONTINUOUS INNOVATION.—The strategy required by paragraph (1) shall include incentives for the incorporation of innovative ideas and solutions into managed care support contracts under the TRICARE program through the use of teaming agreements, subcontracts, and other contracting mechanisms that can be used to develop and continuously refresh high-performing networks of health care providers at the national, regional, and local level.

"(5) ELEMENTS OF STRATEGY.—The strategy required by paragraph (1) shall provide for the following with respect to managed care support contracts under the TRICARE program:

"(A) The maximization of flexibility in the design and configuration of networks of individual and institutional health care providers, including a focus on the development of high-performing networks of health care providers.

"(B) The establishment of an integrated medical management system between military medical treatment facilities and health care providers in the private sector that, when appropriate, effectively coordinates and integrates health care across the continuum of care.

"(C) With respect to telehealth services—

"(i) the maximization of the use of such services to provide real-time interactive communications between patients and health care providers and remote patient monitoring; and

"(ii) the use of standardized payment methods to reimburse health care providers for the provision of such services.

"(D) The use of value-based reimbursement methodologies, including through the use of value-based incentive programs under subsection (a), that transfer financial risk to health care providers and managed care support contractors.

"(E) The use of financial incentives for contractors and health care providers to receive an equitable share in the cost savings to the Department resulting from improvement in health outcomes for covered beneficiaries and the experience of covered beneficiaries in receiving health care.

"(F) The use of incentives that emphasize prevention and wellness for covered beneficiaries receiving health care services from private sector entities to seek such services from high-value health care providers.

"(G) The adoption of a streamlined process for enrollment of covered beneficiaries to receive health care and timely assignment of primary care managers to covered beneficiaries.

"(H) The elimination of the requirement for a referral to be authorized prior receiving specialty care services at a facility of the Department of Defense or through the TRICARE program.

"(I) The use of incentives to encourage covered beneficiaries to participate in medical and lifestyle intervention programs.

"(6) RURAL, REMOTE, AND ISOLATED AREAS.—In developing and implementing the strategy required by paragraph (1), the Secretary shall—

"(A) assess the unique characteristics of providing health care services in Alaska, Hawaii, and the territories and possessions of the United States, and in rural, remote, or isolated locations in the contiguous 48 States;

"(B) consider the various challenges inherent in developing robust networks of health care providers in those locations;

"(C) develop a provider reimbursement rate structure in those locations that ensures—

"(i) timely access of covered beneficiaries to health care services;

"(ii) the delivery of high-quality primary and specialty care;

"(iii) improvement in health outcomes for covered beneficiaries; and

"(iv) an enhanced experience of care for covered beneficiaries; and

"(D) ensure that managed care support contracts under the TRICARE program in those locations

will—

"(i) establish individual and institutional provider networks that will provide timely access to care for covered beneficiaries, including pursuant to such networks relating to an Indian tribe or tribal organization that is party to the Alaska Native Health Compact with the Indian Health Service or has entered into a contract with the Indian Health Service to provide health care in rural Alaska or other locations in the United States; and

"(ii) deliver high-quality care, better health outcomes, and a better experience of care for covered beneficiaries.

"(d) REPORT PRIOR TO CERTAIN CONTRACT MODIFICATIONS.—Not later than 60 days before the date on which the Secretary of Defense first modifies a contract awarded under chapter 55 of title 10, United States Code, to implement a value-based incentive program under subsection (a), or the managed care support contract acquisition strategy under subsection (c), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any implementation plan of the Secretary with respect to such value-based incentive program or managed care support contract acquisition strategy.

"(e) COMPTROLLER GENERAL REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date on which the Secretary submits the report under subsection (d), the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that assesses the compliance of the Secretary of Defense with the requirements of subsection (a) and subsection (c).

"(2) ELEMENTS.—The report required by paragraph (1) shall include an assessment of the following:

"(A) Whether the approach of the Department of Defense for acquiring managed care support contracts under the TRICARE program—

"(i) improves access to care;

"(ii) improves health outcomes;

"(iii) improves the experience of care for covered beneficiaries; and

"(iv) lowers per capita health care costs.

"(B) Whether the Department has, in its requirements for managed care support contracts under the TRICARE program, allowed for—

"(i) maximum flexibility in network design and development;

"(ii) integrated medical management between military medical treatment facilities and network providers;

"(iii) the maximum use of the full range of telehealth services;

"(iv) the use of value-based reimbursement methods that transfer financial risk to health care providers and managed care support contractors;

"(v) the use of prevention and wellness incentives to encourage covered beneficiaries to seek health care services from high-value providers;

"(vi) a streamlined enrollment process and timely assignment of primary care managers;

"(vii) the elimination of the requirement to seek authorization for referrals for specialty care services;

"(viii) the use of incentives to encourage covered beneficiaries to engage in medical and lifestyle intervention programs; and

"(ix) the use of financial incentives for contractors and health care providers to receive an equitable share in cost savings resulting from improvements in health outcomes and the experience of care for covered beneficiaries.

"(C) Whether the Department has considered, in developing requirements for managed care support contracts under the TRICARE program, the following:

"(i) The unique characteristics of providing health care services in Alaska, Hawaii, and the territories and possessions of the United States, and in rural, remote, or isolated locations in the contiguous 48 States;

"(ii) The various challenges inherent in developing robust networks of health care providers in those locations.

"(iii) A provider reimbursement rate structure in those locations that ensures—

"(I) timely access of covered beneficiaries to health care services;

"(II) the delivery of high-quality primary and specialty care;

"(III) improvement in health outcomes for covered beneficiaries; and

"(IV) an enhanced experience of care for covered beneficiaries.

"(f) DEFINITIONS.—In this section:

"(1) The terms 'covered beneficiary' and 'TRICARE program' have the meaning given those terms in

section 1072 of title 10, United States Code.

"(2) The term 'high-performing networks of health care providers' means networks of health care providers that, in addition to such other requirements as the Secretary of Defense may specify for purposes of this section, do the following:

"(A) Deliver high quality health care as measured by leading health quality measurement organizations such as the National Committee for Quality Assurance and the Agency for Healthcare Research and Quality.

"(B) Achieve greater efficiency in the delivery of health care by identifying and implementing within such network improvement opportunities that guide patients through the entire continuum of care, thereby reducing variations in the delivery of health care and preventing medical errors and duplication of medical services.

"(C) Improve population-based health outcomes by using a team approach to deliver case management, prevention, and wellness services to high-need and high-cost patients.

"(D) Focus on preventive care that emphasizes—

"(i) early detection and timely treatment of disease;

"(ii) periodic health screenings; and

"(iii) education regarding healthy lifestyle behaviors.

"(E) Coordinate and integrate health care across the continuum of care, connecting all aspects of the health care received by the patient, including the patient's health care team.

"(F) Facilitate access to health care providers, including—

"(i) after-hours care;

"(ii) urgent care; and

"(iii) through telehealth appointments, when appropriate.

"(G) Encourage patients to participate in making health care decisions.

"(H) Use evidence-based treatment protocols that improve the consistency of health care and eliminate ineffective, wasteful health care practices."

## §1073b. Recurring reports and publication of certain data

(a) ANNUAL REPORT ON RECORDING OF HEALTH ASSESSMENT DATA IN MILITARY HEALTH RECORDS.—The Secretary of Defense shall issue each year a report on the compliance by the military departments with applicable law and policies on the recording of health assessment data in military health records, including compliance with section 1074f(c) of this title. The report shall cover the calendar year preceding the year in which the report is submitted and include a discussion of the extent to which immunization status and predeployment and postdeployment health care data are being recorded in such records.

(b) PUBLICATION OF DATA ON PATIENT SAFETY, QUALITY OF CARE, SATISFACTION, AND HEALTH OUTCOME MEASURES.—(1) The Secretary of Defense shall publish on a publically available Internet website of the Department of Defense data on all measures that the Secretary considers appropriate that are used by the Department to assess patient safety, quality of care, patient satisfaction, and health outcomes for health care provided under the TRICARE program at each military medical treatment facility. Such data shall include the core quality performance metrics adopted by the Secretary under section 728 of the National Defense Authorization Act for Fiscal Year 2017.

(2) The Secretary shall publish an update to the data published under paragraph (1) not less frequently than once each quarter during each fiscal year.

(3) The Secretary may not include data relating to risk management activities of the Department in any publication under paragraph (1) or update under paragraph (2).

(4) The Secretary shall ensure that the data published under paragraph (1) and updated under paragraph (2) is accessible to the public through the primary Internet website of the Department and the primary Internet website of the military medical treatment facility with respect to which such data applies.

(Added Pub. L. 108–375, div. A, title VII, §739(a)(1), Oct. 28, 2004, 118 Stat. 2001; amended Pub. L. 114–92, div. A, title VII, §712, Nov. 25, 2015, 129 Stat. 864; Pub. L. 114–328, div. A, title VII, §728(b)(1), Dec. 23, 2016, 130 Stat. 2234; Pub. L. 115–91, div. A, title X, §§1051(a)(5), 1081(d)(3),

Dec. 12, 2017, 131 Stat. 1560, 1600.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 728 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (b)(1), is section 728 of Pub. L. 114–328, which amended this section and enacted provisions set out as notes under section 1071 of this title.

### AMENDMENTS

**2017**—Pub. L. 115–91, §1081(d)(3), amended directory language of Pub. L. 114–328, §728(b)(1). See 2016 Amendment notes below.

Subsecs. (a) to (c). Pub. L. 115–91, §1051(a)(5), redesignated subsecs. (b) and (c) as (a) and (b), respectively, and struck out former subsec. (a) which related to annual report on the Force Health Protection Quality Assurance Program.

**2016**—Pub. L. 114–328, §728(b)(1)(B), as amended by Pub. L. 115–91, §1081(d)(3), inserted "and publication of certain data" after "reports" in section catchline. Amendment was executed as the probable intent of Congress, notwithstanding directory language amending the section heading of section "1073b(c)".

Subsec. (c)(1). Pub. L. 114–328, §728(b)(1)(A), as amended by Pub. L. 115–91, §1081(d)(3), substituted "The Secretary" for "Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, the Secretary" and inserted at end "Such data shall include the core quality performance metrics adopted by the Secretary under section 728 of the National Defense Authorization Act for Fiscal Year 2017."

**2015**—Subsec. (c). Pub. L. 114–92 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(3) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### INCLUSION OF DENTAL CARE

For purposes of amendment by Pub. L. 108–375 adding this section, references to medical readiness, health status, and health care to be considered to include dental readiness, dental status, and dental care, see section 740 of Pub. L. 108–375, set out as a note under section 1074 of this title.

### INITIAL REPORTS

Pub. L. 108–375, div. A, title VII, §739(a)(3), Oct. 28, 2004, 118 Stat. 2002, directed that the first reports under this section be completed not later than 180 days after Oct. 28, 2004.

## §1073c. Administration of Defense Health Agency and military medical treatment facilities

(a) DIRECTOR OF THE DEFENSE HEALTH AGENCY.—(1) There is in the Defense Health Agency a Director.

(2) The Director of the Defense Health Agency shall—

(A) be a military officer and hold a rank that is the same or greater than the rank of any officer serving as the Surgeon General of a military department under section 7036, 8031, or 9036 of this title; and

(B) have joint experience.

(b) ADMINISTRATION OF MILITARY MEDICAL TREATMENT FACILITIES.—(1) In accordance with paragraph (5), the Director of the Defense Health Agency shall be responsible for the administration of each military medical treatment facility, including with respect to—

(A) provision and delivery of health care within each such facility;

(B) management of privileging, scope of practice, and quality of health care provided within each such facility;
(C) budgetary matters;
(D) information technology;
(E) health care administration and management;
(F) supply and equipment;
(G) administrative policy and procedure;
(H) military medical construction; and
(I) any other matters the Secretary of Defense determines appropriate.

(2) In addition to the responsibilities set forth in paragraph (1), the Director of the Defense Health Agency shall have the authority—
(A) to direct, control, and serve as the primary rater of the performance of commanders or directors of military medical treatment facilities;
(B) to direct and control any intermediary organizations between the Defense Health Agency and military medical treatment facilities;
(C) to determine the scope of medical care provided at each military medical treatment facility to meet the military personnel readiness requirements of the senior military operational commander of the military installation;
(D) to identify the capacity of each military medical treatment facility to support clinical readiness standards of health care providers established by the Secretary of a military department or the Assistant Secretary of Defense for Health Affairs;
(E) to determine total workforce requirements at each military medical treatment facility;
(F) to determine, in coordination with each Secretary of a military department, manning, including joint manning, assigned to military medical treatment facilities and intermediary organizations;
(G) to select, after considering nominations from the Secretaries of the military departments, commanders or directors of military medical treatment facilities;
(H) to address personnel staffing shortages at military medical treatment facilities; and
(I) to select among service nominations for commanders or directors of military medical treatment facilities.

(3) The military commander or director of each military medical treatment facility shall be responsible for—
(A) on behalf of the military departments, ensuring the readiness of the members of the armed forces at such facility; and
(B) on behalf of the Defense Health Agency, furnishing the health care and medical treatment provided at such facility.

(4) If the Secretary of Defense determines it appropriate, a military director (or any other senior military officer or officers) of a military medical treatment facility may be a commanding officer for purposes of chapter 47 of this title (the Uniform Code of Military Justice) with respect to military personnel assigned to the military medical treatment facility.
(5) The Secretary of Defense shall establish a timeline to ensure that each Secretary of a military department transitions the administration of military medical treatment facilities from such Secretary to the Director of the Defense Health Agency pursuant to paragraph (1) by the date specified in such paragraph.
(6) The Secretary of Defense shall establish within the Defense Health Agency a professional staff to provide policy, oversight, and direction to carry out paragraphs (1) and (2). The Secretary shall carry out this paragraph by appointing the positions specified in subsections (c) and (d).
(c) DHA ASSISTANT DIRECTOR.—(1) There is in the Defense Health Agency an Assistant Director for Health Care Administration. The Assistant Director shall—
(A) be a career appointee within the Department; and

(B) report directly to the Director of the Defense Health Agency.

(2) The Assistant Director shall be appointed from among individuals who have the education and experience to perform the responsibilities of the position.

(3) The Assistant Director shall be responsible for the following:

(A) Establishing priorities for health care administration and management.

(B) Establishing policies, procedures, and direction for the provision of direct care at military medical treatment facilities.

(C) Establishing priorities for budgeting matters with respect to the provision of direct care at military medical treatment facilities.

(D) Establishing policies, procedures, and direction for clinic management and operations at military medical treatment facilities.

(E) Establishing priorities for information technology at and between the military medical treatment facilities.

(d) DHA DEPUTY ASSISTANT DIRECTORS.—(1)(A) There is in the Defense Health Agency a Deputy Assistant Director for Information Operations.

(B) The Deputy Assistant Director for Information Operations shall be responsible for policies, management, and execution of information technology operations at and between the military medical treatment facilities.

(2)(A) There is in the Defense Health Agency a Deputy Assistant Director for Financial Operations.

(B) The Deputy Assistant Director for Financial Operations shall be responsible for the policy, procedures, and direction of budgeting matters and financial management with respect to the provision of direct care at military medical treatment facilities.

(3)(A) There is in the Defense Health Agency a Deputy Assistant Director for Health Care Operations.

(B) The Deputy Assistant Director for Health Care Operations shall be responsible for the policy, procedures, and direction of health care administration in the military medical treatment facilities.

(4)(A) There is in the Defense Health Agency a Deputy Assistant Director for Medical Affairs.

(B) The Deputy Assistant Director for Medical Affairs shall be responsible for policy, procedures, and direction of clinical quality and process improvement, patient safety, infection control, graduate medical education, clinical integration, utilization review, risk management, patient experience, and civilian physician recruiting at military medical treatment facilities.

(5) Each Deputy Assistant Director appointed under paragraph (3) or (4) shall report directly to the Assistant Director for Health Care Administration.

(e) CERTAIN RESPONSIBILITIES OF DHA DIRECTOR.—(1) In addition to the other duties of the Director of the Defense Health Agency, the Director shall coordinate with the Joint Staff Surgeon to ensure that the Director most effectively carries out the responsibilities of the Defense Health Agency as a combat support agency under section 193 of this title.

(2) The responsibilities of the Director shall include the following:

(A) Ensuring that the Defense Health Agency meets the operational needs of the commanders of the combatant commands.

(B) Coordinating with the military departments to ensure that the staffing at the military medical treatment facilities supports readiness requirements for members of the armed forces and health care personnel.

(C) Ensuring that the Defense Health Agency meets the military medical readiness requirements of the senior military operational commanders of the military installations.

(f) ADDITIONAL DHA ORGANIZATIONS.—Subject to subsection (g), the Secretary of Defense shall, acting though the Director of the Defense Health Agency, establish within the Defense Health Agency the following:

(1) A subordinate organization, to be called the Defense Health Agency Research and

Development—

(A) led, at the election of the Director, by a director or commander (to be called the Director or Commander of Defense Health Agency Research and Development);

(B) comprised of the Army Medical Research and Materiel Command and such other medical research organizations and activities of the armed forces as the Secretary considers appropriate; and

(C) responsible for coordinating funding for Defense Health Program Research, Development, Test, and Evaluation, the Congressionally Directed Medical Research Program, and related Department of Defense medical research.

(2) A subordinate organization, to be called the Defense Health Agency Public Health—

(A) led, at the election of the Director, by a director or commander (to be called the Director or Commander of Defense Health Agency Public Health); and

(B) comprised of the Army Public Health Center, the Navy–Marine Corps Public Health Center, Air Force public health programs, and any other related defense health activities that the Secretary considers appropriate, including overseas laboratories focused on preventive medicine, environmental health, and similar matters.

(g) EXCEPTION TO ESTABLISHMENT OF ADDITIONAL DHA ORGANIZATIONS.—At the discretion of the Secretary of Defense, a military department may retain a function that would otherwise be transferred to the Defense Health Agency under subsection (f) if the Secretary of Defense determines the function—

(1) addresses a need that is unique to the military department; and

(2) is in direct support of operating forces and necessary to execute strategies relating to national security and defense.

(h) CONSULTATIONS ON MEDICAL RESEARCH OF MILITARY DEPARTMENTS.—In establishing the Defense Health Agency Research and Development pursuant to subsection (f)(1), and on a basis that is not less frequent than semiannually thereafter, the Secretary of Defense shall carry out recurring consultations with each military department regarding the plans and requirements for military medical research organizations and activities of the military department.

(i) TREATMENT OF DEPARTMENT OF DEFENSE FOR PURPOSES OF PERSONNEL ASSIGNMENT.—In implementing this section—

(1) the Department of Defense shall be considered a single agency for purposes of civilian personnel assignment under title 5; and

(2) the Secretary of Defense may reassign any employee of a component of the Department of Defense or a military department in a position in the civil service (as defined in section 2101 of title 5) to any other component of the Department of Defense or military department.

(j) RULE OF CONSTRUCTION REGARDING SECRETARIES CONCERNED AND MEDICAL EVALUATION BOARDS.—Nothing in this section shall be construed as transferring to the Director of the Defense Health Agency, or otherwise revoking, any authority or responsibility of the Secretary concerned under chapter 61 of this title with respect to a member of the armed forces (including with respect to the administration of morale and welfare and the determination of fitness for duty for the member) while the member is being considered by a medical evaluation board.

(k) DEFINITIONS.—In this section:

(1) The term "career appointee" has the meaning given that term in section 3132(a)(4) of title 5.

(2) The term "Defense Health Agency" means the Defense Agency established pursuant to Department of Defense Directive 5136.13, or such successor Defense Agency.

(3) The term "military medical treatment facility" means—

(A) any fixed facility of the Department of Defense that is outside of a deployed environment and used primarily for health care; and

(B) any other location used for purposes of providing health care services as designated by

the Secretary of Defense.

(Added Pub. L. 114–328, div. A, title VII, §702(a)(1), Dec. 23, 2016, 130 Stat. 2193; amended Pub. L. 115–91, div. A, title VII, §713, title X, §1081(a)(23), Dec. 12, 2017, 131 Stat. 1437, 1595; Pub. L. 115–232, div. A, title VII, §711(a)(1), (2), (b)(1), Aug. 13, 2018, 132 Stat. 1806, 1807; Pub. L. 116–92, div. A, title VII, §711, title XVII, §1731(a)(22), Dec. 20, 2019, 133 Stat. 1441, 1813; Pub. L. 116–283, div. A, title X, §1081(a)(24), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 117–81, div. A, title VII, §§711, 712(a), Dec. 27, 2021, 135 Stat. 1783; Pub. L. 117–263, div. A, title VII, §§711(b), 720(c), Dec. 23, 2022, 136 Stat. 2656, 2663; Pub. L. 118–31, div. A, title VII, §711(a), Dec. 22, 2023, 137 Stat. 301; Pub. L. 118–159, div. A, title XVII, §1701(a)(18), Dec. 23, 2024, 138 Stat. 2204; Pub. L. 119–60, div. A, title VII, §711(a), Dec. 18, 2025, 139 Stat. 919.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsecs. (a), (b). Pub. L. 119–60, §711(a)(1), (2), added subsec. (a) and redesignated former subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 119–60, §711(a)(3)(A), struck out ", by not later than September 30, 2021" after "paragraph (5)" in introductory provisions.

Subsec. (b)(2). Pub. L. 119–60, §711(a)(3)(B), struck out ", commencing when the Director begins to exercise responsibilities under that paragraph," after "shall" in introductory provisions.

Subsec. (b)(6). Pub. L. 119–60, §711(a)(3)(C), substituted "subsections (c) and (d)" for "subsections (b) and (c)".

Subsecs. (c) to (e). Pub. L. 119–60, §711(a)(1), redesignated subsecs. (b) to (d) as (c) to (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 119–60, §711(a)(1), (4), redesignated subsec. (e) as (f) and substituted "Subject to subsection (g)" for "Not later than September 30, 2024, and subject to subsection (f)" in introductory provisions. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 119–60, §711(a)(1), (5), redesignated subsec. (f) as (g) and substituted "subsection (f)" for "subsection (e)" in introductory provisions. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 119–60, §711(a)(1), (6), redesignated subsec. (g) as (h) and substituted "subsection (f)(1)" for "subsection (e)(1)". Former subsec. (h) redesignated (i).

Subsecs. (i) to (k). Pub. L. 119–60, §711(a)(1), redesignated subsecs. (h) to (j) as (i) to (k), respectively.

**2024**—Subsecs. (h) to (j). Pub. L. 118–159 redesignated subsec. (h) relating to rule of construction regarding Secretaries concerned and medical evaluation boards as (i) and former subsec. (i) as (j).

**2023**—Subsec. (e). Pub. L. 118–31, §711(a)(1), substituted "Not later than September 30, 2024, and subject to subsection (f)," for "Not later than September 30, 2022," in introductory provisions.

Subsecs. (f) to (h). Pub. L. 118–31, §711(a)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g) and former subsec. (g) as (h) relating to treatment of Department of Defense for purposes of personnel assignment.

**2022**—Subsec. (e)(2)(B). Pub. L. 117–263, §720(c), substituted "Army Public Health Center, the Navy–Marine Corps Public Health Center" for "Army Public Health Command, the Navy–Marine Corps Public Health Command".

Subsecs. (h), (i). Pub. L. 117–263, §711(b), added subsec. (h) and redesignated former subsec. (h) as (i).

**2021**—Subsec. (a)(4), (6). Pub. L. 116–283 redesignated par. (6) relating to authorization of military director or other senior military officer to serve as a commanding officer as (4) and moved it to appear before par. (5).

Subsec. (c)(5). Pub. L. 117–81, §711, substituted "paragraph (3) or (4)" for "paragraphs (1) through (4)".

Subsecs. (f) to (h). Pub. L. 117–81, §712(a), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

**2019**—Subsec. (a)(1). Pub. L. 116–92, §711(f)(1), substituted "paragraph (5)" for "paragraph (4)" in introductory provisions.

Pub. L. 116–92, §711(a)(1), added subpars. (A), (B), and (F) and redesignated former subpars. (A), (B), (C), (D), (E), and (F) as (C), (D), (E), (G), (H), and (I), respectively.

Subsec. (a)(2)(D) to (I). Pub. L. 116–92, §711(a)(2), added subpars. (D), (F), and (G), redesignated former subpars. (D), (E), (F), and (G) as (E), (F), (H), and (I), respectively, and struck out subpar. (F) as so redesignated. Prior to repeal, the redesignated subpar. (F) read as follows: "to direct joint manning at military

medical treatment facilities and intermediary organizations;".

Subsec. (a)(3)(A). Pub. L. 116–92, §711(a)(3)(A), inserted "on behalf of the military departments," before "ensuring" and struck out "and civilian employees" after "armed forces".

Subsec. (a)(3)(B). Pub. L. 116–92, §711(a)(3)(B), inserted "on behalf of the Defense Health Agency," before "furnishing".

Subsec. (a)(4). Pub. L. 116–92, §711(f)(4), which directed moving the second par. (4) so as to appear before par. (5), could not be executed because of the intervening amendment by Pub. L. 116–92, §1731(a)(22). See below.

Pub. L. 116–92, §711(f)(3), redesignated par. (4) relating to timeline for transition of administration of military medical treatment facilities as (5).

Pub. L. 116–92, §1731(a)(22), redesignated par. (4) relating to authorization of military director or other senior military officer to serve as a commanding officer as (6). Amendment executed before amendment by section 711(f)(4) of Pub. L. 116–92, see above, pursuant to section 1731(f) of Pub. L. 116–92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

Subsec. (a)(5). Pub. L. 116–92, §711(f)(3), redesignated par. (4) relating to timeline for transition of administration of military medical treatment facilities as (5). Former par. (5) redesignated (6) relating to establishment of professional staff.

Subsec. (a)(6). Pub. L. 116–92, §711(f)(2), redesignated par. (5) as (6) relating to establishment of professional staff.

Pub. L. 116–92, §1731(a)(22), redesignated par. (4) relating to authorization of military director or other senior military officer to serve as a commanding officer as (6).

Subsec. (b)(2). Pub. L. 116–92, §711(b), substituted "the education and experience to perform the responsibilities of the position." for "equivalent education and experience as a chief executive officer leading a large, civilian health care system."

Subsec. (c)(2)(B). Pub. L. 116–92, §711(c)(1), substituted "at military medical treatment facilities" for "across the military health system".

Subsec. (c)(4)(B). Pub. L. 116–92, §711(c)(2), inserted "at military medical treatment facilities" before period at end.

Subsecs. (f), (g). Pub. L. 116–92, §711(d), added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (g)(3). Pub. L. 116–92, §711(e), added par. (3).

**2018**—Subsec. (a)(1). Pub. L. 115–232, §711(a)(1)(A), substituted "In accordance with paragraph (4), by not later than September 30, 2021," for "Beginning October 1, 2018," in introductory provisions.

Subsec. (a)(2), (3). Pub. L. 115–232, §711(a)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (5).

Subsec. (a)(4). Pub. L. 115–232, §711(a)(1)(D), added par. (4) relating to timeline for transition of administration of military medical treatment facilities.

Subsec. (a)(5). Pub. L. 115–232, §711(a)(1)(B), (E), redesignated par. (3) as (5) and substituted "paragraphs (1) and (2)" for "subsection (a)".

Subsec. (d)(2)(C). Pub. L. 115–232, §711(a)(2), added subpar. (C).

Subsecs. (e), (f). Pub. L. 115–232, §711(b)(1), added subsec. (e) and redesginated former subsec. (e) as (f).

**2017**—Subsec. (a)(1)(E). Pub. L. 115–91, §§713(1), 1081(a)(23), amended subpar. (E) identically, substituting "military" for "miliary".

Subsec. (a)(2). Pub. L. 115–91, §713(2), substituted "military commander or director" for "commander" in introductory provisions.

Subsec. (a)(4). Pub. L. 115–91, §713(3), added par. (4) relating to authorization of military director or other senior military officer to serve as a commanding officer.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PLAN FOR PRIORITY ASSIGNMENT OF MEDICAL PERSONNEL OF DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title VII, §717, Dec. 18, 2025, 139 Stat. 923, provided that:

"(a) PLAN.—

"(1) SUBMISSION.—Not later than April 1, 2026, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for each military department to prioritize the assignment of active duty medical and dental personnel to military medical treatment facilities.

"(2) IMPLEMENTATION.—Not later than September 1, 2026, the Secretary of each military department shall each commence carrying out the plan under paragraph (1) by assigning active duty medical and dental personnel to military medical treatment facilities in accordance with the plan.

"(3) UPDATES.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall provide to the Committees on Armed Services of the Senate and the House of Representatives updates on the implementation of the plan under paragraph (1) as follows:

"(A) On a quarterly basis until the Secretary of Defense determines that the plan is fully implemented.

"(B) On an annual basis thereafter.

"(b) ASSIGNMENTS.—In carrying out the plan under subsection (a), the Secretary of each military department, in coordination with the Director of the Defense Health Agency, shall assign active duty medical and dental personnel to military medical treatment facilities in accordance with the plan.

"(c) CORRECTIVE ACTION.—

"(1) REQUIREMENT.—If, in the judgment of the Secretary of Defense, the Secretary of a military department fails to comply with the plan under subsection (a), the Secretary of Defense shall issue to the Secretary of the military department a directive requiring corrective action by the Secretary not later than 90 days after the date on which the directive is issued.

"(2) REPORT.—If the Secretary of a military department fails to initiate timely corrective action pursuant to the directive issued by the Secretary of Defense under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such noncompliance. Such report—

"(A) shall include a description of corrective measures to be taken, a plan of action, and milestones; and

"(B) may include recommendations for legislative and administrative changes the Secretary of Defense determines appropriate.

"(d) ANNUAL REPORT.—Not later than January 1, 2027, and annually thereafter for a period of five years, the Director of the Defense Health Agency and the Surgeons General of the military departments shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the state of manning for active duty and civilian medical and dental personnel. Such report shall include, with respect to the year covered by the report, the following:

"(1) Average civilian, contractor, and military staffing levels at military medical treatment facilities over the preceding year.

"(2) The extent to which military medical treatment facility staffing is compliant with the requirements for optimal operation of such facilities.

"(3) Active duty operational medical personnel manning shortfalls.

"(4) Defense Health Agency civilian and contractor hiring shortfalls, including a description of resources required to fill civilian billet gaps.

"(5) A projection of yearly budget shortfalls over each of the next five years within the Defense Health Agency, including a detailed description of the expected effects of such shortfalls to delivering health care benefits, operating the direct care network, maintaining an adequate managed care network, maintaining a fit and healthy fighting force, training medical personnel, recruiting and retaining medical personnel, planning for contingency operations, and any other resourcing matters the Director determines necessary and relevant.

"(6) A description of military department-level tradeoffs between operational medical requirements and military medical treatment facility manning requirements, and how each military department is working to fully support both.

"(7) A description of health care service levels at military medical treatment facilities and whether such facilities are adequately resourced to provide enough throughput of medical care to—

"(A) maintain efficient operation of all medical services offered at the facilities;

"(B) meet patient needs; and

"(C) keep all medical and dental personnel proficient with the medical skills of the professional.

"(8) For military medical treatment facilities that are deficient in the categories listed in paragraph (7), a plan for how to bring TRICARE program beneficiaries back into military medical treatment facilities to improve and maintain operations in the direct care system.

"(9) A brief description of the major areas of disagreement among the Director and each of the Surgeons General relating to manning, operating, and improving the volume and quality of care at all military medical treatment facilities, and a plan for how to resolve such areas of disagreement going forward."

## EXPANSION OF RECOGNITION BY THE DEFENSE HEALTH AGENCY OF CERTIFYING BODIES FOR PHYSICIANS

Pub. L. 118–159, div. A, title VII, §715, Dec. 23, 2024, 138 Stat. 1948, provided that:

"(a) EXPANSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Director of the Defense Health Agency shall revise the policy of the Defense Health Agency regarding the credentialing and privileging under the military health system to expand the recognition of certifying bodies for physicians under such policy to a wide range of additional board certifications in medical specialties and subspecialties. Subject to subsection (b), the following certifying bodies shall be so recognized:

"(1) The member boards of the American Board of Medical Specialties.

"(2) The Bureau of Osteopathic Specialists of the American Osteopathic Association.

"(3) The American Board of Foot and Ankle Surgery.

"(4) The American Board of Podiatric Medicine.

"(5) The American Board of Oral and Maxillofacial Surgery.

"(b) STANDARDS FOR RECOGNITION OF OTHER CERTIFYING BODIES.—To be recognized under subsection (a), a certifying body shall—

"(1) be an organization described in section 501(c) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)] and exempt from taxation under section 501(a) of that Code;

"(2) maintain a process to define, periodically review, enforce, and update specific standards regarding knowledge and skills of the specialty or subspecialty;

"(3) administer a psychometrically valid assessment to determine whether a physician meets standards for initial certification, recertification, or continuing certification;

"(4) establish and enforce a code of professional conduct;

"(5) require that, in order to be considered a board certified specialty physician, a physician must satisfy—

"(A) the certifying body's applicable requirements for initial certification; and

"(B) any applicable recertification or continuing certification requirements of the certifying body that granted the initial certification; and

"(6) meets such other requirements as the Secretary of Defense may establish for purposes of compliance with appropriate requirements of applicable State laws and the promotion of consistency in credentialing and privileging health care providers throughout military medical treatment facilities of the Defense Health Agency."

## WAIVER WITH RESPECT TO EXPERIENCED NURSES AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 118–159, div. A, title VII, §716, Dec. 23, 2024, 138 Stat. 1949, provided that:

"(a) IN GENERAL.—The hiring manager of a military medical treatment facility or other health care facility of the Department of Defense may waive any General Schedule qualification standard related to work experience established by the Director of the Office of Personnel Management in the case of any applicant for a nursing or practical nurse position in a military medical treatment facility or other health care facility of the Department of Defense who—

"(1)(A) is a nurse or practical nurse in the Department of Defense; or

"(B) was a nurse or practical nurse in the Department of Defense for at least one year; and

"(2) after commencing work as a nurse or practical nurse in the Department of Defense, obtained a bachelor's degree or graduate degree from an accredited professional nursing educational program.

"(b) CERTIFICATION.—If, in the case of any applicant described in subsection (a), a hiring manager waives a qualification standard in accordance with such subsection, such hiring manager shall submit to the Director of the Office of Personnel Management a certification that such applicant meets all remaining General Schedule qualification standards established by the Director of the Office of Personnel Management for the applicable position."

## MODIFICATION OF REQUIREMENT TO TRANSFER RESEARCH AND DEVELOPMENT AND PUBLIC HEALTH FUNCTIONS TO DEFENSE HEALTH AGENCY

Pub. L. 117–263, div. A, title VII, §720, Dec. 23, 2022, 136 Stat. 2662, provided that:

"(a) TEMPORARY RETENTION.—Notwithstanding section 1073c(e) of title 10, United States Code [now 10 U.S.C. 1073c(f)], at the discretion of the Secretary of Defense, a military department may retain, until not later than February 1, 2024, a covered function if the Secretary of Defense determines the covered function—

"(1) addresses a need that is unique to the military department; and

"(2) is in direct support of operating forces and necessary to execute strategies relating to national

security and defense.

"(b) BRIEFING.—

"(1) IN GENERAL.—Not later than March 1, 2023, the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on any covered function that the Secretary has determined should be retained by a military department pursuant to subsection (a).

"(2) ELEMENTS.—The briefing required by paragraph (1) shall address the following:

"(A) A description of each covered function that the Secretary has determined should be retained by a military department pursuant to subsection (a).

"(B) The rationale for each such determination.

"(C) Recommendations for amendments to section 1073c of title 10, United States Code, to authorize the ongoing retention of covered functions by military departments.

"(c) MODIFICATION TO NAMES OF PUBLIC HEALTH COMMANDS.—[Amended this section.]

"(d) COVERED FUNCTION DEFINED.—In this section, the term 'covered function' means—

"(1) a function relating to research and development that would otherwise be transferred to the Defense Health Agency Research and Development pursuant to section 1073c(e)(1) of title 10, United States Code [now 10 U.S.C. 1073c(f)(1)]; or

"(2) a function relating to public health that would otherwise be transferred to the Defense Health Agency Public Health pursuant to section 1073c(e)(2) of such title [now 10 U.S.C. 1073c(f)(2)]."

## REQUIREMENTS FOR CONSULTATIONS RELATING TO MILITARY MEDICAL RESEARCH AND DEFENSE HEALTH AGENCY RESEARCH AND DEVELOPMENT

Pub. L. 117–81, div. A, title VII, §712(b), (c), Dec. 27, 2021, 135 Stat. 1783, 1784, provided that:

"(b) REQUIREMENTS FOR CONSULTATIONS.—The Secretary of Defense shall ensure that consultations are carried out under section 1073c(f) of title 10, United States Code [now 10 U.S.C. 1073c(g)] (as added by subsection (a)), to include the plans of each military department to ensure a comprehensive transition of any military medical research organizations of the military department with respect to the establishment of the Defense Health Agency Research and Development.

"(c) DEADLINE FOR INITIAL CONSULTATIONS.—Initial consultations shall be carried out under section 1073c(f) of title 10, United States Code [now 10 U.S.C. 1073c(g)] (as added by subsection (a)), with each military department by not later than March 1, 2022."

## LIMITATION ON CLOSURES AND DOWNSIZINGS IN CONNECTION WITH TRANSITION OF ADMINISTRATION

Pub. L. 115–232, div. A, title VII, §711(a)(3), Aug. 13, 2018, 132 Stat. 1807, provided that: "In carrying out the transition of responsibility for the administration of military medical treatment facilities pursuant to subsection (a) of section 1073c of title 10, United States Code [now 10 U.S.C. 1073c(b)] (as amended by paragraph (1)), and in addition to any other applicable requirements under section 1073d of that title, the Secretary of Defense may not close any military medical treatment facility, or downsize any medical center, hospital, or ambulatory care center (as specified in section 1073d of that title), that addresses the medical needs of beneficiaries and the community in the vicinity of such facility, center, hospital, or care center until the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the following:

"(A) A description of the methodology and criteria to be used by the Secretary to make decisions to close any military medical treatment facility, or to downsize any medical center, hospital, or ambulatory care center, in connection with the transition, including input from the military department concerned.

"(B) A requirement that no closure of a military medical treatment facility, or downsizing of a medical center, hospital, or ambulatory care center, in connection with the transition will occur until 90 days after the date on which Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the closure or downsizing."

## SUPPORT BY MILITARY HEALTHCARE SYSTEM OF MEDICAL REQUIREMENTS OF COMBATANT COMMANDS

Pub. L. 117–81, div. A, title VII, §731(b)(1), Dec. 27, 2021, 135 Stat. 1796, provided that: "The Secretaries of the military departments shall ensure that the Surgeons General of the Armed Forces carry out fully the requirements of section 712(b)(3) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 1073c note) [set out below] by not later than September 30, 2022."

Pub. L. 115–232, div. A, title VII, §712, Aug. 13, 2018, 132 Stat. 1809, as amended by Pub. L. 116–92, div. A, title VII, §712(a), (b)(1), Dec. 20, 2019, 133 Stat. 1443–1445; Pub. L. 118–31, div. A, title VII, §714(c),

Dec. 22, 2023, 137 Stat. 303, provided that:

"(a) ORGANIZATIONAL FRAMEWORK REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall, acting through the Secretaries of the military departments, the Defense Health Agency, and the Joint Staff, implement an organizational framework of the military health system that effectively and efficiently implements chapter 55 of title 10, United States Code, to maximize the readiness of the medical force, promote interoperability, and integrate medical capabilities of the Armed Forces in order to enhance joint military medical operations in support of requirements of the combatant commands.

"(2) COMPLIANCE WITH CERTAIN REQUIREMENTS.—The organizational framework, as implemented, shall comply with all requirements of section 1073c of title 10, United States Code, except for the implementation date specified in subsection (a) of such section [now 10 U.S.C. 1073c(b)].

"(b) ADDITIONAL DUTIES OF SURGEONS GENERAL OF THE ARMED FORCES.—The Surgeons General of the Armed Forces shall have the following duties:

"(1) To ensure the readiness for operational deployment of medical and dental personnel and deployable medical or dental teams or units of the Armed Force or Armed Forces concerned.

"(2) To meet medical readiness standards, subject to standards and metrics established by the Assistant Secretary of Defense for Health Affairs.

"(3) With respect to uniformed medical and dental personnel of the military department concerned—

"(A) to assign such personnel—

"(i) primarily to military medical treatment facilities, under the operational control of the commander or director of the facility; or

"(ii) secondarily to partnerships with civilian or other medical facilities for training activities specific to such military department; and

"(B) to maintain readiness of such personnel for operational deployment.

"(4) To provide logistical support for operational deployment of medical and dental personnel and deployable medical or dental teams or units of the Armed Force or Armed Forces concerned.

"(5) To oversee mobilization and demobilization in connection with the operational deployment of medical and dental personnel of the Armed Force or Armed Forces concerned.

"(6) To develop operational medical capabilities required to support the warfighter, and to develop policy relating to such capabilities.

"(7) To provide health professionals to serve in leadership positions across the military healthcare system.

"(8) To deliver operational clinical services under the operational control of the combatant commands—

"(A) on ships and planes; and

"(B) on installations outside of military medical treatment facilities.

"(9) To manage privileging, scope of practice, and quality of health care in the settings described in paragraph (8).

"(c) DEFENSE HEALTH AGENCY REGIONS IN CONUS.—The organizational framework required by subsection (a) shall meet the requirements as follows:

"(1) DEFENSE HEALTH AGENCY REGIONS.—There shall be not more than two Defense Health Agency regions in the continental United States.

"(2) LEADERS.—Each region under paragraph (1) shall be led by a commander or director who is a member of the Armed Forces serving in a grade not higher than major general or rear admiral, and who—

"(A) shall be selected by the Director of the Defense Health Agency from among members of the Armed Forces recommended by the Secretaries of the departments for service in such position; and

"(B) shall be under the authority, direction, and control of the Director while serving in such position.

"(d) DEFENSE HEALTH AGENCY REGIONS OCONUS.—The organizational framework required by subsection (a) shall provide for the establishment of not more than two Defense Health Agency regions outside the continental United States in order—

"(1) to enhance joint military medical operations in support of the requirements of the combatant commands in such region or regions, with a specific focus on current and future contingency and operational plans;

"(2) to ensure the provision of high-quality healthcare services to beneficiaries; and

"(3) to improve the interoperability of healthcare delivery systems in the Defense Health Agency regions (whether under this subsection, subsection (c), or both).

"(e) PLANNING AND COORDINATION.—

"(1) SUSTAINMENT OF CLINICAL COMPETENCIES AND STAFFING.—The Director of the Defense Health Agency shall—

"(A) provide in each Defense Health Agency region under this section healthcare delivery venues for uniformed medical and dental personnel to obtain operational clinical competencies; and

"(B) coordinate with the military departments to ensure that staffing at military medical treatment facilities in each region supports readiness requirements for members of the Armed Forces and military medical personnel.

"(2) OVERSIGHT AND ALLOCATION OF RESOURCES.—

"(A) IN GENERAL.—The Secretaries of the military departments shall coordinate with the Chairman of the Joint Chiefs of Staff to direct resources allocated to the military departments to support requirements related to readiness and operational medicine support that are established by the combatant commands and validated by the Joint Staff.

"(B) SUPPLY AND DEMAND FOR MEDICAL SERVICES.—The Director of the Defense Health Agency, in coordination with the Assistant Secretary of Defense for Health Affairs, shall—

"(i) validate supply and demand requirements for medical and dental services at each military medical treatment facility;

"(ii) in coordination with the Surgeons General of the Armed Forces, provide currency workload for uniformed medical and dental personnel at each such facility to maintain skills proficiency; and

"(iii) if workload is insufficient to meet requirements, identify alternative training and clinical practice sites for uniformed medical and dental personnel, and establish military-civilian training partnerships, to provide such workload.

"(3) MEDICAL FORCE REQUIREMENTS OF THE COMBATANT COMMANDS.—The Surgeon General of each Armed Force shall, on behalf of the Secretary concerned, ensure that the uniformed medical and dental personnel serving in such Armed Force receive training and clinical practice opportunities necessary to ensure that such personnel are capable of meeting the operational medical force requirements of the combatant commands applicable to such personnel. Such training and practice opportunities shall be provided primarily through programs and activities of the Defense Health Agency, in coordination with the Secretaries of the military departments, and by such other mechanisms as the Secretary of Defense shall designate for purposes of this paragraph.

"(4) CONSTRUCTION OF DUTIES.—The duties of a Surgeon General of the Armed Forces under this subsection are in addition to the duties of such Surgeon General under section 3036, 5137, or 8036 of title 10, United States Code, as applicable.

"(5) MANPOWER.—

"(A) ADMINISTRATIVE CONTROL OF MILITARY PERSONNEL.—Each Secretary of a military department shall exercise administrative control of members of the Armed Forces assigned to military medical treatment facilities, including personnel assignment and issuance of military orders.

"(B) OVERSIGHT OF CERTAIN PERSONNEL BY THE DIRECTOR OF THE DEFENSE HEALTH AGENCY.—In situations in which members of the Armed Forces provide health care services at a military medical treatment facility, the Director of the Defense Health Agency shall maintain operational control over such members and oversight for the provision of care delivered by such members through policies, procedures, and privileging responsibilities of the military medical treatment facility.

"(f) REPORT.—Not later than 270 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth the following:

"(1) A description of the organizational structure of the office of each Surgeon General of the Armed Forces, and of any subordinate organizations of the Armed Forces that will support the functions and responsibilities of a Surgeon General of the Armed Forces.

"(2) The manning documents for staffing in support of the organizational structures described pursuant to paragraph (1), including manning levels before and after such organizational structures are implemented.

"(3) Such recommendations for legislative or administrative action as the Secretary considers appropriate in connection with the implementation of such organizational structures and, in particular, to avoid duplication of functions and tasks between the organizations in such organizational structures and the Defense Health Agency."

**SELECTION OF MILITARY COMMANDERS AND DIRECTORS OF MILITARY MEDICAL TREATMENT FACILITIES**

Pub. L. 115–91, div. A, title VII, §722, Dec. 12, 2017, 131 Stat. 1441, provided that:

"(a) IN GENERAL.—Not later than January 1, 2019, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall establish the common qualifications and core competencies required for an individual to serve as a military commander or director of a military medical treatment facility.

"(b) OBJECTIVE.—The objective of the Secretary under this section shall be to ensure that each individual selected to serve as a military commander or director of a military medical treatment facility is highly qualified to serve as health system executive.

"(c) STANDARDS.—In establishing common qualifications and core competencies under subsection (a), the Secretary shall include standards with respect to the following:

"(1) Professional competence.

"(2) Moral and ethical integrity and character.

"(3) Formal education in health care executive leadership and in health care management.

"(4) Such other matters the Secretary determines to be appropriate."

**APPOINTMENTS**

Pub. L. 114–328, div. A, title VII, §702(c), Dec. 23, 2016, 130 Stat. 2196, provided that: "The Secretary of Defense shall make appointments of the positions under section 1073c of title 10, United States Code, as added by subsection (a)—

"(1) by not later than October 1, 2018; and

"(2) by not increasing the number of full-time equivalent employees of the Defense Health Agency."

## §1073d. Military medical treatment facilities

(a) IN GENERAL.—To support the medical readiness of the armed forces and the readiness of medical personnel, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall maintain the military medical treatment facilities described in subsections (b), (c), and (d).

(b) MEDICAL CENTERS.—(1) The Secretary of Defense shall maintain medical centers in areas with a large population of members of the armed forces and covered beneficiaries.

(2) Medical centers shall serve as referral facilities for members and covered beneficiaries who require comprehensive health care services that support medical readiness.

(3) Medical centers shall consist of the following:

(A) Inpatient and outpatient tertiary care facilities that incorporate specialty and subspecialty care.

(B) Graduate medical education programs.

(C) Residency training programs.

(D) Level one, level two, or level three trauma care capabilities.

(4)(A) The Secretary shall designate certain major medical centers as regional centers of excellence for the provision of specialty care services in the areas of specialty care described in subparagraph (D). A major medical center may be designated as a center of excellence under this subparagraph for more than one such area of specialty care.

(B) The Secretary may designate certain medical centers as satellite centers of excellence for the provision of specialty care services for specific conditions, such as the following:

(i) Post-traumatic stress.

(ii) Traumatic brain injury.

(iii) Such other conditions as the Secretary determines appropriate.

(C) Centers of excellence designated under this paragraph shall serve the purposes of—

(i) ensuring the military medical force readiness of the Department of Defense and the medical readiness of the armed forces;

(ii) improving the quality of health care furnished by the Secretary to eligible beneficiaries; and

(iii) improving health outcomes for eligible beneficiaries.

(D) The areas of specialty care described in this subparagraph are as follows:

(i) Oncology.
(ii) Burn injuries and wound care.
(iii) Rehabilitation medicine.
(iv) Psychological health and traumatic brain injury.
(v) Amputations and prosthetics.
(vi) Neurosurgery.
(vii) Orthopedic care.
(viii) Substance abuse.
(ix) Infectious diseases and preventive medicine.
(x) Cardiothoracic surgery.
(xi) Such other areas of specialty care as the Secretary determines appropriate.

(E)(i) Centers of excellence designated under this paragraph shall be the primary source within the military health system for the receipt by eligible beneficiaries of specialty care.

(ii) Eligible beneficiaries seeking a specialty care service through the military health system shall be referred to a center of excellence designated under subparagraph (A) for that area of specialty care or, if the specialty care service sought is unavailable at such center, to an appropriate specialty care provider in the private sector.

(F) Not later than 90 days prior to the designation of a center of excellence under this paragraph, the Secretary shall notify the Committees on Armed Services of the House of Representatives and the Senate of such designation.

(G) In this paragraph, the term "eligible beneficiary" means any beneficiary under this chapter.

(5)(A) The Secretary of Defense shall designate and maintain certain military medical treatment facilities as core casualty receiving facilities, to ensure the medical capability and capacity required to diagnose, treat, and rehabilitate large volumes of combat casualties and, as may be directed by the President or the Secretary, provide a medical response to events the President determines or declares as natural disasters, mass casualty events, or other national emergencies.

(B) The Secretary shall ensure that the military medical treatment facilities selected for designation pursuant to subparagraph (A) are geographically located to facilitate the aeromedical evacuation of casualties from theaters of operations.

(C) The Secretary—

(i) shall ensure that the Secretaries of the military departments assign military personnel to core casualty receiving facilities designated under subparagraph (A) at not less than 90 percent of the staffing level required to maintain the operating bed capacity necessary to support operation planning requirements;

(ii) may augment the staffing of military personnel at core casualty receiving facilities under subparagraph (A) with civilian employees of the Department of Defense to fulfill the staffing requirement under clause (i); and

(iii) shall ensure that each core casualty receiving facility under subparagraph (A) is staffed with a civilian Chief Financial Officer and a civilian Chief Operating Officer with experience in the management of civilian hospital systems, for the purpose of ensuring continuity in the management of the facility.

(D) In this paragraph:

(i) The term "core casualty receiving facility" means a Role 4 medical treatment facility that serves as a medical hub for the receipt and treatment of casualties, including civilian casualties, that may result from combat or from an event the President determines or declares as a natural disaster, mass casualty event, or other national emergency.

(ii) The term "Role 4 medical treatment facility" means a medical treatment facility that provides the full range of preventative, curative, acute, convalescent, restorative, and rehabilitative care.

(c) HOSPITALS.—(1) The Secretary of Defense shall maintain hospitals in areas where civilian

health care facilities are unable to support the health care needs of members of the armed forces and covered beneficiaries.

(2) Hospitals shall provide—

(A) inpatient and outpatient health services to maintain medical readiness; and

(B) such other programs and functions as the Secretary determines appropriate.

(3) Hospitals shall consist of inpatient and outpatient care facilities with limited specialty care that the Secretary determines—

(A) is cost effective; or

(B) is not available at civilian health care facilities in the area of the hospital.

(d) AMBULATORY CARE CENTERS.—(1) The Secretary of Defense shall maintain ambulatory care centers in areas where civilian health care facilities are able to support the health care needs of members of the armed forces and covered beneficiaries.

(2) Ambulatory care centers shall provide the outpatient health services required to maintain medical readiness, including with respect to partnerships established pursuant to section 706 of the National Defense Authorization Act for Fiscal Year 2017.

(3) Ambulatory care centers shall consist of outpatient care facilities with limited specialty care that the Secretary determines—

(A) is cost effective; or

(B) is not available at civilian health care facilities in the area of the ambulatory care center.

(e) MAINTENANCE OF INPATIENT CAPABILITIES AT MILITARY MEDICAL TREATMENT FACILITIES LOCATED OUTSIDE THE UNITED STATES.—(1) In carrying out subsection (a), the Secretary of Defense shall ensure that each covered facility maintains, at a minimum, inpatient capabilities that the Secretary determines are similar to the inpatient capabilities of such facility on September 30, 2016.

(2) The Secretary may not eliminate the inpatient capabilities of a covered facility until the day that is 180 days after the Secretary provides a briefing to the Committees on Armed Services of the Senate and the House of Representatives regarding the proposed elimination. During any such briefing, the Secretary shall certify the following:

(A) The Secretary has entered into agreements with hospitals or medical centers in the host nation of such covered facility that—

(i) replace the inpatient capabilities the Secretary proposes to eliminate; and

(ii) ensure members of the armed forces and covered beneficiaries who receive health care from such covered facility, have, within a distance the Secretary determines is reasonable, access to quality health care, including case management and translation services.

(B) The Secretary has consulted with the commander of the geographic combatant command in which such covered facility is located to ensure that the proposed elimination would have no impact on the operational plan for such geographic combatant command.

(C) Before the Secretary eliminates the inpatient capabilities of such covered facility, the Secretary shall provide each member of the armed forces or covered beneficiary who receives health care from the covered facility with—

(i) a transition plan for continuity of health care for such member or covered beneficiary; and

(ii) a public forum to discuss the concerns of the member or covered beneficiary regarding the proposed reduction.

(3) In this subsection, the term "covered facility" means a military medical treatment facility located outside the United States.

(f) NOTIFICATION REQUIRED TO MODIFY SCOPE OF SERVICES PROVIDED AT MILITARY MEDICAL TREATMENT FACILITIES.—(1) The Secretary of Defense may not modify the scope of medical care provided at a military medical treatment facility, or the beneficiary

population served at the facility, unless—

(A) the Secretary submits to the Committees on Armed Services of the House of Representatives and the Senate a notification of the proposed modification in scope;

(B) a period of 180 days has elapsed following the date on which the Secretary submits such notification; and

(C) if the proposed modification in scope involves the termination or reduction of inpatient capabilities at a military medical treatment facility located outside the United States, the Secretary has provided to each member of the armed forces or covered beneficiary receiving services at such facility a transition plan for the continuity of health care for such member or covered beneficiary.

(2) Each notification under paragraph (1) shall contain, with respect to the military medical treatment facility for which the modification in scope has been proposed, the following:

(A) An endorsement from the Chairman of the Joint Chiefs of Staff that the proposed modification will have no effect on operational requirements of the armed forces.

(B) An endorsement from the Surgeon General of the military department concerned that the proposed modification will have no effect on the training or readiness of military medical personnel in the military department concerned.

(C) An assessment from the Director of the Defense Health Agency that explains how members of the armed forces and covered beneficiaries receiving services at the facility will continue to receive care.

(Added Pub. L. 114–328, div. A, title VII, §703(a)(1), Dec. 23, 2016, 130 Stat. 2197; amended Pub. L. 115–91, div. A, title VII, §711, Dec. 12, 2017, 131 Stat. 1436; Pub. L. 117–263, div. A, title VII, §§712, 713(a), 714(a), 715, Dec. 23, 2022, 136 Stat. 2657, 2659, 2660; Pub. L. 118–159, div. A, title XVII, §1701(a)(19), Dec. 23, 2024, 138 Stat. 2204; Pub. L. 119–60, div. A, title VII, §714, Dec. 18, 2025, 139 Stat. 922.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 706 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (d)(2), is section 706 of Pub. L. 114–328, which is set out as a note under section 1096 of this title.

### AMENDMENTS

**2025**—Subsec. (f)(2). Pub. L. 119–60 struck out "information demonstrating" after "shall contain", substituted "the following:" for "the extent to which the commander of the military installation at which the facility is located has been consulted regarding such modification, to ensure that the proposed modification in scope would have no impact on the operational plan for such installation.", and added subpars. (A) to (C).

**2024**—Subsec. (b)(5)(C)(ii). Pub. L. 118–159 substituted "fulfill" for "fulfil".

**2022**—Subsec. (b)(3)(D). Pub. L. 117–263, §712, substituted ", level two, or level three" for "or level two".

Subsec. (b)(4). Pub. L. 117–263, §713(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The Secretary may designate a medical center as a regional center of excellence for unique and highly specialized health care services, including with respect to polytrauma, organ transplantation, and burn care."

Subsec. (b)(5). Pub. L. 117–263, §714(a), added par. (5).

Subsec. (f). Pub. L. 117–263, §715, added subsec. (f).

**2017**—Subsec. (e). Pub. L. 115–91 added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE

Pub. L. 117–263, div. A, title VII, §713(b), Dec. 23, 2022, 136 Stat. 2658, provided that: "The Secretary of Defense shall designate certain major medical centers as regional centers of excellence in accordance with section 1073d(b)(4)(A) of title 10, United States Code, as added by subsection (a), by not later than one year after the date of the enactment of this Act [Dec. 23, 2022]."

## TIMELINE FOR ESTABLISHMENT

Pub. L. 117–263, div. A, title VII, §714(b), Dec. 23, 2022, 136 Stat. 2660, provided that:

"(1) DESIGNATION.—Not later than October 1, 2024, the Secretary of Defense shall designate four military medical treatment facilities as core casualty receiving facilities under section 1073d(b)(5) of title 10, United States Code (as added by subsection (a)).

"(2) OPERATIONAL.—Not later than October 1, 2025, the Secretary shall ensure that each such designated military medical treatment facility is fully staffed and operational as a core casualty receiving facility, in accordance with the requirements of such section 1073d(b)(5)."

## ESTABLISHMENT OF CENTERS OF EXCELLENCE FOR ENHANCED TREATMENT OF OCULAR INJURIES

Pub. L. 117–81, div. A, title VII, §721, Dec. 27, 2021, 135 Stat. 1791, provided that:

"(a) IN GENERAL.—Not later than October 1, 2023, the Secretary of Defense, acting through the Director of the Defense Health Agency, shall establish within the Defense Health Agency not fewer than four regional centers of excellence for the enhanced treatment of—

"(1) ocular wounds or injuries; and

"(2) vision dysfunction related to traumatic brain injury.

"(b) LOCATION OF CENTERS.—Each center of excellence established under subsection (a) shall be located at a military medical center that provides graduate medical education in ophthalmology and related subspecialties and shall be the primary center for providing specialized medical services for vision for members of the Armed Forces in the region in which the center of excellence is located.

"(c) POLICIES FOR REFERRAL OF BENEFICIARIES.—Not later than October 1, 2023, the Director of the Defense Health Agency shall publish on a publicly available internet website of the Department of Defense policies for the referral of eligible beneficiaries of the Department to centers of excellence established under subsection (a) for evaluation and treatment.

"(d) IDENTIFICATION OF MEDICAL PERSONNEL BILLETS AND STAFFING.—The Secretary of each military department, in conjunction with the Joint Staff Surgeon and the Director of the Defense Health Agency, shall identify specific medical personnel billets essential for the evaluation and treatment of ocular sensory injuries and ensure that centers of excellence established under subsection (a) are staffed with such personnel at the level required for the enduring medical support of each such center.

"(e) BRIEFING.—Not later than December 31, 2023, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that—

"(1) describes the establishment of each center of excellence established under subsection (a), to include the location, capability, and capacity of each such center;

"(2) describes the referral policy published by the Defense Health Agency under subsection (c);

"(3) identifies the medical personnel billets identified under subsection (d); and

"(4) provides a plan for the staffing of personnel at such centers to ensure the enduring medical support of each such center.

"(f) MILITARY MEDICAL CENTER DEFINED.—In this section, the term 'military medical center' means a medical center described in section 1073d(b) of title 10, United States Code."

## SATELLITE CENTERS

Pub. L. 114–328, div. A, title VII, §703(a)(3), Dec. 23, 2016, 130 Stat. 2198, provided that: "In addition to the centers of excellence designated under section 1073d(b)(4) of title 10, United States Code, as added by paragraph (1), the Secretary of Defense may establish satellite centers of excellence to provide specialty care for certain conditions, including with respect to—

"(A) post-traumatic stress;

"(B) traumatic brain injury; and

"(C) such other conditions as the Secretary considers appropriate."

## LIMITATION ON RESTRUCTURE AND REALIGNMENT OF MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §703(b), (e), Dec. 23, 2016, 130 Stat. 2198, 2200, provided that:

"(b) EXCEPTION.—In carrying out section 1073d of title 10, United States Code, as added by subsection (a)(1), the Secretary of Defense may not restructure or realign the infrastructure of, or modify the health care services provided by, a military medical treatment facility unless the Secretary determines that, if such a

restructure, realignment, or modification will eliminate the ability of a covered beneficiary to access health care services at a military medical treatment facility, the covered beneficiary will be able to access such health care services through the purchased care component of the TRICARE program."

"(e) DEFINITIONS.—In this section [enacting this section and provisions set out as notes under this section], the terms 'covered beneficiary' and 'TRICARE program' have the meaning given those terms in section 1072 of title 10, United States Code."

## §1073e. Protection of armed forces from infectious diseases

(a) PROTECTION.—The Secretary of Defense shall develop and implement a plan to ensure that the armed forces have the diagnostic equipment, testing capabilities, and personal protective equipment necessary to protect members of the armed forces from the threat of infectious diseases and to treat members who contract infectious diseases.

(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall ensure the following:

(1) Each military medical treatment facility has the testing capabilities described in such subsection, as appropriate for the mission of the facility.

(2) Each deployed naval vessel has access to the testing capabilities described in such subsection.

(3) Members of the armed forces deployed in support of a contingency operation outside of the United States have access to the testing capabilities described in such subsection, including at field hospitals, combat support hospitals, field medical stations, and expeditionary medical facilities.

(4) The Department of Defense maintains—

(A) a 30-day supply of personal protective equipment in a quantity sufficient for each member of the armed forces, including the reserve components thereof; and

(B) the capability to rapidly resupply such equipment.

(c) RESEARCH AND DEVELOPMENT.—(1) The Secretary shall include with the defense budget materials (as defined by section 231(f) [1] of this title) for a fiscal year a plan to research and develop vaccines, diagnostics, and therapeutics for infectious diseases.

(2) The Secretary shall ensure that the medical laboratories of the Department of Defense are equipped with the technology needed to facilitate rapid research and development of vaccines, diagnostics, and therapeutics in the case of a pandemic.

(Added Pub. L. 116–283, div. A, title VII, §712(a), Jan. 1, 2021, 134 Stat. 3691.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 231(f) of this title, referred to in subsec. (c)(1), was redesignated as section 231(g) of this title by Pub. L. 117–263, div. A, title III, §352(a)(2), Dec. 23, 2022, 136 Stat. 2533, and subsequently was redesignated as section 231(h) of this title by Pub. L. 118–159, div. A, title X, §1021(1), Dec. 23, 2024, 138 Stat. 2052.

[1] *See References in Text note below.*

## §1073f. Health care fraud and abuse prevention program

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Defense may carry out a program under this section to prevent and remedy fraud and abuse in the health care programs of the Department of Defense.

(2) At the discretion of the Secretary, such program may be administered jointly by the Inspector General of the Department of Defense and the Director of the Defense Health Agency.

(3) In carrying out such program, the authorities granted to the Secretary of Defense and the

Inspector General of the Department of Defense under section 1128A(m) of the Social Security Act (42 U.S.C. 1320a–7a(m)) shall be available to the Secretary and the Inspector General.

(b) CIVIL MONETARY PENALTIES.—(1) Except as provided in paragraph (2), the provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) shall apply with respect to any civil monetary penalty imposed in carrying out the program authorized under subsection (a).

(2) Consistent with section 1079a of this title, amounts recovered in connection with any such civil monetary penalty imposed—

(A) shall be credited to appropriations available as of the time of the collection for expenses of the health care program of the Department of Defense affected by the fraud and abuse for which such penalty was imposed; and

(B) may be used to support the administration of the program authorized under subsection (a), including to support any interagency agreements entered into under subsection (d).

(c) INTERAGENCY AGREEMENTS.—The Secretary of Defense may enter into agreements with the Secretary of Health and Human Services, the Attorney General, or the heads of other Federal agencies, for the effective and efficient implementation of the program authorized under subsection (a).

(d) RULE OF CONSTRUCTION.—Joint administration of the program authorized under subsection (a) may not be construed as limiting the authority of the Inspector General of the Department of Defense under any other provision of law.

(e) FRAUD AND ABUSE DEFINED.—In this section, the term "fraud and abuse" means any conduct specified in subsection (a) or (b) of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a).

(Added Pub. L. 117–81, div. A, title VII, §713(a), Dec. 27, 2021, 135 Stat. 1784.)

## §1074. Medical and dental care for members and certain former members

(a)(1) Under joint regulations to be prescribed by the administering Secretaries, a member of a uniformed service described in paragraph (2) is entitled to medical and dental care in any facility of any uniformed service.

(2) Members of the uniformed services referred to in paragraph (1) are as follows:

(A) A member of a uniformed service on active duty.

(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

(ii) the request for orders has been approved;

(iii) the orders are to be issued but have not been issued or the orders have been issued but the member has not entered active duty; and

(iv) the member does not have health care insurance and is not covered by any other health benefits plan.

(b)(1) Under joint regulations to be prescribed by the administering Secretaries, a member or former member of a uniformed service who is entitled to retired or retainer pay, or equivalent pay may, upon request, be given medical and dental care in any facility of any uniformed service, subject to the availability of space and facilities and the capabilities of the medical and dental staff. The administering Secretaries may, with the agreement of the Secretary of Veterans Affairs, provide care to persons covered by this subsection in facilities operated by the Secretary of Veterans Affairs and determined by him to be available for this purpose on a reimbursable basis at rates approved by the President.

(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.

(c)(1) Funds appropriated to a military department, the Department of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service) may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the uniformed services. If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.

(2)(A) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care for members of the uniformed services under this subsection, and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(B) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(C) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this paragraph.

(3)(A) A member of the uniformed services described in subparagraph (B) may not be required to receive routine primary medical care at a military medical treatment facility.

(B) A member referred to in subparagraph (A) is a member of the uniformed services on active duty who is entitled to medical care under this subsection and who—

(i) receives a duty assignment described in subparagraph (C); and

(ii) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.

(C) A duty assignment referred to in subparagraph (B) means any of the following:

(i) Permanent duty as a recruiter.

(ii) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

(iii) Permanent duty as a full-time adviser to a unit of a reserve component.

(iv) Any other permanent duty designated by the Secretary concerned for purposes of this paragraph.

(4)(A) Subject to such terms and conditions as the Secretary of Defense considers appropriate, coverage comparable to that provided by the Secretary under subsections (d) and (e) of section 1079 of this title shall be provided under this subsection to members of the uniformed services who incur a serious injury or illness on active duty as defined by regulations prescribed by the Secretary.

(B) The Secretary of Defense shall prescribe in regulations—

(i) the individuals who shall be treated as the primary caregivers of a member of the uniformed services for purposes of this paragraph; and

(ii) the definition of serious injury or illness for the purposes of this paragraph.

(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

(A) the date of the issuance of such order; or

(B) 180 days before the date on which the period of active duty is to commence under such

order for that member.

(2) In this subsection, the term "delayed-effective-date active-duty order" means an order to active duty for a period of more than 30 days under section 12304b of this title or a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89–614, §2(2), Sept. 30, 1966, 80 Stat. 862; Pub. L. 96–513, title V, §511(36), (37), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98–525, title XIV, §1401(e)(1), Oct. 19, 1984, 98 Stat. 2616; Pub. L. 98–557, §19(3), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 101–189, div. A, title VII, §729, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1481, 1603; Pub. L. 101–510, div. A, title XIV, §1484(j)(1), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104–106, div. A, title VII, §723, Feb. 10, 1996, 110 Stat. 377; Pub. L. 104–201, div. A, title VII, §725(d), Sept. 23, 1996, 110 Stat. 2596; Pub. L. 105–85, div. A, title VII, §731(a)(1), Nov. 18, 1997, 111 Stat. 1810; Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–185; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–106, title I, §1116, Nov. 6, 2003, 117 Stat. 1218; Pub. L. 108–136, div. A, title VII, §§703, 708, Nov. 24, 2003, 117 Stat. 1527, 1530; Pub. L. 108–375, div. A, title VII, §703, Oct. 28, 2004, 118 Stat. 1982; Pub. L. 109–163, div. A, title VII, §743(a), Jan. 6, 2006, 119 Stat. 3360; Pub. L. 110–181, div. A, title VI, §647(b), title XVI, §1633(a), Jan. 28, 2008, 122 Stat. 161, 459; Pub. L. 111–84, div. A, title VII, §702, Oct. 28, 2009, 123 Stat. 2373; Pub. L. 115–91, div. A, title V, §511(a), Dec. 12, 2017, 131 Stat. 1376.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1074(a) | 37:421(a). | June 7, 1956, ch. 374, §§102(a)(3) (as applicable to §301(b)), 301(a), (b), 70 Stat. 250, 253. |
| 1074(b) | 37:402(a)(3) (as applicable to 37:421(b)). | |
| | 37:421(b). | |

In subsection (a), words of entitlement are substituted for the correlative words of obligation.

In subsection (b), the words "active duty (other than for training)" are substituted for the words "active duty as defined in section 901(b) of Title 50" to reflect section 101(22) of this title. The words "and dental" are inserted before the word "staff" for clarity. The words "retirement" and "retirement pay" are omitted as surplusage.

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (c) of this section were contained in Pub. L. 98–212, title VII, §735, Dec. 8, 1983, 97 Stat. 1444, which was formerly set out as a note under section 138 [now 114] of this title, and which was amended by Pub. L. 98–525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985, to strike out these provisions.

A prior section 1074, act Aug. 10, 1956, ch. 1041, 70A Stat. 82, related to enactment of legislation relating to voting in other elections, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2017**—Subsec. (d)(2). Pub. L. 115–91 substituted "under section 12304b of this title or" for "in support of a contingency operation under".

**2009**—Subsec. (d)(1)(B). Pub. L. 111–84 substituted "180 days" for "90 days".

**2008**—Subsec. (b). Pub. L. 110–181, §647(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(4). Pub. L. 110–181, §1633(a), added par. (4).

**2006**—Subsec. (a)(2)(B)(iii). Pub. L. 109–163 inserted "or the orders have been issued but the member has

not entered active duty" before semicolon at end.

**2004**—Subsec. (d)(3). Pub. L. 108–375 struck out par. (3) which read as follows: "This subsection shall cease to be effective on December 31, 2004."

**2003**—Subsec. (a). Pub. L. 108–136, §708, inserted "(1)" after "(a)", substituted "described in paragraph (2)" for "who is on active duty", and added par. (2).

Subsec. (d). Pub. L. 108–136, §703, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

"(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

"(A) the date of the issuance of such order; or

"(B) 90 days before date on which the period of active duty is to commence under such order for that member.

"(2) In this subsection, the term 'delayed-effective-date active-duty order' means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

"(3) This section shall cease to be effective on September 30, 2004."

Pub. L. 108–106 added subsec. (d).

**2002**—Subsec. (c)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2000**—Subsec. (c). Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(1)(A)], substituted "uniformed services" for "armed forces" in pars. (1), (2)(A), and (3)(B).

Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(1)(B)], inserted ", the Department of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service)" after "military department".

Subsec. (c)(2)(C). Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(1)(C)], added subpar. (C).

Subsec. (c)(3)(A). Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(1)(D)], substituted "A member of the uniformed services described in subparagraph (B) may not be required" for "The Secretary of Defense may not require a member of the armed forces described in subparagraph (B)".

**1997**—Subsec. (c). Pub. L. 105–85 designated existing provisions as par. (1) and added pars. (2) and (3).

**1996**—Subsec. (d). Pub. L. 104–201 struck out subsec. (d) which read as follows:

"(d)(1) The Secretary of Defense may require, by regulation, a private CHAMPUS provider to apply the CHAMPUS payment rules (subject to any modifications considered appropriate by the Secretary) in imposing charges for health care that the private CHAMPUS provider provides to a member of the uniformed services who is enrolled in a health care plan of a facility deemed to be a facility of the uniformed services under section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)) when the health care is provided outside the catchment area of the facility.

"(2) In this subsection:

"(A) The term 'private CHAMPUS provider' means a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services.

"(B) The term 'CHAMPUS payment rules' means the payment rules referred to in subsection (c).

"(3) The Secretary of Defense shall prescribe regulations under this subsection after consultation with the other administering Secretaries."

Pub. L. 104–106 added subsec. (d).

**1990**—Subsec. (b). Pub. L. 101–510 substituted "Secretary of Veterans Affairs" for "Administrator" after "operated by the".

**1989**—Subsec. (b). Pub. L. 101–189, §1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (c). Pub. L. 101–189, §729, inserted at end "If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program."

**1984**—Subsecs. (a), (b). Pub. L. 98–557 substituted reference to administering Secretaries for reference to Secretary of Defense and Secretary of Health and Human Services wherever appearing.

Subsec. (c). Pub. L. 98–525 added subsec. (c).

**1980**—Subsec. (a). Pub. L. 96–513, §511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (b). Pub. L. 96–513, §511(36), (37), substituted "Secretary of Health and Human Services" and "President" for "Secretary of Health, Education, and Welfare" and "Bureau of the Budget", respectively.

**1966**—Subsec. (b). Pub. L. 89–614 struck out provision which excepted from medical and dental care a member or former member who is entitled to retired pay under chapter 67 of this title and has served less than eight years on active duty (other than for training) and authorized care to be provided to persons covered by subsec. (b) in facilities operated by the Administrator of Veterans' Affairs and available on a reimbursable basis at rates approved by the Bureau of the Budget.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XVI, §1633(b), Jan. 28, 2008, 122 Stat. 459, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2008."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VII, §743(b), Jan. 6, 2006, 119 Stat. 3360, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of November 24, 2003, and as if included in the enactment of paragraph (2) of section 1074(a) of title 10, United States Code, by section 708 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1530)."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VII, §722(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–186, provided that: "The amendments made by subsections (a)(1) and (b)(1) [amending this section and section 1079 of this title] shall take effect on October 1, 2001."

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title VII, §731(a)(2), Nov. 18, 1997, 111 Stat. 1811, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to coverage of medical care for, and the provision of such care to, a member of the Armed Forces under section 1074(c) of title 10, United States Code, on and after the later of the following:

"(A) April 1, 1998.

"(B) The date on which the TRICARE program is in place in the service area of the member."

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

### ESTABLISHMENT OF INDO-PACIFIC MEDICAL READINESS PROGRAM

Pub. L. 118–159, div. A, title VII, §735, Dec. 23, 2024, 138 Stat. 1957, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than January 1, 2026, the Secretary of Defense shall establish a medical readiness program (referred to in this section as the 'Program') to partner with countries in the Indo-Pacific region to gain access to foreign medical facilities during peacetime and wartime operations and maintain military-wide strategies for medical readiness in the region.

"(2) OBJECTIVE.—The objective of the Program shall be to promote the medical readiness of the

Armed Forces and the military forces of partner countries for missions during peacetime and wartime operations by—

"(A) reducing the movement and distance associated with patient care;

"(B) increasing the medical capacity of the Department of Defense by expanding patient access to medical facilities across the Indo-Pacific region, where and when appropriate;

"(C) enhancing medical evacuation capabilities needed in carrying out subparagraphs (A) and (B);

"(D) accrediting foreign medical facilities, which will standardize medical procedures, patient care, and policies related to treating members of the Armed Forces and their dependents;

"(E) enhancing interoperability and interchangeability through shared patient record management, medical equipment commonality, and coordination of medical care; and

"(F) identifying any medical support and capability gaps relating to medical personnel and equipment.

"(3) ACTIVITIES.—In carrying out the Program, the Secretary shall—

"(A) assess and integrate current medical capabilities and capacities of the Department of Defense in the Indo-Pacific region into the Program;

"(B) select an appropriate standard of accreditation to evaluate and accredit foreign medical facilities;

"(C) coordinate with partner countries to identify and evaluate medical facilities for the Program;

"(D) establish agreements with foreign medical facilities for potential use of the Program;

"(E) establish policies and procedures—

"(i) to reduce patient movement times in various countries in the Indo-Pacific region during peacetime and wartime operations;

"(ii) to standardize medical procedures, patient care, and policies;

"(iii) to securely share patient data with foreign countries, when appropriate, such as during a contingency;

"(iv) with respect to medical equipment commonality and interchangeability; and

"(v) with respect to the coordination of medical care; and

"(F) integrate the Program into operational plans of the combatant commands.

"(b) STRATEGY.—

"(1) IN GENERAL.—Not later than September 30, 2025, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a strategy for the implementation of the Program.

"(2) ELEMENTS.—The strategy under paragraph (1) shall include the following:

"(A) A governance structure for the Program, including—

"(i) the officials tasked to oversee the Program;

"(ii) the functions and duties of such officials with respect to establishing and maintaining the Program; and

"(iii) mechanisms for coordinating with partner countries selected to participate in the Program.

"(B) With respect to the selection of partner countries initially selected to participate in the Program—

"(i) an identification of each such country;

"(ii) the rationale for selecting each such country; and

"(iii) any other information the Secretary considers appropriate.

"(C) A campaign of objectives for the first three fiscal years after the date of the establishment of the Program, including—

"(i) a description of, and a rational [sic] for selecting, such objectives;

"(ii) an identification of milestones toward achieving such objectives; and

"(iii) metrics for evaluating success in achieving such objectives.

"(D) A description of opportunities and potential timelines for future Program expansion, as appropriate.

"(E) A list of additional authorities, appropriations, or other congressional support necessary to ensure the success of the Program.

"(F) Any other information the Secretary considers appropriate.

"(3) FORM.—The strategy under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than October 1, 2026, and annually thereafter until October 1, 2035,

the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Program.

"(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

"(A) A narrative summary of activities conducted as part of the Program during the preceding fiscal year.

"(B) A campaign of objectives for the three fiscal years after the date of submission of the report, including—

"(i) a description of, and a rational for selecting, such objectives;

"(ii) an identification of milestones toward achieving such objectives; and

"(iii) metrics for evaluating success in achieving such objectives.

"(C) Except in the case of the initial report, an assessment of progress toward the objectives specified in subparagraph (C) that were included in the report for the preceding fiscal year, as evaluated using the metrics described in clause (iii) of such subparagraph.

"(D) A description of opportunities and potential timelines for future Program expansion, as appropriate.

"(E) Any other information the Secretary considers appropriate.

"(3) FORM.—Each report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex."

## PROGRAM OF THE DEPARTMENT OF DEFENSE TO STUDY TREATMENT OF CERTAIN CONDITIONS USING CERTAIN PSYCHEDELIC SUBSTANCES

Pub. L. 118–31, div. A, title VII, §723, Dec. 22, 2023, 137 Stat. 306, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall establish a process to fund eligible entities to conduct research on the treatment of eligible members of the Armed Forces with a covered condition using covered psychedelic substances. Not later than 180 days after the date of the enactment of this Act, the Secretary shall designate a lead administrator to carry out the program under this section.

"(b) ELIGIBLE ENTITIES.—The Secretary may enter into a partnership and award funding under this section to any of the following:

"(1) A department or agency of the Federal Government or a State government.

"(2) An academic institution.

"(c) PARTICIPATION IN CLINICAL TRIALS.—The Secretary may authorize any member of the Armed Forces serving on active duty who is diagnosed with a covered condition to participate in a clinical trial that is conducted using funding awarded under this section and is authorized pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), without regard to—

"(1) whether the clinical trial involves a substance included in the schedule under section 202 of the Controlled Substances Act (21 U.S.C. 812); or

"(2) section 912a of title 10, United States Code (article 112a of the Uniform Code of Military Justice).

"(d) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter for three years, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on funding awarded under this section, including the following:

"(1) Identification of clinics designated to host activities under the program.

"(2) A description of entities to whom the Secretary has awarded such funding.

"(3) The number of members of the Armed Forces serving on active duty who participated in a clinical trial described in subsection (c), the covered conditions of such members treated, and whether such members returned to full duty.

"(4) Information on the findings of such clinical trials.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered condition' means any of the following:

"(A) Post-traumatic stress.

"(B) Traumatic brain injury.

"(2) The term 'covered psychedelic substances' means any of the following:

"(A) 3,4-Methylenedioxy-methamphetamine (commonly known as 'MDMA').

"(B) Psilocybin.

"(C) Ibogaine.

"(D) 5-Methoxy-N,N-dimethyltryptamine (commonly known as '5-MeO-DMT').

"(E) Qualified plant-based alternative therapies.

"(3) The term 'Secretary' means the Secretary of Defense.

"(4) The term 'State' has the meaning given such term in section 901 of title 32, United States Code."

## GUIDANCE FOR ADDRESSING HEALTHY RELATIONSHIPS AND INTIMATE PARTNER VIOLENCE THROUGH TRICARE PROGRAM

Pub. L. 117–263, div. A, title VII, §748, Dec. 23, 2022, 136 Stat. 2689, provided that:

"(a) GUIDANCE.—The Secretary of Defense shall disseminate guidance on the implementation through the TRICARE program of—

"(1) education on healthy relationships and intimate partner violence; and

"(2) protocols for—

"(A) the routine assessment of intimate partner violence and sexual assault; and

"(B) the promotion of, and strategies for, trauma-informed care plans.

"(b) BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the implementation of this section."

## REGISTRY OF CERTAIN TRICARE BENEFICIARIES DIAGNOSED WITH COVID–19

Pub. L. 116–283, div. A, title VII, §734, Jan. 1, 2021, 134 Stat. 3702, provided that:

"(a) ESTABLISHMENT.—Not later than June 1, 2021, and subject to subsection (b), the Secretary of Defense shall establish and maintain a registry of covered TRICARE beneficiaries who have been diagnosed with COVID–19.

"(b) RIGHT OF BENEFICIARY TO OPT OUT.—A covered TRICARE beneficiary may elect to opt out of inclusion in the registry under subsection (a).

"(c) CONTENTS.—The registry under subsection (a) shall include, with respect to each covered TRICARE beneficiary included in the registry, the following:

"(1) The demographic information of the beneficiary.

"(2) Information on the industrial or occupational history of the beneficiary, to the extent such information is available in the records regarding the COVID–19 diagnosis of the beneficiary.

"(3) Administrative information regarding the COVID–19 diagnosis of the beneficiary, including the date of the diagnosis and the location and source of the test used to make the diagnosis.

"(4) Any symptoms of COVID–19 manifested in the beneficiary.

"(5) Any treatments for COVID–19 taken by the beneficiary, or other medications taken by the beneficiary, when the beneficiary was diagnosed with COVID–19.

"(6) Any pathological data characterizing the incidence of COVID–19 and the type of treatment for COVID–19 provided to the beneficiary.

"(7) Information on any respiratory illness of the beneficiary recorded prior to the COVID–19 diagnosis of the beneficiary.

"(8) Any information regarding the beneficiary contained in the Airborne Hazards and Open Burn Pit Registry established under section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note).

"(9) Any other information determined appropriate by the Secretary.

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on establishing the registry under subsection (a), including—

"(1) a plan to implement the registry;

"(2) the cost of implementing the registry;

"(3) the location of the registry; and

"(4) any recommended legislative changes with respect to establishing the registry.

"(e) COVERED TRICARE BENEFICIARY DEFINED.—In this section, the term 'covered TRICARE beneficiary' means an individual who is enrolled in the direct care system under the TRICARE program and is treated for or diagnosed with COVID–19 at a military medical treatment facility."

## COVERAGE OF TESTING FOR COVID–19: APPLICATION WITH RESPECT TO TRICARE

Pub. L. 116–127, div. F, §6006(a), Mar. 18, 2020, 134 Stat. 207, provided that: "The Secretary of Defense may not require any copayment or other cost sharing under chapter 55 of title 10, United States Code, for in vitro diagnostic products described in paragraph (1) of section 6001(a) [of Pub. L. 116–127, 42 U.S.C. 1320b–5 note] (or the administration of such products) or visits described in paragraph (2) of such section

furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act [Mar. 18, 2020]."

## PROVISION OF BLOOD TESTING FOR FIREFIGHTERS OF DEPARTMENT OF DEFENSE TO DETERMINE EXPOSURE TO PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES

Pub. L. 116–92, div. A, title VII, §707, Dec. 20, 2019, 133 Stat. 1441, provided that:

"(a) IN GENERAL.—Beginning on October 1, 2020, the Secretary of Defense shall provide blood testing to determine and document potential exposure to perfluoroalkyl and polyfluoroalkyl substances (commonly known as 'PFAS') for each firefighter of the Department of Defense during the annual physical exam conducted by the Department for each such firefighter.

"(b) FIREFIGHTER DEFINED.—In this section, the term 'firefighter' means someone whose primary job or military occupational specialty is being a firefighter."

## COMPREHENSIVE POLICY FOR PROVISION OF MENTAL HEALTH CARE TO MEMBERS OF THE ARMED FORCES

Pub. L. 116–92, div. A, title VII, §718, Dec. 20, 2019, 133 Stat. 1453, provided that:

"(a) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall develop and implement a comprehensive policy for the provision of mental health care to members of the Armed Forces.

"(b) ELEMENTS.—The policy under subsection (a) shall address each of the following:

"(1) The compliance of health professionals in the military health system engaged in the provision of health care services to members with clinical practice guidelines for—

"(A) suicide prevention;

"(B) medication-assisted therapy for alcohol use disorders; and

"(C) medication-assisted therapy for opioid use disorders.

"(2) The access and availability of mental health care services to members who are victims of sexual assault or domestic violence.

"(3) The availability of naloxone reversal capability on military installations.

"(4) The promotion of referrals of members by civilian health care providers to military medical treatment facilities when such members are—

"(A) at high risk for suicide and diagnosed with a psychiatric disorder; or

"(B) receiving treatment for opioid use disorders.

"(5) The provision of comprehensive behavioral health treatment to members of the reserve components that takes into account the unique challenges associated with the deployment pattern of such members and the difficulty such members encounter post-deployment with respect to accessing such treatment in civilian communities.

"(c) CONSIDERATION.—In developing the policy under subsection (a), the Secretary of Defense shall solicit and consider recommendations from the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff regarding the feasibility of implementation and execution of particular elements of the policy.

"(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the policy under subsection (a)."

## DECLASSIFICATION BY DEPARTMENT OF DEFENSE OF CERTAIN INCIDENTS OF EXPOSURE OF MEMBERS OF THE ARMED FORCES TO TOXIC SUBSTANCES

Pub. L. 115–91, div. A, title VII, §737, Dec. 12, 2017, 131 Stat. 1445, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall conduct a declassification review of documents related to any known incident in which not fewer than 100 members of the Armed Forces were intentionally exposed to a toxic substance that resulted in at least one case of a disability that a member of the medical profession has determined to be associated with that toxic substance.

"(b) LIMITATION.—The declassification required by subsection (a) shall be limited to information necessary for an individual who was potentially exposed to a toxic substance to determine the following:

"(1) Whether that individual was exposed to that toxic substance.

"(2) The potential severity of the exposure of that individual to that toxic substance.

"(3) Any potential health conditions that may have resulted from exposure to that toxic substance.

"(c) EXCEPTION.—The Secretary of Defense is not required to declassify documents under subsection (a) if the Secretary determines that declassification of those documents would materially and immediately threaten the security of the United States.

"(d) DEFINITIONS.—In this section:

"(1) ARMED FORCES.—The term 'Armed Forces' has the meaning given that term in section 101 of title 10, United States Code.

"(2) EXPOSED.—The term 'exposed' means, with respect to a toxic substance, that an individual came into contact with that toxic substance in a manner that could be hazardous to the health of that individual, that may include if that toxic substance was inhaled, ingested, or touched the skin or eyes.

"(3) EXPOSURE.—The term 'exposure' means, with respect to a toxic substance, an event during which an individual was exposed to that toxic substance.

"(4) TOXIC SUBSTANCE.—The term 'toxic substance' means any substance determined by the Administrator of the Environmental Protection Agency to be harmful to the environment or hazardous to the health of an individual if inhaled or ingested by or absorbed through the skin of that individual."

## ADJUSTMENT OF MEDICAL SERVICES, PERSONNEL AUTHORIZED STRENGTHS, AND INFRASTRUCTURE IN MILITARY HEALTH SYSTEM TO MAINTAIN READINESS AND CORE COMPETENCIES OF HEALTH CARE PROVIDERS

Pub. L. 114–328, div. A, title VII, §725, Dec. 23, 2016, 130 Stat. 2230, provided that:

"(a) IN GENERAL.—Except as provided by subsection (c), not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall implement measures to maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces.

"(b) MEASURES.—The measures under subsection (a) shall include measures under which the Secretary ensures the following:

"(1) Medical services provided through the military health system at military medical treatment facilities—

"(A) maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces; and

"(B) ensure the medical readiness of the Armed Forces.

"(2) The authorized strengths for military and civilian personnel throughout the military health system—

"(A) maintain the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces; and

"(B) ensure the medical readiness of the Armed Forces.

"(3) The infrastructure in the military health system, including infrastructure of military medical treatment facilities—

"(A) maintains the critical wartime medical readiness skills and core competencies of health care providers within the Armed Forces; and

"(B) ensures the medical readiness of the Armed Forces.

"(4) Any covered beneficiary who may be affected by the measures implemented under subsection (a) will be able to receive through the purchased care component of the TRICARE program any medical services that will not be available to such covered beneficiary at a military medical treatment facility by reason of such measures.

"(c) EXCEPTION.—The Secretary is not required to implement measures under subsection (a)(1) with respect to military medical treatment facilities located in a foreign country if the Secretary determines that providing medical services in addition to the medical services described in such subsection is necessary to ensure that covered beneficiaries located in that foreign country have access to a similar level of care available to covered beneficiaries located in the United States.

"(d) DEFINITIONS.—In this section:

"(1) The term 'clinical and logistical capabilities' means those capabilities relating to the provision of health care that are necessary to accomplish operational requirements, including—

"(A) combat casualty care;

"(B) medical response to and treatment of injuries sustained from chemical, biological, radiological, nuclear, or explosive incidents;

"(C) diagnosis and treatment of infectious diseases;

"(D) aerospace medicine;

"(E) undersea medicine;

"(F) diagnosis, treatment, and rehabilitation of specialized medical conditions;

"(G) diagnosis and treatment of diseases and injuries that are not related to battle; and

"(H) humanitarian assistance.

"(2) The terms 'covered beneficiary' and 'TRICARE program' have the meanings given those terms in section 1072 of title 10, United States Code.

"(3) The term 'critical wartime medical readiness skills and core competencies' means those essential medical capabilities, including clinical and logistical capabilities, that are—

"(A) necessary to be maintained by health care providers within the Armed Forces for national security purposes; and

"(B) vital to the provision of effective and timely health care during contingency operations."

## REQUIREMENT TO REVIEW AND MONITOR PRESCRIBING PRACTICES AT MILITARY TREATMENT FACILITIES OF PHARMACEUTICAL AGENTS FOR TREATMENT OF POST-TRAUMATIC STRESS

Pub. L. 114–328, div. A, title VII, §745, Dec. 23, 2016, 130 Stat. 2240, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall—

"(1) conduct a comprehensive review of the prescribing practices at military treatment facilities of pharmaceutical agents for the treatment of post-traumatic stress;

"(2) implement a process or processes to monitor the prescribing practices at military treatment facilities of pharmaceutical agents that are discouraged from use under the VA/DOD Clinical Practice Guideline for Management of Post-Traumatic Stress; and

"(3) implement a plan to address any deviations from such guideline in prescribing practices of pharmaceutical agents for management of post-traumatic stress at such facilities.

"(b) PHARMACEUTICAL AGENT DEFINED.—In this section, the term 'pharmaceutical agent' has the meaning given that term in section 1074g(g) [now 1074g(i)] of title 10, United States Code."

## PILOT PROGRAM ON INVESTIGATIONAL TREATMENT OF MEMBERS OF THE ARMED FORCES FOR TRAUMATIC BRAIN INJURY AND POST-TRAUMATIC STRESS DISORDER

Pub. L. 113–66, div. A, title VII, §704, Dec. 26, 2013, 127 Stat. 792, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a pilot program under which the Secretary shall establish a process for randomized placebo-controlled clinical trials of investigational treatments (including diagnostic testing) of traumatic brain injury or post-traumatic stress disorder received by members of the Armed Forces in health care facilities other than military treatment facilities.

"(b) CONDITIONS FOR APPROVAL.—The approval by the Secretary for a treatment pursuant to subsection (a) shall be subject to the following conditions:

"(1) Any drug or device used in the treatment must be approved, cleared, or made subject to an investigational use exemption by the Food and Drug Administration, and the use of the drug or device must comply with rules of the Food and Drug Administration applicable to investigational new drugs or investigational devices.

"(2) The treatment must be approved by the Secretary following approval by an institutional review board operating in accordance with regulations issued by the Secretary of Health and Human Services, in addition to regulations issued by the Secretary of Defense regarding institutional review boards.

"(3) The patient receiving the treatment may not be a retired member of the Armed Forces who is entitled to benefits under part A, or eligible to enroll under part B, of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(c) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Secretary may establish additional restrictions or conditions as the Secretary determines appropriate to ensure the protection of human research subjects, appropriate fiscal management, and the validity of the research results.

"(d) DATA COLLECTION AND AVAILABILITY.—The Secretary shall develop and maintain a database containing data from each patient case involving the use of a treatment under this section. The Secretary shall ensure that the database preserves confidentiality and that any use of the database or disclosures of such data are limited to such use and disclosures permitted by law and applicable regulations.

"(e) REPORTS TO CONGRESS.—Not later than 30 days after the last day of each fiscal year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and any available results on investigational treatment clinical trials authorized under this section during such fiscal year.

"(f) TERMINATION.—The authority of the Secretary to carry out the pilot program authorized by subsection (a) shall terminate on December 31, 2018."

## DEPARTMENT OF DEFENSE GUIDANCE ON ENVIRONMENTAL EXPOSURES AT MILITARY INSTALLATIONS

Pub. L. 112–239, div. A, title III, §313(a), Jan. 2, 2013, 126 Stat. 1692, provided that:

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall issue guidance to the military departments and appropriate defense agencies regarding environmental exposures on military installations.

"(2) ELEMENTS.—The guidance issued pursuant to paragraph (1) shall address, at a minimum, the following:

"(A) The criteria for when and under what circumstances public health assessments by the Agency for Toxic Substances and Disease Registry must be requested in connection with environmental contamination at military installations, including past incidents of environmental contamination.

"(B) The procedures to be used to track and document the status and nature of responses to the findings and recommendations of the public health assessments of the Agency of Toxic Substances and Disease Registry that involve contamination at military installations.

"(C) The appropriate actions to be undertaken to assess significant long-term health risks from past environmental exposures to military personnel and civilian individuals from living or working on military installations.

"(3) SUBMISSION.—Not later than 30 days after the issuance of the guidance required by paragraph (1), the Secretary of Defense shall transmit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a copy of the guidance."

## SMOKING CESSATION PROGRAM UNDER TRICARE

Pub. L. 110–417, [div. A], title VII, §713, Oct. 14, 2008, 122 Stat. 4503, as amended by Pub. L. 114–92, div. A, title VII, §705, Nov. 25, 2015, 129 Stat. 863, provided that:

"(a) TRICARE SMOKING CESSATION PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall establish a smoking cessation program under the TRICARE program, to be made available to all beneficiaries under the TRICARE program, subject to subsection (b). The Secretary may prescribe such regulations as may be necessary to implement the program.

"(b) EXCLUSION FOR MEDICARE-ELIGIBLE BENEFICIARIES.—The smoking cessation program shall not be made available to medicare-eligible beneficiaries.

"(c) ELEMENTS.—The program shall include, at a minimum, the following elements:

"(1) The availability, at no cost to the beneficiary, of pharmaceuticals used for smoking cessation, with a limitation on the availability of such pharmaceuticals to the national mail-order pharmacy program under the TRICARE program if appropriate.

"(2) Counseling.

"(3) Access to a toll-free quit line that is available 24 hours a day, 7 days a week.

"(4) Access to printed and Internet web-based tobacco cessation material.

"(d) CHAIN OF COMMAND INVOLVEMENT.—In establishing the program, the Secretary of Defense shall provide for involvement by officers in the chain of command of participants in the program who are on active duty.

"(e) PLAN.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to implement the program.

"(f) REFUND OF COPAYMENTS.—

"(1) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary otherwise excluded by this section, subject to the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between—

"(A) the amount the beneficiary pays for copayments for smoking cessation services described in subsection (c); and

"(B) the amount the beneficiary would have paid if the beneficiary had not been excluded under subsection (b) from the smoking cessation program under subsection (a).

"(2) COPAYMENTS COVERED.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries after September 30, 2008.

"(g) REPORT.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and

Appropriations of the Senate and the House of Representatives] a report covering the following:

"(1) The status of the program.

"(2) The number of participants in the program.

"(3) The cost of the program.

"(4) The costs avoided that are attributed to the program.

"(5) The success rates of the program compared to other nationally recognized smoking cessation programs.

"(6) Findings regarding the success rate of participants in the program.

"(7) Recommendations to modify the policies and procedures of the program.

"(8) Recommendations concerning the future utility of the program.

"(h) DEFINITIONS.—In this section:

"(1) TRICARE PROGRAM.—The term 'TRICARE program' has the meaning provided by section 1072(7) of title 10, United States Code.

"(2) MEDICARE-ELIGIBLE.—The term 'medicare-eligible' has the meaning provided by section 1111(b) of title 10, United States Code."

## LONGITUDINAL STUDY ON TRAUMATIC BRAIN INJURY INCURRED BY MEMBERS OF THE ARMED FORCES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Pub. L. 109–364, div. A, title VII, §721, Oct. 17, 2006, 120 Stat. 2294, provided that:

"(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a longitudinal study on the effects of traumatic brain injury incurred by members of the Armed Forces serving in Operation Iraqi Freedom or Operation Enduring Freedom on the members who incur such an injury and their families.

"(b) DURATION.—The study required by subsection (a) shall be conducted for a period of 15 years.

"(c) ELEMENTS.—The study required by subsection (a) shall specifically address the following:

"(1) The long-term physical and mental health effects of traumatic brain injuries incurred by members of the Armed Forces during service in Operation Iraqi Freedom or Operation Enduring Freedom.

"(2) The health care, mental health care, and rehabilitation needs of such members for such injuries after the completion of inpatient treatment through the Department of Defense, the Department of Veterans Affairs, or both.

"(3) The type and availability of long-term care rehabilitation programs and services within and outside the Department of Defense and the Department of Veterans Affairs for such members for such injuries, including community-based programs and services and in-home programs and services.

"(4) The effect on family members of a member incurring such an injury.

"(d) CONSULTATION.—The Secretary of Defense shall conduct the study required by subsection (a) and prepare the reports required by subsection (e) in consultation with the Secretary of Veterans Affairs.

"(e) PERIODIC AND FINAL REPORTS.—After the third, seventh, eleventh, and fifteenth years of the study required by subsection (a), the Secretary of Defense shall submit to Congress a comprehensive report on the results of the study during the preceding years. Each report shall include the following:

"(1) Current information on the cumulative outcomes of the study.

"(2) Such recommendations as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate based on the outcomes of the study, including recommendations for legislative, programmatic, or administrative action to improve long-term care and rehabilitation programs and services for members of the Armed Forces with traumatic brain injuries."

## STANDARDS AND TRACKING OF ACCESS TO HEALTH CARE SERVICES FOR WOUNDED, INJURED, OR ILL SERVICEMEMBERS RETURNING TO THE UNITED STATES FROM A COMBAT ZONE

Pub. L. 109–364, div. A, title VII, §733, Oct. 17, 2006, 120 Stat. 2298, provided that:

"(a) REPORT ON UNIFORM STANDARDS FOR ACCESS.—Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on uniform standards for the access of wounded, injured, or ill members of the Armed Forces to health care services in the United States following return from a combat zone.

"(b) MATTERS COVERED.—The report required by subsection (a) shall describe in detail policies with respect to the following:

"(1) The access of wounded, injured, or ill members of the Armed Forces to emergency care.

"(2) The access of such members to surgical services.

"(3) Waiting times for referrals and consultations of such members by medical personnel, dental personnel, mental health specialists, and rehabilitative service specialists, including personnel and specialists with expertise in prosthetics and in the treatment of head, vision, and spinal cord injuries.

"(4) Waiting times of such members for acute care and for routine follow-up care.

"(c) REFERRAL TO PROVIDERS OUTSIDE MILITARY HEALTH CARE SYSTEM.—The Secretary shall require that health care services and rehabilitation needs of members described in subsection (a) be met through whatever means or mechanisms possible, including through the referral of members described in that subsection to health care providers outside the military health care system.

"(d) UNIFORM SYSTEM FOR TRACKING OF PERFORMANCE.—The Secretary shall establish a uniform system for tracking the performance of the military health care system in meeting the requirements for access of wounded, injured, or ill members of the Armed Forces to health care services described in subsection (a).

"(e) REPORTS.—

"(1) TRACKING SYSTEM.—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the system established under subsection (d).

"(2) ACCESS.—Not later than October 1, 2006, and each quarter thereafter during fiscal year 2007, the Secretary shall submit to such committees a report on the performance of the health care system in meeting the access standards described in the report required by subsection (a)."

## TRAINING CURRICULA FOR FAMILY CAREGIVERS ON CARE AND ASSISTANCE FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY

Pub. L. 109–364, div. A, title VII, §744, Oct. 17, 2006, 120 Stat. 2308, provided that:

"(a) TRAUMATIC BRAIN INJURY FAMILY CAREGIVER PANEL.—

"(1) ESTABLISHMENT.—The Secretary of Defense shall establish a panel within the Department of Defense, to be known as the 'Traumatic Brain Injury Family Caregiver Panel', to develop coordinated, uniform, and consistent training curricula to be used in training family members in the provision of care and assistance to members and former members of the Armed Forces with traumatic brain injuries.

"(2) MEMBERS.—The Traumatic Brain Injury Family Caregiver Panel shall consist of 15 members appointed by the Secretary of Defense from among the following:

"(A) Physicians, nurses, rehabilitation therapists, and other individuals with an expertise in caring for and assisting individuals with traumatic brain injury, including persons who specialize in caring for and assisting individuals with traumatic brain injury incurred in combat.

"(B) Representatives of family caregivers or family caregiver associations.

"(C) Health and medical personnel of the Department of Defense and the Department of Veterans Affairs with expertise in traumatic brain injury and personnel and readiness representatives of the Department of Defense with expertise in traumatic brain injury.

"(D) Psychologists or other individuals with expertise in the mental health treatment and care of individuals with traumatic brain injury.

"(E) Experts in the development of training curricula.

"(F) Family members of members of the Armed Forces with traumatic brain injury.

"(G) Such other individuals the Secretary considers appropriate.

"(3) CONSULTATION.—In establishing the Traumatic Brain Injury Family Caregiver Panel and appointing the members of the Panel, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

"(b) DEVELOPMENT OF CURRICULA.—

"(1) DEVELOPMENT.—The Traumatic Brain Injury Family Caregiver Panel shall develop training curricula to be used by family members of members and former members of the Armed Forces on techniques, strategies, and skills for care and assistance for such members and former members with traumatic brain injury.

"(2) SCOPE OF CURRICULA.—The curricula shall—

"(A) be based on empirical research and validated techniques; and

"(B) shall provide for training that permits recipients to tailor caregiving to the unique circumstances of the member or former member of the Armed Forces receiving care.

"(3) PARTICULAR REQUIREMENTS.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall—

"(A) specify appropriate training commensurate with the severity of traumatic brain injury; and

"(B) identify appropriate care and assistance to be provided for the degree of severity of traumatic brain injury for caregivers of various levels of skill and capability.

"(4) USE OF EXISTING MATERIALS.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall use and enhance any existing training curricula, materials, and resources applicable to such curricula as the Panel considers appropriate.

"(5) DEADLINE FOR DEVELOPMENT.—The Traumatic Brain Injury Family Caregiver Panel shall develop the curricula not later than one year after the date of the enactment of this Act [Oct. 17, 2006].

"(c) DISSEMINATION OF CURRICULA.—

"(1) DISSEMINATION MECHANISMS.—The Secretary of Defense shall develop mechanisms for the dissemination of the curricula developed under subsection (b)—

"(A) to health care professionals who treat or otherwise work with members and former members of the Armed Forces with traumatic brain injury;

"(B) to family members affected by the traumatic brain injury of such members and former members; and

"(C) to other care or support personnel who may provide service to members or former members affected by traumatic brain injury.

"(2) USE OF EXISTING MECHANISMS.—In developing such mechanisms, the Secretary may use and enhance existing mechanisms, including the Military Severely Injured Center (authorized under section 564 of this Act [10 U.S.C. 113 note]) and the programs for service to severely injured members established by the military departments.

"(d) REPORT.—Not later than one year after the development of the curricula required by subsection (b), the Secretary of Defense and the Secretary of Veterans Affairs shall submit to the Committees on Armed Services and Veterans Affairs of the Senate and the House of Representatives a report on the following:

"(1) The actions undertaken under this section.

"(2) Recommendations for the improvement or updating of training curriculum developed and provided under this section."

## PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS

Pub. L. 109–364, div. A, title VII, §741, Oct. 17, 2006, 120 Stat. 2304, required the Secretary of Defense to carry out not less than three pilot projects, to end by Sept. 30, 2008, to evaluate various approaches to improving the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions and to report to Congress no later than Dec. 31, 2008.

Pub. L. 109–163, div. A, title VII, §722, Jan. 6, 2006, 119 Stat. 3347, authorized the Secretary of Defense to carry out pilot projects on improving the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions and required a progress report to be submitted to Congress no later than Sept. 1, 2006.

## COOPERATIVE OUTREACH TO MEMBERS AND FORMER MEMBERS OF THE NAVAL SERVICE EXPOSED TO ENVIRONMENTAL FACTORS RELATED TO SARCOIDOSIS

Pub. L. 109–163, div. A, title VII, §746, Jan. 6, 2006, 119 Stat. 3362, directed the Secretary of the Navy, within six months after Jan. 6, 2006, to begin an outreach program to contact as many members and former members of the naval service as possible who may have been exposed to aerosolized particles resulting from the removal of nonskid coating used on Navy ships and to report to Congress on the program results within one year after the beginning of the program.

## MEDICAL READINESS PLAN AND JOINT MEDICAL READINESS OVERSIGHT COMMITTEE

Pub. L. 108–375, div. A, title VII, §731, Oct. 28, 2004, 118 Stat. 1993, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237; Pub. L. 109–364, div. A, title X, §1071(g)(8), Oct. 17, 2006, 120 Stat. 2402; Pub. L. 112–81, div. A, title X, §1062(f)(1), Dec. 31, 2011, 125 Stat. 1585, provided that:

"(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of members of the Armed Forces overseas. The matters covered by the comprehensive plan shall include all elements that are described in this subtitle [subtitle D [§§731 to 740] of title VII of Pub. L. 108–375, enacting sections 1073b and 1092a of this title and enacting provisions set out as notes under this section and sections 1073b, 1074f, and 1092a of this title] and the amendments made by this subtitle and shall comply with requirements in law.

"(b) JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

"(2) COMPOSITION.—The members of the Committee are as follows:

"(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

"(B) The Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, the Vice Chief of Staff of the Air Force, and the Assistant Commandant of the Marine Corp [sic].

"(C) The Assistant Secretary of Defense for Health Affairs.

"(D) The Assistant Secretary of Defense for Reserve Affairs [now Assistant Secretary of Defense for Manpower and Reserve Affairs].

"(E) The Surgeon General of each of the Army, the Navy, and the Air Force.

"(F) The Assistant Secretary of the Army for Manpower and Reserve Affairs.

"(G) The Assistant Secretary of the Navy for Manpower and Reserve Affairs.

"(H) The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment.

"(I) The Chief of the National Guard Bureau.

"(J) The Chief of Army Reserve.

"(K) The Chief of Navy Reserve.

"(L) The Chief of Air Force Reserve.

"(M) The Commander, Marine Corps Reserve.

"(N) The Director of the Defense Manpower Data Center.

"(O) A representative of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs.

"(3) DUTIES.—The duties of the Committee are as follows:

"(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

"(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the medical readiness tracking and health surveillance policies of the Department of Defense.

"(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this subtitle and the amendments made by this subtitle, including with respect to matters relating to—

"(i) the health status of the members of the reserve components of the Armed Forces;

"(ii) accountability for medical readiness;

"(iii) medical tracking and health surveillance;

"(iv) declassification of information on environmental hazards;

"(v) postdeployment health care for members of the Armed Forces; and

"(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

"(D) To ensure unity and integration of efforts across functional and organizational lines within the Department of Defense with regard to medical readiness tracking and health surveillance of members of the Armed Forces.

"(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

"(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service-connected medical conditions.

"(4) FIRST MEETING.—The first meeting of the Committee shall be held not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004]."

## ACCOUNTABILITY FOR MEDICAL READINESS OF INDIVIDUALS AND UNITS OF THE RESERVE COMPONENTS

Pub. L. 108–375, div. A, title VII, §732(b), Oct. 28, 2004, 118 Stat. 1997, provided that:

"(1) POLICY.—The Secretary of Defense shall take measures, in addition to those required by section 1074f of title 10, United States Code, to ensure that individual members and commanders of reserve component units fulfill their responsibilities and meet the requirements for medical and dental readiness of members of the units. Such measures may include—

"(A) requiring more frequent health assessments of members than is required by section 1074f(b) of title 10, United States Code, with an objective of having every member of the Selected Reserve receive a

health assessment as specified in section 1074f of such title not less frequently than once every two years; and

"(B) providing additional support and information to commanders to assist them in improving the health status of members of their units.

"(2) REVIEW AND FOLLOWUP CARE.—The measures under this subsection shall provide for review of the health assessments under paragraph (1) by a medical professional and for any followup care and treatment that is otherwise authorized for medical or dental readiness.

"(3) MODIFICATION OF PREDEPLOYMENT HEALTH ASSESSMENT SURVEY.—In carrying out paragraph (1), the Secretary shall—

"(A) to the extent practicable, modify the predeployment health assessment survey to bring such survey into conformity with the detailed postdeployment health assessment survey in use as of October 1, 2004; and

"(B) ensure the use of the predeployment health assessment survey, as so modified, for predeployment health assessments after that date."

## UNIFORM POLICY ON DEFERRAL OF MEDICAL TREATMENT PENDING DEPLOYMENT TO THEATERS OF OPERATIONS

Pub. L. 108–375, div. A, title VII, §732(c), Oct. 28, 2004, 118 Stat. 1997, provided that:

"(1) REQUIREMENT FOR POLICY.—The Secretary of Defense shall prescribe, for uniform applicability throughout the Armed Forces, a policy on deferral of medical treatment of members pending deployment.

"(2) CONTENT.—The policy prescribed under paragraph (1) may specify the following matters:

"(A) The circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater.

"(B) The circumstances under which medical conditions are to be treated before deployment to that theater."

## MEDICAL CARE AND TRACKING AND HEALTH SURVEILLANCE IN THE THEATER OF OPERATIONS

Pub. L. 108–375, div. A, title VII, §734, Oct. 28, 2004, 118 Stat. 1998, provided that:

"(a) RECORDKEEPING POLICY.—The Secretary of Defense shall prescribe a policy that requires the records of all medical care provided to a member of the Armed Forces in a theater of operations to be maintained as part of a complete health record for the member.

"(b) IN-THEATER MEDICAL TRACKING AND HEALTH SURVEILLANCE.—

"(1) REQUIREMENT FOR EVALUATION.—The Secretary of Defense shall evaluate the system for the medical tracking and health surveillance of members of the Armed Forces in theaters of operations and take such actions as may be necessary to improve the medical tracking and health surveillance.

"(2) REPORT.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall submit a report on the actions taken under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

"(A) An analysis of the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code.

"(B) An analysis of the efficacy of health surveillance systems as a means of detecting—

"(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

"(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems.

"(C) An analysis of the strengths and weaknesses of such medical tracking and surveillance systems as a means for supporting future research on health issues.

"(D) Recommended changes to such medical tracking and health surveillance systems.

"(E) A summary of scientific literature on blood sampling procedures used for detecting and identifying exposures to environmental hazards.

"(F) An assessment of whether there is a need for changes to regulations and standards for drawing blood samples for effective tracking and health surveillance of the medical conditions of personnel before deployment, upon the end of a deployment, and for a followup period of appropriate length.

"(c) PLAN TO OBTAIN HEALTH CARE RECORDS FROM ALLIES.—The Secretary of Defense shall develop a plan for obtaining all records of medical treatment provided to members of the Armed Forces by

allies of the United States in Operation Enduring Freedom and Operation Iraqi Freedom. The plan shall specify the actions that are to be taken to obtain all such records.

"(d) POLICY ON IN-THEATER PERSONNEL LOCATOR DATA.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall prescribe a Department of Defense policy on the collection and dissemination of in-theater individual personnel location data."

## DECLASSIFICATION OF INFORMATION ON EXPOSURES TO ENVIRONMENTAL HAZARDS

Pub. L. 108–375, div. A, title VII, §735, Oct. 28, 2004, 118 Stat. 1999, provided that:

"(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Department of Defense with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

"(1) In-theater injury rates.

"(2) Data derived from environmental surveillance.

"(3) Health tracking and surveillance data.

"(b) CONSULTATION WITH COMMANDERS OF THEATER COMBATANT COMMANDS.—The Secretary shall, to the extent that the Secretary considers appropriate, consult with the senior commanders of the in-theater forces of the combatant commands in carrying out the review and revising policies under subsection (a)."

## UNIFORM POLICY FOR MEETING MOBILIZATION-RELATED MEDICAL CARE NEEDS AT MILITARY INSTALLATIONS

Pub. L. 108–375, div. A, title VII, §737, Oct. 28, 2004, 118 Stat. 2000, provided that:

"(a) HEALTH CARE AT MOBILIZATION INSTALLATIONS.—The Secretary of Defense shall take such steps as necessary, including through the uniform policy established under subsection (c), to ensure that anticipated health care needs of members of the Armed Forces at mobilization installations can be met at those installations. Such steps may, within authority otherwise available to the Secretary, include the following with respect to any such installation:

"(1) Arrangements for health care to be provided by the Secretary of Veterans Affairs.

"(2) Procurement of services from local health care providers.

"(3) Temporary employment of health care personnel to provide services at such installation.

"(b) MOBILIZATION INSTALLATIONS.—For purposes of this section, the term 'mobilization installation' means a military installation at which members of the Armed Forces, in connection with a contingency operation or during a national emergency—

"(1) are mobilized;

"(2) are deployed; or

"(3) are redeployed from a deployment location.

"(c) REQUIREMENT FOR REGULATIONS.—

"(1) POLICY ON IMPLEMENTATION.—The Secretary of Defense shall by regulation establish a policy for the implementation of subsection (a) throughout the Department of Defense.

"(2) IDENTIFICATION AND ANALYSIS OF NEEDS.—As part of the policy prescribed under paragraph (1), the Secretary shall require the Secretary of each military department, with respect to each mobilization installation under the jurisdiction of that Secretary, to identify and analyze the anticipated health care needs at that installation with respect to members of the Armed Forces who may be expected to mobilize or deploy or redeploy at that installation as described in subsection (b)(1). Such identification and analysis shall be carried out so as to be completed before the arrival of such members at the installation.

"(3) RESPONSE TO NEEDS.—The policy established by the Secretary of Defense under paragraph (1) shall require that, based on the results of the identification and analysis under paragraph (2), the Secretary of the military department concerned shall determine how to expeditiously and effectively respond to those anticipated health care needs that cannot be met within the resources otherwise available at that installation, in accordance with subsection (a).

"(4) IMPLEMENTATION OF AUTHORITY.—In implementing the policy established under paragraph (1) at any installation, the Secretary of the military department concerned shall ensure that the commander of the installation, and the officers and other personnel superior to that commander in that commander's chain of command, have appropriate authority and responsibility for such implementation.

"(d) POLICY.—The Secretary of Defense shall ensure—

"(1) that the policy prescribed under subsection (c) is carried out with respect to any mobilization installation with the involvement of all agencies of the Department of Defense that have responsibility for

management of the installation and all organizations of the Department that have command authority over any activity at the installation; and

"(2) that such policy is implemented on a uniform basis throughout the Department of Defense."

## FULL IMPLEMENTATION OF MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM AND FORCE HEALTH PROTECTION AND READINESS PROGRAM

Pub. L. 108–375, div. A, title VII, §738, Oct. 28, 2004, 118 Stat. 2001, provided that:

"(a) IMPLEMENTATION AT ALL LEVELS.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that the Army, Navy, Air Force, and Marine Corps fully implement at all levels—

"(1) the Medical Readiness Tracking and Health Surveillance Program under this title [see Tables for classification] and the amendments made by this title; and

"(2) the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

"(b) ACTION OFFICIAL.—The Secretary of Defense may act through the Under Secretary of Defense for Personnel and Readiness in carrying out subsection (a)."

## INTERNET ACCESSIBILITY OF HEALTH ASSESSMENT INFORMATION FOR MEMBERS OF THE ARMED FORCES

Pub. L. 108–375, div. A, title VII, §739(b), Oct. 28, 2004, 118 Stat. 2002, provided that: "Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Chief Information Officer of each military department shall ensure that the online portal website of that military department includes the following information relating to health assessments:

"(1) Information on the policies of the Department of Defense and the military department concerned regarding predeployment and postdeployment health assessments, including policies on the following matters:

"(A) Health surveys.

"(B) Physical examinations.

"(C) Collection of blood samples and other tissue samples.

"(2) Procedural information on compliance with such policies, including the following information:

"(A) Information for determining whether a member is in compliance.

"(B) Information on how to comply.

"(3) Health assessment surveys that are either—

"(A) web-based; or

"(B) accessible (with instructions) in printer-ready form by download."

## INCLUSION OF DENTAL CARE

Pub. L. 108–375, div. A, title VII, §740, as added by Pub. L. 109–163, div. A, title VII, §745(a), Jan. 6, 2006, 119 Stat. 3362, provided that: "For purposes of the plan, this subtitle [subtitle D (§§731–740) of title VII of div. A of Pub. L. 108–375, enacting sections 1073b and 1092a of this title and enacting provisions set out as notes under this section and sections 1073b, 1074f, and 1092a of this title], and the amendments made by this subtitle, references to medical readiness, health status, and health care shall be considered to include dental readiness, dental status, and dental care."

## LIMITATION ON FISCAL YEAR 2004 OUTLAYS FOR TEMPORARY RESERVE HEALTH CARE PROGRAMS

Pub. L. 108–136, div. A, title VII, §706, Nov. 24, 2003, 117 Stat. 1529, as amended by Pub. L. 110–181, div. A, title X, §1063(g)(1), Jan. 28, 2008, 122 Stat. 323, limited fiscal year 2004 expenditures for the administration of the temporary Reserve health care programs to $400,000,000.

## DISCLOSURE OF INFORMATION ON PROJECT 112 TO DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 107–314, div. A, title VII, §709, Dec. 2, 2002, 116 Stat. 2586, directed the Secretary of Defense to submit to Congress and the Secretary of Veterans Affairs a plan for the review, declassification, and submittal to the Department of Veterans Affairs of all records and information on Project 112, a chemical and biological weapons vulnerability-testing program, relevant to the provision of benefits to members of the Armed Forces who participated in that project; provided that the plan was to be completed no later than one year after Dec. 2, 2002; and required implementation reports to Congress and the Secretary of Veterans Affairs.

## HEALTH CARE AT FORMER UNIFORMED SERVICES TREATMENT FACILITIES FOR ACTIVE DUTY MEMBERS STATIONED AT CERTAIN REMOTE LOCATIONS

Pub. L. 106–65, div. A, title VII, §706, Oct. 5, 1999, 113 Stat. 684, as amended by Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–185, provided that:

"(a) AUTHORITY.—Health care may be furnished by a designated provider pursuant to any contract entered into by the designated provider under section 722(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) to eligible members who reside within the service area of the designated provider.

"(b) ELIGIBILITY.—A member of the uniformed services (as defined in section 1072(1) of title 10, United States Code) is eligible for health care under subsection (a) if the member is a member described in section 731(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1811; 10 U.S.C. 1074 note).

"(c) APPLICABLE POLICIES.—In furnishing health care to an eligible member under subsection (a), a designated provider shall adhere to the Department of Defense policies applicable to the furnishing of care under the TRICARE Prime Remote program, including coordinating with uniformed services medical authorities for hospitalizations and all referrals for specialty care.

"(d) REIMBURSEMENT RATES.—The Secretary of Defense, in consultation with the designated providers, shall prescribe reimbursement rates for care furnished to eligible members under subsection (a). The rates prescribed for health care may not exceed the amounts allowable under the TRICARE Standard plan for the same care."

## TEMPORARY AUTHORITY FOR MANAGED CARE EXPANSION TO MEMBERS ON ACTIVE DUTY AT CERTAIN REMOTE LOCATIONS; "TRICARE PROGRAM" AND "TRICARE PRIME PLAN" DEFINED

Pub. L. 105–85, div. A, title VII, §731(b)–(f), Nov. 18, 1997, 111 Stat. 1811, 1812, as amended by Pub. L. 106–398, §1 [[div. A], title VII, §722(a)(2), (b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–185, 1654A–186, provided that:

"(b) TEMPORARY AUTHORITY FOR MANAGED CARE EXPANSION TO MEMBERS ON ACTIVE DUTY AT CERTAIN REMOTE LOCATIONS.—(1) A member of the uniformed services described in subsection (c) is entitled to receive care under the Civilian Health and Medical Program of the Uniformed Services. In connection with such care, the Secretary of Defense shall waive the obligation of the member to pay a deductible, copayment, or annual fee that would otherwise be applicable under that program for care provided to the members under the program. A dependent of the member, as described in subparagraph (A), (D), or (I) of section 1072(2) of title 10, United States Code, who is residing with the member shall have the same entitlement to care and to waiver of charges as the member.

"(2) A member or dependent of the member, as the case may be, who is entitled under paragraph (1) to receive health care services under CHAMPUS shall receive such care from a network provider under the TRICARE program if such a provider is available in the service area of the member.

"(3) Paragraph (1) shall take effect on the date of the enactment of this Act [Nov. 18, 1997] and shall expire with respect to a member upon the later of the following:

"(A) The date that is one year after the date of the enactment of this Act.

"(B) The date on which the amendments made by subsection (a) [amending this section] apply with respect to the coverage of medical care for, and provision of such care to, the member.

"(4) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

"(c) ELIGIBLE MEMBERS.—A member referred to in subsection (b) is a member of the uniformed services on active duty who—

"(1) receives a duty assignment described in subsection (d); and

"(2) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from—

"(A) the nearest health care facility of the uniformed services adequate to provide the needed care under chapter 55 of title 10, United States Code; and

"(B) the nearest source of the needed care that is available to the member under the TRICARE Prime plan.

"(d) DUTY ASSIGNMENTS COVERED.—A duty assignment referred to in subsection (c)(1) means any of the following:

"(1) Permanent duty as a recruiter.

"(2) Permanent duty at an educational institution to instruct, administer a program of instruction, or

provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

"(3) Permanent duty as a full-time adviser to a unit of a reserve component of the uniformed services.

"(4) Any other permanent duty designated by the Secretary concerned for purposes of this subsection.

"(e) PAYMENT OF COSTS.—Deductibles, copayments, and annual fees not payable by a member by reason of a waiver granted under the regulations prescribed pursuant to subsection (b) shall be paid out of funds available to the Department of Defense for the Defense Health Program.

"(f) DEFINITIONS.—In this section [amending this section and enacting provisions set out as a note above]:

"(1) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code.

"(2) The term 'TRICARE Prime plan' means a plan under the TRICARE program that provides for the voluntary enrollment of persons for the receipt of health care services to be furnished in a manner similar to the manner in which health care services are furnished by health maintenance organizations.

"(3) The terms 'uniformed services' and 'administering Secretaries' have the meanings given those terms in section 1072 of title 10, United States Code."

[Pub. L. 106–398, §1 [[div. A], title VII, §722(c)(2), (3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–186, provided that:

["(2) The amendments made by subsection (a)(2) [amending section 731(b)–(f) of Pub. L. 105–85, set out above], with respect to members of the uniformed services, and the amendments made by subsection (b)(2) [amending section 731(b)–(f) of Pub. L. 105–85, set out above], with respect to dependents of members, shall take effect on the date of the enactment of this Act [Oct. 30, 2000] and shall expire with respect to a member or the dependents of a member, respectively, on the later of the following:

["(A) The date that is one year after the date of the enactment of this Act.

["(B) The date on which the policies required by the amendments made by subsection (a)(1) or (b)(1) [amending this section and section 1079 of this title] are implemented with respect to the coverage of medical care for and provision of such care to the member or dependents, respectively.

["(3) Section 731(b)(3) of Public Law 105–85 [set out above] does not apply to a member of the Coast Guard, the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service, or to a dependent of a member of a uniformed service."]

## INDEPENDENT RESEARCH REGARDING GULF WAR SYNDROME

Pub. L. 104–201, div. A, title VII, §743, Sept. 23, 1996, 110 Stat. 2601, directed the Secretary of Defense to provide for scientific research by independent entities on possible causal relationships between Gulf War syndrome and possible exposures of military personnel to chemical warfare agents or other hazardous materials during Gulf War service and use of inoculations and investigational new drugs.

## PERSIAN GULF ILLNESS

Pub. L. 105–85, div. A, title VII, §§761, 762, 770, Nov. 18, 1997, 111 Stat. 1824, 1829, provided that:

"SEC. 761. DEFINITIONS.

"For purposes of this subtitle [subtitle F (§§761–771) of title VII of Pub. L. 105–85, enacting sections 1074e, 1074f, and 1107 of this title and this note]:

"(1) The term 'Gulf War illness' means any one of the complex of illnesses and symptoms that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

"(2) The term 'Persian Gulf War' has the meaning given that term in section 101 of title 38, United States Code.

"(3) The term 'Persian Gulf veteran' means an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

"(4) The term 'contingency operation' has the meaning given that term in section 101(a) of title 10, United States Code, and includes a humanitarian operation, peacekeeping operation, or similar operation.

"SEC. 762. PLAN FOR HEALTH CARE SERVICES FOR PERSIAN GULF VETERANS.

"(a) PLAN REQUIRED.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall prepare a plan to provide appropriate health care to Persian Gulf veterans (and dependents eligible by law) who suffer from a Gulf War illness.

"(b) CONTENTS OF PLAN.—In preparing the plan, the Secretaries shall—

"(1) use the presumptions of service connection and illness specified in paragraphs (1) and (2) of

section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1074 note) to determine the Persian Gulf veterans (and dependents eligible by law) who should be covered by the plan;

"(2) consider the need and methods available to provide health care services to Persian Gulf veterans who are no longer on active duty in the Armed Forces, such as Persian Gulf veterans who are members of the reserve components and Persian Gulf veterans who have been separated from the Armed Forces; and

"(3) estimate the costs to the Government of providing full or partial health care services under the plan to covered Persian Gulf veterans (and covered dependents eligible by law).

"(c) FOLLOW-UP TREATMENT.—The plan required by subsection (a) shall specifically address the measures to be used to monitor the quality, appropriateness, and effectiveness of, and patient satisfaction with, health care services provided to Persian Gulf veterans after their initial medical examination as part of registration in the Persian Gulf War Veterans Health Registry or the Comprehensive Clinical Evaluation Program.

"(d) SUBMISSION OF PLAN.—Not later than March 1, 1998, the Secretaries shall submit to Congress the plan required by subsection (a).

"SEC. 770. PERSIAN GULF ILLNESS CLINICAL TRIALS PROGRAM.

"(a) FINDINGS.—Congress finds the following:

"(1) There are many ongoing studies that investigate risk factors which may be associated with the health problems experienced by Persian Gulf veterans; however, there have been no studies that examine health outcomes and the effectiveness of the treatment received by such veterans.

"(2) The medical literature and testimony presented in hearings on Gulf War illnesses indicate that there are therapies, such as cognitive behavioral therapy, that have been effective in treating patients with symptoms similar to those seen in many Persian Gulf veterans.

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall establish a program of cooperative clinical trials at multiple sites to assess the effectiveness of protocols for treating Persian Gulf veterans who suffer from ill-defined or undiagnosed conditions. Such protocols shall include a multidisciplinary treatment model, of which cognitive behavioral therapy is a component.

"(c) FUNDING.—Of the funds authorized to be appropriated in section 201(1) [111 Stat. 1655] for research, development, test, and evaluation for the Army, the sum of $4,500,000 shall be available for program element 62787A (medical technology) in the budget of the Department of Defense for fiscal year 1998 to carry out the clinical trials program established pursuant to subsection (b)."

Pub. L. 103–337, div. A, title VII, §§721, 722, Oct. 5, 1994, 108 Stat. 2804, 2807, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(4), (5), Feb. 10, 1996, 110 Stat. 513; Pub. L. 108–136, div. A, title X, §1031(e), Nov. 24, 2003, 117 Stat. 1604, provided that:

"SEC. 721. PROGRAMS RELATED TO DESERT STORM MYSTERY ILLNESS.

"(a) OUTREACH PROGRAM TO PERSIAN GULF VETERANS AND FAMILIES.—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any other means the Secretary considers appropriate. Under the program, the Secretary shall—

"(1) inform such individuals regarding—

"(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

"(B) blood donation policy;

"(C) available counseling and medical care for such members; and

"(D) possible health risks to children of Persian Gulf veterans;

"(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

"(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

"(b) INCENTIVES TO PERSIAN GULF VETERANS TO REGISTER.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

"(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of

Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

"(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act [Oct. 5, 1994], a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

"(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act [Oct. 5, 1994], on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

"(c) COMPATIBILITY OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure—

"(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

"(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

"(d) PRESUMPTIONS ON BEHALF OF SERVICE MEMBER.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

"(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

"(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

"(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

"(e) REVISION OF THE PHYSICAL EVALUATION BOARD CRITERIA.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

"(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

"(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

"(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inadequate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

"(f) REVIEW OF RECORDS AND RERATING OF PREVIOUSLY DISCHARGED GULF WAR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the

date of the enactment of this Act [Oct. 5, 1994] was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

"(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are reevaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

"(g) PERSIAN GULF ILLNESS MEDICAL REFERRAL CENTERS.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives not later than six months after the date of the enactment of this Act [Oct. 5, 1994].

"[(h) Repealed. Pub. L. 108–136, div. A, title X, §1031(e), Nov. 24, 2003, 117 Stat. 1604.]

"(i) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

"SEC. 722. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall conduct studies and administer grants for studies to determine—

"(1) the nature and causes of illnesses suffered by individuals as a consequence of service or employment by the United States in the Southwest Asia theater of operations during the Persian Gulf War; and

"(2) the appropriate treatment for those illnesses.

"(b) NATURE OF THE STUDIES.—(1) Studies under subsection (a)—

"(A) shall include consideration of the range of potential exposure of individuals to environmental, battlefield, and other conditions incident to service in the theater;

"(B) shall be conducted so as to provide assessments of both short-term and long-term effects to the health of individuals as a result of those exposures; and

"(C) shall include, at a minimum, the following types of studies:

"(i) An epidemiological study or studies on the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses.

"(ii) Studies to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances.

"(iii) Clinical research and other studies on the causes, possible transmission, and treatment of Persian Gulf-related illnesses.

"(2)(A) The first project carried out under paragraph (1)(C)(ii) shall be a retrospective study of members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War.

"(B) The second project carried out under paragraph (1)(C)(ii) shall consist of animal research and nonanimal research, including in vitro systems, as required, designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

"(c) INDIVIDUALS COVERED BY THE STUDIES.—Studies conducted pursuant to subsections [sic] (a) shall apply to the following individuals:

"(1) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

"(2) Individuals who were civilian employees of the Department of Defense in that theater during that period.

"(3) To the extent appropriate, individuals who were employees of contractors of the Department of Defense in that theater during that period.

"(4) To the extent appropriate, the spouses and children of individuals described in paragraph (1).

"(d) PLAN FOR THE STUDIES.—(1) The Secretary of Defense shall prepare a coordinated plan for the studies to be conducted pursuant to subsection (a). The plan shall include plans and requirements for research grants in support of the studies. The Secretary shall submit the plan to the National Academy of Sciences for review and comment.

"(2) The plan for studies pursuant to subsection (a) shall be updated annually. The Secretary of Defense

shall request an annual review by the National Academy of Sciences of the updated plan and study progress and results achieved during the preceding year.

"(3) The plan, and annual updates to the plan, shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

"(e) FUNDING.—(1) From the amount authorized to be appropriated pursuant to section 201 [108 Stat. 2690] for Defense-wide activities, the Secretary of Defense shall make available such funds as the Secretary considers necessary to support the studies conducted pursuant to subsection (a).

"(2) For each year in which activities continue in support of the studies conducted pursuant to subsection (a), the Secretary of Defense shall include in the budget request for the Department of Defense a request for such funds as the Secretary determines necessary to continue the activities during that fiscal year.

"(f) REPORTS.—(1) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress the coordinated plan for the studies to be conducted pursuant to subsection (a) and the results of the review of that plan by the National Academy of Sciences.

"(2) Not later than October 1 of each year through 1998, the Secretary shall submit to Congress a report on the results of the studies conducted pursuant to subsection (a), plans for continuation of the studies, and the results of the annual review of the studies by the National Academy of Sciences.

"(3) Each report under this section shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

"(g) DEFINITION.—In this section, the term 'Persian Gulf War' has the meaning given such term in section 101 of title 38, United States Code."

[For provisions establishing the Persian Gulf War Veterans Health Registry, provisions requiring a study by the Office of Technology Assessment of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry, provisions relating to an agreement with the National Academy of Sciences for review of health consequences of service during the Persian Gulf War, and coordination of government activities on health-related research on the Persian Gulf War, see title VII of Pub. L. 102–585, set out as a note under section 527 of Title 38, Veterans' Benefits.]

## FUNDING OF FISHER HOUSES ASSOCIATED WITH ARMY MEDICAL TREATMENT FACILITIES

Pub. L. 103–335, title VIII, §8017, Sept. 30, 1994, 108 Stat. 2620, which provided that during fiscal year 1995 and thereafter, proceeds from investment of Fisher House Investment Trust Fund were to be used to support operation and maintenance of Fisher Houses associated with Army medical treatment facilities, was repealed and restated in section 2221(c)(1) of this title by Pub. L. 104–106, div. A, title IX, §914(a)(1), (d)(4), Feb. 10, 1996, 110 Stat. 412, 413.

## MENTAL HEALTH EVALUATIONS OF MEMBERS OF ARMED FORCES

Pub. L. 102–484, div. A, title V, §546(a)–(h), Oct. 23, 1992, 106 Stat. 2416–2419, which directed Secretary of Defense, not later than 180 days after Oct. 23, 1992, to revise applicable regulations to incorporate certain requirements with respect to mental health evaluations of members of Armed Forces and to submit a report describing process of preparing regulations, was repealed by Pub. L. 112–81, div. A, title VII, §711(b), Dec. 31, 2011, 125 Stat. 1476.

## STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE

Pub. L. 102–484, div. A, title VII, §725, Oct. 23, 1992, 106 Stat. 2440, directed Secretary of Defense, in consultation with Secretary of Health and Human Services, not later than 18 months after Oct. 23, 1992, to carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations described in 42 U.S.C. 1395mm(b) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of this title, to develop a plan for the entry into contracts in accordance with the Secretary's determinations under the study, and to submit to Congress a report describing the results of the study and containing any plan developed.

## REGISTRY OF MEMBERS OF ARMED FORCES SERVING IN OPERATION DESERT STORM

Pub. L. 102–190, div. A, title VII, §734, Dec. 5, 1991, 105 Stat. 1411, as amended by Pub. L. 102–585, title VII, §704, Nov. 4, 1992, 106 Stat. 4977; Pub. L. 108–136, div. A, title X, §1031(c)(1), Nov. 24, 2003, 117 Stat. 1604, provided that:

"(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the 'Registry') relating to the following members of the Armed Forces:

"(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(b) CONTENTS OF REGISTRY.—(1) The Registry shall include—

"(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

"(i) a list containing each such member's name and other relevant identifying information with respect to the member; and

"(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member's service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

"(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

"(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.

"[(c) Repealed. Pub. L. 108–136, div. A, title X, §1031(c)(1), Nov. 24, 2003, 117 Stat. 1604.]

"(d) MEDICAL EXAMINATION.—Upon the request of any member listed in the Registry pursuant to subsection (a)(1), the Secretary of the military department concerned shall, if medically appropriate, furnish a pulmonary function examination and chest x-ray to such person.

"(e) EFFECTIVE DATE.—The Secretary shall establish the Registry not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991].

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'Operation Desert Storm' has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 77; 10 U.S.C. 101 note).

"(2) The term 'Persian Gulf conflict' has the meaning given such term in section 3(3) of such Act."

[For provisions relating to the Persian Gulf War Veterans Health Registry, see title VII of Pub. L. 102–585, set out as a note under section 527 of Title 38, Veterans' Benefits.]

## ADVISORY COMMITTEE ON MENTAL HEALTH EVALUATION PROTECTIONS

Pub. L. 101–510, div. A, title V, §554, Nov. 5, 1990, 104 Stat. 1567, as amended by Pub. L. 102–484, div. A, title V, §546(j)[(i)], Oct. 23, 1992, 106 Stat. 2419, directed Secretary of Defense, not later than 60 days after Nov. 5, 1990, to establish an advisory committee to develop and recommend to the Secretary, not later than 6 months after Nov. 5, 1990, regulations on procedural protections that should be afforded to any member of the Armed Forces who is referred by a commanding officer for a mental health evaluation by a mental health professional and directed Secretary, not later than 30 days after receipt of the report, to submit to Congress the report of the advisory committee, along with such additional comments and recommendations by the Secretary as the Secretary considers appropriate.

## PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 101–189, div. A, title VII, §721, Nov. 29, 1989, 103 Stat. 1477, provided that during fiscal years 1990 and 1991, the Secretary of Defense could not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility. Similar provisions were contained in the following prior authorization act:

Pub. L. 100–180, div. A, title VII, §722, Dec. 4, 1987, 101 Stat. 1116.

## RESTRICTION ON USE OF INFORMATION OBTAINED DURING CERTAIN EPIDEMIOLOGIC-ASSESSMENT INTERVIEWS

Pub. L. 99–661, div. A, title VII, §705(c), Nov. 14, 1986, 100 Stat. 3904, provided that:

"(1) Information obtained by the Department of Defense during or as a result of an epidemiologic-assessment interview with a serum-positive member of the Armed Forces may not be used to support any adverse personnel action against the member.

"(2) For purposes of paragraph (1):

"(A) The term 'epidemiologic-assessment interview' means questioning of a serum-positive member of the Armed Forces for purposes of medical treatment or counseling or for epidemiologic or statistical purposes.

"(B) The term 'serum-positive member of the Armed Forces' means a member of the Armed Forces who has been identified as having been exposed to a virus associated with the acquired immune deficiency

syndrome.

"(C) The term 'adverse personnel action' includes—

"(i) a court-martial;

"(ii) non-judicial punishment;

"(iii) involuntary separation (other than for medical reasons);

"(iv) administrative or punitive reduction in grade;

"(v) denial of promotion;

"(vi) an unfavorable entry in a personnel record;

"(vii) a bar to reenlistment; and

"(viii) any other action considered by the Secretary concerned to be an adverse personnel action."

**STUDY OF MEDICAL NEEDS OF ARMED FORCES; REPORT TO PRESIDENT AND CONGRESS**

Pub. L. 92–129, title I, §101(c), Sept. 28, 1971, 85 Stat. 354, authorized Secretary of Defense and Secretary of Health, Education, and Welfare to conduct a joint study of means of meeting medical needs of Armed Forces through means requiring less dependence on Armed Forces medical personnel, giving consideration to providing medical care for military personnel and their dependents under contracts with clinics, hospitals, and individual members of the medical profession at or near military installations within and outside the United States. The study and recommendations were to be submitted to President and Congress no later than 6 months after Sept. 28, 1971.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Authority of President under subsec. (b) to approve uniform rates of reimbursement for care provided in facilities operated by Secretary of Veterans Affairs delegated to Secretary of Veterans Affairs, see section 7(a) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

**EXECUTIVE ORDER NO. 13075**

Ex. Ord. No. 13075, Feb. 19, 1997, 63 F.R. 9085, which established the Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents, was revoked by Ex. Ord. No. 13225, §3(e), Sept. 28, 2001, 66 F.R. 50292.

## §1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(3) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(4) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before serving on funeral honors duty under section 12503 of this title or section 115 of title 32 at or in the vicinity of the place at which the member was to so serve, if the place is outside reasonable commuting distance from the member's residence.

(b) A person described in subsection (a) is entitled to—

(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

(2) subsistence during hospitalization.

(c) A member is not entitled to benefits under subsection (b) if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.

(d)(1) The Secretary concerned shall provide to members of the Selected Reserve who are assigned to units scheduled for deployment within 75 days after mobilization the following medical and dental services:

(A) An annual medical screening.

(B) For members who are over 40 years of age, a full physical examination not less often than once every two years.

(C) An annual dental screening.

(D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.

(2) The services provided under this subsection shall be provided at no cost to the member.

(e)(1) A member of a uniformed service on active duty for health care or recuperation reasons, as described in paragraph (2), is entitled to medical and dental care on the same basis and to the same extent as members covered by section 1074(a) of this title while the member remains on active duty.

(2) Paragraph (1) applies to a member described in paragraph (1) or (2) of subsection (a) who, while being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty, is continued on active duty pursuant to a modification or extension of orders, or is ordered to active duty, so as to result in active duty for a period of more than 30 days.

(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty for a period of more than 30 days, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

(2) The notification to members of the Ready Reserve described in paragraph (1) shall include notice that the members are eligible for screening and care under this section.

(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

(g)(1) The Secretary concerned may provide to any member of the Selected Reserve not described in subsection (d)(1) or (f), and to any member of the Individual Ready Reserve described in section 10144(b) of this title the medical and dental services specified in subsection (d)(1) if the Secretary determines that the receipt of such services by such member is necessary to ensure that the member meets applicable standards of medical and dental readiness.

(2) Services may not be provided to a member under this subsection for a condition that is the result of the member's own misconduct.

(3) The services provided under this subsection shall be provided at no cost to the member.

(h)(1) The Secretary of Defense may provide to any member of the reserve components performing inactive-duty training during scheduled unit training assemblies access to mental health assessments with a licensed mental health professional who shall be available for referrals during

duty hours on the premises of the principal duty location of the member's unit.

(2) Mental health services provided to a member under this subsection shall be at no cost to the member.

(i) Amounts available for operation and maintenance of a reserve component of the armed forces may be available for purposes of this section to ensure the medical, dental, and behavioral health readiness of members of such reserve component.

(Added Pub. L. 98–94, title X, §1012(a)(1), Sept. 24, 1983, 97 Stat. 664; amended Pub. L. 98–525, title VI, §631(a)(1), Oct. 19, 1984, 98 Stat. 2542; Pub. L. 98–557, §19(4), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99–145, title XIII, §1303(a)(7), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99–661, div. A, title VI, §604(a)(1), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 104–106, div. A, title VII, §§702(a), 704(a), Feb. 10, 1996, 110 Stat. 371, 372; Pub. L. 105–85, div. A, title V, §513(a), Nov. 18, 1997, 111 Stat. 1730; Pub. L. 106–65, div. A, title V, §578(i)(1), title VII, §705(b), Oct. 5, 1999, 113 Stat. 629, 683; Pub. L. 107–107, div. A, title V, §513(a), Dec. 28, 2001, 115 Stat. 1093; Pub. L. 108–106, title I, §1114, Nov. 6, 2003, 117 Stat. 1216; Pub. L. 108–136, div. A, title VII, §701, Nov. 24, 2003, 117 Stat. 1525; Pub. L. 110–417, [div. A], title VII, §735(a), Oct. 14, 2008, 122 Stat. 4513; Pub. L. 112–81, div. A, title VII, §703(a), Dec. 31, 2011, 125 Stat. 1471.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (h). Pub. L. 112–81, §703(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112–81, §703(a)(1), (3), redesignated subsec. (h) as (i) and substituted "medical, dental, and behavioral health readiness" for "medical and dental readiness".

**2008**—Subsec. (d)(1). Pub. L. 110–417, §735(a)(1), substituted "The Secretary concerned shall provide to members of the Selected Reserve" for "The Secretary of the Army shall provide to members of the Selected Reserve of the Army".

Subsecs. (g), (h). Pub. L. 110–417, §735(a)(2), (3), added subsecs. (g) and (h).

**2003**—Subsec. (f). Pub. L. 108–136 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

"(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.

"(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

"(4) Screening and care may not be provided under this section after September 30, 2004."

Pub. L. 108–106 added subsec. (f).

**2001**—Subsec. (a)(3). Pub. L. 107–107 struck out ", if the site is outside reasonable commuting distance from the member's residence" before period at end.

**1999**—Subsec. (a)(1)(C). Pub. L. 106–65, §578(i)(1)(A), added subpar. (C).

Subsec. (a)(2)(C). Pub. L. 106–65, §578(i)(1)(A), added subpar. (C).

Subsec. (a)(4). Pub. L. 106–65, §578(i)(1)(B), added par. (4).

Subsec. (e). Pub. L. 106–65, §705(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "A member of a uniformed service described in paragraph (1)(A) or (2)(A) of subsection (a) whose orders are modified or extended, while the member is being treated for (or recovering from) the injury, illness, or disease incurred or aggravated in the line of duty, so as to result in active duty for a period of more than 30 days shall be entitled, while the member remains on active duty, to medical and dental care on the same basis and to the same extent as members covered by section 1074(a) of this title."

**1997**—Subsec. (a)(3). Pub. L. 105–85, §513(a)(1), inserted "while remaining overnight immediately before the commencement of inactive-duty training, or" after "in the line of duty".

Subsec. (e). Pub. L. 105–85, §513(a)(2), added subsec. (e).

**1996**—Subsec. (a)(3). Pub. L. 104–106, §702(a), added par. (3).

Subsec. (c). Pub. L. 104–106, §704(a)(1), substituted "subsection (b)" for "this section".

Subsec. (d). Pub. L. 104–106, §704(a)(2), added subsec. (d).

**1986**—Pub. L. 99–661 amended section generally substituting "active duty for a period of more than 30 days" for "active duty; injuries, diseases and illnesses incident to duty" in section catchline and new text for prior text which read as follows:

"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on active duty for a period of 30 days or less, or while traveling to or from that duty.

"(2) Each member of the National Guard who contracts a disease or becomes ill in line of duty while on full-time National Guard duty, or while traveling to or from that duty.

"(3) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on inactive duty training under circumstances in which it is determined that the disease or illness was contracted or aggravated as an incident of that inactive duty training.

"(4) Each member of a uniformed service who incurs or aggravates an injury while traveling directly to or from the place at which he is to perform, or has performed, inactive duty training, unless the injury is incurred or aggravated as a result of the member's own gross negligence or misconduct.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of his injury, disease, or illness until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization."

**1985**—Subsec. (a). Pub. L. 99–145 substituted reference to the administering Secretaries, for references to Secretaries of Defense, Transportation, and Health and Human Services.

**1984**—Pub. L. 98–525 substituted "Medical and dental care: members on duty other than active duty; injuries, diseases and illnesses incident to duty" for "Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive duty training" in section catchline.

Subsec. (a). Pub. L. 98–557, which directed the amendment of subsec. (a) by substituting "administering Secretaries" for "Secretary of Defense and the Secretary of Health and Human Services", could not be executed in view of the prior amendment by Pub. L. 98–525.

Pub. L. 98–525 amended subsec. (a) generally, thereby authorizing the Secretary of Transportation to participate in issuance of joint regulations, adding pars. (1) to (3), and incorporating existing provisions in par. (4).

Subsec. (b). Pub. L. 98–525 amended subsec. (b) generally, thereby including treatment of diseases or illnesses.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VI, §604(g), Nov. 14, 1986, 100 Stat. 3878, provided that: "The amendments made by this section [amending this section, sections 1076, 1086, 1204–1206, 1475, 1476, 1481, 3723, and 8723 of this title, and sections 204 and 206 of Title 37, Pay and Allowances of the Uniformed Services and repealing sections 3687, 3721, 3722, 6148, 8687, 8721, and 8722 of this title and sections 318–321 of Title 32, National Guard] shall apply with respect to persons who, after the date of enactment of this Act [Nov. 14, 1986], incur or aggravate an injury, illness, or disease or die."

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title VI, §631(c), Oct. 19, 1984, 98 Stat. 2543, provided that: "The amendments made by this section [amending this section and section 6148 of this title] shall apply only with respect to injuries incurred or aggravated and diseases or illnesses contracted or aggravated after September 30, 1984."

### EFFECTIVE DATE

Pub. L. 98–94, title X, §1012(c), Sept. 24, 1983, 97 Stat. 665, provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending section 204 of Title 37, Pay and Allowances of the Uniformed Services] shall apply only in cases of injuries incurred or aggravated on or after the date of the enactment of this Act [Sept. 24, 1983]."

## §1074b. Medical and dental care: Academy cadets and midshipmen; members of,

## and designated applicants for membership in, Senior ROTC

(a) ELIGIBILITY.—Under joint regulations prescribed by the administering Secretaries, the following persons are, except as provided in subsection (c), entitled to the benefits described in subsection (b):

(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, and a midshipman at the United States Naval Academy, who incurs or aggravates an injury, illness, or disease in the line of duty.

(2) A member of, and a designated applicant for membership in, the Senior Reserve Officers' Training Corps who incurs or aggravates an injury, illness, or disease—

(A) in the line of duty while performing duties under section 2109 of this title;

(B) while traveling directly to or from the place at which that member or applicant is to perform or has performed duties pursuant to section 2109 of this title; or

(C) in the line of duty while remaining overnight immediately before the commencement of duties performed pursuant to section 2109 of this title or, while remaining overnight, between successive periods of performing duties pursuant to section 2109 of this title, at or in the vicinity of the site of the duties performed pursuant to section 2109 of this title, if the site is outside reasonable commuting distance from the residence of the member or designated applicant.

(b) BENEFITS.—A person eligible for benefits under subsection (a) for an injury, illness, or disease is entitled to—

(1) the medical and dental care under this chapter that is appropriate for the treatment of the injury, illness, or disease until the injury, illness, disease, or any resulting disability cannot be materially improved by further hospitalization or treatment; and

(2) meals during hospitalization.

(c) EXCEPTION FOR GROSS NEGLIGENCE OR MISCONDUCT.—A person is not entitled to benefits under subsection (b) for an injury, illness, or disease, or the aggravation of an injury, illness, or disease that is a result of the gross negligence or the misconduct of that person.

(Added Pub. L. 108–375, div. A, title V, §555(a)(1), Oct. 28, 2004, 118 Stat. 1913.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1074b, added Pub. L. 102–190, div. A, title VI, §640(a)(2), Dec. 5, 1991, 105 Stat. 1385; amended Pub. L. 104–106, div. A, title XV, §1501(c)(10), Feb. 10, 1996, 110 Stat. 499, which related to transitional medical and dental care for members on active duty in support of contingency operations, was repealed by Pub. L. 107–107, div. A, title VII, §736(c)(1), (d), Dec. 28, 2001, 115 Stat. 1173, with provision that the section, as in effect before Dec. 28, 2001, was to continue to apply to a member of the Armed Forces who was released from active duty in support of a contingency operation before that date.

Another prior section 1074b was renumbered section 1074c of this title.

## §1074c. Medical care: authority to provide a wig

A person entitled to medical care under this chapter who has alopecia resulting from the treatment of a malignant disease may be furnished a wig if the person has not previously been furnished one at the expense of the United States.

(Added Pub. L. 98–525, title XIV, §1401(e)(2)(A), Oct. 19, 1984, 98 Stat. 2616, §1074b; renumbered §1074c, Pub. L. 102–190, div. A, title VI, §640(a)(1), Dec. 5, 1991, 105 Stat. 1385.)

### EDITORIAL NOTES

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8033], Oct. 12, 1984, 98 Stat. 1904, 1929.
Pub. L. 98–212, title VII, §739, Dec. 8, 1983, 97 Stat. 1445.
Pub. L. 97–377, title I, §101(c) [title VII, §742], Dec. 21, 1982, 96 Stat. 1833, 1858.
Pub. L. 97–114, title VII, §743, Dec. 29, 1981, 95 Stat. 1586.
Pub. L. 96–527, title VII, §744, Dec. 15, 1980, 94 Stat. 3089.

**AMENDMENTS**

**1991**—Pub. L. 102–190 renumbered section 1074b of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §1074d. Certain primary and preventive health care services

(a) SERVICES AVAILABLE.—(1) Female members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to primary and preventive health care services for women as part of such medical care. The services described in paragraphs (1) and (2) of subsection (b) shall be provided under such procedures and at such intervals as the Secretary of Defense shall prescribe.

(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate.

(b) DEFINITION.—In this section, the term "primary and preventive health care services for women" means health care services, including related counseling services, provided to women with respect to the following:

(1) Cervical cancer screening.

(2) Breast cancer screening, including through the use of digital breast tomosynthesis.

(3) Comprehensive obstetrical and gynecological care, including care related to pregnancy and the prevention of pregnancy.

(4) Infertility and sexually transmitted diseases, including prevention.

(5) Menopause, including hormone replacement therapy and counseling regarding the benefits and risks of hormone replacement therapy.

(6) Physical or psychological conditions arising out of acts of sexual violence.

(7) Gynecological cancers.

(8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).

(Added Pub. L. 103–160, div. A, title VII, §701(a)(1), Nov. 30, 1993, 107 Stat. 1685; amended Pub. L. 104–201, div. A, title VII, §701(a)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2587; Pub. L. 109–364, div. A, title VII, §703(a), Oct. 17, 2006, 120 Stat. 2279; Pub. L. 116–283, div. A, title VII, §701, Jan. 1, 2021, 134 Stat. 3686.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b)(2). Pub. L. 116–283 inserted ", including through the use of digital breast tomosynthesis" before period at end.

**2006**—Subsec. (a)(1). Pub. L. 109–364, §703(a)(1), inserted at end "The services described in paragraphs

(1) and (2) of subsection (b) shall be provided under such procedures and at such intervals as the Secretary of Defense shall prescribe."

Subsec. (b)(1). Pub. L. 109–364, §703(a)(2)(A), substituted "Cervical cancer screening" for "Papanicolaou tests (pap smear)".

Subsec. (b)(2). Pub. L. 109–364, §703(a)(2)(B), substituted "Breast cancer screening" for "Breast examinations and mammography".

**1996**—Pub. L. 104–201, §701(a)(2)(A), amended catchline generally, substituting "Certain primary and preventive health care services" for "Primary and preventive health care services for women".

Subsec. (a). Pub. L. 104–201, §701(a)(1)(A), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(8). Pub. L. 104–201, §701(a)(1)(B), added par. (8).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEMONSTRATION PROGRAM ON CRYOPRESERVATION AND STORAGE OF GAMETES OF CERTAIN MEMBERS OF THE ARMED FORCES

Pub. L. 118–159, div. A, title VII, §709, Dec. 23, 2024, 138 Stat. 1945, provided that:

"(a) DEMONSTRATION PROGRAM.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall carry out a demonstration program to reimburse covered members for expenses incurred in the retrieval, testing, cryopreservation, shipping, and storage of gametes of such covered members in a private storage facility determined appropriate by the Secretary.

"(b) ELEMENTS.—

"(1) AMOUNT OF REIMBURSEMENT.—A covered member participating in the demonstration program shall receive not more than the following amounts per year:

"(A) $500 in the case of a member who preserves sperm.

"(B) $10,000 in the case of a member who preserves eggs.

"(2) INFORMATION.—

"(A) PROVIDERS.—The Secretary shall provide to a covered member participating in the demonstration program information regarding providers of services described in subsection (a) located near the covered member.

"(B) PROMOTION.—The Secretary shall promote the demonstration program to covered members in the course of annual health examinations and pre-deployment screenings.

"(3) USE OF MILITARY MEDICAL TREATMENT FACILITIES.—The Secretary shall encourage the use of military medical treatment facilities that offer services described in subsection (a) to provide services under the demonstration program.

"(c) DURATION.—The Secretary shall—

"(1) publish in the Federal Register the date on which the Secretary will commence carrying out the demonstration program; and

"(2) carry out the demonstration program for a three-year period beginning on such date.

"(d) NO LIABILITY OR CONTRACTUAL OBLIGATION.—The United States shall not be—

"(1) considered a party to any agreement between a covered member who participates in the demonstration program and a private gamete storage facility; or

"(2) responsible for the management of gametes cryopreserved or stored for which a covered member receives reimbursement under such demonstration program.

"(e) ADVANCED MEDICAL DIRECTIVE.—A covered member who participates in the demonstration program shall complete an advanced medical directive that specifies how gametes preserved under the demonstration program shall be handled upon the death of such covered member.

"(f) REPORTS; BRIEFINGS.—

"(1) INITIAL REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing a plan to implement the demonstration program.

"(2) REPORT.—Not later than one year after the Secretary commences carrying out the demonstration program, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. Such report shall include the following:

"(A) Usage by covered members.

"(B) Demographics of participating covered members.

"(C) Costs of services to participating covered members.

"(D) The feasibility of expanding the demonstration program.

"(E) The feasibility of making the demonstration program permanent.

"(F) Other information determined appropriate by the Secretary.

"(3) BRIEFINGS.—Not later than one year after the date of the enactment of this Act, and annually thereafter for the duration of the demonstration program, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(A) the design, use, and costs of the demonstration project; and

"(B) any other observations of the Secretary with respect to the demonstration project, such as the effects of the demonstration project on recruitment and retention.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered member' means a member of a covered Armed Force serving on active duty—

"(A) who has received orders (including deployment orders) for duty for which the member may receive hazardous duty pay under section 351 of title 37, United States Code;

"(B) whom [sic] the Secretary determines is likely to receive such orders in the next 120 days;

"(C) who will, under orders, be geographically separated from a spouse, domestic partner, or dating partner for a period of not less than 180 days, including sea duty; or

"(D) whose application to participate in the demonstration program is approved by the Secretary.

"(2) The term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force.

"(3) The term 'deployment' has the meaning given such term in section 991(b) of title 10, United States Code."

## EXPEDITED EVALUATION AND TREATMENT FOR PRENATAL SURGERY UNDER THE TRICARE PROGRAM

Pub. L. 115–91, div. A, title VII, §708, Dec. 12, 2017, 131 Stat. 1436, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall implement processes and procedures to ensure that a covered beneficiary under the TRICARE program whose pregnancy is complicated with (or suspected of complication with) a fetal condition may elect to receive expedited evaluation, nondirective counseling, and medical treatment from a perinatal or pediatric specialist capable of providing surgical management and intervention in utero.

"(b) DEFINITIONS.—In this section, the terms 'covered beneficiary' and 'TRICARE program' have the meanings given those terms in section 1072 of title 10, United States Code."

## COMPREHENSIVE STANDARDS AND ACCESS TO CONTRACEPTION COUNSELING FOR MEMBERS OF THE ARMED FORCES

Pub. L. 114–92, div. A, title VII, §718, Nov. 25, 2015, 129 Stat. 868, provided that:

"(a) CLINICAL PRACTICE GUIDELINES.—

"(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall establish clinical practice guidelines for health care providers employed by the Department of Defense on standards of care with respect to methods of contraception and counseling on methods of contraception for members of the Armed Forces.

"(2) UPDATES.—The Secretary shall from time to time update the clinical practice guidelines established under paragraph (1) to incorporate into such guidelines new or updated standards of care with respect to methods of contraception and counseling on methods of contraception.

"(b) DISSEMINATION.—

"(1) INITIAL DISSEMINATION.—As soon as practicable, but commencing not later than one year after the date of the enactment of this Act, the Secretary shall provide for rapid dissemination of the clinical practice guidelines to health care providers described in subsection (a)(1).

"(2) DISSEMINATION OF UPDATES.—As soon as practicable after each update to the clinical practice guidelines made by the Secretary pursuant to paragraph (2) of subsection (a), the Secretary shall provide for the rapid dissemination of such updated clinical practice guidelines to health care providers described in paragraph (1) of such subsection.

"(3) PROTOCOLS.—The Secretary shall disseminate the clinical practice guidelines under paragraph (1) and any updates to such guidelines under paragraph (2) in accordance with administrative protocols developed by the Secretary for such purpose.

"(c) ACCESS TO CONTRACEPTION COUNSELING.—As soon as practicable after the date of the enactment of this Act, the Secretary shall ensure that women members of the Armed Forces have access to comprehensive counseling on the full range of methods of contraception provided by health care providers described in subsection (a)(1) during health care visits, including visits as follows:

"(1) During predeployment health care visits, including counseling that provides specific information women need regarding the interaction between anticipated deployment conditions and various methods of contraception.

"(2) During health care visits during deployment.

"(3) During annual physical examinations."

**DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM**

Pub. L. 103–337, div. A, title II, §241, Oct. 5, 1994, 108 Stat. 2701, provided for the continuance of the Defense Women's Health Research Program established pursuant to the authority in section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606, formerly set out below) and appropriated funds to the program for fiscal year 1995.

Pub. L. 103–160, div. A, title II, §251, Nov. 30, 1993, 107 Stat. 1606, authorized the Secretary of Defense to establish a Defense Women's Health Research Center to serve as the coordinating agent for multidisciplinary and multi-institutional research within the Department of Defense on women's health issues related to service in the Armed Forces and required the Secretary to report to Congress on the decision to establish the Center no later than May 1, 1994.

**REPORT ON PROVISION OF PRIMARY AND PREVENTATIVE HEALTH CARE SERVICES FOR WOMEN**

Pub. L. 103–160, div. A, title VII, §735, Nov. 30, 1993, 107 Stat. 1698, directed the Secretary of Defense to prepare a report evaluating the provision of primary and preventive health care services through military medical treatment facilities and the Civilian Health and Medical Program of the Uniformed Services to female members of the uniformed services and female covered beneficiaries eligible for health care under this chapter, and directed the Secretary, as part of such report, to conduct a study to determine the health care needs of female members and female covered beneficiaries, and to submit such report to Congress not later than Oct. 1, 1994, and a revised report not later than Oct. 1, 1999.

## §1074e. Medical care: certain Reserves who served in Southwest Asia during the Persian Gulf Conflict

(a) ENTITLEMENT TO MEDICAL CARE.—A member of the armed forces described in subsection (b) is entitled to medical care for a qualifying Persian Gulf symptom or illness to the same extent and under the same conditions (other than the requirement that the member be on active duty) as a member of a uniformed service who is entitled to such care under section 1074(a) of this title.

(b) COVERED MEMBERS.—Subsection (a) applies to a member of a reserve component who—

(1) is a Persian Gulf veteran;

(2) has a qualifying Persian Gulf symptom or illness; and

(3) is not otherwise entitled to medical care for such symptom or illness under this chapter and is not otherwise eligible for hospital care and medical services for such symptom or illness under section 1710 of title 38.

(c) DEFINITIONS.—In this section:

(1) The term "Persian Gulf veteran" means a member of the armed forces who served on active duty in the Southwest Asia theater of operations during the Persian Gulf Conflict.

(2) The term "qualifying Persian Gulf symptom or illness" means, with respect to a member described in subsection (b), a symptom or illness—

(A) that the member registered before September 1, 1997, in the Comprehensive Clinical Evaluation Program of the Department of Defense and that is presumed under section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 1074 note) to be a result of service in the Southwest Asia theater of operations during the Persian Gulf Conflict; or

(B) that the member registered before September 1, 1997, in the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs pursuant to section 702 of the Persian Gulf War Veterans' Health Status Act (38 U.S.C. 527 note).

(Added Pub. L. 105–85, div. A, title VII, §764(a), Nov. 18, 1997, 111 Stat. 1825.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 721(d) of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c)(2)(A), is section 721(d) of Pub. L. 103–337, which is set out as a note under section 1074 of this title.

Section 702 of the Persian Gulf War Veterans' Health Status Act, referred to in subsec. (c)(2)(B), is section 702 of Pub. L. 102–585, which is set out as a note under section 527 of Title 38, Veterans' Benefits.

## §1074f. Medical tracking system for members deployed overseas

(a) SYSTEM REQUIRED.—The Secretary of Defense shall establish a system to assess the medical condition of members of the armed forces (including members of the reserve components) who are deployed outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or combat operation.

(b) ELEMENTS OF SYSTEM.—(1)(A) The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including the assessment of mental health and the drawing of blood samples) and postdeployment health reassessments to—

(i) accurately record the health status of members before their deployment;

(ii) accurately record any changes in their health status during the course of their deployment;

(iii) identify health concerns, including mental health concerns, that may become manifest several months following their deployment; and

(iv) accurately record any exposure to occupational and environmental health risks during the course of their deployment.

(B) The postdeployment medical examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

(C) The postdeployment health reassessment shall be conducted at an appropriate time during the period beginning 90 days after the member is redeployed and ending 180 days after the member is redeployed.

(2) The predeployment medical examination, postdeployment medical examination, and postdeployment health reassessment of a member of the armed forces required under paragraph (1) shall include the following:

(A) An assessment of the current treatment of the member and any use of psychotropic medications by the member for a mental health condition or disorder.

(B) An assessment of traumatic brain injury.

(C) An assessment of post-traumatic stress disorder.

(D) An assessment of whether the member was—

(i) based or stationed at a location where an open burn pit, as defined in subsection (c) of section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note), was used; or

(ii) exposed to toxic airborne chemicals or other airborne contaminants, including any information recorded as part of the registry established by the Secretary of Veterans Affairs under such section 201.

(3)(A) The Secretary shall establish for purposes of subparagraphs (B) and (C) of paragraph (2) a protocol for the predeployment assessment and documentation of the cognitive (including memory) functioning of a member who is deployed outside the United States in order to facilitate the assessment of the postdeployment cognitive (including memory) functioning of the member.

(B) The protocol under subparagraph (A) shall include appropriate mechanisms to permit the differential diagnosis of traumatic brain injury in members returning from deployment in a combat zone.

(c) RECORDKEEPING.—The results of all medical examinations and reassessments conducted under the system, records of all health care services (including immunizations and the prescription and administration of psychotropic medications) received by members described in subsection (a) in anticipation of their deployment or during the course of their deployment, and records of events occurring in the deployment area (including the results of any assessment performed by the Secretary of occupational and environmental health risks for such area) that may affect the health of such members shall be retained and maintained in a centralized location to improve future access to the records.

(d) QUALITY ASSURANCE.—(1) The Secretary of Defense shall establish a quality assurance program to evaluate the success of the system in ensuring that members described in subsection (a) receive predeployment medical examinations, postdeployment medical examinations, and postdeployment health reassessments and that the recordkeeping requirements with respect to the system are met.

(2) The quality assurance program established under paragraph (1) shall also include the following elements:

(A) The types of healthcare providers conducting postdeployment health assessments and reassessments.

(B) The training received by such providers applicable to the conduct of such assessments and reassessments, including training on assessments and referrals relating to mental health.

(C) The guidance available to such providers on how to apply the clinical practice guidelines developed under subsection (e)(1) in determining whether to make a referral for further evaluation of a member of the armed forces relating to mental health.

(D) The effectiveness of the tracking mechanisms required under this section in ensuring that members who receive referrals for further evaluations relating to mental health receive such evaluations and obtain such care and services as are warranted.

(E) Programs established for monitoring the mental health of each member who, after deployment to a combat operation or contingency operations, is known—

(i) to have a mental health condition or disorder; or

(ii) to be receiving treatment, including psychotropic medications, for a mental health condition or disorder.

(F) The diagnosis and treatment of traumatic brain injury and post-traumatic stress disorder.

(e) CRITERIA FOR REFERRAL FOR FURTHER EVALUATIONS.—The system described in subsection (a) shall include—

(1) development of clinical practice guidelines to be utilized by healthcare providers in determining whether to refer a member of the armed forces for further evaluation relating to mental health (including traumatic brain injury);

(2) mechanisms to ensure that healthcare providers are trained in the application of such clinical practice guidelines; and

(3) mechanisms for oversight to ensure that healthcare providers apply such guidelines consistently.

(f) MINIMUM STANDARDS FOR DEPLOYMENT.—(1) The Secretary of Defense shall prescribe in regulations minimum standards for mental health for the eligibility of a member of the armed forces for deployment to a combat operation or contingency operation.

(2) The standards required by paragraph (1) shall include the following:

(A) A specification of the mental health conditions, treatment for such conditions, and receipt of psychotropic medications for such conditions that preclude deployment of a member of the armed forces to a combat operation or contingency operation, or to a specified type of such operation.

(B) Guidelines for the deployability and treatment of members of the armed forces diagnosed with a severe mental illness, traumatic brain injury, or post traumatic stress disorder.

(3) The Secretary shall take appropriate actions to ensure the utilization of the standards prescribed under paragraph (1) in the making of determinations regarding the deployability of members of the armed forces to a combat operation or contingency operation.

(g) ADDITIONAL REQUIREMENTS FOR POSTDEPLOYMENT MEDICAL EXAMINATIONS AND HEALTH REASSESSMENTS.—(1) The Secretary of Defense shall standardize and make available to a provider that conducts a postdeployment medical examination or reassessment under the system described in subsection (a) questions relating to occupational and environmental health exposure.

(2) The Secretary, to the extent practicable, shall ensure that the medical record of a member includes information on the external cause relating to a diagnosis of the member, including by associating an external cause code (as issued under the International Statistical Classification of Diseases and Related Health Problems, 10th Revision (or any successor revision)).

(Added Pub. L. 105–85, div. A, title VII, §765(a)(1), Nov. 18, 1997, 111 Stat. 1826; amended Pub. L. 109–364, div. A, title VII, §738(a)–(d), Oct. 17, 2006, 120 Stat. 2303; Pub. L. 110–181, div. A, title XVI, §1673(a)(1), (b), (c), Jan. 28, 2008, 122 Stat. 482, 483; Pub. L. 111–84, div. A, title X, §1073(a)(9), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111–383, div. A, title VII, §712, Jan. 7, 2011, 124 Stat. 4247; Pub. L. 116–92, div. A, title VII, §§704(c), 705(a), (b), Dec. 20, 2019, 133 Stat. 1438–1440.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (b)(1)(A)(iv). Pub. L. 116–92, §705(a)(1), added cl. (iv).

Subsec. (b)(2)(D). Pub. L. 116–92, §704(c), added subpar. (D).

Subsec. (c). Pub. L. 116–92, §705(a)(2), inserted "(including the results of any assessment performed by the Secretary of occupational and environmental health risks for such area)" after "deployment area".

Subsec. (g). Pub. L. 116–92, §705(b), added subsec. (g).

**2011**—Subsec. (b)(1). Pub. L. 111–383, §712(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including an assessment of mental health and the drawing of blood samples) to accurately record the medical condition of members before their deployment and any changes in their medical condition during the course of their deployment. The postdeployment examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter)."

Subsec. (b)(2). Pub. L. 111–383, §712(b), substituted "medical examination, postdeployment medical examination, and postdeployment health reassessment" for "and postdeployment medical examination" in introductory provisions.

Subsec. (c). Pub. L. 111–383, §712(c), inserted "and reassessments" after "medical examinations" and "and the prescription and administration of psychotropic medications" after "including immunizations".

Subsec. (d)(1). Pub. L. 111–383, §712(d)(1), substituted ", postdeployment medical examinations, and postdeployment health reassessments" for "and postdeployment medical examinations".

Subsec. (d)(2)(A). Pub. L. 111–383, §712(d)(2)(A), inserted "and reassessments" after "postdeployment health assessments".

Subsec. (d)(2)(B). Pub. L. 111–383, §712(d)(2)(B), inserted "and reassessments" after "such assessments".

**2009**—Subsec. (f)(3). Pub. L. 111–84 substituted "contingency" for "continency".

**2008**—Subsec. (b)(2)(C). Pub. L. 110–181, §1673(a)(1)(A), added subpar. (C).

Subsec. (b)(3). Pub. L. 110–181, §1673(a)(1)(B), added par. (3).

Subsec. (d)(2)(F). Pub. L. 110–181, §1673(b), added subpar. (F).

Subsec. (f). Pub. L. 110–181, §1673(c)(1), struck out "Mental Health" after "Minimum" in heading.

Subsec. (f)(2)(B). Pub. L. 110–181, §1673(c)(2), substituted ", traumatic brain injury, or" for "or".

**2006**—Subsec. (b). Pub. L. 109–364, §738(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 109–364, §738(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 109–364, §738(b), added subsec. (e).

Subsec. (f). Pub. L. 109–364, §738(c), added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### INCLUSION OF INFORMATION ON EXPOSURE TO OPEN BURN PITS IN POSTDEPLOYMENT HEALTH REASSESSMENTS

Pub. L. 116–283, div. A, title VII, §721, Jan. 1, 2021, 134 Stat. 3698, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall include in postdeployment health reassessments conducted under section 1074f of title 10, United States Code, pursuant to a Department of Defense Form 2796, or successor form, an explicit question regarding exposure of members of the Armed Forces to open burn pits.

"(b) INCLUSION IN ASSESSMENTS BY MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that the Secretary of each military department includes a question regarding exposure of members of the Armed Forces to open burn pits in any electronic postdeployment health assessment conducted by that military department.

"(c) OPEN BURN PIT DEFINED.—In this section, the term 'open burn pit' has the meaning given that term in section 201(c) of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note)."

### EXPOSURE TO OPEN BURN PITS AND TOXIC AIRBORNE CHEMICALS OR OTHER AIRBORNE CONTAMINANTS AS PART OF PERIODIC HEALTH ASSESSMENTS AND OTHER PHYSICAL EXAMINATIONS

Pub. L. 116–92, div. A, title VII, §704, Dec. 20, 2019, 133 Stat. 1438, provided that:

"(a) PERIODIC HEALTH ASSESSMENT.—The Secretary of Defense shall ensure that any periodic health assessment provided to members of the Armed Forces includes an evaluation of whether the member has been—

"(1) based or stationed at a location where an open burn pit was used; or

"(2) exposed to toxic airborne chemicals or other airborne contaminants, including any information recorded as part of the Airborne Hazards and Open Burn Pit Registry.

"(b) SEPARATION HISTORY AND PHYSICAL EXAMINATIONS.—[Amended section 1145 of this title.]

"(c) DEPLOYMENT ASSESSMENTS.—[Amended this section.]

"(d) SHARING OF INFORMATION.—

"(1) DOD–VA.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for the sharing by the Department of Defense with the Department of Veterans Affairs of the results of covered evaluations regarding the exposure by a member of the Armed Forces to toxic airborne chemicals or other airborne contaminants.

"(2) REGISTRY.—If a covered evaluation of a member of the Armed Forces establishes that the member was based or stationed at a location where an open burn pit was used or that the member was exposed to toxic airborne chemicals or other airborne contaminants, the member shall be enrolled in the Airborne Hazards and Open Burn Pit Registry unless the member elects to not so enroll.

"(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude eligibility for benefits under the laws administered by the Secretary of Veterans Affairs by reason of the open burn pit exposure history of a veteran not being recorded in a covered evaluation.

"(f) DEFINITIONS.—In this section:

"(1) The term 'Airborne Hazards and Open Burn Pit Registry' means the registry established by the Secretary of Veterans Affairs under section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note).

"(2) The term 'covered evaluation' means—

"(A) a periodic health assessment conducted in accordance with subsection (a);

"(B) a separation history and physical examination conducted under section 1145(a)(5) of title 10, United States Code, as amended by this section; and

"(C) a deployment assessment conducted under section 1074f(b)(2) of such title, as amended by this section.

"(3) The term 'open burn pit' has the meaning given that term in section 201(c) of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note)."

### SHARING BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS OF RECORDS AND INFORMATION RETAINED UNDER THE MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS

Pub. L. 112–239, div. A, title VII, §723, Jan. 2, 2013, 126 Stat. 1805, provided that:

"(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly enter into a memorandum of understanding providing for the sharing by the Department of Defense with the Department of Veterans Affairs of the results of examinations and other records on members of the Armed Forces that are retained and maintained with respect to the medical tracking system for members deployed overseas under section 1074f(c) of title 10, United States Code.

"(b) CESSATION UPON IMPLEMENTATION OF ELECTRONIC HEALTH RECORD.—The sharing required pursuant to subsection (a) shall cease on the date on which the Secretary of Defense and the Secretary of Veterans Affairs jointly certify to Congress that the Secretaries have fully implemented an integrated electronic health record for members of the Armed Forces that is fully interoperable between the Department of Defense and the Department of Veterans Affairs."

## COMPREHENSIVE POLICY ON CONSISTENT NEUROLOGICAL COGNITIVE ASSESSMENTS OF MEMBERS OF THE ARMED FORCES BEFORE AND AFTER DEPLOYMENT

Pub. L. 111–383, div. A, title VII, §722, Jan. 7, 2011, 124 Stat. 4251, provided that:

"(a) COMPREHENSIVE POLICY REQUIRED.—Not later than January 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

"(b) UPDATES.—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines."

## MENTAL HEALTH ASSESSMENTS FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONNECTION WITH A CONTINGENCY OPERATION

Pub. L. 111–84, div. A, title VII, §708, Oct. 28, 2009, 123 Stat. 2376, which required the Secretary of Defense to issue guidance for the provision of mental health assessments for members of the Armed Forces deployed in connection with a contingency operation, was repealed by Pub. L. 112–81, div. A, title VII, §702(b), Dec. 31, 2011, 125 Stat. 1471.

## ADMINISTRATION AND PRESCRIPTION OF PSYCHOTROPIC MEDICATIONS FOR MEMBERS OF THE ARMED FORCES BEFORE AND DURING DEPLOYMENT

Pub. L. 111–84, div. A, title VII, §712, Oct. 28, 2009, 123 Stat. 2379, provided that:

"(a) REPORT REQUIRED.—Not later than October 1, 2010, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of policy guidance dated November 7, 2006, regarding deployment-limiting psychiatric conditions and medications.

"(b) POLICY REQUIRED.—Not later than October 1, 2010, the Secretary shall establish and implement a policy for the use of psychotropic medications for deployed members of the Armed Forces. The policy shall, at a minimum, address the following:

"(1) The circumstances or diagnosed conditions for which such medications may be administered or prescribed.

"(2) The medical personnel who may administer or prescribe such medications.

"(3) The method in which the administration or prescription of such medications will be documented in the medical records of members of the Armed Forces.

"(4) The exam, treatment, or other care that is required following the administration or prescription of such medications."

## PILOT PROJECTS

Pub. L. 110–181, div. A, title XVI, §1673(a)(2), Jan. 28, 2008, 122 Stat. 482, directed the Secretary of Defense to conduct three pilot projects to evaluate mechanisms for use in developing the traumatic brain injury assessment protocol required by section 1074f(b)(3) of this title and, upon the completion of the projects, required a report to Congress within 60 days and implementation of the selected mechanism within 180 days.

## IMPLEMENTATION

Pub. L. 109–364, div. A, title VII, §738(f), Oct. 17, 2006, 120 Stat. 2304, provided that: "The Secretary of Defense shall implement the requirements of the amendments made by this section [amending this section] not later than six months after the date of the enactment of this Act [Oct. 17, 2006]."

## INTERIM STANDARDS FOR BLOOD SAMPLING

Pub. L. 108–375, div. A, title VII, §733(b), Oct. 28, 2004, 118 Stat. 1998, as amended by Pub. L. 109–364,

div. A, title X, §1071(g)(9), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(1) TIME REQUIREMENTS.—Subject to paragraph (2), the Secretary of Defense shall require that—

"(A) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under section 1074f(b) of title 10, United States Code, be drawn not earlier than 120 days before the date of the deployment; and

"(B) the blood samples necessary for the postdeployment medical examination of a member of the Armed Forces required under such section 1074f(b) of such title be drawn not later than 30 days after the date on which the deployment ends.

"(2) CONTINGENT APPLICABILITY.—The standards under paragraph (1) shall apply unless the Joint Medical Readiness Oversight Committee established by section 731(b) [10 U.S.C. 1074 note] recommends, and the Secretary approves, different standards for blood sampling."

## §1074g. Pharmacy benefits program

(a) PHARMACY BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the "pharmacy benefits program").

(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the availability of pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class. With respect to members of the uniformed services, such uniform formulary shall include pharmaceutical agents on the joint uniform formulary established under section 715 of the National Defense Authorization Act for Fiscal Year 2016.

(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). Except as provided in subparagraph (F), no pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee.

(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents;

(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

(iii) the national mail-order pharmacy program.

(F)(i) The Secretary may implement procedures to place selected over-the-counter drugs on the uniform formulary and to make such drugs available to eligible covered beneficiaries. An over-the-counter drug may be included on the uniform formulary only if the Pharmacy and Therapeutics Committee established under subsection (b) finds that the over-the-counter drug is cost effective and clinically effective. If the Pharmacy and Therapeutics Committee recommends an over-the-counter drug for inclusion on the uniform formulary, the drug shall be considered to be in

the same therapeutic class of pharmaceutical agents, as determined by the Committee, as similar prescription drugs.

(ii) Regulations prescribed by the Secretary to carry out clause (i) shall include the following with respect to over-the-counter drugs included on the uniform formulary:

(I) A determination of the means and conditions under paragraphs (5) and (6) through which over-the-counter drugs will be available to eligible covered beneficiaries and the amount of cost sharing that such beneficiaries will be required to pay for over-the-counter drugs, if any, except that no such cost sharing may be required for a member of a uniformed service on active duty.

(II) Any terms and conditions for the dispensing of over-the-counter drugs to eligible covered beneficiaries.

(3) The pharmacy benefits program shall assure the availability of clinically appropriate pharmaceutical agents to members of the armed forces, including, where appropriate, agents not included on the uniform formulary described in paragraph (2).

(4) The pharmacy benefits program may provide that prior authorization be required for certain pharmaceutical agents to assure that the use of such agents is clinically appropriate.

(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through the national mail-order pharmacy program under terms and conditions that shall include cost-sharing by the eligible covered beneficiary as specified in paragraph (6).

(6)(A) In the case of any of the years 2018 through 2027, the cost-sharing amounts under this subsection for eligible covered beneficiaries shall be determined in accordance with the following table:

| For: | The cost-sharing amount for a 30-day supply of a retail generic is: | The cost-sharing amount for a 30-day supply of a retail formulary is: | The cost-sharing amount for a 90-day supply of a mail order generic is: | The cost-sharing amount for a 90-day supply of a mail order formulary is: | The cost-sharing amount for a 90-day supply of a mail order non-formulary is: |
|---|---|---|---|---|---|
| 2018 | $11 | $28 | $7 | $24 | $53 |
| 2019 | $11 | $28 | $7 | $24 | $53 |
| 2020 | $13 | $33 | $10 | $29 | $60 |
| 2021 | $13 | $33 | $10 | $29 | $60 |
| 2022 | $14 | $38 | $12 | $34 | $68 |
| 2023 | $14 | $38 | $12 | $34 | $68 |
| 2024 | $16 | $43 | $13 | $38 | $76 |
| 2025 | $16 | $43 | $13 | $38 | $76 |
| 2026 | $16 | $48 | $14 | $44 | $85 |
| 2027 | $16 | $48 | $14 | $44 | $85 |

(B) For any year after 2027, the cost-sharing amounts under this subsection for eligible covered beneficiaries shall be equal to the cost-sharing amounts for the previous year adjusted by an amount, if any, determined by the Secretary to reflect changes in the costs of pharmaceutical agents and prescription dispensing, rounded to the nearest dollar.

(C) Notwithstanding subparagraphs (A) and (B), the cost-sharing amounts under this subsection for a dependent of a member of the uniformed services who dies while on active duty, a member retired under chapter 61 of this title, or a dependent of a member retired under such chapter shall be equal to the cost-sharing amounts, if any, for 2017.

(D) Notwithstanding subparagraphs (A), (B), and (C), the Secretary may selectively waive or reduce cost-sharing amounts under this subsection for a dependent of a member of the uniformed

services described in section 1074(c)(3)(B) of this title if the dependent is enrolled in the TRICARE Prime Remote program and accompanies the member to the duty assignment of the member at the expense of the Federal Government.

(E) Notwithstanding subparagraphs (A), (B), and (C), the cost-sharing amount under this subsection for any prescription contraceptive on the uniform formulary provided through a retail pharmacy described in paragraph (2)(E)(ii) or through the national mail-order pharmacy program is $0.

(7) The Secretary shall establish procedures for eligible covered beneficiaries to receive pharmaceutical agents that are not included on the uniform formulary but that are considered to be clinically necessary. Such procedures shall include peer review procedures under which the Secretary may determine that there is a clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary, in which case the pharmaceutical agent shall be provided under the same terms and conditions as an agent on the uniform formulary. Such procedures shall also include an expeditious appeals process for an eligible covered beneficiary, or a network or uniformed provider on behalf of the beneficiary, to establish clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary.

(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before October 5, 1999, and stabilized the medical condition of the beneficiary.

(9)(A) Beginning on October 1, 2015, the pharmacy benefits program shall require eligible covered beneficiaries generally to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program.

(B) The Secretary shall determine the maintenance medications subject to the requirement under subparagraph (A). The Secretary shall ensure that—

(i) such medications are generally available to eligible covered beneficiaries through retail pharmacies only for an initial filling of a 30-day or less supply; and

(ii) any refills of such medications are obtained through a military treatment facility pharmacy or the national mail-order pharmacy program.

(C) The Secretary may exempt the following prescription maintenance medications from the requirement of subparagraph (A):

(i) Medications that are for acute care needs.

(ii) Such other medications as the Secretary determines appropriate.

(10) Notwithstanding paragraphs (2), (5), and (6), in order to encourage the use by covered beneficiaries of pharmaceutical agents that provide the best clinical effectiveness to covered beneficiaries and the Department of Defense (as determined by the Secretary, including considerations of better care, healthier people, and smarter spending), the Secretary may, upon the recommendation of the Pharmacy and Therapeutics Committee established under subsection (b) and review by the Uniform Formulary Beneficiary Advisory Panel established under subsection (c)—

(A) exclude from the pharmacy benefits program any pharmaceutical agent that the Secretary determines provides very little or no clinical effectiveness to covered beneficiaries and the Department under the program; and

(B) give preferential status to any non-generic pharmaceutical agent on the uniform formulary by treating it, for purposes of cost-sharing under paragraph (6), as a generic product under the TRICARE retail pharmacy program and mail order pharmacy program.

(b) ESTABLISHMENT OF COMMITTEE.—(1) The Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish a Pharmacy and Therapeutics Committee for the purpose of developing the uniform formulary of pharmaceutical agents required by subsection (a), reviewing such formulary on a periodic basis, and making additional recommendations regarding the formulary as the committee determines necessary and appropriate. The committee shall include

representatives of pharmacies of the uniformed services facilities and representatives of providers in facilities of the uniformed services. Committee members shall have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations. The committee shall function under procedures established by the Secretary under the regulations prescribed under subsection (j).

(2) The committee shall meet at least quarterly and shall, during meetings, consider for inclusion on the uniform formulary under the standards established in subsection (a) any drugs newly approved by the Food and Drug Administration.

(c) ADVISORY PANEL.—(1) Concurrent with the establishment of the Pharmacy and Therapeutics Committee under subsection (b), the Secretary shall establish a Uniform Formulary Beneficiary Advisory Panel to review and comment on the development of the uniform formulary. The Secretary shall consider the comments of the panel before implementing the uniform formulary or implementing changes to the uniform formulary.

(2) The Secretary shall determine the size and membership of the panel established under paragraph (1), which shall include members that represent—

(A) nongovernmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

(B) contractors responsible for the TRICARE retail pharmacy program;

(C) contractors responsible for the national mail-order pharmacy program; and

(D) TRICARE network providers.

(d) PROCEDURES.—(1) In the operation of the pharmacy benefits program under subsection (a), the Secretary of Defense shall assure through management and new contractual arrangements that financial resources are aligned such that the cost of prescriptions is borne by the organization that is financially responsible for the health care of the eligible covered beneficiary.

(2) The Secretary shall use a modification to the bid price adjustment methodology in the managed care support contracts current as of October 5, 1999, to ensure equitable and timely reimbursement to the TRICARE managed care support contractors for pharmaceutical products delivered in the nonmilitary environments. The methodology shall take into account the "at-risk" nature of the contracts as well as managed care support contractor pharmacy costs attributable to changes to pharmacy service or formulary management at military medical treatment facilities, and other military activities and policies that affect costs of pharmacy benefits provided through the Civilian Health and Medical Program of the Uniformed Services. The methodology shall also account for military treatment facility costs attributable to the delivery of pharmaceutical products in the military facility environment which were prescribed by a network provider.

(3) With respect to the TRICARE retail pharmacy program described in subsection (a)(2)(E)(ii), the Secretary shall ensure that a contract entered into with a TRICARE pharmacy program contractor includes requirements described in section 1860D–12(b)(6) of the Social Security Act (42 U.S.C. 1395w–112(b)(6)) to ensure the provision of information regarding the pricing standard for prescription drugs.

(e) PHARMACY DATA TRANSACTION SERVICE.—The Secretary of Defense shall implement the use of the Pharmacy Data Transaction Service in all fixed facilities of the uniformed services under the jurisdiction of the Secretary, in the TRICARE retail pharmacy program, and in the national mail-order pharmacy program.

(f) PROCUREMENT OF PHARMACEUTICALS BY TRICARE RETAIL PHARMACY PROGRAM.—With respect to any prescription filled after January 28, 2008, the TRICARE retail pharmacy program shall be treated as an element of the Department of Defense for purposes of the procurement of drugs by Federal agencies under section 8126 of title 38 to the extent necessary to ensure that pharmaceuticals paid for by the Department of Defense that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards in such section 8126.

(g) SHARING OF INFORMATION WITH STATE PRESCRIPTION DRUG MONITORING PROGRAMS.—(1) The Secretary of Defense shall establish and maintain a program (to be known

as the "Military Health System Prescription Drug Monitoring Program") in accordance with this subsection. The program shall include a special emphasis on drugs provided through facilities of the uniformed services.

(2) The program shall be—

(A) comparable to prescription drug monitoring programs operated by States, including such programs approved by the Secretary of Health and Human Services under section 399O of the Public Health Service Act (42 U.S.C. 280g–3); and

(B) applicable to designated controlled substance prescriptions under the pharmacy benefits program.

(3)(A) The Secretary shall establish appropriate procedures for the bi-directional sharing of patient-specific information regarding prescriptions for designated controlled substances between the program and State prescription drug monitoring programs.

(B) The purpose of sharing of information under this paragraph shall be to prevent misuse and diversion of opioid medications and other designated controlled substances.

(C) Any disclosure of patient-specific information by the Secretary under this paragraph is an authorized disclosure for purposes of the health information privacy regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(4)(A) Any procedures developed pursuant to paragraph (3)(A) shall include appropriate safeguards, as determined by the Secretary, concerning cyber security of Department of Defense systems and operational security of Department personnel.

(B) To the extent the Secretary considers appropriate, the program may be treated as comparable to a State program for purposes of bi-directional sharing of controlled substance prescription information.

(5) For purposes of this subsection, any reference to a program operated by a State includes any program operated by a county, municipality, or other subdivision within that State.

(h) LABELING.—The Secretary of Defense shall ensure that drugs made available through the facilities of the armed forces under the jurisdiction of the Secretary include labels and other labeling that are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(i) DEFINITIONS.—In this section:

(1) The term "eligible covered beneficiary" means a covered beneficiary for whom eligibility to receive pharmacy benefits through the means described in subsection (a)(2)(E) is established under this chapter or another provision of law.

(2) The term "pharmaceutical agent" means drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

(3) The term "over-the-counter drug" means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

(4) The term "prescription drug" means a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

(j) REGULATIONS.—The Secretary of Defense shall, after consultation with the other administering Secretaries, prescribe regulations to carry out this section.

(Added Pub. L. 106–65, div. A, title VII, §701(a)(1), Oct. 5, 1999, 113 Stat. 677; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 107–107, div. A, title X, §1048(c)(4), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108–136, div. A, title VII, §725, Nov. 24, 2003, 117 Stat. 1535; Pub. L. 108–375, div. A, title VII, §714, Oct. 28, 2004, 118 Stat. 1985; Pub. L. 110–181, div. A, title VII, §703(a), Jan. 28, 2008, 122 Stat. 188; Pub. L. 111–84, div. A, title X, §1073(a)(10), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 112–239, div. A, title VII, §§702, 712(a), Jan. 2, 2013, 126 Stat. 1798, 1802; Pub. L. 113–291, div. A, title VII, §702(a)–(c)(1), Dec. 19, 2014, 128 Stat. 3410; Pub. L. 114–92, div. A, title VII, §§702, 715(f), Nov. 25, 2015, 129 Stat. 860, 867; Pub. L. 115–91, div. A, title VII, §§702(a), (b)(1), 714, title X, §1081(a)(24), Dec. 12, 2017, 131 Stat. 1433, 1434, 1438, 1595; Pub. L. 115–232, div. A, title VII,

§715(a), Aug. 13, 2018, 132 Stat. 1813; Pub. L. 116–92, div. A, title VII, §713(a), (b), Dec. 20, 2019, 133 Stat. 1446; Pub. L. 118–159, div. A, title VII, §§702, 707(a), Dec. 23, 2024, 138 Stat. 1942, 1944.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 715 of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (a)(2)(A), is section 715 of Pub. L. 114–92, which is set out as a note under this section.

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (g)(3)(C), is Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 1936. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 201 of Title 42, The Public Health and Welfare, and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (h), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

### AMENDMENTS

**2024**—Subsec. (a)(6)(D). Pub. L. 118–159, §702, added subpar. (D).

Subsec. (a)(6)(E). Pub. L. 118–159, §707(a), added subpar. (E).

**2019**—Subsec. (b)(1). Pub. L. 116–92, §713(b), substituted "under subsection (j)" for "under subsection (h)".

Subsecs. (h) to (j). Pub. L. 116–92, §713(a), added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

**2018**—Subsecs. (g) to (i). Pub. L. 115–232 added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

**2017**—Subsec. (a)(6). Pub. L. 115–91, §702(a), amended par. (6) generally, substituting provisions relating to cost-sharing amounts for the years 2018 through 2027 and for any year after 2027 for provisions relating to cost-sharing amounts, limitation on requirements for medicare-eligible beneficiaries, and increases beginning on Oct. 1, 2016.

Subsec. (a)(9)(B), (C). Pub. L. 115–91, §1081(a)(24), realigned margins.

Subsec. (a)(10). Pub. L. 115–91, §702(b)(1), added par. (10).

Subsec. (d)(3). Pub. L. 115–91, §714, added par. (3).

**2015**—Subsec. (a)(2)(A). Pub. L. 114–92, §715(f), inserted at end "With respect to members of the uniformed services, such uniform formulary shall include pharmaceutical agents on the joint uniform formulary established under section 715 of the National Defense Authorization Act for Fiscal Year 2016."

Subsec. (a)(6)(A)(i)(I). Pub. L. 114–92, §702(a)(1)(A), substituted "$10" for "$8".

Subsec. (a)(6)(A)(i)(II). Pub. L. 114–92, §702(a)(1)(B), substituted "$24" for "$20".

Subsec. (a)(6)(A)(ii)(II). Pub. L. 114–92, §702(a)(2)(A), substituted "$20" for "$16".

Subsec. (a)(6)(A)(ii)(III). Pub. L. 114–92, §702(a)(2)(B), substituted "$49" for "$46".

Subsec. (a)(6)(C)(i). Pub. L. 114–92, §702(b)(1), substituted "Beginning October 1, 2016," for "Beginning October 1, 2013,".

Subsec. (a)(6)(C)(ii). Pub. L. 114–92, §702(b)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: "If the amount of the increase otherwise provided for a year by clause (i) is less than $1, the increase shall not be made for such year, but shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over under this clause for a year is $1 or more."

**2014**—Subsec. (a)(5). Pub. L. 113–291, §702(a), substituted "the national mail-order pharmacy program" for "at least one of the means described in paragraph (2)(E)" and "shall include cost-sharing by the eligible covered beneficiary as specified in paragraph (6)." for "may include cost sharing by the eligible covered beneficiary in addition to any such cost sharing applicable to agents on the uniform formulary."

Subsec. (a)(6)(A)(i)(I). Pub. L. 113–291, §702(b)(1)(A), substituted "$8" for "$5".

Subsec. (a)(6)(A)(i)(II). Pub. L. 113–291, §702(b)(1)(B), substituted "$20." for "$17; and".

Subsec. (a)(6)(A)(i)(III). Pub. L. 113–291, §702(b)(1)(C), struck out subcl. (III) which read as follows: "in the case of nonformulary agents, $44."

Subsec. (a)(6)(A)(ii)(II). Pub. L. 113–291, §702(b)(2)(A), substituted "$16" for "$13".

Subsec. (a)(6)(A)(ii)(III). Pub. L. 113–291, §702(b)(2)(B), substituted "$46" for "$43".

Subsec. (a)(9). Pub. L. 113–291, §702(c)(1), which directed amendment of such section by adding par. (9)

at the end, was executed by adding par. (9) at the end of subsec. (a), to reflect the probable intent of Congress.

**2013**—Subsec. (a)(2)(D). Pub. L. 112–239, §702(a)(1), (c)(2)(A), substituted "Except as provided in subparagraph (F), no pharmaceutical agent may be excluded" for "No pharmaceutical agent may be excluded" and struck out at end "The Secretary shall begin to implement the uniform formulary not later than October 1, 2000.".

Subsec. (a)(2)(F). Pub. L. 112–239, §702(a)(2), added subpar. (F).

Subsec. (a)(6)(A). Pub. L. 112–239, §712(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "The Secretary, in the regulations prescribed under subsection (g), may establish cost sharing requirements (which may be established as a percentage or fixed dollar amount) under the pharmacy benefits program for generic, formulary, and nonformulary agents. For nonformulary agents, cost sharing shall be consistent with common industry practice and not in excess of amounts generally comparable to 20 percent for beneficiaries covered by section 1079 of this title or 25 percent for beneficiaries covered by section 1086 of this title."

Subsec. (a)(6)(C). Pub. L. 112–239, §712(a)(2), added subpar. (C).

Subsec. (b)(1). Pub. L. 112–239, §702(c)(1), substituted "subsection (h)" for "subsection (g)".

Subsec. (b)(2). Pub. L. 112–239, §702(c)(2)(B), substituted "The committee" for "Not later than 90 days after the establishment of the Pharmacy and Therapeutics Committee by the Secretary, the committee shall convene to design a proposed uniform formulary for submission to the Secretary. After such 90-day period, the committee".

Subsec. (d)(2). Pub. L. 112–239, §702(c)(2)(C), substituted "The Secretary" for "Effective not later than April 5, 2000, the Secretary" and "the managed care support contracts current as of October 5, 1999," for "the current managed care support contracts".

Subsec. (g)(3), (4). Pub. L. 112–239, §702(b), added pars. (3) and (4).

**2009**—Subsec. (f). Pub. L. 111–84 substituted "after January 28, 2008" for "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008".

**2008**—Subsecs. (f) to (h). Pub. L. 110–181 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

**2004**—Subsec. (a)(2)(E)(i). Pub. L. 108–375, §714(b), inserted before semicolon at end "and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents".

Subsec. (a)(6). Pub. L. 108–375, §714(a), designated existing provisions as subpar. (A) and added subpar. (B).

**2003**—Subsec. (b)(1). Pub. L. 108–136, §725(1), substituted "facilities and representatives of providers in facilities of the uniformed services" for "facilities, contractors responsible for the TRICARE retail pharmacy program, contractors responsible for the national mail-order pharmacy program, providers in facilities of the uniformed services, and TRICARE network providers" in second sentence.

Subsec. (c)(2). Pub. L. 108–136, §725(2), substituted "represent—" for "represent nongovernmental", inserted "(A) nongovernmental" before "organizations", substituted "beneficiaries;" for "beneficiaries.", and added subpars. (B) to (D).

**2001**—Subsec. (a)(8). Pub. L. 107–107 substituted "October 5, 1999," for "the date of the enactment of this section".

**2000**—Subsec. (a)(6). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(A)], substituted "in the regulations prescribed" for "as part of the regulations established".

Subsec. (a)(7). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(B)], substituted "that are not included on the uniform formulary but that are" for "not included on the uniform formulary, but,".

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(C)], substituted "prescribed under" for "required by" in last sentence.

Subsec. (d)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(D)], substituted "Effective not later than April 5, 2000, the Secretary shall use" for "Not later than 6 months after the date of the enactment of this section, the Secretary shall utilize".

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(E)], substituted "The" for "Not later than April 1, 2000, the" and inserted "in" before "the TRICARE" and before "the national".

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(F)], substituted "In this section:" for "As used in this section—" in introductory provisions, "The term" for "the term" in pars. (1) and (2), and a period for "; and" at end of par. (1).

Subsec. (g). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(5)(G)], substituted "prescribe" for "promulgate".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VII, §712(b), Jan. 2, 2013, 126 Stat. 1802, provided that:

"(1) IN GENERAL.—The cost-sharing requirements under subparagraph (A) of section 1074g(a)(6) of title 10, United States Code, as amended by subsection (a)(1), shall apply with respect to prescriptions obtained under the TRICARE pharmacy benefits program on or after such date as the Secretary of Defense shall specify, but not later than the date that is 45 days after the date of the enactment of this Act [Jan. 2, 2013].

"(2) FEDERAL REGISTER.—The Secretary shall publish notice of the effective date of the cost-sharing requirements specified under paragraph (1) in the Federal Register."

### REGULATIONS

Pub. L. 115–91, div. A, title VII, §702(b)(3), Dec. 12, 2017, 131 Stat. 1434, provided that: "In order to implement expeditiously the reforms authorized by the amendments made by paragraphs (1) and (2) [amending this section and section 1079 of this title], the Secretary of Defense may prescribe such changes to the regulations implementing the TRICARE program (as defined in section 1072 of title 10, United States Code) as the Secretary considers appropriate—

"(A) by prescribing an interim final rule; and

"(B) not later than one year after prescribing such interim final rule and considering public comments with respect to such interim final rule, by prescribing a final rule."

Pub. L. 110–181, div. A, title VII, §703(b), Jan. 28, 2008, 122 Stat. 188, as amended by Pub. L. 110–417, [div. A], title X, §1061(b)(3), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111–84, div. A, title X, §1073(c)(12), Oct. 28, 2009, 123 Stat. 2475, provided that: "The Secretary of Defense shall, after consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, modify the regulations under subsection (h) [now subsection (j)] of section 1074g of title 10, United States Code (as redesignated by subsection (a)(1) of this section), to implement the requirements of subsection (f) of section 1074g of title 10, United States Code (as inserted by subsection (a)(2) of this section). The Secretary shall so modify such regulations not later than December 31, 2007."

[Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(12) to section 1061(b)(3) of Pub. L. 110–417, included in the credit set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.]

### TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

### PILOT PROGRAM ON RECEIPT OF NON-GENERIC PRESCRIPTION MAINTENANCE MEDICATIONS UNDER TRICARE PHARMACY BENEFITS PROGRAM

Pub. L. 116–283, div. A, title VII, §706, Jan. 1, 2021, 134 Stat. 3689, as amended by Pub. L. 117–81, div. A, title VII, §706, Dec. 27, 2021, 135 Stat. 1781, provided that:

"(a) PILOT PROGRAM.—

"(1) AUTHORITY.—Subject to paragraph (2), the Secretary of Defense shall carry out a pilot program under which eligible covered beneficiaries may elect to receive non-generic prescription maintenance medications selected by the Secretary under subsection (c) through military medical treatment facility pharmacies, retail pharmacies, or the national mail-order pharmacy program, notwithstanding section 1074g(a)(9) of title 10, United States Code.

"(2) REQUIREMENT.—The Secretary may carry out the pilot program under paragraph (1) only if the Secretary determines that the total costs to the Department of Defense for eligible covered beneficiaries to receive non-generic prescription maintenance medications under the pilot program will not exceed the total costs to the Department for such beneficiaries to receive such medications under the national mail-order pharmacy program pursuant to section 1074g(a)(9) of title 10, United States Code. In making such determination, the Secretary shall consider all manufacturer discounts, refunds and rebates, pharmacy transaction fees, and all other costs.

"(b) DURATION.—If the Secretary carries out the pilot program under subsection (a)(1), the Secretary shall carry out the pilot program for a three-year period beginning not later than March 1, 2022.

"(c) SELECTION OF MEDICATION.—If the Secretary carries out the pilot program under subsection

(a)(1), the Secretary shall select non-generic prescription maintenance medications described in section 1074g(a)(9)(C)(ii) of title 10, United States Code, to be covered by the pilot program.

"(d) NOTIFICATION.—If the Secretary carries out the pilot program under subsection (a)(1), in providing each eligible covered beneficiary with an explanation of benefits, the Secretary shall notify the beneficiary of whether the medication that the beneficiary is prescribed is covered by the pilot program.

"(e) REIMBURSEMENT.—If the Secretary carries out the pilot program under subsection (a)(1), reimbursement of retail pharmacies for medication under the pilot program may not exceed the amount of reimbursement paid to the national mail-order pharmacy program under section 1074g of title 10, United States Code, for the same medication, after consideration of all manufacturer discounts, refunds, rebates, pharmacy transaction fees, and other costs.

"(f) BRIEFING AND REPORTS.—

"(1) BRIEFING.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 [Dec. 27, 2021], the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the implementation of the pilot program under subsection (a)(1) or on the determination of the Secretary under subsection (a)(2) that the Secretary is not permitted to carry out the pilot program.

"(2) INTERIM REPORT.—If the Secretary carries out the pilot program under subsection (a)(1), not later than 18 months after the commencement of the pilot program, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the pilot program.

"(3) COMPTROLLER GENERAL REPORT.—

"(A) IN GENERAL.—If the Secretary carries out the pilot program under subsection (a)(1), not later than March 1, 2025, the Comptroller General of the United States shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the pilot program.

"(B) ELEMENTS.—The report under subparagraph (A) shall include the following:

"(i) The number of eligible covered beneficiaries who participated in the pilot program and an assessment of the satisfaction of such beneficiaries with the pilot program.

"(ii) The rate by which eligible covered beneficiaries elected to receive non-generic prescription maintenance medications at a retail pharmacy pursuant to the pilot program, and how such rate affected military medical treatment facility pharmacies and the national mail-order pharmacy program.

"(iii) The amount of cost savings realized by the pilot program, including with respect to—

"(I) dispensing fees incurred at retail pharmacies compared to the national mail-order pharmacy program for brand name prescription drugs;

"(II) administrative fees;

"(III) any costs paid by the United States for the drugs in addition to the procurement costs;

"(IV) the use of military medical treatment facilities; and

"(V) copayments paid by eligible covered beneficiaries.

"(iv) A comparison of supplemental rebates between retail pharmacies and other points of sale.

"(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

"(1) the ability of the Secretary to carry out section 1074g(a)(9)(C) of title 10, United States Code, after the date on which the pilot program is completed; or

"(2) the prices established for medications under section 8126 of title 38, United States Code.

"(h) DEFINITIONS.—In this section:

"(1) The term 'eligible covered beneficiary' has the meaning given that term in section 1074g(i) of title 10, United States Code.

"(2) The terms 'military medical treatment facility pharmacies', 'retail pharmacies', and 'the national mail-order pharmacy program' mean the methods for receiving prescription drugs as described in clauses (i), (ii), and (iii), respectively, of section 1074g(a)(2)(E) of title 10, United States Code."

## POLICY TO ADDRESS PRESCRIPTION OPIOID SAFETY

Pub. L. 116–283, div. A, title VII, §719, Jan. 1, 2021, 134 Stat. 3696, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall develop a policy and tracking mechanism to monitor and provide oversight of opioid prescribing to ensure that the provider practices of medication-prescribing health professionals across the military health system conform with—

"(1) the clinical practice guidelines of the Department of Defense and the Department of Veterans Affairs; and

"(2) the prescribing guidelines published by the Centers for Disease Control and Prevention and the Food and Drug Administration.

"(b) ELEMENTS.—The requirements under subsection (a) shall include the following:

"(1) Providing oversight and accountability of opioid prescribing practices that are outside of the recommended parameters for dosage, supply, and duration as identified in the guideline published by the Centers for Disease Control and Prevention titled 'CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016', or such successor guideline, and the guideline published by the Department of Defense and Department of Veterans Affairs titled 'DoD/VA Management of Opioid Therapy (OT) for Chronic Pain Clinical Practice Guideline, 2017' or such successor guideline.

"(2) Implementing oversight and accountability responsibilities for opioid prescribing safety as specified in paragraph (1).

"(3) Implementing systems to ensure that the prescriptions in the military health system data repository are appropriately documented and that the processing date and the metric quantity field for opioid prescriptions in liquid form are consistent within the electronic health record system known as 'MHS GENESIS'.

"(4) Implementing opioid prescribing controls within the electronic health record system known as 'MHS GENESIS' and document if an overdose reversal drug was co-prescribed.

"(5) Developing metrics that can be used by the Defense Health Agency and each military medical treatment facility to actively monitor and limit the overprescribing of opioids and to monitor the co-prescribing of overdose reversal drugs as accessible interventions.

"(6) Developing a report that tracks progression toward reduced levels of opioid use and includes an identification of prevention best practices established by the Department.

"(7) Developing and implementing a plan to improve communication and value-based initiatives between pharmacists and medication-prescribing health professionals across the military health system."

## IMPLEMENTATION

Pub. L. 116–92, div. A, title VII, §713(c), Dec. 20, 2019, 133 Stat. 1446, provided that: "Beginning not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall implement subsection (h) of section 1074g of title 10, United States Code, as added by subsection (a)."

## REIMBURSEMENT BY DEPARTMENT OF DEFENSE TO ENTITIES CARRYING OUT STATE VACCINATION PROGRAMS FOR COSTS OF VACCINES PROVIDED TO COVERED BENEFICIARIES

Pub. L. 114–328, div. A, title VII, §719, Dec. 23, 2016, 130 Stat. 2226, as amended by Pub. L. 115–91, div. A, title VII, §718, Dec. 12, 2017, 131 Stat. 1440, provided that:

"(a) REIMBURSEMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall reimburse an amount determined under paragraph (2) to an entity carrying out a State vaccination program for the cost of vaccines provided to covered beneficiaries through such program.

"(2) AMOUNT OF REIMBURSEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount determined under this paragraph with respect to a State vaccination program shall be the amount assessed by the entity carrying out such program to purchase vaccines provided to covered beneficiaries through such program.

"(B) LIMITATION.—The amount determined under this paragraph to provide vaccines to covered beneficiaries through a State vaccination program may not exceed the amount that the Department would reimburse an entity under the TRICARE program for providing vaccines to the number of covered beneficiaries who were involved in the applicable State vaccination program.

"(b) DEFINITIONS.—In this section:

"(1) COVERED BENEFICIARY; TRICARE PROGRAM.—The terms 'covered beneficiary' and 'TRICARE program' have the meanings given those terms in section 1072 of title 10, United States Code.

"(2) STATE VACCINATION PROGRAM.—The term 'State vaccination program' means a vaccination program that provides vaccinations to individuals in a State and is carried out by an entity (including an agency of the State) within the State."

## PILOT PROGRAM FOR PRESCRIPTION DRUG ACQUISITION COST PARITY IN THE TRICARE PHARMACY BENEFITS PROGRAM

Pub. L. 114–328, div. A, title VII, §743, Dec. 23, 2016, 130 Stat. 2238, provided that:

"(a) AUTHORITY TO ESTABLISH PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate whether, in carrying out the TRICARE pharmacy benefits program under section 1074g

of title 10, United States Code, extending additional discounts for prescription drugs filled at retail pharmacies will maintain or reduce prescription drug costs for the Department of Defense.

"(b) ELEMENTS OF PILOT PROGRAM.—In carrying out the pilot program under subsection (a), the Secretary shall require that for prescription medications, including non-generic maintenance medications, that are dispensed to TRICARE beneficiaries that are not Medicare eligible, through any TRICARE participating retail pharmacy, including small business pharmacies, manufacturers shall pay rebates such that those medications are available to the Department at the lowest rate available. In addition to utilizing the authority under section 1074g(f) of title 10, United States Code, the Secretary shall have the authority to enter into a blanket purchase agreement with prescription drug manufacturers for supplemental discounts for prescription drugs dispensed in the pilot to be paid in the form of manufacturer's rebates.

"(c) CONSULTATION.—The Secretary shall develop the pilot program in consultation with—

"(1) the Secretaries of the military departments;

"(2) the Chief of the Pharmacy Operations Division of the Defense Health Agency; and

"(3) stakeholders, including TRICARE beneficiaries and retail pharmacies.

"(d) DURATION OF PILOT PROGRAM.—If the Secretary carries out the pilot program under subsection (a), the Secretary shall commence such pilot program no later than October 1, 2017, and shall terminate such program no later than September 30, 2018.

"(e) REPORTS.—If the Secretary carries out the pilot program under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives reports on the pilot program as follows:

"(1) Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], a report containing an implementation plan for the pilot program.

"(2) Not later than 180 days after the date on which the pilot program commences, an interim report on the pilot program.

"(3) Not later than 90 days after the date on which the pilot program terminates, a final report describing the results of the pilot program, including—

"(A) any recommendations of the Secretary to expand such program;

"(B) an analysis of the changes in prescription drug costs for the Department of Defense relating to the pilot program;

"(C) an analysis of the impact on beneficiary access to prescription drugs;

"(D) a survey of beneficiary satisfaction with the pilot program; and

"(E) a summary of any fraud and abuse activities related to the pilot and actions taken in response by the Department."

## JOINT UNIFORM FORMULARY FOR TRANSITION OF CARE

Pub. L. 114–92, div. A, title VII, §715, Nov. 25, 2015, 129 Stat. 866, provided that:

"(a) JOINT FORMULARY.—Not later than June 1, 2016, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a joint uniform formulary for the Department of Veterans Affairs and the Department of Defense with respect to pharmaceutical agents that are critical for the transition of an individual from receiving treatment furnished by the Secretary of Defense to treatment furnished by the Secretary of Veterans Affairs.

"(b) SELECTION.—The Secretaries shall select for inclusion on the joint uniform formulary established under subsection (a) pharmaceutical agents relating to—

"(1) the control of pain, sleep disorders, and psychiatric conditions, including post-traumatic stress disorder; and

"(2) any other conditions determined appropriate by the Secretaries.

"(c) REPORT.—Not later than July 1, 2016, the Secretaries shall jointly submit to the appropriate congressional committees a report on the joint uniform formulary established under subsection (a), including a list of the pharmaceutical agents selected for inclusion on the formulary.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary of Defense and the Secretary of Veterans Affairs from each maintaining the respective uniform formularies of the Department of the Secretary.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Committees on Veterans' Affairs of the House of Representatives and the Senate.

"(2) The term 'pharmaceutical agent' has the meaning given that term in section 1074g(g) [now

1074g(i)] of title 10, United States Code.

"(f) CONFORMING AMENDMENT.—[Amended this section.]"

## PILOT PROGRAM ON MEDICATION THERAPY MANAGEMENT UNDER TRICARE PROGRAM

Pub. L. 113–291, div. A, title VII, §726, Dec. 19, 2014, 128 Stat. 3419, provided that:

"(a) ESTABLISHMENT.—In accordance with section 1092 of title 10, United States Code, the Secretary of Defense shall carry out a pilot program to evaluate the feasibility and desirability of including medication therapy management as part of the TRICARE program.

"(b) ELEMENTS OF PILOT PROGRAM.—In carrying out the pilot program under subsection (a), the Secretary shall ensure the following:

"(1) Patients who participate in the pilot program are patients who—

"(A) have more than one chronic condition; and

"(B) are prescribed more than one medication.

"(2) Medication therapy management services provided under the pilot program are focused on improving patient use and outcomes of prescription medications.

"(3) The design of the pilot program considers best commercial practices in providing medication therapy management services, including practices under the prescription drug program under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 et seq.).

"(4) The pilot program includes methods to measure the effect of medication therapy management services on—

"(A) patient use and outcomes of prescription medications; and

"(B) the costs of health care.

"(c) LOCATIONS.—

"(1) SELECTION.—The Secretary shall carry out the pilot program under subsection (a) in not less than three locations.

"(2) FIRST LOCATION CRITERIA.—Not less than one location selected under paragraph (1) shall meet the following criteria:

"(A) The location is a pharmacy at a military medical treatment facility.

"(B) The patients participating in the pilot program at such location generally receive primary care services from health care providers at such facility.

"(3) SECOND LOCATION CRITERIA.—Not less than one location selected under paragraph (1) shall meet the following criteria:

"(A) The location is a pharmacy at a military medical treatment facility.

"(B) The patients participating in the pilot program at such location generally do not receive primary care services from health care providers at such facility.

"(4) THIRD LOCATION CRITERION.—Not less than one location selected under paragraph (1) shall be a pharmacy located at a location other than a military medical treatment facility.

"(d) DURATION.—The Secretary shall carry out the pilot program under subsection (a) for a period determined appropriate by the Secretary that is not less than two years.

"(e) REPORT.—Not later than 30 months after the date on which the Secretary commences the pilot program under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program that includes—

"(1) information on the effect of medication therapy management services on—

"(A) patient use and outcomes of prescription medications; and

"(B) the costs of health care;

"(2) the recommendations of the Secretary with respect to incorporating medication therapy management into the TRICARE program; and

"(3) such other information as the Secretary determines appropriate.

"(f) DEFINITIONS.—In this section:

"(1) The term 'medication therapy management' means professional services provided by qualified pharmacists to patients to improve the effective use and outcomes of prescription medications provided to the patients.

"(2) The term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

## PILOT PROGRAM FOR REFILLS OF MAINTENANCE MEDICATIONS FOR TRICARE FOR LIFE BENEFICIARIES THROUGH THE TRICARE MAIL-ORDER PHARMACY PROGRAM

Pub. L. 112–239, div. A, title VII, §716, Jan. 2, 2013, 126 Stat. 1804, as amended by Pub. L. 113–291, div. A, title VII, §702(c)(2), Dec. 19, 2014, 128 Stat. 3411; Pub. L. 115–91, div. A, title X, §1051(r)(2), Dec. 12, 2017, 131 Stat. 1565, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall conduct a pilot program to refill prescription maintenance medications for each TRICARE for Life beneficiary through the national mail-order pharmacy program under section 1074g(a)(2)(E)(iii) of title 10, United States Code.

"(b) MEDICATIONS COVERED.—

"(1) DETERMINATION.—The Secretary shall determine the prescription maintenance medications included in the pilot program under subsection (a).

"(2) SUPPLY.—In carrying out the pilot program under subsection (a), the Secretary shall ensure that the medications included in the program are generally available to a TRICARE for Life beneficiary—

"(A) for an initial filling of a 30-day or less supply through—

"(i) retail pharmacies under clause (ii) of section 1074g(a)(2)(E) of title 10, United States Code; and

"(ii) facilities of the uniformed services under clause (i) of such section; and

"(B) for a refill of such medications through—

"(i) the national mail-order pharmacy program; and

"(ii) such facilities of the uniformed services.

"(3) EXEMPTION.—The Secretary may exempt the following prescription maintenance medications from the requirements in paragraph (2):

"(A) Such medications that are for acute care needs.

"(B) Such other medications as the Secretary determines appropriate.

"(c) NONPARTICIPATION.—

"(1) OPT OUT.—The Secretary shall give TRICARE for Life beneficiaries who have been covered by the pilot program under subsection (a) for a period of one year an opportunity to opt out of continuing to participate in the program.

"(2) WAIVER.—The Secretary may waive the requirement of a TRICARE for Life beneficiary to participate in the pilot program under subsection (a) if the Secretary determines, on an individual basis, that such waiver is appropriate.

"(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out the pilot program under subsection (a), including regulations with respect to—

"(1) the prescription maintenance medications included in the pilot program pursuant to subsection (b)(1); and

"(2) addressing instances where a TRICARE for Life beneficiary covered by the pilot program attempts to refill such medications at a retail pharmacy rather than through the national mail-order pharmacy program or a facility of the uniformed services.

"(e) SUNSET.—The Secretary may not carry out the pilot program under subsection (a) after September 30, 2015.

"(f) TRICARE FOR LIFE BENEFICIARY DEFINED.—In this section, the term 'TRICARE for Life beneficiary' means a TRICARE beneficiary enrolled in the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of title 10, United States Code."

## EDUCATION AND TRAINING ON USE OF PHARMACEUTICALS IN REHABILITATION PROGRAMS FOR WOUNDED WARRIORS

Pub. L. 111–383, div. A, title VII, §716, Jan. 7, 2011, 124 Stat. 4250, provided that:

"(a) EDUCATION AND TRAINING REQUIRED.—The Secretary of Defense shall develop and implement training, available through the Internet or other means, on the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

"(b) RECIPIENTS OF TRAINING.—The training developed and implemented under subsection (a) shall be training for each category of individuals as follows:

"(1) Patients in or transitioning to a wounded warrior unit, with special accommodation in such training for such patients with cognitive disabilities.

"(2) Nonmedical case managers.

"(3) Military leaders.

"(4) Family members.

"(c) ELEMENTS OF TRAINING.—The training developed and implemented under subsection (a) shall include the following:

"(1) An overview of the fundamentals of safe prescription drug use.

"(2) Familiarization with the benefits and risks of using pharmaceuticals in rehabilitation therapies.

"(3) Examples of the use of pharmaceuticals for individuals with multiple, complex injuries, including traumatic brain injury and post-traumatic stress disorder.

"(4) Familiarization with means of finding additional resources for information on pharmaceuticals.

"(5) Familiarization with basic elements of pain and pharmaceutical management.

"(6) Familiarization with complementary and alternative therapies.

"(d) TAILORING OF TRAINING.—The training developed and implemented under subsection (a) shall appropriately tailor the elements specified in subsection (c) for and among each category of individuals set forth in subsection (b).

"(e) REVIEW OF PHARMACY.—

"(1) REVIEW.—The Secretary shall review all policies and procedures of the Department of Defense regarding the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

"(2) RECOMMENDATIONS.—Not later than September 20, 2011, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] any recommendations for administrative or legislative action with respect to the review under paragraph (1) as the Secretary considers appropriate."

## DEMONSTRATION PROJECT ON COVERAGE OF SELECTED OVER-THE-COUNTER DRUGS UNDER THE PHARMACY BENEFITS PROGRAM

Pub. L. 109–364, div. A, title VII, §705, Oct. 17, 2006, 120 Stat. 2280, as amended by Pub. L. 111–383, div. A, title X, §1075(g)(5), Jan. 7, 2011, 124 Stat. 4377, provided that:

"(a) REQUIREMENT TO CONDUCT DEMONSTRATION.—The Secretary of Defense shall conduct a demonstration project under section 1092 of title 10, United States Code, to allow particular over-the-counter drugs to be included on the uniform formulary under section 1074g of such title.

"(b) ELEMENTS OF DEMONSTRATION PROJECT.—

"(1) INCLUSION OF CERTAIN OVER-THE-COUNTER DRUGS.—(A) As part of the demonstration project, the Secretary shall modify uniform formulary specifications under section 1074g(a) of such title to include an over-the-counter drug (referred to in this section as an 'OTC drug') on the uniform formulary if the Pharmacy and Therapeutics Committee finds that the OTC drug is cost-effective and therapeutically equivalent to a prescription drug. If the Pharmacy and Therapeutics Committee makes such a finding, the OTC drug shall be considered to be in the same therapeutic class of pharmaceutical agents as the prescription drug.

"(B) An OTC drug shall be made available to a beneficiary through the demonstration project, but only if—

"(i) the beneficiary has a prescription for a drug requiring a prescription; and

"(ii) pursuant to subparagraph (A), the OTC drug—

"(I) is on the uniform formulary; and

"(II) has been determined to be therapeutically equivalent to the prescription drug.

"(2) CONDUCT THROUGH MILITARY FACILITIES, RETAIL PHARMACIES, OR MAIL ORDER PROGRAM.—The Secretary shall conduct the demonstration project through at least two of the means described in subparagraph (E) of section 1074g(a)(2) of such title through which OTC drugs are provided and may conduct the demonstration project throughout the entire pharmacy benefits program or at a limited number of sites. If the project is conducted at a limited number of sites, the number of sites shall be not less than five in each TRICARE region for each of the two means described in such subparagraph.

"(3) PERIOD OF DEMONSTRATION.—The Secretary shall provide for conducting the demonstration project for a period of time necessary to evaluate the feasibility and cost effectiveness of the demonstration. Such period shall be at least as long as the period covered by pharmacy contracts in existence on the date of the enactment of this Act [Oct. 17, 2006] (including any extensions of the contracts), or five years, whichever is shorter.

"(4) IMPLEMENTATION DEADLINE.—Implementation of the demonstration project shall begin not later than May 1, 2007.

"(c) EVALUATION OF DEMONSTRATION PROJECT.—The Secretary shall evaluate the demonstration project for the following:

"(1) The costs and benefits of providing OTC drugs under the pharmacy benefits program in each of the means chosen by the Secretary to conduct the demonstration project.

"(2) The clinical effectiveness of providing OTC drugs under the pharmacy benefits program.

"(3) Customer satisfaction with the demonstration project.

"(d) REPORT.—Not later than two years after implementation of the demonstration project begins, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demonstration project. The report shall contain—

"(1) the evaluation required by subsection (c);

"(2) recommendations for improving the provision of OTC drugs under the pharmacy benefits program; and

"(3) recommendations on whether permanent authority should be provided to cover OTC drugs under the pharmacy benefits program.

"(e) CONTINUATION OF DEMONSTRATION PROJECT.—If the Secretary recommends in the report under subsection (d) that permanent authority should be provided, the Secretary may continue the demonstration project for up to one year after submitting the report.

"(f) DEFINITIONS.—In this section:

"(1) The term 'drug' means a drug, including a biological product, within the meaning of section 1074g(f)(2) [now 1074g(i)(2)] of title 10, United States Code.

"(2) The term 'OTC drug' has the meaning indicated for such term in subsection (b)(1)(A).

"(3) The term 'over-the-counter drug' means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].

"(4) The term 'prescription drug' means a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act."

## INTEROPERABILITY OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE PHARMACY DATA SYSTEMS

Pub. L. 107–314, div. A, title VII, §724, Dec. 2, 2002, 116 Stat. 2598, provided that:

"(a) INTEROPERABILITY.—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the 'Pharmacy Data Transaction System') are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of outpatients, and using national standards for the exchange of outpatient medication information.

"(b) ALTERNATIVE REQUIREMENT.—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as determined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

"(c) IMPLEMENTATION FUNDING FOR ALTERNATIVE REQUIREMENT.—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries."

## DEADLINE FOR ESTABLISHMENT OF COMMITTEE

Pub. L. 106–65, div. A, title VII, §701(b), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to establish the Pharmacy and Therapeutics Committee required by subsec. (b) of this section not later than 30 days after Oct. 5, 1999.

## REPORTS REQUIRED

Pub. L. 106–65, div. A, title VII, §701(c), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to submit reports to Congress, not later than Apr. 1 and Oct. 1 of fiscal years 2000 and 2001, on the implementation of the uniform formulary required under subsec. (a) of this section, the results of a survey conducted by the Secretary of prescribers for military medical treatment facilities and TRICARE contractors, the operation of the Pharmacy Data Transaction Service required by subsec. (e) of this section, and any other actions taken by the Secretary to improve management of the pharmacy benefits program under this section.

## STUDY FOR DESIGN OF PHARMACY BENEFIT FOR CERTAIN COVERED BENEFICIARIES

Pub. L. 106–65, div. A, title VII, §701(d), Oct. 5, 1999, 113 Stat. 680, required the Secretary of Defense to prepare and submit to Congress, by Apr. 15, 2001, a study on a design for a comprehensive pharmacy benefit for covered beneficiaries under chapter 55 of title 10, who are entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act, and to provide an estimate of the costs of implementing

and operating such design, prior to repeal by Pub. L. 107–107, div. A, title VII, §723, Dec. 28, 2001, 115 Stat. 1168.

## §1074h. Medical and dental care: medal of honor recipients; dependents

(a) MEDAL OF HONOR RECIPIENTS.—A former member of the armed forces who is a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits under this chapter may, upon request, be given medical and dental care provided by the administering Secretaries in the same manner as if entitled to retired pay.

(b) IMMEDIATE DEPENDENTS.—A person who is an immediate dependent of a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits under this chapter may, upon request, be given medical and dental care provided by the administering Secretaries in the same manner as if the Medal of Honor recipient were, or (if deceased) was at the time of death, entitled to retired pay.

(c) DEFINITIONS.—In this section:

(1) The term "Medal of Honor recipient" means a person who has been awarded a medal of honor under section 7271, 8291, or 9271 of this title or section 2732 of title 14.

(2) The term "immediate dependent" means a dependent described in subparagraph (A), (B), (C), or (D) of section 1072(2) of this title.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §706(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–175; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 118–31, div. A, title XVIII, §1801(a)(11), Dec. 22, 2023, 137 Stat. 684.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c)(1). Pub. L. 118–31, §1801(a)(11), substituted "section 2732 of title 14" for "section 491 of title 14".

**2018**—Subsec. (c)(1). Pub. L. 115–232 substituted "section 7271, 8291, or 9271" for "section 3741, 6241, or 8741".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VII, §706(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–175, provided that: "Section 1074h of title 10, United States Code, shall apply with respect to medical and dental care provided on or after the date of the enactment of this Act [Oct. 30, 2000]."

## §1074i. Reimbursement for certain travel expenses

(a) IN GENERAL.—Except as provided by subsection (b), in any case in which a covered beneficiary is referred by a primary care physician to a specialty care provider who provides services more than 100 miles from the location in which the primary care provider provides services to the covered beneficiary, the Secretary of Defense shall provide travel and transportation allowances as specified in regulations prescribed under section 464 of title 37 for the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.

(b) SPECIAL RULES FOR CERTAIN MEMBERS AND DEPENDENTS.—(1) The Secretary of

Defense may provide travel and transportation allowances as specified in the regulations referred to in subsection (a) for travel of members of the armed forces on active duty and their dependents, and accompaniment, to a specialty care provider not otherwise authorized by subsection (a) under such exceptional circumstances as the Secretary considers appropriate for purposes of this section.

(2) With respect to members of the armed forces on active duty and their dependents, the Secretary shall administer subsection (a) by substituting "75 miles" for "100 miles".

(c) OUTREACH PROGRAM AND TRAVEL REIMBURSEMENT FOR FOLLOW-ON SPECIALTY CARE AND RELATED SERVICES.—The Secretary concerned shall ensure that an outreach program is implemented for each member of the uniformed services who incurred a combat-related disability and is entitled to retired or retainer pay, or equivalent pay, so that—

(1) the progress of the member is closely monitored; and

(2) the member receives the travel reimbursement authorized by subsection (a) whenever the member requires follow-on specialty care, services, or supplies.

(d) DEFINITIONS.—In this section:

(1) The term "specialty care provider" includes a dental specialist.

(2) The term "dental specialist" means an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist, and includes such other providers of dental care and services as determined appropriate by the Secretary of Defense.

(3) The term "combat-related disability" has the meaning given that term in section 1413a of this title.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §758(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–199; amended Pub. L. 107–107, div. A, title VII, §706, Dec. 28, 2001, 115 Stat. 1163; Pub. L. 108–136, div. A, title VII, §712, Nov. 24, 2003, 117 Stat. 1530; Pub. L. 110–181, div. A, title XVI, §1632(a), (b), Jan. 28, 2008, 122 Stat. 458, 459; Pub. L. 111–84, div. A, title VI, §634, Oct. 28, 2009, 123 Stat. 2363; Pub. L. 113–66, div. A, title VI, §621(d), Dec. 26, 2013, 127 Stat. 784; Pub. L. 119–60, div. A, title VII, §701(a), Dec. 18, 2025, 139 Stat. 918.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §701(a)(1), substituted "Except as provided by subsection (b), in any case" for "In any case".

Subsec. (b). Pub. L. 119–60, §701(a)(2), substituted "Special Rules for Certain Members and Dependents" for "Allowable Travel and Transportation Under Exceptional Circumstances" in heading, designated existing provisions as par. (1), and added par. (2).

**2013**—Subsec. (a). Pub. L. 113–66, §621(d)(1), substituted "travel and transportation allowances as specified in regulations prescribed under section 464 of title 37" for "reimbursement for reasonable travel expenses".

Subsec. (b). Pub. L. 113–66, §621(d)(2), substituted "ALLOWABLE TRAVEL AND TRANSPORTATION UNDER EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Defense may provide travel and transportation allowances as specified in the regulations referred to in subsection (a) for" for "REIMBURSEMENT FOR TRAVEL UNDER EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Defense may provide reimbursement for reasonable travel expenses of".

**2009**—Subsec. (a). Pub. L. 111–84, §634(b), inserted "of Defense" after "the Secretary".

Subsecs. (b) to (d). Pub. L. 111–84, §634(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

**2008**—Subsecs. (b), (c). Pub. L. 110–181, §1632(a), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(3). Pub. L. 110–181, §1632(b), added par. (3).

**2003**—Pub. L. 108–136 inserted "(a) IN GENERAL.—" before "In any case" and added subsec. (b).

**2001**—Pub. L. 107–107 inserted before period at end "and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–181, div. A, title XVI, §1632(c), Jan. 28, 2008, 122 Stat. 459, provided that: "Subsection (b) of section 1074i of title 10, United States Code, as added by subsection (a)(2), shall apply with respect to travel described in subsection (a) of such section that occurs on or after January 1, 2008, for follow-on specialty care, services, or supplies."

**GUIDANCE ON AUTHORITY TO PROVIDE TRAVEL AND TRANSPORTATION ALLOWANCES FOR SPECIALTY CARE UNDER EXCEPTIONAL CIRCUMSTANCES**

Pub. L. 118–159, div. A, title VII, §706, Dec. 23, 2024, 138 Stat. 1944, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue guidance with respect to the authority of the Secretary under section 1074i(b) of title 10, United States Code."

## §1074j. Sub-acute care program

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an effective, efficient, and integrated sub-acute care benefits program under this chapter (hereinafter referred to in this section as the "program"). Except as otherwise provided in this section, the types of health care authorized under the program shall be the same as those provided under section 1079 of this title. The Secretary, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this section.

(b) BENEFITS.—(1) The program shall include a uniform skilled nursing facility benefit that shall be provided in the manner and under the conditions described in section 1861 (h) and (i) of the Social Security Act (42 U.S.C. 1395x (h) and (i)), except that the limitation on the number of days of coverage under section 1812 (a) and (b) of such Act (42 U.S.C. 1395d (a) and (b)) shall not be applicable under the program. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as medically necessary and appropriate.

(2) In this subsection:

(A) The term "skilled nursing facility" has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).

(B) The term "spell of illness" has the meaning given such term in section 1861(a) of such Act (42 U.S.C. 1395x(a)).

(3) The program shall include a comprehensive, part-time or intermittent home health care benefit that shall be provided in the manner and under the conditions described in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.

(Added Pub. L. 107–107, div. A, title VII, §701(a)(1), Dec. 28, 2001, 115 Stat. 1158; amended Pub. L. 108–375, div. A, title VII, §713, Oct. 28, 2004, 118 Stat. 1985.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (b)(4). Pub. L. 108–375 added par. (4).

## §1074k. Long-term care insurance

Provisions regarding long-term care insurance for members and certain former members of the

uniformed services and their families are set forth in chapter 90 of title 5.

(Added Pub. L. 107–107, div. A, title VII, §701(f)(1), Dec. 28, 2001, 115 Stat. 1161.)

## §1074*l*. Notification to Congress of hospitalization of combat wounded members

(a) NOTIFICATION REQUIRED.—The Secretary concerned shall provide notification of the hospitalization of any member of the armed forces evacuated from a theater of combat and admitted to any military medical treatment facility to the appropriate Members of Congress.

(b) APPROPRIATE MEMBERS.—In this section, the term "appropriate Members of Congress", with respect to the member of the armed forces about whom notification is being made, means the Senators representing the State, and the Member, Delegate, or Resident Commissioner of the House of Representatives representing the district, that includes the member's home of record or a different location as provided by the member.

(c) CONSENT OF MEMBER REQUIRED.—The notification under subsection (a) may be provided only with the consent of the member of the armed forces about whom notification is to be made. In the case of a member who is unable to provide consent, information and consent may be provided by next of kin.

(Added Pub. L. 110–181, div. A, title XVI, §1617(a)(1), Jan. 28, 2008, 122 Stat. 449; amended Pub. L. 115–232, div. A, title VII, §720, Aug. 13, 2018, 132 Stat. 1817.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 substituted "admitted to any military medical treatment facility" for "admitted to a military treatment facility within the United States".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XVI, §1617(a)(2), Jan. 28, 2008, 122 Stat. 449, provided that: "The notification requirement under section 1074l(a) of title 10, United States Code, as added by paragraph (1), shall apply beginning 60 days after the date of the enactment of this Act [Jan. 28, 2008]."

## §1074m. Mental health assessments for members of the armed forces deployed in support of a contingency operation

(a) MENTAL HEALTH ASSESSMENTS.—(1) The Secretary of Defense shall provide a person-to-person mental health assessment for each member of the armed forces who is deployed in support of a contingency operation as follows:

(A) Once during the period beginning 120 days before the date of the deployment.

(B) Once during each 180-day period during which a member is deployed.

(C) Subject to paragraph (3) and subsection (d), once during the period beginning on the date of redeployment from the contingency operation and ending on the date that is 21 days after the date on which the post-deployment leave of the member terminates.

(D) Subject to subsection (d), not less than once annually—

(i) beginning 21 days after the date on which the post-deployment leave of the member terminates; or

(ii) if the assessment required by subparagraph (C) is performed during the period specified in paragraph (3), beginning 180 days after the date of redeployment from the contingency operation.

(2) A mental health assessment is not required for a member of the armed forces under

subparagraphs (C) and (D) of paragraph (1) (including an assessment performed pursuant to paragraph (3)) if the Secretary determines that providing such assessment to the member during the time periods under such subparagraphs would remove the member from forward deployment or put members or operational objectives at risk.

(3) A mental health assessment required under subparagraph (C) of paragraph (1) may be provided during the period beginning 90 days after the date of redeployment from the contingency operation and ending 180 days after such redeployment date if the Secretary determines that—

(A) an insufficient number of personnel are available to perform the assessment during the time period under such subparagraph; or

(B) an administrative processing issue exists upon the return of the member to the home unit or duty station that would prohibit the effective performance of the assessment during such time period.

(b) PURPOSE.—The purpose of the mental health assessments provided pursuant to this section shall be to identify post-traumatic stress disorder, suicidal tendencies, and other behavioral health conditions identified among members described in subsection (a) in order to determine which such members are in need of additional care and treatment for such health conditions.

(c) ELEMENTS.—(1) The mental health assessments provided pursuant to this section shall—

(A) be performed by personnel trained and certified to perform such assessments and may be performed—

(i) by licensed mental health professionals if such professionals are available and the use of such professionals for the assessments would not impair the capacity of such professionals to perform higher priority tasks;

(ii) by personnel in deployed units whose responsibilities include providing unit health care services if such personnel are available and the use of such personnel for the assessments would not impair the capacity of such personnel to perform higher priority tasks; and

(iii) by personnel at private facilities in accordance with section 1074(c) of this title;

(B) include a person-to-person dialogue between members described in subsection (a) and the professionals or personnel described by subparagraph (A), as applicable, on such matters as the Secretary shall specify in order that the assessments achieve the purpose specified in subsection (b) for such assessments;

(C) be conducted in a private setting to foster trust and openness in discussing sensitive health concerns;

(D) be provided in a consistent manner across the military departments; and

(E) include a review of the health records of the member that are related to each previous deployment of the member or other relevant activities of the member while serving in the armed forces, as determined by the Secretary.

(2) The Secretary may treat periodic health assessments and other person-to-person assessments that are provided to members of the armed forces, including examinations under section 1074f of this title, as meeting the requirements for mental health assessments required under this section if the Secretary determines that such assessments and person-to-person assessments meet the requirements for mental health assessments established by this section.

(d) CESSATION OF ASSESSMENTS.—No mental health assessment is required to be provided to an individual under subparagraph (C) or (D) of subsection (a)(1) after the individual's discharge or release from the armed forces.

(e) SHARING OF INFORMATION.—(1) The Secretary of Defense shall share with the Secretary of Veterans Affairs such information on members of the armed forces that is derived from confidential mental health assessments, including mental health assessments provided pursuant to this section and section 1074n of this title and health assessments and other person-to-person assessments provided before the date of the enactment of this section, as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate to ensure continuity of mental

health care and treatment of members of the armed forces during the transition from health care and treatment provided by the Department of Defense to health care and treatment provided by the Department of Veterans Affairs.

(2) Any sharing of information under paragraph (1) shall occur pursuant to a protocol jointly established by the Secretary of Defense and the Secretary of Veterans Affairs for purposes of this subsection. Any such protocol shall be consistent with the following:

(A) Applicable provisions of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note), including section 1614 of such Act (122 Stat. 443; 10 U.S.C. 1071 note).

(B) Section 1720F of title 38.

(3) Before each mental health assessment is conducted under subsection (a), the Secretary of Defense shall ensure that the member is notified of the sharing of information with the Secretary of Veterans Affairs under this subsection.

(f) REGULATIONS.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(2) Not later than 270 days after the date of the issuance of the regulations prescribed under paragraph (1), the Secretary shall notify the congressional defense committees of the implementation of the regulations by the military departments.

(Added Pub. L. 112–81, div. A, title VII, §702(a)(1), Dec. 31, 2011, 125 Stat. 1469; amended Pub. L. 112–239, div. A, title VII, §703, Jan. 2, 2013, 126 Stat. 1800; Pub. L. 113–291, div. A, title VII, §701(a)(5), (b), title X, §1071(f)(13), Dec. 19, 2014, 128 Stat. 3409, 3510; Pub. L. 115–232, div. A, title VII, §701, Aug. 13, 2018, 132 Stat. 1804; Pub. L. 116–92, div. A, title VII, §706(a)–(c), Dec. 20, 2019, 133 Stat. 1440, 1441.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 112–81, which was approved Dec. 31, 2011.

### AMENDMENTS

**2019**—Subsec. (a)(1)(B). Pub. L. 116–92, §706(c), substituted "Once" for "Until January 1, 2019, once".

Subsec. (a)(1)(C), (D). Pub. L. 116–92, §706(a), added subpars. (C) and (D) and struck out former subpars. (C) and (D) which read as follows:

"(C) Subject to subsection (d), once during the period beginning 90 days after the date of redeployment from the contingency operation and ending 180 days after such redeployment date.

"(D) Subject to subsection (d), not later than once during each of—

"(i) the period beginning 180 days after the date of redeployment from the contingency operation and ending 18 months after such redeployment date; and

"(ii) the period beginning 18 months after such redeployment date and ending 30 months after such redeployment date."

Subsec. (a)(2), (3). Pub. L. 116–92, §706(b), added pars. (2) and (3) and struck out former par. (2) which read as follows: "A mental health assessment is not required for a member of the armed forces under subparagraphs (C) and (D) of paragraph (1) if the Secretary determines that—

"(A) the member was not subjected or exposed to operational risk factors during deployment in the contingency operation concerned; or

"(B) providing such assessment to the member during the time periods under such subparagraphs would remove the member from forward deployment or put members or operational objectives at risk."

**2018**—Subsec. (a)(1)(C). Pub. L. 115–232, §701(1), substituted "Subject to subsection (d), once" for "Once".

Subsec. (d). Pub. L. 115–232, §701(2), which directed substitution of "subparagraph (C) or (D) of subsection (a)(1)" for "subsection (a)(1)(D)", was executed by making the substitution for "subsection (a)(1)(C)" to reflect the probable intent of Congress.

**2014**—Subsec. (a)(1)(B) to (D). Pub. L. 113–291, §701(b)(1)(A), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (a)(2). Pub. L. 113–291, §1071(f)(13), which directed substitution of "subparagraphs" for "subparagraph" in introductory provisions, could not be executed because of the prior amendment by Pub. L. 113–291, §701(b)(2). See below.

Pub. L. 113–291, §701(b)(2), substituted "subparagraphs (C) and (D)" for "subparagraph (B) and (C)" in introductory provisions.

Subsec. (c)(1)(A)(ii), (iii). Pub. L. 113–291, §701(b)(1)(B), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (e)(1). Pub. L. 113–291, §701(a)(5), inserted "and section 1074n of this title" after "pursuant to this section".

**2013**—Subsec. (a)(1)(C)(i). Pub. L. 112–239 substituted "18 months" for "one year".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VII, §706(d), Dec. 20, 2019, 133 Stat. 1441, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to a date of redeployment that is on or after January 1, 2020."

### REGULATIONS

Pub. L. 112–81, div. A, title VII, §702(a)(3), Dec. 31, 2011, 125 Stat. 1471, provided that: "The Secretary of Defense shall prescribe an interim final rule with respect to the amendment made by paragraph (1) [enacting this section], effective not later than 90 days after the date of the enactment of this Act [Dec. 31, 2011]."

## §1074n. Annual mental health assessments for members of the armed forces

(a) MENTAL HEALTH ASSESSMENTS.—Subject to subsection (c), not less frequently than once each calendar year (and before separation from active duty pursuant to section 1145(a)(5)(A) of this title), the Secretary of Defense shall provide a person-to-person mental health assessment for—

(1) each member of a regular component of the armed forces; and

(2) each member of the Selected Reserve of an armed force.

(b) ELEMENTS.—The mental health assessments provided pursuant to this section shall—

(1) be conducted in accordance with the requirements of subsection (c)(1) of section 1074m of this title with respect to a mental health assessment provided pursuant to such section; and

(2) include a review of the health records of the member that are related to each previous health assessment or other relevant activities of the member while serving in the armed forces, as determined by the Secretary.

(c) SUFFICIENCY OF OTHER MENTAL HEALTH ASSESSMENTS.—(1) The Secretary is not required to provide a mental health assessment pursuant to this section to an individual in a calendar year in which the individual has received a mental health assessment pursuant to section 1074m of this title.

(2) The Secretary may treat periodic health assessments and other person-to-person assessments that are provided to members of the armed forces, including examinations under section 1074f of this title, as meeting the requirements for mental health assessments required under this section if the Secretary determines that such assessments and person-to-person assessments meet the requirements for mental health assessments established by this section.

(d) PRIVACY MATTERS.—Any medical or other personal information obtained under this section shall be protected from disclosure or misuse in accordance with the laws on privacy applicable to such information.

(e) REGULATIONS.—The Secretary of Defense shall, in consultation with the other administering Secretaries, prescribe regulations for the administration of this section.

(Added Pub. L. 113–291, div. A, title VII, §701(a)(1), Dec. 19, 2014, 128 Stat. 3408; amended Pub.

L. 115–91, div. A, title VII, §706(b), Dec. 12, 2017, 131 Stat. 1436.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (a). Pub. L. 115–91 inserted "(and before separation from active duty pursuant to section 1145(a)(5)(A) of this title)" after "each calendar year" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION OF REGULATIONS**

Pub. L. 113–291, div. A, title VII, §701(a)(3), Dec. 19, 2014, 128 Stat. 3409, provided that: "Not later than 180 days after the date of the issuance of the regulations prescribed under section 1074n(e) of title 10, United States Code, as added by paragraph (1), the Secretary of Defense shall implement such regulations."

## §1074*o*. Provision of hyperbaric oxygen therapy for certain members

(a) IN GENERAL.—The Secretary may furnish hyperbaric oxygen therapy available at a military medical treatment facility to a covered member if such therapy is prescribed by a physician to treat post-traumatic stress disorder or traumatic brain injury.

(b) COVERED MEMBER DEFINED.—In this section, the term "covered member" means a member of the armed forces who is—

(1) serving on active duty; and

(2) diagnosed with post-traumatic stress disorder or traumatic brain injury.

(Added Pub. L. 115–91, div. A, title VII, §703(a)(1), Dec. 12, 2017, 131 Stat. 1435.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 115–91, div. A, title VII, §703(b), Dec. 12, 2017, 131 Stat. 1435, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect 90 days after the date of the enactment of this Act [Dec. 12, 2017]."

## §1075. TRICARE Select

(a) ESTABLISHMENT.—(1) Not later than January 1, 2018, the Secretary of Defense shall establish a self-managed, preferred-provider network option under the TRICARE program. Such option shall be known as "TRICARE Select".

(2) The Secretary shall establish TRICARE Select in all areas. Under TRICARE Select, eligible beneficiaries will not have restrictions on the freedom of choice of the beneficiary with respect to health care providers.

(b) ENROLLMENT ELIGIBILITY.—(1) The beneficiary categories for purposes of eligibility to enroll in TRICARE Select and cost-sharing requirements applicable to such category are as follows:

(A) An "active-duty family member" category that consists of beneficiaries who are covered by section 1079 of this title (as dependents of active duty members).

(B) A "retired" category that consists of beneficiaries covered by subsection (c) of section 1086 of this title, other than Medicare-eligible beneficiaries described in subsection (d)(2) of such section.

(C) A "reserve and young adult" category that consists of beneficiaries who are covered by—

(i) section 1076d of this title;

(ii) section 1076e; or

(iii) section 1110b.

(2) A covered beneficiary who elects to participate in TRICARE Select shall enroll in such option under section 1099 of this title.

(c) COST-SHARING REQUIREMENTS.—The cost-sharing requirements under TRICARE Select are as follows:

(1) With respect to beneficiaries in the active-duty family member category or the retired category by reason of being a member or former member of the uniformed services who originally enlists or is appointed in the uniformed services on or after January 1, 2018, or by reason of being a dependent of such a member, the cost-sharing requirements shall be calculated pursuant to subsection (d)(1).

(2)(A) Except as provided by subsection (e), with respect to beneficiaries described in subparagraph (B) in the active-duty family member category or the retired category, the cost-sharing requirements shall be calculated as if the beneficiary were enrolled in TRICARE Extra or TRICARE Standard as if TRICARE Extra or TRICARE Standard, as the case may be, were still being carried out by the Secretary.

(B) Beneficiaries described in this subparagraph are beneficiaries who are eligible to enroll in the TRICARE program by reason of being a member or former member of the uniformed services who originally enlists or is appointed in the uniformed services before January 1, 2018, or by reason of being a dependent of such a member.

(3) With respect to beneficiaries in the reserve and young adult category, the cost-sharing requirements shall be calculated pursuant to subsection (d)(1) as if the beneficiary were in the active-duty family member category or the retired category, as applicable, except that the premiums calculated pursuant to section 1076d, 1076e, or 1110b of this title, as the case may be, shall apply instead of any enrollment fee required under this section.

(d) COST-SHARING AMOUNTS FOR CERTAIN BENEFICIARIES.—(1) Beneficiaries described in subsection (c)(1) enrolled in TRICARE Select shall be subject to cost-sharing requirements in accordance with the amounts and percentages under the following table during calendar year 2018 and as such amounts are adjusted under paragraph (2) for subsequent years:

| **TRICARE Select** | **Active-Duty Family Member (Individual/Family)** | **Retired (Individual/Family)** |
|---|---|---|
| **Annual Enrollment** | $0 | $450 / $900 |
| **Annual deductible** | E4 & below: $50 / $100<br>E5 & above: $150 / $300 | $150 / $300 Network<br>$300 / $600 out of network |
| **Annual catastrophic cap** | $1,000 | $3,500 |
| **Outpatient visit civilian network** | $15 primary care<br>$25 specialty care<br>Out of network: 20% | $25 primary care<br>$40 specialty care<br>25% out of network |
| **ER visit civilian network** | $40 network<br>20% out of network | $80 network<br>25% out of network |
| **Urgent care civilian network** | $20 network<br>20% out of network | $40 network<br>25% out of network |
| **Ambulatory surgery civilian network** | $25 network<br>20% out of network | $95 network<br>25% out of network |

| | | |
|---|---|---|
| **Ground ambulance civilian network** | $15 | $60 |
| **Durable medical equipment civilian network** | 10% of negotiated fee | 20% network |
| **Inpatient visit civilian network** | $60 per network admission<br>20% out of network | $175 per admission network<br>25% out of network |
| **Inpatient skilled nursing/rehab civilian** | $25 per day network<br>$50 per day out of network | $50 per day network<br>Lesser of $300 per day or 20% of billed charges out of network |

(2) Each dollar amount expressed as a fixed dollar amount in the table set forth in paragraph (1), and the amounts specified under paragraphs (1) and (2) of subsection (e), shall be annually indexed to the amount by which retired pay is increased under section 1401a of this title, rounded to the next lower multiple of $1. The remaining amount above such multiple of $1 shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over under this clause for a year is $1 or more.

(3) Enrollment fees, deductible amounts, and catastrophic caps under this section are on a calendar-year basis.

(4) The cost-sharing requirements applicable to services not specifically addressed in the table set forth in paragraph (1) shall be established by the Secretary.

(e) EXCEPTIONS TO CERTAIN COST-SHARING AMOUNTS FOR CERTAIN BENEFICIARIES ELIGIBLE PRIOR TO 2018.—(1) Subject to paragraph (4), and in accordance with subsection (d)(2), the Secretary shall establish an annual enrollment fee for beneficiaries described in subsection (c)(2)(B) in the retired category who enroll in TRICARE Select (other than such beneficiaries covered by paragraph (3)). Such enrollment fee shall be $150 for an individual and $300 for a family.

(2) For the calendar year for which the Secretary first establishes the annual enrollment fee under paragraph (1), the Secretary shall adjust the catastrophic cap amount to be $3,500 for beneficiaries described in subsection (c)(2)(B) in the retired category who are enrolled in TRICARE Select (other than such beneficiaries covered by paragraph (3)).

(3) The enrollment fee established pursuant to paragraph (1) and the catastrophic cap adjusted under paragraph (2) for beneficiaries described in subsection (c)(2)(B) in the retired category shall not apply with respect to the following beneficiaries:

(A) Retired members and the family members of such members covered by paragraph (1) of section 1086(c) of this title by reason of being retired under chapter 61 of this title or being a dependent of such a member.

(B) Survivors covered by paragraph (2) of such section 1086(c).

(4) The Secretary may not establish an annual enrollment fee under paragraph (1) until 90 days has elapsed following the date on which the Comptroller General of the United States is required to submit the review under paragraph (5).

(5) Not later than February 1, 2020, the Comptroller General of the United States shall submit to the Committees on Armed Services of the House of Representatives and the Senate a review of the following:

(A) Whether health care coverage for covered beneficiaries has changed since the enactment of this section.

(B) Whether covered beneficiaries are able to obtain appointments for health care according to the access standards established by the Secretary of Defense.

(C) The percent of network providers that accept new patients under the TRICARE program.

(D) The satisfaction of beneficiaries under TRICARE Select.

(f) OTHER EXCEPTIONS TO COST-SHARING REQUIREMENTS.—(1) A beneficiary enrolled in TRICARE for Life is subject to cost-sharing requirements pursuant to section 1086(d)(3) of this title and calculated as if the beneficiary were enrolled in TRICARE Standard as if TRICARE Standard were still being carried out by the Secretary.

(2)(A) Notwithstanding any other provision of this section, the cost-sharing amount under this section for any beneficiary enrolled in TRICARE Select for a service described in subparagraph (B) that is provided by a network provider is $0.

(B) A service described in this subparagraph is any contraceptive method approved, cleared, or authorized under section 505, 510(k), 513(f)(2), or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360(k), 360c(f)(2), 360e), any contraceptive care (including with respect to insertion, removal, and follow up), any sterilization procedure, or any patient education or counseling service provided in connection with any such contraceptive, care, or procedure.

(3)(A) Consistent with other provisions of this chapter and subject to requirements to be prescribed by the Secretary, the Secretary may waive cost-sharing requirements for the first three outpatient mental health visits each year of any of the following beneficiaries:

(i) Beneficiaries in the active-duty family member category.

(ii) Beneficiaries covered by section 1110b of this title.

(B) This paragraph shall terminate on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the availability of TRICARE Prime and TRICARE for Life or the cost-sharing requirements for TRICARE for Life under section 1086(d)(3) of this title.

(h) AUTHORITY FOR MULTIPLE NETWORKS IN THE SAME GEOGRAPHIC AREA.—(1) The Secretary may establish a system of multiple networks of providers under TRICARE Select in the same geographic area or areas.

(2) Under a system established under paragraph (1), the Secretary may—

(A) require a covered beneficiary enrolling in TRICARE Select to enroll in a specific provider network established pursuant to such system, in which case any provider not in that specific provider network shall be deemed an out-of-network provider with respect to the covered beneficiary (regardless of whether the provider is in a different TRICARE Select provider network) for purposes of this section or any other provision of law limiting the coverage or provision of health care services to those provided by network providers under the TRICARE program; and

(B) include beneficiaries covered by subsection (c)(2).

(i) DEFINITIONS.—In this section:

(1) The terms "active-duty family member category", "retired category", and "reserve and young adult category" mean the respective categories of TRICARE Select enrollment described in subsection (b).

(2) The term "network" means—

(A) with respect to health care services, such services provided to beneficiaries by TRICARE-authorized civilian health care providers who have entered into a contract under this chapter with a contractor under the TRICARE program; and

(B) with respect to providers, civilian health care providers who have agreed to accept a pre-negotiated rate as the total charge for services provided by the provider and to file claims for beneficiaries.

(3) The term "out-of-network" means, with respect to health care services, such services provided by TRICARE-authorized civilian providers who have not entered into a contract under this chapter with a contractor under the TRICARE program.

(Added Pub. L. 114–328, div. A, title VII, §701(a)(1), Dec. 23, 2016, 130 Stat. 2180; amended Pub. L. 115–91, div. A, title VII, §739(b)(1), Dec. 12, 2017, 131 Stat. 1446; Pub. L. 116–92, div. A, title XVII, §1731(a)(23), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 117–81, div. A, title VII, §703(a), Dec. 27, 2021, 135 Stat. 1779; Pub. L. 118–31, div. A, title VII, §701(a), Dec. 22, 2023, 137 Stat. 299; Pub. L. 118–159, div. A, title VII, §707(b), (d)(1), Dec. 23, 2024, 138 Stat. 1944, 1945.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (f)(3)(B), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### PRIOR PROVISIONS

A prior section 1075, added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended Pub. L. 97–22, §10(b)(2), July 10, 1981, 95 Stat. 137; Pub. L. 108–87, title VIII, §8146(a), Sept. 30, 2003, 117 Stat. 1109; Pub. L. 108–106, title I, §1112(a), Nov. 6, 2003, 117 Stat. 1215, related to subsistence charges for officers and certain enlisted members, prior to repeal by Pub. L. 108–375, div. A, title VI, §607(a)(1), Oct. 28, 2004, 118 Stat. 1946.

Another prior section 1075, act Aug. 10, 1956, ch. 1041, 70A Stat. 82, related to post card requests for absentee ballots, and for printing and transmission thereof, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2024**—Subsec. (c)(4). Pub. L. 118–159, §707(d)(1), redesignated par. (4) of subsec. (c) as par. (3) of subsec. (f).

Subsec. (f). Pub. L. 118–159, §707(b)(2), (3), designated existing provisions as par. (1) and added par. (2).

Pub. L. 118–159, §707(b)(1), substituted "Other Exceptions to Cost-sharing Requirements" for "Exception to Cost-sharing Requirements for TRICARE for Life Beneficiaries" in heading.

Subsec. (f)(3). Pub. L. 118–159, §707(d)(1), redesignated par. (4) of subsec. (c) as par. (3) of subsec. (f).

**2023**—Subsec. (c)(4). Pub. L. 118–31 added par. (4).

**2021**—Subsecs. (h), (i). Pub. L. 117–81 added subsec. (h) and redesignated former subsec. (h) as (i).

**2019**—Subsec. (d)(1). Pub. L. 116–92 substituted "25% out of network" for "25% of out of network" in third column of table row relating to Outpatient visit civilian network.

**2017**—Subsec. (d)(1). Pub. L. 115–91, §739(b)(1)(B), substituted "Ground ambulance civilian network" for "Ambulance civilian network" in first column of table.

Subsec. (d)(4). Pub. L. 115–91, §739(b)(1)(A), added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as an Effective Date of 2016 Amendment note under section 1072 of this title.

### PILOT PROGRAM ON HEALTH CARE ASSISTANCE SYSTEM

Pub. L. 115–91, div. A, title VII, §731, Dec. 12, 2017, 131 Stat. 1441, as amended by Pub. L. 117–81, div. A, title VII, §705, Dec. 27, 2021, 135 Stat. 1781, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense shall carry out a pilot program to provide a health care assistance service to certain covered beneficiaries enrolled in TRICARE Select using purchased care to improve the health outcomes and patient experience for covered beneficiaries with complex medical conditions.

"(b) ELEMENTS.—The pilot program under subsection (a) may include the following elements:

"(1) Assisting beneficiaries with complex medical conditions to understand and use the health benefits under the TRICARE program.

"(2) Supporting such beneficiaries in accessing and navigating the purchased care health care delivery system.

"(3) Providing such beneficiaries with information to allow the beneficiaries to make informed decisions regarding the quality, safety, and cost of available health care services.

"(4) Improving the health outcomes for such beneficiaries.

"(c) DURATION.—The Secretary shall carry out the pilot program for an amount of time determined appropriate by the Secretary during the five-year period beginning 180 days after the date of the enactment of this Act [Dec. 12, 2017].

"(d) REPORT.—Not later than November 1, 2022, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing an evaluation of the success of the pilot program under subsection (a), including—

"(1) an analysis of the implementation of the elements under subsection (b);

"(2) the feasibility of incorporating such elements into TRICARE support contracts; and

"(3) input from covered beneficiaries who have participated in the pilot program regarding their satisfaction with, and any benefits attained from, such participation.

"(e) DEFINITIONS.—In this section, the terms 'covered beneficiary', 'TRICARE program', and 'TRICARE Select' have the meaning given those terms in section 1072 of title 10, United States Code."

## §1075a. TRICARE Prime: cost sharing

(a) COST-SHARING REQUIREMENTS.—The cost-sharing requirements under TRICARE Prime are as follows:

(1) There are no cost-sharing requirements for beneficiaries who are covered by section 1074(a) of this title.

(2) With respect to beneficiaries in the active-duty family member category or the retired category (as described in section 1075(b)(1) of this title) by reason of being a member or former member of the uniformed services who originally enlists or is appointed in the uniformed services on or after January 1, 2018, or by reason of being a dependent of such a member, the cost-sharing requirements shall be calculated pursuant to subsection (b)(1).

(3)(A) With respect to beneficiaries described in subparagraph (B) in the active-duty family member category or the retired category (as described in section 1075(b)(1) of this title), the cost-sharing requirements shall be calculated in accordance with the other provisions of this chapter without regard to subsection (b).

(B) Beneficiaries described in this subparagraph are beneficiaries who are eligible to enroll in the TRICARE program by reason of being a member or former member of the uniformed services who originally enlists or is appointed in the uniformed services before January 1, 2018, or by reason of being a dependent of such a member.

(b) COST-SHARING AMOUNTS.—(1) Beneficiaries described in subsection (a)(2) enrolled in TRICARE Prime shall be subject to cost-sharing requirements in accordance with the amounts and percentages under the following table during calendar year 2018 and as such amounts are adjusted under paragraph (2) for subsequent years:

| **TRICARE Prime** | **Active-Duty Family Member (Individual/Family)** | **Retired (Individual/Family)** |
|---|---|---|
| Annual Enrollment | $0 | $350 / $700 |
| Annual deductible | No | No |
| Annual catastrophic cap | $1,000 | $3,500 |
| Outpatient visit civilian network | $0 | $20 primary care |
| | | $30 specialty care |
| ER visit civilian network | $0 | $60 network |
| Urgent care civilian network | $0 | $30 network |
| Ambulatory surgery civilian network | $0 | $60 network |

| | | |
|---|---|---|
| Ground ambulance civilian network | $0 | $40 |
| Durable medical equipment civilian network | $0 | 20% of negotiated fee, network |
| Inpatient visit civilian network | $0 | $150 per admission |
| Inpatient skilled nursing/rehab civilian | $0 | $30 per day network |

(2) Each dollar amount expressed as a fixed dollar amount in the table set forth in paragraph (1) shall be annually indexed to the amount by which retired pay is increased under section 1401a of this title, rounded to the next lower multiple of $1. The remaining amount above such multiple of $1 shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over under this clause for a year is $1 or more.

(3) Enrollment fees, deductible amounts, and catastrophic caps under this section are on a calendar-year basis.

(4) The cost-sharing requirements applicable to services not specifically addressed in the table set forth in paragraph (1) shall be established by the Secretary.

(c) SPECIAL RULE FOR AMOUNTS WITHOUT REFERRALS.—Notwithstanding subsection (b)(1), the cost-sharing amount for a beneficiary enrolled in TRICARE Prime who does not obtain a referral for care under paragraph (1) of section 1095f(a) of this title (or a waiver pursuant to paragraph (2) of such section for such care) shall be an amount equal to 50 percent of the allowed point-of-service charge for such care.

(d) PROHIBITION ON COST-SHARING FOR CERTAIN SERVICES.—(1)(A) Notwithstanding any other provision of this section, the cost-sharing amount under this section for any beneficiary enrolled in TRICARE Prime for a service described in subparagraph (B) that is provided under TRICARE Prime is $0.

(B) A service described in this subparagraph is any contraceptive method approved, cleared, or authorized under section 505, 510(k), 513(f)(2), or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360(k), 360c(f)(2), 360e), any contraceptive care (including with respect to insertion, removal, and follow up), any sterilization procedure, or any patient education or counseling service provided in connection with any such contraceptive, care, or procedure.

(2)(A) Consistent with other provisions of this chapter and subject to requirements to be prescribed by the Secretary, the Secretary may waive cost-sharing requirements for the first three outpatient mental health visits each year of a beneficiary in the active-duty family member category (as described in section 1075(b)(1)(A) of this title).

(B) This paragraph shall terminate on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024.

(Added Pub. L. 114–328, div. A, title VII, §701(b)(1), Dec. 23, 2016, 130 Stat. 2184; amended Pub. L. 115–91, div. A, title VII, §739(b)(2), (e)(2), Dec. 12, 2017, 131 Stat. 1447; Pub. L. 118–31, div. A, title VII, §701(b), Dec. 22, 2023, 137 Stat. 299; Pub. L. 118–159, div. A, title VII, §707(c), (d)(2), Dec. 23, 2024, 138 Stat. 1944, 1945.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (d)(2)(B), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### AMENDMENTS

**2024**—Subsec. (a)(4). Pub. L. 118–159, §707(d)(2), redesignated par. (4) of subsec. (a) as par. (2) of subsec. (d).

Subsec. (d). Pub. L. 118–159, §707(c), added subsec. (d).

Subsec. (d)(2). Pub. L. 118–159, §707(d)(2), redesignated par. (4) of subsec. (a) as par. (2) of subsec. (d).

**2023**—Subsec. (a)(4). Pub. L. 118–31 added par. (4).

**2017**—Subsec. (b)(1). Pub. L. 115–91, §739(b)(2)(B), which directed amendment of "Paragraph (1) of such section" by substituting "Ground ambulance civilian network" for "Ambulance civilian network" in first column of table, was executed by making the substitution in par. (1) of subsec. (b) of this section, to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 115–91, §739(b)(2)(A), added par. (4).

Subsec. (c). Pub. L. 115–91, §739(e)(2), substituted "section 1095f(a)" for "section 1075f(a)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as an Effective Date of 2016 Amendment note under section 1072 of this title.

## §1076. Medical and dental care for dependents: general rule

(a)(1) A dependent described in paragraph (2) is entitled, upon request, to the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(2) A dependent referred to in paragraph (1) is a dependent of a member of a uniformed service described in one of the following subparagraphs:

(A) A member who is on active duty for a period of more than 30 days or died while on that duty.

(B) A member who died from an injury, illness, or disease incurred or aggravated—

(i) while the member was on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive-duty training; or

(ii) while the member was traveling to or from the place at which the member was to perform, or had performed, such active duty, active duty for training, or inactive-duty training.

(C) A member who died from an injury, illness, or disease incurred or aggravated in the line of duty while the member remained overnight immediately before the commencement of inactive-duty training, or while the member remained overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(D) A member on active duty who is entitled to benefits under subsection (e) of section 1074a of this title by reason of paragraph (1), (2), or (3) of subsection (a) of such section.

(E) A member who died from an injury, illness, or disease incurred or aggravated while the member—

(i) was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) was traveling to or from the place at which the member was to so serve; or

(iii) remained overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(b) Under regulations to be prescribed jointly by the administering Secretaries, a dependent of a member or former member—

(1) who is, or (if deceased) was at the time of his death, entitled to retired or retainer pay or equivalent pay; or

(2) who died before attaining age 60 and at the time of his death would have been eligible for retired pay under chapter 1223 of this title (or under chapter 67 of this title as in effect before December 1, 1994) but for the fact that he was under 60 years of age;

may, upon request, be given the medical and dental care prescribed by section 1077 of this title in

facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff, except that a dependent of a member or former member described in paragraph (2) may not be given such medical or dental care until the date on which such member or former member would have attained age 60.

(c) A determination by the medical or dental officer in charge, or the contract surgeon in charge, or his designee, as to the availability of space and facilities and to the capabilities of the medical and dental staff is conclusive. Care under this section may not be permitted to interfere with the primary mission of those facilities.

(d) To utilize more effectively the medical and dental facilities of the uniformed services, the administering Secretaries shall prescribe joint regulations to assure that dependents entitled to medical or dental care under this section will not be denied equal opportunity for that care because the facility concerned is that of a uniformed service other than that of the member.

(e)(1) Subject to paragraph (3), the administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.

(2) Subject to paragraph (3), upon request of any dependent of a former member of a uniformed service punished for an abuse described in paragraph (4), the administering Secretary for such uniformed service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

(3) Medical and dental care furnished to a dependent of a former member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)—

(A) shall be limited to the health care prescribed by section 1077 of this title; and

(B) shall be subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(4)(A) A former member of a uniformed service referred to in paragraph (1) is a member who—

(i) received a dishonorable or bad-conduct discharge or was dismissed from a uniformed service as a result of a court-martial conviction for an offense, under either military or civil law, involving abuse of a dependent of the member; or

(ii) was administratively discharged from a uniformed service as a result of such an offense.

(B) A determination of whether an offense involved abuse of a dependent of the member shall be made in accordance with regulations prescribed by the administering Secretary for such uniformed service.

(f)(1) The administering Secretaries shall furnish an eligible dependent a physical examination that is required by a school in connection with the enrollment of the dependent as a student in that school.

(2) A dependent is eligible for a physical examination under paragraph (1) if the dependent—

(A) is entitled to receive medical care under subsection (a) or is authorized to receive medical care under subsection (b); and

(B) is at least 5 years of age and less than 12 years of age.

(3) Nothing in paragraph (2) may be construed to prohibit the furnishing of a school-required physical examination to any dependent who, except for not satisfying the age requirement under that paragraph, would otherwise be eligible for a physical examination required to be furnished under this subsection.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended Pub. L. 89–614, §2(3), Sept. 30, 1966, 80 Stat. 862; Pub. L. 95–397, title III, §301, Sept. 30, 1978, 92 Stat. 849; Pub. L. 96–513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 97–252, title X, §1004(b), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98–557, §19(5), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99–145, title VI,

§652(a), Nov. 8, 1985, 99 Stat. 656; Pub. L. 99–661, div. A, title VI, §§604(f)(1)(C), 652(c), Nov. 14, 1986, 100 Stat. 3877, 3889; Pub. L. 100–456, div. A, title VI, §651(a), Sept. 29, 1988, 102 Stat. 1990; Pub. L. 101–189, div. A, title VI, §653(a)(4), title VII, §731(c)(1), Nov. 29, 1989, 103 Stat. 1462, 1482; Pub. L. 103–337, div. A, title VII, §§704(a), (b), title XVI, §1671(c)(7)(A), Oct. 5, 1994, 108 Stat. 2798, 2799, 3014; Pub. L. 104–106, div. A, title VII, §703, title XV, §1501(c)(11), Feb. 10, 1996, 110 Stat. 372, 499; Pub. L. 105–85, div. A, title V, §513(b), title X, §1073(d)(1)(D), Nov. 18, 1997, 111 Stat. 1730, 1905; Pub. L. 105–261, div. A, title VII, §732, Oct. 17, 1998, 112 Stat. 2071; Pub. L. 106–65, div. A, title V, §578(i)(2), title VII, §705(c), Oct. 5, 1999, 113 Stat. 629, 684; Pub. L. 106–398, §1 [[div. A], title VII, §703], Oct. 30, 2000, 114 Stat. 1654, 1654A–174; Pub. L. 107–107, div. A, title V, §513(a), Dec. 28, 2001, 115 Stat. 1093.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1076(a) | 37:402(a)(2) (as applicable to 37:403(a)).<br>37:403(a) (1st sentence). | June 7, 1956, ch. 374, §§102(a)(2) (as applicable to §103(a)), (3) (as applicable to §301(c)), 103(a), (b), 301(c), 70 Stat. 250, 251, 253. |
| 1076(b) | 37:402(a)(3) (as applicable to 37:421(c)).<br>37:421(c) (less last 28 words). | |
| 1076(c) | 37:403(a) (less 1st sentence).<br>37:421(c) (last 28 words). | |
| 1076(d) | 37:403(b). | |

Appropriate references are made to dental care throughout the section to reflect the fact that in certain limited situations dependents are entitled to dental care under 37:403(h)(4), restated as section 1077 of this title.

In subsection (a), the words "appointed, enlisted, inducted or called, ordered or conscripted in a uniformed service" are omitted as surplusage, since it does not matter how a member became a member. The words "active duty for a period of more than 30 days" are substituted for the words "active duty or active duty for training pursuant to a call or order that does not specify a period of thirty days or less" to reflect section 101(22) and (23) of this title.

In subsection (b), the words "active duty (other than for training)" are substituted for the words "active duty as defined in section 901(b) of title 50" to reflect section 101(22) of this title. The words "retirement" and "retirement pay" are omitted as surplusage.

In subsection (c), 37:421(c) (last 28 words) is omitted as unnecessary since this subsection and section 1077 of this title are written so as to apply to subsection (b) as well as subsection (a).

In subsection (d), the words "because the facility concerned is that of a uniformed service other than that of the member" is substituted for the words "because of the service affiliation of the service member".

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 67 of this title as in effect before December 1, 1994, referred to in subsec. (b)(2), means chapter 67 (§1331 et seq.) of this title prior to its transfer to part II of subtitle E of this title, its renumbering as chapter 1223, and its general revision by section 1662(j)(1) of Pub. L. 103–337. A new chapter 67 (§1331) of this title was added by section 1662(j)(7) of Pub. L. 103–337.

### PRIOR PROVISIONS

A prior section 1076, act Aug. 10, 1956, ch. 1041, 70A Stat. 84, related to use of post cards, waiver of registration, and voting by discharged persons, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2001**—Subsec. (a)(2)(C). Pub. L. 107–107 struck out ", if the site was outside reasonable commuting

distance from the member's residence" before period at end.

**2000**—Subsec. (f). Pub. L. 106–398 added subsec. (f).

**1999**—Subsec. (a)(2)(D). Pub. L. 106–65, §705(c), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "A member who incurred or aggravated an injury, illness, or disease in the line of duty while serving on active duty for a period of 30 days or less (or while traveling to or from the place of such duty) and the member's orders are modified or extended, while the member is being treated for (or recovering from) the injury, illness, or disease, so as to result in active duty for a period of more than 30 days. However, this subparagraph entitles the dependent to medical and dental care only while the member remains on active duty."

Subsec. (a)(2)(E). Pub. L. 106–65, §578(i)(2), added subpar. (E).

**1998**—Subsec. (e)(1). Pub. L. 105–261, §732(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Subject to paragraph (3), if an abused dependent of a former member of a uniformed service described in paragraph (4) needs medical or dental care for an injury or illness resulting from abuse by the member, the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services."

Subsec. (e)(3). Pub. L. 105–261, §732(2), inserted "and" at end of subpar. (A), substituted a period for "; and" at end of subpar. (B), and struck out subpar. (C) which read as follows: "shall terminate one year after the date on which the former member was discharged or dismissed from a uniformed service as described in paragraph (4)."

**1997**—Subsec. (a)(2). Pub. L. 105–85, §513(b), added par. (2) and struck out former par. (2) which read as follows: "A dependent referred to in paragraph (1) is a dependent of a member of a uniformed service—

"(A) who is on active duty for a period of more than 30 days or who died while on that duty; or

"(B) who died from an injury, illness, or disease incurred or aggravated—

"(i) while on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

"(ii) while traveling to or from the place at which the member is to perform, or has performed, such active duty, active duty for training, or inactive duty training."

Subsec. (b). Pub. L. 105–85, §1073(d)(1)(D), made technical correction to directory language of Pub. L. 104–106, §703(b). See 1996 Amendment note below.

**1996**—Subsec. (b). Pub. L. 104–106, §703(b), as amended by Pub. L. 105–85, §1073(d)(1)(D), in concluding provisions, substituted "paragraph (2) may" for "clause (2) may" and struck out "A dependent described in section 1072(2)(F) of this title may be provided medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause." after "age 60."

Subsec. (b)(2). Pub. L. 104–106, §703(a), substituted "death would" for "death (A) would" and struck out ", and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title" after "60 years of age".

Pub. L. 104–106, §1501(c)(11), substituted "before December 1, 1994" for "before the effective date of the Reserve Officer Personnel Management Act" in subpar. (A).

**1994**—Subsec. (b)(2)(A). Pub. L. 103–337, §1671(c)(7)(A), substituted "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" for "under chapter 67 of this title".

Subsec. (e)(1). Pub. L. 103–337, §704(a)(1), added par. (1) and struck out former par. (1) which read as follows: "Subject to paragraph (3), if—

"(A) a member of a uniformed service receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service; and

"(B) the abused dependent needs medical or dental care for an injury or illness resulting from the abuse,

the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services."

Subsec. (e)(2). Pub. L. 103–337, §704(b)(1), (2), inserted "former" before "member" and substituted "paragraph (4)" for "paragraph (1)(A)".

Subsec. (e)(3). Pub. L. 103–337, §704(b)(1), (3), inserted "former" before "member" in introductory provisions and in subpar. (C) and substituted "was" for "is" and "paragraph (4)" for "paragraph (1)(A)" in subpar. (C).

Subsec. (e)(4). Pub. L. 103–337, §704(a)(2), added par. (4).

**1989**—Subsec. (e)(3)(C). Pub. L. 101–189, §653(a)(4), substituted "one year" for "1 year".

Subsec. (f). Pub. L. 101–189, §731(c)(1), struck out subsec. (f) which read as follows:

"(1) A person described in paragraph (2) shall be considered a dependent for purposes of this section for a period of one year after the date of the person's final decree of divorce, dissolution, or annulment. In addition, if such a person purchases a conversion health policy within the one-year period referred to in the preceding sentence, such person shall be entitled, upon request, to medical and dental care prescribed by section 1077 of this title for a period of one year after the purchase of the policy for any condition of the person that existed on the date on which coverage under the policy begins and for which care is not provided under that policy.

"(2) A person referred to in paragraph (1) is a person who would qualify as a dependent under section 1072(2)(G) but for the fact that the person's final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985.

"(3) In this subsection, the term 'conversion health policy' means a health insurance plan with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of persons described in paragraph (2)."

**1988**—Subsec. (f). Pub. L. 100–456 added subsec. (f).

**1986**—Subsec. (a)(2)(B). Pub. L. 99–661, §604(f)(1)(C), inserted reference to disease.

Subsec. (e). Pub. L. 99–661, §652(c), added subsec. (e).

**1985**—Subsec. (a). Pub. L. 99–145 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "A dependent of a member of a uniformed service who is on active duty for a period of more than 30 days, or of such a member who died while on that duty, is entitled, upon request, to the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff."

**1984**—Subsecs. (b), (d). Pub. L. 98–557 substituted reference to administering Secretaries for reference to Secretary of Defense and Secretary of Health and Human Services.

**1982**—Subsec. (b). Pub. L. 97–252 provided for medical and dental care, for a dependent described in section 1072(2)(F) of this title, pursuant to clause (2) without regard to subclause (B) of such clause.

**1980**—Subsecs. (b), (d). Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**1978**—Subsec. (b). Pub. L. 95–397 substituted "Under regulations to be prescribed jointly by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member-" for "Under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member who is, or was at the time of his death, entitled to retired or retainer pay, or equivalent pay, may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff", added pars. (1), (2), and provisions following par. (2) relating to medical and dental care on request in facilities of the uniformed services subject to the availability of space, facilities and capabilities of staff, and excepting from such care provision a dependent of a member or former member until such member or former member would have attained age 60.

**1966**—Subsec. (b). Pub. L. 89–614 struck out provision which excepted from medical and dental care a member or former member who is, or was at the time of his death, entitled to retired pay under chapter 67 of this title and has served less than eight years on active duty (other than for training).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(d)(1), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective Feb. 10, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, as enacted.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(7)(A) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 731(c)(1) of Pub. L. 101–189 applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if the amendment had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101–189, set out as a note under section 1072 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VI, §651(d), Sept. 29, 1988, 102 Stat. 1990, provided that: "Section 1076(f) of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act [Sept. 29, 1988] or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in such section), whichever is later. Such section shall apply to persons whose decree of divorce, dissolution, or annulment becomes final after the date of the enactment of this Act."

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 604 of Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

Pub. L. 99–661, div. A, title VI, §652(e)(3), Nov. 14, 1986, 100 Stat. 3890, provided that: "The amendment made by subsection (c) [amending this section] shall apply only with respect to dependents who request medical or dental care on or after the date of the enactment of this Act [Nov. 14, 1986]."

## EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title VI, §652(c), Nov. 8, 1985, 99 Stat. 657, provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall apply only with respect to dependents of members of the uniformed services whose deaths occur after September 30, 1985."

## EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–397, title III, §302, Sept. 30, 1978, 92 Stat. 849, provided that: "The amendment made by section 301 [amending this section] shall become effective on October 1, 1978, or on the date of the enactment of this Act [Sept. 30, 1978], whichever is later."

## EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## STIPEND FOR MEMBERS OF RESERVE COMPONENTS FOR HEALTH CARE FOR CERTAIN DEPENDENTS

Pub. L. 110–181, div. A, title VII, §704, Jan. 28, 2008, 122 Stat. 188, provided that: "The Secretary of Defense may, pursuant to regulations prescribed by the Secretary, pay a stipend to a member of a reserve component of the Armed Forces who is called or ordered to active duty for a period of more than 30 days for purposes of maintaining civilian health care coverage for a dependant whom the Secretary determines to possess a special health care need that would be best met by remaining in the member's civilian health plan. In making such determination, the Secretary shall consider whether—

"(1) the dependent of the member was receiving treatment for the special health care need before the call or order to active duty of the member; and

"(2) the call or order to active duty would result in an interruption in treatment or a change in health care provider for such treatment."

**TRANSITIONAL HEALTH CARE FOR MEMBERS, OR DEPENDENTS OF MEMBERS, UPON RELEASE OF MEMBER FROM ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM**

Pub. L. 102–25, title III, §313, Apr. 6, 1991, 105 Stat. 85, provided that:

"(a) HEALTH CARE PROVIDED.—A member of the Armed Forces described in subsection (b), and the dependents of the member, shall be entitled to receive health care described in subsection (c) upon the release of the member from active duty in connection with Operation Desert Storm until the earlier of—

"(1) 30 days after the date of the release of the member from active duty; or

"(2) the date on which the member and the dependents of the member are covered by a health plan sponsored by an employer.

"(b) ELIGIBLE MEMBER DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

"(1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with Operation Desert Storm;

"(2) is involuntarily retained on active duty under section 673c [now 12305] of title 10, United States Code, in connection with Operation Desert Storm; or

"(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

"(c) HEALTH CARE DESCRIBED.—The health care referred to in subsection (a) is—

"(1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and

"(2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

"(d) DEPENDENT DEFINED.—For purposes of this section, the term 'dependent' has the meaning given that term in section 1072(2) of title 10, United States Code."

**DEPENDENT; QUALIFICATION AS; TRANSITION**

Pub. L. 100–456, div. A, title VI, §651(c), Sept. 29, 1988, 102 Stat. 1990, provided that: "Any person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 [Pub. L. 98–525, formerly set out as a note under section 1072 of this title], as in effect before its repeal by subsection (b), shall remain qualified as a dependent as specified in that section and shall become eligible for benefits in accordance with section 1076(f) of title 10, United States Code (as added by subsection (a)), when no longer qualified as a dependent pursuant to such section 645(c)."

## §1076a. TRICARE dental program

(a) ESTABLISHMENT OF DENTAL PLANS.—The Secretary of Defense may establish, and in the case of the dental plan described in paragraph (1) shall establish, the following voluntary enrollment dental plans:

(1) PLAN FOR SELECTED RESERVE AND INDIVIDUAL READY RESERVE.—A dental insurance plan for members of the Selected Reserve of the Ready Reserve and for members of the Individual Ready Reserve described in subsection 10144(b) of this title.

(2) PLAN FOR OTHER RESERVES.—A dental insurance plan for members of the Individual Ready Reserve not eligible to enroll in the plan established under paragraph (1).

(3) PLAN FOR ACTIVE DUTY DEPENDENTS.—Dental benefits plans for eligible dependents of members of the uniformed services who are on active duty for a period of more than 30 days.

(4) PLAN FOR READY RESERVE DEPENDENTS.—A dental benefits plan for eligible dependents of members of the Ready Reserve of the reserve components who are not on active duty for more than 30 days.

(b) ADMINISTRATION OF PLANS.—

(1) IN GENERAL.—The plans established under this section shall be administered under regulations prescribed by the Secretary of Defense in consultation with the other administering Secretaries.

(2) PREMIUM SHARING PLANS.—Effective as of January 1, 2027, the regulations prescribed pursuant to paragraph (1) shall include, with respect to premium sharing plans referred to in subsection (d)(1), the following elements:

(A) A third party administrator shall manage the administrative features of such plans, including eligibility, enrollment, plan change and premium payment processes, submission of qualifying life events changes, and address changes.

(B) Such plans shall include the following three enrollment options:

(i) Self.

(ii) Self plus one.

(iii) Family.

(C) In the United States, to the extent practicable, individuals eligible to enroll in such a plan shall be offered options to enroll in plans of not fewer than two and not more than four dental insurance carriers.

(D) To the extent practicable, each carrier described in subparagraph (C)—

(i) shall manage dental care delivery matters, including claims adjudication (with required electronic submission of claims), coordination of benefits, covered services, enrollment verification, and provider networks;

(ii) shall, in addition to offering a standard option plan, offer a non-standard option plan;

(iii) may offer a non-standard option plan managed as a dental health maintenance organization plan;

(iv) shall establish and operate dental provider networks that provide—

(I) accessible care with a prevention or wellness focus;

(II) continuity of care;

(III) coordinated care (including appropriate dental and medical referrals);

(IV) patient-centered care (including effective communications, individualized care, and shared decision-making); and

(V) high-quality, safe care;

(v) shall develop and implement adult and pediatric dental quality measures, including effective measurements for—

(I) access to care;

(II) continuity of care;

(III) cost;

(IV) adverse patient events;

(V) oral health outcomes; and

(VI) patient experience; and

(vi) may conduct in the provider networks established and operated by the carrier under clause (iv), to the extent practicable, pilot programs on the development of a model of care based on the model of care commonly referred to as patient-centered dental homes.

(c) CARE AVAILABLE UNDER PLANS.—Dental plans established under subsection (a) may provide for the following dental care:

(1) Diagnostic, oral examination, and preventive services and palliative emergency care.

(2) Basic restorative services of amalgam and composite restorations, stainless steel crowns for primary teeth, and dental appliance repairs.

(3) Orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate.

(d) PREMIUMS.—

(1) PREMIUM SHARING PLANS.—(A) The dental insurance plan established under subsection (a)(1) and the dental benefits plans established under subsection (a)(3) are premium

sharing plans.

(B) Members enrolled in a premium sharing plan for themselves or for their dependents shall be required to pay a share of the premium charged for the benefits provided under the plan. During the period preceding January 1, 2027, the member's share of the premium charge may not exceed $20 per month for the enrollment.

(C) Effective as of January 1 of each year during the period preceding January 1, 2027, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.

(D) During the period preceding January 1, 2027, the Secretary of Defense may reduce the monthly premium required to be paid under paragraph (1) in the case of enlisted members in pay grade E–1, E–2, E–3, or E–4 if the Secretary determines that such a reduction is appropriate to assist such members to participate in a dental plan referred to in subparagraph (A).

(E) Beginning on January 1, 2027, the amount of the premium required under subparagraph (A)—

(i) for standard option plans, shall be established by the Secretary annually such that in the aggregate (taking into account the adjustments under subparagraph (F) and subsection (e)(3)), the Secretary's share of each premium is 60 percent of the premium for each enrollment category (self, self plus one, and family, respectively) of each standard option plan; and

(ii) for non-standard option plans, shall be equal to the amount determined under clause (i) plus 100 percent of the additional premium amount applicable to such non-standard option plan.

(F) Beginning on January 1, 2027, the Secretary of Defense shall reduce the monthly premium required to be paid under paragraph (1) in the case of enlisted members in pay grade E–1, E–2, E–3, or E–4.

(2) FULL PREMIUM PLANS.—(A) The dental insurance plan established under subsection (a)(2) and the dental benefits plan established under subsection (a)(4) are full premium plans.

(B) Members enrolled in a full premium plan for themselves or for their dependents shall be required to pay the entire premium charged for the benefits provided under the plan.

(3) PAYMENT PROCEDURES.—A member's share of the premium for a plan established under subsection (a) may be paid by deductions from the basic pay of the member and from compensation paid under section 206 of title 37, as the case may be. The regulations prescribed under subsection (b) shall specify the procedures for payment of the premiums by enrollees who do not receive such pay.

(e) COPAYMENTS UNDER PREMIUM SHARING PLANS.—(1) Except as provided pursuant to paragraph (2), a member or dependent who receives dental care under a premium sharing plan referred to in subsection (d)(1) shall—

(A) in the case of care described in subsection (c)(1), pay no charge for the care;

(B) in the case of care described in subsection (c)(2), pay 20 percent of the charges for the care; and

(C) in the case of care described in subsection (c)(3), pay a percentage of the charges for the care that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.

(2)(A) During a national emergency declared by the President or Congress and subject to regulations prescribed by the Secretary of Defense, the Secretary may waive, in whole or in part, the charges otherwise payable by a member of the Selected Reserve of the Ready Reserve or a member

of the Individual Ready Reserve under paragraph (1) for the coverage of the member alone under the dental insurance plan established under subsection (a)(1) if the Secretary determines that such waiver of the charges would facilitate or ensure the readiness of a unit or individual for deployment.

(B) The waiver under subparagraph (A) may apply only with respect to charges for coverage of dental care required for readiness.

(3) Beginning on January 1, 2027, the Secretary of Defense shall reduce copayments required to be paid under paragraph (1) in the case of enlisted members in pay grade E–1, E–2, E–3, or E–4.

(f) TRANSFER OF MEMBERS.—If a member whose dependents are enrolled in the plan established under subsection (a)(3) is transferred to a duty station where dental care is provided to the member's eligible dependents under a program other than that plan, the member may discontinue participation under the plan. If the member is later transferred to a duty station where dental care is not provided to such member's eligible dependents except under the plan established under subsection (a)(3), the member may re-enroll the dependents in that plan.

(g) CARE OUTSIDE THE UNITED STATES.—The Secretary of Defense may exercise the authority provided under subsection (a) to establish dental insurance plans and dental benefits plans for dental benefits provided outside the United States for the eligible members and dependents of members of the uniformed services. In the case of such an overseas dental plan, the Secretary may waive or reduce any copayments required by subsection (e) to the extent the Secretary determines appropriate for the effective and efficient operation of the plan.

(h) WAIVER OF REQUIREMENTS FOR SURVIVING DEPENDENTS.—The Secretary of Defense may waive (in whole or in part) any requirements of a dental plan established under this section as the Secretary determines necessary for the effective administration of the plan for a dependent who is an eligible dependent described in subsection (k)(2).

(i) AUTHORITY SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to enter into a contract under this section for any fiscal year is subject to the availability of appropriations for that purpose.

(j) LIMITATION ON REDUCTION OF BENEFITS.—During the period preceding January 1, 2027, the Secretary of Defense may not reduce benefits provided under a plan established under this section, and on or after January 1, 2027, the Secretary may not reduce benefits provided under a standard option plan under this section, until—

(1) the Secretary provides notice of the Secretary's intent to reduce such benefits to the Committees on Armed Services of the Senate and the House of Representatives; and

(2) one year has elapsed following the date of such notice.

(k) ELIGIBLE DEPENDENT DEFINED.—(1) In this section, the term "eligible dependent" means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(2) Such term includes any such dependent of a member who dies—

(A) while on active duty for a period of more than 30 days; or

(B) while such member is a member of the Ready Reserve.

(3) Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death, except that, in the case of a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which such dependent attains 21 years of age.

(C) In the case of such dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which such dependent attains 23 years of age.

(l) DEFINITIONS.—In this section:

(1) The term "non-standard option plan" means a high option dental insurance plan that includes covered services in addition to, or provides greater coverage with respect to, services covered under a standard option plan.

(2) The term "standard option plan" means a dental insurance plan that provides for the coverage of preventive services, basic restorative services, and specialty dental care services at a level that is at least commensurate with the coverage of the same services provided under the premium sharing plans under this section during the period preceding January 1, 2027.

(Added Pub. L. 106–65, div. A, title VII, §711(a), Oct. 5, 1999, 113 Stat. 685; amended Pub. L. 106–398, §1 [[div. A], title VII, §704(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–174; Pub. L. 107–314, div. A, title VII, §703, Dec. 2, 2002, 116 Stat. 2584; Pub. L. 108–375, div. A, title VII, §711, Oct. 28, 2004, 118 Stat. 1984; Pub. L. 109–163, div. A, title VII, §713, Jan. 6, 2006, 119 Stat. 3343; Pub. L. 110–417, [div. A], title VII, §735(b), Oct. 14, 2008, 122 Stat. 4514; Pub. L. 111–84, div. A, title VII, §704, Oct. 28, 2009, 123 Stat. 2373; Pub. L. 111–383, div. A, title VII, §703, Jan. 7, 2011, 124 Stat. 4245; Pub. L. 112–239, div. A, title VII, §701(b), Jan. 2, 2013, 126 Stat. 1798; Pub. L. 115–232, div. A, title VII, §713(b), Aug. 13, 2018, 132 Stat. 1811; Pub. L. 116–283, div. A, title VII, §711(b)—(d), Jan. 1, 2021, 134 Stat. 3691; Pub. L. 117–263, div. A, title VII, §701(a), Dec. 23, 2022, 136 Stat. 2644; Pub. L. 118–31, div. A, title XVIII, §1801(a)(12), Dec. 22, 2023, 137 Stat. 684; Pub. L. 118–159, div. A, title VII, §704(a), Dec. 23, 2024, 138 Stat. 1942.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1076a, added Pub. L. 99–145, title VI, §651(a)(1), Nov. 8, 1985, 99 Stat. 655; amended Pub. L. 99–661, div. A, title VII, §707(a), (b), Nov. 14, 1986, 100 Stat. 3905; Pub. L. 102–190, div. A, title VII, §701, Dec. 5, 1991, 105 Stat. 1399; Pub. L. 102–484, div. A, title VII, §701(a)–(e), Oct. 23, 1992, 106 Stat. 2430; Pub. L. 103–337, div. A, title VII, §§702(b), 703(a), 707(b), Oct. 5, 1994, 108 Stat. 2797, 2798, 2800; Pub. L. 105–85, div. A, title VII, §732, Nov. 18, 1997, 111 Stat. 1812; Pub. L. 105–261, div. A, title VII, §701(a)(1), (b), Oct. 17, 1998, 112 Stat. 2056; Pub. L. 106–65, div. A, title X, §1066(a)(8), Oct. 5, 1999, 113 Stat. 770; Pub. L. 106–398, §1 [[div. A], title X, §1087(d)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293, related to dependents' dental program, prior to repeal by Pub. L. 106–65, div. A, title VII, §711(a), Oct. 5, 1999, 113 Stat. 685.

### AMENDMENTS

**2024**—Pub. L. 118–159 substituted "January 1, 2027" for "January 1, 2026" wherever appearing.

**2023**—Subsec. (d)(1)(E)(i). Pub. L. 118–31 substituted "subsection (e)(3))" for "subsection (e)(3)".

**2022**—Subsec. (b). Pub. L. 117–263, §701(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(1)(B). Pub. L. 117–263, §701(a)(2)(A), substituted "During the period preceding January 1, 2026, the member's" for "The member's".

Subsec. (d)(1)(C). Pub. L. 117–263, §701(a)(2)(B), substituted "of each year during the period preceding January 1, 2026," for "of each year," in introductory provisions.

Subsec. (d)(1)(D). Pub. L. 117–263, §701(a)(2)(C), substituted "During the period preceding January 1, 2026, the Secretary of Defense" for "The Secretary of Defense".

Subsec. (d)(1)(E), (F). Pub. L. 117–263, §701(a)(2)(D), added subpars. (E) and (F).

Subsec. (e)(3). Pub. L. 117–263, §701(a)(3), added par. (3).

Subsec. (j). Pub. L. 117–263, §701(a)(4), substituted "During the period preceding January 1, 2026, the Secretary of Defense may not reduce benefits provided under a plan established under this section, and on or after January 1, 2026, the Secretary may not reduce benefits provided under a standard option plan under this section, until" for "The Secretary of Defense may not reduce benefits provided under a plan established under this section until" in introductory provisions.

Subsec. (l). Pub. L. 117–263, §701(a)(5), added subsec. (l).

**2021**—Subsec. (a)(1). Pub. L. 116–283, §711(d), struck out at end "During the period beginning on the date

of the enactment of this sentence and ending December 31, 2018, such plan shall provide that coverage for a member of the Selected Reserve who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall not terminate earlier than 180 days after the date on which the member is separated."

Subsec. (b). Pub. L. 116–283, §711(c), repealed Pub. L. 115–232, §713(b). See 2018 Amendment note below.

Pub. L. 116–283, §711(b), amended subsec. (b) generally. Prior to amendment, text read as follows: "The plans established under this section shall be administered by the Secretary of Defense through an agreement with the Director of the Office of Personnel Management to allow persons described in subsection (a) to enroll in an insurance plan under chapter 89A of title 5, in accordance with terms prescribed by the Secretary, including terms, to the extent practical, as defined by the Director through regulation, consistent with subsection (d) and, to the extent practicable in relation to such chapter 89A, other provisions of this section."

**2018**—Subsec. (b). Pub. L. 115–232, §713(b), which amended subsec. (b) generally, applicable with respect to the first contract year for chapter 89A of Title 5, Government Organization and Employees, that was to begin on or after Jan. 1, 2022, was repealed by Pub. L. 116–283, §711(c).

**2013**—Subsec. (a)(1). Pub. L. 112–239 inserted at end "During the period beginning on the date of the enactment of this sentence and ending December 31, 2018, such plan shall provide that coverage for a member of the Selected Reserve who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall not terminate earlier than 180 days after the date on which the member is separated."

**2011**—Subsec. (k)(2). Pub. L. 111–383 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Such term includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent—

"(A) is enrolled in a dental benefits plan established under subsection (a); or

"(B) if not enrolled in such a plan on such date—

"(i) is not enrolled by reason of a discontinuance of a former enrollment under subsection (f); or

"(ii) is not qualified for such enrollment because—

"(I) the dependent is a child under the minimum age for such enrollment; or

"(II) the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days."

**2009**—Subsec. (k)(3). Pub. L. 111–84 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death."

**2008**—Subsec. (e). Pub. L. 110–417 designated existing provisions as par. (1), substituted "Except as provided pursuant to paragraph (2), a member or dependent" for "A member or dependent", redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1) and added par. (2).

**2006**—Subsec. (k). Pub. L. 109–163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "In this section, the term 'eligible dependent'—

"(1) means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

"(2) includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a), is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f), or is not enrolled because the dependent is a child under the minimum age for enrollment, except that the term does not include the dependent after the end of the three-year period beginning on the date of the member's death."

**2004**—Subsec. (k)(2). Pub. L. 108–375 substituted "under subsection (a)," for "under subsection (a) or" and inserted "or is not enrolled because the dependent is a child under the minimum age for enrollment," after "under subsection (f),".

**2002**—Subsec. (k)(2). Pub. L. 107–314 substituted "if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f)" for "if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a)".

**2000**—Subsec. (k)(2). Pub. L. 106–398 substituted "three-year period" for "one-year period".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## RULEMAKING

Pub. L. 117–263, div. A, title VII, §701(b), Dec. 23, 2022, 136 Stat. 2646, as amended by Pub. L. 118–159, div. A, title VII, §704(b)(1), Dec. 23, 2024, 138 Stat. 1942, provided that: "Pursuant to the authority under section 1076a(b)(1) of title 10, United States Code, as amended by subsection (a), the Secretary of Defense shall—

"(1) not later than January 1, 2026, prescribe an interim final rule to carry out the amendments made by subsection (a) [amending this section]; and

"(2) after prescribing the interim final rule under subparagraph (A) [sic; probably should be "paragraph (1)"] and considering public comments with respect to such interim final rule, prescribe a final rule, effective on January 1, 2027, to carry out such amendments."

### TRANSITION OF ADMINISTRATION OF TRICARE DENTAL PLANS

Pub. L. 115–232, div. A, title VII, §713(d), Aug. 13, 2018, 132 Stat. 1812, which related to transition of administration of TRICARE dental plans, was repealed by Pub. L. 116–283, div. A, title VII, §711(c), Jan. 1, 2021, 134 Stat. 3691.

### AUTHORIZATION TO EXPAND ENROLLMENT IN DEPENDENTS' DENTAL PROGRAM TO CERTAIN MEMBERS RETURNING FROM OVERSEAS ASSIGNMENTS

Pub. L. 103–160, div. A, title VII, §703, Nov. 30, 1993, 107 Stat. 1687, provided that:

"(a) AUTHORITY TO EXPAND PROGRAM.—After March 31, 1994, the Secretary of Defense may expand the dependents' dental program established under section 1076a of title 10, United States Code, to permit a member of the uniformed services described in subsection (b) to enroll dependents described in subsection (a) of such section in a dental benefits plan under the program without regard to the length of the uncompleted portion of the member's period of obligated service.

"(b) COVERED MEMBERS.—A member referred to in subsection (a) is a member of the uniformed services who is—

"(1) on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code); and

"(2) reassigned from a permanent duty station where a dental benefits plan under the dependents' dental program is not available to a permanent duty station where such a plan is available.

"(c) REPORT ON ADVISABILITY OF EXPANSION.—Not later than February 28, 1994, the Secretary shall submit to Congress a report evaluating the advisability of expanding the enrollment eligibility of members of the uniformed services in the dependents' dental program in the manner authorized in subsection (a). The report shall include an analysis of the cost implications for such an expansion to the Federal Government, beneficiaries under the dependents' dental program, and contractors under the program.

"(d) NOTIFICATION OF EXERCISE OF AUTHORITY.—The Secretary shall notify Congress of any decision to expand the enrollment eligibility of dependents in the dependents' dental program as provided in subsection (a) not later than 30 days before such expansion takes effect."

## [§1076b. Repealed. Pub. L. 109–364, div. A, title VII, §706(d), Oct. 17, 2006, 120 Stat. 2282]

Section, added Pub. L. 108–106, title I, §1115(a), Nov. 6, 2003, 117 Stat. 1216; amended Pub. L. 108–136, div. A, title VII, §702, Nov. 24, 2003, 117 Stat. 1525; Pub. L. 109–163, div. A, title VII, §702(a)(1), Jan. 6, 2006, 119 Stat. 3340; Pub. L. 109–364, div. A, title VII, §704(d), Oct. 17, 2006, 120 Stat. 2280, related to TRICARE Standard coverage for members of the Selected Reserve.

A prior section 1076b, added Pub. L. 104–106, div. A, title VII, §705(a)(1), Feb. 10, 1996, 110 Stat. 372; amended Pub. L. 104–201, div. A, title VII, §702(a), (b), Sept. 23, 1996, 110 Stat. 2588; Pub. L. 105–85, div. A, title VII, §733(a), Nov. 18, 1997, 111 Stat. 1812, related to Selected Reserve dental insurance, prior to repeal by Pub. L. 106–65, div. A, title VII, §711(a), Oct. 5, 1999, 113 Stat. 685.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Pub. L. 109–364, div. A, title VII, §706(d), Oct. 17, 2006, 120 Stat. 2282, provided that the repeal made by section 706(d) is effective Oct. 1, 2007.

## §1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents

(a) REQUIREMENT FOR PLAN.—(1) The Secretary of Defense shall establish a dental insurance plan for retirees of the uniformed services, certain unremarried surviving spouses, and dependents in accordance with this section.

(2) The Secretary may satisfy the requirement under paragraph (1) by entering into an agreement with the Director of the Office of Personnel Management to allow persons described in subsection (b) to enroll in an insurance plan under chapter 89A of title 5 that provides benefits similar to those benefits required to be provided under subsection (d).

(b) PERSONS ELIGIBLE FOR PLAN.—The following persons are eligible to enroll in the dental insurance plan established under subsection (a):

(1) Members of the uniformed services who are entitled to retired pay.

(2) Members of the Retired Reserve who would be entitled to retired pay under chapter 1223 of this title but for being under 60 years of age.

(3) Eligible dependents of a member described in paragraph (1) or (2) who are covered by the enrollment of the member in the plan.

(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

(B) is enrolled in a dental plan that—

(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

(ii) is not available to dependents of the member as a result of such separate employment by the member; or

(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.

(5) The unremarried surviving spouse and eligible child dependents of a deceased member—

(A) who died while in a status described in paragraph (1) or (2);

(B) who is described in section 1448(d)(1) of this title; or

(C) who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible, or no longer eligible, for dental benefits under section 1076a of this title.

(c) PREMIUMS.—(1) A member enrolled in the dental insurance plan established under subsection (a) shall pay the premiums charged for the insurance coverage.

(2) The Secretary of Defense shall establish procedures for the collection of the premiums charged for coverage by the dental insurance plan. To the maximum extent practicable, the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay of the member (if pay is available to the member).

(d) BENEFITS AVAILABLE UNDER THE PLAN.—The dental insurance plan established under subsection (a) shall provide benefits for dental care and treatment which may be comparable to the benefits authorized under section 1076a of this title for plans established under that section and shall include diagnostic services, preventative services, endodontics and other basic restorative services, surgical services, and emergency services.

(e) COVERAGE.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or surviving spouse in the dental insurance plan established under subsection (a).

(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or eligible unremarried surviving spouse to enroll for self only or for self and eligible dependents.

(f) REQUIRED TERMINATIONS OF ENROLLMENT.—The Secretary shall terminate the

enrollment of any enrollee, and any eligible dependents of the enrollee covered by the enrollment, in the dental insurance plan established under subsection (a) upon the occurrence of the following:

(1) In the case of an enrollment under subsection (b)(1), termination of the member's entitlement to retired pay.

(2) In the case of an enrollment under subsection (b)(2), termination of the member's status as a member of the Retired Reserve.

(3) In the case of an enrollment under subsection (b)(5), remarriage of the surviving spouse.

(g) CONTINUATION OF DEPENDENTS' ENROLLMENT UPON DEATH OF ENROLLEE .—Coverage of a dependent in the dental insurance plan established under subsection (a) under an enrollment of a member or a surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent's enrollment. The Secretary may terminate coverage of the dependent when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations under subsection (h) the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

(h) REGULATIONS.—The dental insurance plan established under subsection (a) shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries.

(i) VOLUNTARY DISENROLLMENT.—(1) With respect to enrollment in the dental insurance plan established under subsection (a), the Secretary of Defense—

(A) shall allow for a period of up to 30 days at the beginning of the prescribed minimum enrollment period during which an enrollee may disenroll; and

(B) shall provide for limited circumstances under which disenrollment shall be permitted during the prescribed enrollment period, without jeopardizing the fiscal integrity of the dental program.

(2) The circumstances described in paragraph (1)(B) shall include—

(A) a case in which a retired member, surviving spouse, or dependent of a retired member who is also a Federal employee is assigned to a location outside the jurisdiction of the dental insurance plan established under subsection (a) that prevents utilization of dental benefits under the plan;

(B) a case in which a retired member, surviving spouse, or dependent of a retired member is prevented by a serious medical condition from being able to obtain benefits under the plan;

(C) a case in which severe financial hardship would result; and

(D) any other circumstances which the Secretary considers appropriate.

(3) The Secretary shall establish procedures for timely decisions on requests for disenrollment under this section and for appeal to the TRICARE Management Activity of adverse decisions.

(j) DEFINITIONS.—In this section:

(1) The term "eligible dependent" means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(2) The term "eligible child dependent" means a dependent described in subparagraph (D) or (I) of section 1072(2) of this title.

(3) The term "retired pay" includes retainer pay.

(Added Pub. L. 104–201, div. A, title VII, §703(a)(1), Sept. 23, 1996, 110 Stat. 2588; amended Pub. L. 105–85, div. A, title VII, §§701, 733(b), 734, Nov. 18, 1997, 111 Stat. 1807, 1812, 1813; Pub. L. 105–261, div. A, title VII, §702, Oct. 17, 1998, 112 Stat. 2056; Pub. L. 106–65, div. A, title VII, §704, Oct. 5, 1999, 113 Stat. 683; Pub. L. 106–398, §1 [[div. A], title VII, §726, title X, §1087(a)(6)], Oct. 30, 2000, 114 Stat. 1654, 1654A–187, 1654A–290; Pub. L. 114–328, div. A, title VII, §715(b)(3), Dec. 23, 2016, 130 Stat. 2222.)

**EDITORIAL NOTES**

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense, in consultation with the other administering Secretaries, shall establish a dental insurance plan for retirees of the uniformed services, certain unremarried surviving spouses, and dependents in accordance with this section."

**2000**—Subsec. (b)(5)(C). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(6)], struck out "pursuant to subsection (i)(2) of such section" after "section 1076a of this title".

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title VII, §726(b)], substituted "Required Terminations" for "Termination" in heading.

Subsecs. (i), (j). Pub. L. 106–398, §1 [[div. A], title VII, §726(a)], added subsec. (i) and redesignated former subsec. (i) as (j).

**1999**—Subsec. (d). Pub. L. 106–65 amended heading and text of subsec. (d) generally. Text read as follows: "The dental insurance plan established under subsection (a) shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services."

**1998**—Subsec. (b)(4), (5). Pub. L. 105–261, §702(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (f)(3). Pub. L. 105–261, §702(b), substituted "(b)(5)" for "(b)(4)".

**1997**—Subsec. (a). Pub. L. 105–85, §734(a)(1), (b)(1), substituted "The Secretary of Defense, in consultation with the other administering Secretaries, shall establish a dental insurance plan for retirees of the uniformed services" for "The Secretary of Defense shall establish a dental insurance plan for military retirees".

Subsec. (b)(1). Pub. L. 105–85, §734(a)(2), substituted "uniformed services" for "Armed Forces".

Subsec. (b)(4)(A). Pub. L. 105–85, §701(1)(A), substituted "died" for "dies".

Subsec. (b)(4)(C). Pub. L. 105–85, §701(1)(B), (2), (3), added subpar. (C).

Subsec. (c)(2). Pub. L. 105–85, §733(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The amount of the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay and shall be disbursed to pay the premiums. The regulations prescribed under subsection (h) shall specify the procedures for payment of the premiums by other enrolled members and by enrolled surviving spouses."

Subsec. (h). Pub. L. 105–85, §734(b)(2), substituted "other administering Secretaries" for "Secretary of Transportation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the first contract year for chapter 89A or 89B of Title 5, Government Organization and Employees, as applicable, that begins on or after Jan. 1, 2018, see section 715(c) of Pub. L. 114–328, set out as a note under section 8951 of Title 5.

### LIMITATION ON IMPLEMENTATION OF ALTERNATIVE COLLECTION PROCEDURES

Pub. L. 105–85, div. A, title VII, §733(d), Nov. 18, 1997, 111 Stat. 1813, provided that: "The Secretary of Defense may not implement procedures for collecting premiums under [former] section 1076b(b)(3) of title 10, United States Code, or section 1076c(c)(2) of such title other than by deductions and withholding from pay until 120 days after the date that the Secretary submits a report to Congress describing the justifications for implementing such alternative procedures."

### IMPLEMENTATION OF DENTAL PLAN

Pub. L. 104–201, div. A, title VII, §703(b), Sept. 23, 1996, 110 Stat. 2590, as amended by Pub. L. 105–85, div. A, title VII, §733(e), Nov. 18, 1997, 111 Stat. 1813, provided that: "Beginning not later than April 1, 1998, the Secretary of Defense shall—

"(1) offer members of the Armed Forces and other persons described in subsection (b) of section 1076c of title 10, United States Code (as added by subsection (a)(1) of this section), the opportunity to enroll in the dental insurance plan required under that section; and

"(2) begin to provide benefits under the plan."

## §1076d. TRICARE program: TRICARE Reserve Select coverage for members of the Selected Reserve

(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member of the Selected Reserve of the Ready Reserve of a reserve component of the armed forces is eligible for health benefits under TRICARE Reserve Select as provided in this section.

(2) During the period preceding January 1, 2030, paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—(1) Except as provided in paragraph (2), eligibility for TRICARE Reserve Select coverage of a member under this section shall terminate upon the termination of the member's service in the Selected Reserve.

(2) During the period beginning on the date of the enactment of this paragraph and ending December 31, 2018, eligibility for a member under this section who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall terminate 180 days after the date on which the member is separated.

(c) FAMILY MEMBERS.—While a member of a reserve component is covered by TRICARE Reserve Select under the section, the members of the immediate family of such member are eligible for TRICARE Reserve Select coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Reserve Select coverage shall continue for three years beyond the date of death of the member.

(d) PREMIUMS.—(1) A member of a reserve component covered by TRICARE Reserve Select under this section shall pay a premium for that coverage. Such premium shall apply instead of any enrollment fees required under section 1075 of this title.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE Reserve Select coverage of members without dependents and one premium for TRICARE Reserve Select coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all covered members of the reserve components.

(3)(A) The monthly amount of the premium in effect for a month for TRICARE Reserve Select coverage under this section shall be the amount equal to 28 percent of the total monthly amount determined on an appropriate actuarial basis as being reasonable for that coverage.

(B) The appropriate actuarial basis for purposes of subparagraph (A) shall be determined, for each calendar year after calendar year 2009, by utilizing the actual cost of providing benefits under this section to members and their dependents during the calendar years preceding such calendar year.

(4) The premiums payable by a member of a reserve component under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums.

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) DEFINITIONS.—In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE Reserve Select" means—

(A) medical care at facilities of the uniformed services to which a dependent described in section 1076(a)(2) of this title is entitled; and

(B) health benefits under the TRICARE Select self-managed, preferred provider network option under section 1075 of this title made available to beneficiaries by reason of this section and subject to the cost-sharing requirements set forth in such section 1075.

(Added Pub. L. 108–375, div. A, title VII, §701(a)(1), Oct. 28, 2004, 118 Stat. 1980; amended Pub. L. 109–163, div. A, title VII, §701(a)–(f)(1), Jan. 6, 2006, 119 Stat. 3339, 3340; Pub. L. 109–364,

div. A, title VII, §§704(c), 706(a)–(c), Oct. 17, 2006, 120 Stat. 2280, 2282; Pub. L. 110–181, div. A, title VII, §701(c), Jan. 28, 2008, 122 Stat. 188; Pub. L. 110–417, [div. A], title VII, §704(a), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111–84, div. A, title X, §1073(a)(11), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 112–239, div. A, title VII, §701(a), Jan. 2, 2013, 126 Stat. 1798; Pub. L. 114–328, div. A, title VII, §701(j)(1)(B), Dec. 23, 2016, 130 Stat. 2192; Pub. L. 115–91, div. A, title VII, §701(a), Dec. 12, 2017, 131 Stat. 1432; Pub. L. 116–92, div. A, title VII, §701, title XVII, §1731(a)(24), Dec. 20, 2019, 133 Stat. 1436, 1813; Pub. L. 118–31, div. A, title VII, §702(a), Dec. 22, 2023, 137 Stat. 300.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (b)(2), probably means the date of enactment of Pub. L. 112–239, which was approved Jan. 2, 2013.

### AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31 substituted "three years" for "six months".

**2019**—Subsec. (a)(2). Pub. L. 116–92, §701, substituted "During the period preceding January 1, 2030, paragraph (1) does not apply" for "Paragraph (1) does not apply".

Subsec. (d)(1). Pub. L. 116–92, §1731(a)(24), substituted "section 1075 of this title" for "section 1075 of this section".

**2017**—Subsec. (f)(2). Pub. L. 115–91 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'TRICARE Reserve Select' means the TRICARE Select self-managed, preferred-provider network option under section 1075 made available to beneficiaries by reason of this section and in accordance with subsection (d)(1)."

**2016**—Pub. L. 114–328, §701(j)(1)(B)(iii), substituted "TRICARE Reserve Select" for "TRICARE Standard" in section catchline and wherever appearing in text.

Subsec. (d)(1). Pub. L. 114–328, §701(j)(1)(B)(i), inserted at end "Such premium shall apply instead of any enrollment fees required under section 1075 of this section."

Subsec. (f)(2). Pub. L. 114–328, §701(j)(1)(B)(ii), added par. (2) and struck out former par. (2) which defined the term "TRICARE Standard".

**2013**—Subsec. (b). Pub. L. 112–239 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), eligibility" for "Eligibility", and added par. (2).

**2009**—Pub. L. 111–84 substituted "Standard" for "standard" in section catchline.

**2008**—Subsec. (d)(3). Pub. L. 110–417 designated existing provisions as subpar. (A), substituted "determined" for "that the Secretary determines", struck out at end "During the period beginning on April 1, 2006, and ending on September 30, 2008, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006.", and added subpar. (B).

Pub. L. 110–181 substituted "September 30, 2008" for "September 30, 2007".

**2006**—Pub. L. 109–364, §706(c)(2), substituted "TRICARE standard coverage for members of the Selected Reserve" for "coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" in section catchline.

Pub. L. 109–163, §701(f)(1), substituted "active duty in support of a contingency operation" for "active duty" in section catchline.

Subsec. (a). Pub. L. 109–364, §706(a), designated introductory provisions as par. (1), substituted "Except as provided in paragraph (2), a member" for "A member", substituted period at end for "after the member completes service on active duty to which the member was called or ordered for a period of more than 30 days on or after September 11, 2001, under a provision of law referred to in section 101(a)(13)(B), if the member—", added par. (2), and struck out former pars. (1) and (2) which read as follows:

"(1) served continuously on active duty for 90 or more days pursuant to such call or order; and

"(2) not later than 90 days after release from such active-duty service, entered into an agreement with the Secretary concerned to serve continuously in the Selected Reserve for a period of one or more whole years following such date."

Subsec. (a)(2). Pub. L. 109–163, §701(d), substituted "not later than 90 days after release" for "on or before the date of the release".

Subsec. (b). Pub. L. 109–364, §706(b), substituted "Termination of Eligibility Upon Termination of Service" for "Period of Coverage" in heading, struck out "(4)" before "Eligibility", and struck out pars. (1) to

(3) and (5), which related to beginning of period of coverage, length of coverage period, period of coverage in the case of a member recalled to active duty, and coverage for a member of the Individual Ready Reserve.

Subsec. (b)(2). Pub. L. 109–163, §701(a)(2), substituted "Subject to paragraph (3) and unless earlier terminated under paragraph (4)" for "Unless earlier terminated under paragraph (3)".

Subsec. (b)(3), (4). Pub. L. 109–163, §701(a)(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(5). Pub. L. 109–163, §701(b), added par. (5).

Subsec. (c). Pub. L. 109–163, §701(c), inserted at end "If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member."

Subsec. (d)(3). Pub. L. 109–364, §704(c), inserted at end "During the period beginning on April 1, 2006, and ending on September 30, 2007, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006."

Subsec. (e). Pub. L. 109–364, §706(c)(1)(A), (B), redesignated subsec. (g) as (e) and struck out heading and text of former subsec. (e). Text read as follows: "The service agreement required of a member of a reserve component under subsection (a)(2) is separate from any other form of commitment of the member to a period of obligated service in that reserve component and may cover any part or all of the same period that is covered by another commitment of the member to a period of obligated service in that reserve component.".

Subsec. (f)(2). Pub. L. 109–163, §701(e), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'TRICARE Standard' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program."

Subsec. (f)(3). Pub. L. 109–364, §706(c)(1)(C), struck out par. (3) which read as follows: "The term 'member recalled to active duty' means, with respect to a member who is eligible for coverage under this section based on a period of active duty service, a member who is called or ordered to active duty for an additional period of active duty subsequent to the period of active duty on which that eligibility is based."

Pub. L. 109–163, §701(a)(3), added par. (3).

Subsec. (g). Pub. L. 109–364, §706(c)(1)(B), redesignated subsec. (g) as (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title VII, §702(b), Dec. 22, 2023, 137 Stat. 300, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2025."

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title VII, §704(c), Oct. 14, 2008, 122 Stat. 4499, provided that: "The amendments made by this section [amending this section] shall take effect as of October 1, 2008."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VII, §706(g), Oct. 17, 2006, 120 Stat. 2282, provided that: "The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076d of title 10, United States Code, as amended by this section, beginning not later than October 1, 2007."

### SAVINGS PROVISION

Pub. L. 109–364, div. A, title VII, §706(f), Oct. 17, 2006, 120 Stat. 2282, as amended by Pub. L. 110–181, div. A, title VII, §706(a), Jan. 28, 2008, 122 Stat. 189, provided that:

"(1) Except as provided in paragraph (2), enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act [Oct. 17, 2006] under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

"(2) The enrollment of a member in TRICARE Standard that is in effect on the day before health care under TRICARE Standard is provided pursuant to the effective date in subsection (g) [set out as an Effective Date of

2006 Amendment note above] shall not be terminated by operation of the exclusion of eligibility under subsection (a)(2) of such section 1076d, as so amended, for the duration of the eligibility of the member under TRICARE Standard as in effect on October 16, 2006."

[Pub. L. 110–181, div. A, title VII, §706(b), Jan. 28, 2008, 122 Stat. 189, provided that: "The amendments made by subsection (a) [amending section 706(f) of Pub. L. 109–364, set out above] shall take effect on October 1, 2007."]

## COMMERCIAL HEALTH INSURANCE COVERAGE PILOT PROGRAM FOR ELIGIBLE RESERVE COMPONENT MEMBERS

Pub. L. 114–328, div. A, title VII, §712(b), (c), Dec. 23, 2016, 130 Stat. 2215, 2219, provided that:

"(b) PILOT PROGRAM.—

"(1) AUTHORIZATION.—The Secretary of Defense and the Director may jointly carry out a pilot program, at the election of the Secretary, under which the Director provides commercial health insurance coverage to eligible reserve component members who enroll in a health benefits plan under paragraph (4) as an individual, for self plus one coverage, or for self and family coverage.

"(2) ELEMENTS.—The pilot program shall—

"(A) provide for enrollment by eligible reserve component members, at the election of the member, in a health benefits plan under paragraph (4) during an open enrollment period established by the Director for purposes of this subsection;

"(B) include a variety of national and regional health benefits plans that—

"(i) meet the requirements of this subsection;

"(ii) are broadly representative of the health benefits plans available in the commercial market; and

"(iii) do not contain unnecessary restrictions, as determined by the Director; and

"(C) offer a sufficient number of health benefits plans in order to provide eligible reserve component beneficiaries with an ample choice of health benefits plans, as determined by the Director.

"(3) DURATION.—If the Secretary elects to carry out the pilot program, the Secretary and the Director shall carry out the pilot program for not less than five years.

"(4) HEALTH BENEFITS PLANS.—

"(A) IN GENERAL.—In providing health insurance coverage under the pilot program, the Director shall contract with qualified carriers for a variety of health benefits plans.

"(B) DESCRIPTION OF PLANS.—Health benefits plans contracted for under this subsection—

"(i) may vary by type of plan design, covered benefits, geography, and price;

"(ii) shall include maximum limitations on out-of-pocket expenses paid by an eligible reserve component beneficiary for the health care provided; and

"(iii) may not exclude an eligible reserve component member who chooses to enroll.

"(C) QUALITY OF PLANS.—The Director shall ensure that each health benefits plan offered under this subsection offers a high degree of quality, as determined by criteria that include—

"(i) access to an ample number of medical providers, as determined by the Director;

"(ii) adherence to industry-accepted quality measurements, as determined by the Director;

"(iii) access to benefits described in paragraph (5), including ease of referral for health care services; and

"(iv) inclusion in the services covered by the plan of advancements in medical treatments and technology as soon as practicable in accordance with generally accepted standards of medicine.

"(5) BENEFITS.—A health benefits plan offered by the Director under this subsection shall include, at a minimum, the following benefits:

"(A) The health care benefits provided under chapter 55 of title 10, United States Code, excluding pharmaceutical, dental, and extended health care option benefits.

"(B) Such other benefits as the Director determines appropriate.

"(6) CARE AT FACILITIES OF UNIFORMED SERVICES.—

"(A) IN GENERAL.—If an eligible reserve component beneficiary receives benefits described in paragraph (5) at a facility of the uniformed services, the health benefits plan under which the beneficiary is covered shall be treated as a third-party payer under section 1095 of title 10, United States Code, and shall pay charges for such benefits as determined by the Secretary.

"(B) MILITARY MEDICAL TREATMENT FACILITIES.—The Secretary, in consultation with the Director—

"(i) may contract with qualified carriers with which the Director has contracted under paragraph (4) to provide health insurance coverage for health care services provided at military

treatment facilities under this subsection; and

"(ii) may receive payments under section 1095 of title 10, United States Code, from qualified carriers for health care services provided at military medical treatment facilities under this subsection.

"(7) SPECIAL RULE RELATING TO ACTIVE DUTY PERIOD.—

"(A) IN GENERAL.—An eligible reserve component member may not receive benefits under a health benefits plan under this subsection during any period in which the member is serving on active duty for more than 30 days.

"(B) TREATMENT OF DEPENDENTS.—Subparagraph (A) does not affect the coverage under a health benefits plan of any dependent of an eligible reserve component member.

"(8) ELIGIBILITY FOR FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—An individual is not eligible to enroll in or be covered under a health benefits plan under this subsection if the individual is eligible to enroll in a health benefits plan under the Federal Employees Health Benefits Program.

"(9) COST SHARING.—

"(A) RESPONSIBILITY FOR PAYMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), an eligible reserve component member shall pay an annual premium amount calculated under subparagraph (B) for coverage under a health benefits plan under this subsection and additional amounts described in subparagraph (C) for health care services in connection with such coverage.

"(ii) ACTIVE DUTY PERIOD.—

"(I) IN GENERAL.—During any period in which an eligible reserve component member is serving on active duty for more than 30 days, the eligible reserve component member is not responsible for paying any premium amount under subparagraph (B) or additional amounts under subparagraph (C).

"(II) COVERAGE OF DEPENDENTS.—With respect to a dependent of an eligible reserve component member that is covered under a health benefits plan under this subsection, during any period described in subclause (I) with respect to the member, the Secretary shall, on behalf of the dependent, pay 100 percent of the total annual amount of a premium for coverage of the dependent under the plan and such cost-sharing amounts as may be applicable under the plan.

"(B) PREMIUM AMOUNT.—

"(i) IN GENERAL.—The annual premium calculated under this subparagraph is an amount equal to 28 percent of the total annual amount of a premium under the health benefits plan selected.

"(ii) TYPES OF COVERAGE.—The premium amounts calculated under this subparagraph shall include separate calculations for—

"(I) coverage as an individual;

"(II) self plus one coverage; and

"(III) self and family coverage.

"(C) ADDITIONAL AMOUNTS.—The additional amounts described in this subparagraph with respect to an eligible reserve component member are such cost-sharing amounts as may be applicable under the health benefits plan under which the member is covered.

"(10) CONTRACTING.—

"(A) IN GENERAL.—In contracting for health benefits plans under paragraph (4), the Director may contract with qualified carriers in a manner similar to the manner in which the Director contracts with carriers under section 8902 of title 5, United States Code, including that—

"(i) a contract under this subsection shall be for a uniform term of not less than one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party;

"(ii) a contract under this subsection shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits determined by the Director in accordance with paragraph (5);

"(iii) a contract under this subsection shall ensure that an eligible reserve component member who is eligible to enroll in a health benefits plan pursuant to such contract is able to enroll in such plan; and

"(iv) the terms of a contract under this subsection relating to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any conflicting State or local law.

"(B) EVALUATION OF FINANCIAL SOLVENCY.—The Director shall perform a thorough evaluation of the financial solvency of an insurance carrier before entering into a contract with the insurance carrier under subparagraph (A).

"(11) RECOMMENDATIONS AND DATA.—

"(A) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall provide recommendations and data to the Director with respect to—

"(i) matters involving military medical treatment facilities;

"(ii) matters unique to eligible reserve component members and dependents of such members; and

"(iii) such other strategic guidance necessary for the Director to administer this subsection as the Secretary of Defense, in consultation with the Secretary of Homeland Security, considers appropriate.

"(B) LIMITATION ON IMPLEMENTATION.—The Director shall not implement any recommendation provided by the Secretary of Defense under subparagraph (A) if the Director determines that the implementation of the recommendation would result in eligible reserve components beneficiaries receiving less generous health benefits under this subsection than the health benefits commonly available to individuals under the Federal Employees Health Benefits Program during the same period.

"(12) TRANSMISSION OF INFORMATION.—On an annual basis during each year in which the pilot program is carried out, the Director shall provide the Secretary with information on the use of health care benefits under the pilot program, including—

"(A) the number of eligible reserve component beneficiaries participating in the pilot program, listed by the health benefits plan under which the beneficiary is covered;

"(B) the number of health benefits plans offered under the pilot program and a description of each such plan; and

"(C) the costs of the health care provided under the plans.

"(13) FUNDING.—

"(A) IN GENERAL.—The Secretary of Defense and the Director shall jointly establish an appropriate mechanism to fund the pilot program.

"(B) AVAILABILITY OF AMOUNTS.—Amounts shall be made available to the Director pursuant to the mechanism established under subparagraph (A), without fiscal year limitation—

"(i) for payments to health benefits plans under this subsection; and

"(ii) to pay the costs of administering this subsection.

"(14) REPORTS.—

"(A) INITIAL REPORTS.—Not later than one year after the date on which the Secretary establishes the pilot program, and annually thereafter for the following three years, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program.

"(B) MATTERS INCLUDED.—The report under subparagraph (A) shall include, with respect to the year covered by the report, the following:

"(i) The number of eligible reserve component beneficiaries participating in the pilot program, listed by the health benefits plan under which the beneficiary is covered.

"(ii) The number of health benefits plans offered under the pilot program.

"(iii) The cost of the pilot program to the Department of Defense.

"(iv) The estimated cost savings, if any, to the Department of Defense.

"(v) The average cost to the eligible reserve component beneficiary.

"(vi) The effect of the pilot program on the medical readiness of the members of the reserve components.

"(vii) The effect of the pilot program on access to health care for members of the reserve components.

"(C) FINAL REPORT.—Not later than 180 days before the date on which the pilot program will terminate pursuant to paragraph (3), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program that includes—

"(i) the matters specified under subparagraph (B); and

"(ii) the recommendation of the Secretary regarding whether to make the pilot program permanent or to terminate the pilot program.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Director' means the Director of the Office of Personnel Management.

"(2) The term 'eligible reserve component beneficiary' means an eligible reserve component member enrolled in, or a dependent of such a member described in subparagraph (A), (D), or (I) of section 1072(2) of title 10, United States Code, covered under, a health benefits plan under subsection (b).

"(3) The term 'eligible reserve component member' means a member of the Selected Reserve of the

Ready Reserve of an Armed Force.

"(4) The term 'extended health care option' means the program of extended benefits under subsections (d) and (e) of section 1079 of title 10, United States Code.

"(5) The term 'Federal Employees Health Benefits Program' means the health insurance program under chapter 89 of title 5, United States Code.

"(6) The term 'qualified carrier' means an insurance carrier that is licensed to issue group health insurance in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and any territory or possession of the United States."

**CALCULATION OF MONTHLY PREMIUMS FOR 2009**

Pub. L. 110–417, [div. A], title VII, §704(b), Oct. 14, 2008, 122 Stat. 4499, provided that: "For purposes of section 1076d(d)(3) of title 10, United States Code, the appropriate actuarial basis for purposes of subparagraph (A) of that section shall be determined for calendar year 2009 by utilizing the reported cost of providing benefits under that section to members and their dependents during calendar years 2006 and 2007, except that the monthly amount of the premium determined pursuant to this subsection may not exceed the amount in effect for the month of March 2007."

**IMPLEMENTATION**

Pub. L. 108–375, div. A, title VII, §701(b), Oct. 28, 2004, 118 Stat. 1981, provided that:

"(1) The Secretary of Defense shall implement section 1076d of title 10, United States Code, not later than 180 days after the date of the enactment of this Act [Oct. 28, 2004].

"(2)(A) A member of a reserve component of the Armed Forces who performed active-duty service described in subsection (a) of section 1076d of title 10, United States Code, for a period beginning on or after September 11, 2001, and was released from that active-duty service before the date of the enactment of this Act, or is released from that active-duty service on or within 180 days after the date of the enactment of this Act, may, for the purpose of paragraph (2) of such subsection, enter into an agreement described in such paragraph not later than one year after the date of the enactment of this Act. TRICARE Standard coverage (under such section 1076d) of a member who enters into such an agreement under this paragraph shall begin on the later of—

"(i) the date applicable to the member under subsection (b) of such section; or

"(ii) the date of the agreement.

"(B) The Secretary of Defense shall take such action as is necessary to ensure, to the maximum extent practicable, that members of the reserve components eligible to enter into an agreement as provided in subparagraph (A) actually receive information on the opportunity and procedures for entering into such an agreement together with a clear explanation of the benefits that the members are eligible to receive as a result of entering into such an agreement under section 1076d of title 10, United States Code."

## §1076e. TRICARE program: TRICARE Retired Reserve coverage for certain members of the Retired Reserve who are qualified for a non-regular retirement but are not yet age 60

(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member of the Retired Reserve of a reserve component of the armed forces who is qualified for a non-regular retirement at age 60 under chapter 1223 of this title, but is not age 60, is eligible for health benefits under TRICARE Retired Reserve as provided in this section.

(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) TERMINATION OF ELIGIBILITY UPON OBTAINING OTHER TRICARE COVERAGE .—Eligibility for TRICARE Retired Reserve coverage of a member under this section shall terminate upon the member becoming eligible for TRICARE coverage at age 60 under section 1086 of this title.

(c) FAMILY MEMBERS.—While a member of a reserve component is covered by TRICARE Retired Reserve under this section, the members of the immediate family of such member are eligible for TRICARE Retired Reserve coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Retired Reserve coverage under

this section shall continue for the same period of time that would be provided under section 1086 of this title if the member had been eligible at the time of death for TRICARE coverage under such section (instead of under this section).

(d) PREMIUMS.—(1) A member of a reserve component covered by TRICARE Retired Reserve under this section shall pay a premium for that coverage. Such premium shall apply instead of any enrollment fees required under section 1075 of this title.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE Retired Reserve coverage of members without dependents and one premium for TRICARE Retired Reserve coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all members of the reserve components covered under this section.

(3) The monthly amount of the premium in effect for a month for TRICARE Retired Reserve coverage under this section shall be the amount equal to the cost of coverage that the Secretary determines on an appropriate actuarial basis.

(4) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) DEFINITIONS.—In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE Retired Reserve" means—

(A) medical care at facilities of the uniformed services to which a dependent described in section 1076(a)(2) of this title is entitled; and

(B) health benefits under the TRICARE Select self-managed, preferred provider network option under section 1075 of this title made available to beneficiaries by reason of this section and subject to the cost-sharing requirements set forth in such section 1075.

(Added Pub. L. 111–84, div. A, title VII, §705(a), Oct. 28, 2009, 123 Stat. 2374; Pub. L. 114–328, div. A, title VII, §701(j)(1)(C), Dec. 23, 2016, 130 Stat. 2192; Pub. L. 115–91, div. A, title VII, §701(b), Dec. 12, 2017, 131 Stat. 1432; Pub. L. 116–92, div. A, title XVII, §1731(a)(25), Dec. 20, 2019, 133 Stat. 1813.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (d)(1). Pub. L. 116–92 substituted "section 1075 of this title" for "section 1075 of this section".

**2017**—Subsec. (b). Pub. L. 115–91, §701(b)(1), struck out "Retired Reserve" after "TRICARE" in heading. See first 2016 Amendment note for subsec. (b) below.

Subsec. (c). Pub. L. 115–91, §701(b)(2), struck out "Retired Reserve" before "coverage under such section" in last sentence.

Subsec. (f)(2). Pub. L. 115–91, §701(b)(3), added par. (2) and struck out former par. (2) which read as follows: "The term 'TRICARE Retired Reserve' means the TRICARE Select self-managed, preferred-provider network option under section 1075 made available to beneficiaries by reason of this section and in accordance with subsection (d)(1)."

**2016**—Pub. L. 114–328, §701(j)(1)(C)(iv), substituted "TRICARE Retired Reserve" for "TRICARE Standard" in section catchline and wherever appearing in text.

Subsec. (b). Pub. L. 114–328, §701(j)(1)(C)(iv), which directed substitution of "TRICARE Retired Reserve" for "TRICARE Standard" wherever appearing in text, was also executed to heading of subsec. (b) to

reflect the probable intent of Congress and the subsequent amendment by Pub. L. 115–91, §701(b)(1), which could be executed only if the substitution had taken place.

Pub. L. 114–328, §701(j)(1)(C)(iii), substituted "TRICARE coverage at" for "TRICARE Standard coverage at".

Subsec. (d)(1). Pub. L. 114–328, §701(j)(1)(C)(i), inserted at end "Such premium shall apply instead of any enrollment fees required under section 1075 of this section."

Subsec. (f)(2). Pub. L. 114–328, §701(j)(1)(C)(ii), added par. (2) and struck out former par. (2) which defined the term "TRICARE Standard".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

**EFFECTIVE DATE**

Pub. L. 111–84, div. A, title VII, §705(c), Oct. 28, 2009, 123 Stat. 2375, provided that: "Section 1076e of title 10, United States Code, as inserted by subsection (a), shall apply to coverage for months beginning on or after October 1, 2009, or such earlier date as the Secretary of Defense may specify."

## §1076f. TRICARE program: extension of coverage for certain members of the National Guard and dependents during certain disaster response duty

(a) EXTENDED COVERAGE.—During a period in which a member of the National Guard is performing disaster response duty, the member may be treated as being on active duty for a period of more than 30 days for purposes of the eligibility of the member and dependents of the member for health care benefits under the TRICARE program if such period immediately follows a period in which the member served on full-time National Guard duty under section 502(f) of title 32, including pursuant to chapter 9 of such title, unless the Governor of the State (or, with respect to the District of Columbia, the mayor of the District of Columbia) determines that such extended eligibility is not in the best interest of the member or the State.

(b) CONTRIBUTION BY STATE.—(1) The Secretary shall charge a State for the costs of providing coverage under the TRICARE program to members of the National Guard of the State and the dependents of the members pursuant to subsection (a). Such charges shall be paid from the funds of the State or from any other non-Federal funds.

(2) Any amounts received by the Secretary under paragraph (1) shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section, including to carry out subsection (a) of this section.

(c) DEFINITIONS.—In this section:

(1) The term "disaster response duty" means duty performed by a member of the National Guard in State status pursuant to an emergency declaration by the Governor of the State (or, with respect to the District of Columbia, the mayor of the District of Columbia) in response to a disaster or in preparation for an imminent disaster.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Added Pub. L. 114–328, div. A, title VII, §711(a), Dec. 23, 2016, 130 Stat. 2213.)

## §1077. Medical care for dependents: authorized care in facilities of uniformed services

(a) Only the following types of health care may be provided under section 1076 of this title:
(1) Hospitalization.
(2) Outpatient care.
(3) Drugs, including, in accordance with subsection (h), medically necessary vitamins.
(4) Treatment of medical and surgical conditions.
(5) Treatment of nervous, mental, and chronic conditions.
(6) Treatment of contagious diseases.
(7) Physical examinations, including eye examinations, and immunizations.
(8) Maternity and infant care, including well-baby care that includes one screening of an infant for the level of lead in the blood of the infant.
(9) Diagnostic tests and services, including laboratory and X-ray examinations.
(10) Dental care.
(11) Ambulance service and home calls when medically necessary.
(12) Durable equipment, which may be provided on a loan basis.
(13) Primary and preventive health care services for women (as defined in section 1074d(b) of this title).
(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.
(15) Prosthetic devices, as determined by the Secretary of Defense to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease.
(16) Except as provided by subsection (g), a hearing aid, but only if the dependent has a profound hearing loss, as determined under standards prescribed in regulations by the Secretary of Defense in consultation with the administering Secretaries, and only for the following dependents:
(A) A dependent of a member of the uniformed services on active duty.
(B) A dependent under subparagraph (D) or (I) of section 1072(2) of this title of a former member of the uniformed services who—
(i) is entitled to retired or retainer pay, or equivalent pay; and
(ii) is enrolled in family coverage under TRICARE Prime.

(17) Any rehabilitative therapy to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient when prescribed by a physician.
(18) In accordance with subsection (h), medically necessary food and the medical equipment and supplies necessary to administer such food (other than durable medical equipment and supplies).

(b) The following types of health care may not be provided under section 1076 of this title:
(1) Domiciliary or custodial care.
(2) Orthopedic footwear and spectacles, except that, outside of the United States and at stations inside the United States where adequate civilian facilities are unavailable, such items may be sold to dependents at cost to the United States.
(3) The elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

(c)(1) Except as specified in paragraphs (2) and (3), a dependent participating under a dental plan established under section 1076a of this title may not be provided dental care under section 1076(a) of this title except for emergency dental care, dental care provided outside the United States, and dental care that is not covered by such plan.
(2)(A) Dependents who are 12 years of age or younger and are covered by a dental plan established under section 1076a of this title may be treated by postgraduate dental residents in a dental treatment facility of the uniformed services under a graduate dental education program accredited by the American Dental Association if—
(i) treatment of pediatric dental patients is necessary in order to satisfy an accreditation standard of the American Dental Association that is applicable to such program, or training in pediatric

dental care is necessary for the residents to be professionally qualified to provide dental care for dependent children accompanying members of the uniformed services outside the United States; and

(ii) the number of pediatric patients at such facility is insufficient to support satisfaction of the accreditation or professional requirements in pediatric dental care that apply to such program or students.

(B) The total number of dependents treated in all facilities of the uniformed services under subparagraph (A) in a fiscal year may not exceed 2,000.

(3)(A) Dependents who reside within a specified geographic area and are covered by a dental plan established under section 1076a may receive dental care in a dental treatment facility of the uniformed services on a space available basis if the Secretary of Defense determines that—

(i) civilian dental care within the specified geographic area is inadequate or is not sufficiently available; and

(ii) adequate resources exist to provide space available dental care to the dependents at the facility.

(B) Care under subparagraph (A) shall be provided on a reimbursable basis.

(d)(1) Notwithstanding subsection (b)(1), hospice care may be provided under section 1076 of this title in facilities of the uniformed services to a terminally ill patient who chooses (pursuant to regulations prescribed by the Secretary of Defense in consultation with the other administering Secretaries) to receive hospice care rather than continuing hospitalization or other health care services for treatment of the patient's terminal illness.

(2) In this section, the term "hospice care" means the items and services described in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(e)(1) Authority to provide a prosthetic device under subsection (a)(15) includes authority to provide the following:

(A) Any accessory or item of supply that is used in conjunction with the device for the purpose of achieving therapeutic benefit and proper functioning.

(B) Services necessary to train the recipient of the device in the use of the device.

(C) Repair of the device for normal wear and tear or damage.

(D) Replacement of the device if the device is lost or irreparably damaged or the cost of repair would exceed 60 percent of the cost of replacement.

(2) An augmentative communication device may be provided as a voice prosthesis under subsection (a)(15).

(3) A prosthetic device customized for a patient may be provided under this section only by a prosthetic practitioner who is qualified to customize the device, as determined under regulations prescribed by the Secretary of Defense in consultation with the administering Secretaries.

(f)(1) Items that may be provided to a patient under subsection (a)(12) include the following:

(A) Any durable medical equipment that can improve, restore, or maintain the function of a malformed, diseased, or injured body part, or can otherwise minimize or prevent the deterioration of the patient's function or condition.

(B) Any durable medical equipment that can maximize the patient's function consistent with the patient's physiological or medical needs.

(C) Wheelchairs.

(D) Iron lungs.

(E) Hospital beds.

(2) In addition to the authority to provide durable medical equipment under subsection (a)(12), any customization of equipment owned by the patient that is durable medical equipment authorized to be

provided to the patient under this section or section 1079(a)(5) of this title, and any accessory or item of supply for any such equipment, may be provided to the patient if the customization, accessory, or item of supply is essential for—

(A) achieving therapeutic benefit for the patient;

(B) making the equipment serviceable; or

(C) otherwise assuring the proper functioning of the equipment.

(g)(1) In addition to the authority to provide a hearing aid under subsection (a)(16), hearing aids may be sold under this section to dependents eligible for care under this section at cost to the United States.

(2) For purposes of selling hearing aids at cost to the United States under paragraph (1), a dependent of a member of the reserve components who is enrolled in the TRICARE program under section 1076d of this title shall be deemed to be a dependent eligible for care under this section.

(h)(1) Vitamins that may be provided under subsection (a)(3) are vitamins used for the management of a covered disease or condition pursuant to the prescription, order, or recommendation (as applicable) of a physician or other health care professional qualified to make such prescription, order, or recommendation.

(2) Medically necessary food that may be provided under subsection (a)(18)—

(A) is food, including a low protein modified food product or an amino acid preparation product, that is—

(i) furnished pursuant to the prescription, order, or recommendation (as applicable) of a physician or other health care professional qualified to make such prescription, order, or recommendation, for the dietary management of a covered disease or condition;

(ii) a specially formulated and processed product (as opposed to a naturally occurring foodstuff used in its natural state) for the partial or exclusive feeding of an individual by means of oral intake or enteral feeding by tube;

(iii) intended for the dietary management of an individual who, because of therapeutic or chronic medical needs, has limited or impaired capacity to ingest, digest, absorb, or metabolize ordinary foodstuffs or certain nutrients, or who has other special medically determined nutrient requirements, the dietary management of which cannot be achieved by the modification of the normal diet alone;

(iv) intended to be used under medical supervision, which may include in a home setting; and

(v) intended only for an individual receiving active and ongoing medical supervision under which the individual requires medical care on a recurring basis for, among other things, instructions on the use of the food; and

(B) may not include—

(i) food taken as part of an overall diet designed to reduce the risk of a disease or medical condition or as weight-loss products, even if the food is recommended by a physician or other health care professional;

(ii) food marketed as gluten-free for the management of celiac disease or non-celiac gluten sensitivity;

(iii) food marketed for the management of diabetes; or

(iv) such other products as the Secretary determines appropriate.

(3) In this subsection, the term "covered disease or condition" means—

(A) inborn errors of metabolism;

(B) medical conditions of malabsorption;

(C) pathologies of the alimentary tract or the gastrointestinal tract;

(D) a neurological or physiological condition; and

(E) such other diseases or conditions the Secretary determines appropriate.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended Pub. L. 89–614, §2(4), Sept. 30, 1966, 80 Stat. 863; Pub. L. 98–525, title VI, §633(a), title XIV, §§1401(e)(3), 1405(22),

Oct. 19, 1984, 98 Stat. 2544, 2617, 2623; Pub. L. 99–145, title VI, §651(b), Nov. 8, 1985, 99 Stat. 656; Pub. L. 102–190, div. A, title VII, §§702(a), 703, Dec. 5, 1991, 105 Stat. 1400, 1401; Pub. L. 103–160, div. A, title VII, §701(b), Nov. 30, 1993, 107 Stat. 1686; Pub. L. 103–337, div. A, title VII, §§703(b), 705, Oct. 5, 1994, 108 Stat. 2798, 2799; Pub. L. 104–201, div. A, title VII, §701(b)(1), Sept. 23, 1996, 110 Stat. 2587; Pub. L. 105–85, div. A, title VII, §702, Nov. 18, 1997, 111 Stat. 1807; Pub. L. 107–107, div. A, title VII, §§702, 703(a), 704, Dec. 28, 2001, 115 Stat. 1161, 1162; Pub. L. 108–375, div. A, title VII, §715, Oct. 28, 2004, 118 Stat. 1985; Pub. L. 114–328, div. A, title VII, §§713, 714(a), Dec. 23, 2016, 130 Stat. 2220; Pub. L. 115–91, div. A, title VII, §739(c), Dec. 12, 2017, 131 Stat. 1447; Pub. L. 116–283, div. A, title VII, §705, Jan. 1, 2021, 134 Stat. 3689; Pub. L. 118–31, div. A, title VII, §§703, 704, Dec. 22, 2023, 137 Stat. 300.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1077(a) | 37:403(f). | June 7, 1956, ch. 374, §103(f), (g), (h), 70 Stat. 251, 252. |
| 1077(b) | 37:403(g). | |
| 1077(c) | 37:403(h) (less clause (4)). | |
| 1077(d) | 37:403(h) (clause (4)). | |

In subsection (a), clause (6) is inserted to reflect subsection (b).

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (b)(3) of this section were contained in the following appropriation acts:

Pub. L. 98–473, title I, §101(h) [title VIII, §8045], Oct. 12, 1984, 98 Stat. 1904, 1931.

Pub. L. 98–212, title VII, §752, Dec. 8, 1983, 97 Stat. 1447.

Pub. L. 97–377, title I, §101(c) [title VII, §756], Dec. 21, 1982, 96 Stat. 1833, 1860.

Pub. L. 97–114, title VII, §759, Dec. 29, 1981, 95 Stat. 1588.

Pub. L. 96–527, title VII, §763, Dec. 15, 1980, 94 Stat. 3092.

Pub. L. 96–154, title VII, §769, Dec. 21, 1979, 93 Stat. 1163.

A prior section 1077, act Aug. 10, 1956, ch. 1041, 70A Stat. 84, related to distribution of ballots, envelopes, and voting instructions, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2023**—Subsec. (a)(16). Pub. L. 118–31, §703, amended par. (16) generally. Prior to amendment, par. (16) read as follows: "Except as provided by subsection (g), a hearing aid, but only for a dependent of a member of the uniformed services on active duty and only if the dependent has a profound hearing loss, as determined under standards prescribed in regulations by the Secretary of Defense in consultation with the administering Secretaries."

Subsec. (c)(1). Pub. L. 118–31, §704(1), substituted "paragraphs (2) and (3)" for "paragraph (2)".

Subsec. (c)(3). Pub. L. 118–31, §704(2), added par. (3).

**2021**—Subsec. (g). Pub. L. 116–283 designated existing provisions as par. (1) and added par. (2).

**2017**—Subsec. (a)(3), (18). Pub. L. 115–91, §739(c)(1), substituted "subsection (h)" for "subsection (g)".

Subsec. (g). Pub. L. 115–91, §739(c)(2), substituted "dependents eligible for care under this section" for "dependents of former members of the uniformed services".

**2016**—Subsec. (a)(3). Pub. L. 114–328, §714(a)(1)(A), inserted before period at end ", including, in accordance with subsection (g), medically necessary vitamins".

Subsec. (a)(16). Pub. L. 114–328, §713(1), substituted "Except as provided by subsection (g), a hearing aid" for "A hearing aid".

Subsec. (a)(18). Pub. L. 114–328, §714(a)(1)(B), added par. (18).

Subsec. (g). Pub. L. 114–328, §713(2), added subsec. (g).

Subsec. (h). Pub. L. 114–328, §714(a)(2), added subsec. (h).

**2004**—Subsec. (c). Pub. L. 108–375 designated existing provisions as par. (1), substituted "Except as

specified in paragraph (2), a" for "A", and added par. (2).

**2001**—Subsec. (a)(12). Pub. L. 107–107, §703(a)(1), substituted "which" for "such as wheelchairs, iron lungs, and hospital beds".

Subsec. (a)(16). Pub. L. 107–107, §702(1), added par. (16).

Subsec. (a)(17). Pub. L. 107–107, §704, added par. (17).

Subsec. (b)(2). Pub. L. 107–107, §702(2), substituted "Orthopedic footwear" for "Hearing aids, orthopedic footwear,".

Subsec. (e). Pub. L. 107–107, §702(3), added subsec. (e).

Subsec. (f). Pub. L. 107–107, §703(a)(2), added subsec. (f).

**1997**—Subsec. (a)(15). Pub. L. 105–85, §702(a), added cl. (15).

Subsec. (b)(2). Pub. L. 105–85, §702(b), added par. (2) and struck out former par. (2) which read as follows: "Prosthetic devices, hearing aids, orthopedic footwear, and spectacles except that—

"(A) outside the United States and at stations inside the United States where adequate civilian facilities are unavailable, such items may be sold to dependents at cost to the United States, and

"(B) artificial limbs, voice prostheses, and artificial eyes may be provided."

**1996**—Subsec. (a)(14). Pub. L. 104–201 added cl. (14).

**1994**—Subsec. (b)(2)(B). Pub. L. 103–337, §705, inserted ", voice prostheses," after "artificial limbs".

Subsec. (c). Pub. L. 103–337, §703(b), substituted ", dental care provided outside the United States, and dental care" for "and care".

**1993**—Subsec. (a)(13). Pub. L. 103–160 added cl. (13).

**1991**—Subsec. (a)(8). Pub. L. 102–190, §703, inserted before period at end ", including well-baby care that includes one screening of an infant for the level of lead in the blood of the infant".

Subsec. (d). Pub. L. 102–190, §702(a), added subsec. (d).

**1985**—Subsec. (c). Pub. L. 99–145 added subsec. (c).

**1984**—Pub. L. 98–525, §1405(22), substituted a colon for the semicolon in section catchline.

Subsec. (a)(10). Pub. L. 98–525, §633(a)(1), added cl. (10). Former cl. (10) "Emergency dental care worldwide." was struck out.

Subsec. (a)(11). Pub. L. 98–525, §633(a)(1), redesignated cl. (13) as (11). Former cl. (11) "Routine dental care outside the United States and at stations in the United States where adequate civilian facilities are unavailable." was struck out.

Subsec. (a)(12). Pub. L. 98–525, §633(a)(1), redesignated cl. (14) as (12). Former cl. (12) "Dental care worldwide as a necessary adjunct of medical, surgical, or preventive treatment." was struck out.

Subsec. (a)(13), (14). Pub. L. 98–525, §633(a)(2), redesignated cls. (13) and (14) as cls. (11) and (12), respectively.

Subsec. (b)(3). Pub. L. 98–525, §1401(e)(3), added par. (3).

**1966**—Pub. L. 89–614 authorized an improved health benefits program for dependents of active duty members of the uniformed services in facilities of such services, expanding health care to be provided to include: hospitalization, outpatient care, and drugs in clauses (1) to (3) of subsec. (a) (hospitalization being limited by former subsec. (b) to treatment of nervous or mental disturbances or chronic diseases or for elective medical and surgical treatment to one year period in special cases); treatment of mental and surgical conditions in clause (4) minus acute condition restriction of former subsec. (a)(2); treatment of nervous, mental, and chronic conditions in clause (5) formerly restricted as stated above; clause (6) reenactment of former subsec. (a)(3); physical, including eye, examinations in clause (7) reenacting former subsec. (a)(4) immunization provisions; clause (8) reenactment of former subsec. (a)(5); diagnostic tests and services, including laboratory and X-ray examinations (diagnosis being covered in former subsec. (a)(1)); dental care provisions in clauses (10) to (12) (provided in former subsec. (d)) as (1) emergency care to relieve pain and suffering, but not including permanent restorative work or dental prosthesis, (2) care as a necessary adjunct to medical or surgical treatment, and care outside the United States, and in remote areas inside the United States, where adequate civilian facilities are unavailable; ambulance service and home calls in clause 13 (covering former subsec. (c)(2), (3)); durable equipment on loan basis in clause (14); and to exclude in subsec. (b)(1) (incorporating last sentence of former subsec. (b)) custodial care; subsec. (b)(2)(A) reenactment of former subsec. (e)(1); and permitted in subsec. (b)(2)(B) artificial limbs and eyes to be provided.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VII, §714(b), Dec. 23, 2016, 130 Stat. 2221, provided that: "The amendments

made by subsection (a) [amending this section] shall apply to health care provided under chapter 55 of such title [meaning title 10, United States Code] on or after the date that is one year after the date of the enactment of this Act [Dec. 23, 2016]."

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title VI, §633(b), Oct. 19, 1984, 98 Stat. 2544, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 1985."

Amendment by section 1401(e)(3) of Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

## EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## LEAD LEVEL SCREENING AND TESTING FOR CHILDREN

Pub. L. 116–92, div. A, title VII, §703, Dec. 20, 2019, 133 Stat. 1437, provided that:

"(a) COMPREHENSIVE SCREENING, TESTING, AND REPORTING GUIDELINES.—

"(1) IN GENERAL.—The Secretary of Defense shall establish clinical practice guidelines for health care providers employed by the Department of Defense on screening, testing, and reporting of blood lead levels in children.

"(2) USE OF CDC RECOMMENDATIONS.—Guidelines established under paragraph (1) shall reflect recommendations made by the Centers for Disease Control and Prevention with respect to the screening, testing, and reporting of blood lead levels in children.

"(3) DISSEMINATION OF GUIDELINES.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall disseminate the clinical practice guidelines established under paragraph (1) to health care providers of the Department of Defense.

"(b) CARE PROVIDED IN ACCORDANCE WITH CDC GUIDANCE.—The Secretary shall ensure that any care provided by the Department of Defense to a child for an elevated blood lead level shall be carried out in accordance with applicable guidance issued by the Centers for Disease Control and Prevention.

"(c) SHARING OF RESULTS OF TESTING.—

"(1) IN GENERAL.—With respect to a child who receives from the Department of Defense a test for an elevated blood lead level—

"(A) the Secretary shall provide the results of the test to the parent or guardian of the child; and

"(B) notwithstanding any requirements for the confidentiality of health information under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) [see Tables for classification], if the results of the test show an abnormal blood lead level or elevated blood lead level, the Secretary shall provide those results and the address at which the child resides to—

"(i) the relevant health department of the State in which the child resides if the child resides in the United States; or

"(ii) if the child resides outside the United States—

"(I) the Centers for Disease Control and Prevention;

"(II) the appropriate authority of the country in which the child resides; and

"(III) the primary provider of health care for the child for follow-up.

"(2) STATE DEFINED.—In this subsection, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) REPORT.—Not later than January 1, 2021, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing, with respect to the period beginning on the date of the enactment of this Act and ending on the date of the report, the following:

"(1) The number of children who were tested by the Department of Defense for the level of lead in the blood of the child, and of such number, the number who were found to have an elevated blood lead level.

"(2) The number of children who were screened by the Department of Defense for an elevated risk of lead exposure.

"(e) COMPTROLLER GENERAL REPORT.—Not later than January 1, 2022, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the effectiveness of screening and testing for lead exposure and elevated blood lead levels under chapter 55 of title 10, United States Code.

"(f) DEFINITIONS.—In this section, the terms 'abnormal blood lead level' and 'elevated blood lead level' have the meanings given those terms by the Centers for Disease Control and Prevention."

## STUDY, PLAN, AND PILOT FOR THE MENTAL HEALTH CARE NEEDS OF DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES

Pub. L. 111–84, div. A, title VII, §722, Oct. 28, 2009, 123 Stat. 2387, provided that:

"(a) REPORT AND PLAN ON THE MENTAL HEALTH CARE AND COUNSELING SERVICES AVAILABLE TO MILITARY CHILDREN.—

"(1) IN GENERAL.—The Secretary of Defense shall conduct a comprehensive review of the mental health care and counseling services available to dependent children of members of the Armed Forces through the Department of Defense.

"(2) ELEMENTS.—The review under paragraph (1) shall include an assessment of the following:

"(A) The availability, quality, and effectiveness of Department of Defense programs intended to meet the mental health care needs of military children.

"(B) The availability, quality, and effectiveness of Department of Defense programs intended to promote resiliency in military children in coping with deployment cycles, injury, or death of military parents.

"(C) The extent of access to, adequacy, and availability of mental health care and counseling services for military children in military medical treatment facilities, in family assistance centers, through Military OneSource, under the TRICARE program, and in Department of Defense Education Activity schools.

"(D) Whether the status of a member of the Armed Forces on active duty, or in reserve active status, affects the access of a military child to mental health care and counseling services.

"(E) Whether, and to what extent, waiting lists, geographic distance, and other factors may obstruct the receipt by military children of mental health care and counseling services.

"(F) The extent of access to, availability, and viability of specialized mental health care for military children (including adolescents).

"(G) The extent of any gaps in the current capabilities of the Department of Defense to provide preventive mental health services for military children.

"(H) Such other matters as the Secretary considers appropriate.

"(3) REPORT.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review conducted under paragraph (1), including the findings and recommendations of the Secretary as a result of the review.

"(b) COMPREHENSIVE PLAN FOR IMPROVEMENTS IN ACCESS TO CARE AND COUNSELING .—The Secretary shall develop and implement a comprehensive plan for improvements in access to quality mental health care and counseling services for military children in order to develop and promote psychological health and resilience in children of deploying and deployed members of the Armed Forces. The information in the report required by subsection (a) shall provide the basis for the development of the plan.

"(c) PILOT PROGRAM.—

"(1) ELEMENTS.—The Secretary of the Army shall carry out a pilot program on the mental health care needs of military children and adolescents. In carrying out the pilot program, the Secretary shall establish a center to—

"(A) develop teams to train primary care managers in mental health evaluations and treatment of common psychiatric disorders affecting children and adolescents;

"(B) develop strategies to reduce barriers to accessing behavioral health services and encourage better use of the programs and services by children and adolescents; and

"(C) expand the evaluation of mental health care using common indicators, including—

"(i) psychiatric hospitalization rates;

"(ii) non-psychiatric hospitalization rates; and

"(iii) mental health relative value units.

"(2) REPORTS.—

"(A) Not later than 90 days after establishing the pilot program, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the—

"(i) structure and mission of the program; and

"(ii) the resources allocated to the program.

"(B) Not later than September 30, 2012, the Secretary of the Army shall submit to the congressional defense committees a report that addresses the elements described under paragraph (1)."

## PROGRAM FOR MENTAL HEALTH AWARENESS FOR DEPENDENTS AND PILOT PROJECT

**ON POST TRAUMATIC STRESS DISORDER**

Pub. L. 109–163, div. A, title VII, §721, Jan. 6, 2006, 119 Stat. 3346, directed the Secretary of Defense, no later than one year after Jan. 6, 2006, to develop a program to increase awareness of mental health services for, and warning signs about mental health problems in, dependents of service members who have served or will serve in combat theaters and directed the Secretary to carry out a pilot project to evaluate internet-based early diagnosis and treatment of post traumatic stress disorder and other mental health conditions and report to Congress no later than June 1, 2006.

**PROVISION OF DOMICILIARY AND CUSTODIAL CARE FOR CERTAIN CHAMPUS BENEFICIARIES**

Pub. L. 106–65, div. A, title VII, §703, Oct. 5, 1999, 113 Stat. 682, as amended by Pub. L. 106–398, §1 [[div. A], title VII, § 701(a), (b), (c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–172, related to the continued provision of domiciliary and custodial care for certain CHAMPUS beneficiaries, prohibited the establishment of a limited transition period for such program, required a survey and report of case management and custodial care policies, and provided for cost limitations for each fiscal year, prior to repeal by Pub. L. 107–107, div. A, title VII, §701(g)(1)(A), Dec. 28, 2001, 115 Stat. 1161.

**OBSTETRICAL CARE FACILITIES**

Pub. L. 89–188, title VI, §610, Sept. 16, 1965, 79 Stat. 818, required that military hospitals in the United States and its possessions be constructed so as to include facilities for obstetrical care, prior to repeal by Pub. L. 97–214, §7(7), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982.

## §1077a. Access to military medical treatment facilities and other facilities

(a) URGENT CARE.—(1) The Secretary of Defense shall ensure that military medical treatment facilities, at locations the Secretary determines appropriate, provide urgent care services for members of the armed forces and covered beneficiaries until 11:00 p.m. each day.

(2) With respect to areas in which a military medical treatment facility covered by paragraph (1) is not located, the Secretary shall ensure that members of the armed forces and covered beneficiaries may access urgent care clinics through the health care provider network under the TRICARE program.

(3) A covered beneficiary may access urgent care services without the need for preauthorization for such services.

(4) The Secretary shall—

(A) publish information about changes in access to urgent care under the TRICARE program—

(i) on the primary publicly available Internet website of the Department; and

(ii) on the primary publicly available Internet website of each military medical treatment facility; and

(B) ensure that such information is made available on the publicly available Internet website of each current managed care support contractor that has established a health care provider network under the TRICARE program.

(b) NURSE ADVICE LINE.—The Secretary shall ensure that the nurse advice line of the Department directs covered beneficiaries seeking access to care to the source of the most appropriate level of health care required to treat the medical conditions of the beneficiaries, including urgent care services described in subsection (a).

(c) PRIMARY CARE CLINICS.—(1) The Secretary shall ensure that primary care clinics at military medical treatment facilities are available for members of the armed forces and covered beneficiaries between the hours determined appropriate under paragraph (2), including with respect to expanded hours described in subparagraph (B) of such paragraph.

(2)(A) The Secretary shall determine the hours that each primary care clinic at a military medical treatment facility is available for members of the armed forces and covered beneficiaries based on—

(i) the needs of the military medical treatment facility to meet the access standards under the TRICARE Prime program; and

(ii) the primary care utilization patterns of members and covered beneficiaries at such military medical treatment facility.

(B) The primary care clinic hours at a military medical treatment facility determined under subparagraph (A) shall include expanded hours beyond regular business hours during weekdays and the weekend if the Secretary determines under such subparagraph that sufficient demand exists at the military medical treatment facility for such expanded primary care clinic hours.

(Added Pub. L. 114–328, div. A, title VII, §704(a), Dec. 23, 2016, 130 Stat. 2200.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION**

Pub. L. 114–328, div. A, title VII, §704(c), Dec. 23, 2016, 130 Stat. 2201, provided that: "The Secretary of Defense shall implement—

"(1) subsection (a) of section 1077a of title 10, United States Code, as added by subsection (a) of this section, by not later than one year after the date of the enactment of this Act [Dec. 23, 2016]; and

"(2) subsection (c) of such section by not later than 180 days after the date of the enactment of this Act."

## §1078. Medical and dental care for dependents: charges

(a) The Secretary of Defense, after consulting the other administering Secretaries, shall prescribe fair charges for inpatient medical and dental care given to dependents under section 1076 of this title. The charge or charges prescribed shall be applied equally to all classes of dependents.

(b) As a restraint on excessive demands for medical and dental care under section 1076 of this title, uniform minimal charges may be imposed for outpatient care. Charges may not be more than such amounts, if any, as the Secretary of Defense may prescribe after consulting the other administering Secretaries, and after a finding that such charges are necessary.

(c) Amounts received for subsistence and medical and dental care given under section 1076 of this title shall be deposited to the credit of the appropriation supporting the maintenance and operation of the facility furnishing the care.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1448; amended Pub. L. 89–614, §2(5), Sept. 30, 1966, 80 Stat. 863; Pub. L. 96–513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98–557, §19(6), Oct. 30, 1984, 98 Stat. 2869.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1078(a) | 37:403(c). | June 7, 1956, ch. 374, §103(c)(d), (e), 70 Stat. 251. |
| 1078(b) | 37:403(d). | |
| 1078(c) | 37:403(e). | |

Appropriate references are made to dental care throughout the section to reflect the fact that in certain limited situations, dependents are entitled to dental care under 37:403(h)(4), restated as section 1077(d) of this title.

In subsection (b), the word "special" is omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1078, act Aug. 10, 1956, ch. 1041, 70A Stat. 84, prescribed instructions for marking ballots, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**1984**—Subsecs. (a), (b). Pub. L. 98–557 substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

**1980**—Subsecs. (a), (b). Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**1966**—Subsec. (a). Pub. L. 89–614 substituted "The charge or charges prescribed shall be applied equally to all classes of dependents" for "Charges shall be the same for all dependents".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1966 AMENDMENT**

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## §1078a. Continued health benefits coverage

(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense shall implement and carry out a program of continued health benefits coverage in accordance with this section to provide persons described in subsection (b) with temporary health benefits comparable to the health benefits provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

(1) A member of the uniformed services who—

(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

(2) A member of the Selected Reserve of the Ready Reserve of a reserve component of the armed forces who—

(A) is discharged or released from service in the Selected Reserve, whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

(B) immediately preceding that discharge or release, is enrolled in TRICARE Reserve Select; and

(C) after that discharge or release, would not otherwise be eligible for any benefits under this chapter.

(3) A person who—

(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the uniformed services under section 1072(2)(D) of this title or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title;

(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) would not otherwise be eligible for any benefits under this chapter.

(4) A person who—

(A) is an unremarried former spouse of a member or former member of the uniformed services; and

(B) on the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) is not a dependent of the member or former member under subparagraph (F) or (G) of section 1072(2) of this title or ends a one-year period of dependency under subparagraph (H) of such section.

(5) Any other person specified in regulations prescribed by the Secretary of Defense for purposes of this paragraph who loses entitlement to health care services under this chapter or section 1145 of this title, subject to such terms and conditions as the Secretary shall prescribe in the regulations.

(c) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary of Defense shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1) or subsection (b)(2), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

(3) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the regulations shall provide that—

(A) the member or former member may submit to the Secretary concerned a written notice of the dependent's change in status (including the dependent's name, address, and such other information as the Secretary of Defense may require); and

(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the dependent of the dependent's rights under this section.

(4) In the case of a former spouse of a member or former member who becomes eligible for continued coverage under subsection (b)(4), the regulations shall provide appropriate notification provisions and a 60-day election period under subsection (d)(3).[1]

(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date of the discharge or release of the member from active duty or full-time National Guard duty;

(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

(C) the date the member receives the notification required pursuant to subsection (c).

(2) In the case of a member described in subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date of the discharge or release of the member from service in the Selected Reserve; and

(B) the date the member receives the notification required pursuant to subsection (c).

(3)(A) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(i) the date on which the dependent first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; or

(ii) the date the dependent receives the notification pursuant to subsection (c).

(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the dependent's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the dependent in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

(4) In the case of a former spouse of a member or a former member who becomes eligible for continued coverage under subsection (b)(4), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date as of which the former spouse first ceases to meet the requirements for being considered a dependent under section 1072(2) of this title; or

(B) such other date as the Secretary of Defense may prescribe.

(5) In the case of a person described in subsection (b)(5), by such date as the Secretary shall prescribe in the regulations required for purposes of that subsection.

(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) or subsection (b)(2) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(3) or subsection (b)(4) may elect only individual coverage.

(f) CHARGES.—(1) Under arrangements satisfactory to the Secretary of Defense, a person receiving continued coverage under this section shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the employee and agency contributions which would be required in the case of a similarly situated employee enrolled in a comparable health benefits plan under section 8905a(d)(1)(A)(i) of title 5; and

(B) an amount, not to exceed 10 percent of the amount determined under subparagraph (A), determined under regulations prescribed by the Secretary of Defense to be necessary for administrative expenses; and

(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (and any transitional extension of coverage under section 1145(a) of this title) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

(g) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be;

(B) in the case of a member described in subsection (b)(2), the date which is 18 months after the date the member ceases to be eligible to enroll in TRICARE Reserve Select;

(C) in the case of a person described in subsection (b)(3), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title;

(D) in the case of a person described in subsection (b)(4), except as provided in paragraph (4), the date which is 36 months after the later of—

(i) the date on which the final decree of divorce, dissolution, or annulment occurs; and

(ii) if applicable, the date the one-year extension of dependency under section 1072(2)(H) of this title expires; and

(E) in the case of a person described in subsection (b)(5), the date that is 36 months after the date on which the person loses entitlement to health care services as described in that subsection.

(2) Notwithstanding paragraph (1)(C), if a dependent of a member becomes eligible for continued coverage under subsection (b)(3) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the dependent under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(3) Notwithstanding paragraph (1)(D), if a person becomes eligible for continued coverage under subsection (b)(4) as the former spouse of a member during a period of continued coverage of the member for self and dependents under this section, extended coverage of the former spouse under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(4)(A) Notwithstanding paragraph (1), in the case of a former spouse described in subparagraph (B), continued coverage under this section shall continue for such period as the former spouse may request.

(B) A former spouse referred to in subparagraph (A) is a former spouse of a member or former member (other than a former spouse whose marriage was dissolved after the separation of the member from the service unless such separation was by retirement)—

(i) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved;

(ii) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the divorce, dissolution, or annulment; and

(iii)(I) who is receiving any portion of the retired or retainer pay of the member or former member or an annuity based on the retired or retainer pay of the member; or

(II) for whom a court order (as defined in section 1408(a)(2) of this title) has been issued for payment of any portion of the retired or retainer pay or for whom a court order (as defined in section 1447(13) of this title) or a written agreement (whether voluntary or pursuant to a court order) provides for an election by the member or former member to provide an annuity to the former spouse.

(h) TRICARE RESERVE SELECT DEFINED.—In this section, the term "TRICARE Reserve Select" means TRICARE Standard coverage provided under section 1076d of this title.

(Added Pub. L. 102–484, div. D, title XLIV, §4408(a)(1), Oct. 23, 1992, 106 Stat. 2708; amended Pub. L. 103–35, title II, §201(g)(1), May 31, 1993, 107 Stat. 99; Pub. L. 103–337, div. A, title VII, §702(c), Oct. 5, 1994, 108 Stat. 2798; Pub. L. 104–201, div. A, title X, §1074(a)(4), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105–85, div. A, title X, §1073(a)(17), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 108–136, div. A, title VII, §713(a), Nov. 24, 2003, 117 Stat. 1530; Pub. L. 110–181, div. A, title VII, §705, Jan. 28, 2008, 122 Stat. 189; Pub. L. 114–92, div. A, title VII, §703, Nov. 25, 2015, 129 Stat. 861.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Subsection (d)(3), referred to in subsec. (c)(4), was redesignated subsec. (d)(4) by Pub. L. 114–92, div. A, title VII, §703(c)(1), Nov. 25, 2015, 129 Stat. 861.

## AMENDMENTS

**2015**—Subsec. (b)(2) to (5). Pub. L. 114–92, §703(a), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (c)(2). Pub. L. 114–92, §703(b), inserted "or subsection (b)(2)" after "subsection (b)(1)".

Subsec. (c)(3). Pub. L. 114–92, §703(g)(1)(A), substituted "subsection (b)(3)" for "subsection (b)(2)" in introductory provisions.

Subsec. (c)(4). Pub. L. 114–92, §703(g)(1)(B), substituted "subsection (b)(4)" for "subsection (b)(3)".

Subsec. (d)(2). Pub. L. 114–92, §703(c)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 114–92, §703(c)(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (d)(3)(A). Pub. L. 114–92, §703(g)(2)(A), substituted "subsection (b)(3)" for "subsection (b)(2)" in introductory provisions.

Subsec. (d)(4). Pub. L. 114–92, §703(c)(1), (g)(2)(B), redesignated par. (3) as (4) and substituted "subsection (b)(4)" for "subsection (b)(3)" in introductory provisions. Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 114–92, §703(c)(1), (g)(2)(C), redesignated par. (4) as (5) and substituted "subsection (b)(5)" for "subsection (b)(4)".

Subsec. (e). Pub. L. 114–92, §703(d), (g)(3), inserted "or subsection (b)(2)" after "subsection (b)(1)" and substituted "subsection (b)(3) or subsection (b)(4)" for "subsection (b)(2) or subsection (b)(3)".

Subsec. (g)(1)(B). Pub. L. 114–92, §703(e)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (g)(1)(C). Pub. L. 114–92, §703(e)(1), (g)(4)(A)(i), redesignated subpar. (B) as (C) and substituted "subsection (b)(3)" for "subsection (b)(2)". Former subpar. (C) redesignated (D).

Subsec. (g)(1)(D). Pub. L. 114–92, §703(e)(1), (g)(4)(A)(ii), redesignated subpar. (C) as (D) and substituted "subsection (b)(4)" for "subsection (b)(3)" in introductory provisions. Former subpar. (D) redesignated (E).

Subsec. (g)(1)(E). Pub. L. 114–92, §703(e)(1), (g)(4)(A)(iii), redesignated subpar. (D) as (E) and substituted "subsection (b)(5)" for "subsection (b)(4)".

Subsec. (g)(2). Pub. L. 114–92, §703(g)(4)(B), substituted "paragraph (1)(C)" for "paragraph (1)(B)" and "subsection (b)(3)" for "subsection (b)(2)".

Subsec. (g)(3). Pub. L. 114–92, §703(g)(4)(C), substituted "paragraph (1)(D)" for "paragraph (1)(C)" and "subsection (b)(4)" for "subsection (b)(3)".

Subsec. (h). Pub. L. 114–92, §703(f), added subsec. (h).

**2008**—Subsec. (b)(4). Pub. L. 110–181, §705(a), added par. (4).

Subsec. (d)(4). Pub. L. 110–181, §705(b), added par. (4).

Subsec. (g)(1)(D). Pub. L. 110–181, §705(c), added subpar. (D).

**2003**—Subsec. (b)(1), (2)(A), (3)(A). Pub. L. 108–136 substituted "uniformed services" for "armed forces".

**1997**—Subsec. (g)(4)(B)(iii)(II). Pub. L. 105–85 substituted "section 1447(13)" for "section 1447(8)".

**1996**—Subsec. (a). Pub. L. 104–201 substituted "The Secretary" for "Beginning on October 1, 1994, the Secretary".

**1994**—Subsec. (b)(2)(A). Pub. L. 103–337, §702(c)(1), inserted before semicolon "or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title".

Subsec. (c)(3). Pub. L. 103–337, §702(c)(2), substituted "dependent" for "child" in two places and "dependent's" for "child's" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 103–337, §702(c)(3), substituted "a dependent" for "a child" in introductory provisions, "the dependent" for "the child" in cls. (i) and (ii), and "a dependent under subparagraph (D) or (I) of section 1072(2) of this title;" for "an unmarried dependent child under section 1072(2)(D) of this title," in cl. (i).

Subsec. (d)(2)(B). Pub. L. 103–337, §702(c)(4), substituted "dependent's" for "child's" and "dependent" for "child".

Subsec. (g)(1)(B). Pub. L. 103–337, §702(c)(5), substituted "a dependent under subparagraph (D) or (I) of section 1072(2) of this title" for "an unmarried dependent child under section 1072(2)(D) of this title".

Subsec. (g)(2). Pub. L. 103–337, §702(c)(6), substituted "dependent" for "child" in two places.

**1993**—Subsec. (b)(3)(C). Pub. L. 103–35, §201(g)(1)(A), substituted "subparagraph" for "subparagraphs" after "member under".

Subsec. (d)(2)(A). Pub. L. 103–35, §201(g)(1)(B), inserted "under" after "coverage".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VII, §713(b), Nov. 24, 2003, 117 Stat. 1531, provided that: "The amendments

made by subsection (a) [amending this section] shall apply to members of the uniformed services who are not otherwise covered by section 1078a of title 10, United States Code, before the date of the enactment of this Act [Nov. 24, 2003] and who, on or after such date, first meet the eligibility criteria specified in subsection (b) of that section."

[1] *See References in Text note below.*

## §1078b. Provision of food to certain members and dependents not receiving inpatient care in military medical treatment facilities

(a) IN GENERAL.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may provide food and beverages to an individual described in paragraph (2) at no cost to the individual.

(2) An individual described in this paragraph is the following:

(A) A member or former member of the uniformed services or dependent—

(i) who is receiving outpatient medical care at a military medical treatment facility; and

(ii) whom the Secretary determines is unable to purchase food and beverages while at such facility by virtue of receiving such care.

(B) A member or former member of the uniformed services or dependent—

(i) who is a family member of an infant receiving inpatient medical care at a military medical treatment facility;

(ii) who provides care to the infant while the infant receives such inpatient medical care; and

(iii) whom the Secretary determines is unable to purchase food and beverages while at such facility by virtue of providing such care to the infant.

(C) A member or former member of the uniformed services or dependent whom the Secretary determines is under similar circumstances as a member, former member, or dependent described in subparagraph (A) or (B).

(b) REGULATIONS.—The Secretary shall ensure that regulations prescribed under this section are consistent with generally accepted practices in private medical treatment facilities.

(Added Pub. L. 112–81, div. A, title VII, §704(a), Dec. 31, 2011, 125 Stat. 1472; amended Pub. L. 113–291, div. A, title VII, §705, Dec. 19, 2014, 128 Stat. 3413.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (a)(2). Pub. L. 113–291, §705(1), substituted "A member or former member" for "A member" wherever appearing.

Subsec. (a)(2)(C). Pub. L. 113–291, §705(2), substituted "member, former member, or dependent" for "member or dependent".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 112–81, div. A, title VII, §704(c), Dec. 31, 2011, 125 Stat. 1473, provided that: "The amendments made by this section [enacting this section] shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 31, 2011]."

## §1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

(1) With respect to dental care—

(A) except as provided in subparagraph (B), only that care required as a necessary adjunct to medical or surgical treatment may be provided; and

(B) in connection with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under, only institutional and anesthesia services may be provided.

(2) Consistent with such regulations as the Secretary of Defense may prescribe regarding the content of health promotion and disease prevention visits, the schedule and method of cervical cancer screenings and breast cancer screenings, the schedule and method of colon and prostate cancer screenings, and the types and schedule of immunizations—

(A) for dependents under six years of age, both health promotion and disease prevention visits and immunizations may be provided; and

(B) for dependents six years of age or older, health promotion and disease prevention visits may be provided in connection with immunizations or with diagnostic or preventive cervical and breast cancer screenings or colon and prostate cancer screenings.

(3) Not more than one eye examination may be provided to a patient in any calendar year.

(4) Under joint regulations to be prescribed by the administering Secretaries, the services of Christian Science practitioners and nurses and services obtained in Christian Science sanatoriums may be provided.

(5) Durable equipment provided under this section may be provided on a rental basis.

(6) Services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services.

(7) Services of pastoral counselors, family and child counselors, or marital counselors (other than certified marriage and family therapists) may not be provided unless the patient has been referred to the counselor by a medical doctor for treatment of a specific problem with the results of that treatment to be communicated back to the medical doctor who made the referral and services of certified marriage and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided.

(8) Special education may not be provided, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis.

(9) Therapy or counseling for sexual dysfunctions or sexual inadequacies may not be provided.

(10) Treatment of obesity may not be provided if obesity is the sole or major condition treated.

(11) Surgery which improves physical appearance but is not expected to significantly restore functions (including mammary augmentation, face lifts, and sex gender changes) may not be provided, except that—

(A) breast reconstructive surgery following a mastectomy may be provided;

(B) reconstructive surgery to correct serious deformities caused by congenital anomalies or accidental injuries may be provided; and

(C) neoplastic surgery may be provided.

(12) Any service or supply which is not medically or psychologically necessary to prevent,

diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, certified marriage and family therapist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, certified clinical social worker, or other class of provider as designated by the Secretary of Defense, as appropriate, may not be provided, except as authorized in paragraph (4). Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

(13) The prohibition contained in section 1077(b)(3) of this title shall not apply in the case of a member or former member of the uniformed services.

(14) Electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use may be provided if a physician prescribes and supervises the use of the monitor for an infant—

(A) who has had an apparent life-threatening event,

(B) who is a subsequent sibling of a victim of sudden infant death syndrome,

(C) whose birth weight was 1,500 grams or less, or

(D) who is a pre-term infant with pathologic apnea,

in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.

(15) Hospice care may be provided only in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)), except that hospice care may be provided to an individual under the age of 21 concurrently with health care services or hospitalization for the same condition.

(16) Forensic examinations following a sexual assault or domestic violence may be provided.

(17) Breastfeeding support, supplies (including breast pumps and associated equipment), and counseling shall be provided as appropriate during pregnancy and the postpartum period.

(18) Treatment for eating disorders may be provided in accordance with subsection (r).

(19) Preconception and prenatal carrier screening tests shall be provided to eligible covered beneficiaries, with a limit per beneficiary of one test per condition per lifetime, for the following conditions:

(A) Cystic Fibrosis.

(B) Spinal Muscular Atrophy.

(C) Fragile X Syndrome.

(D) Tay-Sachs Disease.

(E) Hemoglobinopathies.

(F) Conditions linked with Ashkenazi Jewish descent.

(20) Medical interventions for the treatment of gender dysphoria that could result in sterilization may not be provided to a child under the age of 18.

(b) Plans covered by subsection (a) shall include provisions for payment by the patient of the following amounts:

(1) $25 for each admission to a hospital, or the amount the patient would have been charged under section 1078(a) of this title had the care being paid for been obtained in a hospital of the uniformed services, whichever amount is the greater. The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(2) Except as provided in clause (3), the first $150 each calendar year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of all subsequent charges for such care during a calendar year. Notwithstanding the preceding

sentence, in the case of a dependent of an enlisted member in a pay grade below E–5, the initial deductible each calendar year under this paragraph shall be limited to $50.

(3) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $300 (or in the case of the family group of an enlisted member in a pay grade below E–5, the first $100) each calendar year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of the additional charges for such care during a calendar year.

(4) $25 for surgical care that is authorized by subsection (a) and received while in an outpatient status and that has been designated (under joint regulations to be prescribed by the administering Secretaries) as care to be treated as inpatient care for purposes of this subsection. Any care for which payment is made under this clause shall not be considered to be care received while in an outpatient status for purposes of clauses (2) and (3).

(5) An individual or family group of two or more persons covered by this section may not be required by reason of this subsection to pay a total of more than $1,000 for health care received during any calendar year under a plan under subsection (a).

(c) The methods for making payment under subsection (b) shall be prescribed under joint regulations issued by the administering Secretaries.

(d)(1) The Secretary of Defense shall establish a program to provide extended benefits for eligible dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible dependent. Registration shall be required to receive the extended benefits.

(2) The Secretary of Defense, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this subsection.

(3) In this subsection:

(A) The term "eligible dependent" means a dependent of a member of the uniformed services on active duty for a period of more than 30 days, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, who has a qualifying condition.

(B) The term "qualifying condition" means the condition of a dependent who is moderately or severely mentally retarded, has a serious physical disability, or has an extraordinary physical or psychological condition.

(e)(1) Extended benefits for eligible dependents under subsection (d) may include comprehensive health care services (including services necessary to maintain, or minimize or prevent deterioration of, function of the patient) and case management services with respect to the qualifying condition of such a dependent, and include, to the extent such benefits are not provided under provisions of this chapter other than under this section, the following:

(A) Diagnosis and screening.

(B) Inpatient, outpatient, and comprehensive home health care supplies and services which may include cost-effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act (42 U.S.C. 1395x)).

(C) Rehabilitation services and devices.

(D) In accordance with paragraph (2), respite care for the primary caregiver of the eligible dependent.

(E) In accordance with paragraph (3), service and modification of durable equipment and assistive technology devices.

(F) Special education.

(G) Vocational training, which may be furnished to an eligible dependent in the residence of the eligible dependent or at a facility in which such training is provided.

(H) Such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(12).

(2) Respite care under paragraph (1)(D) shall be provided subject to the following conditions:

(A) Pursuant to regulations prescribed by the Secretary for purposes of this paragraph, such respite care shall be limited to 32 hours per month for a primary caregiver.

(B) Unused hours of such respite care may not be carried over to another month.

(C) Such respite care may be provided to an eligible beneficiary regardless of whether the eligible beneficiary is receiving another benefit under this subsection.

(3)(A) Service and modification of durable equipment and assistive technology devices under paragraph (1)(E) may be provided only upon determination by the Secretary that the service or modification is necessary for the use of such equipment or device by the eligible dependent.

(B) Service and modification of durable equipment and assistive technology devices under such paragraph may not be provided—

(i) in the case of misuse, loss, or theft of the equipment or device; or

(ii) for a deluxe, luxury, or immaterial feature of the equipment or device, as determined by the Secretary.

(C) Service and modification of durable equipment and assistive technology devices under such paragraph may include training of the eligible dependent and immediate family members of the eligible dependent on the use of the equipment or device.

(f)(1) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:

(A) Members in the lowest enlisted pay grade shall be required to pay the first $25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first $250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.

(B) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than would be required if the member had only one such dependent.

(2) In the case of extended benefits provided under subparagraph (C), (E), (F), or (G) of subsection (e)(1) to a dependent of a member of the uniformed services—

(A) the Government's share of the total cost of providing such benefits in any year shall not exceed $36,000, prorated as determined by the Secretary of Defense, except for costs that a member is exempt from paying under paragraph (3); and

(B) the member shall pay (in addition to any amount payable under paragraph (1)) the amount, if any, by which the amount of such total cost for the year exceeds the Government's maximum share under subparagraph (A).

(3) A member of the uniformed services who incurs expenses under paragraph (2) for a month for more than one dependent shall not be required to pay for the month under subparagraph (B) of that paragraph an amount greater than the amount the member would otherwise be required to pay under that subparagraph for the month if the member were incurring expenses under that subparagraph for only one dependent.

(4) To qualify for extended benefits under subparagraph (C), (E), (F), or (G) of subsection (e)(1), a dependent of a member of the uniformed services shall be required to use public facilities to the extent such facilities are available and adequate, as determined under joint regulations of the administering Secretaries.

(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to carry out this subsection.

(g)(1) When a member dies while he is eligible for receipt of hostile fire pay under section 310 or 351 of title 37 or from a disease or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) shall continue to be eligible for such

benefits until they pass their twenty-first birthday.

(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which such dependent attains 21 years of age.

(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which such dependent attains 23 years of age.

(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

(5) In this subsection, the term "TRICARE Prime" means the managed care option of the TRICARE program.

(h)(1) Except as provided in paragraphs (2) and (3), payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) shall be equal to an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). The Secretary of Defense shall determine the appropriate payment amount under this paragraph in consultation with the other administering Secretaries.

(2) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the Secretary determines to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts higher than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered services from nonparticipating providers. To provide a suitable transition from the payment methodologies in effect before February 10, 1996, to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent below the amount allowed for the same service during the immediately preceding 12-month period (or other period as established by the Secretary of Defense).

(3) In addition to the authority provided under paragraph (2), the Secretary of Defense may authorize the commander of a facility of the uniformed services, the lead agent (if other than the commander), and the health care contractor to modify the payment limitations under paragraph (1) for certain health care providers when necessary to ensure both the availability of certain services for covered beneficiaries and lower costs than would otherwise be incurred to provide the services. With the consent of the health care provider, the Secretary is also authorized to reduce the authorized

payment for certain health care services below the amount otherwise required by the payment limitations under paragraph (1).

(4)(A) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to establish limitations (similar to the limitations established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) on beneficiary liability for charges of an individual health care professional (or other noninstitutional health care provider).

(B) The regulations shall include a restriction that prohibits an individual health care professional (or other noninstitutional health care provider) from billing a beneficiary for services for more than the amount that is equal to—

(i) the excess of the limiting charge (as defined in section 1848(g)(2) of the Social Security Act (42 U.S.C. 1395w–4(g)(2))) that would be applicable if the services had been provided by the professional (or other provider) as an individual health care professional (or other noninstitutional health care provider) on a nonassignment-related basis under part B of title XVIII of such Act over the amount that is payable by the United States for those services under this subsection, plus

(ii) any unpaid amounts of deductibles or copayments that are payable directly to the professional (or other provider) by the beneficiary.

(C)(i) In the case of a dependent described in clause (ii), the regulations shall provide that, in addition to amounts otherwise payable by the United States, the Secretary may pay the amount referred to in subparagraph (B)(i).

(ii) This subparagraph applies to a dependent referred to in subsection (a) of a member of a reserve component serving on active duty pursuant to a call or order to active duty for a period of more than 30 days.

(5) To assure access to care for all covered beneficiaries, the Secretary of Defense, in consultation with the other administering Secretaries, shall designate specific rates for reimbursement for services in certain localities if the Secretary determines that without payment of such rates access to health care services would be severely impaired. Such a determination shall be based on consideration of the number of providers in a locality who provide the services, the number of such providers who are CHAMPUS participating providers, the number of covered beneficiaries under CHAMPUS in the locality, the availability of military providers in the location or a nearby location, and any other factors determined to be relevant by the Secretary.

(i)(1) A benefit may not be paid under a plan covered by this section in the case of a person enrolled in, or covered by, any other insurance, medical service, or health plan, including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title), to the extent that the benefit is also a benefit under the other plan, except in the case of a plan administered under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) The amount to be paid to a provider of services for services provided under a plan covered by this section shall be determined under joint regulations to be prescribed by the administering Secretaries which provide that the amount of such payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) A contract for a plan covered by this section shall include a clause that prohibits each provider of services under the plan from billing any person covered by the plan for any balance of charges for services in excess of the amount paid for those services under the joint regulations referred to in paragraph (2), except for any unpaid amounts of deductibles or copayments that are payable directly to the provider by the person.

(4) In this subsection, the term "provider of services" means a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program (as defined in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2))), or other institutional facility providing services for which payment may be made under a plan covered by this section.

(j) A plan covered by this section may include provision of liver transplants (including the cost of acquisition and transportation of the donated liver) in accordance with this subsection. Such a liver transplant may be provided if—

(1) the transplant is for a dependent considered appropriate for that procedure by the Secretary of Defense in consultation with the other administering Secretaries and such other entities as the Secretary considers appropriate; and

(2) the transplant is to be carried out at a health-care facility that has been approved for that purpose by the Secretary of Defense after consultation with the other administering Secretaries and such other entities as the Secretary considers appropriate.

(k)(1) Contracts entered into under subsection (a) shall also provide for medical care for dependents of former members of the uniformed services who are authorized to receive medical and dental care under section 1076(e) of this title in facilities of the uniformed services.

(2) Except as provided in paragraph (3), medical care in the case of a dependent described in section 1076(e) shall be furnished under the same conditions and subject to the same limitations as medical care furnished under this section to spouses and children of members of the uniformed services described in the first sentence of subsection (a).

(3) Medical care may be furnished to a dependent pursuant to paragraph (1) only for an injury, illness, or other condition described in section 1076(e) of this title.

(l)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.

(m) The Secretary of Defense may enter into contracts (or amend existing contracts) with fiscal intermediaries under which the intermediaries agree to organize and operate, directly or through subcontractors, managed health care networks for the provision of health care under this chapter. The managed health care networks shall include cost containment methods, such as utilization review and contracting for care on a discounted basis.

(n)(1) Health care services provided pursuant to this section or section 1086 of this title (or pursuant to any other contract or project under the Civilian Health and Medical Program of the Uniformed Services) may not include services determined under the CHAMPUS Peer Review Organization program to be not medically or psychologically necessary.

(2) The Secretary of Defense, after consulting with the other administering Secretaries, may adopt or adapt for use under the CHAMPUS Peer Review Organization program, as the Secretary considers appropriate, any of the quality and utilization review requirements and procedures that are used by the Peer Review Organization program under part B of title XI of the Social Security Act (42 U.S.C. 1320c et seq.).

(o)(1) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care under this section for the dependents described in paragraph (3), and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(2) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(3) This subsection applies with respect to a dependent referred to in subsection (a) who—

(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member;

(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location, or

(C) is a dependent of a reserve component member ordered to active duty for a period of more than 30 days and is residing with the member, and the residence is located more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.

(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.

(5) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

(p) Subject to subsection (a), a physician or other health care practitioner who is eligible to receive reimbursement for services provided under medicare (as defined in section 1086(d)(3)(C) of this title) shall be considered approved to provide medical care authorized under this section and section 1086 of this title unless the administering Secretaries have information indicating medicare, TRICARE, or other Federal health care program integrity violations by the physician or other health care practitioner.

(q) In the case of any pharmaceutical agent (as defined in section 1074g(i) of this title) provided under a contract entered into under this section by a physician, in an outpatient department of a hospital, or otherwise as part of any medical services provided under such a contract, the Secretary of Defense may, under regulations prescribed by the Secretary, adopt special reimbursement methods, amounts, and procedures to encourage the use of high-value products and discourage the use of low-value products, as determined by the Secretary.

(r)(1) The provision of health care services for an eating disorder under subsection (a)(18) may include the following services:

(A) Outpatient services for in-person or telehealth care, including partial hospitalization services and intensive outpatient services.

(B) Inpatient services, which shall include residential services only if medically indicated for treatment of a primary diagnosis of an eating disorder.

(2) A dependent provided health care services for an eating disorder under subsection (a)(18) shall be provided such services without regard to—

(A) the age of the dependent, except with respect to residential services under paragraph (1)(B), which may be provided only to a dependent who is not eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) except as otherwise specified in paragraph (1)(B), whether the eating disorder is the primary or secondary diagnosis of the dependent.

(3) In this section, the term "eating disorder" has the meaning given the term "feeding and eating disorders" in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (or successor edition), published by the American Psychiatric Association.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1448; amended Pub. L. 89–614, §2(6), Sept. 30, 1966, 80 Stat. 863; Pub. L. 92–58, §1, July 29, 1971, 85 Stat. 157; Pub. L. 95–485, title VIII, §806(a)(1), Oct. 20, 1978, 92 Stat. 1622; Pub. L. 96–342, title VIII, §810(a), (b), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 96–513, title V, §§501(13), 511(36), (38), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 96–552, Dec. 19, 1980, 94 Stat. 3254; Pub. L. 97–22, §11(a)(2), July 10, 1981, 95 Stat. 137; Pub. L. 97–86, title IX, §906(a)(1), Dec. 1, 1981, 95 Stat. 1117; Pub. L. 98–94, title IX, §931(a), title

XII, §1268(4), Sept. 24, 1983, 97 Stat. 648, 705; Pub. L. 98–525, title VI, §632(a)(1), title XIV, §§1401(e)(4), 1405(23), Oct. 19, 1984, 98 Stat. 2543, 2617, 2623; Pub. L. 98–557, §19(7), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99–661, div. A, title VI, §652(d), title VII, §703, Nov. 14, 1986, 100 Stat. 3889, 3900; Pub. L. 100–180, div. A, title VII, §§721(a), 726(a), Dec. 4, 1987, 101 Stat. 1115, 1117; Pub. L. 100–456, div. A, title VI, §646(a), Sept. 29, 1988, 102 Stat. 1989; Pub. L. 101–189, div. A, title VII, §730(a), Nov. 29, 1989, 103 Stat. 1481; Pub. L. 101–510, div. A, title VII, §§701(a), 702(a), 703(a), (b), 712(a), title XIV, §1484(g)(1), Nov. 5, 1990, 104 Stat. 1580, 1581, 1583, 1717; Pub. L. 102–25, title III, §316(b), Apr. 6, 1991, 105 Stat. 87; Pub. L. 102–190, div. A, title VII, §§702(b), 711, 712(a), 713, Dec. 5, 1991, 105 Stat. 1400, 1402, 1403; Pub. L. 102–484, div. A, title VII, §704, title X, §§1052(13), 1053(3), Oct. 23, 1992, 106 Stat. 2432, 2499, 2501; Pub. L. 103–35, title II, §202(a)(5), May 31, 1993, 107 Stat. 101; Pub. L. 103–160, div. A, title VII, §§711, 716(c), Nov. 30, 1993, 107 Stat. 1688, 1693; Pub. L. 103–337, div. A, title VII, §§702(a), 707(a), Oct. 5, 1994, 108 Stat. 2797, 2800; Pub. L. 104–106, div. A, title VII, §§701, 731(a)–(d), Feb. 10, 1996, 110 Stat. 370, 380, 381; Pub. L. 104–201, div. A, title VII, §§701(b)(2), 711, 731, 732, 735(c), Sept. 23, 1996, 110 Stat. 2587, 2590, 2597, 2599; Pub. L. 105–85, div. A, title VII, §735, Nov. 18, 1997, 111 Stat. 1813; Pub. L. 106–398, §1 [[div. A], title VII, §§701(c)(1), 704(b), 722(b)(1), 757(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–172, 1654A–175, 1654A–185, 1654A–198; Pub. L. 107–107, div. A, title VII, §§701(b), (g)(2), 703(b), 707(a), (b), title X, §1048(c)(5), Dec. 28, 2001, 115 Stat. 1158, 1161–1163, 1226; Pub. L. 107–314, div. A, title VII, §§701(a), §702, §705(a), Dec. 2, 2002, 116 Stat. 2583, 2584; Pub. L. 108–375, div. A, title VII, §705, Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109–163, div. A, title VII, §§714, 715(a), Jan. 6, 2006, 119 Stat. 3344; Pub. L. 109–364, div. A, title VII, §§701, 702, 703(b), Oct. 17, 2006, 120 Stat. 2279; Pub. L. 110–417, [div. A], title VII, §732, Oct. 14, 2008, 122 Stat. 4511; Pub. L. 111–84, div. A, title X, §1073(a)(12), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 113–291, div. A, title VII, §§703(a), (c)(1), 706, Dec. 19, 2014, 128 Stat. 3411–3413; Pub. L. 114–328, div. A, title VI, §618(b), title VII, §748(b), Dec. 23, 2016, 130 Stat. 2160, 2242; Pub. L. 115–91, div. A, title VII, §§702(b)(2), 704, 739(d)(1), Dec. 12, 2017, 131 Stat. 1434, 1435, 1447; Pub. L. 115–232, div. A, title VII, §715(b), Aug. 13, 2018, 132 Stat. 1814; Pub. L. 116–283, div. A, title VII, §§703–704(b), title X, §1081(a)(25), Jan. 1, 2021, 134 Stat. 3687, 3688, 3872; Pub. L. 117–81, div. A, title VII, §§701(a), 702, Dec. 27, 2021, 135 Stat. 1777, 1779; Pub. L. 118–159, div. A, title VII, §708, Dec. 23, 2024, 138 Stat. 1945.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1079(a) | 37:402(a)(2) (as applicable to 37:411(a)).<br>37:411(a). | June 7, 1956, ch. 374, §§102(a)(2) (as applicable to §201(a)), 201(a), (b), 204, 70 Stat. 250, 252, 253. |
| 1079(b) | 37:411(b).<br>37:414. | |

In subsection (a), the words "appointed, enlisted, inducted or called, ordered or conscripted in a uniformed service", in 37:402(a)(2) are omitted as surplusage, since it does not matter how a member became a member. The words "active duty for a period of more than 30 days" are substituted for the words "active duty or active duty for training pursuant to a call or order that does not specify a period of thirty days or less", in 37:402(a)(2), to reflect section 101(22) and (23) of this title. The words ", under the authority of this section," are substituted for the words "pursuant to the provisions of this title" to make clear that the section provides independent procurement authority. The words "all", "by the hospital", and "a period of", in 37:411(a), are omitted as surplusage.

In subsection (a)(1), the word "rooms", in 37:411(a), is substituted for the word "accommodations".

In subsection (a)(5), the word "services" is substituted for the word "procedures" and the word "performed" is substituted for the word "accomplished", in 37: 411(a). The words "or surgeon" are inserted for clarity.

In subsection (b), the word "variances" is substituted for the words "limitations, additions, exclusions". The words "or care other than that provided for in sections 1076–1078 of this title" are substituted for 37:414. The words "definitions, and related provisions", in 37:411(b), are omitted as surplusage, since the Secretary of an executive department has inherent authority to interpret laws and issue regulations.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (h)(1), (4)(A), (B)(i), (i)(1), (2), (n)(2), and (r)(2)(A), is act Aug. 13, 1935, ch. 531, 49 Stat. 620. Part B of title XI of the Act is classified generally to part B (§1320c et seq.) of subchapter XI of chapter 7 of Title 42, The Public Health and Welfare. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42. Parts A and B of title XVIII of the Act are classified generally to parts A (§1395c et seq.) and B (§1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in subsec. (a)(7) to (14) of this section were contained in the following appropriation acts, with the exception of the provisions similar to par. (14) which first appeared in Pub. L. 96–154:

Pub. L. 98–473, title I, §101(h) [title VIII, §§8031, 8032, 8045], Oct. 12, 1984, 98 Stat. 1904, 1929, 1931.

Pub. L. 98–212, title VII, §§737, 738, 752, Dec. 8, 1983, 97 Stat. 1445, 1447.

Pub. L. 97–377, title I, §101(c) [title VII, §§740, 741, 756], Dec. 21, 1982, 96 Stat. 1833, 1857, 1860.

Pub. L. 97–114, title VII, §§741, 742, 759, Dec. 29, 1981, 95 Stat. 1585, 1588.

Pub. L. 96–527, title VII, §§742, 743, 763, Dec. 15, 1980, 94 Stat. 3088, 3092.

Pub. L. 96–154, title VII, §§744, 745, 769, Dec. 21, 1979, 93 Stat. 1159, 1163.

Pub. L. 95–457, title VIII, §§844, 845, Oct. 13, 1978, 92 Stat. 1251.

Pub. L. 95–111, title VIII, §§843, 844, Sept. 21, 1977, 91 Stat. 907.

Pub. L. 94–419, title VII, §§742, 743, Sept. 22, 1976, 90 Stat. 1298.

Pub. L. 94–212, title VII, §§750, 751, Feb. 9, 1976, 90 Stat. 176.

Provisions similar to those added to subsec. (h)(2) of this section by section 1401(e)(4)(B) of Pub. L. 98–525 were contained in the following prior appropriation acts:

Pub. L. 98–473, title I, §101(h) [title VIII, §8077], Oct. 12, 1984, 98 Stat. 1904, 1938.

Pub. L. 98–212, title VII, §785, Dec. 8, 1983, 97 Stat. 1453.

A prior section 1079, act Aug. 10, 1956, ch. 1041, 70A Stat. 84, related to establishment of right to vote, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2024**—Subsec. (a)(20). Pub. L. 118–159 added par. (20).

**2021**—Subsec. (a)(12). Pub. L. 116–283, §703, substituted "certified clinical social worker, or other class of provider as designated by the Secretary of Defense," for "or certified clinical social worker,".

Subsec. (a)(18). Pub. L. 117–81, §701(a)(1), which directed adding par. (18) at the end of subsec. (a), effective after the addition of par. (19), was executed by adding it before par. (19) to reflect the probable intent of Congress.

Subsec. (a)(19). Pub. L. 117–81, §702, added par. (19).

Subsec. (e). Pub. L. 116–283, §704(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to extended benefits for eligible dependents.

Subsec. (f)(2), (4). Pub. L. 116–283, §704(b), substituted "subparagraph (C), (E), (F), or (G) of subsection (e)(1)" for "paragraph (3) or (4) of subsection (e)".

Subsec. (q). Pub. L. 116–283, §1081(a)(25), substituted "section 1074g(i)" for "section 1074g(h)".

Subsec. (r). Pub. L. 117–81, §701(a)(2), added subsec. (r).

**2018**—Subsec. (q). Pub. L. 115–232 substituted "section 1074g(h)" for "section 1074g(g)".

**2017**—Subsec. (a)(15). Pub. L. 115–91, §704, inserted ", except that hospice care may be provided to an individual under the age of 21 concurrently with health care services or hospitalization for the same condition" before period at end.

Subsec. (b). Pub. L. 115–91, §739(d)(1), substituted "calendar year" for "fiscal year" wherever appearing.

Subsec. (q). Pub. L. 115–91, §702(b)(2), added subsec. (q).

**2016**—Subsec. (g)(1). Pub. L. 114–328, §618(b), inserted "or 351" after "section 310".

Subsec. (h)(4)(C)(ii). Pub. L. 114–328, §748(b), struck out "in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title" after "30 days".

**2014**—Subsec. (a)(6) to (16). Pub. L. 113–291, §703(a)(1), redesignated pars. (7) to (17) as (6) to (16), respectively, and struck out former par. (6) which read as follows: "Inpatient mental health services may not (except as provided in subsection (i)) be provided to a patient in excess of—

"(A) 30 days in any year, in the case of a patient 19 years of age or older;

"(B) 45 days in any year, in the case of a patient under 19 years of age; or

"(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care."

Subsec. (a)(17). Pub. L. 113–291, §706, added par. (17). Former par. (17) redesignated (16).

Subsec. (e)(7). Pub. L. 113–291, §703(c)(1), substituted "subsection (a)(12)" for "subsection (a)(13)".

Subsecs. (i) to (q). Pub. L. 113–291, §703(a)(2), (3), redesignated subsecs. (j) to (q) as (i) to (p), respectively, and struck out former subsec. (i) which related to limitation in former subsec. (a)(6) of this section as being inapplicable to inpatient mental health services in certain instances.

**2009**—Subsec. (f)(2)(B). Pub. L. 111–84 struck out period after "year".

**2008**—Subsec. (f)(2). Pub. L. 110–417 substituted "year shall not exceed $36,000, prorated as determined by the Secretary of Defense," for "month shall not exceed $2,500," in subpar. (A) and "year." for "month" in subpar. (B).

**2006**—Subsec. (a)(1). Pub. L. 109–364, §702, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "With respect to dental care, only that care required as a necessary adjunct to medical or surgical treatment may be provided."

Subsec. (a)(2). Pub. L. 109–364, §703(b)(1), substituted "the schedule and method of cervical cancer screenings and breast cancer screenings" for "the schedule of pap smears and mammograms" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 109–364, §703(b)(2), substituted "cervical and breast cancer screenings" for "pap smears and mammograms".

Subsec. (a)(17). Pub. L. 109–364, §701, added par. (17).

Subsec. (g). Pub. L. 109–163, §715(a), designated existing provisions as par. (1), struck out last sentence which read "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the death of the member.", and added pars. (2) to (5).

Subsec. (p)(4), (5). Pub. L. 109–163, §714, added par. (4) and redesignated former par. (4) as (5).

**2004**—Subsec. (h)(4)(C). Pub. L. 108–375 added subpar. (C).

**2002**—Subsec. (i)(3). Pub. L. 107–314, §701(a), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B)," for "Except in the case of an emergency,", and added subpars. (B) and (C).

Subsec. (p)(1). Pub. L. 107–314, §702(1), substituted "dependents described in paragraph (3)" for "dependents referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title who are residing with the member".

Subsec. (p)(3), (4). Pub. L. 107–314, §702(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (q). Pub. L. 107–314, §705(a), added subsec. (q).

**2001**—Subsec. (a)(5). Pub. L. 107–107, §703(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "Durable equipment, such as wheelchairs, iron lungs and hospital beds may be provided on a rental basis."

Subsec. (a)(17). Pub. L. 107–107, §701(g)(2), struck out par. (17) which read as follows:

"(17)(A) The Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraphs (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost-effective and appropriate.

"(B) The total amount expended under subparagraph (A) for a fiscal year may not exceed $100,000,000."

Subsec. (d) to (f). Pub. L. 107–107, §701(b), added subsecs. (d) to (f) and struck out former subsecs. (d) to (f) which related to medical care provided for retarded or handicapped dependents, the requirement of members sharing in cost of benefits provided, and the requirement that members use public facilities to the extent available and adequate, respectively.

Subsec. (h)(2). Pub. L. 107–107, §1048(c)(5), substituted "February 10, 1996," for "the date of the enactment of this paragraph".

Subsec. (h)(4). Pub. L. 107–107, §707(b), designated existing provisions as subpar. (A) and added subpar.

(B).

Subsec. (j)(2) to (4). Pub. L. 107–107, §707(a), designated existing provisions of subpar. (A) of par. (2) as par. (2) and substituted "shall be determined under joint regulations" for "may be determined under joint regulations", redesignated subpar. (B) of par. (2) as par. (4) and substituted therein "this subsection," for "subparagraph (A),", and added par. (3).

**2000**—Subsec. (a)(17). Pub. L. 106–398, §1 [[div. A], title VII, §701(c)(1)], designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (g). Pub. L. 106–398, §1 [[div. A], title VII, §704(b)], substituted "three-year period" for "one-year period".

Subsec. (h)(5). Pub. L. 106–398, §1 [[div. A], title VII, §757(a)], added par. (5).

Subsec. (p). Pub. L. 106–398, §1 [[div. A], title VII, §722(b)(1)], added subsec. (p).

**1997**—Subsec. (h)(1). Pub. L. 105–85, §735(a), added par. (1) and struck out former par. (1) which read as follows: "Payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) may not exceed the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)."

Subsec. (h)(2). Pub. L. 105–85, §735(c)(2), redesignated par. (4) as (2).

Pub. L. 105–85, §735(a), struck out par. (2) which read as follows: "For the purposes of paragraph (1)(A), the 80th percentile of charges shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries, and the base period shall be a period of twelve calendar months. The Secretary of Defense shall adjust the base period as frequently as he considers appropriate."

Subsec. (h)(3). Pub. L. 105–85, §735(c)(2), redesignated par. (5) as (3).

Pub. L. 105–85, §735(a), struck out par. (3) which read as follows: "For the purposes of paragraph (1)(B), the appropriate payment amount shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries."

Subsec. (h)(4). Pub. L. 105–85, §735(c)(2), redesignated par. (4) as (2).

Subsec. (h)(5). Pub. L. 105–85, §735(c)(2), redesignated par. (5) as (3).

Pub. L. 105–85, §735(b), (c)(1), substituted "paragraph (2), the Secretary of Defense" for "paragraph (4), the Secretary" and inserted at end "With the consent of the health care provider, the Secretary is also authorized to reduce the authorized payment for certain health care services below the amount otherwise required by the payment limitations under paragraph (1)."

Subsec. (h)(6). Pub. L. 105–85, §735(c)(2), redesignated par. (6) as (4).

**1996**—Subsec. (a). Pub. L. 104–201, §731(b)(1), substituted "except as follows:" for "except that—" in introductory provisions.

Subsec. (a)(1). Pub. L. 104–201, §731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.

Subsec. (a)(2). Pub. L. 104–201, §731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.

Pub. L. 104–201, §701(b)(2), inserted "the schedule and method of colon and prostate cancer screenings," after "pap smears and mammograms," in introductory provisions and "or colon and prostate cancer screenings" after "pap smears and mammograms" in subpar. (B).

Pub. L. 104–106, §701, added par. (2) and struck out former par. (2) which read as follows: "routine physical examinations and immunizations of dependents over two years of age may only be provided when required in the case of dependents who are traveling outside the United States as a result of a member's duty assignment and such travel is being performed under orders issued by a uniformed service, except that pap smears and mammograms may be provided on a diagnostic or preventive basis;".

Subsec. (a)(3) to (12). Pub. L. 104–201, §731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.

Subsec. (a)(13). Pub. L. 104–201, §731(a), (b)(2), substituted "Any service" for "any service" and "paragraph (4)." for "paragraph (4);" and inserted at end "Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or

approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments."

Subsec. (a)(14), (15). Pub. L. 104–201, §731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.

Subsec. (a)(16). Pub. L. 104–201, §731(b)(2), (4), capitalized first letter of first word and substituted a period for "; and" at end.

Subsec. (a)(17). Pub. L. 104–201, §731(b)(2), capitalized first letter of first word.

Subsec. (h)(1). Pub. L. 104–106, §731(a), added par. (1) and struck out former par. (1) which read as follows: "Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period."

Subsec. (h)(2). Pub. L. 104–106, §731(d), substituted "paragraph (1)(A)" for "paragraph (1)".

Subsec. (h)(3). Pub. L. 104–106, §731(b), added par. (3).

Subsec. (h)(4). Pub. L. 104–201, §711, struck out "emergency" before "services from nonparticipating providers."

Pub. L. 104–106, §731(c), added par. (4).

Subsec. (h)(5). Pub. L. 104–201, §732(2), added par. (5). Former par. (5) redesignated (6).

Pub. L. 104–106, §731(c), added par. (5).

Subsec. (h)(6). Pub. L. 104–201, §732(1), redesignated par. (5) as (6).

Subsec. (j)(1). Pub. L. 104–201, §735(c), inserted ", including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title)," after "or health plan".

**1994**—Subsec. (a). Pub. L. 103–337, §702(a)(1), substituted "dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title," for "spouses and children".

Subsec. (d). Pub. L. 103–337, §702(a)(2), substituted "as described in subparagraph (A), (D), or (I) of section 1072(2)" for "as defined in section 1072(2)(A) or (D)".

Subsec. (g). Pub. L. 103–337, §707(a), inserted at end "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the one-year period beginning on the date of the death of the member."

**1993**—Subsec. (a)(7). Pub. L. 103–160, §716(c), substituted "except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services;" for "except that—

"(A) those services may be provided in any case in which another insurance plan or program provides primary coverage for those services; and

"(B) the Secretary of Defense may waive the 40-mile radius restriction with regard to the provision of a particular service before October 1, 1993, if the Secretary determines that the use of a different geographical area restriction will result in a more cost-effective provision of the service;".

Subsec. (a)(15). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484, §704(1). See 1992 Amendment note below.

Subsec. (o). Pub. L. 103–160, §711, added subsec. (o).

**1992**—Subsec. (a)(15). Pub. L. 102–484, §1053(3), made technical amendment to directory language of Pub. L. 102–190, §702(b)(1)(C). See 1991 Amendment note below.

Pub. L. 102–484, §704(1), as amended by Pub. L. 103–35, struck out "and" at end of par. (15).

Subsec. (a)(16). Pub. L. 102–484, §704(2), substituted "; and" for period at end.

Subsec. (a)(17). Pub. L. 102–484, §704(3), added par. (17).

Subsec. (j)(2)(B). Pub. L. 102–484, §1052(13), inserted a close parenthesis after "1395x(dd)(2)".

**1991**—Subsec. (a)(6). Pub. L. 102–25, §316(b), revived par. (6) as in effect on Feb. 14, 1991, thus negating amendment to par. (6) by Pub. L. 101–510, §703(a), from its original effective date (Feb. 15, 1991) to the effective date as amended (Oct. 1, 1991). See 1990 Amendment note and Effective Date of 1990 Amendment note below.

Subsec. (a)(7). Pub. L. 102–190, §711, substituted "except that—" and subpars. (A) and (B), for "except that such services may be provided in any case in which another insurance plan or program provides primary coverage for the services;".

Subsec. (a)(13). Pub. L. 102–190, §702(b)(1)(A), substituted "paragraph (4)" for "clause (4)".

Subsec. (a)(14). Pub. L. 102–190, §702(b)(1)(B), struck out "and" at end.

Subsec. (a)(15). Pub. L. 102–190, §702(b)(1)(C), as amended by Pub. L. 102–484, §1053(3), substituted

"; and" for period at end.

Subsec. (a)(16). Pub. L. 102–190, §702(b)(1)(D), added par. (16).

Subsec. (i). Pub. L. 102–25, §316(b), revived subsec. (i) as in effect on Feb. 14, 1991, thus negating amendment to subsec. (i) by Pub. L. 101–510, §703(b), from its original effective date (Feb. 15, 1991) to the effective date as amended (Oct. 1, 1991). See 1990 Amendment note and Effective Date of 1990 Amendment note below.

Subsec. (j)(1). Pub. L. 102–190, §713, inserted ", or covered by," after "person enrolled in".

Subsec. (j)(2)(B). Pub. L. 102–190, §702(b)(2), inserted "hospice program (as defined in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)),".

Subsec. (n). Pub. L. 102–190, §712(a), added subsec. (n).

**1990**—Subsec. (a)(2). Pub. L. 101–510, §701(a), inserted before the semicolon ", except that pap smears and mammograms may be provided on a diagnostic or preventive basis".

Subsec. (a)(6). Pub. L. 101–510, §703(a), substituted "in excess of—" for "in excess of 60 days in any year;" and added subpars. (A) to (C).

Subsec. (a)(8). Pub. L. 101–510, §702(a)(1), inserted "(other than certified marriage and family therapists)" after "marital counselors" and inserted before semicolon "and services of certified marriage and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided".

Subsec. (a)(13). Pub. L. 101–510, §702(a)(2), inserted "certified marriage and family therapist," after "psychologist,".

Subsec. (b)(2). Pub. L. 101–510, §712(a)(1), substituted "$150" for "$50" and inserted at end "Notwithstanding the preceding sentence, in the case of a dependent of an enlisted member in a pay grade below E–5, the initial deductible each fiscal year under this paragraph shall be limited to $50."

Subsec. (b)(3). Pub. L. 101–510, §712(a)(2), substituted "$300 (or in the case of the family group of an enlisted member in a pay grade below E–5, the first $100)" for "$100".

Subsec. (i). Pub. L. 101–510, §703(b), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—

"(1) provided under the program for the handicapped under subsection (d);

"(2) provided as residential treatment care;

"(3) provided as partial hospital care; or

"(4) provided pursuant to a waiver authorized by the Secretary of Defense because of extraordinary medical or psychological circumstances that are confirmed by review by a non-Federal health professional pursuant to regulations prescribed by the Secretary of Defense."

Subsec. (j)(2)(B). Pub. L. 101–510, §1484(g)(1), inserted "the term" after "In subparagraph (A),".

**1989**—Subsec. (h)(1), (2). Pub. L. 101–189 substituted "80th percentile" for "90th percentile".

**1988**—Subsec. (b)(1). Pub. L. 100–456, §646(a)(1), inserted provisions authorizing Secretary of Defense to exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

Subsec. (m). Pub. L. 100–456, §646(a)(2), added subsec. (m).

**1987**—Subsec. (a)(15). Pub. L. 100–180, §726(a), added par. (15).

Subsec. (b)(5). Pub. L. 100–180, §721(a), added par. (5).

**1986**—Subsec. (a)(7). Pub. L. 99–661, §703, substituted "provides primary coverage for the services" for "pays for at least 75 percent of the services".

Subsec. (l). Pub. L. 99–661, §652(d), added subsec. (l).

**1984**—Subsec. (a). Pub. L. 98–557, §19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services in provisions preceding cl. (1).

Subsec. (a)(3). Pub. L. 98–525, §632(a)(1), substituted "not more than one eye examination may be provided to a patient in any calendar year" for "eye examinations may not be provided".

Subsec. (a)(4). Pub. L. 98–557, §19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.

Subsec. (a)(7) to (14). Pub. L. 98–525, §1401(e)(4)(A), added cls. (7) to (14).

Subsecs. (b)(4), (c), (d). Pub. L. 98–557, §19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.

Subsec. (e). Pub. L. 98–525, §1405(23), substituted "under subsection (d) as follows:" for "under subsection (d)." in provisions preceding cl. (1).

Subsecs. (e)(1), (f). Pub. L. 98–557, §19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.

Subsec. (h)(2). Pub. L. 98–557, §19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

Pub. L. 98–525, §1401(e)(4)(B), substituted "The Secretary of Defense shall adjust the base period as frequently as he considers appropriate" for "The base period shall be adjusted at least once a year".

Subsec. (j)(2)(A). Pub. L. 98–557, §19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.

Subsec. (k)(1), (2). Pub. L. 98–557, §19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

**1983**—Subsec. (a). Pub. L. 98–94, §1268(4)(A), substituted "30" for "thirty" in provisions preceding par. (1).

Subsec. (a)(6). Pub. L. 98–94, §931(a)(1), added par. (6).

Subsec. (d). Pub. L. 98–94, §1268(4)(A), substituted "30" for "thirty".

Subsec. (g). Pub. L. 98–94, §1268(4)(B), struck out "of this section" after "subsection (d)".

Subsecs. (i) to (k). Pub. L. 98–94, §931(a)(2), added subsecs. (i) to (k).

**1981**—Subsec. (b)(4). Pub. L. 97–22 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (h). Pub. L. 97–86 substituted reference to services of individual health-care professionals for former reference to physician services, struck out provisions that had used the concept of a predetermined charge level based upon customary charges, and inserted provisions requiring a readjustment of the base period at least once a year.

**1980**—Subsec. (a). Pub. L. 96–513, §511(36), (38)(A), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" wherever appearing, and "that—" for "that:".

Subsec. (a)(2). Pub. L. 96–342, §810(a)(1), inserted "of dependents over two years of age" after "immunizations".

Subsec. (a)(3). Pub. L. 96–342, §810(a)(2), struck out "routine care of the newborn, well-baby care, and" after "(3)".

Subsec. (b)(4). Pub. L. 96–552 added par. (4).

Pub. L. 96–513, §511(38)(B), substituted "percent" for "per centum" wherever appearing.

Subsec. (c). Pub. L. 96–513, §511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (d). Pub. L. 96–513, §§501(13), 511(36), substituted "section 1072(2)(A) or (D) of this title" for "section 1072(2)(A), (C), or (E) of this title", and "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (e). Pub. L. 96–513, §511(36), (38)(C), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare", and "(d) as follows:" for "(d).".

Subsec. (e)(2). Pub. L. 96–342, §810(b), substituted "$1,000" for "$350".

Subsec. (f). Pub. L. 96–513, §511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (g). Pub. L. 96–513, §511(38)(D), struck out ", United States Code," after "37".

Subsec. (h). Pub. L. 96–513, §511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**1978**—Subsec. (h). Pub. L. 95–485 added subsec. (h).

**1971**—Subsec. (g). Pub. L. 92–58 added subsec. (g).

**1966**—Subsec. (a). Pub. L. 89–614 struck out "dependent" before "spouses and children" and substituted sentence providing that "The types of health care authorized under this section, shall be the same as those provided under section 1076 of this title", enumerating exceptions in pars. (1) to (5) for former provisions which required the insurance, medical service, or health plans to include (1) hospitalization in semiprivate rooms for not more than 365 days for each admission, (2) medical and surgical care incident to hospitalization, (3) obstetrical and maternity service, including prenatal and postnatal care, (4) services of physician or surgeon before or after hospitalization for bodily injury or surgical operation, (5) diagnostic tests and services incident to hospitalization, and (6) payments by patient of hospital expenses, now incorporated in subsec. (b)(1).

Subsec. (b). Pub. L. 89–614 incorporated existing provisions of subsec. (a)(6) in par. (1) and added pars. (2) and (3). Former subsec. (b) authorized the Secretary of Defense to make variances from subsec. (a) requirements as appropriate other than outpatient care or care other than provided for in sections 1076 to 1078 of this title.

Subsecs. (c) to (f). Pub. L. 89–614 added subsecs. (c) to (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title VII, §701(d), Dec. 27, 2021, 135 Stat. 1779, provided that: "The amendments made by this section [enacting section 1090a of this title, transferring former section 1090a of this title to section 1090b of this title, and amending this section and section 1086 of this title] shall take effect on October 1, 2022."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VII, §715(b), Jan. 6, 2006, 119 Stat. 3345, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date."

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VII, §701(b), Dec. 2, 2002, 116 Stat. 2583, provided that: "The amendments made by subsection (a) [amending this section] shall take effect October 1, 2003."

Pub. L. 107–314, div. A, title VII, §705(b), Dec. 2, 2002, 116 Stat. 2585, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any contract under the TRICARE program entered into on or after the date of the enactment of this Act [Dec. 2, 2002]."

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VII, §707(c), Dec. 28, 2001, 115 Stat. 1164, provided that: "The amendments made by this section [amending this section] shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 28, 2001]."

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VII, §701(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–172, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and provisions set out as a note under section 1077 of this title] shall apply to fiscal years after fiscal year 1999."

Amendment by section 1 [[div. A], title VII, §722(b)(1)] of Pub. L. 106–398 effective Oct. 1, 2001, see section 1 [[div. A], title VII, §722(c)(1)] of Pub. L. 106–398, set out as a note under section 1074 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title VII, §707(c), Oct. 5, 1994, 108 Stat. 2801, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1076a of this title] shall apply with respect to the dependents described in such amendments of a member of a uniformed service who dies on or after October 1, 1993, while on active duty for a period of more than 30 days."

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title X, §1053, Oct. 23, 1992, 106 Stat. 2501, provided that the amendment made by that section is effective Dec. 5, 1991.

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–25, title III, §316(b), Apr. 6, 1991, 105 Stat. 87, provided that the amendment made by that section is effective Feb. 15, 1991.

### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title VII, §701(b), Nov. 5, 1990, 104 Stat. 1580, provided that: "The amendment made by subsection (a) [amending this section] shall apply to the provision of pap smears and mammograms under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 5, 1990]."

Pub. L. 101–510, div. A, title VII, §702(b), Nov. 5, 1990, 104 Stat. 1581, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to the services of certified marriage and family therapists provided under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 5, 1990]."

Pub. L. 101–510, div. A, title VII, §703(d), Nov. 5, 1990, 104 Stat. 1582, as amended by Pub. L. 102–25,

title III, §316(a)(1), Apr. 6, 1991, 105 Stat. 87, provided that: "This section and the amendments made by this section [amending this section] shall take effect on October 1, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date."

Pub. L. 101–510, div. A, title VII, §712(c), Nov. 5, 1990, 104 Stat. 1583, provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall apply with respect to health care provided under sections 1079 and 1086 of title 10, United States Code, on or after April 1, 1991."

**EFFECTIVE DATE OF 1989 AMENDMENT**

Pub. L. 101–189, div. A, title VII, §730(b), Nov. 29, 1989, 103 Stat. 1481, provided that: "The amendment made by subsection (a) [amending this section] shall apply to services provided on or after October 1, 1989."

**EFFECTIVE DATE OF 1988 AMENDMENT**

Pub. L. 100–456, div. A, title VI, §646(c), Sept. 29, 1988, 102 Stat. 1990, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1086 of this title] shall apply with respect to medical care received after September 30, 1988."

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. A, title VII, §721(c), Dec. 4, 1987, 101 Stat. 1115, provided that: "Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), and paragraph (4) of section 1086(b) of such title, as added by subsection (b), shall apply with respect to fiscal years beginning after September 30, 1987."

Pub. L. 100–180, div. A, title VII, §726(b), Dec. 4, 1987, 101 Stat. 1117, provided that: "Paragraph (15) of section 1079(a) of such title, as added by subsection (a), shall apply with respect to costs incurred for home monitoring equipment after the date of the enactment of this Act [Dec. 4, 1987]."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–661, div. A, title VI, §652(e)(4), Nov. 14, 1986, 100 Stat. 3890, provided that: "The amendment made by subsection (d) [amending this section] shall apply only with respect to care furnished under section 1079 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 14, 1986]."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title VI, §632(a)(3), Oct. 19, 1984, 98 Stat. 2543, provided that: "The amendments made by this subsection [amending this section and section 1086 of this title] shall apply only to health care furnished after September 30, 1984."

Amendment by section 1401(e)(4) of Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §931(c), Sept. 24, 1983, 97 Stat. 649, provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall take effect on October 1, 1983, except that—

"(1) clause (6) of section 1079(a) of title 10, United States Code, as added by subsection (a)(1), shall not apply in the case of inpatient mental health services provided to a patient admitted before January 1, 1983, for so long as that patient remains continuously in inpatient status for medically or psychologically necessary reasons; and

"(2) subsection (k) of section 1079 of such title, as added by subsection (a)(1), shall apply with respect to liver transplant operations performed on or after July 1, 1983."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–86, title IX, §906(b), Dec. 1, 1981, 95 Stat. 1117, provided that: "The amendments made by subsection (a) [amending this section and section 1086 of this title] shall apply with respect to claims submitted for payment for services provided after the end of the 30-day period beginning on the date of the enactment of this Act [Dec. 1, 1981]."

**EFFECTIVE DATE OF 1980 AMENDMENTS**

Amendment by section 501(13) of Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

Amendment by section 511 of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

Pub. L. 96–342, title VIII, §810(c), Sept. 8, 1980, 94 Stat. 1097, provided that: "The amendments made by

this section [amending this section] shall apply to medical care provided after September 30, 1980."

**EFFECTIVE DATE OF 1978 AMENDMENT**

Pub. L. 95–485, title VIII, §806(b), Oct. 20, 1978, 92 Stat. 1622, provided that: "the amendments made by subsection (a) [amending this section and section 1086 of this title] shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act [Oct. 20, 1978]."

**EFFECTIVE DATE OF 1971 AMENDMENT**

Pub. L. 92–58, §2, July 29, 1971, 85 Stat. 157, provided that: "This Act [amending this section] becomes effective as of January 1, 1967. However, no person is entitled to any benefits because of this Act for any period before the date of enactment [July 29, 1971]."

**EFFECTIVE DATE OF 1966 AMENDMENT**

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

**WAIVER OF COPAYMENTS FOR PREVENTIVE SERVICES FOR CERTAIN TRICARE BENEFICIARIES**

Pub. L. 110–417, [div. A], title VII, §711, Oct. 14, 2008, 122 Stat. 4500, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(11), Jan. 7, 2011, 124 Stat. 4375, provided that:

"(a) WAIVER OF CERTAIN COPAYMENTS.—Subject to subsection (b) and under regulations prescribed by the Secretary of Defense, the Secretary shall—

"(1) waive all copayments under sections 1079(b) and 1086(b) of title 10, United States Code, for preventive services for all beneficiaries who would otherwise pay copayments; and

"(2) ensure that a beneficiary pays nothing for preventive services during a year even if the beneficiary has not paid the amount necessary to cover the beneficiary's deductible for the year.

"(b) EXCLUSION FOR MEDICARE-ELIGIBLE BENEFICIARIES.—Subsection (a) shall not apply to a medicare-eligible beneficiary.

"(c) REFUND OF COPAYMENTS.—

"(1) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary excluded by subsection (b), subject to the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between—

"(A) the amount the beneficiary pays for copayments for preventive services during fiscal year 2009; and

"(B) the amount the beneficiary would have paid during such fiscal year if the copayments for preventive services had been waived pursuant to subsection (a) during that year.

"(2) COPAYMENTS COVERED.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries during fiscal year 2009.

"(d) DEFINITIONS.—In this section:

"(1) PREVENTIVE SERVICES.—The term 'preventive services' includes, taking into consideration the age and gender of the beneficiary:

"(A) Colorectal screening.

"(B) Breast screening.

"(C) Cervical screening.

"(D) Prostate screening.

"(E) Annual physical exam.

"(F) Vaccinations.

"(G) Other services as determined by the Secretary of Defense.

"(2) MEDICARE-ELIGIBLE.—The term 'medicare-eligible' has the meaning provided by section 1111(b)(3) of title 10, United States Code."

**PLAN FOR PROVIDING HEALTH COVERAGE INFORMATION TO MEMBERS, FORMER MEMBERS, AND DEPENDENTS ELIGIBLE FOR CERTAIN HEALTH BENEFITS**

Pub. L. 108–136, div. A, title VII, §724, Nov. 24, 2003, 117 Stat. 1534, provided that:

"(a) HEALTH INFORMATION PLAN REQUIRED.—The Secretary of Defense shall develop a plan to—

"(1) ensure that each household that includes one or more eligible persons is provided information concerning—

"(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States

Code, for each such person;

"(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

"(C) sources of information for locating TRICARE-authorized providers in the household's locality; and

"(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

"(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person's locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

"(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

"(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

"(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and locality of eligible persons who may intend to rely on TRICARE-authorized providers for health care services.

"(b) IMPLEMENTATION OF PLAN.—The Secretary of Defense shall implement the plan required by subsection (a) with respect to any contract entered into by the Department of Defense after May 31, 2003, for managed health care.

"(c) DEFINITIONS.—In this section:

"(1) The term 'eligible person' means a person eligible for health benefits under section 1079 or 1086 of title 10, United States Code.

"(2) The term 'TRICARE-authorized provider' means a facility, doctor, or other provider of health care services—

"(A) that meets the licensing and credentialing certification requirements in the State where the services are rendered;

"(B) that meets requirements under regulations relating to TRICARE for the type of health care services rendered; and

"(C) that has accepted reimbursement by the Secretary of Defense as payment for services rendered during the 12-month period preceding the date of the most recently updated provider information provided to households under the plan required by subsection (a).

"(d) SUBMISSION OF PLAN.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the plan required by subsection (a), together with a schedule for implementation of the plan."

## REPORT ON ACTIONS TO ESTABLISH SPECIAL REIMBURSEMENT RATES

Pub. L. 106–398, §1 [[div. A], title VII, §757(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–199, directed the Secretary of Defense, not later than Mar. 31, 2001, to submit to the Committees on Armed Services of the Senate and the House of Representatives and the General Accounting Office a report on actions taken to carry out sections 1079(h)(5) and 1097b of this title.

## PROGRAMS RELATING TO SALE OF PHARMACEUTICALS

Pub. L. 102–484, div. A, title VII, §702, Oct. 23, 1992, 106 Stat. 2431, as amended by Pub. L. 103–160, div. A, title VII, §721, Nov. 30, 1993, 107 Stat. 1695; Pub. L. 103–337, div. A, title VII, §706, Oct. 5, 1994, 108 Stat. 2800; Pub. L. 106–398, §1 [[div. A], title VII, §711(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–176, directed the Secretary of Defense to conduct a demonstration project that would permit eligible persons to obtain prescription pharmaceuticals by mail, directed the Secretary to include in each managed health care program awarded or renewed after Jan. 1, 1993, a program to supply prescription pharmaceuticals through a managed care network of retail pharmacies, directed the Secretary to submit to Congress a report regarding the demonstration project not later than two years after its establishment and an additional report regarding the programs not later than Jan. 1, 1994, and provided for termination of section 702 of Pub. L. 102–484 no later than one year after Oct. 30, 2000.

## CORRECTION OF OMISSION IN DELAY OF INCREASE OF CHAMPUS DEDUCTIBLES RELATED TO OPERATION DESERT STORM

Pub. L. 102–484, div. A, title VII, §721, Oct. 23, 1992, 106 Stat. 2438, provided that during the period

beginning on Apr. 1, 1991, and ending on Sept. 30, 1991, the annual deductibles specified in this section or section 1086 of this title applicable to CHAMPUS beneficiaries who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm would not exceed the annual deductibles in effect on Nov. 4, 1990, and provided for the credit or reimbursement of excess amounts paid.

**TEMPORARY CHAMPUS PROVISIONS FOR DEPENDENTS OF OPERATION DESERT SHIELD/DESERT STORM ACTIVE DUTY PERSONNEL**

Pub. L. 102–172, title VIII, §8085, Nov. 26, 1991, 105 Stat. 1192, provided that any CHAMPUS health care provider could voluntarily waive the patient copayment for medical services provided from Aug. 2, 1990, until the termination of Operation Desert Shield/Desert Storm for dependents of active duty personnel, provided that the Government's share of medical services was not increased during such time period.

Similar provisions were contained in Pub. L. 102–28, §105, Apr. 10, 1991, 105 Stat. 165.

Pub. L. 102–25, title III, §312, Apr. 6, 1991, 105 Stat. 85, provided that the annual deductibles specified in subsec. (b) of this section, as in effect on Nov. 4, 1990, would apply until Oct. 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm, and that patient copayment requirements could be waived upon the provider's certification to the Secretary of Defense that the amount charged the Federal Government for such health care had not been increased above the amount that the provider would have charged the Federal Government for such health care had the payment not been waived.

**TRANSITIONAL HEALTH CARE FOR MEMBERS, OR DEPENDENTS OF MEMBERS, UPON RELEASE OF MEMBER FROM ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM**

For provision authorizing transitional health care, including health benefits contracted for under subsec. (a) of this section, for members, or dependents of members, upon release of member from active duty in connection with Operation Desert Storm, see section 313 of Pub. L. 102–25, set out as a note under section 1076 of this title.

## §1079a. TRICARE program: treatment of refunds and other amounts collected

All refunds and other amounts collected in the administration of the TRICARE program shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.

(Added Pub. L. 104–201, div. A, title VII, §733(a)(1), Sept. 23, 1996, 110 Stat. 2597; amended Pub. L. 114–328, div. A, title VII, §701(j)(1)(D), Dec. 23, 2016, 130 Stat. 2192.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriations acts:

Pub. L. 104–61, title VIII, §8094, Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103–335, title VIII, §8144, Sept. 30, 1994, 108 Stat. 2656.

**AMENDMENTS**

**2016**—Pub. L. 114–328 substituted "TRICARE program" for "CHAMPUS" in section catchline and "the TRICARE program" for "the Civilian Health and Medical Program of the Uniformed Services" in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

## §1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

(b) WAIVER OF FEES.—The Director of the Defense Health Agency may issue a waiver for a fee that would otherwise be charged under the procedures implemented under subsection (a) to a civilian provided medical care who is not a covered beneficiary if the provision of such care enhances the knowledge, skills, and abilities of health care providers, as determined by the Director of the Defense Health Agency.

(c) MODIFIED PAYMENT PLAN FOR CERTAIN CIVILIANS.—(1)(A) If a civilian specified in subsection (a) is covered by a covered payer at the time care under this section is provided, the civilian shall only be responsible to pay the standard copays, coinsurance, deductibles, or nominal fees that are otherwise applicable under the covered payer plan.

(B) Except with respect to the copays, coinsurance, deductibles, and nominal fees specified in subparagraph (A)—

(i) the Secretary of Defense may bill only the covered payer for care provided to a civilian described in subparagraph (A); and

(ii) payment received by the Secretary from the covered payer of a civilian for care provided under this section that is provided to the civilian shall be considered payment in full for such care.

(2) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1), is underinsured, or has a remaining balance and is at risk of financial harm, the Director of the Defense Health Agency shall reduce each fee that would otherwise be charged to the civilian under this section according to a sliding fee discount program, as prescribed by the Director of the Defense Health Agency.

(3) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1) or (2), the Director of the Defense Health Agency shall implement an additional catastrophic waiver to prevent severe financial harm.

(4) The modified payment plan under this subsection may not be administered by a Federal agency other than the Department of Defense.

(d) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

(1) trauma consortium activities;

(2) administrative, operating, and equipment costs; and

(3) readiness training.

(e) DEFINITIONS.—In this section:

(1) The term "covered payer" means a third-party payer or other insurance, medical service, or health plan.

(2) The terms "third-party payer" and "insurance, medical service, or health plan" have the meaning given those terms in section 1095(h) of this title.

(Added Pub. L. 107–107, div. A, title VII, §732(a)(1), Dec. 28, 2001, 115 Stat. 1169; amended Pub. L. 116–283, div. A, title VII, §702, Jan. 1, 2021, 134 Stat. 3686; Pub. L. 117–263, div. A, title VII, §716(a), (b), Dec. 23, 2022, 136 Stat. 2661.)

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263, §716(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary may waive a fee that would otherwise be charged under the procedures

implemented under subsection (a) to a civilian who is not a covered beneficiary if—

"(1) the civilian is unable to pay for the costs of the trauma or other medical care provided to the civilian (including any such costs remaining after the Secretary receives payment from an insurer for such care, as applicable); and

"(2) the provision of such care enhances the knowledge, skills, and abilities of health care providers, as determined by the Secretary."

Subsecs. (c), (d). Pub. L. 117–263, §716(a)(2), (b)(1), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 117–263, §716(b)(2), added subsec. (e).

**2021**—Subsecs. (b), (c). Pub. L. 116–283 added subsec. (b) and redesignated former subsec. (b) as (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title VII, §716(c), Dec. 23, 2022, 136 Stat. 2661, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to care provided on or after the date that is 180 days after the date of the enactment of this Act [Dec. 23, 2022]."

### IMPROVED IMPLEMENTATION OF FINANCIAL RELIEF FOR CIVILIANS TREATED IN MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 118–159, div. A, title VII, §717, Dec. 23, 2024, 138 Stat. 1949, provided that:

"(a) FINAL RULE REQUIRED.—The Secretary of Defense shall issue a final rule (or interim final rule) to implement as soon as possible after the date of the enactment of this Act [Dec. 23, 2024] section 1079b of title 10, United States Code.

"(b) TREATMENT OF CLAIMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall hold in abeyance any claims under section 1079b of title 10, United States Code, until the final rule (or interim final rule) required under subsection (a) is in effect.

"(2) EXCEPTION.—Paragraph (1) does not apply to—

"(A) claims to third-party payers; or

"(B) administrative support provided to the Secretary by another Federal agency to assist the Secretary in the administration of section 1079b of title 10, United States Code."

### DEADLINE FOR IMPLEMENTATION

Pub. L. 107–107, div. A, title VII, §732(b), Dec. 28, 2001, 115 Stat. 1170, directed the Secretary of Defense to begin to implement the procedures required by subsec. (a) of this section not later than one year after Dec. 28, 2001.

## §1079c. Provisional coverage for emerging services and supplies

(a) PROVISIONAL COVERAGE.—In carrying out the TRICARE program, including pursuant to section 1079(a)(12) of this title, the Secretary of Defense, acting through the Assistant Secretary of Defense for Health Affairs, may provide provisional coverage for the provision of a service or supply if the Secretary determines that such service or supply is widely recognized in the United States as being safe and effective.

(b) CONSIDERATION OF EVIDENCE.—In making a determination under subsection (a), the Secretary may consider—

(1) clinical trials published in refereed medical literature;

(2) formal technology assessments;

(3) the positions of national medical policy organizations;

(4) national professional associations;

(5) national expert opinion organizations; and

(6) such other validated evidence as the Secretary considers appropriate.

(c) INDEPENDENT EVALUATION.—In making a determination under subsection (a), the Secretary may arrange for an evaluation from the Institute of Medicine of the National Academies or

such other independent entity as the Secretary selects.

(d) DURATION AND TERMS OF COVERAGE.—(1) Provisional coverage under subsection (a) for a service or supply may be in effect for not longer than a total of five years.

(2) Prior to the expiration of provisional coverage of a service or supply, the Secretary shall determine the coverage, if any, that will follow such provisional coverage and take appropriate action to implement such determination. If the Secretary determines that the implementation of such determination regarding coverage requires legislative action, the Secretary shall make a timely recommendation to Congress regarding such legislative action.

(3) The Secretary, at any time, may—

(A) terminate the provisional coverage under subsection (a) of a service or supply, regardless of whether such termination is before the end of the period described in paragraph (1);

(B) establish or disestablish terms and conditions for such coverage; or

(C) take any other action with respect to such coverage.

(e) PUBLIC NOTICE.—The Secretary shall promptly publish on a publicly accessible Internet website of the TRICARE program a notice for each service or supply that receives provisional coverage under subsection (a), including any terms and conditions for such coverage.

(f) FINALITY OF DETERMINATIONS.—Any determination to approve or disapprove a service or supply under subsection (a) and any action made under subsection (d)(3) shall be final.

(Added Pub. L. 113–291, div. A, title VII, §704(a), Dec. 19, 2014, 128 Stat. 3412.)

## §1080. Contracts for medical care for spouses and children: election of facilities

(a) ELECTION.—A dependent covered by section 1079 of this title may elect to receive inpatient medical care either in (1) the facilities of the uniformed services, under the conditions prescribed by sections 1076–1078 of this title, or (2) the facilities provided under a plan contracted for under section 1079 of this title. However, under such regulations as the Secretary of Defense, after consulting the other administering Secretaries, may prescribe, the right to make this election may be limited for dependents residing in the area where the member concerned is assigned, if adequate medical facilities of the uniformed services are available in that area for those dependents.

(b) ISSUANCE OF NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS.—In determining whether to issue a nonavailability-of-health-care statement for a dependent described in subsection (a), the commanding officer of a facility of the uniformed services may consider the availability of health care services for the dependent pursuant to any contract or agreement entered into under this chapter for the provision of health care services. Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a nonavailability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy.

(c) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96–513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98–557, §19(8), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 103–160, div. A, title VII, §716(b)(1), Nov. 30, 1993, 107 Stat. 1692; Pub. L. 104–201, div. A, title VII, §734(a)(1), (b)(1), (c), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106–65, div. A, title VII, §712(c), Oct. 5, 1999, 113 Stat. 687.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1080 | 37:411(c). | June 7, 1956, ch. 374, §201(c), 70 Stat. 252. |

The words "a plan contracted for under section 1079 of this title" are substituted for the words "such insurance, medical service, or health plan or plans as may be provided by the authority contained in this section". The words "under the terms of this chapter" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1080, act Aug. 10, 1956, ch. 1041, 70A Stat. 85, related to style and marking of envelopes, inserts, return envelopes, and to weight of ballots, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**1999**—Subsec. (b). Pub. L. 106–65 inserted at end "Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a nonavailability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy."

**1996**—Subsec. (a). Pub. L. 104–201, §734(a)(1), inserted "inpatient" before "medical care" in first sentence.

Subsec. (b). Pub. L. 104–201, §734(c), substituted "Nonavailability-of-Health-Care Statements" for "Nonavailability of Health Care Statements" in heading and "nonavailability-of-health-care statement" for "nonavailability of health care statement" in text.

Subsec. (c). Pub. L. 104–201, §734(b)(1), added subsec. (c).

**1993**—Pub. L. 103–160 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**1984**—Pub. L. 98–557 substituted reference to administering Secretaries for reference to Secretary of Health and Human Services.

**1980**—Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1081. Contracts for medical care for spouses and children: review and adjustment of payments

Each plan under section 1079 of this title shall provide for a review, and if necessary an adjustment of payments, by the appropriate administering Secretary, not later than 120 days after the close of each year the plan is in effect.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96–513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 97–375, title I, §104(a), Dec. 21, 1982, 96 Stat. 1819; Pub. L. 98–94, title XII, §1268(5)(A), Sept. 24, 1983, 97 Stat. 706; Pub. L. 98–557, §19(9), Oct. 30, 1984, 98 Stat. 2870.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1081 | 37:412. | June 7, 1956, ch. 374, §202, 70 Stat. 253. |

The words "Each plan under section 1079 of this title" are substituted for the words "Any insurance, medical service, or health plan or plans which may be entered into by the Secretary of Defense with respect to medical care under the provisions of this chapter". The words "after the close of each year the plan is in effect" are substituted for the words "after the first year the plan or plans have been in effect and each year thereafter". The words "Not later than" are substituted for the word "within".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1081, act Aug. 10, 1956, ch. 1041, 70A Stat. 86, related to notification of elections, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**1984**—Pub. L. 98–557 substituted reference to appropriate administering Secretary for reference to Secretary of Defense and Secretary of Health and Human Services.

**1983**—Pub. L. 98–94 struck out "; reports" after "adjustment of payments" in section catchline.

**1982**—Pub. L. 97–375 struck out requirement that the Secretary of Defense report to the Committees on Armed Services of the Congress amounts paid and adjustments made during the year covered by the review not later than 90 days after such review.

**1980**—Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1082. Contracts for health care: advisory committees

To carry out sections 1079–1081 and 1086 of this title, the Secretary of Defense may establish advisory committees on insurance, medical service, and health plans, to advise and make recommendations to him. He shall prescribe regulations defining their scope, activities, and procedures. Each committee shall consist of the Secretary, or his designee, as chairman, and such other persons as the Secretary may select. So far as possible, the members shall be representative of the organizations in the field of insurance, medical service, and health plans. They shall serve without compensation but may be allowed transportation and a per diem payment in place of subsistence and other expenses.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 89–614, §2(8), Sept. 30, 1966, 80 Stat. 866.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1082 | 37:413. | June 7, 1956, ch. 374, §203, 70 Stat. 253. |

The word "organizations" is inserted for clarity. The words "consult" and "or plans" are omitted as

surplusage.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1082, act Aug. 10, 1956, ch. 1041, 70A Stat. 87, related to extension of time limit for making ballots available, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**1966**—Pub. L. 89–614 substituted "Contracts for health care" for "Contracts for medical care for spouses and children" in section catchline and included reference to section 1086 in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

## §1083. Contracts for medical care for spouses and children: additional hospitalization

If a dependent covered by a plan under section 1079 of this title needs hospitalization beyond the time limits in that plan, and if the hospitalization is authorized in medical facilities of the uniformed services, he may be transferred to such a facility for additional hospitalization. If transfer is not feasible, the expenses of additional hospitalization in the civilian facility may be paid under such regulations as the Secretary of Defense may prescribe after consulting the other administering Secretaries.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96–513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98–557, §19(10), Oct. 30, 1984, 98 Stat. 2870.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1083 | 37:423. | June 7, 1956, ch. 374, §303, 70 Stat. 254. |

The words "dependent covered by a plan under section 1079 of this title" are substituted for the words "person who is covered under an insurance, medical service, or health plan or plans, as provided in this chapter". The words "period of", "or plans", and "required by such person in a civilian facility" are omitted as surplusage.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1083, act Aug. 10, 1956, ch. 1041, 70A Stat. 87, related to transmission, delivery, and return of post cards, ballots, etc., prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as

superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**1984**—Pub. L. 98–557 substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

**1980**—Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1084. Determinations of dependency

A determination of dependency by an administering Secretary under this chapter is conclusive. However, the administering Secretary may change a determination because of new evidence or for other good cause. The Secretary's determination may not be reviewed in any court or by the Comptroller General, unless there has been fraud or gross negligence.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1450; amended Pub. L. 89–614, §2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 96–513, title V, §511(34)(A), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; Pub. L. 98–557, §19(11), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 108–375, div. A, title X, §1084(c)(1), Oct. 28, 2004, 118 Stat. 2061.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1084 | 37:404. | June 7, 1956, ch. 374, §304, 70 Stat. 254. |

The words "the General Accounting Office" are substituted for the words "any accounting officer of the Government" for clarity. The words "All" and "for all purposes" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1084, act Aug. 10, 1956, ch. 1041, 70A Stat. 87, related to administration of former sections 1071 to 1086 of this title, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**2004**—Pub. L. 108–375 substituted "Comptroller General" for "General Accounting Office".

**1984**—Pub. L. 98–557 substituted reference to administering Secretary for reference to Secretary of Defense and Secretary of Health and Human Services and reference to administering Secretary for reference to he.

**1980**—Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare", and "this chapter" for "sections 1071–1087 of this title".

**1966**—Pub. L. 89–614 substituted "1087" for "1085".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1966 AMENDMENT**

For effective date of amendment by Pub. L. 89–614, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## §1085. Medical and dental care from another executive department: reimbursement

If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1450; amended Pub. L. 89–264, §1, Oct. 19, 1965, 79 Stat. 989; Pub. L. 96–513, title V, §511(36), (37), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98–94, title XII, §1268(6), Sept. 24, 1983, 97 Stat. 706; Pub. L. 98–557, §19(12), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99–145, title XIII, §1303(a)(8), Nov. 8, 1985, 99 Stat. 739.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1085 | 37:421(d). | June 7, 1956, ch. 374, §301(d), 70 Stat. 253. |

The words "other than that of the member or former member concerned" are substituted for the words "that is not the service of which he is a member or retired member, or that is not the service of the member or retired member upon whom he is dependent". The word "medical" before the word "facility" is omitted to make clear that the provision also relates to dental care. The words "pursuant to the provisions of this chapter" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1085, act Aug. 10, 1956, ch. 1041, 70A Stat. 87, related to prevention of fraud, coercion, and undue influence, to free discussion, and to acts done in good faith, prior to repeal by Pub. L. 85–861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**1985**—Pub. L. 99–145 indented first line of text.

**1984**—Pub. L. 98–557 substituted "If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care" for "If a member or former member of an armed force under the jurisdiction of a military department, or his dependent, receives inpatient medical or dental care in a facility under the jurisdiction of the Secretary of Health and Human Services, or if a member or former member of a uniformed service not under the jurisdiction of a military department, or his dependent, receives inpatient medical or dental care in a facility of an armed force under the jurisdiction of a military department, the appropriation for maintaining and operating the facility furnishing that care shall be reimbursed at rates established by the President to reflect the average cost of providing such care".

**1983**—Pub. L. 98–94 inserted a comma after "If a member or former member of an armed force under the jurisdiction of a military department, or his dependent".

**1980**—Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health,

Education, and Welfare", and "President" for "Bureau of the Budget".

**1965**—Pub. L. 89–264 substituted "executive department" for "uniformed service" in section catchline, and provisions requiring reimbursement if a member or former member of an armed force under the jurisdiction of a military department, or his dependent receives care in a facility under the jurisdiction of Secretary of Health, Education, and Welfare, or if a member or former member of a uniformed service not under the jurisdiction of a military department, or his dependent, receives care in a facility of an armed force under the jurisdiction of a military department, for provisions which required reimbursement if a person received care in a facility of a uniformed service other than that of the member or former member concerned.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### TRANSFER OF FUNDS NECESSARY TO PROVIDE MEDICAL CARE

Pub. L. 114–120, title II, §217, Feb. 8, 2016, 130 Stat. 46, related to transfer of funds from the Secretary of Homeland Security to the Secretary of Defense in lieu of reimbursement required under section 1085 of title 10, prior to repeal by Pub. L. 114–328, div. A, title VII, §722(c), Dec. 23, 2016, 130 Stat. 2229.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Authority of President under this section to establish uniform rates of reimbursement for inpatient medical or dental care delegated to Secretary of Health and Human Services in respect of such care in a facility under his jurisdiction and to Secretary of Defense in respect of such care in a facility of an armed force under jurisdiction of a military department, see section 6 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

## §1086. Contracts for health benefits for certain members, former members, and their dependents

(a) To assure that health benefits are available for the persons covered by subsection (c), the Secretary of Defense, after consulting with the other administering Secretaries, shall contract under the authority of this section for health benefits for those persons under the same insurance, medical service, or health plans he contracts for under section 1079(a) of this title. However, eye examinations and (except as provided in subsection (i)) treatments for eating disorders may not be provided under such plans for persons covered by subsection (c).

(b) For persons covered by this section the plans contracted for under section 1079(a) of this title shall contain the following provisions for payment by the patient:

(1) Except as provided in paragraph (2), the first $150 each calendar year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of all subsequent charges for such care during a calendar year.

(2) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $300 each calendar year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of the additional charges for such care during a calendar year.

(3) 25 percent of the charges for inpatient care, except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2011. The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title, or an individual or family group of two or more persons covered by

this section, may not be required to pay a total of more than $3,000 for health care received during any calendar year under a plan contracted for under section 1079(a) of this title.

(c) Except as provided in subsection (d), the following persons are eligible for health benefits under this section:

(1) Those covered by sections 1074(b) and 1076(b) of this title, except those covered by section 1072(2)(E) of this title.

(2) A dependent (other than a dependent covered by section 1072(2)(E) of this title) of a member of a uniformed service—

(A) who died while on active duty for a period of more than 30 days; or

(B) who died from an injury, illness, or disease incurred or aggravated—

(i) while on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

(ii) while traveling to or from the place at which the member is to perform, or has performed, such active duty, active duty for training, or inactive duty training.

(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).

(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section.

(2) The prohibition contained in paragraph (1) shall not apply to a person referred to in subsection (c) who—

(A) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.); and

(B) in the case of a person under 65 years of age, is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426–1(a)).

(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

(i) the amount paid for that care under medicare; and

(ii) the total of all amounts paid or payable by third party payers other than medicare.

(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

(C) In this paragraph:

(i) The term "medicare" means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(ii) The term "third party payer" has the meaning given such term in section 1095(h)(1) of this title.

(4)(A) If a person referred to in subsection (c) and described by paragraph (2)(B) is subject to a retroactive determination by the Social Security Administration of entitlement to hospital insurance benefits described in paragraph (1), the person shall, during the period described in subparagraph (B), be deemed for purposes of health benefits under this section—

(i) not to have been covered by paragraph (1); and

(ii) not to have been subject to the requirements of section 1079(i)(1) of this title, whether through the operation of such section or subsection (g) of this section.

(B) The period described in this subparagraph with respect to a person covered by subparagraph

(A) is the period that—

(i) begins on the date that eligibility of the person for hospital insurance benefits referred to in paragraph (1) is effective under the retroactive determination of eligibility with respect to the person as described in subparagraph (A); and

(ii) ends on the date of the issuance of such retroactive determination of eligibility by the Social Security Administration.

(5) The administering Secretaries shall develop a mechanism by which persons described in subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph are promptly notified of their ineligibility for health benefits under this section. In developing the notification mechanism, the administering Secretaries shall consult with the Administrator of the Centers for Medicare & Medicaid Services.

(e) A person covered by this section may elect to receive inpatient medical care either in (1) Government facilities, under the conditions prescribed in sections 1074 and 1076–1078 of this title, or (2) the facilities provided under a plan contracted for under this section. However, under joint regulations issued by the administering Secretaries, the right to make this election may be limited for those persons residing in an area where adequate facilities of the uniformed service are available. In addition, subsections (b) and (c) of section 1080 of this title shall apply in making the determination whether to issue a nonavailability of health care statement for a person covered by this section.

(f) The provisions of section 1079(h) of this title shall apply to payments for services by an individual health-care professional (or other noninstitutional health-care provider) under a plan contracted for under subsection (a).

(g) Section 1079(i) of this title shall apply to a plan contracted for under this section, except that no person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.

(i) If, prior to October 1, 2022, a category of persons covered by this section was eligible to receive a specific type of treatment for eating disorders under a plan contracted for under subsection (a), the general prohibition on the provision of treatments for eating disorders specified in such subsection shall not apply with respect to the provision of the specific type of treatment to such category of persons.

(Added Pub. L. 89–614, §2(7), Sept. 30, 1966, 80 Stat. 865; amended Pub. L. 95–485, title VIII, §806(a)(2), Oct. 20, 1978, 92 Stat. 1622; Pub. L. 96–173, §1, Dec. 29, 1979, 93 Stat. 1287; Pub. L. 96–513, title V, §§501(14), 511(36), (39), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 97–86, title IX, §906(a)(2), Dec. 1, 1981, 95 Stat. 1117; Pub. L. 97–252, title X, §1004(c), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98–94, title IX, §931(b), Sept. 24, 1983, 97 Stat. 649; Pub. L. 98–525, title VI, §632(a)(2), Oct. 19, 1984, 98 Stat. 2543; Pub. L. 98–557, §19(13), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99–145, title VI, §652(b), Nov. 8, 1985, 99 Stat. 657; Pub. L. 99–661, div. A, title VI, §604(f)(1)(C), Nov. 14, 1986, 100 Stat. 3877; Pub. L. 100–180, div. A, title VII, §721(b), Dec. 4, 1987, 101 Stat. 1115; Pub. L. 100–456, div. A, title VI, §646(b), Sept. 29, 1988, 102 Stat. 1989; Pub.

L. 101–189, div. A, title VII, §731(c)(2), title XVI, §1621(a)(3), Nov. 29, 1989, 103 Stat. 1482, 1603; Pub. L. 101–510, div. A, title VII, §712(b), Nov. 5, 1990, 104 Stat. 1583; Pub. L. 102–190, div. A, title VII, §704(a), (b)(1), Dec. 5, 1991, 105 Stat. 1401; Pub. L. 102–484, div. A, title VII, §§703(a), 705(a), Oct. 23, 1992, 106 Stat. 2432; Pub. L. 103–35, title II, §203(b)(2), May 31, 1993, 107 Stat. 102; Pub. L. 103–160, div. A, title VII, §716(b)(2), Nov. 30, 1993, 107 Stat. 1693; Pub. L. 103–337, div. A, title VII, §711, Oct. 5, 1994, 108 Stat. 2801; Pub. L. 104–106, div. A, title VII, §732, Feb. 10, 1996, 110 Stat. 381; Pub. L. 104–201, div. A, title VII, §734(a)(2), (b)(2), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106–398, §1 [[div. A], title VII, §§712(a)(1), 759], Oct. 30, 2000, 114 Stat. 1654, 1654A–176, 1654A–200; Pub. L. 108–173, title IX, §900(e)(4)(A), Dec. 8, 2003, 117 Stat. 2373; Pub. L. 109–364, div. A, title VII, §704(b), Oct. 17, 2006, 120 Stat. 2280; Pub. L. 110–181, div. A, title VII, §701(b), Jan. 28, 2008, 122 Stat. 187; Pub. L. 110–417, [div. A], title VII, §701(b), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111–84, div. A, title VII, §§706, 709, Oct. 28, 2009, 123 Stat. 2375, 2378; Pub. L. 111–383, div. A, title VII, §701(b), Jan. 7, 2011, 124 Stat. 4244; Pub. L. 112–239, div. A, title X, §1076(f)(11), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–291, div. A, title VII, §703(c)(2), Dec. 19, 2014, 128 Stat. 3412; Pub. L. 115–91, div. A, title VII, §739(d)(2), Dec. 12, 2017, 131 Stat. 1447; Pub. L. 117–81, div. A, title VII, §701(b), Dec. 27, 2021, 135 Stat. 1778.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Parts A and B of title XVIII of the Act are classified generally to parts A (§1395c et seq.) and B (§1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 1086, act Aug. 10, 1956, ch. 1041, 70A Stat. 88, authorized the mailing of official post cards, ballots, voting instructions, and envelopes, free of postage, prior to repeal by Pub. L. 85–861, §36(B)(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I–D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81, §701(b)(1), inserted "and (except as provided in subsection (i)) treatments for eating disorders" after "eye examinations".

Subsec. (i). Pub. L. 117–81, §701(b)(2), added subsec. (i).

**2017**—Subsec. (b). Pub. L. 115–91 substituted "calendar year" for "fiscal year" wherever appearing.

**2014**—Subsec. (d)(4)(A)(ii). Pub. L. 113–291, §703(c)(2)(A), substituted "section 1079(i)(1)" for "section 1079(j)(1)".

Subsec. (g). Pub. L. 113–291, §703(c)(2)(B), substituted "Section 1079(i)" for "Section 1079(j)".

**2013**—Subsec. (b)(1). Pub. L. 112–239 substituted "paragraph (2)" for "clause (2)".

**2011**—Subsec. (b)(3). Pub. L. 111–383 substituted "September 30, 2011" for "September 30, 2010".

**2009**—Subsec. (b)(3). Pub. L. 111–84, §709, substituted "September 30, 2010" for "September 30, 2009".

Subsec. (d)(4), (5). Pub. L. 111–84, §706, added par. (4) and redesignated former par. (4) as (5).

**2008**—Subsec. (b)(3). Pub. L. 110–417 substituted "September 30, 2009" for "September 30, 2008".

Pub. L. 110–181 substituted "September 30, 2008" for "September 30, 2007."

**2006**—Subsec. (b)(3). Pub. L. 109–364 inserted ", except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2007." after "charges for inpatient care".

**2003**—Subsec. (d)(4). Pub. L. 108–173 substituted "Administrator of the Centers for Medicare & Medicaid Services" for "administrator of the Health Care Financing Administration" in last sentence.

**2000**—Subsec. (b)(4). Pub. L. 106–398, §1 [[div. A], title VII, §759], substituted "$3,000" for "$7,500".

Subsec. (d)(2). Pub. L. 106–398, §1 [[div. A], title VII, §712(a)(1)(A)], added par. (2) and struck out former par. (2) which read as follows: "The prohibition contained in paragraph (1) shall not apply in the case of a person referred to in subsection (c) who—

"(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act

pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426–1(a));

"(B) is under 65 years of age; and

"(C) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.)."

Subsec. (d)(4). Pub. L. 106–398, §1 [[div. A], title VII, §712(a)(1)(B)], substituted "subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph" for "paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph,".

**1996**—Subsec. (d)(4). Pub. L. 104–106 added par. (4).

Subsec. (e). Pub. L. 104–201 substituted "inpatient medical care" for "benefits" in first sentence and "subsections (b) and (c) of section 1080" for "section 1080(b)" in last sentence.

**1994**—Subsec. (d)(3). Pub. L. 103–337 added par. (3) and struck out former par. (3) which read as follows: "If a person described in paragraph (2) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

"(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

"(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan."

**1993**—Subsec. (d). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–190, §704(a). See 1991 Amendment note below.

Subsec. (e). Pub. L. 103–160 inserted at end "In addition, section 1080(b) of this title shall apply in making the determination whether to issue a nonavailability of health care statement for a person covered by this section."

**1992**—Subsec. (b)(4). Pub. L. 102–484, §703(a), substituted "$7,500" for "$10,000".

Subsec. (d)(2)(A). Pub. L. 102–484, §705(a), inserted before semicolon "or section 226A(a) of such Act (42 U.S.C. 426–1(a))".

**1991**—Subsec. (c). Pub. L. 102–190, §704(b)(1)(A), substituted "Except as provided in subsection (d), the following" for "The following" in introductory provisions and struck out at end "However, a person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section."

Subsec. (d). Pub. L. 102–190, §704(a), as amended by Pub. L. 103–35, added subsec. (d) and struck out former subsec. (d) which read as follows: "The provisions of section 1079(j) of this title shall apply to a plan covered by this section."

Subsec. (g). Pub. L. 102–190, §704(b)(1)(B), substituted "Section 1079(j) of this title shall apply to a plan contracted for under this section, except that" for "Notwithstanding subsection (d) or any other provision of this chapter,".

**1990**—Subsec. (b)(1), (2). Pub. L. 101–510 substituted "$150" for "$50" in par. (1) and "$300" for "$100" in par. (2).

**1989**—Subsec. (c)(3). Pub. L. 101–189, §731(c)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "A dependent covered by section 1072(2)(F) of this title."

Subsec. (g). Pub. L. 101–189, §1621(a)(3), substituted "facilities of the Department of Veterans Affairs" for "Veterans' Administration facilities".

**1988**—Subsec. (b)(3). Pub. L. 100–456, §646(b)(1), inserted provision authorizing Secretary of Defense to exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

Subsec. (h). Pub. L. 100–456, §646(b)(2), added subsec. (h).

**1987**—Subsec. (b)(4). Pub. L. 100–180 added par. (4).

**1986**—Subsec. (c)(2)(B). Pub. L. 99–661 inserted reference to disease.

**1985**—Subsec. (c)(2). Pub. L. 99–145 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A dependent of a member of a uniformed service who died while on active duty for a period of more than thirty days, except a dependent covered by section 1072(2)(E) of this title."

**1984**—Subsec. (a). Pub. L. 98–557, §19(13)(A), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

Pub. L. 98–525 inserted "However, eye examinations may not be provided under such plans for persons covered by subsection (c)."

Subsec. (e). Pub. L. 98–557, §19(13)(B), substituted reference to the administering Secretaries for reference

to the Secretary of Defense and the Secretary of Health and Human Services.

**1983**—Subsec. (d). Pub. L. 98–94 substituted "The provisions of section 1079(j) of this title shall apply to a plan covered by this section" for "No benefits shall be payable under any plan covered by this section in the case of a person enrolled in any other insurance, medical service, or health plan provided by law or through employment unless that person certifies that the particular benefit he is claiming is not payable under the other plan".

**1982**—Subsec. (c)(3). Pub. L. 97–252 added par. (3).

**1981**—Subsec. (f). Pub. L. 97–86 substituted "services by an individual health-care professional (or other noninstitutional health-care provider)" for "physician services".

**1980**—Subsec. (a). Pub. L. 96–513, §511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (b). Pub. L. 96–513, §511(39)(A), substituted "percent" for "per centum" wherever appearing.

Subsec. (c). Pub. L. 96–513, §§501(14), 511(39)(B), substituted "section 1072(2)(E)" for "section 1072(2)(F)" in pars. (1) and (2) and, in provisions following par. (2), substituted "part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)" for "title I of the Social Security Amendments of 1965 (79 Stat. 286)".

**1979**—Subsec. (g). Pub. L. 96–173 added subsec. (g).

**1978**—Subsec. (f). Pub. L. 95–485 added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 effective Oct. 1, 2022, see section 701(d) of Pub. L. 117–81, set out as a note under section 1079 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VII, §712(a)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–177, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and section 1395ggg of Title 42, The Public Health and Welfare] shall take effect on October 1, 2001."

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title VII, §703(b), Oct. 23, 1992, 106 Stat. 2432, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning after September 30, 1992."

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title VII, §704(c), Dec. 5, 1991, 105 Stat. 1402, which provided that subsection (d) of this section was to apply with respect to health care benefits or services received by a person described in such subsection on or after Dec. 5, 1991, was repealed by Pub. L. 102–484, div. A, title VII, §705(c)(1), Oct. 23, 1992, 106 Stat. 2433.

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 applicable with respect to health care provided under this section and section 1079 of this title on or after Apr. 1, 1991, see section 712(c) of Pub. L. 101–510, set out as a note under section 1079 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 731(c)(2) of Pub. L. 101–189 applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if the amendment had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101–189, set out as a note under section 1072 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable with respect to medical care received after September 30, 1988, see section 646(c) of Pub. L. 100–456, set out as a note under section 1079 of this title.

### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–180 applicable with respect to fiscal years beginning after September 30, 1987,

see section 721(c) of Pub. L. 100–180, set out as a note under section 1079 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by Pub. L. 99–145 applicable only with respect to dependents of members of the uniformed services whose deaths occur after Sept. 30, 1985, see section 652(c) of Pub. L. 99–145, set out as a note under section 1076 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98–525 applicable only to health care furnished after Sept. 30, 1984, see section 632(a)(3) of Pub. L. 98–525, set out as a note under section 1079 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 931(c) of Pub. L. 98–94, set out as a note under section 1079 of this title.

**EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS**

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–86 to apply with respect to claims submitted for payment for services provided after the end of the 30-day period beginning on Dec. 1, 1981, see section 906(b) of Pub. L. 97–86, set out as a note under section 1079 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by section 501(14) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 511(36), (39) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1979 AMENDMENT**

Pub. L. 96–173, §2, Dec. 29, 1979, 93 Stat. 1287, provided that: "The amendment made by the first section of this Act [amending this section] shall take effect on October 1, 1979."

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–485 applicable with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after Oct. 20, 1978, see section 806(b) of Pub. L. 95–485, set out as a note under section 1079 of this title.

**EFFECTIVE DATE**

For effective date of section, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

**TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY**

Pub. L. 108–375, div. A, title VII, §716, Oct. 28, 2004, 118 Stat. 1986, authorized the Secretary of Defense to waive the collection of payments otherwise due for health benefits from certain persons described in subsec. (d) of this section who were unaware of the loss of eligibility to receive health benefits under such subsection and authorized a continuation of benefits for such persons during the period beginning on July 1, 1999, and ending on Dec. 31, 2004.

Similar provisions were contained in the following prior authorization acts:

Pub. L. 105–261, div. A, title VII, §704, Oct. 17, 1998, 112 Stat. 2057.

Pub. L. 104–106, div. A, title VII, §743, Feb. 10, 1996, 110 Stat. 385.

**MINIMUM AMOUNT PAYABLE FOR SERVICES PROVIDED UNDER THIS SECTION**

Pub. L. 103–335, title VIII, §8052, Sept. 30, 1994, 108 Stat. 2629, provided that: "Notwithstanding any other provision of law, of the funds appropriated for the Defense Health Program during this fiscal year and hereafter, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and such appropriations as necessary shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, or any other beneficiary described by section 1086(c) of title 10, United States Code, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) [42 U.S.C. 1395c et seq.] solely on the grounds of physical disability, or end stage renal disease: *Provided*, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.] and are otherwise covered under CHAMPUS: *Provided further*, That no reimbursement shall be made for services provided prior to October 1, 1991."

**AUTHORIZATION TO APPLY SECTION 1079 PAYMENT RULES FOR SPOUSE AND CHILDREN OF MEMBER WHO DIES WHILE ON ACTIVE DUTY**

Pub. L. 103–160, div. A, title VII, §704, Nov. 30, 1993, 107 Stat. 1687, provided that in the case of an eligible dependent of a member of a uniformed service who died while on active duty for a period of more than 30 days, the administering Secretary could apply the payment provisions set forth in section 1079(b) of this title (in lieu of the payment provisions set forth in section 1086(b) of this title), with respect to health benefits received by the dependent under such section 1086 in connection with an illness or medical condition for which the dependent was receiving treatment under chapter 55 of this title at time of death of the member, prior to repeal by Pub. L. 103–337, div. A, title VII, §707(d), Oct. 5, 1994, 108 Stat. 2801.

[Pub. L. 103–337, div. A, title VII, §707(d), Oct. 5, 1994, 108 Stat. 2801, provided in part that: "The repeal of such section [section 704 of Pub. L. 103–160, formerly set out above] shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act [Oct. 5, 1994]."]

**COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991**

Pub. L. 102–484, div. A, title VII, §705(b), Oct. 23, 1992, 106 Stat. 2433, provided that: "Subsection (d) of section 1086 of title 10, United States Code, as added by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) and amended by subsection (a) of this section, shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of such section 1086 if such benefits or services would have been covered under a plan contracted for under such section 1086."

## §1086a. Certain former spouses: extension of period of eligibility for health benefits

(a) AVAILABILITY OF CONVERSION HEALTH POLICIES.—The Secretary of Defense shall inform each person who has been a dependent for a period of one year or more under section 1072(2)(H) of this title of the availability of a conversion health policy for purchase by the person. A conversion health policy offered under this subsection shall provide coverage for not less than a 24-month period.

(b) EFFECT OF PURCHASE.—(1) Subject to paragraph (2), if a person who is a dependent for a one-year period under section 1072(2)(H) of this title purchases a conversion health policy within that period (or within a reasonable time after that period as prescribed by the Secretary of Defense), the person shall continue to be eligible for medical and dental care in the manner described in section 1076 of this title and health benefits under section 1086 of this title until the end of the 24-month period beginning on the later of—

(A) the date the person is no longer a dependent under section 1072(2)(H) of this title; and

(B) the date of the purchase of the policy.

(2) The extended period of eligibility provided under paragraph (1) shall apply only with regard to a condition of the person that—

(A) exists on the date on which coverage under the conversion health policy begins; and

(B) for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(c) EFFECT OF UNAVAILABILITY OF POLICIES.—(1) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to offer conversion health policies under subsection (a) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall provide the coverage required under such a policy through the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (2), a person receiving coverage under this subsection shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(2) The amount paid by a person who purchases a conversion health policy from the Secretary of Defense under paragraph (1) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(3) In order to reduce premiums required under paragraph (1), the Secretary of Defense may offer a program of coverage that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(d) CONVERSION HEALTH POLICY DEFINED.—In this section, the term "conversion health policy" means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and the private insurer, that is available for purchase by or for the use of a person who is a dependent for a one-year period under section 1072(2)(H) of this title.

(Added Pub. L. 101–189, div. A, title VII, §731(b)(1), Nov. 29, 1989, 103 Stat. 1482; amended Pub. L. 102–484, div. D, title XLIV, §4407(b), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103–35, title II, §202(a)(16), May 31, 1993, 107 Stat. 102.)

## EDITORIAL NOTES

### AMENDMENTS

**1993**—Subsec. (b)(1). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484, §4407(b)(2). See 1992 Amendment note below.

**1992**—Subsec. (a). Pub. L. 102–484, §4407(b)(1), inserted at end "A conversion health policy offered under this subsection shall provide coverage for not less than a 24-month period."

Subsec. (b)(1). Pub. L. 102–484, §4407(b)(2), as amended by Pub. L. 103–35, substituted "24-month period" for "one-year period" the second place appearing in the introductory provisions of par. (1).

Subsecs. (c), (d). Pub. L. 102–484, §4407(b)(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

### EFFECTIVE DATE

Section applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or

annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if section had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101–189, set out as an Effective Date of 1989 Amendment note under section 1072 of this title.

**APPLICATION OF AMENDMENTS BY PUB. L. 102–484 TO EXISTING CONTRACTS**

Pub. L. 102–484, div. D, title XLIV, §4407(c), Oct. 23, 1992, 106 Stat. 2708, provided that: "In the case of conversion health policies provided under section 1145(b) or 1086a(a) of title 10, United States Code, and in effect on the date of the enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall—

"(1) arrange with the private insurer providing these policies to extend the term of the policies (and coverage of preexisting conditions) as provided by the amendments made by this section [amending this section and section 1145 of this title]; or

"(2) make other arrangements to implement the amendments made by this section with respect to these policies."

**TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES**

Pub. L. 102–484, div. D, title XLIV, §4408(c), Oct. 23, 1992, 106 Stat. 2712, provided that:

"(1) No person may purchase a conversion health policy under section 1145(b) or 1086a of title 10, United States Code, on or after October 1, 1994. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

"(2) No person may be covered concurrently by a conversion health policy under section 1145(b) or 1086a of such title and a health benefits plan under section 1078a of such title."

## §1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense

The Secretary of Defense may not take any action that would require, or have the effect of requiring, a member or former member of the armed forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through the Department of Defense.

(Added Pub. L. 107–107, div. A, title VII, §731(a), Dec. 28, 2001, 115 Stat. 1169.)

## §1087. Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services

(a) Space for inpatient and outpatient care may be programed in facilities of the uniformed services for persons covered by sections 1074(b) and 1076(b) of this title. The maximum amount of space that may be so programed for a facility is the greater of—

(1) the amount of space that would be so programed for the facility in order to meet the requirements to be placed on the facility for support of the teaching and training of health-care professionals; and

(2) the amount of space that would be so programed for the facility based upon the most cost-effective provision of inpatient and outpatient care to persons covered by sections 1074(b) and 1076(b) of this title.

(b)(1) In making determinations for the purposes of clauses (1) and (2) of subsection (a), the Secretary concerned shall take into consideration—

(A) the amount of space that would be so programed for the facility based upon projected inpatient and outpatient workloads at the facility for persons covered by sections 1074(b) and 1076(b) of this title; and

(B) the anticipated capability of the medical and dental staff of the facility, determined in accordance with regulations prescribed by the Secretary of Defense and based upon realistic projections of the number of physicians and other health-care providers that it can reasonably be expected will be assigned to or will otherwise be available to the facility.

(2) In addition, a determination made for the purpose of clause (2) of subsection (a) shall be made in accordance with an economic analysis (including a life-cycle cost analysis) of the facility and consideration of all reasonable and available medical care treatment alternatives (including treatment provided under a contract under section 1086 of this title or under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).

(Added Pub. L. 89–614, §2(7), Sept. 30, 1966, 80 Stat. 866; amended Pub. L. 97–337, §1, Oct. 15, 1982, 96 Stat. 1631; Pub. L. 98–525, title XIV, §1405(24), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99–661, div. A, title XIII, §1343(a)(4), Nov. 14, 1986, 100 Stat. 3992.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Part A of title XVIII of the Social Security Act, is classified generally to Part A (§1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

### AMENDMENTS

**1986**—Subsec. (b)(2). Pub. L. 99–661 substituted "Act (42 U.S.C. 1395c et seq.))" for "Act. (42 U.S.C. 1395c et seq.)".

**1984**—Subsec. (b)(2). Pub. L. 98–525 which directed that "(42 U.S.C. 1395c et seq.)" be inserted after "the Social Security Act.", was executed by inserting parenthetical after "the Social Security Act" to reflect the probable intent of Congress. See 1986 Amendment note above.

**1982**—Subsec. (a). Pub. L. 97–337, §1(1), designated existing provisions as subsec. (a).

Pub. L. 97–337, §1(2), substituted provisions limiting the maximum amount of space to be programed as the greater of the amounts of space described in par. (1) or (2) for provisions limiting the amount of space to be programed to that amount needed to support teaching and training requirements, except that space may be programed in areas having large concentrations of retired members where there is a critical shortage of facilities.

Subsec. (b). Pub. L. 97–337, §1(2), added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–337, §2, Oct. 15, 1982, 96 Stat. 1632, provided that: "The amendment made by paragraph (2) of the first section of this Act [amending this section] shall apply only with respect to a facility for which funds for construction (or a major alteration) are first appropriated for a fiscal year after fiscal year 1983."

### EFFECTIVE DATE

For effective date of section, see section 3 of Pub. L. 89–614, set out as a note under section 1071 of this title.

## §1088. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations to be prescribed by the Secretary concerned, a person entitled to medical and dental care under this chapter may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

(Added Pub. L. 91–481, §2(1), Oct. 21, 1970, 84 Stat. 1081.)

## §1089. Defense of certain suits arising out of medical malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, the Department of Defense, the Armed Forces Retirement Home, or the Central Intelligence Agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding. This subsection shall also apply to such a physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) serving under a personal services contract entered into under section 1091 of this title or a subcontract at any tier under such a contract that is authorized in accordance with the requirements of such section 1091.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

(f)(1) The head of the agency concerned may, to the extent that the head of the agency concerned considers appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

(2) With respect to the Secretary of Defense and the Armed Forces Retirement Home Board, the authority provided by paragraph (1) also includes the authority to provide for reasonable attorney's fees for persons described in subsection (a), as determined necessary pursuant to regulations prescribed by the head of the agency concerned.

(g) In this section, the term "head of the agency concerned" means—

(1) the Director of the Central Intelligence Agency, in the case of an employee of the Central Intelligence Agency;

(2) the Secretary of Homeland Security, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy;

(3) the Chief Operating Officer of the Armed Forces Retirement Home, in the case of an employee of the Armed Forces Retirement Home; and

(4) the Secretary of Defense, in all other cases.

(Added Pub. L. 94–464, §1(a), Oct. 8, 1976, 90 Stat. 1985; amended Pub. L. 97–124, §2, Dec. 29, 1981, 95 Stat. 1666; Pub. L. 98–94, title IX, §934(a)–(c), Sept. 24, 1983, 97 Stat. 651, 652; Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–510, div. A, title XV, §1533(a)(1), Nov. 5, 1990, 104 Stat. 1733; Pub. L. 105–85, div. A, title VII, §736(b), Nov. 18, 1997, 111 Stat. 1814; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–181, div. A, title IX, §931(b)(3), Jan. 28, 2008, 122 Stat. 285; Pub. L. 112–81, div. A, title V, §567(b)(2)(A), Dec. 31, 2011, 125 Stat. 1425; Pub. L. 112–239, div. A, title VII, §713(a), Jan. 2, 2013, 126 Stat. 1803.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (a). Pub. L. 112–239 substituted "to such a physician, dentist, nurse, pharmacist, or paramedical" for "if the physician, dentist, nurse, pharmacist, or paramedical", struck out "involved is" before "serving under", and inserted "or a subcontract at any tier under such a contract that is authorized in accordance with the requirements of such section 1091" after "section 1091 of this title".

**2011**—Subsec. (g)(3). Pub. L. 112–81 substituted "Chief Operating Officer of the Armed Forces Retirement Home" for "Armed Forces Retirement Home Board".

**2008**—Subsec. (g)(1). Pub. L. 110–181 substituted "Director of the Central Intelligence Agency" for "Director of Central Intelligence".

**2002**—Subsec. (g)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1997**—Subsec. (a). Pub. L. 105–85, §736(b)(1), inserted at end "This subsection shall also apply if the physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) involved is serving under a personal services contract entered into under section 1091 of this title."

Subsec. (f). Pub. L. 105–85, §736(b)(2), designated existing provisions as par. (1) and added par. (2).

**1990**—Subsec. (a). Pub. L. 101–510, §1533(a)(1)(A), substituted "Armed Forces Retirement Home" for "United States Soldiers' and Airmen's Home".

Subsec. (g)(3). Pub. L. 101–510, §1533(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "the Board of Commissioners of the United States Soldiers' and Airmen's home, in the case of an employee of the United States Soldiers' and Airmen's Home; and".

**1987**—Subsec. (g). Pub. L. 100–180 inserted "the term" after "In this section,".

**1983**—Subsec. (a). Pub. L. 98–94, §934(a), inserted "the United States Soldiers' and Airmen's Home,".

Subsec. (f). Pub. L. 98–94, §934(b), substituted "may, to the extent that the head of the agency concerned considers" for "or his designee may, to the extent that he or his designee deems".

Subsec. (g)(3), (4). Pub. L. 98–94, §934(c)(3), added par. (3) and redesignated former par. (3) as (4).

**1981**—Subsec. (a). Pub. L. 97–124 inserted "the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32," after "armed forces,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title IX, §934(d), Sept. 24, 1983, 97 Stat. 652, provided that: "The amendments made by this section [amending this section] shall apply only to claims accruing on or after the date of the enactment of this Act [Sept. 24, 1983]."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–124, §4, Dec. 29, 1981, 95 Stat. 1666, provided that: "The amendments made by this Act [amending this section and section 2671 of Title 28, Judiciary and Judicial Procedure] and the repeal made by section 3 of this Act [repealing section 334 of Title 32, National Guard] shall apply only with respect to claims arising on or after the date of enactment of this Act [Dec. 29, 1981]."

**EFFECTIVE DATE**

Pub. L. 94–464, §4, Oct. 8, 1976, 90 Stat. 1989, provided that: "This Act [enacting this section, section 334 of Title 32, National Guard, section 2458a of Title 42, The Public Health and Welfare, and provisions set out as notes under this section and section 334 of Title 32] shall become effective on the date of its enactment [Oct. 8, 1976] and shall apply only to those claims accruing on or after such date of enactment."

**CONGRESSIONAL FINDINGS**

Pub. L. 94–464, §2(a), Oct. 8, 1976, 90 Stat. 1986, provided that: "The Congress finds—

"(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

"(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

"(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

"(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises."

## §1090. Identifying and treating drug and alcohol dependence

The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.

(Added Pub. L. 97–295, §1(15)(A), Oct. 12, 1982, 96 Stat. 1290; amended Pub. L. 98–94, title XII, §1268(7), Sept. 24, 1983, 97 Stat. 706; Pub. L. 101–510, div. A, title V, §553, Nov. 5, 1990, 104 Stat. 1567; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1090 | 10:1071 (note). | Sept. 28, 1971, Pub. L. 92–129, §501(a)(1), 85 Stat. 361. |

The word "regulations" is added for consistency. The word "persons" is omitted as surplus.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1990**—Pub. L. 101–510 inserted ", and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy," after "Secretary of Defense".

**1983**—Pub. L. 98–94 struck out "(a)" before "The Secretary of Defense".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## NALOXONE AND FENTANYL: REGULATIONS; BRIEFING

Pub. L. 118–31, div. A, title VII, §706, Dec. 22, 2023, 137 Stat. 301, provided that:

"(a) REGULATIONS.—Not later than January 1, 2025, the Secretary of Defense, in coordination with the Secretaries of the military departments shall prescribe regulations regarding naloxone and fentanyl on military installations. Such regulations shall—

"(1) ensure that naloxone is available for members of the Armed Forces—

"(A) on all military installations; and

"(B) in each operational environment; and

"(2) establish a standardized tracking system—

"(A) for naloxone distributed under paragraph (1); and

"(B) of the illegal use of fentanyl and other controlled substances in the military departments.

"(b) BRIEFING.—Not later than June 1, 2025, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a briefing regarding naloxone and fentanyl. Such briefing shall include the following elements:

"(1) Progress in the implementation of regulations prescribed under subsection (a).

"(2) The prevalence and incidence of the illegal use of fentanyl and other controlled substances in the military departments during the five years preceding the briefing.

"(3) Processes of the military departments to mitigate substance abuse, particularly with regards to fentanyl.

"(c) NALOXONE DEFINED.—In this section, the term 'naloxone' means naloxone and any other medication used to reverse opioid overdose."

## PILOT PROGRAM ON OPIOID MANAGEMENT IN THE MILITARY HEALTH SYSTEM

Pub. L. 115–232, div. A, title VII, §716, Aug. 13, 2018, 132 Stat. 1814, as amended by Pub. L. 117–263, div. A, title VII, §719, Dec. 23, 2022, 136 Stat. 2662, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—Except as provided in subsection (e), beginning not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Director of the Defense Health Agency shall implement a comprehensive pilot program to assess the feasability [sic] and advisability of mechanisms to minimize early exposure of beneficiaries under the TRICARE program to opioids and to prevent the progression of beneficiaries to misuse or abuse of opioid medications.

"(2) OPIOID SAFETY ACROSS CONTINUUM OF CARE.—The pilot program shall include elements to maximize opioid safety across the entire continuum of care consisting of patient, physician or dentist, and pharmacist.

"(b) ELEMENTS OF PILOT PROGRAM.—The pilot program shall include the following:

"(1) Identification of potential misuse or abuse of opioid medications in pharmacies of military treatment facilities, retail network pharmacies, and the home delivery pharmacy, and the transmission of alerts regarding such potential misuse or abuse of opioids to prescribing physicians and dentists.

"(2) Direct engagement with, education for, and management of beneficiaries under the TRICARE program to help such beneficiaries avoid misuse or abuse of opioid medications.

"(3) Proactive outreach by specialist pharmacists to beneficiaries under the TRICARE program when identifying potential misuse or abuse of opioid medications.

"(4) Monitoring of beneficiaries under the TRICARE program through the use of predictive analytics to identify the potential for opioid abuse and addiction before beneficiaries begin an opioid prescription.

"(5) Detection of fraud, waste, and abuse in connection with opioids.

"(c) DURATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Director shall carry out the pilot program for a period of not more than three years.

"(2) EXPANSION.—The Director may carry out the pilot program on a permanent basis if the Director determines that the mechanisms under the pilot program successfully reduce early opioid exposure in beneficiaries under the TRICARE program and prevent the progression of beneficiaries to misuse or abuse of opioid medications.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 180 days before completion of the pilot program, the Secretary of

Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of the pilot program, including outcome measures developed to determine the overall effectiveness of the mechanisms under the pilot program.

"(B) A description of the ability of the mechanisms under the pilot program to identify misuse and abuse of opioid medications among beneficiaries under the TRICARE program in each pharmacy venue of the pharmacy program of the military health system.

"(C) A description of the impact of the use of predictive analytics to monitor beneficiaries under the TRICARE program in order to identify the potential for opioid abuse and addiction before beneficiaries begin an opioid prescription.

"(D) A description of any reduction in the misuse or abuse of opioid medications among beneficiaries under the TRICARE program as a result of the pilot program.

"(e) ALTERNATIVE INITIATIVE TO IMPROVE OPIOID MANAGEMENT.—As an alternative to the pilot program under this section, the Director of the Defense Health Agency, not later than January 1, 2023—

"(1) may implement a permanent program to improve opioid management for beneficiaries under the TRICARE program; and

"(2) if the Director decides to implement such a permanent program, shall submit to the Committees on Armed Services of the Senate and the House of Representatives the specifications of and reasons for implementing such program.

"(f) TRICARE PROGRAM DEFINED.—In this section, the term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code."

## §1090a. Identifying and treating eating disorders

(a) IDENTIFICATION, TREATMENT, AND REHABILITATION.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify, treat, and rehabilitate members of the armed forces who have an eating disorder.

(b) FACILITIES AVAILABLE.—(1) In this section, the term "necessary facilities" includes facilities that provide the services specified in section 1079(r)(1) of this title.

(2) Consistent with section 1079(r)(1)(B) of this title, residential services shall be provided to a member pursuant to this section only if the member has a primary diagnosis of an eating disorder and treatment at such facility is medically indicated for treatment of that eating disorder.

(c) EATING DISORDER DEFINED.—In this section, the term "eating disorder" has the meaning given that term in section 1079(r) of this title.

(Added Pub. L. 117–81, div. A, title VII, §701(c)(1)(B), Dec. 27, 2021, 135 Stat. 1778; amended Pub. L. 118–31, div. A, title XVIII, §1801(a)(13), Dec. 22, 2023, 137 Stat. 684.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1090a was renumbered section 1090b of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31 struck out period at end of section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 2022, see section 701(d) of Pub. L. 117–81, set out as an Effective Date of 2021 Amendment note under section 1079 of this title.

## §1090b. Commanding officer and supervisor referrals of members for mental health evaluations

(a) REGULATIONS.—The Secretary of Defense shall prescribe and maintain regulations relating to commanding officer and supervisor referrals of members of the armed forces for mental health evaluations. The regulations shall incorporate the requirements set forth in subsections (b), (c), and (d) and such other matters as the Secretary considers appropriate.

(b) REDUCTION OF PERCEIVED STIGMA.—The regulations required by subsection (a) shall, to the greatest extent possible—

(1) seek to eliminate perceived stigma associated with seeking and receiving mental health services, promoting the use of mental health services on a basis comparable to the use of other medical and health services; and

(2) clarify the appropriate action to be taken by commanders or supervisory personnel who, in good faith, believe that a subordinate may require a mental health evaluation.

(c) PROCEDURES FOR INPATIENT EVALUATIONS.—The regulations required by subsection (a) shall provide that, when a commander or supervisor determines that it is necessary to refer a member of the armed forces for a mental health evaluation or is required to make such a referral pursuant to the process described in subsection (e)(1)(A)—

(1) the health evaluation shall only be conducted in the most appropriate clinical setting, in accordance with the least restrictive alternative principle; and

(2) only a psychiatrist, or, in cases in which a psychiatrist is not available, another mental health professional or a physician, may admit the member pursuant to the referral for a mental health evaluation to be conducted on an inpatient basis.

(d) PROHIBITION ON USE OF REFERRALS FOR MENTAL HEALTH EVALUATIONS TO RETALIATE AGAINST WHISTLEBLOWERS.—The regulations required by subsection (a) shall provide that no person may refer a member of the armed forces for a mental health evaluation as a reprisal for making or preparing a lawful communication of the type described in section 1034(c)(2) of this title, and applicable regulations. For purposes of this subsection, such communication shall also include a communication to any appropriate authority in the chain of command of the member.

(e) SELF-INITIATED REFERRAL PROCESS.—(1) The regulations required by subsection (a) shall, with respect to a member of the armed forces described in paragraph (3)—

(A) provide for a self-initiated process that enables the member to trigger a referral for a mental health evaluation by requesting such a referral from a commanding officer or supervisor who is in a grade above E-5;

(B) ensure the function of the process described in subparagraph (A) by—

(i) requiring the commanding officer or supervisor of the member to refer the member to a mental health provider for a mental health evaluation as soon as practicable following the request of the member (including by providing to the mental health provider the name and contact information of the member and providing to the member the date, time, and place of the scheduled mental health evaluation); and

(ii) ensuring the member may request a referral pursuant to subparagraph (A) on any basis (including on the basis of a concern relating to fitness for duty, occupational requirements, safety issues, significant changes in performance, or behavioral changes that may be attributable to possible changes in mental status); and

(C) ensure that the process described in subparagraph (A)—

(i) reduces stigma in accordance with subsection (b), including by treating referrals for mental health evaluations made pursuant to such process in a manner similar to referrals for other medical services, to the maximum extent practicable; and

(ii) protects the confidentiality of the member to the maximum extent practicable, in accordance with requirements for the confidentiality of health information under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) and applicable

privacy laws.

(2) In making a referral for an evaluation of a member of the armed forces triggered by a request made pursuant to the process described in paragraph (1)(A), if the member has made such a request on the basis of a concern that the member is a potential or imminent danger to self or others, the commanding officer or supervisor of the member shall observe the following principles:

(A) With respect to safety, if the commander or supervisor determines the member is exhibiting dangerous behavior, the first priority of the commander or supervisor shall be to ensure that precautions are taken to protect the safety of the member, and others, prior to the arrival of the member at the location of the evaluation.

(B) With respect to communication, prior to such arrival, the commander or supervisor shall communicate to the provider to which the member is being referred (in a manner and to an extent consistent with paragraph (1)(C)(ii)), information on the circumstances and observations that led to—

(i) the member requesting the referral; and

(ii) the commander or supervisor making such referral based on the request.

(3) A member of the armed forces described in this paragraph is—

(A) a member on active duty for a period of longer than 30 days; or

(B) a member of the Selected Reserve in a duty status.

(f) ANNUAL TRAINING REQUIREMENT.—On an annual basis, each Secretary concerned shall provide to the members of the Armed Forces under the jurisdiction of such Secretary a training on how to recognize personnel who may require mental health evaluations on the basis of the individual being an imminent danger to self or others, as demonstrated by the behavior or apparent mental state of the individual.

(g) DEFINITIONS.—In this section:

(1) The term "mental health professional" means a psychiatrist or clinical psychologist, a person with a doctorate in clinical social work, or a psychiatric clinical nurse specialist.

(2) The term "mental health evaluation" means a psychiatric examination or evaluation, a psychological examination or evaluation, an examination for psychiatric or psychological fitness for duty, or any other means of assessing the state of mental health of a member of the armed forces.

(3) The term "least restrictive alternative principle" means a principle under which a member of the armed forces committed for hospitalization and treatment shall be placed in the most appropriate and therapeutic available setting—

(A) that is no more restrictive than is conducive to the most effective form of treatment; and

(B) in which treatment is available and the risks of physical injury or property damage posed by such placement are warranted by the proposed plan of treatment.

(Added Pub. L. 112–81, div. A, title VII, §711(a)(1), Dec. 31, 2011, 125 Stat. 1475, §1090a; renumbered §1090b and amended Pub. L. 117–81, div. A, title VII, §§701(c)(1)(A), 704, Dec. 27, 2021, 135 Stat. 1778, 1780; Pub. L. 118–31, div. A, title VII, §705, title XVIII, §1801(a)(14), Dec. 22, 2023, 137 Stat. 300, 684.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (e)(1)(C)(ii), is Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 1936. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 201 of Title 42, The Public Health and Welfare, and Tables.

### AMENDMENTS

**2023**—Subsec. (e)(1). Pub. L. 118–31, §705(1), inserted "described in paragraph (3)" after "member of the armed forces" in introductory provisions.

Subsec. (e)(1)(B)(ii). Pub. L. 118–31, §1801(a)(14), substituted "ensuring" for "ensure".

Subsec. (e)(3). Pub. L. 118–31, §705(2), added par. (3).

**2021**—Pub. L. 117–81, §701(c)(1)(A), renumbered section 1090a of this title as this section.

Subsec. (c). Pub. L. 117–81, §704(1), inserted "or is required to make such a referral pursuant to the process described in subsection (e)(1)(A)" after "mental health evaluation" in introductory provisions.

Subsecs. (e) to (g). Pub. L. 117–81, §704(2), (3), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Transfer of section by section 701(c)(1)(A) of Pub. L. 117–81 effective Oct. 1, 2022, see section 701(d) of Pub. L. 117–81, set out as a note under section 1079 of this title.

### CONFIDENTIALITY REQUIREMENTS FOR MENTAL HEALTH CARE SERVICES FOR MEMBERS OF THE ARMED FORCES

Pub. L. 117–263, div. A, title VII, §704, Dec. 23, 2022, 136 Stat. 2648, provided that:

"(a) IN GENERAL.—In order to reinforce the policies of eliminating stigma in obtaining mental health care services and further encouraging help-seeking behavior by members of the Armed Forces, not later than July 1, 2023, the Secretary of Defense shall—

"(1) update and reissue Department of Defense Instruction 6490.08, titled 'Command Notification Requirements to Dispel Stigma in Providing Mental Health Care to Service Members' and issued on August 17, 2011, taking into account—

"(A) experience implementing the Instruction; and

"(B) opportunities to more effectively dispel stigma in obtaining mental health care services and encourage help-seeking behavior; and

"(2) develop standards within the Department of Defense that—

"(A) ensure, except in a case in which there is an exigent circumstance, the confidentiality of mental health care services provided to members who voluntarily seek such services;

"(B) include a model for making determinations with respect to exigent circumstances that clarifies the responsibilities regarding the determination of the effect on military function and the prevention of self-harm by the individual; and

"(C) in a case in which there is an exigent circumstance, prevent health care providers from disclosing more than the minimum amount of information necessary to address the exigent circumstance.

"(b) ELEMENTS.—The standards required by subsection (a)(2) shall include the following elements:

"(1) Requirements for confidentiality regarding the request and receipt by a member of the Armed Forces of mental health care services under the self-initiated referral process under section 1090a(e) [sic; probably should be "section 1090b(e)"] of title 10, United States Code.

"(2) Requirements for confidentiality regarding the results of any drug testing incident to such mental health care services.

"(3) Procedures that reflect best practices of the mental health profession with respect to suicide prevention.

"(4) A prohibition against retaliating against a member of the Armed Forces who requests mental health care services.

"(5) Such other elements as the Secretary determines will most effectively support the policies of—

"(A) eliminating stigma in obtaining mental health care services; and

"(B) encouraging help-seeking behavior by members of the Armed Forces.

"(c) JOINT POLICY WITH THE SECRETARY OF VETERANS AFFAIRS.—

"(1) IN GENERAL.—Not later than July 1, 2023, the Secretary of Defense and the Secretary of Veterans Affairs shall issue a joint policy that provides, except in a case in which there is an exigent circumstance, for the confidentiality of mental health care services provided by the Secretary of Veterans Affairs to members of the Armed Forces, including the reserve components, under section 1712A, 1720F, 1720H, or 1789 of title 38, United States Code, or other applicable law.

"(2) ELEMENTS.—The joint policy issued under paragraph (1) shall, to the extent practicable, include standards comparable to the standards developed under subsection (a)(2).

"(d) REPORT.—Not later than July 1, 2023, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a copy of the standards developed under subsection (a)(2) and the joint policy issued under subsection (c).

"(e) EXIGENT CIRCUMSTANCE DEFINED.—In this section, the term 'exigent circumstance' means a circumstance in which the Secretary of Defense determines the need to prevent serious harm to an individual or essential military function clearly outweighs the need for confidentiality of information obtained by a health care provider incident to mental health care services voluntarily sought by a member of the Armed Forces."

## §1091. Personal services contracts

(a) AUTHORITY.—(1) The Secretary of Defense, with respect to medical treatment facilities of the Department of Defense, and the Secretary of Homeland Security, with respect to medical treatment facilities of the Coast Guard when the Coast Guard is not operating as a service in the Navy, may enter into personal services contracts to carry out health care responsibilities in such facilities, as determined to be necessary by the Secretary. The authority provided in this subsection is in addition to any other contract authorities of the Secretary, including authorities relating to the management of such facilities and the administration of this chapter.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may also enter into personal services contracts to carry out other health care responsibilities of the Secretary (such as the provision of medical screening examinations at Military Entrance Processing Stations) at locations outside medical treatment facilities, as determined necessary pursuant to regulations prescribed by the Secretary.

(b) LIMITATION ON AMOUNT OF COMPENSATION.—In no case may the total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) exceed the amount of annual compensation (excluding the allowances for expenses) specified in section 102 of title 3.

(c) PROCEDURES.—(1) The Secretary shall establish by regulation procedures for entering into personal services contracts with individuals under subsection (a). At a minimum, such procedures shall assure—

(A) the provision of adequate notice of contract opportunities to individuals residing in the area of the medical treatment facility involved; and

(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

(2) Upon the establishment of the procedures under paragraph (1), the Secretary may exempt contracts covered by this section from the competitive contracting requirements specified in section 2304 [1] of this title or any other similar requirements of law.

(3) The procedures established under paragraph (1) may provide for a contracting officer to authorize a contractor to enter into a subcontract for personal services on behalf of the agency upon a determination that the subcontract is—

(A) consistent with the requirements of this section and the procedures established under paragraph (1); and

(B) in the best interests of the agency.

(d) EXCEPTIONS.—The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).

(Added Pub. L. 98–94, title IX, §932(a)(1), Sept. 24, 1983, 97 Stat. 649; amended Pub. L. 101–510, div. A, title VII, §714, Nov. 5, 1990, 104 Stat. 1584; Pub. L. 103–160, div. A, title VII, §712(a)(1), Nov. 30, 1993, 107 Stat. 1688; Pub. L. 104–106, div. A, title VII, §733(a), Feb. 10, 1996, 110 Stat. 381; Pub. L. 105–85, div. A, title VII, §736(a), Nov. 18, 1997, 111 Stat. 1814; Pub. L. 105–261, div. A, title VII, §733(a), Oct. 17, 1998, 112 Stat. 2072; Pub. L. 106–398, §1 [[div. A], title VII, §705], Oct. 30, 2000, 114 Stat. 1654, 1654A–175; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002,

116 Stat. 2314; Pub. L. 107–314, div. A, title VII, §707, Dec. 2, 2002, 116 Stat. 2585; Pub. L. 108–136, div. A, title VII, §721, Nov. 24, 2003, 117 Stat. 1531; Pub. L. 112–239, div. A, title VII, §713(b), Jan. 2, 2013, 126 Stat. 1803; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2304 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (l) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116–283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170.

### AMENDMENTS

**2021**—Subsec. (c)(2). Pub. L. 116–283, which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2304", which was redesignated as multiple sections.

**2013**—Subsec. (c)(3). Pub. L. 112–239 added par. (3).

**2003**—Subsec. (a)(2). Pub. L. 108–136 struck out at end "The Secretary may not enter into a contract under this paragraph after December 31, 2003."

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in two places.

Subsec. (a)(2). Pub. L. 107–314 substituted "December 31, 2003" for "December 31, 2002".

**2000**—Subsec. (a)(2). Pub. L. 106–398 substituted "December 31, 2002" for "December 31, 2000".

**1998**—Subsec. (a)(2). Pub. L. 105–261 substituted "December 31, 2000" for "the end of the one-year period beginning on the date of the enactment of this paragraph".

**1997**—Subsec. (a). Pub. L. 105–85 designated existing provisions as par. (1) and added par. (2).

**1996**—Subsec. (a). Pub. L. 104–106 inserted ", with respect to medical treatment facilities of the Department of Defense, and the Secretary of Transportation, with respect to medical treatment facilities of the Coast Guard when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense" and substituted "such facilities" for "medical treatment facilities of the Department of Defense".

**1993**—Pub. L. 103–160 substituted "Personal services contracts" for "Contracts for direct health care providers" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) The Secretary concerned may contract with persons for services (including personal services) for the provision of direct health care services determined by the Secretary concerned to be required for the purposes of this chapter.

"(b) A person with whom the Secretary contracts under this section for the provision of direct health care services under this chapter may be compensated at a rate prescribed by the Secretary concerned, but at a rate not greater than the rate of basic pay, special and incentive pays and bonuses, and allowances authorized by chapters 3, 5, and 7 of title 37 for a commissioned officer with comparable professional qualifications in pay grade O–6 with 26 or more years of service computed under section 205 of such title."

**1990**—Subsec. (b). Pub. L. 101–510 substituted "basic pay, special and incentive pays and bonuses, and allowances authorized by chapters 3, 5, and 7 of title 37 for a commissioned officer with comparable professional qualifications" for "basic pay and allowances authorized by chapters 3 and 7 of title 37 for a commissioned officer".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–106, div. A, title VII, §733(c), Feb. 10, 1996, 110 Stat. 381, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 1995."

**EFFECTIVE DATE**

Pub. L. 98–94, title IX, §932(f), Sept. 24, 1983, 97 Stat. 650, provided that: "The amendments made by this section [enacting this section, amending section 201 of Title 37, Pay and Allowances of the Uniformed Services, and repealing sections 4022 and 9022 of this title and section 421 of Title 37] shall take effect on October 1, 1983. Any contract of employment entered into under the authority of section 4022 or 9022 of title 10, United States Code, before the effective date of this section and which is in effect on such date shall remain in effect in accordance with the terms of such contract."

**ACQUISITION STRATEGY FOR HEALTH CARE PROFESSIONAL STAFFING SERVICES**

Pub. L. 114–328, div. A, title VII, §727(a)–(c), Dec. 23, 2016, 130 Stat. 2232, 2233, provided that:

"(a) ACQUISITION STRATEGY.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and carry out a performance-based, strategic sourcing acquisition strategy with respect to entering into contracts for the services of health care professional staff at military medical treatment facilities located in a State.

"(2) ELEMENTS.—The acquisition strategy under paragraph (1) shall include the following:

"(A) Except as provided by subparagraph (B), a requirement that all the military medical treatment facilities that provide direct care use contracts described under paragraph (1).

"(B) A process for a military medical treatment facility to obtain a waiver of the requirement under subparagraph (A) in order to use an acquisition strategy not described in paragraph (1).

"(C) Identification of the responsibilities of the military departments and the elements of the Department of Defense in carrying out such strategy.

"(D) Projection of the demand by covered beneficiaries for health care services, including with respect to primary care and expanded-hours urgent care services.

"(E) Estimation of the workload gaps at military medical treatment facilities for health care services, including with respect to primary care and expanded-hours urgent care services.

"(F) Methods to analyze, using reliable and detailed data covering the entire direct care component of the military health system, the amount of funds expended on contracts for the services of health care professional staff.

"(G) Methods to identify opportunities to consolidate requirements for such services and reduce cost.

"(H) Methods to measure cost savings that are realized by using such contracts instead of purchased care.

"(I) Metrics to determine the effectiveness of such strategy.

"(J) Metrics to evaluate the success of the strategy in achieving its objectives, including metrics to assess the effects of the strategy on the timeliness of beneficiary access to professional health care services in military medical treatment facilities.

"(K) Such other matters as the Secretary considers appropriate.

"(b) REPORT.—Not later than July 1, 2017, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of implementing the acquisition strategy under paragraph (1) of subsection (a), including how each element under subparagraphs (A) through (K) of paragraph (2) of such subsection is being carried out.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered beneficiary' has the meaning given that term in section 1072 of title 10, United States Code.

"(2) The term 'State' means the several States and the District of Columbia."

**ACQUISITION STRATEGY FOR HEALTH CARE PROFESSIONAL STAFFING SERVICES**

Pub. L. 113–291, div. A, title VII, §725, Dec. 19, 2014, 128 Stat. 3418, required the Secretary of Defense to develop and carry out an acquisition strategy with respect to entering into contracts for the services of health care professional staff at military medical treatment facilities, prior to repeal by Pub. L. 114–328, div. A, title VII, §727(d), Dec. 23, 2016, 130 Stat. 2233.

**TEST OF ALTERNATIVE PROCESS FOR CONDUCTING MEDICAL SCREENINGS FOR**

**ENLISTMENT QUALIFICATION**

Pub. L. 105–261, div. A, title VII, §733(b), Oct. 17, 1998, 112 Stat. 2072, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, directed the Secretary of Defense to conduct a test to determine whether an alternative to the system used by the Department of Defense of employing fee-basis physicians for determining the medical qualifications for enlistment of applicants for military service would reduce the number of disqualifying medical conditions detected during the initial entry training of such applicants, and whether an alternative system would meet or exceed the cost, responsiveness, and timeliness standards of the system in use or achieve any savings or cost avoidance, and to submit to committees of Congress a report on the results and findings of the test not later than Mar. 1, 2000.

**RATIFICATION OF EXISTING CONTRACTS**

Pub. L. 104–106, div. A, title VII, §733(b), Feb. 10, 1996, 110 Stat. 381, provided that: "Any exercise of authority under section 1091 of title 10, United States Code, to enter into a personal services contract on behalf of the Coast Guard before the effective date of the amendments made by subsection (a) [Oct. 1, 1995] is hereby ratified."

**PERSONAL SERVICE CONTRACTS TO PROVIDE CARE**

Pub. L. 103–337, div. A, title VII, §704(c), Oct. 5, 1994, 108 Stat. 2799, as amended by Pub. L. 108–375, div. A, title VII, §717(a), Oct. 28, 2004, 118 Stat. 1986, provided that:

"(1) The Secretary of Defense may enter into personal service contracts under the authority of section 1091 of title 10, United States Code, with persons described in paragraph (2) to provide the services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services. Notwithstanding subsection (a) of such section, such services may be provided in medical treatment facilities of the Department of Defense or elsewhere as determined appropriate by the Secretary.

"(2) The persons with whom the Secretary may enter into a personal services contract under this subsection shall include clinical social workers, psychologists, marriage and family therapists certified as such by a certification recognized by the Secretary of Defense, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization."

**REPORT ON COMPENSATION BY MEDICAL SPECIALTY**

Pub. L. 103–160, div. A, title VII, §712(b), Nov. 30, 1993, 107 Stat. 1689, directed the Secretary of Defense to submit to Congress a report, not later than 30 days after the end of the 180-day period beginning on the date on which the Secretary had first used the authority provided under this section, as amended by Pub. L. 103–160, specifying the compensation provided to medical specialists who had agreed to enter into personal services contracts under such section during that period, the extent to which amounts of compensation exceeded amounts previously provided, the total number and medical specialties of specialists serving during that period pursuant to such contracts, and the number of specialists who had received compensation in an amount in excess of the maximum which had been authorized under this section, as in effect on Nov. 29, 1993.

[1] *See References in Text note below.*

## §1091a. Identification in patient medical records of affiliation of certain non-Department of Defense health care providers

(a) REQUIREMENT.—The Secretary of Defense shall ensure that medical records of the Department of Defense include the organizational affiliation of any independent health care contractor identified in such medical records.

(b) INDEPENDENT HEALTH CARE CONTRACTOR DEFINED.—In this section, the term "independent health care contractor" means a health care provider who meets the following criteria:

(1) The health care provider is a nonpersonal services contractor, or an employee of such a contractor, pursuant to subpart 37.4 of the Federal Acquisition Regulation, or other applicable regulation.

(2) The health care provider provides health care services under this chapter in any military

medical treatment facility (as defined in section 1073c(j) of this title) or other location under the jurisdiction of the Secretary of Defense, including an operational clinic.

(Added Pub. L. 118–159, div. A, title VII, §711, Dec. 23, 2024, 138 Stat. 1947; amended Pub. L. 119–60, div. A, title VII, §711(b), Dec. 18, 2025, 139 Stat. 919.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (b)(2). Pub. L. 119–60 substituted "section 1073c(j)" for "section 1073c(i)".

## §1092. Studies and demonstration projects relating to delivery of health and medical care

(a)(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall conduct studies and demonstration projects on the health care delivery system of the uniformed services with a view to improving the quality, efficiency, convenience, and cost effectiveness of providing health care services (including dental care services) under this title to members and former members and their dependents. Such studies and demonstration projects may include the following:

(A) Alternative methods of payment for health and medical care services.

(B) Cost-sharing by eligible beneficiaries.

(C) Methods of encouraging efficient and economical delivery of health and medical care services.

(D) Innovative approaches to delivery and financing of health and medical care services.

(E) Alternative approaches to reimbursement for the administrative charges of health care plans.

(F) Prepayment for medical care services provided to maintain the health of a defined population.

(2) The Secretary of Defense shall include in the studies conducted under paragraph (1) alternative programs for the provision of dental care to the spouses and dependents of members of the uniformed services who are on active duty, including a program under which dental care would be provided the spouses and dependents of such members under insurance or dental plan contracts. A demonstration project may not be conducted under this section that provides for the furnishing of dental care under an insurance or dental plan contract.

(3) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards and incentives to members of the armed forces and covered beneficiaries who obtain health promotion and disease prevention health care services under the TRICARE program in accordance with terms and schedules prescribed by the Secretary. Such awards and incentives may include cash awards and, in the case of members of the armed forces, personnel incentives.

(4)(A) The Secretary of Defense may, in consultation with the other administering Secretaries, include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards or incentives to individual health care professionals under the authority of such Secretaries, including members of the uniformed services, Federal civilian employees, and contractor personnel, to encourage and reward effective implementation of innovative health care programs designed to improve quality, cost-effectiveness, health promotion, medical readiness, and other priority objectives. Such awards and incentives may include cash awards and, in the case of members of the armed forces and Federal civilian employees, personnel incentives.

(B) Amounts available for the pay of members of the uniformed services shall be available for awards and incentives under this paragraph with respect to members of the uniformed services.

(5) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the medical and dental readiness

of members of reserve components of the armed forces, including the provision of health care services to such members for which they are not otherwise entitled or eligible under this chapter.

(6) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the continuity of health care services for family members of mobilized members of the reserve components of the armed forces who are eligible for such services under this chapter, including payment of a stipend for continuation of employer-provided health coverage during extended periods of active duty.

(b) Subject to the availability of appropriations for that purpose, the Secretary of Defense may enter into contracts or transactions (other than contracts, cooperative agreements, and grants) with public or private agencies, institutions, and organizations to conduct studies and demonstration projects under subsection (a).

(c) The Secretary of Defense may obtain the advice and recommendations of such advisory committees as the Secretary considers appropriate. Each such committee consulted by the Secretary under this subsection shall evaluate the proposed study or demonstration project as to the soundness of the objectives of such study or demonstration project, the likelihood of obtaining productive results based on such study or demonstration project, the resources which were required to conduct such study or demonstration project, and the relationship of such study or demonstration project to other ongoing or completed studies and demonstration projects.

(Added Pub. L. 98–94, title IX, §933(a)(1), Sept. 24, 1983, 97 Stat. 650; amended Pub. L. 98–557, §19(14), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 105–261, div. A, title X, §1031(a), Oct. 17, 1998, 112 Stat. 2123; Pub. L. 110–417, [div. A], title VII, §715, Oct. 14, 2008, 122 Stat. 4505; Pub. L. 117–263, div. A, title VII, §717(a), Dec. 23, 2022, 136 Stat. 2662.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263 inserted "or transactions (other than contracts, cooperative agreements, and grants)" after "contracts".

**2008**—Subsec. (a)(3) to (6). Pub. L. 110–417 added pars. (3) to (6).

**1998**—Subsec. (a)(3). Pub. L. 105–261 struck out par. (3) which read as follows: "The Secretary of Defense shall submit to Congress from time to time written reports on the results of the studies and demonstration projects conducted under this subsection and shall include in such reports such recommendations for improving the health-care delivery systems of the uniformed services as the Secretary considers appropriate."

**1984**—Subsec. (a)(1). Pub. L. 98–557 substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 98–94, title IX, §933(b), Sept. 24, 1983, 97 Stat. 651, provided that: "Section 1092 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1983."

### PILOT PROGRAM ON TREATMENT OF MEMBERS OF THE ARMED FORCES FOR POST-TRAUMATIC STRESS DISORDER RELATED TO MILITARY SEXUAL TRAUMA

Pub. L. 115–232, div. A, title VII, §702, Aug. 13, 2018, 132 Stat. 1804, provided that:

"(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of using intensive outpatient programs to treat members of the Armed Forces suffering from post-traumatic stress disorder resulting from military sexual trauma, including treatment for substance abuse, depression, and other issues related to such conditions.

"(b) DISCHARGE THROUGH PARTNERSHIPS.—The pilot program authorized by subsection (a) shall be carried out through partnerships with public, private, and non-profit health care organizations, universities, and institutions that—

"(1) provide health care to members of the Armed Forces;

"(2) provide evidence-based treatment for psychological and neurological conditions that are common among members of the Armed Forces, including post-traumatic stress disorder, traumatic brain injury,

substance abuse, and depression;

"(3) provide health care, support, and other benefits to family members of members of the Armed Forces; and

"(4) provide health care under the TRICARE program (as that term is defined in section 1072 of title 10, United States Code).

"(c) PROGRAM ACTIVITIES.—Each organization or institution that participates in a partnership under the pilot program authorized by subsection (a) shall—

"(1) carry out intensive outpatient programs of short duration to treat members of the Armed Forces suffering from post-traumatic stress disorder resulting from military sexual trauma, including treatment for substance abuse, depression, and other issues related to such conditions;

"(2) use evidence-based and evidence-informed treatment strategies in carrying out such programs;

"(3) share clinical and outreach best practices with other organizations and institutions participating in the pilot program; and

"(4) annually assess outcomes for members of the Armed Forces individually and among the organizations and institutions participating in the pilot program with respect to the treatment of conditions described in paragraph (1).

"(d) EVALUATION METRICS.—Before commencement of the pilot program, the Secretary shall establish metrics to be used to evaluate the effectiveness of the pilot program and the activities under the pilot program.

"(e) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program authorized by subsection (a). The report shall include a description of the pilot program and such other matters on the pilot program as the Secretary considers appropriate.

"(2) FINAL REPORT.—Not later than 180 days after the cessation of the pilot program under subsection (f), the Secretary shall submit to the committees of Congress referred to in paragraph (1) a report on the pilot program. The report shall include the following:

"(A) A description of the pilot program, including the partnerships under the pilot program as described in subsection (b).

"(B) An assessment of the effectiveness of the pilot program and the activities under the pilot program.

"(C) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program, including recommendations for extension or making permanent the authority for the pilot program.

"(f) TERMINATION.—The Secretary may not carry out the pilot program authorized by subsection (a) after the date that is three years after the date of the enactment of this Act [Aug. 13, 2018]."

## PILOT PROGRAM ON EXPANSION OF USE OF PHYSICIAN ASSISTANTS TO PROVIDE MENTAL HEALTH CARE TO MEMBERS OF THE ARMED FORCES

Pub. L. 114–328, div. A, title VII, §742, Dec. 23, 2016, 130 Stat. 2237, provided that:

"(a) IN GENERAL.—The Secretary of Defense may conduct a pilot program to assess the feasibility and advisability of expanding the use by the Department of Defense of physician assistants specializing in psychiatric medicine at medical facilities of the Department of Defense in order to meet the increasing demand for mental health care providers at such facilities through the use of a psychiatry fellowship program for physician assistants.

"(b) REPORT ON PILOT PROGRAM.—

"(1) IN GENERAL.—If the Secretary conducts the pilot program under this section, not later than 90 days after the date on which the Secretary completes the conduct of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program.

"(2) ELEMENTS.—The report submitted under paragraph (1) shall include the following:

"(A) A description of the implementation of the pilot program, including a detailed description of the education and training provided under the pilot program.

"(B) An assessment of potential cost savings, if any, to the Department of Defense resulting from the pilot program.

"(C) A description of improvements, if any, to the access of members of the Armed Forces to mental health care resulting from the pilot program.

"(D) A recommendation as to the feasibility and advisability of extending or expanding the pilot program."

## PILOT PROGRAM ON DISPLAY OF WAIT TIMES AT URGENT CARE CLINICS AND PHARMACIES OF MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 114–328, div. A, title VII, §744, Dec. 23, 2016, 130 Stat. 2239, as amended by Pub. L. 115–91, div. A, title VII, §717, Dec. 12, 2017, 131 Stat. 1439, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—Beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall carry out a pilot program for the display of wait times in urgent care clinics and pharmacies of military medical treatment facilities selected under subsection (b).

"(b) SELECTION OF FACILITIES.—

"(1) CATEGORIES.—The Secretary shall select not fewer than four military medical treatment facilities from each of the following categories to participate in the pilot program:

"(A) Medical centers.

"(B) Hospitals.

"(C) Ambulatory care centers.

"(2) OCONUS LOCATIONS.—Of the military medical treatment facilities selected under each category described in subparagraphs (A) through (C) of paragraph (1), not fewer than one shall be located outside of the continental United States.

"(3) CONTRACTOR-OPERATED FACILITIES.—The Secretary may select Government-owned, contractor-operated facilities among those military medical treatment facilities selected under paragraph (1).

"(c) URGENT CARE CLINICS.—

"(1) PLACEMENT.—With respect to each military medical treatment facility participating in the pilot program with an urgent care clinic, the Secretary shall place in a conspicuous location at the urgent care clinic an electronic sign that displays the current average wait time determined under paragraph (2) for a patient to be seen by a qualified medical professional.

"(2) DETERMINATION.—In carrying out paragraph (1), the Secretary shall determine the average wait time to display under such paragraph by using a formula derived from best practices in the health care industry.

"(d) PHARMACIES.—

"(1) PLACEMENT.—With respect to each military medical treatment facility participating in the pilot program with a pharmacy, the Secretary shall place in a conspicuous location at the pharmacy an electronic sign that displays the current average wait time to receive a filled prescription for a pharmaceutical agent.

"(2) DETERMINATION.—In carrying out paragraph (1), the Secretary shall determine the average wait time to display under such paragraph by using a formula derived from best practices in the health care industry.

"(e) DURATION.—The Secretary shall carry out the pilot program for a period that is not more than two years.

"(f) REPORT.—

"(1) SUBMISSION.—Not later than 90 days after the completion of the pilot program, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the pilot program.

"(2) ELEMENTS.—The report under paragraph (1) shall include—

"(A) the costs for displaying the wait times under subsections (c) and (d);

"(B) any changes in patient satisfaction;

"(C) any changes in patient behavior with respect to using urgent care and pharmacy services;

"(D) any changes in pharmacy operations and productivity;

"(E) a cost-benefit analysis of posting such wait times; and

"(F) the feasibility of expanding the posting of wait times in emergency departments in military medical treatment facilities.

"(g) QUALIFIED MEDICAL PROFESSIONAL DEFINED.—In this section, the term 'qualified medical professional' means a doctor of medicine, a doctor of osteopathy, a physician assistant, or an advanced registered nurse practitioner."

## PILOT PROGRAM ON INCENTIVE PROGRAMS TO IMPROVE HEALTH CARE PROVIDED UNDER THE TRICARE PROGRAM

Pub. L. 114–92, div. A, title VII, §726, Nov. 25, 2015, 129 Stat. 871, provided that:

"(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall commence the conduct of a pilot program under section 1092 of title 10, United States Code, to assess whether a reduction in the rate of increase in health care spending by the Department of Defense and an enhancement of the operation of the military health system may be achieved by developing and implementing value-based incentive programs to encourage health care providers under the TRICARE program (including physicians, hospitals, and others involved in providing health care to patients) to improve the following:

"(1) The quality of health care provided to covered beneficiaries under the TRICARE program.

"(2) The experience of covered beneficiaries in receiving health care under the TRICARE program.

"(3) The health of covered beneficiaries.

"(b) INCENTIVE PROGRAMS.—

"(1) DEVELOPMENT.—In developing an incentive program under this section, the Secretary shall—

"(A) consider the characteristics of the population of covered beneficiaries affected by the incentive program;

"(B) consider how the incentive program would impact the receipt of health care under the TRICARE program by such covered beneficiaries;

"(C) establish or maintain an assurance that such covered beneficiaries will have timely access to health care during operation of the incentive program;

"(D) ensure that there are no additional financial costs to such covered beneficiaries of implementing the incentive program; and

"(E) consider such other factors as the Secretary considers appropriate.

"(2) ELEMENTS.—With respect to an incentive program developed and implemented under this section, the Secretary shall ensure that—

"(A) the size, scope, and duration of the incentive program is reasonable in relation to the purpose of the incentive program; and

"(B) appropriate criteria and data collection are used to ensure adequate evaluation of the feasibility and advisability of implementing the incentive program throughout the TRICARE program.

"(3) USE OF EXISTING MODELS.—In developing an incentive program under this section, the Secretary may adapt a value-based incentive program conducted by the Centers for Medicare & Medicaid Services or any other governmental or commercial health care program.

"(c) TERMINATION.—The authority of the Secretary to carry out the pilot program under this section shall terminate on December 31, 2019.

"(d) REPORTS.—

"(1) INTERIM REPORT.—Not later than one year after the date of the enactment of this Act, and not less frequently than once each year thereafter until the termination of the pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program.

"(2) FINAL REPORT.—Not later than September 30, 2019, the Secretary shall submit to the congressional defense committees a final report on the pilot program.

"(3) ELEMENTS.—Each report submitted under paragraph (1) or paragraph (2) shall include the following:

"(A) An assessment of each incentive program developed and implemented under this section, including whether such incentive program—

"(i) improves the quality of health care provided to covered beneficiaries, the experience of covered beneficiaries in receiving health care under the TRICARE program, or the health of covered beneficiaries;

"(ii) reduces the rate of increase in health care spending by the Department of Defense; or

"(iii) enhances the operation of the military health system.

"(B) Such recommendations for administrative or legislative action as the Secretary considers appropriate in light of the pilot program, including to implement any such incentive program or programs throughout the TRICARE program.

"(e) DEFINITIONS.—In this section, the terms 'covered beneficiary' and 'TRICARE program' have the meanings given those terms in section 1072 of title 10, United States Code."

## PILOT PROGRAM ON CERTAIN TREATMENTS OF AUTISM UNDER THE TRICARE PROGRAM

Pub. L. 112–239, div. A, title VII, §705, Jan. 2, 2013, 126 Stat. 1800, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall conduct a pilot program to provide for the treatment of autism spectrum disorders, including applied behavior analysis.

"(2) COMMENCEMENT.—The Secretary shall commence the pilot program under paragraph (1) by not later than 90 days after the date of the enactment of this Act [Jan. 2, 2013].

"(b) DURATION.—The Secretary may not carry out the pilot program under subsection (a)(1) for longer than a one-year period.

"(c) REPORT.—Not later than 270 days after the date on which the pilot program under subsection (a)(1) commences, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the following:

"(1) An assessment of the feasibility and advisability of establishing a beneficiary cost share for the treatment of autism spectrum disorders.

"(2) A comparison of providing such treatment under—

"(A) the ECHO Program; and

"(B) the TRICARE program other than under the ECHO Program.

"(3) Any recommendations for changes in legislation.

"(4) Any additional information the Secretary considers appropriate.

"(d) DEFINITIONS.—In this section:

"(1) The term 'ECHO Program' means the Extended Care Health Option under subsections (d) through (f) of section 1079 of title 10, United States Code.

"(2) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code."

## MILITARY HEALTH RISK MANAGEMENT DEMONSTRATION PROJECT

Pub. L. 110–417, [div. A], title VII, §712, Oct. 14, 2008, 122 Stat. 4501, provided that:

"(a) DEMONSTRATION PROJECT REQUIRED.—The Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing incentives to encourage healthy behaviors on the part of eligible military health system beneficiaries.

"(b) ELEMENTS OF DEMONSTRATION PROJECT.—

"(1) WELLNESS ASSESSMENT.—The Secretary shall develop a wellness assessment to be offered to beneficiaries enrolled in the demonstration project. The wellness assessment shall incorporate nationally recognized standards for health and healthy behaviors and shall be offered to determine a baseline and at appropriate intervals determined by the Secretary. The wellness assessment shall include the following:

"(A) A self-reported health risk assessment.

"(B) Physiological and biometric measures, including at least—

"(i) blood pressure;

"(ii) glucose level;

"(iii) lipids;

"(iv) nicotine use; and

"(v) weight.

"(2) POPULATION ENROLLED.—Non-medicare eligible retired beneficiaries of the military health system and their dependents who are enrolled in TRICARE Prime and who reside in the demonstration project service area shall be offered the opportunity to enroll in the demonstration project.

"(3) GEOGRAPHIC COVERAGE OF DEMONSTRATION PROJECT.—The demonstration project shall be conducted in at least three geographic areas within the United States where TRICARE Prime is offered, as determined by the Secretary. The area covered by the project shall be referred to as the demonstration project service area.

"(4) PROGRAMS.—The Secretary shall develop programs to assist enrollees to improve healthy behaviors, as identified by the wellness assessment.

"(5) INCLUSION OF INCENTIVES REQUIRED.—For the purpose of conducting the demonstration project, the Secretary may offer monetary and non-monetary incentives to enrollees to encourage participation in the demonstration project.

"(c) EVALUATION OF DEMONSTRATION PROJECT.—The Secretary shall annually evaluate the demonstration project for the following:

"(1) The extent to which the health risk assessment and the physiological and biometric measures of beneficiaries are improved from the baseline (as determined in the wellness assessment).

"(2) In the case of baseline health risk assessments and physiological and biometric measures that reflect healthy behaviors, the extent to which the measures are maintained.

"(d) IMPLEMENTATION PLAN.—The Secretary of Defense shall submit a plan to implement the health

risk management demonstration project required by this section not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008].

"(e) DURATION OF PROJECT.—The health risk management demonstration project shall be implemented for a period of three years, beginning not later than March 1, 2009, and ending three years after that date.

"(f) REPORT.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report on the effectiveness of the health risk management demonstration project in improving the health risk measures of military health system beneficiaries enrolled in the demonstration project. The first report shall be submitted not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and subsequent reports shall be submitted for each year of the demonstration project with the final report being submitted not later than 90 days after the termination of the demonstration project.

"(2) MATTERS COVERED.—Each report shall address, at a minimum, the following:

"(A) The number of beneficiaries who were enrolled in the project.

"(B) The number of enrolled beneficiaries who participate in the project.

"(C) The incentives to encourage healthy behaviors that were provided to the beneficiaries in each beneficiary category, and the extent to which the incentives encouraged healthy behaviors.

"(D) An assessment of the effectiveness of the demonstration project.

"(E) Recommendations for adjustments to the demonstration project.

"(F) The estimated costs avoided as a result of decreased health risk conditions on the part of each of the beneficiary categories.

"(G) Recommendations for extending the demonstration project or implementing a permanent wellness assessment program.

"(H) Identification of legislative authorities required to implement a permanent program."

## AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES

Pub. L. 109–163, div. A, title VII, §712, Jan. 6, 2006, 119 Stat. 3343, provided that:

"(a) AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES.—The Secretary of the Air Force shall ensure that chiropractic health care services are available at all medical treatment facilities listed in table 5 of the report to Congress dated August 16, 2001, titled 'Chiropractic Health Care Implementation Plan'. If the Secretary determines that it is not necessary or feasible to provide chiropractic health care services at any such facility, the Secretary shall provide such services at an alternative site for each such facility.

"(b) IMPLEMENTATION AND REPORT.—Not later than September 30, 2006, the Secretary of the Air Force shall—

"(1) implement subsection (a); and

"(2) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the availability of chiropractic health care services as required under subsection (a), including information on alternative sites at which such services have been made available."

## PILOT PROGRAM FOR HEALTH CARE DELIVERY

Pub. L. 108–375, div. A, title VII, §721, Oct. 28, 2004, 118 Stat. 1988, as amended by Pub. L. 110–181, div. A, title VII, §707, Jan. 28, 2008, 122 Stat. 189; Pub. L. 110–417, [div. A], title X, §1061(e), Oct. 14, 2008, 122 Stat. 4613, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program at two or more military installations for purposes of testing initiatives that build cooperative health care arrangements and agreements between military installations and local and regional non-military health care systems.

"(b) REQUIREMENTS OF PILOT PROGRAM.—In conducting the pilot program, the Secretary of Defense shall—

"(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on the installation;

"(2) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

"(3) study the potential, viability, cost efficiency, and health care effectiveness of Department of Defense health care providers delivering health care in civilian community hospitals;

"(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including Federal, State, local, and contractor assets; and

"(5) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and non-military health care systems, personal health information and

data of military personnel and their families.

"(c) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the pilot program in consultation with the Secretaries of the military departments, representatives from the military installation selected for the pilot program, Federal, State, and local entities, and the TRICARE managed care support contractor with responsibility for that installation.

"(d) SELECTION OF MILITARY INSTALLATION.—The pilot program may be implemented at two or more military installations selected by the Secretary of Defense. At least one of the selected military installations shall meet the following criteria:

"(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

"(2) The number of members of the Armed Forces on active duty permanently assigned to the military installation is [sic] has increased over the five years preceding 2008.

"(3) One or more cooperative arrangements exist at the military installation with civilian health care entities in the form of specialty care services in the military medical treatment facility on the installation.

"(4) There is a military treatment facility on the installation that does not have inpatient or trauma center care capabilities.

"(5) There is a civilian community hospital near the military installation with—

"(A) limited capability to expand inpatient care beds, intensive care, and specialty services; and

"(B) limited or no capability to provide trauma care.

"(e) DURATION OF PILOT PROGRAM.—Implementation of the pilot program developed under this section shall begin not later than May 1, 2005, and shall be conducted during fiscal years 2005 through 2010.

"(f) REPORTS.—With respect to any pilot program conducted under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives—

"(1) an interim report on the program, not later than 60 days after commencement of the program; and

"(2) a final report describing the results of the program with recommendations for a model health care delivery system for other military installations, not later than July 1, 2010."

## DEMONSTRATION PROJECT FOR EXPANDED ACCESS TO MENTAL HEALTH COUNSELORS

Pub. L. 106–398, §1 [[div. A], title VII, §731], Oct. 30, 2000, 114 Stat. 1654, 1654A–189, directed the Secretary of Defense, not later than Mar. 31, 2001, to submit to committees of Congress a plan to carry out a demonstration project under which licensed and certified professional mental health counselors who had met eligibility requirements for participation as providers under CHAMPUS or the TRICARE program could provide services to covered beneficiaries under this chapter without referral by physicians or adherence to supervision requirements, and directed the Secretary to conduct such project during the 2-year period beginning Oct. 1, 2001, and to submit to Congress a report on such project not later than Feb. 1, 2003.

## TELERADIOLOGY DEMONSTRATION PROJECT

Pub. L. 106–398, §1 [[div. A], title VII, §732], Oct. 30, 2000, 114 Stat. 1654, 1654A–191, authorized the Secretary of Defense to conduct a demonstration project during the 2-year period beginning on Oct. 30, 2000, under which a military medical treatment facility and each clinic supported by such facility would be linked by a digital radiology network through which digital radiology X-rays could be sent electronically from clinics to the military medical treatment facility.

## JOINT TELEMEDICINE AND TELEPHARMACY DEMONSTRATION PROJECTS BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 106–65, div. A, title VII, §724, Oct. 5, 1999, 113 Stat. 697, as amended by Pub. L. 108–136, div. A, title X, §1031(h)(2), Nov. 24, 2003, 117 Stat. 1605, authorized the Secretary of Defense and the Secretary of Veterans Affairs, during the three-year period beginning on Oct. 1, 1999, to carry out joint demonstration projects for purposes of evaluating the feasibility and practicability of using telecommunications to provide radiologic and imaging services, diagnostic services, referral services, pharmacy services, and any other health care services designated by the Secretaries.

## DEMONSTRATION PROGRAM TO TRAIN MILITARY MEDICAL PERSONNEL IN CIVILIAN SHOCK TRAUMA UNITS

Pub. L. 104–106, div. A, title VII, §744, Feb. 10, 1996, 110 Stat. 386, directed the Secretary of Defense to implement, not later than Apr. 1, 1996, a demonstration program to evaluate the feasibility of providing shock trauma training for military medical personnel through an agreement with one or more public or nonprofit hospitals, and to submit to Congress a report describing the scope and activities of the program not later than

Mar. 1 of each year in which it was conducted, provided for the termination of the program on Mar. 31, 1998, and required the Comptroller General of the United States to submit to Congress a report evaluating its effectiveness not later than May 1, 1998.

## DEMONSTRATION PROJECT ON MANAGEMENT OF HEALTH CARE IN CATCHMENT AREAS AND OTHER DEMONSTRATION PROJECTS

Pub. L. 100–180, div. A, title VII, §731, Dec. 4, 1987, 101 Stat. 1117, directed Secretary of Defense to conduct, beginning in fiscal year 1988 for at least two years, projects designed to demonstrate the alternative health care delivery system under which the commander of a medical facility of the uniformed services is responsible for all funding and all medical care of the covered beneficiaries in the catchment area of the facility and to conduct specific projects for the purpose of demonstrating alternatives to providing health care under the military health care system, directed Secretary not later than 60 days after Dec. 4, 1987, to submit to Congress a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project and to develop and submit to Congress a methodology to be used in evaluating the results of the demonstration projects, and submit to Congress an interim report on each demonstration project after such project has been in effect for at least 12 months and a final report on each such project when each project is completed.

## CHIROPRACTIC HEALTH CARE

Pub. L. 108–375, div. A, title VII, §718, Oct. 28, 2004, 118 Stat. 1987, as amended by Pub. L. 117–286, §4(a)(49), Dec. 27, 2022, 136 Stat. 4310, provided that:

"(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall establish an oversight advisory committee to provide the Secretary with advice and recommendations regarding the continued development and implementation of an effective program of chiropractic health care benefits for members of the uniformed services on active duty.

"(b) MEMBERSHIP.—The advisory committee shall be composed of members selected from among persons who, by reason of education, training, and experience, are experts in chiropractic health care, as follows:

"(1) Members appointed by the Secretary of Defense in such number as the Secretary determines appropriate for carrying out the duties of the advisory committee effectively, including not fewer than three practicing representatives of the chiropractic health care profession.

"(2) A representative of each of the uniformed services, as designated by the administering Secretary concerned.

"(c) CHAIRMAN.—The Secretary of Defense shall designate one member of the advisory committee to serve as the Chairman of the advisory committee.

"(d) MEETINGS.—The advisory committee shall meet at the call of the Chairman, but not fewer than three times each fiscal year, beginning in fiscal year 2005.

"(e) DUTIES.—The advisory committee shall have the following duties:

"(1) Review and evaluate the program of chiropractic health care benefits provided to members of the uniformed services on active duty under chapter 55 of title 10, United States Code.

"(2) Provide the Secretary of Defense with advice and recommendations as described in subsection (a).

"(3) Upon the Secretary's determination that the program of chiropractic health care benefits referred to in paragraph (1) has been fully implemented, prepare and submit to the Secretary a report containing the advisory committee's evaluation of the implementation of such program.

"(f) REPORT.—The Secretary of Defense, following receipt of the report by the advisory committee under subsection (e)(3), shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report containing the following:

"(1) A copy of the advisory committee report, together with the Secretary's comments on the report.

"(2) An explanation of the criteria and rationale that the Secretary used to determine that the program of chiropractic health care benefits was fully implemented.

"(3) The Secretary's views with regard to the future implementation of the program of chiropractic health care benefits.

"(g) APPLICABILITY OF TEMPORARY ORGANIZATIONS LAW.—(1) Section 3161 of title 5, United States Code, shall apply to the advisory committee under this section.

"(2) Chapter 10 of title 5, United States Code, shall not apply to the oversight advisory committee under this section.

"(h) TERMINATION.—The advisory committee shall terminate 90 days after the date on which the Secretary submits the report under subsection (f)."

Pub. L. 108–136, div. A, title VII, §711, Nov. 24, 2003, 117 Stat. 1530, provided that: "The Secretary of

Defense shall accelerate the implementation of the plan required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–173) [set out below] (relating to chiropractic health care services and benefits), with a goal of completing implementation of the plan by October 1, 2005."

Pub. L. 106–398, §1 [[div. A], title VII, §702], Oct. 30, 2000, 114 Stat. 1654, 1654A–173, provided that:

"(a) PLAN REQUIRED.—(1) Not later than March 31, 2001, the Secretary of Defense shall complete development of a plan to provide chiropractic health care services and benefits, as a permanent part of the Defense Health Program (including the TRICARE program), for all members of the uniformed services who are entitled to care under section 1074(a) of title 10, United States Code.

"(2) The plan shall provide for the following:

"(A) Access, at designated military medical treatment facilities, to the scope of chiropractic services as determined by the Secretary, which includes, at a minimum, care for neuro-musculoskeletal conditions typical among military personnel on active duty.

"(B) A detailed analysis of the projected costs of fully integrating chiropractic health care services into the military health care system.

"(C) An examination of the proposed military medical treatment facilities at which such services would be provided.

"(D) An examination of the military readiness requirements for chiropractors who would provide such services.

"(E) An examination of any other relevant factors that the Secretary considers appropriate.

"(F) Phased-in implementation of the plan over a 5-year period, beginning on October 1, 2001.

"(b) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall consult with the other administering Secretaries described in section 1073 of title 10, United States Code, and the oversight advisory committee established under section 731 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1092 note) regarding the following:

"(1) The development and implementation of the plan required under subsection (a).

"(2) Each report that the Secretary is required to submit to Congress regarding the plan.

"(3) The selection of the military medical treatment facilities at which the chiropractic services described in subsection (a)(2)(A) are to be provided.

"(c) CONTINUATION OF CURRENT SERVICES.—Until the plan required under subsection (a) is implemented, the Secretary shall continue to furnish the same level of chiropractic health care services and benefits under the Defense Health Program that is provided during fiscal year 2000 at military medical treatment facilities that provide such services and benefits.

"(d) REPORT REQUIRED.—Not later than January 31, 2001, the Secretary of Defense shall submit a report on the plan required under subsection (a), together with appropriate appendices and attachments, to the Committees on Armed Services of the Senate and the House of Representatives.

"(e) GAO REPORTS.—The Comptroller General shall monitor the development and implementation of the plan required under subsection (a), including the administration of services and benefits under the plan, and periodically submit to the committees referred to in subsection (d) written reports on such development and implementation."

Pub. L. 103–337, div. A, title VII, §731, Oct. 5, 1994, 108 Stat. 2809, as amended by Pub. L. 105–85, div. A, title VII, §739, Nov. 18, 1997, 111 Stat. 1815; Pub. L. 106–65, div. A, title VII, §702(a), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to develop and carry out a demonstration program for fiscal years 1995 to 1999 to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces, to continue to furnish the same chiropractic care in fiscal year 2000, to submit reports to Congress in 1995 and 1998 with a final report due Jan. 31, 2000, to establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program, and, not later than Mar. 31, 2000, to submit to Congress an implementation plan for the full integration of chiropractic health care services into the military health care system of the Department of Defense, including the TRICARE program, if the provision of such care was the Secretary's recommendation.

Pub. L. 98–525, title VI, §632(b), Oct. 19, 1984, 98 Stat. 2543, provided that: "The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct demonstration projects under section 1092 of title 10, United States Code, for the purpose of evaluating the cost-effectiveness of chiropractic care. In the conduct of such demonstration projects, chiropractic care (including manual manipulation of the spine and other routine chiropractic procedures authorized under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services and not otherwise prohibited by law) may be provided as appropriate under chapter 55 of title 10, United States Code."

## §1092a. Persons entering the armed forces: baseline health data

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program—

(1) to collect baseline health data from each person entering the armed forces, at the time of entry into the armed forces; and

(2) to provide for computerized compilation and maintenance of the baseline health data.

(b) PURPOSES.—The program under this section shall be designed to achieve the following purposes:

(1) To facilitate understanding of how subsequent exposures related to service in the armed forces affect health.

(2) To facilitate development of early intervention and prevention programs to protect health and readiness.

(Added Pub. L. 108–375, div. A, title VII, §733(a)(1), Oct. 28, 2004, 118 Stat. 1997.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TIME FOR IMPLEMENTATION

Pub. L. 108–375, div. A, title VII, §733(a)(3), Oct. 28, 2004, 118 Stat. 1998, provided that: "The Secretary of Defense shall implement the program required under section 1092a of title 10, United States Code (as added by paragraph (1)), not later than two years after the date of the enactment of this Act [Oct. 28, 2004]."

## §1093. Performance of abortions: restrictions

(a) RESTRICTION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.

(b) RESTRICTION ON USE OF FACILITIES.—No medical treatment facility or other facility of the Department of Defense may be used to perform an abortion except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.

(Added Pub. L. 98–525, title XIV, §1401(e)(5)(A), Oct. 19, 1984, 98 Stat. 2617; amended Pub. L. 104–106, div. A, title VII, §738(a), (b)(1), Feb. 10, 1996, 110 Stat. 383; Pub. L. 112–239, div. A, title VII, §704, Jan. 2, 2013, 126 Stat. 1800.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8044], Oct. 12, 1984, 98 Stat. 1904, 1931.
Pub. L. 98–212, title VII, §751, Dec. 8, 1983, 97 Stat. 1447.
Pub. L. 97–377, title I, §101(c) [title VII, §755], Dec. 21, 1982, 96 Stat. 1833, 1860.
Pub. L. 97–114, title VII, §757, Dec. 29, 1981, 95 Stat. 1588.
Pub. L. 96–527, title VII, §760, Dec. 15, 1980, 94 Stat. 3091.
Pub. L. 96–154, title VII, §762, Dec. 21, 1979, 93 Stat. 1162.
Pub. L. 95–457, title VIII, §863, Oct. 13, 1978, 92 Stat. 1254.

### AMENDMENTS

**2013**—Subsec. (a). Pub. L. 112–239 inserted "or in a case in which the pregnancy is the result of an act of rape or incest" before period at end.

**1996**—Pub. L. 104–106, §738(b)(1), amended section catchline generally, substituting "Performance of abortions: restrictions" for "Restrictions on use of funds for abortions".

Pub. L. 104–106, §738(a), designated existing provisions as subsec. (a), inserted subsec. heading, and added

subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

**EXECUTIVE DOCUMENTS**

**PRIVATELY FUNDED ABORTIONS AT MILITARY HOSPITALS**

Memorandum of the President of the United States, Jan. 22, 1993, 58 F.R. 6439, provided:

Memorandum for the Secretary of Defense

Section 1093 of title 10 of the United States Code prohibits the use of Department of Defense ("DOD") funds to perform abortions except where the life of a woman would be endangered if the fetus were carried to term. By memoranda of December 21, 1987, and June 21, 1988, DOD has gone beyond what I am informed are the requirements of the statute and has banned all abortions at U.S. military facilities, even where the procedure is privately funded. This ban is unwarranted. Accordingly, I hereby direct that you reverse the ban immediately and permit abortion services to be provided, if paid for entirely with non-DOD funds and in accordance with other relevant DOD policies and procedures.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

## §1094. Licensure requirement for health-care professionals

(a)(1) A person under the jurisdiction of the Secretary of a military department may not provide health care independently as a health-care professional under this chapter unless the person has a current license to provide such care. In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.

(2) The Secretary of Defense may waive paragraph (1) with respect to any person in unusual circumstances. The Secretary shall prescribe by regulation the circumstances under which such a waiver may be granted.

(b) The commanding officer of each health care facility of the Department of Defense shall ensure that each person who provides health care independently as a health-care professional at the facility meets the requirement of subsection (a).

(c)(1) A person (other than a person subject to chapter 47 of this title) who provides health care in violation of subsection (a) is subject to a civil money penalty of not more than $5,000.

(2) The provisions of subsections (c) and (e) through (h) of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) shall apply to the imposition of a civil money penalty under paragraph (1) in the same manner as they apply to the imposition of a civil money penalty under that section, except that for purposes of this subsection—

(A) a reference to the Secretary in that section is deemed a reference to the Secretary of Defense; and

(B) a reference to a claimant in subsection (e) of that section is deemed a reference to the person described in paragraph (1).

(d)(1) Notwithstanding any law regarding the licensure of health care providers, a health-care professional described in paragraph (2), (3), or (4) may practice the health profession or professions of the health-care professional at any location in any State, the District of Columbia, or a

Commonwealth, territory, or possession of the United States, regardless of where such health-care professional or the patient are located, so long as the practice is within the scope of the authorized Federal duties.

(2) A health-care professional referred to in paragraph (1) as being described in this paragraph is a member of the armed forces, civilian employee of the Department of Defense, personal services contractor under section 1091 of this title, contractor not covered under section 1091 of this title who is providing an examination or assessment under section 10206 of this title or medical treatment as part of a mission relating to emergency, humanitarian, or refugee assistance, or other health-care professional credentialed and privileged at a Federal health care institution or location specially designated by the Secretary for this purpose who—

(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

(B) is performing authorized duties for the Department of Defense.

(3) A health-care professional referred to in paragraph (1) as being described in this paragraph is a member of the National Guard who—

(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

(B) is performing training or duty under section 502(f) of title 32 in response to an actual or potential disaster.

(4) To the extent provided in regulations prescribed by the Secretary for the purpose of assuring the availability of high-quality mental health care services to members of the armed forces and dependents entitled to health care under section 1076 of this title, a health care professional referred to in paragraph (1) as being described in this paragraph is a mental health provider providing care through a network under the TRICARE program who—

(A) has a current license to practice as a mental health care professional;

(B) is providing tele-mental health care services to members of the armed forces or such dependents; and

(C) is providing such services under terms and conditions specified by the Secretary (which shall establish the scope of authorized Federal duties for purposes of paragraph (1)).

(e) In this section:

(1) The term "license"—

(A) means a grant of permission by an official agency of a State, the District of Columbia, or a Commonwealth, territory, or possession of the United States to provide health care independently as a health-care professional, or the official agency of the government of a partner country; and

(B) includes, in the case of such care furnished in a foreign country by any person who is not a national of the United States, a grant of permission by an official agency of that foreign country for that person to provide health care independently as a health-care professional.

(2) The term "health-care professional" means a physician, dentist, clinical psychologist, marriage and family therapist certified as such by a certification recognized by the Secretary of Defense, or nurse and any other person providing direct patient care as may be designated by the Secretary of Defense in regulations.

(3) The term "partner country" means any of the following:

(A) Australia.

(B) Canada.

(C) New Zealand.

(D) The United Kingdom.

(E) Any other country designated as a partner country by the Secretary of Defense for the purposes of this section.

(Added Pub. L. 99–145, title VI, §653(a)(1), Nov. 8, 1985, 99 Stat. 657; amended Pub. L. 99–661, div. A, title XIII, §1343(a)(5), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 101–189, div. A, title VI, §653(e)(1), title XVI, §1622(e)(3), Nov. 29, 1989, 103 Stat. 1463, 1605; Pub. L. 105–85, div. A, title VII, §737, Nov. 18, 1997, 111 Stat. 1814; Pub. L. 105–261, div. A, title VII, §734(a), Oct. 17, 1998, 112 Stat. 2072; Pub. L. 108–375, div. A, title VII, §717(b), Oct. 28, 2004, 118 Stat. 1986; Pub. L. 111–383, div. A, title VII, §713, Jan. 7, 2011, 124 Stat. 4247; Pub. L. 112–81, div. A, title VII, §713(a), Dec. 31, 2011, 125 Stat. 1476; Pub. L. 117–263, div. A, title VII, §718, Dec. 23, 2022, 136 Stat. 2662; Pub. L. 118–159, div. A, title VII, §§713, 714(a), Dec. 23, 2024, 138 Stat. 1947; Pub. L. 119–60, div. A, title VII, §716, Dec. 18, 2025, 139 Stat. 923.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (e)(1)(A). Pub. L. 119–60, §716(1), substituted ", or the official agency of the government of a partner country; and" for "; and".

Subsec. (e)(3). Pub. L. 119–60, §716(2), added par. (3).

**2024**—Subsec. (d)(1). Pub. L. 118–159, §714(a)(1), substituted "paragraph (2), (3), or (4)" for "paragraph (2) or (3)".

Subsec. (d)(2). Pub. L. 118–159, §713, inserted "an examination or assessment under section 10206 of this title or" after "section 1091 of this title who is providing" in introductory provisions.

Subsec. (d)(4). Pub. L. 118–159, §714(a)(2), added par. (4).

**2022**—Subsec. (d)(2). Pub. L. 117–263 inserted "contractor not covered under section 1091 of this title who is providing medical treatment as part of a mission relating to emergency, humanitarian, or refugee assistance," after "section 1091 of this title," in introductory provisions.

**2011**—Subsec. (d)(1). Pub. L. 112–81, §713(a)(1), inserted "at any location" before "in any State" and substituted "regardless of where such health-care professional or the patient are located, so long as the practice is within the scope of the authorized Federal duties." for "regardless of whether the practice occurs in a health care facility of the Department of Defense, a civilian facility affiliated with the Department of Defense, or any other location authorized by the Secretary of Defense."

Pub. L. 111–383, §713(1), inserted "or (3)" after "paragraph (2)".

Subsec. (d)(2). Pub. L. 112–81, §713(a)(2), substituted "member of the armed forces, civilian employee of the Department of Defense, personal services contractor under section 1091 of this title, or other health-care professional credentialed and privileged at a Federal health care institution or location specially designated by the Secretary for this purpose" for "member of the armed forces".

Pub. L. 111–383, §713(2), inserted "as being described in this paragraph" after "paragraph (1)" in introductory provisions.

Subsec. (d)(3). Pub. L. 111–383, §713(3), added par. (3).

**2004**—Subsec. (e)(2). Pub. L. 108–375 inserted "marriage and family therapist certified as such by a certification recognized by the Secretary of Defense," after "psychologist,".

**1998**—Subsec. (a)(1). Pub. L. 105–261 inserted at end "In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license."

**1997**—Subsecs. (d), (e). Pub. L. 105–85 added subsec. (d) and redesignated former subsec. (d) as (e).

**1989**—Subsec. (c)(2). Pub. L. 101–189, §653(e)(1), substituted "subsections (c) and (e) through (h)" for "subsections (b) and (d) through (g)".

Subsec. (d)(1). Pub. L. 101–189, §1622(e)(3)(A), substituted "The term 'license" for " 'License" in introductory provisions.

Subsec. (d)(2). Pub. L. 101–189, §1622(e)(3)(B), substituted "The term 'health-care" for " 'Health-care".

**1986**—Subsec. (d)(2). Pub. L. 99–661 realigned margin of par. (2) to conform to margin of par. (1).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VII, §734(c)(1), Oct. 17, 1998, 112 Stat. 2073, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999."

**EFFECTIVE DATE**

Pub. L. 99–145, title VI, §653(b), Nov. 8, 1985, 99 Stat. 658, provided that: "Section 1094 of title 10, United States Code, as added by subsection (a), does not apply during the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1985] with respect to the provision of health care by any person who on the date of the enactment of this Act is a member of the Armed Forces."

**REGULATIONS**

Pub. L. 118–159, div. A, title VII, §714(b), Dec. 23, 2024, 138 Stat. 1948, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue an interim final regulation to implement the amendments made by subsection (a) [amending this section]."

Pub. L. 112–81, div. A, title VII, §713(b), Dec. 31, 2011, 125 Stat. 1476, provided that: "The Secretary of Defense shall prescribe regulations to carry out the amendments made by this section [amending this section]."

**REVIEW OF DISCLOSURE REQUIREMENTS UNDER PROCESSES AND FORMS RELATING TO HEALTH CARE PROVIDER CREDENTIALING AND PRIVILEGING OF DEPARTMENT OF DEFENSE**

Pub. L. 119–60, div. A, title VII, §720, Dec. 18, 2025, 139 Stat. 927, provided that:

"(a) REVIEW.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall review all processes and forms relating to health care provider credentialing and privileging of covered applicants to ensure that each individual who provides health care independently as a health-care professional at a health care facility of the Department of Defense meets the requirement of section 1094(a) of title 10, United States Code.

"(2) CENTRALIZED CREDENTIAL SYSTEM.—In carrying out section 1094(b) of title 10, United States Code, the Secretary shall establish a centralized credential system that allows the commanding officer of a health care facility of the Department to verify the licensure of a health care professional, regardless of the location of the facility or the Armed Force in which the health care professional serves. The Secretary shall ensure that not less than 90 percent of such verifications are completed within seven days of the date on which the commanding officer requests such verification if the request does not relate to a health-care professional with an adverse record.

"(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the following:

"(1) The findings of the review required under subsection (a).

"(2) A detailed plan outlining steps the Secretary has taken or will take pursuant to such review, including a timeline for completion of such steps.

"(c) COVERED APPLICANT DEFINED.—In this section, the term 'covered applicant' means an applicant for a position as a health-care professional (as defined in section 1094 of title 10, United States Code) who—

"(1) is required to go through a credentialing and privileging process; and

"(2) provides care—

"(A) at a health care facility of the Department of Defense; or

"(B) through the civilian network of the TRICARE program (as defined in section 1072 of title 10, United States Code)."

## §1094a. Continuing medical education requirements: system for monitoring physician compliance

The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.

(Added Pub. L. 105–261, div. A, title VII, §734(b)(1), Oct. 17, 1998, 112 Stat. 2073.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title VII, §734(c)(2), Oct. 17, 1998, 112 Stat. 2073, provided that: "The system

required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act [Oct. 17, 1998]."

## OVERSIGHT OF GRADUATE MEDICAL EDUCATION PROGRAMS OF MILITARY DEPARTMENTS

Pub. L. 114–328, div. A, title VII, §749, Dec. 23, 2016, 130 Stat. 2242, provided that:

"(a) PROCESS.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall establish and implement a process to provide oversight of the graduate medical education programs of the military departments to ensure that such programs fully support the operational medical force readiness requirements for health care providers of the Armed Forces and the medical readiness of the Armed Forces. The process shall include the following:

"(1) A process to review such programs to ensure, to the extent practicable, that such programs are—

"(A) conducted jointly among the military departments; and

"(B) focused on, and related to, operational medical force readiness requirements.

"(2) A process to minimize duplicative programs relating to such programs among the military departments.

"(3) A process to ensure that—

"(A) assignments of faculty, support staff, and students within such programs are coordinated among the military departments; and

"(B) the Secretary optimizes resources by using military medical treatment facilities as training platforms when and where most appropriate.

"(4) A process to review and, if necessary, restructure or realign, such programs to sustain and improve operational medical force readiness.

"(b) REPORT.—Not later than 30 days after the date on which the Secretary establishes the process under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that describes such process. The report shall include a description of each graduate medical education program of the military departments, categorized by the following:

"(1) Programs that provide direct support to operational medical force readiness.

"(2) Programs that provide indirect support to operational medical force readiness.

"(3) Academic programs that provide other medical support.

"(c) COMPTROLLER GENERAL REVIEW AND REPORT.—

"(1) REVIEW.—The Comptroller General of the United States shall conduct a review of the process established under subsection (a), including with respect to each process described in paragraphs (1) through (4) of such subsection.

"(2) REPORT.—Not later than 180 days after the date on which the Secretary submits the report under subsection (b), the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives the review conducted under paragraph (1), including an assessment of the elements of the process established under subsection (a)."

## JOINT PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS

Pub. L. 107–314, div. A, title VII, §725(a)–(d), Dec. 2, 2002, 116 Stat. 2599, provided that:

"(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs. The pilot program shall begin not later than January 1, 2003.

"(b) COST-SHARING AGREEMENT.—The Secretaries shall enter into an agreement for carrying out the pilot program. The agreement shall establish means for each Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of that Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

"(c) USE OF EXISTING AUTHORITIES.—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs may use authorities provided to them under this subtitle [subtitle C (§§721–726) of title VII of div. A of Pub. L. 107–314, amending section 1104 of this title and sections 8110 and 8111 of Title 38, Veterans' Benefits, enacting provisions set out as notes under section 1074g of this title and sections 8110 and 8111 of Title 38, and repealing provisions set out as a note under this section], section 8111 of title 38, United States Code (as amended by section 721(a)), and other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

"(d) TERMINATION OF PROGRAM.—The pilot program under this section shall terminate on July 31, 2008."

**JOINT DOD–VA PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS**

Pub. L. 107–107, div. A, title VII, §738, Dec. 28, 2001, 115 Stat. 1173, authorized a pilot program providing graduate medical education and training for physicians to be carried out jointly by the Secretary of Defense and the Secretary of Veterans Affairs, prior to repeal by Pub. L. 107–314, div. A, title VII, §725(e), Dec. 2, 2002, 116 Stat. 2599.

## §1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers

(a)(1) In the case of a person who is a covered beneficiary, the United States shall have the right to collect from a third-party payer reasonable charges for health care services incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such charges on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is a reasonable charge for the care provided less the appropriate deductible or copayment amount.

(2) A covered beneficiary may not be required to pay an additional amount to the United States for health care services by reason of this section.

(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care shall operate to prevent collection by the United States under subsection (a) if that care is provided—

(1) through a facility of the uniformed services;

(2) directly or indirectly by a governmental entity;

(3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or

(4) by a provider with which the third party payer has no participation agreement.

(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided health care services to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

(d) Notwithstanding subsections (a) and (b), and except as provided in subsection (j), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of health care services. Computation of such reasonable cost may be based on—

(1) per diem rates;

(2) all-inclusive per visit rates;

(3) diagnosis-related groups; or

(4) such other method as may be appropriate.

(g) Amounts collected under this section from a third-party payer or under any other provision of

law from any other payer for health care services provided at or through a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility and shall not be taken into consideration in establishing the operating budget of the facility.

(h) In this section:

(1) The term "third-party payer" means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier, and any other plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for health care services or products. Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection.

(2) The term "insurance, medical service, or health plan" includes a preferred provider organization, an insurance plan described as Medicare supplemental insurance, and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle.

(3) The term "health care services" includes products provided or purchased through a facility of the uniformed services.

(i)(1) In the case of a third-party payer that is an automobile liability insurance or no fault insurance carrier, the right of the United States to collect under this section shall extend to health care services provided to a person entitled to health care under section 1074(a) of this title.

(2) In cases in which a tort liability is created upon some third person, collection from a third-party payer that is an automobile liability insurance carrier shall be governed by the provisions of Public Law 87–693 (42 U.S.C. 2651 et seq.).

(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.

(k)(1) To improve the administration of this section and sections 1079(j)(1) [1] and 1086(d) of this title, the Secretary of Defense, in consultation with the other administering Secretaries, may prescribe regulations providing for the collection of information regarding insurance, medical service, or health plans of third-party payers held by covered beneficiaries.

(2) The collection of information under regulations prescribed under paragraph (1) shall be conducted in the same manner as is provided in section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)). The Secretary may provide for obtaining from the Commissioner of Social Security employment information comparable to the information provided to the Administrator of the Centers for Medicare & Medicaid Services pursuant to such section. Such regulations may require the mandatory disclosure of Social Security account numbers for all covered beneficiaries.

(3) The Secretary may disclose relevant employment information collected under this subsection to fiscal intermediaries or other designated contractors.

(4) The Secretary may provide for contacting employers of covered beneficiaries to obtain group health plan information comparable to the information authorized to be obtained under section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)). Notwithstanding clause (iii) of such section, clause (ii) of such section regarding the imposition of civil money penalties shall apply to the collection of information under this paragraph.

(5) Information obtained under this subsection may not be disclosed for any purpose other than to carry out the purpose of this section and sections 1079(j)(1) [1] and 1086(d) of this title.

(Added Pub. L. 99–272, title II, §2001(a)(1), Apr. 7, 1986, 100 Stat. 100; amended Pub. L. 101–189, div. A, title VII, §727(a), title XVI, §1622(e)(5), Nov. 29, 1989, 103 Stat. 1480, 1605; Pub. L. 101–510, div. A, title VII, §713(a)–(d)(2), Nov. 5, 1990, 104 Stat. 1583, 1584; Pub. L. 102–25, title VII, §701(j)(8), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–190, div. A, title VII, §714, Dec. 5, 1991, 105 Stat. 1403; Pub. L. 103–160, div. A, title VII, §713, Nov. 30, 1993, 107 Stat. 1689; Pub. L. 103–337, div. A, title VII, §714(b), title X, §1070(b)(6), Oct. 5, 1994, 108 Stat. 2802, 2857; Pub. L.

104–106, div. A, title VII, §734, Feb. 10, 1996, 110 Stat. 381; Pub. L. 104–201, div. A, title VII, §735(a), (b), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106–65, div. A, title VII, §716(c)(1), Oct. 5, 1999, 113 Stat. 691; Pub. L. 107–314, div. A, title X, §1041(a)(5), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 108–173, title IX, §900(e)(4)(B), Dec. 8, 2003, 117 Stat. 2373.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Public Law 87–693, referred to in subsec. (i)(2), is Pub. L. 87–693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§2651 et seq.) of Title 42. For complete classification of this Act to the Code, see Tables.

Section 1079(j) of this title, referred to in subsec. (k)(1), (5), was redesignated section 1079(i) of this title by Pub. L. 113–291, div. A, title VII, §703(a)(3), Dec. 19, 2014, 128 Stat. 3411.

### CODIFICATION

Another section 1095 was renumbered section 1095a of this title.

### AMENDMENTS

**2003**—Subsec. (k)(2). Pub. L. 108–173 substituted "Centers for Medicare & Medicaid Services" for "Health Care Financing Administration" in second sentence.

**2002**—Subsec. (g). Pub. L. 107–314 struck out par. (1) designation and par. (2) which read as follows: "Not later than February 15 of each year, the Secretary of Defense shall submit to Congress a report specifying for each facility of the uniformed services the amount credited to the facility under this subsection during the preceding fiscal year."

**1999**—Subsec. (a)(1). Pub. L. 106–65, §716(c)(1)(A), substituted "reasonable charges for" for "the reasonable costs of", "such charges" for "such costs", and "a reasonable charge for" for "the reasonable cost of".

Subsec. (g)(1). Pub. L. 106–65, §716(c)(1)(B), struck out "the costs of" after "any other payer for".

Subsec. (h)(1). Pub. L. 106–65, §716(c)(1)(C), substituted "The term 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier, and any other plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for health care services or products." for "The term 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier and a workers' compensation program or plan."

**1996**—Subsec. (g)(1). Pub. L. 104–201, §735(a), inserted "or through" after "provided at".

Subsec. (h)(1). Pub. L. 104–201, §735(b)(1), inserted "and a workers' compensation program or plan" after "insurance carrier".

Subsec. (h)(2). Pub. L. 104–201, §735(b)(2), substituted "organization," for "organization and" and inserted before period at end ", and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle".

Subsec. (k). Pub. L. 104–106 added subsec. (k).

**1994**—Subsec. (b). Pub. L. 103–337, §714(b)(1), substituted "shall operate to prevent collection by the United States under subsection (a) if that care is provided—" and pars. (1) to (4) for "if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a)."

Subsec. (d). Pub. L. 103–337, §714(b)(2), inserted "and except as provided in subsection (j)," after "(b),".

Subsec. (g). Pub. L. 103–337, §1070(b)(6), made technical correction to directory language of Pub. L. 103–160, §713(a)(1). See 1993 Amendment note below.

Subsec. (h)(1). Pub. L. 103–337, §714(b)(3), inserted at end "Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection."

Subsec. (j). Pub. L. 103–337, §714(b)(4), added subsec. (j).

**1993**—Subsec. (g). Pub. L. 103–160, §713(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 103–160, §713(a)(2), inserted before period "and shall not be taken into consideration in establishing the operating budget of the facility".

Pub. L. 103–160, §713(a)(1), as amended by Pub. L. 103–337, §1070(b)(6), inserted "or under any other provision of law from any other payer" after "third-party payer".

Subsec. (h). Pub. L. 103–160, §713(b), inserted "a preferred provider organization and" after "includes" in par. (2) and added par. (3).

**1991**—Subsec. (a)(1). Pub. L. 102–25 inserted "a" before "covered beneficiary".

Subsec. (i)(2). Pub. L. 102–190 struck out "or no fault insurance" before "carrier".

**1990**—Pub. L. 101–510, §713(d)(2), substituted "Health care services incurred on behalf of covered beneficiaries: collection from third-party payers" for "Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents" in section catchline.

Subsec. (a)(1). Pub. L. 101–510, §713(d)(1)(A), substituted "covered beneficiary" for "covered by section 1074(b), 1076(a), or 1076(b) of this title".

Pub. L. 101–510, §713(a)(1), substituted "health care services" for "inpatient hospital care".

Subsec. (a)(2). Pub. L. 101–510, §713(d)(1)(B), substituted "covered beneficiary" for "person covered by section 1074(b), 1076(a), or 1076(b) of this title".

Pub. L. 101–510, §713(a)(1), substituted "health care services" for "inpatient hospital care".

Subsec. (c). Pub. L. 101–510, §713(a)(1), substituted "health care services" for "inpatient hospital care".

Subsec. (f). Pub. L. 101–510, §713(a)(1), substituted "health care services" for "inpatient hospital care" in introductory provisions.

Subsec. (f)(2) to (4). Pub. L. 101–510, §713(b), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (g). Pub. L. 101–510, §713(a)(1), substituted "health care services" for "inpatient hospital care".

Subsecs. (h), (i). Pub. L. 101–510, §713(c), added subsecs. (h) and (i) and struck out former subsec. (h) which read as follows: "In this section, the term 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement."

**1989**—Subsec. (g). Pub. L. 101–189, §727(a)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 101–189, §1622(e)(5), which directed amendment of subsec. (g) by insertion of "the term" after "In this section," was executed by making the insertion in subsec. (h) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (h) by Pub. L. 101–189, §727(a)(1), see below.

Pub. L. 101–189, §727(a)(1), redesignated subsec. (g) as (h).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title X, §1070(b), Oct. 5, 1994, 108 Stat. 2856, provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, as enacted.

### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title VII, §713(e), Nov. 5, 1990, 104 Stat. 1584, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to health care services provided in a medical facility of the uniformed services after the date of the enactment of this Act [Nov. 5, 1990], but not with respect to collection under any insurance, medical service, or health plan agreement entered into before the date of the enactment of this Act that the Secretary of Defense determines clearly excludes payment for such services. Such an exception shall apply until the amendment or renewal of such agreement after that date."

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title VII, §727(b), Nov. 29, 1989, 103 Stat. 1480, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1989, and shall apply to amounts collected under section 1095 of title 10, United States Code, on or after that date."

### EFFECTIVE DATE

Pub. L. 99–272, title II, §2001(b), Apr. 7, 1986, 100 Stat. 101, provided that: "Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to inpatient hospital care provided after September 30, 1986, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after the date of the enactment of this Act [Apr. 7, 1986]."

**PILOT PROGRAM ON INCREASED THIRD-PARTY COLLECTION REIMBURSEMENTS IN MILITARY MEDICAL TREATMENT FACILITIES**

Pub. L. 113–66, div. A, title VII, §712, Dec. 26, 2013, 127 Stat. 793, required the Secretary of Defense, in coordination with the Secretaries of the military departments, to conduct a three-year pilot program to demonstrate and assess the feasibility of implementing commercially available enhanced recovery practices to increase reimbursement from third-party payers in military medical treatment facilities and report the results to Congress not later than 180 days after the program's completion.

*[1] See References in Text note below.*

## §1095a. Medical care: members held as captives and their dependents

(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

(1) is incident to the captive status; and

(2) is not covered—

(A) by any other Government medical or health program; or

(B) by insurance.

(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

(c) In this section:

(1) The terms "captive status" and "former captive" have the meanings given those terms in section 559 of title 37.

(2) The term "dependent" has the meaning given that term in section 551 of that title.

(Added Pub. L. 99–399, title VIII, §806(c)(1), Aug. 27, 1986, 100 Stat. 886, §1095; renumbered §1095a, Pub. L. 100–26, §7(e)(2), Apr. 21, 1987, 101 Stat. 281; amended Pub. L. 100–526, title I, §106(b)(1), Oct. 24, 1988, 102 Stat. 2625.)

### EDITORIAL NOTES

### AMENDMENTS

**1988**—Subsec. (c). Pub. L. 100–526 substituted "The terms 'captive status' " for " 'Captive status' " in par. (1), and "The term 'dependent' " for " 'Dependent' " in par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE; REGULATIONS

Pub. L. 99–399, title VIII, §806(c)(3), Aug. 27, 1986, 100 Stat. 886, provided that:

"(A) Section 1095 [now 1095a] of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

"(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section [Aug. 27, 1986]."

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government

Organization and Employees.

## §1095b. TRICARE program: contractor payment of certain claims

(a) PAYMENT OF CLAIMS.—(1) The Secretary of Defense may authorize a contractor under the TRICARE program to pay a claim described in paragraph (2) before seeking to recover from a third-party payer the costs incurred by the contractor to provide health care services that are the basis of the claim to a beneficiary under such program.

(2) A claim under this paragraph is a claim—

(A) that is submitted to the contractor by a provider under the TRICARE program for payment for services for health care provided to a covered beneficiary; and

(B) that is identified by the contractor as a claim for which a third-party payer may be liable.

(b) RECOVERY FROM THIRD-PARTY PAYERS.—The United States shall have the same right to collect charges related to claims described in subsection (a) as charges for claims under section 1095 of this title.

(c) DEFINITION OF THIRD-PARTY PAYER.—In this section, the term "third-party payer" has the meaning given that term in section 1095(h) of this title, except that such term excludes primary medical insurers.

(Added Pub. L. 105–261, div. A, title VII, §711(a)(1), Oct. 17, 1998, 112 Stat. 2058; amended Pub. L. 106–65, div. A, title VII, §716(c)(2), Oct. 5, 1999, 113 Stat. 692.)

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Subsec. (b). Pub. L. 106–65 substituted "The United States shall have the same right to collect charges related to claims described in subsection (a) as charges for claims under section 1095 of this title." for "A contractor for the provision of health care services under the TRICARE program that pays a claim described in subsection (a)(2) shall have the right to collect from the third-party payer the costs incurred by such contractor on behalf of the covered beneficiary. The contractor shall have the same right to collect such costs under this subsection as the right of the United States to collect costs under section 1095 of this title."

## §1095c. TRICARE program: facilitation of processing of claims

(a) REDUCTION OF PROCESSING TIME.—(1) With respect to claims for payment for medical care provided under the TRICARE program, the Secretary of Defense shall implement a system for processing of claims under which—

(A) 95 percent of all clean claims must be processed not later than 30 days after the date that such claims are submitted to the claims processor; and

(B) 100 percent of all clean claims must be processed not later than 100 days after the date that such claims are submitted to the claims processor.

(2) The Secretary may, under the system required by paragraph (1) and consistent with the provisions in chapter 39 of title 31 (commonly referred to as the "Prompt Payment Act"), require that interest be paid on clean claims that are not processed within 30 days.

(3) For purposes of this subsection, the term "clean claim" means a claim that has no defect, impropriety (including a lack of any required substantiating documentation), or particular circumstance requiring special treatment that prevents timely payment on the claim under this section.

(b) REQUIREMENT TO PROVIDE START-UP TIME FOR CERTAIN CONTRACTORS.—(1) Except as provided in paragraph (3), the Secretary of Defense shall not require that a contractor described in paragraph (2) begin to provide managed care support pursuant to a contract to provide

such support under the TRICARE program until at least nine months after the date of the award of the contract, but in no case later than one year after the date of such award.

(2) A contractor under this paragraph is a contractor who is awarded a contract to provide managed care support under the TRICARE program—

(A) who has not previously been awarded such a contract by the Department of Defense; or

(B) who has previously been awarded such a contract by the Department of Defense but for whom the subcontractors have not previously been awarded the subcontracts for such a contract.

(3) The Secretary may reduce the nine-month start-up period required under paragraph (1) if—

(A) the Secretary—

(i) determines that a shorter period is sufficient to ensure effective implementation of all contract requirements; and

(ii) submits notification to the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to reduce the nine-month start-up period; and

(B) 60 days have elapsed since the date of such notification.

(c) INCENTIVES FOR ELECTRONIC PROCESSING.—The Secretary of Defense shall require that new contracts for managed care support under the TRICARE program provide that the contractor be permitted to provide financial incentives to health care providers who file claims for payment electronically.

(d) CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS .—The Secretary of Defense, in consultation with the other administering Secretaries, shall limit the information required in support of claims for payment for health care items and services provided under the TRICARE program to that information that is identical to the information that would be required for claims for reimbursement for those items and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) except for that information, if any, that is uniquely required by the TRICARE program. The Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any information that is excepted under this provision, and the justification for that exception.

(Added Pub. L. 106–65, div. A, title VII, §713(a)(1), Oct. 5, 1999, 113 Stat. 688; amended Pub. L. 107–107, div. A, title VII, §708(b), Dec. 28, 2001, 115 Stat. 1164; Pub. L. 107–314, div. A, title VII, §711(a), Dec. 2, 2002, 116 Stat. 2588.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

### AMENDMENTS

**2002**—Subsec. (d). Pub. L. 107–314 added subsec. (d).

**2001**—Subsec. (b)(1). Pub. L. 107–107, §708(b)(1), substituted "Except as provided in paragraph (3), the Secretary" for "The Secretary" and struck out "contract. In such case the contractor may begin to provide managed care support pursuant to the contract as soon as practicable after the award of the" before "contract, but in no case".

Subsec. (b)(3). Pub. L. 107–107, §708(b)(2), added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 106–65, div. A, title VII, §713(d), Oct. 5, 1999, 113 Stat. 689, provided that: "Section 1095c(b) of title 10, United States Code (as added by subsection (a)), shall apply with respect to any contract to provide managed care support under the TRICARE program negotiated after the date of the enactment of this Act [Oct. 5, 1999]."

## APPLICABILITY

Pub. L. 107–314, div. A, title VII, §711(b), Dec. 2, 2002, 116 Stat. 2588, provided that: "The Secretary of Defense, in consultation with the other administering Secretaries referred to in section 1072(3) of title 10, United States Code, shall apply the limitations required under subsection (d) of section 1095c of such title (as added by subsection (a)) with respect to contracts entered into under the TRICARE program on or after October 1, 2002."

## STANDARDIZATION OF CLAIMS PROCESSING UNDER TRICARE PROGRAM AND MEDICARE PROGRAM

Pub. L. 109–364, div. A, title VII, §731, Oct. 17, 2006, 120 Stat. 2295, as amended by Pub. L. 112–81, div. A, title X, §1062(d)(2), Dec. 31, 2011, 125 Stat. 1585, provided that:

"(a) IN GENERAL.—Effective beginning with the next contract option period for managed care support contracts under the TRICARE program, the claims processing requirements under the TRICARE program on the matters described in subsection (b) shall be identical to the claims processing requirements under the Medicare program on such matters.

"(b) COVERED MATTERS.—The matters described in this subsection are as follows:

"(1) The utilization of single or multiple provider identification numbers for purposes of the payment of health care claims by Department of Defense contractors.

"(2) The documentation required to substantiate medical necessity for items and services that are covered under both the TRICARE program and the Medicare program.

"(c) REPORT ON COLLECTION OF AMOUNTS OWED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth a detailed description of the following:

"(1) All TRICARE policies and directives concerning collection of amounts owed to the United States pursuant to section 1095 of title 10, United States Code, from third party payers, including—

"(A) collection by military treatment facilities from third-party payers; and

"(B) collection by contractors providing managed care support under the TRICARE program from other insurers in cases of private insurance liability for health care costs of a TRICARE beneficiary.

"(2) An estimate of the outstanding amounts owed from third party payers in each of fiscal years 2002, 2003, and 2004.

"(3) The amounts collected from third party payers in each of fiscal years 2002, 2003, and 2004.

"(4) A plan of action to streamline the business practices that underlie the policies and directives described in paragraph (1).

"(5) A plan of action to accelerate and increase the collections or recoupments of amounts owed from third party payers.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Medicare program' means the program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(2) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code."

## CLAIMS PROCESSING IMPROVEMENTS

Pub. L. 106–398, §1 [[div. A], title VII, §727], Oct. 30, 2000, 114 Stat. 1654, 1654A–188, provided that: "Beginning on the date of the enactment of this Act [Oct. 30, 2000], the Secretary of Defense shall, to the maximum extent practicable, take all necessary actions to implement the following improvements with respect to processing of claims under the TRICARE program:

"(1) Use of the TRICARE encounter data information system rather than the health care service record in maintaining information on covered beneficiaries under chapter 55 of title 10, United States Code.

"(2) Elimination of all delays in payment of claims to health care providers that may result from the development of the health care service record or TRICARE encounter data information.

"(3) Requiring all health care providers under the TRICARE program that the Secretary determines are high-volume providers to submit claims electronically.

"(4) Processing 50 percent of all claims by health care providers and institutions under the TRICARE

program by electronic means.

"(5) Authorizing managed care support contractors under the TRICARE program to require providers to access information on the status of claims through the use of telephone automated voice response units."

**DEADLINE FOR IMPLEMENTATION**

Pub. L. 106–65, div. A, title VII, §713(c), Oct. 5, 1999, 113 Stat. 689, provided that the system for processing claims required under subsec. (a) of this section was to be implemented not later than 6 months after Oct. 5, 1999.

## §1095d. TRICARE program: waiver of certain deductibles

(a) WAIVER AUTHORIZED.—The Secretary of Defense may waive the deductible payable for medical care provided under the TRICARE program to an eligible dependent of—

(1) a member of a reserve component on active duty pursuant to a call or order to active duty for a period of more than 30 days; or

(2) a member of the National Guard on full-time National Guard duty pursuant to a call or order to full-time National Guard duty for a period of more than 30 days.

(b) ELIGIBLE DEPENDENT.—As used in this section, the term "eligible dependent" means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(Added Pub. L. 106–65, div. A, title VII, §714(a), Oct. 5, 1999, 113 Stat. 689; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(7)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 108–375, div. A, title VII, §704, Oct. 28, 2004, 118 Stat. 1983.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (a). Pub. L. 108–375 substituted "more than 30 days" for "less than one year" in pars. (1) and (2).

**2000**—Subsec. (b). Pub. L. 106–398 substituted "subparagraph" for "subparagraphs".

## §1095e. TRICARE program: beneficiary counseling and assistance coordinators

(a) ESTABLISHMENT OF POSITIONS.—The Secretary of Defense shall require in regulations that—

(1) each lead agent under the TRICARE program—

(A) designate a person to serve full-time as a beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program;

(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members of the reserve components and their dependents who are beneficiaries under the TRICARE program; and

(C) provide for toll-free telephone communication between such beneficiaries and the beneficiary counseling and assistance coordinator; and

(2) the commander of each military medical treatment facility under this chapter designate a person to serve, as a primary or collateral duty, as beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program served at that facility.

(b) DUTIES.—The Secretary shall prescribe the duties of the position of beneficiary counseling and assistance coordinator in the regulations required by subsection (a).

(Added Pub. L. 106–65, div. A, title VII, §715(a)(1), Oct. 5, 1999, 113 Stat. 690; amended Pub. L. 108–136, div. A, title VII, §707, Nov. 24, 2003, 117 Stat. 1529.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (a)(1). Pub. L. 108–136 added subpar. (B) and redesignated former subpar. (B) as (C).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR INITIAL DESIGNATIONS**

Pub. L. 106–65, div. A, title VII, §715(b), Oct. 5, 1999, 113 Stat. 690, directed that each beneficiary counseling and assistance coordinator required under the regulations described in subsec. (a) of this section be designated not later than Jan. 15, 2000.

## §1095f. TRICARE program: referrals and preauthorizations under TRICARE Prime

(a) REFERRALS.—(1) Except as provided by paragraph (2), a beneficiary enrolled in TRICARE Prime shall be required to obtain a referral for care through a designated primary care manager (or other care coordinator) prior to obtaining care under the TRICARE program.

(2)(A) The Secretary may waive the referral requirement in paragraph (1) in such circumstances as the Secretary may establish for purposes of this subsection.

(B) The Secretary shall waive the referral requirement in paragraph (1) in the case of a member of the armed forces serving on active duty who seeks to obtain any of the following kinds of care in a military medical treatment facility:

(i) Physical therapy.
(ii) Nutritional.
(iii) Audiological.
(iv) Optometric.
(v) Podiatric.

(3) The cost-sharing amounts for a beneficiary enrolled in TRICARE Prime who does not obtain a referral for care under paragraph (1) (or a waiver pursuant to paragraph (2) for such care) shall be determined under section 1075a(c) of this title.

(b) PREAUTHORIZATION.—A beneficiary enrolled in TRICARE Prime shall be required to obtain preauthorization only with respect to a referral for the following:

(1) Inpatient hospitalization.
(2) Inpatient care at a skilled nursing facility.
(3) Inpatient care at a rehabilitation facility.
(4) Inpatient care at a residential treatment center.

(c) PROHIBITION REGARDING PRIOR AUTHORIZATION FOR CERTAIN REFERRALS .—The Secretary of Defense shall ensure that no contract for managed care support under the TRICARE program includes any requirement that a managed care support contractor require a primary care or specialty care provider to obtain prior authorization before referring a patient to a specialty care provider that is part of the network of health care providers or institutions of the contractor.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §728(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–189; amended Pub. L. 114–328, div. A, title VII, §701(c), Dec. 23, 2016, 130 Stat. 2186; Pub. L. 115–91, div. A, title VII, §739(e)(1), Dec. 12, 2017, 131 Stat. 1447; Pub. L. 118–159, div. A, title VII, §703, Dec. 23, 2024, 138 Stat. 1942.)

**EDITORIAL NOTES**

### AMENDMENTS

**2024**—Subsec. (a)(2). Pub. L. 118–159 designated existing provisions as subpar. (A) and added subpar. (B).

**2017**—Subsec. (b)(4). Pub. L. 115–91 added par. (4).

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "The Secretary of Defense shall ensure that no contract for managed care support under the TRICARE program includes any requirement that a managed care support contractor require a primary care or specialty care provider to obtain prior authorization before referring a patient to a specialty care provider that is part of the network of health care providers or institutions of the contractor."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VII, §728(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–189, provided that: "Section 1095f of title 10, United States Code, as added by subsection (a), shall apply with respect to a TRICARE managed care support contract entered into by the Department of Defense after the date of the enactment of this Act [Oct. 30, 2000]."

### STREAMLINING OF TRICARE PRIME BENEFICIARY REFERRAL PROCESS

Pub. L. 115–232, div. A, title VII, §714, Aug. 13, 2018, 132 Stat. 1812, as amended by Pub. L. 117–263, div. A, title VII, §703(a), Dec. 23, 2022, 136 Stat. 2647, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall streamline the process under section 1095f of title 10, United States Code, by which beneficiaries enrolled in TRICARE Prime are referred to the civilian provider network for inpatient or outpatient care under the TRICARE program.

"(b) OBJECTIVES.—In carrying out the requirement in subsection (a), the Secretary shall meet the following objectives:

"(1) The referral process shall model best industry practices for referrals from primary care managers to specialty care providers.

"(2) The process shall limit administrative requirements for enrolled beneficiaries.

"(3) Beneficiary preferences for communications relating to appointment referrals using state-of-the-art information technology shall be used to expedite the process.

"(4) There shall be effective and efficient processes to determine the availability of appointments at military medical treatment facilities and, when unavailable, to make prompt referrals to network providers under the TRICARE program.

"(c) DEADLINE FOR IMPLEMENTATION.—The requirement in subsection (a) shall be implemented for referrals under TRICARE Prime in calendar year 2019.

"(d) EVALUATION AND IMPROVEMENT.—After 2019, the Secretary shall—

"(1) evaluate the referral process described in subsection (a) not less often than annually; and

"(2) make appropriate improvements to the process in light of such evaluations.

"(e) IMPROVEMENT OF SPECIALTY CARE REFERRALS DURING PERMANENT CHANGES OF STATION.—In conducting evaluations and improvements under subsection (d) to the referral process described in subsection (a), the Secretary shall ensure beneficiaries enrolled in TRICARE Prime who are undergoing a permanent change of station receive referrals from their primary care manager to such specialty care providers in the new location as the beneficiary may need before undergoing the permanent change of station.

"(f) DEFINITIONS.—In this section, the terms 'TRICARE program' and 'TRICARE Prime' have the meaning given such terms in section 1072 of title 10, United States Code."

## §1095g. TRICARE program: waiver of recoupment of erroneous payments caused by administrative error

(a) WAIVER OF RECOUPMENT.—The Secretary of Defense may waive recoupment from an individual who has benefitted from an erroneous TRICARE payment in a case in which each of the following applies:

(1) The payment was made because of an administrative error by an employee of the Department of Defense or a contractor under the TRICARE program.

(2) The individual (or in the case of a minor, the parent or guardian of the individual) had a good faith, reasonable belief that the individual was entitled to the benefit of such payment under this chapter.

(3) The individual relied on the expectation of such entitlement.

(4) The Secretary determines that a waiver of recoupment of such payment is necessary to prevent an injustice.

(b) RESPONSIBILITY OF CONTRACTOR.—In any case in which the Secretary waives recoupment under subsection (a) and the administrative error was on the part of a contractor under the TRICARE program, the Secretary shall, consistent with the requirements and procedures of the applicable contract, impose financial responsibility on the contractor for the erroneous payment.

(c) FINALITY OF DETERMINATIONS.—Any determination by the Secretary under this section to waive or decline to waive recoupment under subsection (a) is a final determination and shall not be subject to appeal or judicial review.

(Added Pub. L. 114–92, div. A, title VII, §711(a), Nov. 25, 2015, 129 Stat. 864.)

## §1096. Military-civilian health services partnership program; medical surge program

(a) RESOURCES SHARING AGREEMENTS.—The Secretary of Defense may enter into an agreement providing for the sharing of resources between facilities of the uniformed services and facilities of a civilian health care provider or providers that the Secretary contracts with under section 1079, 1086, or 1097 of this title if the Secretary determines that such an agreement would result in the delivery of health care to which covered beneficiaries are entitled under this chapter in a more effective, efficient, or economical manner.

(b) ELIGIBLE RESOURCES.—An agreement entered into under subsection (a) may provide for the sharing of—

(1) personnel (including support personnel);

(2) equipment;

(3) supplies; and

(4) any other items or facilities necessary for the provision of health care services.

(c) COMPUTATION OF CHARGES.—A covered beneficiary who is a dependent, with respect to care provided to such beneficiary in facilities of the uniformed services under a sharing agreement entered into under subsection (a), shall pay the charges prescribed by section 1078 of this title.

(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.

(e) MEDICAL SURGE PROGRAM.—(1) The Secretary of Defense, in collaboration with the Secretary of Health and Human Services, shall carry out a program of record known as the Military-Civilian Medical Surge Program to—

(A) support locations that the Secretary of Defense selects under paragraph (3)(B); and

(B) enhance the interoperability and medical surge capability and capacity of the National Disaster Medical System in response to a declaration or other action described in subparagraphs (A) through (F) of paragraph (4).

(2)(A) The Secretary of Defense, acting through the Institute [1] for Defense Health Cooperation at the Uniformed Services University of the Health Sciences (or such successor center), shall oversee the management, staffing, and deployment of the Program, in coordination with the Chairman of the Joint Chiefs of Staff, the Director of the Defense Health Agency, and, for purposes of ensuring that the Program is carried out in a manner that is consistent with paragraph (6), the Secretary of Health and Human Services.

(B) In carrying out subparagraph (A) during a contingency operation, the Secretary of Defense shall ensure that the Program provides support, acting through the Defense Health Agency serving as a combat support agency, to the relevant combatant command.

(C) The Secretary of Defense shall ensure the program is administrated in coordination with the military departments, the Joint Staff, the Defense Health Agency, and the Department of Health and Human Services through semiannual coordination meetings and quarterly updates. On an annual basis, one such meeting shall include the participation of partners specified in paragraph (3)(A).

(D) In carrying out the Program, the Secretary of Defense shall maintain requirements for staffing, specialized training, research, and education, regarding patient regulation, movement, definitive care, and other matters the Secretary determines critical to sustaining the health of members of the armed forces.

(3)(A) In carrying out the Program, the Secretary of Defense shall establish partnerships at locations selected under subparagraph (B) with public, private, and nonprofit health care organizations, health care institutions, health care entities, academic medical centers of institutions of higher education, and hospitals that the Secretary and the Secretary of Health and Human Services determine—

(i) are critical in mobilizing a civilian medical response in support of a wartime contingency or other catastrophic event in the United States; and

(ii) have demonstrated technical proficiency in critical national security domains, including high-consequence infectious disease and special pathogen preparedness, and matters relating to defense, containment, management, care, and transportation.

(B) The Secretary of Defense shall select not fewer than eight locations that are operationally relevant to the missions of the Department of Defense under the National Disaster Medical System and are aeromedical or other transport hubs or logistics centers in the United States for partnerships under subparagraph (A). The Secretary may select more than eight locations, including locations outside of the continental United States, if the Secretary determines such additional locations cover areas of strategic and operational relevance to the Department.

(4) The Secretary of Defense and the Secretary of Health and Human Services shall ensure that the partnerships under paragraph (3)(A) allow for civilian medical personnel to quickly and effectively mobilize direct support to military medical treatment facilities and provide support to other requirements of the military health system pursuant to the following:

(A) A declaration of a national emergency under the National Emergencies Act (50 U.S.C. 1621 [2] et seq.).

(B) A public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d).

(C) A declaration of war by Congress.

(D) A contingency operation.

(E) The President's exercise of executive powers under the War Powers Resolution (50 U.S.C. 1541 et seq.).

(F) Any other emergency or major disaster as declared by the President.

(5) Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Armed Services and the Committee on Energy and Commerce of the

House of Representatives a report on the status, readiness, and operational capabilities of the Program. Each report shall include an assessment of personnel readiness, resource availability, interagency coordination efforts, and recommendations for continued improvements to the Program.

(6) Nothing in this section shall be construed to authorize the Secretary of Defense to control, direct, limit, or otherwise affect the authorities of the Secretary of Health and Human Services with respect to the leadership and administration of the National Disaster Medical System, public health and medical preparedness and response, staffing levels, or resource allocation.

(7) In this subsection:

(A) The term "institution of higher education" means a four-year institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).

(B) The term "National Disaster Medical System" means the system established under section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11).

(C) The term "Program" means the Military-Civilian Medical Surge Program established under paragraph (1).

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3894; amended Pub. L. 103–337, div. A, title VII, §712, Oct. 5, 1994, 108 Stat. 2801; Pub. L. 108–375, div. A, title VI, §607(b), Oct. 28, 2004, 118 Stat. 1946; Pub. L. 119–60, div. A, title VII, §712, Dec. 18, 2025, 139 Stat. 919.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (e)(4)(A), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The War Powers Resolution, referred to in subsec. (e)(4)(E), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (e)(5), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

### AMENDMENTS

**2025**—Pub. L. 119–60, §712(1), inserted "; medical surge program" after "program" in section catchline.

Subsec. (e). Pub. L. 119–60, §712(2), added subsec. (e).

**2004**—Subsec. (c). Pub. L. 108–375 inserted "who is a dependent" after "covered beneficiary" and substituted "shall pay the charges prescribed by section 1078 of this title." for "shall pay—

"(1) in the case of a dependent, the charges prescribed by section 1078 of this title; and

"(2) in the case of a member or former member entitled to retired or retainer pay, the charges prescribed by section 1075 of this title."

**1994**—Subsec. (d). Pub. L. 103–337 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEVELOPMENT AND UPDATE OF CERTAIN POLICIES RELATING TO MILITARY HEALTH SYSTEM AND INTEGRATED MEDICAL OPERATIONS

Pub. L. 117–81, div. A, title VII, §724, Dec. 27, 2021, 135 Stat. 1793, provided that:

"(a) IN GENERAL.—By not later than October 1, 2022, the Secretary of Defense, in coordination with the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff, shall develop and update certain policies relating to the military health system and integrated medical operations of the Department of Defense as follows:

"(1) UPDATED PLAN ON INTEGRATED MEDICAL OPERATIONS IN CONTINENTAL UNITED STATES.—The Secretary of Defense shall develop an updated plan on integrated medical operations in the continental United States and update the Department of Defense Instruction 6010.22, titled

'National Disaster Medical System (NDMS)' (or such successor instruction) accordingly. Such updated plan shall—

"(A) be informed by the operational plans of the combatant commands and by the joint medical estimate under section 732 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1817);

"(B) include an updated bed plan, to include bed space available through the military health system and through hospitals participating in the National Disaster Medical System established pursuant to section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11);

"(C) include a determination as to whether combat casualties should receive medical care under the direct care or purchased care component of the military health system and a risk analysis in support of such determination;

"(D) identify the manning levels required to furnish medical care under the updated plan, including with respect to the levels of military personnel, civilian employees of the Department, and contractors of the Department; and

"(E) include a cost estimate for the furnishment of such medical care.

"(2) UPDATED PLAN ON GLOBAL PATIENT MOVEMENT.—The Secretary of Defense shall develop an updated plan on global patient movement and update the Department of Defense Instruction 5154.06, relating to medical military treatment facilities and patient movement (or such successor instruction) accordingly. Such updated plan shall—

"(A) be informed by the operational plans of the combatant commands and by the joint medical estimate under section 732 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1817);

"(B) include a risk assessment with respect to patient movement compared against overall operational plans;

"(C) include a description of any capabilities-based assessment of the Department that informed the updated plan or that was in progress during the time period in which the updated plan was developed;

"(D) identify the manning levels, equipment and consumables, and funding levels, required to carry out the updated plan; and

"(E) address airlift capability, medical evacuation capability, and access to ports of embarkation.

"(3) ASSESSMENT OF BIOSURVEILLANCE AND MEDICAL RESEARCH CAPABILITIES .—The Secretary of Defense shall conduct an assessment of the biosurveillance and medical research capabilities of the Department of Defense. Such assessment shall include the following:

"(A) An identification of the location and strategic value of the overseas medical laboratories and overseas medical research programs of the Department.

"(B) An assessment of the current capabilities of such laboratories and programs with respect to force health protection and evidence-based medical research.

"(C) A determination as to whether such laboratories and programs have the capabilities, including as a result of the geographic location of such laboratories and programs, to provide force health protection and evidence-based medical research, including by actively monitoring for future pandemics, infectious diseases, and other potential health threats to members of the Armed Forces.

"(D) The current biosurveillance and medical research capabilities of the Department.

"(E) The current manning levels of the biosurveillance and medical research entities of the Department, including an assessment of whether such entities are manned at a level necessary to support the missions of the combatant commands (including with respect to missions related to pandemic influenza or homeland defense).

"(F) The current funding levels of such entities, including a risk assessment as to whether such funding is sufficient to sustain the manning levels necessary to support missions as specified in subparagraph (E).

"(b) INTERIM BRIEFING.—Not later than April 1, 2022, the Secretary of Defense, in coordination with the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff, shall provide to the Committees on Armed Services of the House of Representatives and the Senate an interim briefing on the progress of implementation of the plans and assessment required under subsection (a).

"(c) REPORT.—Not later than December 1, 2022, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report describing each updated plan and assessment required under subsection (a)."

## PILOT PROGRAM ON CIVILIAN AND MILITARY PARTNERSHIPS TO ENHANCE INTEROPERABILITY AND MEDICAL SURGE CAPABILITY AND CAPACITY OF NATIONAL DISASTER MEDICAL SYSTEM

Pub. L. 116–92, div. A, title VII, §740, Dec. 20, 2019, 133 Stat. 1465, as amended by Pub. L. 116–283, div. A, title VII, §741, Jan. 1, 2021, 134 Stat. 3705, provided that:

"(a) IN GENERAL.—Beginning not later than September 30, 2021, the Secretary of Defense shall carry out a pilot program to establish partnerships with public, private, and nonprofit health care organizations, health care institutions, health care entities, academic medical centers of institutions of higher education, and hospitals in collaboration with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Transportation to enhance the interoperability and medical surge capability and capacity of the National Disaster Medical System under section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11).

"(b) DURATION.—The Secretary of Defense shall carry out the pilot program under subsection (a) for a period of not more than five years.

"(c) LEAD OFFICIAL FOR DESIGN AND IMPLEMENTATION OF PILOT PROGRAM.—

"(1) IN GENERAL.—The Assistant Secretary of Defense for Health Affairs shall be the lead official for the design and implementation of the pilot program under subsection (a).

"(2) RESOURCES.—The Assistant Secretary of Defense for Health Affairs shall leverage the resources of the Defense Health Agency for execution of the pilot program under subsection (a) and shall coordinate with the Chairman of the Joint Chiefs of Staff for the duration of the pilot program, including for the duration of any period of design or planning for the pilot program.

"(d) LOCATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out the pilot program under subsection (a) at not fewer than five locations in the United States that are located at or near an organization, institution, entity, center, or hospital specified in subsection (a) with established expertise in disaster health preparedness and response and trauma care that augment and enhance the effectiveness of the pilot program.

"(2) PHASED SELECTION OF LOCATIONS.—

"(A) INITIAL SELECTION.—Not later than March 31, 2021, the Assistant Secretary of Defense for Health Affairs, in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Transportation, shall select not fewer than two locations at which to carry out the pilot program.

"(B) SUBSEQUENT SELECTION.—Not later than the end of the one-year period following selection of the locations under subparagraph (A), the Assistant Secretary of Defense for Health Affairs, in consultation with the Secretaries specified in subparagraph (A), shall select not fewer than two additional locations at which to carry out the pilot program until not fewer than five locations are selected in total under this paragraph.

"(3) CONSIDERATION FOR LOCATIONS.—In selecting locations for the pilot program under subsection (a), the Secretary shall consider—

"(A) the proximity of the location to civilian or military transportation hubs, including airports, railways, interstate highways, or ports;

"(B) the proximity of the location to an organization, institution, entity, center, or hospital specified in subsection (a) with the ability to accept a redistribution of casualties during times of war;

"(C) the proximity of the location to an organization, institution, entity, center, or hospital specified in subsection (a) with the ability to provide trauma care training opportunities for medical personnel of the Department of Defense; and

"(D) the proximity of the location to existing academic medical centers of institutions of higher education, facilities of the Department, or other institutions that have established expertise in the areas of—

"(i) highly infectious disease;

"(ii) biocontainment;

"(iii) quarantine;

"(iv) trauma care;

"(v) combat casualty care;

"(vi) the National Disaster Medical System under section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11);

"(vii) disaster health preparedness and response;

"(viii) medical and public health management of biological, chemical, radiological, or nuclear hazards; or

"(ix) such other areas of expertise as the Secretary considers appropriate.

"(4) PRIORITY FOR LOCATIONS.—In selecting locations for the pilot program under subsection

(a), the Secretary shall give priority to locations that would facilitate public-private partnerships with academic medical centers of institutions of higher education, hospitals, and other entities with facilities that have an established history of providing clinical care, treatment, training, and research in the areas described in paragraph (3)(D) or other specializations determined important by the Secretary for purposes of the pilot program.

"(e) REQUIREMENTS.—In establishing partnerships under the pilot program under subsection (a), the Secretary, in collaboration with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Transportation, shall establish requirements under such partnerships for staffing, specialized training, medical logistics, telemedicine, patient regulating, movement, situational status reporting, tracking, and surveillance.

"(f) EVALUATION METRICS.—The Secretary of Defense shall establish metrics to evaluate the effectiveness of the pilot program under subsection (a).

"(g) REPORTS.—

"(1) INITIAL REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the commencement of the pilot program under subsection (a), the Secretary shall submit to the appropriate congressional committees a report on the pilot program.

"(B) ELEMENTS.—The report under subparagraph (A) shall include the following:

"(i) A description of the pilot program.

"(ii) The requirements established under subsection (e).

"(iii) The evaluation metrics established under subsection (f).

"(iv) Such other matters relating to the pilot program as the Secretary considers appropriate.

"(2) FINAL REPORT.—Not later than 180 days after the completion of the pilot program under subsection (a), the Secretary shall submit to the appropriate congressional committees a report on the pilot program.

"(h) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) The Committee on Armed Services, the Committee on Transportation and Infrastructure, the Committee on Veterans' Affairs, the Committee on Homeland Security, and the Committee on Energy and Commerce of the House of Representatives.

"(B) The Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Veterans' Affairs, the Committee on Homeland Security and Governmental Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(2) The term 'institution of higher education' means a four-year institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))."

## ESTABLISHMENT OF HIGH PERFORMANCE MILITARY-CIVILIAN INTEGRATED HEALTH DELIVERY SYSTEMS

Pub. L. 114–328, div. A, title VII, §706, Dec. 23, 2016, 130 Stat. 2206, provided that:

"(a) IN GENERAL.—Not later than January 1, 2018, the Secretary of Defense shall establish military-civilian integrated health delivery systems through partnerships with other health systems, including local or regional health systems in the private sector—

"(1) to improve access to health care for covered beneficiaries;

"(2) to enhance the experience of covered beneficiaries in receiving health care;

"(3) to improve health outcomes for covered beneficiaries;

"(4) to share resources between the Department of Defense and the private sector, including such staff, equipment, and training assets as may be required to carry out such integrated health delivery systems;

"(5) to maintain services within military treatment facilities that are essential for the maintenance of operational medical force readiness skills of health care providers of the Department; and

"(6) to provide members of the Armed Forces with additional training opportunities to maintain such readiness skills.

"(b) ELEMENTS OF SYSTEMS.—Each military-civilian integrated health delivery system established under subsection (a) shall—

"(1) deliver high quality health care as measured by leading national health quality measurement organizations;

"(2) achieve greater efficiency in the delivery of health care by identifying and implementing within each such system improvement opportunities that guide patients through the entire continuum of care, thereby reducing variations in the delivery of health care and preventing medical errors and duplication of

medical services;

"(3) improve population-based health outcomes by using a team approach to deliver case management, prevention, and wellness services to high-need and high-cost patients;

"(4) focus on preventive care that emphasizes—

"(A) early detection and timely treatment of disease;

"(B) periodic health screenings; and

"(C) education regarding healthy lifestyle behaviors;

"(5) coordinate and integrate health care across the continuum of care, connecting all aspects of the health care received by the patient, including the patient's health care team;

"(6) facilitate access to health care providers, including—

"(A) after-hours care;

"(B) urgent care; and

"(C) through telehealth appointments, when appropriate;

"(7) encourage patients to participate in making health care decisions;

"(8) use evidence-based treatment protocols that improve the consistency of health care and eliminate ineffective, wasteful health care practices; and

"(9) improve coordination of behavioral health services with primary health care.

"(c) AGREEMENTS.—

"(1) IN GENERAL.—In establishing military-civilian integrated health delivery systems through partnerships under subsection (a), the Secretary shall seek to enter into memoranda of understanding or contracts between military treatment facilities and health maintenance organizations, health care centers of excellence, public or private academic medical institutions, regional health organizations, integrated health systems, accountable care organizations, and such other health systems as the Secretary considers appropriate.

"(2) PRIVATE SECTOR CARE.—Memoranda of understanding and contracts entered into under paragraph (1) shall ensure that covered beneficiaries are eligible to enroll in and receive medical services under the private sector components of military-civilian integrated health delivery systems established under subsection (a).

"(3) VALUE-BASED REIMBURSEMENT METHODOLOGIES.—The Secretary shall incorporate value-based reimbursement methodologies, such as capitated payments, bundled payments, or pay for performance, into memoranda of understanding and contracts entered into under paragraph (1) to reimburse entities for medical services provided to covered beneficiaries under such memoranda of understanding and contracts.

"(4) QUALITY OF CARE.—Each memorandum of understanding or contract entered into under paragraph (1) shall ensure that the quality of services received by covered beneficiaries through a military-civilian integrated health delivery system under such memorandum of understanding or contract is at least comparable to the quality of services received by covered beneficiaries from a military treatment facility.

"(d) COVERED BENEFICIARY DEFINED.—In this section, the term 'covered beneficiary' has the meaning given that term in section 1072 of title 10, United States Code."

*[1] So in original. Probably should be preceded by "National".*

*[2] So in original. Probably should be "1601".*

## §1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

(1) Health maintenance organizations.

(2) Preferred provider organizations.

(3) Individual providers, individual medical facilities, or insurers.

(4) Consortiums of such providers, facilities, or insurers.

(b) SCOPE OF COVERAGE UNDER HEALTH CARE PLANS.—A contract entered into under this section may provide for the delivery of—

(1) selected health care services;

(2) total health care services for selected covered beneficiaries; or

(3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

(d) COORDINATION WITH OTHER HEALTH CARE PROGRAMS.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.

(e) CHARGES FOR HEALTH CARE.—(1) The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans. Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation. Except as provided by paragraph (2), a premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2011.

(2) Beginning October 1, 2012, the Secretary of Defense may only increase in any year the annual enrollment fees described in paragraph (1) by an amount equal to the percentage by which retired pay is increased under section 1401a of this title.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended Pub. L. 103–337, div. A, title VII, §§713, 714(a), Oct. 5, 1994, 108 Stat. 2802; Pub. L. 104–106, div. A, title VII, §§712, 713, Feb. 10, 1996, 110 Stat. 374; Pub. L. 109–364, div. A, title VII, §704(a), Oct. 17, 2006, 120 Stat. 2280; Pub. L. 110–181, div. A, title VII, §701(a), Jan. 28, 2008, 122 Stat. 187; Pub. L. 110–417, [div. A], title VII, §701(a), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111–383, div. A, title VII, §701(a), Jan. 7, 2011, 124 Stat. 4244; Pub. L. 112–81, div. A, title VII, §701(a), Dec. 31, 2011, 125 Stat. 1469.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (e). Pub. L. 112–81 designated existing provisions as par. (1), substituted "Except as provided by paragraph (2), a premium," for "A premium,", and added par. (2).

Subsec. (e). Pub. L. 111–383 substituted "September 30, 2011" for "September 30, 2009".

**2008**—Subsec. (e). Pub. L. 110–417 substituted "September 30, 2009" for "September 30, 2008".

Pub. L. 110–181 substituted "September 30, 2008" for "September 30, 2007".

**2006**—Subsec. (e). Pub. L. 109–364 inserted at end "A premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2007."

**1996**—Subsec. (c). Pub. L. 104–106, §712, substituted "Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall" for "However, the Secretary may".

Subsec. (e). Pub. L. 104–106, §713, inserted at end "Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation."

**1994**—Subsec. (c). Pub. L. 103–337, §714(a)(2), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 103–337, §713, inserted at end "In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans."

Subsecs. (d), (e). Pub. L. 103–337, §714(a), added subsec. (d) and redesignated former subsec. (c) as (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CLARIFICATION OF APPLICATION FOR FISCAL YEAR 2013

Pub. L. 112–81, div. A, title VII, §701(b), Dec. 31, 2011, 125 Stat. 1469, provided that: "The Secretary of Defense shall determine the maximum enrollment fees for TRICARE Prime under section 1097(e)(2) of title 10, United States Code, as added by subsection (a), for fiscal year 2013 and thereafter as if the enrollment fee for each enrollee during fiscal year 2012 was the amount charged to an enrollee who enrolled for the first time during such fiscal year."

## §1097a. TRICARE Prime: automatic enrollments

(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—(1) In the case of a dependent of a member of the uniformed services who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in a catchment area in which TRICARE Prime is offered, the Secretary—

(A) shall automatically enroll the dependent in TRICARE Prime if the member is in pay grade E–4 or below; and

(B) may automatically enroll the dependent in TRICARE Prime if the member is in pay grade E–5 or higher.

(2) Whenever a dependent of a member is enrolled in TRICARE Prime under paragraph (1), the Secretary concerned shall provide written notice of the enrollment to the member.

(3) The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

(b) AUTOMATIC RENEWAL OF ENROLLMENTS OF COVERED BENEFICIARIES.—An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

(c) REGULATIONS AND EXCEPTIONS.—The Secretary of Defense shall prescribe regulations, including procedures, to carry out this section. Regulations prescribed to carry out the automatic

enrollment requirements under this section may include such exceptions to the automatic enrollment procedures as the Secretary determines appropriate for the effective operation of TRICARE Prime.

(d) NO COPAYMENT FOR IMMEDIATE FAMILY.—No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(e) AUTHORITY FOR MULTIPLE NETWORKS IN THE SAME GEOGRAPHIC AREA.—(1) The Secretary may establish a system of multiple networks of providers under TRICARE Prime in the same geographic area or areas.

(2) Under a system established under paragraph (1), the Secretary may require a covered beneficiary enrolling in TRICARE Prime to enroll in a specific provider network established pursuant to such system, in which case any provider not in that specific provider network shall be deemed an out-of-network provider with respect to the covered beneficiary (regardless of whether the provider is in a different TRICARE Prime provider network) for purposes of this section or any other provision of law limiting the coverage or provision of health care services to those provided by network providers under the TRICARE program.

(f) DEFINITIONS.—In this section:

(1) The term "TRICARE Prime" means the managed care option of the TRICARE program.

(2) The term "catchment area", with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.

(Added Pub. L. 105–261, div. A, title VII, §712(a)(1), Oct. 17, 1998, 112 Stat. 2058; amended Pub. L. 106–398, §1 [[div. A], title VII, §752(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195; Pub. L. 107–107, div. A, title X, §1048(a)(11), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 112–239, div. A, title VII, §711, Jan. 2, 2013, 126 Stat. 1801; Pub. L. 114–328, div. A, title VII, §723, Dec. 23, 2016, 130 Stat. 2229; Pub. L. 116–92, div. A, title VII, §702(b)(1), (2)(A), Dec. 20, 2019, 133 Stat. 1436; Pub. L. 117–81, div. A, title VII, §703(b), Dec. 27, 2021, 135 Stat. 1779.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsecs. (e), (f). Pub. L. 117–81 added subsec. (e) and redesignated former subsec. (e) as (f).

**2019**—Pub. L. 116–92, §702(b)(2)(A), struck out "; payment options" after "enrollments" in section catchline.

Subsecs. (c) to (f). Pub. L. 116–92, §702(b)(1), redesignated subsecs. (d), (e), and (f) as (c), (d), and (e), respectively, and struck out former subsec. (c) which read as follows: "PAYMENT OPTIONS FOR RETIREES.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election. A member may elect under this section to pay the fee in full at the beginning of the enrollment period or to make payments on a monthly or quarterly basis."

**2016**—Subsec. (b). Pub. L. 114–328 struck out par. (1) designation before "An enrollment" and struck out par. (2) which read as follows: "Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

"(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

"(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment."

**2013**—Subsec. (a). Pub. L. 112–239 amended subsec. (a) generally. Prior to amendment, text read as follows: "Each dependent of a member of the uniformed services in grade E4 or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time."

**2001**—Subsec. (e). Pub. L. 107–107 substituted "section 1072(2)" for "section 1072".

**2000**—Subsecs. (e), (f). Pub. L. 106–398 added subsec. (e) and redesignated former subsec. (e) as (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VII, §702(c), Dec. 20, 2019, 133 Stat. 1437, provided that: "The amendments made by this section [amending this section and section 1099 of this title] shall apply to health care coverage beginning on or after January 1, 2021."

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VII, §752(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195, provided that: "The amendments made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Oct. 30, 2000], and shall apply with respect to care provided on or after that date."

### EFFECTIVE DATE

Pub. L. 105–261, div. A, title VII, §712(b), Oct. 17, 1998, 112 Stat. 2059, provided that: "The regulations required under subsection (d) [now (c)] of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than September 30, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect."

### FUTURE AVAILABILITY OF TRICARE PRIME THROUGHOUT THE UNITED STATES

Pub. L. 112–239, div. A, title VII, §732, Jan. 2, 2013, 126 Stat. 1816, as amended by Pub. L. 113–66, div. A, title VII, §701, Dec. 26, 2013, 127 Stat. 789; Pub. L. 113–291, div. A, title VII, §723, Dec. 19, 2014, 128 Stat. 3417; Pub. L. 114–92, div. A, title VII, §701, Nov. 25, 2015, 129 Stat. 860, provided that:

"(a) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy of the Department of Defense on the future availability of TRICARE Prime under the TRICARE program for eligible beneficiaries in all TRICARE regions throughout the United States.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description, by region, of the difference in availability of TRICARE Prime for eligible beneficiaries (other than eligible beneficiaries on active duty in the Armed Forces) under newly awarded TRICARE managed care contracts, including, in particular, an identification of the regions or areas in which TRICARE Prime will no longer be available for such beneficiaries under such contracts.

"(B) An estimate of the increased costs to be incurred by an affected eligible beneficiary for health care under the TRICARE program.

"(C) An estimate of the savings to be achieved by the Department as a result of the contracts described in subparagraph (A).

"(D) A description of the plans of the Department to continue to assess the impact on access to health care for affected eligible beneficiaries.

"(E) A description of the plan of the Department to provide assistance to affected eligible beneficiaries who are transitioning from TRICARE Prime to TRICARE Standard, including assistance with respect to identifying health care providers.

"(F) Any other matter the Secretary considers appropriate.

"(b) ADDITIONAL REPORT.—

"(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of reducing the availability of TRICARE Prime in regions described in subsection (d)(1)(B).

"(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

"(A) A description of the implementation of the transition for affected eligible beneficiaries under the TRICARE program who no longer have access to TRICARE Prime under TRICARE managed care contracts as of the date of the report, including—

"(i) the number of eligible beneficiaries who have transitioned from TRICARE Prime to the TRICARE Standard option of the TRICARE program since October 1, 2013;

"(ii) the number of eligible beneficiaries who transferred their TRICARE Prime enrollment

to a more distant available Prime service area to remain in TRICARE Prime, by State;

"(iii) the number of eligible beneficiaries who were eligible to transfer to a more distant available Prime service area, but chose to use TRICARE Standard;

"(iv) the number of eligible beneficiaries who elected to return to TRICARE Prime pursuant to subsection (c)(1); and

"(v) the number of affected eligible beneficiaries who, as of the date of the report, changed residences to remain eligible for TRICARE Prime in a new region.

"(B) An estimate of the increased annual costs per affected eligible beneficiary incurred by such beneficiary for health care under the TRICARE program.

"(C) A description of the efforts of the Department to assess the impact on access to health care and beneficiary satisfaction for affected eligible beneficiaries.

"(D) A description of the estimated cost savings realized by reducing the availability of TRICARE Prime in regions described in subsection (d)(1)(B).

"(c) ACCESS TO TRICARE PRIME.—

"(1) ONE-TIME ELECTION.—Subject to paragraph (3), the Secretary shall ensure that each affected eligible beneficiary who is enrolled in TRICARE Prime as of September 30, 2013, may make a one-time election to continue such enrollment in TRICARE Prime, notwithstanding that a contract described in subsection (a)(2)(A) does not allow for such enrollment based on the location in which such beneficiary resides. The beneficiary may continue such enrollment in TRICARE Prime so long as the beneficiary resides in the same ZIP code as the ZIP code in which the beneficiary resided at the time of such election.

"(2) ENROLLMENT IN TRICARE STANDARD.—If an affected eligible beneficiary makes the one-time election under paragraph (1), the beneficiary may thereafter elect to enroll in TRICARE Standard at any time in accordance with a contract described in subsection (a)(2)(A).

"(3) RESIDENCE AT TIME OF ELECTION.—

"(A) Except as provided by subparagraph (B), an affected eligible beneficiary may not make the one-time election under paragraph (1) if, at the time of such election, the beneficiary does not reside—

"(i) in a ZIP code that is in a region described in subsection (d)(1)(B); and

"(ii) within 100 miles of a military medical treatment facility.

"(B) Subparagraph (A)(ii) shall not apply with respect to an affected eligible beneficiary who—

"(i) as of December 25, 2013, resides farther than 100 miles from a military medical treatment facility; and

"(ii) is such an eligible beneficiary by reason of service in the Army, Navy, Air Force, or Marine Corps.

"(4) NETWORK.—In continuing enrollment in TRICARE Prime pursuant to paragraph (1), the Secretary may determine whether to maintain a TRICARE network of providers in an area that is between 40 and 100 miles of a military medical treatment facility.

"(d) DEFINITIONS.—In this section:

"(1) The term 'affected eligible beneficiary' means an eligible beneficiary under the TRICARE Program (other than eligible beneficiaries on active duty in the Armed Forces) who, as of the date of the enactment of this Act [Jan. 2, 2013]—

"(A) is enrolled in TRICARE Prime; and

"(B) resides in a region of the United States in which TRICARE Prime enrollment will no longer be available for such beneficiary under a contract described in subsection (a)(2)(A) that does not allow for such enrollment because of the location in which such beneficiary resides.

"(2) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

"(3) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code.

"(4) The term 'TRICARE Standard' means the fee-for-service option of the TRICARE Program."

[Pub. L. 113–291, div. A, title VII, §723(b), Dec. 19, 2014, 128 Stat. 3418, which directed amendment of subsec. (b)(3)(A) of section 732 of Pub. L. 112–239, set out above, by substituting "subsection (d)(1)(B)" for "subsection (c)(1)(B)", was executed by making the substitution in subsec. (c)(3)(A) of section 732 of Pub. L. 112–239, to reflect the probable intent of Congress and the prior amendment by section 723(a)(1) of Pub. L. 113–291, which redesignated subsec. (b) as (c).]

## §1097b. TRICARE program: financial management

(a) REIMBURSEMENT OF PROVIDERS.—(1) Subject to paragraph (2), the Secretary of

Defense may reimburse health care providers under the TRICARE program at rates higher than the reimbursement rates otherwise authorized for the providers under that program if the Secretary determines that application of the higher rates is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of the following:

(A) The amount equal to the local fee for service charge for the service in the service area in which the service is provided as determined by the Secretary based on one or more of the following payment rates:

(i) Usual, customary, and reasonable.

(ii) The Health Care Finance Administration's Resource Based Relative Value Scale.

(iii) Negotiated fee schedules.

(iv) Global fees.

(v) Sliding scale individual fee allowances.

(B) The amount equal to 115 percent of the CHAMPUS maximum allowable charge for the service.

(3) In establishing rates and procedures for reimbursement of providers and other administrative requirements, including those contained in provider network agreements, the Secretary shall, to the extent practicable, maintain adequate networks of providers, including institutional, professional, and pharmacy. For the purpose of determining whether network providers under such provider network agreements are subcontractors for purposes of the Federal Acquisition Regulation or any other law, a TRICARE managed care support contract that includes the requirement to establish, manage, or maintain a network of providers may not be considered to be a contract for the performance of health care services or supplies on the basis of such requirement.

(b) THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program has the same right as the United States under section 1095 of this title to collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program.

(2) The Secretary of Defense shall prescribe regulations for the administration of this subsection. The regulations shall set forth the method to be used for the computation of the reasonable charges for inpatient, outpatient, and other health care services. The method of computation may be—

(A) a method that is based on—

(i) per diem rates;

(ii) all-inclusive rates for each visit;

(iii) diagnosis-related groups; or

(iv) rates prescribed under the regulations implementing sections 1079 and 1086 of this title; or

(B) any other method considered appropriate.

(c) CONSULTATION REQUIREMENT.—The Secretary of Defense shall carry out the responsibilities under this section after consultation with the other administering Secretaries.

(Added Pub. L. 106–65, div. A, title VII, §716(a)(1), Oct. 5, 1999, 113 Stat. 690; amended Pub. L. 112–81, div. A, title VII, §715, Dec. 31, 2011, 125 Stat. 1477.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a)(3). Pub. L. 112–81 added par. (3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 106–65, div. A, title VII, §716(d), Oct. 5, 1999, 113 Stat. 692, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect one year after the date of the enactment of this Act [Oct. 5, 1999]."

**REPORT ON IMPLEMENTATION**

Pub. L. 106–65, div. A, title VII, §716(b), Oct. 5, 1999, 113 Stat. 691, directed the Secretary of Defense to submit to Congress a report assessing the effects of the implementation of the requirements and authorities set forth in this section not later than 6 months after Oct. 5, 1999.

## §1097c. TRICARE program: relationship with employer-sponsored group health plans

(a) PROHIBITION ON FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—(1) Except as provided in this subsection, the provisions of section 1862(b)(3)(C) of the Social Security Act shall apply with respect to financial or other incentives for a TRICARE-eligible employee not to enroll (or to terminate enrollment) under a health plan which would (in the case of such enrollment) be a primary plan under sections 1079(j)(1) [1] and 1086(g) of this title in the same manner as such section 1862(b)(3)(C) applies to financial or other incentives for an individual entitled to benefits under title XVIII of the Social Security Act not to enroll (or to terminate enrollment) under a group health plan or a large group health plan which would (in the case of enrollment) be a primary plan (as defined in section 1862(b)(2)(A) of such Act).

(2)(A) The Secretary of Defense may by regulation adopt such additional exceptions to the prohibition referenced and applied under paragraph (1) as the Secretary deems appropriate and such paragraph (1) shall be implemented taking into account the adoption of such exceptions.

(B) The Secretary of Defense and the Secretary of Health and Human Services are authorized to enter into agreements for carrying out this subsection. Any such agreement shall provide that any expenses incurred by the Secretary of Health and Human Services pertaining to carrying out this subsection shall be reimbursed by the Secretary of Defense.

(C) Authorities of the Inspector General of the Department of Defense shall be available for oversight and investigations of responsibilities of employers and other entities under this subsection.

(D) Information obtained under section 1095(k) of this title may be used in carrying out this subsection in the same manner as information obtained under section 1862(b)(5) of the Social Security Act may be used in carrying out section 1862(b) of such Act.

(E) Any amounts collected in carrying out paragraph (1) shall be handled in accordance with section 1079a of this title.

(b) ELECTION OF TRICARE-ELIGIBLE EMPLOYEES TO PARTICIPATE IN GROUP HEALTH PLAN.—A TRICARE-eligible employee shall have the opportunity to elect to participate in the group health plan offered by the employer of the employee and receive primary coverage for health care services under the plan in the same manner and to the same extent as similarly situated employees of such employer who are not TRICARE-eligible employees.

(c) INAPPLICABILITY TO CERTAIN EMPLOYERS.—The provisions of this section do not apply to any employer who has fewer than 20 employees.

(d) RETENTION OF ELIGIBILITY FOR COVERAGE UNDER TRICARE.—Nothing in this section, including an election made by a TRICARE-eligible employee under subsection (b), shall be construed to affect, modify, or terminate the eligibility of a TRICARE-eligible employee or spouse of such employee for health care or dental services under this chapter in accordance with the other provisions of this chapter.

(e) OUTREACH.—The Secretary of Defense shall, in coordination with the other administering Secretaries, conduct outreach to inform covered beneficiaries who are entitled to health care benefits under the TRICARE program of the rights and responsibilities of such beneficiaries and employers under this section.

(f) DEFINITIONS.—In this section:

(1) The term "employer" includes a State or unit of local government.

(2) The term "group health plan" means a group health plan (as that term is defined in section 5000(b)(1) of the Internal Revenue Code of 1986 without regard to section 5000(d) of the Internal Revenue Code of 1986).

(3) The term "TRICARE-eligible employee" means a covered beneficiary under section 1086 of this title entitled to health care benefits under the TRICARE program.

(g) EFFECTIVE DATE.—This section shall take effect on January 1, 2008.

(Added Pub. L. 109–364, div. A, title VII, §707(a), Oct. 17, 2006, 120 Stat. 2283.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1079(j) of this title, referred to in subsec. (a)(1), was redesignated section 1079(i) of this title by Pub. L. 113–291, div. A, title VII, §703(a)(3), Dec. 19, 2014, 128 Stat. 3411.

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 1862 of the Act is classified to section 1395y of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 5000 of the Internal Revenue Code of 1986, referred to in subsec. (f)(2), is classified to section 5000 of Title 26, Internal Revenue Code.

[1] *See References in Text note below.*

## §1097d. TRICARE program: notice of change to benefits

(a) PROVISION OF NOTICE.—(1) If the Secretary makes a significant change to any benefits provided by the TRICARE program to covered beneficiaries, the Secretary shall provide individuals described in paragraph (2) with notice explaining such changes.

(2) The individuals described by this paragraph are covered beneficiaries participating in the TRICARE program who may be affected by a significant change covered by a notification under paragraph (1).

(3) The Secretary shall provide notice under paragraph (1) through electronic means.

(b) TIMING OF NOTICE.—The Secretary shall provide notice under paragraph (1) of subsection (a) by the earlier of the following dates:

(1) The date that the Secretary determines would afford individuals described in paragraph (2) of such subsection adequate time to understand the change covered by the notification.

(2) The date that is 90 days before the date on which the change covered by the notification becomes effective.

(3) The effective date of a significant change that is required by law.

(c) SIGNIFICANT CHANGE DEFINED.—In this section, the term "significant change" means a systemwide change—

(1) in the structure of the TRICARE program or the benefits provided under the TRICARE program (not including the addition of new services or benefits); or

(2) in beneficiary cost-share rates of more than 20 percent.

(Added Pub. L. 113–291, div. A, title VII, §711(a), Dec. 19, 2014, 128 Stat. 3413.)

## §1098. Incentives for participation in cost-effective health care plans

(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsection (b), the

Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part—

(1) any limitation set out in the second sentence of section 1079(a) of this title; or

(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

(2) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under—

(A) a plan with respect to which the limitations and payment requirements are waived; and

(B) a plan with respect to which there is no such waiver.

(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the Secretary submits the report required by paragraph (2) with respect to such waiver.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended Pub. L. 101–510, div. A, title XIV, §1484(h)(1), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Subsec. (b)(2). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b)(2). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1990**—Subsec. (a). Pub. L. 101–510 substituted "subsection (b)" for "subsections (b) and (c)" in introductory provisions.

## §1099. Health care enrollment system and payment options

(a) ESTABLISHMENT OF SYSTEM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

(b) DESCRIPTION OF SYSTEM.—Such system shall—

(1) allow covered beneficiaries to elect to enroll in a health care plan, or modify a previous election, from eligible health care plans designated by the Secretary of Defense during—

(A) an annual open enrollment period; and

(B) any period based on a qualifying event experienced by the beneficiary, as determined appropriate by the Secretary; or

(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

(c) HEALTH CARE PLANS AVAILABLE UNDER SYSTEM.—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

(1) Use of facilities of the uniformed services.

(2) A plan under the TRICARE program.

(3) Any other health care plan contracted for by the Secretary of Defense.

(4) Any combination of the plans described in paragraphs (1), (2), and (3).

(d) PAYMENT OPTIONS.—(1) A member or former member of the uniformed services, or a dependent thereof, eligible for medical care and dental care under section 1074(b) or 1076 of this title shall pay a premium for coverage under this chapter.

(2) To the maximum extent practicable, a premium owed by a member, former member, or dependent under paragraph (1) shall be withheld from the retired, retainer, or equivalent pay of the member, former member, or dependent. In all other cases, a premium shall be paid in a frequency and method determined by the Secretary.

(e) REGULATIONS.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3896; amended Pub. L. 114–328, div. A, title VII, §701(d)(1), (j)(1)(E), Dec. 23, 2016, 130 Stat. 2186, 2192; Pub. L. 116–92, div. A, title VII, §702(a), (b)(2)(B), Dec. 20, 2019, 133 Stat. 1436.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, §702(b)(2)(B), inserted "and payment options" after "system" in section catchline.

Subsecs. (d), (e). Pub. L. 116–92, §702(a), added subsec. (d) and redesignated former subsec. (d) as (e).

**2016**—Subsec. (b)(1). Pub. L. 114–328, §701(d)(1), amended par. (1) generally. Prior to amendment, text read as follows: "allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or".

Subsec. (c)(2). Pub. L. 114–328, §701(j)(1)(E), added par. (2) and struck out former par. (2) which read as follows: "The Civilian Health and Medical Program of the Uniformed Services."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116–92 applicable to health care coverage beginning on or after Jan. 1, 2021, see section 702(c) of Pub. L. 116–92, set out as a note under section 1097a of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

### REGULATIONS

Pub. L. 99–661, div. A, title VII, §701(d)(1), (2), Nov. 14, 1986, 100 Stat. 3898, provided that:

"(1) Except as provided in paragraph (2), the Secretary of Defense shall prescribe regulations as required by section 1099(d) [now 1099(e)] of title 10, United States Code (as added by subsection (a)(1)) to implement the system of health care enrollment for covered beneficiaries—

"(A) on October 1, 1987, with respect to—

"(i) covered beneficiaries included in the demonstration project required under section 702 [10 U.S.C. 1073 note]; and

"(ii) facilities of the uniformed services located in the geographical area covered by the demonstration project; and

"(B) not later than September 30, 1990, for all other covered beneficiaries and facilities of the

uniformed services.

"(2) The Secretary may not assign covered beneficiaries to facilities of the uniformed services, as authorized by section 1099(b)(2) of such title (as added by subsection (a)(1)), before October 1, 1990."

**INITIAL ANNUAL OPEN ENROLLMENT PERIOD**

Pub. L. 114–328, div. A, title VII, §701(d)(2), (3), Dec. 23, 2016, 130 Stat. 2186, provided that:

"(2) APPLICATION.—The Secretary of Defense shall implement the initial annual open enrollment period pursuant to section 1099(b)(1) of title 10, United States Code, as amended by paragraph (1), during 2018.

"(3) GRACE PERIOD DURING FIRST YEAR.—

"(A) At any time during the one-year period beginning on the date on which the initial annual open enrollment period begins pursuant to section 1099(b)(1) of title 10, United States Code, as amended by paragraph (1), a covered beneficiary may make an election, or modify such an election, described in such section.

"(B) If during such one-year period an individual who is eligible to enroll in the TRICARE program, but does not elect to enroll in such program, receives health care services for an episode of care that would be covered under the TRICARE program if such individual were enrolled in the TRICARE program, the Secretary—

"(i) shall pay the out-of-network fees only for the first episode of care and inform the individual of the opportunity to enroll in the TRICARE program; and

"(ii) may not pay any costs relating to any subsequent episode of care if such individual is not enrolled in the TRICARE program."

**REPORTS TO CONGRESS**

Pub. L. 99–661, div. A, title VII, §701(c)(1), Nov. 14, 1986, 100 Stat. 3898, required Secretary of Defense, not later than July 1, 1987, to submit to Congress a report detailing any plans to establish or implement a system of health care enrollment (other than as required under section 702(a)(2)(C)) under section 1099(a) of this title and the plan of the Secretary for completing implementation of such system.

## §1100. Defense Health Program Account

(a) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the "Defense Health Program Account". All sums appropriated to carry out the functions of the Secretary of Defense with respect to medical and health care programs of the Department of Defense shall be appropriated to the account.

(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain available for obligation until the end of the following fiscal year.

(b) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.—The Secretary of Defense may obligate or expend funds from the account for purposes of conducting programs and activities under this chapter, including contracts entered into under section 1079, 1086, 1092, or 1097 of this title, to the extent amounts are available in the account.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3896; amended Pub. L. 104–106, div. A, title VII, §735(a)–(d)(1), Feb. 10, 1996, 110 Stat. 382.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, §735(d)(1), amended section catchline generally, substituting "Defense Health Program Account" for "Military Health Care Account".

Subsec. (a)(1). Pub. L. 104–106, §735(a)(1), substituted "Defense Health Program Account" for "Military Health Care Account" and "medical and health care programs of the Department of Defense" for "the Civilian Health and Medical Program of the Uniformed Services".

Subsec. (a)(2). Pub. L. 104–106, §735(b), amended par. (2) generally. Prior to amendment, par. (2) read as

follows: "Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c)."

Subsec. (b). Pub. L. 104–106, §735(a)(2), substituted "conducting programs and activities under this chapter, including contracts entered into" for "entering into a contract" and inserted comma after "title".

Subsec. (c). Pub. L. 104–106, §735(c), redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: "ALLOCATION OF AMOUNTS IN ACCOUNT FOR PROVISION OF MEDICAL CARE BY SERVICE SECRETARIES.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

"(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter."

Subsec. (d). Pub. L. 104–106, §735(c)(1), struck out subsec. (d) which read as follows: "EXPENDITURE OF AMOUNTS FROM ACCOUNT BY SERVICE SECRETARIES.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter."

Subsec. (e). Pub. L. 104–106, §735(c)(2), redesignated subsec. (e) as (c).

Subsec. (f). Pub. L. 104–106, §735(c)(1), struck out subsec. (f) which read as follows: "DEFINITIONS .—In this section:

"(1) The term 'account' means the Military Health Care Account established in subsection (a).

"(2) The term 'program' means the Civilian Health and Medical Program of the Uniformed Services."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 99–661, div. A, title VII, §701(d)(3), Nov. 14, 1986, 100 Stat. 3898, provided that: "Section 1100 of such title (as added by subsection (a)(1)) shall take effect on October 1, 1987."

### REPORTS TO CONGRESS

Pub. L. 99–661, div. A, title VII, §701(c)(2), Nov. 14, 1986, 100 Stat. 3898, required Secretary to submit to Congress not later than May 1, 1987, a report on plans of Secretary for establishing diagnosis-related groups for inpatient services under section 1100(a) of this title, and not later than May 1, 1988, a report on plans of Secretary for establishing diagnosis-related groups for outpatient services under such section.

## §1101. Resource allocation methods: capitation or diagnosis-related groups

(a) ESTABLISHMENT OF CAPITATION OR DRG METHOD.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of capitation or diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

(b) EXCEPTION FOR MOBILIZATION MISSIONS.—Capitation or diagnosis-related groups shall not be used to allocate resources to the facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

(c) CONTENT OF REGULATIONS.—Such regulations may establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations may include the following:

(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

(2) A methodology for classifying specific treatments within such groups.

(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.

(4) An appropriate method for calculating or estimating the annual per capita costs of providing comprehensive health care services to members of the uniformed services on active duty and covered beneficiaries.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3897; amended Pub. L. 100–456, div. A, title XII, §1233(e)(1), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 103–160, div. A, title VII, §714(a), (b)(1), Nov. 30, 1993, 107 Stat. 1690.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1993**—Pub. L. 103–160, §714(b)(1), substituted "Resource allocation methods: capitation or diagnosis-related groups" for "Diagnosis-related groups" as section catchline.

Subsec. (a). Pub. L. 103–160, §714(a)(1), substituted "Capitation or DRG Method" for "DRGs" in heading and inserted "capitation or" before "diagnosis-related groups" in text.

Subsec. (b). Pub. L. 103–160, §714(a)(2), substituted "Capitation or diagnosis-related groups" for "Diagnosis-related groups".

Subsec. (c). Pub. L. 103–160, §714(a)(3), substituted "may" for "shall" in two places in introductory provisions and added par. (4).

**1988**—Subsec. (c). Pub. L. 100–456 struck out "(1)" before "Such regulations" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 101–189, div. A, title VII, §724, Nov. 29, 1989, 103 Stat. 1478, as amended by Pub. L. 102–190, div. A, title VII, §719, Dec. 5, 1991, 105 Stat. 1404, provided that: "The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1993, in the case of outpatient treatments."

Pub. L. 99–661, div. A, title VII, §701(d)(4), Nov. 14, 1986, 100 Stat. 3898, as amended by Pub. L. 100–180, div. A, title VII, §724, Dec. 4, 1987, 101 Stat. 1116, provided that: "The Secretary of Defense shall prescribe regulations as required by section 1101(a) of such title (as added by subsection (a)(1)) to take effect—

"(A) in the case of inpatient treatments, not later than October 1, 1988; and

"(B) in the case of outpatient treatments, not later than October 1, 1989."

## §1102. Confidentiality of medical quality assurance records: qualified immunity for participants

(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—(1) Subject to paragraph (2), a medical

quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5.

(d) DISCLOSURE FOR CERTAIN PURPOSES.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Comptroller General if such record pertains to any matter within their respective jurisdictions.

(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(j) DEFINITIONS.—In this section:

(1) The term "medical quality assurance program" means any peer review activity carried out before, on, or after November 14, 1986 by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) The term "medical quality assurance record" means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

(3) The term "health care provider" means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(4) The term "peer review" means any assessment of the quality of medical care carried out by a health care professional, including any such assessment of professional performance, any patient safety program root cause analysis or report, or any similar activity described in regulations prescribed by the Secretary under subsection (i).

(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

(Added Pub. L. 99–661, div. A, title VII, §705(a)[(1)], Nov. 14, 1986, 100 Stat. 3902; amended Pub. L. 100–180, div. A, title XII, §1231(5), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 101–189, div. A, title VI, §653(f), Nov. 29, 1989, 103 Stat. 1463; Pub. L. 108–375, div. A, title X, §1084(c)(2), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112–81, div. A, title VII, §714(a), Dec. 31, 2011, 125 Stat. 1476.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (j)(1). Pub. L. 112–81, §714(a)(1), substituted "any peer review activity carried out" for "any activity carried out".

Subsec. (j)(4). Pub. L. 112–81, §714(a)(2), added par. (4).

**2004**—Subsec. (d)(2). Pub. L. 108–375 substituted "Comptroller General" for "General Accounting Office".

**1989**—Subsec. (j)(1). Pub. L. 101–189 substituted "November 14, 1986" for "the date of the enactment of this section".

**1987**—Subsec. (c)(2). Pub. L. 100–180 struck out ", United States Code" after "title 5" in second sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title VII, §714(b), Dec. 31, 2011, 125 Stat. 1477, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2012."

**EFFECTIVE DATE**

Pub. L. 99–661, div. A, title VII, §705(b), Nov. 14, 1986, 100 Stat. 3904, provided that: "Section 1102 of title 10, United States Code, as added by subsection (a), shall apply to all records created before, on, or after the date of the enactment of this Act [Nov. 14, 1986] by or for the Department of Defense as part of a medical quality assurance program."

## §1103. Contracts for medical and dental care: State and local preemption

(a) OCCURRENCE OF PREEMPTION.—A law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery or financing methods shall not apply to any contract entered into pursuant to this chapter by the Secretary of Defense or the administering Secretaries to the extent that the Secretary of Defense or the administering Secretaries determine that—

(1) the State or local law or regulation is inconsistent with a specific provision of the contract or a regulation promulgated by the Secretary of Defense or the administering Secretaries pursuant to this chapter; or

(2) the preemption of the State or local law or regulation is necessary to implement or administer the provisions of the contract or to achieve any other important Federal interest.

(b) EFFECT OF PREEMPTION.—In the case of the preemption under subsection (a) of a State or local law or regulation regarding financial solvency, the Secretary of Defense or the administering Secretaries shall require an independent audit of the prime contractor of each contract that is entered into pursuant to this chapter and covered by the preemption. The audit shall be performed by the Defense Contract Audit Agency.

(c) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 100–180, div. A, title VII, §725(a)(1), Dec. 4, 1987, 101 Stat. 1116; amended Pub. L. 103–160, div. A, title VII, §715(a), Nov. 30, 1993, 107 Stat. 1690; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (c). Pub. L. 109–163 struck out "Territory and" before "possession".

**1993**—Pub. L. 103–160 amended section generally. Prior to amendment, section read as follows:

"(a) The provisions of any contract under this chapter which relate to the nature and extent of coverage of benefits (including payments with respect to benefits) shall preempt any law of a State or local government, or any regulation issued under such a law, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

"(b) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1993 AMENDMENT**

Pub. L. 103–160, div. A, title VII, §715(b), Nov. 30, 1993, 107 Stat. 1691, provided that: "Section 1103 of title 10, United States Code, as amended by subsection (a), shall apply with respect to any contract entered into under chapter 55 of such title before, on, or after the date of the enactment of this Act [Nov. 30, 1993]."

**EFFECTIVE DATE**

Pub. L. 100–180, div. A, title VII, §725(b), Dec. 4, 1987, 101 Stat. 1117, provided that: "Section 1103 of such title, as added by subsection (a), shall apply with respect to any contract entered into after October 1, 1987."

**APPLICABILITY OF PREEMPTION PROVISIONS TO CERTAIN CONTRACTS**

Pub. L. 102–396, title IX, §9032, Oct. 6, 1992, 106 Stat. 1908, as amended by Pub. L. 103–50, ch. III, §301, July 2, 1993, 107 Stat. 250, provided in part "That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision, the California and Hawaii recompetition contract, and Solicitation Number MDA 906–92–R–0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans".

**APPLICABILITY TO CONTRACTS ENTERED INTO PURSUANT TO SOLICITATION NUMBER MDA–903–87–R–0047**

Pub. L. 100–463, title VIII, §8078(b), Oct. 1, 1988, 102 Stat. 2270–30, provided that preemption provisions of 10 U.S.C. 1103 shall apply to contracts entered into pursuant to Solicitation Number MDA–903–87–R–0047 and shall preempt State and local laws or regulations which relate to health insurance or prepaid health care plans. Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, §101(b) [title VIII, §8104(b)], Dec. 22, 1987, 101 Stat. 1329–43, 1329–81.

## §1104. Sharing of health-care resources with the Department of Veterans Affairs

(a) SHARING OF HEALTH-CARE RESOURCES.—Health-care resources of the Department of Defense shall be shared with health-care resources of the Department of Veterans Affairs in accordance with section 8111 of title 38 or under section 1535 of title 31.

(b) REIMBURSEMENT FROM CHAMPUS FUNDS.—Pursuant to an agreement entered into under section 8111 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

(c) CHARGES.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 8111 of title 38 or section 1535 of title 31.

(d) PROVISION OF SERVICES DURING WAR OR NATIONAL EMERGENCY.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 8111A of title 38.

(Added Pub. L. 101–189, div. A, title VII, §722(a), Nov. 29, 1989, 103 Stat. 1477; amended Pub. L. 102–484, div. A, title X, §1052(14), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103–35, title II, §201(c)(1), May 31, 1993, 107 Stat. 98; Pub. L. 107–314, div. A, title VII, §721(b), Dec. 2, 2002, 116 Stat. 2595.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (a). Pub. L. 107–314 substituted "shall" for "may".

**1993**—Subsecs. (a) to (c). Pub. L. 103–35, §201(c)(1)(A), substituted "section 8111 of title 38" for "section 8011 of title 38".

Subsec. (d). Pub. L. 103–35, §201(c)(1)(B), substituted "section 8111A of title 38" for "section 8011A of title 38".

**1992**—Subsecs. (a) to (c). Pub. L. 102–484, §1052(14)(A), substituted "section 8011 of title 38" for "section 5011 of title 38".

Subsec. (d). Pub. L. 102–484, §1052(14)(B), substituted "section 8011A of title 38" for "section 5011A of title 38".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–314 effective Oct. 1, 2003, see section 721(c) of Pub. L. 107–314, set out as a note under section 8111 of Title 38, Veterans' Benefits.

## §1104a. Shared medical facilities with Department of Veterans Affairs

(a) AGREEMENTS.—Secretary of Defense may enter into agreements with the Secretary of Veterans Affairs for the planning, design, and construction, or the leasing, of facilities to be operated as shared medical facilities.

(b) TRANSFER OF FUNDS BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense may transfer to the Secretary of Veterans Affairs amounts as follows:

(A) For the construction of a shared medical facility, amounts not in excess of the amount authorized under subsection (a)(2) of section 2805 of this title, if—

(i) the amount of the share of the Department of Defense for the estimated cost of the project does not exceed the amount authorized under such subsection; and

(ii) the other requirements of such section have been met with respect to funds identified for transfer.

(B) For the planning, design, and construction, or the leasing, of space for a shared medical facility, amounts appropriated for the Defense Health Program.

(2) The authority to transfer funds under this section is in addition to any other authority to transfer funds available to the Secretary of Defense.

(3) Section 2215 of this title does not apply to a transfer of funds under this subsection.

(c) TRANSFER OF FUNDS TO SECRETARY OF DEFENSE.—(1) Any amount transferred to the Secretary of Defense by the Secretary of Veterans Affairs for necessary expenses for the planning, design, and construction, or the leasing, of a shared medical facility, if the amount of the share of the Department of Defense for the cost of such project does not exceed the amount specified in section 2805(a)(2) of this title, may be credited to accounts of the Department of Defense available for the construction of a shared medical facility.

(2) Any amount transferred to the Secretary of Defense by the Secretary of Veterans Affairs for the purpose of the planning and design, or the leasing, of space for a shared medical facility may be credited to accounts of the Department of Defense available for such purposes, and may be used for such purposes.

(3) Using accounts credited with transfers from the Secretary of Veterans Affairs under paragraph (1), the Secretary of Defense may carry out unspecified minor military construction projects, if the share of the Department of Defense for the cost of such project does not exceed the amount specified in section 2805(a)(2) of this title.

(d) MERGER OF AMOUNTS TRANSFERRED.—Any amount transferred to the Secretary of Veterans Affairs under subsection (b) and any amount transferred to the Secretary of Defense under subsection (c) shall be merged with and available for the same purposes and the same period as the appropriation or fund to which transferred.

(e) APPROPRIATION IN ADVANCE.—Amounts may be transferred pursuant to the authority under this section only to the extent and in the amounts provided in advance in appropriations Acts.

(f) SHARED MEDICAL FACILITY DEFINED.—In this section, the term "shared medical facility"—

(1) means a building or buildings, or a campus, intended to be used by both the Department of Veterans Affairs and the Department of Defense for the provision of health care services, whether

under the jurisdiction of the Secretary of Veterans Affairs or the Secretary of Defense, and whether or not located on a military installation or on real property under the jurisdiction of the Secretary of Veterans Affairs; and

(2) includes any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, abutting and covered sidewalks, and accommodations for attending personnel.

(Added Pub. L. 117–81, div. A, title VII, §714(a)(1), Dec. 27, 2021, 135 Stat. 1785; amended Pub. L. 117–168, title VII, §706(a), Aug. 10, 2022, 136 Stat. 1800.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsecs. (a), (b)(1)(B), (c)(1). Pub. L. 117–168, §706(a)(1), inserted ", or the leasing," after "design, and construction".

Subsec. (c)(2). Pub. L. 117–168, §706(a)(2), inserted ", or the leasing," after "design".

## §1105. Specialized treatment facility program

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a specialized treatment facility program pursuant to regulations prescribed by the Secretary of Defense. The Secretary shall consult with the other administering Secretaries in prescribing regulations for the program and in conducting the program.

(b) FACILITIES AUTHORIZED TO BE USED.—Under the specialized treatment facility program, the Secretary may designate health care facilities of the uniformed services and civilian health care facilities as specialized treatment facilities.

(c) WAIVER OF NONEMERGENCY HEALTH CARE RESTRICTION.—Under the specialized treatment facility program, the Secretary may waive, with regard to the provision of a particular service, the 40-mile radius restriction set forth in section 1079(a)(6) of this title if the Secretary determines that the use of a different geographical area restriction will result in a more cost-effective provision of the service.

(d) CIVILIAN FACILITY SERVICE AREA.—For purposes of the specialized treatment facility program, the service area of a civilian health care facility designated pursuant to subsection (b) shall be comparable in size to the service areas of facilities of the uniformed services.

(e) ISSUANCE OF NONAVAILABILITY OF HEALTH CARE STATEMENTS.—A covered beneficiary who resides within the service area of a specialized treatment facility designated under the specialized treatment facility program may be required to obtain a nonavailability of health care statement in the case of a specialized service offered by the facility in order for the covered beneficiary to receive the service outside of the program.

(f) PAYMENT OF COSTS RELATED TO CARE IN SPECIALIZED TREATMENT FACILITIES.—(1) Subject to paragraph (2), in connection with the treatment of a covered beneficiary under the specialized treatment facility program, the Secretary may provide the following benefits:

(A) Full or partial reimbursement of a member of the uniformed services for the reasonable expenses incurred by the member in transporting a covered beneficiary to or from a health care facility of the uniformed services or a civilian health care facility at which specialized health care services are provided pursuant to this chapter.

(B) Full or partial reimbursement of a person (including a member of the uniformed services) for the reasonable expenses of transportation, temporary lodging, and meals (not to exceed a per diem rate determined in accordance with implementing regulations) incurred by such person in accompanying a covered beneficiary as a nonmedical attendant to a health care facility referred to in subparagraph (A).

(C) In-kind transportation, lodging, or meals instead of reimbursements under subparagraph (A) or (B) for transportation, lodging, or meals, respectively.

(2) The Secretary may make reimbursements for or provide transportation, lodging, and meals under paragraph (1) in the case of a covered beneficiary only if the total cost to the Department of Defense of doing so and of providing the health care in such case is less than the cost to the Department of providing the health care to the covered beneficiary by other means authorized under this chapter.

(g) COVERED BENEFICIARY DEFINED.—In this section, the term "covered beneficiary" means a person covered under section 1079 or 1086 of this title.

(Added Pub. L. 102–190, div. A, title VII, §715(a), Dec. 5, 1991, 105 Stat. 1403; amended Pub. L. 103–160, div. A, title VII, §716(a)(1), Nov. 30, 1993, 107 Stat. 1691; Pub. L. 104–106, div. A, title VII, §706, Feb. 10, 1996, 110 Stat. 373; Pub. L. 113–291, div. A, title VII, §703(c)(3), Dec. 19, 2014, 128 Stat. 3412.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Subsec. (c). Pub. L. 113–291 substituted "section 1079(a)(6)" for "section 1079(a)(7)".

**1996**—Subsec. (h). Pub. L. 104–106 struck out subsec. (h) which read as follows: "EXPIRATION OF PROGRAM.—The Secretary may not carry out the specialized treatment facility program authorized by this section after September 30, 1995."

**1993**—Pub. L. 103–160 substituted "Specialized treatment facility program" for "Issuance of nonavailability of health care statements" as section catchline and amended text generally. Prior to amendment, text read as follows: "In determining whether to issue a nonavailability of health care statement for any person entitled to health care in facilities of the uniformed services under this chapter, the commanding officer of such a facility may consider the availability of health care services for such person pursuant to any contract or agreement entered into under this chapter for the provision of health care services within the area served by that facility."

## §1106. Submittal of claims: standard form; time limits

(a) STANDARD FORM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe by regulation a standard form for the submission of claims for the payment of health care services provided under this chapter.

(b) TIME FOR SUBMISSION.—A claim for payment for services provided under this chapter shall be submitted as provided in such regulations as follows:

(1) In the case of services provided outside the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, by not later than three years after the services are provided.

(2) In the case of any other services, by not later than one year after the services are provided.

(Added Pub. L. 102–190, div. A, title VII, §716(a)(1), Dec. 5, 1991, 105 Stat. 1403; amended Pub. L. 105–85, div. A, title VII, §738(a), Nov. 18, 1997, 111 Stat. 1815; Pub. L. 112–81, div. A, title VII, §712, Dec. 31, 2011, 125 Stat. 1476.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (b). Pub. L. 112–81 substituted "as follows:" for "not later than one year after the services are provided." and added pars. (1) and (2).

**1997**—Pub. L. 105–85 substituted ": standard form; time limits" for "under CHAMPUS" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) SUBMITTAL TO CLAIMS PROCESSING OFFICE.—Each provider of services under the Civilian Health and Medical Program of the Uniformed Services shall submit claims for payment for such services

directly to the claims processing office designated pursuant to regulations prescribed under subsection (b). A claim for payment for services shall be submitted in a standard form (as prescribed in the regulations) not later than one year after the services are provided.

"(b) REGULATIONS.—The regulations required by subsection (a) shall be prescribed by the Secretary of Defense after consultation with the other administering Secretaries.

"(c) WAIVER.—The Secretary of Defense may waive the requirements of subsection (a) if the Secretary determines that the waiver is necessary in order to ensure adequate access for covered beneficiaries to health care services under this chapter."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS

Pub. L. 102–190, div. A, title VII, §716(b), Dec. 5, 1991, 105 Stat. 1404, provided that: "The regulations required by section 1106 of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991]."

### ESTABLISHMENT OF APPEALS PROCESS FOR CLAIMCHECK DENIALS

Pub. L. 105–261, div. A, title VII, §714, Oct. 17, 1998, 112 Stat. 2060, provided that:

"(a) ESTABLISHMENT OF APPEALS PROCESS.—Not later than January 1, 1999, the Secretary of Defense shall establish an appeals process in cases of denials through the ClaimCheck computer software system (or any other claims processing system that may be used by the Secretary) of claims by civilian providers for payment for health care services provided under the TRICARE program.

"(b) REPORT.—Not later than March 1, 1999, the Secretary shall submit to Congress a report on the implementation of this section."

### NATIONAL CLAIMS PROCESSING SYSTEM FOR CHAMPUS

Pub. L. 102–484, div. A, title VII, §711, Oct. 23, 1992, 106 Stat. 2433, provided that:

"(a) CLAIMS PROCESSING SYSTEM REQUIRED.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall provide by contract for the operation of a claims processing system to be known as the 'National Claims Processing System for CHAMPUS'. The Secretary may procure the system in installments, including the use of incremental modules. The system, including completion and integration of all modules, shall be in full operation not later than seven years after the date of the enactment of this Act [Oct. 23, 1992].

"(2) The Secretary shall use competitive procedures for entering into any contract or contracts under paragraph (1).

"(b) SYSTEM FUNCTIONS.—The claims processing system shall include at least the following functions:

"(1) The maintenance in electronic or written form, or both, of appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project. Such information shall include—

"(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

"(B) the insurers, medical services, or health plans that provide such services; and

"(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan.

"(2) The ability to receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries.

"(3) The ability to process, adjudicate, and pay (by electronic or other means) such claims.

"(4) The provision of the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone, electronic, or other means to covered beneficiaries, insurers, medical services, and health plans.

"(c) CONSISTENCY WITH MEDICARE CLAIMS REQUIREMENTS.—The Secretary of Defense shall ensure, to the maximum extent practicable, that claims submitted to the claims processing system conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(d) IDENTIFICATION CARD.—The Secretary of Defense shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the activities set forth in

subsection (b).

"(e) TRANSITION TO SYSTEM.—After January 1, 1996, any modification or acquisition related to claims processing systems operations in the Office of the Civilian Health and Medical Program of the Uniformed Services shall contain provisions to transfer such operations to the claims processing system required by subsection (a). After January 1, 1999, any renewal or acquisition for fiscal intermediary services (including coordinated care implementations in military hospitals and clinics) shall contain provisions to transfer claims processing systems operations related to such fiscal intermediary services to the claims processing system required by subsection (a).

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'administering Secretaries' has the meaning given that term in paragraph (3) of section 1072 of title 10, United States Code.

"(2) The term 'CHAMPUS' means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of such section.

"(3) The term 'covered beneficiary' has the meaning given that term in paragraph (5) of such section."

## §1107. Notice of use of an investigational new drug or a drug unapproved for its applied use

(a) NOTICE REQUIRED.—(1) Whenever the Secretary of Defense requests or requires a member of the armed forces to receive an investigational new drug or a drug unapproved for its applied use, the Secretary shall provide the member with notice containing the information specified in subsection (d).

(2) The Secretary shall also ensure that health care providers who administer an investigational new drug or a drug unapproved for its applied use, or who are likely to treat members who receive such a drug, receive the information required to be provided under paragraphs (3) and (4) of subsection (d).

(b) TIME OF NOTICE.—The notice required to be provided to a member under subsection (a)(1) shall be provided before the investigational new drug or drug unapproved for its applied use is first administered to the member.

(c) FORM OF NOTICE.—The notice required under subsection (a)(1) shall be provided in writing.

(d) CONTENT OF NOTICE.—The notice required under subsection (a)(1) shall include the following:

(1) Clear notice that the drug being administered is an investigational new drug or a drug unapproved for its applied use.

(2) The reasons why the investigational new drug or drug unapproved for its applied use is being administered.

(3) Information regarding the possible side effects of the investigational new drug or drug unapproved for its applied use, including any known side effects possible as a result of the interaction of such drug with other drugs or treatments being administered to the members receiving such drug.

(4) Such other information that, as a condition of authorizing the use of the investigational new drug or drug unapproved for its applied use, the Secretary of Health and Human Services may require to be disclosed.

(e) RECORDS OF USE.—The Secretary of Defense shall ensure that the medical records of members accurately document—

(1) the receipt by members of any investigational new drug or drug unapproved for its applied use; and

(2) the notice required by subsection (a)(1).

(f) LIMITATION AND WAIVER.—(1) In the case of the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member's participation in a particular military operation, the requirement that the member

provide prior consent to receive the drug in accordance with the prior consent requirement imposed under section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)) may be waived only by the President. The President may grant such a waiver only if the President determines, in writing, that obtaining consent is not in the interests of national security.

(2) The waiver authority provided in paragraph (1) shall not be construed to apply to any case other than a case in which prior consent for administration of a particular drug is required by reason of a determination by the Secretary of Health and Human Services that such drug is subject to the investigational new drug requirements of section 505(i) of the Federal Food, Drug, and Cosmetic Act.

(3) The Secretary of Defense may request the President to waive the prior consent requirement with respect to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member's participation in a particular military operation. With respect to any such administration—

(A) the Secretary may not delegate to any other official the authority to request the President to waive the prior consent requirement for the Department of Defense; and

(B) if the President grants the requested waiver, the Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of the waiver, together with the written determination of the President under paragraph (1) and the Secretary's justification for the request or requirement under subsection (a) for the member to receive the drug covered by the waiver.

(4) In this subsection:

(A) The term "relevant FDA regulations" means the regulations promulgated under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(B) The term "prior consent requirement" means the requirement included in the relevant FDA regulations pursuant to section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)).

(g) DEFINITIONS.—In this section:

(1) The term "investigational new drug" means a drug covered by section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(2) The term "drug unapproved for its applied use" means a drug administered for a use not described in the approved labeling of the drug under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

(Added Pub. L. 105–85, div. A, title VII, §766(a), Nov. 18, 1997, 111 Stat. 1827; amended Pub. L. 105–261, div. A, title VII, §731(a)(1), (b), Oct. 17, 1998, 112 Stat. 2070, 2071; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1043(b)(7), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 108–375, div. A, title VII, §726(a), Oct. 28, 2004, 118 Stat. 1992.)

## EDITORIAL NOTES

### AMENDMENTS

**2004**—Subsec. (f)(1). Pub. L. 108–375, §726(a)(1), substituted "obtaining consent is" for "obtaining consent—

"(A) is not feasible;

"(B) is contrary to the best interests of the member; or

"(C) is".

Subsec. (f)(2). Pub. L. 108–375, §726(a)(2), added par. (2) and struck out former par. (2) which read as follows: "In making a determination to waive the prior consent requirement on a ground described in subparagraph (A) or (B) of paragraph (1), the President shall apply the standards and criteria that are set forth in the relevant FDA regulations for a waiver of the prior consent requirement on that ground."

**2003**—Subsec. (f)(4)(C). Pub. L. 108–136 struck out subpar. (C) which read as follows: "The term 'congressional defense committee' means each of the following:

"(i) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(ii) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**1999**—Subsec. (f)(4)(C)(ii). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1998**—Subsec. (b). Pub. L. 105–261, §731(b)(1), struck out ", if practicable, but in no case later than 30 days after the drug is first administered to the member" after "administered to the member".

Subsec. (c). Pub. L. 105–261, §731(b)(2), struck out "unless the Secretary of Defense determines that the use of written notice is impractical because of the number of members receiving the investigational new drug or drug unapproved for its applied use, time constraints, or similar reasons. If the Secretary provides notice under subsection (a)(1) in a form other than in writing, the Secretary shall submit to Congress a report describing the notification method used and the reasons for the use of the alternative method" after "provided in writing".

Subsecs. (f), (g). Pub. L. 105–261, §731(a)(1), added subsec. (f) and redesignated former subsec. (f) as (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VII, §731(a)(2), Oct. 17, 1998, 112 Stat. 2071, provided that: "Subsection (f) of section 1107 of title 10, United States Code (as added by paragraph (1)), shall apply to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the Armed Forces in connection with the member's participation in a particular military operation on or after the date of the enactment of this Act [Oct. 17, 1998]."

### WAIVERS OF REQUIREMENT FOR PRIOR CONSENT GRANTED BEFORE OCTOBER 17, 1998

Pub. L. 105–261, div. A, title VII, §731(a)(3), Oct. 17, 1998, 112 Stat. 2071, provided that: "A waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(i)(4)] (or under any antecedent provision of law or regulations) that has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act [Oct. 17, 1998] for the administration of a drug to a member of the Armed Forces in connection with the member's participation in a particular military operation may be applied in that case after that date only if—

"(A) the Secretary of Defense personally determines that the waiver is justifiable on each ground on which the waiver was granted;

"(B) the President concurs in that determination in writing; and

"(C) the Secretary submits to the chairman and ranking minority member of each congressional committee referred to in section 1107(f)(4)(C) of title 10, United States Code (as added by paragraph (1))—

"(i) a notification of the waiver;

"(ii) the President's written concurrence; and

"(iii) the Secretary's justification for the request or for the requirement under subsection 1107(a) of such title for the member to receive the drug covered by the waiver."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 13139. IMPROVING HEALTH PROTECTION OF MILITARY PERSONNEL PARTICIPATING IN PARTICULAR MILITARY OPERATIONS

Ex. Ord. No. 13139, Sept. 30, 1999, 64 F.R. 54175, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1107 of title 10, United States Code, and in order to provide the best health protection to military personnel participating in particular military operations, it is hereby ordered as follows:

SECTION 1. *Policy*. Military personnel deployed in particular military operations could potentially be exposed to a range of chemical, biological, and radiological weapons as well as diseases endemic to an area of operations. It is the policy of the United States Government to provide our military personnel with safe and effective vaccines, antidotes, and treatments that will negate or minimize the effects of these health threats.

SEC. 2. *Administration of Investigational New Drugs to Members of the Armed Forces.*

(a) The Secretary of Defense (Secretary) shall collect intelligence on potential health threats that might be encountered in an area of operations. The Secretary shall work together with the Secretary of Health and Human Services to ensure appropriate countermeasures are developed. When the Secretary considers an

investigational new drug or a drug unapproved for its intended use (investigational drug) to represent the most appropriate countermeasure, it shall be studied through scientifically based research and development protocols to determine whether it is safe and effective for its intended use.

(b) It is the expectation that the United States Government will administer products approved for their intended use by the Food and Drug Administration (FDA). However, in the event that the Secretary considers a product to represent the most appropriate countermeasure for diseases endemic to the area of operations or to protect against possible chemical, biological, or radiological weapons, but the product has not yet been approved by the FDA for its intended use, the product may, under certain circumstances and strict controls, be administered to provide potential protection for the health and well-being of deployed military personnel in order to ensure the success of the military operation. The provisions of 21 CFR Part 312 contain the FDA requirements for investigational new drugs.

SEC. 3. *Informed Consent Requirements and Waiver Provisions.*

(a) Before administering an investigational drug to members of the Armed Forces, the Department of Defense (DoD) must obtain informed consent from each individual unless the Secretary can justify to the President a need for a waiver of informed consent in accordance with 10 U.S.C. 1107(f). Waivers of informed consent will be granted only when absolutely necessary.

(b) In accordance with 10 U.S.C. 1107(f), the President may waive the informed consent requirement for the administration of an investigational drug to a member of the Armed Forces in connection with the member's participation in a particular military operation, upon a written determination by the President that obtaining consent:

(1) is not feasible;

(2) is contrary to the best interests of the member; or

(3) is not in the interests of national security.

(c) In making a determination to waive the informed consent requirement on a ground described in subsection (b)(1) or (b)(2) of this section, the President is required by law to apply the standards and criteria set forth in the relevant FDA regulations, 21 CFR 50.23(d). In determining a waiver based on subsection (b)(3) of this section, the President will also consider the standards and criteria of the relevant FDA regulations.

(d) The Secretary may request that the President waive the informed consent requirement with respect to the administration of an investigational drug. The Secretary may not delegate the authority to make this waiver request. At a minimum, the waiver request shall contain:

(1) A full description of the threat, including the potential for exposure. If the threat is a chemical, biological, or radiological weapon, the waiver request shall contain an analysis of the probability the weapon will be used, the method or methods of delivery, and the likely magnitude of its affect on an exposed individual.

(2) Documentation that the Secretary has complied with 21 CFR 50.23(d). This documentation shall include:

(A) A statement that certifies and a written justification that documents that each of the criteria and standards set forth in 21 CFR 50.23(d) has been met; or

(B) If the Secretary finds it highly impracticable to certify that the criteria and standards set forth in 21 CFR 50.23(d) have been fully met because doing so would significantly impair the Secretary's ability to carry out the particular military mission, a written justification that documents which criteria and standards have or have not been met, explains the reasons for failing to meet any of the criteria and standards, and provides additional justification why a waiver should be granted solely in the interests of national security.

(3) Any additional information pertinent to the Secretary's determination, including the minutes of the Institutional Review Board's (IRB) deliberations and the IRB members' voting record.

(e) The Secretary shall develop the waiver request in consultation with the FDA.

(f) The Secretary shall submit the waiver request to the President and provide a copy to the Commissioner of the FDA (Commissioner).

(g) The Commissioner shall expeditiously review the waiver request and certify to the Assistant to the President for National Security Affairs (APNSA) and the Assistant to the President for Science and Technology (APST) whether the standards and criteria of the relevant FDA regulations have been adequately addressed and whether the investigational new drug protocol may proceed subject to a decision by the President on the informed consent waiver request. FDA shall base its decision on, and the certification shall include an analysis describing, the extent and strength of the evidence on the safety and effectiveness of the investigational new drug in relation to the medical risk that could be encountered during the military operation.

(h) The APNSA and APST will prepare a joint advisory opinion as to whether the waiver of informed consent should be granted and will forward it, along with the waiver request and the FDA certification to the President.

(i) The President will approve or deny the waiver request and will provide written notification of the decision to the Secretary and the Commissioner.

SEC. 4. *Required Action After Waiver is Issued*. (a) Following a Presidential waiver under 10 U.S.C. 1107(f), the DoD offices responsible for implementing the waiver, DoD's Office of the Inspector General, and the FDA, consistent with its regulatory role, will conduct an ongoing review and monitoring to assess adherence to the standards and criteria under 21 CFR 50.23(d) and this order. The responsible DoD offices shall also adhere to any periodic reporting requirements specified by the President at the time of the waiver approval. The Secretary shall submit the findings to the President and provide a copy to the Commissioner.

(b) The Secretary shall, as soon as practicable, make the congressional notifications required by 10 U.S.C. 1107(f)(2)(B).

(c) The Secretary shall, as soon as practicable and consistent with classification requirements, issue a public notice in the Federal Register describing each waiver of informed consent determination and a summary of the most updated scientific information on the products used, as well as other information the President determines is appropriate.

(d) The waiver will expire at the end of 1 year (or an alternative time period not to exceed 1 year, specified by the President at the time of approval), or when the Secretary informs the President that the particular military operation creating the need for the use of the investigational drug has ended, whichever is earlier. The President may revoke the waiver based on changed circumstances or for any other reason. If the Secretary seeks to renew a waiver prior to its expiration, the Secretary must submit to the President an updated request, specifically identifying any new information available relevant to the standards and criteria under 21 CFR 50.23(d). To request to renew a waiver, the Secretary must satisfy the criteria for a waiver as described in section 3 of this order.

(e) The Secretary shall notify the President and the Commissioner if the threat countered by the investigational drug changes significantly or if significant new information on the investigational drug is received.

SEC. 5. *Training for Military Personnel*. (a) The DoD shall provide ongoing training and health risk communication on the requirements of using an investigational drug in support of a military operation to all military personnel, including those in leadership positions, during chemical and biological warfare defense training and other training, as appropriate. This ongoing training and health risk communication shall include general information about 10 U.S.C. 1107 and 21 CFR 50.23(d).

(b) If the President grants a waiver under 10 U.S.C. 1107(f), the DoD shall provide training to all military personnel conducting the waiver protocol and health risk communication to all military personnel receiving the specific investigational drug to be administered prior to its use.

(c) The Secretary shall submit the training and health risk communication plans as part of the investigational new drug protocol submission to the FDA and the reviewing IRB. Training and health risk communication shall include at a minimum:

(1) The basis for any determination by the President that informed consent is not or may not be feasible;

(2) The means for tracking use and adverse effects of the investigational drug;

(3) The benefits and risks of using the investigational drug; and

(4) A statement that the investigational drug is not approved (or not approved for the intended use).

(d) The DoD shall keep operational commanders informed of the overall requirements of successful protocol execution and their role, with the support of medical personnel, in ensuring successful execution of the protocol.

SEC. 6. *Scope*. (a) This order applies to the consideration and Presidential approval of a waiver of informed consent under 10 U.S.C. 1107 and does not apply to other FDA regulations.

(b) This order is intended only to improve the internal management of the Federal Government. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

## §1107a. Emergency use products

(a) WAIVER BY THE PRESIDENT.—(1) In the case of the administration of a product

authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act to members of the armed forces, the condition described in section 564(e)(1)(A)(ii)(III) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived only by the President only if the President determines, in writing, that complying with such requirement is not in the interests of national security.

(2) The waiver authority provided in paragraph (1) shall not be construed to apply to any case other than a case in which an individual is required to be informed of an option to accept or refuse administration of a particular product by reason of a determination by the Secretary of Health and Human Services that emergency use of such product is authorized under section 564 of the Federal Food, Drug, and Cosmetic Act.

(b) PROVISION OF INFORMATION.—If the President, under subsection (a), waives the condition described in section 564(e)(1)(A)(ii)(III) of the Federal Food, Drug, and Cosmetic Act, and if the Secretary of Defense, in consultation with the Secretary of Health and Human Services, makes a determination that it is not feasible based on time limitations for the information described in section 564(e)(1)(A)(ii)(I) or (II) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), to be provided to a member of the armed forces prior to the administration of the product, such information shall be provided to such member of the armed forces (or next-of-kin in the case of the death of a member) to whom the product was administered as soon as possible, but not later than 30 days, after such administration. The authority provided for in this subsection may not be delegated. Information concerning the administration of the product shall be recorded in the medical record of the member.

(c) APPLICABILITY OF OTHER PROVISIONS.—In the case of an authorization by the Secretary of Health and Human Services under section 564(a)(1) of the Federal Food, Drug, and Cosmetic Act based on a determination by the Secretary of Defense under section 564(b)(1)(B) of such Act, subsections (a) through (f) of section 1107 shall not apply to the use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

(Added Pub. L. 108–136, div. A, title XVI, §1603(b)(1), Nov. 24, 2003, 117 Stat. 1689; amended Pub. L. 108–375, div. A, title VII, §726(b), Oct. 28, 2004, 118 Stat. 1992; Pub. L. 109–364, div. A, title X, §1071(a)(5), (g)(7), Oct. 17, 2006, 120 Stat. 2398, 2402; Pub. L. 115–91, div. A, title VII, §716, Dec. 12, 2017, 131 Stat. 1438; Pub. L. 115–92, §1(c), Dec. 12, 2017, 131 Stat. 2025.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 564 of the Federal Food, Drug, and Cosmetic Act, referred to in text, is classified to section 360bbb–3 of Title 21, Food and Drugs.

### AMENDMENTS

**2017**—Subsec. (d). Pub. L. 115–92 struck out subsec. (d) which related to additional authority to reduce deaths and severity of injuries caused by agents of war.

Pub. L. 115–91 added subsec. (d).

**2006**—Subsec. (a). Pub. L. 109–364, §1071(g)(7), made technical correction to directory language of Pub. L. 108–375, §726(b)(1). See 2004 Amendment note below.

Pub. L. 109–364, §1071(a)(5), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and, in par. (2), substituted "paragraph (1)" for "subparagraph (A)".

**2004**—Subsec. (a). Pub. L. 108–375, §726(b)(1), as amended by Pub. L. 109–364, §1071(g)(7), inserted "(A)" after "PRESIDENT.—".

Subsec. (a)(A). Pub. L. 108–375, §726(b)(2), struck out "is not feasible, is contrary to the best interests of the members affected, or" after "such requirement".

Subsec. (a)(B). Pub. L. 108–375, §726(b)(3), added subpar. (B).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2017 AMENDMENT**

Pub. L. 115–92, §1(c), Dec. 12, 2017, 131 Stat. 2025, provided that the amendment made by section 1(c) is effective as of the enactment of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115–91].

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(7) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

**TERMINATION DATE**

Pub. L. 108–136, div. A, title XVI, §1603(d), Nov. 24, 2003, 117 Stat. 1690, which provided that section 1603 of Pub. L. 108–136 (enacting this section and section 360bbb–3 of Title 21, Food and Drugs, and amending section 331 of Title 21) would not be in effect (and the law was to read as if that section had never been enacted) as of the date on which, following enactment of the Project Bioshield Act of 2003, the President submits to Congress a notification that the Project Bioshield Act of 2003 provides an effective emergency use authority with respect to members of the Armed Forces, was repealed by Pub. L. 108–276, §4(b), July 21, 2004, 118 Stat. 859. [The Project Bioshield Act of 2003 was not enacted.]

## §1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

(a) FEHBP OPTION DEMONSTRATION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project (in this section referred to as the "demonstration project") under which eligible beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may enroll in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5. The number of eligible beneficiaries and family members of such beneficiaries under subsection (b)(2) who may be enrolled in health benefits plans during the enrollment period under subsection (d)(2) may not exceed 66,000.

(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G));

(C) an individual who is—

(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

(ii) a member of family as defined in section 8901(5) of title 5; or

(D) an individual who is—

(i) a dependent of a living member or former member described in section 1076(b)(1) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits; and

(ii) a member of family as defined in section 8901(5) of title 5.

(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D))

as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under the demonstration project.

(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

(1) an area that includes the catchment area of one or more military medical treatment facilities;

(2) an area that is not located in the catchment area of a military medical treatment facility;

(3) an area in which there is a Medicare Subvention Demonstration project area under section 1896 [1] of title XVIII of the Social Security Act (42 U.S.C. 1395ggg); and

(4) not more than one area for each TRICARE region.

(d) DURATION OF DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

(2) Eligible beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during an open enrollment period for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

(e) PROHIBITION AGAINST USE OF MTFS AND ENROLLMENT UNDER TRICARE .—Covered beneficiaries under this chapter who are provided coverage under the demonstration project shall not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under the TRICARE program.

(f) TERM OF ENROLLMENT IN PROJECT.—(1) Subject to paragraphs (2) and (3), the period of enrollment of an eligible beneficiary who enrolls in the demonstration project during the open enrollment period for the year 2000 shall be three years unless the beneficiary disenrolls before the termination of the project.

(2) A beneficiary who elects to enroll in the project, and who subsequently discontinues enrollment in the project before the end of the period described in paragraph (1), shall not be eligible to reenroll in the project.

(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

(g) EFFECT OF CANCELLATION.—The cancellation by an eligible beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

(h) SEPARATE RISK POOLS; CHARGES.—(1) The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.

(2) The Director shall determine total subscription charges for self only or for family coverage for eligible beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section. The subscription charges shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

(i) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under

chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

(j) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice [2] organization in a Medicare+Choice [2] plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to 36 months; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Director of the Office of Personnel Management.

(Added Pub. L. 105–261, div. A, title VII, §721(a)(1), Oct. 17, 1998, 112 Stat. 2061; amended Pub. L. 108–375, div. A, title X, §1084(d)(8), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112–239, div. A, title X, §1076(g)(1), Jan. 2, 2013, 126 Stat. 1955.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(1)(A), (D)(i), and (j)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title XVIII of the Act is classified generally to Part A (§1395c et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. Section 1882 of the Act is classified to section 1395ss of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 1896 of the Social Security Act, referred to in subsec. (c)(3), was classified to section 1395ggg of Title 42, The Public Health and Welfare, and was omitted from the Code.

### AMENDMENTS

**2013**—Subsecs. (j) to (l). Pub. L. 112–239 redesignated subsec. (l) as (j) and struck out former subsecs. (j) and (k) which required reports regarding the demonstration project by the Secretary of Defense and the Director of the Office of Personnel Management and by the Comptroller General.

**2004**—Subsec. (e). Pub. L. 108–375 substituted "health" for "heath".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

References to Medicare+Choice deemed to refer to Medicare Advantage or MA, subject to an appropriate transition provided by the Secretary of Health and Human Services in the use of those terms, see section 201(b) of Pub. L. 108–173, set out as a note under section 1395w–21 of Title 42, The Public Health and Welfare.

### COMPREHENSIVE EVALUATION OF IMPLEMENTATION OF DEMONSTRATION PROJECTS AND TRICARE PHARMACY REDESIGN

Pub. L. 105–261, div. A, title VII, §724, Oct. 17, 1998, 112 Stat. 2069, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, required the Comptroller General, not later than Mar. 31, 2003, to submit to committees of Congress a report containing a comprehensive comparative analysis of the FEHBP demonstration project conducted under this section, the TRICARE Senior Supplement under Pub. L. 105–261, §722, formerly set out as a note under section 1073 of this title, and the redesign of the TRICARE pharmacy system under section Pub. L. 105–261, §723, set out as a note under section 1073 of this title.

[1] *See References in Text note below.*

[2] *See Change of Name note below.*

## §1109. Organ and tissue donor program

(a) RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that the advanced systems developed for recording armed forces members' personal data and information (such as the SMARTCARD, MEDITAG, and Personal Information Carrier) include the capability to record organ and tissue donation elections.

(b) RESPONSIBILITIES OF THE SECRETARIES OF THE MILITARY DEPARTMENTS .—The Secretaries of the military departments shall ensure that—

(1) appropriate information about organ and tissue donation is provided—

(A) to each officer candidate during initial training; and

(B) to each recruit—

(i) after completion by the recruit of basic training; and

(ii) before arrival of the recruit at the first duty assignment of the recruit;

(2) members of the armed forces are given recurring, specific opportunities to elect to be organ or tissue donors during service in the armed forces and upon retirement; and

(3) members of the armed forces electing to be organ or tissue donors are encouraged to advise their next of kin concerning the donation decision and any subsequent change of that decision.

(c) RESPONSIBILITIES OF THE SURGEONS GENERAL OF THE MILITARY DEPARTMENTS.—The Surgeons General of the military departments shall ensure that—

(1) appropriate training is provided to enlisted and officer medical personnel to facilitate the effective operation of organ and tissue donation activities under garrison conditions and, to the extent possible, under operational conditions; and

(2) medical logistical activities can, to the extent possible without jeopardizing operational requirements, support an effective organ and tissue donation program.

(Added Pub. L. 105–261, div. A, title VII, §741(b)(1), Oct. 17, 1998, 112 Stat. 2073; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(8)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (b). Pub. L. 106–398 struck out "(1)" before "The Secretaries" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### FINDINGS

Pub. L. 105–261, div. A, title VII, §741(a), Oct. 17, 1998, 112 Stat. 2073, provided that: "Congress makes the following findings:

"(1) Organ and tissue transplantation is one of the most remarkable medical success stories in the history of medicine.

"(2) Each year, the number of people waiting for organ or tissue transplantation increases. It is estimated that there are approximately 39,000 patients, ranging in age from babies to those in retirement, awaiting transplants of kidneys, hearts, livers, and other solid organs.

"(3) The Department of Defense has made significant progress in increasing the awareness of the importance of organ and tissue donations among members of the Armed Forces.

"(4) The inclusion of organ and tissue donor elections in the Defense Enrollment Eligibility Reporting System (DEERS) central database represents a major step in ensuring that organ and tissue donor elections are a matter of record and are accessible in a timely manner."

**REPORT ON IMPLEMENTATION**

Pub. L. 105–261, div. A, title VII, §741(c), Oct. 17, 1998, 112 Stat. 2074, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, directed the Secretary of Defense to submit to committees of Congress a report on the implementation of this section not later than Sept. 1, 1999.

## §1110. System for tracking and recording vaccine information; anthrax vaccine immunization program

(a) OVERALL SYSTEM TO TRACK AND RECORD VACCINE INFORMATION.—(1) The Secretary of Defense, in consultation with the Director of the Defense Health Agency and in coordination with the Secretaries of the military departments, shall establish a system to track and record the following information:

(A) Each vaccine administered by a health care provider of the Department of Defense to a member of an armed force under the jurisdiction of the Secretary of a military department.

(B) Any adverse reaction of the member related to such vaccine.

(C) Each refusal by such a member of any vaccine that is being so administered, including vaccines licensed by the Food and Drug Administration under section 351 of the Public Health Service Act (42 U.S.C. 262) and vaccines otherwise approved or authorized.

(D) Each refusal by such a member of a vaccine on the basis that the vaccine is being administered by a health care provider of the Department pursuant to an emergency use authorization granted by the Commissioner of Food and Drugs under section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3).

(E) Each refusal by such a member of an investigational new drug or a drug unapproved for its applied use that is being administered pursuant to a request or requirement of the Secretary of Defense and with respect to which the President has granted a waiver of the prior consent requirement pursuant to section 1107(f)(1) of this title.

(2) In carrying out paragraph (1), the Secretary of Defense shall ensure that—

(A) any electronic health record maintained by the Secretary for a member of an armed force under the jurisdiction of the Secretary of a military department is updated with the information specified in such paragraph with respect to the member;

(B) any collection, storage, or use of such information is conducted through means involving such cyber protections as the Secretary determines necessary to safeguard the personal information of the member; and

(C) the system established under such paragraph is interoperable and compatible with the electronic health record system known as "MHS GENESIS", or such successor system.

(b) PROCEDURES FOR MEDICAL AND ADMINISTRATIVE EXEMPTIONS FROM ANTHRAX VACCINE IMMUNIZATION PROGRAM.—(1) The Secretary shall establish uniform procedures under which members of the armed forces may be exempted from participating in the anthrax vaccine immunization program for either administrative or medical reasons.

(2) The Secretaries of the military departments shall provide for notification of all members of the armed forces of the procedures established pursuant to paragraph (1).

(c) SYSTEM FOR MONITORING ADVERSE REACTIONS TO ANTHRAX VACCINE.—(1) The Secretary shall establish a system for monitoring adverse reactions of members of the armed forces to the anthrax vaccine. That system shall include the following:

(A) Independent review of Vaccine Adverse Event Reporting System reports.

(B) Periodic surveys of personnel to whom the vaccine is administered.

(C) A continuing longitudinal study of a pre-identified group of members of the armed forces (including men and women and members from all services).

(D) Active surveillance of a sample of members to whom the anthrax vaccine has been administered that is sufficient to identify, at the earliest opportunity, any patterns of adverse reactions, the discovery of which might be delayed by reliance solely on the Vaccine Adverse

Event Reporting System.

(2) The Secretary may extend or expand any ongoing or planned study or analysis of trends in adverse reactions of members of the armed forces to the anthrax vaccine in order to meet any of the requirements in paragraph (1).

(3) The Secretary shall establish guidelines under which members of the armed forces who are determined by an independent expert panel to be experiencing unexplained adverse reactions may obtain access to a Department of Defense Center of Excellence treatment facility for expedited treatment and follow up.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §751(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–193; amended Pub. L. 117–81, div. A, title VII, §716(a), (b), Dec. 27, 2021, 135 Stat. 1788.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, §716(b)(1), substituted "System for tracking and recording vaccine information; anthrax vaccine immunization program" for "Anthrax vaccine immunization program; procedures for exemptions and monitoring reactions" in section catchline.

Subsec. (a). Pub. L. 117–81, §716(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 117–81, §716(a)(1), (b)(2), redesignated subsec. (a) as (b), inserted "From Anthrax Vaccine Immunization Program" after "Exemptions" in heading, and substituted "Secretary" for "Secretary of Defense" in par. (1). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 117–81, §716(a)(1), (b)(3), redesignated subsec. (b) as (c) and inserted "to Anthrax Vaccine" after "Reactions" in heading.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE FOR ESTABLISHMENT OF SYSTEM

Pub. L. 117–81, div. A, title VII, §716(d), Dec. 27, 2021, 135 Stat. 1789, provided that: "The Secretary of Defense shall establish the system under section 1110 of title 10, United States Code, as added by subsection (a), by not later than January 1, 2023."

### DEPARTMENT OF DEFENSE STANDARDS FOR EXEMPTIONS FROM MANDATORY COVID–19 VACCINES

Pub. L. 117–81, div. A, title VII, §720, Dec. 27, 2021, 135 Stat. 1791, provided that:

"(a) STANDARDS.—The Secretary of Defense shall establish uniform standards under which covered members may be exempted from receiving an otherwise mandated COVID–19 vaccine for administrative, medical, or religious reasons.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered member' means a member of an Armed Force under the jurisdiction of the Secretary of a military department.

"(2) The term 'COVID–19 vaccine' means any vaccine for the coronavirus disease 2019 (COVID–19), including any subsequent booster shot for COVID–19."

### DEADLINES FOR ESTABLISHMENT AND IMPLEMENTATION

Pub. L. 106–398, §1 [[div. A], title VII, §751(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195, provided that: "The Secretary of Defense shall—

"(1) not later than April 1, 2001, establish the uniform procedures for exemption from participation in the anthrax vaccine immunization program of the Department of Defense required under subsection (a) [now (b)] of section 1110 of title 10, United States Code (as added by subsection (b));

"(2) not later than July 1, 2001, establish the system for monitoring adverse reactions of members of the Armed Forces to the anthrax vaccine required under subsection (b)(1) [now (c)(1)] of such section;

"(3) not later than April 1, 2001, establish the guidelines under which members of the Armed Forces may obtain access to a Department of Defense Center of Excellence treatment facility for expedited treatment and follow up required under subsection (b)(3) [now (c)(3)] of such section; and

"(4) not later than July 1, 2001, prescribe the regulations regarding emergency essential employees of

the Department of Defense required under subsection (a) of section 1580a of such title (as added by subsection (c))."

## §1110a. Notification of certain individuals regarding options for enrollment under Medicare part B

(a) IN GENERAL.—(1) As soon as practicable, the Secretary of Defense shall notify each individual described in subsection (b)—

(A) that the individual is no longer eligible for health care benefits under the TRICARE program under this chapter; and

(B) of options available for enrollment of the individual in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.).

(2) In carrying out this subsection, the Secretary of Defense shall—

(A) establish procedures for identifying individuals described in subsection (b); and

(B) consult with the Secretary of Health and Human Services to accurately identify and notify such individuals.

(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who is—

(1) a covered beneficiary;

(2) entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c) under section 226(b) or section 226A of such Act (42 U.S.C. 426(b) and 426–1); and

(3) eligible to enroll in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.).

(Added Pub. L. 111–84, div. A, title VII, §707(a), Oct. 28, 2009, 123 Stat. 2376.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Social Security Act, referred to in subsecs. (a)(1)(B) and (b)(2), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and B of title XVIII of the Act are classified generally to parts A (§1395c et seq.) and B (§1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## §1110b. TRICARE program: extension of dependent coverage

(a) IN GENERAL.—In accordance with subsection (c), an individual described in subsection (b) shall be deemed to be a dependent (as described in section 1072(2)(D) of this title) for purposes of coverage under the TRICARE program.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) would be a dependent under section 1072(2) of this title but for exceeding an age limit under such section;

(2) has not attained the age of 26;

(3) is not eligible to enroll in an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986);

(4) is not otherwise a dependent of a member or a former member under any subparagraph of section 1072(2) of this title; and

(5) meets other criteria specified in regulations prescribed by the Secretary, similar to regulations prescribed by the Secretary of Health and Human Services under section 2714(b) of the Public Health Service Act.

(c) PREMIUM.—(1) The Secretary shall prescribe by regulation a premium (or premiums) for coverage under the TRICARE program provided pursuant to this section to an individual described in subsection (b). Such premium shall apply instead of any enrollment fees required under section 1075 or 1075a of this title, as appropriate.

(2) The monthly amount of the premium in effect for a month for coverage under the TRICARE program pursuant to this section shall be the amount equal to the cost of such coverage that the Secretary determines on an appropriate actuarial basis.

(3) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(Added Pub. L. 111–383, div. A, title VII, §702(a)(1), Jan. 7, 2011, 124 Stat. 4244; Pub. L. 114–328, div. A, title VII, §701(j)(1)(F), Dec. 23, 2016, 130 Stat. 2192; Pub. L. 115–91, div. A, title VII, §739(f), Dec. 12, 2017, 131 Stat. 1447.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 5000A of the Internal Revenue Code of 1986, referred to in subsec. (b)(3), is classified to section 5000A of Title 26, Internal Revenue Code.

Section 2714 of the Public Health Service Act, referred to in subsec. (b)(5), is classified to section 300gg–14 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

**2017**—Subsec. (c)(1). Pub. L. 115–91 substituted "section 1075 or 1075a of this title, as appropriate" for "section 1075 of this section".

**2016**—Subsec. (c)(1). Pub. L. 114–328 inserted at end "Such premium shall apply instead of any enrollment fees required under section 1075 of this section."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114–328, set out as a note under section 1072 of this title.

#### EFFECTIVE DATE AND REGULATIONS

Pub. L. 111–383, div. A, title VII, §702(b), Jan. 7, 2011, 124 Stat. 4245, provided that: "The amendments made by this section [enacting this section] shall take effect on January 1, 2011. The Secretary of Defense shall prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011."

## CHAPTER 56—DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND

Sec.
1111. Establishment and purpose of Fund; definitions; authority to enter into agreements.
1112. Assets of Fund.
1113. Payments from the Fund.
1114. Board of Actuaries.

1115. Determination of contributions to the Fund.
1116. Payments into the Fund.
1117. Investment of assets of Fund.

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–107, div. A, title VII, §711(e)(3), Dec. 28, 2001, 115 Stat. 1167, inserted "; authority to enter into agreements" after "definitions" in item 1111.

## §1111. Establishment and purpose of Fund; definitions; authority to enter into agreements

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Medicare-Eligible Retiree Health Care Fund (hereinafter in this chapter referred to as the "Fund"), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the uniformed services under uniformed services retiree health care programs for medicare-eligible beneficiaries.

(b) In this chapter:

(1) The term "uniformed services retiree health care programs" means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

(2) The term "eligible dependent" means a dependent described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3) of this title.

(3) The term "medicare-eligible", with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(4) The term "participating uniformed service" means the Army, Navy, Air Force, Marine Corps, and Space Force, and any other uniformed service that is covered by an agreement entered into under subsection (c).

(5) The term "members of the uniformed services on active duty" does not include a cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy or a midshipman at the United States Naval Academy.

(c) The Secretary of Defense shall enter into an agreement with each other administering Secretary (as defined in section 1072(3) of this title) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. The agreement shall require that Secretary to determine contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary in a manner comparable to the determination with respect to contributions to the Fund made by the Secretary of Defense under section 1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a).

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–179; amended Pub. L. 107–107, div. A, title VII, §711(a), (b)(1), (e)(1), (2), title X, §1048(a)(12), Dec. 28, 2001, 115 Stat. 1164–1166, 1223; Pub. L. 107–314, div. A, title VII, §704(b), Dec. 2, 2002, 116 Stat. 2584; Pub. L. 108–375, div. A, title VII, §725(c)(1), Oct. 28, 2004, 118 Stat. 1992; Pub. L. 109–364, div. A, title V, §592(a), Oct. 17, 2006, 120 Stat. 2233; Pub. L. 116–283, div. A, title IX, §924(b)(1)(I), Jan. 1, 2021, 134 Stat. 3820.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title XVIII of the Act is classified generally to part A (§1395c et seq.) of subchapter XVIII of chapter 7 of

Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## AMENDMENTS

**2021**—Subsec. (b)(4). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**2006**—Subsec. (a). Pub. L. 109–364, §592(a)(1), substituted "of the uniformed services" for "of the Department of Defense".

Subsec. (b)(5). Pub. L. 109–364, §592(a)(2), added par. (5).

**2004**—Subsec. (c). Pub. L. 108–375 substituted "1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a)" for "1116 of this title, and such administering Secretary may make such contributions".

**2002**—Subsec. (c). Pub. L. 107–314 substituted "shall enter into an agreement with each other administering Secretary" for "may enter into an agreement with any other administering Secretary" in first sentence and "The" for "Any such" in second sentence.

**2001**—Pub. L. 107–107, §711(e)(2), inserted "; authority to enter into agreements" after "definitions" in section catchline.

Subsec. (a). Pub. L. 107–107, §1048(a)(12), substituted "hereinafter" for "hereafter".

Pub. L. 107–107, §711(e)(1), substituted "uniformed services retiree health care programs" for "Department of Defense retiree health care programs".

Subsec. (b). Pub. L. 107–107, §711(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "In this chapter:

"(1) The term 'Department of Defense retiree health care programs for medicare-eligible beneficiaries' means the provisions of this title or any other provision of law creating entitlement to health care for a medicare-eligible member or former member of the uniformed services entitled to retired or retainer pay, or a medicare-eligible dependent of a member or former member of the uniformed services entitled to retired or retainer pay.

"(2) The term 'medicare-eligible' means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(3) The term 'dependent' means a dependent (as such term is defined in section 1072 of this title) described in section 1076(b)(1) of this title."

Subsec. (c). Pub. L. 107–107, §711(b)(1), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §592(c), Oct. 17, 2006, 120 Stat. 2234, provided that: "The amendments made by this section [amending this section and section 1115 of this title] shall take effect with respect to payments under chapter 56 of title 10, United States Code, beginning with fiscal year 2008."

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VII, §725(d), Oct. 28, 2004, 118 Stat. 1992, provided that: "The amendments made by this section [amending this section and sections 1115 and 1116 of this title] shall take effect on October 1, 2005."

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VII, §711(f), Dec. 28, 2001, 115 Stat. 1167, provided that: "The amendments made by this section [amending this section and sections 1112, 1113, 1115, and 1116 of this title] shall take effect as if included in the enactment of chapter 56 of title 10, United States Code, by section 713(a)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–179)."

### PAYMENT OF CONTRIBUTIONS FOR THE UNIFORMED SERVICE OF THE PUBLIC HEALTH SERVICE

Pub. L. 108–7, div. F, title II, Feb. 20, 2003, 117 Stat. 261, provided in part: "That notwithstanding any other provision of law, contributions authorized by 10 U.S.C. 1111 for the Uniformed Service of the Public

Health Service shall be paid in fiscal year 2003 and thereafter from the Department of Health and Human Services' Retirement Pay and Medical Benefits for Commissioned Officers account without charges billed to the Indian Health Service".

## §1112. Assets of Fund

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund under section 1116 of this title.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(4) Amounts paid into the Fund pursuant to section 1111(c) of this title.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–180; amended Pub. L. 107–107, div. A, title VII, §711(b)(2), Dec. 28, 2001, 115 Stat. 1165.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Par. (4). Pub. L. 107–107 added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 effective as if included in the enactment of this chapter by Pub. L. 106–398, see section 711(f) of Pub. L. 107–107, set out as a note under section 1111 of this title.

## §1113. Payments from the Fund

(a) There shall be paid from the Fund amounts payable for the costs of all uniformed service retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents who are medicare eligible.

(b) The assets of the Fund are hereby made available for payments under subsection (a).

(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary determines necessary to cover the costs chargeable to those appropriations for uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer authority is in addition to any other transfer authority that may be available to the Secretary.

(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year for which the appropriation to which the funds were originally transferred is available for obligation.

(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under uniformed service retiree health care programs for

beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

(e) The regulations prescribed by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take the actions described in subsections (c), (d), and (e) on behalf of the beneficiaries and programs of the other participating uniformed service.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–180; amended Pub. L. 107–107, div. A, title VII, §711(c), Dec. 28, 2001, 115 Stat. 1165.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Subsec. (a). Pub. L. 107–107, §711(c)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There shall be paid from the Fund amounts payable for Department of Defense retiree health care programs for medicare-eligible beneficiaries."

Subsecs. (c) to (f). Pub. L. 107–107, §711(c)(2), added subsecs. (c) to (f).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2001 AMENDMENT**

Amendment by Pub. L. 107–107 effective as if included in the enactment of this chapter by Pub. L. 106–398, see section 711(f) of Pub. L. 107–107, set out as a note under section 1111 of this title.

**EFFECTIVE DATE**

Pub. L. 106–398, §1 [[div. A], title VII, §713(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, provided that: "Sections 1113 and 1116 of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2002."

## §1114. Board of Actuaries

(a)(1) There is established in the Department of Defense a Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries (hereinafter in this chapter referred to as the "Board"). The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(2)(A) Except as provided in subparagraph (B), the members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

(B) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and 15 years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

(3) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

(b) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund

and shall furnish its advice and opinion on matters referred to it by the Secretary.

(c) The Board shall review valuations of the Fund under section 1115(c) of this title and shall report periodically, not less than once every four years, to the President and Congress on the status of the Fund. The Board shall include in such reports recommendations for such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–180; amended Pub. L. 107–107, div. A, title X, §1048(a)(12), Dec. 28, 2001, 115 Stat. 1223.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Subsec. (a)(1). Pub. L. 107–107 substituted "hereinafter" for "hereafter".

## §1115. Determination of contributions to the Fund

(a) The Board shall determine the amount that is the present value (as of October 1, 2002) of future benefits payable from the Fund that are attributable to service in the participating uniformed services performed before October 1, 2002. That amount is the original unfunded liability of the Fund. The Board shall determine the period of time over which the original unfunded liability should be liquidated and shall determine an amortization schedule for the liquidation of such liability over that period. Contributions to the Fund for the liquidation of the original unfunded liability in accordance with such schedule shall be made as provided in section 1116 of this title.

(b) The Secretary of Defense shall determine, before the beginning of each fiscal year after September 30, 2005, the total amount of the Department of Defense contribution to be made to the Fund for that fiscal year for purposes of section 1116(b)(2). That amount shall be the sum of the following:

(1) The product of—

(A) the current estimate of the value of the single level dollar amount to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

(B) the expected average force strength during that fiscal year for members of the uniformed services under the jurisdiction of the Secretary of Defense on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title.

(2) The product of—

(A) the current estimate of the value of the single level dollar amount to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

(B) the expected average force strength during that fiscal year for members of the Selected Reserve of the uniformed services under the jurisdiction of the Secretary of Defense who are not otherwise described in paragraph (1)(B).

(c)(1) Not less often than every four years, the Secretary of Defense shall carry out an actuarial valuation of the Fund. Each such actuarial valuation shall include—

(A) a determination (using the aggregate entry-age normal cost method) of a single level dollar amount for members of the participating uniformed services on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title; and

(B) a determination (using the aggregate entry-age normal cost method) of a single level dollar amount for members of the Selected Reserve of the participating uniformed services who are not otherwise described by subparagraph (A).

Such single level dollar amounts shall be used for the purposes of subsection (b). The Secretary of Defense may determine a separate single level dollar amount under subparagraph (A) or (B) for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service.

(2) If at the time of any such valuation there has been a change in benefits under the uniformed services retiree health care programs for medicare-eligible beneficiaries that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the amortization of the cumulative unfunded liability (or actuarial gain to the Fund) created by such change and any previous such changes so that the present value of the sum of the amortization payments (or reductions in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such amounts.

(3) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the amortization of the cumulative gain or loss to the Fund created by such change in assumptions and any previous such changes in assumptions through an increase or decrease in the payments that would otherwise be made to the Fund.

(4) If at the time of any such valuation the Secretary of Defense determines that, based upon the Fund's actuarial experience (other than resulting from changes in benefits or actuarial assumptions) since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the amortization of the cumulative gain or loss to the Fund created by such actuarial experience and any previous actuarial experience through an increase or decrease in the payments that would otherwise be made to the Fund.

(5) Contributions to the Fund in accordance with amortization schedules under paragraphs (2), (3), and (4) shall be made as provided in section 1116 of this title.

(d) All determinations under this section shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and medical inflation) and in accordance with generally accepted actuarial principles and practices.

(e) The Secretary of Defense shall provide for the keeping of such records as are necessary for determining the actuarial status of the Fund.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–181; amended Pub. L. 107–107, div. A, title VII, §711(b)(3), (e)(1), Dec. 28, 2001, 115 Stat. 1165, 1166; Pub. L. 108–136, div. A, title VII, §722(a), (c), title X, §1045(a)(3), Nov. 24, 2003, 117 Stat. 1532, 1612; Pub. L. 108–375, div. A, title VII, §725(c)(2)–(5), Oct. 28, 2004, 118 Stat. 1992; Pub. L. 109–364, div. A, title V, §592(b), Oct. 17, 2006, 120 Stat. 2233.)

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (b)(1)(B). Pub. L. 109–364, §592(b)(1)(A), substituted "on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title" for "on active duty (other than active duty for training) and full-time National Guard duty (other than full-time National Guard duty for training only)".

Subsec. (b)(2)(B). Pub. L. 109–364, §592(b)(1)(B), substituted "Selected Reserve" for "Ready Reserve" and struck out "(other than members on full-time National Guard duty other than for training)" after "Secretary of Defense".

Subsec. (c)(1)(A). Pub. L. 109–364, §592(b)(2)(A), substituted "on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title" for "on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only)".

Subsec. (c)(1)(B). Pub. L. 109–364, §592(b)(2)(B), substituted "Selected Reserve" for "Ready Reserve" and struck out "(other than members on full-time National Guard duty other than for training)" after "uniformed services".

**2004**—Subsec. (a). Pub. L. 108–375, §725(c)(2), substituted "1116" for "1116(c)".

Subsec. (b). Pub. L. 108–375, §725(c)(3), substituted "The Secretary of Defense shall determine, before the beginning of each fiscal year after September 30, 2005, the total amount of the Department of Defense contribution to be made to the Fund for that fiscal year for purposes of section 1116(b)(2)." for "(1) The Secretary of Defense shall determine each year, in sufficient time for inclusion in budget requests for the following fiscal year, the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1116(a) of this title.", redesignated subpar. (A) as par. (1) and cls. (i) and (ii) as subpars. (A) and (B), respectively, of par. (1), redesignated subpar. (B) as par. (2) and cls. (i) and (ii) as subpars. (A) and (B), respectively, of par. (2), substituted "paragraph (1)(B)" for "subparagraph (A)(ii)" in par. (2)(B), and struck out former par. (2) which read as follows: "The amount determined under paragraph (1) for any fiscal year is the amount needed to be appropriated to the Department of Defense (or to the other executive department having jurisdiction over the participating uniformed service) for that fiscal year for payments to be made to the Fund during that year under section 1116(a) of this title. The President shall include not less than the full amount so determined in the budget transmitted to Congress for that fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount."

Subsec. (c)(1). Pub. L. 108–375, §725(c)(4), struck out "and section 1116(a) of this title" after "subsection (b)" in concluding provisions.

Subsec. (c)(5). Pub. L. 108–375, §725(c)(5), substituted "1116" for "1116(c)".

**2003**—Subsec. (a). Pub. L. 108–136, §722(c), substituted "section 1116(c) of this title" for "section 1116(b) of this title".

Subsec. (c)(1). Pub. L. 108–136, §722(a), inserted at end of concluding provisions "The Secretary of Defense may determine a separate single level dollar amount under subparagraph (A) or (B) for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service."

Subsec. (c)(1)(B). Pub. L. 108–136, §1045(a)(3), substituted "(other than members" for "and other than members".

Subsec. (c)(5). Pub. L. 108–136, §722(c), substituted "section 1116(c) of this title" for "section 1116(b) of this title".

**2001**—Subsec. (a). Pub. L. 107–107, §711(b)(3)(A), inserted "participating" before "uniformed services".

Subsec. (b)(1)(A)(ii), (B)(ii). Pub. L. 107–107, §711(b)(3)(B), inserted "under the jurisdiction of the Secretary of Defense" after "uniformed services".

Subsec. (b)(2). Pub. L. 107–107, §711(b)(3)(C), inserted "(or to the other executive department having jurisdiction over the participating uniformed service)" after "Department of Defense".

Subsec. (c)(1)(A), (B). Pub. L. 107–107, §711(b)(3)(D), inserted "participating" before "uniformed services".

Subsec. (c)(2). Pub. L. 107–107, §711(e)(1), substituted "uniformed services retiree health care programs" for "Department of Defense retiree health care programs".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective with respect to payments under this chapter beginning with fiscal year 2008, see section 592(c) of Pub. L. 109–364, set out as a note under section 1111 of this title.

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective Oct. 1, 2005, see section 725(d) of Pub. L. 108–375, set out as a note under section 1111 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 effective as if included in the enactment of this chapter by Pub. L. 106–398, see section 711(f) of Pub. L. 107–107, set out as a note under section 1111 of this title.

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VII, §713(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, provided that: "Section 1115 of such title (as added by such subsection) shall take effect on October 1, 2001."

## §1116. Payments into the Fund

(a) At the beginning of each fiscal year after September 30, 2005, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury—

(1) the amount certified to the Secretary by the Secretary of Defense under subsection (c), which shall be the contribution to the Fund for that fiscal year required by section 1115; and

(2) the amount determined by each administering Secretary under section 1111(c) as the contribution to the Fund on behalf of the members of the uniformed services under the jurisdiction of that Secretary.

(b) At the beginning of each fiscal year, the Secretary of Defense shall determine the sum of the following:

(1) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

(2) The amount (including any negative amount) of the Department of Defense contribution for that year as determined by the Secretary of Defense under section 1115(b) of this title.

(3) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

(4) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

(5) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

(c) The Secretary of Defense shall promptly certify the amount determined under subsection (b) each year to the Secretary of the Treasury.

(d) At the same time as the Secretary of Defense makes the certification under subsection (c), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the information provided to the Secretary of the Treasury under that subsection.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–182; amended Pub. L. 107–107, div. A, title VII, §711(b)(4), (d), (e)(1), title X, §1048(a)(13), Dec. 28, 2001, 115 Stat. 1165, 1166, 1223; Pub. L. 107–314, div. A, title VII, §704(a), Dec. 2, 2002, 116 Stat. 2584; Pub. L. 108–136, div. A, title VII, §722(b), Nov. 24, 2003, 117 Stat. 1532; Pub. L. 108–375, div. A, title VII, §725(a), Oct. 28, 2004, 118 Stat. 1991.)

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375 reenacted section catchline without change and amended text generally. Prior to amendment, section related to, in subsec. (a), calculation of the Department of Defense monthly contribution to the Fund, in subsec. (b), separate calculation by a participating uniformed service, in subsec. (c), payments to the Fund at the beginning of each fiscal year by the Secretary of the Treasury, and, in subsec. (d), amounts paid into the Fund under subsec. (a) from the pay of members of the participating uniformed services.

**2003**—Subsec. (a). Pub. L. 108–136, §722(b)(1), substituted "the amount that, subject to subsection (b)," for "the amount that" in introductory provisions.

Subsecs. (b) to (d). Pub. L. 108–136, §722(b)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

**2002**—Subsec. (c). Pub. L. 107–314 substituted "pay of members" for "health care programs".

**2001**—Subsec. (a)(1)(A). Pub. L. 107–107, §711(e)(1), substituted "uniformed services retiree health care programs" for "Department of Defense retiree health care programs".

Subsec. (a)(1)(B). Pub. L. 107–107, §711(b)(4), inserted "under the jurisdiction of the Secretary of Defense" after "uniformed services".

Subsec. (a)(2)(A). Pub. L. 107–107, §711(e)(1), substituted "uniformed services retiree health care programs" for "Department of Defense retiree health care programs".

Subsec. (a)(2)(B). Pub. L. 107–107, §1048(a)(13)(A), inserted an opening parenthesis before "other than for training".

Pub. L. 107–107, §711(b)(4), (d)(1), inserted "under the jurisdiction of the Secretary of Defense" after "uniformed services" and struck out at end "Amounts paid into the Fund under this subsection shall be paid from funds available for the Defense Health Program.".

Subsec. (b)(2)(D). Pub. L. 107–107, §1048(a)(13)(B), substituted "section 1115(c)(4)" for "section 111(c)(4)".

Subsec. (c). Pub. L. 107–107, §711(d)(2), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective Oct. 1, 2005, see section 725(d) of Pub. L. 108–375, set out as a note under section 1111 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 711 of Pub. L. 107–107 effective as if included in the enactment of this chapter by Pub. L. 106–398, see section 711(f) of Pub. L. 107–107, set out as a note under section 1111 of this title.

#### EFFECTIVE DATE

Section effective Oct. 1, 2002, see section 1 [[div. A], title VII, §713(b)(1)] of Pub. L. 106–398, set out as a note under section 1113 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### INAPPLICABILITY TO INDIAN HEALTH SERVICE

Pub. L. 108–7, div. F, title II, Feb. 20, 2003, 117 Stat. 261, provided in part: "That heretofore and hereafter the provisions of 10 U.S.C. 1116 shall not apply to the Indian Health Service".

#### FIRST YEAR CONTRIBUTIONS

Pub. L. 107–107, div. A, title VII, §711(g), Dec. 28, 2001, 115 Stat. 1167, provided that: "With respect to contributions under section 1116(a) of title 10, United States Code, for the first year that the Department of Defense Medicare-Eligible Retiree Health Care Fund is established under chapter 56 of such title, if the Board of Actuaries is unable to execute its responsibilities with respect to such section, the Secretary of Defense may make contributions under such section using methods and assumptions developed by the Secretary."

## §1117. Investment of assets of Fund

The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184.)

# CHAPTER 57—DECORATIONS AND AWARDS

Sec.
1121. Legion of Merit: award.
1122. Medal for Merit: award.
1123. Right to wear badges of military societies.
1124. Cash awards for disclosures, suggestions, inventions, and scientific achievements.
1124a. Cyber operations-peculiar awards.
1125. Recognition for accomplishments: award of trophies.
1126. Gold star lapel button: eligibility and distribution.
1127. Precedence of the award of the Purple Heart.
1128. Prisoner-of-war medal: issue.
1129. Purple Heart: members killed or wounded in action by friendly fire.
1129a. Purple Heart: members killed or wounded in attacks by foreign terrorist organizations.
1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review.
1131. Purple Heart: limitation to members of the armed forces.
1132. Presentation of decorations: prohibition on entering correctional facilities for presentation to prisoners convicted of serious violent felonies.
1133. Bronze Star: limitation on persons eligible to receive.
1134. Medal of honor: award to individual interred in Tomb of the Unknowns as representative of casualties of a war.
1134a. Medal of honor: Army, Navy, Air Force, and Coast Guard Medal of Honor Roll.
1135. Replacement of military decorations.
1136. Honorable service requirement for award of military decorations.

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263, div. A, title XV, §1531, Dec. 23, 2022, 136 Stat. 2900, added item 1124a.

**2019**—Pub. L. 116–92, div. A, title V, §582(a)(2), Dec. 20, 2019, 133 Stat. 1412, added item 1136.

**2014**—Pub. L. 113–291, div. A, title V, §571(a)(1)(B), Dec. 19, 2014, 128 Stat. 3387, added item 1129a.

**2013**—Pub. L. 113–66, div. A, title V, §563(a)(2), Dec. 26, 2013, 127 Stat. 767, added item 1134a.

**2011**—Pub. L. 111–383, div. A, title V, §571(b), Jan. 7, 2011, 124 Stat. 4223, added item 1133 and struck out former item 1133 "Bronze star: limitation to members receiving imminent danger pay".

**2008**—Pub. L. 110–417, [div. A], title V, §571(b), Oct. 14, 2008, 122 Stat. 4472, added item 1135.

**2004**—Pub. L. 108–375, div. A, title V, §561(b), Oct. 28, 2004, 118 Stat. 1918, added item 1134.

**2003**—Pub. L. 108–136, div. A, title X, §1031(a)(10)(B), Nov. 24, 2003, 117 Stat. 1597, struck out "and recommendation" after "review" in item 1130.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §541(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–114, added item 1133.

**1998**—Pub. L. 105–261, div. A, title V, §537(b), Oct. 17, 1998, 112 Stat. 2019, added item 1132.

**1997**—Pub. L. 105–85, div. A, title V, §571(a)(2), Nov. 18, 1997, 111 Stat. 1756, added item 1131.

**1996**—Pub. L. 104–106, div. A, title V, §526(b), Feb. 10, 1996, 110 Stat. 314, added item 1130.

**1993**—Pub. L. 103–160, div. A, title XI, §1141(b), Nov. 30, 1993, 107 Stat. 1757, added item 1129.

**1985**—Pub. L. 99–145, title V, §532(a)(2), title XII, §1225(a)(2)(B), Nov. 8, 1985, 99 Stat. 634, 730, inserted "disclosures," and substituted "and" for "or" in item 1124, and added item 1128.

**1984**—Pub. L. 98–525, title V, §553(b), Oct. 19, 1984, 98 Stat. 2532, added item 1127.

**1966**—Pub. L. 89–718, §9, Nov. 2, 1966, 80 Stat. 1117, redesignated item 1124, added by Pub. L. 89–534, §1(2), Aug. 11, 1966, 80 Stat. 345, as 1126.

Pub. L. 89–534, §1(2), Aug. 11, 1966, 80 Stat. 345, added item 1124, relating to eligibility for and distribution of gold star lapel button.

Pub. L. 89–529, §1(2), Aug. 11, 1966, 80 Stat. 339, added item 1125.

**1965**—Pub. L. 89–198, §1(2), Sept. 22, 1965, 79 Stat. 831, added item 1124, relating to payment of cash awards for members of armed forces for suggestions, inventions, or scientific achievements.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF THE ATOMIC VETERANS COMMEMORATIVE SERVICE MEDAL

Pub. L. 117–81, div. A, title V, §583, Dec. 27, 2021, 135 Stat. 1757, provided that:

"(a) SERVICE MEDAL REQUIRED.—The Secretary of Defense shall design and produce a commemorative military service medal, to be known as the 'Atomic Veterans Commemorative Service Medal', to commemorate the service and sacrifice of veterans who were instrumental in the development of our nations [sic] atomic and nuclear weapons programs.

"(b) ELIGIBILITY REQUIREMENTS.—(1) The Secretary of Defense shall, within 180 days after the date of enactment of this Act [Dec. 27, 2021], determine eligibility requirements for this medal.

"(2) Sixty days prior to publishing the eligibility requirements for this medal, the Secretary of Defense shall submit proposed eligibility criteria under paragraph (1) to the Committees on Armed Services of the Senate and House of Representatives for comment.

"(3) The Secretary of Defense may require persons to submit supporting documentation for the medal authorized in subsection (a) to determine eligibility under paragraph (1).

"(c) DISTRIBUTION OF MEDAL.—

"(1) ISSUANCE TO RETIRED AND FORMER MEMBERS.—At the request of an eligible veteran, the Secretary of Defense shall issue the Atomic Veterans Commemorative Service Medal to the eligible veteran.

"(2) ISSUANCE TO NEXT-OF-KIN.—In the case of a veteran who is deceased, the Secretary may provide for issuance of the Atomic Veterans Commemorative Service Medal to the next-of-kin of the persons. If applications for a medal are filed by more than one next of kin of a person eligible to receive a medal under this section, the Secretary of Defense shall determine which next-of-kin will receive the medal.

"(3) APPLICATION.—The Secretary shall prepare and disseminate as appropriate an application by which veterans and their next-of-kin may apply to receive the Atomic Veterans Service Medal.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum as may be necessary to carry out this section."

### DEVELOPMENT OF GUIDELINES FOR USE OF UNOFFICIAL SOURCES OF INFORMATION TO DETERMINE ELIGIBILITY OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES FOR DECORATIONS WHEN THE SERVICE RECORDS ARE INCOMPLETE BECAUSE OF DAMAGE TO THE OFFICIAL RECORD

Pub. L. 116–92, div. A, title V, §528, Dec. 20, 2019, 133 Stat. 1357, provided that:

"(a) GUIDELINES REQUIRED.—The Secretary of Defense shall develop guidelines regarding the use by the Secretaries of the military departments of unofficial sources of information, including eyewitness statements, to determine the eligibility of a member or former member of the Armed Forces for decorations when the service records of the member are incomplete because of damage to the records as a result of the 1973 fire at the National Personnel Records Center in St. Louis, Missouri, or any subsequent incident while the records were in the possession of the Department of Defense.

"(b) TIME FOR COMPLETION.—The Secretary of Defense shall complete development of the guidelines not later than one year after the date of the enactment of this Act [Dec. 20, 2019]."

### ATOMIC VETERANS SERVICE CERTIFICATE

Pub. L. 115–232, div. A, title V, §581, Aug. 13, 2018, 132 Stat. 1787, provided that:

"(a) SERVICE CERTIFICATE REQUIRED.—The Secretary of Defense shall design and produce a military service certificate, to be known as the 'Atomic Veterans Service Certificate', to honor retired and former members of the Armed Forces who are radiation-exposed veterans (as such term is defined in section 1112(c)(3) of title 38, United States Code).

"(b) DISTRIBUTION OF CERTIFICATE.—

"(1) ISSUANCE TO RETIRED AND FORMER MEMBERS.—At the request of a radiation-exposed veteran, the Secretary of Defense shall issue the Atomic Veterans Service Certificate to the veteran.

"(2) ISSUANCE TO NEXT-OF-KIN.—In the case of a radiation-exposed veteran who is deceased, the Secretary may provide for issuance of the Atomic Veterans Service Certificate to the next-of-kin of the person."

### AWARD OF MEDALS OR OTHER COMMENDATIONS TO HANDLERS OF MILITARY WORKING DOGS

Pub. L. 115–232, div. A, title V, §582, Aug. 13, 2018, 132 Stat. 1787, provided that:

"(a) PROGRAM OF AWARD REQUIRED.—Each Secretary of a military department shall carry out a program to provide for the award of one or more medals or other commendations to handlers of military working dogs under the jurisdiction of such Secretary to recognize valor or meritorious achievement by such handlers and dogs.

"(b) MEDALS AND COMMENDATIONS.—Any medal or commendation awarded pursuant to a program under subsection (a) shall be of such design, and include such elements, as the Secretary of the military department concerned shall specify. The Secretary concerned may use an existing award to carry out such program.

"(c) PRESENTATION AND ACCEPTANCE.—Any medal or commendation awarded pursuant to a program under subsection (a) may be presented to and accepted by the handler concerned on behalf of the handler and the military working dog concerned.

"(d) REGULATIONS.—Medals and commendations shall be awarded under programs under subsection (a) in accordance with regulations prescribed by the Secretary of Defense for purposes of this section."

## PROMOTIONAL MATERIALS AND RECOGNITION ITEMS FOR PARTICIPANTS IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM

Pub. L. 110–116, div. A, title VIII, §8099, Nov. 13, 2007, 121 Stat. 1337, provided that: "Hereafter, the Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations."

## REPORT ON DEPARTMENT OF DEFENSE PROCESS FOR AWARDING DECORATIONS

Pub. L. 109–364, div. A, title V, §557, Oct. 17, 2006, 120 Stat. 2219, provided that:

"(a) REVIEW.—The Secretary of Defense shall conduct a review of the policy, procedures, and processes of the military departments for awarding decorations to members of the Armed Forces.

"(b) TIME PERIODS.—As part of the review under subsection (a), the Secretary shall compare the time frames of the awards process between active duty and reserve components—

"(1) from the time a recommendation for the award of a decoration is submitted until the time the award of the decoration is approved; and

"(2) from the time the award of a decoration is approved until the time when the decoration is presented to the recipient.

"(c) RESERVE COMPONENTS.—If the Secretary, in conducting the review under subsection (a), finds that the timeliness of the awards process for members of the reserve components is not the same as, or similar to, that for members of the active components, the Secretary shall take appropriate steps to address the discrepancy.

"(d) REPORT.—Not later than August 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the Secretary's findings as a result of the review under subsection (a), together with a plan for implementing whatever changes are determined to be appropriate to the process for awarding decorations in order to ensure that decorations are awarded in a timely manner, to the extent practicable."

## SEPARATE MILITARY CAMPAIGN MEDALS TO RECOGNIZE SERVICE IN OPERATION ENDURING FREEDOM AND SERVICE IN OPERATION IRAQI FREEDOM

Pub. L. 109–163, div. A, title V, §576, Jan. 6, 2006, 119 Stat. 3274, provided that: "For purposes of eligibility for the campaign medal for Operation Enduring Freedom established pursuant to Public Law 108–234 (10 U.S.C. 1121 note), the beginning date of Operation Enduring Freedom is September 11, 2001."

Pub. L. 108–234, §1, May 28, 2004, 118 Stat. 655, provided that:

"(a) REQUIREMENT.—The President shall establish a campaign medal specifically to recognize service by members of the uniformed services in Operation Enduring Freedom and a separate campaign medal specifically to recognize service by members of the uniformed services in Operation Iraqi Freedom.

"(b) ELIGIBILITY.—Subject to such limitations as may be prescribed by the President, eligibility for a campaign medal established pursuant to subsection (a) shall be set forth in regulations to be prescribed by the Secretary concerned (as defined in section 101 of title 10, United States Code). In the case of regulations prescribed by the Secretaries of the military departments, the regulations shall be subject to approval by the Secretary of Defense and shall be uniform throughout the Department of Defense."

## COMMENDATION OF MEMBERS OF ARMED FORCES AND GOVERNMENT CIVILIAN PERSONNEL WHO SERVED DURING COLD WAR

Pub. L. 105–85, div. A, title X, §1084, Nov. 18, 1997, 111 Stat. 1919, provided that:

"(a) FINDINGS.—The Congress finds the following:

"(1) During the period of the Cold War, from the end of World War II until the collapse of the Soviet Union in 1991, the United States and the Soviet Union engaged in a global military rivalry.

"(2) This rivalry, potentially the most dangerous military confrontation in the history of mankind, has come to a close without a direct superpower military conflict.

"(3) Military and civilian personnel of the Department of Defense, personnel in the intelligence community, members of the foreign service, and other officers and employees of the United States faithfully performed their duties during the Cold War.

"(4) Many such personnel performed their duties while isolated from family and friends and served overseas under frequently arduous conditions in order to protect the United States and achieve a lasting peace.

"(5) The discipline and dedication of those personnel were fundamental to the prevention of a superpower military conflict.

"(b) CONGRESSIONAL COMMENDATION.—The Congress hereby commends the members of the Armed Forces and civilian personnel of the Government who contributed to the historic victory in the Cold War and expresses its gratitude and appreciation for their service and sacrifices.

"(c) CERTIFICATES OF RECOGNITION.—The Secretary of Defense shall prepare a certificate recognizing the Cold War service of qualifying members of the Armed Forces and civilian personnel of the Department of Defense and other Government agencies contributing to national security, as determined by the Secretary, and shall provide the certificate to such members and civilian personnel upon request."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 8809. GOOD CONDUCT MEDAL

Ex. Ord. No. 8809, June 28, 1941, 6 F.R. 3209, as amended by Ex. Ord. No. 9323, Mar. 31, 1943, 8 F.R. 4225; Ex. Ord. No. 10444, Apr. 10, 1953, 18 F.R. 2069; Ex. Ord. No. 14085, §2, Oct. 3, 2022, 87 F.R. 60541, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is ordered as follows:

There is hereby established the Good Conduct Medal, which shall include suitable appurtenances. Such medal may be awarded for exemplary behavior, efficiency, and fidelity, under such regulations as the Secretary of the Army and the Secretary of the Air Force shall severally prescribe, to those enlisted members of the Army of the United States and the United States Air Force who on or after August 27, 1940, and on or after December 20, 2019, in the case of the United States Space Force, had or shall have honorably completed three years of active Federal military service, or who after December 7, 1941, and on or after December 20, 2019, in the case of the United States Space Force, have or shall have honorably served one year of active Federal military service while the United States is at war, or who at the time of the termination of their active Federal military service have not previously been awarded a Good Conduct Medal and have completed a period of honorable service of less than three years if any part of that period of service has been performed after June 27, 1950, and on or after December 20, 2019, in the case of the United States Space Force: *Provided*, that no persons, except persons separated from the active Federal military service by reason of physical disability incurred in line of duty, shall be awarded such medal for a period of service of less than one year.

### EX. ORD. NO. 9158. AIR MEDAL

Ex. Ord. No. 9158, May 11, 1942, 7 F.R. 3541, as amended by Ex. Ord. No. 9242–A, Sept. 11, 1942, 7 F.R. 7874; Ex. Ord. No. 14085, §1, Oct. 3, 2022, 87 F.R. 60541, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered that an Air Medal, with accompanying ribbons, be established for award to those individuals who, while serving in any capacity in or with the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard of the United States, subsequent to September 8, 1939, distinguish, or have distinguished, themselves by meritorious achievement while participating in an aerial flight.

The Air Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense and, under such regulations as the Secretaries of the military departments may prescribe, may be

awarded by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, or by such commanding officers of the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard as the said Secretaries may respectively designate. Awards to personnel of the Coast Guard when serving under the jurisdiction of the Navy shall be made by or under the direction of the Secretary of the Navy.

No more than one Air Medal shall be awarded to any one person, but for each succeeding meritorious achievement justifying such an award a suitable bar or other device may be awarded to be worn with the medal as prescribed by appropriate regulations. In the event of a posthumous award the medal, bar, or device may be presented to such representative of the deceased as may be designated in the award.

The regulations of the Secretaries of the military departments concerned with respect to the award of the Air Medal shall, so far as practicable, be uniform and shall be subject to the approval of the Secretary of Defense.

## EX. ORD. NO. 10694. AUTHORIZING THE SECRETARIES OF THE ARMY, NAVY, AND AIR FORCE TO ISSUE CITATIONS IN THE NAME OF THE PRESIDENT OF THE UNITED STATES TO MILITARY AND NAVAL UNITS FOR OUTSTANDING PERFORMANCE IN ACTION

Ex. Ord. No. 10694, Jan. 10, 1957, 22 F.R. 253, as amended by Ex. Ord. No. 13286, §74, Feb. 28, 2003, 68 F.R. 10631; Ex. Ord. No. 14085, §3, Oct. 3, 2022, 87 F.R. 60542, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

1. The Secretaries of the Army, the Navy, and the Air Force, respectively, are hereby authorized to issue a citation in the name of the President of the United States, as public evidence of deserved honor and distinction, to any organization, detachment, installation, ship, aircraft, or other unit for outstanding performance in action on or after October 16, 1941, in the case of the Navy or Marine Corps, and on or after December 7, 1941, in the case of the Army or the Air Force, and on or after December 20, 2019, in the case of the Space Force. Such citations may also be issued to units of armed forces of cobelligerent nations serving with the armed forces of the United States for outstanding performance in action on or after December 7, 1941; provided that such units shall meet the standards established for the armed forces of the United States.

2. Appropriate insignia of such form and design as may be determined by the Secretary concerned may be displayed by any organization, detachment, installation, ship, aircraft, or other unit to which such citation is issued.

3. After any unit is cited pursuant to paragraph 1 hereof for outstanding performance in action, a ribbon identifying such citation shall be issued and shall become a permanent part of the uniform of those persons assigned or attached thereto who were actually present and participated in the action for which the unit was cited, or in one of the actions if more than one action is mentioned in the citation, whether they thereafter serve with such unit or with a different unit. Such persons are authorized to wear an appropriate additional device for any subsequent citation for which they are eligible, made either to the same unit or to a unit to which they are subsequently assigned. If authorized by the Secretary concerned, persons assigned to a unit subsequent to an action for which it was cited, may wear the citation ribbon while so assigned.

4. This order supersedes Executive Orders No. 9050 of February 6, 1942, and No. 9396 of November 22, 1943.

5. The Secretary of the Department in which the Coast Guard is operating may exercise the same authority with respect to the Coast Guard under this order as the Secretary of the Navy may exercise with respect to the Navy and the Marine Corps under this order.

## EX. ORD. NO. 11448. MERITORIOUS SERVICE MEDAL

Ex. Ord. No. 11448, Jan. 16, 1969, 34 F.R. 915, as amended by Ex. Ord. No. 12312, July 2, 1981, 46 F.R. 35251; Ex. Ord. No. 13286, §61, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. There is hereby established a Meritorious Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of a Military Department or the Secretary of Homeland Security with regard to the Coast Guard when not operating as a service in the Navy, or by such military commanders or other appropriate officers as the Secretary concerned may designate, to any member of the armed forces of the United States, or to any member of the armed forces of a friendly foreign nation, who has distinguished himself by outstanding meritorious achievement or service.

SEC. 2. The Meritorious Service Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense, and shall be awarded under such regulations as the Secretary concerned may prescribe. Such regulations shall, so far as practicable, be uniform, and those of the military departments shall be subject to the approval of the Secretary of Defense.

SEC. 3. No more than one Meritorious Service Medal shall be awarded to any one person, but for each succeeding outstanding meritorious achievement or service justifying such an award a suitable device may be awarded to be worn with the medal as prescribed by appropriate regulations.

SEC. 4. The Meritorious Service Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of the department concerned.

## EXECUTIVE ORDER NO. 11544

Ex. Ord. No. 11544, July 8, 1970, 35 F.R. 11115, which established a Vice Presidential Service Certificate and a Vice Presidential Service Badge, was superseded by Ex. Ord. No. 11926, July 19, 1976, 41 F.R. 29805, set out below.

## EX. ORD. NO. 11904. DEFENSE SUPERIOR SERVICE MEDAL

Ex. Ord. No. 11904, Feb. 6, 1976, 41 F.R. 5625, provided:

By virtue of the authority vested in me as President of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established a Defense Superior Service Medal with accompanying ribbons and appurtenances for award by the Secretary of Defense to any member of the Armed Forces of the United States who has rendered superior meritorious service in a position of significant responsibility with the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, a specified or unified command, a Defense agency, or such other joint activity as may be designated by the Secretary of Defense.

SEC. 2. The Defense Superior Service Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense and shall be awarded under such regulations as he shall prescribe. These regulations shall place the Defense Superior Service Medal in an order of precedence after the Medal of Honor, the Distinguished Service Cross, the Defense Distinguished Service Medal, the Distinguished Service Medal and the Silver Star Medal, but before the Legion of Merit.

SEC. 3. No more than one Defense Superior Service Medal shall be awarded to any one person, but for each succeeding period of superior meritorious service justifying such an award, a suitable device may be awarded to be worn with that Medal as prescribed by appropriate regulations of the Department of Defense.

SEC. 4. The Defense Superior Service Medal or device may be awarded posthumously, and when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense.

GERALD R. FORD.

## EX. ORD. NO. 11926. VICE PRESIDENTIAL SERVICE BADGE

Ex. Ord. No. 11926, July 19, 1976, 41 F.R. 29805, as amended by Ex. Ord. No. 13286, §56, Feb. 28, 2003, 68 F.R. 10629; Ex. Ord. No. 13373, §1, Mar. 10, 2005, 70 F.R. 12579; Ex. Ord. No. 14131, §2, Dec. 20, 2024, 89 F.R. 105377, provided:

By virtue of the authority vested in me as President of the United States of America, and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. There is established a Vice Presidential Service Badge to be awarded in the name of the Vice President of the United States of America to members of the United States Uniformed Services who have been assigned to duty in the Office of the Vice President for a period of at least 1 year subsequent to December 19, 1974, or who have been assigned to perform duties predominantly for the Vice President for a period of at least 1 year subsequent to January 20, 2001, in the implementation of Public Law 93–346, as amended [3 U.S.C. 111 note], or in military units and support facilities to which section 1 of Executive Order 12793 of March 20, 1992, as amended [set out below], refers.

SEC. 2. The Vice Presidential Service Badge may be awarded, upon recommendation of the Vice President's designee (with the concurrence of the Director of the White House Military Office in the case of personnel in military units or support facilities to which section 1 of Executive Order 12793, as amended, refers), by the Secretary of the military department concerned, or, when the Coast Guard is not operating as a service in the Navy, by the Secretary of Homeland Security, to military personnel of their respective services who have been assigned to duty in the Office of the Vice President and, in the case of members of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps

of the Public Health Service so assigned, by the Secretary of Commerce or the Secretary of Health and Human Services, respectively.

SEC. 3. The Vice Presidential Service Badge shall be accompanied by a certificate, the design of which is attached hereto and is made a part of this Order. The Vice Presidential Service Badge shall consist of a white enameled disc surrounded by 27 gold rays radiating from the center, 115/16 inches in diameter overall. Superimposed on the white disc shall be a gold color device taken from the seal of the Vice President of the United States. The overall design of the badge shall be as shown at the top of the certificate which accompanies the Badge and which is attached to this Order.

SEC. 4. Upon award, the Vice Presidential Service Badge may be worn as a part of the uniform of an individual both during and after their assignment to duty in the Office of the Vice President.

SEC. 5. Only one Vice Presidential Service Badge shall be awarded to an individual. It may be awarded posthumously. No award shall be made to an individual under this Order based on a period of service with respect to which, in whole or in part, the individual was awarded the Presidential Service Badge.

SEC. 6. Notwithstanding the provisions of sections 1 and 2 of this order, any member of the United States Uniformed Services, who has been assigned to duty in the Office of the Vice President, or who has been assigned to perform duties predominantly for the Vice President, in the implementation of Public Law 93–346, as amended, or in military units and support facilities to which section 1 of Executive Order 12793, as amended, refers, is authorized, unless otherwise directed by the Director of the White House Military Office in the case of personnel in military units and support facilities to which section 1 of Executive Order 12793, as amended, refers, to wear the Vice Presidential Service Badge on their uniform commencing on the first day of such duty and thereafter while assigned to such duty.

SEC. 7. Executive Order No. 11544 of July 8, 1970, is hereby superseded; however, individuals previously awarded a Vice Presidential Service Badge under that Order are authorized to continue to wear such badge as part of their uniform.

## EX. ORD. NO. 11965. HUMANITARIAN SERVICE MEDAL

Ex. Ord. No. 11965, Jan. 19, 1977, 42 F.R. 4329, as amended by Ex. Ord. No. 13286, §55, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me as President of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established a Humanitarian Service Medal with accompanying ribbons and appurtenances for award by the Secretary of Defense or the Secretary of Homeland Security with regard to the Coast Guard when not operating as a Service in the Navy. Individuals eligible for the medal are members of the Armed Forces of the United States (including Reserve Components) who, subsequent to April 1, 1975, distinguished themselves by meritorious participation in a military act or operation of a humanitarian nature. The Secretary of Defense and the Secretary of Homeland Security for the Coast Guard will determine types of acts or operations that warrant award of the medal.

SEC. 2. The Humanitarian Service Medal and ribbons and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense and shall be awarded by the Secretary of Defense and the Secretary of Homeland Security for the Coast Guard under uniform regulations, as prescribed by the Secretary of Defense. The regulations shall place the Humanitarian Service Medal in an order of precedence immediately after the Vietnam Service Medal.

SEC. 3. No more than one Humanitarian Service Medal shall be awarded to any one person, but for each subsequent participation in a humanitarian act or operation justifying such an award, a suitable device may be awarded to be worn with that medal as prescribed by appropriate regulations of the Military Departments.

SEC. 4. The Humanitarian Service Medal or device may be awarded posthumously, and when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense or the Secretary of Homeland Security.

## EX. ORD. NO. 12019. DEFENSE MERITORIOUS SERVICE MEDAL

Ex. Ord. No. 12019, Nov. 3, 1977, 42 F.R. 57945, as amended by Ex. Ord. No. 13666, Apr. 18, 2014, 79 F.R. 22591, provided:

By virtue of the authority vested in me as President of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established a Defense Meritorious Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Defense to any member of the Armed Forces of the United States, or to any member of the armed forces of a friendly foreign nation, who has rendered outstanding

non-combat meritorious achievement or service while assigned to the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, a specified or unified command, a Defense agency, or other such joint activity as may be designated by the Secretary of Defense.

SEC. 2. The Defense Meritorious Service Medal, with accompanying ribbons and appurtenances, shall be of appropriate design approved by the Secretary of Defense and shall be awarded under such regulations as the Secretary of Defense may prescribe. These regulations shall place the Defense Meritorious Service Medal in an order of precedence after the Medal of Honor, the Distinguished Service Cross, the Defense Distinguished Service Medal, the Distinguished Service Medal, the Silver Star Medal, the Defense Superior Service Medal, the Legion of Merit Medal, and the Bronze Star Medal, but before the Meritorious Service Medal.

SEC. 3. No more than one Defense Meritorious Service Medal shall be awarded to any one person, but for each succeeding outstanding meritorious achievement or service justifying such an award a suitable device to be worn with that medal may be awarded under such regulations as the Secretary of Defense may prescribe.

SEC. 4. The Defense Meritorious Service Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense.

## EX. ORD. NO. 12793. PRESIDENTIAL SERVICE CERTIFICATE AND PRESIDENTIAL SERVICE BADGE

Ex. Ord. No. 12793, Mar. 20, 1992, 57 F.R. 10281, as amended by Ex. Ord. No. 13286, §31, Feb. 28, 2003, 68 F.R. 10625; Ex. Ord. No. 14131, §1, Dec. 20, 2024, 89 F.R. 105377, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and as Commander in Chief of the Armed Forces of the United States, it is ordered of follows:

SECTION 1. *Presidential Service Certificate*. The Presidential Service Certificate (Certificate) is hereby continued, the design of which accompanies and is hereby made a part of this order. The Certificate shall be awarded in the name of the President of the United States to members of the United States Uniformed Services who have been assigned to the White House Office; to military units and support facilities under the administration of the White House Military Office; or to other direct support positions within the Executive Office of the President (EOP). The Certificate shall be awarded by the Secretary of the military department concerned, or, when the Coast Guard is not operating as a service in the Navy, by the Secretary of Homeland Security, and, in the case of members of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of the Public Health Service, by the Secretary of Commerce or the Secretary of Health and Human Services, respectively. The Certificate shall not be issued to any member who is issued a Vice Presidential Certificate, or similar EOP Certificate, for the same period of service. Such assignment must be for a period of at least 1 year, subsequent to January 21, 1989.

SEC. 2. *Presidential Service Badge*. The Presidential Service Badge (Badge) is hereby continued, the design of which accompanies and is hereby made a part of this order. The Badge shall be awarded to those members of the United States Uniformed Services who have been granted the Certificate and shall be awarded in the same manner in which the Certificate has been given. The Badge shall be worn as a part of the uniform of those individuals under such regulations as their respective Secretaries may severally prescribe.

SEC. 3. Only one Certificate may be awarded to an individual.

SEC. 4. The Certificate and the Badge may be granted posthumously.

SEC. 5. This order shall supersede Executive Order No. 10879 of June 1, 1960, as amended.

## EX. ORD. NO. 12830. MILITARY OUTSTANDING VOLUNTEER SERVICE MEDAL

Ex. Ord. No. 12830, Jan. 9, 1993, 58 F.R. 4061, as amended by Ex. Ord. No. 13286, §28, Feb. 28, 2003, 68 F.R. 10625, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

SECTION 1. There is hereby established a Military Outstanding Volunteer Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security. Members of the Armed Forces of the United States (including Reserve components) who perform outstanding volunteer service to the civilian community of a sustained, direct, and consequential nature are eligible for the medal.

SEC. 2. The Military Outstanding Volunteer Service Medal and ribbons and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense. The Secretary of Defense shall prescribe regulations to govern the award and wear of the Military Outstanding Volunteer Service Medal. The regulations shall place the Military Outstanding Volunteer Service Medal in order of precedence immediately after the Humanitarian Service Medal.

SEC. 3. No more than one award of the Military Outstanding Volunteer Service Medal may be made to any one person, but for each subsequent act justifying such an award, a suitable device may be awarded to be worn with that medal as prescribed by appropriate regulations issued by the Secretary of Defense.

SEC. 4. The Military Outstanding Volunteer Service Medal may be awarded posthumously, and when so awarded, may be presented to such representatives of the deceased as may be deemed appropriate by the Secretary of Defense or, in the case of a member of the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security.

## EX. ORD. NO. 12985. ESTABLISHING ARMED FORCES SERVICE MEDAL

Ex. Ord. No. 12985, Jan. 11, 1996, 61 F.R. 1209, as amended by Ex. Ord. No. 13286, §20, Feb. 28, 2003, 68 F.R. 10624, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. *Establishment*. There is hereby established the Armed Forces Service Medal with accompanying ribbons and appurtenances, for award to members of the Armed Forces of the United States who, on or after June 1, 1992, in the opinion of the Joint Chiefs of Staff: (a) Participate, or have participated, as members of United States military units in a United States military operation in which personnel of any Armed Force participate that is deemed to be significant activity; and

(b) Encounter no foreign armed opposition or imminent hostile action.

SEC. 2. *Approval and Award*. The medal, with ribbons and appurtenances, shall be of an appropriate design approved by the Secretary of Defense and shall be awarded by the Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, under uniform regulations, as prescribed by the Secretary of Defense. The regulations shall place the Armed Forces Service Medal in an order of precedence immediately before the Humanitarian Service Medal.

SEC. 3. *Criteria*. The medal shall be awarded only for operations for which no other United States service medal is approved. For operations in which personnel of only one Military Department or the Coast Guard participate, the medal shall be awarded only if there is no other suitable award available to the department or the Coast Guard. No more than one medal shall be awarded to any one person, but for each succeeding operation justifying such award a suitable device may be awarded to be worn on the medal or ribbon as prescribed by appropriate regulations.

SEC. 4. *Posthumous Provision*. The medal may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense or the Secretary of Transportation [sic].

## EX. ORD. NO. 13306. ESTABLISHING THE BOB HOPE AMERICAN PATRIOT AWARD

Ex. Ord. No. 13306, May 28, 2003, 68 F.R. 33337, provided:

By the authority vested in me as President and as Commander in Chief by the Constitution and the laws of the United States of America, it is ordered as follows:

SECTION 1. *Establishment of the Award*. In order to encourage love of country, service to the people of the United States, and support for our Armed Forces, and in order to recognize the unique and lifelong service of Bob Hope to the United States Armed Forces and to the Nation through his unwavering patriotism and dedication to maintaining the morale of the troops he entertained for nearly six decades, and on the occasion of his 100th birthday, there is hereby established the Bob Hope American Patriot Award (Award).

SEC. 2. *Granting and Presentation of the Award.*

(a) The Award may be granted by the President, in his sole discretion, to any civilian individual who has demonstrated extraordinary love of country and devotion to the personnel of the United States Armed Forces, in the form of true patriotism. The Award may also be granted by the President to an organization that meets the same criteria.

(b) Other than in exceptional circumstances, no more than one Award may be granted in any given year.

(c) The presentation of the Award may take place at any time during the year.

(d) Subject to the provisions of this order, the Award may be conferred posthumously.

GEORGE W. BUSH.

## EX. ORD. NO. 13830. DELEGATION OF AUTHORITY TO APPROVE CERTAIN MILITARY DECORATIONS

Ex. Ord. No. 13830, Apr. 20, 2018, 83 F.R. 18191, as amended by Ex. Ord. No. 14085, §5, Oct. 3, 2022, 87 F.R. 60542, provided:

For the purpose of carrying into effect the provisions of sections 1121, 7272, 7273, 7276, 7279, 7280, 8292, 8293, 8294, 8295, 8296, 9272, 9273, 9276, 9279, 9280, and 9280a of title 10, and sections 2735, 2736, 2737, 2738, and 2739 of title 14, United States Code, the following rules and regulations pertaining to the award of the Distinguished Service Cross, Navy Cross, Air Force Cross, Coast Guard Cross, Distinguished Service Medal, Silver Star Medal, Legion of Merit, Distinguished Flying Cross, Soldier's Medal, Navy and Marine Corps Medal, Airman's Medal, and Coast Guard Medal are promulgated:

SECTION 1. *Distinguished Service Cross, Navy Cross, Air Force Cross, and Coast Guard Cross*. The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Distinguished Service Cross, Navy Cross, Air Force Cross, and Coast Guard Cross in the name of the President to those individuals who, while serving in any capacity with the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard, as the case may be, distinguish themselves by extraordinary heroism not justifying award of the Medal of Honor:

(a) while engaged in an action against an enemy of the United States;

(b) while engaged in military operations involving conflict with an opposing foreign force or, with respect to the Coast Guard, an international terrorist organization; or

(c) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

SEC. 2. *Distinguished Service Medal*. The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Distinguished Service Medal of each of the respective Armed Forces of the United States in the name of the President to those individuals who, while serving in any capacity with the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard, as the case may be, distinguish themselves by exceptionally meritorious service to the United States in a duty of great responsibility.

SEC. 3. *Silver Star Medal*. The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Silver Star Medal in the name of the President to any person who, while serving in any capacity with the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard, as the case may be, is cited for gallantry in action that does not warrant award of the Medal of Honor, Distinguished Service Cross, Navy Cross, Air Force Cross, or Coast Guard Cross:

(a) while engaged in an action against an enemy of the United States;

(b) while engaged in military operations involving conflict with an opposing foreign force or, with respect to the Coast Guard, an international terrorist organization; or

(c) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

SEC. 4. *Legion of Merit.*

(a) The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Legion of Merit, without degree, in the name of the President to members of the Armed Forces of the United States, who, after September 8, 1939, distinguish themselves by exceptionally meritorious conduct in performing outstanding services.

(b) The Secretary of Defense, after concurrence by the Secretary of State, may award the Legion of Merit, in the degrees of Commander, Officer, and Legionnaire, to a member of the armed forces of friendly foreign nations.

(c) The Secretary of Defense, after concurrence by the Secretary of State, shall submit to the President for approval, recommendations for award of the Legion of Merit, in the degree of Chief Commander, to a member of the armed forces of friendly foreign nations.

SEC. 5. *Distinguished Flying Cross.*

(a) The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Distinguished Flying Cross in the name of the President to eligible persons identified in subsection (b) who, while serving in any capacity with the Army, Navy, Marine Corps, Air Force, or Coast Guard, distinguish themselves by heroism or extraordinary achievement while participating in an aerial flight aboard an aircraft or spacecraft.

(b)(i) Any member of the Armed Forces of the United States, including a member not on active duty, who, while participating in an aerial flight aboard an aircraft or spacecraft, performs official duties incident to such membership is eligible for the award of the Distinguished Flying Cross.

(ii) Any member of the armed forces of a friendly foreign nation who, while serving with the Armed Forces of the United States, participates in an aerial flight aboard an aircraft or spacecraft and performs official duties incident to such membership is eligible for the award of the Distinguished Flying Cross.

(iii) Civilians are not eligible for the award of the Distinguished Flying Cross.

(c) No Distinguished Flying Cross may be awarded or presented to any person, or to that person's representative, if the person's service after the qualifying act or achievement has not been honorable.

(d) With regard to the award of the Distinguished Flying Cross for a qualifying act or achievement performed:

(i) on or before July 2, 1926, no award shall be made after July 2, 1929, unless the award recommendation was made on or before July 2, 1928, in which case the award may be made;

(ii) between December 7, 1941, and September 2, 1945, no award shall be made after May 2, 1952, unless the award recommendation was made on or before May 2, 1951, in which case the award may be made;

(iii) between September 3, 1945, and twelve o'clock noon on December 31, 1946 (the date and time World War II hostilities were terminated pursuant to Proclamation 2714 of December 31, 1946 [50 U.S.C. note prec. 1]), no award shall be made unless the award recommendation was made on or before June 30, 1947;

(iv) between July 2, 1926, and September 10, 2001, with the exception of a qualifying act or achievement authorized pursuant to paragraphs (ii) or (iii) of this subsection, no award shall be made more than 3 years after the date of the qualifying act or achievement unless the award recommendation was made within 2 years of the qualifying act or achievement; or

(v) on or after September 11, 2001, no award shall be made except in accordance with any time limitations established in regulations by the Secretary of the military department concerned or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(e) The Distinguished Flying Cross may be awarded posthumously. When so awarded, it may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(f) Not more than one Distinguished Flying Cross may be awarded to any one person. For each succeeding act of heroism or extraordinary achievement justifying such an award, a suitable bar or other device may be awarded to be worn with the medal.

SEC. 6. *Soldier's Medal, Navy and Marine Corps Medal, Airman's Medal, and Coast Guard Medal.*

(a) The Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may award the Soldier's Medal, Navy and Marine Corps Medal, Airman's Medal, and Coast Guard Medal in the name of the President to those individuals who, while serving in any capacity with the Army, Navy, Marine Corps, Air Force, or Coast Guard, as the case may be, distinguish themselves by heroism not involving actual conflict with an enemy.

(b) The Secretary of the Navy may award the Navy and Marine Corps Medal to any person to whom the Secretary of the Navy, before August 7, 1942, awarded a letter of commendation for heroism, and who applies for that medal, regardless of the date of the act of heroism.

(c) Not more than one Soldier's Medal, Navy and Marine Corps Medal, Airman's Medal, or Coast Guard Medal may be awarded to any one person. For each succeeding act of heroism justifying such an award, a suitable bar or other device may be awarded to be worn with the medal.

SEC. 7. *Regulations*. The Secretary of the military department concerned, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe such regulations as they may deem appropriate to carry out this order. The regulations of the Secretaries of the military departments concerned with respect to the award of the Silver Star Medal, Distinguished Flying Cross, and Legion of Merit shall, so far as practicable, be uniform and shall be subject to the approval of the Secretary of Defense.

SEC. 8. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order supersedes Executive Order 4601 of March 1, 1927, as amended, and Executive Order 9260 of October 29, 1942, as amended. However, existing regulations prescribed pursuant to those orders, shall, so far as they are not inconsistent with this order, remain in effect until modified or revoked by regulations prescribed by the Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, under this order.

(d) This order is not intended to, and does not, invalidate any award of military decorations covered by this order made prior to the effective date of this order.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural,

enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## §1121. Legion of Merit: award

The President, under regulations to be prescribed by him, may award a decoration called the "Legion of Merit", having suitable appurtenances and devices and not more than four degrees, to any member of the armed forces of the United States or of any friendly foreign nation who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services.

(Aug. 10, 1956, ch. 1041, 70A Stat. 88.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1121 | 10:1408b(1). | July 20, 1942, ch. 508, §2(1), 56 Stat. 662. |

The words "Government of the Philippines" are omitted as covered by the words "any friendly foreign nation". The words "There is created", "rules and", and "the proclamation of an emergency by the President on" are omitted as surplusage.

## §1122. Medal for Merit: award

The President, under regulations to be prescribed by him, may award a decoration called the "Medal for Merit", having distinctive appurtenances and devices and only one degree, to any civilian of any nation prosecuting the war in existence on July 20, 1942, under the joint declaration of the United Nations, as then constituted, or of any other friendly foreign nation, who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services. The Medal for Merit may be awarded to a civilian of a foreign nation but only for performing an exceptionally meritorious or courageous act in the furtherance of the war efforts of the United Nations as then constituted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 88.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1122 | 10:1408b (less (1)). | July 20, 1942, ch. 508, §2 (less (1)), 56 Stat. 663. |

The words "in existence on July 20, 1942" are inserted for clarity and refer to the war in existence on the date of enactment of the source statute. The words "as then constituted" are inserted for clarity, since the United Nations organization in existence on July 20, 1942, was not the present United Nations organization. The words "There is created", "rules and", and "the proclamation of an emergency by the President on" are omitted as surplusage.

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 9637. MEDAL FOR MERIT**

Ex. Ord. No. 9637, Oct. 3, 1945, 10 F.R. 12543, as amended by Ex. Ord. No. 9857A, May 27, 1947, 12 F.R. 3583, provided:

1. The decoration of the Medal for Merit shall be awarded only by the President of the United States or at his direction. Awards of the Medal for Merit may be made to such civilians of the nations prosecuting the war under the joint declaration of the United Nations and of other friendly foreign nations as have distinguished

themselves by exceptionally meritorious conduct in the performance of outstanding services since the proclamation of an emergency by the President on September 8, 1939. Awards of the Medal for Merit made to civilians of foreign nations shall be for the performance of an exceptionally meritorious or courageous act or acts in furtherance of the war efforts of the United Nations.

2. There is hereby established the Medal for Merit Board, which shall be composed of three members appointed by the President, one of whom shall be designated by the President to act as Chairman of the Board.

3. The Medal for Merit Board shall receive and consider proposals for the award of the decoration of the Medal for Merit and submit to the President the recommendations of the Board with respect thereto. In the case of proposed awards to civilians of foreign nations, such recommendations shall include the recommendations of the Secretary of State.

4. The Medal for Merit Board is authorized to prescribe, with the approval of the President, such rules and regulations not inconsistent with the provisions of this order as may be necessary to accomplish its purposes.

5. Executive Order 9331 of April 19, 1943 and the Medal for Merit Board created thereby, are superseded by this order.

6. The Medal for Merit shall not be awarded for any services relating to the prosecution of World War II performed subsequent to the cessation of hostilities, as proclaimed by Proclamation No. 2714 of December 31, 1946, and no proposal for an award for such services submitted after June 30, 1947, shall be considered by the Medal for Merit Board.

## §1123. Right to wear badges of military societies

(a) A member of the Army, Navy, Air Force, Marine Corps, or Space Force who is a member of a military society originally composed of men who served in an armed force of the United States during the Revolutionary War, the War of 1812, the Mexican War, the Civil War, the Spanish-American War, the Philippine Insurrection, or the Chinese Relief Expedition of 1900 may wear, on occasions of ceremony, the distinctive badges adopted by that society.

(b) A member of the Army, Navy, Air Force, Marine Corps, or Space Force who is a member of the Army and Navy Union of the United States may wear, on public occasions of ceremony, the distinctive badges adopted by that society.

(Aug. 10, 1956, ch. 1041, 70A Stat. 88; Pub. L. 116–283, div. A, title IX, §924(b)(3)(Q), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1123(a) | 10:1427 (1st sentence).<br>34:371 (1st sentence). | Sept. 25, 1890, J. Res. 50, 26 Stat. 681. |
| 1123(b) | 10:1427 (less 1st sentence).<br>34:371 (less 1st sentence). | May 11, 1894, J. Res. 26, 28 Stat. 583.<br>Feb. 2, 1901, ch. 192, §41, 31 Stat. 758.<br>Jan. 12, 1903, J. Res. 2, 32 Stat. 1229.<br>Mar. 2, 1907, J. Res. 18, 34 Stat. 1423. |

In subsection (a), the words "an armed force" are substituted for the words "armies and navies". The words "Revolutionary War", "Civil War", and "Philippine Insurrection" are substituted for the words "War of the Revolution", "War of the Rebellion", and "incident insurrection in the Philippines", respectively, to reflect present terminology. The words "originally composed" are substituted for the words "in their own right", to reflect an opinion of the Attorney General (see 23 Op. Atty. Gen. 454).

In subsections (a) and (b), the word "member" is substituted for the words "officers and enlisted men". The words "Navy * * * or Marine Corps" are substituted for the word "Navy", since the word "Navy" in the source statute has, by long-standing administrative interpretation, been construed to include the Marine Corps.

In subsection (b), the words "in their own right" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" in subsecs. (a) and (b).

## §1124. Cash awards for disclosures, suggestions, inventions, and scientific achievements

(a) The Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may authorize the payment of a cash award to, and incur necessary expense for the honorary recognition of, a member of the armed forces under his jurisdiction who by his disclosure, suggestion, invention, or scientific achievement contributes to the efficiency, economy, or other improvement of operations or programs relating to the armed forces.

(b) Whenever the President considers it desirable, the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, are authorized to pay a cash award to, and incur necessary expense for the honorary recognition of, a member of the armed forces who by his disclosure, suggestion, invention, or scientific achievement contributes to the efficiency, economy, or other improvement of operations of the Government of the United States. Such award is in addition to any other award made to that member under subsection (a).

(c) An award under this section may be paid notwithstanding the member's death, separation, or retirement from the armed force concerned. However, the disclosure, suggestion, invention, or scientific achievement forming the basis for the award must have been made while the member was on active duty or in an active reserve status and not otherwise eligible for an award under chapter 45 of title 5.

(d) A cash award under this section is in addition to the pay and allowances of the recipient. The acceptance of such an award shall constitute—

(1) an agreement by the member that the use by the United States of any idea, method, or device for which the award is made may not be the basis of a claim against the United States by the member, his heirs, or assigns, or by any person whose claim is alleged to be derived through the member; and

(2) a warranty by the member that he has not at the time of acceptance transferred, assigned, or otherwise divested himself of legal or equitable title in any property right residing in the idea, method, or device for which the award is made.

(e) Awards to, and expenses for the honorary recognition of, members of the armed forces under this section may be paid from (1) the funds or appropriations available to the activity primarily benefiting; or (2) the several funds or appropriations of the various activities benefiting, as may be determined by the President for awards under subsection (b), and by the Secretary concerned for awards under subsection (a).

(f) The total amount of the award, or awards, made under this section for a disclosure, suggestion, invention, or scientific achievement may not exceed $25,000, regardless of the number of persons who may be entitled to share therein.

(g) Awards under this section shall be made under regulations to be prescribed by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(h) For the purposes of this section, a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or of the Public Health Service who is serving with an armed force shall be treated as if he were a member of that armed force.

(Added Pub. L. 89–198, §1(1), Sept. 22, 1965, 79 Stat. 830; amended Pub. L. 89–718, §10, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90–623, §2(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–470, title I, §112(c), Oct. 19, 1980, 94 Stat. 2240; Pub. L. 96–513, title V, §511(40), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 96–527, title VII, §772, Dec. 15, 1980, 94 Stat. 3093; Pub. L. 99–145, title XII,

§1225(a)(1), (2)(A), Nov. 8, 1985, 99 Stat. 730; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## EDITORIAL NOTES

### CODIFICATION

Another section 1124 was renumbered 1126 of this title.

### AMENDMENTS

**2002**—Subsecs. (a), (b), (g). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1985**—Pub. L. 99–145 inserted "disclosures," and substituted "and" for "or" in section catchline, and inserted "disclosure," before "suggestion" in subsecs. (a), (b), (c), and (f).

**1980**—Subsec. (c). Pub. L. 96–527 authorized payment of awards to retired members of the armed forces, required the basis for awards to have been made when in an active reserve status, and required the member to be ineligible for incentive award under chapter 45 of title 5.

Subsec. (g). Pub. L. 96–470 struck out provision requiring the Secretary of Defense and the Secretary of Transportation to annually report to the President, for transmittal to Congress, on progress of the awards program.

Subsec. (h). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1968**—Subsecs. (a), (b), (g). Pub. L. 90–623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

**1966**—Subsec. (g). Pub. L. 89–718 substituted "progress report" for "program report".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title XII, §1225(a)(3), Nov. 8, 1985, 99 Stat. 730, provided that: "The amendments made by this subsection [amending this section] shall take effect on October 1, 1985."

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## EXECUTIVE DOCUMENTS

### TRANSFER OF FUNCTIONS

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

### EX. ORD. NO. 11438. PROCEDURES GOVERNING INTERDEPARTMENTAL CASH AWARDS

Ex. Ord. No. 11438, Dec. 3, 1968, 33 F.R. 18085, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 13286, §63, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by section 1124(b) and (e) of title 10, United States Code, and section 301 of title 3, United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. Any suggestion, invention, or scientific achievement by a member of the armed forces that contributes to the efficiency, economy, or other improvement of operations of the Government of the United States through its adoption or use by an executive department or agency other than the executive department

having jurisdiction over the armed force of the member concerned may be the basis for honorary recognition or a cash award by the Secretary of Homeland Security in the case of a member of the Coast Guard when it is not operating as a service in the Navy or by the Secretary of Defense in the case of any other member of the armed forces.

SEC. 2. An executive department or agency that adopts or uses the suggestion, invention, or scientific achievement of a member of the armed forces who is not under its jurisdiction may recommend to the Department of Defense or to the Department of Homeland Security, as appropriate, a cash award or honorary recognition of the member and shall justify its recommendation with appropriate documentation and explanation of how the suggestion, invention, or scientific achievement contributes to the efficiency, economy, or other improvement of the operations of the Government of the United States. Awards shall be made under regulations to be prescribed by the Secretary of Defense or the Secretary of Homeland Security, as appropriate. The regulations of the Department of Defense and Department of Homeland Security may include designations of officials to whom authority for receiving, evaluating, and making awards may be assigned.

SEC. 3. No cash awards hereunder for a single suggestion, invention, or scientific achievement may exceed $25,000 regardless of the number of agencies or departments which may adopt or use the suggestion, invention, or scientific achievement.

SEC. 4. Funds to cover the costs of cash awards to members of the armed forces shall be transferred from the account of any executive department or agency which recommends the award to the appropriate account of the Department of Homeland Security or the Department of Defense, as the case may be. When several executive departments or agencies benefit from the adoption or use of the suggestion, invention, or scientific achievement, the amount transferred from each such benefiting department or agency to the Department of Homeland Security or the Department of Defense to cover the proportionate share of the cost of the cash award shall be determined under procedures prescribed by the Office of Personnel Management in accordance with the same guidelines and standards applying to awards to civilian employees.

## §1124a. Cyber operations-peculiar awards

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments may authorize the payment of a cash award to, and incur necessary expense for the honorary recognition of, a member of the covered armed forces whose novel actions, invention, or technical achievement enables or ensures operational outcomes in or through cyberspace against threats to national security.

(b) ACTIONS DURING SERVICE.—An award under this section may be paid notwithstanding the member's death, separation, or retirement from the covered armed forces. However, the novel action, invention, or technical achievement forming the basis for the award must have been made while the member was on active duty or in an active reserve status and not otherwise eligible for an award under chapter 45 of title 5.

(c) PAYMENT.—Awards to, and expenses for the honorary recognition of, members of the covered armed forces under this section may be paid from—

(1) the funds or appropriations available to the activity primarily benefiting from the novel action, invention, or technical achievement; or

(2) the several funds or appropriations of the various activities benefiting from the novel action, invention, or technical achievement.

(d) AMOUNTS.—The total amount of the award, or awards, made under this section for a novel action, invention, or technical achievement may not exceed $2,500, regardless of the number of persons who may be entitled to share therein.

(e) REGULATIONS.—Awards under this section shall be made under regulations to be prescribed by the Secretary of Defense or by the Secretaries of the military departments.

(f) COVERED ARMED FORCES DEFINED.—In this section, the term "covered armed forces" means the Army, Navy, Air Force, Marine Corps, and Space Force.

(Added Pub. L. 117–263, div. A, title XV, §1531, Dec. 23, 2022, 136 Stat. 2900.)

## §1125. Recognition for accomplishments: award of trophies

The Secretary of Defense may—

(1) award medals, trophies, badges, and similar devices to members, units, or agencies of an armed force under his jurisdiction for excellence in accomplishments or competitions related to that armed force; and

(2) provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

(Added Pub. L. 89–529, §1(1), Aug. 11, 1966, 80 Stat. 339.)

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 11545. DEFENSE DISTINGUISHED SERVICE MEDAL**

Ex. Ord. 11545, July 9, 1970, 35 F.R. 11161, as amended by Ex. Ord. No. 14085, §6, Oct. 3, 2022, 87 F.R. 60543, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. There is hereby established a Defense Distinguished Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Defense to a member of the Armed Forces of the United States who performed exceptionally meritorious service in a duty of great responsibility with the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, a specified or unified command, a Defense agency, or such other joint activity as may be designated by the Secretary of Defense.

SEC. 2. The Defense Distinguished Service Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense and shall be awarded under such regulations as the Secretary shall prescribe. These regulations shall place the Defense Distinguished Service Medal in an order of precedence after the Medals of Honor and the Distinguished Service Crosses of the Armed Forces and before the Distinguished Service Medals of the Armed Forces.

SEC. 3. No more than one Defense Distinguished Service Medal shall be awarded to any one person, but for each succeeding exceptionally meritorious period of service justifying such an award, a suitable device may be awarded to be worn with that Medal as prescribed by appropriate regulations of the Department of Defense.

SEC. 4. The Defense Distinguished Service Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Defense.

## §1126. Gold star lapel button: eligibility and distribution

(a) A lapel button, to be known as the gold star lapel button, shall be designed, as approved by the Secretary of Defense, to identify next of kin of members of the armed forces—

(1) who lost their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958;

(2) who lost or lose their lives after June 30, 1958—

(A) while engaged in an action against an enemy of the United States;

(B) while engaged in military operations involving conflict with an opposing foreign force; or

(C) while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force; or

(3) who lost or lose their lives after March 28, 1973, as a result of—

(A) an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the Secretary of Defense; or

(B) military operations while serving outside the United States (including the commonwealths, territories, and possessions of the United States) as part of a peacekeeping force.

(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary concerned, upon

application to him, shall furnish one gold star lapel button without cost to each next of kin of a member who lost or loses his or her life under any circumstances prescribed in subsection (a).

(c) Not more than one gold star lapel button may be furnished to any one individual except that, when a gold star lapel button furnished under this section has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was furnished, the button may be replaced upon application and without cost.

(d) In this section:

(1) The term "next of kin" means individuals standing in such relationship to members of the armed forces described in subsection (a) as the Secretaries concerned shall jointly specify in regulations for purposes of this section.

(2) The term "World War I" includes the period from April 6, 1917, to March 3, 1921.

(3) The term "World War II" includes the period from September 8, 1939, to July 25, 1947, at 12 o'clock noon.

(4) The term "military operations" includes those operations involving members of the armed forces assisting in United States Government sponsored training of military personnel of a foreign nation.

(5) The term "peacekeeping force" includes those personnel assigned to a force engaged in a peacekeeping operation authorized by the United Nations Security Council.

(Added Pub. L. 89–534, §1(1), Aug. 11, 1966, 80 Stat. 345, §1124; renumbered §1126, Pub. L. 89–718, §9, Nov. 2, 1966, 80 Stat. 1117; amended Pub. L. 98–94, title XII, §1268(8), Sept. 24, 1983, 97 Stat. 706; Pub. L. 100–26, §7(k)(5), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103–160, div. A, title XI, §1143, Nov. 30, 1993, 107 Stat. 1757; Pub. L. 116–92, div. A, title V, §581, Dec. 20, 2019, 133 Stat. 1411.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 1 to 3 of act Aug. 1, 1947, ch. 426, 61 Stat. 710, which were classified to sections 182a to 182c of former Title 36, Patriotic Societies and Observances, prior to repeal by Pub. L. 89–534, §2, Aug. 11, 1966, 80 Stat. 345.

**AMENDMENTS**

**2019**—Subsec. (a). Pub. L. 116–92, §581(a)(1), struck out "widows, parents, and" after "identify" in introductory provisions.

Subsec. (b). Pub. L. 116–92, §581(a)(2), substituted "each" for "the widow and to each parent and".

Subsec. (c). Pub. L. 116–92, §581(b), substituted "and without cost." for "and payment of an amount sufficient to cover the cost of manufacture and distribution."

Subsec. (d). Pub. L. 116–92, §581(a)(3), added par. (1), redesignated pars. (5) to (8) as (2) to (5), respectively, and struck out former pars. (1), (2), (3), and (4) which defined "widow", "parents", "next of kin", and "children", respectively.

**1993**—Subsec. (a). Pub. L. 103–160, §1143(a), struck out "of the United States" after "armed forces" in introductory provisions, redesignated cls. (i) to (iii) of par. (2) as subpars. (A) to (C), respectively, and added par. (3).

Subsec. (d)(7), (8). Pub. L. 103–160, §1143(b), added pars. (7) and (8).

**1987**—Subsec. (d). Pub. L. 100–26 substituted colon for dash at end of introductory provisions, inserted "The term" in each par., and substituted periods for semicolons in pars. (1) to (4) and period for "; and" in par. (5).

**1983**—Subsec. (a)(1). Pub. L. 98–94 substituted "who" for "Who".

## §1127. Precedence of the award of the Purple Heart

In prescribing regulations establishing the order of precedence of awards and decorations authorized to be displayed on the uniforms of members of the armed forces, the Secretary of the military department concerned shall accord the Purple Heart a position of precedence, in relation to

other awards and decorations authorized to be displayed, not lower than that immediately following the bronze star.

(Added Pub. L. 98–525, title V, §553(a), Oct. 19, 1984, 98 Stat. 2532; amended Pub. L. 99–145, title V, §533, Nov. 8, 1985, 99 Stat. 634.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1985**—Pub. L. 99–145 substituted "the bronze star" for "the lowest position accorded any award or decoration for valor".

## §1128. Prisoner-of-war medal: issue

(a) The Secretary concerned shall issue a prisoner-of-war medal to any person who, while serving in any capacity with the armed forces, was taken prisoner and held captive—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(b) Under uniform regulations prescribed by the Secretary of Defense, the Secretary concerned may issue a prisoner-of-war medal to any person who, while serving in any capacity with the armed forces, was held captive under circumstances not covered by paragraph (1), (2), or (3) of subsection (a), but which the Secretary concerned finds were comparable to those circumstances under which persons have generally been held captive by enemy armed forces during periods of armed conflict.

(c) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

(d) In prescribing regulations establishing the order of precedence of awards and decorations authorized to be displayed on the uniforms of members of the armed forces, the Secretary concerned shall accord the prisoner-of-war medal a position of precedence, in relation to other awards and decorations authorized to be displayed—

(1) immediately following decorations awarded for individual heroism, meritorious achievement, or meritorious service, and

(2) before any other service medal, campaign medal, or service ribbon authorized to be displayed.

(e) Not more than one prisoner-of-war medal may be issued to a person. However, for each succeeding service that would otherwise justify the issuance of such a medal, the Secretary concerned may issue a suitable device to be worn as the Secretary determines.

(f) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

(g) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the Secretary concerned.

(h) Under regulations to be prescribed by the Secretary concerned, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

(i) The Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this section are uniform so far as practicable.

(Added Pub. L. 99–145, title V, §532(a)(1), Nov. 8, 1985, 99 Stat. 633; amended Pub. L. 101–189, div. A, title V, §516(a), Nov. 29, 1989, 103 Stat. 1441; Pub. L. 112–239, div. A, title V, §584, Jan. 2, 2013, 126 Stat. 1767.)

**EDITORIAL NOTES**

### AMENDMENTS

**2013**—Subsec. (a)(2) to (4). Pub. L. 112–239, §584(1), inserted "or" at end of par. (2), substituted period at end for "; or" in par. (3), and struck out par. (4) which read as follows: "by foreign armed forces that are hostile to the United States, under circumstances which the Secretary concerned finds to have been comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict."

Subsecs. (b) to (i). Pub. L. 112–239, §584(2), (3), added subsec. (b) and redesignated former subsecs. (b) to (h) as (c) to (i), respectively.

**1989**—Subsec. (a)(4). Pub. L. 101–189 added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title V, §516(b), Nov. 29, 1989, 103 Stat. 1442, provided that: "Paragraph (4) of section 1128(a) of title 10, United States Code, as added by subsection (a), applies with respect to periods of captivity after April 5, 1917."

### EFFECTIVE DATE

Pub. L. 99–145, title V, §532(b), Nov. 8, 1985, 99 Stat. 634, provided that: "Section 1128 of title 10, United States Code, as added by subsection (a), applies with respect to any person taken prisoner and held captive after April 5, 1917."

## §1129. Purple Heart: members killed or wounded in action by friendly fire

(a) For purposes of the award of the Purple Heart, the Secretary concerned shall treat a member of the armed forces described in subsection (b) in the same manner as a member who is killed or wounded in action as the result of an act of an enemy of the United States.

(b) A member described in this subsection is a member who is killed or wounded in action by weapon fire while directly engaged in armed conflict, other than as the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of willful misconduct of the member.

(c) This section applies to members of the armed forces who are killed or wounded on or after December 7, 1941. In the case of a member killed or wounded as described in subsection (b) on or after December 7, 1941, and before November 30, 1993, the Secretary concerned shall award the Purple Heart under subsection (a) in each case which is known to the Secretary before such date or for which an application is made to the Secretary in such manner as the Secretary requires.

(Added Pub. L. 103–160, div. A, title XI, §1141(a), Nov. 30, 1993, 107 Stat. 1756; amended Pub. L. 105–85, div. A, title X, §1073(a)(18), Nov. 18, 1997, 111 Stat. 1901.)

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Subsec. (c). Pub. L. 105–85 substituted "November 30, 1993," for "the date of the enactment of this section," and "before such date or" for "before the date of the enactment of this section or".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ENHANCED INFORMATION RELATED TO AWARDING OF THE PURPLE HEART; PUBLICATION OF AWARD CRITERIA

Pub. L. 117–263, div. A, title V, §584(a), Dec. 23, 2022, 136 Stat. 2611, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], each Chief of an Armed Force shall publish on a publicly available website of such Armed Force includes [sic] a link to—

"(1) a description of the background of the Purple Heart;

"(2) the eligibility criteria for awarding the Purple Heart; and

"(3) contact information for the awards and decorations liaison of such Armed Force to facilitate confirmation, by a veteran or a veteran's next of kin, whether a veteran was awarded the Purple Heart after December 31, 2002."

## AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962

Pub. L. 104–106, div. A, title V, §521, Feb. 10, 1996, 110 Stat. 309, as amended by Pub. L. 108–136, div. A, title V, §544, Nov. 24, 2003, 117 Stat. 1478, provided that:

"(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

"(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act [Feb. 10, 1996] for the award of the Purple Heart to persons wounded on or after April 25, 1962.

"(c) ELIGIBLE FORMER PRISONERS OF WAR.—A person shall be considered to be a former prisoner of war for purposes of this section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

"(d) PROCEDURES FOR AWARD.—In determining whether a former prisoner of war who submits an application for the award of the Purple Heart under subsection (a) is eligible for that award, the Secretary concerned shall apply the following procedures:

"(1) Failure of the applicant to provide any documentation as required by the Secretary shall not in itself disqualify the application from being considered.

"(2) In evaluating the application, the Secretary shall consider (A) historical information as to the prison camp or other circumstances in which the applicant was held captive, and (B) the length of time that the applicant was held captive.

"(3) To the extent that information is readily available, the Secretary shall assist the applicant in obtaining information or identifying the sources of information referred to in paragraph (2).

"(4) The Secretary shall review a completed application under this section based upon the totality of the information presented, taking into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 11016. AUTHORIZING AWARD OF THE PURPLE HEART

Ex. Ord. No. 11016, Apr. 25, 1962, 27 F.R. 4139, as amended by Ex. Ord. No. 11382, §13(4), Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12464, Feb. 23, 1984, 49 F.R. 7099; Ex. Ord. No. 13286, §71, Feb. 28, 2003, 68 F.R. 10630; Ex. Ord. No. 13758, Jan. 12, 2017, 82 F.R. 5321, provided:

WHEREAS General George Washington, at Newburg-on-the-Hudson, on August 7, 1782, during the War of the Revolution, issued an Order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or Decoration of the Purple Heart; and

WHEREAS the award of that decoration ceased with the closing of the War of the Revolution and was revived on February 22, 1932, out of respect to the memory and military achievements of General George Washington, by War Department General Orders No. 3:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces of the United States, it is ordered as follows:

1. The Secretary of a military department, or the Secretary of Homeland Security with regard to the Coast Guard when not operating as a service in the Navy, shall, in the name of the President of the United States, award the Purple Heart, with suitable ribbons and appurtenances, to any member or former member of the armed forces under the jurisdiction of that department who, while serving as a member of the armed forces, has been, or may hereafter be, wounded:

(a) in any action against an enemy of the United States;

(b) in any action with an opposing armed force of a foreign country in which the armed forces of the United States are or have been engaged;

(c) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party;

(d) as the result of an act of any such enemy or opposing armed force;
(e) as the result of an act of any hostile foreign force;
(f) while being taken captive or while being held as a prisoner of war, and for purposes of this paragraph a person is considered a prisoner of war if the person is eligible for the Prisoner of War Medal pursuant to section 1128 of title 10, United States Code;
(g) after March 28, 1973, as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack for the purposes of this order by the Secretary of the department concerned, or jointly by the Secretaries of the departments concerned if persons from more than one department are wounded in the attack;
(h) after March 28, 1973, as a result of military operations, while serving outside the territory of the United States as part of a peacekeeping force;
(i) after September 10, 2001, in an attack that was motivated or inspired by a foreign terrorist organization, which the Secretary of the department concerned shall treat in the same manner as an international terrorist attack, provided the attack specifically targeted the member due to his or her military service as provided in section 1129a of title 10, United States Code; or
(j) after December 6, 1941, by friendly weapon fire while directly engaged in armed conflict, other than as the result of an act of an enemy of the United States, an opposing armed force, or hostile foreign force.
2. The Secretary of a military department, or the Secretary of Homeland Security with regard to the Coast Guard when not operating as a service in the Navy, shall, in the name of the President of the United States, award the Purple Heart, with suitable ribbons and appurtenances, posthumously, to any member of the armed forces under the jurisdiction of that department covered by, and under the circumstances described in:
(a) paragraphs 1(a)–(f) who, after April 5, 1917;
(b) paragraphs 1(g)–(h) who, after March 28, 1973;
(c) paragraph 1(i) who, after September 10, 2001; or
(d) paragraph 1(j) who, after December 6, 1941, has been, or may hereafter be, killed, or who has died or may hereafter die after being wounded.
3. A wound for which the award is made must have been of such severity that it required treatment by a medical officer.
4. The Purple Heart is not authorized for a wound or death that results from the willful misconduct of the member.
5. The Purple Heart shall be forwarded to the next of kin of any person entitled to the posthumous award, without respect to whether a previous award has been made to such person, except that if the award results from service before December 7, 1941, the Purple Heart shall be forwarded to such next of kin upon his application therefore to the Secretary of the department concerned.
6. Except as authorized in paragraph 5, not more than one Purple Heart shall be awarded to any person, but for each subsequent award a Gold Star, or other suitable device, shall be awarded to be worn with the Purple Heart as prescribed by appropriate regulations to be issued by the Secretary of the department concerned.
7. When authorized by the Secretary of the department concerned, the award of the Purple Heart may be made by subordinate military commanders, or such other appropriate officers as the Secretary concerned may designate.
8. The Secretary of the department concerned may prescribe such regulations as he considers appropriate to carry out this order. The regulations of the Secretaries of the departments with respect to the award of the Purple Heart shall, so far as practicable, be uniform, and those of the military departments shall be subject to the approval of the Secretary of Defense.
9. This order supersedes Executive Order No. 10409 of November 12, 1952, entitled "Award of the Purple Heart to Persons Serving with the Navy, Marine Corps, or Coast Guard of the United States". However, existing regulations prescribed pursuant to that order, together with regulations prescribed under the authority of General Orders No. 3, War Department, February 22, 1932, shall, so far as they are not inconsistent with this order, remain in effect until modified or revoked by regulations prescribed by the Secretary of the department concerned under this order.

## §1129a. Purple Heart: members killed or wounded in attacks by foreign terrorist organizations

(a) IN GENERAL.—For purposes of the award of the Purple Heart, the Secretary concerned shall treat a member of the armed forces described in subsection (b) in the same manner as a member who is killed or wounded as a result of an international terrorist attack against the United States.

(b) COVERED MEMBERS.—(1) A member described in this subsection is a member on active duty who was killed or wounded in an attack by a foreign terrorist organization in circumstances where the death or wound is the result of an attack targeted on the member due to such member's status as a member of the armed forces, unless the death or wound is the result of willful misconduct of the member.

(2) For purposes of this section, an attack by an individual or entity shall be considered to be an attack by a foreign terrorist organization if—

(A) the individual or entity was in communication with the foreign terrorist organization before the attack; and

(B) the attack was inspired or motivated by the foreign terrorist organization.

(c) FOREIGN TERRORIST ORGANIZATION DEFINED.—In this section, the term "foreign terrorist organization" means an entity designated as a foreign terrorist organization by the Secretary of State pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(Added Pub. L. 113–291, div. A, title V, §571(a)(1)(A), Dec. 19, 2014, 128 Stat. 3387.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**RETROACTIVE EFFECTIVE DATE AND APPLICATION**

Pub. L. 113–291, div. A, title V, §571(a)(2), Dec. 19, 2014, 128 Stat. 3387, provided that:

"(A) EFFECTIVE DATE.—The amendments made by paragraph (1) [enacting this section] shall take effect as of September 11, 2001.

"(B) REVIEW OF CERTAIN PREVIOUS INCIDENTS.—The Secretary concerned shall undertake a review of each death or wounding of a member of the Armed Forces that occurred between September 11, 2001, and the date of the enactment of this Act [Dec. 19, 2014] under circumstances that could qualify as being the result of an attack described in section 1129a of title 10, United States Code (as added by paragraph (1)), to determine whether the death or wounding qualifies as a death or wounding resulting from an attack by a foreign terrorist organization for purposes of the award of the Purple Heart pursuant to such section (as so added).

"(C) ACTIONS FOLLOWING REVIEW.—If the death or wounding of a member of the Armed Forces reviewed under subparagraph (B) is determined to qualify as a death or wounding resulting from an attack by a foreign terrorist organization as described in section 1129a of title 10, United States Code (as so added), the Secretary concerned shall take appropriate action under such section to award the Purple Heart to the member.

"(D) SECRETARY CONCERNED DEFINED.—In this paragraph, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code."

## §1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review

(a) Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration.

(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination. If the determination includes a favorable recommendation for the award of the Medal of Honor, the Secretary of Defense, instead of the Secretary concerned, shall make the submission under this subsection.

(c) Determinations under this section regarding the award or presentation of a decoration shall be

made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

(d) In this section:

(1) The term "Member of Congress" means—

(A) a Senator; or

(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(2) The term "decoration" means any decoration or award that may be presented or awarded to a member or unit of the armed forces.

(Added Pub. L. 104–106, div. A, title V, §526(a), Feb. 10, 1996, 110 Stat. 313; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(10), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 112–81, div. A, title V, §524, Dec. 31, 2011, 125 Stat. 1401.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 112–81 inserted at end "If the determination includes a favorable recommendation for the award of the Medal of Honor, the Secretary of Defense, instead of the Secretary concerned, shall make the submission under this subsection."

**2003**—Pub. L. 108–136, §1031(a)(10)(B), struck out "and recommendation" after "review" in section catchline.

Subsec. (a). Pub. L. 108–136, §1031(a)(10)(A)(i), struck out "and the other determinations necessary to comply with subsection (b)" after "of the decoration".

Subsec. (b). Pub. L. 108–136, §1031(a)(10)(A)(ii), substituted "to the requesting Member of Congress a detailed discussion of the rationale supporting the determination." for "to the requesting member of Congress notice in writing of one of the following:

"(1) The award or presentation of the decoration does not warrant approval on the merits.

"(2) The award or presentation of the decoration warrants approval and a waiver by law of time restrictions prescribed by law is recommended.

"(3) The award or presentation of the decoration warrants approval on the merits and has been approved as an exception to policy.

"(4) The award or presentation of the decoration warrants approval on the merits, but a waiver of the time restrictions prescribed by law or policy is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary."

**1999**—Subsec. (b). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATION JOINT ENDEAVOR OR OPERATION JOINT GUARD

Pub. L. 105–85, div. A, title V, §572, Nov. 18, 1997, 111 Stat. 1756, provided that:

"(a) INCLUSION OF OPERATIONS.—For the purpose of determining the eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the Secretary of Defense shall designate participation in Operation Joint Endeavor or Operation Joint Guard in the Republic of Bosnia and Herzegovina, and in such other areas in the region as the Secretary considers appropriate, as service in an area that meets the general requirements for the award of that medal.

"(b) INDIVIDUAL DETERMINATION.—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who participated in Operation Joint Endeavor or Operation Joint Guard meet the individual service requirements for award of the

Armed Forces Expeditionary Medal as established in applicable regulations. A member or former member shall be considered to have participated in Operation Joint Endeavor or Operation Joint Guard if the member—

"(1) was deployed in the Republic of Bosnia and Herzegovina, or in such other area in the region as the Secretary of Defense considers appropriate, in direct support of one or both of the operations;

"(2) served on board a United States naval vessel operating in the Adriatic Sea in direct support of one or both of the operations; or

"(3) operated in airspace above the Republic of Bosnia and Herzegovina, or in such other area in the region as the Secretary of Defense considers appropriate, while the operations were in effect.

"(c) OPERATIONS DEFINED.—For purposes of this section:

"(1) The term 'Operation Joint Endeavor' means operations of the United States Armed Forces conducted in the Republic of Bosnia and Herzegovina during the period beginning on November 20, 1995, and ending on December 20, 1996, to assist in implementing the General Framework Agreement and Associated Annexes, initialed on November 21, 1995, in Dayton, Ohio.

"(2) The term 'Operation Joint Guard' means operations of the United States Armed Forces conducted in the Republic of Bosnia and Herzegovina as a successor to Operation Joint Endeavor during the period beginning on December 20, 1996, and ending on such date as the Secretary of Defense may designate."

## ELIGIBILITY OF CERTAIN WORLD WAR II MILITARY ORGANIZATIONS FOR AWARD OF UNIT DECORATIONS

Pub. L. 105–85, div. A, title V, §576, Nov. 18, 1997, 111 Stat. 1758, authorized award of a unit decoration for any unit or other organization of the Armed Forces that had supported the planning or execution of combat operations during World War II primarily through unit personnel who had been attached to other units of the Armed Forces or of other allied armed forces, and that had not been otherwise eligible for award of the decoration by reason of not usually having been deployed as a unit in support of such operations, and required that any recommendation for such an award be submitted to the Secretary concerned not later than two years after Nov. 18, 1997.

## AUTHORITY TO AWARD DECORATIONS RECOGNIZING ACTS OF VALOR PERFORMED IN COMBAT DURING THE VIETNAM CONFLICT

Pub. L. 104–106, div. A, title V, §522, Feb. 10, 1996, 110 Stat. 310, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The Ia Drang Valley (Pleiku) campaign, carried out by the Armed Forces in the Ia Drang Valley of Vietnam from October 23, 1965, to November 26, 1965, is illustrative of the many battles during the Vietnam conflict which pitted forces of the United States against North Vietnamese Army regulars and Viet Cong in vicious fighting.

"(2) Accounts of those battles that have been published since the end of that conflict authoritatively document numerous and repeated acts of extraordinary heroism, sacrifice, and bravery on the part of members of the Armed Forces, many of which have never been officially recognized.

"(3) In some of those battles, United States military units suffered substantial losses, with some units sustaining casualties in excess of 50 percent.

"(4) The incidence of heavy casualties throughout the Vietnam conflict inhibited the timely collection of comprehensive and detailed information to support recommendations for awards recognizing acts of heroism, sacrifice, and bravery.

"(5) Subsequent requests to the Secretaries of the military departments for review of award recommendations for such acts have been denied because of restrictions in law and regulations that require timely filing of such recommendations and documented justification.

"(6) Acts of heroism, sacrifice, and bravery performed in combat by members of the Armed Forces deserve appropriate and timely recognition by the people of the United States.

"(7) It is appropriate to recognize acts of heroism, sacrifice, or bravery that are belatedly, but properly, documented by persons who witnessed those acts.

"(b) WAIVER OF TIME LIMITATIONS FOR RECOMMENDATIONS FOR AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award to any person for actions by that person in the Southeast Asia theater of operations while serving on active duty during the Vietnam era. The waiver of time limitations under this paragraph applies only in the case of awards for acts of valor for which a request for consideration is submitted under subsection (c).

"(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or

after the Vietnam era and before the date of the enactment of this Act [Feb. 10, 1996], was authorized by law or under regulations of the Department of Defense or the military department concerned to be awarded to members of the Armed Forces for acts of valor.

"(c) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (b) that are received by the Secretary during the one-year period beginning on the date of enactment of this Act [Feb. 10, 1996].

"(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

"(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for award of decorations to members of the Armed Forces under the Secretary's jurisdiction for valorous acts.

"(d) REPORT.—(1) Upon completing the review of each such request under subsection (c), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

"(2) The report shall include, with respect to each request for consideration received, the following information:

"(A) A summary of the request for consideration.

"(B) The findings resulting from the review.

"(C) The final action taken on the request for consideration.

"(e) DEFINITION.—For purposes of this section:

"(1) The term 'Vietnam era' has the meaning given that term in section 101 of title 38, United States Code.

"(2) The term 'active duty' has the meaning given that term in section 101 of title 10, United States Code."

## MILITARY INTELLIGENCE PERSONNEL PREVENTED BY SECRECY FROM BEING CONSIDERED FOR DECORATIONS AND AWARDS

Pub. L. 104–106, div. A, title V, §523, Feb. 10, 1996, 110 Stat. 311, as amended by Pub. L. 105–85, div. A, title V, §575, Nov. 18, 1997, 111 Stat. 1758, provided that:

"(a) WAIVER ON RESTRICTIONS OF AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award, to any person for an act, achievement, or service that the person performed in carrying out military intelligence duties during the period beginning on January 1, 1940, and ending on December 31, 1990.

"(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the period described in paragraph (1) and before the date of the enactment of this Act [Feb. 10, 1996], was authorized by law or under the regulations of the Department of Defense or the military department concerned to be awarded to a person for an act, achievement, or service performed by that person while serving on active duty.

"(b) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (a) that is received by the Secretary during the period beginning on February 10, 1996, and ending on February 9, 1998.

"(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

"(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for awarding decorations to members of the Armed Forces under the Secretary's jurisdiction for acts, achievements, or service.

"(c) REPORT.—(1) Upon completing the review of each such request under subsection (b), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

"(2) The report shall include, with respect to each request for consideration reviewed, the following information:

"(A) A summary of the request for consideration.

"(B) The findings resulting from the review.

"(C) The final action taken on the request for consideration.

"(D) Administrative or legislative recommendations to improve award procedures with respect to military intelligence personnel.

"(d) DEFINITION.—For purposes of this section, the term 'active duty' has the meaning given such term in section 101 of title 10, United States Code."

**ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL BASED UPON SERVICE IN EL SALVADOR**

Pub. L. 104–106, div. A, title V, §525, Feb. 10, 1996, 110 Stat. 312, provided that:

"(a) IN GENERAL.—For the purpose of determining eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the country of El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992, shall be treated as having been designated as an area and a period of time in which members of the Armed Forces participated in operations in significant numbers and otherwise met the general requirements for the award of that medal.

"(b) INDIVIDUAL DETERMINATION.—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who served in El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992 meet the individual service requirements for award of the Armed Forces Expeditionary Medal as established in applicable regulations. Such determinations shall be made as expeditiously as possible after the date of the enactment of this Act [Feb. 10, 1996]."

## §1131. Purple Heart: limitation to members of the armed forces

The decoration known as the Purple Heart (authorized to be awarded pursuant to Executive Order 11016) may only be awarded to a person who is a member of the armed forces at the time the person is killed or wounded under circumstances otherwise qualifying that person for award of the Purple Heart.

(Added Pub. L. 105–85, div. A, title V, §571(a)(1), Nov. 18, 1997, 111 Stat. 1756.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order 11016, referred to in text, is Ex. Ord. No. 11016, Apr. 25, 1962, 27 F.R. 4139, which is set out as a note under section 1129 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 105–85, div. A, title V, §571(b), Nov. 18, 1997, 111 Stat. 1756, provided that: "Section 1131 of title 10, United States Code, as added by subsection (a), shall apply with respect to persons who are killed or wounded after the end of the 180-day period beginning on the date of the enactment of this Act [Nov. 18, 1997]."

## §1132. Presentation of decorations: prohibition on entering correctional facilities for presentation to prisoners convicted of serious violent felonies

(a) PROHIBITION.—A member of the armed forces may not enter a Federal, State, local, or foreign correctional facility to present a decoration to a person who is incarcerated due to conviction of a serious violent felony.

(b) DEFINITIONS.—In this section:

(1) The term "decoration" means any decoration or award that may be presented or awarded to a member of the armed forces.

(2) The term "serious violent felony" has the meaning given that term in section 3559(c)(2)(F)

of title 18.

(Added Pub. L. 105–261, div. A, title V, §537(a), Oct. 17, 1998, 112 Stat. 2019.)

## §1133. Bronze Star: limitation on persons eligible to receive

The decoration known as the "Bronze Star" may only be awarded to a member of a military force who—

(1) at the time of the events for which the decoration is to be awarded, was serving in a geographic area in which special pay is authorized under section 310 or paragraph (1) or (3) of section 351(a) of title 37; or

(2) receives special pay under section 310 or paragraph (1) or (3) of section 351(a) of title 37 as a result of those events.

(Added Pub. L. 106–398, §1 [[div. A], title V, §541(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–114; amended Pub. L. 111–383, div. A, title V, §571(a), Jan. 7, 2011, 124 Stat. 4222.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 111–383 amended section generally. Prior to amendment, text read as follows: "The decoration known as the 'Bronze Star' may only be awarded to a member of the armed forces who is in receipt of special pay under section 310 of title 37 at the time of the events for which the decoration is to be awarded or who receives such pay as a result of those events."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title V, §571(c), Jan. 7, 2011, 124 Stat. 4223, provided that: "The amendment made by subsection (a) [amending this section] applies to the award of the Bronze Star after October 30, 2000."

## §1134. Medal of honor: award to individual interred in Tomb of the Unknowns as representative of casualties of a war

The medal of honor awarded posthumously to a deceased member of the armed forces who, as an unidentified casualty of a particular war or other armed conflict, is interred in the Tomb of the Unknowns at Arlington National Cemetery, Virginia, is awarded to the member as the representative of the members of the armed forces who died in such war or other armed conflict and whose remains have not been identified, and not to the individual personally.

(Added Pub. L. 108–375, div. A, title V, §561(a), Oct. 28, 2004, 118 Stat. 1917.)

## §1134a. Medal of honor: Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

(a) ESTABLISHMENT.—There shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department in which the Coast Guard is operating a roll designated as the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll".

(b) ENROLLMENT.—The Secretary concerned shall enter and record on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll the name of each person who has served on active duty in the armed forces and who has been awarded a medal of honor pursuant to section 7271, 8291, or 9271 of this title or section 2732 of title 14.

(c) ISSUANCE OF ENROLLMENT CERTIFICATE.—Each living person whose name is entered

on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll shall be issued a certificate of enrollment on the roll.

(d) ENTITLEMENT TO SPECIAL PENSION; NOTICE TO SECRETARY OF VETERANS AFFAIRS.—The Secretary concerned shall deliver to the Secretary of Veterans Affairs a certified copy of each certificate of enrollment issued under subsection (c). The copy of the certificate shall authorize the Secretary of Veterans Affairs to pay the special pension provided by section 1562 of title 38 to the person named in the certificate.

(Added Pub. L. 113–66, div. A, title V, §563(a)(1), Dec. 26, 2013, 127 Stat. 767; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 118–31, div. A, title XVIII, §1801(a)(15), Dec. 22, 2023, 137 Stat. 684.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31 substituted "section 2732 of title 14" for "section 491 of title 14".

**2018**—Subsec. (b). Pub. L. 115–232 substituted "section 7271, 8291, or 9271" for "section 3741, 6241, or 8741".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 113–66, div. A, title V, §563(d), Dec. 26, 2013, 127 Stat. 768, provided that: "The amendments made by this section [enacting this section, amending section 1562 of Title 38, Veterans' Benefits, and repealing sections 1560 and 1561 of Title 38] shall apply with respect to Medals of Honor awarded on or after the date of the enactment of this Act [Dec. 26, 2013]."

## §1135. Replacement of military decorations

(a) REPLACEMENT.—In addition to other authorities available to the Secretary concerned to replace a military decoration, the Secretary concerned shall replace, on a one-time basis and without charge, a military decoration upon the request of the recipient of the military decoration or the immediate next of kin of a deceased recipient.

(b) PROMPT REPLACEMENT REQUIRED.—When a request for the replacement of a military decoration is received under this section or section 7277, 7281, 8303, 9277, or 9281 of this title, the Secretary concerned shall ensure that—

(1) all actions to be taken with respect to the request, including verification of the service record of the recipient of the military decoration, are completed within one year; and

(2) the replacement military decoration is mailed to the person requesting the replacement military decoration within 90 days after verification of the service record.

(c) MILITARY DECORATION DEFINED.—In this section, the term "decoration" means any decoration or award (other than the medal of honor) that may be presented or awarded by the President or the Secretary concerned to a member of the armed forces.

(Added Pub. L. 110–417, [div. A], title V, §571(a), Oct. 14, 2008, 122 Stat. 4471; amended Pub. L. 113–66, div. A, title V, §564, Dec. 26, 2013, 127 Stat. 768; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (b). Pub. L. 115–232 substituted "section 7277, 7281, 8303, 9277, or 9281" for "section 3747, 3751, 6253, 8747, or 8751" in introductory provisions.

**2013**—Subsecs. (b), (c). Pub. L. 113–66 added subsec. (b) and redesignated former subsec. (b) as (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §1136. Honorable service requirement for award of military decorations

No military decoration, including a medal, cross, or bar, or an associated emblem or insignia, may be awarded or presented to any person, or to a representative of the person, if the service of the person after the person distinguished himself or herself has not been honorable.

(Added Pub. L. 116–92, div. A, title V, §582(a)(1), Dec. 20, 2019, 133 Stat. 1411.)

# CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

Sec.
1141. Involuntary separation defined.
1142. Preseparation counseling; transmittal of certain records to Department of Veterans Affairs.
1143. Employment assistance.
[1143a. Repealed.]
1144. Employment assistance, job training assistance, and other transitional services: Department of Labor.
1145. Health benefits.
1146. Commissary and exchange benefits.
1147. Use of military family housing.
1148. Relocation assistance for personnel overseas.
1149. Excess leave and permissive temporary duty.
1150. Affiliation with Guard and Reserve units: waiver of certain limitations.
1151. Retention of assistive technology and services provided before separation.
1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.
1153. Assistance to separated members to obtain employment with health care providers.
1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program.
1155. Statement of benefits.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(26), Jan. 1, 2021, 134 Stat. 3872, added item 1142 and struck out former item 1142 "Preseparation counseling; transmittal of medical records to Department of Veterans Affairs".

**2018**—Pub. L. 115–232, div. A, title V, §§522(b), 553(a)(2), Aug. 13, 2018, 132 Stat. 1756, 1772, added item 1155 and struck out item 1143a "Employment assistance".

**2013**—Pub. L. 112–239, div. A, title V, §541(b)(2), Jan. 2, 2013, 126 Stat. 1735, added item 1154.

**2006**—Pub. L. 109–364, div. A, title V, §561(b), Oct. 17, 2006, 120 Stat. 2220, added item 1151.

**1999**—Pub. L. 106–65, div. A, title XVII, §1707(a)(2), Oct. 5, 1999, 113 Stat. 823, struck out item 1151 "Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides".

**1994**—Pub. L. 103–337, div. A, title V, §542(a)(10), title XI, §1132(a)(2), Oct. 5, 1994, 108 Stat. 2768, 2873, struck out ": Department of Defense" after "assistance" in item 1143 and after "service" in item 1143a and substituted "eligible members and former members" for "separated members" in item 1152.

**1993**—Pub. L. 103–160, div. A, title XIII, §1332(e), Nov. 30, 1993, 107 Stat. 1797, added items 1152 and 1153.

**1992**—Pub. L. 102–484, div. D, title XLIV, §§4441(a)(2), 4462(a)(2), Oct. 23, 1992, 106 Stat. 2730, 2740, added items 1143a and 1151.

## §1141. Involuntary separation defined

A member of the armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and—

(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

(2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;

(3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned;

(5) in the case of an officer of the Space Force (other than a retired officer), the officer is involuntarily discharged or released from active duty under other than adverse conditions, as characterized by the Secretary of the Air Force; and

(6) in the case of an enlisted member of the Space Force, the member is—

(A) denied reenlistment; or

(B) involuntarily discharged or released from active duty under other than adverse conditions, as characterized by the Secretary of the Air Force.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1551; amended Pub. L. 103–160, div. A, title V, §503, Nov. 30, 1993, 107 Stat. 1644; Pub. L. 103–337, div. A, title V, §542(a)(1), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 118–31, div. A, title XVII, §1722(i)(1), Dec. 22, 2023, 137 Stat. 672.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pars. (5), (6). Pub. L. 118–31 added pars. (5) and (6).

**1994**—Pub. L. 103–337, in introductory provisions, substituted "armed forces" for "Army, Navy, Air Force,

or Marine Corps" and "or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994," for "or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994".

**1993**—Pub. L. 103–160 inserted "or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" after "September 30, 1990,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title V, §542(e), Oct. 5, 1994, 108 Stat. 2769, provided that: "This section [amending this section and sections 1143, 1143a, 1145 to 1150, 1174a, and 1175 of this title and enacting provisions set out as a note under section 1293 of this title] and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1142. Preseparation counseling; transmittal of certain records to Department of Veterans Affairs

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge (regardless of character of discharge) or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2)(A) In carrying out this section, the Secretary concerned shall use the services available under section 1144 of this title.

(B) Preseparation counseling may be provided in person to the extent practicable. If the Secretary concerned determines that it is infeasible for a member to attend such counseling in person, such member may receive such counseling remotely, with online access to modules and reading materials.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence not later than 365 days before the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 365 days before the date of retirement or other separation.

(B) In the event that a retirement or other separation is unanticipated until there are 365 or fewer days before the anticipated retirement or separation date, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 365-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(C) The Secretary of Defense may implement a system to track how many, and what percentage of, members begin to receive preseparation counseling within time periods specified in this paragraph.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of the first 180 continuous days of active duty of the member.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(C) For purposes of calculating the days of active duty of a member under subparagraph (A), the Secretary concerned shall exclude any day on which—

(i) the member performed full-time training duty or annual training duty; and

(ii) the member attended, while in the active military service, a school designated as a service school by law or by the Secretary concerned.

(D) The Secretary concerned may waive the requirement for preseparation counseling under paragraph (1) in the case of a member of the reserve components if—

(i) the member requests such a waiver;

(ii) the member received preseparation counseling during the period of three years preceding the date of such request; and

(iii) matters covered by such counseling, specified in subsection (b), have not changed since the member last received such counseling.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

(A) certification and licensure requirements that are applicable to civilian occupations, including State-submitted and approved lists of military training and skills that satisfy occupational certifications and licenses;

(B) civilian occupations that correspond to military occupational specialties; and

(C) Government and private-sector programs for job search and job placement assistance, including information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program.

(5) If the member has a spouse, inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families and the availability to the member and dependents of suicide prevention resources following separation from the armed forces.

(9)(A) Financial planning assistance, including information on budgeting, saving, credit, loans and debt management,,[1] and taxes.

(B) Individualized assistance regarding matters described in subparagraph (A).

(10) The creation of a transition plan for the member to attempt to achieve the educational,

training, employment, and financial objectives of the member and, if the member has a spouse, the spouse of the member.

(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces and information concerning the availability of treatment options and resources to address substance abuse, including alcohol, prescription drug, and opioid abuse.

(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration.

(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

(15) Information concerning veterans preference in Federal employment and Federal procurement opportunities.

(16) Information on home loan services and housing assistance benefits available under the laws administered by the Secretary of Veterans Affairs and counseling on responsible borrowing practices.

(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs, and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits.

(18) A description, developed in consultation with the Secretary of Veterans Affairs, of the assistance and support services for family caregivers of eligible veterans under the program conducted by the Secretary of Veterans Affairs pursuant to section 1720G of title 38, including the veterans covered by the program, the caregivers eligible for assistance and support through the program, and the assistance and support available through the program.

(19) Information regarding how to file claims for benefits available to the member under laws administered by the Secretaries of Defense and Veterans Affairs.

(c) COUNSELING PATHWAYS.—(1) Each Secretary concerned, in consultation with the Secretaries of Labor and Veterans Affairs, shall establish at least three pathways for members of the military department concerned (including one pathway for members of the reserve components) receiving individualized counseling under this section. The Secretaries shall design the pathways to address the needs of members, based on the following factors:

(A) Rank.

(B) Term of service.

(C) Gender.

(D) Whether the member was a member of a regular or reserve component of an armed force.

(E) Potential or confirmed disability.

(F) Potential or confirmed character of discharge (including expedited discharge and discharge under conditions other than honorable).

(G) Health (including mental health).

(H) Military occupational specialty.

(I) Whether the member intends, after separation, retirement, or discharge, to—

(i) seek employment;

(ii) enroll in a program of higher education;

(iii) enroll in a program of vocational training; or

(iv) become an entrepreneur.

(J) The educational history of the member.

(K) The employment history of the member.
(L) Whether the member has secured—
(i) employment;
(ii) enrollment in a program of education; or
(iii) enrollment in a program of vocational training.

(M) Child care requirements of the member (including whether a dependent of the member is enrolled in the Exceptional Family Member Program).
(N) The employment status of other adults in the household of the member.
(O) The location of the duty station of the member (including whether the member was separated from family while on duty).
(P) The effects of operating tempo and personnel tempo on the member and the household of the member.
(R) [2] Other factors the Secretary of Defense and the Secretary of Homeland Security, in consultation with the Secretaries of Labor and Veterans Affairs, determine appropriate.

(2) Each member described in subsection (a) shall meet in person or by video conference with a counselor before beginning counseling under this section to—
(A) take a self-assessment designed by the Secretary concerned (in consultation with the Secretaries of Labor and Veterans Affairs) to ensure that the Secretary concerned places the member in the appropriate pathway under this subsection;
(B) receive information from the counselor regarding reenlistment in the armed forces; and
(C) receive information from the counselor regarding resources (including resources regarding military sexual trauma)—
(i) for members of the armed forces separated, retired, or discharged;
(ii) located in the community in which the member will reside after separation, retirement, or discharge.

(3) At the meeting under paragraph (2), the member may elect to have the Secretary concerned (in consultation with the Secretaries of Labor and Veterans Affairs) provide the contact information of the member to the resources described in paragraph (2)(C).
(d) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.
(e) JOINT SERVICE TRANSCRIPT.—The Secretary concerned shall provide a copy of the joint service transcript of a member described in subsection (a) to—
(1) that member—
(A) at the meeting with a counselor under subsection (c)(2); and
(B) on the day the member separates, retires, or is discharged; and

(2) the Secretary of Veterans Affairs on the day the member separates, retires, or is discharged.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1552; amended Pub. L. 102–190, div. A, title X, §1061(a)(5), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. D, title XLIV, §§4401, 4441(b), 4462(b), Oct. 23, 1992, 106 Stat. 2701, 2730, 2740; Pub. L. 103–35, title II, §201(i)(1), May 31, 1993, 107 Stat. 100; Pub. L. 103–160, div. A, title XIII, §1332(c), Nov. 30, 1993, 107 Stat. 1797; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; Pub. L. 107–103, title III, §302(a), Dec. 27, 2001, 115 Stat. 991; Pub. L. 109–163, div. A, title V, §594, Jan. 6, 2006, 119 Stat. 3281; Pub. L. 111–84, div. A, title X, §1073(a)(13), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 112–56, title II, §221(b), Nov. 21, 2011, 125 Stat. 716; Pub. L. 112–81, div. A, title V, §§513, 529, 533(c), Dec. 31, 2011, 125 Stat. 1393, 1402, 1404; Pub. L. 112–239, div. A, title V, §541(c), title X, §1076(f)(12), title XVI, §1699(c)(1), Jan. 2,

2013, 126 Stat. 1735, 1952, 2092; Pub. L. 114–92, div. A, title V, §552, Nov. 25, 2015, 129 Stat. 823; Pub. L. 114–328, div. A, title V, §562, Dec. 23, 2016, 130 Stat. 2138; Pub. L. 115–91, div. A, title V, §§541(a), 542(d), Dec. 12, 2017, 131 Stat. 1393, 1395; Pub. L. 115–232, div. A, title V, §§552(a)(1), 553(b)(2), Aug. 13, 2018, 132 Stat. 1769, 1772; Pub. L. 116–92, div. A, title V, §561, title XVII, §1731(a)(26), Dec. 20, 2019, 133 Stat. 1394, 1813; Pub. L. 118–31, div. A, title V, §571, Dec. 22, 2023, 137 Stat. 275; Pub. L. 118–159, div. A, title V, §571, Dec. 23, 2024, 138 Stat. 1909; Pub. L. 119–60, div. A, title V, §§571(a)–(d), 572, Dec. 18, 2025, 139 Stat. 884–886.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(2). Pub. L. 119–60, §571(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(3)(C). Pub. L. 119–60, §571(b), added subpar. (C).

Subsec. (a)(4)(D). Pub. L. 119–60, §571(c), added subpar. (D).

Subsec. (b)(9). Pub. L. 119–60, §571(d), which directed amendment of par. (9) of subsec. (a), by designating existing provisions as subpar. (A), inserting "and debt management," after "loans", and adding subpar. (B), was executed to par. (9) of subsec. (b), to reflect the probable intent of Congress.

Subsec. (c)(1)(M) to (P), (R). Pub. L. 119–60, §572, added subpars. (M) to (P) and redesignated former subpar. (M) as (R).

**2024**—Subsec. (c)(1). Pub. L. 118–159 inserted "(including one pathway for members of the reserve components)" after "military department concerned" in introductory provisions.

**2023**—Subsec. (c)(1)(E). Pub. L. 118–31, §571(1), substituted "Potential or confirmed disability" for "Disability".

Subsec. (c)(1)(F). Pub. L. 118–31, §571(2), substituted "Potential or confirmed character" for "Character".

**2019**—Subsec. (b)(19). Pub. L. 116–92, §561, added par. (19).

Subsec. (c)(3). Pub. L. 116–92, §1731(a)(26), substituted "paragraph (2)(C)" for "paragraph (2)(B)".

**2018**—Pub. L. 115–232, §552(a)(1)(A), substituted "certain" for "medical" in section catchline.

Subsec. (a)(1). Pub. L. 115–232, §552(a)(1)(B)(i), inserted "(regardless of character of discharge)" after "discharge".

Subsec. (a)(3)(A). Pub. L. 115–232, §552(a)(1)(B)(ii), substituted "not later than 365 days before" for "as soon as possible during the 12-month period preceding", "365 days" for "90 days", and "retirement or other separation" for "discharge or release".

Subsec. (a)(3)(B). Pub. L. 115–232, §552(a)(1)(B)(iii), substituted "365" for "90" and "365-day" for "90-day".

Subsec. (b)(4)(C). Pub. L. 115–232, §553(b)(2), struck out "the public and community service jobs program carried out under section 1143a of this title, and" after "including".

Subsecs. (c), (d). Pub. L. 115–232, §552(a)(1)(C), (D), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 115–232, §552(a)(1)(E), added subsec. (e).

**2017**—Subsec. (b)(4)(A). Pub. L. 115–91, §542(d), inserted ", including State-submitted and approved lists of military training and skills that satisfy occupational certifications and licenses" before semicolon at end.

Subsec. (b)(18). Pub. L. 115–91, §541(a), added par. (18).

**2016**—Subsec. (b)(11). Pub. L. 114–328 inserted before period at end "and information concerning the availability of treatment options and resources to address substance abuse, including alcohol, prescription drug, and opioid abuse".

**2015**—Subsec. (a)(4)(A). Pub. L. 114–92, §552(1), substituted "the first 180 continuous days of active duty of the member" for "that member's first 180 days of active duty".

Subsec. (a)(4)(C). Pub. L. 114–92, §552(2), added subpar. (C).

**2013**—Subsec. (b)(4)(C). Pub. L. 112–239, §541(c), struck out "under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672)" before period at end.

Subsec. (b)(10). Pub. L. 112–239, §1076(f)(12), substituted "training," for "training,,".

Subsec. (b)(13). Pub. L. 112–239, §1699(c)(1), struck out "and the National Veterans Business Development Corporation" before period at end.

**2011**—Subsec. (a)(2). Pub. L. 112–56 substituted "shall" for "may".

Subsec. (a)(3)(B). Pub. L. 112–81, §513, inserted "or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational

requirements make the 90-day requirement under subparagraph (A) unfeasible," after "or separation date,".

Subsec. (b)(5). Pub. L. 112–81, §529(1), substituted "inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs" for "job placement counseling for the spouse".

Subsec. (b)(8). Pub. L. 112–81, §533(c), inserted before period at end "and the availability to the member and dependents of suicide prevention resources following separation from the armed forces".

Subsec. (b)(9). Pub. L. 112–81, §529(2), inserted before period at end ", including information on budgeting, saving, credit, loans, and taxes".

Subsec. (b)(10). Pub. L. 112–81, §529(3), substituted ", employment, and financial" for "and employment".

Subsec. (b)(16). Pub. L. 112–81, §529(4), added par. (16) and struck out former par. (16) which read as follows: "Contact information for housing counseling assistance."

Subsec. (b)(17). Pub. L. 112–81, §529(5), inserted before period at end ", and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits".

**2009**—Subsec. (b)(4)(C). Pub. L. 111–84, §1073(a)(13)(A), substituted "the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672)" for "the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.)".

Subsec. (b)(15). Pub. L. 111–84, §1073(a)(13)(B), substituted "Federal" for "federal" in two places.

**2006**—Subsec. (b)(4). Pub. L. 109–163, §594(1), substituted "Provision of information on civilian occupations and related assistance programs, including information concerning—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)"

for "Information concerning".

Subsec. (b)(11) to (17). Pub. L. 109–163, §594(2), added pars. (11) to (17).

**2001**—Subsec. (a)(1). Pub. L. 107–103, §302(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "As soon as possible before, but in no event later than 90 days before, the date of the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual preseparation counseling of the member."

Subsec. (a)(3), (4). Pub. L. 107–103, §302(a)(2), added pars. (3) and (4).

**2000**—Subsec. (b)(4). Pub. L. 106–398 substituted "sections 1152 and 1153 of this title and the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.)" for "sections 1151, 1152, and 1153 of this title".

**1993**—Subsec. (b)(4). Pub. L. 103–160 substituted "programs established under sections 1151, 1152, and 1153 of this title" for "program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aides".

Pub. L. 103–35 substituted "job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aides" for "job placement assistance and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aides., including the public and community service jobs program carried out under section 1143a of this title".

**1992**—Subsec. (a)(1). Pub. L. 102–484, §4401(a), substituted "As soon as possible before, but in no event later than 90 days before, the date of the discharge" for "Upon the discharge".

Subsec. (b)(4). Pub. L. 102–484, §4462(b), inserted before period at end ", including the public and community service jobs program carried out under section 1143a of this title".

Pub. L. 102–484, §4441(b), inserted before period at end "and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aides."

Subsec. (b)(10). Pub. L. 102–484, §4401(b), added par. (10).

**1991**—Subsec. (b)(5). Pub. L. 102–190 substituted period for semicolon at end.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–56, title II, §221(c), Nov. 21, 2011, 125 Stat. 716, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1144 of this title] shall take effect on the date that is 1 year after the date of the enactment of this Act [Nov. 21, 2011]."

**NOTICE OF OPTIONS FOR NATURALIZATION UPON SEPARATION**

Pub. L. 117–81, div. A, title V, §523(b), Dec. 27, 2021, 135 Stat. 1687, provided that: "The Secretary of Homeland Security, acting through the Director of U.S. Citizenship and Immigration Services, and in coordination with the Secretary of Defense, shall provide to a member of the Armed Forces who is not a citizen of the United States, upon separation of such member, notice of options for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.)[.] Such notice shall inform the member of existing programs or services that may aid in the naturalization process of such member."

**INCLUSION OF QUESTION REGARDING IMMIGRATION STATUS ON PRESEPARATION COUNSELING CHECKLIST (DD FORM 2648)**

Pub. L. 116–92, div. A, title V, §570C, Dec. 20, 2019, 133 Stat. 1399, provided that: "Not later than September 30, 2020, the Secretary of Defense shall modify the preseparation counseling checklist for active component, active guard reserve, active reserve, full time support, and reserve program administrator service members (DD Form 2648) to include a specific block wherein a member of the Armed Forces may indicate that the member would like to receive information regarding the immigration status of that member and expedited naturalization."

**CONNECTIONS OF MEMBERS RETIRING OR SEPARATING FROM THE ARMED FORCES WITH COMMUNITY-BASED ORGANIZATIONS AND RELATED ENTITIES**

Pub. L. 116–92, div. A, title V, §570F, Dec. 20, 2019, 133 Stat. 1401, as amended by Pub. L. 119–60, div. A, title V, §573, Dec. 18, 2025, 139 Stat. 887, provided that:

"(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly seek to enter into memoranda of understanding or other agreements with State veterans agencies under which information from Department of Defense Form DD–2648 on individuals undergoing retirement, discharge, or release from the Armed Forces is transmitted to one or more State veterans agencies, as elected by such individuals, to provide or connect veterans to benefits or services as follows:

"(1) Assistance in preparation of resumes.

"(2) Training for employment interviews.

"(3) Employment recruitment training.

"(4) Other services leading directly to a successful transition from military life to civilian life.

"(5) Healthcare, including care for mental health.

"(6) Transportation or transportation-related services.

"(7) Housing.

"(8) Such other benefits or services as the Secretaries jointly consider appropriate for purposes of this section.

"(b) INFORMATION TRANSMITTED.—The information transmitted on individuals as described in subsection (a) shall be such information on Form DD–2648 as the Secretaries jointly consider appropriate to facilitate community-based organizations and related entities in providing or connecting such individuals to benefits and services as described in subsection (a).

"(c) MODIFICATION OF FORM DD–2648.—The Secretary of Defense shall make such modifications to Form DD–2648 as the Secretary considers appropriate to allow an individual filling out the form to indicate—

"(1) an email address at which the individual may be contacted to receive or be connected to benefits or services described in subsection (a); and

"(2) if the individual would like to opt-out of the transmittal of the individual's information to and through a State veterans agency as described in subsection (a).

"(d) OPT-OUT OF INFORMATION SHARING.—Information on an individual shall be transmitted to and through a State veterans agency as described in subsection (a) unless the individual indicates pursuant to subsection (c)(2) that the individual would like to opt out of such transmittal.

"(e) STORAGE AND TRANSFER OF INFORMATION.—

"(1) IN GENERAL.—The Secretary of Defense shall seek to enter into memoranda of understanding or other agreements with the State veterans agencies described in subsection (a) to create or modify a Department system to store and transfer information under this section to information systems of such State veterans agencies.

"(2) COMPLIANCE.—The Secretary shall ensure that any agreement entered into under paragraph (1) is in compliance with—

"(A) applicable provisions of law relating to privacy and personally identifiable information; and

"(B) applicable policies relating to cybersecurity of Department information systems and State information systems.

"(f) LIMITATION ON USE OF INFORMATION.—Information transferred under this section may only be used by a State for the purpose of providing or connecting veterans to benefits or services as described in subsection (a)."

## DEADLINE FOR COUNSELING PATHWAYS

Pub. L. 115–232, div. A, title V, §552(a)(2), Aug. 13, 2018, 132 Stat. 1770, provided that: "Each Secretary concerned shall carry out subsection (c) of such section [10 U.S.C. 1142(c)], as amended by paragraph (1), not later than 1 year after the date of the enactment of this Act [Aug. 13, 2018]."

## NOTIFICATION OF MEMBERS OF THE ARMED FORCES UNDERGOING CERTAIN ADMINISTRATIVE SEPARATIONS OF POTENTIAL ELIGIBILITY FOR VETERANS BENEFITS

Pub. L. 115–91, div. A, title V, §528, Dec. 12, 2017, 131 Stat. 1383, provided that:

"(a) NOTIFICATION REQUIRED.—A member of the Armed Forces who receives an administrative separation or mandatory discharge under conditions other than honorable shall be provided written notification that the member may petition the Veterans Benefits Administration of the Department of Veterans Affairs to receive, despite the characterization of the member's service, certain benefits under the laws administered by the Secretary of Veterans Affairs.

"(b) DEADLINE FOR NOTIFICATION.—Notification under subsection (a) shall be provided to a member described in such subsection in conjunction with the member's notification of the administrative separation or mandatory discharge or as soon thereafter as practicable."

## PARTICIPATION OF POTENTIAL CAREGIVERS IN APPROPRIATE PRESEPARATION COUNSELING

Pub. L. 115–91, div. A, title V, §541(b), Dec. 12, 2017, 131 Stat. 1393, provided that:

"(1) IN GENERAL.—In accordance with procedures established by the Secretary of Defense, each Secretary of a military department shall take appropriate actions to achieve the following:

"(A) To determine whether each member of the Armed Forces under the jurisdiction of such Secretary who is undergoing preseparation counseling pursuant to section 1142 of title 10, United States Code (as amended by subsection (a)), and who may require caregiver services after separation from the Armed Forces has identified an individual to provide such services after the member's separation.

"(B) In the case of a member described in subparagraph (A) who has identified an individual to provide caregiver services after the member's separation, at the election of the member, to permit such individual to participate in appropriate sessions of the member's preseparation counseling in order to inform such individual of—

"(i) the assistance and support services available to caregivers of members after separation from the Armed Forces; and

"(ii) the manner in which the member's transition to civilian life after separation may likely affect such individual as a caregiver.

"(2) CAREGIVERS.—For purposes of this subsection, individuals who provide caregiver services refers to individuals (including a spouse, partner, parent, sibling, adult child, other relative, or friend) who provide physical or emotional assistance to former members of the Armed Forces during and after their transition from military life to civilian life following separation from the Armed Forces.

"(3) DEADLINE FOR COMMENCEMENT.—Each Secretary of a miliary [sic] department shall commence the actions required pursuant to this subsection by not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017]."

## APPLICATION OF PRESEPARATION COUNSELING REQUIREMENTS TO COAST GUARD

Pub. L. 103–337, div. A, title V, §543(a), Oct. 5, 1994, 108 Stat. 2769, provided that: "As soon as possible after the date of the enactment of this Act [Oct. 5, 1994], the Secretary of Transportation shall implement the requirements of section 1142 of title 10, United States Code, for the Coast Guard."

## LIMITATION ON FUNDING TO CARRY OUT SECTION 543 OF PUB. L. 103–337

Pub. L. 103–337, div. A, title V, §543(h), Oct. 5, 1994, 108 Stat. 2772, provided that: "Funds appropriated or otherwise made available to the Department of Defense, the Department of Education, the Department of Labor, or the Department of Veterans Affairs may not be used to carry out subsection (a) [set out above] or

the amendments made by this section [amending sections 1144 and 1151 to 1153 of this title and provisions set out as notes under section 1143 of this title]."

[1] *So in original.*

[2] *So in original. There is no subpar. (Q).*

## §1143. Employment assistance

(a) EMPLOYMENT SKILLS VERIFICATION.—(1) The Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy shall provide to members of the armed forces who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

(2) In order to improve the accuracy and completeness of a certification or verification of job skills and experience required by paragraph (1), the Secretary of Defense shall—

(A) establish a database to record all training performed by members of the Army, Navy, Air Force, Marine Corps, and Space Force that may have application to employment in the civilian sector; and

(B) make unclassified information regarding such information available to States and other potential employers referred to in subsection (c) so that State and other entities may allow military training to satisfy licensing or certification requirements to engage in a civilian profession.

(3) The Secretary of Defense shall ensure that a certification or verification of job skills and experience required by paragraph (1) is rendered in such a way that States and other potential employers can confirm the accuracy and authenticity of the certification or verification.

(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations. The Secretary of Homeland Security shall establish permanent employment assistance centers at appropriate Coast Guard installations.

(c) INFORMATION TO CIVILIAN ENTITIES.—(1) For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense and the Secretary of Homeland Security shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

(2)(A) A State may—

(i) use a certification or verification of job skills and experience provided to a member of the armed forces under subsection (a); and

(ii) in the case of members of the Army, Navy, Air Force, Marine Corps, and Space Force, request the Department of Defense to confirm the accuracy and authenticity of the certification or verification.

(B) A response confirming or denying the information shall be provided within five business days.

(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, Marine Corps, or Space Force who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by nonappropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 1784(a)(2) of this

title, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once. The Secretary of Homeland Security shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.

(e) EMPLOYMENT SKILLS TRAINING; SKILLBRIDGE.—(1)(A) The Secretary concerned may carry out one or more programs to provide eligible members of the armed forces under the jurisdiction of the Secretary with job training and employment skills training, including apprenticeship programs, to help prepare such members for employment in the civilian sector. Such a program shall be known as "Skillbridge".

(B) The Secretary of a military department shall carry out one or more programs under this subsection.

(2) A member of the armed forces is an eligible member for purposes of a program under this subsection if the member—

(A) has completed at least 180 days on active duty in the armed forces; and

(B) is expected to be discharged or released from active duty in the armed forces within 180 days of the date of commencement of participation in such a program.

(3) To carry out this subsection, the Secretary concerned shall—

(A) assign not fewer than two full-time equivalent positions; and

(B) develop for each fiscal year a funding plan that includes funding lines across the future-years defense program under section 221 of this title.

(4) For any program under this subsection, the Secretary concerned shall, on an annual basis—

(A) circulate, to members serving on active duty under the jurisdiction of such Secretary concerned, information about the program (including eligibility requirements and the application process); and

(B) conduct outreach to inform potential employers about Skillbridge, participating members, and how the program operates, and to increase the number of, and types of, employers that hire program participants.

(5) Any program under this subsection may be carried out at, through, or in consultation with such other departments or agencies of the Federal Government as the Secretary concerned considers appropriate.

(6) Any program under this subsection shall be carried out in accordance with regulations prescribed by the Secretary concerned.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 103–337, div. A, title V, §542(a)(2), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 105–85, div. A, title X, §1073(a)(21), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–81, div. A, title V, §551, Dec. 31, 2011, 125 Stat. 1412; Pub. L. 112–239, div. A, title X, §1076(f)(13), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 115–91, div. A, title V, §542(a)–(c), Dec. 12, 2017, 131 Stat. 1394, 1395; Pub. L. 116–92, div. A, title V, §562, Dec. 20, 2019, 133 Stat. 1395; Pub. L. 116–283, div. A, title V, §572, title IX, §924(b)(1)(J), (3)(R), Jan. 1, 2021, 134 Stat. 3643, 3820, 3821; Pub. L. 117–263, div. A, title V, §561(a), Dec. 23, 2022, 136 Stat. 2598; Pub. L. 118–31, div. A, title V, §572(a), Dec. 22, 2023, 137 Stat. 275; Pub. L. 119–60, div. A, title XVII, §1701(a)(13), Dec. 18, 2025, 139 Stat. 1208.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (e)(1). Pub. L. 119–60 substituted "(A)" for "(A)".

**2023**—Subsec. (e)(1). Pub. L. 118–31, §572(a)(1), designated existing provisions as subpar. "(A)" and added subpar. (B).

Subsec. (e)(3) to (6). Pub. L. 118–31, §572(a)(2), (3), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

**2022**—Subsec. (e). Pub. L. 117–263, §561(a)(1), inserted "; Skillbridge" after "Training" in heading.

Subsec. (e)(1). Pub. L. 117–263, §561(a)(2), inserted at end "Such a program shall be known as 'Skillbridge'."

**2021**—Subsecs. (a)(2)(A), (c)(2)(A)(ii). Pub. L. 116–283, §924(b)(1)(J), substituted "Marine Corps, and Space Force" for "and Marine Corps".

Subsec. (d). Pub. L. 116–283, §924(b)(3)(R), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (e)(1). Pub. L. 116–283, §572(1), substituted "concerned" for "of a military department".

Subsec. (e)(3). Pub. L. 116–283, §572(2), struck out "of the military department" after "Secretary".

Subsec. (e)(4). Pub. L. 116–283, §572(3), substituted "Secretary concerned" for "Secretary of Defense".

**2019**—Subsec. (e)(3), (4). Pub. L. 116–92 added par. (3) and redesignated former par. (3) as (4).

**2017**—Subsec. (a). Pub. L. 115–91, §542(a), (b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 115–91, §542(c), designated existing provisions as par. (1) and added par. (2).

**2013**—Subsec. (a). Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "Coast Guard".

**2011**—Subsec. (e). Pub. L. 112–81 added subsec. (e).

**2002**—Subsecs. (a) to (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1997**—Subsec. (d). Pub. L. 105–85 substituted "section 1784(a)(2) of this title" for "section 806(a)(2) of the Military Family Act of 1985".

**1994**—Pub. L. 103–337, §542(a)(2)(A), struck out ": Department of Defense" after "assistance" in section catchline.

Subsec. (a). Pub. L. 103–337, §542(a)(2)(B), inserted "and the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense" and struck out "under the jurisdiction of the Secretary" after "armed forces".

Subsec. (b). Pub. L. 103–337, §542(a)(2)(C), inserted at end "The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations."

Subsec. (c). Pub. L. 103–337, §542(a)(2)(D), inserted "and the Secretary of Transportation" after "Secretary of Defense".

Subsec. (d). Pub. L. 103–337, §542(a)(2)(E), inserted at end "The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

### REGULATIONS

Pub. L. 117–263, div. A, title V, §561(b), Dec. 23, 2022, 136 Stat. 2598, provided that: "To carry out Skillbridge, the Secretary of Defense shall, not later than September 30, 2023—

"(1) update Department of Defense Instruction 1322.29, titled 'Job Training, Employment Skills Training, Apprenticeships, and Internships (JTEST-AI) for Eligible Service Members'; and

"(2) develop a funding plan for Skillbridge that includes funding lines across the future-years defense program under section 221 of title 10, United States Code."

### MILITARY TRAINING AND COMPETENCY RECORDS

Pub. L. 118–159, div. A, title V, §574, Dec. 23, 2024, 138 Stat. 1909, provided that:

"(a) COMPETENCY RECORDS.—

"(1) IN GENERAL.—The Secretary of a military department shall provide, to each member of a covered Armed Force under the jurisdiction of such Secretary, a document that outlines the training and

qualifications acquired by the member while serving in such covered Armed Force. Such document shall be known as a 'competency record'.

"(2) FORMAT AND CONTENTS.—The Secretary of Defense shall develop a standardized format for competency records, which shall include, at a minimum, the following information:

"(A) Relevant personal details about the member.

"(B) Description of training courses, certifications, and qualifications obtained.

"(C) Date and duration of each completed training.

"(D) Authorized signatures and other necessary authentication.

"(3) AVAILABILITY.—A competency record shall be provided to a member upon the separation or retirement of such member from a covered Armed Force.

"(b) IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish the necessary regulations, procedures, and timelines for the implementation of this section.

"(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation and usefulness of competency records and any recommendations of the Secretary for improving competency records. The report shall include feedback and recommendations from States and other employers regarding the usability and accuracy of the information in the competency records.

"(d) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force."

## AUTHORITY TO EXPAND ELIGIBILITY FOR THE UNITED STATES MILITARY APPRENTICESHIP PROGRAM

Pub. L. 115–91, div. A, title V, §546, Dec. 12, 2017, 131 Stat. 1397, provided that:

"(a) EXPANSION AUTHORIZED.—The Secretary of Defense may expand eligibility for the United Services Military Apprenticeship Program to include any member of the uniformed services.

"(b) DEFINITION.—In this section, the term 'uniformed services' has the meaning given such term in section 101(a)(5) of title 10, United States Code."

## PILOT PROGRAM TO ASSIST MEMBERS OF THE ARMED FORCES IN OBTAINING POST-SERVICE EMPLOYMENT

Pub. L. 113–291, div. A, title V, §555, Dec. 19, 2014, 128 Stat. 3379, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense may conduct the program described in subsection (c) to enhance the efforts of the Department of Defense to provide job placement assistance and related employment services to eligible members of the Armed Forces described in subsection (b) for the purposes of—

"(1) assisting such members in obtaining post-service employment; and

"(2) reducing the amount of 'Unemployment Compensation for Ex-Servicemembers' that the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating pays into the Unemployment Trust Fund.

"(b) ELIGIBLE MEMBERS.—Employment services provided under the program are limited to members of the Armed Forces, including members of the reserve components, who are being separated from the Armed Forces or released from active duty.

"(c) EVALUATION OF USE OF CIVILIAN EMPLOYMENT STAFFING AGENCIES.—

"(1) PROGRAM DESCRIBED.—The Secretary of Defense may execute a program to evaluate the feasibility and cost-effectiveness of utilizing the services of civilian employment staffing agencies to assist eligible members of the Armed Forces in obtaining post-service employment.

"(2) PROGRAM MANAGEMENT.—To manage the program authorized by this subsection, the Secretary of Defense may select a civilian organization (in this section referred to as the 'program manager') whose principal members have experience—

"(A) administering pay-for-performance programs; and

"(B) within the employment staffing industry.

"(3) EXCLUSION.—The program manager may not be a staffing agency.

"(d) ELIGIBLE CIVILIAN EMPLOYMENT STAFFING AGENCIES.—In consultation with the program manager if utilized under subsection (c)(2), the Secretary of Defense shall establish the eligibility requirements to be used for the selection of civilian employment staffing agencies to participate in the program. In establishing the eligibility requirements for the selection of the civilian employment staffing agencies, the Secretary of Defense shall also take into account civilian employment staffing agencies that are

willing to work and consult with State and county Veterans Affairs offices and State National Guard offices, when appropriate.

"(e) PAYMENT OF STAFFING AGENCY FEES.—To encourage employers to employ an eligible member of the Armed Forces under the program if executed under this section, the Secretary of Defense shall pay a participating civilian employment staffing agency a portion of its agency fee (not to exceed 50 percent above the member's hourly wage). Payment of the agency fee will only be made after the member has been employed and paid by the private sector and the hours worked have been verified by the Secretary. The staffing agency shall be paid on a weekly basis only for hours the member worked, but not to exceed a total of 800 hours.

"(f) OVERSIGHT REQUIREMENTS.—In conducting the program, the Secretary of Defense shall establish—

"(1) program monitoring standards; and

"(2) reporting requirements, including the hourly wage for each eligible member of the Armed Forces obtaining employment under the program, the numbers of hours worked during the month, and the number of members who remained employed with the same employer after completing the first 800 hours of employment.

"(g) SOURCE AND LIMITATION ON PROGRAM OBLIGATIONS.—Of the amounts authorized to be appropriated to the Secretary of Defense for operation and maintenance for each fiscal year during which the program under this section is authorized, not more than $35,000,000 may be used to carry out the program.

"(h) REPORTING REQUIREMENTS.—

"(1) REPORT REQUIRED.—If the Secretary of Defense executes the program under this section, the Secretary shall submit to the appropriate congressional committees a report describing the results of the program, particularly whether the program achieved the purposes specified in subsection (a). The report shall be submitted not later than January 15, 2019.

"(2) COMPARISON WITH OTHER PROGRAMS.—The report shall include a comparison of the results of the program conducted under this section and the results of other employment assistant programs utilized by the Department of Defense. The comparison shall include the number of members of the Armed Forces obtaining employment through each program and the cost to the Department per member.

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(i) DURATION OF AUTHORITY.—The authority of the Secretary of Defense to carry out programs under this section expires on September 30, 2018."

## DEPARTMENT OF DEFENSE PILOT PROGRAM ON WORK EXPERIENCE FOR MEMBERS OF THE ARMED FORCES ON TERMINAL LEAVE

Pub. L. 112–56, title II, §236, Nov. 21, 2011, 125 Stat. 724, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish a pilot program to assess the feasibility and advisability of providing to members of the Armed Forces on terminal leave work experience with civilian employees and contractors of the Department of Defense to facilitate the transition of the individuals from service in the Armed Forces to employment in the civilian labor market.

"(b) DURATION.—The pilot program shall be carried out during the two-year period beginning on the date of the commencement of the pilot program.

"(c) REPORT.—Not later than 540 days after the date of the commencement of the pilot program, the Secretary shall submit to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate and the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives an interim report on the pilot program that includes the findings of the Secretary with respect to the feasibility and advisability of providing covered individuals with work experience as described in subsection (a)."

## DEMONSTRATION PROGRAM FOR TRAINING RECENTLY DISCHARGED VETERANS FOR EMPLOYMENT IN CONSTRUCTION AND HAZARDOUS WASTE REMEDIATION

Pub. L. 103–160, div. A, title XIII, §1337, Nov. 30, 1993, 107 Stat. 1805, authorized the Secretary of Defense to establish a demonstration program to promote training and employment of veterans in construction

and hazardous waste remediation industries and to make grants under the program to organizations that had met certain eligibility criteria, and directed the Secretary to obligate the funds to carry out the program not later than Oct. 1, 1994, and to submit to Congress interim and final reports not later than Dec. 31, 1995.

## IMPROVED COORDINATION OF JOB TRAINING AND PLACEMENT PROGRAMS FOR MEMBERS OF ARMED FORCES

Pub. L. 102–484, div. D, title XLIV, §4461, Oct. 23, 1992, 106 Stat. 2738, as amended by Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(7)(B), (f)(6)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–419, 2681–430; Pub. L. 105–332, §3(b), Oct. 31, 1998, 112 Stat. 3125; Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(7)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294; Pub. L. 107–107, div. A, title X, §1048(h)(3), Dec. 28, 2001, 115 Stat. 1229, provided that: "The Secretary of Defense shall consult with the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Economic Adjustment Committee to improve the coordination of, and eliminate duplication between, the following job training and placement programs available to members of the Armed Forces who are discharged or released from active duty:

"(1) Title I of the Workforce Investment Act of 1998 [former 29 U.S.C. 2801 et seq.].

"(2) Sections 1143 and 1144 of title 10, United States Code.

"(3) Chapter 41 of title 38, United States Code.

"(4) The Act of August 16, 1937 (Chapter 663; 50 Stat 664; 29 U.S.C. 50 et seq.), commonly known as the National Apprenticeship Act.

"(5) The Wagner-Peyser Act (29 U.S.C. 49 et seq.)."

## PARTICIPATION OF DISCHARGED MILITARY PERSONNEL IN UPWARD BOUND PROJECTS TO PREPARE FOR COLLEGE

Pub. L. 102–484, div. D, title XLIV, §4466, Oct. 23, 1992, 106 Stat. 2748, as amended by Pub. L. 103–337, div. A, title V, §543(f), Oct. 5, 1994, 108 Stat. 2771; Pub. L. 107–296, title XVII, §1704(e)(4), Nov. 25, 2002, 116 Stat. 2315, provided that:

"(a) PROGRAM.—The Secretary of Defense may carry out a program to assist a member of the Armed Forces described in subsection (b) who is accepted to participate in an upward bound project assisted under section 402C of the Higher Education Act of 1965 (20 U.S.C. 1070a–13) to cover the cost of providing services through the project to the member to assist the member to prepare for and pursue a program of higher education upon separation from active duty. Assistance provided under the program may include a stipend provided under subsection (d) of such section.

"(b) ELIGIBLE MEMBERS.—A member of the Armed Forces shall be eligible for assistance under subsection (a) if the member—

"(1) was on active duty or full-time National Guard duty on September 30, 1990;

"(2) during the five-year period beginning on that date, was or is discharged or released from such duty (under other than adverse circumstances); and

"(3) submits an application to the Secretary of Defense within such time, in such form, and containing such information as the Secretary of Defense may require.

"(c) NOTIFICATION OF MEMBERS PREVIOUSLY SEPARATED.—To the extent feasible, the Secretary of Defense shall notify members of the Armed Forces who, between September 30, 1990, and the date of the enactment of this Act [Oct. 23, 1992], were discharged or released from active duty or full-time National Guard duty regarding the availability of the program under subsection (a). The Secretary may establish a time limit within which such members may apply to participate in the program.

"(d) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF AMOUNT.—The amount of assistance provided under subsection (a) to a member of the Armed Forces shall be equal to the anticipated cost of providing services to the member through an upward bound project, subject to the limitation that such amount may not exceed the monthly basic pay to which the member is entitled at the time of the separation of the member. The Secretary of Defense may provide assistance in excess of that limitation if the Secretary determines, on a case by case basis, that such assistance is warranted by the special training needs of the member.

"(2) CONSULTATION.—The Secretary of Education may assist the Secretary of Defense in determining the amount to be provided under paragraph (1).

"(e) USE OF ASSISTANCE.—A member of the Armed Forces who is selected to participate in the program may receive services through any upward bound project assisted under section 402C of the Higher Education Act of 1965 (20 U.S.C. 1070a–13) to the same extent as other individuals eligible to receive such services. A member may not participate after the end of the two-year period beginning on the date on which the member is discharged or released from active duty, except that, in the case of a member described in

subsection (b) who was discharged or released from active duty before the date of the enactment of this Act [Oct. 23, 1993], the period for participation in the program shall be two years from the date of the enactment of this Act.

"(f) REIMBURSEMENT.—Upon submission to the Secretary of Defense of a request for reimbursement of the costs to provide services to a participant, the Secretary shall reimburse the upward bound project submitting the request for the actual cost of providing services (including a stipend) to the member, not to exceed the amount provided under subsection (d)(1). Funds provided under this subsection shall be in addition to the funds otherwise provided to the project under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.). Not more than 10 percent of the funds provided under this subsection may be used for administrative costs.

"(g) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301 [106 Stat. 2360] for Defense Agencies, $5,000,000 shall be available to provide assistance under this section.

"(h) APPLICATION TO COAST GUARD.—The Secretary of Homeland Security may implement the provisions of this section for the Coast Guard in the same manner and to the same extent as such section applies to the Department of Defense."

## SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING

Pub. L. 103–337, div. A, title V, §543(g)(2), Oct. 5, 1994, 108 Stat. 2772, provided that: "As soon as possible after the date of the enactment of this Act [Oct. 5, 1994], the Secretary of Transportation shall implement the requirements of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) for the Coast Guard."

Pub. L. 102–484, div. D, title XLIV, subtitle G, Oct. 23, 1992, 106 Stat. 2757, as amended by Pub. L. 103–160, div. A, title XIII, §1338, Nov. 30, 1993, 107 Stat. 1807; Pub. L. 103–337, div. A, title V, §543(g)(1), Oct. 5, 1994, 108 Stat. 2772; Pub. L. 103–446, title VI, §610(a)(1), (2)(A), (b), (c), Nov. 2, 1994, 108 Stat. 4673; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(7)(D), (f)(6)(D)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–420, 2681–430, provided that:

"SEC. 4481. SHORT TITLE.

"This subtitle [subtitle G (§§4481–4497) of title XLIV of Pub. L. 102–484] may be cited as the 'Service Members Occupational Conversion and Training Act of 1992'.

"SEC. 4482. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the men and women serving in our Nation's Armed Forces are of the highest caliber—intelligent, dedicated, and disciplined—and hundreds of thousands of these service members will be separating from the Armed Forces due to the drawdown in military personnel;

"(2) these men and women will be entering the civilian workforce during a time of economic instability and uncertainty;

"(3) many of these service personnel specialized in critical skills such as combat arms which will not transfer to the civilian workforce;

"(4) as part of the Nation's obligation to these service members, the Secretary of Defense has a unique responsibility and obligation to provide them with the tools they need to be reassimilated into the civilian community and continue to be outstanding, productive citizens;

"(5) the rapid placement of separated military personnel in civilian employment and training opportunities will significantly reduce the Department of Defense's costs relative to unemployment compensation for ex-service members;

"(6) military personnel are a national resource whose skills and abilities must be absorbed by and integrated into the civilian workforce; and

"(7) providing such training will reduce the total cost of the drawdown and is important to the national defense function of the Department of Defense.

"(b) PURPOSE.—The purpose of this subtitle is to provide additional means by which the Secretary of Defense can manage the drawdown of the Armed Forces and to provide additional forms of assistance to members of the Armed Forces who are forced or induced to leave military service by reason of the drawdown of the Armed Forces, thereby facilitating the Secretary's ability to achieve end strength reductions caused by the drawdown.

"SEC. 4483. DEFINITIONS.

"For the purposes of this subtitle:

"(1) The term 'Secretary' means the Secretary of Defense with respect to the Department of Defense and the Secretary of Transportation with respect to the Coast Guard.

"(2) The terms 'veteran', 'compensation', 'service-connected', 'State', and 'active military, naval, or air service' have the meanings given such terms in paragraphs (2), (13), (16), (20), and (24), respectively, of section 101 of title 38, United States Code.

"SEC. 4484. ESTABLISHMENT OF PROGRAM.

"(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Oct. 23, 1992], the Secretary shall carry out a program in accordance with this subtitle to assist eligible persons in obtaining employment through participation in programs of significant training for employment in stable and permanent positions. The Secretary may enter into an agreement with the Secretary of Veterans Affairs, the Secretary of Labor, or both, for the implementation of the program. The program shall be carried out through payments to employers who employ and train eligible persons in such positions. Such payments shall be made to assist such employers in defraying the costs of necessary training.

"(b) STATE AGENCIES.—(1) The implementing official may enter into contracts or agreements with State approving agencies, as designated pursuant to section 3671(a) of title 38, United States Code, or other State agencies to carry out any duty of the implementing official under this subtitle. Payment may be made to such agencies pursuant to any such contract or agreement for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out such duties. Each such payment may be made only from funds available to the implementing official pursuant to section 4495(a)(3).

"(2) Each State approving agency or other State agency with which a contract or agreement is entered into under this section shall submit to the implementing official on a monthly or quarterly basis, as determined by the agency, a report containing a certification of such expenses for the period covered by the report. The report shall be submitted in the form and manner required by such official.

"(c) EXPEDITIOUS IMPLEMENTATION.—A requirement in this subtitle to issue regulations shall not be the basis for a delay in carrying out this program within the time limit established by subsection (a).

"SEC. 4485. ELIGIBILITY FOR PROGRAM; PERIOD OF TRAINING.

"(a) IN GENERAL.—(1) To be eligible for participation in a program of job training under this subtitle, an eligible person must be an eligible person described in paragraph (2) who—

"(A)(i) is unemployed at the time of applying for participation in a program under this subtitle; and

"(ii) has been unemployed for at least 8 of the 15 weeks immediately preceding the date of such eligible person's application for participation in a program under this subtitle;

"(B) separates from the active military, naval, or air service and whose primary or secondary occupational specialty in the Armed Forces is (as determined under regulations prescribed by the Secretary and in effect before the date of such separation) not readily transferable to the civilian workforce; or

"(C) served in the active military, naval, or air service and is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Secretary of Veterans Affairs for a disability rated at 30 percent or more.

"(2) For purposes of paragraph (1), an eligible person referred to in paragraph (1) is a veteran who—

"(A) was discharged on or after August 2, 1990; and

"(B)(i) served in the active military, naval, or air service for a period of more than 90 days; or

"(ii) was discharged or released from active duty because of a service-connected disability.

"(3) For purposes of paragraph (1), an eligible person shall be considered to be unemployed during any period such person is without a job and wants and is available for work. In determining whether a person is unemployed for purposes of paragraph (1), the implementing official shall not take into consideration part-time or temporary employment, as defined by such official.

"(b) APPLICATION PROCESS.—(1) An eligible person who desires to participate in a program of job training under this subtitle shall submit to the implementing official an application for participation in such a program. Such an application—

"(A) shall include a certification by the eligible person that the eligible person meets the criteria for eligibility prescribed by subparagraph (A), (B), or (C) of subsection (a)(1);

"(B) shall include an opportunity for the eligible person to request counseling under section 4493(a); and

"(C) shall be in such form and contain such additional information as such official may prescribe.

"(2)(A) Subject to subparagraph (B), an application by an eligible person for participation in a program of job training under this subtitle shall be approved unless the implementing official finds that the eligible person is not eligible to participate in a program of job training under this subtitle.

"(B) Approval of an application of an eligible person under this subtitle may be withheld if the implementing official determines that, because of limited funds available for the purpose of making payments to employers under this subtitle, it is necessary to limit the number of participants in the program carried out

under this subtitle.

"(3)(A) Subject to section 4491(c), the implementing official shall certify as eligible for participation under this subtitle an eligible person whose application is approved under this subsection and shall furnish the eligible person with a certificate of that eligible person's eligibility for presentation to an employer offering a program of job training under this subtitle. Any such certificate shall expire 180 days after it is furnished to the eligible person. The date on which a certificate is furnished to an eligible person under this paragraph shall be stated on the certificate.

"(B) A certificate furnished under this paragraph may, upon the eligible person's application, be renewed in accordance with the terms and conditions of subparagraph (A).

"(c) APPEAL OF DENIAL OF CERTIFICATE.—The implementing official shall permit each eligible person who is not issued a certificate of eligibility under subsection (b) (other than an eligible person who is not issued such a certificate by reason of subsection (b)(2)(B)) to challenge in a hearing before the implementing official the decision of the implementing official not to issue the certificate. The implementing official shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.

"(d) PERIOD OF TRAINING.—An employer shall provide a period of training under a program of job training under this subtitle of not less than 6 months in a field of employment providing a reasonable probability of stable, long-term employment.

"SEC. 4486. APPROVAL OF EMPLOYER PROGRAMS.

"(a) IN GENERAL.—(1) An employer may be paid assistance under section 4487(a) on behalf of an eligible person employed by such employer and participating in a program of job training offered by that employer only if the program is approved under this section.

"(2) Except as provided in subsection (b), a proposed program of job training of an employer shall be approved unless the implementing official determines that the application does not contain a certification and other information meeting the requirements established under this subtitle or that withholding of approval is warranted under subsection (g).

"(b) INELIGIBLE PROGRAMS.—A program of job training—

"(1) for employment which consists of seasonal, intermittent, or temporary jobs;

"(2) for employment under which commissions are the primary source of income;

"(3) for employment which involves political or religious activities;

"(4) for employment with any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission); or

"(5) for employment outside of a State,

may not be approved under this subtitle.

"(c) APPLICATION.—An employer offering a program of job training that the employer desires to have approved for the purposes of this subtitle shall submit to the implementing official a written application for such approval. Such application shall be in such form as such official shall prescribe.

"(d) CERTIFICATION.—An application under subsection (c) shall include a certification by the employer of the following:

"(1) That the employer is planning that, upon an eligible person's completion of the program of job training, the employer will employ the eligible person in a position for which the eligible person has been trained and that the employer expects that such a position will be available on a stable and permanent basis to the eligible person at the end of the training period.

"(2) That the wages and benefits to be paid to an eligible person participating in the employer's program of job training will be not less than the wages and benefits normally paid to other employees participating in the same or a comparable program of job training in the community for the entire period of training of the eligible person.

"(3) That the employment of an eligible person under the program—

"(A) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits); and

"(B) will not be in a job (i) while any other individual is on layoff from the same or any substantially equivalent job, or (ii) the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its work force with the intention of hiring an eligible person in such job under this subtitle.

"(4) That the employer will not employ in the program of job training an eligible person who is already qualified by training and experience for the job for which training is to be provided.

"(5) That the job which is the objective of the training program is one that involves significant training.

"(6) That the training content of the program is adequate, in light of the nature of the occupation for which training is to be provided and of comparable training opportunities in such occupation, to accomplish

the training objective certified under paragraph (2) of subsection (e).

"(7) That each participating eligible person will be employed full time in the program of job training.

"(8) That the training period under the proposed program is not longer than the training periods that employers in the community customarily require new employees to complete in order to become competent in the occupation or job for which training is to be provided.

"(9) That there are in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as are needed to accomplish the training objective certified under subsection (e)(2).

"(10) That the employer will keep records adequate to show the progress made by each eligible person participating in the program and otherwise to demonstrate compliance with the requirements established under this subtitle.

"(11) That the employer will furnish each participating eligible person, before the eligible person's entry into training, with a copy of the employer's certification under this subsection and will obtain and retain the eligible person's signed acknowledgment of having received such certification.

"(12) That, as applicable, the employer will provide each participating eligible person with the full opportunity to participate in a personal interview pursuant to section 4493(b)(1)(B) during the eligible person's normal workday.

"(13) That the program meets such other criteria as the Secretary, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, may determine are essential for the effective implementation of the program established by this subtitle.

"(e) HOURS AND TRAINING CONTENT.—A certification under subsection (d) shall include—

"(1) a statement indicating (A) the total number of hours of participation in the program of job training to be offered an eligible person, (B) the length of the program of job training, and (C) the starting rate of wages to be paid to a participant in the program; and

"(2) a description of the training content of the program (including any agreement the employer has entered into with an educational institution under section 4489) and of the objective of the training.

"(f) STATUS OF CERTIFIED MATTERS.—(1) Except as specified in paragraph (2), each matter required to be certified to in paragraphs (1) through (11) of subsection (d) shall be considered to be a requirement established under this subtitle.

"(2)(A) For the purposes of section 4487(c), only matters required to be certified in paragraphs (1) through (10) of subsection (d) shall be so considered.

"(B) For the purposes of section 4490, a matter required to be certified under paragraph (12) of subsection (d) shall also be so considered.

"(g) WITHHOLDING APPROVAL; DISAPPROVAL.—In accordance with regulations which the Secretary shall prescribe, the implementing official may withhold approval of an employer's proposed program of job training pending the outcome of an investigation under section 4491 and, based on the outcome of such an investigation, may disapprove such program.

"(h) ON-JOB TRAINING.—For the purposes of this section, approval of a program of apprenticeship or other on-job training for the purposes of section 3687 of title 38, United States Code, shall be considered to meet all requirements established under the provisions of this subtitle (other than subsection (b) and (d)(3)) for approval of a program of job training.

"SEC. 4487. PAYMENTS TO EMPLOYERS; OVERPAYMENT.

"(a) PAYMENTS.—(1)(A) Except as provided in subsections (b) and (c) and subject to section 4485(d), the implementing official shall make payments to employers in accordance with this section. The amount payable to such an employer on behalf of an eligible person with respect to an approved program of job training under this subtitle shall be determined by such official at the beginning of such program. Except as provided in subparagraphs (B) and (C), that amount shall be equal to 50 percent of the product of (i) the starting hourly rate of wages paid to the eligible person by the employer (without regard to overtime or premium pay), and (ii) the number of hours to be worked by the eligible person during the entire program period but in no event to exceed hours equivalent to 18 months of training.

"(B) In no case may the amount determined under subparagraph (A) exceed—

"(i) $12,000 for an eligible person with a service-connected disability rated at 30 percent or more; or

"(ii) $10,000 for an eligible person not described in clause (i).

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B).

"(b) PAYMENT PERIOD.—(1) Except as provided in paragraphs (2) and (3), the implementing official

shall pay training assistance to employers under this section on a quarterly basis.

"(2) The implementing official may pay training assistance to an employer on a monthly basis if the implementing official determines (pursuant to regulations prescribed by the implementing official) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.

"(3) The implementing official shall withhold 25 percent of each payment due under this subsection with respect to an eligible person. The total amount withheld with respect to an eligible person under this paragraph shall be paid to the employer at the end of the four month period of employment of such person under this subtitle beginning on the date of completion of training, or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier.

"(c) TOOLS AND OTHER WORK-RELATED MATERIALS.—In addition to payments under subsection (a), the implementing official shall reimburse the employer for the cost of tools and other work-related materials necessary for the eligible person's participation in the program of job training in an amount up to $500 if the employer presents to the implementing official a certification signed by the employer and eligible person that—

"(1) tools and other work-related materials are necessary for the eligible person's participation in the job training program,

"(2) the eligible person bought the tools and other work-related materials, and

"(3) the employer paid the eligible person for the cost of the tools and other work-related materials.

"(d) OVERPAYMENTS.—(1)(A) Whenever the implementing official finds that an overpayment under this subtitle has been made to an employer on behalf of an eligible person as a result of a certification, or information contained in an application, submitted by an employer which was false in any material respect, the amount of such overpayment shall constitute a liability of the employer to the United States.

"(B) Whenever such official finds that an employer has failed in any substantial respect to comply for a period of time with a requirement established under this subtitle (unless the employer's failure is the result of false or incomplete information provided by the eligible person), each amount paid to the employer on behalf of an eligible person for that period shall be considered to be an overpayment under this subtitle, and the amount of such overpayment shall constitute a liability of the employer to the United States.

"(2) Whenever such official finds that an overpayment under this subtitle has been made to an employer on behalf of an eligible person as a result of a certification by the eligible person, or as a result of information provided to an employer or contained in an application submitted by the eligible person, which was willfully or negligently false in any material respect, the amount of such overpayment shall constitute a liability of the eligible person to the United States.

"(3) Any overpayment referred to in paragraph (1) or (2) may be recovered in the same manner as any other debt due the United States. Any overpayment recovered shall be credited to funds available to make payments under this subtitle. If there are no such funds, any overpayment recovered shall be deposited into the Treasury.

"(4) Any overpayment referred to in paragraph (1) or (2) may be waived, in whole or in part, in accordance with the terms and conditions set forth in section 5302 of title 38, United States Code.

"(e) LIMITATIONS.—(1) Payment may not be made to an employer for a period of training under this subtitle on behalf of an eligible person until the implementing official has received—

"(A) from the eligible person, a certification that the eligible person was employed full time by the employer in a program of job training during such period; and

"(B) from the employer, a certification—

"(i) that the eligible person was employed by the employer during that period and that the eligible person's performance and progress during such period were satisfactory; and

"(ii) of the number of hours worked by the eligible person during that period.

With respect to the first such certification by an employer with respect to an eligible person, the certification shall indicate the date on which the employment of the eligible person began and the starting hourly rate of wages paid to the eligible person (without regard to overtime or premium pay).

"(2) Payment may not be made to an employer for a period of training under this subtitle on behalf of an eligible person for which a request for payment is made after two years after the date on which that period of training ends.

"SEC. 4488. ENTRY INTO PROGRAM OF JOB TRAINING.

"(a) IN GENERAL.—Notwithstanding any other provision of this subtitle, the implementing official shall withhold or deny approval of an eligible person's entry into an approved program of job training if such official determines that funds are not available to make payments under this subtitle on behalf of the eligible person to the employer offering that program. Before the entry of an eligible person into an approved program

of job training of an employer for purposes of assistance under this subtitle, the employer shall notify such official of the employer's intention to employ that eligible person. The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.

"(b) PERIOD FOR COMMENCEMENT OF PARTICIPATION UNDER CERTIFICATE.—An eligible person who is issued a certificate of eligibility for participation in a program of job training under this subtitle shall commence participation in such a program not more than 180 days after the date of the issuance of the certificate. The date on which a certificate is furnished to an eligible person shall be stated on the certificate.

"SEC. 4489. PROVISION OF TRAINING THROUGH EDUCATIONAL INSTITUTIONS.

"An employer may enter into an agreement with an educational institution that has been approved for the purposes of chapter 106 of title 10, United States Code, or any other institution offering a program of job training, as approved by the Secretary of Veterans Affairs, in order that such institution may provide a program of job training (or a portion of such a program) under this subtitle. When such an agreement has been entered into, the application of the employer under section 4486 shall so state and shall include a description of the training to be provided under the agreement.

"SEC. 4490. DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN CERTAIN EMPLOYER PROGRAMS.

"(a) FAILURE TO MEET REQUIREMENTS.—If the implementing official finds at any time that a program of job training previously approved for the purposes of this subtitle thereafter fails to meet any of the requirements established under this subtitle, such official may immediately disapprove further participation by eligible persons in that program. Such official shall provide to the employer concerned, and to each eligible person participating in the employer's program, a statement of the reasons for, and an opportunity for a hearing with respect to, such disapproval. The employer and each such eligible person shall be notified of such disapproval, the reasons for such disapproval, and the opportunity for a hearing. Notification shall be by a certified or registered letter, and a return receipt shall be secured.

"(b) RATE OF COMPLETION.—(1) If the implementing official determines that the rate of eligible persons' successful completion of an employer's programs of job training previously approved for the purposes of this subtitle is disproportionately low because of deficiencies in the quality of such programs, such official shall disapprove participation in such programs on the part of eligible persons who had not begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, such official shall take into account appropriate data, including—

"(A) the quarterly data provided by the Secretary of Labor with respect to the number of eligible persons who receive counseling in connection with training under this subtitle, are referred to employers under this subtitle, participate in job training under this subtitle, and complete such training or do not complete such training, and the reasons for noncompletion; and

"(B) data compiled through the particular employer's compliance surveys.

"(2) With respect to a disapproval under paragraph (1), the implementing official shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

"(3) A disapproval under paragraph (1) shall remain in effect until such time as the implementing official determines that adequate remedial action has been taken.

"SEC. 4491. INSPECTION OF RECORDS; INVESTIGATIONS.

"(a) RECORDS.—The records and accounts of employers pertaining to eligible persons on behalf of whom assistance has been paid under this subtitle, as well as other records that the implementing official determines to be necessary to ascertain compliance with the requirements established under this subtitle, shall be available at reasonable times for examination by authorized representatives of the Federal Government.

"(b) COMPLIANCE MONITORING.—Such official may monitor employers and eligible persons participating in programs of job training under this subtitle to determine compliance with the requirements established under this subtitle.

"(c) INVESTIGATIONS.—Such official may investigate any matter such official considers necessary to determine compliance with the requirements established under this subtitle. The investigations authorized by this subsection may include examining records (including making certified copies of records), questioning

employees, and entering into any premises or onto any site where any part of a program of job training is conducted under this subtitle, or where any of the records of the employer offering or providing such program are kept.

"(d) DEPARTMENT OF LABOR.—Functions may be administered under subsections (b) and (c) in accordance with an agreement between the Secretary and the Secretary of Labor providing for the administration of such subsections (or any portion of such subsections) by the Department of Labor. Under such an agreement, any entity of the Department of Labor specified in the agreement may administer such subsections.

"SEC. 4492. COORDINATION WITH OTHER PROGRAMS.

"(a) VETERANS EDUCATION PROGRAMS.—(1) Assistance may not be paid under this subtitle to an employer on behalf of an eligible person for any period of time described in paragraph (2) and to such eligible person under chapter 30, 31, 32, 35, or 36 of title 38, United States Code, or chapter 106 of title 10, United States Code, for the same period of time.

"(2) A period of time referred to in paragraph (1) is the period of time beginning on the date on which the eligible person enters into an approved program of job training of an employer for purposes of assistance under this subtitle and ending on the last date for which such assistance is payable.

"(b) OTHER TRAINING AND EMPLOYMENT.—Assistance may not be paid under this subtitle to an employer on behalf of an eligible person for any period if the employer receives for that period any other form of assistance on account of the training or employment of the eligible person, including assistance under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] or a credit under section 51 of the Internal Revenue Code of 1986 [26 U.S.C. 51] (relating to credit for employment of certain new employees).

"(c) PREVIOUS COMPLETION OF PROGRAM.—Assistance may not be paid under this subtitle on behalf of an eligible person who has completed a program of job training under this subtitle.

"(d) PROMOTION.—(1) In carrying out section 3116(b) of title 38, United States Code, the Secretary of Veterans Affairs shall take all feasible steps to establish and encourage, for eligible persons who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training under this subtitle.

"(2) The Secretary of Veterans Affairs, in cooperation with the implementing official (unless the Secretary of Veterans Affairs is the implementing official), shall take all feasible steps to ensure that, in the cases of eligible persons who are eligible to have payments made on their behalf under both this subtitle and section 3116(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the eligible person's best interests, to make payments to employers on behalf of such eligible persons.

"SEC. 4493. COUNSELING.

"(a) IN GENERAL.—The implementing official shall, upon request, provide, by contract or otherwise, employment counseling services to any eligible person eligible to participate under this subtitle in order to assist such eligible person in selecting a suitable program of job training under this subtitle.

"(b) CASE MANAGER.—(1) The implementing official shall provide for a program under which—

"(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 4103A(a) of title 38, United States Code, is assigned as a case manager for each eligible person participating in a program of job training under this subtitle;

"(B) the eligible person has an in-person interview with the case manager not later than 60 days after entering into a program of training under this subtitle; and

"(C) periodic (not less frequent than monthly) contact is maintained with each such eligible person for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the eligible person to appropriate counseling, if necessary, (iii) facilitating the eligible person's successful completion of such program, and (iv) following up with the employer and the eligible person in order to determine the eligible person's progress in the program and the outcome regarding the eligible person's participation in and successful completion of the program.

"(2) No case manager shall be assigned pursuant to paragraph (1)(A)—

"(A) for an eligible person if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the implementing official determines that there is no need for a case manager for such eligible person; or

"(B) in the case of the employees of an employer, if the implementing official determines that—

"(i) the employer has an appropriate and effective employee assistance program that is available to all eligible persons participating in the employer's programs of job training under this subtitle; or

"(ii) the rate of eligible persons' successful completion of the employer's programs of job training

under this subtitle, either cumulatively or during the previous program year, is 60 percent or higher.

"(3) The implementing official shall provide, to the extent feasible, a program of counseling or other services designed to resolve difficulties that may be encountered by eligible persons during their training under this subtitle. Such counseling or other services shall be similar to the counseling and other services provided under sections 1712A, 3697A, 4103A, 4104, [former] 7723, and [former] 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.

"(c) CASE MANAGER REQUIRED.—Before an eligible person who voluntarily terminates from a program of job training under this subtitle or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this subtitle, such eligible person must be provided by the Secretary of Labor, after consultation with the implementing official, with a case manager.

"SEC. 4494. INFORMATION AND OUTREACH; USE OF AGENCY RESOURCES.

"(a) IN GENERAL.—(1) The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall jointly provide for an outreach and public information program—

"(A) to inform eligible persons about the employment and job training opportunities available under this subtitle and under other provisions of law; and

"(B) to inform private industry and business concerns (including small business concerns), public agencies and organizations, educational institutions, trade associations, and labor unions about the job training opportunities available under, and the advantages of participating in, the program established by this subtitle.

"(2) The Secretary, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, shall promote the development of employment and job training opportunities for eligible persons by encouraging potential employers to make programs of job training under this subtitle available for eligible persons, by advising other appropriate Federal departments and agencies of the program established by this subtitle, and by advising employers of applicable responsibilities under chapters 41 and 42 of title 38, United States Code, with respect to eligible persons.

"(b) COORDINATION.—The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall coordinate the outreach and public information program under subsection (a)(1), and job development activities under subsection (a)(2), with job counseling, placement, job development, and other services provided for under chapters 41 and 42 of title 38, United States Code, and with other similar services offered by other public agencies and organizations.

"(c) AGENCY RESOURCES.—(1) The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall make available such personnel as are necessary to facilitate the effective implementation of this subtitle.

"(2) In carrying out the responsibilities of the Secretary of Labor under this subtitle, the Secretary of Labor shall make maximum use of the services of Directors and Assistant Directors for Veterans' Employment and Training, disabled veterans' outreach program specialists, and employees of local offices, appointed pursuant to sections 4103, 4103A, and 4104 of title 38, United States Code. To the extent that the implementing official withholds approval of eligible persons' applications under this subtitle pursuant to section 4485(b)(2)(B), the Secretary of Labor shall take steps to assist such eligible persons in taking advantage of opportunities that may be available to them under any other program carried out with funds provided by the Secretary of Labor.

"(d) SMALL BUSINESS.—The implementing official shall request and obtain from the Administrator of the Small Business Administration a list of small business concerns and shall, on a regular basis, update such list. Such list shall be used to identify and promote possible training and employment opportunities for eligible persons.

"(e) ASSISTANCE TO PARTICIPATE.—The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall assist eligible persons and employers desiring to participate under this subtitle in making application and completing necessary certifications.

"(f) COLLECTION OF CERTAIN INFORMATION.—The Secretary of Labor shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans' Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of eligible persons who receive counseling services pursuant to section 4493, who are referred to employers participating under this subtitle, who participate in programs of job training under this subtitle (including a description of the nature of the training and salaries that are part of such programs), and who complete such programs, and the reasons for eligible persons' noncompletion.

"SEC. 4495. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated in section 301 [106 Stat. 2360] for Defense Agencies, $75,000,000 shall be made available for the purpose of making payments to employers under this subtitle. Of the amounts made available pursuant to section 1302(a) of the National Defense Authorization Act for Fiscal Year 1994 [Pub. L. 103–160, 107 Stat. 1783], $25,000,000 shall be made available for the purpose of making payments to employers under this subtitle. The Secretary of Veterans Affairs and the Secretary of Labor shall submit an estimate to the Secretary of the amount needed to carry out any agreement entered into under section 4484(a), including administrative costs referred to in paragraph (3). Such agreements shall include administrative procedures to ensure the prompt and timely payments to employers by the implementing official.

"(2) Amounts made available pursuant to this section for a fiscal year shall remain available until the end of the second fiscal year following the fiscal year in which such amounts were appropriated.

"(3) Of the amounts made available pursuant to this section for a fiscal year, six percent of such amounts may be used for the purpose of administering this subtitle, including reimbursing expenses incurred.

"(b) AVAILABILITY OF DEOBLIGATED FUNDS.—Notwithstanding any other provision of law, any funds made available pursuant to this section for a fiscal year which are obligated for the purpose of making payments under section 4487 on behalf of an eligible person (including funds so obligated which previously had been obligated for such purpose on behalf of another eligible person and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the implementing official for obligation for such purpose. The further obligation of such funds by such official for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.

"SEC. 4496. TIME PERIODS FOR APPLICATION AND INITIATION OF TRAINING.

"Assistance may not be paid to an employer under this subtitle—

"(1) on behalf of an eligible person who initially applies for a program of job training under this subtitle after September 30, 1996; or

"(2) for any such program which begins after March 31, 1997.

"SEC. 4497. TREATMENT OF CERTAIN PROVISIONS OF LAW UPON TRANSFER OF AMOUNTS PROVIDED UNDER THIS ACT.

"(a) CONTINGENT AMENDMENT.—If a transfer is made in accordance with section 4501(c) of the full amount of the amount provided under section 4495(a) for the program established under section 4484(a), then, effective as of the date of the enactment of this Act [Oct. 23, 1992], the first sentence of section 4484(a) is amended by striking 'the Secretary shall carry out' and inserting 'the Secretary may carry out'.

"(b) PUBLICATION IN THE FEDERAL REGISTER.—If the transfer described in subsection (a) is made, then the Secretary of Defense shall promptly publish in the Federal Register a notice of such transfer. Such notice shall specify the date on which such transfer occurred."

[Pub. L. 103–446, title VI, §610(a)(2)(B), Nov. 2, 1994, 108 Stat. 4673, provided that: "The amendment made by subparagraph (A) [amending section 4486(d)(2) of Pub. L. 102–484, set out above] shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 [subtitle G of title XLIV of Pub. L. 102–484, set out above] beginning after the date of the enactment of this Act [Nov. 2, 1994]."]

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

## [§1143a. Repealed. Pub. L. 115–232, div. A, title V, §553(a)(1), Aug. 13, 2018, 132 Stat. 1772]

Section, added Pub. L. 102–484, div. D, title XLIV, §4462(a)(1), Oct. 23, 1992, 106 Stat. 2738; amended Pub. L. 103–337, div. A, title V, §542(a)(3), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–239, div. A, title X, §1076(f)(14), Jan. 2, 2013, 126 Stat. 1952, related to encouraging members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE**

Pub. L. 102–484, div. D, title XLIV, §4464, Oct. 23, 1992, 106 Stat. 2741, which related to increased early retirement retired pay for public or community service, was repealed by Pub. L. 115–232, div. A, title V, §553(c), Aug. 13, 2018, 132 Stat. 1772, applicable with respect to an individual who retires from the Armed Forces on or after Aug. 13, 2018.

## §1144. Employment assistance, job training assistance, and other transitional services: Department of Labor

(a) IN GENERAL.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary concerned who are being separated from active duty and the spouses of such members. Subject to subsection (f)(2), such services shall be provided to a member within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section.

(2) The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section.

(b) ELEMENTS OF PROGRAM.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities (including apprenticeship programs approved under chapters 30 through 36 of title 38), (C) instruction in resumé preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101–237.

(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans' service organizations, that may be of assistance to such members after separation from the armed forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

(4) Inform such members that the Department of Defense and the Department of Homeland Security are required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in those areas (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

(7) Work with military and veterans' service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

(8) Provide information about disability-related employment and education protections.

(9) Provide information regarding the required deduction, pursuant to subsection (h) of section 1175a of this title, from disability compensation paid by the Secretary of Veterans Affairs of

amounts equal to any voluntary separation pay received by the member under such section.

(10) Acting through the Secretary of the department in which the Coast Guard is operating, provide information on career and employment opportunities available to members with transportation security cards issued under section 70105 of title 46.

(c) PARTICIPATION.—(1) Except as provided in paragraph (2), the Secretary of Defense and the Secretary of Homeland Security shall require the participation in the program carried out under this section of the members eligible for assistance under the program.

(2) The Secretary of Defense and the Secretary of Homeland Security may, under regulations such Secretaries shall prescribe, waive the participation requirement of paragraph (1) with respect to—

(A) such groups or classifications of members as the Secretaries determine, after consultation with the Secretary of Labor and the Secretary of Veterans Affairs, for whom participation is not and would not be of assistance to such members based on the Secretaries' articulable justification that there is extraordinarily high reason to believe the exempted members are unlikely to face major readjustment, health care, employment, or other challenges associated with transition to civilian life; and

(B) individual members possessing specialized skills who, due to unavoidable circumstances, are needed to support a unit's imminent deployment.

(d) USE OF PERSONNEL AND ORGANIZATIONS.—In carrying out the program established under this section, the Secretaries may—

(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans' employment representatives, and other employment service personnel funded by the Department of Labor to the extent that the Secretary of Labor determines that such use will not significantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

(2) use military and civilian personnel of the Department of Defense and the Department of Homeland Security;

(3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;

(4) use representatives of military and veterans' service organizations;

(5) enter into contracts with public entities;

(6) enter into contracts with private entities, particularly with qualified private entities that have experience with instructing members of the armed forces eligible for assistance under the program carried out under this section on—

(A) private sector culture, resume writing, career networking, and training on job search technologies;

(B) academic readiness and educational opportunities; or

(C) other relevant topics; and

(7) take other necessary action to develop and furnish the information and services to be provided under this section.

(e) PARTICIPATION IN APPRENTICESHIP PROGRAMS.—As part of the program carried out under this section, the Secretary of Defense and the Secretary of Homeland Security may permit a member of the armed forces eligible for assistance under the program to participate in an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.), or a pre-apprenticeship program that provides credit toward a program registered under such Act, that provides members of the armed forces with the education, training, and services necessary to transition to meaningful employment that leads to economic self-sufficiency.

(f) PROGRAM CONTENTS.—(1) The program carried out under this section shall consist of instruction as follows:

(A) One day of preseparation training specific to the armed force concerned, as determined by the Secretary concerned.

(B) One day of instruction regarding—

(i) benefits under laws administered by the Secretary of Veterans Affairs; and

(ii) other subjects determined by the Secretary concerned.

(C) One day of instruction regarding preparation for employment.

(D) Two days of instruction regarding a topic selected by the member from the following subjects:

(i) Preparation for employment.

(ii) Preparation for education.

(iii) Preparation for vocational training.

(iv) Preparation for entrepreneurship.

(v) Other options determined by the Secretary concerned.

(2) The Secretary concerned may permit a member to attend training and instruction under the program established under this section—

(A) before the time periods established under section 1142(a)(3) of this title;

(B) in addition to such training and instruction required during such time periods.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 102–190, div. A, title X, §1061(a)(6), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. D, title XLIV, §§4462(c), 4469, Oct. 23, 1992, 106 Stat. 2740, 2752; Pub. L. 103–337, div. A, title V, §543(b), Oct. 5, 1994, 108 Stat. 2769; Pub. L. 107–103, title III, §302(b), Dec. 27, 2001, 115 Stat. 992; Pub. L. 107–107, div. A, title X, §1048(e)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–56, title II, §§221(a), 224, 225, Nov. 21, 2011, 125 Stat. 715, 718; Pub. L. 113–66, div. A, title V, §521(a), Dec. 26, 2013, 127 Stat. 755; Pub. L. 114–92, div. A, title V, §553, Nov. 25, 2015, 129 Stat. 823; Pub. L. 114–328, div. A, title V, §§563, 564(a), Dec. 23, 2016, 130 Stat. 2138; Pub. L. 115–232, div. A, title V, §§552(b)(1), 553(b)(1), Aug. 13, 2018, 132 Stat. 1770, 1772; Pub. L. 117–328, div. U, title II, §212, Dec. 29, 2022, 136 Stat. 5453.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 408 of Public Law 101–237, referred to in subsec. (b)(2), is set out as a note under section 4100 of Title 38, Veterans' Benefits.

The National Apprenticeship Act, referred to in subsec. (e), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

### AMENDMENTS

**2022**—Subsec. (b)(1)(B). Pub. L. 117–328 inserted "(including apprenticeship programs approved under chapters 30 through 36 of title 38)" after "employment opportunities".

**2018**—Subsec. (a)(1). Pub. L. 115–232, §552(b)(1)(A), substituted "Subject to subsection (f)(2), such services" for "Such services".

Subsec. (b)(8) to (11). Pub. L. 115–232, §553(b)(1), redesignated pars. (9) to (11) as (8) to (10), respectively, and struck out former par. (8) which read as follows: "Provide information regarding the public and community service jobs program carried out under section 1143a of this title."

Subsec. (f). Pub. L. 115–232, §552(b)(1)(B), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to additional training opportunities.

**2016**—Subsec. (b)(10). Pub. L. 114–328, §563, added par. (10).

Subsec. (b)(11). Pub. L. 114–328, §564(a), added par. (11).

**2015**—Subsec. (f). Pub. L. 114–92 added subsec. (f).

**2013**—Subsec. (b)(9). Pub. L. 113–66 added par. (9).

**2011**—Subsec. (c). Pub. L. 112–56, §221(a), amended subsec. (c) generally. Prior to amendment, text read

as follows: "The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section."

Subsec. (d)(5). Pub. L. 112–56, §224(1), substituted "public entities;" for "public or private entities; and".

Subsec. (d)(6), (7). Pub. L. 112–56, §224(2), (3), added par. (6) and redesignated former par. (6) as (7).

Subsec. (e). Pub. L. 112–56, §225, added subsec. (e).

**2002**—Subsecs. (a)(1), (2), (b)(4), (c), (d)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Subsec. (a)(1). Pub. L. 107–103, in second sentence, substituted "within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section" for "during the 180-day period before the member is separated from active duty".

Subsec. (a)(3). Pub. L. 107–107, §1048(e)(1)(A), struck out at end "The agreement shall be entered into no later than 60 days after the date of the enactment of this section."

Subsec. (e). Pub. L. 107–107, §1048(e)(1)(B), struck out heading and text of subsec. (e). Text read as follows:

"(1) There is authorized to be appropriated to the Department of Labor to carry out this section $11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995.

"(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section $6,500,000 for each of fiscal years 1993, 1994, and 1995."

**1994**—Subsec. (a)(1). Pub. L. 103–337, §543(b)(1), inserted ", the Secretary of Transportation," after "Secretary of Defense" and substituted "concerned" for "of a military department".

Subsec. (a)(2). Pub. L. 103–337, §543(b)(2), inserted ", the Secretary of Transportation," after "Secretary of Defense".

Subsec. (b)(4). Pub. L. 103–337, §543(b)(3), substituted "Department of Defense and the Department of Transportation are" for "Department of Defense is".

Subsec. (c). Pub. L. 103–337, §543(b)(4), inserted "and the Secretary of Transportation" after "Secretary of Defense".

Subsec. (d)(2). Pub. L. 103–337, §543(b)(5), inserted "and the Department of Transportation" after "Department of Defense".

**1992**—Subsec. (b)(8). Pub. L. 102–484, §4462(c), added par. (8).

Subsec. (e)(1). Pub. L. 102–484, §4469(1), substituted "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995" for "$4,000,000 for fiscal year 1991 and $9,000,000 for each of fiscal years 1992 and 1993".

Subsec. (e)(2). Pub. L. 102–484, §4469(2), substituted "$6,500,000 for each of fiscal years 1993, 1994, and 1995" for "$1,000,000 for fiscal year 1991 and $4,000,000 for each of fiscal years 1992 and 1993".

**1991**—Subsec. (b)(1). Pub. L. 102–190, §1061(a)(6)(A), substituted "resumé" for "resume" in cl. (C).

Subsec. (b)(3). Pub. L. 102–190, §1061(a)(6)(B), substituted "veterans' service organizations" for "veterans service organization" and "armed forces" for "Armed Forces".

Subsec. (b)(6). Pub. L. 102–190, §1061(a)(6)(C), substituted "those areas" for "such area".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 221(a) of Pub. L. 112–56 effective on the date that is 1 year after Nov. 21, 2011, see section 221(c) of Pub. L. 112–56, set out as a note under section 1142 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### PILOT PROGRAM FOR MILITARY SPOUSES

Pub. L. 119–60, div. A, title V, §571(f), Dec. 18, 2025, 139 Stat. 885, provided that:

"(1) AUTHORITY.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense may establish a pilot program for spouses of members of the covered Armed Forces who are eligible to receive preseparation counseling under TAP.

"(2) VOLUNTARY BASIS.—Participation in such a pilot program shall be on a voluntary basis.

"(3) CURRICULUM.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs

and the Secretary of Labor, shall establish a curriculum based on TAP for such a pilot program. The Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives and the Committees on Veterans' Affairs of the Senate and House of Representatives of such establishment[.]

"(4) COUNSELING.—Counseling under such a pilot program shall—

"(A) be tailored to the military spouse and family;

"(B) be offered at least once per calendar quarter at each location selected under paragraph (5);

"(C) be scheduled and delivered in a manner that maximizes accessibility for military spouses, including through flexible or alternative scheduling options; and

"(D) include at least one hour regarding benefits and assistance available to military families and veterans from each department under the jurisdiction of the Secretaries specified in paragraph (3).

"(5) LOCATIONS.—The Secretary of Defense shall carry out such a pilot program at not more than five military installations. At least one such location shall be located outside the continental United States.

"(6) REPORT.—During the term of pilot program, the Secretary of Defense shall submit to the Committees on Armed Services and on Veterans' Affairs of the Senate and House of Representatives an annual report regarding the pilot program. Such report shall include elements the Secretary determines appropriate, including the recommendation of the Secretary whether the pilot program should be made permanent or expanded.

"(7) TERMINATION.—Such a pilot program shall terminate three years after the Secretary of Defense establishes the pilot program.

"(8) DEFINITIONS.—In this subsection:

"(A) The term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, or Space Force.

"(B) The term 'TAP' means the Transition Assistance Program under sections 1142 and 1144 of title 10, United States Code."

## COMMAND MATTERS IN CONNECTION WITH TRANSITION ASSISTANCE PROGRAMS

Pub. L. 116–92, div. A, title V, §568, Dec. 20, 2019, 133 Stat. 1397, provided that: "The training provided a commander of a military installation in connection with the commencement of assignment to the installation shall include a module on the covered transition assistance programs available for members of the Armed Forces assigned to the installation."

## PILOT PROGRAM REGARDING ONLINE APPLICATION FOR THE TRANSITION ASSISTANCE PROGRAM

Pub. L. 116–92, div. A, title V, §570G, Dec. 20, 2019, 133 Stat. 1402, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor may jointly carry out a pilot program that creates a one-stop source for online applications for the purposes of assisting members of the Armed Forces and Veterans participating in the Transition Assistance Program (in this section referred to as 'TAP').

"(b) DATA SOURCES.—If the Secretaries carry out the pilot program, any online application developed under such program shall, in part, aggregate existing data from government resources and the private sector under one uniform resource locator for the purpose of assisting members of the Armed Forces and veterans participating in TAP.

"(c) AVAILABILITY; ACCESSIBILITY.—Any online application developed under a pilot program shall, to the extent feasible be—

"(1) widely available as a mobile application; and

"(2) easily accessible by veterans, members of the Armed Forces, and employers.

"(d) ASSESSMENTS.—

"(1) INTERIM ASSESSMENTS.—Not later than the dates that are one and two years after the date of the commencement of any pilot program under this section, the Secretaries shall jointly assess the pilot program.

"(2) FINAL ASSESSMENT.—Not later than the date that is three years after the date of the commencement of any pilot program under this section, the Secretaries shall jointly carry out a final assessment of the pilot program.

"(3) PURPOSE.—The general objective of each assessment under this subsection shall be to determine if the online application under the pilot program helps participants in TAP to accomplish the goals of TAP, accounting for the individual profiles of participants, including military experience and geographic location.

"(e) BRIEFING.—If the Secretaries carry out the pilot program, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on findings regarding the pilot program, including any recommendations for legislation.

"(f) DEFINITIONS.—In this section:

"(1) The term 'mobile application' means a software program that runs on the operating system of a mobile device.

"(2) The term 'mobile device' means a smartphone, tablet computer, or similar portable computing device that transmits data over a wireless connection."

## DEADLINE FOR TRANSITION ASSISTANCE PROGRAM

Pub. L. 115–232, div. A, title V, §552(b)(2), Aug. 13, 2018, 132 Stat. 1771, provided that: "The Transition Assistance Program shall comply with the requirements of section 1144(f) of title 10, United States Code, as amended by paragraph (1), not later than 1 year after the date of the enactment of this Act [Aug. 13, 2018]."

## DEADLINE FOR IMPLEMENTATION

Pub. L. 114–328, div. A, title V, §564(b), Dec. 23, 2016, 130 Stat. 2138, provided that: "The program carried out under section 1144 of title 10, United States Code, shall satisfy the requirements of subsection (b)(11) of such section (as added by subsection (a) of this section) by not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016]."

## ENHANCEMENT OF INFORMATION PROVIDED TO MEMBERS OF THE ARMED FORCES AND VETERANS REGARDING USE OF POST-9/11 EDUCATIONAL ASSISTANCE AND FEDERAL FINANCIAL AID THROUGH TRANSITION ASSISTANCE PROGRAM

Pub. L. 113–291, div. A, title V, §557, Dec. 19, 2014, 128 Stat. 3381, provided that:

"(a) ADDITIONAL INFORMATION REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall enhance the higher education component of the Transition Assistance Program (TAP) of the Department of Defense by providing additional information that is more complete and accurate than the information provided as of the day before the date of the enactment of this Act to individuals who apply for educational assistance under chapter 30 or 33 of title 38, United States Code, to pursue a program of education at an institution of higher learning.

"(2) ELEMENTS.—The additional information required by paragraph (1) shall include the following:

"(A) Information provided by the Secretary of Education that is publically available and addresses—

"(i) to the extent practicable, differences between types of institutions of higher learning in such matters as tuition and fees, admission requirements, accreditation, transferability of credits, credit for qualifying military training, time required to complete a degree, and retention and job placement rates; and

"(ii) how Federal educational assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) may be used in conjunction with educational assistance provided under chapters 30 and 33 of title 38, United States Code.

"(B) Information about the Postsecondary Education Complaint System of the Department of Defense, the Department of Veterans Affairs, the Department of Education, and the Consumer Financial Protection Bureau.

"(C) Information about the GI Bill Comparison Tool of the Department of Veterans Affairs.

"(D) Information about each of the Principles of Excellence established by the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Education pursuant to Executive Order 13607 of April 27, 2012 (77 Fed. Reg. 25861), including how to recognize whether an institution of higher learning may be violating any of such principles.

"(E) Information to enable individuals described in paragraph (1) to develop a post-secondary education plan appropriate and compatible with their educational goals.

"(F) Such other information as the Secretary of Education considers appropriate.

"(3) CONSULTATION.—In carrying out this subsection, the Secretary of Defense shall consult with the Secretary of Veterans Affairs, the Secretary of Education, and the Director of the Consumer Financial Protection Bureau.

"(b) AVAILABILITY OF HIGHER EDUCATION COMPONENT ONLINE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall ensure that the higher education component of the Transition Assistance Program is available to members of the Armed Forces on an Internet website of the Department of Defense so that members have an option to complete such component electronically and remotely.

"(c) DEFINITIONS.—In this section:

"(1) The term 'institution of higher learning' has the meaning given such term in section 3452 of title

38, United States Code.

"(2) The term 'types of institutions of higher learning' means the following:

"(A) An educational institution described in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(B) An educational institution described in subsection (b) or (c) of section 102 of such Act (20 U.S.C. 1002)."

## PROCEDURES FOR PROVISION OF CERTAIN INFORMATION TO STATE VETERANS AGENCIES TO FACILITATE THE TRANSITION OF MEMBERS OF THE ARMED FORCES FROM MILITARY SERVICE TO CIVILIAN LIFE

Pub. L. 113–291, div. A, title V, §558, Dec. 19, 2014, 128 Stat. 3382, provided that:

"(a) PROCEDURES REQUIRED.—The Secretary of Defense shall develop procedures to share the information described in subsection (b) regarding members of the Armed Forces who are being separated from the Armed Forces with State veterans agencies in electronic data format as a means of facilitating the transition of such members from military service to civilian life.

"(b) COVERED INFORMATION.—The information to be shared with State veterans agencies regarding a member shall include the following:

"(1) Military service and separation data.

"(2) A personal email address.

"(3) A personal telephone number.

"(4) A mailing address.

"(c) CONSENT.—The procedures developed pursuant to subsection (a) shall require the consent of a member of the Armed Forces before any information described in subsection (b) regarding the member is shared with a State veterans agency.

"(d) USE OF INFORMATION.—The Secretary of Defense shall ensure that the information shared with State veterans agencies in accordance with the procedures developed pursuant to subsection (a) is only shared by such agencies with county government veterans service offices for such purposes as the Secretary shall specify for the administration and delivery of benefits.

"(e) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives a report on the progress made by the Secretary—

"(A) in developing the procedures required by subsection (a); and

"(B) in sharing information with State veterans agencies as described in such subsection.

"(2) CONTENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of the procedures developed to share information with State veterans agencies.

"(B) A description of the sharing activities carried out by the Secretary in accordance with such procedures.

"(C) The number of members of the Armed Force who gave their consent for the sharing of information with State veterans agencies.

"(D) Such recommendations as the Secretary may have for legislative or administrative action to improve the sharing of information as described in subsection (a)."

## DEADLINE FOR IMPLEMENTATION

Pub. L. 113–66, div. A, title V, §521(b), Dec. 26, 2013, 127 Stat. 755, provided that: "The program carried out under section 1144 of title 10, United States Code, shall comply with the requirements of subsection (b)(9) of such section, as added by subsection (a), by not later than April 1, 2015."

## OFF-BASE TRANSITION TRAINING FOR VETERANS AND THEIR SPOUSES

Pub. L. 112–260, title III, §301, Jan. 10, 2013, 126 Stat. 2424, as amended by Pub. L. 116–315, title IV, §4303, Jan. 5, 2021, 134 Stat. 5017, provided that:

"(a) PROVISION OF OFF-BASE TRANSITION TRAINING.—During the five-year period beginning on the date of the enactment of the Navy SEAL Bill Mulder Act of 2020 [Jan. 5, 2021], the Secretary of Labor shall provide the Transition Assistance Program under section 1144 of title 10, United States Code, to eligible individuals at locations other than military installations.

"(b) ELIGIBLE INDIVIDUALS.—For purposes of this section, an eligible individual is a veteran or the spouse of a veteran.

"(c) LOCATIONS.—

"(1) NUMBER OF LOCATIONS.—The Secretary shall carry out the training under subsection (a) in

not fewer than 50 locations in States (as defined in section 101 of title 38, United States Code) selected by the Secretary for purposes of this section.

"(2) SELECTION OF STATES WITH HIGH UNEMPLOYMENT.—Of the States selected by the Secretary under paragraph (1), at least 20 shall be States with high rates of unemployment among veterans.

"(3) NUMBER OF LOCATIONS IN EACH STATE.—The Secretary shall provide training under subsection (a) to eligible individuals at a sufficient number of locations within each State selected under this subsection to meet the needs of eligible individuals in such State.

"(4) SELECTION OF LOCATIONS.—The Secretary shall select locations for the provision of training under subsection (a) to facilitate access by participants and may not select any location on a military installation other than a National Guard or reserve facility that is not located on an active duty military installation.

"(5) PREFERENCES.—In selecting States for participation in the pilot program, the Secretary shall provide a preference for any State with—

"(A) a high rate of usage of unemployment benefits for recently separated members of the Armed Forces; or

"(B) a labor force or economy that has been significantly impacted by a covered public health emergency.

"(6) COVERED PUBLIC HEALTH EMERGENCY DEFINED.—In this subsection, the term 'covered public health emergency' means—

"(A) the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to Coronavirus Disease 2019 (COVID–19); or

"(B) a domestic emergency declared, based on an outbreak of Coronavirus Disease 2019 (COVID–19), by the President, the Secretary of Homeland Security, or a State or local authority.

"(d) INCLUSION OF INFORMATION ABOUT VETERANS BENEFITS.—The Secretary shall ensure that the training provided under subsection (a) generally follows the content of the Transition Assistance Program under section 1144 of title 10, United States Code.

"(e) ANNUAL REPORT.—Not later than March 1 of any year during which the Secretary provides training under subsection (a), the Secretary shall submit to Congress a report on the provision of such training. Each such report shall include information about the employment outcomes of the eligible individuals who received such training during the year covered by the report."

## INDIVIDUALIZED ASSESSMENT FOR MEMBERS OF THE ARMED FORCES UNDER TRANSITION ASSISTANCE ON EQUIVALENCE BETWEEN SKILLS DEVELOPED IN MILITARY OCCUPATIONAL SPECIALTIES AND QUALIFICATIONS REQUIRED FOR CIVILIAN EMPLOYMENT WITH THE PRIVATE SECTOR

Pub. L. 112–56, title II, §222, Nov. 21, 2011, 125 Stat. 716, provided that:

"(a) STUDY ON EQUIVALENCE REQUIRED.—

"(1) IN GENERAL.—The Secretary of Labor shall, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, enter into a contract with a qualified organization to conduct a study to identify any equivalences between the skills developed by members of the Armed Forces through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences and the qualifications required for various positions of civilian employment in the private sector.

"(2) COOPERATION OF FEDERAL AGENCIES.—The departments and agencies of the Federal Government, including the Office of Personnel Management, the General Services Administration, the Government Accountability Office, the Department of Education, and other appropriate departments and agencies, shall cooperate with the contractor under paragraph (1) to conduct the study required under that paragraph.

"(3) REPORT.—Upon completion of the study conducted under paragraph (1), the contractor under that paragraph shall submit to the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor a report setting forth the results of the study. The report shall include such information as the Secretaries shall specify in the contract under paragraph (1) for purposes of this section.

"(4) TRANSMITTAL TO CONGRESS.—The Secretary of Labor shall transmit to the appropriate committees of Congress the report submitted under paragraph (3), together with such comments on the report as the Secretary considers appropriate.

"(5) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Veterans' Affairs, the Committee on Armed Services, and the Committee on Health, Education, Labor, and Pension of the Senate; and

"(B) the Committee on Veterans' Affairs, the Committee on Armed Services, and the Committee on Education and the Workforce of the House of Representatives.

"(b) PUBLICATION.—The secretaries described in subsection (a)(1) shall ensure that the equivalences identified under subsection (a)(1) are—

"(1) made publicly available on an Internet website; and

"(2) regularly updated to reflect the most recent findings of the secretaries with respect to such equivalences.

"(c) INDIVIDUALIZED ASSESSMENT OF CIVILIAN POSITIONS AVAILABLE THROUGH MILITARY EXPERIENCES.—The Secretary of Defense shall ensure that each member of the Armed Forces who is participating in the Transition Assistance Program (TAP) of the Department of Defense receives, as part of such member's participation in that program, an individualized assessment of the various positions of civilian employment in the private sector for which such member may be qualified as a result of the skills developed by such member through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences. The assessment shall be performed using the results of the study conducted under subsection (a) and such other information as the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, considers appropriate for that purpose.

"(d) FURTHER USE IN EMPLOYMENT-RELATED TRANSITION ASSISTANCE.—

"(1) TRANSMITTAL OF ASSESSMENT.—The Secretary of Defense shall make the individualized assessment provided a member under subsection (a) available electronically to the Secretary of Veterans Affairs and the Secretary of Labor.

"(2) USE IN ASSISTANCE.—The Secretary of Veterans Affairs and the Secretary of Labor may use an individualized assessment with respect to an individual under paragraph (1) for employment-related assistance in the transition from military service to civilian life provided the individual by such Secretary and to otherwise facilitate and enhance the transition of the individual from military service to civilian life.

"(e) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of the enactment of this Act [Nov. 21, 2011]."

**IMPLEMENTATION REPORTS**

Pub. L. 101–510, div. A, title V, §502(c), Nov. 5, 1990, 104 Stat. 1557, directed the Secretary of Labor to submit to Congress a report, not later than 90 days after Nov. 5, 1990, setting forth the agreement entered into to carry out this section, and a report, not later than one year after Nov. 5, 1990, containing an evaluation of the program carried out under this section.

## §1145. Health benefits

(a) TRANSITIONAL HEALTH CARE.—(1) For the time period described in paragraph (4), a member of the armed forces who is separated from active service as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) except as provided in paragraph (3), medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

(A) A member who is involuntarily separated from active duty.

(B) A member of a reserve component who is separated from active duty to which called or ordered under section 12304b of this title or a provision of law referred to in section 101(a)(13)(B) of this title if the active duty is active duty for a period of more than 30 days.

(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.

(E) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).

(F) A member who is separated from active duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

(G) A member of the National Guard who is separated from full-time National Guard Duty to which called or ordered under section 502(f) of title 32 for a period of active service of more than 30 days to perform duties that are authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by Congress or the President and supported by Federal funds.

(3) In the case of a member described in subparagraph (B) or (G) of paragraph (2), the dental care to which the member is entitled under this subsection shall be the dental care to which a member of the uniformed services on active duty for more than 30 days is entitled under section 1074 of this title.

(4) Except as provided in paragraph (7), transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active service. For purposes of the preceding sentence, in the case of a member on active service as described in subparagraph (B), (C), (D), or (G) of paragraph (2) who, without a break in service, is extended on active service for any reason, the 180-day period shall begin on the date on which the member is separated from such extended active service.

(5)(A) Except as provided in subparagraph (D), the Secretary concerned shall require a member of the armed forces scheduled to be separated from active service as described in paragraph (2) to undergo a physical examination and a mental health assessment conducted pursuant to section 1074n of this title immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active service as described in paragraph (2) has otherwise undergone a physical examination within 12 months before the scheduled date of separation from active service, the requirement for a physical examination under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member's unit commander.

(C) The Secretary concerned shall ensure that each physical examination of a member under subparagraph (A) includes an assessment of whether the member was—

(i) based or stationed at a location where an open burn pit, as defined in subsection (c) of section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note), was used; or

(ii) exposed to toxic airborne chemicals or other airborne contaminants, including any information recorded as part of the registry established by the Secretary of Veterans Affairs under such section 201.

(D) The requirement for a physical examination and mental health assessment under subparagraph (A) shall not apply with respect to a member of a reserve component described in paragraph (2)(B) unless the member is retiring, or being discharged or dismissed, from the armed forces.

(6)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (5), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

(B) Assistance provided to a member under paragraph (1) shall include the following:

(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

(II) any other care, treatment, and services.

(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.

(7)(A) A member who has a medical condition relating to active service that warrants further medical care that has been identified during the member's 180-day transition period, which condition can be resolved within 180 days as determined by a Department of Defense physician, shall be entitled to receive medical and dental care for that medical condition, and that medical condition only, as if the member were a member of the armed forces on active service for 180 days following the diagnosis of the condition.

(B) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (A) to the medical and dental care referred to in that subparagraph.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active service of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE .—(1) Consistent with the authority of the Secretary concerned to designate certain classes of

persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) PHYSICAL EXAMINATIONS FOR CERTAIN MEMBERS OF A RESERVE COMPONENT.—(1) The Secretary concerned shall provide a physical examination pursuant to subsection (a)(5) to each member of a reserve component who—

(A) during the two-year period before the date on which the member is scheduled to be separated from the armed forces served on active service in support of a contingency operation for a period of more than 30 days;

(B) will not otherwise receive such an examination under such subsection; and

(C) elects to receive such a physical examination.

(2) The Secretary concerned shall—

(A) provide the physical examination under paragraph (1) to a member during the 90-day period before the date on which the member is scheduled to be separated from the armed forces; and

(B) issue orders to such a member to receive such physical examination.

(3) A member may not be entitled to health care benefits pursuant to subsection (a), (b), or (c) solely by reason of being provided a physical examination under paragraph (1).

(4) In providing to a member a physical examination under paragraph (1), the Secretary concerned shall provide to the member a record of the physical examination.

(e) DEFINITION.—In this section, the term "conversion health policy" means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(f) COAST GUARD.—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents when the Coast Guard is not operating as a service in the Navy.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1555; amended Pub. L. 102–484, div. D, title XLIV, §4407(a), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103–160, div. A, title V, §561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, §542(a)(4), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, §561(h), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 107–107, div. A, title VII, §736(a), (b), Dec. 28, 2001, 115 Stat. 1172; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VII, §706(a), (b), Dec. 2, 2002, 116 Stat. 2585; Pub. L. 108–375, div. A, title VII, §706(a)(1), (3), (b), Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109–163, div. A, title VII, §749, Jan. 6, 2006, 119 Stat. 3364; Pub. L. 110–181, div. A, title XVI, §1637, Jan. 28, 2008, 122 Stat. 464; Pub. L. 110–317, §4, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 110–417, [div. A], title VII, §734(a), Oct. 14, 2008, 122 Stat. 4513; Pub. L. 111–84, div. A, title VII, §703, Oct. 28, 2009, 123 Stat. 2373; Pub. L. 112–81, div. A, title VII, §706, Dec. 31, 2011, 125 Stat. 1474; Pub. L. 112–239, div. A, title X, §1076(f)(15), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 115–91, div. A, title V, §511(b), title VII, §§705, 706(a), Dec. 12, 2017, 131 Stat. 1376, 1435, 1436; Pub. L. 116–92, div. A, title VII, §704(b), Dec. 20, 2019, 133 Stat. 1438; Pub. L. 117–81, div. A, title VII, §717, Dec. 27, 2021, 135 Stat. 1789; Pub. L. 117–263, div. A, title VII, §702, Dec. 23, 2022, 136 Stat. 2647.)

**EDITORIAL NOTES**

## AMENDMENTS

**2022**—Subsec. (a)(1). Pub. L. 117–263, §702(b)(1)(A), substituted "active service" for "active duty" in introductory provisions.

Subsec. (a)(2)(G). Pub. L. 117–263, §702(a), added subpar. (G).

Subsec. (a)(3). Pub. L. 117–263, §702(b)(1)(B), substituted "subparagraph (B) or (G) of paragraph (2)" for "paragraph (2)(B)".

Subsec. (a)(4). Pub. L. 117–263, §702(b)(1)(C), substituted "active service" for "active duty" wherever appearing and "(D), or (G)" for "or (D)".

Subsec. (a)(5)(A), (B). Pub. L. 117–263, §702(b)(1)(D), substituted "active service" for "active duty" wherever appearing.

Subsec. (a)(7)(A). Pub. L. 117–263, §702(b)(1)(E), substituted "active service" for "service on active duty" and "active service for" for "active duty for".

Subsec. (b)(1). Pub. L. 117–263, §702(b)(2), substituted "active service" for "active duty".

Subsec. (d)(1)(A). Pub. L. 117–263, §702(b)(3), substituted "active service" for "active duty".

**2021**—Subsec. (a)(5)(A). Pub. L. 117–81, §717(1), substituted "Except as provided in subparagraph (D), the Secretary" for "The Secretary".

Subsec. (a)(5)(D). Pub. L. 117–81, §717(2), added subpar. (D).

**2019**—Subsec. (a)(5)(C). Pub. L. 116–92 added subpar. (C).

**2017**—Subsec. (a)(2)(B). Pub. L. 115–91, §511(b), substituted "under section 12304b of this title or a provision of law referred to in section 101(a)(13)(B) of this title" for "in support of a contingency operation".

Subsec. (a)(5)(A). Pub. L. 115–91, §706(a), inserted "and a mental health assessment conducted pursuant to section 1074n of this title" after "a physical examination".

Subsecs. (d) to (f). Pub. L. 115–91, §705, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2013**—Subsec. (e). Pub. L. 112–239 inserted "when the Coast Guard is not operating as a service in the Navy" before period at end.

**2011**—Subsec. (a)(4). Pub. L. 112–81 inserted at end "For purposes of the preceding sentence, in the case of a member on active duty as described in subparagraph (B), (C), or (D) of paragraph (2) who, without a break in service, is extended on active duty for any reason, the 180-day period shall begin on the date on which the member is separated from such extended active duty."

**2009**—Subsec. (a)(1). Pub. L. 111–84, §703(1)(A), substituted "paragraph (4)" for "paragraph (3)" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 111–84, §703(1)(B), inserted "except as provided in paragraph (3)," before "medical and dental care".

Subsec. (a)(3) to (7). Pub. L. 111–84, §703(2)–(5), added par. (3), redesignated former pars. (3) to (6) as (4) to (7), respectively, in par. (4) substituted "paragraph (7)" for "paragraph (6)", and in par. (6)(A) substituted "paragraph (5)" for "paragraph (4)".

**2008**—Subsec. (a)(2)(E). Pub. L. 110–317 added subpar. (E).

Subsec. (a)(2)(F). Pub. L. 110–417 added subpar. (F).

Subsec. (a)(3). Pub. L. 110–181, §1637(1), substituted "Except as provided in paragraph (6), transitional health care" for "Transitional health care".

Subsec. (a)(6). Pub. L. 110–181, §1637(2), added par. (6).

**2006**—Subsec. (a)(5). Pub. L. 109–163 added par. (5).

**2004**—Subsec. (a)(1). Pub. L. 108–375, §706(a)(3), struck out "applicable" before "time period" in introductory provisions.

Subsec. (a)(3). Pub. L. 108–375, §706(a)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is separated as follows:

"(A) For members separated with less than six years of active service, 60 days.

"(B) For members separated with six or more years of active service, 120 days."

Subsec. (a)(4). Pub. L. 108–375, §706(b), added par. (4).

**2002**—Subsec. (a)(1). Pub. L. 107–314, §706(a), amended Pub. L. 107–107, §736(a)(1). See 2001 Amendment note below.

Subsec. (e). Pub. L. 107–314, §706(b), amended Pub. L. 107–107, §736(b)(2). See 2001 Amendment note below.

Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Subsec. (a)(1). Pub. L. 107–107, §736(a)(1), as amended by Pub. L. 107–314, §706(a), in introductory provisions, substituted "paragraph (3), a member of the armed forces who is separated from

active duty as described in paragraph (2) (and the dependents of the member)" for "paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001 (and the dependents of the member),".

Subsec. (a)(2). Pub. L. 107–107, §736(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 107–107, §736(a)(2), (4), redesignated par. (2) as (3) and struck out "involuntarily" before "separated" wherever appearing.

Subsec. (c)(1). Pub. L. 107–107, §736(b)(1), struck out "during the period beginning on October 1, 1990, and ending on December 31, 2001" after "armed forces".

Subsec. (e). Pub. L. 107–107, §736(b)(2), as amended by Pub. L. 107–314, §706(b), substituted "the members of the Coast Guard and their dependents" for "the Coast Guard" in second sentence and struck out first sentence which read as follows: "The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the period beginning on October 1, 1994, and ending on December 31, 2001."

**2000**—Subsecs. (a)(1), (c)(1), (e). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

**1998**—Subsecs. (a)(1), (c)(1). Pub. L. 105–261, §561(h)(1), substituted "during the period beginning on October 1, 1990, and ending on September 30, 2001" for "during the nine-year period beginning on October 1, 1990".

Subsec. (e). Pub. L. 105–261, §561(h)(2), substituted "during the period beginning on October 1, 1994, and ending on September 30, 2001" for "during the five-year period beginning on October 1, 1994".

**1994**—Subsec. (e). Pub. L. 103–337 added subsec. (e).

**1993**—Subsecs. (a)(1), (c)(1). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

**1992**—Subsec. (b)(1). Pub. L. 102–484, §4407(a)(1), inserted at end "A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period."

Subsec. (b)(2)(A). Pub. L. 102–484, §4407(a)(2), substituted "18-month period" for "one-year period".

Subsec. (b)(4) to (6). Pub. L. 102–484, §4407(a)(3), added pars. (4) to (6).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title VII, §734(b), Oct. 14, 2008, 122 Stat. 4513, provided that: "Subparagraph (F) of section 1145(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to members of the Armed Forces separated from active duty after the date of the enactment of this Act [Oct. 14, 2008]."

Amendment by Pub. L. 110–317 applicable with respect to any sole survivorship discharge granted after Aug. 29, 2008, see section 10 of Pub. L. 110–317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VII, §706(c), Dec. 2, 2002, 116 Stat. 2585, provided that: "The amendments made by this section [amending this section] shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 [Pub. L. 107–107] as enacted."

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

### TRANSITIONAL HEALTH BENEFITS FOR CERTAIN MEMBERS OF THE NATIONAL GUARD SERVING UNDER ORDERS IN RESPONSE TO THE CORONAVIRUS (COVID–19)

Pub. L. 116–283, div. A, title VII, §733, Jan. 1, 2021, 134 Stat. 3702, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall provide to a member of the National Guard separating from active service after serving on full-time National Guard duty pursuant to section 502(f) of title 32, United States Code, the health benefits authorized under section 1145 of title 10, United States Code, for a member of a reserve component separating from active duty, as referred to in subsection (a)(2)(B) of such section 1145, if the active service from which the member of the National Guard is separating was in support of the whole of government response to the coronavirus (COVID–19).

"(b) DEFINITIONS.—In this section, the terms 'active duty', 'active service', and 'full-time National Guard duty' have the meanings given those terms in section 101(d) of title 10, United States Code."

## MENTAL HEALTH CARE TREATMENT THROUGH TELEMEDICINE

Pub. L. 113–66, div. A, title VII, §702, Dec. 26, 2013, 127 Stat. 790, provided that:

"(a) PROVISION OF MENTAL HEALTH CARE VIA TELEMEDICINE.—

"(1) IN GENERAL.—In carrying out the Transitional Assistance Management Program, the Secretary of Defense may extend the coverage of such program for covered individuals for an additional 180 days for mental health care provided through telemedicine.

"(2) REPORT.—If the Secretary extends coverage under paragraph (1), by not later than one year after the date of carrying out such extension, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes the following:

"(A) The rate at which individuals are using the extended coverage provided pursuant to paragraph (1).

"(B) A description of the mental health care provided pursuant to such subsection.

"(C) An analysis of how the Secretary and the Secretary of Veterans Affairs coordinate the continuation of care with respect to veterans who are no longer eligible for the Transitional Assistance Management Program.

"(D) Any other factors the Secretary of Defense determines necessary with respect to extending coverage of the Transitional Assistance Management Program.

"(3) TERMINATION.—The authority of the Secretary to carry out subsection (a) shall terminate on December 31, 2018.

"(b) REPORT ON USE OF TELEMEDICINE.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary shall submit to the congressional defense committees a report on the use of telemedicine to improve the diagnosis and treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions.

"(2) ELEMENTS.—The report under paragraph (1) shall address the following:

"(A) The current status, as of the date of the report, of telemedicine initiatives within the Department of Defense to diagnose and treat post-traumatic stress disorder, traumatic brain injuries, and mental health conditions.

"(B) Plans for integrating telemedicine into the military health care system, including in health care delivery, records management, medical education, public health, and private sector partnerships.

"(C) The status of the integration of the telemedicine initiatives of the Department with the telemedicine initiatives of the Department of Veterans Affairs.

"(D) A description and assessment of challenges to the use of telemedicine as a means of in-home treatment, outreach in rural areas, and in settings that provide group treatment or therapy in connection with treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions, and a description and assessment of efforts to address such challenges.

"(E) A description of privacy issues related to the use of telemedicine for the treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions, and recommendations for mechanisms to remedy any privacy concerns relating to such use of telemedicine.

"(F) A description of professional licensing issues with respect to licensed medical providers who provide treatment using telemedicine.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means an individual who—

"(A) during the initial 180-day period of being enrolled in the Transitional Assistance Management Program, received any mental health care; or

"(B) during the one-year period preceding separation or discharge from the Armed Forces, received any mental health care.

"(2) The term 'telemedicine' means the use by a health care provider of telecommunications to assist in the diagnosis or treatment of a patient's medical condition."

## TEMPORARY EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS

Pub. L. 108–136, div. A, title VII, §704, Nov. 24, 2003, 117 Stat. 1527, which provided during the period beginning on Nov. 24, 2003, and ending on Dec. 31, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108–375, div. A, title VII, §706(a)(2)(A), Oct. 28, 2004, 118 Stat. 1983.

Pub. L. 108–106, title I, §1117, Nov. 6, 2003, 117 Stat. 1218, which provided during the period beginning on Nov. 6, 2003, and ending on Sept. 30, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108–375, div. A, title VII, §706(a)(2)(B), Oct. 28, 2004, 118 Stat. 1983.

**APPLICATION OF AMENDMENTS BY PUB. L. 102–484 TO EXISTING CONTRACTS**

For provisions relating to the application of the amendments by section 4407 of Pub. L. 102–484 to conversion health policies provided under subsec. (b) of this section and in effect on Oct. 23, 1992, see section 4407(c) of Pub. L. 102–484, set out as a note under section 1086a of this title.

**TRANSITIONAL PROVISION**

Pub. L. 102–484, div. D, title XLIV, §4408(b), Oct. 23, 1992, 106 Stat. 2712, provided that: "The Secretary of Defense shall provide a period for the enrollment for health benefits coverage under this section [enacting section 1078a of this title and provisions set out as notes under this section and section 1086a of this title] by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before the October 1, 1994, implementation date of section 1078a of such title, as added by subsection (a)."

**TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES**

For provisions prohibiting purchase of, and allowing cancellation of, conversion health policies under subsec. (b) of this section on or after Oct. 1, 1994, see section 4408(c) of Pub. L. 102–484, set out as a note under section 1086a of this title.

## §1146. Commissary and exchange benefits

(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 2007, and ending on December 31, 2018, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary concerned shall implement this provision for Coast Guard members involuntarily separated during the same period.

(b) MEMBERS INVOLUNTARILY SEPARATED FROM SELECTED RESERVE.—The Secretary of Defense shall prescribe regulations to allow a member of the Selected Reserve of the Ready Reserve who is involuntarily separated from the Selected Reserve as a result of the exercise of the force shaping authority of the Secretary concerned under section 647 of this title or other force shaping authority during the period beginning on October 1, 2007, and ending on December 31, 2018, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary concerned shall implement this provision for Coast Guard members involuntarily separated during the same period when the Coast Guard is not operating as a service in the Navy.

(c) MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE.—A member of the armed forces who receives a sole survivorship discharge (as defined in section 1174(i) of this title) is entitled to continue to use commissary and exchange stores and morale, welfare, and recreational facilities in the same manner as a member on active duty during the two-year period beginning on the later of the following dates:

(1) The date of the separation of the member.

(2) The date on which the member is first notified of the member's entitlement to benefits under this section.

(d) EMERGENCY RESPONSE PROVIDERS DURING A DECLARED MAJOR DISASTER OR EMERGENCY.—The Secretary of Defense may prescribe regulations to allow an emergency response provider (as that term is defined in section 2 of the Homeland Security Act of 2002 (Public

Law 107–296; 6 U.S.C. 101)) to use a mobile commissary or exchange store deployed to an area covered by a declaration of a major disaster or emergency under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103–160, div. A, title V, §561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, §542(a)(5), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, §561(i), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 110–181, div. A, title VI, §651, Jan. 28, 2008, 122 Stat. 162; Pub. L. 110–317, §5, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 111–383, div. A, title X, §1075(b)(16), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112–239, div. A, title VI, §631, title X, §1076(f)(16), Jan. 2, 2013, 126 Stat. 1781, 1952; Pub. L. 116–283, div. A, title VI, §632, Jan. 1, 2021, 134 Stat. 3682.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (d). Pub. L. 116–283 added subsec. (d).

**2013**—Subsec. (a). Pub. L. 112–239, §631(a)(1), (b)(1), substituted "2018" for "2012" and "The Secretary concerned" for "The Secretary of Transportation".

Subsec. (b). Pub. L. 112–239, §1076(f)(16), inserted "when the Coast Guard is not operating as a service in the Navy" before period at end.

Pub. L. 112–239, §631(a)(2), (b)(2), substituted "2018" for "2012" and "The Secretary concerned" for "The Secretary of Homeland Security".

**2011**—Subsec. (a). Pub. L. 111–383, §1075(b)(16)(A), struck out "(a) BENEFITS FOR MEMBERS INVOLUNTARILY SEPARATED.—" before "The Secretary".

Subsec. (b). Pub. L. 111–383, §1075(b)(16)(B), redesignated subsec. (b) relating to benefits for members receiving sole survivorship discharge as (c).

Subsec. (c). Pub. L. 111–383, §1075(b)(16)(B), (C), redesignated subsec. (b) relating to benefits for members receiving sole survivorship discharge as (c), struck out "Benefits for" before "Members" in heading, and substituted "armed forces" for "Armed Forces" in introductory provisions and "the member's entitlement" for "the members entitlement" in par. (2).

**2008**—Pub. L. 110–317 substituted "(a) BENEFITS FOR MEMBERS INVOLUNTARILY SEPARATED .—The Secretary of Defense" for "The Secretary of Defense" and added subsec. (b) relating to benefits for members receiving sole survivorship discharge.

Pub. L. 110–181 inserted "(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—" before "The Secretary of Defense", substituted "October 1, 2007, and ending on December 31, 2012" for "October 1, 1990, and ending on December 31, 2001" in first sentence and "the same period" for "the period beginning on October 1, 1994, and ending on December 31, 2001" in second sentence, and added subsec. (b) relating to members involuntarily separated from the Selected Reserve.

**2000**—Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001" in two places.

**1998**—Pub. L. 105–261 substituted "during the period beginning on October 1, 1990, and ending on September 30, 2001" for "during the nine-year period beginning on October 1, 1990" and "during the period beginning on October 1, 1994, and ending on September 30, 2001" for "during the five-year period beginning on October 1, 1994".

**1994**—Pub. L. 103–337 inserted at end "The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994."

**1993**—Pub. L. 103–160 substituted "nine-year period" for "five-year period".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110–317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after

Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1147. Use of military family housing

(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the period beginning on October 1, 2012, and ending on December 31, 2018, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

(2) The Secretary concerned may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the period beginning on October 1, 2012, and ending on December 31, 2018, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.

(b) RENTAL CHARGES.—The Secretary concerned, pursuant to such regulations, shall require a reasonable rental charge for the continued use of military family housing under subsection (a), except that such Secretary may waive all or any portion of such charge in any case of hardship.

(c) NO TRANSITIONAL BASIC ALLOWANCE FOR HOUSING.—Nothing in this section shall be construed to authorize the Secretary concerned to continue to provide for any period of time to an individual who is involuntarily separated all or any portion of a basic allowance for housing to which the individual was entitled under section 403 of title 37 immediately before being involuntarily separated, even in cases in which the individual or members of the individual's household continue to reside after the separation in a housing unit acquired or constructed under the alternative authority of subchapter IV of chapter 169 of this title that is not owned or leased by the United States.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103–160, div. A, title V, §561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, §542(a)(6), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, §561(j), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(j)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 112–239, div. A, title VI, §632, Jan. 2, 2013, 126 Stat. 1782.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Subsec. (a)(1). Pub. L. 112–239, §632(a)(1), substituted "October 1, 2012, and ending on December 31, 2018" for "October 1, 1990, and ending on December 31, 2001".

Subsec. (a)(2). Pub. L. 112–239, §632(a)(2), (c), substituted "The Secretary concerned" for "The Secretary of Transportation" and "October 1, 2012, and ending on December 31, 2018" for "October 1, 1994, and ending on December 31, 2001".

Subsec. (c). Pub. L. 112–239, §632(b), added subsec. (c).

**2000**—Subsec. (a). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001" in pars. (1) and (2).

**1998**—Subsec. (a)(1). Pub. L. 105–261, §561(j)(1), substituted "during the period beginning on October 1, 1990, and ending on September 30, 2001" for "during the nine-year period beginning on October 1, 1990".

Subsec. (a)(2). Pub. L. 105–261, §561(j)(2), substituted "during the period beginning on October 1, 1994, and ending on September 30, 2001" for "during the five-year period beginning on October 1, 1994".

**1994**—Subsec. (a). Pub. L. 103–337 designated existing provisions as par. (1) and added par. (2).
**1993**—Subsec. (a). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1148. Relocation assistance for personnel overseas

The Secretary of Defense and the Secretary of Homeland Security shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to the maximum extent possible, computerized job relocation assistance and job search information.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103–337, div. A, title V, §542(a)(7), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

#### AMENDMENTS

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".
**1994**—Pub. L. 103–337 inserted "and the Secretary of Transportation" after "Secretary of Defense".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

#### PILOT PROGRAM

Pub. L. 101–510, div. A, title V, §502(d), Nov. 5, 1990, 104 Stat. 1558, required the Secretary of Defense to carry out the program required by this section during fiscal year 1991 at not less than 10 military installations located outside the United States.

## §1149. Excess leave and permissive temporary duty

Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary concerned shall grant a member of the armed forces who is to be involuntarily separated such excess

leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member's carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1557; amended Pub. L. 103–337, div. A, title V, §542(a)(8), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–239, div. A, title X, §1076(f)(17), Jan. 2, 2013, 126 Stat. 1952.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "Coast Guard".

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Pub. L. 103–337 inserted "or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense" and struck out "of the military department" before "concerned".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

## §1150. Affiliation with Guard and Reserve units: waiver of certain limitations

(a) PREFERENCE FOR CERTAIN PERSONS.—A person who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, 2001, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

(b) LIMITED WAIVER OF STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, a person covered by subsection (a) who enters a National Guard or Reserve unit pursuant to an application described in such subsection may be retained in that unit for up to three years without regard to reserve-component strength limitations so long as the individual maintains good standing in that unit.

(c) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Homeland Security shall prescribe regulations to implement this section for the Coast Guard when it is not operating as a service in the Navy.

(Added Pub. L. 101–510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1557; amended Pub. L. 102–484, div. A, title V, §514, Oct. 23, 1992, 106 Stat. 2406; Pub. L. 103–160, div. A, title V, §561(j), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, §542(a)(9), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, §561(p), Oct. 17, 1998, 112 Stat. 2027; Pub. L. 106–398, §1 [[div. A], title V, §571(o)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112–239, div. A, title X, §1076(f)(18), Jan. 2, 2013, 126 Stat. 1952.)

### EDITORIAL NOTES

**AMENDMENTS**

**2013**—Subsec. (c). Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "for the Coast Guard".

**2002**—Subsec. (c). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

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

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

**1994**—Subsec. (c). Pub. L. 103–337 added subsec. (c).

**1993**—Subsec. (a). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

**1992**—Subsec. (a). Pub. L. 102–484 struck out "involuntarily" after "who is".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

## §1151. Retention of assistive technology and services provided before separation

(a) AUTHORITY.—A member of the armed forces who is provided an assistive technology or assistive technology device for a severe or debilitating illness or injury incurred or aggravated by such member while on active duty may, under regulations prescribed by the Secretary of Defense, be authorized to retain such assistive technology or assistive technology device upon the separation of the member from active service.

(b) DEFINITIONS.—In this section, the terms "assistive technology" and "assistive technology device" have the meaning given those terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(Added Pub. L. 109–364, div. A, title V, §561(a), Oct. 17, 2006, 120 Stat. 2219.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1151, added Pub. L. 102–484, div. D, title XLIV, §4441(a)(1), Oct. 23, 1992, 106 Stat. 2725; amended Pub. L. 103–35, title II, §201(f)(1), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. A, title V, §561(k), title XIII, §1331(a)–(c)(1), (d)–(g), Nov. 30, 1993, 107 Stat. 1668, 1791–1793; Pub. L. 103–337, div. A, title V, §543(c), title X, §1070(a)(7), title XI, §1131(a), (b), Oct. 5, 1994, 108 Stat. 2769, 2855, 2871; Pub. L. 103–382, title III, §391(b)(1), (2), Oct. 20, 1994, 108 Stat. 4021; Pub. L. 104–106, div. A, title XV, §1503(a)(10), Feb. 10, 1996, 110 Stat. 511; Pub. L. 104–201, div. A, title V, §576(a), Sept. 23, 1996, 110 Stat. 2535; Pub. L. 105–85, div. A, title X, §1073(a)(19), Nov. 18, 1997, 111 Stat. 1901, related to assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides, prior to repeal by Pub. L. 106–65, div. A, title XVII, §1707(a)(1), Oct. 5, 1999, 113 Stat. 823.

## §1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

(a) PLACEMENT PROGRAM.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies

following the discharge or release of such members or former members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

(b) ELIGIBLE MEMBERS.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the armed forces and is separated with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note); and

(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribed in accordance with the agreement.

(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may provide funds to the Attorney General for grants under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

(f) REQUIREMENT FOR APPROPRIATION.—No person may be selected to participate in the program established pursuant to subsection (a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

(g) AUTHORITY TO EXPAND PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) The Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

(2) The expansion authorized by this subsection may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary considers appropriate.

(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(Added Pub. L. 103–160, div. A, title XIII, §1332(a), Nov. 30, 1993, 107 Stat. 1793; amended Pub.

L. 103–337, div. A, title V, §543(d), title XI, §1132(a)(1), Oct. 5, 1994, 108 Stat. 2771, 2872; Pub. L. 104–106, div. A, title XV, §1503(a)(11), Feb. 10, 1996, 110 Stat. 511; Pub. L. 104–201, div. A, title V, §575, Sept. 23, 1996, 110 Stat. 2535; Pub. L. 105–85, div. A, title X, §1073(a)(20), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsecs. (a), (d)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1997**—Subsec. (g). Pub. L. 105–85 inserted "(1)" before "The Secretary may".

**1996**—Subsec. (g). Pub. L. 104–201, in heading, substituted "Authority To Expand Placement To Include Firefighters" for "Conditional Expansion of Placement to Include Firefighters", in par. (1), substituted "The Secretary may" for "(1) Subject to paragraph (2), the Secretary may", and in par. (2), struck out "The Secretary may implement the expansion authorized by this subsection only if the Secretary certifies to Congress not later than April 3, 1994, that such expansion will facilitate personnel transition programs of the Department of Defense." after "(2)" and inserted "authorized by this subsection" after "The expansion".

Subsec. (g)(2). Pub. L. 104–106 substituted "not later than April 3, 1994," for "not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995".

**1994**—Pub. L. 103–337, §543(d), inserted ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in subsecs. (a) and (d).

Pub. L. 103–337, §1132(a)(1), substituted "eligible members and former members" for "separated members" in section catchline and amended text generally, substituting subsecs. (a) to (g) for former subsecs. (a) to (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §1153. Assistance to separated members to obtain employment with health care providers

(a) PLACEMENT PROGRAM.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may establish a program to assist eligible members of the armed forces to obtain employment with health care providers upon their discharge or release from active duty.

(b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member shall be eligible for selection to participate in the program established under subsection (a) if the member—

(A) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note) during the six-year period beginning on October 1, 1993;

(B) has received an associate degree, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(C) has a military occupational specialty, training, or experience related to health care, is likely to be able to obtain such training in a short period of time (as determined by the Secretary concerned), or satisfies such other criteria for selection as the Secretary concerned may prescribe.

(2) For purposes of this section, a former member of the armed forces who did not meet the minimum educational qualification criterion set forth in paragraph (1)(B) for placement assistance before discharge or release from active duty shall be considered to be a member satisfying such educational qualification criterion upon satisfying that criterion within five years after discharge or release from active duty.

(3) A member who is discharged or released from service under other than honorable conditions shall not be eligible to participate in the program.

(c) SELECTION OF PARTICIPANTS.—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, shall select members to participate in the program established under subsection (a) on the basis of applications submitted to the Secretary concerned not later than one year after the date of the discharge or release of the members from active duty or, in the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (b)(2), not later than one year after the date on which the applicant becomes educationally qualified. An application shall be in such form and contain such information as the Secretaries may require.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may not select a member to participate in the program unless the Secretary concerned has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (d) with respect to that member.

(3)(A) The Secretaries shall provide under the program for identifying, during each fiscal year in the period referred to in subsection (b)(1)(A), noncommissioned officers who, on or before the end of such fiscal year, will have completed 10 or more years of continuous active duty, who have the potential to perform competently in employment positions with health care providers, but who do not satisfy the minimum educational qualification criterion under subsection (b)(1)(B) for placement assistance.

(B) The Secretaries shall inform noncommissioned officers identified under subparagraph (A) of the opportunity to qualify in accordance with subsection (b)(2) for placement assistance under the program.

(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense and the Secretary of Homeland Security may enter into an agreement with a health care provider to assist eligible members selected under subsection (c) to obtain suitable employment with the health care provider. Under such an agreement, a health care provider shall agree to employ a participant in the program on a full-time basis for at least five years.

(2) Under an agreement referred to in paragraph (1), the Secretary concerned shall agree to pay to the health care provider involved an amount based upon the basic salary paid by the health care provider to the participant. The rate of payment by the Secretary concerned shall be as follows:

(A) For the first year of employment, 50 percent of the basic salary, except that the payment may not exceed $25,000.

(B) For the second year of employment, 40 percent of the basic salary, except that the payment may not exceed $10,000.

(C) For the third year of employment, 30 percent of the basic salary, except that the payment may not exceed $7,500.

(D) For the fourth year of employment, 20 percent of the basic salary, except that the payment may not exceed $5,000.

(E) For the fifth year of employment, 10 percent of the basic salary, except that the payment may not exceed $2,500.

(3) Payments required under paragraph (2) may be made by the Secretary concerned in such installments as the Secretary concerned may determine.

(4) If a participant who is placed under this program leaves the employment of the health care provider before the end of the five years of required employment service, the provider shall reimburse the Secretary concerned in an amount that bears the same ratio to the total amount already paid under the agreement as the unserved portion bears to the five years of required service.

(5) The Secretary concerned may not make a grant under this subsection to a health care provider if the Secretary concerned determines that the provider terminated the employment of another employee in order to fill the vacancy so created with a participant in this program.

(e) AGREEMENTS WITH STATES.—(1) In addition to the agreements referred to in subsection (d)(1), the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast

Guard, may enter into an agreement directly with a State to allow the State to arrange the placement of participants in the program with health care providers. Paragraphs (2) through (5) of subsection (d) shall apply with respect to any placement made through such an agreement.

(2) The Secretary concerned may reserve up to 10 percent of the funds made available to carry out the program for a fiscal year for the placement of participants through agreements entered into under paragraph (1).

(f) DEFINITIONS.—In this section, the term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

(Added Pub. L. 103–160, div. A, title XIII, §1332(b), Nov. 30, 1993, 107 Stat. 1795; amended Pub. L. 103–337, div. A, title V, §543(e), Oct. 5, 1994, 108 Stat. 2771; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsecs. (a), (c)(1), (2), (d)(1), (e)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Subsec. (a). Pub. L. 103–337, §543(e)(1), inserted ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense".

Subsec. (b)(1). Pub. L. 103–337, §543(e)(2), struck out "by the Secretary of Defense" after "selection" in introductory provisions and inserted "concerned" after "Secretary" in two places in subpar. (C).

Subsec. (c)(1). Pub. L. 103–337, §543(e)(3), inserted ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" and "concerned" after "to the Secretary" and substituted "Secretaries may" for "Secretary may".

Subsec. (c)(2). Pub. L. 103–337, §543(e)(4), inserted "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary" and "concerned" after "unless the Secretary".

Subsec. (c)(3). Pub. L. 103–337, §543(e)(5), substituted "Secretaries" for "Secretary" in subpars. (A) and (B).

Subsec. (d)(1). Pub. L. 103–337, §543(e)(6)(A), inserted "and the Secretary of Transportation" after "Secretary of Defense".

Subsec. (d)(2) to (5). Pub. L. 103–337, §543(e)(6)(B), inserted "concerned" after "Secretary" wherever appearing.

Subsec. (e)(1). Pub. L. 103–337, §543(e)(7)(A), inserted ", and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary of Defense".

Subsec. (e)(2). Pub. L. 103–337, §543(e)(7)(B), inserted "concerned" after "The Secretary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program

(a) DEFINITIONS.—In this section:

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given that term in section 4310 of the Elementary and Secondary Education Act of 1965.

(2) ELIGIBLE SCHOOL.—The term "eligible school" means—

(A) a public school, including a charter school, at which—

(i) at least 30 percent of the students enrolled in the school are from families with incomes below 185 percent of poverty level (as defined by the Office of Management and Budget and

revised at least annually in accordance with section 9(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)) applicable to a family of the size involved; or

(ii) at least 13 percent of the students enrolled in the school qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.);

(B) a Bureau-funded school as defined in section 1141(3) of the Education Amendments of 1978 (25 U.S.C. 2021(3)); or

(C) a Job Corps center as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197).

(3) HIGH-NEED SCHOOL.—The term "high-need school" means—

(A) an elementary or middle school in which at least 50 percent of the enrolled students are children from low-income families, based on the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the number of children eligible to receive medical assistance under the Medicaid program, or a composite of these indicators;

(B) a high school in which at least 40 percent of enrolled students are children from low-income families, which may be calculated using comparable data from feeder schools;

(C) a school that is in a local educational agency that is eligible under section 5211(b) of the Elementary and Secondary Education Act of 1965; or

(D) a Job Corps center as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197).

(4) MEMBER OF THE ARMED FORCES.—The term "member of the armed forces" includes a retired or former member of the armed forces.

(5) PARTICIPANT.—The term "participant" means an eligible member of the armed forces selected to participate in the Program.

(6) PROGRAM.—The term "Program" means the Troops-to-Teachers Program authorized by this section.

(7) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(8) ADDITIONAL TERMS.—The terms "elementary school", "local educational agency", "secondary school", and "State" have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965.

(b) PROGRAM AUTHORIZATION.—The Secretary of Defense shall carry out a Troops-to-Teachers Program—

(1) to assist eligible members of the armed forces described in subsection (d) to meet the requirements necessary to become a teacher in a school described in paragraph (2); and

(2) to facilitate the employment of such members—

(A) by local educational agencies or charter schools that the Secretary of Education identifies as—

(i) receiving grants under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; or

(ii) experiencing a shortage of teachers, in particular a shortage of science, mathematics, special education, foreign language, or career or technical teachers;

(B) in elementary schools or secondary schools, or as career or technical teachers; and

(C) as administrators and instructors of the Junior Reserve Officers' Training Corps under section 2031(d) of this title.

(c) COUNSELING AND REFERRAL SERVICES.—The Secretary may provide counseling and referral services to members of the armed forces who do not meet the eligibility criteria described in subsection (d), including the education qualification requirements under paragraph (3)(B) of such subsection.

(d) ELIGIBILITY AND APPLICATION PROCESS.—

(1) ELIGIBLE MEMBERS.—The following members of the armed forces are eligible for selection to participate in the Program:

(A) Any member who—

(i) on or after October 1, 1999, becomes entitled to retired or retainer pay under this title or title 14;

(ii) has an approved date of retirement that is within one year after the date on which the member submits an application to participate in the Program; or

(iii) has been transferred to the Retired Reserve.

(B) Any member who, on or after January 8, 2002—

(i)(I) is separated or released from active duty after four or more years of continuous active duty immediately before the separation or release; or

(II) has completed a total of at least six years of active duty service, six years of service computed under section 12732 of this title, or six years of any combination of such service; and

(ii) executes a reserve commitment agreement for a period of not less than three years under paragraph (5)(B).

(C) Any member who, on or after January 8, 2002, is retired or separated for physical disability under chapter 61 of this title.

(2) SUBMISSION OF APPLICATIONS.—(A) Selection of eligible members of the armed forces to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in subparagraph (B). An application shall be in such form and contain such information as the Secretary may require.

(B) In the case of an eligible member of the armed forces described in subparagraph (A)(i), (A)(iii), (B), or (C) of paragraph (1), an application shall be considered to be submitted on a timely basis if the application is submitted not later than three years after the date on which the member is retired, transferred to the Retired Reserve, or separated or released from active duty, whichever applies to the member.

(3) SELECTION CRITERIA; EDUCATIONAL BACKGROUND REQUIREMENTS; HONORABLE SERVICE REQUIREMENT.—(A) The Secretary shall prescribe the criteria to be used to select eligible members of the armed forces to participate in the Program.

(B) If a member of the armed forces is applying for the Program to receive assistance for placement as an elementary school or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

(C) If a member of the armed forces is applying for the Program to receive assistance for placement as a career or technical teacher, the Secretary shall require the member—

(i) to have received the equivalent of one year of college from an accredited institution of higher education or the equivalent in military education and training as certified by the Department of Defense; or

(ii) to otherwise meet the certification or licensing requirements for a career or technical teacher in the State in which the member seeks assistance for placement under the Program.

(D) A member of the armed forces is eligible to participate in the Program only if the member's last period of service in the armed forces was honorable, as characterized by the Secretary

concerned. A member selected to participate in the Program before the retirement of the member, the transfer of the member to the Retired Reserve, or the separation or release of the member from active duty may continue to participate in the Program after the retirement, transfer, separation, or release only if the member's last period of service is characterized as honorable by the Secretary concerned.

(4) SELECTION PRIORITIES.—In selecting eligible members of the armed forces to receive assistance under the Program, the Secretary—

(A) shall give priority to members who—

(i) have educational or military experience in science, mathematics, special education, foreign language, or career or technical subjects; and

(ii) agree to seek employment as science, mathematics, foreign language, or special education teachers in elementary schools or secondary schools or Job Corps centers or in other schools under the jurisdiction of a local educational agency; and

(B) may give priority to members who agree to seek employment in a high-need school.

(5) OTHER CONDITIONS ON SELECTION.—(A) Subject to subsection (i), the Secretary may not select an eligible member of the armed forces to participate in the Program and receive financial assistance unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (e) with respect to the member.

(B) The Secretary may not select an eligible member of the armed forces described in paragraph (1)(B)(i) to participate in the Program and receive financial assistance under subsection (e) unless the member executes a written agreement to serve as a member of the Selected Reserve of a reserve component of the armed forces for a period of not less than three years.

(e) PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.—

(1) PARTICIPATION AGREEMENT.—(A) An eligible member of the armed forces selected to participate in the Program under subsection (b) and to receive financial assistance under this subsection shall be required to enter into an agreement with the Secretary in which the member agrees—

(i) within such time as the Secretary may require, to meet the requirements necessary to become a teacher in a school described in subsection (b)(2); and

(ii) to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or career or technical teacher for not less than three school years in an eligible school to begin the school year after obtaining that certification or licensing.

(B) The Secretary may waive the three-year commitment described in subparagraph (A)(ii) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f), for failure to meet the three-year commitment.

(2) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant shall not be considered to be in violation of the participation agreement entered into under paragraph (1) during any period in which the participant—

(A) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

(B) is serving on active duty as a member of the armed forces;

(C) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

(D) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(E) is unable to find full-time employment as a teacher in an eligible elementary school or

secondary school or Job Corps center or as a career or technical teacher for a single period not to exceed 27 months; or

(F) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

(3) STIPEND AND BONUS FOR PARTICIPANTS.—(A) Subject to subparagraph (C), the Secretary may pay to a participant a stipend to cover expenses incurred by the participant to obtain the required educational level, certification, or licensing. Such stipend may not exceed $5,000 and may vary by participant.

(B)(i) Subject to subparagraph (C), the Secretary may pay a bonus to a participant who agrees in the participation agreement under paragraph (1) to accept full-time employment as an elementary school teacher, secondary school teacher, or career or technical teacher for not less than three school years in an eligible school.

(ii) The amount of the bonus may not exceed $5,000, unless the eligible school is a high-need school, in which case the amount of the bonus may not exceed $10,000. Within such limits, the bonus may vary by participant and may take into account the priority placements as determined by the Secretary.

(C)(i) The total number of stipends that may be paid under subparagraph (A) in any fiscal year may not exceed 3,000.

(ii) The total number of bonuses that may be paid under subparagraph (B) in any fiscal year may not exceed 3,000.

(iii) The combination of a stipend under subparagraph (A) and a bonus under subparagraph (B) for any one participant may not exceed $10,000.

(4) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this subsection to a participant shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

(1) REIMBURSEMENT REQUIRED.—A participant who is paid a stipend or bonus under this subsection shall be subject to the repayment provisions of section 373 of title 37 under the following circumstances:

(A) The participant fails to meet the requirements necessary to become a teacher in a school described in subsection (b)(2) or to obtain employment as an elementary school teacher, secondary school teacher, or career or technical teacher as required by the participation agreement under subsection (e)(1).

(B) The participant voluntarily leaves, or is terminated for cause from, employment as an elementary school teacher, secondary school teacher, or career or technical teacher during the three years of required service in violation of the participation agreement.

(C) The participant executed a written agreement with the Secretary concerned under subsection (d)(5)(B) to serve as a member of a reserve component of the armed forces for a period of three years and fails to complete the required term of service.

(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under subsection (e) shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the three years of required service.

(3) INTEREST.—Any amount owed by a participant under this subsection shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the participant is first notified of the amount due.

(4) Exceptions to reimbursement requirement.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as

established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL .—Except as provided in subsection (e)(3)(C)(iii), the receipt by a participant of a stipend or bonus under subsection (e) shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 or 33 of title 38 or chapter 1606 of this title.

(h) PARTICIPATION BY STATES.—

(1) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

(2) ASSISTANCE TO STATES.—(A) Subject to subparagraph (B), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members of the armed forces for participation in the Program and facilitating the employment of participants as elementary school teachers, secondary school teachers, and career or technical teachers.

(B) The total amount of grants made under subparagraph (A) in any fiscal year may not exceed $5,000,000.

(i) ANNUAL REPORT.—(1) Not later than December 1, 2022, and annually thereafter, the Secretary of Defense shall submit to the appropriate congressional committees a report on the Program.

(2) The report required under paragraph (1) shall include the following elements:

(A) The total cost of the Program for the most recent fiscal year.

(B) The total number of teachers placed during such fiscal year and the locations of such placements.

(C) An assessment of the STEM backgrounds of the teachers placed, the number of placements in high-need schools, and any other metric or information the Secretary considers appropriate to illustrate the cost and benefits of the program to members of the armed forces, veterans, and local educational agencies.

(3) In this subsection, the term "appropriate congressional committees" means—

(A) the Committee on Armed Services and the Committee on Help, Education, Labor, and Pensions of the Senate; and

(B) the Committee on Armed Services and the Committee on Education and Labor of the House of Representatives.

(j) LIMITATION ON TOTAL FISCAL-YEAR OBLIGATIONS.—The total amount obligated by the Secretary under the Program for any fiscal year may not exceed $15,000,000.

(k) SUNSET.—The Program shall terminate on July 1, 2029, with respect to the selection of new participants for the program. Participants in the Program as of that date may complete their program, and remain eligible for benefits under this section.

(Added Pub. L. 112–239, div. A, title V, §541(b)(1), Jan. 2, 2013, 126 Stat. 1729; amended Pub. L. 113–291, div. A, title X, §1071(f)(14), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–95, title IX, §9215(uuu)(2), Dec. 10, 2015, 129 Stat. 2190; Pub. L. 115–232, div. A, title V, §554, Aug. 13, 2018, 132 Stat. 1773; Pub. L. 117–81, div. A, title V, §551, Dec. 27, 2021, 135 Stat. 1734; Pub. L. 118–31, div. A, title V, §§573, 574, Dec. 22, 2023, 137 Stat. 276, 277; Pub. L. 118–159, div. A, title V, §572, Dec. 23, 2024, 138 Stat. 1909.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(1), (3)(C), (8) and

(b)(2)(A)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Sections 4310, 5211(b), and 8101 of the Act are classified to sections 7221i, 7345(b), and 7801, respectively, of Title 20, Education. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(3)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (e)(4), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

## AMENDMENTS

**2024**—Subsec. (e)(3)(C)(i). Pub. L. 118–159, §572(1)(A), substituted "3,000" for "5,000".

Subsec. (e)(3)(C)(iii), (iv). Pub. L. 118–159, §572(1)(B), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "A participant may not receive a stipend under subparagraph (A) if the participant is eligible for benefits under chapter 33 of title 38."

Subsec. (k). Pub. L. 118–159, §572(2), substituted "2029" for "2027".

**2023**—Subsec. (a)(2)(C). Pub. L. 118–31, §573(1)(A), added subpar. (C).

Subsec. (a)(3)(D). Pub. L. 118–31, §573(1)(B), added subpar. (D).

Subsec. (b)(2)(C). Pub. L. 118–31, §574(1), added subpar (C).

Subsec. (d)(4)(A)(ii). Pub. L. 118–31, §573(2), inserted "or Job Corps centers" after "secondary schools".

Subsec. (e)(2)(E). Pub. L. 118–31, §573(3), inserted "or Job Corps center" after "secondary school".

Subsec. (k). Pub. L. 118–31, §574(2), substituted "2027" for "2025".

**2021**—Subsec. (b). Pub. L. 117–81, §551(a), substituted "shall" for "may" in introductory provisions.

Subsecs. (i), (j). Pub. L. 117–81, §551(b), added subsec. (i) and redesignated former subsec. (i) as (j).

Subsec. (k). Pub. L. 117–81, §551(c), added subsec. (k).

**2018**—Subsec. (d)(2)(B). Pub. L. 115–232, §554(a), inserted "(A)(iii)," after "(A)(i)," and "transferred to the Retired Reserve, or" after "member is retired," and substituted "separated or released" for "separated, or released".

Subsec. (d)(3)(D). Pub. L. 115–232, §554(b), inserted ", the transfer of the member to the Retired Reserve," after "retirement of the member" and "transfer," after "after the retirement,".

**2015**—Subsec. (a)(1). Pub. L. 114–95, §9215(uuu)(2)(A), substituted "section 4310 of the Elementary and Secondary Education Act of 1965" for "section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i(1))".

Subsec. (a)(3)(C). Pub. L. 114–95, §9215(uuu)(2)(B), substituted "section 5211(b) of the Elementary and Secondary Education Act of 1965" for "section 6211(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7345(b))".

Subsec. (a)(8). Pub. L. 114–95, §9215(uuu)(2)(C), substituted "section 8101 of the Elementary and Secondary Education Act of 1965" for "section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)".

**2014**—Subsec. (a)(2)(A)(ii). Pub. L. 113–291 substituted "20 U.S.C. 1411" for "20 U.S.C.1411".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

**EFFECTIVE DATE OF 2015 AMENDMENT**

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

**TRANSFER OF FUNCTIONS FOR TROOPS-TO-TEACHERS PROGRAM; EXISTING AGREEMENTS**

Pub. L. 112–239, div. A, title V, §541(a), Jan. 2, 2013, 126 Stat. 1728, provided that:

"(1) TRANSFER.—The responsibility and authority for operation and administration of the Troops-to-Teachers Program in chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 ([former] 20 U.S.C. 6671 et seq.) is transferred from the Secretary of Education to the Secretary of Defense.

"(2) MEMORANDUM OF AGREEMENT.—In connection with the transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program from the Secretary of Education to the Secretary of Defense under paragraph (1), the Secretaries shall enter into a memorandum of agreement pursuant to which the Secretary of Education will undertake the following:

"(A) Disseminate information about the Troops-to-Teachers Program to eligible schools (as defined in subsection (a) of section 1154 of title 10, United States Code, as added by subsection (b)).

"(B) Advise the Department of Defense on how to prepare eligible members of the Armed Forces described in subsection (d) of such section 1154 to become participants in the Program, to meet the requirements necessary to become a teacher in a school described in subsection (b)(2) of such section 1154, and to find post-service employment in an eligible school.

"(C) Advise the Department of Defense on how to identify teacher preparation programs for participants in the Program.

"(D) Inform the Department of Defense of academic subject areas with critical teacher shortages.

"(E) Identify geographic areas with critical teacher shortages, especially in high-need schools (as defined in subsection (a) of such section 1154).

"(3) EFFECTIVE DATE.—The transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program under paragraph (1) shall take effect—

"(A) on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Jan. 2, 2013]; or

"(B) on such earlier date as the Secretary of Education and the Secretary of Defense may jointly provide."

Pub. L. 112–239, div. A, title V, §541(d)(3), Jan. 2, 2013, 126 Stat. 1735, provided that: "The repeal of chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 ([former] 20 U.S.C. 6671 et seq.) by paragraph (1) shall not affect—

"(A) the validity or terms of any agreement entered into under such chapter, as in effect immediately before such repeal, before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a) [set out as a note above]; or

"(B) the authority to pay assistance, make grants, or obtain reimbursement in connection with such an agreement as in effect before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a)."

## §1155. Statement of benefits

(a) BEFORE SEPARATION.—Not later than 30 days before a member retires, is released, is discharged, or otherwise separates from the armed forces (or as soon as is practicable in the case of an unanticipated separation), the Secretary concerned shall provide that member with a current assessment of all benefits to which that member may be entitled under laws administered by—

(1) the Secretary of Defense; and

(2) the Secretary of Veterans Affairs.

(b) STATEMENT FOR RESERVES.—The Secretary concerned shall provide a member of a reserve component with a current assessment of benefits described in subsection (a) upon release of that member from active duty.

(Added Pub. L. 115–232, div. A, title V, §522(a), Aug. 13, 2018, 132 Stat. 1756.)

# CHAPTER 59—SEPARATION

Sec.
1161. Commissioned officers: limitations on dismissal.
[1162, 1163. Repealed.]
1164. Warrant officers: separation for age.
1165. Regular warrant officers: separation during three-year probationary period.
1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance.
1167. Members under confinement by sentence of court-martial: separation after six months confinement.
1168. Discharge or release from active duty: limitations.
1169. Regular enlisted members: limitations on discharge.
1170. Regular enlisted members: minority discharge.
1171. Regular enlisted members: early discharge.
1172. Enlisted members: during war or emergency; discharge.
1173. Enlisted members: discharge for hardship.
1174. Separation pay upon involuntary discharge or release from active duty.
1174a. Special separation benefits programs.
1175. Voluntary separation incentive.
1175a. Voluntary separation pay and benefits.
1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.
1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation.
1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program.

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Pub. L. 111–84, div. A, title V, §512(a)(2), Oct. 28, 2009, 123 Stat. 2281, added item 1177.

**2006**—Pub. L. 109–163, div. A, title VI, §643(a)(2), Jan. 6, 2006, 119 Stat. 3309, added item 1175a.

**2000**—Pub. L. 106–398, §1 [[div. A], title VII, §751(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–193, added item 1178.

**1996**—Pub. L. 104–134, title II, §2707(a)(2), Apr. 26, 1996, 110 Stat. 1321–330, struck out item 1177 "Members infected with HIV–1 virus: mandatory discharge or retirement".

Pub. L. 104–106, div. A, title V, §§563(a)(1)(B), 567(a)(2), Feb. 10, 1996, 110 Stat. 325, 329, added item 1167 and substituted "Members infected with HIV–1 virus: mandatory discharge or retirement" for "Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling" in item 1177.

**1994**—Pub. L. 103–337, div. A, title V, §560(a)(2), title XVI, §1671(b)(10), Oct. 5, 1994, 108 Stat. 2778, 3013, struck out items 1162 "Reserves: discharge" and 1163 "Reserve components: members; limitations on separation" and added item 1177.

**1992**—Pub. L. 102–484, div. A, title V, §541(b), Oct. 23, 1992, 106 Stat. 2413, added item 1176.

**1991**—Pub. L. 102–190, div. A, title VI, §§661(a)(2), 662(a)(2), Dec. 5, 1991, 105 Stat. 1395, 1398, added items 1174a and 1175.

**1980**—Pub. L. 96–513, title V, §501(15), Dec. 12, 1980, 94 Stat. 2908, struck out item 1167 "Regular warrant officers: severance pay" and added item 1174.

**1973**—Pub. L. 93–64, title I, §102, July 9, 1973, 87 Stat. 147, added item 1173.

**1968**—Pub. L. 90–235, §3(a)(1)(B), Jan. 2, 1968, 81 Stat. 757, added items 1169 to 1172.

**1962**—Pub. L. 87–651, title I, §106(c), Sept. 7, 1962, 76 Stat. 508, added item 1168.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## CONSIDERATION OF REINSTATEMENT OF A MEMBER OF THE ARMED FORCES INVOLUNTARILY SEPARATED ON THE BASIS OF REFUSAL TO RECEIVE A VACCINATION AGAINST COVID-19

Pub. L. 118–31, div. A, title V, §526, Dec. 22, 2023, 137 Stat. 254, provided that:

"(a) REINSTATEMENT.—

"(1) REQUEST; CONSIDERATION.—At the request of a covered individual during the two years following the date of the involuntary separation of the covered individual, the Secretary concerned shall consider reinstating such covered individual—

"(A) as a member of the Armed Force concerned; and

"(B) in the grade held by such covered individual immediately before the involuntary separation of the covered individual.

"(2) TREATMENT OF PERIOD BETWEEN SEPARATION AND REINSTATEMENT.—The Secretary concerned shall treat the period of time between the involuntary separation of a covered individual and the reinstatement of such covered individual under paragraph (1) as a period of inactivation from active service under the following provisions of section 710 of title 10, United States Code:

"(A) Subsection (b).

"(B) Subparagraphs (B) through (D) of paragraph (2) of subsection (f) [10 U.S.C. 710(f)(2) does not contain subpars. (C) or (D)].

"(C) Paragraph (4) of subsection (f).

"(D) Subsection (g).

"(b) COVERED INDIVIDUAL DEFINED.—In this section, the term 'covered individual' means an individual—

"(1) involuntarily separated from an Armed Force solely on the basis of the refusal of such individual to receive a vaccination against COVID-19; and

"(2) who, during the period beginning on August 24, 2021, and ending on February 24, 2023, submitted a request for a religious, administrative, or medical exemption from a requirement to receive a vaccination against COVID-19."

## CERTAIN MEMBERS DISCHARGED OR DISMISSED ON THE SOLE BASIS OF FAILURE TO OBEY A LAWFUL ORDER TO RECEIVE A VACCINE FOR COVID-19: COMMUNICATION STRATEGY REGARDING REINSTATEMENT PROCESS

Pub. L. 118–31, div. A, title V, §528, Dec. 22, 2023, 137 Stat. 255, provided that:

"(a) COMMUNICATION STRATEGY REQUIRED.—Not later than six months after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the Secretaries of the military departments or, with respect the Coast Guard, the Secretary of the department in which the Secretary is operating when the Coast Guard is not operating as a service in the Navy, shall communicate, to a covered individual, the current, established, process by which a covered individual may be reinstated in the covered Armed Force concerned.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means an individual discharged or dismissed from a covered Armed Force on the sole basis of failure to obey a lawful order to receive a vaccine for COVID-19.

"(2) The term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, Coast Guard, or Space Force."

## RESCISSION OF COVID–19 VACCINATION MANDATE

Pub. L. 117–263, div. A, title V, §525, Dec. 23, 2022, 136 Stat. 2571, provided that: "Not later than 30 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall rescind the mandate that members of the Armed Forces be vaccinated against COVID–19 pursuant to the memorandum dated August 24, 2021, regarding 'Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members'."

## LIMITATION ON CERTAIN DISCHARGES SOLELY ON THE BASIS OF FAILURE TO OBEY LAWFUL ORDER TO RECEIVE COVID–19 VACCINE

Pub. L. 117–81, div. A, title VII, §736, Dec. 27, 2021, 135 Stat. 1800, as amended by Pub. L. 117–263, div. A, title V, §524, Dec. 23, 2022, 136 Stat. 2571, provided that:

"(a) LIMITATION.—Any administrative discharge of a covered member, on the sole basis that the covered member failed to obey a lawful order to receive a vaccine for COVID–19, shall be—

"(1) an honorable discharge;

"(2) a general discharge under honorable conditions; or

"(3) in the case of a covered member receiving an administrative discharge before completing the first 180 continuous days of active duty, uncharacterized.

"(b) DEFINITIONS.—In this section:

"(1) The terms 'Armed Forces' and 'military departments' have the meanings given such terms in section 101 of title 10, United States Code.

"(2) The term 'covered member' means a member of an Armed Force under the jurisdiction of the Secretary of a military department."

## LIMITATIONS AND REQUIREMENTS IN CONNECTION WITH SEPARATIONS FOR MEMBERS OF THE ARMED FORCES WHO SUFFER FROM MENTAL HEALTH CONDITIONS IN CONNECTION WITH A SEX-RELATED, INTIMATE PARTNER VIOLENCE-RELATED, OR SPOUSAL-ABUSE OFFENSE

Pub. L. 116–92, div. A, title V, §570A, Dec. 20, 2019, 133 Stat. 1398, provided that:

"(a) CONFIRMATION OF DIAGNOSIS OF CONDITION REQUIRED BEFORE SEPARATION .—Before a member of the Armed Forces who was the victim of a sex-related offense, an intimate partner violence-related offense, or a spousal-abuse offense during service in the Armed Forces (whether or not such offense was committed by another member of the Armed Forces), and who has a mental health condition not amounting to a physical disability, is separated, discharged, or released from the Armed Forces based solely on such condition, the diagnosis of such condition must be—

"(1) corroborated by a competent mental health care professional at the peer level or a higher level of the health care professional making the diagnosis; and

"(2) endorsed by the Surgeon General of the military department concerned.

"(b) NARRATIVE REASON FOR SEPARATION IF MENTAL HEALTH CONDITION PRESENT.—If the narrative reason for separation, discharge, or release from the Armed Forces of a member of the Armed Forces is a mental health condition that is not a disability, the appropriate narrative reason for the separation, discharge, or release shall be a condition, not a disability, or Secretarial authority.

"(c) DEFINITIONS.—In this section:

"(1) The term 'intimate partner violence-related offense' means the following:

"(A) An offense under section 928 or 930 of title 10, United States Code (article 128 or 130 of the Uniform Code of Military Justice).

"(B) An offense under State law for conduct identical or substantially similar to an offense described in subparagraph (A).

"(2) The term 'sex-related offense' means the following:

"(A) An offense under section 920 or 920b of title 10, United States Code (article 120 or 120b of the Uniform Code of Military Justice).

"(B) An offense under State law for conduct identical or substantially similar to an offense described in subparagraph (A).

"(3) The term 'spousal-abuse offense' means the following:

"(A) An offense under section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice).

"(B) An offense under State law for conduct identical or substantially similar to an offense described in subparagraph (A).

"(d) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act [Dec. 20, 2019], and shall apply with respect to separations, discharges, and releases from the Armed Forces that occur on or after that effective date."

## PROHIBITION ON INVOLUNTARY SEPARATION OF CERTAIN MEMBERS OF THE ARMED FORCES

Pub. L. 116–92, div. A, title V, §570B(a), Dec. 20, 2019, 133 Stat. 1398, provided that:

"(1) IN GENERAL.—No member of the Armed Forces may be involuntarily separated from the Armed Forces solely because that member is a covered member.

"(2) COVERED MEMBER DEFINED.—In this subsection, the term 'covered member' means a member of the Armed Forces who—

"(A) possesses a current and valid employment authorization document that was issued pursuant to the memorandum of the Secretary of Homeland Security dated June 15, 2012, and entitled 'Exercising Prosecutorial Discretion with Respect to Individuals who Came to the United States as Children'; or

"(B) is currently in a temporary protected status under section 244 of the Immigration and Nationality

Act (8 U.S.C. 1254a)."

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 14184. REINSTATING SERVICE MEMBERS DISCHARGED UNDER THE MILITARY'S COVID-19 VACCINATION MANDATE**

Ex. Ord. No. 14184, Jan. 27, 2025, 90 F.R. 8761, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose and Policy*. On August 24, 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine. The Secretary of Defense later rescinded the mandate on January 10, 2023. The vaccine mandate was an unfair, overbroad, and completely unnecessary burden on our service members. Further, the military unjustly discharged those who refused the vaccine, regardless of the years of service given to our Nation, after failing to grant many of them an exemption that they should have received. Federal Government redress of any wrongful dismissals is overdue.

SEC. 2. *Redress*. Consistent with the policies announced in section 1 of this order, the Secretary of Defense or the Secretary of Homeland Security, as appropriate, shall take all necessary action permitted by law to:

(a) make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID-19 vaccine and who request to be reinstated;

(b) enable those service members reinstated under this section to revert to their former rank and receive full back pay, benefits, bonus payments, or compensation; and

(c) allow any service members who provide a written and sworn attestation that they voluntarily left the service or allowed their service to lapse according to appropriate procedures, rather than be vaccinated under the vaccine mandate, to return to service with no impact on their service status, rank, or pay.

SEC. 3. *Additional Agency Responsibilities*. (a) Nothing in this order precludes disciplinary or administrative action for conduct that is proscribed by chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946a).

(b) Within 60 days of the date of this order [Jan. 27, 2025], the Secretary of Defense and the Secretary of Homeland Security shall report to the President through the Assistant to the President for National Security Affairs on their progress in implementing this order.

SEC. 4. *Severability*. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## §1161. Commissioned officers: limitations on dismissal

(a) No commissioned officer may be dismissed from any armed force except—

(1) by sentence of a general court-martial;

(2) in commutation of a sentence of a general court-martial; or

(3) in time of war, by order of the President.

(b) The President or the Secretary of Defense, or in the case of a commissioned officer of the Coast Guard, the Secretary of the department in which the Coast Guard is operating when it is not operating in the Navy, may drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, (2) who may be separated under section

1167 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 89; Pub. L. 104–106, div. A, title V, §563(b)(1), Feb. 10, 1996, 110 Stat. 325; Pub. L. 104–201, div. A, title X, §1074(a)(5), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 114–328, div. A, title V, §507, Dec. 23, 2016, 130 Stat. 2109.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1161(a) | 50:739 (words before semicolon, less applicability to Navy and Marine Corps warrant officers). | May 5, 1950, ch. 169, §10 (less applicability to Navy and Marine Corps warrant officers), 64 Stat. 146. |
| 1161(b) | 50:739 (less words before semicolon, less applicability to Navy and Marine Corps warrant officers). | |

In subsections (a) and (b), the word "commissioned" is inserted since, for the Army and the Air Force, the term "officer" is intended to have the same meaning in 50:739 as it has in the Uniform Code of Military Justice (article 4). For Navy warrant officers see section 6408 of this title.

In subsection (b), the words "from his place of duty" are omitted as surplusage. The words "at least" are substituted for the words "or more". The words "by a court other than a court-martial or other military court" are substituted for the words "by the civil authorities".

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (b). Pub. L. 114–328 inserted "or the Secretary of Defense, or in the case of a commissioned officer of the Coast Guard, the Secretary of the department in which the Coast Guard is operating when it is not operating in the Navy," after "President".

**1996**—Subsec. (b). Pub. L. 104–201 substituted "section 1167" for "section 1178" in par. (2).

Pub. L. 104–106 struck out "or" after "three months,", added par. (2), and redesignated former par. (2) as (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### RESTORATION OF RETIRED PAY TO OFFICERS DROPPED FROM ROLLS AFTER DECEMBER 31, 1954 AND BEFORE AUGUST 25, 1958

Pub. L. 85–754, Aug. 25, 1958, 72 Stat. 847, provided: "That notwithstanding any other provisions of law, a former retired officer dropped from the rolls under section 10 of the Act of May 5, 1950, ch. 169 (64 Stat. 146), or section 1161 of title 10, United States Code, after December 31, 1954, and before the date of enactment of this Act [Aug. 25, 1958] shall, for the purposes of entitlement to retired or retirement pay after the date of enactment of this Act, be treated as if he had not been dropped from the rolls. Such an officer is also entitled to retroactive retired or retirement pay for the period beginning on the date he was dropped from the rolls and ending on the date of enactment of this Act, as if he had not been dropped from the rolls.

"SEC. 2. A former retired officer covered by this Act is subject to the penal, prohibitory, and restrictive provisions of law applicable to the pay and civil employment of retired officers of the Armed Forces and is not entitled to any other benefit provided by law or regulation for retired officers of the Armed Forces. After the date of enactment of this Act [Aug. 25, 1958], such a former retired officer may, in the discretion of the President, have his entitlement to retired or retirement pay under this Act terminated for any reason for which any retired officer may be dismissed from, or dropped from the rolls of, any Armed Force.

"SEC. 3. Appropriations available for the payment of retired pay to members of the Armed Forces are available for payments under this Act."

## [§§1162, 1163. Repealed. Pub. L. 103–337, div. A, title XVI, §1662(i)(2), Oct. 5, 1994, 108 Stat. 2998]

Section 1162, acts Aug. 10, 1956, ch. 1041, 70A Stat. 89; Sept. 2, 1958, Pub. L. 85–861, §1(27), 72 Stat. 1450, related to discharge of Reserves. See sections 12681 and 12682 of this title.

Section 1163, acts Aug. 10, 1956, ch. 1041, 70A Stat. 89; Sept. 7, 1962, Pub. L. 87–651, title I, §106(a), 76 Stat. 508; Dec. 30, 1987, Pub. L. 100–224, §4, 101 Stat. 1538, related to limitations on separation of Reserve members from their reserve components. See sections 12683 to 12686 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

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

## §1164. Warrant officers: separation for age

(a) Unless retired or separated on or before the expiration of that period, each warrant officer shall be retired or separated from his armed force not later than 60 days after the date when he becomes 62 years of age, except as provided by section 8301 of title 5.

(b) The Secretary concerned may defer, for not more than four months, the separation under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 90; Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, §1(5), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V, §511(41), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 97–295, §1(16), Oct. 12, 1982, 96 Stat. 1290.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1164(a) | 10:600*l*(c) (as applicable to men).<br>10:600r(c) (as applicable to 10:600 *l*(c)).<br>34:430(c) (as applicable to men).<br>34:430c (as applicable to 34:430(c)). | May 29, 1954, ch. 249, §§14(c), (e) (as applicable to (c)), 21(c) (as applicable to §14(c)), 68 Stat. 163, 168. |
| 1164(b) | 10:600*l*(c) (less applicability to men).<br>34:430(c) (less applicability to men). | |
| 1164(c) | 10:600*l*(e) (as applicable to 10:600*l*(c)).<br>34:430(e) (as applicable to 34:430(c)). | |

In subsections (a) and (b), the words "Except as provided in clause (3) of subsection (b) of this section and in subsection (g) of this section" are omitted as covered by section 46 of the bill and section 14(g) of the source statute. The words "Unless retired or separated on or before the expiration of that period" are inserted

for clarity. The words "becomes 62[55] years of age" are substituted for the words "attains the age of sixty-two * * * or the age of fifty-five".

In subsection (c), the words "The Secretary concerned may defer" are substituted for the words "may, in the discretion of the Secretary, be deferred". The words "not more than" are substituted for the words "a period not to exceed". The words "determination of his" are inserted for clarity. The words "he would otherwise be required to be separated under this section" are substituted for the words "separation would otherwise be required". The words "proper", "which is required", "possible", and "a period of" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**1982**—Pub. L. 97–295, §1(16), substituted a colon for a semicolon after "officers" in section catchline.

**1980**—Subsec. (b). Pub. L. 96–513 redesignated former subsec. (c) as (b).

Subsec. (c). Pub. L. 96–513 redesignated former subsec. (c) as (b).

**1967**—Subsec. (a). Pub. L. 90–130 struck out "male" before "warrant officer".

Subsec. (b). Pub. L. 90–130 struck out subsec. (b) which made special provisions for female warrant officers.

Subsec. (c). Pub. L. 90–130 struck out reference to subsec. (b) of this section.

**1966**—Pub. L. 89–718 substituted "8301" for "47a" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### DEFERMENT OF SEPARATION WITH COMPLETION OF 20 YEARS OF SERVICE OR AT AGE 60

Act Aug. 10, 1956, ch. 1041, §46, 70A Stat. 638, provided that:

"(a) The separation of any person who, on November 1, 1954, was a male permanent warrant officer of a regular component of an armed force, and who upon attaining the age of 62 has completed less than 20 years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949 (37 U.S.C. 311) [act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, formerly set out as a note under section 580 of this title] may be deferred by the Secretary concerned until he completes 20 years of that service, but not later than that date which is 60 days after the date on which he attains the age of 64.

"(b) The separation of any person who, on November 1, 1954, was a female permanent warrant officer of a regular component of an armed force, and who upon attaining the age of 55 has completed less than 20 years of active service that could be credited to her under section 511 of the Career Compensation Act of 1949 (37 U.S.C. 311) [act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, formerly set out as a note under section 580 of this title] may be deferred by the Secretary concerned until she completes 20 years of that service, but not later than that date which is 60 days after the date on which she attains the age of 60."

## §1165. Regular warrant officers: separation during three-year probationary period

The Secretary concerned may terminate the regular appointment of any permanent regular warrant officer at any time within three years after the date when the officer accepted his original permanent appointment as a warrant officer in that component. A warrant officer who is separated under this section is entitled, if eligible therefor, to separation pay under section 1174 or he may be enlisted under section 515 of this title. If such a warrant officer is enlisted under section 515 of this title, he is not entitled to separation pay.

(Aug. 10, 1956, ch. 1041, 70A Stat. 90; Pub. L. 96–513, title I, §109(b)(1), Dec. 12, 1980, 94 Stat. 2870.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1165 | 10:600d (less last 36 words of last sentence).<br>34:135d (less last 36 words of last sentence). | May 29, 1954, ch. 249, §6 (less last 36 words of last sentence), 68 Stat. 159. |

The words "in his discretion" are omitted as surplusage. The last 10 words of the last sentence are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Pub. L. 96–513 authorized entitlement, if the regular warrant officer is eligible therefor, to separation pay under section 1174.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance

(a) Under such regulations as the Secretary concerned may prescribe, and subject to the recommendations of a board of officers or a selection board under section 576 of this title, a permanent regular warrant officer who is eligible for retirement under any provision of law shall be retired under that law if his records and reports establish his unfitness or unsatisfactory performance of duty. If he is not eligible for retirement under any provision of law, but since the date when he accepted his original permanent appointment as a regular warrant officer he has at least three years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), he shall, if eligible therefor, be separated with separation pay under section 1174 of this title or severance pay under section 286a [1] of title 14, as appropriate. However, instead of being paid separation pay or severance pay he may be enlisted under section 515 of this title. If he does not have three years of such service, he shall be separated under section 1165 of this title.

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 90; Pub. L. 87–649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 96–513, title I, §109(b)(2), Dec. 12, 1980, 94 Stat. 2870; Pub. L. 102–190, div. A, title XI, §1131(5), Dec. 5, 1991, 105 Stat. 1506.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1166(a) | 10:600m (less last 21 words of 3d sentence).<br>10:600(d) (as applicable to 10:600m). | May 29, 1954, ch. 249, §§2(d) (as applicable to §15), 14(e) (as |

| | | |
|---|---|---|
| | 34:430a (less last 21 words of 3d sentence).<br>34:135(d) (as applicable to 34:430a). | applicable to §15), 15 (less last 21 words of 3d sentence), 68 Stat. 157, 163, 164. |
| 1166(b) | 10:600*l*(e) (as applicable to 10:600m).<br>34:430(e) (as applicable to 34:430a). | |

In subsection (a), the words "he shall be separated" are substituted for the words "his appointment as a permanent warrant officer of the Regular service and any other appointment which he may hold in any warrant officer or commissioned officer grade shall be terminated" and "his appointment shall be terminated". The words "at least three" are substituted for the words "more than three" for clarity.

In subsection (b), the words "The Secretary concerned may defer" are substituted for the words "may, in the discretion of the Secretary, be deferred". The words "not more than" are substituted for the words "a period not to exceed". The words "he would otherwise be required to be retired or separated under this section" are substituted for the words "retirement * * * would otherwise be required". The words "determination of his" are inserted for clarity. The words "which is required", "possible", "proper", and "a period of" are omitted as surplusage.

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

Section 286a of title 14, referred to in subsec. (a), was redesignated section 2147 of title 14 by Pub. L. 115–282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216, and references to section 286a of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

### AMENDMENTS

**1991**—Subsec. (a). Pub. L. 102–190 substituted "section 576" for "section 560".

**1980**—Subsec. (a). Pub. L. 96–513 provided that officers discharged under this section are entitled, if eligible therefor, to separation pay under section 1174 or severance pay under section 286a of title 14.

**1962**—Subsec. (a). Pub. L. 87–649 substituted "section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)" for "section 311 of title 37."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[1] *See References in Text note below.*

## §1167. Members under confinement by sentence of court-martial: separation

### after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the member has served in confinement for a period of six months.

(Added Pub. L. 104–106, div. A, title V, §563(a)(1)(A), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 104–201, div. A, title X, §1074(a)(6), Sept. 23, 1996, 110 Stat. 2659.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1167, acts Aug. 10, 1956, ch. 1041, 70A Stat. 91; June 28, 1962, Pub. L. 87–509, §4(a), 76 Stat. 121; Sept. 7, 1962, Pub. L. 87–649, §6(f)(3), 76 Stat. 494, related to severance pay of regular warrant officers, prior to repeal by Pub. L. 96–513, title I, §109(b)(3), title VII, §701, Dec. 12, 1980, 94 Stat. 2870, 2955, effective Sept. 15, 1981.

**AMENDMENTS**

**1996**—Pub. L. 104–201 substituted "member has served" for "person has served".

## §1168. Discharge or release from active duty: limitations

(a) A member of an armed force may not be discharged or released from active duty until his discharge certificate or certificate of release from active duty, respectively, and his final pay or a substantial part of that pay, are ready for delivery to him or his next of kin or legal representative.

(b) This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care.

(Added Pub. L. 87–651, title I, §106(b), Sept. 7, 1962, 76 Stat. 508; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(4), Nov. 29, 1989, 103 Stat. 1603.)

**HISTORICAL AND REVISION NOTES**

The new section 1168 of title 10 is transferred from section 1218(a) and (c) of title 10 as being more appropriate in the chapter on separation.

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Subsec. (b). Pub. L. 101–189 substituted "facility of the Department of Veterans Affairs" for "Veterans' Administration facility".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**MACHINE READABILITY AND ELECTRONIC TRANSFERABILITY OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)**

Pub. L. 116–92, div. A, title V, §569, Dec. 20, 2019, 133 Stat. 1397, provided that:

"(a) MODIFICATION REQUIRED.—The Secretary of Defense shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) to—

"(1) be machine readable and electronically transferable; and

"(2) include a specific block explicitly identified as the location in which a member of the Armed Forces may provide one or more email addresses by which the member may be contacted after discharge or release from active duty.

"(b) DEADLINE FOR MODIFICATION.—The Secretary of Defense shall release a revised Certificate of Release or Discharge from Active Duty (DD Form 214), modified pursuant to subsection (a), not later than four years after the date of the enactment of this Act [Dec. 20, 2019].

"(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of

Defense shall submit a report to Congress regarding the following:

"(1) What systems of the Department of Defense require an individual to manually enter information from DD Form 214.

"(2) What activities of the Department of Defense require a veteran or former member of the Armed Forces to provide a physical copy of DD Form 214.

"(3) The order of priority for modernizing items identified under paragraphs (1) and (2) as determined by the Secretary.

"(4) The estimated cost, as determined by the Secretary, to automate items identified under paragraphs (1) and (2)."

**MODIFICATION OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)**

Pub. L. 110–181, div. A, title V, §596, Jan. 28, 2008, 122 Stat. 139, provided that: "The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect that the DD–214 issued with regard to the member be forwarded to the following:

"(1) The Central Office of the Department of Veterans Affairs in the District of Columbia.

"(2) The appropriate office of the Department of Veterans Affairs for the State or other locality in which the member will first reside after such discharge or release."

## §1169. Regular enlisted members: limitations on discharge

No regular enlisted member of an armed force may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary concerned;

(2) by sentence of a general or special court martial; or

(3) as otherwise provided by law.

(Added Pub. L. 90–235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

## §1170. Regular enlisted members: minority discharge

Upon application by the parents or guardian of a regular enlisted member of an armed force to the Secretary concerned within 90 days after the member's enlistment, the member shall be discharged for his own convenience, with the pay and form of discharge certificate to which his service entitles him, if—

(1) there is evidence satisfactory to the Secretary concerned that the member is under eighteen years of age; and

(2) the member enlisted without the written consent of his parent or guardian.

(Added Pub. L. 90–235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

## §1171. Regular enlisted members: early discharge

Under regulations prescribed by the Secretary concerned and approved by the President, any regular enlisted member of an armed force may be discharged within one year before the expiration of the term of his enlistment or extended enlistment. A discharge under this section does not affect any right, privilege, or benefit that a member would have had if he completed his enlistment or extended enlistment, except that the member is not entitled to pay and allowances for the period not served.

(Added Pub. L. 90–235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757; amended Pub. L. 112–81, div. A, title V, §525, Dec. 31, 2011, 125 Stat. 1401.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 112–81 substituted "within one year" for "within three months".

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 11498. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE**

Ex. Ord. No. 11498, Dec. 1, 1969, 34 F.R. 19125, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered that the Secretary of Defense is hereby designated and empowered to approve regulations issued by the Secretaries concerned under section 1171 of title 10, United States Code, effective January 2, 1968, which relate to the early discharge of regular enlisted members of the armed forces.

RICHARD NIXON.

## §1172. Enlisted members: during war or emergency; discharge

A person enlisted under section 518 of this title may be discharged at any time by the President, or otherwise according to law.

(Added Pub. L. 90–235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

## §1173. Enlisted members: discharge for hardship

Under regulations prescribed by the Secretary concerned, a regular enlisted member of an armed force who has dependents may be discharged for hardship.

(Added Pub. L. 93–64, title I, §102, July 9, 1973, 87 Stat. 147.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of Title 37, Pay and Allowances of the Uniformed Services.

## §1174. Separation pay upon involuntary discharge or release from active duty

(a) REGULAR OFFICERS.—(1) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter) or under section 580 or 8372 of this title and who has completed six or more, but less than twenty, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1).

(2) A regular commissioned officer of the Army, Navy, Air Force or Marine Corps who is discharged under section 630(1)(A), 643, or 1186 of this title, and a regular warrant officer of the Army, Navy, Air Force or Marine Corps who is separated under section 1165 or 1166 of this title, who has completed six or more, but less than twenty, years of active service immediately before that discharge or separation is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary of the military department concerned, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant payment of such pay.

(3) Notwithstanding paragraphs (1) and (2), an officer discharged under any provision of chapter 36 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if either (or both) of those failures of selection for promotion was

by the action of a selection board to which the officer submitted a request in writing not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.

(4) Notwithstanding paragraphs (1) and (2), an officer who is subject to discharge under any provision of chapter 36 of this title or under section 580 or 8372 of this title by reason of having twice failed of selection for promotion to the next higher grade is not entitled to separation pay under this section if that officer, after such second failure of selection for promotion, is selected for, and declines, continuation on active duty for a period that is equal to or more than the amount of service required to qualify the officer for retirement.

(b) REGULAR ENLISTED MEMBERS.—(1) A regular enlisted member of an armed force who is discharged involuntarily or as the result of the denial of the reenlistment of the member and who has completed six or more, but less than 20, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d) unless the Secretary concerned determines that the conditions under which the member is discharged do not warrant payment of such pay.

(2) Separation pay of an enlisted member shall be computed under paragraph (1) of subsection (d), except that such pay shall be computed under paragraph (2) of such subsection in the case of a member who is discharged under criteria prescribed by the Secretary of Defense.

(c) OTHER MEMBERS.—(1) Except as provided in paragraphs (2) and (3), a member of an armed force other than a regular member who is discharged or released from active duty and who has completed six or more, but fewer than 20, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary concerned, if—

(A) the member's discharge or release from active duty is involuntary; or

(B) the member was not accepted for an additional tour of active duty for which he volunteered.

(2) If the Secretary concerned determines that the conditions under which a member described in paragraph (1) is discharged or separated do not warrant separation pay under this section, that member is not entitled to that pay.

(3) A member described in paragraph (1) who was not on the active-duty list when discharged or separated is not entitled to separation pay under this section unless such member had completed at least six years of continuous active duty immediately before such discharge or release. For purposes of this paragraph, a period of active duty is continuous if it is not interrupted by a break in service of more than 30 days.

(4) In the case of an officer who is subject to discharge or release from active duty under a law or regulation requiring that an officer who has failed of selection for promotion to the next higher grade for the second time be discharged or released from active duty and who, after such second failure of selection for promotion, is selected for, and declines, continuation on active duty—

(A) if the period of time for which the officer was selected for continuation on active duty is less than the amount of service that would be required to qualify the officer for retirement, the officer's discharge or release from active duty shall be considered to be involuntary for purposes of paragraph (1)(A); and

(B) if the period of time for which the officer was selected for continuation on active duty is equal to or more than the amount of service that would be required to qualify the officer for retirement, the officer's discharge or release from active duty shall not be considered to be involuntary for the purposes of paragraph (1)(A).

(d) AMOUNT OF SEPARATION PAY.—The amount of separation pay which may be paid to a member under this section is—

(1) 10 percent of the product of (A) his years of active service, and (B) 12 times the monthly basic pay to which he was entitled at the time of his discharge or release from active duty; or

(2) one-half of the amount computed under clause (1).

(e) REQUIREMENT FOR SERVICE IN READY RESERVE; EXCEPTIONS TO ELIGIBILITY .—(1)(A) As a condition of receiving separation pay under this section, a person otherwise eligible for that pay shall be required to enter into a written agreement with the Secretary concerned to serve in the Ready Reserve of a reserve component for a period of not less than three years following the person's discharge or release from active duty. If the person has a service obligation under section 651 of this title or under any other provision of law that is not completed at the time the person is discharged or released from active duty, the three-year obligation under this subsection shall begin on the day after the date on which the person completes the person's obligation under such section or other provision of law.

(B) Each person who enters into an agreement referred to in subparagraph (A) who is not already a Reserve of an armed force and who is qualified shall, upon such person's discharge or release from active duty, be enlisted or appointed, as appropriate, as a Reserve and be transferred to a reserve component.

(2) A member who is discharged or released from active duty is not eligible for separation pay under this section if the member—

(A) is discharged or released from active duty at his request;

(B) is discharged or released from active duty during an initial term of enlistment or an initial period of obligated service, unless the member is an officer discharged or released under the authority of section 647 of this title;

(C) is released from active duty for training; or

(D) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service.

(f) COUNTING FRACTIONAL YEARS OF SERVICE.—In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(g) COORDINATION WITH OTHER SEPARATION OR SEVERANCE PAY BENEFITS.—A period for which a member has previously received separation pay under this section or severance pay or readjustment pay under any other provision of law based on service in the armed forces may not be included in determining the years of service that may be counted in computing the separation pay of the member under this section.

(h) COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.

(2) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on service in the armed forces shall not be deprived, by reason of his receipt of such separation pay, severance pay, or readjustment pay, of any disability compensation to which he is entitled under the laws administered by the Department of Veterans Affairs, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay, severance pay, and readjustment pay received, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986). Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of any separation pay, severance pay, or

readjustment pay received because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

(i) SPECIAL RULE FOR MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE .—(1) A member of the armed forces who receives a sole survivorship discharge shall be entitled to separation pay under this section even though the member has completed less than six years of active service immediately before that discharge. Subsection (e) shall not apply to a member who receives a sole survivorship discharge.

(2) The amount of the separation pay to be paid to a member pursuant to this subsection shall be based on the years of active service actually completed by the member before the member's sole survivorship discharge.

(3) In this subsection, the term "sole survivorship discharge" means the separation of a member from the armed forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(A) the father or mother or one or more siblings—

(i) served in the armed forces; and

(ii) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(B) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

(j) REGULATIONS; CREDITING OF OTHER COMMISSIONED SERVICE.—(1) The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, Marine Corps, and Space Force, for the administration of this section.

(2) Active commissioned service in the National Oceanic and Atmospheric Administration or the Public Health Service shall be credited as active service in the armed forces for the purposes of this section.

(Added Pub. L. 96–513, title I, §109(c), Dec. 12, 1980, 94 Stat. 2870; amended Pub. L. 97–22, §10(b)(10)(A), July 10, 1981, 95 Stat. 137; Pub. L. 98–94, title IX, §§911(a), (b), 923(b), title X, §1007(c)(2), Sept. 24, 1983, 97 Stat. 639, 640, 643, 662; Pub. L. 98–498, title III, §320(a)(2), Oct. 19, 1984, 98 Stat. 2308; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 101–510, div. A, title V, §501(a)–(d), (g), (h), Nov. 5, 1990, 104 Stat. 1549–1551; Pub. L. 102–190, div. A, title XI, §1131(6), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–160, div. A, title V, §501(a), Nov. 30, 1993, 107 Stat. 1644; Pub. L. 103–337, div. A, title V, §560(c), Oct. 5, 1994, 108 Stat. 2778; Pub. L. 104–201, div. A, title VI, §653(a), Sept. 23, 1996, 110 Stat. 2583; Pub. L. 105–85, div. A, title X, §1073(a)(22), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 105–261, div. A, title V, §502(a), Oct. 17, 1998, 112 Stat. 2003; Pub. L. 106–398, §1 [[div. A], title V, §508(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–107; Pub. L. 108–375, div. A, title V, §501(c)(2), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 110–317, §3, Aug. 29, 2008, 122 Stat. 3527; Pub. L. 111–32, title III, §318(a), June 24, 2009, 123 Stat. 1873; Pub. L. 111–383, div. A, title X, §1075(b)(17), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title IX, §924(b)(1)(K), (3)(S), Jan. 1, 2021, 134 Stat. 3820, 3821; Pub. L. 118–31, div. A, title XVII, §1722(i)(2), Dec. 22, 2023, 137 Stat. 673.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 24 of the Internal Revenue Code of 1986, referred to in subsec. (h)(2), is classified generally to chapter 24 (§3401 et seq.) of Title 26, Internal Revenue Code.

### AMENDMENTS

**2023**—Subsec. (a)(2). Pub. L. 118–31 substituted "or Marine Corps" for ", Marine Corps, or Space Force" in two places.

**2021**—Subsec. (a)(2). Pub. L. 116–283, §924(b)(3)(S), substituted "Marine Corps, or Space Force" for "or Marine Corps" in two places.

Subsec. (j)(1). Pub. L. 116–283, §924(b)(1)(K), substituted "Marine Corps, and Space Force" for "and Marine Corps".

**2018**—Subsec. (a)(1), (4). Pub. L. 115–232 substituted "section 580 or 8372" for "section 580 or 6383".

**2011**—Subsec. (i). Pub. L. 111–383 substituted "armed forces" for "Armed Forces" wherever appearing.

**2009**—Subsec. (h)(1). Pub. L. 111–32 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay so much of such pay as is based on the service for which he received separation pay under this section or separation pay, severance pay, or readjustment pay under any other provision of law until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received."

**2008**—Subsecs. (i), (j). Pub. L. 110–317 added subsec. (i) and redesignated former subsec. (i) as (j).

**2004**—Subsec. (e)(2)(B). Pub. L. 108–375 inserted ", unless the member is an officer discharged or released under the authority of section 647 of this title" after "obligated service".

**2000**—Subsec. (a)(4). Pub. L. 106–398, §1 [[div. A], title V, §508(a)], added par. (4).

Subsec. (c)(4). Pub. L. 106–398, §1 [[div. A], title V, §508(b)], added par. (4).

**1998**—Subsec. (a)(3). Pub. L. 105–261 added par. (3).

**1997**—Subsec. (a)(1). Pub. L. 105–85 struck out ", 1177," before "or 6383 of this title".

**1996**—Subsec. (h)(2). Pub. L. 104–201 inserted ", less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986)" before period at end of first sentence.

**1994**—Subsec. (a)(1). Pub. L. 103–337 inserted ", 1177," after "section 580".

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "six" for "five".

**1991**—Subsec. (a)(1). Pub. L. 102–190 substituted "section 580" for "section 564".

**1990**—Subsec. (a). Pub. L. 101–510, §501(a)(1), inserted heading.

Subsec. (a)(1). Pub. L. 101–510, §501(g)(1), substituted "or under section 564 or 6383 of this title" for ", under section 564 or 6383 of this title, or under section 603 or 604 of the Defense Officer Personnel Management Act" and struck out "or release" after "that discharge".

Subsec. (a)(2). Pub. L. 101–510, §501(b)(1), substituted "six or more" for "five or more".

Pub. L. 101–510, §501(a)(2), redesignated subsec. (b) as subsec. (a)(2).

Subsec. (b). Pub. L. 101–510, §501(a)(3), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 101–510, §501(h)(1), inserted heading.

Subsec. (c)(1). Pub. L. 101–510, §501(g)(2), struck out "after September 14, 1981," after "member who" in introductory provisions.

Pub. L. 101–510, §501(b)(1), substituted "six or more" for "five or more" in introductory provisions.

Subsec. (c)(3). Pub. L. 101–510, §501(b)(2), substituted "at least six years" for "at least five years".

Subsec. (d). Pub. L. 101–510, §501(h)(2), inserted heading.

Subsec. (d)(1). Pub. L. 101–510, §501(c)(1)(A), struck out "or $30,000, whichever is less" after "active duty".

Subsec. (d)(2). Pub. L. 101–510, §501(c)(1)(B), struck out ", but in no event more than $15,000" after "under clause (1)".

Subsec. (e). Pub. L. 101–510, §501(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "A member who—

"(1) is discharged or released from active duty at his request;

"(2) is released from active duty for training; or

"(3) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service;

is not eligible for separation pay under this section."

Subsec. (f). Pub. L. 101–510, §501(h)(3), inserted heading.

Subsec. (g). Pub. L. 101–510, §501(h)(4), inserted heading.

Pub. L. 101–510, §501(c)(2), struck out "(1)" after "(g)" and struck out par. (2) which read as follows: "The total amount that a member may receive in separation pay under this section and severance pay and

readjustment pay under any other provision of law, other than section 1212 of this title, based on service in the armed forces may not exceed $30,000."

Subsec. (h). Pub. L. 101–510, §501(h)(5), inserted heading.

Subsec. (i). Pub. L. 101–510, §501(h)(6), inserted heading.

**1989**—Subsec. (h)(2). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1984**—Subsec. (h)(1). Pub. L. 98–498 substituted "separation pay, severance pay," for "severance pay" before "or readjustment pay" in two places.

**1983**—Subsec. (c). Pub. L. 98–94, §911(a), amended subsec. (c) generally, designating existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B), respectively, and in provisions preceding subpar. (A) substituted "Except as provided in paragraphs (2) and (3), a member" for "A member" and "fewer than 20, years of active service immediately before that discharge or release is entitled to separation pay" for "less than twenty, years of active service immediately before that discharge or release is entitled, unless the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay, to separation pay", and added pars. (2) and (3).

Subsec. (f). Pub. L. 98–94, §923(b), amended subsec. (f) generally, substituting "each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded".

Subsec. (g)(2). Pub. L. 98–94, §911(b), inserted ", other than section 1212 of this title," after "any other provision of law".

Subsec. (i). Pub. L. 98–94, §1007(c)(2), designated existing provisions as par. (1) and added par. (2).

**1981**—Subsec. (c). Pub. L. 97–22 substituted "after September 14, 1981," for "on or after the effective date of the Defense Officer Personnel Management Act".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–32, title III, §318(c), June 24, 2009, 123 Stat. 1874, provided that: "The amendments made by this section [amending this section and section 1175 of this title] shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment [June 24, 2009], including any ongoing repayment actions that were initiated prior to this amendment."

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110–317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §508(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–107, provided that: "Paragraph (4) of section 1174(a) of title 10, United States Code, as added by subsection (a), and paragraph (4) of section 1174(c) of such title, as added by subsection (b), shall apply with respect to any offer of selective continuation on active duty that is declined on or after the date of the enactment of this Act [Oct. 30, 2000]."

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–261 applicable with respect to selection boards convened under section 611(a) of this title on or after Oct. 17, 1998, see section 502(c) of Pub. L. 105–261, set out as a note under section

617 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 105–178, title VIII, §8208, June 9, 1998, 112 Stat. 495, provided that: "The amendment made by section 653 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2583) to subsection (h)(2) of section 1174 of title 10, United States Code, shall apply to any payment of separation pay under the special separation benefits program under section 1174a of that title that was made during the period beginning on December 5, 1991, and ending on September 30, 1996."

Pub. L. 104–201, div. A, title VI, §653(b), Sept. 23, 1996, 110 Stat. 2583, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1996, and shall apply to payments of separation pay, severance pay, or readjustment pay that are made after September 30, 1996."

**EFFECTIVE DATE OF 1993 AMENDMENT**

Pub. L. 103–160, div. A, title V, §501(b), Nov. 30, 1993, 107 Stat. 1644, provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply with respect to any regular officer who is discharged after the date of the enactment of this Act [Nov. 30, 1993].

"(2) The amendment made by subsection (a) shall not apply with respect to an officer who on the date of the enactment of this Act has five or more, but less than six, years of active service in the Armed Forces."

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title V, §501(e), Nov. 5, 1990, 104 Stat. 1550, provided that:

"(1) Except as provided in paragraph (2), subsection (b) of section 1174 of title 10, United States Code, as added by subsection (a), and the amendments made by subsections (b), (c), and (d) [amending this section] shall apply with respect to a member of the Armed Forces who is discharged, or released from active duty, after the date of the enactment of this Act [Nov. 5, 1990].

"(2) The amendments made by subsection (b) [amending this section] shall not apply in the case of a member (other than a regular enlisted member) of the Armed Forces who (A) is serving on active duty on the date of the enactment of this Act, (B) is discharged, or released from active duty, after that date; and (C) on that date has five or more, but less than six, years of active service in the Armed Forces."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §911(c), Sept. 24, 1983, 97 Stat. 640, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1983."

Pub. L. 98–94, title IX, §923(g), Sept. 24, 1983, 97 Stat. 644, provided that: "The amendments made by this section [amending this section and sections 1401, 1402, 1402a, 3991, 3992, 6151, 6328, 6330, 6404, 8991, and 8992 of this title, section 423 of Title 14, Coast Guard, section 853o of Title 33, Navigation and Navigable Waters, and section 212 of Title 42, The Public Health and Welfare] shall apply with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after September 30, 1983, and (2) the recomputation of retired pay under section 1402, 1402a, 3992 [now 7362], or 8992 [now 9362] of title 10, United States Code, of any individual who after September 30, 1983, becomes entitled to recompute retired pay under any such section."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et

seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §1174a. Special separation benefits programs

(a) REQUIREMENT FOR PROGRAMS.—The Secretary concerned shall carry out a special separation benefits program under this section. An eligible member of the armed forces may request separation under the program. The request shall be subject to the approval of the Secretary.

(b) BENEFITS.—Upon the approval of the request of an eligible member, the member shall—

(1) be released from active duty or full-time National Guard duty or discharged, as the case may be; and

(2) be entitled to—

(A) separation pay equal to 15 percent of the product of (i) the member's years of active service, and (ii) 12 times the monthly basic pay to which the member is entitled at the time of his discharge or release from active duty; and

(B) the same benefits and services as are provided under chapter 58 of this title, sections 452 and 453(c) of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 476 [1] note) for members of the armed forces who are involuntarily separated within the meaning of section 1141 of this title.

(c) ELIGIBILITY.—Subject to subsections (d) and (e), a member of an armed force is eligible for voluntary separation under a program established for that armed force pursuant to this section if the member—

(1) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

(2) has served on active duty or full-time National Guard duty or any combination of active duty and full-time National Guard duty for more than 6 years;

(3) has served on active duty or full-time National Guard duty or any combination of active duty and full-time National Guard duty for not more than 20 years;

(4) has served at least 5 years of continuous active duty or full-time National Guard duty or any combination of active duty and full-time National Guard duty immediately preceding the date of the member's separation from active duty; and

(5) meets such other requirements as the Secretary may prescribe, which may include requirements relating to—

(A) years of service;

(B) skill or rating;

(C) grade or rank; and

(D) remaining period of obligated service.

(d) PROGRAM APPLICABILITY.—The Secretary concerned may provide for the program under this section to apply to any of the following members:

(1) A regular officer or warrant officer of an armed force.

(2) A regular enlisted member of an armed force.

(3) A member of an armed force other than a regular member.

(e) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to paragraphs (2) and (3), the Secretary concerned may limit the applicability of a program under this section to any category of personnel defined by the Secretary in order to meet a need of the armed force under the Secretary's jurisdiction to reduce the number of members in certain grades, the number of members who have completed a certain number of years of active service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) Any category prescribed by the Secretary concerned for regular officers, regular enlisted members, or other members pursuant to paragraph (1) shall be consistent with the categories applicable to regular officers, regular enlisted members, or other members, respectively, under the

voluntary separation incentive program under section 1175 of this title or any other program established by law or by that Secretary for the involuntary separation of such members in the administration of a reduction in force.

(3) A member of the armed forces offered a voluntary separation incentive under section 1175 of this title shall also be offered the opportunity to request separation under a program established pursuant to this section. If the Secretary concerned approves a request for separation under either such section, the member shall be separated under the authority of the section selected by such member.

(f) APPLICATION REQUIREMENTS.—(1) In order to be separated under a program established pursuant to this section—

(A) a regular enlisted member eligible for separation under that program shall—

(i) submit a request for separation under the program before the expiration of the member's term of enlistment; or

(ii) upon discharge at the end of such term, enter into a written agreement (pursuant to regulations prescribed by the Secretary concerned) not to request reenlistment in a regular component; and

(B) a member referred to in subsection (d)(3) eligible for separation under that program shall submit a request for separation to the Secretary concerned before the expiration of the member's established term of active service.

(2) For purposes of this section, the entry of a member into an agreement referred to in paragraph (1)(A)(ii) under a program established pursuant to this section shall be considered a request for separation under the program.

(g) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS .—Subsections (e) through (h), other than subsection (e)(2)(A), of section 1174 of this title shall apply in the administration of programs established under this section.

(h) TERMINATION OF PROGRAM.—(1) Except as provided in paragraph (2), the Secretary concerned may not conduct a program pursuant to this section after December 31, 2001.

(2) No member of the armed forces may be separated under a program established pursuant to this section after the date of the termination of that program.

(Added Pub. L. 102–190, div. A, title VI, §661(a)(1), Dec. 5, 1991, 105 Stat. 1394; amended Pub. L. 102–484, div. A, title X, §1052(15), div. D, title XLIV, §§4405(a), 4422(a), Oct. 23, 1992, 106 Stat. 2499, 2706, 2718; Pub. L. 103–35, title II, §202(a)(17), May 31, 1993, 107 Stat. 102; Pub. L. 103–160, div. A, title V, §§502, 561(g), Nov. 30, 1993, 107 Stat. 1644, 1668; Pub. L. 103–337, div. A, title V, §542(b), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, §561(b), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–263, div. A, title VI, §626(c)(2), Dec. 23, 2022, 136 Stat. 2628.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 503(c) of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (b)(2)(B), is section 503(c) of Pub. L. 101–510, div. A, title V, Nov. 5, 1990, 104 Stat. 1558, which was formerly set out as a note under section 476 of Title 37, Pay and Allowances of the Uniformed Services, prior to transfer and is now set out as a note under section 453 of Title 37.

### AMENDMENTS

**2022**—Subsec. (b)(2)(B). Pub. L. 117–263 substituted "sections 452 and 453(c)" for "sections 474 and 476".

**2013**—Subsec. (b)(2)(B). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (b)(2)(B). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "474" for "404" and substituted "476" for "406" in two places.

**2000**—Subsec. (h)(1). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

**1998**—Subsec. (h)(1). Pub. L. 105–261 substituted "September 30, 2001" for "September 30, 1999".

**1994**—Subsec. (a). Pub. L. 103–337, §542(b)(1), substituted "concerned" for "of each military department".

Subsec. (d). Pub. L. 103–337, §542(b)(2), substituted "concerned" for "of a military department".

Subsec. (e)(3). Pub. L. 103–337, §542(b)(3), struck out "of the military department" after "Secretary".

Subsec. (h). Pub. L. 103–337, §542(b)(4), substituted "concerned" for "of a military department".

**1993**—Subsec. (c)(2). Pub. L. 103–160, §502, struck out "before December 5, 1991" after "6 years".

Subsec. (c)(3). Pub. L. 103–35, §202(a)(17)(A), made technical amendment to directory language of Pub. L. 102–484, §4422(a)(3). See 1992 Amendment note below.

Subsec. (c)(4). Pub. L. 103–35, §202(a)(17)(B), made technical amendment to directory language of Pub. L. 102–484, §4422(a)(4). See 1992 Amendment note below.

Subsec. (h)(1). Pub. L. 103–160, §561(g), substituted "September 30, 1999" for "September 30, 1995".

**1992**—Subsec. (b)(1). Pub. L. 102–484, §4422(a)(1), inserted "or full-time National Guard duty" after "active duty".

Subsec. (b)(2)(B). Pub. L. 102–484, §4405(a), inserted ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)" after "chapter 58 of this title".

Subsec. (c)(2). Pub. L. 102–484, §§1052(15), 4422(a)(2), substituted "December 5, 1991" for "the date of the enactment of this section" and inserted "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty".

Subsec. (c)(3). Pub. L. 102–484, §4422(a)(3), as amended by Pub. L. 103–35, §202(a)(17)(A), inserted "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty".

Subsec. (c)(4). Pub. L. 102–484, §4422(a)(4), as amended by Pub. L. 103–35, §202(a)(17)(B), inserted "and" after semicolon at end and "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty" the first place it appeared.

Subsec. (c)(5), (6). Pub. L. 102–484, §4424(a)(5), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "if a Reserve, is on an active duty list; and".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title XLIV, §4405(c), Oct. 23, 1992, 106 Stat. 2706, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1175 of this title] shall apply as if included in sections 1174a and 1175 of title 10, United States Code, as enacted on December 5, 1991, but any benefits or services payable by reason of the applicability of the provisions of those amendments during the period beginning on December 5, 1991, and ending on the date of the enactment of this Act [Oct. 23, 1992] shall be subject to the availability of appropriations."

### REMEDY FOR INEFFECTIVE COUNSELING OF OFFICERS DISCHARGED FOLLOWING SELECTION BY EARLY DISCHARGE BOARDS

Pub. L. 103–160, div. A, title V, §507, Nov. 30, 1993, 107 Stat. 1646, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(1), Oct. 5, 1994, 108 Stat. 2856, provided that:

"(a) PROCEDURE FOR REVIEW.—(1) The Secretary of each military department shall establish a

procedure for the review of the individual circumstances of an officer described in paragraph (2) who is discharged, or who the Secretary concerned approves for discharge, following the report of a selection board convened by the Secretary to select officers for separation. The procedure established by the Secretary of a military department under this section shall provide that each review under that procedure be carried out by the Board for the Correction of Military Records of that military department.

"(2) This section applies in the case of any officer (including a warrant officer) who, having been offered the opportunity to be discharged or otherwise separated from active duty through the programs provided under section 1174a and 1175 of title 10, United States Code—

"(A) elected not to accept such discharge or separation; and

"(B) submits an application under subsection (b) during the two-year period beginning on the later of the date of the enactment of this Act [Nov. 30, 1993] and the date of such discharge or separation.

"(b) APPLICATION.—A review under this section shall be conducted in any case submitted to the Secretary concerned by application from the officer or former officer under regulations prescribed by the Secretary.

"(c) PURPOSE OF REVIEW.—(1) The review under this section shall be designed to evaluate the effectiveness of the counseling of the officer before the convening of the board to ensure that the officer was properly informed that selection for discharge or other separation from active duty was a potential result of being within the group of officers to be considered by the board and that the officer was not improperly informed that such selection in that officer's personal case was unlikely.

"(2) The Board for the Correction of Military Records of a military department shall render a decision in each case under this section not later than 60 days after receipt by the Secretary concerned of an application under subsection (b).

"(d) REMEDY.—Upon a finding of ineffective counseling under subsection (c), the Secretary shall provide the officer the opportunity to participate, at the officer's option, in any one of the following programs for which the officer meets all eligibility criteria:

"(1) The Special Separation Benefits program under section 1174a of title 10, United States Code.

"(2) The Voluntary Separation Incentive program under section 1175 of such title.

"(3) Retirement under the authority provided by section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note).

"(e) EFFECTIVE DATE.—This section shall apply with respect to officers separated after September 30, 1990."

## SEPARATION PAYMENTS; REDUCTIONS AND PROHIBITIONS

Pub. L. 103–335, title VIII, §8106A, Sept. 30, 1994, 108 Stat. 2645, as amended by Pub. L. 104–6, title I, §105(a), Apr. 10, 1995, 109 Stat. 79, which provided that members who separated after Sept. 30, 1994, from active duty or full-time National Guard duty in a military department pursuant to a Special Separation Benefits program under section 1174a of this title or a Voluntary Separation Incentive program under section 1175 of this title would have their separation payments reduced by the amount of certain bonus payments and eliminated if they are rehired within 180 days by the Department of Defense in a civilian position and that civilian Department of Defense employees would not receive voluntary separation payments if rehired by a Federal agency within 180 days of separating from the Department of Defense, was from the Department of Defense Appropriations Act, 1995, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation act:

Pub. L. 103–139, title VIII, §8127, Nov. 11, 1993, 107 Stat. 1469.

## COMMENCEMENT OF PROGRAM

Pub. L. 102–190, div. A, title VI, §661(b), Dec. 5, 1991, 105 Stat. 1395, provided that: "The Secretary of each military department shall commence the program required by section 1174a of title 10, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act [Dec. 5, 1991]."

## REPORT ON PROGRAMS

Pub. L. 102–190, div. A, title VI, §663, Dec. 5, 1991, 105 Stat. 1399, directed Secretary, not later than 180 days after Dec. 5, 1991, to submit to Congress a report containing the Secretary's assessment of effectiveness of programs established under sections 1174a and 1175 of this title.

[1] *See References in Text note below.*

## §1175. Voluntary separation incentive

(a)(1) Consistent with this section and the availability of appropriations for this purpose, the Secretary of Defense and the Secretary of Homeland Security may provide a financial incentive to members of the armed forces described in subsection (b) for voluntary appointment, enlistment, or transfer to a reserve component, requested and approved under subsection (c).

(2)(A) Except as provided in subparagraph (B), a financial incentive provided a member under this section shall be paid for the period equal to twice the number of years of service of the member, computed as provided in subsection (e)(5).

(B) If, before the expiration of the period otherwise applicable under subparagraph (A) to a member receiving a financial incentive under this section, the member is separated from a reserve component or is transferred to the Retired Reserve, the period for payment of a financial incentive to the member under this section shall terminate on the date of the separation or transfer unless—

(i) the separation or transfer is required by reason of the age or number of years of service of the member;

(ii) the separation or transfer is required by reason of the failure of selection for promotion or the medical disqualification of the member, except in a case in which the Secretary of Defense or the Secretary of Homeland Security determines that the basis for the separation or transfer is a result of a deliberate action taken by the member with the intent to avoid retention in the Ready Reserve or Standby Reserve; or

(iii) in the case of a separation, the member is separated from the reserve component for appointment or enlistment in or transfer to another reserve component of an armed force for service in the Ready Reserve or Standby Reserve of that armed force.

(b) The Secretary of Defense and the Secretary of Homeland Security may provide the incentive to a member of the armed forces if the member—

(1) has served on active duty or full-time National Guard duty or any combination of active duty and full-time National Guard duty for more than 6 but less than 20 years;

(2) has served at least 5 years of continuous active duty or full-time National Guard duty or any combination of active duty and full-time National Guard duty immediately preceding the date of separation;

(3) meets such other requirements as the Secretary may prescribe from time to time, which may include requirements relating to—

(A) years of service;

(B) skill or rating;

(C) grade or rank; and

(D) remaining period of obligated service.

(c) A member of the armed forces offered a voluntary separation incentive under this section shall be offered the opportunity to request separation under a program established pursuant to section 1174a of this title. If the Secretary concerned approves a request for separation under either such section, the member shall be separated under the authority of the section selected by such member.

(d)(1) A member of the armed forces described in subsection (b) may request voluntary appointment, enlistment, or transfer to a reserve component accompanied by this incentive, provided the member has completed 6 years of active service.

(2) The Secretary, in his discretion, may approve or disapprove a request according to the needs of the armed forces.

(3) After December 31, 2001, the Secretary may not approve a request.

(e)(1) The annual payment of the incentive shall equal 2.5 percent of the monthly basic pay the member receives on the date appointed, enlisted, or transferred to the reserve component, multiplied by twelve and multiplied again by the member's years of service.

(2) A member entitled to voluntary separation incentive payments who is also entitled to basic pay for active or reserve service, or compensation for inactive duty training, may elect to have a

reduction in the voluntary separation incentive payable for the same period in an amount not to exceed the amount of the basic pay or compensation received for that period.

(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of voluntary separation incentive so paid. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.

(B) If a member is receiving simultaneous voluntary separation incentive payments and retired or retainer pay, the member may elect to terminate the receipt of voluntary separation incentive payments. Any such election is permanent and irrevocable. The rate of monthly recoupment from retired or retainer pay of voluntary separation incentive payments received after such an election shall be reduced by a percentage that is equal to a fraction with a denominator equal to the number of months that the voluntary separation incentive payments were scheduled to be paid and a numerator equal to the number of months that would not be paid as a result of the member's decision to terminate the voluntary separation incentive.

(4) A member who is receiving voluntary separation incentive payments shall not be deprived of this incentive by reason of entitlement to disability compensation under the laws administered by the Department of Veterans Affairs, but there shall be deducted from voluntary separation incentive payments an amount equal to the amount of any such disability compensation concurrently received. Notwithstanding the preceding sentence, no deduction may be made from voluntary separation incentive payments for any disability compensation received because of an earlier period of active duty if the voluntary separation incentive is received because of discharge or release from a later period of active duty.

(5) The years of service of a member for purposes of this section shall be computed in accordance with section 1405 of this title.

(f) The member's right to incentive payments shall not be transferable, except that the member may designate beneficiaries to receive the payments in the event of the member's death.

(g) Subject to subsection (h), payments under this provision shall be paid from appropriations available to the Department of Defense and the Department of Homeland Security for the Coast Guard.

(h)(1) There is established on the books of the Treasury a fund to be known as the "Voluntary Separation Incentive Fund" (hereinafter in this subsection referred to as the "Fund"). The Fund shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis the liabilities of the Department of Defense under this section.

(2) There shall be deposited in the Fund the following, which shall constitute the assets of the Fund:

(A) Amounts paid into the Fund under paragraphs (5), (6), and (7).

(B) Any amount appropriated to the Fund.

(C) Any return on investment of the assets of the Fund.

(3) All voluntary separation incentive payments made by the Secretary of Defense after December 31, 1992, under this section shall be paid out of the Fund. To the extent provided in appropriation Acts, the assets of the Fund shall be available to the Secretary to pay voluntary separation incentives under this section.

(4) The Department of Defense Board of Actuaries (hereinafter in this subsection referred to as the "Board") shall perform the same functions regarding the Fund, as provided in this subsection, as such Board performs regarding the Department of Defense Military Retirement Fund.

(5) Not later than January 1, 1993, the Board shall determine the amount that is the present value, as of that date, of the future benefits payable under this section in the case of persons who are

separated pursuant to this section before that date. The amount so determined is the original unfunded liability of the Fund. The Board shall determine an appropriate amortization period and schedule for liquidation of the original unfunded liability. The Secretary shall make deposits to the Fund in accordance with that amortization schedule.

(6) For persons separated under this section on or after January 1, 1993, the Secretary shall deposit in the Fund during the period beginning on that date and ending on September 30, 1999—

(A) such sums as are necessary to pay the current liabilities under this section during such period; and

(B) the amount equal to the present value, as of September 30, 1999, of the future benefits payable under this section, as determined by the Board.

(7)(A) For each fiscal year after fiscal year 1999, the Board shall—

(i) carry out an actuarial valuation of the Fund and determine any unfunded liability of the Fund which deposits under paragraphs (5) and (6) do not liquidate, taking into consideration any cumulative actuarial gain or loss to the Fund;

(ii) determine the period over which that unfunded liability should be liquidated; and

(iii) determine for the following fiscal year, the total amount, and the monthly amount, of the Department of Defense contributions that must be made to the Fund during that fiscal year in order to fund the unfunded liabilities of the Fund over the applicable amortization periods.

(B) The Board shall carry out its responsibilities for each fiscal year in sufficient time for the amounts referred to in subparagraph (A)(iii) to be included in budget requests for that fiscal year.

(C) The Secretary of Defense shall pay into the Fund at the end of each month as the Department of Defense contribution to the Fund the amount necessary to liquidate unfunded liabilities of the Fund in accordance with the amortization schedules determined by the Board.

(8) Amounts paid into the Fund under this subsection shall be paid from funds available for the pay of members of the armed forces under the jurisdiction of the Secretary of each military department.

(9) The investment provisions of section 1467 of this title shall apply to the Voluntary Separation Incentive Fund.

(i) The Secretary of Defense and the Secretary of Homeland Security may issue such regulations as may be necessary to carry out this section.

(j) A member of the armed forces who is provided a voluntary separation incentive under this section shall be eligible for the same benefits and services as are provided under chapter 58 of this title, sections 452 and 453(c) of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 476 [1] note) for members of the armed forces who are involuntarily separated within the meaning of section 1141 of this title.

(Added Pub. L. 102–190, div. A, title VI, §662(a)(1), Dec. 5, 1991, 105 Stat. 1396; amended Pub. L. 102–484, div. A, title X, §1052(16), div. D, title XLIV, §§4405(b), 4406(a), (b), 4422(b), Oct. 23, 1992, 106 Stat. 2499, 2706, 2707, 2719; Pub. L. 103–160, div. A, title V, §§502, 561(h), Nov. 30, 1993, 107 Stat. 1644, 1668; Pub. L. 103–337, div. A, title V, §542(c), Oct. 5, 1994, 108 Stat. 2769; Pub. L. 105–261, div. A, title V, §§561(b), 563(a), (b), Oct. 17, 1998, 112 Stat. 2025, 2028; Pub. L. 106–398, §1 [[div. A], title V, §§571(b), 572(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134, 1654A–135; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–181, div. A, title IX, §906(c)(1), Jan. 28, 2008, 122 Stat. 277; Pub. L. 111–32, title III, §318(b), June 24, 2009, 123 Stat. 1874; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–263, div. A, title VI, §626(c)(3), Dec. 23, 2022, 136 Stat. 2628.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 503(c) of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (j), is

section 503(c) of Pub. L. 101–510, div. A, title V, Nov. 5, 1990, 104 Stat. 1558, which was formerly set out as a note under section 476 of Title 37, Pay and Allowances of the Uniformed Services, prior to transfer and is now set out as a note under section 453 of Title 37.

## AMENDMENTS

**2022**—Subsec. (j). Pub. L. 117–263 substituted "sections 452 and 453(c)" for "sections 474 and 476".

**2013**—Subsec. (j). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (j). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "474" for "404" and substituted "476" for "406" in two places.

**2009**—Subsec. (e)(3)(A). Pub. L. 111–32 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "A member who has received the voluntary separation incentive and who qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay so much of such pay as is based on the service for which he received the voluntary separation incentive until the total amount deducted equals the total amount of voluntary separation incentive received. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced accordingly."

**2008**—Subsec. (h)(4). Pub. L. 110–181 struck out "Retirement" before "Board of Actuaries".

**2002**—Subsecs. (a)(1), (2)(B)(ii), (b), (g), (i). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2000**—Subsec. (d)(3). Pub. L. 106–398, §1 [[div. A], title V, §571(b)], substituted "December 31, 2001" for "September 30, 2001".

Subsec. (e)(3). Pub. L. 106–398, §1 [[div. A], title V, §572(a)], designated existing provisions as subpar. (A) and added subpar. (B).

**1998**—Subsec. (a). Pub. L. 105–261, §563(a), designated existing provisions as par. (1), struck out ", for the period of time the member serves in a reserve component" after "under subsection (c)", and added par. (2).

Subsec. (d)(3). Pub. L. 105–261, §561(b), substituted "September 30, 2001" for "September 30, 1999".

Subsec. (e)(1). Pub. L. 105–261, §563(b), struck out at end "The annual payment will be made for a period equal to the number of years that is equal to twice the number of years of service of the member."

**1994**—Subsecs. (a), (b). Pub. L. 103–337, §542(c)(1), inserted "and the Secretary of Transportation" after "Secretary of Defense".

Subsec. (c). Pub. L. 103–337, §542(c)(2), struck out "of the military department" after "Secretary".

Subsec. (g). Pub. L. 103–337, §542(c)(3), inserted "and the Department of Transportation for the Coast Guard" before period at end.

Subsec. (h)(3). Pub. L. 103–337, §542(c)(4), inserted "by the Secretary of Defense" after "incentive payments made" and "to the Secretary" after "shall be available".

Subsec. (i). Pub. L. 103–337, §542(c)(5), inserted "and the Secretary of Transportation" after "Secretary of Defense".

**1993**—Subsec. (d)(1). Pub. L. 103–160, §502, struck out "before December 5, 1991" after "active service".

Subsecs. (d)(3), (h)(6). Pub. L. 103–160, §561(h)(1), substituted "September 30, 1999" for "September 30, 1995" wherever appearing.

Subsec. (h)(7)(A). Pub. L. 103–160, §561(h)(2), substituted "fiscal year 1999" for "fiscal year 1996".

**1992**—Subsec. (a). Pub. L. 102–484, §1052(16)(A), substituted "reserve component" for "Reserve component" after "transfer to a".

Subsec. (b)(1), (2). Pub. L. 102–484, §4422(b)(1), (2), inserted "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty".

Subsec. (b)(3), (4). Pub. L. 102–484, §4424(b)(3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "if a Reserve, is on the active duty list; and".

Subsec. (d)(1). Pub. L. 102–484, §1052(16)(B), substituted "before December 5, 1991" for "prior to the time this provision is enacted".

Subsec. (e)(2). Pub. L. 102–484, §4406(a)(1), substituted "may elect to have a reduction in the voluntary separation incentive payable for the same period in an amount not to exceed the amount of the basic pay or compensation received for that period." for "shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay, or compensation, received."

Subsec. (e)(3). Pub. L. 102–484, §4406(a)(2), inserted at end "If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced accordingly."

Subsec. (e)(6). Pub. L. 102–484, §4406(b), struck out par. (6) which read as follows: "Years of service that

form the basis of the payment under paragraph (5) may not be counted in computing eligibility for, or the amount of, annuities under title 5 or any other law providing annuities to Federal civilian employees."

Subsec. (j). Pub. L. 102–484, §4405(b), added subsec. (j).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–32 applicable to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after June 24, 2009, including any ongoing repayment actions that were initiated prior to such amendment, see section 318(c) of Pub. L. 111–32, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §572(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136, provided that: "Subparagraph (B) of section 1175(e)(3) of title 10, United States Code, as added by subsection (a), shall apply with respect to decisions by members to terminate voluntary separation incentive payments under section 1175 of title 10, United States Code, to be effective after September 30, 2000."

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title V, §563(c), Oct. 17, 1998, 112 Stat. 2028, provided that: "The amendments made by this section [amending this section] apply with respect to any person provided a voluntary separation incentive under section 1175 of title 10, United States Code (whether before, on, or after the date of the enactment of this Act) [Oct. 17, 1998]."

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 4405(b) of Pub. L. 102–484 applicable as if included in this section as enacted Dec. 5, 1991, with any benefits or services payable by reason of applicability of that amendment during the period beginning Dec. 5, 1991, and ending Oct. 23, 1992, to be subject to availability of appropriations, see section 4405(c) of Pub. L. 102–484, set out as a note under section 1174a of this title.

Pub. L. 102–484, div. D, title XLIV, §4406(c), Oct. 23, 1992, 106 Stat. 2707, provided that: "The amendments to section 1175 of title 10, United States Code, made by subsections (a) and (b) shall apply as if included in section 1175 of title 10, United States Code, as enacted on December 5, 1991."

### PAYMENT OF INCENTIVES FROM VOLUNTARY SEPARATION INCENTIVE FUND

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8044], Sept. 30, 1996, 110 Stat. 3009–71, 3009–98, provided that: "During the current fiscal year and hereafter, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1)."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8054, Dec. 1, 1995, 109 Stat. 662.

Pub. L. 103–335, title VIII, §8062, Sept. 30, 1994, 108 Stat. 2633.

Pub. L. 103–139, title VIII, §8073, Nov. 11, 1993, 107 Stat. 1457.

Pub. L. 102–396, title IX, §9106, Oct. 6, 1992, 106 Stat. 1927.

### SEPARATION PAYMENTS; REDUCTIONS AND PROHIBITIONS

For provisions reducing, with certain exceptions, amounts received under this section by amounts received as bonus payments under chapter 5 of title 37 in case of members who separate from active duty or full-time

National Guard duty in a military department and prohibiting such members from receiving Voluntary Separation Incentive program payments if rehired in DOD civilian position within 180 days of separation, see note set out under section 1174a of this title.

**TAX TREATMENT OF INCENTIVE PAYMENT**

Pub. L. 102–190, div. A, title VI, §662(b), Dec. 5, 1991, 105 Stat. 1398, provided that: "Notwithstanding the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] and any other provision of law, any voluntary separation incentive paid to a member of the Armed Forces under section 1175 of title 10, United States Code (as added by subsection (a)), shall be includable in gross income for federal tax purposes only for the taxable year in which such incentive is paid to the participant or beneficiary of the member."

*[1] See References in Text note below.*

## §1175a. Voluntary separation pay and benefits

(a) IN GENERAL.—Under regulations approved by the Secretary of Defense, the Secretary concerned may provide voluntary separation pay and benefits in accordance with this section to eligible members of the armed forces who are voluntarily separated from active duty in the armed forces.

(b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member of the armed forces is eligible for voluntary separation pay and benefits under this section if the member—

(A) has served on active duty for more than 6 years but not more than 20 years;

(B) has served at least 5 years of continuous active duty immediately preceding the date of the member's separation from active duty;

(C) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

(D) meets such other requirements as the Secretary concerned may prescribe, which may include requirements relating to—

(i) years of service, skill, rating, military specialty, or competitive category;

(ii) grade or rank;

(iii) remaining period of obligated service; or

(iv) any combination of these factors; and

(E) requests separation from active duty.

(2) The following members are not eligible for voluntary separation pay and benefits under this section:

(A) Members discharged with disability severance pay under section 1212 of this title.

(B) Members transferred to the temporary disability retired list under section 1202 or 1205 of this title.

(C) Members being evaluated for disability retirement under chapter 61 of this title.

(D) Members who have been previously discharged with voluntary separation pay.

(E) Members who are subject to pending disciplinary action or who are subject to administrative separation or mandatory discharge under any other provision of law or regulations.

(3) The Secretary concerned shall determine each year the number of members to be separated, and provided separation pay and benefits, under this section during the fiscal year beginning in such year.

(c) SEPARATION.—Each eligible member of the armed forces whose request for separation from active duty under subsection (b)(1)(E) is approved shall be separated from active duty.

(d) ADDITIONAL SERVICE IN READY RESERVE.—Of the number of members of the armed forces to be separated from active duty in a fiscal year, as determined under subsection (b)(3), the Secretary concerned shall determine a number of such members, in such skill and grade

combinations as the Secretary concerned shall designate, who shall serve in the Ready Reserve, after separation from active duty, for a period of not less than three years, as a condition of the receipt of voluntary separation pay and benefits under this section.

(e) SEPARATION PAY AND BENEFITS.—(1) A member of the armed forces who is separated from active duty under subsection (c) shall be paid voluntary separation pay in accordance with subsection (g) in an amount determined by the Secretary concerned pursuant to subsection (f).

(2) A member who is not entitled to retired or retainer pay upon separation shall be entitled to the benefits and services provided under—

(A) chapter 58 of this title during the 180-day period beginning on the date the member is separated (notwithstanding any termination date for such benefits and services otherwise applicable under the provisions of such chapter); and

(B) sections 452 and 453(c) of title 37.

(f) COMPUTATION OF VOLUNTARY SEPARATION PAY.—The Secretary concerned shall specify the amount of voluntary separation pay that an individual or defined group of members of the armed forces may be paid under subsection (e)(1). No member may receive as voluntary separation pay an amount greater than four times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of this title.

(g) PAYMENT OF VOLUNTARY SEPARATION PAY.—(1) Voluntary separation pay under this section may be paid in a single lump sum.

(2) In the case of a member of the armed forces who, at the time of separation under subsection (c), has completed at least 15 years, but less than 20 years, of active service, voluntary separation pay may be paid, at the election of the Secretary concerned, in—

(A) a single lump sum;

(B) installments over a period not to exceed 10 years; or

(C) a combination of lump sum and such installments.

(h) COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—(1) A member who is paid voluntary separation pay under this section and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such retired or retainer pay is equal to the total amount of voluntary separation pay so paid.

(2)(A) Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986).

(B) No deduction shall be made from the disability compensation paid to an eligible disabled uniformed services retiree under section 1413, or to an eligible combat-related disabled uniformed services retiree under section 1413a of this title, who is paid voluntary separation pay under this section.

(C) No deduction may be made from the disability compensation paid to a member for the amount of voluntary separation pay received by the member because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

(3) The requirement under this subsection to repay voluntary separation pay following retirement from the armed forces does not apply to a member who was eligible to retire at the time the member applied and was accepted for voluntary separation pay and benefits under this section.

(4) The Secretary concerned may waive the requirement to repay voluntary separation pay under paragraphs (1) and (2) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(i) RETIREMENT DEFINED.—In this section, the term "retirement" includes a transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

(j) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraphs (2), (3), and (4), a member of the armed forces who, after having received all or part of voluntary separation pay under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary separation pay received.

(2) Members who are involuntarily recalled to active duty or full-time National Guard duty in accordance with section 12301(a), 12301(b), 12301(g), 12302, 12303, 12304, 12304a, or 12304b of this title or section 502(f)(1)(A) of title 32 shall not be subject to this subsection.

(3) Members who are recalled or perform active duty or full-time National Guard duty in accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of this title, or section 114, 115, or 502(f)(1)(B) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

(4) This subsection shall not apply to a member who—

(A) is involuntarily recalled to active duty or full-time National Guard duty; and

(B) in the course of such duty, incurs a service-connected disability rated as total under section 1155 of title 38.

(5) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

(k) TERMINATION OF AUTHORITY.—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2030.

(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.

(Added Pub. L. 109–163, div. A, title VI, §643(a)(1), Jan. 6, 2006, 119 Stat. 3306; amended Pub. L. 109–364, div. A, title VI, §623(a)(1), (2), Oct. 17, 2006, 120 Stat. 2256; Pub. L. 111–84, div. A, title X, §1073(a)(14), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 111–383, div. A, title X, §1075(b)(18), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 112–81, div. A, title V, §526, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1401, 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 114–328, div. A, title V, §§508(c), 526, Dec. 23, 2016, 130 Stat. 2109, 2117; Pub. L. 116–92, div. A, title VI, §603, Dec. 20, 2019, 133 Stat. 1423; Pub. L. 117–263, div. A, title VI, §626(c)(4), Dec. 23, 2022, 136 Stat. 2628; Pub. L. 119–60, div. A, title VI, §612, Dec. 18, 2025, 139 Stat. 907.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 24 of the Internal Revenue Code of 1986, referred to in subsec. (h)(2)(A), is classified generally to chapter 24 (§3401 et seq.) of Title 26, Internal Revenue Code.

### AMENDMENTS

**2025**—Subsec. (k)(1). Pub. L. 119–60 substituted "December 31, 2030" for "December 31, 2025".

**2022**—Subsec. (e)(2)(B). Pub. L. 117–263 substituted "sections 452 and 453(c)" for "sections 474 and 476".

**2019**—Subsec. (j)(1). Pub. L. 116–92, §603(1), substituted "paragraphs (2), (3), and (4)" for "paragraphs (2) and (3)".

Subsec. (j)(4), (5). Pub. L. 116–92, §603(2), (3), added par. (4) and redesignated former par. (4) as (5).

**2016**—Subsec. (j)(2). Pub. L. 114–328, §526(1), substituted "12304, 12304a, or 12304b" for "or 12304" and "502(f)(1)(A)" for "502(f)(1)".

Subsec. (j)(3). Pub. L. 114–328, §526(2), substituted "502(f)(1)(B)" for "502(f)(2)".

Subsec. (k)(1). Pub. L. 114–328, §508(c), substituted "December 31, 2025" for "December 31, 2018".

**2013**—Subsec. (e)(2)(B). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (e)(2)(B). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "474" for "404" and "476" for "406".

Subsec. (j)(3). Pub. L. 111–383 substituted "this title" for "title 10".

Subsec. (k)(1). Pub. L. 112–81, §526, substituted "December 31, 2018" for "December 31, 2012".

**2009**—Subsec. (h)(1). Pub. L. 111–84 substituted "qualifies" for "qualities".

**2006**—Subsec. (f). Pub. L. 109–364, §623(a)(1), substituted "four" for "two".

Subsec. (k)(1). Pub. L. 109–364, §623(a)(2), substituted "2012" for "2008".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### LIMITATION ON APPLICABILITY

Pub. L. 109–163, div. A, title VI, §643(b), Jan. 6, 2006, 119 Stat. 3310, which provided that, during the period beginning on Jan. 6, 2006, and ending on Dec. 31, 2008, members eligible for separation and for voluntary separation pay and benefits under this section would be limited to officers who had met the eligibility requirements of this section, but had not completed more than 12 years of active service as of the date of separation, was repealed by Pub. L. 109–364, div. A, title VI, §623(a)(3), Oct. 17, 2006, 120 Stat. 2256.

## §1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

(a) REGULAR MEMBERS.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 7314 or 9314 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 8330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

(b) RESERVE MEMBERS IN ACTIVE STATUS.—A reserve enlisted member serving in an active status who is selected to be involuntarily separated (other than for physical disability or for cause), or whose term of enlistment expires and who is denied reenlistment (other than for physical disability or for cause), and who on the date on which the member is to be discharged or transferred from an active status is entitled to be credited with at least 18 but less than 20 years of service computed under section 12732 of this title, may not be discharged, denied reenlistment, or transferred from an active status without the member's consent before the earlier of the following:

(1) If as of the date on which the member is to be discharged or transferred from an active status the member has at least 18, but less than 19, years of service computed under section 12732 of this title—

(A) the date on which the member is entitled to be credited with 20 years of service computed under section 12732 of this title; or

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

(2) If as of the date on which the member is to be discharged or transferred from an active status the member has at least 19, but less than 20, years of service computed under section 12732 of this title—

(A) the date on which the member is entitled to be credited with 20 years of service computed under section 12732 of this title; or

(B) the second anniversary of the date on which the member would otherwise be discharged or transferred from an active status.

(Added Pub. L. 102–484, div. A, title V, §541(a), Oct. 23, 1992, 106 Stat. 2412; amended Pub. L. 103–160, div. A, title V, §562(a), Nov. 30, 1993, 107 Stat. 1669; Pub. L. 104–106, div. A, title XV, §1501(c)(12), Feb. 10, 1996, 110 Stat. 499; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 substituted "section 7314 or 9314" for "section 3914 or 8914" and "section 8330" for "section 6330".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "section 12732" for "section 1332" wherever appearing.

**1993**—Subsec. (b). Pub. L. 103–160 added subsec. (b) and struck out heading and text of former subsec. (b) which provided that a reserve enlisted member serving on active duty who was selected to be involuntarily separated, or whose term of enlistment expired and who was denied reenlistment, and who on the date on which the member was to be discharged or released from active duty was entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, could not be discharged or released from active duty without the member's consent before the earlier of certain dates.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title V, §562(b), Nov. 30, 1993, 107 Stat. 1669, provided that: "Subsection (b) of section 1176 of title 10, United States Code, as added by subsection (a), shall take effect as of October 23, 1992."

## §1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation

(a) MEDICAL EXAMINATION REQUIRED.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operation, or sexually assaulted, during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing post-traumatic stress disorder or traumatic brain injury or who otherwise reasonably alleges, based on the service of the member while deployed, or based on

such sexual assault, the influence of such a condition, receives a medical examination to evaluate a diagnosis of post-traumatic stress disorder or traumatic brain injury.

(2) A member covered by paragraph (1) shall not be administratively separated under conditions other than honorable, including an administrative separation in lieu of court-martial, until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

(3) In a case involving post-traumatic stress disorder, the medical examination shall be performed by a clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse. In cases involving traumatic brain injury, the medical examination may be performed by a physician, clinical psychologist, psychiatrist, or other health care professional, as appropriate.

(b) PURPOSE OF MEDICAL EXAMINATION.—The medical examination required by subsection (a) shall assess whether the effects of post-traumatic stress disorder or traumatic brain injury constitute matters in extenuation that relate to the basis for administrative separation under conditions other than honorable or the overall characterization of service of the member as other than honorable.

(c) INAPPLICABILITY TO PROCEEDINGS UNDER UNIFORM CODE OF MILITARY JUSTICE.—The medical examination and procedures required by this section do not apply to courts-martial or other proceedings conducted pursuant to the Uniform Code of Military Justice.

(Added Pub. L. 111–84, div. A, title V, §512(a)(1), Oct. 28, 2009, 123 Stat. 2280; amended Pub. L. 112–239, div. A, title V, §518, Jan. 2, 2013, 126 Stat. 1720; Pub. L. 113–66, div. A, title V, §522, Dec. 26, 2013, 127 Stat. 755; Pub. L. 114–328, div. A, title V, §524, Dec. 23, 2016, 130 Stat. 2116.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (c), is classified to chapter 47 (§801 et seq.) of this title.

#### PRIOR PROVISIONS

A prior section 1177, added Pub. L. 103–337, div. A, title V, §560(a)(1), Oct. 5, 1994, 108 Stat. 2777; amended Pub. L. 104–106, div. A, title V, §567(a)(1), title XV, §1503(a)(12), Feb. 10, 1996, 110 Stat. 328, 511, related to mandatory discharge or retirement of members infected with HIV–1 virus, prior to repeal by Pub. L. 104–134, title II, §2707(a)(1), Apr. 26, 1996, 110 Stat. 1321–330.

#### AMENDMENTS

**2016**—Subsec. (a)(1). Pub. L. 114–328 inserted ", or sexually assaulted," after "deployed overseas in support of a contingency operation" and "or based on such sexual assault," after "while deployed,".

**2013**—Subsec. (a)(1). Pub. L. 112–239, §518(1), substituted "psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse" for "or psychiatrist".

Subsec. (a)(2). Pub. L. 113–66 inserted ", including an administrative separation in lieu of court-martial," after "honorable".

Subsec. (a)(3). Pub. L. 112–239, §518(2), substituted ", psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse" for "or psychiatrist".

## §1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program

The Secretary of each military department shall establish a system for tracking, recording, and reporting separations of members of the armed forces under the Secretary's jurisdiction that result from procedures initiated as a result of a refusal to participate in the anthrax vaccine immunization program.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §751(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–193; amended Pub. L. 111–383, div. A, title VII, §721, Jan. 7, 2011, 124 Stat. 4251.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 111–383 struck out subsec. (a) designation and heading before "The Secretary" and struck out subsec. (b). Text of subsec. (b) read as follows: "The Secretary of Defense shall consolidate the information recorded under the system described in subsection (a) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than April 1 of each year a report on such information. Each such report shall include a description of—

"(1) the number of members separated, categorized by military department, grade, and active-duty or reserve status; and

"(2) any other information determined appropriate by the Secretary."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### COMPTROLLER GENERAL REPORT

Pub. L. 106–398, §1 [[div. A], title VII, §751(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–194, directed the Comptroller General, not later than Apr. 1, 2002, to submit to committees of Congress a report on the effect of the Department of Defense anthrax vaccine immunization program on the recruitment and retention of active duty and reserve military personnel and civilian personnel of the Department of Defense.

# CHAPTER 60—SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

Sec.
1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons.
1182. Boards of inquiry.
[1183. Repealed.]
1184. Removal of officer: action by Secretary upon recommendation of board of inquiry.
1185. Rights and procedures.
1186. Officer considered for removal: voluntary retirement or discharge.
1187. Officers eligible to serve on boards.

### EDITORIAL NOTES

### AMENDMENTS

**1998**—Pub. L. 105–261, div. A, title V, §503(c)(2), Oct. 17, 1998, 112 Stat. 2004, struck out item 1183 "Boards of review" and substituted "inquiry" for "review" in item 1184.

**1984**—Pub. L. 98–525, title V, §524(b)(2), Oct. 19, 1984, 98 Stat. 2524, substituted "Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons" for "Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons" in item 1181.

## §1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

(a) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular

Space Force to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

(b) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Space Force to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2872; amended Pub. L. 98–525, title V, §524(b)(1), Oct. 19, 1984, 98 Stat. 2524; Pub. L. 116–283, div. A, title IX, §924(b)(4)(J), Jan. 1, 2021, 134 Stat. 3822.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "Regular Marine Corps, or Regular Space Force" for "or Regular Marine Corps" in subsecs. (a) and (b).

**1984**—Pub. L. 98–525 substituted "Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons" for "Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons" in section catchline.

Subsecs. (a), (b). Pub. L. 98–525 amended subsecs. (a) and (b) generally, substituting "Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record" for "Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title V, §524(b)(3), Oct. 19, 1984, 98 Stat. 2524, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and the analysis to this chapter] shall take effect on the first day of the first month that begins more than 60 days after the date of the enactment of this Act [Oct. 19, 1984], but shall not apply to any case in which, before that date, a board of officers has been ordered to convene under the provisions of section 1181 of title 10, United States Code, as in effect before that date."

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §1182. Boards of inquiry

(a) The Secretary of the military department concerned shall convene boards of inquiry at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 1181 of this title to show cause for retention on active duty should be retained on active duty. Each board of inquiry shall be

composed of not less than three officers having the qualifications prescribed by section 1187 of this title.

(b) A board of inquiry shall give a fair and impartial hearing to each officer required under section 1181 of this title to show cause for retention on active duty.

(c)(1) If a board of inquiry determines that the officer has failed to establish that he should be retained on active duty, it shall recommend to the Secretary concerned that the officer not be retained on active duty.

(2) Under regulations prescribed by the Secretary concerned, an officer as to whom a board of inquiry makes a recommendation under paragraph (1) that the officer not be retained on active duty may be required to take leave pending the completion of the officer's case under this chapter. The officer may be required to begin such leave at any time following the officer's receipt of the report of the board of inquiry, including the board's recommendation for removal from active duty, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued until the date on which action by the Secretary concerned on the officer's case is completed or may be terminated at any earlier time.

(d)(1)(A) If a board of inquiry determines that an officer should be retained, the officer's case is closed unless the board substantiated a basis for separation and, upon recommendation from the service chief, the Secretary of the military department determines that the board's retention recommendation is clearly erroneous in light of the evidence considered by the board, a miscarriage of justice, and inconsistent with the best interest of the service. In such cases, the Secretary of the military department may separate the officer after providing a written justification of the decision to separate.

(B) An officer considered for separation under this section must be notified and afforded the opportunity to present matters for the Secretary of the military department to consider when making the separation determination. The Secretary of the military department shall review the case to determine whether the retention recommendation of the board is clearly contrary to the substantial weight of the evidence in the record and whether the officer's conduct discredits the Service, adversely affects good order and discipline, and adversely affects the officer's performance of duty.

(C) Exercise of authority to separate an officer under this section shall be reserved for unusual cases where such action is essential to the interests of justice, discipline, and proper administration of the service.

(2) Authority to direct administrative separation after a board of inquiry's recommendation to retain an officer may only be delegated to a civilian official within a military department appointed by the President, by and with the advice and consent of the Senate. The least favorable characterization in such cases will be general (under honorable conditions).

(3) An officer who is required to show cause for retention on active duty under subsection (a) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may not again be required to show cause for retention on active duty under such subsection within the one-year period beginning on the date of that determination.

(4)(A) Subject to subparagraph (B), an officer who is required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may again be required to show cause for retention at any time.

(B) An officer who has been required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is thereafter retained on active duty may not again be required to show cause for retention on active duty under such subsection solely because of conduct which was the subject of the previous proceedings, unless the findings or recommendations of the board of inquiry that considered his case are determined to have been obtained by fraud or collusion.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2872; amended Pub. L. 105–261, div. A, title V, §503(b)(1), Oct. 17, 1998, 112 Stat. 2003; Pub. L. 106–398, §1 [[div. A], title X, §1087(d)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292; Pub. L. 107–314, div. A, title V, §506(a), Dec. 2, 2002, 116 Stat. 2534; Pub. L. 118–159, div. A, title V, §508, Dec. 23, 2024, 138 Stat. 1871.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d)(1). Pub. L. 118–159, §508(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "If a board of inquiry determines that the officer has established that he should be retained on active duty, the officer's case is closed."

Subsec. (d)(2) to (4). Pub. L. 118–159, §508(2), (3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

**2002**—Subsec. (c). Pub. L. 107–314 designated existing provisions as par. (1) and added par. (2).

**2000**—Subsec. (c). Pub. L. 106–398 made technical correction to directory language of Pub. L. 105–261, §503(b)(1). See 1998 Amendment note below.

**1998**—Subsec. (c). Pub. L. 105–261, §503(b)(1), as amended by Pub. L. 106–398, substituted "recommend to the Secretary concerned that the officer not be retained on active duty" for "send the record of its proceedings to a board of review convened under section 1183 of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1087(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that the amendment made by section 1 [[div. A], title X, §1087(d)(2)] is effective Oct. 17, 1998, and as if included in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105–261, as enacted.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [§1183. Repealed. Pub. L. 105–261, div. A, title V, §503(a), Oct. 17, 1998, 112 Stat. 2003]

Section, added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2873, related to convening and determinations of boards of review.

## §1184. Removal of officer: action by Secretary upon recommendation of board of inquiry

The Secretary of the military department concerned may remove an officer from active duty if the removal of such officer from active duty is recommended by a board of inquiry convened under section 1182 of this title.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2874; amended Pub. L. 105–261, div. A, title V, §503(b)(2), (c)(1), Oct. 17, 1998, 112 Stat. 2003.)

### EDITORIAL NOTES

### AMENDMENTS

**1998**—Pub. L. 105–261 substituted "inquiry" for "review" in section catchline and "board of inquiry convened under section 1182 of this title" for "board of review convened under section 1183 of this title" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on

Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §1185. Rights and procedures

(a) Under regulations prescribed by the Secretary of Defense, each officer required under section 1181 of this title to show cause for retention on active duty—

(1) shall be notified in writing, at least 30 days before the hearing of his case by a board of inquiry, of the reasons for which he is being required to show cause for retention on active duty;

(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare his showing of cause for his retention on active duty;

(3) subject to subsection (c), shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to his case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

(b) When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

(c) The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via means other than in person.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2874; amended Pub. L. 118–159, div. A, title V, §509(a), Dec. 23, 2024, 138 Stat. 1872.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(3). Pub. L. 118–159, §509(a)(1), substituted "subject to subsection (c), shall be" for "shall be".

Subsec. (c). Pub. L. 118–159, §509(a)(2), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §1186. Officer considered for removal: voluntary retirement or discharge

(a) At any time during proceedings under this chapter with respect to the removal of an officer from active duty, the Secretary of the military department concerned may grant a request by the officer—

(1) for voluntary retirement, if the officer is qualified for retirement; or

(2) for discharge in accordance with subsection (b)(2).

(b) An officer removed from active duty under section 1184 of this title shall—

(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under such provision; and

(2) if ineligible for voluntary retirement under any provision of law on the date of such

removal—

(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 1181 of this title; or

(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 1181 of this title.

(c) An officer who is discharged under subsection (b)(2) is entitled, if eligible therefor, to separation pay under section 1174(a)(2) of this title.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2874; amended Pub. L. 101–510, div. A, title V, §501(f)(1), Nov. 5, 1990, 104 Stat. 1550.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1990**—Subsec. (c). Pub. L. 101–510 substituted "section 1174(a)(2)" for "section 1174(b)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §1187. Officers eligible to serve on boards

(a) IN GENERAL.—Except as provided in subsection (b), each board convened under this chapter shall consist of officers appointed as follows:

(1) Each member of the board shall be an officer of the same armed force as the officer being required to show cause for retention on active duty.

(2) Each member of the board shall be in a grade above major or lieutenant commander, except that at least one member of the board shall be in a grade above lieutenant colonel or commander.

(3) Each member of the board shall be senior in grade to any officer to be considered by the board.

(b) RETIRED OFFICERS.—If qualified officers are not available in sufficient numbers to comprise a board convened under this chapter, the Secretary of the military department concerned shall complete the membership of the board by appointing to the board retired officers of the same armed force. A retired officer may be appointed to such a board only if the retired grade of that officer—

(1) is above major or lieutenant commander or, in the case of an officer to be the senior officer of the board, above lieutenant colonel or commander; and

(2) is senior to the grade of any officer to be considered by the board.

(c) INELIGIBILITY BY REASON OF PREVIOUS CONSIDERATION OF SAME OFFICER .—No person may be a member of more than one board convened under this chapter to consider the same officer.

(d) EXCLUSION FROM STRENGTH LIMITATION.—A retired general or flag officer who is on active duty for the purpose of serving on a board convened under this chapter shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(Added Pub. L. 96–513, title I, §110, Dec. 12, 1980, 94 Stat. 2875; amended Pub. L. 106–65, div. A, title V, §504(a), Oct. 5, 1999, 113 Stat. 590; Pub. L. 110–417, [div. A], title V, §505, Oct. 14, 2008,

122 Stat. 4434.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–417, §505(a)(1), (b), substituted "In General" for "Active Duty Officers" in heading, redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "Each member of the board shall be on the active-duty list."

Subsec. (b). Pub. L. 110–417, §505(a)(2), struck out "on active duty" after "qualified officers" in introductory provisions.

**1999**—Pub. L. 106–65 amended text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to officers eligible to serve on boards.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

# CHAPTER 61—RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY

Sec.
1201. Regulars and members on active duty for more than 30 days: retirement.
1202. Regulars and members on active duty for more than 30 days: temporary disability retired list.
1203. Regulars and members on active duty for more than 30 days: separation.
1204. Members on active duty for 30 days or less or on inactive-duty training: retirement.
1205. Members on active duty for 30 days or less: temporary disability retired list.
1206. Members on active duty for 30 days or less or on inactive-duty training: separation.
1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing.
1207. Disability from intentional misconduct or willful neglect: separation.
1207a. Members with over eight years of active service: eligibility for disability retirement for pre-existing conditions.
1208. Computation of service.
1209. Transfer to inactive status list instead of separation.
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1211. Members on temporary disability retired list: return to active duty; promotion.
1212. Disability severance pay.
1213. Effect of separation on benefits and claims.
1214. Right to full and fair hearing.
1214a. Members determined fit for duty in Physical Evaluation Board: prohibition on involuntary administrative separation or denial of reenlistment due to unsuitability based on medical conditions considered in evaluation.
1215. Members other than Regulars: applicability of laws.
1216. Secretaries: powers, functions, and duties.
1216a. Determinations of disability: requirements and limitations on determinations.
1217. Academy cadets and midshipmen: applicability of chapter.
1218. Discharge or release from active duty: claims for compensation, pension, or hospitalization.

1218a. Discharge or release from active duty: transition assistance for reserve component members injured while on active duty.
1219. Statement of origin of disease or injury: limitations.
[1220. Repealed.]
1221. Effective date of retirement or placement of name on temporary disability retired list.
1222. Physical evaluation boards.

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 112–81, div. A, title V, §527(c)(2), Dec. 31, 2011, 125 Stat. 1402, substituted "Members determined fit for duty in Physical Evaluation Board: prohibition on involuntary administrative separation or denial of reenlistment due to unsuitability based on medical conditions considered in evaluation" for "Members determined fit for duty in Physical Evaluation Board evaluation: prohibition on involuntary administrative separation due to unsuitability based on medical conditions considered in evaluation" in item 1214a.

Pub. L. 111–383, div. A, title V, §534(a)(2), Jan. 7, 2011, 124 Stat. 4217, added item 1214a.

**2009**—Pub. L. 111–84, div. A, title VI, §641(b), Oct. 28, 2009, 123 Stat. 2365, added item 1218a.

**2008**—Pub. L. 110–181, div. A, title XVI, §1642(b), Jan. 28, 2008, 122 Stat. 465, added item 1216a.

**2006**—Pub. L. 109–364, div. A, title V, §597(a)(2), Oct. 17, 2006, 120 Stat. 2237, added item 1222.

**2004**—Pub. L. 108–375, div. A, title V, §§521(b), 555(b)(2), Oct. 28, 2004, 118 Stat. 1888, 1914, added item 1206a and substituted "Academy cadets and midshipmen: applicability of chapter" for "Cadets, midshipmen, and aviation cadets: chapter does not apply to" in item 1217.

**1999**—Pub. L. 106–65, div. A, title VI, §653(a)(2), Oct. 5, 1999, 113 Stat. 666, added item 1207a.

**1997**—Pub. L. 105–85, div. A, title V, §513(d)(3), Nov. 18, 1997, 111 Stat. 1731, inserted "or on inactive-duty training" after "Members on active duty for 30 days or less" in items 1204 and 1206.

**1986**—Pub. L. 99–661, div. A, title VI, §604(d)(4), Nov. 14, 1986, 100 Stat. 3876, struck out "; disability from injury" after "30 days or less" in items 1204, 1205, 1206.

**1962**—Pub. L. 87–651, title I, §107(e), Sept. 7, 1962, 76 Stat. 509, substituted "Discharge or release from active duty: claims for compensation, pension, or hospitalization" for "Explanation of rights before discharge" in item 1218, and "Statement of origin of disease or injury: limitations" for "Statement against interest void" in item 1219, and struck out item 1220 "Location of accredited representatives at military installations".

**1958**—Pub. L. 85–861, §1(28)(C), Sept. 2, 1958, 72 Stat. 1451, added item 1221.

**1957**—Pub. L. 85–56, title XXII, §2201(31)(B), June 17, 1957, 71 Stat. 161, eff. Jan. 1, 1958, added items 1218 to 1220.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONTINUING MILITARY SERVICE FOR CERTAIN MEMBERS ELIGIBLE FOR CHAPTER 61 RETIREMENT

Pub. L. 118–31, div. A, title V, §529, Dec. 22, 2023, 137 Stat. 256, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall prescribe regulations that authorize the Secretary of the military department concerned to authorize a covered member to continue to serve in the Armed Forces—

"(1) in the current military occupational specialty of such covered member, for which the covered member may not be deployable; or

"(2) in a military occupational specialty for which the covered member is deployable.

"(b) RULE OF CONSTRUCTION.—A covered member who completes 20 years of service computed under section 1208 of title 10, United States Code shall not be denied any benefit—

"(1) for which the covered member is eligible under laws administered by the Secretary of Defense or the Secretary of Veterans Affairs; and

"(2) solely on the basis that the covered member elected to continue to serve in the Armed Forces instead of taking retirement under chapter 61 of title 10, United States Code.

"(c) COVERED MEMBER DEFINED.—In this section, the term 'covered member' means a member of the Army, Navy, Air Force, Marine Corps, or Space Force—

"(1) whom the Secretary of the military department concerned determines possesses skill or experience vital to the Armed Force concerned;

"(2) who incurs a disability—

"(A) while eligible for special pay under section 310 of title 37, United States Code; and

"(B) that renders the member eligible for retirement under chapter 61 of title 10, United States Code; and

"(3) who seeks to continue to serve in the Armed Forces instead of taking such retirement."

## §1201. Regulars and members on active duty for more than 30 days: retirement

(a) RETIREMENT.—Upon a determination by the Secretary concerned that a member described in subsection (c) is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in subsection (c)(3), the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).

(b) REQUIRED DETERMINATIONS OF DISABILITY.—Determinations referred to in subsection (a) are determinations by the Secretary that—

(1) based upon accepted medical principles, the disability is of a permanent nature and stable;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(3) either—

(A) the member has at least 20 years of service computed under section 1208 of this title; or

(B) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination; and either—

(i) the disability was not noted at the time of the member's entrance on active duty (unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service);

(ii) the disability is the proximate result of performing active duty;

(iii) the disability was incurred in line of duty in time of war or national emergency; or

(iv) the disability was incurred in line of duty after September 14, 1978.

(c) ELIGIBLE MEMBERS.—This section and sections 1202 and 1203 of this title apply to the following members:

(1) A member of a regular component of the armed forces entitled to basic pay.

(2) Any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days.

(3) Any other member of the armed forces who is on active duty but is not entitled to basic pay by reason of section 502(b) of title 37 due to authorized absence (A) to participate in an educational program, or (B) for an emergency purpose, as determined by the Secretary concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 91; Pub. L. 85–861, §1(28)(A), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 87–651, title I, §107(a), Sept. 7, 1962, 76 Stat. 508; Pub. L. 95–377, §3(1), Sept. 19, 1978, 92 Stat. 719; Pub. L. 96–343, §10(c)(1), Sept. 8, 1980, 94 Stat. 1129; Pub. L. 96–513, title I, §117, Dec. 12, 1980, 94 Stat. 2878; Pub. L. 99–145, title V, §513(a)(1)(A), Nov. 8, 1985, 99 Stat. 627; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 103–337, div. A, title XVI, §1671(c)(6), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–201, div. A, title V, §572(a), Sept. 23, 1996, 110 Stat. 2533; Pub. L. 110–181, div. A, title XVI, §1641(a), Jan. 28, 2008, 122 Stat. 464; Pub. L. 110–417, [div. A], title VII, §727(a), Oct. 14, 2008, 122 Stat. 4510.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1201 | 37:272(a) (less clause (5), and less 2d proviso). | Oct. 12, 1949, ch. 681, §402(a) (less clause (5), and less 2d proviso), (b) |

| | | |
|---|---|---|
| | 37:272(b) (less clause (5), and less 2d and last provisos).<br>37:272(f) (less applicability to 37:272(c) and (e)). | (less clause (5), and less 2d and last provisos), (f) (less applicability to §402(c) and (e)), 63 Stat. 816, 817, 820. |

The words "any other member" are substituted for the words "a member of a Reserve component", in 37:272(a) and (b), since the words "Reserve component" are defined by section 102(k) of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 231(k)), to include members appointed, enlisted, or inducted without component. The words "active duty (other than for training)" are substituted for the words "extended active duty" for clarity and to reflect the opinion of the Comptroller General in 31 Comp. Gen. 95, 99. The words "if the Secretary also determines that" are substituted for the words "That if condition (5) above is met by a finding that", in 37:272(a) and (b). The words "of such member", "upon retirement", and "to receive", in 37:272(a), are omitted as surplusage.

In clause (1), the words "based upon accepted medical principles" are inserted as a necessary implication of the rule stated in 37:272(a)(5) and (b)(5).

Clause (3)(A) is substituted for 37:272(f) (less applicability to 37:272(c) and (e)). 37:272(f) is omitted as surplusage.

In clause (3)(B), the words "at the time of the determination" are substituted for the word "current", in 37:272(a) and (b).

Clause (3)(B)(iii) is substituted for 37:272(a) (last proviso).

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1201 | [No source]. | [No source]. |

The amendment reflects the Act of April 23, 1956, ch. 209 (70 Stat 115). (See opinion of Comp. Gen., B–130269, March 18, 1957.)

**1962 ACT**

The changes correct typographical errors.

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (b)(3)(B)(i). Pub. L. 110–417 struck out "the member has six months or more of active military service and" before "the disability was not noted" and substituted "(unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service)" for "(unless compelling evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty)".

Pub. L. 110–181 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "the member has at least eight years of service computed under section 1208 of this title;".

**1996**—Pub. L. 104–201 added subsecs. (a) and (c), designated existing provisions as subsec. (b), and substituted introductory provisions of subsec. (b) for "Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also determines that—".

**1994**—Pub. L. 103–337 substituted "10148(a)" for "270(b)" in introductory provisions.

**1989**—Par. (3)(B). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1985**—Par. (1). Pub. L. 99–145 inserted "and stable" after "permanent nature".

**1980**—Par. (3)(B)(iv). Pub. L. 96–513 substituted "after September 14, 1978" for "during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

Pub. L. 96–343 added cl. (iv).

**1978**—Par. (3)(B)(iv). Pub. L. 95–377 added cl. (iv) which provided additional condition, effective on Presidential determination, that the disability was incurred in the line of duty during Sept. 15, 1978, through Sept. 30, 1979, and which terminated on Sept. 30, 1979. See Effective and Termination Dates of 1978 Amendment note set out under this section.

**1962**—Pub. L. 87–651 substituted "training under section 270(b) of this title)" for "training) under section 270(b) of this title".

**1958**—Pub. L. 85–861 inserted "under section 270(b) of this title" after "(other than for training)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title V, §572(d), Sept. 23, 1996, 110 Stat. 2533, provided that: "The amendments made by this section [amending this section and sections 1202 and 1203 of this title] shall take effect on the date of the enactment of this Act [Sept. 23, 1996] and shall apply with respect to physical disabilities incurred on or after such date."

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENT

Pub. L. 95–377, §3, Sept. 19, 1978, 92 Stat. 719, provided that the amendment made by that section is effective only for the period beginning Sept. 15, 1978, and ending Sept. 30, 1979.

#### PUBLIC HEALTH SERVICE

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a(b) of Title 42, The Public Health and Welfare.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

### EXECUTIVE DOCUMENTS

#### EXECUTIVE ORDER NO. 12239

Ex. Ord. No. 12239, Sept. 21, 1980, 45 F.R. 62967, which related to suspension of certain promotion and disability separation limitations, was revoked by Ex. Ord. No. 12396, Dec. 9, 1982, 47 F.R. 55897, set out as a note under section 301 of Title 3, The President.

## §1202. Regulars and members on active duty for more than 30 days: temporary disability retired list

Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title would be qualified for retirement under section 1201 of this title but for the fact that his disability is not determined to be of a permanent nature and stable, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 92; Pub. L. 85–861, §1(28)(A), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 87–651, title I, §107(a), Sept. 7, 1962, 76 Stat. 508; Pub. L. 99–145, title V, §513(a)(1)(B), Nov. 8, 1985, 99 Stat. 627; Pub. L. 103–337, div. A, title XVI, §1671(c)(6), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–201, div. A, title V, §572(b), Sept. 23, 1996, 110 Stat. 2533.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1202 | 37:272(a) (clause (5)).<br>37:272(b) (clause (5)). | Oct. 12, 1949, ch. 681, §402(a) (clause (5)), (b) (clause (5)), 63 Stat. 816, 817. |

The first 82 words are inserted for clarity and are based on the rule stated in section 1201 of this title, which restates that part of 37:272(a), (b), and (f) relating to retirement for physical disability. The revised section incorporates by reference those provisions which are identical for retirement and for placement on the temporary disability retired list. This is possible, since 37:272(f) applies to placement on the temporary disability retired list as well as to retirement (see opinion of the Judge Advocate General of the Army (JAGA 1953/1900, 9 Mar. 1953)).

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1202 | [No source]. | [No source]. |

The amendment reflects the Act of April 23, 1956, ch. 209 (70 Stat 115). (See opinion of Comp. Gen., B–130269, March 18, 1957.)

**1962 ACT**

The changes correct typographical errors.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–201 substituted "a member described in section 1201(c) of this title" for "a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days,".

**1994**—Pub. L. 103–337 substituted "10148(a)" for "270(b)".

**1985**—Pub. L. 99–145 inserted "and stable" after "determined to be of a permanent nature".

**1962**—Pub. L. 87–651 substituted "training under section 270(b) of this title)" for "training) under section 270(b) of this title".

**1958**—Pub. L. 85–861 inserted "under section 270(b) of this title" after "(other than for training)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Sept. 23, 1996, and applicable with respect to physical disabilities incurred on or after such date, see section 572(d) of Pub. L. 104–201, set out as a note under section 1201 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §1203. Regulars and members on active duty for more than 30 days: separation

(a) SEPARATION.—Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in section 1201(c)(3) of this title, the member may be separated from the member's armed force, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).

(b) REQUIRED DETERMINATIONS OF DISABILITY.—Determinations referred to in subsection (a) are determinations by the Secretary that—

(1) the member has less than 20 years of service computed under section 1208 of this title;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;

(3) based upon accepted medical principles, the disability is or may be of a permanent nature; and

(4) either—

(A) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and the disability was (i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, or (iii) incurred in line of duty after September 14, 1978;

(B) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, the disability was not noted at the time of the member's entrance on active duty (unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service), or

(C) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, the disability was neither (i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty after September 14, 1978, and the member has less than eight years of service computed under section 1208 of this title on the date when he would otherwise be retired under section 1201 of this title or placed on the temporary disability retired list under section 1202 of this title.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 92; Pub. L. 85–861, §1(28)(A), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 87–651, title I, §107(a), Sept. 7, 1962, 76 Stat. 508; Pub. L. 95–377, §3(2), (3), Sept. 19, 1978, 92 Stat. 719, 720; Pub. L. 96–343, §10(c)(2), (3), Sept. 8, 1980, 94 Stat. 1129; Pub. L. 96–513, title I, §117, Dec. 12, 1980, 94 Stat. 2878; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 103–337, div. A, title XVI, §1671(c)(6), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–201, div. A, title V, §572(c), Sept. 23, 1996, 110 Stat. 2533; Pub. L. 110–181, div. A, title XVI, §1641(b), Jan. 28, 2008, 122 Stat. 465; Pub. L. 110–417, [div. A], title VII, §727(b), Oct. 14, 2008, 122 Stat. 4510; Pub. L. 111–383, div. A, title X, §1075(b)(19), (e)(12), Jan. 7, 2011, 124 Stat. 4370, 4375.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1203 | 37:272(a) (2d proviso).<br>37:272(b) (2d and last provisos). | Oct. 12, 1949, ch. 681, §402(a) (2d proviso), (b) (2d and last provisos), 63 Stat. 816, 817. |

To state fully in the revised section the rule contained in 37:272(a) (2d proviso) and 272(b) (2d and last provisos), the provisions of 37:272(a) (less clause (5), and less 1st proviso), 272(b) (less clause (5), and less

1st proviso) and 272(f) (less applicability to 37:272(c) and (e)), also contained in section 1201 of this title, are repeated. The words "the member may be separated" are substituted for the words "the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability," in 37:272(a) (2d proviso) and 37:272(b) (2d proviso).

Clause (1) is inserted for clarity, since a member who had over 20 years of service would qualify under section 1201 or 1202 of this title.

Clause (4)(A) is substituted for 37:272(a) (1st 20 words of 2d proviso).

Clause (4)(B) is substituted for 37:272(b) (lst 20 words of 2d proviso).

Clause (4)(C) is substituted for 37:272(b) (last proviso).

The last sentence of the revised section, relating to transfer to the inactive status list, is inserted for clarity because of section 1209 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1203 | [No source]. | [No source]. |

The amendment reflects the Act of April 23, 1956, ch. 209 (70 Stat 115). (See opinion of Comp. Gen., B–130269, March 18, 1957.)

**1962 ACT**

The changes correct typographical errors.

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b)(4)(B). Pub. L. 111–383, §1075(e)(12), made technical amendment to directory language of Pub. L. 110–417, §727(b)(2). See 2008 Amendment note below.

Pub. L. 111–383, §1075(b)(19), substituted "determination," for "determination,,".

**2008**—Subsec. (b)(4)(B). Pub. L. 110–417, §727(b)(2), as amended by Pub. L. 111–383, §1075(e)(12), substituted "(unless clear and unmistakable evidence demonstrates that the disability existed before the member's entrance on active duty and was not aggravated by active military service)" for "(unless evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty)".

Pub. L. 110–417, §727(b)(1), struck out "the member has six months or more of active military service, and" before "the disability was not noted".

Pub. L. 110–181 substituted ", the member has six months or more of active military service, and the disability was not noted at the time of the member's entrance on active duty (unless evidence or medical judgment is such to warrant a finding that the disability existed before the member's entrance on active duty)" for "and the member has at least eight years of service computed under section 1208 of this title".

**1996**—Pub. L. 104–201 added subsec. (a), designated existing provisions as subsec. (b), and substituted introductory provisions of subsec. (b) for "Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—".

**1994**—Pub. L. 103–337 substituted "10148(a)" for "270(b)" in introductory provisions.

**1989**—Par. (4)(A) to (C). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration" wherever appearing.

**1980**—Par. (4)(A)(iii). Pub. L. 96–513 substituted "after September 14, 1978" for "during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

Pub. L. 96–343, §10(c)(2), added cl. (iii).

Par. (4)(C). Pub. L. 96–513 substituted "after September 14, 1978" for "during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item

shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect" in cl. (iii).

Pub. L. 96–343, §10(c)(3), substituted "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect" for "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency".

**1978**—Par. (4)(A)(iii). Pub. L. 95–377, §3(2), added cl. (iii) which provided additional conditions, effective on Presidential determination, that the disability was incurred in the line of duty during Sept. 15, 1978, through Sept. 30, 1979, and which terminated on Sept. 30, 1979. See Effective and Termination Dates of 1978 Amendment note set out under this section.

Par. (4)(C). Pub. L. 95–377, §3(3), designated existing conditions of performing active duty and incurred in line of duty in time of war or national emergency as cls. (i) and (ii) and added cl. (iii) providing additional condition, effective on Presidential determination, that the disability was incurred in line of duty during Sept. 15, 1978, through Sept. 30, 1979, and terminated on Sept. 30, 1979. See Effective and Termination Dates of 1978 Amendment note set out under this section.

**1962**—Pub. L. 87–651 substituted "training under section 270(b) of this title)" for "training) under section 270(b) of this title."

**1958**—Pub. L. 85–861 inserted "under section 270(b) of this title" after "(other than for training)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(e)(12), Jan. 7, 2011, 124 Stat. 4375, provided that the amendment by section 1075(e)(12) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Sept. 23, 1996, and applicable with respect to physical disabilities incurred on or after such date, see section 572(d) of Pub. L. 104–201, set out as a note under section 1201 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENT

Pub. L. 95–377, §3, Sept. 19, 1978, 92 Stat. 719, provided that the amendment made by that section is effective only for the period beginning Sept. 15, 1978, and ending Sept. 30, 1979.

### EXECUTIVE DOCUMENTS

#### SUSPENSION OF CERTAIN PROMOTION AND DISABILITY SEPARATION LIMITATIONS

For provisions relating to the suspension of certain promotion and disability separation limitations, see Ex. Ord. No. 12239, Sept. 21, 1980, 45 F.R. 62967, set out as a note under section 1201 of this title.

## §1204. Members on active duty for 30 days or less or on inactive-duty training: retirement

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or

rating because of physical disability, the Secretary may retire the member with retired pay computed under section 1401 of this title, if the Secretary also determines that—

(1) based upon accepted medical principles, the disability is of a permanent nature and stable;

(2) the disability—

(A) was incurred before September 24, 1996, as the proximate result of—

(i) performing active duty or inactive-duty training;

(ii) traveling directly to or from the place at which such duty is performed; or

(iii) an injury, illness, or disease incurred or aggravated while remaining overnight, immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site of the inactive-duty training is outside reasonable commuting distance of the member's residence;

(B) is a result of an injury, illness, or disease incurred or aggravated in line of duty after September 23, 1996—

(i) while performing active duty or inactive-duty training;

(ii) while traveling directly to or from the place at which such duty is performed; or

(iii) while remaining overnight, immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; or

(C) is a result of an injury, illness, or disease incurred or aggravated in line of duty—

(i) while the member was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) while the member was traveling to or from the place at which the member was to so serve; or

(iii) while the member remained overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence;

(3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(4) either—

(A) the member has at least 20 years of service computed under section 1208 of this title; or

(B) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 93; Pub. L. 99–145, title V, §513(a)(1)(A), Nov. 8, 1985, 99 Stat. 627; Pub. L. 99–661, div. A, title VI, §604(d)(1), (2)(A), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 102–484, div. A, title V, §516(a), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 104–201, div. A, title V, §534, Sept. 23, 1996, 110 Stat. 2521; Pub. L. 105–85, div. A, title V, §513(c)(1), (d)(1), Nov. 18, 1997, 111 Stat. 1730, 1731; Pub. L. 106–65, div. A, title V, §578(i)(3), Oct. 5, 1999, 113 Stat. 629; Pub. L. 107–107, div. A, title V, §513(b), Dec. 28, 2001, 115 Stat. 1093.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1204 | 37:271(a).<br>37:272(c) (less clause (5), and less last proviso).<br>37:272(f) (as applicable to 37:272(c)). | Oct. 12, 1949, ch. 681, §§401(a), 402(c) (less clause (5), and less last proviso), 402(f) (as applicable to §402(c)), 63 Stat. 816, 817, 820. |

37:271(a) is omitted as surplusage. As it relates to retirement it is only a statement of the general coverage

of the retirement sections of this chapter. As it relates to separation it is only a statement of the general coverage of the separation sections of this chapter. The words "a member * * * not covered by section 1201, 1202, or 1203 of this title" are substituted for the words "a member * * * other than those members covered in subsections (a) and (b) of this section". The words "if the Secretary also determines that" are substituted for the words "That if condition (5) above is met by a finding that", in 37:272(c). The words "of such member", "upon retirement", and "to receive", in 37:272(c), are omitted as surplusage.

In clause (1), the words "based upon accepted medical principles" are inserted as a necessary implication of the rule stated in 37:272(c)(5).

In clause (2), the word "disability" is substituted for the word "injury" to make clear, in view of 37:278, that members on active duty for 30 days or less are on the same footing as those on active duty for a longer period, with respect to the effect of misconduct or neglect.

In clause (3), the words "and was not incurred during a period of unauthorized absence" are inserted to conform to other revised sections of this chapter and because of section 1207 of this title. The words "full-time training duty, other full-time duty" are omitted as covered by the words "active duty".

Clause (4)(A) is substituted for 37:272(f) (as applicable to 37:272(c)). 37:272(f) (proviso) is omitted as surplusage.

In clause (4)(B), the words "at the time of the determination" are substituted for the word "current", in 37:272(c).

## EDITORIAL NOTES

### AMENDMENTS

**2001**—Par. (2)(B)(iii). Pub. L. 107–107, struck out ", if the site of the inactive-duty training is outside reasonable commuting distance of the member's residence" before semicolon.

**1999**—Par. (2)(C). Pub. L. 106–65 added subpar. (C).

**1997**—Pub. L. 105–85, §513(d)(1), amended section catchline generally, inserting "or on inactive-duty training" after "30 days or less".

Par. (2). Pub. L. 105–85, §513(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the disability is the proximate result of, or was incurred in line of duty after the date of the enactment of this Act as a result of—

"(A) performing active duty or inactive-duty training;

"(B) traveling directly to or from the place at which such duty is performed; or

"(C) an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence;".

**1996**—Par. (2). Pub. L. 104–201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the disability is the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed;".

**1992**—Par. (2). Pub. L. 102–484 inserted before semicolon at end "or of traveling directly to or from the place at which such duty is performed".

**1989**—Par. (4)(B). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1986**—Pub. L. 99–661 struck out "; disability from injury" after "30 days or less" in section catchline and "resulting from an injury" after "because of physical disability" in provisions preceding par. (1).

**1985**—Par. (1). Pub. L. 99–145 inserted "and stable" after "permanent nature".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title V, §516(b), Oct. 23, 1992, 106 Stat. 2407, provided that: "The amendments made by subsection (a) [amending this section and section 1206 of this title] shall take effect with respect to disabilities incurred on or after November 14, 1986, but any benefits or services payable by reason of the applicability of those amendments during the period beginning on November 14, 1986, and ending on the date of the enactment of this Act [Oct. 23, 1992] shall be subject to the availability of appropriations."

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or

aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

## §1205. Members on active duty for 30 days or less: temporary disability retired list

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title would be qualified for retirement under section 1204 of this title but for the fact that his disability is not determined to be of a permanent nature and stable, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 99–145, title V, §513(a)(1)(B), Nov. 8, 1985, 99 Stat. 627; Pub. L. 99–661, div. A, title VI, §604(d)(2)[(B)], Nov. 14, 1986, 100 Stat. 3876.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1205 | 37:272(c) (clause (5)). | Oct. 12, 1949, ch. 681, §402(c) (clause (5)), 63 Stat. 818. |

The first 52 words are inserted for clarity and are based on the rule stated in section 1204 of this title, which restates that part of 37:272(c) relating to retirement for physical disability. The revised section incorporates by reference those provisions which are identical for retirement and for placement on the temporary disability retired list. This is possible, since 37:272(f) applies to placement on the temporary disability retired list as well as to retirement (see opinion of the Judge Advocate General of the Army (JAGA 1953/1900, 9 Mar. 1953)).

**EDITORIAL NOTES**

**AMENDMENTS**

**1986**—Pub. L. 99–661 struck out "; disability from injury" after "30 days or less" in section catchline.
**1985**—Pub. L. 99–145 inserted "and stable" after "determined to be of a permanent nature".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

## §1206. Members on active duty for 30 days or less or on inactive-duty training: separation

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—

(1) the member has less than 20 years of service computed under section 1208 of this title;

(2) the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty—

(A) while—

(i) performing active duty or inactive-duty training;

(ii) traveling directly to or from the place at which such duty is performed; or

(iii) remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance of the member's residence; or

(B) while the member—

(i) was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) was traveling to or from the place at which the member was to so serve; or

(iii) remained overnight at or in the vicinity of that place immediately before so serving;

(3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;

(4) based upon accepted medical principles, the disability is or may be of a permanent nature; and

(5) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and, in the case of a disability incurred before October 5, 1999, was the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 99–661, div. A, title VI, §604(d)(1), (3), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 102–484, div. A, title V, §516(a), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 105–85, div. A, title V, §513(c)(2), (d)(2), Nov. 18, 1997, 111 Stat. 1731; Pub. L. 106–65, div. A, title V, §578(i)(4), title VI, §653(c), Oct. 5, 1999, 113 Stat. 629, 667; Pub. L. 107–107, div. A, title V, §513(b), title X, §1048(c)(6), Dec. 28, 2001, 115 Stat. 1093, 1226.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1206 | 37:272(c) (last proviso). | Oct. 12, 1949, ch. 681, §402(c) (last proviso), 63 Stat. 818. |

To state fully in the revised section the rule contained in 37:272(c) (last proviso), the provisions of 37:272(c) (less clause (5), and less 1st proviso), and 272(f) (as applicable to 272(c)), also contained in section 1204 of this title, are repeated. The words "the member may be separated" are substituted for the words "the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability".

Clause (1) is inserted for clarity, since a member who had over 20 years of service would qualify under section 1204 or 1205 of this title.

The last sentence of the revised section, relating to transfer to the inactive status list, is inserted for clarity because of section 1209 of this title.

## EDITORIAL NOTES

### AMENDMENTS

**2001**—Par. (2)(B)(iii). Pub. L. 107–107, §513(b), struck out ", if the place is outside reasonable commuting distance from the member's residence" before semicolon at end.

Par. (5). Pub. L. 107–107, §1048(c)(6), substituted "October 5, 1999," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000,".

**1999**—Par. (2). Pub. L. 106–65, §578(i)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty while—

"(A) performing active duty or inactive-duty training;

"(B) traveling directly to or from the place at which such duty is performed; or

"(C) while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance of the member's residence;".

Par. (5). Pub. L. 106–65, §653(c), inserted ", in the case of a disability incurred before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000," after "determination, and".

**1997**—Pub. L. 105–85, §513(d)(2), amended section catchline generally, inserting "or on inactive-duty training" after "30 days or less".

Pars. (2) to (5). Pub. L. 105–85, §513(c)(2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

**1992**—Par. (4). Pub. L. 102–484 inserted before period at end "or of traveling directly to or from the place at which such duty is performed".

**1989**—Par. (4). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1986**—Pub. L. 99–661 struck out "; disability from injury" after "30 days or less" in section catchline and "resulting from an injury" after "because of physical disability" in provisions preceding par. (1).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective with respect to disabilities incurred on or after Nov. 14, 1986, with any benefits or services payable by reason of applicability of that amendment during period beginning Nov. 14, 1986, and ending Oct. 23, 1992, subject to availability of appropriations, see section 516(b) of Pub. L. 102–484, set out as a note under section 1204 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

## §1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing

(a) MEMBERS RELEASED FROM ACTIVE DUTY WITHIN 30 DAYS.—A member of a reserve component who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for a reason stated in subsection (b) shall be considered for all purposes under this chapter to have been serving under an order to active duty for a period of 30 days or less.

(b) APPLICABLE REASONS FOR RELEASE.—Subsection (a) applies in the case of a member released from active duty because of a failure to meet—

(1) physical standards for retention due to a preexisting condition not aggravated during the period of active duty; or

(2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.

(c) SAVINGS PROVISION FOR MEDICAL CARE PROVIDED WHILE ON ACTIVE DUTY .—Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.

(Added Pub. L. 108–375, div. A, title V, §521(a), Oct. 28, 2004, 118 Stat. 1887.)

## §1207. Disability from intentional misconduct or willful neglect: separation

Each member of the armed forces who incurs a physical disability that, in the determination of the Secretary concerned, makes him unfit to perform the duties of his office, grade, rank, or rating, and that resulted from his intentional misconduct or willful neglect or was incurred during a period of unauthorized absence, shall be separated from his armed force without entitlement to any benefits under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1207 | 37:278. | Oct. 12, 1949, ch. 681, §408, 63 Stat. 823. |

The words "Each member * * * who" are substituted for the words "When a member * * * such member". The words "is determined to have" are omitted as surplusage.

## §1207a. Members with over eight years of active service: eligibility for disability retirement for pre-existing conditions

(a) In the case of a member described in subsection (b) who would be covered by section 1201, 1202, or 1203 of this title but for the fact that the member's disability is determined to have been incurred before the member became entitled to basic pay in the member's current period of active duty, the disability shall be deemed to have been incurred while the member was entitled to basic pay and shall be so considered for purposes of determining whether the disability was incurred in the line of duty.

(b) A member described in subsection (a) is a member with at least eight years of active service.

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

## §1208. Computation of service

(a) For the purposes of this chapter, a member of a regular component shall be credited with the service described in paragraph (1) or that described in paragraph (2), whichever is greater:

(1) The service that he is considered to have for the purpose of separation, discharge, or retirement for length of service.

(2) The sum of—

(A) his active service as a member of the armed forces, a nurse, a reserve nurse, a contract surgeon, a contract dental surgeon, or an acting dental surgeon;

(B) his active service as a member of the National Oceanic and Atmospheric Administration or the Public Health Service; and

(C) his service while participating in exercises or performing duties under sections 502, 503, 504, and 505 of title 32.

For the purpose of paragraph (2), active service as a member of the National Oceanic and Atmospheric Administration includes active service as a member of the Environmental Science Services Administration and of the Coast and Geodetic Survey.

(b) A member of the armed forces who is not a member of a regular component shall be credited, for the purposes of this chapter, with the number of years of service that he would count if he were computing his years of service under section 12733 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 89–718, §8, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §§501(16), 511(42), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 99–661, div. A, title XIII, §1343(a)(6), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–26, §7(j)(3), Apr. 21, 1987, 101 Stat.

283; Pub. L. 104–106, div. A, title XV, §1501(c)(13), Feb. 10, 1996, 110 Stat. 499.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1208(a) | 37:282 (less clauses (2) and (3), less applicability to persons referred to in 37:281, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps). | Oct. 12, 1949, ch. 681, §412 (less clause (3), less applicability to persons referred to in §411, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps), 63 Stat. 824. |
| 1208(b) | 37:282 (clause (2), less applicability to persons referred to in 37:281, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps). | |

In subsection (a), the words "shall be credited with the service described in clause (1) or that described in clause (2), whichever is greater" are substituted for the words "shall be interpreted to mean".

In subsection (a)(1), the words "he is considered to have" are substituted for the words "such member, former member, or person has or is deemed to have pursuant to law".

In subsection (a)(2)(A), the words "his active service" are substituted for the words "while on the active list or on active duty or while participating in full-time training or other full-time duty provided for or authorized in the National Defense Act, as amended, the Naval Reserve Act of 1938, as amended, or in—other provisions of law" because of the definitions of "active service" and "active duty" in sections 101(24) and 101(22) of this title.

In subsection (a)(2)(C), the references to 10:22–23, 24–26, and 30–36 are omitted as repealed by section 401 of the Army Organization Act of 1950, 64 Stat. 271. The reference to 32:70 is omitted as repealed by section 16 of the act of June 15, 1933, ch. 87, 48 Stat. 159. The reference to 10:23a is omitted as executed. The references to 10:38 and 32:66 and 172–175 are omitted as covered by the words "active service". The references to 32:144–147, 171, and 176 are omitted, since they deal with pay and do not authorize duty or training. The reference to section 502 of title 32, not contained in 37:282, is inserted, since section 92 of the National Defense Act, as amended (32:62) is referred to in section 412 of the Career Compensation Act of 1949 (37:282).

In subsection (b), the words "any other member" are substituted for the words "members of the reserve components", since the words "reserve components" are defined by section 102(k) of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 231(k)) to include members appointed, enlisted, or inducted without component.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (b). Pub. L. 104–106 substituted "section 12733" for "section 1333".

**1987**—Subsec. (a). Pub. L. 100–26 substituted "paragraph (1)" and "paragraph (2)" for "clause (1)" and "clause (2)", respectively, in introductory provisions, and "paragraph (2)" for "clause 2(B) of this subsection" in second sentence.

**1986**—Subsec. (a)(2)(A). Pub. L. 99–661 struck out "after February 2, 1901" after "a reserve nurse".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "separation, discharge, or retirement for length of service" for "separation or mandatory elimination from the active list" in par. (1), substituted "National Oceanic and

Atmospheric Administration" for "Environmental Science Services Administration" in par. (2)(B), and, in provisions following par. (2)(C), substituted "as a member of the National Oceanic and Atmospheric Administration includes active service as a member of the Environmental Science Services Administration and" for "as a member of the Environmental Science Services Administration includes service as a member".

**1966**—Subsec. (a). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in clause (2)(B) and inserted provision that, for purposes of clause (2)(B) of subsec. (a), active service as a member of the Environmental Science Services Administration includes active service as a member of the Coast and Geodetic Survey.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 501(16) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 511(42) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

#### ADDITIONAL SERVICE CREDITABLE TO CERTAIN REGULARS

Act Aug. 10, 1956, ch. 1041, §39, 70A Stat. 635, provided that: "In addition to service with which he may be credited under section 1208(a)(2) of title 10, United States Code [subsec. (a)(2) of this section], a member of a regular component of the armed forces shall be credited, for the purposes of chapter 61 of title 10, United States Code [this chapter], with all service as—

"(1) a cadet at the United States Military Academy, if appointed before August 24, 1912;

"(2) a midshipman at the United States Naval Academy, if appointed before March 4, 1913;

"(3) an Army field clerk; and

"(4) a field clerk, Army Quartermaster Corps."

#### OFFICERS OF THE PUBLIC HEALTH SERVICE

Applicability of subsec. (a)(2) of this section to officers of the Reserve Corps and to officers of the Regular Corps of the Public Health Service, see section 212 of Title 42, The Public Health and Welfare.

### EXECUTIVE DOCUMENTS

#### TRANSFER OF FUNCTIONS

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §1209. Transfer to inactive status list instead of separation

Any member of the armed forces who has at least 20 years of service computed under section 12732 of this title, and who would be qualified for retirement under this chapter but for the fact that his disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, may elect, instead of being separated under this chapter, to be transferred to the inactive status list under section 12735 of this title and, if otherwise eligible, to receive retired pay under section 12739 of this title upon becoming 60 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 95; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 104–106, div. A, title XV, §1501(c)(14), Feb. 10, 1996, 110 Stat. 499.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1209 | 37:272(g). | Oct. 12, 1949, ch. 681, §402(g), 63 Stat. 820. |

The words "Notwithstanding the foregoing provisions of this section", "satisfactory Federal", and "and receiving disability severance pay" are omitted as surplusage. The words "at the time of the determination" are substituted for the word "current". The word "otherwise" is substituted for the words "in all other respects".

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106 substituted "section 12732" for "section 1332", "section 12735" for "section 1335", and "section 12739" for "chapter 71".

**1989**—Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

## §1210. Members on temporary disability retired list: periodic physical examination; final determination of status

(a) A physical examination shall be given at least once every 18 months to each member of the armed forces whose name is on the temporary disability retired list to determine whether there has been a change in the disability for which he was temporarily retired. He may be required to submit to those examinations while his name is carried on that list. If a member fails to report for an examination under this subsection, after receipt of proper notification, his disability retired pay may be terminated. However, payments to him shall be resumed if there was just cause for his failure to report. If payments are so resumed, they may be made retroactive for not more than one year.

(b) The Secretary concerned shall make a final determination of the case of each member whose name is on the temporary disability retired list upon the expiration of three years after the date when the member's name was placed on that list. If, at the time of that determination, the physical disability for which the member's name was carried on the temporary disability retired list still exists, it shall be considered to be of a permanent nature and stable.

(c) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and stable and is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies.

(d) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and stable and is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and if he has at least 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies, with retired pay computed under section 1401 of this title.

(e) If, as a result of a periodic examination under subsection (a), or upon a final determination

under subsection (b), it is determined that the member's physical disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and if he has less than 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he may be separated under section 1203 or 1206 of this title, whichever applies.

(f)(1) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member is physically fit to perform the duties of his office, grade, rank, or rating, the Secretary shall—

(A) treat the member as provided in section 1211 of this title; or

(B) discharge the member, retire the member, or transfer the member to the Fleet Reserve, Fleet Marine Corps Reserve, or inactive Reserve under any other law if, under that law, the member—

(i) applies for and qualifies for that retirement or transfer; or

(ii) is required to be discharged, retired, or eliminated from an active status.

(2)(A) For the purpose of paragraph (1)(B), a member shall be considered qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve or is required to be discharged, retired, or eliminated from an active status if, were the member reappointed or reenlisted under section 1211 of this title, the member would in all other respects be qualified for or would be required to be retired, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, discharged, or eliminated from an active status under any other provision of law.

(B) The grade of a member retired, transferred, discharged, or eliminated from an active status pursuant to paragraph (1)(B) shall be determined under the provisions of law under which the member is retired, transferred, discharged, or eliminated. The member's retired, retainer, severance, readjustment, or separation pay shall be computed as if the member had been reappointed or reenlisted upon removal from the temporary disability retired list and before the retirement, transfer, discharge, or elimination. Notwithstanding section 8301 of title 5, a member who is retired shall be entitled to retired pay effective on the day after the last day on which the member is entitled to disability retired pay.

(g) Any member of the armed forces whose name is on the temporary disability retired list, and who is required to travel to submit to a physical examination under subsection (a), is entitled to the travel and transportation allowances authorized for members in his retired grade traveling in connection with temporary duty while on active duty.

(h) If his name is not sooner removed, the disability retired pay of a member whose name is on the temporary disability retired list terminates upon the expiration of three years after the date when his name was placed on that list.

(Aug. 10, 1956, ch. 1041, 70A Stat. 95; Pub. L. 99–145, title V, §513(a)(2), Nov. 8, 1985, 99 Stat. 627; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 114–328, div. A, title V, §525(a), Dec. 23, 2016, 130 Stat. 2117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1210(a) | 37:272(e) (less last sentence).<br>37:274(a).<br>37:274(b) (less 1st sentence). | Oct. 12, 1949, ch. 681, §§402(d) (30th through 55th words), (e) (less 1st proviso of last sentence), (f) (as applicable to §402(e)), 404, 63 Stat. 818–821. |
| 1210(b) | 37:272(e) (1st 37 words of last proviso of last sentence). | |
| 1210(c) | 37:272(e) (last sentence, less provisos and less clause (2)).<br>37:272(e) (38th through 45th words of last proviso of last | |

| | | |
|---|---|---|
| | sentence). | |
| 1210(d) | 37:272(f) (as applicable to 37:272(e)). | |
| 1210(e) | 37:272(e) (clause (2) of last sentence). | |
| | 37:272(e) (46th word of last proviso of last sentence). | |
| 1210(f) | 37:272(e) (47th through 56th words of last proviso of last sentence). | |
| 1210(g) | 37:274(b) (1st sentence). | |
| 1210(h) | 37:272(d) (30th through 55th words). | |

In subsection (a), the second sentence is substituted for 37:274(a). The word "resumed" is substituted for the words "reinstated at a later date", in 37:274(b).

In subsection (b), the last sentence is inserted for clarity to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/8438, 30 Dec. 1953) and an opinion of the Judge Advocate General of the Navy (JAG: III: 7: WBM: bg. 7 Jan. 1954).

In subsection (c), the words "or upon a final determination under subsection (b)" are substituted for the words "or upon the determination of a period of five years from the date of temporary disability retirement", in 37:272(e). The words "at the time of the determination" are substituted for the word "current", in 37:272(e). The words "and he shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section" are omitted as covered by sections 1201 and 1204 of this title. Reference to specific sections on permanent retirement are substituted for the word "permanently", before the word "retired", in 37:272(e).

In subsection (d), 37:272(f) (proviso) is omitted as surplusage.

In subsection (e), the words "and if he has less than 20 years of service computed under section 1208 of this title" are inserted to distinguish the separation requirement under this section from retirement requirements under subsection (d). 37:272(e) (last 19 words of clause (2) of last sentence) is omitted as covered by sections 1203 and 1206 of this title. The words "at the time of determination" are substituted for the word "current".

In subsection (f), the first 39 words are inserted for clarity.

In subsection (g), the words "members in his retired grade traveling in connection with temporary duty" are substituted for the words "the rank, grade, or rating in which retired for temporary duty travel performed". The words "for travel performed" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsecs. (b), (h). Pub. L. 114–328 substituted "three years" for "five years".

**1989**—Subsecs. (c) to (e). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration" wherever appearing.

**1985**—Subsecs. (b) to (d). Pub. L. 99–145, §513(a)(2)(A), inserted "and stable" after "permanent nature".

Subsec. (f). Pub. L. 99–145, §513(a)(2)(B), designated existing provisions as par. (1), substituted "or rating, the Secretary shall—" for "and rating, the Secretary shall treat him as provided in section 1211 of this title", added subpars. (A) and (B), and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §525(b), Dec. 23, 2016, 130 Stat. 2117, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2017, and shall apply to members of the Armed Forces whose names are placed on the temporary disability retired list on or after that date."

## §1211. Members on temporary disability retired list: return to active duty; promotion

(a) With his consent, any member of the Army, the Air Force, or the Space Force whose name is on the temporary disability retired list, and who is found to be physically fit to perform the duties of his office, grade, or rank under section 1210(f) of this title, shall—

(1) if a commissioned officer of a regular component, be recalled to active duty and, as soon as practicable, may be reappointed by the President, by and with the advice and consent of the Senate, to the active-duty list in the regular grade held by him when his name was placed on the temporary disability retired list, or in the next higher regular grade;

(2) if a warrant officer of a regular component, be recalled to active duty and, as soon as practicable, be reappointed by the Secretary concerned in the regular grade held by him when his name was placed on the temporary disability retired list, or in the next higher regular warrant grade;

(3) if an enlisted member of a regular component, be reenlisted in the regular grade held by him when his name was placed on the temporary disability retired list or in the next higher regular enlisted grade;

(4) if a commissioned, warrant, or enlisted Reserve, be reappointed or reenlisted as a Reserve for service in his reserve component in the reserve grade held by him when his name was placed on the temporary disability retired list, or appointed or enlisted in the next higher reserve commissioned, warrant, or enlisted grade, as the case may be;

(5) if a commissioned, warrant, or enlisted member of the Army National Guard of the United States or the Air National Guard of the United States when the disability was incurred, and if he cannot be reappointed or reenlisted as a Reserve for service therein, be appointed or enlisted as a Reserve for service in the Army Reserve or the Air Force Reserve, as the case may be, in a grade corresponding to the reserve grade held by him when his name was placed on the temporary disability retired list, or in the next higher reserve commissioned, warrant, or enlisted grade, as the case may be; and

(6) if a member of the Army, the Air Force, or the Space Force who has no regular or reserve grade, be reappointed or reenlisted in the Army, the Air Force, or the Space Force, as the case may be, in the temporary grade held by him when his name was placed on the temporary disability retired list, or appointed or enlisted in the next higher temporary grade.

(b) With his consent, any member of the naval service or of the Coast Guard whose name is on the temporary disability retired list, and who is found to be physically fit to perform the duties of his office, grade, rank, or rating under section 1210(f) of this title, shall—

(1) if he held an appointment in a commissioned grade in a regular component when his name was placed on the temporary disability retired list, be recalled to active duty and, as soon as practicable, may be reappointed by the President, by and with the advice and consent of the Senate, to his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or in the next higher grade;

(2) if he held an appointment in the grade of warrant officer, W–1, in a regular component when his name was placed on the temporary disability retired list, be recalled to active duty and, as soon as practicable, be reappointed by the Secretary concerned in his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or may be appointed by the President, by and with the advice and consent of the Senate, to the grade of chief warrant officer, W–2;

(3) if he held a permanent enlisted grade in a regular component when his name was placed on the temporary disability retired list, be reenlisted in his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or in the next higher enlisted grade;

(4) if he was a member of the Fleet Reserve or the Fleet Marine Corps Reserve when his name was placed on the temporary disability retired list, resume his status in the Fleet Reserve or the Fleet Marine Corps Reserve in the grade held by him when his name was placed on the temporary

disability retired list, or in the next higher enlisted grade; and

(5) if a member of a reserve component be reappointed or reenlisted in his reserve component in the grade permanently held by him when his name was placed on the temporary disability retired list or, if that permanent grade is not chief petty officer or master sergeant, in the next higher grade in that reserve component.

(c) If a member is appointed, reappointed, enlisted, or reenlisted, or resumes his status in the Fleet Reserve or the Fleet Marine Corps Reserve, under subsection (a) or (b), his status on the temporary disability retired list terminates on the date of his appointment, reappointment, enlistment, reenlistment, or resumption, as the case may be. However, if such a member does not consent to the action proposed under subsection (a) or (b), and if the member is not discharged, retired, or transferred to the Fleet Reserve or Fleet Marine Corps Reserve or inactive Reserve under section 1210 of this title, his status on the temporary disability retired list and his disability retired pay shall be terminated as soon as practicable and the member shall be discharged.

(d) Disability retired pay of a member covered by this section terminates—

(1) on the date when he is recalled to active duty under subsection (a)(1) or (2) or subsection (b)(1) or (2), for an officer of a regular component;

(2) on the date when he resumes his status in the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)(4), for a member of the Fleet Reserve or the Fleet Marine Corps Reserve; and

(3) on the date when he is appointed, reappointed, enlisted, or reenlisted, for any other member of the armed forces.

(e) Whenever seniority in grade or years of service is a factor in determining the qualifications of a member of the armed forces for promotion, each member who has been appointed, reappointed, enlisted, or reenlisted, under subsection (a) or (b), shall, when his name is placed on a lineal list, a promotion list, an approved all-fully-qualified-officers list, or any similar list, have the seniority in grade and be credited with the years of service authorized by the Secretary concerned. The authorized strength in any regular grade is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under this section. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under this section, may be made in that grade.

(f) Action under this section shall be taken on a fair and equitable basis, with regard being given to the probable opportunities for advancement and promotion that the member might reasonably have had if his name had not been placed on the temporary disability retired list.

(Aug. 10, 1956, ch. 1041, 70A Stat. 96; Pub. L. 87–651, title I, §107(b), Sept. 7, 1962, 76 Stat. 508; Pub. L. 96–513, title V, §501(17), Dec. 12, 1980, 94 Stat. 2908; Pub. L. 99–145, title V, §513(a)(3), Nov. 8, 1985, 99 Stat. 627; Pub. L. 107–107, div. A, title V, §505(c)(4), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 116–283, div. A, title IX, §924(b)(24), Jan. 1, 2021, 134 Stat. 3824.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1211(a) | 37:275(a).<br>37:275(b).<br>37:275(c) (1st sentence).<br>37:276(a) (less clauses (1)–(3)).<br>37:276(a)(1) (1st 7 words).<br>37:276(a)(2) (1st 10 words).<br>37:276(a)(3) (1st 8 words).<br>37:277(a). | Oct. 12, 1949, ch. 681, §§405, 406, 407, 63 Stat. 821. |

| | | |
|---|---|---|
| 1211(b) | 37:275(a).<br>37:275(b).<br>37:275(c) (1st sentence).<br>37:276(a) (less clauses (1)–(3)).<br>37:276(a)(1) (1st 7 words).<br>37:276(a)(2) (1st 10 words).<br>37:276(a)(3) (1st 8 words).<br>37:277(a). | |
| 1211(c) | 37:276(a)(1) (less 1st 22 words).<br>37:276(a)(2) (11th through 18th words).<br>37:276(a)(3) (9th and 10th words).<br>37:276(b). | |
| 1211(d) | 37:276(a)(1) (8th through 22d words).<br>37:276(a)(2) (less 1st 18 words).<br>37:276(a)(3) (less 1st 10 words). | |
| 1211(e) | 37:275(c) (2d sentence).<br>37:277 (less (a)). | |
| 1211(f) | 37:275(c) (last sentence). | |

In subsections (a) and (b), the words "under section 1210(f) of this title" are substituted for the words "If, as a result of a periodic physical examination", in 37:275(a) and (b), and 276(a), and the words "and who are subsequently found to be physically fit", in 37:277(a). The words "subject to the provisions of section 277 of this title", in 37:275(a), are omitted as surplusage.

In subsections (a)(2)–(6) and (b)(2)–(6), the appointment or enlistment is restricted to those already in an enlisted, warrant, or commissioned status, as the case may be, held by the member before placement of his name on the temporary disability retired list, since 37:277 (last sentence) indicates that appointment in the next higher grade for regular warrant officer is restricted to those warrant grades to which the President alone may appoint him. Similarly 37:275 (last 10 words) indicates that an enlisted member may only be reenlisted.

In subsection (a)(2) reference to the President, in 37:277(a), is omitted as inapplicable to the appointment of warrant officers of the Army and the Air Force.

Subsection (a)(5) is substituted for 37:275(b) (proviso) (as applicable to Army and Air Force).

Subsection (a)(6) is inserted, since the words "reserve component" are defined by section 102(k) of the source statute to include members of the Army and the Air Force who have no component status.

In subsection (b)(2), the words "by and with the advice and consent of the Senate" are added to make it clear that all appointments to the grade of commissioned warrant officer in the Navy, Marine Corps, and Coast Guard require Senate confirmation. Although these words do not appear in section 405 of the Career Compensation Act of 1949, there is no indication that an exception to the basic law relating to appointments in commissioned grades was intended.

Subsection (d)(3) is made applicable to members without component status, since the words "reserve component" are defined in section 102(k) of the source statute to include members of the Army and the Air Force who have no component status.

In subsection (e), the words "rank" and "rating" are omitted as surplusage.

**1962 ACT**

The changes correct typographical errors.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §924(b)(24)(A), substituted ", the Air Force, or the Space Force" for "or the Air Force" in introductory provisions.

Subsec. (a)(6). Pub. L. 116–283, §924(b)(24)(B), substituted "the Air Force, or the Space Force who" for "or the Air Force, who" and "the Air Force, or the Space Force, as" for "or the Air Force, as".

**2001**—Subsec. (e). Pub. L. 107–107 inserted "an approved all-fully-qualified-officers list," after "a promotion list,".

**1985**—Subsec. (c). Pub. L. 99–145 inserted "and if the member is not discharged, retired, or transferred to the Fleet Reserve or Fleet Marine Corps Reserve or inactive Reserve under section 1210 of this title," after "proposed under subsection (a) or (b)," and inserted "and the member shall be discharged" after "as soon as practicable".

**1980**—Subsec. (a)(1). Pub. L. 96–513 substituted "active-duty list" for "active list of his regular component".

**1962**—Subsec. (d). Pub. L. 87–651 substituted "subsection (b)(1) or (2)" for "subsection (b)(1), (2), or (3)" in cl. (1), and "subsection (b)(4)" for "subsection (b)(5)" in cl. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1212. Disability severance pay

(a) Upon separation from his armed force under section 1203 or 1206 of this title, a member is entitled to disability severance pay computed by multiplying (1) the member's years of service computed under section 1208 of this title (subject to the minimum and maximum years of service provided for in subsection (c)), by (2) the highest of the following amounts:

(A) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when he is separated and (ii) in the grade and rank in which he was serving on the date when his name was placed on the temporary disability retired list, or if his name was not carried on that list, on the date when he is separated.

(B) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in any temporary grade or rank higher than that described in clause (A), in which he served satisfactorily as determined by the Secretary of the military department or the Secretary of Homeland Security, as the case may be, having jurisdiction over the armed force from which he is separated.

(C) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination.

(D) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the temporary grade or rank to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination, if his eligibility for promotion was required to be based on cumulative years of service or years in grade.

(b) For the purposes of subsection (a), a part of a year of active service that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

(c)(1) The minimum years of service of a member for purposes of subsection (a)(1) shall be as follows:

(A) Six years in the case of a member separated from the armed forces for a disability incurred in line of duty in a combat zone (as designated by the Secretary of Defense for purposes of this subsection) or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense.

(B) Three years in the case of any other member.

(2) The maximum years of service of a member for purposes of subsection (a)(1) shall be 19 years.

(d)(1) The amount of disability severance pay received under this section shall be deducted from any compensation for the same disability to which the former member of the armed forces or his dependents become entitled under any law administered by the Department of Veterans Affairs.

(2) No deduction may be made under paragraph (1) in the case of disability severance pay received by a member for a disability incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense.

(3) No deduction may be made under paragraph (1) from any death compensation to which a member's dependents become entitled after the member's death.

(Aug. 10, 1956, ch. 1041, 70A Stat. 98; Pub. L. 96–513, title V, §511(43), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 107–107, div. A, title V, §593(a), Dec. 28, 2001, 115 Stat. 1126; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–181, div. A, title XVI, §1646(a), (b), Jan. 28, 2008, 122 Stat. 472.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1212(a) | 37:273 (less 1st and last provisos). | Oct. 12, 1949, ch. 681, §403, 63 Stat. 820. |
| 1212(b) | 37:273 (1st proviso). | |
| 1212(c) | 37:273 (last proviso). | |

In subsection (a), the words "Upon separation" are inserted for clarity. The words "his years of service * * * computed under section 1208 of this title" are substituted for the words "a number of years equal to the number of years of active service to which such member is entitled under the provisions of section 282 of this title". The words "but not more than 12" are substituted for the words "but not to exceed a total of two years' basic pay", to simplify the necessary calculation. The substituted words produce the same result. The word "rating" is omitted as covered by the words "grade" and "rank".

In clause (2)(A)–(D), the words "Twice the amount of monthly" are substituted for the words "An amount equal to two months' ". The words "if his name was not carried on that list" are substituted for the words "whichever is earlier", since the member might be separated without ever being carried on the list. The word "rating" is omitted as surplusage.

In clause (2)(B), the words "the Secretary of the military department, or the Secretary of the Treasury, as the case may be, having jurisdiction over the armed force from which he is separated" are substituted for the words "the Secretary concerned" for clarity.

In clause (2)(C), the words "regular or reserve" are inserted, since they are the only "permanent" grades.

Clause (2)(D) is based on that part of the third proviso of 37:273 relating to promotions other than regular or reserve.

In subsection (b), the words "and a part of a year that is less than six months is disregarded" are inserted to reflect the legislative history of the rule (see Senate Hearings on H.R. 5007, 81st Cong., page 313). The words "for himself or his dependents" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (a)(1). Pub. L. 110–181, §1646(a)(1), substituted "the member's years of service computed under section 1208 of this title (subject to the minimum and maximum years of service provided for in subsection (c))" for "his years of service, but not more than 12, computed under section 1208 of this title".

Subsec. (c). Pub. L. 110–181, §1646(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–181, §1646(b), designated existing provisions as par. (1), struck out "However, no deduction may be made from any death compensation to which his dependents become entitled after his death." at end, and added pars. (2) and (3).

Pub. L. 110–181, §1646(a)(2), redesignated subsec. (c) as (d).

**2002**—Subsec. (a)(2)(B). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**2001**—Subsec. (a)(2)(C), (D). Pub. L. 107–107 struck out "for promotion" after "physical examination".

**1989**—Subsec. (c). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XVI, §1646(d), formerly §1646(c), Jan. 28, 2008, 122 Stat. 472, renumbered §1646(d) by Pub. L. 110–389, title I, §103(a)(1), Oct. 10, 2008, 122 Stat. 4148, provided that: "The amendments made by this section [amending this section and section 1161 of Title 38, Veterans' Benefits] shall take effect on the date of the enactment of this Act [Jan. 28, 2008], and shall apply with respect to members of the Armed Forces separated from the Armed Forces under chapter 61 of title 10, United States Code, on or after that date."

[Amendment by Pub. L. 110–389, §103(a)(1), redesignating section 1646(c) as 1646(d) of Pub. L. 110–181, set out above, effective Jan. 28, 2008, as if included in the Wounded Warrior Act, title XVI of Pub. L. 110–181, to which such amendment relates, see section 103(b) of Pub. L. 110–389, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 38, Veterans' Benefits.]

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §593(b), Dec. 28, 2001, 115 Stat. 1126, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to members separated under section 1203 or 1206 of title 10, United States Code, on or after date of the enactment of this Act [Dec. 28, 2001]."

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### COMBAT-INJURED VETERANS TAX FAIRNESS

Pub. L. 114–292, Dec. 16, 2016, 130 Stat. 1500, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Combat-Injured Veterans Tax Fairness Act of 2016'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) Approximately 10,000 to 11,000 individuals are retired from service in the Armed Forces for medical reasons each year.

"(2) Some of such individuals are separated from service in the Armed Forces for combat-related injuries (as defined in section 104(b)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 104(b)(3)]).

"(3) Congress has recognized the tremendous personal sacrifice of veterans with combat-related

injuries by, among other things, specifically excluding from taxable income severance pay received for combat-related injuries.

"(4) Since 1991, the Secretary of Defense has improperly withheld taxes from severance pay for wounded veterans, thus denying them their due compensation and a significant benefit intended by Congress.

"(5) Many veterans owed redress are beyond the statutory period to file an amended tax return because they were not or are not aware that taxes were improperly withheld.

"SEC. 3. RESTORATION OF AMOUNTS IMPROPERLY WITHHELD FOR TAX PURPOSES FROM SEVERANCE PAYMENTS TO VETERANS WITH COMBAT-RELATED INJURIES.

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Dec. 16, 2016], the Secretary of Defense shall—

"(1) identify—

"(A) the severance payments—

"(i) that the Secretary paid after January 17, 1991;

"(ii) that the Secretary computed under section 1212 of title 10, United States Code;

"(iii) that were not considered gross income pursuant to section 104(a)(4) of the Internal Revenue Code of 1986 [26 U.S.C. 104(a)(4)]; and

"(iv) from which the Secretary withheld amounts for tax purposes; and

"(B) the individuals to whom such severance payments were made; and

"(2) with respect to each person identified under paragraph (1)(B), provide—

"(A) notice of—

"(i) the amount of severance payments in paragraph (1)(A) which were improperly withheld for tax purposes; and

"(ii) such other information determined to be necessary by the Secretary of the Treasury to carry out the purposes of this section; and

"(B) instructions for filing amended tax returns to recover the amounts improperly withheld for tax purposes.

"(b) EXTENSION OF LIMITATION ON TIME FOR CREDIT OR REFUND.—

"(1) PERIOD FOR FILING CLAIM.—If a claim for credit or refund under section 6511(a) of the Internal Revenue Code of 1986 [26 U.S.C. 6511(a)] relates to a specified overpayment, the 3-year period of limitation prescribed by such subsection shall not expire before the date which is 1 year after the date the information return described in subsection (a)(2) is provided. The allowable amount of credit or refund of a specified overpayment shall be determined without regard to the amount of tax paid within the period provided in section 6511(b)(2) [26 U.S.C. 6511(b)(2)].

"(2) SPECIFIED OVERPAYMENT.—For purposes of paragraph (1), the term 'specified overpayment' means an overpayment attributable to a severance payment described in subsection (a)(1).

"SEC. 4. REQUIREMENT THAT SECRETARY OF DEFENSE ENSURE AMOUNTS ARE NOT WITHHELD FOR TAX PURPOSES FROM SEVERANCE PAYMENTS NOT CONSIDERED GROSS INCOME.

"The Secretary of Defense shall take such actions as may be necessary to ensure that amounts are not withheld for tax purposes from severance payments made by the Secretary to individuals when such payments are not considered gross income pursuant to section 104(a)(4) of the Internal Revenue Code of 1986 [26 U.S.C. 104(a)(4)].

"SEC. 5. REPORT TO CONGRESS.

"(a) IN GENERAL.—After completing the identification required by section 3(a) and not later than 1 year after the date of the enactment of this Act [Dec. 16, 2016], the Secretary of Defense shall submit to the appropriate committees of Congress a report on the actions taken by the Secretary to carry out this Act.

"(b) CONTENTS.—The report submitted under subsection (a) shall include the following:

"(1) The number of individuals identified under section 3(a)(1)(B).

"(2) Of all the severance payments described in section 3(a)(1)(A), the aggregate amount that the Secretary withheld for tax purposes from such payments.

"(3) A description of the actions the Secretary plans to take to carry out section 4.

"(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Veterans' Affairs, and the Committee on Finance of the Senate; and

"(2) the Committee on Armed Services, the Committee on Veterans' Affairs, and the Committee on Ways and Means of the House of Representatives."

## §1213. Effect of separation on benefits and claims

Unless a person who has received disability severance pay again becomes a member of an armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service, he is not entitled to any payment from the armed force from which he was separated for, or arising out of, his service before separation, under any law administered by one of those services or for it by another of those services. However, this section does not prohibit the payment of money to a person who has received disability severance pay, if the money was due him on the date of his separation or if a claim by him is allowed under any law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 99; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §511(44), Dec. 12, 1980, 94 Stat. 2924.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1213 | 37:280. | Oct. 12, 1949, ch. 681, §410, 63 Stat. 823. |

The words "a person who has received disability severance pay" are substituted for the words "Any former member who has been separated for physical disability from any of the uniformed services and paid disability severance pay". The words "any payment * * * for" are substituted for the words "for any monetary obligation provided under any provision * * * on account of". The words "this section does not prohibit" are substituted for the words "shall not operate to bar". The words "the payment of money to * * * if the money was due him" are substituted for the words "from receiving or the service concerned from paying any moneys due and payable". The words "valid", "processed", and "pursuant to any provisions of law" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**1980**—Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### EXECUTIVE DOCUMENTS

### TRANSFER OF FUNCTIONS

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §1214. Right to full and fair hearing

No member of the armed forces may be retired or separated for physical disability without a full and fair hearing if the member demands it. The Secretary concerned may require submission of a statement of contention as part of the demand.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100; Pub. L. 119–60, div. A, title V, §524(b), Dec. 18, 2025, 139 Stat. 865.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1214 | 37:283 (less 1st 17 words). | Oct. 12, 1949, ch. 681, §413 (less 1st 17 words), 63 Stat. 825. |

The words "including regulations" are omitted as covered by section 1216(a) of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60 substituted "if the member demands it. The Secretary concerned may require submission of a statement of contention as part of the demand." for "if he demands it."

## §1214a. Members determined fit for duty in Physical Evaluation Board: prohibition on involuntary administrative separation or denial of reenlistment due to unsuitability based on medical conditions considered in evaluation

(a) DISPOSITION.—Except as provided in subsection (c), the Secretary of the military department concerned may not authorize the involuntary administrative separation of a member described in subsection (b), or deny reenlistment of the member, based on a determination that the member is unsuitable for deployment or worldwide assignment based on the same medical condition of the member considered by a Physical Evaluation Board during the evaluation of the member.

(b) COVERED MEMBERS.—A member covered by subsection (a) is any member of the armed forces who has been determined by a Physical Evaluation Board pursuant to a physical evaluation by the board to be fit for duty.

(c) REEVALUATION.—(1) The Secretary of the military department concerned may direct the Physical Evaluation Board to reevaluate any member described in subsection (b) if the Secretary has reason to believe that a medical condition of the member considered by the Physical Evaluation Board during the evaluation of the member described in that subsection renders the member unsuitable for continued military service based on the medical condition.

(2) A member determined pursuant to reevaluation under paragraph (1) to be unfit to perform the duties of the member's office, grade, rank, or rating may be retired or separated for physical disability under this chapter.

(3) The Secretary of Defense shall be the final approval authority for any case determined by the Secretary of a military department to warrant administrative separation or denial of reenlistment based on a determination that the member is unsuitable for continued service due to the same medical condition of the member considered by a Physical Evaluation Board that found the member fit for duty.

(Added Pub. L. 111–383, div. A, title V, §534(a)(1), Jan. 7, 2011, 124 Stat. 4216; amended Pub. L. 112–81, div. A, title V, §527(a)–(c)(1), Dec. 31, 2011, 125 Stat. 1401, 1402.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 112–81, §527(c)(1), substituted "Members determined fit for duty in Physical Evaluation Board: prohibition on involuntary administrative separation or denial of reenlistment due to unsuitability based on medical conditions considered in evaluation" for "Members determined fit for duty in Physical Evaluation Board evaluation: prohibition on involuntary administrative separation due to unsuitability based on medical conditions considered in evaluation" in section catchline.

Subsec. (a). Pub. L. 112–81, §527(a), inserted ", or deny reenlistment of the member," after "a member described in subsection (b)".

Subsec. (c)(3). Pub. L. 112–81, §527(b), inserted "or denial of reenlistment" after "to warrant administrative separation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 111–383, div. A, title V, §534(b), Jan. 7, 2011, 124 Stat. 4217, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect on the date of the enactment of this Act [Jan. 7, 2011], and shall apply with respect to members evaluated for fitness for duty by Physical Evaluation Boards on or after that date."

## §1215. Members other than Regulars: applicability of laws

The laws and regulations that entitle any retired member of a regular component of the armed forces to pay, rights, benefits, or privileges extend the same pay, rights, benefits, or privileges to any other member of the armed forces who is not a member of a regular component and who is retired, or to whom retired pay is granted, because of physical disability.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1215 | 37:272(i). | Oct. 12, 1949, ch. 681, §402(i), 63 Stat. 820. |

The words "is retired, or to whom retired pay is granted" are substituted for the words "heretofore or hereafter retired or granted retirement pay". The words "any other member of the armed forces" are substituted for the words "all members of the reserve components", since the words "reserve components" are defined by section 102(k) of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 231(k)), to include members appointed, enlisted, or inducted without component.

## §1216. Secretaries: powers, functions, and duties

(a) The Secretary concerned shall prescribe regulations to carry out this chapter within his department.

(b) Except as provided in subsection (d), the Secretary concerned has all powers, functions, and duties incident to the determination under this chapter of—

(1) the fitness for active duty of any member of an armed force under his jurisdiction;

(2) the percentage of disability of any such member at the time of his separation from active duty;

(3) the suitability of any member for reappointment, reenlistment, or reentry upon active duty in an armed force under his jurisdiction; and

(4) the entitlement to, and payment of, disability severance pay to any member of an armed force under his jurisdiction.

(c) The Secretary concerned or the Secretary of Veterans Affairs, as prescribed by the President, has the powers, functions, and duties under this chapter incident to hospitalization, reexaminations,

and the payment of disability retired pay within his department or agency.

(d) The Secretary concerned may not, with respect to any member who is a general officer or flag officer or is a medical officer being processed for retirement under any provisions of this title by reason of age or length of service—

(1) retire such member under section 1201 of this title;

(2) place such member on the temporary disability retired list pursuant to section 1202 of this title; or

(3) separate such member from an armed force pursuant to section 1203 of this title

by reason of unfitness to perform the duties of his office, grade, rank, or rating unless the determination of the Secretary concerned with respect to unfitness is first approved by the Secretary of Defense on the recommendation of the Assistant Secretary of Defense for Health Affairs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100; Pub. L. 94–225, §2(a), Mar. 4, 1976, 90 Stat. 202; Pub. L. 96–513, title V, §511(45), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98–525, title XIV, §1405(25), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99–661, div. A, title XIII, §1343(a)(7), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 101–189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 104–106, div. A, title IX, §903(f)(2), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1216(a) | 37:283 (1st 17 words). | Oct. 12, 1949, ch. 681, §§413 (1st 17 words), 414, 63 Stat. 824, 825. |
| 1216(b) | 37:284(a). | |
| 1216(c) | 37:284 (less (a)). | |

In subsection (b), the words "of any member for reappointment, reenlistment" are inserted for clarity, since they are implied in the words "reentry into active service".

In subsections (b) and (c), the words "under this chapter" are inserted for clarity.

In subsection (c), the words "as prescribed by the President" are substituted for the words "under regulations promulgated by the President".

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (d). Pub. L. 104–106, §903(a), (f)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting "official in the Department of Defense with principal responsibility for health affairs" for "Assistant Secretary of Defense for Health Affairs", was repealed by Pub. L. 104–201.

**1989**—Subsec. (c). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**1986**—Subsec. (d). Pub. L. 99–661 substituted "who is a general officer or flag officer or is a medical officer" for "who is in pay grade O–7 or higher or is a Medical Corps officer or medical officer of the Air Force" in provisions preceding par. (1).

**1984**—Subsec. (b). Pub. L. 98–525 struck out "of this section" after "subsection (d)" in provisions preceding par. (1).

**1980**—Subsec. (d). Pub. L. 96–513 substituted "Affairs" for "and Environment".

**1976**—Subsec. (b). Pub. L. 94–225, §2(a)(1), substituted "Except as provided in subsection (d) of this section, the Secretary" for "The Secretary".

Subsec. (d). Pub. L. 94–225, §2(a)(2), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–225, §2(b), Mar. 4, 1976, 90 Stat. 202, provided that: "The amendments made by subsection (a) of this section [amending this section] shall apply with respect to unfitness determinations made on or after the date of the enactment of this Act [Mar. 4, 1976] by the Secretaries of the military departments concerned for purposes of sections 1201, 1202, and 1203 of title 10, United States Code."

## APPLICABILITY OF SUBSECTION (D)

Subsec. (d) of this section inapplicable with respect to flag officers of the Coast Guard during any period in which the Coast Guard is not operating as a service in the Navy, see section 2157 of Title 14, Coast Guard.

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 10122. REGULATIONS GOVERNING DISABILITY PAY, HOSPITALIZATION AND REEXAMINATION

Ex. Ord. No. 10122, Apr. 14, 1950, 15 F.R. 2173, as amended by Ex. Ord. 10400, Sept. 27, 1952, 17 F.R. 8648; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Ex. Ord. No. 11733, July 30, 1973, 38 F.R. 20431 provided:

By virtue of and pursuant to the authority vested in me by section 414(b) of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress [former section 284(b) of Title 37, now covered by subsecs. (b) and (c) of this section], and as President of the United States and Commander in Chief of the armed forces of the United States, I hereby prescribe the following regulations governing payment of disability retirement pay, hospitalization, and re-examination of members and former members of the uniformed services:

SECTION 1. The terms "uniformed services" and "Secretary" as used in these regulations shall have the meaning prescribed therefor by subsections (a) and (f), respectively, of section 102 of the Career Compensation Act of 1949 [section 101(3) and (5) of Title 37, Pay and Allowances of the Uniformed Services].

SEC. 2. (a) Effective as of October 1, 1949, all duties, powers, and functions incident to the payment of disability retirement pay of members or former members of the uniformed services retired for physical disability or receiving disability retirement pay shall, except as provided in subsection (b) of this section, be vested in the Secretary concerned.

(b) Effective July 1, 1950, all duties, powers, and functions exercised by the Veterans' Administration pursuant to Executive Order No. 8099 of April 28, 1939, as amended by Executive Order No. 8461 of June 28, 1940, relative to the administration of the retirement-pay provisions of section 1 of the act of August 30, 1935, as amended by section 5 of the act of April 3, 1939, 53 Stat. 557 [former section 369a of this title], and amendments thereof, shall, as to cases within their respective jurisdictions, be vested in the Secretary of the Army and the Secretary of the Air Force, and thereafter the Veterans' Administration shall not be charged in any case with any further responsibility in the administration of the said retirement-pay provisions. The said Executive Order No. 8099 as amended by the said Executive Order No. 8461 is hereby amended accordingly.

SEC. 3. All duties, powers, and functions incident to the hospitalization, except as provided in section 5 of this order, and re-examination of members of the uniformed services placed on the temporary disability retired list under the provisions of the Career Compensation Act of 1949 shall be vested in the Secretary concerned.

SEC. 4. Effective May 1, 1950, all duties, powers, and functions incident to the hospitalization of members or former members of the uniformed services permanently retired for physical disability or receiving disability retirement pay shall, except as provided in section 5 of this order, be vested in the Secretary concerned: *Provided*, that all the duties, powers, and functions incident to hospitalization which such members or former members are entitled to and elect to receive in facilities of the Veterans' Administration, other than hospitals under the jurisdiction of the uniformed services, shall be vested in the Administrator of Veterans' Affairs.

SEC. 5. All duties, powers, and functions incident to the hospitalization of members or former members of the uniformed services placed on the temporary disability retired list or permanently retired for physical disability or receiving disability retirement pay who require hospitalization for chronic diseases shall be vested in the Administrator of Veterans' Affairs: *Provided*, that all the duties, powers, and functions incident to hospitalization for such members or former members who elect to receive hospitalization in uniformed services facilities shall, subject to the availability of space and facilities and the capabilities of the medical and dental staff, be vested in the Secretary concerned: *And provided further*, that for the purpose of this order, the term "chronic disease" shall be construed to include arthritis, malignancy, psychiatric or neuropsychiatric disorder, neurological disabilities, poliomyelitis with disability residuals and degenerative diseases of the

nervous system, severe injuries to the nervous system including quadriplegics, hemiplegics, and paraplegics, tuberculosis, blindness and deafness requiring definitive rehabilitation, major amputees, and such other diseases as may be so defined jointly by the Secretary of Defense, the Administrator of Veterans' Affairs, and the Federal Security Administrator and so described in appropriate regulations of the respective departments and agencies concerned. Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to the medical care of certain personnel of the Coast Guard, National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey), Public Health Service, and the former Lighthouse Service, is hereby amended to the extent necessary to conform to the provisions of this section.

SEC. 6. Except as provided in section 5 hereof with respect to hospitalization for chronic diseases, nothing in this order shall be construed to affect the duties, powers, and functions of the Public Health Service with respect to hospitalization and medical examination of members and former members of the Coast Guard and the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey) under the Public Health Service Act, approved July 1, 1944 (58 Stat. 682), as amended [section 201 et seq. of Title 42, The Public Health and Welfare], and the regulations prescribed by the said Executive Order No. 9703 of March 12, 1946.

SEC. 7. Nothing in this order shall be construed to affect the duties, powers, and functions vested in the Administrator of Veterans' Affairs pursuant to the provisions of the act of May 24, 1928, entitled "An Act making eligible for retirement, under certain conditions, officers and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability in line of duty while in the service of the United States during the World War" (45 Stat. 735, as amended) [section 581 of former Title 38], or by or pursuant to the act of September 26, 1941, entitled "An Act to provide retirement pay and hospital benefits to certain Reserve officers, Army of the United States, disabled while on active duty" (55 Stat. 733) [former section 456a of this title].

## §1216a. Determinations of disability: requirements and limitations on determinations

(a) UTILIZATION OF VA SCHEDULE FOR RATING DISABILITIES IN DETERMINATIONS OF DISABILITY.—(1) In making a determination of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned—

(A) shall, to the extent feasible, utilize the schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of the schedule by the United States Court of Appeals for Veterans Claims; and

(B) except as provided in paragraph (2), may not deviate from the schedule or any such interpretation of the schedule.

(2) In making a determination described in paragraph (1), the Secretary concerned may utilize in lieu of the schedule described in that paragraph such criteria as the Secretary of Defense and the Secretary of Veterans Affairs may jointly prescribe for purposes of this subsection if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the schedule.

(b) CONSIDERATION OF ALL MEDICAL CONDITIONS.—In making a determination of the rating of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned shall take into account all medical conditions, whether individually or collectively, that render the member unfit to perform the duties of the member's office, grade, rank, or rating.

(Added Pub. L. 110–181, div. A, title XVI, §1642(a), Jan. 28, 2008, 122 Stat. 465.)

## §1217. Academy cadets and midshipmen: applicability of chapter

(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the United States Naval Academy, but only with respect to physical disabilities incurred after October 28, 2004.

(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and

severance and separation pay to which entitlement is established under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100; Pub. L. 85–861, §33(a)(7), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 108–375, div. A, title V, §555(b)(1), Oct. 28, 2004, 118 Stat. 1914; Pub. L. 109–364, div. A, title X, §1071(a)(6), Oct. 17, 2006, 120 Stat. 2398.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1217 | [No source]. | [No source]. |

The revised section is inserted to reflect the limited definition of the word "member" in section 102(b) of the Career Compensation Act of 1949 (37 U.S.C. 231(b)).

**1958 ACT**

Aviation cadets were omitted from chapter 61 because Title IV of the Career Compensation Act of 1949 (formerly 37 U.S.C. 271 et seq.), which was the source law for this chapter, covered only members entitled to basic pay and it was believed that aviation cadets were not so entitled. However, the Comptroller General has ruled that aviation cadets are entitled to basic pay (30 Comp. Gen. 431). Accordingly, aviation cadets were covered by Title IV and should not be excepted from chapter 61.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–364 substituted "October 28, 2004" for "the date of the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005".

**2004**—Pub. L. 108–375 amended section catchline and text generally. Prior to amendment, text read as follows: "This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or to midshipmen of the Navy."

**1958**—Pub. L. 85–861 struck out provisions which made chapter inapplicable to aviation cadets.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §1218. Discharge or release from active duty: claims for compensation, pension, or hospitalization

(a) A member of an armed force may not be discharged or released from active duty because of physical disability until he—

(1) has made a claim for compensation, pension, or hospitalization, to be filed with the Department of Veterans Affairs, or has refused to make such a claim; or

(2) has signed a statement that his right to make such a claim has been explained to him, or has refused to sign such a statement.

(b) A right that a member may assert after failing or refusing to sign a claim, as provided in subsection (a), is not affected by that failure or refusal.

(c) This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care.

(d)(1) The Secretary of a military department shall ensure that each member of a reserve component under the jurisdiction of the Secretary who is determined, after a mobilization and deployment to an area in which imminent danger pay is authorized under section 310 or 351 of title

37, to require evaluation for a physical or mental disability which could result in separation or retirement for disability under this chapter or placement on the temporary disability retired list or inactive status list under this chapter is retained on active duty during the disability evaluation process until such time as such member is—

(A) cleared by appropriate authorities for continuation on active duty; or

(B) separated, retired, or placed on the temporary disability retired list or inactive status list.

(2)(A) A member described in paragraph (1) may request termination of active duty under such paragraph at any time during the demobilization or disability evaluation process of such member.

(B) Upon a request under subparagraph (A), a member described in paragraph (1) shall only be released from active duty after the member receives counseling about the consequences of termination of active duty.

(C) Each release from active duty under subparagraph (B) shall be thoroughly documented.

(3) The requirements in paragraph (1) shall expire on October 28, 2014.

(Added Pub. L. 85–56, title XXII, §2201(31)(A), June 17, 1957, 71 Stat. 160; amended Pub. L. 87–651, title I, §107(c), Sept. 7, 1962, 76 Stat. 508; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), (4), Nov. 29, 1989, 103 Stat. 1602, 1603; Pub. L. 111–84, div. A, title V, §511, Oct. 28, 2009, 123 Stat. 2280; Pub. L. 113–291, div. A, title X, §1071(e)(1), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 114–328, div. A, title VI, §618(c), Dec. 23, 2016, 130 Stat. 2160.)

### HISTORICAL AND REVISION NOTES

#### 1962 ACT

Sections 1218 and 1219 are restated, without substantive change, to conform to the style adopted for title 10.

### EDITORIAL NOTES

#### AMENDMENTS

**2016**—Subsec. (d)(1). Pub. L. 114–328 inserted "or 351" after "section 310" in introductory provisions.

**2014**—Subsec. (d)(3). Pub. L. 113–291 substituted "on October 28, 2014" for "on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010".

**2009**—Subsec. (d). Pub. L. 111–84 added subsec. (d).

**1989**—Subsec. (a)(1). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (c). Pub. L. 101–189, §1621(a)(4), substituted "facility of the Department of Veterans Affairs" for "Veterans' Administration facility".

**1962**—Pub. L. 87–651 amended section generally, and among other changes, substituted "Discharge or release from active duty: claims for compensation, pension, or hospitalization" for "Explanation of rights before discharge" in section catchline, and struck out provisions which prohibited a person from being discharged or released from active duty until his certificate of discharge or release from active duty and his final pay (or a substantial portion of his final pay) are ready for delivery to him or to his next of kin or legal representative.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56, 71 Stat. 172.

## §1218a. Discharge or release from active duty: transition assistance for reserve component members injured while on active duty

(a) PROVISION OF CERTAIN INFORMATION.—Before a member of a reserve component described in subsection (b) is demobilized or separated from the armed forces, the Secretary of the

military department concerned shall provide to the member the following information:

(1) Information on the availability of care and administrative processing through community based warrior transition units.

(2) Information on the location of the community based warrior transition unit located nearest to the permanent place of residence of the member.

(b) COVERED MEMBERS.—Subsection (a) applies to members of a reserve component who are injured while on active duty in the armed forces.

(Added Pub. L. 111–84, div. A, title VI, §641(a), Oct. 28, 2009, 123 Stat. 2364.)

## §1219. Statement of origin of disease or injury: limitations

A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that he has. Any such statement against his interests, signed by a member, is invalid.

(Added Pub. L. 85–56, title XXII, §2201(31)(A), June 17, 1957, 71 Stat. 160; amended Pub. L. 87–651, title I, §107(c), Sept. 7, 1962, 76 Stat. 509.)

### HISTORICAL AND REVISION NOTES

#### 1962 ACT

Sections 1218 and 1219 are restated, without substantive change, to conform to the style adopted for title 10.

### EDITORIAL NOTES

#### AMENDMENTS

**1962**—Pub. L. 87–651 substituted "Statement of origin of disease or injury: limitation" for "Statement against interest void" in section catchline, and "A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that he has. Any such statement against his interests, signed by a member, is invalid" for "No person in the Armed Forces may be required to sign a statement of any nature relating to the origin, incurrence, or aggravation of any disease or injury he may have. Any such statement against his own interest, whenever signed, is of no force and effect."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56, 71 Stat. 172.

## [§1220. Repealed. Pub. L. 87–651, title I, §107(d), Sept. 7, 1962, 76 Stat. 509]

Section, added Pub. L. 85–56, title XXII, §2201(31)(A), June 17, 1957, 71 Stat. 161, related to location of accredited representatives at military installations.

## §1221. Effective date of retirement or placement of name on temporary disability retired list

Notwithstanding section 8301 of title 5, the Secretary concerned may specify an effective date for the retirement of any member of the armed forces under this chapter, or for the placement of his name on the temporary disability retired list, that is earlier than the date provided for in that section.

(Added Pub. L. 85–861, §1(28)(B), Sept. 2, 1958, 72 Stat. 1451; amended Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1221 | 5:47a(b). | Aug. 2, 1956, ch. 876, 70 Stat. 933. |

Clause (2)(A) is omitted as unnecessary since the revised section applies to the armed forces, and the revised section is made applicable to the other uniformed services by sections 3 and 4 of the act enacting this revised section. Clause (2)(B) is omitted as covered by section 101(8) of this title and sections 3 and 4 of the act enacting this revised section.

**EDITORIAL NOTES**

**AMENDMENTS**

**1966**—Pub. L. 89–718 substituted "8301" for "47a".

## §1222. Physical evaluation boards

(a) RESPONSE TO APPLICATIONS AND APPEALS.—The Secretary of each military department shall ensure, in the case of any member of the armed forces appearing before a physical evaluation board under that Secretary's supervision, that documents announcing a decision of the board in the case convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case. The requirement under the preceding sentence applies to a case both during initial consideration and upon subsequent consideration due to appeal by the member or other circumstance.

(b) LIAISON OFFICER (PEBLO) REQUIREMENTS AND TRAINING.—(1) The Secretary of Defense shall prescribe regulations establishing—

(A) a requirement for the Secretary of each military department to make available to members of the armed forces appearing before physical evaluation boards operated by that Secretary employees, designated as physical evaluation board liaison officers, to provide advice, counsel, and general information to such members on the operation of physical evaluation boards operated by that Secretary; and

(B) standards and guidelines concerning the training of such physical evaluation board liaison officers.

(2) The Secretary shall ensure compliance by the Secretary of each military department with physical evaluation board liaison officer requirements and training standards and guidelines at least once every three years.

(c) STANDARDIZED STAFF TRAINING AND OPERATIONS.—(1) The Secretary of Defense shall prescribe regulations on standards and guidelines concerning the physical evaluation board operated by each of the Secretaries of the military departments with regard to—

(A) assignment and training of staff;

(B) operating procedures; and

(C) timeliness of board decisions.

(2) The Secretary shall ensure compliance with standards and guidelines prescribed under paragraph (1) by each physical evaluation board at least once every three years.

(Added Pub. L. 109–364, div. A, title V, §597(a)(1), Oct. 17, 2006, 120 Stat. 2236.)

**EDITORIAL NOTES**

**EFFECTIVE DATE**

Pub. L. 109–364, div. A, title V, §597(b), Oct. 17, 2006, 120 Stat. 2237, provided that: "Section 1222 of title 10, United States Code, as added by subsection (a), shall apply with respect to decisions rendered on

cases commenced more than 120 days after the date of the enactment of this Act [Oct. 17, 2006]."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**QUALITY REVIEW OF MEDICAL EVALUATION BOARDS, PHYSICAL EVALUATION BOARDS, AND PHYSICAL EVALUATION BOARD LIAISON OFFICERS**

Pub. L. 112–239, div. A, title V, §524, Jan. 2, 2013, 126 Stat. 1723, as amended by Pub. L. 115–232, div. A, title VIII, §813(f), Aug. 13, 2018, 132 Stat. 1851, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall standardize, assess, and monitor the quality assurance programs of the military departments to evaluate the following in the performance of their duties (including duties under chapter 61 of title 10, United States Code):

"(1) Medical Evaluation Boards.

"(2) Physical Evaluation Boards.

"(3) Physical Evaluation Board Liaison Officers.

"(b) OBJECTIVES.—The objectives of the quality assurance program shall be as follows:

"(1) To ensure accuracy and consistency in the determinations and decisions of Medical Evaluation Boards and Physical Evaluation Boards.

"(2) To otherwise monitor and sustain proper performance of the duties of Medical Evaluation Boards and Physical Evaluation Boards, and of Physical Evaluation Board Liaison Officers.

"(3) Such other objectives as the Secretary shall specify for purposes of the quality assurance program."

[(c) Repealed. Pub. L. 115–232, div. A, title VIII, §813(f), Aug. 13, 2018, 132 Stat. 1851.]

# CHAPTER 63—RETIREMENT FOR AGE

Sec.

1251. Age 62: regular commissioned officers in grades below general and flag officer grades; exceptions.

1252. Age 64: permanent professors at academies.

1253. Age 64: regular commissioned officers in general and flag officer grades; exceptions.

[1255. Repealed.]

1263. Age 62: warrant officers.

1275. Computation of retired pay: law applicable.

**EDITORIAL NOTES**

**AMENDMENTS**

**2015**—Pub. L. 114–92, div. A, title V, §504(b)(2), Nov. 25, 2015, 129 Stat. 807, substituted "Age 64: regular commissioned officers in general and flag officer grades; exceptions" for "Age 64: regular commissioned officers in general and flag officer grades; exception" in item 1253.

**2006**—Pub. L. 109–364, div. A, title V, §502(c), Oct. 17, 2006, 120 Stat. 2177, inserted "in grades below general and flag officer grades" after "officers" in item 1251 and added item 1253.

Pub. L. 109–163, div. A, title V, §509(c)(2), Jan. 6, 2006, 119 Stat. 3231, added item 1252.

**1980**—Pub. L. 96–513, title V, §501(18), Dec. 12, 1980, 94 Stat. 2908, added item 1251.

**1967**—Pub. L. 90–130, §1(6), Nov. 8, 1967, 81 Stat. 374, struck out item 1255 "Age 55: female regular warrant officers".

## §1251. Age 62: regular commissioned officers in grades below general and flag officer grades; exceptions

(a) GENERAL RULE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force (other than an officer covered by section 1252 of this title or a commissioned warrant officer) serving in a grade below brigadier general or

rear admiral (lower half), in the case of an officer in the Navy, shall be retired or separated, as specified in subsection (e), on the first day of the month following the month in which the officer becomes 62 years of age.

(b) DEFERRED RETIREMENT OR SEPARATION OF HEALTH PROFESSIONS OFFICERS .—(1) The Secretary of the military department concerned may, subject to subsection (d), defer the retirement or separation under subsection (a) of a health professions officer if during the period of the deferment the officer—

(A) will be performing duties consisting primarily of providing patient care or performing other clinical duties; or

(B) is in a category of officers designated under subparagraph (D) of paragraph (2) whose duties will consist primarily of the duties described in clause (i), (ii), or (iii) of such subparagraph.

(2) For purposes of this subsection, a health professions officer is—

(A) a medical officer;

(B) a dental officer;

(C) an officer in the Army Nurse Corps, an officer in the Navy Nurse Corps, or an officer in the Air Force designated as a nurse; or

(D) an officer in a category of officers designated by the Secretary of the military department concerned for the purposes of this paragraph as consisting of officers whose duties consist primarily of—

(i) providing health care;

(ii) performing other clinical care; or

(iii) performing health care-related administrative duties.

(c) DEFERRED RETIREMENT OR SEPARATION OF OTHER OFFICERS.—The Secretary of the military department concerned may, subject to subsection (d), defer the retirement or separation under subsection (a) of any officer other than a health professions officer described in subsection (b)(2) if the Secretary determines that such deferral is in the best interest of the military department concerned.

(d) LIMITATION ON DEFERMENT OF RETIREMENTS.—(1) Except as provided in paragraph (2), a deferment under subsection (b) or (c) may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age.

(2) The Secretary of the military department concerned may extend a deferment under subsection (b) or (c) beyond the day referred to in paragraph (1) if the Secretary determines that extension of the deferment is necessary for the needs of the military department concerned. Such an extension shall be made on a case-by-case basis and shall be for such period as the Secretary considers appropriate.

(e) RETIREMENT OR SEPARATION BASED ON YEARS OF CREDITABLE SERVICE.—(1) The following rules shall apply to a regular commissioned officer who is to be retired or separated under subsection (a):

(A) If the officer has at least 6 but fewer than 20 years of creditable service, the officer shall be separated, with separation pay computed under section 1174(d)(1) of this title.

(B) If the officer has fewer than 6 years of creditable service, the officer shall be separated under subsection (a).

(2) Notwithstanding paragraph (1), in the case of a regular commissioned officer who was added to the retired list before the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, the officer shall be retired, with retired pay computed under section 1401 of this title.

(Added Pub. L. 96–513, title I, §111, Dec. 12, 1980, 94 Stat. 2875; amended Pub. L. 100–180, div. A, title VII, §719, Dec. 4, 1987, 101 Stat. 1115; Pub. L. 101–189, div. A, title VII, §709, Nov. 29, 1989, 103 Stat. 1476; Pub. L. 105–85, div. A, title V, §504(a), (b), Nov. 18, 1997, 111 Stat. 1725; Pub. L. 109–163, div. A, title V, §509(c)(3), Jan. 6, 2006, 119 Stat. 3231; Pub. L. 109–364, div. A, title V, §502(b), Oct. 17, 2006, 120 Stat. 2176; Pub. L. 111–383, div. A, title V, §501(b), Jan. 7,

2011, 124 Stat. 4206; Pub. L. 116–283, div. A, title V, §507, title IX, §924(b)(3)(T), Jan. 1, 2021, 134 Stat. 3573, 3821.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §924(b)(3)(T), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Pub. L. 116–283, §507(a)(2), inserted "or separated, as specified in subsection (e)," after "shall be retired".

Pub. L. 116–283, §507(a)(1), which directed substitution of "Marine Corps, or Space Force" for "or Marine Corps,", could not be executed because "or Marine Corps," did not appear in text. Similar amendment was made by Pub. L. 116–283, §924(b)(3)(T), see above.

Subsec. (b). Pub. L. 116–283, §507(b)(1), inserted "or Separation" after "Retirement" in heading.

Subsec. (b)(1). Pub. L. 116–283, §507(b)(2), inserted "or separation" after "retirement" in introductory provisions.

Subsec. (c). Pub. L. 116–283, §507(c), in heading, substituted "or Separation of Other Officers" for "of Chaplains" and, in text, inserted "or separation" after "retirement" and substituted "any officer other than a health professions officer described in subsection (b)(2)" for "an officer who is appointed or designated as a chaplain".

Subsec. (e). Pub. L. 116–283, §507(d), added subsec. (e).

**2011**—Subsec. (b)(1). Pub. L. 111–383, §501(b)(2), substituted "the officer—" for "the officer will be performing duties consisting primarily of providing patient care or performing other clinical duties." and added subpars. (A) and (B).

Subsec. (b)(2)(D). Pub. L. 111–383, §501(b)(1), added subpar. (D).

**2006**—Pub. L. 109–364 amended section catchline and text generally, substituting provisions relating to retirement at age 62 of regular commissioned officers in grades below general and flag officer grades for provisions relating to retirement at age 62 of all regular commissioned officers.

Subsec. (a). Pub. L. 109–163 inserted ", a permanent professor at the United States Naval Academy," after "Air Force Academy" in first sentence and struck out last sentence which read as follows: "An officer who is a permanent professor at the United States Military Academy or United States Air Force Academy, the director of admissions at the United States Military Academy, or the registrar of the United States Air Force Academy shall be retired on the first day of the month following the month in which he becomes 64 years of age."

**1997**—Subsec. (c)(2) to (4). Pub. L. 105–85, §504(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 105–85, §504(b), added subsec. (d).

**1989**—Subsec. (c)(2). Pub. L. 101–189 designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), a deferment" for "A deferment" and "68 years of age" for "67 years of age", and added subpar. (B).

**1987**—Subsec. (c). Pub. L. 100–180 added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### DEFERRAL OF RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Pub. L. 100–456, div. A, title VII, §704, Sept. 29, 1988, 102 Stat. 1996, provided that the President could defer until Oct. 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term which began on October 1, 1987, notwithstanding the limitation contained in former section 1251(b) of this title.

**TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For provision that this section not apply to any officer who on the effective date of this Act [Sept. 15, 1981] was on active duty in a grade above general, see section 632 of Pub. L. 96–513, set out as a note under section 611 of this title.

## §1252. Age 64: permanent professors at academies

(a) MANDATORY RETIREMENT FOR AGE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force covered by subsection (b) shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

(b) COVERED OFFICERS.—This section applies to the following officers:

(1) An officer who is a permanent professor or the director of admissions of the United States Military Academy.

(2) An officer who is a permanent professor at the United States Naval Academy.

(3) An officer who is a permanent professor or the registrar of the United States Air Force Academy.

(Added Pub. L. 109–163, div. A, title V, §509(c)(1), Jan. 6, 2006, 119 Stat. 3230; amended Pub. L. 116–283, div. A, title IX, §924(b)(3)(U), Jan. 1, 2021, 134 Stat. 3821.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

## §1253. Age 64: regular commissioned officers in general and flag officer grades; exceptions

(a) GENERAL RULE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force serving in a general or flag officer grade shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

(b) EXCEPTION FOR OFFICERS SERVING IN O–9 AND O–10 POSITIONS.—In the case of an officer serving in a position that carries a grade above major general or rear admiral, the retirement under subsection (a) of that officer may be deferred—

(1) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

(2) by the Secretary of Defense, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.

(c) DEFERRED RETIREMENT OF CHAPLAINS.—(1) The Secretary of the military department concerned may defer the retirement under subsection (a) of an officer serving in a general or flag officer grade who is the Chief of Chaplains or Deputy Chief of Chaplains of that officer's armed force.

(2) A deferment of the retirement of an officer referred to in paragraph (1) may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age.

(Added Pub. L. 109–364, div. A, title V, §502(a), Oct. 17, 2006, 120 Stat. 2176; amended Pub. L. 114–92, div. A, title V, §504(a), (b)(1), Nov. 25, 2015, 129 Stat. 807; Pub. L. 116–92, div. A, title V, §508, Dec. 20, 2019, 133 Stat. 1346; Pub. L. 116–283, div. A, title IX, §924(b)(3)(V), Jan. 1, 2021, 134 Stat. 3821.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2019**—Subsec. (c)(3). Pub. L. 116–92 struck out par. (3) which read as follows: "The authority to defer the retirement of an officer referred to in paragraph (1) expires December 31, 2020. Subject to paragraph (2), a deferment granted before that date may continue on and after that date."

**2015**—Pub. L. 114–92, §504(b)(1), substituted "Age 64: regular commissioned officers in general and flag officer grades; exceptions" for "Age 64: regular commissioned officers in general and flag officer grades; exception" in section catchline.

Subsec. (c). Pub. L. 114–92, §504(a), added subsec. (c).

## [§1255. Repealed. Pub. L. 90–130, §1(6), Nov. 8, 1967, 81 Stat. 374]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 100; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, covered the retirement of female permanent regular warrant officers with 20 years of active service upon attaining age 55.

## §1263. Age 62: warrant officers

(a) Unless retired under section 1305 of this title, a permanent regular warrant officer who has at least 20 years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114; 10 U.S.C. 580 note), and who is at least 62 years of age, shall be retired 60 days after he becomes that age, except as provided by section 8301 of title 5.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire under this section.

(Aug. 10, 1956 ch. 1041, 70A Stat. 101; Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, §1(6), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V, §511(46), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 102–484, div. A, title X, §1052(17), Oct. 23, 1992, 106 Stat. 2500.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1263(a) | 10:600(d) (as applicable to 10:600*l*(b) (less (1)–(3))).<br>10:600 *l*(b) (less (1)–(3)).<br>10:600r(c) (as applicable to 10:600 *l*(b) (less (1)–(3))).<br>34:135(d) (as applicable to 34:430(b) (less (1)–(3))).<br>34:430(b) (less (1)–(3)).<br>34:430c (as applicable to 34:430(b) (less (1)–(3))). | May 29, 1954, ch. 249, §§2(d) (as applicable to §14(b) (less (1)–(3))), 14(b) (less (1)–(3)), 14(e) (as applicable to (b) (less (1)–(3))), 21(c) (as applicable to 14(b) (less (1)–(3))), 68 Stat. 157, 162, 163, 168. |
| 1263(b) | 10:600*l*(e) (as applicable to 10:600*l*(b) (less (1)–(3))).<br>34:430(e) (as applicable to 34:430(b) (less (1)–(3))). | |

In subsection (a), the words "has at least" are substituted for the words "has attained". The words "has at least" are substituted for the words "having completed not less than". The words "on that date which" are omitted as surplusage. 10:600l(b) (15 words before (1)) and 34:430(b) (15 words before (1)) are omitted as covered by section 1275 of this title.

In subsection (b), the words "The Secretary concerned may defer" are substituted for the words "may, in the discretion of the Secretary, be deferred". The words "determination of his" are inserted for clarity. The words "not more than" are substituted for the words "a period not to exceed". The words "he would otherwise be required to retire under this section" are substituted for the words "retirement * * * would otherwise be required". The words "which is required", "possible", "proper", and "a period of" are omitted as surplusage.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

**AMENDMENTS**

**1992**—Subsec. (a). Pub. L. 102–484 substituted "580 note" for "564 note".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "511 of the Career Compensation Act of 1949, as amended (70 Stat. 114; 10 U.S.C. 564 note)" for "311 of title 37".

**1967**—Subsec. (a). Pub. L. 90–130 struck out reference to section 1255 of this title.

**1966**—Subsec. (a). Pub. L. 89–718 substituted "8301" for "47a".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1275. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1275 | [No source]. | [No source]. |

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

# CHAPTER 65—RETIREMENT OF WARRANT OFFICERS FOR LENGTH OF SERVICE

Sec.
1293. Twenty years or more: warrant officers.
1305. Thirty years or more: regular warrant officers.
1315. Computation of retired pay: law applicable.

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Pub. L. 96–513, title V, §501(19), Dec. 12, 1980, 94 Stat. 2908, substituted "RETIREMENT OF

WARRANT OFFICERS FOR LENGTH OF SERVICE" for "RETIREMENT FOR LENGTH OF SERVICE" as chapter heading.

## §1293. Twenty years or more: warrant officers

The Secretary concerned may, upon the warrant officer's request, retire a warrant officer of any armed force under his jurisdiction who has at least 20 years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(Aug. 10, 1956, ch. 1041, 70A Stat. 101; Pub. L. 87–649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1293 | 10:600(d) (as applicable to 10:600*l*(a)).<br>10:600<br>*l*(a).<br>34:135(d) (as applicable to 34:430(a)).<br>34:430(a). | May 29, 1954, ch. 249, §§2(d) (as applicable to §14(a)), 14(a), 68 Stat. 157, 162. |

The words, "The Secretary concerned may * * * retire" are substituted for the words "may * * * and in the discretion of the Secretary, be retired". 10:600l(a) (last 14 words) and 34:430(a) (last 14 words) are omitted as covered by section 1315 of this title.

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in text, is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

### AMENDMENTS

**1962**—Pub. L. 87–649 substituted "section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)" for "section 311 of title 37."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### RENEWAL OF TEMPORARY EARLY RETIREMENT AUTHORITY

Pub. L. 112–213, title II, §219, Dec. 20, 2012, 126 Stat. 1558, as amended by Pub. L. 116–283, div. G, title LVXXXII [LXXXII], §8213, Jan. 1, 2021, 134 Stat. 4650, provided that: "For fiscal years 2019 through 2025—

"(1) notwithstanding subsection (c)(1) of section 4403 of the National Defense Authorization Act for Fiscal Year 1993 [Pub. L. 102–484] (10 U.S.C. 1293 note), such section shall apply to the Coast Guard in the same manner and to the same extent it applies to the Department of Defense, except that—

"(A) the Secretary of Homeland Security shall implement such section with respect to the Coast Guard and, for purposes of that implementation, shall apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel; and

"(B) the total number of commissioned officers who retire pursuant to this section may not exceed 200, and the total number of enlisted members who retire pursuant to this section may not exceed 300; and

"(2) only appropriations available for necessary expenses for the operation and maintenance of the Coast Guard shall be expended for the retired pay of personnel who retire pursuant to this section."

## TEMPORARY EARLY RETIREMENT AUTHORITY

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8053], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99, provided that: "During the current fiscal year and hereafter, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102–484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8066, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103–335, title VIII, §8077, Sept. 30, 1994, 108 Stat. 2636.

Pub. L. 103–139, title VIII, §8095, Nov. 11, 1993, 107 Stat. 1461.

Pub. L. 104–106, div. A, title V, §566(c), Feb. 10, 1996, 110 Stat. 328, as amended by Pub. L. 107–372, title II, §272(b), Dec. 19, 2002, 116 Stat. 3094, provided that: "Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 [33 U.S.C. 3001 et seq.] relating to the retirement of members of such commissioned officer corps."

[Pub. L. 104–106, div. A, title V, §566(d), Feb. 10, 1996, 110 Stat. 328, provided that: "This section [amending former section 857a of Title 33, Navigation and Navigable Waters, and enacting provisions set out as a note above] shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995."]

Pub. L. 103–337, div. A, title V, §542(d), Oct. 5, 1994, 108 Stat. 2769, as amended by Pub. L. 107–296, title XVII, §1704(e)(5), Nov. 25, 2002, 116 Stat. 2315, provided that: "Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the Coast Guard in the same manner and to the same extent as that provision applies to the Department of Defense. The Secretary of Homeland Security shall implement the provisions of that section with respect to the Coast Guard and apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel."

Pub. L. 102–484, div. D, title XLIV, §4403, Oct. 23, 1992, 106 Stat. 2702, as amended by Pub. L. 103–160, div. A, title V, §561(a), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 104–106, div. A, title XV, §1504(c)(3), Feb. 10, 1996, 110 Stat. 514; Pub. L. 105–261, div. A, title V, §561(a), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 107–314, div. A, title V, §554, Dec. 2, 2002, 116 Stat. 2553; Pub. L. 112–81, title V, §504(b), Dec. 31, 2011, 125 Stat. 1390; Pub. L. 112–239, div. A, title X, §1076(k), Jan. 2, 2013, 126 Stat. 1955; Pub. L. 114–328, div. A, title V, §508(a), Dec. 23, 2016, 130 Stat. 2109; Pub. L. 115–232, div. A, title V, §553(b)(5), title VIII, §809(b)(2), Aug. 13, 2018, 132 Stat. 1772, 1840, Pub. L. 119–60, div. A, title VI, §603, Dec. 18, 2025, 139 Stat. 905, provided that:

"(a) PURPOSE.—The purpose of this section is to provide the Secretary of Defense a temporary additional force management tool with which to effect the drawdown of military forces during the active force drawdown period.

"(b) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) During the active force drawdown period, the Secretary of the Army may—

"(A) apply the provisions of section 7311 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting 'at least 15 years' for 'at least 20 years' in subsection (a) of that section;

"(B) apply the provisions of section 7314 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting 'at least 15' for 'at least 20'; and

"(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting 'at least 15 years' for 'at least 20 years'.

"(2) During the active force drawdown period, the Secretary of the Navy may—

"(A) apply the provisions of section 8323 of title 10, United States Code, to an officer with at least 15 but less than 20 years of service by substituting 'at least 15 years' for 'at least 20 years' in subsection (a) of that section;

"(B) apply the provisions of section 8330 of such title to an enlisted member of the Navy or Marine

Corps with at least 15 but less than 20 years of service by substituting '15 or more years' for '20 or more years' in the first sentence of subsection (a)[(b)], in the case of an enlisted member of the Navy, and in the second sentence of subsection (b), in the case of an enlisted member of the Marine Corps; and

"(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting 'at least 15 years' for 'at least 20 years'.

"(3) During the active force drawdown period, the Secretary of the Air Force may—

"(A) apply the provisions of section 9311 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting 'at least 15 years' for 'at least 20 years' in subsection (a) of that section; and

"(B) apply the provisions of section 9314 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting 'at least 15' for 'at least 20'.

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—During the period specified in subsection (i)(2), this section does not apply as follows:

"(1) To members of the Coast Guard, notwithstanding section 542(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1293 note).

"(2) To members of the commissioned corps of the National Oceanic and Atmospheric Administration, notwithstanding section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 1293 note).

"(d) REGULATIONS.—The Secretary of each military department may prescribe regulations and policies regarding the criteria for eligibility for early retirement by reason of eligibility pursuant to this section and for the approval of applications for such retirement. Such criteria may include factors such as grade, years of service, and skill.

"(e) COMPUTATION OF RETIRED PAY.—Retired or retainer pay of a member retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) under a provision of title 10, United States Code, by reason of eligibility pursuant to subsection (b) shall be reduced by 1/12th of 1 percent for each full month by which the number of months of active service of the member are less than 240 as of the date of the member's retirement (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve).

"(f) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and subject to the availability of appropriations for this purpose, the Secretary of each military department shall provide in accordance with this section for the payment of retired pay payable during the fiscal years covered by the other provisions of this subsection to members of the Armed Forces under the jurisdiction of that Secretary who are being retired under the authority of this section.

"(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the Armed Forces under the jurisdiction of that Secretary such amount as is necessary to pay the retired pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired pay.

"(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law used for determining the member's years of service for eligibility to retirement) before being retired under the authority of this section.

"(4) The Secretary shall pay the member's retired pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

"(5) For purposes of this subsection—

"(A) the transfer of an enlisted member of the Navy or Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve shall be treated as a retirement; and

"(B) the term 'retired pay' shall be treated as including retainer pay.

"(g) COORDINATION WITH OTHER SEPARATION PROVISIONS.—(1) A member of the Armed Forces retired under the authority of this section is not entitled to benefits under section 1174 or 1175a of title 10, United States Code.

"(2) [Amended section 638a(b)(4)(C) [now 638a(b)(3)(C)] of this title.]

"(h) MEMBERS RECEIVING SSB, VSI, OR VSP.—The Secretary of a military department may retire (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve) pursuant to the authority provided by this section a member of a reserve component who before the date of the enactment of this Act [Oct. 23, 1992] was separated from active duty pursuant to an agreement entered into under section 1174a or 1175 of title 10,

United States Code or who before December 31, 2011, was separated from active duty pursuant to an agreement entered into under section 1175a of such title. The retired or retainer pay of any such member so retired (or transferred) by reason of the authority provided in this section shall be reduced by the amount of any payment to such member before the date of such retirement under the provisions of such agreement.

"(i) ACTIVE FORCE DRAWDOWN PERIOD.—For purposes of this section, the active force drawdown period is (1) the period beginning on the date of the enactment of this Act and ending on September 1, 2002, and (2) the period beginning on December 31, 2011, and ending on December 31, 2030."

[Pub. L. 107–314, div. A, title V, §554, Dec. 2, 2002, 116 Stat. 2553, provided that the amendment made by that section to section 4403 of Pub. L. 102–484, set out above, is effective Jan. 1, 2002.]

## §1305. Thirty years or more: regular warrant officers

(a)(1) Subject to paragraphs (2) and (3), a regular warrant officer who has at least 30 years of active service that could be credited to the officer under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114) shall be retired 60 days after the date on which the officer completes that service, except as provided by section 8301 of title 5.

(2) In the case of a regular Army warrant officer, the calculation of years of active service under paragraph (1) shall include only years of active service as a warrant officer.

(3) In the case of a regular Navy warrant officer in the grade of chief warrant officer, W–5, or a Marine Corps Marine Gunner warrant officer in such grade, the officer shall be retired 60 days after the date on which the officer completes 33 years of total active service.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when the warrant officer would otherwise be required to retire under this section.

(c) Under such regulations as the Secretary concerned may prescribe, the Secretary concerned may defer the retirement under subsection (a) of any warrant officer upon the recommendation of a board of officers and with the consent of the warrant officer, but not later than 60 days after the warrant officer becomes 62 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101; Pub. L. 87–649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 102–190, div. A, title XI, §1116, Dec. 5, 1991, 105 Stat. 1503; Pub. L. 109–364, div. A, title V, §505(c), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 110–417, [div. A], title V, §501, Oct. 14, 2008, 122 Stat. 4432; Pub. L. 112–239, div. A, title V, §504, Jan. 2, 2013, 126 Stat. 1715; Pub. L. 118–31, div. A, title V, §509A, Dec. 22, 2023, 137 Stat. 243.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1305(a) | 10:600(d) (as applicable to 10:600*l*(b)(2)).<br>10:600 *l*(b)(2) (last sentence).<br>10:600r(c) (as applicable to 10:600 *l*(b)(2)).<br>34:135(d) (as applicable to 34:430(b)(2)).<br>34:430(b)(2) (last sentence).<br>34:430c (as applicable to 34:430(b)(2)). | May 29, 1954, ch. 249, §§2(d) (as applicable to §14(b)(2)), 14(b)(2), (e) (as applicable to (b)(2)), 21(c) (as applicable to §14(b)(2)), 68 Stat. 157, 163, 168. |
| 1305(b) | 10:600*l*(e) (as applicable to | |

| | | |
|---|---|---|
| | 10:600*l*(b)(2)).<br>34:430(e) (as applicable to 34:430(b)(2)). | |
| 1305(c) | 10:600*l*(b)(2) (less last sentence).<br>34:430(b)(2) (less last sentence). | |

In subsection (a), the words "has at least" are substituted for the words "has completed". The words "and is not so continued on active service" and "on that date which" are omitted as surplusage. 10:600l(b)(2) (last 16 words of last sentence) and 34:430(b)(2) (last 16 words of last sentence) are omitted as covered by section 1315 of this title.

In subsection (b), the words "The Secretary concerned may defer" are substituted for the words "may, in the discretion of the Secretary, be deferred". The words "determination of his" are inserted for clarity. The words "not more than" are substituted for the words "a period not to exceed". The words "he would otherwise be required to retire under this section" are substituted for the words "retirement * * * would otherwise be required". The words "which is required", "possible", "proper", and "a period of" are omitted as surplusage.

In subsection (c), the words "the Secretary concerned may defer the retirement" are substituted for the words "in the discretion of the Secretary * * * be continued on active service". The words "but not later than" are substituted for the words "but not beyond that date which is".

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(1), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

### AMENDMENTS

**2023**—Subsec. (a)(3). Pub. L. 118–31, §509A(1), inserted "or a Marine Corps Marine Gunner warrant officer in such grade," after "chief warrant officer, W–5,".

Subsec. (b). Pub. L. 118–31, §509A(2), substituted "when the warrant officer" for "when he".

Subsec. (c). Pub. L. 118–31, §509A(3), substituted "as the Secretary concerned" for "as he" and "after the warrant officer" for "after he".

**2013**—Subsec. (a)(1). Pub. L. 112–239, §504(1), substituted "Subject to paragraphs (2) and (3), a regular warrant officer" for "A regular warrant officer (other than a regular Army warrant officer)" and "date on which the officer" for "date on which he".

Subsec. (a)(3). Pub. L. 112–239, §504(2), added par. (3).

**2008**—Subsec. (a). Pub. L. 110–417 designated existing provisions as par. (1), substituted "A regular warrant officer (other than a regular Army warrant officer) who has at least 30 years of active service that could be credited to the officer" for "A regular warrant officer who has at least 30 years of active service as a warrant officer that could be credited to him", and added par. (2).

**2006**—Subsec. (a). Pub. L. 109–364 substituted "A regular warrant officer" for "(1) Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W–5)", inserted "as a warrant officer" after "years of active service" and "the date on which" after "60 days after", and struck out par. (2) which read as follows:

"(2)(A) A regular Army warrant officer in the grade of chief warrant officer, W–5, who has at least 30 years of active service as a warrant officer that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), shall be retired 60 days after the date on which he completes that service, except as provided by section 8301 of title 5.

"(B) A regular Army warrant officer in a warrant officer grade below the grade of chief warrant officer, W–5, who completes 24 years of active service as a warrant officer before he is required to be retired under paragraph (1) shall be retired 60 days after the date on which he completes 24 years of active service as a warrant officer, except as provided by section 8301 of title 5."

**1991**—Subsec. (a). Pub. L. 102–190 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W–5)" for "A permanent regular warrant officer", and added par. (2).

**1966**—Subsec. (a). Pub. L. 89–718 substituted "8301" for "47a".

**1962**—Subsec. (a). Pub. L. 87–649 substituted "section 511 of the Career Compensation Act of 1949, as

amended (70 Stat. 114)" for "section 311 of title 37."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §1315. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1315 | [No source]. | [No source]. |

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

# CHAPTER 67—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.
1331. Reference to chapter 1223.

**PRIOR PROVISIONS**

A prior chapter 67 was transferred to part II of subtitle E of this title and renumbered chapter 1223.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, div. A, title XV, §1503(a)(13), Feb. 10, 1996, 110 Stat. 511, substituted "NON-REGULAR" for "NONREGULAR" in chapter heading.

## §1331. Reference to chapter 1223

Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).

(Added Pub. L. 103–337, div. A, title XVI, §1662(j)(7), Oct. 5, 1994, 108 Stat. 3005.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 1331 to 1338 were renumbered sections 12731 to 12738 of this title, respectively.

# CHAPTER 69—RETIRED GRADE

Sec.
1370. Regular commissioned officers.
1370a. Officers entitled to retired pay for non-regular service.
1371. Warrant officers: general rule.
1372. Grade on retirement for physical disability: members of armed forces.
1373. Higher grade for later physical disability: retired officers recalled to active duty.
[1374. Repealed.]
1375. Entitlement to commission: commissioned officers advanced on retired list.
1376. Temporary disability retired lists.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title V, §508(a)(2), Jan. 1, 2021, 134 Stat. 3584, added items 1370 and 1370a and struck out former item 1370 "Commissioned officers: general rule; exceptions".

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(11), Oct. 5, 1994, 108 Stat. 3013, struck out item 1374 "Reserve commissioned officers: grade on retirement or transfer to Retired Reserve" and substituted "Temporary disability retired lists" for "Retired lists" in item 1376.

**1980**—Pub. L. 96–513, title V, §501(20), Dec. 12, 1980, 94 Stat. 2908, added item 1370.

**1958**—Pub. L. 85–861, §1(30), Sept. 2, 1958, 72 Stat. 1451, added item 1374.

## §1370. Regular commissioned officers

(a) RETIREMENT IN HIGHEST GRADE IN WHICH SERVED SATISFACTORILY.—

(1) IN GENERAL.—Unless entitled to a different retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, Marine Corps, or Space Force who retires under any provision of law other than chapter 61 or 1223 of this title shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily.

(2) DETERMINATION OF SATISFACTORY SERVICE.—The determination of satisfactory service of an officer in a grade under paragraph (1) shall be made as follows:

(A) By the Secretary of the military department concerned, if the officer is serving in a grade at or below the grade of major general or rear admiral.

(B) By the Secretary of Defense, if the officer is serving or has served in a grade above the grade of major general or rear admiral.

(3) EFFECT OF MISCONDUCT IN LOWER GRADE IN DETERMINATION.—If the Secretary of a military department or the Secretary of Defense, as applicable, determines that an officer committed misconduct in a lower grade than the retirement grade otherwise provided for the officer by this section—

(A) such Secretary may deem the officer to have not served satisfactorily in any grade equal to or higher than such lower grade for purposes of determining the retirement grade of the officer under this section; and

(B) the grade next lower to such lower grade shall be the retired grade of the officer under this section.

(4) NATURE OF RETIREMENT OF CERTAIN RESERVE OFFICERS AND OFFICERS IN TEMPORARY GRADES.—A reserve officer, or an officer appointed to a position under section 601 of this title, who is notified that the officer will be released from active duty without the officer's consent and thereafter requests retirement under section 7311, 8323, or 9311 of this title and is retired pursuant to that request is considered for purposes of this section to have been retired involuntarily.

(5) NATURE OF RETIREMENT OF CERTAIN REMOVED OFFICERS.—An officer retired

pursuant to section 1186(b)(1) of this title is considered for purposes of this section to have been retired voluntarily.

(b) RETIREMENT OF OFFICERS RETIRING VOLUNTARILY.—

(1) SERVICE-IN-GRADE REQUIREMENT.—In order to be eligible for voluntary retirement under any provision of this title in a grade above the grade of captain in the Army, Air Force, Marine Corps, or Space Force or lieutenant in the Navy, a commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force must have served on active duty in that grade for a period of not less than three years, except that—

(A) subject to subsection (c), the Secretary of Defense may reduce such period to a period of not less than two years for any officer; and

(B) in the case of an officer to be retired in a grade at or below the grade of major general or rear admiral, the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period of not less than two years.

(2) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense in subparagraph (A) of paragraph (1) may not be delegated. The authority of the Secretary of a military department in subparagraph (B) of paragraph (1), as delegated to such Secretary pursuant to such subparagraph, may not be further delegated.

(3) WAIVER OF REQUIREMENT.—Subject to subsection (c), the President may waive the application of the service-in-grade requirement in paragraph (1) to officers covered by that paragraph in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under this paragraph may not be delegated.

(4) LIMITATION ON REDUCTION OR WAIVER OF REQUIREMENT FOR OFFICERS UNDER INVESTIGATION OR PENDING MISCONDUCT.—In the case of an officer to be retired in a grade above the grade of colonel in the Army, Air Force, Marine Corps, or Space Force or captain in the Navy, the service-in-grade requirement in paragraph (1) may not be reduced pursuant to that paragraph, or waived pursuant to paragraph (3), while the officer is under investigation for alleged misconduct or while there is pending the disposition of an adverse personnel action against the officer.

(5) GRADE AND FISCAL YEAR LIMITATIONS ON REDUCTION OR WAIVER OF REQUIREMENTS.—The aggregate number of members of an armed force in a grade for whom reductions are made under paragraph (1), and waivers are made under paragraph (3), in a fiscal year may not exceed—

(A) in the case of officers to be retired in a grade at or below the grade of major in the Army, Air Force, Marine Corps, or Space Force or lieutenant commander in the Navy, the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade;

(B) in the case of officers to be retired in the grade of lieutenant colonel or colonel in the Army, Air Force, Marine Corps, or Space Force or commander or captain in the Navy, the number equal to four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in the applicable grade; or

(C) in the case of officers to be retired in the grade of brigadier general or major general in the Army, Air Force, Marine Corps, or Space Force or rear admiral (lower half) or rear admiral in the Navy, the number equal to 10 percent [1] of the authorized active-duty strength for that fiscal year for officers of that armed force in the applicable grade.

(6) NOTICE TO CONGRESS ON REDUCTION OR WAIVER OF REQUIREMENTS FOR GENERAL, FLAG, AND EQUIVALENT OFFICER GRADES.—In the case of an officer to be retired in a grade that is a general or flag officer grade who is eligible to retire in that grade only by reason of an exercise of the authority in paragraph (1) to reduce the service-in-grade requirement in that paragraph, or the authority in paragraph (3) to waive that requirement, the Secretary of Defense or the President, as applicable, shall, not later than 60 days prior to the date

on which the officer will be retired in that grade, notify the Committees on Armed Services of the Senate and the House of Representatives of the exercise of the applicable authority with respect to that officer.

(7) RETIREMENT IN NEXT LOWEST GRADE FOR OFFICERS NOT MEETING REQUIREMENT.—An officer described in paragraph (1) whose length of service in the highest grade held by the officer while on active duty does not meet the period of the service-in-grade requirement applicable to the officer under this subsection shall, subject to subsection (c), be retired in the next lower grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the military department concerned or the Secretary of Defense, as applicable.

(c) OFFICERS IN O–9 AND O–10 GRADES.—

(1) IN GENERAL.—An officer of the Army, Navy, Air Force, Marine Corps, or Space Force who is serving or has served in a position of importance and responsibility designated by the President to carry the grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force or vice admiral or admiral in the Navy under section 601 of this title may be retired in such grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and the Committees on Armed Services of the Senate and the House of Representatives that the officer served on active duty satisfactorily in such grade.

(2) PROHIBITION ON DELEGATION.—The authority of the Secretary of Defense to make a certification with respect to an officer under paragraph (1) may not be delegated.

(3) REQUIREMENTS IN CONNECTION WITH CERTIFICATION.—A certification with respect to an officer under paragraph (1) shall—

(A) be submitted by the Secretary of Defense such that it is received by the President and the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days prior to the date on which the officer will be retired in the grade concerned;

(B) include an up-to-date copy of the military biography of the officer; and

(C) include the statement of the Secretary as to whether or not potentially adverse, adverse, or reportable information regarding the officer was considered by the Secretary in making the certification.

(4) CONSTRUCTION WITH OTHER NOTICE.—In the case of an officer under paragraph (1) to whom a reduction in the service-in-grade requirement under subsection (b)(1) or waiver under subsection (b)(3) applies, the requirement for notification under subsection (b)(6) is satisfied if the notification is included in the certification submitted by the Secretary of Defense under paragraph (1).

(d) CONDITIONAL RETIREMENT GRADE AND RETIREMENT FOR OFFICERS PENDING INVESTIGATION OR ADVERSE ACTION.—

(1) IN GENERAL.—When an officer serving in a grade at or below the grade of major general in the Army, Air Force, Marine Corps, or Space Force or rear admiral in the Navy is under investigation for alleged misconduct or pending the disposition of an adverse personnel action at the time of retirement, the Secretary of the military department concerned may—

(A) conditionally determine the highest permanent grade of satisfactory service on active duty of the officer pending completion of the investigation or resolution of the personnel action, as applicable; and

(B) retire the officer in that conditional grade, subject to subsection (e).

(2) OFFICERS IN O–9 AND O–10 GRADES.—When an officer described by subsection (c)(1) is under investigation for alleged misconduct or pending the disposition of an adverse personnel action at the time of retirement, the Secretary of Defense may—

(A) conditionally determine the highest permanent grade of satisfactory service on active duty of the officer, pending completion of the investigation or personnel action, as applicable;

and

(B) retire the officer in that conditional grade, subject to subsection (e).

(3) REDUCTION OR WAIVER OF SERVICE-IN-GRADE REQUIREMENT PROHIBITED FOR GENERAL, FLAG, AND EQUIVALENT OFFICER GRADES.—In conditionally determining the retirement grade of an officer under paragraph (1)(A) or (2)(A) of this subsection to be a grade above the grade of colonel in the Army, Air Force, Marine Corps, or Space Force or captain in the Navy, the service-in-grade requirement in subsection (b)(1) may not be reduced pursuant to subsection (b)(1) or waived pursuant to subsection (b)(3).

(4) PROHIBITION ON DELEGATION.—The authority of the Secretary of a military department under paragraph (1) may not be delegated. The authority of the Secretary of Defense under paragraph (2) may not be delegated.

(e) FINAL RETIREMENT GRADE FOLLOWING RESOLUTION OF PENDING INVESTIGATION OR ADVERSE ACTION.—

(1) NO CHANGE FROM CONDITIONAL RETIREMENT GRADE.—If the resolution of an investigation or personnel action with respect to an officer who has been retired in a conditional retirement grade pursuant to subsection (d) results in a determination that the conditional retirement grade in which the officer was retired will not be changed, the conditional retirement grade of the officer shall, subject to paragraph (3), be the final retired grade of the officer.

(2) CHANGE FROM CONDITIONAL RETIREMENT GRADE.—If the resolution of an investigation or personnel action with respect to an officer who has been retired in a conditional retirement grade pursuant to subsection (d) results in a determination that the conditional retirement grade in which the officer was retired should be changed, the changed retirement grade shall be the final retired grade of the officer under this section, except that if the final retirement grade provided for an officer pursuant to this paragraph is the grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force or vice admiral or admiral in the Navy, the requirements in subsection (c) shall apply in connection with the retirement of the officer in such final retirement grade.

(3) RECALCULATION OF RETIRED PAY.—

(A) IN GENERAL.—If the final retired grade of an officer is as a result of a change under paragraph (2), the retired pay of the officer under chapter 71 of this title shall be recalculated accordingly, with any modification of the retired pay of the officer to go into effect as of the date of the retirement of the officer.

(B) PAYMENT OF HIGHER AMOUNT FOR PERIOD OF CONDITIONAL RETIREMENT GRADE.—If the recalculation of the retired pay of an officer results in an increase in retired pay, the officer shall be paid the amount by which such increased retired pay exceeded the amount of retired pay paid the officer for retirement in the officer's conditional grade during the period beginning on the date of the retirement of the officer in such conditional grade and ending on the effective date of the change of the officer's retired grade. For an officer whose retired grade is determined pursuant to subsection (c), the effective date of the change of the officer's retired grade for purposes of this subparagraph shall be the date that is 60 days after the date on which the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives the certification required by subsection (c) in connection with the retired grade of the officer.

(C) RECOUPMENT OF OVERAGE DURING PERIOD OF CONDITIONAL RETIREMENT GRADE.—If the recalculation of the retired pay of an officer results in a decrease in retired pay, there shall be recouped from the officer the amount by which the amount of retired pay paid the officer for retirement in the officer's conditional grade exceeded such decreased retired pay during the period beginning on the date of the retirement of the officer in such conditional grade and ending on the effective date of the change of the officer's retired grade.

(f) FINALITY OF RETIRED GRADE DETERMINATIONS.—

(1) IN GENERAL.—Except for a conditional determination authorized by subsection (d), a determination of the retired grade of an officer pursuant to this section is administratively final on the day the officer is retired, and may not be reopened, except as provided in paragraph (2).

(2) REOPENING.—A final determination of the retired grade of an officer may be reopened as follows:

(A) If the retirement or retired grade of the officer was procured by fraud.

(B) If substantial evidence comes to light after the retirement that could have led to determination of a different retired grade under this section if known by competent authority at the time of retirement.

(C) If a mistake of law or calculation was made in the determination of the retired grade.

(D) If the applicable Secretary determines, pursuant to regulations prescribed by the Secretary of Defense, that good cause exists to reopen the determination of retired grade.

(3) APPLICABLE SECRETARY.—For purposes of this subsection, the applicable Secretary for purposes of a determination or action specified in this subsection is—

(A) the Secretary of the military department concerned, in the case of an officer retired in a grade at or below the grade of major general in the Army, Air Force, Marine Corps, or Space Force or rear admiral in the Navy; or

(B) the Secretary of Defense, in the case of an officer retired in a grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force or vice admiral or admiral in the Navy.

(4) NOTICE AND LIMITATION.—If a final determination of the retired grade of an officer is reopened in accordance with paragraph (2), the applicable Secretary—

(A) shall notify the officer of the reopening; and

(B) may not make an adverse determination on the retired grade of the officer until the officer has had a reasonable opportunity to respond regarding the basis for the reopening of the officer's retired grade.

(5) ADDITIONAL NOTICE ON REOPENING FOR OFFICERS RETIRED IN O–9 AND O–10 GRADES.—If the determination of the retired grade of an officer whose retired grade was provided for pursuant to subsection (c) is reopened, the Secretary of Defense shall also notify the President and the Committees on Armed Services of the Senate and the House of Representatives.

(6) MANNER OF MAKING OF CHANGE.—If the retired grade of an officer is proposed to be changed through the reopening of the final determination of an officer's retired grade under this subsection, the change in grade shall be made—

(A) in the case of an officer whose retired grade is to be changed to a grade at or below the grade of major general in the Army, Air Force, Marine Corps, or Space Force or rear admiral in the Navy in accordance with subsections (a) and (b)—

(i) by the Secretary of Defense (who may delegate such authority only as authorized by clause (ii)); or

(ii) if authorized by the Secretary of Defense, by the Secretary of the military department concerned (who may not further delegate such authority);

(B) in the case of an officer whose retired grade is to be changed to the grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force or vice admiral or admiral in the Navy, by the President, by and with the advice and consent of the Senate.

(7) RECALCULATION OF RETIRED PAY.—If the final retired grade of an officer is changed through the reopening of the officer's retired grade under this subsection, the retired pay of the officer under chapter 71 of this title shall be recalculated. Any modification of the retired pay of the officer as a result of the change shall go into effect on the effective date of the change of the

officer's retired grade, and the officer shall not be entitled or subject to any changed amount of retired pay for any period before such effective date. An officer whose retired grade is changed as provided in paragraph (6)(B) shall not be entitled or subject to a change in retired pay for any period before the date on which the Senate provides advice and consent for the retirement of the officer in such grade.

(g) HIGHEST PERMANENT GRADE DEFINED.—In this section, the term "highest permanent grade" means a grade at or below the grade of major general in the Army, Air Force, Marine Corps, or Space Force, or rear admiral in the Navy.

(Added Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3574; amended Pub. L. 118–31, div. A, title XVII, §1741(a)(5), Dec. 22, 2023, 137 Stat. 679; Pub. L. 118–159, div. A, title V, §521(f)(1), title XVII, §1701(a)(20), Dec. 23, 2024, 138 Stat. 1881, 2204.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1370, Added Pub. L. 96–513, title I, §112, Dec. 12, 1980, 94 Stat. 2876; amended Pub. L. 101–510, div. A, title V, §522, Nov. 5, 1990, 104 Stat. 1561; Pub. L. 103–160, div. A, title V, §561(d), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 103–337, div. A, title XVI, §§1641, 1671(c)(7)(B), Oct. 5, 1994, 108 Stat. 2968, 3014; Pub. L. 104–106, div. A, title V, §502(a), (b), (f), (g), Feb. 10, 1996, 110 Stat. 292, 293; Pub. L. 104–201, div. A, title V, §544(a), Sept. 23, 1996, 110 Stat. 2522; Pub. L. 105–261, div. A, title V, §§512(a), 513(a), 561(d), (o), Oct. 17, 1998, 112 Stat. 2007, 2025, 2026; Pub. L. 106–65, div. A, title X, §1066(a)(9), (b)(3), Oct. 5, 1999, 113 Stat. 770, 772; Pub. L. 106–398, §1 [[div. A], title V, §571(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 107–107, div. A, title V, §§502, 514, Dec. 28, 2001, 115 Stat. 1080, 1093; Pub. L. 107–314, div. A, title V, §505, Dec. 2, 2002, 116 Stat. 2533; Pub. L. 108–136, div. A, title V, §506, Nov. 24, 2003, 117 Stat. 1457; Pub. L. 109–163, div. A, title V, §501, Jan. 6, 2006, 119 Stat. 3225; Pub. L. 112–239, div. A, title V, §§506, 507, Jan. 2, 2013, 126 Stat. 1716; Pub. L. 114–328, div. A, title V, §508(d), Dec. 23, 2016, 130 Stat. 2109; Pub. L. 115–91, div. A, title V, §504, Dec. 12, 2017, 131 Stat. 1374; Pub. L. 115–232, div. A, title V, §509, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1749, 1840; (As amended Pub. L. 116–92, div. A, title V, §509(a), (b), Dec. 20, 2019, 133 Stat. 1346, related to commissioned officers: general rule for retirement with exceptions, prior to repeal by Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3574.

### AMENDMENTS

**2024**—Subsec. (b)(1). Pub. L. 118–159, §1701(a)(20)(A), substituted "or Space Force" for "or, Space Force" in introductory provisions.

Subsec. (f)(6)(A). Pub. L. 118–159, §1701(a)(20)(B)(i), inserted a comma after "Air Force" in introductory provisions.

Subsec. (f)(6)(B). Pub. L. 118–159, §1701(a)(20)(B)(ii), inserted a comma after "Navy".

Subsec. (g). Pub. L. 118–159, §521(f)(1), substituted "Marine Corps, or Space Force, or rear admiral in the Navy" for "or Marine Corps, rear admiral in the Navy, or an equivalent grade in the Space Force".

**2023**—Subsec. (a)(2). Pub. L. 118–31, §1741(a)(5)(A), substituted "major general or rear admiral." for "major general, rear admiral in the Navy, or the equivalent grade in the Space Force." in subpars. (A) and (B).

Subsec. (b)(1). Pub. L. 118–31, §1741(a)(5)(B)(i)(I), substituted "Marine Corps, or, Space Force or lieutenant in the Navy," for "or Marine Corps, lieutenant in the Navy, or the equivalent grade in the Space Force," in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 118–31, §1741(a)(5)(B)(i)(II), substituted "major general or rear admiral" for "major general in the Army, Air Force, or Marine Corps, rear admiral in the Navy, or an equivalent grade in the Space Force".

Subsec. (b)(4). Pub. L. 118–31, §1741(a)(5)(B)(ii), substituted "Marine Corps, or Space Force or captain in the Navy," for "or Marine Corps, captain in the Navy, or the equivalent grade in the Space Force,".

Subsec. (b)(5)(A). Pub. L. 118–31, §1741(a)(5)(B)(iii)(I), substituted "Marine Corps, or Space Force or lieutenant commander in the Navy," for "or Marine Corps, lieutenant commander in the Navy, or the equivalent grade in the Space Force,".

Subsec. (b)(5)(B). Pub. L. 118–31, §1741(a)(5)(B)(iii)(II), substituted "Marine Corps, or Space Force or commander or captain in the Navy," for "or Marine Corps, commander or captain in the Navy, or an

equivalent grade in the Space Force,".

Subsec. (b)(5)(C). Pub. L. 118–31, §1741(a)(5)(B)(iii)(III), substituted "Marine Corps, or Space Force or rear admiral (lower half) or rear admiral in the Navy," for "or Marine Corps, rear admiral (lower half) or rear admiral in the Navy, or an equivalent grade in the Space Force,".

Subsec. (b)(6). Pub. L. 118–31, §1741(a)(5)(B)(iv), struck out ", or an equivalent grade in the Space Force," after "general or flag officer grade".

Subsec. (c)(1). Pub. L. 118–31, §1741(a)(5)(C), which directed amendment of par. (1) "by 'or Marine Corps' and all that follows through 'Space Force' and inserting 'Marine Corps, or Space Force or vice admiral or admiral in the Navy'", was executed by striking "or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force" and inserting "Marine Corps, or Space Force or vice admiral or admiral in the Navy" to reflect the probable intent of Congress.

Subsec. (d)(1). Pub. L. 118–31, §1741(a)(5)(D)(i), substituted "Marine Corps, or Space Force or rear admiral in the Navy" for "or Marine Corps, rear admiral in the Navy, or an equivalent grade in the Space Force".

Subsec. (d)(3). Pub. L. 118–31, §1741(a)(5)(D)(ii), substituted "Marine Corps, or Space Force or captain in the Navy," for "or Marine Corps, captain in the Navy, or the equivalent grade in the Space Force,".

Subsec. (e)(2). Pub. L. 118–31, §1741(a)(5)(E), substituted "Marine Corps, or Space Force or vice admiral or admiral in the Navy," for "or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force,".

Subsec. (f)(3)(A). Pub. L. 118–31, §1741(a)(5)(F)(i)(I), which directed amendment of subpar. (A) by striking "or Marine Corps" and all that followed through "Space Force," and inserting "Marine Corps, or Space Force or rear admiral in the Navy", was executed by making the substitution for "or Marine Corps, rear admiral in the Navy, or the equivalent grade in the Space Force" to reflect the probable intent of Congress, as there was no comma following "Space Force".

Subsec. (f)(3)(B). Pub. L. 118–31, §1741(a)(5)(F)(i)(II), which directed amendment of subpar. (B) by striking " 'or Marine Corps' and all that follows through 'Space Force' and inserting "Marine Corps, or Space Force or vice admiral or admiral in the Navy", was executed by striking "or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force" and inserting "Marine Corps, or Space Force or vice admiral or admiral in the Navy" to reflect the probable intent of Congress.

Subsec. (f)(6)(A). Pub. L. 118–31, §1741(a)(5)(F)(ii)(I), substituted "Marine Corps, or Space Force or rear admiral in the Navy" for "or Marine Corps, rear admiral in the Navy, or the equivalent grade in the Space Force," in introductory provisions.

Subsec. (f)(6)(B). Pub. L. 118–31, §1741(a)(5)(F)(ii)(II), substituted "Marine Corps, or Space Force or vice admiral or admiral in the Navy" for "or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TEMPORARY INCREASE IN FISCAL YEAR PERCENTAGE LIMITATION FOR REDUCTION OR WAIVER OF SERVICE-IN-GRADE REQUIREMENT FOR GENERAL AND FLAG OFFICERS TO BE RETIRED IN PAY GRADES O–7 AND O–8

Pub. L. 119–60, div. A, title V, §505, Dec. 18, 2025, 139 Stat. 858, provided that: "During the period beginning on the date of the enactment of this Act [Dec. 18, 2025] and ending on September 30, 2027, subparagraph (C) of section 1370(b)(5) of title 10, United States Code, shall be applied by substituting '15 percent' for '10 percent'."

### OTHER REFERENCES

Pub. L. 116–283, div. A, title V, §508(c), Jan. 1, 2021, 134 Stat. 3585, provided that: "In the determination of the retired grade of a commissioned officer of the Armed Forces entitled to retired pay under chapter 1223 of title 10, United States Code, who retires after the date of the enactment of this Act [Jan. 1, 2021], any reference in a provision of law or regulation to section 1370 of title 10, United States Code, in such determination with respect to such officer shall be deemed to be a reference to section 1370a of title 10, United States Code (as amended by subsection (a))."

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions relating to the time-in-grade requirement for voluntary retirement of officers not subsequently promoted, see section 629 of Pub. L. 96–513, set out as a note under section 611 of this title.

[1] *See Temporary Increase in Fiscal Year Percentage Limitation for Reduction or Waiver of Service-In-Grade Requirement for General and Flag Officers To Be Retired in Pay Grades O–7 and O–8 note below.*

## §1370a. Officers entitled to retired pay for non-regular service

(a) RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—Unless entitled to a different grade, or to credit for satisfactory service in a different grade under some other provision of law, a person who is entitled to retired pay under chapter 1223 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest permanent grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary of the military department concerned in accordance with this section.

(b) SERVICE-IN-GRADE REQUIREMENT FOR OFFICERS IN GRADES BELOW O–5.—In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander (in the case of the Navy), a person covered by subsection (a) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

(c) SERVICE-IN-GRADE REQUIREMENT FOR OFFICES IN GRADES ABOVE O–4.—

(1) IN GENERAL.—In order to be credited with satisfactory service in an officer grade above major or lieutenant commander (in the case of the Navy), a person covered by subsection (a) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years.

(2) SATISFACTION OF REQUIREMENT BY CERTAIN OFFICERS NOT COMPLETING THREE YEARS.—A person covered by paragraph (1) who has completed at least six months of satisfactory service in grade may be credited with satisfactory service in the grade in which serving at the time of transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade, if the person is transferred from an active status or discharged as a reserve commissioned officer—

(A) solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service; or

(B) because the person no longer meets the qualifications for membership in the Ready Reserve solely because of a physical disability, as determined in accordance with chapter 61 of this title, and at the time of such transfer or discharge the person (pursuant to section 12731b of this title or otherwise) meets the service requirements established by section 12731(a) of this title for eligibility for retired pay under chapter 1223 of this title, unless the disability is described in section 12731b of this title.

(3) REDUCTION IN SERVICE-IN-GRADE REQUIREMENTS.—

(A) OFFICERS IN GRADES BELOW GENERAL AND FLAG OFFICER GRADES.—In the case of a person to be retired in a grade below brigadier general or rear admiral (lower half) in the Navy, the Secretary of Defense may authorize the Secretary of a military department to reduce, subject to subparagraph (B), the three-year period of service-in-grade required by paragraph (1) to a period not less than two years. The authority of the Secretary of a military department under this subparagraph may not be delegated.

(B) LIMITATION.—The number of reserve commissioned officers of an armed force in the same grade for whom a reduction is made under subparagraph (A) during any fiscal year in the period of service-in-grade otherwise required by paragraph (1) may not exceed the number equal to 2 percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.

(C) OFFICERS IN GENERAL AND FLAG OFFICERS GRADES.—The Secretary of

Defense may reduce the three-year period of service-in-grade required by paragraph (1) to a period not less than two years for any person, including a person who, upon transfer to the Retired Reserve or discharge, is to be credited with satisfactory service in a general or flag officer grade under that paragraph. The authority of the Secretary of Defense under this subparagraph may not be delegated.

(D) NOTICE TO CONGRESS ON REDUCTION IN SERVICE-IN-GRADE REQUIREMENTS FOR GENERAL AND FLAG OFFICER GRADES.—In the case of a person to be credited under this section with satisfactory service in a grade that is a general or flag officer grade who is eligible to be credited with such service in that grade only by reason of an exercise of authority in subparagraph (C) to reduce the three-year service-in-grade requirement otherwise applicable under paragraph (1), the Secretary of Defense shall, not later than 60 days prior to the date on which the person will be credited with such satisfactory service in that grade, notify the Committees on Armed Services of the Senate and the House of Representatives of the exercise of authority in subparagraph (C) with respect to that person.

(4) OFFICERS SERVING IN GRADES ABOVE O–6 INVOLUNTARILY TRANSFERRED FROM ACTIVE STATUS.—A person covered by paragraph (1) who has completed at least six months of satisfactory service in a grade above colonel or (in the case of the Navy) captain and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status may be credited with satisfactory service in the grade in which serving at the time of such transfer, notwithstanding failure of the person to complete three years of service in that grade.

(5) ADJUTANTS AND ASSISTANT ADJUTANTS GENERAL.—If a person covered by paragraph (1) has completed at least six months of satisfactory service in grade, the person was serving in that grade while serving in a position of adjutant general required under section 314 of title 32 or while serving in a position of assistant adjutant general subordinate to such a position of adjutant general, and the person has failed to complete three years of service in that grade solely because the person's appointment to such position has been terminated or vacated as described in section 324(b) of such title, the person may be credited with satisfactory service in that grade, notwithstanding the failure of the person to complete three years of service in that grade.

(6) OFFICERS RECOMMENDED FOR PROMOTION SERVING IN CERTAIN GRADE BEFORE PROMOTION.—To the extent authorized by the Secretary of the military department concerned, a person who, after having been recommended for promotion in a report of a promotion board but before being promoted to the recommended grade, served in a position for which that grade is the minimum authorized grade may be credited for purposes of paragraph (1) as having served in that grade for the period for which the person served in that position while in the next lower grade. The period credited may not include any period before the date on which the Senate provides advice and consent for the appointment of that person in the recommended grade.

(7) OFFICERS QUALIFIED FOR FEDERAL RECOGNITION SERVING IN CERTAIN GRADE BEFORE APPOINTMENT.—To the extent authorized by the Secretary of the military department concerned, a person who, after having been found qualified for Federal recognition in a higher grade by a board under section 307 of title 32, serves in a position for which that grade is the minimum authorized grade and is appointed as a reserve officer in that grade may be credited for the purposes of paragraph (1) as having served in that grade. The period of the service for which credit is afforded under the preceding sentence may be only the period for which the person served in the position after the Senate provides advice and consent for the appointment.

(8) RETIREMENT IN NEXT LOWEST GRADE FOR OFFICERS NOT MEETING SERVICE-IN-GRADE REQUIREMENTS.—A person whose length of service in the highest grade held does not meet the service-in-grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.

(d) OFFICERS IN O–9 AND O–10 GRADES.—

(1) IN GENERAL.—A person covered by this section in the Army, Navy, Air Force, Marine Corps, or Space Force who is serving or has served in a position of importance and responsibility designated by the President to carry the grade of lieutenant general or general in the Army, Air Force, Marine Corps, or Space Force, or vice admiral or admiral in the Navy under section 601 of this title may be retired in such grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and the Committees on Armed Services of the Senate and the House of Representatives that the officer served satisfactorily in such grade.

(2) PROHIBITION ON DELEGATION.—The authority of the Secretary of Defense to make a certification with respect to an officer under paragraph (1) may not be delegated.

(3) REQUIREMENTS IN CONNECTION WITH CERTIFICATION.—A certification with respect to an officer under paragraph (1) shall—

(A) be submitted by the Secretary of Defense such that it is received by the President and the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days prior to the date on which the officer will be retired in the grade concerned;

(B) include an up-to-date copy of the military biography of the officer; and

(C) include the statement of the Secretary as to whether or not potentially adverse, adverse, or reportable information regarding the officer was considered by the Secretary in making the certification.

(4) CONSTRUCTION WITH OTHER NOTICE.—In the case of an officer under paragraph (1) who is eligible to be credited with service in a grade only by reason of the exercise of the authority in subsection (c)(3)(C) to reduce the three-year service-in-grade requirement under subsection (c)(1), the requirement for notification under subsection (c)(3)(D) is satisfied if the notification is included in the certification submitted by the Secretary of Defense under paragraph (1).

(e) CONDITIONAL RETIREMENT GRADE AND RETIREMENT FOR OFFICERS UNDER INVESTIGATION FOR MISCONDUCT OR PENDING ADVERSE PERSONNEL ACTION .—The retirement grade, and retirement, of a person covered by this section who is under investigation for alleged misconduct or pending the disposition of an adverse personnel action at the time of retirement is as provided for by section 1370(d) of this title. In the application of such section 1370(d) for purposes of this subsection, any reference to "active duty" shall be deemed not to apply, and any reference to a provision of section 1370 of this title shall be deemed to be a reference to the analogous provision of this section.

(f) FINAL RETIREMENT GRADE FOLLOWING RESOLUTION OF PENDING INVESTIGATION OR ADVERSE ACTION.—The final retirement grade under this section of a person described in subsection (e) following resolution of the investigation or personnel action concerned is the final retirement grade provided for by section 1370(e) of this title. In the application of such section 1370(e) for purposes of this subsection, any reference to a provision of section 1370 of this title shall be deemed to be a reference to the analogous provision of this section. In the application of paragraph (3) of such section 1370(e) for purposes of this subsection, the reference to "chapter 71 of this title" shall be deemed to be a reference to "chapter 1223 of this title".

(g) FINALITY OF RETIRED GRADE DETERMINATIONS.—

(1) IN GENERAL.—Except for a conditional determination authorized by subsection (e), a determination of the retired grade of a person pursuant to this section is administratively final on the day the person is retired, and may not be reopened.

(2) REOPENING.—A determination of the retired grade of a person may be reopened in accordance with applicable provisions of section 1370(f) of this title. In the application of such section 1370(f) for purposes of this subsection, any reference to a provision of section 1370 of this title shall be deemed to be a reference to the analogous provision of this section. In the application of paragraph (7) of such section 1370(f) for purposes of this paragraph, the reference to "chapter 71 of this title" shall be deemed to be a reference to "chapter 1223 of this title".

(h) HIGHEST PERMANENT GRADE DEFINED.—In this section, the term "highest permanent grade" means a grade at or below the grade of major general in the Army, Air Force, Marine Corps, or Space Force, or rear admiral in the Navy.

(Added Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3580; amended Pub. L. 118–31, div. A, title XVIII, §1801(a)(16), Dec. 22, 2023, 137 Stat. 684; Pub. L. 118–159, div. A, title V, §521(f)(2), Dec. 23, 2024, 138 Stat. 1881.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (d)(1). Pub. L. 118–159, §521(f)(2)(A), substituted "Marine Corps, or Space Force" for "or Marine Corps" in two places.

Subsec. (h). Pub. L. 118–159, §521(f)(2)(B), substituted "Marine Corps, or Space Force," for "or Marine Corps".

**2023**—Subsec. (e). Pub. L. 118–31, §1801(a)(16)(A), inserted "to" before " 'active duty' ".

Subsec. (f). Pub. L. 118–31, §1801(a)(16)(B), substituted "1370(e)" for "1370e(e)" and "reference to 'chapter 71 of this title' " for "reference to 'chapter 71' of this title".

## §1371. Warrant officers: general rule

Unless entitled to a higher retired grade under some other provision of law, a warrant officer shall be retired in the highest regular or reserve warrant officer grade in which the warrant officer served satisfactorily, as determined by the Secretary concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104; Pub. L. 114–92, div. A, title V, §505, Nov. 25, 2015, 129 Stat. 808.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1371 | 10:600*l*(d) (1st sentence).<br>10:600<br>*l*(f) (1st sentence, as applicable to retired grade).<br>34:430(d) (1st sentence).<br>34:430(f) (1st sentence, as applicable to retired grade). | May 29, 1954, ch. 249, §14(d) (1st sentence), (f) (1st sentence, as applicable to retired grade), 68 Stat. 163, 164. |

The first 13 words are substituted for 10:600l(f) (1st sentence, as applicable to retired grade) and 34:430 (1st sentence, as applicable to retired grade). The words "for a period of more than 30 days" are substituted for the words "under * * * orders specifying that the period of such duty shall be for a period in excess of thirty days or for an indefinite period", to conform to the definition of those words in section 101(23) of this title. The words "any full time duty" are omitted, since the duty specified would necessarily be full time duty. The words "under this section" and "competent" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2015**—Pub. L. 114–92 amended section generally. Prior to amendment, text read as follows: "Unless entitled to a higher retired grade under some other provision of law, a warrant officer retires, as determined by the Secretary concerned, in the permanent regular or reserve warrant officer grade, if any, that he held on the day before the date of his retirement, or in any higher warrant officer grade in which he served on active duty satisfactorily, as determined by the Secretary, for a period of more than 30 days."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PUBLIC HEALTH SERVICE**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## §1372. Grade on retirement for physical disability: members of armed forces

Unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

(1) The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.

(2) The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.

(3) The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of a physical examination.

(4) The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of a physical examination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 104–201, div. A, title V, §577, Sept. 23, 1996, 110 Stat. 2536.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1372 | 37:272(d) (104th through 128th words, as applicable to retired grade; and 2d and 5th provisos).<br>37:279 (less applicability to 37:272(d) (last proviso)). | Oct. 12, 1949, ch. 681, §§402(d) (104th through 128th words, as applicable to retired grade; and 2d and 5th provisos), 409 (less applicability to §402(d) (last proviso)), 63 Stat. 818, 823. |

Clause (1) is substituted for 37:272(d) (104th through 128th words, as applicable to retired grade). The words "if his name was not carried on that list" are substituted for the words "whichever is earlier".

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pars. (3), (4). Pub. L. 104–201 substituted "a physical examination" for "his physical examination for promotion".

## §1373. Higher grade for later physical disability: retired officers recalled to active duty

Unless entitled to a higher retired grade under some other provision of law, a member of an armed force whose retired pay is computed under section 1402(d) or 1402a(d) of this title is entitled, upon his release from active duty, to the grade equivalent to the grade or rank upon which his retired pay is based under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 96–342, title VIII, §813(b)(3)(C), Sept. 8, 1980, 94 Stat. 1104.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1373 | 37:272(d) (last proviso, as applicable to retired grade).<br>37:279 (as applicable to 37:272(d) (last proviso)). | Oct. 12, 1949, ch. 681, §§402(d) (last proviso, as applicable to retired grade), 409 (as applicable to §402(d) (last proviso)), 63 Stat. 819, 823. |

The applicability of the rule stated in 37:279 to all members whose retired pay is computed under 37:272(d) (last proviso) is based on an opinion of the Judge Advocate General of the Army (JAGA 1953/3305, 24 Apr. 1953).

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Pub. L. 96–342 inserted reference to section 1402a(d) of this title.

## [§1374. Repealed. Pub. L. 103–337, div. A, title XVI, §1662(k)(2), Oct. 5, 1994, 108 Stat. 3006]

Section, added Pub. L. 85–861, §1(29), Sept. 2, 1958, 72 Stat. 1451; amended Pub. L. 86–559, §1(4), June 30, 1960, 74 Stat. 265; Pub. L. 99–661, div. A, title V, §508(d)(2), Nov. 14, 1986, 100 Stat. 3867, related to reserve commissioned officers' grade on retirement or transfer to Retired Reserve. See sections 12771 to 12773 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

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

## §1375. Entitlement to commission: commissioned officers advanced on retired list

A commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force who is advanced on a retired list is entitled to a commission in the grade to which he is advanced.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 116–283, div. A, title IX, §924(b)(3)(W), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1375 | 10:1014.<br>34:394. | Mar. 4, 1911, ch. 266, 36 Stat. 1354. |

The words "has been or shall hereafter", "by operation of or in accordance with law", and "and shall receive" are omitted as surplusage. The words "in the grade to which he is advanced" are substituted for the words "in accordance with such advanced rank".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

## §1376. Temporary disability retired lists

The Secretary concerned shall maintain a temporary disability retired list containing the names of members of the armed forces under his jurisdiction placed thereon under sections 1202 and 1205 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 85–861, §1(31), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 103–337, div. A, title XVI, §1662(k)(3), Oct. 5, 1994, 108 Stat. 3006.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1376(a) | 50:927(a) (less 1st 11 words).<br>50:927(b) (less last 7 words of 1st sentence).<br>37:271 (less (a)). | Oct. 12, 1949, ch. 681, §401 (less (a)), 63 Stat. 816.<br>July 9, 1952, ch. 608, §207(a) (less 1st 11 words), (b) (less last 7 words of 1st sentence), 66 Stat. 483. |
| 1376(b) | | |

In subsection (a), the word "maintained" is substituted for the word "established", and in subsection (b), the word "maintain" is substituted for the word "established", since the lists have been established and are published annually.

In subsection (a), the words "who are in the Retired Reserve" are substituted for 50:927(a) (last 11 words), since section 271 of this title prescribes the conditions for being placed in the Retired Reserve. 50:927(b) (last sentence) is omitted, since the revised section provides that both lists be maintained.

In subsection (b), the words "containing the names placed thereon under section 1202 or 1205 of this title" are substituted for the words "upon which shall be placed the names of all members of his service entitled to such placement pursuant to the provisions of this subchapter".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1376 | [Uncodified]. | July 24, 1956, ch. 677, §2 (less clauses (a)–(i), as applicable to 10:1376), 70 Stat. 623. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 substituted "Temporary disability retired lists" for "Retired lists" as section catchline, struck out "(b)" before "The Secretary concerned", and struck out subsec. (a) which read as follows: "Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under his jurisdiction who are in the Retired Reserve." See section 12774 of this title.

**1958**—Subsec. (b). Pub. L. 85–861 struck out provisions requiring publication of the temporary disability retired list annually in the official register or other official publication of the armed force concerned.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

# CHAPTER 71—COMPUTATION OF RETIRED PAY

Sec.
1401. Computation of retired pay.
1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index.
1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.
1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980.
1403. Disability retired pay: treatment under Internal Revenue Code of 1986.
1404. Applicability of section 8301 of title 5.
1405. Years of service.
1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.
1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.
1407a. Retired pay base: officers retired in general or flag officer grades.
1408. Payment of retired or retainer pay in compliance with court orders.
1409. Retired pay multiplier.
1410. Restoral of full retirement amount at age 62 for certain members entering on or after August 1, 1986.
1411. Rules of construction.
1412. Administrative provisions.
[1413. Repealed.]
1413a. Combat-related special compensation.
1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation.
1415. Lump sum payment of certain retired pay.

**EDITORIAL NOTES**

**AMENDMENTS**

**2015**—Pub. L. 114–92, div. A, title VI, §633(a)(2), Nov. 25, 2015, 129 Stat. 850, added item 1415.

**2011**—Pub. L. 111–383, div. A, title VI, §632(b)(2), Jan. 7, 2011, 124 Stat. 4240, added item 1412 and struck out former item 1412 "Rounding to next lower dollar".

**2006**—Pub. L. 109–364, div. A, title VI, §641(b), Oct. 17, 2006, 120 Stat. 2259, added item 1407a.

**2003**—Pub. L. 108–136, div. A, title VI, §641(d), (e)(2), Nov. 24, 2003, 117 Stat. 1516, 1517, struck out item 1413 "Special compensation for certain severely disabled uniformed services retirees", and substituted "Combat-related special compensation" for "Special compensation for certain combat-related disabled uniformed services retirees" in item 1413a and "Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation" for "Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority" in item 1414.

**2002**—Pub. L. 107–314, div. A, title VI, §636(a)(3), Dec. 2, 2002, 116 Stat. 2576, added item 1413a.

**2001**—Pub. L. 107–107, div. A, title VI, §641(c), Dec. 28, 2001, 115 Stat. 1150, added item 1414.

**1999**—Pub. L. 106–65, div. A, title VI, §§643(b)(3)(B), 658(a)(2), Oct. 5, 1999, 113 Stat. 664, 669, inserted "certain" before "members" in item 1410 and added item 1413.

**1987**—Pub. L. 100–26, §7(h)(2)(B), Apr. 21, 1987, 101 Stat. 282, substituted colon for semicolon and "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954" in item 1403.

**1986**—Pub. L. 99–348, title III, §304(b)(2), July 1, 1986, 100 Stat. 703, inserted "of members who first became members before September 8, 1980" in item 1402, substituted "Retired pay base for members who first became members before September 8, 1980: final basic pay" for "Limitations on revocation of retired pay" in item 1406 and "Retired pay base for members who first became members after September 7, 1980: high-36 month average" for "Retired pay base" in item 1407, and added items 1409 to 1412.

**1982**—Pub. L. 97–252, title X, §1002(b), Sept. 8, 1982, 96 Stat. 735, added item 1408.

**1980**—Pub. L. 96–513, title V, §511(51)(C), (52)(C), Dec. 12, 1980, 94 Stat. 2924, 2925, substituted "of members who first became members after September 7, 1980" for "in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981" in item 1402a, and substituted "Internal Revenue Code of 1954" for "title 26" in item 1403.

Pub. L. 96–342, title VIII, §813(a)(2), (b)(3)(B), 94 Stat. 1101, 1104, added items 1402a and 1407.

**1966**—Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115, substituted "8301" for "47a" in item 1404.

Pub. L. 89–652, §2(2), Oct. 14, 1966, 80 Stat. 902, added item 1406.

**1963**—Pub. L. 88–132, §5(g)(2), Oct. 2, 1963, 77 Stat. 214, added item 1401a.

**1958**—Pub. L. 85–422, §11(a)(1)(B), May 20, 1958, 72 Stat. 131, added item 1405.

## §1401. Computation of retired pay

(a) DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.—The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, and 3, as modified by the applicable footnotes.

| Formula No. | For sections | Column 1 Take | Column 2 Multiply by | Column 3 Add |
|---|---|---|---|---|
| 1 | 1201<br>1204 | Retired pay base as computed under section 1406(b) or 1407. | As member elects—<br>(1) the retired pay multiplier determined for the member under section 1409 of this title; [1] or<br>(2) the percentage of disability, not to exceed 75%, on date when retired. | |
| 2 | 1202<br>1205 | Retired pay base as computed under section 1406(b) or 1407. | As member elects—<br>(1) the retired pay multiplier determined for the member under section 1409 of this title; [1] or<br>(2) the percentage of disability, not to exceed 75%, on date when his name was placed on temporary disability retired list. | Amount necessary to increase product of columns 1 and 2 to 50% of retired pay base upon which computation is based. |
| 4 | 580<br>1263<br>1293<br>1305 | Retired pay base as computed under section 1406(b) or 1407. | The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405. | |

| | | | |
|---|---|---|---|
| 5 | 633<br>634<br>635<br>636<br>1251<br>1252<br>1253 | Retired pay base as computed under section 1406(b) or 1407. | The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405. |

[1] Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 106; Pub. L. 85–422, §§6(7), 11(a)(2), May 20, 1958, 72 Stat. 129, 131; Pub. L. 88–132, §5(h)(1), Oct. 2, 1963, 77 Stat. 214; Pub. L. 89–132, §6, Aug. 21, 1965, 79 Stat. 547; Pub. L. 90–207, §3(1), Dec. 16, 1967, 81 Stat. 653; Pub. L. 92–455, §1, Oct. 2, 1972, 86 Stat. 761; Pub. L. 96–342, title VIII, §813(b)(1), Sept. 8, 1980, 94 Stat. 1102; Pub. L. 96–513, title I, §113(a), title V, §511(49), Dec. 12, 1980, 94 Stat. 2876, 2924; Pub. L. 98–94, title IX, §§922(a)(1), 923(a)(1), (2)(A), Sept. 24, 1983, 97 Stat. 641, 642; Pub. L. 98–557, §35(b), Oct. 30, 1984, 98 Stat. 2877; Pub. L. 99–348, title II, §201(a), July 1, 1986, 100 Stat. 691; Pub. L. 102–484, div. A, title X, §1052(18), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–337, div. A, title XVI, §1662(j)(2), Oct. 5, 1994, 108 Stat. 3004; Pub. L. 109–163, div. A, title V, §509(d)(1)(A), Jan. 6, 2006, 119 Stat. 3231; Pub. L. 109–364, div. A, title V, §502(d)(1), Oct. 17, 2006, 120 Stat. 2177; Pub. L. 111–383, div. A, title VI, §631(a), Jan. 7, 2011, 124 Stat. 4239; Pub. L. 112–239, div. A, title X, §1076(f)(19), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 114–92, div. A, title VI, §631(c)(1)(A), Nov. 25, 2015, 129 Stat. 843.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1401 Introductory clause | 10:600*l*(f) (1st sentence, less applicability to retired grade).<br>34:430(f) (1st sentence, less applicability to retired grade). | June 29, 1948, ch. 708, §303 (1st 91 words and 1st proviso), 62 Stat. 1088. |
| 1401(1) | 37:272(d) (less 1st 55 words; less 104th through 128th words, as applicable to retired grade; and less 1st, 2d, 4th, 5th, and last provisos).<br>37:272(e) (1st proviso of last sentence). | Oct. 12, 1949, ch. 681, §§402(d) (less 30th through 55th words; less 104th through 128th words, as applicable to retired grade; and less 2d, 5th, and last provisos), 402(e) (1st proviso of last sentence), 63 Stat. 818, 819. |
| 1401(2) | 37:272(d) (1st 29, and 51st through 55th, words, and 4th proviso). | May 29, 1954, ch. 249, §14(d) (less 1st sentence), (f) (1st sentence, less applicability to retired grade; and last sentence), 68 Stat. 163, 164. |
| 1401(3) | 10:1036b (1st 91 words and 1st proviso).<br>34:440j (1st 91 words and 1st proviso). | |
| 1401(4) | 10:600*l*(d) (2d sentence).<br>10:600*l*(f) (last sentence). | |

| | | |
|---|---|---|
| | 34:430(d) (2d sentence).<br>34:430(f) (last sentence). | |
| 1401, footnote 1. | [No source]. | |
| 1401, footnote 2. | [No source]. | |
| 1401, footnote 3. | 37:272(d) (1st proviso); 10:600*l* (d) (less 1st and 2d sentences).<br>34:430(d) (less 1st and 2d sentences). | |

In the introductory paragraph, the applicability of the rule stated in the third sentence to situations not expressly covered by the laws named in the source statutes above is a practical construction that the rule must be reciprocally applied in all cases.

In formula No. 1, the words "whichever is earlier", in 37:272(d) (clause (2)), are omitted, since they are contrary to the rule stated in 37:272(e) (1st proviso of last sentence).

In formula No. 3, the computation is based on monthly pay instead of annual pay to conform to the other formulas of the revised section. The words "basic pay" are substituted for the words "base and longevity pay" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). The words "which he would receive if serving, at the time granted such pay, on active duty" are omitted as surplusage and to conform to the other formulas of the revised section, since the effect of these words is covered by footnote 1. The words "at any time" are substituted for the words "during his entire period of service".

Footnotes 1 and 2 reflect the long-standing construction of those provisions dealing with computation of retired pay which do not specifically provide that the member is entitled to compute his retired pay on the basis of the monthly basic pay to which he would be entitled if he were on active duty in his retired grade. The pertinent basic computation provisions for such retirement either provide for computation of retired pay on the same basis as the provisions dealing with higher retired grade, or the basic retirement provisions were enacted after the provisions authorizing higher retired grade. The words "at rates applicable on date of retirement * * * and adjust to reflect later changes in permanent rates", in footnote 1; and all of footnote 2; are based on the source statutes incorporated in the formulas to which footnotes 1 and 2 apply, as interpreted in an opinion of the Judge Advocate General of the Army (1953/4120, 14 May 1953).

In footnote 3, the words "and disregard a part of a year that is less than six months" are made applicable to formulas Nos. 1 and 2. The legislative history of the Career Compensation Act of 1949 (Hearings before the Committee on Armed Services of the Senate on H.R. 5007, 81st Congress, First Session, page 313, July 6, 1949) indicates that the provisions, upon which formulas Nos. 1 and 2 are based, should be construed to require that a fraction of less than one-half of a year be disregarded. It also indicates that other retirement laws that are also silent on this point should be similarly construed.

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a). Pub. L. 114–92, in column 2 of table, substituted "the retired pay multiplier determined for the member under section 1409 of this title" for "2½% of years of service credited to him under section 1208" in formula numbers 1 and 2 and "section 1409" for "section 1409(a)" in formula numbers 4 and 5.

**2013**—Subsec. (a). Pub. L. 112–239 substituted "columns 1, 2, and 3," for "columns 1, 2, 3, and 4," in introductory provisions.

**2011**—Subsec. (a). Pub. L. 111–383 in column 2 of table inserted ", not to exceed 75%," after "percentage of disability" in two places and struck out column 4 of table which directed subtraction of excess over 75 percent of retired pay base upon which computation is based in formulas 1 and 2.

**2006**—Subsec. (a). Pub. L. 109–364 in table inserted "1253" after "1252" in column under heading "For sections".

Pub. L. 109–163 in table inserted "1252" after "1251" in column under heading "For sections".

**1994**—Subsec. (a). Pub. L. 103–337 in table struck out formula number 3 which provided formula for computing retired pay under former section 1331 of this title.

**1992**—Subsec. (a). Pub. L. 102–484 substituted "580" for "564" in column in table under heading "For sections".

**1986**—Subsec. (a). Pub. L. 99–348, §201(a)(1), (2), designated existing provision as subsec. (a), added heading, and struck out third, fourth, and fifth sentences which read as follows: "The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1. However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or of any other provision of law, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title."

Pub. L. 99–348, §201(a)(3), amended column 1 of table generally by substituting provisions that retired pay be computed by taking the retired pay base as computed under section 1406(b) or 1407 of this title for provisions that retired pay be computed for a person who first became a member of a uniformed service, as defined in section 1407(a)(2) of this title, after Sept. 7, 1980, by taking the monthly retired pay base as computed under section 1407(b) of this title, and for all others, by taking the monthly basic pay to which the member was entitled under various circumstances.

Pub. L. 99–348, §201(a)(4), substituted in column 2 of table a multiplier of the retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405 for a multiplier of 2½% of years of service credited under section 1405 for formulas 4 and 5 and struck out "Excess over 75% of pay upon which computation is based." in column 4 of table for formulas 4 and 5.

Pub. L. 99–348, §201(a)(5), in columns 3 and 4 substituted "retired pay base" for "pay" wherever appearing.

Pub. L. 99–348, §201(a)(6), redesignated footnote 3 as 1, and struck out former footnote 1 which provided computation at rates applicable on date of retirement or date when the member's name was placed on temporary disability retired list, as the case may be, footnote 2 which provided computation at rates applicable on the date when retired pay is granted, footnote 4 which provided computation at the highest rates of basic pay applicable to an officer who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, while so serving in that office and computation at the highest rate of basic pay applicable to an enlisted person who has served as sergeant major of the Army, master chief petty officer of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, while he served if that rate is higher than the rate authorized by the table, and footnote 5 which provided for purposes of this section that an officer's retired grade be determined as if sections 3962(b) and 8962(b) did not apply.

Pub. L. 99–348, §201(a)(7), in column 2 of table substituted footnote 1 designation for footnote 3 designation wherever appearing.

Subsec. (b). Pub. L. 99–348, §201(a)(8), added subsec. (b).

**1984**—Pub. L. 98–557 inserted reference to Commandant of the Coast Guard in footnote 4 of table.

**1983**—Pub. L. 98–94, §922(a)(1), inserted "The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

Pub. L. 98–94, §923(a)(1), (2)(A), in footnote 3 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

**1980**—Pub. L. 96–513, §113(a), inserted formula 5 in table of formulae set out in the section and added footnote 5.

Pub. L. 96–513, §511(49), in formula 4 table of sections struck out reference to section 1255, in heading for Column 1 substituted reference to Sept. 7, 1980, for reference to date of enactment of Department of Defense Authorization Act, 1981, and in footnote 4 substituted reference to master chief petty officer of the Navy, for reference to senior enlisted advisor of the Navy.

Pub. L. 96–342 in heading for column 1 of table inserted provisions respecting applicability to persons becoming members after the date of the enactment of the Department of Defense Authorization Act, 1981.

**1972**—Pub. L. 92–455 substituted in second sentence of footnote 4 of table "chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard," for "chief master sergeant of the Air Force, or sergeant major of the Marine Corps,".

**1967**—Pub. L. 90–207 inserted sentence to footnote 4 of table requiring the computation of retired pay for an enlisted person who has served as senior noncommissioned officer of his service at the highest rate of basic pay applicable to him while he so served, if that rate is higher than the rate authorized by the table.

**1965**—Pub. L. 89–132 struck out "increased, for members credited with two or less years of service for basic pay purposes, by 6%" from column 1 of formula 1 and column 1 of formula 2.

**1963**—Pub. L. 88–132 struck out from footnote 1 of table ", and adjust to reflect later changes in applicable

permanent rates" after "as the case may be."

**1958**—Pub. L. 85–422, §6(7)(A), inserted provisions in Column 1 of formulas 1 and 2 permitting the taking of the monthly basic pay to which a member was entitled on the day before retirement or placement on temporary disability retired list, increased, for members credited with two or less years of service for basic pay purposes, by 6 percent.

Pub. L. 85–422, §11(a)(2), substituted "under section 1405 of this title" for "in computing basic pay" in column 2 of formula 4.

Pub. L. 85–422, §6(7)(B), added footnote 4.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114–92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title VI, §631(d), Jan. 7, 2011, 124 Stat. 4240, provided that: "The tables in sections 1401(a), 1402(d), and 1402a(d) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Jan. 7, 2011], shall continue to apply to the computation or recomputation of retired or retainer pay for persons who first became entitled to retired or retainer pay under subtitle A of such title on or before the date of the enactment of this Act. The amendments made by this section [amending this section and sections 1402 and 1402a of this title] shall apply only with respect to persons who first become entitled to retired or retainer pay under such subtitle after that date."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–557, §35(c), Oct. 30, 1984, 98 Stat. 2877, provided that: "The amendments made by this section [amending this section and provisions set out as a note under section 1009 of Title 37, Pay and Allowances of the Uniformed Services] shall become effective on October 1, 1984".

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title IX, §922(e), Sept. 24, 1983, 97 Stat. 642, provided that: "The amendments made by this section [enacting section 6333 of this title and amending this section, sections 1401a, 1402, 1402a, 1437, 1451, 3991, 3992, 6151, 6383, 8991, and 8992 of this title, section 423 of Title 14, Coast Guard, section 853o of Title 33, Navigation and Navigable Waters, section 212 of Title 42, The Public Health and Welfare] shall take effect on October 1, 1983."

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 113(a) of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, and amendment by section 511(49) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–132 effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

### EFFECTIVE DATE OF 1963 AMENDMENT

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

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 6(7) of Pub. L. 85–422 inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see section 6 of Pub. L. 85–422, set out in part under section 3991 of this title.

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

## SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–348, §1(a), July 1, 1986, 100 Stat. 682, provided that: "This Act [enacting sections 134a, 1406, 1407, and 1409 to 1412 of this title, redesignating former section 1406 of this title as section 1338 [now 12738] of this title, amending this section, sections 101, 135, 136a, 716, 1040, 1338 [now 12738], 1401a, 1402, 1402a, 1405, 1447, 1451, 1452, 2830, 3925, 3991, 3992, 5083, 5201, 6151, 6322, 6323, 6325, 6326, 6330, 6333, 6383, 8925, 8991, and 8992 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, sections 46, 47, 51, 288, 291 to 293, 327, 334, 353 to 355, 357, 362, and 421 to 424 of Title 14, Coast Guard, section 853o of Title 33, Navigation and Navigable Waters, and sections 211 and 212 of Title 42, The Public Health and Welfare, repealing former section 1407 and section 6328 of this title, enacting provisions set out as notes under this section and sections 135 and 12731 of this title, and repealing provisions set out as notes under this section and section 6330 of this title] may be cited as the 'Military Retirement Reform Act of 1986'."

## SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–252, title X, §1001, Sept. 8, 1982, 96 Stat. 730, provided that: "This title [enacting section 1408 of this title, amending sections 1072, 1076, 1086, 1447, 1448, and 1450 of this title, and enacting provisions set out as notes under sections 1408 and 2208 of this title] may be cited as the 'Uniformed Services Former Spouses' Protection Act'."

## ANNUAL ELIGIBILITY DETERMINATION PROCEDURES

Pub. L. 117–81, div. A, title VI, §605(a), Dec. 27, 2021, 135 Stat. 1768, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall prescribe in regulations a single annual eligibility determination procedure for determinations of eligibility for military retired or retainer pay and survivor annuities in connection with military service as a replacement of the current procedures in connection with the Certificate of Eligibility and Report of Existence for military retirees and annuitants."

## TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS MEMBER OF ALASKA TERRITORIAL GUARD DURING WORLD WAR II

Pub. L. 111–84, div. A, title VI, §645, Oct. 28, 2009, 123 Stat. 2368, provided that:

"(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 705) [amending section 106 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 106 of Title 38] shall be treated as active service for purposes of the computation under chapter 61, 71, 371 [now 745], 571 [now 841], 871 [now 945], or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

"(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after the date of the enactment of this Act [Oct. 28, 2009]. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

"(c) WORLD WAR II DEFINED.—In this section, the term 'World War II' has the meaning given that term in section 101(8) of title 38, United States Code."

Similar provisions were contained in the following appropriation act:

Pub. L. 111–118, div. A, title VIII, §8055, Dec. 19, 2009, 123 Stat. 3441.

## RECOMPUTATION OF RETIRED PAY FOR CERTAIN RECENTLY RETIRED OFFICERS

Pub. L. 106–65, div. A, title VI, §601(e), Oct. 5, 1999, 113 Stat. 648, provided that: "In the case of a commissioned officer of the uniformed services who retired during the period beginning on April 30, 1999,

through December 31, 1999, and who, at the time of retirement, was in pay grade O–7, O–8, O–9, or O–10, the retired pay of that officer shall be recomputed, effective as of January 1, 2000, using the rate of basic pay that would have been applicable to the computation of that officer's retired pay if the provisions of paragraph (2) of section 203(a) of title 37, United States Code, as added by subsection (d), had taken effect on April 30, 1999."

## SIX-MONTH ROUNDING RULE

Pub. L. 99–348, title III, §305(b), July 1, 1986, 100 Stat. 704, provided that:

"(1) GENERAL RULE.—Retired pay or retainer pay may not be paid to a covered member of the Armed Forces (as defined in paragraph (3)) for any month in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served.

"(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to a member who before January 1, 1982—

"(A) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve;

"(B) was being processed for retirement under the provisions of chapter 61 of title 10, United States Code, or who was on the temporary disability retired list and thereafter retired under the provisions of section 1210(c) or 1210(d) of such title; or

"(C) was retired or in an inactive status and would have been eligible for retired pay under the provisions of chapter 67 [now 1223] of such title, but for the fact that the person was under 60 years of age.

"(3) DEFINITION OF COVERED MEMBER.—For the purposes of this subsection, the term 'covered member of the Armed Forces' means a member of the Armed Forces who became entitled to retired or retainer pay during the period beginning on January 1, 1982, and ending on September 30, 1983.

"(4) REPEAL OF SOURCE LAW.—Section 8054 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473) [formerly set out as a note below], is repealed.

"(5) CROSS REFERENCE.—For the effective date of October 1, 1983, for provisions making permanent programmatic changes in law to accomplish the policy provided in such section 8054 (and prior provisions of law), see section 923(h) of the Department of Defense Authorization Act, 1984 (Public Law 98–94) [probably means section 923(g) of Pub. L. 98–94, set out as an Effective Date of 1983 Amendment note under section 1174 of this title]."

## LIMITATION ON PAYMENT OF RETIRED OR RETAINER PAY TO REFLECT FRACTIONAL YEAR ADJUSTMENTS

Pub. L. 98–473, title I, §101(h) [title VIII, §8054], Oct. 12, 1984, 98 Stat. 1904, 1933, prohibited, with certain exceptions, payment of retired pay or retainer pay of a member of the Armed Forces for any month who, on or after January 1, 1982, became entitled to retired or retainer pay, in an amount greater than the amount otherwise determined payable after reductions necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for part of a year of service to permit credit for a part of a year of service only for such month or months actually served, prior to repeal by Pub. L. 99–348, title III, §305(b)(4), July 1, 1986, 100 Stat. 705.

## INCREASE IN PAY AND ALLOWANCES OF CERTAIN PERSONS WHO SERVED AS GENERALS OF THE ARMY, FLEET ADMIRALS OF THE NAVY, GENERAL OF THE MARINE CORPS, OR ADMIRAL IN THE COAST GUARD

Pub. L. 90–207, §5, Dec. 16, 1967, 81 Stat. 654, provided that: "Notwithstanding any other provision of law, a member of an armed force who is entitled to pay and allowances under any of the following provisions of law on September 30, 1967, shall continue to receive the pay and allowances to which he was entitled on that day plus an increase of 4.5 per centum in the total of his pay and allowances:

"(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

"(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

"(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224)."

## INCREASE IN RETIRED OR RETAINER PAY OF MEMBERS ENTITLED THERETO ON OR AFTER OCTOBER 1, 1967

Pub. L. 90–207, §6, Dec. 16, 1967, 81 Stat. 654, provided that: "Notwithstanding any other provision of law, a member or former member of a uniformed service who initially becomes entitled to retired pay or retainer pay on or after October 1, 1967, shall be entitled to have that pay computed using the rates of basic pay prescribed by the first section of this Act [amending section 203(a) of Title 37]."

## INCREASES IN RETIRED OR RETAINER PAY

Pub. L. 89–501, title III, §303, July 13, 1966, 80 Stat. 278, provided that: "Notwithstanding any other provision of law, a member or former member of a uniformed service who initially becomes entitled to retired pay or retainer pay on the effective date of this title shall be entitled to have that pay computed using the rates of basic pay prescribed by the first section of this title [amending section 203(a) of Title 37]."

Effective date of section 303 of Pub. L. 89–501 as the first day of the first pay period which begins on or after July 1, 1966, see section 304 of Pub. L. 89–501, set out as Effective Date of 1966 Amendments note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

Pub. L. 89–132, §5(a), Aug. 21, 1965, 79 Stat. 547, provided that: "The retired pay or retainer pay of a member or former member of a uniformed service who is entitled to that pay computed under rates of basic pay in effect before the effective date of this Act [Sept. 1, 1965] shall be increased, effective that date, by the per centum (adjusted to the nearest one-tenth of 1 per centum) that the Consumer Price Index (all items—United States city average), published by the Bureau of Labor Statistics, for the calendar month immediately preceding the effective date of this Act has increased over the average monthly index for calendar year 1962."

## CONTINUATION OF PAY AND ALLOWANCES OF CERTAIN PERSONS WHO SERVED AS GENERALS OF THE ARMY, FLEET ADMIRALS OF THE NAVY, GENERAL OF THE MARINE CORPS, OR ADMIRAL IN THE COAST GUARD

Pub. L. 89–132, §7, Aug. 21, 1965, 79 Stat. 547, provided that: "Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act [Sept. 1, 1965] shall continue to receive the pay and allowances to which he was entitled on that day:

"(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

"(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

"(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224)."

## INCREASE IN RETIRED PAY TO PERSONS RETIRED BEFORE JUNE 1, 1958

Pub. L. 85–422, §4, May 20, 1958, 72 Stat. 128, as amended by Pub. L. 85–855, §1(a), Aug. 28, 1958, 72 Stat. 1104, provided that:

"(a) Except for members covered by section 7 of this Act, members and former members of the uniformed services who are entitled to retired pay, retirement pay, retainer pay, or equivalent pay, on the day before the effective date of this Act [June 1, 1958], shall be entitled to an increase of 6 per centum of that pay to which they were entitled on that date.

"(b) Notwithstanding any other provision of law, a member of a uniformed service retired under any provision of law, or transferred to the Fleet Reserve or Fleet Marine Corps Reserve, on the effective date of this Act [June 1, 1958] shall have his retired pay or retainer pay computed on the basis of the rates of basic pay set forth in the Career Compensation Act of 1949, as amended by this Act, or on the rates of basic pay set forth in the Career Compensation Act of 1949 on the day before the effective date of this Act, plus 6 per centum of that pay, whichever is greater.

"(c) Section 5 of the Career Incentive Act of 1955 (69 Stat. 22) does not apply to any person who is retired, or to whom retired pay, retirement pay, retainer pay, or equivalent pay (including temporary disability retired pay) is granted, on or after the effective date of this Act [June 1, 1958]".

Pub. L. 85–855, §1(b), Aug. 28, 1958, 72 Stat. 1104, provided that the amendment of section 4(a) of Pub. L. 85–422, which eliminated the words "and persons with two or less years of service for basic pay purposes who were retired for physical disability or placed on the temporary disability retired list" preceding "members and former members" should be effective June 1, 1958.

## PUBLIC HEALTH SERVICE

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## §1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

(a) PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY .—Unless otherwise specifically provided by law, the retired pay of a member or former member of an armed force may not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces.

(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

(1) INCREASE REQUIRED.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

(2) PERCENTAGE INCREASE.—Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

(A) the price index for the base quarter of that year, exceeds

(B) the base index.

(3) REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member and former member who first became a member on or after August 1, 1986, and has elected to receive a bonus under section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354 of title 37, by the difference between—

(A) the percent determined under paragraph (2); and

(B) 1 percent.

(4) SPECIAL RULE FOR PARAGRAPH (3).—If in any case in which an increase in retired pay that would otherwise be made under paragraph (3) is not made by reason of law (other than any provision of this section), then (unless otherwise provided by law) when the next increase in retired pay is made under this subsection, the increase under paragraph (3) shall be carried out so as to achieve the same net increase in retired pay under that paragraph that would have been the case if that law had not been enacted.

(5) ADJUSTMENTS FOR PARTICIPANTS IN MODERNIZED RETIREMENT SYSTEM .—Notwithstanding paragraph (3), if a member or former member participates in the modernized retirement system by reason of section 1409(b)(4) of this title (including pursuant to an election under subparagraph (B) of that section), the Secretary shall increase the retired pay of such member in accordance with paragraph (2).

(6) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

(c) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—

(1) FIRST ADJUSTMENT WITH INTERVENING INCREASE IN BASIC PAY .—Notwithstanding subsection (b) but subject to subsection (f)(3), if a person described in paragraph (3) becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

(A) the price index for the base quarter of that year, exceeds

(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

(2) FIRST ADJUSTMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a person described in paragraph (3) becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased (subject to subsection (f)(3) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section), effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

(A) the base index, exceeds

(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

(3) MEMBERS COVERED.—Paragraphs (1) and (2) apply to a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1406 of this title.

(d) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Notwithstanding subsection (b) but subject to subsection (f)(3), the retired pay of a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 (as in effect before January 28, 2008) or section 354 of title 37 and whose retired pay base is determined under section 1407 of this title shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between the percent by which—

(1) the price index for the base quarter of that year, exceeds

(2) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay.

(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b) but subject to subsection (f)(3), the retired pay of a member or former member of an armed force who first became a member of a uniformed service on or after August 1, 1986, and elected to receive a bonus under section 322 (as in effect before January 28, 2008) or section 354 of title 37 shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

(1) the percent by which—

(A) the price index for the base quarter of that year, exceeds

(B) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and

(2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made.

(f) PREVENTION OF PAY INVERSIONS.—

(1) PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—The monthly retired pay of a member or a former member of an armed force who first became a member of a uniformed service before September 8, 1980, and who initially became entitled to that pay on or after January 1, 1971, may not be less than the monthly retired pay to which he would be entitled if he had become entitled to

retired pay at an earlier date based on the grade in which the member is retired, adjusted to reflect any applicable increases in such pay under this section. In computing the amount of retired pay to which such a member or former member would have been entitled on that earlier date, the computation shall be based on his grade, length of service, and the rate of basic pay applicable to him at that time, except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired. This subsection does not authorize any increase in the monthly retired pay to which a member was entitled for any period before October 7, 1975.

(2) PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Subject to subsections (d) and (e), the monthly retired pay of a member or former member of an armed force who first became a member of a uniformed service on or after September 8, 1980, may not be less, on the date on which the member or former member initially becomes entitled to such pay, than the monthly retired pay to which the member or former member would be entitled on that date if the member or former member had become entitled to retired pay on an earlier date, adjusted to reflect any applicable increases in such pay under this section. However, in the case of a member or former member whose retired pay is computed subject to section 1407(f) of this title, paragraph (1) (rather than the preceding sentence) shall apply in the same manner as if the member or former member first became a member of a uniformed service before September 8, 1980, but only with respect to a calculation as of the date on which the member or former member first became entitled to retired pay.

(3) PREVENTION OF COLA INVERSIONS.—The percentage of the first adjustment under this section in the retired pay of any person, as determined under subsection (c)(1), (c)(2), (d), or (e), may not exceed the percentage increase in retired pay determined under subsection (b)(2) that is effective on the same date as the effective date of such first adjustment.

(g) DEFINITIONS.—In this section:

(1) The term "price index" means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

(2) The term "base quarter" means the calendar quarter ending on September 30 of each year.

(3) The term "base index" means the price index for the base quarter for the most recent adjustment under subsection (b).

(4) The term "retired pay" includes retainer pay.

(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.

(Added Pub. L. 88–132, §5(g)(1), Oct. 2, 1963, 77 Stat. 213; amended Pub. L. 89–132, §5(b), Aug. 21, 1965, 79 Stat. 547; Pub. L. 90–207, §2(a)(1), Dec. 16, 1967, 81 Stat. 652; Pub. L. 91–179, §1, Dec. 30, 1969, 83 Stat. 837; Pub. L. 94–106, title VIII, §806, Oct. 7, 1975, 89 Stat. 538; Pub. L. 94–361, title VIII, §801(a), July 14, 1976, 90 Stat. 929; Pub. L. 94–440, title XIII, §1306(d)(1), Oct. 1, 1976, 90 Stat. 1462; Pub. L. 96–342, title VIII, §812(b)(1), Sept. 8, 1980, 94 Stat. 1098; Pub. L. 98–94, title IX, §§921(a)(1), (b), 922(a)(2), Sept. 24, 1983, 97 Stat. 640, 641; Pub. L. 98–525, title XIV, §1405(26), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99–348, title I, §102, July 1, 1986, 100 Stat. 683; Pub. L. 100–180, div. A, title XII, §1231(21), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100–224, §1, Dec. 30, 1987, 101 Stat. 1536; Pub. L. 100–456, div. A, title VI, §622(a), Sept. 29, 1988, 102 Stat. 1983; Pub. L. 101–189, div. A, title VI, §651(b)(1), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 103–66, title II, §2001, Aug. 10, 1993, 107 Stat. 335; Pub. L. 103–160, div. A, title XI, §1182(e), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 103–335, title VIII, §8114A(b)(1), Sept. 30, 1994, 108 Stat. 2648; Pub. L. 103–337, div. A, title VI, §633(a), Oct. 5, 1994, 108 Stat. 2787; Pub. L. 104–106, div. A, title VI, §631(a), (c), Feb. 10, 1996, 110 Stat. 364, 365; Pub. L. 104–201, div. A, title VI, §§631(a), 632(a), Sept. 23, 1996, 110 Stat. 2549; Pub. L. 106–65, div. A, title VI, §§641(b), 643(b)(1), title X, §1066(a)(10), Oct. 5, 1999, 113 Stat. 662, 663, 771; Pub. L. 107–314, div. A, title

VI, §633, Dec. 2, 2002, 116 Stat. 2572; Pub. L. 110–181, div. A, title VI, §661(b)(3), Jan. 28, 2008, 122 Stat. 178; Pub. L. 113–66, div. A, title VI, §631(a), (b), title X, §1091(a)(9), Dec. 26, 2013, 127 Stat. 785, 876; Pub. L. 113–67, div. A, title IV, §403(a), Dec. 26, 2013, 127 Stat. 1186; Pub. L. 113–76, div. C, title X, §10001(a), (b)(3), Jan. 17, 2014, 128 Stat. 151; Pub. L. 113–82, §2(a), Feb. 15, 2014, 128 Stat. 1009; Pub. L. 113–291, div. A, title VI, §623, Dec. 19, 2014, 128 Stat. 3403; Pub. L. 114–92, div. A, title VI, §631(c)(1)(B), (d), Nov. 25, 2015, 129 Stat. 844, 845.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 322 of title 37 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008), referred to in subsec. (b)(3), and section 322 of title 37 (as in effect before January 28, 2008), referred to in subsecs. (d) and (e), mean section 322 of title 37 as in effect before enactment of Pub. L. 110–181 on January 28, 2008. Section 322 of title 37 was renumbered as section 354 of title 37 and amended by Pub. L. 110–181, div. A, title VI, §661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178.

### AMENDMENTS

**2015**—Pub. L. 114–92, §631(d), which was approved Nov. 25, 2015, provided that the amendments made by Pub. L. 113–67, §403(a)—as amended by Pub. L. 113–76, §10001(a), Pub. L. 113–82, §2(a), and Pub. L. 113–291, §623—and the amendments made by Pub. L. 113–76, §10001(b)(3), which were effective Dec. 1, 2015, would not take effect. See 2013 and 2014 Amendment and Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 notes below.

Subsec. (b)(5), (6). Pub. L. 114–92, §631(c)(1)(B), added par. (5) and redesignated former par. (5) as (6).

**2014**—Subsec. (b)(4)(A). Pub. L. 113–76, §10001(a)(1), which directed insertion of "(other than a member or former member retired under chapter 61 of this title)" after "age", did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Subsec. (b)(4)(F). Pub. L. 113–76, §10001(a)(2), which directed addition of subpar. (F) related to inapplicability to amount of retired pay used in computation of SBP annuity for survivors, did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Subsec. (b)(4)(G). Pub. L. 113–291, §623, which directed substitution of "January 1, 2016" for "January 1, 2014", did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Pub. L. 113–82, §2(a), which directed addition of subpar. (G) related to applicability of subsec. (b)(4) to certain members and former members, did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Subsec. (f)(3). Pub. L. 113–76, §10001(b)(3), which directed insertion of "or subsection (b)(4)" after "subsection (b)(2)" in par. (2) (probably intending par. (3)), did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

**2013**—Subsec. (b)(1). Pub. L. 113–67, §403(a)(1), which directed substitution of "paragraph (2), (3), or (4)" for "paragraphs (2) and (3)", did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Subsec. (b)(4) to (6). Pub. L. 113–67, §403(a)(2), (3), which directed addition of par. (4) related to a reduced percentage for retired members under age 62 and redesignation of pars. (4) and (5) as (5) and (6), respectively, did not take effect pursuant to Pub. L. 114–92, §631(d). See 2015 Amendment note above.

Subsec. (c)(1), (2). Pub. L. 113–66, §631(b), substituted "subsection (f)(3)" for "subsection (f)(2)" in introductory provisions.

Subsecs. (d), (e). Pub. L. 113–66, §1091(a)(9), substituted "before January 28, 2008" for "before the enactment of the National Defense Authorization Act for Fiscal Year 2008" in introductory provisions.

Pub. L. 113–66, §631(b), substituted "subsection (f)(3)" for "subsection (f)(2)" in introductory provisions.

Subsec. (f)(1). Pub. L. 113–66, §631(a)(1), substituted "PREVENTION OF RETIRED PAY INVERSIONS FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—The" for " PREVENTION OF RETIRED PAY INVERSIONS.—Notwithstanding any other provision of law, the" and inserted "who first became a member of a uniformed service before September 8, 1980, and" after "of an armed force".

Subsec. (f)(2), (3). Pub. L. 113–66, §631(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

**2008**—Subsecs. (b)(3), (d), (e). Pub. L. 110–181, in introductory provisions, substituted "section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354" for "section 322".

**2002**—Subsec. (c)(1). Pub. L. 107–314, §633(a)(1), inserted "but subject to subsection (f)(2)" after "Notwithstanding subsection (b)" in introductory provisions.

Subsec. (c)(2). Pub. L. 107–314, §633(a)(2), inserted "(subject to subsection (f)(2) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section)" after "shall be increased" in introductory provisions.

Subsec. (d). Pub. L. 107–314, §633(a)(1), (b)(1), in introductory provisions, inserted "but subject to subsection (f)(2)" after "Notwithstanding subsection (b)" and "or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 of title 37" after "August 1, 1986,".

Subsec. (e). Pub. L. 107–314, §633(a)(1), (b)(2), in introductory provisions, inserted "but subject to subsection (f)(2)" after "Notwithstanding subsection (b)" and "and elected to receive a bonus under section 322 of title 37" after "August 1, 1986,".

Subsec. (f). Pub. L. 107–314, §633(a)(3), designated existing provisions as par. (1), inserted par. heading, realigned margins, and added par. (2).

**1999**—Subsec. (b)(1). Pub. L. 106–65, §643(b)(1)(A), substituted "INCREASE REQUIRED" for "IN GENERAL" in heading.

Subsec. (b)(2). Pub. L. 106–65, §1066(a)(10), struck out subpar. (A) designation and heading "GENERAL RULE", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned their margins, and struck out former subpars. (B) and (C) which read as follows:

"(B) SPECIAL RULE FOR FISCAL YEAR 1996.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1995, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1996.

"(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title."

Pub. L. 106–65, §643(b)(1)(B), substituted "PERCENTAGE INCREASE" for "PRE-AUGUST 1, 1986 MEMBERS" in heading.

Pub. L. 106–65, §641(b)(1), substituted "Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member" for "The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986,".

Subsec. (b)(3). Pub. L. 106–65, §643(b)(1)(C), substituted "REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS" for "POST-AUGUST 1, 1986 MEMBERS" in heading.

Pub. L. 106–65, §641(b)(2), inserted "and has elected to receive a bonus under section 322 of title 37," after "August 1, 1986,".

**1996**—Subsec. (b)(2)(B). Pub. L. 104–201, §631(a), substituted "SPECIAL RULE FOR FISCAL YEAR 1996" for "SPECIAL RULES FOR FISCAL YEARS 1996 AND 1998" as subpar. heading, struck out cl. (i) designation and heading "FISCAL YEAR 1996" before "In the case of", and struck out cl. (ii) which read as follows: "FISCAL YEAR 1998.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September 1998."

Pub. L. 104–106, §631(c), repealed Pub. L. 103–335, §8114A(b)(1). See 1994 Amendment note below.

Pub. L. 104–106, §631(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "SPECIAL RULES FOR FISCAL YEARS 1994 THROUGH 1998.—

"(i) FISCAL YEAR 1994.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

"(ii) FISCAL YEARS 1995 THROUGH 1998.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1994, 1995, 1996, or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year."

Subsec. (c). Pub. L. 104–201, §632(a), added subsec. (c) and struck out former subsec. (c) which read as follows: "RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective."

Subsec. (d). Pub. L. 104–201, §632(a), added subsec. (d) and struck out former subsec. (d) which read as follows: "RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the base index, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective."

**1994**—Subsec. (b)(2)(B). Pub. L. 103–335, §8114A(b)(1), which directed substituting, in heading, "through 1996" for "through 1998" and substituting, in cl. (ii), "and 1996" for "through 1998", "of 1994 or 1995" for "of 1994, 1995, 1996, or 1997", and "March" for "September", was repealed by Pub. L. 104–106, §631(c).

Subsec. (f). Pub. L. 103–337 inserted "based on the grade in which the member is retired" after "at an earlier date" in first sentence and ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before period at end of second sentence and struck out after second sentence "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired."

**1993**—Subsec. (b)(2). Pub. L. 103–160, §1182(e)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Except as provided in paragraph (6), the Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index."

Pub. L. 103–66, §2001(1), substituted "Except as provided in paragraph (6), the Secretary" for "The Secretary".

Subsec. (b)(6). Pub. L. 103–160, §1182(e)(2), struck out par. (6) which read as follows: "SPECIAL RULES FOR PARAGRAPH (2) FOR FISCAL YEARS 1994 THROUGH 1998.—

"(A) FISCAL YEAR 1994.—In the case of an increase in the retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

"(B) FISCAL YEARS 1995 THROUGH 1998.—In the case of an increase in retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1 of 1994, 1995, 1996, or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.

"(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraphs (A) and (B) do not apply with respect to the retired pay of a member retired under chapter 61 of this title."

Pub. L. 103–66, §2001(2), added par. (6).

**1989**—Subsec. (b)(3). Pub. L. 101–189, §651(b)(1)(A), inserted "and former member" after first reference to "member".

Subsec. (e). Pub. L. 101–189, §651(b)(1)(B), inserted "or former member" after first and third reference to "member".

Subsec. (f). Pub. L. 101–189, §651(b)(1)(C), inserted "or former member" after "member" in second sentence.

**1988**—Subsec. (f). Pub. L. 100–456 inserted after second sentence "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired."

**1987**—Subsec. (a). Pub. L. 100–180 struck out "pay" after "the retired pay".

Subsec. (b)(4), (5). Pub. L. 100–224, §1(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (e). Pub. L. 100–224, §1(b), substituted "by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

"(1) the percent by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and

"(2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made." for "only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay."

**1986**—Subsec. (a). Pub. L. 99–348, §102(b)(1), (c)(1), inserted heading, struck out "or retainer" after "retired pay", and struck out sentence defining "Index" in this section as meaning the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

Subsecs. (b) to (d). Pub. L. 99–348, §102(a), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.

"(c) Notwithstanding subsection (b), if a member or former member of an armed force becomes entitled to retired pay or retainer pay based on rates of monthly basic pay prescribed by section 203 of title 37 that became effective after the last day of the month of the base index, his retired pay or retainer pay shall be increased on the effective date of the next adjustment of retired pay and retainer pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) that the new base index exceeds the index for the calendar month immediately before that in which the rates of monthly basic pay on which his retired pay or retainer pay is based became effective.

"(d) If a member or former member of an armed force becomes entitled to retired pay or retainer pay on or after the effective date of an adjustment of retired pay and retainer pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay prescribed by section 203 of title 37, his retired pay or retainer pay shall be increased, effective on the date he becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) that the base index exceeds the index for the calendar month immediately before that in which the rates of monthly basic pay on which his retired pay or retainer pay is based became effective."

Subsec. (e). Pub. L. 99–348, §102(a), added subsec. (e).

Subsec. (f). Pub. L. 99–348, §102(c)(2), inserted heading and struck out "or retainer" after "retired" wherever appearing.

Subsecs. (g), (h). Pub. L. 99–348, §102(b)(2), added subsecs. (g) and (h) and struck out former subsec. (g) which provided that the retired or retainer pay of a member or former member of an armed force as adjusted under this section, if not a multiple of $1, would be rounded to the next lower multiple of $1.

**1984**—Subsec. (f). Pub. L. 98–525 substituted "before October 7, 1975" for "prior to the effective date of this subsection".

**1983**—Subsec. (e). Pub. L. 98–94, §921(a)(1), struck out subsec. (e) which provided that: "Notwithstanding subsections (c) and (d), the adjusted retired pay or retainer pay of a member or former member of an armed force retired on or after October 1, 1967, may not be less than it would have been had he become entitled to retired pay or retainer pay based on the same pay grade, years of service for pay, years of service for retired or retainer pay purposes, and percent of disability, if any, on the day before the effective date of the rates of monthly basic pay on which his retired pay or retainer pay is based."

Subsec. (f). Pub. L. 98–94, §921(b), struck out ", subject to subsection (e) of this section," after "the computation shall".

Subsec. (g). Pub. L. 98–94, §922(a)(2), added subsec. (g).

**1980**—Subsec. (b). Pub. L. 96–342 substituted provisions directing the Secretary of Defense to increase the retired and retainer pay of members and former members of the armed forces each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of title 5, with such increase to be by the same percent as the percentage by which the annuities are increased for provisions under which the Secretary of Defense had been authorized and directed to increase the retired pay and retainer pay

of members and former members of the armed forces on March 1 and September 1 depending upon determinations which the Secretary was directed to make on January 1 and July 1 of each year with regards to the percentage change in the index published for June or December of the previous year.

**1976**—Subsec. (b). Pub. L. 94–440 substituted provisions that Secretary of Defense shall determine the percent change in the index on Jan. 1 and July 1 of each year and effective Mar. 1 and Sept. 1, retired and retainer pay shall be increased by the computed percent change adjusted to the nearest 1/10 of 1 percent, for provisions that the Secretary of Defense shall determine on a monthly basis the percent by which the index has increased over that used as a basis for the most recent adjustment of retired and retainer pay and if Secretary determines for 3 consecutive months that the amount of increase is at least 3 percent over the base index, retired and retainer pay shall be increased by adding 1 percent and the highest percent increase in the index during those months adjusted to the nearest 1/10 of 1 percent.

Pub. L. 94–361 struck out "the per centum obtained by adding 1 per centum and" before "the highest per centum of increase in the index".

**1975**—Subsec. (f). Pub. L. 94–106 added subsec. (f).

**1969**—Subsec. (b). Pub. L. 91–179 provided for a 1 percent addition in computing increases in retired and retainer pay of present and former members of the armed forces, whenever the Secretary made such adjustments to effect increases in the consumer index over the base index.

**1967**—Subsec. (a). Pub. L. 90–207 substituted "may not be recomputed" for "shall not be recomputed", struck out "if that increase becomes effective after the effective date of this section" after "armed forces" and inserted sentence defining "Index".

Subsec. (b). Pub. L. 90–207 revised subsec. (b) generally and, among other changes, substituted provisions requiring the Secretary of Defense to determine monthly the percent by which the index has increased over that used as the basis for the most recent adjustment of retired and retainer pay under this subsection for provisions which required the Secretary of Defense to determine the per centum that the index for each calendar month after the calendar month immediately preceding the effective date of Pub. L. 89–132 has increased over the base index (that for the calendar month immediately preceding the effective date of Pub. L. 89–132 or, if later, that used as the basis for the most recent adjustment of retired and retainer pay under this subsection).

Subsecs. (c) to (e). Pub. L. 90–207 added subsecs. (c) to (e).

**1965**—Subsec. (b). Pub. L. 89–132 substituted provisions requiring the Secretary of Defense to determine the per centum for each calendar month that the Consumer Price Index has increased over the base Consumer Price Index, and if the index has shown an increase of at least 3 per centum over the base index for three consecutive calendar months to increase the retired or retainer pay by the highest per centum of increase in the index, for provisions which required a determination of the increase over the preceding calendar year and permitted an increase in the retired or retainer pay if the index advanced 3 per centum or more for a full calendar year.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by section 631(c)(1)(B) of Pub. L. 114–92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–82, §2(b), Feb. 15, 2014, 128 Stat. 1009, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on December 1, 2015, immediately after the coming into effect of section 403 of the Bipartisan Budget Act of 2013 [section 403 of Pub. L. 113–67, amending this section and section 1410 of this title and enacting provisions set out as a note under this section] and the amendments made by that section."

[Amendment made by Pub. L. 113–82, §2(a), did not take effect pursuant to Pub. L. 114–92, §631(d), set out below.]

Pub. L. 113–76, div. C, title X, §10001(c), Jan. 17, 2014, 128 Stat. 151, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 1413a and 1414 of this title] shall take effect on December 1, 2015, immediately after the coming into effect of section 403 of the Bipartisan Budget Act of 2013 [section 403 of Pub. L. 113–67, amending this section and section 1410 of this title and enacting provisions set out as a note under this section] and the amendments made by that section."

[Amendments made by Pub. L. 113–76, §10001(a), (b), did not take effect pursuant to Pub. L. 114–92,

§631(d), set out below.]

**EFFECTIVE DATE OF 2013 AMENDMENT**

Pub. L. 113–67, div. A, title IV, §403(c), Dec. 26, 2013, 127 Stat. 1186, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1410 of this title] shall take effect on December 1, 2015."

[Amendments made by Pub. L. 113–67, §403(a), (b), did not take effect pursuant to Pub. L. 114–92, §631(d), set out below.]

Pub. L. 113–66, div. A, title VI, §631(c), Dec. 26, 2013, 127 Stat. 785, provided that: "Paragraph (2) of section 1401a(f) of title 10, United States Code, as added by the amendment made by subsection (a)(3), applies to the computation of retired pay or retainer pay of any person who first became a member of a uniformed service on or after September 8, 1980, regardless of when the member first becomes entitled to retired or retainer pay."

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title VI, §644, Oct. 5, 1999, 113 Stat. 664, provided that: "The amendments made by sections 641, 642, and 643 [enacting section 322 of Title 37, Pay and Allowances of the Uniformed Services, and amending this section and sections 1409, 1410, 1451, and 1452 of this title] shall take effect on October 1, 1999."

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–201, div. A, title VI, §632(b), Sept. 23, 1996, 110 Stat. 2550, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to adjustments of retired and retainer pay effective after the date of the enactment of this Act [Sept. 23, 1996]."

**EFFECTIVE DATE OF 1994 AMENDMENT**

Pub. L. 103–337, div. A, title VI, §633(b), Oct. 5, 1994, 108 Stat. 2787, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to the computation of the retired pay of a member of the Armed Forces who retires on or after the date of the enactment of this Act [Oct. 5, 1994]."

**EFFECTIVE DATE OF 1988 AMENDMENT**

Pub. L. 100–456, div. A, title VI, §622(b), Sept. 29, 1988, 102 Stat. 1983, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month that begins after the date of the enactment of this Act [Sept. 29, 1988] and shall apply to the computation of the retired or retainer pay of members who initially become entitled to such pay on or after such effective date."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §921(a)(2), Sept. 24, 1983, 97 Stat. 640, provided that:

"(A) Notwithstanding the repeal of such subsection [subsec. (e) of this section], the provisions of such subsection shall apply in the case of any member or former member of the Armed Forces eligible to retire on the date of the enactment of this Act [Sept. 24, 1983] for a period of three years after such date in the same manner such provisions would have applied had they not been repealed.

"(B) The amount of retired or retainer pay of any member or former member of the Armed Forces who was eligible to retire on the date of the enactment of this Act [Sept. 24, 1983] and who becomes entitled to such pay at any time after the end of the three-year period beginning on the date of the enactment of this Act may not be less than it would have been had he become entitled to retired or retainer pay on the day before the end of such three-year period."

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Pub. L. 96–342, title VIII, §812(b)(1), Sept. 8, 1980, 94 Stat. 1098, set out below, provided that the amendment made by that section is effective Aug. 31, 1981, but subject to certain conditions.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Pub. L. 94–440, title XIII, §1306(d)(2), Oct. 1, 1976, 90 Stat. 1463, provided that: "The amendment made by subsection (1) [amending this section] shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act [Oct. 1, 1976], except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately

preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code [subsec. (b) of this section], as in effect immediately prior to the date of enactment of this Act [Oct. 1, 1976]."

**EFFECTIVE DATE OF 1969 AMENDMENT**

Pub. L. 91–179, §2, Dec. 30, 1969, 83 Stat. 837, provided that: "The provisions of this Act [amending this section] become effective on October 31, 1969."

**EFFECTIVE DATE OF 1967 AMENDMENT**

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1965 AMENDMENT**

Amendment by Pub. L. 89–132 effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE**

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

**REPEAL OF REDUCED COST-OF-LIVING ADJUSTMENTS FOR MEMBERS UNDER THE AGE OF 62**

Pub. L. 114–92, div. A, title VI, §631(d), Nov. 25, 2015, 129 Stat. 845, provided that: "The following amendments shall not take effect:

"(1) The amendments to be made by section 403 of the Bipartisan Budget Act of 2013 (Public Law 113–67; 127 Stat. 1186) [amending this section and section 1410 of this title], as amended by section 10001(a) of the Department of Defense Appropriations Act, 2014 (division C of Public Law 113–76; 128 Stat. 151), section 2 of Public Law 113–82 (128 Stat. 1009), and section 623 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3403).

"(2) The amendments to be made by section 10001(b) of the Department of Defense Appropriations Act, 2014 [div. C of Pub. L. 113–76, amending this section and sections 1413a and 1414 of this title]."

**CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998**

Pub. L. 104–106, div. A, title VI, §631(b), Feb. 10, 1996, 110 Stat. 364, provided that if a civil service retiree COLA that becomes effective during fiscal year 1998 becomes effective on a date other than the date on which a military retiree COLA during that fiscal year is specified to become effective under subsec. (b)(2)(B) of this section, then the increase in military retired and retainer pay would become payable as part of such retired and retainer pay effective on the same date on which such civil service retiree COLA was to become effective, prior to repeal by Pub. L. 104–201, div. A, title VI, §631(b), Sept. 23, 1996, 110 Stat. 2549.

**ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995**

Pub. L. 103–337, div. A, title VI, §631, Oct. 5, 1994, 108 Stat. 2785, provided that:

"(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

"(b) DEFINITIONS.—For the purposes of subsection (a):

"(1) The term 'fiscal year 1995 increase in military retired pay' means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

"(2) The term 'retired pay' includes retainer pay.

"(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased

outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a)."

## SENSE OF CONGRESS ON EQUAL TREATMENT OF EFFECTIVE DATES FOR FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY AND CIVILIAN RETIREES

Pub. L. 103–337, div. A, title VI, §632, Oct. 5, 1994, 108 Stat. 2786, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) Congress, in the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103–66, see Tables for classification], changed the effective dates for future cost-of-living adjustments for military retired pay and for Federal civilian retirement annuities, which (before that Act) were provided by law to be made effective on December 1 each year.

"(2) The timing, and the percentage of increase, of military and Federal civilian retirees' cost-of-living adjustments have been linked for decades.

"(3) The effect of the enactment of the Omnibus Budget Reconciliation Act of 1993 was to abandon the longstanding congressional practice of treating military and Federal civilian retirees identically in matters related to cost-of-living adjustments.

"(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

"(1) as a matter of simple equity and fairness, it is imperative that cost-of-living adjustments in retirement benefits for military and Federal civilian retirees be returned to an identical schedule as soon as possible, but not later than January 1, 1999;

"(2) if after October 1, 1998, there is, by law, a difference between the date on which a cost-of-living adjustment for Federal civilian retirees takes effect and the date on which a cost-of-living adjustment for military retirees takes effect, then the difference in those effective dates should be eliminated by requiring that cost-of-living adjustments for both classes of retirees become effective on the earlier of the two dates; and

"(3) if after October 1, 1998, there is, by law, a difference between the first month for which a cost-of-living adjustment for civilian retirees is payable and the first month for which a cost-of-living adjustment for military retirees is payable, then the difference in the months for which those adjustments are first payable should be eliminated by requiring that the cost-of-living adjustments for both classes of retirees first become payable for the earlier of the two months."

## WAIVER OF ADMINISTRATIVE TIME-IN-GRADE REQUIREMENTS TO PREVENT PAY INVERSIONS IN RETIRED PAY OF CERTAIN MILITARY RETIREES

Pub. L. 103–337, div. A, title VI, §634, Oct. 5, 1994, 108 Stat. 2787, provided that:

"(a) AUTHORITY.—The Secretary concerned may, for purposes of the computation under section 1401a(f) of title 10, United States Code, of the retired pay of military retirees described in subsection (b), waive any administrative time-in-grade regulation (as described in subsection (d)) that would otherwise apply to such computation. Any such waiver may be made retroactive, in the case of any such retiree, to the date on which that retiree initially became entitled to retired pay.

"(b) COVERED RETIREES.—This section applies to any military retiree—

"(1) who initially became entitled to retired pay on or after January 1, 1971, and before the date of the enactment of this Act [Oct. 5, 1994];

"(2) whose retired pay, by reason of the provisions of section 1401a(f) of title 10, United States Code (the so-called 'Tower amendment'), was initially computed as an amount greater than would have been the case but for that section; and

"(3) who, as of the earlier computation date applicable to that retiree—

"(A) in the case of an individual retired in an enlisted grade, had served in the grade in which the retiree retired for a period that was less than the period prescribed by the applicable administrative time-in-grade requirement described in subsection (d); and

"(B) in the case of an individual retired in an officer grade—

"(i) was subject to an administrative time-in-grade requirement described in subsection (d) that established a time-in-grade requirement that was longer than the statutory time-in-grade requirement applicable to that member; and

"(ii) had served in the grade in which the retiree retired for a period that was less than the period prescribed by such administrative time-in-grade requirement but not less than the statutory time-in-grade requirement applicable to that member.

"(c) EARLIER COMPUTATION DATE.—For purposes of subsection (b)(3), the earlier computation date applicable to a military retiree is the date that (under such section 1401a(f) as in effect on the date of the member's retirement) was the 'earlier date' that was used as the basis for the computation of the retiree's retired

pay.

"(d) REGULATIONS SUBJECT TO WAIVER.—A regulation that may be waived under subsection (a) is any regulation (not required by law) that establishes a minimum period of time that a member of the Armed Forces must have served in a grade on active duty in order to be eligible to retire in that grade.

"(e) SCOPE OF WAIVER AUTHORITY.—The Secretary concerned may exercise the authority provided in subsection (a) in the case of an individual military retiree or for any group of military retirees.

"(f) MILITARY RETIREE DEFINED.—For purposes of this section, the term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

"(g) SECRETARY CONCERNED.—For purposes of this section, the term 'Secretary concerned' has the meaning given such term in section 101 of title 10, United States Code."

## FISCAL YEAR 1995 COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES

Pub. L. 103–335, title VIII, §8114A, Sept. 30, 1994, 108 Stat. 2648, as amended by Pub. L. 104–106, div. A, title VI, §631(c), Feb. 10, 1996, 110 Stat. 365, provided that:

"(a) FISCAL YEAR 1995 COST-OF-LIVING ADJUSTMENT FOR MILITARY RETIREES.—(1) The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

"(2) For the purposes of subsection (a):

"(A) The term 'fiscal year 1995 increase in military retired pay' means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

"(B) The term 'retired pay' includes retainer pay.

"(b) [Repealed. Pub. L. 104–106, div. A, title VI, §631(c), Feb. 10, 1996, 110 Stat. 365.]"

## CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

Pub. L. 96–342, title VIII, §812, Sept. 8, 1980, 94 Stat. 1098, as amended by Pub. L. 97–35, title II, §211(b), Aug. 13, 1981, 95 Stat. 383, provided that:

"(a)(1) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

"(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

"(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest 1/10 of one percent.

"(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

"(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

"(b)(1) Effective August 31, 1981, but subject to paragraph (2), section 1401a(b), of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

" '(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.'.

"(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with

respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective.

"(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

"(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees ([former] 50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceeding [preceding] sentence is applicable.

"(c) For the purposes of this section, the term 'uniformed services' means—

"(1) the Armed Forces; and

"(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service."

## COMPUTATION OF RETIRED PAY OF SERGEANT MAJORS OF MARINE CORPS WHO COMPLETED SERVICE PRIOR TO DECEMBER 16, 1967

Pub. L. 95–581, Nov. 2, 1978, 92 Stat. 2478, provided: "That (a) the retired pay of any individual who served as sergeant major of the Marine Corps and who completed such service before December 16, 1967, shall be computed based upon a rate of basic pay of the sum of (1) the highest rate of basic pay to which such individual was entitled while so serving, and (2) $150.

"(b) For the purpose of computing any adjustment under section 1401a of title 10, United States Code, in the retired pay of any individual whose retired pay is affected by subsection (a), the rate of basic pay provided under such subsection for the purpose of computing the retired pay of such individual shall be considered to have been the rate of basic pay applicable to such individual at the time of his retirement, and any adjustment under such section 1401a in the retired pay of such individual before September 30, 1978, shall be readjusted to reflect such rate of basic pay.

"SEC. 2. (a) Any change in the retired pay of any individual by reason of the enactment of this Act shall be effective for months beginning after September 30, 1978.

"(b) The enactment of this Act shall not reduce the retired pay of any individual."

[The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in Pub. L. 96–342, set out above, is Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, which was revised generally by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, is known as the Central Intelligence Agency Retirement Act and is classified generally to chapter 38 (§2001 et seq.) of Title 50, War and National Defense.]

## COST-OF-LIVING ADJUSTMENT OF RETIRED PAY OR RETAINER PAY OF MEMBERS AND FORMER MEMBERS OF ARMED FORCES AND COMMISSIONED OFFICERS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND PUBLIC HEALTH SERVICE; EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–361, title VIII, §801(c), July 14, 1976, 90 Stat. 929, provided that:

"(1) The amendments made by subsections (a) [to subsec. (b) of this section] and (b) [to provisions formerly set out as a note under section 403 of title 50] shall not become effective unless legislation is enacted repealing the so-called 1 per centum add-on provision applicable to the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendments shall become effective with respect to the cost-of-living adjustment of the retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under

the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees at the same time the repeal of such 1 per centum add-on provision becomes effective with respect to such cost-of-living adjustment of annuities paid under such chapter 83.

"(2) If any change other than the repeal of the so-called 1 per centum add-on provision referred to in paragraph (1) is made in the method of computing the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code, the President shall make the same change in the cost-of-living adjustment of retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees. Any change made under this paragraph shall have the same effective date as the effective date applicable to such change made in annuities under chapter 83 of title 5, United States Code.

"(3) The provisions of paragraphs (1) and (2) relating to any change in the method of computing the cost-of-living adjustment of the retired pay or retainer pay of members and former members of the Armed Forces shall be applicable to the computation of cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service."

[The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, referred to in Pub. L. 94–361, set out above, is Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, which was revised generally by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, is known as the Central Intelligence Agency Retirement Act and is classified generally to chapter 38 (§2001 et seq.) of Title 50, War and National Defense.]

**INCREASE IN CERTAIN ARMED FORCE MEMBERS' PAY AND ALLOWANCES NOT OTHERWISE TIED TO CONSUMER PRICE INDEX**

Pub. L. 93–210, §2, Dec. 28, 1973, 87 Stat. 908, provided that:

"(a) Notwithstanding any other provision of law, effective on the date of enactment of this Act [Dec. 28, 1973], the pay and allowances of members of the Armed Forces to whom this Act applies shall be increased to amounts equal to the amounts such pay and allowances would have been increased if the pay and allowances of such members had been increased, under section 1401a(b) of title 10, United States Code, by the same percentage rates, consecutively compounded, that the retired pay or retainer pay of members and former members of the Armed Forces entitled to retired pay or retainer pay since October 1, 1967, has been increased, and such member shall, on and after the date of enactment of this Act [Dec. 28, 1973], have his pay and allowances increased effective the same day and by the same percentage rate that the retired pay or retainer pay of members and former members of the Armed Forces is increased under such section 1401a(b).

"(b) This section applies to members of the Armed Forces entitled to pay and allowances under either of the following provisions of law:

"(1) The Act of June 26, 1948, chapter 677 (62 Stat. 1052) [which authorized the appointment of one officer in the Regular Army in the permanent grade of general, one officer in the Regular Air Force in the permanent grade of general, and one officer in the Regular Navy in the permanent grade of admiral].

"(2) The Act of September 18, 1950, chapter 952 (64 Stat. A224) [which authorized the appointment of Omar N. Bradley to the permanent grade of General of the Army].

"(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section [Dec. 28, 1973]."

**RETROACTIVE ADJUSTMENT OF RETIRED OR RETAINER PAY OF PERSONS ENTITLED THERETO AFTER NOVEMBER 30, 1966, BUT PRIOR TO EFFECTIVE DATE OF NEXT INCREASE AFTER JULY 1, 1966**

Pub. L. 90–207, §2(b), Dec. 16, 1967, 81 Stat. 653, provided that: "Notwithstanding section 1401a(d) of title 10, United States Code, a person who is a member or former member of an armed force on the date of enactment of this Act [Dec. 16, 1967] and who initially became, or hereafter initially becomes, entitled to retired pay or retainer pay after November 30, 1966, but before the effective date of the next increase after July 1, 1966, in the rates of monthly basic pay prescribed by section 203 of title 37, United States Code, is entitled to have his retired pay or retainer pay increased by 3.7 percent, effective as of the date of his entitlement to that pay."

## §1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980

(a) A member of an armed force who first became a member of a uniformed service before September 8, 1980, and who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty according to the following table.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Monthly basic pay [1] of the grade in which he would be eligible—<br>(1) to retire if he were retiring upon that release from active duty; or<br>(2) to transfer to the Fleet Reserve or Fleet Marine Corps Reserve if he were transferring to either upon that release from active duty. | 2½ percent of the sum of—<br>(1) the years of service that may be credited to him in computing retired pay or retainer pay; and<br>(2) his years of active service after becoming entitled to retired pay or retainer pay.[2] |

[1] For a member who has been entitled, for continuous period of at least two years, to basic pay under the rates of basic pay in effect upon that release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least two years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer pay was computed when he entered on that active duty.

[2] Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

However, an officer who was ordered to active duty (other than for training) in the grade that he holds on the retired list under former section 6150 of this title, or under any other law that authorized advancement on the retired list based upon a special commendation for the performance of duty in actual combat, may have his retired pay recomputed under this subsection on the basis of the rate of basic pay applicable to that grade upon his release from that active duty only if he has been entitled, for a continuous period of at least three years, to basic pay at that rate. If, upon his release from that active duty, he has been entitled to the basic pay of that grade for a continuous period of at least three years, but he does not qualify under the preceding sentence, he may have his retired pay recomputed under this subsection on the basis of the rate of basic pay prescribed for that grade by the rates of basic pay replaced by those in effect upon his release from that duty.

(b) A member of an armed force who first became a member of a uniformed service before September 8, 1980, and who has been retired other than for physical disability, and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

(c) A member of an armed force who first became a member of a uniformed service before September 8, 1980, and who—

(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list;

(2) incurs, while on active duty after retirement or after his name was placed on that list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on the temporary disability retired list; and

(3) is qualified under section 1201, 1202, 1204, or 1205 of this title;

is entitled, upon his release from active duty, to retired pay under subsection (d).

(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed according to the following table.

| Column 1<br>Take | Column 2<br>Multiply by | Column 3<br>Add |
|---|---|---|
| Highest monthly basic pay that member received while on active duty after retirement or after date when his name was placed on temporary disability retired list, as the case may be. | As member elects—<br>(1) 2½% of years of service credited under section 1208 of this title; [1] or<br>(2) the highest percentage of disability, not to exceed 75%, attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be.[1] | Add amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based, if member is on temporary disability retired list. |

[1] Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

If, while on active duty after retirement or after his name was placed on the temporary disability retired list, a member covered by this subsection was promoted to a higher grade in which he served satisfactorily, as determined by the Secretary concerned, he is entitled to retired pay based on the monthly basic pay to which he would be entitled if he were on active duty in that higher grade.

(e) Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from active duty, to have his retired pay or retainer pay—

(1) computed according to the formula set forth in subsection (a) but using the rate of basic pay under which his retired pay or retainer pay was computed when he entered on active duty; and

(2) increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay.

(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 7314 or 9314 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

(2) Except in the case of a member who served during the Vietnam Era (as that term is defined in section 12731 of this title), the amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 107; Pub. L. 86–559, §1(5), June 30, 1960, 74 Stat. 265; Pub. L. 88–132, §5(l)(1), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90–207, §2(a)(2), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, §813(b)(2), Sept. 8, 1980, 94 Stat. 1102; Pub. L. 96–513, title V, §511(50), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98–94, title IX, §§922(a)(3), (4), 923(a)(1), (2)(B), (C), Sept. 24, 1983, 97 Stat. 641, 642; Pub. L. 99–348, title II, §201(b)(3), title III, §304(a)(3), (b)(3),

July 1, 1986, 100 Stat. 694, 703; Pub. L. 102–484, div. A, title VI, §642(a), Oct. 23, 1992, 106 Stat. 2424; Pub. L. 110–181, div. A, title VI, §646(b), Jan. 28, 2008, 122 Stat. 160; Pub. L. 111–383, div. A, title VI, §631(b), Jan. 7, 2011, 124 Stat. 4239; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 118–159, div. A, title VI, §604(1), Dec. 23, 2024, 138 Stat. 1931.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1402(a) | 37:316. | Oct. 12, 1949, ch. 681, §§402(d) (last proviso, less applicability to retired grade), 516, 63 Stat. 819, 832. |
| 1402(b), (c) | 37:272(d) (1st 128 words of last proviso, less applicability to retired grade). | |
| 1402(d) | 37:272(d) (last proviso, less 1st 128 words, and less applicability to retired grade). | |

In subsection (a), columns 1 and 2 of the table are based on 37:316 (1st proviso). Column 4 is based on 37:316 (last proviso). Footnote 1 is based on 37:316 (2d proviso). 37:316 (3d proviso) is omitted as operationally obsolete.

In subsections (a) and (d), the words "and disregard a part of a year that is less than six months" are added to footnote 1 to conform to footnote 3 of section 1401 of this title.

In subsection (b), the words "for which he would otherwise be eligible for retired pay under chapter 61 of this title" are substituted for the words "in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration" and "if qualified".

In subsection (c), the requirement that the physical disability incurred be 30 percent or more is omitted as surplusage, since it is also required that the member be qualified for physical disability retirement under section 1201 or 1204 of this title.

In subsection (d), the rules stated in 37:316 (2d and last provisos) are repeated in column 4 of the table and the footnote to the table, since they apply to all cases of increased pay for active duty performed after retirement.

## EDITORIAL NOTES

### CODIFICATION

Another section 304(b)(3) of Pub. L. 99–348 amended the table of sections at the beginning of chapter 571 of this title.

### AMENDMENTS

**2024**—Subsec. (f)(2). Pub. L. 118–159 substituted "Except in the case of a member who served during the Vietnam Era (as that term is defined in section 12731 of this title), the amount" for "The amount".

**2018**—Subsec. (f)(1). Pub. L. 115–232 substituted "section 7314 or 9314" for "section 3914 or 8914".

**2011**—Subsec. (d). Pub. L. 111–383, in column 2 of table, inserted ", not to exceed 75%," after "percentage of disability" and struck out column 4 of table which related to subtraction of excess over 75 percent of pay upon which computation is based.

**2008**—Subsec. (a). Pub. L. 110–181 struck out column 3 of the table, which related to subtraction of excess over 75 percent of pay upon which computation is based.

**1992**—Subsec. (f). Pub. L. 102–484 added subsec. (f).

**1986**—Pub. L. 99–348, §304(b)(3), inserted "of members who first became members before September 8, 1980" in section catchline.

Subsec. (a). Pub. L. 99–348, §§201(b)(3), 304(a)(3), struck out "(as defined in section 1407(a)(2) of this title)" after "uniformed service" and struck out provision that if the amount recomputed is not a multiple of $1, it be rounded to the next lower multiple of $1. See section 1412 of this title.

Subsecs. (b), (c). Pub. L. 99–348, §304(a)(3), struck out "(as defined in section 1407(a)(2) of this title)" after "uniformed service".

Subsec. (d). Pub. L. 99–348, §201(b)(3), struck out provision that if the amount recomputed is not a multiple of $1, it be rounded to the next lower multiple of $1. See section 1412 of this title.

**1983**—Subsec. (a). Pub. L. 98–94, §922(a)(3), substituted "according to the following table. The amount

recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1." for "as follows:".

Pub. L. 98–94, §923(a)(1), (2)(B), in footnote 2 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

Subsec. (d). Pub. L. 98–94, §922(a)(4), substituted "according to the following table. The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1." for "as follows:".

Pub. L. 98–94, §923(a)(1), (2)(C), in footnote 1 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

**1980**—Subsecs. (a) to (c). Pub. L. 96–513 substituted "a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980" for "the armed forces before the date of the enactment of the Department of Defense Appropriation Act, 1981" wherever appearing.

Pub. L. 96–342 inserted "who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and" after "of an armed force" wherever appearing.

**1967**—Subsec. (d). Pub. L. 90–207, §2(a)(2)(A), inserted "increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay" after "retired,".

Subsec. (e). Pub. L. 90–207, §2(a)(2)(B), added subsec. (e).

**1963**—Subsec. (a). Pub. L. 88–132 substituted in introductory clause "who has become entitled to retired pay or retainer pay" for "who has been retired or has become entitled to retainer pay" and "to recompute his retired pay or retainer pay upon his release from that duty" for ", upon release from that duty, to recompute his retired or retainer pay" and inserted in such clause "(other than for training)" after "active duty"; substituted in column 1 of table "Monthly basic pay" for "Monthly basic pay or base and longevity pay, as the case may be,", designated existing provisions as (1) and added (2); substituted in (1) of column 2 of the table "retired pay or retainer pay" for "retired or retainer pay" and in (2) of such column 2 "after becoming entitled to retired pay or retainer pay" for "after retirement or becoming entitled to retainer pay", struck out column 3 relating to addition and redesignated column 4 as 3; added footnote 1 to the table and redesignated former footnote 1 as 2; and inserted provisions for recomputation of retired pay upon release from active duty of officers ordered to active duty in a higher grade based upon special commendation for performance of duty in actual combat.

**1960**—Subsec. (a). Pub. L. 86–559 prohibited recomputation of retired pay under subsec. (a) on the basis of any period of active duty that was of less than six consecutive months' duration or on the basis of any active duty for training for a reserve officer who is or has been retired under section 3911, 6323, or 8911 of this title or under section 232 of title 14.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 applicable to persons who first become entitled to retired or retainer pay under subtitle A of this title after Jan. 7, 2011, and table in subsec. (d) of this section, in effect on the day before Jan. 7, 2011, applicable to the computation or recomputation of retired or retainer pay for persons who first became entitled to retired or retainer pay under subtitle A on or before Jan. 7, 2011, see section 631(d) of Pub. L. 111–383, set out as a note under section 1401 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, §646(c), Jan. 28, 2008, 122 Stat. 160, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 6333 of this title] shall take effect as of January 1, 2007, and shall apply with respect to retired pay and retainer pay payable on or after that date."

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set

out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, and (2) the recomputation of retired pay under this section, of any individual who after Sept. 30, 1983, becomes entitled to recompute retired pay under this section, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1967 AMENDMENT**

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**ACCRUAL OF BENEFITS; PROSPECTIVE APPLICABILITY**

Pub. L. 102–484, div. A, title VI, §642(c), Oct. 23, 1992, 106 Stat. 2425, provided that: "No benefits shall accrue for months beginning before the date of the enactment of this Act [Oct. 23, 1992] by reason of the amendments made by this section [amending this section and section 1402a of this title]."

**RECOMPUTATION OF RETIRED PAY OF CERTAIN RECALLED RETIREES**

Pub. L. 98–525, title VI, §655, Oct. 19, 1984, 98 Stat. 2552, provided that:

"(a) Notwithstanding the second sentence of footnote 1 of the table contained in section 1402(a) of title 10, United States Code (relating to recomputation of retired pay to reflect later active duty), in the case of a member of the Armed Forces who—

"(1) was voluntarily called or ordered to active duty during the period beginning on October 1, 1963, and ending on September 30, 1971;

"(2) was at the time of such call or order entitled to retired pay or retainer pay;

"(3) served on such active duty under such call or order for a continuous period of at least two years; and

"(4) was released from such active duty before October 1, 1973,

the retired or retainer pay of such member shall be recomputed, as provided in subsection (b), under the rates of basic pay in effect at the time of that release from active duty.

"(b) The retired or retainer pay of a member of the Armed Forces described in subsection (a) shall be the amount determined under section 1402(a) of title 10, United States Code (as modified with respect to such member by subsection (a)), and increased by the amount by which the member's retired or retainer pay would have been increased during the period beginning on the date of the member's release from active duty referred to in subsection (a)(4) and ending on the day before the day on which this section becomes effective had subsection (a) applied in the case of the member at the time of that release from active duty.

"(c) This section shall apply only with respect to retired pay and retainer pay payable for months beginning after September 30, 1984, or on or after the date of the enactment of this Act [Oct. 19, 1984], whichever is later."

**RETIRED PAY AND RETAINER PAY; PROHIBITION AGAINST RECOMPUTATION UNDER 1963 PAY RATES; EXCEPTIONS; INCREMENTS BASED ON THE GREATER OF A 5 PERCENT INCREASE OR RECOMPUTATION UNDER 1958 PAY RATES FOR MEMBERS RETIRED PRIOR TO OCTOBER 1949 FOR REASONS OTHER THAN PHYSICAL DISABILITY, MEMBERS RECEIVING RETIRED PAY UNDER CAREER COMPENSATION ACT OF 1949 AND FORMER CHIEFS OF STAFF; ADDITIONAL 5 PERCENT INCREASE FOR OTHER RETIRED MEMBERS; EXCLUSION FROM INCREASE OF OFFICERS RETIRED UNDER CERTAIN PROVISIONS**

Pub. L. 88–132, §5(a)–(f), Oct. 2, 1963, 77 Stat. 212, provided that:

"(a) Except as provided in section 1402 of title 10, United States Code, the changes made by this Act [see Short Title note under section 201 of Title 37] in the rates of basic pay of members of the uniformed services do not increase the retired pay or retainer pay to which a member or former member of the uniformed services

was entitled on the day before the effective date of this Act [Oct. 1, 1963]. However, except for a member covered by section 6331 [now 8331] of title 10, United States Code who became entitled to retainer pay before April 1, 1963, and subject to subsection (j) of this section [set out as a note below], a member or former member of a uniformed service who became entitled to retired pay or retainer pay after March 31, 1963, but before the effective date of this Act [Oct. 1, 1963], is entitled—

"(1) to have the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act [Oct. 1, 1963] recomputed under the rates of basic pay prescribed by section 2 of this Act [amending section 203 of Title 37]; or

"(2) to continue to have that pay computed under the rates of basic pay that were in effect under section 203 of title 37, United States Code, on the day before the effective date of this Act [Oct. 1, 1963], plus the percentage increase provided by subsection (e) of this section;

whichever pay is the greater. For the purposes of the preceding sentence, a member or former member who became entitled to retired pay on April 1, 1963, by virtue of section 1 of the Act of April 23, 1930, ch. 209, as amended (5 U.S.C. 47a) [section 8301 of Title 5], shall be considered as having become entitled to that pay before April 1, 1963.

"(b) A member or former member of a uniformed service who was retired other than for physical disability and who, in accordance with section 511 of the Career Compensation Act of 1949 (63 Stat. 829) [act Oct. 12, 1949, former 10 U.S.C. 580 note], is entitled to retired pay or retainer pay computed by 'method' (a) of that section using rates of basic pay that were in effect before October 1, 1949, is entitled—

"(1) to have pay recomputed by 'method' (b) of that section using the rates of basic pay that were in effect under that Act on the day before the effective date of this Act [Oct. 1, 1963]; or

"(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act [Oct. 1, 1963];

whichever pay is the greater.

"(c) A member or former member of a uniformed service who is entitled to retired pay or retainer pay computed under the rates of basic pay that were in effect under the Career Compensation Act of 1949 before June 1, 1958, including a member or former member who is entitled to retired pay under section 7 (b) or (c) of the Act of May 20, 1958, Public Law 85–422 (72 Stat. 130), is entitled—

"(1) to have that pay recomputed under the rates of basic pay that were in effect under that Act on the day before the effective date of this Act [Oct. 1, 1963]; or

"(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act [Oct. 1, 1963];

whichever pay is the greater.

"(d) A member or former member of a uniformed service who was entitled to retired pay on the day before the effective date of this Act [Oct. 1, 1963] and who served as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps is entitled—

"(1) to have his retired pay recomputed under the formula for computing retired pay applicable to him—

"(A) when he retired; or

"(B) if he served on active duty after he retired and his retired pay was recomputed by reason of that service, when his retired pay was so recomputed;

using as his rate of basic pay the rate of basic pay prescribed for officers serving on active duty in those positions on June 1, 1958, by footnote 1 to table for commissioned officers in section 201(a) of the Career Compensation Act of 1949, as amended (72 Stat. 122) [see section 203 of Title 37]; or

"(2) to an increase of 5 percent in the retired pay to which he was entitled on the day before the effective date of this Act [Oct. 1, 1963];

whichever pay is the greater.

"(e) A member or former member of a uniformed service who was entitled to retired pay or retainer pay on the day before the effective date of this Act [Oct. 1, 1963], other than a member or former member who is covered by subsection (b), (c), or (d) of this section, is entitled to an increase of 5 percent in the retired or retainer pay to which he was entitled on the day before the effective date of this Act [Oct. 1, 1963].

"(f) Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act [Oct. 1, 1963] shall continue to receive the pay and allowances to which he was entitled on that day:

"(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

"(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

"(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224)."

**RETIRED PAY AND RETAINER PAY; RETROACTIVE EFFECT**

Pub. L. 88–132, §5(j), Oct. 2, 1963, 77 Stat. 214, provided that: "A member or former member of a uniformed service is not entitled to an increase in his retired pay or retainer pay because of the enactment of this Act [see Short Title note set out under section 201 of Title 37] for any period before the effective date of this Act [Oct. 1, 1963]."

**SAVINGS PROVISION**

Pub. L. 88–132, §5(l)(2), Oct. 2, 1963, 77 Stat. 215, provided that: "Notwithstanding paragraph (1) of this subsection [amending this section], and unless otherwise entitled to higher retired pay or retainer pay, a member of a uniformed service who is on active duty (other than for training) on the effective date of this Act [Oct. 1, 1963], who was entitled to retired pay or retainer pay before he entered on that duty, and who is released from that duty on or after the effective date of this Act after having served on that duty for a continuous period of at least one year shall, upon that release from active duty, be entitled to recompute his retired pay or retainer pay under the table in section 1402 of title 10, United States Code [this section], subject to section 6483(c) [now 8383(c)] of title 10, as that table and that section were in effect on the day before the effective date of this Act, using rates of basic pay prescribed by this Act [section 203 of Title 37]."

## §1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980

(a) IN GENERAL.—A member of an armed force—

(1) who first became a member of a uniformed service after September 7, 1980;

(2) who has become entitled to retired pay or retainer pay; and

(3) who thereafter serves on active duty (other than for training),

is entitled to recompute his retired pay or retainer pay upon release from that duty according to the following table.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Retired pay base or retainer pay base under section 1407 which he would be entitled to use if— | The retired pay multiplier or retainer pay multiplier prescribed in section 1409 for the sum of— |
| (1) he were retiring upon release from that active duty; or | (1) the years of service that may be credited to him in computing retired pay or retainer pay; and |
| (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty. | (2) his years of active service after becoming entitled to retired pay or retainer pay. |

(b) NEW DISABILITY INCURRED DURING LATER ACTIVE DUTY.—A member of an armed force who first became a member of a uniformed service after September 7, 1980, who has been retired other than for physical disability and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

(c) ADDITIONAL OR AGGRAVATED DISABILITY INCURRED DURING LATER ACTIVE DUTY.—A member of an armed force who first became a member of a uniformed service after September 7, 1980, and who—

(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or

whose name is on the temporary disability retired list;

(2) incurs, while on active duty after retirement or after his name was placed on the temporary disability retired list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on that list; and

(3) is qualified under section 1201, 1202, 1204, or 1205 of this title;

is entitled, upon his release from active duty, to retired pay under subsection (d).

(d) COMPUTATION FOR LATER DISABILITY.—A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed according to the following table.

| Column 1<br>Take | Column 2<br>Multiply by | Column 3<br>Add |
|---|---|---|
| The retired pay base computed under section 1407(b) of this title. | As member elects—<br>(1) 2½ percent of years of service credited under section 1208 of this title; [1] or<br>(2) the highest percentage of disability, not to exceed 75 percent, attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be. | Amount necessary to increase product of columns 1 and 2 to 50 percent of pay upon which computation is based, if member is on temporary disability retired list. |

[1] Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

(e) ALTERNATIVE RECOMPUTATION TO SUBSECTION (a) FORMULA.—Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from that active duty, to have his retired pay or retainer pay—

(1) computed according to the formula set forth in subsection (a) but using the monthly retired pay base under which his retired pay or retainer pay was computed when he entered on that active duty; and

(2) increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay.

(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 7314 or 9314 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.

(Added Pub. L. 96–342, title VIII, §813(b)(3)(A), Sept. 8, 1980, 94 Stat. 1102; amended Pub. L. 96–513, title V, §511(51)(A), (B), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98–94, title IX, §§922(a)(5), (6), 923(a)(1), (2)(D), (E), Sept. 24, 1983, 97 Stat. 641, 642; Pub. L. 99–348, title II, §201(b)(1), (2),

July 1, 1986, 100 Stat. 693; Pub. L. 102–484, div. A, title VI, §642(b), Oct. 23, 1992, 106 Stat. 2425; Pub. L. 111–383, div. A, title VI, §631(c), Jan. 7, 2011, 124 Stat. 4239; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (f)(1). Pub. L. 115–232 substituted "section 7314 or 9314" for "section 3914 or 8914".

**2011**—Subsec. (d). Pub. L. 111–383, in column 2 of table, inserted ", not to exceed 75%," after "percentage of disability" and struck out column 4 of table which related to subtraction of excess over 75 percent of retired or retainer pay base upon which computation is based.

**1992**—Subsec. (f). Pub. L. 102–484 added subsec. (f).

**1986**—Subsec. (a). Pub. L. 99–348, §201(b)(1), amended subsec. (a) generally. Prior to the amendment, subsec. (a) read as follows: "A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) after September 7, 1980, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty according to the following table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

Subsec. (b). Pub. L. 99–348, §201(b)(2)(A), inserted heading.

Subsec. (c). Pub. L. 99–348, §201(b)(2)(B), inserted heading.

Subsec. (d). Pub. L. 99–348, §201(b)(2)(C), inserted heading, struck out provision that if the amount recomputed is not a multiple of $1, it be rounded to the next lower multiple of $1, and in column 1 of table struck out "monthly" before "retired pay" and in column 4 of table struck out "monthly" before "retired or".

Subsec. (e). Pub. L. 99–348, §201(b)(2)(D), inserted heading.

**1983**—Subsec. (a). Pub. L. 98–94, §922(a)(5), substituted "according to the following table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1." for "as follows:".

Pub. L. 98–94, §923(a)(1), (2)(D), in footnote 1 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

Subsec. (d). Pub. L. 98–94, §922(a)(6), substituted "according to the following table. The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1." for "as follows:".

Pub. L. 98–94, §923(a)(1), (2)(E), in footnote 1 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

**1980**—Pub. L. 96–513, §511(51)(B), substituted "of members who first became members after September 7, 1980" for "in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981" in section catchline.

Subsecs. (a) to (c). Pub. L. 96–513, §511(51)(A), substituted "after September 7, 1980" for "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 applicable to persons who first become entitled to retired or retainer pay under subtitle A of this title after Jan. 7, 2011, and table in subsec. (d) of this section, in effect on the day before Jan. 7, 2011, applicable to the computation or recomputation of retired or retainer pay for persons who first became entitled to retired or retainer pay under subtitle A on or before Jan. 7, 2011, see section 631(d) of Pub. L. 111–383, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, and (2) the recomputation of retired pay under this section, of any individual who after Sept. 30, 1983, becomes entitled to recompute retired pay under this section, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**ACCRUAL OF BENEFITS; PROSPECTIVE APPLICABILITY**

No benefits to accrue for months beginning before Oct. 23, 1992, by reason of the amendment by Pub. L. 102–484, see section 642(c) of Pub. L. 102–484, set out as a note under section 1402 of this title.

## §1403. Disability retired pay: treatment under Internal Revenue Code of 1986

That part of the retired pay of a member of an armed force, computed under formula No. 1 or 2 of section 1401, or under section 1402(d) or 1402a(d) of this title on the basis of years of service, which exceeds the retired pay that he would receive if it were computed on the basis of percentage of disability is not considered as a pension, annuity, or similar allowance for personal injury, or sickness, resulting from active service in the armed forces, under section 104(a) of the Internal Revenue Code of 1986.

(Aug. 10, 1956, ch. 1041, 70A Stat. 108; Pub. L. 96–342, title VIII, §813(b)(3)(C), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §511(52)(A), (B), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 100–26, §7(h)(1), (2)(A), Apr. 21, 1987, 101 Stat. 282.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1403 | 37:272(h). | Oct. 12, 1949, ch. 681, §402(h), 63 Stat. 820. |

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Internal Revenue Code of 1986, referred to in text, is set out in Title 26, Internal Revenue Code.

**AMENDMENTS**

**1987**—Pub. L. 100–26 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954" in section catchline and text.

**1980**—Pub. L. 96–513 substituted "the Internal Revenue Code of 1954" for "title 26" in section catchline and text.

Pub. L. 96–342 inserted reference to section 1402a(d) of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §1404. Applicability of section 8301 of title 5

The retirement provisions of this title are subject to section 8301 of title 5.

(Aug. 10, 1956, ch. 1041, 70A Stat. 108; Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1404 | [No source]. | [No source]. |

The effect of the act of April 23, 1930 (5 U.S.C. 47a), in temporarily deferring retirement dates otherwise specifically fixed by law is reflected in the sections of the proposed text that name those dates. This section is inserted to make clear that under that act such deferments have no effect on the applicability of the specific rates that are to be used in computing retired pay.

**EDITORIAL NOTES**

**AMENDMENTS**

**1966**—Pub. L. 89–718 substituted "8301" for "47a" in section catchline and text.

## §1405. Years of service

(a) IN GENERAL.—For the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding—

(1) his years of active service;

(2) the years of service, not included in clause (1), with which he was entitled to be credited on May 31, 1958, in computing his basic pay; and

(3) the years of service, not included in clause (1) or (2), with which he would be entitled to be credited under section 12733 of this title if he were entitled to retired pay under section 12731 of this title.

(b) FRACTIONAL YEARS OF SERVICE.—In determining a member's years of service under subsection (a)—

(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

(2) any remaining fractional part of a month shall be disregarded.

(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP OR EXCLUDED.—(1) Time required to be made up by an enlisted member of the Army, Air Force, or Space Force under section 972(a) of this title, or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with respect to a period of time after October 5, 1994, may not be counted in determining years of service under subsection (a).

(2) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

(Added Pub. L. 85–422, §11(a)(1)(A), May 20, 1958, 72 Stat. 130; amended Pub. L. 85–861, §1(31A), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 87–649, §6(f)(4), Sept. 7, 1962, 76 Stat. 494; Pub. L. 87–651, title I, §109, Sept. 7, 1962, 76 Stat. 509; Pub. L. 90–130, §1(7), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title I, §113(b), Dec. 12, 1980, 94 Stat. 2877; Pub. L. 97–295, §1(17), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 99–348, title I, §106, July 1, 1986, 100 Stat. 691; Pub. L. 103–337, div. A, title VI, §635(d), title XVI, §1662(j)(3), Oct. 5, 1994, 108 Stat. 2789, 3004; Pub. L. 104–106, div. A, title V, §561(d)(1), Feb. 10, 1996, 110 Stat. 322; Pub. L. 104–201, div. A, title X, §1074(b)(1), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 107–107, div. A, title X, §1048(c)(7), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 116–283, div. A, title IX, §924(b)(25), Jan. 1, 2021, 134 Stat. 3824.)

# HISTORICAL AND REVISION NOTES
## 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1405 | [No source]. | [No source]. |

The amendment reflects section 11 of the Act of May 20, 1958, Pub. L. 85–422 (72 Stat. 130).

### 1962 ACT

The change corrects a typographical error.

### 1982 ACT

This amends 10:1405 to correct an inadvertent error in the codification of title 10 in 1956 relating to retirement pay of warrant officers advanced on the retired list. Under provisions of law first enacted in 1948 through the codification of title 10 in 1956 and until 1965, warrant officers advanced on the retired list received credit for inactive service in the computation of retirement pay. The Comptroller General in 1965 (B–156576) held in effect that computation of such retirement pay was governed by the wording of new title 10 that based the computation on years of active service only even though this had the result of making a substantive change. The Armed Services Committee of the House of Representatives concurs that an error was made in the codification of title 10 and has indicated that corrective legislative action is properly a responsibility of the House Judiciary Committee. See, also, the amendments to 10:3992 and 8992 made by sections 1(40) and 1(52), respectively.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283 substituted ", Air Force, or Space Force" for "or Air Force".

**2001**—Subsec. (c)(1). Pub. L. 107–107 substituted "October 5, 1994," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995,".

**1996**—Subsec. (c). Pub. L. 104–106, as amended by Pub. L. 104–201, substituted "Made Up or Excluded" for "Made Up" in heading, designated existing provisions as par. (1), substituted "section 972(a) of this title, or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with respect to a period of time after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995," for "section 972 of this title", and added par. (2).

**1994**—Subsec. (a)(3). Pub. L. 103–337, §1662(j)(3), substituted "12733" for "1333" and "12731" for "1331".

Subsec. (c). Pub. L. 103–337, §635(d), added subsec. (c).

**1986**—Pub. L. 99–348 designated existing provision as subsec. (a), inserted heading, and in provision preceding par. (1) substituted "the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member" for "section 1401 (formulas 4 and 5), 3991 (formula A), 3992 (formula B), 6151(b), 6323(e), 6325(a)(2) and (b)(2), 6383(c)(2), 8991 (formula A), or 8992 (formula B) of this title, the years of service of a member of the armed forces", and added subsec. (b).

**1982**—Pub. L. 97–295, §1(17), substituted "3991 (formula A), 3992 (formula B)" for "3991 (formula B)", struck out "or" first time appearing, and substituted "8991 (formula A), or 8992 (formula B)" for "8991 (formula B)".

**1980**—Pub. L. 96–513 struck out provisions that permitted the crediting of certain periods of constructive service in computing the retired pay of medical and dental officers and provided that members would compute their years of service for retirement pay by adding (1) years of active service, (2) years of service not otherwise counted with which the member was entitled to be credited on May 31, 1958, and (3) years of service not otherwise counted with which he would be credited under section 1333 if he were entitled to retired pay under section 1331.

**1967**—Pub. L. 90–130 struck out references to section 6399(c)(2) of this title.

**1962**—Pub. L. 87–651 struck out references to sections 6391(h) and 6394(g)(2) of this title and inserted a reference to section 6394(h) of this title.

Pub. L. 87–649 substituted "section 205(a)(7) and (8) of title 37" for "section 233(a)(7) of title 37" in cl. (2).

**1958**—Pub. L. 85–861 inserted references to sections 6323(e) and 6391(h) of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as a note under section 972 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title VI, §635(e), Oct. 5, 1994, 108 Stat. 2789, provided that: "This section [amending this section and sections 3925, 3991, 3992, 6333, 8925, 8991, and 8992 of this title] shall apply to—

"(1) the computation of the retired pay of any enlisted member who retires on or after the date of the enactment of this Act [Oct. 5, 1994];

"(2) the computation of the retainer pay of any enlisted member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act; and

"(3) the recomputation of the retired pay of any enlisted member who is advanced on the retired list on or after the date of the enactment of this Act."

Amendment by section 1662(j)(3) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

#### EFFECTIVE DATE

Section effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

(1) GENERAL RULE.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

(2) EXCEPTION FOR RECOMPUTATION.—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base.

(b) RETIREMENT UNDER SUBTITLE A OR E.—

(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.

| For a member entitled to retired pay under section: | The retired pay base is: |
|---|---|
| 1201<br>1202<br>1204<br>1205 | Monthly basic pay [1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher. |
| 580<br>1263<br>1293<br>1305 | Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade. |
| 633<br>634<br>635<br>636<br>1251<br>1252<br>1253 | Monthly basic pay [2] of member's retired grade.[3] |

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.

[2] Compute at rates applicable on date of retirement.

[3] For the purposes of this subsection, determine member's retired grade as if sections 7342 and 9342 did not apply.

(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted (or, in the case of a person entitled to retired pay by reason of an election under section 12741(a) of this title, at rates applicable on the date the person completes the service required under such section 12741(a)), of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370a of this title.

(c) VOLUNTARY RETIREMENT FOR MEMBERS OF THE ARMY.—

(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 7361

of this title or who is entitled to retired pay computed under section 7362 of this title, the retired pay base is determined in accordance with the following table.

| For a member entitled to retired pay under section: | The retired pay base is: |
|---|---|
| 7311<br>7318<br>7320<br>7324 | Monthly basic pay of member's retired grade.[1] |
| 7314<br>7317 | Monthly basic pay to which member was entitled on day before he retired. |
| 7362 | Monthly basic pay of grade to which member is advanced on retired list. |

[1] For the purposes of this subsection, determine member's retired grade as if section 7342 did not apply.

(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

(d) RETIREMENT FOR MEMBERS OF THE NAVY AND MARINE CORPS.—In the case of a member whose retired pay is computed under section 8333 of this title, who is advanced on the retired list under section 8262 or 8334 of this title, or who is entitled to retainer pay under section 8330 of this title, the retired pay base or retainer pay base is determined in accordance with the following table.

| For a member entitled to retired or retainer pay under section: | The retired pay base or retainer pay base is: |
|---|---|
| 8323<br>8325(a)<br>8372 | Basic pay of the grade in which the member retired.[1] |
| 8325(b) | Basic pay of the grade the officer would hold if he had not received an appointment described in section 8325(b). |
| 8326 | Basic pay of the pay grade in which the member was serving on the day before retirement. |
| 8330 | Basic pay that the member received at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve. |
| 8262 | Basic pay of the grade to which the member is advanced under section |

| | |
|---|---|
| | 8262. |
| 8334 | Basic pay of the grade to which the member is advanced under section 8334. |

[1] If the rate specified is less than the pay of any warrant officer grade satisfactorily held by the member on active duty, use the monthly basic pay of that warrant officer grade.

(e) VOLUNTARY RETIREMENT FOR MEMBERS OF THE AIR FORCE AND SPACE FORCE.—

(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 9361 of this title or who is entitled to retired pay computed under section 9362 of this title, the retired pay base is determined in accordance with the following table.

| For a member entitled to retired pay under section: | The retired pay base is: |
|---|---|
| 9311<br>9318<br>9320<br>9324 | Monthly basic pay of member's retired grade.[1] |
| 9314<br>9317 | Monthly basic pay to which member was entitled on day before he retired. |
| 9362 | Monthly basic pay of grade to which member is advanced on retired list. |

[1] For the purposes of this subsection, determine member's retired grade as if section 9342 did not apply.

(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

(f) COAST GUARD.—In the case of a member who is retired under any section of title 14, the member's retired pay is computed under section 423(a) [1] of title 14 in the manner provided in that section.

(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is computed under section 245 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3045), the retired pay base is the basic pay of the rank with which the officer retired.

(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows:

(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired pay base is the basic pay of the permanent grade held by the officer at the time of retirement.

(2) VOLUNTARY RETIREMENT.—If the officer is retired under section 211(a) of such Act, the retired pay base is the basic pay of the highest grade held by the officer and in which, in the case of a temporary promotion to such grade, the officer has performed active duty for not less than six months.

(i) SPECIAL RULE FOR FORMER CHAIRMEN AND VICE CHAIRMEN OF THE JCS,

CHIEFS OF SERVICE, CHIEF OF THE NATIONAL GUARD BUREAU, COMMANDERS OF COMBATANT COMMANDS, AND SENIOR ENLISTED MEMBERS.—

(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman or Vice Chairman of the Joint Chiefs of Staff, as a Chief of Service, as Chief of the National Guard Bureau, as a commander of a unified or specified combatant command (as defined in section 161(c) of this title), or as the senior enlisted member of an armed force or the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

(2) EXCEPTION FOR MEMBERS REDUCED IN GRADE OR WHO DO NOT SERVE SATISFACTORILY.—Paragraph (1) does not apply in the case of a member who, while or after serving in a position specified in that paragraph and by reason of conduct occurring after October 16, 1998—

(A) in the case of an enlisted member, is reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process; or

(B) in the case an officer, is not certified by the Secretary of Defense under section 1370(c) [1] of this title as having served on active duty satisfactorily in the grade of general or admiral, as the case may be, while serving in that position.

(3) DEFINITIONS.—In this subsection:

(A) The term "Chief of Service" means any of the following:

(i) Chief of Staff of the Army.
(ii) Chief of Naval Operations.
(iii) Chief of Staff of the Air Force.
(iv) Commandant of the Marine Corps.
(v) Chief of Space Operations.
(vi) Commandant of the Coast Guard.

(B) The term "senior enlisted member" means any of the following:

(i) Sergeant Major of the Army.
(ii) Master Chief Petty Officer of the Navy.
(iii) Chief Master Sergeant of the Air Force.
(iv) Sergeant Major of the Marine Corps.
(v) Chief Master Sergeant of the Space Force.
(vi) Master Chief Petty Officer of the Coast Guard.

(Added Pub. L. 99–348, title I, §104(b), July 1, 1986, 100 Stat. 686; amended Pub. L. 100–180, div. A, title V, §512(d)(2), title XIII, §1314(b)(6), Dec. 4, 1987, 101 Stat. 1090, 1175; Pub. L. 100–456, div. A, title XII, §1233(c), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 102–190, div. A, title XI, §1131(7), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–337, div. A, title XVI, §1662(j)(4), Oct. 5, 1994, 108 Stat. 3004; Pub. L. 105–85, div. A, title X, §1073(a)(23), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 105–261, div. A, title VI, §646, Oct. 17, 1998, 112 Stat. 2050; Pub. L. 106–65, div. A, title X, §1066(a)(11), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107–372, title II, §272(a), Dec. 19, 2002, 116 Stat. 3094; Pub. L. 108–136, div. A, title VI, §643(a), (b), Nov. 24, 2003, 117 Stat. 1517; Pub. L. 108–375, div. A, title X, §1084(d)(9), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 109–163, div. A, title V, §509(d)(1)(B), title VI, §685(d), Jan. 6, 2006, 119 Stat. 3231, 3325; Pub. L. 109–364, div. A, title V, §502(d)(2), title X, §1071(a)(7), Oct. 17, 2006, 120 Stat. 2178, 2398; Pub. L. 111–84, div. A, title VI, §643(d)(1), Oct. 28, 2009, 123 Stat. 2367; Pub. L. 113–291, div. A, title VI, §603(d), Dec. 19, 2014, 128 Stat. 3398; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title V, §508(b)(1)(A), title IX, §924(b)(26), Jan. 1, 2021, 134 Stat. 3585, 3824; Pub. L. 118–159, div. A, title V, §521(g)(1), Dec. 23, 2024, 138 Stat. 1881.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 423 of title 14, referred to in subsec. (f), was redesignated section 2504 of title 14 by Pub. L. 115–282, title I, §114(b), Dec. 4, 2018, 132 Stat. 4223, and references to section 423 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

Section 1370(c) of this title, referred to in subsec. (i)(2)(B), was repealed and new sections 1370 and 1370a were enacted by Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3580. For provisions stating that in determining retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of title 10 in such determination with respect to such officers is deemed to be a reference to section 1370a of title 10, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.

### PRIOR PROVISIONS

A prior section 1406 was renumbered section 12738 of this title.

### AMENDMENTS

**2024**—Subsec. (i)(3)(B)(v). Pub. L. 118–159 substituted "Chief Master Sergeant of the Space Force" for "The senior enlisted advisor of the Space Force".

**2021**—Subsec. (b)(2). Pub. L. 116–283, §508(b)(1)(A), substituted "section 1370a" for "section 1370(d)".

Subsec. (e). Pub. L. 116–283, §924(b)(26)(A), inserted "and Space Force" after "Air Force" in heading.

Subsec. (i)(3)(A)(v), (vi). Pub. L. 116–283, §924(b)(26)(B)(i), added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (i)(3)(B)(v), (vi). Pub. L. 116–283, §924(b)(26)(B)(ii), added cl. (v) and redesignated former cl. (v) as (vi).

**2018**—Subsec. (b)(1). Pub. L. 115–232 substituted "sections 7342 and 9342" for "sections 3962 and 8962" in footnote 3 in table.

Subsec. (c)(1). Pub. L. 115–232 substituted "In the case of a member whose retired pay is computed under section 7361 of this title or who is entitled to retired pay computed under section 7362 of this title" for "In the case of a member whose retired pay is computed under section 3991 of this title or who is entitled to retired pay computed under section 3992 of this title" in introductory provisions, "7311" for "3911", "7318" for "3918", "7320" for "3920", "7324" for "3924", "7314" for "3914", "7317" for "3917", and "7362" for "3992" in column 1 of table, and "section 7342" for "section 3962" in footnote 1 in table.

Subsec. (d). Pub. L. 115–232 substituted "In the case of a member whose retired pay is computed under section 8333 of this title, who is advanced on the retired list under section 8262 or 8334 of this title, or who is entitled to retainer pay under section 8330 of this title," for "In the case of a member whose retired pay is computed under section 6333 of this title, who is advanced on the retired list under section 6151 or 6334 of this title, or who is entitled to retainer pay under section 6330 of this title," in introductory provisions, "8323" for "6323", "8325(a)" for "6325(a)", "8372" for "6383", "8325(b)" for "6325(b)", "8326" for "6326", "8330" for "6330", "8262" for "6151", and "8334" for "6334" in column 1 of table, and "section 8325(b)" for "section 6325(b)", "section 8262" for "section 6151", and "section 8334" for "section 6334" in column 2 of table.

Subsec. (e)(1). Pub. L. 115–232 substituted "In the case of a member whose retired pay is computed under section 9361 of this title or who is entitled to retired pay computed under section 9362 of this title" for "In the case of a member whose retired pay is computed under section 8991 of this title or who is entitled to retired pay computed under section 8992 of this title" in introductory provisions, "9311" for "8911", "9318" for "8918", "9320" for "8920", "9324" for "8924", "9314" for "8914", "9317" for "8917", and "9362" for "8992" in column 1 of table, and "section 9342" for "section 8962" in footnote 1 in table.

**2014**—Subsec. (i). Pub. L. 113–291, §603(d)(1), inserted "Chief of the National Guard Bureau," after "Chiefs of Service," in heading.

Subsec. (i)(1). Pub. L. 113–291, §603(d)(2), inserted "as Chief of the National Guard Bureau," after "Chief of Service," and "or the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau" after "of an armed force".

Subsec. (i)(3)(B)(vi). Pub. L. 113–291, §603(d)(3), struck out cl. (vi) which read as follows: "Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff."

**2009**—Subsec. (b)(2). Pub. L. 111–84 inserted "(or, in the case of a person entitled to retired pay by reason of an election under section 12741(a) of this title, at rates applicable on the date the person completes the service required under such section 12741(a))" after "when retired pay is granted".

**2006**—Subsec. (b)(1). Pub. L. 109–364, §502(d)(2), in table inserted "1253" at end of column under heading "For a member entitled to retired pay under section:".

Pub. L. 109–163, §509(d)(1)(B), in table inserted "1252" at end of column under heading "For a member entitled to retired pay under section:".

Subsec. (i)(3)(B)(vi). Pub. L. 109–364, §1071(a)(7), substituted "to" for "for".

Pub. L. 109–163, §685(d), added cl. (vi).

**2004**—Subsec. (g). Pub. L. 108–375 substituted "section 245" for "section 305" and "Officer Corps Act of 2002 (33 U.S.C. 3045)" for "Officers Act of 2002".

**2003**—Subsec. (i). Pub. L. 108–136 inserted "Commanders of Combatant Commands," after "Chiefs of Service," in heading and "as a commander of a unified or specified combatant command (as defined in section 161(c) of this title)," after "Chief of Service," in par. (1).

**2002**—Subsec. (g). Pub. L. 107–372 substituted "section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002" for "section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)"

**1999**—Subsec. (i)(2). Pub. L. 106–65 substituted "after October 16, 1998" for "on or after the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999" in introductory provisions.

**1998**—Subsec. (i)(2), (3). Pub. L. 105–261 added par. (2) and redesignated former par. (2) as (3).

**1997**—Subsec. (b)(1). Pub. L. 105–85 substituted "3962 and 8962" for "3962(b) and 8962(b)" in footnote 3 in table.

Subsec. (c)(1). Pub. L. 105–85, §1073(a)(23)(A), substituted "3962" for "3962(b)" in footnote 1 in table.

Subsec. (e)(1). Pub. L. 105–85, §1073(a)(23)(B), substituted "8962" for "8962(b)" in footnote 1 in table.

**1994**—Subsec. (b). Pub. L. 103–337 substituted "Subtitle A or E" for "Subtitle A" in subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, in table struck out item for section 1331 which related to monthly basic pay of highest grade held satisfactorily by person at any time in armed forces, renumbered footnotes 3 and 4 as 2 and 3, respectively, and struck out former footnote 2 which provided for computations at rates applicable on date when retired pay is granted, and added par. (2).

**1991**—Subsec. (b). Pub. L. 102–190 substituted "580" for "564" in table.

**1988**—Subsec. (b). Pub. L. 100–456 substituted "satisfactorily by person" for "satisfactory by person" in item relating to section 1331 in table.

**1987**—Subsec. (d). Pub. L. 100–180, §512(d)(2), inserted "or 6334" after "6151" in text, and inserted item relating to section 6334 at end of table.

Subsec. (i). Pub. L. 100–180, §1314(b)(6), inserted "and Vice Chairmen" after "Chairmen" in heading and inserted "or Vice Chairman" after "Chairman" in par. (1).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title VI, §603(e), Dec. 19, 2014, 128 Stat. 3398, provided that: "This section [amending this section and sections 210 and 414 of Title 37, Pay and Allowances of the Uniformed Services, enacting provisions set out as a note under section 203 of Title 37, and amending provisions set out as a note under section 205 of Title 37] and the amendments made by this section shall take effect on the date of the enactment of this Act [Dec. 19, 2014], and shall apply with respect to months of service that begin on or after that date."

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, §643(c), Nov. 24, 2003, 117 Stat. 1517, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 24, 2003] and shall apply with respect to officers who first become entitled to retired pay under title 10, United States Code, on or after such date."

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of

Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**GRADE ON TRANSFER TO RETIRED RESERVE**

Pub. L. 103–337, div. A, title XVI, §1688, Oct. 5, 1994, 108 Stat. 3025, provided that: "In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this title, the requirement for satisfactory service on the reserve active-status list contained in [former] section 1370(d) of title 10, United States Code, as added by this title, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this title, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this title [see Effective Date note set out under section 10001 of this title]."

[In determining retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of title 10 in such determination with respect to such officers deemed to be a reference to section 1370a of title 10, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.]

[1] *See References in Text note below.*

## §1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average

(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service after September 7, 1980, is computed using the retired pay base or retainer pay base determined under this section.

(b) HIGH-THREE AVERAGE.—Except as provided in subsection (f), the retired pay base or retainer pay base of a person under this section is the person's high-three average determined under subsection (c) or (d).

(c) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS ENTITLED TO RETIRED OR RETAINER PAY FOR REGULAR SERVICE.—

(1) GENERAL RULE.—The high-three average of a member entitled to retired or retainer pay under any provision of law other than section 1204 or 1205 or section 12731 of this title is the amount equal to—

(A) the total amount of monthly basic pay to which the member was entitled for the 36 months (whether or not consecutive) out of all the months of active service of the member for which the monthly basic pay to which the member was entitled was the highest, divided by

(B) 36.

(2) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1201 or 1202 of this title and who has completed less than 36 months of active service, the member's high-three average (notwithstanding paragraph (1)) is the amount equal to—

(A) the total amount of basic pay to which the member was entitled during the period of the

member's active service, divided by

(B) the number of months (including any fraction thereof) of the member's active service.

(3) SPECIAL RULE FOR RESERVE COMPONENT MEMBERS.—In the case of a member of a reserve component who is entitled to retired pay under section 1201 or 1202 of this title, the member's high-three average (notwithstanding paragraphs (1) and (2)) is computed in the same manner as prescribed in paragraphs (2) and (3) of subsection (d) for a member entitled to retired pay under section 1204 or 1205 of this title.

(d) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS AND FORMER MEMBERS ENTITLED TO RETIRED PAY FOR NONREGULAR SERVICE.—

(1) RETIRED PAY UNDER CHAPTER 1223.—The high-three average of a member or former member entitled to retired pay under section 12731 of this title is the amount equal to—

(A) the total amount of monthly basic pay to which the member or former member was entitled during the member or former member's high-36 months (or to which the member or former member would have been entitled if the member or former member had served on active duty during the entire period of the member or former member's high-36 months), divided by

(B) 36.

(2) NONREGULAR SERVICE DISABILITY RETIRED PAY.—The high-three average of a member entitled to retired pay under section 1204 or 1205 of this title is the amount equal to—

(A) the total amount of monthly basic pay to which the member was entitled during the member's high-36 months (or to which the member would have been entitled if the member had served on active duty during the entire period of the member's high-36 months), divided by

(B) 36.

(3) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title and who was a member for less than 36 months before being retired under that section, the member's high-three average (notwithstanding paragraph (2)) is the amount equal to—

(A) the total amount of basic pay to which the member was entitled during the entire period the member was a member of a uniformed service before being so retired (or to which the member would have been entitled if the member had served on active duty during the entire period the member was a member of a uniformed service before being so retired), divided by

(B) the number of months (including any fraction thereof) which the member was a member before being so retired.

(4) HIGH-36 MONTHS.—The high-36 months of a member or former member whose retired pay is covered by paragraph (1) or (2) are the 36 months (whether or not consecutive) out of all the months before the member or former member became entitled to retired pay or, in the case of a member or former member entitled to retired pay by reason of an election under section 12741(a) of this title, before the member or former member completes the service required under such section 12741(a), for which the monthly basic pay to which the member or former member was entitled (or would have been entitled if serving on active duty during those months) was the highest. In the case of a former member, only months during which the former member was a member of a uniformed service may be used for purposes of the preceding sentence.

(e) LIMITATION FOR ENLISTED MEMBERS RETIRING WITH LESS THAN 30 YEARS' SERVICE.—In the case of a member who is retired under section 7314 or 9314 of this title or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 8330 of this title, the member's high-36 average shall be computed using only rates of basic pay applicable to months of active duty of the member as an enlisted member.

(f) EXCEPTION FOR ENLISTED MEMBERS REDUCED IN GRADE AND OFFICERS WHO

DO NOT SERVE SATISFACTORILY IN HIGHEST GRADE HELD.—

(1) COMPUTATION BASED ON PRE-HIGH-THREE RULES.—In the case of a member or former member described in paragraph (2), the retired pay base or retainer pay base is determined under section 1406 of this title in the same manner as if the member or former member first became a member of a uniformed service before September 8, 1980.

(2) AFFECTED MEMBERS.—A member or former member referred to in paragraph (1) is a member or former member who by reason of conduct occurring after October 30, 2000—

(A) in the case of a member retired in an enlisted grade or transferred to the Fleet Reserve or Fleet Marine Corps Reserve, was at any time reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or an administrative action, unless the member was subsequently promoted to a higher enlisted grade or appointed to a commissioned or warrant grade; and

(B) in the case of an officer, is retired in a grade lower than the highest grade in which served pursuant to section 1370 or 1370a of this title that the officer served on active duty satisfactorily in that grade.

(3) SPECIAL RULE FOR ENLISTED MEMBERS.—In the case of a member who retires within three years after having been reduced in grade as described in paragraph (2)(A), who retires in an enlisted grade that is lower than the grade from which reduced, and who would be subject to paragraph (1) but for a subsequent promotion to a higher enlisted grade or a subsequent appointment to a warrant or commissioned grade, the rates of basic pay used in the computation of the member's high-36 average for the period of the member's service in a grade higher than the grade in which retired shall be the rates of pay that would apply if the member had been serving for that period in the grade in which retired.

(4) SPECIAL RULE FOR OFFICERS WHO SERVED IN GRADE O–9 OR O–10 AND RETIRED IN GRADE O–8.—In the case of an officer who served in the temporary grade of O–9 or O–10 and received a conditional or final retirement in the permanent grade of O–8 pursuant to section 1370 or 1370a of this title, the retired pay base or retainer pay shall be the lower of—

(A) the amount determined under subsection (c) or (d), as applicable; or

(B) the amount determined under section 1406 of this title, as if the officer first became a member of a uniformed service before September 8, 1980.

(Added Pub. L. 99–348, title I, §104(b), July 1, 1986, 100 Stat. 689; amended Pub. L. 101–189, div. A, title VI, §651(a), (b)(2), Nov. 29, 1989, 103 Stat. 1459, 1460; Pub. L. 103–337, div. A, title XVI, §1662(j)(5), Oct. 5, 1994, 108 Stat. 3004; Pub. L. 104–106, div. A, title XV, §1501(c)(15), Feb. 10, 1996, 110 Stat. 499; Pub. L. 106–398, §1 [[div. A], title VI, §651], Oct. 30, 2000, 114 Stat. 1654, 1654A–163; Pub. L. 107–107, div. A, title X, §1048(c)(8), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108–375, div. A, title VI, §641(a), Oct. 28, 2004, 118 Stat. 1957; Pub. L. 111–84, div. A, title VI, §643(d)(2), Oct. 28, 2009, 123 Stat. 2367; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title V, §508(b)(1)(B), Jan. 1, 2021, 134 Stat. 3585; Pub. L. 118–159, div. A, title VI, §605, Dec. 23, 2024, 138 Stat. 1931.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1407, added Pub. L. 96–342, title VIII, §813(a)(1), Sept. 8, 1980, 94 Stat. 1100; amended Pub. L. 96–513, title I, §113(c), title V, §§501(21), 511(53), Dec. 12, 1980, 94 Stat. 2877, 2908, 2925, related to determination of retired base pay, prior to repeal by Pub. L. 99–348, §104(b).

### AMENDMENTS

**2024**—Subsec. (f)(4). Pub. L. 118–159 added par. (4).

**2021**—Subsec. (f)(2)(B). Pub. L. 116–283 substituted "pursuant to section 1370 or 1370a" for "by reason of denial of a determination or certification under section 1370".

**2018**—Subsec. (e). Pub. L. 115–232 substituted "section 7314 or 9314" for "section 3914 or 8914" and "section 8330" for "section 6330".

**2009**—Subsec. (d)(4). Pub. L. 111–84 inserted "or, in the case of a member or former member entitled to retired pay by reason of an election under section 12741(a) of this title, before the member or former member completes the service required under such section 12741(a)," after "became entitled to retired pay".

**2004**—Subsec. (c)(3). Pub. L. 108–375 added par. (3).

**2001**—Subsec. (f)(2). Pub. L. 107–107 substituted "October 30, 2000—" for "the date of the enactment of this subsection—" in introductory provisions.

**2000**—Subsec. (b). Pub. L. 106–398, §1 [[div. A], title VI, §651(1)], substituted "Except as provided in subsection (f), the retired pay base" for "The retired pay base".

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title VI, §651(2)], added subsec. (f).

**1996**—Subsec. (c)(1). Pub. L. 104–106, §1501(c)(15)(A), substituted "section 12731" for "section 1331".

Subsec. (d)(1). Pub. L. 104–106 substituted in heading "CHAPTER 1223" for "CHAPTER 67" and in text "section 12731" for "section 1331".

**1994**—Subsec. (c)(2)(B). Pub. L. 103–337, §1662(j)(5)(A), which directed substitution of "chapter 1223" for "chapter 67", could not be executed because the words "chapter 67" did not appear subsequent to amendment by Pub. L. 101–189, §651(a)(2), (4). See 1989 Amendment note below.

Subsec. (f)(2). Pub. L. 103–337, §1662(j)(5)(B), which directed amendment of subsec. (f)(2) by substituting "Chapter 1223" for "Chapter 67" in heading and "section 12731" for "section 1331" in text, could not be executed because of previous repeal of subsec. (f) by Pub. L. 101–189, §651(a)(2). See 1989 Amendment note below.

**1989**—Subsec. (b). Pub. L. 101–189, §651(a)(1), (b)(2), substituted "person" for "member", "person's" for "member's", and "subsection (c) or (d)" for "subsection (c)".

Subsec. (c). Pub. L. 101–189, §651(a)(2), (4), added subsec. (c) and struck out former subsec. (c) which related to computation of high-three average.

Subsec. (d). Pub. L. 101–189, §651(a)(4), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–189, §651(a)(2), (3), redesignated subsec. (d) as (e) and struck out former subsec. (e) which related to special rules for short-term disability retirees.

Subsecs. (f), (g). Pub. L. 101–189, §651(a)(2), struck out subsec. (f) which related to special rule for members retiring with non-regular service, and subsec. (g) which defined the term "years of creditable service".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, §641(b), Oct. 28, 2004, 118 Stat. 1957, provided that: "Paragraph (3) of section 1407(c) of title 10, United States Code, as added by subsection (a), shall take effect—

"(1) for purposes of determining an annuity under subchapter II or III of chapter 73 of that title, with respect to deaths on active duty on or after September 10, 2001; and

"(2) for purposes of determining the amount of retired pay of a member of a reserve component entitled to retired pay under section 1201 or 1202 of such title, with respect to such entitlement that becomes effective on or after the date of the enactment of this Act [Oct. 28, 2004]."

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §1407a. Retired pay base: officers retired in general or flag officer grades

(a) RATES OF BASIC PAY TO BE USED IN DETERMINATION.—Except as otherwise provided in this section, in a case in which the determination under section 1406 or 1407 of this title of the retired pay base applicable to the computation of the retired pay of a covered general or flag officer involves a rate of basic pay payable to that officer for any period between October 1, 2006, and December 31, 2014, that was subject to a reduction under section 203(a)(2) of title 37 for such period, such retired-pay-base determination shall be made using the rate of basic pay for such period provided by law, without regard to the reduction under section 203(a)(2) of title 37.

(b) PARTIAL PRESERVATION OF COMPUTATION OF RETIRED PAY BASE USING UNCAPPED RATES OF BASIC PAY FOR COVERED OFFICERS WHO FIRST BECAME MEMBERS BEFORE SEPTEMBER 8, 1980, AND WHOSE RETIRED PAY COMMENCES AFTER DECEMBER 31, 2014.—

(1) OFFICERS RETIRING AFTER DECEMBER 31, 2014.—In the case of a covered general or flag officer who first became a member of a uniformed service before September 8, 1980, and who is retired after December 31, 2014, under any provision of law other than chapter 1223 of this title or is transferred to the Retired Reserve after December 31, 2014, the retired pay base applicable to the computation of the retired pay of that officer shall be determined as provided in paragraph (2) if determination of such retired pay base as provided in that paragraph results in a higher retired pay base than determination of such retired pay base as otherwise provided by law (including the application of section 203(a)(2) of title 37).

(2) ALTERNATIVE DETERMINATION OF RETIRED PAY BASE USING UNCAPPED RATES OF BASIC PAY AS OF DECEMBER 31, 2014.—For a determination in accordance with this paragraph, the amount of an officer's retired pay base shall be determined by using the rate of basic pay provided as of December 31, 2014, for that officer's grade as of that date for purposes of basic pay, with that officer's years of service creditable as of that date for purposes of basic pay, and without regard to any reduction under section 203(a)(2) of title 37.

(3) EXCEPTION FOR OFFICER RETIRED IN A LOWER GRADE.—In a case in which the retired grade of the officer is lower than the grade in which the officer was serving on December 31, 2014, paragraph (2) shall be applied as if the officer was serving on that date in the officer's retired grade.

(c) PRESERVATION OF COMPUTATION OF RETIRED PAY BASE USING UNCAPPED RATES OF BASIC PAY FOR OFFICERS TRANSFERRING TO RETIRED RESERVE DURING SPECIFIED PERIOD.—In the case of a covered general or flag officer who is transferred to the Retired Reserve between October 1, 2006, and December 31, 2014, and who becomes entitled to receive retired pay under section 12731 of this title after December 31, 2014, the retired pay base applicable to the computation of the retired pay of that officer shall be determined using the rates of basic pay provided by law without regard to any reduction in rates of basic pay under section 203(a)(2) of title 37.

(d) COVERED GENERAL OR FLAG OFFICER DEFINED.—In this section, the term "covered general or flag officer" means a member or former member of a uniformed service who after September 30, 2006—

(1) is retired in a general officer grade or flag officer grade (or an equivalent grade, in the case of an officer of the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration); or

(2) is transferred to the Retired Reserve in a general officer grade or flag officer grade.

(Added Pub. L. 109–364, div. A, title VI, §641(a), Oct. 17, 2006, 120 Stat. 2258; amended Pub. L. 113–291, div. A, title VI, §622(a), Dec. 19, 2014, 128 Stat. 3401.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291 amended section generally. Prior to amendment section related to retired pay base: officers retired in general or flag officer grades, consisting of subsecs. (a) and (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2014 AMENDMENT**

Pub. L. 113–291, div. A, title VI, §622(b), Dec. 19, 2014, 128 Stat. 3403, provided that: "Section 1407a of title 10, United States Code, as amended by subsection (a), shall be effective for retired pay that commences after December 31, 2014."

## §1408. Payment of retired or retainer pay in compliance with court orders

(a) DEFINITIONS.—In this section:

(1) The term "court" means—

(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction;

(C) any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country; and

(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) The term "court order" means a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)), which—

(A) is issued in accordance with the laws of the jurisdiction of that court;

(B) provides for—

(i) payment of child support (as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)));

(ii) payment of alimony (as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3))); or

(iii) division of property (including a division of community property); and

(C) in the case of a division of property, specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired pay, from the disposable retired pay of a member to the spouse or former spouse of that member.

(3) The term "final decree" means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

(4)(A) The term "disposable retired pay" means the total monthly retired pay to which a member is entitled less amounts which—

(i) are owed by that member to the United States for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay;

(ii) are deducted from the retired pay of such member as a result of forfeitures of retired pay ordered by a court-martial or as a result of a waiver of retired pay required by law in order to

receive compensation under title 5 or title 38;

(iii) in the case of a member entitled to retired pay under chapter 61 of this title, are equal to the amount of retired pay of the member under that chapter computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list); or

(iv) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this section.

(B) For purposes of subparagraph (A), in the case of a division of property as part of a final decree of divorce, dissolution, annulment, or legal separation that becomes final prior to the date of a member's retirement, the total monthly retired pay to which the member is entitled shall be—

(i) in the case of a member not described in clause (ii), the amount of retired pay to which the member would have been entitled using the member's retired pay base and years of service on the date of the decree of divorce, dissolution, annulment, or legal separation, as computed under section 1406 or 1407 of this title, whichever is applicable, increased by the sum of the cost-of-living adjustments that—

(I) would have occurred under section 1401a(b) of this title between the date of the decree of divorce, dissolution, annulment, or legal separation and the time of the member's retirement using the adjustment provisions under section 1401a of this title applicable to the member upon retirement; and

(II) occur under 1401a of this title after the member's retirement; or

(ii) in the case of a member who becomes entitled to retired pay pursuant to chapter 1223 of this title, the amount of retired pay to which the member would have been entitled using the member's retired pay base and creditable service points on the date of the decree of divorce, dissolution, annulment, or legal separation, as computer under chapter 1223 of this title, increased by the sum of the cost-of-living adjustments as described in clause (i) that apply with respect to the member.

(5) The term "member" includes a former member entitled to retired pay under section 12731 of this title.

(6) The term "spouse or former spouse" means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

(7) The term "retired pay" includes retainer pay.

(b) EFFECTIVE SERVICE OF PROCESS.—For the purposes of this section—

(1) service of a court order is effective if—

(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (i) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by facsimile or electronic transmission or by mail;

(B) the court order is regular on its face;

(C) the court order or other documents served with the court order identify the member concerned and include, if possible, the social security number of such member; and

(D) the court order or other documents served with the court order certify that the rights of the member under the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.) were observed; and

(2) a court order is regular on its face if the order—

(A) is issued by a court of competent jurisdiction;

(B) is legal in form; and

(C) includes nothing on its face that provides reasonable notice that it is issued without

authority of law.

(c) AUTHORITY FOR COURT TO TREAT RETIRED PAY AS PROPERTY OF THE MEMBER AND SPOUSE.—(1) Subject to the limitations of this section, a court may treat disposable retired pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court. A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse.

(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse. Payments by the Secretary concerned under subsection (d) to a spouse or former spouse with respect to a division of retired pay as the property of a member and the member's spouse under this subsection may not be treated as amounts received as retired pay for service in the uniformed services.

(3) This section does not authorize any court to order a member to apply for retirement or retire at a particular time in order to effectuate any payment under this section.

(4) A court may not treat the disposable retired pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court.

(d) PAYMENTS BY SECRETARY CONCERNED TO (OR FOR BENEFIT OF) SPOUSE OR FORMER SPOUSE.—(1) After effective service on the Secretary concerned of a court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired pay from a member to the spouse or a former spouse of the member, the Secretary shall make payments (subject to the limitations of this section) from the disposable retired pay of the member to the spouse or former spouse (or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D) in an amount sufficient to satisfy the amount of child support and alimony set forth in the court order and, with respect to a division of property, in the amount of disposable retired pay specifically provided for in the court order. In the case of a spouse or former spouse who, pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(4)),[1] assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights. In the case of a member entitled to receive retired pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date of effective service. In the case of a member not entitled to receive retired pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date on which the member first becomes entitled to receive retired pay.

(2) If the spouse or former spouse to whom payments are to be made under this section was not married to the member for a period of 10 years or more during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired pay, payments may not be made under this section to the extent that they include an amount resulting from the treatment by the court under subsection (c) of disposable retired pay of the member as property of the member or property of the member and his spouse.

(3) Payments under this section shall not be made more frequently than once each month, and the

Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired pay in order to comply with a court order.

(4) Payments from the disposable retired pay of a member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

(5) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of child support or alimony or the payment of an amount of disposable retired pay as the result of the court's treatment of such pay under subsection (c) as property of the member and his spouse, the Secretary concerned shall pay (subject to the limitations of this section) from the disposable retired pay of the member to the spouse or former spouse of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired pay.

(6) In the case of a court order for which effective service is made on the Secretary concerned on or after August 22, 1996, and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.

(7)(A) The Secretary concerned may not accept service of a court order that is an out-of-State modification, or comply with the provisions of such a court order, unless the court issuing that order has jurisdiction in the manner specified in subsection (c)(4) over both the member and the spouse or former spouse involved.

(B) A court order shall be considered to be an out-of-State modification for purposes of this paragraph if the order—

(i) modifies a previous court order under this section upon which payments under this subsection are based; and

(ii) is issued by a court of a State other than the State of the court that issued the previous court order.

(8) A division of property award computed as a percentage of a member's disposable retired pay shall be increased by the same percentage as any cost-of-living adjustment made under section 1401a after the member's retirement.

(e) LIMITATIONS.—(1) The total amount of the disposable retired pay of a member payable under all court orders pursuant to subsection (c) may not exceed 50 percent of such disposable retired pay.

(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse, the disposable retired pay of the member shall be used to satisfy (subject to the limitations of paragraph (1)) such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired pay which remains after the satisfaction of all court orders which have been previously served.

(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse of the same member, the Secretary concerned shall—

(i) pay to that spouse from the member's disposable retired pay the least amount directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

(ii) retain an amount of disposable retired pay that is equal to the lesser of—

(I) the difference between the largest amount required by any conflicting court order to be

paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i); and

(II) the amount of disposable retired pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

(iii) pay to that member the amount which is equal to the amount of that member's disposable retired pay (less any amount paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amount paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

(I) the amount of disposable retired pay paid under clause (i); and

(II) the amount of disposable retired pay retained under clause (ii).

(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the same member, satisfaction of such court orders and legal process from the retired pay of the member shall be on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

(B) Notwithstanding any other provision of law, the total amount of the disposable retired pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to a member may not exceed 65 percent of the amount of the retired pay payable to such member that is considered under section 462 of the Social Security Act (42 U.S.C. 662) to be remuneration for employment that is payable by the United States.

(5) A court order which itself or because of previously served court orders provides for the payment of an amount which exceeds the amount of disposable retired pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount that exceeds the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4), shall not be considered to be irregular on its face solely for that reason. However, such order shall be considered to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the maximum amount of disposable retired pay permitted under paragraph (1) and subparagraph (B) of paragraph (4).

(6) Nothing in this section shall be construed to relieve a member of liability for the payment of alimony, child support, or other payments required by a court order on the grounds that payments made out of disposable retired pay under this section have been made in the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4). Any such unsatisfied obligation of a member may be enforced by any means available under law other than the means provided under this section in any case in which the maximum amount permitted under paragraph (1) has been paid and under section 459 of the Social Security Act (42 U.S.C. 659) in any case in which the maximum amount permitted under subparagraph (B) of paragraph (4) has been paid.

(f) IMMUNITY OF OFFICERS AND EMPLOYEES OF UNITED STATES.—(1) The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired pay to any member, spouse, or former spouse pursuant to a court order

that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (i).

(2) An officer or employee of the United States who, under regulations prescribed pursuant to subsection (i), has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

(g) NOTICE TO MEMBER OF SERVICE OF COURT ORDER ON SECRETARY CONCERNED.—A person receiving effective service of a court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy of such order) to the member affected by the court order at his last known address.

(h) BENEFITS FOR DEPENDENTS WHO ARE VICTIMS OF ABUSE BY MEMBERS LOSING RIGHT TO RETIRED PAY.—(1)(A) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides (in the manner applicable to a division of property) for the payment of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible spouse or former spouse of that member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such spouse or former spouse.

(B) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides for the payment as child support of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible dependent child of the member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such dependent child.

(2) A spouse or former spouse, or a dependent child, of a member or former member of the armed forces is eligible to receive payment under this subsection if—

(A) the member or former member, while a member of the armed forces and after becoming eligible to be retired from the armed forces on the basis of years of service, has eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of a spouse or dependent child (as defined in regulations prescribed by the Secretary of Defense or, for the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security);

(B) in the case of eligibility of a spouse or former spouse under paragraph (1)(A), the spouse or former spouse—

(i) was the victim of the abuse and was married to the member or former member at the time of that abuse; or

(ii) is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse; and

(C) in the case of eligibility of a dependent child under paragraph (1)(B), the other parent of the child died as a result of the misconduct that resulted in the termination of retired pay.

(3) The amount certified by the Secretary concerned under paragraph (4) with respect to a member or former member of the armed forces referred to in paragraph (2)(A) shall be deemed to be the disposable retired pay of that member or former member for the purposes of this subsection.

(4) Upon the request of a court or an eligible spouse or former spouse, or an eligible dependent child, of a member or former member of the armed forces referred to in paragraph (2)(A) in connection with a civil action for the issuance of a court order in the case of that member or former member, the Secretary concerned shall determine and certify the amount of the monthly retired pay that the member or former member would have been entitled to receive as of the date of the certification—

(A) if the member or former member's eligibility for retired pay had not been terminated as

described in paragraph (2)(A); and

(B) if, in the case of a member or former member not in receipt of retired pay immediately before that termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination of eligibility.

(5) A court order under this subsection may provide that whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount payable under the court order to the spouse or former spouse, or the dependent child, of a member or former member described in paragraph (2)(A) shall be increased at the same time by the percent by which the retired pay of the member or former member would have been increased if the member or former member were receiving retired pay.

(6) Notwithstanding any other provision of law, a member or former member of the armed forces referred to in paragraph (2)(A) shall have no ownership interest in, or claim against, any amount payable under this section to a spouse or former spouse, or to a dependent child, of the member or former member.

(7)(A) If a former spouse receiving payments under this subsection with respect to a member or former member referred to in paragraph (2)(A) marries again after such payments begin, the eligibility of the former spouse to receive further payments under this subsection shall terminate on the date of such marriage.

(B) A person's eligibility to receive payments under this subsection that is terminated under subparagraph (A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payments shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the payments shall be the amount that would have been paid if the continuity of the payments had not been interrupted by the marriage.

(8) Payments in accordance with this subsection shall be made out of funds in the Department of Defense Military Retirement Fund established by section 1461 of this title or, in the case of the Coast Guard, out of funds appropriated to the Department of Homeland Security for payment of retired pay for the Coast Guard.

(9)(A) A spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A), while receiving payments in accordance with this subsection, shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a spouse or a former spouse of a retired member of the armed forces is entitled to receive on the basis of being a spouse or former spouse, as the case may be, of a retired member of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

(B) A dependent child of a member or former member referred to in paragraph (2)(A) who was a member of the household of the member or former member at the time of the misconduct described in paragraph (2)(A) shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to have other benefits provided to dependents of retired members of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

(C) If a spouse or former spouse or a dependent child eligible or entitled to receive a particular benefit under this paragraph is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that spouse or former spouse or dependent child to such benefit shall be determined under such other provision of law instead of this paragraph.

(10)(A) For purposes of this subsection, in the case of a member of the armed forces who has been sentenced by a court-martial to receive a punishment that will terminate the eligibility of that member to receive retired pay if executed, the eligibility of that member to receive retired pay may, as determined by the Secretary concerned, be considered terminated effective upon entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice).

(B) If each form of the punishment that would result in the termination of eligibility to receive retired pay is later remitted, set aside, or mitigated to a punishment that does not result in the

termination of that eligibility, a payment of benefits to the eligible recipient under this subsection that is based on the punishment so vacated, set aside, or mitigated shall cease. The cessation of payments shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such benefits in writing that payment of the benefits will cease. The recipient may not be required to repay the benefits received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).

(11) In this subsection, the term "dependent child", with respect to a member or former member of the armed forces referred to in paragraph (2)(A), means an unmarried legitimate child, including an adopted child or a stepchild of the member or former member, who—

(A) is under 18 years of age;

(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this subparagraph, is under 23 years of age and is dependent on the member or former member for over one-half of the child's support.

(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.

(j) REGULATIONS.—The Secretaries concerned shall prescribe uniform regulations for the administration of this section.

(k) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.

(l) GARNISHMENT TO SATISFY A JUDGMENT RENDERED FOR PHYSICALLY, SEXUALLY, OR EMOTIONALLY ABUSING A CHILD.—(1) Subject to paragraph (2), any payment of retired pay that would otherwise be made to a member shall be paid (in whole or in part) by the Secretary concerned to another person if and to the extent expressly provided for in the terms of a child abuse garnishment order.

(2) A court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired pay from a member to the spouse or a former spouse of the member, shall be given priority over a child abuse garnishment order. The total amount of the disposable retired pay of a member payable under a child abuse garnishment order shall not exceed 25 percent of the member's disposable retired pay.

(3) In this subsection, the term "court order" includes a child abuse garnishment order.

(4) In this subsection, the term "child abuse garnishment order" means a final decree issued by a court that—

(A) is issued in accordance with the laws of the jurisdiction of that court; and

(B) provides in the nature of garnishment for the enforcement of a judgment rendered against the member for physically, sexually, or emotionally abusing a child.

(5) For purposes of this subsection, a judgment rendered for physically, sexually, or emotionally abusing a child is any legal claim perfected through a final enforceable judgment, which claim is based in whole or in part upon the physical, sexual, or emotional abuse of an individual under 18 years of age, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence.

(6) If the Secretary concerned is served with more than one court order with respect to the retired pay of a member, the disposable retired pay of the member shall be available to satisfy such court

orders on a first-come, first-served basis, subject to the order of precedence specified in paragraph (2), with any such process being satisfied out of such monies as remain after the satisfaction of all such processes which have been previously served.

(7) The Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired pay in order to comply with a child abuse garnishment order.

(Added Pub. L. 97–252, title X, §1002(a), Sept. 8, 1982, 96 Stat. 730; amended Pub. L. 98–525, title VI, §643(a)–(d), Oct. 19, 1984, 98 Stat. 2547; Pub. L. 99–661, div. A, title VI, §644(a), Nov. 14, 1986, 100 Stat. 3887; Pub. L. 100–26, §§3(3), 7(h)(1), Apr. 21, 1987, 101 Stat. 273, 282; Pub. L. 101–189, div. A, title VI, §653(a)(5), title XVI, §1622(e)(6), Nov. 29, 1989, 103 Stat. 1462, 1605; Pub. L. 101–510, div. A, title V, §555(a)–(d), (f), (g), Nov. 5, 1990, 104 Stat. 1569, 1570; Pub. L. 102–190, div. A, title X, §1061(a)(7), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. A, title VI, §653(a), Oct. 23, 1992, 106 Stat. 2426; Pub. L. 103–160, div. A, title V, §555(a), (b), title XI, §1182(a)(2), Nov. 30, 1993, 107 Stat. 1666, 1771; Pub. L. 104–106, div. A, title XV, §1501(c)(16), Feb. 10, 1996, 110 Stat. 499; Pub. L. 104–193, title III, §§362(c), 363(c)(1)–(3), Aug. 22, 1996, 110 Stat. 2246, 2249; Pub. L. 104–201, div. A, title VI, §636, Sept. 23, 1996, 110 Stat. 2579; Pub. L. 105–85, div. A, title X, §1073(a)(24), (25), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107–107, div. A, title X, §1048(c)(9), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–189, §2(c), Dec. 19, 2003, 117 Stat. 2866; Pub. L. 109–163, div. A, title VI, §665(a), Jan. 6, 2006, 119 Stat. 3317; Pub. L. 111–84, div. A, title X, §1073(a)(15), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 114–328, div. A, title VI, §641(a), title X, §1081(b)(2)(B), Dec. 23, 2016, 130 Stat. 2164, 2418; Pub. L. 115–91, div. A, title V, §§531(m), 534(a), title VI, §624(a), Dec. 12, 2017, 131 Stat. 1386, 1390, 1429.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1)(D) and (d)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part D of title IV of the Act is classified generally to part D (§651 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Section 454B of the Act is classified to section 654b of Title 42. Section 408(a)(3) of the Act is classified to section 608(a)(3) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Servicemembers Civil Relief Act, referred to in subsec. (b)(1)(D), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which is classified generally to chapter 50 (§3901 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 3901 of Title 50 and Tables.

### AMENDMENTS

**2017**—Subsec. (a)(4)(A). Pub. L. 115–91, §624(a)(1)(A), struck out "(as determined pursuant to subparagraph (B)" after "is entitled" in introductory provisions.

Subsec. (a)(4)(B). Pub. L. 115–91, §624(a)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "For purposes of subparagraph (A), the total monthly retired pay to which a member is entitled shall be—

"(i) the amount of basic pay payable to the member for the member's pay grade and years of service at the time of the court order, as increased by

"(ii) each cost-of-living adjustment that occurs under section 1401a(b) of this title between the time of the court order and the time of the member's retirement using the adjustment provisions under that section applicable to the member upon retirement."

Subsec. (d)(8). Pub. L. 115–91, §624(a)(2), added par. (8).

Subsec. (h)(10)(A). Pub. L. 115–91, §531(m), substituted "entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice)" for "the approval of that sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice)".

Subsec. (l). Pub. L. 115–91, §534(a), added subsec. (l).

**2016**—Subsec. (a)(4). Pub. L. 114–328, §641(a), designated existing provisions as subpar. (A), inserted "(as determined pursuant to subparagraph (B)" after "member is entitled" in introductory provisions, redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(1)(D). Pub. L. 114–328, §1081(b)(2)(B), substituted "(50 U.S.C. 3901 et seq.)" for "(50 U.S.C.

App. 501 et seq.)".

**2009**—Subsec. (h)(2)(A). Pub. L. 111–84 struck out "and" at end.

**2006**—Subsec. (h)(1). Pub. L. 109–163, §665(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2). Pub. L. 109–163, §665(a)(2)(A), inserted ", or a dependent child," after "former spouse" in introductory provisions.

Subsec. (h)(2)(B). Pub. L. 109–163, §665(a)(2)(B)(i), inserted "in the case of eligibility of a spouse or former spouse under paragraph (1)(A)," after "(B)".

Subsec. (h)(2)(C). Pub. L. 109–163, §665(a)(2)(B)(ii), (C), added subpar. (C).

Subsec. (h)(4). Pub. L. 109–163, §665(a)(3), inserted ", or an eligible dependent child," after "former spouse" in introductory provisions.

Subsec. (h)(5). Pub. L. 109–163, §665(a)(4), inserted ", or the dependent child," after "former spouse".

Subsec. (h)(6). Pub. L. 109–163, §665(a)(5), inserted ", or to a dependent child," after "former spouse".

**2003**—Subsec. (b)(1)(D). Pub. L. 108–189 substituted "Servicemembers Civil Relief Act" for "Soldiers' and Sailors' Civil Relief Act of 1940".

**2002**—Subsec. (h)(2)(A), (8). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Subsec. (d)(6). Pub. L. 107–107 substituted "August 22, 1996," for "the date of the enactment of this paragraph".

**1997**—Subsec. (d). Pub. L. 105–85, §1073(a)(24)(A), substituted "to" for "To" in heading.

Subsec. (d)(6). Pub. L. 105–85, §1073(a)(24)(B), redesignated par. (6), relating to court order which is out-of-State modification, as (7).

Subsec. (d)(7). Pub. L. 105–85, §1073(a)(24)(B), redesignated par. (6), relating to court order which is out-of-State modification, as (7).

Subsec. (d)(7)(A). Pub. L. 105–85, §1073(a)(24)(C), substituted "out-of-State" for "out-of State".

Subsec. (g). Pub. L. 105–85, §1073(a)(25), in heading, substituted "to" for "To" and "on" for "On".

**1996**—Subsec. (a)(1)(D). Pub. L. 104–193, §362(c)(1), added subpar. (D).

Subsec. (a)(2). Pub. L. 104–193, §362(c)(2)(A), inserted "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—".

Subsec. (a)(2)(B)(i). Pub. L. 104–193, §362(c)(2)(B), substituted "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)))" for "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))".

Subsec. (a)(2)(B)(ii). Pub. L. 104–193, §362(c)(2)(C), substituted "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3)))" for "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))".

Subsec. (a)(5). Pub. L. 104–106 substituted "section 12731" for "section 1331".

Subsec. (b)(1)(A). Pub. L. 104–201, §636(a), substituted "facsimile or electronic transmission or by mail" for "certified or registered mail, return receipt requested".

Subsec. (d). Pub. L. 104–193, §362(c)(3)(A), inserted "(or for benefit of)" before "Spouse or" in heading.

Subsec. (d)(1). Pub. L. 104–193, §363(c)(2), inserted after first sentence "In the case of a spouse or former spouse who, pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights."

Pub. L. 104–193, §362(c)(3)(B), in first sentence, inserted "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

Subsec. (d)(6). Pub. L. 104–201, §636(b), added par. (6) relating to court order which is out-of-State modification.

Pub. L. 104–193, §363(c)(3), added par. (6) relating to use of disposable retired pay of member to satisfy amount of child support set forth in court order.

Subsec. (i). Pub. L. 104–193, §363(c)(1), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 104–193, §363(c)(1), redesignated subsec. (j) as (k).

Pub. L. 104–193, §362(c)(4), added subsec. (j).

Subsec. (k). Pub. L. 104–193, §363(c)(1), redesignated subsec. (j) as (k).

**1993**—Subsecs. (b)(1)(A), (f)(1), (2). Pub. L. 103–160, §1182(a)(2)(A), substituted "subsection (i)" for "subsection (h)".

Subsec. (h)(2)(A). Pub. L. 103–160, §555(b)(1), inserted "or, for the Coast Guard when it is not operating

as a service in the Navy, by the Secretary of Transportation" after "Secretary of Defense".

Subsec. (h)(4)(B). Pub. L. 103–160, §1182(a)(2)(B), inserted "of" after "of that termination".

Subsec. (h)(8). Pub. L. 103–160, §555(b)(2), inserted before period at end "or, in the case of the Coast Guard, out of funds appropriated to the Department of Transportation for payment of retired pay for the Coast Guard".

Subsec. (h)(10), (11). Pub. L. 103–160, §555(a), added par. (10) and redesignated former par. (10) as (11).

**1992**—Subsecs. (h), (i). Pub. L. 102–484 added subsec. (h) and redesignated former subsec. (h) as (i).

**1991**—Pub. L. 102–190 inserted "or retainer" after "retired" in section catchline.

**1990**—Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay" in section catchline.

Subsec. (a). Pub. L. 101–510, §555(g)(1), inserted heading.

Subsec. (a)(2)(C). Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay" wherever appearing.

Subsec. (a)(4). Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay" wherever appearing in introductory provisions and in subpar. (D).

Subsec. (a)(4)(A). Pub. L. 101–510, §555(b)(1), inserted before semicolon at end "for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay".

Subsec. (a)(4)(B). Pub. L. 101–510, §555(b)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "are required by law to be and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;".

Subsec. (a)(4)(C) to (F). Pub. L. 101–510, §555(b)(3), (4), redesignated subpars. (E) and (F) as (C) and (D), respectively, and struck out former subpars. (C) and (D) which read as follows:

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1986 if such member presents evidence of a tax obligation which supports such withholding;".

Subsec. (a)(7). Pub. L. 101–510, §555(f)(1), added par. (7).

Subsec. (b). Pub. L. 101–510, §555(g)(2), inserted heading.

Subsec. (c). Pub. L. 101–510, §555(g)(3), inserted heading.

Subsec. (c)(1). Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay".

Pub. L. 101–510, §555(a), inserted at end "A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse."

Subsec. (c)(2). Pub. L. 101–510, §555(c), inserted at end "Payments by the Secretary concerned under subsection (d) to a spouse or former spouse with respect to a division of retired pay as the property of a member and the member's spouse under this subsection may not be treated as amounts received as retired pay for service in the uniformed services."

Subsec. (c)(4). Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay".

Subsec. (d). Pub. L. 101–510, §555(g)(4), inserted heading.

Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay" wherever appearing.

Subsec. (e). Pub. L. 101–510, §555(g)(5), inserted heading.

Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay" wherever appearing.

Subsec. (e)(1). Pub. L. 101–510, §555(d)(1), substituted "payable under all court orders pursuant to subsection (c)" for "payable under subsection (d)".

Subsec. (e)(4)(B). Pub. L. 101–510, §555(d)(2), substituted "the amount of the retired pay payable to such member that is considered under section 462 of the Social Security Act (42 U.S.C. 662) to be remuneration for employment that is payable by the United States" for "the disposable retired or retainer pay payable to such member".

Subsec. (f). Pub. L. 101–510, §555(g)(6), inserted heading.

Subsec. (f)(1). Pub. L. 101–510, §555(f)(2), substituted "retired pay" for "retired or retainer pay".

Subsec. (g). Pub. L. 101–510, §555(g)(7), inserted heading.

Subsec. (h). Pub. L. 101–510, §555(g)(8), inserted heading.

**1989**—Subsec. (a)(1), (2). Pub. L. 101–189, §1622(e)(6), substituted "The term 'court" for " 'Court" in introductory provisions.

Subsec. (a)(3). Pub. L. 101–189, §1622(e)(6), substituted "The term 'final" for " 'Final".

Subsec. (a)(4). Pub. L. 101–189, §1622(e)(6), substituted "The term 'disposable" for " 'Disposable" in introductory provisions.

Subsec. (a)(4)(D). Pub. L. 101–189, §653(a)(5)(A), struck out "(26 U.S.C. 3402(i))" after "Code of 1986".

Subsec. (a)(5). Pub. L. 101–189, §§653(a)(5)(B), 1622(e)(6), substituted "The term 'member" for " 'Member" and inserted "entitled to retired pay under section 1331 of this title" after "a former member".

Subsec. (a)(6). Pub. L. 101–189, §1622(e)(6), substituted "The term 'spouse" for " 'Spouse".

**1987**—Subsec. (a)(4). Pub. L. 100–26, §3(3), made technical amendment to directory language of Pub. L. 99–661, §644(a). See 1986 Amendment note below.

Subsec. (a)(4)(D). Pub. L. 100–26, §7(h)(1), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

**1986**—Subsec. (a)(4). Pub. L. 99–661, §644(a), as amended by Pub. L. 100–26, §3(3), struck out "(other than the retired pay of a member retired for disability under chapter 61 of this title)" before "less amounts" in introductory text, added subpar. (E), and struck out former subpar. (E) which read as follows: "are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or".

**1984**—Subsec. (a)(2)(C). Pub. L. 98–525, §643(a), inserted "in the case of a division of property,".

Subsec. (b)(1)(C). Pub. L. 98–525, §643(b), inserted ", if possible,".

Subsec. (d)(1). Pub. L. 98–525, §643(c)(1), substituted "After effective service on the Secretary concerned of a court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired or retainer pay from a member to the spouse or a former spouse of the member, the Secretary shall make payments (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse in an amount sufficient to satisfy the amount of child support and alimony set forth in the court order and, with respect to a division of property, in the amount of disposable retired or retainer pay specifically provided for in the court order" for "After effective service on the Secretary concerned of a court order with respect to the payment of a portion of the retired or retainer pay of a member to the spouse or a former spouse of the member, the Secretary shall, subject to the limitations of this section, make payments to the spouse or former spouse in the amount of the disposable retired or retainer pay of the member specifically provided for in the court order".

Subsec. (d)(5). Pub. L. 98–525, §643(c)(2), substituted "child support or alimony or the payment of an amount of disposable retired or retainer pay as the result of the court's treatment of such pay under subsection (c) as property of the member and his spouse, the Secretary concerned shall pay (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse of the member, any part" for "disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part".

Subsec. (e)(2). Pub. L. 98–525, §643(d)(1), substituted ", the disposable retired or retainer pay of the member" for "from the disposable retired or retainer pay of a member, such pay" before "shall be used to satisfy".

Subsec. (e)(3)(A). Pub. L. 98–525, §643(d)(2)(A), struck out "from the disposable retired or retainer pay" before "of the same member".

Subsec. (e)(3)(A)(i). Pub. L. 98–525, §643(d)(2)(B), substituted "from the member's disposable retired or retainer pay the least amount" for "the least amount of disposable retired or retainer pay" before "directed to be paid".

Subsec. (e)(2)(A)(ii)(I). Pub. L. 98–525, §643(d)(2)(C), struck out "of retired or retainer pay" before "required by any conflicting".

Subsec. (e)(4)(A). Pub. L. 98–525, §643(d)(3), struck out "the retired or retainer pay of" before "the same member" and substituted "satisfaction of such court orders and legal process from the retired or retainer pay of the members shall be" for "such court orders and legal process shall be satisfied".

Subsec. (e)(5). Pub. L. 98–525, §643(d)(4), struck out "of disposable retired or retainer pay" after "payment of an amount" in two places and substituted "disposable retired or retainer pay" for "such pay" before "available for payment".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 531(m) of Pub. L. 115–91 effective immediately after the amendments made by div. E (§§5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115–91, set out as a note under section 801 of this title.

Pub. L. 115–91, div. A, title V, §534(b), Dec. 12, 2017, 131 Stat. 1391, provided that: "Subsection (l) of section 1408 of title 10, United States Code, as added by subsection (a), shall apply with respect to a court order received by the Secretary concerned on or after the date of the enactment of this Act [Dec. 12, 2017], regardless of the date of the court order."

Pub. L. 115–91, div. A, title VI, §624(b), Dec. 12, 2017, 131 Stat. 1430, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on December 23, 2016, as if enacted immediately following the enactment of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) [see Tables for classification] to which such amendments relate."

Pub. L. 115–91, div. A, title VI, §624(c), Dec. 12, 2017, 131 Stat. 1430, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any division of property as part of a final decree of divorce, dissolution, annulment, or legal separation involving a member of the Armed Forces to which section 1408 of title 10, United States Code, applies that becomes final after December 23, 2016."

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, §641(b), Dec. 23, 2016, 130 Stat. 2164, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any division of property as part of a final decree of divorce, dissolution, annulment, or legal separation involving a member of the Armed Forces to which section 1408 of title 10, United States Code, applies that becomes final after the date of the enactment of this Act [Dec. 23, 2016]."

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §665(b), Jan. 6, 2006, 119 Stat. 3318, provided that: "A court order authorized by the amendments made by this section [amending this section] may not provide for a payment attributable to any period before the date of the enactment of this Act [Jan. 6, 2006], or the date of the court order, whichever is later."

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 362(c) of Pub. L. 104–193 effective six months after Aug. 22, 1996, see section 362(d) of Pub. L. 104–193, set out as a note under section 659 of Title 42, The Public Health and Welfare.

For effective date of amendment by section 363(c)(1)–(3) of Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42.

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

## EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title V, §555(c), Nov. 30, 1993, 107 Stat. 1667, provided that: "The amendments made by this section [amending this section] shall take effect as of October 23, 1992, and shall apply as if the provisions of the paragraph (10) of section 1408(h) of title 10, United States Code, added by such subsection were included in the amendment made by section 653(a)(2) of Public Law 102–484 (106 Stat. 2426) [amending this section]."

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title V, §555(e), Nov. 5, 1990, 104 Stat. 1570, as amended by Pub. L. 102–190, div. A, title X, §1062(a)(1), Dec. 5, 1991, 105 Stat. 1475, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply with respect to judgments issued before, on, or after the date of the enactment of this Act [Nov. 5, 1990]. In the case of a judgment issued before the date of the enactment of this Act, such amendment shall not relieve any obligation, otherwise valid, to make a payment that is due to be made before the end of the two-year period beginning on the date of the enactment of this Act.

"(2) The amendments made by subsections (b), (c), and (d) [amending this section] apply with only respect to divorces, dissolutions of marriage, annulments, and legal separations that become effective after the end of

the 90-day period beginning on the date of the enactment of this Act."

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(3) of Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VI, §644(b), Nov. 14, 1986, 100 Stat. 3887, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to court orders issued after the date of the enactment of this Act [Nov. 14, 1986]."

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title VI, §643(e), Oct. 19, 1984, 98 Stat. 2548, provided that: "The amendments made by this section [amending this section] shall apply with respect to court orders for which effective service (as described in section 1408(b)(1) of title 10, United States Code, as amended by subsection (b) of this section) is made on or after the date of the enactment of this Act [Oct. 19, 1984]."

## EFFECTIVE DATE; TRANSITION PROVISIONS

Pub. L. 97–252, title X, §1006, Sept. 8, 1982, 96 Stat. 737, as amended by Pub. L. 98–94, title IX, §941(c)(4), Sept. 24, 1983, 97 Stat. 654; Pub. L. 98–525, title VI, §645(b), Oct. 19, 1984, 98 Stat. 2549, provided that:

"(a) The amendments made by this title [amending this section and sections 1072, 1076, 1086, 1447, 1448, and 1450 of this title and enacting provisions set out as notes under this section and section 1401 of this title] shall take effect on the first day of the first month [February 1983] which begins more than one hundred and twenty days after the date of the enactment of this title [Sept. 8, 1982].

"(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 1002(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of this title [Feb. 1, 1983, provided in subsec. (a)], but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

"(c) The amendments made by section 1003 of this title [amending sections 1447, 1448, and 1450 of this title] shall apply to persons who become eligible to participate in the Survivor Benefit Plan provided for in subchapter II of chapter 73 of title 10, United States Code [section 1447 et seq. of this title], before, on, or after the effective date of such amendments.

"(d) The amendments made by section 1004 of this title [amending sections 1072, 1076, and 1086 of this title] and the provisions of section 1005 of this title [formerly set out as a note under this section] shall apply in the case of any former spouse of a member or former member of the uniformed services whether the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated before, on, or after February 1, 1983.

"(e) For the purposes of this section—

"(1) the term 'court order' has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 1002 of this title);

"(2) the term 'former spouse' has the same meaning as provided in section 1408(a)(6) of such title (as added by section 1002 of this title); and

"(3) the term 'uniformed services' has the same meaning as provided in section 1072 of title 10, United States Code."

## REVIEW OF FEDERAL FORMER SPOUSE PROTECTION LAWS

Pub. L. 105–85, div. A, title VI, §643, Nov. 18, 1997, 111 Stat. 1799, directed the Secretary of Defense to carry out a comprehensive review of the protections, benefits, and treatment afforded under Federal law to members and former members of the uniformed services and former spouses of such persons and to employees and former employees of the Government and former spouses of such persons and to submit to committees of Congress a report on the results of such review not later than Sept. 30, 1999.

## PAYROLL DEDUCTIONS FOR ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

Pub. L. 104–193, title III, §363(c)(4), Aug. 22, 1996, 110 Stat. 2249, provided that: "The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the first pay period that begins after such 30-day period."

**ACCRUAL OF PAYMENTS; PROSPECTIVE APPLICABILITY**

Pub. L. 102–484, div. A, title VI, §653(c), Oct. 23, 1992, 106 Stat. 2429, provided that: "No payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), shall accrue for periods before the date of the enactment of this Act [Oct. 23, 1992]."

**STUDY CONCERNING BENEFITS FOR DEPENDENTS WHO ARE VICTIMS OF ABUSE**

Pub L. 102–484, div. A, title VI, §653(e), Oct. 23, 1992, 106 Stat. 2429, directed the Secretary of Defense to conduct a study in order to estimate the number of persons who would become eligible to receive payments under subsec. (h) of this section during each of fiscal years 1993 through 2000 and the number of members of the Armed Forces who would be approved in each of fiscal years 1993 through 2000 for separation from the Armed Forces as a result of having abused a spouse or dependent child, and to submit to Congress a report on the results of such study not later than one year after Oct. 23, 1992.

**COMMISSARY AND EXCHANGE PRIVILEGES**

Pub. L. 97–252, title X, §1005, Sept. 8, 1982, 96 Stat. 737, which directed Secretary of Defense to prescribe regulations to provide that an unremarried former spouse described in 10 U.S.C. 1072(2)(F)(i) is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services, was repealed and restated in section 1062 of this title by Pub. L. 100–370, §1(c)(1), (5).

**EXECUTIVE DOCUMENTS**

**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

## §1409. Retired pay multiplier

(a) RETIRED PAY MULTIPLIER FOR REGULAR-SERVICE NONDISABILITY RETIREMENT.—In computing—

(1) the retired pay of a member of a uniformed service who is entitled to that pay under any provision of law other than—

(A) chapter 61 of this title (relating to retirement or separation for physical disability); or

(B) chapter 1223 of this title (relating to retirement for non-regular service); or

(2) the retainer pay of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 8330 of this title,

the retired pay multiplier (or retainer pay multiplier) is the percentage determined under subsection (b).

(b) PERCENTAGE.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the percentage to be used under subsection (a) is the product (stated as a percentage) of—

(A) 2½, and

(B) the member's years of creditable service (as defined in subsection (c)).

(2) REDUCTION APPLICABLE TO CERTAIN NEW-RETIREMENT MEMBERS WITH LESS THAN 30 YEARS OF SERVICE.—In the case of a member who first became a member of a uniformed service after July 31, 1986, has elected to receive a bonus under section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354 of title 37, has less than 30 years of creditable service, and is under the age of 62 at the time of retirement, the percentage determined under paragraph (1) shall be reduced by—

(A) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

(B) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year.

(3) 30 YEARS OF SERVICE.—

(A) RETIREMENT BEFORE JANUARY 1, 2007.—In the case of a member who retires before January 1, 2007, with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

(B) RETIREMENT AFTER DECEMBER 31, 2006.—In the case of a member who retires after December 31, 2006, with more than 30 years of creditable service, the percentage to be used under subsection (a) is the sum of—

(i) 75 percent; and

(ii) the product (stated as a percentage) of—

(I) 2½; and

(II) the member's years of creditable service (as defined in subsection (c)) in excess of 30 years of creditable service, under conditions authorized for purposes of this subparagraph during a period designated by the Secretary of Defense for purposes of this subparagraph.

(4) MODERNIZED RETIREMENT SYSTEM.—

(A) REDUCED MULTIPLIER FOR FULL TSP MEMBERS.—Notwithstanding paragraphs (1), (2), and (3), in the case of a member who first becomes a member of the uniformed services on or after January 1, 2018, or a member who makes the election described in subparagraph (B) (referred to as a "full TSP member")—

(i) paragraph (1)(A) shall be applied by substituting "2" for "2½";

(ii) clause (i) of paragraph (3)(B) shall be applied by substituting "60 percent" for "75 percent"; and

(iii) clause (ii)(I) of such paragraph shall be applied by substituting "2" for "2½".

(B) ELECTION TO PARTICIPATE IN MODERNIZED RETIREMENT SYSTEM .—Pursuant to subparagraph (C), a member of a uniformed service serving on December 31, 2017, who has served in the uniformed services for fewer than 12 years as of December 31, 2017, may elect, in exchange for the reduced multipliers described in subparagraph (A) for purposes of calculating the retired pay of the member, to receive Thrift Savings Plan contributions pursuant to section 8440e(e) of title 5.

(C) ELECTION PERIOD.—

(i) IN GENERAL.—Except as provided in clauses (ii), (iii), (iv), and (v), a member of a uniformed service described in subparagraph (B) may make the election authorized by that subparagraph only during the period that begins on January 1, 2018, and ends on December 31, 2018.

(ii) HARDSHIP EXTENSION.—The Secretary concerned may extend the election period described in clause (i) for a member who experiences a hardship as determined by the Secretary concerned.

(iii) EFFECT OF BREAK IN SERVICE.—A member of a uniformed service who returns to service after a break in service that occurs during the election period specified in clause (i) shall make the election described in subparagraph (B) within 30 days after the date of the reentry into service of the member.

(iv) CADETS AND MIDSHIPMEN, ETC.—A member of a uniformed service who serves as a cadet, midshipman, or member of the Senior Reserve Officers' Training Corps during the election period specified in clause (i) shall make the election described in subparagraph (B)—

(I) on or after the date on which such cadet, midshipman, or member of the Senior Reserve Officers' Training Corps is appointed as a commissioned officer or otherwise

begins to receive basic pay; and

(II) not later than 30 days after such date or the end of such election period, whichever is later.

(v) INACTIVE RESERVES.—A member of a reserve component who is not in an active status during the election period specified in clause (i) shall make the election described in subparagraph (B)—

(I) on or after the date on which such member is transferred from an inactive status to an active status or active duty; and

(II) not later than 30 days after such date or the end of such election period, whichever is later.

(D) NO RETROACTIVE CONTRIBUTIONS PURSUANT TO ELECTION.—Thrift Savings Plan contributions may not be made for a member making an election pursuant to subparagraph (B) for any period beginning before the date of the member's election under that subparagraph by reason of the member's election.

(E) REGULATIONS.—The Secretary concerned shall prescribe regulations to implement this paragraph.

(c) YEARS OF CREDITABLE SERVICE DEFINED.—In this section, the term "years of creditable service" means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).

(Added Pub. L. 99–348, title I, §101, July 1, 1986, 100 Stat. 683; amended Pub. L. 101–189, div. A, title VI, §651(b)(3), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 103–337, div. A, title XVI, §1662(j)(6), Oct. 5, 1994, 108 Stat. 3005; Pub. L. 106–65, div. A, title VI, §§641(a), 643(b)(2), Oct. 5, 1999, 113 Stat. 662, 664; Pub. L. 109–364, div. A, title VI, §642(a), Oct. 17, 2006, 120 Stat. 2259; Pub. L. 110–181, div. A, title VI, §661(b)(3), Jan. 28, 2008, 122 Stat. 178; Pub. L. 114–92, div. A, title VI, §631(a), Nov. 25, 2015, 129 Stat. 842; Pub. L. 114–328, div. A, title VI, §631(a), Dec. 23, 2016, 130 Stat. 2162; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 322 of title 37 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008), referred to in subsec. (b)(2), means section 322 of title 37 as in effect before enactment of Pub. L. 110–181. Section 322 of title 37 was renumbered as section 354 of title 37 and amended by Pub. L. 110–181, div. A, title VI, §661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178.

### AMENDMENTS

**2018**—Subsec. (a)(2). Pub. L. 115–232 substituted "section 8330" for "section 6330".

**2016**—Subsec. (b)(4)(C)(i). Pub. L. 114–328, §631(a)(1), substituted ", (iii), (iv), and (v)" for "and (iii)".

Subsec. (b)(4)(C)(iv), (v). Pub. L. 114–328, §631(a)(2), added cls. (iv) and (v).

**2015**—Subsec. (b)(4). Pub. L. 114–92 added par. (4).

**2008**—Subsec. (b)(2). Pub. L. 110–181, in introductory provisions, substituted "section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354" for "section 322".

**2006**—Subsec. (b)(3). Pub. L. 109–364 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "In the case of a member with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent."

**1999**—Subsec. (b)(2). Pub. L. 106–65 inserted "certain" after "Reduction applicable to" in heading and "has elected to receive a bonus under section 322 of title 37," after "July 31, 1986," in introductory provisions.

**1994**—Subsec. (a)(1)(B). Pub. L. 103–337 substituted "chapter 1223" for "chapter 67".

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "who is entitled to that pay" for "who is retired" in

introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, §631(b), Dec. 23, 2016, 130 Stat. 2162, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2018, immediately after the coming into effect of the amendments made by section 631(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 842) [amending this section], to which the amendments made by subsection (a) relate."

#### EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114–92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–65 effective Oct. 1, 1999, see section 644 of Pub. L. 106–65, set out as a note under section 1401a of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §1410. Restoral of full retirement amount at age 62 for certain members entering on or after August 1, 1986

In the case of a member or former member who first became a member of a uniformed service on or after August 1, 1986, who has elected to receive a bonus under section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354 of title 37, and who becomes entitled to retired pay before the age of 62, the retired pay of such member or former member shall be recomputed, effective on the first day of the first month beginning after the member or former member attains 62 years of age, so as to be the amount equal to the amount of retired pay to which the member or former member would be entitled on that date if—

(1) increases in the retired pay of the member or former member under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section); and

(2) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, no reduction in the member's retired pay had been made under that section.

(Added Pub. L. 99–348, title I, §103, July 1, 1986, 100 Stat. 685; amended Pub. L. 100–224, §2, Dec. 30, 1987, 101 Stat. 1536; Pub. L. 101–189, div. A, title VI, §651(b)(4), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 106–65, div. A, title VI, §§641(c), 643(b)(3)(A), Oct. 5, 1999, 113 Stat. 662, 664; Pub. L. 110–181, div. A, title VI, §661(b)(3), Jan. 28, 2008, 122 Stat. 178; Pub. L. 113–67, div. A, title IV, §403(b), Dec. 26, 2013, 127 Stat. 1186; Pub. L. 114–92, div. A, title VI, §631(d)(1), Nov. 25, 2015, 129 Stat. 845.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 322 of title 37 (as in effect before the enactment of the National Defense Authorization Act for

Fiscal Year 2008), referred to in text, means section 322 of title 37 as in effect before enactment of Pub. L. 110–181. Section 322 of title 37 was renumbered as section 354 of title 37 and amended by Pub. L. 110–181, div. A, title VI, §661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178.

**AMENDMENTS**

**2015**—Par. (1). Pub. L. 114–92, §631(d)(1), which was approved Nov. 25, 2015, provided that the amendment made by Pub. L. 113–67, §403(b), which was effective Dec. 1, 2015, would not take effect. See 2013 Amendment note below.

**2013**—Par. (1). Pub. L. 113–67, §403(b), which directed substitution of "paragraph (3) or (4)" for "paragraph (3)", did not take effect pursuant to Pub. L. 114–92, §631(d)(1). See 2015 Amendment note above.

**2008**—Pub. L. 110–181, in introductory provisions, substituted "section 322 (as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2008) or section 354" for "section 322".

**1999**—Pub. L. 106–65 inserted "certain" before "members" in section catchline and "who has elected to receive a bonus under section 322 of title 37," after "August 1, 1986," in introductory provisions.

**1989**—Pub. L. 101–189, §651(b)(4), in introductory provisions, inserted "or former member" after "In the case of a member", "the retired pay of such member", "after the member", and "to which the member", and in par. (1), substituted "retired pay of the member or former member" for "member's retired pay".

**1987**—Pub. L. 100–224 struck out heading "(a) General rule", substituted provisions that the amount equal to the amount of retired pay to which the member would be entitled on that date if (1) increases in the member's retired pay under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section); and (2) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, no reduction in the member's retired pay had been made under that section, for provisions that the amount equal to (1) the amount of the member's initial unreduced retired pay, increased by (2) the percent (adjusted to the nearest one-tenth of 1 percent) by which (A) the price index for the most recent base quarter ending more than 31 days before the date the member attains 62 years of age, exceeds (B) the price index for the calendar quarter immediately before the date the member first became entitled to retired pay, and struck out subsec. (b) which had directed that, in this section, the term "initial unreduced retired pay" meant the amount of retired pay (A) to which the member was entitled when the member first became entitled to retired pay; or (B) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, to which the member would have been entitled on the date of the member's retirement without regard to that section, and that the definitions in subsection (g), and the provisions of subsection (h), of section 1401a of this title applied to this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2013 AMENDMENT**

Amendment by Pub. L. 113–67 effective Dec. 1, 2015, see section 403(c) of Pub. L. 113–67, set out as a note under section 1401a of this title. Amendment did not take effect pursuant to section 631(d)(1) of Pub. L. 114–92, set out as a Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 note under section 1401a of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Amendment by Pub. L. 106–65 effective Oct. 1, 1999, see section 644 of Pub. L. 106–65, set out as a note under section 1401a of this title.

## §1411. Rules of construction

(a) CONSTRUCTION OF "FIRST BECAME A MEMBER".—For purposes of this chapter and other provisions of law providing for computation of retired or retainer pay of members of the uniformed services, a person shall be considered to first become a member of a uniformed service on the date the person is first enlisted, inducted, or appointed in a uniformed service.

(b) REFERENCES IN TABLES.—Section references in tables in this chapter are to sections of this title.

(Added Pub. L. 99–348, title I, §105, July 1, 1986, 100 Stat. 691.)

## §1412. Administrative provisions

(a) ROUNDING.—Amounts computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(b) PAYMENT DATE.—Amounts of retired pay and retainer pay due a retired member of the uniformed services shall be paid on the first day of each month beginning after the month in which the right to such pay accrues.

(Added Pub. L. 99–348, title I, §105, July 1, 1986, 100 Stat. 691; amended Pub. L. 111–383, div. A, title VI, §632(a), (b)(1), Jan. 7, 2011, 124 Stat. 4240.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 111–383, §632(b)(1), substituted "Administrative provisions" for "Rounding to next lower dollar" in section catchline.

Pub. L. 111–383, §632(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title VI, §632(c), Jan. 7, 2011, 124 Stat. 4240, provided that: "Subsection (b) of section 1412 of title 10, United States Code, as added by subsection (a), shall apply beginning with the first month that begins more than 30 days after the date of the enactment of this Act [Jan. 7, 2011]."

## [§1413. Repealed. Pub. L. 108–136, div. A, title VI, §641(b), Nov. 24, 2003, 117 Stat. 1514]

Section, added Pub. L. 106–65, div. A, title VI, §658(a)(1), Oct. 5, 1999, 113 Stat. 668; amended Pub. L. 106–398, §1 [[div. A], title VI, §657(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–166; Pub. L. 107–107, div. A, title VI, §641(b), (e)(1), (2), Dec. 28, 2001, 115 Stat. 1150, 1151; Pub. L. 107–314, div. A, title VI, §636(b), Dec. 2, 2002, 116 Stat. 2576; Pub. L. 108–136, div. A, title VI, §641(c)(1), Nov. 24, 2003, 117 Stat. 1514, related to special compensation for certain severely disabled uniformed services retirees.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2004, and applicable to payments for months beginning on or after that date, see section 641(e) of Pub. L. 108–136, set out as an Effective Date of 2003 Amendment note under section 1414 of this title.

## §1413a. Combat-related special compensation

(a) AUTHORITY.—The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(b) AMOUNT.—

(1) DETERMINATION OF MONTHLY AMOUNT.—Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.

(2) MAXIMUM AMOUNT.—The amount paid to an eligible combat-related disabled

uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

(3) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

(A) GENERAL RULE.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(B) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE .—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount equal to the retired pay percentage (determined for the member under section 1409(b) of this title) of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

(c) ELIGIBLE RETIREES.—For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services who—

(1) is entitled to retired pay (other than by reason of section 12731b of this title); and

(2) has a combat-related disability.

(d) PROCEDURES.—The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

(e) COMBAT-RELATED DISABILITY.—In this section, the term "combat-related disability" means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that—

(1) is attributable to an injury for which the member was awarded the Purple Heart; or

(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

(A) as a direct result of armed conflict;

(B) while engaged in hazardous service;

(C) in the performance of duty under conditions simulating war; or

(D) through an instrumentality of war.

(f) COORDINATION WITH CONCURRENT RECEIPT PROVISION.—Subsection (d) of section 1414 of this title provides for coordination between benefits under that section and under this section.

(g) STATUS OF PAYMENTS.—Payments under this section are not retired pay.

(h) SOURCE OF PAYMENTS.—Payments under this section for a member of the Army, Navy, Air Force, Marine Corps, or Space Force shall be paid from the Department of Defense Military Retirement Fund. Payments under this section for any other member for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

(i) OTHER DEFINITIONS.—In this section:

(1) The term "service-connected" has the meaning given such term in section 101 of title 38.

(2) The term "retired pay" includes retainer pay, emergency officers' retirement pay, and naval pension.

(Added Pub. L. 107–314, div. A, title VI, §636(a)(1), Dec. 2, 2002, 116 Stat. 2574; amended Pub. L. 108–136, div. A, title VI, §§641(c)(1), 642(a)–(e)(1), Nov. 24, 2003, 117 Stat. 1514, 1516, 1517; Pub. L. 110–181, div. A, title VI, §641(a), (b), Jan. 28, 2008, 122 Stat. 156; Pub. L. 112–239, div. A, title VI, §643(a), Jan. 2, 2013, 126 Stat. 1783; Pub. L. 113–76, div. C, title X, §10001(b)(1), Jan. 17, 2014, 128 Stat. 151; Pub. L. 114–92, div. A, title VI, §631(d)(2), Nov. 25, 2015, 129 Stat. 845; Pub. L. 114–328, div. A, title VI, §634(a), Dec. 23, 2016, 130 Stat. 2163; Pub. L. 116–283, div. A, title IX, §924(b)(3)(X), Jan. 1, 2021, 134 Stat. 3821.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (h). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2016**—Subsec. (b)(3)(B). Pub. L. 114–328 substituted "the retired pay percentage (determined for the member under section 1409(b) of this title)" for "2½ percent".

**2015**—Subsec. (b)(3). Pub. L. 114–92, §631(d)(2), which was approved Nov. 25, 2015, provided that the amendments made by Pub. L. 113–76, §10001(b)(1), which were effective Dec. 1, 2015, would not take effect. See 2014 Amendment notes below.

**2014**—Subsec. (b)(3)(A). Pub. L. 113–76, §10001(b)(1)(A), which directed insertion of ", with adjustment under paragraph (2) of section 1401a(b) of this title to which the member would have been entitled (but without the application of paragraph (4) of such section)," after "under any other provision of law", did not take effect pursuant to Pub. L. 114–92, §631(d)(2). See 2015 Amendment note above.

Subsec. (b)(3)(B). Pub. L. 113–76, §10001(b)(1)(B), which directed substitution of "with adjustment under paragraph (2) of section 1401a(b) of this title to which the member would have been entitled (but without the application of paragraph (4) of such section), whichever is applicable to the member." for "whichever is applicable to the member.", did not take effect pursuant to Pub. L. 114–92, §631(d)(2). See 2015 Amendment note above.

**2013**—Subsec. (b)(3). Pub. L. 112–239 substituted "may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed" for "shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds" in subpars. (A) and (B).

**2008**—Subsec. (b)(3). Pub. L. 110–181, §641(b), designated existing text as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c). Pub. L. 110–181, §641(a), substituted "who—" for "entitled to retired pay who—" in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

"(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which the member is entitled or is entitled to retired pay under section 12731 of this title (other than by reason of section 12731b of this title); and

"(2) has a combat-related disability."

**2003**—Pub. L. 108–136, §642(e)(1), substituted "Combat-related special compensation" for "Special compensation for certain combat-related disabled uniformed services retirees" in section catchline.

Subsec. (b)(1). Pub. L. 108–136, §642(c), substituted "under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability." for "for a combat-related disability under subsection (a) is the monthly amount of compensation to which the retiree would be entitled solely for the combat-related disability consistent with chapter 11 of title 38."

Subsec. (c)(1). Pub. L. 108–136, §642(b), inserted before semicolon at end "or is entitled to retired pay under section 12731 of this title (other than by reason of section 12731b of this title)".

Subsec. (c)(2). Pub. L. 108–136, §642(a)(2), struck out "qualifying" before "combat-related disability".

Subsec. (e). Pub. L. 108–136, §642(a)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) defined term "qualifying combat-related disability".

Subsec. (f). Pub. L. 108–136, §642(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

"(1) SINGLE SOURCE OF COMPENSATION.—An individual who is paid special compensation under this section may not receive special compensation under section 1413 of this title.

"(2) ELECTION OF SOURCE.—An individual who is eligible for special compensation under this section and special compensation under section 1413 of this title shall elect which special compensation to receive.

"(3) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the manner and form of an

election under this subsection."

Subsec. (h). Pub. L. 108–136, §641(c)(1), inserted first sentence and inserted "for any other member" before "for any fiscal year".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, §634(b), Dec. 23, 2016, 130 Stat. 2164, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2018, immediately after the coming into effect of the amendments made by part I of subtitle D of title VI of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 842) [§§631–635, enacting section 1415 of this title and section 356 of Title 37, Pay and Allowances of the Uniformed Services, and amending this section and sections 1401, 1401a, 1409, 1410, 1414, 1463, and 12739 of this title, sections 8432, 8432b, 8438, and 8440e of Title 5, Government Organization and Employees, section 3045 of Title 33, Navigation and Navigable Waters, sections 211 and 354 of Title 37, section 5304 of Title 38, Veterans' Benefits, and section 212 of Title 42, The Public Health and Welfare], to which the amendment made by subsection (a) relates."

### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–76 effective Dec. 1, 2015, immediately after the coming into effect of section 403 of Pub. L. 113–67 and the amendments made by that section, see section 10001(c) of Pub. L. 113–76, set out as a note under section 1401a of this title. Amendment did not take effect pursuant to section 631(d)(2) of Pub. L. 114–92, set out as a Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 note under section 1401a of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VI, §643(b), Jan. 2, 2013, 126 Stat. 1783, provided that: "The amendment made by this section [amending this section] shall take effect as of January 1, 2013, and shall apply to payments for months beginning on or after that date."

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, §641(c), Jan. 28, 2008, 122 Stat. 156, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2008, and shall apply to payments for months beginning on or after that date."

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, §641(c)(6), Nov. 24, 2003, 117 Stat. 1516, provided that: "The amendments made by this subsection [amending this section and sections 1413, 1463, 1465, and 1466 of this title] shall take effect as of October 1, 2003. The Secretary of Defense shall provide for such administrative adjustments as necessary to provide for payments made for any period during fiscal year 2004 before the date of the enactment of this Act [Nov. 24, 2003] to be treated as having been made in accordance with such amendments and for the provisions of such amendments to be implemented as if enacted as of September 30, 2003."

Pub. L. 108–136, div. A, title VI, §642(f), Nov. 24, 2003, 117 Stat. 1517, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section] shall apply to payments under section 1413a of title 10, United States Code, for months beginning on or after January 1, 2004. The amendment made by subsection (d) [amending this section] shall take effect on January 1, 2004."

### EFFECTIVE DATE

Pub. L. 107–314, div. A, title VI, §636(a)(2), Dec. 2, 2002, 116 Stat. 2576, provided that: "Section 1413a of title 10, United States Code, as added by paragraph (1), shall take effect not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002]."

### CLARIFICATION OF ELIGIBILITY OF MEMBERS OF THE COAST GUARD FOR COMBAT-RELATED SPECIAL COMPENSATION

Pub. L. 114–120, title II, §221, Feb. 8, 2016, 130 Stat. 48, as amended by Pub. L. 117–263, div. K, title CXIV, §11404(c), Dec. 23, 2022, 136 Stat. 4110, Pub. L. 119–60, div. G, title LXXII, §7201(k)(2), Dec. 18, 2025, 139 Stat. 1687, provided that:

"(a) CONSIDERATION OF ELIGIBILITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Feb. 8, 2016], the Secretary of the department in which the Coast Guard is operating shall issue procedures and criteria to use in determining whether the disability of a member of the Coast Guard is a combat-related disability for purposes of the eligibility of such member for combat-related special compensation under section 1413a of title 10, United States Code. Such procedures and criteria shall include the procedures and criteria prescribed by the Secretary of Defense pursuant to subsection (e)(2) of such section. Such procedures and criteria shall apply in determining whether the disability of a member of the Coast Guard is a combat-related disability for purposes of determining the eligibility of such member for combat-related special compensation under such section.

"(2) DISABILITY FOR WHICH A DETERMINATION IS MADE.—For the purposes of this section, and in the case of a member of the Coast Guard, a disability under section 1413a(e)(2)(B) of title 10, United States Code, includes a disability incurred during aviation duty, diving duty, rescue swimmer or similar duty, hazardous service duty onboard a small vessel (such as duty as a surfman), or a duty in which chemical or other hazardous material exposure has occurred (such as during marine inspections or pollution response activities)—

"(A) in the performance of duties for which special or incentive pay was paid pursuant to section 301, 301a, 304, 307, 334, or 351 of title 37, United States Code;

"(B) in the performance of duties related to a statutory mission of the Coast Guard under section 102 of title 14, United States Code; or

"(C) while engaged in a training exercise for the performance of a duty described in subparagraphs (A) and (B).

"(b) APPLICABILITY OF PROCEDURES AND CRITERIA.—The procedures and criteria issued pursuant to subsection (a) shall apply to disabilities described in that subsection that are incurred on or after the effective date provided in section 636(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2574; 10 U.S.C. 1413a note) [See Effective Date note above].

"(c) REAPPLICATION FOR COMPENSATION.—Any member of the Coast Guard who was denied combat-related special compensation under section 1413a of title 10, United States Code, during the period beginning on the effective date specified in subsection (b) and ending on the date of the issuance of the procedures and criteria required by subsection (a) may reapply for combat-related special compensation under such section on the basis of such procedures and criteria in accordance with such procedures as the Secretary of the department in which the Coast Guard is operating shall specify."

## §1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation

(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

(1) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a "qualified retiree") is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38. During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to such a qualified retiree is subject to subsection (c), except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

(B) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—In this section, the term "qualifying service-connected disability" means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

(1) CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title, or at least 20 years of service computed under section 12732 of this title, at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(2) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the member's retirement.

(c) PHASE-IN OF FULL CONCURRENT RECEIPT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, retired pay payable to a qualified retiree that pursuant to the second sentence of subsection (a)(1) is subject to this subsection shall be determined as follows:

(1) CALENDAR YEAR 2004.—For a month during 2004, the amount of retired pay payable to a qualified retiree is the amount (if any) of retired pay in excess of the current baseline offset plus the following:

(A) For a month for which the retiree receives veterans' disability compensation for a disability rated as total, $750.

(B) For a month for which the retiree receives veterans' disability compensation for a disability rated as 90 percent, $500.

(C) For a month for which the retiree receives veterans' disability compensation for a disability rated as 80 percent, $350.

(D) For a month for which the retiree receives veterans' disability compensation for a disability rated as 70 percent, $250.

(E) For a month for which the retiree receives veterans' disability compensation for a disability rated as 60 percent, $125.

(F) For a month for which the retiree receives veterans' disability compensation for a disability rated as 50 percent, $100.

(2) CALENDAR YEAR 2005.—For a month during 2005, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount specified in paragraph (1) for that qualified retiree; and

(B) 10 percent of the difference between (i) the current baseline offset, and (ii) the amount specified in paragraph (1) for that member's disability.

(3) CALENDAR YEAR 2006.—For a month during 2006, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (2) for that qualified retiree; and

(B) 20 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (2) for that qualified retiree.

(4) CALENDAR YEAR 2007.—For a month during 2007, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (3) for that qualified retiree; and

(B) 30 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (3) for that qualified retiree.

(5) CALENDAR YEAR 2008.—For a month during 2008, the amount of retired pay payable to

a qualified retiree is the sum of—

(A) the amount determined under paragraph (4) for that qualified retiree; and

(B) 40 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (4) for that qualified retiree.

(6) CALENDAR YEAR 2009.—For a month during 2009, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (5) for that qualified retiree; and

(B) 50 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (5) for that qualified retiree.

(7) CALENDAR YEAR 2010.—For a month during 2010, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (6) for that qualified retiree; and

(B) 60 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (6) for that qualified retiree.

(8) CALENDAR YEAR 2011.—For a month during 2011, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (7) for that qualified retiree; and

(B) 70 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (7) for that qualified retiree.

(9) CALENDAR YEAR 2012.—For a month during 2012, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (8) for that qualified retiree; and

(B) 80 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (8) for that qualified retiree.

(10) CALENDAR YEAR 2013.—For a month during 2013, the amount of retired pay payable to a qualified retiree is the sum of—

(A) the amount determined under paragraph (9) for that qualified retiree; and

(B) 90 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (9) for that qualified retiree.

(11) GENERAL LIMITATION.—Retired pay determined under this subsection for a qualified retiree, if greater than the amount of retired pay otherwise applicable to that qualified retiree, shall be reduced to the amount of retired pay otherwise applicable to that qualified retiree.

(d) COORDINATION WITH COMBAT-RELATED SPECIAL COMPENSATION PROGRAM.—

(1) IN GENERAL.—A person who is a qualified retiree under this section and is also an eligible combat-related disabled uniformed services retiree under section 1413a of this title may receive special compensation in accordance with that section or retired pay in accordance with this section, but not both.

(2) ANNUAL OPEN SEASON.—The Secretary concerned shall provide for an annual period (referred to as an "open season") during which a person described in paragraph (1) shall have the right to make an election to change from receipt of special compensation in accordance with section 1413a of this title to receipt of retired pay in accordance with this section, or the reverse, as the case may be. Any such election shall be made under regulations prescribed by the Secretary concerned. Such regulations shall provide for the form and manner for making such an election

and shall provide for the date as of when such an election shall become effective. In the case of the Secretary of a military department, such regulations shall be subject to approval by the Secretary of Defense.

(e) DEFINITIONS.—In this section:

(1) RETIRED PAY.—The term "retired pay" includes retainer pay, emergency officers' retirement pay, and naval pension.

(2) VETERANS' DISABILITY COMPENSATION.—The term "veterans' disability compensation" has the meaning given the term "compensation" in section 101(13) of title 38.

(3) DISABILITY RATED AS TOTAL.—The term "disability rated as total" means—

(A) a disability, or combination of disabilities, that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

(B) a disability, or combination of disabilities, for which the scheduled rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of disabilities for which veterans' disability compensation may be paid.

(4) CURRENT BASELINE OFFSET.—

(A) IN GENERAL.—The term "current baseline offset" for any qualified retiree means the amount for any month that is the lesser of—

(i) the amount of the applicable monthly retired pay of the qualified retiree for that month; and

(ii) the amount of monthly veterans' disability compensation to which the qualified retiree is entitled for that month.

(B) APPLICABLE RETIRED PAY.—In subparagraph (A), the term "applicable retired pay" for a qualified retiree means the amount of monthly retired pay to which the qualified retiree is entitled, determined without regard to this section or sections 5304 and 5305 of title 38, except that in the case of such a retiree who was retired under chapter 61 of this title, such amount is the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(Added Pub. L. 107–107, div. A, title VI, §641(a), Dec. 28, 2001, 115 Stat. 1149; amended Pub. L. 108–136, div. A, title VI, §641(a), Nov. 24, 2003, 117 Stat. 1511; Pub. L. 108–375, div. A, title VI, §642, Oct. 28, 2004, 118 Stat. 1957; Pub. L. 109–163, div. A, title VI, §663, Jan. 6, 2006, 119 Stat. 3316; Pub. L. 110–181, div. A, title VI, §642(a), Jan. 28, 2008, 122 Stat. 157; Pub. L. 113–76, div. C, title X, §10001(b)(2), Jan. 17, 2014, 128 Stat. 151; Pub. L. 114–92, div. A, title VI, §631(d)(2), Nov. 25, 2015, 129 Stat. 845.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (b)(1). Pub. L. 114–92, §631(d)(2), which was approved Nov. 25, 2015, provided that the amendment made by Pub. L. 113–76, §10001(b)(2), which was effective Dec. 1, 2015, would not take effect. See 2014 Amendment note below.

**2014**—Subsec. (b)(1). Pub. L. 113–76, §10001(b)(2), which directed insertion of "(but without the application of section 1401a(b)(4) of this title)" after "under any other provision of law", did not take effect pursuant to Pub. L. 114–92, §631(d)(2). See 2015 Amendment note above.

**2008**—Subsec. (a)(1). Pub. L. 110–181 substituted "except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:" for "except that in the case of a qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, and in the case of a qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent

disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009." and added subpars. (A) and (B).

**2006**—Subsec. (a)(1). Pub. L. 109–163 inserted ", and in the case of a qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009" before period at end.

**2004**—Subsec. (a)(1). Pub. L. 108–375, §642(a), inserted before period at end ", except that in the case of a qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004".

Subsec. (c). Pub. L. 108–375, §642(b), inserted "that pursuant to the second sentence of subsection (a)(1) is subject to this subsection" after "a qualified retiree" in introductory provisions.

**2003**—Pub. L. 108–136 amended section generally. Prior to amendment, section related to members eligible for retired pay who had service-connected disabilities: payment of retired pay and veterans' disability compensation; and contingent effectiveness based on enactment of offsetting legislation.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–76 effective Dec. 1, 2015, immediately after the coming into effect of section 403 of Pub. L. 113–67 and the amendments made by that section, see section 10001(c) of Pub. L. 113–76, set out as a note under section 1401a of this title. Amendment did not take effect pursuant to section 631(d)(2) of Pub. L. 114–92, set out as a Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 note under section 1401a of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, §642(b), Jan. 28, 2008, 122 Stat. 157, provided that:

"(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect as of December 31, 2004.

"(2) TIMING OF PAYMENT OF RETROACTIVE BENEFITS.—Any amount payable for a period before October 1, 2008, by reason of the amendment made by subsection (a) shall not be paid until after that date."

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, §641(e), Nov. 24, 2003, 117 Stat. 1516, provided that: "The amendments made by subsections (a) and (b) [amending this section and repealing section 1413 of this title] shall take effect on January 1, 2004, and shall apply to payments for months beginning on or after that date."

### PROHIBITION OF RETROACTIVE BENEFITS

Pub. L. 107–107, div. A, title VI, §641(d), Dec. 28, 2001, 115 Stat. 1150, provided that: "If the provisions of subsection (a) of section 1414 of title 10, United States Code, becomes [sic] effective in accordance with subsection (f) of that section, no benefit may be paid to any person by reason of those provisions for any period before the effective date specified in subsection (e) of that section."

## §1415. Lump sum payment of certain retired pay

(a) DEFINITIONS.—In this section:

(1) COVERED RETIRED PAY.—The term "covered retired pay" means retired pay under—

(A) this title;

(B) title 14;

(C) the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.); or

(D) the Public Health Service Act (42 U.S.C. 201 et seq.).

(2) ELIGIBLE PERSON.—The term "eligible person" means a person who—

(A)(i) first becomes a member of a uniformed service on or after January 1, 2018; or

(ii) makes the election described in section 1409(b)(4)(B) or 12739(f)(2) of this title; and
(B) does not retire or separate under chapter 61 of this title.

(3) RETIREMENT AGE.—The term "retirement age" has the meaning given the term in section 216(l) of the Social Security Act (42 U.S.C. 416(l)).

(b) ELECTION OF LUMP SUM PAYMENT OF CERTAIN RETIRED PAY.—
(1) IN GENERAL.—An eligible person entitled to covered retired pay (including an eligible person who is entitled to such pay by reason of an election described in subsection (a)(2)(A)(ii)) may elect to receive—
(A) a lump sum payment of the discounted present value at the time of the election of an amount of the covered retired pay that the eligible person is otherwise entitled to receive for the period beginning on the date of retirement and ending on the date the eligible person attains the eligible person's retirement age equal to—
(i) 50 percent of the amount of such covered retired pay during such period; or
(ii) 25 percent of the amount of such covered retired pay during such period; and

(B) a monthly amount during the period described in subparagraph (A) equal to—
(i) in the case of an eligible person electing to receive an amount described in subparagraph (A)(i), 50 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period; and
(ii) in the case of an eligible person electing to receive an amount described in subparagraph (A)(ii), 75 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period.

(2) DISCOUNTED PRESENT VALUE.—The Secretary of Defense shall compute the discounted present value of amounts of covered retired pay that an eligible person is otherwise entitled to receive for a period for purposes of paragraph (1)(A) by—
(A) estimating the aggregate amount of retired pay the person would receive for the period, taking into account cost-of-living adjustments under section 1401a of this title projected by the Secretary at the time the person separates from service and would otherwise begin receiving covered retired pay; and
(B) reducing the aggregate amount estimated pursuant to subparagraph (A) by an appropriate percentage determined by the Secretary—
(i) using average personal discount rates (as defined and calculated by the Secretary taking into consideration applicable and reputable studies of personal discount rates for military personnel and past actuarial experience in the calculation of personal discount rates under this paragraph); and
(ii) in accordance with generally accepted actuarial principles and practices.

(3) TIMING OF ELECTION.—An eligible person shall make the election under this subsection not later than 90 days before the date of the retirement of the eligible person from the uniformed services.
(4) SINGLE PAYMENT OR COMBINATION OF PAYMENTS.—An eligible person may elect to receive a lump sum payment under this subsection in a single payment or in a combination of payments.
(5) COMMENCEMENT OF PAYMENT.—An eligible person who makes an election under this subsection shall receive the lump sum payment, or the first installment of a combination of payments of the lump sum payment if elected under paragraph (4), as follows:
(A) Not later than 60 days after the date of the retirement of the eligible person from the uniformed services.
(B) In the case of an eligible person who is a member of a reserve component, not later than 60 days after the earlier of—

(i) the date on which the eligible person attains 60 years of age; or
(ii) the date on which the eligible person first becomes entitled to covered retired pay.

(6) NO SUBSEQUENT ADJUSTMENT.—An eligible person who accepts payment of a lump sum under this subsection may not seek the review of or otherwise challenge the amount of the lump sum in light of any variation in cost-of-living adjustments under section 1401a of this title, actuarial assumptions, or other factors used by the Secretary in calculating the amount of the lump sum that occur after the Secretary pays the lump sum.

(c) RESUMPTION OF MONTHLY ANNUITY.—

(1) GENERAL RULE.—Subject to paragraph (2), an eligible person who makes an election described in subsection (b)(1) shall be entitled to receive the eligible person's monthly covered retired pay calculated in accordance with paragraph (2) after the eligible person attains the eligible person's retirement age.

(2) RESTORATION OF FULL RETIREMENT AMOUNT AT RETIREMENT AGE.—The retired pay of an eligible person who makes an election described in subsection (a) shall be recomputed, effective on the first day of the first month beginning after the person attains the eligible person's retirement age, so as to be an amount equal to the amount of covered retired pay to which the eligible person would otherwise be entitled on that date if the annual increases, in the retired pay of the eligible person made to reflect changes in the Consumer Price Index, had been made in accordance with section 1401a of this title.

(d) PAYMENT OF RETIRED PAY TO PERSONS NOT MAKING ELECTION.—An eligible person who does not make the election described in subsection (b)(1) shall be paid the retired pay to which the eligible person is otherwise entitled under the applicable provisions of law referred to in subsection (a)(1).

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the provisions of this section.

(Added Pub. L. 114–92, div. A, title VI, §633(a)(1), Nov. 25, 2015, 129 Stat. 847; amended Pub. L. 114–328, div. A, title X, §1081(a)(4), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 115–232, div. A, title X, §1081(a)(14), Aug. 13, 2018, 132 Stat. 1984.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, referred to in subsec. (a)(1)(C), is title II of Pub. L. 107–372, Dec. 19, 2002, 116 Stat. 3082, which is classified principally to chapter 43 (§3001 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 33 and Tables.

The Public Health Service Act, referred to in subsec. (a)(1)(D), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

### AMENDMENTS

**2018**—Subsec. (e). Pub. L. 115–232 struck out "concerned" after "The Secretary of Defense".

**2016**—Subsec. (b)(1)(B)(ii). Pub. L. 114–328 inserted period at end.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE; IMPLEMENTATION

Section effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as an Effective Date of 2015 Amendment; Implementation note under section 8432 of Title 5, Government Organization and Employees.

# CHAPTER 73—ANNUITIES BASED ON RETIRED OR RETAINER PAY


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Retired Serviceman's Family Protection Plan** | **1431** |
| **II.** | **Survivor Benefit Plan** | **1447** |
| **[III.** | **Repealed]** | |


**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961, struck out item for subchapter III "Supplemental Survivor Benefit Plan", effective Apr. 1, 2008.

**1990**—Pub. L. 101–510, div. A, title VI, §631(1), title XIV, §1484(l)(4)(A), Nov. 5, 1990, 104 Stat. 1580, 1719, amended Pub. L. 101–189, §1404(a)(2), see 1989 Amendment note below.

**1989**—Pub. L. 101–189, div. A, title XIV, §1404(a)(2), Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101–510, div. A, title VI, §631(1), title XIV, §1484(l)(4)(A), Nov. 5, 1990, 104 Stat. 1580, 1719, added item for subchapter III, effective Apr. 1, 1992.

**1980**—Pub. L. 96–513, title V, §511(54)(A), Dec. 12, 1980, 94 Stat. 2925, amended chapter heading to read: "ANNUITIES BASED ON RETIRED OR RETAINER PAY".

**1972**—Pub. L. 92–425, §1(1), Sept. 21, 1972, 86 Stat. 706, added subchapter analysis and amended chapter heading by inserting "; SURVIVOR BENEFIT PLAN" after "PAY" which could not be executed as directed in view of amendment by Pub. L. 87–381.

**1961**—Pub. L. 87–381, §1(1), Oct. 4, 1961, 75 Stat. 810, substituted "RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN" for "ANNUITIES BASED ON RETIRED OR RETAINER PAY" in chapter heading.

## SUBCHAPTER I—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN


| Sec. | |
|---|---|
| 1431. | Election of annuity: members of armed forces. |
| 1432. | Election of annuity: former members of armed forces. |
| 1433. | Mental incompetency of member. |
| 1434. | Kinds of annuities that may be elected. |
| 1435. | Eligible beneficiaries. |
| 1436. | Computation of reduction in retired pay; withdrawal for severe financial hardship. |
| 1436a. | Coverage paid up at 30 years and age 70. |
| 1437. | Payment of annuity. |
| 1438. | Deposits for amounts not deducted. |
| 1439. | Refund of amounts deducted from retired pay. |
| 1440. | Annuities not subject to legal process. |
| 1441. | Annuities in addition to other payments. |
| 1442. | Recovery of annuity erroneously paid. |
| [1443. | Repealed.] |
| 1444. | Regulations; determinations. |
| 1444a. | Regulations regarding payment of annuity to a representative payee. |
| 1445. | Correction of administrative deficiencies. |
| 1446. | Restriction on participation. |


**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Pub. L. 106–65, div. A, title VI, §655(b), Oct. 5, 1999, 113 Stat. 667, added item 1436a.

**1991**—Pub. L. 102–190, div. A, title VI, §654(b)(2), Dec. 5, 1991, 105 Stat. 1390, added item 1444a.

**1972**—Pub. L. 92–425, §1(2)(B), (C), Sept. 21, 1972, 86 Stat. 706, struck out item 1443 "Board of Actuaries", and struck out "reports to Congress" from item 1444.

**1961**—Pub. L. 87–381, §6(2), (3), Oct. 4, 1961, 75 Stat. 812, inserted "; withdrawal for severe financial hardship" in item 1436, and added items 1445 and 1446.

## §1431. Election of annuity: members of armed forces

(a) This section applies to all members of the armed forces except—

(1) members whose names are on a retired list other than a list maintained under section 12774(a) of this title;

(2) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

(3) midshipmen.

(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired pay or retainer pay to which he may become entitled as a result of service in his armed force. Except as otherwise provided in this section, unless it is made before he completes nineteen years of service for which he is entitled to credit in the computation of his basic pay, the election must be made at least two years before the first day for which retired pay or retainer pay is granted. However, if, because of military operations, a member is assigned to an isolated station or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing nineteen years of that service, he may make the election, to become effective immediately, within one year after he ceases to be assigned to that station or returns to the jurisdiction of his armed force, as the case may be. A member to whom retired pay or retainer pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within ninety days after receiving notice that such pay has been granted to him. An election made after August 13, 1968, is not effective if—

(1) the elector dies during the first thirty-day period he is entitled to retired pay as a result of a physical condition which led to his being granted retired pay under chapter 61 of title 10 with a disability of 100 per centum under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination of the per centum of his disability;

(2) the disability was not the result of injury or disease received in line of duty as a direct result of armed conflict; and

(3) his surviving spouse or children are entitled to dependency and indemnity compensation under chapter 13 of title 38 based upon his death.

(c) An election may be changed or revoked by the elector before the first day for which retired or retainer pay is granted. Unless it is made on the basis of restored mental competency under section 1433 of this title, or unless it is made before the elector completes nineteen years of service for which he is entitled to credit in the computation of his basic pay (in which case only the latest change or revocation shall be effective), the change or revocation is not effective if it is made less than two years before the first day for which retired or retainer pay is granted. The elector may, however, before the first day for which retired or retainer pay is granted, change or revoke his election (provided the change does not increase the amount of the annuity elected) to reflect a change in the marital or dependency status of the member or his family that is caused by death, divorce, annulment, remarriage, or acquisition of a child, if such change or revocation of election is made within two years of such change in marital or dependency status.

(d) If an election made under this section is found to be void for any reason except fraud or willful intent of the member making the election, he may make a corrected election at any time within 90 days after he is notified in writing that the election is void. A corrected election made under this subsection is effective as of the date of the voided election it replaces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 108; Pub. L. 85–861, §33(a)(11), Sept. 2, 1958, 72 Stat. 1565;

Pub. L. 87–381, §2, Oct. 4, 1961, 75 Stat. 810; Pub. L. 90–485, §1(1), (2), Aug. 13, 1968, 82 Stat. 751; Pub. L. 96–513, title V, §511(55), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 99–145, title XIII, §1301(a)(2), Nov. 8, 1985, 99 Stat. 735; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 104–106, div. A, title XV, §1501(c)(17), Feb. 10, 1996, 110 Stat. 499.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1431(a) | 37:371 (less (e) and (f)).<br>37:372(a) (2d sentence). | Aug. 8, 1953, ch. 393, §§2 (less (e) and (f)), 3(a) (less 5th sentence), (b), 67 Stat. 501, 502; Apr. 29, 1954, ch. 176, 68 Stat. 64. |
| 1431(b) | 37:372(a) (less 2d, 5th, 6th, and last sentences).<br>37:372(b) (less last sentence). | |
| 1431(c) | 37:372(a) (6th and last sentences). | |
| 1431(d) | 37:372(b) (last sentence). | |

In subsection (a), the language of the revised subsection is substituted for 37:371(b) and (c), to make clear that the section was intended to include enlisted members and members of the Army, or the Air Force, without component. The words "the United States Air Force Academy" are inserted to reflect its establishment by the Air Force Academy Act (68 Stat. 47). The words "retirement pay" are omitted as covered by the words "retired pay". The words "equivalent pay" are omitted as surplusage. 37:371(c) (less 1st 21 words) is omitted as executed, since the persons described must have completed 18 years of the required service on the effective date of the source statute and exercised the option by 180 days after that date. 37:371(a) is omitted, since the revised chapter applies only to the armed forces. 37:371(d) is omitted, since the words "person entitled to retired or retainer pay", or their equivalent, are used throughout the revised chapter. 37:371(g) is omitted, since the words "retired or retainer pay" are used throughout the revised chapter. 37:371(h) is omitted as unnecessary in view of the definitions contained in section 101(5), (7), and (8). 37:372(a) (2d sentence) is omitted as surplusage.

In subsection (b), 37:372(a) (last 28 words of 1st sentence) is omitted as covered by section 1434 of this title. The words "or naval" are omitted as covered by the word "military". The last sentence is substituted for 37:372(a) (4th sentence, less 61st through 81st words). 37:372(a) (3d sentence, and 61st through 85th words of 4th sentence) and 37:372(b) (less last sentence) are omitted as executed.

In subsection (c), the words "is retired or becomes entitled to retired or retainer pay" are substituted for the words "his retirement" and "he retires" since, under sections 1331–1333 of this title, a person may be granted retired pay without having been retired. The last eight words are substituted for 37:372(a) (7th through 17th words of last sentence). 37:372(a) (last sentence, less 1st 17 words) is omitted as surplusage.

**1958 ACT**

The change makes clear that section 1431 applies to a person who, because of military operations, is missing under any circumstances.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "section 12774(a)" for "section 1376(a)".

**1989**—Subsec. (b)(1). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1985**—Subsec. (b)(3). Pub. L. 99–145 substituted "surviving spouse" for "widow".

**1980**—Subsec. (b). Pub. L. 96–513 substituted "August 13, 1968," for "the date of enactment of this amendment".

**1968**—Subsec. (b). Pub. L. 90–485, §1(1), increased from eighteen to nineteen the number of years of service the annuitant must complete, decreased from three to two years before eligibility the time required to make an election, and inserted provisions that an election made after Aug. 13, 1968 will not be effective if the conditions of cls. (1) to (3) are satisfied.

Subsec. (c). Pub. L. 90–485, §1(2), decreased from three to two years before the first day for which retired

or retainer pay is granted the time required to change or revoke an election when the ground of restored mental competency is not present, inserted provision that any change or revocation in an election after the completion of 19 years of service is effective if made before the first day for which retired or retainer pay is granted, and provided for a change or revocation in an election before the first day for which retired or retainer pay is granted when there is a change in marital or dependency status, if such change or revocation of election is made within two years of such change in marital or dependency status.

**1961**—Subsec. (a). Pub. L. 87–381 substituted "other than a list maintained under section 1376(a) of this title" for "or who are in the Retired Reserve", redesignated pars. (4) and (5) as (2) and (3), and struck out former pars. (2) and (3) which related to reserves on an inactive status list, and members assigned to the inactive National Guard, respectively.

Subsec. (b). Pub. L. 87–381 required that unless the election is made before 18 years of service, it must be made at least three years before the first day for which retired or retainer pay is granted, inserted assignment to an isolated station among the reasons permitting a delayed election, changed the period within which to make such delayed election from within six months after return to the jurisdiction of his armed force, to within one year after he ceases to be assigned to the isolated station or his return to the jurisdiction of his armed force, and if the member is retroactively granted retired or retainer pay, and is eligible for an election, he may elect within 90 days after notice of such grant.

Subsec. (c). Pub. L. 87–381 substituted "the first day for which retired or retainer pay is granted" for "his retirement or before he becomes entitled to retired or retainer pay", the requirement that the change or revocation is not effective if made less than 3 years before the first day for which retired or retainer pay is granted, for a required period of five years after change or revocation before retirement or becoming entitled to retired or retainer pay, and deleted "If he revokes the election, he may not change or withdraw the revocation."

Subsec. (d). Pub. L. 87–381 substituted permission to make a corrected election within 90 days after notice that the election is void for any reason, except fraud or willful intent of the member making election, with such election effective as of the date of the election it replaces, for provisions which denied the ability to revoke any election by a person retired or granted retired or retainer pay before Nov. 1, 1953, and who elected within 180 days after that date to receive reduced pay to provide for an annuity.

**1958**—Subsec. (b). Pub. L. 85–861 struck out "in action" after "he is missing".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–485, §6, Aug. 13, 1968, 82 Stat. 754, provided in part that: "Clause (1) and clause (6) of section 1 [amending this section and section 1436 of this title], and sections 2, 3, and 4 of this Act [amending section 1331 [now 12731] of this title and enacting material set out as notes under this section] are effective on the date of enactment [Aug. 13, 1968]. Remaining provisions of this Act [amending this section and sections 1434, 1435, 1437, and 1446 of this title, and enacting provisions set out as a note under this section] are effective on the first day of the third calendar month following the date of enactment."

### EFFECTIVE DATE OF 1958 AMENDMENT

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

### SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95–397, Sept. 30, 1978, 92 Stat. 843, provided: "That this Act [amending sections 1076, 1331 [now 12731], 1434, and 1447 to 1452 of this title and enacting provisions set out as notes under sections 1076, 1434, 1447, and 1448 of this title] may be cited as the 'Uniformed Services Survivors' Benefits Amendments of 1978'."

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## PROVISIONS EFFECTIVE FOR CERTAIN MEMBERS ON AUGUST 13, 1968

Pub. L. 90–485, §3, Aug. 13, 1968, 82 Stat. 754, provided that: "For members to whom section 1431 of title 10, United States Code [this section], applies on the date of enactment of this Act [Aug. 13, 1968], the provisions of section 1434(c) of that title, as amended by this Act [section 1(3) of Pub. L. 90–485] are effective immediately and automatically".

## ELECTION OF ANNUITY MADE PRIOR TO AUGUST 13, 1968

Pub. L. 90–485, §4, Aug. 13, 1968, 82 Stat. 754, provided that: "A retired member who elected an annuity under chapter 73 of title 10, United States Code [this chapter], before the date of enactment of this Act [Aug. 13, 1968], but did not make the election that was then provided by section 1434(c) of that title, may, before the first day of the thirteenth calendar month beginning after the date of enactment of this Act, make that election. That election becomes effective on the first day of the month following the month in which the election is made. Under regulations prescribed under section 1444(a) of this title, on or before the effective date the retired member must pay the total additional amount that would otherwise have been deducted from his retired or retainer pay to reflect such an election, had it been effective when he retired, plus the interest which would have accrued on that additional amount up to the effective date, except that if an undue hardship or financial burden would otherwise result payment may be made in from two to twelve monthly installments when the monthly amounts involved are $25, or less, or in from two to thirty-six monthly installments when the monthly amounts involved exceed $25. No amounts by which a member's retired or retainer pay was reduced may be refunded to, or credited on behalf of, the retired member by virtue of an application made by him under this section. A retired member described in the first sentence of this section, who does not make the election provided under this section, will not be allowed under section 1436(b) of title 10, to reduce an annuity or withdraw from participation in an annuity program under that title."

## ELECTIONS SUBJECT TO COST TABLES APPLICABLE ON DATE OF RETIREMENT; ANNUITIES PAYABLE TO BENEFICIARIES ELIGIBLE UNDER LAW IN EFFECT THE DAY PRIOR TO AUGUST 13, 1968

Pub. L. 90–485, §5, Aug. 13, 1968, 82 Stat. 754, provided, effective on the first day of the third calendar month following Aug. 13, 1968, that: "Notwithstanding any other provision of this Act [see Effective Date of 1968 Amendment note set out above], elections in effect on the date of enactment [Aug. 13, 1968] will remain under the cost tables applicable on the date of retirement, and the annuities provided thereunder shall be payable to those eligible beneficiaries prescribed under the law in effect on the day prior to the date of enactment of this Act."

## APPLICABILITY OF PROVISIONS IN EFFECT ON THE DAY PRIOR TO AUGUST 13, 1968

Pub. L. 90–485, §6, Aug. 13, 1968, 82 Stat. 754, provided in part that: "Notwithstanding any other provision of this Act [see Effective Date of 1968 Amendment note set out above], any member to whom section 1431 of title 10, United States Code [this section], applies on the date of enactment of this Act [Aug. 13, 1968] may, before the first day of the thirteenth calendar month beginning after the date of enactment of this Act, submit a written application to the Secretary concerned requesting that an election or a change or revocation of election made by such member prior to the date of enactment of this Act shall continue to be governed by the provisions of section 1431(b) or (c) of title 10, United States Code [subsec. (b) or (c) of this section] as in effect on the day before the date of enactment of this Act."

## INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Pub. L. 88–130, §3(q), Sept. 24, 1963, 77 Stat. 192, rendered election, change, or revocation of election under this section effective if made prior to the convening date of the board which considers Coast Guard commanders and captains for continuation.

## CHANGE OR REVOCATION OF AN ELECTION FILED PRIOR TO OCTOBER 4, 1961

Pub. L. 87–381, §7, Oct. 4, 1961, 75 Stat. 812, provided that: "Any person who, before the date of

enactment of this Act [Oct. 4, 1961], has filed a change or revocation, subject to section 1431(c) of title 10, United States Code [subsec. (c) of this section], of an election made under section 1431(b) of that title [subsec. (b) of this section], which change or revocation would be ineffective if the first day for which retired or retainer pay is granted were to be the date of enactment of this Act [Oct. 4, 1961], shall have that change or revocation become effective on that date, or three years after the date upon which it was filed, whichever is later."

## PROVISIONS APPLICABLE TO CERTAIN PERSONS RETIRING AFTER OCTOBER 4, 1961, FOR DISABILITY

Pub. L. 87–381, §8, Oct. 4, 1961, 75 Stat. 812, provided that: "Any person who—

"(1) made an election before the date of enactment of this Act [Oct. 4, 1961], which would be effective if he retired on the day before such date; and

"(2) hereafter retires for physical disability before completing 18 years of service for which he is entitled to credit in the computation of his basic pay—

shall be considered as having applicable to him all of the provisions of chapter 73 of title 10, United States Code [this chapter], existing on the date preceding the date of enactment of this Act [Oct. 4, 1961], except that any revocation or change of an election is not effective until three years after the date of filing such revocation or change, or the date of enactment of this Act [Oct. 4, 1961], whichever is later."

## CHANGE OR REVOCATION OF ELECTION BY CERTAIN COLONELS AND LIEUTENANT COLONELS

Pub. L. 86–616, §11, July 12, 1960, 74 Stat. 396, provided that: "Notwithstanding section 1431 of title 10, United States Code [this section], a change or revocation of an election made under that section by an officer who is retired under section 10 of this Act [set out as a note under section 3297 of this title] is effective if made at such a time that it would have been effective had he been retired on the earliest date prescribed for an officer of his kind by section 3916, 3921, 8916, or 8921 of title 10, as appropriate."

## CHANGE OR REVOCATION OF ELECTION BY CERTAIN OFFICERS OF REGULAR NAVY AND REGULAR MARINE CORPS

Pub. L. 86–616, §13, July 12, 1960, 74 Stat. 396, provided that: "An officer who has been considered but not recommended for continuation on the active list under section 1 of the Act of August 11, 1959. Public Law 86–155 (73 Stat. 333) [set out as a note under section 5701 of this title], and who retired or retires voluntarily before the second day of the month following the month in which this Act is enacted [July 1960], may, within six months following the enactment of this Act [July 12, 1960], affirm a change or revocation of an election made under section 1431 of title 10, United States Code [this section], before his retirement, if the change or revocation would have been effective under section 3 of the Act of August 11, 1959, Public Law 86–155, as amended by this Act [set out as a note under section 5701 of this title], but for his voluntary retirement. If an officer takes no action under this section, his currently valid election under section 1431 of title 10, United States Code [this section], shall remain unchanged. The computation of the revised reduction in retired pay in the case of an officer who affirms a change of election under this section shall be in accordance with section 1436 of title 10, United States Code, and according to the conditions that existed on the day the officer became eligible for retired pay. An affirmation or revocation made under this section is effective on the first day of the month in which made. No refund may be made and no additional payment may be required with respect to any period before that date."

## ELECTION OF ANNUITY BY CERTAIN PERSONNEL

Pub. L. 86–197, §4, Aug. 25, 1959, 73 Stat. 426, provided that: "Any person who, on the effective date of this Act [August 25, 1959], would not have completed 18 years of service for which he is entitled to credit in the computation of his basic pay under the laws in effect prior to the effective date of this Act, and who, as a result of the enactment of this Act [amending sections 1332 [now 12732], 3683, 3926, 6324, 8683 and 8926 of this title, and enacting provisions set out as notes under sections 3441 and 12732 of this title], is credited with more than 17 years of such service, shall be allowed twelve months from the effective date of this Act to make the election provided by section 1431(b) of title 10, United States Code [subsection (b) of this section], notwithstanding the requirement of the second sentence of that section."

## CHANGE OR REVOCATION OF ELECTION BY CERTAIN OFFICERS

Effective date of change or revocation of election by certain officers, see section 3 of Pub. L. 86–155, Aug. 11, 1959, 73 Stat. 336, set out as a note under section 5701 of this title.

**PUBLIC HEALTH SERVICE**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## §1432. Election of annuity: former members of armed forces

A person who was a former member of an armed force on November 1, 1953, and who is granted retired or retainer pay after that date, may, at the time he is granted that pay, make an election as provided in section 1431 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 109.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1432 | 37:372(a) (5th sentence). | Aug. 8, 1953, ch. 393, §3(a) (5th sentence), 67 Stat. 502. |

## §1433. Mental incompetency of member

If a person who would be entitled to make an election under section 1431 or 1432 of this title is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, and for that reason cannot make the election within the prescribed time, the Secretary concerned may make an election for that person upon the request of his spouse or, if there is no spouse, of his children who would be eligible to be made beneficiaries under section 1435 of this title. If the person for whom the Secretary has made an election is later determined to be mentally competent by medical officers of the Department of Veterans Affairs or by a court of competent jurisdiction, he may, within 180 days after that determination, change or revoke that election. However, deductions made from his retired or retainer pay before that date may not be refunded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 109; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1433 | 37:372 (less (a) and (b)). | Aug. 8, 1953, ch. 393, §3 (less (a) and (b)), 67 Stat. 502. |

The first 19 words are substituted for 37:372(c) (1st 9 words). The words "who would be eligible to be made beneficiaries under section 1435 of this title" are inserted to reflect the limitations in 37:371(f). The words "for that reason cannot" are substituted for the words "because of such mental incompetency is incapable of". The words "or is adjudged mentally incompetent", "provided for in this section", and "where appropriate is subsequently adjudged mentally competent" are omitted as surplusage. The last sentence is substituted for 37:372(c) (last sentence).

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

## §1434. Kinds of annuities that may be elected

(a) The annuity that a person is entitled to elect under section 1431 or 1432 of this title shall, in conformance with actuarial tables selected by the Board of Actuaries under section 1436(a) of this title, be the amount specified by the elector at the time of the election, but not more than 50 percent nor less than 12½ percent of his retired or retainer pay, in no case less than $25. He may make the annuity payable—

(1) to, or on behalf of, the surviving spouse, ending when the spouse dies or, if the spouse remarries before age 60, when the spouse remarries;

(2) in equal shares to, or on behalf of, the surviving children eligible for the annuity at the time each payment is due, ending when there is no surviving eligible child; or

(3) to, or on behalf of, the surviving spouse, and after the death of that spouse or the remarriage of that spouse before age 60, in equal shares to, or on behalf of, the surviving eligible children, ending when there is no surviving eligible child.

(b) A person may elect to provide both the annuity provided in clause (1) of subsection (a) and that provided in clause (2) of subsection (a), but the combined amount of the annuities may not be more than 50 percent nor less than 12½ percent of his retired or retainer pay but in no case less than $25.

(c) An election of any annuity under clause (1) or (2) of subsection (a), or any combination of annuities under subsection (b), shall provide that no deduction may be made from the elector's retired or retainer pay after the last day of the month in which there is no beneficiary who would be eligible for the annuity if the elector died. For the purposes of the preceding sentence, a child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) who is at least eighteen, but under twenty-three years of age, and who is not pursuing a course of study or training defined in section 1435 of this title, shall be considered an eligible beneficiary unless the Secretary concerned approves an application submitted by the member under section 1436(b)(4) of this title. An election of an annuity under clause (3) of subsection (a) shall provide that no deduction may be made from the elector's retired or retainer pay after the last day of the month in which there is no eligible spouse because of death or divorce.

(d) Under regulations prescribed under section 1444(a) of this title, a person may, before or after the first day for which retired or retainer pay is granted, provided for allocating, during the period of the surviving spouse's eligibility, a part of the annuity under subsection (a)(3) for payment to those of his surviving children who are not children of that spouse.

(e) Whenever there is an increase in retired and retainer pay under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased by the same percentage as the percentage of that increase, effective on the effective date of that increase.

(Aug. 10, 1956, ch. 1041, 70A Stat. 109; Pub. L. 87–381, §3, Oct. 4, 1961, 75 Stat. 811; Pub. L. 90–485, §1(3), Aug. 13, 1968, 82 Stat. 751; Pub. L. 95–397, title I, §101(a), Sept. 30, 1978, 92 Stat. 843; Pub. L. 96–513, title V, §511(56), Dec. 12, 1980, 94 Stat. 2925.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1434(a) | 37:373(a) (less 4th par.). | Aug. 8, 1953, ch. 393, §4 (less (c) and (d)), 67 Stat. 502. |
| 1434(b) | 37:373(b). | |
| 1434(c) | 37:373(a)(4th par.). | |

In subsection (a), the first 17 words are substituted for 37:373(a) (1st 26 words of 1st sentence). The words "may be 50, 25, or 12½ percent" are substituted for the words "in such amount, expressed as a percentage of the reduced amount of his retired pay * * * in amounts equal to one-half, one-quarter or one-eighth". 37:373(a) (last 53 words of 1st sentence of 2d par., and last 53 words of 1st sentence of 3d par.) is omitted as covered by section 1435(2) of this title. Clause (1) is substituted for 37:373(a)(1). Clause (2) is substituted for 37:373(a)(2) (less last 53 words of 1st sentence). Clause (3) is substituted for 37:373(a)(3) (less last 53 words of 1st sentence). The word "eligible" is inserted in clauses (2) and (3) to reflect the limitations in 37:371(f).

In subsection (c), the first 11 words are substituted for 37:373(a)(4) (1st 24 words). The words "the annuity" are substituted for the words "an annuity payable under the election made by him".

## EDITORIAL NOTES

### AMENDMENTS

**1980**—Subsecs. (a), (b). Pub. L. 96–513 substituted "percent" for "per centum" wherever appearing.

**1978**—Subsec. (a)(1). Pub. L. 95–397, §101(a)(1), substituted "or, if the spouse remarries before age 60, when the spouse remarries" for "or remarries".

Subsec. (a)(3). Pub. L. 95–397, §101(a)(2), substituted "of that spouse or the remarriage of that spouse before age 60" for "or remarriage of that spouse".

Subsec. (e). Pub. L. 95–397, §101(a)(3), added subsec. (e).

**1968**—Subsec. (a). Pub. L. 90–485 substituted provisions allowing election of an annuity amount, in conformance with the selected actuarial tables, of not more than 50 percent nor less than 12½ percent of retired or retired or retainer pay, but in no case less than $25, for provisions allowing election of an annuity amount of 50, 25, or 12½ percent of reduced retired or retainer pay.

Subsec. (b). Pub. L. 90–485 substituted provisions that the combined amount of annuities may not be more than 50 percent nor less than 12½ percent of retired or retainer pay, but in no case less than $25, for provisions that the combined amount of annuities may be only 25 or 12½ percent of reduced retired or retainer pay and provisions that the reduction in retired or retainer pay on account of each annuity, and the amount of each annuity, be determined in the same manner that it would be determined if the other annuity had not been elected.

Subsec. (c). Pub. L. 90–485 made mandatory the provisions that an election of any annuity under cls. (1) or (2) of subsec. (a), or any combination of annuities under subsec. (b), and the provision that an election of an annuity under cl. (3) of subsec. (a) shall provide that no deduction may be made from the elector's retired or retainer pay after the last day of the month in which there is no beneficiary who would be eligible for the annuity if the elector died or there is no eligible spouse because of death or divorce, respectively, and inserted provision determining what constitutes an eligible beneficiary.

Subsec. (d). Pub. L. 90–485 reenacted subsec. (d) without change.

**1961**—Subsec. (b). Pub. L. 87–381, §3(1), substituted permission to elect only 25 or 12½ percent of the member's reduced retired or retainer pay for each annuity for provisions limiting the combined amount of the annuities to not more than 50 percent or the reduced pay, and added that the reduction in pay on account of each annuity, and the amount of each annuity, shall be determined as if the other annuity had not been elected.

Subsec. (d). Pub. L. 87–381, §3(2), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–397, title I, §101(b), Sept. 30, 1978, 92 Stat. 843, provided that: "No benefits shall accrue to any person by virtue of the amendments made by subsection (a) [amending this section] for any period prior to the first day of the first calendar month following the month in which this Act is enacted [Sept. 1978] or October 1, 1978, whichever is later."

### EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–485, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

**INCREASE IN AMOUNT OF ANNUITY PAYABLE UNDER RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN**

Pub. L. 95–397, title I, §102, Sept. 30, 1978, 92 Stat. 843, provided that: "Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of the enactment of this Act [Sept. 30, 1978] to a spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as of the first day of the first calendar month following the month in which this Act [See Short Title note set out under section 1431 of this title] is enacted [September 1978], or as of October 1, 1978, whichever is later, by the percentage increase in retired and retainer pay under section 1401a of that title since September 21, 1972."

**PROVISIONS EFFECTIVE FOR CERTAIN MEMBERS ON AUGUST 13, 1968**

Provisions of this section as amended by Pub. L. 90–485 effective immediately and automatically for members to whom section 1431 of this title applies on Aug. 13, 1968, see section 3 of Pub. L. 90–485, set out as a note under section 1431 of this title.

## §1435. Eligible beneficiaries

Only the following persons are eligible to be made the beneficiaries of, or to receive payments under, an annuity elected under this subchapter by a member of the armed forces:

(1) The spouse of the member on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, the spouse on that date.

(2) The children of the member who are—

(A) unmarried;

(B) under eighteen years of age, or incapable of supporting themselves because of a mental defect or physical incapacity existing before their eighteenth birthday, or at least eighteen, but under twenty-three, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution;

(C) legitimate or adopted children of, or stepchildren in fact dependent for their support upon, the member;

(D) living on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, living on that date; and

(E) born on or before the date prescribed in clause (D).

For the purposes of clause (2)(B), a child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed one hundred and fifty days if he has demonstrated to the satisfaction of the Secretary concerned that he has a bonafide intention of commencing, resuming, or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after that interval.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 90–485, §1(4), (5), Aug. 13, 1968, 82 Stat. 752; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1435(1) | 37:371(e). | Aug. 8, 1953, ch. 393, §2(e), (f), 67 Stat. 501. |
| 1435(2) | 37:371(f). | |

In clauses (1) and (2), the words "is retired or becomes entitled to retired or retainer pay" are substituted for the words "retired member", since the words "retired member", as defined in the source statute, included former members who have been awarded that pay.

In clause (1), the words " 'widow' includes a widower" are omitted as covered by the definition of "spouse" in section 101(32) of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

**1968**—Pub. L. 90–485 inserted provisions in cl. (2)(B) concerning children of the member who are at least 18, but under 23 and pursuing a full-time course of study or training and inserted text following cl. (2)(E) relating to children considered to be pursuing a full-time course of study or training.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–485 effective on first day of third calendar month following Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

## §1436. Computation of reduction in retired pay; withdrawal for severe financial hardship

(a) The reduction in the retired or retainer pay of any person who elects an annuity under this subchapter shall be computed by the armed force concerned as of the date when the person becomes eligible for that pay but without regard to any increase in that pay to reflect changes in the Consumer Price Index. It shall be computed under an actuarial equivalent method based on (1) appropriate actuarial tables selected by the Board of Actuaries, and (2) an interest rate of 3 percent a year, or such other rate as the Secretary of the Treasury, after considering the average yield on outstanding marketable long-term obligations of the United States during the preceding six months, may specify by August 1 of any year for the following year. The method and tables shall be those in effect on the date as of which the computation is made.

(b) Under regulations prescribed under section 1444(a) of this title, the Secretary concerned may, upon application by the retired member, allow the member—

(1) to reduce the amount of the annuity specified by him under section 1434(a) and 1434(b) of this title but to not less than the prescribed minimum; or

(2) to withdraw from participation in an annuity program under this title; or

(3) to elect the annuity provided under clause (1) of section 1434(a) of this title in place of the annuity provided under clause (3) of such section, if on the first day for which retired or retainer pay is granted the member had in effect a valid election under clause (3) of such section, and he does not have a child beneficiary who would be eligible for the annuity provided under clause (3) of such section. For this purpose, a child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) who is at least eighteen, but under twenty-three years of age shall not be considered an eligible beneficiary; or

(4) to elect that a child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) who is at least eighteen, but under twenty-three years of age shall not be considered eligible for the annuity provided under clause (2) of section 1434(a) of this title, or for an annuity provided under section 1434(b) of this title, if on the first day for which retired or retainer pay is granted the member had in effect a valid election under clause (2) of section 1434(a) of this title, or under section 1434(b) of this title.

A retired member may not reduce an annuity under clause (1) of this subsection, or withdraw under clause (2) of this subsection, earlier than the first day of the seventh calendar month beginning after he applies for reduction or withdrawal. A change of election under clause (3) of this subsection shall be effective on the first day of the month following the month in which application is made. An election under clause (4) of this subsection shall be effective on the first day of the month following

the month in which application is made and, if on the effective date there is no surviving child who would be eligible for an annuity provided under clause (2) of section 1434(a), or under section 1434(b), of this title if the elector died, no deduction shall be made for such an annuity to, or on behalf of, a child from the elector's retired or retainer pay for that month or any subsequent month. No amounts by which a member's retired or retainer pay is reduced prior to the effective date of a reduction of annuity, withdrawal, change of election, or election under this subsection may be refunded to, or credited on behalf of, the member by virtue of an application made by him under this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 87–381, §4, Oct. 4, 1961, 75 Stat. 811; Pub. L. 90–207, §2(a)(3), Dec. 16, 1967, 81 Stat. 653; Pub. L. 90–485, §1(6), Aug. 13, 1968, 82 Stat. 753; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L. 104–106, div. A, title XV, §1505(c), Feb. 10, 1996, 110 Stat. 514.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1436 | 37:373(c). | Aug. 8, 1953, ch. 393, §4(c), 67 Stat. 503. |

The words "of any person who elects an annuity" are substituted for the words "of an active or retired member who has made an election". The words "in each individual case" and "designated in section 8" are omitted as surplusage. The words "and as of the date of election in the case of a retired member" are omitted as executed. 37:373(c) (1st 23 words of last sentence) is omitted as otherwise covered by the language of the revised section.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (b). Pub. L. 104–106 made technical correction to directory language of Pub. L. 90–485, §1(6). See 1968 Amendment note below.

**1972**—Subsec. (a). Pub. L. 92–425 substituted "subchapter" for "chapter".

**1968**—Subsec. (b). Pub. L. 90–485, as amended by Pub. L. 104–106, substituted provisions authorizing the Secretary to allow the member to reduce the amount of the annuity, allow the member to withdraw from participation in an annuity program, allow the member to elect the annuity provided in section 1434(a)(1) in place of the annuity provided in section 1434(a)(3) under the specified conditions, and allow the member to elect that a child at least 18, but under 23, not be eligible for the specified annuities, setting forth the times when such reduction, withdrawal, or change of election may take place, and disallowing the refunding or crediting of any amount previously withheld, for provisions authorizing the Secretary to allow the member to withdraw from participation in an annuity program whenever the Secretary considers it necessary because of the member's severe financial hardship, the absence of an eligible beneficiary not of itself to be a basis for such action.

**1967**—Subsec. (a). Pub. L. 90–207 inserted "but without regard to any increase in that pay to reflect changes in the Consumer Price Index" after "that pay".

**1961**—Pub. L. 87–381 designated existing provisions as subsec. (a), added subsec. (b), and inserted "; withdrawal for severe financial hardship" in section catchline.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1505(c), Feb. 10, 1996, 110 Stat. 514, provided that the amendment made by that section is effective Aug. 13, 1968, and as if included in Pub. L. 90–485 as originally enacted.

### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–485 effective Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

**EFFECTIVE DATE OF 1967 AMENDMENT**

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

## §1436a. Coverage paid up at 30 years and age 70

Effective October 1, 2008, a reduction under this subchapter in the retired or retainer pay of a person electing an annuity under this subchapter may not be made for any month after the later of—

(1) the month that is the 360th month for which that person's retired or retainer pay is reduced pursuant to such an election; and

(2) the month during which that person attains 70 years of age.

(Added Pub. L. 106–65, div. A, title VI, §655(a), Oct. 5, 1999, 113 Stat. 667.)

## §1437. Payment of annuity

(a) Except as provided in subsections (b) and (c), each annuity payable under this subchapter accrues as of the first day of the month in which the person upon whose pay the annuity is based dies. Payments shall be made in equal installments and not later than the fifteenth day of each month following that month. However, no annuity accrues for the month in which entitlement thereto ends. The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(b) Each annuity payable to or on behalf of an eligible child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) as defined in section 1435(2)(B) of this title who is at least eighteen years of age and pursuing a full-time course of study or training at a recognized educational institution, accrues—

(1) as of the first day of the month in which the member upon whose pay the annuity is based dies, if the eligible child's eighteenth birthday occurs in the same or a preceding month.

(2) as of the first day of the month in which the eighteenth birthday of an eligible child occurs, if the member upon whose pay the annuity is based died in a preceding month.

(3) as of the first day of the month in which a child first becomes or again becomes eligible, if that eligible child's eighteenth birthday and the death of the member upon whose pay the annuity is based both occurred in a preceding month or months.

However, no such annuity is payable or accrues for any month before November 1, 1968.

(c)(1) Upon application of the beneficiary of a member entitled to retired or retainer pay whose retired or retainer pay has been suspended because the member has been determined to be missing, the Secretary concerned may determine for purposes of this subchapter that the member is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1444(a) of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a member is presumed dead unless he finds—

(A) that the member has been missing for at least 30 days; and

(B) that the circumstances under which the member is missing would lead a reasonably prudent person to conclude that the member is dead.

(2) Upon a determination under paragraph (1) with respect to a member, an annuity otherwise payable under this subchapter shall be paid as if the member died on the date as of which the retired or retainer pay of the member was suspended.

(3)(A) If, after a determination under paragraph (1), the Secretary concerned determines that the member is alive, any annuity being paid under this subchapter by reason of this subsection shall be promptly terminated and the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States which may be collected or offset—

(i) from any retired or retainer pay otherwise payable to the member;

(ii) if the member is entitled to compensation under chapter 11 of title 38, from that compensation; or

(iii) if the member is entitled to any other payment from the United States, from that payment.

(B) If the member dies before the full recovery of the amount of annuity payments described in subparagraph (A) has been made by the United States, the remaining amount of such annuity payments may be collected from the member's beneficiary under this subchapter if that beneficiary was the recipient of the annuity payments made by reason of this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 90–485, §1(7), Aug. 13, 1968, 82 Stat. 753; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L. 96–513, title V, §511(57), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 98–94, title IX, §922(a)(14)(A), Sept. 24, 1983, 97 Stat. 642; Pub. L. 98–525, title VI, §642(a)(1), Oct. 19, 1984, 98 Stat. 2545; Pub. L. 99–145, title XIII, §1303(a)(9), Nov. 8, 1985, 99 Stat. 739.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1437 | 37:379. | Aug. 8, 1953, ch. 393, §10, 67 Stat. 504. |

The words "the person upon whose reduced pay the annuity is based" are substituted for the words "the retired member" since persons other than retired members may elect an annuity. The words "due and" and "or be paid" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**1985**—Subsec. (c)(3)(A). Pub. L. 99–145 struck out "(notwithstanding section 144 of this title)" after "which".

**1984**—Subsec. (a). Pub. L. 98–525, §642(a)(1)(A), substituted "subsections (b) and (c)," for "subsection (b)".

Subsec. (c). Pub. L. 98–525, §642(a)(1)(B), added subsec. (c).

**1983**—Subsec. (a). Pub. L. 98–94 inserted "The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

**1980**—Subsec. (b). Pub. L. 96–513 substituted "before November 1, 1968" for "prior to the effective date of this subsection".

**1972**—Subsec. (a). Pub. L. 92–425 substituted "subchapter" for "chapter".

**1968**—Pub. L. 90–485 designated existing provisions as subsec. (a), inserted "Except as provided in subsection (b)", substituted "whose pay" for "whose reduced pay", and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–485, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

## §1438. Deposits for amounts not deducted

If, for any period, a person who has been retired or has become entitled to retired or retainer pay, and who has elected an annuity under this subchapter, is not entitled to retired or retainer pay, he must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period to provide the annuity.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1438 | 37:374. | Aug. 8, 1953, ch. 393, §5, 67 Stat. 504. |

The words "a person who has been retired or has become entitled to retired or retainer pay, and who has elected an annuity under this chapter" are substituted for the words "a retired member of a uniformed service who has made the election specified in section 372 of this title", since the revised chapter applies to persons who are receiving retired pay as well as retired members. The word "otherwise" is substituted for the words "had he been receiving that pay". The words "to provide the annuity" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

## §1439. Refund of amounts deducted from retired pay

If a person whose name is on the temporary disability retired list of an armed force, and who has elected an annuity under this subchapter, has his name removed from that list for any reason other than retirement or grant of retired pay, he is entitled to a refund of the difference between the amount by which his retired pay was reduced to provide the annuity and the cost of an amount of term insurance equal to the protection provided for his dependents during the period that he was on that list.

(Aug. 10, 1956, ch. 1041, 70A Stat. 111; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1439 | 37:373(d). | Aug. 8, 1953, ch. 393, §4(d), 67 Stat. 503. |

The words "person whose name is on" are substituted for the words "Any active member or former member on the". The words "is entitled to a refund" are substituted for the words "shall have refunded to him". The words "permanent", "a sum which represents", and "in accordance with his election under section 372 of this title" are omitted as surplusage. The words "retirement or grant of retired pay" are substituted for the words "permanent retirement", since under chapter 67 of this title a member of the Army or Air Force may be granted retired pay without being retired.

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

## §1440. Annuities not subject to legal process

Except as provided in section 1437(c)(3)(B) of this title, no annuity payable under this subchapter

is assignable or subject to execution, levy, attachment, garnishment, or other legal process.

(Aug. 10, 1956, ch. 1041, 70A Stat. 111; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L. 98–525, title VI, §642(a)(2), Oct. 19, 1984, 98 Stat. 2546; Pub. L. 99–145, title XIII, §1303(a)(10), Nov. 8, 1985, 99 Stat. 739.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1440 | 37:378. | Aug. 8, 1953, ch. 393, §9, 67 Stat. 504. |

The words "either in law or equity" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1985**—Pub. L. 99–145 substituted "1437(c)(3)(B)" for "1437(c)(3)".
**1984**—Pub. L. 98–525 substituted "Except as provided in section 1437(c)(3) of this title, no" for "No".
**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

## §1441. Annuities in addition to other payments

An annuity under this subchapter is in addition to any pension or other payment to which the beneficiary is entitled under any other provision of law, and may not be considered as income under any law administered by the Department of Veterans Affairs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 111; Pub. L. 85–857, §13(v)(1), Sept. 2, 1958, 72 Stat. 1266; Pub. L. 85–861, §1(31B), Sept. 2, 1958, 72 Stat. 1452; Pub. L. 86–211, §8(a), Aug. 29, 1959, 73 Stat. 436; Pub. L. 91–588, §8(b), Dec. 24, 1970, 84 Stat. 1584; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1441 | 37:380. | Aug. 8, 1953, ch. 393, §11, 67 Stat. 504. |

The word "is" is substituted for the words "may now or hereafter be".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1441 | 37:380. | Aug. 1, 1956, ch. 837, §501(1), 70 Stat. 884. |

The change is made to reflect the amendment made by section 501(1) of the Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 884) to section 11 of the Uniform Services Contingency Option Act of 1953 (restated in section 1441 of title 10).

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".
**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".
**1970**—Pub. L. 91–588 struck out "except section 415(g) and chapter 15 of title 38" after "Veterans' Administration".

**1959**—Pub. L. 86–211 inserted reference to chapter 15 of title 38.
**1958**—Pub. L. 85–861 inserted "except section 1115 of title 38" after "Administration".
Pub. L. 85–857 substituted "section 415(g) of title 38" for "section 1115 of title 38".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1970 AMENDMENT**

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10 of Pub. L. 91–588, set out as a note under section 1521 of Title 38, Veterans' Benefits.

**EFFECTIVE DATE OF 1959 AMENDMENT**

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as a note under section 1506 of Title 38, Veterans' Benefits.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

## §1442. Recovery of annuity erroneously paid

In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience.

(Aug. 10, 1956, ch. 1041, 70A Stat. 111; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L. 104–316, title I, §105(a), Oct. 19, 1996, 110 Stat. 3830.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1442 | 37:376. | Aug. 8, 1953, ch. 393, §7, 67 Stat. 504. |

The words "In addition to other methods of recovery provided by law, the Secretary concerned may" are substituted for 37:376(a) (1st 15 words of 1st sentence). The words "from later payments to an annuitant" are substituted for 37:376(a) (2d sentence).

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–316 struck out "and the Comptroller General" after "judgment of the Secretary concerned".
**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

## [§1443. Repealed. Pub. L. 92–425, §1(2)(B), Sept. 21, 1972, 86 Stat. 706]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 111, related to Board of Actuaries, composed of Government Actuary, Chief Actuary of Social Security Administration, and an actuary who was a member of Society of Actuaries.

## §1444. Regulations; determinations

(a) The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the armed forces, the National Oceanic and Atmospheric

Administration, and the Public Health Service.

(b) Determinations and certifications of eligibility for, and payments of, annuities and other payments or refunds under this subchapter shall be made by the department concerned. However, in the case of a department other than a military department, payments shall be made through the disbursing facilities of the Department of the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 111; Pub. L. 87–381, §5, Oct. 4, 1961, 75 Stat. 811; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 92–425, §1(2)(A), (C), Sept. 21, 1972, 86 Stat. 706; Pub. L. 96–513, title V, §511(58), Dec. 12, 1980, 94 Stat. 2925.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1444(a) | 37:377 (1st sentence). | Aug. 8, 1953, ch. 393, §§6, 8 (1st and 2d sentences), 67 Stat. 504. |
| 1444(b) | 37:377 (2d sentence). | |
| 1444(c) | 37:375. | |

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Subsec. (a). Pub. L. 96–513, §511(58)(A), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsecs. (b), (c). Pub. L. 96–513, §511(58)(B), redesignated subsec. (c) as (b).

**1972**—Pub. L. 92–425, §1(2)(C), struck out "reports to Congress" in section catchline.

Subsec. (a). Pub. L. 92–425, §1(2)(A), substituted "subchapter" for "chapter".

Subsec. (b). Pub. L. 92–425, §1(2)(C), struck out subsec. (b) which required President to submit annual reports to Congress on administration of this chapter.

Subsec. (c). Pub. L. 92–425, §1(2)(A), substituted "subchapter" for "chapter".

**1966**—Subsec. (a). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

**1961**—Subsec. (b). Pub. L. 87–381 required report to contain a detailed account, including an actuarial analysis, of cases in which relief is granted under sections 1436(b) and 1552 of this title, or any other statutory or administrative procedure.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**REPEALS**

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

**EXECUTIVE DOCUMENTS**

**TRANSFER OF FUNCTIONS**

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §1444a. Regulations regarding payment of annuity to a representative payee

(a) The regulations prescribed pursuant to section 1444(a) of this title shall provide procedures for the payment of an annuity under this subchapter in the case of—

(1) a person for whom a guardian or other fiduciary has been appointed; and

(2) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

(b) Those regulations may include the provisions set out in section 1455(d)(2) of this title.

(c) An annuity paid to a person on behalf of an annuitant in accordance with the regulations prescribed pursuant to subsection (a) discharges the obligation of the United States for payment to the annuitant of the amount of the annuity so paid.

(Added Pub. L. 102–190, div. A, title VI, §654(b)(1), Dec. 5, 1991, 105 Stat. 1390; amended Pub. L. 105–85, div. A, title X, §1073(a)(26), Nov. 18, 1997, 111 Stat. 1901.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Subsec. (b). Pub. L. 105–85 substituted "section 1455(d)(2)" for "section 1455(c)".

## §1445. Correction of administrative deficiencies

Whenever he considers it necessary, the Secretary concerned may, under regulations prescribed under section 1444(a) of this title, correct any election, or any change or revocation of an election, under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(Added Pub. L. 87–381, §6(1), Oct. 4, 1961, 75 Stat. 811; amended Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter".

## §1446. Restriction on participation

(a) Notwithstanding section 1441 of this title, if a person—

(1) has made an election under this subchapter; and

(2) is retired for physical disability before he completes 19 years of service for which he is entitled to credit in the computation of his basic pay;

and thereafter dies, his beneficiaries are not entitled to the annuities provided under this subchapter until they give proof to the department concerned that they are not eligible for benefits under chapter 11 or 13 of title 38. If the beneficiaries are not eligible for benefits under chapter 11 or 13 of title 38, the annuity shall begin on the first day of the month in which the death occurs.

(b) Whenever the beneficiaries on whose behalf the election was made are restricted, under subsection (a), from participating in the annuities provided under this subchapter, the amount withheld from the elector's retired or retainer pay as a result of an election under this subchapter shall be refunded to the beneficiaries, less the amount of any annuities paid under this subchapter, and in either case without interest.

(Added Pub. L. 87–381, §6(1), Oct. 4, 1961, 75 Stat. 811; amended Pub. L. 90–485, §1(8), Aug. 13, 1968, 82 Stat. 754; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–425 substituted "subchapter" for "chapter" wherever appearing.

**1968**—Subsec. (a)(2). Pub. L. 90–485 substituted "19" for "18".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–485 effective on first day of third calendar month following Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

# SUBCHAPTER II—SURVIVOR BENEFIT PLAN

Sec.
1447. Definitions.
1448. Application of Plan.
1448a. Election to discontinue participation: one-year opportunity after second anniversary of commencement of payment of retired pay.
1449. Mental incompetency of member.
1450. Payment of annuity: beneficiaries.
1451. Amount of annuity.
1452. Reduction in retired pay.
1453. Recovery of amounts erroneously paid.
1454. Correction of administrative errors.
1455. Regulations.

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Pub. L. 105–85, div. A, title VI, §641(a)(2), Nov. 18, 1997, 111 Stat. 1798, added item 1448a.

**1996**—Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2551, amended analysis generally, reenacting items 1447 to 1452, 1454, and 1455 without change and substituting "Recovery of amounts" for "Recovery of annuity" in item 1453.

**1989**—Pub. L. 101–189, div. A, title XIV, §1407(a)(10)(B), Nov. 29, 1989, 103 Stat. 1589, substituted "errors" for "deficiencies" in item 1454.

**1985**—Pub. L. 99–145, title VII, §719(8)(B), Nov. 8, 1985, 99 Stat. 676, struck out "or retainer" after "retired" in item 1452.

**1972**—Pub. L. 92–424, §1(3), Sept. 21, 1972, 86 Stat. 706, added subchapter II heading and items 1447 to 1455.

## §1447. Definitions

In this subchapter:

(1) PLAN.—The term "Plan" means the Survivor Benefit Plan established by this subchapter.

(2) STANDARD ANNUITY.—The term "standard annuity" means an annuity provided by virtue of eligibility under section 1448(a)(1)(A) of this title.

(3) RESERVE-COMPONENT ANNUITY.—The term "reserve-component annuity" means an annuity provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

(4) RETIRED PAY.—The term "retired pay" includes retainer pay paid under section 8330 of this title.

(5) RESERVE-COMPONENT RETIRED PAY.—The term "reserve-component retired pay" means retired pay under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act).

(6) BASE AMOUNT.—The term "base amount" means the following:

(A) FULL AMOUNT UNDER STANDARD ANNUITY.—In the case of a person who dies

after becoming entitled to retired pay, such term means the amount of monthly retired pay (determined without regard to any reduction under section 1409(b)(2) or 1415(b)(1)(B) of this title) to which the person—

(i) was entitled when he became eligible for that pay; or

(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list.

(B) FULL AMOUNT UNDER RESERVE-COMPONENT ANNUITY.—In the case of a person who would have become eligible for reserve-component retired pay but for the fact that he died before becoming 60 years of age, such term means the amount of monthly retired pay for which the person would have been eligible—

(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title.

(C) REDUCED AMOUNT.—Such term means any amount less than the amount otherwise applicable under subparagraph (A) or (B) with respect to an annuity provided under the Plan but which is not less than $300 and which is designated by the person (with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title) providing the annuity on or before—

(i) the first day for which he becomes eligible for retired pay, in the case of a person providing a standard annuity, or

(ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, in the case of a person providing a reserve-component annuity.

(7) WIDOW.—The term "widow" means the surviving wife of a person who, if not married to the person at the time he became eligible for retired pay—

(A) was married to him for at least one year immediately before his death; or

(B) is the mother of issue by that marriage.

(8) WIDOWER.—The term "widower" means the surviving husband of a person who, if not married to the person at the time she became eligible for retired pay—

(A) was married to her for at least one year immediately before her death; or

(B) is the father of issue by that marriage.

(9) SURVIVING SPOUSE.—The term "surviving spouse" means a widow or widower.

(10) FORMER SPOUSE.—The term "former spouse" means the surviving former husband or wife of a person who is eligible to participate in the Plan.

(11) DEPENDENT CHILD.—

(A) IN GENERAL.—The term "dependent child" means a person who—

(i) is unmarried;

(ii) is (I) under 18 years of age, (II) at least 18, but under 22, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution, or (III) incapable of self support because of a mental or physical incapacity existing before the person's eighteenth birthday or incurred on or after that birthday, but before the person's twenty-second birthday, while pursuing such a full-time course of study or training; and

(iii) is the child of a person to whom the Plan applies, including (I) an adopted child, and (II) a stepchild, foster child, or recognized natural child who lived with that person in a regular parent-child relationship.

(B) SPECIAL RULES FOR COLLEGE STUDENTS.—For the purpose of subparagraph (A), a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. A child who is a student is considered not to have ceased to be a student during an interim between school years if the interim is not more than 150 days and if the child shows to the satisfaction of the Secretary of Defense that the child has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(C) FOSTER CHILDREN.—A foster child, to qualify under this paragraph as the dependent child of a person to whom the Plan applies, must, at the time of the death of that person, also reside with, and receive over one-half of his support from, that person, and not be cared for under a social agency contract. The temporary absence of a foster child from the residence of that person, while a student as described in this paragraph, shall not be considered to affect the residence of such a foster child.

(12) COURT.—The term "court" has the meaning given that term by section 1408(a)(1) of this title.

(13) COURT ORDER.—

(A) IN GENERAL.—The term "court order" means a court's final decree of divorce, dissolution, or annulment or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

(B) FINAL DECREE.—The term "final decree" means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

(C) REGULAR ON ITS FACE.—The term "regular on its face", when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 706; amended Pub. L. 94–496, §1(1), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §201, Sept. 30, 1978, 92 Stat. 843; Pub. L. 96–402, §2, Oct. 9, 1980, 94 Stat. 1705; Pub. L. 97–252, title X, §1003(a), Sept. 8, 1982, 96 Stat. 735; Pub. L. 98–94, title IX, §941(c)(1), Sept. 24, 1983, 97 Stat. 653; Pub. L. 99–145, title VII, §§719(1), (2), 721(b), Nov. 8, 1985, 99 Stat. 675, 676; Pub. L. 99–348, title III, §301(a)(1), July 1, 1986, 100 Stat. 702; Pub. L. 99–661, div. A, title XIII, §1343(a)(8)(A), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–189, div. A, title XIV, §1407(a)(1)–(3), Nov. 29, 1989, 103 Stat. 1588; Pub. L. 101–510, div. A, title XIV, §1484(l)(4)(C)(i), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 103–337, div. A, title XVI, §1671(d), Oct. 5, 1994, 108 Stat. 3014; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2551; Pub. L. 115–91, div. A, title VI, §622(a), Dec. 12, 2017, 131 Stat. 1428; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act, referred to in par. (5), means chapter 67 (§1331 et seq.) of this title prior to its transfer to part II of

subtitle E of this title, its renumbering as chapter 1223, and its general revision by section 1662(j)(1) of Pub. L. 103–337. A new chapter 67 (§1331) of this title was added by section 1662(j)(7) of Pub. L. 103–337. For effective date of the Reserve Officer Personnel Management Act (Pub. L. 103–337, title XVI), see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## AMENDMENTS

**2018**—Par. (4). Pub. L. 115–232 substituted "section 8330" for "section 6330".

**2017**—Par. (6)(A). Pub. L. 115–91 inserted "or 1415(b)(1)(B)" after "section 1409(b)(2)".

**1996**—Pub. L. 104–201 amended section generally, making changes in the order, style, and substance of definitions of terms used in this subchapter and adding definition of "surviving spouse".

**1994**—Par. (2)(C). Pub. L. 103–337, §1671(d)(2), substituted "12731(d)" for "1331(d)".

Par. (14). Pub. L. 103–337, §1671(d)(1), substituted "chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" for "chapter 67 of this title".

**1990**—Par. (5). Pub. L. 101–510 made technical correction to directory language of Pub. L. 101–189, §1407(a)(1)(A), see 1989 Amendment note below.

**1989**—Par. (2)(B). Pub. L. 101–189, §1407(a)(2), substituted "reserve-component retired pay" for "retired pay under chapter 67 of this title".

Par. (2)(C)(i). Pub. L. 101–189, §1407(a)(3), struck out "or retainer" after "eligible for retired".

Par. (2)(C)(ii). Pub. L. 101–189, §1407(a)(2), substituted "reserve-component retired pay" for "retired pay under chapter 67 of this title".

Pars. (3), (4). Pub. L. 101–189, §1407(a)(3), struck out "or retainer" after "eligible for retired".

Par. (5). Pub. L. 101–189, §1407(a)(1)(A), as amended by Pub. L. 101–510, substituted "this paragraph" for "this clause" in three places in concluding provisions.

Par. (11). Pub. L. 101–189, §1407(a)(1)(B), inserted "paid under section 6330 of this title" after "retainer pay".

Par. (14). Pub. L. 101–189, §1407(a)(1)(C), added par. (14).

**1987**—Pub. L. 100–180 inserted "The term" after each par. designation and revised first word in quotes in pars. (2) to (13) to make initial letter of such word lowercase.

**1986**—Par. (2)(A). Pub. L. 99–661 substituted "retired pay" for "retired or retainer pay" in two places in provisions preceding cl. (i).

Pub. L. 99–348 inserted "(determined without regard to any reduction under section 1409(b)(2) of this title)".

**1985**—Par. (2)(C). Pub. L. 99–145, §721(b), inserted "(with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title)" after "designated by the person".

Par. (2)(C)(i). Pub. L. 99–145, §719(2)(A), substituted "a standard annuity" for "an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title".

Par. (2)(C)(ii). Pub. L. 99–145, §719(2)(B), substituted "a reserve-component annuity" for "an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title".

Pars. (11) to (13). Pub. L. 99–145, §719(1), added pars. (11) to (13).

**1983**—Par. (8). Pub. L. 98–94 substituted "or annulment" for "annulment, or legal separation," in two places.

**1982**—Pars. (6) to (10). Pub. L. 97–252 added pars. (6) to (10).

**1980**—Par. (2). Pub. L. 96–402 inserted in subpar. (C) "but which is not less than $300" after "under the Plan", substituted a period at end of subpar. (C) for ", but not less than $300;", and struck out following subpar. (C) "as increased from time to time under section 1401a of this title."

**1978**—Par. (2). Pub. L. 95–397 inserted "in the case of a person who dies after becoming entitled to retired or retainer pay" before "the amount" and substituted "pay to which the person" for "pay to which a person" in subpar. (A), substituted "in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming 60 years of age, the amount of monthly retired pay for which the person would have been eligible—" for "any amount less than that described by clause (A) designated by that person on or before the first day for which he became eligible for retired or retainer pay, but not less than $300" in subpar. (B), and added subpars. (B)(i), (ii) and (C).

**1976**—Pars. (3)(A), (4)(A). Pub. L. 94–496 substituted "one year" for "two years".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title XIV, §1484(l)(4)(C), Nov. 5, 1990, 104 Stat. 1720, provided that the amendment made by that section is effective Nov. 29, 1989.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title VII, §731, Nov. 8, 1985, 99 Stat. 678, provided that:

"(a) EFFECTIVE DATE.—Except as otherwise provided in this title, the amendments made by this title [see Short Title of 1985 Amendment note below] shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Nov. 8, 1985].

"(b) PROSPECTIVE BENEFITS ONLY.—No benefit shall accrue to any person by reason of the enactment of this title for any period before the effective date under subsection (a)."

**EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS**

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable to persons becoming eligible to participate in Survivor Benefit Plan provided for in this subchapter before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Pub. L. 96–402, §7, Oct. 9, 1980, 94 Stat. 1708, provided that: "The amendments made by sections 2, 3, and 4 of this Act [amending this section and sections 1451 and 1452 of this title] and the provisions of section 5 of this Act [set out as a note under section 1448 of this title] shall be effective on the first day of the second calendar month following the month in which this Act is enacted [October 1980] and shall apply to annuities payable by virtue of such amendments and provisions for months beginning on or after such date. No benefits shall accrue to any person by virtue of the enactment of this Act [Pub. L. 96–402] for any period before the date of the enactment of this Act [Oct. 9, 1980]."

**EFFECTIVE DATE OF 1978 AMENDMENT**

Pub. L. 95–397, title II, §210, Sept. 30, 1978, 92 Stat. 848, provided that:

"(a) Except as provided in subsection (b), the provisions of this title [amending this section and sections 1331 [now 12731] and 1448 to 1452 of this title and enacting provisions set out as notes under this section and section 1448 of this title] and the amendments made by this title shall take effect on October 1, 1978, or on the date of the enactment of this Act [Sept. 30, 1978], whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

"(b) The amendment made by section 206 [amending section 1331 [now 12731] of this title] shall apply to notifications under section 1331(d) [now 12731(d)] of title 10, United States Code, after the date of the enactment of this Act [Sept. 30, 1978]."

**EFFECTIVE DATE OF 1976 AMENDMENT**

Pub. L. 94–496, §3, Oct. 14, 1976, 90 Stat. 2376, provided that: "This Act [amending this section and sections 1448, 1450, 1451, and 1452 of this title, and amending provisions set out as a note under section 1448 of this title] shall be effective as of September 21, 1972. No pay shall accrue to any person by virtue of the enactment of this Act for any period prior to October 1, 1976."

**SHORT TITLE OF 1989 AMENDMENT**

Pub. L. 101–189, div. A, title XIV, §1401, Nov. 29, 1989, 103 Stat. 1577, provided that: "This title [enacting subchapter III of this chapter, amending this section and sections 1331 [now 12731], 1448 to 1452, and 1454 of this title and section 3101 [now 5301] of Title 38, Veterans' Benefits, and enacting provisions set out as notes under sections 1448, 1451, 1452, 1456, and 12731 of this title] may be cited as the 'Military Survivor Benefits Improvement Act of 1989'."

**SHORT TITLE OF 1985 AMENDMENT**

Pub. L. 99–145, title VII, §701, Nov. 8, 1985, 99 Stat. 666, provided that: "This title [amending this section and sections 1448, 1450 to 1452, and 1455 of this title, enacting provisions set out as notes under this section and sections 1448 and 1452 of this title, and repealing a provision set out as a note under section 1451 of this title] may be cited as the 'Survivor Benefit Plan Amendments of 1985'."

**SHORT TITLE OF 1980 AMENDMENT**

Pub. L. 96–402, §1, Oct. 9, 1980, 94 Stat. 1705, provided: "That this Act [amending this section and sections 1451 and 1452 of this title, enacting provisions set out as notes under this section and section 1448 of this title, and amending provisions set out as a note under section 1448 of this title] may be cited as the 'Uniformed Services Survivor Benefits Amendments of 1980'."

**END OF 90-DAY PERIOD WITH RESPECT TO CERTAIN INDIVIDUALS**

Pub. L. 95–397, title II, §208, Sept. 30, 1978, 92 Stat. 848, as amended by Pub. L. 96–107, title VIII, §816, Nov. 9, 1979, 93 Stat. 818, provided that the 90-day period referred to in former sections 1447(2)(C) and 1448(a)(2) and (4)(B) of this title was to be considered to end on Mar. 31, 1980, for an individual who would have been eligible for retired pay under former chapter 67 of this title on the effective date of title II of Pub. L. 95–397 (see Effective Date of 1978 Amendment note above), but for the fact such individual was under 60 years of age, or for an individual who received before Jan. 1, 1980, a notification that such individual had completed the years of service required for eligibility for such retired pay.

## §1448. Application of Plan

(a) GENERAL RULES FOR PARTICIPATION IN THE PLAN.—

(1) NAME OF PLAN; ELIGIBLE PARTICIPANTS.—The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

(A) Persons entitled to retired pay.

(B) Persons who would be eligible for reserve-component retired pay but for the fact that they are under 60 years of age.

(2) PARTICIPANTS IN THE PLAN.—The Plan applies to the following persons, who shall be participants in the Plan:

(A) STANDARD ANNUITY PARTICIPANTS.—A person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired pay, unless he elects (with his spouse's concurrence, if required under paragraph (3)) not to participate in the Plan before the first day for which he is eligible for that pay.

(B) RESERVE-COMPONENT ANNUITY PARTICIPANTS.—A person who (i) is eligible to participate in the Plan under paragraph (1)(B), and (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, unless the person elects (with his spouse's concurrence, if required under paragraph (3)) not to participate in the Plan before the end of the 90-day period beginning on the date on which he receives that notification.

A person who elects under subparagraph (B) not to participate in the Plan remains eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

(3) ELECTIONS.—

(A) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING STANDARD ANNUITY.—A married person who is eligible to provide a standard annuity may not without the concurrence of the person's spouse elect—

(i) not to participate in the Plan;

(ii) to provide an annuity for the person's spouse at less than the maximum level; or

(iii) to provide an annuity for a dependent child but not for the person's spouse.

(B) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING RESERVE-COMPONENT ANNUITY.—A married person who is eligible to provide a reserve-component annuity may not without the concurrence of the person's spouse elect—

(i) not to participate in the Plan;

(ii) to designate under subsection (e)(2) the effective date for commencement of annuity payments under the Plan in the event that the member dies before becoming 60 years of age to be the 60th anniversary of the member's birth (rather than the day after the date of the member's death);

(iii) to provide an annuity for the person's spouse at less than the maximum level; or

(iv) to provide an annuity for a dependent child but not for the person's spouse.

(C) EXCEPTION WHEN SPOUSE UNAVAILABLE.—A person may make an election described in subparagraph (A) or (B) without the concurrence of the person's spouse if the person establishes to the satisfaction of the Secretary concerned—

(i) that the spouse's whereabouts cannot be determined; or

(ii) that, due to exceptional circumstances, requiring the person to seek the spouse's consent would otherwise be inappropriate.

(D) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity for a former spouse (or for a former spouse and dependent child) under subsection (b)(2).

(E) NOTICE TO SPOUSE OF ELECTION TO PROVIDE FORMER SPOUSE ANNUITY .—If a married person who is eligible to provide a standard annuity elects to provide an annuity for a former spouse (or for a former spouse and dependent child) under subsection (b)(2), that person's spouse shall be notified of that election.

(4) IRREVOCABILITY OF ELECTIONS.—

(A) STANDARD ANNUITY.—An election under paragraph (2)(A) is irrevocable if not revoked before the date on which the person first becomes entitled to retired pay.

(B) RESERVE-COMPONENT ANNUITY.—An election under paragraph (2)(B) is irrevocable if not revoked before the end of the 90-day period referred to in that paragraph.

(5) PARTICIPATION BY PERSON MARRYING AFTER RETIREMENT, ETC.—

(A) ELECTION TO PARTICIPATE IN PLAN.—A person who is not married and has no dependent child upon becoming eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan.

(B) MANNER AND TIME OF ELECTION.—Such an election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date on which that person marries or acquires that dependent child.

(C) LIMITATION ON REVOCATION OF ELECTION.—Such an election may not be revoked except in accordance with subsection (b)(3).

(D) EFFECTIVE DATE OF ELECTION.—The election is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(E) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

(6) ELECTION OUT OF PLAN BY PERSON WITH SPOUSE COVERAGE WHO REMARRIES.—

(A) GENERAL RULE.—A person—

(i) who is a participant in the Plan and is providing coverage under the Plan for a spouse (or a spouse and child);

(ii) who does not have an eligible spouse beneficiary under the Plan; and

(iii) who remarries,

may elect not to provide coverage under the Plan for the person's spouse.

(B) EFFECT OF ELECTION ON RETIRED PAY.—If such an election is made, reductions in the retired pay of that person under section 1452 of this title shall not be made.

(C) TERMS AND CONDITIONS OF ELECTION.—An election under this paragraph—

(i) is irrevocable;

(ii) shall be made within one year after the person's remarriage; and

(iii) shall be made in such form and manner as may be prescribed in regulations under section 1455 of this title.

(D) NOTICE TO SPOUSE.—If a person makes an election under this paragraph—

(i) not to participate in the Plan;

(ii) to provide an annuity for the person's spouse at less than the maximum level; or

(iii) to provide an annuity for a dependent child but not for the person's spouse,

the person's spouse shall be notified of that election.

(E) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity to a former spouse under subsection (b).

(b) INSURABLE INTEREST AND FORMER SPOUSE COVERAGE.—

(1) COVERAGE FOR PERSON WITH INSURABLE INTEREST.—

(A) GENERAL RULE.—A person who is not married and does not have a dependent child upon becoming eligible to participate in the Plan may elect to provide an annuity under the Plan to a natural person with an insurable interest in that person. In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

(B) TERMINATION OF COVERAGE.—An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) FORM FOR DISCONTINUATION.—A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

(D) WITHDRAWAL OF REQUEST FOR DISCONTINUATION.—The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

(E) CONSEQUENCES OF DISCONTINUATION.—Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a) or under subparagraph (G) of this paragraph.

(F) VITIATION OF ELECTION BY DISABILITY RETIREE WHO DIES OF DISABILITY-RELATED CAUSE.—If a member retired after November 23, 2003, under

chapter 61 of this title dies within one year after the date on which the member is so retired and the cause of death is related to a disability for which the member was retired under that chapter (as determined under regulations prescribed by the Secretary of Defense)—

(i) an election made by the member under paragraph (1) to provide an annuity under the Plan to any person other than a dependent of that member (as defined in section 1072(2) of this title) is vitiated; and

(ii) the amounts by which the member's retired pay was reduced under section 1452 of this title shall be refunded and paid to the person to whom the annuity under the Plan would have been paid pursuant to such election.

(G) ELECTION OF NEW BENEFICIARY UPON DEATH OF PREVIOUS BENEFICIARY.—

(i) AUTHORITY FOR ELECTION.—If the reason for discontinuation in the Plan is the death of the beneficiary, the participant in the Plan may elect a new beneficiary. Any such beneficiary must be a natural person with an insurable interest in the participant. Such an election may be made only during the 180-day period beginning on the date of the death of the previous beneficiary.

(ii) PROCEDURES.—Such an election shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe. Such an election shall be effective the first day of the first month following the month in which the election is received by the Secretary.

(iii) VITIATION OF ELECTION BY PARTICIPANT WHO DIES WITHIN TWO YEARS OF ELECTION.—If a person providing an annuity under a election under clause (i) dies before the end of the two-year period beginning on the effective date of the election—

(I) the election is vitiated; and

(II) the amount by which the person's retired pay was reduced under section 1452 of this title that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the vitiated election if the deceased person had died after the end of such two-year period.

(2) FORMER SPOUSE COVERAGE UPON BECOMING A PARTICIPANT IN THE PLAN.—

(A) GENERAL RULE.—A person who has a former spouse upon becoming eligible to participate in the Plan may elect to provide an annuity to that former spouse.

(B) EFFECT OF FORMER SPOUSE ELECTION ON SPOUSE OR DEPENDENT CHILD .—In the case of a person with a spouse or a dependent child, such an election prevents payment of an annuity to that spouse or child (other than a child who is a beneficiary under an election under paragraph (4)), including payment under subsection (d).

(C) DESIGNATION IF MORE THAN ONE FORMER SPOUSE.—If there is more than one former spouse, the person shall designate which former spouse is to be provided the annuity.

(D) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

(3) FORMER SPOUSE COVERAGE BY PERSONS ALREADY PARTICIPATING IN PLAN.—

(A) ELECTION OF COVERAGE.—

(i) AUTHORITY FOR ELECTION.—A person—

(I) who is a participant in the Plan and is providing coverage for a spouse or a spouse and child (even though there is no beneficiary currently eligible for such coverage), and

(II) who has a former spouse who was not that person's former spouse when that person became eligible to participate in the Plan,

may (subject to subparagraph (B)) elect to provide an annuity to that former spouse.

(ii) TERMINATION OF PREVIOUS COVERAGE.—Any such election terminates any previous coverage under the Plan.

(iii) MANNER AND TIME OF ELECTION.—Any such election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

(B) LIMITATION ON ELECTION.—A person may not make an election under subparagraph (A) to provide an annuity to a former spouse who that person married after becoming eligible for retired pay unless—

(i) the person was married to that former spouse for at least one year, or

(ii) that former spouse is the parent of issue by that marriage.

(C) IRREVOCABILITY, ETC.—An election under this paragraph may not be revoked except in accordance with section 1450(f) of this title. This paragraph does not provide the authority to change a designation previously made under subsection (e).

(D) NOTICE TO SPOUSE.—If a person who is married makes an election to provide an annuity to a former spouse under this paragraph, that person's spouse shall be notified of the election.

(E) EFFECTIVE DATE OF ELECTION.—An election under this paragraph is effective as of—

(i) the first day of the first month following the month in which the election is received by the Secretary concerned; or

(ii) in the case of a person required (as described in section 1450(f)(3)(B) of this title) to make the election by reason of a court order or filing the date of which is after October 16, 1998, the first day of the first month which begins after the date of that court order or filing.

(4) FORMER SPOUSE AND CHILD COVERAGE.—A person who elects to provide an annuity for a former spouse under paragraph (2) or (3) may, at the time of the election, elect to provide coverage under that annuity for both the former spouse and a dependent child, if the child resulted from the person's marriage to that former spouse.

(5) DISCLOSURE OF WHETHER ELECTION OF FORMER SPOUSE COVERAGE IS REQUIRED.—A person who elects to provide an annuity to a former spouse under paragraph (2) or (3) shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and the former spouse) setting forth—

(A) whether the election is being made pursuant to the requirements of a court order; or

(B) whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of, or incident to, a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

(6) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—A person who has established a supplemental or special needs trust under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity may elect to provide an annuity to that supplemental or special needs trust.

(7) EFFECT OF DEATH OF FORMER SPOUSE BENEFICIARY.—

(A) TERMINATION OF PARTICIPATION IN PLAN.—A person who elects to provide an annuity to a former spouse under paragraph (2) or (3) and whose former spouse subsequently dies is no longer a participant in the Plan, effective on the date of death of the former spouse.

(B) AUTHORITY FOR ELECTION OF NEW SPOUSE BENEFICIARY.—If a person's participation in the Plan is discontinued by reason of the death of a former spouse beneficiary,

the person may elect to resume participation in the Plan and to elect a new spouse beneficiary as follows:

(i) MARRIED ON THE DATE OF DEATH OF FORMER SPOUSE.—A person who is married at the time of the death of the former spouse beneficiary may elect to provide coverage to that person's spouse. Such an election must be received by the Secretary concerned within one year after the date of death of the former spouse beneficiary.

(ii) MARRIAGE AFTER DEATH OF FORMER SPOUSE BENEFICIARY.—A person who is not married at the time of the death of the former spouse beneficiary and who later marries may elect to provide spouse coverage. Such an election must be received by the Secretary concerned within one year after the date on which that person marries.

(C) EFFECTIVE DATE OF ELECTION.—The effective date of election under this paragraph shall be as follows:

(i) An election under subparagraph (B)(i) is effective as of the first day of the first calendar month following the death of the former spouse beneficiary.

(ii) An election under subparagraph (B)(ii) is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(D) LEVEL OF COVERAGE.—A person making an election under subparagraph (B) may not reduce the base amount previously elected.

(E) PROCEDURES.—An election under this paragraph shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe.

(F) IRREVOCABILITY.—An election under this paragraph is irrevocable.

(c) PERSONS ON TEMPORARY DISABILITY RETIRED LIST.—The application of the Plan to a person whose name is on the temporary disability retired list terminates when his name is removed from that list and he is no longer entitled to disability retired pay.

(d) COVERAGE FOR SURVIVORS OF MEMBERS WHO DIE ON ACTIVE DUTY.—

(1) SURVIVING SPOUSE ANNUITY.—Except as provided in paragraph (2), the Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

(A) a member who dies while on active duty after—

(i) becoming eligible to receive retired pay;

(ii) qualifying for retired pay except that the member has not applied for or been granted that pay; or

(iii) completing 20 years of active service but before the member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service; or

(B) a member not described in subparagraph (A) who dies in line of duty while on active duty.

(2) DEPENDENT CHILDREN.—In the case of a member described in paragraph (1), the Secretary concerned shall pay an annuity under this subchapter to the member's dependent children under subsection (a)(2) or (a)(4) of section 1450 of this title as applicable.

(3) MANDATORY FORMER SPOUSE ANNUITY.—If a member described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

(A) may not pay an annuity under paragraph (1) or (2); but

(B) shall pay an annuity to that former spouse as if the member had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written

request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

(4) PRIORITY.—An annuity that may be provided under this subsection shall be provided in preference to an annuity that may be provided under any other provision of this subchapter on account of service of the same member.

(5) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

(6) DEEMED ELECTION.—

(A) ANNUITY FOR DEPENDENT.—In the case of a member described in paragraph (1) who dies after November 23, 2003, the Secretary concerned may, if no other annuity is payable on behalf of the member under this subchapter, pay an annuity to a natural person who has an insurable interest in such member as if the annuity were elected by the member under subsection (b)(1). The Secretary concerned may pay such an annuity under this paragraph only in the case of a person who is a dependent of that member (as defined in section 1072(2) of this title).

(B) COMPUTATION OF ANNUITY.—An annuity under this subparagraph shall be computed under section 1451(b) of this title as if the member had retired for total disability on the date of death with reductions as specified under section 1452(c) of this title, as applicable to the ages of the member and the natural person with an insurable interest.

(e) DESIGNATION FOR COMMENCEMENT OF RESERVE-COMPONENT ANNUITY.—In any case in which a person is required to make a designation under this subsection, the person shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on—

(1) the day after the date of his death; or

(2) the 60th anniversary of his birth.

(f) COVERAGE OF SURVIVORS OF PERSONS DYING WHEN OR BEFORE ELIGIBLE TO ELECT RESERVE-COMPONENT ANNUITY.—

(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a person who—

(A) is eligible to provide a reserve-component annuity and dies—

(i) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

(ii) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan; or

(B) is a member of a reserve component not described in subparagraph (A) and dies from an injury or illness incurred or aggravated in the line of duty during inactive-duty training.

(2) DEPENDENT CHILDREN ANNUITY.—

(A) ANNUITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—In the case of a person described in paragraph (1), the Secretary concerned shall pay an annuity under this subchapter to the dependent children of that person under section 1450(a)(2) of this title as applicable.

(B) OPTIONAL ANNUITY WHEN THERE IS AN ELIGIBLE SURVIVING SPOUSE .—The Secretary may pay an annuity under this subchapter to the dependent children of a person described in paragraph (1) under section 1450(a)(3) of this title, if applicable, instead of paying an annuity to the surviving spouse under paragraph (1), if the Secretary concerned, in

consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children under this paragraph instead of an annuity for the surviving spouse under paragraph (1).

(3) MANDATORY FORMER SPOUSE ANNUITY.—If a person described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

(A) may not pay an annuity under paragraph (1) or (2); but

(B) shall pay an annuity to that former spouse as if the person had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

(4) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

(5) DEEMED ELECTION TO PROVIDE AN ANNUITY FOR DEPENDENT.—Paragraph (6) of subsection (d) shall apply in the case of a member described in paragraph (1) who dies after November 23, 2003, when no other annuity is payable on behalf of the member under this subchapter.

(g) ELECTION TO INCREASE COVERAGE UPON REMARRIAGE.—

(1) ELECTION.—A person—

(A) who is a participant in the Plan and is providing coverage under subsection (a) for a spouse or a spouse and child, but at less than the maximum level; and

(B) who remarries,

may elect, within one year of such remarriage, to increase the level of coverage provided under the Plan to a level not in excess of the current retired pay of that person.

(2) PAYMENT REQUIRED.—Such an election shall be contingent on the person paying to the United States the amount determined under paragraph (3) plus interest on such amount at a rate determined under regulations prescribed by the Secretary of Defense.

(3) AMOUNT TO BE PAID.—The amount referred to in paragraph (2) is the amount equal to the difference between—

(A) the amount that would have been withheld from such person's retired pay under section 1452 of this title if the higher level of coverage had been in effect from the time the person became a participant in the Plan; and

(B) the amount of such person's retired pay actually withheld.

(4) MANNER OF MAKING ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary shall prescribe and shall become effective upon receipt of the payment required by paragraph (2).

(5) DISPOSITION OF PAYMENTS.—A payment received under this subsection by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other payment received under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 707; amended Pub. L. 94–496, §1(2), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §202, Sept. 30, 1978, 92 Stat. 844; Pub. L. 97–252, title X, §1003(b), Sept. 8, 1982, 96 Stat. 735; Pub. L. 97–295, §1(18), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 98–94, title IX, §941(a)(1), (2), (c)(2), Sept. 24, 1983, 97 Stat. 652, 653; Pub. L. 99–145, title V, §513(b), title VII, §§712(a), 713(a), 715, 716(a), 719(3), (8)(A), 721(a), Nov. 8, 1985, 99 Stat. 628, 670, 671, 673–676; Pub. L. 99–661, div. A, title VI, §§641(b)(1), 642(a), title XIII, §1343(a)(8)(B),

Nov. 14, 1986, 100 Stat. 3885, 3886, 3992; Pub. L. 101–189, div. A, title XIV, §1407(a)(2), (3), Nov. 29, 1989, 103 Stat. 1588; Pub. L. 103–337, div. A, title VI, §638, title XVI, §1671(d)(2), Oct. 5, 1994, 108 Stat. 2791, 3015; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2553; Pub. L. 105–85, div. A, title X, §1073(a)(27), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 105–261, div. A, title VI, §643(a), Oct. 17, 1998, 112 Stat. 2047; Pub. L. 106–65, div. A, title X, §1066(a)(12), Oct. 5, 1999, 113 Stat. 771; Pub. L. 106–398, §1 [[div. A], title VI, §655(a)–(c)(3), title X, §1087(a)(10)], Oct. 30, 2000, 114 Stat. 1654, 1654A–165, 1654A–166, 1654A–290; Pub. L. 107–107, div. A, title VI, §642(a), (c)(1), Dec. 28, 2001, 115 Stat. 1151, 1152; Pub. L. 108–136, div. A, title VI, §§644(a), (b), 645(a), (b)(1), (c), Nov. 24, 2003, 117 Stat. 1517–1519; Pub. L. 108–375, div. A, title X, §1084(d)(10), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 109–364, div. A, title VI, §§643(a), 644(a), title X, §1071(a)(8), Oct. 17, 2006, 120 Stat. 2260, 2261, 2398; Pub. L. 113–291, div. A, title VI, §624(a)(2)(B), Dec. 19, 2014, 128 Stat. 3403; Pub. L. 114–92, div. A, title VI, §641(a), Nov. 25, 2015, 129 Stat. 852; Pub. L. 114–328, div. A, title VI, §642(b), (c), Dec. 23, 2016, 130 Stat. 2165; Pub. L. 116–92, div. A, title VI, §622(d), Dec. 20, 2019, 133 Stat. 1427; Pub. L. 118–159, div. A, title XVII, §1701(a)(22), Dec. 23, 2024, 138 Stat. 2204.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d)(1). Pub. L. 118–159 substituted "paragraph (2)" for "paragraph (2)(B)" in introductory provisions.

**2019**—Subsec. (d)(2). Pub. L. 116–92 struck out subpar. (A) designation and heading before "In the case of a member described in paragraph (1)" and struck out subpar. (B) which read as follows: "OPTIONAL ANNUITY WHEN THERE IS AN ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1) who dies after October 7, 2001, and for whom there is a surviving spouse eligible for an annuity under paragraph (1), the Secretary may pay an annuity under this subchapter to the member's dependent children under subsection (a)(3) or (a)(4) of section 1450 of this title, if applicable, instead of paying an annuity to the surviving spouse under paragraph (1), if the Secretary concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children under this paragraph instead of an annuity for the surviving spouse under paragraph (1)."

**2016**—Subsec. (f)(2). Pub. L. 114–328, §642(b), amended par. (2) generally. Prior to amendment, text read as follows: "The Secretary concerned shall pay an annuity under this subchapter to the dependent child, or to a special needs trust pursuant to section 1450(a)(4) of this title, of a person described in paragraph (1) if there is no surviving spouse or if the person's surviving spouse subsequently dies."

Subsec. (f)(5). Pub. L. 114–328, §642(c), added par. (5).

**2015**—Subsec. (b)(7). Pub. L. 114–92 added par. (7).

**2014**—Subsec. (b)(6). Pub. L. 113–291, §624(a)(2)(B)(i), added par. (6).

Subsec. (d)(2)(A). Pub. L. 113–291, §624(a)(2)(B)(ii)(I), substituted "subsection (a)(2) or (a)(4) of section 1450" for "section 1450(a)(2)".

Subsec. (d)(2)(B). Pub. L. 113–291, §624(a)(2)(B)(ii)(II), substituted "subsection (a)(3) or (a)(4) of section 1450" for "section 1450(a)(3)".

Subsec. (f)(2). Pub. L. 113–291, §624(a)(2)(B)(iii), inserted ", or to a special needs trust pursuant to section 1450(a)(4) of this title," after "dependent child".

**2006**—Subsec. (b)(1)(E). Pub. L. 109–364, §643(a)(1), inserted "or under subparagraph (G) of this paragraph" before period at end.

Subsec. (b)(1)(G). Pub. L. 109–364, §643(a)(2), added subpar. (G).

Subsec. (d)(2)(B). Pub. L. 109–364, §644(a), substituted "October 7, 2001" for "November 23, 2003".

Subsec. (d)(6)(A). Pub. L. 109–364, §1071(a)(8), struck out second comma after "November 23, 2003".

**2004**—Subsecs. (b)(1)(F), (d)(2)(B), (6)(A). Pub. L. 108–375 substituted "after November 23, 2003," for "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004".

**2003**—Subsec. (b)(1)(F). Pub. L. 108–136, §645(b)(1), added subpar. (F).

Subsec. (d)(1). Pub. L. 108–136, §645(a)(2), substituted "Except as provided in paragraph (2)(B), the Secretary concerned" for "The Secretary concerned" in introductory provisions.

Subsec. (d)(2). Pub. L. 108–136, §645(a)(1), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The Secretary concerned shall pay an annuity under this subchapter to the dependent child of a member described in paragraph (1) if there is no surviving spouse or if the member's

surviving spouse subsequently dies."

Subsec. (d)(6). Pub. L. 108–136, §645(c), added par. (6).

Subsec. (f). Pub. L. 108–136, §644(b), inserted "or Before" after "Dying When" in heading.

Subsec. (f)(1). Pub. L. 108–136, §644(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a person who is eligible to provide a reserve-component annuity and who dies—

"(A) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

"(B) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan."

**2001**—Subsec. (d). Pub. L. 107–107 struck out "Retirement-Eligible" before "Members" in heading and amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who dies on active duty after—

"(A) becoming eligible to receive retired pay;

"(B) qualifying for retired pay except that he has not applied for or been granted that pay; or

"(C) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service."

**2000**—Subsec. (a)(2). Pub. L. 106–398, §1 [[div. A], title VI, §655(c)(1)], substituted "who elects under subparagraph (B) not to participate in the Plan" for "described in clauses (i) and (ii) of subparagraph (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in that clause" in concluding provisions.

Subsec. (a)(2)(B). Pub. L. 106–398, §1 [[div. A], title VI, §655(a)], amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: "A person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification."

Subsec. (a)(3)(B). Pub. L. 106–398, §1 [[div. A], title VI, §655(b)], substituted "who is eligible to provide" for "who elects to provide" in introductory provisions, added cls. (i) and (ii), and redesignated former cls. (i) and (ii) as (iii) and (iv), respectively.

Subsec. (a)(4)(A). Pub. L. 106–398, §1 [[div. A], title VI, §655(c)(2)(A)], struck out "not to participate in the Plan" after "election under paragraph (2)(A)".

Subsec. (a)(4)(B). Pub. L. 106–398, §1 [[div. A], title VI, §655(c)(2)(B)], struck out "to participate in the Plan" after "under paragraph (2)(B)".

Subsec. (b)(3)(E)(ii). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(10)], struck out second comma after "October 16, 1998".

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title VI, §655(c)(3)], substituted "a person is required to make a designation under this subsection, the person" for "a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election" in introductory provisions.

**1999**—Subsec. (b)(3)(E)(ii). Pub. L. 106–65 substituted "after October 16, 1998," for "on or after the date of the enactment of the subparagraph".

**1998**—Subsec. (b)(3)(C). Pub. L. 105–261, §643(a)(1), struck out "EFFECTIVE DATE," after " IRREVOCABILITY," in heading and "Such an election is effective as of the first day of the first calendar month following the month in which it is received by the Secretary concerned." after "section 1450(f) of this title." in text.

Subsec. (b)(3)(E). Pub. L. 105–261, §643(a)(2), added subpar. (E).

**1997**—Pub. L. 105–85 substituted "Plan" for "plan" in section catchline.

**1996**—Pub. L. 104–201 amended section generally, revising and restating provisions relating to application of the Plan and inserting subsec., par., and subpar. headings.

**1994**—Subsec. (a)(2)(B). Pub. L. 103–337, §1671(d)(2), substituted "12731(d)" for "1331(d)".

Subsec. (b)(1). Pub. L. 103–337, §638, designated existing provisions as subpar. (A) and added subpars. (B) to (E).

Subsec. (f)(1). Pub. L. 103–337, §1671(d)(2), substituted "12731(d)" for "1331(d)" in subpars. (A) and (B).

**1989**—Subsec. (a)(1)(B), (2)(B). Pub. L. 101–189, §1407(a)(2), substituted "reserve-component retired pay" for "retired pay under chapter 67 of this title".

Subsec. (a)(4)(A). Pub. L. 101–189, §1407(a)(3), struck out "or retainer" after "entitled to retired".

Subsec. (f)(1)(A), (B). Pub. L. 101–189, §1407(a)(2), substituted "reserve-component retired pay" for "retired pay under chapter 67 of this title".

**1986**—Subsec. (a)(5). Pub. L. 99–661, §1343(a)(8)(B), substituted "a reserve-component annuity" for "an annuity by virtue of eligibility under paragraph (1)(B)".

Subsec. (b)(5). Pub. L. 99–661, §641(b)(1), inserted "(A) whether the election is being made pursuant to the requirements of a court order, or (B)".

Subsec. (d)(2). Pub. L. 99–661, §642(a)(1), substituted "if there is no surviving spouse or if the member's surviving spouse subsequently dies" for "if the member and the member's spouse die as a result of a common accident".

Subsec. (f)(2). Pub. L. 99–661, §642(a)(2), substituted "if there is no surviving spouse or if the person's surviving spouse subsequently dies" for "if the person and the person's spouse die as a result of a common accident".

**1985**—Subsec. (a)(1)(A). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (a)(2)(A). Pub. L. 99–145, §721(a)(1), inserted "(with his spouse's concurrence, if required under paragraph (3))" after "unless he elects".

Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (a)(3). Pub. L. 99–145, §721(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

"(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan and who is married elects not to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, or elects to provide an annuity for a former spouse under subsection (b)(2), that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, or elects to provide an annuity for a former spouse under subsection (b)(2), that person's spouse shall be notified of that action."

Subsec. (a)(6). Pub. L. 99–145, §715(a), added par. (6).

Subsec. (b)(1). Pub. L. 99–145, §719(3), substituted "a reserve-component annuity" for "an annuity under this paragraph by virtue of eligibility under subsection (a)(1)(B)".

Subsec. (b)(2). Pub. L. 99–145, §719(3), substituted "a reserve-component annuity" for "an annuity under this paragraph by virtue of eligibility under subsection (a)(1)(B)".

Pub. L. 99–145, §716(a)(1), inserted "(other than a child who is a beneficiary under an election under paragraph (4))" after "that spouse or child" in second sentence.

Subsec. (b)(3)(B). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (b)(4), (5). Pub. L. 99–145, §716(a)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 99–145, §513(b), inserted "disability" before "retired pay".

Subsec. (d). Pub. L. 99–145, §712(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "If a member of an armed force dies on active duty after he has become entitled to retired or retainer pay, or after he has qualified for that pay except that he has not applied for or been granted that pay, and his spouse is eligible for dependency and indemnity compensation under section 411(a) of title 38 in an amount that is less than the annuity the spouse would have received under this subchapter if it had applied to the member when he died, the Secretary concerned shall pay to the spouse an annuity equal to the difference between that amount of compensation and 55 percent of the retired or retainer pay to which the otherwise eligible spouse described in section 1450(a)(1) of this title would have been entitled if the member had been entitled to that pay based upon his years of active service when he died."

Subsec. (f). Pub. L. 99–145, §713(a), added subsec. (f).

Subsec. (g). Pub. L. 99–145, §715(b), added subsec. (g).

**1983**—Subsec. (a)(3). Pub. L. 98–94, §941(c)(2), substituted "provide an annuity for a former spouse under subsection (b)(2)," for "provide an annuity under subsection (b)(2) of this section," in subpars. (A) and (B).

Subsec. (a)(5). Pub. L. 98–94, §941(a)(1), inserted "except in accordance with subsection (b)(3)".

Subsec. (b). Pub. L. 98–94, §941(a)(2), amended subsec. (b) generally. Prior to amendment subsec. (b) read as follows:

"(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married, or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the

terms of a written agreement entered into voluntarily with the former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether the election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order."

**1982**—Pub. L. 97–295, §1(18), substituted "Plan" for "plan" in section catchline.

Subsec. (a)(3). Pub. L. 97–252, §1003(b)(1), inserted in subpars. (A) and (B) identical text "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

Subsec. (b). Pub. L. 97–252, §1003(b)(2), designated existing first sentence as par. (1), authorized an election to provide an annuity to a former spouse, added pars. (2) and (4), designated existing second sentence as par. (3), and substituted "person electing to provide an annuity under paragraph (1) or (2) of this subsection" for "person providing an annuity under this subsection" and "the election" for "such an election".

**1978**—Subsec. (a). Pub. L. 95–397, §202(a), amended subsec. (a) generally, primarily inserting provision that this subchapter shall be known as the Survivor Benefit Plan and provisions of pars. (1)(B), (2)(B) and concluding sentence, (3)(B), (4)(B), and last sentence of (5).

Subsec. (b). Pub. L. 95–397, §202(b), substituted "entitled to retired or retainer pay" for "eligible to participate in the Plan" and inserted provisions relating to the inclusion in an election a designation under subsection (e) by persons providing an annuity under this subsection by virtue of eligibility under subsection (a)(1)(B).

Subsec. (e). Pub. L. 95–397, §202(c), added subsec. (e).

**1976**—Subsec. (a). Pub. L. 94–496 inserted "or elects to provide an annuity for a dependent child but not for his spouse" after "maximum level".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VI, §622(f), Dec. 20, 2019, 133 Stat. 1428, provided that: "This section [amending this section and sections 1450 and 1451 of this title and enacting provisions set out as notes under this section and section 1450 of this title] and the amendments made by this section shall take effect on the first day of the first month that begins after the date of the enactment of this Act [Dec. 20, 2019], except subsections (d) and (e) of this section [amending this section and enacting provisions set out as a note below] and the amendments made thereby shall take effect on January 1, 2023."

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, §642(e), Dec. 23, 2016, 130 Stat. 2165, provided that:

"(1) PAYMENT.—No annuity benefit under subchapter II of chapter 73 of title 10, United States Code, shall accrue to any person by reason of the amendments made by this section [amending this section and sections 1450 and 1451 of this title] for any period before the date of the enactment of this Act [Dec. 23, 2016].

"(2) ELECTIONS.—For any death that occurred before the date of the enactment of this Act with respect to which an annuity under such subchapter is being paid (or could be paid) to a surviving spouse, the Secretary concerned may, within six months of that date and in consultation with the surviving spouse, determine it appropriate to provide an annuity for the dependent children of the decedent under paragraph 1448(f)(2)(B) of title 10, United States Code, as added by subsection (b), instead of an annuity for the surviving spouse. Any such determination and resulting change in beneficiary shall be effective as of the first day of the first month following the date of the determination."

### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title VI, §641(b), Nov. 25, 2015, 129 Stat. 853, provided that: "Paragraph (7) of section 1448(b) of title 10, United States Code, as added by subsection (a), shall apply with respect to any person whose former spouse beneficiary dies on or after the date of the enactment of this Act [Nov. 25, 2015]."

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–364, div. A, title VI, §644(b), Oct. 17, 2006, 120 Stat. 2261, provided that: "Any annuity payable to a dependent child under subchapter II of chapter 73 of title 10, United States Code, by reason of the amendment made by subsection (a) [amending this section] shall be payable only for months beginning on or after the date of the enactment of this Act [Oct. 17, 2006]."

**EFFECTIVE DATE OF 2003 AMENDMENT**

Pub. L. 108–136, div. A, title VI, §644(c), Nov. 24, 2003, 117 Stat. 1518, provided that: "Subparagraph (B) of section 1448(f)(1) of title 10, United States Code, as added by subsection (a), shall take effect as of September 10, 2001, and shall apply with respect to performance of inactive-duty training (as defined in section 101(d) of title 10, United States Code) on or after that date."

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title VI, §642(d), Dec. 28, 2001, 115 Stat. 1152, provided that: "The amendments made by this section [amending this section and section 1451 of this title] shall take effect as of September 10, 2001, and shall apply with respect to deaths of members of the Armed Forces occurring on or after that date."

**EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106–398, §1 [[div. A], title VI, §655(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–166, provided that: "The amendments made by this section [amending this section and section 1450 of this title] apply only with respect to a notification under section 12731(d) of title 10, United States Code, made after January 1, 2001, that a member of a reserve component has completed the years of service required for eligibility for reserve-component retired pay."

**EFFECTIVE DATE OF 1997 AMENDMENT**

Pub. L. 105–85, div. A, title VI, §645(c), Nov. 18, 1997, 111 Stat. 1801, provided that: "The amendments made by this section [amending section 4(e)(1) of Pub. L. 92–425 and section 653(d) of Pub. L. 100–456, set out as notes below] take effect on the first day of the first month beginning after the date of the enactment of this Act [Nov. 18, 1997] and shall apply with respect to payments of benefits for months beginning on or after that date, except that the Secretary of Veterans Affairs may provide, if necessary for administrative implementation, that such amendments shall apply beginning with a later month, not later than the first month beginning more than 180 days after the date of the enactment of this Act."

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1671(d)(2) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by section 641 of Pub. L. 99–661 applicable to court orders issued on or after Nov. 14, 1986, see section 641(c) of Pub. L. 99–661, set out as a note under section 1450 of this title.

Pub. L. 99–661, div. A, title VI, §642(c), Nov. 14, 1986, 100 Stat. 3886, provided that: "The amendments made by subsection (a) [amending this section] shall apply only to claims arising on or after March 1, 1986. The amendments made by subsection (b) [amending section 1451 of this title] shall apply to payments for periods after February 28, 1986."

**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by title VII of Pub. L. 99–145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99–145, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §941(b), Sept. 24, 1983, 97 Stat. 653, provided that: "In the case of a person who on the date of the enactment of this Act [Sept. 24, 1983] is a person described in subparagraph (A) of subsection (b)(3) of section 1448 of title 10, United States Code (as amended by subsection (a)(2)), such subsection shall apply to that person as if the one-year period provided for in subparagraph (A) of such subsection began on the date of the enactment of this Act."

**EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS**

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable to persons becoming eligible to

participate in Survivor Benefit Plan provided for in this subchapter before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95–397, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by Pub. L. 94–496 effective Sept. 21, 1972, see section 3 of Pub. L. 94–496, set out as a note under section 1447 of this title.

**SURVIVOR BENEFIT PLAN OPEN SEASON**

Pub. L. 117–263, div. A, title VI, §643, Dec. 23, 2022, 136 Stat. 2634, provided that:

"(a) ELECTIONS BY PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open season described in subsection (e).

"(2) ELIGIBLE RETIRED OR FORMER MEMBERS.—For purposes of paragraph (1), an eligible retired or former member is a member or former member of the uniformed services who, on or before the day before the first day of the open season described in subsection (e)—

"(A) is entitled to retired pay; or

"(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

"(3) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

"(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (2)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

"(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (2)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

"(4) PREMIUMS FOR OPEN SEASON.—

"(A) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums that a person who makes an election under paragraph (1) shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election.

"(B) AMOUNT OF PREMIUMS.—The total amount of the premiums to be paid by a person under the regulations prescribed under subparagraph (A) shall be equal to the sum of—

"(i) the total amount by which the retired pay of the person would have been reduced before the effective date of the election under subsection (d) if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the person to participate under chapter 73 of title 10, United States Code;

"(ii) interest on the amount by which the retired pay of the person would have been so reduced, computed from the date on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary determines reasonable; and

"(iii) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

"(C) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations prescribed under subparagraph (A) shall be credited to the Department of Defense Military Retirement Fund.

"(b) ELECTIONS BY PERSONS CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF TO DISCONTINUE SBP PARTICIPATION.—A person participating in the Survivor Benefit Plan on the day before the first day of the open season described in subsection (e) may elect to discontinue such participation during the open season.

"(2) CONSENT OF BENEFICIARIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a person described in paragraph (1) may not make an election under that paragraph without the concurrence of—

"(i) each designated beneficiary of such person under the Survivor Benefit Plan; and

"(ii) the spouse of such person, if such person is married.

"(B) EXCEPTION WHEN BENEFICIARY UNAVAILABLE.—A person may make an election under paragraph (1) without a concurrence required under subparagraph (2) if the person establishes to the satisfaction of the Secretary concerned—

"(i) that the whereabouts of the spouse or beneficiary, as the case may be, cannot be determined; or

"(ii) that, due to exceptional circumstances, requiring the person to seek the consent of the spouse or beneficiary, as the case may be, would otherwise be inappropriate.

"(3) TREATMENT OF PREMIUMS.—

"(A) DISCONTINUATION OF REDUCTIONS IN PAY.—As of the effective date under subsection (d) of an election by a person under paragraph (1), the Secretary concerned shall discontinue the reduction being made in the retired pay of the person arising from participation in the Survivor Benefit Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Survivor Benefit Plan, that person may discontinue making such deposits effective on such effective date.

"(B) TREATMENT OF PREVIOUS REDUCTIONS.—A person who makes an election under paragraph (1) is not entitled to a refund of any reduction or deposit described in subparagraph (A) made before such effective date.

"(c) MANNER OF MAKING ELECTIONS.—

"(1) IN GENERAL.—An election under subsection (a) or (b) shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open season described in subsection (e).

"(2) CONDITIONS.—Except as provided in paragraph (3), an election under subsection (a) shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan.

"(3) ELECTION MUST BE VOLUNTARY.—An election under subsection (a) or (b) is not effective unless the person making the election declares the election to be voluntary. An election under subsection (a) or (b) to participate or not to participate in the Survivor Benefit Plan may not be required by any court. An election by a person under subsection (a) to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

"(4) DESIGNATION WITH RESPECT TO RESERVE-COMPONENT ANNUITY.—A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

"(d) EFFECTIVE DATE FOR ELECTIONS.—An election under subsection (a) or (b) shall be effective on the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

"(e) OPEN SEASON DESCRIBED.—The open season described in this subsection is the period beginning on the date of the enactment of this Act [Dec. 23, 2022] and ending on January 1, 2024.

"(f) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under subsection (a) or (b) in the same manner as if the election were made under the Survivor Benefit Plan.

"(g) DEFINITIONS.—In this section:

"(1) The terms 'base amount', 'reserve-component annuity', and 'standard annuity' have the meanings given those terms in section 1447 of title 10, United States Code.

"(2) The term 'Department of Defense Military Retirement Fund' means the fund established under section 1461(a) of title 10, United States Code.

"(3) The term 'retired pay' includes retainer pay.

"(4) The terms 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of title 37, United States Code.

"(5) The term 'Survivor Benefit Plan' means the program established under subchapter II of chapter 73 of title 10, United States Code."

## RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES

Pub. L. 116–92, div. A, title VI, §622(e), Dec. 20, 2019, 133 Stat. 1428, provided that: "The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day

before the effective date provided under subsection (f) [set out as an Effective Date of 2019 Amendment note above]. Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment."

**APPLICABILITY TO FORMER SPOUSE DEATHS BEFORE ENACTMENT OF PUB. L. 114–92**

Pub. L. 114–92, div. A, title VI, §641(c), Nov. 25, 2015, 129 Stat. 853, provided that:

"(1) IN GENERAL.—A person—

"(A) who before the date of the enactment of this Act [Nov. 25, 2015] had a former spouse beneficiary under the Survivor Benefit Plan who died before that date; and

"(B) who on the date of the enactment of this Act is married,

may elect to provide spouse coverage for such spouse under the Plan, regardless of whether the person married such spouse before or after the death of the former spouse beneficiary. Any such election may only be made during the one-year period beginning on the date of the enactment of this Act.

"(2) EFFECTIVE DATE OF ELECTION IF MARRIED AT LEAST A YEAR AT DEATH FORMER SPOUSE.—If the person providing the annuity was married to the spouse beneficiary for at least one year at the time of the death of the former spouse beneficiary, the effective date of such election shall be the first day of the first month after the death of the former spouse beneficiary.

"(3) OTHER EFFECTIVE DATE.—If the person providing the annuity married the spouse beneficiary after (or during the one-year period preceding) the death of the former spouse beneficiary, the effective date of the election shall be the first day of the first month following the first anniversary of the person's marriage to the spouse beneficiary.

"(4) RESPONSIBILITY FOR PREMIUMS.—A person electing to participate in the Plan under this subsection shall be responsible for payment of all premiums due from the effective date of the election."

**TRANSITION**

Pub. L. 109–364, div. A, title VI, §643(c), Oct. 17, 2006, 120 Stat. 2261, provided that:

"(1) TRANSITION PERIOD.—In the case of a participant in the Survivor Benefit Plan who made a covered insurable-interest election (as defined in paragraph (2)) and whose designated beneficiary under that election dies before the date of the enactment of this Act [Oct. 17, 2006] or during the 18-month period beginning on such date, the time period applicable for purposes of the limitation in the third sentence of subparagraph (G)(i) of section 1448(b)(1) of title 10, United States Code, as added by subsection (a), shall be the two-year period beginning on the date of the enactment of this Act (rather than the 180-day period specified in that sentence).

"(2) COVERED INSURABLE-INTEREST ELECTIONS.—For purposes of paragraph (1), a covered insurable-interest election is an election under section 1448(b)(1) of title 10, United States Code, made before the date of the enactment of this Act [Oct. 17, 2006], or during the 18-month period beginning on such date, by a participant in the Survivor Benefit Plan to provide an annuity under that plan to a natural person with an insurable interest in that person.

"(3) SURVIVOR BENEFIT PLAN.—For purposes of this subsection, the term 'Survivor Benefit Plan' means the program under subchapter II of chapter 73 of title 10, United States Code."

**ONE-YEAR OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005**

Pub. L. 108–375, div. A, title VI, §645, Oct. 28, 2004, 118 Stat. 1962, as amended by Pub. L. 109–364, div. A, title X, §1071(g)(5), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

"(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

"(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

"(A) is entitled to retired pay; or

"(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for

the fact that such member or former member is under 60 years of age.

"(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

"(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

"(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

"(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

"(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

"(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

"(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

"(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

"(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

"(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

"(d) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

"(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

"(f) OPEN ENROLLMENT PERIOD.—The open enrollment period under this section is the one-year period beginning on October 1, 2005.

"(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

"(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

"(i) PREMIUM FOR OPEN ENROLLMENT ELECTION.—

"(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

"(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

"(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

"(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

"(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations under paragraph (1) shall be credited to the Department of Defense Military Retirement Fund.

"(j) DEFINITIONS.—In this section:

"(1) The term 'Survivor Benefit Plan' means the program established under subchapter II of chapter 73 of title 10, United States Code.

"(2) The term 'Supplemental Survivor Benefit Plan' means the program established under subchapter III of chapter 73 of title 10, United States Code.

"(3) The term 'retired pay' includes retainer pay paid under section 6330 [now 8330] of title 10, United States Code.

"(4) The terms 'uniformed services' and 'Secretary concerned' have the meanings given those terms in section 101 of title 37, United States Code.

"(5) The term 'Department of Defense Military Retirement Fund' means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code."

## OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING MARCH 1, 1999

Pub. L. 105–261, div. A, title VI, §642, Oct. 17, 1998, 112 Stat. 2045, as amended by Pub. L. 106–65, div. A, title VI, §654, Oct. 5, 1999, 113 Stat. 667, provided for a one-year open enrollment period beginning on Mar. 1, 1999, during which an eligible retired or former member who was not participating in the Survivor Benefit Plan could elect to participate in the Plan and also elect to participate in the Supplemental Survivor Benefit Plan.

## ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES

Pub. L. 105–85, div. A, title VI, §644, Nov. 18, 1997, 111 Stat. 1800, as amended by Pub. L. 106–65, div. A, title VI, §656(a), (b), title X, §1066(c)(3), Oct. 5, 1999, 113 Stat. 668, 773; Pub. L. 107–314, div. A, title VI, §634, Dec. 2, 202, 116 Stat. 2573, provided that:

"(a) SURVIVOR ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

"(A) became entitled to retired or retainer pay before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

"(B) died before October 1, 1978, and at the time of his death would have been entitled to retired pay under chapter 67 [now 1223] of title 10, United States Code (as in effect before December 1, 1994), but for the fact that he was under 60 years of age.

"(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried.

"(b) AMOUNT OF ANNUITY.—(1) An annuity under this section shall be paid at the rate of $185.58 per month, as adjusted from time to time under paragraph (3).

"(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

"(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

"(B) Chapter 73 of title 10, United States Code.

"(C) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

"(3) Whenever after May 1, 2002, retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent.

"(c) APPLICATION REQUIRED.—No benefit shall be paid to any person under this section unless an application for such benefit is filed with the Secretary concerned by or on behalf of such person.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'uniformed services' and 'Secretary concerned' have the meanings given such terms in section 101 of title 37, United States Code.

"(2) The term 'surviving spouse' has the meaning given such term in paragraph (9) of section 1447 of title 10, United States Code.

"(e) PROSPECTIVE APPLICABILITY.—(1) Annuities under this section shall be paid for months beginning after November 1997.

"(2) No benefit shall accrue to any person by reason of the enactment of this section for any period before December 1997."

[Pub. L. 106–65, div. A, title VI, §656(c), Oct. 5, 1999, 113 Stat. 668, provided that: "The amendment made by subsection (a) [amending section 644 of Pub. L. 105–85, set out above] shall apply with respect to annuities payable for months beginning after September 30, 1999."]

## AUTHORITY FOR RELIEF FROM PREVIOUS OVERPAYMENTS UNDER MINIMUM INCOME WIDOWS PROGRAM

Pub. L. 104–106, div. A, title VI, §635, Feb. 10, 1996, 110 Stat. 366, authorized the Secretary of Defense to waive recovery by the United States of any overpayment by the United States that had been made before Feb. 10, 1996, under section 4 of Public Law 92–425, set out below, and that was attributable to failure by the Department of Defense to apply the eligibility provisions of subsection (a) of such section in the case of the person to whom the overpayment had been made.

## OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING APRIL 1, 1992

Pub. L. 101–189, div. A, title XIV, §1405, Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101–510, div. A, title VI, §631(2), title XIV, §1484(l)(4)(B), Nov. 5, 1990, 104 Stat. 1580, 1720; Pub. L. 102–190, div. A, title VI, §653(a)(1), (c)(2), Dec. 5, 1991, 105 Stat. 1388, 1389; Pub. L. 102–484, div. A, title VI, §643, Oct. 23, 1992, 106 Stat. 2425, provided for a one-year open enrollment period beginning on Apr. 1, 1992, during which: (1) an eligible retired or former member who was not participating in the Survivor Benefit Plan could elect to participate in the Plan and also elect to participate in the Supplemental Survivor Benefit Plan, (2) a current participant in the Survivor Benefit Plan who was not participating at the maximum base amount could elect to participate in the Plan at a higher base amount or provide coverage for a previously uncovered spouse or former spouse, and (3) a participant in the Survivor Benefit Plan at the maximum level who was providing annuity coverage for a spouse or former spouse could elect to participate in the Supplemental Survivor Benefit Plan, and directed the Secretary of Defense to submit to committees of Congress a report on the open season not later than June 1, 1990.

## DEFINITIONS FOR 1989 AMENDMENTS

Pub. L. 101–189, div. A, title XIV, §1406, Nov. 29, 1989, 103 Stat. 1588, as amended by Pub. L. 102–190, div. A, title VI, §653(a)(2), Dec. 5, 1991, 105 Stat. 1388, provided that: "For the purpose of this title [see Short Title of 1989 Amendment note set out under section 1447 of this title]:

"(1) The term 'Survivor Benefit Plan' means the program established under subchapter II of chapter 73 of title 10, United States Code.

"(2) The term 'retired pay' includes retainer pay paid under section 6330 [now 8330] of title 10, United States Code.

"(3) The terms 'uniformed services' and 'Secretary concerned' have the meanings given those terms in section 101 of title 37, United States Code.

"(4) The term 'SBP premium' means the reduction in retired pay required as a condition of providing an annuity under the Survivor Benefit Plan.

"(5) The term 'base amount' has the meaning given that term in section 1447(2) [see 1447(6)] of title 10, United States Code."

## ANNUITY FOR SURVIVING SPOUSES OF MEMBERS WHO DIED BEFORE NOVEMBER 1, 1953, AND WHO WERE ENTITLED TO RETIRED OR RETAINER PAY ON DATE OF DEATH

Pub. L. 100–456, div. A, title VI, §653, Sept. 29, 1988, 102 Stat. 1991, as amended by Pub. L. 103–337, div. A, title X, §1070(d)(3), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 105–85, div. A, title VI, §645(a), Nov. 18, 1997, 111 Stat. 1801, provided that:

"(a) ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

"(A) died before November 1, 1953; and

"(B) was entitled to retired or retainer pay on the date of death.

"(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried

and who is eligible for an annuity under section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

"(b) AMOUNT OF ANNUITY.—(1) An annuity payable under this section shall be paid at the rate of $165 per month, as adjusted from time to time under subsection (c).

"(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 1311(a) of title 38, United States Code.

"(c) COST-OF-LIVING INCREASES.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

"(d) RELATIONSHIP TO OTHER PROGRAMS.—(1) An annuity paid to a surviving spouse under this section is in addition to any pension to which the surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 1521 note), and any payment made under the provisions of section 4 of Public Law 92–425. An annuity paid under this section shall not be considered as income for the purposes of eligibility for any such pension.

"(2) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. In making such payments, the Secretary shall combine the payment under this section with the payment of any amount due the same person under section 4 of Public Law 92–425 (10 U.S.C. 1448 note), as provided in subsection (e)(1) of that section. The Secretary concerned shall transfer amounts for payments under this section to the Secretary of Veterans Affairs in the same manner as is provided under subsection (e)(2) of section 4 of Public Law 92–425 for payments under that section.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The terms 'uniformed services' and 'Secretary concerned' have the meanings given those terms in section 101 of title 37, United States Code.

"(2) The term 'surviving spouse' has the meaning given the terms 'widow' and 'widower' in paragraphs (3) and (4), respectively, of section 1447 [see 1447(7), (8)] of title 10, United States Code.

"(f) EFFECTIVE DATE.—Annuities under this section shall be paid for months beginning after the month in which this Act is enacted [September 1988]. No benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in the preceding sentence. No benefit shall be paid to any person under this section unless an application for such benefit has been filed with the Secretary concerned by or on behalf of such person."

## AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN

Pub. L. 100–180, div. A, title VI, §631, Dec. 4, 1987, 101 Stat. 1104, provided that:

"(a) AUTHORITY TO WITHDRAW.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

"(2) An individual referred to in paragraph (1) is an individual who—

"(A) is providing coverage for a spouse or for a spouse and child under the Plan; and

"(B) remarried before March 1, 1986, and at a time when such individual was a participant in the Plan but did not have an eligible spouse beneficiary under the Plan.

"(b) APPLICABLE PROVISIONS.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) [see (E)] of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to subsection (a), the one-year period referred to in clause (ii) of such subparagraph shall extend until the end of the one-year period beginning 90 days after the date of the enactment of this Act [Dec. 4, 1987].

"(c) TREATMENT OF PRIOR CONTRIBUTIONS.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a)."

## OPTION FOR CERTAIN PARTICIPANTS TO WITHDRAW FROM SURVIVOR BENEFIT PLAN

Pub. L. 99–145, title VII, §711(c), Nov. 8, 1985, 99 Stat. 670, provided that person who during period Oct. 19, 1984, to Nov. 8, 1985, became participant in Survivor Benefit Plan under this subchapter could withdraw from Plan before end of one-year period beginning on Nov. 8, 1985, and receive refund of contributions plus interest.

## PERSONS COVERED UNDER SUBSECTIONS (D) AND (F)

Pub. L. 99–145, title VII, §712(b), Nov. 8, 1985, 99 Stat. 671, provided that:

"(1) Section 1448(d) of title 10, United States Code, as amended by subsection (a), applies to the surviving spouse and dependent children of a person who dies on active duty after September 20, 1972, and the former spouse of a person who dies after September 7, 1982.

"(2) In the case of the surviving spouse and children of a person who dies during the period beginning on September 21, 1972, and ending on October 1, 1985, the Secretary concerned shall take appropriate steps to locate persons eligible for an annuity under section 1448(d) of title 10, United States Code, as amended by subsection (a). Any such person must submit an application to the Secretary for such an annuity before October 1, 1988, to be eligible to receive such annuity. Any such annuity shall be effective only for months after the month in which the Secretary receives such application."

Pub. L. 99–145, title VII, §713(c), Nov. 8, 1985, 99 Stat. 672, provided that:

"(1) Section 1448(f) of title 10, United States Code, as added by subsection (a), shall apply to the surviving spouse and dependent children of any person who dies after September 30, 1978, and the former spouse of a person who dies after September 7, 1982.

"(2) In the case of the surviving spouse and dependents of a person who dies during the period beginning on September 30, 1978, and ending on October 1, 1985, the Secretary concerned shall take appropriate steps to locate persons eligible for an annuity under section 1448(f) of title 10, United States Code, as added by subsection (a). Any such person must submit an application to the Secretary for such an annuity before October 1, 1988, to be eligible to receive such annuity. Any such annuity shall be effective only for months after the month in which the Secretary receives such application."

## REVISION FOR FORMER SPOUSE COVERAGE ALREADY IN EFFECT

Pub. L. 99–145, title VII, §716(b), Nov. 8, 1985, 99 Stat. 674, as amended by Pub. L. 99–661, div. A, title VI, §645, Nov. 14, 1986, 100 Stat. 3887, provided that person who before Mar. 1, 1986, made election under subsec. (b) of this section to provide annuity for former spouse could change that election to provide annuity for former spouse and dependent children, even though former spouse had died, but such election had to be made not later than Mar. 1, 1987, in case of person who made election before Nov. 8, 1985, and not later than end of one-year period beginning on Nov. 14, 1986, in case of person who made election during period of Nov. 8, 1985, to Feb. 28, 1986.

## ONE-YEAR OPEN PERIOD TO SWITCH COMPUTATION OF SBP ANNUITY

Pub. L. 99–145, title VII, §723(c), Nov. 8, 1985, 99 Stat. 677, provided that person who, before effective date of title VII of Pub. L. 99–145 (see Effective Date of 1985 Amendment note set out under section 1447 of this title) participated in Survivor Benefit Plan under this subchapter, and had elected to provide annuity to former spouse could, with concurrence of such former spouse, elect to terminate such annuity and provide annuity to such former spouse under section 1450(a)(1) of this title, and any such election was to be made before end of 12-month period beginning on Nov. 8, 1985.

## ONE-YEAR OPEN PERIOD FOR NEW FORMER SPOUSE COVERAGE

Pub. L. 99–145, title VII, §723(d), Nov. 8, 1985, 99 Stat. 677, provided that person who before effective date of part B of title VII of Pub. L. 99–145 (see Effective Date of 1985 Amendment note set out under section 1447 of this title) was participant in Survivor Benefit Plan and did not elect to provide annuity to former spouse could elect to provide annuity to former spouse under Plan, and that any such election was to be made before end of 12-month period beginning on Nov. 8, 1985.

## OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN

Pub. L. 97–35, title II, §212, Aug. 13, 1981, 95 Stat. 383, as amended by Pub. L. 97–252, title XI, §1119, Sept. 8, 1982, 96 Stat. 753, provided that certain members or former members of the uniformed services who, on Aug. 13, 1981, were not participants in the Survivor Benefit Plan established under this subchapter or were not participants in the Plan at the maximum level, could elect to participate in the Plan or to participate in the Plan at a higher level, during an open enrollment period beginning Oct. 1, 1981, and ending Sept. 30, 1982, for members and former members entitled to retired or retainer pay on Aug. 13, 1981, or beginning on Oct. 1, 1982, and ending on Sept. 30, 1983, for members or former members who on Aug. 13, 1981, would have been entitled to retired pay, but for the fact they were under 60 years of age on that date.

## SURVIVING SPOUSE; ANNUITY PAYMENT AND REDUCTION PROVISIONS; ELECTION OF ANNUITY; DEFINITIONS; EFFECTIVE DATE

Pub. L. 96–402, §5, Oct. 9, 1980, 94 Stat. 1707, provided that:

"(a)(1) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse of a

member of the uniformed services who—

"(A) died before September 21, 1972;

"(B) was serving on active duty in the uniformed services at the time of his death and had served on active duty for a period of not less than 20 years; and

"(C) was at the time of his death entitled to retired or retainer pay or would have been entitled to that pay except that he had not applied for or been granted that pay.

"(2) An annuity under paragraph (1) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if such member had died on or after September 21, 1972.

"(b)(1) The amount of retired or retainer pay to be used as the basis for the computation of an annuity under subsection (a) is the amount of the retired or retainer pay to which the member would have been entitled if the member had been entitled to that pay based upon his years of active service when he died, adjusted by the overall percentage increase in retired and retainer pay under section 1401a of title 10, United States Code (or any prior comparable provision of law), during the period beginning on the date of the member's death and ending on the day before the effective date of this section.

"(2) In addition to any reduction required under the provisions of subchapter II of chapter 73 of title 10, United States Code, the annuity paid to any surviving spouse under this section shall be reduced by any amount such surviving spouse is entitled to receive as an annuity under subchapter I of such chapter.

"(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

"(d) As used in this section:

"(1) The term 'uniformed services' means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

"(2) The term 'surviving spouse' has the meaning given the terms 'widow' and 'widower' in section 1447 of title 10, United States Code.

"(3) The term 'Secretary concerned' has the meaning given such term in section 101(8) of title 10, United States Code [now 10 U.S.C. 101(a)(9)], and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service."

Provision effective Dec. 1, 1980, applicable to annuities payable for months beginning on or after such date, and prohibiting accrual of benefits for any period before Oct. 9, 1980, see section 7 of Pub. L. 96–402, set out as a note under section 1447 of this title.

## ELECTION TO PARTICIPATE IN THE SURVIVOR BENEFIT PLAN AND WITHDRAW FROM THE RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

Pub. L. 92–425, §3, Sept. 21, 1972, 86 Stat. 711, as amended by Pub. L. 93–155, title VIII, §804, Nov. 16, 1973, 87 Stat. 615, provided that:

"(a) The Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter] applies to any person who initially becomes entitled to retired or retainer pay on or after the effective date of this Act [Sept. 21, 1972]. An election made before that date by such a person under section 1431 of title 10, United States Code, is canceled. However, a person who initially becomes entitled to retired or retainer pay within 180 days after the effective date of this Act [Sept. 21, 1972] may, within 180 days after becoming so entitled, elect—

"(1) not to participate in such Survivor Benefit Plan if he is married or has a dependent child; or

"(2) to participate in that Plan, if he is a person covered by section 1448(b) of title 10, United States Code.

"(b) Any person who is entitled to retired or retainer pay on the effective date of this Act [Sept. 21, 1972] may elect to participate in the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter] at any time within eighteen months after such date. However, such a person who is receiving retired or retainer pay reduced under section 1436(a) of title 10, United States Code, or who is depositing amounts under section 1438 of that title, may elect at any time within eighteen months after the effective date of this Act [Sept. 21, 1972]—

"(1) to participate in the Plan and continue his participation under chapter 73 of that title [this chapter] as in effect on the day before the effective date of this Act [Sept. 21, 1972], except that the total of the annuities elected may not exceed 100 percent of his retired or retainer pay; or

"(2) to participate in the Plan and, notwithstanding section 1436(b) of that title, terminate his participation under chapter 73 of that title [this chapter] as in effect on the day before the effective date of this Act [Sept. 21, 1972].

A person who elects under clause (2) of this subsection is not entitled to a refund of amounts previously deducted from his retired or retainer pay under chapter 73 of title 10, United States Code [this chapter], as in effect on the day before the effective date of this Act [Sept. 21, 1972], or any payments made thereunder on his behalf. A person who is not married or does not have a dependent child on the first anniversary of the effective date of this Act [Sept. 21, 1972], but who later marries or acquires a dependent child, may elect to participate in the Plan under the fourth sentence of section 1448(a) of that title [former subsec. (a) of this section].

"(c) Notwithstanding the provisions of the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter], and except as otherwise provided in this section, subchapter I of chapter 73 of title 10, United States Code [subchapter I of this chapter] (other than the last two sentences of section 1436(a), section 1443, and section 1444(b)), as in effect on the day before the effective date of this Act [Sept. 21, 1972], shall continue to apply in the case of persons, and their beneficiaries, who have elected annuities under section 1431 or 1432 of that title and who have not elected under subsection (b)(2) of this section to participate in that Plan.

"(d) In this section, 'base amount' means—

"(1) the monthly retired or retainer pay to which a person—

"(A) is entitled on the effective date of this Act [Sept. 21, 1972]; or

"(B) later becomes entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list; or

"(2) any amount less than that described in clause (1) designated by that person at the time he makes an election under subsection (a)(2) or (b) of this section, but not less than $300;

as increased from time to time under section 1401a of title 10, United States Code.

"(e) An election made under subsection (a) or (b) of this section is effective on the date it is received by the Secretary concerned, as defined in section 101(5) of title 37, United States Code.

"(f) Sections 1449, 1453, and 1454 of title 10, United States Code, as added by clause (3) of the first section of this Act [as part of this subchapter], are applicable to persons covered by this section."

## INCOME SUPPLEMENT FOR CERTAIN WIDOWS OF RETIRED MEMBERS OF THE UNIFORMED FORCES; SPECIAL ANNUITY FOR WIDOWS OF COMMISSIONED PERSONNEL OF THE PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION IN LIEU OF VA PENSION

Pub. L. 92–425, §4, Sept. 21, 1972, 86 Stat. 712, as amended by Pub. L. 94–496, §2, Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §209, Sept. 30, 1978, 92 Stat. 848; Pub. L. 96–402, §6, Oct. 9, 1980, 94 Stat. 1708; Pub. L. 98–94, title IX, §942(a), Sept. 24, 1983, 97 Stat. 654; Pub. L. 102–40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 103–337, div. A, title X, §1070(d)(4), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 104–201, div. A, title VI, §638(a)–(c), Sept. 23, 1996, 110 Stat. 2581; Pub. L. 105–85, div. A, title VI, §645(b), Nov. 18, 1997, 111 Stat. 1801, provided that:

"(a) A person—

"(1) who, on September 21, 1972, was, or during the period beginning on September 22, 1972, and ending on March 20, 1974, became, a widow of a person who was entitled to retired or retainer pay when he died;

"(2) who is eligible for a pension under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 [set out as note under section 1521 of Title 38]; and

"(3) whose annual income, as determined in establishing that eligibility, is less than the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code;

shall be paid an annuity by the Secretary concerned unless she is eligible to receive an annuity under the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [this subchapter]. However, such a person who is the widow of a retired officer of the Public Health Service or the National Oceanic and Atmospheric Administration, and who would otherwise be eligible for an annuity under this section except that she does not qualify for the pension described in clause (2) of this subsection because the service of her deceased spouse is not considered active duty under section 101(21) of title 38, United States Code, is entitled to an annuity under this section.

"(b) The annuity under subsection (a) of this section shall be in an amount which when added to the widow's income determined under subsection (a)(3) of this section, plus the amount of any annuity being received under sections 1431–1436 of title 10, United States Code, but exclusive of a pension described in subsection (a)(2) of this section, equals the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code. In addition, the Secretary concerned shall pay to the widow, described in the last

sentence of subsection (a) of this section, an amount equal to the pension she would otherwise have been eligible to receive under subchapter III of chapter 15 of title 38, United States Code, if the service of her deceased spouse was considered active duty under section 101(21) of that title.

"(c) The amount of an annuity payable under this section, although counted as income in determining the amount of any pension described in subsection (a)(2) of this section, shall not be considered to affect the eligiblity [sic] of the recipient of such annuity for such pension, even though, as a result of including the amount of the annuity as income, no amount of such pension is due.

"(d) Subsection 1450(i) and section 1453 as added to title 10, United States Code, by clause 3 of the first section of this Act, are applicable to persons covered by this section.

"(e)(1) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. In making such payments, the Secretary shall combine with the payment under this section payment of any amount due the same person under section 653(d) of the National Defense Authorization Act, Fiscal Year 1989 [Pub. L. 100–456] (10 U.S.C. 1448 note). If appropriate for administrative convenience (or otherwise determined appropriate by the Secretary of Veterans Affairs), that Secretary may combine a payment to any person for any month under this section (and, if applicable, under section 653(d) of the National Defense Authorization Act, Fiscal Year 1989) with any other payment for that month under laws administered by the Secretary so as to provide that person with a single payment for that month.

"(2) The Secretary concerned shall annually transfer to the Secretary of Veterans Affairs such amounts as may be necessary for payments by the Secretary of Veterans Affairs under this section and for costs of the Secretary of Veterans Affairs in administering this section. Such transfers shall be made from amounts that would otherwise be used for payment of annuities by the Secretary concerned under this section. The authority to make such a transfer is in addition to any other authority of the Secretary concerned to transfer funds for a purpose other than the purpose for which the funds were originally made available. In the case of a transfer by the Secretary of a military department, the provisions of section 2215 of title 10, United States Code, do not apply.

"(3) The Secretary concerned shall promptly notify the Secretary of Veterans Affairs of any change in beneficiaries under this section."

[Pub. L. 104–201, div. A, title VI, §638(d), Sept. 23, 1996, 110 Stat. 2581, provided that: "The amendments made by this section [amending section 4 of Pub. L. 92–425, set out above] take effect on July 1, 1997, and apply with respect to payments of benefits for any month after June 1997."]

[Pub. L. 98–94, title IX, §942(b), Sept. 24, 1983, 97 Stat. 654, provided that: "Any annuity payable by reason of subsection (a) [amending section 4(a)(1) of Pub. L. 92–425, set out above] shall be payable only for months after September 1983."]

**END OF 90-DAY PERIOD WITH RESPECT TO CERTAIN INDIVIDUALS**

The 90-day period, referred to in subsec. (a)(2), (4)(B), with respect to certain individuals shall be considered to end on Mar. 31, 1980, see section 208 of Pub. L. 95–397, set out as a note under section 1447 of this title.

## §1448a. Election to discontinue participation: one-year opportunity after second anniversary of commencement of payment of retired pay

(a) AUTHORITY.—A participant in the Plan may, subject to the provisions of this section, elect to discontinue participation in the Plan at any time during the one-year period beginning on the second anniversary of the date on which payment of retired pay to the participant commences.

(b) CONCURRENCE OF SPOUSE.—

(1) CONCURRENCE REQUIRED.—A married participant may not (except as provided in paragraph (2)) make an election under subsection (a) without the concurrence of the participant's spouse.

(2) EXCEPTIONS.—A participant may make such an election without the concurrence of the participant's spouse by establishing to the satisfaction of the Secretary concerned that one of the conditions specified in section 1448(a)(3)(C) of this title exists.

(3) FORM OF CONCURRENCE.—The concurrence of a spouse under paragraph (1) shall be made in such written form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

(c) LIMITATION ON ELECTION WHEN FORMER SPOUSE COVERAGE IN EFFECT.—The limitation set forth in section 1450(f)(2) of this title applies to an election to discontinue participation in the Plan under subsection (a).

(d) WITHDRAWAL OF ELECTION TO DISCONTINUE.—Section 1448(b)(1)(D) of this title applies to an election under subsection (a).

(e) CONSEQUENCES OF DISCONTINUATION.—Section 1448(b)(1)(E) of this title applies to an election under subsection (a).

(f) NOTICE TO AFFECTED BENEFICIARIES.—The Secretary concerned shall notify any former spouse or other natural person previously designated under section 1448(b) of this title of an election to discontinue participation under subsection (a).

(g) EFFECTIVE DATE OF ELECTION.—An election under subsection (a) is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(h) INAPPLICABILITY OF IRREVOCABILITY PROVISIONS.—Paragraphs (4)(B) and (5)(C) of section 1448(a) of this title do not apply to prevent an election under subsection (a).

(Added Pub. L. 105–85, div. A, title VI, §641(a)(1), Nov. 18, 1997, 111 Stat. 1797.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 105–85, div. A, title VI, §641(c), Nov. 18, 1997, 111 Stat. 1799, provided that: "Section 1448a of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act [Nov. 18, 1997]."

**TRANSITION PROVISION FOR CURRENT PARTICIPANTS**

Pub. L. 105–85, div. A, title VI, §641(b), Nov. 18, 1997, 111 Stat. 1798, provided that: "Notwithstanding the limitation on the time for making an election under section 1448a of title 10, United States Code (as added by subsection (a)), that is specified in subsection (a) of such section, a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of such title may make an election in accordance with that section within one year after the effective date of that section under subsection (c) [set out as an Effective Date note above] if the second anniversary of the commencement of payment of retired pay to the participant precedes that effective date."

## §1449. Mental incompetency of member

(a) ELECTION BY SECRETARY CONCERNED ON BEHALF OF MENTALLY INCOMPETENT MEMBER.—If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, an election described in subsection (a)(2) or (b) of section 1448 of this title may be made on behalf of that person by the Secretary concerned.

(b) REVOCATION OF ELECTION BY MEMBER.—

(1) AUTHORITY UPON SUBSEQUENT DETERMINATION OF MENTAL COMPETENCE .—If a person for whom the Secretary has made an election under subsection (a) is later determined to be mentally competent by an authority named in that subsection, that person may, within 180 days after that determination, revoke that election.

(2) DEDUCTIONS FROM RETIRED PAY OR CRSC NOT TO BE REFUNDED.—Any deduction made from retired pay or combat-related special compensation by reason of such an election may not be refunded.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 708; amended Pub. L. 95–397, title II, §207(a), Sept. 30, 1978, 92 Stat. 848; Pub. L. 101–189, div. A, title XIV, §1407(a)(3), title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1588, 1602; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2560; Pub. L. 114–328, div. A, title VI, §643(c)(1), Dec. 23, 2016, 130 Stat. 2166.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (b)(2). Pub. L. 114–328 inserted "or CRSC" after "retired pay" in heading and "or combat-related special compensation" after "from retired pay" in text.

**1996**—Pub. L. 104–201 amended section generally. Prior to amendment, section read as follows: "If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, any election described in subsection (a)(2) or (b) of section 1448 of this title may be made on behalf of that person by the Secretary concerned. If the person for whom the Secretary has made an election is later determined to be mentally competent by an authority named in the first sentence, he may, within 180 days after that determination revoke that election. Any deductions made from retired pay by reason of such an election will not be refunded."

**1989**—Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration" and struck out "or retainer" after "made from retired".

**1978**—Pub. L. 95–397 substituted "subsection (a)(2) or (b)" for "the first sentence of subsection (a), or subsection (b)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95–397, set out as a note under section 1447 of this title.

## §1450. Payment of annuity: beneficiaries

(a) IN GENERAL.—Effective as of the first day after the death of a person to whom section 1448 of this title applies (or on such other day as that person may provide under subsection (j)), a monthly annuity under section 1451 of this title shall be paid to the person's beneficiaries under the Plan, as follows:

(1) SURVIVING SPOUSE OR FORMER SPOUSE.—The eligible surviving spouse or the eligible former spouse.

(2) SURVIVING CHILDREN.—The surviving dependent children in equal shares, if the eligible surviving spouse or the eligible former spouse is dead, dies, or otherwise becomes ineligible under this section.

(3) DEPENDENT CHILDREN.—The dependent children in equal shares if the person to whom section 1448 of this title applies (with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title) elected to provide an annuity for dependent children but not for the spouse or former spouse.

(4) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—Notwithstanding subsection (i), a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity.

(5) NATURAL PERSON DESIGNATED UNDER "INSURABLE INTEREST" COVERAGE .—The natural person designated under section 1448(b)(1) of this title, unless the election to provide an annuity to the natural person has been changed as provided in subsection (f).

(b) TERMINATION OF ANNUITY FOR DEATH, REMARRIAGE BEFORE AGE 55, ETC.—

(1) GENERAL RULE.—An annuity payable to the beneficiary terminates effective as of the first day of the month in which eligibility is lost.

(2) TERMINATION OF SPOUSE ANNUITY UPON DEATH OR REMARRIAGE BEFORE

AGE 55.—An annuity for a surviving spouse or former spouse shall be paid to the surviving spouse or former spouse while the surviving spouse or former spouse is living or, if the surviving spouse or former spouse remarries before reaching age 55, until the surviving spouse or former spouse remarries.

(3) EFFECT OF TERMINATION OF SUBSEQUENT MARRIAGE BEFORE AGE 55.—If the surviving spouse or former spouse remarries before reaching age 55 and that marriage is terminated by death, annulment, or divorce, payment of the annuity shall be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the surviving spouse or former spouse is also entitled to an annuity under the Plan based upon the marriage so terminated, the surviving spouse or former spouse may not receive both annuities but must elect which to receive.

(c) OFFSET FOR AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION.—

(1) REQUIRED OFFSET.—If, upon the death of a person to whom section 1448 of this title applies, the surviving spouse or former spouse of that person is also entitled to dependency and indemnity compensation under section 1311(a) of title 38, the surviving spouse or former spouse may be paid an annuity under this section, but only in the amount calculated as follows:

(A) During the period beginning on January 1, 2020, and ending on December 31, 2020, the amount that the annuity otherwise payable under this section would exceed such dependency and indemnity compensation.

(B) During the period beginning on January 1, 2021, and ending on December 31, 2021, the amount that the annuity otherwise payable under this section would exceed two-thirds of such dependency and indemnity compensation.

(C) During the period beginning on January 1, 2022, and ending on December 31, 2022, the amount that the annuity otherwise payable under this section would exceed one-third of such dependency and indemnity compensation.

(D) On and after January 1, 2023, the full amount of the annuity under this section.

(2) EFFECTIVE DATE OF OFFSET.—A reduction in an annuity under this section required by paragraph (1) shall be effective on the date of the commencement of the period of payment of such dependency and indemnity compensation under title 38.

(3) LIMITATION ON RECOUPMENT OF OFFSET AMOUNT.—Any amount subject to offset under this subsection that was previously paid to the surviving spouse or former spouse shall be recouped only to the extent that the amount paid exceeds any amount to be refunded under subsection (e). In notifying a surviving spouse or former spouse of the recoupment requirement, the Secretary shall provide the spouse or former spouse—

(A) a single notice of the net amount to be recouped or the net amount to be refunded, as applicable, under this subsection or subsection (e);

(B) a written explanation of the statutory requirements for recoupment of the offset amount and for refund of any applicable amount deducted from retired pay;

(C) a detailed accounting of how the offset amount being recouped and retired pay deduction amount being refunded were calculated; and

(D) contact information for a person who can provide information about the offset recoupment and retired pay deduction refund processes and answer questions the surviving spouse or former spouse may have about the requirements, processes, or amounts.

(d) LIMITATION ON PAYMENT OF ANNUITIES WHEN COVERAGE UNDER CIVIL SERVICE RETIREMENT ELECTED.—If, upon the death of a person to whom section 1448 of this title applies, that person had in effect a waiver of that person's retired pay for the purposes of subchapter III of chapter 83 of title 5 or chapter 84 of such title, an annuity under this section shall not be payable unless, in accordance with section 8339(j) or 8416(a) of title 5, that person notified the Office of Personnel Management that he did not desire any spouse surviving him to receive an annuity under section 8341(b) or 8442(a) of that title.

(e) REFUND OF AMOUNTS DEDUCTED FROM RETIRED PAY OR CRSC WHEN DIC OFFSET IS APPLICABLE.—

(1) FULL REFUND WHEN DIC GREATER THAN SBP ANNUITY.—If an annuity under this section is not payable because of subsection (c), any amount deducted from the retired pay or combat-related special compensation of the deceased under section 1452 of this title shall be refunded to the surviving spouse or former spouse.

(2) PARTIAL REFUND WHEN SBP ANNUITY REDUCED BY DIC.—If, because of subsection (c), the annuity payable is less than the amount established under section 1451 of this title, the annuity payable shall be recalculated under that section. The amount of the reduction in the retired pay required to provide that recalculated annuity shall be computed under section 1452 of this title, and the difference between the amount deducted before the computation of that recalculated annuity and the amount that would have been deducted on the basis of that recalculated annuity shall be refunded to the surviving spouse or former spouse.

(f) CHANGE IN ELECTION OF INSURABLE INTEREST OR FORMER SPOUSE BENEFICIARY.—

(1) AUTHORIZED CHANGES.—

(A) ELECTION IN FAVOR OF SPOUSE OR CHILD.—A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2), change that election and provide an annuity to his spouse or dependent child.

(B) NOTICE.—The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under subparagraph (A).

(C) PROCEDURES, EFFECTIVE DATE, ETC.—Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title (without regard to the eligibility of the person making the change of election to make such an election under that section). Notwithstanding the preceding sentence, a change of election under this subsection to provide an annuity to a spouse instead of a former spouse may (subject to paragraph (2)) be made at any time after the person providing the annuity remarries without regard to the time limitation in section 1448(a)(5)(B) of this title.

(2) LIMITATION ON CHANGE IN BENEFICIARY WHEN FORMER SPOUSE COVERAGE IN EFFECT.—A person who, incident to a proceeding of divorce, dissolution, or annulment, is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement, may not change that election under paragraph (1) unless, of the following requirements, whichever are applicable in a particular case are satisfied:

(A) In a case in which the election is required by a court order, or in which an agreement to make the election has been incorporated in or ratified or approved by a court order, the person—

(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and which modifies the provisions of all previous court orders relating to such election, or the agreement to make such election, so as to permit the person to change the election; and

(ii) certifies to the Secretary concerned that the court order is valid and in effect.

(B) In a case of a written agreement that has not been incorporated in or ratified or approved by a court order, the person—

(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

(ii) certifies to the Secretary concerned that the statement is current and in effect.

(3) REQUIRED FORMER SPOUSE ELECTION TO BE DEEMED TO HAVE BEEN MADE.—

(A) DEEMED ELECTION UPON REQUEST BY FORMER SPOUSE.—If a person described in paragraph (2) or (3) of section 1448(b) of this title is required (as described in subparagraph (B)) to elect under section 1448(b) of this title to provide an annuity to a former spouse and such person then fails or refuses to make such an election, such person shall be deemed to have made such an election if the Secretary concerned receives the following:

(i) REQUEST FROM FORMER SPOUSE.—A written request, in such manner as the Secretary shall prescribe, from the former spouse concerned requesting that such an election be deemed to have been made.

(ii) COPY OF COURT ORDER OR OTHER OFFICIAL STATEMENT.—Either—

(I) a copy of the court order, regular on its face, which requires such election or incorporates, ratifies, or approves the written agreement of such person; or

(II) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

(B) PERSONS REQUIRED TO MAKE ELECTION.—A person shall be considered for purposes of subparagraph (A) to be required to elect under section 1448(b) of this title to provide an annuity to a former spouse if—

(i) the person enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to make such an election and the agreement (I) has been incorporated in or ratified or approved by a court order, or (II) has been filed with the court of appropriate jurisdiction in accordance with applicable State law; or

(ii) the person is required by a court order to make such an election.

(C) TIME LIMIT FOR REQUEST BY FORMER SPOUSE.—An election may not be deemed to have been made under subparagraph (A) in the case of any person unless the Secretary concerned receives a request from the former spouse of the person within one year of the date of the court order or filing involved.

(D) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under subparagraph (A) shall become effective on the day referred to in section 1448(b)(3)(E)(ii) of this title.

(4) FORMER SPOUSE COVERAGE MAY BE REQUIRED BY COURT ORDER.—A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).

(g) LIMITATION ON CHANGING OR REVOKING ELECTIONS.—

(1) IN GENERAL.—An election under this section may not be changed or revoked.

(2) EXCEPTIONS.—Paragraph (1) does not apply to—

(A) a revocation of an election under section 1449(b) of this title; or

(B) a change in an election under subsection (f).

(h) TREATMENT OF ANNUITIES UNDER OTHER LAWS.—Except as provided in section 1451 of this title, an annuity under this section is in addition to any other payment to which a person is entitled under any other provision of law. Such annuity shall be considered as income under laws administered by the Secretary of Veterans Affairs.

(i) ANNUITIES EXEMPT FROM CERTAIN LEGAL PROCESS.—Except as provided in subsection (a)(4) or (l)(3)(B), an annuity under this section is not assignable or subject to execution, levy, attachment, garnishment, or other legal process.

(j) EFFECTIVE DATE OF RESERVE-COMPONENT ANNUITIES.—

(1) PERSONS MAKING SECTION 1448(e) DESIGNATION.—A reserve-component annuity shall be effective in accordance with the designation made under section 1448(e) of this title by the person providing the annuity.

(2) PERSONS DYING BEFORE MAKING SECTION 1448(e) DESIGNATION.—An annuity payable under section 1448(f) of this title shall be effective on the day after the date of the death of the person upon whose service the right to the annuity is based.

(k) ADJUSTMENT OF SPOUSE OR FORMER SPOUSE ANNUITY UPON LOSS OF DEPENDENCY AND INDEMNITY COMPENSATION.—

(1) READJUSTMENT IF BENEFICIARY 55 YEARS OF AGE OR MORE.—If a surviving spouse or former spouse whose annuity has been adjusted under subsection (c) subsequently loses entitlement to dependency and indemnity compensation under section 1311(a) of title 38 because of the remarriage of the surviving spouse, or former spouse, and if at the time of such remarriage the surviving spouse or former spouse is 55 years of age or more, the amount of the annuity of the surviving spouse or former spouse shall be readjusted, effective on the effective date of such loss of dependency and indemnity compensation, to the amount of the annuity which would be in effect with respect to the surviving spouse or former spouse if the adjustment under subsection (c) had never been made.

(2) REPAYMENT OF AMOUNTS PREVIOUSLY REFUNDED.—

(A) GENERAL RULE.—A surviving spouse or former spouse whose annuity is readjusted under paragraph (1) shall repay any amount refunded under subsection (e) by reason of the adjustment under subsection (c).

(B) INTEREST REQUIRED IF REPAYMENT NOT A LUMP SUM.—If the repayment is not made in a lump sum, the surviving spouse or former spouse shall pay interest on the amount to be repaid. Such interest shall commence on the date on which the first such payment is due and shall be applied over the period during which any part of the repayment remains to be paid.

(C) MANNER OF REPAYMENT; RATE OF INTEREST.—The manner in which such repayment shall be made, and the rate of any such interest, shall be prescribed in regulations under section 1455 of this title.

(D) DEPOSIT OF AMOUNTS REPAID.—An amount repaid under this paragraph (including any such interest) received by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other amount repaid under this paragraph shall be deposited into the Treasury as miscellaneous receipts.

(l) PARTICIPANTS IN THE PLAN WHO ARE MISSING.—

(1) AUTHORITY TO PRESUME DEATH OF MISSING PARTICIPANT.—

(A) IN GENERAL.—Upon application of the beneficiary of a participant in the Plan who is missing, the Secretary concerned may determine for purposes of this subchapter that the participant is presumed dead.

(B) PARTICIPANT WHO IS MISSING.—A participant in the Plan is considered to be missing for purposes of this subsection if—

(i) the retired pay of the participant has been suspended on the basis that the participant is missing; or

(ii) in the case of a participant in the Plan who would be eligible for reserve-component retired pay but for the fact that he is under 60 years of age, his retired pay, if he were entitled to retired pay, would be suspended on the basis that he is missing.

(C) REQUIREMENTS APPLICABLE TO PRESUMPTION OF DEATH.—Any such determination shall be made in accordance with regulations prescribed under section 1455 of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a participant who is missing is presumed dead unless the Secretary finds that—

(i) the participant has been missing for at least 30 days; and

(ii) the circumstances under which the participant is missing would lead a reasonably

prudent person to conclude that the participant is dead.

(2) COMMENCEMENT OF ANNUITY.—Upon a determination under paragraph (1) with respect to a participant in the Plan, an annuity otherwise payable under this subchapter shall be paid as if the participant died on the date as of which the retired pay of the participant was suspended.

(3) EFFECT OF PERSON NOT BEING DEAD.—

(A) TERMINATION OF ANNUITY.—If, after a determination under paragraph (1), the Secretary concerned determines that the participant is alive—

(i) any annuity being paid under this subchapter by reason of this subsection shall be terminated; and

(ii) the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States.

(B) COLLECTION FROM PARTICIPANT OF ANNUITY AMOUNTS ERRONEOUSLY PAID.—A debt under subparagraph (A)(ii) may be collected or offset—

(i) from any retired pay otherwise payable to the participant;

(ii) if the participant is entitled to compensation under chapter 11 of title 38, from that compensation; or

(iii) if the participant is entitled to any other payment from the United States, from that payment.

(C) COLLECTION FROM BENEFICIARY.—If the participant dies before the full recovery of the amount of annuity payments described in subparagraph (A)(ii) has been made by the United States, the remaining amount of such annuity payments may be collected from the participant's beneficiary under the Plan if that beneficiary was the recipient of the annuity payments made by reason of this subsection.

(m) SPECIAL SURVIVOR INDEMNITY ALLOWANCE.—

(1) PROVISION OF ALLOWANCE.—The Secretary concerned shall pay a monthly special survivor indemnity allowance under this subsection to the surviving spouse or former spouse of a member of the uniformed services to whom section 1448 of this title applies if—

(A) the surviving spouse or former spouse is entitled to dependency and indemnity compensation under section 1311(a) of title 38;

(B) except for subsection (c) of this section, the surviving spouse or former spouse is eligible for an annuity by reason of a participant in the Plan under subsection (a)(1) of section 1448 of this title or by reason of coverage under subsection (d) or (f) of such section; and

(C) the eligibility of the surviving spouse or former spouse for an annuity as described in subparagraph (B) is affected by subsection (c) of this section.

(2) AMOUNT OF PAYMENT.—Subject to paragraph (3), the amount of the allowance paid to an eligible survivor under paragraph (1) for a month shall be equal to—

(A) for months during fiscal year 2009, $50;

(B) for months during fiscal year 2010, $60;

(C) for months during fiscal year 2011, $70;

(D) for months during fiscal year 2012, $80;

(E) for months during fiscal year 2013, $90;

(F) for months during fiscal year 2014, $150;

(G) for months during fiscal year 2015, $200;

(H) for months during fiscal year 2016, $275;

(I) for months from October 2016 through November 2018, $310; and

(J) for months after November 2018, the amount determined in accordance with paragraph (6).

(3) LIMITATION.—The amount of the allowance paid to an eligible survivor under paragraph (1) for any month may not exceed the amount of the annuity for that month that is subject to offset under subsection (c).

(4) STATUS OF PAYMENTS.—An allowance paid under this subsection does not constitute an annuity, and amounts so paid are not subject to adjustment under any other provision of law.

(5) SOURCE OF FUNDS.—The special survivor indemnity allowance shall be paid from amounts in the Department of Defense Military Retirement Fund established under section 1461 of this title.

(6) COST-OF-LIVING ADJUSTMENTS AFTER NOVEMBER 2018.—

(A) IN GENERAL.—Whenever retired pay is increased for a month under section 1401a of this title (or any other provision of law), the amount of the allowance payable under paragraph (1) for that month shall also be increased.

(B) AMOUNT OF INCREASE.—With respect to an eligible survivor of a member of the uniformed services, the increase for a month shall be—

(i) the amount payable pursuant to paragraph (2) for months during the preceding 12-month period; plus

(ii) an amount equal to a percentage of the amount determined pursuant to clause (i), which percentage is the percentage by which the retired pay of the member would have increased for the month, as described in subparagraph (A), if the member was alive (and otherwise entitled to such pay).

(C) ROUNDING DOWN.—The monthly amount of an allowance payable under this subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(D) PUBLIC NOTICE ON AMOUNT OF ALLOWANCE PAYABLE.—Whenever an increase in the amount of the allowance payable under paragraph (1) is made pursuant to this paragraph, the Secretary of Defense shall publish the amount of the allowance so payable by reason of such increase, including the months for which payable.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 708; amended Pub. L. 94–496, §1(3), (4), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §§203, 207(b), (c), Sept. 30, 1978, 92 Stat. 845, 848; Pub. L. 97–22, §11(a)(3), July 10, 1981, 95 Stat. 137; Pub. L. 97–252, title X, §1003(c), (d), Sept. 8, 1982, 96 Stat. 736; Pub. L. 98–94, title IX, §941(a)(3), (c)(3), Sept. 24, 1983, 97 Stat. 653; Pub. L. 98–525, title VI, §§642(b), 644, Oct. 19, 1984, 98 Stat. 2546, 2548; Pub. L. 99–145, title VII, §§713(b), 717, 718, 719(4)–(6), (8)(A), 722, 723(a), (b)(1), title XIII, §1303(a)(11), Nov. 8, 1985, 99 Stat. 672, 674–677, 739; Pub. L. 99–661, div. A, title VI, §§641(a), (b)(2), (3), 643(a), title XIII, §1343(a)(8)(C), Nov. 14, 1986, 100 Stat. 3885, 3886, 3992; Pub. L. 100–26, §3(3), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VI, §636(a), Dec. 4, 1987, 101 Stat. 1106; Pub. L. 100–224, §5(b)(1), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 101–189, div. A, title XIV, §1407(a)(2)–(4), title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1588, 1602; Pub. L. 103–337, div. A, title X, §1070(e)(3), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2561; Pub. L. 105–85, div. A, title VI, §642(a), Nov. 18, 1997, 111 Stat. 1799; Pub. L. 105–261, div. A, title VI, §643(b), Oct. 17, 1998, 112 Stat. 2048; Pub. L. 106–398, §1 [[div. A], title VI, §655(c)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A–166; Pub. L. 110–181, div. A, title VI, §§643(a), 644, Jan. 28, 2008, 122 Stat. 157, 158; Pub. L. 110–417, [div. A], title VI, §631(a), Oct. 14, 2008, 122 Stat. 4492; Pub. L. 111–31, div. B, title II, §201, June 22, 2009, 123 Stat. 1857; Pub. L. 112–239, div. A, title VI, §641(b), Jan. 2, 2013, 126 Stat. 1783; Pub. L. 113–291, div. A, title VI, §624(a)(1), (2)(A), Dec. 19, 2014, 128 Stat. 3403; Pub. L. 114–328, div. A, title VI, §§642(d), 643(c)(2), 646, Dec. 23, 2016, 130 Stat. 2165, 2166, 2168; Pub. L. 115–91, div. A, title VI, §621, Dec. 12, 2017, 131 Stat. 1427; Pub. L. 115–232, div. A, title VI, §622(a), (b), Aug. 13, 2018, 132 Stat. 1799; Pub. L. 116–92, div. A, title VI, §622(a)(1), Dec. 20, 2019, 133 Stat. 1427.)

**EDITORIAL NOTES**

## AMENDMENTS

**2019**—Subsec. (c)(1). Pub. L. 116–92 substituted "calculated as follows:" for "that the annuity otherwise payable under this section would exceed that compensation." and added subpars. (A) to (D).

**2018**—Subsec. (m)(2)(I). Pub. L. 115–232, §622(a)(1), substituted "November" for "December".

Subsec. (m)(2)(J). Pub. L. 115–232, §622(a)(2), substituted "for months after November 2018" for "for months during any calendar year after 2018".

Subsec. (m)(6). Pub. L. 115–232, §622(b), substituted "AFTER NOVEMBER 2018" for "AFTER 2018" in heading, added subpars. (A) to (D), and struck out former subpars. (A) and (B) which read as follows:

"(A) IN GENERAL.—The amount of the allowance payable under paragraph (1) for months during any calendar year beginning after 2018 shall be—

"(i) the amount payable pursuant to paragraph (2) for months during the preceding calendar year, plus

"(ii) an amount equal to the percentage of the amount determined pursuant to clause (i) which percentage is equal to the percentage increase in retired pay of members and former members of the armed forces for such calendar year under section 1401a of this title.

"(B) PUBLIC NOTICE ON AMOUNT OF ALLOWANCE PAYABLE.—The Secretary of Defense shall publish in the Federal Register each year the amount of the allowance payable under paragraph (1) for months in such year by reason of the operation of this paragraph."

**2017**—Subsec. (m)(2)(I), (J). Pub. L. 115–91, §621(1), added subpars. (I) and (J) and struck out former subpar. (I) which read as follows: "for months during each of fiscal years 2017 and 2018, $310."

Subsec. (m)(6). Pub. L. 115–91, §621(2), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "This subsection shall only apply with respect to the month beginning on October 1, 2008, and subsequent months through the month ending on May 31, 2018. Effective on June 1, 2018, the authority provided by this subsection shall terminate. No special survivor indemnity allowance may be paid to any person by reason of this subsection for any period before October 1, 2008, or beginning on or after June 1, 2018."

**2016**—Subsec. (e). Pub. L. 114–328, §643(c)(2)(A), inserted "or CRSC" after "Retired Pay" in heading.

Subsec. (e)(1). Pub. L. 114–328, §643(c)(2)(B), inserted "or combat-related special compensation" after "from the retired pay".

Subsec. (m)(1)(B). Pub. L. 114–328, §642(d), inserted "or (f)" after "subsection (d)".

Subsec. (m)(2)(I). Pub. L. 114–328, §646(1), substituted "each of fiscal years 2017 and 2018" for "fiscal year 2017".

Subsec. (m)(6). Pub. L. 114–328, §646(2), substituted "May 31, 2018" for "September 30, 2017" and substituted "June 1, 2018" for "October 1, 2017" in two places.

**2014**—Subsec. (a)(4), (5). Pub. L. 113–291, §624(a)(1), added par. (4) and redesignated former par. (4) as (5).

Subsec. (i). Pub. L. 113–291, §624(a)(2)(A), inserted "(a)(4) or" after "subsection".

**2013**—Subsec. (d). Pub. L. 112–239 inserted "or chapter 84 of such title" after "chapter 83 of title 5", "or 8416(a)" after "8339(j)", and "or 8442(a)" after "8341(b)".

**2009**—Subsec. (m)(2)(F) to (I). Pub. L. 111–31, §201(a), added subpars. (F) to (I) and struck out former subpar. (F) which read as follows: "for months after fiscal year 2013, $100."

Subsec. (m)(6). Pub. L. 111–31, §201(b), substituted "September 30, 2017" for "February 28, 2016" and substituted "October 1, 2017" for "March 1, 2016" in two places.

**2008**—Subsec. (c)(3). Pub. L. 110–181, §643(a), added par. (3).

Subsec. (m). Pub. L. 110–181, §644, added subsec. (m).

Subsec. (m)(1)(B). Pub. L. 110–417 substituted "subsection (a)(1) of section 1448 of this title or by reason of coverage under subsection (d) of such section" for "section 1448(a)(1) of this title".

**2000**—Subsec. (j)(1). Pub. L. 106–398 substituted "A reserve-component annuity shall be effective in accordance with the designation made under section 1448(e) of this title by the person providing the annuity." for "An annuity elected by a person providing a reserve-component annuity shall be effective in accordance with the designation made by such person under section 1448(e) of this title."

**1998**—Subsec. (f)(3)(D). Pub. L. 105–261 substituted "the day referred to in section 1448(b)(3)(E)(ii) of this title" for "the first day of the first month which begins after the date of the court order or filing involved".

**1997**—Subsec. (f)(1)(C). Pub. L. 105–85 inserted at end "Notwithstanding the preceding sentence, a change of election under this subsection to provide an annuity to a spouse instead of a former spouse may (subject to paragraph (2)) be made at any time after the person providing the annuity remarries without regard to the time limitation in section 1448(a)(5)(B) of this title."

**1996**—Pub. L. 104–201 amended section generally, revising and restating provisions relating to payment of annuities and beneficiaries and inserting subsec., par., and subpar. headings.

**1994**—Subsecs. (c), (k)(1). Pub. L. 103–337 substituted "section 1311(a) of title 38" for "section 411(a) of title 38".

**1989**—Subsec. (f)(3)(B). Pub. L. 101–189, §1407(a)(4), substituted "within one year of the date of the court order or filing involved" for "before October 1, 1985, or within one year of the date of the court order or filing involved, whichever is later".

Subsec. (h). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (l)(1). Pub. L. 101–189, §1407(a)(2), substituted "reserve-component retired pay" for "retired pay under chapter 67 of this title".

Subsec. (l)(2). Pub. L. 101–189, §1407(a)(3), struck out "or retainer" after "of which the retired".

**1987**—Subsec. (b). Pub. L. 100–26, §3(3), made technical amendment to directory language of Pub. L. 99–661, §643(a). See 1986 Amendment note below.

Subsec. (f)(3)(A). Pub. L. 100–224 struck out second of two commas after "required by a court order to make such an election".

Subsec. (k)(1). Pub. L. 100–180 substituted "55 years of age" for "60 years of age".

**1986**—Subsec. (b). Pub. L. 99–661, §643(a), as amended by Pub. L. 100–26, §3(3), substituted "age 55" for "age 60" in two places.

Subsec. (c). Pub. L. 99–661, §1343(a)(8)(C), substituted "entitled to dependency and indemnity compensation" for "entitled to compensation".

Subsec. (f)(2). Pub. L. 99–661, §641(b)(2)(A), substituted "is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement," for "enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement".

Subsec. (f)(2)(A). Pub. L. 99–661, §641(b)(2)(B), substituted "in a case in which the election is required by a court order, or in which an agreement to make the election" for "in a case in which such agreement".

Subsec. (f)(2)(A)(i). Pub. L. 99–661, §641(b)(2)(C), substituted "relating to such election, or the agreement to make such election," for "relating to the agreement to make such election".

Subsec. (f)(2)(B). Pub. L. 99–661, §641(b)(2)(D), substituted "of a written agreement that" for "in which such agreement".

Subsec. (f)(3)(A). Pub. L. 99–661, §641(b)(3), struck out "voluntary" before "written agreement" in two places, inserted "or if such person is required by a court order to make such an election," after "applicable" and inserted "requires such election or" after "on its face, which".

Subsec. (f)(4). Pub. L. 99–661, §641(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election."

**1985**—Subsec. (a)(1), (2). Pub. L. 99–145, §723(a)(1), inserted "or the eligible former spouse" after "widow or widower".

Subsec. (a)(3). Pub. L. 99–145, §723(a)(2), inserted "(with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title)" after "title applies", and "or former spouse" after "the spouse".

Subsec. (a)(4). Pub. L. 99–145, §723(a)(3), struck out "former spouse or other" before "natural person" in two places.

Subsec. (b). Pub. L. 99–145, §723(b)(1), substituted "widow, widower, or former spouse" for "widow or widower" in eight places.

Pub. L. 99–145, §719(4), substituted "under the Plan" for "under this section".

Subsec. (c). Pub. L. 99–145, §723(b)(1), substituted "widow, widower, or former spouse" for "widow or widower" in two places.

Pub. L. 99–145, §718, inserted provision respecting the effective date of the dependency and indemnity compensation offset.

Subsec. (d). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (e). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay" in two places.

Pub. L. 99–145, §723(b)(1), substituted "widow, widower, or former spouse" for "widow or widower" in two places.

Subsec. (f)(3)(A). Pub. L. 99–145, §722(1), inserted "or has been filed with the court of appropriate jurisdiction in accordance with applicable State law" after "by a court order" and "or receives a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in

accordance with applicable State law" after "voluntary written agreement of such person".

Subsec. (f)(3)(B), (C). Pub. L. 99–145, §722(2), inserted "or filing" after "court order".

Subsec. (i). Pub. L. 99–145, §1303(a)(11)(A), substituted "subsection (l)(3)(B)" for "subsection (l)".

Subsec. (j). Pub. L. 99–145, §719(5), substituted "a person providing a reserve-component annuity" for "any person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title".

Pub. L. 99–145, §713(b), inserted provision respecting the effective date of an annuity payable under section 1448(f) of this title.

Subsec. (k). Pub. L. 99–145, §723(b)(1), substituted "widow, widower, or former spouse" for "widow or widower" wherever appearing.

Subsec. (k)(1). Pub. L. 99–145, §717(1), (2), designated existing provisions as par. (1) and substituted "had never been made." for "had never been made, but such readjustment may not be made until the widow or widower repays any amount refunded under subsection (e) by reason of the adjustment under subsection (c)."

Subsec. (k)(2). Pub. L. 99–145, §717(3), added par. (2).

Subsec. (l)(1). Pub. L. 99–145, §719(6)(A), (8)(A), substituted in first sentence "the Plan" for "the plan" in two places, and substituted "retired pay" for "retired or retainer pay" before "has been suspended".

Subsec. (l)(2). Pub. L. 99–145, §719(6)(B), struck out "the provision of" before "this subchapter".

Subsec. (l)(3)(A). Pub. L. 99–145, §1303(a)(11)(B), struck out "(notwithstanding subsection (h))" before "may be collected".

Subsec. (l)(3)(A)(i). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retried or retainer pay".

**1984**—Subsec. (f)(3), (4). Pub. L. 98–525, §644, added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 98–525, §642(b)(1), substituted "Except as provided in subsection (l), an" for "An".

Subsec. (l). Pub. L. 98–525, §642(b)(2), added subsec. (l).

**1983**—Subsec. (a)(4). Pub. L. 98–94, §941(a)(3)(A), struck out "at the time the person to whom section 1448 applies became entitled to retired or retainer pay" after "section 1448(b) of this title".

Subsec. (f)(1). Pub. L. 98–94, §941(a)(3)(B), inserted "(without regard to the eligibility of the person making the change of election to make an election under such section)" after "section 1448(a)(5) of this title".

Pub. L. 98–94, §941(c)(3)(A), struck out "of this subsection" after "subject to paragraph (2)".

Subsec. (f)(2). Pub. L. 98–94, §941(c)(3)(B), substituted "or annulment," for "annulment, or legal separation,".

**1982**—Subsec. (a)(4). Pub. L. 97–252, §1003(c), substituted "former spouse or other natural person" for "natural person" and "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)" for "if there is no eligible beneficiary under clause (1) or clause (2)".

Subsec. (f). Pub. L. 97–252, §1003(d), designated existing provisions as par. (1), substituted "A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection," for "An unmarried person who elects to provide an annuity to a person designated by him under subsection (a)(4), but who later marries or acquires a dependent child,", inserted provision that the Secretary concerned notify the former spouse or such other natural person previously designated under section 1448(b) of any such change in election, and added pars. (2) and (3).

**1981**—Subsec. (d). Pub. L. 97–22 substituted "Office of Personnel Management" for "Civil Service Commission".

**1978**—Subsec. (a). Pub. L. 95–397, §203(1), inserted "(or on such other day as he may provide under subsection (j))" after "death of a person to whom section 1448 of this title applies".

Subsec. (d). Pub. L. 95–397, §207(b), substituted "section 8339(j)" for "section 8339(i)".

Subsec. (f). Pub. L. 95–397, §207(c), substituted "section 1448(a)(5)" for "the last three sentences of section 1448(a)".

Subsecs. (j), (k). Pub. L. 95–397, §203(2), added subsecs. (j) and (k).

**1976**—Subsec. (a)(3), (4). Pub. L. 94–496, §1(3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f). Pub. L. 94–496, §1(4), substituted "(a)(4)" for "(a)(3)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116–92 effective on the first day of the first month that begins after Dec. 20, 2019, see section 622(f) of Pub. L. 116–92, set out as a note under section 1448 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title VI, §622(c), Aug. 13, 2018, 132 Stat. 1800, provided that: "The amendments

made by this section [amending this section] shall take effect on December 1, 2018."

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by section 642(d) of Pub. L. 114–328 inapplicable to accural of annuity benefits under subchapter II of chapter 73 of this title for any period prior to Dec. 23, 2016, with provisions for election of benefits payable to dependent children, see section 642(e) of Pub. L. 114–328, set out as a note under section 1448 of this title.

**EFFECTIVE DATE OF 2013 AMENDMENT**

Pub. L. 112–239, div. A, title VI, §641(c), Jan. 2, 2013, 126 Stat. 1783, provided that: "The amendments made by this section [amending this section and section 1452 of this title] shall apply with respect to any participant electing an annuity for survivors under chapter 84 of title 5, United States Code, on or after the date of the enactment of this Act [Jan. 2, 2013]."

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–417, [div. A], title VI, §631(b), Oct. 14, 2008, 122 Stat. 4492, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to the month beginning on October 1, 2008, and subsequent months as provided by paragraph (6) of subsection (m) of section 1450 of title 10, United States Code, as added by section 644 of the National Defense Authorization Act for Fiscal Year 2008 [Pub. L. 110–181]."

Pub. L. 110–181, div. A, title VI, §643(b), Jan. 28, 2008, 122 Stat. 157, provided that: "Paragraph (3) of subsection (c) of section 1450 of title 10, United States Code, as added by subsection (a), shall apply with respect to the recoupment on or after April 1, 2008, of amounts subject to offset under such subsection."

**EFFECTIVE DATE OF 1997 AMENDMENT**

Pub. L. 105–85, div. A, title VI, §642(b), Nov. 18, 1997, 111 Stat. 1799, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to marriages occurring before, on, or after the date of the enactment of this Act [Nov. 18, 1997]."

**EFFECTIVE DATE OF 1987 AMENDMENTS**

Pub. L. 100–180, div. A, title VI, §636(b), Dec. 4, 1987, 101 Stat. 1106, provided that: "The amendment made by subsection (a) [amending this section] shall apply as if included in the amendments made by section 643(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3886) [amending this section]."

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–661, div. A, title VI, §641(c), Nov. 14, 1986, 100 Stat. 3886, provided that: "The amendments made by this section [amending this section and section 1448 of this title] apply to court orders issued on or after the date of the enactment of this Act [Nov. 14, 1986]."

Pub. L. 99–661, div. A, title VI, §643(b), Nov. 14, 1986, 100 Stat. 3886, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to remarriages that occur on or after the date of the enactment of this Act [Nov. 14, 1986], but only with respect to payments for periods after the date of the enactment of this Act."

**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by title VII of Pub. L. 99–145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99–145, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS**

Amendment by Pub. L. 97–252 effective Feb. 1, 1983, and applicable to persons becoming eligible to participate in Survivor Benefit Plan provided for in this subchapter before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97–252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95–397, set out as a note

under section 1447 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by Pub. L. 94–496 effective Sept. 21, 1972, see section 3 of Pub. L. 94–496, set out as a note under section 1447 of this title.

**PROHIBITION ON RETROACTIVE BENEFITS**

Pub. L. 116–92, div. A, title VI, §622(b), Dec. 20, 2019, 133 Stat. 1427, provided that: "No benefits may be paid to any person for any period before the effective date provided under subsection (f) [enacting provisions set out as a note under section 1448 of this title] by reason of the amendments made by subsection (a) [amending this section and section 1451 of this title]."

**PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS**

Pub. L. 116–92, div. A, title VI, §622(c), Dec. 20, 2019, 133 Stat. 1427, provided that: "A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) [enacting provisions set out as a note under section 1448 of this title] and that is adjusted by reason of the amendments made by subsection (a) [amending this section and section 1451 of this title] and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States."

**RECOMPUTATION OF ANNUITIES**

Pub. L. 108–375, div. A, title VI, §644(c), Oct. 28, 2004, 118 Stat. 1961, as amended by Pub. L. 110–417, [div. A], title VI, §632, Oct. 14, 2008, 122 Stat. 4493, provided that:

"(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

"(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

"(B) each supplemental survivor annuity under [former] section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

"(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

"(A) October 2005.

"(B) April 2006.

"(C) April 2007.

"(D) April 2008.

"(3) SAVINGS PROVISION.—If, as a result of the recomputation of annuities under section 1450 of title 10, United States Code, and supplemental survivor annuities under [former] section 1457 of such title, as required by paragraph (1), the total amount of both annuities to be paid to an annuitant for a month would be less (because of the offset required by section 1450(c) of such title for dependency and indemnity compensation) than the amount that would be paid to the annuitant in the absence of recomputation, the Secretary of Defense shall take such actions as are necessary to adjust the annuity amounts to eliminate the reduction."

[Pub. L. 110–417, [div. A], title VI, §632, Oct. 14, 2008, 122 Stat. 4493, provided that the amendment made by that section to section 644(c) of Pub. L. 108–375, set out above, is effective as of Oct. 28, 2004, and as if included in section 644(c) of Pub. L. 108–375 as enacted.]

**EFFECTUATION OF INTENDED SBP ANNUITY FOR FORMER SPOUSE WHEN NOT ELECTED BY REASON OF UNTIMELY DEATH OF RETIREE**

Pub. L. 106–65, div. A, title VI, §657, Oct. 5, 1999, 113 Stat. 668, as amended by Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(1)(D)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that:

"(a) CASES NOT COVERED BY EXISTING AUTHORITY.—Paragraph (3) of section 1450(f) of title 10, United States Code, as in effect on the date of the enactment of this Act [Oct. 5, 1999], shall apply in the case

of a former spouse of any person referred to in that paragraph who—

"(1) incident to a proceeding of divorce, dissolution, or annulment—

"(A) entered into a written agreement on or after August 19, 1983, to make an election under section 1448(b) of such title to provide an annuity to the former spouse (the agreement thereafter having been incorporated in or ratified or approved by a court order or filed with the court of appropriate jurisdiction in accordance with applicable State law); or

"(B) was required by a court order dated on or after such date to make such an election for the former spouse; and

"(2) before making the election, died within 21 days after the date of the agreement referred to in paragraph (1)(A) or the court order referred to in paragraph (1)(B), as the case may be.

"(b) ADJUSTED TIME LIMIT FOR REQUEST BY FORMER SPOUSE.—For the purposes of paragraph (3)(C) of section 1450(f) of title 10, United States Code, a court order or filing referred to in subsection (a)(1) of this section that is dated before October 19, 1984, shall be deemed to be dated on the date of the enactment of this Act [Oct. 5, 1999]."

[Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that: "In the case of any former spouse to whom paragraph (3) of section 1450(f) of title 10, United States Code, applies by reason of the amendment made by paragraph (1)(D) [amending section 657 of Pub. L. 106–65, set out above], the provisions of subsection (b) of section 657 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65, set out above] shall be applied by using the date of the enactment of this Act [Oct. 30, 2000], rather than the date of the enactment of that Act [Oct. 5, 1999]."]

## §1451. Amount of annuity

(a) COMPUTATION OF ANNUITY FOR A SPOUSE, FORMER SPOUSE, OR CHILD.—

(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(5)), the monthly annuity payable to the beneficiary shall be determined as follows:

(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be the amount equal to 55 percent of the base amount.

(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to the product of the base amount and the percent applicable to the month, as follows:

(I) For a month before October 2005, the applicable percent is 35 percent.

(II) For months after September 2005 and before April 2006, the applicable percent is 40 percent.

(III) For months after March 2006 and before April 2007, the applicable percent is 45 percent.

(IV) For months after March 2007 and before April 2008, the applicable percent is 50 percent.

(V) For months after March 2008, the applicable percent is 55 percent.

(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(5)), the monthly annuity payable to the beneficiary shall be determined as follows:

(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be

the amount equal to a percentage of the base amount that—

(i) is less than 55 percent; and

(ii) is determined under subsection (f).

(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to a percentage of the base amount that—

(I) is less than the percent specified under subsection (a)(1)(B)(i) as being applicable for the month; and

(II) is determined under subsection (f).

(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

(b) INSURABLE INTEREST BENEFICIARY.—

(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a)(5) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to 55 percent of the retired pay of the person who elected to provide the annuity after the reduction in that pay in accordance with section 1452(c) of this title.

(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a)(5) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to a percentage of the retired pay of the person who elected to provide the annuity after the reduction in such pay in accordance with section 1452(c) of this title that—

(A) is less than 55 percent; and

(B) is determined under subsection (f).

(3) COMPUTATION OF RESERVE-COMPONENT ANNUITY WHEN PARTICIPANT DIES BEFORE AGE 60.—For the purposes of paragraph (2), a person—

(A) who provides an annuity that is determined in accordance with that paragraph;

(B) who dies before becoming 60 years of age; and

(C) who at the time of death is otherwise entitled to retired pay,

shall be considered to have been entitled to retired pay at the time of death. The retired pay of such person for the purposes of such paragraph shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity provided by such person is to become effective in accordance with the designation of such person under section 1448(e) of this title.

(c) ANNUITIES FOR SURVIVORS OF CERTAIN PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—

(1) IN GENERAL.—In the case of an annuity provided under section 1448(d) or 1448(f) of this title, the amount of the annuity shall be determined as follows:

(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the person receiving the annuity is under 62 years of age or is a dependent child when the member or former member dies, the monthly annuity shall be the amount equal to 55 percent of the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay when he died determined as follows:

(i) In the case of an annuity provided under section 1448(d) or 1448(f) of this title (other

than in a case covered by clause (ii) or (iii)), such retired pay shall be computed as if the member had been retired under section 1201 of this title on the date of the member's death with a disability rated as total.

(ii) In the case of an annuity provided under section 1448(d)(1)(A) of this title by reason of the death of a member not in line of duty, such retired pay shall be computed based upon the member's years of active service when he died.

(iii) In the case of an annuity provided under section 1448(f)(1)(A) of this title by reason of the death of a member or former member not in line of duty, such retired pay shall be computed based upon the member or former member's years of service when he died computed under section 12733 of this title.

(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

(i) GENERAL RULE.—If the person receiving the annuity (other than a dependent child) is 62 years of age or older when the member or former member dies, the monthly annuity shall be the amount equal to the applicable percent of the retired pay to which the member or former member would have been entitled as determined under subparagraph (A). The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.

(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

(2) DIC OFFSET.—An annuity computed under paragraph (1) that is paid to a surviving spouse shall be reduced by a portion (calculated under section 1450(c) of this title) of the amount of dependency and indemnity compensation to which the surviving spouse is entitled under section 1311(a) of title 38. Any such reduction shall be effective on the date of the commencement of the period of payment of such compensation under title 38.

(3) SERVICEMEMBERS NOT YET GRANTED RETIRED PAY.—In the case of an annuity provided by reason of the service of a member described in clause (ii) or (iii) of section 1448(d)(1)(A) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined for purposes of paragraph (1) based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.

(4) RATE OF PAY TO BE USED IN COMPUTING ANNUITY.—In the case of an annuity paid under section 1448(f) of this title by reason of the service of a person who first became a member of a uniformed service before September 8, 1980, the retired pay of the person providing the annuity shall for the purposes of paragraph (1) be computed on the basis of the rates of basic pay in effect on the effective date of the annuity.

(d) REDUCTION OF ANNUITIES AT AGE 62.—

(1) REDUCTION REQUIRED.—The annuity of a person whose annuity is computed under subparagraph (A) of subsection (a)(1), (a)(2), or (c)(1) shall be reduced on the first day of the month after the month in which the person becomes 62 years of age.

(2) AMOUNT OF ANNUITY AS REDUCED.—

(A) COMPUTATION OF ANNUITY.—Except as provided in subparagraph (B), the reduced amount of the annuity shall be the amount of the annuity that the person would be receiving on that date if the annuity had initially been computed under subparagraph (B) of that subsection.

(B) SAVINGS PROVISION FOR BENEFICIARIES ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—In the case of a person eligible to have an annuity computed under subsection (e) and for whom, at the time the person becomes 62 years of age, the annuity

computed with a reduction under subsection (e)(3) is more favorable than the annuity with a reduction described in subparagraph (A), the reduction in the annuity shall be computed in the same manner as a reduction under subsection (e)(3).

(e) SAVINGS PROVISION FOR CERTAIN BENEFICIARIES.—

(1) PERSONS COVERED.—The following beneficiaries under the Plan are eligible to have an annuity under the Plan computed under this subsection:

(A) A beneficiary receiving an annuity under the Plan on October 1, 1985, as the surviving spouse or former spouse of the person providing the annuity.

(B) A spouse or former spouse beneficiary of a person who on October 1, 1985—

(i) was a participant in the Plan;

(ii) was entitled to retired pay or was qualified for that pay except that he had not applied for and been granted that pay; or

(iii) would have been eligible for reserve-component retired pay but for the fact that he was under 60 years of age.

(2) AMOUNT OF ANNUITY.—Subject to paragraph (3), an annuity computed under this subsection is determined as follows:

(A) STANDARD ANNUITY.—In the case of the beneficiary of a standard annuity, the annuity shall be the amount equal to 55 percent of the base amount.

(B) RESERVE-COMPONENT ANNUITY.—In the case of the beneficiary of a reserve-component annuity, the annuity shall be the percentage of the base amount that—

(i) is less than 55 percent; and

(ii) is determined under subsection (f).

(C) BENEFICIARIES OF PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—In the case of the beneficiary of an annuity under section 1448(d) or 1448(f) of this title, the annuity shall be the amount equal to 55 percent of the retired pay of the person providing the annuity (as that pay is determined under subsection (c)).

(3) SOCIAL SECURITY OFFSET.—An annuity computed under this subsection shall be reduced by the lesser of the following:

(A) SOCIAL SECURITY COMPUTATION.—The amount of the survivor benefit, if any, to which the surviving spouse (or the former spouse, in the case of a former spouse beneficiary who became a former spouse under a divorce that became final after November 29, 1989) would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lives to age 65.

(B) MAXIMUM AMOUNT OF REDUCTION.—40 percent of the amount of the monthly annuity as determined under paragraph (2).

(4) SPECIAL RULES FOR SOCIAL SECURITY OFFSET COMPUTATION.—

(A) TREATMENT OF DEDUCTIONS MADE ON ACCOUNT OF WORK.—For the purpose of paragraph (3), a surviving spouse (or a former spouse, in the case of a person who becomes a former spouse under a divorce that becomes final after November 29, 1989) shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

(B) TREATMENT OF CERTAIN PERIODS FOR WHICH SOCIAL SECURITY REFUNDS ARE MADE.—In the computation of any reduction made under paragraph (3), there shall be excluded any period of service described in section 210(l)(1) of the Social Security Act (42 U.S.C. 410(l)(1))—

(i) which was performed after December 1, 1980; and

(ii) which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1986 of the social security tax which the person had paid.

(f) DETERMINATION OF PERCENTAGES APPLICABLE TO COMPUTATION OF RESERVE-COMPONENT ANNUITIES.—The percentage to be applied in determining the amount of an annuity computed under subsection (a)(2), (b)(2), or (e)(2)(B) shall be determined under regulations prescribed by the Secretary of Defense. Such regulations shall be prescribed taking into consideration the following:

(1) The age of the person electing to provide the annuity at the time of such election.

(2) The difference in age between such person and the beneficiary of the annuity.

(3) Whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth.

(4) Appropriate group annuity tables.

(5) Such other factors as the Secretary considers relevant.

(g) ADJUSTMENTS TO ANNUITIES.—

(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

(A) INCREASES IN ANNUITIES WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), each annuity that is payable under the Plan shall be increased at the same time.

(B) PERCENTAGE OF INCREASE.—The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).

(C) CERTAIN REDUCTIONS TO BE DISREGARDED.—The amount of the increase shall be based on the monthly annuity payable before any reduction under section 1450(c) of this title or under subsection (c)(2).

(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(h) ADJUSTMENTS TO BASE AMOUNT.—

(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

(A) INCREASES IN BASE AMOUNT WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time.

(B) PERCENTAGE OF INCREASE.—The increase shall be by the same percent as the percent by which the retired pay of the participant is so increased.

(2) RECOMPUTATION AT AGE 62.—When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the base amount applicable to that person shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of the base amount that would be in effect on that date if increases in such base amount under paragraph (1) had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

(3) DISREGARDING OF RETIRED PAY REDUCTIONS FOR RETIREMENT OF CERTAIN MEMBERS BEFORE 30 YEARS OF SERVICE.—Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.

(i) RECOMPUTATION OF ANNUITY FOR CERTAIN BENEFICIARIES.—In the case of an annuity under the Plan which is computed on the basis of the retired pay of a person who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who dies before attaining that age, the annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases under subsection (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 709; amended Pub. L. 94–496, §1(4), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §204, Sept. 30, 1978, 92 Stat. 846; Pub. L. 96–402, §3, Oct. 9, 1980, 94 Stat. 1705; Pub. L. 97–22, §11(a)(4), July 10, 1981, 95 Stat. 137; Pub. L. 98–94, title IX, §922(a)(14)(B), Sept. 24, 1983, 97 Stat. 642; Pub. L. 98–525, title VI, §641(a), Oct. 19, 1984, 98 Stat. 2545; Pub. L. 99–145, title VII, §711(a), (b), Nov. 8, 1985, 99 Stat. 666, 670; Pub. L. 99–348, title III, §301(a)(2), (b), (c), July 1, 1986, 100 Stat. 702; Pub. L. 99–661, div. A, title VI, §642(b), title XIII, §1343(a)(8)(D), Nov. 14, 1986, 100 Stat. 3886, 3992; Pub. L. 100–26, §7(h)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–224, §3(a), (c), Dec. 30, 1987, 101 Stat. 1537; Pub. L. 100–456, div. A, title VI, §652(a), Sept. 29, 1988, 102 Stat. 1991; Pub. L. 101–189, div. A, title XIV, §§1403(a), 1407(a)(5)–(8), (b)(1), Nov. 29, 1989, 103 Stat. 1579, 1588, 1589; Pub. L. 103–337, div. A, title X, §1070(e)(4), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2566; Pub. L. 105–85, div. A, title X, §1073(a)(28), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 106–65, div. A, title VI, §643(a)(1), Oct. 5, 1999, 113 Stat. 663; Pub. L. 107–107, div. A, title VI, §642(b), (c)(2), Dec. 28, 2001, 115 Stat. 1152; Pub. L. 107–314, div. A, title X, §1062(a)(6), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–375, div. A, title VI, §644(a), Oct. 28, 2004, 118 Stat. 1960; Pub. L. 114–328, div. A, title VI, §642(a), Dec. 23, 2016, 130 Stat. 2164; Pub. L. 115–91, div. A, title X, §1081(a)(25), Dec. 12, 2017, 131 Stat. 1595; Pub. L. 116–92, div. A, title VI, §622(a)(2), Dec. 20, 2019, 133 Stat. 1427.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(3)(A), (4)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 6413(c) of the Internal Revenue Code of 1986, referred to in subsec. (e)(4)(B)(ii), is classified to section 6413(c) of Title 26, Internal Revenue Code.

### AMENDMENTS

**2019**—Subsec. (c)(2). Pub. L. 116–92 inserted "a portion (calculated under section 1450(c) of this title) of" before "the amount".

**2017**—Subsecs. (a), (b). Pub. L. 115–91 substituted "section 1450(a)(5)" for "section 1450(a)(4)" in two places.

**2016**—Subsec. (c)(1)(A)(i). Pub. L. 114–328, §642(a)(1), inserted "or 1448(f)" after "section 1448(d)" and "or (iii)" after "clause (ii)".

Subsec. (c)(1)(A)(iii). Pub. L. 114–328, §642(a)(2), substituted "section 1448(f)(1)(A) of this title by reason of the death of a member or former member not in line of duty" for "section 1448(f) of this title" and "service" for "active service".

**2004**—Subsec. (a)(1)(B)(i). Pub. L. 108–375, §644(a)(1)(A), substituted "the product of the base amount and the percent applicable to the month, as follows:" and subcls. (I) to (V) for "35 percent of the base amount."

Subsec. (a)(1)(B)(ii). Pub. L. 108–375, §644(a)(1)(B), struck out ", at the time the beneficiary becomes entitled to the annuity," after "subsection (e) and if".

Subsec. (a)(2)(B)(i)(I). Pub. L. 108–375, §644(a)(2), substituted "the percent specified under subsection

(a)(1)(B)(i) as being applicable for the month" for "35 percent".

Subsec. (c)(1)(B)(i). Pub. L. 108–375, §644(a)(3)(A), substituted "the applicable percent" for "35 percent" and inserted at end "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month."

Subsec. (c)(1)(B)(ii). Pub. L. 108–375, §644(a)(3)(B), struck out ", at the time the beneficiary becomes entitled to the annuity," after "subsection (e) and if".

Subsec. (d)(2)(A). Pub. L. 108–375, §644(a)(4), substituted "Computation of annuity" for "35 percent annuity" in heading.

**2002**—Subsec. (c)(3). Pub. L. 107–314 struck out "section" before "clause (ii)".

**2001**—Subsec. (c)(1)(A). Pub. L. 107–107, §642(b)(1), substituted "when he died determined as follows:" and cls. (i) to (iii) for "based upon his years of active service when he died."

Subsec. (c)(1)(B)(i). Pub. L. 107–107, §642(b)(2), substituted "as determined under subparagraph (A)" for "if the member or former member had been entitled to that pay based upon his years of active service when he died".

Subsec. (c)(3). Pub. L. 107–107, §642(c)(2), substituted "clause (ii) or (iii) of section 1448(d)(1)(A)" for "1448(d)(1)(B) or 1448(d)(1)(C)".

**1999**—Subsec. (h)(3). Pub. L. 106–65 inserted "OF CERTAIN MEMBERS" after "RETIREMENT" in heading.

**1997**—Subsec. (a)(2). Pub. L. 105–85 substituted "ANNUITY.—" for "ANNUITY—" in heading.

**1996**—Pub. L. 104–201 amended section generally, revising and restating provisions relating to amounts of annuities and inserting subsec., par., and subpar. headings.

**1994**—Subsec. (c)(2). Pub. L. 103–337 substituted "section 1311(a) of title 38" for "section 411(a) of title 38".

**1989**—Subsec. (c)(3). Pub. L. 101–189, §1403(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "In the case of an annuity provided by a member described in section 1448(d)(1)(C) of this title, the retired pay to which the member would have been entitled when he died shall be determined based upon the rate of basic pay in effect at the time of death for the highest grade other than a commissioned officer grade in which the member served on active duty satisfactorily, as determined by the Secretary concerned."

Subsec. (c)(4). Pub. L. 101–189, §1407(a)(5), inserted "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980".

Subsec. (e)(1). Pub. L. 101–189, §1407(a)(6), substituted "beneficiaries under the Plan" for "beneficiaries under the plan" in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 101–189, §1407(a)(7), in cl. (i), substituted "was" for "is", in cl. (ii), substituted "was" for "is" in two places and "had" for "has", and in cl. (iii), substituted "would have been" for "would be" and "was" for "is".

Subsec. (e)(2)(A), (B). Pub. L. 101–189, §1407(a)(8), struck out "(as the base amount is adjusted from time to time under section 1401a of this title)" after "base amount".

Subsec. (e)(3)(A), (4)(A). Pub. L. 101–189, §1407(b)(1), inserted "or former spouse" after "widow or widower".

**1988**—Subsec. (e)(1). Pub. L. 100–456 substituted "widow, widower, or former spouse" for "widow or widower" in subpar. (A), and inserted "or former spouse" after "A spouse" in subpar. (B).

**1987**—Subsec. (a)(1)(A), (B), (2)(A), (B). Pub. L. 100–224, §3(a)(2), struck out "(as the base amount is adjusted from time to time under section 1401a of this title)" after "base amount".

Subsec. (e)(4)(B)(ii). Pub. L. 100–26 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

Subsec. (h). Pub. L. 100–224, §3(a)(1), designated existing provisions of subsec. (h) as par. (3) and added pars. (1) and (2).

Subsec. (i). Pub. L. 100–224, §3(c), substituted "so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases under subsection (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section)" for "on the basis of the amount of retired pay to which the member or former member would have been entitled upon recomputation of such pay effective on such date under section 1410 of this title, had the member or former member attained such age".

**1986**—Subsec. (a)(1)(A). Pub. L. 99–661, §1343(a)(8)(D), substituted "section" for "subsection" before "1401a of this title".

Pub. L. 99–661, §642(b)(1)(A), inserted "or is a dependent child".

Subsec. (a)(1)(B). Pub. L. 99–661, §642(b)(1)(B), inserted "(other than a dependent child)".

Subsec. (a)(2)(A). Pub. L. 99–661, §642(b)(1)(A), inserted "or is a dependent child".

Subsec. (a)(2)(B). Pub. L. 99–661, §642(b)(1)(B), inserted "(other than a dependent child)".

Subsec. (c)(1)(A). Pub. L. 99–661, §642(b)(2)(A), inserted "or is a dependent child".

Subsec. (c)(1)(B). Pub. L. 99–661, §642(b)(2)(B), inserted "(other than a dependent child)".

Subsec. (g)(1). Pub. L. 99–348, §301(b), struck out "by the same total percent" after "same time" in first sentence, and inserted provision that the increase, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive, and otherwise entitled to such pay.

Subsecs. (h), (i). Pub. L. 99–348, §301(a)(2), (c), added subsecs. (h) and (i).

**1985**—Pub. L. 99–145, §711(a), amended section generally, eliminating the social security offset to the Plan and establishing a two-tier system under which the beneficiary would receive 55 percent of retired pay before age 62 and 35 percent thereafter in recognition of the entitlement to social security based on military service, and providing benefits to certain beneficiaries under either the old social security offset system or the new two-tier system, whichever is higher.

Subsec. (a)(3). Pub. L. 99–145, §711(b), repealed Pub. L. 98–525, §641(a), effective Sept. 1, 1985. See 1984 Amendment note below.

**1984**—Subsec. (a)(3). Pub. L. 98–525, §641(a), which substituted "is entitled" for "would be entitled" after "widow or widower" in first sentence and inserted "or to the extent that the benefit to which the beneficiary is entitled is based on the beneficiary's own earnings or self-employment" at end of second sentence, was repealed effective Sept. 1, 1985, by Pub. L. 99–145, §711(b). See Effective Date of 1984 Amendment note below.

**1983**—Subsec. (e). Pub. L. 98–94 added subsec. (e).

**1981**—Subsec. (a)(4). Pub. L. 97–22 substituted "December 1, 1980" for "the effective date of the Uniformed Services Survivor Benefits Amendments of 1980".

**1980**—Subsec. (a). Pub. L. 96–402, §3(a), in revising subsec. (a), designated as par. (1)(A) and (B) existing first sentence containing cls. (1) and (2) and provided in subpar. (A) for adjustment of the annuity from time to time under section 1401a of this title and in subpar. (B) for a similar adjustment after the date the person becomes entitled to retired pay under chapter 67 of this title; designated as par. (2) existing second sentence but provided for reduction of the annuity by the lesser of amounts indicated in subpar. (A) or (B), previously limited to reduction by amount prescribed in predecessor of subpar. (A) provision; designated existing third and fourth sentences as par. (3) and inserted annuity reduction provision described for par. (2); and added par. (4).

Subsec. (c). Pub. L. 96–402, §3(b), substituted in first sentence "this section or under section 1448(d) of this title" for "this section, or section 1448(d) of this title, on the day before the effective day of that increase" and in second sentence "title or under" for "title, or" before "subsection (a)".

Subsec. (d). Pub. L. 96–402, §3(c), substituted reference to "subsection (a)(1)(B)" for "subsection (a)(2)".

**1978**—Subsec. (a). Pub. L. 95–397, §204(a), (b), substituted "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—" for "If the widow or widower is under age 62 or there is a dependent child, the monthly annuity payable to the widow, widower, or dependent child, under section 1450 of this title shall be equal to 55 percent of the base amount.", and added pars. (1) and (2), and substituted "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work" for "For the purpose of the preceding sentence, a widow or widower shall be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 even though that benefit has been offset by deductions under section 403 of title 42 on account of work".

Subsec. (b). Pub. L. 95–397, §204(c), substituted "The monthly annuity payable under section 1450(a)(4) of this title shall be—" for "The monthly annuity payable under section 1450(a)(4) of this title shall be 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in that retired or retainer pay in accordance with section 1452(c) of this title.", added pars. (1) and (2) and provision following par. (2) relating to the entitlement to retirement pay, and computation thereof, by a person who provided an annuity and who dies before becoming 60 years of age.

Subsec. (d). Pub. L. 95–397, §204(d), added subsec. (d).

**1976**—Subsec. (b). Pub. L. 94–496 substituted "(a)(4)" for "(a)(3)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116–92 effective on the first day of the first month that begins after Dec. 20, 2019, see section 622(f) of Pub. L. 116–92, set out as a note under section 1448 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114–328 inapplicable to accural of annuity benefits under subchapter II of chapter 73 of this title for any period prior to Dec. 23, 2016, with provisions for election of benefits payable to dependent children, see section 642(e) of Pub. L. 114–328, set out as a note under section 1448 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Amendment by Pub. L. 107–107 effective Sept. 10, 2001, and applicable with respect to deaths of members of the Armed Forces occurring on or after that date, see section 642(d) of Pub. L. 107–107, set out as a note under section 1448 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Amendment by Pub. L. 106–65 effective Oct. 1, 1999, see section 644 of Pub. L. 106–65, set out as a note under section 1401a of this title.

**EFFECTIVE DATE OF 1989 AMENDMENT**

Pub. L. 101–189, div. A, title XIV, §1407(b)(2), Nov. 29, 1989, 103 Stat. 1589, provided that: "The amendments made by paragraph (1) [amending this section] shall apply only with respect to the computation of an annuity for a person who becomes a former spouse under a divorce that becomes final after the date of the enactment of this Act [Nov. 29, 1989]."

**EFFECTIVE DATE OF 1988 AMENDMENT**

Pub. L. 100–456, div. A, title VI, §652(b), Sept. 29, 1988, 102 Stat. 1991, provided that: "The amendments made by subsection (a) [amending this section] shall apply to payments under the Survivor Benefit Plan established under subchapter II of chapter 73 of title 10, United States Code, for periods after February 28, 1986."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by section 642(b) of Pub. L. 99–661 applicable to payments for periods after Feb. 28, 1986, see section 642(c) of Pub. L. 99–661, set out as a note under section 1448 of this title.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by section 711(a) of Pub. L. 99–145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99–145, set out as a note under section 1447 of this title.

Pub. L. 99–145, title VII, §711(b), Nov. 8, 1985, 99 Stat. 670, provided that the repeal of section 641 of Pub. L. 98–525 [amending this section and enacting provision set out below] is effective Sept. 1, 1985.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Section 641(b) of Pub. L. 98–525, which provided that the amendments made by subsection (a), amending this section, was applicable only in the case of payments of annuities payable for periods that began on or after Sept. 30, 1985, was repealed effective Sept. 1, 1985, by section 711(b) of Pub. L. 99–145.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–402 effective Dec. 1, 1980, applicable to annuities payable for months beginning on or after such date, and prohibiting accrual of benefits for any period before Oct. 9, 1980, see section 7 of Pub. L. 96–402, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95–397, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by Pub. L. 94–496 effective Sept. 11, 1972, see section 3 of Pub. L. 94–496, set out as a note under section 1447 of this title.

**ADJUSTMENT OF ANNUITIES FOR SURVIVORS OF CERTAIN MEMBERS WHO DIED WHILE ON ACTIVE DUTY BETWEEN SEPTEMBER 21, 1972 AND NOVEMBER 29, 1990**

Pub. L. 101–189, div. A, title XIV, §1403(b)–(d), Nov. 29, 1989, 103 Stat. 1579, provided that:

"(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

"(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in subsection (d) is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) or 1448(d)(1)(C) of title 10, United States Code, and who is further described in subsection (c).

"(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in subsection (d) if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as amended by subsection (a).

"(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

"(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in subsection (d); and

"(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

"(d) EFFECTIVE DATE.—An annuity recomputed under subsection (b) shall take effect as so recomputed on March 1, 1990."

## §1452. Reduction in retired pay

(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

(A) STANDARD ANNUITY.—If the annuity coverage being provided is a standard annuity, the reduction shall be as follows:

(i) DISABILITY AND NONREGULAR SERVICE RETIREES.—In the case of a person who is entitled to retired pay under chapter 61 or chapter 1223 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(ii) MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(iii) NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 1223 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

(iv) ALTERNATIVE REDUCTION AMOUNTS.—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

(I) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount.

(II) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

(B) RESERVE-COMPONENT ANNUITY.—If the annuity coverage being provided is a

reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

(i) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(ii) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(2) ADDITIONAL REDUCTION FOR CHILD COVERAGE.—If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1) shall be increased by an amount prescribed under regulations of the Secretary of Defense.

(3) NO REDUCTION WHEN NO BENEFICIARY.—The reduction in retired pay prescribed by paragraph (1) shall not be applicable during any month in which there is no eligible spouse or former spouse beneficiary.

(4) PERIODIC ADJUSTMENTS.—

(A) ADJUSTMENTS FOR INCREASES IN RATES OF BASIC PAY.—Whenever there is an increase in the rates of basic pay of members of the uniformed services effective on or after October 1, 1985, the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be increased by the overall percentage of such increase in the rates of basic pay. The increase under the preceding sentence shall apply only with respect to persons whose retired pay is computed based on the rates of basic pay in effect on or after the date of such increase in rates of basic pay.

(B) ADJUSTMENTS FOR RETIRED PAY COLAS.—In addition to the increase under subparagraph (A), the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be further increased at the same time and by the same percentage as an increase in retired pay under section 1401a of this title effective on or after October 1, 1985. Such increase under the preceding sentence shall apply only with respect to a person who initially participates in the Plan on a date which is after both the effective date of such increase under section 1401a and the effective date of the rates of basic pay upon which that person's retired pay is computed.

(5) SPOUSE COVERAGE DESCRIBED.—For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.

(b) CHILD-ONLY ANNUITIES.—

(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled

to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

(A) does not have an eligible spouse or former spouse; or

(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

(c) REDUCTION FOR INSURABLE INTEREST COVERAGE.—

(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(5) of this title shall be reduced as follows:

(A) STANDARD ANNUITY.—In the case of a person providing a standard annuity, the reduction shall be by 10 percent plus 5 percent for each full five years the individual designated is younger than that person.

(B) RESERVE COMPONENT ANNUITY.—In the case of a person providing a reserve-component annuity, the reduction shall be by an amount prescribed under regulations of the Secretary of Defense.

(2) LIMITATION ON TOTAL REDUCTION.—The total reduction under paragraph (1) may not exceed 40 percent.

(3) DURATION OF REDUCTION.—The reduction in retired pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(5) of this title or until the person receiving retired pay changes his election under section 1450(f) of this title.

(4) RULE FOR COMPUTATION.—Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) or 1415(b)(1)(B) of this title.

(5) RULE FOR DESIGNATION OF NEW INSURABLE INTEREST BENEFICIARY FOLLOWING DEATH OF ORIGINAL BENEFICIARY.—The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the same number of years younger than the participant (if any) as the new beneficiary designated under the election.

(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(d) DEPOSITS TO COVER PERIODS WHEN RETIRED PAY NOT PAID OR NOT SUFFICIENT.—

(1) REQUIRED DEPOSITS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, that person must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period, except to the extent that the required deduction is made pursuant to paragraph (2).

(2) DEDUCTION FROM COMBAT-RELATED SPECIAL COMPENSATION WHEN RETIRED PAY NOT ADEQUATE.—In the case of a person who has elected to participate in the Plan and who has been awarded both retired pay and combat-related special compensation under section 1413a of this title, if a deduction from the person's retired pay for any period cannot be made in the full amount required, there shall be deducted from the person's combat-related special compensation in lieu of deduction from the person's retired pay the amount that would otherwise have been deducted from the person's retired pay for that period.

(3) DEPOSITS NOT REQUIRED WHEN PARTICIPANT ON ACTIVE DUTY.—Paragraphs (1) and (2) do not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

(e) DEPOSITS NOT REQUIRED FOR CERTAIN PARTICIPANTS IN CSRS AND FERS .—When a person who has elected to participate in the Plan waives that person's retired pay for the purposes of subchapter III of chapter 83 of title 5 or chapter 84 of such title, that person shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(j) or 8416(a) of title 5, that person has notified the Office of Personnel Management that he does not desire a spouse surviving him to receive an annuity under section 8341(b) or 8442(a) of title 5.

(f) REFUNDS OF DEDUCTIONS NOT ALLOWED.—

(1) GENERAL RULE.—A person is not entitled to refund of any amount deducted from retired pay or combat-related special compensation under this section.

(2) EXCEPTIONS.—Paragraph (1) does not apply—

(A) in the case of a refund authorized by section 1450(e) of this title; or

(B) in case of a deduction made through administrative error.

(g) DISCONTINUATION OF PARTICIPATION BY PARTICIPANTS WHOSE SURVIVING SPOUSES WILL BE ENTITLED TO DIC.—

(1) DISCONTINUATION.—

(A) CONDITIONS.—Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

(B) EFFECTIVE DATE.—Participation in the Plan of a person who submits a request under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) FORM FOR REQUEST FOR DISCONTINUATION.—Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

(2) CONSENT OF BENEFICIARIES REQUIRED.—A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the

beneficiary or beneficiaries of such person under the Plan.

(3) INFORMATION ON PLAN TO BE PROVIDED BY SECRETARY CONCERNED.—

(A) INFORMATION TO BE PROVIDED PROMPTLY TO PARTICIPANT.—The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

(B) RIGHT TO WITHDRAW DISCONTINUATION REQUEST.—A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

(4) REFUND OF DEDUCTIONS FROM RETIRED PAY OR CRSC.—Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay or combat-related special compensation of that person under this section shall be refunded to the person's surviving spouse.

(5) RESUMPTION OF PARTICIPATION IN PLAN.—

(A) CONDITIONS FOR RESUMPTION.—A person described in paragraph (1) who discontinued participation in the Plan may elect to participate again in the Plan if—

(i) after having discontinued participation in the Plan the Secretary of Veterans Affairs reduces that person's service-connected disability rating to a rating of less than total; and

(ii) that person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require.

(B) EFFECTIVE DATE OF RESUMED COVERAGE.—Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan.

(C) RESUMPTION OF CONTRIBUTIONS.—When a person elects to participate in the Plan under this paragraph, the Secretary concerned shall begin making reductions in that person's retired pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on the effective date of such participation under subparagraph (B).

(h) INCREASES IN REDUCTION WITH INCREASES IN RETIRED PAY.—

(1) GENERAL RULE.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount of the reduction to be made under subsection (a) or (b) in the retired pay of any person shall be increased at the same time and by the same percentage as such retired pay is so increased.

(2) COORDINATION WHEN PAYMENT OF INCREASE IN RETIRED PAY IS DELAYED BY LAW.—

(A) IN GENERAL.—Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is for a month that begins later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104–106 (110 Stat. 364)), then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

(B) DELAY NOT TO AFFECT COMPUTATION OF ANNUITY.—Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section.

(i) RECOMPUTATION OF REDUCTION UPON RECOMPUTATION OF RETIRED PAY .—Whenever the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

(j) COVERAGE PAID UP AT 30 YEARS AND AGE 70.—Effective October 1, 2008, no reduction may be made under this section in the retired pay of a participant in the Plan for any month after the later of—

(1) the 360th month for which the participant's retired pay is reduced under this section; and

(2) the month during which the participant attains 70 years of age.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 710; amended Pub. L. 94–496, §1(4), (5), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95–397, title II, §205, Sept. 30, 1978, 92 Stat. 847; Pub. L. 96–402, §4, Oct. 9, 1980, 94 Stat. 1706; Pub. L. 97–22, §11(a)(3), (5), July 10, 1981, 95 Stat. 137; Pub. L. 99–145, title VII, §§714(a), 719(7), (8), 723(b)(2), Nov. 8, 1985, 99 Stat. 672, 675–677; Pub. L. 99–348, title III, §301(a)(3), July 1, 1986, 100 Stat. 702; Pub. L. 99–661, div. A, title XIII, §1343(a)(8)(E), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–224, §3(b), Dec. 30, 1987, 101 Stat. 1537; Pub. L. 101–189, div. A, title XIV, §§1402(a)–(c), 1407(a)(9), title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1577, 1578, 1589, 1602; Pub. L. 101–510, div. A, title XIV, §1484(l)(4)(C)(ii), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 103–337, div. A, title VI, §637(a), Oct. 5, 1994, 108 Stat. 2790; Pub. L. 104–201, div. A, title VI, §§634, 635(a), Sept. 23, 1996, 110 Stat. 2572, 2579; Pub. L. 105–85, div. A, title X, §1073(a)(29), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 105–261, div. A, title VI, §641, Oct. 17, 1998, 112 Stat. 2045; Pub. L. 106–65, div. A, title VI, §643(a)(2), Oct. 5, 1999, 113 Stat. 663; Pub. L. 109–364, div. A, title VI, §643(b), Oct. 17, 2006, 120 Stat. 2260; Pub. L. 112–239, div. A, title VI, §641(a), Jan. 2, 2013, 126 Stat. 1782; Pub. L. 114–328, div. A, title VI, §643(a), (b), Dec. 23, 2016, 130 Stat. 2165, 2166; Pub. L. 115–91, div. A, title VI, §622(b), title X, §1081(a)(26), Dec. 12, 2017, 131 Stat. 1428, 1595.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 631(b) of Public Law 104–106 (110 Stat. 364), referred to in subsec. (h)(2)(A), was set out as a note under section 1401a of this title prior to repeal by Pub. L. 104–201, div. A, title VI, §631(b), Sept. 23, 1996, 110 Stat. 2549.

### AMENDMENTS

**2017**—Subsec. (a)(1). Pub. L. 115–91, §622(b)(1), inserted ", other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title," after "the retired pay" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–91, §622(b)(2), inserted ", other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title," after "The retired pay".

Subsec. (c)(1). Pub. L. 115–91, §1081(a)(26), substituted "section 1450(a)(5)" for "section 1450(a)(4)" in introductory provisions.

Pub. L. 115–91, §622(b)(3)(A), inserted ", other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title," after "The retired pay" in introductory provisions.

Subsec. (c)(3). Pub. L. 115–91, §1081(a)(26), substituted "section 1450(a)(5)" for "section 1450(a)(4)".

Subsec. (c)(4). Pub. L. 115–91, §622(b)(3)(B), inserted "or 1415(b)(1)(B)" after "section 1409(b)(2)".

**2016**—Subsec. (d). Pub. L. 114–328, §643(b)(1)(A), inserted "or Not Sufficient" after "Not Paid" in heading.

Subsec. (d)(1). Pub. L. 114–328, §643(b)(1)(B), inserted before period at end ", except to the extent that the required deduction is made pursuant to paragraph (2)".

Subsec. (d)(2). Pub. L. 114–328, §643(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 114–328, §643(a)(1), (b)(1)(C), redesignated par. (2) as (3) and substituted "Paragraphs (1) and (2) do not" for "Paragraph (1) does not".

Subsec. (f)(1). Pub. L. 114–328, §643(b)(2), inserted "or combat-related special compensation" after "from retired pay".

Subsec. (g)(4). Pub. L. 114–328, §643(b)(3), inserted "or CRSC" after "retired pay" in heading and "or combat-related special compensation" after "from the retired pay" in text.

**2013**—Subsec. (e). Pub. L. 112–239 inserted in heading "and FERS" after "CSRS" and inserted in text "or chapter 84 of such title" after "chapter 83 of title 5", "or 8416(a)" after "8339(j)", and "or 8442(a)" after "8341(b)".

**2006**—Subsec. (c)(5). Pub. L. 109–364 added par. (5).

**1999**—Subsec. (i). Pub. L. 106–65 substituted "Whenever the retired pay" for "When the retired pay".

**1998**—Subsec. (j). Pub. L. 105–261 added subsec. (j).

**1997**—Subsec. (a)(1)(A). Pub. L. 105–85, §1073(a)(29)(A), substituted "provided" for "providing" in introductory provisions.

Subsec. (e). Pub. L. 105–85, §1073(a)(29)(B), substituted "section 8339(j)" for "section 8339(i)" and "section 8341(b)" for "section 8331(b)".

**1996**—Pub. L. 104–201, §634, amended section generally, revising and restating provisions relating to reductions in retired pay.

Subsec. (h)(2). Pub. L. 104–201, §635(a), added par. (2).

**1994**—Subsec. (b). Pub. L. 103–337 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The retired pay of a person to whom section 1448 of this title applies who has a dependent child but does not have an eligible spouse or former spouse, or who has a spouse or former spouse but has elected to provide an annuity for dependent children only, shall, as long as he has an eligible dependent child, be reduced by an amount prescribed under regulations of the Secretary of Defense."

**1990**—Subsec. (h). Pub. L. 101–510 made clarifying amendment to directory language of Pub. L. 101–189, §1407(a)(9), see 1989 Amendment note below.

**1989**—Subsec. (a). Pub. L. 101–189, §1402(a), inserted heading.

Subsec. (a)(1). Pub. L. 101–189, §1402(a), added par. (1) and struck out former par. (1) which read as follows: "Except as provided in subsection (b), the retired pay of a person to whom section 1448 of this title applies who has a spouse or former spouse, or who has a spouse or former spouse and a dependent child, and who has not elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title, or who had elected to provide such an annuity to such a person but has changed his election in favor of his spouse under section 1450(f) of this title, shall be reduced each month—

"(A) by an amount equal to 2½ percent of the first $300 (as adjusted from time to time under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount, if the person is providing a standard annuity; or

"(B) by an amount prescribed under regulations of the Secretary of Defense, if the person is providing a reserve-component annuity."

Subsec. (a)(4)(A), (B). Pub. L. 101–189, §1402(c), substituted "amounts under paragraph (1)" for "amount under paragraph (1)(A)".

Subsec. (a)(5). Pub. L. 101–189, §1402(b), added par. (5).

Subsec. (g)(1), (5). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (h). Pub. L. 101–189, §1407(a)(9), as amended by Pub. L. 101–510, inserted "(or any other provision of law)" after "Whenever retired pay is increased under section 1401a of this title" and substituted "such retired pay is so increased" for "such retired pay is increased under section 1401a of this title".

**1987**—Subsec. (i). Pub. L. 100–224 added subsec. (i).

**1986**—Subsec. (c). Pub. L. 99–348 inserted provision that computation of a member's retired pay for purposes of this subsection be made without regard to any reduction under section 1409(b)(2) of this title.

Subsec. (h). Pub. L. 99–661 struck out "and retainer" after "Whenever retired".

**1985**—Pub. L. 99–145, §719(8)(B), struck out "or retainer" after "retired" in section catchline.

Subsec. (a)(1). Pub. L. 99–145, §714(a)(1), (2), designated existing first sentence of subsec. (a) as par. (1); redesignated cl. (1) as (A), inserting "(as adjusted from time to time under paragraph (4))" after "$300" and substituting "a standard annuity" for "an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title"; and redesignated cl. (2) as (B), substituting "a reserve-component annuity" for "an annuity by virtue of eligibility under section 1448(a)(1)(B)".

Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Pub. L. 99–145, §723(b)(2)(1), inserted "or former spouse" after first two references to "spouse".

Subsec. (a)(2). Pub. L. 99–145, §714(a)(3), designated existing second sentence of subsec. (a) as par. (2), and substituted "If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1)" for "As long as there is an eligible spouse and a dependent child, that amount".

Subsec. (a)(3). Pub. L. 99–145, §714(a)(4), designated existing third sentence of subsec. (a) as par. (3), substituted "paragraph (1)" for "the first sentence of this subsection", and inserted "or former spouse" after "eligible spouse".

Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (a)(4). Pub. L. 99–145, §714(a)(5), added par. (4).

Subsec. (b). Pub. L. 99–145, §723(b)(2)(2), inserted "or former spouse" after "spouse" in two places.

Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay".

Subsec. (c). Pub. L. 99–145, §719(7), (8)(A), substituted "retired pay" for "retired or retainer pay" in three places, and substituted "a standard annuity" for "the annuity by virtue of eligibility under section 1448(a)(1)(A) of this title" in cl. (1), "a reserve-component annuity" for "the annuity by virtue of eligibility under section 1448(a)(1)(B) of this title" in cl. (2), and "this subsection" for "this section" in third sentence.

Subsecs. (d) to (h). Pub. L. 99–145, §719(8)(A), substituted "retired pay" for "retired or retainer pay" wherever appearing.

**1981**—Subsec. (e). Pub. L. 97–22, §11(a)(3), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (g)(4). Pub. L. 97–22, §11(a)(5), substituted "this section" for "section 1452 of this title".

**1980**—Subsecs. (g), (h). Pub. L. 96–402, added subsecs. (g) and (h).

**1978**—Subsec. (a). Pub. L. 95–397, §205(a), substituted pars. (1) and (2) for "by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount" after "shall be reduced each month".

Subsec. (c). Pub. L. 95–397, §205(b), substituted pars. (1) and (2) for "by 10 percent plus 5 percent for each full 5 years the individual designated is younger than that person. However, the total reduction may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f)", and inserted provision following par. (2) that the total reduction under clause (1) may not exceed 40 percent, and that the reduction in retired or retainer pay shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person changes his election under section 1450(f) of this title.

**1976**—Subsec. (a). Pub. L. 94–496, §1(4), (5)(A), substituted "Except as provided in subsection (b), the retired or retainer pay" for "The retired or retainer pay", "(a)(4)" for "(a)(3)", and inserted provision prohibiting a reduction in retired or retainer pay during any month in which there is no eligible spouse beneficiary.

Subsec. (b). Pub. L. 94–496, §1(5)(B), inserted "or who has a spouse but has elected to provide an annuity for dependent children only," after "spouse,".

Subsec. (c). Pub. L. 94–496, §1(4), (5)(C), substituted "(a)(4)" for "(a)(3)", and inserted provision directing that reduction in retired or retainer pay continue during the lifetime of a beneficiary designated under section 1450(a)(4) of this title or until such person change his election pursuant to section 1450(f) of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 applicable with respect to any participant electing an annuity for survivors under chapter 84 of Title 5, United States Code, on or after Jan. 2, 2013, see section 641(c) of Pub. L. 112–239, set out as a note under section 1450 of this title.

### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–65 effective Oct. 1, 1999, see section 644 of Pub. L. 106–65, set out as a note under section 1401a of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title VI, §635(b), Sept. 23, 1996, 110 Stat. 2579, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to retired pay payable for months beginning on or after the date of the enactment of this Act [Sept. 23, 1996]."

**EFFECTIVE DATE OF 1994 AMENDMENT**

Pub. L. 103–337, div. A, title VI, §637(b), Oct. 5, 1994, 108 Stat. 2790, provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] applies to any election for child-only coverage under a reserve-component annuity under the Survivor Benefit Plan, whether made before, on, or after the date of the enactment of this Act [Oct. 5, 1994].

"(2) Paragraph (1) does not apply in a case of an election referred to in that paragraph that was made before the date of the enactment of this Act if the participant was informed, in writing, before the date of the enactment of this Act that no reduction in the participant's retired pay for child-only coverage would be made during a period when there was no eligible dependent child."

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title XIV, §1484(l)(4)(C), Nov. 5, 1990, 104 Stat. 1720, provided that the amendment made by that section is effective Nov. 29, 1989.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title VII, §714(b), Nov. 8, 1985, 99 Stat. 673, provided that: "The amendments made by clause (5) of subsection (a) [amending this section] shall apply only with respect to persons who first participate in the Plan on or after the effective date of this title [see note below]."

Amendment by title VII of Pub. L. 99–145 effective Mar. 1, 1986, except as otherwise provided, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99–145, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–402 effective Dec. 1, 1980, applicable to annuities payable for months beginning on or after such date, and prohibiting accrual of benefits for any period before Oct. 9, 1980, see section 7 of Pub. L. 96–402, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95–397, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by Pub. L. 94–496 effective Sept. 11, 1972, see section 3 of Pub. L. 94–496, set out as a note under section 1447 of this title.

**RECOMPUTATION OF SBP PREMIUM FOR CURRENT PARTICIPANTS**

Pub. L. 101–189, div. A, title XIV, §1402(d), Nov. 29, 1989, 103 Stat. 1578, provided that:

"(1) RECOMPUTATION.—The Secretary concerned shall recompute the SBP premium of persons described in paragraph (2). Any such recomputation shall take effect on March 1, 1990.

"(2) PERSONS COVERED.—A person referred to in paragraph (1) as described in this paragraph is a person who on March 1, 1990—

"(A) is entitled to retired pay;

"(B) is providing spouse coverage (as described in paragraph (5) of section 1452[(a)] of title 10, United States Code, as added by subsection (b)); and

"(C) is subject to an SBP premium in excess of 6½ percent of the base amount of that person under the Survivor Benefit Plan.

"(3) AMOUNT OF RECOMPUTED PREMIUM.—The amount of an SBP premium recomputed under this subsection shall be 6½ percent of the base amount under the Survivor Benefit Plan of the person whose premium is recomputed.

"(4) SBP PREMIUM DEFINED.—For purposes of this subsection, the term 'SBP premium' means a reduction in retired pay under section 1452 of title 10, United States Code."

## §1453. Recovery of amounts erroneously paid

(a) RECOVERY.—In addition to any other method of recovery provided by law, the Secretary concerned may authorize the recovery of any amount erroneously paid to a person under this

subchapter by deduction from later payments to that person.

(b) AUTHORITY TO WAIVE RECOVERY.—Recovery of an amount erroneously paid to a person under this subchapter is not required if, in the judgment of the Secretary concerned—

(1) there has been no fault by the person to whom the amount was erroneously paid; and

(2) recovery of such amount would be contrary to the purposes of this subchapter or against equity and good conscience.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 710; amended Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577; Pub. L. 104–316, title I, §105(a), Oct. 19, 1996, 110 Stat. 3830.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–201 substituted "amounts" for "annuity" in section catchline and amended text generally. Prior to amendment, text read as follows: "In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience."

Subsec. (b). Pub. L. 104–316 struck out "and the Comptroller General" after "judgment of the Secretary concerned" in introductory provisions.

## §1454. Correction of administrative errors

(a) AUTHORITY.—The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

(b) FINALITY.—Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 711; amended Pub. L. 101–189, div. A, title XIV, §1407(a)(10)(A), Nov. 29, 1989, 103 Stat. 1589; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–201 amended section generally. Prior to amendment, section read as follows: "The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States."

**1989**—Pub. L. 101–189 substituted "errors" for "deficiencies" in section catchline.

## §1455. Regulations

(a) IN GENERAL.—The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services.

(b) NOTICE OF ELECTIONS.—Regulations prescribed under this section shall provide that before the date on which a member becomes entitled to retired pay—

(1) if the member is married, the member and the member's spouse shall be informed of the elections available under section 1448(a) of this title and the effects of such elections; and

(2) if the notification referred to in section 1448(a)(3)(E) of this title is required, any former

spouse of the member shall be informed of the elections available and the effects of such elections.

(c) PROCEDURE FOR DEPOSITING CERTAIN RECEIPTS.—Regulations prescribed under this section shall establish procedures for depositing the amounts referred to in sections 1448(g), 1450(k)(2), and 1452(d) of this title.

(d) PAYMENTS TO GUARDIANS, FIDUCIARIES, AND SPECIAL NEEDS TRUSTS.—

(1) IN GENERAL.—Regulations prescribed under this section shall provide procedures for the payment of an annuity under this subchapter in the case of—

(A) a person for whom a guardian or other fiduciary has been appointed;

(B) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed; and

(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).

(2) AUTHORIZED PROCEDURES.—The regulations under paragraph (1) may include provisions for the following:

(A) In the case of an annuitant referred to in paragraph (1)(A), payment of the annuity to the appointed guardian or other fiduciary.

(B) In the case of an annuitant referred to in paragraph (1)(B), payment of the annuity to any person who, in the judgment of the Secretary concerned, is responsible for the care of the annuitant.

(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.

(D) Subject to subparagraphs (E) and (F), a requirement for the payee of an annuity to spend or invest the amounts paid on behalf of the annuitant solely for benefit of the annuitant.

(E) Authority for the Secretary concerned to permit the payee to withhold from the annuity payment such amount, not in excess of 4 percent of the annuity, as the Secretary concerned considers a reasonable fee for the fiduciary services of the payee when a court appointment order provides for payment of such a fee to the payee for such services or the Secretary concerned determines that payment of a fee to such payee is necessary in order to obtain the fiduciary services of the payee.

(F) Authority for the Secretary concerned to require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant and to pay for such bond out of the annuity.

(G) A requirement for the payee of an annuity to maintain and, upon request, to provide to the Secretary concerned an accounting of expenditures and investments of amounts paid to the payee.

(H) In the case of an annuitant referred to in paragraph (1)(B) or (1)(C)—

(i) procedures for determining incompetency and for selecting a payee to represent the annuitant for the purposes of this section, including provisions for notifying the annuitant of the actions being taken to make such a determination and to select a representative payee, an opportunity for the annuitant to review the evidence being considered, and an opportunity for the annuitant to submit additional evidence before the determination is made;

(ii) standards for determining incompetency, including standards for determining the sufficiency of medical evidence and other evidence; and

(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established.

(I) Provisions for any other matter that the President considers appropriate in connection with the payment of an annuity in the case of a person referred to in paragraph (1).

(3) LEGAL EFFECT OF PAYMENT TO GUARDIAN, FIDUCIARY, OR TRUST.—An annuity paid to a person on behalf of an annuitant in accordance with the regulations prescribed pursuant to paragraph (1) discharges the obligation of the United States for payment to the annuitant of the amount of the annuity so paid.

(Added Pub. L. 92–425, §1(3), Sept. 21, 1972, 86 Stat. 711; amended Pub. L. 99–145, title VII, §724, Nov. 8, 1985, 99 Stat. 678; Pub. L. 102–190, div. A, title VI, §654(a), Dec. 5, 1991, 105 Stat. 1389; Pub. L. 104–201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577; Pub. L. 113–291, div. A, title VI, §624(b), Dec. 19, 2014, 128 Stat. 3404.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (d). Pub. L. 113–291, §624(b)(1), substituted ", FIDUCIARIES, AND SPECIAL NEEDS TRUSTS" for "AND FIDUCIARIES" in heading.

Subsec. (d)(1)(C). Pub. L. 113–291, §624(b)(2), added subpar. (C).

Subsec. (d)(2)(C). Pub. L. 113–291, §624(b)(3)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(2)(D). Pub. L. 113–291, §624(b)(3)(A), (C), redesignated subpar. (C) as (D) and substituted "subparagraphs (E) and (F)" for "subparagraphs (D) and (E)".

Subsec. (d)(2)(E) to (G). Pub. L. 113–291, §624(b)(3)(A), redesignated subpars. (D) to (F) as (E) to (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (d)(2)(H). Pub. L. 113–291, §624(b)(3)(A), (D), redesignated subpar. (G) as (H), inserted "or (1)(C)" after "(1)(B)" in introductory provisions, and added cl. (iii).

Subsec. (d)(2)(I). Pub. L. 113–291, §624(b)(3)(A), redesignated subpar. (H) as (I).

Subsec. (d)(3). Pub. L. 113–291, §624(b)(4), substituted ", FIDUCIARY, OR TRUST" for "OR FIDUCIARY" in heading.

**1996**—Pub. L. 104–201 amended section generally, revising and restating provisions relating to regulations to carry out this subchapter.

**1991**—Subsecs. (a) to (d). Pub. L. 102–190 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

**1985**—Pars. (1), (2). Pub. L. 99–145 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

"(1) provide that, when the notification referred to in section 1448(a) of this title is required, the member and his spouse shall, before the date the member becomes entitled to retired or retainer pay, be informed of the elections available and the effects of such elections; and

"(2) establish procedures for depositing the amounts referred to in section 1452(d) of this title."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by title VII of Pub. L. 99–145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99–145, set out as a note under section 1447 of this title.

## [SUBCHAPTER III—REPEALED]

## [§§1456 to 1460b. Repealed. Pub. L. 108–375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961]

Section 1456, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1580, related to supplemental spouse coverage: establishment of plan; definitions.

Section 1457, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1580;

amended Pub. L. 102–190, div. A, title VI, §653(b)(1), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 103–337, div. A, title X, §1070(e)(5), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 108–375, div. A, title VI, §644(b)(1), Oct. 28, 2004, 118 Stat. 1960, related to supplemental spouse coverage: payment of annuity; amount.

Section 1458, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1581; amended Pub. L. 102–190, div. A, title VI, §653(c)(1), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 108–136, div. A, title VI, §645(b)(2), Nov. 24, 2003, 117 Stat. 1519; Pub. L. 108–375, div. A, title X, §1084(d)(10), Oct. 28, 2004, 118 Stat. 2061, related to supplemental spouse coverage: eligible participants; elections of coverage.

Section 1459, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1584, related to former spouse coverage: special rules.

Section 1460, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1584; amended Pub. L. 102–190, div. A, title VI, §653(b)(2), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 110–181, div. A, title IX, §906(c)(2), Jan. 28, 2008, 122 Stat. 277, related to supplemental spouse coverage: reductions in retired pay.

Section 1460a, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1585; amended Pub. L. 101–510, div. A, title XIV, §1484(k)(5), Nov. 5, 1990, 104 Stat. 1719, related to incorporation of certain administrative provisions.

Section 1460b, added Pub. L. 101–189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1585, related to regulations.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Pub. L. 108–375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961, provided that the repeal of this subchapter by section 644(b)(2) is effective Apr. 1, 2008.

# CHAPTER 74—DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND

Sec.
1461. Establishment and purpose of Fund; definition.
1462. Assets of Fund.
1463. Payments from the Fund.
[1464. Repealed.]
1465. Determination of contributions to the Fund.
1466. Payments into the Fund.
1467. Investment of assets of Fund.

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Pub. L. 110–181, div. A, title IX, §906(b)(1)(B), Jan. 28, 2008, 122 Stat. 277, struck out item 1464 "Board of Actuaries".

## §1461. Establishment and purpose of Fund; definition

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Military Retirement Fund (hereinafter in this chapter referred to as the "Fund"), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Department of Defense and the Coast Guard under military retirement and survivor benefit programs.

(b) In this chapter, the term "military retirement and survivor benefit programs" means—

(1) the provisions of this title creating entitlement to, or determining the amount of, retired or retainer pay;

(2) the programs under the jurisdiction of the Department of Defense providing annuities for survivors of members and former members of the armed forces, including chapter 73 of this title,

section 4 of Public Law 92–425, and section 5 of Public Law 96–402; and

(3) the authority provided in section 1408(h) of this title.

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 644; amended Pub. L. 101–189, div. A, title XVI, §1622(e)(7), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 102–484, div. A, title VI, §653(b)(1), Oct. 23, 1992, 106 Stat. 2428; Pub. L. 116–283, div. G, title LVXXXII [LXXXII], §8222, Jan. 1, 2021, 134 Stat. 4658.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 4 of Public Law 92–425, referred to in subsec. (b)(2), is set out as a note under section 1448 of this title.

Section 5 of Public Law 96–402, referred to in subsec. (b)(2), is set out as a note under section 1448 of this title.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 inserted "and the Coast Guard" after "liabilities of the Department of Defense".

**1992**—Subsec. (b)(3). Pub. L. 102–484 added par. (3).

**1989**—Subsec. (b). Pub. L. 101–189 inserted "the term" after "In this chapter,".

## §1462. Assets of Fund

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund under section 1466 of this title.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 645.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF APPROPRIATIONS**

Pub. L. 98–94, title IX, §925(b)(3), Sept. 24, 1983, 97 Stat. 648, required transfer into the Fund on Oct. 1, 1984, of any unobligated balances of appropriations made to the Department of Defense that had been currently available for retired pay, and provided that amounts so transferred would be deemed part of the assets of the Fund.

## §1463. Payments from the Fund

(a) There shall be paid from the Fund—

(1) retired pay payable to members on the retired lists of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and Space Force [1] and payments under section 1413a, 1414, or 1415 of this title paid to such members;

(2) retired pay payable under chapter 1223 of this title to former members of the armed forces;

(3) retainer pay payable to members of the Fleet Reserve and Fleet Marine Corps Reserve;

(4) benefits payable under programs under the jurisdiction of the Department of Defense and the Department of Homeland Security that provide annuities for survivors of members and former members of the armed forces, including chapter 73 of this title, section 4 of Public Law 92–425, and section 5 of Public Law 96–402; and

(5) amounts payable under section 1408(h) of this title.

(b) The assets of the Fund are hereby made available for payments under subsection (a).

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 645; amended Pub. L. 101–189, div. A, title VI, §651(c), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 102–484, div. A, title VI, §653(b)(2), Oct. 23, 1992, 106 Stat. 2428; Pub. L. 103–35, title II, §202(a)(4), May 31, 1993, 107 Stat. 101; Pub. L. 104–106, div. A, title XV, §1501(c)(18), Feb. 10, 1996, 110 Stat. 499; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title VI, §641(c)(2), Nov. 24, 2003, 117 Stat. 1515; Pub. L. 108–375, div. A, title X, §1084(d)(11), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 114–92, div. A, title VI, §633(a)(3), Nov. 25, 2015, 129 Stat. 850; Pub. L. 116–283, div. A, title IX, §924(b)(1)(L), div. G, title LVXXXII [LXXXII], §8223, Jan. 1, 2021, 134 Stat. 3820, 4658; Pub. L. 117–81, div. A, title X, §1081(a)(17), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4 of Public Law 92–425, referred to in subsec. (a)(4), is set out as a note under section 1448 of this title.

Section 5 of Public Law 96–402, referred to in subsec. (a)(4), is set out as a note under section 1448 of this title.

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283, §8223(1), which directed substitution of "Marine Corps, and Coast Guard" for "and Marine Corps", was executed by making the substitution for "Marine Corps" to reflect the probable intent of Congress and the intervening amendment by Pub. L. 116–283, §924(b)(1)(L). See below.

Pub. L. 116–283, §924(b)(1)(L), substituted "Marine Corps, and Space Force" for "and Marine Corps".

Subsec. (a)(2). Pub. L. 116–283, §8223(2), struck out "(other than retired pay payable by the Secretary of Homeland Security)" after "armed forces".

Subsec. (a)(4). Pub. L. 117–81 substituted "Homeland Security that provide" for "Homeland Security that that provide".

Pub. L. 116–283, §8223(3), inserted "and the Department of Homeland Security that" after "Department of Defense".

**2015**—Subsec. (a)(1). Pub. L. 114–92 substituted ", 1414, or 1415" for "or 1414".

**2004**—Subsec. (a)(1). Pub. L. 108–375 substituted "1413a" for "1413, 1413a,".

**2003**—Subsec. (a)(1). Pub. L. 108–136 inserted before semicolon at end "and payments under section 1413, 1413a, or 1414 of this title paid to such members".

**2002**—Subsec. (a)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1996**—Subsec. (a)(2). Pub. L. 104–106 substituted "chapter 1223" for "chapter 67".

**1993**—Subsec. (a)(5). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484, §653(b)(2). See 1992 Amendment note below.

**1992**—Subsec. (a). Pub. L. 102–484, as amended by Pub. L. 103–35, added par. (5).

**1989**—Subsec. (a). Pub. L. 101–189 substituted "members" for "persons" in par. (1), added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114–92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective Oct. 1, 2003, with Secretary of Defense to provide for certain administrative adjustments, see section 641(c)(6) of Pub. L. 108–136, set out as a note under section 1413a of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

**EFFECTIVE DATE OF 1993 AMENDMENT**

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

**EFFECTIVE DATE**

Pub. L. 98–94, title IX, §925(b)(2), Sept. 24, 1983, 97 Stat. 648, provided that: "Sections 1463 (relating to payments from the Fund) and 1466 (relating to payments to the Fund) of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1984."

[1] *See 2021 Amendment notes below.*

## [§1464. Repealed. Pub. L. 110–181, div. A, title IX, §906(b)(1)(A), Jan. 28, 2008, 122 Stat. 277]

Section, added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 645; amended Pub. L. 98–525, title XIV, §1405(27), Oct. 19, 1984, 98 Stat. 2623, established in the Department of Defense a Department of Defense Retirement Board of Actuaries.

## §1465. Determination of contributions to the Fund

(a)(1) Not later than six months after the Board of Actuaries is first appointed, the Board shall determine the amount that is the present value (as of October 1, 1984) of future benefits payable from the Fund that are attributable to service in the armed forces performed before October 1, 1984. That amount is the original unfunded liability of the Fund. The Board shall determine the period of time over which the original unfunded liability should be liquidated and shall determine an amortization schedule for the liquidation of such liability over that period. Contributions to the Fund for the liquidation of the original unfunded liability in accordance with such schedule shall be made as provided in section 1466(b) of this title.

(2) Not later than October 1, 2022, the Board of Actuaries shall determine the amount that is the present value (as of September 30, 2022) of future benefits payable from the Fund that are attributable to service in the Coast Guard performed before October 1, 2022. That amount is the original Coast Guard unfunded liability of the Fund. The Board shall determine the period of time over which the original Coast Guard unfunded liability should be liquidated and shall determine an amortization schedule for the liquidation of such liability over that period. Contributions to the Fund for the liquidation of the original Coast Guard unfunded liability in accordance with such schedule shall be made as provided in section 1466(b) of this title.

(b)(1) The Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, shall determine each year, in sufficient time for inclusion in budget requests for the following fiscal year, the total amount of Department of Defense and Coast Guard contributions to be made to the Fund during that fiscal year under section 1466(a) of this title. That amount shall be the sum of the following:

(A) The product of—

(i) the current estimate of the value of the single level percentage of basic pay to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

(ii) the total amount of basic pay expected to be paid during that fiscal year for active duty members of the Armed Forces and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any

duty that would be excluded for active-duty end strength purposes by section 115(i) of this title.

(B) The product of—

(i) the current estimate of the value of the single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

(ii) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) expected to be paid during that fiscal year to members of the Selected Reserve of the armed forces for service not otherwise described in subparagraph (A)(ii).

(2) The amount determined under paragraph (1) for any fiscal year is the amount needed to be appropriated to the Coast Guard Retired Pay account and the Department of Defense for that fiscal year for payments to be made to the Fund during that year under section 1466(a) of this title. The President shall include not less than the full amount so determined in the budget transmitted to Congress for that fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(3) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(D) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense and Coast Guard contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(4), rather than those determined under subsection (c)(1).

(c)(1) Not less often than every four years, the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, shall carry out an actuarial valuation of Department of Defense military retirement and survivor benefit programs. Each actuarial valuation of such programs shall include—

(A) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay for active duty members of the Armed Forces and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title, to be determined without regard to section 1413a or 1414 of this title; and

(B) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) for members of the Selected Reserve of the armed forces for service not otherwise described by subparagraph (A), to be determined without regard to section 1413a or 1414 of this title.

Such single level percentages shall be used for the purposes of subsection (b)(1) and section 1466(a) of this title.

(2) If at the time of any such valuation (or any valuation carried out in order to comply with chapter 95 of title 31) there has been a change in benefits under a military retirement or survivor benefit program that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, shall determine an amortization methodology and schedule for the amortization of the cumulative unfunded liability (or actuarial gain to the Fund) created by such change and any previous such changes so that the present value of the sum of the amortization payments (or reductions in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such amounts.

(3) If at the time of any such valuation (or any valuation carried out in order to comply with

chapter 95 of title 31) the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the amortization of the cumulative gain or loss to the Fund created by such change in assumptions and any previous such changes in assumptions through an increase or decrease in the payments that would otherwise be made to the Fund.

(4) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but based only upon the provisions of sections 1413a and 1414 of this title.

(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but based only upon the provisions of sections 1413a and 1414 of this title.

Such single level percentages shall be used for the purposes of subsection (b)(3).

(5) Contributions to the Fund in accordance with amortization schedules under paragraphs (2) and (3) shall be made as provided in section 1466(b) of this title.

(d) All determinations under this section shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(e) The Secretary of Defense and, with regard to the Coast Guard, the Secretary of the department in which the Coast Guard is operating shall provide for the keeping of such records as are necessary for determining the actuarial status of the Fund.

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 646; amended Pub. L. 98–525, title XIV, §1405(28), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99–500, §101(c) [title IX, §9131], Oct. 18, 1986, 100 Stat. 1783–82, 1783–128, and Pub. L. 99–591, §101(c) [title IX, §9131], Oct. 30, 1986, 100 Stat. 3341–82, 3341–128; Pub. L. 99–661, div. A, title VI, §661(a), Nov. 14, 1986, 100 Stat. 3891; Pub. L. 108–136, div. A, title VI, §641(c)(3), (4), Nov. 24, 2003, 117 Stat. 1515; Pub. L. 108–375, div. A, title X, §1084(d)(11), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–364, div. A, title V, §591(a), Oct. 17, 2006, 120 Stat. 2232; Pub. L. 116–283, div. G, title LVXXXII [LXXXII], §8224, Jan. 1, 2021, 134 Stat. 4658; Pub. L. 117–81, div. A, title X, §1081(a)(18), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 118–159, div. A, title XVII, §1701(a)(21), Dec. 23, 2024, 138 Stat. 2204.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Amendment of section by Pub. L. 99–500 and Pub. L. 99–591 is based on section 642 of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by Pub. L. 99–500 and Pub. L. 99–591. S. 2638 was subsequently enacted as Pub. L. 99–661.

### AMENDMENTS

**2024**—Subsec. (e). Pub. L. 118–159 inserted "shall" before "provide".

**2021**—Subsec. (a). Pub. L. 116–283, §8224(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 116–283, §8224(2)(A)(i), in introductory provisions, inserted ", in consultation with the Secretary of the department in which the Coast Guard is operating," after "Secretary of Defense" and "and Coast Guard" after "Department of Defense".

Subsec. (b)(1)(A)(ii). Pub. L. 116–283, §8224(2)(A)(ii), substituted "members of the Armed Forces" for "(other than the Coast Guard)".

Subsec. (b)(1)(B)(ii). Pub. L. 116–283, §8224(2)(A)(iii), struck out "(other than the Coast Guard)" after "armed forces".

Subsec. (b)(2). Pub. L. 117–81 substituted "account and the Department" for "account and the the Department".

Pub. L. 116–283, §8224(2)(B), inserted "the Coast Guard Retired Pay account and the" after "appropriated to".

Subsec. (b)(3). Pub. L. 116–283, §8224(2)(C), inserted "and Coast Guard" after "Department of Defense".

Subsec. (c)(1). Pub. L. 116–283, §8224(3)(A)(i), inserted ", in consultation with the Secretary of the department in which the Coast Guard is operating," after "Secretary of Defense" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 116–283, §8224(3)(A)(ii), substituted "members of the Armed Forces" for "(other than the Coast Guard)".

Subsec. (c)(1)(B). Pub. L. 116–283, §8224(3)(A)(iii), struck out "(other than the Coast Guard)" after "armed forces".

Subsec. (c)(2). Pub. L. 116–283, §8224(3)(B), inserted ", in consultation with the Secretary of the department in which the Coast Guard is operating," after "Secretary of Defense".

Subsec. (c)(3). Pub. L. 116–283, §8224(3)(C), inserted ", in consultation with the Secretary of the department in which the Coast Guard is operating," after "Secretary of Defense".

Subsec. (e). Pub. L. 116–283, §8224(4), substituted "Secretary of Defense and, with regard to the Coast Guard, the Secretary of the department in which the Coast Guard is operating" for "Secretary of Defense shall".

**2006**—Subsec. (b)(1)(A)(ii). Pub. L. 109–364, §591(a)(1)(A), substituted "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title" for "to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only)".

Subsec. (b)(1)(B)(ii). Pub. L. 109–364, §591(a)(1)(B), substituted "Selected Reserve" for "Ready Reserve" and "Coast Guard) for service" for "Coast Guard and other than members on full-time National Guard duty other than for training) who are".

Subsec. (c)(1)(A). Pub. L. 109–364, §591(a)(2)(A), substituted "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title" for "for members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only)".

Subsec. (c)(1)(B). Pub. L. 109–364, §591(a)(2)(B), substituted "Selected Reserve" for "Ready Reserve" and "Coast Guard) for service" for "Coast Guard and other than members on full-time National Guard duty other than for training) who are".

**2004**—Subsec. (c)(1)(A), (B), (4)(A), (B). Pub. L. 108–375 substituted "1413a" for "1413, 1413a,".

**2003**—Subsec. (b)(3). Pub. L. 108–136, §641(c)(3), added par. (3).

Subsec. (c)(1). Pub. L. 108–136, §641(c)(4)(A)(iii), substituted "subsection (b)(1)" for "subsection (b)" in concluding provisions.

Subsec. (c)(1)(A). Pub. L. 108–136, §641(c)(4)(A)(i), inserted before semicolon ", to be determined without regard to section 1413, 1413a, or 1414 of this title".

Subsec. (c)(1)(B). Pub. L. 108–136, §641(c)(4)(A)(ii), inserted before period at end ", to be determined without regard to section 1413, 1413a, or 1414 of this title".

Subsec. (c)(4), (5). Pub. L. 108–136, §641(c)(4)(B), (C), added par. (4) and redesignated former par. (4) as (5).

**1985**—Subsec. (b)(1). Pub. L. 99–500 and Pub. L. 99–591, Pub. L. 99–661, §661(a), amended par. (1) identically, inserting second sentence and striking out the existing second sentence which read as follows: "That amount shall be determined as the product of—

"(A) the current estimate of the value of the single level percentage of basic pay to be determined at the time of the next actuarial valuation under subsection (c); and

"(B) the total amount of basic pay expected to be paid during that fiscal year to members of the armed forces (other than the Coast Guard) on active duty or in the Selected Reserve."

Subsec. (c)(1). Pub. L. 99–500 and Pub. L. 99–591, Pub. L. 99–661, §661(a)(2), amended par. (1) identically, inserting second and third sentences and striking out existing second sentence which read as follows: "Each actuarial valuation of such programs shall include a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay to be used for the purposes of subsection (b) and section 1466(a) of this title."

**1984**—Subsec. (c)(1). Pub. L. 98–525 struck out "(A)" after "(c)(1)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §591(c), Oct. 17, 2006, 120 Stat. 2233, provided that: "The amendments made by this section [amending this section and section 1466 of this title] shall take effect on October 1, 2007."

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective Oct. 1, 2003, with Secretary of Defense to provide for certain administrative adjustments, see section 641(c)(6) of Pub. L. 108–136, set out as a note under section 1413a of this title.

### EFFECTIVE DATE OF 1986 AMENDMENTS

Section 642(c) of S. 2638, as passed by the Senate on Aug. 9, 1986, and as enacted into law by section 101(c) [title IX, §9131] of Pub. L. 99–500 and Pub. L. 99–591, and section 661(d) of Pub. L. 99–661, provided respectively that: "The amendments made by this section [amending this section and section 1466 of this title] shall take effect on October 1, 1986, or the date of the enactment of this Act [Oct. 18, 1986], whichever is later, and shall apply to payments required to be made under section 1466(a) of title 10, United States Code, as amended by this section, for months beginning on or after that effective date." and "The amendments made by subsections (a) and (b) [amending this section and section 1466 of this title] shall apply to payments required to be made under section 1466(a) of title 10, United States Code, as amended by subsection (b), for months beginning on or after the date of the enactment of this Act [Nov. 14, 1986]."

## §1466. Payments into the Fund

(a) The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard, shall pay into the Fund at the end of each month the respective pro rata share contribution of the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating to the Fund for that month the amount that is the sum of the following:

(1) The product of—

(A) the level percentage of basic pay determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(A) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

(B) the total amount of basic pay accrued for that month for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title.

(2) The product of—

(A) the level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(B) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

(B) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) accrued for that month by members of the Selected Reserve of the armed forces for service not otherwise described in paragraph (1)(B).

(b) Amounts paid into the Fund under this subsection shall be paid from funds available for as

appropriate—

(1) the pay of members of the armed forces under the jurisdiction of the Secretary of a military department; or

(2) the Retired Pay appropriation for the Coast Guard.

(c)(1) At the beginning of each fiscal year the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury the amount certified to the Secretary by the Secretary of Defense under paragraph (3). Such payment shall be the contribution to the Fund for that fiscal year required by sections 1465(a), 1465(b)(3), 1465(c)(2), and 1465(c)(3) of this title.

(2) At the beginning of each fiscal year the Secretary of Defense shall determine the sum of the following:

(A) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1465(a) of this title for the amortization of the original unfunded liabilities of the Fund for the Department of Defense and the Coast Guard.

(B) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1465(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

(C) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1465(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund.

(D) The amount for that year determined by the Secretary of Defense under section 1465(b)(3) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of section 1413a or 1414 of this title.

(3) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall promptly certify the amount determined under paragraph (2) each year to the Secretary of the Treasury.

(d)(1) The Secretary of Defense shall pay into the Fund at the beginning of each fiscal year such amount as may be necessary to pay the cost to the Fund for that fiscal year resulting from the repeal, as of October 1, 1999, of section 5532 of title 5, including any actuarial loss to the Fund resulting from increased benefits paid from the Fund that are not fully covered by the payments made to the Fund for that fiscal year under subsections (a) and (b).

(2) Amounts paid into the Fund under this subsection shall be paid from funds available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department.

(3) The Department of Defense Board of Actuaries shall determine, for each armed force, the amount required under paragraph (1) to be deposited in the Fund each fiscal year.

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 647; amended Pub. L. 99–500, §101(c) [title IX, §§9103(3), 9131], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, 1783–128, and Pub. L. 99–591, §101(c) [title IX, §§9103(3), 9131], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, 3341–128; Pub. L. 99–661, div. A, title VI, §661(b), Nov. 14, 1986, 100 Stat. 3892; Pub. L. 100–26, §§4(a)(1), 7(a)(3), Apr. 21, 1987, 101 Stat. 274, 275; Pub. L. 106–65, div. A, title VI, §651(b), Oct. 5, 1999, 113 Stat. 664; Pub. L. 108–136, div. A, title VI, §641(c)(5), Nov. 24, 2003, 117 Stat. 1516; Pub. L. 108–375, div. A, title X, §1084(d)(11), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–364, div. A, title V, §591(b), Oct. 17, 2006, 120 Stat. 2233; Pub. L. 110–181, div. A, title IX, §906(c)(3), title X, §1063(c)(4), Jan. 28, 2008, 122 Stat. 277, 322; Pub. L. 116–283, div. G, title LVXXXII [LXXXII], §8225, Jan. 1, 2021, 134 Stat. 4659; Pub. L. 117–81, div. A, title X, §1081(a)(19), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (d)(1), was repealed by Pub. L. 106–65, div. A, title VI,

§651(a)(1), Oct. 5, 1999, 113 Stat. 664.

## CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Amendment of section by section 9131 of Pub. L. 99–500 and Pub. L. 99–591 is based on section 642 of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by section 9131 of Pub. L. 99–500 and Pub. L. 99–591. S. 2638 was subsequently enacted as Pub. L. 99–661.

## AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81, in introductory provisions, substituted "with respect to the Coast Guard" for "with respect to the Coast guard".

Pub. L. 116–283, §8225(1)(A), (C), in introductory provisions, substituted "Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast guard, shall" for "Secretary of Defense shall" and "each month the respective pro rata share contribution of the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating" for "each month as the Department of Defense contribution" and struck out concluding provisions which read as follows:"Amounts paid into the Fund under this subsection shall be paid from funds available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department."

Subsec. (a)(2)(B). Pub. L. 116–283, §8225(1)(B), struck out "(other than the Coast Guard)" after "armed forces".

Subsec. (b). Pub. L. 116–283, §8225(1)(C), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–283, §8225(2), which directed redesignation of subsec. (b) as (c), was executed by redesignating the subsec. (b) relating to the prompt payment by the Secretary of the Treasury of certified amounts under the amortization schedule determined by the Board of Actuaries as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2)(A). Pub. L. 116–283, §8225(3)(A), substituted "liabilities of the Fund for the Department of Defense and the Coast Guard." for "liability of the Fund."

Subsec. (c)(3). Pub. L. 116–283, §8225(3)(B), inserted "and the Secretary of the Department in which the Coast Guard is operating" before "shall promptly".

Subsec. (d). Pub. L. 116–283, §8225(2), redesignated subsec. (c) as (d).

**2008**—Subsec. (a)(1)(B). Pub. L. 110–181, §1063(c)(4), amended Pub. L. 109–364, §591(b)(1). See 2006 Amendment note below.

Subsec. (c)(3). Pub. L. 110–181, §906(c)(3), struck out "Retirement" before "Board of Actuaries".

**2006**—Subsec. (a)(1)(B). Pub. L. 109–364, §591(b)(1), as amended by Pub. L. 110–181, §1063(c)(4), substituted "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title." for "by members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only)."

Subsec. (a)(2)(B). Pub. L. 109–364, §591(b)(2), substituted "Selected Reserve" for "Ready Reserve" and "Coast Guard) for service" for "Coast Guard and other than members on full-time National Guard duty other than for training) who are".

**2004**—Subsec. (b)(2)(D). Pub. L. 108–375 substituted "1413a" for "1413, 1413a,".

**2003**—Subsec. (b)(1). Pub. L. 108–136, §641(c)(5)(A), substituted "sections 1465(a), 1465(b)(3), 1465(c)(2), and 1465(c)(3)" for "sections 1465(a) and 1465(c)".

Subsec. (b)(2)(D). Pub. L. 108–136, §641(c)(5)(B), added subpar. (D).

**1999**—Subsec. (c). Pub. L. 106–65 added subsec. (c).

**1987**—Subsec. (a). Pub. L. 100–26, §7(a)(3), inserted at end "Amounts paid into the Fund under this subsection shall be paid from funds available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department."

Subsec. (a)(1)(B), (2)(B). Pub. L. 100–26, §4(a)(1), amended Pub. L. 99–500 and 99–591, title I, §101(c) [title IX, §9103(3)]. See 1986 Amendment note below.

**1986**—Subsec. (a). Pub. L. 99–661 amended first sentence of subsec. (a), which after amendment by Pub. L. 99–500 and Pub. L. 99–591 was the only sentence of subsec. (a), by substituting language which was substantially identical to that substituted by Pub. L. 99–500 and Pub. L. 99–591.

Pub. L. 99–500 and Pub. L. 99–591, title I, §101(c) [§9131], amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary of Defense shall pay into the Fund at the end of each month as the Department of Defense contribution to the Fund for that month the amount that is the product

of—

"(1) the level percentage of basic pay determined under the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c) of this title; and

"(2) the total amount of basic pay paid that month to members of the armed forces (other than the Coast Guard) on active duty or in the Selected Reserve.

Amounts paid into the Fund under this subsection shall be paid from funds available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department."

Subsec. (a)(1)(B), (2)(B). Pub. L. 99–500 and Pub. L. 99–591, title I, §101(c) [title IX, §9103(3)], as amended by Pub. L. 100–26, §4(a)(1), substituted "accrued for that month by" for "paid that month to" in pars. (1)(B) and (2)(B) as amended by section 661(b) of Pub. L. 99–661, see above.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(4) is effective as of Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Oct. 1, 2007, see section 591(c) of Pub. L. 109–364, set out as a note under section 1465 of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective Oct. 1, 2003, with Secretary of Defense to provide for certain administrative adjustments, see section 641(c)(6) of Pub. L. 108–136, set out as a note under section 1413a of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, §651(c), Oct. 5, 1999, 113 Stat. 664, provided that: "The amendments made by this section [amending this section and repealing section 5532 of Title 5, Government Organization and Employees] shall take effect on October 1, 1999."

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–26, §12(b), Apr. 21, 1987, 101 Stat. 289, provided that: "The amendments made by section 4 [amending this section and provisions set out as a note under section 1014 of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in Public Laws 99–500 and 99–591 when enacted on October 18, 1986, and October 30, 1986, respectively."

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–661 applicable to payments required to be made under subsec. (a) of this section for months beginning on or after Nov. 14, 1986, see section 661(d) of Pub. L. 99–661, set out as a note under section 1465 of this title.

Amendment by section 101(c) [title IX, §9131] of Pub. L. 99–500 and Pub. L. 99–591 effective Oct. 18, 1986, and applicable to payments required to be made under subsec. (a) of this section for months beginning on or after that date, see section 642(c) of S. 2638, as enacted into law, set out as a note under section 1465 of this title.

Amendment by section 101(c) [title IX, §9103(3)] of Pub. L. 99–500 and Pub. L. 99–591 effective Sept. 1, 1987, see section 101(c) [title IX, §9103(4)] of Pub. L. 99–500 and Pub. L. 99–591, as amended, set out as an Effective Date note under section 1014 of Title 37, Pay and Allowances of the Uniformed Services.

#### EFFECTIVE DATE

Section effective Oct. 1, 1984, see section 925(b)(2) of Pub. L. 98–94, set out as a note under section 1463 of this title.

## §1467. Investment of assets of Fund

The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current withdrawals. Such investments shall be in public debt

securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

(Added Pub. L. 98–94, title IX, §925(a)(1), Sept. 24, 1983, 97 Stat. 648.)

# CHAPTER 75—DECEASED PERSONNEL


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Death Investigations** | **1471** |
| **II.** | **Death Benefits** | **1475** |


### EDITORIAL NOTES

### AMENDMENTS

**1999**—Pub. L. 106–65, div. A, title VII, §721(a), Oct. 5, 1999, 113 Stat. 692, substituted "DECEASED PERSONNEL" for "DEATH BENEFITS" as chapter heading and added subchapter analysis.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NOTIFICATION TO NEXT OF KIN UPON THE DEATH OF A MEMBER OF THE ARMED FORCES: STUDY; UPDATE; TRAINING; REPORT

Pub. L. 117–263, div. A, title V, §527, Dec. 23, 2022, 136 Stat. 2572, provided that:

"(a) STUDY.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall conduct a study on the notification processes of the next of kin upon the death of a member of the Armed Forces. In conducting the study, the Secretary shall identify the following elements:

"(1) The time it takes for such notification to occur after such death, recovery of remains, and identification of remains. Such time shall be determined through an analysis of data regarding cases involving such notifications.

"(2) The effect of media (including social media) and other forms of communication on such processes.

"(3) Means by which the Secretary may improve such processes to reduce the time described in paragraph (1).

"(4) Any legislative recommendations of the Secretary to improve such processes to reduce the time described in paragraph (1).

"(b) UPDATE.—Upon completion of the study under subsection (a), the Secretary shall review and update training and education materials regarding such processes, implementing means described in subsection (a)(3).

"(c) OPERATIONAL TRAINING.—The Secretary of the military department concerned shall include a training exercise, using materials updated (including lessons learned) under subsection (b), regarding a death described in this section in each major exercise conducted by such Secretary or the Secretary of Defense.

"(d) REPORT.—Not later one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

"(1) the results of the study;

"(2) a description of the update under subsection (b); and

"(3) lessons learned, as described in subsection (c)."

# SUBCHAPTER I—DEATH INVESTIGATIONS


Sec.

1471. Forensic pathology investigations.


### EDITORIAL NOTES

### AMENDMENTS

**1999**—Pub. L. 106–65, div. A, title VII, §721(a), Oct. 5, 1999, 113 Stat. 692, added subchapter I heading and item 1471.

## §1471. Forensic pathology investigations

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Armed Forces Medical Examiner may conduct a forensic pathology investigation to determine the cause or manner of death of a deceased person if such an investigation is determined to be justified under circumstances described in subsection (b). The investigation may include an autopsy of the decedent's remains.

(b) BASIS FOR INVESTIGATION.—(1) A forensic pathology investigation of a death under this section is justified if at least one of the circumstances in paragraph (2) and one of the circumstances in paragraph (3) exist.

(2) A circumstance under this paragraph is a circumstance under which—

(A) it appears that the decedent was killed or that, whatever the cause of the decedent's death, the cause was unnatural;

(B) the cause or manner of death is unknown;

(C) there is reasonable suspicion that the death was by unlawful means;

(D) it appears that the death resulted from an infectious disease or from the effects of a hazardous material that may have an adverse effect on the military installation or community involved; or

(E) the identity of the decedent is unknown.

(3) A circumstance under this paragraph is a circumstance under which—

(A) the decedent—

(i) was found dead or died at an installation garrisoned by units of the armed forces that is under the exclusive jurisdiction of the United States;

(ii) was a member of the armed forces on active duty or inactive duty for training;

(iii) was recently retired under chapter 61 of this title as a result of an injury or illness incurred while a member on active duty or inactive duty for training; or

(iv) was a civilian dependent of a member of the armed forces and was found dead or died outside the United States;

(B) in any other authorized Department of Defense investigation of matters which involves the death, a factual determination of the cause or manner of the death is necessary; or

(C) in any other authorized investigation being conducted by the Federal Bureau of Investigation, the National Transportation Safety Board, or any other Federal agency, an authorized official of such agency with authority to direct a forensic pathology investigation requests that the Armed Forces Medical Examiner conduct such an investigation.

(c) DETERMINATION OF JUSTIFICATION.—(1) Subject to paragraph (2), the determination that a circumstance exists under paragraph (2) of subsection (b) shall be made by the Armed Forces Medical Examiner.

(2) A commander may make the determination that a circumstance exists under paragraph (2) of subsection (b) and require a forensic pathology investigation under this section without regard to a determination made by the Armed Forces Medical Examiner if—

(A) in a case involving circumstances described in paragraph (3)(A)(i) of that subsection, the commander is the commander of the installation where the decedent was found dead or died; or

(B) in a case involving circumstances described in paragraph (3)(A)(ii) of that subsection, the commander is the commander of the decedent's unit at a level in the chain of command designated for such purpose in the regulations prescribed by the Secretary of Defense.

(d) LIMITATION IN CONCURRENT JURISDICTION CASES.—(1) The exercise of authority

under this section is subject to the exercise of primary jurisdiction for the investigation of a death—

(A) in the case of a death in a State, by the State or a local government of the State; or

(B) in the case of a death in a foreign country, by that foreign country under any applicable treaty, status of forces agreement, or other international agreement between the United States and that foreign country.

(2) Paragraph (1) does not limit the authority of the Armed Forces Medical Examiner to conduct a forensic pathology investigation of a death that is subject to the exercise of primary jurisdiction by another sovereign if the investigation by the other sovereign is concluded without a forensic pathology investigation that the Armed Forces Medical Examiner considers complete. For the purposes of the preceding sentence a forensic pathology investigation is incomplete if the investigation does not include an autopsy of the decedent.

(e) PROCEDURES.—For a forensic pathology investigation under this section, the Armed Forces Medical Examiner shall—

(1) designate one or more qualified pathologists to conduct the investigation;

(2) to the extent practicable and consistent with responsibilities under this section, give due regard to any applicable law protecting religious beliefs;

(3) as soon as practicable, notify the decedent's family, if known, that the forensic pathology investigation is being conducted;

(4) as soon as practicable after the completion of the investigation, authorize release of the decedent's remains to the family, if known; and

(5) promptly report the results of the forensic pathology investigation to the official responsible for the overall investigation of the death.

(f) DEFINITION OF STATE.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and Guam.

(Added Pub. L. 106–65, div. A, title VII, §721(a), Oct. 5, 1999, 113 Stat. 692.)

## SUBCHAPTER II—DEATH BENEFITS

Sec.
1475. Death gratuity: death of members on active duty or inactive duty training and of certain other persons.
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1477. Death gratuity: eligible survivors.
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1483. Prisoners of war and interned enemy aliens.
1484. Pensioners, indigent patients, and persons who die on military reservations.
1485. Dependents of members of armed forces.
1486. Other citizens of United States.
1487. Temporary interment.
1488. Removal of remains.
1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties.
1490. Transportation of remains: certain retired members and dependents who die in military medical facilities.
1491. Funeral honors functions at funerals for veterans.

1492. Authority to provide travel and transportation allowances in connection with transfer ceremonies of certain civilian employees who die overseas.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XI, §1104(a)(2), Jan. 1, 2021, 134 Stat. 3890, added item 1492.

**2001**—Pub. L. 107–107, div. A, title X, §1048(a)(14), Dec. 28, 2001, 115 Stat. 1223, transferred subchapter II heading so as to appear before the table of sections for that subchapter.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(1), Oct. 5, 1999, 113 Stat. 694, inserted "SUBCHAPTER II—DEATH BENEFITS" before section 1475 of this title.

Pub. L. 106–65, div. A, title V, §578(k)(2)(A), Oct. 5, 1999, 113 Stat. 631, substituted "Funeral honors functions at funerals for veterans" for "Honor guard details at funerals of veterans" in item 1491.

**1998**—Pub. L. 105–261, div. A, title V, §567(b)(2), Oct. 17, 1998, 112 Stat. 2031, added item 1491.

**1994**—Pub. L. 103–337, div. A, title X, §1070(a)(8)(B), Oct. 5, 1994, 108 Stat. 2855, substituted "civilian" for "Civilian" in item 1482a.

**1993**—Pub. L. 103–160, div. A, title III, §368(b), Nov. 30, 1993, 107 Stat. 1634, added item 1482a.

**1991**—Pub. L. 102–190, div. A, title VI, §626(b)(2), Dec. 5, 1991, 105 Stat. 1380, substituted "Transportation of remains: certain retired members and dependents who die in military medical facilities" for "Transportation of remains of members entitled to retired or retainer pay who die in a military medical facility" in item 1490.

**1983**—Pub. L. 98–94, title X, §1032(a)(2), Sept. 24, 1983, 97 Stat. 672, added item 1490.

**1980**—Pub. L. 96–450, title IV, §403(b)(2), Oct. 14, 1980, 94 Stat. 1979, added item 1489.

**1965**—Pub. L. 89–150, §1(2), Aug. 28, 1965, 79 Stat. 585, struck out "; death while outside United States" from item 1485.

**1958**—Pub. L. 85–861, §1(32)(B), (C), Sept. 2, 1958, 72 Stat. 1455, struck out "CARE OF THE DEAD" from chapter heading, and added items 1475 to 1480.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**MEETINGS OF OFFICIALS OF THE DEPARTMENT OF DEFENSE WITH REPRESENTATIVE GROUPS OF SURVIVORS OF DECEASED MEMBERS OF THE ARMED FORCES**

Pub. L. 116–92, div. A, title V, §580B, Dec. 20, 2019, 133 Stat. 1408, provided that:

"(a) CHIEFS OF THE ARMED FORCES.—The Secretary of Defense shall direct the chiefs of the Armed Forces to meet periodically with representative groups of survivors of deceased members of the Armed Forces to receive feedback from those survivors regarding issues affecting such survivors. The Chief of the National Guard Bureau shall meet with representative groups of survivors of deceased members of the Air National Guard and the Army National Guard.

"(b) UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.—The Under Secretary of Defense for Personnel and Readiness shall meet periodically with representative groups of survivors of deceased members of the Armed Forces to discuss policies of the Department of Defense regarding military casualties and Gold Star families.

"(c) BRIEFING.—Not later than April 1, 2020, the Under Secretary of Defense for Personnel and Readiness shall brief the Committee on Armed Services of the House of Representatives regarding policies established and the results of the meetings under subsection (b)."

## §1475. Death gratuity: death of members on active duty or inactive duty training and of certain other persons

(a) Except as provided in section 1480 of this title, the Secretary concerned shall have a death gratuity paid to or for the survivor prescribed by section 1477 of this title, immediately upon receiving official notification of the death of—

(1) a member of an armed force under his jurisdiction who dies while on active duty or while performing authorized travel to or from active duty;

(2) a Reserve of an armed force who dies while on inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive

status, at an educational institution under the sponsorship of an armed force or the Public Health Service);

(3) any Reserve of an armed force who, when authorized or required by an authority designated by the Secretary, assumed an obligation to perform active duty for training, or inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution, under the sponsorship of an armed force or the Public Health Service), and who dies while traveling directly to or from that active duty for training or inactive duty training or while staying at the Reserve's residence, when so authorized by proper authority, during the period of such inactive duty training or between successive days of inactive duty training;

(4) any member of a reserve officers' training corps who dies while performing annual training duty under orders, or while performing authorized travel to or from that annual training duty; or any applicant for membership in a reserve officers' training corps who dies while attending field training or a practice cruise under section 2104(b)(6)(B) of this title or while performing authorized travel to or from the place where the training or cruise is conducted; or a graduate of a reserve officers' training corps who has received a commission but has yet to receive a first duty assignment; or

(5) a person who dies while traveling to or from or while at a place for final acceptance, or for entry upon active duty (other than for training), in an armed force, who has been ordered or directed to go to that place, and who—

(A) has been provisionally accepted for that duty; or

(B) has been selected, under the Military Selective Service Act (50 U.S.C. 3801 et seq.), for service in that armed force.

(b) This section does not apply to the survivors of persons who were temporary members of the Coast Guard Reserve at the time of their death.

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1452; amended Pub. L. 88–647, title III, §301(1), Oct. 13, 1964, 78 Stat. 1071; Pub. L. 96–513, title V, §511(59), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 99–661, div. A, title VI, §604(e)(1), Nov. 14, 1986, 100 Stat. 3877; Pub. L. 112–81, div. A, title VI, §651(a)(1), Dec. 31, 2011, 125 Stat. 1466; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(vi), Dec. 23, 2016, 130 Stat. 2418; Pub. L. 116–92, div. A, title VI, §623(a), Dec. 20, 2019, 133 Stat. 1428; Pub. L. 116–283, div. A, title X, §1081(a)(27), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 118–159, div. A, title VI, §631(a), Dec. 23, 2024, 138 Stat. 1936.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1475(a) | 38:1101(2) (less last sentence, as applicable to death gratuity).<br>38:1101(4) (as applicable to death gratuity, less (D) (as applicable to 38:1133(a))).<br>38:1101(5) (as applicable to death gratuity, less (D) (as applicable to 38:1133(a))).<br>38:1101(6)(A) (less clause (3) of 2d sentence, as applicable to death gratuity).<br>38:1001(6)(B) (1st sentence, less last 32 words, as applicable to death gratuity, and less (ii)) (as applicable to 38: 1133 (a))). | Aug. 1, 1956, ch. 837, §§102(2) (less last sentence, as applicable to death gratuity), 102(2) (last sentence, as applicable to death gratuity), (4) (as applicable to death gratuity, less (D) (as applicable to §303(a))), (5) (as applicable to death gratuity, less (D) (as applicable to §303(a))), (6)(A) (as applicable to death gratuity), (B) (1st sentence, less last 32 words, as applicable to death gratuity, and less (ii) (as applicable to §303(a))), (11)(E) (less last 27 words, as applicable to death gratuity), 301(a), 70 Stat. 858–861, 868. |

| | | |
|---|---|---|
| | 38:1101(11)(E) (less last 27 words, as applicable to death gratuity).<br>38:1131(a). | |
| 1475(b) | 38:1101(2) (last sentence, as applicable to death gratuity under 38: 1131(a)).<br>38:1101(6)(A) (clause (3) of 2d sentence, as applicable to death gratuity under 38:1131 (a)). | |

In subsection (a), the word "receiving" is inserted for clarity. Clause (1) is substituted for 38:1101(2) (1st sentence, and clauses (A)–(C) of 2d sentence); 38:1101(4)(A), (C), and (D); and 38:1101(5)(A), (C), and (D). Clause (2) is based on the words "inactive duty training", in 38:1131(a). Clause (3) (less words in parentheses) is substituted for 38:1101(6)(B) (1st sentence, less last 32 words). 38:1101(6)(A) (1st sentence) is omitted as covered by section 101(31) of this title. The words in parentheses in clause (3) are substituted for 38:1101(6)(A) (2d sentence, less clause (3)). Clause (4) is substituted for 38:1101(2) (clause (D) of 2d sentence) and (5)(C). Clause (5) is substituted for 38:1101(2)(E), (11)(E) (less last 27 words). The words "active duty for training", in 38:1131(a), are omitted as covered by the definition of "active duty" in section 101(22) of this title.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a)(5)(B), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

### AMENDMENTS

**2024**—Subsec. (a)(4). Pub. L. 118–159 struck out "for a period of more than 13 days" after "training duty under orders".

**2021**—Subsec. (a)(4). Pub. L. 116–283 substituted "or a graduate" for "or; or a graduate".

**2019**—Subsec. (a)(4). Pub. L. 116–92 inserted at end "; or a graduate of a reserve officers' training corps who has received a commission but has yet to receive a first duty assignment; or".

**2016**—Subsec. (a)(5)(B). Pub. L. 114–328 substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)".

**2011**—Subsec. (a)(3). Pub. L. 112–81 inserted "or while staying at the Reserve's residence, when so authorized by proper authority, during the period of such inactive duty training or between successive days of inactive duty training" before the semicolon at the end.

**1986**—Subsec. (a)(3). Pub. L. 99–661 struck out "from an injury incurred by him after December 31, 1956," before "while traveling directly to or from".

**1980**—Subsec. (a)(5)(B). Pub. L. 96–513 substituted "Military Selective Service Act (50 U.S.C. App. 451 et seq.)" for "Universal Military Training and Service Act (50 App. U.S.C. 451 et seq.)".

**1964**—Subsec. (a)(4). Pub. L. 88–647 inserted provisions covering applicants for membership in a reserve officers' training corps while attending, or in travel to or from field training or a practice cruise.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title VI, §631(d), Dec. 23, 2024, 138 Stat. 1937, provided that: "The amendments made by this section [amending this section, section 1481 of this title and provisions set out as a note under this section] shall apply to a death that occurs on or after the date of the enactment of this Act [Dec. 23, 2024]."

## EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VI, §623(b), Dec. 20, 2019, 133 Stat. 1428, as amended by Pub. L. 116–283, div. A, title VI, §623, Jan. 1, 2021, 134 Stat. 3677, provided that: "The amendment under subsection (a) [amending this section] applies to deaths that occur on or after May 1, 2017."

## EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title VI, §651(c), Dec. 31, 2011, 125 Stat. 1467, provided that: "The amendments made by this section [amending this section and sections 1478 and 1481 of this title] shall take effect on the date of the enactment of this Act [Dec. 31, 2011], and shall apply with respect to deaths that occur on or after that date."

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## PUBLIC HEALTH SERVICE

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## OBLIGATION OF DEFENSE HEALTH PROGRAM APPROPRIATIONS FOR DEATH GRATUITY PAYMENTS

Pub. L. 116–260, div. C, title VIII, §8123, Dec. 27, 2020, 134 Stat. 1333, provided that: "Amounts appropriated for 'Defense Health Program' in this Act [div. C of Pub. L. 116–260] and hereafter may be obligated to make death gratuity payments, as authorized in subchapter II of chapter 75 of title 10, United States Code, if no appropriation for 'Military Personnel' is available for obligation for such payments: *Provided*, That such obligations may subsequently be recorded against appropriations available for 'Military Personnel'."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116–93, div. A, title VIII, §8127, Dec. 20, 2019, 133 Stat. 2366.

Pub. L. 115–245, div. A, title VIII, §8136, Sept. 28, 2018, 132 Stat. 3030.

## OBLIGATION OF DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR DEATH GRATUITY PAYMENTS

Pub. L. 116–93, div. D, title II, §231, Dec. 20, 2019, 133 Stat. 2517, provided that:

"(a) Any discretionary amounts appropriated in this Act [div. D of Pub. L. 116–93] in the current fiscal year and any fiscal year thereafter may be obligated for death gratuity payments, as authorized in subchapter II of chapter 75 of title 10, United States Code.

"(b) Subsection (a) shall only apply if an appropriation for 'Coast Guard—Operations and Support' is unavailable for obligation for such payments.

"(c) Such obligations shall subsequently be recorded against appropriations that become available for 'Coast

Guard—Operations and Support'."

## IMPROVED ASSISTANCE FOR GOLD STAR SPOUSES AND OTHER DEPENDENTS

Pub. L. 113–66, div. A, title VI, §633, Dec. 26, 2013, 127 Stat. 786, as amended by Pub. L. 116–92, div. A, title VI, §625, Dec. 20, 2019, 133 Stat. 1428; Pub. L. 116–283, div. A, title VI, §624, Jan. 1, 2021, 134 Stat. 3677; Pub. L. 118–159, div. A, title VI, §631(c), Dec. 23, 2024, 138 Stat. 1936, provided that:

"(a) ADVOCATES FOR GOLD STAR SPOUSES AND OTHER DEPENDENTS.—(1) Each Secretary of a military department shall designate for each Armed Force under the jurisdiction of such Secretary a casualty assistance officer who is a member of such Armed Force or civilian employee of such military department to assist—

"(A) a spouse and any other dependent of a member of such Armed Force (including the reserve components thereof) who dies on active duty;

"(B) a dependent described in subparagraph (A) if the spouse of the deceased member dies and the dependent (or the guardian of such dependent) requests such assistance; and

"(C) an individual not described in subparagraph (A) or (B) who is entitled to a death gratuity under section 1475 of title 10, United States Code.

"(2) Casualty assistance officers described in paragraph (1) shall provide to survivors described in that paragraph the following services:

"(A) Addressing complaints by such survivors regarding casualty assistance or receipt of benefits authorized by law for such survivors.

"(B) Providing support to such survivors regarding such casualty assistance or receipt of such benefits.

"(C) Making reports to appropriate officers or officials in the Department of Defense or the military department concerned regarding resolution of such complaints, including recommendations regarding the settlement of claims with respect to such benefits, as appropriate.

"(D) Performing such other actions as the Secretary of the military department concerned considers appropriate.

"(b) TRAINING FOR CASUALTY ASSISTANCE PERSONNEL.—

"(1) TRAINING PROGRAM REQUIRED.—The Secretary of Defense shall implement a standardized comprehensive training program on casualty assistance for the following personnel of the Department of Defense:

"(A) Casualty assistance officers.

"(B) Casualty assistance calls officers.

"(C) Casualty assistance representatives.

"(2) GENERAL ELEMENTS.—The training program required by paragraph (1) shall include training designed to ensure that the personnel specified in that paragraph provide such a survivor with accurate information on the benefits to which they are entitled and other casualty assistance available to them when the member dies while serving on active duty in the Armed Forces.

"(3) SERVICE-SPECIFIC ELEMENTS.—The Secretary of the military department concerned may, in coordination with the Secretary of Defense, provide for the inclusion in the training program required by paragraph (1) that is provided to casualty assistance personnel of such military department such elements of training that are specific or unique to the requirements or particulars of the Armed Forces under the jurisdiction of such military department as the Secretary of the military department concerned considers appropriate.

"(4) FREQUENCY OF TRAINING.—Training shall be provided under the program required by paragraph (1) not less often than annually.

"(c) ROTC GRADUATES.—

"(1) TREATED AS MEMBERS.—For purposes of this section, a graduate of a reserve officers' training corps who receives a commission and who dies before receiving a first duty assignment shall be treated as a member of the Armed Forces who dies while on active duty.

"(2) EFFECTIVE DATE.—This subsection applies to deaths on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019]."

## POLICY AND PROCEDURES ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS

Pub. L. 109–163, div. A, title V, §562, Jan. 6, 2006, 119 Stat. 3267, as amended by Pub. L. 109–364, div. A, title V, §566, Oct. 17, 2006, 120 Stat. 2223, provided that:

"(a) COMPREHENSIVE POLICY ON CASUALTY ASSISTANCE.—

"(1) POLICY REQUIRED.—Not later than August 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of casualty assistance to survivors

and next of kin of members of the Armed Forces who die during military service (in this section referred to as 'military decedents').

"(2) CONSULTATION.—The Secretary shall develop the policy under paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Homeland Security with respect to the Coast Guard.

"(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy developed under paragraph (1) shall be based on—

"(A) the experience and best practices of the military departments;

"(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of survivors of military decedents; and

"(C) such other matters as the Secretary of Defense considers appropriate.

"(4) PROCEDURES.—The policy shall include procedures to be followed by the military departments in the provision of casualty assistance to survivors and next of kin of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

"(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

"(1) The initial notification of primary and secondary next of kin of the deaths of military decedents and any subsequent notifications of next of kin warranted by circumstances.

"(2) The transportation and disposition of remains of military decedents, including notification of survivors of the performance of autopsies.

"(3) The qualifications, assignment, training, duties, supervision, and accountability for the performance of casualty assistance responsibilities.

"(4) The relief or transfer of casualty assistance officers, including notification to survivors and next of kin of the reassignment of such officers to other duties.

"(5) Centralized, short-term and long-term case-management procedures for casualty assistance by each military department, including rapid access by survivors of military decedents and casualty assistance officers to expert case managers and counselors.

"(6) The provision, through a computer accessible Internet website and other means and at no cost to survivors of military decedents, of personalized, integrated information on the benefits and financial assistance available to such survivors from the Federal Government.

"(7) The provision, at no cost to survivors of military decedents, of legal assistance by military attorneys on matters arising from the deaths of such decedents, including tax matters, on an expedited, prioritized basis.

"(8) The provision of financial counseling to survivors of military decedents, particularly with respect to appropriate disposition of death gratuity and insurance proceeds received by surviving spouses, minor dependent children, and their representatives.

"(9) The provision of information to survivors and next of kin of military decedents on mechanisms for registering complaints about, or requests for, additional assistance related to casualty assistance.

"(10) Liaison with the Department of Veterans Affairs and the Social Security Administration in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for survivors of military decedents.

"(11) Data collection regarding the incidence and quality of casualty assistance provided to survivors of military decedents, including surveys of such survivors and military and civilian members assigned casualty assistance duties.

"(12) The process by which the Department of Defense, upon request, provides information (in person and otherwise) to survivors of a military decedent on the cause of, and any investigation into, the death of such military decedent and on the disposition and transportation of the remains of such decedent, which process shall—

"(A) provide for the provision of such information (in person and otherwise) by qualified Department of Defense personnel;

"(B) ensure that information is provided as soon as possible after death and that, when requested, updates are provided, in accordance with the procedures established under this paragraph, in a timely manner when new information becomes available;

"(C) ensure that—

"(i) the initial provision of such information, and each such update, relates the most complete and accurate information available at the time, subject to limitations applicable to classified information; and

"(ii) incomplete or unverified information is identified as such during the course of the provision of such information or update; and

"(D) include procedures by which such survivors shall, upon request, receive updates or supplemental information from qualified Department of Defense personnel.

"(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than November 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of casualty assistance to survivors and next of kin of military decedents in order to conform such policies and procedures to the policy developed under subsection (a).

"(d) REPORT ON IMPROVEMENT OF CASUALTY ASSISTANCE PROGRAMS.—Not later than December 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report that includes—

"(1) the assessment of the Secretary of the adequacy and sufficiency of the current casualty assistance programs of the military departments;

"(2) a plan for a system for the uniform provision to survivors of military decedents of personalized, accurate, and integrated information on the benefits and financial assistance available to such survivors through the casualty assistance programs of the military departments under subsection (c); and

"(3) such recommendations for other legislative or administrative action as the Secretary considers appropriate to enhance and improve such programs to achieve their intended purposes.

"(e) GAO REPORT.—

"(1) REPORT REQUIRED.—Not later than July 1, 2006, the Comptroller General shall submit to the committees specified in subsection (d) a report on the evaluation by the Comptroller General of the casualty assistance programs of the Department of Defense and of such other departments and agencies of the Federal Government as provide casualty assistance to survivors and next of kin of military decedents.

"(2) ASSESSMENT.—The report shall include the assessment of the Comptroller General of the adequacy of the current policies and procedures of, and funding for, the casualty assistance programs covered by the report to achieve their intended purposes."

## §1476. Death gratuity: death after discharge or release from duty or training

(a)(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

(A) active duty; or

(B) inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

(2) A death gratuity may be paid under paragraph (1) only if the Secretary of Veterans Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

(A) the active duty or inactive-duty training described in paragraph (1); or

(B) travel directly to or from such duty.

(b) For the purpose of this section, the standards and procedures for determining the incurrence or aggravation of a disease or injury are those applicable under the laws relating to disability compensation administered by the Department of Veterans Affairs, except that there is no requirement under this section that any incurrence or aggravation have been in line of duty.

(c) This section does not apply to the survivors of persons who were temporary members of the Coast Guard Reserve at the time of their death.

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1452; amended Pub. L. 99–661, div. A, title VI, §604(e)(2), Nov. 14, 1986, 100 Stat. 3877; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), (2), Nov. 29, 1989, 103 Stat. 1602, 1603.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1476(a) | 38:1133(a). | Aug. 1, 1956, ch. 837, §§102(2) (last sentence, as applicable to death gratuity under §303(a)), 102(4)(D) (as applicable to §303(a)), 102(5)(D) (as applicable to §303(a)), 102(6)(A) (clause (3) of 2d sentence, as applicable to death gratuity under §303(a)), 102(6)(B)(ii) (as applicable to §303(a)), 303(a), (c), 70 Stat. 858, 859, 868, 869. |
| 1476(b) | 38:1101(4)(D) (as applicable to 38:1133(a)).<br>38:1101(5)(D) (as applicable to 38:1133(a)).<br>38:1101(6)(B)(ii) (as applicable to 38:1133(a)). | |
| 1476(c) | 38:1133(c). | |
| 1476(d) | 38:1101(2) (last sentence, as applicable to death gratuity under 38:1133(a)).<br>38:1101(6)(A) (clause (3) of 2d sentence, as applicable to death gratuity under 38:1133(a)). | |

In subsection (a), the words "Except as provided in section 1480 of this title" are inserted to reflect 38:1134(a). The words "to the survivor prescribed by section 1477 of this title" are inserted for clarity. The words "on or after January 1, 1957" are omitted as executed. The words in parentheses in clause (2) are inserted to reflect 38:1101(6)(A) (2d sentence). The words "active duty for training" are omitted as covered by the definition of "active duty" in section 101(22) of this title.

In subsection (c), the word "criteria" is omitted as covered by the word "standards".

## EDITORIAL NOTES

### AMENDMENTS

**1989**—Subsec. (a)(2). Pub. L. 101–189, §1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (b). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1986**—Pub. L. 99–661 added subsec. (a), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsecs. (a) and (b) which read as follows:

"(a) Except as provided in section 1480 of this title, the Secretary concerned shall have a death gratuity paid to or for the survivor prescribed by section 1477 of this title of each person who dies within 120 days after his discharge or release from—

"(1) active duty; or

"(2) inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service);

if the Administrator of Veterans' Affairs determines that the death resulted from (A) disease or injury incurred or aggravated while performing duty under clause (1) or the travel described in subsection (b), or (B) injury incurred or aggravated while performing training under clause (2) or the travel described in subsection (b)(2).

"(b) The travel covered by subsection (a) is—

"(1) authorized travel to or from the duty described in subsection (a)(1); or

"(2) travel directly to or from the duty or training described in subsection (a)(1) or (2) that is performed by a Reserve who, when authorized or required by an authority designated by the Secretary, assumed an obligation to perform that duty or training and whose injury was incurred or aggravated after December 31, 1956."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §1477. Death gratuity: eligible survivors

(a) DESIGNATION OF RECIPIENTS.—(1) On and after July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, a person covered by section 1475 or 1476 of this title may designate one or more persons to receive all or a portion of the amount payable under section 1478 of this title. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the amount of the death gratuity, if any, shall be paid in accordance with subsection (b).

(2) If a person covered by section 1475 or 1476 of this title has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under section 1478 of this title, the Secretary concerned shall provide notice of the designation to the spouse.

(b) DISTRIBUTION OF REMAINDER; DISTRIBUTION IN ABSENCE OF DESIGNATED RECIPIENT.—If a person covered by section 1475 or 1476 of this title does not make a designation under subsection (a) or designates only a portion of the amount payable under section 1478 of this title, the amount of the death gratuity not covered by a designation shall be paid as follows:

(1) To the surviving spouse of the person, if any.

(2) If there is no surviving spouse, to any surviving children (as prescribed by subsection (d)) of the person and the descendants of any deceased children by representation.

(3) If there is none of the above, to the surviving parents (as prescribed by subsection (c)) of the person or the survivor of them.

(4) If there is none of the above, to the duly-appointed executor or administrator of the estate of the person.

(5) If there is none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

(c) TREATMENT OF PARENTS.—For purposes of subsection (b)(3), parents include fathers and mothers through adoption. However, only one father and one mother may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent entered a status described in section 1475 or 1476 of this title.

(d) TREATMENT OF CHILDREN.—Subsection (b)(2) applies, without regard to age or marital status, to—

(1) legitimate children;

(2) adopted children;

(3) stepchildren who were a part of the decedent's household at the time of his death;

(4) illegitimate children of a female decedent; and

(5) illegitimate children of a male decedent—

(A) who have been acknowledged in writing signed by the decedent;

(B) who have been judicially determined, before the decedent's death, to be his children;

(C) who have been otherwise proved, by evidence satisfactory to the Secretary of Veterans Affairs, to be children of the decedent; or

(D) to whose support the decedent had been judicially ordered to contribute.

(e) EFFECT OF DEATH BEFORE RECEIPT OF GRATUITY.— If a person entitled to all or a portion of a death gratuity under subsection (a) or (b) dies before the person receives the death

gratuity, it shall be paid to the living survivor next in the order prescribed by subsection (b).

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1453; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 110–28, title III, §3306, May 25, 2007, 121 Stat. 136; Pub. L. 110–181, div. A, title VI, §645(a), (b), Jan. 28, 2008, 122 Stat. 158, 159; Pub. L. 110–417, [div. A], title X, §1061(a)(4), Oct. 14, 2008, 122 Stat. 4612.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1477(a) | 38:1131(c) (less words in parentheses in clause (2)).<br>38:1134(d). | Aug. 1, 1956, ch. 837, §§102(7) (as applicable to death gratuity), 301(c), (d), 304(d), 70 Stat. 860, 868, 869. |
| 1477(b) | 38:1101(7) (as applicable to children and as applicable to death gratuity).<br>38:1131(c) (words in parentheses in clause (2)). | |
| 1477(c) | 38:1101(7) (less applicability to children, as applicable to death gratuity). | |
| 1477(d) | 38:1131(d). | |

In subsection (a), the words "highest on the following list" are substituted for the words "first listed below", in 38:1131(c). The words "as prescribed by subsection (b)" are inserted in clause (2) to reflect that subsection. The words "or persons in loco parentis, as prescribed by subsection (c)" are inserted in clauses (3) (A) and (4) to reflect the fact that certain persons who are not parents in the normal sense are included as eligible survivors.

In subsection (d), the words "the death gratuity" are substituted for the words "the amount to which he is entitled under this subchapter". The words "next in the order prescribed" are substituted for the words "first listed under".

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–181, §645(a)(3), added subsec. (a) and struck out former subsec. (a) which required a death gratuity payable upon the death of a person covered by section 1475 or 1476 of this title to be paid to or for the living survivor highest on a specified list.

Subsec. (b). Pub. L. 110–181, §645(a)(3), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 110–181, §645(a)(3), added subsec. (c).

Pub. L. 110–181, §645(a)(1), struck out subsec. (c) which read as follows: "Clauses (3) and (4) of subsection (a), so far as they apply to parents and persons in loco parentis, include fathers and mothers through adoption, and persons who stood in loco parentis to the decedent for a period of not less than one year at any time before he acquired a status described in section 1475 or 1476 of this title. However, only one father and one mother, or their counterparts in loco parentis, may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent entered that status."

Subsec. (d). Pub. L. 110–181, §645(a)(2), redesignated subsec. (b) as (d) and substituted "Treatment of Children.—Subsection (b)(2)" for "Subsection (a)(2)" in introductory provisions.

Pub. L. 110–181, §645(a)(1), struck out subsec. (d) which read as follows: "During the period beginning on the date of the enactment of this subsection and ending on September 30, 2007, a person covered by section 1475 or 1476 of this title may designate another person to receive not more than 50 percent of the amount payable under section 1478 of this title. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments up to the maximum of 50 percent, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with paragraphs (1) through (5) of subsection (a)."

Subsec. (e). Pub. L. 110–417 inserted period at end.

Pub. L. 110–181, §645(b), inserted heading and substituted "subsection (a) or (b)" for "subsection (a) or (d)" and "subsection (b)" for "subsection (a).".

**2007**—Subsec. (a). Pub. L. 110–28, §3306(1), substituted "Subject to subsection (d), a death gratuity" for "A death gratuity".

Subsec. (d). Pub. L. 110–28, §3306(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–28, §3306(2), redesignated subsec. (d) as (e) and substituted "If a person entitled to all or a portion of a death gratuity under subsection (a) or (d) dies before the person" for "If an eligible survivor dies before he".

**1989**—Subsec. (b)(5)(C). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 110–181, div. A, title VI, §645(d), Jan. 28, 2008, 122 Stat. 160, provided that:

"(1) IN GENERAL.—Not later than April 1, 2008, the Secretary of Defense shall prescribe regulations to implement the amendments to section 1477 of title 10, United States Code, made by subsection (a).

"(2) ELEMENTS.—The regulations required by paragraph (1) shall include forms for the making of the designation contemplated by subsection (a) of section 1477 of title 10, United States Code, as amended by subsection (a) of this section, and instructions for members of the Armed Forces in the filling out of such forms."

**EXISTING DESIGNATION AUTHORITY**

Pub. L. 110–181, div. A, title VI, §645(c), Jan. 28, 2008, 122 Stat. 159, provided that: "The authority provided by subsection (d) of section 1477 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Jan. 28, 2008], shall remain available to persons covered by section 1475 or 1476 of such title until July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, and any designation under such subsection made before July 1, 2008, or the earlier date prescribed by the Secretary, shall continue in effect until such time as the person who made the designation makes a new designation under such section 1477, as amended by subsection (a) of this section."

## §1478. Death gratuity: amount

(a) The death gratuity payable under sections 1475 through 1477 of this title shall be $100,000. For this purpose:

(1) A person covered by subsection (a)(1) of section 1475 of this title who died while traveling to or from active duty (other than for training) is considered to have been on active duty on the date of his death.

(2) A person covered by subsection (a)(3) of section 1475 of this title who died while traveling directly to or from active duty for training is considered to have been on active duty for training on the date of his death.

(3) A person covered by subsection (a)(3) of section 1475 of this title who died while traveling directly to or from inactive duty training is considered to have been on inactive duty training on the date of his death.

(4) A person covered by subsection (a)(3) of section 1475 of this title who died while on authorized stay at the person's residence during a period of inactive duty training or between successive days of inactive duty training is considered to have been on inactive duty training on the date of his death.

(5) A person covered by subsection (a)(4) of section 1475 of this title who died while performing annual training duty or while traveling directly to or from that duty is considered to have been entitled, on the date of his death, to the pay prescribed by the first sentence of section 209(c) of title 37. A person covered by section 1475(a)(4) of this title who dies while attending field training or a practice cruise under section 2104(b)(6)(B) of this title, or while traveling

directly to or from the place where the training or cruise is conducted, is considered to have been entitled, on the date of his death, to the pay prescribed by the second sentence of section 209(c) of title 37.

(6) A person covered by subsection (a)(5) of section 1475 of this title is considered to have been on active duty, on the date of his death, in the grade that he would have held on final acceptance, or entry on active duty.

(7) A person covered by section 1476 of this title is considered to have been entitled, on the date of his death, to pay at the rate to which he was entitled on the last day on which he performed duty or training.

(8) A person covered by section 1475 or 1476 of this title who performed active duty, or inactive duty training, without pay is considered to have been entitled to basic pay while performing that duty or training.

(9) A person covered by section 1475 or 1476 of this title who incurred a disability while on active duty or inactive duty training and who became entitled to basic pay while receiving hospital or medical care, including out-patient care, for that disability, is considered to have been on active duty or inactive duty training, as the case may be, for as long as he is entitled to that pay.

(b) A person who is discharged, or released from active duty (other than for training), is considered to continue on that duty during the period following the date of his discharge or release that, as determined by the Secretary concerned, is necessary for that person to go to his home by the most direct route. That period may not end before midnight of the day on which the member is discharged or released.

[(c) Repealed. Pub. L. 109–163, div. A, title VI, §664(a)(2)(B), Jan. 6, 2006, 119 Stat. 3316.]

(d)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable, subject to section 664(c) of the National Defense Authorization Act for Fiscal Year 2006, for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

(2) This subsection applies in the case of a person who died during the period beginning on October 7, 2001, and ending on August 31, 2005, while a member of the armed forces on active duty and whose death did not establish eligibility for an additional death gratuity under the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247), because the person was not described in paragraph (2) of that prior subsection.

(3) The amount of additional death gratuity payable under this subsection shall be $150,000.

(4) A payment pursuant to this subsection shall be paid in the same manner as provided under paragraph (4) of the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247), for payments pursuant to paragraph (3)(A) of that prior subsection.

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1454; amended Pub. L. 88–647, title III, §301(2), Oct. 13, 1964, 78 Stat. 1071; Pub. L. 89–718, §11, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 102–190, div. A, title VI, §652(a), Dec. 5, 1991, 105 Stat. 1387; Pub. L. 108–121, title I, §102(a)(1), Nov. 11, 2003, 117 Stat. 1337; Pub. L. 108–136, div. A, title VI, §646(a), Nov. 24, 2003, 117 Stat. 1520; Pub. L. 108–375, div. A, title VI, §643(b), Oct. 28, 2004, 118 Stat. 1958; Pub. L. 109–13, div. A, title I, §1013(a)–(c), May 11, 2005, 119 Stat. 246–248; Pub. L. 109–163, div. A, title VI, §664(a)(1), (2), (b), Jan. 6, 2006, 119 Stat. 3316; Pub. L. 109–234, title I, §1210, June 15, 2006, 120 Stat. 430; Pub. L. 112–81, div. A, title VI, §651(a)(2), Dec. 31, 2011, 125 Stat. 1466.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1478(a) | 38:1101(6)(B) (last 32 words of 1st sentence, as applicable to death gratuity).<br>38:1101(10)(B) (as applicable to death gratuity). | Aug. 1, 1956, ch. 837, §§102(6)(B) (last 32 words of 1st sentence, as applicable to death gratuity), (10)(B) (as applicable to death gratuity), (11)(E) (last 27 words, as applicable |

| | | |
|---|---|---|
| | 38:1101(11)(E) (last 27 words, as applicable to death gratuity).<br>38:1131(b).<br>38:1133(d).<br>38:1134(c). | to death gratuity), (12) (as applicable to death gratuity), 301(b), 303(d), 304(c), 70 Stat. 859–861, 868, 869. |
| 1478(b) | 38:1101(12) (as applicable to death gratuity). | |

In subsection (a), the word "pay" is substituted for the words "basic pay (plus special and incentive pays)", since the word "pay", as defined in section 101(27) of this title, includes those types of pay. Clause (1) is inserted to reflect section 1475(a)(1) of this title. Clauses (2) and (3) are substituted for 38:1101(6)(B) (last 32 words of 1st sentence). Clause 4 is substituted for 38:1101(10)(B). The words "to the pay prescribed by section 4385(c) or 9385(c) of this title" are inserted to reflect those sections, which prescribe the training pay of members of reserve officers' training corps units. Clause (5) is substituted for 38:1101(11)(E) (last 27 words). Clause (6) is substituted for 38:1133(d). In clause (6), the word "pay" is substituted for the words "basic pay (plus special and incentive pays)", since the word "pay", as defined in section 101(27) of this title, includes those kinds of pay. Clauses (7) and (8) are substituted for 38:1134(c). In those clauses, the words "active duty for training" are omitted as covered by the definition of "active duty" in section 101(22) of this title. In clause (8), the words "and who became entitled to basic pay" are substituted for the words "and is placed in a pay status" and the words "is entitled to that pay" are substituted for the words "remains in a pay status".

In subsection (b), the words "on or after January 1, 1957" are omitted as executed. The words "(other than for training)" are inserted, since the words "active duty" in the source statute did not include active duty for training. The words "is considered to continue on that duty" are substituted for the words "shall be deemed to continue on active duty". The last sentence is substituted for 38:1101(12) (last 14 words).

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(c) of the National Defense Authorization Act for Fiscal Year 2006, referred to in subsec. (d)(1), is section 664(c) of title VI of div. A of Pub. L. 109–163, Jan. 6, 2006, 119 Stat. 3317, which is not classified to the Code.

### AMENDMENTS

**2011**—Subsec. (a)(4) to (9). Pub. L. 112–81 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

**2006**—Subsec. (a). Pub. L. 109–163, §664(a)(1), (2)(A), in introductory provisions, substituted "$100,000" for "$12,000" and struck out "(as adjusted under subsection (c))" before period at end of first sentence.

Subsec. (c). Pub. L. 109–163, §664(a)(2)(B), struck out subsec. (c) which read as follows: "Effective on the date on which rates of basic pay under section 204 of title 37 are increased under section 1009 of that title or any other provision of law, the amount of the death gratuity in effect under subsection (a) shall be increased by the same overall average percentage of the increase in the rates of basic pay taking effect on that date."

Subsec. (d). Pub. L. 109–163, §664(b), added subsec. (d).

Subsec. (d)(2). Pub. L. 109–234 substituted "August 31, 2005" for "May 11, 2005".

**2005**—Subsec. (a). Pub. L. 109–13, §1013(a)(2), (e), temporarily substituted "(as adjusted under subsection (d))" for "(as adjusted under subsection (c))" in introductory provisions. See Effective and Termination Dates of 2005 Amendments notes below.

Pub. L. 109–13, §1013(a)(1)(A), (e), temporarily inserted ", except as provided in subsections (c), (e), and (f)" after "$12,000" in introductory provisions. See Effective and Termination Dates of 2005 Amendments notes below.

Subsec. (c). Pub. L. 109–13, §1013(a)(1)(C), (e), temporarily added subsec. (c) which read as follows: "The death gratuity payable under sections 1475 through 1477 of this title is $100,000 in the case of a death resulting from wounds, injuries, or illnesses that are—

"(1) incurred as described in section 1413a(e)(2) of this title; or

"(2) incurred in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38."

Former subsec. (c) temporarily redesignated (d). See Effective and Termination Dates of 2005 Amendments notes below.

Subsec. (d). Pub. L. 109–13, §1013(a)(1)(B), (e), temporarily redesignated subsec. (c) as (d). See Effective and Termination Dates of 2005 Amendments notes below.

Subsec. (e). Pub. L. 109–13, §1013(b), (e), temporarily added subsec. (e) which read as follows:

"(e)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

"(2) This subsection applies in the case of a member of the armed forces who dies before the date of the enactment of this subsection as a direct result of one or more wounds, injuries, or illnesses that—

"(A) were incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

"(B) were incurred as described in section 1413a(e)(2) of this title on or after October 7, 2001.

"(3) The amount of additional death gratuity payable under this subsection shall be $238,000, of which—

"(A) $150,000 shall be paid in the manner specified in paragraph (4); and

"(B) $88,000 shall be paid in the manner specified in paragraph (5).

"(4) A payment pursuant to paragraph (3)(A) by reason of a death covered by this subsection shall be paid—

"(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds paid on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

"(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who would have received proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

"(5) A payment pursuant to paragraph (3)(B) by reason of a death covered by this subsection shall be paid equal shares to the beneficiaries who were paid the death gratuity that was paid with respect to that death under this section." See Effective and Termination Dates of 2005 Amendments notes below.

Subsec. (f). Pub. L. 109–13, §1013(c), (e), temporarily added subsec. (f) which read as follows:

"(f)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (e).

"(2) This subsection applies in the case of a member of the armed forces who dies during the period beginning on the date of the enactment of this subsection and ending on the first day of the first month that begins more than 90 days after such date of one or more wounds, injuries, or illnesses that—

"(A) are incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

"(B) are incurred as described in section 1413a(e)(2) of this title.

"(3) The amount of additional death gratuity payable under this subsection shall be $150,000.

"(4) A payment pursuant to paragraph (3) by reason of a death covered by this subsection shall be paid—

"(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds payable on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

"(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who receive proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries."

See Effective and Termination Dates of 2005 Amendments notes below.

**2004**—Subsec. (a). Pub. L. 108–375, §643(b)(1), inserted "(as adjusted under subsection (c))" before period in introductory provisions.

Subsec. (c). Pub. L. 108–375, §643(b)(2), added subsec. (c).

**2003**—Subsec. (a). Pub. L. 108–121 and Pub. L. 108–136 amended subsec. (a) identically, substituting "$12,000" for "$6,000" in introductory provisions.

**1991**—Subsec. (a). Pub. L. 102–190, in first sentence, substituted "1475 through 1477" for "1475–1477" and "$6,000" for "equal to six months' pay at the rate to which the decedent was entitled on the date of his death, except that the gratuity may not be less than $800 of more than $3,000."

**1966**—Subsec. (a)(4). Pub. L. 89–718 struck out ", United States Code" after "title 37" in two places.

**1964**—Subsec. (a)(4). Pub. L. 88–647 substituted "the first sentence of section 209(c) of title 37, United States Code" for "section 4385(c) or 9385(c) of this title", and provided that a person covered by section 1475(a)(4) of this title who dies in field training or on a practice cruise, or in travel to or from such training or

cruise, is considered entitled on the day of his death to the pay prescribed by the second sentence of section 209(c) of Title 37.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–81 effective on Dec. 31, 2011, and applicable with respect to deaths that occur on or after that date, see section 651(c) of Pub. L. 112–81, set out as a note under section 1475 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–234, title I, §1210, June 15, 2006, 120 Stat. 430, provided that the amendment made by section 1210 is effective as of Jan. 6, 2006, and as if included in the enactment of Pub. L. 109–163.

Pub. L. 109–163, div. A, title VI, §664(a)(3), Jan. 6, 2006, 119 Stat. 3316, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of October 7, 2001, and shall apply to deaths occurring on or after the date of the enactment of this Act [Jan. 6, 2006] and, subject to subsection (c) [119 Stat. 3317], to deaths occurring during the period beginning on October 7, 2001, and ending on the day before the date of the enactment of this Act."

### EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENTS

Pub. L. 109–77, §115, Sept. 30, 2005, 119 Stat. 2040, provided that: "The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 [amending this section, section 411h of Title 37, Pay and Allowances of the Uniformed Services, and sections 1967, 1969, 1970, and 1977 of Title 38, Veterans' Benefits, and enacting provisions set out as notes under this section, section 411h of Title 37, and section 1967 of Title 38] shall continue in effect, notwithstanding the fiscal year limitation in section 1011 [119 Stat. 244] and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law [enacting provisions set out as notes under this section, section 411h of Title 37, and section 1967 of Title 38], through the earlier of: (1) the date specified in section 106(3) of this joint resolution [Dec. 31, 2005]; or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section."

Pub. L. 109–13, div. A, title I, §1013(d), (e), May 11, 2005, 119 Stat. 248, provided that:

"(d) EFFECTIVE DATE.—This section [amending this section] and the amendments made by this section shall take effect on the date of the enactment of this Act [May 11, 2005].

"(e) TERMINATION.—

"(1) IN GENERAL.—This section [amending this section] and the amendment made by this subsection [probably means this section] shall terminate on September 30, 2005. Effective as of October 1, 2005, the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of this Act [May 11, 2005] shall be revived.

"(2) CONTINUING OBLIGATION TO PAY.—Any amount of additional death gratuity payable under section 1478 of title 10, United States Code, by reason of the amendments made by subsections (b) and (c) of this section [amending this section] that remains payable as of September 30, 2005, shall, notwithstanding paragraph (1), remain payable after that date until paid."

### EFFECTIVE DATE OF 2003 AMENDMENTS

Pub. L. 108–136, div. A, title VI, §646(b), Nov. 24, 2003, 117 Stat. 1520, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date."

Pub. L. 108–121, title I, §102(a)(2), Nov. 11, 2003, 117 Stat. 1337, provided that: "The amendment made by this subsection [amending this section] shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date."

### EFFECTIVE DATE OF 1991 AMENDMENT; TRANSITION PROVISION

Pub. L. 102–190, div. A, title VI, §652(b), Dec. 5, 1991, 105 Stat. 1388, provided that:

"(1) The amendments made by subsection (a) [amending this section] shall take effect as of August 2, 1990.

"(2) In the case of the payment of a death gratuity under sections 1475 through 1477 of title 10, United States Code, with respect to a person who died during the period beginning on August 2, 1990, and ending on the date of the enactment of this Act [Dec. 5, 1991], the amount of the death gratuity under section 1478(a) of such title (as amended by subsection (a)) shall be reduced by the amount of any such gratuity paid with respect to such person under this section (as in effect on August 1, 1990)."

**TEMPORARY INCREASE IN AMOUNT OF DEATH GRATUITY; PERSIAN GULF CONFLICT**

Pub. L. 102–25, title III, §307, Apr. 6, 1991, 105 Stat. 82, provided that: "In lieu of the amount of the death gratuity specified in section 1478(a) of title 10, United States Code, the amount of the death gratuity payable under that section shall be $6,000 for a death resulting from any injury or illness incurred during the Persian Gulf conflict or during the 180-day period beginning at the end of the Persian Gulf conflict."

**DEATH GRATUITY FOR CERTAIN PARTICIPANTS WHO DIED BETWEEN AUGUST 1, 1990, AND APRIL 6, 1991**

Pub. L. 102–25, title III, §308, Apr. 6, 1991, 105 Stat. 83, required Secretary of Defense to pay death gratuity to each SGLI beneficiary of each deceased member of uniformed services who died after Aug. 1, 1990, and before Apr. 6, 1991, and whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than Persian Gulf, as prescribed in regulations set forth by Secretary of Defense.

## §1479. Death gratuity: delegation of determinations, payments

For the purpose of making immediate payments under section 1475 of this title, the Secretary concerned shall—

(1) authorize the commanding officer of a territorial command, installation, or district in which a survivor of a person covered by that section is residing to determine the beneficiary eligible for the death gratuity; and

(2) authorize a disbursing or certifying official of each of those commands, installations, or districts to make the payments to the beneficiary, or certify the payments due them, as the case may be.

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1455; amended Pub. L. 97–258, §2(b)(1)(A), Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1479 | 38:1132. | Aug. 1, 1956, ch. 837, §302, 70 Stat. 868. |

The word "territorial" is substituted for the words "military or naval", since the subsection could only apply to that type of command, installation, or district. Clause (2) is substituted for 38:1132(2).

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Par. (2). Pub. L. 97–258 substituted "official" for "officer".

## §1480. Death gratuity: miscellaneous provisions

(a) A payment may not be made under sections 1475–1477 of this title if the decedent was put to death as lawful punishment for a crime or a military offense, unless he was put to death by a hostile force with which the armed forces of the United States were engaged in armed conflict.

(b) A payment may not be made under section 1476 unless the Secretary of Veterans Affairs determines that the decedent was discharged or released, as the case may be, under conditions other than dishonorable from the last period of the duty or training that he performed.

(c) For the purposes of section 1475(a)(3) of this title, the Secretary concerned shall determine whether the decedent was authorized or required to perform the duty or training and whether or not he died from injury so incurred. For the purposes of section 1476 of this title, the Secretary of Veterans Affairs shall make those determinations. In making those determinations, the Secretary concerned or the Secretary of Veterans Affairs, as the case may be, shall consider—

(1) the hour on which the Reserve began to travel directly to or from the duty or training;
(2) the hour at which he was scheduled to arrive for, or at which he ceased performing, that duty or training;
(3) the method of travel used;
(4) the itinerary;
(5) the manner in which the travel was performed; and
(6) the immediate cause of death.

In cases covered by this subsection, the burden of proof is on the claimant.

(d) Payments under sections 1475–1477 of this title shall be made from appropriations available for the payment of members of the armed force concerned.

(e) In the case of a claim for a death gratuity under this chapter by an individual who is younger than 21 years of age on the date of the death with respect to which the claim is made, the individual shall file the claim with the Secretary of Defense not later than the later of—
(1) the date that is three years after the individual reaches 21 years of age; or
(2) the date that is six years after the date of the death with respect to which the claim is made.

(Added Pub. L. 85–861, §1(32)(A), Sept. 2, 1958, 72 Stat. 1455; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(2), (5), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 118–159, div. A, title VI, §632(a), Dec. 23, 2024, 138 Stat. 1937.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1480(a) | 38:1134(a). | Aug. 1, 1956, ch. 837, §§102(6)(B) (less 1st sentence, as applicable to death gratuity) 303(e), 304(a), (b), 70 Stat. 859, 869. |
| 1480(b) | 38:1133(e). | |
| 1480(c) | 38:1101(6)(B) (less 1st sentence, as applicable to death gratuity). | |
| 1480(d) | 38:1134(b). | |

In subsection (a), the words "was put to death" are substituted for the words "suffered death". The words "or naval" are omitted as covered by the word "military".

In subsection (b), the words "last period * * * that he performed" are substituted for the words "such period".

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (e). Pub. L. 118–159 added subsec. (e).

**1989**—Subsec. (b). Pub. L. 101–189, §1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (c). Pub. L. 101–189, §1621(a)(2), (5), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs" after "section 1476 of this title, the" and "the Secretary concerned or the Secretary of Veterans Affairs" for "the Secretary or the Administrator".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2024 AMENDMENT**

Pub. L. 118–159, div. A, title VI, §632(b), Dec. 23, 2024, 138 Stat. 1937, provided that: "The amendment made by subsection (a) [amending this section] applies to claims filed with respect to deaths occurring on or after on [sic] January 1, 2025."

## §1481. Recovery, care, and disposition of remains: decedents covered

(a) The Secretary concerned may provide for the recovery, care, and disposition of the remains of the following persons:

(1) Any Regular of an armed force under his jurisdiction who dies while on active duty.

(2) A member of a reserve component of an armed force who dies while—

(A) on active duty;

(B) performing inactive-duty training;

(C) performing authorized travel directly to or from active duty or inactive-duty training;

(D) remaining overnight immediately before the commencement of inactive-duty training, or remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training;

(E) staying at the member's residence, when so authorized by proper authority, during a period of inactive duty training or between successive days of inactive duty training;

(F) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training; or

(G) either—

(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) traveling directly to or from the place at which the member is to so serve; or

(iii) remaining overnight at or in the vicinity of that place before so serving, if the place is outside reasonable commuting distance from the member's residence.

[(3) Repealed. Pub. L. 99–661, div. A, title VI, §604(e)(3)(B), Nov. 14, 1986, 100 Stat. 3877.]

(4) Any member of, or applicant for membership in, a reserve officers' training corps who dies while (A) attending a training camp, (B) on an authorized practice cruise, (C) performing authorized travel to or from such a camp or cruise, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel.

(5) Any accepted applicant for enlistment in an armed force under his jurisdiction.

(6) Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death.

(7) A person who—

(A) dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days; or

(B) is not covered by subparagraph (A) and, while in a retired status by reason of eligibility to retire under chapter 61 of this title, dies during a continuous hospitalization of the person that began while the person was on active duty as a Regular of an armed force under the Secretary's jurisdiction.

(8) Any military prisoner who dies while in his custody.

(9) To the extent authorized under section 1482(f) of this title, any retired member of an armed force who dies while outside the United States or any individual who dies outside the United States while a dependent of such a member.

(10) To the extent authorized under section 1482(g) of this title, any person not otherwise covered by the preceding paragraphs whose remains (or partial remains) have been retained by the Secretary concerned for purposes of a forensic pathology investigation by the Armed Forces Medical Examiner under section 1471 of this title.

(11) Any person not otherwise covered by this section whose death entitles a survivor of such person to a death gratuity under section 1475 of this title.

(b) This section applies to each person covered by subsection (a)(1)–(7) even though he may have been temporarily absent from active duty, with or without leave, at the time of his death, unless he

had been dropped from the rolls of his organization before his death.

(c) In this section, the term "dependent" has the meaning given such term in section 1072(2) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 112; Pub. L. 88–647, title III, §301(3), Oct. 13, 1964, 78 Stat. 1071; Pub. L. 99–661, div. A, title VI, §604(e)(3), Nov. 14, 1986, 100 Stat. 3877; Pub. L. 103–337, div. A, title VI, §652(a)(1), Oct. 5, 1994, 108 Stat. 2793; Pub. L. 104–106, div. A, title VII, §702(b), Feb. 10, 1996, 110 Stat. 371; Pub. L. 105–85, div. A, title V, §513(e), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 105–261, div. A, title VI, §645(a), (b), Oct. 17, 1998, 112 Stat. 2049, 2050; Pub. L. 106–65, div. A, title V, §578(i)(5), Oct. 5, 1999, 113 Stat. 630; Pub. L. 106–398, §1 [[div. A], title X, §1087(d)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293; Pub. L. 107–107, div. A, title V, §513(c), title VI, §638(b)(2), Dec. 28, 2001, 115 Stat. 1093, 1147; Pub. L. 112–81, div. A, title VI, §651(b), Dec. 31, 2011, 125 Stat. 1467; Pub. L. 113–66, div. A, title VI, §651(a)(1), Dec. 26, 2013, 127 Stat. 787; Pub. L. 118–159, div. A, title VI, §631(b), Dec. 23, 2024, 138 Stat. 1936.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1481(a) | 5:2151 (as applicable to armed forces).<br>5:2152 (1st 27 words, as applicable to armed forces).<br>5:2153 (less 1st 18 words, as applicable to armed forces). | July 15, 1954, ch. 507, §§1, 2 (1st 25 words, as applicable to armed forces), 3 (less 1st 16 words, as applicable to armed forces), 4 (as applicable to armed forces), 68 Stat. 478. |
| 1481(b) | 5:2154 (as applicable to armed forces). | |

In subsection (a), 5:2151 is omitted as covered by the revised sections of this chapter. In clauses (1), (2), (5)–(7), the words "under his jurisdiction" are inserted for clarity. In clause (1) the words "regular member of an armed force, or member of an armed force without component" are substituted for the words "military personnel", since all other members of the military services are covered by more specific rules set forth in clauses (2) and (7). In clauses (2) and (3), the words "active duty for training" are omitted as covered by the words "active duty". The words "injury incurred, or disease contracted" are substituted for the words "injuries, illness, or disease contracted or incurred". The words "by law", "authorized", "proper authority", and "as authorized by law" are omitted as surplusage. In clause (3), the words "while entitled to" are substituted for the words "in respect of duty for which they are entitled by law to receive". In clause (4), the words "injury incurred, or disease contracted" are substituted for the words "injury, disease or illness contracted or incurred". The words "as authorized by law" are omitted as surplusage. In clause (6), the word "person" is substituted for the words "former enlisted members". In clause (7), the words "active duty for a period of more than 30 days" are substituted for the words "extended active duty".

In subsection (b), the words "This section applies to each person * * * even though" are substituted for the words "The benefits of this Act shall not be denied in respect of a person * * * on the ground".

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(11). Pub. L. 118–159 added par. (11).

**2013**—Subsec. (a)(10). Pub. L. 113–66 added par. (10).

**2011**—Subsec. (a)(2)(E) to (G). Pub. L. 112–81 added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

**2001**—Subsec. (a)(2)(D). Pub. L. 107–107, §513(c), struck out ", if the site is outside reasonable commuting distance from the member's residence" before semicolon at end.

Subsec. (a)(9). Pub. L. 107–107, §638(b)(2), substituted "section 1482(f)" for "section 1482(g)".

**2000**—Subsec. (a)(1). Pub. L. 106–398 amended directory language of Pub. L. 105–261, §645(b). See 1998 Amendment note below.

**1999**—Subsec. (a)(2)(F). Pub. L. 106–65 added subpar. (F).

**1998**—Subsec. (a)(1). Pub. L. 105–261, §645(b), as amended by Pub. L. 106–398, struck out ", or member of an armed force without component," after "Regular of an armed force".

Subsec. (a)(7). Pub. L. 105–261, §645(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "Any retired member of an armed force under his jurisdiction who becomes a patient in a United States hospital while he is on active duty for a period of more than 30 days, and who continues to be such a patient until the date of his death."

**1997**—Subsec. (a)(2)(D). Pub. L. 105–85 inserted "remaining overnight immediately before the commencement of inactive-duty training, or" after "(D)".

**1996**—Subsec. (a)(2)(C) to (E). Pub. L. 104–106 struck out "or" at end of subpar. (C), added subpar. (D), and redesignated former subpar. (D) as (E).

**1994**—Subsec. (a). Pub. L. 103–337, §652(a)(1)(A), substituted "the remains of the following persons:" for "the remains of—", capitalized the first letter of the first word in pars. (1) to (8), substituted a period for the last semicolon in pars. (1) to (6), substituted a period for "; and" in par. (7), and added par. (9).

Subsec. (c). Pub. L. 103–337, §652(a)(1)(B), added subsec. (c).

**1986**—Subsec. (a)(2), (3). Pub. L. 99–661 added par. (2) and struck out former pars. (2) and (3) which read as follows:

"(2) any Reserve of an armed force under his jurisdiction who dies while (A) on active duty, (B) performing authorized travel to or from that duty, (C) on authorized inactive-duty training, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while on that duty or training or while performing that travel;

"(3) any member of the Army National Guard or Air National Guard who dies while entitled to pay from the United States and while (A) on active duty, (B) performing authorized travel to or from that duty, (C) on authorized inactive-duty training, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while on that duty or training or while performing that travel;".

**1964**—Subsec. (a)(4). Pub. L. 88–647 substituted ", or applicant for membership in, a reserve officers' training corps" for "the Army Reserve Officers' Training Corps, Naval Reserve Officers' Training Corps, or Air Force Reserve Officers' Training Corps".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Amendment by Pub. L. 118–159 applicable to a death that occurs on or after Dec. 23, 2024, see section 631(d) of Pub. L. 118–159, set out as a note under section 1475 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–81 effective on Dec. 31, 2011, and applicable with respect to deaths that occur on or after that date, see section 651(c) of Pub. L. 112–81, set out as a note under section 1475 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1087(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that the amendment made by section 1 [[div. A], title X, §1087(d)(3)] is effective Oct. 17, 1998, and as if included in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105–261, as enacted.

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VI, §645(c), Oct. 17, 1998, 112 Stat. 2050, provided that: "The amendment made by subsection (a) [amending this section] applies with respect to deaths occurring on or after the date of the enactment of this Act [Oct. 17, 1998]."

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title VI, §652(a)(3), Oct. 5, 1994, 108 Stat. 2794, provided that: "The amendments made by this subsection [amending this section and section 1482 of this title] shall apply with respect to the remains of, and incidental expenses incident to the recovery, care, and disposition of, an individual who dies after the date of the enactment of this Act [Oct. 5, 1994]."

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or

aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

**REQUIREMENT FOR DEPLOYING MILITARY MEDICAL PERSONNEL TO BE TRAINED IN PRESERVATION OF REMAINS UNDER COMBAT OR COMBAT-RELATED CONDITIONS**

Pub. L. 109–364, div. A, title V, §567, Oct. 17, 2006, 120 Stat. 2224, provided that:

"(a) REQUIREMENT.—The Secretary of each military department shall ensure that each military health care professional under that Secretary's jurisdiction who is deployed to a theater of combat operations is trained, before such deployment, in the preservation of remains under combat or combat-related conditions.

"(b) MATTERS COVERED BY TRAINING.—The training under subsection (a) shall include, at a minimum, the following:

"(1) Best practices and procedures for the preservation of the remains of a member of the Armed Forces after death, taking into account the conditions likely to be encountered and the objective of returning the remains to the member's family in the best possible condition.

"(2) Practical case studies based on experience of the Armed Forces in a variety of climactic conditions.

"(c) COVERED MILITARY HEALTH CARE PROFESSIONALS.—In this section, the term 'military health care professional' means—

"(1) a physician, nurse, nurse practitioner, physician assistant, or combat medic; and

"(2) any other medical personnel with medical specialties who may provide direct patient care and who are designated by the Secretary of the military department concerned.

"(d) EFFECTIVE DATE.—Subsection (a) shall apply with respect to any military health care professional who is deployed to a theater of combat operations after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 17, 2006]."

## §1482. Expenses incident to death

(a) Incident to the recovery, care, and disposition of the remains of any decedent covered by section 1481 of this title, the Secretary concerned may pay the necessary expenses of the following:

(1) Recovery and identification of the remains.

(2) Notification to the next of kin or other appropriate person.

(3) Preparation of the remains for burial, including cremation if requested by the person designated to direct disposition of the remains.

(4) Furnishing of a uniform or other clothing.

(5) Furnishing of a casket or urn, or both, with outside box.

(6) Hearse service.

(7) Funeral director's services.

(8)(A) Transportation of the remains, and travel and transportation allowances as specified in regulations prescribed under section 464 of title 37 for an escort of one person, to the place, subject to subparagraph (B), selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized.

(B) The person designated to direct disposition of the remains may select two places under subparagraph (A) if the second place is a national cemetery. If that person selects two places, the Secretary concerned may pay for transportation to the second place only by means of reimbursement under subsection (b).

(C) When transportation of the remains includes transportation by aircraft under section 562 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 1482 note), the Secretary concerned shall provide, to the maximum extent practicable, for delivery of the remains by air to the commercial, general aviation, or military airport nearest to the place selected by the designee.

(9) Interment or inurnment of the remains.

(10) In the case of a decedent under the jurisdiction of a Secretary of a military department at the time of death, enduring care of remains interred in a foreign cemetery if the burial location was designated by such Secretary.

(11)(A) Delivery of personal effects of a decedent to the next of kin or other appropriate person.

(B) If the Secretary concerned enters into an agreement with an entity to carry out subparagraph (A), the Secretary concerned may, at the request of the person described in such subparagraph, pursue a claim against such entity that arises from the failure of such entity to substantially perform such subparagraph.

(C) If an entity described in subparagraph (B) fails to substantially perform subparagraph (A) by damaging, losing, or destroying the personal effects of a decedent, the Secretary concerned shall reimburse the person designated under subsection (c) the greater of $1,000 or the fair market value of such damage, loss, or destruction. The Secretary concerned may request, from the person designated under subsection (c), proof of fair market value and ownership of the personal effects.

(b) If an individual pays any expense payable by the United States under this section, the Secretary concerned shall reimburse him or his representative in an amount not larger than that normally incurred by the Secretary in furnishing the supply or service concerned. If reimbursement by the United States is also authorized under another provision of law or regulation, the individual may elect under which provision to be reimbursed.

(c) The following persons may be designated to direct disposition of the remains of a decedent covered by this chapter:

(1) The person identified by the decedent on the record of emergency data maintained by the Secretary concerned (DD Form 93 or any successor to that form), as the Person Authorized to Direct Disposition (PADD), regardless of the relationship of the designee to the decedent.

(2) The surviving spouse of the decedent.

(3) Blood relatives of the decedent.

(4) Adoptive relatives of the decedent.

(5) If no person covered by paragraphs (1) through (4) can be found, a person standing in loco parentis to the decedent.

(d) When the remains of a decedent covered by section 1481 of this title, whose death occurs after January 1, 1961, are determined to be nonrecoverable, the person who would have been designated under subsection (c) to direct disposition of the remains if they had been recovered may be—

(1) presented with a flag of the United States; however, if the person designated by subsection (c) is other than a parent of the deceased member, a flag of equal size may also be presented to the parents, and

(2) reimbursed by the Secretary concerned for the necessary expenses of a memorial service.

However, the amount of the reimbursement shall be determined in the manner prescribed in subsection (b) for an interment, but may not be larger than that authorized when the United States provides the grave site. A claim for reimbursement under this subsection may be allowed only if it is presented within two years after the date of death or the date the person who would have been designated under subsection (c) to direct disposition of the remains, if they had been recovered, receives notification that the member has been reported or determined to be dead under authority of chapter 10 of title 37, whichever is later.

(e) PRESENTATION OF FLAG OF THE UNITED STATES.—(1) In the case of a decedent covered by section 1481 of this title, the Secretary concerned may pay the necessary expenses for the presentation of a flag of the United States to the following persons:

(A) The person designated under subsection (c) to direct disposition of the remains of the decedent.

(B) The parents or parent of the decedent, if the person to be presented a flag under subparagraph (A) is other than a parent of the decedent.

(C) The surviving spouse of the decedent (including a surviving spouse who remarries after the decedent's death), if the person to be presented a flag under subparagraph (A) is other than the surviving spouse.

(D) Each child of the decedent, regardless of whether the person to be presented a flag under

subparagraph (A) is a child of the decedent.

(2) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

(A) was a member of the Ready Reserve; or

(B) had performed at least twenty years of service as computed under section 12732 of this title and was not entitled to retired pay under section 12731 of this title.

(3) A flag to be presented to a person under subparagraph (B), (C), or (D) of paragraph (1) shall be of equal size to the flag presented under subparagraph (A) of such paragraph to the person designated to direct disposition of the remains of the decedent.

(4) This subsection does not apply to a military prisoner who dies while in the custody of the Secretary concerned and while under a sentence that includes a discharge.

(5) In this subsection:

(A) The term "parent" includes a natural parent, a stepparent, a parent by adoption, or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to the decedent. Preference under paragraph (1)(B) shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.

(B) The term "child" has the meaning prescribed by section 1477(d) of this title.

(f) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481(a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned may pay any other expenses relating to the remains of such a decedent that are authorized to be paid under this section only on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.

(g)(1) The payment of expenses incident to the recovery, care, and disposition of the remains of a decedent covered by section 1481(a)(10) of this title is limited to those expenses that, as determined under regulations prescribed by the Secretary of Defense, would not have been incurred but for the retention of those remains for purposes of a forensic pathology investigation by the Armed Forces Medical Examiner under section 1471 of this title.

(2) In a case covered by paragraph (1), if the person designated under subsection (c) to direct disposition of the remains of a decedent does not direct disposition of the remains that were retained for the forensic pathology investigation, the Secretary may pay for the transportation of those remains to, and interment or inurnment of those remains in, an appropriate place selected by the Secretary, in lieu of the transportation authorized to be paid under paragraph (8) of subsection (a).

(3) In a case covered by paragraph (1), expenses that may be paid do not include expenses with respect to an escort under paragraph (8) of subsection (a), whether or not on a reimbursable basis.

(4) The Secretary concerned may pay any other expenses relating to the remains of such a decedent that are authorized to be paid under this section on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available at the time of reimbursement for the payment of such expenses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 113; Pub. L. 85–716, Aug. 21, 1958, 72 Stat. 708; Pub. L. 91–397, Sept. 1, 1970, 84 Stat. 837; Pub. L. 91–487, Oct. 22, 1970, 84 Stat. 1086; Pub. L. 93–292, May 28, 1974, 88 Stat. 176; Pub. L. 93–649, Jan. 8, 1975, 88 Stat. 2361; Pub. L. 101–189, div. A, title VI, §§652(a)(3), 653(a)(6), title XVI, §1622(c)(4), Nov. 29, 1989, 103 Stat. 1461, 1462, 1604; Pub. L. 103–337, div. A, title VI, §652(a)(2), title XVI, §1671(c)(8), Oct. 5, 1994, 108 Stat. 2793, 3014; Pub. L. 104–106, div. A, title XV, §1501(c)(19), Feb. 10, 1996, 110 Stat. 499; Pub. L.

107–107, div. A, title VI, §638(b)(1), Dec. 28, 2001, 115 Stat. 1147; Pub. L. 110–181, div. A, title V, §591, Jan. 28, 2008, 122 Stat. 138; Pub. L. 110–417, [div. A], title V, §581, Oct. 14, 2008, 122 Stat. 4472; Pub. L. 112–81, div. A, title V, §528, Dec. 31, 2011, 125 Stat. 1402; Pub. L. 113–66, div. A, title VI, §§621(e), 651(a)(2)–(c), Dec. 26, 2013, 127 Stat. 784, 787, 788; Pub. L. 115–91, div. A, title VI, §632, Dec. 12, 2017, 131 Stat. 1431; Pub. L. 116–92, div. A, title V, §573(a), Dec. 20, 2019, 133 Stat. 1404; Pub. L. 117–263, div. A, title VI, §641, Dec. 23, 2022, 136 Stat. 2633.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1482(a) | 5:2152 (less 1st 27 words, as applicable to armed forces).<br>5:2153 (1st 18 words, as applicable to armed forces).<br>5:2161 (as applicable to armed forces). | July 15, 1954, ch. 507, §§2 (less 1st 25 words, as applicable to armed forces), 3 (1st 16 words, as applicable to armed forces), 11 (as applicable to armed forces), 12 (as applicable to armed forces), 68 Stat. 478, 480, 481. |
| 1482(b) | 5:2162 (as applicable to armed forces). | |
| 1482(c) | | |

In subsection (a), the list of payable expenses has been rearranged to produce a generally chronological result. The words "person designated" are substituted for the words "person recognized as the person."

In subsection (a)(4), the words "articles of" are omitted as surplusage.

In subsection (a)(8), the word "place" is substituted for the words "town or city".

In subsection (a)(10), the words "other than honorable" are omitted, since a person cannot be sentenced to an honorable discharge.

In subsection (b), the words "If an individual pays" are substituted for the words "In any case where expenses * * * are borne by individuals". The second sentence of 5:2161 is omitted as executed. The last sentence is substituted for the last sentence of 5:2161.

In subsection (c), 5:2162 (1st sentence) is omitted since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The introductory language is substituted for 5:2162 (1st 22 words of 2d sentence). The words "ascertained and" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a)(11). Pub. L. 117–263 added par. (11).

**2019**—Subsec. (a)(8). Pub. L. 116–92 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Transportation of the remains, and travel and transportation allowances as specified in regulations prescribed under section 464 of title 37 for an escort of one person, to the place selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized. When transportation of the remains includes transportation by aircraft under section 562 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 1482 note), the Secretary concerned shall provide, to the maximum extent practicable, for delivery of the remains by air to the commercial, general aviation, or military airport nearest to the place selected by the designee."

**2017**—Subsec. (a)(10). Pub. L. 115–91 added par. (10).

**2013**—Subsec. (a)(8). Pub. L. 113–66, §621(e), substituted "and travel and transportation allowances as specified in regulations prescribed under section 464 of title 37" for "and roundtrip transportation and prescribed allowances".

Subsec. (a)(9). Pub. L. 113–66, §651(b), inserted "or inurnment" after "Interment".

Subsec. (f). Pub. L. 113–66, §651(c), substituted "The Secretary concerned may pay any other expenses relating to the remains of such a decedent that are authorized to be paid under this section only on a reimbursable basis." for "The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only on a reimbursable basis."

Subsec. (g). Pub. L. 113–66, §651(a)(2), added subsec. (g).

**2011**—Subsec. (c). Pub. L. 112–81 substituted "The" for "Only the" in introductory provisions, added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, and substituted "paragraphs (1) through (4)" for "clauses (1)–(3)" in par. (5).

**2008**—Subsec. (a)(8). Pub. L. 110–181 inserted at end "When transportation of the remains includes transportation by aircraft under section 562 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 1482 note), the Secretary concerned shall provide, to the maximum extent practicable, for delivery of the remains by air to the commercial, general aviation, or military airport nearest to the place selected by the designee."

Subsec. (a)(10), (11). Pub. L. 110–417, §581(b), struck out pars. (10) and (11) which read as follows:

"(10) Presentation of a flag of the United States to the person designated to direct disposition of the remains, except in the case of a military prisoner who dies while in the custody of the Secretary and while under a sentence that includes a discharge.

"(11) Presentation of a flag of equal size to the flag presented under paragraph (10) to the parents or parent, if the person to be presented a flag under paragraph (10) is other than the parent of the decedent. For the purpose of this paragraph, the term 'parent' includes a natural parent, a stepparent, a parent by adoption or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to him, and preference under this paragraph shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent."

Subsec. (e). Pub. L. 110–417, §581(a), designated existing provisions as par. (2), redesignated former pars. (1) and (2) of subsec. (e) as subpars. (A) and (B), respectively, of par. (2), inserted subsec. (e) heading, and added pars. (1) and (3) to (5).

**2001**—Subsecs. (d) to (g). Pub. L. 107–107 redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out former subsec. (d) which read as follows: "When, as a result of a disaster involving the multiple deaths of persons covered by section 1481 of this title, the Secretary concerned has possession of commingled remains that cannot be individually identified, and burial of those remains in a common grave in a national cemetery is considered necessary, he may, for the interment services of each known decedent, pay the expenses of round-trip transportation to the cemetery of (1) the person who would have been designated under subsection (c) to direct disposition of the remains if individual identification had been made, and (2) two additional persons selected by that person who are closely related to the decedent. The transportation expenses authorized to be paid under this subsection may not exceed the transportation allowances authorized for members of the armed forces for travel on official business, but no per diem allowance may be paid."

**1996**—Subsec. (f)(2). Pub. L. 104–106 inserted "section" before "12731".

**1994**—Subsec. (f)(2). Pub. L. 103–337, §1671(c)(8), substituted "section 12732" for "section 1332" and "12731" for "section 1331".

Subsec. (g). Pub. L. 103–337, §652(a)(2), added subsec. (g).

**1989**—Subsec. (a). Pub. L. 101–189, §653(a)(6)(A), substituted "expenses of the following:" for "expenses of—" in introductory provisions.

Subsec. (a)(1) to (9). Pub. L. 101–189, §653(a)(6)(B), (C), in each of pars. (1) to (9), capitalized first letter of first word and substituted period for semicolon at the end.

Subsec. (a)(10). Pub. L. 101–189, §653(a)(6)(B), (D), capitalized first letter of first word and substituted period for "; and".

Subsec. (a)(11). Pub. L. 101–189, §653(a)(6)(B), (E), capitalized first letter of first word, substituted "paragraph" for "clause" in four places, and substituted "decedent. For the" for "decedent; for the".

Subsec. (e). Pub. L. 101–189, §§652(a)(3), 1622(c)(4), substituted "the date of death" for "the effective date of this subsection, or the date of death," and "chapter 10 of title 37" for "chapter 10, title 37" in last sentence.

**1975**—Subsec. (e). Pub. L. 93–649 inserted provision relating to date of notification of death under authority of chapter 10, title 37, to that person who would have been designated under subsection (c) to direct disposition of the remains, had they been recovered.

**1974**—Subsec. (f). Pub. L. 93–292 added subsec. (f).

**1970**—Subsec. (a)(11). Pub. L. 91–397 added cl. (11).

Subsec. (e). Pub. L. 91–487 added subsec. (e).

**1958**—Subsec. (d). Pub. L. 85–716 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment

made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 652(a)(2) of Pub. L. 103–337 applicable with respect to remains of, and incidental expenses incident to recovery, care, and disposition of, an individual who dies after Oct. 5, 1994, see section 652(a)(3) of Pub. L. 103–337, set out as a note under section 1481 of this title.

Amendment by section 1671(c)(8) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON MEDIA ACCESS AT CEREMONIES FOR DIGNIFIED TRANSFER OF REMAINS OF MEMBERS OF THE ARMED FORCES WHO DIE OVERSEAS

Pub. L. 111–84, div. A, title V, §542(a), Oct. 28, 2009, 123 Stat. 2299, provided that:

"(1) POLICY REQUIRED.—Not later than April 1, 2010, the Secretary of Defense shall prescribe a policy guaranteeing media access at ceremonies for the dignified transfer of remains of members of the Armed Forces who die while located or serving overseas (in this section referred to as 'military decedents') when approved by the primary next of kin of such military decedents.

"(2) PROCEDURES.—The policy developed under paragraph (1) shall include procedures to be followed by the military departments in conducting appropriate ceremonies for the dignified transfer of remains of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

"(3) ELEMENTS.—The policy developed under paragraph (1) shall include, but not be limited to, the following:

"(A) Provision for access by media representatives to transfers described in paragraph (1) if approved in advance by the primary next of kin of the military decedent or their designee.

"(B) Procedures for designating with certainty who is authorized to make the decision to approve media access at transfer ceremonies described in that paragraph under reasonable, foreseeable circumstances.

"(C) Conditions for coverage that media representatives must comply with during such transfer ceremonies, and procedures for ensuring agreement in advance by media representatives with the conditions for coverage prescribed by military authorities.

"(D) Procedures for the waiver by the primary next of kin or other designees of Departmental polices relating to delays in release of casualty information to the media and general public, when such waiver is required."

## TRANSPORTATION OF REMAINS OF CASUALTIES

Pub. L. 116–92, div. A, title V, §580A(b), (c), Dec. 20, 2019, 133 Stat. 1408, as amended by Pub. L. 117–263, div. A, title V, §573, Dec. 23, 2022, 136 Stat. 2601, provided that:

"(b) TRANSPORTATION FOR FAMILY.—The Secretary of Defense shall extend travel privileges via Invitational Travel Authorization to family members of members of the Armed Forces who die outside of the United States and whose remains are returned to the United States through the mortuary facility at Dover Air Force Base, Delaware.

"(c) TRANSPORTATION OF DECEASED MILITARY MEMBER.—In the event of a death that requires the Secretary concerned to provide a death benefit under subchapter II of chapter 75 of title 10, United States Code, such Secretary—

"(1) shall provide the next of kin or other appropriate person a commercial air travel use waiver for the transportation of deceased remains of military member who dies outside of—

"(A) the United States; and

"(B) a theater of combat operations; or

"(2) may provide the next of kin or other appropriate person a commercial air travel use waiver for the transportation of deceased remains of military member who dies inside a theater of combat operations."

Pub. L. 109–364, div. A, title V, §562, Oct. 17, 2006, 120 Stat. 2220, as amended by Pub. L. 116–92, div. A, title V, §§573(b), 580A(a), Dec. 20, 2019, 133 Stat. 1404, 1408, Pub. L. 119–60, div. A, title VI, §642, Dec. 18, 2025, 139 Stat. 912, provided that:

"(a) REQUIRED TRANSPORTATION.—In the case of a member of the Armed Forces who dies outside of the United States and whose remains are returned to the United States through the mortuary facility at Dover Air Force Base, Delaware, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall provide transportation of the remains of that member from Dover Air Force Base to the

applicable escorted remains destination in accordance with section 1482(a)(8) of title 10, United States Code, and this section.

"(b) ESCORTED REMAINS DESTINATION.—In this section, the term 'escorted remains destination' means the place to which remains are authorized to be transported under section 1482(a)(8) of title 10, United States Code. If the person designated to direct disposition of the remains selects two places under such section, the term means only the first of those two places.

"(c) AIR TRANSPORTATION FROM DOVER AFB.—

"(1) MILITARY TRANSPORTATION.—If transportation of remains under subsection (a) includes transportation by air, such transportation (except as provided under paragraph (2)) shall be made by military aircraft or military-contracted aircraft.

"(2) ALTERNATIVE TRANSPORTATION BY AIRCRAFT.—The provisions of paragraph (1) shall not be applicable to the transportation of remains by air to the extent that the person designated to direct disposition of the remains directs otherwise.

"(3) PRIMARY MISSION.—When remains are transported by military aircraft or military-contracted aircraft under this section, the primary mission of the aircraft providing that transportation shall be the transportation of such remains. However, more than one set of remains may be transported on the same flight.

"(4) WAIVER.—The Secretary concerned may waive the requirements of paragraphs (1) and (3) as the Secretary considers necessary to meet mission requirements during—

"(A) a time of war;

"(B) a national emergency requiring the use of significant personnel and aircraft;

"(C) a large-scale combat operation; or

"(D) a contingency operation.

"(d) ESCORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary concerned shall ensure that remains transported under this section are continuously escorted from Dover Air Force Base to the applicable escorted remains destination by a member of the Armed Forces in an appropriate grade, as determined by the Secretary.

"(2) OTHER ESCORT.—If a specific military escort is requested by the person designated to direct disposition of such remains and the Secretary approves that request, then the Secretary is not required to provide an additional military escort under paragraph (1).

"(e) HONOR GUARD DETAIL.—

"(1) PROVISION OF DETAIL.—Except in a case in which the person designated to direct disposition of remains requests that no military honor guard be present, the Secretary concerned shall ensure that an honor guard detail is provided in each case of the transportation of remains under this section. The honor guard detail shall be in addition to the escort provided for the transportation of remains under section (d).

"(2) COMPOSITION.—An honor guard detail provided under this section shall consist of sufficient members of the Armed Forces to perform the duties specified in paragraph (3). The members of the honor guard detail shall be in uniform.

"(3) DUTIES.—Except to the extent that the person designated to direct disposition of remains requests that any of the following functions not be performed, an honor guard detail under this section—

"(A) shall—

"(i) travel with the remains during transportation; or

"(ii) meet the remains at the place to which transportation by air (or by rail or motor vehicle, if applicable) is made for the transfer of the remains;

"(B) shall provide appropriate honors at the arrival of the remains referred to in subparagraph (A)(ii) (unless airline or other security requirements do not permit such honors to be provided); and

"(C) shall participate in the transfer of the remains from an aircraft, when airport and airline security requirements permit, by carrying out the remains with a flag draped over the casket to a hearse or other form of ground transportation for travel to a funeral home or other place designated by the person designated to direct disposition of such remains.

"(f) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code.

"(g) EFFECTIVE DATE.—This section shall take effect at such time as may be prescribed by the Secretary of Defense, but not later than January 1, 2007."

## §1482a. Expenses incident to death: civilian employees serving with an armed

## force

(a) PAYMENT OF EXPENSES.—The Secretary concerned may pay the expenses incident to the death of a civilian employee who dies of injuries incurred in connection with the employee's service with an armed force in a contingency operation, or who dies of injuries incurred in connection with a terrorist incident occurring during the employee's service with an armed force, as follows:

(1) Round-trip transportation and prescribed allowances for one person to escort the remains of the employee to the place authorized under section 5742(b)(1) of title 5.

(2) Presentation of a flag of the United States to the next of kin of the employee.

(3) Presentation of a flag of equal size to the flag presented under paragraph (2) to the parents or parent of the employee, if the person to be presented a flag under paragraph (2) is other than the parent of the employee.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section. The Secretary of Homeland Security shall prescribe regulations to implement this section with regard to civilian employees of the Department of Homeland Security. Regulations under this subsection shall be uniform to the extent possible and shall provide for the Secretary's consideration of the conditions and circumstances surrounding the death of an employee and the nature of the employee's service with the armed force.

(c) DEFINITIONS.—In this section:

(1) The term "civilian employee" means a person employed by the Federal Government, including a person entitled to basic pay in accordance with the General Schedule provided in section 5332 of title 5 or a similar basic pay schedule of the Federal Government.

(2) The term "contingency operation" includes humanitarian operations, peacekeeping operations, and similar operations.

(3) The term "parent" has the meaning given such term in section 1482(e)(5)(A) of this title.

(4) The term "Secretary concerned" includes the Secretary of Defense with respect to employees of the Department of Defense who are not employees of a military department.

(Added Pub. L. 103–160, div. A, title III, §368(a), Nov. 30, 1993, 107 Stat. 1633; amended Pub. L. 103–337, div. A, title X, §1070(a)(8)(A), Oct. 5, 1994, 108 Stat. 2855; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–383, div. A, title X, §1075(b)(20), Jan. 7, 2011, 124 Stat. 4370.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (c)(3). Pub. L. 111–383 substituted "section 1482(e)(5)(A)" for "section 1482(a)(11)".

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in two places.

**1994**—Pub. L. 103–337 substituted "civilian" for "Civilian" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Pub. L. 103–160, div. A, title III, §368(c), Nov. 30, 1993, 107 Stat. 1634, provided that: "The amendments made by this section [enacting this section] shall apply with respect to the payment of incidental expenses for civilian employees who die while serving in a contingency operation that occurs after the date of the enactment of this Act [Nov. 30, 1993]."

## §1483. Prisoners of war and interned enemy aliens

The Secretary concerned may provide for the care and disposition of the remains of prisoners of war and interned enemy aliens who die while in his custody and, incident thereto, pay the necessary expenses of—

(1) notification to the next of kin or other appropriate person;
(2) preparation of the remains for burial, including cremation;
(3) furnishing of clothing;
(4) furnishing of a casket or urn, or both, with outside box;
(5) transportation of the remains to the cemetery or other place selected by the Secretary; and
(6) interment of the remains.

(Aug. 10, 1956, ch. 1041, 70A Stat. 113.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1483 | 5:2155 (as applicable to armed forces). | July 15, 1954, ch. 507, §5 (as applicable to armed forces), 68 Stat. 479. |

The list of payable expenses has been rearranged to produce a generally chronological result. The words "incurred for", and the words "articles of" in clause (3), are omitted as surplusage. In clause (5), the words "cemetery or other place" are substituted for the words "town, city, or cemetery".

## §1484. Pensioners, indigent patients, and persons who die on military reservations

If proper disposition of the remains cannot otherwise be made, the Secretary concerned may provide for the care and disposition of the remains of pensioners and indigent patients who die in hospitals operated by his department and of persons who die on the military reservations of that department and, incident thereto, pay the necessary expenses of—

(1) notification to the next of kin or other appropriate person;
(2) preparation of the remains for burial, including cremation;
(3) furnishing of clothing;
(4) furnishing of a casket or urn, or both, with outside box;
(5) transportation of the remains to a cemetery selected by the Secretary; and
(6) interment of the remains.

(Aug. 10, 1956, ch. 1041, 70A Stat. 114.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1484 | 5:2156 (as applicable to armed forces). | July 15, 1954, ch. 507, §6 (as applicable to armed forces), 68 Stat. 479. |

The words "If proper disposition of the remains cannot otherwise be made" are substituted for 5:2156 (last sentence). The words "maintained and" and "incurred for", and the words "articles of" in clause (3), are omitted as surplusage. The words "of that department" are inserted for clarity.

## §1485. Dependents of members of armed forces

(a) The Secretary concerned may, if a dependent of a member of an armed force dies while the member is on active duty (other than for training), provide for, and pay the necessary expenses of,

transporting the remains of the deceased dependent to the home of the decedent or to any other place that the Secretary determines to be the appropriate place of interment.

(b) The Secretary may furnish mortuary services and supplies, on a reimbursable basis, for persons covered by subsection (a), if (1) that action is practicable, and (2) local commercial mortuary services and supplies are not available or the Secretary believes that their cost is prohibitive.

(c) Reimbursement for mortuary services and supplies furnished under this section shall be collected and credited to appropriations available, at the time of reimbursement, for those services and supplies.

(Aug. 10, 1956, ch. 1041, 70A Stat. 114; Pub. L. 89–150, §1(1), Aug. 28, 1965, 79 Stat. 585.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1485(a) | 5:2157 (1st sentence, as applicable to armed forces). | July 15, 1954, ch. 507, §7(a) (as applicable to armed forces), 68 Stat. 479. |
| 1485(b) | 5:2157 (2d sentence, as applicable to armed forces). | |
| 1485(c) | 5:2157 (less 1st and 2d sentences, as applicable to armed forces). | |

In subsection (a), the words "a member of an armed force" are substituted for the words "military personnel". The words "the continental limits * * * or in Alaska" are omitted as covered by the definition of "United States" in section 101(1) of this title. The words "while traveling" are substituted for the words "while in transit".

In subsection (b), the word "services" is substituted for the word "facilities".

In subsection (c), the words "the authority of" and "the payments of" are omitted as surplusage. The words "at the time of reimbursement" are substituted for the word "current".

**EDITORIAL NOTES**

**AMENDMENTS**

**1965**—Pub. L. 89–150 struck out "; death while outside United States" in section catchline.

Subsec. (a). Pub. L. 89–150 substituted provision for payment of transportation expenses of remains of deceased dependent of a member of an armed force while the member is on active duty (other than for training), for former provision for payment of the expenses where the member of the armed force is on active duty at a place outside the United States and the dependent dies while residing with that member or while traveling to or from that place.

## §1486. Other citizens of United States

(a) If local commercial mortuary services and supplies are not available, or if he believes that their cost is prohibitive, the Secretary concerned may furnish those services and supplies on a reimbursable basis in the case of any of the following citizens of the United States who die outside the United States:

(1) Any employee of a humanitarian agency accredited to the armed forces, such as the American Red Cross and the United Services Organization.

(2) Any civilian performing a service directly for the Secretary because of employment by an agency under a contract with the Secretary.

(3) Any officer or member of a crew of a merchant vessel operated by or for the United States through the Secretary.

(4) Any person who is on duty with an armed force under the jurisdiction of the Secretary and who is paid from non-appropriated funds.

(5) Upon the specific request of the Department of State, any person not otherwise covered by

this section.

(6) Any dependent of a person who is covered by this section, if the dependent is living outside the United States with that person at the time of death.

(b) The Secretary may furnish transportation of the remains of persons covered by this section, on a reimbursable basis, to a port of entry in the United States.

(c) Reimbursement for services, supplies, and transportation furnished under this section shall be collected and credited to appropriations available, at the time of reimbursement, for those services, supplies, and transportation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 114.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1486(a) | 5:2158 (1st sentence as applicable to armed forces). | July 15, 1954, ch. 507, §8 (as applicable to armed forces), 68 Stat. 480. |
| 1486(b) | 5:2158 (2d sentence, as applicable to armed forces). | |
| 1486(c) | 5:2158 (less 1st and 2d sentences, as applicable to armed forces). | |

In subsection (a), the word "services" is substituted for the word "facilities". The words "the continental limits * * * or in Alaska" are omitted as covered by definition of "United States" in section 101(1) of this title. In clause (3), the word "masters" is omitted as covered by the word "officer". In clause (4), the words "under the jurisdiction of the Secretary" are inserted for clarity. In clause (5), the words "otherwise covered" are substituted for the words "specifically enumerated". In clause (6), the words "who is covered" are substituted for the words "within the classes enumerated". The words "outside the United States" are substituted for the word "abroad". The words "that person" are substituted for the words "the supporting citizen concerned".

In subsection (b), the word "Government" is omitted as surplusage.

In subsection (c), the words "the authority of" are omitted as surplusage. The words "at the time of reimbursement" are substituted for the word "current".

## §1487. Temporary interment

Whenever necessary for the temporary interment of remains pending transportation under this chapter to a designated cemetery, the Secretary concerned may acquire, and provide for the maintenance of, grave sites in commercial cemeteries, or he may acquire the right to use such grave sites for burial purposes. If the death occurs outside the United States and a temporary commercial grave site is not available on a reasonable basis, the Secretary may acquire land, or the right to use land, necessary for the temporary interment of the remains under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1487 | 5:2159 (as applicable to armed forces). | July 15, 1954, ch. 507, §9 (as applicable to armed forces), 68 Stat. 480. |

The words "as authorized by this chapter, section 103a(c) of this Title, and section 224 of Title 42", "by purchase or otherwise", "care and", and "single or multiple" are omitted as surplusage. The word "continental" is omitted as covered by the definition of "United States" in section 101(1) of this title.

## §1488. Removal of remains

(a) REMOVAL UPON DISCONTINUANCE OF INSTALLATION CEMETERY.—If a cemetery on a military reservation, including an installation cemetery, has been or is to be discontinued, the Secretary concerned may provide for the removal of remains from that cemetery to any other cemetery.

(b) REMOVAL FROM TEMPORARY INTERMENT OR ABANDONED GRAVE OR CEMETERY.—With respect to any deceased member of an armed force under the jurisdiction of the Secretary concerned whose last service terminated honorably by death or otherwise, the Secretary may also provide for the removal of the remains from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

(c) REMOVAL OF REMAINS OF CERTAIN MEMBERS WITH NO KNOWN NEXT OF KIN .—(1) The Secretary of the Army may authorize the removal of the remains of a covered member of the armed forces who is buried in an Army National Military Cemetery from the Army National Military Cemetery for transfer to any other cemetery.

(2) The Secretary of the Army, with the concurrence of the Secretary of Veterans Affairs, may authorize the removal of the remains of a covered member of the armed forces who is buried in a cemetery of the National Cemetery System from that cemetery for transfer to any Army National Military Cemetery.

(3) A removal of remains may not be authorized under this subsection unless the individual seeking the removal of the remains—

(A) demonstrates to the satisfaction of the Secretary of the Army that the member of the armed forces concerned has no known next of kin or other person who is interested in maintaining the place of burial; and

(B) undertakes full responsibility for all expenses of the removal of the remains and the reburial of the remains at another cemetery as authorized by this subsection.

(4) In this subsection:

(A) The term "Army National Military Cemetery" means a cemetery specified in section 7721(b) of this title.

(B) The term "covered member of the armed forces" means a member of the armed forces who—

(i) has been awarded the Medal of Honor; and

(ii) has no known next of kin.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115; Pub. L. 113–291, div. A, title V, §594, Dec. 19, 2014, 128 Stat. 3395; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1488 | 5:2160 (as applicable to armed forces). | July 15, 1954, ch. 507, §10 (as applicable to armed forces), 68 Stat. 480. |

The words "national cemeteries, other installation cemeteries, or" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (c)(4)(A). Pub. L. 115–232 substituted "section 7721(b)" for "section 4721(b)".

**2014**—Pub. L. 113–291 designated first sentence of existing provisions as subsec. (a) and inserted heading, designated second sentence of existing provisions as subsec. (b), inserted heading, and substituted "the jurisdiction of the Secretary concerned" for "his jurisdiction", and added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties

(a) The Secretary of Defense may pay a gratuity to the surviving dependents of any member of the armed forces or of any employee of the Department of Defense—

(1) who—

(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such a member or employee is disguised or concealed; or

(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

(2) who after October 14, 1980 dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(b) Any payment under subsection (a)—

(1) shall be in an amount equal to the amount of the annual basic pay or salary of the member or employee concerned at the time of death;

(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by this chapter or any other Federal law; and

(3) shall be made under the same conditions as apply to payments authorized by section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973).

(Added Pub. L. 96–450, title IV, §403(b)(1), Oct. 14, 1980, 94 Stat. 1979; amended Pub. L. 97–22, §11(a)(6), July 10, 1981, 95 Stat. 138; Pub. L. 98–94, title XII, §1268(9), Sept. 24, 1983, 97 Stat. 706; Pub. L. 99–145, title XIII, §1303(a)(12), Nov. 8, 1985, 99 Stat. 739.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1985**—Subsec. (a). Pub. L. 99–145 substituted "armed forces" for "Armed Forces".

**1983**—Subsec. (a)(2). Pub. L. 98–94 substituted "October 14, 1980" for "the date of the enactment of this section".

**1981**—Subsec. (b)(3). Pub. L. 97–22 substituted "section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973)" for "section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)".

## §1490. Transportation of remains: certain retired members and dependents who die in military medical facilities

(a) Subject to subsection (b), when a member entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, dies while properly admitted under chapter 55 of this title to a medical facility of the armed forces, the Secretary concerned may transport the remains, or pay the cost of transporting the remains, of the decedent to the place of burial of the decedent.

(b)(1) Transportation provided under this section may not be to a place further from the place of death than the decedent's last place of permanent residence, and any amount paid under this section

may not exceed the cost of transportation from the place of death to the decedent's last place of permanent residence.

(2) Transportation of the remains of a decedent may not be provided under this section if such transportation is authorized by sections 1481 and 1482 of this title or by chapter 23 of title 38.

(c) DEFINITION OF DEPENDENT.—In this section, the term "dependent" has the meaning given such term in section 1072(2) of this title.

(Added Pub. L. 98–94, title X, §1032(a)(1), Sept. 24, 1983, 97 Stat. 671; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 102–190, div. A, title VI, §626(a), (b)(1), Dec. 5, 1991, 105 Stat. 1379, 1380; Pub. L. 108–136, div. A, title V, §562(a), (b), Nov. 24, 2003, 117 Stat. 1483.)

### EDITORIAL NOTES

### AMENDMENTS

**2003**—Subsec. (a). Pub. L. 108–136, §562(a)(1), struck out "located in the United States" after "armed forces".

Subsec. (b)(1). Pub. L. 108–136, §562(a)(2), struck out "outside the United States or to a place" before "further".

Subsec. (c). Pub. L. 108–136, §562(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "In this section:

"(1) The term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States.

"(2) The term 'dependent' has the meaning given such term in section 1072(2) of this title."

**1991**—Pub. L. 102–190, §626(b)(1), amended section catchline generally. Prior to amendment, section catchline read as follows: "Transportation of remains of members entitled to retired or retainer pay who die in a military medical facility".

Subsec. (a). Pub. L. 102–190, §626(a)(1), inserted ", or a dependent of such a member," after "equivalent pay".

Subsec. (c). Pub. L. 102–190, §626(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "In this section, the term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States."

**1987**—Subsec. (c). Pub. L. 100–26 inserted "the term" after "In this section,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §562(c), Nov. 24, 2003, 117 Stat. 1483, provided that: "The amendments made by this section [amending this section] shall apply only with respect to persons dying on or after the date of the enactment of this Act [Nov. 24, 2003]."

### EFFECTIVE DATE

Pub. L. 98–94, title X, §1032(b), Sept. 24, 1983, 97 Stat. 672, provided that: "Section 1490 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transportation of the remains of persons dying after September 30, 1983."

## §1491. Funeral honors functions at funerals for veterans

(a) AVAILABILITY OF FUNERAL HONORS DETAIL ENSURED.—The Secretary of Defense shall ensure that, upon request, a funeral honors detail is provided for the funeral of any veteran, except when military honors are prohibited under section 985(a) of this title.

(b) COMPOSITION OF FUNERAL HONORS DETAILS.—(1) The Secretary of each military department shall ensure that a funeral honors detail for the funeral of a veteran consists of two or more persons.

(2) At least two members of the funeral honors detail for a veteran's funeral shall be members of

the armed forces (other than members in a retired status). The remainder of the detail may consist of members of the armed forces (including members in a retired status), or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. Each member of the armed forces in the detail shall wear the uniform of the member's armed force while serving in the detail.

(3) The Secretary concerned shall provide full military honors (as determined by the Secretary concerned) for the funeral of a veteran who—

(A) is first interred or first inurned in Arlington National Cemetery on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020;

(B) was awarded the medal of honor or the prisoner-of-war medal; and

(C) is not entitled to full military honors by the grade of that veteran.

(c) CEREMONY.—A funeral honors detail shall, at a minimum, perform at the funeral a ceremony that includes the folding of a United States flag and presentation of the flag to the veteran's family and the playing of Taps. Unless a bugler is a member of the detail, the funeral honors detail shall play a recorded version of Taps using audio equipment which the detail shall provide if adequate audio equipment is not otherwise available for use at the funeral.

(d) SUPPORT.—(1) To support a funeral honors detail under this section, the Secretary of a military department may provide the following:

(A) For a person who participates in a funeral honors detail (other than a person who is a member of the armed forces not in a retired status or an employee of the United States), either travel and transportation allowances as specified in regulations prescribed under section 464 of title 37 or the daily stipend prescribed under paragraph (2).

(B) For members of a veterans organization or other organization referred to in subsection (b)(2) and for members of the armed forces in a retired status, materiel, equipment, and training.

(C) For members of a veterans organization or other organization referred to in subsection (b)(2), articles of clothing that, as determined by the Secretary concerned, are appropriate as a civilian uniform for persons participating in a funeral honors detail.

(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for persons participating in funeral honors details who are members of the armed forces in a retired status and other persons who are not members of the armed forces or employees of the United States.

(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 435(a)(2) of title 37 and any other compensation to which the member may be entitled.

(e) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive any requirement provided in or pursuant to this section when the Secretary considers it necessary to do so to meet the requirements of war, national emergency, or a contingency operation or other military requirements. The authority to make such a waiver may not be delegated to an official of a military department other than the Secretary of the military department and may not be delegated within the Office of the Secretary of Defense to an official at a level below Under Secretary of Defense.

(2) Before or promptly after granting a waiver under paragraph (1), the Secretary shall transmit a notification of the waiver to the Committees on Armed Services of the Senate and House of Representatives.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Those regulations shall include the following:

(1) A system for selection of units of the armed forces and other organizations to provide funeral honors details.

(2) Procedures for responding and coordinating responses to requests for funeral honors details.

(3) Procedures for establishing standards and protocol.

(4) Procedures for providing training and ensuring quality of performance.

(g) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, the cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

(h) VETERAN DEFINED.—In this section, the term "veteran" means a decedent who—

(1) served in the active military, naval, air, or space service (as defined in section 101(24) of title 38) and who was discharged or released therefrom under conditions other than dishonorable; or

(2) was a member or former member of the Selected Reserve described in section 2301(f) of title 38.

(Added Pub. L. 105–261, div. A, title V, §567(b)(1), Oct. 17, 1998, 112 Stat. 2030; amended Pub. L. 106–65, div. A, title V, §578(a)(1), (b)–(e), (k)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 625–627, 630, 774; Pub. L. 107–107, div. A, title V, §§561(a), 564, Dec. 28, 2001, 115 Stat. 1119, 1120; Pub. L. 107–314, div. A, title V, §571, Dec. 2, 2002, 116 Stat. 2556; Pub. L. 109–163, div. A, title VI, §662(b)(4), Jan. 6, 2006, 119 Stat. 3315; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–66, div. A, title VI, §621(f), Dec. 26, 2013, 127 Stat. 784; Pub. L. 116–92, div. A, title V, §574(a), Dec. 20, 2019, 133 Stat. 1404; Pub. L. 116–283, div. A, title V, §596(a)(2), Jan. 1, 2021, 134 Stat. 3667; Pub. L. 117–263, div. A, title VI, §626(c)(5), Dec. 23, 2022, 136 Stat. 2628; Pub. L. 118–31, div. A, title XVII, §1741(b)(5), Dec. 22, 2023, 137 Stat. 681.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (b)(3)(A), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

### AMENDMENTS

**2023**—Subsec. (h)(1). Pub. L. 118–31 substituted "air, or space service" for "or air service".

**2022**—Subsec. (d)(3). Pub. L. 117–263 substituted "section 435(a)(2)" for "section 495(a)(2)".

**2021**—Subsec. (b)(2). Pub. L. 116–283 struck out ", at least one of whom shall be a member of the armed force of which the veteran was a member" after "retired status)".

**2019**—Subsec. (b)(3). Pub. L. 116–92 added par. (3).

**2013**—Subsec. (d)(1)(A). Pub. L. 113–66 substituted "travel and transportation allowances as specified in regulations prescribed under section 464 of title 37" for "transportation (or reimbursement for transportation) and expenses".

Subsec. (d)(3). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (d)(3). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "495(a)(2)" for "435(a)(2)".

**2006**—Subsec. (a). Pub. L. 109–163 inserted ", except when military honors are prohibited under section 985(a) of this title" before period at end.

**2002**—Subsec. (d)(1). Pub. L. 107–314, §571(1), designated existing provisions as par. (1) and substituted " To support a" for "To provide a". Former par. (1) redesignated (1)(A).

Subsec. (d)(1)(A). Pub. L. 107–314, §571(2), redesignated par. (1) as subpar. (A) of par. (1) and amended it generally. Prior to amendment, text read as follows: "Transportation, or reimbursement for transportation, and expenses for a person who participates in the funeral honors detail and is not a member of the armed forces or an employee of the United States."

Subsec. (d)(1)(B). Pub. L. 107–314, §571(3), redesignated par. (2) as subpar. (B) of par. (1), substituted

"For" for "Materiel, equipment, and training for", and inserted "and for members of the armed forces in a retired status, materiel, equipment, and training" before period at end.

Subsec. (d)(1)(C). Pub. L. 107–314, §571(4), redesignated par. (3) as subpar. (C) of par. (1), substituted "For" for "Articles of clothing for", and inserted ", articles of clothing" after "subsection (b)(2)".

Subsec. (d)(2), (3). Pub. L. 107–314, §571(5), added pars. (2) and (3). Former pars. (2) and (3) redesignated subpars. (B) and (C), respectively, of par. (1).

**2001**—Subsec. (b)(2). Pub. L. 107–107, §561(a), inserted "(other than members in a retired status)" after "members of the armed forces" in first sentence and inserted "(including members in a retired status)," after "members of the armed forces" in second sentence.

Subsec. (d)(3). Pub. L. 107–107, §564, added par. (3).

**1999**—Pub. L. 106–65, §578(k)(1), substituted "Funeral honors functions at funerals for veterans" for "Honor guard details at funerals of veterans" as section catchline.

Subsec. (a). Pub. L. 106–65, §578(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran that occurs after December 31, 1999."

Subsec. (b). Pub. L. 106–65, §578(b), substituted "Funeral Honors Details" for "Honor Guard Details" in subsec. (b) heading, designated existing provisions as par. (1), substituted "a funeral honors detail" for "an honor guard detail" and "two or more persons." for "not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.", redesignated subsec. (c) as subsec. (b)(2), struck out former subsec. (c) heading "Persons Forming Honor Guards", and substituted "At least two members of the funeral honors detail for a veteran's funeral shall be members of the armed forces, at least one of whom shall be a member of the armed force of which the veteran was a member. The remainder of the detail" for "An honor guard detail" and "Each member of the armed forces in the detail shall wear the uniform of the member's armed force while serving in the detail." for "The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and is not a member of the armed forces or an employee of the United States."

Subsec. (c). Pub. L. 106–65, §578(c)(2), added subsec. (c). Former subsec. (c) redesignated subsec. (b)(2).

Subsecs. (d), (e). Pub. L. 106–65, §578(c)(2), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 106–65, §578(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran."

Pub. L. 106–65, §578(c)(1), redesignated subsec. (d) as (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

Pub. L. 106–65, §578(c)(1), redesignated subsec. (e) as (g).

Subsec. (h). Pub. L. 106–65, §578(e), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "In this section, the term 'veteran' has the meaning given that term in section 101(2) of title 38."

Pub. L. 106–65, §578(c)(1), redesignated subsec. (f) as (h).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 applicable with respect to funerals and burials that occur on or after Jan. 6, 2006, see section 662(e) of Pub. L. 109–163, set out as a note under section 985 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT**

Pub. L. 106–65, div. A, title V, §578(a)(2), Oct. 5, 1999, 113 Stat. 625, provided that: "Section 1491(a) of title 10, United States Code, as amended by paragraph (1), shall apply with respect to funerals that occur after December 31, 1999."

**FULL MILITARY FUNERAL HONORS FOR VETERANS AT MILITARY INSTALLATIONS**

Pub. L. 116–92, div. A, title V, §574(b), Dec. 20, 2019, 133 Stat. 1404, provided that:

"(1) INSTALLATION PLANS FOR HONORS REQUIRED.—The commander of each military installation at or through which a funeral honors detail for a veteran is provided pursuant to section 1491 of title 10, United States Code (as amended by subsection (a)), shall maintain and carry out a plan for the provision, upon request, of full military funeral honors at funerals of veterans for whom a funeral honors detail is authorized in that section.

"(2) ELEMENTS.—Each plan of an installation under paragraph (1) shall include the following:

"(A) Mechanisms to ensure compliance with the requirements applicable to the composition of funeral honors details in section 1491(b) of title 10, United States Code (as so amended).

"(B) Mechanisms to ensure compliance with the requirements for ceremonies for funerals in section 1491(c) of such title.

"(C) In addition to the ceremonies required pursuant to subparagraph (B), the provision of a gun salute, if otherwise authorized, for each funeral by appropriate personnel, including personnel of the installation, members of the reserve components of the Armed Forces residing in the vicinity of the installation who are ordered to funeral honors duty, or members of veterans organizations or other organizations referred to in section 1491(b)(2) of such title.

"(D) Mechanisms for the provision of support authorized by section 1491(d) of such title.

"(E) Such other mechanisms and activities as the Secretary concerned considers appropriate in order to assure that full military funeral honors are provided upon request at funerals of veterans.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code.

"(B) The term 'veteran' has the meaning given that term in section 1491(h) of title 10, United States Code."

## §1492. Authority to provide travel and transportation allowances in connection with transfer ceremonies of certain civilian employees who die overseas

(a) AUTHORITY.—A covered official may treat a covered relative of a covered employee under the jurisdiction of that covered official in the same manner the Secretary of a military department treats, under section 481f(d) [1] of title 37, next of kin and family members of a member of the armed forces who dies while located or serving overseas.

(b) DEFINITIONS.—In this section:

(1) The term "covered employee" means a civilian employee—

(A) under the jurisdiction of a covered official; and

(B) who dies while located or serving overseas.

(2) The term "covered official" means—

(A) the Secretary of the military department concerned; and

(B) the head of a Defense Agency or Department of Defense Field Activity.

(3) The term "covered relative" means—

(A) the primary next of kin of the covered employee;

(B) two family members (other than primary next of kin) of the covered employee; and

(C) one or more additional family members of the covered employee, at the discretion of the Secretary a sibling of the covered employee.

(Added Pub. L. 116–283, div. A, title XI, §1104(a)(1), Jan. 1, 2021, 134 Stat. 3889.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 481f of title 37, referred to in subsec. (a), was repealed by Pub. L. 117–81, div. A, title VI, §604(a), Dec. 27, 2021, 135 Stat. 1767.

[1] *See References in Text note below.*

# CHAPTER 76—MISSING PERSONS

Sec.
1501. System for accounting for missing persons.
1501a. Public-private partnerships; other forms of support.
1502. Missing persons: initial report.
1503. Actions of Secretary concerned; initial board inquiry.
1504. Subsequent board of inquiry.
1505. Further review.
1506. Personnel files.
1507. Recommendation of status of death.
1508. Judicial review.
1509. Program to resolve missing person cases.
1510. Applicability to Coast Guard.
1511. Return alive of person declared missing or dead.
1512. Effect on State law.
1513. Definitions.

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291, div. A, title IX, §916(f)(2), Dec. 19, 2014, 128 Stat. 3479, added item 1501a and substituted "Program to resolve missing person cases" for "Program to resolve preenactment missing person cases" in item 1509.

**2009**—Pub. L. 111–84, div. A, title V, §541(b), Oct. 28, 2009, 123 Stat. 2298, substituted "Program to resolve preenactment missing person cases" for "Preenactment cases" in item 1509.

**1996**—Pub. L. 104–201, div. A, title V, §578(f)(2)(B), Sept. 23, 1996, 110 Stat. 2537, struck out ", special interest" after "Preenactment" in item 1509.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DETERMINATION AND REPORTING OF MEMBERS MISSING, ABSENT UNKNOWN, ABSENT WITHOUT LEAVE, AND DUTY STATUS-WHEREABOUTS UNKNOWN

Pub. L. 117–81, div. A, title V, §548, Dec. 27, 2021, 135 Stat. 1714, provided that:

"(a) COMPREHENSIVE REVIEW OF MISSING PERSONS REPORTING.—The Secretary of Defense shall instruct each Secretary of a military department to perform a comprehensive review of the policies and procedures of the military department concerned to determine and report a member of an Armed Force under the jurisdiction of such Secretary of a military department as missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

"(b) REVIEW OF INSTALLATION-LEVEL PROCEDURES.—In addition to such other requirements as may be set forth by the Secretary of Defense pursuant to subsection (a), each Secretary of a military department shall, with regard to the military department concerned—

"(1) direct each commander of a military installation, including any tenant command or activity present on such military installation, to review policies and procedures for carrying out the determination and reporting activities described in subsection (a); and

"(2) update such installation-level policies and procedures, including any tenant command or activity policies and procedures, to improve force protection, enhance security for members living on the military installation, and promote reporting at the earliest practicable time to local law enforcement (at all levels)

and Federal law enforcement field offices with overlapping jurisdiction with that installation, when a member is determined to be missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

"(c) INSTALLATION-SPECIFIC REPORTING PROTOCOLS.—

"(1) IN GENERAL.—Each commander of a military installation shall establish a protocol applicable to all persons and organizations present on the military installation, including tenant commands and activities, for sharing information with local and Federal law enforcement agencies about members who are missing, absent-unknown, absent without leave, or duty status-whereabouts unknown. The protocol shall provide for the immediate entry regarding the member concerned in the Missing Persons File of the National Crimes Information Center data and for the commander to immediately notify all local law enforcement agencies with jurisdictions in the immediate area of the military installation, when the status of a member assigned to such installation has been determined to be missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

"(2) REPORTING TO MILITARY INSTALLATION COMMAND.—Each commander of a military installation shall submit the protocol established pursuant to paragraph (1) to the Secretary of the military department concerned.

"(d) REPORT REGARDING NATIONAL GUARD.—Not later than June 1, 2022, the Secretary of Defense shall submit, to the Committees on Armed Services of the Senate and House of Representatives, a report on the feasibility of implementing subsections (a), (b), and (c), with regards to facilities of the National Guard. Such report shall include recommendations of the Secretary, including a proposed timeline for implementing the provisions of such subsections that the Secretary determines feasible."

## §1501. System for accounting for missing persons

(a) RESPONSIBILITY FOR MISSING PERSONS.—(1)(A) The Secretary of Defense shall designate a single organization within the Department of Defense to have responsibility for Department matters relating to missing persons from past conflicts, including accounting for missing persons and persons whose remains have not been recovered from the conflict in which they were lost.

(B) The organization designated under this paragraph shall be a Defense Agency or other entity of the Department of Defense outside the military departments and is referred to in this chapter as the "designated Defense Agency".

(C) The head of the organization designated under this paragraph is referred to in this chapter as the "designated Agency Director".

(2) Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the designated Agency Director shall include the following:

(A) Policy, control, and oversight of the program established under section 1509 of this title.

(B) Responsibility for accounting for missing persons from past conflicts, including locating, recovering, and identifying missing persons from past conflicts or their remains after hostilities have ceased.

(C) Coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons from past conflicts.

(D) Dissemination of appropriate information on the status of missing persons from past conflicts to authorized family members.

(E) Establishment of a means for communication between officials of the designated Defense Agency and family members of missing persons from past conflicts, veterans service organizations, concerned citizens, and the public on the Department's efforts to account for missing persons from past conflicts, including a readily available means for communication of their views and recommendations to the designated Agency Director.

(3) In carrying out the responsibilities established under this subsection, the designated Agency Director shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

(4) The designated Agency Director shall establish policies, which shall apply uniformly

throughout the Department of Defense, for personnel accounting (including locating, recovering, and identifying missing persons from past conflicts or their remains after hostilities have ceased).

(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

(A) the determination of the status of persons described in subsection (c); and

(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

(c) COVERED PERSONS.—(1) Section 1502 of this title applies in the case of any member of the armed forces on active duty—

(A) who becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(2) Section 1502 of this title applies in the case of any other person who is a citizen of the United States and a civilian officer or employee of the Department of Defense or (subject to paragraph (3)) an employee of a contractor of the Department of Defense—

(A) who serves in direct support of, or accompanies, the armed forces in the field under orders and becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(3) The Secretary of Defense shall determine, with regard to a pending or ongoing military operation, the specific employees, or groups of employees, of contractors of the Department of Defense to be considered to be covered by this subsection.

(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person described in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

(f) SECRETARY CONCERNED.—In this chapter, the term "Secretary concerned" includes, in the case of a civilian officer or employee of the Department of Defense or an employee of a contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the officer or employee or contracting with the contractor, as the case may be.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 336; amended Pub. L. 104–201, div. A, title V, §578(a)(1), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105–85, div. A, title V, §599(a)(1), Nov. 18, 1997, 111 Stat. 1766; Pub. L. 106–65, div. A, title X, §1066(a)(13), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107–314, div. A, title V, §551, Dec. 2, 2002, 116 Stat. 2551; Pub. L.

108–375, div. A, title V, §582(a), Oct. 28, 2004, 118 Stat. 1928; Pub. L. 111–383, div. A, title IX, §901(g), Jan. 7, 2011, 124 Stat. 4322; Pub. L. 113–66, div. A, title V, §581(a), Dec. 26, 2013, 127 Stat. 773; Pub. L. 113–291, div. A, title IX, §916(a), Dec. 19, 2014, 128 Stat. 3476; Pub. L. 114–328, div. A, title IX, §953(a), Dec. 23, 2016, 130 Stat. 2376.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (a)(1)(A). Pub. L. 114–328, §953(a)(1), inserted "from past conflicts" after "matters relating to missing persons".

Subsec. (a)(2)(A). Pub. L. 114–328, §953(a)(2)(A), (B), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: "Policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons, including matters related to search, rescue, escape, and evasion."

Subsec. (a)(2)(B). Pub. L. 114–328, §953(a)(2)(B), (C), redesignated subpar. (C) as (B) and inserted "from past conflicts" after "missing persons" in two places. Former subpar. (B) redesignated (A).

Subsec. (a)(2)(C), (D). Pub. L. 114–328, §953(a)(2)(B), redesignated subpars. (D) and (E) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(2)(E), (F). Pub. L. 114–328, §953(a)(2)(B), (C), redesignated subpar. (F) as (E) and inserted "from past conflicts" after "missing persons" in two places.

Subsec. (a)(4). Pub. L. 114–328, §953(a)(3)(B), inserted "from past conflicts" after "missing persons".

Pub. L. 114–328, §953(a)(3)(A), which directed striking out "for personal recovery (including search, rescue, escape, and evasion) and" was executed by striking out "for personnel recovery (including search, rescue, escape, and evasion) and" after "Department of Defense,", to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 114–328, §953(a)(4), struck out par. (5) which read as follows: "The designated Agency Director shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter."

**2014**—Subsec. (a). Pub. L. 113–291 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to responsibility for missing personnel, consisting of pars. (1) to (6).

**2013**—Subsec. (a)(1)(D). Pub. L. 113–66 added subpar. (D).

**2011**—Subsec. (a). Pub. L. 111–383, §901(g)(1), substituted "Responsibility for Missing Personnel" for "Office for Missing Personnel" in heading.

Subsec. (a)(1). Pub. L. 111–383, §901(g)(2)(A)–(C), in introductory provisions, substituted "designate within the Office of the Secretary of Defense an official as the Deputy Assistant Secretary of Defense for Prisoner of War/Missing Personnel Affairs to have responsibility for Department of Defense matters" for "establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy", struck out "Such office shall be known as the Defense Prisoner of War/Missing Personnel Office." after "persons.", and substituted "of the official designated under this paragraph" for "of the office".

Subsec. (a)(1)(B), (C). Pub. L. 111–383, §901(g)(2)(D)–(F), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(2). Pub. L. 111–383, §901(g)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111–383, §901(g)(3), (5), redesignated par. (2) as (3), struck out "of the office" after "responsibilities", and substituted "official designated under paragraph (1) and (2)" for "head of the office". Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 111–383, §901(g)(3), (6), redesignated par. (3) as (4), substituted "designated official" for "office", and inserted "and for personnel accounting (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased)" after "evasion)". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 111–383, §901(g)(3), (7), redesignated par. (4) as (5) and substituted "designated official" for "office". Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 111–383, §901(g)(3), redesignated par. (5) as (6).

Subsec. (a)(6)(A). Pub. L. 111–383, §901(g)(8)(A)(ii), which directed the substitution of "activity" for "office" both places appearing, was executed by making the substitution in three places to reflect the probable intent of Congress.

Pub. L. 111–383, §901(g)(8)(A)(i), inserted "The Secretary of Defense shall establish an activity to account for personnel who are missing or whose remains have not been recovered from the conflict in which they were lost. This activity shall be known as the Defense Prisoner of War/Missing Personnel Office." after "(A)".

Subsec. (a)(6)(B)(i). Pub. L. 111–383, §901(g)(8)(B), substituted "activity" for "to the office".

Subsec. (a)(6)(B)(ii). Pub. L. 111–383, §901(g)(8)(C), substituted "activity" for "to the office" and "of the activity" for "of the office".

Subsec. (a)(6)(C). Pub. L. 111–383, §901(g)(8)(D), substituted "activity" for "office".

**2004**—Subsec. (a)(5)(B). Pub. L. 108–375 designated existing provisions as cl. (i), inserted ", whether temporary or permanent," after "civilian personnel", and added cl. (ii).

**2002**—Subsec. (a)(1). Pub. L. 107–314, §551(b), inserted "Such office shall be known as the Defense Prisoner of War/Missing Personnel Office." after first sentence.

Subsec. (a)(5). Pub. L. 107–314, §551(a), added par. (5).

**1999**—Subsec. (d). Pub. L. 106–65 substituted "described" for "prescribed" in first sentence.

**1997**—Subsec. (c). Pub. L. 105–85, §599(a)(1)(A), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(c) COVERED PERSONS.—Section 1502 of this title applies in the case of any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for."

Subsec. (f). Pub. L. 105–85, §599(a)(1)(B), added subsec. (f).

**1996**—Subsec. (c). Pub. L. 104–201, §578(a)(1)(A), substituted "applies in the case of" for "applies in the case of the following persons:" and "any member" for "(1) Any member" and struck out par. (2) which read as follows: "Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for."

Subsec. (f). Pub. L. 104–201, §578(a)(1)(B), struck out subsec. (f) which read as follows:

"(f) SECRETARY CONCERNED.—In this chapter, the term 'Secretary concerned' includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### AUTHORITY TO ENTER INTO AGREEMENTS

Pub. L. 118–31, div. A, title X, §1063(b), Dec. 22, 2023, 137 Stat. 401, provided that: "The Director of the Defense POW/MIA Accounting Agency may enter into agreements with universities or research organizations under which such universities or research organizations agree to provide additional capabilities for specialized missions or research requirements relating to expanding accounting for persons missing from designated past conflicts."

### RECOVERY AND IDENTIFICATION OF REMAINS OF CERTAIN WORLD WAR II SERVICEMEN LOST IN PACIFIC THEATER OF OPERATIONS

Pub. L. 106–65, div. A, title V, §576, Oct. 5, 1999, 113 Stat. 624, as amended by Pub. L. 107–107, div. A, title X, §1048(g)(3), Dec. 28, 2001, 115 Stat. 1228, provided that:

"(a) RECOVERY OF REMAINS.—(1) The Secretary of Defense shall make every reasonable effort to search for, recover, and identify the remains of United States servicemen lost in the Pacific theater of operations during World War II (including in New Guinea) while engaged in flight operations.

"(2) In order to provide high priority to carrying out paragraph (1), the Secretary of Defense shall consider increasing the number of personnel assigned to the Central Identification Laboratory, Hawaii.

"(3) Not later than September 30, 2000, the Secretary shall submit to Congress a report setting forth the efforts made to accomplish the objectives specified in paragraph (1). The Secretary shall include in the report a statement of the backlog of cases at the Central Identification Laboratory, Hawaii, shown by conflict, and the status of the joint manning plan required by section 566(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2029).

"(b) DIPLOMATIC INTERVENTION IF REQUIRED.—The Secretary of State, upon request by the

Secretary of Defense, shall work with officials of governments of nations in the area that was covered by the Pacific theater of operations of World War II to seek to overcome any diplomatic obstacles that may impede the Secretary of Defense from carrying out the objectives specified in subsection (a)(1)."

**POW/MIA INTELLIGENCE ANALYSIS**

Pub. L. 105–85, div. A, title IX, §934, Nov. 18, 1997, 111 Stat. 1866, as amended by Pub. L. 106–65, div. A, title X, §1066(c)(4), Oct. 5, 1999, 113 Stat. 773, provided that:

"(a) INTELLIGENCE ANALYSIS.—The Director of Central Intelligence, in consultation with the Secretary of Defense, shall provide intelligence analysis on matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) to all departments and agencies of the Federal Government involved in such matters.

"(b) USE OF INTELLIGENCE IN ANALYSIS OF POW/MIA CASES IN DEPARTMENT OF DEFENSE .—The Secretary of Defense shall ensure that the Defense Prisoner of War/Missing Personnel Office of the Department of Defense takes into full account all intelligence regarding matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) in analyzing cases involving such persons."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

**CONGRESSIONAL STATEMENT OF PURPOSE**

Pub. L. 104–106, div. A, title V, §569(a), Feb. 10, 1996, 110 Stat. 336, provided that: "The purpose of this section [enacting this chapter and section 655 of this title, amending sections 552, 553, 555, and 556 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note under section 5561 of Title 5, Government Organization and Employees] is to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time."

## §1501a. Public-private partnerships; other forms of support

(a) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary of Defense may enter into arrangements known as public-private partnerships with appropriate entities outside the Government for the purposes of facilitating the activities of the designated Defense Agency. The Secretary may only partner with foreign governments or foreign entities with the concurrence of the Secretary of State. Any such arrangement shall be entered into in accordance with authorities provided under this section or any other authority otherwise available to the Secretary. Regulations prescribed under subsection (f)(1) shall include provisions for the establishment and implementation of such partnerships. An employee of an entity outside the Government that has entered into a public-private partnership, cooperative agreement, or a grant arrangement with, or in direct support of, the designated Defense Agency under this section shall be considered to be an employee of the Federal Government by reason of participation in such partnership, cooperative agreement, or grant, only for the purposes of section 552a of title 5 (relating to maintenance of records on individuals).

(b) ACCEPTANCE OF VOLUNTARY PERSONAL SERVICES.—The Secretary of Defense may accept voluntary services to facilitate accounting for missing persons in the same manner as the Secretary of a military department may accept such services under section 1588(a)(9) of this title.

(c) COOPERATIVE AGREEMENTS AND GRANTS.—

(1) IN GENERAL.—The Secretary of Defense may enter into a cooperative agreement with, or make a grant to, a private entity for purposes related to support of the activities of the designated Defense Agency.

(2) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding section 3201(e) of this title, the Secretary may enter such cooperative agreements or grants on a sole-source basis pursuant to section 3204(a)(5) of this title.

(d) USE OF DEPARTMENT OF DEFENSE PERSONAL PROPERTY.—The Secretary may allow a private entity to use, at no cost, personal property of the Department of Defense to assist the entity in supporting the activities of the designated Defense Agency.

(e) ACCEPTANCE OF GIFTS.—

(1) AUTHORITY TO ACCEPT.—Subject to subsection (f)(2), the Secretary may accept, hold, administer, spend, and use any gift of personal property, money, or services made on the condition that the gift be used for the purpose of facilitating accounting for missing persons pursuant to section 1501(a)(2)(C) of this title.

(2) GIFT FUNDS.—Gifts and bequests of money accepted under this subsection shall be deposited in the Treasury in the Department of Defense General Gift Fund.

(3) USE OF GIFTS.—Personal property and money accepted under this subsection may be used by the Secretary, and services accepted under this subsection may be performed, without further specific authorization in law.

(4) EXPENSES OF TRANSFER.—The Secretary may pay all necessary expenses in connection with the conveyance or transfer of a gift accepted under this subsection.

(5) EXPENSES OF CARE.—The Secretary may pay all reasonable and necessary expenses in connection with the care of a gift accepted under this subsection.

(f) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to implement this section.

(2) LIMITATION.—Such regulations shall provide that acceptance of a gift (including a gift of services) or use of a gift under this section may not occur if the nature or circumstances of the acceptance or use would compromise the integrity, or the appearance of integrity, of any program of the Department of Defense or any individual involved in such program.

(g) DEFINITIONS.—In this section:

(1) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means an authorized cooperative agreement as described in section 6305 of title 31.

(2) GRANT.—The term "grant" means an authorized grant as described in section 6304 of title 31.

(3) GIFT.—The term "gift" includes a devise or bequest.

(Added Pub. L. 113–291, div. A, title IX, §916(b), Dec. 19, 2014, 128 Stat. 3477; amended Pub. L. 115–232, div. A, title V, §523, Aug. 13, 2018, 132 Stat. 1756; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(2). Pub. L. 116–283 substituted "3201(e) of this title" for "2304(k) of this title" and "3204(a)(5) of this title" for "2304(c)(5) of this title".

**2018**—Subsec. (a). Pub. L. 115–232, §523(a), (c), substituted "subsection (f)(1)" for "subsection (e)(1)" and inserted at end "An employee of an entity outside the Government that has entered into a public-private partnership, cooperative agreement, or a grant arrangement with, or in direct support of, the designated Defense Agency under this section shall be considered to be an employee of the Federal Government by reason of participation in such partnership, cooperative agreement, or grant, only for the purposes of section 552a of title 5 (relating to maintenance of records on individuals)."

Subsecs. (e), (f). Pub. L. 115–232, §523(b)(1), (2), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115–232, §523(b)(1), (3), redesignated subsec. (f) as (g) and added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §1502. Missing persons: initial report

(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts and status of a person described in section 1501(c) of this title is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

(1) recommend that the person be placed in a missing status; and

(2) not later than 10 days after receiving such information, transmit a report containing that recommendation to the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title.

(b) TRANSMISSION OF ADVISORY COPY TO THEATER COMPONENT COMMANDER .—When transmitting a report under subsection (a)(2) recommending that a person be placed in a missing status, the commander transmitting that report shall transmit an advisory copy of the report to the theater component commander with jurisdiction over the missing person.

(c) SAFEGUARDING AND FORWARDING OF RECORDS.—A commander making a preliminary assessment under subsection (a) with respect to a missing person shall (in accordance with procedures prescribed under section 1501 of this title) safeguard and forward for official use any information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 338; amended Pub. L. 104–201, div. A, title V, §578(b)(1), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105–85, div. A, title V, §599(b)(1), Nov. 18, 1997, 111 Stat. 1768.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Subsecs. (b), (c). Pub. L. 105–85 added subsec. (b) and redesignated former subsec. (b) as (c).

**1996**—Subsec. (a)(2). Pub. L. 104–201, §578(b)(1)(A), substituted "10 days" for "48 hours" and "Secretary concerned" for "theater component commander with jurisdiction over the missing person".

Subsec. (b). Pub. L. 104–201, §578(b)(1)(D), struck out at end "The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification."

Pub. L. 104–201, §578(b)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person."

Subsec. (c). Pub. L. 104–201, §578(b)(1)(C), redesignated subsec. (c) as (b).

## §1503. Actions of Secretary concerned; initial board inquiry

(a) DETERMINATION BY SECRETARY.—Upon receiving a recommendation under section 1502(a) of this title that a person be placed in a missing status, the Secretary receiving the recommendation shall review the recommendation and, not later than 10 days after receiving such recommendation, shall appoint a board under this section to conduct an inquiry into the whereabouts and status of the person.

(b) INQUIRIES INVOLVING MORE THAN ONE MISSING PERSON.—If it appears to the Secretary who appoints a board under this section that the absence or missing status of two or more persons is factually related, the Secretary may appoint a single board under this section to conduct the inquiry into the whereabouts and status of all such persons.

(c) COMPOSITION.—(1) A board appointed under this section to inquire into the whereabouts and status of a person shall consist of at least one individual described in paragraph (2) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person disappeared.

(2) An individual referred to in paragraph (1) is the following:

(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.

(3) An individual may be appointed as a member of a board under this section only if the individual has a security clearance that affords the individual access to all information relating to the whereabouts and status of the missing persons covered by the inquiry.

(4) A Secretary appointing a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, who has expertise in the law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

(d) DUTIES OF BOARD.—A board appointed to conduct an inquiry into the whereabouts and status of a missing person under this section shall—

(1) collect, develop, and investigate all facts and evidence relating to the disappearance or whereabouts and status of the person;

(2) collect appropriate documentation of the facts and evidence covered by the board's investigation;

(3) analyze the facts and evidence, make findings based on that analysis, and draw conclusions as to the current whereabouts and status of the person; and

(4) with respect to each person covered by the inquiry, recommend to the Secretary who appointed the board that—

(A) the person be placed in a missing status; or

(B) the person be declared to have deserted, to be absent without leave, or (subject to the requirements of section 1507 of this title) to be dead.

(e) BOARD PROCEEDINGS.—During the proceedings of an inquiry under this section, a board shall—

(1) collect, record, and safeguard all facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information (whether classified or unclassified) relating to the whereabouts and status of each person covered by the inquiry;

(2) gather information relating to actions taken to find the person, including any evidence of the whereabouts and status of the person arising from such actions; and

(3) maintain a record of its proceedings.

(f) COUNSEL FOR MISSING PERSON.—(1) The Secretary appointing a board to conduct an inquiry under this section shall appoint counsel to represent each person covered by the inquiry or, in a case covered by subsection (b), one counsel to represent all persons covered by the inquiry. Counsel appointed under this paragraph may be referred to as "missing person's counsel" and

represents the interests of the person covered by the inquiry (and not any member of the person's family or other interested parties). The identity of counsel appointed under this paragraph for a missing person shall be made known to the missing person's primary next of kin and any other previously designated person of the person.

(2) To be appointed as a missing person's counsel, a person must—

(A) have the qualifications specified in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice) for trial counsel or defense counsel detailed for a general court-martial;

(B) have a security clearance that affords the counsel access to all information relating to the whereabouts and status of the person or persons covered by the inquiry; and

(C) have expertise in the law relating to missing persons, the determination of the death of such persons, and the rights of family members and dependents of such persons.

(3) A missing person's counsel—

(A) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

(B) shall observe all official activities of the board during such proceedings;

(C) may question witnesses before the board; and

(D) shall monitor the deliberations of the board.

(4) A missing person's counsel shall assist the board in ensuring that all appropriate information concerning the case is collected, logged, filed, and safeguarded. The primary next of kin of a missing person and any other previously designated person of the missing person shall have the right to submit information to the missing person's counsel relative to the disappearance or status of the missing person.

(5) A missing person's counsel shall review the report of the board under subsection (h) and submit to the Secretary concerned who appointed the board an independent review of that report. That review shall be made an official part of the record of the board.

(g) ACCESS TO PROCEEDINGS.—The proceedings of a board during an inquiry under this section shall be closed to the public (including, with respect to the person covered by the inquiry, the primary next of kin, other members of the immediate family, and any other previously designated person of the person).

(h) REPORT.—(1) A board appointed under this section shall submit to the Secretary who appointed the board a report on the inquiry carried out by the board. The report shall include—

(A) a discussion of the facts and evidence considered by the board in the inquiry;

(B) the recommendation of the board under subsection (d) with respect to each person covered by the report; and

(C) disclosure of whether classified documents and information were reviewed by the board or were otherwise used by the board in forming recommendations under subparagraph (B).

(2) A board shall submit a report under this subsection with respect to the inquiry carried out by the board not later than 30 days after the date of the appointment of the board to carry out the inquiry. The report may include a classified annex.

(3) The Secretary of Defense shall prescribe procedures for the release of a report submitted under this subsection with respect to a missing person. Such procedures shall provide that the report may not be made public (except as provided for in subsection (j)) until one year after the date on which the report is submitted.

(i) DETERMINATION BY SECRETARY.—(1) Not later than 30 days after receiving a report from a board under subsection (h), the Secretary receiving the report shall review the report.

(2) In reviewing a report under paragraph (1), the Secretary shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete

and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report, including whether the person shall—

(A) be declared to be missing;

(B) be declared to have deserted;

(C) be declared to be absent without leave; or

(D) be declared to be dead.

(j) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 30 days after the date on which the Secretary concerned makes a determination of the status of a person under subsection (i), the Secretary shall take reasonable actions to—

(1) provide to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person—

(A) an unclassified summary of the unit commander's report with respect to the person under section 1502(a) of this title; and

(B) the report of the board (including the names of the members of the board) under subsection (h); and

(2) inform each individual referred to in paragraph (1) that the United States will conduct a subsequent inquiry into the whereabouts and status of the person on or about one year after the date of the first official notice of the disappearance of the person, unless information becomes available sooner that may result in a change in status of the person.

(k) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (i) shall be treated as the determination of the status of the person by all departments and agencies of the United States.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 338; amended Pub. L. 104–201, div. A, title V, §578(a)(2), (b)(2), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105–85, div. A, title V, §599(a)(2), (d), Nov. 18, 1997, 111 Stat. 1767, 1769.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Subsec. (c)(1). Pub. L. 105–85, §599(a)(2)(A), substituted "one individual described in paragraph (2)" for "one military officer".

Subsec. (c)(2) to (4). Pub. L. 105–85, §599(a)(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f)(1). Pub. L. 105–85, §599(d)(1), inserted at end "The identity of counsel appointed under this paragraph for a missing person shall be made known to the missing person's primary next of kin and any other previously designated person of the person."

Subsec. (f)(4). Pub. L. 105–85, §599(d)(2), inserted at end "The primary next of kin of a missing person and any other previously designated person of the missing person shall have the right to submit information to the missing person's counsel relative to the disappearance or status of the missing person."

**1996**—Subsec. (a). Pub. L. 104–201, §578(b)(2), substituted "section 1502(a)" for "section 1502(b)".

Subsec. (c)(1). Pub. L. 104–201, §578(a)(2)(A), substituted "one military officer" for "one individual described in paragraph (2)".

Subsec. (c)(2) to (4). Pub. L. 104–201, §578(a)(2)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "An individual referred to in paragraph (1) is the following:

"(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

"(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense."

## §1504. Subsequent board of inquiry

(a) ADDITIONAL BOARD.—If information that may result in a change of status of a person covered by a determination under section 1503(i) of this title becomes available within one year after the date of the transmission of a report with respect to the person under section 1502(a)(2) of this title, the Secretary concerned shall appoint a board under this section to conduct an inquiry into the information.

(b) DATE OF APPOINTMENT.—The Secretary concerned shall appoint a board under this section to conduct an inquiry into the whereabouts and status of a missing person on or about one year after the date of the transmission of a report concerning the person under section 1502(a)(2) of this title.

(c) COMBINED INQUIRIES.—If it appears to the Secretary concerned that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this section to conduct the inquiry into the whereabouts and status of such persons.

(d) COMPOSITION.—(1) A board appointed under this section shall be composed of at least three members as follows:

(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—

(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

(ii) such members of the armed forces as the Secretary considers advisable.

(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—

(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry.

(2) The Secretary concerned shall designate one member of a board appointed under this section as president of the board. The president of the board shall have a security clearance that affords the president access to all information relating to the whereabouts and status of each person covered by the inquiry.

(3) One member of each board appointed under this subsection shall be an individual who—

(A) has an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

(B) has an understanding of and expertise in the type of official activities that one or more such persons were engaged in at the time such person or persons disappeared.

(4) The Secretary who appoints a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, with the same qualifications as specified in section 1503(c)(4) of this title.

(e) DUTIES OF BOARD.—A board appointed under this section to conduct an inquiry into the whereabouts and status of a person shall—

(1) review the reports with respect to the person transmitted under section 1502(a)(2) of this title and submitted under section 1503(h) of this title;

(2) collect and evaluate any document, fact, or other evidence with respect to the whereabouts and status of the person that has become available since the determination of the status of the person under section 1503 of this title;

(3) draw conclusions as to the whereabouts and status of the person;

(4) determine on the basis of the activities under paragraphs (1) and (2) whether the status of the person should be continued or changed; and

(5) submit to the Secretary concerned a report describing the findings and conclusions of the board, together with a recommendation for a determination by the Secretary concerning the whereabouts and status of the person.

(f) COUNSEL FOR MISSING PERSONS.—(1) When the Secretary concerned appoints a board to conduct an inquiry under this section, the Secretary shall appoint counsel to represent each person covered by the inquiry. The identity of counsel appointed under this paragraph for a missing person shall be made known to the missing person's primary next of kin and any other previously designated person of the person.

(2) A person appointed as counsel under this subsection shall meet the qualifications and have the duties set forth in section 1503(f) of this title for a missing person's counsel appointed under that section.

(3) The review of the report of a board on an inquiry that is submitted by such counsel shall be made an official part of the record of the board with respect to the inquiry.

(g) ATTENDANCE OF FAMILY MEMBERS AND CERTAIN OTHER INTERESTED PERSONS AT PROCEEDINGS.—(1) With respect to any person covered by an inquiry under this section, the primary next of kin, other members of the immediate family, and any other previously designated person of the person may attend the proceedings of the board during the inquiry.

(2) The Secretary concerned shall take reasonable actions to notify each individual referred to in paragraph (1) of the opportunity to attend the proceedings of a board. Such notice shall be provided not less than 60 days before the first meeting of the board.

(3) An individual who receives notice under paragraph (2) shall notify the Secretary of the intent, if any, of that individual to attend the proceedings of the board not later than 21 days after the date on which the individual receives the notice.

(4) Each individual who notifies the Secretary under paragraph (3) of the individual's intent to attend the proceedings of the board—

(A) in the case of an individual who is the primary next of kin or the previously designated person, may attend the proceedings of the board with private counsel;

(B) shall have access to the personnel file of the missing person, to unclassified reports, if any, of the board appointed under section 1503 of this title to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

(C) shall be afforded the opportunity to present information at the proceedings of the board that such individual considers to be relevant to those proceedings; and

(D) subject to paragraph (5), shall be given the opportunity to submit in writing an objection to any recommendation of the board under subsection (i) as to the status of the missing person.

(5)(A) Individuals who wish to file objections under paragraph (4)(D) to any recommendation of the board shall—

(i) submit a letter of intent to the president of the board not later than 15 days after the date on which the recommendations are made; and

(ii) submit to the president of the board the objections in writing not later than 30 days after the date on which the recommendations are made.

(B) The president of a board shall include any objections to a recommendation of the board that are submitted to the president of the board under subparagraph (A) in the report of the board containing the recommendation under subsection (i).

(6) An individual referred to in paragraph (1) who attends the proceedings of a board under this subsection shall not be entitled to reimbursement by the United States for any costs (including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other

expenses) incurred by that individual in attending such proceedings.

(h) AVAILABILITY OF INFORMATION TO BOARDS.—(1) In conducting proceedings in an inquiry under this section, a board may secure directly from any department or agency of the United States any information that the board considers necessary in order to conduct the proceedings.

(2) Upon written request from the president of a board, the head of a department or agency of the United States shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

(A) declassify to an appropriate degree classified information; or

(B) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

(3)(A) If a request for information under paragraph (2) covers classified information that cannot be declassified, or if the classification markings cannot be removed before release from the information covered by the request, or if the material cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to the president of the board making the request and the counsel for the missing person appointed under subsection (f).

(B) The president of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the president of a board in ensuring that classified information is not compromised through board proceedings.

(i) RECOMMENDATION ON STATUS.—(1) Upon completion of an inquiry under this section, a board shall make a recommendation as to the current whereabouts and status of each missing person covered by the inquiry.

(2) A board may not recommend under paragraph (1) that a person be declared dead unless in making the recommendation the board complies with section 1507 of this title.

(j) REPORT.—A board appointed under this section shall submit to the Secretary concerned a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry. The report may include a classified annex.

(k) ACTIONS BY SECRETARY CONCERNED.—(1) Not later than 30 days after the receipt of a report from a board under subsection (j), the Secretary shall review—

(A) the report;

(B) the review of the report submitted to the Secretary under subsection (f)(3) by the counsel for each person covered by the report; and

(C) the objections, if any, to the report submitted to the president of the board under subsection (g)(5).

(2) In reviewing a report under paragraph (1) (including the objections described in subparagraph (C) of that paragraph), the Secretary concerned shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report.

(l) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 60 days after the date on which the Secretary concerned makes a determination with respect to a missing person under subsection (k), the Secretary shall—

(1) provide the report reviewed by the Secretary in making the determination to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person; and

(2) in the case of a person who continues to be in a missing status, inform each individual referred to in paragraph (1) that the United States will conduct a further investigation into the whereabouts and status of the person as specified in section 1505 of this title.

(m) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (k) shall supersede the determination of the status of the person under section 1503 of this title and shall be treated as the determination of the status of the person by all departments and agencies of the United States.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 341; amended Pub. L. 104–201, div. A, title V, §578(a)(3), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105–85, div. A, title V, §599(a)(3), (d)(1), title X, §1073(a)(30), Nov. 18, 1997, 111 Stat. 1767, 1769, 1902.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Subsec. (d)(1). Pub. L. 105–85, §599(a)(3)(A), substituted "as follows:" and subpars. (A) to (C) for "who are officers having the grade of major or lieutenant commander or above."

Subsec. (d)(4). Pub. L. 105–85, §599(a)(3)(B), substituted "section 1503(c)(4)" for "section 1503(c)(3)".

Subsec. (f)(1). Pub. L. 105–85, §599(d)(1), inserted at end "The identity of counsel appointed under this paragraph for a missing person shall be made known to the missing person's primary next of kin and any other previously designated person of the person."

Subsec. (i)(1). Pub. L. 105–85, §1073(a)(30), substituted "this section" for "this subsection".

**1996**—Subsec. (d)(1). Pub. L. 104–201, §578(a)(3)(A), added text of par. (1) and struck out former text of par. (1) which read as follows: "A board appointed under this section shall be composed of at least three members as follows:

"(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

"(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—

"(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

"(ii) such members of the armed forces as the Secretary considers advisable.

"(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—

"(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

"(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry."

Subsec. (d)(4). Pub. L. 104–201, §578(a)(3)(B), substituted "section 1503(c)(3)" for "section 1503(c)(4)".

## §1505. Further review

(a) SUBSEQUENT REVIEW.—The Secretary concerned shall conduct subsequent inquiries into the whereabouts and status of any person determined by the Secretary under section 1504 of this title to be in a missing status.

(b) FREQUENCY OF SUBSEQUENT REVIEWS.—The Secretary concerned shall conduct inquiries into the whereabouts and status of a person under subsection (a) upon receipt of information that may result in a change of status of the person. The Secretary concerned shall appoint a board to conduct such inquiries.

(c) ACTION UPON DISCOVERY OR RECEIPT OF INFORMATION.—(1) Whenever any United States intelligence agency or other element of the Government finds or receives information

that may be related to a missing person, the information shall promptly be forwarded to the Secretary of Defense.

(2) Upon receipt of information under paragraph (1), the Secretary of Defense shall as expeditiously as possible ensure that the information is added to the appropriate case file for that missing person and notify (A) the designated missing person's counsel for that person, and (B) the primary next of kin and any previously designated person for the missing person of the existence of that information.

(3) The Secretary of Defense, with the advice of the missing person's counsel notified under paragraph (2), shall determine whether the information is significant enough to require a board review under this section.

(d) CONDUCT OF PROCEEDINGS.—If it is determined that such a board should be appointed, the appointment of, and activities before, a board appointed under this section shall be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 345; amended Pub. L. 104–201, div. A, title V, §578(c), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 113–291, div. A, title IX, §916(c), Dec. 19, 2014, 128 Stat. 3478; Pub. L. 114–328, div. A, title IX, §953(b), Dec. 23, 2016, 130 Stat. 2376.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (c). Pub. L. 114–328 substituted "Secretary of Defense" for "designated Agency Director" in pars. (1), (2), and (3).

**2014**—Subsec. (c)(1). Pub. L. 113–291, §916(c)(1), substituted "the designated Agency Director" for "the office established under section 1501 of this title".

Subsec. (c)(2), (3). Pub. L. 113–291, §916(c)(2), substituted "designated Agency Director" for "head of the office established under section 1501 of this title".

**1996**—Subsec. (b). Pub. L. 104–201 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

"(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and

"(B) not later than every three years thereafter.

"(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

"(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

"(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502 of this title; or

"(B) if, before the end of such 30-year period, the missing person is accounted for."

## §1506. Personnel files

(a) INFORMATION IN FILES.—Except as provided in subsections (b), (c), and (d), the Secretary concerned shall, to the maximum extent practicable, ensure that the personnel file of a missing person contains all information in the possession of the United States relating to the disappearance and whereabouts and status of the person.

(b) CLASSIFIED INFORMATION.—(1) The Secretary concerned may withhold classified information from a personnel file under this section. If the Secretary concerned withholds classified

information from a personnel file, the Secretary shall ensure that the file contains the following:

(A) A notice that the withheld information exists.

(B) A notice of the date of the most recent review of the classification of the withheld information.

(2)(A) If classified information withheld under this subsection refers to one or more unnamed missing persons, the Secretary shall ensure that notice of that withheld information, and notice of the date of the most recent review of the classification of that withheld information, is made reasonably accessible to the primary next of kin, members of the immediate family, and the previously designated person of all missing persons from the conflict or period of war to which the classified information pertains.

(B) For purposes of subparagraph (A), information shall be considered to be made reasonably accessible if placed in a separate and distinct file that is available for review by persons specified in subparagraph (A) upon the request of any such person either to review the separate file or to review the personnel file of the missing person concerned.

(c) PROTECTION OF PRIVACY.—The Secretary concerned shall maintain personnel files under this section, and shall permit disclosure of or access to such files, in accordance with the provisions of section 552a of title 5 and with other applicable laws and regulations pertaining to the privacy of the persons covered by the files.

(d) PRIVILEGED INFORMATION.—(1) The Secretary concerned shall withhold from personnel files under this section, as privileged information, debriefing reports provided by missing persons returned to United States control which are obtained under a promise of confidentiality made for the purpose of ensuring the fullest possible disclosure of information.

(2) The Secretary concerned shall withhold from personnel files under this section, as privileged information, any survival, evasion, resistance, and escape debriefing report provided by a person described in section 1501(c) of this title who is returned to United States control which is obtained under a promise of confidentiality made for the purpose of ensuring the fullest possible disclosure of information.

(3) If a debriefing report contains non-derogatory information about the status and whereabouts of a missing person other than the source of the debriefing report or about unnamed missing persons, the Secretary concerned shall prepare an extract of the non-derogatory information. That extract, following a review by the source of the debriefing report, shall be placed in the personnel file of each missing person named in the debriefing report in such a manner as to protect the identity of the source providing the information. Any information contained in the extract of the debriefing report that pertains to unnamed missing persons shall be made reasonably accessible to the primary next of kin, members of the immediate family, and the previously designated person.

(4) Whenever the Secretary concerned withholds a debriefing report, or part of a debriefing report, from a personnel file under this subsection, the Secretary shall ensure that the file contains a notice that withheld information exists.

(e) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the primary next of kin, the other members of the immediate family, or any other previously designated person of the person.

(f) NONDISCLOSURE OF CERTAIN INFORMATION.—A record of the content of a debriefing of a missing person returned to United States control during the period beginning on July 8, 1959, and ending on February 10, 1996, that was conducted by an official of the United States authorized to conduct the debriefing is privileged information and, notwithstanding sections 552 and 552a of title 5, may not be disclosed, in whole or in part, under either such section. However, this subsection does not limit the responsibility of the Secretary concerned under paragraphs (3) and (4) of subsection (d) to place extracts of non-derogatory information, or a notice of the existence of such information, in the personnel file of a missing person.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 346; amended Pub. L. 104–201, div. A, title V, §578(d), Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title V, §599(f), (g), Nov. 18, 1997, 111 Stat. 1770; Pub. L. 106–65, div. A, title V, §575, Oct. 5, 1999, 113

Stat. 624; Pub. L. 107–107, div. A, title V, §573, Dec. 28, 2001, 115 Stat. 1122; Pub. L. 113–66, div. A, title V, §582(a), Dec. 26, 2013, 127 Stat. 776.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Subsec. (d)(2) to (4). Pub. L. 113–66, §582(a)(1), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f). Pub. L. 113–66, §582(a)(2), substituted "paragraphs (3) and (4)" for "paragraphs (2) and (3)".

**2001**—Subsec. (b)(2). Pub. L. 107–107 designated existing provisions as subpar. (A), inserted "of all missing persons from the conflict or period of war to which the classified information pertains" before period at end, and added subpar. (B).

**1999**—Subsec. (f). Pub. L. 106–65 added subsec. (f).

**1997**—Subsec. (b). Pub. L. 105–85, §599(f), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d)(2). Pub. L. 105–85, §599(g)(1), inserted "or about unnamed missing persons" after "the debriefing report" in first sentence, substituted "each missing person named in the debriefing report" for "the missing person" in second sentence, and inserted at end "Any information contained in the extract of the debriefing report that pertains to unnamed missing persons shall be made reasonably accessible to the primary next of kin, members of the immediate family, and the previously designated person."

Subsec. (d)(3). Pub. L. 105–85, §599(g)(2), inserted ", or part of a debriefing report," after "a debriefing report".

**1996**—Subsecs. (e), (f). Pub. L. 104–201 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: "WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both."

## §1507. Recommendation of status of death

(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1503, 1504, or 1505 of this title may not recommend that a person be declared dead unless—

(1) credible evidence exists to suggest that the person is dead;

(2) the United States possesses no credible evidence that suggests that the person is alive; and

(3) representatives of the United States—

(A) have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

(B) have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort to obtain access to such records, such representatives are not granted such access).

(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1503, 1504, or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under that section the following:

(1) A detailed description of the location where the death occurred.

(2) A statement of the date on which the death occurred.

(3) A description of the location of the body, if recovered.

(4) If the body has been recovered and is not identifiable through visual means, a certification by a forensic pathologist that the body recovered is that of the missing person. In determining whether to make such a certification, the forensic pathologist shall consider, as determined necessary by the Secretary of the military department concerned, additional evidence and information provided by appropriate specialists in forensic medicine or other appropriate medical sciences.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 347; amended Pub. L. 104–201, div. A, title V, §578(e), Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title V, §599(c), Nov. 18, 1997, 111 Stat. 1768.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Subsec. (b)(3), (4). Pub. L. 105–85 added pars. (3) and (4).

**1996**—Subsec. (b)(3), (4). Pub. L. 104–201 struck out pars. (3) and (4) which read as follows:

"(3) A description of the location of the body, if recovered.

"(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person."

## §1508. Judicial review

(a) RIGHT OF REVIEW.—A person who is the primary next of kin (or the previously designated person) of a person who is the subject of a finding described in subsection (b) may obtain judicial review in a United States district court of that finding, but only on the basis of a claim that there is information that could affect the status of the missing person's case that was not adequately considered during the administrative review process under this chapter. Any such review shall be as provided in section 706 of title 5.

(b) FINDINGS FOR WHICH JUDICIAL REVIEW MAY BE SOUGHT.—Subsection (a) applies to the following findings:

(1) A finding by a board appointed under section 1504 or 1505 of this title that a missing person is dead.

(2) A finding by a board appointed under section 1509 of this title that confirms that a missing person formerly declared dead is in fact dead.

(c) SUBSEQUENT REVIEW.—Appeals from a decision of the district court shall be taken to the appropriate United States court of appeals and to the Supreme Court as provided by law.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 348.)

## §1509. Program to resolve missing person cases

(a) PROGRAM REQUIRED; COVERED CONFLICTS.—The Secretary of Defense shall implement a comprehensive, coordinated, integrated, and fully resourced program to account for persons described in subparagraph (A) or (B) of section 1513(1) of this title who are unaccounted for from the following conflicts:

(1) World War II during the period beginning on December 7, 1941, and ending on December 31, 1946, including members of the armed forces who were lost during flight operations in the Pacific theater of operations covered by section 576 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1501 note).

(2) The Cold War during the period beginning on September 2, 1945, and ending on August 21, 1991.

(3) The Korean War during the period beginning on June 27, 1950, and ending on January 31, 1955.

(4) The Indochina War era during the period beginning on July 8, 1959, and ending on May 15, 1975.

(5) The Persian Gulf War during the period beginning on August 2, 1990, and ending on February 28, 1991.

(6) Such other conflicts in which members of the armed forces served as the Secretary of Defense may designate.

(b) IMPLEMENTATION.—(1) The Secretary of Defense shall implement the program within the Department of Defense through the designated Agency Director.

(2)(A) The Secretary shall assign or detail to the designated Defense Agency on a full-time basis a senior medical examiner from the personnel of the Armed Forces Medical Examiner System. The primary duties of the medical examiner so assigned or detailed shall include the identification of remains in support of the function of the designated Agency Director to account for unaccounted for persons covered by subsection (a).

(B) In carrying out functions under this chapter, the medical examiner so assigned or detailed shall report to the designated Agency Director.

(C) The medical examiner so assigned or detailed shall—

(i) exercise scientific identification authority;

(ii) establish identification and laboratory policy consistent with the Armed Forces Medical Examiner System; and

(iii) advise the designated Agency Director on forensic science disciplines.

(D) Nothing in this chapter shall be interpreted as affecting the authority of the Armed Forces Medical Examiner under section 1471 of this title.

(c) TREATMENT AS MISSING PERSONS.—Each unaccounted for person covered by subsection (a) shall be considered to be a missing person for purposes of the applicability of other provisions of this chapter to the person.

(d) ESTABLISHMENT OF PERSONNEL FILES; CENTRALIZED DATABASE.—(1) The Secretary of Defense shall ensure that a personnel file is established and maintained for each person covered by subsection (a) if the Secretary—

(A) possesses any information relevant to the status of the person; or

(B) receives any new information regarding the missing person as provided in subsection (e).

(2) The Secretary of Defense shall ensure that each file established under this subsection contains all relevant information pertaining to a person covered by subsection (a) and is readily accessible to all elements of the department, the combatant commands, and the armed forces involved in the effort to account for the person.

(3) Each file established under this subsection shall be handled in accordance with, and subject to the provisions of, section 1506 of this title in the same manner as applies to the file of a missing person otherwise subject to such section.

(4) The Secretary of Defense shall establish and maintain a single centralized database and case management system containing information on all missing persons for whom a file has been established under this subsection. The database and case management system shall be accessible to all elements of the Department of Defense involved in the search, recovery, identification, and communications phases of the program established by this section.

(e) REVIEW OF STATUS REQUIREMENTS.—(1) If new information (as described in paragraph (3)) is found or received that may be related to one or more unaccounted for persons covered by subsection (a), whether or not such information specifically relates (or may specifically relate) to any particular such unaccounted for person, that information shall be provided to the Secretary of Defense.

(2) Upon receipt of new information under paragraph (1), the Secretary shall ensure that—

(A) the information is treated under paragraph (2) of subsection (c) of section 1505 of this title, relating to addition of the information to the personnel file of a person and notification requirements, in the same manner as information received under paragraph (1) under such subsection; and

(B) the information is treated under paragraph (3) of subsection (c) and subsection (d) of such section, relating to a board review under such section, in the same manner as information received under paragraph (1) of such subsection (c).

(3) For purposes of this subsection, new information is information that is credible and that—

(A) is found or received after November 18, 1997, by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title; or

(B) is identified after November 18, 1997, in records of the United States as information that could be relevant to the case of one or more unaccounted for persons covered by subsection (a).

(f) COORDINATION REQUIREMENTS.—(1) In carrying out the program, the designated Agency Director shall ensure coordination with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.

(2) In carrying out the program, the Secretary of Defense shall establish close coordination with the Department of State, the Central Intelligence Agency, and the National Security Council staff to enhance the ability of the Department of Defense to account for persons covered by subsection (a).

(3) In carrying out the program, the designated Agency Director shall coordinate all external communications and events associated with the program.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 348; amended Pub. L. 104–201, div. A, title V, §578(f)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title V, §599(e), Nov. 18, 1997, 111 Stat. 1769; Pub. L. 106–65, div. A, title X, §1066(a)(14), Oct. 5, 1999, 113 Stat. 771; Pub. L. 111–84, div. A, title V, §541(a), Oct. 28, 2009, 123 Stat. 2296; Pub. L. 113–291, div. A, title IX, §916(d), (f)(1), Dec. 19, 2014, 128 Stat. 3478, 3479.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291, §916(f)(1), substituted "Program to resolve missing person cases" for "Program to resolve preenactment missing person cases" in section catchline.

Subsec. (b). Pub. L. 113–291, §916(d)(1)(A), struck out "PROCESS" after "IMPLEMENTATION" in heading.

Subsec. (b)(1). Pub. L. 113–291, §916(d)(1)(B), substituted "through the designated Agency Director" for "POW/MIA accounting community".

Subsec. (b)(2). Pub. L. 113–291, §916(d)(1)(C), added par. (2) and struck out former par. (2) which defined "POW/MIA accounting community".

Subsec. (d). Pub. L. 113–291, §916(d)(2)(A), inserted "; CENTRALIZED DATABASE" after "FILES" in heading.

Subsec. (d)(4). Pub. L. 113–291, §916(d)(2)(B), added par. (4).

Subsec. (f)(1). Pub. L. 113–291, §916(d)(3)(A), substituted "In carrying out the program, the designated Agency Director shall ensure coordination" for "In establishing and carrying out the program, the Secretary of Defense shall coordinate".

Subsec. (f)(2). Pub. L. 113–291, §916(d)(3)(B), inserted "staff" after "National Security Council" and struck out "POW/MIA accounting community" after "Department of Defense".

Subsec. (f)(3). Pub. L. 113–291, §916(d)(3)(C), added par. (3).

**2009**—Pub. L. 111–84 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to review of status of missing person cases arising before enactment of this chapter.

**1999**—Subsec. (a)(2)(A), (B). Pub. L. 106–65 substituted "November 18, 1997," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998".

**1997**—Subsec. (a). Pub. L. 105–85, §599(e)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(a) REVIEW OF STATUS.—In the case of an unaccounted for person covered by section 1501(c) of this title who is described in subsection (b), if new information that could change the status of that person is found or received by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title, that information shall be provided to the Secretary of Defense with a request that the Secretary evaluate the information in accordance with sections 1505(c) and 1505(d) of this title."

Subsec. (d). Pub. L. 105–85, §599(e)(2), added subsec. (d).

**1996**—Pub. L. 104–201, §578(f)(2)(A), struck out ", special interest" after "Preenactment" in section catchline.

Subsecs. (c), (d). Pub. L. 104–201, §578(f)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows:

"(c) SPECIAL RULE FOR PERSONS CLASSIFIED AS 'KIA/BNR'.—In the case of a person described in subsection (b) who was classified as 'killed in action/body not recovered', the case of that person may be reviewed under this section only if the new information referred to in subsection (a) is compelling."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION**

Pub. L. 111–84, div. A, title V, §541(d), Oct. 28, 2009, 123 Stat. 2298, provided that:

"(1) PRIORITY.—A priority of the program required by section 1509 of title 10, United States Code, as amended by subsection (a), to resolve missing person cases arising before the enactment of chapter 76 of such title by section 569 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 336) [approved Feb. 10, 1996] shall be the return of missing persons to United States control alive.

"(2) ACCOUNTING FOR GOAL.—In implementing the program, the Secretary of Defense, in coordination with the officials specified in subsection (f)(1) of section 1509 of title 10, United States Code, shall provide such funds, personnel, and resources as the Secretary considers appropriate to increase significantly the capability and capacity of the Department of Defense, the Armed Forces, and commanders of the combatant commands to account for missing persons so that, beginning with fiscal year 2015, the POW/MIA accounting community has sufficient resources to ensure that at least 200 missing persons are accounted for under the program annually.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'accounted for' has the meaning given such term in section 1513(3)(B) of title 10, United States Code.

"(B) The term 'POW/MIA accounting community' has the meaning given such term in section 1509(b)(2) of such title."

## §1510. Applicability to Coast Guard

(a) DESIGNATED OFFICER TO HAVE RESPONSIBILITY.—The Secretary of Homeland Security shall designate an officer of the Department of Homeland Security to have responsibility within the Department of Homeland Security for matters relating to missing persons who are members of the Coast Guard.

(b) PROCEDURES.—The Secretary of Homeland Security shall prescribe procedures for the determination of the status of persons described in section 1501(c) of this title who are members of the Coast Guard and for the collection, analysis, review, and update of information on such persons. To the maximum extent practicable, the procedures prescribed under this section shall be similar to the procedures prescribed by the Secretary of Defense under section 1501(b) of this title.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 349; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §1511. Return alive of person declared missing or dead

(a) PAY AND ALLOWANCES.—Any person (except for a person subsequently determined to have been absent without leave or a deserter) in a missing status or declared dead under subchapter VII of chapter 55 of title 5 or chapter 10 of title 37 or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

(b) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before February 10, 1996.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 349; amended Pub. L. 107–107, div. A, title X, §1048(c)(10), Dec. 28, 2001, 115 Stat. 1226.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Subsec. (b). Pub. L. 107–107 substituted "February 10, 1996" for "the date of the enactment of this chapter".

## §1512. Effect on State law

(a) NONPREEMPTION OF STATE AUTHORITY.—Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of such State or political subdivision.

(b) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 349.)

## §1513. Definitions

In this chapter:

(1) The term "missing person" means—

(A) a member of the armed forces on active duty who is in a missing status; or

(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves in direct support of, or accompanies, the armed forces in the field under orders and who is in a missing status.

Such term includes an unaccounted for person described in subsection (a) of section 1509 of this title who is required by subsection (c) of such section to be considered a missing person.

(2) The term "missing status" means the status of a missing person who is determined to be absent in a category of any of the following:

(A) Missing.

(B) Missing in action.

(C) Interned in a foreign country.

(D) Captured.

(E) Beleaguered.

(F) Besieged.

(G) Detained in a foreign country against that person's will.

(3) The term "accounted for", with respect to a person in a missing status, means that—

(A) the person is returned to United States control alive;

(B) the remains of the person are recovered to the extent practicable and, if not identifiable through visual means as those of the missing person, are identified as those of the missing person by a practitioner of an appropriate forensic science; or

(C) credible evidence exists to support another determination of the person's status.

(4) The term "primary next of kin", in the case of a missing person, means the individual authorized to direct disposition of the remains of the person under section 1482(c) of this title.

(5) The term "member of the immediate family", in the case of a missing person, means the following:

(A) The spouse of the person.

(B) A natural child, adopted child, stepchild, or illegitimate child (if acknowledged by the person or parenthood has been established by a court of competent jurisdiction) of the person, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child.

(C) A biological parent of the person, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored.

(D) A brother or sister of the person, if such brother or sister has attained the age of 18 years.

(E) Any other blood relative or adoptive relative of the person, if such relative was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

(6) The term "previously designated person", in the case of a missing person, means an individual designated by the person under section 655 of this title for purposes of this chapter.

(7) The term "classified information" means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

(8) The term "theater component commander" means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.

(9) The term "survival, evasion, resistance, and escape debriefing" means an interview conducted with a person described in section 1501(c) of this title who is returned to United States control in order to record the person's experiences while surviving, evading, resisting interrogation or exploitation, or escaping.

(Added Pub. L. 104–106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 350; amended Pub. L. 104–201, div. A, title V, §578(a)(4), (b)(3), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105–85, div. A, title V, §599(a)(4), (b)(2), Nov. 18, 1997, 111 Stat. 1768; Pub. L. 106–65, div. A, title X, §1066(a)(15), Oct. 5, 1999, 113 Stat. 771; Pub. L. 111–84, div. A, title V, §541(c), Oct. 28, 2009, 123 Stat. 2298; Pub. L. 113–66, div. A, title V, §582(b), Dec. 26, 2013, 127 Stat. 776; Pub. L. 113–291, div. A, title X, §1071(f)(15), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–328, div. A, title IX, §953(c), Dec. 23, 2016, 130 Stat. 2376.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Par. (3)(B). Pub. L. 114–328 inserted "to the extent practicable" after "are recovered".

**2014**—Par. (1). Pub. L. 113–291 substituted "subsection (c)" for "subsection (b)" in concluding provisions.

**2013**—Par. (9). Pub. L. 113–66 added par. (9).

**2009**—Par. (1). Pub. L. 111–84 substituted "subsection (a) of section 1509 of this title who is required by subsection (b) of such section" for "section 1509(b) of this title who is required by section 1509(a)(1) of this title" in concluding provisions.

**1999**—Par. (1). Pub. L. 106–65 substituted "who is required by section 1509(a)(1) of this title to be considered a missing person" for ", under the circumstances specified in the last sentence of section 1509(a) of

this title" in concluding provisions.

**1997**—Par. (1). Pub. L. 105–85, §599(a)(4), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'missing person' means a member of the armed forces on active duty who is in a missing status."

Par. (8). Pub. L. 105–85, §599(b)(2), added par. (8).

**1996**—Par. (1). Pub. L. 104–201, §578(a)(4), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'missing person' means—

"(A) a member of the Armed Forces on active duty who is in a missing status; or

"(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the Armed Forces in the field under orders and who is in a missing status."

Par. (8). Pub. L. 104–201, §578(b)(3), struck out par. (8) which read as follows: "The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command."

# CHAPTER 77—POSTHUMOUS COMMISSIONS AND WARRANTS

Sec.
1521. Posthumous commissions.
1522. Posthumous warrants.
1523. Posthumous commissions and warrants: effect on pay and allowances.
1524. Posthumous commissions and warrants: determination of date of death.

**EDITORIAL NOTES**

**AMENDMENTS**

**1966**—Pub. L. 89–718, §12(a)(2), Nov. 2, 1966, 80 Stat. 1117, added item 1524.

## §1521. Posthumous commissions

(a) The President may issue, or have issued, an appropriate commission in the name of a member of the armed forces who, after September 8, 1939—

(1) was appointed to a commissioned grade but was unable to accept the appointment because of death;

(2) successfully completed the course at an officers' training school and was recommended for appointment to a commissioned grade by the commanding officer or officer in charge of the school but was unable to accept the appointment because of death; or

(3) was officially recommended for appointment or promotion to a commissioned grade but was unable to accept the promotion or appointment because of death.

(b) A commission issued under subsection (a) shall issue as of the date of the appointment, recommendation, or official recommendation, as the case may be, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade, and branch if any, in which posthumously commissioned, from the date of the appointment, recommendation, or official recommendation to the date of his death.

(c) A commission issued under subsection (a) in connection with the promotion of a deceased member to a higher commissioned grade shall require certification by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115; Pub. L. 106–398, §1 [[div. A], title V, §505], Oct. 30, 2000, 114 Stat. 1654, 1654A–102; Pub. L. 110–417, [div. A], title V, §502(a), Oct. 14, 2008, 122 Stat. 4433.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1521(a) | 10:491a (words before semicolon).<br>10:491b (words before semicolon).<br>10:491c (words before semicolon).<br>34:285b (words before semicolon).<br>34:285c (words before semicolon).<br>34:285d (words before semicolon). | July 28, 1942, ch. 528, §§1–3, 56 Stat. 722, 723; July 17, 1953, ch. 220, §1(a)–(c), 67 Stat. 176. |
| 1521(b) | 10:491a (words after semicolon).<br>10:491b (words after semicolon).<br>10:491c (words after semicolon).<br>34:285b (words after semicolon).<br>34:285c (words after semicolon).<br>34:285d (words after semicolon). | |

In subsection (a), the words "a member of" are substituted for the words "any person who, while in", in 10:491a, 491b, 491c, and 34:285b, 285c, and 285d. The words "armed forces" are substituted for the words "military service of the United States", in 10:491a, 491b, and 491c; and the words "naval service of the United States", in 34:285b, 285c, and 285d (which did not appear in the source statute for the revised section, as amended by the Act of July 17, 1953, ch. 220, §1(b), 67 Stat. 177). The words "to such grade", in 10:491a and 34:285b, "receive or", in 10:491c and 34:285d, are omitted as surplusage.

In subsection (b), the words "if any" are substituted for words "of the service". The words "appointment and", in 10:491b and 34:285c, and "appointment or promotion and", in 10:491c and 34:285d, are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–417, §502(a)(1), struck out "in line of duty" after "death" in pars. (1) to (3).

Subsec. (c). Pub. L. 110–417, §502(a)(2), added subsec. (c).

**2000**—Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title V, §505(a)], struck out "and the recommendation for whose appointment or promotion was approved by the Secretary concerned" after "commissioned grade".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §505(b)], substituted "official recommendation" for "approval" in two places.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DETERMINATION OF DATE OF DEATH UNDER MISSING PERSONS ACT

Act July 28, 1942, ch. 528, §5, as added July 17, 1953, ch. 220, §1(e), 67 Stat. 177, provided that for purposes of this chapter, in any case where the date of death is established under the Missing Persons Act, as amended, the date of death is the date of receipt by the head of the department concerned of evidence that the person is dead, or the date the finding of death is made under section 5 of that Act, prior to repeal by Pub. L. 89–718, §12(b), Nov. 2, 1966, 80 Stat. 1117. See section 1524 of this title.

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see sections 1(a) and 2(a) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

## §1522. Posthumous warrants

(a) The Secretary concerned may issue, or have issued, an appropriate warrant in the name of a member of the armed forces who, after September 8, 1939, was officially recommended for appointment or promotion to a grade other than a commissioned grade but was unable to accept the appointment or promotion because of death.

(b) A warrant issued under subsection (a) shall issue as of the date of the recommendation, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade to which posthumously appointed or promoted from the date of the recommendation to the date of his death.

(c) A warrant issued under subsection (a) in connection with the promotion of a deceased member to a higher grade shall require a finding by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 110–417, [div. A], title V, §502(b), Oct. 14, 2008, 122 Stat. 4433.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1522(a) | 10:612 (words before semicolon).<br>34:285e (words before semicolon). | July 28, 1942, ch. 528, §4, 56 Stat. 723; July 17, 1953, ch. 220, §1 (a)–(d), 67 Stat. 176. |
| 1522(b) | 10:612 (words after semicolon).<br>34:285e (words after semicolon). | |

In subsection (a), the words "a member of" are substituted for the words "any person who, while in", in 10:612 and 34:285e. The words "armed forces" are substituted for the words "the military service of the United States", in 10:612; and "the naval service of the United States", in 34:285e (which did not appear in the source statute for the revised section, as amended by the act of July 17, 1953, ch. 220, §1(b), 67 Stat. 177). The words "other than a commissioned grade" are substituted for the words "noncommissioned grade" to make it clear that the revised section covers warrant officers. The words "receive or" are omitted as surplusage.

In subsection (b), the words "appointment or promotion", "and branch of the service", "official", and "by such warrant" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–417, §502(b)(1), struck out "in line of duty" before period at end.

Subsec. (c). Pub. L. 110–417, §502(b)(2), added subsec. (c).

## §1523. Posthumous commissions and warrants: effect on pay and allowances

No person is entitled to any bonus, gratuity, pay, or allowance because of a posthumous commission or warrant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1523 | 10:491d.<br>34:285f. | July 28, 1942, ch. 528, §6, 56 Stat. 723; July 17, 1953, ch. 220, §1(e) (1st 7 |

| | | |
|---|---|---|
| | | words), 67 Stat. 177. |

The word "receive" is omitted as surplusage. The words "because of a posthumous commission or warrant" are substituted for the words "by virtue of any provision of sections 491a–491d [285b–285d] and 612 [285e] of this title", in 10:491d and 34:285f.

## §1524. Posthumous commissions and warrants: determination of date of death

For the purposes of sections 1521 and 1522 of this title, in any case where the date of death is established or determined under section 551–558 of title 37, the date of death is the date the Secretary concerned receives evidence that the person is dead, or the date the finding of death is made under section 555 of title 37.

(Added Pub. L. 89–718, §12(a)(1), Nov. 2, 1966, 80 Stat. 1117.)

# CHAPTER 79—CORRECTION OF MILITARY RECORDS

Sec.
1551. Correction of name after separation from service under an assumed name.
1552. Correction of military records: claims incident thereto.
1553. Review of discharge or dismissal.
1553a. Review of a request for upgrade of discharge or dismissal.
1554. Review of retirement or separation without pay for physical disability.
1554a. Review of separation with disability rating of 20 percent disabled or less.
1554b. Confidential review of characterization of terms of discharge of members of the armed forces who are victims of sex-related offenses.
1555. Professional staff.
1556. Ex parte communications prohibited.
1557. Timeliness standards for disposition of applications before Corrections Boards.
1558. Review of actions of selection boards: correction of military records by special boards; judicial review.
1559. Personnel limitation.

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, div. A, title V, §523(b)(1), Dec. 20, 2019, 133 Stat. 1354, added item 1553a.

**2017**—Pub. L. 115–91, div. A, title V, §522(a)(2), Dec. 12, 2017, 131 Stat. 1380, added item 1554b.

**2008**—Pub. L. 110–181, div. A, title XVI, §1643(a)(2), Jan. 28, 2008, 122 Stat. 467, added item 1554a.

**2002**—Pub. L. 107–314, div. A, title V, §552(b), Dec. 2, 2002, 116 Stat. 2552, added item 1559.

**2001**—Pub. L. 107–107, div. A, title V, §503(a)(2), Dec. 28, 2001, 115 Stat. 1083, added item 1558.

**1998**—Pub. L. 105–261, div. A, title V, §§542(a)(2), 543(a)(2), 544(b), Oct. 17, 1998, 112 Stat. 2020–2022, added items 1555 to 1557.

**1962**—Pub. L. 87–651, title I, §110(b), Sept. 7, 1962, 76 Stat. 510, substituted "discharge or dismissal" for "discharges or dismissals" in item 1553, and "retirement or separation without pay for physical disability" for "decisions of retiring boards and similar boards" in item 1554.

**1958**—Pub. L. 85–857, §13(v)(3), Sept. 2, 1958, 72 Stat. 1268, added items 1553 and 1554.

## §1551. Correction of name after separation from service under an assumed name

The Secretary of the military department concerned shall issue a certificate of discharge or an order of acceptance of resignation in the true name of any person who was separated from the Army, Navy, Air Force, Marine Corps, or Space Force honorably or under honorable conditions after

serving under an assumed name during a war with another nation or people, upon application by, or on behalf of, that person, and upon proof of his identity. However, a certificate or order may not be issued under this section if the name was assumed to conceal a crime or to avoid its consequences.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 116–283, div. A, title IX, §924(b)(3)(Y), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1551 | 5:200.<br>34:597. | Apr. 14, 1890, ch. 80; restated June 25, 1910, ch. 393, 36 Stat. 824.<br>Aug. 22, 1912, ch. 329, 37 Stat. 324. |

The word "shall" is substituted for the words "is authorized and required". The word "separated" is substituted for the word "discharged", since the revised section covers acceptances of resignations as well as certificates of discharge. The words "enlisted or" and "while minors or otherwise" are omitted as surplusage. The words "the War of the Rebellion" are omitted as obsolete. The word "with" is substituted for the words "between the United States and". The words "honorably or under honorable conditions" are substituted for the word "honorably".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PERSONNEL FREEZE FOR SERVICE REVIEW AGENCIES**

Pub. L. 105–261, div. A, title V, §541, Oct. 17, 1998, 112 Stat. 2019, provided that, during fiscal years 1999, 2000, and 2001, the Secretary of a military department could not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until: (1) the Secretary had submitted to Congress a report that described the reduction to be made and the rationale for that reduction, and specified the number of such personnel that would be assigned to duty with that agency after the reduction; and (2) a period of 90 days had elapsed after the date on which such report had been submitted.

## §1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3)(A) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(B) If a board makes a preliminary determination that a claim under this section lacks sufficient information or documents to support the claim, the board shall notify the claimant, in writing,

indicating the specific information or documents necessary to make the claim complete and reviewable by the board.

(C) If a claimant is unable to provide military personnel or medical records applicable to a claim under this section, the board shall make reasonable efforts to obtain the records. A claimant shall provide the board with documentary evidence of the efforts of the claimant to obtain such records. The board shall inform the claimant of the results of the board's efforts, and shall provide the claimant copies of any records so obtained upon request of the claimant.

(D) Any request for reconsideration of a determination of a board under this section, no matter when filed, shall be reconsidered by a board under this section if supported by materials not previously presented to or considered by the board in making such determination.

(4)(A) Subject to subparagraph (B), a correction under this section is final and conclusive on all officers of the United States except when procured by fraud.

(B) If a board established under this section does not grant a request for an upgrade to the characterization of a discharge or dismissal, that declination may be considered under section 1553a of this title.

(5) Each final decision of a board under this subsection shall be made available to the public in electronic form on a centralized Internet website. In any decision so made available to the public there shall be redacted all personally identifiable information.

(b) No correction may be made under subsection (a)(1) unless the claimant (or the claimant's heir or legal representative) or the Secretary concerned files a request for the correction within three years after discovering the error or injustice. The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed forces who were similarly harmed by the same error or injustice. A board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c)(1) The Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, or on account of his or another's service as a civilian employee.

(2) If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(A) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(B) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(C) as otherwise prescribed by the law applicable to that kind of payment.

(3) A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(4) If the correction of military records under this section involves setting aside a conviction by court-martial, the payment of a claim under this subsection in connection with the correction of the records shall include interest at a rate to be determined by the Secretary concerned, unless the Secretary determines that the payment of interest is inappropriate under the circumstances. If the payment of the claim is to include interest, the interest shall be calculated on an annual basis, and compounded, using the amount of the lost pay, allowances, compensation, emoluments, or other pecuniary benefits involved, and the amount of any fine or forfeiture paid, beginning from the date of the conviction through the date on which the payment is made.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer

than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or

(2) action on the sentence of a court-martial for purposes of clemency.

(g)(1) Any medical advisory opinion issued to a board established under subsection (a)(1) with respect to a member or former member of the armed forces who was diagnosed while serving in the armed forces as experiencing a mental health disorder shall include the opinion of a clinical psychologist or psychiatrist if the request for correction of records concerned relates to a mental health disorder.

(2) If a board established under subsection (a)(1) is reviewing a claim described in subsection (h), the board shall seek advice and counsel in the review from a psychiatrist, psychologist, or social worker with training on mental health issues associated with post-traumatic stress disorder or traumatic brain injury or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(3) If a board established under subsection (a)(1) is reviewing a claim in which sexual trauma, intimate partner violence, or spousal abuse is claimed, the board shall seek advice and counsel in the review from an expert in trauma specific to sexual assault, intimate partner violence, or spousal abuse, as applicable.

(h)(1) This subsection applies to a former member of the armed forces whose claim under this section for review of a discharge or dismissal is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale, or as justification for priority consideration, and whose post-traumatic stress disorder or traumatic brain injury is related to combat or military sexual trauma, as determined by the Secretary concerned.

(2) In the case of a claimant described in paragraph (1), a board established under subsection (a)(1) shall—

(A) review medical evidence of the Secretary of Veterans Affairs or a civilian health care provider that is presented by the claimant; and

(B) review the claim with liberal consideration to the claimant that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the claimant's discharge or dismissal.

(i) Each board established under this section shall make available to the public each calendar quarter, on an Internet website of the military department concerned or the Department of Homeland Security, as applicable, that is available to the public the following:

(1) The number of claims considered by such board during the calendar quarter preceding the calendar quarter in which such information is made available, including cases in which a mental health condition of the former member, including post-traumatic stress disorder or traumatic brain injury, is alleged to have contributed, whether in whole or part, to the original characterization of the discharge or release of the former member.

(2) The number of claims submitted during the calendar quarter preceding the calendar quarter in which such information is made available that relate to service by a former member during a

war or contingency operation, catalogued by each war or contingency operation.

(3) The number of military records corrected pursuant to the consideration described in paragraph (1) to upgrade the characterization of discharge or release of former members.

(4) The number and disposition of claims decided during the calendar quarter preceding the calendar quarter in which such information is made available in which sexual assault is alleged to have contributed, whether in whole or in part, to the original characterization of the discharge or release of the former member.

(j) For a recommendation to award or upgrade a military decoration or award submitted pursuant to section 1130 of this title, a board determination in favor of the claimant shall allow such a recommendation to proceed, and an award or upgrade to be made by the applicable award authority, without regard to the statutory time limitation contained in section 7274, section 8298, or section 9274 of this title, as the case may be.

(k) In this section, the term "military record" means a document or other record that pertains to (1) an individual member or former member of the armed forces, or (2) at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 747, 855, 857, 871, and 947 of this title).

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 86–533, §1(4), June 29, 1960, 74 Stat. 246; Pub. L. 96–513, title V, §511(60), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 98–209, §11(a), Dec. 6, 1983, 97 Stat. 1407; Pub. L. 100–456, div. A, title XII, §1233(a), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101–189, div. A, title V, §514, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1441, 1603; Pub. L. 102–484, div. A, title X, §1052(19), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 105–261, div. A, title V, §545(a), (b), Oct. 17, 1998, 112 Stat. 2022; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–417, [div. A], title V, §592(a), (b), Oct. 14, 2008, 122 Stat. 4474, 4475; Pub. L. 113–291, div. A, title V, §521(a), Dec. 19, 2014, 128 Stat. 3360; Pub. L. 114–92, div. A, title V, §521, Nov. 25, 2015, 129 Stat. 811; Pub. L. 114–328, div. A, title V, §§533(a), 534(a), (b), Dec. 23, 2016, 130 Stat. 2121, 2122; Pub. L. 115–91, div. A, title V, §§520(a), 521(a), (c)(1), title X, §1081(a)(27), Dec. 12, 2017, 131 Stat. 1379, 1380, 1595; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–92, div. A, title V, §§521(a), 523(b)(2)(A), Dec. 20, 2019, 133 Stat. 1353, 1354; Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(vi), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 117–263, div. A, title V, §581, Dec. 23, 2022, 136 Stat. 2610; Pub. L. 118–159, div. A, title V, §523(a), Dec. 23, 2024, 138 Stat. 1884.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1552(a) | 5:191a(a) (less 2d and last provisos).<br>5:275(a) (less 2d and last provisos). | Aug. 2, 1946, ch. 753, §207; restated Oct. 25, 1951, ch. 588, 65 Stat. 655. |
| 1552(b) | 5:191a(a) (2d and last provisos).<br>5:275(a) (2d and last provisos). | |
| 1552(c) | 5:191a(b), (c).<br>5:275(b), (c). | |
| 1552(d) | 5:191a(d).<br>5:275(d). | |
| 1552(e) | 5:191a(f).<br>5:275(f). | |
| 1552(f) | 5:191a(e). | |

| | | |
|---|---|---|
| | 5:275(e). | |

In subsection (a), the words "and approved by the Secretary of Defense" are substituted for 5:191a(a) (1st proviso). The words "when he considers it" are substituted for the words "where in their judgment such action is", in 5:191a and 275. The words "officers or employees" and "means of", in 5:191a and 275, are omitted as surplusage. The word "naval", in 5:191a and 275, is omitted as covered by the word "military".

In subsection (b), the words "before October 26, 1961" are substituted for the words "or within ten years after the date of enactment of this section", in 5:191a and 275. The last sentence of the revised subsection is substituted for 5:191a(a) (last proviso) and 275(a) (last proviso).

In subsection (c), the words "if, as a result of correcting a record under this section * * * the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be" are substituted for the words "which are found to be due on account of military or naval service as a result of the action * * * hereafter taken pursuant to subsection (a) of this section", in 5:191a and 275. The words "heretofore taken pursuant to this section", in 5:191a and 275, are omitted as executed. The words "of any persons, their heirs at law or legal representative as hereinafter provided", "(including retired or retirement pay)", "as the case may be", "duly appointed", "otherwise due hereunder", "decedent's", "precedence or succession", and "of precedence", in 5:191a and 275, are omitted as surplusage. The last sentence is substituted for 5:191a(c) and 275(c).

In subsection (d), the word "but" is substituted for the words "That, continuing payments are authorized to be made to such personnel", in 5:191a and 275. The words "if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate" are substituted for the words "without the necessity for reenlistment, appointment, or reappointment to the grade, rank, or office to which such pay (including retired or retirement pay), allowances, compensation, emoluments, and other monetary benefits are attached", in 5:191a and 275. The words "or one year following the date of enactment of this section", in 5:191a and 275, are omitted as executed. The words "for payment of such sums as may be due for", in 5:191a and 275, are omitted as surplusage. The words "(including retired or retirement pay)", in 5:191a and 275, are omitted as covered by the definition of "pay" in section 101(27) of this title.

In subsection (e), the words "No payment may be made under this section" are substituted for the words "Nothing in this section shall be construed to authorize the payment of any amount as compensation", in 5:191a and 275.

## AMENDMENT OF SUBSECTION (A)(5)

*Pub. L. 118–159, div. A, title V, §523, Dec. 23, 2024, 138 Stat. 1884, provided that, effective Oct. 1, 2026, subsection (a)(5) of this section is amended to read as follows:*

*(5) Each final decision of the board under this subsection shall be made available to the public in electronic form on a centralized Internet website. The information provided shall include a summary of each decision, to be indexed by subject matter, except that the Secretary shall protect the privacy of claimants by redacting all personally identifiable information.*

*See 2024 Amendment note below.*

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Uniform Code of Military Justice (Public Law 506 of the 81st Congress), referred to in subsec. (f), is act May 5, 1950, ch. 169, §1, 64 Stat. 107, which was classified to chapter 22 (§551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47 (§801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, the first section of which enacted this title.

### AMENDMENTS

**2024**—Subsec. (a)(5). Pub. L. 118–159 amended par. (5) generally. Prior to amendment, par. (5) read as follows: "Each final decision of a board under this subsection shall be made available to the public in electronic form on a centralized Internet website. In any decision so made available to the public there shall be redacted all personally identifiable information."

**2022**—Subsecs. (j), (k). Pub. L. 117–263 added subsec. (j) and redesignated former subsec. (j) as (k).

**2021**—Subsec. (c)(1). Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps,".

**2019**—Subsec. (a)(4). Pub. L. 116–92, §523(b)(2)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Except when procured by fraud, a correction under this section is final and conclusive on

all officers of the United States."

Subsec. (g). Pub. L. 116–92, §521(a), designated existing provisions as par. (1) and added pars. (2) and (3).

**2018**—Subsec. (j). Pub. L. 115–232 substituted "chapters 81, 83, 87, 108, 747, 855, 857, 871, and 947" for "chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873".

**2017**—Subsec. (h). Pub. L. 115–91, §520(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 115–91, §1081(a)(27), substituted "calendar" for "calender" wherever appearing.

Pub. L. 115–91, §520(a)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 115–91, §521(c)(1)(A), substituted "former member" for "claimant" in two places.

Subsec. (i)(2). Pub. L. 115–91, §521(c)(1)(B), substituted "former member" for "claimant".

Subsec. (i)(3). Pub. L. 115–91, §521(c)(1)(C), substituted "former members" for "claimants".

Subsec. (i)(4). Pub. L. 115–91, §521(a), added par. (4).

Subsec. (j). Pub. L. 115–91, §520(a)(1), redesignated subsec. (i) as (j).

**2016**—Subsec. (a)(3). Pub. L. 114–328, §534(a), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (a)(5). Pub. L. 114–328, §534(b), added par. (5).

Subsecs. (h), (i). Pub. L. 114–328, §533(a), added subsec. (h) and redesignated former subsec. (h) as (i).

**2015**—Subsec. (b). Pub. L. 114–92 substituted "(or the claimant's heir or legal representative) or the Secretary concerned" for "or his heir or legal representative", "discovering" for "he discovers", and "The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed forces who were similarly harmed by the same error or injustice. A board" for "However, a board".

**2014**—Subsecs. (g), (h). Pub. L. 113–291 added subsec. (g) and redesignated former subsec. (g) as (h).

**2008**—Subsec. (c). Pub. L. 110–417 designated existing provisions as pars. (1) to (3), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (2), and added par. (4).

**2002**—Subsec. (a)(1). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1998**—Subsec. (c). Pub. L. 105–261, §545(a), inserted ", or on account of his or another's service as a civilian employee" before period at end of first sentence.

Subsec. (g). Pub. L. 105–261, §545(b), added subsec. (g).

**1992**—Subsec. (a)(2). Pub. L. 102–484 substituted "announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade" for "announcing a decision not to promote an enlisted member to a higher grade".

**1989**—Subsec. (a). Pub. L. 101–189, §514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of Transportation may in the same manner correct any military record of the Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States."

Subsec. (b). Pub. L. 101–189, §514(b), substituted "subsection (a)(1)" for "subsection (a)" in two places.

Subsec. (e). Pub. L. 101–189, §1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**1988**—Subsec. (b). Pub. L. 100–456, §1233(a)(1), substituted "for the correction within three years after he discovers the error or injustice" for "therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later".

Subsec. (c). Pub. L. 100–456, §1233(a)(2), substituted "The Secretary concerned" for "The department concerned".

**1983**—Subsec. (f). Pub. L. 98–209 added subsec. (f).

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

**1960**—Subsec. (f). Pub. L. 86–533 repealed subsec. (f) which required reports to the Congress every six months with respect to claims paid under this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title V, §523(b), Dec. 23, 2024, 138 Stat. 1884, provided that: "The amendment

made by subsection (a) [amending this section] shall take effect on October 1, 2026."

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–417, [div. A], title V, §592(c), Oct. 14, 2008, 122 Stat. 4475, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any sentence of a court-martial set aside by a Corrections Board on or after October 1, 2007, when the Corrections Board includes an order or recommendation for the payment of a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, that arose as a result of the conviction. In this subsection, the term 'Corrections Board' has the meaning given that term in section 1557 of title 10, United States Code."

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**REVIEW OF TITLING AND INDEXING PRACTICES OF THE ARMY AND CERTAIN OTHER ORGANIZATIONS**

Pub. L. 117–263, div. A, title V, §549, Dec. 23, 2022, 136 Stat. 2587, provided that:

"(a) REVIEW OF TITLING AN [sic] INDEXING DECISIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of the Army shall review the case file of each member or former member of the Army, the Army Reserve, or the Army National Guard who was titled or indexed in connection with the Guard Recruiting Assistance Program, the Army Reserve Recruiting Assistance Program, or any related activity to determine the appropriateness of the titling or indexing decision that was made with respect to such member or former member.

"(b) FACTORS TO BE CONSIDERED.—In reviewing a titling or indexing decision under subsection (a), the Secretary of the Army shall consider—

"(1) the likelihood that the member or former member to whom the decision pertains will face future criminal prosecution or other adverse action on the basis of the facts in the record at the time of the review;

"(2) the appropriate evidentiary standard to apply to the review of the decision; and

"(3) such other circumstances or factors as the Secretary determines are in the interest of equity and fairness.

"(c) NOTIFICATION AND APPEAL.—

"(1) IN GENERAL.—Upon the completion of each review under subsection (a), the Secretary of the Army shall notify the member or former member concerned of such review, the disposition of the relevant instance of titling or indexing, and the mechanisms the member or former member may pursue to seek correction, removal, or expungement of that instance of titling or indexing.

"(2) NOTIFICATION OF NEXT OF KIN.—In a case in which a member or former member required to be notified under paragraph (1) is deceased, the Secretary of the Army shall provide the notice required under such paragraph to the primary next of kin of the member or former member.

"(d) ACTIONS BY THE SECRETARY OF THE ARMY.—If the Secretary of the Army determines that correction, removal, or expungement of an instance of titling or indexing is appropriate after considering the factors under subsection (b), the Secretary of the Army may request that the name, personally identifying information, and other information relating to the individual to whom the titling or indexing pertains be corrected in, removed from, or expunged from, the following:

"(1) A law enforcement or criminal investigative report of the Department of Defense or any component of the Department.

"(2) An index item or entry in the Department of Defense Central Index of Investigations (DCII).

"(3) Any other record maintained in connection with a report described in paragraph (1), or an index item or entry described in paragraph (2), in any system of records, records database, records center, or repository maintained by or on behalf of the Department, including entries in the Federal Bureau of

Investigation's Interstate Identification Index or any successor system.

"(e) REPORT OF SECRETARY OF THE ARMY.—Not later than 180 days after the completion of the review required by subsection (a), the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review. The report shall include the following:

"(1) The total number of instances of titling and indexing reviewed under such subsection.

"(2) The number of cases in which action was taken to correct, remove, or expunge an instance of titling or indexing.

"(3) The number of members and former members who remain titled after the conclusion of the review.

"(4) The number of members and former members who remain indexed after the conclusion of the review.

"(5) A brief description of the reasons the members and former members counted under paragraphs (3) and (4) remain titled or indexed.

"(6) Such other matters as the Secretary determines appropriate.

"(f) SECRETARY OF DEFENSE REVIEW AND REPORT.—

"(1) REVIEW.—The Secretary of Defense shall conduct a review [of] the titling and indexing practices of the criminal investigative organizations of the Armed Forces. Such review shall include—

"(A) an assessment of the practices of titling and indexing and the continued relevance of such practices to the operation of such criminal investigative organizations;

"(B) an evaluation of the suitability of the evidentiary requirements and related practices for titling and indexing in effect at the time of the review; and

"(C) the development of recommendations, as appropriate, to improve the consistency, accuracy, and utility of the titling and indexing processes across such criminal investigative organizations.

"(2) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review conducted under paragraph (1).

"(g) DEFINITIONS.—In this section:

"(1) The term 'titling' means the practice of identifying an individual as the subject of a criminal investigation [in] the records of a military criminal investigative organization and storing such information in a database or other records system.

"(2) The term 'indexing' means the practice of submitting an individual's name or other personally identifiable information to the Federal Bureau of Investigation's Interstate Identification Index, or any successor system."

## REMOVAL OF PERSONALLY IDENTIFYING AND OTHER INFORMATION OF CERTAIN PERSONS FROM THE DEPARTMENT OF DEFENSE CENTRAL INDEX OF INVESTIGATIONS

Pub. L. 116–283, div. A, title V, §545, Jan. 1, 2021, 134 Stat. 3613, as amended by Pub. L. 118–159, div. A, title V, §569B, Dec. 23, 2024, 138 Stat. 1907, provided that:

"(a) POLICY AND PROCESS REQUIRED.—Not later than October 1, 2025, the Secretary of Defense shall establish and maintain a policy and process through which any covered person may request that the person's name, personally identifying information, and other information pertaining to the person shall, in accordance with subsection (c), be corrected in, or expunged or otherwise removed from, an index item or entry in the Department of Defense Central Index of Investigations.

"(b) COVERED PERSONS.—For purposes of this section, a covered person is any person whose name was placed or reported, or is maintained, as an item or entry in the Department of Defense Central Index of Investigations.

"(c) ELEMENTS.—The policy and process required by subsection (a) shall include the following elements:

"(1) BASIS FOR CORRECTION OR EXPUNGEMENT.—That the name, personally identifying information, and other information of a covered person shall be corrected in, or expunged or otherwise removed from, an index item or entry in the Department of Defense Central Index of Investigations in the following circumstances:

"(A) Probable cause did not or does not exist to believe that the offense for which the person's name was placed or reported, or is maintained, in such item or entry occurred, or insufficient evidence existed or exists to determine whether or not such offense occurred.

"(B) Probable cause did not or does not exist to believe that the person actually committed the offense for which the person's name was so placed or reported, or is so maintained, or insufficient

evidence existed or exists to determine whether or not the person actually committed such offense.

"(C) Such other circumstances, or on such other bases, as the Secretary may specify in establishing the policy and process, which circumstances and bases may not be inconsistent with the circumstances and bases provided by subparagraphs (A) and (B).

"(2) CONSIDERATIONS.—While not dispositive as to the existence of a circumstance or basis set forth in paragraph (1), the following shall be considered in the determination whether such circumstance or basis applies to a covered person for purposes of this section:

"(A) The extent or lack of corroborating evidence against the covered person concerned with respect to the offense at issue.

"(B) Whether adverse administrative, disciplinary, judicial, or other such action was initiated against the covered person for the offense at issue.

"(C) The type, nature, and outcome of any action described in subparagraph (B) against the covered person.

"(3) PROCEDURES.—The policy and process required by subsection (a) shall include procedures as follows:

"(A) Procedures under which a covered person may appeal a determination of the applicable component of the Department of Defense denying, whether in whole or in part, a request for purposes of subsection (a).

"(B) Procedures under which the applicable component of the Department will correct, expunge or remove, take other appropriate action on, or assist a covered person in so doing, any record maintained by a person, organization, or entity outside of the Department to which such component provided, submitted, or transmitted information about the covered person, which information has or will be corrected in, or expunged or removed from, Department records pursuant to this section.

"(C) The timeline pursuant to which the Department, or a component of the Department, as applicable, will respond to each of the following:

"(i) A request pursuant to subsection (a).

"(ii) An appeal under the procedures required by subparagraph (A).

"(iii) A request for assistance under the procedures required by subparagraph (B).

"(D) Mechanisms through which the Department will keep a covered person apprised of the progress of the Department on a covered person's request or appeal as described in subparagraph (C).

"(d) APPLICABILITY.—The policy and process required to be developed by the Secretary under subsection (a) shall not be subject to the notice and comment rulemaking requirements under section 553 of title 5, United States Code.

"(e) REPORT.—Not later than October 1, 2021, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken to carry out this section, including a comprehensive description of the policy and process developed and implemented by the Secretary under subsection (a)."

## CORRECTION OF CERTAIN DISCHARGE CHARACTERIZATIONS

Pub. L. 116–92, div. A, title V, §527, Dec. 20, 2019, 133 Stat. 1356, provided that:

"(a) IN GENERAL.—In accordance with this section, and in a manner that is consistent across the military departments to the greatest extent practicable, the appropriate board shall, at the request of a covered member or the authorized representative of a covered member—

"(1) review the discharge characterization of that covered member; and

"(2) change the discharge characterization of that covered member to honorable if the appropriate board determines such change to be appropriate after review under paragraph (1).

"(b) APPEAL.—A covered member or the authorized representative of that covered member may seek review of a decision by the appropriate board not to change the discharge characterization of that covered member. Such review may be made pursuant to section 1552 of title 10, United States Code, section 1553 of such title, or any other process established by the Secretary of Defense for such purpose.

"(c) CHANGE OF RECORDS.—For each covered member whose discharge characterization is changed under subsection (a) or (b), the Secretary of the military department concerned shall issue to the covered member or the authorized representative of the covered member a corrected Certificate of Release or Discharge from Active Duty (DD Form 214), or other like form regularly used by an Armed Force that—

"(1) reflects the upgraded discharge characterization of the covered member; and

"(2) does not reflect the sexual orientation of the covered member or the original stated reason for the discharge or dismissal of that covered member.

"(d) DEFINITIONS.—In this section:

"(1) The term 'appropriate board' means a board for the correction of military or naval records under section 1552 of title 10, United States Code, or a discharge review board under section 1553 of such title, as the case may be.

"(2) The term 'authorized representative' means an heir or legal representative of a covered member.

"(3) The term 'covered member' means any former member of the Armed Forces who was discharged from the Armed Forces because of the sexual orientation of that member.

"(4) The term 'discharge characterization' means the characterization assigned to the service of a covered member on the discharge or dismissal of that covered member from service in the Armed Forces."

## PILOT PROGRAM ON USE OF VIDEO TELECONFERENCING TECHNOLOGY BY BOARDS FOR THE CORRECTION OF MILITARY RECORDS AND DISCHARGE REVIEW BOARDS

Pub. L. 115–91, div. A, title V, §524, Dec. 12, 2017, 131 Stat. 1381, provided that Secretary of Defense may carry out pilot program on use of video teleconferencing technology by certain boards for correction of military records and certain discharge review boards and terminated authority for carrying out program on Dec. 31, 2020.

## TRAINING OF MEMBERS OF BOARDS

Pub. L. 116–92, div. A, title V, §525(a), Dec. 20, 2019, 133 Stat. 1356, provided that: "The curriculum of training for members of boards for the correction of military records under section 534(c) of the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114–328] (10 U.S.C. 1552 note) shall include training on each of the following:

"(1) Sexual trauma.

"(2) Intimate partner violence.

"(3) Spousal abuse.

"(4) The various responses of individuals to trauma."

Pub. L. 114–328, div. A, title V, §534(c), Dec. 23, 2016, 130 Stat. 2122, as amended by Pub. L. 115–91, div. A, title V, §523(a), Dec. 12, 2017, 131 Stat. 1381, provided that:

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], each Secretary concerned shall develop and implement a comprehensive training curriculum for members of boards for the correction of military records under the jurisdiction of such Secretary in the duties of such boards under section 1552 of title 10, United States Code. The curriculum shall address all areas of administrative law applicable to the duties of such boards. This curriculum shall also address the proper handling of claims in which a sex-related offense is alleged to have contributed to the original characterization of the discharge or release of the claimant, including guidelines for the consideration of evidence substantiating such allegations in accordance with the requirements of section 1554b(b) of title 10, United States Code, as added by section 522 of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115–91].

"(2) UNIFORM CURRICULA.—The Secretary of Defense and the Secretary of Homeland Security shall jointly ensure that the curricula developed and implemented pursuant to this subsection are, to the extent practicable, uniform.

"(3) TRAINING.—

"(A) IN GENERAL.—Each member of a board for the correction of military records shall undergo retraining (consistent with the curriculum developed and implemented pursuant to this subsection) regarding the duties of boards for the correction of military records under section 1552 of title 10, United States Code, at least once every five years during the member's tenure on the board.

"(B) CURRENT MEMBERS.—Each member of a board for the correction of military records as of the date of the implementation of the curriculum required by paragraph (1) (in this paragraph referred to as the 'curriculum implementation date') shall undergo training described in subparagraph (A) not later than 90 days after the curriculum implementation date.

"(C) NEW MEMBERS.—Each individual who becomes a member of a board for the correction of military records after the curriculum implementation date shall undergo training described in subparagraph (A) by not later than 90 days after the date on which such individual becomes a member of the board.

"(4) REPORTS.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], each Secretary concerned shall submit to Congress a report setting forth the following:

"(A) A description and assessment of the progress made by such Secretary in implementing training requirements for members of boards for the correction of military records under the jurisdiction of such Secretary.

"(B) A detailed description of the training curriculum required of such Secretary by paragraph (1).

"(C) A description and assessment of any impediments to the implementation of training requirements

for members of boards for the correction of military records under the jurisdiction of such Secretary.

"(5) SECRETARY CONCERNED DEFINED.—In this subsection, the term 'Secretary concerned' means a 'Secretary concerned' as that term is used in section 1552 of title 10, United States Code."

**BOARD FOR CORRECTION OF MILITARY RECORDS**

Pub. L. 101–225, title II, §212, Dec. 12, 1989, 103 Stat. 1914, provided that: "Not later than 6 months after the date of the enactment of this Act [Dec. 12, 1989], the Secretary of Transportation shall—

"(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that a complete application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

"(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection."

## §1553. Review of discharge or dismissal

(a) The Secretary concerned shall, after consulting the Secretary of Veterans Affairs, establish a board of review, consisting of not fewer than three members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal. With respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

(b)(1) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(2) If a board established under this section does not grant a request for an upgrade to the characterization of a discharge or dismissal, that declination may be considered under section 1552 or section 1553a of this title, as applicable.

(c) A review by a board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Secretary of Veterans Affairs under chapter 59 of title 38.

(d)(1)(A) In the case of a former member of the armed forces who, while serving on active duty as a member of the armed forces, was deployed in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist, or psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury as a consequence of that deployment, a board established under this section to review the former member's discharge or dismissal shall include a member who is a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post traumatic stress disorder or traumatic brain injury (as applicable).

(B) In the case of a former member described in paragraph (3)(B) who claims that the former member's post-traumatic stress disorder or traumatic brain injury as described in that paragraph is based in whole or in part on sexual trauma, intimate partner violence, or spousal abuse, a board established under this section to review the former member's discharge or dismissal shall seek advice and counsel in the review from a psychiatrist, psychologist, or social worker with training on mental health issues associated with post-traumatic stress disorder or traumatic brain injury or other trauma as specified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(2) In the case of a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder

or traumatic brain injury as supporting rationale or as justification for priority consideration, the Secretary concerned shall expedite a final decision and shall accord such cases sufficient priority to achieve an expedited resolution. In determining the priority of cases, the Secretary concerned shall weigh the medical and humanitarian circumstances of all cases and accord higher priority to cases not involving post-traumatic stress disorder or traumatic brain injury only when the individual cases are considered more compelling.

(3)(A) In addition to the requirements of paragraphs (1) and (2), in the case of a former member described in subparagraph (B), the Board shall—

(i) review medical evidence of the Secretary of Veterans Affairs or a civilian health care provider that is presented by the former member; and

(ii) review the case with liberal consideration to the former member that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the member's discharge or dismissal.

(B) A former member described in this subparagraph is a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale, or as justification for priority consideration, whose post-traumatic stress disorder or traumatic brain injury is related to combat or military sexual trauma, as determined by the Secretary concerned.

(e) In the case of a former member of the armed forces (other than a former member covered by subsection (d)) who was diagnosed while serving in the armed forces as experiencing a mental health disorder, a board established under this section to review the former member's discharge or dismissal shall include a member who is a clinical psychologist or psychiatrist, or a physician with special training on mental health disorders.

(f) Each board established under this section shall make available to the public each calendar quarter, on an Internet website of the military department concerned or the Department of Homeland Security, as applicable, that is available to the public the following:

(1) The number of motions or requests for review considered by such board during the calendar quarter preceding the calendar quarter in which such information is made available, including cases in which a mental health condition of the former member, including post-traumatic stress disorder or traumatic brain injury, is alleged to have contributed, whether in whole or part, to the original characterization of the discharge or dismissal of the former member.

(2) The number of claims submitted during the calendar quarter preceding the calendar quarter in which such information is made available that relate to service by a former member during a war or contingency operation, catalogued by each war or contingency operation.

(3) The number of discharges or dismissals corrected pursuant to the consideration described in paragraph (1) to upgrade the characterization of discharge or dismissal of former members.

(4) The number and disposition of claims decided during the calendar quarter preceding the calendar quarter in which such information is made available in which sexual assault is alleged to have contributed, whether in whole or in part, to the original characterization of the discharge or release of the former member.

(Added Pub. L. 85–857, §13(v)(2), Sept. 2, 1958, 72 Stat. 1266; amended Pub. L. 87–651, title I, §110(a), Sept. 7, 1962, 76 Stat. 509; Pub. L. 98–209, §11(b), Dec. 6, 1983, 97 Stat. 1407; Pub. L. 101–189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 111–84, div. A, title V, §512(b), Oct. 28, 2009, 123 Stat. 2281; Pub. L. 113–291, div. A, title V, §521(b), Dec. 19, 2014, 128 Stat. 3360; Pub. L. 114–328, div. A, title V, §§533(b), 535, Dec. 23, 2016, 130 Stat. 2121, 2123; Pub. L. 115–91, div. A, title V, §§520(b), 521(b), (c)(2), title X, §1081(a)(28), Dec. 12, 2017, 131 Stat. 1379, 1380, 1595; Pub. L. 116–92, div. A, title V, §§521(b), 522, 523(b)(2)(B), Dec. 20, 2019, 133 Stat. 1353, 1354; Pub. L. 116–283, div. A, title X, §1081(a)(28), Jan. 1, 2021, 134 Stat. 3872.)

**HISTORICAL AND REVISION NOTES**

Sections 1553 and 1554 are restated, without substantive change, to conform to the style adopted for title 10.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Uniform Code of Military Justice (Public Law 506 of the 81st Congress), referred to in subsec. (a), is act May 5, 1950, ch. 169, §1, 64 Stat. 107, which was classified to chapter 22 (§551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47 (§801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, the first section of which enacted this title.

### AMENDMENTS

**2021**—Subsec. (d)(1)(B). Pub. L. 116–283 substituted "is based" for "in based".

**2019**—Subsec. (a). Pub. L. 116–92, §522, substituted "not fewer than three" for "five".

Subsec. (b). Pub. L. 116–92, §523(b)(2)(B), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(1). Pub. L. 116–92, §521(b), designated existing provisions as subpar. (A) and added subpar. (B).

**2017**—Subsec. (d)(3)(A)(ii). Pub. L. 115–91, §520(b), substituted "discharge or dismissal or to the original characterization of the member's discharge or dismissal" for "discharge of a lesser characterization".

Subsec. (f). Pub. L. 115–91, §1081(a)(28), substituted "calendar" for "calender" wherever appearing.

Subsec. (f)(2). Pub. L. 115–91, §521(c)(2), substituted "former member" for "claimant".

Subsec. (f)(4). Pub. L. 115–91, §521(b), added par. (4).

**2016**—Subsec. (d)(3). Pub. L. 114–328, §535, added par. (3).

Subsec. (f). Pub. L. 114–328, §533(b), added subsec. (f).

**2014**—Subsec. (d)(1). Pub. L. 113–291, §521(b)(1), substituted "clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post traumatic stress disorder or traumatic brain injury (as applicable)" for "physician, clinical psychologist, or psychiatrist" before period at end.

Subsec. (e). Pub. L. 113–291, §521(b)(2), added subsec. (e).

**2009**—Subsec. (d). Pub. L. 111–84 added subsec. (d).

**1989**—Subsecs. (a), (c). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**1983**—Subsec. (a). Pub. L. 98–209 inserted provision that with respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

**1962**—Pub. L. 87–651 amended section generally without substantive change to conform to the style adopted for the revision of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

### REVIEWS OF CHARACTERIZATION OF ADMINISTRATIVE DISCHARGES OF CERTAIN MEMBERS ON THE BASIS OF FAILURE TO RECEIVE COVID-19 VACCINE

Pub. L. 118–31, div. A, title V, §527, Dec. 22, 2023, 137 Stat. 255, provided that:

"(a) MANDATORY REVIEW.—A board established under section 1553 of title 10, United States Code, shall grant a request pursuant to such section to review the characterization of a discharge or dismissal of a former member of a covered Armed Force if such discharge or dismissal was solely based on the failure of such former member to obey a lawful order to receive a vaccine for COVID-19.

"(b) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Marine Corps, Air Force, Coast Guard, or Space Force."

### DISCHARGE REVIEW BOARDS

Pub. L. 116–92, div. A, title V, §525(b), Dec. 20, 2019, 133 Stat. 1356, provided that:

"(1) IN GENERAL.—Each Secretary concerned shall develop and provide training for members of discharge review boards under section 1553 of title 10, United States Code, that are under the jurisdiction of such Secretary on each of the following:

"(A) Sexual trauma.
"(B) Intimate partner violence.
"(C) Spousal abuse.
"(D) The various responses of individuals to trauma.

"(2) UNIFORMITY OF TRAINING.—The Secretary of Defense and the Secretary of Homeland Security shall jointly ensure that the training developed and provided pursuant to this subsection is, to the extent practicable, uniform.

"(3) SECRETARY CONCERNED DEFINED.—In this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code."

**CONFIDENTIAL REVIEW OF CHARACTERIZATION OF TERMS OF DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO ARE VICTIMS OF SEXUAL OFFENSES**

Pub. L. 113–291, div. A, title V, §547, Dec. 19, 2014, 128 Stat. 3375, which related to review process for correction of military records, consideration of individual experiences in connection with offenses, and preservation of confidentiality, was repealed by Pub. L. 115–91, div. A, title V, §522(a)(3), Dec. 12, 2017, 131 Stat. 1380. See section 1554b of this title.

## §1553a. Review of a request for upgrade of discharge or dismissal

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a process by which to conduct a final review of a request for an upgrade in the characterization of a discharge or dismissal.

(b) CONSIDERATION; RECOMMENDATION.—(1) Upon the request of a petitioner, the Secretary of Defense shall review the findings and decisions of the boards established under sections 1552 and 1553 of this title regarding the final review of a request for an upgrade in the characterization of a discharge or dismissal.

(2) The Secretary of Defense may recommend that the Secretary of the military department concerned upgrade the characterization of the discharge or dismissal of the petitioner if the Secretary of Defense determines that such recommendation is appropriate after review under paragraph (1).

(c) DEFINITIONS.—In this section:

(1) The term "final review of a request for an upgrade in the characterization of a discharge or dismissal" means a request by a petitioner for an upgrade to the characterization of a discharge or dismissal—

(A) that was not granted under sections 1552 and 1553 of this title; and

(B) regarding which the Secretary of Defense determines the petitioner has exhausted all remedies available to the petitioner under sections 1552 and 1553 of this title.

(2) The term "petitioner" means a member or former member of the armed forces (or if the member or former member is dead, the surviving spouse, next of kin, or legal representative of the member or former member) whose request for an upgrade to the characterization of a discharge or dismissal was not granted under sections 1552 and 1553 of this title.

(Added Pub. L. 116–92, div. A, title V, §523(a), Dec. 20, 2019, 133 Stat. 1354.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION AND REPORTING**

Pub. L. 116–92, div. A, title V, §523(c)–(e), Dec. 20, 2019, 133 Stat. 1355, provided that:

"(c) DEADLINE.—The Secretary of Defense shall implement section 1553a of such title [title 10, United States Code], as added by subsection (a), not later than January 1, 2021.

"(d) RESOURCES.—In establishing and implementing the process under such section 1553a, the Secretary of Defense shall, to the maximum extent practicable, use existing organizations, boards, processes, and personnel of the Department of Defense.

"(e) REPORTING.—

"(1) REPORT.—Not later than January 1, 2022, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the process established under such section 1553a. The report shall include, with respect to considerations under

such process since implementation, the following:

"(A) The number of requests considered.

"(B) The number of upgrades to the characterization of a discharge or dismissal granted pursuant to such process, including the most common reasons for such upgrades.

"(C) The number of upgrades to the characterization of a discharge or dismissal declined pursuant to such process, including the most common reasons for such declinations.

"(2) ONLINE PUBLICATION.—On October 1, 2022, and annually thereafter, the Secretary shall publish the information described in paragraph (1) with regards to the immediately preceding fiscal year on a website of the Department of Defense that is accessible by the public."

## §1554. Review of retirement or separation without pay for physical disability

(a) The Secretary concerned shall from time to time establish boards of review, each consisting of five commissioned officers, two of whom shall be selected from officers of the Army Medical Corps, officers of the Navy Medical Corps, Air Force officers designated as medical officers, or officers of the Public Health Service, as the case may be, to review, upon the request of a member or former member of the uniformed services retired or released from active duty without pay for physical disability, the findings and decisions of the retiring board, board of medical survey, or disposition board in the member's case. A request for review must be made within 15 years after the date of the retirement or separation.

(b) A board established under this section has the same powers as the board whose findings and decision are being reviewed. The findings of the board shall be sent to the Secretary concerned, who shall submit them to the President for approval.

(c) A review by a board established under this section shall be based upon the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Secretary of Veterans Affairs under chapter 59 of title 38.

(Added Pub. L. 85–857, §13(v)(2), Sept. 2, 1958, 72 Stat. 1267; amended Pub. L. 87–651, title I, §110(a), Sept. 7, 1962, 76 Stat. 510; Pub. L. 101–189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 111–383, div. A, title V, §533(a), Jan. 7, 2011, 124 Stat. 4216.)

### HISTORICAL AND REVISION NOTES

Sections 1553 and 1554 are restated, without substantive change, to conform to the style adopted for title 10.

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a). Pub. L. 111–383 substituted "a member or former member of the uniformed services" for "an officer" and "the member's case" for "his case".

**1989**—Subsec. (c). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**1962**—Pub. L. 87–651 amended section generally without substantive change to conform to the style adopted for the revision of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

### EXECUTIVE DOCUMENTS

**TRANSFER OF FUNCTIONS**

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §1554a. Review of separation with disability rating of 20 percent disabled or less

(a) IN GENERAL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense a board of review to review the disability determinations of covered individuals by Physical Evaluation Boards. The board shall be known as the "Physical Disability Board of Review".

(2) The Physical Disability Board of Review shall consist of not less than three members appointed by the Secretary.

(b) COVERED INDIVIDUALS.—For purposes of this section, covered individuals are members and former members of the armed forces who, during the period beginning on September 11, 2001, and ending on December 31, 2009—

(1) are separated from the armed forces due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and

(2) are found to be not eligible for retirement.

(c) REVIEW.—(1) Upon the request of a covered individual, or a surviving spouse, next of kin, or legal representative of a covered individual, the Physical Disability Board of Review shall review the findings and decisions of the Physical Evaluation Board with respect to such covered individual. Subject to paragraph (3), upon its own motion, the Physical Disability Board of Review may review the findings and decisions of the Physical Evaluation Board with respect to a covered individual.

(2) The review by the Physical Disability Board of Review under paragraph (1) shall be based on the records of the armed force concerned and such other evidence as may be presented to the Physical Disability Board of Review. A witness may present evidence to the Board by affidavit or by any other means considered acceptable by the Secretary of Defense.

(3) If the Physical Disability Board of Review proposes to review, upon its own motion, the findings and decisions of the Physical Evaluation Board with respect to a covered individual, the Physical Disability Board of Review shall notify the covered individual, or a surviving spouse, next of kin, or legal representative of the covered individual, of the proposed review and obtain the consent of the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual before proceeding with the review.

(4) With respect to any review by the Physical Disability Board of Review of the findings and decisions of the Physical Evaluation Board with respect to a covered individual, whether initiated at the request of the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual or initiated by the Physical Disability Board of Review, the Physical Disability Board of Review shall notify the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual that, as a result of the request or consent, the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual may not seek relief from the Board for Correction of Military Records operated by the Secretary concerned.

(d) AUTHORIZED RECOMMENDATIONS.—The Physical Disability Board of Review may, as a result of its findings under a review under subsection (c), recommend to the Secretary concerned the following (as applicable) with respect to a covered individual:

(1) No recharacterization of the separation of such individual or modification of the disability rating previously assigned such individual.

(2) The recharacterization of the separation of such individual to retirement for disability.

(3) The modification of the disability rating previously assigned such individual by the Physical Evaluation Board concerned, which modified disability rating may not be a reduction of the disability rating previously assigned such individual by that Physical Evaluation Board.

(4) The issuance of a new disability rating for such individual.

(e) CORRECTION OF MILITARY RECORDS.—(1) The Secretary concerned may correct the military records of a covered individual in accordance with a recommendation made by the Physical Disability Board of Review under subsection (d). Any such correction may be made effective as of the effective date of the action taken on the report of the Physical Evaluation Board to which such recommendation relates.

(2) In the case of a member previously separated pursuant to the findings and decision of a Physical Evaluation Board together with a lump-sum or other payment of back pay and allowances at separation, the amount of pay or other monetary benefits to which such member would be entitled based on the member's military record as corrected shall be reduced to take into account receipt of such lump-sum or other payment in such manner as the Secretary of Defense considers appropriate.

(3) If the Physical Disability Board of Review makes a recommendation not to correct the military records of a covered individual, the action taken on the report of the Physical Evaluation Board to which such recommendation relates shall be treated as final as of the date of such action.

(f) Regulations.—(1) This section shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

(2) The regulations under paragraph (1) shall specify reasonable deadlines for the performance of reviews required by this section.

(3) The regulations under paragraph (1) shall specify the effect of a determination or pending determination of a Physical Evaluation Board on considerations by boards for correction of military records under section 1552 of this title.

(g) SUNSET.—(1) On or after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, the Secretary of Defense may sunset the Physical Disability Board of Review under this section.

(2) If the Secretary sunsets the Physical Disability Board of Review under paragraph (1), the Secretary shall transfer any remaining requests for review pending at that time, and shall assign any new requests for review under this section, to a board for the correction of military records operated by the Secretary concerned under section 1552 of this title.

(3) Subsection (c)(4) shall not apply with respect to any review conducted by a board for the correction of military records under paragraph (2).

(Added Pub. L. 110–181, div. A, title XVI, §1643(a)(1), Jan. 28, 2008, 122 Stat. 465; amended Pub. L. 116–283, div. A, title V, §522, Jan. 1, 2021, 134 Stat. 3597; Pub. L. 117–81, div. A, title X, §1081(a)(20), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

### AMENDMENTS

**2021**—Subsec. (g). Pub. L. 116–283 added subsec. (g).

Subsec. (g)(2). Pub. L. 117–81 struck out second period at end.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION

Pub. L. 110–181, div. A, title XVI, §1643(b), Jan. 28, 2008, 122 Stat. 467, provided that: "The Secretary of Defense shall establish the board of review required by section 1554a of title 10, United States Code (as added by subsection (a)), and prescribe the regulations required by such section, not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008]."

## §1554b. Confidential review of characterization of terms of discharge of members of the armed forces who are victims of sex-related offenses

(a) CONFIDENTIAL REVIEW PROCESS THROUGH BOARDS FOR CORRECTION OF MILITARY RECORDS.—The Secretaries of the military departments shall each establish a confidential process, utilizing boards of the military department concerned established in accordance with this chapter, by which an individual who was the victim of a sex-related offense, or alleges that the individual was the victim of a sex-related offense, during service in the armed forces may challenge the terms or characterization of the discharge or separation of the individual from the armed forces on the grounds that the terms or characterization were adversely affected by the individual being the victim of a sex-related offense.

(b) CONSIDERATION OF INDIVIDUAL EXPERIENCES IN CONNECTION WITH OFFENSES.—In deciding whether to modify the terms or characterization of the discharge or separation from the armed forces of an individual described in subsection (a), the Secretary of the military department concerned shall instruct boards of the military department concerned established in accordance with this chapter—

(1) to give due consideration to the psychological and physical aspects of the individual's experience in connection with the sex-related offense; and

(2) to determine what bearing such experience may have had on the circumstances surrounding the individual's discharge or separation from the armed forces.

(c) PRESERVATION OF CONFIDENTIALITY.—Documents considered and decisions rendered pursuant to the process required by subsection (a) shall not be made available to the public, except with the consent of the individual concerned.

(d) SEX-RELATED OFFENSE DEFINED.—In this section, the term "sex-related offense" means any of the following:

(1) Rape or sexual assault under subsection (a) or (b) of section 920 of this title (article 120 of the Uniform Code of Military Justice).

(2) Forcible sodomy under section 925 of this title (article 125 of the Uniform Code of Military Justice).

(3) An attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of this title (article 80 of the Uniform Code of Military Justice).

(Added and amended Pub. L. 115–91, div. A, title V, §522(a)(1), (b), (c), Dec. 12, 2017, 131 Stat. 1380, 1381.)

### EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of Pub. L. 113–291, div. A, title V, §547, Dec. 19, 2014, 128 Stat. 3375, which was formerly set out in a note under section 1553 of this title before being transferred to this chapter and designated as the text of this section.

### AMENDMENTS

**2017**—Pub. L. 115–91, §522(a)(1), inserted section enumerator and catchline and transferred text of section 547 of Pub. L. 113–291 to this section. See Codification note above.

Subsec. (a). Pub. L. 115–91, §522(c)(2), substituted "boards of the military department concerned established in accordance with this chapter" for "boards for the correction of military records of the military department concerned" and "being the victim of a sex-related offense" for "being the victim of such an offense".

Pub. L. 115–91, §522(c)(1), substituted "armed forces" for "Armed Forces" in two places.

Pub. L. 115–91, §522(b), substituted "who was the victim of a sex-related offense, or alleges that the individual was the victim of a sex-related offense," for "who was the victim of a sex-related offense".

Subsec. (b). Pub. L. 115–91, §522(c)(3), substituted "boards of the military department concerned established in accordance with this chapter" for "boards for the correction of military records" in introductory provisions.

Pub. L. 115–91, §522(c)(1), substituted "armed forces" for "Armed Forces" in two places.
Subsec. (d)(1). Pub. L. 115–91, §522(c)(4)(B), substituted "this title" for "title 10, United States Code".
Subsec. (d)(2), (3). Pub. L. 115–91, §522(c)(4)(C), substituted "this title" for "such title".

## §1555. Professional staff

(a) The Secretary of each military department shall assign to the staff of the service review agency of that military department at least one attorney and at least one physician. Such assignments shall be made on a permanent, full-time basis and may be made from members of the armed forces or civilian employees.

(b) Personnel assigned pursuant to subsection (a)—

(1) shall work under the supervision of the director or executive director (as the case may be) of the service review agency; and

(2) shall be assigned duties as advisers to the director or executive director or other staff members on legal and medical matters, respectively, that are being considered by the agency.

(c) In this section, the term "service review agency" means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Navy Council of Personnel Boards and the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Department of the Air Force Review Boards Agency.

(Added Pub. L. 105–261, div. A, title V, §542(a)(1), Oct. 17, 1998, 112 Stat. 2020; amended Pub. L. 106–65, div. A, title V, §582, Oct. 5, 1999, 113 Stat. 634; Pub. L. 118–31, div. A, title XVII, §1722(j)(2)(A), Dec. 22, 2023, 137 Stat. 673.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c)(3). Pub. L. 118–31 inserted "the Department of" after "Air Force,".

**1999**—Subsec. (c)(2). Pub. L. 106–65 inserted "the Navy Council of Personnel Boards and" after "Department of the Navy,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 105–261, div. A, title V, §542(b), Oct. 17, 1998, 112 Stat. 2020, provided that: "Section 1555 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act [Oct. 17, 1998]."

## §1556. Ex parte communications prohibited

(a) IN GENERAL.—The Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency, the Department of the Air Force Review Boards Agency, or the Board for Correction of Naval Records, as the case may be, is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant's case or have a material effect on the applicant's case.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) Classified information.

(2) Information the release of which is otherwise prohibited by law or regulation.

(3) Any record previously provided to the applicant or known to be possessed by the applicant.
(4) Any correspondence that is purely administrative in nature.
(5) Any military record that is (or may be) provided to the applicant by the Secretary of the military department or other source.

(Added Pub. L. 105–261, div. A, title V, §543(a)(1), Oct. 17, 1998, 112 Stat. 2020; amended Pub. L. 118–31, div. A, title XVII, §1722(j)(2)(B), Dec. 22, 2023, 137 Stat. 673.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (a). Pub. L. 118–31 inserted "the Department of" after "the Army Review Boards Agency,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 105–261, div. A, title V, §543(b), Oct. 17, 1998, 112 Stat. 2021, provided that: "Section 1556 of title 10, United States Code, as added by subsection (a), shall apply with respect to correspondence and communications made 60 days or more after the date of the enactment of this Act [Oct. 17, 1998]."

## §1557. Timeliness standards for disposition of applications before Corrections Boards

(a) TEN-MONTH CLEARANCE PERCENTAGE.—Of the applications received by a Corrections Board during a period specified in the following table, the percentage on which final action by the Corrections Board must be completed within 10 months of receipt (other than for those applications considered suitable for administrative correction) is as follows:

| For applications received during— | **The percentage on which final Correction Board action must be completed within 10 months of receipt is—** |
|---|---|
| the period of fiscal years 2001 and 2002 | 50 |
| the period of fiscal years 2003 and 2004 | 60 |
| the period of fiscal years 2005, 2006, and 2007 | 70 |
| the period of fiscal years 2008, 2009, and 2010 | 80 |
| the period of any fiscal year after fiscal year 2010 | 90. |

(b) CLEARANCE DEADLINE FOR ALL APPLICATIONS.—Final action by a Corrections Board on all applications received by the Corrections Board (other than those applications considered suitable for administrative correction) shall be completed within 18 months of receipt.

(c) WAIVER AUTHORITY.—The Secretary of the military department concerned may exclude an individual application from the timeliness standards prescribed in subsections (a) and (b) if the Secretary determines that the application warrants a longer period of consideration. The authority of the Secretary of a military department under this subsection may not be delegated.

(d) FAILURE TO MEET TIMELINESS STANDARDS NOT TO AFFECT ANY INDIVIDUAL APPLICATION.—Failure of a Corrections Board to meet the applicable timeliness standard for any period of time under subsection (a) or (b) does not confer any presumption or advantage with respect to consideration by the board of any application.

(e) REPORTS ON FAILURE TO MEET TIMELINESS STANDARDS.—The Secretary of the military department concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report not later than June 1 following any fiscal year during which the Corrections Board of that Secretary's military department was unable to meet the applicable timeliness standard for that fiscal year under subsections (a) and (b). The report shall specify the reasons why the standard could not be met and the corrective actions initiated to ensure compliance in the future. The report shall also specify the number of waivers granted under subsection (c) during that fiscal year.

(f) CORRECTIONS BOARD DEFINED.—In this section, the term "Corrections Board" means—

(1) with respect to the Department of the Army, the Army Board for Correction of Military Records;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Department of the Air Force Board for Correction of Military Records.

(Added Pub. L. 105–261, div. A, title V, §544(a), Oct. 17, 1998, 112 Stat. 2021; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–375, div. A, title X, §1084(d)(12), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 118–31, div. A, title XVII, §1722(j)(2)(A), Dec. 22, 2023, 137 Stat. 673.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (f)(3). Pub. L. 118–31 inserted "the Department of" after "Air Force,".

**2004**—Subsec. (b). Pub. L. 108–375 substituted "Final" for "Effective October 1, 2002, final".

**1999**—Subsec. (e). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (e) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## §1558. Review of actions of selection boards: correction of military records by special boards; judicial review

(a) CORRECTION OF MILITARY RECORDS.—The Secretary of a military department may correct a person's military records in accordance with a recommendation made by a special board. Any such correction may be made effective as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

(b) DEFINITIONS.—In this section:

(1) SPECIAL BOARD.—(A) The term "special board" means a board that the Secretary of a military department convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, or the Space Force, instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.

(B) Such term includes a board for the correction of military records convened under section

1552 of this title, if designated as a special board by the Secretary concerned.

(C) Such term does not include a promotion special selection board convened under section 628, 14502, or 20252 of this title.

(2) SELECTION BOARD.—(A) The term "selection board" means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14701a, 14704, 14705, or 20403 of this title, and any other board convened by the Secretary of a military department under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component, or the Space Force, for the purpose of reducing the number of persons serving in the armed forces.

(B) Such term does not include any of the following:

(i) A promotion board convened under section 573(a), 611(a), 14101(a), or 20211 of this title.

(ii) A special board.

(iii) A special selection board convened under section 628 of this title.

(iv) A board for the correction of military records convened under section 1552 of this title.

(3) INVOLUNTARILY BOARD-SEPARATED.—The term "involuntarily board-separated" means separated or retired from an armed force, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as a result of a recommendation of a selection board.

(c) RELIEF ASSOCIATED WITH CORRECTION OF CERTAIN ACTIONS.—(1) The Secretary of the military department concerned shall ensure that an involuntarily board-separated person receives relief under paragraph (2) or under paragraph (3) if the person, as a result of a correction of the person's military records under subsection (a), becomes entitled to retention on or restoration to active duty or to active status in a reserve component, or the Space Force.

(2)(A) A person referred to in paragraph (1) shall, with that person's consent, be restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in that person's armed force as the person would have had if the person had not been selected to be involuntarily board-separated as a result of an action the record of which is corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

(B) Nothing in subparagraph (A) may be construed to permit a person to be on active duty or in an active status in a reserve component, or the Space Force, after the date on which the person would have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, if the person had not been selected to be involuntarily board-separated in an action of a selection board the record of which is corrected under subsection (a).

(3) If an involuntarily board-separated person referred to in paragraph (1) does not consent to a restoration of status, rights, and entitlements under paragraph (2), the Secretary concerned shall pay that person back pay and allowances (less appropriate offsets), and shall provide that person service credit, for the period—

(A) beginning on the date of the person's separation, retirement, or transfer to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as the case may be; and

(B) ending on the earlier of—

(i) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

(ii) the date on which the person would otherwise have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as the case may be.

(d) FINALITY OF UNFAVORABLE ACTION.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be

considered as final as of the date of the action taken on that report.

(e) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (f), other than to paragraph (4)(C) of that subsection.

(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special board may be provided for under this section, including the following:

(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

(B) Any time limits applicable to the filing of an application for such consideration.

(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

(f) JUDICIAL REVIEW.—(1) A person seeking to challenge an action or recommendation of a selection board, or an action taken by the Secretary of the military department concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the action or recommendation has first been considered by a special board under this section or the Secretary concerned has denied the convening of such a board for such consideration.

(2)(A) A court of the United States may review a determination by the Secretary of a military department not to convene a special board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

(i) arbitrary or capricious;

(ii) not based on substantial evidence;

(iii) a result of material error of fact or material administrative error; or

(iv) otherwise contrary to law.

(B) If a court sets aside a determination by the Secretary of a military department not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration by a special board.

(3) A court of the United States may review a recommendation of a special board or an action of the Secretary of the military department concerned on the report of a special board. In any such case, a court may set aside the action only if the court finds that the recommendation or action was—

(A) arbitrary or capricious;

(B) not based on substantial evidence;

(C) a result of material error of fact or material administrative error; or

(D) otherwise contrary to law.

(4)(A) If, six months after receiving a complete application for consideration by a special board in any case, the Secretary concerned has not convened a special board and has not denied consideration by a special board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied consideration of the case by a special board.

(B) If, six months after the convening of a special board in any case, the Secretary concerned has not taken final action on the report of the special board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

(C) Under regulations prescribed under subsection (e), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(g) EXISTING JURISDICTION.—Nothing in this section limits—

(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

(2) the authority of the Secretary of a military department to correct a military record under

section 1552 of this title.

(Added Pub. L. 107–107, div. A, title V, §503(a)(1), Dec. 28, 2001, 115 Stat. 1080; amended Pub. L. 118–31, div. A, title XVII, §1722(j)(1), Dec. 22, 2023, 137 Stat. 673; Pub. L. 118–159, div. A, title V, §513(c)(1), title XVII, §1701(a)(23), Dec. 23, 2024, 138 Stat. 1876, 2204; Pub. L. 119–60, div. A, title XVII, §1701(a)(14), Dec. 18, 2025, 139 Stat. 1208.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (c)(1). Pub. L. 119–60 struck out comma after "Space Force".

**2024**—Subsec. (b)(2)(A). Pub. L. 118–159, §1701(a)(23)(B), substituted "14705" for "14507".

Pub. L. 118–159, §513(c)(1), inserted "14701a," after "14701,".

Subsecs. (b)(3), (c)(3)(A), (B)(ii). Pub. L. 118–159, §1701(a)(23)(A), substituted "Space Force," for "Space Force,,".

**2023**—Pub. L. 118–31, §1722(j)(1)(A), inserted ", or the Space Force," after "reserve component" wherever appearing.

Subsec. (b)(1)(C). Pub. L. 118–31, §1722(j)(1)(B)(i), substituted "section 628, 14502, or 20252" for "section 628 or 14502".

Subsec. (b)(2)(A). Pub. L. 118–31, §1722(j)(1)(B)(ii), substituted "14507, or 20403" for "or 14705".

Subsec. (b)(2)(B)(i). Pub. L. 118–31, §1722(j)(1)(B)(iii), substituted "14101(a), or 20211" for "or 14101(a)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section applicable with respect to any proceeding pending on or after Dec. 28, 2001, without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date, but not applicable with respect to any action commenced in a court of the United States before Dec. 28, 2001, see section 503(c) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 628 of this title.

## §1559. Personnel limitation

(a) LIMITATION.—Before December 31, 2025, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term "service review agency" means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Department of the Air Force Review Boards Agency.

(Added Pub. L. 107–314, div. A, title V, §552(a), Dec. 2, 2002, 116 Stat. 2552; amended Pub. L. 108–375, div. A, title V, §581, Oct. 28, 2004, 118 Stat. 1928; Pub. L. 110–417, [div. A], title V,

§593, Oct. 14, 2008, 122 Stat. 4475; Pub. L. 111–383, div. A, title V, §533(b), Jan. 7, 2011, 124 Stat. 4216; Pub. L. 112–239, div. A, title V, §520, title X, §1076(b)(2), Jan. 2, 2013, 126 Stat. 1722, 1949; Pub. L. 114–328, div. A, title V, §592, Dec. 23, 2016, 130 Stat. 2152; Pub. L. 116–92, div. A, title V, §524(a), Dec. 20, 2019, 133 Stat. 1355; Pub. L. 118–31, div. A, title XVII, §1722(j)(2)(C), Dec. 22, 2023, 137 Stat. 673; Pub. L. 118–159, div. A, title XVII, §1701(a)(24), Dec. 23, 2024, 138 Stat. 2204.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c)(3). Pub. L. 118–159 substituted "the Air Force Review" for "the the Air Force Review".

**2023**—Subsec. (c)(3). Pub. L. 118–31 inserted "the Department of the" after "Air Force,".

**2019**—Subsec. (a). Pub. L. 116–92 substituted "December 31, 2025" for "December 31, 2019" and "that agency." for "that agency until—" and struck out pars. (1) and (2) which read as follows:

"(1) the Secretary submits to Congress a report that—

"(A) describes the reduction proposed to be made;

"(B) provides the Secretary's rationale for that reduction; and

"(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

"(2) a period of 90 days has elapsed after the date on which the report is submitted."

**2016**—Subsec. (a). Pub. L. 114–328 substituted "December 31, 2019" for "December 31, 2016" in introductory provisions.

**2013**—Subsec. (a). Pub. L. 112–239, §1076(b)(2), made technical amendment to directory language of Pub. L. 111–383. See 2011 Amendment note below.

Pub. L. 112–239, §520, substituted "December 31, 2016" for "December 31, 2013" in introductory provisions.

**2011**—Subsec. (a). Pub. L. 111–383, as amended by Pub. L. 112–239, §1076(b)(2), substituted "December 31, 2013" for "December 31, 2010" in introductory provisions.

**2008**—Subsec. (a). Pub. L. 110–417 substituted "December 31, 2010" for "October 1, 2008" in introductory provisions.

**2004**—Subsec. (a). Pub. L. 108–375 substituted "Before October 1, 2008," for "During fiscal years 2003, 2004, and 2005," in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(b), Jan. 2, 2013, 126 Stat. 1949, provided that the amendment made by section 1076(b)(2) is effective Jan. 7, 2011, and as if included in Pub. L. 111–383 as enacted.

# CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

Sec.
1561. Complaints of sexual harassment: independent investigation.
1561a. Civilian orders of protection: force and effect on military installations.
1561b. Confidential reporting of sexual harassment.
1562. Database on domestic violence incidents.
1562a. Complaints of retaliation by victims of sexual assault or sexual harassment and related persons: tracking by Department of Defense.
1563. Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion.
1563a. Honorary promotions on the initiative of the Department of Defense.
1564. Security clearance investigations.

1564a. Counterintelligence polygraph program.
1564b. Security vetting for foreign nationals.
1565. DNA identification information: collection from certain offenders; use.
1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes.
1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates.
1566. Voting assistance: compliance assessments; assistance.
1566a. Voting assistance: voter assistance offices.
1567. Duration of military protective orders.
1567a. Mandatory notification of issuance of military protective order to civilian law enforcement.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 80, comprised of sections 1571 to 1577, relating to Exemplary Rehabilitation Certificates, was repealed by Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title V, §§543(b), 544(b), Dec. 27, 2021, 135 Stat. 1710, 1711, added items 1561 and 1562a and struck out former item 1561 "Complaints of sexual harassment: investigation by commanding officers".

Pub. L. 116–283, div. A, title V, §§523(c), 532(a)(2), Jan. 1, 2021, 134 Stat. 3599, 3602, added items 1561b, 1563, and 1563a and struck out former item 1563 "Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review". Item 1561b was added after item 1561a to reflect the probable intent of Congress, notwithstanding directory language adding it after item 1561b.

**2018**—Pub. L. 115–232, div. A, title XVI, §1622(b), Aug. 13, 2018, 132 Stat. 2118, added item 1564b.

**2011**—Pub. L. 112–81, div. A, title V, §581(b)(2), Dec. 31, 2011, 125 Stat. 1431, added item 1565b.

**2009**—Pub. L. 111–84, div. A, title V, §583(b)(2), Oct. 28, 2009, 123 Stat. 2330, added item 1566a.

**2008**—Pub. L. 110–417, [div. A], title V, §§561(b), 562(b), Oct. 14, 2008, 122 Stat. 4470, added items 1567 and 1567a.

**2003**—Pub. L. 108–136, div. A, title X, §§1031(a)(11)(B), 1041(a)(2), Nov. 24, 2003, 117 Stat. 1597, 1608, struck out "and recommendation" after "review" in item 1563 and added item 1564a.

**2002**—Pub. L. 107–314, div. A, title X, §1063(b), Dec. 2, 2002, 116 Stat. 2653, added item 1565a.

Pub. L. 107–311, §2(b), Dec. 2, 2002, 116 Stat. 2455, added item 1561a.

**2001**—Pub. L. 107–107, div. A, title XVI, §1602(a)(2), Dec. 28, 2001, 115 Stat. 1276, added item 1566.

**2000**—Pub. L. 106–546, §5(a)(2), Dec. 19, 2000, 114 Stat. 2732, added item 1565.

Pub. L. 106–398, §1 [[div. A], title V, §542(b), title X, §1072(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–115, 1654A–277, added items 1563 and 1564.

**1999**—Pub. L. 106–65, div. A, title V, §594(b), Oct. 5, 1999, 113 Stat. 644, added item 1562.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF PROCEDURE OF THE DEPARTMENT OF DEFENSE TO DETERMINE CERTAIN COMPLAINTS OR REQUESTS REGARDING PUBLIC DISPLAYS OR PUBLIC EXPRESSIONS OF RELIGION ON PROPERTY OF THE DEPARTMENT

Pub. L. 118–31, div. A, title X, §1049, Dec. 22, 2023, 137 Stat. 393, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall prescribe regulations that establish the procedure for the timely determination of a covered complaint or request regarding a public display or public expression of religion on property of the Department of Defense. Such regulations shall ensure that—

"(1) the officer or official of the Department who receives such complaint or request forwards the covered complaint or request—

"(A) to the individual authorized to make a determination under subsection (b); and

"(B) not later than 10 days after such receipt; and

"(2) such individual—

"(A) makes such determination not later than 30 days after such individual receives such forwarded covered complaint or request; and

"(B) timely notifies the individual or entity who made such covered complaint or request, and the officer or official of the Department who received such covered complaint or request, of such determination.

"(b) DETERMINATIONS.—A determination under regulations prescribed under subsection (a) shall be made—

"(1) by—

"(A) the Secretary of the military department concerned; or

"(B) the head of the Defense Agency or Department of Defense Field Activity concerned; and

"(2) after consultation with—

"(A)(i) in the case of a determination made by the Secretary of the military department concerned, the Chief of Chaplains of the military department concerned; or

"(ii) in the case of a determination made by the head of the Defense Agency or Department of Defense Field Activity concerned, the Armed Forces Chaplains Board; and

"(B)(i) a civilian attorney under the jurisdiction the Secretary of the military department concerned or the head of the Defense Agency or Department of Defense Field Activity concerned; or

"(ii) an officer of the Judge Advocate General's Corps.

"(c) COVERED COMPLAINT OR REQUEST DEFINED.—In this section, the term 'covered complaint or request' means a complaint or request—

"(1) regarding a public display or public expression of religion on property of the Department of Defense; and

"(2) made by an individual or entity other than—

"(A) a member of the Armed Forces;

"(B) a civilian employee of the Department of Defense; or

"(C) a contractor of the Department of Defense."

## ANNUAL PRIMARY PREVENTION RESEARCH AGENDA

Pub. L. 117–81, div. A, title V, §549A, Dec. 27, 2021, 135 Stat. 1721, as amended by Pub. L. 117–263, div. A, title V, §547(a), Dec. 23, 2022, 136 Stat. 2585, provided that:

"(a) IN GENERAL.—Beginning on October 1, 2022, and annually on the first day of each fiscal year thereafter, the Secretary of Defense shall publish a Department of Defense research agenda for that fiscal year, focused on the primary prevention of interpersonal and self-directed violence, including sexual assault, sexual harassment, domestic violence, child abuse and maltreatment, problematic juvenile sexual behavior, suicide, workplace violence, and substance misuse.

"(b) ELEMENTS.—Each annual primary prevention research agenda published under subsection (a) shall—

"(1) identify research priorities for that fiscal year;

"(2) assign research projects and tasks to the military departments and other components of the Department of Defense, as the Secretary of Defense determines appropriate;

"(3) allocate or direct the allocation of appropriate resourcing for each such project and task; and

"(4) be directive in nature and enforceable across all components of the Department of Defense, including with regard to—

"(A) providing for timely access to records, data and information maintained by any component of the Department of Defense that may be required in furtherance of an assigned research project or task;

"(B) ensuring the sharing across all components of the Department of Defense of the findings and the outcomes of any research project or task; and

"(C) any other matter determined by the Secretary of Defense.

"(c) GUIDING PRINCIPLES.—The primary prevention research agenda should, as determined by the Secretary of Defense—

"(1) reflect a preference for research projects and tasks with the potential to yield or contribute to the development and implementation of actionable primary prevention strategies in the Department of Defense;

"(2) include a focus on whether and to what extent sub-populations of the military community may be targeted for interpersonal violence more than others;

"(3) seek to identify factors that influence the prevention, perpetration, and victimization of interpersonal and self-directed violence;

"(4) seek to improve the collection and dissemination of data on hazing and bullying related to interpersonal and self-directed violence;

"(5) be integrated, so as to discover or test cross-cutting interventions across the spectrum of interpersonal and self-directed violence;

"(6) incorporate collaboration with other Federal departments and agencies, including the Department of Health and Human Services and the Centers for Disease Control and Prevention, State governments, academia, industry, federally funded research and development centers, nonprofit organizations, and other organizations outside of the Department of Defense, including civilian institutions that conduct similar data-driven studies, collection, and analysis; and

"(7) minimize unnecessary duplication of effort.

"(d) BUDGETING.—The Secretary of Defense shall create a unique Program Element for and shall prioritize recurring funding to ensure the continuity of research pursuant to the annual primary prevention research agenda."

## MULTIDISCIPLINARY BOARD TO EVALUATE SUICIDE EVENTS

Pub. L. 116–283, div. A, title V, §549A, Jan. 1, 2021, 134 Stat. 3620, provided that:

"(a) GUIDANCE REQUIRED.—The Secretary of Defense shall issue guidance that requires each suicide event involving of a member of a covered Armed Force to be reviewed by a multidisciplinary board established at the command or installation level, or by the Chief of the covered Armed Force. Such guidance shall require that, for each suicide event reviewed by such a board, the board shall—

"(1) clearly define the objective, purpose, and outcome of the review;

"(2) take a multidisciplinary approach to the review and include, as part of the review process, leaders of military units, medical and mental health professionals, and representatives of military criminal investigative organizations; and

"(3) take appropriate steps to protect and share information obtained from ongoing investigations into the event (such as medical and law enforcement reports).

"(b) IMPLEMENTATION BY COVERED ARMED FORCES.—Not later than 90 days after the date on which the guidance is issued under subsection (a), the Chiefs of the covered Armed Forces shall implement the guidance.

"(c) PROGRESS REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the progress of the Secretary in implementing the guidance required under subsection (a).

"(d) COVERED ARMED FORCES DEFINED.—In this section, the term 'covered Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Space Force."

## INCREASE IN NUMBER OF DIGITAL FORENSIC EXAMINERS FOR CERTAIN MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS

Pub. L. 116–92, div. A, title V, §539, Dec. 20, 2019, 133 Stat. 1364, provided that:

"(a) IN GENERAL.—Each Secretary of a military department shall take appropriate actions to increase the number of digital forensic examiners in each military criminal investigative organization specified in subsection (b) under the jurisdiction of such Secretary by not fewer than 10 from the authorized number of such examiners for such organization as of September 30, 2019.

"(b) MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS.—The military criminal investigative organizations specified in this subsection are the following:

"(1) The Army Criminal Investigation Command.

"(2) The Naval Criminal Investigative Service.

"(3) The Air Force Office of Special Investigations.

"(c) FUNDING.—Funds for additional digital forensic examiners as required by subsection (a) for fiscal year 2020, including for compensation, initial training, and equipment, shall be derived from amounts authorized to be appropriated for that fiscal year for the Armed Force concerned for operation and maintenance."

## INCREASE IN INVESTIGATIVE PERSONNEL AND VICTIM WITNESS ASSISTANCE PROGRAM LIAISONS

Pub. L. 116–92, div. A, title V, §540, Dec. 20, 2019, 133 Stat. 1364, provided that:

"(a) MILITARY CRIMINAL INVESTIGATIVE SERVICES.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of each military department shall increase the number of personnel assigned to the military criminal investigative services of the department with the goal of ensuring, to the extent practicable, that the investigation of any sex-related offense is completed not later than six months after the date on which the investigation is initiated. An investigation shall be considered completed

for purposes of the preceding sentence when the active phase of the investigation is sufficiently complete to enable the appropriate authority to reach a decision with respect to the disposition of charges for the sex-related offense.

"(b) VICTIM WITNESS ASSISTANCE PROGRAM LIAISONS.—Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall increase the number of personnel serving as Victim Witness Assistance Program liaisons to address personnel shortages in the Victim Witness Assistance Program.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person."

## ENHANCING THE CAPABILITY OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS TO PREVENT AND COMBAT CHILD SEXUAL EXPLOITATION

Pub. L. 116–92, div. A, title V, §550D, Dec. 20, 2019, 133 Stat. 1383, as amended by Pub. L. 118–31, div. A, title V, §534, Dec. 22, 2023, 137 Stat. 262, provided that:

"(a) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall establish and carry out an initiative to enhance the capability of military criminal investigative organizations to prevent and combat child sexual exploitation.

"(b) ACTIVITIES.—In establishing and carrying out the initiative under subsection (a), the Secretary of Defense may—

"(1) work with internal and external functional experts to train the personnel of military criminal investigative organizations across the Department regarding—

"(A) technologies, tools, and techniques, including digital forensics, to enhance the investigation of child sexual exploitation; and

"(B) evidence-based forensic interviewing of child victims, and the referral of child victims for trauma-informed mental and medical health care, and other treatment and support services;

"(2) to the extent authorized by law, collaborate with Federal, State, local, and other civilian law enforcement agencies on issues relating to child sexual exploitation, including by—

"(A) participating in task forces established by such agencies for the purpose of preventing and combating child sexual exploitation;

"(B) establishing cooperative agreements to facilitate co-training and collaboration with such agencies; and

"(C) ensuring that streamlined processes for the referral of child sexual exploitation cases to other agencies and jurisdictions, as appropriate, are fully operational;

"(3) as appropriate, assist in educating the military community on the prevention and response to child sexual exploitation; and

"(4) carry out such other activities as the Secretary determines to be relevant.

"(c) ADDITIONAL REQUIREMENTS.—As part of the initiative under subsection (a), the Secretary of Defense shall carry out the following activities:

"(1) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], an on an annual basis thereafter through 2029, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress of the initiative, which shall include a description of specific actions that have been taken, or that are planned to be taken, to detect, combat, and stop the use of the Department of Defense information technology network to further online child sexual exploitation.

"(2) PARTNERSHIPS.—The Secretary shall seek to enter into partnerships and execute collaborative agreements with functional experts, including highly qualified national child protection organizations or law enforcement training centers with demonstrated expertise in the delivery of law enforcement training, to identify, investigate, and prosecute individuals engaged in online child sexual exploitation.

"(3) MANDATORY TRAINING.—The Secretary shall establish mandatory training for criminal investigative organizations of the Department of Defense and other appropriate personnel at military installations to ensure that the capability and capacity to investigate child sexual exploitation is continuously maintained regardless of staff turnover and relocations."

## MULTIDISCIPLINARY TEAMS FOR MILITARY INSTALLATIONS ON CHILD ABUSE AND OTHER DOMESTIC VIOLENCE

Pub. L. 115–232, div. A, title V, §577, Aug. 13, 2018, 132 Stat. 1781, provided that:

"(a) MULTIDISCIPLINARY TEAMS REQUIRED.—

"(1) IN GENERAL.—Under regulations prescribed by each Secretary concerned, there shall be established and maintained for each military installation, except as provided in paragraph (2), one or more multidisciplinary teams on child abuse and other domestic violence for the purposes specified in subsection (b).

"(2) SINGLE TEAM FOR PROXIMATE INSTALLATIONS.—A single multidisciplinary team described in paragraph (1) may be established and maintained under this subsection for two or more military installations in proximity with one another if the Secretary concerned determines, in consultation with the Secretary of Defense, that a single team for such installations suffices to carry out the purposes of such teams under subsection (b) for such installations.

"(b) PURPOSES.—The purposes of each multidisciplinary team maintained pursuant to subsection (a) shall be as follows:

"(1) To provide for the sharing of information among such team and other appropriate personnel on the installation or installations concerned regarding the progress of investigations into and resolutions of incidents of child abuse and other domestic violence involving members of the Armed Forces stationed at or otherwise assigned to the installation or installations.

"(2) To provide for and enhance collaborative efforts among such team and other appropriate personnel of the installation or installations regarding investigations into and resolutions of such incidents.

"(3) To enhance the social services available to military families at the installation or installations in connection with such incidents, including through the enhancement of cooperation among specialists and other personnel providing such services to such military families in connection with such incidents.

"(4) To carry out such other duties regarding the response to child abuse and other domestic violence at the installation or installations as the Secretary concerned considers appropriate for such purposes.

"(c) PERSONNEL.—

"(1) IN GENERAL.—Each multidisciplinary team maintained pursuant to subsection (a) shall be composed of the following:

"(A) One or more judge advocates.

"(B) Appropriate personnel of one or more military criminal investigation services.

"(C) Appropriate mental health professionals.

"(D) Appropriate medical personnel.

"(E) Family advocacy case workers.

"(F) Such other personnel as the Secretary or Secretaries concerned consider appropriate.

"(2) EXPERTISE AND TRAINING.—Any individual assigned to a multidisciplinary team shall possess such expertise, and shall undertake such training as is required to maintain such expertise, as the Secretary concerned shall specify for purposes of this section in order to ensure that members of the team remain appropriately qualified to carry out the purposes of the team under this section. The training and expertise so specified shall include training and expertise on special victims' crimes, including child abuse and other domestic violence.

"(d) COORDINATION AND COLLABORATION WITH NON-MILITARY RESOURCES.—

"(1) USE OF COMMUNITY RESOURCES SERVING INSTALLATIONS.—In providing under this section for a multidisciplinary team for a military installation or installations that benefit from services or resources on child abuse or other domestic violence that are provided by civilian entities in the vicinity of the installation or installations, the Secretary concerned may take the availability of such services or resources to the installation or installations into account in providing for the composition and duties of the team.

"(2) BEST PRACTICES.—The Secretaries concerned shall take appropriate actions to ensure that multidisciplinary teams maintained pursuant to subsection (a) remain fully and currently apprised of best practices in the civilian sector on investigations into and resolutions of incidents of child abuse and other domestic violence and on the social services provided in connection with such incidents.

"(3) COLLABORATION.—In providing for the enhancement of social services available to military families in accordance with subsection (b)(3), the Secretaries concerned shall permit, facilitate, and encourage multidisciplinary teams to collaborate with appropriate civilian agencies in the vicinity of the military installations concerned with regard to availability, provision, and use of such services to and by such families.

"(e) ANNUAL REPORTS.—Not later than March 1 of each year from 2020 through 2022, each Secretary concerned shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities of multidisciplinary teams maintained pursuant to subsection (a) under the jurisdiction of such Secretary during the preceding year. Each report shall set forth, for the period covered by such report, the following:

"(1) A summary description of the activities of the multidisciplinary teams concerned, including the number and composition of such teams, the recurring activities of such teams, and any notable achievements of such teams.

"(2) A description of any impediments to the effectiveness of such teams.

"(3) Such recommendations for legislative or administrative action as such Secretary considers appropriate in order to improve the effectiveness of such teams.

"(4) Such other matters with respect to such teams as such Secretary considers appropriate.

"(f) SECRETARY CONCERNED.—

"(1) DEFINITION.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code.

"(2) USAGE WITH RESPECT TO MULTIPLE INSTALLATIONS.—For purposes of this section, any reference to 'Secretary concerned' with respect to a single multidisciplinary team established and maintained pursuant to subsection (a) for two or more military installations that are under the jurisdiction of different Secretaries concerned, shall be deemed to refer to each Secretary concerned who has jurisdiction of such an installation, acting jointly."

## §1561. Complaints of sexual harassment: independent investigation

(a) ACTION ON COMPLAINTS ALLEGING SEXUAL HARASSMENT.—A commanding officer or officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, Marine Corps, or Space Force who receives from a member of the command or a civilian employee under the supervision of the officer a formal complaint alleging a claim of sexual harassment by a member of the armed forces or a civilian employee of the Department of Defense shall, to the extent practicable, direct that an independent investigation of the matter be carried out in accordance with this section.

(b) COMMENCEMENT OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a formal complaint shall forward such complaint to an independent investigator within 72 hours after receipt of the complaint, and shall further—

(1) forward the formal complaint or a detailed description of the allegation to the next superior officer in the chain of command who is authorized to convene a general court-martial; and

(2) advise the complainant of the commencement of the investigation.

(c) DURATION OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge shall ensure that an independent investigator receiving a formal complaint of sexual harassment under this section completes the investigation of the complaint not later than 14 days after the date on which the investigation is commenced, and that the findings of the investigation are forwarded to the commanding officer or officer in charge specified in subsection (a) for action as appropriate.

(d) REPORT ON INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge shall—

(1) submit a final report on the results of the independent investigation, including any action taken as a result of the investigation, to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced; or

(2) submit a report on the progress made in completing the investigation to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced and every 14 days thereafter until the investigation is completed and, upon completion of the investigation, then submit a final report on the results of the investigation, including any action taken as a result of the investigation, to that next superior officer.

(e) DEFINITIONS.—In this section:

(1) The term "independent investigator" means a civilian employee of the Department of Defense or a member of the Army, Navy, Marine Corps, Air Force, or Space Force who—

(A) is outside the immediate chain of command of the complainant and the subject of the investigation; and

(B) is trained in the investigation of sexual harassment, as determined by—

(i) the Secretary of Defense, in the case of a civilian employee of the Department of Defense;

(ii) the Secretary of the Army, in the case of a member of the Army;

(iii) the Secretary of the Navy, in the case of a member of the Navy or Marine Corps; or

(iv) the Secretary of the Air Force, in the case of a member of the Air Force or Space Force.

(2) The term "sexual harassment" means conduct that constitutes the offense of sexual harassment as punishable under section 934 of this title (article 134) pursuant to the regulations prescribed by the Secretary of Defense for purposes of such section (article).

(Added Pub. L. 105–85, div. A, title V, §591(a)(1), Nov. 18, 1997, 111 Stat. 1760; amended Pub. L. 114–328, div. A, title V, §548(a), Dec. 23, 2016, 130 Stat. 2129; Pub. L. 116–283, div. A, title IX, §924(b)(3)(Z), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 117–81, div. A, title V, §543(a), Dec. 27, 2021, 135 Stat. 1709; Pub. L. 117–263, div. A, title V, §546(a), Dec. 23, 2022, 136 Stat. 2584.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 1571 to 1577, Pub. L. 89–690, §1, Oct. 15, 1966, 80 Stat. 1016, related to creation of Exemplary Rehabilitation Certificates to be issued by the Secretary of Labor to persons discharged or dismissed from the Armed Forces under conditions other than honorable or to persons who had received a general discharge but who had established that they had rehabilitated themselves and established the administrative and other authority in connection therewith, prior to repeal by Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220.

### AMENDMENTS

**2022**—Subsec. (e). Pub. L. 117–263 amended subsec. (e) generally. Prior to amendment, text read as follows: "In this section, the term 'sexual harassment' means conduct that constitutes the offense of sexual harassment as punishable under section 934 of this title (article 134) pursuant to the regulations prescribed by the Secretary of Defense for purposes of such section (article)."

**2021**—Pub. L. 117–81 amended section generally. Prior to amendment, section related to investigation by commanding officers of complaints of sexual harassment.

Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2016**—Subsec. (e)(1). Pub. L. 114–328, §548(a)(1)(A), in introductory provisions, struck out "(constituting a form of sex discrimination)" after "Conduct".

Subsec. (e)(1)(B). Pub. L. 114–328, §548(a)(1)(B), substituted "the environment" for "the work environment".

Subsec. (e)(3). Pub. L. 114–328, §548(a)(2), struck out "in the workplace" after "of a sexual nature".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §546(b), Dec. 23, 2022, 136 Stat. 2585, provided that: "The amendment made by subsection (a) [amending this section] shall take effect immediately after the coming into effect of the amendments made by section 543 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1709) [amending this section and the analysis for this chapter] as provided in subsection (c) of that section."

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title V, §543(c), Dec. 27, 2021, 135 Stat. 1710, provided that: "The amendments made by subsections (a) and (b) [amending this section and the analysis for this chapter] shall—

"(1) take effect on the date that is two years after the date of the enactment of this Act [Dec. 27, 2021]; and

"(2) apply to any investigation of a formal complaint of sexual harassment (as defined in section 1561 of title 10, United States Code, as amended by subsection (a)) made on or after that date."

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §548(b), Dec. 23, 2016, 130 Stat. 2129, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply with respect to complaints described in section 1561 of title 10, United States Code, that are first received by a commanding officer or officer in charge on or after that date."

## SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–311, §1, Dec. 2, 2002, 116 Stat. 2455, provided that: "This Act [enacting section 1561a of this title] may be cited as the 'Armed Forces Domestic Security Act'."

## REGULATIONS

Pub. L. 117–81, div. A, title V, §543(d), Dec. 27, 2021, 135 Stat. 1710, provided that: "Not later than 18 months after the date of the enactment of this Act [Dec. 27, 2021] the Secretary of Defense shall prescribe regulations providing for the implementation of section 1561 of title 10, United States Code, as amended by subsection (a)."

## AUTHORITY TO PROVIDE SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS ON A NONREIMBURSABLE BASIS TO CERTAIN OTHERWISE INELIGIBLE INDIVIDUALS

Pub. L. 119–60, div. A, title VII, §702, Dec. 18, 2025, 139 Stat. 918, provided that:

"(a) AUTHORITY TO PROVIDE FORENSIC EXAMINATIONS.—The Secretary of Defense, in accordance with regulations prescribed by the Secretary, shall authorize medical personnel of the Department of Defense to provide sexual assault medical forensic examinations, in a military medical treatment facility on a nonreimbursable basis, to an individual who—

"(1) is not otherwise eligible for health care from the Department;

"(2) reports a sexual assault offense for which a Defense Criminal Investigative Organization may initiate an investigation; and

"(3) is eligible for a forensic examination in accordance with those regulations.

"(b) ADDITIONAL ELEMENTS.—The regulations prescribed under subsection (a) may provide for the handling, storage, and transfer to law enforcement of a completed sexual assault medical forensic examination kit."

## POLICY ON INCLUSION OF RACE AND ETHNICITY IN ANNUAL REPORTS ON SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 117–81, div. A, title V, §549G(b), Dec. 27, 2021, 135 Stat. 1728, provided that:

"(1) REQUIREMENT.—Not later than two years after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall prescribe a policy requiring information on the race and ethnicity of accused individuals to be included to the maximum extent practicable in the annual report required under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note).

"(2) EXCLUSION.—The policy prescribed under paragraph (1) may provide for the exclusion of such information based on privacy concerns, impacts on accountability efforts, or other matters of importance as determined and identified in such policy by the Secretary.

"(3) PUBLICLY AVAILABLE.—The Secretary of Defense shall make publicly available the information described in paragraph (1), subject to the exclusion of such information pursuant to paragraph (2).

"(4) SUNSET.—The requirements of this subsection shall terminate on May 1, 2028."

## SAFE-TO-REPORT POLICY APPLICABLE ACROSS THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §539A, Jan. 1, 2021, 134 Stat. 3607, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretaries of the military departments, prescribe in regulations a safe-to-report policy described in subsection (b) that applies with respect to all members of the Armed Forces (including members of the reserve components of the Armed Forces) and cadets and midshipmen at the military service academies.

"(b) SAFE-TO-REPORT POLICY.—The safe-to-report policy described in this subsection is a policy that prescribes the handling of minor collateral misconduct involving a member of the Armed Forces who is the alleged victim of sexual assault.

"(c) AGGRAVATING CIRCUMSTANCES.—The regulations under subsection (a) shall specify aggravating circumstances that increase the gravity of minor collateral misconduct or its impact on good order and discipline for purposes of the safe-to-report policy.

"(d) TRACKING OF COLLATERAL MISCONDUCT INCIDENTS.—In conjunction with the issuance of regulations under subsection (a), Secretary shall develop and implement a process to track incidents of minor collateral misconduct that are subject to the safe-to-report policy.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Armed Forces' has the meaning given that term in section 101(a)(4) of title 10, United States Code, except such term does not include the Coast Guard.

"(2) The term 'military service academy' means the following:

"(A) The United States Military Academy.

"(B) The United States Naval Academy.

"(C) The United States Air Force Academy.

"(3) The term 'minor collateral misconduct' means any minor misconduct that is potentially punishable under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that—

"(A) is committed close in time to or during the sexual assault, and directly related to the incident that formed the basis of the sexual assault allegation;

"(B) is discovered as a direct result of the report of sexual assault or the ensuing investigation into the sexual assault; and

"(C) does not involve aggravating circumstances (as specified in the regulations prescribed under subsection (c)) that increase the gravity of the minor misconduct or its impact on good order and discipline."

## ACCOUNTABILITY OF LEADERSHIP OF THE DEPARTMENT OF DEFENSE FOR DISCHARGING THE SEXUAL HARASSMENT POLICIES AND PROGRAMS OF THE DEPARTMENT

Pub. L. 116–283, div. A, title V, §539B, Jan. 1, 2021, 134 Stat. 3608, provided that:

"(a) STRATEGY ON HOLDING LEADERSHIP ACCOUNTABLE REQUIRED.—The Secretary of Defense shall develop and implement Department of Defense-wide a strategy to hold individuals in positions of leadership in the Department (including members of the Armed Forces and civilians) accountable for the promotion, support, and enforcement of the policies and programs of the Department on sexual harassment.

"(b) OVERSIGHT FRAMEWORK.—

"(1) IN GENERAL.—The strategy required by subsection (a) shall provide for an oversight framework for the efforts of the Department of Defense to promote, support, and enforce the policies and programs of the Department on sexual harassment.

"(2) ELEMENTS.—The oversight framework required by paragraph (1) shall include the following:

"(A) Long-term goals, objectives, and milestones in connection with the policies and programs of the Department on sexual harassment.

"(B) Strategies to achieve the goals, objectives, and milestones referred to in subparagraph (A).

"(C) Criteria for assessing progress toward the achievement of the goals, objectives, and milestones referred to in subparagraph (A).

"(D) Criteria for assessing the effectiveness of the policies and programs of the Department on sexual harassment.

"(E) Mechanisms to ensure that adequate resources are available to the Office of the Secretary of Defense to develop and discharge the oversight framework.

"(c) REPORT.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken to carry out this section, including the strategy developed and implemented pursuant to subsection (a), and the oversight framework developed and implemented pursuant to subsection (b)."

## TRAINING FOR COMMANDERS IN THE ARMED FORCES ON THEIR ROLE IN ALL STAGES OF MILITARY JUSTICE IN CONNECTION WITH SEXUAL ASSAULT

Pub. L. 116–92, div. A, title V, §540B, Dec. 20, 2019, 133 Stat. 1365, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(2), Jan. 1, 2021, 134 Stat. 3873, provided that:

"(a) IN GENERAL.—The training provided commanders in the Armed Forces shall include comprehensive training on the role of commanders in all stages of military justice in connection with sexual assaults by members of the Armed Forces.

"(b) ELEMENTS TO BE COVERED.—The training provided pursuant to subsection (a) shall include training on the following:

"(1) The role of commanders in each stage of the military justice process in connection with sexual

assault committed by a member of the Armed Forces, including investigation and prosecution.

"(2) The role of commanders in assuring that victims of sexual assault described in paragraph (1) are informed of, and have the opportunity to obtain, assistance available for victims of sexual assault by law.

"(3) The role of commanders in assuring that victims of sexual assault described in paragraph (1) are afforded the rights and protections available to victims by law.

"(4) The role of commanders in preventing retaliation against victims, their family members, witnesses, first responders, and bystanders for their complaints, statements, testimony, and status in connection with sexual assault described in paragraph (1), including the role of commanders in ensuring that subordinates in the command are aware of their responsibilities in preventing such retaliation.

"(5) The role of commanders in establishing and maintaining a healthy command climate in connection with reporting on sexual assault described in paragraph (1), and in the response of the commander, subordinates in the command, and other personnel in the command to such sexual assault, such reporting, and the military justice process in connection with such sexual assault.

"(6) Any other matters on the role of commanders in connection with sexual assault described in paragraph (1) that the Secretary of Defense considers appropriate for purposes of this section.

"(c) INCORPORATION OF BEST PRACTICES.—

"(1) IN GENERAL.—The training provided pursuant to subsection (a) shall incorporate best practices on all matters covered by the training.

"(2) IDENTIFICATION OF BEST PRACTICES.—The Secretaries of the military departments shall, acting through the training and doctrine commands of the Armed Forces, undertake from time to time surveys and other reviews of the matters covered by the training provided pursuant to subsection (a) in order to identify and incorporate into such training the most current practicable best practices on such matters.

"(d) UNIFORMITY.—The Secretary of Defense shall ensure that the training provided pursuant to subsection (a) is, to the extent practicable, uniform across the Armed Forces."

[Pub. L. 116–283, div. A, title X, §1081(c), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(c)(2) of Pub. L. 116–283 to section 540B of Pub. L. 116–92, set out above, is effective as of Dec. 20, 2020 (probably should be Dec. 20, 2019) and as if included in Pub. L. 116–92.]

## DEPARTMENT OF DEFENSE-WIDE POLICY AND MILITARY DEPARTMENT-SPECIFIC PROGRAMS ON REINVIGORATION OF THE PREVENTION OF SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 116–92, div. A, title V, §540D, Dec. 20, 2019, 133 Stat. 1366, provided that:

"(a) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall develop and issue a comprehensive policy for the Department of Defense to reinvigorate the prevention of sexual assault involving members of the Armed Forces.

"(b) POLICY ELEMENTS.—

"(1) IN GENERAL.—The policy required by subsection (a) shall include the following:

"(A) Education and training for members of the Armed Forces on the prevention of sexual assault.

"(B) Elements for programs designed to encourage and promote healthy relationships among members of the Armed Forces.

"(C) Elements for programs designed to empower and enhance the role of non-commissioned officers in the prevention of sexual assault.

"(D) Elements for programs to foster social courage among members of the Armed Forces to encourage and promote intervention in situations in order to prevent sexual assault.

"(E) Processes and mechanisms designed to address behaviors among members of the Armed Forces that are included in the continuum of harm that frequently results in sexual assault.

"(F) Elements for programs designed to address alcohol abuse, including binge drinking, among members of the Armed Forces.

"(G) Such other elements, processes, mechanisms, and other matters as the Secretary of Defense considers appropriate.

"(2) CONTINUUM OF HARM RESULTING IN SEXUAL ASSAULT.—For purposes of paragraph (1)(E), the continuum of harm that frequently results in sexual assault includes hazing, sexual harassment, and related behaviors (including language choices, off-hand statements, jokes, and unconscious attitudes or biases) that create a permissive climate for sexual assault.

"(c) PROGRAMS REQUIRED.—Not later than 180 days after the issuance of the policy required by subsection (a), each Secretary of a military department shall develop and implement for each Armed Force

under the jurisdiction of such Secretary a program to reinvigorate the prevention of sexual assaults involving members of the Armed Forces. Each program shall include the elements, processes, mechanisms, and other matters developed by the Secretary of Defense pursuant to subsection (a) tailored to the requirements and circumstances of the Armed Force or Armed Forces concerned."

**DEFENSE ADVISORY COMMITTEE FOR THE PREVENTION OF SEXUAL MISCONDUCT**

Pub. L. 116–92, div. A, title V, §550B, Dec. 20, 2019, 133 Stat. 1380, as amended by Pub. L. 116–283, div. A, title V, §533–535, Jan. 1, 2021, 134 Stat. 3603, 3604, provided that:

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall establish and maintain within the Department of Defense an advisory committee to be known as the 'Defense Advisory Committee for the Prevention of Sexual Misconduct' (in this section referred to as the 'Advisory Committee').

"(2) DEADLINE FOR ESTABLISHMENT.—The Secretary shall establish the Advisory Committee not later than one year after the date of the enactment of this Act [Dec. 20, 2019].

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Committee shall consist of not more than 20 members, appointed by the Secretary from among individuals who have an expertise appropriate for the work of the Advisory Committee, including at least one individual with each expertise as follows:

"(A) Expertise in the prevention of sexual assault and behaviors on the sexual assault continuum of harm.

"(B) Expertise in adverse behaviors, including the prevention of suicide and the prevention of substance abuse.

"(C) Expertise in the change of culture of large organizations.

"(D) Expertise in implementation science.

"(2) BACKGROUND OF INDIVIDUALS.—Individuals appointed to the Advisory Committee may include individuals with expertise in sexual assault prevention efforts of institutions of higher education, public health officials, and such other individuals as the Secretary considers appropriate.

"(3) PROHIBITION ON MEMBERSHIP OF MEMBERS OF ARMED FORCES ON ACTIVE DUTY.—A member of the Armed Forces serving on active duty may not serve as a member of the Advisory Committee.

"(c) DUTIES.—

"(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on the following:

"(A) The prevention of sexual assault (including rape, forcible sodomy, other sexual assault, and other sexual misconduct (including behaviors on the sexual assault continuum of harm)) involving members of the Armed Forces.

"(B) The policies, programs, and practices of each military department, each Armed Force, and each military service academy, including the United States Coast Guard Academy, for the prevention of sexual assault as described in subparagraph (A).

"(2) BASIS FOR PROVISION OF ADVICE.—For purposes of providing advice to the Secretary pursuant to this subsection, the Advisory Committee shall review, on an ongoing basis, the following:

"(A) Closed cases involving allegations of sexual assault described in paragraph (1).

"(B) Efforts of institutions of higher education to prevent sexual assault among students.

"(C) Efforts among private employers to prevent sexual assault and sexual harassment among their employees.

"(D) Evidence-based studies on the prevention of sexual assault and sexual harassment in the Armed Forces, institutions of higher education, and the private sector.

"(E) Any other information or matters that the Advisory Committee or the Secretary considers appropriate.

"(3) COORDINATION OF EFFORTS.—In addition to the reviews required by paragraph (2), for purposes of providing advice to the Secretary the Advisory Committee shall also consult and coordinate with the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) on matters of joint interest to the two Advisory Committees.

"(d) ADVISORY DUTIES ON COAST GUARD ACADEMY.—In providing advice under subsection (c)(1)(B), the Advisory Committee shall also advise the Secretary of the Department in which the Coast Guard is operating in accordance with this section on policies, programs, and practices of the United States Coast Guard Academy.

"(e) ANNUAL REPORT.—Not later than March 30 each year, the Advisory Committee shall submit to the Secretary and the Committees on Armed Services and Commerce, Science, and Transportation of the Senate

and the Committees on Armed Services and Transportation and Infrastructure of the House of Representatives a report on the activities of the Advisory Committee pursuant to this section during the preceding year. The report in 2021 shall also include the following:

"(1) A description and assessment of the extent and effectiveness of the inclusion by the Armed Forces of sexual assault prevention and response training in leader professional military education (PME), especially in such education for personnel in junior noncommissioned officer grades.

"(2) An assessment of the feasibility of—

"(A) the screening before entry into military service of recruits who may have been the subject or perpetrator of prior incidents of sexual assault and harassment, including through background checks; and

"(B) the administration of screening tests to recruits to assess recruit views and beliefs on equal opportunity, and whether such views and beliefs are compatible with military service.

"(3) An assessment of the feasibility of conducting exit interviews of members of the Armed Forces upon their discharge release from the Armed Forces in order to determine whether they experienced or witnessed sexual assault or harassment during military service and did not report it, and an assessment of the feasibility of combining such exit interviews with the Catch a Serial Offender (CATCH) Program of the Department of Defense.

"(4) An assessment whether the sexual assault reporting databases of the Department are sufficiently anonymized to ensure privacy while still providing military leaders with the information as follows:

"(A) The approximate length of time the victim and the assailant had been at the duty station at which the sexual assault occurred.

"(B) The percentage of sexual assaults occurring while the victim or assailant were on temporary duty, leave, or otherwise away from their permanent duty station.

"(C) The number of sexual assaults that involve an abuse of power by a commander or supervisor.

"(f) SEXUAL ASSAULT CONTINUUM OF HARM.—In this section, the term 'sexual assault continuum of harm' includes—

"(1) inappropriate actions (such as sexist jokes), sexual harassment, gender discrimination, hazing, cyber bullying, or other behavior that contributes to a culture that is tolerant of, or increases risk for, sexual assault; and

"(2) maltreatment or ostracism of a victim for a report of sexual misconduct.

"(g) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Advisory Committee shall terminate on the date that is five years after the date of the establishment of the Advisory Committee pursuant to subsection (a).

"(2) CONTINUATION.—The Secretary of Defense may continue the Advisory Committee after the termination date applicable under paragraph (1) if the Secretary determines that continuation of the Advisory Committee after that date is advisable and appropriate. If the Secretary determines to continue the Advisory Committee after that date, the Secretary shall notify the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and Transportation and Infrastructure of the House of Representatives."

[Pub. L. 116–283, div. A, title V, §535(4), Jan. 1, 2021, 134 Stat. 3604, which directed amendment of section 550B(g)(2) of Pub. L. 116–92, set out above, by substituting "the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and Transportation and Infrastructure of the House of Representatives" for "the Committees on Armed Services of the Senate and the House of Representatives", was executed by making the substitution for "the Committees on the Armed Services of the Senate and House of Representatives" to reflect the probable intent of Congress.]

## UNIFORM COMMAND ACTION FORM ON DISPOSITION OF UNRESTRICTED SEXUAL ASSAULT CASES INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 115–232, div. A, title V, §535, Aug. 13, 2018, 132 Stat. 1761, provided that: "The Secretary of Defense shall establish a uniform command action form, applicable across the Armed Forces, for reporting the final disposition of cases of sexual assault in which—

"(1) the alleged offender is a member of the Armed Forces; and

"(2) the victim files an unrestricted report on the alleged assault."

## REPORT ON VICTIMS OF SEXUAL ASSAULT IN REPORTS OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS

Pub. L. 115–232, div. A, title V, §547, Aug. 13, 2018, 132 Stat. 1765, as amended by Pub. L. 116–283, div. A, title V, §536, Jan. 1, 2021, 134 Stat. 3604, which required the Secretary of Defense, in accordance with guidance to ensure the uniformity of data, to submit to Congress biennial reports on investigations of covered individuals suspected of sexual offenses and adverse actions taken against such individuals, was repealed by Pub. L. 118–159, div. A, title V, §566(b)(2), Dec. 23, 2024, 138 Stat. 1905.

## SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING FOR ALL INDIVIDUALS ENLISTED IN THE ARMED FORCES UNDER A DELAYED ENTRY PROGRAM

Pub. L. 115–91, div. A, title V, §535, Dec. 12, 2017, 131 Stat. 1391, provided that:

"(a) TRAINING REQUIRED.—Commencing not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], each Secretary concerned shall, insofar as practicable, provide training on sexual assault prevention and response to each individual under the jurisdiction of such Secretary who is enlisted in the Armed Forces under a delayed entry program such that each such individual completes such training before the date of commencement of basic training or initial active duty for training in the Armed Forces.

"(b) TRAINING ELEMENTS.—The training provided pursuant to subsection (a)—

"(1) shall, to the extent practicable, be uniform across the Armed Forces;

"(2) should be provided through in-person instruction, whenever possible;

"(3) should include instruction on the proper use of social media; and

"(4) shall meet such other requirements as the Secretary of Defense may establish.

"(c) DEFINITIONS.—In this section:

"(1) The term 'delayed entry program' means the following:

"(A) The Future Soldiers Program of the Army.

"(B) The Delayed Entry Program of the Navy and the Marine Corps.

"(C) The program of the Air Force for the delayed entry of enlistees into the Air Force.

"(D) The program of the Coast Guard for the delayed entry of enlistees into the Coast Guard.

"(E) Any successor program to a program referred to in subparagraphs (A) through (D).

"(2) The term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code."

## METRICS FOR EVALUATING THE EFFORTS OF THE ARMED FORCES TO PREVENT AND RESPOND TO RETALIATION IN CONNECTION WITH REPORTS OF SEXUAL ASSAULT IN THE ARMED FORCES

Pub. L. 114–328, div. A, title V, §545, Dec. 23, 2016, 130 Stat. 2128, provided that:

"(a) METRICS REQUIRED.—The Sexual Assault Prevention and Response Office of the Department of Defense shall establish and issue to the military departments metrics to be used to evaluate the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces.

"(b) BEST PRACTICES.—For purposes of enhancing and achieving uniformity in the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces, the Sexual Assault Prevention and Response Office shall identify and issue to the military departments best practices to be used in the prevention of and response to retaliation in connection with such reports."

## TRAINING FOR DEPARTMENT OF DEFENSE PERSONNEL WHO INVESTIGATE CLAIMS OF RETALIATION

Pub. L. 114–328, div. A, title V, §546, Dec. 23, 2016, 130 Stat. 2128, as amended by Pub. L. 115–91, div. A, title V, §523(b), Dec. 12, 2017, 131 Stat. 1381, provided that:

"(a) TRAINING REGARDING NATURE AND CONSEQUENCES OF RETALIATION.—The Secretary of Defense shall ensure that the personnel of the Department of Defense specified in subsection (b) who investigate claims of retaliation receive training on the nature and consequences of retaliation, and, in cases involving reports of sexual assault, the nature and consequences of sexual assault trauma. The training shall include such elements as the Secretary shall specify for purposes of this section, including guidelines for the consideration of evidence substantiating such allegations in accordance with the requirements of section 1554b(b) of title 10, United States Code, as added by section 522 of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115–91].

"(b) COVERED PERSONNEL.—The personnel of the Department of Defense covered by subsection (a) are the following:

"(1) Personnel of military criminal investigation services.

"(2) Personnel of Inspectors General offices.

"(3) Personnel of any command of the Armed Forces who are assignable by the commander of such

command to investigate claims of retaliation made by or against members of such command.

"(c) RETALIATION DEFINED.—In this section, the term 'retaliation' has the meaning given the term by the Secretary of Defense in the strategy required by section 539 of the National Defense Authorization Act of Fiscal Year 2016 [National Defense Authorization Act for Fiscal Year 2016] (Public Law 114–92; 129 Stat. 818) or a subsequent meaning specified by the Secretary."

## NOTIFICATION TO COMPLAINANTS OF RESOLUTION OF INVESTIGATIONS INTO RETALIATION

Pub. L. 114–328, div. A, title V, §547, Dec. 23, 2016, 130 Stat. 2128, provided that:

"(a) NOTIFICATION REQUIRED.—

"(1) MEMBERS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS.—Under regulations prescribed by the Secretary of Defense, upon the conclusion of an investigation by an office, element, or personnel of the Department of Defense or of the Armed Forces of a complaint by a member of the Armed Forces of retaliation, the member shall be informed in writing of the results of the investigation, including whether the complaint was substantiated, unsubstantiated, or dismissed.

"(2) MEMBERS OF COAST GUARD.—The Secretary of Homeland Security shall provide in a similar manner for notification in writing of the results of investigations by offices, elements, or personnel of the Department of Homeland Security or of the Coast Guard of complaints of retaliation made by members of the Coast Guard when it is not operating as a service in the Navy.

"(b) RETALIATION DEFINED.—In this section, the term 'retaliation' has the meaning given the term by the Secretary of Defense in the strategy required by section 539 of the National Defense Authorization Act of Fiscal Year 2016 [National Defense Authorization Act for Fiscal Year 2016] (Public Law 114–92; 129 Stat. 818) or a subsequent meaning specified by the Secretary."

## RETENTION OF CASE NOTES IN INVESTIGATIONS OF SEX-RELATED OFFENSES INVOLVING MEMBERS OF THE ARMY, NAVY, AIR FORCE, OR MARINE CORPS

Pub. L. 114–92, div. A, title V, §541, Nov. 25, 2015, 129 Stat. 819, as amended by Pub. L. 116–283, div. A, title X, §1081(f)(1), Jan. 1, 2021, 134 Stat. 3874, provided that:

"(a) RETENTION OF ALL INVESTIGATIVE RECORDS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall update Department of Defense records retention policies to ensure that, for all investigations relating to an alleged sex-related offense (as defined in section 1044e(h) of title 10, United States Code) involving a member of the Army, Navy, Air Force, or Marine Corps, all elements of the case file shall be retained as part of the investigative records retained in accordance with section 586 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 10 U.S.C. 1561 note).

"(b) ELEMENTS.—In updating records retention policies as required by subsection (a), the Secretary of Defense shall address, at a minimum, the following matters:

"(1) The elements of the case file to be retained must include, at a minimum, the case activity record, case review record, investigative plans, and all case notes made by an investigating agent or agents.

"(2) All investigative records must be retained for no less than 50 years.

"(3) No element of the case file may be destroyed until the expiration of the time that investigative records must be kept.

"(4) Records may be stored digitally or in hard copy, in accordance with existing law or regulations or additionally prescribed policy considered necessary by the Secretary of the military department concerned.

"(c) CONSISTENT EDUCATION AND POLICY.—The Secretary of Defense shall ensure that existing policy, education, and training are updated to reflect policy changes in accordance with subsection (a).

"(d) UNIFORM APPLICATION TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsections (a) is implemented uniformly by the military departments."

[Pub. L. 116–283, div. A, title X, §1081(f), Jan. 1, 2021, 134 Stat. 3874, provided that the amendment made by section 1081(f)(1) of Pub. L. 116–283 to section 541 of Pub. L. 114–92, set out above, is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–92.]

## REQUIRED CONSIDERATION OF CERTAIN ELEMENTS OF COMMAND CLIMATE IN PERFORMANCE APPRAISALS OF COMMANDING OFFICERS

Pub. L. 113–291, div. A, title V, §508, Dec. 19, 2014, 128 Stat. 3357, provided that: "The Secretary of a military department shall ensure that the performance appraisal of a commanding officer in an Armed Force under the jurisdiction of that Secretary indicates the extent to which the commanding officer has or has not established a command climate in which—

"(1) allegations of sexual assault are properly managed and fairly evaluated; and

"(2) a victim of criminal activity, including sexual assault, can report the criminal activity without fear of retaliation, including ostracism and group pressure from other members of the command."

## REQUIREMENTS RELATING TO SEXUAL ASSAULT FORENSIC EXAMINERS FOR THE ARMED FORCES

Pub. L. 113–291, div. A, title V, §539(a), (b), Dec. 19, 2014, 128 Stat. 3370, provided that:

"(a) PERSONNEL ELIGIBLE FOR ASSIGNMENT.—

"(1) SPECIFIED PERSONNEL.—Except as provided in paragraph (2), an individual who may be assigned to duty as a Sexual Assault Forensic Examiner (SAFE) for the Armed Forces is limited to members of the Armed Forces and civilian employees of the Department of Defense who are also one of the following:

"(A) A physician.

"(B) A nurse practitioner.

"(C) A nurse midwife.

"(D) A physician assistant.

"(E) A registered nurse.

"(2) INDEPENDENT DUTY CORPSMEN.—An independent duty corpsman or equivalent may be assigned to duty as a Sexual Assault Forensic Examiner for the Armed Forces if the assignment of an individual specified in paragraph (1) is impracticable.

"(b) TRAINING AND CERTIFICATION.—

"(1) IN GENERAL.—The Secretary of Defense shall establish and maintain, and update when appropriate, a training and certification program for Sexual Assault Forensic Examiners. The training and certification programs shall apply uniformly to all Sexual Assault Forensic Examiners under the jurisdiction of the Secretaries of the military departments.

"(2) ELEMENTS.—Each training and certification program under this subsection shall include training in sexual assault forensic examinations by qualified personnel who possess—

"(A) a Sexual Assault Nurse Examiner—Adult/Adolescent (SANE–A) certification or equivalent certification; or

"(B) training and clinical or forensic experience in sexual assault forensic examinations similar to that required for a certification described in subparagraph (A).

"(3) NATURE OF TRAINING.—The training provided under each training and certification program under this subsection shall incorporate and reflect current best practices and standards on sexual assault forensic examinations.

"(4) APPLICABILITY OF TRAINING REQUIREMENTS.—Effective beginning one year after the date of the enactment of this Act [Dec. 19, 2014], an individual may not be assigned to duty as a Sexual Assault Forensic Examiner for the Armed Forces unless the individual has completed, by the date of such assignment, all training required under the training and certification program under this subsection."

## DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES

Pub. L. 113–291, div. A, title V, §546(a)–(f), Dec. 19, 2014, 128 Stat. 3374, 3375, as amended by Pub. L. 114–92, div. A, title V, §537, Nov. 25, 2015, 129 Stat. 817; Pub. L. 115–232, div. A, title V, §533, Aug. 13, 2018, 132 Stat. 1760; Pub. L. 116–92, div. A, title V, §535, Dec. 20, 2019, 133 Stat. 1362; Pub. L. 118–159, div. A, title V, §569D(1), Dec. 23, 2024, 138 Stat. 1908, provided that:

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall establish and maintain within the Department of Defense an advisory committee to be known as the 'Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces' (in this section referred to as the 'Advisory Committee').

"(2) DEADLINE FOR ESTABLISHMENT.—The Secretary shall establish the Advisory Committee not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 [Nov. 25, 2015].

"(b) MEMBERSHIP.—The Advisory Committee shall consist of not more than 20 members, to be appointed by the Secretary of Defense, who have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Advisory Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as a member of the Advisory Committee.

"(c) DUTIES.—

"(1) IN GENERAL.—The Advisory Committee shall advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.

"(2) BASIS FOR PROVISION OF ADVICE.—For purposes of providing advice to the Secretary pursuant to this subsection, the Advisory Committee shall review, on an ongoing basis, cases involving allegations of sexual misconduct described in paragraph (1).

"(d) AUTHORITIES.—

"(1) HEARINGS.—The Advisory Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers appropriate to carry out its duties under this section.

"(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request by the chair of the Advisory Committee, a department or agency of the Federal Government shall provide information that the Advisory Committee considers necessary to carry out its duties under this section. In carrying out this paragraph, the department or agency shall take steps to prevent the unauthorized disclosure of personally identifiable information.

"(e) ANNUAL REPORTS.—Not later than March 30 each year, the Advisory Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report describing the results of the activities of the Advisory Committee pursuant to this section during the preceding year.

"(f) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Advisory Committee shall terminate on the date that is 15 years after the date of the establishment of the Advisory Committee pursuant to subsection (a).

"(2) CONTINUATION.—The Secretary of Defense may continue the Advisory Committee after the termination date applicable under paragraph (1) if the Secretary determines that continuation of the Advisory Committee after that date is advisable and appropriate. If the Secretary determines to continue the Advisory Committee after that date, the Secretary shall submit to the President and the congressional committees specified in subsection (d) a report describing the reasons for that determination and specifying the new termination date for the Advisory Committee."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 546(e) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## IMPROVED CLIMATE ASSESSMENTS AND DISSEMINATION OF RESULTS

Pub. L. 113–66, div. A, title V, §587, Dec. 26, 2013, 127 Stat. 778, provided that:

"(a) IMPROVED DISSEMINATION OF RESULTS IN CHAIN OF COMMAND.—The Secretary of Defense shall ensure that the results of command climate assessments are provided to the relevant individual commander and to the next higher level of command.

"(b) EVIDENCE OF COMPLIANCE.—The Secretary of each military department shall require in the performance evaluations and assessments used by each Armed Force under the jurisdiction of the Secretary a statement by the commander regarding whether the commander has conducted the required command climate assessments.

"(c) EFFECT OF FAILURE TO CONDUCT ASSESSMENT.—The failure of a commander to conduct the required command climate assessments shall be noted in the commander's performance evaluation."

## AVAILABILITY OF SEXUAL ASSAULT FORENSIC EXAMINERS AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 113–66, div. A, title XVII, §1725(b), Dec. 26, 2013, 127 Stat. 971, as amended by Pub. L. 113–291, div. A, title V, §539(d)(1), Dec. 19, 2014, 128 Stat. 3371, provided that:

"(1) FACILITIES WITH FULL-TIME EMERGENCY DEPARTMENT.—The Secretary of a military department shall require the assignment of at least one full-time Sexual Assault Forensic Examiner to each military medical treatment facility under the jurisdiction of that Secretary in which an emergency department operates 24 hours per day. The Secretary may assign additional Sexual Assault Forensic Examiners based on the demographics of the patients who utilize the military medical treatment facility.

"(2) OTHER FACILITIES.—In the case of a military medical treatment facility not covered by paragraph (1), the Secretary of the military department concerned shall require that a Sexual Assault Forensic Examiner be made available to a patient of the facility, consistent with the Department of Justice National Protocol for Sexual Assault Medical Forensic Examinations, Adult/Adolescent, when a determination is made regarding the patient's need for the services of a Sexual Assault Forensic Examiner."

## COMMANDING OFFICER ACTION ON REPORTS ON SEXUAL OFFENSES INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 113–66, div. A, title XVII, §1742, Dec. 26, 2013, 127 Stat. 979, provided that:

"(a) IMMEDIATE ACTION REQUIRED.—A commanding officer who receives a report of a sex-related offense involving a member of the Armed Forces in the chain of command of such officer shall act upon the report in accordance with subsection (b) immediately after receipt of the report by the commanding officer.

"(b) ACTION REQUIRED.—The action required by this subsection with respect to a report described in subsection (a) is the referral of the report to the military criminal investigation organization with responsibility for investigating that offense of the military department concerned or such other investigation service of the military department concerned as the Secretary of the military department concerned may specify for purposes of this section."

## EIGHT-DAY INCIDENT REPORTING REQUIREMENT IN RESPONSE TO UNRESTRICTED REPORT OF SEXUAL ASSAULT IN WHICH THE VICTIM IS A MEMBER OF THE ARMED FORCES

Pub. L. 113–66, div. A, title XVII, §1743, Dec. 26, 2013, 127 Stat. 979, provided that:

"(a) INCIDENT REPORTING POLICY REQUIREMENT.—The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall establish and maintain a policy to require the submission by a designated person of a written incident report not later than eight days after an unrestricted report of sexual assault has been made in which a member of the Armed Forces is the victim. At a minimum, this incident report shall be provided to the following:

"(1) The installation commander, if such incident occurred on or in the vicinity of a military installation.

"(2) The first officer in the grade of 0–6, and the first general officer or flag officer, in the chain of command of the victim.

"(3) The first officer in the grade of 0–6, and the first general officer or flag officer, in the chain of command of the alleged offender if the alleged offender is a member of the Armed Forces.

"(b) PURPOSE OF REPORT.—The purpose of the required incident report under subsection (a) is to detail the actions taken or in progress to provide the necessary care and support to the victim of the assault, to refer the allegation of sexual assault to the appropriate investigatory agency, and to provide initial notification of the serious incident when that notification has not already taken place.

"(c) ELEMENTS OF REPORT.—

"(1) IN GENERAL.—The report of an incident under subsection (a) shall include, at a minimum, the following:

"(A) Time/Date/Location of the alleged incident.

"(B) Type of offense alleged.

"(C) Service affiliation, assigned unit, and location of the victim.

"(D) Service affiliation, assigned unit, and location of the alleged offender, including information regarding whether the alleged offender has been temporarily transferred or removed from an assigned billet or ordered to pretrial confinement or otherwise restricted, if applicable.

"(E) Post-incident actions taken in connection with the incident, including the following:

"(i) Referral of the victim to a Sexual Assault Response Coordinator for referral to services available to members of the Armed Forces who are victims of sexual assault, including the date of each such referral.

"(ii) Notification of incident to appropriate military criminal investigative organization, including the organization notified and date of such notification.

"(iii) Receipt and processing status of a request for expedited victim transfer, if applicable.

"(iv) Issuance of any military protective orders in connection with the incident.

"(2) MODIFICATION.—

"(A) IN GENERAL.—The Secretary of Defense may modify the elements required in a report under this section regarding an incident involving a member of the Armed Forces (including the Coast Guard when it is operating as service in the Department of the Navy) if the Secretary determines that such modification will facilitate compliance with best practices for such reporting as identified by the Sexual Assault Prevention and Response Office of the Department of Defense.

"(B) COAST GUARD.—The Secretary of the Department in which the Coast Guard is operating may modify the elements required in a report under this section regarding an incident involving a member of the Coast Guard if the Secretary determines that such modification will facilitate compliance

with best practices for such reporting as identified by the Coast Guard Office of Work-Life Programs.

"(d) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall prescribe regulations to carry out this section."

## INCLUSION AND COMMAND REVIEW OF INFORMATION ON SEX-RELATED OFFENSES IN PERSONNEL SERVICE RECORDS OF MEMBERS OF THE ARMED FORCES

Pub. L. 113–66, div. A, title XVII, §1745, Dec. 26, 2013, 127 Stat. 982, provided that:

"(a) INFORMATION ON REPORTS ON SEX-RELATED OFFENSES.—

"(1) IN GENERAL.—If a complaint of a sex-related offense is made against a member of the Armed Forces and the member is convicted by court-martial or receives non-judicial punishment or punitive administrative action for such sex-related offense, a notation to that effect shall be placed in the personnel service record of the member, regardless of the member's grade.

"(2) PURPOSE.—The purpose of the inclusion of information in personnel service records under paragraph (1) is to alert commanders to the members of their command who have received courts-martial conviction, non-judicial punishment, or punitive administrative action for sex-related offenses in order to reduce the likelihood that repeat offenses will escape the notice of commanders.

"(b) LIMITATION ON PLACEMENT.—A notation under subsection (a) may not be placed in the restricted section of the personnel service record of a member.

"(c) CONSTRUCTION.—Nothing in subsection (a) or (b) may be construed to prohibit or limit the capacity of a member of the Armed Forces to challenge or appeal the placement of a notation, or location of placement of a notation, in the member's personnel service record in accordance with procedures otherwise applicable to such challenges or appeals.

"(d) COMMAND REVIEW OF HISTORY OF SEX-RELATED OFFENSES OF MEMBERS UPON ASSIGNMENT OR TRANSFER TO NEW UNIT.—

"(1) REVIEW REQUIRED.—Under uniform regulations prescribed by the Secretary of Defense, the commanding officer of a facility, installation, or unit to which a member of the Armed Forces described in paragraph (2) is permanently assigned or transferred shall review the history of sex-related offenses as documented in the personnel service record of the member in order to familiarize such officer with such history of the member.

"(2) COVERED MEMBERS.—A member of the Armed Forces described in this paragraph is a member of the Armed Forces who, at the time of assignment or transfer as described in paragraph (1), has a history of one or more sex-related offenses as documented in the personnel service record of such member or such other records or files as the Secretary shall specify in the regulations prescribed under paragraph (1)."

## ESTABLISHMENT OF SPECIAL VICTIM CAPABILITIES WITHIN THE MILITARY DEPARTMENTS TO RESPOND TO ALLEGATIONS OF CERTAIN SPECIAL VICTIM OFFENSES

Pub. L. 112–239, div. A, title V, §573, Jan. 2, 2013, 126 Stat. 1755, as amended by Pub. L. 119–60, div. G, title LXXV, §7523(a), Dec. 18, 2025, 139 Stat. 1814, provided that:

"(a) ESTABLISHMENT REQUIRED.—Under regulations prescribed by the Secretary of Defense or the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy, the Secretary concerned shall establish special victim capabilities for the purposes of—

"(1) investigating and prosecuting allegations of child abuse, serious domestic violence, or sexual offenses; and

"(2) providing support for the victims of such offenses.

"(b) PERSONNEL.—The special victim capabilities developed under subsection (a) shall include specially trained and selected—

"(1) investigators from the Army Criminal Investigative Command, Naval Criminal Investigative Service,, [sic] Air Force Office of Special Investigations, or Coast Guard Investigative Services;

"(2) judge advocates;

"(3) victim witness assistance personnel; and

"(4) administrative paralegal support personnel.

"(c) TRAINING, SELECTION, AND CERTIFICATION STANDARDS.—The Secretary of Defense or the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy shall prescribe standards for the training, selection, and certification of personnel who will provide special victim capabilities for a military department.

"(d) DISCRETION REGARDING EXTENT OF CAPABILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of a military department or the Commandant of the Coast Guard shall determine the extent to which special victim capabilities will be established within the military department or the Coast Guard and prescribe regulations for the management and use of the special victim capabilities.

"(2) REQUIRED ELEMENTS.—At a minimum, the special victim capabilities established within a military department or the Coast Guard must provide effective, timely, and responsive world-wide support for the purposes described in subsection (a).

"(e) TIME FOR ESTABLISHMENT.—

"(1) IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

"(A) the plans and time lines of the Secretaries of the military departments for the establishment of the special victims capabilities; and

"(B) an assessment by the Secretary of Defense of the plans and time lines.

"(2) INITIAL CAPABILITIES.—Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall have available an initial special victim capability consisting of the personnel specified in subsection (b).

"(f) EVALUATION OF EFFECTIVENESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

"(1) prescribe the common criteria to be used by the Secretaries of the military departments to measure the effectiveness and impact of the special victim capabilities from the investigative, prosecutorial, and victim's perspectives; and

"(2) require the Secretaries of the military departments to collect and report the data used to measure such effectiveness and impact.

"(g) SPECIAL VICTIM CAPABILITIES DEFINED.—In this section, the term 'special victim capabilities' means a distinct, recognizable group of appropriately skilled professionals who work collaboratively to achieve the purposes described in subsection (a). This section does not require that the special victim capabilities be created as separate military unit or have a separate chain of command.

"(h) TIME FOR ESTABLISHMENT FOR COAST GUARD.—Not later than 120 days after the date of enactment of the Coast Guard Authorization Act of 2025 [Dec. 18, 2025], the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing all the items described in subsections (e) and (f) as applied to the Coast Guard."

## RETENTION OF CERTAIN FORMS IN CONNECTION WITH RESTRICTED REPORTS AND UNRESTRICTED REPORTS ON SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 112–239, div. A, title V, §577, Jan. 2, 2013, 126 Stat. 1762, as amended by Pub. L. 113–66, div. A, title XVII, §1723, Dec. 26, 2013, 127 Stat. 970, provided that:

"(a) PERIOD OF RETENTION.—The Secretary of Defense shall ensure that all copies of Department of Defense Form 2910 and Department of Defense Form 2911 filed in connection with a Restricted Report or Unrestricted Report on an incident of sexual assault involving a member of the Armed Forces be retained for the longer of—

"(1) 50 years commencing on the date of signature of the member on Department of Defense Form 2910; or

"(2) the time provided for the retention of such forms in connection with Unrestricted Reports on incidents of sexual assault involving members of the Armed Forces under Department of Defense Directive-Type Memorandum (DTM) 11–062, entitled 'Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault', or any successor directive or policy.

"(b) PROTECTION OF CONFIDENTIALITY.—Any Department of Defense form retained under subsection (a) shall be retained in a manner that protects the confidentiality of the member of the Armed Forces concerned in accordance with procedures for the protection of confidentiality of information in Restricted Reports under Department of Defense memorandum JTF–SAPR–009, relating to the Department of Defense policy on confidentiality for victims of sexual assault, or any successor policy or directive."

## GENERAL OR FLAG OFFICER REVIEW OF AND CONCURRENCE IN SEPARATION OF MEMBERS OF THE ARMED FORCES MAKING AN UNRESTRICTED REPORT OF SEXUAL ASSAULT

Pub. L. 112–239, div. A, title V, §578, Jan. 2, 2013, 126 Stat. 1763, provided that:

"(a) REVIEW REQUIRED.—The Secretary of Defense shall develop a policy to require a general officer or flag officer of the Armed Forces to review the circumstances of, and grounds for, the proposed involuntary separation of any member of the Armed Forces who—

"(1) made an Unrestricted Report of a sexual assault;

"(2) within one year after making the Unrestricted Report of a sexual assault, is recommended for involuntary separation from the Armed Forces; and

"(3) requests the review on the grounds that the member believes the recommendation for involuntary separation from the Armed Forces was initiated in retaliation for making the report.

"(b) CONCURRENCE REQUIRED.—If a review is requested by a member of the Armed Forces as authorized by subsection (a), the concurrence of the general officer or flag officer conducting the review of the proposed involuntary separation of the member is required in order to separate the member.

"(c) SUBMISSION OF POLICY.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the policy developed under subsection (a).

"(d) APPLICATION OF POLICY.—The policy developed under subsection (a) shall take effect on the date of the submission of the policy to Congress under subsection (c) and apply to members of the Armed Forces described in subsection (a) who are proposed to be involuntarily separated from the Armed Forces on or after that date."

## DEPARTMENT OF DEFENSE POLICY AND PLAN FOR PREVENTION AND RESPONSE TO SEXUAL HARASSMENT IN THE ARMED FORCES

Pub. L. 112–239, div. A, title V, §579, Jan. 2, 2013, 126 Stat. 1763, provided that:

"(a) COMPREHENSIVE PREVENTION AND RESPONSE POLICY.—

"(1) POLICY REQUIRED.—The Secretary of Defense shall develop a comprehensive policy to prevent and respond to sexual harassment in the Armed Forces. The policy shall provide for the following:

"(A) Training for members of the Armed Forces on the prevention of sexual harassment.

"(B) Mechanisms for reporting incidents of sexual harassment in the Armed Forces, including procedures for reporting anonymously.

"(C) Mechanisms for responding to and resolving incidents of alleged sexual harassment incidences involving members of the Armed Forces, including through the prosecution of offenders.

"(2) REPORT.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy required by paragraph (1).

"(3) CONSULTATION.—The Secretary of Defense shall prepare the policy and report required by this subsection in consultation with the Secretaries of the military departments and the Equal Opportunity Office of the Department of Defense.

"(b) DATA COLLECTION AND REPORTING REGARDING SUBSTANTIATED INCIDENTS OF SEXUAL HARASSMENT.—

"(1) PLAN REQUIRED.—The Secretary of Defense shall develop a plan to collect information and data regarding substantiated incidents of sexual harassment involving members of the Armed Forces. The plan shall specifically deal with the need to identify cases in which a member is accused of multiple incidents of sexual harassment.

"(2) SUBMISSION OF PLAN.—Not later than June 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan developed under paragraph (1).

"(3) REPORTING REQUIREMENT.—As part of the reports required to be submitted in 2014 under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4433; 10 U.S.C. 1561 note), the Secretary of Defense shall include information and data collected under the plan during the preceding year regarding substantiated incidents of sexual harassment involving members of the Armed Forces."

## SEXUAL ASSAULT RESPONSE COORDINATORS AND SEXUAL ASSAULT VICTIM ADVOCATES

Pub. L. 112–81, div. A, title V, §584, Dec. 31, 2011, 125 Stat. 1432, as amended by Pub. L. 113–66, div. A, title XVII, §1724, Dec. 26, 2013, 127 Stat. 970; Pub. L. 117–81, div. A, title V, §549H, Dec. 27, 2021, 135 Stat. 1728, provided that:

"(a) ASSIGNMENT OF COORDINATORS.—

"(1) ASSIGNMENT REQUIREMENTS.—At least one full-time Sexual Assault Response Coordinator shall be assigned to each brigade or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Sexual Assault Response Coordinators as necessary based on the demographics or needs of the unit. An additional Sexual Assault Response Coordinator may serve on a full-time or part-time basis at the discretion of the Secretary.

"(2) AVAILABILITY FOR RESERVE COMPONENT MEMBERS.—The Secretary of the military department concerned shall ensure the timely access to a Sexual Assault Response Coordinator by any member of the National Guard or Reserve who—

"(A) is the victim of a sexual assault during the performance of duties as a member of the National Guard or Reserves; or

"(B) is the victim of a sexual assault committed by a member of the National Guard or Reserves.

"(3) ELIGIBLE PERSONS.—On and after October 1, 2013, only members of the armed forces and civilian employees of the Department of Defense may be assigned to duty as a Sexual Assault Response Coordinator.

"(b) ASSIGNMENT OF VICTIM ADVOCATES.—

"(1) ASSIGNMENT REQUIREMENTS.—At least one full-time Sexual Assault Victim Advocate shall be assigned to each brigade or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Victim Advocates as necessary based on the demographics or needs of the unit. An additional Victim Advocate may serve on a full-time or part-time basis at the discretion of the Secretary.

"(2) ELIGIBLE PERSONS.—On and after October 1, 2013, only members of the armed forces and civilian employees of the Department of Defense may be assigned to duty as a Victim Advocate.

"(c) TRAINING AND CERTIFICATION.—

"(1) TRAINING AND CERTIFICATION PROGRAM.—As part of the sexual assault prevention and response program, the Secretary of Defense shall establish a professional and uniform training and certification program for Sexual Assault Response Coordinators assigned under subsection (a) and Sexual Assault Victim Advocates assigned under subsection (b). The program shall be structured and administered in a manner similar to the professional training available for Equal Opportunity Advisors through the Defense Equal Opportunity Management Institute.

"(2) CONSULTATION.—In developing the curriculum and other components of the program, the Secretary of Defense shall work with experts outside of the Department of Defense who are experts in victim advocacy and sexual assault prevention and response training.

"(3) EFFECTIVE DATE.—On and after October 1, 2013, before a member or civilian employee may be assigned to duty as a Sexual Assault Response Coordinator under subsection (a) or Victim Advocate under subsection (b), the member or employee must have completed the training program required by paragraph (1) and obtained the certification.

"(d) AUTHORIZATIONS FOR DOD SAFE HELPLINE.—

"(1) PROVIDING SUPPORT AND RECEIVING OFFICIAL REPORTS.—DoD Safe Helpline (or any successor service to DoD Safe Helpline, if any, as identified by the Secretary of Defense) is authorized to provide crisis intervention and support and to perform the intake of official reports of sexual assault from eligible adult sexual assault victims who contact the DoD Safe Helpline or other reports as directed by the Secretary of Defense.

"(2) TRAINING AND OVERSIGHT.—DoD Safe Helpline staff shall have specialized training and appropriate certification to support eligible adult sexual assault victims.

"(3) ELIGIBILITY AND PROCEDURES.—The Secretary of Defense shall prescribe regulations regarding eligibility for DoD Safe Helpline services, procedures for providing crisis intervention and support, and accepting reports.

"(4) ELECTRONIC RECEIPT OF OFFICIAL REPORTS OF ADULT SEXUAL ASSAULTS.—DoD Safe Helpline shall provide the ability to receive reports of adult sexual assaults through the DoD Safe Helpline website and mobile phone applications, in a secure manner consistent with appropriate protection of victim privacy, and may offer other methods of receiving electronic submission of adult sexual assault reports, as appropriate, in a manner that appropriately protects victim privacy.

"(5) TYPES OF REPORTS.—Reports of sexual assault from eligible adult sexual assault victims received by DoD Safe Helpline (or a successor as determined by the Secretary of Defense) shall include unrestricted and restricted reports, or other reports as directed by the Secretary of Defense.

"(6) OPTION FOR ENTRY INTO THE CATCH A SERIAL OFFENDER SYSTEM.—An individual making a restricted report (or a relevant successor type of report or other type of appropriate report, as determined by the Secretary of Defense) to the DoD Safe Helpline (or a successor as determined by the

Secretary of Defense) shall have the option to submit information related to their report to the Catch a Serial Offender system (or its successor or similar system as determined by the Secretary of Defense).

"(e) DEFINITIONS.—In this section:

"(1) The term 'armed forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) The term 'sexual assault prevention and response program' has the meaning given such term in section 1601(a) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note)."

**TRAINING AND EDUCATION PROGRAMS FOR SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM**

Pub. L. 119–60, div. A, title V, §564, Dec. 18, 2025, 139 Stat. 883, provided that:

"(a) REVISION REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Under Secretary of Defense for Personnel and Readiness, in coordination with the Director of the Sexual Assault Prevention and Response Office of the Department of Defense, shall revise sexual assault prevention and response training guidance to require that information on the resources of the Department of Veterans Affairs to address experiences with unwanted sexual behavior be included in the annual or periodic sexual assault prevention and response training that is administered to all members of the Armed Forces.

"(b) DEFINITIONS.—In this section:

"(1) The term 'unwanted sexual behavior' means any sexual contact or sexual interaction to which an individual does not or could not freely consent, including harassment, coercion, assault, or abuse.

"(2) The term 'sexual assault prevention and response training' means any training, instruction, or education provided pursuant to Department of Defense Instruction 6495.02, Volume 2, or any successor guidance."

Pub. L. 113–66, div. A, title XVII, §1713(c), Dec. 26, 2013, 127 Stat. 964, provided that: "The Secretary of Defense shall provide for the inclusion of information and discussion regarding the availability and use of the authority described by section 674 of title 10, United States Code, as added by subsection (a), as part of the training for new and prospective commanders at all levels of command required by section 585(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 10 U.S.C. 1561 note)."

Pub. L. 112–81, div. A, title V, §585, Dec. 31, 2011, 125 Stat. 1434, as amended by Pub. L. 112–239, div. A, title V, §574, Jan. 2, 2013, 126 Stat. 1756; Pub. L. 113–66, div. A, title X, §1091(c)(2), Dec. 26, 2013, 127 Stat. 876, provided that:

"(a) SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING AND EDUCATION.—

"(1) DEVELOPMENT OF CURRICULUM.—Not later than one year after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of each military department shall develop a curriculum to provide sexual assault prevention and response training and education for members of the Armed Forces under the jurisdiction of the Secretary and civilian employees of the military department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault. In developing the curriculum, the Secretary shall work with experts outside of the Department of Defense who are experts in sexual assault prevention and response training.

"(2) SCOPE OF TRAINING AND EDUCATION.—The sexual assault prevention and response training and education shall encompass initial entry and accession programs, annual refresher training, professional military education, peer education, and specialized leadership training. Training shall be tailored for specific leadership levels and local area requirements.

"(3) CONSISTENT TRAINING.—The Secretary of Defense shall ensure that the sexual assault prevention and response training provided to members of the Armed Forces and Department of Defense civilian employees is consistent throughout the military departments.

"(b) INCLUSION IN PROFESSIONAL MILITARY EDUCATION.—The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module at each level of professional military education. The training shall be tailored to the new responsibilities and leadership requirements of members of the Armed Forces as they are promoted.

"(c) INCLUSION IN FIRST RESPONDER TRAINING.—

"(1) IN GENERAL.—The Secretary of Defense shall direct that managers of specialty skills associated with first responders described in paragraph (2) integrate sexual assault response training in initial and recurring training courses.

"(2) COVERED FIRST RESPONDERS.—First responders referred to in paragraph (1) include firefighters, emergency medical technicians, law enforcement officers, military criminal investigators, healthcare personnel, judge advocates, and chaplains.

"(d) COMMANDERS' TRAINING.—The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module in the training for new or prospective commanders at all levels of command. The training shall be tailored to the responsibilities and leadership requirements of members of the Armed Forces as they are assigned to command positions. Such training shall include the following:

"(1) Fostering a command climate that does not tolerate sexual assault.

"(2) Fostering a command climate in which persons assigned to the command are encouraged to intervene to prevent potential incidents of sexual assault.

"(3) Fostering a command climate that encourages victims of sexual assault to report any incident of sexual assault.

"(4) Understanding the needs of, and the resources available to, the victim after an incident of sexual assault.

"(5) Use of military criminal investigative organizations for the investigation of alleged incidents of sexual assault.

"(6) Available disciplinary options, including court-martial, non-judicial punishment, administrative action, and deferral of discipline for collateral misconduct, as appropriate.

"(e) EXPLANATION TO BE INCLUDED IN INITIAL ENTRY AND ACCESSION TRAINING.—

"(1) REQUIREMENT.—The Secretary of Defense shall require that the matters specified in paragraph (2) be carefully explained to each member of the Army, Navy, Air Force, and Marine Corps at the time of (or within fourteen duty days after)—

"(A) the member's initial entrance on active duty; or

"(B) the member's initial entrance into a duty status with a reserve component.

"(2) MATTERS TO BE EXPLAINED.—This subsection applies with respect to the following:

"(A) Department of Defense policy with respect to sexual assault.

"(B) The resources available with respect to sexual assault reporting and prevention and the procedures to be followed by a member seeking to access those resources."

[Pub. L. 113–66, div. A, title X, §1091(c), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(c)(2) to section 585 of Pub. L. 112–81, set out above, is effective as of Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.]

## DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON RETENTION AND ACCESS TO EVIDENCE AND RECORDS RELATING TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 112–81, div. A, title V, §586, Dec. 31, 2011, 125 Stat. 1434, as amended by Pub. L. 113–291, div. A, title V, §538, Dec. 19, 2014, 128 Stat. 3369; Pub. L. 116–92, div. A, title V, §536, Dec. 20, 2019, 133 Stat. 1362, provided that:

"(a) COMPREHENSIVE POLICY ON RETENTION AND ACCESS TO RECORDS.—Not later than October 1, 2012, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, develop a comprehensive policy for the Department of Defense on the retention of and access to evidence and records relating to sexual assaults involving members of the Armed Forces.

"(b) OBJECTIVES.—The comprehensive policy required by subsection (a) shall include policies and procedures (including systems of records) necessary to ensure preservation of records and evidence for periods of time that ensure that members of the Armed Forces and veterans of military service who were the victims of sexual assault during military service are able to substantiate claims for veterans benefits, to support criminal or civil prosecutions by military or civil authorities, and for such purposes relating to the documentation of the incidence of sexual assault in the Armed Forces as the Secretary of Defense considers appropriate.

"(c) ELEMENTS.—In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall consider, at a minimum, the following matters:

"(1) Identification of records, including non-Department of Defense records, relating to an incident of sexual assault, that must be retained.

"(2) Criteria for collection and retention of records.

"(3) Identification of physical evidence and non-documentary forms of evidence relating to sexual assaults that must be retained.

"(4) Length of time records, including Department of Defense Forms 2910 and 2911, and evidence must be retained, except that—

"(A) the length of time physical evidence and forensic evidence must be retained shall be not less than five years; and

"(B) the length of time documentary evidence relating to sexual assaults must be retained shall be not less than the length of time investigative records relating to reports of sexual assaults of that type (restricted or unrestricted reports) must be retained.

"(5) Locations where records must be stored.

"(6) Media which may be used to preserve records and assure access, including an electronic systems [sic] of records.

"(7) Protection of privacy of individuals named in records and status of records under section 552 of title 5, United States Code (commonly referred to as the 'Freedom of Information Act'), section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act'), restricted reporting cases, and laws related to privilege.

"(8) Access to records by victims of sexual assault, the Department of Veterans Affairs, and others, including alleged assailants and law enforcement authorities.

"(9) Responsibilities for record retention by the military departments.

"(10) Education and training on record retention requirements.

"(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

"(d) UNIFORM APPLICATION TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

"(e) COPY OF RECORDS OF COURT-MARTIAL TO VICTIMS OF SEXUAL ASSAULT.—[Amended section 854 of this title.]

"(e) RETURN OF PERSONAL PROPERTY UPON COMPLETION OF RELATED PROCEEDINGS IN UNRESTRICTED REPORTING CASES.—Notwithstanding subsection (c)(4)(A), personal property retained as evidence in connection with an incident of sexual assault involving a member of the Armed Forces may be returned to the rightful owner of such property after the conclusion of all legal, adverse action, and administrative proceedings related to such incident.

"(f) RETURN OF PERSONAL PROPERTY IN RESTRICTED REPORTING CASES.—(1) The Secretary of Defense shall prescribe procedures under which a victim who files a restricted report on an incident of sexual assault may request, at any time, the return of any personal property of the victim obtained as part of the sexual assault forensic examination.

"(2) The procedures shall ensure that—

"(A) a request of a victim under paragraph (1) may be made on a confidential basis and without affecting the restricted nature of the restricted report; and

"(B) at the time of the filing of the restricted report, a Sexual Assault Response Coordinator or Sexual Assault Prevention and Response Victim Advocate—

"(i) informs the victim that the victim may request the return of personal property as described in paragraph (1); and

"(ii) advises the victim that such a request for the return of personal property may negatively impact a subsequent case adjudication, if the victim later decides to convert the restricted report to an unrestricted report.

"(3) Except with respect to personal property returned to a victim under this subsection, nothing in this subsection shall affect the requirement to retain a sexual assault forensic examination (SAFE) kit for the period specified in subsection (c)(4)(A)."

[Pub. L. 116–92, §536(1), amended section 586 of Pub. L. 112–81, set out above, by redesignating subsec. (f) as (e), resulting in two subsecs. designated (e).]

## IMPROVED SEXUAL ASSAULT PREVENTION AND RESPONSE IN THE ARMED FORCES

Pub. L. 115–91, div. A, title V, §538, Dec. 12, 2017, 131 Stat. 1393, provided that: "Beginning with the reports required to be submitted by March 1, 2019, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note), information regarding a sexual assault committed by a member of the Armed Forces against the spouse or intimate partner of the member or another dependent of the member shall be included in such reports in addition to the annual Family Advocacy Program report. The information may be included as an annex to such reports."

Pub. L. 112–239, div. A, title V, §572, Jan. 2, 2013, 126 Stat. 1753, as amended by Pub. L. 113–66, div. A, title XVII, §1721, Dec. 26, 2013, 127 Stat. 970, provided that:

"(a) POLICY MODIFICATIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall modify the revised comprehensive policy for the Department of Defense sexual assault prevention and response program required by section 1602 of the Ike Skelton National

Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4430; 10 U.S.C. 1561 note) to include in the policy the following new requirements:

"(1) Subject to subsection (b), a requirement that the Secretary of each military department establish a record on the disposition of any Unrestricted Report of sexual assault involving a member of the Armed Forces, whether such disposition is court martial, nonjudicial punishment, or other administrative action.

"(2) A requirement that the Secretary of each military department establish policies to require the processing for administrative separation of any member of the Armed Forces under the jurisdiction of such Secretary whose conviction for a covered offense is final and who is not punitively discharged from the Armed Forces in connection with such conviction. Such requirement—

"(A) shall ensure that any separation decision is based on the full facts of the case and that due process procedures are provided under regulations prescribed by the Secretary of Defense; and

"(B) shall not be interpreted to limit or alter the authority of the Secretary of the military department concerned to process members of the Armed Forces for administrative separation for other offenses or under other provisions of law.

"(3) A requirement that the commander of each military command and other units specified by the Secretary of Defense for purposes of the policy shall conduct, within 120 days after the commander assumes command and at least annually thereafter while retaining command, a climate assessment of the command or unit for purposes of preventing and responding to sexual assaults. The climate assessment shall include an opportunity for members of the Armed Forces to express their opinions regarding the manner and extent to which their leaders, including commanders, respond to allegations of sexual assault and complaints of sexual harassment and the effectiveness of such response.

"(4) A requirement to post and widely disseminate information about resources available to report and respond to sexual assaults, including the establishment of hotline phone numbers and Internet websites available to all members of the Armed Forces.

"(5) A requirement for a general education campaign to notify members of the Armed Forces regarding the authorities available under chapter 79 of title 10, United States Code, for the correction of military records when a member experiences any retaliatory personnel action for making a report of sexual assault or sexual harassment.

"(b) ADDITIONAL REQUIREMENTS REGARDING DISPOSITION RECORDS OF SEXUAL ASSAULT REPORTS.—

"(1) ELEMENTS.—The record of the disposition of an Unrestricted Report of sexual assault established under subsection (a)(1) shall include information regarding the following, as appropriate:

"(A) Documentary information collected about the incident, other than investigator case notes.

"(B) Punishment imposed, including the sentencing by judicial or non-judicial means, including incarceration, fines, restriction, and extra duty as a result of military court-martial, Federal or local court and other sentencing, or any other punishment imposed.

"(C) Adverse administrative actions taken against the subject of the investigation, if any.

"(D) Any pertinent referrals made for the subject of the investigation, offered as a result of the incident, such as drug and alcohol counseling and other types of counseling or intervention.

"(2) RETENTION OF RECORDS.—The Secretary of Defense shall require that—

"(A) the disposition records established pursuant to subsection (a)(1) be retained for a period of not less than 20 years; and

"(B) information from the records that satisfies the reporting requirements established in section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note) be incorporated into the Defense Sexual Assault Incident Database and maintained for the same period as applies to retention of the records under subparagraph (A).

"(c) COVERED OFFENSE DEFINED.—For purposes of subsection (a)(2), the term 'covered offense' means the following:

"(1) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

"(2) Forcible sodomy under section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice).

"(3) An attempt to commit an offense specified in paragraph (1) or (2) under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

"(d) TRACKING OF ORGANIZATIONAL CLIMATE ASSESSMENT COMPLIANCE.—The Secretary of Defense shall direct the Secretaries of the military departments to verify and track the compliance of commanding officers in conducting organizational climate assessments, as required by subsection (a)(3)."

Pub. L. 111–383, div. A, title XVI, Jan. 7, 2011, 124 Stat. 4429, as amended by Pub. L. 112–81, div. A, title

V, §583, Dec. 31, 2011, 125 Stat. 1432; Pub. L. 112–239, div. A, title V, §575(a), (b), Jan. 2, 2013, 126 Stat. 1757, 1758; Pub. L. 113–66, div. A, title XVII, §§1725(a), 1726, Dec. 26, 2013, 127 Stat. 971, 972; Pub. L. 113–291, div. A, title V, §542(a), (b), title X, §1071(i), Dec. 19, 2014, 128 Stat. 3372, 3373, 3512; Pub. L. 114–328, div. A, title V, §§543, 544, Dec. 23, 2016, 130 Stat. 2127; Pub. L. 115–91, div. A, title V, §537(a), Dec. 12, 2017, 131 Stat. 1392; Pub. L. 116–283, div. A, title V, §537(a), Jan. 1, 2021, 134 Stat. 3605; Pub. L. 117–81, div. A, title V, §549I, Dec. 27, 2021, 135 Stat. 1729, provided that:

"SEC. 1601. DEFINITION OF DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM AND OTHER DEFINITIONS.

"(a) SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM DEFINED.—In this title, the term 'sexual assault prevention and response program' refers to Department of Defense policies and programs, including policies and programs of a specific military department or Armed Force, that, as modified as required by this title—

"(1) are intended to reduce the number of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both; and

"(2) improve the response of the Department of Defense, the military departments, and the Armed Forces to reports of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both, and to reports of sexual assaults when a covered beneficiary under chapter 55 of title 10, United States Code, is the victim.

"(b) OTHER DEFINITIONS.—In this title:

"(1) The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) The terms 'covered beneficiary' and 'dependent' have the meanings given those terms in section 1072 of title 10, United States Code.

"(3) The term 'department' has the meaning given that term in section 101(a)(6) of title 10, United States Code.

"(4) The term 'military installation' has the meaning given that term by the Secretary concerned.

"(5) The term 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to matters concerning the Army;

"(B) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

"(C) the Secretary of the Air Force, with respect to matters concerning the Air Force.

"(6) The term 'sexual assault' has the definition developed for that term by the Secretary of Defense pursuant to subsection (a)(3) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) [now set out below], subject to such modifications as the Secretary considers appropriate.

"SEC. 1602. COMPREHENSIVE DEPARTMENT OF DEFENSE POLICY ON SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

"(a) COMPREHENSIVE POLICY REQUIRED.—Not later than March 30, 2012, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a revised comprehensive policy for the Department of Defense sexual assault prevention and response program that—

"(1) builds upon the comprehensive sexual assault prevention and response policy developed under subsections (a) and (b) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) [now set out below];

"(2) incorporates into the sexual assault prevention and response program the new requirements identified by this title; and

"(3) ensures that the policies and procedures of the military departments regarding sexual assault prevention and response are consistent with the revised comprehensive policy.

"(b) CONSIDERATION OF TASK FORCE FINDINGS, RECOMMENDATIONS, AND PRACTICES .—In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall take into account the findings and recommendations found in the report of the Defense Task Force on Sexual Assault in the Military Services issued in December 2009.

"(c) SEXUAL ASSAULT PREVENTION AND RESPONSE EVALUATION PLAN.—

"(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement an evaluation plan for assessing the effectiveness of the comprehensive policy prepared under subsection (a) in achieving its intended outcomes at the department and individual Armed Force levels.

"(2) ROLE OF SERVICE SECRETARIES.—As a component of the evaluation plan, the Secretary of each military department shall assess the adequacy of measures undertaken at military installations and by

units of the Armed Forces under the jurisdiction of the Secretary to ensure the safest and most secure living and working environments with regard to preventing sexual assault.

"(d) PROGRESS REPORT.—Not later than October 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report—

"(1) describing the process by which the comprehensive policy required by subsection (a) is being revised;

"(2) describing the extent to which revisions of the comprehensive policy and the evaluation plan required by subsection (c) have already been implemented; and

"(3) containing a determination by the Secretary regarding whether the Secretary will be able to comply with the revision deadline specified in subsection (a).

"(e) CONSISTENCY OF TERMINOLOGY, POSITION DESCRIPTIONS, PROGRAM STANDARDS, AND ORGANIZATIONAL STRUCTURES.—

"(1) IN GENERAL.—The Secretary of Defense shall require the use of consistent terminology, position descriptions, minimum program standards, and organizational structures throughout the Armed Forces in implementing the sexual assault prevention and response program.

"(2) MINIMUM STANDARDS.—The Secretary of Defense shall establish minimum standards for—

"(A) the qualifications necessary for a member of the Armed Forces or a civilian employee of the Department of Defense to be selected for assignment to duty as a Sexual Assault Response and Prevention Program Manager, Sexual Assault Response Coordinator, or Sexual Assault Victim Advocate, whether assigned to such duty on a full-time or part-time basis;

"(B) consistent with section 584(c) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 10 U.S.C. 1561 note; 125 Stat. 1433), the training, certification, and status of members of the Armed Forces and civilian employees of the department assigned to duty as Sexual Assault Response and Prevention Program Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates for the Armed Forces; and

"(C) the curricula to be used to provide sexual assault prevention and response training and education for members of the Armed Forces and civilian employees of the department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault.

"(3) RECOGNIZING OPERATIONAL DIFFERENCES.—In complying with this subsection, the Secretary of Defense shall take into account the responsibilities of the Secretary concerned and operational needs of the Armed Force involved.

## "SUBTITLE A—ORGANIZATIONAL STRUCTURE AND APPLICATION OF SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM ELEMENTS

### "SEC. 1611. SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE.

"(a) APPOINTMENT OF DIRECTOR.—There shall be a Director of the Sexual Assault Prevention and Response Office, who shall be appointed from among general or flag officers of the Armed Forces or employees of the Department of Defense in a comparable Senior Executive Service position. During the development and implementation of the comprehensive policy for the Department of Defense sexual assault prevention and response program, the Director shall operate under the oversight of the Advisory Working Group of the Deputy Secretary of Defense.

"(b) DUTIES OF DIRECTOR.—The Director of the Sexual Assault Prevention and Response Office shall—

"(1) oversee implementation of the comprehensive policy for the Department of Defense sexual assault prevention and response program;

"(2) serve as the single point of authority, accountability, and oversight for the sexual assault prevention and response program;

"(3) provide oversight to ensure that the military departments comply with the sexual assault prevention and response program;

"(4) collect and maintain data of the military departments on sexual assault in accordance with subsection (e);

"(5) act as liaison between the Department of Defense and other Federal and State agencies on programs and efforts relating to sexual assault prevention and response; and

"(6) oversee development of strategic program guidance and joint planning objectives for resources in support of the sexual assault prevention and response program, and make recommendations on modifications to policy, law, and regulations needed to ensure the continuing availability of such resources.

"(c) ROLE OF INSPECTORS GENERAL.—

"(1) IN GENERAL.—The Inspector General of the Department of Defense, the Inspector General of

the Army, the Naval Inspector General, and the Inspector General of the Air Force shall treat the sexual assault prevention and response program as an item of special interest when conducting inspections of organizations and activities with responsibilities regarding the prevention and response to sexual assault.

"(2) COMPOSITION OF INVESTIGATION TEAMS.—The Inspector General inspection teams shall include at least one member with expertise and knowledge of sexual assault prevention and response policies related to a specific Armed Force.

"(d) STAFF.—

"(1) ASSIGNMENT.—Not later than 18 months after the date of the enactment of this Act [Jan. 7, 2011], an officer from each of the Armed Forces in the grade of O–4 or above shall be assigned to the Sexual Assault Prevention and Response Office for a minimum tour length of at least 18 months.

"(2) HIGHER GRADE.—Notwithstanding paragraph (1), of the four officers assigned to the Sexual Assault Prevention and Response Office under this subsection at any time, one officer shall be in the grade of O–6 or above.

"(e) DATA COLLECTION AND MAINTENANCE METRICS.—In carrying out the requirements of subsection (b)(4), the Director of the Sexual Assault Prevention and Response Office shall develop metrics to measure the effectiveness of, and compliance with, training and awareness objectives of the military departments on sexual assault prevention and response.

"SEC. 1612. OVERSIGHT AND EVALUATION STANDARDS.

"(a) ISSUANCE OF STANDARDS.—The Secretary of Defense shall issue standards to assess and evaluate the effectiveness of the sexual assault prevention and response program of each Armed Force in reducing the number of sexual assaults involving members of the Armed Forces and in improving the response of the department to reports of sexual assaults involving members of the Armed Forces, whether members of the Armed Forces are the victim, alleged assailant, or both.

"(b) SEXUAL ASSAULT PREVENTION EVALUATION PLAN.—The Secretary of Defense shall use the sexual assault prevention and response evaluation plan developed under section 1602(c) to ensure that the Armed Forces implement and comply with assessment and evaluation standards issued under subsection (a).

"SEC. 1613. REPORT AND PLAN FOR COMPLETION OF ACQUISITION OF CENTRALIZED DEPARTMENT OF DEFENSE SEXUAL ASSAULT DATABASE.

"(a) REPORT AND PLAN REQUIRED.—Not later than April 1, 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

"(1) describing the status of development and implementation of the centralized Department of Defense sexual assault database required by section 563 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4470; 10 U.S.C. 113 note) [now set out below];

"(2) containing a revised implementation plan under subsection (c) of such section for completing implementation of the database; and

"(3) indicating the date by which the database will be operational.

"(b) CONTENT OF IMPLEMENTATION PLAN.—The plan referred to in subsection (a)(2) shall address acquisition best practices associated with successfully acquiring and deploying information technology systems related to the centralized sexual assault database, such as economically justifying the proposed system solution and effectively developing and managing requirements.

"SEC. 1614. RESTRICTED REPORTING OF SEXUAL ASSAULTS.

"The Secretary of Defense shall clarify the limitations on the ability of a member of the Armed Forces to make a restricted report regarding the occurrence of a sexual assault and the circumstances under which information contained in a restricted report may no longer be confidential.

## "SUBTITLE B—IMPROVED AND EXPANDED AVAILABILITY OF SERVICES

"SEC. 1621. IMPROVED PROTOCOLS FOR PROVIDING MEDICAL CARE FOR VICTIMS OF SEXUAL ASSAULT.

"The Secretary of Defense shall establish comprehensive and consistent protocols for providing and documenting medical care to a member of the Armed Forces or covered beneficiary who is a victim of a sexual assault, including protocols with respect to the appropriate screening, prevention, and mitigation of diseases. In establishing the protocols, the Secretary shall take into consideration the gender of the victim.

"SEC. 1622. SEXUAL ASSAULT VICTIMS ACCESS TO VICTIM ADVOCATE SERVICES.

"(a) AVAILABILITY OF VICTIM ADVOCATE SERVICES.—

"(1) AVAILABILITY.—A member of the Armed Forces or a dependent, as described in paragraph

(2), who is the victim of a sexual assault is entitled to assistance provided by a qualified Sexual Assault Victim Advocate.

"(2) COVERED DEPENDENTS.—The assistance described in paragraph (1) is available to a dependent of a member of the Armed Forces who is the victim of a sexual assault and who resides on or in the vicinity of a military installation. The Secretary concerned shall define the term "vicinity" for purposes of this paragraph.

"(b) NOTICE OF AVAILABILITY OF ASSISTANCE; OPT OUT.—The member or dependent shall be informed of the availability of assistance under subsection (a) as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator. The victim shall also be informed that the services of a Sexual Assault Response Coordinator and Sexual Assault Victim Advocate are optional and that these services may be declined, in whole or in part, at any time.

"(c) NATURE OF REPORTING IMMATERIAL.—In the case of a member of the Armed Forces, Victim Advocate services are available regardless of whether the member elects unrestricted or restricted (confidential) reporting of the sexual assault.

**"SUBTITLE C—REPORTING REQUIREMENTS**

"SEC. 1631. ANNUAL REPORT REGARDING SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES AND IMPROVEMENT TO SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

"(a) ANNUAL REPORTS ON SEXUAL ASSAULTS.—Not later than March 1, 2012, and each March 1 thereafter through March 1, 2026, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.

"(b) CONTENTS.—The report of a Secretary of a military department for an Armed Force under subsection (a) shall contain the following:

"(1) The number of sexual assaults committed against members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated.

"(2) The number of sexual assaults committed by members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated. The information required by this paragraph may not be combined with the information required by paragraph (1).

"(3) A synopsis of each such substantiated case, organized by offense, and, for each such case, the action taken in the case, including the type of disciplinary or administrative sanction imposed, if any, including courts-martial sentences, non-judicial punishments administered by commanding officers pursuant to section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), and administrative separations.

"(4) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by the report in response to incidents of sexual assault involving members of the Armed Force concerned.

"(5) The number of substantiated sexual assault cases in which the victim is a deployed member of the Armed Forces and the assailant is a foreign national, and the policies, procedures, and processes implemented by the Secretary concerned to monitor the investigative processes and disposition of such cases and any actions taken to eliminate any gaps in investigating and adjudicating such cases.

"(6) A description of the implementation of the accessibility plan implemented pursuant to section 596(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. 1561 note), including a description of the steps taken during that year to ensure that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit, location, or environment.

"(7) The number of applications submitted under section 673 of title 10, United States Code, during the year covered by the report for a permanent change of station or unit transfer for members of the Armed Forces on active duty who are the victim of a sexual assault or related offense, the number of applications denied, and, for each application denied, a description of the reasons why the application was denied.

"(8) An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.

"(9) An assessment of the adequacy of sexual assault prevention and response activities carried out by training commands during the year covered by the report.

"(10) An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.

"(11) An analysis of the disposition of the most serious offenses occurring during sexual assaults committed by members of the Armed Force during the year covered by the report, as identified in unrestricted reports of sexual assault by any members of the Armed Forces, including the numbers of reports identifying offenses that were disposed of by each of the following:

"(A) Conviction by court-martial, including a separate statement of the most serious charge preferred and the most serious charge for which convicted.

"(B) Acquittal of all charges at court-martial.

"(C) Non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

"(D) Administrative action, including by each type of administrative action imposed.

"(E) Dismissal of all charges, including by reason for dismissal and by stage of proceedings in which dismissal occurred.

"(12) Information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force as follows:

"(A) A narrative description of each complaint.

"(B) The nature of such complaint, including whether the complainant claims professional or social retaliation.

"(C) The gender of the complainant.

"(D) The gender of the individual claimed to have committed the retaliation.

"(E) The nature of the relationship between the complainant and the individual claimed to have committed the retaliation.

"(F) The nature of the relationship, if any, between the individual alleged to have committed the sexual assault concerned and the individual claimed to have committed the retaliation.

"(G) The official or office that received the complaint.

"(H) The organization that investigated or is investigating the complaint.

"(I) The current status of the investigation.

"(J) If the investigation is complete, a description of the results of the investigation, including whether the results of the investigation were provided to the complainant.

"(K) If the investigation determined that retaliation occurred, whether the retaliation was an offense under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

"(13) Information and data collected through formal and informal reports of sexual harassment involving members of the Armed Forces during the year covered by the report, as follows:

"(A) The number of substantiated and unsubstantiated reports.

"(B) A synopsis of each substantiated report.

"(C) The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as—

"(i) conviction and sentence by court-martial;

"(ii) imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or

"(iii) administrative separation or other type of administrative action imposed.

"(14) Information and data collected during the year covered by the report on each reported incident involving the nonconsensual distribution by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), of a private sexual image of another person, including the following:

"(A) The number of substantiated and unsubstantiated reports.

"(B) A synopsis of each substantiated report.

"(C) The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as—

"(i) conviction and sentence by court-martial;

"(ii) imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or

"(iii) administrative separation or other type of administrative action imposed.

"(c) CONSISTENT DEFINITION OF SUBSTANTIATED.—Not later than December 31, 2011, the Secretary of Defense shall establish a consistent definition of 'substantiated' for purposes of paragraphs (1), (2), (3), and (5) of subsection (b) and provide synopses for those cases for the preparation of reports under this section.

"(d) SUBMISSION TO CONGRESS.—Not later than April 30 of each year in which the Secretary of Defense receives reports under subsection (a), the Secretary of Defense shall forward the reports to the Committees on Armed Services of the Senate and House of Representatives and the Committees on Veterans' Affairs of the Senate and the House of Representatives, together with—

"(1) the results of assessments conducted under the evaluation plan required by section 1602(c);

"(2) an assessment of the information submitted to the Secretary pursuant to subsection (b)(11); and

"(3) such other assessments on the reports as the Secretary of Defense considers appropriate.

"(e) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—

"(1) [Amended section 577 of Pub. L. 108–375, set out below.]

"(2) SUBMISSION OF 2010 REPORT.—The reports required by subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) [now set out below] covering calendar year 2010 are still required to be submitted to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives pursuant to the terms of such subsection, as in effect before the date of the enactment of this Act [Jan. 7, 2011].

"(f) ADDITIONAL DETAILS FOR CASE SYNOPSES PORTION OF REPORT.—The Secretary of each military department shall include in the case synopses portion of each report described in subsection (b)(3) the following additional information:

"(1) If charges are dismissed following an investigation conducted under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), the case synopsis shall include the reason for the dismissal of the charges.

"(2) If the case synopsis states that a member of the Armed Forces accused of committing a sexual assault was administratively separated or, in the case of an officer, allowed to resign in lieu of facing a court-martial, the case synopsis shall include the characterization (honorable, general, or other than honorable) given the service of the member upon separation.

"(3) The case synopsis shall indicate whether a member of the Armed Forces accused of committing a sexual assault was ever previously accused of a substantiated sexual assault or was admitted to the Armed Forces under a moral waiver granted with respect to prior sexual misconduct.

"(4) The case synopsis shall indicate the branch of the Armed Forces of each member accused of committing a sexual assault and the branch of the Armed Forces of each member who is a victim of a sexual assault.

"(5) If the case disposition includes non-judicial punishment, the case synopsis shall explicitly state the nature of the punishment.

"(6) The case synopsis shall indicate whether alcohol was involved in any way in a substantiated sexual assault incident.

"(g) COORDINATION OF RELEASE DATE BETWEEN ANNUAL REPORTS REGARDING SEXUAL ASSAULTS AND FAMILY ADVOCACY REPORT.—The Secretary of Defense shall ensure that the reports required under subsection (a) for a given year are delivered to the Committees on Armed Services of the Senate and House of Representatives simultaneously with the Family Advocacy Program report for that year regarding child abuse and domestic violence, as required by section 574 of the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114–328, 130 Stat. 2141].

"SEC. 1632. ADDITIONAL REPORTS.

"(a) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE SERVICES TO ADDITIONAL PERSONS.—The Secretary of Defense shall evaluate the feasibility of extending department sexual assault prevention and response services to Department of Defense civilian employees and employees of defense contractors who—

"(1) are victims of a sexual assault; and

"(2) work on or in the vicinity of a military installation or with members of the Armed Forces.

"(b) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM TO RESERVE COMPONENTS.—The Secretary of Defense shall evaluate the application of the sexual assault prevention and response program to members of the reserve components, including, at a minimum, the following:

"(1) The ability of members of the reserve components to access the services available under the sexual assault prevention and response program, including policies and programs of a specific military

department or Armed Force.

"(2) The quality of training provided to Sexual Assault Response Coordinators and Sexual Assault Victim Advocates in the reserve components.

"(3) The degree to which the services available for regular and reserve members under the sexual assault prevention and response program are integrated.

"(4) Such recommendations as the Secretary of Defense considers appropriate on how to improve the services available for reserve members under the sexual assault prevention and response program and their access to the services.

"(c) COPY OF RECORD OF COURT-MARTIAL TO VICTIM OF SEXUAL ASSAULT.—The Secretary of Defense shall evaluate the feasibility of requiring that a copy of the prepared record of the proceedings of a general or special court-martial involving a sexual assault be given to the victim in cases in which the victim testified during the proceedings.

"(d) ACCESS TO LEGAL ASSISTANCE.—The Secretary of Defense shall evaluate the feasibility of authorizing members of the Armed Forces who are victims of a sexual assault and dependents of members who are victims of a sexual assault to receive legal assistance provided by a military legal assistance counsel certified as competent to provide legal assistance related to responding to sexual assault.

"(e) USE OF FORENSIC MEDICAL EXAMINERS.—The Secretary of Defense shall evaluate the feasibility of utilizing, when sexual assaults involving members of the Armed Forces occur in a military environment where civilian resources are limited or unavailable, forensic medical examiners who are specially trained regarding the collection and preservation of evidence in cases involving sexual assault.

"(f) SUBMISSION OF RESULTS.—The Secretary of Defense shall submit the results of the evaluations required by this section to the Committees on Armed Services of the Senate and House of Representatives."

[Pub. L. 116–283, div. A, title V, §537(b), Jan. 1, 2021, 134 Stat. 3605, provided that: "The amendment made by subsection (a) [amending section 1631 of Pub. L. 111–383, set out above] shall take effect on the date of the enactment of this Act [Jan. 1, 2021] and shall apply to reports required to be submitted under such section on or after such date."]

[Pub. L. 115–91, div. A, title V, §537(b), Dec. 12, 2017, 131 Stat. 1393, provided that: "The amendment made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall take effect on the date of the enactment of this Act [Dec. 12, 2017] and apply beginning with the reports required to be submitted by March 1, 2020, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note)."]

[Pub. L. 113–291, div. A, title V, §542(c), Dec. 19, 2014, 128 Stat. 3373, provided that: "The amendments made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall take effect on the date of the enactment of this Act [Dec. 19, 2014] and apply beginning with the report regarding sexual assaults involving members of the Armed Forces required to be submitted by March 1, 2015, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383]."]

[Pub. L. 112–239, div. A, title V, §575(c), Jan. 2, 2013, 126 Stat. 1758. provided that: "The amendments made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall apply beginning with the report regarding sexual assaults involving members of the Armed Forces required to be submitted by March 1, 2014, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383]."]

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1631(d) of Pub. L. 111–383, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## DEFENSE INCIDENT-BASED REPORTING SYSTEM AND DEFENSE SEXUAL ASSAULT INCIDENT DATABASE

Pub. L. 111–84, div. A, title V, §598, Oct. 28, 2009, 123 Stat. 2345, provided that: "Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], and every six months thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing the progress of the Secretary with respect to the completion of the following:

"(1) The Defense Incident-Based Reporting System.

"(2) The Defense Sexual Assault Incident Database."

Pub. L. 110–417, [div. A], title V, §563(a)–(d), Oct. 14, 2008, 122 Stat. 4470, 4471, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(3), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title X, §1081(d)(3), Jan. 1, 2021, 134 Stat. 3874, provided that:

"(a) DATABASE REQUIRED.—The Secretary of Defense shall implement a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting, and maintenance of information regarding sexual assaults involving a member of the Armed Forces,

including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

"(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.

"(c) IMPLEMENTATION.—

"(1) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to provide for the implementation of the database required by subsection (a).

"(2) RELATION TO DEFENSE INCIDENT-BASED REPORTING SYSTEM.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

"(A) a description of the current status of the Defense Incident-Based Reporting System; and

"(B) an explanation of how the Defense Incident-Based Reporting System will relate to the database required by subsection (a).

"(3) COMPLETION.—Not later than 15 months after the date of enactment of this Act, the Secretary shall complete implementation of the database required by subsection (a).

"(d) REPORTS.—The database required by subsection (a) shall be used to develop and implement congressional reports, as required by—

"(1) section 577(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) [set out below];

"(2) section 596(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) [amending Pub. L. 108–375, §577, set out below];

"(3) section 532 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) [enacting sections 4361, 6980, and 9361 of this title and provisions set out as a note under section 4361 of this title and repealing provisions set out as a note under section 4331 of this title]; and

"(4) sections 7461, 8480, and 9461 of title 10, United States Code."

## IMPROVEMENT TO DEPARTMENT OF DEFENSE CAPACITY TO RESPOND TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES

Pub. L. 109–163, div. A, title V, §596(a), (b), Jan. 6, 2006, 119 Stat. 3282, provided that:

"(a) PLAN FOR SYSTEM TO TRACK CASES IN WHICH CARE OR PROSECUTION HINDERED BY LACK OF AVAILABILITY.—

"(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a system to track cases under the jurisdiction of the Department of Defense in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator of rape or sexual assault, is hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

"(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006].

"(b) ACCESSIBILITY PLAN FOR DEPLOYED UNITS.—

"(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. The plan shall include the following:

"(A) A plan for the training of personnel who are considered to be 'first responders' to sexual assaults (including criminal investigators, medical personnel responsible for rape kit evidence collection, and victims advocates), such training to include current techniques on the processing of evidence, including rape kits, and on conducting investigations.

"(B) A plan for ensuring the availability at military hospitals of supplies needed for the treatment of victims of sexual assault who present at a military hospital, including rape kits, equipment for processing rape kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and for testing for pregnancy.

"(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006]."

**DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES**

Pub. L. 111–84, div. A, title V, §567(c), Oct. 28, 2009, 123 Stat. 2314, provided that:

"(1) REQUIREMENT FOR DATA COLLECTION.—

"(A) IN GENERAL.—Pursuant to regulations prescribed by the Secretary of Defense, information shall be collected on—

"(i) whether a military protective order was issued that involved either the victim or alleged perpetrator of a sexual assault; and

"(ii) whether military protective orders involving members of the Armed Forces were violated in the course of substantiated incidents of sexual assaults against members of the Armed Forces.

"(B) SUBMISSION OF DATA.—The data required to be collected under this subsection shall be included in the annual report submitted to Congress on sexual assaults involving members of the Armed Forces.

"(2) INFORMATION TO MEMBERS.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report explaining the measures being taken to ensure that, when a military protective order has been issued, the member of the Armed Forces who is protected by the order is informed, in a timely manner, of the member's option to request transfer from the command to which the member is assigned."

Pub. L. 108–375, div. A, title V, §577, Oct. 28, 2004, 118 Stat. 1926, as amended by Pub. L. 109–163, div. A, title V, §596(c), Jan. 6, 2006, 119 Stat. 3283; Pub. L. 109–364, div. A, title V, §583, Oct. 17, 2006, 120 Stat. 2230; Pub. L. 110–417, [div. A], title V, §563(e), Oct. 14, 2008, 122 Stat. 4471; Pub. L. 111–383, div. A, title X, §1075(i)(1), title XVI, §1631(e)(1), Jan. 7, 2011, 124 Stat. 4377, 4435, provided that:

"(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS .—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

"(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

"(3) Before developing the comprehensive policy required by paragraph (1), the Secretary of Defense shall develop a definition of sexual assault. The definition so developed shall be used in the comprehensive policy under paragraph (1) and otherwise within the Department of Defense and Coast Guard in matters involving members of the Armed Forces. The definition shall be uniform for all the Armed Forces and shall be developed in consultation with the Secretaries of the military departments and the Secretary of Homeland Security with respect to the Coast Guard.

"(b) ELEMENTS OF COMPREHENSIVE POLICY.—The comprehensive policy developed under subsection (a) shall, at a minimum, address the following matters:

"(1) Prevention measures.

"(2) Education and training on prevention and response.

"(3) Investigation of complaints by command and law enforcement personnel.

"(4) Medical treatment of victims.

"(5) Confidential reporting of incidents.

"(6) Victim advocacy and intervention.

"(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

"(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

"(9) Disposition of members of the Armed Forces accused of sexual assault.

"(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

"(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

"(12) Implementation of clear, consistent, and streamlined sexual assault terminology for use throughout the Department of Defense.

"(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

"(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

"(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

"(A) to conform such policies and procedures to the policy developed under subsection (a); and

"(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

"(2) The elements specified in this paragraph are as follows:

"(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

"(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

"(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

"(i) specification of the person or persons to whom the alleged offense should be reported;

"(ii) specification of any other person whom the victim should contact;

"(iii) procedures for the preservation of evidence; and

"(iv) procedures for confidential reporting and for contacting victim advocates.

"(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

"(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

"(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

"(G) Any other matters that the Secretary of Defense considers appropriate."

## REPORTS

Pub. L. 105–85, div. A, title V, §591(b), Nov. 18, 1997, 111 Stat. 1762, required each officer receiving a complaint forwarded in accordance with subsec. (b) of this section during 1997 and 1998 to submit to the Secretary of the military department concerned a report on all such complaints and the investigations of such complaints not later than Jan. 1 of each of 1998 and 1999, required each Secretary receiving a report for a year to submit to the Secretary of Defense a report on all reports received not later than Mar. 1 of each of 1998 and 1999, and required the Secretary of Defense to transmit to Congress all reports received for the year together with the Secretary's assessment of each report not later than Apr. 1 following receipt of a report for a year.

## DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT

Pub. L. 103–337, div. A, title V, §532, Oct. 5, 1994, 108 Stat. 2759, provided that:

"(a) REPORT OF TASK FORCE.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment, constituted by the Secretary of Defense on March 15, 1994, shall transmit a report of its findings and recommendations to the Secretary of Defense not later than October 1, 1994.

"(2) The Secretary shall transmit to Congress the report of the task force not later than October 10, 1994.

"(b) SECRETARIAL REVIEW.—Not later than 45 days after receiving the report under subsection (a), the Secretary shall—

"(1) review the recommendations for action contained in the report;

"(2) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

"(3) submit to Congress a report that—

"(A) identifies the approved recommendations and the disapproved recommendations; and

"(B) explains the reasons for each such approval and disapproval.

"(c) COMPREHENSIVE DOD POLICY.—(1) Based on the approved recommendations of the task force and such other factors as the Secretary considers appropriate, the Secretary shall develop a comprehensive Department of Defense policy for processing complaints of sexual harassment and discrimination involving members of the Armed Forces under the jurisdiction of the Secretary.

"(2) The Secretary shall issue policy guidance for the implementation of the comprehensive policy and shall

require the Secretaries of the military departments to prescribe regulations to implement that policy not later than March 1, 1995.

"(3) The Secretary shall ensure that the policy is implemented uniformly by the military departments insofar as practicable.

"(4) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a proposal for any legislation necessary to enhance the capability of the Department of Defense to address the issues of unlawful discrimination and sexual harassment.

"(d) MILITARY DEPARTMENT POLICIES.—(1) The Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and procedures in that Department for the making of, and responding to, complaints of unlawful discrimination and sexual harassment in order to ensure that those regulations are substantially equivalent to the regulations of the Department of the Army on such matters.

"(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy and the Secretary of the Air Force may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen those regulations beyond the substantial equivalent of the Army regulations in accordance with—

"(A) the approved recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

"(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

"(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

"(e) REPORT OF ADVISORY BOARD.—(1) The Secretary of Defense shall direct the Advisory Board on the Investigative Capability of the Department of Defense, established by the Secretary of Defense in November 1993, to include in its report to the Secretary (scheduled to be transmitted to the Secretary during December 1994)—

"(A) the recommendations of the Advisory Board as to whether the current Department of Defense organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim; and

"(B) recommendations as to whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to respond to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim.

"(2) The Secretary shall transmit to Congress the report of the Advisory Board not later than 15 days after receiving the report.

"(f) PERFORMANCE EVALUATION STANDARDS FOR MEMBERS OF THE ARMED FORCES .—The Secretary of Defense shall ensure that Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces."

## §1561a. Civilian orders of protection: force and effect on military installations

(a) FORCE AND EFFECT.—A civilian order of protection shall have the same force and effect on a military installation as such order has within the jurisdiction of the court that issued such order.

(b) CIVILIAN ORDER OF PROTECTION DEFINED.—In this section, the term "civilian order of protection" has the meaning given the term "protection order" in section 2266(5) of title 18.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall be designed to further good order and discipline by members of the armed forces and civilians present on military installations.

(Added Pub. L. 107–311, §2(a), Dec. 2, 2002, 116 Stat. 2455.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### POLICIES AND PROCEDURES ON REGISTRATION AT MILITARY INSTALLATIONS OF CIVILIAN PROTECTIVE ORDERS APPLICABLE TO MEMBERS OF THE ARMED FORCES

**ASSIGNED TO SUCH INSTALLATIONS AND CERTAIN OTHER INDIVIDUALS**

Pub. L. 116–92, div. A, title V, §550A, Dec. 20, 2019, 133 Stat. 1380, provided that:

"(a) POLICIES AND PROCEDURES REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish policies and procedures for the registration at military installations of any civilian protective orders described in subsection (b), including the duties and responsibilities of commanders of installations in the registration process.

"(b) CIVILIAN PROTECTIVE ORDERS.—A civilian protective order described in this subsection is any civilian protective order as follows:

"(1) A civilian protective order against a member of the Armed Forces assigned to the installation concerned.

"(2) A civilian protective order against a civilian employee employed at the installation concerned.

"(3) A civilian protective order against the civilian spouse or intimate partner of a member of the Armed Forces on active duty and assigned to the installation concerned, or of a civilian employee described in paragraph (2), which order provides for the protection of such member or employee.

"(c) PARTICULAR ELEMENTS.—The policies and procedures required by subsection (a) shall include the following:

"(1) A requirement for notice between and among the commander, military law enforcement elements, and military criminal investigative elements of an installation when a member of the Armed Forces assigned to such installation, a civilian employee employed at such installation, a civilian spouse or intimate partner of a member assigned to such installation, or a civilian spouse or intimate partner of a civilian employee employed at such installation becomes subject to a civilian protective order.

"(2) A statement of policy that failure to register a civilian protective order may not be a justification for the lack of enforcement of such order by military law enforcement and other applicable personnel who have knowledge of such order.

"(d) LETTER.—As soon as practicable after establishing the policies and procedures required by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a letter that includes the following:

"(1) A detailed description of the policies and procedures.

"(2) A certification by the Secretary that the policies and procedures have been implemented on each military installation."

## §1561b. Confidential reporting of sexual harassment

(a) REPORTING PROCESS.—Notwithstanding section 1561 of this title, the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy shall prescribe in regulations a process by which a member of an armed force under the jurisdiction of the Secretary of a military department or the Commandant may confidentially allege a complaint of sexual harassment to an individual outside the immediate chain of command of the member.

(b) RECEIPT OF COMPLAINTS.—An individual designated and trained to receive complaints under the process under subsection (a) shall—

(1) maintain the confidentiality of the member alleging the complaint;

(2) explain to the member alleging the complaint the different avenues of redress available to resolve the complaint and the different consequences of each avenue on the manner in which the complaint will be investigated (if at all), including an explanation of the following:

(A) The manner in which to file a complaint concerning alleged sexual harassment with the official or office designated for receipt of such complaint through such avenue of redress.

(B) That confidentiality in connection with the complaint cannot be maintained when there is a clear and present risk to health or safety.

(C) If the alleged sexual harassment also involves an allegation of sexual assault, including sexual contact—

(i) the manner in which to file a confidential report with a Sexual Assault Response Coordinator or a Sexual Assault Prevention and Response Victim Advocate; and

(ii) options available pursuant to such reporting, including a Restricted Report or

Unrestricted Report, and participation in the Catch a Serial Offender Program.

(D) The services and assistance available to the member in connection with the complaint and the alleged sexual harassment.

(c) EDUCATION AND TRACKING.—The Secretary of Defense or the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy shall—

(1) educate members under the jurisdiction of the Secretaries of the military departments or the Commandant departments regarding the process established under this section; and

(2) track complaints alleged pursuant to the process.

(d) REPORTS.—Not later than April 30, 2023, and April 30 every two years thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing data on the complaints of sexual harassment alleged pursuant to the process under subsection (a) during the previous two calendar years. Any data on such complaints shall not contain any personally identifiable information.

(e) REPORTS FOR THE COAST GUARD.—

(1) IN GENERAL.—Not later than April 30, 2026, and April 30 every 2 years thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing data on the complaints of sexual harassment alleged pursuant to the process under subsection (a) during the previous 2 calendar years.

(2) PERSONALLY IDENTIFIABLE INFORMATION.—Any data on complaints described in paragraph (1) shall not contain any personally identifiable information.

(Added Pub. L. 116–283, div. A, title V, §532(a)(1), Jan. 1, 2021, 134 Stat. 3601; amended Pub. L. 119–60, div. G, title LXXV, §7525, Dec. 18, 2025, 139 Stat. 1816.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §7525(1), inserted "and the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy" after "Secretary of Defense" and "or the Commandant" after "Secretary of a military department".

Subsec. (c). Pub. L. 119–60, §7525(2)(A), inserted "or the Secretary of the department in which the Coast Guard is operating when not operating as a service in the Navy" after "Secretary of Defense" in introductory provisions.

Subsec. (c)(1). Pub. L. 119–60, §7525(2)(B), inserted "departments or the Commandant" after "Secretaries of the military".

Subsec. (e). Pub. L. 119–60, §7525(3), added subsec. (e).

## §1562. Database on domestic violence incidents

(a) DATABASE ON DOMESTIC VIOLENCE INCIDENT.—The Secretary of Defense shall establish a central database of information on the incidents of domestic violence involving members of the armed forces.

(b) REPORTING OF INFORMATION FOR THE DATABASE.—The Secretary shall require that the Secretaries of the military departments maintain and report annually to the administrator of the database established under subsection (a) any information received on the following matters:

(1) Each domestic violence incident reported to a commander, a law enforcement authority of the armed forces, or a family advocacy program of the Department of Defense.

(2) The number of those incidents that involve evidence determined sufficient for supporting

disciplinary action and, for each such incident, a description of the substantiated allegation and the action taken by command authorities in the incident.

(3) The number of those incidents that involve evidence determined insufficient for supporting disciplinary action and for each such case, a description of the allegation.

(Added Pub. L. 106–65, div. A, title V, §594(a), Oct. 5, 1999, 113 Stat. 643.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPROVEMENTS TO DEPARTMENT OF DEFENSE DOMESTIC VIOLENCE PROGRAMS

Pub. L. 111–383, div. A, title V, §543, Jan. 7, 2011, 124 Stat. 4218, as amended by Pub. L. 113–291, div. A, title V, §544(b), Dec. 19, 2014, 128 Stat. 3374, provided that:

"(a) IMPLEMENTATION OF OUTSTANDING COMPTROLLER GENERAL RECOMMENDATIONS .—Consistent with the recommendations contained in the report of the Comptroller General of the United States titled 'Status of Implementation of GAO's 2006 Recommendations on the Department of Defense's Domestic Violence Program' (GAO–10–577R), the Secretary of Defense shall complete, not later than one year after the date of enactment of this Act [Jan. 7, 2011], implementation of actions to address the following recommendations:

"(1) ADEQUATE PERSONNEL.—The Secretary of Defense shall develop a plan to ensure that adequate personnel are available to implement recommendations made by the Defense Task Force on Domestic Violence.

"(2) DOMESTIC VIOLENCE TRAINING DATA FOR CHAPLAINS.—The Secretary of Defense shall develop a plan to collect domestic violence training data for chaplains.

"(3) OVERSIGHT FRAMEWORK.—The Secretary of Defense shall develop an oversight framework for Department of Defense domestic violence programs, to include oversight of implementation of recommendations made by the Defense Task Force on Domestic Violence, including budgeting, communication initiatives, and policy compliance.

"(b) IMPLEMENTATION REPORT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an implementation report within 90 days of the completion of actions outlined in subsection (a)."

### COMPTROLLER GENERAL REVIEW AND REPORT

Pub. L. 108–136, div. A, title V, §575, Nov. 24, 2003, 117 Stat. 1486, provided that:

"(a) REVIEW.—During the two-year period beginning on the date of the enactment of this Act [Nov. 24, 2003], the Comptroller General shall review and assess the progress of the Department of Defense in implementing the recommendations of the Defense Task Force on Domestic Violence. In reviewing the status of the Department's efforts, the Comptroller General should specifically focus on—

"(1) the efforts of the Department to ensure confidentiality for victims and accountability and education of commanding officers and chaplains; and

"(2) the resources that the Department of Defense has provided toward such implementation, including personnel, facilities, and other administrative support, in order to ensure that necessary resources are provided to the organization within the Office of the Secretary of Defense with direct responsibility for oversight of implementation by the military departments of recommendations of the Task Force in order for that organization to carry out its duties and responsibilities.

"(b) REPORT.—The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the review and assessment under subsection (a) not later than 30 months after the date of the enactment of this Act [Nov. 24, 2003]."

### DEFENSE TASK FORCE ON DOMESTIC VIOLENCE

Pub. L. 106–65, div. A, title V, §591, Oct. 5, 1999, 113 Stat. 639, as amended by Pub. L. 107–107, div. A, title V, §575, Dec. 28, 2001, 115 Stat. 1123, directed the Secretary of Defense to establish a Department of Defense Task Force on Domestic Violence; required the task force to submit to the Secretary of Defense a long-term, strategic plan to address matters relating to domestic violence within the military more effectively, to review the victims' safety program under Pub. L. 106–65, §592, set out below, and other matters relating to acts of domestic violence involving members of the Armed Forces, and to submit to the Secretary an annual report on its activities and activities of the military departments; directed the Secretary to submit the report

and the Secretary's evaluation of the report to committees of Congress; and provided for the termination of the task force on Apr. 24, 2003.

## INCENTIVE PROGRAM FOR IMPROVING RESPONSES TO DOMESTIC VIOLENCE INVOLVING MEMBERS OF THE ARMED FORCES AND MILITARY FAMILY MEMBERS

Pub. L. 106–65, div. A, title V, §592, Oct. 5, 1999, 113 Stat. 642, provided that:

"(a) PURPOSE.—The purpose of this section is to provide a program for the establishment on military installations of collaborative projects involving appropriate elements of the Armed Forces and the civilian community to improve, strengthen, or coordinate prevention and response efforts to domestic violence involving members of the Armed Forces, military family members, and others.

"(b) PROGRAM.—The Secretary of Defense shall establish a program to provide funds and other incentives to commanders of military installations for the following purposes:

"(1) To improve coordination between military and civilian law enforcement authorities in policies, training, and responses to, and tracking of, cases involving military domestic violence.

"(2) To develop, implement, and coordinate with appropriate civilian authorities tracking systems (A) for protective orders issued to or on behalf of members of the Armed Forces by civilian courts, and (B) for orders issued by military commanders to members of the Armed Forces ordering them not to have contact with a dependent.

"(3) To strengthen the capacity of attorneys and other legal advocates to respond appropriately to victims of military domestic violence.

"(4) To assist in educating judges, prosecutors, and legal offices in improved handling of military domestic violence cases.

"(5) To develop and implement more effective policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to domestic violence.

"(6) To develop, enlarge, or strengthen victims' services programs, including sexual assault and domestic violence programs, developing or improving delivery of victims' services, and providing confidential access to specialized victims' advocates.

"(7) To develop and implement primary prevention programs.

"(8) To improve the response of health care providers to incidents of domestic violence, including the development and implementation of screening protocols.

"(c) PRIORITY.—The Secretary shall give priority in providing funds and other incentives under the program to installations at which the local program will emphasize building or strengthening partnerships and collaboration among military organizations such as family advocacy program, military police or provost marshal organizations, judge advocate organizations, legal offices, health affairs offices, and other installation-level military commands between those organizations and appropriate civilian organizations, including civilian law enforcement, domestic violence advocacy organizations, and domestic violence shelters.

"(d) APPLICATIONS.—The Secretary shall establish guidelines for applications for an award of funds under the program to carry out the program at an installation.

"(e) AWARDS.—The Secretary shall determine the award of funds and incentives under this section. In making a determination of the installations to which funds or other incentives are to be provided under the program, the Secretary shall consult with an award review committee consisting of representatives from the Armed Forces, the Department of Justice, the Department of Health and Human Services, and organizations with a demonstrated expertise in the areas of domestic violence and victims' safety."

## UNIFORM DEPARTMENT OF DEFENSE POLICIES FOR RESPONSES TO DOMESTIC VIOLENCE

Pub. L. 106–65, div. A, title V, §593, Oct. 5, 1999, 113 Stat. 643, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall prescribe the following:

"(1) Standard guidelines to be used by the Secretaries of the military departments for negotiating agreements with civilian law enforcement authorities relating to acts of domestic violence involving members of the Armed Forces.

"(2) A requirement (A) that when a commanding officer issues to a member of the Armed Forces under that officer's command an order that the member not have contact with a specified person that a written copy of that order be provided within 24 hours after the issuance of the order to the person with whom the member is ordered not to have contact, and (B) that there be a system of recording and tracking such orders.

"(3) Standard guidelines on the factors for commanders to consider when seeking to substantiate

allegations of domestic violence by a person subject to the Uniform Code of Military Justice and when determining appropriate action for such allegations that are so substantiated.

"(4) A standard training program for all commanding officers in the Armed Forces, including a standard curriculum, on the handling of domestic violence cases.

"(b) DEADLINE.—The Secretary of Defense shall carry out subsection (a) not later than six months after the date on which the Secretary receives the first report of the Defense Task Force on Domestic Violence under section 591(e) [set out as a note above]."

## §1562a. Complaints of retaliation by victims of sexual assault or sexual harassment and related persons: tracking by Department of Defense

(a) DESIGNATION OF RESPONSIBLE COMPONENT.—

(1) IN GENERAL.—The Secretary of Defense shall designate a component of the Office of the Secretary of Defense to be responsible for documenting and tracking all covered allegations of retaliation and shall ensure that the Secretaries concerned and the Inspector General of the Department of Defense provide to such component the information required to be documented and tracked as described in subsection (b).

(2) COAST GUARD.—The Secretary of the department in which the Coast Guard is operating shall designate the Commandant of the Coast Guard to be responsible for carrying out the requirements of this section with respect to members of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(b) TRACKING OF ALLEGATIONS.—The head of the component designated by the Secretary and the Commandant of the Coast Guard under subsection (a) shall document and track each covered allegation of retaliation, including—

(1) that such an allegation has been reported and by whom;

(2) the date of the report;

(3) the nature of the allegation and the name of the person or persons alleged to have engaged in such retaliation;

(4) the component or other entity responsible for the investigation of or inquiry into the allegation;

(5) the entry of findings;

(6) referral of such findings to a decisionmaker for review and action, as appropriate;

(7) the outcome of final action; and

(8) any other element of information pertaining to the allegation determined appropriate by the Secretary or the head of the component designated by the Secretary or with respect to the Coast Guard, the component designated by the Commandant of the Coast Guard.

(c) COVERED ALLEGATION OF RETALIATION DEFINED.—In this section, the term "covered allegation of retaliation" means an allegation of retaliation—

(1) made by—

(A) an alleged victim of sexual assault or sexual harassment;

(B) an individual charged with providing services or support to an alleged victim of sexual assault or sexual harassment;

(C) a witness or bystander to an alleged sexual assault or sexual harassment; or

(D) any other person associated with an alleged victim of a sexual assault or sexual harassment; and

(2) without regard to whether the allegation is reported to or investigated or inquired into by—

(A) the Department of Defense Inspector General, the Inspector General of the Department of Homeland Security, or any other inspector general;

(B) a military criminal investigative organization;

(C) a commander or other person at the direction of the commander;

(D) another armed force or civilian law enforcement organization; or

(E) any other organization, officer, or employee of the Department of Defense or department in which the Coast Guard is operating when not operating as a service in the Navy for members of the Coast Guard.

(Added Pub. L. 117–81, div. A, title V, §544(a), Dec. 27, 2021, 135 Stat. 1710; amended Pub. L. 119–60, div. G, title LXXV, §7521, Dec. 18, 2025, 139 Stat. 1813.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §7521(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (b). Pub. L. 119–60, §7521(2)(A), inserted "and the Commandant of the Coast Guard" after "Secretary" in introductory provisions.

Subsec. (b)(4). Pub. L. 119–60, §7521(2)(C), struck out "Department of Defense" before "component".

Subsec. (b)(8). Pub. L. 119–60, §7521(2)(B), inserted "or with respect to the Coast Guard, the component designated by the Commandant of the Coast Guard" before period at end.

Subsec. (c)(2)(A). Pub. L. 119–60, §7521(3)(A), inserted ", the Inspector General of the Department of Homeland Security," before "or any other inspector general".

Subsec. (c)(2)(D). Pub. L. 119–60, §7521(3)(B), substituted "armed force" for "military".

Subsec. (c)(2)(E). Pub. L. 119–60, §7521(3)(C), inserted "or department in which the Coast Guard is operating when not operating as a service in the Navy for members of the Coast Guard" after "Department of Defense".

## §1563. Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion

(a) REVIEW BY SECRETARY CONCERNED.—Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces that is not otherwise authorized by law. Based upon such review, the Secretary shall make a determination as to the merits of approving the promotion.

(b) NOTICE OF RESULTS OF REVIEW.—Upon making a determination under subsection (a) as to the merits of approving the honorary promotion, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.

(c) AUTHORITY TO MAKE.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of Defense may make an honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces to any grade not exceeding the grade of major general or rear admiral (upper half) following the submittal of the determination of the Secretary concerned under subsection (b) in connection with the proposal for the promotion if the determination is to approve the making of the promotion.

(2) The Secretary of Defense may not make an honorary promotion under this subsection until 60 days after the date on which the Secretary concerned submits the determination in connection with the proposal for the promotion under subsection (b), and the detailed rationale supporting the determination as described in that subsection, to the Committees on Armed Services of the Senate and the House of Representatives and the requesting Member in accordance with that subsection.

(3) The authority to make an honorary promotion under this subsection shall apply notwithstanding that the promotion is not otherwise authorized by law.

(4) Any promotion pursuant to this subsection is honorary, and shall not affect the pay, retired pay, or other benefits from the United States to which the former member or retired member concerned is

or would have been entitled based upon the military service of such former member or retired member, nor affect any benefits to which any other person may become entitled based on the military service of such former member or retired member.

(d) DEFINITION.—In this section, the term "Member of Congress" means—

(1) a Senator; or

(2) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(Added Pub. L. 106–398, §1 [[div. A], title V, §542(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–114; amended Pub. L. 108–136, div. A, title X, §1031(a)(11), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 116–283, div. A, title V, §523(b), Jan. 1, 2021, 134 Stat. 3598; Pub. L. 118–31, div. A, title XVII, §1741(a)(6), Dec. 22, 2023, 137 Stat. 680.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (c)(1). Pub. L. 118–31 substituted "general or" for "general," and struck out ", or an equivalent grade in the Space Force" after "rear admiral (upper half)".

**2021**—Pub. L. 116–283, §523(b)(3), substituted "Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion" for "Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review" in section catchline.

Subsec. (a). Pub. L. 116–283, §523(b)(1)(A), substituted, in first sentence, "the honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces" for "the posthumous or honorary promotion or appointment of a member or former member of the armed forces, or any other person considered qualified," and, in second sentence, "the promotion" for "the posthumous or honorary promotion or appointment".

Subsec. (b). Pub. L. 116–283, §523(b)(1)(B), substituted "the honorary promotion" for "the posthumous or honorary promotion or appointment".

Subsecs. (c), (d). Pub. L. 116–283, §523(b)(2), added subsec. (c) and redesignated former subsec. (c) as (d).

**2003**—Pub. L. 108–136, §1031(a)(11)(B), struck out "and recommendation" after "review" in section catchline.

Subsec. (a). Pub. L. 108–136, §1031(a)(11)(A)(i), struck out "and the other determinations necessary to comply with subsection (b)" before period at end.

Subsec. (b). Pub. L. 108–136, §1031(a)(11)(A)(ii), substituted "a detailed discussion of the rationale supporting the determination." for "notice in writing of one of the following:

"(1) The posthumous or honorary promotion or appointment does not warrant approval on the merits.

"(2) The posthumous or honorary promotion or appointment warrants approval and authorization by law for the promotion or appointment is recommended.

"(3) The posthumous or honorary promotion or appointment warrants approval on the merits and has been recommended to the President as an exception to policy.

"(4) The posthumous or honorary promotion or appointment warrants approval on the merits and authorization by law for the promotion or appointment is required but is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary."

## §1563a. Honorary promotions on the initiative of the Department of Defense

(a) IN GENERAL.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may make an honorary promotion, including a posthumous honorary promotion, of a former member or retired member of the armed forces to any grade not exceeding the grade of major general or rear admiral (upper half).

(2) The honorary grade to which a member described in paragraph (1) is promoted shall be commensurate with such member's contributions to the armed forces or the national defense.

(3) The Secretary of a military department is not authorized to make an honorary promotion under paragraph (1) solely on the basis that a member described in paragraph (1) was recommended for such promotion prior to separating from the armed forces.

(4)(A) The Secretary of a military department is only authorized to make an honorary promotion

under paragraph (1) upon receipt of a favorable recommendation by a board of at least three independent officers convened specifically for the purpose of reviewing the proposed honorary promotion.

(B) For purposes of this paragraph, an officer is an independent officer if—

(i) the officer has no relationship with the former member or retired member of the armed forces whose proposed honorary promotion is the subject of review by the board on which such officer will serve under this paragraph; and

(ii) the officer has no personal interest in the proposed honorary promotion.

(b) NOTICE TO CONGRESS.—The Secretary of a military department may not make an honorary promotion pursuant to subsection (a) until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a notice of the determination to make the promotion, including a detailed discussion of the rationale supporting the determination.

(c) NOTICE OF PROMOTION.—Upon making an honorary promotion pursuant to subsection (a), the Secretary of the military department concerned shall expeditiously notify the former member or retired member concerned, or the next of kin of such former member or retired member if such former member or retired member is deceased, of the promotion.

(d) NATURE OF PROMOTION.—Any promotion pursuant to this section is honorary, and shall not affect the pay, retired pay, or other benefits from the United States to which the former member or retired member concerned is entitled or would have been entitled based on the military service of such former member or retired member, nor affect any benefits to which any other person is or may become entitled based on the military service of such former member or retired member.

(Added Pub. L. 116–283, div. A, title V, §523(a), Jan. 1, 2021, 134 Stat. 3597; amended Pub. L. 118–31, div. A, title XVII, §1741(a)(6), Dec. 22, 2023, 137 Stat. 680; Pub. L. 119–60, div. A, title V, §523, Dec. 18, 2025, 139 Stat. 864.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a)(1). Pub. L. 119–60, §523(1)(A), substituted "the Secretary of a military department may make an honorary promotion, including a posthumous honorary promotion, of a former" for "the Secretary may make an honorary promotion (whether or not posthumous) of a former" and struck out "if the Secretary determines that the promotion is merited" before period at end.

Subsec. (a)(2) to (4). Pub. L. 119–60, §523(1)(B), added pars. (2) to (4) and struck out former par. (2) which read as follows: "The authority to make an honorary promotion under this subsection shall apply notwithstanding that the promotion is not otherwise authorized by law."

Subsec. (b). Pub. L. 119–60, §523(2), substituted "The Secretary of a military department" for "The Secretary".

Subsec. (c). Pub. L. 119–60, §523(3), substituted "the Secretary of the military department concerned" for "the Secretary".

**2023**—Subsec. (a)(1). Pub. L. 118–31 substituted "general or" for "general," and struck out ", or an equivalent grade in the Space Force" after "rear admiral (upper half)".

## §1564. Security clearance investigations

(a) EXPEDITED PROCESS.—The Secretary of Defense may prescribe a process for expediting the completion of the background investigations necessary for granting security clearances for—

(1) Department of Defense personnel and Department of Defense contractor personnel who are engaged in sensitive duties that are critical to the national security; and

(2) any individual who—

(A) submits an application for a position as an employee of the Department of Defense for which—

(i) the individual is qualified; and
(ii) a security clearance is required; and

(B) is—
(i) a member of the armed forces who was retired or separated, or is expected to be retired or separated, for physical disability pursuant to chapter 61 of this title;
(ii) the spouse of a member of the armed forces who retires or is separated, after January 7, 2011, for a physical disability as a result of a wound, injuries or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned); or
(iii) the spouse of a member of the armed forces who dies, after January 7, 2011, as a result of a wound, injury, or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned).

(b) REQUIRED FEATURES.—The process developed under subsection (a) shall provide for the following:
(1) Quantification of the requirements for background investigations necessary for grants of security clearances for Department of Defense personnel and Department of Defense contractor personnel.
(2) Categorization of personnel on the basis of the degree of sensitivity of their duties and the extent to which those duties are critical to the national security.
(3) Prioritization of the processing of background investigations on the basis of the categories of personnel determined under paragraph (2).

(c) REINVESTIGATION OR READJUDICATION OF CERTAIN INDIVIDUALS.—(1) The Secretary of Defense shall conduct an investigation or adjudication under subsection (a) of any individual described in paragraph (2), and the Secretary of Homeland Security shall conduct an investigation or adjudication under subsection (a) of any individual described in paragraph (3), upon—
(A) conviction of that individual by a court of competent jurisdiction for—
(i) sexual assault;
(ii) sexual harassment;
(iii) fraud against the United States; or
(iv) any other violation that the Secretary of Defense or the Secretary of Homeland Security, as the case may be, determines renders that individual susceptible to blackmail or raises serious concern regarding the ability of that individual to hold a security clearance; or

(B) determination by a commanding officer that that individual has committed an offense described in subparagraph (A).

(2) An individual described in this paragraph is an individual (other than an individual described in paragraph (3)) who has a security clearance and is—
(A) a flag officer;
(B) a general officer; or
(C) an employee of the Department of Defense in the Senior Executive Service.

(3) An individual described in this paragraph is an individual who has a security clearance and is—
(A) a flag officer of the Coast Guard; or
(B) an employee of the Coast Guard in the Senior Executive Service (career reserved).

(4) The Secretary of Defense, in the case of an individual described in paragraph (2), and the Secretary of Homeland Security, in the case of an individual described in paragraph (3), shall ensure that relevant information on the conviction or determination described in paragraph (1) of such an

individual during the preceding year, regardless of whether the individual has retired or resigned or has been discharged, released, or otherwise separated from the armed forces, is reported into Federal law enforcement records and security clearance databases, and that such information is transmitted, as appropriate, to other Federal agencies.

(5) In this subsection:

(A) The term "sexual assault" includes rape, sexual assault, forcible sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit such offenses, as those terms are defined in chapter 47 of this title (the Uniform Code of Military Justice).

(B) The term "sexual harassment" has the meaning given that term in section 1561 of this title.

(C) The term "fraud against the United States" means a violation of section 932 of this title (article 132 of the Uniform Code of Military Justice).

(d) ANNUAL REVIEW.—The Secretary shall conduct an annual review of the process prescribed under subsection (a) and shall revise that process as determined necessary in relation to ongoing Department of Defense missions.

(e) CONSULTATION REQUIREMENT.—The Secretary shall consult with the Secretaries of the military departments and the heads of Defense Agencies in carrying out this section.

(f) SENSITIVE DUTIES.—For the purposes of this section, it is not necessary for the performance of duties to involve classified activities or classified matters in order for the duties to be considered sensitive and critical to the national security.

(g) USE OF APPROPRIATED FUNDS.—The Secretary of Defense may use funds authorized to be appropriated to the Department of Defense for operation and maintenance to conduct background investigations under this section for individuals described in subsection (a)(2).

(Added Pub. L. 106–398, §1 [[div. A], title X, §1072(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–276; amended Pub. L. 111–383, div. A, title III, §351(a), Jan. 7, 2011, 124 Stat. 4192; Pub. L. 112–239, div. A, title X, §1076(e)(1), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 115–232, div. A, title V, §542, Aug. 13, 2018, 132 Stat. 1762; Pub. L. 116–283, div. A, title X, §1081(a)(29), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 119–60, div. G, title LXXV, §7530, Dec. 18, 2025, 139 Stat. 1821.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c)(1). Pub. L. 119–60, §7530(1)(A), inserted ", and the Secretary of Homeland Security shall conduct an investigation or adjudication under subsection (a) of any individual described in paragraph (3)," after "paragraph (2)" in introductory provisions.

Subsec. (c)(1)(A)(iv). Pub. L. 119–60, §7530(1)(B), substituted "the Secretary of Defense or the Secretary of Homeland Security, as the case may be," for "the Secretary".

Subsec. (c)(2). Pub. L. 119–60, §7530(2), inserted "(other than an individual described in paragraph (3))" after "is an individual" in introductory provisions.

Subsec. (c)(3). Pub. L. 119–60, §7530(4), added par. (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 119–60, §7530(3), (5), redesignated par. (3) as (4) and substituted "Secretary of Defense, in the case of an individual described in paragraph (2), and the Secretary of Homeland Security, in the case of an individual described in paragraph (3), shall ensure that relevant information on the conviction or determination described in paragraph (1) of such an individual" for "Secretary shall ensure that relevant information on the conviction or determination described in paragraph (1) of an individual described in paragraph (2)". Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 119–60, §7530(3), redesignated par. (4) as (5).

**2021**—Subsec. (c)(2). Pub. L. 116–283 substituted "is an individual" for "in an individual" in introductory provisions.

**2018**—Subsecs. (c) to (g). Pub. L. 115–232 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

**2013**—Subsec. (a)(2)(B)(ii), (iii). Pub. L. 112–239 substituted "January 7, 2011" for "the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011".

**2011**—Subsec. (a). Pub. L. 111–383, §351(a)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary of Defense shall prescribe a process for expediting the

completion of the background investigations necessary for granting security clearances for Department of Defense personnel and Department of Defense contractor personnel who are engaged in sensitive duties that are critical to the national security."

Subsec. (f). Pub. L. 111–383, §351(a)(2), added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title III, §351(b), Jan. 7, 2011, 124 Stat. 4193, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to a background investigation conducted after the date of the enactment of this Act [Jan. 7, 2011]."

### INFORMATION TECHNOLOGY PROGRAMS OF THE NATIONAL BACKGROUND INVESTIGATION SERVICE

Pub. L. 118–159, div. A, title XV, §1512, Dec. 23, 2024, 138 Stat. 2136, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the authorizing official of the Defense Counterintelligence and Security Agency, in coordination with the Chief Information Officer of the Department of Defense, shall—

"(1) take such actions as may be necessary to ensure that the National Background Investigation Services are in compliance with the relevant standards and guidelines published by the National Institution of Standards and Technology in NIST Special Publication 800–53, Revision 5 (relating to security and privacy controls for information systems and organizations), or successor publication or revision thereto; and

"(2) submit to Congress a notice either—

"(A) certifying that such services are in compliance with such standards and guidelines; or

"(B) explaining why the authorizing official of the Defense Counterintelligence and Security Agency is unable to certify that such services are in compliance with such standards and guidelines."

### SECURITY CLEARANCE BRIDGE PILOT PROGRAM

Pub. L. 117–263, div. A, title VIII, §882, Dec. 23, 2022, 136 Stat. 2744, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall conduct a pilot program to allow the Defense Counterintelligence and Security Agency to sponsor the personal security clearances of the employees of innovative technology companies that are performing a contract of the Department of Defense while the Government completes the adjudication of the facility clearance application of such a [sic] innovative technology company.

"(b) ADDITIONAL REQUIREMENTS.—

"(1) PERSONAL SECURITY CLEARANCE AUTHORITY.—

"(A) IN GENERAL.—Under the pilot program, the Defense Counterintelligence and Security Agency may nominate and sponsor the personal security clearances of the employees of an innovative technology company.

"(B) LIMITATION.—Under the pilot program, the Defense Counterintelligence and Security Agency may sponsor the personal security clearances of employees of not more than 75 innovative technology companies.

"(2) ADJUDICATION OF THE FACILITY CLEARANCE APPLICATION.—Any adjudication of a facility clearance application of an innovative technology company described in subsection (a) shall include an assessment and mitigation of foreign ownership, control, or influence of the innovative technology company, as applicable.

"(c) CLEARANCE TRANSFER.—

"(1) IN GENERAL.—Not later than 30 days after an innovative technology company is granted facility clearance, the Defense Counterintelligence and Security Agency shall transfer any personal clearances of employees of the innovative technology company held by the Defense Counterintelligence and Security Agency under the pilot program back to the innovative technology company.

"(2) DENIAL OF FACILITY CLEARANCE.—Not later than 10 days after an innovative technology company is denied facility clearance, the Defense Counterintelligence and Security Agency shall release any personal clearances of employees of the innovative technology company held by the Defense Counterintelligence and Security Agency under the pilot program.

"(d) PARTICIPANT SELECTION.—The Under Secretary of Defense for Research and Engineering, in consultation with the Under Secretary of Defense for Acquisition and Sustainment and the service acquisition

executive of the military department concerned (as such terms are defined, respectively, in section 101 of title 10, United States Code), shall select innovative technology companies to participate in the pilot program.

"(e) SUNSET.—The pilot program shall terminate on December 31, 2028.

"(f) DEFINITIONS.—In this section:

"(1) FACILITY CLEARANCE.—The term 'facility clearance' has the meaning given the term 'Facility Clearance' in section 95.5 of title 10, Code of Federal Regulations, or any successor regulation.

"(2) FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE.—The term 'foreign ownership, control, or influence' has the meaning given in section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505; 10 U.S.C. 4819 note).

"(3) INNOVATIVE TECHNOLOGY COMPANY.—The term 'innovative technology company' means a nontraditional defense contractor (as defined in section 3014 of title 10, United States Code) that—

"(A) provides goods or services related to—

"(i) one or more of the 14 critical technology areas described in the memorandum by the Under Secretary of Defense for Research and Engineering issued on February 1, 2022, entitled 'USD(R&E) Technology Vision for an Era of Competition'; or

"(ii) information technology, software, or hardware that is unavailable from any other entity that possesses a facility clearance; and

"(B) is selected by the Under Secretary of Defense for Research and Engineering under subsection (d) to participate in the pilot program.

"(4) PERSONAL SECURITY CLEARANCE.—The term 'personal security clearance' means the security clearance of an individual who has received approval from the Department of Defense to access classified information.

"(5) PILOT PROGRAM.—The term 'pilot program' means the pilot program established under subsection (a)."

## SECURITY CLEARANCES FOR RECENTLY SEPARATED MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Pub. L. 117–263, div. A, title X, §1045, Dec. 23, 2022, 136 Stat. 2772, provided that:

"(a) IMPROVEMENTS.—

"(1) IN GENERAL.—No later than September 30, 2023, the Secretary of Defense, in coordination with the Director of National Intelligence when acting as the Security Executive Agent, shall establish a process to—

"(A) determine, on the date on which a covered individual separates from the Armed Forces or the Department of Defense (as the case may be), whether the covered individual held an eligibility to access classified information or to occupy a sensitive position immediately prior to such separation and requires an eligibility of an equal or lower level for employment as a covered contractor, except as provided in subsection (b);

"(B) ensure that the re-establishment of trust of a covered individual's eligibility to occupy a sensitive position takes place expeditiously, in accordance with applicable laws, Executive Orders, or Security Executive Agent policy; and

"(C) ensure that any additional security processing required to re-establish trust to reinstate a covered individual's eligibility to access classified information or occupy a sensitive position takes place expeditiously.

"(2) COAST GUARD.—In the case of a member of the Armed Forces who is a member of the Coast Guard, the Secretary of Defense shall carry out paragraph (1) in consultation with the Secretary of the Department in which the Coast Guard is operating.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to a covered individual—

"(A) whose previously held security clearance is, or was as of the date of separation of the covered individual, under review as a result of one or more potentially disqualifying factors or conditions that have not been fully investigated or mitigated; or

"(B) in the case of a member of the Armed Forces, who separated from the Armed Forces under other than honorable conditions.

"(2) CLARIFICATION OF REVIEW EXCEPTION.—The exception specified in paragraph (1)(A) shall not apply with respect to a routine periodic reinvestigation or a continuous vetting investigation in which no potentially disqualifying factors or conditions have been found.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered contractor' means an individual who is employed by an entity that carries out

work under a contract with the Department of Defense or an element of the intelligence community.

"(2) The term 'covered individual' means a former member of the Armed Forces or a former civilian employee of the Department of Defense.

"(3) The term 'intelligence community' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## DEPARTMENT OF DEFENSE POLICY ON UNCLASSIFIED WORKSPACES AND JOB FUNCTIONS OF PERSONNEL WITH PENDING SECURITY CLEARANCES

Pub. L. 116–283, div. A, title XI, §1101, Jan. 1, 2021, 134 Stat. 3884, provided that:

"(a) POLICY REQUIRED.—The Secretary of Defense shall develop and implement a policy under which a covered individual may occupy a position within the Department of Defense that requires a security clearance to perform appropriate unclassified work, or work commensurate with a security clearance already held by the individual (which may include an interim security clearance), while such individual awaits a final determination with respect to the security clearance required for such position.

"(b) UNCLASSIFIED WORK SPACES.—As part of the policy under subsection (a), the Secretary of Defense shall—

"(1) ensure, to the extent practicable, that all facilities of the Department of Defense at which covered individuals perform job functions have unclassified workspaces; and

"(2) issue guidelines under which appropriately screened individuals, who are not covered individuals, may use the unclassified workspaces on a space-available basis.

"(c) REPORT.—Not later than one year after the date of enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy required by subsection (a). The report shall include the following:

"(1) Identification of any challenges or impediments to allowing covered individuals fill positions on a probationary basis as described in subsection (a).

"(2) A plan for implementing the policy.

"(3) A description of how existing facilities may be modified to accommodate unclassified workspaces.

"(4) Identification of impediments to making unclassified workspace available.

"(d) COVERED INDIVIDUAL DEFINED.—In this section, the term 'covered individual' includes a member of the Armed Forces, a civilian employee of the Department of Defense, or an applicant for a civilian position within the Department of Defense, who has applied for, but who has not yet received, a security clearance that is required for the individual to perform one or more job functions."

## DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY ACTIVITIES ON FACILITATING ACCESS TO LOCAL CRIMINAL RECORDS HISTORICAL DATA

Pub. L. 116–92, div. A, title XVI, §1625, Dec. 20, 2019, 133 Stat. 1736, provided that:

"(a) ACTIVITY AUTHORIZED.—Subject to subsection (c), the Director of the Defense Counterintelligence and Security Agency may carry out a set of activities to reduce the time and cost of accessing State, local, and tribal law enforcement records for the background investigations required for current and prospective Federal Government employees and contractors.

"(b) ACTIVITIES CHARACTERIZED.—The activities carried out under subsection (a) shall include only that training, education, and direct assistance to State, local, and tribal communities needed for the purpose of streamlining access to historical criminal record data.

"(c) LIMITATIONS.—

"(1) COMMENCEMENT OF ACTIVITIES.—The Director may not commence carrying out any activities under subsection (a) until the date that is 90 days after the date on which the Director submits the report required by subsection (d)(1).

"(2) LEGAL AND REPORTING OBLIGATIONS.—The Director shall ensure that no activity carried out under subsection (a) obligates a State, local, or tribal entity to any additional legal or reporting obligation to the Defense Counterintelligence and Security Agency.

"(3) SCOPE.—No activity may be carried out under subsection (a) that applies to any matter outside the limited purpose of conducting background investigations for current and prospective Federal Government employees and contractors.

"(4) CONSISTENCY WITH ACCESS PROVIDED.—The Director shall ensure that the activities carried out under subsection (a) are carried out in a manner that is consistent with the access provided by Federal law enforcement entities to the Defense Counterintelligence and Security Agency.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Director shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report that details a concept of operation for the set of activities authorized by subsection (a).

"(2) ANNUAL REPORTS.—Not later than one year after the date on which the Director submits a report pursuant to paragraph (1) and not less frequently than once each year thereafter, the Director shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report on the activities carried out by the Director under subsection (a)."

## REPORTS ON CONSOLIDATED ADJUDICATION FACILITY OF THE DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

Pub. L. 116–92, div. A, title XVI, §1627, Dec. 20, 2019, 133 Stat. 1740, provided that:

"(a) REPORTS.—On a semiannual basis during the period beginning on the date of the enactment of this Act [Dec. 20, 2019] and ending on the date specified in subsection (b), and annually thereafter, the Director of the Defense Counterintelligence and Security Agency shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the processes in place for adjudicating security clearances and the progress made to address the backlog of security clearance applications, including—

"(1) metrics used by the Director to evaluate the inventory and timeliness of adjudicating security clearance cases; and

"(2) details on the resources used by the Director in carrying out the security clearance mission of the Consolidated Adjudication Facility.

"(b) DETERMINATION AND BRIEFING.—Upon the date on which the Director of the Defense Counterintelligence and Security Agency determines both that the backlog of security clearance adjudications has been substantially eliminated and that the timeline to conduct background investigations reflects the type of investigation being conducted and the level of clearance required, the Director shall—

"(1) notify the congressional defense committees of such determination; and

"(2) provide to such committees a briefing on the progress made by the Director with respect to security clearance adjudications."

## TERMINATION OF REQUIREMENT FOR DEPARTMENT OF DEFENSE FACILITY ACCESS CLEARANCES FOR JOINT VENTURES COMPOSED OF PREVIOUSLY-CLEARED ENTITIES

Pub. L. 116–92, div. A, title XVI, §1629, Dec. 20, 2019, 133 Stat. 1741, provided that: "A clearance for access to a Department of Defense installation or facility may not be required for a joint venture if that joint venture is composed entirely of entities that are currently cleared for access to such installation or facility."

## BACKGROUND AND SECURITY INVESTIGATIONS FOR DEPARTMENT OF DEFENSE PERSONNEL BY DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

Pub. L. 115–91, div. A, title IX, §925, Dec. 12, 2017, 131 Stat. 1526, as amended by Pub. L. 115–232, div. A, title IX, §937, Aug. 13, 2018, 132 Stat. 1940, provided that:

"(a) TRANSITION TO DISCHARGE BY DEFENSE SECURITY SERVICE [now DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY].—

"(1) SECRETARIAL AUTHORITY.—The Secretary of Defense has the authority to conduct security, suitability, and credentialing background investigations for Department of Defense personnel. In carrying out such authority, the Secretary may use such authority, or may delegate such authority to another entity.

"(2) PHASED TRANSITION.—As part of providing for the conduct of background investigations initiated by the Department of Defense through the Defense Security Service [now Defense Counterintelligence and Security Agency] by not later than the deadline specified in subsection (b), the Secretary shall, in consultation with the Director of the Office of Personnel Management, provide for a phased transition from the conduct of such investigations by the National Background Investigations Bureau of the Office of Personnel Management to the conduct of such investigations by the Defense Security Service by that deadline.

"(3) TRANSITION ELEMENTS.—The phased transition required by paragraph (2) shall—

"(A) provide for the transition of the conduct of investigations to the Defense Security Service [now Defense Counterintelligence and Security Agency] using a risk management approach; and

"(B) be consistent with the transition from legacy information technology operated by the Office

of Personnel Management to the new information technology, including the National Background Investigations System, as described in subsection (f).

"(b) COMMENCEMENT OF IMPLEMENTATION PLAN FOR ONGOING DISCHARGE OF INVESTIGATIONS THROUGH DSS.—Not later than October 1, 2020, the Secretary of Defense shall commence carrying out the implementation plan developed pursuant to section 951(a)(1) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2371; 10 U.S.C. 1564 note).

"(c) TRANSFER OF CERTAIN FUNCTIONS WITHIN DOD TO DSS.—

"(1) TRANSFER REQUIRED.—For purposes of meeting the requirements in subsections (a) and (b), the Secretary of Defense shall transfer to the Defense Security Service [now Defense Counterintelligence and Security Agency] the functions, personnel, and associated resources of the following organizations:

"(A) The Consolidated Adjudications Facility.

"(B) Other organizations identified by the Secretary for purposes of this paragraph.

"(2) SUPPORTING ORGANIZATIONS.—In addition to the organizations identified pursuant to paragraph (1), the following organizations shall prioritize resources to directly support the execution of requirements in subsections (a) and (b):

"(A) The Office of Cost Analysis and Program Evaluation.

"(B) The Defense Digital Service.

"(C) Other organizations designated by the Secretary for purposes of this paragraph.

"(3) TIMING AND MANNER OF TRANSFER.—The Secretary—

"(A) may carry out the transfer required by paragraph (1) at any time before the date specified in subsection (b) that the Secretary considers appropriate for purposes of this section; and

"(B) shall carry out the transfer in a manner designed to minimize disruptions to the conduct of background investigations for personnel of the Department of Defense.

"(d) TRANSFER OF CERTAIN FUNCTIONS IN OPM TO DSS [now DCSA].—

"(1) IN GENERAL.—For purposes of meeting the requirements in subsections (a) and (b), the Secretary of Defense shall provide for the transfer of the functions described in paragraph (2), and any associated personnel and resources, to the Department of Defense.

"(2) FUNCTIONS.—The functions to be transferred pursuant to paragraph (1) are the following:

"(A) Any personnel security investigations functions transferred by the Secretary to the Director of the Office of Personnel Management pursuant to section 906 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 5 U.S.C. 1101 note).

"(B) Any other functions of the Office of Personnel Management in connection with background investigations initiated by the Department of Defense that the Secretary and the Director jointly consider appropriate.

"(3) ASSESSMENT.—In carrying out the transfer of functions pursuant to paragraph (1), the Secretary shall conduct a comprehensive assessment of workforce requirements for both the Department of Defense and the National Background Investigations Bureau synchronized to the transition plan, including a forecast of workforce needs across the current future-years defense plan for the Department. Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the appropriate congressional committees a report containing the results of the assessment.

"(4) CONSULTATION.—The Secretary shall carry out paragraphs (1), (2), and (3) in consultation with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(5) LOCATION WITHIN DOD.—Any functions transferred to the Department of Defense pursuant to this subsection shall be located within the Defense Security Service [now Defense Counterintelligence and Security Agency].

"(e) CONDUCT OF CERTAIN ACTIONS.—For purposes of the conduct of background investigations following the commencement of carrying out the implementation plan referred to in subsection (b), the Secretary of Defense shall provide for the following:

"(1) A single capability for the centralized funding, submissions, and processing of all background investigations, from within the Defense Security Service [now Defense Counterintelligence and Security Agency].

"(2) The discharge by the Consolidated Adjudications Facility, from within the Defense Security Service [now Defense Counterintelligence and Security Agency] pursuant to transfer under subsection (c), of adjudications in connection with the following:

"(A) Background investigations.

"(B) Continuous evaluation and vetting checks.

"(f) ENHANCEMENT OF INFORMATION TECHNOLOGY CAPABILITIES OF NBIS.—

"(1) IN GENERAL.—The Secretary of Defense shall conduct a review of the information technology capabilities of the National Background Investigations System in order to determine whether enhancements to such capabilities are required for the following:

"(A) Support for background investigations pursuant to this section and section 951 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2371; 10 U.S.C. 1564 note).

"(B) Support of the National Background Investigations Bureau.

"(C) Execution of the conduct of background investigations initiated by the Department of Defense pursuant to this section, including submissions and adjudications.

"(2) COMMON COMPONENT.—In providing for the transition and operation of the National Background Investigations System as described in paragraph (1)(C), the Secretary shall develop a common component of the System usable for background investigations by both the Defense Security Service [now Defense Counterintelligence and Security Agency] and the National Background Investigations Bureau.

"(3) ENHANCEMENTS.—If the review pursuant to paragraph (1) determines that enhancements described in that paragraph are required, the Secretary shall carry out such enhancements.

"(4) CONSULTATION.—The Secretary shall carry out this subsection in consultation with the Director of the Office of Personnel Management.

"(g) USE OF CERTAIN PRIVATE INDUSTRY DATA.—In carrying out background and security investigations pursuant to this section and section 951 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2371; 10 U.S.C. 1564 note), the Secretary of Defense may use background materials collected on individuals by the private sector, in accordance with national policies and standards, that are applicable to such investigations, including materials as follows:

"(1) Financial information, including credit scores and credit status.

"(2) Criminal records.

"(3) Drug screening.

"(4) Verifications of information on resumes and employment applications, such as previous employers, educational achievement, and educational institutions attended.

"(5) Other publicly available electronic information.

"(h) SECURITY CLEARANCES FOR CONTRACTOR PERSONNEL.—

"(1) IN GENERAL.—The Secretary of Defense shall review the requirements of the Department of Defense relating to position sensitivity designations for contractor personnel in order to determine whether such requirements may be reassessed or modified to reduce the number and range of contractor personnel who are issued security clearances in connection with work under contracts with the Department.

"(2) GUIDANCE.—The Secretary shall issue guidance to program managers, contracting officers, and security personnel of the Department specifying requirements for the review of contractor position sensitivity designations and the number of contractor personnel of the Department who are issued security clearances for the purposes of determining whether the number of such personnel who are issued security clearances should and can be reduced.

"(i) PERSONNEL TO SUPPORT THE TRANSFER OF FUNCTIONS.—The Secretary of Defense shall authorize the Director of the Defense Security Service [now Defense Counterintelligence and Security Agency] to promptly increase the number of personnel of the Defense Security Service for the purpose of beginning the establishment and expansion of investigative capacity to support the phased transfer of investigative functions from the Office of Personnel Management to the Department of Defense under this section. The Director of Cost Analysis and Program Assessment shall advise the Secretary on the size of the initial investigative workforce and the rate of growth of that workforce.

"(j) REPORT ON FUTURE PERIODIC REINVESTIGATIONS, INSIDER THREAT, AND CONTINUOUS VETTING.—

"(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the appropriate congressional committees a report that includes the following:

"(A) An assessment of the feasibility and advisability of periodic reinvestigations of backgrounds of Government and contractor personnel with security clearances, including lessons from all of the continuous evaluation pilots being conducted throughout the Government, and identification of new or additional data sources and data analytic tools needed for improving current continuous evaluation or vetting capabilities.

"(B) A plan to provide the Government with an enhanced risk management model that reduces the gaps in coverage perpetuated by the current time-based periodic reinvestigations model, particularly in light of the increasing use of continuous background evaluations of personnel referred to in

subparagraph (A).

"(C) A plan for expanding continuous background vetting capabilities, such as the Installation Matching Engine for Security and Analysis, to the broader population, including those at the lowest tiers and levels of access, which plan shall include details to ensure that all individuals credentialed for physical access to Department of Defense facilities and installations are vetted to the same level of fitness determinations and subject to appropriate continuous vetting.

"(D) A plan to fully integrate and incorporate insider threat data, tools, and capabilities into the new end-to-end vetting processes and supporting information technology established by the Defense Security Service [now Defense Counterintelligence and Security Agency] to ensure a holistic and transformational approach to detecting, deterring, and mitigating threats posed by trusted insiders.

"(2) CONSULTATION.—The Secretary shall prepare the report under paragraph (1) in consultation with the Director of National Intelligence and the Director of the Office of Personnel Management.

"(k) QUARTERLY AND ANNUAL BRIEFINGS AND REPORTS.—

"(1) ANNUAL ASSESSMENT OF TIMELINESS.—Not later than December 31, 2018, and each December 31 thereafter through the date specified in paragraph (4), the Security Executive Agent, in coordination with the Chair and other Principals of the Security, Suitability, and Credentialing Performance Accountability Council, shall submit to the appropriate committees of Congress a report on the timeliness of personnel security clearance initiations, investigations, and adjudications, by clearance level, for both initial investigations and periodic reinvestigations during the prior fiscal year for Government and contractor employees, including the following:

"(A) The average periods of time taken by each authorized investigative agency and authorized adjudicative agency to initiate cases, conduct investigations, and adjudicate cases as compared with established timeliness objectives, from the date a completed security clearance application is received to the date of adjudication and notification to the subject and the subject's employer.

"(B) The number of initial investigations and periodic reinvestigations initiated and adjudicated by each authorized adjudicative agency.

"(C) The number of initial investigations and periodic reinvestigations carried over from prior fiscal years by each authorized investigative and adjudicative agency.

"(D) The number of initial investigations and periodic reinvestigations that resulted in a denial or revocation of a security clearance by each authorized adjudicative agency.

"(E) The costs to the executive branch related to personnel security clearance initiations, investigations, adjudications, revocations, and continuous evaluation.

"(F) A discussion of any impediments to the timely processing of personnel security clearances.

"(G) The number of clearance holders enrolled in continuous evaluation and the numbers and types of adverse actions taken as a result by each authorized adjudicative agency.

"(H) The number of personnel security clearance cases, both initial investigations and periodic reinvestigations, awaiting or under investigation by the National Background Investigations Bureau.

"(I) Other information as appropriate, including any recommendations to improve the timeliness and efficiency of personnel security clearance initiations, investigations, and adjudications.

"(2) QUARTERLY BRIEFINGS.—Not later than the end of each calendar-year quarter beginning after January 1, 2018, through the date specified in paragraph (4), the Secretary of Defense shall provide the appropriate congressional committees a briefing on the progress of the Secretary in carrying out the requirements of this section during that calendar-year quarter. Until the backlog of security clearance applications at the National Background Investigations Bureau is eliminated, each quarterly briefing shall also include the current status of the backlog and the resulting mission and resource impact to the Department of Defense and the defense industrial base. Until the phased transition described in subsection (a) is complete, each quarterly briefing shall also include identification of any resources planned for movement from the National Background Investigations Bureau to the Department of Defense during the next calendar-year quarter.

"(3) ANNUAL REPORTS.—Not later than December 31, 2018, and each December 31 thereafter through the date specified in paragraph (4), the Secretary of Defense shall submit to the appropriate congressional committees a report on the following for the calendar year in which the report is to be submitted:

"(A) The status of the Secretary in meeting the requirements in subsections (a), (b), and (c).

"(B) The status of any transfers to be carried out pursuant to subsection (d).

"(C) An assessment of the personnel security capabilities of the Department of Defense.

"(D) The average periods of time taken by each authorized investigative agency and authorized adjudicative agency to initiate cases, conduct investigations, and adjudicate cases as compared with

established timeliness objectives, from the date a completed security clearance application is received to the date of adjudication and notification to the subject and the subject's employer.

"(E) The number of initial investigations and periodic reinvestigations initiated and adjudicated by each authorized adjudicative agency.

"(F) The number of initial investigations and periodic reinvestigations carried over from prior fiscal years by each authorized investigative and adjudicative agency.

"(G) The number of initial investigations and periodic reinvestigations that resulted in a denial or revocation of a security clearance by each authorized adjudicative agency.

"(H) The number of denials or revocations of a security clearance by each authorized adjudicative agency that occurred separately from a periodic reinvestigation.

"(I) The costs to the Department of Defense related to personnel security clearance initiations, investigations, adjudications, revocations, and continuous evaluation.

"(J) A discussion of any impediments to the timely processing of personnel security clearances.

"(K) The number of clearance holders enrolled in continuous evaluation and the numbers and types of adverse actions taken as a result.

"(L) The number of personnel security clearance cases, both initial investigations and periodic reinvestigations, awaiting or under investigation by the National Background Investigations Bureau.

"(M) Other information that the Secretary considers appropriate, including any recommendations to improve the timeliness and efficiency of personnel security clearance initiations, investigations, and adjudications.

"(4) TERMINATION.—No briefing or report is required under this subsection after December 31, 2021.

"(l) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committees on Armed Services, Appropriations, Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate; and

"(2) the Committees on Armed Services, Appropriations, Oversight and Government Reform [now Committee on Oversight and Accountability], and the Permanent Select Committee on Intelligence of the House of Representatives."

**ENHANCED SECURITY PROGRAMS FOR DEPARTMENT OF DEFENSE PERSONNEL AND INNOVATION INITIATIVES**

Pub. L. 114–328, div. A, title IX, §951, Dec. 23, 2016, 130 Stat. 2371, provided that:

"(a) ENHANCEMENT OF SECURITY PROGRAMS GENERALLY.—

"(1) PERSONNEL BACKGROUND AND SECURITY PLAN REQUIRED.—The Secretary of Defense shall develop an implementation plan for the Defense Security Service [now Defense Counterintelligence and Security Agency] to conduct, after October 1, 2017, background investigations for personnel of the Department of Defense whose investigations are adjudicated by the Consolidated Adjudication Facility of the Department. The Secretary shall submit the implementation plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than August 1, 2017.

"(2) PLAN FOR POTENTIAL TRANSFER OF INVESTIGATIVE PERSONNEL TO DEPARTMENT OF DEFENSE.—Not later than October 1, 2017, the Secretary and the Director of the Office of Personnel Management shall develop a plan to transfer Government investigative personnel and contracted resources to the Department in proportion to the background and security investigative workload that would be assumed by the Department if the plan required by paragraph (1) were implemented.

"(3) REPORT.—Not later than August 1, 2017, the Secretary shall submit to the congressional defense committees a report on the number of full-time equivalent employees of the management headquarters of the Department that would be required by the Defense Security Service [now Defense Counterintelligence and Security Agency] to carry out the plan developed under paragraph (1).

"(4) COLLECTION, STORAGE, AND RETENTION OF INFORMATION BY INSIDER THREAT PROGRAMS.—In order to enable detection and mitigation of potential insider threats, the Secretary shall ensure that insider threat programs of the Department collect, store, and retain information from the following:

"(A) Personnel security.

"(B) Physical security.

"(C) Information security.

"(D) Law enforcement.

"(E) Counterintelligence.

"(F) User activity monitoring.

"(G) Information assurance.

"(H) Such other data sources as the Secretary considers necessary and appropriate.

"(b) ELEMENTS OF SYSTEM.—

"(1) IN GENERAL.—In developing a system for the performance of background investigations for personnel in carrying out subsection (a), the Secretary shall—

"(A) conduct a review of security clearance business processes and, to the extent practicable, modify such processes to maximize compatibility with the security clearance information technology architecture to minimize the need for customization of the system;

"(B) conduct business process mapping of the business processes described in subparagraph (A);

"(C) use spiral development and incremental acquisition practices to rapidly deploy the system, including through the use of prototyping and open architecture principles;

"(D) establish a process to identify and limit interfaces with legacy systems and to limit customization of any commercial information technology tools used;

"(E) establish automated processes for measuring the performance goals of the system;

"(F) incorporate capabilities for the continuous monitoring of network security and the mitigation of insider threats to the system;

"(G) institute a program to collect and maintain data and metrics on the background investigation process; and

"(H) establish a council (to be known as the 'Department of Defense Background Investigations Rate Council') to advise and advocate for rate efficiencies for background clearance investigation rates, and to negotiate rates for background investigation services provided to outsides [sic] entities and agencies when requested.

"(2) COMPLETION DATE.—The Secretary shall complete the development and implementation of the system described in paragraph (1) by not later than September 30, 2019.

"(c) ESTABLISHMENT OF ENHANCED SECURITY PROGRAM TO SUPPORT DEPARTMENT OF DEFENSE INNOVATION INITIATIVE.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall establish a personnel security program, and take such other actions as the Secretary considers appropriate, to support the Innovation Initiative of the Department to better leverage commercial technology.

"(2) POLICIES AND PROCEDURES.—In establishing the program required by paragraph (1), the Secretary shall develop policies and procedures to rapidly and inexpensively investigate and adjudicate security clearances for personnel from commercial companies with innovative technologies and solutions to enable such companies to receive relevant threat reporting and to propose solutions for a broader set of Department requirements.

"(3) ACCESS TO CLASSIFIED INFORMATION.—The Secretary shall ensure that access to classified information under the program required by paragraph (1) is not contingent on a company already being under contract with the Department.

"(4) AWARD OF SECURITY CLEARANCES.—The Secretary may award secret clearances under the program required by paragraph (1) for limited purposes and periods relating to the acquisition or modification of capabilities and services.

"(d) UPDATED GUIDANCE AND REVIEW OF POLICIES.—

"(1) REVIEW OF APPLICABLE LAWS.—The Secretary shall review laws, regulations, and executive orders relating to the maintenance of personnel security clearance information by the Federal Government, including the investigation timeline metrics established in the Intelligence Reform and Prevention of Terrorism Act of 2004 (Public Law 108–458 [see Tables for classification]). The review should also identify recommendations to eliminate duplicative or outdated authorities in current executive orders, regulations and guidance. Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that includes—

"(A) the results of the review; and

"(B) recommendations, if any, for consolidating and clarifying laws, regulations, and executive orders relating to the maintenance of personnel security clearance information by the Federal Government.

"(2) RECIPROCITY DIRECTIVE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall coordinate with the Security Executive Agent, in consultation with the Suitability

Executive Agent, to issue an updated reciprocity directive that accounts for security policy changes associated with new position designation regulations under section 1400 of title 5, Code of Federal Regulations, new continuous evaluation policies, and new Federal investigative standards.

"(3) IMPLEMENTATION DIRECTIVES.—The Secretary, working with the Security Executive Agent and the Suitability Executive Agent, shall jointly develop and issue directives on—

"(A) completing the implementation of the National Security Sensitive Position designations required by section 1400 of title 5, Code of Federal Regulations; and

"(B) aligning to the maximum practical extent the investigative and adjudicative standards and criteria for positions requiring access to classified information and national security sensitive positions not requiring access to classified information to ensure effective and efficient reciprocity and consistent designation of like-positions across the Federal Government.

"(e) WAIVER OF CERTAIN DEADLINES.—For each of fiscal years 2017 through 2019, the Secretary may waive any background investigation timeline specified in the Intelligence Reform and Prevention of Terrorism Act of 2004 if the Secretary submits to the appropriate committees of Congress a written notification on the waiver not later than 30 days before the beginning of the fiscal year concerned.

"(f) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' has the meaning given that term in section 3001(a)(8) of the Intelligence Reform and Prevention of Terrorism Act of 2004 (50 U.S.C. 3341(a)(8)).

"(2) The term 'business process mapping' has the meaning given that term in section 2222(i) of title 10, United States Code.

"(3) The term 'insider threat' means, with respect to the Department, a threat presented by a person who—

"(A) has, or once had, authorized access to information, a facility, a network, a person, or a resource of the Department; and

"(B) wittingly, or unwittingly, commits—

"(i) an act in contravention of law or policy that resulted in, or might result in, harm through the loss or degradation of government or company information, resources, or capabilities; or

"(ii) a destructive act, which may include physical harm to another in the workplace."

## REFORM AND IMPROVEMENT OF PERSONNEL SECURITY, INSIDER THREAT DETECTION AND PREVENTION, AND PHYSICAL SECURITY

Pub. L. 114–92, div. A, title X, §1086, Nov. 25, 2015, 129 Stat. 1006, as amended by Pub. L. 114–328, div. A, title X, §1081(c)(7), Dec. 23, 2016, 130 Stat. 2420, provided that:

"(a) PERSONNEL SECURITY AND INSIDER THREAT PROTECTION IN DEPARTMENT OF DEFENSE.—

"(1) PLANS AND SCHEDULES.—Consistent with the Memorandum of the Secretary of Defense dated March 18, 2014, regarding the recommendations of the reviews of the Washington Navy Yard shooting, the Secretary of Defense shall develop plans and schedules—

"(A) to implement a continuous evaluation capability for the national security population for which clearance adjudications are conducted by the Department of Defense Central Adjudication Facility, in coordination with the heads of other relevant agencies;

"(B) to produce a Department-wide insider threat strategy and implementation plan, which includes—

"(i) resourcing for the Defense Insider Threat Management and Analysis Center and component insider threat programs, and

"(ii) alignment of insider threat protection programs with continuous evaluation capabilities and processes for personnel security;

"(C) to centralize the authority, accountability, and programmatic integration responsibilities, including fiscal control, for personnel security and insider threat protection under the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security];

"(D) to develop a defense security enterprise reform investment strategy to ensure a consistent, long-term focus on funding to strengthen all of the Department's security and insider threat programs, policies, functions, and information technology capabilities, including detecting threat behaviors conveyed in the cyber domain, in a manner that keeps pace with evolving threats and risks;

"(E) to resource and expedite deployment of the Identity Management Enterprise Services Architecture; and

"(F) to implement the recommendations contained in the study conducted by the Director of Cost Analysis and Program Evaluation required by section 907 of the National Defense Authorization Act for

Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 1564 note), including, specifically, the recommendations to centrally manage and regulate Department of Defense requests for personnel security background investigations.

"(2) REPORTING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the appropriate committees of Congress a report describing the plans and schedules required under paragraph (1).

"(b) PHYSICAL AND LOGICAL ACCESS.—Not later than 270 days after the date of the enactment of this Act—

"(1) the Secretary of Defense shall define physical and logical access standards, capabilities, and processes applicable to all personnel with access to Department of Defense installations and information technology systems, including—

"(A) periodic or regularized background or records checks appropriate to the type of physical or logical access involved, the security level, the category of individuals authorized, and the level of access to be granted;

"(B) standards and methods for verifying the identity of individuals seeking access; and

"(C) electronic attribute-based access controls that are appropriate for the type of access and facility or information technology system involved;

"(2) the Director of the Office of Management and Budget and the Chair of the Performance Accountability Council, in coordination with the Secretary of Defense, the Administrator of General Services, and, when appropriate, the Director of National Intelligence, and in consultation with representatives from stakeholder organizations, shall design a capability to share and apply electronic identity information across the Government to enable real-time, risk-managed physical and logical access decisions; and

"(3) the Director of the Office of Management and Budget, in conjunction with the Director of the Office of Personnel Management and in consultation with representatives from stakeholder organizations, shall establish investigative and adjudicative standards for the periodic or regularized reevaluation of the eligibility of an individual to retain credentials issued pursuant to Homeland Security Presidential Directive 12 (dated August 27, 2004), as appropriate, but not less frequently than the authorization period of the issued credentials.

"(c) SECURITY ENTERPRISE MANAGEMENT.—Not later than 180 days after the date of enactment of this Act [Nov. 25, 2015], the Director of the Office of Management and Budget shall—

"(1) formalize the Security, Suitability, and Credentialing Line of Business; and

"(2) submit to the appropriate congressional committee a report that describes plans—

"(A) for oversight by the Office of Management and Budget of activities of the executive branch of the Government for personnel security, suitability, and credentialing;

"(B) to designate enterprise shared services to optimize investments;

"(C) to define and implement data standards to support common electronic access to critical Government records; and

"(D) to reduce the burden placed on Government data providers by centralizing requests for records access and ensuring proper sharing of the data with appropriate investigative and adjudicative elements.

"(d) RECIPROCITY MANAGEMENT.—Not later than two years after the date of the enactment of this Act, the Chair of the Performance Accountability Council shall ensure that—

"(1) a centralized system is available to serve as the reciprocity management system for the Federal Government; and

"(2) the centralized system described in paragraph (1) is aligned with, and incorporates results from, continuous evaluation and other enterprise reform initiatives.

"(e) REPORTING REQUIREMENTS IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the Chair of the Performance Accountability Council, in coordination with the Security Executive Agent, the Suitability Executive Agent, and the Secretary of Defense, shall jointly develop a plan to—

"(1) implement the Security Executive Agent Directive on common, standardized employee and contractor security reporting requirements;

"(2) establish and implement uniform reporting requirements for employees and Federal contractors, according to risk, relative to the safety of the workforce and protection of the most sensitive information of the Government; and

"(3) ensure that reported information is shared appropriately.

"(f) Access to Criminal History Records for National Security and Other Purposes.—

"(1) DEFINITION.—[Amended section 9101 of Title 5, Government Organization and Employees.]

"(2) COVERED AGENCIES.—[Amended section 9101 of Title 5.]

"(3) APPLICABLE PURPOSES OF INVESTIGATIONS.—[Amended section 9101 of Title 5.]

"(4) BIOMETRIC AND BIOGRAPHIC SEARCHES.—[Amended section 9101 of Title 5.]

"(5) USE OF MOST COST-EFFECTIVE SYSTEM.—[Amended section 9101 of Title 5.]

"(6) SEALED OR EXPUNGED RECORDS; JUVENILE RECORDS.—

"(A) IN GENERAL.—[Amended section 9101 of Title 5.]

"(B) REGULATIONS.—

"(i) DEFINITION.—In this subparagraph, the terms 'Security Executive Agent' and 'Suitability Executive Agent' mean the Security Executive Agent and the Suitability Executive Agent, respectively, established under Executive Order 13467 (73 Fed. Reg. 38103) [50 U.S.C. 3161 note], or any successor thereto.

"(ii) DEVELOPMENT; PROMULGATION.—The Security Executive Agent shall—

"(I) not later than 45 days after the date of enactment of this Act [Nov. 25, 2015], and in conjunction with the Suitability Executive Agent and the Attorney General, begin developing regulations to implement the amendments made by subparagraph (A); and

"(II) not later than 120 days after the date of enactment of this Act, promulgate regulations to implement the amendments made by subparagraph (A).

"(C) SENSE OF CONGRESS.—It is the sense of Congress that the Federal Government should not uniformly reject applicants for employment with the Federal Government or Federal contractors based on—

"(i) sealed or expunged criminal records; or

"(ii) juvenile records.

"(7) INTERACTION WITH LAW ENFORCEMENT AND INTELLIGENCE AGENCIES ABROAD .—[Amended section 9101 of Title 5.]

"(8) CLARIFICATION OF SECURITY REQUIREMENTS FOR CONTRACTORS CONDUCTING BACKGROUND INVESTIGATIONS.—[Amended section 9101 of Title 5.]

"(9) CLARIFICATION REGARDING ADVERSE ACTIONS.—[Amended section 7512 of Title 5.]

"(10) ANNUAL REPORT BY SUITABILITY AND SECURITY CLEARANCE PERFORMANCE ACCOUNTABILITY COUNCIL.—[Amended section 9101 of Title 5.]

"(11) GAO REPORT ON ENHANCING INTEROPERABILITY AND REDUCING REDUNDANCY IN FEDERAL CRITICAL INFRASTRUCTURE PROTECTION ACCESS CONTROL, BACKGROUND CHECK, AND CREDENTIALING STANDARDS.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the background check, access control, and credentialing requirements of Federal programs for the protection of critical infrastructure and key resources.

"(B) CONTENTS.—The Comptroller General shall include in the report required under subparagraph (A)—

"(i) a summary of the major characteristics of each such Federal program, including the types of infrastructure and resources covered;

"(ii) a comparison of the requirements, whether mandatory or voluntary in nature, for regulated entities under each such program to—

"(I) conduct background checks on employees, contractors, and other individuals;

"(II) adjudicate the results of a background check, including the utilization of a standardized set of disqualifying offenses or the consideration of minor, non-violent, or juvenile offenses; and

"(III) establish access control systems to deter unauthorized access, or provide a security credential for any level of access to a covered facility or resource;

"(iii) a review of any efforts that the Screening Coordination Office of the Department of Homeland Security has undertaken or plans to undertake to harmonize or standardize background check, access control, or credentialing requirements for critical infrastructure and key resource protection programs overseen by the Department; and

"(iv) recommendations, developed in consultation with appropriate stakeholders, regarding—

"(I) enhancing the interoperability of security credentials across critical infrastructure and key resource

protection programs;

"(II) eliminating the need for redundant background checks or credentials across existing critical infrastructure and key resource protection programs;

"(III) harmonizing, where appropriate, the standards for identifying potentially disqualifying criminal offenses and the weight assigned to minor, nonviolent, or juvenile offenses in adjudicating the results of a completed background check; and

"(IV) the development of common, risk-based standards with respect to the background check, access control, and security credentialing requirements for critical infrastructure and key resource protection programs.

"(g) DEFINITIONS.—In this section—

"(1) the term 'appropriate committees of Congress' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Select Committee on Intelligence and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(C) the Permanent Select Committee on Intelligence, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability], and the Committee on Homeland Security of the House of Representatives; and

"(2) the term 'Performance Accountability Council' means the Suitability and Security Clearance Performance Accountability Council established under Executive Order 13467 (73 Fed. Reg. 38103) [50 U.S.C. 3161 note], or any successor thereto."

[Pub. L. 114–328, div. A, title X, §1081(c), Dec. 23, 2016, 130 Stat. 2419, provided that the amendment made by section 1081(c)(7) to section 1086 of Pub. L. 114–92, set out above, is effective as of Nov. 25, 2015, and as if included in Pub. L. 114–92 as enacted.]

## PERSONNEL SECURITY

Pub. L. 113–66, div. A, title IX, §907, Dec. 26, 2013, 127 Stat. 818, as amended by Pub. L. 115–91, div. A, title X, §1051(s)(1), Dec. 12, 2017, 131 Stat. 1566, provided that:

"(a) COMPARATIVE ANALYSIS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Director of the Office of Management and Budget, submit to the appropriate committees of Congress a report setting forth a comprehensive analysis comparing the quality, cost, and timeliness of personnel security clearance investigations and reinvestigations for employees and contractor personnel of the Department of Defense that are conducted by the Office of Personnel Management with the quality, cost, and timeliness of personnel security clearance investigations and reinvestigations for such personnel that are conducted by components of the Department of Defense.

"(2) ELEMENTS OF ANALYSIS.—The analysis under paragraph (1) shall do the following:

"(A) Determine and compare, for each of the Office of Personnel Management and the components of the Department that conduct personnel security investigations as of the date of the analysis, the quality, cost, and timeliness associated with personnel security investigations and reinvestigations of each type and level of clearance, and identify the elements that contribute to such cost, schedule, and performance.

"(B) Identify mechanisms for permanently improving the transparency of the cost structure of personnel security investigations and reinvestigations.

"(b) PERSONNEL SECURITY FOR DEPARTMENT OF DEFENSE EMPLOYEES AND CONTRACTORS.—If the Secretary of Defense determines that the current approach for obtaining personnel security investigations and reinvestigations for employees and contractor personnel of the Department of Defense is not the most efficient and effective approach for the Department, the Secretary shall develop a plan, by not later than October 1, 2014, for the transition of personnel security investigations and reinvestigations to the approach preferred by the Secretary.

"(c) STRATEGY FOR MODERNIZING PERSONNEL SECURITY.—

"(1) STRATEGY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense, the Director of National Intelligence, and the Director of the Office of Management and Budget shall jointly develop, implement, and provide to the appropriate committees of Congress a strategy to modernize all aspects of personnel security for the Department of

Defense with the objectives of improving quality, providing for continuous monitoring, decreasing unauthorized disclosures of classified information, lowering costs, increasing efficiencies, and enabling and encouraging reciprocity.

"(2) CONSIDERATION OF ANALYSIS.—In developing the strategy under paragraph (1), the Secretary and the Directors shall consider the results of the analysis required by subsection (a) and the results of any ongoing reviews of recent unauthorized disclosures of national security information.

"(3) METRICS.—In developing the strategy required by paragraph (1), the Secretary and the Directors shall jointly establish metrics to measure the effectiveness of the strategy in meeting the objectives specified in that paragraph.

"(4) ELEMENTS.—In developing the strategy required by paragraph (1), the Secretary and the Directors shall address issues including but not limited to the following:

"(A) Elimination of manual or inefficient processes in investigations and reinvestigations for personnel security, wherever practicable, and automating and integrating the elements of the investigation and adjudication processes, including in the following:

"(i) The clearance application process.

"(ii) Investigation case management.

"(iii) Adjudication case management.

"(iv) Investigation methods for the collection, analysis, storage, retrieval, and transfer of data and records from investigative sources and between any case management systems.

"(v) Records management for hiring and clearance decisions.

"(B) Elimination or reduction, where possible, of the use of databases and information sources that cannot be accessed and processed automatically electronically, or modification of such databases and information sources, if appropriate and cost-effective, to enable electronic access and processing.

"(C) Access and analysis of government, publically available, and commercial data sources, including social media, that provide independent information pertinent to adjudication guidelines and termination standards to improve quality and timeliness, and reduce costs, of investigations and reinvestigations.

"(D) Use of government-developed and commercial technology for continuous monitoring and evaluation of government and commercial data sources that can identify and flag information pertinent to hiring and clearance determinations.

"(E) Standardization of forms used for routine reporting required of cleared personnel (such as travel, foreign contacts, and financial disclosures) and use of continuous monitoring technology to access databases containing such reportable information to independently obtain and analyze reportable data and events.

"(F) Establishment of an authoritative central repository of personnel security information that is accessible electronically at multiple levels of classification and eliminates technical barriers to rapid access to information necessary for eligibility determinations and reciprocal recognition thereof, including the ability to monitor the status of an individual and any events related to the continued eligibility of such individual for employment or clearance during intervals between investigations.

"(G) Elimination or reduction of the scope of, or alteration of the schedule for, periodic reinvestigations of cleared personnel, when such action is appropriate in light of the information provided by continuous monitoring or evaluation technology.

"(H) Electronic integration of personnel security processes and information systems with insider threat detection and monitoring systems, and pertinent law enforcement, counterintelligence and intelligence information, for threat detection and correlation, including those processes and systems operated by components of the Department of Defense for purposes of local security, workforce management, or other related purposes.

"(5) RISK-BASED MONITORING.—The strategy required by paragraph (1) shall—

"(A) include the development of a risk-based approach to monitoring and reinvestigation that prioritizes which cleared individuals shall be subject to frequent reinvestigations and random checks, such as the personnel with the broadest access to classified information or with access to the most sensitive classified information, including information technology specialists or other individuals with such broad access commonly known as 'super users';

"(B) ensure that if the system of continuous monitoring for all cleared individuals described in paragraph (4)(D) is implemented in phases, such system shall be implemented on a priority basis for the individuals prioritized under subparagraph (A); and

"(C) ensure that the activities of individuals prioritized under subparagraph (A) shall be monitored especially closely.

"(d) RECIPROCITY OF CLEARANCES.—The Secretary of Defense and the Director of National Intelligence shall jointly ensure the reciprocity of personnel security clearances among positions requiring personnel holding secret, top secret, or sensitive compartmented information clearances, to the maximum extent feasible consistent with national security requirements.

"(e) COMPTROLLER GENERAL REVIEW.—

"(1) REVIEW REQUIRED.—Not later than 150 days after the date of the enactment of this Act [Dec. 26, 2013], the Comptroller General of the United States shall carry out a review of the personnel security process.

"(2) OBJECTIVE OF REVIEW.—The objective of the review required by paragraph (1) shall be to identify the following:

"(A) Differences between the metrics used by the Department of Defense and other departments and agencies that grant security clearances in granting reciprocity for security clearances, and the manner in which such differences can be harmonized.

"(B) The extent to which existing Federal Investigative Standards are relevant, complete, and sufficient for guiding agencies and individual investigators as they conduct their security clearance background investigations.

"(C) The processes agencies have implemented to ensure quality in the security clearance background investigation process.

"(D) The extent to which agencies have developed and implemented outcome-focused performance measures to track the quality of security clearance investigations and any insights from these measures.

"(E) The processes agencies have implemented for resolving incomplete or subpar investigations, and the actions taken against government employees and contractor personnel who have demonstrated a consistent failure to abide by quality assurance measures.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the results of the review required by paragraph (1).

"(f) TASK FORCE ON RECORDS ACCESS FOR SECURITY CLEARANCE BACKGROUND INVESTIGATIONS.—

"(1) ESTABLISHMENT.—The Suitability and Security Clearance Performance Accountability Council, as established by Executive Order No. 13467 [50 U.S.C. 3161 note], shall convene a task force to examine the different policies and procedures that determine the level of access to public records provided by State and local authorities in response to investigative requests by Federal Government employees or contracted employees carrying out background investigations to determine an individual's suitability for access to classified information or secure government facilities.

"(2) MEMBERSHIP.—The members of the task force shall include, but need not be limited to, the following:

"(A) The Chair of the Suitability and Security Clearance Performance and Accountability Council, who shall serve as chair of the task force.

"(B) A representative from the Office of Personnel Management.

"(C) A representative from the Office of the Director of National Intelligence.

"(D) A representative from the Department of Defense responsible for administering security clearance background investigations.

"(E) Representatives from Federal law enforcement agencies within the Department of Justice and the Department of Homeland Security involved in security clearance background investigations.

"(F) Representatives from State and local law enforcement agencies, including—

"(i) agencies in rural areas that have limited resources and less than 500 officers; and

"(ii) agencies that have more than 1,000 officers and significant technological resources.

"(G) A representative from Federal, State, and local law enforcement associations involved with security clearance background administrative actions and appeals.

"(H) Representatives from Federal, State, and local judicial systems involved in the sharing of records to support security clearance background investigations.

"(3) INITIAL MEETING.—The task force shall convene its initial meeting not later than 45 days after the date of the enactment of this Act [Dec. 26, 2013].

"(4) DUTIES.—The task force shall do the following:

"(A) Analyze the degree to which State and local authorities comply with investigative requests made by Federal Government employees or contractor employees carrying out background investigations to determine an individual's suitability for access to classified information or secure government

facilities, including the degree to which investigative requests are required but never formally requested.

"(B) Analyze limitations on the access to public records provided by State and local authorities in response to investigative requests by Federal Government employees and contractor employees described in subparagraph (A), including, but not be limited to, limitations relating to budget and staffing constraints on State and local authorities, any procedural and legal obstacles impairing Federal access to State and local law enforcement records, or inadequate investigative procedural standards for background investigators.

"(C) Provide recommendations for improving the degree of cooperation and records-sharing between State and local authorities and Federal Government employees and contractor employees described in subparagraph (A).

"(5) REPORT.—Not later than 120 days after the date of the enactment of this Act, the task force shall submit to the appropriate committees of Congress a report setting forth a detailed statement of the findings and conclusions of the task force pursuant to this subsection, together with the recommendations of the task force for such legislative or administrative action as the task force considers appropriate.

"(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability], the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives."

## REQUIRED NOTIFICATION WHENEVER MEMBERS OF THE ARMED FORCES ARE COMPLETING STANDARD FORM 86 OF THE QUESTIONNAIRE FOR NATIONAL SECURITY POSITIONS

Pub. L. 113–66, div. A, title XVII, §1747, Dec. 26, 2013, 127 Stat. 983, provided that:

"(a) NOTIFICATION OF POLICY.—Whenever a member of the Armed Forces is required to complete Standard Form 86 of the Questionnaire for National Security Positions in connection with an application, investigation, or reinvestigation for a security clearance, the member shall be notified of the policy described in subsection (b) regarding question 21 of such form.

"(b) POLICY DESCRIBED.—The policy referred to in subsection (a) is the policy of instructing an individual to answer 'no' to question 21 of Standard Form 86 of the Questionnaire for National Security Positions with respect to consultation with a health care professional if—

"(1) the individual is a victim of a sexual assault; and

"(2) the consultation occurred with respect to an emotional or mental health condition strictly in relation to the sexual assault."

## DEADLINE FOR PRESCRIBING PROCESS FOR PRIORITIZING BACKGROUND INVESTIGATIONS FOR SECURITY CLEARANCES

Pub. L. 106–398, §1 [[div. A], title X, §1072(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–277, provided that the process required by subsec. (a) of this section for expediting the completion of security clearance background investigations was to be prescribed by Jan. 1, 2001.

## EXECUTIVE DOCUMENTS

## EX. ORD. NO. 13869. TRANSFERRING RESPONSIBILITY FOR BACKGROUND INVESTIGATIONS TO THE DEPARTMENT OF DEFENSE

Ex. Ord. No. 13869, Apr. 24, 2019, 84 F.R. 18125, provided:

By the power vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Findings and Purpose*. Section 925 of the National Defense Authorization Act for Fiscal Year 2018 (10 U.S.C. 1564 note) provides that the Secretary of Defense has the authority to conduct security, suitability, and credentialing background investigations for Department of Defense personnel and requires the Secretary, in consultation with the Director of the Office of Personnel Management, to provide for a phased transition to the Department of Defense of the conduct of such investigations conducted by the National Background Investigations Bureau (NBIB). Implementing that legislative mandate while retaining the benefit of economies of scale in addressing the Federal Government's background investigations workload, avoiding unnecessary risk, promoting the ongoing alignment of efforts with respect to vetting Federal employees and

contractors, and facilitating needed reforms in this critical area requires that the primary responsibility for conducting background investigations Government-wide be transferred from the Office of Personnel Management to the Department of Defense.

SEC. 2. *Transfer or Delegation of Background Investigation Functions; Further Amendments to Executive Order 13467 of June 30, 2008, as amended*. [Amended Ex. Ord. No. 13467, set out as a note under section 3161 of Title 50, War and National Defense.]

SEC. 3. *Amendment to Executive Order 12171 of November 18, 1979, as amended.*

(a) *Determinations*. Pursuant to section 7103(b)(1) of title 5, United States Code, the DCSA, previously known as the DSS, is hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is further determined that chapter 71 of title 5, United States Code, cannot be applied to the DCSA in a manner consistent with national security requirements and considerations.

(b) *Exclusion*. [Amended Ex. Ord. No. 12171, set out as a note under section 7103 of Title 5, Government Organization and Employees.]

SEC. 4. *Conforming References to the Defense Security Service and the Defense Counterintelligence and Security Agency*. Any reference to the Defense Security Service or NBIB in any Executive Order or other Presidential document that is in effect on the day before the date of this order shall be deemed or construed to be a reference to the Defense Counterintelligence and Security Agency or any other entity that the Secretary of Defense names, consistent with section 2(b)(i) of Executive Order 13467, and agencies whose regulations, rules, or other documents reference the Defense Security Service or NBIB shall revise any such respective regulations, rules, or other documents as soon as practicable to update them for consistency with this order.

SEC. 5. *Review of Vetting Policies*. No later than July 24, 2019, the Council Principals identified in section 2.4(b) of Executive Order 13467 shall review the laws, regulations, Executive Orders, and guidance relating to the Federal Government's vetting of Federal employees and contractors and shall submit to the President, through the Chair of the Council, a report recommending any appropriate legislative, regulatory, or policy changes, including any such changes to civil service regulations or policies, Executive Order 13467 or Executive Order 13488 [5 U.S.C. 7301 note].

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## §1564a. Counterintelligence polygraph program

(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be conducted in accordance with the standards specified in subsection (e).

(b) PERSONS COVERED.—Except as provided in subsection (d), the following persons are subject to this section:

(1) With respect to persons whose duties are described in subsection (c)—

(A) military and civilian personnel of the Department of Defense;

(B) personnel of defense contractors;

(C) persons assigned or detailed to the Department of Defense; and

(D) applicants for a position in the Department of Defense.

(2) A person who is—

(A) a national of the United States (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) and also a national of a foreign state; and

(B) either—

(i) a civilian employee or contractor who requires access to classified information; or

(ii) a member of the armed forces who requires access to classified information.

(c) COVERED TYPES OF DUTIES.—The Secretary of Defense may provide, under standards established by the Secretary, that a person described in subsection (b)(1) is subject to this section if that person's duties involve—

(1) access to information that—

(A) has been classified at the level of top secret; or

(B) is designated as being within a special access program under section 4.4(a) of Executive Order No. 12958 (or a successor Executive order); or

(2) assistance in an intelligence or military mission in a case in which the unauthorized disclosure or manipulation of information, as determined under standards established by the Secretary of Defense, could reasonably be expected to—

(A) jeopardize human life or safety;

(B) result in the loss of unique or uniquely productive intelligence sources or methods vital to United States security; or

(C) compromise technologies, operational plans, or security procedures vital to the strategic advantage of the United States and its allies.

(d) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

(2) A person who is—

(A) employed by or assigned or detailed to the National Security Agency;

(B) an expert or consultant under contract to the National Security Agency;

(C) an employee of a contractor of the National Security Agency; or

(D) a person applying for a position in the National Security Agency.

(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

(e) STANDARDS.—(1) Polygraph examinations conducted under this section shall comply with all applicable laws and regulations.

(2) Such examinations may be authorized for any of the following purposes:

(A) To assist in determining the initial eligibility for duties described in subsection (c) of, and aperiodically thereafter, on a random basis, to assist in determining the continued eligibility of, persons described in subsections (b)(1) and (c).

(B) With the consent of, or upon the request of, the examinee, to—

(i) resolve serious credible derogatory information developed in connection with a personnel security investigation; or

(ii) exculpate him- or herself of allegations or evidence arising in the course of a counterintelligence or personnel security investigation.

(C) To assist, in a limited number of cases when operational exigencies require the immediate use of a person's services before the completion of a personnel security investigation, in determining the interim eligibility for duties described in subsection (c) of the person.

(D) With respect to persons described in subsection (b)(2), to assist in assessing any counterintelligence threats identified in an authorized investigation of foreign preference or foreign influence risks, as described in part 147 of title 32, Code of Federal Regulations, or such

successor regulations.

(3) Polygraph examinations conducted under this section shall provide adequate safeguards, prescribed by the Secretary of Defense, for the protection of the rights and privacy of persons subject to this section under subsection (b) who are considered for or administered polygraph examinations under this section. Such safeguards shall include the following:

(A) The examinee shall receive timely notification of the examination and its intended purpose and may only be given the examination with the consent of the examinee.

(B) The examinee shall be advised of the examinee's right to consult with legal counsel.

(C) All questions asked concerning the matter at issue, other than technical questions necessary to the polygraph technique, must have a relevance to the subject of the inquiry.

(f) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraph examinations within the Department of Defense.

(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

(g) POLYGRAPH RESEARCH PROGRAM.—The Secretary shall carry out a continuing research program to support the polygraph examination activities of the Department of Defense. The program shall include the following:

(1) An on-going evaluation of the validity of polygraph techniques used by the Department.

(2) Research on polygraph countermeasures and anti-countermeasures.

(3) Developmental research on polygraph techniques, instrumentation, and analytic methods.

(Added Pub. L. 108–136, div. A, title X, §1041(a)(1), Nov. 24, 2003, 117 Stat. 1607; amended Pub. L. 109–163, div. A, title X, §1054(a), Jan. 6, 2006, 119 Stat. 3436; Pub. L. 115–232, div. A, title XVI, §1623(a)–(c), Aug. 13, 2018, 132 Stat. 2119.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (c)(1)(B), which was formerly set out as a note under section 435 (now section 3161) of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 100–180, title XI, §1121, Dec. 4, 1987, 101 Stat. 1147, as amended, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 108–136, div. A, title X, §1041(b), Nov. 24, 2003, 117 Stat. 1608.

### AMENDMENTS

**2018**—Subsec. (b). Pub. L. 115–232, §1623(a), amended subsec. (b) generally. Prior to amendment, text read as follows: "Except as provided in subsection (d), the following persons, if their duties are described in subsection (c), are subject to this section:

"(1) Military and civilian personnel of the Department of Defense.

"(2) Personnel of defense contractors.

"(3) A person assigned or detailed to the Department of Defense.

"(4) An applicant for a position in the Department of Defense."

Subsec. (c). Pub. L. 115–232, §1623(c)(1), substituted "subsection (b)(1)" for "subsection (b)" in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 115–232, §1623(c)(2), substituted "subsections (b)(1) and (c)" for "subsections (b) and (c)".

Subsec. (e)(2)(D). Pub. L. 115–232, §1623(b), added subpar. (D).

**2006**—Pub. L. 109–163 reenacted section catchline without change and amended text generally. Prior to amendment, section related to authority for program for administration of counterintelligence polygraph examinations in subsec. (a), persons covered in subsec. (b), exceptions from coverage for certain intelligence agencies and functions in subsec. (c), oversight in subsec. (d), and polygraph research program in subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–163, div. A, title X, §1054(b), Jan. 6, 2006, 119 Stat. 3438, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to polygraph examinations administered beginning on the date of the enactment of this Act [Jan. 6, 2006]."

**CONSTRUCTION**

Pub. L. 115–232, div. A, title XVI, §1623(d), Aug. 13, 2018, 132 Stat. 2119, provided that: "Nothing in section 1564a of title 10, United States Code, as amended by this section, shall be construed to prohibit the granting of a security clearance to persons described in subsection (b)(2) of such section absent information relevant to the adjudication process, as described in part 147 of title 32, Code of Federal Regulations, or such successor regulations."

## §1564b. Security vetting for foreign nationals

(a) STANDARDS AND PROCESS.—(1) The Secretary of Defense, in coordination with the Security Executive Agent established pursuant to Executive Order 13467 (73 Fed. Reg. 38103; 50 U.S.C. 3161 note), shall develop uniform and consistent standards and a centralized process for the screening and vetting of covered foreign individuals requiring access to systems, facilities, personnel, information, or operations, of the Department of Defense, including with respect to the background investigations of covered foreign individuals requiring access to classified information.

(2) The Secretary shall ensure that the standards developed under paragraph (1) are consistent with relevant directives of the Security Executive Agent.

(3) The Secretary shall designate an official of the Department of Defense to be responsible for executing the centralized process developed under paragraph (1) and adjudicating any information discovered pursuant to such process.

(b) OTHER USES.—In addition to using the centralized process developed under subsection (a)(1) for covered foreign individuals, the Secretary may use the centralized process in determining whether to grant a security clearance to any individual with significant foreign influence or foreign preference issues, in accordance with the adjudicative guidelines under part 147 of title 32, Code of Federal Regulations, or such successor regulation.

(c) COVERED FOREIGN INDIVIDUAL DEFINED.—In this section, the term "covered foreign individual" means an individual who meets the following criteria:

(1) The individual is—

(A) a national of a foreign state;

(B) a national of the United States (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) and also a national of a foreign state; or

(C) an alien who is lawfully admitted for permanent residence (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(2) The individual is either—

(A) a civilian employee of the Department of Defense or a contractor of the Department; or

(B) a member of the armed forces.

(Added Pub. L. 115–232, div. A, title XVI, §1622(a), Aug. 13, 2018, 132 Stat. 2117.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order 13467, referred to in subsec. (a)(1), is Ex. Ord. No. 13467, June 30, 2008, 73 F.R. 38103, which is set out as a note under section 3161 of Title 50, War and National Defense.

## §1565. DNA identification information: collection from certain offenders; use

(a) COLLECTION OF DNA SAMPLES.—(1) The Secretary concerned shall collect a DNA sample from each member of the armed forces under the Secretary's jurisdiction who is, or has been, convicted of a qualifying military offense (as determined under subsection (d)).

(2) For each member described in paragraph (1), if the Combined DNA Index System (in this section referred to as "CODIS") of the Federal Bureau of Investigation contains a DNA analysis with respect to that member, or if a DNA sample has been or is to be collected from that member under section 3(a) of the DNA Analysis Backlog Elimination Act of 2000, the Secretary concerned may (but need not) collect a DNA sample from that member.

(3) The Secretary concerned may enter into agreements with other Federal agencies, units of State or local government, or private entities to provide for the collection of samples described in paragraph (1).

(b) ANALYSIS AND USE OF SAMPLES.—The Secretary concerned shall furnish each DNA sample collected under subsection (a) to the Secretary of Defense. The Secretary of Defense shall—

(1) carry out a DNA analysis on each such DNA sample in a manner that complies with the requirements for inclusion of that analysis in CODIS; and

(2) furnish the results of each such analysis to the Director of the Federal Bureau of Investigation for inclusion in CODIS.

(c) DEFINITIONS.—In this section:

(1) The term "DNA sample" means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.

(2) The term "DNA analysis" means analysis of the deoxyribonucleic acid (DNA) identification information in a bodily sample.

(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).[1]

(e) EXPUNGEMENT.—(1) The Secretary of Defense shall promptly expunge, from the index described in subsection (a) of section 210304 of the Violent Crime Control and Law Enforcement Act of 1994, the DNA analysis of a person included in the index on the basis of a qualifying military offense if the Secretary receives, for each conviction of the person of a qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned.

(2) For purposes of paragraph (1), the term "qualifying offense" means any of the following offenses:

(A) A qualifying Federal offense, as determined under section 3 of the DNA Analysis Backlog Elimination Act of 2000.

(B) A qualifying District of Columbia offense, as determined under section 4 of the DNA Analysis Backlog Elimination Act of 2000.

(C) A qualifying military offense.

(3) For purposes of paragraph (1), a court order is not "final" if time remains for an appeal or application for discretionary review with respect to the order.

(f) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of Defense, in consultation with the Secretary of Homeland Security and the Attorney General. Those regulations shall apply, to the extent practicable, uniformly throughout the armed

forces.

(Added Pub. L. 106–546, §5(a)(1), Dec. 19, 2000, 114 Stat. 2731; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–405, title II, §203(c), Oct. 30, 2004, 118 Stat. 2270.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3 of the DNA Analysis Backlog Elimination Act of 2000, referred to in subsecs. (a)(2), (d)(2), and (e)(2)(A), is section 3 of Pub. L. 106–546, which was classified to section 14135a of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 40702 of Title 34, Crime Control and Law Enforcement.

Section 4 of the DNA Analysis Backlog Elimination Act of 2000, referred to in subsec. (e)(2)(B), is section 4 of Pub. L. 106–546, which is classified to section 40703 of Title 34, Crime Control and Law Enforcement.

The Uniform Code of Military Justice, referred to in subsec. (d), is classified to chapter 47 (§801 et seq.) of this title.

Section 210304 of the Violent Crime Control and Law Enforcement Act of 1994, referred to in subsec. (e)(1), is classified to section 12592 of Title 34, Crime Control and Law Enforcement.

### AMENDMENTS

**2004**—Subsec. (d). Pub. L. 108–405 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) Subject to paragraph (2), the Secretary of Defense, in consultation with the Attorney General, shall determine those felony or sexual offenses under the Uniform Code of Military Justice that shall be treated for purposes of this section as qualifying military offenses.

"(2) An offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000), as determined by the Secretary in consultation with the Attorney General, shall be treated for purposes of this section as a qualifying military offense."

**2002**—Subsec. (f). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### INITIAL DETERMINATION OF QUALIFYING MILITARY OFFENSES

Pub. L. 106–546, §5(b), Dec. 19, 2000, 114 Stat. 2733, provided that: "The initial determination of qualifying military offenses under section 1565(d) of title 10, United States Code, as added by subsection (a)(1), shall be made not later than 120 days after the date of the enactment of this Act [Dec. 19, 2000]."

### COMMENCEMENT OF COLLECTION

Pub. L. 106–546, §5(c), Dec. 19, 2000, 114 Stat. 2733, provided that: "Collection of DNA samples under section 1565(a) of such title, as added by subsection (a)(1), shall, subject to the availability of appropriations, commence not later than the date that is 60 days after the date of the initial determination referred to in subsection (b) [set out above]."

[1] *See References in Text note below.*

## §1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes

(a) COMPLIANCE WITH COURT ORDER.—(1) Subject to paragraph (2), if a valid order of a Federal court (or military judge) so requires, an element of the Department of Defense that maintains

a repository of DNA samples for the purpose of identification of human remains shall make available, for the purpose specified in subsection (b), such DNA samples on such terms and conditions as such court (or military judge) directs.

(2) A DNA sample with respect to an individual shall be provided under paragraph (1) in a manner that does not compromise the ability of the Department of Defense to maintain a sample with respect to that individual for the purpose of identification of human remains.

(b) COVERED PURPOSE.—The purpose referred to in subsection (a) is the purpose of an investigation or prosecution of a felony, or any sexual offense, for which no other source of DNA information is reasonably available.

(c) DEFINITION.—In this section, the term "DNA sample" has the meaning given such term in section 1565(c) of this title.

(Added Pub. L. 107–314, div. A, title X, §1063(a), Dec. 2, 2002, 116 Stat. 2653.)

## §1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates

(a) AVAILABILITY OF LEGAL ASSISTANCE AND VICTIM ADVOCATE SERVICES.—(1) A member of the armed forces, or a dependent of a member, who is the victim of a sexual assault may be provided the following:

(A) Legal assistance provided by military or civilian legal assistance counsel pursuant to sections 1044 and 1044e of this title.

(B) Assistance provided by a Sexual Assault Response Coordinator.

(C) Assistance provided by a Sexual Assault Victim Advocate.

(2) A member of the armed forces or dependent who is the victim of sexual assault shall be informed of the availability of assistance under paragraph (1) as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator, a Sexual Assault Victim Advocate, a military criminal investigator, a victim/witness liaison, or a trial counsel. The member or dependent shall also be informed that the legal assistance and the services of a Sexual Assault Response Coordinator or a Sexual Assault Victim Advocate under paragraph (1) are optional and may be declined, in whole or in part, at any time.

(3) Subject to such exceptions for exigent circumstances as the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating may prescribe, notice of the availability of a Special Victims' Counsel under section 1044e of this title shall be provided to a member of the armed forces or dependent who is the victim of sexual assault before any military criminal investigator or trial counsel interviews, or requests any statement from, the member or dependent regarding the alleged sexual assault.

(4) Legal assistance and the services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates under paragraph (1) shall be available to a member or dependent regardless of whether the member or dependent elects unrestricted or restricted (confidential) reporting of the sexual assault.

(b) RESTRICTED REPORTING.—(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces, or an adult dependent of a member, who is the victim of a sexual assault may elect to confidentially disclose the details of the assault to an individual specified in paragraph (2) and receive medical treatment, legal assistance under section 1044 of this title, or counseling, without initiating an official investigation of the allegations.

(2) The individuals specified in this paragraph are the following:

(A) A Sexual Assault Response Coordinator.

(B) A Sexual Assault Victim Advocate.

(C) Healthcare personnel specifically identified in the regulations required by paragraph (1).

(3) In the case of information disclosed pursuant to paragraph (1), any State law or regulation that

would require an individual specified in paragraph (2) to disclose the personally identifiable information of the adult victim or alleged perpetrator of the sexual assault to a State or local law enforcement agency shall not apply, except when reporting is necessary to prevent or mitigate a serious and imminent threat to the health or safety of an individual.

(c) DEFINITIONS.—In this section:

(1) SEXUAL ASSAULT.—The term "sexual assault" includes the offenses of rape, sexual assault, forcible sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit such offenses, as punishable under applicable Federal or State law.

(2) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(Added Pub. L. 112–81, div. A, title V, §581(b)(1), Dec. 31, 2011, 125 Stat. 1431; amended Pub. L. 113–66, div. A, title XVII, §1716(a)(3)(C), Dec. 26, 2013, 127 Stat. 969; Pub. L. 114–92, div. A, title V, §§534(b), 536, Nov. 25, 2015, 129 Stat. 816, 817.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a)(3), (4). Pub. L. 114–92, §534(b), added par. (3) and redesignated former par. (3) as (4).
Subsec. (b)(1). Pub. L. 114–92, §536(b), substituted "an adult dependent" for "a dependent".
Subsec. (b)(3). Pub. L. 114–92, §536(a), added par. (3).
Subsec. (c). Pub. L. 114–92, §536(c), added subsec. (c).
**2013**—Subsec. (a)(1)(A). Pub. L. 113–66 substituted "sections 1044 and 1044e" for "section 1044".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DISSEMINATION OF CIVILIAN LEGAL SERVICES INFORMATION

Pub. L. 117–263, div. A, title V, §549C, Dec. 23, 2022, 136 Stat. 2591, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, acting through the head of the Sexual Assault Prevention and Response Office of the Department of Defense, shall ensure that information on the availability of legal resources from civilian legal service organizations is distributed to military-connected sexual assault victims in an organized and consistent manner."

### COORDINATION OF SUPPORT FOR SURVIVORS OF SEXUAL TRAUMA

Pub. L. 116–283, div. A, title V, §538, Jan. 1, 2021, 134 Stat. 3605, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretaries of Defense and Veterans Affairs shall jointly develop, implement, and maintain a standard of coordinated care for members of the Armed Forces who are survivors of sexual trauma. Such standard shall include the following:

"(b) MINIMUM ELEMENTS.—The standard developed and implemented under subsection (a) by the Secretaries of Defense and Veterans Affairs shall include the following:

"(1) INFORMATION FOR MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall ensure that—

"(A) Sexual Assault Response Coordinators and Uniformed Victim Advocates receive annual training on resources of the Department of Veterans Affairs regarding sexual trauma;

"(B) information regarding services furnished by the Secretary of Veterans Affairs to survivors of sexual trauma is provided to each such survivor; and

"(C) information described in subparagraph (B) is posted in the following areas in each facility of the Department of Defense:

"(i) An office of the Family Advocacy Program.

"(ii) An office of a mental health care provider.

"(iii) Each area in which sexual assault prevention staff normally post notices or information.

"(iv) High-traffic areas (including dining facilities).

"(2) COORDINATION BETWEEN STAFF OF THE DEPARTMENTS.—The Secretaries shall ensure that a Sexual Assault Response Coordinator or Uniformed Victim Advocate of the Department of Defense who receives a report of an instance of sexual trauma connects the survivor to the Military Sexual

Trauma Coordinator of the Department of Veterans Affairs at the facility of that Department nearest to the residence of that survivor if that survivor is a member separating or retiring from the Armed Forces.

"(c) REPORTS.—

"(1) REPORT ON RESIDENTIAL TREATMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretaries of Defense and Veterans Affairs shall provide a report to the appropriate committees of Congress regarding the availability of residential treatment programs for survivors of sexual trauma, including—

"(A) barriers to access for such programs; and

"(B) resources required to reduce such barriers.

"(2) INITIAL REPORT.—Upon implementation of the standard under subsection (a), the Secretaries of Defense and Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the standard.

"(3) PROGRESS REPORTS.—Not later than 180 days after submitting the initial report under paragraph (2), and on December 1 of each subsequent year, the Secretaries of Defense and Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the progress of the Secretaries in implementing and improving the standard.

"(4) UPDATES.—Whenever the Secretaries of Defense and Veterans Affairs update the standard developed under subsection (a), the Secretaries shall jointly submit to the appropriate committees of Congress a report on such update, including a comprehensive and detailed description of such update and the reasons for such update.

"(d) DEFINITIONS.—In this section:

"(1) The term 'sexual trauma' means a condition described in section 1720D(a)(1) of title 38, United States Code.

"(2) The term 'appropriate committees of Congress' means—

"(A) the Committees on Veterans' Affairs of the House of Representatives and the Senate; and

"(B) the Committees on Armed Services of the House of Representatives and the Senate."

**INFORMATION FOR MEMBERS OF THE ARMED FORCES ON AVAILABILITY OF SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS RELATING TO SEXUAL TRAUMA**

Pub. L. 116–92, div. A, title V, §599, Dec. 20, 2019, 133 Stat. 1421, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall inform members of the Armed Forces, using mechanisms available to the Secretary, of the eligibility of such members for services of the Department of Veterans Affairs relating to sexual trauma.

"(b) INFORMATION FROM SEXUAL ASSAULT RESPONSE COORDINATORS.—The Secretary of Defense shall ensure—

"(1) that Sexual Assault Response Coordinators and uniformed victims advocates of the Department of Defense advise members of the Armed Forces who report instances of sexual trauma regarding the eligibility of such members for services at the Department of Veterans Affairs; and

"(2) that such information is included in mandatory training materials.

"(c) SEXUAL TRAUMA DEFINED.—In this section, the term 'sexual trauma' means psychological trauma described in section 1720D(a)(1) of title 38, United States Code."

**LEGAL ASSISTANCE FOR VICTIMS OF SEXUAL ASSAULT**

Pub. L. 112–81, div. A, title V, §581(a), Dec. 31, 2011, 125 Stat. 1430, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretaries of the military departments shall prescribe regulations on the provision of legal assistance to victims of sexual assault. Such regulations shall require that legal assistance be provided by military or civilian legal assistance counsel pursuant to section 1044 of title 10, United States Code."

## §1566. Voting assistance: compliance assessments; assistance

(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, Marine Corps, and Space Force ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term "voting assistance programs" means—

(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas

Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); [1] and

(2) any similar program.

(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, Marine Corps, and Space Force shall conduct—

(A) an annual review of the effectiveness of voting assistance programs; and

(B) an annual review of the compliance with voting assistance programs of that armed force.

(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

(A) the effectiveness during the preceding calendar year of voting assistance programs; and

(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, Marine Corps, and Space Force.

[(d) Repealed. Pub. L. 109–364, div. A, title V, §596(a), Oct. 17, 2006, 120 Stat. 2235.]

(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) [1] and with Department of Defense regulations regarding the Federal Voting Assistance Program.

(f) VOTING ASSISTANCE OFFICERS.—(1) Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer.

(2) Under regulations and procedures (including directives) prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member's duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.

(g) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held.

(3) In this section, the term "general Federal election month" means November in an even-numbered year.

(h) NOTICE OF DEADLINES AND REQUIREMENTS.—The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.

(i) REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS .—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall, to the maximum extent practicable, ensure that members of the armed forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists shall receive such form at the time of the enlistment, or as soon thereafter as practicable.

(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the armed forces and their dependents of election timing, registration requirements, and voting procedures.

(Added Pub. L. 107–107, div. A, title XVI, §1602(a)(1), Dec. 28, 2001, 115 Stat. 1274; amended Pub. L. 107–252, title VII, §701, Oct. 29, 2002, 116 Stat. 1722; Pub. L. 108–375, div. A, title X, §1084(d)(13), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–364, div. A, title V, §596(a), (d), Oct. 17, 2006, 120 Stat. 2235, 2236; Pub. L. 116–283, div. A, title IX, §924(b)(1)(M), Jan. 1, 2021, 134 Stat. 3820.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsecs. (b)(1), (e), and (i)(2), is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, which was formerly classified principally to subchapter I–G (§1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified principally to chapter 203 (§20301 et seq.) of Title 52. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2021**—Subsecs. (a), (c)(1), (3)(B). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**2006**—Subsec. (d). Pub. L. 109–364, §596(a), struck out subsec. (d), which required the Inspector General of the Department of Defense to periodically conduct unannounced assessments of compliance with requirements of law regarding voting by members of the armed forces at Department of Defense installations.

Subsec. (g)(2). Pub. L. 109–364, §596(d), struck out at end "Not later than April 29, 2003, the Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures."

**2004**—Subsec. (g)(2). Pub. L. 108–375, §1084(d)(13)(A), substituted "April 29, 2003" for "the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002".

Subsecs. (h), (i)(1), (3). Pub. L. 108–375, §1084(d)(13)(B), substituted "armed forces" for "Armed Forces".

**2002**—Subsec. (f). Pub. L. 107–252, §701(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(2). Pub. L. 107–252, §701(b), inserted at end "The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure

that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held. Not later than the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002, the Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures."

Subsec. (h). Pub. L. 107–252, §701(c), added subsec. (h).

Subsec. (i). Pub. L. 107–252, §701(d), added subsec. (i).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (c)(3) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**INFORMATION AND OPPORTUNITIES FOR REGISTRATION FOR VOTING AND ABSENTEE BALLOT REQUESTS FOR MEMBERS OF THE ARMED FORCES UNDERGOING DEPLOYMENT OVERSEAS**

Pub. L. 116–92, div. A, title V, §580C, Dec. 20, 2019, 133 Stat. 1409, provided that:

"(a) IN GENERAL.—Not later than 45 days prior to a general election for Federal office, a member of the Armed Forces shall, upon request, be provided with the following:

"(1) A Federal write-in absentee ballot prescribed pursuant to section 103 of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20303), together with instructions on the appropriate use of the ballot with respect to the State in which the member is registered to vote.

"(2) In the case of a member intending to vote in a State that does not accept the Federal write-in absentee ballot as a simultaneous application and acceptable ballot for Federal elections, instructions on, and an opportunity to fill out, the official post card form for absentee voter registration application and absentee ballot application prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20301(b)(2)).

"(b) PERSONNEL RESPONSIBLE OF DISCHARGE.—Ballots and instructions pursuant to paragraph (1) of subsection (a), and briefings and forms pursuant to paragraph (2) of such subsection, shall be provided by Voting Assistance Officers or such other personnel as the Secretary of the military department concerned shall designate."

**INITIAL REPORT**

Pub. L. 107–107, div. A, title XVI, §1602(b), Dec. 28, 2001, 115 Stat. 1276, directed that the first report under subsec. (c)(3) of this section be submitted not later than Mar. 31, 2003.

[1] *See References in Text note below.*

## §1566a. Voting assistance: voter assistance offices

(a) DESIGNATION OF OFFICES ON MILITARY INSTALLATIONS AS VOTER ASSISTANCE OFFICES.—Under regulations prescribed by the Secretary of Defense under subsection (f), the Secretaries of the military departments shall designate offices on installations under their jurisdiction, or at such installations as the Secretary of the military department concerned shall determine are best located to provide access to voter assistance services for all covered individuals in a particular location, to provide absent uniformed services voters, particularly those individuals described in subsection (b), and their family members with the following:

(1) Information on voter registration procedures and absentee ballot procedures (including the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff)).[1]

(2) Information and assistance, if requested, including access to the Internet where practicable, to register to vote in an election for Federal office.

(3) Information and assistance, if requested, including access to the Internet where practicable, to update the individual's voter registration information, including instructions for absent uniformed services voters to change their address by submitting the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act to the appropriate State election official.

(4) Information and assistance, if requested, to request an absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).[1]

(b) COVERED INDIVIDUALS.—The individuals described in this subsection are absent uniformed services voters who—

(1) are undergoing a permanent change of duty station;

(2) are deploying overseas for at least six months;

(3) are returning from an overseas deployment of at least six months; or

(4) otherwise request assistance related to voter registration.

(c) TIMING OF PROVISION OF ASSISTANCE.—The regulations prescribed by the Secretary of Defense under subsection (f) shall ensure, to the maximum extent practicable and consistent with military necessity, that the assistance provided under subsection (a) is provided to a covered individual described in subsection (b)—

(1) if described in subsection (b)(1), as part of the administrative in-processing of the covered individual upon arrival at the new duty station of the covered individual;

(2) if described in subsection (b)(2), as part of the administrative out-processing of the covered individual in preparation for deployment from the home duty station of the covered individual;

(3) if described in subsection (b)(3), as part of the administrative in-processing of the covered individual upon return to the home duty station of the covered individual; or

(4) if described in subsection (b)(4), at the time the covered individual requests such assistance.

(d) OUTREACH.—The Secretary of each military department, or the Presidential designee, shall take appropriate actions to inform absent uniformed services voters of the assistance available under subsection (a), including—

(1) the availability of information and voter registration assistance at offices designated under subsection (a); and

(2) the time, location, and manner in which an absent uniformed services voter may utilize such assistance.

(e) AUTHORITY TO DESIGNATE VOTING ASSISTANCE OFFICES AS VOTER REGISTRATION AGENCY ON MILITARY INSTALLATIONS.—The Secretary of Defense may authorize the Secretaries of the military departments to designate offices on military installations as voter registration agencies under section 7(a)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–5(a)(2)) [1] for all purposes of such Act. Any office so designated shall discharge the requirements of this section, under the regulations prescribed by the Secretary of Defense under subsection (f).

(f) REGULATIONS.—

(1) The Secretary of Defense shall prescribe regulations relating to the administration of the requirements of this section. The regulations shall be prescribed before the regularly scheduled general election for Federal office held in November 2010, and shall be implemented for such general election for Federal office and for each succeeding election for Federal office.

(2) The Secretary of a military department shall provide the Committees on Armed Services of the Senate and the House of Representatives with notice of any decision by the Secretary to close a voter assistance office that was designated on an installation before the date of the enactment of this paragraph. The notice shall include the rational for the closure, the timing of the closure, the number of covered individuals supported by the office, and the plan for providing the assistance available under subsection (a) to covered individuals after the closure of the office.

(g) DEFINITIONS.—In this section:

(1) The term "absent uniformed services voter" has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6(1)).[1]

(2) The term "Federal office" has the meaning given that term in section 107(3) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6(3)).[1]

(3) The term "Presidential designee" means the official designated by the President under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).[1]

(Added Pub. L. 111–84, div. A, title V, §583(b)(1), Oct. 28, 2009, 123 Stat. 2328; amended Pub. L. 111–383, div. A, title X, §1075(b)(21), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 113–291, div. A, title V, §592, title X, §1071(e)(2), Dec. 19, 2014, 128 Stat. 3395, 3509.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in text, is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, which was formerly classified principally to subchapter I–G (§1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified principally to chapter 203 (§20301 et seq.) of Title 52. Sections 101 and 107 of the Act are now classified to sections 20301 and 20310, respectively, of Title 52. For complete classification of this Act to the Code, see Tables.

The National Voter Registration Act of 1993, referred to in subsec. (e), is Pub. L. 103–31, May 20, 1993, 107 Stat. 77, which was formerly classified principally to subchapter I–H (§1973gg et seq.) of chapter 20 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified principally to chapter 205 (§20501 et seq.) of Title 52. Section 7 of the Act is now classified to section 20506 of Title 52. For complete classification of this Act to the Code, see Tables.

**AMENDMENTS**

**2014**—Subsec. (a). Pub. L. 113–291, §1071(e)(2), which directed substitution of "Under" for "Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010 and under" in introductory provisions, could not be executed because of the prior amendment by Pub. L. 113–291, §592(a)(1). See below.

Pub. L. 113–291, §592(a), in introductory provisions, substituted "Under" for "Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010 and under" and inserted ", or at such installations as the Secretary of the military department concerned shall determine are best located to provide access to voter assistance services for all covered individuals in a particular location," after "their jurisdiction".

Subsec. (f). Pub. L. 113–291, §592(b), designated existing provisions as par. (1) and added par. (2).

**2011**—Subsec. (a)(1). Pub. L. 111–383 inserted closing parenthesis before period at end.

[1] *See References in Text note below.*

## §1567. Duration of military protective orders

A military protective order issued by a military commander shall remain in effect until such time as the military commander terminates the order or issues a replacement order.

(Added Pub. L. 110–417, [div. A], title V, §561(a), Oct. 14, 2008, 122 Stat. 4470; amended Pub. L. 111–84, div. A, title X, §1073(a)(16), Oct. 28, 2009, 123 Stat. 2473.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2009**—Pub. L. 111–84 made technical amendment to section catchline.

## §1567a. Mandatory notification of issuance of military protective order to civilian law enforcement

(a) INITIAL NOTIFICATION.—In the event a military protective order is issued against a member of the armed forces, the commander of the unit to which the member is assigned shall, not later than seven days after the date of the issuance of the order, notify the appropriate civilian authorities of—

(1) the issuance of the protective order; and

(2) the individuals involved in the order.

(b) NOTIFICATION IN EVENT OF TRANSFER.—In the event that a member of the armed forces against whom a military protective order is issued is transferred to another unit—

(1) not later than the date of the transfer, the commander of the unit from which the member is transferred shall notify the commander of the unit to which the member is transferred of—

(A) the issuance of the protective order; and

(B) the individuals involved in the order; and

(2) not later than seven days after receiving the notice under paragraph (1), the commander of the unit to which the member is transferred shall provide notice of the order to the appropriate civilian authorities in accordance with subsection (a).

(c) NOTIFICATION OF CHANGES OR TERMINATION.—The commander of the unit to which the member is assigned also shall notify the appropriate civilian authorities of—

(1) any change made in a protective order covered by subsection (a); and

(2) the termination of the protective order.

(Added Pub. L. 110–417, [div. A], title V, §562(a), Oct. 14, 2008, 122 Stat. 4470; amended Pub. L. 111–84, div. A, title X, §1073(a)(17), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 116–92, div. A, title V, §543(a), Dec. 20, 2019, 133 Stat. 1376.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Subsec. (a). Pub. L. 116–92, §543(a)(1), substituted ", the commander of the unit to which the member is assigned shall, not later than seven days after the date of the issuance of the order, notify" for "and any individual involved in the order does not reside on a military installation at any time during the duration of the military protective order, the commander of the military installation shall notify" in introductory provisions.

Subsec. (b). Pub. L. 116–92, §543(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–92, §543(a)(2), (4), redesignated subsec. (b) as (c) and substituted "commander of the unit to which the member is assigned" for "commander of the military installation".

**2009**—Pub. L. 111–84 made technical amendment to section catchline.

# CHAPTER 81—CIVILIAN EMPLOYEES

Sec.

1580. Emergency essential employees: designation.

1580a. Emergency essential employees: notification of required participation in anthrax vaccine immunization program.

1581. Foreign National Employees Separation Pay Account.

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1599d. Financial management positions: authority to prescribe professional certification and credential standards.
1599e. Payment of retention bonuses to DOD civilian employees in Guam.
1599f. United States Cyber Command recruitment and retention.
1599g. Public-private talent exchange.
[1599h. Renumbered.]
1599i. Recruitment incentives for placement at remote locations.
1599j. Restricted reports of incidents of adult sexual assault.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XI, §1109, Dec. 18, 2025, 139 Stat. 1075, added item 1599e.

**2022**—Pub. L. 117–263, div. A, title XI, §1101(b), Dec. 23, 2022, 136 Stat. 2815, added item 1599j.

**2021**—Pub. L. 117–81, div. A, title XI, §1106(b)(1), title XVII, §1701(w)(1), Dec. 27, 2021, 135 Stat. 1950, 2154, struck out items 1599e "Probationary period for employees" and 1599h "Personnel management authority to attract experts in science and engineering".

Pub. L. 116–283, div. A, title II, §241(c)(2), title XI, §1120(d), Jan. 1, 2021, 134 Stat. 3487, 3900, added items 1596c and 1599i.

**2016**—Pub. L. 114–328, div. A, title XI, §§1104(b), 1121(a)(2), Dec. 23, 2016, 130 Stat. 2447, 2452, added items 1599g and 1599h.

**2015**—Pub. L. 114–92, div. A, title XI, §§1105(a)(2), 1107(c), Nov. 25, 2015, 129 Stat. 1024, 1027, added items 1599e and 1599f.

**2011**—Pub. L. 112–81, div. A, title X, §1051(b), Dec. 31, 2011, 125 Stat. 1582, added item 1599d and struck out former item 1599d "Professional accounting positions: authority to prescribe certification and credential standards".

**2008**—Pub. L. 110–181, div. A, title XVI, §1636(b), Jan. 28, 2008, 122 Stat. 464, added item 1599c and struck out former item 1599c "Appointment in excepted service of certain health care professionals".

**2004**—Pub. L. 108–375, div. A, title XI, §1104(b), Oct. 28, 2004, 118 Stat. 2074, added item 1587a.

Pub. L. 108–375, div. A, title X, §1084(g), Oct. 28, 2004, 118 Stat. 2064, amended directory language of Pub. L. 107–314, §1064(a)(2), effective Dec. 2, 2002, as if included in Pub. L. 107–314 as enacted. See 2002 Amendment note below.

**2002**—Pub. L. 107–314, div. A, title XI, §1104(a)(2), Dec. 2, 2002, 116 Stat. 2661, added item 1599d.

Pub. L. 107–314, div. A, title X, §1064(a)(2), Dec. 2, 2002, 116 Stat. 2654, as amended by Pub. L. 108–375, div. A, title X, §1084(g), Oct. 28, 2004, 118 Stat. 2064, added item 1596b.

**2001**—Pub. L. 107–107, div. A, title XI, §1104(b), Dec. 28, 2001, 115 Stat. 1238, added item 1599c.

**2000**—Pub. L. 106–398, §1 [[div. A], title VII, §751(c)(2), title XI, §§1102(b), 1131(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–194, 1654A–311, 1654A–317, added items 1580a, 1582, 1596, and 1596a and struck out former item 1596 "Foreign language proficiency: special pay".

**1999**—Pub. L. 106–65, div. A, title XI, §1103(b)(2), Oct. 5, 1999, 113 Stat. 777, added item 1580.

**1998**—Pub. L. 105–339, §6(c)(1)(B), Oct. 31, 1998, 112 Stat. 3188, struck out item 1599c "Veterans' preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice".

**1997**—Pub. L. 105–85, div. A, title V, §593(b)(2), title X, §1071(b), Nov. 18, 1997, 111 Stat. 1764, 1898, added items 1585a and 1589.

**1996**—Pub. L. 104–201, div. A, title X, §1074(a)(7), title XVI, §§1604(b), 1614(b)(2), 1615(a)(2), 1633(c)(2), Sept. 23, 1996, 110 Stat. 2659, 2736, 2739, 2741, 2751, struck out items 1589 "Prohibition on payment of lodging expenses when adequate Government quarters are available", 1590 "Management of civilian intelligence personnel of the military departments", and 1599 "Postemployment assistance: certain terminated intelligence employees", struck out "Sec." at beginning of item 1599a, and added items 1599b and 1599c.

Pub. L. 104–106, div. A, title X, §1040(d)(2), Feb. 10, 1996, 110 Stat. 433, inserted ": reprisals" after "instrumentalities" in item 1587.

Pub. L. 104–93, title V, §505(b), Jan. 6, 1996, 109 Stat. 974, added item 1599a.

**1994**—Pub. L. 103–359, title VIII, §806(a)(2), Oct. 14, 1994, 108 Stat. 3442, added item 1599.

**1993**—Pub. L. 103–160, div. A, title IX, §923(a)(2), Nov. 30, 1993, 107 Stat. 1731, substituted "Civilian faculty members at certain Department of Defense schools: employment and compensation" for "National Defense University; Foreign Language Center of the Defense Language Institute: civilian faculty members" in item 1595.

**1992**—Pub. L. 102–484, div. A, title III, §371(b), title IX, §923(a)(2)(B), div. D, title XLIV, §4442(b), Oct. 23, 1992, 106 Stat. 2384, 2474, 2732, substituted "University; Foreign Language Center of the Defense Language Institute" for "University:" in item 1595, substituted "Civilian positions: guidelines for reductions" for "Employees of industrial-type or commercial-type activities: guidelines for future reductions" in item 1597, and added item 1598.

**1991**—Pub. L. 102–190, div. A, title X, §1003(a)(2), Dec. 5, 1991, 105 Stat. 1456, added item 1581.

Pub. L. 102–25, title VII, §701(e)(4), (8)(B), Apr. 6, 1991, 105 Stat. 114, 115, substituted "Employment of non-citizens" for "Laws relating to employment of non-citizens: not applicable to research and development activities" in item 1584 and struck out "mandatory" after "error in" in item 1594.

**1990**—Pub. L. 101–510, div. A, title III, §322(a)(2), title XIV, §1484(a), Nov. 5, 1990, 104 Stat. 1529, 1715, redesignated item 1592 "Foreign language proficiency: special pay" as item 1596 and added item 1597.

**1989**—Pub. L. 101–193, title V, §501(a)(2), Nov. 30, 1989, 103 Stat. 1708, added item 1592 "Foreign language proficiency: special pay".

Pub. L. 101–189, div. A, title III, §§311(b)(2), 336(a)(2), title VI, §664(b)(2), title XI, §1124(a)(2), Nov. 29, 1989, 103 Stat. 1412, 1419, 1467, 1558, added item 1592 "Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures.", and items 1593 to 1595.

**1987**—Pub. L. 100–180, div. A, title VI, §617(b)(2), Dec. 4, 1987, 101 Stat. 1097, added item 1591.

**1986**—Pub. L. 99–569, title V, §504(b), Oct. 27, 1986, 100 Stat. 3199, added item 1590.

**1984**—Pub. L. 98–525, title XIV, §1401(f)(2), Oct. 19, 1984, 98 Stat. 2618, added item 1589.

**1983**—Pub. L. 98–94, title XII, §§1253(a)(2), 1266(b), Sept. 24, 1983, 97 Stat. 700, 705, added items 1587 and 1588.

**1982**—Pub. L. 97–295, §1(19)(B), (20)(C), Oct. 12, 1982, 96 Stat. 1290, struck out items 1581 "Appointment: professional and scientific services" and 1582 "Professional and scientific services: reports to Congress on appointments", and substituted "pay" for "compensation" in item 1583.

**1966**—Pub. L. 89–718, §13, Nov. 2, 1966, 80 Stat. 1117, struck out item 1580 "Appointment generally".

**1962**—Pub. L. 87–651, title II, §206(b), Sept. 7, 1962, 76 Stat. 520, added item 1580.

**1960**—Pub. L. 86–585, §2, July 5, 1960, 74 Stat. 327, added item 1586.

**1958**—Pub. L. 85–577, §1(2), July 31, 1958, 72 Stat. 456, added item 1585.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PERSONNEL MANAGEMENT

Pub. L. 119–60, div. A, title XI, §1115, Dec. 18, 2025, 139 Stat. 1078, provided that:

"(a) POLICY AND REGULATIONS.—The Secretary of Defense shall establish policy and prescribe regulations for the overall management, oversight, and administration of civilian employees of the military departments. Such policy and such regulations shall provide for such management, oversight, and administration to be under the purview of—

"(1) with respect to civilian employees of the Department of the Army, a Deputy Chief of Staff of the Army detailed to that position under section 7035 of title 10, United States Code;

"(2) with respect to civilian employees of the Department of the Navy, the Chief of Naval Personnel appointed under section 8081 of such title; and

"(3) with respect to civilian employees of the Department of the Air Force, a Deputy Chief of Staff of the Air Force detailed to that position under section 9035 of such title.

"(b) IMPLEMENTATION.—

"(1) PLAN.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to implement subsection (a).

"(2) ISSUANCE OF REGULATIONS.—The Secretary of Defense shall establish policy and prescribe regulations under subsection (a) not later than one year after the date of the enactment of this Act.

"(3) EFFECTIVE DATE.—Subsection (a) and the policy established and regulations prescribed under subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act."

### PILOT PROGRAM FOR OVERSEAS WORK-PERIOD FOR DOD COMPETITIVE SERVICE POSITIONS

Pub. L. 118–159, div. A, title XI, §1106, Dec. 23, 2024, 138 Stat. 2088, provided that:

"(a) IN GENERAL.—The 5-year limitation on competitive service employment in a foreign area in Department of Defense Instruction 1400.25, titled 'DoD Civilian Personnel Management System: Employment in Foreign Areas and Employee Return Rights' and issued on July 26, 2012 (or a successor instruction), may be extended by the first 0-6 in the employees chain of command for one additional 5 year term.

"(b) EXTENSION.—An extension request under subsection (a) shall not require a business case, or similar, analysis to justify the additional foreign area extension.

"(c) REPORT.—Not later than December 31, 2025, and yearly after that for the next 5 years, the Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the following:

"(1) The impact of this section on recruiting and retaining civilian competitive service employees at the Department of Defense.

"(2) The total number of—

"(A) Department employees that were able to remain in positions as a result of this section; and

"(B) Department positions that were not open for initial appointments as a result of this section.

"(3) The grade and classification of Department positions affected by this section.

"(4) Any other information the Secretary deems appropriate.

"(d) FOREIGN AREA DEFINED.—In this section, the term 'foreign area' means any location that is not within a nonforeign area (as that term is defined in section 591.205 of title 5, Code of Federal Regulations, or any successor regulation).

"(e) SUNSET.—The authority under this section shall expire on the date that is 2 years after the date of the enactment of this Act [Dec. 23, 2024]."

## DIVERSITY, EQUITY, AND INCLUSION PERSONNEL GRADE CAP

Pub. L. 118–31, div. A, title XI, §1101, Dec. 22, 2023, 137 Stat. 426, provided that:

"(a) IN GENERAL.—The Secretary concerned may not appoint to, or otherwise employ in, any position with primary duties as described in subsection (b) a civilian employee paid annual pay at a rate that exceeds the equivalent of the rate payable for GS–10, not adjusted for locality.

"(b) COVERED DUTIES.—The duties referred to in subsection (a) are as follows:

"(1) Developing, refining, and implementing diversity, equity, and inclusion policy.

"(2) Leading working groups and councils to developing diversity, equity, and inclusion goals and objectives to measure performance and outcomes.

"(3) Creating and implementing diversity, equity, and inclusion education, training courses, and workshops for military and civilian personnel.

"(c) APPLICABILITY TO CURRENT EMPLOYEES.—Any civilian employee appointed to a position with duties described in subsection (b) who is paid annual pay at a rate that exceeds the amount allowed under subsection (a) shall be reassigned to another position not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023]."

## AUTHORIZATION TO PAY A LIVING QUARTERS ALLOWANCE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE STATIONED IN GUAM

Pub. L. 118–31, div. A, title XI, §1102, Dec. 22, 2023, 137 Stat. 426, as amended by Pub. L. 118–159, div. A, title XI, §1103, Dec. 23, 2024, 138 Stat. 2087, Pub. L. 119–60, div. A, title XI, §1102, Dec. 18, 2025, 139 Stat. 1073, provided that:

"(a) ALLOWANCE.—When Government owned or rented quarters are not otherwise provided without charge to a covered employee, the Secretary of Defense may grant to a covered employee one or more of the following allowances:

"(1) A living quarters allowance for rent, heat, light, fuel, gas, electricity, and water. The Secretary is authorized to pay such allowance by reimbursement or by advance payments.

"(2) Under unusual circumstances, as determined by the Secretary, payment or reimbursement for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred in initial repairs, alterations, and improvements to the privately leased residence in Guam of a covered employee—

"(A) the expenses are administratively approved in advance; and

"(B) the duration and terms of the lease justify payment of the expenses by the Government.

"(b) REPORT.—Not later than 1 year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025] and annually thereafter for the following 2 years, the Secretary shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the use of the authority provided under this section.

"(c) COVERED EMPLOYEE DEFINED.—In this section, the term 'covered employee' means any civilian employee of the Department of Defense whose permanent duty station is located in Guam.

"(d) SUNSET.—The authority to carry out this section shall terminate 3 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025]."

[Pub. L. 119–60, §1102(1), which directed amendment of section 1102 of Pub. L. 118–31, set out above, by substituting "Civilian Employees of the Department of Defense Stationed in Guam" for "Department of the Navy Civilian Employees Assigned to Permanent Duty in Guam for Performing Work, or Supporting Work Being Performed, Aboard or Dockside, of U.S. Naval Vessels" in heading, could not be executed because of the prior identical amendment by Pub. L. 118–159, §1103(1).]

[Pub. L. 119–60, §1102(2), which directed amendment of section 1102 of Pub. L. 118–31, set out above, by substituting "Secretary of Defense" for "Secretary of the Navy", could not be executed because of the prior identical amendment by Pub. L. 118–159, §1103(2).]

[Pub. L. 119–60, §1102(3), which directed amendment of section 1102 of Pub. L. 118–31, set out above, by adding subsecs. (b) to (d) and striking former subsec. (b), was executed by adding subsecs. (b) to (d) and striking former subsecs. (b) and (c), which had been added by Pub. L. 118–159, §1103(3), to reflect the probable intent of Congress.]

## PILOT PROGRAM ON THE USE OF ELECTRONIC PORTFOLIOS TO EVALUATE CERTAIN APPLICANTS FOR TECHNICAL POSITIONS

Pub. L. 116–283, div. A, title II, §247, Jan. 1, 2021, 134 Stat. 3491, as amended by Pub. L. 117–263, div. A, title II, §212(h), Dec. 23, 2022, 136 Stat. 2468, provided that:

"(a) PILOT PROGRAM.—Beginning not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall carry out a pilot program under which certain applicants for technical positions within the Department of Defense will be evaluated, in part, based on electronic portfolios of the applicant's work, as described in subsection (b).

"(b) ACTIVITIES.—Under the pilot program, the human resources manager of each organization of the Department of Defense participating in the program, in consultation with relevant subject matter experts, shall—

"(1) identify a subset of technical positions for which the evaluation of electronic portfolios would be appropriate as part of the hiring process; and

"(2) as appropriate, assess applicants for such positions by reviewing electronic portfolios of the applicants' best work, as selected by the applicant concerned.

"(c) SCOPE OF PROGRAM.—The Secretary of Defense shall carry out the pilot program under subsection (a) in—

"(1) the office of the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061);

"(2) at least one activity of each military department, as identified by the Secretary of the department concerned; and

"(3) such other organizations and elements of the Department of Defense as the Secretary determines appropriate.

"(d) REPORT.—Not later than two years after the commencement of the pilot program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the program. At a minimum, the report shall—

"(1) describe how the use of electronic portfolios in the hiring process affected the timeliness of the hiring process for technical positions in organizations of the Department of Defense participating in the program;

"(2) assess the level of satisfaction of organization leaders, hiring authorities, and subject matter experts with the quality of applicants who were hired based on evaluations of electronic portfolios;

"(3) identify other job series that could benefit from the use of electronic portfolios in the hiring process;

"(4) recommend whether the use of electronic portfolios in the hiring process should be expanded or made permanent; and

"(5) recommend any statutory, regulatory, or policy changes required to support the goals of the pilot program under subsection (a).

"(e) TECHNICAL POSITION DEFINED.—In this section, the term 'technical position' means a position in the Department of Defense that—

"(1) requires expertise in artificial intelligence, data science, or software development; and

"(2) is eligible for direct hire authority under section 9905 of title 5, United States Code, or section 2358a of title 10, United States Code [now 10 U.S.C. 4091].

"(f) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate 5 years after the date of the enactment of this Act."

## COORDINATION OF SCHOLARSHIP AND EMPLOYMENT PROGRAMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title II, §251, Jan. 1, 2021, 134 Stat. 3496, provided that:

"(a) ESTABLISHMENT OR DESIGNATION OF ORGANIZATION.—The Secretary of Defense shall establish or designate an organization within the Department of Defense which shall have primary responsibility for building cohesion and collaboration across the various scholarship and employment programs of the Department.

"(b) DUTIES.—The organization established or designated under subsection (a) shall have the following duties:

"(1) To establish an interconnected network and database across the scholarship and employment programs of the Department.

"(2) To aid in matching scholarships to individuals pursuing courses of study in high demand skill areas.

"(3) To build a network of current and former program participants for potential engagement or employment with Department activities.

"(c) ANNUAL LISTING.—On an annual basis, the organization established or designated under subsection (a) shall publish, on a publicly accessible website of the Department, a listing of scholarship and employment programs carried out by the Department."

## TEMPORARY AUTHORITY TO APPOINT RETIRED MEMBERS OF THE ARMED FORCES TO POSITIONS IN THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title XI, §1108, Jan. 1, 2021, 134 Stat. 3891, as amended by Pub. L. 117–81, div. A, title XI, §1103, Dec. 27, 2021, 135 Stat. 1950, Pub. L. 119–60, div. A, title XI, §1103, Dec. 18, 2025, 139 Stat. 1073, provided that:

"(a) IN GENERAL.—Notwithstanding the requirements of section 3326 of title 5, United States Code, the Secretary of Defense may appoint retired members of the Armed Forces to positions in the Department of Defense described in subsection (b).

"(b) POSITIONS.—

"(1) IN GENERAL.—The positions in the Department described in this subsection are positions classified at or below GS–13 under the General Schedule under subchapter III of chapter 53 of title 5, United States Code, or an equivalent level under another wage system, in the competitive service—

"(A)(i) at any defense industrial base facility (as that term is defined in section 2208(u)(3) of title 10, United States Code) that is part of the core logistics capabilities (as described in section 2464(a) of such title);

"(ii) at any Major Range and Test Facility Base (as that term is defined in section 196(i) of such title) [now 10 U.S.C. 4173(j)]; or

"(iii) licensed medical personnel; and

"(B) that have been certified by the Secretary of the military department concerned as lacking sufficient numbers of potential applicants.

"(2) LIMITATION ON DELEGATION OF CERTIFICATION.—The Secretary of a military department may not delegate the authority to make a certification described in paragraph (1)(B) to an individual in a grade lower than colonel, captain in the Navy, or an equivalent grade in the Space Force, or an individual with an equivalent civilian grade.

"(c) REPORT.—Not later than two years after the date of enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on this section and the authority provided by this section. The report shall include the following:

"(1) A description of the use of such authority, including the positions to which appointments are authorized to be made under such authority and the number of retired members appointed to each such position under such authority.

"(2) Any other matters in connection with such section or such authority that the Secretary considers appropriate.

"(d) SUNSET.—Effective on the date that is 3 years after the date of enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025], the authority provided under subsection (a) shall expire.

"(e) DEFINITIONS.—In this section, the terms 'member' and 'Secretary concerned' have the meaning given those terms in section 101 of title 37, United States Code."

## PILOT PROGRAM ON ENHANCED PAY AUTHORITY FOR CERTAIN HIGH-LEVEL MANAGEMENT POSITIONS IN THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title XI, §1119, Jan. 1, 2021, 134 Stat. 3897, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of using the pay authority specified in subsection (d) to fix the rate of basic pay for positions described in subsection (c) in order to assist the Department of Defense in attracting and retaining personnel with significant experience in high-level management of complex organizations and enterprise functions in order to lead implementation by the Department of the National Defense Strategy.

"(b) APPROVAL REQUIRED.—The pilot program may be carried out only with approval as follows:

"(1) Approval of the Deputy Secretary of Defense, in the case of a position not under the authority, direction, and control of an Under Secretary of Defense and not under the authority, direction, and control of the Under Secretary of a military department.

"(2) Approval of the applicable Under Secretary of Defense, in the case of a position under the authority, direction, and control of an Under Secretary of Defense.

"(3) Approval of the Under Secretary or an Assistant Secretary of the military department concerned,

in the case of a position in a military department.

"(c) POSITIONS.—The positions described in this subsection are positions that require expertise of an extremely high level in innovative leadership and management of enterprise-wide business operations, including financial management, health care, supply chain and logistics, information technology, real property stewardship, and human resources, across a large and complex organization.

"(d) RATE OF BASIC PAY.—Without regard to the basic pay authorities in sections 5376, 5382, 5383 and 9903 of title 5, United States Code, the pay authority specified in this subsection is authority as follows:

"(1) Authority to fix the rate of basic pay for a position at a rate not to exceed 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the applicable official under subsection (b).

"(2) Authority to fix the rate of basic pay for a position at a rate in excess of 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Secretary of Defense.

"(e) LIMITATIONS.—

"(1) IN GENERAL.—The authority in subsection (a) may be used only to the extent necessary to competitively recruit or retain individuals exceptionally well qualified for positions described in subsection (c).

"(2) NUMBER OF POSITIONS.—The authority in subsection (a) may not be used with respect to—

"(A) more than 10 positions in the Office of the Secretary of Defense and components of the Department of Defense other than the military departments at any one time; and

"(B) more than five positions in each military department at any one time.

"(3) TERM OF POSITIONS.—The authority in subsection (a) may be used only for positions having terms less than five years.

"(4) PAST SERVICE.—An individual may not be appointed to a position pursuant to the authority provided by subsection (a) if the individual separated or retired from Federal civil service or service as a commissioned officer of an Armed Force on a date that is less than five years before the date of such appointment of the individual.

"(f) TERMINATION.—

"(1) IN GENERAL.—The authority to fix rates of basic pay for a position under this section shall terminate on October 1, 2025.

"(2) CONTINUATION OF PAY.—Nothing in paragraph (1) shall be construed to prohibit the payment after October 1, 2025, of basic pay at rates fixed under this section before that date for positions whose terms continue after that date."

## TECHNOLOGY AND NATIONAL SECURITY FELLOWSHIP

Pub. L. 116–92, div. A, title II, §235, Dec. 20, 2019, 133 Stat. 1279, as amended by Pub. L. 116–283, div. A, title II, §243, Jan. 1, 2021, 134 Stat. 3488, provided that:

"(a) FELLOWSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, may establish a civilian fellowship program designed to place eligible individuals within the Department of Defense and Congress to increase the number of national security professionals with science, technology, engineering, and mathematics credentials employed by the Department.

"(2) DESIGNATION.—The fellowship program established under paragraph (1) shall be known as the 'Technology and National Security Fellowship' (in this section referred to as the 'fellows program').

"(3) ASSIGNMENTS.—Each individual selected for participation in the fellows program shall be assigned to a one year position within—

"(A) the Department of Defense; or

"(B) a congressional office with emphasis on defense and national security matters.

"(4) PAY AND BENEFITS.—To the extent practicable, each individual assigned to a position under paragraph (3)—

"(A) shall be compensated at a rate of basic pay that is not less than the minimum rate of basic pay payable for a position at GS–10 of the General Schedule (subchapter III of chapter 53 of title 5, United States Code) and not more than the maximum rate of basic pay payable for a position at GS–15 of such Schedule; and

"(B) shall be treated as an employee of the United States during the assignment.

"(b) ELIGIBLE INDIVIDUALS.—

"(1) ELIGIBILITY FOR DOD ASSIGNMENT.—Subject to subsection (e), an individual eligible for an assignment in the Department of Defense under subsection (a)(3)(A) is an individual who—

"(A) is a citizen of the United States; and

"(B) either—

"(i) expects to be awarded a bachelor's degree, associate's degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work not later than 180 days after the date on which the individual submits an application for participation in the fellows program;

"(ii) possesses a bachelor's degree, associate's degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work; or

"(iii) is an employee of the Department of Defense and possesses a bachelor's degree, associate's degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work.

"(2) ELIGIBILITY FOR CONGRESSIONAL ASSIGNMENT.—Subject to subsection (e), an individual eligible for an assignment in a congressional office under subsection (a)(3)(B) is an individual who—

"(A) meets the requirements specified in paragraph (1); and

"(B) has not less than 3 years of relevant work experience in the field of science, technology, engineering, or mathematics.

"(3) BACKGROUND CHECK REQUIREMENT.—No individual may participate in the fellows program without first undergoing a background check that the Secretary of Defense considers appropriate for participation in the program.

"(c) APPLICATION.—Each individual seeking to participate in the fellows program shall submit to the Secretary an application therefor at such time and in such manner as the Secretary shall specify.

"(d) COORDINATION.—In carrying out this section, the Secretary may consider working through the following entities:

"(1) The National Security Innovation Network.

"(2) Universities.

"(3) Science and technology reinvention laboratories and test and evaluation centers of the Department of Defense.

"(4) Other organizations of the Department of Defense or public and private sector organizations, as determined appropriate by the Secretary.

"(e) MODIFICATIONS TO FELLOWS PROGRAM.—The Secretary may modify the terms and procedures of the fellows program in order to better achieve the goals of the program and to support workforce needs of the Department of Defense.

"(f) CONSULTATION.—The Secretary may consult with the heads of the agencies, components, and other elements of the Department of Defense, Members and committees of Congress, and such institutions of higher education and private entities engaged in work on national security and emerging technologies as the Secretary considers appropriate for purposes of the fellows program, including with respect to assignments in the fellows program."

## JOHN S. MCCAIN STRATEGIC DEFENSE FELLOWS PROGRAM

Pub. L. 115–232, div. A, title IX, §932, Aug. 13, 2018, 132 Stat. 1935, as amended by Pub. L. 116–92, div. A, title IX, §906, Dec. 20, 2019, 133 Stat. 1559; Pub. L. 117–81, div. A, title IX, §906, Dec. 27, 2021, 135 Stat. 1872; Pub. L. 118–31, div. A, title XI, §1113, Dec. 22, 2023, 137 Stat. 430; Pub. L. 118–159, div. A, title XI, §1112, Dec. 23, 2024, 138 Stat. 2090, provided that:

"(a) FELLOWSHIP PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall establish within the Department of Defense a civilian fellowship program designed to provide leadership development and the commencement of a career track toward senior leadership in the Department.

"(2) DESIGNATION.—The fellowship program shall be known as the 'John S. McCain Strategic Defense Fellows Program' (in this section referred to as the 'fellows program').

"(b) ELIGIBILITY.—An individual is eligible for participation in the fellows program if the individual—

"(1) is a citizen of the United States or a lawful permanent resident of the United States in the year in which the individual applies for participation in the fellows program; and

"(2) either—

"(A) possesses a graduate degree from an accredited institution of higher education in the United States that was awarded not later than two years before the date of the acceptance of the individual into the fellows program; or

"(B) will be awarded a graduate degree from an accredited institution of higher education in the United States not later than six months after the date of the acceptance of the individual into the fellows program.

"(c) APPLICATION.—

"(1) APPLICATION REQUIRED.—Each individual seeking to participate in the fellows program shall submit to the Secretary of Defense an application therefor at such time and in such manner as the Secretary shall specify.

"(2) ELEMENTS.—Each application of an individual under this subsection shall include the following:

"(A) Transcripts of educational achievement at the undergraduate and graduate level.

"(B) A resume.

"(C) Proof of citizenship or lawful permanent residence.

"(D) An endorsement from the applicant's graduate institution of higher education.

"(E) An academic writing sample.

"(F) Letters of recommendation addressing the applicant's character, academic ability, and any extracurricular activities.

"(G) A personal statement by the applicant explaining career areas of interest and motivations for service in the Department.

"(H) Such other information as the Secretary considers appropriate.

"(d) SELECTION.—

"(1) IN GENERAL.—Each year, the Secretary of Defense shall select participants in the fellows program from among applicants for the fellows program for such year who qualify for participation in the fellows program based on character, commitment to public service, academic achievement, extracurricular activities, and such other qualifications for participation in the fellows program as the Secretary considers appropriate.

"(2) GEOGRAPHICAL REPRESENTATION.—Out of the total number of individuals selected to participate in the fellows program, which shall not exceed 60 individuals in any year, no more than 20 percent may be from any of the following geographic regions:

"(A) The Northeast United States.

"(B) The Southeast United States.

"(C) The Midwest United States.

"(D) The Southwest United States.

"(E) The Western United States.

"(F) Alaska, Hawaii, United States territories, and areas outside the United States.

"(3) BACKGROUND INVESTIGATION.—An individual selected to participate in the fellows program may not participate in the program unless the individual successfully undergoes a background investigation applicable to the position to which the individual will be appointed under the fellows program and otherwise meets such requirements applicable to appointment to a sensitive position within the Department that the Secretary considers appropriate.

"(e) APPOINTMENT.—

"(1) IN GENERAL.—An individual who participates in the fellows program shall be appointed into an excepted service position in the Department.

"(2) POSITION REQUIREMENTS.—Each year, the head of each Department of Defense Component shall submit to the Secretary of Defense placement opportunities for participants in the fellows program. Such placement opportunities shall provide for leadership development and potential commencement of a career track toward a position of senior leadership in the Department. The Secretary of Defense, in coordination with the heads of Department of Defense Components, shall establish qualification requirements for the appointment of participants under paragraph (1) and subsection (f)(2).

"(3) APPOINTMENT TO POSITIONS.—Each year, the Secretary of Defense shall appoint participants in the fellows program to positions in the Department of Defense Components. In making such appointments, the Secretary shall seek to best match the qualifications and skills of the participants with the requirements for positions available for appointment.

"(4) TERM.—The term of each appointment under the fellows program shall be one year with the option to extend the appointment up to one additional year.

"(5) GRADE.—An individual appointed to a position under the fellows program shall be appointed at a level between GS–10 and GS–12 of the General Schedule based on the directly-related qualifications, skills, and professional experience of the individual.

"(6) EDUCATION LOAN REPAYMENT.—To the extent that funds are provided in advance in

appropriations Acts, the Secretary of Defense may repay a loan of a participant in the fellows program if the loan is described by subparagraph (A), (B), or (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of a loan under this paragraph may require a minimum service agreement, as determined by the Secretary.

"(7) DEPARTMENT OF DEFENSE COMPONENT DEFINED.—In this subsection, the term 'Department of Defense Component' means a Department of Defense Component, as set forth in section 111 of title 10, United States Code.

"(f) CAREER DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the fellows program—

"(A) receive career development opportunities and support appropriate for the commencement of a career track within the Department leading toward a future position of senior leadership within the Department, including ongoing mentorship support through appropriate personnel from entities within the Department; and

"(B) are provided appropriate employment opportunities for competitive and excepted service positions in the Department upon successful completion of the fellows program.

"(2) NONCOMPETITIVE APPOINTMENT OR CONVERSION.—

"(A) IN GENERAL.—Upon a participant's successful completion of the fellows program, the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, noncompetitively appoint or convert the participant into a vacant competitive or excepted service position in the Department, if the Secretary determines that such appointment or conversion will contribute to the development of highly qualified future senior leaders for the Department.

"(B) GRADE.—The Secretary may appoint or convert a participant under subparagraph (A) into a position at or below the level of GS–13 of the General Schedule or an equivalent position for which the participant is qualified without regard to any minimum time-in-grade requirements.

"(C) CONSENT.—Before converting an individual to the competitive service under this paragraph, the Secretary shall notify and receive written consent from the individual of the individual's change in status.

"(3) APPOINTMENT OF FORMER PARTICIPANTS.—The Secretary may use the authority provided by paragraph (2) for a participant—

"(A) not later than one year after the date of the participant's successful completion of the fellows program; or

"(B) in the case of a participant who entered the fellows program before the date of the enactment of this subparagraph, not later than one year after such date of enactment.

"(4) PUBLICATION OF SELECTION.—The Secretary shall publish, on an Internet website of the Department available to the public, the names of the individuals selected to participate in the fellows program.

"(g) OUTREACH.—The Secretary of Defense shall undertake appropriate outreach to inform potential participants in the fellows program of the nature and benefits of participation in the fellows program.

"(h) REGULATIONS.—The Secretary of Defense shall carry out this section in accordance with such regulations as the Secretary may prescribe for purposes of this section.

"(i) FUNDING.—Of the amounts authorized to be appropriated for each fiscal year for the Department of Defense for operation and maintenance, Defense-wide, $10,000,000 may be available to carry out the fellows program in such fiscal year."

## PILOT PROGRAMS ON APPOINTMENT IN THE EXCEPTED SERVICE IN THE DEPARTMENT OF DEFENSE OF PHYSICALLY DISQUALIFIED FORMER CADETS AND MIDSHIPMEN

Pub. L. 115–91, div. A, title V, §549, Dec. 12, 2017, 131 Stat. 1399, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(4), Aug. 13, 2018, 132 Stat. 1840, authorized each Secretary of a military department to carry out a pilot program under which former cadets or midshipmen as eligible individuals could be appointed by the Secretary of Defense in the excepted service under section 3320 of title 5, United States Code, in the Department of Defense with a required report containing an evaluation of the effectiveness of the pilot program by each Secretary of a military department to the appropriate congressional committees not later than the date that is three years after Dec. 12, 2017, and such authority to appoint would expire on the date that is four years after Dec. 12, 2017.

## DIRECT HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR PERSONNEL TO ASSIST IN BUSINESS TRANSFORMATION AND MANAGEMENT INNOVATION

Pub. L. 115–91, div. A, title XI, §1101, Dec. 12, 2017, 131 Stat. 1627, authorized the Secretary of Defense

to appoint in the Department of Defense individuals without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, for the purpose of assisting and facilitating the efforts of the Department in business transformation and management innovation, and such authority to appoint would expire on Sept. 30, 2021.

**PILOT PROGRAM ON ENHANCED PERSONNEL MANAGEMENT SYSTEM FOR CYBERSECURITY AND LEGAL PROFESSIONALS IN THE DEPARTMENT OF DEFENSE**

Pub. L. 115–91, div. A, title XI, §1110, Dec. 12, 2017, 131 Stat. 1631, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out within the Department of Defense a pilot program to assess the feasability [sic] and advisability of an enhanced personnel management system in accordance with this section for cybersecurity and legal professionals in the Department described in subsection (b) who enter civilian service with the Department on or after January 1, 2020.

"(b) CYBERSECURITY AND LEGAL PROFESSIONALS.—

"(1) IN GENERAL.—The cybersecurity and legal professionals described in this subsection are the following:

"(A) Civilian cybersecurity professionals in the Department of Defense consisting of civilian personnel engaged in or directly supporting planning, commanding and controlling, training, developing, acquiring, modifying, and operating systems and capabilities, and military units and intelligence organizations (other than those funded by the National Intelligence Program) that are directly engaged in or used for offensive and defensive cyber and information warfare or intelligence activities in support thereof.

"(B) Civilian legal professionals in the Department occupying legal or similar positions, as determined by the Secretary of Defense for purposes of the pilot program, that require eligibility to practice law in a State or territory of the United States.

"(2) INAPPLICABILITY TO SES POSITIONS.—The pilot program shall not apply to positions within the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code.

"(c) DIRECT-APPOINTMENT AUTHORITY.—

"(1) INAPPLICABILITY OF GENERAL CIVIL SERVICE APPOINTMENT AUTHORITIES TO APPOINTMENTS.—Under the pilot program, the Secretary of Defense, with respect to the Defense Agencies, and the Secretary of the military department concerned, with respect to the military departments, may appoint qualified candidates as cybersecurity and legal professionals without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

"(2) APPOINTMENT ON DIRECT-HIRE BASIS.—Appointments under the pilot program shall be made on a direct-hire basis.

"(d) TERM APPOINTMENTS.—

"(1) RENEWABLE TERM APPOINTMENTS.—Each individual shall serve with the Department of Defense as a cybersecurity or legal professional under the pilot program pursuant to an initial appointment to service with the Department for a term of not less than 2 years nor more than 8 years. Any term of appointment under the pilot program may be renewed for one or more additional terms of not less than 2 years nor more than 8 years as provided in subsection (h).

"(2) LENGTH OF TERMS.—The length of the term of appointment to a position under the pilot program shall be prescribed by the Secretary of Defense taking into account the national security, mission, and other applicable requirements of the position. Positions having identical or similar requirements or terms may be grouped into categories for purposes of the pilot program. The Secretary may delegate any authority in this paragraph to a commissioned officer of the Armed Forces in pay grade O–7 or above or an employee in the Department in the Senior Executive Service.

"(e) NATURE OF SERVICE UNDER APPOINTMENTS.—

"(1) TREATMENT OF PERSONNEL APPOINTED AS EMPLOYEES.—Except as otherwise provided by this section, individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program pursuant to appointments under this section shall be considered employees (as specified in section 2105 of title 5, United States Code) for purposes of the provisions of title 5, United States Code, and other applicable provisions of law, including, in particular, for purposes as follows:

"(A) Eligibility for participation in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code, subject to the provisions of section 8402 of such title and the regulations prescribed pursuant to such section.

"(B) Eligibility for enrollment in a health benefits plan under chapter 89 of title 5, United States Code (commonly referred as the 'Federal Employees Health Benefits Program').

"(C) Eligibility for and subject to the employment protections of subpart F of part III of title 5, United States Code, relating to merit principles and protections.

"(D) Eligibility for the protections of chapter 81, of title 5, United States Code, relating to workers compensation.

"(2) SCOPE OF RIGHTS AND BENEFITS.—In administering the pilot program, the Secretary of Defense shall specify, and from time to time update, a comprehensive description of the rights and benefits of individuals serving with the Department under the pilot program pursuant to this subsection and of the provisions of law under which such rights and benefits arise.

"(f) COMPENSATION.—

"(1) BASIC PAY.—Individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program shall be paid basic pay for such service in accordance with a schedule of pay prescribed by the Secretary of Defense for purposes of the pilot program.

"(2) TREATMENT AS BASIC PAY.—Basic pay payable under the pilot program shall be treated for all purposes as basic pay paid under the provisions of title 5, United States Code.

"(3) PERFORMANCE AWARDS.—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such performance awards for outstanding performance as the Secretary shall prescribe for purposes of the pilot program. The performance awards may include a monetary bonus, time off with pay, or such other awards as the Secretary considers appropriate for purposes of the pilot program. The award of performance awards under the pilot program shall be based in accordance with such policies and requirements as the Secretary shall prescribe for purposes of the pilot program.

"(4) ADDITIONAL COMPENSATION.—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such additional compensation above basic pay as the Secretary (or the designees of the Secretary) consider appropriate in order to promote the recruitment and retention of highly skilled and productive cybersecurity and legal professionals to and with the Department.

"(g) PROBATIONARY PERIOD.—The following terms of appointment shall be treated as a probationary period under the pilot program:

"(1) The first term of appointment of an individual to service with the Department of Defense as a cybersecurity or legal professional, regardless of length.

"(2) The first term of appointment of an individual to a supervisory position in the Department as a cybersecurity or legal professional, regardless of length and regardless of whether or not such term of appointment to a supervisory position is the first term of appointment of the individual concerned to service with the Department as a cybersecurity or legal professional.

"(h) RENEWAL OF APPOINTMENTS.—

"(1) IN GENERAL.—The Secretary of Defense shall prescribe the conditions for the renewal of appointments under the pilot program. The conditions may apply to one or more categories of positions, positions on a case-by-case basis, or both.

"(2) PARTICULAR CONDITIONS.—In prescribing conditions for the renewal of appointments under the pilot program, the Secretary shall take into account the following (in the order specified):

"(A) The necessity for the continuation of the position concerned based on mission requirements and other applicable justifications for the position.

"(B) The service performance of the individual serving in the position concerned, with individuals with satisfactory or better performance afforded preference in renewal.

"(C) Input from employees on conditions for renewal.

"(D) Applicable private and public sector labor market conditions.

"(3) SERVICE PERFORMANCE.—The assessment of the service performance of an individual under the pilot program for purposes of paragraph (2)(B) shall consist of an assessment of the ability of the individual to effectively accomplish mission goals for the position concerned as determined by the supervisor or manager of the individual based on the individual's performance evaluations and the knowledge of and review by such supervisor or manager (developed in consultation with the individual) of the individual's performance in the position. An individual's tenure of service in a position or the Department of Defense may not be the primary element of the assessment.

"(i) PROFESSIONAL DEVELOPMENT.—The pilot program shall provide for the professional development of individuals serving with the Department of Defense as cybersecurity and legal professionals under the pilot program in a manner that—

"(1) creates opportunities for education, training, and career-broadening experiences, and for experimental opportunities in other organizations within and outside the Federal Government; and

"(2) reflects the differentiated needs of personnel at different stages of their careers.

"(j) SABBATICALS.—

"(1) IN GENERAL.—The pilot program shall provide for an individual who is in a successive term after the first 8 years with the Department of Defense as a cybersecurity or legal professional under the pilot program to take, at the election of the individual, a paid or unpaid sabbatical from service with the Department for professional development or education purposes. The length of a sabbatical shall be any length not less than 6 months nor more than 1 year (unless a different period is approved by the Secretary of the military department or head of the organization or element of the Department concerned for purposes of this subsection). The purpose of any sabbatical shall be subject to advance approval by the organization or element in the Department in which the individual is currently performing service. The taking of a sabbatical shall be contingent on the written agreement of the individual concerned to serve with the Department for an appropriate length of time at the conclusion of the term of appointment in which the sabbatical commences, with the period of such service to be in addition to the period of such term of appointment.

"(2) NUMBER OF SABBATICALS.—An individual may take more than one sabbatical under this subsection.

"(3) REPAYMENT.—Except as provided in paragraph (4), an individual who fails to satisfy a written agreement executed under paragraph (1) with respect to a sabbatical shall repay the Department an amount equal to any pay, allowances, and other benefits received by the individual from the Department during the period of the sabbatical.

"(4) WAIVER OF REPAYMENT.—An agreement under paragraph (1) may include such conditions for the waiver of repayment otherwise required under paragraph (3) for failure to satisfy such agreement as the Secretary specifies in such agreement.

"(k) REGULATIONS.—The Secretary of Defense shall administer the pilot program under regulations prescribed by the Secretary for purposes of the pilot program.

"(l) TERMINATION.—

"(1) IN GENERAL.—The authority of the Secretary of Defense to appoint individuals for service with the Department of Defense as cybersecurity or legal professionals under the pilot program shall expire on December 31, 2029.

"(2) EFFECT ON EXISTING APPOINTMENTS.—The termination of authority in paragraph (1) shall not be construed to terminate or otherwise affect any appointment made under this section before December 31, 2029, that remains valid as of that date.

"(m) IMPLEMENTATION.—

"(1) INTERIM FINAL RULE.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall prescribe an interim final rule to implement the pilot program.

"(2) FINAL RULE.—Not later than 180 days after prescribing the interim final rule under paragraph (1) and considering public comments with respect to such interim final rule, the Secretary shall prescribe a final rule to implement the pilot program.

"(3) OBJECTIVES.—The regulations prescribed under paragraphs (1) and (2) shall accomplish the objectives set forth in subsections (a) through (j) and otherwise ensure flexibility and expedited appointment of cybersecurity and legal professionals in the Department of Defense under the pilot program.

"(n) REPORTS.—

"(1) REPORTS REQUIRED.—Not later than January 30 of each of 2022, 2025, and 2028, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the carrying out of the pilot program. Each report shall include the following:

"(A) A description and assessment of the carrying out of the pilot program during the period since the commencement of the pilot program or the previous submittal of a report under this subsection, as applicable.

"(B) A description and assessment of the successes in and impediments to carrying out the pilot program system during such period.

"(C) Such recommendations as the Secretary considers appropriate for legislative action to improve the pilot program and to otherwise improve civilian personnel management of cybersecurity and legal professionals by the Department of Defense.

"(D) In the case of the report submitted in 2028, an assessment and recommendations by the Secretary on whether to make the pilot program permanent.

"(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) the Committee on Armed Services and the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives."

## TEMPORARY AND TERM APPOINTMENTS IN THE COMPETITIVE SERVICE IN THE DEPARTMENT OF DEFENSE

Pub. L. 114–328, div. A, title XI, §1105, Dec. 23, 2016, 130 Stat. 2447, provided that:

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Secretary of Defense may make a temporary appointment or a term appointment in the Department when the need for the services of an employee in the Department is not permanent.

"(2) EXTENSION.—The Secretary may extend a temporary appointment or a term appointment made under paragraph (1).

"(b) APPOINTMENTS FOR CRITICAL HIRING NEEDS.—

"(1) IN GENERAL.—If there is a critical hiring need, the Secretary of Defense may make a noncompetitive temporary appointment or a noncompetitive term appointment in the Department of Defense, without regard to the requirements of sections 3327 and 3330 of title 5, United States Code, for a period that is not more than 18 months.

"(2) NO EXTENSION AVAILABLE.—An appointment made under paragraph (1) may not be extended.

"(c) REGULATIONS.—The Secretary may prescribe regulations to carry out this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'temporary appointment' means the appointment of an employee in the competitive service for a period that is not more than one year.

"(2) The term 'term appointment' means the appointment of an employee in the competitive service for a period that is more than one year and not more than five years, unless the Secretary of Defense, before the appointment of the employee, authorizes a longer period."

## DIRECT-HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR POST-SECONDARY STUDENTS AND RECENT GRADUATES

Pub. L. 114–328, div. A, title XI, §1106, Dec. 23, 2016, 130 Stat. 2447, as amended by Pub. L. 115–232, div. A, title XI, §1102, Aug. 13, 2018, 132 Stat. 2001; Pub. L. 118–31, div. A, title XI, §1116, Dec. 22, 2023, 137 Stat. 433, provided that:

"(a) HIRING AUTHORITY.—Without regard to sections 3309 through 3318, 3327, and 3330 of title 5, United States Code, the Secretary of Defense may recruit and appoint qualified recent graduates and current post-secondary students to competitive service positions in professional and administrative occupations within the Department of Defense.

"(b) LIMITATION ON APPOINTMENTS.—Subject to subsection (c)(2), the total number of employees appointed by the Secretary under subsection (a) during a fiscal year may not exceed the number equal to 25 percent of the number of hires made into professional and administrative occupations of the Department at the GS–11 level and below (or equivalent) under competitive examining procedures during the previous fiscal year.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall administer this section in accordance with regulations prescribed by the Secretary for purposes of this section.

"(2) LOWER LIMIT ON APPOINTMENTS.—The regulations may establish a lower limit on the number of individuals appointable under subsection (a) during a fiscal year than is otherwise provided for under subsection (b), based on such factors as the Secretary considers appropriate.

"(3) PUBLIC NOTICE AND ADVERTISING.—To the extent practical, as determined by the Secretary, the Secretary shall publicly advertise positions available under this section. In carrying out the preceding sentence, the Secretary shall—

"(A) take into account merit system principles, mission requirements, costs, and organizational benefits of any advertising of positions; and

"(B) advertise such positions in the manner the Secretary determines is most likely to provide diverse and qualified candidates and ensure potential applicants have appropriate information relevant to the positions available.

"(d) SUNSET.—The authority provided under this section shall terminate on September 30, 2030.

"(e) DEFINITIONS.—In this section:

"(1) The term 'current post-secondary student' means a person who—

"(A) is currently enrolled in, and in good academic standing at, a full-time program at an institution of higher education;

"(B) is making satisfactory progress toward receipt of a baccalaureate or graduate degree; and

"(C) has completed at least one year of the program.

"(2) The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(3) The term 'recent graduate', with respect to appointment of a person under this section, means a person who was awarded a degree by an institution of higher education not more than two years before the date of the appointment of such person, except that in the case of a person who has completed a period of obligated service in a uniformed service of more than four years, such term means a person who was awarded a degree by an institution of higher education not more than four years before the date of the appointment of such person."

## DIRECT HIRE AUTHORITY FOR FINANCIAL MANAGEMENT EXPERTS IN THE DEPARTMENT OF DEFENSE WORKFORCE

Pub. L. 114–328, div. A, title XI, §1110, Dec. 23, 2016, 130 Stat. 2450, as amended by Pub. L. 115–91, div. A, title XI, §1106(a), Dec. 12, 2017, 131 Stat. 1629; Pub. L. 115–232, div. A, title XI, §1113, Aug. 13, 2018, 132 Stat. 2013, authorized each Secretary concerned to appoint qualified candidates possessing a finance, accounting, management, or actuarial science degree, or a related degree or equivalent experience, to certain positions for a Department of Defense component without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, and such authority to make appointments would not be available after Dec. 31, 2022.

## TEMPORARY DIRECT HIRE AUTHORITY FOR DOMESTIC DEFENSE INDUSTRIAL BASE FACILITIES, THE MAJOR RANGE AND TEST FACILITIES BASE, AND THE OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION

Pub. L. 114–328, div. A, title XI, §1125, Dec. 23, 2016, 130 Stat. 2457, as amended by Pub. L. 115–91, div. A, title XI, §1102(a), Dec. 12, 2017, 131 Stat. 1628; Pub. L. 116–92, div. A, title XI, §1107(a), Dec. 20, 2019, 133 Stat. 1597; Pub. L. 118–31, div. A, title XI, §1107, Dec. 22, 2023, 137 Stat. 427; Pub. L. 118–159, div. A, title XI, §1111(a), Dec. 23, 2024, 138 Stat. 2089, Pub. L. 119–60, div. A, title XI, §§1108, 1112, Dec. 18, 2025, 139 Stat. 1075, 1077, provided that:

"(a) DEFENSE INDUSTRIAL BASE FACILITY AND MRTFB.—During each of fiscal years 2017 through 2030, the Secretary of Defense may appoint, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title, qualified candidates to positions in the competitive service at any defense industrial base facility or the Major Range and Test Facilities Base, including to Navy Supervisor of Shipbuilding, Conversion, and Repair positions.

"(b) OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—During fiscal years 2017 through 2021, the Secretary of Defense may, acting through the Director of Operational Test and Evaluation, appoint qualified candidates possessing an advanced degree to scientific and engineering positions within the Office of the Director of Operational Test and Evaluation without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

"(c) DEFINITION OF DEFENSE INDUSTRIAL BASE FACILITY.—In this section, the term 'defense industrial base facility' means any Department of Defense depot, arsenal, or shipyard located within the United States and includes supporting units of a facility at an installation or base."

## TEMPORARY PERSONNEL FLEXIBILITIES FOR DOMESTIC DEFENSE INDUSTRIAL BASE FACILITIES AND MAJOR RANGE AND TEST FACILITIES BASE CIVILIAN PERSONNEL

Pub. L. 114–328, div. A, title XI, §1132, Dec. 23, 2016, 130 Stat. 2457, as amended by Pub. L. 115–91, div. A, title XI, §1107(a), Dec. 12, 2017, 131 Stat. 1630; Pub. L. 117–81, div. A, title XI, §1113, Dec. 27, 2021, 135 Stat. 1953, provided that:

"(a) IN GENERAL.—Notwithstanding chapter 33 of title 5, United States Code, or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, during fiscal years 2017 through 2026, an employee of a defense industrial base facility or the Major Range and Test Facilities Base serving under a time-limited appointment in the competitive service is eligible to compete for a permanent appointment in the competitive service at (A) any such facility, Base, or any other component of the Department of Defense when such facility, Base, or component (as the case may be) is accepting applications from individuals within the facility, Base, or component's workforce under merit

promotion procedures, or (B) any agency when the agency is accepting applications from individuals outside its own workforce under merit promotion procedures of the applicable agency, if—

"(1) the employee was appointed initially under open, competitive examination under subchapter I of chapter 33 of such title to the time-limited appointment;

"(2) the employee has served under 1 or more time-limited appointments by a defense industrial base facility or the Major Range and Test Facilities Base for a period or periods totaling more than 24 months without a break of 2 or more years; and

"(3) the employee's performance has been at an acceptable level of performance throughout the period or periods (as the case may be) referred to in paragraph (2).

"(b) WAIVER OF AGE REQUIREMENT.—In determining the eligibility of a time-limited employee under this section to be examined for or appointed in the competitive service, the Office of Personnel Management or other examining agency shall waive requirements as to age, unless the requirement is essential to the performance of the duties of the position.

"(c) STATUS.—An individual appointed under this section—

"(1) becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure; and

"(2) acquires competitive status upon appointment.

"(d) FORMER EMPLOYEES.—A former employee of a defense industrial base facility or the Major Range and Test Facilities Base who served under a time-limited appointment and who otherwise meets the requirements of this section shall be deemed a time-limited employee for purposes of this section if—

"(1) such employee applies for a position covered by this section within the period of 2 years after the most recent date of separation; and

"(2) such employee's most recent separation was for reasons other than misconduct or performance.

"(e) BENEFITS.—Any employee of a defense industrial base facility or the Major Range and Test Facilities Base serving under a time-limited appointment in the competitive service shall be provided with benefits that are comparable to the benefits provided to similar employees not serving under time-limited appointments at the defense industrial base facility or the Major Range and Test Facilities Base concerned, including professional development opportunities, eligibility for awards programs, and designation as status applicants for purposes of eligibility for positions in the civil service.

"(f) DATA COLLECTION REQUIREMENT.—The Secretary of Defense shall develop and implement a plan to collect and analyze data on the pilot program for the purposes of—

"(1) developing and sharing best practices; and

"(2) providing information to the leadership of the Department and Congress on the implementation of the pilot program and related policy issues.

"(g) BRIEFING.—Not later than 90 days after the end of each of fiscal years 2022 through 2026, the Secretary of Defense shall provide a briefing to the Committee on Armed Services of the House of Representatives, the Committee on Armed Services of the Senate, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate including—

"(1) a description of the effect of this section on the management of civilian personnel at domestic defense industrial base facilities and Major Range and Test Facilities Base during the most recently ended fiscal year; and

"(2) the number of employees—

"(A) hired under such section during such fiscal year; and

"(B) expected to be hired under such section during the fiscal year in which the briefing is provided.

"(h) DEFINITION OF DEFENSE INDUSTRIAL BASE FACILITY.—In this section, the term 'defense industrial base facility' means any Department of Defense depot, arsenal, or shipyard located within the United States."

## COMPLIANCE WITH LAW REGARDING AVAILABILITY OF FUNDING FOR CIVILIAN PERSONNEL

Pub. L. 113–66, div. A, title XI, §1108, Dec. 26, 2013, 127 Stat. 889, provided that:

"(a) REGULATIONS.—No later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall prescribe regulations implementing the authority in subsection (a) of section 1111 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 10 U.S.C. 1580 note prec.).

"(b) COORDINATION.—The Under Secretary of Defense (Comptroller), in consultation with the Under

Secretary of Defense for Personnel and Readiness, shall be responsible for coordinating the preparation of the regulations required under subsection (a).

"(c) LIMITATIONS.—The regulations required under subsection (a) shall not be restricted by any civilian full-time equivalent or end-strength limitation, nor shall such regulations require offsetting civilian pay funding, civilian full-time equivalents, or civilian end-strengths."

## AVAILABILITY OF FUNDS FOR COMPENSATION OF CERTAIN CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Pub. L. 111–84, div. A, title XI, §1111, Oct. 28, 2009, 123 Stat. 2495, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(16), Jan. 7, 2011, 124 Stat. 4373, provided that:

"(a) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated for the Department of Defense that are available for the purchase of contract services to meet a requirement that is anticipated to continue for five years or more shall be available to provide compensation for civilian employees of the Department to meet the same requirement.

"(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall prescribe regulations implementing the authority in subsection (a). Such regulations—

"(1) shall ensure that the authority in subsection (a) is utilized to build government capabilities that are needed to perform inherently governmental functions, functions closely associated with inherently governmental functions, and other critical functions;

"(2) shall include a mechanism to ensure that follow-on funding to provide compensation for civilian employees of the Department to perform functions described in paragraph (1) is provided from appropriate accounts; and

"(3) may establish additional criteria and levels of approval within the Department for the utilization of funds to provide compensation for civilian employees of the Department pursuant to subsection (a).

"(c) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year for which the authority in subsection (a) is in effect, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of such authority. Each report shall cover the preceding fiscal year and shall identify, at a minimum, the following:

"(1) The amount of funds used under the authority in subsection (a) to provide compensation for civilian employees.

"(2) The source or sources of the funds so used.

"(3) The number of civilian employees employed through the use of such funds.

"(4) The actions taken by the Secretary to ensure that follow-on funding for such civilian employees is provided through appropriate accounts.

"(d) TEMPORARY AUTHORITY.—The authority in subsection (a) shall apply to funds authorized to be appropriated for the Department of Defense for fiscal years 2010 through 2019."

## DEPARTMENT OF DEFENSE CIVILIAN LEADERSHIP PROGRAM

Pub. L. 111–84, div. A, title XI, §1112, Oct. 28, 2009, 123 Stat. 2496, provided that:

"(a) LEADERSHIP PROGRAM REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall establish a program of leadership recruitment and development for civilian employees of the Department of Defense, to be known as the 'Department of Defense Civilian Leadership Program' (in this section referred to as the 'program').

"(2) OBJECTIVES.—The objectives of the program shall be as follows:

"(A) To develop a new generation of civilian leaders for the Department of Defense.

"(B) To recruit individuals with the academic merit, work experience, and demonstrated leadership skills to meet the future needs of the Department.

"(C) To offer rapid advancement, competitive compensation, and leadership opportunities to highly qualified civilian employees of the Department.

"(3) AVAILABLE AUTHORITIES.—In carrying out the program, the Secretary may exercise any authority available to the Office of Personnel Management under section 4703 of title 5, United States Code, except that the Secretary shall not be bound by the limitations in subsection (d) of such section. Nothing in this section shall be construed to authorize the waiver of any part of chapter 71 of title 5, United States Code, or any regulation implementing such chapter, in the carrying out of the program.

"(b) ELIGIBLE INDIVIDUALS.—

"(1) IN GENERAL.—The following individuals shall be eligible to participate in the program:

"(A) Current employees of the Department of Defense.

"(B) Appropriate individuals in the private sector.

"(2) LIMITATION ON NUMBER OF PARTICIPANTS IN PROGRAM.—The total number of individuals who may participate in the program in any fiscal year may not exceed 5,000.

"(3) LIMITATION ON PERIOD OF PARTICIPATION IN PROGRAM.—The maximum period of time that an individual may participate in the program is three years.

"(c) ELEMENTS OF PROGRAM.—

"(1) COMPETITIVE ENTRY.—The selection of individuals for entry into the program shall be made on the basis of a competition conducted at least twice each year. In each competition, participants in the program shall be selected from among applicants determined by the Secretary to be the most highly qualified in terms of academic merit, work experience, and demonstrated leadership skills. Each competition shall provide for entry-level participants and midcareer participants in the program.

"(2) ALLOCATION OF POSITIONS.—The Secretary shall allocate positions in the program among the components of the Department of Defense that—

"(A) offer the most challenging assignments;

"(B) provide the greatest level of responsibility; and

"(C) demonstrate the greatest need for participants in the program.

"(3) ASSIGNMENTS TO POSITIONS.—Participants in the program shall be assigned to components of the Department that best match their skills and qualifications. Participants in the program may be rotated among components of the Department of Defense at the discretion of the Secretary.

"(4) INITIAL COMPENSATION.—The initial compensation of participants in the program shall be determined by the Secretary based on the qualifications of such participants and applicable market conditions.

"(5) EDUCATION AND TRAINING.—The Secretary shall provide participants in the program with training, mentoring, and educational opportunities that are appropriate to facilitate the development of such participants into effective civilian leaders for the Department of Defense.

"(6) OBJECTIVE, MERIT-BASED PRINCIPLES FOR PERSONNEL DECISIONS.—The Secretary shall make personnel decisions under the program in accordance with such objective, merit-based criteria as the Secretary shall prescribe in regulations for purposes of the program. Such criteria shall include, but not be limited to, criteria applicable to the following:

"(A) The selection of individuals for entry into the program.

"(B) The assignment of participants in the program to positions in the Department of Defense.

"(C) The initial compensation of participants in the program.

"(D) The access of participants in the program to training, mentoring, and educational opportunities under the program.

"(E) The consideration of participants in the program for selection into the senior management, functional, and technical workforce of the Department.

"(7) CONSIDERATION FOR SENIOR MANAGEMENT, FUNCTIONAL, AND TECHNICAL WORKFORCE.—Any participant in the program who, as determined by the Secretary, demonstrates outstanding performance shall be afforded priority in consideration for selection into the appropriate element of the senior management, functional, and technical workforce of the Department of Defense (as defined in [former] section 115b(f) of title 10, United States Code)."

## DIRECT HIRE AUTHORITY AT PERSONNEL DEMONSTRATION LABORATORIES FOR CERTAIN CANDIDATES

Pub. L. 110–417, [div. A], title XI, §1108, Oct. 14, 2008, 122 Stat. 4618, as amended by Pub. L. 111–383, div. A, title XI, §1101(a), Jan. 7, 2011, 124 Stat. 4381; Pub. L. 112–81, div. A, title XI, §1103, Dec. 31, 2011, 125 Stat. 1612; Pub. L. 117–81, div. A, title II, §215(d)(5), Dec. 27, 2021, 135 Stat. 1594, which authorized the Secretary of Defense to appoint qualified candidates to certain scientific and engineering positions within a Department of Defense science and technology reinvention laboratory, was repealed by Pub. L. 117–81, div. A, title II, §212(b), Dec. 27, 2021, 135 Stat. 1588. See section 4091(f) of this title.

## EMPLOYMENT FOR RESETTLED IRAQIS

Pub. L. 110–417, [div. A], title XII, §1235, Oct. 14, 2008, 122 Stat. 4641, provided that:

"(a) IN GENERAL.—The Secretary of Defense and the Secretary of State are authorized to jointly establish and operate a temporary program to offer employment as translators, interpreters, or cultural awareness instructors to individuals described in subsection (b). Individuals described in such subsection may be appointed to temporary positions of one year or less outside Iraq with either the Department of Defense or the Department of State, without competition and without regard for the provisions of chapter 51 and subchapter

III of chapter 53 of title 5, United States Code. Such individuals may also be hired as personal services contractors by either of such Departments to provide translation, interpreting, or cultural awareness instruction, except that such individuals so hired shall not by virtue of such employment be considered employees of the United States Government, except for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"(b) ELIGIBILITY.—Individuals referred to in subsection (a) are Iraqi nationals who—

"(1) have received a special immigrant visa issued pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) [8 U.S.C. 1101 note] or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) [8 U.S.C. 1157 note]; and

"(2) are lawfully present in the United States.

"(c) FUNDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall be funded from the annual general operating budget of the Department of Defense.

"(2) EXCEPTION.—The Secretary of State shall reimburse the Department of Defense for any costs associated with individuals described in subsection (b) whose work is for or on behalf of the Department of State.

"(d) RULE OF CONSTRUCTION REGARDING ACCESS TO CLASSIFIED INFORMATION .—Nothing in this section may be construed as affecting in any manner practices and procedures regarding the handling of or access to classified information.

"(e) INFORMATION SHARING.—The Secretary of Defense and the Secretary of State shall work with the Secretary of Homeland Security and the Office of Refugee Resettlement of the Department of Health and Human Services to ensure that individuals described in subsection (b) are informed of the program established under subsection (a).

"(f) REGULATION.—The Secretary of Defense, jointly with the Secretary of State and with the concurrence of the Director of the Office of Personnel Management, shall prescribe such regulations as are necessary to carry out the program established under subsection (a), including ensuring the suitability for employment described in subsection (a) of individuals described in subsection (b), determining the number of positions, and establishing pay scales and hiring procedures.

"(g) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall terminate on December 31, 2014.

"(2) EARLIER TERMINATION.—If the Secretary of Defense, jointly with the Secretary of State, determines that the program established under subsection (a) should terminate before the date specified in paragraph (1), the Secretaries may terminate the program if the Secretaries notify Congress in writing of such termination at least 180 days before such termination."

**STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE**

Pub. L. 110–181, div. A, title VIII, §851, Jan. 28, 2008, 122 Stat. 247, which required that, in updates of the strategic human capital plan, the Secretary of Defense was to include a separate section focused on the defense acquisition workforce, was repealed by Pub. L. 111–84, div. A, title XI, §1108(c)(3), Oct. 28, 2009, 123 Stat. 2492.

Pub. L. 109–163, div. A, title XI, §1122, Jan. 6, 2006, 119 Stat. 3452, which required the Secretary of Defense to develop and submit to the Committees on Armed Services of the Senate and House of Representatives a strategic human capital plan to shape and improve the civilian employee workforce of the Department of Defense, along with updates and the assessment of the Secretary of the progress of the Department in implementing the plan, and required the Comptroller General to submit to the Committees on Armed Services a report on the plan, was repealed by Pub. L. 111–84, div. A, title XI, §1108(c)(1), Oct. 28, 2009, 123 Stat. 2491.

## §1580. Emergency essential employees: designation

(a) CRITERIA FOR DESIGNATION.—The Secretary of Defense or the Secretary of the military department concerned may designate as an emergency essential employee any employee of the Department of Defense, whether permanent or temporary, the duties of whose position meet all of the following criteria:

(1) It is the duty of the employee to provide immediate and continuing support for combat

operations or to support maintenance and repair of combat essential systems of the armed forces.

(2) It is necessary for the employee to perform that duty in a combat zone after the evacuation of nonessential personnel, including any dependents of members of the armed forces, from the zone in connection with a war, a national emergency declared by Congress or the President, or the commencement of combat operations of the armed forces in the zone.

(3) It is impracticable to convert the employee's position to a position authorized to be filled by a member of the armed forces because of a necessity for that duty to be performed without interruption.

(b) ELIGIBILITY OF EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.—A nonappropriated fund instrumentality employee is eligible for designation as an emergency essential employee under subsection (a).

(c) DEFINITIONS.—In this section:

(1) The term "combat zone" has the meaning given that term in section 112(c)(2) of the Internal Revenue Code of 1986.

(2) The term "nonappropriated fund instrumentality employee" has the meaning given that term in section 1587(a)(1) of this title.

(Added Pub. L. 106–65, div. A, title XI, §1103(b)(1), Oct. 5, 1999, 113 Stat. 776.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 112(c)(2) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1), is classified to section 112(c)(2) of Title 26, Internal Revenue Code.

**PRIOR PROVISIONS**

A prior section 1580, added Pub. L. 87–651, title II, §206(a), Sept. 7, 1962, 76 Stat. 519, related to appointment of civilian employees by the Secretary of Defense, prior to repeal by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 663.

## §1580a. Emergency essential employees: notification of required participation in anthrax vaccine immunization program

The Secretary of Defense shall—

(1) prescribe regulations for the purpose of ensuring that any civilian employee of the Department of Defense who is determined to be an emergency essential employee and who is required to participate in the anthrax vaccine immunization program is notified of the requirement to participate in the program and the consequences of a decision not to participate; and

(2) ensure that any individual who is being considered for a position as such an employee is notified of the obligation to participate in the program before being offered employment in such position.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §751(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–194.)

## §1581. Foreign National Employees Separation Pay Account

(a) ESTABLISHMENT AND PURPOSE.—There is established on the books of the Treasury an account to be known as the "Foreign National Employees Separation Pay Account, Defense". The account shall be used for the accumulation of funds to finance obligations of the United States for separation pay for foreign nationals referred to in subsection (e).

(b) DEPOSITS INTO ACCOUNT.—The Secretary of Defense shall deposit into the account from applicable appropriations all amounts obligated for separation pay for foreign nationals referred to in

subsection (e).

(c) PAYMENTS FROM ACCOUNT.—Amounts in the account shall remain available for expenditure in accordance with the purpose for which obligated until expended.

(d) DEOBLIGATED FUNDS.—Any amount in the account that is deobligated shall be available for a period of two years from the date of deobligation for recording, adjusting, and liquidating amounts properly chargeable to the liability of the United States for which the obligation was made. Any such deobligated amount remaining at the end of such two-year period shall be canceled.

(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

(1) A contract.

(2) A treaty.

(3) A memorandum of understanding with a foreign nation.

(Added Pub. L. 102–190, div. A, title X, §1003(a)(1), Dec. 5, 1991, 105 Stat. 1456; amended Pub. L. 102–484, div. A, title X, §1052(20), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–337, div. A, title III, §346, Oct. 5, 1994, 108 Stat. 2724; Pub. L. 107–107, div. A, title X, §1048(e)(2), Dec. 28, 2001, 115 Stat. 1227.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1581, acts Aug. 10, 1956, ch. 1041, 70A Stat. 118; Sept. 2, 1958, Pub. L. 85–861, §1(34), 72 Stat. 1456; May 29, 1959, Pub. L. 86–36, §3, 73 Stat. 63; Sept. 23, 1959, Pub. L. 86–377, §2, 73 Stat. 701; Oct. 4, 1961, Pub. L. 87–367, title II, §203, 75 Stat. 790; Oct. 11, 1962, Pub. L. 87–793, §1001(b), 76 Stat. 863, provided for appointment of a limited number of civilian research and development personnel and prescribed their relationship to civil service provisions, prior to repeal by Pub. L. 97–295, §1(19)(A), Oct. 12, 1982, 96 Stat. 1290.

**AMENDMENTS**

**2001**—Subsec. (b). Pub. L. 107–107 struck out par. (2) designation and "on or after December 5, 1991," after "all amounts obligated" and struck out par. (1) which read as follows: "The Secretary of the Treasury shall deposit into the account all amounts that were obligated by the Secretary of Defense before December 5, 1991, and that remain unexpended for separation pay for foreign nationals referred to in subsection (e)."

**1994**—Subsecs. (a), (b). Pub. L. 103–337, §346(1), substituted "foreign nationals referred to in subsection (e)" for "foreign national employees of the Department of Defense" wherever appearing.

Subsec. (e). Pub. L. 103–337, §346(2), added subsec. (e) and struck out former subsec. (e) which read as follows: "EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation."

**1992**—Subsec. (b)(1), (2). Pub. L. 102–484 substituted "December 5, 1991," for "the date of the enactment of this section".

## §1582. Assistive technology, assistive technology devices, and assistive technology services

(a) AUTHORITY.—The Secretary of Defense may provide assistive technology, assistive technology devices, and assistive technology services to the following:

(1) Department of Defense employees with disabilities.

(2) Organizations within the Department that have requirements to make programs or facilities accessible to, and usable by, persons with disabilities.

(3) Any other department or agency of the Federal Government, upon the request of the head of that department or agency, for its employees with disabilities or for satisfying a requirement to make its programs or facilities accessible to, and usable by, persons with disabilities.

(b) DEFINITIONS.—In this section, the terms "assistive technology", "assistive technology device", "assistive technology service", and "disability" have the meanings given those terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(Added Pub. L. 106–398, §1 [[div. A], title XI, §1102(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–311.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1582, acts Aug. 10, 1956, ch. 1041, 70A Stat. 118; Sept. 2, 1958, Pub. L. 85–861, §1(35), 72 Stat. 1456; Sept. 23, 1959, Pub. L. 86–377, §3, 73 Stat. 701, directed Secretary of Defense to report annually to Congress on civilian research and development personnel employed by Department of Defense under former section 1581 of this title, prior to repeal by Pub. L. 97–295, §1(19)(A), Oct. 12, 1982, 96 Stat. 1290.

## §1583. Employment of certain persons without pay

The Secretary of Defense and the Secretaries of the military departments may each employ, without pay, not more than 10 persons of outstanding experience and ability. However, a person so employed may be allowed transportation, and not more than $15 a day instead of subsistence, while away from his home or regular place of business pursuant to employment under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 118; Pub. L. 89–718, §14, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 97–295, §1(20)(A), (B), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 112–81, div. A, title XI, §1111, Dec. 31, 2011, 125 Stat. 1616.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1583(a) | 5:171v (less words of 1st sentence after semicolon). | Jan. 6, 1951, ch. 1213, subch. VII, §704, 64 Stat. 1235. |
| 1583(b) | 5:171v (words of 1st sentence after semicolon). | |

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 112–81, §1111(2), inserted "each" after "may" in first sentence.

Pub. L. 112–81, §1111(1), which directed amendment of first sentence by inserting "and the Secretaries of the military departments" after "the Secretary of Defense", was executed by making the insertion after "The Secretary of Defense" to reflect the probable intent of Congress.

**1982**—Pub. L. 97–295 substituted "pay" for "compensation" in section catchline and text.

**1966**—Pub. L. 89–718 struck out designation "(a)" at beginning of section and repealed subsec. (b) which authorized the Secretary, by regulation, to exempt persons employed under provisions formerly designated subsec. (a) from former sections 281, 283, 284, 434, and 1914 of title 18 and former section 99 of title 5.

## §1584. Employment of non-citizens

Laws prohibiting the employment of, or payment of pay or expenses to, a person who is not a

citizen of the United States do not apply to personnel of the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 118; Pub. L. 97–295, §1(20)(A), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 101–510, div. A, title XIV, §§1481(d)(1), (2), 1482(b), Nov. 5, 1990, 104 Stat. 1706, 1709; Pub. L. 104–106, div. A, title X, §1062(b), Feb. 10, 1996, 110 Stat. 444.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1584 | 5:235c.<br>5:475h.<br>5:628c. | July 16, 1952, ch. 882, §2, 66 Stat. 725. |

The words "appointment or" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–106 struck out subsec. (a) heading "Waiver of employment restrictions for certain personnel", designated subsec. (a) as entire section, and struck out subsec. (b) which read as follows: " NOTICE TO CONGRESS OF CERTAIN SALARY INCREASES.—The Secretary of Defense shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives when any salary increase granted to direct and indirect hire foreign national employees of the Department of Defense overseas, stated as a percentage, is greater than the higher of the following percentages:

"(1) The percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5.

"(2) The percentage increase provided to national government employees of the host nation."

**1990**—Pub. L. 101–510, §1482(b), substituted "personnel of the Department of Defense" for "any expert, scientist, technician, or professional person whose employment in connection with the research and development activities of a military department is determined to be necessary by the Secretary of that department" in subsec. (a).

Pub. L. 101–510, §1481(d)(1), (2), substituted "Employment of non-citizens" for "Laws relating to employment of non-citizens: not applicable to research and development activities" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

**1982**—Pub. L. 97–295 substituted "pay" for "compensation".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1482(b) of Pub. L. 101–510 effective Oct. 1, 1991, see section 1482(d) of Pub. L. 101–510, set out as a note under section 119 of this title.

### CITIZENSHIP REQUIREMENT NOT APPLICABLE

Pub. L. 119–75, div. A, title VIII, §8002, Feb. 3, 2026, 140 Stat. 196, provided that: "During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act [div. A of Pub. L. 119–75, see Tables for classification] shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.]: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 118–47, div. A, title VIII, §8002, Mar. 23, 2024, 138 Stat. 481.

Pub. L. 117–328, div. C, title VIII, §8002, Dec. 29, 2022, 136 Stat. 4584.
Pub. L. 117–103, div. C, title VIII, §8002, Mar. 15, 2022, 136 Stat. 172.
Pub. L. 116–260, div. C, title VIII, §8002, Dec. 27, 2020, 134 Stat. 1302.
Pub. L. 116–93, div. A, title VIII, §8002, Dec. 20, 2019, 133 Stat. 2334.
Pub. L. 115–245, div. A, title VIII, §8002, Sept. 28, 2018, 132 Stat. 2998.
Pub. L. 115–141, div. C, title VIII, §8002, Mar. 23, 2018, 132 Stat. 462.
Pub. L. 115–31, div. C, title VIII, §8002, May 5, 2017, 131 Stat. 245.
Pub. L. 114–113, div. C, title VIII, §8002, Dec. 18, 2015, 129 Stat. 2349.
Pub. L. 113–235, div. C, title VIII, §8002, Dec. 16, 2014, 128 Stat. 2251.
Pub. L. 113–76, div. C, title VIII, §8002, Jan. 17, 2014, 128 Stat. 103.
Pub. L. 113–6, div. C, title VIII, §8002, Mar. 26, 2013, 127 Stat. 295.
Pub. L. 112–74, div. A, title VIII, §8002, Dec. 23, 2011, 125 Stat. 804.
Pub. L. 112–10, div. A, title VIII, §8002, Apr. 15, 2011, 125 Stat. 55.
Pub. L. 111–118, div. A, title VIII, §8002, Dec. 19, 2009, 123 Stat. 3426.
Pub. L. 110–329, div. C, title VIII, §8002, Sept. 30, 2008, 122 Stat. 3619.
Pub. L. 110–116, div. A, title VIII, §8002, Nov. 13, 2007, 121 Stat. 1313.
Pub. L. 109–289, div. A, title VIII, §8002, Sept. 29, 2006, 120 Stat. 1271.
Pub. L. 109–148, div. A, title VIII, §8002, Dec. 30, 2005, 119 Stat. 2697.
Pub. L. 108–287, title VIII, §8002, Aug. 5, 2004, 118 Stat. 968.
Pub. L. 108–87, title VIII, §8002, Sept. 30, 2003, 117 Stat. 1071.
Pub. L. 107–248, title VIII, §8002, Oct. 23, 2002, 116 Stat. 1536.
Pub. L. 107–117, div. A, title VIII, §8002, Jan. 10, 2002, 115 Stat. 2247.
Pub. L. 106–259, title VIII, §8002, Aug. 9, 2000, 114 Stat. 674.
Pub. L. 106–79, title VIII, §8002, Oct. 25, 1999, 113 Stat. 1230.
Pub. L. 105–262, title VIII, §8002, Oct. 17, 1998, 112 Stat. 2296.
Pub. L. 105–56, title VIII, §8002, Oct. 8, 1997, 111 Stat. 1219.
Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8002], Sept. 30, 1996, 110 Stat. 3009–71, 3009–87.
Pub. L. 104–61, title VIII, §8002, Dec. 1, 1995, 109 Stat. 651.
Pub. L. 103–335, title VIII, §8002, Sept. 30, 1994, 108 Stat. 2616.
Pub. L. 103–139, title VIII, §8002, Nov. 11, 1993, 107 Stat. 1437.
Pub. L. 102–396, title IX, §9002, Oct. 6, 1992, 106 Stat. 1900.
Pub. L. 102–172, title VIII, §8002, Nov. 26, 1991, 105 Stat. 1170.
Pub. L. 101–511, title VIII, §8002, Nov. 5, 1990, 104 Stat. 1873.
Pub. L. 101–165, title IX, §9003, Nov. 21, 1989, 103 Stat. 1129.
Pub. L. 100–463, title VIII, §8003, Oct. 1, 1988, 102 Stat. 2270–17.
Pub. L. 100–202, §101(b) [title VIII, §8004], Dec. 22, 1987, 101 Stat. 1329–43, 1329–62.
Pub. L. 99–500, §101(c) [title IX, §9004], Oct. 18, 1986, 100 Stat. 1783–82, 1783–101, and Pub. L. 99–591, §101(c) [title IX, §9004], Oct. 30, 1986, 100 Stat. 3341–82, 3341–101.
Pub. L. 99–190, §101(b) [title VIII, §8004], Dec. 19, 1985, 99 Stat. 1185, 1202.
Pub. L. 98–473, title I, §101(h) [title VIII, §8004], Oct. 12, 1984, 98 Stat. 1904, 1922.
Pub. L. 98–212, title VII, §704, Dec. 8, 1983, 97 Stat. 1437.
Pub. L. 97–377, title I, §101(c) [title VII, §704], Dec. 21, 1982, 96 Stat. 1833, 1349.
Pub. L. 97–114, title VII, §704, Dec. 29, 1981, 95 Stat. 1578.
Pub. L. 96–527, title VII, §704, Dec. 15, 1980, 94 Stat. 3080.
Pub. L. 96–154, title VII, §704, Dec. 21, 1979, 93 Stat. 1152.
Pub. L. 95–457, title VIII, §804, Oct. 13, 1978, 92 Stat. 1243.
Pub. L. 95–111, title VIII, §803, Sept. 21, 1977, 91 Stat. 899.
Pub. L. 94–419, title VII, §703, Sept. 22, 1976, 90 Stat. 1290.
Pub. L. 94–212, title VII, §703, Feb. 9, 1976, 90 Stat. 168.
Pub. L. 93–437, title VIII, §803, Oct. 8, 1974, 88 Stat. 1224.
Pub. L. 93–238, title VII, §703, Jan. 2, 1974, 87 Stat. 1038.
Pub. L. 92–570, title VII, §703, Oct. 26, 1972, 86 Stat. 1196.
Pub. L. 92–204, title VII, §703, Dec. 18, 1971, 85 Stat. 726.
Pub. L. 91–668, title VIII, §803, Jan. 11, 1971, 84 Stat. 2029.
Pub. L. 91–171, title VI, §603, Dec. 29, 1969, 83 Stat. 479.
Pub. L. 90–580, title V, §502, Oct. 17, 1968, 82 Stat. 1129.
Pub. L. 90–96, title VI, §602, Sept. 29, 1967, 81 Stat. 241.
Pub. L. 89–687, title VI, §602, Oct. 15, 1966, 80 Stat. 990.

Pub. L. 89–213, title VI, §602, Sept. 29, 1965, 79 Stat. 873.
Pub. L. 88–446, title V, §502, Aug. 19, 1964, 78 Stat. 474.
Pub. L. 88–149, title V, §502, Oct. 17, 1963, 77 Stat. 263.
Pub. L. 87–577, title V, §502, Aug. 9, 1962, 76 Stat. 327.
Pub. L. 87–144, title VI, §602, Aug. 17, 1961, 75 Stat. 375.
Pub. L. 86–601, title V, §502, July 7, 1960, 74 Stat. 349.
Pub. L. 86–166, title V, §602, Aug. 18, 1959, 73 Stat. 378.
Pub. L. 85–724, title VI, §602, Aug. 22, 1958, 72 Stat. 723.
Pub. L. 85–117, title VI, §602, Aug. 2, 1957, 71 Stat. 323.
July 2, 1956, ch. 488, title VI, §602, 70 Stat. 467.
July 13, 1955, ch. 358, title VI, §603, 69 Stat. 314.
June 30, 1954, ch. 432, title VII, §703, 68 Stat. 349.
Aug. 1, 1953, ch. 305, title VI, §603, 67 Stat. 349.
July 10, 1952, ch. 630, title VI, §603, 66 Stat. 531.
Oct. 18, 1951, ch. 512, title VI, §603, 65 Stat. 444.
Sept. 6, 1950, ch. 896, Ch. X, title VI, §603, 64 Stat. 752.
Oct. 29, 1949, ch. 787, title VI, §603, 63 Stat. 1017.
June 24, 1948, ch. 632, 62 Stat. 651.
July 30, 1947, ch. 357, title I, §1, 61 Stat. 553.
July 16, 1946, ch. 583, §1, 60 Stat. 543.
July 28, 1945, ch. 265, §1, 59 Stat. 386.
June 28, 1944, ch. 303, §1, 58 Stat. 575.
July 1, 1943, ch. 185, §1, 57 Stat. 349.
July 2, 1942, ch. 477, §1, 56 Stat. 613.

**SALARY INCREASES TO FOREIGN NATIONAL EMPLOYEES; NOTICE TO CONGRESS**

Pub. L. 100–463, title VIII, §8114, Oct. 1, 1988, 102 Stat. 2270–38, which directed Secretary of Defense to notify House and Senate Committees on Appropriations when salary increases granted to foreign national employees were at a rate in excess of the percentage pay increase authorized by law for civilian employees of Department of Defense whose pay was computed under section 5332 of title 5 or at a rate in excess of the percentage increase provided to National Government employees of the host nation, whichever was higher, was repealed and restated in subsec. (b) of this section by Pub. L. 101–510, §1481(d)(1)(B), (4)(A).

## §1585. Carrying of firearms

Under regulations to be prescribed by the Secretary of Defense, civilian officers and employees of the Department of Defense may carry firearms or other appropriate weapons while assigned investigative duties or such other duties as the Secretary may prescribe.

(Added Pub. L. 85–577, §1(1), July 31, 1958, 72 Stat. 455.)

## §1585a. Special agents of the Defense Criminal Investigative Service: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of Defense may authorize any DCIS special agent described in subsection (b)—

(1) to execute and serve any warrant or other process issued under the authority of the United States; and

(2) to make arrests without a warrant—

(A) for any offense against the United States committed in the presence of that agent; and

(B) for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

(b) AGENTS TO HAVE AUTHORITY.—Subsection (a) applies to any DCIS special agent whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of Defense.

(c) GUIDELINES ON EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Inspector General of the Department of Defense and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of Defense or the Attorney General.

(d) DCIS SPECIAL AGENT DEFINED.—In this section, the term "DCIS special agent" means an employee of the Department of Defense who is a special agent of the Defense Criminal Investigative Service (or any successor to that service).

(Added Pub. L. 105–85, div. A, title X, §1071(a), Nov. 18, 1997, 111 Stat. 1897.)

## §1586. Rotation of career-conditional and career employees assigned to duty outside the United States

(a) In order to advance the programs and activities of the Defense Establishment, it is hereby declared to be the policy of the Congress to facilitate the interchange of civilian employees of the Defense Establishment between posts of duty in the United States and posts of duty outside the United States through the establishment and operation of programs for the rotation, to the extent consistent with the missions of the Defense Establishment and sound principles of administration, of such employees who are assigned to duty outside the United States.

(b) Notwithstanding any other provision of law, the Secretary of Defense with respect to civilian employees of the Department of Defense other than employees of a military department, and the Secretary of each military department with respect to civilian employees of such military department, may, under such regulations as each such Secretary may prescribe with respect to the employees concerned and in accordance with the policy and other provisions of this section, establish and operate programs of rotation which provide for the granting of the right to return to a position in the United States to each civilian employee in the department concerned—

(1) who, while serving under a career-conditional or career appointment in the competitive civil service, is assigned at the request of the department concerned to duty outside the United States,

(2) who satisfactorily completes such duty, and

(3) who applies, not later than 30 days after his completion of such duty, for the right to return to a position in the United States as provided by subsection (c).

The Secretary of the department concerned may provide by regulation for the waiver of the provisions of paragraphs (2) and (3), or of either of such paragraphs, in those cases in which the application of such paragraphs, or either of them, would be against equity and good conscience or against the public interest.

(c) The right to return to a position in the United States granted under this section shall be without reduction in the seniority, status, and tenure held by the employee immediately before his assignment to duty outside the United States and the employee shall be placed, not later than 30 days after the date on which he is determined to be immediately available to exercise such right in accordance with the following provisions:

(1) The employee shall be placed in the position which he held immediately before his assignment to duty outside the United States, if such position exists.

(2) If such position does not exist, or with his consent, the employee shall be placed in a vacant existing position, or in a new continuing position, for which he is qualified, available for the purposes of this section in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, and in a grade equal to the grade of, the position which he held immediately before his assignment to duty outside the United States.

(3) If the positions described in paragraph (1) and paragraph (2) do not exist, the employee shall be placed in an additional position which shall be established by the department concerned for a period not in excess of 90 days in order to carry out the purposes of this section. Such additional

position shall be in the same geographical area as, with rights and benefits not less than the rights and benefits of, and in a grade not lower than the grade of, the position held by the employee immediately before his assignment to duty outside the United States.

(4) If, within 90 days after his placement in a position under paragraph (3) a vacant existing position or new continuing position, for which the employee is qualified, is available for the purposes of this section in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, and in a grade equal to the grade of, the position which he held immediately before his assignment to duty outside the United States, the employee shall be placed in such vacant existing position or new continuing position.

(5) If, within the 90-day period referred to in paragraphs (3) and (4), the employee cannot be placed in a position under paragraph (4), he shall be reassigned or separated under the regulations prescribed by the Office of Personnel Management to carry out sections 3501–3503 of title 5.

(6) If there is a termination of or material change in the activity in which the former position of the employee (referred to in paragraph (1)) was located, he shall be placed, in the manner provided by paragraphs (2), (3), and (4), as applicable, in a position in the department concerned in a geographical area other than the geographical area in which such former position was located.

(d) Each employee who is placed in a position under paragraph (1), (2), (3), (4), or (6) of subsection (c) shall be paid at a rate of basic pay which is not less than the rate of basic pay to which he would have been entitled if he had not been assigned to duty outside the United States.

(e)(1) Each employee who is displaced from a position by reason of the exercise of a return right under subsection (c)(1) shall be placed, as of the date of such displacement, without reduction in seniority, status, and tenure, in a vacant existing position or new continuing position, for which he is qualified, available in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, in a grade equal to the grade of, and at a rate of basic pay not less than the last rate of basic pay which is not less than the last rate of basic pay to which he was entitled while in, the position from which he is displaced.

(2) If the employee cannot be placed in a position under paragraph (1), he shall be reassigned to a position other than the position from which he is displaced, or separated, under the regulations prescribed by the Office of Personnel Management to carry out sections 3501–3503 of title 5.

(f) The President may, upon his determination that such action is necessary in the national interest, declare that, for such period as he may specify, an assignment of an employee to duty in Alaska or Hawaii shall be held and considered, for the purposes of this section, to be an assignment to duty outside the United States.

(g) In this section:

(1) The term "rotation" means the assignment of civilian employees referred to in subsection (b) to duty outside the United States and the return of such employees to duty within the United States.

(2) The term "grade" means, as applicable, a grade of the General Schedule as prescribed in section 5104 of title 5 or a grade or level of the appropriate prevailing rate schedule.

(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.

(Added Pub. L. 86–585, §1, July 5, 1960, 74 Stat. 325; amended Pub. L. 89–718, §15, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90–83, §3(3), Sept. 11, 1967, 81 Stat. 220; Pub. L. 96–513, title V, §511(61), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 96–600, §1, Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97–295, §1(20)(A), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 98–525, title XIV, §1405(29), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 101–189, div. A, title XVI, §1622(e)(4), Nov. 29, 1989, 103 Stat. 1605.)

## EDITORIAL NOTES

### AMENDMENTS

**1989**—Subsec. (g). Pub. L. 101–189, in introductory provisions, substituted "In this section:" for "For the purposes of this section—", in par. (1), inserted "The term" before " 'rotation' " and substituted the period for "; and", and in par. (2), inserted "The term" before " 'grade' ".

**1984**—Subsec. (b). Pub. L. 98–525, §1405(29)(A)(iii), in provisions following par. (3) struck out "of this subsection" after "paragraphs (2) and (3)".

Subsec. (b)(3). Pub. L. 98–525, §1405(29)(A)(i), (ii), substituted "30" for "thirty" and struck out "of this section" after "subsection (c)".

Subsec. (c). Pub. L. 98–525, §1405(29)(B)(i), in provisions preceding par. (1) substituted "30" for "thirty".

Subsec. (c)(3). Pub. L. 98–525, §1405(29)(B)(ii), (iv), substituted "90 days" for "ninety days" and struck out "of this subsection" after "paragraph (2)".

Subsec. (c)(4). Pub. L. 98–525, §1405(29)(B)(ii), (iv), substituted "90 days" for "ninety days" and struck out "of this subsection" after "paragraph (3)".

Subsec. (c)(5). Pub. L. 98–525, §1405(29)(B)(iii)–(v), substituted "90-day" for "ninety-day", struck out "of this subsection" after "paragraphs (3) and (4)", and struck out "such" before "paragraph (4)".

Subsec. (c)(6). Pub. L. 98–525, §1405(29)(B)(vi), struck out "of this subsection" after "paragraph (1)" and "of this subsection," after "as applicable,".

Subsec. (d). Pub. L. 98–525, §1405(29)(C), struck out "of this section" after "subsection (c)".

Subsec. (e)(1). Pub. L. 98–525, §1405(29)(C), struck out "of this section" after "subsection (c)(1)".

Subsec. (e)(2). Pub. L. 98–525, §1405(29)(D), struck out "of this subsection" after "paragraph (1)".

Subsec. (g)(1). Pub. L. 98–525, §1405(29)(C), struck out "of this section" after "subsection (b)".

**1982**—Subsecs. (d), (e)(1). Pub. L. 97–295 substituted "pay" for "compensation" wherever appearing.

**1980**—Subsecs. (c)(5), (e)(2). Pub. L. 96–513 substituted "Office of Personnel Management" for "United States Civil Service Commission".

Subsec. (h). Pub. L. 96–600 added subsec. (h).

**1967**—Subsec. (g)(2). Pub. L. 90–83 substituted "General Schedule as prescribed in section 5104 of title 5" for "compensation schedule for the General Schedule of the Classification Act of 1949, as amended,".

**1966**—Pub. L. 89–718 substituted "sections 3501–3503 of title 5" for "section 12 of the Act of June 27, 1944 (5 U.S.C. 861)" wherever appearing.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 10895. DUTY IN ALASKA OR HAWAII

Ex. Ord. No. 10895, Nov. 25, 1960, 25 F.R. 12165, provided:

By virtue of the authority vested in me by section 1586(f) of title 10 of the United States Code, and as President of the United States, and having determined that such action is necessary in the national interest, it is ordered as follows:

SECTION 1. Assignment of an employee to duty in the State of Alaska or Hawaii under regulations prescribed pursuant to section 1586 of title 10 of the United States Code shall be held and considered for the purposes of that section, to be an assignment to duty outside the United States.

SEC. 2. The Secretary of Defense shall from time to time, and at least annually, consider the need for continuing this order in effect, and he shall recommend the revocation thereof at such time as he may deem such action advisable.

DWIGHT D. EISENHOWER.

# §1587. Employees of nonappropriated fund instrumentalities: reprisals

(a) In this section:

(1) The term "nonappropriated fund instrumentality employee" means a civilian employee who is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces. Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties.

(2) The term "civilian employee" has the meaning given the term "employee" by section 2105(a) of title 5.

(3) The term "personnel action", with respect to a nonappropriated fund instrumentality employee (or an applicant for a position as such an employee), means—

(A) an appointment;

(B) a promotion;

(C) a disciplinary or corrective action;

(D) a detail, transfer, or reassignment;

(E) a reinstatement, restoration, or reemployment;

(F) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, or other action described in this paragraph; and

(G) any other significant change in duties or responsibilities that is inconsistent with the employee's salary or grade level.

(b) Any civilian employee or member of the armed forces who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action with respect to any nonappropriated fund instrumentality employee (or any applicant for a position as such an employee) as a reprisal for—

(1) a disclosure of information by such an employee or applicant which the employee or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if the information is not specifically required by or pursuant to executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) a disclosure by such an employee or applicant to any civilian employee or member of the armed forces designated by law or by the Secretary of Defense to receive disclosures described in clause (1), of information which the employee or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) This section does not apply to an employee in a position excluded from the coverage of this section by the President based upon a determination by the President that the exclusion is necessary and warranted by conditions of good administration.

(d) The Secretary of Defense shall be responsible for the prevention of actions prohibited by subsection (b) and for the correction of any such actions that are taken. The authority of the Secretary to correct such actions may not be delegated to the Secretary of a military department or to the Assistant Secretary of Defense for Manpower and Logistics.

(e) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management and the Special Counsel of the Merit Systems Protection Board, shall prescribe

regulations to carry out this section. Such regulations shall include provisions to protect the confidentiality of employees and applicants making disclosures described in clauses (1) and (2) of subsection (b) and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense.

(Added Pub. L. 98–94, title XII, §1253(a)(1), Sept. 24, 1983, 97 Stat. 699; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 104–106, div. A, title IX, §903(f)(3), title X, §1040(a)–(d)(1), Feb. 10, 1996, 110 Stat. 402, 433; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 113–66, div. A, title VI, §641, Dec. 26, 2013, 127 Stat. 787.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (b). Pub. L. 113–66 inserted ", or threaten to take or fail to take," after "take or fail to take".

**1996**—Pub. L. 104–106, §1040(d)(1), inserted ": reprisals" after "instrumentalities" in section catchline.

Subsec. (a)(1). Pub. L. 104–106, §1040(c), substituted "Navy Exchange Service Command" for "Navy Resale and Services Support Office".

Pub. L. 104–106, §1040(a), inserted at end "Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties."

Subsec. (d). Pub. L. 104–106, §903(a), (f)(3), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting "official in the Department of Defense with principal responsibility for personnel and readiness" for "Assistant Secretary of Defense for Manpower and Logistics", was repealed by Pub. L. 104–201.

Subsec. (e). Pub. L. 104–106, §1040(b), inserted before period at end of second sentence "and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense".

**1987**—Subsec. (a). Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 98–94, title XII, §1253(b), Sept. 24, 1983, 97 Stat. 700, provided that: "Section 1587 of such title [this section], as added by subsection (a), shall apply with respect to any conduct prohibited by subsection (b) of such section which occurs after the date of the enactment of this Act [Sept. 24, 1983]."

### LIMITATION ON PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES

Pub. L. 104–106, div. A, title X, §1042, Feb. 10, 1996, 110 Stat. 434, provided that:

"(a) CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES .—Subject to subsection (b), an overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act [Feb. 10, 1996] may not exceed the amount of a quarters allowance provided under subchapter III of chapter 59 of title 5 to a similarly situated civilian employee of the Department of Defense paid from appropriated funds.

"(b) APPLICATION TO CERTAIN CURRENT EMPLOYEES.—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act [Feb. 10, 1996], receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

"(1) September 30, 1997; or

"(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

"(c) NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.—For purposes of this section, the term 'nonappropriated fund instrumentality employee' has the meaning given such term in section 1587(a)(1) of title 10, United States Code."

**UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES**

Pub. L. 103–337, div. A, title III, §349, Oct. 5, 1994, 108 Stat. 2727, as amended by Pub. L. 108–375, div. A, title VI, §652, Oct. 28, 2004, 118 Stat. 1973, provided that:

"(a) IN GENERAL.—Not later than October 1, 1995, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

"(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

"(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other monetary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

"(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

"(3) In this subsection, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof."

## §1587a. Employees of nonappropriated fund instrumentalities: senior executive pay levels

(a) AUTHORITY.—To achieve the objective stated in subsection (b), the Secretary of Defense may regulate the amount of total compensation that is provided for senior executives of nonappropriated fund instrumentalities who, for the fixing of pay by administrative action, are under the jurisdiction of the Secretary of Defense or the Secretary of a military department.

(b) PAY PARITY.—The objective of an action taken with respect to the compensation of senior executives under subsection (a) is to provide for parity between the total compensation provided for such senior executives and total compensation that is provided for Department of Defense employees in Senior Executive Service positions or other senior executive positions.

(c) STANDARDS OF COMPARABILITY.—Subject to subsection (d), the Secretary of Defense shall prescribe the standards of comparison that are to apply in the making of the determinations necessary to achieve the objective stated in subsection (b).

(d) ESTABLISHMENT OF PAY RATES.—The Secretary of Defense shall apply subsections (a) and (b) of section 5382 of title 5 in the regulation of compensation under this section.

(e) RELATIONSHIP TO PAY LIMITATION.—The Secretary of Defense may exercise the authority provided in subsection (a) without regard to section 5373 of title 5.

(f) DEFINITIONS.—In this section:

(1) The term "compensation" includes rate of basic pay.

(2) The term "Senior Executive Service position" has the meaning given such term in section 3132 of title 5.

(Added Pub. L. 108–375, div. A, title XI, §1104(a), Oct. 28, 2004, 118 Stat. 2073.)

## §1588. Authority to accept certain voluntary services

(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding

section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the uniformed services and the families of such members, including the following programs:

(A) Family support programs.

(B) Child development and youth services programs.

(C) Library and education programs.

(D) Religious programs.

(E) Housing referral programs.

(F) Programs providing employment assistance to spouses of such members.

(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

(4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.

(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.

(6) Voluntary services as a proctor for administration to secondary school students of the test known as the "Armed Services Vocational Aptitude Battery".

(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.

(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.

(9) Voluntary services to facilitate accounting for missing persons.

(10) Voluntary legal support services provided by law students through internship and externship programs approved by the Secretary concerned.

(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall—

(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not—

(A) place the person in a policy-making position; or

(B) except as provided in subsection (e), compensate the person for the provision of such services.

(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss) and chapters 309 and 311 of title 46 (relating to claims for damages or loss on navigable waters).

(C) Section 552a of title 5 (relating to maintenance of records on individuals).

(D) Chapter 11 of title 18 (relating to conflicts of interest).

(E) Section 1054 of this title (relating to legal malpractice), for a person voluntarily providing legal services accepted under subsection (a)(5), as if the person were providing the services as an attorney of a legal staff within the Department of Defense.

(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

(A) the average monthly number of hours that the person provided the services, by

(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.

(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The Secretary concerned may install telephone lines and any necessary telecommunication equipment in the private residences of persons, designated in accordance with the regulations prescribed under paragraph (4), who provide voluntary services accepted under paragraph (3) or (8) of subsection (a).

(2) In the case of equipment installed under the authority of paragraph (1), the Secretary concerned may pay the charges incurred for the use of the equipment for authorized purposes.

(3) To carry out this subsection, the Secretary concerned may use appropriated funds (notwithstanding section 1348 of title 31) or nonappropriated funds of the military department under the jurisdiction of the Secretary or, with respect to the Coast Guard, the department in which the Coast Guard is operating.

(4) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security shall prescribe regulations to carry out this subsection.

(g) SECRETARY CONCERNED FOR ACCEPTANCE OF SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA CORPS AND THEIR FAMILIES.—For purposes of the acceptance of services described in subsection (a)(3), the term "Secretary concerned" in subsection (a) shall include the Secretary of Commerce with respect to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98–94, title XII, §1266(a), Sept. 24, 1983, 97 Stat. 704; amended Pub. L. 99–145, title XVI, §1624(a), Nov. 8, 1985, 99 Stat. 778; Pub. L. 99–661, div. A, title XIII, §1355, Nov. 14, 1986, 100 Stat. 3996; Pub. L. 100–26, §3(9), Apr. 21, 1987, 101 Stat. 274; Pub. L. 101–189, div. A,

title XVI, §1634, Nov. 29, 1989, 103 Stat. 1608; Pub. L. 102–190, div. A, title III, §345, Dec. 5, 1991, 105 Stat. 1346; Pub. L. 103–337, div. A, title X, §1061(a), Oct. 5, 1994, 108 Stat. 2845; Pub. L. 104–201, div. A, title X, §1074(a)(8), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 106–65, div. A, title III, §371(a), title V, §578(f), Oct. 5, 1999, 113 Stat. 579, 627; Pub. L. 107–107, div. A, title V, §583, Dec. 28, 2001, 115 Stat. 1125; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title V, §553, title X, §1064(b), Dec. 2, 2002, 116 Stat. 2552, 2654; Pub. L. 108–375, div. A, title V, §516, title X, §1081, Oct. 28, 2004, 118 Stat. 1884, 2059; Pub. L. 110–181, div. A, title X, §1063(a)(9), Jan. 28, 2008, 122 Stat. 322; Pub. L. 112–239, div. A, title V, §587(b), Jan. 2, 2013, 126 Stat. 1768; Pub. L. 113–291, div. A, title X, §1043, Dec. 19, 2014, 128 Stat. 3493; Pub. L. 116–259, title II, §205(b)(2), Dec. 23, 2020, 134 Stat. 1167.)

## EDITORIAL NOTES

### AMENDMENTS

**2020**—Subsec. (a)(3). Pub. L. 116–259, §205(b)(2)(A), substituted "uniformed services" for "armed forces" in introductory provisions.

Subsec. (g). Pub. L. 116–259, §205(b)(2)(B), added subsec. (g).

**2014**—Subsec. (a)(10). Pub. L. 113–291 added par. (10).

**2013**—Subsec. (a)(9). Pub. L. 112–239 added par. (9).

**2008**—Subsec. (d)(1)(B). Pub. L. 110–181 substituted "chapters 309 and 311 of title 46" for "the Act of March 9, 1920, commonly known as the 'Suits in Admiralty Act' (41 Stat. 525; 46 U.S.C. App. 741 et seq.) and the Act of March 3, 1925, commonly known as the 'Public Vessels Act' (43 Stat. 1112; 46 U.S.C. App. 781 et seq.)".

**2004**—Subsec. (a)(8). Pub. L. 108–375, §516(1), added par. (8).

Subsec. (d)(1)(B). Pub. L. 108–375, §1081, inserted before period at end "and the Act of March 9, 1920, commonly known as the 'Suits in Admiralty Act' (41 Stat. 525; 46 U.S.C. App. 741 et seq.) and the Act of March 3, 1925, commonly known as the 'Public Vessels Act' (43 Stat. 1112; 46 U.S.C. App. 781 et seq.) (relating to claims for damages or loss on navigable waters)".

Subsec. (f)(1). Pub. L. 108–375, §516(2), substituted "paragraph (3) or (8) of subsection (a)" for "subsection (a)(3)".

**2002**—Subsec. (a)(6). Pub. L. 107–314, §553, added par. (6).

Subsec. (a)(7). Pub. L. 107–314, §1064(b), added par. (7).

Subsec. (f)(4). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Subsec. (a)(5). Pub. L. 107–107, §583(a), added par. (5).

Subsec. (d)(1)(E). Pub. L. 107–107, §583(b), added subpar. (E).

**1999**—Subsec. (a)(4). Pub. L. 106–65, §578(f), added par. (4).

Subsec. (f). Pub. L. 106–65, §371(a), added subsec. (f).

**1996**—Subsec. (d)(1)(C). Pub. L. 104–201 substituted "Section 552a" for "Section 522a".

**1994**—Pub. L. 103–337 amended section generally, substituting subsecs. (a) to (e) for former subsecs. (a) to (c) which related to acceptance by Secretary concerned of voluntary services, status of persons providing voluntary services, and reimbursement of expenses incurred by such persons.

**1991**—Subsec. (c). Pub. L. 102–190 substituted "may be made from appropriated or nonappropriated funds" for "may only be made from nonappropriated funds".

**1989**—Subsec. (a). Pub. L. 101–189 substituted "a museum, a natural resources program, or" for "a museum or".

**1987**—Subsec. (c). Pub. L. 100–26 made technical amendment to directory language of Pub. L. 99–661. See 1986 Amendment note below.

**1986**—Subsec. (c). Pub. L. 99–661, as amended by Pub. L. 100–26, added subsec. (c).

**1985**—Subsec. (a). Pub. L. 99–145 substituted "Secretary concerned" and "operated by the military department concerned or the Coast Guard, as appropriate" for "Secretary of a military department" and "operated by that military department", respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title XVI, §1624(b), Nov. 8, 1985, 99 Stat. 778, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1985."

**REPORT ON IMPLEMENTATION OF AUTHORITY TO INSTALL TELECOMMUNICATIONS EQUIPMENT FOR PERSONS PERFORMING VOLUNTARY SERVICES**

Pub. L. 106–65, div. A, title III, §371(b), Oct. 5, 1999, 113 Stat. 579, provided that: "Not later than two years after final regulations prescribed under subsection (f)(4) of section 1588 of title 10, United States Code, as added by subsection (a), take effect, the Comptroller General shall review the exercise of authority under such subsection (f) and submit to Congress a report on the findings resulting from the review."

**ACCEPTANCE OF VOLUNTARY SERVICES PILOT PROGRAM**

Pub. L. 103–337, div. A, title X, §1061(b), Oct. 5, 1994, 108 Stat. 2847, required the Secretary of Defense to conduct a pilot program, for not less than six months, to evaluate the policies and procedures of the Department of Defense for the acceptance of voluntary services under this section, with a final report due to Congress no later than 60 days after the termination of the program.

## §1589. Participation in management of specified non-Federal entities: authorized activities

(a) AUTHORIZATION.—(1) The Secretary concerned may authorize an employee described in paragraph (2) to serve without compensation as a director, officer, or trustee, or to otherwise participate, in the management of an entity designated under subsection (b). Any such authorization shall be made on a case-by-case basis, for a particular employee to participate in a specific capacity with a specific designated entity. Such authorization may be made only for the purpose of providing oversight and advice to, and coordination with, the designated entity, and participation of the employee in the activities of the designated entity may not extend to participation in the day-to-day operations of the entity.

(2) Paragraph (1) applies to any employee of the Department of Defense or, in the case of the Coast Guard when not operating as a service in the Navy, of the Department of Homeland Security. For purposes of this section, the term "employee" includes a civilian officer.

(b) DESIGNATED ENTITIES.—The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall designate those entities for which authorization under subsection (a) may be provided. The list of entities so designated may not be revised more frequently than semiannually. In making such designations, the Secretary shall designate each military welfare society named in paragraph (2) of section 1033(b) of this title and may designate any other entity described in paragraph (3) of such section. No other entities may be designated.

(c) PUBLICATION OF DESIGNATED ENTITIES AND OF AUTHORIZED PERSONS.—A designation of an entity under subsection (b), and an authorization under subsection (a) of an employee to participate in the management of such an entity, shall be published in the Federal Register.

(d) CIVILIANS OUTSIDE THE MILITARY DEPARTMENTS.—In this section, the term "Secretary concerned" includes the Secretary of Defense with respect to employees of the Department of Defense who are not employees of a military department.

(e) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(Added Pub. L. 105–85, div. A, title V, §593(b)(1), Nov. 18, 1997, 111 Stat. 1763; amended Pub. L.

107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1589, added Pub. L. 98–525, title XIV, §1401(f)(1), Oct. 19, 1984, 98 Stat. 2618, provided, with exceptions, for prohibition on payment of lodging expenses when adequate Government quarters were available, prior to repeal by Pub. L. 104–201, div. A, title XVI, §1614(b)(1), Sept. 23, 1996, 110 Stat. 2739.

### AMENDMENTS

**2002**—Subsecs. (a)(2), (b), (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## [§1590. Repealed. Pub. L. 104–201, div. A, title XVI, §1633(a), Sept. 23, 1996, 110 Stat. 2751]

Section, added Pub. L. 99–569, title V, §504(a), Oct. 27, 1986, 100 Stat. 3198; amended Pub. L. 100–178, title VI, §602(b), Dec. 2, 1987, 101 Stat. 1016; Pub. L. 101–193, title V, §503(a), Nov. 30, 1989, 103 Stat. 1708; Pub. L. 102–496, title IV, §402(a), Oct. 24, 1992, 106 Stat. 3184; Pub. L. 103–35, title II, §201(g)(2), May 31, 1993, 107 Stat. 100, related to management of civilian intelligence personnel of the military departments. See sections 1601 to 1603, 1606, and 1609 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1591. Reimbursement for travel and transportation expenses when accompanying Members of Congress

(a) Subject to subsection (b), the Secretary concerned may authorize reimbursement to a civilian employee who is accompanying a Member of Congress or a congressional employee on official travel for actual travel and transportation expenses incurred for such travel.

(b) The allowance provided in subsection (a) may be paid—

(1) at a rate that does not exceed the rate approved for official congressional travel; and

(2) only when the travel of the member is directed or approved by the Secretary concerned.

(c) In this section:

(1) The term "Member of Congress" means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) The term "congressional employee" means an employee of a Member of Congress or an employee of Congress.

(3) The term "Secretary concerned" includes the Secretary of Defense with respect to civilian employees of the Department of Defense other than a military department.

(Added Pub. L. 100–180, div. A, title VI, §617(b)(1), Dec. 4, 1987, 101 Stat. 1097.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 100–180, div. A, title VI, §617(c), Dec. 4, 1987, 101 Stat. 1097, as amended by Pub. L. 112–81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that: "Subsection (h) of section 474 of title 37, United States Code (as added by subsection (a)), and section 1591 of title 10, United States Code (as added by subsection (b)), shall apply with respect to travel performed after the date of the enactment of this Act [Dec. 4, 1987]."

## §1592. Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures

Funds available to the Department of Defense (including funds in the Foreign National Employees Separation Pay Account, Defense, established under section 1581 of this title) may not be used to pay severance pay to a foreign national employed by the Department of Defense under a contract, a treaty, or a memorandum of understanding with a foreign nation that provides for payment of separation pay if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.

(Added Pub. L. 101–189, div. A, title III, §311(b)(1), Nov. 29, 1989, 103 Stat. 1411; amended Pub. L. 102–190, div. A, title X, §1003(b), Dec. 5, 1991, 105 Stat. 1456; Pub. L. 102–484, div. A, title X, §1052(21), Oct. 23, 1992, 106 Stat. 2500.)

### EDITORIAL NOTES

### CODIFICATION

Another section 1592 was renumbered section 1596 of this title.

### AMENDMENTS

**1992**—Pub. L. 102–484 inserted "section" after "established under".

**1991**—Pub. L. 102–190 inserted "(including funds in the Foreign National Employees Separation Pay Account, Defense, established under 1581 of this title)" and substituted "a contract, a treaty, or a memorandum of understanding with a foreign nation that provides for payment of separation pay" for "a contract performed in a foreign country".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 101–189, div. A, title III, §311(b)(3), Nov. 29, 1989, 103 Stat. 1412, as amended by Pub. L. 102–484, div. A, title XIII, §1352(a), Oct. 23, 1992, 106 Stat. 2558, provided that:

"(A) Section 1592 of title 10, United States Code, as added by paragraph (1), shall take effect on the date of the enactment of this Act [Nov. 29, 1989].

"[(B) Repealed. Pub. L. 102–484, div. A, title XIII, §1352(a), Oct. 23, 1992, 106 Stat. 2558.]"

### PROHIBITION ON PAYMENT OF SEVERANCE PAY TO CERTAIN FOREIGN NATIONALS IN THE PHILIPPINES

Pub. L. 102–484, div. A, title XIII, §1351, Oct. 23, 1992, 106 Stat. 2558, provided that:

"(a) PROHIBITION.—Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense in the Republic of the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Republic of the Philippines.

"(b) PROHIBITION ON ALLOWANCE OF CERTAIN SEVERANCE PAY AS CONTRACT COSTS

.—Funds available to the Department of Defense may not be used to pay the costs of severance pay paid by a contractor to a foreign national employed by the contractor under a defense service contract in the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Philippines."

## §1593. Uniform allowance: civilian employees

(a) ALLOWANCE AUTHORIZED.—(1) The Secretary of Defense may pay an allowance to each civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties.

(2) In lieu of providing an allowance under paragraph (1), the Secretary may provide a uniform to a civilian employee referred to in such paragraph.

(3) This subsection shall not apply with respect to a civilian employee of the Defense Intelligence Agency who is entitled to an allowance under section 1622 of this title.

(b) AMOUNT OF ALLOWANCE.—Notwithstanding section 5901(a) of title 5, the amount of an allowance paid, and the cost of uniforms provided, under subsection (a) to a civilian employee may not exceed $400 per year (or such higher maximum amount as the Secretary of Defense may by regulation prescribe).

(c) TREATMENT OF ALLOWANCE.—An allowance paid, or uniform provided, under subsection (a) shall be treated in the same manner as is provided in section 5901(c) of title 5 for an allowance paid under that section.

(d) USE OF APPROPRIATED FUNDS FOR ALLOWANCE.—Amounts appropriated annually to the Department of Defense for the pay of civilian employees may be used for uniforms, or for allowance for uniforms, as authorized by this section and section 5901 of title 5.

(Added Pub. L. 101–189, div. A, title III, §336(a)(1), Nov. 29, 1989, 103 Stat. 1419; amended Pub. L. 101–510, div. A, title XIV, §1481(d)(3), Nov. 5, 1990, 104 Stat. 1706; Pub. L. 104–201, div. A, title XVI, §1633(e)(1), Sept. 23, 1996, 110 Stat. 2752; Pub. L. 110–181, div. A, title XI, §1113, Jan. 28, 2008, 122 Stat. 360.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (d) of this section were contained in Pub. L. 101–165, title IX, §9010, Nov. 21, 1989, 103 Stat. 1131, which was set out as a note below, prior to repeal by Pub. L. 101–510, §1481(d)(4)(B).

### AMENDMENTS

**2008**—Subsec. (b). Pub. L. 110–181 substituted "$400 per year (or such higher maximum amount as the Secretary of Defense may by regulation prescribe)." for "$400 per year."

**1996**—Subsec. (a)(3). Pub. L. 104–201 substituted "section 1622" for "section 1606".

**1990**—Subsec. (d). Pub. L. 101–510 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XVI, §1635, Sept. 23, 1996, 110 Stat. 2752, provided that: "This subtitle [subtitle B (§§1631–1635) of title XVI of div. A of Pub. L. 104–201, enacting sections 1601 to 1603, 1606 to 1610, and 1612 to 1614 of this title, amending this section, sections 1596, 1605, 1611, and 1621 of this title, and sections 7103 and 7511 of Title 5, Government Organization and Employees, renumbering sections 1599, 1602, 1606, and 1608 of this title as sections 1611, 1621, 1622, and 1623 of this title, respectively, repealing sections 1590, 1601, 1603, and 1604 of this title and section 833 of Title 50, War and National Defense, enacting provisions set out as a note under section 1601 of this title, and repealing provisions formerly set out in a National Security Agency Act of 1959 note under section 402 of Title 50] and the amendments made by this subtitle shall take effect on October 1, 1996."

**EFFECTIVE DATE**

Pub. L. 101–189, div. A, title III, §336(c), Nov. 29, 1989, 103 Stat. 1419, provided that: "The amendments made by this section [enacting this section and amending section 1606 of this title] shall take effect on January 1, 1990."

**AVAILABILITY OF FUNDS FOR PAY OF CIVILIAN EMPLOYEES FOR UNIFORMS**

Pub. L. 101–165, title IX, §9010, Nov. 21, 1989, 103 Stat. 1131, which made appropriations available to Department of Defense for pay of civilian employees for uniforms, or allowances therefor, as authorized by section 5901 of title 5, was repealed and restated in subsec. (d) of this section by Pub. L. 101–510, §1481(d)(3), (4)(B).

## §1594. Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay

(a)(1) A civilian officer or employee of the Department of Defense who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed for a covered late-deposit charge.

(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the officer or employee concerned to be deposited late or in an incorrect manner or amount.

(b) Reimbursements under this section shall be made from appropriations available for the pay of the officer or employee concerned.

(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

(d) In this section:

(1) The term "financial institution" means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.

(2) The term "pay" includes allowances.

(Added Pub. L. 101–189, div. A, title VI, §664(b)(1), Nov. 29, 1989, 103 Stat. 1466; amended Pub. L. 101–510, div. A, title XIV, §1484(k)(6), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102–25, title VII, §701(e)(8)(A), Apr. 6, 1991, 105 Stat. 115; Pub. L. 105–261, div. A, title V, §564(b), Oct. 17, 1998, 112 Stat. 2029.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1998**—Subsec. (d)(1). Pub. L. 105–261 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31."

**1991**—Pub. L. 102–25 struck out "mandatory" after "error in" in section catchline.

**1990**—Subsec. (d). Pub. L. 101–510 substituted "In this section" for "in this section".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section applicable with respect to pay and allowances deposited (or scheduled to be deposited) on or after first day of first month beginning after Nov. 29, 1989, see section 664(c) of Pub. L. 101–189, set out as an Effective Date of 1989 Amendment note under section 1053 of this title.

## §1595. Civilian faculty members at certain Department of Defense schools: employment and compensation

(a) AUTHORITY OF SECRETARY.—The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers at the organizations specified in subsection (c) as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) COVERED ORGANIZATIONS.—This section applies with respect to the following organizations of the Department of Defense:

(1) The National Defense University.
(2) The Foreign Language Center of the Defense Language Institute.
(3) The English Language Center of the Defense Language Institute.
(4) The Western Hemisphere Institute for Security Cooperation.
(5) The Joint Special Operations University.
(6) The Defense Security Cooperation University.
(7) The Defense Institute for Security Governance.
(8) The Defense Institute of International Legal Studies.
(9) The United States Element of the Inter-American Defense College.

(d) APPLICATION TO FACULTY MEMBERS AT NDU.—In the case of the National Defense University, this section applies with respect to persons selected by the Secretary for employment as professors, instructors, and lecturers at the National Defense University after February 27, 1990.

(Added Pub. L. 101–189, div. A, title XI, §1124(a)(1), Nov. 29, 1989, 103 Stat. 1558; amended Pub. L. 102–25, title VII, §701(h)(1), Apr. 6, 1991, 105 Stat. 115; Pub. L. 102–190, div. A, title IX, §911, Dec. 5, 1991, 105 Stat. 1452; Pub. L. 102–484, div. A, title IX, §923(a)(1), (2)(A), Oct. 23, 1992, 106 Stat. 2474; Pub. L. 103–160, div. A, title IX, §923(a)(1), Nov. 30, 1993, 107 Stat. 1731; Pub. L. 104–201, div. A, title XVI, §1607, Sept. 23, 1996, 110 Stat. 2737; Pub. L. 105–85, div. A, title IX, §§921(c), 922(b), Nov. 18, 1997, 111 Stat. 1863; Pub. L. 108–136, div. A, title XI, §1115, Nov. 24, 2003, 117 Stat. 1636; Pub. L. 109–364, div. A, title IX, §904(b)(1), Oct. 17, 2006, 120 Stat. 2353; Pub. L. 115–232, div. A, title V, §555, Aug. 13, 2018, 132 Stat. 1773; Pub. L. 116–283, div. A, title XI, §1107, Jan. 1, 2021, 134 Stat. 3891; Pub. L. 117–81, div. A, title XI, §1104, Dec. 27, 2021, 135 Stat. 1950; Pub. L. 118–159, div. A, title XI, §1107, Dec. 23, 2024, 138 Stat. 2088.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §1107(b)(1), substituted "organizations" for "institutions".

Subsec. (c). Pub. L. 118–159, §1107(b)(2), substituted "Organizations" for "Institutions" in heading and "organizations" for "institutions" in introductory provisions.

Subsec. (c)(9). Pub. L. 118–159, §1107(a), added par. (9).

**2021**—Subsec. (c)(6), (7). Pub. L. 116–283 added pars. (6) and (7).

Subsec. (c)(8). Pub. L. 117–81 added par. (8).

**2018**—Subsec. (c)(5). Pub. L. 115–232 added par. (5).

**2006**—Subsec. (c)(3) to (6). Pub. L. 109–364, §904(b)(1)(A), redesignated pars. (4) and (6) as (3) and (4), respectively, and struck out former pars. (3) and (5) which related to the George C. Marshall European Center for Security Studies and the Asia-Pacific Center for Security Studies, respectively.

Subsec. (e). Pub. L. 109–364, §904(b)(1)(B), struck out heading and text of subsec. (e). Text read as follows: "In addition to the persons specified in subsection (a), this section also applies with respect to the Director and the Deputy Director of the following:

"(1) The George C. Marshall European Center for Security Studies.
"(2) The Asia-Pacific Center for Security Studies.
"(3) The Center for Hemispheric Defense Studies."

**2003**—Subsec. (c)(6). Pub. L. 108–136 added par. (6).

**1997**—Subsec. (d). Pub. L. 105–85, §921(c), struck out "(1)" before "In the case of" and struck out par. (2) which read as follows: "For purposes of this section, the National Defense University includes the National War College, the Armed Forces Staff College, the Institute for National Strategic Study, and the Industrial

College of the Armed Forces."

Subsecs. (e), (f). Pub. L. 105–85, §922(b), added subsec. (e) and struck out former subsecs. (e) and (f) which read as follows:

"(e) APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT GEORGE C. MARSHALL CENTER.—In the case of the George C. Marshall European Center for Security Studies, this section also applies with respect to the Director and the Deputy Director.

"(f) APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT ASIA-PACIFIC CENTER FOR SECURITY STUDIES.—In the case of the Asia-Pacific Center for Security Studies, this section also applies with respect to the Director and the Deputy Director."

**1996**—Subsec. (c)(4), (5). Pub. L. 104–201, §1607(a), added pars. (4) and (5).

Subsec. (f). Pub. L. 104–201, §1607(b), added subsec. (f).

**1993**—Pub. L. 103–160 substituted "Civilian faculty members at certain Department of Defense schools: employment and compensation" for "National Defense University: Foreign Language Center of the Defense Language Institute: civilian faculty members" as section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsecs. (a) to (d) relating to similar subject matter but not including coverage of the George C. Marshall European Center for Security Studies.

**1992**—Pub. L. 102–484, §923(a)(2)(A), substituted "University; Foreign Language Center of the Defense Language Institute" for "University:" in section catchline.

Subsec. (a). Pub. L. 102–484, §923(a)(1)(A), inserted "and the Foreign Language Center of the Defense Language Institute" after "National Defense University".

Subsec. (c). Pub. L. 102–484, §923(a)(1)(B), substituted "In the case of the National Defense University, this section" for "This section".

**1991**—Subsec. (c). Pub. L. 102–25 substituted "after February 27, 1990" for "after the end of the 90-day period beginning on the date of the enactment of this section".

Subsec. (d). Pub. L. 102–190 inserted "the Institute for National Strategic Study," after "Staff College,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECT OF 1992 AMENDMENTS ON CURRENT EMPLOYEES

Pub. L. 102–484, div. A, title IX, §923(b), Oct. 23, 1992, 106 Stat. 2474, provided that: "In the case of a person who, on the day before the date of the enactment of this Act [Oct. 23, 1992], is employed as a professor, instructor, or lecturer at the Foreign Language Center of the Defense Language Institute, the Secretary of Defense shall afford the person an opportunity to elect to be paid under the compensation plan authorized by section 1595(b) of title 10, United States Code, or to continue to be paid under the General Schedule (with no reduction in pay) under section 5332 of title 5, United States Code."

## §1596. Foreign language proficiency: special pay for proficiency beneficial for intelligence interests

(a) The Secretary of Defense may pay special pay under this section to a civilian officer or employee of the Department of Defense who—

(1) has been certified as being proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is important for the effective collection, production, or dissemination of foreign intelligence information; and

(2) is serving in a position, or is subject to assignment to a position, in which proficiency in that language facilitates performance of officially assigned intelligence or intelligence-related duties.

(b) The annual rate of special pay under subsection (a) shall be determined by the Secretary of Defense.

(c) Special pay under this section may be paid in addition to any compensation authorized under section 1602 of this title for which an officer or employee is eligible.

(Added Pub. L. 101–193, title V, §501(a)(1), Nov. 30, 1989, 103 Stat. 1707, §1592; renumbered §1596, Pub. L. 101–510, div. A, title XIV, §1484(a), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 104–201, div. A, title XVI, §1633(e)(2), Sept. 23, 1996, 110 Stat. 2752; Pub. L. 106–398, §1 [[div.

A], title XI, §1131(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–317.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Pub. L. 106–398 substituted "Foreign language proficiency: special pay for proficiency beneficial for intelligence interests" for "Foreign language proficiency: special pay" as section catchline.

**1996**—Subsec. (c). Pub. L. 104–201 substituted "section 1602" for "section 1604(b)".

**1990**—Pub. L. 101–510 renumbered the second section 1592 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of this title.

### EFFECTIVE DATE

Pub. L. 101–193, title V, §501(b), Nov. 30, 1989, 103 Stat. 1708, provided that: "Section 1592 [now 1596] of title 10, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning on or after the later of—

"(1) October 1, 1989, or

"(2) the date of the enactment of this Act [Nov. 30, 1989]."

## §1596a. Foreign language proficiency: special pay for proficiency beneficial for other national security interests

(a) AUTHORITY.—The Secretary of Defense may pay special pay under this section to an employee of the Department of Defense who—

(1) has been certified by the Secretary to be proficient in a foreign language identified by the Secretary as being a language in which proficiency by civilian personnel of the Department is necessary because of national security interests;

(2) is assigned duties requiring proficiency in that foreign language; and

(3) is not receiving special pay under section 1596 of this title.

(b) RATE.—The rate of special pay for an employee under this section shall be prescribed by the Secretary, but may not exceed five percent of the employee's rate of basic pay.

(c) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay under this section is in addition to any other pay or allowances to which the employee is entitled.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 106–398, §1 [[div. A], title XI, §1131(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–317; amended Pub. L. 108–375, div. A, title XI, §1102(a), Oct. 28, 2004, 118 Stat. 2072.)

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Subsec. (a)(2). Pub. L. 108–375 struck out "during a contingency operation supported by the armed forces" after "foreign language".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title XI, §1102(b), Oct. 28, 2004, 118 Stat. 2072, provided that: "The amendment

by this section [amending this section] shall take effect on the first day of the first month that begins after the date of the enactment of this Act [Oct. 28, 2004]."

## §1596b. Foreign language proficiency: National Foreign Language Skills Registry

(a) ESTABLISHMENT.—(1) The Secretary of Defense may establish and maintain a registry of persons who—

(A) have proficiency in one or more critical foreign languages;

(B) are willing to provide linguistic services to the United States in the interests of national security during war or a national emergency; and

(C) meet the eligibility requirements of subsection (b).

(2) The registry shall be known as the "National Foreign Language Skills Registry" (in this section referred to as the "Registry").

(b) ELIGIBLE PERSONS.—To be eligible for listing on the Registry, a person—

(1) must be—

(A) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))); or

(B) an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

(2) shall express willingness, in a form and manner prescribed by the Secretary—

(A) to provide linguistic services for a foreign language as described in subsection (a); and

(B) to be listed on the Registry; and

(3) shall meet such language proficiency and other selection criteria as may be prescribed by the Secretary.

(c) REGISTERED INFORMATION.—The Registry shall consist of the following:

(1) The names of eligible persons selected by the Secretary for listing on the Registry.

(2) Such other information on such persons as the Secretary determines pertinent to the use of such persons to provide linguistic services as described in subsection (a).

(d) PROTECTION OF PRIVACY.—The Secretary may withhold from public disclosure the information maintained in the Registry in accordance with section 552a of title 5.

(e) DESIGNATION OF CRITICAL FOREIGN LANGUAGES.—The Secretary shall designate those languages that are critical foreign languages for the purposes of this section. The Secretary shall make such a designation for any foreign language for which there is a shortage of experts in translation or interpretation available to meet requirements of the Secretary or of the head of any other department or agency of the United States for translation or interpretation in the national security interests of the United States.

(f) LINGUISTIC SERVICES DEFINED.—In this section, the term "linguistic services" means translation or interpretation of communication in a foreign language.

(Added Pub. L. 107–314, div. A, title X, §1064(a)(1), Dec. 2, 2002, 116 Stat. 2653.)

## §1596c. Programming language proficiency: special pay for proficiency beneficial for national security interests

(a) AUTHORITY.—The Secretary of Defense, under the sole and exclusive discretion of the Secretary, may pay special pay under this section to an employee of the Department of Defense who—

(1) has been certified by the Secretary to be proficient in a computer or digital programming language identified by the Secretary as being a language in which proficiency by civilian personnel of the Department is necessary because of national security interests; and

(2) is assigned duties requiring proficiency in that programming language.

(b) RATE.—The rate of special pay for an employee under this section shall be prescribed by the Secretary, but may not exceed 20 percent of the employee's rate of basic pay.

(c) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay under this section is in addition to any other pay or allowances to which the employee is entitled.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 116–283, div. A, title II, §241(c)(1), Jan. 1, 2021, 134 Stat. 3487.)

## §1597. Civilian positions: guidelines for reductions

(a) REQUIREMENT OF GUIDELINES FOR REDUCTIONS IN CIVILIAN POSITIONS .—Reductions in the number of civilian positions of the Department of Defense during a fiscal year, if any, shall be carried out in accordance with the guidelines established pursuant to subsection (b).

(b) GUIDELINES.—The Secretary of Defense shall establish guidelines for the manner in which reductions in the number of civilian positions of the Department of Defense are made. In establishing the guidelines, the Secretary shall ensure that nothing in the guidelines conflicts with the requirements of section 129 of this title or the policies and procedures established under section 129a of this title. The guidelines shall include procedures for reviewing civilian positions for reductions according to the following order:

(1) Positions filled by foreign national employees overseas.

(2) All other positions filled by civilian employees overseas.

(3) Overhead, indirect, and administrative positions in headquarters or field operating agencies in the United States.

(4) Direct operating or production positions in the United States.

(c) EXCEPTIONS.—The Secretary of Defense may permit a variation from the guidelines established under subsection (b) if the Secretary determines that such variation is critical to the national security. The Secretary shall immediately notify the Congress of any such variation and the reasons for such variation.

(d) INVOLUNTARY OR SIGNIFICANT REDUCTIONS OF CIVILIAN POSITIONS.—The Secretary of Defense may not implement any involuntary reduction [1] furlough, or significant reduction of over 50 civilian positions in a military department, Defense Agency, or other component of the Department of Defense until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reductions or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs. The Secretary shall notify the congressional defense committees and each Member of Congress representing the area in which reductions are ordered. Such notification shall include billet, activity name, number of employees at the location, number of employees involuntarily separated by billet, reason for the personnel action, actions to mitigate reductions, and savings and costs.

(e) CONSIDERATION OF EMPLOYEE PERFORMANCE IN REDUCTIONS.—The Secretary of Defense shall establish procedures to provide that, in implementing any reduction in force for civilian positions in the Department of Defense in the competitive service or the excepted service, the determination of which employees shall be separated from employment in the Department shall, among other factors as determined by the Secretary, account for employee performance, as determined under any applicable performance management system.

(Added Pub. L. 101–510, div. A, title III, §322(a)(1), Nov. 5, 1990, 104 Stat. 1528; amended Pub. L.

102–484, div. A, title III, §371(a), Oct. 23, 1992, 106 Stat. 2382; Pub. L. 103–35, title II, §201(d)(1), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title III, §363, Nov. 30, 1993, 107 Stat. 1628; Pub. L. 112–81, div. A, title IX, §933(b), Dec. 31, 2011, 125 Stat. 1544; Pub. L. 114–92, div. A, title XI, §1101(a), Nov. 25, 2015, 129 Stat. 1022; Pub. L. 115–91, div. A, title X, §1051(a)(6)(A), Dec. 12, 2017, 131 Stat. 1560; Pub. L. 117–81, div. A, title XI, §1105, Dec. 27, 2021, 135 Stat. 1950; Pub. L. 119–60, div. A, title XI, §1107(d), Dec. 18, 2025, 139 Stat. 1074.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60 inserted "or Significant" after "Involuntary" in heading, substituted "furlough, or significant reduction of over 50" for "or furlough of", and inserted at end "The Secretary shall notify the congressional defense committees and each Member of Congress representing the area in which reductions are ordered. Such notification shall include billet, activity name, number of employees at the location, number of employees involuntarily separated by billet, reason for the personnel action, actions to mitigate reductions, and savings and costs."

**2021**—Subsec. (e). Pub. L. 117–81 substituted "Consideration of Employee Performance in Reductions" for "Reductions Based Primarily on Performance" in heading and ", among other factors as determined by the Secretary, account for employee" for "be made primarily on the basis of" in text.

**2017**—Subsec. (c). Pub. L. 115–91, §1051(a)(6)(A)(iii), struck out "or a master plan prepared under subsection (c)" after "established under subsection (b)".

Pub. L. 115–91, §1051(a)(6)(A)(ii), which directed the "striking" of subsec. (d) as (c), was executed by redesignating subsec. (d) as (c), to reflect the probable intent of Congress.

Pub. L. 115–91, §1051(a)(6)(A)(i), struck out subsec. (c) which related to civilian positions master plan.

Subsecs. (d) to (f). Pub. L. 115–91, §1051(a)(6)(A)(ii), which directed the "striking" of subsecs. (e) and (f) as (d) and (e), respectively, was executed by redesignating subsecs. (e) and (f) as (d) and (e), respectively, to reflect the probable intent of Congress.

**2015**—Subsec. (f). Pub. L. 114–92 added subsec. (f).

**2011**—Subsec. (b). Pub. L. 112–81 inserted after first sentence "In establishing the guidelines, the Secretary shall ensure that nothing in the guidelines conflicts with the requirements of section 129 of this title or the policies and procedures established under section 129a of this title."

**1993**—Subsec. (a). Pub. L. 103–160, §363(a)(1), substituted "during a fiscal year" for "during fiscal year 1993".

Subsec. (b). Pub. L. 103–160, §363(a)(2), struck out "for fiscal year 1993" after "establish guidelines" in introductory provisions.

Subsec. (c)(1). Pub. L. 103–160, §363(b)(1), substituted "for each fiscal year" for "for fiscal year 1994".

Subsec. (c)(3)(A)(v). Pub. L. 103–35, §201(d)(1)(A)(i), substituted "Defense Agency" for "defense agency".

Subsec. (c)(3)(A)(vii). Pub. L. 103–160, §363(b)(2), added cl. (vii).

Subsec. (c)(3)(C). Pub. L. 103–35, §201(d)(1)(A)(ii), substituted "Defense Agency" for "defense agency" after "to which the military department," and "Defense Agency," for "defense agency" after "for the military department,".

Subsec. (c)(4). Pub. L. 103–160, §363(b)(3), added par. (4).

Subsec. (e). Pub. L. 103–35, §201(d)(1)(B), substituted "on the date" for "of the date".

**1992**—Pub. L. 102–484 substituted "Civilian positions: guidelines for reductions" for "Employees of industrial-type or commercial-type activities: guidelines for future reductions" as section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsecs. (a) to (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES

Pub. L. 107–107, div. A, title XI, §1102, Dec. 28, 2001, 115 Stat. 1235, authorized the Secretary of Defense to establish a pilot program to facilitate the reemployment of eligible employees of the Department of Defense who were involuntarily separated due to a reduction in force, relocation as a result of a transfer of function,

realignment, or change of duty station, and to pay retraining incentives to encourage non-Federal employers to hire and retain such employees, and provided that no incentive could be paid under such program for training commenced after Sept. 30, 2005.

**NON-FEDERAL EMPLOYMENT INCENTIVE PILOT PROGRAM**

Pub. L. 103–337, div. A, title III, §348, Oct. 5, 1994, 108 Stat. 2725, authorized the Secretary of Defense to establish a pilot program for the payment of incentives to facilitate the reemployment of eligible employees of the Department of Defense whose employment with the Department was being terminated by reason of the closure or realignment of the military installations where such persons were employed, to pay retraining and relocation incentives to encourage non-Federal employers to hire and retain such employees, and to pay a relocation incentive to an eligible employee if it was necessary for the employee to relocate in order to commence employment with a non-Federal employer under such program, and provided that no incentive could be paid under such program for training or relocations commenced after Sept. 30, 1999.

**SKILL TRAINING PROGRAMS IN DEPARTMENT OF DEFENSE**

Pub. L. 102–484, div. D, title XLIV, §4435, Oct. 23, 1992, 106 Stat. 2722, authorized the Secretaries of the military departments and the Secretary of Defense, during the period beginning on Oct. 1, 1992, and ending on Sept. 30, 1995, to provide not more than one year of training in training facilities of the Department of Defense to civilian employees of the Department who were separated from employment as a result of a reduction in force or a closure or realignment of a military installation, and directed the Secretary to publish a register of the skill training programs carried out by the Department not later than Feb. 1, 1993.

**INVOLUNTARY REDUCTIONS OF CIVILIAN PERSONNEL IN FISCAL YEAR 1991**

Pub. L. 101–510, div. A, title III, §322(b), Nov. 5, 1990, 104 Stat. 1529, provided that after Nov. 5, 1990, an agency or component of the Department of Defense could not implement any involuntary reductions or furloughs of civilian personnel in industrial-type or commercial-type activities in fiscal year 1991 until 45 days after the date on which the agency or component submitted a report to Congress outlining the reasons why such reductions or furloughs were required.

[1] *So in original. Probably should be followed by a comma.*

## §1598. Assistance to terminated employees to obtain certification and employment as teachers or employment as teachers' aides

(a) PLACEMENT PROGRAM.—The Secretary of Defense may establish a program—

(1) to assist eligible civilian employees of the Department of Defense and the Department of Energy after the termination of their employment to obtain—

(A) certification or licensure as elementary or secondary school teachers; or

(B) the credentials necessary to serve as teachers' aides; and

(2) to facilitate the employment of such employees by local educational agencies that—

(A) are receiving grants under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; and

(B) are also experiencing a shortage of teachers or teachers' aides.

(b) ELIGIBLE EMPLOYEES.—(1) A civilian employee of the Department of Defense or the Department of Energy shall be eligible for selection by the Secretary of Defense to participate in the placement program authorized by subsection (a) if the employee—

(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense or the Secretary of Energy, as the case may be;

(B) has received—

(i) in the case of an employee applying for assistance for placement as an elementary or

secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

(ii) in the case of an employee applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(C) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) The Secretary of Defense may accept an application from a civilian employee referred to in paragraph (1) who was terminated during the period beginning on October 1, 1990, and ending on October 1, 1992, if the employee otherwise satisfies the eligibility criteria specified in that paragraph.

(c) SELECTION OF PARTICIPANTS.—(1) Selection of civilian employees to participate in the placement program shall be made on the basis of applications submitted to the Secretary of Defense after the employees receive a notice of termination. An application shall be filed within such time, in such form, and contain such information as the Secretary of Defense may require.

(2) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary of Defense shall give priority to civilian employees who—

(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

(3) The Secretary of Defense may not select a civilian employee to participate in the program unless the Secretary has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under the program with respect to that member.

(d) AGREEMENT.—A civilian employee selected to participate in the placement program shall be required to enter into an agreement with the Secretary of Defense in which the employee agrees—

(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

(2) to accept—

(A) in the case of an employee selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2) [1] of this title, as in effect on October 4, 1999, to begin the school year after obtaining that certification or licensure; or

(B) in the case of an employee selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3) [1] of this title, as in effect on October 4, 1999, to begin the school year after obtaining the necessary credentials.

(e) STIPEND FOR PARTICIPANTS.—(1) Except as provided in paragraph (2), the Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

(A) $5,000; or

(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) [1] of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) incurred by the participant while

obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

(2) A civilian employee selected to participate in the placement program who receives separation pay under section 5597 of title 5 shall not be paid a stipend under paragraph (1).

(3) A stipend paid under paragraph (1) shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(f) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES .—Subsections (h) through (k) of section 1151 [1] of this title, as in effect on October 4, 1999, shall apply with respect to the placement program authorized by this section.

(Added Pub. L. 102–484, div. D, title XLIV, §4442(a), Oct. 23, 1992, 106 Stat. 2730; amended Pub. L. 103–35, title II, §201(h)(1), May 31, 1993, 107 Stat. 100; Pub. L. 103–160, div. A, title XIII, §1331(c)(2), Nov. 30, 1993, 107 Stat. 1792; Pub. L. 103–382, title III, §391(b)(3), Oct. 20, 1994, 108 Stat. 4021; Pub. L. 104–106, div. A, title XV, §1503(a)(14), Feb. 10, 1996, 110 Stat. 511; Pub. L. 104–201, div. A, title V, §576(b), Sept. 23, 1996, 110 Stat. 2535; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(11)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

Section 1151 of this title, referred to in subsecs. (d)(2)(A), (B) and (f), was repealed by Pub. L. 106–65, div. A, title XVII, §1707(a)(1), Oct. 5, 1999, 113 Stat. 823, and a new section 1151 of this title was subsequently added by Pub. L. 109–364, §561(a).

Section 472 of the Higher Education Act of 1965, referred to in subsec. (e)(1)(B), which is classified to section 1087ll of Title 20, Education, was generally amended by Pub. L. 116–260, div. FF, title VII, §702(b), Dec. 27, 2020, 134 Stat. 3138. For provisions similar to former pars. (1), (2), (3), (8), and (9), see subsec. (a)(1), (2), (5), (9), and (10), respectively, of section 1087ll of Title 20.

The Higher Education Act of 1965, referred to in subsec. (e)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

### AMENDMENTS

**2000**—Subsec. (d)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(11)(A)], inserted "as in effect on October 4, 1999," after "of this title," in subpars. (A) and (B).

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(11)(B)], inserted ", as in effect on October 4, 1999," after "of this title".

**1996**—Subsec. (a)(2)(A). Pub. L. 104–106 substituted "6301" for "2701".

Subsec. (d)(2)(A), (B). Pub. L. 104–201 substituted "two school years" for "five school years".

**1994**—Subsec. (a)(2)(A). Pub. L. 103–382 struck out "chapter 1 of" after "grants under".

**1993**—Subsec. (d)(2)(A), (B). Pub. L. 103–160 substituted "five school years" for "two school years".

Subsec. (e)(4). Pub. L. 103–35 struck out par. (4) which read as follows: "A person who receives a stipend under section 4436 of this title shall not be paid a stipend pursuant to paragraph (1)."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title XIII, §1331(h), Nov. 30, 1993, 107 Stat. 1793, provided that: "The amendments made by subsections (c) and (d) [amending this section and section 4703 of this title and former section 1151 of this title] shall not apply with respect to—

"(1) persons selected by the Secretary of Defense before the date of the enactment of this Act [Nov. 30, 1993] to participate in the teacher and teacher's aide placement programs established pursuant to sections 1151 [repealed], 1598, and 2410j [now 10 U.S.C. 4703] of title 10, United States Code; or

"(2) agreements entered into by the Secretary before such date with local educational agencies under such sections."

**SAVINGS PROVISION**

Pub. L. 104–201, div. A, title V, §576(d), Sept. 23, 1996, 110 Stat. 2535, provided that: "The amendments made by this section [amending this section and section 4703 of this title and former section 1151 of this title] do not affect obligations under agreements entered into in accordance with section 1151 [repealed], 1598, or 2410j [now 10 U.S.C. 4703] of title 10, United States Code, before the date of the enactment of this Act [Sept. 23, 1996]."

[1] *See References in Text note below.*

## [§1599. Renumbered §1611]

## §1599a. Financial assistance to certain employees in acquisition of critical skills

(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Department Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(b) USE OF FUNDS FOR TRAINING PROGRAM.—Any payment made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

(Added Pub. L. 104–93, title V, §505(a), Jan. 6, 1996, 109 Stat. 973; amended Pub. L. 112–239, div. A, title X, §1076(f)(20), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–291, div. A, title X, §1071(c)(9), Dec. 19, 2014, 128 Stat. 3509.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Subsec. (a). Pub. L. 113–291 substituted "(50 U.S.C. 3614)" for "(50 U.S.C. 402 note)".

**2013**—Subsec. (a). Pub. L. 112–239 substituted "National Security Agency Act" for "National Security Act".

## §1599b. Employees abroad: travel expenses; health care

(a) IN GENERAL.—The Secretary of Defense may provide civilian employees, and members of their families, abroad with benefits that are comparable to certain benefits that are provided by the Secretary of State to members of the Foreign Service and their families abroad as described in subsections (b) and (c). The Secretary may designate the employees and members of families who are eligible to receive the benefits.

(b) TRAVEL AND RELATED EXPENSES.—The Secretary of Defense may pay travel expenses and related expenses for purposes and in amounts that are comparable to the purposes for which, and the amounts in which, travel and related expenses are paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

(c) HEALTH CARE PROGRAM.—The Secretary of Defense may establish a health care program that is comparable to the health care program established by the Secretary of State under section 904

of the Foreign Service Act of 1980 (22 U.S.C. 4084).

(d) ASSISTANCE.—The Secretary of Defense may enter into agreements with the heads of other departments and agencies of the Government in order to facilitate the payment of expenses authorized by subsection (b) and to carry out a health care program authorized by subsection (c).

(e) ABROAD DEFINED.—In this section, the term "abroad" means outside—

(1) the United States; and

(2) the territories and possessions of the United States.

(Added Pub. L. 104–201, div. A, title XVI, §1604(a), Sept. 23, 1996, 110 Stat. 2735.)

## §1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces

(a) IN GENERAL.—(1) The Secretary of Defense may, at the discretion of the Secretary, exercise any authority for the appointment and pay of health care personnel under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense if the Secretary determines that the exercise of such authority is necessary in order to provide or enhance the capacity of the Department to provide care and treatment for members of the armed forces who are wounded or injured on active duty in the armed forces and to support the ongoing patient care and medical readiness, education, and training requirements of the Department of Defense.

(2)(A) For purposes of section 3304 of title 5, the Secretary of Defense may—

(i) designate any category of medical or health professional positions within the Department of Defense as a shortage category occupation or critical need occupation; and

(ii) utilize the authority in such section to recruit and appoint qualified persons directly in the competitive service to positions so designated.

(B) In using the authority provided by this paragraph, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(C) Any designation by the Secretary for purposes of subparagraph (A)(i) shall be based on an analysis of current and future Department of Defense workforce requirements.

(b) TERMINATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a)(1) to exercise authorities available under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense expires December 31, 2030.

(2) The Secretary may not appoint a person to a position of employment under subsection (a)(2) after December 31, 2030.

(Added Pub. L. 107–107, div. A, title XI, §1104(a), Dec. 28, 2001, 115 Stat. 1236; amended Pub. L. 110–181, div. A, title XVI, §1636(a), Jan. 28, 2008, 122 Stat. 463; Pub. L. 110–417, [div. A], title XI, §1107, Oct. 14, 2008, 122 Stat. 4617; Pub. L. 111–383, div. A, title X, §1075(b)(22), title XI, §1104, Jan. 7, 2011, 124 Stat. 4370, 4383; Pub. L. 113–66, div. A, title XI, §1109, Dec. 26, 2013, 127 Stat. 890; Pub. L. 116–283, div. A, title XI, §1116, Jan. 1, 2021, 134 Stat. 3897; Pub. L. 118–159, div. A, title VII, §712, Dec. 23, 2024, 138 Stat. 1947.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1599c, added Pub. L. 104–201, div. A, title XVI, §1615(a)(1), Sept. 23, 1996, 110 Stat. 2740; amended Pub. L. 105–85, div. A, title X, §1073(a)(31), Nov. 18, 1997, 111 Stat. 1902, related to treatment of a Department of Defense violation of veterans' preference requirements as a prohibited personnel practice, prior to repeal by Pub. L. 105–339, §6(c)(1)(A), Oct. 31, 1998, 112 Stat. 3188.

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 substituted "December 31, 2030" for "December 31, 2025" in pars. (1) and (2).

**2021**—Subsec. (b). Pub. L. 116–283 substituted "December 31, 2025" for "December 31, 2020" in pars. (1) and (2).

**2013**—Subsec. (a)(2)(A). Pub. L. 113–66, §1109(c)(1), substituted "section 3304 of title 5" for "sections 3304, 5333, and 5753 of title 5" in introductory provisions.

Subsec. (a)(2)(A)(ii). Pub. L. 113–66, §1109(c)(2), substituted "the authority in such section" for "the authorities in such sections".

Subsec. (b). Pub. L. 113–66, §1109(b), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to recruitment of personnel.

Subsec. (c). Pub. L. 113–66, §1109(b)(2), redesignated subsec. (c) as (b).

Pub. L. 113–66, §1109(a), substituted "December 31, 2020" for "December 31, 2015" in pars. (1) and (2).

**2011**—Subsec. (a)(2)(A)(i). Pub. L. 111–383, §1104(a)(1)(A), substituted "a shortage category occupation or critical need occupation" for "shortage category positions".

Subsec. (a)(2)(A)(ii). Pub. L. 111–383, §1104(a)(1)(B), substituted "qualified persons directly in the competitive service" for "highly qualified persons directly".

Subsec. (a)(2)(B). Pub. L. 111–383, §1075(b)(22), substituted "subchapter I" for "subchapter 1".

Subsec. (a)(2)(C). Pub. L. 111–383, §1104(a)(2), added subpar. (C).

Subsec. (c)(1). Pub. L. 111–383, §1104(b)(1), inserted "under subsection (a)(1)" after "Secretary of Defense" and substituted "December 31, 2015" for "September 30, 2012".

Subsec. (c)(2). Pub. L. 111–383, §1104(b)(2), substituted "December 31, 2015" for "September 30, 2012".

**2008**—Pub. L. 110–181 amended section generally. Prior to amendment, section related to appointment in excepted service of certain health care professionals.

Subsec. (a). Pub. L. 110–417, §1107(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 110–417, §1107(b), designated existing provisions as par. (1), substituted "September 30, 2012" for "September 30, 2010", and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**WAGE RATE ADJUSTMENT FOR CERTAIN HEALTH CARE OCCUPATIONS**

Pub. L. 112–10, div. A, title VIII, §8086, Apr. 15, 2011, 125 Stat. 76, provided that: "Notwithstanding any other provision of law or regulation, during the current fiscal year and hereafter, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code."

## §1599d. Financial management positions: authority to prescribe professional certification and credential standards

(a) AUTHORITY TO PRESCRIBE PROFESSIONAL CERTIFICATION AND CREDENTIAL STANDARDS.—The Secretary of Defense may prescribe professional certification and credential standards for financial management positions within the Department of Defense, including requirements for formal education and requirements for certifications that individuals have met predetermined qualifications set by an agency of Government or by an industry or professional group. Any such professional certification or credential standard shall be prescribed as a Department regulation.

(b) WAIVER.—The Secretary may waive any standard prescribed under subsection (a) whenever the Secretary determines such a waiver to be appropriate.

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), the Secretary may, in the Secretary's discretion—

(A) require that a standard prescribed under subsection (a) apply immediately to all personnel holding financial management positions designated by the Secretary; or

(B) delay the imposition of such a standard for a reasonable period to permit persons holding financial management positions so designated time to comply.

(2) A formal education requirement prescribed under subsection (a) shall not apply to any person employed by the Department in a financial management position before the standard is prescribed.

(d) DISCHARGE OF AUTHORITY.—The Secretary shall prescribe any professional certification or credential standards under subsection (a) through the Under Secretary of Defense (Comptroller), in consultation with the Under Secretary of Defense for Personnel and Readiness.

(e) REPORTS.—Not later than one year after the effective date of any regulations prescribed under subsection (a), or any significant modification of such regulations, the Secretary shall, in conjunction with the Director of the Office of Personnel Management, submit to Congress a report setting forth the plans of the Secretary to provide training to appropriate Department personnel to meet any new professional certification or credential standard under such regulations or modification.

(f) FINANCIAL MANAGEMENT POSITION DEFINED.—In this section, the term "financial management position" means a position or group of positions (including civilian and military positions), as designated by the Secretary for purposes of this section, that perform, supervise, or manage work of a fiscal, financial management, accounting, auditing, cost, or budgetary nature, or that require the performance of financial management-related work.

(Added Pub. L. 107–314, div. A, title XI, §1104(a)(1), Dec. 2, 2002, 116 Stat. 2661; amended Pub. L. 110–417, [div. A], title XI, §1110, Oct. 14, 2008, 122 Stat. 4619; Pub. L. 112–81, div. A, title X, §1051(a), Dec. 31, 2011, 125 Stat. 1581.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 112–81 amended section generally. Prior to amendment, section related to the authority to prescribe certification and credential standards for professional accounting positions.

**2008**—Subsec. (e). Pub. L. 110–417 substituted "0505, 0510, 0511, or equivalent" for "GS–510, GS–511, and GS–505".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 107–314, div. A, title XI, §1104(b), Dec. 2, 2002, 116 Stat. 2661, provided that: "Standards established pursuant to section 1599d of title 10, United States Code, as added by subsection (a), may take effect no sooner than 120 days after the date of the enactment of this Act [Dec. 2, 2002]."

## §1599e. Payment of retention bonuses to DOD civilian employees in Guam.

Notwithstanding subsection (f) of section 5754 of title 5, the Secretary of Defense or Secretary of a military department may waive the limit established under subsection (e)(1) of such section and pay an otherwise eligible employee or category of employees in the territory of Guam retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

(Added Pub. L. 119–60, div. A, title XI, §1109, Dec. 18, 2025, 139 Stat. 1075.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1599e, Pub. L. 114–92, div. A, title XI, §1105(a)(1), Nov. 25, 2015, 129 Stat. 1023, related to probationary period for employees, prior to repeal by Pub. L. 117–81, div. A, title XI, §1106(a)(1), Dec. 27, 2021, 135 Stat. 1950, effective Dec. 31, 2022.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF REPEAL**

Pub. L. 117–81, div. A, title XI, §1106(a)(1), Dec. 27, 2021, 135 Stat. 1950, provided that the repeal of former section 1599e of this title was effective Dec. 31, 2022. Conforming amendments by section 1106 of Pub. L. 117–81 (amending sections 3321, 3393, 7501, 7511, and 7541 of Title 5, Government Organization and Employees) were executed as if effective at the same time as the repeal, to reflect the probable intent of Congress.

**APPLICATION**

Pub. L. 117–81, div. A, title XI, §1106(a)(2), Dec. 27, 2021, 135 Stat. 1950, provided that: "The modification of probationary periods for covered employees (as that term is defined in such [former] section 1599e [meaning former 10 U.S.C. 1599e] as in effect on the date immediately preceding the date of enactment of this Act [Dec. 27, 2021]) by operation of the amendment made by paragraph (1) [repealing former section 1599e of this title] shall only apply to an individual appointed as such an employee on or after the effective date specified in paragraph (1) [see Effective Date of Repeal note above]."

## §1599f. United States Cyber Command recruitment and retention

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may—

(A) establish, as positions in the excepted service, such qualified positions in the Department of Defense as the Secretary determines necessary to carry out the responsibilities of the United States Cyber Command, including—

(i) positions held by staff of the headquarters of the United States Cyber Command;

(ii) positions held by elements of the United States Cyber Command enterprise relating to cyberspace operations, including elements assigned to the Joint Task Force-Department of Defense Information Networks;

(iii) positions held by elements of the military departments supporting the United States Cyber Command;

(iv) positions held in combatant commands, defense agencies, and field activities supporting the United States Cyber Command; and

(v) up to 500 positions not otherwise described in clauses (i) through (iv) that the Secretary determines are hard-to-fill, highly skilled positions critical to cyberspace planning and operations in defense of, and which advance, U.S. national interests in collaboration with domestic and international partners.

(B) appoint an individual to a qualified position (after taking into consideration the availability of preference eligibles for appointment to the position); and

(C) subject to the requirements of subsections (b) and (c), fix the compensation of an individual for service in a qualified position.

(2) The authority of the Secretary under this subsection applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

(b) RATES OF PAY.—The Secretary—

(1) consistent with paragraph (2), shall fix the rates of basic pay for employees appointed under subsection (a)(1)(B)—

(A) with a rate of pay provided for employees in comparable positions in the Federal Government; and

(B) subject to the same limitations on maximum rates of pay established for such employees by statute or regulation; and

(2) may prescribe a rate of basic pay for such an employee so appointed at a rate not to exceed a rate equal to 150 percent of the maximum rate of basic pay authorized for positions at level I of the Executive Schedule under section 5312 of title 5.

(c) ADDITIONAL COMPENSATION, INCENTIVES, AND ALLOWANCES.—(1) The

Secretary may provide employees in qualified positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

(2) An employee in a qualified position whose rate of basic pay is fixed under subsection (b)(1) shall be eligible for an allowance under section 5941 of title 5 on the same basis and to the same extent as if the employee was an employee covered by such section, including eligibility conditions, allowance rates, and all other terms and conditions in law or regulation.

(d) IMPLEMENTATION PLAN REQUIRED.—The authority granted in subsection (a) shall become effective 30 days after the date on which the Secretary of Defense provides to the congressional defense committees a plan for implementation of such authority. The plan shall include the following:

(1) An assessment of the current scope of the positions covered by the authority.

(2) A plan for the use of the authority.

(3) An assessment of the anticipated workforce needs of the United States Cyber Command across the future-years defense plan.

(4) Other matters as appropriate.

(e) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in subsection (a) may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an office, component, subcomponent, or equivalent of the Department that is a successor to an office, component, subcomponent, or equivalent of the Department covered by the agreement before the succession.

(f) TRAINING.—(1) The Secretary shall provide training to covered personnel on hiring and pay matters relating to authorities under this section.

(2) For purposes of this subsection, covered personnel are employees of the Department who—

(A) carry out functions relating to—

(i) the management of human resources and the civilian workforce of the Department; or

(ii) the writing of guidance for the implementation of authorities regarding hiring and pay under this section; or

(B) are employed in supervisory positions or have responsibilities relating to the hiring of individuals for positions in the Department and to whom the Secretary intends to delegate authority under this section.

(g) REQUIRED REGULATIONS.—The Secretary, in coordination with the Director of the Office of Personnel Management, shall prescribe regulations for the administration of this section.

(h) ANNUAL REPORT.—(1) Not later than one year after the date of the enactment of this section and not less frequently than once each year thereafter until the date that is three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, the Director of the Office of Personnel Management, in coordination with the Secretary, shall submit to the appropriate committees of Congress a detailed report on the administration of this section during the most recent one-year period.

(2) Each report submitted under paragraph (1) shall include, for the period covered by the report, the following:

(A) A discussion of the process used in accepting applications, assessing candidates, ensuring adherence to veterans' preference, and selecting applicants for vacancies to be filled by an individual for a qualified position.

(B) A description of the following:

(i) How the Secretary plans to fulfill the critical need of the Department to recruit and retain employees in qualified positions.

(ii) The measures that will be used to measure progress.

(iii) Any actions taken during the reporting period to fulfill such critical need.

(C) A discussion of how the planning and actions taken under subparagraph (B) are integrated into the strategic workforce planning of the Department.

(D) The metrics on actions occurring during the reporting period, including the following:

(i) The number of employees in qualified positions hired, disaggregated by occupation, grade, and level or pay band.

(ii) The placement of employees in qualified positions, disaggregated by military department, Defense Agency, or other component within the Department.

(iii) The total number of veterans hired.

(iv) The number of separations of employees in qualified positions, disaggregated by occupation and grade and level or pay band.

(v) The number of retirements of employees in qualified positions, disaggregated by occupation, grade, and level or pay band.

(vi) The number and amounts of recruitment, relocation, and retention incentives paid to employees in qualified positions, disaggregated by occupation, grade, and level or pay band.

(vii) The total number of positions, the title, duties, and responsibilities of each position, and the location of each position, including the assigned department, agency, command, and cost of establishing, appointing, and paying the salary of such positions.

(viii) A description of—

(I) how the Department has used the pay authorities in subsection (b); and

(II) the effect of such authorities on recruitment and retention in the Cyber Excepted Service.

(E) A description of the training provided to employees described in subsection (f)(2) on the use of authorities under this section.

(i) THREE-YEAR PROBATIONARY PERIOD.—The probationary period for all employees hired under the authority established in this section shall be three years.

(j) INCUMBENTS OF EXISTING COMPETITIVE SERVICE POSITIONS.—(1) An individual occupying a position on the date of the enactment of this section that is selected to be converted to a position in the excepted service under this section shall have the right to refuse such conversion.

(2) After the date on which an individual who refuses a conversion under paragraph (1) stops serving in the position selected to be converted, the position may be converted to a position in the excepted service.

(k) FEDERAL WAGE SYSTEM POSITIONS.—The Secretary may—

(1) consistent with section 5341 of title 5, adopt such provisions of that title to provide for prevailing rate systems of basic pay; and

(2) apply those provisions to qualified positions for employees in or under which the Department may employ individuals described by section 5342(a)(2)(A) of such title.

(l) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term "collective bargaining agreement" has the meaning given that term in section 7103(a)(8) of title 5.

(3) The term "excepted service" has the meaning given that term in section 2103 of title 5.

(4) The term "preference eligible" has the meaning given that term in section 2108(3) of title 5.

(5) The term "qualified position" means a position, designated by the Secretary for the purpose of this section, in which the individual occupying such position performs, manages, or supervises functions that execute the responsibilities of the United States Cyber Command relating to cyber

operations.

(6) The term "Senior Executive Service" has the meaning given that term in section 2101a of title 5.

(Added Pub. L. 114–92, div. A, title XI, §1107(a), Nov. 25, 2015, 129 Stat. 1024; amended Pub. L. 114–328, div. A, title XI, §1103(a), (b)(2), Dec. 23, 2016, 130 Stat. 2444; Pub. L. 119–60, div. A, title XI, §1113, Dec. 18, 2025, 139 Stat. 1077.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (h)(1), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

The date of the enactment of this section, referred to in subsec. (j)(1), is the date of enactment of Pub. L. 114–92, which was approved Nov. 25, 2015.

### AMENDMENTS

**2025**—Subsec. (a)(1)(A)(iv), (v). Pub. L. 119–60, §1113(1), added cls. (iv) and (v).

Subsec. (b). Pub. L. 119–60, §1113(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to basic pay.

Subsec. (h)(1). Pub. L. 119–60, §1113(3)(A), substituted "three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026" for "five years after the date of the enactment of this section".

Subsec. (h)(2)(D)(vii), (viii). Pub. L. 119–60, §1113(3)(B), added cls. (vii) and (viii).

Subsecs. (k), (l). Pub. L. 119–60, §1113(4), (5), added subsec. (k) and redesignated former subsec. (k) as (l).

**2016**—Subsecs. (f), (g). Pub. L. 114–328, §1103(a), added subsec. (f) and redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 114–328, §1103(a)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2)(E). Pub. L. 114–328, §1103(b)(2), substituted "employees described in subsection (f)(2) on the use of authorities under this section" for "supervisors of employees in qualified positions at the Department on the use of the new authorities".

Subsecs. (i) to (k). Pub. L. 114–328, §1103(a)(1), redesignated subsecs. (h) to (j) as (i) to (k), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

### DEPARTMENT OF DEFENSE CYBER WORKFORCE EFFORTS

Pub. L. 116–283, div. A, title XVII, §1726(a), (b), Jan. 1, 2021, 134 Stat. 4115, as amended by Pub. L. 118–31, div. A, title XV, §1531(c)(4), Dec. 22, 2023, 137 Stat. 563, provided that:

"(a) RESOURCES FOR CYBER EDUCATION.—

"(1) IN GENERAL.—The Chief Information Officer of the Department of Defense, in consultation with the Director of the National Security Agency (NSA), shall examine the current policies permitting National Security Agency employees to use up to 140 hours of paid time toward NSA's cyber education programs.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Chief Information Officer shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the congressional intelligence committees a strategy for expanding the policies described in paragraph (1) to—

"(i) individuals who occupy positions described in section 1599f of title 10, United States Code; and

"(ii) any other individuals who the Chief Information Officer determines appropriate.

"(B) IMPLEMENTATION PLAN.—The report required under subparagraph (A) shall detail the utilization of the policies in place at the National Security Agency, as well as an implementation plan that describes the mechanisms needed to expand the use of such policies to accommodate wider participation by individuals described in such subparagraph. Such implementation plan shall detail how such individuals would be able to connect to the instructional and participatory opportunities available through the efforts, programs, initiatives, and investments accounted for in the report required under section 1649 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92 [133 Stat. 1758]), including the following programs:

"(i) GenCyber.

"(ii) Centers for Academic Excellence – Cyber Defense.

"(iii) Centers for Academic Excellence – Cyber Operations.

"(C) DEADLINE.—Not later than 120 days after the submission of the report required under subparagraph (A), the Chief Information Officer of the Department of Defense shall carry out the implementation plan contained in such report.

"(b) DISCHARGE THROUGH DIRECTOR.—In carrying out this section, the Chief Information Officer of the Department of Defense shall act through the Director of the office established under section 2192c of title 10, United States Code."

[Subsec. (b) of section 1726 of Pub. L. 116–283, set out above, was added by Pub. L. 118–31, div. A, title XV, §1531(c)(4), Dec. 22, 2023, 137 Stat. 563. Another subsec. (b) of section 1726 is set out as a note under section 2224 of this title.]

## ZERO-BASED REVIEW OF DEPARTMENT OF DEFENSE CYBER AND INFORMATION TECHNOLOGY PERSONNEL

Pub. L. 116–92, div. A, title XVI, §1652, Dec. 20, 2019, 133 Stat. 1761, provided that:

"(a) REVIEW REQUIRED.—Not later than January 1, 2021, each head of a covered department, component, or agency shall—

"(1) complete a zero-based review of the cyber and information technology personnel of the head's covered department, component, or agency; and

"(2) provide the Principal Cyber Advisor, the Chief Information Officer of the Department of Defense, and the Under Secretary of Defense for Personnel and Readiness the findings of the head with respect to the head's covered department, component, or agency.

"(b) COVERED DEPARTMENTS, COMPONENTS, AND AGENCIES.—For purposes of this section, a covered department, component, or agency is—

"(1) an independent Department of Defense component or agency;

"(2) the Office of the Secretary of Defense;

"(3) a component of the Joint Staff;

"(4) a military department or an armed force; or

"(5) a reserve component of the Armed Forces.

"(c) SCOPE OF REVIEW.—As part of a review conducted pursuant to subsection (a)(1), the head of a covered department, component, or agency shall, with respect to the covered department, component, or agency of the head—

"(1) assess military, civilian, and contractor positions and personnel performing cyber and information technology missions;

"(2) determine the roles and functions assigned by reviewing existing position descriptions and conducting interviews to quantify the current workload performed by military, civilian, and contractor workforce;

"(3) compare the Department's manning with the manning of comparable industry organizations;

"(4) include evaluation of the utility of cyber- and information technology-focused missions, positions, and personnel within such components—

"(A) to assess the effectiveness and efficiency of current activities;

"(B) to assess the necessity of increasing, reducing, or eliminating resources; and

"(C) to guide prioritization of investment and funding;

"(5) develop recommendations and objectives for organizational, manning, and equipping change, taking into account anticipated developments in information technologies, workload projections, automation and process enhancements, and Department requirements;

"(6) develop a gap analysis, contrasting the current organization and the objectives developed pursuant to paragraph (5); and

"(7) develop roadmaps of prioritized activities and a timeline for implementing the activities to close the gaps identified pursuant to paragraph (6).

"(d) ELEMENTS.—In carrying out a review pursuant to subsection (a)(1), the head of a covered department, component, or agency shall consider the following:

"(1) Whether position descriptions and coding designators for given cybersecurity and information technology roles are accurate indicators of the work being performed.

"(2) Whether the function of any cybersecurity or information technology position or personnel can be replaced by acquisition of cybersecurity or information technology products or automation.

"(3) Whether a given component or subcomponent is over- or under-resourced in terms of personnel, using industry standards as a benchmark where applicable.

"(4) Whether cybersecurity service provider positions and personnel fit coherently into the enterprise-wide cybersecurity architecture and with the Department's cyber protection teams.

"(5) Whether the function of any cybersecurity or information technology position or personnel could be conducted more efficiently or effectively by enterprise-level cyber or information technology personnel.

"(e) FURNISHING DATA AND ANALYSIS.—

"(1) DATA AND ANALYSIS.—In carrying out subsection (a)(2), each head of a covered department, component, or agency, shall furnish to the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary a description of the analysis that led to the findings submitted under such subsection and the data used in such analysis.

"(2) CERTIFICATION.—The Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary of Defense shall jointly review each submittal under subsection (a)(2) and certify whether the findings and analysis are in compliance with the requirements of this section.

"(f) RECOMMENDATIONS.—After receiving findings submitted by a head of a covered department, component, or agency pursuant to paragraph (2) of subsection (a) with respect to a review conducted by the head pursuant to paragraph (1) of such subsection, the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary shall jointly provide to such head such recommendations as the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary may have for changes in manning or acquisition that proceed from such review.

"(g) IMPLEMENTATION.—The Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary shall jointly oversee and assist in the implementation of the roadmaps developed pursuant to subsection (c)(7) and the recommendations developed pursuant to subsection (f).

"(h) IN-PROGRESS REVIEWS.—Not later than six months after the date of the enactment of this Act [Dec. 20, 2019] and not less frequently than once every six months thereafter until the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary give the briefing required by subsection (i), the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary shall jointly—

"(1) conduct in-progress reviews of the status of the reviews required by subsection (a)(1); and

"(2) provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with a briefing on such in-progress reviews.

"(i) FINAL BRIEFING.—After all of the reviews have been completed under paragraph (1) of subsection (a), after receiving all of the findings pursuant to paragraph (2) of such subsection, and not later than June 1, 2021, the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary shall jointly provide to the congressional defense committees a briefing on the findings of the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary with respect to such reviews, including such recommendations as the Principal Cyber Advisor, the Chief Information Officer, and the Under Secretary may have for changes to the budget of the Department as a result of such reviews.

"(j) DEFINITION OF ZERO-BASED REVIEW.—In this section, the term 'zero-based review' means a review in which an assessment is conducted with each item, position, or person costed anew, rather than in relation to its size or status in any previous budget."

## ACTIONS PENDING FULL IMPLEMENTATION OF PLAN FOR CYBER MISSION FORCE POSITIONS

Pub. L. 114–328, div. A, title XVI, §1643(a), Dec. 23, 2016, 130 Stat. 2602, provided that: "Until the Secretary of Defense completes implementation of the authority in subsection (a) of section 1599f of title 10, United States Code, for United States Cyber Command workforce positions in accordance with the implementation plan required by subsection (d) of such section, the Secretary shall do each of the following:

"(1) Notwithstanding sections 3309 through 3318 of title 5, United States Code, provide for and

implement an interagency transfer agreement between excepted service position systems and competitive service position systems in military departments and Defense Agencies concerned to satisfy the requirements for cyber workforce positions from among a mix of employees in the excepted service and the competitive service in such military departments and Defense Agencies.

"(2) Implement in the defense civilian cyber personnel system a classification system commonly known as a 'Rank-in-person' classification system similar to such classification system used by the National Security Agency as of the date of the enactment of this Act [Dec. 23, 2016].

"(3) Approve direct hiring authority for cyber workforce positions up to the GG or GS–15 level in accordance with the criteria in section 3304 of title 5, United States Code.

"(4) Notwithstanding section 5333 of title 5, United States Code, authorize officials conducting hiring in the competitive service for cyber workforce positions to set starting salaries at up to a step-five level with no justification and at up to a step-ten level with justification that meets published guidelines applicable to the excepted service."

## §1599g. Public-private talent exchange

(a) ASSIGNMENT AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary may, with the agreement of a private-sector organization and the consent of the employee, arrange for the temporary assignment of an employee to such private-sector organization, or from such private-sector organization to a Department of Defense organization under this section.

(b) AGREEMENTS.—(1) The Secretary of Defense shall provide for a written agreement among the Department of Defense, the private-sector organization, and the employee concerned regarding the terms and conditions of the employee's assignment under this section. The agreement—

(A) shall require that the employee of the Department of Defense, upon completion of the assignment, will serve in the Department of Defense, or elsewhere in the civil service if approved by the Secretary, for a period equal to twice the length of the assignment;

(B) shall provide that if the employee of the Department of Defense or of the private-sector organization (as the case may be) fails to carry out the agreement, such employee shall be liable to the United States for payment of all expenses of the assignment, unless that failure was for good and sufficient reason, as determined by the Secretary of Defense; and

(C) shall contain language ensuring that such employee of the Department does not improperly use information that such employee knows relates to a Department acquisition or procurement for the benefit or advantage of the private-sector organization.

(2) An amount for which an employee is liable under paragraph (1) shall be treated as a debt due the United States.

(3) The Secretary may waive, in whole or in part, collection of a debt described in paragraph (2) based on a determination that the collection would be against equity and good conscience and not in the best interests of the United States, after taking into account any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee.

(c) TERMINATION.—An assignment under this section may, at any time and for any reason, be terminated by the Department of Defense or the private-sector organization concerned.

(d) DURATION.—(1) An assignment under this section shall be for a period of not less than three months and not more than two years, renewable up to a total of four years. No employee of the Department of Defense may be assigned under this section for more than a total of 4 years inclusive of all such assignments.

(2) An assignment under this section may be for a period in excess of two years, but not more than four years, if the Secretary determines that such assignment is necessary to meet critical mission or program requirements.

(e) STATUS OF FEDERAL EMPLOYEES ASSIGNED TO PRIVATE-SECTOR ORGANIZATIONS.—(1) An employee of the Department of Defense who is assigned to a private-sector organization under this section shall be considered, during the period of assignment, to

be on detail to a regular work assignment in the Department for all purposes. The written agreement established under subsection (b)(1) shall address the specific terms and conditions related to the employee's continued status as a Federal employee.

(2) In establishing a temporary assignment of an employee of the Department of Defense to a private-sector organization, the Secretary of Defense shall—

(A) ensure that the normal duties and functions of such employee can be reasonably performed by other employees of the Department of Defense without the permanent transfer or reassignment of other personnel of the Department of Defense, including members of the armed forces;

(B) ensure that the normal duties and functions of such employees are not, as a result of and during the course of such temporary assignment, performed or augmented by contractor personnel in violation of the provisions of section 2461 of this title; and

(C) certify that the temporary assignment of such employee shall not have an adverse or negative impact on mission attainment, warfighter support, or organizational capabilities associated with the assignment.

(f) TERMS AND CONDITIONS FOR PRIVATE-SECTOR EMPLOYEES.—An employee of a private-sector organization who is assigned to a Department of Defense organization under this section—

(1) shall continue to receive pay and benefits from the private-sector organization from which such employee is assigned and shall not receive pay or benefits from the Department of Defense, except as provided in paragraph (2);

(2) is deemed to be an employee of the Department of Defense for the purposes of—

(A) chapters 73 and 81 of title 5;

(B) sections 201, 203, 205, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

(C) sections 1343, 1344, and 1349(b) of title 31;

(D) the Federal Tort Claims Act and any other Federal tort liability statute;

(E) the Ethics in Government Act of 1978; and

(F) chapter 21 of title 41;

(3) shall not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private-sector organization from which such employee is assigned;

(4) may not perform work that is considered inherently governmental in nature; and

(5) may not be used to circumvent the provision of section 2461 of this title nor to circumvent any limitation or restriction on the size of the Department's workforce.

(g) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private-sector organization may not charge the Department or any other agency of the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to a Department organization under this section for the period of the assignment.

(h) CONSIDERATIONS.—In carrying out this section, the Secretary of Defense—

(1) shall ensure that, of the assignments made under this section each year, at least 20 percent are from small business concerns (as defined by section 3703(e)(2)(A) of title 5);

(2) shall take into consideration the question of how assignments under this section might best be used to help meet the needs of the Department of Defense with respect to the training of employees; and

(3) shall take into consideration, where applicable, areas of particular private sector expertise, such as cybersecurity.

(i) CONFLICTS OF INTEREST.—A private-sector organization that is temporarily assigned a member of the acquisition workforce under this section shall not be considered to have a conflict of interest with the Department of Defense solely because of participation in the program established under this section.

(j) FUNDING; USE OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND .—Funds for the expenses for the program established under this section may be provided from amounts in the Department of Defense Acquisition Workforce Development Fund. Expenses for the program include—

(1) notwithstanding section 1705(e)(5) of this title, the base salary of a civilian member of the acquisition workforce assigned to a private-sector organization under this section, during the period of that assignment;

(2) expenses relating to assignment under this section of a member of the acquisition workforce away from the member's regular duty station, including expenses for travel, per diem, and lodging; and

(3) expenses for the administration of the program.

(k) REPORT.—Each member of the acquisition workforce that participates in the program established under this section shall, upon completion of such participation, submit to the President of the Defense Acquisition University for inclusion in the report required under section 1746a(e) a description and evaluation of such participation.

(Added Pub. L. 114–328, div. A, title XI, §1104(a), Dec. 23, 2016, 130 Stat. 2445; amended Pub. L. 116–92, div. A, title VIII, §863(a), title XI, §1116, Dec. 20, 2019, 133 Stat. 1522, 1604; Pub. L. 116–283, div. A, title XI, §1102(a), Jan. 1, 2021, 134 Stat. 3885; Pub. L. 117–263, div. A, title VIII, §831(c), Dec. 23, 2022, 136 Stat. 2712; Pub. L. 119–60, div. A, title VIII, §821, Dec. 18, 2025, 139 Stat. 954.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (f)(2)(D), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§921, 922, 931–934, 941–946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

The Ethics in Government Act of 1978, referred to in subsec. (f)(2)(E), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824. Titles I, IV, and V of the Act were classified principally to the Appendix to Title 5, Government Organization and Employees, and were substantially repealed and restated in chapter 131 (§13101 et seq.) of Title 5 by Pub. L. 117–286, §§3(c), 7, Dec. 27, 2022, 136 Stat. 4266, 4361. For complete classification of this Act to the Code, see Tables. For disposition of sections of the Act into chapter 131 of Title 5, see Disposition Table preceding section 101 of Title 5.

### AMENDMENTS

**2025**—Subsec. (f)(2)(B). Pub. L. 119–60 struck out "207," after "205,".

**2022**—Subsec. (k). Pub. L. 117–263 added subsec. (k).

**2021**—Subsec. (b)(1)(C). Pub. L. 116–283, §1102(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "shall contain language ensuring that such employee of the Department does not improperly use pre-decisional or draft deliberative information that such employee may be privy to or aware of related to Department programing, budgeting, resourcing, acquisition, or procurement for the benefit or advantage of the private-sector organization."

Subsec. (f)(4). Pub. L. 116–283, §1102(a)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "may perform work that is considered inherently governmental in nature only when requested in writing by the Secretary of Defense; and".

**2019**—Subsec. (e)(2)(A). Pub. L. 116–92, §1116, inserted "permanent" after "without the".

Subsecs. (i), (j). Pub. L. 116–92, §863(a), added subsecs. (i) and (j).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**APPLICATION OF PUBLIC-PRIVATE TALENT EXCHANGE PROGRAMS IN THE DEPARTMENT OF DEFENSE TO QUANTUM INFORMATION SCIENCES AND TECHNOLOGY RESEARCH**

Pub. L. 118–31, div. A, title II, §220, Dec. 22, 2023, 137 Stat. 188, provided that:

"(a) IN GENERAL.—Using the authority provided under section 1599g of title 10, United States Code, the Secretary of Defense shall seek to establish public-private talent exchange programs with private-sector entities working on quantum information sciences and technology research applications.

"(b) MAXIMUM NUMBER OF PARTICIPANTS.—Each public-private talent exchange program established under subsection (a) may include not more than 10 program participants.

"(c) PROGRAM PARTICIPANT DEFINED.—For purposes of subsection (b), the term 'program participant' includes—

"(1) an employee of the Department of Defense who is assigned to a private-sector organization pursuant to subsection (a); and

"(2) an employee of a private-sector organization who is assigned to a Department of Defense organization pursuant to such subsection."

**ENHANCEMENT OF PUBLIC-PRIVATE TALENT EXCHANGE PROGRAMS IN THE DEPARTMENT OF DEFENSE**

Pub. L. 116–283, div. A, title XI, §1102(b)–(d), Jan. 1, 2021, 134 Stat. 3885, 3886, provided that:

"(b) APPLICATION OF EXCHANGE AUTHORITY TO MODERNIZATION PRIORITIES.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall take steps to ensure that the authority of the Secretary to carry out a public-private talent exchange program under section 1599g of title 10, United States Code (as amended by subsection (a)), is used to—

"(1) carry out exchanges of personnel with private sector entities that are working on the modernization priorities of the Department of Defense; and

"(2) carry out exchanges in—

"(A) the office of the Under Secretary of Defense for Research and Engineering;

"(B) the office of the Chief Information Officer of the Department of Defense;

"(C) each Armed Force under the jurisdiction of the Secretary of a military department; and

"(D) any other organizations or elements of the Department of Defense the Secretary determines appropriate.

"(c) CONFLICTS OF INTEREST.—The Secretary shall implement a system to identify, mitigate, and manage any conflicts of interests that may arise as a result of an individual's participation in a public-private talent exchange under section 1599g of title 10, United States Code.

"(d) TREATMENT OF PROGRAM PARTICIPANTS.—The Secretary of Defense, in consultation with each Secretary of a military department, shall develop practices to ensure that participation by a member of an Armed Force under the jurisdiction of the Secretary of a military department in an public-private talent exchange under section 1599g of title 10, United States Code, is taken into consideration in subsequent assignments."

## [§1599h. Renumbered §4092]

## §1599i. Recruitment incentives for placement at remote locations

(a) RECRUITMENT INCENTIVE.—

(1) IN GENERAL.—An individual appointed to a position in the Department of Defense at a covered location may be paid a recruitment incentive in connection with such appointment.

(2) AMOUNT.—The amount of a recruitment incentive payable to an individual under this subsection may not exceed the amount equal to—

(A) 25 percent of the annual rate of basic pay of the employee for the position concerned as of the date on which the service period in such position agreed to by the individual under paragraph (3) commences; multiplied by

(B) the number of years (including fractions of a year) of such service period (not to exceed four years).

(3) SERVICE AGREEMENT.—To receive a recruitment incentive under this subsection, an individual appointed to a position under paragraph (1) shall enter into an agreement with the Secretary of Defense to complete a period of service at the covered location. The period of obligated service of the individual at such location under the agreement may not exceed four years. The agreement shall include such repayment or alternative employment obligations as the Secretary considers appropriate for failure of the individual to complete the period of obligated service specified in the agreement.

(4) COVERED LOCATIONS DEFINED.—In this section, a covered location is a location for which the Secretary of Defense has determined that critical hiring needs are not being met due to the geographic remoteness or isolation or extreme climate conditions of the location.

(b) SUNSET.—Effective on September 30, 2022, the authority provided under subsection (a) shall expire.

(Added Pub. L. 116–283, div. A, title XI, §1120(a), Jan. 1, 2021, 134 Stat. 3898.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**OUTCOME MEASUREMENTS**

Pub. L. 116–283, div. A, title XI, §1120(b), Jan. 1, 2021, 134 Stat. 3899, provided that: "The Secretary of Defense shall develop outcome measurements to evaluate the effect of the authority provided under subsection (a) of section 1599i of title 10, United States Code, as added by subsection (a), and any relocation incentives provided under subsection (b) of such section."

## §1599j. Restricted reports of incidents of adult sexual assault

(a) RESTRICTED REPORTS.—The Secretary of Defense may provide a civilian employee of the Department of Defense an opportunity to submit to an individual described in subsection (d) a restricted report of an alleged incident of adult sexual assault for the purpose of assisting the employee in obtaining information and access to authorized victim support services provided by the Department.

(b) RESTRICTIONS ON DISCLOSURES AND INITIATING INVESTIGATIONS.—Unless the Secretary determines that a disclosure is necessary to prevent or mitigate a serious and imminent safety threat to the employee submitting the report or to another person, a restricted report submitted pursuant to subsection (a) shall not—

(1) be disclosed to the supervisor of the employee or any other management official; or

(2) cause the initiation of a Federal civil or criminal investigation.

(c) DUTIES UNDER OTHER LAWS.—The receipt of a restricted report submitted under subsection (a) shall not be construed as imputing actual or constructive knowledge of an alleged incident of sexual assault to the Department of Defense for any purpose.

(d) INDIVIDUALS AUTHORIZED TO RECEIVE RESTRICTED REPORTS.—An individual described in this subsection is an individual who performs victim advocate duties under a program for one or more of the following purposes (or any other program designated by the Secretary):

(1) Sexual assault prevention and response.

(2) Victim advocacy.

(3) Equal employment opportunity.

(4) Workplace violence prevention and response.

(5) Employee assistance.

(6) Family advocacy.

(e) DEFINITIONS.—In this section:

(1) CIVILIAN EMPLOYEE.—The term "civilian employee" has the meaning given the term

"employee" in section 2105 of title 5.

(2) SEXUAL ASSAULT.—The term "sexual assault" has the meaning given that term in section 920 of this title (article 120 of the Uniform Code of Military Justice), and includes penetrative offenses and sexual contact offenses.

(Added Pub. L. 117–263, div. A, title XI, §1101(a), Dec. 23, 2022, 136 Stat. 2815.)

# CHAPTER 83—CIVILIAN DEFENSE INTELLIGENCE EMPLOYEES


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Defense-Wide Intelligence Personnel Policy** | **1601** |
| **II.** | **Defense Intelligence Agency Personnel** | **1621** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 85 of this title was repealed by Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(i), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993. Previously, the individual sections of that chapter, sections 1621 to 1624, were repealed by Pub. L. 101–510, div. A, title XII, §1207(c)(1), (3), (4), Nov. 5, 1990, 104 Stat. 1665.

**AMENDMENTS**

**1996**—Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2745, substituted "CIVILIAN DEFENSE INTELLIGENCE EMPLOYEES" for "DEFENSE INTELLIGENCE AGENCY AND CENTRAL IMAGERY OFFICE CIVILIAN PERSONNEL" as chapter heading and added subchapter analysis.

## SUBCHAPTER I—DEFENSE-WIDE INTELLIGENCE PERSONNEL POLICY


Sec.

1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay.
1602. Basic pay.
1603. Additional compensation, incentives, and allowances.
[1604. Repealed.]
1605. Benefits for certain employees assigned outside the United States.
1606. Defense Intelligence Senior Executive Service.
1607. Intelligence Senior Level positions.
1608. Time-limited appointments.
1609. Termination of defense intelligence employees.
1610. Reductions and other adjustments in force.
1611. Postemployment assistance: certain terminated intelligence employees.
1612. Merit system principles and civil service protections: applicability.
1613. Miscellaneous provisions.
1614. Definitions.


**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2745, added table of sections for subchapter and struck out former table of sections consisting of items 1601 "Defense Intelligence Senior Executive Service", 1602 "Defense Intelligence Agency merit pay system", 1603 "Limit on pay", 1604 "Civilian personnel management", 1605 "Benefits for certain employees of the Defense Intelligence Agency", 1606 "Uniform allowance: civilian employees", and 1608 "Financial assistance to certain employees in acquisition of critical skills".

**1994**—Pub. L. 103–359, title V, §501(b)(1)(A), Oct. 14, 1994, 108 Stat. 3428, amended chapter heading

generally, inserting "AND CENTRAL IMAGERY OFFICE".

**1989**—Pub. L. 101–193, title V, §507(a)(2), Nov. 30, 1989, 103 Stat. 1710, added item 1608.

**1987**—Pub. L. 100–178, title VI, §601(b), Dec. 2, 1987, 101 Stat. 1015, added item 1606.

**1985**—Pub. L. 99–145, title XIII, §1302(a)(2), Nov. 8, 1985, 99 Stat. 737, redesignated item 192 of chapter 8 of this title as item 1605 and transferred it to this chapter.

**1984**—Pub. L. 98–618, title V, §501(b), Nov. 8, 1984, 98 Stat. 3302, added item 1604.

## §1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay

(a) GENERAL AUTHORITY.—The Secretary of Defense may—

(1) establish, as positions in the excepted service, such defense intelligence positions in the Department of Defense as the Secretary determines necessary to carry out the intelligence functions of the Department, including—

(A) Intelligence Senior Level positions designated under section 1607 of this title; and

(B) positions in the Defense Intelligence Senior Executive Service;

(2) appoint individuals to those positions (after taking into consideration the availability of preference eligibles for appointment to those positions); and

(3) fix the compensation of such individuals for service in those positions.

(b) CONSTRUCTION WITH OTHER LAWS.—The authority of the Secretary of Defense under subsection (a) applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

(Added Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 106–398, §1 [[div. A], title XI, §1141(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–318.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1601, added Pub. L. 97–89, title VII, §701(a)(1), Dec. 4, 1981, 95 Stat. 1159; amended Pub. L. 101–194, title V, §506(c)(3), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 101–280, §6(d)(4), May 4, 1990, 104 Stat. 161; Pub. L. 101–510, div. A, title XIV, §1484(l)(5), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 103–359, title V, §501(b)(1)(B), Oct. 14, 1994, 108 Stat. 3428, related to the Defense Intelligence Senior Executive Service, prior to repeal by Pub. L. 104–201, div. A, title XVI, §§1632(a)(3), 1635, Sept. 23, 1996, 110 Stat. 2745, 2752, effective Oct. 1, 1996. See section 1606 of this title.

Provisions similar to those in this section were contained in sections 1590(a) and 1604(a) of this title prior to repeal by Pub. L. 104–201, §§1632(a)(3), 1633(a).

### AMENDMENTS

**2000**—Subsec. (a)(1). Pub. L. 106–398, in introductory provisions, substituted "in the Department of Defense" for "in the intelligence components of the Department of Defense and the military departments" and "of the Department" for "of those components and departments".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XVI, §1631, Sept. 23, 1996, 110 Stat. 2745, provided that: "This subtitle [subtitle B (§§1631–1635) of title XVI of div. A of Pub. L. 104–201, enacting this section and sections 1602, 1603, 1606 to 1610, and 1612 to 1614 of this title, amending sections 1593, 1596, 1605, 1611, and 1621 of

this title and sections 7103 and 7511 of Title 5, Government Organization and Employees, renumbering sections 1599, 1602, 1606, and 1608 of this title as sections 1611, 1621, 1622, and 1623 of this title, respectively, repealing sections 1590, 1601, 1603, and 1604 of this title and section 833 of Title 50, War and National Defense, enacting provisions set out as a note under section 1593 of this title, and repealing provisions set out as a note under section 402 of Title 50] may be cited as the 'Department of Defense Civilian Intelligence Personnel Policy Act of 1996'."

## DELEGATION OF AUTHORITY

Pub. L. 97–89, title VII, §701(b), Dec. 4, 1981, 95 Stat. 1160, provided that: "The authority of the Secretary of Defense under chapter 83 of title 10, United States Code, as added by subsection (a), may be delegated in accordance with section 133(d) [now 113(d)] of title 10, United States Code."

## PROVISIONS RELATING TO THE DEFENSE CIVILIAN INTELLIGENCE PERSONNEL SYSTEM

Pub. L. 111–84, div. A, title XI, §1114, Oct. 28, 2009, 123 Stat. 2504, provided that:

"(a) SUSPENSION OF CERTAIN PAY AUTHORITY.—Effective with respect to amounts paid during the period beginning on the date of the enactment of this Act [Oct. 28, 2009] and ending on December 31, 2010, rates of basic pay for employees and positions within any element of the intelligence community (as defined by the National Security Act of 1947 [50 U.S.C. 3001 et seq.])—

"(1) may not be fixed under the Defense Civilian Intelligence Personnel System; and

"(2) shall instead be fixed in accordance with the provisions of law that (disregarding DCIPS) would then otherwise apply.

The preceding sentence shall not apply with respect to the National Geospatial-Intelligence Agency.

"(b) RESPONSE TO GAO REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional oversight committees a written description of any actions taken or proposed to be taken by such Secretary in response to the review and recommendations of the Government Accountability Office regarding the Defense Civilian Intelligence Personnel System.

"(c) INDEPENDENT ORGANIZATION.—

"(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense, the Director of the Office of Personnel Management, and the Director of National Intelligence shall jointly designate an independent organization to review the operation of the Defense Civilian Intelligence Personnel System, including—

"(A) its impact on career progression;

"(B) its appropriateness or inappropriateness in light of the complexities of the workforce affected;

"(C) its sufficiency in terms of providing protections for diversity in promotion and retention of personnel; and

"(D) the adequacy of the training, policy guidelines, and other preparations afforded in connection with transitioning to that system.

"(2) DEADLINE.—The independent organization shall, after appropriate consultation with employees and employee organizations, submit its findings and recommendations under this section to the Secretary of Defense and the congressional oversight committees, in a written report, not later than June 1, 2010.

"(d) PROPOSED ACTIONS BASED ON REPORT.—Not later than 60 days after receiving the report of the independent organization under subsection (c), the Secretary of Defense, in coordination with the Director of the Office of Personnel Management and the Director of National Intelligence, shall submit to the congressional oversight committees a written report describing any actions that the Secretary has taken or proposes to take in response to such report.

"(e) HOLD-HARMLESS PROVISION.—No employee shall suffer any loss of or decrease in pay as a result of being converted from DCIPS in compliance with subsection (a).

"(f) DEFINITIONS.—For purposes of this section—

"(1) the terms 'Defense Civilian Intelligence Personnel System' and 'DCIPS' mean the civilian personnel system established by the Secretary of Defense under regulations—

"(A) prescribed pursuant to sections 1601 through 1614 of title 10, United States Code; and

"(B) taking effect in September 2008 or thereafter; and

"(2) the term 'congressional oversight committees' means—

"(A) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(B) the Committee on Armed Services and the Select Committee on Intelligence of the Senate."

## §1602. Basic pay

(a) AUTHORITY TO FIX RATES OF BASIC PAY.—The Secretary of Defense (subject to the provisions of this section) shall fix the rates of basic pay for positions established under section 1601 of this title in relation to the rates of pay provided for comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for employees of the Department of Defense by law or regulation.

(b) PREVAILING RATE SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of that title.

(Added Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 108–375, div. A, title XI, §1103(a), Oct. 28, 2004, 118 Stat. 2072; Pub. L. 109–364, div. A, title X, §1071(g)(12), Oct. 17, 2006, 120 Stat. 2403.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1602 was renumbered section 1621 of this title.

Provisions similar to those in this section were contained in sections 1590(b) and (c) and 1604(b)(1) and (c) of this title prior to repeal by Pub. L. 104–201, §§1632(a)(3), 1633(a).

### AMENDMENTS

**2006**—Subsec. (a). Pub. L. 109–364 made technical correction to directory language of Pub. L. 108–375, §1103(a)(1). See 2004 Amendment note below.

**2004**—Subsec. (a). Pub. L. 108–375, §1103(a)(1), as amended by Pub. L. 109–364, substituted "in relation to the rates of pay provided for comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for employees of the Department of Defense by law or regulation" for "in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities".

Subsecs. (b), (c). Pub. L. 108–375, §1103(a)(2), (3), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "A rate of basic pay fixed under subsection (a) for a position established under section 1601 of this title may not (except as otherwise provided by law) exceed—

"(1) in the case of a Defense Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

"(2) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

"(3) in the case of any other position, the maximum rate provided in section 5306(e) of title 5."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(12) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1603. Additional compensation, incentives, and allowances

(a) ADDITIONAL COMPENSATION BASED ON TITLE 5 AUTHORITIES.—The Secretary of Defense may provide employees in defense intelligence positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level

authorized for, comparable positions authorized by title 5.

(b) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.—(1) In addition to basic pay, employees in defense intelligence positions who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, while they are so stationed.

(2) An allowance under this subsection shall be based on—

(A) living costs substantially higher than in the District of Columbia;

(B) conditions of environment which (i) differ substantially from conditions of environment in the continental United States, and (ii) warrant an allowance as a recruitment incentive; or

(C) both of the factors specified in subparagraphs (A) and (B).

(3) An allowance under this subsection may not exceed the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

(c) ADDITIONAL ALLOWANCES AND BENEFITS FOR CERTAIN EMPLOYEES OF THE DEFENSE CLANDESTINE SERVICE.—(1) Beginning on the date on which the Secretary of Defense submits the report under paragraph (3)(A), in addition to the authority to provide compensation under subsection (a), the Secretary may provide a covered employee allowances and benefits under paragraph (1) of section 9904 of title 5 without regard to the limitations in that section—

(A) that the employee be assigned to activities outside the United States; or

(B) that the activities to which the employee is assigned be in support of Department of Defense activities abroad.

(2) The Secretary may not provide allowances and benefits under paragraph (1) to more than 125 covered employees per year.

(3)(A) The Secretary shall submit to the appropriate congressional committees a report containing a strategy addressing the mission of the Defense Clandestine Service during the period covered by the most recent future-years defense program submitted under section 221 of this title, including—

(i) how such mission will evolve during such period;

(ii) how the authority provided by paragraph (1) will assist the Secretary in carrying out such mission; and

(iii) an implementation plan for carrying out paragraph (1), including a projection of how much the amount of the allowances and benefits provided under such paragraph compare with the amount of the allowances and benefits provided before the date of the report.

(B) Not later than December 31, 2020, and each year thereafter, the Secretary shall submit to the appropriate congressional committees a report, with respect to the fiscal year preceding the date on which the report is submitted—

(i) identifying the number of covered employees for whom the Secretary provided allowances and benefits under paragraph (1); and

(ii) evaluating the efficacy of such allowances and benefits in enabling the execution of the objectives of the Defense Intelligence Agency.

(C) The reports under subparagraphs (A) and (B) may be submitted in classified form.

(4) In this subsection:

(A) The term "appropriate congressional committees" means—

(i) the congressional defense committees; and

(ii) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(B) The term "covered employee" means an employee in a defense intelligence position who is assigned to the Defense Clandestine Service at a location in the United States that the Secretary determines has living costs equal to or higher than the District of Columbia.

(Added Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 116–92, div. A, title XI, §1108, Dec. 20, 2019, 133 Stat. 1597.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1603, added Pub. L. 97–89, title VII, §701(a)(1), Dec. 4, 1981, 95 Stat. 1160; amended Pub. L. 99–145, title XIII, §1302(a)(3), Nov. 8, 1985, 99 Stat. 738; Pub. L. 99–661, div. A, title XIII, §1343(a)(9), Nov. 14, 1986, 100 Stat. 3992, related to limits on pay to members of the Defense Intelligence Senior Executive Service, prior to repeal by Pub. L. 104–201, div. A, title XVI, §§1632(a)(3), 1635, Sept. 23, 1996, 110 Stat. 2745, 2752, effective Oct. 1, 1996.

Provisions similar to those in this section were contained in sections 1590(d) and 1604(b)(2), (d) of this title prior to repeal by Pub. L. 104–201, §§1632(a)(3), 1633(a).

### AMENDMENTS

**2019**—Subsec. (c). Pub. L. 116–92 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## [§1604. Repealed. Pub. L. 104–201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2745]

Section, added Pub. L. 98–618, title V, §501(a), Nov. 8, 1984, 98 Stat. 3301; amended Pub. L. 99–569, title V, §502, Oct. 27, 1986, 100 Stat. 3198; Pub. L. 100–178, title VI, §602(a), Dec. 2, 1987, 101 Stat. 1015; Pub. L. 101–193, title V, §503(b), Nov. 30, 1989, 103 Stat. 1708; Pub. L. 102–496, title IV, §401(a), Oct. 24, 1992, 106 Stat. 3183; Pub. L. 103–359, title V, §501(b)(1)(D), title VIII, §806(b)(1), Oct. 14, 1994, 108 Stat. 3428, 3442; Pub. L. 104–93, title V, §501, Jan. 6, 1996, 109 Stat. 970, related to civilian personnel management. See sections 1601 to 1603, 1607, and 1609 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1605. Benefits for certain employees assigned outside the United States

(a)(1) The Secretary of Defense may provide to civilian personnel described in subsection (d) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (5), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (5), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(2) The Secretary may also provide to any such civilian personnel special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3518).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense

has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) Subsection (a) applies to civilian personnel of the Department of Defense who—

(1) are United States nationals;

(2) in the case of employees of the Defense Intelligence Agency, are assigned to duty outside the United States and, in the case of other employees, are assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; and

(3) are designated by the Secretary of Defense for the purposes of subsection (a).

(Added Pub. L. 98–215, title V, §501(a), Dec. 9, 1983, 97 Stat. 1478, §192; renumbered §1605 and amended Pub. L. 99–145, title XIII, §1302(a)(1), Nov. 8, 1985, 99 Stat. 737; Pub. L. 99–335, title V, §507(b), June 6, 1986, 100 Stat. 628; Pub. L. 99–569, title V, §501, Oct. 27, 1986, 100 Stat. 3198; Pub. L. 101–193, title V, §505(a), Nov. 30, 1989, 103 Stat. 1709; Pub. L. 102–496, title VIII, §803(d), Oct. 24, 1992, 106 Stat. 3253; Pub. L. 103–160, div. A, title XI, §1182(a)(3), Nov. 30, 1993, 107 Stat. 1771; Pub. L. 104–93, title V, §502(a), Jan. 6, 1996, 109 Stat. 972; Pub. L. 104–201, div. A, title XVI, §1633(c)(1), Sept. 23, 1996, 110 Stat. 2751; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–291, div. A, title X, §1071(c)(11), Dec. 19, 2014, 128 Stat. 3509.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (a)(2). Pub. L. 113–291 substituted "(50 U.S.C. 3518)" for "(50 U.S.C. 403r)".

**1999**—Subsec. (c)(2). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Pub. L. 104–201 substituted "assigned outside the United States" for "of the Defense Intelligence Agency" in section catchline.

Subsec. (a). Pub. L. 104–93, §502(a)(1), designated first sentence of existing text as par. (1) and substituted "described in subsection (d)" for "of the Department of Defense who are United States nationals, who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States, and who are designated by the Secretary of Defense for the purposes of this subsection,", and designated second sentence of existing text as par. (2).

Subsec. (c). Pub. L. 104–93, §502(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "Regulations issued pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect."

Subsec. (d). Pub. L. 104–93, §502(a)(3), added subsec. (d).

**1993**—Subsec. (a). Pub. L. 103–160 substituted "(50 U.S.C. 2153)" for "(50 U.S.C. 403 note)".

**1992**—Subsec. (a). Pub. L. 102–496 substituted "the Central Intelligence Agency Retirement Act" for "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserted "(50 U.S.C. 403r)" after "the Central Intelligence Agency Act of 1949".

**1989**—Subsec. (a). Pub. L. 101–193 struck out "who are subject to chapter 84 of title 5," after "such civilian personnel" in last sentence and inserted reference to section 18 of the Central Intelligence Agency Act of 1949.

**1986**—Subsec. (a). Pub. L. 99–569 inserted reference to par. (5) of section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081(5)).

Pub. L. 99–335 inserted provision authorizing the Secretary to provide to any civilian personnel subject to chapter 84 of title 5 special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

**1985**—Subsec. (a). Pub. L. 99–145, §1302(a)(1)(A), (B), struck out references to Director of the Defense

Intelligence Agency and to military personnel, substituted "sections 705 and 903" for "under sections 903, 705, and 2308", and substituted "(22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5." for "(22 U.S.C. 4025; 22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13); 22 U.S.C. 4083; 5 U.S.C. 5924(4))."

Subsec. (b). Pub. L. 99–145, §1302(a)(1)(A), struck out reference to Director of the Defense Intelligence Agency.

Subsecs. (c), (d). Pub. L. 99–145, §1302(a)(1)(C), struck out subsec. (c) which read as follows: "Members of the Armed Forces may not receive benefits under both subsection (a) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.", and redesignated former subsec. (d) as (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of this title.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as a note under section 2001 of Title 50, War and National Defense.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

## §1606. Defense Intelligence Senior Executive Service

(a) ESTABLISHMENT.—The Secretary of Defense may establish a Defense Intelligence Senior Executive Service for defense intelligence positions established pursuant to section 1601(a) of this title that are equivalent to Senior Executive Service positions. The number of positions in the Defense Intelligence Senior Executive Service may not exceed 594.

(b) REGULATIONS CONSISTENT WITH TITLE 5 PROVISIONS.—The Secretary of Defense shall prescribe regulations for the Defense Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to those regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Defense Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those provisions with respect to the Defense Intelligence Senior Executive Service.

(c) AWARD OF RANK TO MEMBERS OF THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Defense Intelligence Senior Executive Service. The award of such rank shall be made in a manner consistent with the provisions of that section.

(d) PERFORMANCE APPRAISALS.—(1) The Defense Intelligence Senior Executive Service shall be subject to a performance appraisal system which, as designed and applied, is certified by the Secretary of Defense under section 5307 of title 5 as making meaningful distinctions based on relative performance.

(2) The performance appraisal system applicable to the Defense Intelligence Senior Executive Service under paragraph (1) may be the same performance appraisal system that is established and implemented within the Department of Defense for members of the Senior Executive Service.

(Added Pub. L. 104–201, div. A, title XVI, §1632(b), Sept. 23, 1996, 110 Stat. 2747; amended Pub.

L. 106–398, §1 [[div. A], title XI, §1142], Oct. 30, 2000, 114 Stat. 1654, 1654A–319; Pub. L. 107–107, div. A, title XI, §1121, Dec. 28, 2001, 115 Stat. 1242; Pub. L. 108–375, div. A, title XI, §1103(b), Oct. 28, 2004, 118 Stat. 2073; Pub. L. 109–163, div. A, title XI, §1125, Jan. 6, 2006, 119 Stat. 3454.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1606 was renumbered section 1622 of this title.

Provisions similar to those in this section were contained in sections 1590(f), (g) and 1601(a)–(c) of this title prior to repeal by Pub. L. 104–201, §§1632(a)(3), 1633(a).

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 substituted "594" for "544".
**2004**—Subsec. (d). Pub. L. 108–375 added subsec. (d).
**2001**—Subsec. (a). Pub. L. 107–107 substituted "544" for "517".
**2000**—Subsec. (a). Pub. L. 106–398 substituted "517" for "492".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1607. Intelligence Senior Level positions

(a) DESIGNATION OF POSITIONS.—The Secretary of Defense may designate as an Intelligence Senior Level position any defense intelligence position that, as determined by the Secretary—

(1) is classifiable above grade GS–15 of the General Schedule;

(2) does not satisfy functional or program management criteria for being designated a Defense Intelligence Senior Executive Service position; and

(3) has no more than minimal supervisory responsibilities.

(b) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS .—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.

(Added Pub. L. 104–201, div. A, title XVI, §1632(b), Sept. 23, 1996, 110 Stat. 2747; amended Pub. L. 107–306, title V, §503, Nov. 27, 2002, 116 Stat. 2407.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Grade GS–15 of the General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

**PRIOR PROVISIONS**

A prior section 1607 was renumbered section 424 of this title.

Provisions similar to those in this section were contained in section 1604(f)(1), (3) of this title prior to repeal by Pub. L. 104–201, §1632(a)(3).

**AMENDMENTS**

**2002**—Subsec. (c). Pub. L. 107–306 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1608. Time-limited appointments

(a) AUTHORITY FOR TIME-LIMITED APPOINTMENTS.—The Secretary of Defense may by regulation authorize appointing officials to make time-limited appointments to defense intelligence positions specified in the regulations.

(b) REVIEW OF USE OF AUTHORITY.—The Secretary of Defense shall review each time-limited appointment in a defense intelligence position at the end of the first year of the period of the appointment and determine whether the appointment should be continued for the remainder of the period. The continuation of a time-limited appointment after the first year shall be subject to the approval of the Secretary.

(c) CONDITION ON PERMANENT APPOINTMENT TO DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—An employee serving in a defense intelligence position pursuant to a time-limited appointment is not eligible for a permanent appointment to a Defense Intelligence Senior Executive Service position (including a position in which the employee is serving) unless the employee is selected for the permanent appointment on a competitive basis.

(d) TIME-LIMITED APPOINTMENT DEFINED.—In this section, the term "time-limited appointment" means an appointment (subject to the condition in subsection (b)) for a period not to exceed two years.

(Added Pub. L. 104–201, div. A, title XVI, §1632(b), Sept. 23, 1996, 110 Stat. 2748.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1608 was renumbered section 1623 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1609. Termination of defense intelligence employees

(a) TERMINATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence position if the Secretary—

(1) considers that action to be in the interests of the United States; and

(2) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

(b) FINALITY.—A decision by the Secretary of Defense to terminate the employment of an

employee under this section is final and may not be appealed or reviewed outside the Department of Defense.

(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—Whenever the Secretary of Defense terminates the employment of an employee under the authority of this section, the Secretary shall promptly notify the congressional oversight committees of such termination.

(d) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment under this section does not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

(e) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense under this section may be delegated only to the Deputy Secretary of Defense, the head of an intelligence component of the Department of Defense (with respect to employees of that component), or the Secretary of a military department (with respect to employees of that department). An action to terminate employment of such an employee by any such official may be appealed to the Secretary of Defense.

(Added Pub. L. 104–201, div. A, title XVI, §1632(b), Sept. 23, 1996, 110 Stat. 2748.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 1590(e) and 1604(e) of this title prior to repeal by Pub. L. 104–201, §§1632(a)(3), 1633(a).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1610. Reductions and other adjustments in force

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations for the separation of employees in defense intelligence positions, including members of the Defense Intelligence Senior Executive Service and employees in Intelligence Senior Level positions, during a reduction in force or other adjustment in force. The regulations shall apply to such a reduction in force or other adjustment in force notwithstanding sections 3501(b) and 3502 of title 5.

(b) MATTERS TO BE GIVEN EFFECT.—The regulations shall give effect to the following:

(1) Tenure of employment.

(2) Military preference, subject to sections 3501(a)(3) and 3502(b) of title 5.

(3) The veteran's preference under section 3502(b) of title 5.

(4) Performance.

(5) Length of service computed in accordance with the second sentence of section 3502(a) of title 5.

(c) REGULATIONS RELATING TO DEFENSE INTELLIGENCE SES.—The regulations relating to removal from the Defense Intelligence Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

(d) RIGHT OF APPEAL.—(1) The regulations shall provide a right of appeal regarding a personnel action under the regulations. The appeal shall be determined within the Department of Defense. An appeal determined at the highest level provided in the regulations shall be final and not subject to review outside the Department of Defense. A personnel action covered by the regulations is not subject to any other provision of law that provides appellate rights or procedures.

(2) Notwithstanding paragraph (1), a preference eligible referred to in section 7511(a)(1)(B) of title 5 may elect to have an appeal of a personnel action taken against the preference eligible under the regulation determined by the Merit Systems Protection Board instead of having the appeal determined within the Department of Defense. Section 7701 of title 5 shall apply to any such appeal to the Merit Systems Protection Board.

(e) CONSULTATION WITH OPM.—Regulations under this section shall be prescribed in consultation with the Director of the Office of Personnel Management.

(Added Pub. L. 104–201, div. A, title XVI, §1632(b), Sept. 23, 1996, 110 Stat. 2749.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1611. Postemployment assistance: certain terminated intelligence employees

(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may, in the case of any individual who is a qualified former intelligence employee, use appropriated funds—

(1) to assist that individual in finding and qualifying for employment other than in a defense intelligence position;

(2) to assist that individual in meeting the expenses of treatment of medical or psychological disabilities of that individual; and

(3) to provide financial support to that individual during periods of unemployment.

(b) QUALIFIED FORMER INTELLIGENCE EMPLOYEES.—For purposes of this section, a qualified former intelligence employee is an individual who was employed as a civilian employee of the Department of Defense in a sensitive defense intelligence position—

(1) who has been found to be ineligible for continued access to information designated as "Sensitive Compartmented Information" and employment in a defense intelligence position; or

(2) whose employment in a defense intelligence position has been terminated.

(c) CONDITIONS.—Assistance may be provided to a qualified former intelligence employee under subsection (a) only if the Secretary determines that such assistance is essential to—

(1) maintain the judgment and emotional stability of the qualified former intelligence employee; and

(2) avoid circumstances that might lead to the unlawful disclosure of classified information to which the qualified former intelligence employee had access.

(d) DURATION OF ASSISTANCE.—Assistance may not be provided under this section in the case of any individual after the end of the five-year period beginning on the date of the termination of the employment of the individual in a defense intelligence position.

(Added Pub. L. 103–359, title VIII, §806(a)(1), Oct. 14, 1994, 108 Stat. 3441, §1599; amended Pub. L. 104–106, div. A, title XV, §1502(a)(11), Feb. 10, 1996, 110 Stat. 503; renumbered §1611 and amended Pub. L. 104–201, div. A, title XVI, §1632(c), Sept. 23, 1996, 110 Stat. 2749; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title XI, §1141(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–318; Pub. L. 107–107, div. A, title X, §1048(a)(15), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107–306, title VIII, §811(b)(4)(B), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108–177, title III, §361(h), Dec. 13, 2003, 117 Stat. 2625.)

**EDITORIAL NOTES**

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1604(e)(4) of this title and in section 17 of Pub. L. 86–36 as added by Pub. L. 102–88, title V, §503, Aug. 14, 1991, 105 Stat. 436, which was formerly set out in a note under section 402 of Title 50, War and National Defense, prior to repeal by Pub. L. 103–359, §806(b), and editorial reclassification to section 3615 of Title 50.

## AMENDMENTS

**2003**—Subsec. (e). Pub. L. 108–177 struck out heading and text of subsec. (e). Text read as follows:

"(1) The Secretary of Defense shall submit to the congressional committees specified in paragraph (3) an annual report with respect to any expenditure made under this section.

"(2) In the case of a report required to be submitted under paragraph (1) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, the date for the submittal of such report shall be as provided in section 507 of the National Security Act of 1947.

"(3) The committees referred to in paragraph (1) are the following:

"(A) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate."

**2002**—Subsec. (e)(1). Pub. L. 107–306, §811(b)(4)(B)(i), substituted "paragraph (3)" for "paragraph (2)".

Subsec. (e)(2), (3). Pub. L. 107–306, §811(b)(4)(B)(ii), (iii), added par. (2) and redesignated former par. (2) as (3).

**2001**—Subsec. (d). Pub. L. 107–107 struck out "with" before "in a defense intelligence position".

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title XI, §1141(b)(1)], substituted "a defense intelligence position" for "an intelligence component of the Department of Defense".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title XI, §1141(b)(2)], substituted "sensitive defense intelligence position" for "sensitive position in an intelligence component of the Department of Defense" in introductory provisions and "in a defense intelligence position" for "with the intelligence component" in pars. (1) and (2).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title XI, §1141(b)(3)], substituted "in a defense intelligence position" for "an intelligence component of the Department of Defense".

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title XI, §1141(b)(4)], struck out heading and text of subsec. (f). Text read as follows: "In this section, the term 'intelligence component of the Department of Defense' includes the National Reconnaissance Office and any intelligence component of a military department."

**1999**—Subsec. (e)(2)(A). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Pub. L. 104–201 renumbered section 1599 of this title as this section.

Subsec. (e)(2)(A). Pub. L. 104–106, §1502(a)(11)(A), substituted "The Committee on National Security, the Committee on Appropriations," for "The Committees on Armed Services and Appropriations".

Subsec. (e)(2)(B). Pub. L. 104–106, §1502(a)(11)(B), substituted "The Committee on Armed Services, the Committee on Appropriations," for "The Committees on Armed Services and Appropriations".

Subsec. (f). Pub. L. 104–201 substituted "includes the National Reconnaissance Office and any intelligence component of a military department." for "means any of the following:

"(1) The National Security Agency.

"(2) The Defense Intelligence Agency.

"(3) The National Reconnaissance Office.

"(4) The Central Imagery Office.

"(5) The intelligence components of any of the military departments."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–177, title III, §361(n), Dec. 13, 2003, 117 Stat. 2626, provided that: "The amendments made by this section [amending this section, section 1681b of Title 15, Commerce and Trade, and sections 2366, 3038, 3047, 3050, 3106, and 3381 of Title 50, War and National Defense, repealing section 540C of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as notes under sections 3036 and 3381 of Title 50] shall take effect on December 31, 2003."

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of this title.

## §1612. Merit system principles and civil service protections: applicability

(a) APPLICABILITY OF MERIT SYSTEM PRINCIPLES.—Section 2301 of title 5 shall apply to the exercise of authority under this subchapter (other than sections 1605 and 1611).

(b) CIVIL SERVICE PROTECTIONS.—(1) If, in the case of a position established under authority other than section 1601(a)(1) of this title that is reestablished as an excepted service position under that section, the provisions of law referred to in paragraph (2) applied to the person serving in that position immediately before the position is so reestablished and such provisions of law would not otherwise apply to the person while serving in the position as so reestablished, then such provisions of law shall, subject to paragraph (3), continue to apply to the person with respect to service in that position for as long as the person continues to serve in the position without a break in service.

(2) The provisions of law referred to in paragraph (1) are the following provisions of title 5:

(A) Section 2302, relating to prohibited personnel practices.

(B) Chapter 75, relating to adverse actions.

(3)(A) Notwithstanding any provision of chapter 75 of title 5, an appeal of an adverse action by an individual employee covered by paragraph (1) shall be determined within the Department of Defense if the employee so elects.

(B) The Secretary of Defense shall prescribe the procedures for initiating and determining appeals of adverse actions pursuant to elections made under subparagraph (A).

(Added Pub. L. 104–201, div. A, title XVI, §1632(d), Sept. 23, 1996, 110 Stat. 2750.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1613. Miscellaneous provisions

(a) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in sections 1601 through 1603 and 1606 through 1610 may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an agency or office that is a successor to an agency or office covered by the agreement before the succession.

(b) NOTICE TO CONGRESS OF REGULATIONS.—The Secretary of Defense shall notify Congress of any regulations prescribed to carry out this subchapter (other than sections 1605 and 1611). Such notice shall be provided by submitting a copy of the regulations to the congressional oversight committees not less than 60 days before such regulations take effect.

(Added Pub. L. 104–201, div. A, title XVI, §1632(d), Sept. 23, 1996, 110 Stat. 2750; amended Pub. L. 105–85, div. A, title X, §1073(a)(32), Nov. 18, 1997, 111 Stat. 1902.)

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Subsec. (a). Pub. L. 105–85 substituted "1603" for "1604".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## §1614. Definitions

In this subchapter:

(1) The term "defense intelligence position" means a civilian position as an intelligence officer or intelligence employee of the Department of Defense.

(2) The term "intelligence component of the Department of Defense" means any of the following:

(A) The National Security Agency.

(B) The Defense Intelligence Agency.

(C) The National Geospatial-Intelligence Agency.

(D) Any other component of the Department of Defense that performs intelligence functions and is designated by the Secretary of Defense as an intelligence component of the Department of Defense.

(E) Any successor to a component specified in, or designated pursuant to, this paragraph.

(3) The term "congressional oversight committees" means—

(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(4) The term "excepted service" has the meaning given such term in section 2103 of title 5.

(5) The term "preference eligible" has the meaning given such term in section 2108(3) of title 5.

(6) The term "Senior Executive Service position" has the meaning given such term in section 3132(a)(2) of title 5.

(7) The term "collective bargaining agreement" has the meaning given such term in section 7103(8) of title 5.

(Added Pub. L. 104–201, div. A, title XVI, §1632(d), Sept. 23, 1996, 110 Stat. 2750; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title XI, §1141(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–319; Pub. L. 108–136, div. A, title IX, §921(d)(7), Nov. 24, 2003, 117 Stat. 1569.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Par. (2)(C). Pub. L. 108–136 substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

**2000**—Par. (1). Pub. L. 106–398 substituted "of the Department of Defense" for "of an intelligence component of the Department of Defense or of a military department".

**1999**—Par. (3)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## SUBCHAPTER II—DEFENSE INTELLIGENCE AGENCY PERSONNEL

Sec.
1621. Defense Intelligence Agency merit pay system.
1622. Uniform allowance: civilian employees.
1623. Financial assistance to certain employees in acquisition of critical skills.

## §1621. Defense Intelligence Agency merit pay system

The Secretary of Defense may by regulation establish a merit pay system for such employees of the Defense Intelligence Agency as the Secretary considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401 of title 5, as in effect on October 31, 1993.

(Added Pub. L. 97–89, title VII, §701(a)(1), Dec. 4, 1981, 95 Stat. 1160, §1602; amended Pub. L. 98–615, title II, §204(b), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103–89, §3(b)(3)(A), Sept. 30, 1993, 107 Stat. 982; Pub. L. 103–359, title V, §501(b)(1)(C), Oct. 14, 1994, 108 Stat. 3428; renumbered §1621 and amended Pub. L. 104–201, div. A, title XVI, §§1632(a)(1), 1633(d), Sept. 23, 1996, 110 Stat. 2745, 2752.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 5401 of title 5, referred to in text, was repealed by Pub. L. 103–89, §3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, eff. Nov. 1, 1993.

#### PRIOR PROVISIONS

A prior section 1621, added Pub. L. 99–145, title IX, §924(a)(1), Nov. 8, 1985, 99 Stat. 697; amended Pub. L. 99–433, title I, §110(g)(2), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 100–26, §7(c)(2), (k)(2), Apr. 21, 1987, 101 Stat. 280, 284; Pub. L. 101–189, div. A, title VIII, §853(c)(1), Nov. 29, 1989, 103 Stat. 1518, defined "program manager", "procurement command", and "major defense acquisition program", prior to repeal by Pub. L. 101–510, div. A, title XII, §1207(c)(4), Nov. 5, 1990, 104 Stat. 1665; Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(i), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993.

#### AMENDMENTS

**1996**—Pub. L. 104–201 renumbered section 1602 of this title as this section and struck out "and Central Imagery Office" after "Intelligence Agency".

**1994**—Pub. L. 103–359 inserted "and Central Imagery Office" after "Defense Intelligence Agency".

**1993**—Pub. L. 103–89 inserted ", as in effect on October 31, 1993".

**1984**—Pub. L. 98–615 substituted "section 5401 of title 5" for "section 5401(a) of title 5".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–615, title II, §205, Nov. 8, 1984, 98 Stat. 3217, provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

#### EFFECTIVE DATE

Pub. L. 97–89, title VIII, §806, Dec. 4, 1981, 95 Stat. 1162, provided that: "The amendments made by titles V, VI, and VII and by this title [enacting this chapter and sections 3513 and 3610 to 3613 of Title 50, War and National Defense, and amending sections 2108, 6304, and 8336 of Title 5, Government Organization and Employees, and sections 3073, 3505, 3506, 3607, and 3608 of Title 50] shall take effect as of October 1, 1981."

## §1622. Uniform allowance: civilian employees

(a) The Secretary of Defense may pay an allowance under this section to any civilian employee of the Defense Intelligence Agency who—

(1) is assigned to a Defense Attaché Office outside the United States; and

(2) is required by regulation to wear a prescribed uniform in performance of official duties.

(b) Notwithstanding section 5901(a) of title 5, the amount of any such allowance shall be the greater of the following:

(1) The amount provided for employees of the Department of State assigned to positions outside the United States and required by regulation to wear a prescribed uniform in performance of official duties.

(2) The maximum allowance provided under section 1593(b) of this title.

(c) An allowance paid under this section shall be treated in the same manner as is provided in subsection (c) of section 5901 of title 5 for an allowance paid under that section.

(Added Pub. L. 100–178, title VI, §601(a), Dec. 2, 1987, 101 Stat. 1015, §1606; amended Pub. L. 101–189, div. A, title III, §336(b), Nov. 29, 1989, 103 Stat. 1419; renumbered §1622, Pub. L. 104–201, div. A, title XVI, §1632(a)(2), Sept. 23, 1996, 110 Stat. 2745.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1622, added Pub. L. 99–145, title IX, §924(a)(1), Nov. 8, 1985, 99 Stat. 698; amended Pub. L. 99–500, §101(c) [title X, §933], Oct. 18, 1986, 100 Stat. 1783–82, 1783–161; Pub. L. 99–591, §101(c) [title X, §933], Oct. 30, 1986, 100 Stat. 3341–82, 3341–161; Pub. L. 99–661, div. A, title IX, formerly title IV, §933, Nov. 14, 1986, 100 Stat. 3940, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–189, div. A, title VIII, §853(c)(2), Nov. 29, 1989, 103 Stat. 1518, related to education, training, and experience requirements for persons assigned as program managers of major defense acquisition programs, prior to repeal by Pub. L. 101–510, div. A, title XII, §1207(c)(1), Nov. 5, 1990, 104 Stat. 1665, effective Oct. 1, 1991.

### AMENDMENTS

**1996**—Pub. L. 104–201 renumbered section 1606 of this title as this section.

**1989**—Subsec. (b)(2). Pub. L. 101–189 substituted "The maximum allowance provided under section 1593(b) of this title" for "$360 per year".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 effective Jan. 1, 1990, see section 336(c) of Pub. L. 101–189, set out as an Effective Date note under section 1593 of this title.

## §1623. Financial assistance to certain employees in acquisition of critical skills

(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content,

and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

(Added Pub. L. 101–193, title V, §507(a)(1), Nov. 30, 1989, 103 Stat. 1709, §1608; renumbered §1623, Pub. L. 104–201, div. A, title XVI, §1632(a)(2), Sept. 23, 1996, 110 Stat. 2745; amended Pub. L. 113–291, div. A, title X, §1071(c)(9), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1623, added Pub. L. 99–145, title IX, §924(a)(1), Nov. 8, 1985, 99 Stat. 698; amended Pub. L. 99–661, div. A, title XIII, §1343(a)(10), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–26, §7(j)(4), Apr. 21, 1987, 101 Stat. 283; Pub. L. 101–189, div. A, title VIII, §853(c)(3), Nov. 29, 1989, 103 Stat. 1519, related to education, training, and experience requirements for general and flag officers assigned to a procurement command, prior to repeal by Pub. L. 101–510, div. A, title XII, §1207(c)(3), Nov. 5, 1990, 104 Stat. 1665, effective Oct. 1, 1992.

A prior section 1624, added Pub. L. 99–145, title IX, §924(a)(1), Nov. 8, 1985, 99 Stat. 698, required a training program for quality assurance personnel, prior to repeal by Pub. L. 101–510, div. A, title XII, §1207(c)(4), Nov. 5, 1990, 104 Stat. 1665; Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(i), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993.

### AMENDMENTS

**2014**—Subsec. (a). Pub. L. 113–291 substituted "(50 U.S.C. 3614)" for "(50 U.S.C. 402 note)".

**1996**—Pub. L. 104–201 renumbered section 1608 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 101–193, title V, §507(b), Nov. 30, 1989, 103 Stat. 1710, provided that: "Section 1608 [now 1623] of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act [Nov. 30, 1989]."

# CHAPTER 87—DEFENSE ACQUISITION WORKFORCE


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **General Authorities and Responsibilities** | **1701** |
| **II.** | **Acquisition Positions And Acquisition Workforce Career Fields** | **1721** |
| **III.** | **Critical Acquisition Positions** | **1731** |
| **IV.** | **Education and Training** | **1741** |
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### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, div. A, title VIII, §861(f)(3)(B), (j)(7)(B), Dec. 20, 2019, 133 Stat. 1518, 1519, substituted "Acquisition Positions And Acquisition Workforce Career Fields" for "Defense Acquisition Positions" in item for subchapter II and "Critical Acquisition Positions" for "Acquisition Corps" in item for subchapter III.

**1991**—Pub. L. 102–25, title VII, §704(b)(1), Apr. 6, 1991, 105 Stat. 119, made technical amendment to directory language of Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638, which enacted this chapter.

## SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES

Sec.
1701. Management policies.
1701a. Management for acquisition workforce excellence.
1701b. Enhanced pay authority for certain acquisition and technology positions.
1702. Under Secretary of Defense for Acquisition and Sustainment: authorities and responsibilities.
[1703. Repealed.]
1704. Service acquisition executives: authorities and responsibilities.
1705. Department of Defense Acquisition Workforce Development Account.
1706. Government performance of certain acquisition functions.
[1707. Repealed.] [1]

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(30), title XI, §1114(b), Jan. 1, 2021, 134 Stat. 3872, 3895, added items 1701b and 1702 and struck out former item 1702 "Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities".

**2019**—Pub. L. 116–92, div. A, title X, §1010(a)(2)(B), Dec. 20, 2019, 133 Stat. 1576, substituted "Department of Defense Acquisition Workforce Development Account" for "Department of Defense Acquisition Workforce Development Fund" in item 1705.

**2013**—Pub. L. 112–239, div. A, title VIII, §824(a)(2), Jan. 2, 2013, 126 Stat. 1833, added item 1706.

**2011**—Pub. L. 111–383, div. A, title VIII, §871(b), Jan. 7, 2011, 124 Stat. 4300, added item 1701a.

**2008**—Pub. L. 110–181, div. A, title VIII, §852(a)(2), Jan. 28, 2008, 122 Stat. 250, added item 1705.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(1), Nov. 24, 2003, 117 Stat. 1551, struck out items 1703 "Director of Acquisition Education, Training, and Career Development", 1705 "Directors of Acquisition Career Management in the military departments", 1706 "Acquisition career program boards", and 1707 "Personnel in the Office of the Secretary of Defense and in the Defense Agencies".

**2001**—Pub. L. 107–107, div. A, title X, §1048(b)(3)(B), Dec. 28, 2001, 115 Stat. 1225, substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities" for "Under Secretary of Defense for Acquisition and Technology: authorities and responsibilities" in item 1702.

**1993**—Pub. L. 103–160, div. A, title IX, §904(d)(2), Nov. 30, 1993, 107 Stat. 1728, inserted "and Technology" after "Acquisition" in item 1702.

*[1] New section 1707 enacted by Pub. L. 116–283 without corresponding amendment of subchapter analysis.*

## §1701. Management policies

(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in acquisition positions in the Department of Defense.

(b) UNIFORM IMPLEMENTATION.—The Secretary shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established in accordance with this chapter are uniform in their implementation throughout the Department of Defense.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 101–510, div. A, title XII, §1211, Nov. 5, 1990, 104 Stat. 1667, provided that: "Except as otherwise provided in this title [see Short Title note below], this title and the amendments made by this title, including

chapter 87 of title 10, United States Code (as added by section 1202), shall take effect on the date of the enactment of this Act [Nov. 5, 1990]."

## SHORT TITLE

Pub. L. 101–510, div. A, title XII, §1201, Nov. 5, 1990, 104 Stat. 1638, provided that: "This title [enacting this chapter, sections 5379 and 5380 of Title 5, Government Organization and Employees, and section 317 of Title 37, Pay and Allowances of the Uniformed Services, amending sections 101 and 2435 of this title and sections 4107, 4301, 5102, 5532, 5724, 5742, 5924, 5942, 8344, and 8468 of Title 5, repealing sections 1621 to 1624 of this title, enacting provisions set out as notes under this section and sections 1621 to 1623, 1705, 1721, 1722, 1724, 1733, 1734, 1746, 1761, 1762, and 2435 of this title, sections 3326, 5380, and 5532 of Title 5, and section 317 of Title 37, and repealing provisions set out as a note under section 2304 of this title] may be cited as the 'Defense Acquisition Workforce Improvement Act'."

## REGULATIONS

Pub. L. 101–510, div. A, title XII, §1210(a), Nov. 5, 1990, 104 Stat. 1667, provided that: "Unless otherwise provided in this title [see Short Title note above] and in subsection (b) [set out below], the Secretary of Defense shall promulgate regulations to implement this title and the amendments made by this title not later than one year after the date of the enactment of this Act [Nov. 5, 1990]."

## PRINCIPAL TECHNOLOGY TRANSITION ADVISOR

Pub. L. 118–31, div. A, title VIII, §806, Dec. 22, 2023, 137 Stat. 317, as amended by Pub. L. 118–159, div. A, title VIII, §838, Dec. 23, 2024, 138 Stat. 1988, provided that:

"(a) DESIGNATION.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], each service acquisition executive of a military department shall designate a Principal Technology Transition Advisor who shall advise each Secretary of a military department on the transition of technologies, including technologies from science and technology programs of the Department, private commercial entities, research institutions, and universities, to fulfill identified and potential warfighter requirements for the military department.

"(b) ADVISOR STATUS.—The Principal Technology Transition Advisor of a military department designated under subsection (a) shall be a member of the Senior Executive Service or a general officer and directly report to the service acquisition executive of such military department.

"(c) RESPONSIBILITIES.—The Principal Technology Transition Advisor of a military department designated under subsection (a) shall do the following:

"(1) Identify technologies being researched, developed, tested, or evaluated by science and technology programs of the Department, including Defense research facilities (as defined in section 4125(b) of title 10, United States Code), that the military department may use to meet identified and potential warfighter requirements, including technologies for which the Department owns and maintains the intellectual property rights.

"(2) Consult with Department of Defense innovation programs to identify technologies from private commercial entities, research institutions, universities, and other entities that the military department may use to meet identified and potential warfighter requirements.

"(3) Make recommendations to the service acquisition executive of the military department regarding the acquisition of technologies identified under paragraphs (1) and (2) for acquisition decisions at the service acquisition executive level.

"(4) Inform program managers (as defined in section 1737 of title 10, United States Code) and other relevant acquisition officials of the military department of relevant technologies identified under paragraphs (1) and (2).

"(5) Develop policies and processes for promoting to small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) and nontraditional defense contractors (as defined in section 3014 of title 10, United States Code) opportunities to license intellectual property developed by the Department, including opportunities and methods for small business concerns and nontraditional defense contractors to engage with the Department regarding such licensing.

"(6) Develop and maintain metrics tracking the outcomes of projects and other activities of the military department for which the military department expended amounts designated as budget activity 3 (Advanced Technology Development), budget activity 4 (Advanced Component Development and Prototypes), and budget activity 5 (System Development and Demonstration), as those budget activity classifications are set forth in volume 2B, chapter 5 of the Department of Defense Financial Management Regulation (DOD 7000.14-R).

"(d) DARPA DETAILEES AUTHORIZED.—

"(1) AUTHORITY.—The Director of the Defense Advanced Research Projects Agency, upon a request from the Principal Technology Transition Advisor of a military department, may detail personnel of the Agency to such military department for a period not to exceed one year to provide technology transition support for technology of the Agency that is to be acquired by such military department.

"(2) EXTENSION.—The Under Secretary of Defense for Research and Engineering may extend a detail under paragraph (1) for a period of not more than 6 additional months.

"(e) CONGRESSIONAL REPORT.—Not later than one year after the designation of the Principal Technology Transition Advisor of a military department under subsection (a), and annually thereafter, the Principal Technology Transition Advisor of such military department shall submit to Congress a report on the following for the one-year period preceding the submission of the report:

"(1) The activities of the Principal Technology Transition Advisor.

"(2) The outcomes of projects and other activities described in subsection (c)(6), including the metrics described in such subsection.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Department' means the Department of Defense;

"(2) the term 'Department of Defense innovation programs' means the Defense Innovation Unit of the Department of Defense, AFWERX of the Air Force, and other programs sponsored by the Department of Defense, or any component thereof, with a focus on accelerating the adoption of emerging technologies for mission-relevant applications or innovation; and

"(3) the terms 'military department' and 'service acquisition executive' have the meanings given such terms in section 101(a) of title 10, United States Code."

## ACQUISITION WORKFORCE INCENTIVES RELATING TO TRAINING ON, AND AGREEMENTS WITH, CERTAIN START-UP BUSINESSES

Pub. L. 117–263, div. A, title VIII, §834, Dec. 23, 2022, 136 Stat. 2713, provided that:

"(a) TRAINING.—

"(1) CURRICULA.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Director of the Acquisition Innovation Research Center shall make recommendations on one or more curricula for members of the acquisition workforce on financing and operations of start-up businesses, which may include the development of new curricula, the modification of existing curricula, or the adoption of curricula from another agency, academia, or the private sector.

"(2) ELEMENTS.—Courses under curricula recommended under paragraph (1) shall be offered with varying course lengths and level of study.

"(3) INCENTIVES.—The Secretary of Defense shall develop a program to offer incentives to a member of the acquisition workforce that completes a curriculum developed, modified, or adopted under paragraph (1).

"(4) ADDITIONAL TRAINING MATERIALS.—In recommending curricula under paragraph (1), the Director of the Acquisition Innovation Research Center shall consider and incorporate appropriate training materials from university, college, trade-school, or private-sector curricula in business, law, or public policy.

"(b) EXCHANGES.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a pilot program under which the Secretary shall, in accordance with section 1599g of title 10, United States Code, arrange for the temporary assignment of—

"(A) one or more members of the acquisition workforce to a start-up business; or

"(B) an employee of a start-up business to an office of the Department of Defense.

"(2) PRIORITY.—The Secretary shall prioritize for participation in the pilot program described under paragraph (1)(A) members of the acquisition workforce who have completed a curriculum required under paragraph (1) [probably means par. (1) of subsec. (a)].

"(3) TERMINATION.—The Secretary may not carry out the pilot program authorized by this subsection after the date that is three years after the date of the enactment of this Act.

"(c) CONFERENCES.—The Secretary of Defense shall identify existing conferences sponsored by the Department of Defense that might be expanded to include opportunities for sharing knowledge and best practices on software acquisition issues. Such opportunities shall maximize participation between members of the acquisition workforce, employees of start-up businesses, and investors in start-up businesses.

"(d) PILOT PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall establish a pilot program to test the feasibility of innovative

approaches to negotiating and establishing intellectual property and data rights in agreements with start-up businesses for the procurement of software and software-embedded systems.

"(2) AUTHORITY.—To the maximum extent practicable, the Secretary shall—

"(A) ensure that a member of the acquisition workforce who has completed a curriculum required under subsection (a) is able to exercise authority to apply an approach described in paragraph (1); and

"(B) provide incentives to such member to exercise such authority.

"(3) ELEMENTS.—An approach described in paragraph (1) shall include the following:

"(A) Flexible and tailored requirements relating to the acquisition and licensing of intellectual property and data rights in the software and software-embedded systems to be acquired under the agreement.

"(B) An identification and definition of the technical interoperability standards required for such software and software-embedded systems.

"(C) Flexible mechanisms for access and delivery of code for such software, including documentation of the costs and benefits of each such mechanism.

"(4) TERMINATION.—The Secretary may not carry out the pilot program authorized by this subsection after the date that is 5 years after the date of the enactment of this Act.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Acquisition Innovation Research Center' means the acquisition research organization within a civilian college or university that is described under section 4142(a) of title 10, United States Code.

"(2) The term 'acquisition workforce' has the meaning given in section 101 of title 10, United States Code.

"(3) The term 'start-up business' means a small business that has been in existence for 5 years or less."

## CONTINUATION OF PAY

Pub. L. 116–283, div. A, title XI, §1114(c)(2), Jan. 1, 2021, 134 Stat. 3895, provided that: "The repeal in paragraph (1) [repealing section 1111 of Pub. L. 114–92, formerly set out as a note below] shall not be interpreted to prohibit the payment of basic pay at rates fixed under such section 1111 before the date of the enactment of this Act [Jan. 1, 2021] for positions having terms that continue after that date."

## EXCHANGE PROGRAM FOR ACQUISITION WORKFORCE EMPLOYEES

Pub. L. 115–232, div. A, title VIII, §884, Aug. 13, 2018, 132 Stat. 1915, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall establish an exchange program under which the Under Secretary of Defense for Acquisition and Sustainment shall arrange for the temporary assignment of civilian personnel in the Department of Defense acquisition workforce.

"(b) PURPOSES.—The purposes of the exchange program established pursuant to subsection (a) are—

"(1) to familiarize personnel from the acquisition workforce with the equities, priorities, processes, culture, and workforce of the acquisition-related defense agencies;

"(2) to enable participants in the exchange program to return the expertise gained through their exchanges to their original organizations; and

"(3) to improve communication between and integration of the organizations that support the policy, implementation, and oversight of defense acquisition through lasting relationships.

"(c) PARTICIPANTS.—

"(1) NUMBER OF PARTICIPANTS.—The Under Secretary shall select not less than 10 and no more than 20 participants per year for participation in the exchange program established under subsection (a).

"(2) CRITERIA FOR SELECTION.—The Under Secretary shall select participants for the exchange program established under subsection (a) from among mid-career employees and based on—

"(A) the qualifications and desire to participate in the program of the employee; and

"(B) the technical needs and capacities of the acquisition workforce, as applicable.

"(d) TERMS.—Exchanges pursuant to the exchange program established under subsection (a) shall be for terms of one to two years, as determined and negotiated by the Under Secretary. The terms may begin and end on a rolling basis.

"(e) GUIDANCE AND IMPLEMENTATION.—

"(1) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Under Secretary shall develop and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] interim guidance on the form and contours of the exchange program established under subsection (a).

"(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall implement the guidance developed under paragraph (1)."

## PILOT PROGRAM ON TEMPORARY EXCHANGE OF FINANCIAL MANAGEMENT AND ACQUISITION PERSONNEL

Pub. L. 114–92, div. A, title XI, §1110, Nov. 25, 2015, 129 Stat. 1030, as amended by Pub. L. 116–283, div. A, title XVIII, §1806(e)(3)(A), Jan. 1, 2021, 134 Stat. 4156; Pub. L. 117–286, §4(c)(19), Dec. 27, 2022, 136 Stat. 4356, provided that:

"(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of the temporary assignment of covered employees of the Department of Defense to nontraditional defense contractors and of covered employees of such contractors to the Department.

"(b) COVERED EMPLOYEES; NONTRADITIONAL DEFENSE CONTRACTORS.—

"(1) COVERED EMPLOYEES.—An employee of the Department of Defense or a nontraditional Defense contractor is a covered employee for purposes of this section if the employee—

"(A) works in the field of financial management or in the acquisition field;

"(B) is considered by the Secretary of Defense to be an exceptional employee; and

"(C) is compensated at not less than the GS–11 level (or the equivalent).

"(2) NONTRADITIONAL DEFENSE CONTRACTORS.—For purposes of this section, the term 'nontraditional defense contractor' has the meaning given that term in section 3014 of title 10, United States Code.

"(c) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary of Defense shall provide for a written agreement among the Department of Defense, the nontraditional defense contractor concerned, and the employee concerned regarding the terms and conditions of the employee's assignment under this section.

"(2) ELEMENTS.—An agreement under this subsection—

"(A) shall require, in the case of an employee of the Department, that upon completion of the assignment, the employee will serve in the civil service for a period at least equal to three times the length of the assignment, unless the employee is sooner involuntarily separated from the service of the employee's agency; and

"(B) shall provide that if the employee of the Department or of the contractor (as the case may be) fails to carry out the agreement, or if the employee is voluntarily separated from the service of the employee's agency before the end of the period stated in the agreement, the employee shall be liable to the United States for payment of all expenses of the assignment unless that failure or voluntary separation was for good and sufficient reason, as determined by the Secretary.

"(3) DEBT TO THE UNITED STATES.—An amount for which an employee is liable under paragraph (2)(B) shall be treated as a debt due the United States. The Secretary may waive, in whole or in part, collection of such a debt based on a determination that the collection would be against equity and good conscience and not in the best interests of the United States.

"(d) TERMINATION.—An assignment under this section may, at any time and for any reason, be terminated by the Department of Defense or the nontraditional defense contractor concerned.

"(e) DURATION.—An assignment under this section shall be for a period of not less than three months and not more than one year.

"(f) STATUS OF FEDERAL EMPLOYEES ASSIGNED TO CONTRACTORS.—An employee of the Department of Defense who is assigned to a nontraditional defense contractor under this section shall be considered, during the period of assignment, to be on detail to a regular work assignment in the Department for all purposes. The written agreement established under subsection (c) shall address the specific terms and conditions related to the employee's continued status as a Federal employee.

"(g) TERMS AND CONDITIONS FOR PRIVATE SECTOR EMPLOYEES.—An employee of a nontraditional defense contractor who is assigned to a Department of Defense organization under this section—

"(1) shall continue to receive pay and benefits from the contractor from which such employee is assigned;

"(2) shall be deemed to be an employee of the Department of Defense for the purposes of—

"(A) chapter 73 of title 5, United States Code;

"(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, United States Code, and any other conflict of interest statute;

"(C) sections 1343, 1344, and 1349(b) of title 31, United States Code;

"(D) chapter 171 and section 1346(b) of title 28, United States Code (popularly known as the Federal Tort Claims Act), and any other Federal tort liability statute;

"(E) chapter 131 of title 5, United States Code;

"(F) chapter 21 of title 41, United States Code; and

"(G) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

"(3) may not have access, while the employee is assigned to a Department organization, to any trade secrets or to any other nonpublic information which is of commercial value to the contractor from which such employee is assigned.

"(h) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO FEDERAL GOVERNMENT.—A nontraditional defense contractor may not charge the Department of Defense or any other agency of the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the contractor to an employee assigned to a Department organization under this section for the period of the assignment.

"(i) CONSIDERATION.—In providing for assignments of employees under this section, the Secretary of Defense shall take into consideration the question of how assignments might best be used to help meet the needs of the Department of Defense with respect to the training of employees in financial management or in acquisition.

"(j) NUMERICAL LIMITATIONS.—

"(1) DEPARTMENT EMPLOYEES.—The number of employees of the Department of Defense who may be assigned to nontraditional defense contractors under this section at any given time may not exceed the following:

"(A) Five employees in the field of financial management.

"(B) Five employees in the acquisition field.

"(2) NONTRADITIONAL DEFENSE CONTRACTOR EMPLOYEES.—The total number of nontraditional defense contractor employees who may be assigned to the Department under this section at any given time may not exceed 10 such employees.

"(k) TERMINATION OF AUTHORITY FOR ASSIGNMENTS.—No assignment of an employee may commence under this section after September 30, 2019."

## PILOT PROGRAM ON ENHANCED PAY AUTHORITY FOR CERTAIN ACQUISITION AND TECHNOLOGY POSITIONS IN THE DEPARTMENT OF DEFENSE

Pub. L. 114–92, div. A, title XI, §1111, Nov. 25, 2015, 129 Stat. 1032, as amended by Pub. L. 116–92, div. A, title IX, §902(9), Dec. 20, 2019, 133 Stat. 1543, which authorized a pilot program on enhanced pay authority for certain acquisition and technology positions in the Department of Defense, was repealed by Pub. L. 116–283, div. A, title XI, §1114(c)(1), Jan. 1, 2021, 134 Stat. 3895. See Continuation of Pay note above and section 1701b of this title.

## PILOT PROGRAM ON DIRECT HIRE AUTHORITY FOR VETERAN TECHNICAL EXPERTS INTO THE DEFENSE ACQUISITION WORKFORCE

Pub. L. 114–92, div. A, title XI, §1112, Nov. 25, 2015, 129 Stat. 1033, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of appointing qualified veteran candidates to positions described in subsection (b) in the defense acquisition workforce of the military departments without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code. The Secretary shall carry out the pilot program in each military department through the service acquisition executive of such military department.

"(b) POSITIONS.—The positions described in this subsection are scientific, technical, engineering, and mathematics positions, including technicians, within the defense acquisition workforce.

"(c) LIMITATION.—Authority under subsection (a) may not, in any calendar year and with respect to any military department, be exercised with respect to a number of candidates greater than the number equal to 1 percent of the total number of positions in the acquisition workforce of that military department that are filled as of the close of the fiscal year last ending before the start of such calendar year.

"(d) DEFINITIONS.—In this section:

"(1) The term 'employee' has the meaning given that term in section 2105 of title 5, United States Code.

"(2) The term 'veteran' has the meaning given that term in section 101 of title 38, United States Code.

"(e) TERMINATION.—

"(1) IN GENERAL.—The authority to appoint candidates to positions under the pilot program shall expire on the date that is five years after the date of the enactment of this Act [Nov. 25, 2015].

"(2) EFFECT ON EXISTING APPOINTMENTS.—The termination by paragraph (1) of the authority in subsection (a) shall not affect any appointment made under that authority before the termination date specified in paragraph (1) in accordance with the terms of such appointment."

## DIRECT HIRE AUTHORITY FOR TECHNICAL EXPERTS INTO THE DEFENSE ACQUISITION WORKFORCE

Pub. L. 114–92, div. A, title XI, §1113, Nov. 25, 2015, 129 Stat. 1033, provided that:

"(a) AUTHORITY.—Each Secretary of a military department may appoint qualified candidates possessing a scientific or engineering degree to positions described in subsection (b) for that military department without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

"(b) APPLICABILITY.—Positions described in this subsection are scientific and engineering positions within the defense acquisition workforce.

"(c) LIMITATION.—Authority under this section may not, in any calendar year and with respect to any military department, be exercised with respect to a number of candidates greater than the number equal to 5 percent of the total number of scientific and engineering positions within the acquisition workforce of that military department that are filled as of the close of the fiscal year last ending before the start of such calendar year.

"(d) NATURE OF APPOINTMENT.—Any appointment under this section shall be treated as an appointment on a full-time equivalent basis, unless such appointment is made on a term or temporary basis.

"(e) EMPLOYEE DEFINED.—In this section, the term 'employee' has the meaning given that term in section 2105 of title 5, United States Code.

"(f) TERMINATION.—The authority to make appointments under this section shall not be available after December 31, 2020."

## COORDINATION OF HUMAN SYSTEMS INTEGRATION ACTIVITIES RELATED TO ACQUISITION PROGRAMS

Pub. L. 110–181, div. A, title II, §231, Jan. 28, 2008, 122 Stat. 45, as amended by Pub. L. 115–232, div. A, title VIII, §811(f), Aug. 13, 2018, 132 Stat. 1845; Pub. L. 116–92, div. A, title IX, §902(10), Dec. 20, 2019, 133 Stat. 1543, provided that: "The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall coordinate and manage human systems integration activities throughout the acquisition programs of the Department of Defense."

## REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS

Pub. L. 110–181, div. A, title VIII, §847, Jan. 28, 2008, 122 Stat. 243, as amended by Pub. L. 113–291, div. A, title VIII, §855, title X, §1071(b)(2)(C), Dec. 19, 2014, 128 Stat. 3460, 3506; Pub. L. 117–263, div. A, title VIII, §821, Dec. 23, 2022, 136 Stat. 2709, provided that:

"(a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN OPINION.—

"(1) REQUEST.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

"(2) SUBMISSION OF REQUEST.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the request, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and future job descriptions, if applicable.

"(3) WRITTEN OPINION.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

"(4) CONTRACTOR REQUIREMENT.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

"(5) ADMINISTRATIVE ACTIONS.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails

to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 2105 of title 41, United States Code[,] that the Secretary of Defense determines to be appropriate.

"(b) RECORDKEEPING REQUIREMENT.—Each request for a written opinion made pursuant to this section, and each written opinion provided pursuant to such a request, shall be retained by the Department of Defense in a central database or repository maintained by the General Counsel of the Department for not less than five years beginning on the date on which the written opinion was provided.

"(c) COVERED DEPARTMENT OF DEFENSE OFFICIALS.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

"(1) participated personally and substantially in an acquisition as defined in section 131 of title 41, United States Code[,] with a value in excess of $10,000,000 and serves or served—

"(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

"(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

"(C) in a general or flag officer position compensated at a rate of pay for grade O–7 or above under section 201 of title 37, United States Code; or

"(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of $10,000,000.

"(d) DEFINITION.—In this section, the term 'post-employment restrictions' includes—

"(1) chapter 21 of title 41, United States Code;

"(2) section 207 of title 18, United States Code; and

"(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense."

**GOVERNMENT PERFORMANCE OF CRITICAL ACQUISITION FUNCTIONS**

Pub. L. 109–364, div. A, title VIII, §820, Oct. 17, 2006, 120 Stat. 2330, as amended by Pub. L. 111–84, div. A, title VIII, §805(c), Oct. 28, 2009, 123 Stat. 2403; Pub. L. 112–81, div. A, title VIII, §835(a), Dec. 31, 2011, 125 Stat. 1507, which related to government performance of critical acquisition functions, was repealed by Pub. L. 112–239, div. A, title VIII, §824(b), Jan. 2, 2013, 126 Stat. 1833.

**DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES**

Pub. L. 104–106, div. D, title XLIII, §4308, Feb. 10, 1996, 110 Stat. 669, as amended by Pub. L. 105–85, div. A, title VIII, §845, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 107–314, div. A, title VIII, §813(b), Dec. 2, 2002, 116 Stat. 2609; Pub. L. 108–136, div. A, title XI, §1112, Nov. 24, 2003, 117 Stat. 1634, which encouraged the Secretary of Defense to commence a demonstration project relating to improving the personnel management policies or procedures that apply to the acquisition workforce of the Department of Defense and supporting personnel, was repealed and restated as section 1762 of this title by Pub. L. 111–383, div. A, title VIII, §872(a)(1), (b), Jan. 7, 2011, 124 Stat. 4300, 4302.

**EVALUATION BY COMPTROLLER GENERAL**

Pub. L. 101–510, div. A, title XII, §1208, Nov. 5, 1990, 104 Stat. 1665, as amended by Pub. L. 102–25, title VII, §704(b)(2), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102–484, div. A, title VIII, §812(g), Oct. 23, 1992, 106 Stat. 2452; Pub. L. 104–106, div. A, title XV, §1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507, provided for evaluation by Comptroller General of actions taken by Secretary of Defense to carry out requirements of Defense Acquisition Workforce Improvement Act and submission of annual reports to Congress, prior to repeal by Pub. L. 104–66, title I, §1031(b)(1), Dec. 21, 1995, 109 Stat. 714.

**DEADLINES FOR QUALIFICATION REQUIREMENTS**

Pub. L. 101–510, div. A, title XII, §1210(b), Nov. 5, 1990, 104 Stat. 1667, provided that: "Not later than October 1, 1992, the Secretary of Defense shall prescribe regulations to implement sections 1723, 1724, and [former] 1732 of title 10, United States Code (as added by section 1202)."

## §1701a. Management for acquisition workforce excellence

(a) PURPOSE.—The purpose of this chapter is to require the Department of Defense to develop and manage a highly skilled professional acquisition workforce—

(1) in which excellence and contribution to mission is rewarded;

(2) which has the technical expertise and business skills to ensure the Department receives the best value for the expenditure of public resources;

(3) which serves as a model for performance management of employees of the Department; and

(4) which is managed in a manner that complements and reinforces the management of the defense acquisition system pursuant to chapter 205 of this title.

(b) PERFORMANCE MANAGEMENT.—In order to achieve the purpose set forth in subsection (a), the Secretary of Defense shall—

(1) use the full authorities provided in subsections (a) through (d) of section 9902 of title 5, including flexibilities related to performance management and hiring and to training of managers;

(2) require managers to develop performance plans for individual members of the acquisition workforce in order to give members an understanding of how their performance contributes to their organization's mission and the success of the defense acquisition system (as defined in section 3001 of this title);

(3) to the extent appropriate, use the lessons learned from the acquisition demonstration project carried out under section 1762 of this title related to contribution-based compensation and appraisal, and how those lessons may be applied within the General Schedule system;

(4) develop and implement a career path, as described in section 1722(a) of this title, for each career field designated by the Secretary under section 1721(a) of this title as an acquisition workforce career field;

(5) direct continuing education and training;

(6) authorize a member of the acquisition workforce to participate in professional associations, consistent with the performance plan of such a member in order to provide the member with the opportunity to gain leadership and management skills;

(7) develop appropriate procedures for warnings and consequences during performance evaluations for members of the acquisition workforce who consistently fail to meet performance standards;

(8) take full advantage of the Defense Civilian Leadership Program established under section 1112 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2496; 10 U.S.C. 1580 note prec.);

(9) use the authorities for highly qualified experts under section 9903 of title 5, to hire experts who are skilled acquisition professionals to—

(A) serve in leadership positions within the acquisition workforce to strengthen management and oversight;

(B) provide mentors to advise individuals within the acquisition workforce on their career paths and opportunities to advance and excel within the acquisition workforce; and

(C) assist with the design of education and training courses and the training of individuals in the acquisition workforce;

(10) use the authorities for expedited security clearance processing pursuant to section 1564 of this title; and

(11) ensure the participation in the public-private talent exchange program established under section 1599g of this title of up to 250 members of the acquisition workforce in each fiscal year.

(c) PROFESSIONAL CERTIFICATION.—(1) The Secretary of Defense shall implement a certification program to provide for a professional certification requirement for all members of the acquisition workforce. Except as provided in paragraph (2), the certification requirement for any acquisition workforce career field shall be based on standards developed by a third-party accredited program based on nationally or internationally recognized standards.

(2) If the Secretary determines that, for a particular acquisition workforce career field, a

third-party accredited program based on nationally or internationally recognized standards does not exist, the Secretary shall establish the certification requirement for that career field that conforms with the practices of national or international accrediting organizations. The Secretary shall determine the best approach for meeting the certification requirement for any such career field, including by implementing such certification requirement through entities outside the Department of Defense, and may design and implement such certification requirement without regard to section 1746 of this title.

(d) NEGOTIATIONS.—Any action taken by the Secretary under this section, or to implement this section, shall be subject to the requirements of chapter 71 of title 5.

(e) REGULATIONS.—Any rules or regulations prescribed pursuant to this section shall be deemed an agency rule or regulation under section 7117(a)(2) of title 5, and shall not be deemed a Government-wide rule or regulation under section 7117(a)(1) of such title.

(Added Pub. L. 111–383, div. A, title VIII, §871(a), Jan. 7, 2011, 124 Stat. 4299; amended Pub. L. 116–92, div. A, title VIII, §861(a)(1)–(3), (e)(1), Dec. 20, 2019, 133 Stat. 1515, 1517; Pub. L. 116–283, div. A, title X, §1081(a)(31), title XVIII, §§1808(d)(2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3872, 4160, 4294; Pub. L. 117–263, div. A, title VIII, §831(a), Dec. 23, 2022, 136 Stat. 2711.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b)(2). Pub. L. 117–263, §831(a)(2), substituted "as defined in section 3001 of this title" for "as defined in section 2545 of this title".

Subsec. (b)(11). Pub. L. 117–263, §831(a)(1), added par. (11).

**2021**—Subsec. (a)(4). Pub. L. 116–283, §1808(d)(2), substituted "chapter 205" for "chapter 149".

Subsec. (b)(2). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2545", which was redesignated as multiple sections.

Subsec. (b)(6). Pub. L. 116–283, §1081(a)(31)(A), substituted a semicolon for the period at end.

Subsec. (c). Pub. L. 116–283, §1081(a)(31)(B), struck out par. (1) heading "In General" and par. (2) heading "Requirements for Secretary".

**2019**—Subsec. (b)(4). Pub. L. 116–92, §861(e)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "develop attractive career paths;".

Subsec. (b)(5). Pub. L. 116–92, §861(a)(2)(A), substituted "direct" for "encourage".

Subsec. (b)(6). Pub. L. 116–92, §861(a)(3)(B), added par. (6). Former par. (6) redesignated (7).

Pub. L. 116–92, §861(a)(2)(B), inserted "and consequences" after "warnings".

Subsec. (b)(7) to (10). Pub. L. 116–92, §861(a)(3)(A), redesignated pars. (6) to (9) as (7) to (10), respectively.

Subsecs. (c) to (e). Pub. L. 116–92, §861(a)(1), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by sections 1808(d)(2) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### DEADLINE FOR IMPLEMENTATION OF PROCEDURES TO INSTITUTE CERTIFICATION PROGRAM

Pub. L. 116–92, div. A, title VIII, §861(a)(5), Dec. 20, 2019, 133 Stat. 1516, provided that: "The Secretary of Defense shall implement procedures to institute the program required by subsection (c) of section 1701a of title 10, United States Code, as added by paragraph (1), not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019]."

### DEADLINE FOR IMPLEMENTATION OF CAREER PATHS

Pub. L. 116–92, div. A, title VIII, §861(e)(3), Dec. 20, 2019, 133 Stat. 1517, provided that: "Not later than the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall carry out the requirements of paragraph (4) of section 1701a(b) of title 10, United States Code (as amended by paragraph (1))."

**FLEXIBILITY IN CONTRACTING AWARD PROGRAM**

Pub. L. 114–328, div. A, title VIII, §834, Dec. 23, 2016, 130 Stat. 2285, which established an award to recognize acquisition programs and professionals making the best use of flexibilities and authorities granted by Federal Acquisition Regulation and Department of Defense Instruction 5000.02, was repealed by Pub. L. 117–263, div. A, title VIII, §801(c), Dec. 23, 2022, 136 Stat. 2693. See section 1743 of this title.

**AWARDS FOR DEPARTMENT OF DEFENSE PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF PRODUCTS AND SERVICES**

Pub. L. 111–23, title III, §301, May 22, 2009, 123 Stat. 1730, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [May 22, 2009], the Secretary of Defense shall commence carrying out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense in the acquisition of products and services for the Department of Defense.

"(b) ELEMENTS.—The program required by subsection (a) shall include the following:

"(1) Procedures for the nomination by the personnel of the military departments and the Defense Agencies of individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense for eligibility for recognition under the program.

"(2) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise, and are appointed in such manner, as the Secretary shall establish for purposes of the program.

"(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Secretary may award to any individual recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law."

## §1701b. Enhanced pay authority for certain acquisition and technology positions

(a) IN GENERAL.—The Secretary of Defense may carry out a program using the pay authority specified in subsection (d) to fix the rate of basic pay for positions described in subsection (c) in order to assist the Office of the Secretary of Defense and the military departments in attracting and retaining high-quality acquisition and technology experts in positions responsible for managing and developing complex, high-cost, technological acquisition efforts of the Department of Defense.

(b) APPROVAL REQUIRED.—The program may be carried out only with approval as follows:

(1) Approval of the Under Secretary of Defense for Acquisition and Sustainment, in the case of positions in the Office of the Secretary of Defense.

(2) Approval of the service acquisition executive of the military department concerned, in the case of positions in a military department.

(c) POSITIONS.—The positions described in this subsection are positions that—

(1) require expertise of an extremely high level in a scientific, technical, professional, or acquisition management field; and

(2) are critical to the successful accomplishment of an important acquisition or technology development mission.

(d) RATE OF BASIC PAY.—The pay authority specified in this subsection is authority as follows:

(1) Authority to fix the rate of basic pay for a position at a rate not to exceed 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Under Secretary of Defense for Acquisition and Sustainment or the service acquisition executive concerned, as applicable.

(2) Authority to fix the rate of basic pay for a position at a rate in excess of 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Secretary of Defense.

(e) LIMITATIONS.—

(1) IN GENERAL.—The authority in subsection (a) may be used only to the extent necessary to competitively recruit or retain individuals exceptionally well qualified for positions described in subsection (c).

(2) NUMBER OF POSITIONS.—The authority in subsection (a) may not be used at any one time with respect to—

(A) more than five positions, in total, in Department of Defense Field Activities and Defense Agencies;

(B) more than five positions in the Office of the Secretary of Defense; and

(C) more than five positions in each military department.

(3) TERM OF POSITIONS.—The authority in subsection (a) may be used only for positions having terms less than five years.

(Added Pub. L. 116–283, div. A, title XI, §1114(a), Jan. 1, 2021, 134 Stat. 3894; amended Pub. L. 117–263, div. A, title VIII, §831(b), Dec. 23, 2022, 136 Stat. 2711.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Level I of the Executive Schedule, referred to in subsec. (d), is set out in section 5312 of Title 5, Government Organization and Employees.

**AMENDMENTS**

**2022**—Subsec. (e)(2). Pub. L. 117–263 amended par. (2) generally. Prior to amendment, text read as follows: "The authority in subsection (a) may not be used with respect to more than five positions in the Office of the Secretary of Defense and more than five positions in each military department at any one time."

## §1702. Under Secretary of Defense for Acquisition and Sustainment: authorities and responsibilities

Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment shall carry out all powers, functions, and duties of the Secretary of Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense. The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1638; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–261, div. A, title VIII, §815, Oct. 17, 1998, 112 Stat. 2088; Pub. L. 107–107, div. A, title X, §1048(b)(2), (3)(A), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(11), Dec. 20, 2019, 133 Stat. 1544.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in section catchline and in text.

**2001**—Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology" in section catchline and in text.

**1998**—Pub. L. 105–261 inserted at end "The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title."

**1993**—Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition" in section catchline and in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM**

Pub. L. 107–314, div. A, title VIII, §807, Dec. 2, 2002, 116 Stat. 2608, as amended by Pub. L. 116–92, div. A, title IX, §902(12), Dec. 20, 2019, 133 Stat. 1544, provided that:

"(a) ESTABLISHMENT.—The Under Secretary of Defense for Acquisition and Sustainment shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

"(b) DUTIES.—The issues on which the team may provide advice shall include the following:

"(1) Industrial base issues, including the limited availability of suppliers.

"(2) Technology development and technology transition issues.

"(3) Issues of acquisition policy, including the length of the acquisition cycle.

"(4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.

"(5) Issues of procurement policy, including the impact of socio-economic requirements.

"(6) Issues relating to compliance with environmental requirements."

## [§1703. Repealed. Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549]

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to Director of Acquisition Education, Training, and Career Development.

## §1704. Service acquisition executives: authorities and responsibilities

Subject to the authority, direction, and control of the Secretary of the military department concerned, the service acquisition executive for each military department shall carry out all powers, functions, and duties of the Secretary concerned with respect to the acquisition workforce within the military department concerned and shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in that department.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639.)

## §1705. Department of Defense Acquisition Workforce Development Account

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an account to be known as the "Department of Defense Acquisition Workforce Development Account" (in this section referred to as the "Account") to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

(b) PURPOSE.—The purpose of the Account is to ensure that the Department of Defense acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission, provide appropriate oversight of contractor performance, and ensure that the Department receives the best value for the expenditure of public resources.

(c) MANAGEMENT.—The Account shall be managed by a senior official of the Department of Defense designated by the Under Secretary of Defense for Acquisition and Sustainment for that purpose, from among persons with an extensive background in management relating to acquisition and personnel.

(d) ELEMENTS.—The Account shall consist of amounts appropriated to the Account by law.
(e) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—(A) Subject to the provisions of this subsection, amounts in the Account shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the Account, including for the provision of training and retention incentives to the acquisition workforce of the Department and to develop acquisition tools and methodologies, and undertake research and development activities, leading to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts. In the case of temporary members of the acquisition workforce designated pursuant to subsection (g)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties.

(B) Amounts in the Account also may be used to pay salaries of personnel at the Office of the Secretary of Defense, military departments, and Defense Agencies to manage the Account.

(C) Amounts in the Account may be used to pay the expenses of the public-private talent exchange program established under section 1599g of this title.

(2) PROHIBITION.—Amounts in the Account may not be obligated for any purpose other than purposes described in paragraph (1) or otherwise in accordance with this subsection.

(3) GUIDANCE.—The Under Secretary of Defense for Acquisition and Sustainment, acting through the senior official designated to manage the Account, shall issue guidance for the administration of the Account. Such guidance shall include provisions—

(A) identifying areas of need in the acquisition workforce for which amounts in the Account may be used, including—

(i) changes to the types of skills needed in the acquisition workforce;

(ii) incentives to retain in the acquisition workforce qualified, experienced acquisition workforce personnel; and

(iii) incentives for attracting new, high-quality personnel to the acquisition workforce;

(B) describing the manner and timing for applications for amounts in the Account to be submitted;

(C) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Account in any fiscal year;

(D) describing measurable objectives of performance for determining whether amounts in the Account are being used in compliance with this section; and

(E) describing the amount from the Account that may be used to pay salaries of personnel at the Office of the Secretary of Defense, military departments, and Defense Agencies to manage the Account and the circumstances under which such amounts may be used for such purpose.

(4) LIMITATION ON PAYMENTS TO OR FOR CONTRACTORS.—Amounts in the Account shall not be available for payments to contractors or contractor employees, other than for the purposes of—

(A) providing advanced training to Department of Defense employees;

(B) developing acquisition tools and methodologies and performing research on acquisition policies and best practices that will improve the efficiency and effectiveness of defense acquisition efforts; and

(C) supporting human capital and talent management of the acquisition workforce, including benchmarking studies, assessments, and requirements planning.

(5) PROHIBITION ON PAYMENT OF BASE SALARY OF CURRENT EMPLOYEES .—Amounts in the Account may not be used to pay the base salary of any person who was an

employee of the Department serving in a position in the acquisition workforce as of January 28, 2008, and who has continued in the employment of the Department since such time without a break in such employment of more than a year.

(6) DURATION OF AVAILABILITY.—Amounts appropriated to the Account pursuant to subsection (d) shall remain available for expenditure for the fiscal year in which appropriated and the succeeding fiscal year.

(f) EXPEDITED HIRING AUTHORITY.—For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense may—

(1) designate any category of positions in the acquisition workforce as positions for which there exists a shortage of candidates or there is a critical hiring need; and

(2) utilize the authorities in such sections to recruit and appoint qualified persons directly to positions so designated.

(g) ACQUISITION WORKFORCE DEFINED.—In this section, the term "acquisition workforce" means the following:

(1) Personnel in positions designated under section 1721 of this title as acquisition positions for purposes of this chapter.

(2) Other military personnel or civilian employees of the Department of Defense who—

(A)(i) contribute significantly to the acquisition process by virtue of their assigned duties; or

(ii) contribute significantly to the acquisition or development of systems relating to cybersecurity; and

(B) are designated as temporary members of the acquisition workforce by the Under Secretary of Defense for Acquisition and Sustainment, or by the senior acquisition executive of a military department, for the limited purpose of receiving training for the performance of acquisition-related functions and duties.

(Added Pub. L. 110–181, div. A, title VIII, §852(a)(1), Jan. 28, 2008, 122 Stat. 248; amended Pub. L. 110–417, [div. A], title VIII, §833, Oct. 14, 2008, 122 Stat. 4535; Pub. L. 111–84, div. A, title VIII, §§831, 832(a)–(g), Oct. 28, 2009, 123 Stat. 2414, 2415; Pub. L. 112–81, div. A, title VIII, §804(a), Dec. 31, 2011, 125 Stat. 1486; Pub. L. 112–239, div. A, title VIII, §803(a), (b), Jan. 2, 2013, 126 Stat. 1825; Pub. L. 114–92, div. A, title VIII, §841(a), Nov. 25, 2015, 129 Stat. 913; Pub. L. 114–328, div. A, title VIII, §863(a), (b), title X, §1081(a)(5), Dec. 23, 2016, 130 Stat. 2302, 2303, 2417; Pub. L. 115–91, div. A, title VIII, §§842, 843(a)(1), title X, §1051(a)(7), title XVI, §1636, Dec. 12, 2017, 131 Stat. 1479, 1480, 1560, 1741; Pub. L. 116–92, div. A, title VIII, §863(b), title IX, §902(13), title X, §1010(a)(1), (2)(A), (b)–(d), Dec. 20, 2019, 133 Stat. 1522, 1544, 1576; Pub. L. 117–81, div. A, title X, §1081(a)(22), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1705, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639, related to Directors of Acquisition Career Management in the military departments, prior to repeal by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81 substituted "an account" for "a fund".

**2019**—Pub. L. 116–92, §1010(a)(2)(A), substituted "Department of Defense Acquisition Workforce Development Account" for "Department of Defense Acquisition Workforce Development Fund" in section catchline.

Pub. L. 116–92, §1010(a)(1)(B), substituted "Account" for "Fund" wherever appearing except in subsec. (e)(6) prior to its subsequent amendment.

Pub. L. 116–92, §1010(b), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" wherever appearing.

Pub. L. 116–92, §902(13)(A)–(C), which directed amendment of subsecs. (c), (e)(3), and (g)(2)(B),

respectively, by substituting "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics", effective Dec. 20, 2019, could not be executed because of the identical amendment made by Pub. L. 116–92, §1010(b), effective Oct. 1, 2019. See Amendment note above and Effective Date of 2019 Amendment note below.

Subsec. (a). Pub. L. 116–92, §1010(a)(1)(A), substituted "the 'Department of Defense Acquisition Workforce Development Account' (in this section referred to as the 'Account')" for "the 'Department of Defense Acquisition Workforce Development Fund' (in this section referred to as the 'Fund')".

Subsec. (d). Pub. L. 116–92, §1010(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) listed elements comprising the Fund.

Subsec. (e)(1)(C). Pub. L. 116–92, §863(b), added subpar. (C).

Subsec. (e)(6). Pub. L. 116–92, §1010(d), substituted "appropriated to the Account pursuant to subsection (d) shall remain available for expenditure for the fiscal year in which appropriated and the succeeding fiscal year." for "credited to the Fund in accordance with subsection (d)(2), transferred to the Fund pursuant to subsection (d)(3), appropriated to the Fund, or deposited to the Fund shall remain available for obligation in the fiscal year for which credited, transferred, appropriated, or deposited and the two succeeding fiscal years."

**2017**—Subsec. (d)(2)(D). Pub. L. 115–91, §842, amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "The Secretary of Defense may reduce the amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater than is reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not reduce the amount for a fiscal year to an amount that is less than $400,000,000."

Subsec. (e)(1). Pub. L. 115–91, §843(a)(1)(A), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e)(1)(A). Pub. L. 115–91, §1051(a)(7)(A), substituted "subsection (g)(2)" for "subsection (h)(2)".

Subsec. (e)(3)(E). Pub. L. 115–91, §843(a)(1)(B), added subpar. (E).

Subsec. (f). Pub. L. 115–91, §1051(a)(7)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "Not later than February 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the operation of the Fund during the preceding fiscal year."

Subsec. (g). Pub. L. 115–91, §1051(a)(7)(C), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(2)(A). Pub. L. 115–91, §1636, which directed amendment of subsec. (h)(2)(A) by inserting "(i)" after "(A)", substituting "; or" for "; and", and adding cl. (ii), was executed by making the amendment in subsec. (g)(2)(A) to reflect the probable intent of Congress and the redesignation of subsec. (h) as (g), see below.

Subsec. (h). Pub. L. 115–91, §1051(a)(7)(C), redesignated subsec. (h) as (g).

**2016**—Subsec. (d)(2)(C). Pub. L. 114–328, §863(b)(1), substituted "in such" for "in each".

Subsec. (e)(1). Pub. L. 114–328, §863(a)(1)(A), inserted "and to develop acquisition tools and methodologies, and undertake research and development activities, leading to acquisition policies and practices that will improve the efficiency and effectiveness of defense acquisition efforts" after "workforce of the Department".

Subsec. (e)(4). Pub. L. 114–328, §863(a)(1)(B), substituted "other than for the purposes of—" for "other than for the purpose of providing advanced training to Department of Defense employees." and added subpars. (A) to (C).

Subsec. (f). Pub. L. 114–328, §863(a)(2), (b)(2), substituted "Not later than February 1 each year" for "Not later than 120 days after the end of each fiscal year" and "the preceding fiscal year" for "such fiscal year" and struck out at end "Each report shall include, for the fiscal year covered by such report, the following:

"(1) A statement of the amounts remitted to the Secretary for crediting to the Fund for such fiscal year by each military department and Defense Agency, and a statement of the amounts credited to the Fund for such fiscal year.

"(2) A description of the expenditures made from the Fund (including expenditures following a transfer of amounts in the Fund to a military department or Defense Agency) in such fiscal year, including the purpose of such expenditures.

"(3) A description and assessment of improvements in the Department of Defense acquisition workforce resulting from such expenditures.

"(4) Recommendations for additional authorities to fulfill the purpose of the Fund.

"(5) A statement of the balance remaining in the Fund at the end of such fiscal year."

Subsec. (g)(1). Pub. L. 114–328, §863(b)(3)(B), struck out ", as defined in subsection (h)," after "acquisition workforce".

Pub. L. 114–328, §§863(b)(3)(A), 1081(a)(5), amended par. (1) identically, substituting "of positions" for "of of positions".

**2015**—Subsec. (d)(2)(C). Pub. L. 114–92, §841(a)(1)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) defined the applicable percentage for fiscal years 2013 to 2018.

Subsec. (d)(2)(D). Pub. L. 114–92, §841(a)(1)(B), substituted "the amount specified in subparagraph (C)" for "an amount specified in subparagraph (C)" and "an amount that is less than $400,000,000." for "an amount that is less than 80 percent of the amount otherwise specified in subparagraph (C) for such fiscal year."

Subsec. (d)(3). Pub. L. 114–92, §841(a)(1)(C), substituted "36-month period" for "24-month period".

Subsec. (f). Pub. L. 114–92, §841(a)(2), substituted "120 days" for "60 days" in introductory provisions.

Subsec. (g). Pub. L. 114–92, §841(a)(3), struck out par. (1) designation before "For purposes of"; redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and realigned margins; substituted "of positions in the acquisition workforce, as defined in subsection (h)," for "acquisition workforce positions" in par. (1); and struck out former par. (2) which read as follows: "The Secretary may not appoint a person to a position of employment under this subsection after September 30, 2017."

**2013**—Subsec. (d)(2)(C). Pub. L. 112–239, §803(a)(1), added cls. (i) to (vi) and struck out former cls. (i) to (vi) which established applicable amounts for fiscal years 2010 to 2015.

Subsec. (e)(1). Pub. L. 112–239, §803(a)(2)(A), inserted at end "In the case of temporary members of the acquisition workforce designated pursuant to subsection (h)(2), such funds shall be available only for the limited purpose of providing training in the performance of acquisition-related functions and duties."

Subsec. (e)(5). Pub. L. 112–239, §803(a)(2)(B), inserted before period at end ", and who has continued in the employment of the Department since such time without a break in such employment of more than a year".

Subsec. (g). Pub. L. 112–239, §803(a)(3), (4), struck out subsec. (g) which defined "acquisition workforce" and redesignated subsec. (h) as (g).

Subsec. (g)(2). Pub. L. 112–239, §803(b), substituted "September 30, 2017" for "September 30, 2015".

Subsec. (h). Pub. L. 112–239, §803(a)(5), added subsec. (h). Former subsec. (h) redesignated (g).

**2011**—Subsec. (e)(6). Pub. L. 112–81 amended par. (6) generally. Prior to amendment, text read as follows: "Amounts credited to the Fund under subsection (d)(2) shall remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years."

**2009**—Subsec. (a). Pub. L. 111–84, §832(g)(1), inserted "Development" after "Workforce".

Subsec. (d)(1)(B), (C). Pub. L. 111–84, §832(a)(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (d)(2)(A). Pub. L. 111–84, §832(b), substituted "from amounts available for contract services for operation and maintenance." for ", other than services relating to research and development and services relating to military construction."

Subsec. (d)(2)(B). Pub. L. 111–84, §832(d)(1), (2)(A), substituted "Subject to paragraph (4), not later than" for "Not later than" and "the first quarter of each fiscal year" for "the third fiscal year quarter of fiscal year 2008, and 30 days after the end of each fiscal year quarter thereafter" and struck out "quarter" before "for services".

Pub. L. 111–84, §832(c), inserted ", from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance," after "remit to the Secretary of Defense".

Subsec. (d)(2)(C), (D). Pub. L. 111–84, §832(e), added subpars. (C) and (D) and struck out former subpars. (C) and (D), which established applicable percentages for fiscal years 2008 to 2010 and thereafter and authorized the Secretary of Defense to reduce such percentages under certain circumstances and to a certain limit.

Subsec. (d)(3). Pub. L. 111–84, §832(a)(2), added par. (3).

Subsec. (d)(4). Pub. L. 111–84, §832(d)(2)(B), added par. (4).

Subsec. (e)(5). Pub. L. 111–84, §832(f), substituted "serving in a position in the acquisition workforce as of January 28, 2008" for "as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008".

Subsec. (f). Pub. L. 111–84, §832(g)(2), struck out "beginning with fiscal year 2008" after "each fiscal year" in introductory provisions.

Subsec. (h)(1). Pub. L. 111–84, §831(c), struck out "United States Code," after "title 5," in introductory provisions.

Subsec. (h)(1)(A). Pub. L. 111–84, §831(a)(1), substituted "acquisition workforce positions as positions for which there exists a shortage of candidates or there is a critical hiring need" for "acquisition positions within the Department of Defense as shortage category positions".

Subsec. (h)(1)(B). Pub. L. 111–84, §831(a)(2), struck out "highly" after "appoint".

Subsec. (h)(2). Pub. L. 111–84, §831(b), substituted "September 30, 2015" for "September 30, 2012".
**2008**—Subsec. (h). Pub. L. 110–417 added subsec. (h).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title X, §1010(e), Dec. 20, 2019, 133 Stat. 1576, provided that:
"(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on October 1, 2019, and shall apply with respect to fiscal years that begin on or after that date.
"(2) DURATION OF AVAILABILITY OF PREVIOUSLY DEPOSITED FUNDS.—Nothing in the amendments made by this section shall modify the duration of availability of amounts in the Department of Defense Acquisition Workforce Development Fund that were appropriated or credited to, or deposited, in the Fund, before October 1, 2019, as provided for in section 1705(e)(6) of title 10, United States Code, as in effect on the day before such date."

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title VIII, §804(b), Dec. 31, 2011, 125 Stat. 1486, provided that: "Paragraph (6) of such section [10 U.S.C. 1705(e)(6)], as amended by subsection (a), shall not apply to funds directly appropriated to the Fund before the date of the enactment of this Act [Dec. 31, 2011]."

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VIII, §832(h), Oct. 28, 2009, 123 Stat. 2416, provided that:
"(1) FUNDING AMENDMENTS.—The amendments made by subsections (a) through (c) [amending this section] shall take effect as of October 1, 2009.
"(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (f) and (g) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009]."

### EFFECTIVE DATE

Pub. L. 110–181, div. A, title VIII, §852(b), Jan. 28, 2008, 122 Stat. 250, provided that: "Section 1705 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Jan. 28, 2008]."

### GUIDANCE

Pub. L. 115–91, div. A, title VIII, §843(a)(2), Dec. 12, 2017, 131 Stat. 1480, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall issue, and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the policy guidance required by subparagraph (E) of section 1705(e)(3) of title 10, United States Code, as added by paragraph (1)."

### PLAN REQUIRED FOR TEMPORARY MEMBERS OF DEFENSE ACQUISITION WORKFORCE

Pub. L. 112–239, div. A, title VIII, §803(c), Jan. 2, 2013, 126 Stat. 1825, as amended by Pub. L. 116–92, div. A, title IX, §902(14), Dec. 20, 2019, 133 Stat. 1544, provided that: "Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition and Sustainment shall develop a plan for the implementation of the authority provided by the amendments made by subsection (a) [amending this section] with regard to temporary members of the defense acquisition workforce. The plan shall include policy, criteria, and processes for designating temporary members and appropriate safeguards to prevent the abuse of such authority."

## §1706. Government performance of certain acquisition functions

(a) GOAL.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, for each major defense acquisition program (as defined in section 4201 of this title), each acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure greater than the amount described in section 4201(a)(2) of this title, and any other acquisition program identified by the Secretary, each of the following positions is performed by a properly qualified member of the armed forces or full-time employee of the Department of Defense:

(1) Portfolio acquisition executive.
(2) Deputy portfolio acquisition executive.
(3) Program manager.
(4) Deputy program manager.
(5) Senior contracting official.
(6) Chief developmental tester.
(7) Program lead product support manager.
(8) Program lead systems engineer.
(9) Program lead cost estimator.
(10) Program lead contracting officer.
(11) Program lead business financial manager.
(12) Program lead production, quality, and manufacturing.
(13) Program lead information technology.
(14) Program lead software.

(b) PLAN OF ACTION.—The Secretary of Defense shall develop and implement a plan of action for recruiting, training, and ensuring appropriate career development of military and civilian personnel to achieve the objective established in subsection (a).

(Added Pub. L. 112–239, div. A, title VIII, §824(a)(1), Jan. 2, 2013, 126 Stat. 1832; amended Pub. L. 116–283, div. A, title VIII, §812, title XVIII, §1846(i)(3), Jan. 1, 2021, 134 Stat. 3749, 4252; Pub. L. 116–283, div. A, title XVIII, §1846(j), as added Pub. L. 117–81, div. A, title XVII, §1701(b)(15)(C), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 117–81, div. A, title XVII, §1701(b)(15)(B), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), (B), Dec. 18, 2025, 139 Stat. 1227.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1706, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639, which related to acquisition career program boards, was repealed by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

### AMENDMENTS

**2025**—Subsec. (a)(1). Pub. L. 119–60, §1802(b)(1)(B), substituted "Portfolio acquisition executive" for "Program executive officer".

Subsec. (a)(2). Pub. L. 119–60, §1802(b)(1)(A), substituted "portfolio acquisition executive" for "program executive officer".

**2021**—Subsec. (a). Pub. L. 116–283, §1846(j), as added by Pub. L. 117–81, §1701(b)(15)(C), substituted "section 4201(a)(2)" for "section 2430(a)(1)(B)" in introductory provisions.

Pub. L. 116–283, §1846(i)(3), as amended by Pub. L. 117–81, §1701(b)(15)(B), substituted "section 4201" for "section 2430" in introductory provisions.

Pub. L. 116–283, §812(1)(A), substituted "(as defined in section 2430 of this title), each acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure greater than the amount described in section 2430(a)(1)(B) of this title, and any other acquisition program identified by the Secretary" for "and each major automated information system program" in introductory provisions.

Subsec. (a)(14). Pub. L. 116–283, §812(1)(B), added par. (14).

Subsec. (c). Pub. L. 116–283, §812(2), struck out subsec. (c) which defined "major defense acquisition program" and "major automated information system program".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1846(i)(3) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**SIMILAR PROVISIONS**

Provisions similar to this section were contained in section 820 of Pub. L. 109–364, which was set out as a note under section 1701 of this title prior to repeal by Pub. L. 112–239, div. A, title VIII, §824(b), Jan. 2, 2013, 126 Stat. 1833.

## §1707. Cadre of intellectual property experts

(a) CADRE.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish a cadre of personnel who are experts in intellectual property matters. The purpose of the cadre is to ensure a consistent, strategic, and highly knowledgeable approach to acquiring or licensing intellectual property by providing expert advice, assistance, and resources to the acquisition workforce on intellectual property matters, including acquiring or licensing intellectual property.

(b) LEADERSHIP STRUCTURE.—The Under Secretary—

(1) shall establish an appropriate leadership structure and office within which the cadre shall be managed; and

(2) shall determine the appropriate official to whom members of the cadre shall report.

(c) DUTIES.—The cadre of experts shall be assigned to a program office or an acquisition command within a military department to advise, assist, and provide resources to a program manager or portfolio acquisition executive on intellectual property matters at various stages of the life cycle of a system. In performing such duties, the experts shall—

(1) interpret and provide counsel on laws, regulations, and policies relating to intellectual property;

(2) advise and assist in the development of an acquisition strategy, product support strategy, and intellectual property strategy for a system;

(3) conduct or assist with financial analysis and valuation of intellectual property;

(4) assist in the drafting of a solicitation, contract, or other transaction;

(5) interact with or assist in interactions with contractors, including communications and negotiations with contractors on solicitations and awards; and

(6) conduct or assist with mediation if technical data delivered pursuant to a contract is incomplete or does not comply with the terms of agreements.

(d) ADMINISTRATION.—

(1) In order to achieve the purpose set forth in subsection (a), the Under Secretary shall ensure the cadre has the appropriate number of staff and such staff possesses the necessary skills, knowledge, and experience to carry out the duties under subsection (b), including in relevant areas of law, contracting, acquisition, logistics, engineering, financial analysis, and valuation. The Under Secretary, in coordination with the Defense Acquisition University and in consultation with academia and industry, shall develop a career path, including development opportunities, exchanges, talent management programs, and training, for the cadre. The Under Secretary may use existing authorities to staff the cadre, including those in paragraphs (2), (3), (4), and (6).

(2) Civilian personnel from within the Office of the Secretary of Defense, Joint Staff, military departments, Defense Agencies, and combatant commands may be assigned to serve as members of the cadre, upon request of the Director.

(3) The Under Secretary may use the authorities for highly qualified experts under section 9903 of title 5, to hire experts as members of the cadre who are skilled professionals in intellectual property and related matters.

(4) The Under Secretary may enter into a contract with a private-sector entity for specialized expertise to support the cadre. Such entity may be considered a covered Government support

contractor, as defined in section 3775(a) of this title.

(5) In establishing the cadre, the Under Secretary shall give preference to civilian employees of the Department of Defense, rather than members of the armed forces, to maintain continuity in the cadre.

(6) The Under Secretary is authorized to use amounts in the Defense Acquisition Workforce Development Fund for the purpose of recruitment, training, and retention of the cadre, including paying salaries of newly hired members of the cadre for up to three years.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1877, Jan. 1, 2021, 134 Stat. 4291; Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1707, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1639; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to personnel in the Office of the Secretary of Defense and in the Defense Agencies, prior to repeal by Pub. L. 108–136, div. A, title VIII, §831(a), Nov. 24, 2003, 117 Stat. 1549.

### CODIFICATION

The text of subsec. (b) of section 2322 of title, which was transferred to this section and amended by Pub. L. 116–283, §1877(b)–(e), was based on Pub. L. 115–91, div. A, title VIII, §802(a)(1), Dec. 12, 2017, 131 Stat. 1450.

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60 substituted "portfolio acquisition executive" for "program executive officer" in introductory provisions.

**2021**—Subsec. (a). Pub. L. 116–283, §1877(b)(1), redesignated subsec. (b)(1) of section 2322 of this title as subsec. (a) of this section and inserted heading.

Subsec. (b). Pub. L. 116–283, §1877(b)(3), (c), redesignated subsec. (b)(2) of section 2322 of this title as subsec. (b) of this section, inserted heading, inserted dash after "Secretary", and reorganized remainder of text into designated pars. (1) and (2).

Subsec. (c). Pub. L. 116–283, §1877(b)(3), (d), redesignated subsec. (b)(3) of section 2322 of this title as subsec. (c) of this section, inserted heading, and redesignated subpars. (A) to (F) as pars. (1) to (6), respectively. Amendment by section 1877(d) was executed to subsec. (c) of this section to reflect the probable intent of Congress, notwithstanding directory language amending subsec. (c) of section "17017".

Subsec. (d). Pub. L. 116–283, §1877(b)(3), (e)(1), (2), redesignated subsec. (b)(4) of section 2322 of this title as subsec. (d) of this section, inserted heading, and redesignated subpars. (A) to (F) as pars. (1) to (6), respectively.

Subsec. (d)(1). Pub. L. 116–283, §1877(e)(3), in first sentence, substituted "subsection (a)" for "paragraph (1)" and "subsection (b)" for "paragraph (2)" and, in third sentence, substituted "paragraphs (2), (3), (4), and (6)" for "subparagraphs (B), (C), (D), and (F)".

Subsec. (d)(4). Pub. L. 116–283, §1877(e)(4), substituted "section 3775(a)" for "section 2320".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### PILOT PROGRAM ON INTELLECTUAL PROPERTY EVALUATION FOR ACQUISITION PROGRAMS

Pub. L. 116–92, div. A, title VIII, §801, Dec. 20, 2019, 133 Stat. 1481, provided that:

"(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense and the Secretaries of the military departments may jointly carry out a pilot

program to assess mechanisms to evaluate intellectual property (such as technical data deliverables and associated license rights), including commercially available intellectual property valuation analysis and techniques, in acquisition programs for which each such Secretary is responsible to better understand the benefits associated with these mechanisms on—

"(1) the development of cost-effective intellectual property strategies;

"(2) the assessment and management of the value and acquisition costs of intellectual property during acquisition and sustainment activities (including source selection evaluation factors) throughout the acquisition lifecycle for any acquisition program selected by such Secretary; and

"(3) the use of a commercial product (as defined in section 103 of title 41, United States Code, as in effect on January 1, 2020), commercial service (as defined in section 103a of title 41, United States Code, as in effect on January 1, 2020), or nondevelopmental item (as defined in section 110 of title 41, United States Code) as an alternative to a product or service to be specifically developed for a selected acquisition program, including evaluation of the benefits of reduced risk regarding cost, schedule, and performance associated with commercial products, commercial services, and nondevelopmental items.

"(b) ACTIVITIES.—Activities carried out under the pilot program may include the following:

"(1) Establishment of a team of Department of Defense and private sector subject matter experts (which may include the cadre of intellectual property experts established under section 2322(b) of title 10, United States Code [see 10 U.S.C. 1707]) to—

"(A) recommend acquisition programs to be selected for the pilot program established under subsection (a);

"(B) recommend criteria for the consideration of types of commercial products, commercial services, or nondevelopmental items that can used as an alternative to a product or service to be specifically developed for a selected acquisition program; or

"(C) identify, to the maximum extent practicable at each milestone established for each selected acquisition program, intellectual property evaluation techniques to obtain quantitative and qualitative analysis of intellectual property during the procurement, production and deployment, and operations and support phases for the [sic] each selected acquisition program.

"(2) Assessment of commercial valuation techniques for intellectual property for use by the Department of Defense.

"(3) Assessment of the feasibility of agency-level oversight to standardize intellectual property evaluation practices and procedures.

"(4) Assessment of contracting mechanisms to speed delivery of intellectual property to the Armed Forces or reduce sustainment costs.

"(5) Assessment of agency acquisition planning to ensure procurement of appropriate intellectual property deliverables and intellectual property rights necessary for Government-planned sustainment activities.

"(6) Engagement with the private sector to—

"(A) support the development of strategies and program requirements to aid in acquisition planning for intellectual property;

"(B) support the development and improvement of intellectual property strategies as part of life-cycle sustainment plans; and

"(C) propose and implement alternative and innovative methods of intellectual property valuation, prioritization, and evaluation techniques for intellectual property.

"(7) Recommendations to the relevant program manager of an acquisition program selected under subsection (a), including evaluation techniques and contracting mechanisms for acquisition and sustainment activities.

"(c) REPORT.—Not later than November 1, 2020, and annually thereafter through November 1, 2023, the Secretary of Defense, in coordination with the Secretaries concerned, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a joint report on the pilot program conducted under this section. The report shall, at a minimum, include—

"(1) a description of the acquisition programs selected by the Secretary concerned;

"(2) a description of the specific activities in subsection (c) that were performed under each program;

"(3) an assessment of the effectiveness of the activities;

"(4) an assessment of improvements to acquisition or sustainment activities related to the pilot program; and

"(5) an assessment of the results related to the pilot program, including any cost savings and improvement to mission success during the operations and support phase of the selected acquisition

program."

## SUBCHAPTER II—ACQUISITION POSITIONS AND ACQUISITION WORKFORCE CAREER FIELDS

Sec.
1721. Designation of acquisition positions and acquisition workforce career fields.
1722. Career development.
1722a. Special requirements for military personnel in the acquisition field.
1722b. Special requirements for civilian employees in the acquisition field.
1723. General education, training, and experience requirements.
1724. Contracting positions: qualification requirements.
1725. Senior Military Acquisition Advisors.

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92, div. A, title VIII, §861(f)(2)(B), (3)(A), Dec. 20, 2019, 133 Stat. 1518, substituted "ACQUISITION POSITIONS AND ACQUISITION WORKFORCE CAREER FIELDS" for "DEFENSE ACQUISITION POSITIONS" in heading for subchapter II and "Designation of acquisition positions and acquisition workforce career fields" for "Designation of acquisition positions" in item 1721.

**2016**—Pub. L. 114–328, div. A, title VIII, §866(a)(2), Dec. 23, 2016, 130 Stat. 2306, added item 1725.

**2011**—Pub. L. 111–383, div. A, title VIII, §873(a)(2), Jan. 7, 2011, 124 Stat. 4303, added item 1722b.

**2009**—Pub. L. 111–84, div. A, title X, §1073(c)(6), Oct. 28, 2009, 123 Stat. 2474, amended Pub. L. 110–417, §834(a)(2). See 2008 Amendment note below.

**2008**—Pub. L. 110–417, [div. A], title VIII, §834(a)(2), Oct. 14, 2008, 122 Stat. 4537, as amended by Pub. L. 111–84, div. A, title X, §1073(c)(6), Oct. 28, 2009, 123 Stat. 2474, added item 1722a.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(2), Nov. 24, 2003, 117 Stat. 1551, struck out item 1725 "Office of Personnel Management approval".

## §1721. Designation of acquisition positions and acquisition workforce career fields

(a) DESIGNATION.—The Secretary of Defense shall designate in regulations those positions in the Department of Defense that are acquisition positions for purposes of this chapter. The Secretary shall also designate in regulations those career fields in the Department of Defense that are acquisition workforce career fields for purposes of this chapter.

(b) REQUIRED POSITIONS.—In designating the positions under subsection (a), the Secretary shall include, at a minimum, all acquisition-related positions in the following areas:

(1) Program management.
(2) Systems planning, research, development, engineering, and testing.
(3) Procurement, including contracting.
(4) Industrial property management.
(5) Logistics.
(6) Quality control and assurance.
(7) Manufacturing and production.
(8) Business, cost estimating, financial management, and auditing.
(9) Education, training, and career development.
(10) Construction.
(11) Security cooperation.
(12) Intellectual property.
(13) Other positions, as necessary.

(c) MANAGEMENT HEADQUARTERS ACTIVITIES.—The Secretary also shall designate as

acquisition positions under subsection (a) those acquisition-related positions which are in management headquarters activities and in management headquarters support activities. For purposes of this subsection, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", dated November 12, 1996.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1640; amended Pub. L. 102–25, title VII, §701(j)(1), Apr. 6, 1991, 105 Stat. 116; Pub. L. 105–85, div. A, title IX, §912(f), Nov. 18, 1997, 111 Stat. 1862; Pub. L. 115–91, div. A, title VIII, §802(b), Dec. 12, 2017, 131 Stat. 1451; Pub. L. 116–92, div. A, title VIII, §861(d), (f)(1), (2)(A), Dec. 20, 2019, 133 Stat. 1517.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, §861(f)(2)(A), substituted "Designation of acquisition positions and acquisition workforce career fields" for "Designation of acquisition positions" in section catchline.

Subsec. (a). Pub. L. 116–92, §861(f)(1), inserted at end "The Secretary shall also designate in regulations those career fields in the Department of Defense that are acquisition workforce career fields for purposes of this chapter."

Subsec. (b)(11). Pub. L. 116–92, §861(d)(1), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "Joint development and production with other government agencies and foreign countries."

Subsec. (b)(13). Pub. L. 116–92, §861(d)(2), added par. (13).

**2017**—Subsec. (b)(12). Pub. L. 115–91 added par. (12).

**1997**—Subsec. (c). Pub. L. 105–85 substituted "November 12, 1996" for "November 25, 1988".

**1991**—Subsec. (c). Pub. L. 102–25 substituted "Activities', dated" for "Activities,' dated" in last sentence.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE FOR DESIGNATION OF CAREER FIELDS

Pub. L. 116–92, div. A, title VIII, §861(f)(4), Dec. 20, 2019, 133 Stat. 1518, provided that: "Not later than the end of the six-month period beginning on the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall carry out the requirements of the second sentence of section 1721(a) of title 10, United States Code (as added by paragraph (1))."

### TWENTY PERCENT REDUCTION IN DEFENSE ACQUISITION WORKFORCE

Pub. L. 101–510, div. A, title IX, §905, Nov. 5, 1990, 104 Stat. 1621, required Secretary of Defense to reduce number of employees in Department of Defense acquisition workforce on last day of each of fiscal years 1991 through 1995 below number of employees in such workforce on last day of preceding fiscal year by not less than number equal to 4 percent of number of employees in such workforce on Sept. 30, 1990, and which defined "Department of Defense acquisition workforce", prior to repeal by Pub. L. 102–190, div. A, title IX, §904, Dec. 5, 1991, 105 Stat. 1451.

### DEADLINE FOR DESIGNATION OF ACQUISITION POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(b), Nov. 5, 1990, 104 Stat. 1666, as amended by Pub. L. 102–25, title VII, §704(b)(3)(B), Apr. 6, 1991, 105 Stat. 119; Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729, provided that the designation of acquisition positions required by this section was to be made by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, not later than Oct. 1, 1991.

## §1722. Career development

(a) CAREER PATHS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall ensure that an appropriate career path for civilian and military personnel who wish to pursue careers in acquisition is identified for each acquisition workforce career field in terms of the education, training, experience, and assignments necessary for career

progression of civilians and members of the armed forces to the most senior acquisition positions. The Secretary shall make available published information on such career paths.

(b) LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL.—(1) The Secretary of Defense shall ensure that no requirement or preference for a member of the armed forces is used in the consideration of persons for acquisition positions, except as provided in the policy established under paragraph (2).

(2)(A) The Secretary shall establish a policy permitting a particular acquisition position to be specified as available only to members of the armed forces if a determination is made, under criteria specified in the policy, that a member of the armed forces is required for that position by law, is essential for performance of the duties of the position, or is necessary for another compelling reason.

(B) Not later than December 15 of each year, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Secretary a report that lists each acquisition position that is restricted to members of the armed forces under such policy and the recommendation of the Under Secretary as to whether such position should remain so restricted.

(c) OPPORTUNITIES FOR CIVILIANS TO QUALIFY.—The Secretary of Defense shall ensure that civilian personnel are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior acquisition positions.

(d) BEST QUALIFIED.—The Secretary of Defense shall ensure that the policies established under this chapter are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

[(e) Repealed. Pub. L. 107–107, div. A, title X, §1048(e)(3), Dec. 28, 2001, 115 Stat. 1227.]

(f) ASSIGNMENTS POLICY.—(1) The Secretary of Defense shall establish a policy on assigning military personnel to acquisition positions that provides for a balance between (A) the need for personnel to serve in career broadening positions, and (B) the need for requiring service in each such position for sufficient time to provide the stability necessary to effectively carry out the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(2) In implementing the policy established under paragraph (1), the Secretaries of the military departments shall provide, as appropriate, for longer lengths of assignments to acquisition positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Secretary of each military department, acting through the service acquisition executive for that department, shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in an acquisition position by a person serving in an acquisition position in the same acquisition career field.

(h) BALANCED WORKFORCE POLICY.—In the development of defense acquisition workforce policies under this chapter with respect to any civilian employees or applicants for employment, the Secretary of Defense or the Secretary of a military department (as applicable) shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1641; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), (e)(3), Dec. 28, 2001, 115 Stat. 1225, 1227; Pub. L. 116–92, div. A, title VIII, §861(e)(2), title IX, §902(15), Dec. 20, 2019, 133 Stat. 1517, 1544.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a). Pub. L. 116–92, §902(15)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition".

Pub. L. 116–92, §861(e)(2), substituted "an appropriate career path" for "appropriate career paths" and "is identified for each acquisition workforce career field" for "are identified".

Subsec. (b)(2)(B). Pub. L. 116–92, §902(15)(B), substituted "Under Secretary of Defense for Acquisition

and Sustainment" for "Secretary of Defense for Acquisition, Technology, and Logistics".

**2001**—Subsecs. (a), (b)(2)(B). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (e). Pub. L. 107–107, §1048(e)(3), struck out heading and text of subsec. (e). Text read as follows: "The Secretary of Defense shall ensure that the acquisition workforce is managed such that, for each fiscal year from October 1, 1991, through September 30, 1996, there is a substantial increase in the proportion of civilians (as compared to armed forces personnel) serving in critical acquisition positions in general, in program manager positions, and in division head positions over the proportion of civilians (as compared to armed forces personnel) in such positions on October 1, 1990."

**1993**—Subsecs. (a), (b)(2)(B). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**MILITARY POSITIONS AND ASSIGNMENTS POLICY DEADLINES**

Pub. L. 101–510, div. A, title XII, §1209(c), (d), Nov. 5, 1990, 104 Stat. 1666, provided that:

"(c) MILITARY POSITIONS POLICY DEADLINES.—(1) The policy required by paragraph (2) of section 1722(b) of title 10, United States Code (as added by section 1202), shall be established by the Secretary of Defense not later than October 1, 1991.

"(2) The first report required by section 1722(b)(2)(B) of title 10, United States Code (as added by section 1202), shall be submitted to the Secretary of Defense not later than September 30, 1993.

"(d) ASSIGNMENTS POLICY DEADLINE.—Not later than October 1, 1991, the Secretary of Defense shall establish, and require commencement of implementation of, an assignments policy pursuant to section 1722(f) of title 10, United States Code (as added by section 1202)."

## §1722a. Special requirements for military personnel in the acquisition field

(a) REQUIREMENT FOR POLICY AND GUIDANCE REGARDING MILITARY PERSONNEL IN ACQUISITION.—The Secretary of Defense shall require the Secretary of each military department (with respect to such military department), in collaboration with the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Chief of Space Operations (with respect to the Army, Navy, Air Force, Marine Corps, and Space Force, respectively), and the Under Secretary of Defense for Acquisition and Sustainment (with respect to the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities) to establish policies and issue guidance to ensure the proper development, assignment, and employment of members of the armed forces in the acquisition field to achieve the objectives of this section as specified in subsection (b).

(b) OBJECTIVES.—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

(1) A single-track career path in the acquisition field that attracts the highest quality officers and enlisted personnel.

(2) A dual-track career path that attracts the highest quality officers and enlisted personnel and allows them to gain experience in and receive credit for a primary career in combat arms and a functional secondary career in the acquisition field in order to more closely align the military operational, requirements, and acquisition workforces of each armed force.

(3) A number of command positions and senior noncommissioned officer positions, including acquisition billets reserved for general officers and flag officers under subsection (c), sufficient to ensure that members of the armed forces have opportunities for promotion and advancement in the acquisition field.

(4) A number of qualified, trained members of the armed forces eligible for and active in the acquisition field sufficient to ensure the optimum management of the acquisition functions of the Department of Defense and the appropriate use of military personnel in contingency contracting.

(c) RESERVATION OF ACQUISITION BILLETS FOR GENERAL OFFICERS AND FLAG OFFICERS.—(1) The Secretary of Defense shall—

(A) establish for each military department a sufficient number of billets coded or classified for acquisition personnel that are reserved for general officers and flag officers that are needed for the purpose of ensuring the optimum management of the acquisition functions of the Department of Defense; and

(B) ensure that the policies established and guidance issued pursuant to subsection (a) by the Secretary of each military department reserve at least that minimum number of billets and fill the billets with qualified and trained general officers and flag officers who have significant acquisition experience.

(2) The Secretary of Defense shall ensure—

(A) a sufficient number of billets for acquisition personnel who are general officers or flag officers exist within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities to ensure the optimum management of the acquisition functions of the Department of Defense; and

(B) that the policies established and guidance issued pursuant to subsection (a) by the Secretary reserve within the Office of the Secretary of Defense, the unified combatant commands, the Defense Agencies, and the Defense Field Activities at least that minimum number of billets and fill the billets with qualified and trained general officers and flag officers who have significant acquisition experience.

(3) The Secretary of Defense shall ensure that a portion of the billets referred to in paragraphs (1) and (2) involve command of organizations primarily focused on contracting and are reserved for general officers and flag officers who have significant contracting experience.

(d) RELATIONSHIP TO LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL .—Any designation or reservation of a position for a member of the armed forces as a result of a policy established or guidance issued pursuant to this section shall be deemed to meet the requirements for an exception under paragraph (2) of section 1722(b) of this title from the limitation in paragraph (1) of such section.

(e) REPORT.—Not later than January 1 of each year, the Secretary of each military department shall submit to the Under Secretary of Defense for Acquisition and Sustainment a report describing how the Secretary fulfilled the objectives of this section in the preceding calendar year. The report shall include information on the reservation of acquisition billets for general officers and flag officers within the department concerned.

(Added Pub. L. 110–417, [div. A], title VIII, §834(a)(1), Oct. 14, 2008, 122 Stat. 4535; amended Pub. L. 114–92, div. A, title VIII, §842, Nov. 25, 2015, 129 Stat. 914; Pub. L. 116–92, div. A, title IX, §902(16), Dec. 20, 2019, 133 Stat. 1544; Pub. L. 116–283, div. A, title IX, §924(b)(27), Jan. 1, 2021, 134 Stat. 3825; Pub. L. 117–81, div. A, title X, §1081(a)(23), Dec. 27, 2021, 135 Stat. 1920.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 117–81 substituted single comma for double commas after "the Chief of Staff of the Air Force".

Pub. L. 116–283, §924(b)(27)(B), which directed substitution of "the Under Secretary of Defense for Acquisition and Sustainment" for "the Under Secretary of Defense for Acquisition, Technology, and Logistics", could not be executed because of the intervening amendment by Pub. L. 116–92. See 2019 Amendment note below.

Pub. L. 116–283, §924(b)(27)(A), substituted ", the Commandant of the Marine Corps, and the Chief of Space Operations (with respect to the Army, Navy, Air Force, Marine Corps, and Space Force, respectively)" for "and the Commandant of the Marine Corps (with respect to the Army, Navy, Air Force, and Marine Corps, respectively)".

**2019**—Subsecs. (a), (e). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and

Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2015**—Subsec. (a). Pub. L. 114–92, §842(a), inserted ", in collaboration with the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps (with respect to the Army, Navy, Air Force, and Marine Corps, respectively)," after "military department)".

Subsec. (b)(1). Pub. L. 114–92, §842(b)(2), inserted "single-track" before "career path".

Subsec. (b)(2) to (4). Pub. L. 114–92, §842(b)(1), (3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

## §1722b. Special requirements for civilian employees in the acquisition field

(a) REQUIREMENT FOR POLICY AND GUIDANCE REGARDING CIVILIAN PERSONNEL IN ACQUISITION.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish policies and issue guidance to ensure the proper development, assignment, and employment of civilian members of the acquisition workforce to achieve the objectives specified in subsection (b).

(b) OBJECTIVES.—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

(1) A career path in the acquisition field that attracts the highest quality civilian personnel, from either within or outside the Federal Government.

(2) A deliberate workforce development strategy that increases attainment of key experiences that contribute to a highly qualified acquisition workforce.

(3) Sufficient opportunities for promotion and advancement in the acquisition field.

(4) A sufficient number of qualified, trained members eligible for and active in the acquisition field to ensure adequate capacity, capability, and effective succession for acquisition functions, including contingency contracting, of the Department of Defense.

(5) A deliberate workforce development strategy that ensures diversity in promotion, advancement, and experiential opportunities commensurate with the general workforce outlined in this section.

(c) KEY WORK EXPERIENCES.—In carrying out subsection (b)(2), the Secretary shall ensure that key work experiences, in the form of multidisciplinary experiences, are developed for each acquisition workforce career field.

(Added Pub. L. 111–383, div. A, title VIII, §873(a)(1), Jan. 7, 2011, 124 Stat. 4302; amended Pub. L. 112–239, div. A, title X, §1076(d)(1), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 115–91, div. A, title X, §1051(a)(8), Dec. 12, 2017, 131 Stat. 1560; Pub. L. 116–92, div. A, title VIII, §861(g)(1), title IX, §902(17), Dec. 20, 2019, 133 Stat. 1518, 1545.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a). Pub. L. 116–92, §902(17), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (c). Pub. L. 116–92, §861(g)(1), added subsec. (c).

**2017**—Subsec. (c). Pub. L. 115–91 struck out subsec. (c) which related to inclusion of information in annual report to Congress required under former section 115b(d) of this title.

**2013**—Subsec. (c)(3). Pub. L. 112–239, §1076(d)(1)(A), substituted "subsections (b)(1)(A) and (b)(1)(B)" for "subsections (b)(2)(A) and (b)(2)(B)".

Subsec. (c)(4). Pub. L. 112–239, §1076(d)(1)(B), substituted "or 1734(d)" for "1734(d), or 1736(c)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### RESTRUCTURING OF PERFORMANCE EVALUATION METRICS FOR THE ACQUISITION WORKFORCE

Pub. L. 119–60, div. A, title VIII, §826, Dec. 18, 2025, 139 Stat. 958, provided that:

"(a) ESTABLISHMENT OF ACQUISITION WORKFORCE KEY PERFORMANCE OBJECTIVES .—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall implement mandatory key performance objectives (in this section referred to as 'KPOs') for evaluating the performance of civilian members of the acquisition workforce.

"(b) KPO REQUIREMENTS.—The KPOs implemented under subsection (a) shall—

"(1) include strategic outcome objectives and workforce behavioral objectives for the workforce; and

"(2) be developed in a manner that enables an assessment of the degree of alignment between—

"(A) the objectives of the defense acquisition system established by section 3102 of title 10, United States Code; and

"(B) the prudent and appropriate use by a member of the acquisition workforce of innovative, risk-tolerant practices in achieving those objectives.

"(c) STRATEGIC OUTCOME OBJECTIVES.—The strategic outcome objectives for the acquisition workforce required by subsection (b)(1) shall align with the objectives of the defense acquisition system established pursuant to section 3102 of title 10, United States Code, and shall address strategic acquisition mission areas including—

"(1) the expeditious delivery of capabilities to enhance the operational readiness of the Armed Forces and enable the missions of the Department of Defense;

"(2) enabling and supporting the integration of innovative solutions to enhance military effectiveness and responsiveness to emerging threat;

"(3) ensuring supply-chain and industrial-base resilience and surge capabilities to support the contingency and operational plans of the Department of Defense;

"(4) cultivation of a leadership and organizational culture in the defense acquisition system that encourages responsible risk-taking, collaboration, and learning through failure; and

"(5) workforce currency and continuous education, including digital and artificial intelligence literacy and technical proficiency necessary for an individual's job function.

"(d) WORKFORCE BEHAVIORAL OBJECTIVES.—The workforce behavioral objectives required by subsection (b)(1) shall be designed to develop the critical skills and behaviors of members of the acquisition workforce, including—

"(1) the adoption of innovative acquisition authorities and approaches;

"(2) a preference for commercial products and services and supporting market research of commercial or emerging technologies;

"(3) engagement with end users to incorporate feedback into acquisition decisions and program adjustments;

"(4) the ability to use iterative development cycles and inform program tradeoffs, including discontinuing or terminating the development of capabilities—

"(A) that no longer align with approved capability requirements or priorities; or

"(B) are experiencing significant cost growth, performance or technical deficiencies, or delays in schedule;

"(5) a pursuit of professional development to broaden expertise and assume expanded responsibilities in cross-functional initiatives; and

"(6) the ability to overcome obstacles to prioritize end-user outcomes in acquisition execution.

"(e) INTEGRATION WITH PERSONNEL SYSTEMS AND PROMOTION BOARDS.—The KPOs implemented under subsection (a) shall be integrated into—

"(1) annual performance appraisals for members of the acquisition workforce;

"(2) promotion, bonus, and assignment considerations for acquisition workforce positions; and

"(3) requirements for certification, training, and continuing education under chapter 87 of title 10, United States Code.

"(f) ACCELERATING WORKFORCE DEVELOPMENT AND EXPERIENCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and the President of the Defense Acquisition University, shall identify and initiate the use of experiential learning platforms, including training simulators or gaming approaches, to accelerate the development of the acquisition workforce on the full range of acquisition situations and the relevant authorities allowed by law.

"(g) ACQUISITION WORKFORCE DEFINED.—In this section, the term 'acquisition workforce' has the meaning given such term in section 101 of title 10, United States Code."

**PLAN FOR IMPLEMENTATION OF KEY WORK EXPERIENCES**

Pub. L. 116–92, div. A, title VIII, §861(g)(2), Dec. 20, 2019, 133 Stat. 1518, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan identifying the specific actions the Secretary has taken, and is planning to take, to develop and establish key work experiences for each acquisition workforce career field as required by subsection (c) of section 1722b of title 10, United States Code (as added by paragraph (1)). The plan shall specify the percentage of the acquisition workforce, or funds available for administration of the acquisition workforce on an annual basis, that the Secretary will dedicate towards developing and establishing such key work experiences."

**ENHANCEMENTS TO THE CIVILIAN PROGRAM MANAGEMENT WORKFORCE**

Pub. L. 115–91, div. A, title VIII, §841(a), Dec. 12, 2017, 131 Stat. 1477, provided that:

"(a) ESTABLISHMENT OF PROGRAM MANAGER DEVELOPMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall implement a program manager development program to provide for the professional development of high-potential, experienced civilian personnel. Personnel shall be competitively selected for the program based on their potential to become a program manager of a major defense acquisition program, as defined in section 2430 of title 10, United States Code [now 10 U.S.C. 4201]. The program shall be administered and overseen by the Secretary of each military department, acting through the service acquisition executive for the department concerned.

"(2) PLAN REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan to implement the program established under paragraph (1). In developing the plan, the Secretary of Defense shall seek the input of relevant external parties, including professional associations, other government entities, and industry. The plan shall include the following elements:

"(A) An assessment of the minimum level of subject matter experience, education, years of experience, certifications, and other qualifications required to be selected into the program, set forth separately for current Department of Defense employees and for personnel hired into the program from outside the Department of Defense.

"(B) A description of hiring flexibilities to be used to recruit qualified personnel from outside the Department of Defense.

"(C) A description of the extent to which mobility agreements will be required to be signed by personnel selected for the program during their participation in the program and after their completion of the program. The use of mobility agreements shall be applied to help maximize the flexibility of the Department of Defense in assigning personnel, while not inhibiting the participation of the most capable candidates.

"(D) A description of the tenure obligation required of personnel selected for the program.

"(E) A plan for training during the course of the program, including training in leadership, program management, engineering, finance and budgeting, market research, business acumen, contracting, supplier management, requirement setting and tradeoffs, intellectual property matters, and software.

"(F) A description of career paths to be followed by personnel in the program in order to ensure that personnel in the program gain expertise in the program management functional career field competencies identified by the Department in existing guidance and the topics listed in subparagraph (E), including—

"(i) a determination of the types of advanced educational degrees that enhance program management skills and the mechanisms available to the Department of Defense to facilitate the attainment of those degrees by personnel in the program;

"(ii) a determination of required assignments to positions within acquisition programs, including position type and acquisition category of the program office;

"(iii) a determination of required or encouraged rotations to career broadening positions outside of acquisition programs; and

"(iv) a determination of how the program will ensure the opportunity for a required rotation to industry of at least six months to develop an understanding of industry motivation and business acumen, such as by developing an industry exchange program for civilian program managers, similar to the Corporate Fellows Program of the Secretary of Defense.

"(G) A general description of the number of personnel anticipated to be selected into the program,

how frequently selections will occur, how long personnel selected into the program will participate in the program, and how personnel will be placed into an assignment at the completion of the program.

"(H) A description of benefits that will be offered under the program using existing human capital flexibilities to retain qualified employees, such as student loan repayments, bonuses, or pay banding.

"(I) An assessment of personnel flexibilities needed to allow the military departments and the Defense Agencies to reassign or remove program managers that do not perform effectively.

"(J) A description of how the program will be administered and overseen by the Secretaries of each military department, acting through the service acquisition executive for the department concerned.

"(K) A description of how the program will be integrated with existing program manager development efforts at each military department.

"(3) USE OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.—Amounts in the Department of Defense Acquisition Workforce Development Fund (established under section 1705 of title 10, United States Code) may be used to pay the base salary of personnel in the program established under paragraph (1) during the period of time such personnel are temporarily assigned to a developmental rotation or training program anticipated to last at least six months.

"(4) IMPLEMENTATION.—The program established under paragraph (1) shall be implemented not later than September 30, 2019."

## §1723. General education, training, and experience requirements

(a) QUALIFICATION REQUIREMENTS.—(1) The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. In establishing such requirements, the Secretary shall ensure the availability and sufficiency of training in all areas of acquisition, including additional training courses with an emphasis on services contracting, market research strategies (including assessments of local contracting capabilities), long-term sustainment strategies, information technology, and rapid acquisition.

(2) In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1731 of this title, the Secretary may state the requirements by categories of positions.

(3) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish requirements for continuing education and periodic renewal of an individual's certification.

(b) CAREER PATH REQUIREMENTS.—For each career path, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish requirements for the completion of course work and related on-the-job training and demonstration of qualifications in duties and tasks of the career path. The Secretary of Defense, acting through the Under Secretary, shall also—

(1) direct individuals in the acquisition workforce to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities; and

(2) develop key work experiences, including the creation of a program sponsored by the Department of Defense that facilitates the periodic interaction between individuals in the acquisition workforce and the end user in such end user's environment to enhance the knowledge base of such workforce, for individuals in the acquisition workforce so that the individuals may gain in-depth knowledge and experience in the acquisition process and become seasoned, well-qualified members of the acquisition workforce.

(c) LIMITATION ON CREDIT FOR TRAINING OR EDUCATION.—Not more than one year of a period of time spent pursuing a program of academic training or education in acquisition may be counted toward fulfilling any requirement established under this chapter for a certain period of experience.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1642; amended Pub. L. 104–201, div. A, title X, §1074(a)(9)(A), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 111–383, div. A,

title VIII, §§873(b), 874(a), Jan. 7, 2011, 124 Stat. 4303, 4304; Pub. L. 116–92, div. A, title VIII, §861(a)(4), (h), (j)(8), title IX, §902(18), Dec. 20, 2019, 133 Stat. 1515, 1518, 1520, 1545.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a)(2). Pub. L. 116–92, §861(j)(8), substituted "section 1731 of this title" for "section 1733 of this title".

Subsec. (a)(3). Pub. L. 116–92, §902(18)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Pub. L. 116–92, §861(a)(4)(A), struck out second sentence which read as follows: "Any requirement for a certification renewal shall not require a renewal more often than once every five years."

Subsec. (b). Pub. L. 116–92, §902(18)(B), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in introductory provisions.

Pub. L. 116–92, §861(h), struck out "the critical acquisition-related" after "qualifications in" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–92, §861(a)(4)(B), substituted "direct" for "encourage".

**2011**—Subsec. (a). Pub. L. 111–383, §874(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions."

Subsecs. (b), (c). Pub. L. 111–383, §873(b), added subsec. (b) and redesignated former subsec. (b) as (c).

**1996**—Subsec. (a). Pub. L. 104–201 struck out "Unless otherwise provided in this chapter, such requirements shall take effect not later than October 1, 1993." after first sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### INFORMATION TECHNOLOGY ACQUISITION WORKFORCE

Pub. L. 111–383, div. A, title VIII, §875, Jan. 7, 2011, 124 Stat. 4305, as amended by Pub. L. 119–60, div. A, title VIII, §811(c)(3)(B), Dec. 18, 2025, 139 Stat. 950, provided that:

"(a) PLAN REQUIRED.—The Secretary of Defense shall develop and carry out a plan to strengthen the part of the acquisition workforce that specializes in information technology. The plan shall include the following:

"(1) Defined targets for billets devoted to information technology acquisition.

"(2) Specific certification requirements for individuals in the acquisition workforce who specialize in information technology acquisition.

"(3) Defined career paths for individuals in the acquisition workforce who specialize in information technology acquisitions.

"(b) DEFINITIONS.—In this section:

"(1) The term 'information technology' has the meaning provided such term in section 11101 of title 40, United States Code, and includes information technology incorporated into a major weapon system.

"(2) The term 'major weapon system' has the meaning provided such term in section 101(a) of title 10, United States Code.

"(c) DEADLINE.—The Secretary of Defense shall develop the plan required under this section not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011]."

### GUIDANCE AND STANDARDS FOR DEFENSE ACQUISITION WORKFORCE TRAINING REQUIREMENTS

Pub. L. 105–85, div. A, title VIII, §853, Nov. 18, 1997, 111 Stat. 1851, which related to guidance and standards for defense acquisition workforce training requirements, was repealed and restated as section 1748 of this title by Pub. L. 111–383, div. A, title VIII, §874(b)(1), (4), Jan. 7, 2011, 124 Stat. 4304, 4305.

### FULFILLMENT STANDARDS FOR MANDATORY TRAINING

Pub. L. 102–484, div. A, title VIII, §812(c), Oct. 23, 1992, 106 Stat. 2451, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(2)(A), Nov. 18, 1997, 111 Stat. 1905, provided that the Secretary of Defense, acting

through the Under Secretary of Defense for Acquisition and Technology, was to develop, not later than 90 days after Oct. 23, 1992, fulfillment standards, and implement a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of this title, and that the standards were to take effect as of Nov. 5, 1990, and cease to be in effect on Oct. 1, 1997.

## §1724. Contracting positions: qualification requirements

(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 3205 of this title, an employee of the Department of Defense or member of the armed forces (other than the Coast Guard) must, except as provided in subsections (c) and (d)—

(1) have completed all contracting courses required for a contracting officer (A) in the case of an employee, serving in the position within the grade of the General Schedule in which the employee is serving, and (B) in the case of a member of the armed forces, in the member's grade;

(2) have at least two years of experience in a contracting position;

(3) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees; and

(4) meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position, as may be established by the Secretary of Defense for the position.

(b) GS–1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—(1) The Secretary of Defense shall require that in order to qualify to serve in a position in the Department of Defense that is in the GS–1102 occupational series an employee or potential employee of the Department of Defense meet the requirement set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to serve in such a position an employee or potential employee meet any of the requirements of paragraphs (1) and (2) of that subsection.

(2) The Secretary of Defense shall require that in order for a member of the armed forces to be selected for an occupational specialty within the armed forces that (as determined by the Secretary) is similar to the GS–1102 occupational series a member of the armed forces meet the requirement set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to be selected for such an occupational specialty a member meet any of the requirements of paragraphs (1) and (2) of that subsection.

(c) EXCEPTIONS.—The qualification requirements imposed by the Secretary of Defense pursuant to subsections (a) and (b) shall not apply to an employee of the Department of Defense or member of the armed forces who—

(1) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold on or before September 30, 2000;

(2) served, on or before September 30, 2000, in a position either as an employee in the GS–1102 series or as a member of the armed forces in a similar occupational specialty;

(3) is in the contingency contracting force; or

(4) is described in subsection (e)(1)(B).

(d) WAIVER.—The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the Secretary shall set forth in a written document the rationale for the decision of the Secretary to waive such requirements.

(e) DEVELOPMENTAL OPPORTUNITIES.—(1) The Secretary of Defense may—

(A) establish or continue one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifying, and developing the careers of individuals to meet the

requirement of subsection (a)(3);

(B) appoint individuals to developmental positions in those programs; and

(C) separate from the civil service after a three-year probationary period any individual appointed under this subsection who fails to meet the requirement described in subsection (a)(3).

(2) To qualify for any developmental program described in paragraph (1)(B), an individual shall have been awarded a baccalaureate degree, with a grade point average of at least 3.0 (or the equivalent), from an accredited institution of higher education authorized to grant baccalaureate degrees.

(f) CONTINGENCY CONTRACTING FORCE.—The Secretary shall establish qualification requirements for the contingency contracting force consisting of members of the armed forces whose mission is to deploy in support of contingency operations and other operations of the Department of Defense.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1642; amended Pub. L. 103–35, title I, §101, May 31, 1993, 107 Stat. 97; Pub. L. 104–201, div. A, title X, §1074(a)(9)(B), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 106–398, §1 [[div. A], title VIII, §808(a)–(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–208; Pub. L. 107–107, div. A, title VIII, §824(a), Dec. 28, 2001, 115 Stat. 1183; Pub. L. 108–136, div. A, title VIII, §831(b)(1), Nov. 24, 2003, 117 Stat. 1549; Pub. L. 108–375, div. A, title X, §1084(d)(14), (h)(1), Oct. 28, 2004, 118 Stat. 2062, 2064; Pub. L. 116–92, div. A, title VIII, §861(b)(1), Dec. 20, 2019, 133 Stat. 1516; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1)(A), is set out under section 5332 of Title 5, Government Organization and Employees.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "section 3205" for "section 2304(g)".

**2019**—Subsec. (a)(3). Pub. L. 116–92, §861(b)(1)(A), struck out "(A)" before "have received a baccalaureate degree" and ", and (B) have completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management" after "grant baccalaureate degrees".

Subsec. (b). Pub. L. 116–92, §861(b)(1)(B), substituted "requirement set forth" for "requirements set forth" in pars. (1) and (2).

Subsec. (e)(1)(A). Pub. L. 116–92, §861(b)(1)(C)(i)(I), substituted "requirement of subsection (a)(3)" for "requirements in subparagraphs (A) and (B) of subsection (a)(3)".

Subsec. (e)(1)(C). Pub. L. 116–92, §861(b)(1)(C)(i)(II), substituted "requirement" for "requirements".

Subsec. (e)(2). Pub. L. 116–92, §861(b)(1)(C)(ii), struck out dash after "shall have" and subpar. (A) designation before "been awarded", substituted period at end for "; or", and struck out subpar. (B) which read as follows: "completed at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management."

Subsec. (f). Pub. L. 116–92, §861(b)(1)(D), substituted "Department of Defense." for "Department of Defense, including—

"(1) completion of at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education or similar educational institution in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management; or

"(2) passing an examination that demonstrates skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours or the equivalent of study in any of the disciplines described in paragraph (1)."

**2004**—Subsec. (a)(3)(B). Pub. L. 108–375, §1084(h)(1), amended directory language of Pub. L. 107–107, §824(a)(1)(C). See 2001 Amendment note below.

Subsec. (d). Pub. L. 108–375, §1084(d)(14), substituted "the decision of the Secretary" for "its decision" before "to waive such requirements".

**2003**—Subsec. (d). Pub. L. 108–136 substituted "The Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines" for "The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the board certifies" in first sentence and "the Secretary" for "the board" in second sentence, and struck out third sentence which read "Such document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development."

**2001**—Subsec. (a). Pub. L. 107–107, §824(a)(1)(A), reenacted heading without change and substituted introductory provisions for provisions which read "The Secretary of Defense shall require that in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must—".

Subsec. (a)(1). Pub. L. 107–107, §824(a)(1)(B), struck out "mandatory" before "contracting courses" and substituted cls. (A) and (B) for "at the grade level, or in the position within the grade of the General Schedule (in the case of an employee), that the person is serving in;".

Subsec. (a)(3)(B). Pub. L. 107–107, §824(a)(1)(C), as amended by Pub. L. 108–375, §1084(h)(1), inserted comma after "business".

Subsec. (b). Pub. L. 107–107, §824(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

"(b) GS–1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—The Secretary of Defense shall require that a person meet the requirements set forth in paragraph (3) of subsection (a), but not the other requirements set forth in that subsection, in order to qualify to serve in a position in the Department of Defense in—

"(1) the GS–1102 occupational series; or

"(2) a similar occupational specialty if the position is to be filled by a member of the armed forces."

Subsecs. (c) to (f). Pub. L. 107–107, §824(a)(3), added subsecs. (c) to (f) and struck out former subsecs. (c) and (d) which related to exception to requirements of subsecs. (a) and (b) and waiver of such requirements, respectively.

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title VIII, §808(d)], struck out "(except as provided in subsections (c) and (d))" after "a person must" in introductory provisions.

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title VIII, §808(b)(1)], inserted "and" before "(B) have completed" and struck out ", or (C) have passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines listed in subparagraph (B)" after "organization and management".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title VIII, §808(b)(2)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall require that a person may not be employed by the Department of Defense in the GS–1102 occupational series unless the person (except as provided in subsections (c) and (d)) meets the requirements set forth in subsection (a)(3)."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title VIII, §808(c)], amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

"(1) The requirements set forth in subsections (a)(3) and (b) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

"(2) The requirements of subsections (a) and (b) shall not apply to any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibilities as the position in which the employee is serving on such date."

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title VIII, §808(a)], in first sentence, substituted "employee or member of" for "employee of" and "employee or member possesses" for "employee possesses".

**1996**—Subsec. (a). Pub. L. 104–201, in introductory provisions, struck out ", beginning on October 1, 1993," after "require that" and substituted "simplified acquisition threshold" for "small purchase threshold".

Subsec. (b). Pub. L. 104–201, §1074(a)(9)(B)(ii), struck out ", beginning on October 1, 1993," after "require

that".

**1993**—Subsec. (c)(2). Pub. L. 103–35 inserted "or lower" before "grade" and before "level".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title X, §1084(h), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(h) [amending this section, section 1732 of this title, and provisions set out as a note under section 5949 of Title 5, Government Organization and Employees] is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VIII, §808(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–208, provided that: "This section [amending this section], and the amendments made by this section, shall take effect on October 1, 2000, and shall apply to appointments and assignments to contracting positions made on or after that date."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### FULFILLMENT STANDARDS FOR MANDATORY TRAINING

For provisions relating to development of fulfillment standards for purposes of the training requirements of this section, see section 812(c) of Pub. L. 102–484, set out as a note under section 1723 of this title.

### CREDIT FOR EXPERIENCE IN CERTAIN POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(i), Nov. 5, 1990, 104 Stat. 1667, as amended by Pub. L. 102–25, title VII, §704(b)(3)(D), Apr. 6, 1991, 105 Stat. 119, provided that: "For purposes of meeting any requirement under chapter 87 of title 10, United States Code (as added by section 1202), for a period of experience (such as requirements for experience in acquisition positions or in critical acquisition positions) and for purposes of coverage under the exceptions established by section 1724(c)(1) and [former] section 1732(c)(1) of such title, any period of time spent serving in a position later designated as an acquisition position or a critical acquisition position under such chapter may be counted as experience in such a position for such purposes."

## §1725. Senior Military Acquisition Advisors

(a) POSITION.—

(1) IN GENERAL.—The Secretary of Defense may establish in the acquisition workforce a position to be known as "Senior Military Acquisition Advisor".

(2) APPOINTMENT.—A Senior Military Acquisition Advisor shall be appointed by the President, by and with the advice and consent of the Senate.

(3) SCOPE OF POSITION.—An officer who is appointed as a Senior Military Acquisition Advisor—

(A) shall serve as an advisor to, and provide senior level acquisition expertise to, the service acquisition executive of that officer's military department in accordance with this section; and

(B) shall be assigned as an adjunct professor at the Defense Acquisition University.

(b) CONTINUATION ON ACTIVE DUTY.—An officer who is appointed as a Senior Military

Acquisition Advisor may continue on active duty while serving in such position without regard to any mandatory retirement date that would otherwise be applicable to that officer by reason of years of service or age. An officer who is continued on active duty pursuant to this section is not eligible for consideration for selection for promotion.

(c) RETIRED GRADE.—Upon retirement, an officer who is a Senior Military Acquisition Advisor may, in the discretion of the President, be retired in the grade of brigadier general or rear admiral (lower half) if—

(1) the officer has served as a Senior Military Acquisition Advisor for a period of not less than three years; and

(2) the officer's service as a Senior Military Acquisition Advisor has been distinguished.

(d) SELECTION AND TENURE.—

(1) IN GENERAL.—Selection of an officer for recommendation for appointment as a Senior Military Acquisition Advisor shall be made competitively, and shall be based upon demonstrated experience and expertise in acquisition.

(2) OFFICERS ELIGIBLE.—Officers shall be selected for recommendation for appointment as Senior Military Acquisition Advisors from among officers in the acquisition workforce serving in critical acquisition positions who are serving in the grade of colonel or, in the case of the Navy, captain, and who have at least 12 years of acquisition experience. An officer selected for recommendation for appointment as a Senior Military Acquisition Advisor shall have at least 30 years of active commissioned service at the time of appointment.

(3) TERM.—The appointment of an officer as a Senior Military Acquisition Advisor shall be for a term of not longer than five years.

(e) LIMITATION.—

(1) LIMITATION ON NUMBER AND DISTRIBUTION.—There may not be more than 15 Senior Military Acquisition Advisors at any time, of whom—

(A) not more than five may be officers of the Army;

(B) not more than five may be officers of the Navy and Marine Corps; and

(C) not more than five may be officers of the Air Force and Space Force.

(2) NUMBER IN EACH MILITARY DEPARTMENT.—Subject to paragraph (1), the number of Senior Military Acquisition Advisors for each military department shall be as required and identified by the service acquisition executive of such military department and approved by the Under Secretary of Defense for Acquisition and Sustainment.

(f) ADVICE TO SERVICE ACQUISITION EXECUTIVE.—An officer who is a Senior Military Acquisition Advisor shall have as the officer's primary duty providing strategic, technical, and programmatic advice to the service acquisition executive of the officer's military department on matters pertaining to the Defense Acquisition System, including matters pertaining to procurement, research and development, advanced technology, test and evaluation, production, program management, systems engineering, and lifecycle logistics.

(Added Pub. L. 114–328, div. A, title VIII, §866(a)(1), Dec. 23, 2016, 130 Stat. 2305; amended Pub. L. 116–92, div. A, title VIII, §861(j)(9), title IX, §902(19), Dec. 20, 2019, 133 Stat. 1520, 1545; Pub. L. 116–283, div. A, title IX, §924(b)(28), Jan. 1, 2021, 134 Stat. 3825.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1725, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1643, which related to Office of Personnel Management approval, was repealed by Pub. L. 108–136, div. A, title VIII, §832(a), Nov. 24, 2003, 117 Stat. 1550; amended Pub. L. 108–375, div. A, title X, §1084(f)(1), Oct. 28, 2004, 118 Stat. 2064.

**AMENDMENTS**

**2021**—Subsec. (e)(1)(C). Pub. L. 116–283 inserted "and Space Force" before period at end.

**2019**—Subsec. (a)(1). Pub. L. 116–92, §861(j)(9)(A), substituted "acquisition workforce" for "Defense Acquisition Corps".

Subsec. (d)(2). Pub. L. 116–92, §861(j)(9)(B), substituted "in the acquisition workforce serving in critical acquisition positions" for "of the Defense Acquisition Corps".

Subsec. (e)(2). Pub. L. 116–92, §902(19), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

## SUBCHAPTER III—CRITICAL ACQUISITION POSITIONS

Sec.
1731. Critical acquisition positions.
1732. Portfolio acquisition executive.
1733. Product support manager.
1734. Career development.
1735. Education, training, and experience requirements for critical acquisition positions.
[1736. Repealed.]
1737. Definitions and general provisions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVIII, §§1802(a), 1803(a)(1), Dec. 18, 2025, 139 Stat. 1225, 1227, added items 1732 and 1733. Amendments were made pursuant to operation of section 102 of this title.

**2019**—Pub. L. 116–92, div. A, title VIII, §861(j)(6)(B), (7)(A), Dec. 20, 2019, 133 Stat. 1519, substituted "CRITICAL ACQUISITION POSITIONS" for "ACQUISITION CORPS" in heading for subchapter III, added item 1731, and struck out former items 1731 "Acquisition Corps: in general", 1732 "Selection criteria and procedures", and 1733 "Critical acquisition positions"

**2001**—Pub. L. 107–107, div. A, title X, §1048(e)(6)(B), Dec. 28, 2001, 115 Stat. 1227, struck out item 1736 "Applicability".

## §1731. Critical acquisition positions

(a) DESIGNATION OF CRITICAL ACQUISITION POSITIONS.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

(A) Any acquisition position which—

(i) in the case of employees, is required to be filled by an employee in a senior position in the National Security Personnel System, as determined in accordance with guidelines prescribed by the Secretary, or in the Senior Executive Service; or

(ii) in the case of members of the armed forces, is required to be filled by a commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force who is serving in the grade of lieutenant colonel, or, in the case of the Navy, commander, or a higher grade.

(B) Other selected acquisition positions not covered by subparagraph (A), including the following:

(i) Portfolio acquisition executive.

(ii) Program manager of a major defense acquisition program (as defined in section 4201 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1737(a)(3) of this title).

(iii) Deputy program manager of a major defense acquisition program.

(iv) Product support manager.

(C) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

(2) The Secretary shall periodically publish a list of the positions designated under this subsection.

(b) PROMOTION RATE FOR OFFICERS IN THE ACQUISITION WORKFORCE.—The Secretary of Defense shall ensure that the qualifications of commissioned officers in the acquisition workforce are such that those officers are expected, as a group, to be promoted at a rate not less than the rate for all line (or the equivalent) officers of the same armed force (both in the zone and below the zone) in the same grade.

(c) MOBILITY STATEMENTS.—(1) The Secretary of Defense is authorized to require civilians in critical acquisition positions to sign mobility statements.

(2) The Secretary of Defense shall identify which categories of civilians in critical acquisition positions, as a condition of employment, shall be required to sign mobility statements. The Secretary shall make available published information on such identification of categories.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1646, §1733; amended Pub. L. 102–484, div. A, title X, §1052(22), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–89, §3(b)(3)(C), Sept. 30, 1993, 107 Stat. 983; Pub. L. 104–201, div. A, title X, §1074(a)(9)(C), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 108–136, div. A, title VIII, §833(2), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 108–375, div. A, title VIII, §812(a)(2), Oct. 28, 2004, 118 Stat. 2013; renumbered §1731 and amended Pub. L. 116–92, div. A, title VIII, §861(j)(2)–(4), (6)(A), Dec. 20, 2019, 133 Stat. 1519; Pub. L. 116–283, div. A, title IX, §924(b)(3)(AA), title XVIII, §1846(i)(4), Jan. 1, 2021, 134 Stat. 3821, 4252; Pub. L. 119–60, div. A, title XVIII, §§1802(b)(1)(B), 1803(a)(3), Dec. 18, 2025, 139 Stat. 1227, 1229.)

## EDITORIAL NOTES

### CODIFICATION

The text of former section 1731(b) of this title, which was transferred to section 1733(b) of this title and then to subsec. (b) of this section by Pub. L. 116–92, §861(j)(3), (6)(A), was based on Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; Pub. L. 108–136, div. A, title VIII, §833(1)(B), Nov. 24, 2003, 117 Stat. 1550.

The text of section 1732(e) of this title, which was transferred to section 1733(c) of this title and then to subsec. (c) of this section by Pub. L. 116–92, §861(j)(4), (6)(A), was based on Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; Pub. L. 108–136, div. A, title VIII, §833(2), Nov. 24, 2003, 117 Stat. 1550.

### PRIOR PROVISIONS

A prior section 1731, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; amended Pub. L. 108–136, div. A, title VIII, §§832(b)(1), 833(1), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 116–92, div. A, title VIII, §861(j)(3), Dec. 20, 2019, 133 Stat. 1519, related to establishment of the Acquisition Corps, prior to repeal by Pub. L. 116–92, div. A, title VIII, §861(j)(5), Dec. 20, 2019, 133 Stat. 1519.

### AMENDMENTS

**2025**—Subsec. (a)(1)(B)(i). Pub. L. 119–60, §1802(b)(1)(B), substituted "Portfolio acquisition executive" for "Program executive officer".

Subsec. (a)(1)(B)(iv). Pub. L. 119–60, §1803(a)(3), added cl. (iv).

**2021**—Subsec. (a)(1)(A)(ii). Pub. L. 116–283, §924(b)(3)(AA), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (a)(1)(B)(ii). Pub. L. 116–283, §1846(i)(4), which directed amendment of subsec. (b)(1)(B)(ii) of this section by substituting "section 4201" for "section 2430", was executed to subsec. (a)(1)(B)(ii) of this section, to reflect the probable intent of Congress.

**2019**—Pub. L. 116–92, §861(j)(6)(A), renumbered section 1733 of this title as this section.

Subsec. (a). Pub. L. 116–92, §861(j)(2), in section 1733 of this title prior to renumbering as this section, redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) of

section 1733 read as follows: "A critical acquisition position may be filled only by a member of the Acquisition Corps."

Subsec. (b). Pub. L. 116–92, §861(j)(3), prior to repeal of former section 1731, transferred subsec. (b) of that section to section 1733 of this title and substituted "the Acquisition Workforce" for "Acquisition Corps" in heading and "in the acquisition workforce" for "selected for the Acquisition Corps" in text. See Codification note above. Section 1733 was subsequently renumbered as this section.

Subsec. (c). Pub. L. 116–92, §861(j)(4), prior to repeal of section 1732 of this title, transferred subsec. (e) of that section to section 1733 of this title, redesignated it as (c), and substituted "in critical acquisition positions" for "in the Acquisition Corps" in pars. (1) and (2) and "employment" for "serving in the Corps" in par. (2). See Codification note above. Section 1733 was subsequently renumbered as this section.

**2004**—Subsec. (b)(1)(A)(i). Pub. L. 108–375 substituted "in a senior position in the National Security Personnel System, as determined in accordance with guidelines prescribed by the Secretary," for "in a position within grade GS–14 or above of the General Schedule,".

**2003**—Subsec. (a). Pub. L. 108–136 substituted "the Acquisition Corps" for "an Acquisition Corps".

**1996**—Subsec. (a). Pub. L. 104–201 substituted "A critical" for "On and after October 1, 1993, a critical".

**1993**—Subsec. (b)(1)(A)(i). Pub. L. 103–89 substituted "Schedule" for "Schedule (including an employee covered by chapter 54 of title 5)".

**1992**—Subsec. (b)(1)(B)(ii). Pub. L. 102–484 substituted "1737(a)(3)" for "1736(a)(3)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1846(i)(4) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE FOR REQUIREMENT FOR CORPS MEMBERS TO FILL CRITICAL ACQUISITION POSITIONS

Pub. L. 101–510, div. A, title XII, §1209(f), Nov. 5, 1990, 104 Stat. 1666, as amended by Pub. L. 102–25, title VII, §704(b)(3)(C), Apr. 6, 1991, 105 Stat. 119; Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729, provided that the Secretaries of the military departments were to make every effort to fill critical acquisition positions by Acquisition Corps members as soon as possible after Nov. 5, 1990, and that for each of the first three years after Nov. 5, 1990, the report of the Under Secretary of Defense for Acquisition and Technology to the Secretary of Defense under former section 1762 of this title was to include the number of critical acquisition positions filled by Acquisition Corps members.

### TERMINATION OF DEFENSE ACQUISITION CORPS

Pub. L. 116–92, div. A, title VIII, §861(j)(1), Dec. 20, 2019, 133 Stat. 1519, provided that: "The Acquisition Corps for the Department of Defense referred to in [former] section 1731(a) of title 10, United States Code, is terminated."

### TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM DEFINITION PERIODS

Pub. L. 114–92, div. A, title VIII, §826, Nov. 25, 2015, 129 Stat. 908, as amended by Pub. L. 114–328, div. A, title VIII, §862(a), Dec. 23, 2016, 130 Stat. 2302; Pub. L. 116–92, div. A, title IX, §902(64), Dec. 20, 2019, 133 Stat. 1550, provided that:

"(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program definition period of major defense acquisition programs.

"(b) PROGRAM DEFINITION PERIOD.—For the purposes of this section, the term 'program definition period', with respect to a major defense acquisition program, means the period beginning with initiation of the program and ending with Milestone B approval (or Key Decision Point B approval in the case of a space program).

"(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall provide that the program manager for the program definition period of a major defense acquisition program is responsible for—

"(1) bringing technologies to maturity and identifying the manufacturing processes that will be needed to carry out the program;

"(2) ensuring continuing focus during program development on meeting stated mission requirements and other requirements of the Department of Defense;

"(3) recommending trade-offs between program cost, schedule, and performance for the life-cycle of the program;

"(4) developing a business case for the program; and

"(5) ensuring that appropriate information is available to the milestone decision authority to make a decision on Milestone B approval (or Key Decision Point B approval in the case of a space program), including information necessary to make the certification required by section 2366a of title 10, United States Code [now 10 U.S.C. 4251].

"(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary of Defense shall ensure that each program manager for the program definition period of a major defense acquisition program—

"(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

"(2) is provided the resources and support (including systems engineering expertise, cost-estimating expertise, and software development expertise) needed to meet such responsibilities; and

"(3) is assigned to the program manager position for such program until such time as such program receives Milestone B approval (or Key Decision Point B approval in the case of a space program), unless removed for cause or due to exceptional circumstances.

"(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition and Sustainment, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program definition period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire period covered by such paragraph."

## TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM EXECUTION PERIODS

Pub. L. 114–92, div. A, title VIII, §827, Nov. 25, 2015, 129 Stat. 909, as amended by Pub. L. 114–328, div. A, title VIII, §862(b), Dec. 23, 2016, 130 Stat. 2302; Pub. L. 116–92, div. A, title IX, §902(65), Dec. 20, 2019, 133 Stat. 1550, provided that:

"(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program execution period of major defense acquisition programs.

"(b) PROGRAM EXECUTION PERIOD.—For purposes of this section, the term 'program execution period', with respect to a major defense acquisition program, means the period beginning with Milestone B approval (or Key Decision Point B approval in the case of a space program) and ending with declaration of initial operational capability.

"(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall—

"(1) require the program manager for the program execution period of a major defense acquisition program to enter into a performance agreement with the manager's immediate supervisor for such program within six months of assignment, that—

"(A) establishes expected parameters for the cost, schedule, and performance of the program consistent with the business case for the program;

"(B) provides the commitment of the supervisor to provide the level of funding and resources required to meet such parameters; and

"(C) provides the assurance of the program manager that such parameters are achievable and that the program manager will be accountable for meeting such parameters; and

"(2) provide the program manager with the authority to—

"(A) consult on the addition of new program requirements that would be inconsistent with the parameters established in the performance agreement entered into pursuant to paragraph (1);

"(B) recommend trade-offs between cost, schedule, and performance, provided that such trade-offs are consistent with the parameters established in the performance agreement entered into pursuant to paragraph (1); and

"(C) develop such interim goals and milestones as may be required to achieve the parameters established in the performance agreement entered into pursuant to paragraph (1).

"(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary shall ensure that each program manager for the program execution period of a defense acquisition program—

"(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

"(2) is provided the resources and support (including systems engineering expertise, cost estimating expertise, and software development expertise) needed to meet such responsibilities; and

"(3) is assigned to the program manager position for such program during the program execution period, unless removed for cause or due to exceptional circumstances.

"(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition and Sustainment, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program execution period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire program execution period."

## §1732. Portfolio acquisition executive

(a) IN GENERAL.—A portfolio acquisition executive is the senior acquisition official designated by the component acquisition executive or the service acquisition executive of the military department concerned, as applicable, to lead a portfolio of capabilities, with authority for plans, budgets, and execution of programs assigned to the portfolio, including life-cycle management.

(b) REPORTING RELATIONSHIPS.—To ensure streamlined accountability for management, the following relationships shall apply:

(1) Each program manager (as defined in section 1737 of this title) for a defense acquisition program shall report directly to the portfolio acquisition executive for such program unless otherwise directed by the component acquisition executive or service acquisition executive of the military department concerned (as applicable).

(2) Each portfolio acquisition executive shall report directly to the component acquisition executive or the service acquisition executive of the military department concerned (as applicable).

(3) The component acquisition executive or service acquisition executive of the military department concerned (as applicable) shall oversee the designation of, performance of, and resource allocation for all portfolio acquisition executives.

(c) RESPONSIBILITIES.—For the defense acquisition programs assigned to a portfolio acquisition executive, such portfolio acquisition executive shall—

(1) ensure that activities carried out under such programs are aligned with, and are conducted in a manner that supports, the objectives of the defense acquisition system established pursuant to section 3102 of this title;

(2) subject to the authority, direction, and control of the component acquisition executive or service acquisition executive of the military department concerned (as applicable)—

(A) carry out all powers, functions, and duties of the component acquisition executive or service acquisition executive concerned (as applicable) with respect to members of the acquisition workforce assigned to the portfolio acquisition executive; and

(B) ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in such portfolio;

(3) coordinate with the relevant service chief (as defined in section 3101 of this title) when evaluating, modifying, or implementing requirements determinations, performance objectives, procurement quantity objectives, and materiel readiness objectives established under section 118(c) of this title;

(4) liaise and collaborate directly with operational users of such defense acquisition programs to

receive regular feedback to ensure the effectiveness and suitability of capabilities;

(5) provide timely information to the relevant service chief, the Joint Staff, the Director of Cost Assessment and Program Evaluation, and other officials identified by the Secretary of Defense on cost, schedule, and performance trade-offs of defense acquisition programs assigned to the portfolio acquisition executive;

(6) employ iterative development cycles with the authority to modify, discontinue, or terminate the development of capabilities—

(A) that no longer align with a joint capability requirement (as defined in section 181 of this title) or other capability requirement established by the Secretary or relevant service chief; or

(B) that are experiencing significant cost growth, technical or performance deficiencies, or delays in schedule;

(7) collaborate with mission engineering functions of the Department of Defense to conduct cross-service technical and operational activities to coordinate integration of emerging technologies, prototypes, and operational concepts, as appropriate; and

(8) ensure effective market research and, to the maximum extent practical, prioritize—

(A) the use of transactions for prototype projects under section 4022; and

(B) the procurement of commercial products and commercial services under chapter 247 of this title.

(d) PERSONNEL AND RESOURCES.—(1) The Secretary concerned with respect to a portfolio acquisition executive shall ensure that each such portfolio acquisition executive is assigned dedicated personnel and other resources required to successfully perform the assigned duties and responsibilities of such portfolio acquisition executive.

(2) Personnel shall be under the authority and control of such portfolio acquisition executive subject to the component acquisition executive or service acquisition executive of the department concerned. Personnel and resources shall not be provided through matrixed, collateral duty, or dual-reporting arrangements, except as specifically authorized by the Secretary concerned in writing.

(3) Personnel and resources required include—

(A) contracting and contract management;

(B) estimating costs;

(C) financial management and business;

(D) life-cycle management and product support;

(E) program management;

(F) engineering and technical management;

(G) developmental testing and evaluation; and

(H) other personnel as determined by the Secretary concerned, as appropriate.

(Added Pub. L. 119–60, div. A, title XVIII, §1802(a), Dec. 18, 2025, 139 Stat. 1225.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1732, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1644; amended Pub. L. 102–484, div. A, title VIII, §812(e)(1), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 103–89, §3(b)(3)(B), Sept. 30, 1993, 107 Stat. 982; Pub. L. 105–261, div. A, title VIII, §811, Oct. 17, 1998, 112 Stat. 2086; Pub. L. 107–107, div. A, title VIII, §824(b), title X, §1048(e)(4), Dec. 28, 2001, 115 Stat. 1185, 1227; Pub. L. 108–136, div. A, title VIII, §§831(b)(2), (3), 832(b)(2), 833(2), Nov. 24, 2003, 117 Stat. 1549, 1550; Pub. L. 108–375, div. A, title VIII, §812(a)(1), title X, §1084(d)(14), (h)(2), Oct. 28, 2004, 118 Stat. 2013, 2062, 2064; Pub. L. 109–163, div. A, title X, §1056(c)(3), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 116–92, div. A, title VIII, §861(b)(2), (j)(4), Dec. 20, 2019, 133 Stat. 1516, 1519, related to selection criteria and procedures for membership in the Acquisition Corps, prior to repeal by Pub. L. 116–92, div. A, title VIII, §861(j)(5), Dec. 20, 2019, 133 Stat. 1519.

## §1733. Product support manager

(a) IN GENERAL.—A product support manager is the individual responsible for managing product support required to field and maintain the readiness and operational capability of a covered system throughout the life cycle of the covered system.

(b) DESIGNATION.—The Secretary of Defense shall designate a product support manager for each covered system who shall be coequal with the program manager for such covered system and report directly to the portfolio acquisition executive responsible for such covered system.

(c) OBJECTIVES.—The product support manager shall seek to achieve the objectives of the defense acquisition system established pursuant to section 3102 of this title and shall identify, develop, implement, incentivize, and measure quantifiable best value outcome-based product support that optimizes life-cycle cost, readiness, and operational capability of a covered system.

(d) SPECIFIC RESPONSIBILITIES.—A product support manager shall be responsible for the following with respect to a covered system:

(1) Developing and executing the product support strategy required under section 4324 of this title.

(2) Providing product support and subject matter expertise to the relevant program manager and portfolio acquisition executive.

(3) [1] Collaborating with chief engineers and systems engineers—

(A) in developing the life-cycle sustainment plan and product support strategy required under section 4324 of this title; and

(B) to analyze the operating and support costs to ensure cost-effective operation, management, and availability of the covered system.

(3) [1] Adopting predictive analytics and simulation and modeling tools to improve materiel availability and reliability, increase operational availability rates, and reduce operation and sustainment costs.

(4) Conducting product support business case analyses to provide a structured, iterative methodology to compare and assess the full impact of product support alternatives and provide data-informed recommendations that balance requirements with affordability. Such analyses shall—

(A) enable the development of the product support strategy as early as possible, but not later than Milestone B approval has been granted for the covered system; and

(B) inform proposed updates or changes in the product support strategy as needed.

(5) Reviewing and recommending resource allocations across product support integrators and product support providers to meet performance requirements of the product support strategy.

(6) Coordinating product support arrangements between product support integrators and product support providers across materiel commands, depots, sustainment working capital funds, and commercial entities to execute the product support strategy and maintain updated parts cataloging and provisioning.

(7) Seeking to resolve issues relating to diminishing manufacturing supply, material shortages, critical [2] readiness items of supply.

(8) Managing the end-to-end coordination process related to qualification, certification, and testing of alternative sources of supply for critical readiness items of supply.

(9) Ensuring the evaluation and selection of product support integrators and product support providers that are best suited to execute the product support strategy.

(e) DEFINITIONS.—In this section:

(1) The term "best value" has the meaning given in section 3101 of this title.

(2) The terms "covered system", "critical readiness items of supply", "product support", "product support arrangement", "product support integrator", and "product support provider" have the meanings given, respectively, in section 4324 of this title.

(Added Pub. L. 119–60, div. A, title XVIII, §1803(a)(1), Dec. 18, 2025, 139 Stat. 1227.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1733 was renumbered section 1731 of this title.

[1] *So in original. There are two pars. (3).*

[2] *So in original. Probably should be preceded by "and".*

## §1734. Career development

(a) THREE-YEAR ASSIGNMENT PERIOD.—(1) Except as provided under subsection (b) and paragraph (3), the Secretary of each military department, acting through the service acquisition executive for that department, shall provide that any person who is assigned to a critical acquisition position shall be assigned to the position for not fewer than three years. Except as provided in subsection (d), the Secretary concerned may not reassign a person from such an assignment before the end of the three-year period.

(2) A person may not be assigned to a critical acquisition position unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position for at least three years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (b).

(3) The assignment period requirement of the first sentence of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.

(b) ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.—(1) The Secretary of Defense shall prescribe in regulations—

(A) a requirement that a program manager and a deputy program manager (except as provided in paragraph (3)) of a major defense acquisition program be assigned to the position at least until completion of the major milestone that occurs closest in time to the date on which the person has served in the position for four years; and

(B) a requirement that, to the maximum extent practicable, a program manager who is the replacement for a reassigned program manager arrive at the assignment location before the reassigned program manager leaves.

Except as provided in subsection (d), the Secretary concerned may not reassign a program manager or deputy program manager from such an assignment until after such major milestone has occurred.

(2) A person may not be assigned to a critical acquisition position as a program manager or deputy program manager of a major defense acquisition program unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position at least until completion of the first major milestone that occurs closest in time to the date on which the person has served in the position for four years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (d).

(3) The assignment period requirement under subparagraph (A) of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.

(c) MAJOR MILESTONE REGULATIONS.—(1) The Secretary of Defense shall issue regulations defining what constitutes major milestones for purposes of this section. The service

acquisition executive of each military department shall establish major milestones at the beginning of a major defense acquisition program consistent with such regulations and shall use such milestones to determine the assignment period for program managers and deputy program managers under subsection (b).

(2) The regulations shall require that major milestones be clearly definable and measurable events that mark the completion of a significant phase in a major defense acquisition program and that such milestones be the same as the milestones contained in the baseline description established for the program pursuant to section 4214(a) of this title. The Secretary shall require that the major milestones as defined in the regulations be included in the Selected Acquisition Report required for such program under section 4351 of this title.

(d) WAIVER OF ASSIGNMENT PERIOD.—(1) With respect to a person assigned to a critical acquisition position, the Secretary concerned may waive the prohibition on reassignment of that person (in subsection (a)(1) or (b)(1)) and the service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances in which a waiver is necessary for reasons permitted in regulations prescribed by the Secretary of Defense.

(2) With respect to each waiver granted under this subsection, the service acquisition executive (or his delegate) shall set forth in a written document the rationale for the decision to grant the waiver.

(e) ROTATION POLICY.—(1) The Secretary of Defense shall establish a policy encouraging the rotation of members of the acquisition workforce serving in critical acquisition positions to new assignments after completion of five years of service in such positions, or, in the case of a program manager, after completion of a major program milestone, whichever is longer. Such rotation policy shall be designed to ensure opportunities for career broadening assignments and an infusion of new ideas into critical acquisition positions.

(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis for the purpose of determining whether the Government and such person would be better served by a reassignment to a different position. Such a review shall be carried out with respect to each such person not later than five years after that person is assigned to a critical position.

(f) CENTRALIZED JOB REFERRAL SYSTEM.—The Secretary of Defense shall prescribe regulations providing for the use of centralized lists to ensure that persons are selected for critical positions without regard to geographic location of applicants for such positions.

(g) EXCHANGE PROGRAM.—The Secretary of Defense shall establish, for purposes of broadening the experience of members of the acquisition workforce, a test program in which members of the acquisition workforce serving in a military department or Defense Agency are assigned or detailed to an acquisition position in another department or agency. Under the test program, the Secretary of Defense shall ensure that, to the maximum extent practicable, at least 5 percent of the members of the acquisition workforce in critical acquisition positions shall serve in such exchange assignments each year. The test program shall operate for not less than a period of three years.

(h) RESPONSIBILITY FOR ASSIGNMENTS.—The Secretary of each military department, acting through the service acquisition executive for that department, is responsible for making assignments of civilian and military personnel of that military department who are members of the acquisition workforce to critical acquisition positions.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1646; amended Pub. L. 102–484, div. A, title VIII, §812(a), (b), Oct. 23, 1992, 106 Stat. 2450; Pub. L. 104–201, div. A, title X, §1074(a)(9)(D), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 107–107, div. A, title X, §1048(e)(5), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 108–136, div. A, title VIII, §§831(b)(4), 832(b)(3), 833(2), (3), Nov. 24, 2003, 117 Stat. 1549, 1550; Pub. L. 116–92, div. A, title VIII, §861(j)(10), Dec. 20, 2019, 133 Stat. 1520; Pub. L. 116–283, div. A, title XVIII, §1849(f), formerly §1849(m), Jan. 1, 2021, 134 Stat. 4264, renumbered §1849(f) and amended Pub. L. 117–81, div. A, title XVII, §1701(o)(5)(B), (6)(D), Dec. 27, 2021, 135 Stat. 2147; Pub. L. 117–81, div. A, title XVII, §1702(a)(3), Dec. 27, 2021, 135 Stat. 2155.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(2). Pub. L. 117–81, §1702(a)(3), substituted "section 4214(a)" for "section 2435(a)".

Pub. L. 116–283, §1849(f), formerly §1849(m), as renumbered and amended by Pub. L. 117–81, §1701(o)(5)(B), (6)(D), substituted "section 4351" for "section 2432".

**2019**—Subsec. (e)(1). Pub. L. 116–92, §861(j)(10)(A), substituted "of the acquisition workforce" for "of the Acquisition Corps".

Subsec. (g). Pub. L. 116–92, §861(j)(10)(B), substituted "experience of members of the acquisition workforce" for "experience of members of the Acquisition Corps", "in which members of the acquisition workforce" for "in which members of the Corps", and "of the acquisition workforce in critical acquisition positions" for "of the Acquisition Corps".

Subsec. (h). Pub. L. 116–92, §861(j)(10)(A), substituted "of the acquisition workforce" for "of the Acquisition Corps".

**2003**—Subsec. (d)(2). Pub. L. 108–136, §831(b)(4)(A)(ii), redesignated par. (3) as (2) and struck out at end "The document shall be submitted to the Director of Acquisition Education, Training, and Career Development."

Pub. L. 108–136, §831(b)(4)(A)(i), struck out par. (2) which read as follows: "The authority to grant such waivers may be delegated by the service acquisition executive of a military department only to the Director of Acquisition Career Management for the military department."

Subsec. (d)(3). Pub. L. 108–136, §831(b)(4)(A)(ii), redesignated par. (3) as (2).

Subsec. (e)(1). Pub. L. 108–136, §833(2), substituted "the Acquisition Corps" for "an Acquisition Corps"

Subsec. (e)(2). Pub. L. 108–136, §831(b)(4)(B), struck out ", by the acquisition career program board of the department concerned," after "case-by-case basis".

Subsec. (g). Pub. L. 108–136, §833(3)(A), substituted "the Acquisition Corps, a test program in which members of the Corps" for "each Acquisition Corps, a test program in which members of a Corps".

Pub. L. 108–136, §832(b)(3), substituted "The Secretary" for "(1) The Secretary" and struck out par. (2) which read as follows: "The Secretary of Defense shall submit the portion of the test program applicable to civilian employees to the Director of the Office of Personnel Management for approval. If the Director does not disapprove that portion of the test program within 30 days after the date on which the Director receives it, that portion of the test program is deemed to be approved by the Director."

Subsec. (h). Pub. L. 108–136, §833(3)(B), substituted "making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps" for "making assignments of civilian and military members of the Acquisition Corps of that military department".

**2001**—Subsec. (b)(1)(B). Pub. L. 107–107, §1048(e)(5)(A), struck out "on and after October 1, 1991," before "to the maximum extent practicable".

Subsec. (e)(2). Pub. L. 107–107, §1048(e)(5)(B), struck out at end "Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date."

**1996**—Subsec. (a)(1). Pub. L. 104–201, §1074(a)(9)(D)(i), struck out ", on and after October 1, 1993," after "provide that".

Subsec. (b)(1)(A). Pub. L. 104–201, §1074(a)(9)(D)(ii), struck out ", on and after October 1, 1991," after "requirement that".

**1992**—Subsec. (a)(1). Pub. L. 102–484, §812(b)(1)(A), inserted before first comma "and paragraph (3)".

Subsec. (a)(3). Pub. L. 102–484, §812(b)(1)(B), added par. (3).

Subsec. (b)(1)(A). Pub. L. 102–484, §812(b)(2)(A), inserted "(except as provided in paragraph (3))" after "deputy program manager".

Subsec. (b)(3). Pub. L. 102–484, §812(b)(2)(B), added par. (3).

Subsec. (e)(2). Pub. L. 102–484, §812(a), inserted at end "Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(o)(5)(B), (6)(D) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note

preceding section 3001 of this title.

**JOB REFERRAL SYSTEM DEADLINE**

Pub. L. 101–510, div. A, title XII, §1209(e), Nov. 5, 1990, 104 Stat. 1666, provided that: "Not later than October 1, 1991, the Secretary of Defense shall prescribe regulations required under section 1734(f) of title 10, United States Code (as added by section 1202)."

## §1735. Education, training, and experience requirements for critical acquisition positions

(a) QUALIFICATION REQUIREMENTS.—In establishing the education, training, and experience requirements under section 1723 of this title for critical acquisition positions, the Secretary of Defense shall, at a minimum, include the requirements set forth in subsections (b) through (e).

(b) PROGRAM MANAGERS AND DEPUTY PROGRAM MANAGERS.—Before being assigned to a position as a program manager or deputy program manager of a major defense acquisition program or a significant nonmajor defense acquisition program, a person—

(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution determined to be comparable by the Secretary of Defense;

(2) must have executed a written agreement as required in section 1734(b)(2); and

(3) in the case of—

(A) a program manager of a major defense acquisition program, must have at least eight years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization;

(B) a program manager of a significant nonmajor defense acquisition program, must have at least six years of experience in acquisition;

(C) a deputy program manager of a major defense acquisition program, must have at least six years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization; and

(D) a deputy program manager of a significant nonmajor defense acquisition program, must have at least four years of experience in acquisition.

(c) PRODUCT SUPPORT MANAGER.—Before being assigned to a position as product support manager, a person—

(1) shall have completed all life-cycle logistics certification and training requirements prescribed by the Secretary of Defense;

(2) shall have executed a written agreement as required in section 1734(b)(2) of this title; and

(3) in the case of—

(A) a product support manager of a major defense acquisition program, shall have at least eight years of experience in life-cycle logistics, at least two years of which were performed in a systems program office or similar organization;

(B) a product support manager of a significant nonmajor defense acquisition program, shall have at least six years of experience in life-cycle logistics; and

(C) a product support manager for a covered system (as defined in section 4324 of this title), shall be designated as a key leadership position.

(d) PORTFOLIO ACQUISITION EXECUTIVES.[1]—Before being assigned to a position as a portfolio acquisition executive, a person—

(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution in the private sector determined to be comparable by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment;

(2) must have at least 10 years experience in an acquisition position, at least four years of which

were performed while assigned to a critical acquisition position; and

(3) must have held a position as a program manager or a deputy program manager.

(e) GENERAL AND FLAG OFFICERS AND CIVILIANS IN EQUIVALENT POSITIONS .—Before a general or flag officer, or a civilian serving in a position equivalent in grade to the grade of such an officer, may be assigned to a critical acquisition position, the person must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position.

(f) SENIOR CONTRACTING OFFICIALS.—Before a person may be assigned to a critical acquisition position as a senior contracting official, the person must have at least four years experience in contracting.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1648; amended Pub. L. 102–484, div. A, title VIII, §812(d), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(20), Dec. 20, 2019, 133 Stat. 1545; Pub. L. 119–60, div. A, title XVIII, §§1802(b)(1)(A), (D), 1803(a)(2), Dec. 18, 2025, 139 Stat. 1227, 1228.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (c). Pub. L. 119–60, §1803(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 119–60, §1802(b)(1)(D), which directed the substitution of "Portfolio acquisition executives" for "Program executive officers" in heading, was executed by making the substitution for "Program Executive Officers", to reflect the probable intent of Congress.

Pub. L. 119–60, §1802(b)(1)(A), substituted "portfolio acquisition executive" for "program executive officer" in introductory provisions.

Subsecs. (d) to (f). Pub. L. 119–60, §1803(a)(2), redesignated subsecs. (c) to (e) as (d) to (f), respectively.

**2019**—Subsec. (c)(1). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2001**—Subsec. (c)(1). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1993**—Subsec. (c)(1). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1992**—Subsec. (b)(3). Pub. L. 102–484 struck out "or deputy program manager" after "program manager" in subpars. (A) and (B), struck out "and" at end of subpar. (A), substituted semicolon for period at end of subpar. (B), and added subpars. (C) and (D).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**FULFILLMENT STANDARDS FOR MANDATORY TRAINING**

For provisions relating to development of fulfillment standards for purposes of the training requirements of this section, see section 812(c) of Pub. L. 102–484, set out as a note under section 1723 of this title.

## [§1736. Repealed. Pub. L. 107–107, div. A, title X, §1048(e)(6)(A), Dec. 28, 2001, 115 Stat. 1227]

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1649, related to applicability of the qualification requirements.

## §1737. Definitions and general provisions

(a) DEFINITIONS.—In this subchapter:

(1) The term "program manager" means, with respect to a defense acquisition program, the member of the acquisition workforce responsible for managing the program, regardless of the title given the member.

(2) The term "deputy program manager" means the person who has authority to act on behalf of the program manager in the absence of the program manager.

(3) The term "significant nonmajor defense acquisition program" means a Department of Defense acquisition program that is not a major defense acquisition program (as defined in section 4201 of this title) and that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than the dollar threshold set forth in section 3041(b)(1) of this title for such purposes for a major system or an eventual total expenditure for procurement of more than the dollar threshold set forth in section 3041(b)(1) of this title for such purpose for a major system.

(4) The term "portfolio acquisition executive" means an individual described in section 1732(a) of this title.

(5) The term "senior contracting official" means a director of contracting, or a principal deputy to a director of contracting, serving in the office of the Secretary of a military department, the headquarters of a military department, the head of a Defense Agency, a subordinate command headquarters, or in a major systems or logistics contracting activity in the Department of Defense.

(b) LIMITATION.—Any civilian or military member of the acquisition workforce who does not meet the education, training, and experience requirements for a critical acquisition position established under this subchapter may not carry out the duties or exercise the authorities of that position, except for a period not to exceed six months, unless a waiver of the requirements is granted under subsection (c).

(c) WAIVER.—The Secretary of each military department (acting through the service acquisition executive for that department) or the Secretary of Defense (acting through the Under Secretary of Defense for Acquisition and Sustainment) for Defense Agencies and other components of the Department of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary concerned (or official to whom the waiver authority is delegated) determines that the individual's qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1650; amended Pub. L. 102–190, div. A, title X, §1061(a)(8), (c), Dec. 5, 1991, 105 Stat. 1472, 1475; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 108–136, div. A, title VIII, §§831(b)(5), 832(b)(4), 833(2), Nov. 24, 2003, 117 Stat. 1549, 1550; Pub. L. 116–92, div. A, title VIII, §861(j)(11), title IX, §902(21), Dec. 20, 2019, 133 Stat. 1520, 1545; Pub. L. 116–283, div. A, title XVIII, §§1806(e)(4), 1846(i)(4), Jan. 1, 2021, 134 Stat. 4156, 4252; Pub. L. 119–60, div. A, title XVIII, §1802(b)(2), Dec. 18, 2025, 139 Stat. 1227.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(4). Pub. L. 119–60 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The term 'program executive officer' has the meaning given such term in regulations prescribed by the Secretary of Defense."

**2021**—Subsec. (a)(3). Pub. L. 116–283 substituted "section 4201" for "section 2430" and substituted "section 3041(b)(1)" for "section 2302(5)(A)" in two places.

**2019**—Subsec. (a)(1). Pub. L. 116–92, §861(j)(11)(A), substituted "of the acquisition workforce" for "of the Acquisition Corps".

Subsec. (b). Pub. L. 116–92, §861(j)(11)(B), substituted "of the acquisition workforce" for "of the Corps".

Subsec. (c). Pub. L. 116–92, §902(21), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2003**—Subsec. (a)(1). Pub. L. 108–136, §833(2), substituted "the Acquisition Corps" for "an Acquisition Corps".

Subsec. (c). Pub. L. 108–136, §831(b)(5), substituted "The Secretary" for "(1) The Secretary" and struck out par. (2) which read as follows: "The authority to grant such waivers may be delegated—

"(A) in the case of the service acquisition executives of the military departments, only to the Director of Acquisition Career Management for the military department concerned; and

"(B) in the case of the Under Secretary of Defense for Acquisition, Technology, and Logistics, only to the Director of Acquisition Education, Training, and Career Development."

Subsec. (d). Pub. L. 108–136, §832(b)(4), struck out heading and text of subsec. (d). Text read as follows: "The Secretary of Defense shall submit any requirement with respect to civilian employees established under this subchapter to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director."

**2001**—Subsec. (c)(1), (2)(B). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1993**—Subsec. (c)(1), (2)(B). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1991**—Subsec. (a)(3). Pub. L. 102–190, §1061(c), substituted "the dollar threshold set forth in section 2302(5)(A) of this title for such purposes for a major system" for "$50,000,000 (based on fiscal year 1980 constant dollars)" and "the dollar threshold set forth in section 2302(5)(A) of this title for such purpose for a major system" for "$250,000,000 (based on fiscal year 1980 constant dollars)".

Subsec. (c)(2)(B). Pub. L. 102–190, §1061(a)(8), struck out comma after "Director of Acquisition".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## SUBCHAPTER IV—EDUCATION AND TRAINING

Sec.
1741. Policies and programs: establishment and implementation.
1742. Internship, cooperative education, and scholarship programs.
1743. Awards to recognize members of the acquisition workforce.
[1744. Repealed.]
1745. Additional education and training programs available to acquisition personnel.
1746. Defense Acquisition University.
1746a. Acquisition workforce educational partnerships.
1747. Acquisition fellowship program.
1748. Fulfillment standards for acquisition workforce training.
1749. Field training for acquisition and sustainment.

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title VIII, §832(b), Dec. 23, 2024, 138 Stat. 1986, which directed amendment of analysis for chapter 87 of this title by adding item 1749 after item 1748, was executed to analysis for this subchapter to reflect the probable intent of Congress.

**2022**—Pub. L. 117–263, div. A, title VIII, §801(b), Dec. 23, 2022, 136 Stat. 2693, which directed amendment of analysis for chapter 87 of this title by adding item 1743 after item 1742, was executed to analysis for this subchapter to reflect the probable intent of Congress.

**2021**—Pub. L. 117–81, div. A, title VIII, §801(b), Dec. 27, 2021, 135 Stat. 1812, added item 1746a.

**2011**—Pub. L. 111–383, div. A, title VIII, §§874(b)(2), 877(c)(2)(B), Jan. 7, 2011, 124 Stat. 4305, 4306, substituted "Defense Acquisition University" for "Defense acquisition university structure" in item 1746 and added item 1748.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(3), Nov. 24, 2003, 117 Stat. 1552, substituted "Internship, cooperative education, and scholarship programs" for "Intern program" in item 1742 and struck out items 1743 "Cooperative education program" and 1744 "Scholarship program".

**2002**—Pub. L. 107–314, div. A, title X, §1062(a)(10)(B), Dec. 2, 2002, 116 Stat. 2650, transferred former item 2410h from chapter 141 to this subchapter and redesignated it as item 1747.

## §1741. Policies and programs: establishment and implementation

(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the establishment and implementation of the education and training programs authorized by this subchapter.

(b) FUNDING LEVELS.—The Under Secretary of Defense for Acquisition and Sustainment each year shall recommend to the Secretary of Defense the funding levels to be requested in the defense budget to implement the education and training programs under this subchapter. The Secretary of Defense shall set forth separately the funding levels requested for such programs in the Department of Defense budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31.

(c) PROGRAMS.—The Secretary of each military department, acting through the service acquisition executive for that department, shall establish and implement the education and training programs authorized by this subchapter. In carrying out such requirement, the Secretary concerned shall ensure that such programs are established and implemented throughout the military department concerned and, to the maximum extent practicable, uniformly with the programs of the other military departments.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(22), Dec. 20, 2019, 133 Stat. 1545.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (b). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2001**—Subsec. (b). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1993**—Subsec. (b). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SOFTWARE DEVELOPMENT AND SOFTWARE ACQUISITION TRAINING AND MANAGEMENT PROGRAMS

Pub. L. 116–92, div. A, title VIII, §862, Dec. 20, 2019, 133 Stat. 1520, as amended by Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A)–(C), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) ESTABLISHMENT OF SOFTWARE DEVELOPMENT AND SOFTWARE ACQUISITION TRAINING AND MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and in consultation with the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Personnel and Readiness, and the Chief Information Officer of the Department of Defense, shall establish software development and software acquisition training and management programs for all software acquisition professionals, software developers, and

other appropriate individuals (as determined by the Secretary of Defense), to earn a certification in software development and software acquisition.

"(2) PROGRAM CONTENTS.—The programs established under paragraph (1) shall—

"(A) develop and expand the use of specialized training programs for chief information officers of the military departments and the Defense Agencies, service acquisition executives, portfolio acquisition executives, and program managers to include training on and experience in—

"(i) continuous software development; and

"(ii) acquisition pathways available to acquire software;

"(B) ensure that appropriate program managers—

"(i) have demonstrated competency in current software processes;

"(ii) have the skills to lead a workforce that can quickly meet challenges, use software tools that prioritize continuous or frequent upgrades as such tools become available, take up opportunities provided by new innovations, and plan software activities in short iterations to learn from risks of software testing; and

"(iii) have the experience and training to delegate technical oversight and execution decisions; and

"(C) include continuing education courses, exchanges with private-sector organizations, and experiential training to help individuals maintain skills learned through the programs.

"(b) REPORTS.—

"(1) REPORTS REQUIRED.—The Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

"(A) not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], an initial report; and

"(B) not later than one year after the date of the enactment of this Act, a final report.

"(2) CONTENTS.—Each report required under paragraph (1) shall include—

"(A) the status of implementing the software development and software acquisition training and management programs established under subsection (a)(1);

"(B) a description of the requirements for certification, including the requirements for competencies in current software processes;

"(C) a description of potential career paths in software development and software acquisition within the Department of Defense;

"(D) an independent assessment conducted by the Defense Innovation Board of the progress made on implementing the programs established under subsection (a)(1); and

"(E) any recommendations for changes to existing law to facilitate the implementation of the programs established under subsection (a)(1).

"(c) DEFINITIONS.—In this section:

"(1) PORTFOLIO ACQUISITION EXECUTIVE; PROGRAM MANAGER.—The terms 'portfolio acquisition executive' and 'program manager' have the meanings given those terms, respectively, in section 1737 of title 10, United States Code.

"(2) SERVICE ACQUISITION EXECUTIVE.—The terms 'military department', 'Defense Agency', and 'service acquisition executive' have the meanings given those terms, respectively, in section 101 of title 10, United States Code.

"(3) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning given in section 2430 of title 10, United States Code [now 10 U.S.C. 4201].

"(4) DEFENSE BUSINESS SYSTEM.—The term 'defense business system' has the meaning given in section 2222(i)(1) of title 10, United States Code."

## REVIEW OF GUIDANCE TO CONTRACTORS ON NONDISCRIMINATION ON THE BASIS OF SEX

Pub. L. 116–92, div. A, title VIII, §885, Dec. 20, 2019, 133 Stat. 1535, provided that:

"(a) REVIEW.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Under Secretary of Defense for Acquisition and Sustainment, serving as the senior procurement executive for the Department of Defense pursuant to section 133b(b)(4)(B) of title 10, United States Code [now 10 U.S.C. 133b(b)(5)(B)], shall conduct a review of the implementation of the requirement for Government contracting agencies under Executive Order 11246 (42 U.S.C. 2000e note) relating to expectations of contractors and subcontractors to ensure nondiscrimination on the basis of sex.

"(b) ELEMENTS.—The review required under subsection (a) shall, at a minimum, consider—

"(1) existing contracting processes and tools for oversight of contracts, including contractor

responsibility determinations and documentation of performance; and

"(2) the extent to which best practices for contractors and subcontractors identified in the appendix to part 60–20 of title 41 of the Code of Federal Regulations, such as establishing and implementing procedures for handling and resolving complaints about harassment and intimidation based on sex, have been incorporated in Department policies and procedures.

"(c) UPDATED TRAINING GUIDANCE.—Not later than 180 days after the date of the completion of the review required under subsection (a), the Under Secretary of Defense for Acquisition and Sustainment shall update any relevant training guidance for the acquisition workforce to account for the conclusions of the review.

"(d) BRIEFING REQUIRED.—Not later than December 15, 2020, the Secretary of Defense shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the review required under subsection (a), which shall include any updates to training guidance or contracting procedures resulting from the review."

**GUIDANCE REGARDING TRAINING AND DEVELOPMENT OF THE ACQUISITION WORKFORCE**

Pub. L. 114–328, div. A, title VIII, §803(b), Dec. 23, 2016, 130 Stat. 2249, provided that:

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall issue guidance addressing the training and development of the Department of Defense workforce engaged in the procurement of services, including those personnel not designated as members of the acquisition workforce.

"(2) IDENTIFICATION OF TRAINING AND PROFESSIONAL DEVELOPMENT OPPORTUNITIES AND ALTERNATIVES.—The guidance required under paragraph (1) shall identify training and professional development opportunities and alternatives, not limited to existing Department of Defense institutions, that focus on and provide relevant training and professional development in commercial business models and contracting.

"(3) TREATMENT OF TRAINING AND PROFESSIONAL DEVELOPMENT.—Any training and professional development provided pursuant to this subsection outside Department of Defense institutions shall be deemed to be equivalent to similar training certified or provided by the Defense Acquisition University."

**REQUIREMENTS MANAGEMENT CERTIFICATION TRAINING PROGRAM**

Pub. L. 109–364, div. A, title VIII, §801, Oct. 17, 2006, 120 Stat. 2312, as amended by Pub. L. 116–92, div. A, title IX, §902(68), Dec. 20, 2019, 133 Stat. 1551, provided that:

"(a) TRAINING PROGRAM.—

"(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Defense Acquisition University, shall develop a training program to certify military and civilian personnel of the Department of Defense with responsibility for generating requirements for major defense acquisition programs (as defined in section 2430(a) of title 10, United States Code [now 10 U.S.C. 4201]).

"(2) COMPETENCY AND OTHER REQUIREMENTS.—The Under Secretary shall establish competency requirements for the personnel undergoing the training program. The Under Secretary shall define the target population for such training program by identifying which military and civilian personnel should have responsibility for generating requirements. The Under Secretary also may establish other training programs for personnel not subject to chapter 87 of title 10, United States Code, who contribute significantly to other types of acquisitions by the Department of Defense.

"(b) APPLICABILITY.—Effective on and after September 30, 2008, a member of the Armed Forces or an employee of the Department of Defense with authority to generate requirements for a major defense acquisition program may not continue to participate in the requirements generation process unless the member or employee successfully completes the certification training program developed under this section.

"(c) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an interim report, not later than March 1, 2007, and a final report, not later than March 1, 2008, on the implementation of the training program required under this section."

## §1742. Internship, cooperative education, and scholarship programs

(a) PROGRAMS.—The Secretary of Defense shall conduct the following education and training programs:

(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into acquisition positions in the Department of Defense.

(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.

(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.

(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—Each recipient of a scholarship under a program conducted under subsection (a)(3) shall be required to sign a written agreement that sets forth the terms and conditions of the scholarship. The agreement shall be in a form prescribed by the Secretary and shall include terms and conditions, including terms and conditions addressing reimbursement in the event that a recipient fails to fulfill the requirements of the agreement, that are comparable to those set forth as a condition for providing advanced education assistance under section 2005. The obligation to reimburse the United States under an agreement under this subsection is, for all purposes, a debt owing the United States.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651; amended Pub. L. 108–136, div. A, title VIII, §834(a), Nov. 24, 2003, 117 Stat. 1550; Pub. L. 108–375, div. A, title VIII, §812(b), title X, §1084(f)(1), Oct. 28, 2004, 118 Stat. 2013, 2064; Pub. L. 116–92, div. A, title VIII, §861(j)(12), Dec. 20, 2019, 133 Stat. 1520.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a)(1). Pub. L. 116–92 substituted "acquisition positions in the Department of Defense" for "the Acquisition Corps".

**2004**—Pub. L. 108–375, §1084(f)(1), amended directory language of Pub. L. 108–136, §834(a). See 2003 Amendment note below.

Pub. L. 108–375, §812(b), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2003**—Pub. L. 108–136, §834(a), as amended by Pub. L. 108–375, §1084(f)(1), amended section catchline and text generally. Prior to amendment, text read as follows: "The Secretary of Defense shall require that each military department conduct an intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title X, §1084(f), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(f)(1) is effective as of Nov. 24, 2003, and as if included in Pub. L. 108–136 as enacted.

## §1743. Awards to recognize members of the acquisition workforce

(a) ESTABLISHMENT.—The President of the Defense Acquisition University shall establish two programs to provide awards to recognize members of the acquisition workforce as follows:

(1) An award of not more than $5,000 to such members who use an iterative writing process to document a first-hand account of using independent judgment to overcome an obstacle the member faced while working within the defense acquisition system (as defined in section 3001 of this title).

(2) An award of not more than $5,000 to such members who make the best use of the

flexibilities and authorities granted by the Federal Acquisition Regulation and Department of Defense Instruction 5000.02 (Operation of the Defense Acquisition System).

(b) NUMBER OF AWARDS.—

(1) IN GENERAL.—The President of the Defense Acquisition University may make not more than five awards under subsection (a)(1) and one award under subsection (a)(2) each year.

(2) LIMITATION.—A member of the acquisition workforce may receive one award each year.

(c) REQUIREMENTS FOR WRITING AWARD.—

(1) SUBMISSION REQUIRED.—A member of the acquisition workforce desiring an award under subsection (a)(1) shall submit to the President of the Defense Acquisition University the first-hand account described in such subsection. Such first-hand account shall demonstrate—

(A) an original and engaging idea documenting the use of independent judgment to overcome an obstacle the recipient faced while working within the defense acquisition system; and

(B) the use of an iterative writing process, including evidence of—

(i) critical thinking;

(ii) incorporation of feedback from diverse perspectives; and

(iii) editing to achieve plain writing (as defined in section 3 of the Plain Writing Act of 2010 (5 U.S.C. 301 note)).

(2) WEBSITE.—The President of the Defense Acquisition University shall establish and maintain a website to serve as a repository for submissions made under paragraph (1). Such website shall allow for public comments and discussion.

(d) REQUIREMENTS FOR FLEXIBILITY AWARD.—A member of the acquisition workforce desiring an award under subsection (a)(2) shall submit to the President of the Defense Acquisition University documentation that such member uses approaches to program management that emphasize innovation and local adaptation, including the use of—

(1) simplified acquisition procedures;

(2) inherent flexibilities within the Federal Acquisition Regulation;

(3) commercial contracting approaches;

(4) public-private partnership agreements and practices;

(5) cost-sharing arrangements;

(6) innovative contractor incentive practices; or

(7) other innovative implementations of acquisition flexibilities.

(e) FUNDING.—The Secretary of Defense shall use funds from the Defense Acquisition Workforce Development Account to carry out this section.

(Added Pub. L. 117–263, div. A, title VIII, §801(a), Dec. 23, 2022, 136 Stat. 2692.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3 of the Plain Writing Act of 2010, referred to in subsec. (c)(1)(B)(iii), is section 3 of Pub. L. 111–274, which is set out in a note under section 301 of Title 5, Government Organization and Employees.

**PRIOR PROVISIONS**

A prior section 1743, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1651, related to cooperative education program, prior to repeal by Pub. L. 108–136, div. A, title VIII, §834(b), Nov. 24, 2003, 117 Stat. 1551.

## [§1744. Repealed. Pub. L. 108–136, div. A, title VIII, §834(b), Nov. 24, 2003, 117 Stat. 1551]

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1652; amended Pub. L. 102–484, div. A, title VIII, §812(f), Oct. 23, 1992, 106 Stat. 2451; Pub. L. 108–136, div. A, title VIII, §832(c), Nov. 24, 2003, 117 Stat. 1550, related to scholarship program.

## §1745. Additional education and training programs available to acquisition personnel

(a) TUITION REIMBURSEMENT AND TRAINING.—(1) The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) for acquisition personnel in the Department of Defense.

(2) For civilian personnel, the reimbursement and training shall be provided under section 4107(b) of title 5 for the purposes described in that section. For purposes of such section 4107(b), there is deemed to be, until September 30, 2010, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense.

(3) In the case of members of the armed forces, the limitation in section 2007(a) of this title shall not apply to tuition reimbursement and training provided for under this subsection.

(b) REPAYMENT OF STUDENT LOANS.—The Secretary of Defense may repay all or part of a student loan under section 5379 of title 5 for an employee of the Department of Defense appointed to an acquisition position.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 104–106, div. A, title XV, §1503(a)(15), Feb. 10, 1996, 110 Stat. 511; Pub. L. 106–65, div. A, title IX, §925(a), Oct. 5, 1999, 113 Stat. 726; Pub. L. 106–398, §1 [[div. A], title XI, §1123], Oct. 30, 2000, 114 Stat. 1654, 1654A–317.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (a)(2). Pub. L. 106–398 substituted "September 30, 2010" for "September 30, 2001".

**1999**—Subsec. (a). Pub. L. 106–65 amended heading and text of subsec. (a) generally. Text read as follows: "The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) under section 4107(b) of title 5 for acquisition personnel in the Department of Defense for the purposes described in that section. For purposes of such section 4107(b), there is deemed to be, until September 30, 2001, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense."

**1996**—Subsec. (a). Pub. L. 104–106 substituted "section 4107(b)" for "section 4107(d)" in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title IX, §925(b), Oct. 5, 1999, 113 Stat. 726, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to charges for tuition or expenses incurred after the date of the enactment of this Act [Oct. 5, 1999]."

## §1746. Defense Acquisition University

(a) DEFENSE ACQUISITION UNIVERSITY STRUCTURE.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish and maintain a defense acquisition university structure to provide for—

(1) the professional educational development and training of the acquisition workforce; and

(2) research and analysis of defense acquisition policy issues from an academic perspective.

(b) CIVILIAN FACULTY MEMBERS.—(1) The Secretary of Defense may employ as many

civilians as professors, instructors, and lecturers in the defense acquisition university structure as the Secretary considers necessary.

(2) The Secretary of Defense shall ensure the defense acquisition university structure includes relevant expert lecturers from extramural institutions (as defined in section 1746a(g) of this title), industry, or federally funded research and development centers to advance acquisition workforce competence regarding commercial business interests, acquisition process-related innovations, and other relevant leading practices of the private sector.

(3) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

(4) In this subsection, the term "defense acquisition university" includes the Defense Systems Management College.

(c) CURRICULUM DEVELOPMENT.—The President of the Defense Acquisition University shall work with the relevant professional schools and degree-granting institutions of the Department of Defense and military departments, and with extramural institutions (as defined in section 1746a(g) of this title), to ensure that best practices are used in curriculum development to support acquisition workforce positions.

(d) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—(1) In engaging in research and development projects pursuant to subsection (a) of section 4001 of this title by a contract, cooperative agreement, or grant pursuant to subsection (b)(1) of such section, the Secretary may enter into such contract or cooperative agreement or award such grant through the Defense Acquisition University.

(2) The Defense Acquisition University shall be considered a Government-operated Federal laboratory for purposes of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(e) PRESIDENT APPOINTMENT.—(1) The Under Secretary of Defense for Acquisition and Sustainment shall appoint the President of the Defense Acquisition University.

(2) When determining who to appoint under paragraph (1), the Under Secretary of Defense for Acquisition and Sustainment shall, in consultation with the Under Secretary of Defense for Research and Engineering and the service acquisition executives, prioritize highly qualified candidates who demonstrate a combination of the following:

(A) Leadership abilities.

(B) Experience using leading practices to develop talent in the private sector.

(C) Other qualifying factors, including experience with and an understanding of the defense acquisition system (as defined in section 3001 of this title), an understanding of emerging technologies and the defense applications of such technologies, experience partnering with States, national associations, and academia, and experience with learning technologies.

(3) The tenure of the President of the Defense Acquisition University shall be not more than five years, unless the Under Secretary of Defense for Acquisition and Sustainment determines it necessary to extend the tenure for up to an additional five years. The preceding sentence does not apply to the President of the Defense Acquisition University serving on January 1, 2025, who shall serve a maximum tenure of three years beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 without an option for extension of such tenure.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 104–106, div. A, title XV, §1503(a)(16), Feb. 10, 1996, 110 Stat. 512; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111–383, div. A, title VIII, §877(c)(1), (2)(A), Jan. 7, 2011, 124 Stat. 4306; Pub. L. 114–328, div. A, title II, §214(b), Dec. 23, 2016, 130 Stat. 2048; Pub. L. 116–92, div. A, title VIII, §861(c), title IX, §902(23), Dec. 20, 2019, 133 Stat. 1516, 1545; Pub. L. 116–283, div. A, title X, §1081(a)(32), title XVIII, §1841(e)(1), Jan. 1, 2021, 134 Stat. 3872, 4244; Pub. L. 117–263, div. A, title VIII, §832(a), Dec. 23, 2022, 136 Stat. 2712; Pub. L. 118–159, div. A, title VIII, §831, Dec. 23, 2024, 138 Stat. 1984; Pub. L. 119–60, div. A, title VIII, §822, Dec. 18, 2025, 139 Stat. 954.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (e)(3), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

### AMENDMENTS

**2025**—Subsec. (e)(3). Pub. L. 119–60 substituted "tenure" for "term" wherever appearing.

**2024**—Subsec. (e)(3). Pub. L. 118–159 substituted "The preceding sentence does not apply to the President of the Defense Acquisition University serving on January 1, 2025, who shall serve a maximum term of three years beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 without an option for extension of such term." for "The preceding sentence does not apply to the President of the Defense Acquisition University serving on January 1, 2022."

**2022**—Subsec. (b)(2). Pub. L. 117–263, §832(a)(1)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The professors, instructors, and lecturers employed under paragraph (1) shall include individuals from civilian colleges or universities that are not owned or operated by the Federal Government, commercial learning and development organizations, industry, or federally funded research and development centers."

Subsec. (b)(3) to (5). Pub. L. 117–263, §832(a)(1)(B), (C), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "The Secretary of Defense shall ensure that—

"(A) not later than September 1, 2021, not less than five full-time visiting professors employed under paragraph (1) are from civilian colleges or universities described under paragraph (2); and

"(B) not later than September 1, 2022, not less than ten full-time visiting professors employed under paragraph (1) are from such civilian colleges or universities."

Subsec. (c). Pub. L. 117–263, §832(a)(2), substituted "extramural institutions (as defined in section 1746a(g) of this title)" for "commercial training providers".

Subsec. (e). Pub. L. 117–263, §832(a)(3), added subsec. (e).

**2021**—Subsec. (b)(3)(A). Pub. L. 116–283, §1081(a)(32), struck out the second semicolon before "and".

Subsec. (d)(1). Pub. L. 116–283, §1841(e)(1), substituted "section 4001" for "section 2358".

**2019**—Subsec. (a). Pub. L. 116–92, §902(23), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in introductory provisions.

Subsec. (b)(2) to (5). Pub. L. 116–92, §861(c)(1), added pars. (2) and (3) and redesignated former pars. (2) and (3) as (4) and (5), respectively.

Subsec. (c). Pub. L. 116–92, §861(c)(2), inserted ", and with commercial training providers," after "military departments".

**2016**—Subsec. (d). Pub. L. 114–328 added subsec. (d).

**2011**—Pub. L. 111–383, §877(c)(2)(A), substituted "Defense Acquisition University" for "Defense acquisition university structure" in section catchline.

Subsec. (c). Pub. L. 111–383, §877(c)(1), added subsec. (c).

**2001**—Subsec. (a). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology" in introductory provisions.

**1996**—Subsec. (a). Pub. L. 104–106 struck out "(1)" before "The Secretary of Defense" and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1841(e)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 101–510, div. A, title XII, §1209(h)(1), Nov. 5, 1990, 104 Stat. 1667, provided that: "Subsection (b) of section 1746 of title 10, United States Code (as added by section 1202), shall take effect with respect to the Defense Systems Management College on the date of the enactment of this Act [Nov. 5, 1990]."

## IMPLEMENTATION REPORT

Pub. L. 117–263, div. A, title VIII, §832(b), Dec. 23, 2022, 136 Stat. 2712, provided that: "Not later than March 1, 2023, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to modify the defense acquisition university structure to comply with section 1746(b)(2) of title 10, United States Code, as amended by subsection (a). Such plan shall establish a date of not later than March 1, 2026, for such modification to be completed."

## CURRICULA ON SOFTWARE ACQUISITIONS AND CYBERSECURITY SOFTWARE OR HARDWARE ACQUISITIONS FOR COVERED INDIVIDUALS

Pub. L. 117–263, div. A, title VIII, §835, Dec. 23, 2022, 136 Stat. 2715, provided that:

"(a) CURRICULA.—The President of the Defense Acquisition University, shall supplement existing training curricula related to software acquisitions and cybersecurity software or hardware acquisitions and offer such curricula to covered individuals to increase digital literacy related to such acquisitions by developing the ability of such covered individuals to use technology to identify, critically evaluate, and synthesize data and information related to such acquisitions.

"(b) ELEMENTS.—Curricula developed pursuant to subsection (a) shall provide information on—

"(1) cybersecurity, information technology systems, computer networks, cloud computing, artificial intelligence, machine learning, distributed ledger technologies, and quantum technologies;

"(2) cybersecurity threats and capabilities;

"(3) activities that encompass the full range of threat reduction, vulnerability reduction, deterrence, incident response, resiliency, and recovery policies and activities, including activities relating to computer network operations, information assurance, military missions, and intelligence missions to the extent such activities relate to the security and stability of cyberspace; and

"(4) the industry best practices relating to software acquisitions and cybersecurity software or hardware acquisitions.

"(c) PLAN.—Not later than 180 days after enactment of this Act [Dec. 23, 2022], the Secretary of Defense, in consultation with the President of the Defense Acquisition University, shall submit to Congress a comprehensive plan to implement the curricula developed under subsection (a) that includes a comparison with similar existing training curricula. Such plan shall include a list of resources required for and costs associated with such implementation, including—

"(1) curriculum development;

"(2) hiring instructors to teach the curriculum;

"(3) facilities; or

"(4) website development.

"(d) IMPLEMENTATION.—Not later than one year after the date on which the plan described in subsection (d) [sic; probably should be "subsection (c)"] is submitted to the Committees on Armed Services of the Senate and House of Representatives, the President of the Defense Acquisition University shall offer the curricula developed under subsection (a) to covered individuals.

"(e) REPORT.—Not later than one year after the date on which the plan described in subsection (d) [sic; probably should be "subsection (c)"] is submitted to the Committees on Armed Services of the Senate and House of Representatives, the Secretary of Defense, in consultation with the President of the Defense Acquisition University, shall submit to Congress a report assessing the costs and benefits of requiring all covered individuals to complete the curricula developed under subsection (a).

"(f) COVERED INDIVIDUALS DEFINED.—In this section, the term 'covered individuals' means an individual serving in a position designated under section 1721(b) of title 10, United States Code, who is regularly consulted for software acquisitions or cybersecurity software or hardware acquisitions."

## TRAINING IN COMMERCIAL ITEMS PROCUREMENT

Pub. L. 115–91, div. A, title VIII, §850, Dec. 12, 2017, 131 Stat. 1488, provided that:

"(a) TRAINING.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the President of the Defense Acquisition University shall establish a comprehensive training program on part 12 of the Federal Acquisition Regulation. The training shall cover, at a minimum, the following topics:

"(1) The origin of part 12 and the congressional mandate to prefer commercial procurements.

"(2) The definition of a commercial item, with a particular focus on the 'of a type' concept.

"(3) Price analysis and negotiations.

"(4) Market research and analysis.

"(5) Independent cost estimates.

"(6) Parametric estimating methods.

"(7) Value analysis.

"(8) Best practices in pricing from commercial sector organizations, foreign government organizations, and other Federal, State, and local public sectors organizations.

"(9) Other topics on commercial procurements necessary to ensure a well-educated acquisition workforce.

"(b) ENROLLMENTS GOALS.—The President of the Defense Acquisition University shall set goals for student enrollment for the comprehensive training program established under subsection (a).

"(c) SUPPORTING ACTIVITIES.—The Secretary of Defense shall, in support of the achievement of the goals of this section—

"(1) engage academic experts on research topics of interest to improve commercial item identification and pricing methodologies; and

"(2) facilitate exchange and interface opportunities between government personnel to increase awareness of best practices and challenges in commercial item identification and pricing.

"(d) FUNDING.—The Secretary of Defense shall use amounts available in the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, to fund the comprehensive training program established under subsection (a)."

## TRAINING ON AGILE OR ITERATIVE DEVELOPMENT METHODS

Pub. L. 115–91, div. A, title VIII, §891, Dec. 12, 2017, 131 Stat. 1509, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense, in consultation with the President of the Defense Acquisition University, shall establish a training course at the Defense Acquisition University on agile or iterative development methods to provide training for personnel implementing and supporting the pilot programs required by sections 873 and 874 of this Act [10 U.S.C. 4571 note, former 10 U.S.C. 3101 note prec.].

"(b) COURSE ELEMENTS.—

"(1) IN GENERAL.—The course shall be taught in residence at the Defense Acquisition University and shall include the following elements:

"(A) Training designed to instill a common understanding of all functional roles and dependencies involved in developing and producing a capability using agile or iterative development methods.

"(B) An exercise involving teams composed of personnel from pertinent functions and functional organizations engaged in developing an integrated agile or iterative development method for a specific program.

"(C) Instructors and content from non-governmental entities, as appropriate, to highlight commercial best practices in using an agile or iterative development method.

"(2) COURSE UPDATES.—The Secretary shall ensure that the course is updated as needed, including through incorporating lessons learned from the implementation of the pilot programs required by sections 873 and 874 of this Act in subsequent versions of the course.

"(c) COURSE ATTENDANCE.—The course shall be—

"(1) available for certified acquisition personnel working on programs or projects using agile or iterative development methods; and

"(2) mandatory for personnel participating in the pilot programs required by sections 873 and 874 of this Act from the relevant organizations in each of the military departments and Defense Agencies, including organizations responsible for engineering, budgeting, contracting, test and evaluation, requirements validation, and certification and accreditation.

"(d) AGILE ACQUISITION SUPPORT.—The Secretary and the senior acquisition executives in each of the military departments and Defense Agencies, in coordination with the Director of the Defense Digital Service, shall assign to offices supporting systems selected for participation in the pilot programs required by sections 873 and 874 of this Act a subject matter expert with knowledge of commercial agile acquisition methods and Department of Defense acquisition processes to provide assistance and to advise appropriate acquisition authorities of the expert's observations.

"(e) AGILE RESEARCH PROGRAM.—The President of the Defense Acquisition University shall establish a research program to conduct research on and development of agile acquisition practices and tools best tailored to meet the mission needs of the Department of Defense.

"(f) AGILE OR ITERATIVE DEVELOPMENT DEFINED.—The term 'agile or iterative development', with respect to software—

"(1) means acquisition pursuant to a method for delivering multiple, rapid, incremental capabilities to the user for operational use, evaluation, and feedback not exclusively linked to any single, proprietary method or process; and

"(2) involves—

"(A) the incremental development and fielding of capabilities, commonly called 'spirals', 'spins', or 'sprints', which can be measured in a few weeks or months; and

"(B) continuous participation and collaboration by users, testers, and requirements authorities."

**CONTRACTOR INCENTIVES TO ACHIEVE SAVINGS AND IMPROVE MISSION PERFORMANCE**

Pub. L. 114–328, div. A, title VIII, §832, Dec. 23, 2016, 130 Stat. 2283, as amended by Pub. L. 117–263, div. A, title VIII, §814(b), Dec. 23, 2022, 136 Stat. 2707, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Defense Acquisition University shall develop and implement a training program for Department of Defense acquisition personnel on fixed-price incentive contracts, public-private partnerships, performance-based contracting, and other authorities in law and regulation designed to give incentives to contractors to achieve long-term savings and improve administrative practices and mission performance."

[Pub. L. 117–263, §814(b), which directed amendment of section 832 of Pub. L. 114–328, set out above, by substituting "fixed-price incentive contracts" for "fixed-price incentive fee contracts", was executed by making the substitution for "fixed-priced incentive fee contracts" to reflect the probable intent of Congress.]

**ESTABLISHMENT OF INITIAL DEFENSE ACQUISITION UNIVERSITY STRUCTURE**

Pub. L. 101–510, div. A, title XII, §1205, Nov. 5, 1990, 104 Stat. 1658, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(4)(A), Nov. 18, 1997, 111 Stat. 1905, provided that, not later than Oct. 1, 1991, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, was to prescribe regulations for the initial structure for a defense acquisition university under this section and to prescribe and submit to the Committees on Armed Services of the Senate and House of Representatives an implementation plan, including a charter, for the university structure, and not later than Aug. 1, 1992, the Secretary was to carry out the implementation plan.

## §1746a. Acquisition workforce educational partnerships

(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish a program within Defense Acquisition University to—

(1) facilitate the engagement of relevant experts, including with the acquisition research activities established under section 4142 of this title, with the faculty of the Defense Acquisition University to assess and modify the curriculum of the Defense Acquisition University, as appropriate, to enhance the capabilities of the Defense Acquisition University to support educational, training, and research activities in support of acquisition missions of the Department of Defense;

(2) establish a cross-discipline, peer mentoring program for academic advising and to address critical retention concerns with respect to the acquisition workforce;

(3) partner with extramural institutions and military department functional leadership to offer training and on-the-job learning support to all members of the acquisition workforce addressing operational challenges that affect procurement decisionmaking;

(4) support the partnerships between the Department of Defense and extramural institutions with missions relating to the training and continuous development of members of the acquisition workforce;

(5) accelerate the adoption, appropriate design and customization, and use of flexible acquisition practices by the acquisition workforce by expanding the availability of training and on-the-job learning and guidance on such practices and incorporating such training into the curriculum of the Defense Acquisition University; and

(6) support and enhance the capabilities of the faculty of the Defense Acquisition University,

and the currency and applicability of the knowledge possessed by such faculty, by—

(A) building partnerships between the faculty of the Defense Acquisition University and the director of, and individuals involved with, the activities established under section 4142 of this title;

(B) supporting the preparation and drafting of the reports required under subsection (f)(2); and

(C) instituting a program under which each member of the faculty of the Defense Acquisition University shall be detailed to an operational acquisition position in a military department or Defense Agency, or to an extramural institution, for not less than six months out of every five year period.

(b) SENIOR OFFICIAL.—Not later than 180 days after the enactment of this section, the President of the Defense Acquisition University shall designate a senior official to execute activities under this section.

(c) SUPPORT FROM OTHER DEPARTMENT OF DEFENSE ORGANIZATIONS.—The Secretary of Defense may direct other elements of the Department of Defense to provide personnel, resources, and other support to the program established under this section, as the Secretary determines appropriate.

(d) FUNDING.—Subject to the availability of appropriations, the Under Secretary of Defense for Acquisition and Sustainment may use amounts available in the Defense Acquisition Workforce and Development Account (as established under section 1705 of this title) to carry out the requirements of this section.

(e) ANNUAL REPORTS.—Not later than September 30, 2022, and annually thereafter, the President of the Defense Acquisition University shall submit to the Secretary of Defense and the congressional defense committees a report describing the activities conducted under this section during the one-year period ending on the date on which such report is submitted.

(f) EXEMPTION TO REPORT TERMINATION REQUIREMENTS.—Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1000; 10 U.S.C. 111 note), as amended by section 1061(j) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2405; 10 U.S.C. 111 note), does not apply with respect to the reports required to be submitted to Congress under this section.

(g) DEFINITIONS.—In this section:

(1) ACQUISITION WORKFORCE.—The term "acquisition workforce" has the meaning given such term in section 1705(g) of this title.

(2) EXTRAMURAL INSTITUTIONS.—The term "extramural institutions" means participants in an activity established under section 4142 of this title, public sector organizations, and nonprofit credentialing organizations.

(Added Pub. L. 117–81, div. A, title VIII, §801(a), Dec. 27, 2021, 135 Stat. 1811; amended Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The enactment of this section, referred to in subsec. (b), probably means the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

### AMENDMENTS

**2021**—Subsecs. (a)(1), (6)(A), (g)(2). Pub. L. 116–283 substituted "section 4142" for "section 2361a".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §1747. Acquisition fellowship program

(a) ESTABLISHMENT.—The Secretary of Defense shall establish and carry out an acquisition fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit employees who are highly qualified in fields of acquisition.

(b) NUMBER OF FELLOWSHIPS.—The Secretary of Defense may designate up to 25 prospective employees of the Department of Defense as acquisition fellows.

(c) ELIGIBILITY.—In order to be eligible for designation as an acquisition fellow, an employee—

(1) must complete at least 2 years of Federal Government service as an employee in an acquisition position in the Department of Defense; and

(2) must be serving in an acquisition position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

(d) TWO-YEAR PERIOD OF RESEARCH AND TEACHING.—Under the fellowship program, the Secretary of Defense shall pay designated acquisition fellows to engage in research or teaching for a 2-year period in a field related to Federal Government acquisition policy. Such research or teaching may be conducted in the defense acquisition university structure of the Department of Defense, any other institution of professional education of the Federal Government, or a nonprofit institution of higher education. Each fellow shall be paid at a rate equal to the rate of pay payable for the level of the position in which the fellow served in the Department of Defense before undertaking such research or teaching.

(Added Pub. L. 102–484, div. A, title VIII, §841(a), Oct. 23, 1992, 106 Stat. 2468, §2410h; renumbered §1747, Pub. L. 107–314, div. A, title X, §1062(a)(10)(A), Dec. 2, 2002, 116 Stat. 2650.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Pub. L. 107–314 renumbered section 2410h of this title as this section.

## §1748. Fulfillment standards for acquisition workforce training

The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall develop fulfillment standards, and implement and maintain a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of this title. Such fulfillment standards shall consist of criteria for determining whether an individual has demonstrated competence in the areas that would be taught in the training courses required under those sections. If an individual meets the appropriate fulfillment standard, the applicable training requirement is fulfilled.

(Added Pub. L. 111–383, div. A, title VIII, §874(b)(1), Jan. 7, 2011, 124 Stat. 4304; amended Pub. L. 116–92, div. A, title IX, §902(24), Dec. 20, 2019, 133 Stat. 1545.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 105–85, div. A, title VIII, §853, Nov. 18, 1997, 111 Stat. 1851, which was set out as a note under section 1723 of this title, prior to repeal by Pub. L. 111–383, §874(b)(4).

**AMENDMENTS**

**2019**—Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR FULFILLMENT STANDARDS**

Pub. L. 111–383, div. A, title VIII, §874(b)(3), Jan. 7, 2011, 124 Stat. 4305, provided that: "The fulfillment standards required under section 1748 of title 10, United States Code, as added by paragraph (1), shall be developed not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011]."

## §1749. Field training for acquisition and sustainment

(a) TRAINING PROGRAM.—Not later than 180 days after the date of the enactment of this section, the Under Secretary for Acquisition and Sustainment shall establish a training program that supports cross-functional personnel and contractors of the Department of Defense involved in any phase of the acquisition and sustainment lifecycle in making important decisions with respect to acquisition or sustainment, including requirements validation, the development of an acquisition strategy, awarding contracts, and ongoing management of performance and governance.

(b) ELEMENTS.—The training program established under subsection (a) shall—

(1) create deployable training teams to coach the cross-functional personnel and contractors described in subsection (a) and facilitate such personnel and contractors successfully completing a phase of an acquisition or sustainment effort with the same training team to the maximum extent possible;

(2) to the extent practicable, ensure that the same training team under paragraph (1) provides the support described under such paragraph with respect to a phase of an acquisition or sustainment effort until such phase is completed or otherwise ends;

(3) provide to the cross-functional personnel and contractors described in subsection (a) short, intermittent lessons on innovative acquisition and fielding procedures, flexible contracting frameworks, and business negotiation skills that are timed to align the topics of the lessons to relevant activities under a phase of an acquisition or sustainment effort;

(4) emphasize—

(A) the acquisition of commercial products, commercial services, and commercially available off-the-shelf items (as such terms are defined in sections 103, 103a, and 104, respectively, of title 41);

(B) technology procured "as-a-service" or as a consumption-based solution (as defined in section 834 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 4571 note)); and

(C) using the middle tier acquisition pathways under section 3602 of this title and the pathways under section 3603 of this title; and

(5) include a process for collecting feedback on the training program and performance of the training teams to improve the training program.

(c) TRAINING TEAM REQUIREMENTS.—Each training team created under the training program shall—

(1) include at not less than one individual from the private sector or academia with expertise in conducting commercial transactions; and

(2) have excellent facilitation skills and the ability to coach the cross-functional personnel and contractors described in subsection (a) on applying the best practices to the formulation of acquisition and sustainment programs and contracts;

(d) CERTIFICATION.—The Under Secretary of Defense for Acquisition and Sustainment shall

ensure that each member of the acquisition workforce who participates in the training program established under subsection (a) can meet up to 80 hours of a continuous education requirement established under section 1723 of this title by participating in the training program.

(e) PILOT PROGRAM.—During fiscal year 2025, the Secretary of each military department shall carry out not less than one pilot program—

(1) under which the military department shall receive support under the training program established under subsection (a) with respect to acquisition and sustainment efforts of high importance or urgency to the military department; and

(2) which the Under Secretary for Acquisition and Sustainment shall use to develop the training material and procedures for the training program.

(f) FUNDING REQUIREMENTS.—The Under Secretary for Acquisition and Sustainment is authorized to use funds available for the Defense Acquisition University for civilian faculty members, contracts, and associated travel and expenses to carry out the training program established in subsection (a) starting in fiscal year 2025, and for fiscal years 2027 through fiscal year 2031—

(1) not less than 25 percent of civilian faculty members authorized under section 1746 of this title shall be detailed to the training program established in subsection (a) for a minimum of half of their time; and

(2) not less than 25 percent of all contract or agreement obligations in support of Defense Acquisition University shall be reserved for the training program established in subsection (a), including the training of civilian faculty members to facilitate programs under the training program.

(g) REPORT.—Not later than November 1, 2026, the Under Secretary for Acquisition and Sustainment shall provide a report to the Committees on Armed Services of the Senate and House of Representatives on the training program required under subsection (a), including—

(1) the number and qualifications of civilian faculty members detailed to the training program under subsection (f)(1), including any training requirements they receive to facilitate programs under the training program;

(2) an identification of contractor or university support for the training program pursuant to subsection (f)(2);

(3) a budget for the training program that meets the requirements of subsection (f);

(4) the status and success of the pilot program; and

(5) any additional information or recommendations with respect to the training program that the Under Secretary of Defense for Acquisition and Sustainment determines appropriate.

(Added Pub. L. 118–159, div. A, title VIII, §832(a), Dec. 23, 2024, 138 Stat. 1984; amended Pub. L. 119–60, div. A, title VIII, §812(a)(1), title XVII, §1701(a)(15), Dec. 18, 2025, 139 Stat. 951, 1208.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

Section 834 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (b)(4)(B), is section 834 of Pub. L. 116–283, which is set out as a note under section 4571 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60, §1701(a)(15)(A), substituted "emphasize—" for "emphasizes—" in introductory provisions.

Subsec. (c). Pub. L. 119–60, §1701(a)(15)(B)(i), inserted "shall" after "program" in introductory provisions.

Subsec. (c)(2). Pub. L. 119–60, §1701(a)(15)(B)(ii), substituted "have" for "has" and "the ability to" for "can".

Subsec. (f). Pub. L. 119–60, §1701(a)(15)(C), inserted "subsection" before "(a)" wherever appearing.

Subsec. (f)(1). Pub. L. 119–60, §812(a)(1), struck out "on a reimbursable basis" after "shall be detailed".

## SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

Sec.
1761. Management information system.
1762. Demonstration project relating to certain acquisition personnel management policies and procedures.
[1763. Repealed.]
1764. Authority to establish different minimum requirements.
1765. Competency development.
1766. Joint reserve detachment of the Defense Innovation Unit.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XVIII, §1878A(b), as added by Pub. L. 117–81, div. A, title XVII, §1701(q)(2), Dec. 27, 2021, 135 Stat. 2149, added item 1766.

Pub. L. 116–283, div. A, title X, §1081(c)(4), Jan. 1, 2021, 134 Stat. 3873, amended Pub. L. 116–92, §861(i)(2), effective as if included therein. See 2019 Amendment note below.

**2019**—Pub. L. 116–92, div. A, title VIII, §861(i)(2), Dec. 20, 2019, 133 Stat. 1519, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(4), Jan. 1, 2021, 134 Stat. 3873, added item 1765.

**2011**—Pub. L. 111–383, div. A, title VIII, §872(a)(2), Jan. 7, 2011, 124 Stat. 4302, added item 1762.

**2003**—Pub. L. 108–136, div. A, title VIII, §836(4), Nov. 24, 2003, 117 Stat. 1552, added item 1764 and struck out item 1763 "Reassignment of authority".

**2001**—Pub. L. 107–107, div. A, title X, §1048(e)(7)(B), Dec. 28, 2001, 115 Stat. 1228, struck out items 1762 "Report to Secretary of Defense" and 1764 "Authority to establish different minimum experience requirements".

## §1761. Management information system

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure that the military departments and Defense Agencies establish a management information system capable of providing standardized information to the Secretary on persons serving in acquisition positions.

(b) MINIMUM INFORMATION.—The management information system shall, at a minimum, provide for the following:

(1) The collection and retention of information concerning the qualifications, assignments, and tenure of persons in the acquisition workforce.

(2) Any exceptions and waivers granted with respect to the application of qualification, assignment, and tenure policies, procedures, and practices to such persons.

(3) Relative promotion rates for military personnel in the acquisition workforce.

(Added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1653; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 108–375, div. A, title X, §1084(d)(15), Oct. 28, 2004, 118 Stat. 2062.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (b). Pub. L. 108–375 substituted "provide for the following:" for "provide for—" in introductory provisions, capitalized first letter of first word in pars. (1) to (3), substituted period for semicolon at end in pars. (1) and (2), substituted period for "; and" at end in par. (3), and struck out par. (4) which read as

follows: "collection of the information necessary for the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of Defense to comply with the requirements of section 1762 for the years in which that section is in effect."

**2001**—Subsec. (b)(4). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1993**—Subsec. (b)(4). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**ESTABLISHMENT OF MANAGEMENT INFORMATION SYSTEM**

Pub. L. 101–510, div. A, title XII, §1209(k), Nov. 5, 1990, 104 Stat. 1667, required the Secretary of Defense to prescribe in regulations the requirements under this section for the uniform management information system by Oct. 1, 1991, and ensure that the requirements were implemented by Oct. 1, 1992.

## §1762. Demonstration project relating to certain acquisition personnel management policies and procedures

(a) COMMENCEMENT.—The Secretary of Defense is authorized to carry out a demonstration project, the purpose of which is to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense and supporting personnel assigned to work directly with the acquisition workforce.

(b) TERMS AND CONDITIONS.—(1) Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5 and all other provisions of such title that apply with respect to any demonstration project under such section.

(2) Subject to paragraph (3), in applying section 4703 of title 5 with respect to a demonstration project described in subsection (a)—

(A) "180 days" in subsection (b)(4) of such section shall be deemed to read "120 days";

(B) "90 days" in subsection (b)(6) of such section shall be deemed to read "30 days"; and

(C) subsection (d)(1) of such section shall be disregarded.

(3) Paragraph (2) shall not apply with respect to a demonstration project unless—

(A) for each organization or team participating in the demonstration project—

(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and

(ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and

(B) the demonstration project commences before October 1, 2007.

(4) The Secretary of Defense shall exercise the authorities granted to the Office of Personnel Management under section 4703 of title 5 for purposes of the demonstration project authorized under this section.

(c) LIMITATION ON NUMBER OF PARTICIPANTS.—The total number of persons who may participate at any one time in the demonstration project under this section may not exceed 130,000.

(d) EFFECT OF REORGANIZATIONS.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.

(e) ASSESSMENTS.—(1) The Secretary of Defense shall designate an independent organization to conduct two assessments of the acquisition workforce demonstration project described in subsection (a).

(2) Each such assessment shall include the following:

(A) A description of the workforce included in the project.

(B) An explanation of the flexibilities used in the project to appoint individuals to the acquisition workforce and whether those appointments are based on competitive procedures and recognize veteran's preferences.

(C) An explanation of the flexibilities used in the project to develop a performance appraisal system that recognizes excellence in performance and offers opportunities for improvement.

(D) The steps taken to ensure that such system is fair and transparent for all employees in the project.

(E) How the project allows the organization to better meet mission needs.

(F) An analysis of how the flexibilities in subparagraphs (B) and (C) are used, and what barriers have been encountered that inhibit their use.

(G) Whether there is a process for—

(i) ensuring ongoing performance feedback and dialogue among supervisors, managers, and employees throughout the performance appraisal period; and

(ii) setting timetables for performance appraisals.

(H) The project's impact on career progression.

(I) The project's appropriateness or inappropriateness in light of the complexities of the workforce affected.

(J) The project's sufficiency in terms of providing protections for diversity in promotion and retention of personnel.

(K) The adequacy of the training, policy guidelines, and other preparations afforded in connection with using the project.

(L) Whether there is a process for ensuring employee involvement in the development and improvement of the project.

(3) The first assessment under this subsection shall be completed not later than September 30, 2012. The second and final assessment shall be completed not later than September 30, 2016. The Secretary shall submit to the covered congressional committees a copy of each assessment within 30 days after receipt by the Secretary of the assessment.

(f) COVERED CONGRESSIONAL COMMITTEES.—In this section, the term "covered congressional committees" means—

(1) the Committees on Armed Services of the Senate and the House of Representatives;

(2) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(3) the Committee on Oversight and Government Reform of the House of Representatives.

(g) TERMINATION OF AUTHORITY.—The authority to conduct a demonstration project under this section shall terminate on December 31, 2031.

(h) CONVERSION.—Within 6 months after the authority to conduct a demonstration project under this section is terminated as provided in subsection (g), employees in the project shall convert to the civilian personnel system created pursuant to section 9902 of title 5.

(Added Pub. L. 111–383, div. A, title VIII, §872(a)(1), Jan. 7, 2011, 124 Stat. 4300; amended Pub. L. 114–92, div. A, title VIII, §846, Nov. 25, 2015, 129 Stat. 916; Pub. L. 114–328, div. A, title VIII, §867(a), Dec. 23, 2016, 130 Stat. 2306; Pub. L. 115–91, div. A, title VIII, §844(a), (b), Dec. 12, 2017, 131 Stat. 1482; Pub. L. 116–92, div. A, title XVII, §1731(a)(27), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 117–81, div. A, title VIII, §812, Dec. 27, 2021, 135 Stat. 1823; Pub. L. 118–159, div. A, title VIII, §833, Dec. 23, 2024, 138 Stat. 1986.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1762, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1654; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, related to report by the Under Secretary of Defense for Acquisition, Technology, and Logistics to the Secretary of Defense on the status of the defense acquisition workforce, prior to repeal by Pub. L. 107–107, div. A, title X, §1048(e)(7)(A), Dec. 28, 2001, 115 Stat. 1227.

Provisions similar to those in this section were contained in Pub. L. 104–106, div. D, title XLIII, §4308, Feb. 10, 1996, 110 Stat. 669, which was set out as a note under section 1701 of this title, prior to repeal by Pub. L. 111–383, §872(b).

### AMENDMENTS

**2024**—Subsec. (g). Pub. L. 118–159 substituted "December 31, 2031" for "December 31, 2026".

**2021**—Subsec. (g). Pub. L. 117–81 substituted "December 31, 2026" for "December 31, 2023".

**2019**—Subsec. (c). Pub. L. 116–92 substituted "at any one time in" for "in at any one time".

**2017**—Subsec. (c). Pub. L. 115–91, §844(b), substituted "at any one time the demonstration project under this section may not exceed 130,000" for "the demonstration project under this section may not exceed 120,000".

Subsec. (g). Pub. L. 115–91, §844(a), substituted "December 31, 2023" for "December 31, 2020".

**2016**—Subsec. (b)(4). Pub. L. 114–328 added par. (4).

**2015**—Subsec. (g). Pub. L. 114–92 substituted "demonstration project" for "demonstration program" and "December 31, 2020" for "September 30, 2017".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VIII, §867(b), Dec. 23, 2016, 130 Stat. 2306, provided that: "Paragraph (4) of section 1762(b) of title 10, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning 60 days after the date of the enactment of this Act [Dec. 23, 2016]."

## [§1763. Repealed. Pub. L. 108–136, div. A, title VIII, §835(1), Nov. 24, 2003, 117 Stat. 1551]

Section, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1656; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–85, div. A, title X, §1073(a)(33), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225, related to reassignment of authority by Secretary of Defense.

## §1764. Authority to establish different minimum requirements

(a) AUTHORITY.—(1) The Secretary of Defense may prescribe a different minimum number of years of experience, different minimum education qualifications, and different tenure of service qualifications to be required for eligibility for appointment or advancement to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter.

(2) Any requirement prescribed under paragraph (1) for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:

(1) Contracting officer, except a position referred to in paragraph (6).

(2) Portfolio acquisition executive.

(3) Senior contracting official.

(4) Program manager.

(5) Deputy program manager.

(6) A position in the contract contingency force of an armed force that is filled by a member of that armed force.

(c) DEFINITION.—In this section, the term "contract contingency force", with respect to an armed force, has the meaning given such term in regulations prescribed by the Secretary concerned.

(Added Pub. L. 108–136, div. A, title VIII, §835(2), Nov. 24, 2003, 117 Stat. 1551; amended Pub. L. 108–375, div. A, title VIII, §812(c), Oct. 28, 2004, 118 Stat. 2013; Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(B), Dec. 18, 2025, 139 Stat. 1227.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 1764, added Pub. L. 101–510, div. A, title XII, §1202(a), Nov. 5, 1990, 104 Stat. 1656, related to authority to establish different minimum experience requirements, prior to repeal by Pub. L. 107–107, div. A, title X, §1048(e)(7)(A), Dec. 28, 2001, 115 Stat. 1227.

**AMENDMENTS**

**2025**—Subsec. (b)(2). Pub. L. 119–60 substituted "Portfolio acquisition executive" for "Program executive officer".

**2004**—Subsec. (b)(1). Pub. L. 108–375, §812(c)(2), substituted "in paragraph (6)" for "in paragraph (5)".

Subsec. (b)(5), (6). Pub. L. 108–375, §812(c)(1), added par. (5) and redesignated former par. (5) as (6).

## §1765. Competency development

For each acquisition workforce career field, the Secretary of Defense shall—

(1) establish, for the civilian personnel in that career field, defined proficiency standards and technical and nontechnical competencies which shall be used in personnel qualification assessments; and

(2) assign resources to accomplish such technical and nontechnical competencies.

(Added Pub. L. 116–92, div. A, title VIII, §861(i)(1), Dec. 20, 2019, 133 Stat. 1518.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR IMPLEMENTATION**

Pub. L. 116–92, div. A, title VIII, §861(i)(3), Dec. 20, 2019, 133 Stat. 1519, provided that: "Not later than the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall carry out the requirements of section 1765 of title 10, United States Code (as added by paragraph (1))."

## §1766. Joint reserve detachment of the Defense Innovation Unit

(a) ESTABLISHMENT.—The Secretary of Defense, in consultation with the Secretaries of the military departments, may establish a joint reserve detachment (referred to in this section as the "Detachment") composed of members of the reserve components described in subsection (b) to be assigned to each office of the Defense Innovation Unit to—

(1) support engagement and collaboration with private-sector industry and the community

surrounding the location of such office; and

(2) accelerate the use and adoption of commercially-developed technologies for national security purposes.

(b) MEMBERS.—Each Secretary of a military department shall select for the Detachment, and make efforts to retain, members of the reserve components who possess relevant private-sector experience in the fields of business, acquisition, intelligence, engineering, technology transfer, science, mathematics, program management, logistics, cybersecurity, or such other fields as determined by the Secretary of Defense.

(c) DUTIES.—The Detachment shall have the following duties:

(1) Providing the Department of Defense with—

(A) expertise on and analysis of commercially-developed technologies;

(B) commercially-developed technologies to be used as alternatives for technologies in use by the Department; and

(C) opportunities for greater engagement and collaboration between the Department and private-sector industry on innovative technologies.

(2) On an ongoing basis—

(A) partnering with the military departments, the combatant commands, and other Department of Defense organizations to—

(i) identify and rapidly prototype commercially-developed technologies; and

(ii) use alternative contracting mechanisms to procure such technologies;

(B) increasing awareness of—

(i) the work of the Defense Innovation Unit; and

(ii) the technology requirements of the Department of Defense, as identified in the most recent—

(I) National Defense Strategy;

(II) National Defense Science and Technology Strategy as directed under section 218 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1679); and

(III) relevant policy and guidance from the Secretary of Defense; and

(C) using the investment in research and development made by private-sector industry in assessing and developing dual-use technologies.

(3) Carrying out other activities as directed by the Secretary of Defense.

(d) JOINT DUTY.—Assignment to a Detachment shall not qualify as a joint duty assignment, as defined in section 668(b)(1) of title 10, United States Code, unless approved by the Secretary of Defense.

(Added Pub. L. 116–92, div. A, title II, §213(a)(1), Dec. 20, 2019, 133 Stat. 1256, §2358b; amended Pub. L. 116–283, div. A, title X, §1081(a)(37), title XVIII, §1842(b), Jan. 1, 2021, 134 Stat. 3872, 4244; renumbered §1766, Pub. L. 116–283, div. A, title XVIII, §1878A(a), as added Pub. L. 117–81, div. A, title XVII, §1701(q)(2), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 117–81, div. A, title II, §§211(d), 213(a), title XVII, §1701(q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 1587, 1588, 2148, 2152; Pub. L. 118–31, div. A, title IX, §913(a)(4), Dec. 22, 2023, 137 Stat. 368.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 218 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsec. (c)(2)(B)(ii)(II), is section 218 of Pub. L. 115–232, div. A, title II, Aug. 13, 2018, 132 Stat. 1679,

which was repealed and restated as section 118c of this title by Pub. L. 117–81, div. A, title II, §211(a), (c), Dec. 27, 2021, 135 Stat. 1585, 1587. Amendment striking reference to repealed section 218 of Pub. L. 115–232 and inserting reference to section 118c of this title was undone by subsequent general amendment, which reinstated the prior reference. See 2021 Amendment notes below.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §913(a)(4)(A), substituted "as determined by the Secretary of Defense" for "as determined by the Under Secretary of Defense for Research and Engineering".

Subsec. (c)(3). Pub. L. 118–31, §913(a)(4)(B), substituted "as directed by the Secretary of Defense" for "as directed by the Under Secretary of Defense for Research and Engineering".

**2021**—Pub. L. 116–283, §1878A(a), as added by Pub. L. 117–81, §1701(q)(2), renumbered section 2358b of this title as this section.

Pub. L. 116–283, §1842(b), which directed the renumbering of section 2358b of this title as section 4064 instead of this section, was amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (a)(2). Pub. L. 116–283, §1081(a)(37), substituted "accelerate" for "to accelerate".

Subsec. (c)(2)(B)(ii). Pub. L. 117–81, §213(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the technology requirements of the Department of Defense as identified in the National Defense Science and Technology Strategy developed under section 118c of this title; and".

Pub. L. 117–81, §211(d), substituted "section 118c of this title" for "section 218 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1679)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title IX, §913(b)(1), Dec. 22, 2023, 137 Stat. 368, provided that: "The amendments made by subsection (a) [enacting section 4127 of this title and amending this section and sections 4021 and 4022 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 22, 2023]."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(q), (u)(3)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### IMPLEMENTATION OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title IX, §913(b)(2), Dec. 22, 2023, 137 Stat. 368, provided that: "Not later than the effective date specified in paragraph (1) [set out as an Effective Date of 2023 Amendment note above], the Secretary of Defense shall issue or modify any rules, regulations, policies, or other guidance necessary to implement the amendments made by subsection (a) [enacting section 4127 of this title and amending this section and sections 4021 and 4022 of this title]."

# CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE


| Subchapter | | Sec. |
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| **I.** | **Military Family Programs** | **1781** |
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## SUBCHAPTER I—MILITARY FAMILY PROGRAMS


Sec.

1781. Office of Military Family Readiness Policy.

1781a. Department of Defense Military Family Readiness Council.

1781b. Department of Defense policy and plans for military family readiness.
1781c. Office of Special Needs.
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1783. Family members serving on advisory committees.
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1785. Youth sponsorship program.
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1788a. Support programs: special operations forces personnel; immediate family members.
1789. Chaplain-led programs: authorized support.
1790. Military personnel citizenship processing.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title V, §583(b), Jan. 1, 2021, 134 Stat. 3654, which directed amendment of the table of sections at the beginning of chapter 88 by adding item 1788a and striking out former item 1788a "Family support programs: immediate family members of members of special operations forces", was executed to the analysis of this subchapter, to reflect the probable intent of Congress.

**2017**—Pub. L. 115–91, div. A, title V, §555(e), Dec. 12, 2017, 131 Stat. 1403, added item 1788a.

**2016**—Pub. L. 114–328, div. A, title IX, §933(a)(4)(B), (b)(5)(B), Dec. 23, 2016, 130 Stat. 2364, 2365, substituted "Office of Military Family Readiness Policy" for "Office of Family Policy" in item 1781 and "Office of Special Needs" for "Office of Community Support for Military Families With Special Needs" in item 1781c.

**2011**—Pub. L. 112–74, div. A, title VIII, §8070(b), Dec. 23, 2011, 125 Stat. 823, added item 1790.

**2009**—Pub. L. 111–84, div. A, title V, §563(a)(2), Oct. 28, 2009, 123 Stat. 2307, added item 1781c.

**2008**—Pub. L. 110–417, [div. A], title V, §582(b), Oct. 14, 2008, 122 Stat. 4474, added item 1784a.

Pub. L. 110–181, div. A, title V, §581(d), Jan. 28, 2008, 122 Stat. 122, added items 1781a and 1781b.

**2003**—Pub. L. 108–136, div. A, title V, §582(a)(2), Nov. 24, 2003, 117 Stat. 1490, added item 1789.

**2002**—Pub. L. 107–314, div. A, title VI, §652(a)(2), Dec. 2, 2002, 116 Stat. 2581, added item 1788.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EDUCATIONAL TRAVEL AUTHORITY FOR DEPENDENTS OF CERTAIN EMPLOYEES

Pub. L. 119–60, div. A, title XI, §1111, Dec. 18, 2025, 139 Stat. 1076, provided that:

"(a) IN GENERAL.—Notwithstanding section 1599b of title 10, United States Code, the Secretary of Defense shall direct the Director of the Defense Travel Management Office to update the Joint Travel Regulations, not later than February 1, 2026, to authorize educational travel for a dependent of a covered employee without regard to whether the Federal agency responsible for the employment of the covered employee anticipates that the covered employee will, during the 30-day period following the scheduled date of the dependent's departure for the travel, be transferred to a location in the United States or travel to the United States for home leave.

"(b) BRIEFINGS REQUIRED.—

"(1) INITIAL BRIEFING.—Not later than February 1, 2026, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the update to the Joint Travel Regulations required by subsection (a).

"(2) SUBSEQUENT BRIEFINGS.—Not later than one year after providing the briefing required by paragraph (1) and annually thereafter until February 1, 2029, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the use of the authority described in subsection (a) and the cost to the Federal Government of the use of that authority.

"(c) COVERED EMPLOYEE DEFINED.—In this section, the term 'covered employee' means an employee of the Department of Defense Education Activity assigned to United States Naval Station, Guantanamo Bay, Cuba."

## §1781. Office of Military Family Readiness Policy

(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Military Family Readiness Policy (in this section referred to as the "Office"). The Office shall be headed by the Director of Military Family Readiness Policy, who shall serve within the Office of the Under Secretary of Defense for Personnel and Readiness.

(b) DUTIES.—The Office—

(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

(c) STAFF.—The Office shall have not less than five professional staff members.

(d) NON-MEDICAL COUNSELING SERVICES.—(1) In carrying out its duties under subsection (b), the Office may coordinate programs and activities to provide non-medical counseling services to military families through the Department of Defense Military and Family Life Counseling Program.

(2) A mental health care professional described in paragraph (3) may provide non-medical counseling services at any location in a State, the District of Columbia, or a territory or possession of the United States, without regard to where the professional or recipient of such services is located or delivery of such services is provided (including face-to-face and telehealth), if the provision of such services is within the scope of the authorized Federal duties of the professional.

(3) A non-medical mental health professional described in this subsection is a person who is—

(A) a currently licensed mental health care provider who holds a license that is—

(i) issued by a State, the District of Columbia, or a territory or possession of the United States; and

(ii) recognized by the Secretary of Defense as an appropriate license for the provision of non-medical counseling services;

(B) a member of the armed forces, a civilian employee of the Department of Defense, or a contractor designated by the Secretary; and

(C) performing authorized duties for the Department of Defense under a program or activity referred to in paragraph (1).

(4) The authority under this subsection shall terminate three years after the date of the enactment of this subsection.

(5) In this subsection, the term "non-medical counseling services" means mental health care services that are non-clinical, short-term and solution focused, and address topics related to personal growth, development, and positive functioning.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 330; amended Pub. L. 111–383, div. A, title IX, §901(h), Jan. 7, 2011, 124 Stat. 4323; Pub. L. 112–239, div. A, title X, §1076(f)(21), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 114–328, div. A, title IX, §933(a)(1), (4)(A), Dec. 23, 2016, 130 Stat. 2364; Pub. L. 118–31, div. A, title V, §581, Dec. 22, 2023, 137 Stat. 279.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

#### PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in Pub. L. 99–145, title VIII, Nov. 8, 1985, 99 Stat. 678, as amended, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 104–106, §568(e)(1).

## AMENDMENTS

**2023**—Subsec. (d). Pub. L. 118–31 added subsec. (d).

**2016**—Pub. L. 114–328, §933(a)(4)(A), substituted "Office of Military Family Readiness Policy" for "Office of Family Policy" in section catchline.

Subsec. (a). Pub. L. 114–328, §933(a)(1), substituted "Office of Military Family Readiness Policy" for "Office of Family Policy" and "Director of Military Family Readiness Policy" for "Director of Family Policy".

**2013**—Subsec. (a). Pub. L. 112–239, in first sentence, substituted "in the Office" for "in the Director" and struck out "hereinafter" before "in this section", and in second sentence, substituted "Office" for "office" in two places.

**2011**—Subsec. (a). Pub. L. 111–383 substituted "the Director" for "the Office" before "of the Secretary" and "The office shall be headed by the Director of Family Policy, who shall serve within the office of the Under Secretary of Defense for Personnel and Readiness." for "The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### ACTIVITIES TO IMPROVE FAMILY VIOLENCE PREVENTION AND RESPONSE

Pub. L. 117–81, div. A, title V, §549(c), (d), (g), Dec. 27, 2021, 135 Stat. 1715, 1719, 1721, provided that:

"(c) IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS.—

"(1) IN GENERAL.—Consistent with the recommendations set forth in the report of the Comptroller General of the United States titled 'Domestic Abuse: Actions Needed to Enhance DOD's Prevention, Response, and Oversight' (GAO–21–289), the Secretary of Defense, in consultation with the Secretaries of the military departments, shall carry out the activities specified in subparagraphs (A) through (K).

"(A) DOMESTIC ABUSE DATA.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, in consultation with the Secretaries of the military departments, shall carry out each of the following:

"(i) Issue guidance to the Secretaries of the military departments to clarify and standardize the process for collecting and reporting data on domestic abuse in the Armed Forces, including—

"(I) data on the numbers and types of domestic abuse incidents involving members of the Armed Forces; and

"(II) data for inclusion in the reports required to be submitted under section 574 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2141).

"(ii) Develop a quality control process to ensure the accurate and complete reporting of data on allegations of abuse involving a member of the Armed Forces, including allegations of abuse that do not meet the Department of Defense definition of domestic abuse.

"(iii) Expand the scope of any reporting to Congress that includes data on domestic abuse in the Armed Forces to include data on and analysis of the types of allegations of domestic abuse.

"(B) DOMESTIC VIOLENCE AND COMMAND ACTION DATA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall—

"(i) evaluate the organizations and elements of the Department of Defense that are responsible for tracking domestic violence incidents and the command actions taken in response to such incidents to determine if there are actions that may be carried out to—

"(I) eliminate gaps and redundancies in the activities of such organizations;

"(II) ensure consistency in the approaches of such organizations to the tracking of such incidents and actions; and

"(III) otherwise improve the tracking of such incidents and actions across the Department;

"(ii) based on the evaluation under clause (i), clarify or adjust—

"(I) the duties of such organizations and elements; and

"(II) the manner in which such organizations and elements coordinate their activities; and

"(iii) issue guidance to the Secretaries of the military departments to clarify and standardize the information required to be collected and reported to the database on domestic violence incidents under section 1562 of title 10, United States Code.

"(C) REGULATIONS FOR VIOLATION OF CIVILIAN ORDERS OF PROTECTION.—The Secretary of Defense shall revise or issue regulations (as applicable) to ensure that each Secretary of a military department provides, to any member of the Armed Forces under the jurisdiction of such Secretary who is subject to a civilian order of protection, notice that the violation of such order may be punishable under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

"(D) AGREEMENTS WITH CIVILIAN VICTIM SERVICE ORGANIZATIONS.—

"(i) GUIDANCE REQUIRED.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall issue guidance pursuant to which personnel of a Family Advocacy Program at a military installation may enter into memoranda of understanding with qualified civilian victim service organizations for purposes of providing services to victims of domestic abuse in accordance with clause (ii).

"(ii) CONTENTS OF AGREEMENT.—A memorandum of understanding entered into under clause (i) shall provide that personnel of a Family Advocacy Program at a military installation may refer a victim of domestic abuse to a qualified civilian victim service organization if such personnel determine that—

"(I) the services offered at the installation are insufficient to meet the victim's needs; or

"(II) such a referral would otherwise benefit the victim.

"(E) SCREENING AND REPORTING OF INITIAL ALLEGATIONS.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop and implement a standardized process—

"(i) to ensure consistency in the manner in which allegations of domestic abuse are screened and documented at military installations, including by ensuring that allegations of domestic abuse are documented regardless of the severity of the incident; and

"(ii) to ensure consistency in the form and manner in which such allegations are presented to Incident Determination Committees.

"(F) IMPLEMENTATION AND OVERSIGHT OF INCIDENT DETERMINATION COMMITTEES.—

"(i) IMPLEMENTATION.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall ensure that Incident Determination Committees are fully implemented within each Armed Force.

"(ii) OVERSIGHT AND MONITORING.—The Secretary of Defense shall—

"(I) direct the Under Secretary of Defense for Personnel and Readiness to conduct oversight of the activities of the Incident Determination Committees of the Armed Forces on an ongoing basis; and

"(II) establish a formal process through which the Under Secretary will monitor Incident Determination Committees to ensure that the activities of such Committees are conducted in an [sic] consistent manner in accordance with the applicable policies of the Department of Defense and the Armed Forces.

"(G) REASONABLE SUSPICION STANDARD FOR INCIDENT REPORTING.—Not later than 90 days after the date of the enactment of the Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall issue regulations—

"(i) under which the personnel of a Family Advocacy Program shall be required to report an allegation of domestic abuse to an Incident Determination Committee if there is reasonable suspicion that the abuse occurred; and

"(ii) that fully define and establish standardized criteria for determining whether an allegation of abuse meets the reasonable suspicion standard referred to in clause (i).

"(H) GUIDANCE FOR VICTIM RISK ASSESSMENT.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall issue guidance that—

"(i) identifies the risk assessment tools that must be used by Family Advocacy Program personnel to assess reports of domestic abuse; and

"(ii) establishes minimum qualifications for the personnel responsible for using such tools.

"(I) IMPROVING FAMILY ADVOCACY PROGRAM AWARENESS CAMPAIGNS.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop and implement—

"(i) a communications strategy to support the Armed Forces in increasing awareness of the options and resources available for reporting incidents of domestic abuse; and

"(ii) metrics to evaluate the effectiveness of domestic abuse awareness campaigns within the Department of Defense and the Armed Forces, including by identifying a target audience and defining measurable objectives for such campaigns.

"(J) ASSESSMENT OF THE DISPOSITION MODEL FOR DOMESTIC VIOLENCE.—As part of the independent analysis required by section 549C of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [134 Stat. 3625] the Secretary of Defense shall include an assessment of—

"(i) the risks and consequences of the disposition model for domestic violence in effect as of the date of the enactment of this Act, including the risks and consequences of such model with respect to—

"(I) the eligibility of victims for transitional compensation and other benefits; and

"(II) the eligibility of perpetrators of domestic violence to possess firearms and any related effects on the military service of such individuals; and

"(ii) the feasibility and advisability of establishing alternative disposition models for domestic violence, including an assessment of the advantages and disadvantages of each proposed model.

"(K) FAMILY ADVOCACY PROGRAM TRAINING.—

"(i) TRAINING FOR COMMANDERS AND SENIOR ENLISTED ADVISORS.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall—

"(I) ensure that the Family Advocacy Program training provided to installation-level commanders and senior enlisted advisors of the Armed Forces meets the applicable requirements of the Department of Defense; and

"(II) shall provide such additional guidance and sample training materials as may be necessary to improve the consistency of such training.

"(ii) TRAINING FOR CHAPLAINS.—The Secretary of Defense shall—

"(I) require that chaplains of the Armed Forces receive Family Advocacy Program training;

"(II) establish content requirements and learning objectives for such training; and

"(III) provide such additional guidance and sample training materials as may be necessary to effectively implement such training.

"(iii) TRAINING COMPLETION DATA.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop a process to ensure the quality and completeness of data indicating whether members of the Armed Forces who are required to complete Family Advocacy Program training, including installation-level commanders and senior enlisted advisors, have completed such training.

"(2) GENERAL IMPLEMENTATION DATE.—Except as otherwise provided in paragraph (1), the Secretary of Defense shall complete the implementation of the activities specified in such paragraph by not later than one year after the date of the enactment of this Act.

"(3) QUARTERLY STATUS BRIEFING.—Not later than 90 days after the date of the enactment of this Act and on a quarterly basis thereafter until the date on which all of the activities specified in paragraph (1) have been implemented, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the status of the implementation of such activities.

"(d) INFORMATION ON SERVICES FOR MILITARY FAMILIES.—Each Secretary of a military department shall ensure that a military family member who reports an incident of domestic abuse or child abuse and neglect to a Family Advocacy Program under the jurisdiction of such Secretary receives comprehensive information, in a clear and easily understandable format, on the services available to such family member in connection with such incident. Such information shall include a complete guide to the following:

"(1) The Family Advocacy Program of the Armed Force or military department concerned.

"(2) Military law enforcement services, including an explanation of the process that follows a report of an incident of domestic abuse or child abuse or neglect.

"(3) Other applicable victim services.

"(g) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means the Committees on Armed Services of the Senate and the House of Representatives.

"(2) The term 'civilian order of protection' has the meaning given that term in section 1561a of title 10, United States Code.

"(3) The term 'disposition model for domestic violence' means the process to determine—

"(A) the disposition of charges of an offense of domestic violence under section 928b of title 10, United States Code (article 128b of the Uniform Code of Military Justice); and

"(B) consequences of such disposition for members of the Armed Forces determined to have committed such offense and the victims of such offense.

"(4) The term 'Incident Determination Committee' means a committee established at a military installation that is responsible for reviewing reported incidents of domestic abuse and determining whether such incidents constitute harm to the victims of such abuse according to the applicable criteria of the Department of Defense.

"(5) The term 'qualified civilian victim service organization' means an organization outside the Department of Defense that—

"(A) is approved by the Secretary of Defense for the purpose of providing legal or other services to victims of domestic abuse; and

"(B) is located in a community surrounding a military installation.

"(6) The term 'risk assessment tool' means a process or technology that may be used to evaluate a report of an incident of domestic abuse to determine the likelihood that the abuse will escalate or recur."

## FAMILY READINESS: DEFINITIONS; COMMUNICATION STRATEGY; REVIEW; REPORT

Pub. L. 116–283, div. A, title V, §581, Jan. 1, 2021, 134 Stat. 3651, provided that:

"(a) DEFINITIONS.—Not later than six months after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall act on recommendation one of the report, dated July 2019, of the National Academies of Science, Engineering and Medicine, titled 'Strengthening the Military Family Readiness System for a Changing American Society', by establishing definitions of 'family well-being', 'family readiness', and 'family resilience' for use by the Department of Defense.

"(b) COMMUNICATION STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall—

"(1) ensure that the Secretary of Defense has carried out section 561 of the National Defense Authorization Act for Fiscal Year 2010 ([Pub. L. 111–84]; 10 U.S.C. 1781 note);

"(2) implement a strategy to use of a variety of modes of communication to ensure the broadest means of communicating with military families; and

"(3) establish a process to measure the effectiveness of the modes of communication described in paragraph (2).

"(c) REVIEW.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a review of current programs, policies, services, resources, and practices of the Department for military families as outlined in recommendation four of the report described in subsection (a).

"(d) REPORT.—Not later than 60 days after completing the review under subsection (c), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing the results of the review and how the Secretary shall improve programs, policies, services, resources, and practices for military families, based on the review."

## TIME REQUIREMENTS FOR CERTIFICATION OF HONORABLE SERVICE

Pub. L. 116–92, div. A, title V, §526, Dec. 20, 2019, 133 Stat. 1356, provided that: "The Secretary of Defense shall publish regulations for submission and processing of a completed United States Citizenship and Immigration Services Form N–426, by a member of the Armed Forces. Such regulations shall designate the appropriate level for the certifying officer as well as establish time requirements for the form to be returned to the member of the Armed Forces."

## COUNSELING FOR MEMBERS OF THE ARMED FORCES WHO ARE NOT CITIZENS OF THE UNITED STATES ON NATURALIZATION IN THE UNITED STATES

Pub. L. 116–92, div. A, title V, §570D, Dec. 20, 2019, 133 Stat. 1399, provided that:

"(a) IN GENERAL.—The Secretary concerned shall furnish to covered individuals under the jurisdiction of that Secretary counseling regarding how to apply for naturalization in the United States.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means a member of the Armed Forces who is not a citizen of the United States.

"(2) The term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code."

## PILOT PROGRAM ON INFORMATION SHARING BETWEEN DEPARTMENT OF DEFENSE AND DESIGNATED RELATIVES AND FRIENDS OF MEMBERS OF THE ARMED FORCES REGARDING THE EXPERIENCES AND CHALLENGES OF MILITARY SERVICE

Pub. L. 116–92, div. A, title V, §570E, Dec. 20, 2019, 133 Stat. 1400, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall seek to enter into an agreement with the American Red Cross to carry out a pilot program under which the American Red Cross—

"(A) encourages a member of the Armed Forces, upon the enlistment or appointment of such member, to designate up to 10 persons to whom information regarding the military service of such member shall be disseminated using contact information obtained under paragraph (6); and

"(B) provides such persons, within 30 days after the date on which such persons are designated under subparagraph (A), the option to elect to receive such information regarding military service.

"(2) DISSEMINATION.—The Secretary shall disseminate information described in paragraph (1)(A) under the pilot program on a regular basis.

"(3) TYPES OF INFORMATION.—The types of information to be disseminated under the pilot program to persons who elect to receive such information shall include information regarding—

"(A) aspects of daily life and routine experienced by members of the Armed Forces;

"(B) the challenges and stresses of military service, particularly during and after deployment as part of a contingency operation;

"(C) the services available to members of the Armed Forces and the dependents of such members to cope with the experiences and challenges of military service;

"(D) benefits administered by the Department of Defense for members of the Armed Forces and the dependents of such members;

"(E) a toll-free telephone number through which such persons who elect to receive information under the pilot program may request information regarding the program; and

"(F) such other information as the Secretary determines to be appropriate.

"(4) PRIVACY OF INFORMATION.—In carrying out the pilot program, the Secretary may not disseminate information under paragraph (3) in violation of laws and regulations pertaining to the privacy of members of the Armed Forces, including requirements pursuant to—

"(A) section 552a of title 5, United States Code; and

"(B) the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) [see Tables for classification].

"(5) NOTICE AND MODIFICATIONS.—In carrying out the pilot program, the Secretary shall, with respect to a member of the Armed Forces—

"(A) ensure that such member is notified of the ability to modify designations made by such member under paragraph (1)(A); and

"(B) upon the request of a member, authorize such member to modify such designations at any time.

"(6) CONTACT INFORMATION.—In making a designation under the pilot program, a member of the Armed Forces shall provide necessary contact information, specifically including an email address, to facilitate the dissemination of information regarding the military service of the member.

"(7) OPT-IN AND OPT-OUT OF PROGRAM.—

"(A) OPT-IN BY MEMBERS.—A member may participate in the pilot program only if the member voluntarily elects to participate in the program. A member seeking to make such an election shall make such election in a manner, and by including such information, as the Secretary and the Red Cross shall jointly specify for purposes of the pilot program.

"(B) OPT-IN BY DESIGNATED RECIPIENTS.—A person designated pursuant to paragraph (1)(A) may receive information under the pilot program only if the person makes the election described in paragraph (1)(B).

"(C) OPT-OUT.—In carrying out the pilot program, the Secretary shall, with respect to a person who has elected to receive information under such pilot program, cease disseminating such information to that person upon request of such person.

"(b) SURVEY AND REPORT ON PILOT PROGRAM.—

"(1) SURVEY.—Not later than two years after the date on which the pilot program commences, the Secretary, in consultation with the American Red Cross, shall administer a survey to persons who elected to receive information under the pilot program for the purpose of receiving feedback regarding the quality of information disseminated under this section, including whether such information appropriately reflects the military career progression of members of the Armed Forces.

"(2) REPORT.—Not later than three years after the date on which the pilot program commences, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a final report on the pilot program which includes—

"(A) the results of the survey administered under paragraph (1);

"(B) a determination as to whether the pilot program should be made permanent; and

"(C) recommendations as to modifications necessary to improve the program if made permanent.

"(c) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate upon submission of the report required by subsection (b)(2)."

## EXPANSION OF PERIOD OF AVAILABILITY OF MILITARY ONESOURCE PROGRAM FOR RETIRED AND DISCHARGED MEMBERS OF THE ARMED FORCES AND THEIR IMMEDIATE FAMILIES

Pub. L. 115–232, div. A, title V, §558, Aug. 13, 2018, 132 Stat. 1775, provided that:

"(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the period of eligibility for the Military OneSource program of the Department of Defense of an eligible individual retired, discharged, or otherwise released from the Armed Forces, and for the eligible immediate family members of such an individual, shall be the one-year period beginning on the date of the retirement, discharge, or release, as applicable, of such individual.

"(b) INFORMATION TO FAMILIES.—The Secretary shall, in such manner as the Secretary considers appropriate, inform military families and families of veterans of the Armed Forces of the wide range of benefits available through the Military OneSource program."

## POLICY ON RESPONSE TO JUVENILE-ON-JUVENILE PROBLEMATIC SEXUAL BEHAVIOR COMMITTED ON MILITARY INSTALLATIONS

Pub. L. 115–232, div. A, title X, §1089, Aug. 13, 2018, 132 Stat. 1996, provided that:

"(a) POLICY REQUIRED.—The Secretary of Defense shall establish a policy, applicable across the military installations of the Department of Defense (including installations outside the United States), on the response of the Department to allegations of juvenile-on-juvenile problematic sexual behavior on military installations. The policy shall be designed to ensure a consistent, standardized response to such allegations across the Department.

"(b) ELEMENTS.—The policy required by this section shall provide for the following:

"(1) Any report or other allegation of juvenile-on-juvenile problematic sexual behavior on a military installation that is received by the installation commander, a law enforcement organization, a Family Advocacy Program, a child development center, a military treatment facility, or a Department school operating on the installation or otherwise under Department administration for the installation shall be reviewed by the Family Advocacy Program of the installation.

"(2) Personnel of Family Advocacy Programs conducting reviews shall have appropriate training and experience in working with juveniles.

"(3) Family Advocacy Programs conducting reviews shall conduct a multi-faceted, multi-disciplinary review and recommend treatment, counseling, or other appropriate interventions for complainants and respondents.

"(4) Each review shall be conducted—

"(A) with full involvement of appropriate authorities and entities, including parents or legal guardians of the juveniles involved (if practicable); and

"(B) to the extent practicable, in a manner that protects the sensitive nature of the incident concerned, using language appropriate to the treatment of juveniles in written policies and communication with families.

"(5) The requirement for investigation of a report or other allegation shall not be deemed to terminate or alter any otherwise applicable requirement to report or forward the report or allegation to appropriate Federal, State, or local authorities as possible criminal activity.

"(6) There shall be established and maintained a centralized database of information on each incident of problematic sexual behavior that is reviewed by a Family Advocacy Program under the policy established under this section, with—

"(A) the information in such database kept strictly confidential; and

"(B) because the information involves alleged conduct by juveniles, additional special precautions taken to ensure the information is available only to persons who require access to the information.

"(7) There shall be entered into the database, for each substantiated or unsubstantiated incident of problematic sexual behavior, appropriate information on the incident, including—

"(A) a description of the allegation;

"(B) whether or not the review is completed;

"(C) whether or not the incident was subject to an investigation by a law enforcement

organization or entity, and the status and results of such investigation; and

"(D) whether or not action was taken in response to the incident, and the nature of the action, if any, so taken."

## PROVISION OF INFORMATION ON NATURALIZATION THROUGH MILITARY SERVICE

Pub. L. 115–91, div. A, title V, §530, Dec. 12, 2017, 131 Stat. 1383, provided that: "The Secretary of Defense shall ensure that members of the Army, Navy, Air Force, and Marine Corps who are aliens lawfully admitted to the United States for permanent residence are informed of the availability of naturalization through service in the Armed Forces under section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) and the process by which to pursue naturalization. The Secretary shall ensure that resources are available to assist qualified members of the Armed Forces to navigate the application and naturalization process."

## SUPPORT FOR PROGRAMS PROVIDING CAMP EXPERIENCE FOR CHILDREN OF MILITARY FAMILIES

Pub. L. 114–328, div. A, title V, §577, Dec. 23, 2016, 130 Stat. 2143, provided that:

"(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide financial or non-monetary support to qualified nonprofit organizations in order to assist such organizations in carrying out programs to support the attendance at a camp, or camp-like setting, of children of military families who have experienced the death of a family member or other loved one or who have another family member living with a substance use disorder or post-traumatic stress disorder.

"(b) APPLICATION FOR SUPPORT.—

"(1) IN GENERAL.—Each organization seeking support pursuant to subsection (a) shall submit to the Secretary of Defense an application therefor containing such information as the Secretary shall specify for purposes of this section.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include the following:

"(A) A description of the program for which support is being sought, including the location of the setting or settings under the program, the duration of such setting or settings, any local partners participating in or contributing to the program, and the ratio of counselors, trained volunteers, or both to children at such setting or settings.

"(B) An estimate of the number of children of military families to be supported using the support sought.

"(C) A description of the type of activities that will be conducted using the support sought, including the manner in which activities are particularly supportive to children of military families described in subsection (a).

"(D) A description of the outreach conducted or to be conducted by the organization to military families regarding the program.

"(c) USE OF SUPPORT.—Support provided by the Secretary of Defense to an organization pursuant to subsection (a) shall be used by the organization to support attendance at a camp, or camp-like setting, of children of military families described in subsection (a)."

## ESTABLISHMENT OF ONLINE RESOURCES TO PROVIDE INFORMATION ABOUT BENEFITS AND SERVICES AVAILABLE TO MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES

Pub. L. 111–84, div. A, title V, §561, Oct. 28, 2009, 123 Stat. 2302, as amended by Pub. L. 118–159, div. A, title VI, §634, Dec. 23, 2024, 138 Stat. 1937, Pub. L. 119–60, div. A, title V, §587, Dec. 18, 2025, 139 Stat. 893, provided that:

"(a) INTERNET OUTREACH WEBSITE.—

"(1) ESTABLISHMENT.—The Secretary of Defense shall establish an Internet website or other online resources for the purpose of providing comprehensive information to members of the Armed Forces and their families about the benefits and services described in subsection (b) that are available to members of the Armed Forces and their families.

"(2) CONTACT INFORMATION.—The online resources shall provide contact information, both telephone and e-mail, that a member of the Armed Forces or dependent of the member can use to get specific information about benefits and services that may be available for the member or dependent.

"(b) COVERED BENEFITS AND SERVICES.—The information provided through the online resources established pursuant to subsection (a) shall include information regarding the following benefits and services that may be available to a member of the Armed Forces and dependents of the member:

"(1) Financial compensation, including financial counseling.

"(2) Health care.

"(3) Maternal health care, including the following:

"(A) A list of maternal health services furnished under TRICARE.

"(B) A guide to continuity of such care through a permanent change of station.

"(C) With regards to a pregnant member, relevant regulations, options for leave, and uniform resources and requirements.

"(4) Death benefits and life insurance programs.

"(5) Entitlements and survivor benefits for dependents, including offsets in the receipt of such benefits under the Survivor Benefit Plan and in connection with the receipt of dependency and indemnity compensation.

"(6) Educational assistance benefits, including limitations on and the transferability of such assistance.

"(7) Housing assistance benefits, including counseling.

"(8) Relocation planning and preparation.

"(9) Maintaining military records.

"(10) Legal assistance.

"(11) Quality of life programs.

"(12) Programs that encourage paternal engagement with the family.

"(13) Family and community programs.

"(14) Employment assistance upon separation or retirement of a member or for the spouse of the member.

"(15) Reserve component service for members completing service in a regular component.

"(16) Disability benefits, including offsets in connection with the receipt of such benefits.

"(17) Benefits and services provided under laws administered by the Secretary of Veterans Affairs.

"(18) Such other benefits and services as the Secretary of Defense considers appropriate.

"(c) DISSEMINATION OF INFORMATION ON AVAILABILITY ON ONLINE RESOURCES.—The Secretaries of the military departments shall use public service announcements, publications, and such other announcements through the general media as the Secretaries consider appropriate to inform members of the Armed Forces and their families and the general public about the information available through the online resources established pursuant to subsection (a).

"(d) IMPLEMENTATION REPORT.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the quality and scope of the online resources established pursuant to subsection (a) to provide information about benefits and services for members of the Armed Forces and their families."

## EDUCATION AND TREATMENT SERVICES FOR MILITARY DEPENDENT CHILDREN WITH AUTISM

Pub. L. 110–181, div. A, title V, §587, Jan. 28, 2008, 122 Stat. 133, which related to comprehensive assessment of the availability of Federal, State, and local education and treatment services for military dependent children with autism, was repealed by Pub. L. 111–84, div. A, title V, §563(a)(3), Oct. 28, 2009, 123 Stat. 2307.

## JOINT FAMILY SUPPORT ASSISTANCE PROGRAM

Pub. L. 109–364, div. A, title VI, §675, Oct. 17, 2006, 120 Stat. 2273, as amended by Pub. L. 111–383, div. A, title V, §584, Jan. 7, 2011, 124 Stat. 4228, provided that:

"(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a joint family support assistance program for the purpose of providing to families of members of the Armed Forces the following types of assistance:

"(1) Financial and material assistance.

"(2) Mobile support services.

"(3) Sponsorship of volunteers and family support professionals for the delivery of support services.

"(4) Coordination of family assistance programs and activities provided by Military OneSource, Military Family Life Consultants, counselors, the Department of Defense, other Federal agencies, State and local agencies, and non-profit entities.

"(5) Facilitation of discussion on military family assistance programs, activities, and initiatives between and among the organizations, agencies, and entities referred to in paragraph (4).

"(6) Such other assistance that the Secretary considers appropriate.

"(b) LOCATIONS.—The Secretary of Defense shall carry out the program in not less than six areas of the United States selected by the Secretary. At least three of the areas selected for the program shall be areas that

are geographically isolated from military installations.

"(c) RESOURCES AND VOLUNTEERS.—The Secretary of Defense shall provide personnel and other resources of the Department of Defense necessary for the implementation and operation of the program and may accept and utilize the services of non-Government volunteers and non-profit entities under the program.

"(d) PROCEDURES.—The Secretary of Defense shall establish procedures for the operation of the program and for the provision of assistance to families of members of the Armed Forces under the program.

"(e) RELATION TO FAMILY SUPPORT CENTERS.—The program is not intended to operate in lieu of existing family support centers, but is instead intended to augment the activities of the family support centers.

"(f) IMPLEMENTATION PLAN.—

"(1) PLAN REQUIRED.—Not later than 90 days after the date on which funds are first obligated for the program, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth a plan for the implementation of the program.

"(2) ELEMENTS.—The plan required under paragraph (1) shall include the following:

"(A) A description of the actions taken to select the areas in which the program will be conducted.

"(B) A description of the procedures established under subsection (d).

"(C) A review of proposed actions to be taken under the program to improve coordination of family assistance program and activities between and among the Department of Defense, other Federal agencies, State and local agencies, and non-profit entities.

"(g) REPORT.—

"(1) REPORT REQUIRED.—Not later than 270 days after the date on which funds are first obligated for the program, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the program.

"(2) ELEMENTS.—The report shall include the following:

"(A) A description of the program, including the areas in which the program is conducted, the procedures established under subsection (d) for operation of the program, and the assistance provided through the program for families of members of the Armed Forces.

"(B) An assessment of the effectiveness of the program in providing assistance to families of members of the Armed Forces.

"(C) An assessment of the advisability of extending the program or making it permanent.

"(h) DURATION.—The authority to carry out the program shall expire on December 31, 2012."

## RECOGNITION OF MILITARY FAMILIES

Pub. L. 108–136, div. A, title V, §581, Nov. 24, 2003, 117 Stat. 1489, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The families of both active and reserve component members of the Armed Forces, through their sacrifices and their dedication to the Nation and its values, contribute immeasurably to the readiness of the Armed Forces.

"(2) Without the continued support of military families, the Nation's ability to sustain a high quality all-volunteer military force would be undermined.

"(3) In the perilous and challenging times of the global war on terrorism, with hundreds of thousands of active and reserve component military personnel deployed overseas in places of combat and other imminent danger, military families are making extraordinary sacrifices and will be required to do so for the foreseeable future.

"(4) Beginning in 1997, military family service and support centers have responded to the encouragement and support of private, non-profit organizations to recognize and honor the American military family during the Thanksgiving period each November.

"(b) MILITARY FAMILY RECOGNITION.—In view of the findings in subsection (a), Congress determines that it is appropriate that special measures be taken annually to recognize and honor the American military family.

"(c) DEPARTMENT OF DEFENSE PROGRAMS AND ACTIVITIES.—The Secretary of Defense shall—

"(1) implement and sustain programs, including appropriate ceremonies and activities, to recognize and honor the contributions and sacrifices of the American military family, including families of both active and reserve component military personnel;

"(2) focus the celebration of the American military family during a specific period of each year to give full and proper recognition to those families; and

"(3) seek the assistance and support of appropriate civilian organizations, associations, and other

entities (A) in carrying out the annual celebration of the American military family, and (B) in sustaining other, longer-term efforts to support the American military family."

## EXECUTIVE DOCUMENTS

### SUPPORTING NEW AMERICAN SERVICE MEMBERS, VETERANS, AND THEIR FAMILIES

Memorandum of President of the United States, Dec. 22, 2016, 81 F.R. 95849, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration has maintained a steadfast commitment to honor and serve the brave men and women who have served this country. Like all service members and veterans, foreign-born residents and naturalized citizens serving in the United States Armed Forces are shining examples of the American dream. These brave new Americans have taken the extraordinary step of answering the call to duty, to support and defend our country. Some have made the ultimate sacrifice for our country before becoming American citizens.

New American service members are undoubtedly a critical element of our national security. They risk their lives all over the world in the name of the United States, securing shipping lanes, protecting bases and embassies, providing medical assistance, and conducting humanitarian missions. Tens of thousands of lawful permanent residents and naturalized U.S. citizens currently serve in our Armed Forces. Many more are veterans who have served previously in the Armed Forces. Additionally, many U.S.-born service members have immediate family members who were born abroad.

Over the past decade, the Departments of Defense, Veterans Affairs, and Homeland Security have strengthened partnerships to provide services and opportunities to service members, veterans, and their families interacting with the U.S. immigration system. Indeed, since 2001, more than 110,000 service members have been naturalized and many were assisted in the process through partnerships such as the "Naturalization at Basic Training Initiative," which gives non-citizen enlistees the opportunity to naturalize during basic training. Despite these efforts, service members, veterans, and their families still face barriers to accessing immigration benefits and other assistance for which they may be eligible.

In light of the sacrifices that all of these individuals make and have made for our country, it is critical that executive departments and agencies (agencies) enhance collaboration and streamline processes to ensure that they receive the services and benefits they need and have earned. Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and to address the issues facing new American service members, veterans, and their families, I hereby direct as follows:

SECTION 1. *Interagency Working Group to Support New American Service Members, Veterans, and their Families*. There is established a Working Group to Support New American Service Members, Veterans, and their Families (Working Group) to coordinate records, benefits, and immigration and citizenship services for these service members, veterans, and their families. The Working Group shall convene its first meeting within 10 days of the date of this memorandum.

(a) The Working Group shall consist of representatives from:

(i) the Department of State;

(ii) the Department of Defense;

(iii) the Department of Justice;

(iv) the Department of Labor;

(v) the Department of Veterans Affairs; and

(vi) the Department of Homeland Security.

(b) The Working Group shall consult with additional agencies or offices, as appropriate.

SEC. 2. *Mission and Functions of the Working Group*. (a) The Working Group shall coordinate agency efforts to support service members, veterans, and their families who are navigating the immigration, veterans, and military systems. Such efforts shall include:

(i) coordinating the sharing of military records and other information relevant to immigration or veterans benefits;

(ii) enhancing awareness of naturalization and immigration benefits to provide timely assistance and information to service members, veterans, and their families;

(iii) coordinating and facilitating the process of adjudicating immigration applications and petitions; and

(iv) other efforts that further support service members, veterans, and their families.

(b) Within 30 days of the date of this memorandum, the Working Group shall develop an initial 3-year strategic action plan that details broad approaches to be taken to enhance access to services and benefits. This initial plan shall be supplemented by a more detailed plan, to be published within 120 days of the date of this memorandum that discusses the steps to be taken in greater detail. The Working Group shall also report periodically on its accomplishments and ongoing initiatives.

SEC. 3. *Outreach*. Consistent with the objectives of this memorandum and applicable law, the Working Group shall seek the views of representatives of private and nonprofit organizations; veterans and military service organizations; State, tribal, and local government agencies; elected officials; and other interested persons to inform the Working Group's plans.

SEC. 4. *General Provisions*. (a) The heads of agencies shall assist and provide information to the Working Group, consistent with applicable law, as may be necessary to carry out the functions of the Working Group. Each agency and office shall bear its own expense for carrying out activities related to the Working Group.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to an executive department or an agency, or the head thereof, or the status of that department or agency within the Federal Government.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of Homeland Security is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## §1781a. Department of Defense Military Family Readiness Council

(a) IN GENERAL.—There is in the Department of Defense the Department of Defense Military Family Readiness Council (in this section referred to as the "Council").

(b) MEMBERS.—(1) The Council shall consist of the following members:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall serve as chair of the Council and who may designate a representative to chair the council in the Under Secretary's absence.

(B) The following persons, who shall be appointed or designated by the Secretary of Defense:

(i) One representative of each of the Army, Navy, Air Force, Marine Corps, and Space Force, each of whom shall be a member or civilian employee of the armed force to be represented.

(ii) One representative, who shall be a member or civilian employee of the National Guard Bureau, to represent both the Army National Guard and the Air National Guard.

(iii) One spouse or parent of a member of each of the Army, Navy, Air Force, Marine Corps, and Space Force, two of whom shall be the spouse or parent of an active component member, two of whom shall be the spouse or parent of a reserve component member, and one of whom shall be the spouse or parent of a member of the Space Force.

(C) Three individuals appointed by the Secretary of Defense from among representatives of military family organizations, including military family organizations of families of members of the regular components and of families of members of the reserve components.

(D) The senior enlisted advisor from each of the Army, Navy, Air Force, Marine Corps, and Space Force, except that two of these members may instead be selected from among the spouses of the senior enlisted advisors.

(E) The Director of the Office of Military Family Readiness Policy.

(2)(A) The term on the Council of the members appointed or designated under subparagraph (B) of paragraph (1) shall be two years and may be renewed by the Secretary of Defense.

(B) The term on the Council of the members appointed under subparagraph (C) of paragraph (1) shall be two years.

(c) MEETINGS.—The Council shall meet not less often than twice each year.

(d) DUTIES.—The duties of the Council shall include the following:

(1) To review and make recommendations to the Secretary of Defense regarding the policy and plans required under section 1781b of this title.

(2) To monitor requirements for the support of military family readiness programs and activities

of the Department of Defense.

(3) To evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense.

(4) To make recommendations to the Secretary of Defense to improve collaboration, awareness, and promotion of accurate and timely military family readiness information and support services by policy makers, service providers, and targeted beneficiaries.

(e) MILITARY FAMILY READINESS WORKING GROUP FOR MILITARY HOUSING.—

(1) There is in the Council the Military Family Readiness Working Group for Military Housing (in this section referred to as the "Housing Working Group").

(2)(A) The Housing Working Group shall be composed of the following members:

(i) The Assistant Secretary of Defense for Energy, Installations, and Environment, who shall serve as chair of the Housing Working Group on a nondelegable basis.

(ii) One representative of each of the Army, Navy, Air Force, Marine Corps, and Space Force—

(I) each of whom shall be a member of the armed force to be represented; and

(II) not fewer than two of whom shall be enlisted members.

(iii) One spouse of a member of each of the Army, Navy, Air Force, Marine Corps, and Space Force on active duty, not fewer than two of which shall be the spouse of an enlisted member.

(iv) One commander or senior official of a military installation from each military department with responsibility for the public works or civil engineering systems of such installation.

(v) One individual appointed by the Secretary of Defense among representatives of a voluntary consensus standards body that develops personnel certification standards for building maintenance, inspections, or restoration.

(vi) The Director of the Office of Military Family Readiness Policy.

(B) The term of Housing Working Group members specified under clauses (ii) through (v) of subparagraph (A) shall be two years and may be renewed by the Secretary of Defense.

(C) The chair of the Housing Working Group shall extend an invitation to all landlords for one representative of each landlord to attend such meetings of the Housing Working Group as the chair considers appropriate but at a minimum of once per year.

(3) The Housing Working Group shall meet at least two times each year.

(4) The duties of the Housing Working Group shall include the following:

(A) To review and make recommendations to the Secretary of Defense on policies for covered military housing, including inspections practices and resident surveys.

(B) To make recommendations to the Secretary of Defense to improve—

(i) awareness and promotion of accurate and timely information about covered military housing, accommodations available through the Exceptional Family Member Program of the Department, and other support services; and

(ii) collaboration among policymakers, providers of such accommodations and other support services, and targeted beneficiaries of such accommodations and other support services.

(5) In this subsection:

(A) The term "landlord" has the meaning given that term in section 2871 of this title.

(B) The term "covered military housing" means housing acquired or constructed pursuant to subchapter IV of chapter 169 of this title that is owned by an entity other than the Federal Government.

(Added Pub. L. 110–181, div. A, title V, §581(a), Jan. 28, 2008, 122 Stat. 120; amended Pub. L. 111–84, div. A, title V, §562, Oct. 28, 2009, 123 Stat. 2303; Pub. L. 111–383, div. A, title V, §581, Jan. 7, 2011, 124 Stat. 4226; Pub. L. 112–81, div. A, title V, §574, Dec. 31, 2011, 125 Stat. 1427;

Pub. L. 114–328, div. A, title IX, §933(a)(2), Dec. 23, 2016, 130 Stat. 2364; Pub. L. 115–232, div. A, title V, §571(a)–(c), Aug. 13, 2018, 132 Stat. 1777, 1778; Pub. L. 116–283, div. A, title IX, §924(b)(29), Jan. 1, 2021, 134 Stat. 3825; Pub. L. 118–31, div. A, title XVII, §1722(k)(1), div. B, title XXVIII, §2821(a), Dec. 22, 2023, 137 Stat. 673, 749.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b)(1)(B)(iii). Pub. L. 118–31, §1722(k)(1), substituted "active component member," for "active component member and" and inserted ", and one of whom shall be the spouse or parent of a member of the Space Force" after "parent of a reserve component member".

Subsec. (e). Pub. L. 118–31, §2821(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to annual reports on military family readiness.

**2021**—Subsec. (b)(1). Pub. L. 116–283 substituted "Air Force, Marine Corps, and Space Force" for "Marine Corps, and Air Force" wherever appearing.

**2018**—Subsec. (b)(1)(B)(i). Pub. L. 115–232, §571(a)(1)(A), substituted "a member or civilian employee of the armed force to be represented" for "a member of the armed force to be represented".

Subsec. (b)(1)(B)(ii). Pub. L. 115–232, §571(a)(1)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: "One representative of the Army National Guard or the Air National Guard, who may be a member of the National Guard."

Subsec. (b)(2)(A). Pub. L. 115–232, §571(a)(2)(A), struck out "clauses (i) and (iii) of" before "subparagraph (B)" and "Representation on the Council under clause (ii) of that subparagraph shall rotate between the Army National Guard and Air National Guard every two years on a calendar year basis." after "Secretary of Defense."

Subsec. (b)(2)(B). Pub. L. 115–232, §571(a)(2)(B), substituted "two years" for "three years".

Subsec. (d)(2). Pub. L. 115–232, §571(b)(1), substituted "military family readiness programs and activities of the Department of Defense" for "military family readiness by the Department of Defense".

Subsec. (d)(4). Pub. L. 115–232, §571(b)(2), added par. (4).

Subsec. (e)(1). Pub. L. 115–232, §571(c), substituted "July 1" for "February 1".

**2016**—Subsec. (b)(1)(E). Pub. L. 114–328 substituted "Office of Military Family Readiness Policy" for "Office of Community Support for Military Families with Special Needs".

**2011**—Subsec. (b). Pub. L. 112–81 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to members.

Subsec. (b)(1)(B). Pub. L. 111–383, §581(d)(1)(A), struck out ", who shall be appointed by the Secretary of Defense" after "Air Force".

Subsec. (b)(1)(C). Pub. L. 111–383, §581(d)(1)(B), struck out ", who shall be appointed by the Secretary of Defense" after "Air National Guard" in cl. (i) and after "Air Force Reserve" in cl. (ii).

Subsec. (b)(1)(D). Pub. L. 111–383, §581(d)(1)(C), struck out "by the Secretary of Defense" after "appointed".

Subsec. (b)(1)(E). Pub. L. 111–383, §581(a)(1)(B), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (b)(1)(F). Pub. L. 111–383, §581(c), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "In addition to the representatives appointed under subparagraphs (B) and (C), the senior enlisted advisors of the Army, Navy, Marine Corps, and Air Force, or the spouse of a senior enlisted member from each of the Army, Navy, Marine Corps, and Air Force."

Pub. L. 111–383, §581(a)(1)(A), redesignated subpar. (E) as (F).

Subsec. (b)(1)(G). Pub. L. 111–383, §581(b), added subpar. (G).

Subsec. (b)(2). Pub. L. 111–383, §581(a)(2), substituted "subparagraphs (C), (D), and (E)" for "subparagraphs (C) and (D)".

Subsec. (b)(3). Pub. L. 111–383, §581(d)(2), added par. (3).

**2009**—Subsec. (b)(1)(C) to (E). Pub. L. 111–84, §562(a), added subpar. (C), redesignated former subpars. (C) and (D) as (D) and (E), respectively, and substituted "subparagraphs (B) and (C)" for "subparagraph (B)" in subpar. (E).

Subsec. (b)(2). Pub. L. 111–84, §562(b), substituted "subparagraphs (C) and (D) of paragraph (1)" for "paragraph (1)(C)" and inserted at end "Representation on the Council required by clause (i) of paragraph (1)(C) shall rotate between the Army National Guard and Air National Guard. Representation required by clause (ii) of such paragraph shall rotate among the reserve components specified in such clause."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Pub. L. 115–232, div. A, title V, §571(d), Aug. 13, 2018, 132 Stat. 1778, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 13, 2018].

"(2) APPLICABILITY OF MEMBERSHIP AND TERM AMENDMENTS.—The amendments made by subsection (a) shall apply to members of the Department of Defense Military Family Readiness Council appointed after the date of the enactment of this Act."

## §1781b. Department of Defense policy and plans for military family readiness

(a) POLICY AND PLANS REQUIRED.—The Secretary of Defense shall develop a policy and plans for the Department of Defense for the support of military family readiness.

(b) PURPOSES.—The purposes of the policy and plans required under subsection (a) are as follows:

(1) To ensure that the military family readiness programs and activities of the Department of Defense are comprehensive, effective, and properly supported.

(2) To ensure that support is continuously available to military families in peacetime and in war, as well as during periods of force structure change and relocation of military units.

(3) To ensure that the military family readiness programs and activities of the Department of Defense are available to all military families, including military families of members of the regular components, the reserve components, and the Space Force.

(4) To make military family readiness an explicit element of applicable Department of Defense plans, programs, and budgeting activities, and that achievement of military family readiness is expressed through Department-wide goals that are identifiable and measurable.

(5) To ensure that the military family readiness programs and activities of the Department of Defense undergo continuous evaluation in order to ensure that resources are allocated and expended for such programs and activities to achieve Department-wide family readiness goals.

(c) ELEMENTS OF POLICY.—The policy required under subsection (a) shall include the following elements:

(1) A list of military family readiness programs and activities.

(2) Department of Defense-wide goals for military family support, including joint programs, for military families of members of the regular components, members of the reserve components, and members of the Space Force.

(3) Policies on access to military family support programs and activities based on military family populations served and geographical location.

(4) Metrics to measure the performance and effectiveness of the military family readiness programs and activities of the Department of Defense.

(5) A summary, by fiscal year, of the allocation of funds (including appropriated funds and nonappropriated funds) for major categories of military family readiness programs and activities of the Department of Defense, set forth for each of the military departments and for the Office of the Secretary of Defense.

(Added Pub. L. 110–181, div. A, title V, §581(a), Jan. 28, 2008, 122 Stat. 121; amended Pub. L. 111–383, div. A, title X, §1075(b)(23), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 115–91, div. A, title X, §1051(a)(9), Dec. 12, 2017, 131 Stat. 1560; Pub. L. 118–31, div. A, title XVII, §1722(k)(2), Dec. 22, 2023, 137 Stat. 673.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b)(3). Pub. L. 118–31, §1722(k)(2)(A), substituted "military families of members of the

regular components, the reserve components, and the Space Force" for "military families of members of the regular components and military families of members of the reserve components".

Subsec. (c)(2). Pub. L. 118–31, §1722(k)(2)(B), struck out "both" after "joint programs," and substituted "military families of members of the regular components, members of the reserve components, and members of the Space Force" for "military families of members of the regular components and military families of members of the reserve components".

**2017**—Subsec. (d). Pub. L. 115–91 struck out subsec. (d). Text read as follows: "Not later than March 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the plans required under subsection (a) for the five-fiscal year period beginning with the fiscal year in which the report is submitted. Each report shall include the plans covered by the report and an assessment of the discharge by the Department of Defense of the previous plans submitted under this section."

**2011**—Subsec. (d). Pub. L. 111–383 substituted "March 1 each year" for "March 1, 2008, and each year thereafter".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### POLICY REGARDING REMOTE MILITARY INSTALLATIONS

Pub. L. 117–81, div. A, title V, §565, Dec. 27, 2021, 135 Stat. 1749, provided that:

"(a) POLICY.—Not later than December 1, 2022, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop a uniform policy for how to—

"(1) identify remote military installations; and

"(2) assess and manage challenges associated with remote military installations and military personnel assigned to remote locations.

"(b) ELEMENTS.—The policy under subsection (a) shall address the following:

"(1) Activities and facilities for the morale, welfare, and recreation of members of the Armed Forces.

"(2) Availability of housing, located on and off remote military installations.

"(3) Educational services for dependents of members of the Armed Forces, located on and off remote military installations.

"(4) Availability of health care.

"(5) Employment opportunities for military spouses.

"(6) Risks associated with having insufficient support services for members of the Armed Forces and their dependents.

"(c) REPORT.—Not later than March 1, 2023, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy under this section.

"(d) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' has the meaning given that term in section 2801 of title 10, United States Code."

### CONSIDERATION OF CERTAIN MILITARY FAMILY READINESS ISSUES IN MAKING BASING DECISIONS ASSOCIATED WITH CERTAIN MILITARY UNITS AND MAJOR HEADQUARTERS

Pub. L. 116–283, div. B, title XXVIII, §2883, Jan. 1, 2021, 134 Stat. 4370, as amended by Pub. L. 117–263, div. B, title XXVIII, §2866, Dec. 23, 2022, 136 Stat. 3011, provided that:

"(a) TAKING INTO CONSIDERATION MILITARY FAMILY READINESS ISSUES.—In determining whether to proceed with any basing decision associated with a covered military unit or major headquarters in the United States after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of the military department concerned shall take into account, among such other factors as that Secretary considers appropriate, the military family readiness considerations specified in this section, including those military family readiness considerations specified pursuant to subsection (e).

"(b) INTERSTATE PORTABILITY OF LICENSURE AND CERTIFICATION CREDENTIALS.—With regard to the State in which an installation subject to a basing decision covered by subsection (a) is or will be located, the Secretary of the military department concerned shall take into account the extent to which the State—

"(1) has entered into reciprocity agreements to recognize and accept professional and occupational licensure and certification credentials granted by or in other States; or

"(2) allows for the transfer of such licenses and certifications granted by or in other States.

"(c) HOUSING.—With regard to the military housing area in which an installation subject to a basing decision covered by subsection (a) is or will be located, the Secretary of the military department concerned

shall take into account the extent to which housing (including military family housing) that meets Department of Defense requirements is available and accessible to members of the Armed Forces through the private sector in such military housing area.

"(d) HEALTH CARE.—With regard to the community in which an installation subject to a basing decision covered by subsection (a) is or will be located, the Secretary of the military department concerned shall take into account the extent to which primary healthcare and specialty healthcare is available and accessible to dependents, including dependents with disabilities, of members of the Armed Forces through the private sector in such local community.

"(e) OTHER SPECIFIED CONSIDERATIONS.—The Secretary of the military department concerned shall take into account such other considerations in connection with military family readiness as the Secretary of Defense shall specify for purposes of compliance with this section.

"(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as requiring the Secretary of a military department to make a basing decision covered by subsection (a) that the Secretary determines would diminish military readiness or impede military mission for the purpose of military family readiness.

"(g) ANALYTICAL FRAMEWORK.—The Secretary of the military department concerned shall take into account the considerations specified in this section, among such other factors as the Secretary considers appropriate, in determining whether to proceed with a basing decision covered by subsection (a) using an analytical framework developed by that Secretary that uses criteria based on—

"(1) quantitative data available within the Department of Defense; and

"(2) such reliable quantitative data from sources outside the Department as the Secretary considers appropriate.

"(h) BASING DECISION SCORECARD.—

"(1) SCORECARD REQUIRED.—The Secretary of the military department concerned shall establish a scorecard for military installations under the jurisdiction of such Secretary, and for States and localities in which such installations are or may be located, to facilitate taking into account the considerations specified in this section whenever that Secretary makes a basing decision covered by subsection (a).

"(2) UPDATE.—The Secretary of the military department concerned shall update the scorecard established by that Secretary under this subsection not less frequently than once each year in order to keep the information in such scorecard as current as is practicable.

"(3) AVAILABILITY.—

"(A) IN GENERAL.—A current version of each scorecard established under this subsection shall be available to the public through an Internet website of the military department concerned.

"(B) METHODOLOGY AND CRITERIA.—

"(i) AVAILABILITY.—Each Secretary of a military department shall publish on the website described in subparagraph (A) the methodology and criteria each time such Secretary establishes or updates a scorecard.

"(ii) PUBLIC COMMENT.—Each Secretary of a military department shall establish a 60-day public comment period beginning on each date of publication of such methodology and criteria.

"(4) COORDINATION.—In establishing or updating a scorecard under this subsection, each Secretary of the military department concerned shall coordinate with the Secretary of Defense to ensure consistency across the military departments.

"(i) BRIEFINGS.—Not later than April 1 of each of 2021, 2022, and 2023, the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on actions taken pursuant to this section, including a description and assessment of the effect of the taking into account of the considerations specified in this section on particular basing decisions in the United States during the one-year period ending on the date of the briefing.

"(j) DEFINITIONS.—In this section:

"(1) The term 'covered military unit' means a unit of the Armed Forces whose initial assignment to a military installation or relocation from a military installation to a different military installation requires the preparation of an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) The term 'major headquarters' means the headquarters of a unit of the Armed Forces or command that is the appropriate command of a general officer or flag officer."

## §1781c. Office of Special Needs

(a) ESTABLISHMENT.—There is in the Office of Military Family Readiness Policy the Office of Special Needs (in this section referred to as the "Office").

(b) PURPOSE.—The purpose of the Office is to standardize, enhance, and improve Department of Defense support around the world for military families with special needs (whether medical or educational needs) through the development of appropriate policies, enhancement and dissemination of appropriate information throughout the Department of Defense, support for such families in obtaining referrals for services and in obtaining service, and oversight of the activities of the military departments in support of such families.

(c) RESPONSIBILITIES.—The Office shall have the responsibilities as follows:

(1) To develop and implement a comprehensive and standard policy on support for military families with special needs as required by subsection (d).

(2) To establish and oversee the programs required by subsection (e).

(3) To identify gaps in services available through the Department of Defense for military families with special needs.

(4) To develop plans to address gaps identified under paragraph (3) through appropriate mechanisms, such as enhancing resources and training and ensuring the provision of special assistance to military families with special needs and military parents of individuals with special needs (including through the provision of training and seminars to members of the armed forces).

(5) To monitor the programs of the military departments for the assignment of members of the armed forces who are members of military families with special needs, and the programs for the support of such military families, and to advise the Secretary of Defense on the adequacy of such programs in conjunction with the preparation of future-years defense programs and other budgeting and planning activities of the Department of Defense.

(6) To monitor the availability and accessibility of programs provided by other Federal, State, local, and non-governmental agencies to military families with special needs.

(7) To conduct periodic reviews of best practices in the United States in the provision of medical and educational services for children with special needs.

(8) To carry out such other matters with respect to the programs and activities of the Department of Defense regarding military families with special needs as the Under Secretary of Defense for Personnel and Readiness shall specify.

(d) POLICY.—(1) The Office shall develop, and regularly update, a uniform policy for the Department of Defense regarding military families with special needs. The policy shall apply with respect to members of the armed forces without regard to their location, whether within or outside the continental United States.

(2) The policy developed under this subsection shall include elements regarding the following:

(A) The assignment of members of the armed forces who are members of military families with special needs.

(B) Support for military families with special needs.

(3) In addressing the assignment of members of the armed forces under paragraph (2)(A), the policy developed under this subsection shall, in a manner consistent with the needs of the armed forces and responsive to the career development of members of the armed forces on active duty, provide for such members each of the following:

(A) Assignment to locations where care and support for family members with special needs are available.

(B) Stabilization of assignment for a minimum of 4 years.

(C) Ability to request a second review of the approved assignment within or outside the continental United States if the member believes the location is inappropriate for the member's family and would cause undue hardship.

(D) Protection from having a medical recommendation for an approved assignment overridden by the commanding officer.

(E) Ability to request continuation of location when there is a documented substantial risk of

transferring medical care or educational services to a new provider or school at the specific time of permanent change of station.

(4) In addressing support for military families under paragraph (2)(B), the policy developed under this subsection shall provide the following:

(A) Procedures to identify members of the armed forces who are members of military families with special needs.

(B) Mechanisms to ensure timely and accurate evaluations of members of such families who have special needs.

(C) Procedures to facilitate the enrollment of such members of the armed forces and their families in programs of the military department for the support of military families with special needs.

(D) Procedures to ensure the coordination of Department of Defense health care programs and support programs for military families with special needs, and the coordination of such programs with other Federal, State, local, and non-governmental health care programs and support programs intended to serve such families.

(E) Requirements for resources (including staffing) to ensure the availability through the Department of Defense of appropriate numbers of case managers to provide individualized support for military families with special needs.

(F) Requirements regarding the development and continuous updating by an appropriate office of an individualized services plan (whether medical, educational, or both) for each military family with special needs.

(G) Requirements for record keeping, reporting, and continuous monitoring of available resources and family needs under individualized services support plans for military families with special needs, including the establishment and maintenance of a central or various regional databases for such purposes.

(H) Procedures for the development of an individualized services plan for military family members with special needs who have requested family support services and have a completed family needs assessment.

(I) Requirements to prohibit disenrollment from the Exceptional Family Member Program unless there is new supporting medical or educational information that indicates the original condition is no longer present, and to track disenrollment data in each armed force.

(e) PROGRAMS.—(1) The Office shall establish, maintain, and oversee a program to provide information and referral services on special needs matters to military families with special needs on a continuous basis regardless of the location of the member's assignment. The program shall provide for timely access by members of such military families to individual case managers and counselors on matters relating to special needs.

(2) The Office shall establish, maintain, and oversee a program of outreach on special needs matters for military families with special needs. The program shall—

(A) assist military families in identifying whether or not they have a member with special needs; and

(B) provide military families with special needs with information on the services, support, and assistance available through the Department of Defense regarding such members with special needs, including information on enrollment in programs of the military departments for such services, support, and assistance.

(3)(A) The Office shall provide support to the Secretary of each military department in the establishment and sustainment by such Secretary of a program for the support of military families with special needs under the jurisdiction of such Secretary. Each program shall be consistent with the policy developed by the Office under subsection (d).

(B) Each program under this paragraph shall provide for appropriate numbers of case managers for the development and oversight of individualized services plans for educational and medical

support for military families with special needs.

(C) Services under a program under this paragraph may be provided by contract or other arrangements with non-Department of Defense entities qualified to provide such services.

(f) RESOURCES.—The Secretary of Defense shall assign to the Office such resources, including personnel, as the Secretary considers necessary for the discharge of the responsibilities of the Office, including a sufficient number of members of the armed forces to ensure appropriate representation by the military departments in the personnel of the Office.

(g) REPORTS.—(1) Not later than April 30 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the activities of the Office.

(2) Each report under this subsection shall include the following:

(A) A description of any gaps in services available through the Department of Defense for military families with special needs that were identified under subsection (c)(3).

(B) A description of the actions being taken, or planned, to address such gaps, including any plans developed under subsection (c)(4).

(C) With respect to the Extended Care Health Option program under section 1079(d) of this title—

(i) the utilization rates of services under such program by eligible dependents (as such term is defined in such section) during the prior year;

(ii) a description of gaps in such services, as ascertained by the Secretary from information provided by families of eligible dependents;

(iii) an assessment of factors that prevent knowledge of and access to such program, including a discussion of actions the Secretary may take to address these factors; and

(iv) an assessment of the average wait time for an eligible dependent enrolled in the program to access alternative health coverage for a qualifying condition (as such term is defined in such section), including a discussion of any adverse health outcomes associated with such wait.

(D) Such recommendations for legislative action as the Secretary considers appropriate to provide for the continuous improvement of support and services for military families with special needs.

(h) MILITARY FAMILY WITH SPECIAL NEEDS.—For purposes of this section, a military family with special needs is any military family with one or more members who has a medical or educational special need (as defined by the Secretary in regulations for purposes of this section), including a condition covered by the Extended Health Care Option Program under section 1079f of this title.

(Added Pub. L. 111–84, div. A, title V, §563(a)(1), Oct. 28, 2009, 123 Stat. 2304; amended Pub. L. 111–383, div. A, title V, §582(a), (b), title X, §1075(b)(24), Jan. 7, 2011, 124 Stat. 4226, 4227, 4370; Pub. L. 114–328, div. A, title IX, §933(b)(1)–(5)(A), Dec. 23, 2016, 130 Stat. 2364, 2365; Pub. L. 116–283, div. A, title V, §582(a), title VII, §704(c), Jan. 1, 2021, 134 Stat. 3651, 3688.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283, §582(a)(1), substituted "standardize, enhance," for "enhance".

Subsec. (c)(1). Pub. L. 116–283, §582(a)(2), inserted "and standard" after "comprehensive".

Subsec. (d)(1). Pub. L. 116–283, §582(a)(3)(A), substituted "regularly update" for "update from time to time".

Subsec. (d)(3)(C) to (E). Pub. L. 116–283, §582(a)(3)(B), added subpars. (C) to (E).

Subsec. (d)(4)(F). Pub. L. 116–283, §582(a)(3)(C)(i), substituted "by an appropriate office of an individualized services plan (whether medical, educational, or both)" for "of an individualized services plan (medical and educational)".

Subsec. (d)(4)(H), (I). Pub. L. 116–283, §582(a)(3)(C)(ii), which directed adding subpars. (H) and (I) after subpar. (F), was executed by adding them after subpar. (G) to reflect the probable intent of Congress.

Subsec. (g)(2)(C), (D). Pub. L. 116–283, §704(c), added subpar. (C) and redesignated former subpar. (C) as

(D).

**2016**—Pub. L. 114–328, §933(b)(5)(A), substituted "Office of Special Needs" for "Office of Community Support for Military Families With Special Needs" in section catchline.

Subsec. (a). Pub. L. 114–328, §933(b)(2), substituted "Office of Military Family Readiness Policy" for "Office of the Under Secretary of Defense for Personnel and Readiness".

Pub. L. 114–328, §933(b)(1), which directed substitution of "Office of Special Needs" for "Office of Community Support for Military Families with Special Needs", was executed by making the substitution for "Office of Community Support for Military Families With Special Needs" to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 114–328, §933(b)(3), (4)(A)–(C), redesignated subsec. (d) as (c), substituted "subsection (d)" for "subsection (e)" in par. (1) and "subsection (e)" for "subsection (f)" in par. (2), and struck out former subsec. (c). Prior to amendment, text read as follows:

"(1) The head of the Office shall be the Director of the Office of Community Support for Military Families With Special Needs, who shall be a member of the Senior Executive Service or a general officer or flag officer.

"(2) In the discharge of the responsibilities of the Office, the Director shall be subject to the supervision, direction, and control of the Under Secretary of Defense for Personnel and Readiness."

Subsec. (d). Pub. L. 114–328, §933(b)(4)(A), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 114–328, §933(b)(4)(A), (B), redesignated subsec. (f) as (e) and substituted "subsection (d)" for "subsection (e)" in par. (3)(A). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 114–328, §933(b)(4)(A), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 114–328, §933(b)(4)(A), (D), redesignated subsec. (h) as (g) and substituted "subsection (c)(3)" for "subsection (d)(3)" in par. (2)(A) and "subsection (c)(4)" for "subsection (d)(4)" in par. (2)(B). Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 114–328, §933(b)(4)(A), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

**2011**—Subsec. (c). Pub. L. 111–383, §582(a), amended subsec. (c) generally. Prior to amendment, text read as follows:

"(1) The head of the Office shall be the Director of the Office of Community Support for Military Families With Special Needs, who shall be appointed by the Secretary of Defense from among civilian employees of the Department of Defense who are members of the Senior Executive Service or members of the armed forces in a general or flag grade.

"(2) The Director shall be subject to the supervision, direction, and control of the Under Secretary of Defense for Personnel and Readiness in the discharge of the responsibilities of the Office, and shall report directly to the Under Secretary regarding the discharge of such responsibilities."

Subsec. (d)(7), (8). Pub. L. 111–383, §582(b), added par. (7) and redesignated former par. (7) as (8).

Subsec. (h)(1). Pub. L. 111–383, §1075(b)(24), substituted "April 30 each year" for "180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010, and annually thereafter".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (g) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### INCLUSIVE PLAYGROUND PILOT PROGRAM

Pub. L. 118–159, div. A, title V, §589B, Dec. 23, 2024, 138 Stat. 1916, provided that:

"(a) IN GENERAL.—Not later than March 1, 2026, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for the implementation of a military families playground pilot program (in this section referred to as the 'Inclusive Playground Pilot Program') to design, develop, and construct playgrounds that directly support families enrolled in the Exceptional Family Member Program (hereinafter, 'EFMP') to increase the accessibility and inclusivity of access to playgrounds on military installations selected under subsection (c).

"(b) ELEMENTS.—The plan under subsection (a) shall include the following elements:

"(1) A definition of the term 'inclusive playground'.

"(2) A list of existing inclusive playgrounds on military installations.

"(3) A list of military installations selected by the Secretary of Defense under subsection (c).

"(4) An explanation of how the Secretary of Defense selected such locations, including—

"(A) the numbers of military families enrolled in the EFMP at each such military installation; and

"(B) the minimum number of such military families that justifies the construction of an inclusive playground on such military installation.

"(5) The estimated costs to design, develop, and construct an inclusive playground (or upgrade an existing playground to meet such definition) on the military installations selected under subsection (c), including—

"(A) an explanation of how the Secretary determined whether to construct a new inclusive playground or to upgrade an existing playground;

"(B) the overall sustainment costs for an inclusive playground, and

"(C) they [sic] type of funding required for such design, development, and construction.

"(6) A list of additional authorities, appropriations, or other support the Secretary determines necessary to ensure the success of the Inclusive Playground Pilot Program.

"(c) LOCATIONS.—In selecting military installations on which to implement the Inclusive Playground Pilot Program, the Secretary of Defense shall—

"(1) select one military installation—

"(A) of each military department; and

"(B) that the Secretary determines has a large number of military families enrolled in the EFMP that would use an inclusive playground;

"(2) take into consideration any existing inclusive playground of the Department of Defense.

"(d) LIMITATION.—The Secretary of Defense may not implement the Inclusive Playground Pilot Program until—

"(1) 180 days after the date on which the Secretary submits the plan under subsection (a); and

"(2) funds are obligated for the design, development, and construction of inclusive playgrounds under the Inclusive Playground Pilot Program as minor military construction projects."

## IMPROVEMENTS TO EXCEPTIONAL FAMILY MEMBER PROGRAM

Pub. L. 117–81, div. A, title V, §562(b)–(d), Dec. 27, 2021, 135 Stat. 1747, provided that:

"(b) RELOCATION.—The Secretary of the military department concerned may, if such Secretary determines it feasible, permit a covered member who receives permanent change of station orders to elect, not later than 14 days after such receipt, from at least two locations that provide support for the dependent of such covered member with a special need.

"(c) FAMILY MEMBER MEDICAL SUMMARY.—The Secretary of a military department, in coordination with the Director of the Defense Health Agency, shall require that a family member medical summary, completed by a licensed and credentialed medical provider, is accessible in the electronic health record of the Department of Defense for subsequent review by a licensed medical provider.

"(d) COVERED MEMBER DEFINED.—In this section, the term 'covered member' means a member of an Armed Force—

"(1) under the jurisdiction of the Secretary of a military department; and

"(2) with a dependent with a special need."

Pub. L. 116–283, div. A, title V, §582(b)–(e), Jan. 1, 2021, 134 Stat. 3652, 3653, provided that:

"(b) STANDARDIZATION.—Not later than six months after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall, to the extent practicable, standardize the Exceptional Family Member Program (in this section referred to as the 'EFMP') across the military departments. The EFMP, standardized under this subsection, shall include the following:

"(1) Processes for the identification and enrollment of dependents of covered members with special needs.

"(2) A process for the permanent change of orders for covered members, to ensure seamless continuity of services at the new permanent duty station.

"(3) If an order for assignment is declined for a military family with special needs, the member will receive a reason for the decline of that order.

"(4) A review process for installations to ensure that health care furnished through the TRICARE program, special needs education programs, and installation-based family support programs are available to military families enrolled in the EFMP.

"(5) A standardized respite care benefit across the covered Armed Forces, including the number of hours available under such benefit to military families enrolled in the EFMP.

"(6) Performance metrics for measuring, across the Department and with respect to each military department, the following:

"(A) Assignment coordination and support for military families with special needs, including a systematic process for evaluating each military department's program for the support of military families with special needs.

"(B) The reassignment of military families with special needs, including how often members request reassignments, for what reasons, and from what military installations.

"(C) The level of satisfaction of military families with special needs with the family and medical support they are provided.

"(7) A requirement that the Secretary of each military department provide legal services by an attorney, trained in education law, at each military installation—

"(A) the Secretary determines is a primary receiving installation for military families with special needs; and

"(B) in a State that the Secretary determines has historically not supported families enrolled in the EFMP.

"(8) The option for a family enrolled in the EFMP to continue to receive all services under that program and a family separation allowance, if otherwise authorized, if—

"(A) the covered member receives a new permanent duty station; and

"(B) the covered member and family elect for the family not to relocate with the covered member.

"(9) The solicitation of feedback from military families with special needs, and discussions of challenges and best practices of the EFMP, using existing family advisory organizations.

"(c) CASE MANAGEMENT.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop an EFMP case management model, including the following:

"(1) A single EFMP office, located at the headquarters of each covered Armed Force, to oversee implementation of the EFMP and coordinate health care services, permanent change of station order processing, and educational support services for that covered Armed Force.

"(2) An EFMP office at each military installation with case managers to assist each family of a covered member in the development of a plan that addresses the areas specified in subsection (b)(1).

"(d) REPORT.—Not later than 180 days after the date of the enactment of the Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section, including any recommendations of the Secretary regarding additional legislation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered Armed Force' means an Armed Force under the jurisdiction of the Secretary of a military department.

"(2) The term 'covered member' means a member—

"(A) of a covered Armed Force; and

"(B) with a dependent with special needs."

## MATTERS RELATING TO EDUCATION FOR MILITARY DEPENDENT STUDENTS WITH SPECIAL NEEDS

Pub. L. 116–283, div. A, title V, §589G, Jan. 1, 2021, 134 Stat. 3663, provided that:

"(a) INFORMATION ON SPECIAL EDUCATION DISPUTES.—

"(1) IN GENERAL.—Each Secretary of a military department shall collect and maintain information on special education disputes filed by members of the Armed Forces under the jurisdiction of such Secretary.

"(2) INFORMATION.—The information collected and maintained under this subsection shall include the following:

"(A) The number of special education disputes filed.

"(B) The outcome or disposition of the disputes.

"(3) SOURCE OF INFORMATION.—The information collected and maintained pursuant to this subsection shall be derived from the following:

"(A) Records and reports of case managers and navigators under the Exceptional Family Member Program of the Department of Defense.

"(B) Reports submitted by members of the Armed Forces to officials at military installations or other relevant military officials.

"(C) Such other sources as the Secretary of the military department concerned considers appropriate.

"(4) ANNUAL REPORTS.—On an annual basis, each Secretary of a military department shall submit to the Office of Special Needs of the Department of Defense a report on the information collected by such Secretary under this subsection during the preceding year.

"(b) GAO STUDY AND REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the following:

"(A) The manner in which local educational agencies with schools that serve military dependent students use the following:

"(i) Funds made available for impact aid for children with severe disabilities under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 20 U.S.C. 7703a).

"(ii) Funds made available for assistance to schools with a significant number of military dependent students under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 20 U.S.C. 7703b).

"(C) [sic] The efficacy of attorneys and other legal support for military families in special education disputes.

"(E) [sic] Whether, and to what extent, policies and guidance for School Liaison Officers are standardized between the Office of Special Needs of the Department of Defense and the military departments, and the efficacy of such policies and guidance.

"(F) The improvements made to family support programs of the Office of Special Needs, and of each military department, in light of the recommendations of the Comptroller General in the report titled 'DOD Should Improve Its Oversight of the Exceptional Family Member Program' (GAO–18–348).

"(2) RECOMMENDATIONS.—As part of the study under paragraph (1), the Comptroller General shall develop recommendations on the following:

"(A) Improvements to the ability of the Department of Defense to monitor and enforce the compliance of local educational agencies with requirements for the provision of a free appropriate public education to military dependent students with special needs.

"(B) Improvements to the policies of the Office of Special Needs, and of each military department, with respect to the standardization and efficacy of policies and programs for military dependent students with special needs.

"(3) BRIEFING AND REPORT.—Not later than March 31, 2021, the Comptroller General of the United States shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing and a report [on] the results of the study conducted under paragraph (1).

"(c) DEFINITIONS.—In this section:

"(1) The term 'free appropriate public education' has the meaning given that term in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

"(2) The term 'local educational agency' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(3) The term 'special education dispute' means a complaint filed regarding the education provided to a child with a disability (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), including a complaint filed in accordance with section 615 or 639 of such Act (20 U.S.C. 1415, 1439)."

## FOUNDATION FOR SUPPORT OF MILITARY FAMILIES WITH SPECIAL NEEDS

Pub. L. 111–84, div. A, title V, §563(b), Oct. 28, 2009, 123 Stat. 2307, provided that:

"(1) ESTABLISHMENT AUTHORIZED.—The Secretary of Defense may establish a foundation for the provision of assistance to the Department of Defense in providing support to military families with special needs.

"(2) PURPOSES.—The purposes of the foundation shall be to assist the Department of Defense as follows:

"(A) In conducting outreach to identify military families with special needs.

"(B) In developing programs to support and provide services to military families with special needs.

"(C) In developing educational curricula for the training of professional and paraprofessional personnel providing support and services on special needs to military families with special needs.

"(D) In conducting research on the following:

"(i) The unique factors associated with a military career (including deployments of members of the Armed Forces) and their effects on families and individuals with special needs.

"(ii) Evidence-based therapeutic and medical services for members of military families with special needs, including research in conjunction with non-Department of Defense entities such as the National Institutes of Health.

"(E) In providing vocational education and training for adolescent and adult members of military families with special needs.

"(F) In carrying out other initiatives to contribute to improved support for military families with special needs.

"(3) DEPARTMENT OF DEFENSE FUNDING.—The Secretary may provide the foundation such financial support as the Secretary considers appropriate, including the provision to the foundation of appropriated funds and non-appropriated funds available to the Department of Defense.

"(4) ANNUAL REPORT.—The foundation shall submit to the Secretary, and to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], each year a report on its activities under this subsection during the preceding year. Each report shall include, for the year covered by such report, the following:

"(A) A description of the programs and activities of the foundation.

"(B) The budget of the foundation, including the sources of any funds provided to the foundation.

"(5) MILITARY FAMILY WITH SPECIAL NEEDS DEFINED.—In this subsection, the term 'military family with special needs' has the meaning given such term in section 1781c(i) of title 10, United States Code (as added by subsection (a))."

## MILITARY DEPARTMENT SUPPORT FOR LOCAL CENTERS TO ASSIST MILITARY CHILDREN WITH SPECIAL NEEDS

Pub. L. 111–84, div. A, title V, §563(c), as added Pub. L. 111–383, div. A, title V, §582(c)(2), Jan. 7, 2011, 124 Stat. 4227, provided that: "The Secretary of a military department may establish or support centers on or in the vicinity of military installations under the jurisdiction of such Secretary to coordinate and provide medical and educational services for children with special needs of members of the Armed Forces who are assigned to such installations."

## ADVISORY PANEL ON COMMUNITY SUPPORT FOR MILITARY FAMILIES WITH SPECIAL NEEDS

Pub. L. 111–84, div. A, title V, §563(d), as added by Pub. L. 111–383, div. A, title V, §582(c)(2), Jan. 7, 2011, 124 Stat. 4227; amended by Pub. L. 117–81, div. A, title V, §562(a), Dec. 27, 2021, 135 Stat. 1746, provided that:

"(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this subsection [Jan. 7, 2011], the Secretary of Defense shall establish an advisory panel on community support for military families with special needs.

"(2) MEMBERS.—The advisory panel shall consist of nine individuals, appointed by the Secretary of Defense, who are each a member of a military family with special needs. In appointing individuals to the panel, the Secretary shall ensure that—

"(A) one individual is the spouse of an enlisted member;

"(B) one individual is the spouse of an officer in a grade below O-6;

"(C) one individual is a junior enlisted member;

"(D) one individual is a junior officer;

"(E) individuals reside in different geographic regions;

"(F) one individual is a member serving at a remote installation or is a member of the family of such a member; and

"(G) at least two individuals are members serving on active duty, each with a dependent who—

"(i) is enrolled in the Exceptional Family Member Program; and

"(ii) has an individualized education program.

"(3) DUTIES.—The advisory panel shall—

"(A) provide informed advice to the Director of the Office of Community Support for Military Families With Special Needs [now Office of Special Needs] on the implementation of the policy required by subsection (e) [now (d)] of section 1781c of title 10, United States Code, and on the discharge of the programs required by subsection (f) [now (e)] of such section;

"(B) assess and provide information to the Director on services and support for children with special needs that is available from other departments and agencies of the Federal Government and from State and local governments; and

"(C) otherwise advise and assist the Director in the discharge of the duties of the Office of Community

Support for Military Families With Special Needs in such manner as the Secretary of Defense and the Director jointly determine appropriate.

"(4) MEETINGS.—The Director shall meet with the advisory panel at such times, and with such frequency, as the Director considers appropriate. The Director shall meet with the panel at least once each year. The Director may meet with the panel through teleconferencing or by other electronic means."

## §1782. Surveys of military families

(a) AUTHORITY.—The Secretary of Defense, in order to determine the effectiveness of Federal programs relating to military families and the need for new programs, may conduct surveys of—

(1) members of the armed forces who are on active duty, in an active status, or retired;

(2) family members of such members; and

(3) survivors of deceased retired members and of members who died while on active duty.

(b) RESPONSES TO BE VOLUNTARY.—Responses to surveys conducted under this section shall be voluntary.

(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to a survey authorized under subsection (a) that includes a person referred to in that subsection who is not an employee of the United States or is not otherwise considered an employee of the United States for the purposes of section 3502(3)(A)(i) of title 44, the person shall be considered as being an employee of the United States for the purposes of that section.

(d) SURVEY REQUIRED FOR FISCAL YEAR 2010.—Notwithstanding subsection (a), during fiscal year 2010, the Secretary of Defense shall conduct a survey otherwise authorized under such subsection. Thereafter, additional surveys may be conducted not less often than once every three fiscal years.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 330; amended Pub. L. 107–107, div. A, title V, §572, Dec. 28, 2001, 115 Stat. 1122; Pub. L. 110–181, div. A, title V, §581(c), Jan. 28, 2008, 122 Stat. 122.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (d). Pub. L. 110–181 added subsec. (d).

**2001**—Subsec. (a). Pub. L. 107–107, §572(a), reenacted heading without change and amended text generally. Text read as follows: "The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs."

Subsec. (c). Pub. L. 107–107, §572(b), reenacted heading without change and amended text generally. Text read as follows: "With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 3502(3)(A)(i) of title 44."

## §1783. Family members serving on advisory committees

A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 1001(2) of title 5 solely because of such membership.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 330; amended Pub. L. 117–286, §4(a)(50), Dec. 27, 2022, 136 Stat. 4311.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–286 substituted "section 1001(2) of title 5" for "section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)".

## §1784. Employment opportunities for military spouses

(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include—

(1) excepting, pursuant to section 3302 of title 5, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the armed forces in the same geographical area as the permanent duty station of the members; and

(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the armed forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

(1) to implement such measures as the President orders under subsection (a);

(2) to provide preference to qualified spouses of members of the armed forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the armed forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

(4) to ensure that the spouse of a member of the armed forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the armed forces with preference in hiring over an individual who is a preference eligible.

(d) SPACE-AVAILABLE USE OF FACILITIES FOR SPOUSE TRAINING PURPOSES .—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may make available to a non-Department of Defense entity space in non-excess facilities controlled by that Secretary for the purpose of the non-Department of Defense entity providing employment-related training for military spouses.

(e) EMPLOYMENT BY OTHER FEDERAL AGENCIES.—The Secretary of Defense shall work with the Director of the Office of Personnel Management and the heads of other Federal departments and agencies to expand and facilitate the use of existing Federal programs and resources in support of military spouse employment.

(f) PRIVATE-SECTOR EMPLOYMENT.—The Secretary of Defense—

(1) shall seek to develop partnerships with firms in the private sector to enhance employment opportunities for spouses of members of the armed forces and to provide for improved job portability for such spouses, especially in the case of the spouse of a member of the armed forces accompanying the member to a new geographical area because of a change of permanent duty station of the member; and

(2) shall work with the United States Chamber of Commerce and other appropriate private-sector entities to facilitate the formation of such partnerships.

(g) EMPLOYMENT WITH DOD CONTRACTORS.—The Secretary of Defense shall examine and seek ways for incorporating hiring preferences for qualified spouses of members of the armed forces into contracts between the Department of Defense and private-sector entities.

(h) IMPROVEMENT OF OCCUPATIONAL LICENSE PORTABILITY THROUGH INTERSTATE COMPACTS.—

(1) IN GENERAL.—The Secretary of Defense shall seek to enter into a cooperative agreement with the Council of State Governments to assist with funding of the development of interstate compacts on licensed occupations in order to alleviate the burden associated with relicensing in such an occupation by spouse of a members of the armed forces in connection with a permanent change of duty station of members to another State.

(2) LIMITATION ON ASSISTANCE PER COMPACT.—The amount provided under paragraph (1) as assistance for the development of any particular interstate compact may not exceed $1,000,000.

(3) LIMITATION ON TOTAL AMOUNT OF ASSISTANCE.—The total amount of assistance provided under paragraph (1) in any fiscal year may not exceed $4,000,000.

(4) ANNUAL REPORT.—Not later than February 28 each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on interstate compacts described in paragraph (1) developed through assistance provided under that paragraph. Each report shall set forth the following:

(A) Any interstate compact developed during the preceding calendar year, including the occupational licenses covered by such compact and the States agreeing to enter into such compact.

(B) Any interstate compact developed during a prior calendar year into which one or more additional States agreed to enter during the preceding calendar year.

(i) EMPLOYMENT FELLOWSHIP OPPORTUNITIES.—(1) The Secretary of Defense shall carry out a program to provide spouses of members of the armed forces with paid fellowships (including in-person, remote, and hybrid fellowships) with employers in various industries. To carry out such program, the Secretary shall take the following steps:

(A) Seek to enter into an agreement with an entity to conduct such program.

(B) Determine the appropriate capacity for the program based on the availability of appropriations for such purpose.

(C) Establish criteria to evaluate the effectiveness and cost-effectiveness of the program in supporting the employment of such spouses.

(2) The authority to carry out the program under this subsection shall terminate on January 1, 2031.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 330; amended Pub. L. 107–107, div. A, title V, §571(c), Dec. 28, 2001, 115 Stat. 1121; Pub. L. 116–92, div. A, title V, §575, Dec. 20, 2019, 133 Stat. 1405; Pub. L. 116–283, div. A, title X, §1081(a)(33), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 118–159, div. A, title V, §§581(a), 582(a), Dec. 23, 2024, 138 Stat. 1910.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (h)(5). Pub. L. 118–159, §581(a), struck out par. (5). Text read as follows: "The authority to enter into a cooperative agreement under paragraph (1), and to provide assistance described in that paragraph pursuant to such cooperative agreement, expires on September 30, 2024."

Subsec. (i). Pub. L. 118–159, §582(a), added subsec. (i).

**2021**—Subsec. (h)(5). Pub. L. 116–283 substituted "expires" for "expire".

**2019**—Subsec. (h). Pub. L. 116–92 added subsec. (h).

**2001**—Subsecs. (d) to (g). Pub. L. 107–107 added subsecs. (d) to (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title V, §581(b), Dec. 23, 2024, 138 Stat. 1910, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if enacted immediately following the enactment of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92), to which such amendment relates."

Pub. L. 118–159, div. A, title V, §582(b), Dec. 23, 2024, 138 Stat. 1911, provided that: "Subsection (i) of such section [10 U.S.C. 1784] shall take effect on January 1, 2026."

### PILOT PROGRAM TO ESTABLISH EMPLOYMENT FELLOWSHIP OPPORTUNITIES FOR MILITARY SPOUSES

Pub. L. 117–81, div. A, title V, §564, Dec. 27, 2021, 135 Stat. 1748, provided that:

"(a) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense may establish a three-year pilot program to provide employment support to the spouses of members of the Armed Forces through a paid fellowship with employers across a variety of industries. In carrying out the pilot program, the Secretary shall take the following steps:

"(1) Enter into a contract or other agreement to conduct a career fellowship pilot program for military spouses.

"(2) Determine the appropriate capacity for the pilot program based on annual funding availability.

"(3) Establish evaluation criteria to determine measures of effectiveness and cost-benefit analysis of the pilot program in supporting military spouse employment.

"(b) LIMITATION ON TOTAL AMOUNT OF ASSISTANCE.—The total amount of the pilot program may not exceed $5,000,000 over the life of the pilot.

"(c) REPORTS.—Not later than two years after the Secretary establishes the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report that includes the following elements:

"(1) The number of spouses who participated in the pilot program annually.

"(2) The amount of funding spent through the pilot program annually.

"(3) A recommendation of the Secretary regarding whether to discontinue, expand, or make the pilot program permanent.

"(d) FINAL REPORT.—Not later than 180 days after the pilot program ends, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a final report that includes the following elements:

"(1) The number of spouses who participated in the pilot program.

"(2) The amount of funding spent through the pilot program.

"(3) An evaluation of outcomes.

"(4) A recommendation of the Secretary regarding whether to make the pilot program permanent.

"(e) TERMINATION.—The pilot program shall terminate three years after the date on which the Secretary establishes the pilot program."

[Pub. L. 118–159, div. A, title V, §582(c), Dec. 23, 2024, 138 Stat. 1911, provided that: "The pilot program under section 564 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 1784 note) [set out above] shall terminate on January 1, 2026.]"

### IMPLEMENTATION OF GAO RECOMMENDATION ON IMPROVED COMMUNICATION OF BEST PRACTICES TO ENGAGE MILITARY SPOUSES WITH CAREER ASSISTANCE RESOURCES

Pub. L. 117–81, div. A, title V, §566, Dec. 27, 2021, 135 Stat. 1749, provided that:

"(a) PLAN REQUIRED.—The Secretary of Defense shall develop a plan to implement the recommendation of the Comptroller General of the United States, to address strategies for sharing information on outreach to military spouses regarding career assistance resources, in the report of the Government Accountability Office titled 'Military Spouse Employment: DOD Should Continue Assessing State Licensing Practices and Increase Awareness of Resources' (GAO–21–193). The plan shall include the following elements:

"(1) A summary of actions that have been taken to implement the recommendation.

"(2) A summary of actions that will be taken to implement the recommendation, including how the Secretary plans to—

"(A) engage military services and installations, members of the Spouse Ambassador Network, and other local stakeholders to obtain information on the outreach approaches and best practices used by military installations and stakeholders;

"(B) overcome factors that may limit use of best practices;

"(C) disseminate best practices to relevant stakeholders; and

"(D) identify ways to and better coordinate with the Secretaries of Veterans Affairs, Labor, and Housing and Urban Development; and

"(E) a schedule, with specific milestones, for completing implementation of the recommendation.

"(b) IMPLEMENTATION; DEADLINE.—Not later than 18 months after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall carry out activities to implement the plan developed under subsection (a)."

## PILOT PROGRAM ON DIRECT HIRE AUTHORITY FOR SPOUSES OF MEMBERS OF THE UNIFORMED SERVICES AT LOCATIONS OUTSIDE THE UNITED STATES

Pub. L. 117–81, div. A, title VI, §625, Dec. 27, 2021, 135 Stat. 1772, provided that:

"(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of using the authority under subsection (b) to hire spouses of members of the uniformed services at locations outside the United States.

"(b) AUTHORITY.—In carrying out the pilot program under this section, the Secretary may appoint, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code (other than sections 3303 and 3328 of such chapter), a spouse of a member of the uniformed services stationed at a duty location outside the United States to a position described in subsection (c) if—

"(1) the spouse has been authorized to accompany the member to the duty location at Government expense; and

"(2) the duty location is within reasonable commuting distance, as determined by the Secretary concerned, of the location of the position.

"(c) POSITION DESCRIBED.—A position described in this subsection is a competitive service position within the Department of Defense that is located outside the United States.

"(d) TERM OF APPOINTMENT.—

"(1) IN GENERAL.—An appointment made under this section shall be for a term not exceeding two years.

"(2) RENEWAL.—The Secretary of Defense may renew an appointment made under this section for not more than two additional terms, each not exceeding two years.

"(3) TERMINATION.—An appointment made under this section shall terminate on the date on which the member of the uniformed services relocates back to the United States in connection with a permanent change of station.

"(e) PAYMENT OF TRAVEL AND TRANSPORTATION ALLOWANCES.—Nothing in this section may be construed to authorize additional travel or transportation allowances in connection with an appointment made under this section.

"(f) RELATIONSHIP TO OTHER LAW.—Nothing in this section may be construed to interfere with—

"(1) the authority of the President under section 3304 of title 5, United States Code;

"(2) the authority of the President under section 1784 of title 10, United States Code;

"(3) the ability of the head of an agency to make noncompetitive appointments pursuant to section 3330d of title 5, United States Code; or

"(4) any obligation under any applicable treaty, status of forces agreement, or other international agreement between the United States Government and the government of the country in which the position is located.

"(g) REPORTS REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], and annually thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth the following:

"(A) The number of individuals appointed under this section.

"(B) The position series and grade to which each individual described in subparagraph (A) was appointed.

"(C) Demographic data on the individuals described in subparagraph (A), including with respect to race, gender, age, and education level attained.

"(D) Data on the members of the uniformed services whose spouses have been appointed under this section, including the rank of each such member.

"(E) Such recommendations for legislative or administrative action as the Secretary considers appropriate relating to continuing or expanding the pilot program.

"(2) FINAL REPORT.—Not later than December 31, 2026, the Secretary shall submit to the appropriate committees of Congress a final report setting forth the information under paragraph (1).

"(h) TERMINATION.—The pilot program under this section shall terminate on December 31, 2026.

"(i) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) the Committee on Armed Services and the Committee on Oversight and Reform [now Committee on Oversight and Accountability] of the House of Representatives.

"(2) SECRETARY CONCERNED.—The term 'Secretary concerned'—

"(A) has the meaning given the term in section 101(a)(9) of title 10, United States Code; and

"(B) includes—

"(i) the Secretary of Commerce, with respect to matters concerning the commissioned officer corps of the National Oceanic and Atmospheric Administration; and

"(ii) the Secretary of Health and Human Services, with respect to matters concerning the commissioned corps of the Public Health Service.

"(3) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given the term in section 101(a)(5) of title 10, United States Code.

"(4) UNITED STATES.—The term 'United States' has the meaning given that term in section 101(a)(1) of title 10, United States Code."

## IMPROVEMENTS TO PARTNER CRITERIA OF THE MILITARY SPOUSE EMPLOYMENT PARTNERSHIP PROGRAM

Pub. L. 116–283, div. A, title V, §587, Jan. 1, 2021, 134 Stat. 3655, provided that:

"(a) EVALUATION; UPDATES.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall evaluate the partner criteria set forth in the Military Spouse Employment Partnership Program (in this section referred to as the 'MSEP Program') and implement updates that the Secretary determines will improve such criteria without diminishing the need for partners to exhibit sound business practices, broad diversity efforts, and relative financial stability. Such updates may expand the number of the following entities that meet such criteria:

"(1) Institutions of primary, secondary, and higher education.

"(2) Software and coding companies.

"(3) Local small businesses.

"(4) Companies that employ telework.

"(b) NEW PARTNERSHIPS.—Upon completion of the evaluation under subsection (a), the Secretary, in consultation with the Department of Labor, shall seek to enter into agreements with entities described in paragraphs (1) through (4) of subsection (a) that are located near military installations (as that term is defined in section 2687 of title 10, United States Code).

"(c) REVIEW; REPORT.—Not later than one year after implementation under subsection (a), the Secretary shall review updates under subsection (a) and publish a report regarding such review on a publicly-accessible website of the Department of Defense. Such report shall include the following:

"(1) The results of the evaluation of the MSEP Program, including the implementation plan for any change to partnership criteria.

"(2) Data on the new partnerships undertaken as a result of the evaluation, including the type, size, and location of the partner entities.

"(3) Data on the utility of the MSEP Program, including—

"(A) the number of military spouses who have applied through the MSEP Program;

"(B) the average length of time a job is available before being filled or removed from the MSEP Program portal; and

"(C) the average number of new jobs posted on the MSEP Program portal each month."

## PILOT PROGRAM ON PUBLIC-PRIVATE PARTNERSHIPS FOR TELEWORK FACILITIES FOR MILITARY SPOUSES ON MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES

Pub. L. 115–91, div. A, title V, §560, Dec. 12, 2017, 131 Stat. 1406, provided that:

"(a) IN GENERAL.—Commencing not later than one year after the date of the enactment of this Act [Dec.

12, 2017], the Secretary of Defense shall carry out a pilot program to assess the feasability and advisability of providing telework facilities for military spouses on military installations outside the United States. The Secretary shall consult with the host nation or nations concerned in carrying out the pilot program.

"(b) NUMBER OF INSTALLATIONS.—The Secretary shall carry out the pilot program at not less than two military installations outside the United States selected by the Secretary for purposes of the pilot program.

"(c) DURATION.—The duration of the pilot program shall be a period selected by the Secretary, but not more than three years.

"(d) ELEMENTS.—The pilot program shall include the following elements:

"(1) The pilot program shall be conducted as one or more public-private partnerships between the Department of Defense and a private corporation or partnership of private corporations.

"(2) The corporation or corporations participating in the pilot program shall contribute to the carrying out of the pilot program an amount equal to the amount committed by the Secretary to the pilot program at the time of its commencement.

"(3) The Secretary shall enter into one or more memoranda of understanding with the corporation or corporations participating in the pilot program for purposes of the pilot program, including the amounts to be contributed by such corporation or corporations pursuant to paragraph (2).

"(4) The telework undertaken by military spouses under the pilot program may only be for United States companies.

"(5) The pilot program shall permit military spouses to provide administrative, informational technology, professional, and other necessary support to companies through telework from Department installations outside the United States.

"(e) FUNDING.—Of the amount authorized to be appropriated for fiscal year 2018 by section 421 [131 Stat. 1370] and available for military personnel as specified in the funding table in section 4401 [131 Stat. 1996], up to $1,000,000 may be available to carry out the pilot program, including entry into memoranda of understanding pursuant to subsection (d)(3) and payment by the Secretary of the amount committed by the Secretary to the pilot program pursuant to subsection (d)(2)."

## IMPROVED DATA COLLECTION RELATED TO EFFORTS TO REDUCE UNDEREMPLOYMENT OF SPOUSES OF MEMBERS OF THE ARMED FORCES AND CLOSE THE WAGE GAP BETWEEN MILITARY SPOUSES AND THEIR CIVILIAN COUNTERPARTS

Pub. L. 113–291, div. A, title V, §568, Dec. 19, 2014, 128 Stat. 3386, provided that:

"(a) DATA COLLECTION EFFORTS.—In addition to monitoring the number of spouses of members of the Armed Forces who obtain employment through military spouse employment programs, the Secretary of Defense shall collect data to evaluate the effectiveness of military spouse employment programs—

"(1) in addressing the underemployment of military spouses;

"(2) in matching military spouses' education and experience to available employment positions; and

"(3) in closing the wage gap between military spouses and their civilian counterparts.

"(b) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report evaluating the progress of military spouse employment programs—

"(1) in reducing military spouse unemployment and underemployment; and

"(2) in reducing the wage gap between military spouses and their civilian counterparts.

"(c) MILITARY SPOUSE EMPLOYMENT PROGRAMS DEFINED.—In this section, the term 'military spouse employment programs' means the Military Spouse Employment Partnership (MSEP)."

## PILOT PROGRAM TO SECURE INTERNSHIPS FOR MILITARY SPOUSES WITH FEDERAL AGENCIES

Pub. L. 111–84, div. A, title V, §564, Oct. 28, 2009, 123 Stat. 2308, provided that:

"(a) COST-REIMBURSEMENT AGREEMENTS WITH FEDERAL AGENCIES.—The Secretary of Defense may enter into an agreement with the head of an executive department or agency that has an established internship program to reimburse the department or agency for authorized costs associated with the first year of employment of an eligible military spouse who is selected to participate in the internship program of the department or agency.

"(b) ELIGIBLE MILITARY SPOUSES.—

"(1) ELIGIBILITY.—Except as provided in paragraph (2), any person who is married to a member of the Armed Forces on active duty is eligible for selection to participate in an internship program under a

reimbursement agreement entered into under subsection (a).

"(2) EXCLUSIONS.—Reimbursement may not be provided with respect to the following persons:

"(A) A person who is legally separated from a member of the Armed Forces under court order or statute of any State, the District of Columbia, or possession of the United States when the person begins the internship.

"(B) A person who is also a member of the Armed Forces on active duty.

"(C) A person who is a retired member of the Armed Forces.

"(c) FUNDING SOURCE.—Amounts authorized to be appropriated for operation and maintenance, for Defense-wide activities, shall be available to carry out this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'authorized costs' includes the costs of the salary, benefits and allowances, and training for an eligible military spouse during the first year of the participation of the military spouse in an internship program pursuant to an agreement under subsection (a).

"(2) The term 'internship' means a professional, analytical, or administrative position in the Federal Government that operates under a developmental program leading to career advancement.

"(e) TERMINATION OF AGREEMENT AUTHORITY.—No agreement may be entered into under subsection (a) after September 30, 2011. Authorized costs incurred after that date may be reimbursed under an agreement entered into before that date in the case of eligible military spouses who begin their internship by that date.

"(f) REPORTING REQUIREMENT.—Not later than January 1, 2012, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that provides information on how many eligible military spouses received internships pursuant to agreements entered into under subsection (a) and the types of internship positions they occupied. The report shall specify the number of interns who subsequently obtained permanent employment with the department or agency administering the internship program or with another department or agency. The Secretary shall include a recommendation regarding whether, given the investment of Department of Defense funds, the authority to enter into agreements should be extended, modified, or terminated."

**CONTINUATION OF DELEGATION OF AUTHORITY WITH RESPECT TO HIRING PREFERENCE FOR QUALIFIED MILITARY SPOUSES**

Pub. L. 104–106, div. A, title V, §568(d), Feb. 10, 1996, 110 Stat. 336, provided that: "The provisions of Executive Order No. 12568, issued October 2, 1986 (10 U.S.C. 113 note) [set out below], shall apply as if the reference in that Executive order to section 806(a)(2) of the Department of Defense Authorization Act of 1986 refers to section 1784 of title 10, United States Code, as added by subsection (a)."

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 12568. EMPLOYMENT OPPORTUNITIES FOR MILITARY SPOUSES AT NONAPPROPRIATED FUND ACTIVITIES**

Ex. Ord. No. 12568, Oct. 2, 1986, 51 F.R. 35497, provided:

By the authority vested in me as President by the laws of the United States of America, including section 301 of Title 3 of the United States Code, it is ordered that the Secretary of Defense and, as designated by him for this purpose, any of the Secretaries, Under Secretaries, and Assistant Secretaries of the Military Departments, are hereby empowered to exercise the discretionary authority granted to the President by subsection 806(a)(2) of the Department of Defense Authorization Act of 1986, Public Law No. 99–145 [formerly set out as a note under section 113 of this title, now deemed to refer to this section, see above], to give preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the Armed Forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

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## §1784a. Education and training opportunities for military spouses to expand employment and portable career opportunities

(a) PROGRAMS AND TUITION ASSISTANCE.—(1) The Secretary of Defense may establish

programs to assist the spouse of a member of the armed forces described in subsection (b) in achieving—

(A) the education and training required for a degree or credential at an accredited college, university, or technical school in the United States that expands employment and portable career opportunities for the spouse; or

(B) the education prerequisites and professional licensure or credential required, by a government or government sanctioned licensing body, for an occupation that expands employment and portable career opportunities for the spouse.

(2) As an alternative to, or in addition to, establishing a program under this subsection, the Secretary may provide tuition assistance to an eligible spouse who is pursuing education, training, or a license or credential to expand the spouse's employment and portable career opportunities.

(b) ELIGIBLE SPOUSES.—(1) Assistance under this section is limited to a spouse of a member of the armed forces who is serving on active duty.

(2) A spouse who is eligible for a program under this section and begins a course of education or training for a degree, license, or credential described in subsection (a) may not become ineligible to complete such course of education or training solely because the member to whom the spouse is married is promoted to a higher grade.

(c) EXCEPTIONS.—Subsection (b) does not include—

(1) a person who is married to, but legally separated from, a member of the armed forces under court order or statute of any State or territorial possession of the United States; and

(2) a spouse of a member of the armed forces who is also a member of the armed forces.

(d) DOULA AND IBCLC CERTIFICATIONS.—In carrying out the programs authorized by subsection (a), the Secretary shall provide assistance to the spouse of a member of the armed forces described in subsection (b) with obtaining certification—

(1) as a doula or International Board Certified Lactation Consultant; and

(2) provided by an organization that receives reimbursement under the extramedical maternal health providers demonstration project required by section 746 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 1073 note).

(e) PORTABLE CAREER OPPORTUNITIES DEFINED.—In this section, the term "portable career" includes an occupation identified by the Secretary of Defense, in consultation with the Secretary of Labor, as requiring education and training that results in a credential that is recognized nationwide by industry or specific businesses.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to govern the availability and use of assistance under this section. The Secretary shall ensure that programs established under this section do not result in inequitable treatment for spouses of members of the armed forces who are also members, since they are excluded from participation in the programs under subsection (c)(2).

(Added Pub. L. 110–417, [div. A], title V, §582(a), Oct. 14, 2008, 122 Stat. 4473; amended Pub. L. 116–92, div. A, title V, §576, Dec. 20, 2019, 133 Stat. 1406; Pub. L. 118–31, div. A, title VI, §634, Dec. 22, 2023, 137 Stat. 297.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsecs. (d) to (f). Pub. L. 118–31 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2019**—Subsec. (b). Pub. L. 116–92 designated existing provisions as par. (1) and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**FIRST EXPANSION OF THE MY CAREER ADVANCEMENT ACCOUNT PROGRAM FOR MILITARY SPOUSES**

Pub. L. 116–92, div. A, title V, §580F, Dec. 20, 2019, 133 Stat. 1410, as amended by Pub. L. 116–283, div. A, title V, §586, Jan. 1, 2021, 134 Stat. 3655, provided that:

"(a) PROFESSIONAL LICENSE OR CERTIFICATION; ASSOCIATE'S DEGREE.—The Secretary of Defense shall modify the My Career Advancement Account program of the Department of Defense to ensure that military spouses participating in the program may receive financial assistance for the pursuit or maintenance (including continuing education courses) of a license, certification, or Associate's degree in any career field or occupation.

"(b) NATIONAL TESTING.—Financial assistance under subsection (a) may be applied to the costs of national tests that may earn a participating military spouse course credits required for a degree approved under the program (including the College Level Examination Program tests)."

**IMPROVEMENT OF MY CAREER ADVANCEMENT ACCOUNT PROGRAM FOR MILITARY SPOUSES**

Pub. L. 115–232, div. A, title V, §574, Aug. 13, 2018, 132 Stat. 1780, provided that:

"(a) OUTREACH ON AVAILABILITY OF PROGRAM.—The Secretary of Defense shall take appropriate actions to ensure that military spouses who are eligible for participation in the My Career Advancement Account program of the Department of Defense are, to the extent practicable, made aware of the program.

"(b) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such recommendations as the Comptroller General considers appropriate regarding the following:

"(1) Mechanisms to increase awareness of the My Career Advancement Account program of the Department of Defense among military spouses who are eligible to participate in the program.

"(2) Mechanisms to increase participation in the My Career Advancement Account program among military spouses who are eligible to participate in the program.

"(c) TRAINING FOR INSTALLATION CAREER COUNSELORS ON PROGRAM.—The Secretaries of the military departments shall take appropriate actions to ensure that career counselors at military installations receive appropriate training and current information on eligibility for and use of benefits under the My Career Advancement Account program, including financial assistance to cover costs associated with professional recertification, portability of occupational licenses, professional credential exams, and other mechanisms in connection with the portability of professional licenses."

## §1785. Youth sponsorship program

(a) REQUIREMENT.—The Secretary of Defense shall require that there be at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the armed forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station.

(b) DESCRIPTION OF PROGRAMS.—The program at each installation shall provide for involvement of dependent children of members presently stationed at the military installation and shall be directed primarily toward children in their preteen and teenage years.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 331.)

## §1786. Dependent student travel within the United States

Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 331.)

## §1787. Reporting of child abuse

(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

(b) DEFINITION.—In this section, the term "child abuse and neglect" has the meaning provided in section 3 of the Child Abuse Prevention and Treatment Act (Public Law 93–247; 42 U.S.C. 5101 note).

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 331; amended Pub. L. 112–239, div. A, title X, §1076(d)(2), Jan. 2, 2013, 126 Stat. 1951.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (b). Pub. L. 112–239 substituted "section 3" for "section 3(1)" and "Public Law 93–247; 42 U.S.C. 5101 note" for "42 U.S.C. 5102".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPROVEMENTS TO DEPARTMENT OF DEFENSE TRACKING OF AND RESPONSE TO INCIDENTS OF CHILD ABUSE, ADULT CRIMES AGAINST CHILDREN, AND SERIOUS HARMFUL BEHAVIOR BETWEEN CHILDREN AND YOUTH INVOLVING MILITARY DEPENDENTS ON MILITARY INSTALLATIONS

Pub. L. 116–283, div. A, title V, §549B, Jan. 1, 2021, 134 Stat. 3621, provided that:

"(a) IMPROVEMENTS REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall, consistent with recommendations of the Comptroller General of the United States in Government Accountability Office report GA0–20–110, take actions in accordance with this section in order to improve the efforts of the Department of Defense to track and respond to incidents of serious harm to children involving dependents of members of the Armed Forces that occur on military installations (in this section referred to as 'covered incidents of serious harm to children').

"(2) SERIOUS HARM TO CHILDREN DEFINED.—In this section, the term 'serious harm to children' includes the following:

"(A) Caregiver child abuse involving physical abuse, sexual abuse, emotional abuse, or neglect.

"(B) Non-caregiver adult crimes against children.

"(C) Serious harmful behaviors between children and youth of a physical, sexual, or emotional nature.

"(b) DATA COLLECTION AND TRACKING OF INCIDENTS OF HARM TO CHILDREN.—

"(1) NON-CAREGIVER ADULT CRIMES AGAINST CHILDREN.—The Secretary of Defense shall establish a process for the Department of Defense to track reported covered incidents of serious harm to children described in subsection (a)(2)(B) in which the alleged offender is an adult who is not a parent, guardian, or someone in a caregiving role at the time of the incident. The information so tracked shall comport with the information tracked by the Department in reported covered incidents of serious harm to children in which the alleged offender is a parent, guardian, or someone in a caregiving role at the time of the incident.

"(2) SERIOUS HARMFUL BEHAVIORS BETWEEN CHILDREN AND YOUTH.—

"(A) IN GENERAL.—The Secretary of Defense shall develop and maintain in the Department of Defense a centralized database to track incidents of serious harmful behaviors between children and youth described in subsection (a)(2)(C), including information across the Department on problematic sexual behavior in children and youth that are reported to an appropriate office, as determined by the Secretary, or investigated by a military criminal investigative organization, regardless of whether the alleged offender was another child, an adult, or someone in a non-caregiving role at the time of an incident.

"(B) ELEMENTS.—The centralized database required by this paragraph shall include, for each incident within the database, the following:

"(i) Information pertinent to a determination by the Department on whether such incident meets the definition of an incident of serious harmful behavior between children and youth.

"(ii) The results of any investigation of such incident by a military criminal investigative organization.

"(iii) Information on the ultimate disposition of the incident, if any, including any administrative or prosecutorial action taken.

"(C) ANNUAL REPORTS ON INFORMATION.—The information collected and maintained in the centralized database required by this paragraph shall be reported on an annual basis as part of the annual reports by the Secretary on child abuse and domestic abuse in the military as required by section 574 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2141).

"(D) BRIEFINGS.—Not later than March 31, 2021, and every six months thereafter until the centralized database required by this paragraph is fully operational, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the status of the database.

"(3) DEPARTMENT OF DEFENSE REPORTING GUIDANCE.—The Secretary of Defense shall issue guidance regarding which incidents of serious harmful behavior between children and youth require reporting to the Family Advocacy Program, a military criminal investigative organization, or another component of the Department of Defense designated by the Secretary.

"(c) RESPONSE PROCEDURES FOR INCIDENTS OF SERIOUS HARM TO CHILDREN REPORTED TO FAMILY ADVOCACY PROGRAMS.—

"(1) INCIDENT DETERMINATION COMMITTEE MEMBERSHIP.—The Secretary of Defense shall ensure that the voting membership of each Incident Determination Committee, as defined in paragraph (7), on a military installation includes medical personnel with the knowledge and expertise required to determine whether a reported incident of serious harm to a child meets the criteria of the Department of Defense for treatment as child abuse.

"(2) SCREENING REPORTED INCIDENTS OF SERIOUS HARM TO CHILDREN.—

"(A) DEVELOPMENT OF STANDARDIZED PROCESS.—The Secretary of Defense shall develop a standardized process by which the Family Advocacy Programs of the military departments screen reported covered incidents of serious harm to children to determine whether to present such incident to an Incident Determination Committee.

"(B) MONITORING.—The Secretary of each military department shall develop a process to monitor the manner in which reported incidents of serious harm to children are screened by each installation under the jurisdiction of such Secretary in order to ensure that such screening complies with the standardized screening process developed pursuant to subparagraph (A).

"(3) REQUIRED NOTIFICATIONS.—

"(A) DOCUMENTATION.—The Secretary of each military department shall require that installation Family Advocacy Programs and military criminal investigative organizations under the jurisdiction of such Secretary document in their respective databases the date on which they notified the other of a reported incident of serious harm to a child.

"(B) OVERSIGHT.—The Secretary of each military department shall require that the Family Advocacy Program of such military department, and the headquarters of the military criminal investigative organizations of such military department, develop processes to oversee the documentation of notifications required by subparagraph (A) in order to ensure that such notifications occur on a consistent basis at installation level.

"(4) CERTIFIED PEDIATRIC SEXUAL ASSAULT FORENSIC EXAMINERS.—

"(A) GEOGRAPHIC REGIONS FOR EXAMINERS.—The Secretary of Defense shall specify geographic regions in which military families reside for purposes of the availability of and access to certified pediatric sexual assault examiners in such regions.

"(B) AVAILABILITY.—The Secretary shall ensure that—

"(i) one or more certified pediatric sexual assault examiners are located in each geographic region specified pursuant to subparagraph (A); and

"(ii) examiners so located serve as certified pediatric sexual assault examiners throughout such region, without regard to Armed Force or installation.

"(5) REMOVAL OF CHILDREN FROM UNSAFE HOMES OVERSEAS.—The Secretary of Defense shall issue policy that clarifies and standardizes across the Armed Forces the circumstances under which a commander may remove a child from a potentially unsafe home at an installation overseas.

"(6) RESOURCE GUIDE FOR VICTIMS OF SERIOUS HARM TO CHILDREN.—

"(A) IN GENERAL.—The Secretary of each military department shall develop and maintain a comprehensive guide on resources available through the Department of Defense and such military department for military families under the jurisdiction of such Secretary who are victims of serious harm to children.

"(B) ELEMENTS.—Each guide under this paragraph shall include the following:

"(i) Information on the response processes of the Family Advocacy Programs and military criminal investigative organizations of the military department concerned.

"(ii) Lists of available support services, such as legal, medical, and victim advocacy services, through the Department of Defense and the military department concerned.

"(C) DISTRIBUTION.—A resource guide under this paragraph shall be presented to a military family by an installation Family Advocacy Program and military criminal investigative personnel when a covered incident of serious harm to a child involving a child in such family is reported.

"(D) AVAILABILITY ON INTERNET.—A current version of each resource guide under this paragraph shall be available to the public on an Internet website of the military department concerned available to the public.

"(7) INCIDENT DETERMINATION COMMITTEE DEFINED.—In this subsection, the term 'Incident Determination Committee' means a committee established at a military installation that is responsible for reviewing reported incidents of child abuse and determining whether such incidents constitute serious harm to children according to the applicable criteria of the Department of Defense.

"(d) COORDINATION AND COLLABORATION WITH NON-MILITARY RESOURCES.—

"(1) CONSULTATION WITH STATES.—The Secretary of Defense shall—

"(A) continue the outreach efforts of the Department of Defense to the States in order to ensure that States are notified when a member of the Armed Forces or a military dependent is involved in a reported incident of serious harm to a child off a military installation; and

"(B) increase efforts at information sharing between the Department and the States on such incidents of serious harm to children, including entry into memoranda of understanding with State child welfare agencies on information sharing in connection with such incidents.

"(2) COLLABORATION WITH NATIONAL CHILDREN'S ALLIANCE.—

"(A) MEMORANDA OF UNDERSTANDING.—The Secretary of each military department shall seek to enter into a memorandum of understanding with the National Children's Alliance, or similar organization, under which—

"(i) the children's advocacy center services of the Alliance are available to all installations in the continental United States under the jurisdiction of such Secretary; and

"(ii) members of the Armed Forces under the jurisdiction of such Secretary are made aware of the nature and availability of such services.

"(B) PARTICIPATION OF CERTAIN ENTITIES.—Each memorandum of understanding under this paragraph shall provide for the appropriate participation of the Family Advocacy Program and military criminal investigative organizations of the military department concerned in activities under such memorandum of understanding.

"(C) BRIEFING.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of each military department shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the status of the development of a memorandum of understanding with the National Children's Alliance under this paragraph, together with information on which installations, if any, under the jurisdiction of such Secretary have entered into a written agreement with a local children's advocacy center with respect to serious harm to children on such installations."

**REPORTING ON ALLEGATIONS OF CHILD ABUSE IN MILITARY FAMILIES AND HOMES**

Pub. L. 114–328, div. A, title V, §575(a), Dec. 23, 2016, 130 Stat. 2142, provided that:

"(a) REPORTS TO FAMILY ADVOCACY PROGRAM OFFICES.—

"(1) IN GENERAL.—The following information shall be reported immediately to the Family Advocacy Program office at the military installation to which the member of the Armed Forces concerned is assigned:

"(A) Credible information (which may include a reasonable belief), obtained by any individual within the chain of command of the member, that a child in the family or home of the member has suffered an incident of child abuse.

"(B) Information, learned by a member of the Armed Forces engaged in a profession or activity described in section 226(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13031(b)) [now 34

U.S.C. 20341(b)] for members of the Armed Forces and their dependents, that gives reason to suspect that a child in the family or home of the member has suffered an incident of child abuse.

"(2) REGULATIONS.—The Secretary of Defense and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall jointly prescribe regulations to carry out this subsection.

"(3) CHILD ABUSE DEFINED.—In this subsection, the term 'child abuse' has the meaning given that term in section 226(c) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13031(c)) [now 34 U.S.C. 20341(c)]."

**PLAN FOR IMPLEMENTATION OF ACCREDITATION REQUIREMENT**

Pub. L. 104–106, div. A, title V, §568(c), Feb. 10, 1996, 110 Stat. 335, directed Secretary of Defense to submit to Congress, not later than Apr. 1, 1997, a plan for carrying out the requirements of this section.

## §1788. Additional family assistance

(a) AUTHORITY.—The Secretary of Defense may provide for the families of members of the armed forces serving on active duty, in addition to any other assistance available for such families, any assistance that the Secretary considers appropriate to ensure that the children of such members obtain needed child care, education, and other youth services.

(b) PRIMARY PURPOSE OF ASSISTANCE.—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the armed forces who are deployed, assigned to duty, or ordered to active duty in connection with a contingency operation.

(Added Pub. L. 107–314, div. A, title VI, §652(a)(1), Dec. 2, 2002, 116 Stat. 2581; amended Pub. L. 111–383, div. A, title X, §1075(b)(25), Jan. 7, 2011, 124 Stat. 4370.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (b). Pub. L. 111–383 substituted "armed forces" for "Armed Forces".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 107–314, div. A, title VI, §652(b), Dec. 2, 2002, 116 Stat. 2581, provided that: "Section 1788 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002."

**PILOT PROGRAM FOR MILITARY FAMILIES: PREVENTION OF CHILD ABUSE AND TRAINING ON SAFE CHILDCARE PRACTICES**

Pub. L. 115–232, div. A, title V, §578, Aug. 13, 2018, 132 Stat. 1783, provided that:

"(a) PILOT PROGRAM.—

"(1) PURPOSE.—In order to reduce child abuse and fatalities due to abuse or neglect in covered households, the Secretary of Defense, acting through the Defense Health Agency, shall carry out a pilot program to—

"(A) provide information regarding safe childcare practices to covered households;

"(B) identify and assess risk factors for child abuse in covered households; and

"(C) facilitate connections between covered households and community resources.

"(2) PROHIBITION ON DELEGATION.—The Secretary may not carry out the pilot program through the Family Advocacy Program.

"(3) LOCATIONS.—The Secretary shall carry out the pilot program at no fewer than five military installations that reflect a range of characteristics including the following:

"(A) Urban location.

"(B) Rural location.

"(C) Large population.

"(D) Small population.

"(E) High incidence of child abuse, neglect, or both.
"(F) Low incidence of child abuse, neglect, or both.
"(G) Presence of a hospital or clinic.
"(H) Lack of a hospital or clinic.
"(I) Joint installation.
"(J) Serving only one Armed Force.
"(4) TERM.—The pilot program shall terminate two years after implementation.
"(5) DESIGN.—The Secretary shall design the pilot program in consultation with military family groups to respond to the needs of covered households.
"(6) ELEMENTS.—The pilot program shall include the following elements:
"(A) Postnatal services, including screening to identify family needs and potential risk factors, and make referrals to appropriate community services with the use of the electronic data described in subparagraphs (F) and (G).
"(B) The Secretary shall identify at least three approaches to screening, identification, and referral under subparagraph (A) that empirically improve outcomes for parents and infants.
"(C) Services and resources designed for a covered household by the Secretary after considering the information gained from the screening and identification under subparagraph (A). Such services and resources may include or address the following:
"(i) General maternal and infant health exam.
"(ii) Safe sleeping environments.
"(iii) Feeding and bathing.
"(iv) Adequate child supervision.
"(v) Common hazards.
"(vi) Self-care.
"(vii) Postpartum depression, substance abuse, or domestic violence.
"(viii) Community violence.
"(ix) Skills for management of infant crying.
"(x) Other positive parenting skills and practices.
"(xi) The importance of participating in ongoing healthcare for an infant and for treating postpartum depression.
"(xii) Finding, qualifying for, and participating in available community resources with respect to infant care, childcare, parenting support, and home visits.
"(xiii) Planning for parenting or guardianship of children during deployment and reintegration.
"(xiv) Such other matters as the Secretary, in consultation with military families, considers appropriate.
"(D) Home visits to provide support, screening and referral services shall be offered as needed. The number of visits offered shall be guided by parental interest and family need, but in general is expected to be no more than three.
"(E) If a parent is deployed at the time of birth—
"(i) the first in-home visit under subparagraph (D) shall, to the extent practicable, incorporate both parents, in person with the local parent and by electronic means with the deployed parent; and
"(ii) another such home visit shall be offered upon the return of the parent from deployment, and shall include both parents, if determined in the best interest of the family.
"(F) An electronic directory of community resources available to covered households and pilot program personnel to help covered households access such resources.
"(G) An electronic integrated data system to—
"(i) help pilot program personnel refer eligible covered beneficiaries to services and resources under the pilot program;
"(ii) track usage of such services and resources and interactions between such personnel and covered households; and
"(iii) evaluate the implementation, outcomes, and effectiveness of the pilot program.
"(b) VOLUNTARY PARTICIPATION.—Participation in the pilot program shall be at the election of a covered beneficiary in an eligible household.
"(c) OUTREACH.—
"(1) IN GENERAL.—Not later than 30 days after implementing the pilot program, the Secretary shall notify each covered household of the services provided under subsection (b).
"(2) COVERED HOUSEHOLDS WITH NEWBORNS.—No later than 30 days after a birth in a

covered household, the Secretary shall contact such covered household to encourage participation in the pilot program.

"(d) ASSESSMENTS.—

"(1) NUMBER.—The Secretary shall carry out no fewer than five assessments of the pilot program.

"(2) COMPARISON INSTALLATIONS.—For purposes of this subsection, the Secretary shall also select such number of other military installations the Secretary determines appropriate as comparison installations for purposes of assessing the outcomes of the pilot.

"(3) ASSESSMENT.—The Secretary shall assess each of the following:

"(A) Success in contacting covered households for participation in the pilot.

"(B) The percentage of covered households that elect to participate in the pilot program.

"(C) The extent to which covered households participating in the pilot program are connected to services and resources under the pilot program.

"(D) The extent to which covered households participating in the pilot program use services and resources under the pilot program.

"(E) Compliance of pilot program personnel with pilot program protocols.

"(e) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the pilot program under this section. The report shall include a comprehensive description of the assessments under subsection (d), as well as the following:

"(A) Which installations the Secretary selected for the pilot program under subsection (a)(2).

"(B) Why the Secretary selected the installations described in subparagraph (A).

"(C) Names of the installations the Secretary selected as comparison installations under subsection (d)(2).

"(D) How the pilot program is carried out, including strategy and metrics for evaluating effectiveness of the pilot program.

"(2) FINAL REPORT.—Not later than 180 days after the termination of the pilot program, the Secretary shall submit to the committees specified in paragraph (1) a final report on the pilot program. The report shall include the following:

"(A) A comprehensive description of, and findings of, the assessments under subsection (d).

"(B) A comprehensive description and assessment of the pilot.

"(C) Such recommendations for legislative or administrative action the Secretary determines appropriate, including whether to—

"(i) extend the term of the pilot program;

"(ii) expand the pilot program to additional installations; or

"(iii) make the pilot program permanent.

"(f) DEPARTMENTAL IMPLEMENTATION.—If the Secretary determines that any element of the pilot program is effective, the Secretary shall implement such element permanently for the Department of Defense.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered household' means a household that—

"(A) contains an eligible covered beneficiary; and

"(B) is located at a location selected by the Secretary for the pilot program.

"(2) The term 'eligible covered beneficiary' means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who obtains prenatal or obstetrical care in a military medical treatment facility in connection with a birth covered by the pilot program.

"(3) With respect to a military installation, the term 'community' means the catchment area for community services of the installation, including services provided on the installation by the Secretary and services provided by State, county, and local jurisdictions in which the installation is located, or in the vicinity of the installation."

## FAMILY SUPPORT PROGRAMS FOR IMMEDIATE FAMILY MEMBERS OF MEMBERS OF THE ARMED FORCES ASSIGNED TO SPECIAL OPERATIONS FORCES

Pub. L. 113–66, div. A, title V, §554, Dec. 26, 2013, 127 Stat. 765, as amended by Pub. L. 114–92, div. A, title V, §574, Nov. 25, 2015, 129 Stat. 831; Pub. L. 115–91, div. A, title X, §1081(e), Dec. 12, 2017, 131 Stat. 1601, related to pilot programs for family members of members of the Armed Forces assigned to special operations forces, prior to repeal by Pub. L. 115–91, div. A, title V, §555(f), Dec. 12, 2017, 131 Stat. 1403. See section 1788a of this title.

[Pub. L. 115–91, div. A, title X, §1081(e), Dec. 12, 2017, 131 Stat. 1601, provided that the amendment

made by section 1081(e) (amending section 574 of Pub. L. 114–92, which amended section 554 of Pub. L. 113–66, formerly set out above) is effective Nov. 25, 2015, and as if included in Pub. L. 114–92 as enacted.]

## PILOT PROGRAM ON PARENT EDUCATION TO PROMOTE EARLY CHILDHOOD EDUCATION FOR DEPENDENT CHILDREN AFFECTED BY MILITARY DEPLOYMENT OR RELOCATION OF MILITARY UNITS

Pub. L. 109–364, div. A, title V, §575, Oct. 17, 2006, 120 Stat. 2227, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—Using such funds as may be appropriated for this purpose, the Secretary of Defense may carry out a pilot program on the provision of educational and support tools to the parents of preschool-age children—

"(1) whose parent or parents serve as members of the Armed Forces on active duty (including members of the Selected Reserve on active duty pursuant to a call or order to active duty of 180 days or more); and

"(2) who are affected by the deployment of their parent or parents or the relocation of the military unit of which their parent or parents are a member.

"(b) PURPOSE.—The purpose of the pilot program is to develop models for improving the capability of military child and youth programs on or near military installations to provide assistance to military parents with young children through a program of activities focusing on the unique needs of children described in subsection (a).

"(c) LIMITS ON COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary of Defense may not commence the pilot program before October 1, 2007, and shall conclude the pilot program not later than the end of the three-year period beginning on the date on which the Secretary commences the program.

"(d) SCOPE OF PROGRAM.—Under the pilot program, the Secretary of Defense shall utilize one or more models, demonstrated through research, of universal access of parents of children described in subsection (a) to assistance under the pilot program to achieve the following goals:

"(1) The identification and mitigation of specific risk factors for such children related to military life.

"(2) The maximization of the educational readiness of such children.

"(e) LOCATIONS AND GOALS.—

"(1) SELECTION OF PARTICIPATING INSTALLATIONS.—In selecting military installations to participate in the pilot program, the Secretary of Defense shall limit selection to those military installations whose military personnel are experiencing significant transition or deployment or which are undergoing transition as a result of the relocation or activation of military units or activities relating to defense base closure and realignment.

"(2) SELECTION OF CERTAIN INSTALLATIONS.—At least one of the installations selected under paragraph (1) shall be a military installation that will permit, under the pilot program, the meaningful evaluation of a model under subsection (d) that provides outreach to parents in families with a parent who is a member of the National Guard or Reserve, which families live more than 40 miles from the installation.

"(3) GOALS OF PARTICIPATING INSTALLATIONS.—If a military installation is selected under paragraph (1), the Secretary shall require appropriate personnel at the military installation to develop goals, and specific outcome measures with respect to such goals, for the conduct of the pilot program at the installation.

"(4) EVALUATION REQUIRED.—Upon completion of the pilot program at a military installation, the personnel referred to in paragraph (3) at the installation shall be required to conduct an evaluation and assessment of the success of the pilot program at the installation in meeting the goals developed for that installation.

"(f) GUIDELINES.—As part of conducting the pilot program, the Secretary of Defense shall issue guidelines regarding—

"(1) the goals to be developed under subsection (e)(3);

"(2) specific outcome measures; and

"(3) the selection of curriculum and the conduct of developmental screening under the pilot program.

"(g) REPORT.—Upon completion of the pilot program, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on all of the evaluations prepared under subsection (e)(4) for the military installations participating in the pilot program. The report shall describe the results of the evaluations, and may include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the evaluations, including recommendations for the continuation of the pilot program."

## §1788a. Support programs: special operations forces personnel; immediate family members

(a) PROGRAMS AUTHORIZED.—Consistent with such regulations as the Secretary of Defense may prescribe to carry out this section, the Commander of the United States Special Operations Command may conduct programs to provide family support services. In selecting and conducting any program under this subsection, the Commander shall coordinate with the Under Secretary of Defense for Personnel and Readiness.

(b) SELECTION OF PROGRAMS.—In selecting the programs to be conducted under subsection (a), the Commander shall—

(1) identify family support services that have a direct and concrete impact on the readiness of special operations forces, but that are not being provided by the Secretary of a military department to covered individuals; and

(2) conduct a cost-benefit analysis of each family support service proposed to be included in a program.

(c) ADDITIONAL AUTHORITY.—The Commander may expend up to $10,000,000 during each fiscal year, from funds available for Major Force Program 11, to carry out family support programs under this section.

[(d) Repealed. Pub. L. 116–92, div. A, title XVII, §1702(c)(1), Dec. 20, 2019, 133 Stat. 1796.]

(e) DEFINITIONS.—In this section:

(1) The term "Commander" means the Commander of the United States Special Operations Command.

(2) The term "immediate family members" has the meaning given that term in section 1789(c) of this title.

(3) The term "special operations forces" means those forces of the armed forces identified as special operations forces under section 167(j) of this title.

(4) The term "family support services" includes psychological support, spiritual support, and costs of transportation, food, lodging, child care, supplies, fees, and training materials for covered individuals while participating in programs under subsection (a).

(5) The term "covered individuals" means—

(A) members of the Armed Forces (including the reserve components) assigned to special operations forces;

(B) service personnel assigned to support special operations forces;

(C) immediate family members of individuals described in subparagraphs (A) and (B); and

(D) immediate family members of individuals described in subparagraphs (A) or (B) in a case in which such individual died—

(i) as a direct result of armed conflict;

(ii) while engaged in hazardous service;

(iii) in the performance of duty under conditions simulating war; or

(iv) through an instrumentality of war.

(Added and amended Pub. L. 115–91, div. A, title V, §555(a)–(d), Dec. 12, 2017, 131 Stat. 1402, 1403; Pub. L. 115–232, div. A, title V, §572, Aug. 13, 2018, 132 Stat. 1778; Pub. L. 116–92, div. A, title XVII, §§1702(c)(1), 1731(a)(28), Dec. 20, 2019, 133 Stat. 1796, 1813; Pub. L. 116–283, div. A, title V, §583(a), Jan. 1, 2021, 134 Stat. 3653; Pub. L. 117–81, div. A, title V, §561, title X, §1081(a)(24), Dec. 27, 2021, 135 Stat. 1746, 1920.)

### EDITORIAL NOTES

### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of subsecs. (a), (b), (d), and (e) of section 554 of Pub. L. 113–66, div. A, title V, Dec. 26, 2013, 127 Stat. 765, which was formerly set out as a note under section 1788 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1081(e), Dec. 12, 2017, 131 Stat. 1601.

## AMENDMENTS

**2021**—Pub. L. 116–283, §583(a)(1), substituted "Support programs: special operations forces personnel; immediate family members" for "Family support programs: immediate family members of members of special operations forces" in section catchline.

Subsec. (a). Pub. L. 116–283, §583(a)(2), struck out "for the immediate family members of members of the armed forces assigned to special operations forces" after "family support services".

Subsec. (b)(1). Pub. L. 116–283, §583(a)(3), substituted "covered individuals" for "the immediate family members of members of the armed forces assigned to special operations forces".

Subsec. (d)(2)(A). Pub. L. 116–283, §583(a)(4)(A), substituted "covered individuals" for "family members of members of the armed forces assigned to special operations forces".

Subsec. (d)(2)(B). Pub. L. 116–283, §583(a)(4)(B), substituted "covered individuals" for "family members of members of the armed forces assigned to special operations forces".

Subsec. (e)(3). Pub. L. 117–81, §1081(a)(24)(A), substituted "section 167(j)" for "section 167(i)".

Subsec. (e)(4). Pub. L. 117–81, §1081(a)(24)(B), substituted "covered individuals" for "covered personnel".

Pub. L. 117–81, §561(1), which directed substitution of "covered individuals" for "covered personnel", could not be executed because of the prior amendment by Pub. L. 117–81, §1081(a)(24)(B). See note above and Coordination of Amendments by Pub. L. 117–81 note below.

Pub. L. 116–283, §583(a)(5)(A), (B), inserted "psychological support, spiritual support, and" before "costs" and substituted "covered personnel" for "immediate family members of members of the armed forces assigned to special operations forces".

Subsec. (e)(5). Pub. L. 117–81, §1081(a)(24)(C), substituted " 'covered individuals' " for " 'covered personnel' ".

Pub. L. 117–81, §561(2)(A), which directed substitution of "covered individuals" for "covered personnel", could not be executed because of the prior amendment by Pub. L. 117–81, §1081(a)(24)(C). See note above and Coordination of Amendments by Pub. L. 117–81 note below.

Pub. L. 116–283, §583(a)(5)(C), which directed amendment of subsec. (e)(4) "by adding at the end" par. (5), was executed by adding par. (5) after par. (4), to reflect the probable intent of Congress.

Subsec. (e)(5)(D). Pub. L. 117–81, §561(2)(B)–(D), added subpar. (D).

**2019**—Subsec. (d). Pub. L. 116–92, §1702(c)(1), struck out subsec. (d) which required an annual report regarding the family support programs.

Subsec. (d)(1). Pub. L. 116–92, §1731(a)(28), substituted "Not later than March 1 each year" for "Not later than March 1, 2019, and each March 1 thereafter".

**2018**—Subsecs. (a), (b)(1). Pub. L. 115–232, §572(1), substituted "services" for "activities".

Subsec. (b)(2). Pub. L. 115–232, §572(2), substituted "service" for "activity".

Subsec. (c). Pub. L. 115–232, §572(3), substituted "$10,000,000" for "$5,000,000".

Subsec. (e)(4). Pub. L. 115–232, §572(4), added par. (4).

**2017**—Subsec. (a). Pub. L. 115–91, §555(d)(3), struck out "Pilot" before "Programs" in heading and substituted "programs to provide" for "up to three pilot programs to assess the feasibility and benefits of providing" in text.

Pub. L. 115–91, §555(d)(1), (2), substituted "armed forces" for "Armed Forces" and struck out "pilot" before "program".

Subsec. (b)(1). Pub. L. 115–91, §555(d)(1), substituted "armed forces" for "Armed Forces".

Subsec. (b)(2). Pub. L. 115–91, §555(d)(2), struck out "pilot" before "program".

Subsec. (c). Pub. L. 115–91, §555(b)(1), (c), redesignated subsec. (d) as (c) and substituted ", from funds available for Major Force Program 11, to carry out family support programs under this section." for "specified in subsection (f) to carry out the pilot programs under subsection (a)."

Subsec. (d). Pub. L. 115–91, §555(b)(2), added subsec. (d). Former subsec. (d) redesignated (c).

Subsec. (e)(2). Pub. L. 115–91, §555(d)(4)(A), substituted "this title" for "title 10, United States Code".

Subsec. (e)(3). Pub. L. 115–91, §555(d)(4)(B), substituted "this title" for "such title".

Pub. L. 115–91, §555(d)(1), substituted "armed forces" for "Armed Forces".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title XVII, §1702(c)(2), Dec. 20, 2019, 133 Stat. 1796, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on December 30, 2021."

**COORDINATION OF AMENDMENTS BY PUB. L. 117–81**

Amendment by section 1081 of Pub. L. 117–81 to be treated as having been enacted immediately before amendments by other provisions of Pub. L. 117–81, see section 1081(d) of Pub. L. 117–81, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

## §1789. Chaplain-led programs: authorized support

(a) AUTHORITY.—The Secretary of a military department may provide support services described in subsection (b) to support a chaplain-led program to assist a covered individual in building and maintaining a strong family structure, or to support the resiliency, suicide prevention, or holistic wellness of such covered individual.

(b) AUTHORIZED SUPPORT SERVICES.—The support services referred to in subsection (a) are costs of transportation, food, lodging, child care, supplies, fees, and training materials for a covered individual while participating in a program referred to in that subsection, including participation at a retreat or conference.

(c) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means—

(1) a member of the armed forces on active duty;

(2) a member of the reserve components in an active status; or

(3) a dependent of an individual described in paragraph (1) or (2).

(Added Pub. L. 108–136, div. A, title V, §582(a)(1), Nov. 24, 2003, 117 Stat. 1489; amended Pub. L. 117–263, div. A, title V, §571(a), Dec. 23, 2022, 136 Stat. 2600; Pub. L. 118–31, div. A, title XVIII, §1801(a)(17), Dec. 22, 2023, 137 Stat. 684.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (c)(3). Pub. L. 118–31 substituted "paragraph (1) or (2)" for "subparagraph (A) or (B)".

**2022**—Subsec. (a). Pub. L. 117–263, §571(a)(1), substituted "a chaplain-led program to assist a covered individual" for "chaplain-led programs to assist members of the armed forces on active duty and their immediate family members, and members of reserve components in an active status and their immediate family members," and inserted ", or to support the resiliency, suicide prevention, or holistic wellness of such covered individual" after "structure".

Subsec. (b). Pub. L. 117–263, §571(a)(2), substituted "a covered individual" for "members of the armed forces and their family members", "a program" for "programs", and "a retreat or conference" for "retreats and conferences".

Subsec. (c). Pub. L. 117–263, §571(a)(3), added subsec. (c) and struck out former subsec. (c) which defined "immediate family members".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 108–136, div. A, title V, §582(b), Nov. 24, 2003, 117 Stat. 1490, provided that: "Section 1789 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003."

## §1790. Military personnel citizenship processing

Using funds provided for operation and maintenance and notwithstanding section 2215 of this title, the Secretary of Defense may reimburse the Secretary of Homeland Security for costs associated with the processing and adjudication by the United States Citizenship and Immigration Services (USCIS) of applications for naturalization described in sections 328(b)(4) and 329(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(4) and 1440(b)(4)). Such reimbursements

shall be deposited and remain available as provided by subsections (m) and (n) of section 286 of such Act (8 U.S.C. 1356). Such reimbursements shall be based on actual costs incurred by USCIS for processing applications for naturalization, and shall not exceed $7,500,000 per fiscal year.

(Added Pub. L. 112–74, div. A, title VIII, §8070(a), Dec. 23, 2011, 125 Stat. 822; amended Pub. L. 112–239, div. A, title X, §1076(f)(22), Jan. 2, 2013, 126 Stat. 1953.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Pub. L. 112–239, in section catchline, substituted "Military personnel citizenship processing" for "MILITARY PERSONNEL CITIZENSHIP PROCESSING", and in text, struck out "AUTHORIZATION OF PAYMENTS.—" before "Using funds" and substituted "this title" for "title 10, United States Code", "8 U.S.C. 1439(b)(4)" for "8 U.S.C. §§1439(b)(4)", and "subsections (m) and (n) of section 286 of such Act (8 U.S.C. 1356)" for "sections 286(m) and (n) of such Act (8 U.S.C. §1356(m))".

## SUBCHAPTER II—MILITARY CHILD CARE

Sec.
1791. Funding for military child care.
1792. Child care employees.
1793. Parent fees.
1794. Child abuse prevention and safety at facilities.
1795. Parent partnerships with child development centers.
1796. Subsidies for family home day care.
1797. Early childhood education program.
1798. Child care services and youth program services for dependents: financial assistance for providers.
1799. Child care services and youth program services for dependents: participation by children and youth otherwise ineligible.
1800. Definitions.

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Pub. L. 106–65, div. A, title V, §584(a)(2), Oct. 5, 1999, 113 Stat. 636, added items 1798, 1799, and 1800 and struck out former item 1798 "Definitions".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### OUTREACH CAMPAIGN RELATING TO WAITING LISTS FOR MILITARY CHILD DEVELOPMENT CENTERS; ANNUAL BRIEFING

Pub. L. 118–31, div. A, title V, §585, Dec. 22, 2023, 137 Stat. 281, as amended by Pub. L. 118–159, div. A, title V, §§585, 586, Dec. 23, 2024, 138 Stat. 1912, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a campaign to conduct outreach, not less than once every six months, to inform individuals eligible for child care services under chapter 88 of title 10, United States Code, including child care employees—

"(1) how to—

"(A) join a waiting list for child care services at a military child development center; and

"(B) check the position of such an individual on such waiting list; and

"(2) of—

"(A) what factors affect positions on such waiting list;

"(B) the process to prioritize such individuals to receive child care services at a military child development center;

"(C) the fee schedule for child care services at a military child development center; and

"(D) options for child care services available to such individuals other than military child development centers, including a provider eligible for financial assistance under section 1798 of title 10, United States Code, or pilot programs at the duty station of such member, if applicable.

"(b) ANNUAL BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], and on an annual basis thereafter for five years, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the Committees on Armed Services of the House of Representatives and the Senate a briefing that includes, for each military department—

"(1) with regards to the 20 military installations with the longest waiting lists for child care services at military child development centers—

"(A) the number of children on each waiting list;

"(B) the available total capacity for child care services at each such military child development center, disaggregated by infants, pre-toddlers, toddlers, and pre-school children;

"(C) an accounting of the total unduplicated and unmet need for child care within each metropolitan region represented by a military installation described in subparagraph (A); and

"(D) the determination of the Secretary of Defense whether insufficient staffing or issues relating to maintenance contribute to the length of such waiting lists; and

"(2) an accounting of the efforts of the Secretary of Defense to mitigate child care shortages in order to shorten waiting lists and address unmet needs for child care across the Department of Defense.

"(c) DEFINITIONS.—In this section, the terms 'child care employee' and 'military child development center' have the meanings given such terms in section 1800 of title 10, United States Code."

## §1791. Funding for military child care

(a) POLICY.—It is the policy of Congress that the amount of appropriated funds available during a fiscal year for operating expenses for military child development centers and programs shall be not less than 115 percent of the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.

(b) RESPONSIBILITY FOR ALLOCATIONS OF CERTAIN FUNDS.—The Secretary of Defense shall be responsible for the allocation of Office of the Secretary of Defense level funds for military child development programs for children from birth through 12 years of age, and may not delegate such responsibility to the military departments.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 332; amended Pub. L. 116–283, div. A, title V, §584, Jan. 1, 2021, 134 Stat. 3654; Pub. L. 118–31, div. A, title V, §582, Dec. 22, 2023, 137 Stat. 280.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in Pub. L. 101–189, div. A, title XV, Nov. 29, 1989, 103 Stat. 1589, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 104–106, §568(e)(2).

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 inserted "115 percent of" after "not less than".

**2021**—Pub. L. 116–283 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHILD CARE SERVICES AND YOUTH PROGRAM SERVICES FOR DEPENDENTS: PERIOD OF SERVICES FOR A MEMBER WITH A SPOUSE SEEKING EMPLOYMENT

Pub. L. 118–159, div. A, title V, §589, Dec. 23, 2024, 138 Stat. 1914, provided that:

"(a) PERIOD.—The Secretary of a military department may provide a covered member with covered services for a period of at least 180 days.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) entitle a covered member to covered services; or

"(2) give priority to a covered member for purposes of a determination regarding who shall receive covered services.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered member' means a member of the Armed Forces—

"(A) who has a dependent child; and

"(B) whose spouse is seeking employment.

"(2) The term 'covered services' means child care services or youth program services provided or paid for by the Secretary of Defense under subchapter II of chapter 88 of title 10, United States Code."

## PUBLIC REPORTING ON CERTAIN MILITARY CHILD CARE PROGRAMS

Pub. L. 117–263, div. A, title V, §579C, Dec. 23, 2022, 136 Stat. 2608, provided that: "Not later than September 30, 2023, and each calendar quarter thereafter, the Secretary of Defense shall post, on a publicly accessible website of the Department of Defense, information regarding the Military Child Care in Your Neighborhood and Military Child Care in Your Neighborhood-Plus programs, disaggregated by State, ZIP code, and Armed Force. Such information shall include whether each such provider is nationally accredited or rated by the Quality Rating and Improvement System of the State."

## AUTHORITY FOR DEPARTMENT OF DEFENSE PROGRAM TO PROMOTE EARLY LITERACY AMONG CERTAIN YOUNG CHILDREN

Pub. L. 117–263, div. A, title VII, §722, Dec. 23, 2022, 136 Stat. 2663, provided that:

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to promote early literacy among young children in child development centers and libraries located on installations of the Department of Defense.

"(b) ACTIVITIES.—Activities under the program under subsection (a) shall include the following:

"(1) The provision of training on early literacy promotion to appropriate personnel of the Department.

"(2) The purchase and distribution of age-appropriate books to covered caregivers assigned to or serving at an installation of the Department with a child development center or library at which the Secretary is carrying out the program.

"(3) The dissemination to covered caregivers of education materials on early literacy.

"(4) Such other activities as the Secretary determines appropriate.

"(c) LOCATIONS.—In carrying out the program under subsection (a), the Secretary may conduct the activities under subsection (b) at any child development center or library located on an installation of the Department.

"(d) BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the extent to which the authority under subsection (a) is used, including—

"(1) a description of any activities carried out under the program so authorized; and

"(2) an evaluation of the potential expansion of such program to be included as a part of the pediatric primary care of young children and to be carried out in military medical treatment facilities.

"(b) [sic] DEFINITIONS.—In this section:

"(1) The term 'covered caregiver' means a member of the Armed Forces who is a caregiver of a young child.

"(2) The term 'young child' means any child from birth to the age of five years old, inclusive."

## IMPROVEMENT OF DEPARTMENT OF DEFENSE CHILD DEVELOPMENT CENTERS AND INCREASED AVAILABILITY OF CHILD CARE FOR CHILDREN OF MILITARY PERSONNEL

Pub. L. 117–81, div. B, title XXVIII, §2816, Dec. 27, 2021, 135 Stat. 2194, provided that:

"(a) SAFETY INSPECTION OF CHILD DEVELOPMENT CENTERS.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall complete an inspection of all facilities under the jurisdiction of that Secretary used as a child development center to identify any unresolved safety issues, including lead, asbestos, and mold, that adversely impact the facilities.

"(b) BRIEFING ON RESULTS OF SAFETY INSPECTIONS AND REMEDIATION PLANS.—

"(1) BRIEFING REQUIRED.—Not later than March 1, 2022, each Secretary of a military department shall brief the Committees on Armed Services of the Senate and the House of Representatives regarding the results of the safety inspections conducted of child development centers under the jurisdiction of that Secretary.

"(2) REQUIRED ELEMENTS OF BRIEFING.—In the briefing required by paragraph (1), the

Secretary of a military department shall provide the following:

"(A) A list of any child development centers under the jurisdiction of that Secretary considered to be in poor or failing condition. In the case of each child development center included on this list, the Secretary shall provide a remediation plan for the child development center, which shall include the following elements:

"(i) An estimate of the funding required to complete the remediation plan.

"(ii) The Secretary's funding strategy to complete the remediation plan.

"(iii) Any additional statutory authorities the Secretary needs to complete the remediation plan

"(B) A list of life-threatening and non-life-threatening violations during the previous three years recorded at child development centers under the jurisdiction of that Secretary that are not included on the list required by subparagraph (A), which shall include the name of the installation where the violation occurred and date of inspection.

"(C) A list of what that Secretary considers a life-threatening and non-life-threatening violation, including with regard to the presence of lead, asbestos, and mold.

"(D) A list of how often the 90-day remediation requirement has been waived and the name of each child development center under the jurisdiction of that Secretary at which a waiver was granted.

"(E) Data on child development center closures under the jurisdiction of that Secretary due to a non-life-threatening violation not remedied within 90 days.

"(F) An additional plan to conduct preventive maintenance on other child development centers under the jurisdiction of that Secretary to prevent additional child development centers from degrading to poor or failing condition.

"(c) PARTNERSHIPS ENCOURAGED FOR CHILD CARE FOR CHILDREN OF MILITARY PERSONNEL.—Beginning one year after the date of the enactment of this Act, and pursuant to such regulations as the Secretary of Defense may prescribe, each Secretary of a military department is encouraged to enter into agreements with public and private entities to provide child care to the children of personnel (including members of the Armed Forces and civilian employees of the Department of Defense) under the jurisdiction of that Secretary.

"(d) ANNUAL STATUS UPDATES.—Not later than 18 months after the date of the enactment of this Act, and every 12 months thereafter, each Secretary of a military department shall brief the Committees on Armed Services of the Senate and the House of Representatives on the progress made by that Secretary—

"(1) in implementing the child development center remediation plans required by subsection (b)(2)(A) for child development centers under the jurisdiction of that Secretary considered to be in 'poor' or 'failing' condition, including details about projects planned, funded, under construction, and completed under the plans;

"(2) in conducting preventive maintenance on other child development centers under the jurisdiction of that Secretary pursuant to the preventive maintenance plan required by subsection (b)(2)(F); and

"(3) in entering into partnerships encouraged by subsection (c), including with regard to each partnership—

"(A) the terms of the agreement, including cost to the United States;

"(B) the number of children described in such subparagraph projected to receive child care under the partnership; and

"(C) if applicable, the actual number of such children who received child care under the partnership during the previous year.

"(e) CHILD DEVELOPMENT CENTER DEFINED.—In this section, the term 'child development center' has the meaning given that term in section 2871(2) of title 10, United States Code, and includes facilities identified as a child care center or day care center."

## 24-HOUR CHILD CARE

Pub. L. 116–283, div. A, title V, §588, Jan. 1, 2021, 134 Stat. 3656, provided that:

"(a) 24-HOUR CHILD CARE.—If the Secretary of Defense determines it feasible, pursuant to the study conducted pursuant to subsection (b), the Secretary shall furnish child care to each child of a member of the Armed Forces or civilian employee of the Department of Defense while that member or employee works on rotating shifts at a military installation.

"(b) FEASIBILITY STUDY; REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of a study, conducted by the Secretary for purposes of this section, on the feasibility of furnishing child care described in subsection (a).

"(c) ELEMENTS.—The report required by subsection (b) shall include the following:

"(1) The results of the study described in that subsection.

"(2) If the Secretary determines that furnishing child care available as described in subsection (a) is feasible, such matters as the Secretary determines appropriate in connection with furnishing such child care, including—

"(A) an identification of the installations at which such child care would be beneficial to members of the Armed Forces, civilian employees of the Department, or both;

"(B) an identification of any barriers to making such child care available at the installations identified pursuant to subparagraph (A);

"(C) an assessment whether the child care needs of members of the Armed Forces and civilian employees of the Department described in subsection (a) would be better met by an increase in assistance for child care fees;

"(D) a description and assessment of the actions, if any, being taken to furnish such child care at the installations identified pursuant to subparagraph (A); and

"(E) such recommendations for legislative or administrative action the Secretary determines appropriate to make such child care available at the installations identified pursuant to subparagraph (A), or at any other military installation."

## PILOT PROGRAM TO PROVIDE FINANCIAL ASSISTANCE TO MEMBERS OF THE ARMED FORCES FOR IN-HOME CHILD CARE

Pub. L. 116–283, div. A, title V, §589, Jan. 1, 2021, 134 Stat. 3657, as amended by Pub. L. 117–81, div. A, title VI, §624, Dec. 27, 2021, 135 Stat. 1772, Pub. L. 119–60, div. A, title V, §586, Dec. 18, 2025, 139 Stat. 893, provided that:

"(a) ESTABLISHMENT.—Not later than March 1, 2021, the Secretary of Defense shall establish a pilot program to provide financial assistance to members of the Armed Forces who pay for services provided by in-home child care providers. In carrying out the pilot program, the Secretary shall take the following steps:

"(1) Determine the needs of military families who request services provided by in-home child care providers.

"(2) Determine the appropriate amount of financial assistance to provide to military families described in paragraph (1).

"(3) Determine the appropriate qualifications for an in-home child care provider for whose services the Secretary shall provide financial assistance to a military family. In carrying out this paragraph, the Secretary shall—

"(A) take into consideration qualifications for in-home child care providers in the private sector; and

"(B) ensure that the qualifications the Secretary determines appropriate under this paragraph are comparable to the qualifications for a provider of child care services in a military child development center or family home day care.

"(4) Establish a marketing and communications plan to inform members of the Armed Forces who live in the locations described in subsection (b) about the pilot program.

"(b) LOCATIONS.—

"(1) The Secretary shall carry out the pilot program in the five locations that the Secretary determines have the greatest demand for child care services for children of members of the Armed Forces.

"(2) The Secretary may carry out the pilot program at other locations the Secretary determines appropriate.

"(c) REPORTS.—

"(1) INTERIM REPORTS.—Not later than one year after the Secretary establishes the pilot program and thrice annually thereafter, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on the pilot program. Each interim report shall include the following elements:

"(A) The number of military families participating in the pilot program, disaggregated by location and duration of participation.

"(B) The amount of financial assistance provided to participating military families in each location.

"(C) Metrics by which the Secretary carries out subsection (a)(3)(B);

"(D) The feasibility of expanding the pilot program.

"(E) Legislation or administrative action that the Secretary determines necessary to make the pilot program permanent.

"(F) Any other information the Secretary determines appropriate.

"(2) FINAL REPORT.—Not later than one year before the termination of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a final report on the pilot program. The final report shall include the following elements:

"(A) The elements specified in paragraph (1).

"(B) The recommendation of the Secretary whether to make the pilot program permanent.

"(d) TERMINATION.—The pilot program shall terminate on December 31, 2029.

"(e) DEFINITIONS.—In this section:

"(1) The term 'in-home child care provider' means an individual who provides child care services in the home of the child.

"(2) The terms 'military child development center' and 'family home day care' have the meanings given those terms in section 1800 of title 10, United States Code."

## REDUCTION IN WAIT LISTS FOR CHILD CARE AT MILITARY INSTALLATIONS

Pub. L. 116–92, div. A, title V, §580(c), Dec. 20, 2019, 133 Stat. 1407, provided that:

"(1) REMEDIAL ACTION.—The Secretary of Defense shall take steps the Secretary determines necessary to reduce the waiting lists for child care at military installations to ensure that members of the Armed Forces have meaningful access to child care during tours of duty.

"(2) REPORT.—Not later than June 1, 2020, the Secretary of Defense shall provide a report to the Committees on Armed Forces of the Senate and the House of Representative regarding—

"(A) action taken under paragraph (1); and

"(B) any additional resources (including additional funding for and child care facilities and workers) the Secretary determines necessary to increase access described in paragraph (1)."

## ENHANCING MILITARY CHILDCARE PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. A, title V, §558, Dec. 12, 2017, 131 Stat. 1405, provided that:

"(a) HOURS OF OPERATION OF MILITARY CHILDCARE DEVELOPMENT CENTERS.—Each Secretary of a military department shall ensure, to the extent practicable, that the hours of operation of each childcare development center under the jurisdiction of the Secretary are established and maintained in manner that takes into account the demands and circumstances of members of the Armed Forces, including members of the reserve components, who use such center in facilitation of the performance of their military duties.

"(b) MATTERS TO BE TAKEN INTO ACCOUNT.—The demands and circumstances to be taken into account under subsection (a) for purposes of setting and maintaining the hours of operation of a childcare development center shall include the following:

"(1) Mission requirements of units whose members use the childcare development center.

"(2) The unpredictability of work schedules, and fluctuations in day-to-day work hours, of such members.

"(3) The potential for frequent and prolonged absences of such members for training, operations, and deployments.

"(4) The location of the childcare development center on the military installation concerned, including the location in connection with duty locations of members and applicable military family housing.

"(5) Such other matters as the Secretary of the military department concerned considers appropriate for purposes of this section.

"(c) CHILDCARE COORDINATORS FOR MILITARY INSTALLATIONS.—Each Secretary of a military department may provide for a childcare coordinator at each military installation under the jurisdiction of the Secretary at which are stationed significant numbers of members of the Armed Forces with accompanying dependent children, as determined by the Secretary. The childcare coordinator may work with the commander of the installation to ensure that childcare is available and responsive to the needs of members assigned to the installation."

## REPORTS ON CHILD DEVELOPMENT CENTERS AND FINANCIAL ASSISTANCE FOR CHILD CARE FOR MEMBERS OF THE ARMED FORCES

Pub. L. 111–383, div. A, title V, §587, Jan. 7, 2011, 124 Stat. 4230, provided that:

"(a) REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act [Jan. 7, 2011], and every two years thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense child development centers and financial assistance for child care provided by the Department of Defense off-installation to members of the Armed Forces.

"(b) ELEMENTS.—Each report required by subsection (a) shall include the following, current as of the date of such report:

"(1) The number of child development centers currently located on military installations.

"(2) The number of dependents of members of the Armed Forces utilizing such child development centers.

"(3) The number of dependents of members of the Armed Forces that are unable to utilize such child development centers due to capacity limitations.

"(4) The types of financial assistance available for child care provided by the Department of Defense off-installation to members of the Armed Forces (including eligible members of the reserve components).

"(5) The extent to which members of the Armed Forces are utilizing such financial assistance for child care off-installation.

"(6) The methods by which the Department of Defense reaches out to eligible military families to increase awareness of the availability of such financial assistance.

"(7) The formulas used to calculate the amount of such financial assistance provided to members of the Armed Forces.

"(8) The funding available for such financial assistance in the Department of Defense and in the military departments.

"(9) The barriers to access, if any, to such financial assistance faced by members of the Armed Forces, including whether standards and criteria of the Department of Defense for child care off-installation may affect access to child care.

"(10) Any other matters the Secretary considers appropriate in connection with such report, including with respect to the enhancement of access to Department of Defense child care development centers and financial assistance for child care off-installation for members of the Armed Forces."

## §1792. Child care employees

(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall prescribe regulations implementing a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee.

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

(2) The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

(c) COMPETITIVE RATES OF PAY.—(1) For the purpose of providing military child development centers with a qualified and stable civilian workforce, employees at a military

installation who are directly involved in providing child care and who are paid from nonappropriated funds—

(A) in the case of entry-level employees, shall be paid a rate of pay competitive with the rates of pay paid to other equivalent non-Federal positions within the metropolitan statistical area or non-metropolitan statistical area (as the case may be) in which such Department employee's position is located; and

(B) in the case of any employee not covered by subparagraph (A), shall be paid a rate of pay competitive with the rates of pay paid to other employees with similar training, seniority, and experience within the metropolitan statistical area or non-metropolitan statistical area (as the case may be) in which such Department employee's position is located.

(2) Notwithstanding paragraph (1), no employee shall receive a rate of pay under this subsection that is lower than the minimum hourly rate of pay applicable to civilian employees of the Department of Defense.

(3) For purposes of determining the rates of pay under paragraph (1), the Secretary shall use the metropolitan and nonmetropolitan area occupational employment and wage estimates published monthly by the Bureau of Labor Statistics.

(d) COMPETITIVE SERVICE POSITION DEFINED.—In this section, the term "competitive service position" means a position in the competitive service, as defined in section 2102(a)(1) of title 5.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 332; amended Pub. L. 105–85, div. A, title X, §1073(a)(34), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 105–261, div. A, title XI, §1106, Oct. 17, 1998, 112 Stat. 2142; Pub. L. 118–159, div. A, title V, §583(a), Dec. 23, 2024, 138 Stat. 1911.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c). Pub. L. 118–159 amended subsec. (c) generally. Prior to amendment, subsec. (c) provided for competitive rates of pay for employees providing child care.

**1998**—Subsecs. (d), (e). Pub. L. 105–261 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows:

"(d) EMPLOYMENT PREFERENCE PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a program under which qualified spouses of members of the armed forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position.

"(2) A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 1784 of this title, in the same geographic area as the military child development center."

**1997**—Subsec. (a)(1). Pub. L. 105–85, §1073(a)(34)(A), struck out comma after "implementing".

Subsec. (d)(2). Pub. L. 105–85, §1073(a)(34)(B), substituted "section 1784" for "section 1794".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title V, §583(b)(1), Dec. 23, 2024, 138 Stat. 1911, provided that: "The amendment made by subsection (a) [amending this section] shall take effect not later than April 1, 2025."

### RATES OF PAY

Pub. L. 118–159, div. A, title V, §583(b)(2), Dec. 23, 2024, 138 Stat. 1911, provided that:

"(A) EMPLOYEE PAY RATE NOT REDUCED.—The rate of pay for any individual who is an employee covered by subsection (c) of section 1792 of title 10, United States Code, as amended by subsection (a) of this section, on the date of the enactment of this Act [Dec. 23, 2024] shall not be reduced by operation of such amendment.

"(B) PAY BAND MINIMUM.—Any employee whose rate of pay is fixed under such subsection (c), as so

amended, and who is within any pay band shall receive a rate of pay not less than the minimum rate of pay applicable to such pay band."

**CHILD DEVELOPMENT PROGRAM STAFFING AND COMPENSATION MODEL**

Pub. L. 118–159, div. A, title V, §589A, Dec. 23, 2024, 138 Stat. 1914, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in collaboration with the Secretaries of the military departments, shall carry out a redesign of the Department of Defense child development program compensation model and modernization of the child development program staffing model.

"(b) REDESIGNED COMPENSATION MODEL.—The Secretary of Defense, in collaboration with the Secretaries of the military departments, shall—

"(1) redesign child development program staff compensation for non-entry level, mid-to-senior level classroom staff by modernizing the duties and responsibilities captured in position descriptions to more accurately reflect performance and expectations of the positions;

"(2) adjust compensation for higher-level program management positions by modernizing the duties and responsibilities captured in position descriptions to more accurately reflect performance and expectations of the positions;

"(3) direct the Department's personnel office to make necessary adjustments to modernize the pay plan to accommodate any compensation and wage increases driven by the updated position descriptions for child development program staff; and

"(4) begin implementation of the revised position descriptions and accompanying compensation adjustments no later than April 1, 2025, subject to the availability of appropriations.

"(c) MODERNIZE CHILD DEVELOPMENT PROGRAM STAFFING MODEL.—The Secretary of Defense, in collaboration with the Secretaries of the military departments, shall—

"(1) add key positions to facilitate classroom operations and provide direct support to child development program staff;

"(2) add key positions to coordinate support for the needs of children with specials needs and provide direct support to the child development program staff working with these children; and

"(3) develop and implement a 5-year phased plan to ensure responsible funding execution, successful implementation allowing for adjustments as necessary, and long-term sustainable impact.

"(d) BRIEFINGS REQUIRED.—

"(1) INITIAL BASELINE BRIEFING.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary, in collaboration with the Secretaries of the military departments, shall provide to the Committees on Armed Services of the Senate and the House of Representatives an initial baseline briefing that describes progress, accomplishments, and the impact of the redesign of the Department of Defense child development program compensation model and the modernization of the child development program staffing model.

"(B) ESTABLISHMENT OF DATA BASELINE.—The briefing required by subparagraph (A) shall be used to establish a data baseline.

"(2) ANNUAL BRIEFINGS.—

"(A) IN GENERAL.—Not later than one year after providing the briefing required by paragraph (1), and annually thereafter for four years, the Secretary, in collaboration with the Secretaries of the military departments, shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the progress made with respect to the redesign of the Department of Defense child development program compensation model and the modernization of the child development program staffing model.

"(B) ELEMENTS.—Each briefing required by subparagraph (A) shall include the following:

"(i) The percentage of child development program staff that are also military spouses.

"(ii) The turnover or retention rate of child development program staff.

"(iii) The utilization rate of child development program child care spaces.

"(iv) The number of child development program employees who were hired during the year preceding the briefing.

"(v) The percentage of such employees who resigned within their first six months of employment.

"(vi) Information on the ability to staff newly constructed facilities.

"(vii) An assessment of the impact of adding key positions to the child development program staffing model under paragraphs (1) and (2) of subsection (c)."

**PILOT PROGRAM ON HIRING OF SPECIAL NEEDS INCLUSION COORDINATORS FOR**

## DEPARTMENT OF DEFENSE CHILD DEVELOPMENT CENTERS

Pub. L. 117–263, div. A, title V, §576, Dec. 23, 2022, 136 Stat. 2605, as amended by Pub. L. 118–31, div. A, title V, §586, Dec. 22, 2023, 137 Stat. 282, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall carry out a pilot program to hire special needs inclusion coordinators at child development centers selected by the Secretary under subsection (b).

"(b) SELECTION OF CENTERS.—The Secretary of Defense shall select the child development centers at which the pilot program required by subsection (a) will be carried out based on—

"(1) the number of dependent children enrolled in the Exceptional Family Member Program at the military installation on which the center in [sic; probably should be "is"] located;

"(2) the number of children with special needs enrolled in the center; and

"(3) such other considerations as the Secretary, in consultation with the Secretaries of the military departments, considers appropriate.

"(c) FUNCTIONS.—Each special needs inclusion coordinator assigned to a child development center under the pilot program required by subsection (a) shall—

"(1) coordinate intervention and inclusion services at the center;

"(2) provide direct classroom support; and

"(3) provide guidance and assistance relating to the increased complexity of working with the behaviors of children with special needs.

"(d) BRIEFINGS REQUIRED.—

"(1) BRIEFING ON ANTICIPATED COSTS.—Not later than March 1, 2023, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the anticipated costs for the pilot program required by subsection (a).

"(2) BRIEFINGS ON IMPLEMENTATION.—Beginning on January 31, 2024, until the termination of the pilot program, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a biannual briefing on the implementation of the pilot program. Each such briefing shall include the following:

"(A) The process for selecting child development centers under subsection (b).

"(B) How a special needs inclusion coordinator hired under the pilot program coordinates with the head of the child development center concerned and the commander of the military installation concerned.

"(C) How many special needs inclusion coordinators have been hired under the pilot program.

"(3) BRIEFING ON EFFECTIVENESS OF PROGRAM.—Not later than September 30, 2025, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the pilot program required by subsection (a) that includes—

"(A) the number of special needs inclusion coordinators hired under the pilot program;

"(B) a description of any issues relating to the retention of those coordinators;

"(C) a recommendation with respect to whether the pilot program should be made permanent or expanded to other military installations; and

"(D) an assessment of the amount of funding required to make the pilot program permanent or expand the pilot program to other military installations, as the Secretary recommends under subparagraph (C).

"(e) DURATION OF PILOT PROGRAM.—The pilot program required by subsection (a) shall—

"(1) commence not later than January 1, 2024; and

"(2) terminate on December 31, 2026.

"(f) CHILD DEVELOPMENT CENTER DEFINED.—In this section, the term 'child development center' has the meaning given that term in section 2871(2) of title 10, United States Code, and includes a facility identified as a child care center or day care center."

## PORTABILITY OF BACKGROUND INVESTIGATIONS FOR CHILD CARE PROVIDERS

Pub. L. 116–92, div. A, title V, §580(f), Dec. 20, 2019, 133 Stat. 1408, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall ensure that the background investigation and training certification for a child care provider employed by the Department of Defense in a facility of the Department may be transferred to another facility of the Department, without regard to which Secretary of a military department has jurisdiction over either such facility."

## PROVISIONAL OR INTERIM CLEARANCES TO PROVIDE CHILDCARE SERVICES AT MILITARY CHILDCARE CENTERS

Pub. L. 115–232, div. A, title V, §576, Aug. 13, 2018, 132 Stat. 1781, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall implement a policy to permit the issuance on a provisional or interim basis of clearances for the provision of childcare services at military childcare centers.

"(b) ELEMENTS.—The policy required by subsection (a) shall provide for the following:

"(1) Any clearance issued under the policy shall be temporary and contingent upon the satisfaction of such requirements for the issuance of a clearance on a permanent basis as the Secretary considers appropriate.

"(2) Any individual issued a clearance on a provisional or interim basis under the policy shall be subject to such supervision in the provision of childcare services using such clearance as the Secretary considers appropriate.

"(c) CLEARANCE DEFINED.—In this section, the term 'clearance', with respect to an individual and the provision of childcare services, means the formal approval of the individual, after appropriate background checks and other review, to provide childcare services to children at a military childcare center of the Department of Defense."

**DIRECT HIRE AUTHORITY FOR DEPARTMENT OF DEFENSE FOR CHILDCARE SERVICES PROVIDERS FOR DEPARTMENT CHILD DEVELOPMENT CENTERS AND EMPLOYEES AT INSTALLATION MILITARY HOUSING OFFICES**

Pub. L. 116–92, div. B, title XXX, §3035(c), Dec. 20, 2019, 133 Stat. 1937, provided that the Secretary of Defense could use the authority in section 559 of Pub. L. 115–91, formerly set out below, in a manner consistent with the regulations prescribed for purposes of such section 559 pursuant to subsec. (b) of such section 559, without the need to prescribe separate regulations for the use of such authority.

Pub. L. 115–91, div. A, title V, §559, Dec. 12, 2017, 131 Stat. 1406, as amended by Pub. L. 116–92, div. A, title V, §580(a), div. B, title XXX, §3035(a), (b), Dec. 20, 2019, 133 Stat. 1407, 1937, authorized the Secretary of Defense to appoint, without regard to any provision of subchapter I of chapter 33 of title 5, United States Code, qualified childcare services providers, and individuals to fill vacancies in installation military housing offices, in the competitive service under certain circumstances and to prescribe regulations, prior to the expiration of such appointment authority on Sept. 30, 2021.

## §1793. Parent fees

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

(b) LOCAL WAIVER AUTHORITY.—The Secretary of Defense may provide authority to installation commanders, on a case-by-case basis, to establish fees for attendance of children at child development centers at rates lower than those prescribed under subsection (a) if the rates prescribed under subsection (a) are not competitive with rates at local non-military child development centers.

(c) FAMILY DISCOUNT.—In the case of a family with two or more children attending a child development center, the regulations prescribed pursuant to subsection (a) may require that installations commanders charge a fee for attendance at the center of any child of the family after the first child of the family in amount equal to 85 percent of the amount of the fee otherwise chargeable for the attendance of such child at the center.

(d) CHILD CARE EMPLOYEE DISCOUNT.—In order to support recruitment and retention initiatives, the Secretary of Defense shall charge reduced fees for the attendance, at a military child development center, of the children of a child care employee as follows:

(1) For the first child, no fee.

(2) For each other child, a fee equal to or less than a fee discounted under subsection (c).

(e) PROHIBITION OF CONCURRENT DISCOUNTS.—A family may not receive discounts under subsections (c) and (d) concurrently.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 333; amended Pub. L. 116–283, div. A, title V, §585(a), Jan. 1, 2021, 134 Stat. 3654; Pub. L. 117–263, div. A, title VI, §642, Dec. 23, 2022, 136 Stat. 2634; Pub. L. 118–159, div. A, title VI, §633, Dec. 23, 2024, 138

Stat. 1937.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsecs. (d), (e). Pub. L. 118–159 added subsecs. (d) and (e) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "The Secretary of Defense may, to support recruitment and retention initiatives, charge a child care employee, whose child attends a military child development center, a reduced fee for such attendance."

**2022**—Subsec. (d). Pub. L. 117–263 added subsec. (d).

**2021**—Subsec. (c). Pub. L. 116–283 added subsec. (c).

## §1794. Child abuse prevention and safety at facilities

(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

(2) The Secretary shall publicize the existence of the number by means including—

(A) posting it in public areas of military child development centers; and

(B) providing it to the parents and legal guardians of children who attend military child development centers.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military

department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

(g) NOTIFICATION OF SUSPECTED CHILD ABUSE.—(1) The Secretary of Defense shall prescribe regulations that require the director of a military child development center to notify a parent or guardian of a child who is the suspected victim of a covered incident not later than 24 hours after a child care employee at such military child development center learns of such covered incident.

(2) The requirement under paragraph (1) shall not apply if notification under such paragraph threatens the integrity of a law enforcement investigation of such covered incident.

(3) In this subsection, the term "covered incident" means alleged or suspected abuse or neglect of a child that occurs at a military child development center.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 333; amended Pub. L. 118–159, div. A, title V, §584, Dec. 23, 2024, 138 Stat. 1912; Pub. L. 119–60, div. A, title V, §581, Dec. 18, 2025, 139 Stat. 888.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (g). Pub. L. 119–60 added subsec. (g).

**2024**—Subsec. (b)(2). Pub. L. 118–159 substituted "number by means including—" for "number." and added subpars. (A) and (B).

## §1795. Parent partnerships with child development centers

(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 334.)

## §1796. Subsidies for family home day care

The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the armed forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 334.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PRIORITY FOR CERTAIN MILITARY FAMILY HOUSING TO A MEMBER OF THE ARMED FORCES WHOSE SPOUSE AGREES TO PROVIDE FAMILY HOME DAY CARE SERVICES**

Pub. L. 116–283, div. A, title VI, §627, Jan. 1, 2021, 134 Stat. 3678, provided that:

"(a) PRIORITY.—If the Secretary of a military department determines that not enough child care employees are employed at a military child development center on a military installation under the jurisdiction of that Secretary to adequately care for the children of members of the Armed Forces stationed at that military installation, the Secretary, to the extent practicable, may give priority for covered military family housing to a member whose spouse is an eligible military spouse.

"(b) NUMBER OF PRIORITY POSITIONS.—A Secretary of a military department may grant priority under subsection (a) only to the minimum number of eligible military spouses that the Secretary determines necessary to provide adequate child care to the children of members stationed at a military installation described in subsection (a).

"(c) LIMITATION.—Nothing in this section may be construed to require the Secretary of a military department to provide covered military family housing that has been adapted for disabled individuals to a member under this section instead of to a member with one more dependents enrolled in the Exceptional Family Member Program.

"(d) RESULT OF FAILURE TO PROVIDE FAMILY HOME DAY CARE SERVICES OR LOSS OF ELIGIBILITY.—The Secretary of the military department concerned may remove a household provided covered military family housing under this section therefrom if the Secretary determines the spouse of that member has failed to abide by an agreement described in subsection (e)(3) or has ceased to be an eligible military spouse. Such removal may not occur sooner than 60 days after the date of such determination.

"(e) DEFINITIONS.—In this section:

"(1) The terms 'child care employee', 'family home day care', and 'military child development center' have the meanings given those terms in section 1800 of title 10, United States Code.

"(2) The term 'covered military family housing' means military family housing—

"(A) located on a military installation described in subsection (a); and

"(B) that the Secretary of the military department concerned determines is large enough to provide family home day care services to no fewer than six children (not including children in the household of the eligible military spouse).

"(3) The term 'eligible military spouse' means a military spouse who—

"(A) is eligible for military family housing;

"(B) is eligible to provide family home day care services;

"(C) has provided family home day care services for at least one year; and

"(D) agrees in writing to provide family home day care services in covered military family housing for a period not shorter than one year."

## §1797. Early childhood education program

The Secretary of Defense shall require that all military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 335.)

## §1798. Child care services and youth program services for dependents: financial assistance for providers

(a) AUTHORITY.—The Secretary of Defense may provide financial assistance to an eligible civilian provider of child care services or youth program services that furnishes such services for members of the armed forces, survivors of members of the armed forces who die in combat-related incidents in the line of duty, and employees of the United States if the Secretary determines that providing such financial assistance—

(1) is in the best interest of the Department of Defense;

(2) enables supplementation or expansion of furnishing of child care services or youth program services for military installations, while not supplanting or replacing such services; and

(3) ensures that the eligible provider is able to comply, and does comply, with the regulations, policies, and standards of the Department of Defense that are applicable to the furnishing of such services.

(b) ELIGIBLE PROVIDERS.—A provider of child care services or youth program services is eligible for financial assistance under this section if the provider—

(1) is licensed to provide those services under applicable State and local law;

(2) has previously provided such services for members of the armed forces or employees of the United States; and

(3) either—

(A) is a family home day care provider; or

(B) is a provider of family child care services that—

(i) otherwise provides federally funded or sponsored child development services;

(ii) provides the services in a child development center owned and operated by a private, not-for-profit organization;

(iii) provides before-school or after-school child care program in a public school facility;

(iv) conducts an otherwise federally funded or federally sponsored school age child care or youth services program;

(v) conducts a school age child care or youth services program that is owned and operated by a not-for-profit organization; or

(vi) is a provider of another category of child care services or youth services determined by the Secretary of Defense as appropriate for meeting the needs of members of the armed forces or employees of the Department of Defense.

(c) FUNDING.—To provide financial assistance under this subsection, the Secretary of Defense may use any funds appropriated to the Department of Defense for operation and maintenance.

(d) ANNUAL REVIEW OF AMOUNT OF ASSISTANCE.—The Secretary shall annually review the amount of financial assistance provided under this section, including the maximum amount of financial assistance per month per child that the Secretary authorizes to be provided to eligible providers under this section.

(Added Pub. L. 106–65, div. A, title V, §584(a)(1)(B), Oct. 5, 1999, 113 Stat. 634; amended Pub. L. 107–314, div. A, title X, §1041(a)(6), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 116–92, div. A, title VI, §624, Dec. 20, 2019, 133 Stat. 1428; Pub. L. 119–60, div. A, title VI, §641, Dec. 18, 2025, 139 Stat. 912.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 1798 was renumbered section 1800 of this title.

### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60 added subsec. (d).

**2019**—Subsec. (a). Pub. L. 116–92 inserted ", survivors of members of the armed forces who die in combat-related incidents in the line of duty," after "armed forces" in introductory provisions.

**2002**—Subsec. (d). Pub. L. 107–314 struck out heading and text of subsec. (d). Text read as follows:

"(1) Every two years the Secretary of Defense shall submit to Congress a report on the exercise of authority under this section. The report shall include an evaluation of the effectiveness of that authority for meeting the needs of members of the armed forces or employees of the Department of Defense for child care services and youth program services. The report may include any recommendations for legislation that the Secretary considers appropriate to enhance the capability of the Department of Defense to meet those needs.

"(2) A biennial report under this subsection may be combined with the biennial report under section 1799(d) of this title into a single report for submission to Congress."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM TO INCREASE PAYMENTS FOR CHILD CARE SERVICES IN HIGH-COST AREAS

Pub. L. 119–60, div. A, title V, §589D, Dec. 18, 2025, 139 Stat. 898, provided that:

"(a) ESTABLISHMENT.—The Secretary may establish a pilot program to increase the maximum amount of financial assistance per month per child that the Secretary authorizes to be provided to eligible providers under section 1798 of title 10, United States Code, for services provided to children who are two years old or younger in accordance with this section.

"(b) REQUIREMENTS.—If the Secretary establishes a pilot program under subsection (a), the Secretary—

"(1) shall provide for an increased maximum amount of financial assistance under the pilot program in each area with high child care services costs, as determined by the Secretary; and

"(2) may provide for such increased maximum amount of financial assistance in other areas as the Secretary considers appropriate.

"(c) REPORTS.—

"(1) ANNUAL REPORTS.—Not later than one year after the establishment of the pilot program under this subsection, and annually thereafter until the date of the termination of the pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program that includes—

"(A) the number of families with respect to whom the Secretary has increased the maximum amount of financial assistance per month per child being provided under the pilot program, disaggregated by location;

"(B) the methodology for determining the areas that should receive an increased amount of financial assistance per month per child under the pilot program;

"(C) the number of areas the Secretary determined should receive such increased amount of financial assistance;

"(D) the total amount of financial assistance provided under the pilot program with respect to such families, disaggregated by location;

"(E) the total amount of financial assistance that would have been provided with respect to such families without the increase under the pilot program, disaggregated by location;

"(F) the determination of the Secretary as to whether additional funding under the pilot program—

"(i) helped reduce child care costs for applicable military families;

"(ii) increased child care provider participation in the financial assistance available under this section; and

"(iii) increased access to infant and toddler care for military families;

"(G) the determination of the Secretary with respect to the feasibility of expanding the pilot program to all communities;

"(H) any challenges identified by the Secretary in carrying out the pilot program;

"(I) legislation or administrative action that the Secretary determines necessary to make the pilot program permanent; and

"(J) any other information the Secretary determines appropriate.

"(2) FINAL REPORT.—Not later than 90 days after the date of the termination of the pilot program, the Secretary shall submit to the congressional defense committees a report that includes—

"(A) the elements specified in subparagraphs (A) through (J) of paragraph (3) [sic; probably should be "paragraph (1)"]; and

"(B) the recommendation of the Secretary as to whether to make the pilot program permanent.

"(d) TERMINATION.—The pilot program established under this subsection shall terminate on the date that is five years after the date on which such program is established."

## CHILD CARE SERVICES AND YOUTH PROGRAM SERVICES FOR DEPENDENTS

Pub. L. 118–159, div. A, title V, §588, Dec. 23, 2024, 138 Stat. 1914, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Defense shall fully fund requests under section 1798 of title 10, United States Code, for financial assistance to eligible civilian providers of child care services or youth program services, as such terms are used in such section.

"(b) RULE OF CONSTRUCTION.—This section shall not be construed to limit the authority of the Secretary, under subsection (a) of such section, to determine whether to provide such financial assistance to an eligible provider for such services."

## PROMOTION OF CERTAIN CHILD CARE ASSISTANCE

Pub. L. 117–263, div. A, title V, §577, Dec. 23, 2022, 136 Stat. 2606, provided that:

"(a) IN GENERAL.—Each Secretary concerned shall promote, to members of the Armed Forces under the jurisdiction of such Secretary concerned, awareness of child care assistance available under—

"(1) section 1798 of title 10, United States Code; and

"(2) section 589 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 1791 note).

"(b) REPORTING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], each Secretary concerned shall submit to the Committees on Armed Services of the Senate and House of Representatives a report summarizing activities taken by such Secretary concerned to carry out subsection (a).

"(c) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given such term in section 101 of title 10, United States Code."

**FIRST BIENNIAL REPORTS**

Pub. L. 106–65, div. A, title V, §584(b), Oct. 5, 1999, 113 Stat. 636, provided that the first biennial reports under former sections 1798(d) and 1799(d) of this title were to be submitted not later than Mar. 31, 2002, and were to cover fiscal years 2000 and 2001.

## §1799. Child care services and youth program services for dependents: participation by children and youth otherwise ineligible

(a) AUTHORITY.—The Secretary of Defense may authorize participation in child care or youth programs of the Department of Defense, to the extent of the availability of space and services, by children and youth under the age of 19 who are not dependents of members of the armed forces or of employees of the Department of Defense and are not otherwise eligible for participation in those programs.

(b) LIMITATION.—Authorization of participation in a program under subsection (a) shall be limited to situations in which that participation promotes the attainment of the objectives set forth in subsection (c), as determined by the Secretary.

(c) OBJECTIVES.—The objectives for authorizing participation in a program under subsection (a) are as follows:

(1) To support the integration of children and youth of military families into civilian communities.

(2) To make more efficient use of Department of Defense facilities and resources.

(3) To establish or support a partnership or consortium arrangement with schools and other youth services organizations serving children of members of the armed forces.

(Added Pub. L. 106–65, div. A, title V, §584(a)(1)(B), Oct. 5, 1999, 113 Stat. 634; amended Pub. L. 107–314, div. A, title X, §1041(a)(7), Dec. 2, 2002, 116 Stat. 2645.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (d). Pub. L. 107–314 struck out heading and text of subsec. (d). Text read as follows:

"(1) Every two years the Secretary of Defense shall submit to Congress a report on the exercise of authority under this section. The report shall include an evaluation of the effectiveness of that authority for achieving the objectives set out under subsection (c). The report may include any recommendations for legislation that the Secretary considers appropriate to enhance the capability of the Department of Defense to attain those objectives.

"(2) A biennial report under this subsection may be combined with the biennial report under section 1798(d) of this title into a single report for submission to Congress."

## §1800. Definitions

In this subchapter:

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the armed forces or any other facility at which such child

care services are provided that is operated by the Secretary of a military department.

(2) The term "family home day care" means home-based child care services that are provided for members of the armed forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

(4) The term "child care fee receipts" means those nonappropriated funds that are derived from fees paid by members of the armed forces for child care services provided at military child development centers.

(Added Pub. L. 104–106, div. A, title V, §568(a)(1), Feb. 10, 1996, 110 Stat. 335, §1798; renumbered §1800, Pub. L. 106–65, div. A, title V, §584(a)(1)(A), Oct. 5, 1999, 113 Stat. 634.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Pub. L. 106–65 renumbered section 1798 of this title as this section.

## [CHAPTER 89—REPEALED]

### [§§1801 to 1805. Repealed. Pub. L. 104–106, div. A, title X, §1061(a)(1), Feb. 10, 1996, 110 Stat. 442]

Section 1801, added Pub. L. 102–484, div. A, title XIII, §1322(a)(1), Oct. 23, 1992, 106 Stat. 2551, related to volunteer program to assist independent states of former Soviet Union.

Section 1802, added Pub. L. 102–484, div. A, title XIII, §1322(a)(1), Oct. 23, 1992, 106 Stat. 2551; amended Pub. L. 103–35, title II, §201(f)(3), (g)(3), May 31, 1993, 107 Stat. 99, 100, set out criteria to be used in selecting volunteers.

Section 1803, added Pub. L. 102–484, div. A, title XIII, §1322(a)(1), Oct. 23, 1992, 106 Stat. 2552, related to determining needs for volunteers and role of Secretary of State.

Section 1804, added Pub. L. 102–484, div. A, title XIII, §1322(a)(1), Oct. 23, 1992, 106 Stat. 2553; amended Pub. L. 103–160, div. A, title XI, §1182(a)(4), Nov. 30, 1993, 107 Stat. 1771, related to the compensation and benefits of volunteers.

Section 1805, added Pub. L. 102–484, div. A, title XIII, §1322(a)(1), Oct. 23, 1992, 106 Stat. 2553, provided that selection of volunteers to participate in program under this chapter terminate Sept. 30, 1995.

# PART III—TRAINING AND EDUCATION


| Chap. | | Sec. |
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| **101.** | **Training Generally** | **2001** |
| **102.** | **Junior Reserve Officers' Training Corps** | **2031** |
| **103.** | **Senior Reserve Officers' Training Corps** | **2101** |
| **104.** | **Uniformed Services University of the Health Sciences** | **2112** |
| **105.** | **Armed Forces Health Professions Financial Assistance Programs** | **2120** |
| **106.** | **Educational Assistance for Members of the Selected Reserve** | **2131** |
| **106A.** | **Educational Assistance for Persons Enlisting for Active Duty** | **2141** |
| **107.** | **Professional Military Education** | **2151** |
| **108.** | **Department of Defense Schools** | **2161** |
| **109.** | **Educational Loan Repayment Programs** | **2171** |
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**111. Support of Science, Mathematics, and Engineering Education 2191**
**112. Cyber Scholarship Program 2200**
**113. Defense Civilian Training Corps 2200g**

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(25), Dec. 27, 2021, 135 Stat. 1921, struck out period after "2200g" in item for chapter 113.

Pub. L. 116–283, div. A, title X, §1081(c)(8), Jan. 1, 2021, 134 Stat. 3873, amended Pub. L. 116–92, §1731(a)(2). See 2019 Amendment note below.

Pub. L. 116–283, div. A, title X, §1081(a)(2), Jan. 1, 2021, 134 Stat. 3870, which directed the amendment of the table of chapters "at the beginning of part IV" of this subtitle by adding item for chapter 113, was executed in the analysis for this part to reflect the probable intent of Congress.

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(a)(2), Dec. 20, 2019, 133 Stat. 1812, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(8), Jan. 1, 2021, 134 Stat. 3873, added item for chapter 112 and struck out former item for chapter 112 "Information Security Scholarship Program".

**2004**—Pub. L. 108–375, div. A, title V, §532(e), Oct. 28, 2004, 118 Stat. 1900, added item for chapter 107 and redesignated former item for chapter 107 as 106A.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236, added item for chapter 112.

**1991**—Pub. L. 102–25, title VII, §701(e)(2), Apr. 6, 1991, 105 Stat. 114, inserted "2161" in item for chapter 108.

**1990**—Pub. L. 101–510, div. A, title II, §247(a)(2)(B), title IX, §911(b)(3), Nov. 5, 1990, 104 Stat. 1523, 1626, substituted "Department of Defense Schools" for "Granting of Advanced Degrees at Department of Defense Schools" in item for chapter 108 and "Support of Science, Mathematics, and Engineering Education" for "National Defense Science and Engineering Graduate Fellowships" in item for chapter 111.

**1989**—Pub. L. 101–189, div. A, title VIII, §843(d)(2), title XVI, §1622(d)(1), Nov. 29, 1989, 103 Stat. 1517, 1604, substituted "TRAINING AND EDUCATION" for "TRAINING" in heading for part III and added item for chapter 111.

**1987**—Pub. L. 100–180, div. A, title VII, §711(b), Dec. 4, 1987, 101 Stat. 1111, substituted "Financial Assistance Programs" for "Scholarship Program" in item for chapter 105.

**1986**—Pub. L. 99–399, title VIII, §806(d)(2), Aug. 27, 1986, 100 Stat. 888, added item for chapter 110.

**1985**—Pub. L. 99–145, title VI, §671(a)(2), Nov. 8, 1985, 99 Stat. 663, added item for chapter 109.

**1984**—Pub. L. 98–525, title VII, §705(a)(2), Oct. 19, 1984, 98 Stat. 2567, substituted "Members of the Selected Reserve" for "Enlisted Members of the Selected Reserve of the Ready Reserve" in item for chapter 106.

**1980**—Pub. L. 96–513, title V, §511(99), Dec. 12, 1980, 94 Stat. 2929, capitalized "Assistance", "Persons", "Enlisting", "Active", and "Duty" in item for chapter 107.

Pub. L. 96–450, title IV, §406(b), Oct. 14, 1980, 94 Stat. 1981, added item for chapter 108.

Pub. L. 96–342, title IX, §901(b), Sept. 8, 1980, 94 Stat. 1114, added item for chapter 107.

**1977**—Pub. L. 95–79, title IV, §402(b), July 30, 1977, 91 Stat. 330, added item for chapter 106.

**1972**—Pub. L. 92–426, §2(b), Sept. 21, 1972, 86 Stat. 719, added items for chapters 104 and 105.

**1964**—Pub. L. 88–647, title I, §101(2), title II, §201(2), Oct. 13, 1964, 78 Stat. 1064, 1069, added items for chapters 102 and 103.

# CHAPTER 101—TRAINING GENERALLY

Sec.
2001. Human relations training.
2002. Dependents of members of armed forces: language training.
2003. Aeronautical rating as pilot: qualifications.
2004. Detail as students at law schools; commissioned officers; certain enlisted members.
2004a. Detail of commissioned officers as students at medical schools.
2004b. Detail of commissioned officers as students at schools of psychology.
2004c. Detail as students at schools for education required for appointment as a chaplain:

commissioned officers; certain enlisted members.
2005. Advanced education assistance: active duty agreement; reimbursement requirements.
2006. Department of Defense Education Benefits Fund.
2006a. Assistance for education and training: availability of certain assistance for use only for certain programs of education.
2007. Payment of tuition for off-duty training or education.
2008. Authority to use funds for certain educational purposes.
2009. Military colleges: female students.
2010. Requirements with respect to motorcycle safety training.
[2011. Renumbered.]
2012. Support and services for eligible organizations and activities outside Department of Defense.
2013. Training at non-Government facilities.
2014. Administrative actions adversely affecting military training or other readiness activities.
2015. Program to assist members in obtaining professional credentials.
2016. Undergraduate nurse training program: establishment through agreement with academic institution.
2017. Limitation on establishment of postsecondary educational institutions pending notice to Congress.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title V, §§504(b), 543, Dec. 18, 2025, 139 Stat. 855, 873, added items 2004c and 2010. Amendments were made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §552(b)(1), Dec. 27, 2021, 135 Stat. 1735, added item 2001.

**2019**—Pub. L. 116–92, div. A, title V, §§551(b)(2), 553(b)(2), Dec. 20, 2019, 133 Stat. 1386, 1387, substituted "Detail as students at law schools; commissioned officers; certain enlisted members" for "Detail of commissioned officers as students at law schools" in item 2004 and added item 2017.

**2016**—Pub. L. 114–328, div. A, title XII, §1244(d), Dec. 23, 2016, 130 Stat. 2518, struck out items 2010 "Participation of developing countries in combined exercises: payment of incremental expenses" and 2011 "Special operations forces: training with friendly foreign forces".

**2014**—Pub. L. 113–291, div. A, title V, §551(b), Dec. 19, 2014, 128 Stat. 3377, substituted "Program to assist members in obtaining professional credentials" for "Payment of expenses to obtain professional credentials" in item 2015.

**2013**—Pub. L. 113–66, div. A, title V, §541(b), Dec. 26, 2013, 127 Stat. 762, added item 2006a.

**2009**—Pub. L. 111–84, div. A, title V, §§521(b), 525(b)(2), Oct. 28, 2009, 123 Stat. 2285, 2287, added items 2004b and 2016.

**2006**—Pub. L. 109–364, div. A, title V, §536(b), Oct. 17, 2006, 120 Stat. 2209, added item 2004a.

Pub. L. 109–163, div. A, title V, §538(b), Jan. 6, 2006, 119 Stat. 3250, added item 2015.

**1997**—Pub. L. 105–85, div. A, title III, §325(b), Nov. 18, 1997, 111 Stat. 1679, added item 2014.

**1996**—Pub. L. 104–201, div. A, title III, §362(a)(2), Sept. 23, 1996, 110 Stat. 2493, added item 2013.

Pub. L. 104–106, div. A, title V, §572(b), Feb. 10, 1996, 110 Stat. 355, added item 2012.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(12), Oct. 5, 1994, 108 Stat. 3014, struck out item 2001 "Reserve components".

**1991**—Pub. L. 102–190, div. A, title X, §1052(a)(2), Dec. 5, 1991, 105 Stat. 1471, added item 2011.

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(i)(3)(B), (4)(B), Nov. 5, 1990, 104 Stat. 1718, struck out "of the military departments" after "officers" in item 2004 and substituted "Payment" for "Limitation on payment" in item 2007.

**1986**—Pub. L. 99–661, div. A, title XIII, §1321(a)(2), Nov. 14, 1986, 100 Stat. 3988, added item 2010.

**1984**—Pub. L. 98–525, title VII, §706(a)(2), title XIV, §§1401(g)(2), 1405(31), Oct. 19, 1984, 98 Stat. 2570, 2619, 2624, substituted a colon for a semicolon in item 2003 and added items 2006 to 2009.

**1980**—Pub. L. 96–357, §2(b), Sept. 24, 1980, 94 Stat. 1182, added item 2005.

**1973**—Pub. L. 93–155, title VIII, §817(b), Nov. 16, 1973, 87 Stat. 622, added item 2004.

**1971**—Pub. L. 92–168, §4(2), Nov. 24, 1971, 85 Stat. 489, added item 2003.

**1970**—Pub. L. 91–278, §2(3), June 12, 1970, 84 Stat. 306, substituted "armed forces" for "Army, Navy, Air

Force, or Marine Corps" in item 2002.

**1965**—Pub. L. 89–160, §1(2), Sept. 1, 1965, 79 Stat. 615, added item 2002.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### MANDATORY TRAINING ON GOVERNMENT ETHICS AND NATIONAL SECURITY LAW

Pub. L. 119–60, div. A, title V, §545, Dec. 18, 2025, 139 Stat. 873, provided that:

"(a) ANNUAL TRAINING ON GOVERNMENT ETHICS AND STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—Beginning on the date that is one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of each military department shall ensure that all members of the Armed Forces under the jurisdiction of such Secretary are trained annually in government ethics and standards of conduct.

"(2) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act[,] the Secretary of each military department shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the implementation plan for carrying out the requirements of paragraph (1), including—

"(A) resources and personnel required to provide the training required by paragraph (1);

"(B) the curriculum for such training;

"(C) the manner in which training will be provided and the mode of the delivery of such training; and

"(D) any other matter related to such training the Secretary considers appropriate.

"(b) TRAINING ON THE LAW OF ARMED CONFLICT AND RULES OF ENGAGEMENT.—The Secretary of each military department shall ensure that all members of the Armed Forces under the jurisdiction of such Secretary are trained during the 90-day period that ends on the date of a mobilization or deployment on the following topics, as applicable:

"(1) The law of armed conflict.

"(2) Rules of engagement.

"(3) Defense support for civil authorities.

"(4) Standing rules for the use of force.

"(5) The Code of Conduct for Members of the Armed Forces of the United States as prescribed in Executive Order 10631 [10 U.S.C. 802 note] or any successor Executive Order."

### INCORPORATION OF ARTIFICIAL INTELLIGENCE CONSIDERATIONS INTO CYBERSECURITY TRAINING

Pub. L. 119–60, div. A, title XV, §1515, Dec. 18, 2025, 139 Stat. 1153, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, shall revise the mandatory training on cybersecurity for members of the Armed Forces and civilian employees of the Department of Defense to include content related to the unique cybersecurity challenges posed by the use of artificial intelligence."

### EXPANSION OF PARTICIPATION IN THE DIGITAL ON-DEMAND PROGRAM

Pub. L. 118–159, div. A, title II, §232, Dec. 23, 2024, 138 Stat. 1837, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall take such steps as may be necessary—

"(1) to expand the availability of the Digital On-Demand Program to—

"(A) all organizations and elements of the Department of Defense; and

"(B) all members of the Armed Forces and civilian employees of the Department; and

"(2) to actively promote the Program throughout the Department.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], and on an annual basis thereafter through 2029, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress of the Secretary in expanding and promoting the Digital On-Demand Program as described in subsection (a).

"(c) DIGITAL ON DEMAND PROGRAM DEFINED.—In this section, the term 'Digital On-Demand Program' means the program overseen by the Chief Digital and Artificial Intelligence Officer pursuant to which educational resources on artificial intelligence, emerging technologies, data literacy, and related topics are made available to personnel of the Department of Defense through a digital platform on an on-demand basis."

### REQUIRED CONSTITUTIONAL LAW TRAINING

Pub. L. 118–159, div. A, title V, §546, Dec. 23, 2024, 138 Stat. 1893, provided that:

"(a) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall ensure that all newly commissioned officers of the Armed Forces receive training on the Constitution of the United States prior to reporting to their first operational assignment.

"(b) ELEMENTS.—The training required under subsection (a) shall include—

"(1) education on the centrality of the Constitution to the commitment officers make to serve in the Armed Forces;

"(2) emphasis on the loyalty of officers to the Constitution; and

"(3) instruction on the importance of, and basis for, civilian control over the military."

## PROTECTION AND LEGAL PREPAREDNESS FOR MEMBERS OF THE ARMED FORCES ABROAD

Pub. L. 118–31, div. A, title XII, §1229, Dec. 22, 2023, 137 Stat. 456, provided that:

"(a) REVIEW AND BRIEFING REQUIRED.—

"(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of State, in coordination with the Secretary of Defense, shall—

"(A) review the legal protections afforded by bilateral agreements between the United States and the countries listed in paragraph (2), and how the rights and privileges afforded under such agreements may differ from United States law; and

"(B) brief the appropriate congressional committees on the findings of the review.

"(2) COUNTRIES LISTED.—The countries listed in this paragraph are the following:

"(A) Australia.

"(B) Bahrain.

"(C) Germany.

"(D) Italy.

"(E) Japan.

"(F) Kuwait.

"(G) Qatar.

"(H) South Korea.

"(I) Spain.

"(J) Turkey.

"(K) The United Kingdom.

"(L) Any other country the Secretary of Defense determines to be appropriate.

"(3) MATTERS TO BE INCLUDED.—The review required by paragraph (1)(A) shall address whether the legal protections afforded by bilateral agreements between the United States and the countries listed in paragraph (2) provide members of the Armed Forces who are stationed in the country, and the spouses and dependents of such members who are covered by the agreements, with the right to legal counsel, access to competent language translation services, a prompt and speedy trial, the right to be confronted with witnesses against the member, spouse, or dependent, and a compulsory process for obtaining witnesses in favor of the member, spouse, or dependent if the witness is located in the jurisdiction of the country.

"(4) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

"(B) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

"(b) TRAINING REQUIRED.—The Secretary of Defense shall review and improve as necessary training and educational materials for members of the Armed Forces who are stationed in a country reviewed pursuant to subsection (a)(1)(A), and the spouses and dependents of such members who are covered by the agreements, regarding relevant foreign laws, how such foreign laws may differ from the laws of the United States, and the rights of accused in common scenarios under such foreign laws.

"(c) TRANSLATION STANDARDS AND READINESS.—The Secretary of Defense shall review foreign language standards for members of the Armed Forces and employees of the Department of Defense who are responsible for providing foreign language translation services in situations involving foreign law enforcement where such a member or employee may be being detained, to ensure such members and employees maintain an appropriate proficiency in the legal terminology and meaning of essential terms in a relevant language."

## COURSE OF EDUCATION AND PILOT PROGRAM ON AUTHENTICATION OF DIGITAL CONTENT PROVENANCE FOR CERTAIN DEPARTMENT OF DEFENSE MEDIA CONTENT

Pub. L. 118–31, div. A, title XV, §1524, Dec. 22, 2023, 137 Stat. 554, provided that:

"(a) COURSE OF EDUCATION.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, acting through the Director of the Defense Media Activity, shall establish a course of education at the Defense Information School, the purpose of which shall be to provide instruction on the practical concepts and skills needed by public affairs, audiovisual, visual information, and records management specialists to understand the following:

"(A) Digital content provenance for applicable Department media content.

"(B) The challenges posed to missions and operations of the Department by a digital content forgery.

"(C) How industry open technical standards may be used to authenticate the digital content provenance of applicable Department media content.

"(2) MATTERS.—The course of education under paragraph (1) shall cover the following matters:

"(A) The challenges to missions and operations of the Department posed by a digital content forgery.

"(B) The development of industry open technical standards for authenticating the digital content provenance of applicable Department media content.

"(C) Hands-on training on techniques to record secure and authenticated digital content to document and communicate relevant themes and messages of the Department.

"(D) Training on—

"(i) the use of industry open technical standards for authenticating digital content provenance in the completion of post-production tasks; and

"(ii) the transmission of applicable Department media content in both operational and nonoperational environments.

"(E) Such other matters as the Director of the Defense Media Activity considers appropriate.

"(3) REPORT.—Not later than one year after the date of the establishment of the course of education under paragraph (1), the Director of the Defense Media Activity shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the following:

"(A) The status of the development of a curriculum for such course of education.

"(B) The implementation plan of the Director for such course of education, including the following:

"(i) The expertise and qualifications of the personnel of the Department responsible for teaching such course of education.

"(ii) The list of sources consulted or otherwise used to develop the curriculum for such course of education.

"(iii) A description of the industry open technical standards referred to in paragraph (1)(C).

"(iv) The status of the implementation of such course of education.

"(C) The resources available to the Director to carry out this subsection and whether the Director requires any additional resources to carry out this subsection.

"(b) PILOT PROGRAM ON IMPLEMENTING DIGITAL CONTENT PROVENANCE STANDARDS.—

"(1) PILOT PROGRAM.—Not later than one year after the date of the enactment of this Act, the Director of the Defense Media Activity shall carry out a pilot program to assess the feasibility and advisability of implementing industry open technical standards for digital content provenance for official photographs and videos of the Department of Defense publicly released by the Defense Visual Information Distribution Service, or any successor operation, and other distribution platforms, systems, and services used by the Department of Defense (in this subsection referred to as the 'pilot program').

"(2) ELEMENTS.—In carrying out the pilot program, the Director of the Defense Media Activity shall—

"(A) establish a process for using industry open technical standards to verify the digital content provenance of applicable Department media content;

"(B) apply technology solutions that comport with industry open technical standard for digital content provenance to photographs and videos of the Department publicly released as described in paragraph (1) after the date of the enactment of this Act;

"(C) assess the feasibility and advisability of applying an industry open technical standard for digital content provenance to historical visual information records of the Department stored at the Defense Visual Information Records Center; and

"(D) develop and apply measure of effectiveness for the implementation of the pilot program.

"(3) CONSULTATION.—In carrying out the pilot program, the Director of the Defense Media

Activity may consult with federally funded research and development centers, entities within private industry, institutions of higher education, and such other entities as the Director considers appropriate.

"(4) TERMINATION.—The pilot program shall terminate on January 1, 2027.

"(5) REPORT.—

"(A) IN GENERAL.—Not later than January 1, 2026, the Director of the Defense Media Activity shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the pilot program.

"(B) ELEMENTS.—The report under subparagraph (A) shall include the following:

"(i) The findings of the Director with respect to the pilot program.

"(ii) The name of each entity the Director consulted with pursuant to paragraph (3) in carrying out the pilot program.

"(iii) An assessment by the Director of the effectiveness of the pilot program.

"(iv) A recommendation by the Director as to whether the pilot program should be made permanent.

"(c) DEFINITIONS.—In this section:

"(1) The term 'applicable Department media content' means any media holding generated, stored, or controlled by the Defense Media Activity.

"(2) The term 'digital content forgery' means the use of emerging technologies, including artificial intelligence and machine learning techniques, to fabricate or manipulate audio, visual, or text content with the intent to mislead.

"(3) The term 'digital content provenance' means the verifiable chronology of the origin and history of an image, video, audio recording, electronic document, or other form of digital content."

## CONTINUING EDUCATION CURRICULUM ON USE OF INNOVATIVE PRODUCTS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–31, div. B, title XXVIII, §2886, Dec. 22, 2023, 137 Stat. 783, provided that:

"(a) CURRICULUM REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Commander of the Naval Facilities Systems Engineering Command and the Deputy Commanding General for Military and International Operations for the Army Corps of Engineers, shall establish a joint continuing education curriculum for the following individuals responsible for managing military construction projects and planning and design projects within the Department of Defense:

"(1) Project managers.

"(2) Program managers.

"(3) Design professionals.

"(4) Contracting officers.

"(5) Representatives of such contracting officers.

"(b) ELEMENTS.—The curriculum under subsection (a) shall include training on—

"(1) cost estimating and cost control mechanisms, including analyses of contract types;

"(2) standards relating to antiterrorism force protection, lateral wind, seismic activity, and fire performance;

"(3) life-cycle sustainability and renewability;

"(4) use of innovative building materials (including sustainable materials) and innovative construction methods; and

"(5) designs to improve the resilience of military installations.

"(c) PROVISION OF TRAINING; CURRICULUM UPDATES.—The Secretary of Defense shall ensure that—

"(1) not later than 180 days after the date of the completion of the curriculum under subsection (a), such curriculum is made available to the contracting officers and program managers described in such subsection;

"(2) by not later than January 1, 2025—

"(A) not less than 75 percent of the individuals described in paragraphs (1) through (5) of such subsection have completed the continuing education curriculum required under such subsection in effect as of such date; and

"(B) such individuals are provided updated information on innovative construction techniques on a continuous basis; and

"(3) such curriculum is updated each time an innovative product or construction method is included in the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01).

"(d) REPORT.—Not later than June 1, 2025, the Secretary of Defense shall submit to Committees on

Armed Services of the House of Representatives and the Senate a report that includes—

"(1) an update on the status of the curriculum under subsection (a); and

"(2) a plan for administering such curriculum to the individuals described in paragraphs (1) through (5) of such subsection.

"(e) DEFINITIONS.—In this section, the terms 'military construction project' and 'military installation' have the meanings given in section 2801 of title 10, United States Code."

**PILOT PROGRAM ON SCHOLARSHIP-FOR-SERVICE FOR CIVILIAN BEHAVIORAL HEALTH PROVIDERS**

Pub. L. 117–263, div. A, title VII, §737(b), (e), Dec. 23, 2022, 136 Stat. 2671, 2674, provided that:

"(b) PILOT PROGRAM ON SCHOLARSHIP-FOR-SERVICE FOR CIVILIAN BEHAVIORAL HEALTH PROVIDERS.—

"(1) PILOT PROGRAM.—Not later than two years after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall commence the conduct of a pilot program under which—

"(A) the Secretary may provide—

"(i) scholarships to cover tuition and related fees at an institution of higher education to an individual enrolled in a program of study leading to a graduate degree in clinical psychology, social work, counseling, or a related field (as determined by the Secretary); and

"(ii) student loan repayment assistance to a credentialed behavioral health provider who has a graduate degree in clinical psychology, social work, counseling, or a related field (as determined by the Secretary); and

"(B) in exchange for such assistance, the recipient shall commit to work as a covered civilian behavioral health provider in accordance with paragraph (2).

"(2) POST-AWARD EMPLOYMENT OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), as a condition of receiving assistance under paragraph (1), the recipient of such assistance shall enter into an agreement with the Secretary of Defense pursuant to which the recipient agrees to work on a full-time basis as a covered civilian behavioral health provider for a period of a duration that is at least equivalent to the period during which the recipient received assistance under such paragraph.

"(B) OTHER TERMS AND CONDITIONS.—An agreement entered into pursuant to subparagraph (A) may include such other terms and conditions as the Secretary of Defense may determine necessary to protect the interests of the United States or otherwise appropriate for purposes of this section, including terms and conditions providing for limited exceptions from the post-award employment obligation specified in such subparagraph.

"(3) REPAYMENT.—

"(A) IN GENERAL.—An individual who receives assistance under paragraph (1) and does not complete the employment obligation required under the agreement entered into pursuant to paragraph (2) shall repay to the Secretary of Defense a prorated portion of the financial assistance received by the individual under paragraph (1).

"(B) DETERMINATION OF AMOUNT.—The amount of any repayment required under subparagraph (A) shall be determined by the Secretary.

"(4) DURATION.—The authority to carry out the pilot program under paragraph (1) shall terminate on the date that is 10 years after the date on which such pilot program commences.

"(5) IMPLEMENTATION PLAN.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a plan for the implementation of this section.

"(6) REPORTS.—

"(A) IN GENERAL.—Not later than each of one year and five years after the commencement of the pilot program under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representative and the Senate a report on the pilot program.

"(B) ELEMENTS.—Each report under subparagraph (A) shall include, with respect to the pilot program under subsection (1), the following:

"(i) The number of students receiving scholarships under the pilot program.

"(ii) The institutions of higher education at which such students are enrolled.

"(iii) The total amount of financial assistance expended under the pilot program per academic year.

"(iv) The average scholarship amount per student under the pilot program.

"(v) The number of students hired as covered behavioral health providers pursuant to the

pilot program.

"(vi) Any recommendations for terminating the pilot program, extending the pilot program, or making the pilot program permanent.

"(e) DEFINITIONS.—In this section:

"(1) The term 'behavioral health' includes psychiatry, clinical psychology, social work, counseling, and related fields.

"(2) The term 'civilian behavioral health provider' means a behavioral health provider who is a civilian employee of the Department of Defense.

"(3) The term 'counselor' means an individual who holds—

"(A) a master's or doctoral degree from an accredited graduate program in—

"(i) marriage and family therapy; or

"(ii) clinical mental health counseling; and

"(B) a current license or certification from a State that grants the individual the authority to provide counseling services as an independent practitioner in the respective field of the individual.

"(4) The term 'covered civilian behavioral health provider' means a civilian behavioral health provider whose employment by the Secretary of Defense involves the provision of behavioral health services at a military medical treatment facility.

"(5) The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(6) The term 'military behavioral health provider' means a behavioral health provider who is a member of the Armed Forces.

"(7) The term 'military installation' has the meaning given that term in section 2801 of title 10, United States Code.

"(8) The term 'military medical treatment facility' means a facility specified in section 1073d of such title.

"(9) The term 'remote installation' means a military installation that the Secretary determines to be in a remote location.

"(10) The term 'State' means each of the several States, the District of Columbia, and each commonwealth, territory or possession of the United States."

## JOINT INFORMATION OPERATIONS COURSE

Pub. L. 117–263, div. A, title XV, §1523, Dec. 23, 2022, 136 Stat. 2898, provided that:

"(a) JOINT INFORMATION OPERATIONS COURSE.—The Secretary of Defense shall develop and provide to members of the Army, Navy, Air Force, Marine Corps, and Space Force a course to prepare the members to plan and conduct information operations in a joint environment pursuant to title 10, United States Code. Such course shall include—

"(1) standardized qualifications and procedures to enable the joint and synchronized employment of information-related capabilities in the information environment;

"(2) joint methods to implement information operations in a battlefield environment under any ground force chain of command; and

"(3) a curriculum covering applicable assets, core information operations concepts, integration of effects with a specific focus on information-related effects, operational methodology, multi-dimensional targeting space, other information-related capabilities defined by governing policy, instruction, publications, and doctrine, and any other topics or areas determined necessary by the Secretary.

"(b) CONSIDERATION OF ONGOING EFFORTS.—The Secretary shall ensure that the course under subsection (a) is developed in light of the information operations posture review, gap analysis, strategy update, and designation of a Joint Force Trainer, occurring as of the date of the enactment of this Act [Dec. 23, 2022].

"(c) SEMIANNUAL REPORTS.—Subsequent to the development of the course under subsection (a), on a semiannual basis through January 1, 2028, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the course. Each report shall include, with respect to the period covered by the report—

"(1) the number of members described in subsection (a) who attended the course; and

"(2) an assessment of the value of the course in—

"(A) conducting joint operations in the information environment; and

"(B) the synchronized employment of information-related capabilities in the information environment."

## LEASE OR USE AGREEMENT FOR CATEGORY 3 SUBTERRANEAN TRAINING FACILITY

Pub. L. 117–263, div. B, title XXVIII, §2869(a)–(d), Dec. 23, 2022, 136 Stat. 3012, 3013, provided that:

"(a) IN GENERAL.—The Secretary of Defense may seek to enter into a lease or use agreement with a category 3 subterranean training facility that—

"(1) is located in close proximity (as determined by the Secretary of Defense) to the home station of an air assault unit or a special operations force; and

"(2) has the capacity to—

"(A) provide brigade or large full-mission profile training;

"(B) rapidly replicate full-scale underground venues;

"(C) support helicopter landing zones; and

"(D) support underground live fire.

"(b) USE OF FACILITY.—A lease or use agreement entered into pursuant to subsection (a) shall provide that the category 3 subterranean training facility shall be made available for—

"(1) hosting of training and testing exercises for—

"(A) members of the Armed Forces, including members a special operations force;

"(B) personnel of combat support agencies, including the Defense Threat Reduction Agency; and

"(C) such other personnel as the Secretary of Defense determines appropriate; and

"(2) such other purposes as the Secretary of Defense determines appropriate.

"(c) DURATION.—The duration of any lease or use agreement entered into pursuant to subsection (a) shall be for a period of not less than 5 years.

"(d) CATEGORY 3 SUBTERRANEAN TRAINING FACILITY DEFINED.—In this section, the term 'category 3 subterranean training facility' means an underground structure designed and built—

"(1) to be unobserved and to provide maximum protection; and

"(2) to serve as a command and control, operations, storage, production, and protection facility."

## EXECUTIVE EDUCATION ON EMERGING TECHNOLOGIES FOR SENIOR CIVILIAN AND MILITARY LEADERS

Pub. L. 117–81, div. A, title II, §228, Dec. 27, 2021, 135 Stat. 1609, provided that:

"(a) ESTABLISHMENT OF COURSE.—Not later than two years after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall establish executive education activities on emerging technologies for appropriate general and flag officers and senior executive-level civilian leaders that are designed specifically to prepare new general and flag officers and senior executive-level civilian leaders on relevant technologies and how these technologies may be applied to military and business activities in the Department of Defense.

"(b) PLAN FOR PARTICIPATION.—

"(1) IN GENERAL.—The Secretary of Defense shall develop a plan for participation in executive education activities established under subsection (a).

"(2) REQUIREMENTS.—As part of such plan, the Secretary shall ensure that, not later than five years after the date of the establishment of the activities under subsection (a), all appropriate general flag officers and senior executive-level civilian leaders are—

"(A) required to complete the executive education activities under such subsection; and

"(B) certified as having successfully completed the executive education activities.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than the date that is three years after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the status of the implementation of the activities required by subsection (a).

"(2) CONTENTS.—The report submitted under paragraph (1) shall include the following:

"(A) A description of the new general and flag officers and senior executive-level civilian leaders for whom the education activities have been designated.

"(B) A recommendation with respect to continuing or expanding the activities required under subsection (a)."

## AUTHORITY TO MAINTAIN ACCESS TO CATEGORY 3 SUBTERRANEAN TRAINING FACILITY

Pub. L. 117–81, div. A, title III, §375, Dec. 27, 2021, 135 Stat. 1667, which provided for authority to maintain access to category 3 subterranean training facility, was repealed by Pub. L. 117–263, div. B, title XXVIII, §2869(e), Dec. 23, 2022, 136 Stat. 3013.

## IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS ON PREVENTING TACTICAL VEHICLE TRAINING ACCIDENTS

Pub. L. 117–81, div. A, title III, §377, Dec. 27, 2021, 135 Stat. 1668, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], each Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and to the Comptroller General of the United States a plan to address the recommendations in the report of the Government Accountability Office entitled 'Army and Marine Corps Should Take Additional Actions to Mitigate and Prevent Training Accidents' (GAO–21–361). Each such plan shall include, with respect to each recommendation in such report that the Secretary concerned has implemented or intends to implement—

"(1) a summary of actions that have been or will be taken to implement the recommendation; and

"(2) a schedule, with specific milestones, for completing implementation of the recommendation.

"(b) DEADLINE FOR IMPLEMENTATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 18 months after the date of the enactment of this Act, each Secretary concerned shall carry out activities to implement the plan of the Secretary developed under subsection (a).

"(2) EXCEPTION FOR IMPLEMENTATION OF CERTAIN RECOMMENDATIONS.—

"(A) DELAYED IMPLEMENTATION.—A Secretary concerned may initiate implementation of a recommendation in the report referred to in subsection (a) after the date specified in paragraph (1) if, on or before such date, the Secretary provides to the congressional defense committees a specific justification for the delay in implementation of such recommendation.

"(B) NONIMPLEMENTATION.—A Secretary concerned may decide not to implement a recommendation in the report referred to in subsection (a) if, on or before the date specified in paragraph (1), the Secretary provides to the congressional defense committees—

"(i) a specific justification for the decision not to implement the recommendation; and

"(ii) a summary of alternative actions the Secretary plans to take to address the conditions underlying the recommendation.

"(c) SECRETARY CONCERNED.—In this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army, with respect to the Army; and

"(2) the Secretary of the Navy, with respect to the Navy."

## DEFENSE LANGUAGE CONTINUING EDUCATION PROGRAM

Pub. L. 117–81, div. A, title V, §559B, Dec. 27, 2021, 135 Stat. 1743, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Under Secretary of Defense for Personnel and Readiness shall establish policies and procedures to provide, to linguists of the covered Armed Forces who have made the transition from formal training programs to operational and staff assignments, continuing language education to maintain their respective language proficiencies.

"(b) REIMBURSEMENT AUTHORITY.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Under Secretary, in coordination with the chief of each covered Armed Force, shall establish a procedure by which the covered Armed Force concerned may reimburse an organization of the Department of Defense that provides, to members of such covered Armed Force, continuing language education, described in subsection (a), for the costs of such education.

"(2) SUNSET.—The authority under this subsection shall expire on September 30, 2025.

"(c) BRIEFING.—Not later than July 1, 2022, the Under Secretary shall brief the Committees on Armed Services of the Senate and House of Representatives on implementation of this section and plans regarding continuing language education described in subsection (a).

"(d) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Air Force, Marine Corps, or Space Force."

## TRAINING PROGRAM FOR HUMAN RESOURCES PERSONNEL IN BEST PRACTICES FOR TECHNICAL WORKFORCE

Pub. L. 116–283, div. A, title II, §246, Jan. 1, 2021, 134 Stat. 3490, provided that:

"(a) PILOT TRAINING PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness and the Under Secretary of Defense for Research and Engineering, shall develop and implement a pilot program to provide covered human resources personnel with training in public and private sector best practices for attracting and retaining technical talent.

"(2) TRAINING AREAS.—The pilot program shall include training in the authorities and procedures

that may be used to recruit technical personnel for positions in the Department of Defense, including—

"(A) appropriate direct hiring authorities;

"(B) excepted service authorities;

"(C) personnel exchange authorities;

"(D) authorities for hiring special government employees and highly qualified experts;

"(E) special pay authorities; and

"(F) private sector best practices to attract and retain technical talent.

"(3) METRICS.—The Secretary of Defense shall develop metrics to evaluate the effectiveness of the pilot program in contributing to the ability of the Department of Defense to attract and retain technical talent.

"(4) PLAN REQUIRED.—The Secretary of Defense shall develop a plan for the implementation of the pilot program.

"(b) REPORTS.—

"(1) REPORT ON PLAN.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that sets forth the plan required under subsection (a)(4).

"(2) REPORT ON PILOT PROGRAM.—Not later than three years after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the pilot program.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered human resources personnel' means members of the Armed Forces and civilian employees of the Department of Defense, including human resources professionals, hiring managers, and recruiters, who are responsible for hiring technical talent.

"(2) The term 'technical talent' means individuals with expertise in high priority technical disciplines.

"(d) TERMINATION.—The requirement to carry out the pilot program under this section shall terminate five years after the date of the enactment of this Act."

## PILOT PROGRAM ON SELF-DIRECTED TRAINING IN ADVANCED TECHNOLOGIES

Pub. L. 116–283, div. A, title II, §248, Jan. 1, 2021, 134 Stat. 3492, provided that:

"(a) ONLINE COURSES.—The Secretary of Defense shall carry out a pilot program under which the Secretary makes available a list of approved online courses relating to advanced technologies that may be taken by civilian employees of the Department of Defense and members of the Armed Forces on a voluntary basis while not engaged in the performance of their duties.

"(b) PROCEDURES.—The Secretary shall establish procedures for the development, selection, approval, adoption, and evaluation of online courses under subsection (a) to ensure that such courses are supportive of the goals of this section and overall goals for the training and education of the civilian and military workforce of the Department of Defense.

"(c) DOCUMENTATION OF COMPLETION.—The Secretary of Defense shall develop and implement a system—

"(1) to confirm whether a civilian employee of the Department of Defense or member of the Armed Forces has completed an online course approved by the Secretary under subsection (a); and

"(2) to document the completion of such course by such employee or member.

"(d) INCENTIVES.—The Secretary of Defense shall develop and implement incentives to encourage civilian employees of the Department of Defense and members of the Armed Forces to complete online courses approved by the Secretary under subsection (a).

"(e) METRICS.—The Secretary of Defense shall develop metrics to evaluate whether, and to what extent, the pilot program under this section improves the ability of participants—

"(1) to perform job-related functions; and

"(2) to execute relevant missions of the Department of Defense.

"(f) ADVANCED TECHNOLOGIES DEFINED.—In this section, the term 'advanced technologies' means technologies that the Secretary of Defense determines to be in high-demand within the Department of Defense and to which significant research and development efforts are devoted, including technologies such as artificial intelligence, data science, machine learning, fifth-generation telecommunications technology, and biotechnology.

"(g) DEADLINE.—The Secretary of Defense shall carry out the activities described in subsections (a) through (e) not later than one year after the date of the enactment of this Act [Jan. 1, 2021].

"(h) SUNSET.—This section shall terminate on October 1, 2024."

## TRAINING PROGRAM REGARDING FOREIGN MALIGN INFLUENCE CAMPAIGNS

Pub. L. 116–283, div. A, title V, §589E, Jan. 1, 2021, 134 Stat. 3661, as amended by Pub. L. 117–81, div. A, title V, §549N, Dec. 27, 2021, 135 Stat. 1733; Pub. L. 117–263, div. F, title LXIII, §6307(a)(3), Dec. 23, 2022, 136 Stat. 3505, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2021, the Secretary of Defense shall establish a program for training members of the Armed Forces and civilian employees of the Department of Defense regarding the threat of foreign malign influence campaigns targeted at such individuals and the families of such individuals, including such campaigns carried out through social media.

"(b) DESIGNATION OF OFFICIAL TO COORDINATE AND INTEGRATE.—Not later than 30 days after the date of enactment of this Act [Jan. 1, 2021], the Secretary shall designate an official of the Department who shall be responsible for coordinating and integrating the training program under this section.

"(c) BEST PRACTICES.—In coordinating and integrating the training program under this section, the official designated under subsection (b) shall review best practices of existing training programs across the Department.

"(d) ESTABLISHMENT OF WORKING GROUP.—(1) Not later than one year after the date of the enactment of this subsection [Dec. 27, 2021], the Secretary of Defense shall establish a working group to assist the official designated under subsection (b), as follows:

"(A) In the identification of mediums used by covered foreign countries to identify, access, and endeavor to influence servicemembers and Department of Defense civilian employees through foreign malign influence campaigns and the themes conveyed through such mediums.

"(B) In coordinating and integrating the training program under this subsection in order to enhance and strengthen servicemember and Department of Defense civilian employee awareness of and defenses against foreign malign influence, including by bolstering information literacy.

"(C) In such other tasks deemed appropriate by the Secretary of Defense or the official designated under subsection (b).

"(2) The official designed under subsection (b) and the working group established under this subsection shall consult with the Foreign Malign Influence Center established pursuant to section 3059 of title 50, United States Code.

"(e) REPORT REQUIRED.—Not later than 18 months after the establishment of the working group, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the working group, its activities, the effectiveness of the counter foreign malign influence activities carried out under this section, the metrics applied to determined effectiveness, and the actual costs associated with actions undertaken pursuant to this section.

"(f) DEFINITIONS.—In this section:

"(1) FOREIGN MALIGN INFLUENCE.—The term 'foreign malign influence' has the meaning given that term in section 119C of the National Security Act of 1947 (50 U.S.C. 3059).

"(2) COVERED FOREIGN COUNTRY.—The term 'covered foreign country' has the meaning given that term in section 119C of the National Security Act of 1947 (50 U.S.C. 3059)

"(3) INFORMATION LITERACY.—The term 'information literacy' means the set of skills needed to find, retrieve, understand, evaluate, analyze, and effectively use information (which encompasses spoken and broadcast words and videos, printed materials, and digital content, data, and images)."

## ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING EDUCATION PLATFORMS

Pub. L. 116–92, div. A, title II, §256(d), as added by Pub. L. 118–159, div. A, title II, §222, Dec. 23, 2024, 138 Stat. 1829, provided that:

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 [Dec. 23, 2024], the Chief Digital and Artificial Intelligence Officer of the Department of Defense, in coordination with the Under Secretary of Defense for Personnel and Readiness, shall—

"(A) develop a set of distance education courses on—

"(i) the foundational concepts of artificial intelligence and machine learning; and

"(ii) the responsible and ethical design, development, acquisition and procurement, deployment, and use of artificial intelligence and machine learning applications; and

"(B) make such courses available to members of the Armed Forces.

"(2) REPORT.—Not later than 270 days after the date of the enactment of this subsection [Dec. 23, 2024], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the progress of the Chief Digital and Artificial Intelligence Officer in implementing paragraph (1)."

## COLLECTION OF BLAST EXPOSURE INFORMATION

Pub. L. 116–92, div. A, title VII, §742(b), Dec. 20, 2019, 133 Stat. 1469, provided that: "The Secretary of Defense shall collect blast exposure information with respect to a member of the Armed Forces in a manner—

"(1) consistent with blast exposure measurement training guidance of the Department of Defense, including any guidance developed pursuant to—

"(A) the longitudinal medical study on blast pressure exposure required by section 734 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat. 1444); and

"(B) the review of guidance on blast exposure during training required by section 253 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2001 note prec.);

"(2) compatible with training and operational objectives of the Department; and

"(3) that is automated, to the extent practicable, to minimize the reporting burden of unit commanders."

## REVIEW OF GUIDANCE ON BLAST EXPOSURE DURING TRAINING

Pub. L. 115–232, div. A, title II, §253, Aug. 13, 2018, 132 Stat. 1704, provided that:

"(a) INITIAL REVIEW.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall review the decibel level exposure, concussive effects exposure, and the frequency of exposure to heavy weapons fire of an individual during training exercises to establish appropriate limitations on such exposures.

"(b) ELEMENTS.—The review required by subsection (a) shall take into account current data and evidence on the cognitive effects of blast exposure and shall include consideration of the following:

"(1) The impact of exposure over multiple successive days of training.

"(2) The impact of multiple types of heavy weapons being fired in close succession.

"(3) The feasibility of cumulative annual or lifetime exposure limits.

"(4) The minimum safe distance for observers and instructors.

"(c) UPDATED TRAINING GUIDANCE.—Not later than 180 days after the date of the completion of the review under subsection (a), each Secretary of a military department shall update any relevant training guidance to account for the conclusions of the review.

"(d) UPDATED REVIEW.—

"(1) IN GENERAL.—Not later than two years after the initial review conducted under subsection (a), and not later than two years thereafter, the Secretary of Defense shall conduct an updated review under such subsection, including consideration of the matters set forth under subsection (b), and update training guidance under subsection (c).

"(2) CONSIDERATION OF NEW RESEARCH AND EVIDENCE.—Each updated review conducted under paragraph (1) shall take into account new research and evidence that has emerged since the previous review.

"(e) BRIEFING REQUIRED.—The Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on a summary of the results of the initial review under subsection (a), each updated review conducted under subsection (d), and any updates to training guidance and procedures resulting from any such review or updated review."

## ANNUAL TRAINING REGARDING THE INFLUENCE CAMPAIGN OF THE RUSSIAN FEDERATION

Pub. L. 115–91, div. A, title X, §1048, Dec. 12, 2017, 131 Stat. 1558, provided that: "In addition to any currently mandated training, the Secretary of Defense may furnish annual training to all members of the Armed Forces and all civilian employees of the Department of Defense, regarding attempts by the Russian Federation and its proxies and agents to influence and recruit members of the Armed Forces as part of its influence campaign."

## POLICY ON ACTIVE SHOOTER TRAINING FOR CERTAIN LAW ENFORCEMENT PERSONNEL

Pub. L. 112–81, div. A, title III, §367, Dec. 31, 2011, 125 Stat. 1381, provided that: "The Secretary of Defense shall establish policy and promulgate guidelines to ensure civilian and military law enforcement personnel charged with security functions on military installations shall receive Active Shooter Training as described in finding 4.3 of the document entitled 'Protecting the Force: Lessons From Fort Hood'."

## LANGUAGE TRAINING CENTERS FOR MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Pub. L. 111–84, div. A, title V, §529, Oct. 28, 2009, 123 Stat. 2290, as amended by Pub. L. 118–31, div. A, title V, §575, Dec. 22, 2023, 137 Stat. 277, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program to establish language training centers at accredited universities, senior military colleges, or other similar institutions of higher education for purposes of accelerating the development of foundational expertise in critical and strategic languages and regional area studies (as defined by the Secretary of Defense for purposes of this section) for members of the Armed Forces, including members of the reserve components and candidates of the Reserve Officers' Training Corps programs, and civilian employees of the Department of Defense.

"(b) ELEMENTS.—Each language training center established under the program authorized by subsection (a) shall include the following:

"(1) Programs to provide that members of the Armed Forces or civilian employees of the Department of Defense who graduate from the institution of higher education concerned include members or employees, as the case may be, who are skilled in the languages and area studies covered by the program from beginning through advanced skill levels.

"(2) Programs of language proficiency training for such members and civilian employees at the institution of higher education concerned in critical and strategic languages tailored to meet operational readiness requirements.

"(3) Alternative language training delivery systems and modalities to meet language and regional area study requirements for such members and employees whether prior to deployment, during deployment, or post-deployment.

"(4) Programs on critical and strategic languages under the program that can be incorporated into Reserve Officers' Training Corps programs to facilitate the development of language skills in such languages among future officers of the Armed Forces.

"(5) Training and education programs to expand the pool of qualified instructors and educators on critical and strategic languages and regional area studies under the program for the Armed Forces.

"(6) Programs to facilitate and encourage the recruitment of native and heritage speakers of critical and strategic languages under the program into the Armed Forces and the civilian workforce of the Department of Defense and to support the Civilian Linguist Reserve Corps.

"(c) PARTNERSHIPS WITH OTHER SCHOOLS.—Any language training center established under the program authorized by subsection (a) may enter into a partnership with one or more local educational agencies to facilitate the development of skills in critical and strategic languages under the program among students attending the elementary and secondary schools of such agencies who may pursue a military career.

"(d) COORDINATION.—The Secretary of Defense shall ensure that the language training centers established under the program authorized by subsection (a) are aligned with those of the National Security Education Program, the Defense Language Institute, and other appropriate Department of Defense programs to facilitate and encourage the recruitment of native and heritage speakers of critical and strategic languages under the program into the Armed Forces and the civilian workforce of the Department of Defense and to support the Civilian Linguist Reserve Corps.

"(e) CONTRACT AUTHORITY.—The Secretary of Defense may enter into one or more contracts, cooperative agreements, or grants with private national organizations having an expertise in foreign languages, area studies, and other international fields, for the awarding of grants to accredited universities, senior military colleges, or other similar institutions of higher education to establish and maintain language training centers authorized by subsection (a).

"(f) REPORT.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the Language Training Center program. The report shall include the following:

"(1) A description of each language training center established under the program.

"(2) An assessment of the cost-effectiveness of the program in providing foundational expertise in critical and strategic languages and regional area studies in support of the Defense Language Transformation Roadmap.

"(3) An assessment of the progress made by each language training center in providing capabilities in critical and strategic languages under the program to members of the Armed Forces and Department of Defense employees.

"(4) An assessment of the resources required to carry out the Language Training Center program by year through fiscal year 2027.

"(5) Recommendations as to any modifications to the Language Training Center program that the

Secretary considers appropriate."

**ENHANCING EDUCATION PARTNERSHIPS TO IMPROVE ACCESSIBILITY AND FLEXIBILITY FOR MEMBERS OF THE ARMED FORCES**

Pub. L. 110–417, [div. A], title V, §550, Oct. 14, 2008, 122 Stat. 4468, provided that:

"(a) AUTHORITY.—The Secretary of a military department may enter into one or more education partnership agreements with educational institutions in the United States for the purpose of—

"(1) developing plans to improve the accessibility and flexibility of college courses available to eligible members of the Armed Forces;

"(2) improving the application process for the Armed Forces tuition assistance programs and raising awareness regarding educational opportunities available to such members;

"(3) developing curriculum, distance education programs, and career counseling designed to meet the professional, financial, academic, and social needs of such members; and

"(4) assessing how resources may be applied more effectively to meet the educational needs of such members.

"(b) COST.—Except as provided in this section, execution of an education partnership agreement with an educational institution shall be at no cost to the Government.

"(c) EDUCATIONAL INSTITUTION DEFINED.—In this section, the term 'educational institution' means an accredited college, university, or technical school in the United States."

## §2001. Human relations training

(a) HUMAN RELATIONS TRAINING.—(1)(A) The Secretary of Defense shall ensure that the Secretary of each military department conducts ongoing programs for human relations training for all members of the armed forces under the jurisdiction of the Secretary.

(B) Matters covered by such training include race relations, equal opportunity, opposition to gender discrimination, and sensitivity to hate group activity.

(C) Such training shall be provided during basic training (or other initial military training) and on a regular basis thereafter.

(2) The Secretary of Defense shall ensure that a unit commander is aware of the responsibility to ensure that impermissible activity, based upon discriminatory motives, does not occur in a unit under the command of such commander.

(b) INFORMATION PROVIDED TO PROSPECTIVE RECRUITS.—The Secretary of Defense shall ensure that—

(1) each individual preparing to enter an officer accession program or to execute an original enlistment agreement is provided information concerning the meaning of the oath of office or oath of enlistment for service in the armed forces in terms of the equal protection and civil liberties guarantees of the Constitution; and

(2) each such individual is informed that if supporting such guarantees is not possible personally for that individual, then that individual should decline to enter the armed forces.

(Added Pub. L. 117–81, div. A, title V, §552(a), Dec. 27, 2021, 135 Stat. 1735.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2001, act Aug. 10, 1956, ch. 1041, 70A Stat. 119, related to division of reserve components into training categories, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1661(a)(3)(A), Oct. 5, 1994, 108 Stat. 2980. See section 10141(c) of this title.

## §2002. Dependents of members of armed forces: language training

(a) Notwithstanding section 701(b) of the Foreign Service Act of 1980 (22 U.S.C. 4021(b)) or any other provision of law, and under regulations to be prescribed by the Secretary of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of

Homeland Security, language training may be provided in—

(1) a facility of the Department of Defense;

(2) a facility of the George P. Shultz National Foreign Affairs Training Center established under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4021(a)); or

(3) a civilian educational institution;

to a dependent of a member of the armed forces in anticipation of the member's assignment to permanent duty outside the United States.

(b) In this section, the term "dependent" has the same meaning that it has under section 401 of title 37.

(Added Pub. L. 89–160, §1(1), Sept. 1, 1965, 79 Stat. 615; amended Pub. L. 91–278, §2(1), (2), June 12, 1970, 84 Stat. 306; Pub. L. 96–465, title II, §2206(c)(1), Oct. 17, 1980, 94 Stat. 2162; Pub. L. 97–22, §11(a)(7), July 10, 1981, 95 Stat. 138; Pub. L. 98–525, title XIV, §1405(30), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, §1045(a)(4), Nov. 24, 2003, 117 Stat. 1612.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (a)(2). Pub. L. 108–136 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in introductory provisions.

**1987**—Subsec. (b). Pub. L. 100–180 inserted "the term" after "In this section,".

**1984**—Subsec. (b). Pub. L. 98–525 substituted "In this section," for "For the purposes of this section, the word".

**1981**—Subsec. (a). Pub. L. 97–22 inserted "(22 U.S.C. 4021(b))" after "section 701(b) of the Foreign Service Act of 1980" in provisions preceding par. (1) and, in par. (2), inserted "(22 U.S.C. 4021(a))" after "section 701(a) of the Foreign Service Act of 1980".

**1980**—Subsec. (a). Pub. L. 96–465, in provisions preceding par. (1) substituted "section 701(b) of the Foreign Service Act of 1980" for "section 1041 of title 22" and in par. (2) substituted "section 701(a) of the Foreign Service Act of 1980" for "section 1041 of title 22".

**1970**—Pub. L. 91–278, §2(1), substituted "armed forces" for "Army, Navy, Air Force, or Marine Corps" in section catchline.

Subsec. (a). Pub. L. 91–278, §2(2)(A), authorized Secretary of Transportation to prescribe regulations for Coast Guard when not operating as a service in the Navy.

Subsec. (a)(3). Pub. L. 91–278, §2(2)(B), substituted "armed forces" for "Army, Navy, Air Force, or Marine Corps".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

## §2003. Aeronautical rating as pilot: qualifications

To be eligible to receive an aeronautical rating as a pilot in the Army or Air Force or be designated

as a naval aviator, a member of an armed force must successfully complete an undergraduate pilot course of instruction prescribed or approved by the Secretary of his military department.

(Added Pub. L. 92–168, §4(1), Nov. 24, 1971, 85 Stat. 489.)

## §2004. Detail as students at law schools; commissioned officers; certain enlisted members

(a)(1) The Secretary of each military department may, under regulations prescribed by the Secretary of Defense, detail commissioned officers and enlisted members of the armed forces as students at accredited law schools, located in the United States, for a period of training leading to the degree of juris doctor.

(2) Pursuant to regulations prescribed by the Secretary concerned, the Secretary of a military department may fund educational expenses for members of the armed forces detailed under paragraph (1). Not more than 25 officers and enlisted members from each military department may commence such training in any single fiscal year.

(3) Pursuant to regulations prescribed by the Secretary concerned, the Secretary of a military department may also detail members under paragraph (1) without funding any educational expenses. A member detailed pursuant to this paragraph shall not count against the limitation in paragraph (2).

(b) To be eligible for detail under subsection (a), an officer or enlisted member must be a citizen of the United States and must—

(1)(A) in the case of a member with respect to whom the Secretary of a military department is providing funding for educational expenses in accordance with subsection (a)(2), either—

(i) have served on active duty for a period of not less than two years nor more than six years and be an officer in the pay grade O–3 or below as of the time the training is to begin; or

(ii) have served on active duty for a period of not less than four years nor more than 10 years and be an enlisted member in the pay grade E–5, E–6, or E–7 as of the time the training is to begin; or

(B) in the case of a member with respect to whom the Secretary of a military department is not providing funding for educational expenses in accordance with subsection (a)(3), either—

(i) have served on active duty for a period of not less than two years nor more than eight years and be an officer in the pay grade O-3 or below when the training is to begin; or

(ii) have served on active duty for a period of not less than four years nor more than ten years and be an enlisted member in the pay grade of E-5, E-6, or E-7 when the training is to begin;

(2) in the case of an enlisted member, meet all requirements for acceptance of a commission as a commissioned officer in the armed forces; and

(3) sign an agreement that unless sooner separated he will—

(A) complete the educational course of legal training;

(B) accept transfer or detail as a judge advocate within the department concerned when his legal training is completed; and

(C) agree to serve on active duty following completion or other termination of training for a period of—

(i) two years for each year or part thereof of legal training under subsection (a)(2); or

(ii) one year for each year or part thereof of legal training under subsection (a)(3).

(c) Officers and enlisted members detailed for legal training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense. Any service obligation incurred by an officer or enlisted member under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by any such officer or enlisted member under any other provision of law or agreement.

(d) Expenses incident to the detail of officers and enlisted members under this section shall be paid from any funds appropriated for the military department concerned.

(e) An officer or enlisted member who, under regulations prescribed by the Secretary of Defense, is dropped from the program of legal training authorized by subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by regulations issued by the Secretary of Defense, except that in no case shall any such member be required to serve on active duty for any period in excess of one year for each year or part thereof he participated in the program.

(f) No agreement detailing any officer or enlisted member of the armed forces to an accredited law school may be entered into during any period that the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.

(Added Pub. L. 93–155, title VIII, §817(a), Nov. 16, 1973, 87 Stat. 621; amended Pub. L. 101–510, div. A, title XIV, §1484(i)(3)(A), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 116–92, div. A, title V, §551(a), (b)(1), Dec. 20, 2019, 133 Stat. 1385, 1386; Pub. L. 116–283, div. A, title X, §1081(a)(34), Jan. 1, 2021, 134 Stat. 3872; Pub. L. 118–159, div. A, title V, §552(a), Dec. 23, 2024, 138 Stat. 1893; Pub. L. 119–60, div. A, title V, §551, Dec. 18, 2025, 139 Stat. 876.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1)(A). Pub. L. 119–60, §551(a)(1)(A), substituted "with respect to whom the Secretary of a military department is providing funding for educational expenses in accordance with subsection (a)(2)" for "detailed pursuant to subsection (a)(1)" in introductory provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 119–60, §551(a)(1)(B), substituted "10 years" for "eight years".

Subsec. (b)(1)(B). Pub. L. 119–60, §551(a)(2), substituted "with respect to whom the Secretary of a military department is not providing funding for educational expenses in accordance with subsection (a)(3)" for "detailed pursuant to subsection (a)(2)" in introductory provisions.

Subsec. (b)(3)(C)(i). Pub. L. 119–60, §551(b)(1), substituted "subsection (a)(2)" for "subsection (a)(1)".

Subsec. (b)(3)(C)(ii). Pub. L. 119–60, §551(b)(2), substituted "subsection (a)(3)" for "subsection (a)(2)".

**2024**—Subsec. (a). Pub. L. 118–159, §552(a)(1), designated first sentence as par. (1), added pars. (2) and (3), and struck out former second sentence which read as follows: "No more than twenty-five officers and enlisted members from each military department may commence such training in any single fiscal year."

Subsec. (b)(1). Pub. L. 118–159, §552(a)(2)(A), inserted "(A) in the case of a member detailed pursuant to subsection (a)(1)," after "(1)", redesignated subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(3)(C). Pub. L. 118–159, §552(a)(2)(B), which directed substitution of "period of—" and cls. (i) and (ii) for "period of two years", was executed by making the substitution for "period of two years for each year or part thereof of his legal training under subsection (a).", to reflect the probable intent of Congress.

**2021**—Subsecs. (d), (e). Pub. L. 116–283 substituted "enlisted" for "enlistment".

**2019**—Pub. L. 116–92, §551(b)(1), substituted "Detail as students at law schools; commissioned officers; certain enlisted members" for "Detail of commissioned officers as students at law schools" in section catchline.

Subsec. (a). Pub. L. 116–92, §551(a)(1), inserted "and enlisted members" after "commissioned officers" and after "twenty-five officers" and struck out "bachelor of laws or" before "juris doctor".

Subsec. (b). Pub. L. 116–92, §551(a)(2)(A), inserted "or enlisted member" after "officer" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–92, §551(a)(2)(B), added par. (1) and struck out former par. (1) which read as follows: "have served on active duty for a period of not less than two years nor more than six years and be in the pay grade O–3 or below as of the time the training is to begin; and".

Subsec. (b)(2), (3). Pub. L. 116–92, §551(a)(2)(C), (D), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(3)(B). Pub. L. 116–92, §551(a)(2)(E), struck out "or law specialist" after "judge advocate".

Subsec. (c). Pub. L. 116–92, §551(a)(3), inserted "and enlisted members" after "Officers" and, in two places, inserted "or enlisted member" after "officer".

Subsec. (d). Pub. L. 116–92, §551(a)(4), inserted "and enlistment members" after "officers".
Subsec. (e). Pub. L. 116–92, §551(a)(5), inserted "or enlistment member" after "officer".
Subsec. (f). Pub. L. 116–92, §551(a)(6), inserted "or enlisted member" after "officer".
**1990**—Pub. L. 101–510 struck out "of the military departments" after "officers" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TEMPORARY EXPANSION**

Pub. L. 118–159, div. A, title V, §552(b), Dec. 23, 2024, 138 Stat. 1894, provided that: "During each of the three years after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of a military department may fund educational expenses under section 2004(a) of such title [10 U.S.C. 2004(a)], as amended by subsection (a), for 35 members of such military department."

**SELECTION OF OFFICERS IN MISSING STATUS FOR LEGAL TRAINING ON A NONCOMPETITIVE BASIS; EXEMPTION FROM NUMERICAL LIMITATIONS**

Pub. L. 94–106, title VIII, §821, Oct. 7, 1975, 89 Stat. 545, provided that: "Notwithstanding any provision of section 2004 of title 10 United States Code, an officer in any pay grade who was in a missing status (as defined in section 551(2) of title 37, United States Code) after August 4, 1964, and before May 8, 1975, may be selected for detail for legal training under that section 2004 on other than a competitive basis and, if selected for that training, is not counted in computing, for the purpose of subsection (a) of that section 2004, the number of officers who may commence that training in any single fiscal year. For the purposes of determining eligibility under that section 2004, the period of time during which an officer was in that missing status may be disregarded in computing the period he has served on active duty."

## §2004a. Detail of commissioned officers as students at medical schools

(a) DETAIL AUTHORIZED.—The Secretary of each military department may detail commissioned officers of the armed forces as students at accredited medical schools or schools of osteopathy located in the United States for a period of training leading to the degree of doctor of medicine. No more than 25 officers from each military department may commence such training in any single fiscal year.

(b) ELIGIBILITY FOR DETAIL.—To be eligible for detail under subsection (a), an officer must be a citizen of the United States and must—

(1) have served on active duty for a period of not less than two years nor more than six years and be in the pay grade O–3 or below as of the time the training is to begin; and

(2) sign an agreement that unless sooner separated the officer will—

(A) complete the educational course of medical training;

(B) accept transfer or detail as a medical officer within the military department concerned when the officer's training is completed; and

(C) agree to serve, following completion of the officer's training, on active duty (or on active duty and in the Selected Reserve) for a period as specified pursuant to subsection (c).

(c) SERVICE OBLIGATION.—An agreement under subsection (b) shall provide that the officer shall serve on active duty for two years for each year or part thereof of the officer's medical training under subsection (a), except that the agreement may authorize the officer to serve a portion of the officer's service obligation on active duty and to complete the service obligation that remains upon separation from active duty in the Selected Reserve, in which case the officer shall serve three years in the Selected Reserve for each year or part thereof of the officer's medical training under subsection (a) for any service obligation that was not completed before separation from active duty.

(d) SELECTION OF OFFICERS FOR DETAIL.—Officers detailed for medical training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned.

(e) APPOINTMENT AND TREATMENT OF PRIOR ACTIVE SERVICE.—(1) A commissioned officer detailed as a student at a medical school under subsection (a) shall be

appointed as a regular officer in the grade of second lieutenant or ensign and shall serve on active duty in that grade with full pay and allowances of that grade.

(2) If an officer detailed to be a medical student has prior active service in a pay grade and with years of service credited for pay that would entitle the officer, if the officer remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the officer shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the officer shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the officer shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after graduation, on which the basic pay for the officer in the officer's actual grade and years of service credited for pay exceeds the amount of basic pay to which the officer is entitled based on the officer's former grade and years of service.

(f) RELATION OF SERVICE OBLIGATIONS TO OTHER SERVICE OBLIGATIONS.—Any service obligation incurred by an officer under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by the officer under any other provision of law or agreement.

(g) EXPENSES.—Expenses incident to the detail of officers under this section shall be paid from any funds appropriated for the military department concerned.

(h) FAILURE TO COMPLETE PROGRAM.—(1) An officer who is dropped from a program of medical training to which detailed under subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed on the officer under regulations issued by the Secretary of Defense for purposes of this section.

(2) In no case shall an officer be required to serve on active duty under paragraph (1) for any period in excess of one year for each year or part thereof the officer participated in the program.

(i) LIMITATION ON DETAILS.—No agreement detailing an officer of the armed forces to an accredited medical school or school of osteopathy may be entered into during any period in which the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.

(Added Pub. L. 109–364, div. A, title V, §536(a), Oct. 17, 2006, 120 Stat. 2207; amended Pub. L. 110–181, div. A, title V, §524(c), Jan. 28, 2008, 122 Stat. 104; Pub. L. 111–84, div. A, title X, §1073(a)(18), Oct. 28, 2009, 123 Stat. 2473.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2009**—Subsec. (b)(1). Pub. L. 111–84, §1073(a)(18)(A), substituted "pay grade O–3" for "pay grade 0–3".

Subsec. (i). Pub. L. 111–84, §1073(a)(18)(B), inserted period at end.

**2008**—Subsec. (c). Pub. L. 110–181, §524(c)(2), substituted "subsection (b)" for "subsection (c)".

Subsecs. (e) to (i). Pub. L. 110–181, §524(c)(1), added subsec. (e) and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

## §2004b. Detail of commissioned officers as students at schools of psychology

(a) DETAIL AUTHORIZED.—The Secretary of each military department may detail commissioned officers of the armed forces as students at accredited schools of psychology located in the United States for a period of training leading to the degree of Doctor of Philosophy in clinical psychology. No more than 25 officers from each military department may commence such training in any single fiscal year.

(b) ELIGIBILITY FOR DETAIL.—To be eligible for detail under subsection (a), an officer must be a citizen of the United States and must—

(1) have served on active duty for a period of not less than two years nor more than six years

and be in the pay grade O–3 or below as of the time the training is to begin; and

(2) sign an agreement that unless sooner separated the officer will—

(A) complete the educational course of psychological training;

(B) accept transfer or detail as a commissioned officer within the military department concerned when the officer's training is completed; and

(C) agree to serve, following completion of the officer's training, on active duty (or on active duty and in the Selected Reserve) for a period as specified pursuant to subsection (c).

(c) SERVICE OBLIGATION.—(1) Except as provided in paragraph (2), the agreement of an officer under subsection (b) shall provide that the officer shall serve on active duty for two years for each year or part thereof of the officer's training under subsection (a).

(2) The agreement of an officer may authorize the officer to serve a portion of the officer's service obligation on active duty and to complete the service obligation that remains upon separation from active duty in the Selected Reserve. Under any such agreement, an officer shall serve three years in the Selected Reserve for each year or part thereof of the officer's training under subsection (a) for any service obligation that was not completed before separation from active duty.

(d) SELECTION OF OFFICERS FOR DETAIL.—Officers detailed for training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned.

(e) RELATION OF SERVICE OBLIGATIONS TO OTHER SERVICE OBLIGATIONS.—Any service obligation incurred by an officer under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by the officer under any other provision of law or agreement.

(f) EXPENSES.—Expenses incident to the detail of officers under this section shall be paid from any funds appropriated for the military department concerned.

(g) FAILURE TO COMPLETE PROGRAM.—(1) An officer who is dropped from a program of psychological training to which detailed under subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed on the officer under regulations issued by the Secretary of Defense for purposes of this section.

(2) In no case shall an officer be required to serve on active duty under paragraph (1) for any period in excess of one year for each year or part thereof the officer participated in the program.

(h) LIMITATION ON DETAILS.—No agreement detailing an officer of the armed forces to an accredited school of psychology may be entered into during any period in which the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.

(Added Pub. L. 111–84, div. A, title V, §521(a), Oct. 28, 2009, 123 Stat. 2283; amended Pub. L. 111–383, div. A, title X, §1075(b)(26), Jan. 7, 2011, 124 Stat. 4370.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (b)(1). Pub. L. 111–383 substituted "pay grade O–3" for "pay grade 0–3".

## §2004c. Detail as students at schools for education required for appointment as a chaplain: commissioned officers; certain enlisted members

(a) DETAIL AUTHORIZED.—(1) The Secretary of each military department may detail commissioned officers and enlisted members of the armed forces as students at accredited colleges, universities, and schools of theology, located in the United States, for a period of training leading to a graduate degree that meets the educational requirements for appointment as a chaplain in the armed forces.

(2) Pursuant to regulations prescribed by the Secretary concerned, the Secretary of a military department may fund educational expenses for members of the armed forces detailed under paragraph (1). Not more than 25 officers and enlisted members from each military department may commence such training in any single fiscal year.

(3) Pursuant to regulations prescribed by the Secretary concerned, the Secretary of a military department may also detail members under paragraph (1) without funding any educational expenses. A member detailed pursuant to this paragraph shall not count against the limitation in paragraph (2).

(b) ELIGIBILITY FOR DETAIL.—To be eligible for detail under subsection (a), an officer or enlisted member must be a citizen of the United States and must—

(1)(A) have served on active duty for a period of not less than two years nor more than eight years and be an officer in the pay grade O–3 or below as of the time the training is to begin; or

(B) have served on active duty for a period of not less than four years nor more than ten years and be an enlisted member in the pay grade E–5 or above as of the time the training is to begin;

(2) in the case of an enlisted member, meet all requirements for acceptance of a commission as a commissioned officer in the armed forces; and

(3) sign an agreement that unless sooner separated the officer or enlisted member will—

(A) complete the educational course of chaplaincy training; and

(B) if the Secretary of the military department concerned carries out a program under section 710 of this title—

(i) agree to be inactivated for a period of time under subsection (a)(2) of such section upon completion of a detail under this section; and

(ii) accept transfer or detail as a chaplain in the military department concerned upon completion of the period described in clause (i).

(c) LIMITATION ON SERVICE CREDIT.—Notwithstanding section 533 of this title, a commissioned officer of the armed forces who completes a detail under this section may not be credited with more than four years of constructive service under such section 533 upon original appointment to the armed forces as a chaplain.

(d) SERVICE OBLIGATION.—(1) Subject to paragraph (2), the agreement of an officer or enlisted member under subsection (b) shall provide that the officer or enlisted member shall serve on active duty for two years for each year or part thereof of chaplaincy training completed under subsection (a), except that such agreement may not require more than a total of six years of service on active duty.

(2) The agreement of an officer or enlisted member under subsection (b) may authorize the officer or enlisted member to serve a portion of a service obligation on active duty and to complete the service obligation that remains upon separation from active duty in the Selected Reserve, in which case the officer or enlisted member shall serve three years in the Selected Reserve for each year or part thereof of the chaplaincy training of such officer or enlisted member under subsection (a) for any service obligation that was not completed before separation from active duty, except that such agreement may not require more than a total of nine years of service in the Selected Reserve.

(e) SELECTION OF OFFICERS AND ENLISTED MEMBERS FOR DETAIL.—The Secretary of the military department concerned shall select officers and enlisted members for detail for chaplaincy training under subsection (a)—

(1) on a competitive basis;

(2) without regard to the duration of ordination or seminary requirements for the chaplaincy training in which an officer or enlisted member seeks to enroll; and

(3) based on the needs of the armed forces under the jurisdiction of the Secretary.

(f) RELATION OF SERVICE OBLIGATIONS TO OTHER SERVICE OBLIGATIONS.—Any service obligation incurred by an officer or enlisted member under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by such officer or enlisted member under any other provision of law or agreement, except that the total service obligation under this section and any other provision of law or agreement shall not exceed nine years.

(g) EXPENSES.—Expenses incident to the detail of officers and enlisted members under this section shall be paid from any funds appropriated for the military department concerned.

(h) FAILURE TO COMPLETE PROGRAM.—An officer or enlisted member who is dropped from a program of chaplaincy training to which detailed under subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to—

(1) perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by regulations issued by the Secretary of Defense, except that in no case shall an officer or enlisted member be required to serve on active duty for any period in excess of one year for each year or part thereof he participated in the program; or

(2) repay the expenses incident to the detail of such officer or enlisted member and paid under subsection (f).[1]

(i) LIMITATION ON DETAILS.—No agreement detailing an officer or enlisted member of the armed forces to a chaplaincy school may be entered into during any period in which the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.

(j) REPORTS.—Not later than March 31, 2027, and annually thereafter for five years, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the detail of commissioned officers and enlisted members of the armed forces under this section during the preceding fiscal year, including—

(1) the number of members of the armed forces detailed under this section, disagreggated by military department and religious faith of the members;

(2) the number of members of the armed forces who completed a detail under this section, disaggregated by military department and religious faith of the members;

(3) the number of members of the armed forces who have completed a detail under this section and been appointed as a chaplain in the armed forces, disaggregated by military department and religious faith of the members;

(4) the length of detail and total cost of participation, including pay, benefits, and educational expenses, for each member of the armed forces detailed under this section;

(5) a description of any barriers to participation in details under this section by religious faiths with lengthier or nontraditional formation requirements and any efforts by the Secretary to address any shortages of chaplains in the armed forces for particular religious faiths; and

(6) any recommendations of the Secretary for legislative or administrative changes to improve the equity, effectiveness, or fiscal management of the detail of members of the armed forces under this section.

(Added Pub. L. 119–60, div. A, title V, §504(b), Dec. 18, 2025, 139 Stat. 855.)

*[1] So in original. Probably should be "subsection (g).".*

## §2005. Advanced education assistance: active duty agreement; reimbursement requirements

(a) The Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;

(3) that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be

subject to the repayment provisions of section 303a(e) or 373 of title 37; and

(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

(c) As a condition of the Secretary concerned providing financial assistance under section 2107 or 2107a of this title to any person, the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraphs (1) through (4) of such subsection, the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) or 373 of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.

(d) In this section:

(1) The term "advanced education" means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

(2) The term "assistance" means the direct provision of any course of advanced education by the Secretary concerned, reimbursement by the Secretary concerned for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by the Secretary concerned for any course of advanced education provided by any public or private educational institution or other entity, but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title.

(3) The term "cost of advanced education" means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transportation, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.

(Added Pub. L. 96–357, §2(a), Sept. 24, 1980, 94 Stat. 1180; amended Pub. L. 98–94, title X, §1003(b)(1), title XII, §1268(10), Sept. 24, 1983, 97 Stat. 656, 706; Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–510, div. A, title V, §534, Nov. 5, 1990, 104 Stat. 1564; Pub. L. 103–160, div. A, title V, §573(a), Nov. 30, 1993, 107 Stat. 1673; Pub. L. 109–163, div. A, title VI, §687(c)(2), Jan. 6, 2006, 119 Stat. 3333; Pub. L. 115–91, div. A, title VI, §618(a)(1)(B), Dec. 12, 2017, 131 Stat. 1426.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsecs. (a)(3), (c). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Subsec. (a)(3). Pub. L. 109–163, §687(c)(2)(A), added par. (3) and struck out former par. (3) which read as follows: "that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, or fails to fulfill any term or condition prescribed pursuant to clause (4), such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and".

Subsecs. (c) to (h). Pub. L. 109–163, §687(c)(2)(B)–(D), added subsec. (c), redesignated former subsec. (e) as (d), and struck out former subsecs. (c), (d), and (f) to (h) relating to the obligation to reimburse the United States under an advanced education assistance agreement in subsec. (c), the effect of a discharge in bankruptcy under title 11 in subsec. (d), requirements for providing financial assistance in subsec. (f), failure to complete a period of active duty specified in an agreement in subsec. (g), and modification of agreements by the Secretary concerned in subsec. (h).

**1993**—Subsecs. (g), (h). Pub. L. 103–160 added subsecs. (g) and (h).

**1990**—Subsec. (a)(3). Pub. L. 101–510, §534(1), inserted "or fails to fulfill any term or condition prescribed pursuant to clause (4)," after "agreement,".

Subsec. (f)(1). Pub. L. 101–510, §534(2), inserted "or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection," after "agreement,".

**1987**—Subsec. (e). Pub. L. 100–180, §1231(17), inserted "The term" after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

**1983**—Subsec. (c). Pub. L. 98–94, §1268(10)(A), struck out "of this section" after "subsection (d)" and "subsection (a)".

Subsec. (d). Pub. L. 98–94, §1268(10)(A), struck out "of this section" after "subsection (a)".

Subsec. (e). Pub. L. 98–94, §1268(10)(B), substituted a colon for a dash after "In this section" preceding par. (1).

Subsec. (f). Pub. L. 98–94, §1003(b)(1), added subsec. (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title V, §573(b), Nov. 30, 1993, 107 Stat. 1674, provided that:

"(1) Subsection (g) of section 2005 of title 10, United States Code, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the end of the six-month period beginning on the date of the enactment of this Act [Nov. 30, 1993].

"(2) Subsection (h) of such section, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the date of the enactment of this Act."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title X, §1003(b)(2), Sept. 24, 1983, 97 Stat. 657, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to agreements entered into after September 30, 1983."

#### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §2006. Department of Defense Education Benefits Fund

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the "Fund"), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance armed forces education liabilities on an actuarially sound basis.

(b) In this section:

(1) The term "armed forces education liabilities" means liabilities of the armed forces for benefits under chapter 30 or 33 of title 38 and for Department of Defense benefits under paragraphs (3) and (4) of section 510(e) and chapters 1606 and 1607 of this title, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy.

(2) The term "normal cost", with respect to any period of time, means the total of the following:

(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 3015(d) of title 38 to persons who were not on active duty on July 1, 1985, and who during such period enter on

active duty.

(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on July 1, 1985, and who during such period—

(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 3011 of such title; or

(ii) enter a period of service that will establish entitlement to such educational assistance under section 3021(b) of such title, in the case of persons eligible for basic educational assistance under section 3012 of such title.

(C) The present value of the future Department of Defense benefits payable from the Fund (including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607 of this title to persons who during such period become entitled to such assistance.

(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period.

(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.

(F) The present value of any future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund by the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating under subsection (f).

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(d) The Secretary of the Treasury shall transfer from the Fund to the Secretary of Veterans Affairs such amounts as may be necessary to enable the Secretary of Veterans Affairs to make required payments of armed forces education liabilities. The Secretary of the Treasury, the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of Veterans Affairs shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

(e)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or negative unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an increase or decrease in the payments that would otherwise be made to the Fund.

(5) Based on the determinations under paragraphs (2), (3), and (4) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense and the Department in which the Coast Guard is operating for the next fiscal year for payments to be made to the Fund under subsection (f). The President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(6) All determinations under this subsection shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(f)(1) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

(2) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

(A) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (e)(3).

(B) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (e)(4).

(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary concerned.

(g) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

(Added Pub. L. 98–525, title VII, §706(a)(1), Oct. 19, 1984, 98 Stat. 2568; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–189, div. A, title XVI, §1621(a)(2), (6), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 101–510, div. A, title XIII, §1322(a)(2), title XIV, §1484(j)(2), Nov. 5, 1990, 104 Stat. 1671, 1718; Pub. L. 103–337, div. A, title X, §1070(e)(6), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–106, div. A, title XV, §§1501(c)(21), 1503(a)(17), Feb. 10, 1996, 110 Stat. 499, 512; Pub. L. 106–65, div. A, title V, §550, Oct. 5, 1999, 113 Stat. 611; Pub. L. 107–107, div. A, title VI, §654(b), Dec. 28, 2001, 115 Stat. 1157; Pub. L. 108–136, div. A, title V, §535(b), Nov. 24, 2003, 117 Stat. 1474; Pub. L. 108–375, div. A, title V, §527(b)(1), Oct. 28, 2004, 118 Stat. 1894; Pub. L. 109–364, div. A, title X, §1071(a)(9), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, §906(b)(2), Jan. 28, 2008, 122 Stat. 277; Pub. L. 111–377, title I, §109(b)(2), Jan. 4, 2011, 124 Stat. 4120; Pub. L. 112–239, div. A, title X, §1076(f)(23), Jan. 2, 2013, 126 Stat. 1953.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (b)(2)(F). Pub. L. 112–239 redesignated subpar. (E) relating to amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38 as (F).

**2011**—Subsec. (b)(1). Pub. L. 111–377, §109(b)(2)(A), inserted "or 33" after "chapter 30".

Subsec. (b)(2)(E). Pub. L. 111–377, §109(b)(2)(B), added subpar. (E) relating to amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.

**2008**—Subsec. (c)(1). Pub. L. 110–181, §906(b)(2)(A), substituted "subsection (f)" for "subsection (g)".

Subsec. (e). Pub. L. 110–181, §906(b)(2)(B), (C), redesignated subsec. (f) as (e) and struck out former subsec. (e) which established in the Department of Defense a Department of Defense Education Benefits

Board of Actuaries.

Subsec. (e)(5). Pub. L. 110–181, §906(b)(2)(D), substituted "subsection (f)" for "subsection (g)".

Subsec. (f). Pub. L. 110–181, §906(b)(2)(C), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(2)(A). Pub. L. 110–181, §906(b)(2)(E)(i), substituted "subsection (e)(3)" for "subsection (f)(3)".

Subsec. (f)(2)(B). Pub. L. 110–181, §906(b)(2)(E)(ii), substituted "subsection (e)(4)" for "subsection (f)(4)".

Subsecs. (g), (h). Pub. L. 110–181, §906(b)(2)(C), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

**2006**—Subsec. (b)(1). Pub. L. 109–364 inserted "of this title" after "1607" and struck out "of this title" before period at end.

**2004**—Subsec. (b)(1). Pub. L. 108–375, §527(b)(1)(A), substituted "chapters 1606 and 1607, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy" for "chapter 1606".

Subsec. (b)(2)(C). Pub. L. 108–375, §527(b)(1)(B), substituted "(including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607" for "for educational assistance under chapter 1606".

**2003**—Subsec. (b)(1). Pub. L. 108–136, §535(b)(1), inserted "paragraphs (3) and (4) of section 510(e) and" after "Department of Defense benefits under".

Subsec. (b)(2)(E). Pub. L. 108–136, §535(b)(2), added subpar. (E).

**2001**—Subsec. (b)(2)(D). Pub. L. 107–107 added subpar. (D).

**1999**—Subsec. (a). Pub. L. 106–65, §550(1), substituted "armed forces education liabilities" for "Department of Defense education liabilities".

Subsec. (b)(1). Pub. L. 106–65, §550(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'Department of Defense education liabilities' means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 1606 of this title."

Subsec. (b)(2)(C). Pub. L. 106–65, §550(3), inserted "Department of Defense" after "future" and substituted "chapter 1606" for "chapter 106".

Subsec. (c)(1). Pub. L. 106–65, §550(4), inserted "and the Secretary of the Department in which the Coast Guard is operating" after "Defense".

Subsec. (d). Pub. L. 106–65, §550(5), substituted "armed forces" for "Department of Defense" and inserted "the Secretary of the Department in which the Coast Guard is operating," after "Secretary of Defense,".

Subsec. (f)(5). Pub. L. 106–65, §550(6), inserted "and the Department in which the Coast Guard is operating" after "Department of Defense".

Subsec. (g). Pub. L. 106–65, §550(7), inserted "and the Secretary of the Department in which the Coast Guard is operating" after "The Secretary of Defense" in pars. (1) and (2) and substituted "concerned" for "of a military department" in par. (3).

**1996**—Subsec. (b)(1). Pub. L. 104–106, §1501(c)(21), substituted "chapter 1606 of this title" for "chapter 106 of this title".

Subsec. (b)(2)(B)(ii). Pub. L. 104–106, §1503(a)(17), substituted "section 3012 of such title" for "section 1412 of such title".

**1994**—Subsec. (b)(2). Pub. L. 103–337 substituted "section 3015(d)", "section 3011", and "section 3021(b)" for "section 1415(c)", "section 1411", and "section 1421(b)", respectively.

**1990**—Subsec. (d). Pub. L. 101–510, §1484(j)(2), substituted "enable the Secretary of Veterans Affairs" for "enable the Administrator".

Subsec. (e)(3). Pub. L. 101–510, §1322(a)(2), substituted "and shall recommend to the President and Congress" for "and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend".

**1989**—Subsec. (d). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs" in first sentence and "Secretary of Veterans Affairs" for "Administrator" in second sentence.

**1987**—Subsec. (b). Pub. L. 100–26 inserted "The term" after each par. designation and substituted "normal" for "Normal" in par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–377, title I, §109(c), Jan. 4, 2011, 124 Stat. 4120, provided that: "The amendments made by

this section [amending this section and section 3316 of Title 38, Veterans' Benefits] shall take effect on August 1, 2011."

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

**FIRST PAYMENT INTO FUND**

Pub. L. 98–525, title VII, §706(b), Oct. 19, 1984, 98 Stat. 2570, directed that first payment into Department of Defense Education Benefits Fund under this section be made not later than three months after Board of Actuaries determined amounts needed to be paid into Fund for that portion of fiscal year 1985 beginning on July 1, 1985, with first payment in a lump sum equal to total of amounts that would have been paid to Fund each month between July 1, 1985, and time such first payment was made.

## §2006a. Assistance for education and training: availability of certain assistance for use only for certain programs of education

(a) IN GENERAL.—Effective as of August 1, 2014, an individual eligible for assistance under a Department of Defense educational assistance program or authority covered by this section may, except as provided in subsection (b), only use such assistance for educational expenses incurred for a program as follows:

(1) An eligible program (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) that is offered by an institution of higher education that has entered into, and is complying with, a program participation agreement under section 487 of such Act (20 U.S.C. 1094).

(2) In the case of a program designed to prepare individuals for licensure or certification in any State, if the program meets the instructional curriculum licensure or certification requirements of such State.

(3) In the case of a program designed to prepare individuals for employment pursuant to standards developed by a State board or agency in an occupation that requires approval or licensure for such employment, if the program is approved or licensed by such State board or agency.

(b) WAIVER.—The Secretary of Defense may, by regulation, authorize the use of educational assistance under a Department of Defense educational assistance program or authority covered by this chapter for educational expenses incurred for a program of education that is not described in subsection (a) if the program—

(1) is accredited and approved by a nationally or regionally recognized accrediting agency or association recognized by the Department of Education;

(2) was not an eligible program described in subsection (a) at any time during the most recent two-year period;

(3) is a program that the Secretary determines would further the purposes of the educational assistance programs or authorities covered by this chapter, or would further the education interests of students eligible for assistance under such programs or authorities; and

(4) the institution providing the program does not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(c) DEFINITIONS.—In this section:

(1) The term "Department of Defense educational assistance programs and authorities covered by this section" means the programs and authorities as follows:

(A) The programs to assist military spouses in achieving education and training to expand employment and portable career opportunities under section 1784a of this title.

(B) The authority to pay tuition for off-duty training or education of members of the armed forces under section 2007 of this title.

(C) The program of educational assistance for members of the Selected Reserve under chapter 1606 of this title.

(D) The program of educational assistance for reserve component members supporting contingency operations and certain other operations under chapter 1607 of this title.

(E) Any other program or authority of the Department of Defense for assistance in education or training carried out under the laws administered by the Secretary of Defense that is designated by the Secretary, by regulation, for purposes of this section.

(2) The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act for 1965 (20 U.S.C. 1002).

(Added Pub. L. 113–66, div. A, title V, §541(a), Dec. 26, 2013, 127 Stat. 760; amended Pub. L. 114–92, div. A, title X, §1081(a)(6), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115–232, div. A, title X, §1081(a)(15), Aug. 13, 2018, 132 Stat. 1984.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (b)(3). Pub. L. 115–232 substituted "such programs" for "the such programs".

**2015**—Subsec. (a). Pub. L. 114–92 substituted "August 1" for "August, 1" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 113–66, div. A, title V, §541(c), Dec. 26, 2013, 127 Stat. 762, provided that: "The amendments made by this section [enacting this section] shall take effect on August 1, 2014."

## §2007. Payment of tuition for off-duty training or education

(a) Subject to subsections (b) and (c), the Secretary concerned may pay all or a portion of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such educational institution for education or training during the member's off-duty periods.

(b)(1) In the case of a commissioned officer on active duty (other than a member of the Ready Reserve), the Secretary concerned may not pay charges under subsection (a) unless the officer agrees to remain on active duty for a period of at least two years after the completion of the training or education for which the charges are paid.

(2) Notwithstanding paragraph (1), the Secretary concerned may reduce or waive the active duty service obligation—

(A) in the case of a commissioned officer who is subject to mandatory separation;

(B) in the case of a commissioned officer who has completed the period of active duty service for which the officer was ordered to active duty in support of a contingency operation; or

(C) in other exigent circumstances as determined by the Secretary concerned.

(c)(1) Subject to paragraphs (3) and (5), the Secretary concerned may pay the charges of an educational institution for the tuition or expenses described in subsection (a) of a member of the Selected Reserve.

(2) Subject to paragraphs (4) and (5), the Secretary concerned may pay the charges of an educational institution for the tuition or expenses described in subsection (a) of a member of the Individual Ready Reserve who has a military occupational specialty designated by the Secretary concerned for purposes of this subsection.

(3) The Secretary concerned may not pay charges under paragraph (1) for tuition or expenses of an officer of the Selected Reserve unless the officer enters into an agreement to remain a member of the Selected Reserve for at least 4 years after completion of the education or training for which the charges are paid.

(4) The Secretary concerned may not pay charges under paragraph (2) for tuition or expenses of an officer of the Individual Ready Reserve unless the officer enters into an agreement to remain in the Selected Reserve or Individual Ready Reserve for at least 4 years after completion of the education or training for which the charges are paid.

(5) The Secretary of a military department may require an enlisted member of the Selected Reserve or Individual Ready Reserve to enter into an agreement to serve for up to 4 years in the Selected Reserve or Individual Ready Reserve, as the case may be, after completion of the education or training for which tuition or expenses are paid under paragraph (1) or (2), as applicable.

(d)(1) A member of the armed forces who is entitled to basic educational assistance under chapter 30 of title 38 or chapter 1606 of this title may use such entitlement for purposes of paying any portion of the charges described in subsection (a) or (c) that are not paid for by the Secretary of the military department concerned under such subsection.

(2) The use of entitlement under paragraph (1) shall be governed by the provisions of section 3014(b) of title 38, in the case of educational assistance under chapter 30 of such title, and section 16131(k), in the case of educational assistance under chapter 1606 of this title.

(e)(1) If an officer who enters into an agreement under subsection (b) does not complete the period of active duty specified in the agreement, the officer shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(2) If a member of the Ready Reserve who enters into an agreement under subsection (c) does not complete the period of service specified in the agreement, the member shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(f) This section shall be administered under regulations prescribed by the Secretary of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security.

(g) The provisions of this section pertaining to members of the Ready Reserve, the Selected Reserve, or the Individual Ready Reserve also apply to members of the Space Force in a space force active status who are not on active duty.

(Added Pub. L. 98–525, title XIV, §1401(g)(1), Oct. 19, 1984, 98 Stat. 2618; amended Pub. L. 99–661, div. A, title VI, §651(a), Nov. 14, 1986, 100 Stat. 3887; Pub. L. 100–26, §3(4), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–510, div. A, title XIV, §1484(i)(4)(A), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 103–160, div. A, title VI, §632, Nov. 30, 1993, 107 Stat. 1684; Pub. L. 106–65, div. A, title VI, §675, Oct. 5, 1999, 113 Stat. 675; Pub. L. 106–398, §1 [[div. A], title XVI, §1602(a), (b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–358, 1654A–359; Pub. L. 108–375, div. A, title V, §553(a), (b), Oct. 28, 2004, 118 Stat. 1912; Pub. L. 109–163, div. A, title VI, §687(c)(3), Jan. 6, 2006, 119 Stat. 3334; Pub. L. 110–181, div. A, title V, §521(a)–(d), Jan. 28, 2008, 122 Stat.

100–102; Pub. L. 115–91, div. A, title VI, §618(a)(1)(C), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 117–81, div. A, title V, §559(b), Dec. 27, 2021, 135 Stat. 1742; Pub. L. 118–31, div. A, title XVII, §1722(l)(1), Dec. 22, 2023, 137 Stat. 673.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Pub. L. 98–473, title I, §101(h) [title VIII, §8017], Oct. 12, 1984, 98 Stat. 1904, 1926.
Pub. L. 98–212, title VII, §720, Dec. 8, 1983, 97 Stat. 1441.
Pub. L. 97–377, title I, §101(c) [title VII, §721], Dec. 21, 1982, 96 Stat. 1833, 1854.
Pub. L. 97–114, title VII, §721, Dec. 29, 1981, 95 Stat. 1582.
Pub. L. 96–527, title VII, §722, Dec. 15, 1980, 94 Stat. 3084.
Pub. L. 96–154, title VII, §722, Dec. 21, 1979, 93 Stat. 1156.
Pub. L. 95–457, title VIII, §822, Oct. 13, 1978, 92 Stat. 1247.
Pub. L. 95–111, title VIII, §821, Sept. 21, 1977, 91 Stat. 903.
Pub. L. 94–419, title VII, §721, Sept. 22, 1976, 90 Stat. 1295.
Pub. L. 94–212, title VII, §721, Feb. 9, 1976, 90 Stat. 172.
Pub. L. 93–437, title VIII, §821, Oct. 8, 1974, 88 Stat. 1228.
Pub. L. 93–238, title VII, §722, Jan. 2, 1974, 87 Stat. 1042.
Pub. L. 92–570, title VII, §722, Oct. 26, 1972, 86 Stat. 1200.
Pub. L. 92–204, title VII, §722, Dec. 18, 1971, 85 Stat. 731.
Pub. L. 91–668, title VIII, §822, Jan. 11, 1971, 84 Stat. 2034.
Pub. L. 91–171, title VI, §622, Dec. 29, 1969, 83 Stat. 483.
Pub. L. 90–580, title V, §521, Oct. 17, 1968, 82 Stat. 1133.
Pub. L. 90–96, title VI, §621, Sept. 29, 1967, 81 Stat. 246.
Pub. L. 89–687, title VI, §621, Oct. 15, 1966, 80 Stat. 995.
Pub. L. 89–213, title VI, §621, Sept. 29, 1965, 79 Stat. 877.
Pub. L. 88–446, title V, §521, Aug. 19, 1964, 78 Stat. 478.
Pub. L. 88–149, title V, §521, Oct. 17, 1963, 77 Stat. 267.
Pub. L. 87–577, title V, §521, Aug. 9, 1962, 76 Stat. 332.
Pub. L. 87–144, title VI, §621, Aug. 17, 1961, 75 Stat. 379.
Pub. L. 86–601, title V, §521, July 7, 1960, 74 Stat. 353.
Pub. L. 86–166, title V, §621, Aug. 18, 1959, 73 Stat. 382.
Pub. L. 85–724, title VI, §623, Aug. 22, 1958, 72 Stat. 727.
Pub. L. 85–117, title VI, §624, Aug. 2, 1957, 71 Stat. 327.
July 2, 1956, ch. 488, title VI, §624, 70 Stat. 471.
July 13, 1955, ch. 358, title VI, §628, 69 Stat. 320.
June 30, 1954, ch. 432, title VII, §730, 68 Stat. 355.

### AMENDMENTS

**2023**—Subsec. (g). Pub. L. 118–31 added subsec. (g).

**2021**—Subsec. (d)(1). Pub. L. 117–81, §559(b)(1), inserted "or chapter 1606 of this title" after "of title 38".

Subsec. (d)(2). Pub. L. 117–81, §559(b)(2), inserted before period at end ", in the case of educational assistance under chapter 30 of such title, and section 16131(k), in the case of educational assistance under chapter 1606 of this title".

**2017**—Subsec. (e). Pub. L. 115–91 inserted "or 373" before "of title 37" in pars. (1) and (2).

**2008**—Subsec. (a). Pub. L. 110–181, §521(a), substituted "Subject to subsections (b) and (c), the Secretary concerned" for "Subject to subsection (b), the Secretary of a military department".

Subsec. (b)(1). Pub. L. 110–181, §521(b)(1), struck out "or full-time National Guard duty" after "active duty" in two places, inserted "(other than a member of the Ready Reserve)" after "commissioned officer on active duty", and substituted "the Secretary concerned" for "the Secretary of the military department".

Subsec. (b)(2). Pub. L. 110–181, §521(b)(2)(A), substituted "the Secretary concerned" for "the Secretary of the military department" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 110–181, §521(b)(2)(B), inserted "for which the officer was ordered to active duty" after "active duty service".

Subsec. (b)(2)(C). Pub. L. 110–181, §521(b)(2)(C), substituted "Secretary concerned" for "Secretary".

Subsec. (c). Pub. L. 110–181, §521(c)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) consisted of pars. (1) to (3) which authorized Secretary of the Army, subject to certain limitations, to pay the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer.

Subsec. (d). Pub. L. 110–181, §521(c)(2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "Subsection (c)(3) may not be construed to prohibit the Secretary of a military department from exercising any authority that the Secretary may have to pay charges of an educational institution in the case of—

"(1) a warrant officer on active duty or full-time National Guard duty;

"(2) a commissioned officer on full-time National Guard duty; or

"(3) a commissioned officer on active duty who satisfies the condition in subsection (b) relating to an agreement to remain on active duty."

Subsec. (e). Pub. L. 110–181, §521(c)(3), designated existing provisions as par. (1) and added par. (2).

Pub. L. 110–181, §521(c)(2)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 110–181, §521(d), added subsec. (f).

Pub. L. 110–181, §521(c)(2)(B), redesignated subsec. (f) as (e).

**2006**—Subsec. (f). Pub. L. 109–163 added subsec. (f).

**2004**—Subsec. (b). Pub. L. 108–375, §553(a), designated existing provisions as par. (1), inserted "or full-time National Guard duty" after "active duty" in two places, and added par. (2).

Subsec. (c)(1). Pub. L. 108–375, §553(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Subject to paragraphs (2) and (3), the Secretary of the Army may pay not more than 75 percent of the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer in a program leading to a baccalaureate degree."

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVI, §1602(a)(1)], added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary of a military department may not pay more than 75 percent of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such institution for education or training during his off-duty periods, except that—

"(1) in the case of an enlisted member in the pay grade of E–5 or higher with less than 14 years' service, not more than 90 percent of the charges may be paid;

"(2) in the case of a member enrolled in a high school completion program, all of the charges may be paid;

"(3) in the case of a commissioned officer on active duty, no part of the charges may be paid unless the officer agrees to remain on active duty for a period of at least two years after the completion of the training or education; and

"(4) in the case of a member serving in a contingency operation or similar operational mission (other than for training) designated by the Secretary concerned, all of the charges may be paid."

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title XVI, §1602(a)(1)], added subsec. (b) and struck out former subsec. (b) which read as follows: "The limitation in subsection (a) does not apply to the Program for Afloat College Education."

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title XVI, §1602(a)(2)(A)], struck out "(within the limits set forth in subsection (a))" after "educational institution" in introductory provisions.

Subsec. (d)(3). Pub. L. 106–398, §1 [[div. A], title XVI, §1602(a)(2)(B)], substituted "subsection (b)" for "subsection (a)(3)".

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title XVI, §1602(b)(1)], added subsec. (e).

**1999**—Subsec. (a)(4). Pub. L. 106–65 added par. (4).

**1993**—Subsec. (d). Pub. L. 103–160 added subsec. (d).

**1990**—Pub. L. 101–510 substituted "Payment" for "Limitation on payment" in section catchline.

**1987**—Subsec. (c). Pub. L. 100–26 made technical amendment to directory language of Pub. L. 99–661, §651(a)(2). See 1986 Amendment note below.

**1986**—Subsec. (a)(3). Pub. L. 99–661, §651(a)(1), inserted "on active duty".

Subsec. (c). Pub. L. 99–661, §651(a)(2), as amended by Pub. L. 100–26, added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title V, §553(c), Oct. 28, 2004, 118 Stat. 1913, provided that: "The amendment

made by subsection (a) [amending this section] may, at the discretion of the Secretary concerned, be applied to a service obligation incurred by an officer serving on active duty as of the date of the enactment of this Act [Oct. 28, 2004]."

**EFFECTIVE DATE OF 1987 AMENDMENT**

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–661, div. A, title VI, §651(c), Nov. 14, 1986, 100 Stat. 3888, provided that: "Subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 14, 1986]."

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

**SAVINGS PROVISION**

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

**INFORMATION ON INSTITUTIONS OF HIGHER EDUCATION PARTICIPATING IN THE DEPARTMENT OF DEFENSE TUITION ASSISTANCE PROGRAM**

Pub. L. 116–92, div. A, title V, §560, Dec. 20, 2019, 133 Stat. 1393, provided that:

"(a) LIST OF PARTICIPATING INSTITUTIONS.—The Secretary of Defense shall make available, on a publicly accessible website of the Department of Defense, a list that identifies—

"(1) each institution of higher education that receives funds under the Department of Defense Tuition Assistance Program; and

"(2) the amount of such funds received by the institution.

"(b) ANNUAL UPDATES.—The Secretary of Defense shall update the list described in subsection (a) not less frequently than once annually."

**TUITION PAYMENTS CONTINGENT UPON AGREEMENT BY OFFICER TO REMAIN IN READY RESERVE FOR AT LEAST FOUR YEARS**

Pub. L. 104–61, title VIII, §8019, Dec. 1, 1995, 109 Stat. 655, provided that: "Funds appropriated for the Department of Defense during the current fiscal year and hereafter shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, §8019, Sept. 30, 1994, 108 Stat. 2621.

Pub. L. 103–139, title VIII, §8021, Nov. 11, 1993, 107 Stat. 1441.

Pub. L. 102–396, title IX, §9025, Oct. 6, 1992, 106 Stat. 1906.

Pub. L. 102–172, title VIII, §8025, Nov. 26, 1991, 105 Stat. 1177.

Pub. L. 101–511, title VIII, §8025, Nov. 5, 1990, 104 Stat. 1880.

Pub. L. 101–165, title IX, §9035, Nov. 21, 1989, 103 Stat. 1136.

Pub. L. 100–463, title VIII, §8059, Oct. 1, 1988, 102 Stat. 2270–27.

Pub. L. 100–202, §101(b) [title VIII, §8072], Dec. 22, 1987, 101 Stat. 1329–43, 1329–74.

Pub. L. 99–500, §101(c) [title IX, §9076], Oct. 18, 1986, 100 Stat. 1783–82, 1783–114, and Pub. L. 99–591, §101(c) [title IX, §9076], Oct. 30, 1986, 100 Stat. 3341–82, 3341–114.

Pub. L. 99–190, §101(b) [title VIII, §8086], Dec. 19, 1985, 99 Stat. 1185, 1216.

## §2008. Authority to use funds for certain educational purposes

Funds appropriated to the Department of Defense may be used to carry out construction, as defined in section 7013(3) of the Elementary and Secondary Education Act of 1965, or to carry out

section 7008 of such Act, relating to the provision of assistance to certain school facilities under the impact aid program.

(Added Pub. L. 98–525, title XIV, §1401(g)(1), Oct. 19, 1984, 98 Stat. 2618; amended Pub. L. 104–106, div. B, title XXVIII, §2891, Feb. 10, 1996, 110 Stat. 590; Pub. L. 114–95, title IX, §9215(uuu)(3), Dec. 10, 2015, 129 Stat. 2190.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Sections 7008 and 7013(3) of the Elementary and Secondary Education Act of 1965, referred to in text, are classified to sections 7708 and 7713(3), respectively, of Title 20, Education.

### AMENDMENTS

**2015**—Pub. L. 114–95 substituted "section 7013(3) of the Elementary and Secondary Education Act of 1965, or to carry out section 7008 of such Act" for "section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)), or to carry out section 8008 of such Act (20 U.S.C. 7708)".

**1996**—Pub. L. 104–106 substituted "construction, as defined in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)), or to carry out section 8008 of such Act (20 U.S.C. 7708), relating to the provision of assistance to certain school facilities under the impact aid program." for "section 10 of the Act of September 23, 1950 (20 U.S.C. 640), relating to impact aid authorization."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §2009. Military colleges: female students

(a) Under regulations prescribed by the Secretary of Defense, any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university.

(b) Regulations prescribed under subsection (a) may not require a college or university, as a condition of maintaining its designation as a military college or for any other purpose, to require female undergraduate students enrolled in such college or university to participate in military training.

(Added Pub. L. 98–525, title XIV, §1401(g)(1), Oct. 19, 1984, 98 Stat. 2619.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 95–485, title VIII, §809, Oct. 20, 1978, 92 Stat. 1623, which was set out as a note under section 2102 of this title, prior to repeal by Pub. L. 98–525, §§1403(b), 1404.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §2010. Requirements with respect to motorcycle safety training

The Secretaries of the military departments shall ensure that all beginner motorcycle safety training provided to members of the Armed Forces meets the motorcycle safety training requirements for licensing of the State in which the permanent station of the member receiving the training is located.

(Added Pub. L. 119–60, div. A, title V, §543, Dec. 18, 2025, 139 Stat. 873.)

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 119–60, §543, which directed amendment of chapter 21 of this title by adding this section after section 2009 of this title, was executed by adding this section to chapter 101 of this title to reflect the probable intent of Congress.

**PRIOR PROVISIONS**

A prior section 2010 was renumbered section 321 of this title.

## [§2011. Renumbered §322]

## §2012. Support and services for eligible organizations and activities outside Department of Defense

(a) AUTHORITY TO PROVIDE SERVICES AND SUPPORT.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may in accordance with this section authorize units or individual members of the armed forces under that Secretary's jurisdiction to provide support and services, including supplies incidental to such support and services, to non-Department of Defense organizations and activities specified in subsection (e), but only if—

(1) such assistance is authorized by a provision of law (other than this section); or

(2) the provision of such assistance is incidental to military training.

(b) SCOPE OF COVERED ACTIVITIES SUBJECT TO SECTION.—This section does not—

(1) apply to the provision by the Secretary concerned, under regulations prescribed by the Secretary of Defense, of customary community relations and public affairs activities conducted in accordance with Department of Defense policy; or

(2) prohibit the Secretary concerned from encouraging members of the armed forces under the Secretary's jurisdiction to provide volunteer support for community relations activities under regulations prescribed by the Secretary of Defense.

(c) REQUIREMENT FOR SPECIFIC REQUEST.—Assistance under subsection (a) may only be provided if—

(1) the assistance is requested by a responsible official of the organization to which the assistance is to be provided; and

(2) the assistance is not reasonably available from a commercial entity or (if so available) the official submitting the request for assistance certifies that the commercial entity that would otherwise provide such services has agreed to the provision of such services by the armed forces.

(d) RELATIONSHIP TO MILITARY TRAINING.—(1) Assistance under subsection (a) may

only be provided if the following requirements are met:

(A) The provision of such assistance—

(i) in the case of assistance by a unit, will accomplish valid unit training requirements; and

(ii) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member.

(B) The provision of such assistance will not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the armed forces to perform the military functions of the member or unit.

(C) The provision of such assistance will not result in a significant increase in the cost of the training.

(2) Subparagraph (A)(i) of paragraph (1) does not apply in a case in which the assistance to be provided consists primarily of military manpower and the total amount of such assistance in the case of a particular project does not exceed 100 man-hours.

(e) ELIGIBLE ENTITIES.—The following organizations and activities are eligible for assistance under this section:

(1) Any Federal, regional, State, or local governmental entity.

(2) Youth and charitable organizations specified in section 508 of title 32.

(3) Owners and operators of critical infrastructure (as such term is defined in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e))).

(4) Any other entity as may be approved by the Secretary of Defense on a case-by-case basis.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under this section. The regulations shall include the following:

(1) Rules governing the types of assistance that may be provided.

(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

(A) meets a valid need; and

(B) does not duplicate other available public services.

(4) Procedures to ensure that Department of Defense resources are not applied exclusively to the program receiving the assistance.

(5) Procedures to ensure that assistance provided to an entity specified in subsection (e)(3) is provided in a manner that is consistent with similar assistance provided under authorities applicable to other Federal departments and agencies, including the authorities of the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security pursuant to title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.).

(g) TREATMENT OF MEMBER'S PARTICIPATION IN PROVISION OF SUPPORT OR SERVICES.—(1) The Secretary of a military department may not require or request a member of the armed forces to submit for consideration by a selection board (including a promotion board, command selection board, or any other kind of selection board) evidence of the member's participation in the provision of support and services to non-Department of Defense organizations and activities under this section or the member's involvement in, or support of, other community relations and public affairs activities of the armed forces.

(2) Paragraph (1) does not prevent a selection board from considering material submitted voluntarily by a member of the armed forces which provides evidence of the participation of that member or another member in activities described in that paragraph.

(h) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils at regional, State, and local levels, as appropriate, in order to obtain

recommendations and guidance concerning assistance under this section from persons who are knowledgeable about regional, State, and local conditions and needs.

(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

(3) Chapter 10 of title 5 shall not apply to such councils.

(i) CONSTRUCTION OF PROVISION.—(1) Nothing in this section shall be construed as authorizing—

(A) the use of the armed forces for civilian law enforcement purposes or, except as provided in paragraph (2), for response to natural or manmade disasters; or

(B) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.

(2) Funds available to the Secretary of a military department for operation and maintenance for the Innovative Readiness Training program (as established pursuant to this section) may be expended under this section, upon approval by the Secretary concerned, to assist in demolition, clearing of roads, infrastructure improvements, and military construction to restore an area after a natural disaster.

(j) OVERSIGHT AND COST ACCOUNTING.—The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved.

(Added Pub. L. 104–106, div. A, title V, §572(a)(1), Feb. 10, 1996, 110 Stat. 353; amended Pub. L. 105–85, div. A, title V, §594, Nov. 18, 1997, 111 Stat. 1764; Pub. L. 105–261, div. A, title V, §525(a), Oct. 17, 1998, 112 Stat. 2014; Pub. L. 117–81, div. A, title XV, §1512, Dec. 27, 2021, 135 Stat. 2039; Pub. L. 117–286, §4(a)(51), Dec. 27, 2022, 136 Stat. 4311; Pub. L. 118–31, div. A, title III, §341, Dec. 22, 2023, 137 Stat. 223; Pub. L. 119–60, div. A, title III, §332, Dec. 18, 2025, 139 Stat. 816.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in subsec. (f)(5), is Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135. Title XXII of the Act is classified principally to subchapter XVIII (§651 et seq.) of chapter 1 of Title 6. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 inserted ", including supplies incidental to such support and services," after "and services" in introductory provisions.

**2023**—Subsec. (i). Pub. L. 118–31 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted ", except as provided in paragraph (2)," before "for response" in subpar. (A), and added par. (2).

**2022**—Subsec. (h)(3). Pub. L. 117–286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)".

**2021**—Subsec. (e)(3), (4). Pub. L. 117–81, §1512(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f)(5). Pub. L. 117–81, §1512(2), added par. (5).

**1998**—Subsec. (j). Pub. L. 105–261 added subsec. (j).

**1997**—Subsecs. (g) to (i). Pub. L. 105–85 added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION

Pub. L. 105–261, div. A, title V, §525(b), Oct. 17, 1998, 112 Stat. 2014, as amended by Pub. L. 106–65, div. A, title X, §1066(b)(4), Oct. 5, 1999, 113 Stat. 772, provided that: "The Secretary of Defense may not initiate any project under section 2012 of title 10, United States Code, after October 1, 1998, until the program required by subsection (j) of that section (as added by subsection (a)) has been established."

### TERMINATION OF FUNDING FOR OFFICE OF CIVIL-MILITARY PROGRAMS IN OFFICE OF THE SECRETARY OF DEFENSE

Pub. L. 104–106, div. A, title V, §574, Feb. 10, 1996, 110 Stat. 356, provided that: "No funds may be obligated or expended after the date of the enactment of this Act [Feb. 10, 1996] (1) for the office that as of the date of the enactment of this Act is designated, within the Office of the Assistant Secretary of Defense for Reserve Affairs [now Assistant Secretary of Defense for Manpower and Reserve Affairs], as the Office of Civil-Military Programs, or (2) for any other entity within the Office of the Secretary of Defense that has an exclusive or principal mission of providing centralized direction for activities under section 2012 of title 10, United States Code, as added by section 572."

## §2013. Training at non-Government facilities

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—(1) The Secretary concerned, without regard to section 6101 of title 41, may make agreements or other arrangements for the training of members of the uniformed services under the jurisdiction of that Secretary by, in, or through non-Government facilities.

(2) In this section, the term "non-Government facility" means any of the following:

(A) The government of a State or of a territory or possession of the United States, including the Commonwealth of Puerto Rico, an interstate governmental organization, and a unit, subdivision, or instrumentality of any of the foregoing.

(B) A foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this section.

(C) A medical, scientific, technical, educational, research, or professional institution, foundation, or organization.

(D) A business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization.

(E) Individuals other than civilian or military personnel of the Government.

(F) The services and property of any of the foregoing providing the training.

(b) EXPENSES.—The Secretary concerned, from appropriations or other funds available to the Secretary, may—

(1) pay all or a part of the pay of a member of a uniformed service who is selected and assigned for training under this section, for the period of training; and

(2) pay, or reimburse the member of a uniformed service for, all or a part of the necessary

expenses of the training (without regard to subsections (a) and (b) of section 3324 of title 31), including among those expenses the necessary costs of the following:

(A) Travel and per diem instead of subsistence under sections 405 and 452 of title 37 and the Joint Travel Regulations for the Uniformed Services.

(B) Transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under sections 452 and 453(c) of title 37 and the Joint Travel Regulations for the Uniformed Services when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training.

(C) Tuition and matriculation fees.

(D) Library and laboratory services.

(E) Purchase or rental of books, materials, and supplies.

(F) Other services or facilities directly related to the training of the member.

(c) CERTAIN EXPENSES EXCLUDED.—The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.

(Added Pub. L. 104–201, div. A, title III, §362(a)(1), Sept. 23, 1996, 110 Stat. 2491; amended Pub. L. 111–350, §5(b)(2), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–291, div. A, title X, §1071(a)(1), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 117–263, div. A, title VI, §626(c)(6), Dec. 23, 2022, 136 Stat. 2628.)

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (b)(2)(A). Pub. L. 117–263, §626(c)(6)(A), substituted "sections 405 and 452" for "sections 474 and 475".

Subsec. (b)(2)(B). Pub. L. 117–263, §626(c)(6)(B), substituted "sections 452 and 453(c)" for "sections 476 and 479".

**2014**—Subsec. (a)(1). Pub. L. 113–291 substituted "section 6101 of title 41" for "section 6101(b)–(d) of title 41".

**2013**—Subsec. (b)(2)(A), (B). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (a)(1). Pub. L. 111–350 substituted "section 6101(b)–(d) of title 41" for "section 3709 of the Revised Statutes (41 U.S.C. 5)".

Subsec. (b)(2)(A), (B). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "474" for "404" and "475" for "405" in subpar. (A), and "476" for "406" and "479" for "409" in subpar. (B).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE

Pub. L. 104–201, div. A, title III, §362(b), Sept. 23, 1996, 110 Stat. 2493, provided that: "Section 2013 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996."

## §2014. Administrative actions adversely affecting military training or other readiness activities

(a) CONGRESSIONAL NOTIFICATION.—Whenever an official of an Executive agency takes

or proposes to take an administrative action that, as determined by the Secretary of Defense in consultation with the Chairman of the Joint Chiefs of Staff, affects training or any other readiness activity in a manner that has or would have a significant adverse effect on the military readiness of any of the armed forces or a critical component thereof, the Secretary shall submit a written notification of the action and each significant adverse effect to the head of the Executive agency taking or proposing to take the administrative action. At the same time, the Secretary shall transmit a copy of the notification to the President, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives.

(b) NOTIFICATION TO BE PROMPT.—(1) Subject to paragraph (2), the Secretary shall submit a written notification of an administrative action or proposed administrative action required by subsection (a) as soon as possible after the Secretary becomes aware of the action or proposed action.

(2) The Secretary shall prescribe policies and procedures to ensure that the Secretary receives information on an administrative action or proposed administrative action described in subsection (a) promptly after Department of Defense personnel receive notice of such an action or proposed action.

(c) CONSULTATION BETWEEN SECRETARY AND HEAD OF EXECUTIVE AGENCY .—Upon notification with respect to an administrative action or proposed administrative action under subsection (a), the head of the Executive agency concerned shall—

(1) respond promptly to the Secretary; and

(2) consistent with the urgency of the training or readiness activity involved and the provisions of law under which the administrative action or proposed administrative action is being taken, seek to reach an agreement with the Secretary on immediate actions to attain the objective of the administrative action or proposed administrative action in a manner which eliminates or mitigates the adverse effects of the administrative action or proposed administrative action upon the training or readiness activity.

(d) MORATORIUM.—(1) Subject to paragraph (2), upon notification with respect to an administrative action or proposed administrative action under subsection (a), the administrative action or proposed administrative action shall cease to be effective with respect to the Department of Defense until the earlier of—

(A) the end of the five-day period beginning on the date of the notification; or

(B) the date of an agreement between the head of the Executive agency concerned and the Secretary as a result of the consultations under subsection (c).

(2) Paragraph (1) shall not apply with respect to an administrative action or proposed administrative action if the head of the Executive agency concerned determines that the delay in enforcement of the administrative action or proposed administrative action will pose an actual threat of an imminent and substantial endangerment to public health or the environment.

(e) EFFECT OF LACK OF AGREEMENT.—(1) If the head of an Executive agency and the Secretary do not enter into an agreement under subsection (c)(2), the Secretary shall submit a written notification to the President who shall take final action on the matter.

(2) Not later than 30 days after the date on which the President takes final action on a matter under paragraph (1), the President shall submit to the committees referred to in subsection (a) a notification of the action.

(f) LIMITATION ON DELEGATION OF AUTHORITY.—The head of an Executive agency may not delegate any responsibility under this section.

(g) DEFINITION.—In this section, the term "Executive agency" has the meaning given such term in section 105 of title 5, except that the term does not include the Government Accountability Office.

(Added Pub. L. 105–85, div. A, title III, §325(a), Nov. 18, 1997, 111 Stat. 1678; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–375, div. A, title X, §1084(c)(3), Oct. 28, 2004, 118 Stat. 2061.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (g). Pub. L. 108–375 substituted "Government Accountability Office" for "General Accounting Office".

**1999**—Subsec. (a). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

## §2015. Program to assist members in obtaining professional credentials

(a) PROGRAM REQUIRED.—The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, shall carry out a program to enable members of the armed forces to obtain, while serving in the armed forces, professional credentials that translate into civilian occupations.

(b) PAYMENT OF EXPENSES.—(1) Under the program required by this section, the Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, shall provide for the payment of expenses of members for professional accreditation, Federal occupational licenses, State-imposed and professional licenses, professional certification, and related expenses.

(2) The authority under paragraph (1) may not be used to pay the expenses of a member to obtain professional credentials that are a prerequisite for appointment in the armed forces.

(c) QUALITY ASSURANCE OF CERTIFICATION PROGRAMS AND STANDARDS.—(1) Commencing not later than three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, each Secretary concerned shall ensure that any credentialing program used in connection with the program under subsection (a) meets one of the requirements specified in paragraph (2).

(2) The requirements for a credentialing program specified in this paragraph are that the credentialing program—

(A) is accredited by a nationally-recognized, third-party personnel certification program accreditor;

(B)(i) is sought or accepted by employers within the industry or sector involved as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

(ii) where appropriate, is endorsed by a nationally-recognized trade association or organization representing a significant part of the industry or sector;

(C) grants licenses that are recognized by the Federal Government or a State government; or

(D) meets credential standards of a Federal agency.

(d) REGULATIONS.—(1) The Secretary of Defense and the Secretary of Homeland Security shall prescribe regulations to carry out this section.

(2) The regulations shall apply uniformly to the armed forces to the extent practicable.

(3) The regulations shall include the following:

(A) Requirements for eligibility for participation in the program under this section.

(B) A description of the professional credentials and occupations covered by the program.

(C) Mechanisms for oversight of the payment of expenses and the provision of other benefits under the program.

(D) Such other matters in connection with the payment of expenses and the provision of other benefits under the program as the Secretaries consider appropriate.

(e) EXPENSES DEFINED.—In this section, the term "expenses" means expenses for class room instruction, hands-on training (and associated materials), manuals, study guides and materials, text books, processing fees, and test fees and related fees.

(Added Pub. L. 109–163, div. A, title V, §538(a), Jan. 6, 2006, 119 Stat. 3250; amended Pub. L. 113–291, div. A, title V, §551(a), Dec. 19, 2014, 128 Stat. 3376; Pub. L. 114–92, div. A, title V, §559, Nov. 25, 2015, 129 Stat. 827; Pub. L. 114–328, div. A, title V, §561, Dec. 23, 2016, 130 Stat.

2137; Pub. L. 115–232, div. A, title V, §556, Aug. 13, 2018, 132 Stat. 1773.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 114–92, which was approved Nov. 25, 2015.

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 substituted "that translate into civilian occupations." for "related to military training and skills that—

"(1) are acquired during service in the armed forces; and

"(2) translate into civilian occupations."

**2016**—Subsec. (a)(1). Pub. L. 114–328, §561(a), struck out "incident to the performance of their military duties" after "in the armed forces".

Subsec. (c)(1). Pub. L. 114–328, §561(b)(1), substituted "meets one of the requirements specified in paragraph (2)." for "is accredited by an accreditation body that meets the requirements specified in paragraph (2)."

Subsec. (c)(2). Pub. L. 114–328, §561(b)(2), added par. (2) and struck out former par. (2) which read as follows: "The requirements for accreditation bodies specified in this paragraph are requirements that an accreditation body—

"(A) be an independent body that has in place mechanisms to ensure objectivity and impartiality in its accreditation activities;

"(B) meet a recognized national or international standard that directs its policy and procedures regarding accreditation;

"(C) apply a recognized national or international certification standard in making its accreditation decisions regarding certification bodies and programs;

"(D) conduct on-site visits, as applicable, to verify the documents and records submitted by credentialing bodies for accreditation;

"(E) have in place policies and procedures to ensure due process when addressing complaints and appeals regarding its accreditation activities;

"(F) conduct regular training to ensure consistent and reliable decisions among reviewers conducting accreditations; and

"(G) meet such other criteria as the Secretary concerned considers appropriate in order to ensure quality in its accreditation activities."

**2015**—Subsecs. (c) to (e). Pub. L. 114–92 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

**2014**—Pub. L. 113–291 amended section generally. Prior to amendment, section related to payment of certain expenses to obtain professional credentials.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPROVEMENTS TO THE CREDENTIALING OPPORTUNITIES ON-LINE PROGRAMS OF THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §578, Jan. 1, 2021, 134 Stat. 3649, provided that:

"(a) STUDY ON PERFORMANCE MEASURES.—The Secretary of Defense shall conduct a study to determine additional performance measures to evaluate the effectiveness of the Credentialing Opportunities On-Line programs (in this section referred to as the 'COOL programs') of each Armed Force in connecting members of the Armed Forces with professional credential programs. The study shall include the following:

"(1) The percentage of members of the Armed Force concerned described in section 1142(a) of title 10, United States Code, who participate in a professional credential program through the COOL program of the Armed Force concerned.

"(2) The percentage of members of the Armed Force concerned described in paragraph (1) who have completed a professional credential program described in that paragraph.

"(3) The amount of funds obligated and expended to execute the COOL program of each Armed Force during the five fiscal years immediately preceding the date of the study.

"(4) Any other element determined by the Secretary of Defense.

"(b) INFORMATION TRACKING.—The Secretary of Defense shall establish a process to standardize the tracking of information regarding the COOL programs across the Armed Forces.

"(c) COORDINATION.—To carry out this section, the Secretary of Defense may coordinate with the Secretaries of Veterans Affairs and Labor.

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

"(1) the study conducted under subsection (a); and

"(2) the process established under subsection (b), including a timeline to implement such process."

## PROGRAMS TO FACILITATE THE AWARD OF PRIVATE PILOT'S CERTIFICATES

Pub. L. 116–92, div. A, title V, §560B, Dec. 20, 2019, 133 Stat. 1393, provided that:

"(a) PROGRAMS AUTHORIZED.—Each Secretary of a military department may carry out a program under which qualified participants may obtain a private pilot's certificate through an institution of higher education with an accredited aviation program that is approved by such Secretary pursuant to subsection (c).

"(b) PARTICIPANT QUALIFICATIONS AND TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—In carrying out a program under subsection (a), the Secretary of a military department shall prescribe—

"(A) the standards to be met for participation in the program; and

"(B) the types of assistance, if any, to be provided to individuals who participate in the program.

"(2) UNIFORMITY ACROSS MILITARY DEPARTMENTS.—To the extent practicable, the standards and types of assistance prescribed under paragraph (1) shall be uniform across the military departments.

"(c) APPROVED INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—In carrying out a program under subsection (a), the Secretary of a military department shall maintain a list of institutions of higher education (as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) through which an individual participating in the program may obtain a private pilot's certificate.

"(2) QUALIFICATIONS AND STANDARDS.—Any institution of higher education included on a list under paragraph (1), and any course of instruction toward obtaining a private pilot's certificate offered by such institution, shall meet such qualifications and standards as the Secretary shall prescribe for purposes of the program. Such qualifications and standards shall include a requirement that any institution included on the list award, to individual participating in the program, academic credit at such institution for any portion of course work completed on the ground school course of instruction of such institution in connection with obtaining a private pilot's certificate, regardless of whether the participant fully completed the ground school course of instruction.

"(d) ANNUAL REPORTS ON PROGRAMS.—

"(1) IN GENERAL.—Not later than February 28, 2021, and each year thereafter, each Secretary of a military department shall submit to Congress a report on the program, if any, carried out by such Secretary under subsection (a) during the preceding calendar year.

"(2) ELEMENTS.—Each report under paragraph (1) shall include, for the program and year covered by such report, the following:

"(A) The total number of participants in the program.

"(B) The number of private pilot's certificates awarded to participants in the program.

"(C) The number of participants in the program who fully completed a ground school course of instruction in connection with obtaining a private pilot's certificate."

## PILOT PROGRAM ON EARNING BY SPECIAL OPERATIONS FORCES MEDICS OF CREDIT TOWARD A PHYSICIAN ASSISTANT DEGREE

Pub. L. 115–232, div. A, title VII, §735, Aug. 13, 2018, 132 Stat. 1819, provided that:

"(a) IN GENERAL.—The Assistant Secretary of Defense for Health Affairs may conduct a pilot program to assess the feasibility and advisability of partnerships between special operations forces and institutions of higher education, and health care systems if determined appropriate by the Assistant Secretary for purposes of the pilot program, through which special operations forces medics earn credit toward the master's degree of physician assistant for military operational work and training performed by the medics.

"(b) DURATION.—The Assistant Secretary shall conduct the pilot program for a period not to exceed five years.

"(c) CLINICAL TRAINING.—Partnerships under subsection (a) shall permit medics participating in the pilot program to conduct clinical training at medical facilities of the Department of Defense and the civilian

sector.

"(d) EVALUATION.—The evaluation of work and training performed by medics for which credits are earned under the pilot program shall comply with civilian clinical evaluation standards applicable to the awarding of the master's degree of physician assistant.

"(e) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program that shall include the following:

"(A) A comprehensive framework for the military education to be provided to special operations forces medics under the pilot program, including courses of instruction at institutions of higher education and any health care systems participating in the pilot program.

"(B) Metrics to be used to assess the effectiveness of the pilot program.

"(C) A description of the mechanisms to be used by the Department, medics, or both to cover the costs of education received by medics under the pilot program through institutions of higher education or health care systems, including payment by the Department in return for a military service commitment, tuition or other educational assistance by the Department, use by medics of post-9/11 educational assistance available through the Department of Veterans Affairs, and any other mechanisms the Secretary considers appropriate for purposes of the pilot program.

"(2) FINAL REPORT.—Not later than 180 days after completion of the pilot program, the Secretary shall submit to the committees of Congress referred to in paragraph (1) a final report on the pilot program. The report shall include the following:

"(A) An evaluation of the pilot program using the metrics of assessment set forth pursuant to paragraph (1)(B).

"(B) An assessment of the utility of the funding mechanisms set forth pursuant to paragraph (1)(C).

"(C) An assessment of the effects of the pilot program on recruitment and retention of medics for special operations forces.

"(D) An assessment of the feasibility and advisability of extending one or more authorities for joint professional military education under chapter 107 of title 10, United States Code, to warrant officers or enlisted personnel, and if the Secretary considers the extension of any such authorities feasible and advisable, recommendations for legislative or administrative action to so extend such authorities.

"(f) CONSTRUCTION OF AUTHORITIES.—Nothing in this section may be construed to—

"(1) authorize an officer or employee of the Federal Government to create, endorse, or otherwise incentivize a particular curriculum or degree track; or

"(2) require, direct, review, or control a State or educational institution, or the instructional content, curriculum, and related activities of a State or educational institution."

## ENHANCEMENT OF MECHANISMS TO CORRELATE SKILLS AND TRAINING FOR MILITARY OCCUPATIONAL SPECIALTIES WITH SKILLS AND TRAINING REQUIRED FOR CIVILIAN CERTIFICATIONS AND LICENSES

Pub. L. 113–66, div. A, title V, §542, Dec. 26, 2013, 127 Stat. 762, provided that:

"(a) IMPROVEMENT OF INFORMATION AVAILABLE TO MEMBERS OF THE ARMED FORCES ABOUT CORRELATION.—

"(1) IN GENERAL.—The Secretaries of the military departments, in coordination with the Under Secretary of Defense for Personnel and Readiness, shall, to the maximum extent practicable, make information on civilian credentialing opportunities available to members of the Armed Forces beginning with, and at every stage of, training of members for military occupational specialties, in order to permit members—

"(A) to evaluate the extent to which such training correlates with the skills and training required in connection with various civilian certifications and licenses; and

"(B) to assess the suitability of such training for obtaining or pursuing such civilian certifications and licenses.

"(2) COORDINATION WITH TRANSITION GOALS PLANS SUCCESS PROGRAM .—Information shall be made available under paragraph (1) in a manner consistent with the Transition Goals Plans Success (GPS) program.

"(3) TYPES OF INFORMATION.—The information made available under paragraph (1) shall include, but not be limited to, the following:

"(A) Information on the civilian occupational equivalents of military occupational specialties

(MOS).

"(B) Information on civilian license or certification requirements, including examination requirements.

"(C) Information on the availability and opportunities for use of educational benefits available to members of the Armed Forces, as appropriate, corresponding training, or continuing education that leads to a certification exam in order to provide a pathway to credentialing opportunities.

"(4) USE AND ADAPTATION OF CERTAIN PROGRAMS.—In making information available under paragraph (1), the Secretaries of the military departments may use and adapt appropriate portions of the Credentialing Opportunities On-Line (COOL) programs of the Army and the Navy and the Credentialing and Educational Research Tool (CERT) of the Air Force.

"(b) IMPROVEMENT OF ACCESS OF ACCREDITED CIVILIAN CREDENTIALING AND RELATED ENTITIES TO MILITARY TRAINING CONTENT.—

"(1) IN GENERAL.—The Secretaries of the military departments, in coordination with the Under Secretary of Defense for Personnel and Readiness, shall, to the maximum extent practicable consistent with national security and privacy requirements, make available to entities specified in paragraph (2), upon request of such entities, information such as military course training curricula, syllabi, and materials, levels of military advancement attained, and professional skills developed.

"(2) ENTITIES.—The entities specified in this paragraph are the following:

"(A) Civilian credentialing agencies.

"(B) Entities approved by the Secretary of Veterans Affairs, or by State approving agencies, for purposes of the use of educational assistance benefits under the laws administered by the Secretary of Veterans Affairs.

"(3) CENTRAL REPOSITORY.—The actions taken pursuant to paragraph (1) may include the establishment of a central repository of information on training and training materials provided members in connection with military occupational specialities that is readily accessible by entities specified in paragraph (2) in order to meet requests described in paragraph (1)."

## PILOT PROGRAM ON RECEIPT OF CIVILIAN CREDENTIALING FOR SKILLS REQUIRED FOR MILITARY OCCUPATIONAL SPECIALTIES

Pub. L. 112–81, div. A, title V, §558, Dec. 31, 2011, 125 Stat. 1418, as amended by Pub. L. 112–239, div. A, title V, §543, Jan. 2, 2013, 126 Stat. 1737, provided that:

"(a) PILOT PROGRAM REQUIRED.—Commencing not later than nine months after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of permitting enlisted members of the Armed Forces to obtain civilian credentialing or licensing for skills required for military occupational specialties (MOS) or qualification for duty specialty codes.

"(b) ELEMENTS.—In carrying out the pilot program, the Secretary shall—

"(1) designate not less than three military occupational specialities or duty speciality codes for coverage under the pilot program;

"(2) consider utilizing industry-recognized certifications or licensing standards for civilian occupational skills comparable to the specialties or codes so designated; and

"(3) permit enlisted members of the Armed Forces to obtain the credentials or licenses required for the specialities or codes so designated through civilian credentialing or licensing entities, institutions, or bodies selected by the Secretary for purposes of the pilot program, whether concurrently with military training, at the completion of military training, or both.

"(c) DURATION.—The Secretary shall complete the pilot program by not later than five years after the date of the commencement of the pilot program.

"(d) REPORT.—Not later than one year after commencement of the pilot program, the Secretary shall submit to Congress a report on the pilot program. The report shall set forth the following:

"(1) The number of enlisted members who participated in the pilot program.

"(2) A description of the costs incurred by the Department of Defense in connection with the receipt by members of credentialing or licensing under the pilot program.

"(3) A comparison of the cost associated with receipt by members of credentialing or licensing under the pilot program with the cost of receipt of similar credentialing or licensing by recently-discharged veterans of the Armed Forces under programs currently operated by the Department of Veterans Affairs and the Department of Labor.

"(4) The recommendation of the Secretary as to the feasibility and advisability of expanding the pilot program to additional military occupational specialties or duty specialty codes, and, if such expansion is

considered feasible and advisable, a list of the military occupational specialties and duty specialty codes recommended for inclusion in the expansion."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 13860. SUPPORTING THE TRANSITION OF ACTIVE DUTY SERVICE MEMBERS AND MILITARY VETERANS INTO THE MERCHANT MARINE

Ex. Ord. No. 13860, Mar. 4, 2019, 84 F.R. 8407, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to promote employment opportunities for United States military veterans while growing the cadre of trained United States mariners available to meet United States requirements for national and economic security, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to support practices and programs that ensure that members of the United States Armed Forces receive appropriate credit for their military training and experience, upon request, toward credentialing requirements as a merchant mariner. It is further the policy of the United States to establish and maintain an effective merchant marine program by providing sufficient support and resources to active duty and separating service members who pursue or possess merchant mariner credentials.

A robust merchant marine is vital to the national and economic security of the United States. Credentialed United States merchant mariners support domestic and international trade, are critical for strategic defensive and offensive military sealift operations, and bring added expertise to Federal vessel operations. Unfortunately, the United States faces a shortage of qualified merchant mariners. As our strategic competitors expand their global footprint, the United States must retain its ability to project and sustain forces globally. This capability requires a sufficient corps of credentialed merchant mariners available to crew the necessary sealift fleet. Attracting additional trained and credentialed mariners, particularly from active duty service members and military veterans, will support United States national security requirements and provide meaningful, well-paying jobs to United States veterans.

SEC. 2. *Definition*. For the purposes of this order, the term "applicable service" includes any of the "armed forces," as that term is defined in section 101(a)(4)(A) [sic] of title 10, United States Code.

SEC. 3. *Credentialing Support*. (a) To support merchant mariner credentialing and the maintenance of such credentials, the Secretary of Defense and the Secretary of Homeland Security, with respect to the applicable services in their respective departments, and in coordination with one another and with the United States Committee on the Marine Transportation System, shall, consistent with applicable law:

(i) Within 1 year from the date of this order [Mar. 4, 2019], identify all military training and experience within the applicable service that may qualify for merchant mariner credentialing, and submit a list of all identified military training and experience to the United States Coast Guard National Maritime Center for a determination of whether such training and experience counts for credentialing purposes;

(ii) With respect to National Maritime Center license evaluation, issuance, and examination, take all necessary and appropriate actions to provide for the waiver of fees for active duty service members, if a waiver is authorized and appropriate, and, if a waiver is not granted, take all necessary and appropriate actions to provide for the payment of fees for active duty service members by the applicable service to the fullest extent permitted by law;

(iii) Direct the applicable services to take all necessary and appropriate actions to pay for Transportation Worker Identification Credential cards for active duty service members pursuing or possessing a mariner credential;

(iv) Ensure that members of the applicable services who are to be discharged or released from active duty and who request certification or verification of sea service be provided such certification or verification no later than 1 month after discharge or release; and

(v) Ensure the applicable services have developed, or continue to operate, as appropriate, the online resource known as Credentialing Opportunities On-Line to support separating service members seeking information and assistance on merchant mariner credentialing.

(b) The United States Committee on the Marine Transportation System shall pursue innovative ways to support merchant mariner credentialing, including through continuation of the Military to Mariner Initiative as appropriate, and shall provide a yearly status report on its efforts under the provisions of this order to the President through the White House Office of Trade and Manufacturing Policy.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary,

administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## §2016. Undergraduate nurse training program: establishment through agreement with academic institution

(a) ESTABLISHMENT AUTHORIZED.—(1) To increase the number of nurses in the armed forces, the Secretary of Defense may enter into an agreement with one or more academic institutions to establish and operate an undergraduate program (in this section referred to as a "undergraduate nurse training program") under which participants will earn a bachelor of science degree in nursing and serve as a member of the armed forces.

(2) The Secretary of Defense may authorize the participation of members of the other uniformed services in the undergraduate nurse training program if the Secretary of Defense and the Secretary of Health and Human Services jointly determine the participation of such members in the program will facilitate an increase in the number of nurses in the other uniformed services.

(b) GRADUATION RATES.—An undergraduate nurse training program shall have the capacity to graduate 25 students with a bachelor of science degree in nursing in the first class of the program, 50 in the second class, and 100 annually thereafter.

(c) ELEMENTS.—An undergraduate nurse training program shall have the following elements:

(1) It shall involve an academic partnership with one or more academic institutions with existing accredited schools of nursing.

(2) It shall recruit as participants qualified individuals with at least two years of appropriate academic preparation, as determined by the Secretary of Defense.

(d) LOCATION OF PROGRAMS.—(1) An academic institution selected to operate an undergraduate nurse training program shall establish the program at or near a military installation that has a military treatment facility designated as a medical center with inpatient capability and multiple graduate medical education programs located on the installation or within reasonable proximity to the installation.

(2) Before approving a location as the site of an undergraduate nurse training program, the Secretary of Defense shall conduct an assessment to ensure that the establishment of the program at that location will not adversely impact or displace existing nurse training programs, either conducted by the Department of Defense or by a civilian entity, at the location.

(e) LIMITATION ON FACULTY.—An agreement entered into under subsection (a) shall not require members of the armed forces who are nurses to serve as faculty members for an undergraduate nurse training program.

(f) MILITARY SERVICE COMMITMENT.—The Secretary of Defense shall encourage members of the armed forces to apply to participate in an undergraduate nurse training program. Graduates of the program shall incur a military service obligation in a regular or reserve component, as determined by the Secretary.

(Added Pub. L. 111–84, div. A, title V, §525(b)(1), Oct. 28, 2009, 123 Stat. 2286; amended Pub. L. 111–383, div. A, title V, §551(a)–(c), Jan. 7, 2011, 124 Stat. 4219.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a)(1). Pub. L. 111–383, §551(a), substituted "a bachelor of science degree in nursing" for

"a nursing degree".

Subsec. (b). Pub. L. 111–383, §551(b), inserted "in nursing" after "bachelor of science degree".

Subsec. (d). Pub. L. 111–383, §551(c), amended subsec. (d) generally. Prior to amendment, text read as follows: "An academic institution selected to operate an undergraduate nurse training program shall establish the program at or near a military installation. A military installation at or near which an undergraduate nurse training program is established must—

"(1) be one of the ten largest military installations in the United States, in terms of the number of active duty personnel assigned to the installation and family members residing on or in the vicinity of the installations; and

"(2) have a military treatment facility with inpatient capability designated as a medical center located on the installation or within 10 miles of the installation."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PLAN AND PILOT PROGRAM TO ESTABLISH UNDERGRADUATE NURSE TRAINING PROGRAM**

Pub. L. 111–84, div. A, title V, §525(c)–(f), Oct. 28, 2009, 123 Stat. 2287, 2288, as amended by Pub. L. 111–383, div. A, title V, §551(d), Jan. 7, 2011, 124 Stat. 4219, provided that:

"(c) UNDERGRADUATE NURSE TRAINING PROGRAM PLAN.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan to establish an undergraduate nurse training program in the Department of Defense in accordance with the authority provided by section 2169 of title 10, United States Code, as added by subsection (a), section 2016 of such title, as added by subsection (b), or any other authority available to the Secretary.

"(d) PILOT PROGRAM.—

"(1) PILOT PROGRAM REQUIRED.—The plan required by subsection (c) shall provide for the establishment of a pilot program to increase the number of nurses serving in the Armed Forces.

"(2) IMPLEMENTATION AND DURATION.—The pilot program shall begin not later than December 31, 2011, and be of not less than five years in duration.

"(3) GRADUATION RATES.—The goal of the pilot program is to achieve graduation rates at least equal to the rates required for the undergraduate nurse training programs authorized by section 2016 of title 10, United States Code, as added by subsection (b).

"(4) IMPLEMENTATION REPORT.—Not later than 270 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the pilot program, including a description of the program selected to be undertaken, the program's goals, and any additional legal authorities that may be needed to undertake the program.

"(5) PROGRESS REPORTS.—Not later than 90 days after the end of each academic year of the pilot program, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report specifying the number of nurses accessed into the Armed Forces through the program and the number of students accepted for the upcoming academic year.

"(6) FINAL REPORT.—Not later than one year before the end of the pilot program, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report specifying the number of nurses accessed through the program, evaluating the overall effectiveness of the program, and containing the Secretary's recommendations regarding whether the program should be extended.

"(e) EFFECT ON OTHER NURSING PROGRAMS.—Notwithstanding the development of undergraduate nurse training programs under the amendments made by this section [enacting this section and section 2169 of this title and repealing section 2117 of this title] and subsection (d), the Secretary of Defense shall ensure that graduate degree programs in nursing, including advanced practice nursing, continue.

"(f) EFFECT ON OTHER RECRUITMENT EFFORTS.—Nothing in this section shall be construed as limiting or terminating any current or future program of the Department of Defense related to the recruitment, accession, training, or retention of nurses."

## §2017. Limitation on establishment of postsecondary educational institutions pending notice to Congress

(a) LIMITATION.—The Secretary of Defense may not establish a postsecondary educational institution within the Department of Defense until a period of one year has elapsed following the date on which the Secretary notifies the congressional defense committees of the intent of the Secretary to establish the institution.

(b) POSTSECONDARY EDUCATIONAL INSTITUTION DEFINED.—In this section, the term "postsecondary educational institution" means a school or other educational institution that is intended to provide students with a course of instruction that is comparable, in length and academic rigor, to a course of instruction for which an associate's, bachelor's, or graduate degree may be awarded.

(Added Pub. L. 116–92, div. A, title V, §553(b)(1), Dec. 20, 2019, 133 Stat. 1387.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**APPLICABILITY**

Pub. L. 116–92, div. A, title V, §553(b)(3), Dec. 20, 2019, 133 Stat. 1387, provided that: "Section 2017 of title 10, United States Code, as added by paragraph (1), shall apply with respect to postsecondary educational institutions intended to be established by the Secretary of Defense on or after the date of the enactment of this Act [Dec. 20, 2019]."

# CHAPTER 102—JUNIOR RESERVE OFFICERS' TRAINING CORPS

Sec.
2031. Junior Reserve Officers' Training Corps.
2032. Responsibility of the Secretaries of the military departments to maximize enrollment and enhance efficiency.
2033. Instructor qualifications.
2034. Educational institutions not maintaining units of Junior Reserve Officers' Training Corps: issuance of arms, tentage, and equipment.
2035. Flexibility in authorities for management of programs and units.
2036. Grants to support science, technology, engineering, and mathematics education.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title V, §513(a)(2), Jan. 1, 2021, 134 Stat. 3588, added item 2036.

**2018**—Pub. L. 115–232, div. A, title V, §557(a)(2), Aug. 13, 2018, 132 Stat. 1774, added item 2035.

**2013**—Pub. L. 112–239, div. A, title V, §552(c)(1), Jan. 2, 2013, 126 Stat. 1741, added item 2034.

**2006**—Pub. L. 109–364, div. A, title V, §539(b), Oct. 17, 2006, 120 Stat. 2211, added item 2033.

**2001**—Pub. L. 107–107, div. A, title V, §596(c)(2), Dec. 28, 2001, 115 Stat. 1127, struck out item 2033 "Contingent funding increase".

**1999**—Pub. L. 106–65, div. A, title V, §547(a)(2), Oct. 5, 1999, 113 Stat. 609, added item 2033.

**1997**—Pub. L. 105–85, div. A, title V, §546(b), Nov. 18, 1997, 111 Stat. 1747, added item 2032.

**1964**—Pub. L. 88–647, title I, §101(1), Oct. 13, 1964, 78 Stat. 1063, added item 2031 and chapter heading.

## §2031. Junior Reserve Officers' Training Corps

(a)(1) The Secretary of each military department shall establish and maintain a Junior Reserve Officers' Training Corps, organized into units, at public and private secondary educational institutions, including Job Corps centers as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197), which apply for a unit and meet the standards and criteria prescribed pursuant to this section. The Secretary of Defense shall promulgate regulations prescribing the standards and criteria to be followed by the military departments in selecting the institutions at which units are to be established and maintained.

(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United

States secondary educational institutions the values of citizenship, service to the United States (including an introduction to service opportunities in military, national, and public service), and personal responsibility and a sense of accomplishment.

(b)(1) No unit may be established or maintained at an institution unless—

(A) the number of physically fit students in such unit who are in a grade above the 7th grade and physically co-located with the 9th grade participating unit and are citizens or nationals of the United States, or aliens lawfully admitted to the United States for permanent residence, is—

(i) in the case of an educational institution with fewer than 1,000 enrolled students, the lesser of—

(I) 10 percent of the number of such students who are in a grade above the 7th grade and physically co-located with the 9th grade participating unit; and

(II) 50; or

(ii) in the case of an educational institution with 1,000 or more enrolled students—

(I) 50; or

(II) a number, determined by the Secretary of the military department concerned, that is higher than 50 and not more than 100;

(B) the institution has adequate facilities for classroom instruction, storage of arms and other equipment which may be furnished in support of the unit, and adequate drill areas at or in the immediate vicinity of the institution, as determined by the Secretary of the military department concerned;

(C) the institution provides a course of military instruction of not less than three academic years' duration and which may include instruction or activities in the fields of science, technology, engineering, and mathematics, as prescribed by the Secretary of the military department concerned, or is a Job Corps center as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197);

(D) the institution agrees to limit membership in the unit to students who maintain acceptable standards of academic achievement and conduct, as prescribed by the Secretary of the military department concerned; and

(E) the unit meets such other requirements as the Secretary of the military department concerned prescribes in the memorandum of understanding required under paragraph (2).

(2) The Secretary of Defense shall prescribe in regulations a memorandum of understanding to be signed by the Secretary of the military department concerned and each institution operating a unit under this section. The memorandum shall be standardized to the extent practicable and include the following elements:

(A) A requirement that an institution notify the Secretary of the military department concerned of allegations of misconduct (including sexual misconduct and harassment) against an instructor who is receiving retired or other pay, not later than 48 hours after such institution learns of such allegations.

(B) A process by which the Secretary of the military department concerned certifies an instructor, including the conduct of appropriate background checks by such Secretary and the institution concerned.

(C) A process by which the Secretary of the military department concerned shall conduct oversight of instructors certified by such Secretary, including a requirement that such certification shall expire after not more than five years.

(D) Processes by which such institution's program will be inspected by the military department concerned prior to establishment of a new unit, or not less often than once every four years in the case of units existing as of January 1, 2024, staggered as the Secretary determines appropriate.

(E) A requirement that each institution certifies it—

(i) has created a process for students to report violations of their rights under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as applicable, and title VI of the Civil

Rights Act of 1964 (42 U.S.C. 2000d et seq.), including the rights of students to not be subject to discrimination or subject to retaliation for reporting a violation of those laws, if such laws apply to the public or private institution;

(ii) has implemented policies ensuring students and instructors are notified of those rights, as well as the process for reporting violations of those rights, including information on available mandatory reporters, if such laws apply to the institution;

(iii) has implemented annual training to inform students of methods to prevent, respond to, and report sexual assault and harassment;

(iv) agrees to report all allegations of violations described in this subparagraph to the military department concerned and, if subject to the jurisdiction of the Department of Education, the Office of Civil Rights of the Department of Education not less often than annually;

(v) has developed processes to ensure that each student enrolled in a unit under this section has done so voluntarily; and

(vi) agrees to provide the data necessary to compile the report under subsection (j).

(c) The Secretary of the military department concerned shall, to support the Junior Reserve Officers' Training Corps program—

(1) detail officers and noncommissioned officers of an armed force under his jurisdiction to institutions having units of the Corps as administrators and instructors;

(2) provide necessary text materials, equipment, and uniforms and, to the extent considered appropriate by the Secretary concerned, such additional resources (including transportation and billeting) as may be available to support activities of the program;

(3) establish minimum acceptable standards for performance and achievement for qualified units; and

(4) maintain a prioritized waiting list that includes all secondary educational institutions that have made a request for a unit under this section and have not yet been approved by the Secretary concerned, and prescribe regulations describing the factors to be considered in assigning priority, including the length of time an institution has been waiting for a unit.

(d)(1) Instead of, or in addition to, detailing officers and noncommissioned officers on active duty under subsection (c)(1), the Secretary of the military department concerned may authorize qualified institutions to employ, as administrators and instructors in the program—

(A) retired officers and noncommissioned officers whose qualifications are approved by the Secretary and the institution concerned and who request such employment;

(B) officers and noncommissioned officers who are separated with an honorable discharge within the past 5 years with at least 8 years of service and are approved by the Secretary and the institution concerned and who request such employment; or

(C) officers and noncommissioned officers who are active participating members of the selected reserve at the time of application, for purposes of section 101(d) of this title, and have not yet reached retirement eligibility and are approved by the Secretary and the institution concerned and who request such employment.

(2) Employment under this subsection shall be subject to the following conditions:

(A) The Secretary concerned shall pay to the institution an amount equal to one-half of the Department's prescribed JROTC Standardized Instructor Pay Scale amount paid to the member by the institution for any period.

(B) The Secretary concerned may pay to the institution more than one-half of the amount paid to the member by the institution if (as determined by the Secretary)—

(i) the institution is in an educationally and economically deprived area; and

(ii) the Secretary determines that such action is in the national interest.

(C) Payments by the Secretary concerned under this subsection shall be made from funds appropriated for that purpose.

(D) The Secretary concerned may require successful applicants to transfer to the Individual Ready Reserve.

(3) The Secretary concerned may not require an officer or noncommissioned officer described in paragraph (1)(B) to have completed more than 8 years of service as a member of the armed forces as a condition for approval by the Secretary to serve as an administrator or instructor in the program.

(e)(1) When determined by the Secretary of the military department concerned to be in the national interest and agreed upon by the institution concerned, the institution may reimburse a Junior Reserve Officers' Training Corps instructor for moving expenses incurred by the instructor to accept employment at the institution in a position that the Secretary concerned determines is hard-to-fill for geographic or economic reasons.

(2) As a condition on providing reimbursement under paragraph (1), the institution shall require the instructor to execute a written agreement to serve a minimum of two years of employment at the institution in the hard-to-fill position.

(3) Any reimbursement provided to an instructor under paragraph (1) is in addition to the minimum instructor pay otherwise payable to the instructor.

(4) The Secretary concerned shall reimburse an institution providing reimbursement to an instructor under paragraph (1) in an amount equal to the amount of the reimbursement paid by the institution under that paragraph. Any reimbursement provided by the Secretary concerned shall be provided from funds appropriated for that purpose.

(5) The provision of reimbursement under paragraph (1) or (4) shall be subject to regulations prescribed by the Secretary of Defense for purposes of this subsection.

(f)(1) Each public secondary educational institution that maintains a unit under this section shall permit membership in the unit to homeschooled students residing in the area served by the institution who are qualified for membership in the unit (but for lack of enrollment in the institution).

(2) A student who is a member of a unit pursuant to this subsection shall count toward the satisfaction by the institution concerned of the requirement in subsection (b)(1) relating to the minimum number of student members in the unit necessary for the continuing maintenance of the unit.

(g) No unit may be established or maintained at an educational institution that is owned, operated, or controlled by a person that—

(1) is the People's Republic of China;

(2) is a member of the Chinese Communist Party;

(3) is a member of the People's Liberation Army;

(4) is identified by the Secretary of Defense under section 1260H(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note) as a Chinese military company;

(5) is included in the Non-SDN Chinese Military-Industrial Complex Companies List published by the Department of the Treasury; or

(6) is owned by or controlled by or is an agency or instrumentality of any person described in paragraphs (1) through (5).

(h)(1) The Secretary of Defense may suspend or place on probation a unit of the Junior Reserve Officers' Training Corps that fails to comply with the provisions of the memorandum of understanding required pursuant to subsection (b) or any other requirement of this section.

(2) A unit may be placed on probation under paragraph (1) for a period of up to three years.

(3) A unit may be suspended under paragraph (1) if, after the three-year probationary period, such unit remains out of compliance with the requirements of this section and the Secretary of the military department concerned determines that such suspension is necessary to mitigate program deficiencies or to protect the safety of program participants.

(i)(1) The Secretary of Defense shall establish and support not fewer than 3,400, and not more than 4,000, units of the Junior Reserve Officers' Training Corps.

(2) The requirement under paragraph (1) shall not apply—

(A) if the Secretary fails to receive an adequate number of requests for Junior Reserve Officer's Training Corps units by public and private secondary educational institutions; and

(B) during a time of national emergency when the Secretaries of the military departments determine that funding must be allocated elsewhere.

(j)(1) Not later than March 31, 2024, and annually thereafter through March 31, 2029, the Secretary of Defense shall submit to Committees on Armed Services of the Senate and the House of Representatives a report on allegations of sexual misconduct, sexual harassment, and sex discrimination in Junior Reserve Officers' Training Corps programs during the preceding year.

(2) Each report required under paragraph (1) shall set forth the following:

(A) The number of reported allegations of violations under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) in school-affiliated Junior Reserve Officers' Training Corps programs, including—

(i) the number of such reported allegations that were investigated;

(ii) the outcome of those investigations; and

(iii) the number of such reported allegations by State, the District of Columbia, or overseas location where these reports occurred.

(B) The number of reports that the Department of Defense or armed forces have received during the reporting period involving allegations of acts of violence, including sexual abuse or harassment, by instructors against students in Junior Reserve Officers' Training Corps programs, including—

(i) the offense involved;

(ii) the armed force involved;

(iii) the number of instructors and number of allegations each instructor received;

(iv) the number of reports of sexual misconduct and harassment that have been investigated;

(v) the number of reports or investigations that have led to the removal of an instructor from a Junior Reserve Officers' Training Corps program; and

(vi) the number of such reported allegations by State, the District of Columbia, or overseas location where these reports occurred.

(C) Any steps the Department of Defense has taken to mitigate sexual misconduct and harassment in Junior Reserve Officers' Training Corps programs during the preceding year.

(3) Each report required under paragraph (1) shall be submitted in unclassified form and may not be designated as controlled unclassified information.

(4) The Secretary shall annually report to the Committees on Armed Services of the Senate and the House of Representatives regarding compliance with this subsection by the Junior Reserve Officers' Training Corps programs, including an up-to-date report on the Secretary's monitoring of such compliance.

(Added Pub. L. 88–647, title I, §101(1), Oct. 13, 1964, 78 Stat. 1063; amended Pub. L. 89–718, §16, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90–83, §3(4), Sept. 11, 1967, 81 Stat. 220; Pub. L. 93–165, Nov. 29, 1973, 87 Stat. 660; Pub. L. 94–361, title VIII, §807, July 14, 1976, 90 Stat. 933; Pub. L. 95–358, Sept. 8, 1978, 92 Stat. 592; Pub. L. 98–525, title IV, §422, title XIV, §1405(32), Oct. 19, 1984, 98 Stat. 2520, 2624; Pub. L. 100–26, §7(i)(3), Apr. 21, 1987, 101 Stat. 282; Pub. L. 102–484, div. A, title V, §533(a)–(e)(1), Oct. 23, 1992, 106 Stat. 2411, 2412; Pub. L. 103–160, div. A, title XI, §1182(g)(1), Nov. 30, 1993, 107 Stat. 1774; Pub. L. 107–107, div. A, title V, §537, Dec. 28, 2001, 115 Stat. 1107; Pub. L. 109–364, div. A, title V, §540, Oct. 17, 2006, 120 Stat. 2211; Pub. L. 110–181, div. A, title VI, §635, Jan. 28, 2008, 122 Stat. 155; Pub. L. 116–92, div. A, title V, §§511, 512(a), 513, Dec. 20, 2019, 133 Stat. 1348; Pub. L. 116–283, div. A, title V, §512, Jan. 1, 2021, 134 Stat. 3587; Pub. L. 117–263, div. A, title V, §512(a), Dec. 23, 2022, 136 Stat. 2564; Pub. L. 118–31, div. A, title V, §§551–553(a), 554, 555(a), 556, Dec. 22, 2023, 137 Stat. 269–272; Pub. L. 118–159,

div. A, title V, §§542–545(a), title XVII, §1701(a)(25), Dec. 23, 2024, 138 Stat. 1892, 1893, 2204; Pub. L. 119–60, div. A, title V, §§541, 542(a), (c), Dec. 18, 2025, 139 Stat. 872, 873.)

## AMENDMENT OF SUBSECTION (I)

*Pub. L. 119–60, div. A, title V, §542(a), (b), Dec. 18, 2025, 139 Stat. 873, provided that, effective on Oct. 1, 2027, subsection (i) of this section is amended by striking "support not fewer than 3,400, and not more than 4,000, units" and inserting "support not fewer than 3,600, and not more than 4,200, units". See 2025 Amendment note below.*

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsecs. (b)(2)(E)(i) and (j)(2)(A), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b)(2)(E)(i), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

Section 1260H(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (g)(4), is section 1260H(a) of Pub. L. 116–283, which is set out as a note under section 113 of this title.

### AMENDMENTS

**2025**—Subsec. (d)(3). Pub. L. 119–60, §541, added par. (3).

Subsec. (i). Pub. L. 119–60, §542(c), repealed Pub. L. 118–159, §545(a). See 2024 Amendment note below.

Pub. L. 119–60, §542(a), substituted "support not fewer than 3,600, and not more than 4,200, units" for "support not fewer than 3,400, and not more than 4,000, units".

**2024**—Subsec. (a)(1). Pub. L. 118–159, §542(1), inserted ", including Job Corps centers as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197)," after "secondary educational institutions".

Subsec. (b)(1)(A). Pub. L. 118–159, §543, substituted "is—" for "is not less than (i) 10 percent of the number of students enrolled in the institution who are in a grade above the 7th grade and physically co-located with the 9th grade participating unit, or (ii) 100, whichever is less;" and added cls. (i) and (ii).

Subsec. (b)(1)(C). Pub. L. 118–159, §542(2), inserted ", or is a Job Corps center as defined in section 147 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3197)" after "military department concerned".

Subsec. (b)(1)(E). Pub. L. 118–159, §1701(a)(25)(A)(i), struck out second period at end.

Subsec. (b)(2)(E)(vi). Pub. L. 118–159, §1701(a)(25)(A)(ii), which directed substitution of "report under subsection (j)" for "report under subsection (i)", was executed by making the substitution for "report required under subsection (i)", to reflect the probable intent of Congress.

Subsec. (c)(4). Pub. L. 118–159, §544, added par. (4).

Subsec. (i). Pub. L. 118–159, §545(a), which directed the substitution of "support not fewer than 3,500, and not more than 4,100, units" for "support not fewer than 3,400, and not more than 4,000, units", was repealed by Pub. L. 119–60, §542(c).

Subsec. (j). Pub. L. 118–159, §1701(a)(25)(B), redesignated second subsec. (i), relating to Junior Reserve Officers' Training Corps programs, as (j).

**2023**—Subsec. (a)(1). Pub. L. 118–31, §551(1)(B), which directed substitution of "maintained." for " 'maintained, and shall provide' and all that follows through the period at the end", was executed by making the substitution for "maintained and shall provide for the fair and equitable distribution of such units throughout the Nation, except that more than one such unit may be established and maintained at any military institute.", to reflect the probable intent of Congress.

Pub. L. 118–31, §551(1)(A), substituted "The Secretary of Defense shall promulgate" for "The President shall promulgate".

Subsec. (b). Pub. L. 118–31, §552, designated existing provisions as par. (1), redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, of par. (1), redesignated subpars. (A) and (B) of former par. (1) as cls. (i) and (ii) respectively, of subpar. (A), in subpar. (E), substituted "as the Secretary of the military

department concerned prescribes in the memorandum of understanding required under paragraph (2)." for "as may be established by the Secretary of the military department concerned", and added par. (2).

Subsec. (d). Pub. L. 118–31, §553(a)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) authorized employment of retired officers and noncommissioned officers who are in receipt of retired pay and members of the Fleet Reserve and Fleet Marine Corps Reserve as administrators and instructors.

Subsecs. (e), (f). Pub. L. 118–31, §553(a)(2), (3), redesignated subsecs. (g) and (h) as (e) and (f), respectively, and struck out former subsecs. (e) and (f) which authorized employment as administrators and instructors officers or noncommissioned officers who are under 60 years of age and who, but for age, would be eligible for retired pay for non-regular service and officers or noncommissioned officers who receive certain honorable discharges and are in active status.

Subsec. (g). Pub. L. 118–31, §554, which directed the addition of subsec. (g) at the end of this section, was executed by adding subsec. (g) after subsec. (f) to reflect the probable intent of Congress and the addition of subsec. (i), relating to number of units of the Junior Reserve Officers' Training Corps required to be established and supported, by section 551(2) of Pub. L. 118–31. Former subsec. (g) redesignated (e).

Subsec. (h). Pub. L. 118–31, §555(a), which directed the addition of subsec. (h) at the end of this section, was executed by adding subsec. (h) after subsec. (g) to reflect the probable intent of Congress and the addition of subsec. (i), relating to number of units of the Junior Reserve Officers' Training Corps required to be established and supported, by section 551(2) of Pub. L. 118–31. Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 118–31, §556, added subsec. (i) relating to annual report on allegations of sexual misconduct, sexual harassment, and sex discrimination in Junior Reserve Officers' Training Corps programs.

Pub. L. 118–31, §551(2), added subsec. (i) relating to number of units of the Junior Reserve Officers' Training Corps required to be established and supported.

**2022**—Subsecs. (f) to (h). Pub. L. 117–263 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

**2021**—Subsec. (a)(2). Pub. L. 116–283 inserted "(including an introduction to service opportunities in military, national, and public service)" after "service to the United States".

**2019**—Subsec. (b)(1). Pub. L. 116–92, §511, substituted "above the 7th grade and physically co-located with the 9th grade participating unit" for "above the 8th grade" in two places.

Subsec. (b)(3). Pub. L. 116–92, §512(a), inserted "and which may include instruction or activities in the fields of science, technology, engineering, and mathematics" after "duration".

Subsec. (g). Pub. L. 116–92, §513, added subsec. (g).

**2008**—Subsec. (f). Pub. L. 110–181 added subsec. (f).

**2006**—Subsec. (d). Pub. L. 109–364, §540(b), inserted "who are in receipt of retired pay" after "retired officers and noncommissioned officers" in introductory provisions.

Subsec. (e). Pub. L. 109–364, §540(a), added subsec. (e).

**2001**—Subsec. (a)(1). Pub. L. 107–107 struck out after first sentence "The total number of units which may be established and maintained by all of the military departments under authority of this section, including those units already established on October 13, 1964, may not exceed 3,500."

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "The" for "Not more than 200 units may be established by all of the military departments each year, and the" in second sentence.

**1992**—Subsec. (a). Pub. L. 102–484, §533(a), (b), designated existing provisions as par. (1), substituted "3,500" for "1,600", and added par. (2).

Subsec. (b)(1). Pub. L. 102–484, §533(c), substituted "in a grade above the 8th grade" for "at least 14 years of age" in two places and inserted ", or aliens lawfully admitted to the United States for permanent residence," after "of the United States".

Subsec. (c)(2). Pub. L. 102–484, §533(d), inserted before semicolon "and, to the extent considered appropriate by the Secretary concerned, such additional resources (including transportation and billeting) as may be available to support activities of the program".

Subsec. (d)(1). Pub. L. 102–484, §533(e)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Retired members so employed are entitled to receive their retired or retainer pay and an additional amount of not more than the difference between their retired pay and the active duty pay and allowances which they would receive if ordered to active duty, and one-half of that additional amount shall be paid to the institution concerned by the Secretary of the military department concerned from funds appropriated for that purpose."

**1987**—Subsec. (a). Pub. L. 100–26 struck out "beginning with the calendar year 1966" after "each year" in second sentence.

**1984**—Subsec. (a). Pub. L. 98–525, §1405(32), substituted "October 13, 1964" for "the date of enactment of this section".

Subsec. (b)(1). Pub. L. 98–525, §422(1), substituted "the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less" for "the unit contains at least 100 physically fit students who are at least 14 years of age and are citizens or nationals of the United States".

Subsec. (b)(5). Pub. L. 98–525, §422(2)–(4), added par. (5).

**1978**—Subsec. (b)(1). Pub. L. 95–358 inserted "or nationals" after "citizens".

**1976**—Subsec. (a). Pub. L. 94–361 increased total number of units authorized to be established to 1,600 from 1,200 and limited the military institutes to establishment and maintenance of only one unit.

**1973**—Subsec. (b)(1). Pub. L. 93–165 substituted "physically fit students" for "physically fit male students".

**1967**—Subsecs. (c), (d). Pub. L. 90–83 substituted "officers and noncommissioned officers" for "noncommissioned and commissioned officers" wherever appearing.

**1966**—Subsec. (d). Pub. L. 89–718 capitalized first letter of first word in cls. (1) and (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–60, div. A, title V, §542(b), Dec. 18, 2025, 139 Stat. 873, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2027."

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title V, §545(b), Dec. 23, 2024, 138 Stat. 1893, which provided that the amendment made by subsection (a) (amending this section) shall take effect on Oct. 1, 2026, was repealed by Pub. L. 119–60, div. A, title V, §542(c), Dec. 18, 2025, 139 Stat. 873.

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title V, §512(b), Dec. 20, 2019, 133 Stat. 1348, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Dec. 20, 2019]."

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title V, §533(e)(2), Oct. 23, 1992, 106 Stat. 2412, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to payments for periods of instructor service performed after September 30, 1992."

### SHORT TITLE

Pub. L. 88–647, §1, Oct. 13, 1964, 78 Stat. 1063, provided: "That the Act [enacting this chapter, and chapter 103 of this title, amending section 802 of former Title 5, sections 1475, 1478, 1481, 3201, 4348, 5404, 5504, 5652b, 6023, 6387, 6959, 8201, and 9348 of this title, and sections 205, 209, 415, 416 and 422 of Title 37, Pay and Allowances of the Uniformed Services, repealing sections 3355, 3540, 4381 to 4387, 6901 to 6906, 6908, 6910, 8355, 8540, and 9381 to 9387 of this title, and enacting provisions set out as notes under this section and section 2107 and former section 9385 of this title, may be cited as the 'Reserve Officers' Training Corps Vitalization Act of 1964'."

### ISSUANCE OF REGULATIONS

Pub. L. 88–647, title I, §102, Oct. 13, 1964, 78 Stat. 1064, directed that regulations implementing subsec. (a) of this section be issued by President and by Secretary of each military department not later than Jan. 1, 1966.

### SAVINGS CLAUSE

Pub. L. 88–647, title IV, §402, Oct. 13, 1964, 78 Stat. 1074, provided that: "If a part of this Act [see Short Title note above] is invalid, all valid parts that are severable from the invalid part remains in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

### TEMPORARY AUTHORITY TO PROVIDE BONUSES TO JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS

Pub. L. 119–60, div. A, title V, §546, Dec. 18, 2025, 139 Stat. 874, provided that:

"(a) IN GENERAL.—The Secretary concerned may pay to a member or former member of the Armed Forces under the jurisdiction of the Secretary a one-time bonus of not more than $10,000 if the member or former member—

"(1) agrees to be an instructor for the Junior Reserve Officers' Training Corps under section 2031(d) of title 10, United States Code, in a position the Secretary concerned determines is difficult to fill; and

"(2) serves as such an instructor for not less than one academic year.

"(b) BRIEFING REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], and annually thereafter until the termination date described in subsection (c), the Secretary of Defense shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on—

"(1) the use of the authority provided by subsection (a); and

"(2) the effectiveness of bonuses provided under subsection (a) on increasing the number of instructors for the Junior Reserve Officers' Training Corps.

"(c) TERMINATION.—The authority provided by subsection (a) terminates on the date that is five years after the date of the enactment of this Act.

"(d) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## TREATMENT OF CURRENT ADMINISTRATORS AND INSTRUCTORS

Pub. L. 118–31, div. A, title V, §553(b), Dec. 22, 2023, 137 Stat. 271, provided that: "An administrator or instructor employed under section 2031 of title 10, United States Code, on the date of enactment of this section [Dec. 22, 2023] shall not be subject to a reduction in total compensation as a result of such enactment."

## INCREASE IN NUMBER OF UNITS OF JUNIOR RESERVE OFFICERS' TRAINING CORPS

Pub. L. 110–417, [div. A], title V, §548, Oct. 14, 2008, 122 Stat. 4466, as amended by Pub. L. 112–239, div. A, title V, §553, Jan. 2, 2013, 126 Stat. 1742; Pub. L. 114–92, div. A, title X, §1072(c), Nov. 25, 2015, 129 Stat. 995, provided that:

"(a) PLAN FOR INCREASE.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop and implement a plan to establish and support, not later than September 30, 2020, not less than 3,000, and not more than 3,700, units of the Junior Reserve Officers' Training Corps.

"(b) EXCEPTIONS.—The requirement imposed in subsection (a) shall not apply—

"(1) if the Secretary fails to receive an adequate number or requests for Junior Reserve Officers' Training Corps units by public and private secondary educational institutions;

"(2) during a time of national emergency when the Secretaries of the military departments determine that funding must be allocated elsewhere; or

"(3) if the Secretaries of the military departments determine that the level of support of all kinds (including appropriated funds) provided to youth development programs within the Armed Forces is consistent with funding limitations and the achievement of the objectives of such programs.

"(c) COOPERATION.—The Secretary of Defense, as part of the plan to establish and support additional Junior Reserve Officers' Training Corps units, shall work with local educational agencies to increase the employment in Junior Reserve Officers' Training Corps units of retired members of the Armed Forces who are retired under chapter 61 of title 10, United States Code, especially members who were wounded or injured while deployed in a contingency operation.

"(d) REPORT ON PLAN.—Upon completion of the plan, the Secretary of Defense shall provide a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] containing, at a minimum, the following:

"(1) A description of how the Secretaries of the military departments expect to achieve the number of units of the Junior Reserve Officers' Training Corps specified in subsection (a), including how many units will be established per year by each service.

"(2) The annual funding necessary to support the increase in units, including the personnel costs associated.

"(3) The number of qualified private and public schools, if any, who have requested a Junior Reserve Officers' Training Corps unit that are on a waiting list.

"(4) Efforts to improve the increased distribution of units geographically across the United States.

"(5) Efforts to increase distribution of units in educationally and economically deprived areas.

"(6) Efforts to enhance employment opportunities for qualified former military members retired for disability, especially those wounded while deployed in a contingency operation."

**EXPANSION OF JUNIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM**

Pub. L. 109–364, div. A, title V, §541, Oct. 17, 2006, 120 Stat. 2212, provided that:

"(a) IN GENERAL.—The Secretaries of the military departments shall take appropriate actions to increase the number of secondary educational institutions at which a unit of the Junior Reserve Officers' Training Corps is organized under chapter 102 of title 10, United States Code.

"(b) EXPANSION TARGETS.—In increasing under subsection (a) the number of secondary educational institutions at which a unit of the Junior Reserve Officers' Training Corps is organized, the Secretaries of the military departments shall seek to organize units at an additional number of institutions as follows:

"(1) In the case of Army units, 15 institutions.

"(2) In the case of Navy units, 10 institutions.

"(3) In the case of Marine Corps units, 15 institutions.

"(4) In the case of Air Force units, 10 institutions."

**REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN JUNIOR RESERVE OFFICERS' TRAINING CORPS UNITS FOR PERIOD OF SEPTEMBER 1, 1980, TO AUGUST 31, 1984**

Pub. L. 96–342, title VI, §602, Sept. 8, 1980, 94 Stat. 1087, as amended by Pub. L. 97–86, title VII, §702(a), Dec. 1, 1981, 95 Stat. 1111; Pub. L. 97–252, title VII, §702, Sept. 8, 1982, 96 Stat. 728; Pub. L. 98–94, title VII, §702, Sept. 24, 1983, 97 Stat. 634, authorized the Secretary of any military department, during the period beginning on Sept. 1, 1980, and ending on Aug. 31, 1984, to maintain a unit of the Junior Reserve Officers' Training Corps at any public or private secondary educational institution.

## §2032. Responsibility of the Secretaries of the military departments to maximize enrollment and enhance efficiency

(a) COORDINATION.—The Secretary of each military department, in establishing, maintaining, transferring, and terminating Junior Reserve Officers' Training Corps units under section 2031 of this title, shall do so in a coordinated manner that is designed to maximize enrollment in the Corps and to enhance administrative efficiency in the management of the Corps.

(b) CONSIDERATION OF NEW SCHOOL OPENINGS AND CONSOLIDATIONS.—In carrying out subsection (a), the Secretary of a military department shall take into consideration—

(1) openings of new schools;

(2) consolidations of schools; and

(3) the desirability of continuing the opportunity for participation in the Corps by participants whose continued participation would otherwise be adversely affected by new school openings and consolidations of schools.

(Added Pub. L. 105–85, div. A, title V, §546(a), Nov. 18, 1997, 111 Stat. 1746.)

## §2033. Instructor qualifications

(a) IN GENERAL.—In order for a retired officer or noncommissioned officer to be employed as an instructor in the program, the officer must be certified by the Secretary of the military department concerned as a qualified instructor in leadership, wellness and fitness, civics, and other courses related to the content of the program, according to the qualifications set forth in subsection (b)(2) or (c)(2), as appropriate.

(b) SENIOR MILITARY INSTRUCTORS.—

(1) ROLE.—Senior military instructors shall be retired officers of the armed forces and shall serve as instructional leaders who oversee the program.

(2) QUALIFICATIONS.—A senior military instructor shall have the following qualifications:

(A) Professional military qualification, as determined by the Secretary of the military department concerned.

(B) Award of a baccalaureate degree from an institution of higher learning.

(C) Completion of secondary education teaching certification requirements for the program as established by the Secretary of the military department concerned.

(D) Award of an advanced certification by the Secretary of the military department concerned in core content areas based on—

(i) accumulated points for professional activities, services to the profession, awards, and recognitions;

(ii) professional development to meet content knowledge and instructional skills; and

(iii) performance evaluation of competencies and standards within the program through site visits and inspections.

(c) NON-SENIOR MILITARY INSTRUCTORS.—

(1) ROLE.—Non-senior military instructors shall be retired noncommissioned officers of the armed forces and shall serve as instructional leaders and teach independently of, but share program responsibilities with, senior military instructors.

(2) QUALIFICATIONS.—A non-senior military instructor shall demonstrate a depth of experience, proficiency, and expertise in coaching, mentoring, and practical arts in executing the program, and shall have the following qualifications:

(A) Professional military qualification, as determined by the Secretary of the military department concerned.

(B) Award of an associates degree from an institution of higher learning within five years of employment.

(C) Completion of secondary education teaching certification requirements for the program as established by the Secretary of the military department concerned.

(D) Award of an advanced certification by the Secretary of the military department concerned in core content areas based on—

(i) accumulated points for professional activities, services to the profession, awards, and recognitions;

(ii) professional development to meet content knowledge and instructional skills; and

(iii) performance evaluation of competencies and standards within the program through site visits and inspections.

(Added Pub. L. 109–364, div. A, title V, §539(a), Oct. 17, 2006, 120 Stat. 2210.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2033, added Pub. L. 106–65, div. A, title V, §547(a)(1), Oct. 5, 1999, 113 Stat. 608; amended Pub. L. 106–398, §1 [[div. A], title V, §577(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–140, provided that certain excess amounts appropriated for the National Guard Challenge Program were to be made available for the Junior Reserve Officers' Training Corps program, prior to repeal by Pub. L. 107–107, div. A, title V, §596(c)(1), (3), Dec. 28, 2001, 115 Stat. 1127, effective Oct. 1, 2002.

## §2034. Educational institutions not maintaining units of Junior Reserve Officers' Training Corps: issuance of arms, tentage, and equipment

The Secretary of a military department may issue arms, tentage, and equipment to an educational institution at which no unit of the Junior Reserve Officers' Training Corps is maintained if the educational institution—

(1) offers a course in military training prescribed by that Secretary; and

(2) has a student body of at least 50 students who are in a grade above the eighth grade.

(Added Pub. L. 112–239, div. A, title V, §552(a), Jan. 2, 2013, 126 Stat. 1741.)

## §2035. Flexibility in authorities for management of programs and units

(a) AUTHORITY TO CONVERT OTHERWISE CLOSING UNITS TO NATIONAL DEFENSE

CADET CORPS PROGRAM UNITS.—If the Secretary of a military department is notified by a local educational agency of the intent of the agency to close its Junior Reserve Officers' Training Corps, the Secretary shall offer the agency the option of converting the unit to a National Defense Cadet Corps (NDCC) program unit in lieu of closing the unit.

(b) FLEXIBILITY IN ADMINISTRATION OF INSTRUCTORS.—

(1) IN GENERAL.—The Secretaries of the military departments may, without regard to any other provision of this chapter, undertake initiatives designed to promote flexibility in the hiring and compensation of instructors for the Junior Reserve Officers' Training Corps program under the jurisdiction of such Secretaries.

(2) ELEMENTS.—The initiatives undertaken pursuant to this subsection may provide for one or more of the following:

(A) Termination of the requirement for a waiver as a condition of the hiring of well-qualified non-commissioned officers with a bachelor's degree for senior instructor positions within the Junior Reserve Officers' Training Corps.

(B) Specification of a single instructor as the minimum number of instructors required to found and operate a Junior Reserve Officers' Training Corps unit.

(C) Authority for Junior Reserve Officers' Training Corps instructors to undertake school duties, in addition to Junior Reserve Officers' Training Corps duties, at small schools.

(D) Authority for the payment of instructor compensation for a limited number of Junior Reserve Officers' Training Corps instructors on a 10-month per year basis rather than a 12-month per year basis.

(E) Such other actions as the Secretaries of the military departments consider appropriate.

(c) FLEXIBILITY IN ALLOCATION AND USE OF TRAVEL FUNDING.—The Secretaries of the military departments shall take appropriate actions to provide so-called regional directors of the Junior Reserve Officers' Training Corps programs located at remote rural schools enhanced discretion in the allocation and use of funds for travel in connection with Junior Reserve Officers' Training Corps activities.

(d) STANDARDIZATION OF PROGRAM DATA.—The Secretary of Defense shall take appropriate actions to standardize the data collected and maintained on the Junior Reserve Officers' Training Corps programs in order to facilitate and enhance the collection and analysis of such data. Such actions shall include a requirement for the use of the National Center for Education Statistics (NCES) identification code for each school with a unit under a Junior Reserve Officers' Training Corps program in order to facilitate identification of such schools and their units under the Junior Reserve Officers' Training Corps programs.

(Added Pub. L. 115–232, div. A, title V, §557(a)(1), Aug. 13, 2018, 132 Stat. 1773.)

## §2036. Grants to support science, technology, engineering, and mathematics education

(a) AUTHORITY.—The Secretary, in consultation with the Secretary of Education, may carry out a program to make grants to eligible entities to assist such entities in providing education in covered subjects to students in the Junior Reserve Officers' Training Corps.

(b) COORDINATION.—In carrying out a program under subsection (a), the Secretary may coordinate with the following:

(1) The Director of the National Science Foundation.

(2) The Administrator of the National Aeronautics and Space Administration.

(3) The heads of such other Federal, State, and local government entities the Secretary of Defense determines to be appropriate.

(c) ACTIVITIES.—Activities funded with grants under this section may include the following:

(1) Training and other support for instructors to teach courses in covered subjects to students.

(2) The acquisition of materials, hardware, and software necessary for the instruction of covered subjects.

(3) Activities that improve the quality of educational materials, training opportunities, and curricula available to students and instructors in covered subjects.

(4) Development of travel opportunities, demonstrations, mentoring programs, and informal education in covered subjects for students and instructors.

(5) Students' pursuit of certifications in covered subjects.

(d) PREFERENCE.—In making any grants under this section, the Secretary shall give preference to eligible entities that are eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(e) EVALUATIONS.—In carrying out a program under this section, the Secretary shall establish outcome-based metrics and internal and external assessments to evaluate the merits and benefits of the activities funded with grants under this section with respect to the needs of the Department of Defense.

(f) AUTHORITIES.—In carrying out a program under this section, the Secretary shall, to the extent practicable, make use of the authorities under chapter 111 and sections 2601 and 2605 of this title, and other authorities the Secretary determines appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "eligible entity" means a local education agency that hosts a unit of the Junior Reserve Officers' Training Corps.

(2) The term "covered subjects" means—

(A) science;

(B) technology;

(C) engineering;

(D) mathematics;

(E) computer science;

(F) computational thinking;

(G) artificial intelligence;

(H) machine learning;

(I) data science;

(J) quantum information sciences;

(K) cybersecurity;

(L) robotics;

(M) health sciences; and

(N) other subjects determined by the Secretary of Defense to be related to science, technology, engineering, and mathematics.

(Added Pub. L. 116–283, div. A, title V, §513(a)(1), Jan. 1, 2021, 134 Stat. 3587; amended Pub. L. 117–81, div. A, title V, §511, Dec. 27, 2021, 135 Stat. 1682.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

### AMENDMENTS

**2021**—Subsec. (g)(2)(J) to (N). Pub. L. 117–81 added subpar. (J) and redesignated former subpars. (J) to (M) as (K) to (N), respectively.

# CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

Sec.
2101. Definitions.
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**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Pub. L. 108–136, div. A, title V, §523(b)(2), Nov. 24, 2003, 117 Stat. 1464, added item 2103a.

**1999**—Pub. L. 106–65, div. A, title V, §541(a)(2), Oct. 5, 1999, 113 Stat. 606, added item 2111b.

**1997**—Pub. L. 105–85, div. A, title V, §544(f)(2), Nov. 18, 1997, 111 Stat. 1746, substituted "Support for" for "Detail of officers to" in item 2111a.

**1996**—Pub. L. 104–106, div. A, title V, §545(b), Feb. 10, 1996, 110 Stat. 318, added item 2111a.

**1991**—Pub. L. 102–190, div. A, title V, §522(b)(2), Dec. 5, 1991, 105 Stat. 1362, substituted "Army Reserve and Army National Guard" for "military junior colleges" in item 2107a.

**1988**—Pub. L. 100–456, div. A, title VI, §633(a)(3)(B), Sept. 29, 1988, 102 Stat. 1986, substituted "Practical military training" for "Field training; practice cruises" in item 2109.

**1980**—Pub. L. 96–357, §1(c)(2), Sept. 24, 1980, 94 Stat. 1180, added item 2107a.

**1964**—Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1064, added chapter heading and items 2101 to 2111.

## §2101. Definitions

In this chapter:

(1) The term "program" means the Senior Reserve Officers' Training Corps of an armed force.

(2) The term "member of the program" means a student who is enrolled in the Senior Reserve Officers' Training Corps of an armed force.

(3) The term "advanced training" means the training and instruction offered in the Senior Reserve Officers' Training Corps to students enrolled in an advanced education program beyond the baccalaureate degree level or to students in the third and fourth years of a four-year Senior Reserve Officers' Training Corps course, or the equivalent period of training in an approved two-year Senior Reserve Officers' Training Corps course (except that, in the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, such term includes a fifth academic year or a combination of a part of a fifth academic year and summer sessions).

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1064; amended Pub. L. 98–94, title X, §1003(a)(1), title XII, §1268(11), Sept. 24, 1983, 97 Stat. 656, 706; Pub. L. 100–180, div. A, title

XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 104–201, div. A, title V, §553(b), Sept. 23, 1996, 110 Stat. 2526.)

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Par. (3). Pub. L. 104–201 inserted "students enrolled in an advanced education program beyond the baccalaureate degree level or to" after "Training Corps to".

**1987**—Pub. L. 100–180, in pars. (1) to (3), inserted "The term" after each par. designation, and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

**1983**—Pub. L. 98–94, §1268(11)(A), substituted a colon for a dash after "In this chapter" in provision preceding par. (1).

Par. (1). Pub. L. 98–94, §1268(11)(B), (C), substituted "Program" for "program" and a period for a semicolon after "armed force".

Par. (2). Pub. L. 98–94, §1268(11)(D), (E), substituted "Member" for "member", and a period for "; and" after "armed force".

Par. (3). Pub. L. 98–94, §1268(11)(F), substituted "Advanced" for "advanced".

Pub. L. 98–94, §1003(a)(1), inserted parenthetical provision relating to a fifth academic year or a combination of a fifth academic year and summer sessions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### LIMITATION ON AUTHORITY TO REORGANIZE THE SENIOR RESERVE OFFICERS' TRAINING CORPS OF THE ARMY

Pub. L. 119–60, div. A, title V, §548, Dec. 18, 2025, 139 Stat. 875, provided that:

"(a) BRIEFING ON REORGANIZATION PLANS.—Not later than March 1, 2026, the Secretary of the Army shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the plans of the Secretary of the Army with respect to reorganization of the program or individual units of the program. Such briefing shall include the following:

"(1) The number of members of the program anticipated to be affected by such a reorganization at each educational institution.

"(2) An identification of the requirements for members of the program who are members of a unit that will close or whose position within a unit will be eliminated to transfer to another unit of the program.

"(3) An identification of alternative pathways for members of the program affected by a reorganization to be appointed as a commissioned officer in the Armed Forces.

"(b) LIMITATIONS.—

"(1) BRIEFING PRIOR TO REORGANIZATION.—The Secretary of the Army may not reorganize a unit of the program of the Army until the date that is 90 days after the date on which the Secretary, acting through the Army Cadet Command, provides to the Committees on Armed Services of the Senate and House of Representatives a briefing with respect to the reorganization of such unit that includes the following:

"(A) Each position of such unit to be eliminated.

"(B) A risk analysis regarding the impact of the reorganization on Army officer accessions that justifies such reorganization.

"(C) Anticipated cost savings or expenses to the United States.

"(D) The number of members of the program affected by the reorganization, including the number of members who will have to travel to another educational institution to participate in the program after the reorganization.

"(E) Any change to a scholarship awarded under section 2107 or 2107a of title 10, United States Code, due to the reorganization.

"(2) COMPLETION OF COMMISSIONING REQUIREMENTS BY CURRENT STUDENTS.—The Secretary of the Army shall ensure that any reorganization of a unit of the program of the Army allows a member of the program receiving financial assistance under section 2107 or 2107a of title 10, United States Code, who is affected by such reorganization to complete any requirements for receiving a commission as an officer in the Army without the member being required to transfer to another educational institution.

"(c) DEFINITIONS.—In this section:

"(1) The terms 'program' and 'member of the program' have the meanings given such terms in section

2101 of title 10, United States Code.

"(2) The term 'reorganize', with respect to a unit of the program, includes closing, restructuring, reclassifying, merging, or realigning."

**PILOT PROGRAMS AUTHORIZED IN CONNECTION WITH SROTC UNITS AND CSPI PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS**

Pub. L. 116–283, div. A, title V, §519, Jan. 1, 2021, 134 Stat. 3591, provided that:

"(a) PILOT PROGRAMS REQUIRED.—The Secretary of Defense may carry out two pilot programs as follows:

"(1) A pilot program, with elements as provided for in subsection (c), at covered institutions in order to assess the feasibility and advisability of mechanisms to reduce barriers to participation in the Senior Reserve Officers' Training Corps at such institutions by creating partnerships between satellite or extension Senior Reserve Officers' Training Corps units at such institutions and covered military installations.

"(2) In consultation with the Secretary of Homeland Security, a pilot program, with elements as provided for in subsection (d), in order to assess the feasibility and advisability of the provision of financial assistance to members of the Senior Reserve Officers' Training Corps, and members of the Coast Guard College Student Pre-Commissioning Initiative, at covered institutions for participation in flight training.

"(b) DURATION.—The duration of each pilot program under subsection (a) may not exceed 5 years.

"(c) PILOT PROGRAM ON PARTNERSHIPS BETWEEN SATELLITE OR EXTENSION SROTC UNITS AND COVERED MILITARY INSTALLATIONS.—

"(1) PARTICIPATING INSTITUTIONS.—The Secretary of Defense shall carry out the pilot program required by subsection (a)(1) at not fewer than five covered institutions selected by the Secretary for purposes of the pilot program.

"(2) REQUIREMENTS FOR SELECTION.—Each covered institution selected by the Secretary for purposes of the pilot program under subsection (a)(1) shall—

"(A) currently maintain a satellite or extension Senior Reserve Officers' Training Corps unit under chapter 103 of title 10, United States Code, that is located more than 20 miles from the host unit of such unit; or

"(B) establish and maintain a satellite or extension Senior Reserve Officers' Training Corps unit that meets the requirements in subparagraph (A).

"(3) PREFERENCE IN SELECTION OF INSTITUTIONS.—In selecting covered institutions under this subsection for participation in the pilot program under subsection (a)(1), the Secretary shall give preference to covered institutions that are located within 20 miles of a covered military installation of the same Armed Force as the host unit of the Senior Reserve Officers' Training Corps of the covered institution concerned.

"(4) PARTNERSHIP ACTIVITIES.—The activities conducted under the pilot program under subsection (a)(1) between a satellite or extension Senior Reserve Officers' Training Corps unit and the covered military installation concerned shall include such activities designed to reduce barriers to participation in the Senior Reserve Officers' Training Corps at the covered institution concerned as the Secretary considers appropriate, including measures to mitigate travel time and expenses in connection with receipt of Senior Reserve Officers' Training Corps instruction.

"(d) PILOT PROGRAM ON FINANCIAL ASSISTANCE FOR SROTC AND CSPI MEMBERS FOR FLIGHT TRAINING.—

"(1) ELIGIBILITY FOR PARTICIPATION BY SROTC AND CSPI MEMBERS.—A member of a Senior Reserve Officers' Training Corps unit, or a member of a Coast Guard College Student Pre-Commissioning Initiative program, at a covered institution may participate in the pilot program under subsection (a)(2) if the member meets such academic requirements at the covered institution, and such other requirements, as the Secretary concerned shall establish for purposes of the pilot program.

"(2) PREFERENCE IN SELECTION OF PARTICIPANTS.—In selecting members under this subsection for participation in the pilot program under subsection (a)(2), the Secretary concerned shall give a preference to members who will pursue flight training under the pilot program at a covered institution.

"(3) FINANCIAL ASSISTANCE FOR FLIGHT TRAINING.—

"(A) IN GENERAL.—The Secretary concerned may provide any member of a Senior Reserve Officers' Training Corps unit or a College Student Pre-Commissioning Initiative program who participates in the pilot program under subsection (a)(2) financial assistance to defray, whether in whole or in part, the charges and fees imposed on the member for flight training.

"(B) FLIGHT TRAINING.—Financial assistance may be used under subparagraph (A) for a

course of flight training only if the course meets Federal Aviation Administration standards and is approved by the Federal Aviation Administration and the applicable State approving agency.

"(C) USE.—Financial assistance received by a member under subparagraph (A) may be used only to defray the charges and fees imposed on the member as described in that subparagraph.

"(D) CESSATION OF ELIGIBILITY.—Financial assistance may not be provided to a member under subparagraph (A) as follows:

"(i) If the member ceases to meet the academic and other requirements established pursuant to paragraph (1).

"(ii) If the member ceases to be a member of the Senior Reserve Officers' Training Corps or the College Student Pre-Commissioning Initiative, as applicable.

"(e) EVALUATION METRICS.—The Secretary of Defense shall establish metrics to evaluate the effectiveness of the pilot programs under subsection (a).

"(f) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the commencement of the pilot programs under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs. The report shall include the following:

"(A) A description of each pilot program, including in the case of the pilot program under subsection (a)(2) the requirements established pursuant to subsection (d)(1).

"(B) The evaluation metrics established under subsection (e).

"(C) Such other matters relating to the pilot programs as the Secretary considers appropriate.

"(2) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year in which the Secretary carries out the pilot programs, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

"(A) In the case of the pilot program required by subsection (a)(1), a description of the partnerships between satellite or extension Senior Reserve Officers' Training Corps units and covered military installations under the pilot program.

"(B) In the case of the pilot program required by subsection (a)(2), the following:

"(i) The number of members of Senior Reserve Officers' Training Corps units, and the number of members of Coast Guard College Student Pre-Commissioning Initiative programs, at covered institutions selected for purposes of the pilot program, including the number of such members participating in the pilot program.

"(ii) The number of recipients of financial assistance provided under the pilot program, including the number who—

"(I) completed a ground school course of instruction in connection with obtaining a private pilot's certificate;

"(II) completed flight training, and the type of training, certificate, or both received;

"(III) were selected for a pilot training slot in the Armed Forces;

"(IV) initiated pilot training in the Armed Forces; or

"(V) successfully completed pilot training in the Armed Forces.

"(iii) The amount of financial assistance provided under the pilot program, broken out by covered institution, course of study, and such other measures as the Secretary considers appropriate.

"(C) Data collected in accordance with the evaluation metrics established under subsection (e).

"(3) FINAL REPORT.—Not later than 180 days prior to the completion of the pilot programs, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs. The report shall include the following:

"(A) A description of the pilot programs.

"(B) An assessment of the effectiveness of each pilot program.

"(C) A description of the cost of each pilot program, and an estimate of the cost of making each pilot program permanent.

"(D) An estimate of the cost of expanding each pilot program throughout all eligible Senior Reserve Officers' Training Corps units and College Student Pre-Commissioning Initiative programs.

"(E) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot programs, including recommendations for extending or making permanent the authority for each pilot program.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered institution' has the meaning given that term in section 262(g)(2) of the National

Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; [10 U.S.C. 4144 note]).

"(2) The term 'covered military installation' means an installation of the Department of Defense for the regular components of the Armed Forces.

"(3) The term 'flight training' means a course of instruction toward obtaining any of the following:

"(A) A private pilot's certificate.

"(B) A commercial pilot certificate.

"(C) A certified flight instructor certificate.

"(D) A multi-crew pilot's license.

"(E) A flight instrument rating.

"(F) Any other certificate, rating, or pilot privilege the Secretary considers appropriate for purposes of this section."

**SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING FOR ADMINISTRATORS AND INSTRUCTORS OF SENIOR RESERVE OFFICERS' TRAINING CORPS**

Pub. L. 114–92, div. A, title V, §540, Nov. 25, 2015, 129 Stat. 818, provided that: "The Secretary of a military department shall ensure that the commander of each unit of the Senior Reserve Officers' Training Corps and all Professors of Military Science, senior military instructors, and civilian employees detailed, assigned, or employed as administrators and instructors of the Senior Reserve Officers' Training Corps receive regular sexual assault prevention and response training and education."

**PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS**

Pub. L. 109–163, div. A, title V, §535, Jan. 6, 2006, 119 Stat. 3249, as amended by Pub. L. 111–383, div. A, title X, §1075(h)(2), Jan. 7, 2011, 124 Stat. 4377, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

"(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other 'strategic languages', as defined by the Secretary of Defense in consultation with other relevant agencies; and

"(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

"(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the actions taken to carry out this section."

## §2102. Establishment

(a) For the purpose of preparing selected students for commissioned service in the Army, Navy, Air Force, Marine Corps, or Space Force, the Secretary of each military department, under regulations prescribed by the President, may establish and maintain a Senior Reserve Officers' Training Corps program, organized into one or more units, at any accredited civilian educational institution authorized to grant baccalaureate degrees, and at any school essentially military that does not confer baccalaureate degrees, upon the request of the authorities at that institution.

(b) No unit may be established or maintained at an institution unless—

(1) the senior commissioned officer of the armed force concerned who is assigned to the program at that institution is given the academic rank of professor;

(2) the institution fulfills the terms of its agreement with the Secretary of the military department concerned; and

(3) the institution adopts, as a part of its curriculum, a four-year course of military instruction or a two-year course of advanced training of military instruction, or both, which the Secretary of the military department concerned prescribes and conducts.

(c) At those institutions where a unit of the program is established membership of students in the program shall be elective or compulsory as provided by State law or the authorities of the institution concerned.

(d) The President shall cause to be established and maintained in each State at least one unit of the program if—

(1) a unit is requested by an educational institution in the State;

(2) such request is approved by the Governor of the State in which the institution requesting the unit is located; and

(3) the Secretary of the military department concerned determines that there will be not less than 40 students enrolled in such unit and that the provisions of this section are otherwise satisfied.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1065; amended Pub. L. 95–79, title VI, §602, July 30, 1977, 91 Stat. 332; Pub. L. 116–283, div. A, title IX, §924(b)(3)(BB), Jan. 1, 2021, 134 Stat. 3822.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**1977**—Subsec. (d). Pub. L. 95–79 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES; REGULATIONS

Pub. L. 95–485, title VIII, §809, Oct. 20, 1978, 92 Stat. 1623, directed the Secretary of Defense to require that any college or university designated as a military college provide that qualified female undergraduate students be eligible to participate in military training at such college or university, and prohibited the Secretary from requiring such college or university to require female undergraduate students enrolled in such college or university to participate in military training, prior to repeal by Pub. L. 98–525, title XIV, §§1403(b), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985. See section 2009 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) of this section delegated to Secretary of Defense, see section 1(10) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §2103. Eligibility for membership

(a) To be eligible for membership in the program a person must be a student at an institution where a unit of the Senior Reserve Officers' Training Corps is established. However, a student at an institution that does not have a unit of the Corps is eligible, if otherwise qualified, to be a member of a unit at another institution.

(b) Persons from foreign countries may be enrolled as members of the program when their enrollment is approved by the Secretary of the military department concerned under criteria approved by the Secretary of State.

(c) A medical, dental, pharmacy, veterinary, or sciences allied to medicine, student may be admitted to a unit of the program for a course of training consisting of 90 hours of instruction a year for four academic years.

(d) Under such conditions as the Secretary of the military department concerned may prescribe, a medical, dental, pharmacy, veterinary, or sciences allied to medicine, student who is a commissioned officer of a reserve component of an armed force may be admitted to and trained in a unit of the program.

(e) An educational institution at which a unit of the program has been established shall give priority for enrollment in the program to students who are eligible for advanced training under

section 2104 of this title.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1065; amended Pub. L. 104–201, div. A, title V, §551(a)(1), Sept. 23, 1996, 110 Stat. 2525.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (e). Pub. L. 104–201 added subsec. (e).

## §2103a. Students not eligible for advanced training: commitment to military service

(a) AUTHORITY.—A member of the program who has completed successfully the first year of a four-year Senior Reserve Officers' Training Corps course and who is not eligible for advanced training under section 2104 of this title and is not a cadet or midshipman appointed under section 2107 of this title may—

(1) contract with the Secretary of the military department concerned, or the Secretary's designated representative, to serve for the period required by the program; and

(2) agree in writing to accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, and to serve in the armed forces for the period prescribed by the Secretary.

(b) ELIGIBILITY REQUIREMENTS.—A member of the program may enter into a contract and agreement under this section (and receive a subsistence allowance under section 209(c) of title 37) only if the person—

(1) is a citizen of the United States;

(2) enlists in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary; and

(3) executes a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

(c) PARENTAL CONSENT FOR MINORS.—A member of the program who is a minor may enter into a contract under subsection (a)(1) only with the consent of the member's parent or guardian.

(Added Pub. L. 108–136, div. A, title V, §523(b)(1), Nov. 24, 2003, 117 Stat. 1464; amended Pub. L. 108–375, div. A, title V, §525, Oct. 28, 2004, 118 Stat. 1889; Pub. L. 109–364, div. A, title X, §1071(a)(10), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 116–283, div. A, title IX, §924(b)(3)(CC), Jan. 1, 2021, 134 Stat. 3822.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(2). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2006**—Subsec. (b). Pub. L. 109–364 substituted "Eligibility" for "Eligibilty" in heading.

**2004**—Subsec. (d). Pub. L. 108–375 struck out heading and text of subsec. (d). Text read as follows: "No contract may be entered into under subsection (a)(1) after December 31, 2006."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 108–136, div. A, title V, §523(c), Nov. 24, 2003, 117 Stat. 1464, provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending section 209 of Title 37, Pay and

Allowances of the Uniformed Services] shall take effect on January 1, 2004."

## §2104. Advanced training; eligibility for

(a) Advanced training shall be provided to eligible members of the program and, if the institution concerned so requests, to eligible applicants for membership in the program.

(b) To be eligible for continuation, or initial enrollment, in the program for advanced training, a person must—

(1) be a citizen of the United States;

(2) be selected for advanced training under procedures prescribed by the Secretary of the military department concerned;

(3) enlist in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary;

(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program;

(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, and that he will serve in the armed forces for the period prescribed by the Secretary;

(6) either—

(A) complete successfully—

(i) the first two years of a four-year Senior Reserve Officers' Training Corps course; or

(ii) field training or a practice cruise of a duration which is prescribed by the Secretary concerned as a preliminary requirement for admission to the advanced course; or

(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary concerned, within two years after admission to the advanced course; and

(7) execute a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

(c) A member of the program who is ineligible under subsection (b) for advanced training shall be released from the program.

(d) This section does not apply to cadets and midshipmen appointed under section 2107, or foreign students enrolled under section 2103(b), of this title.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1065; amended Pub. L. 98–94, title X, §1003(a)(2), Sept. 24, 1983, 97 Stat. 656; Pub. L. 98–525, title V, §543(a), title XIV, §1401(h), Oct. 19, 1984, 98 Stat. 2530, 2619; Pub. L. 104–106, div. A, title V, §544, Feb. 10, 1996, 110 Stat. 317; Pub. L. 107–107, div. A, title V, §535(a), Dec. 28, 2001, 115 Stat. 1106; Pub. L. 116–283, div. A, title IX, §924(b)(3)(DD), Jan. 1, 2021, 134 Stat. 3822.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (b)(7) of this section were contained in the following appropriation acts:

Pub. L. 98–473, title I, §101(h) [title VIII, §8018], Oct. 12, 1984, 98 Stat. 1904, 1926.

Pub. L. 98–212, title VII, §722, Dec. 8, 1983, 97 Stat. 1442.

Pub. L. 97–377, title I, §101(c) [title VII, §722], Dec. 21, 1982, 96 Stat. 1833, 1854.

Pub. L. 97–114, title VII, §722, Dec. 29, 1981, 95 Stat. 1582.

Pub. L. 96–527, title VII, §723, Dec. 15, 1980, 94 Stat. 3085.

Pub. L. 96–154, title VII, §723, Dec. 21, 1979, 93 Stat. 1156.

Pub. L. 95–457, title VIII, §823, Oct. 13, 1978, 92 Stat. 1248.
Pub. L. 95–111, title VIII, §822, Sept. 21, 1977, 91 Stat. 903.
Pub. L. 94–419, title VII, §722, Sept. 22, 1976, 90 Stat. 1295.
Pub. L. 94–212, title VII, §722, Feb. 9, 1976, 90 Stat. 172.
Pub. L. 93–437, title VIII, §822, Oct. 8, 1974, 88 Stat. 1228.
Pub. L. 93–238, title VII, §723, Jan. 2, 1974, 87 Stat. 1042.
Pub. L. 92–570, title VII, §723, Oct. 26, 1972, 86 Stat. 1200.
Pub. L. 92–204, title VII, §723, Dec. 18, 1971, 85 Stat. 731.
Pub. L. 91–668, title VIII, §823, Jan. 11, 1971, 84 Stat. 2034.
Pub. L. 91–171, title VI, §623, Dec. 29, 1969, 83 Stat. 484.
Pub. L. 90–580, title V, §522, Oct. 17, 1968, 82 Stat. 1133.
Pub. L. 90–96, title VI, §622, Sept. 29, 1967, 81 Stat. 246.
Pub. L. 89–687, title VI, §622, Oct. 15, 1966, 80 Stat. 995.
Pub. L. 89–213, title VI, §622, Sept. 29, 1965, 79 Stat. 877.
Pub. L. 88–446, title VI, §522, Aug. 19, 1964, 78 Stat. 478.
Pub. L. 88–149, title V, §522, Oct. 17, 1963, 77 Stat. 267.
Pub. L. 87–577, title V, §522, Aug. 9, 1962, 76 Stat. 332.
Pub. L. 87–144, title VI, §622, Aug. 17, 1961, 75 Stat. 379.
Pub. L. 86–601, title V, §522, July 7, 1960, 74 Stat. 353.
Pub. L. 86–166, title V, §622, Aug. 18, 1959, 73 Stat. 382.
Pub. L. 85–724, title VI, §624, Aug. 22, 1958, 72 Stat. 728.
Pub. L. 85–117, title VI, §625, Aug. 2, 1957, 71 Stat. 327.
July 2, 1956, ch. 488, title VI, §625, 70 Stat. 471.
July 13, 1955, ch. 358, title VI, §629, 69 Stat. 320.
June 30, 1954, ch. 432, title VII, §731, 68 Stat. 356.

**AMENDMENTS**

**2021**—Subsec. (b)(5). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2001**—Subsec. (b)(3). Pub. L. 107–107 struck out "a reserve component of" before "an armed force".

**1996**—Subsec. (b)(6)(A)(ii). Pub. L. 104–106 substituted "a duration" for "not less than six weeks' duration".

**1984**—Subsec. (a). Pub. L. 98–525, §543(a)(1), struck out ", who have at least two academic years remaining at such educational institution" after "in the program".

Subsec. (b)(6). Pub. L. 98–525, §543(a)(2), inserted initial word "either", redesignated existing subpars. (A) and (B) as cls. (i) and (ii) of subpar. (A), and added subpar. (B).

Subsec. (b)(7). Pub. L. 98–525, §1401(h), added par. (7).

**1983**—Subsec. (a). Pub. L. 98–94 substituted "who have at least two academic years" for "who have two academic years".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title V, §543(b), Oct. 19, 1984, 98 Stat. 2530, provided that: "The amendments made by subsection (a) [amending this section] do not constitute authority for the enactment of new budget authority for a fiscal year beginning before October 1, 1984."

Amendment by section 1401(h) of Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

## §2105. Advanced training; failure to complete or to accept commission

A member of the program who is selected for advanced training under section 2104 of this title, and who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the military department concerned to serve in his enlisted grade or rating for such period of time as the Secretary

prescribes but not for more than two years. If the member does not complete the period of active duty prescribed by the Secretary concerned, the member shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1066; amended Pub. L. 109–163, div. A, title VI, §687(c)(4), Jan. 6, 2006, 119 Stat. 3334; Pub. L. 109–364, div. A, title X, §1071(a)(11), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 115–91, div. A, title VI, §618(a)(1)(D), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Pub. L. 109–364 inserted period at end.

Pub. L. 109–163 inserted at end "If the member does not complete the period of active duty prescribed by the Secretary concerned, the member shall be subject to the repayment provisions of section 303a(e) of title 37".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §2106. Advanced training; commission on completion

(a) Upon satisfactorily completing the academic and military requirements of the program of advanced training, a member of the program who was selected for advanced training under section 2104 of this title may be appointed as a regular or reserve officer in the appropriate armed force in the grade of second lieutenant or ensign, even though he is under 21 years of age.

(b) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets or midshipmen from the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy, as the case may be, in that year. The Secretary of the military department concerned shall establish the date of rank of all other officers appointed under this section.

(c) In computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after August 1, 1979, as a member of the Selected Reserve.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1066; amended Pub. L. 102–484, div. A, title V, §517(a)(1), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 104–201, div. A, title V, §507(a)(1), Sept. 23, 1996, 110 Stat. 2512.)

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (c). Pub. L. 104–201 substituted "performed on or after August 1, 1979, as a member of the Selected Reserve" for "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve".

**1992**—Subsec. (c). Pub. L. 102–484 inserted before period at end ", other than any period of enlisted service while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996**

Pub. L. 104–201, div. A, title V, §507(c), Sept. 23, 1996, 110 Stat. 2512, provided that: "No increase in pay or retired or retainer pay shall accrue for periods before the date of the enactment of this Act [Sept. 23, 1996] by reason of the amendments made by this section [amending this section, sections 2107 and 2107a of this title, and section 205 of Title 37, Pay and Allowances of the Uniformed Services]."

## §2107. Financial assistance program for specially selected members

(a) The Secretary of the military department concerned may appoint as a cadet or midshipman, as appropriate, in the reserve of an armed force under his jurisdiction any eligible member of the program who will be under 31 years of age on December 31 of the calendar year in which he is eligible under this section for appointment as an ensign in the Navy or as a second lieutenant in the Army, Air Force, Marine Corps, or Space Force.

(b) To be eligible for appointment as a cadet or midshipman under this section a member must—

(1) be a citizen or national of the United States;

(2) be specially selected for the financial assistance program under procedures prescribed by the Secretary of the military department concerned;

(3) enlist in the reserve component of an armed force for the period prescribed by the Secretary of the military department concerned;

(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program; and

(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will—

(A)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of an armed force and not resign before that anniversary or before such other date, not beyond the eighth anniversary of the midshipman's date of rank, that the Secretary of Defense may prescribe; and

(ii) serve on active duty for four or more years;

(B)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be; and

(ii) serve in a reserve component of an armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned; or

(C)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be; and

(ii) serve in a reserve component of an armed force until at least the sixth anniversary and, at the discretion of the Secretary of Defense, up to the eighth anniversary of the receipt of such appointment, unless such appointment is otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as may be prescribed by the Secretary of the military department concerned.

The performance of service under clause (5)(B) or (5)(C) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed, except that performance of service under clause (5)(C) shall include not less than two years of active duty.

(c)(1) The Secretary of the military department concerned may provide for the payment of all expenses in his department of administering the financial assistance program under this section,

including tuition, fees, books, and laboratory expenses. In the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, financial assistance under this section may also be provided during a fifth academic year or during a combination of a part of a fifth academic year and summer sessions.

(2) The Secretary of the military department concerned may provide financial assistance, as described in paragraph (1), to a student enrolled in an advanced education program beyond the baccalaureate degree level if the student also is a cadet or midshipman in an advanced training program. Not more than 15 percent of the total number of scholarships awarded under this section in any year may be awarded under this paragraph.

(3) In the case of a cadet or midshipman eligible to receive financial assistance under paragraph (1) or (2), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for the cadet or midshipman and other expenses required by the educational institution.

[(4) Repealed. Pub. L. 109–163, div. A, title V, §531(a)(1), Jan. 6, 2006, 119 Stat. 3247.]

(5)(A) The Secretary of the Army, under regulations and criteria established by the Secretary, may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

(B) Such assistance is in addition to any financial assistance provided under paragraph (1) or (3).

(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

(D) An officer receiving financial assistance under this paragraph shall be attached to a unit of the Army as determined by the Secretary and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

(d) Upon satisfactorily completing the academic and military requirements of the four-year program, a cadet or midshipman may be appointed as a regular or reserve officer in the appropriate armed force in the grade of second lieutenant or ensign, even though he is under 21 years of age.

(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets or midshipmen from the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy, as the case may be in that year. The Secretary of the military department concerned shall establish the date of rank of all other officers appointed under this section.

(f) A cadet or midshipman who does not complete the four-year course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the military department concerned to serve in his enlisted grade or rating for such period of time as the Secretary prescribes but not for more than four years.

(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service either as a cadet or midshipman or concurrent enlisted service, other than concurrent enlisted service performed on or after August 1, 1979, as a member of the Selected Reserve.

(h)(1) The Secretary of Defense shall determine the number of cadets and midshipmen appointed under this section who may be in the financial assistance programs at any one time in each military department.

(2) Of the total number of cadets appointed in the financial assistance programs under this section in any year, not less than 100 shall be designated for placement in the program of the Army for service upon commissioning in the Army National Guard, of which one-half shall be for financial assistance awarded for a period of two years and the remainder shall be for financial assistance awarded for a period of four years. A cadet designated under this paragraph who, having initially contracted for service as provided in subsection (b)(5)(A) and having received financial assistance for two years under an award providing for four years of financial assistance under this section, modifies such contract with the consent of the Secretary of the Army to provide for service as described in subsection (b)(5)(B), may be counted, for the year in which the contract is modified, toward the number of appointments required under the preceding sentence for financial assistance awarded for a period of four years. A cadet who receives financial assistance under this paragraph and is commissioned in the Army National Guard shall perform service as provided in subsection (b)(5)(B) and may not be accepted for service on full-time active duty pursuant to the member's voluntary application until the completion of the period of service prescribed in that subsection. The Secretary of the Army shall prescribe regulations to ensure a geographical distribution of the cadets who receive financial assistance under this paragraph.

(i) The Secretary of each military department shall seek to achieve an increase in the number of agreements entered into under this section so as to achieve an increase, by the 2006–2007 academic year, of not less than 400 in the number of cadets or midshipmen, as the case may be, enrolled under this section, compared to such number enrolled for the 2002–2003 academic year. In the case of the Secretary of the Navy, the Secretary shall seek to ensure that not less than one-third of such increase in agreements under this section are with students enrolled (or seeking to enroll) in programs of study leading to a baccalaureate degree in nuclear engineering or another appropriate technical, scientific, or engineering field of study.

(j)(1) Payment of financial assistance under this section for, and payment of a monthly subsistence allowance under section 209 of title 37 to, a cadet or midshipman appointed under this section may be suspended on the basis of health-related incapacity of the cadet or midshipman only in accordance with regulations prescribed under paragraph (2).

(2) The Secretary of Defense shall prescribe in regulations the policies and procedures for suspending payments under paragraph (1). The regulations shall apply uniformly to all of the military departments. The regulations shall include the following matters:

(A) The standards of health-related fitness that are to be applied.

(B) Requirements for—

(i) the health-related condition and prognosis of a cadet or midshipman to be determined, in relation to the applicable standards prescribed under subparagraph (A), by a health care professional on the basis of a medical examination of the cadet or midshipman; and

(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in deciding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition.

(C) A requirement for the Secretary concerned to transmit to a cadet or midshipman proposed for suspension under this subsection a notification of the proposed suspension together with the determinations made under subparagraph (B)(i) in the case of the proposed suspension.

(D) A procedure for a cadet or midshipman proposed for suspension under this subsection to submit a written response to the proposal for suspension, including any supporting information.

(E) Requirements for—

(i) one or more health-care professionals to review, in the case of such a response of a cadet or midshipman, each health-related condition and prognosis addressed in the response, taking into consideration the matters submitted in such response; and

(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in making a final decision regarding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition, and the conditions under which such suspension may be lifted.

(k)(1) Provisions of this section referring to a regular commission, regular officer, or a commission in a regular component shall be treated as also referring to the commission of an officer, or an officer, who is a commissioned officer in the Space Force serving on active duty pursuant to section 20105(b) of this title.

(2) Provisions of this section referring to a reserve commission, reserve officer, or a commission in a reserve component shall be treated as also referring to the commission of an officer, or an officer, who is a commissioned officer in the Space Force not serving on active duty pursuant to section 20105(b) of this title.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1066; amended Pub. L. 92–166, §1, Nov. 24, 1971, 85 Stat. 487; Pub. L. 96–357, §1(a), (b), Sept. 24, 1980, 94 Stat. 1178; Pub. L. 96–513, title V, §511(62), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 97–60, title II, §201, Oct. 14, 1981, 95 Stat. 1005; Pub. L. 98–94, title X, §1003(a)(3), (c)(1), (2), Sept. 24, 1983, 97 Stat. 656, 657; Pub. L. 98–525, title V, §542(a), title XIV, §1405(33), Oct. 19, 1984, 98 Stat. 2529, 2624; Pub. L. 100–180, div. A, title V, §510, Dec. 4, 1987, 101 Stat. 1087; Pub. L. 102–484, div. A, title V, §§517(a)(2), 532(a), Oct. 23, 1992, 106 Stat. 2407, 2411; Pub. L. 104–106, div. A, title V, §542, Feb. 10, 1996, 110 Stat. 316; Pub. L. 104–201, div. A, title V, §§507(a)(2), 553(a), 555(a), Sept. 23, 1996, 110 Stat. 2512, 2526, 2527; Pub. L. 106–65, div. A, title V, §545, Oct. 5, 1999, 113 Stat. 608; Pub. L. 107–107, div. A, title V, §534(a), Dec. 28, 2001, 115 Stat. 1106; Pub. L. 107–314, div. A, title V, §532(d), (e), Dec. 2, 2002, 116 Stat. 2547; Pub. L. 108–136, div. A, title V, §521(a), Nov. 24, 2003, 117 Stat. 1462; Pub. L. 108–375, div. A, title V, §524(a), Oct. 28, 2004, 118 Stat. 1888; Pub. L. 109–163, div. A, title V, §§531(a), 533(a), 534(a), Jan. 6, 2006, 119 Stat. 3247, 3248; Pub. L. 112–239, div. A, title V, §551, Jan. 2, 2013, 126 Stat. 1741; Pub. L. 116–283, div. A, title IX, §924(b)(3)(EE), (30), Jan. 1, 2021, 134 Stat. 3822, 3825; Pub. L. 117–81, div. A, title X, §1081(a)(26), Dec. 27, 2021, 135 Stat. 1921; Pub. L. 118–31, div. A, title XVII, §1722(l)(2), Dec. 22, 2023, 137 Stat. 674; Pub. L. 118–159, div. A, title V, §521(h), Dec. 23, 2024, 138 Stat. 1881; Pub. L. 119–60, div. A, title XVII, §1701(a)(16), Dec. 18, 2025, 139 Stat. 1208.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (k). Pub. L. 119–60 struck out heading.

**2024**—Subsec. (a). Pub. L. 118–159, §521(h)(1), substituted "Marine Corps, or Space Force" for "Marine Corps,, as the case may be".

Subsec. (d). Pub. L. 118–159, §521(h)(2), substituted "lieutenant or ensign," for "lieutenant, ensign, or an equivalent grade in the Space Force,".

**2023**—Subsec. (a). Pub. L. 118–31, §1722(l)(2)(A), substituted "Navy or" for "Navy," and struck out "or as an officer in the equivalent grade in the Space Force" after "Marine Corps,".

Subsec. (k). Pub. L. 118–31, §1722(l)(2)(B), added subsec. (k).

**2021**—Pub. L. 116–283, §924(b)(3)(EE), substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

Subsec. (a). Pub. L. 117–81 struck out "or Space Force" after "in the Space Force".

Pub. L. 116–283, §924(b)(30)(A), substituted ", as a second lieutenant" for "or as a second lieutenant" and inserted "or as an officer in the equivalent grade in the Space Force" after "Marine Corps,".

Subsec. (b)(3). Pub. L. 116–283, §924(b)(30)(B)(i), substituted "the reserve component of an armed force" for "the reserve component of the armed force in which he is appointed as a cadet or midshipman".

Subsec. (b)(5). Pub. L. 116–283, §924(b)(30)(B)(ii), substituted "reserve component of an armed force" for "reserve component of that armed force" wherever appearing.

Subsec. (d). Pub. L. 116–283, §924(b)(30)(C), substituted "second lieutenant, ensign, or an equivalent grade in the Space Force" for "second lieutenant or ensign".

**2013**—Subsec. (c)(1). Pub. L. 112–239 struck out at end "At least 50 percent of the cadets and midshipmen appointed under this section must qualify for in-State tuition rates at their respective institutions and will receive tuition benefits at that rate."

**2006**—Subsec. (b)(1). Pub. L. 109–163, §534(a), inserted "or national" after "citizen".

Subsec. (c)(4). Pub. L. 109–163, §531(a)(1), struck out par. (4) which read as follows: "The total amount of

financial assistance, including the payment of room and board and other educational expenses, provided to a cadet or midshipman in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet or midshipman under paragraph (1) or (2), or another amount determined by the Secretary concerned, without regard to whether room and board and other educational expenses for such cadet or midshipman are paid under paragraph (3)."

Subsec. (c)(5)(B). Pub. L. 109–163, §531(a)(2), substituted "or (3)" for ", (3), or (4)".

Subsec. (j). Pub. L. 109–163, §533(a), added subsec. (j).

**2004**—Subsec. (c)(5). Pub. L. 108–375 added par. (5).

**2003**—Subsec. (c)(3), (4). Pub. L. 108–136 added pars. (3) and (4).

**2002**—Subsec. (h)(1). Pub. L. 107–314, §532(e), struck out first sentence which read as follows: "Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time."

Subsec. (i). Pub. L. 107–314, §532(d), added subsec. (i).

**2001**—Subsec. (a). Pub. L. 107–107 substituted "31 years of age on December 31" for "27 years of age on June 30" and struck out ", except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 30 years of age on such date" before period at end.

**1999**—Subsec. (c)(2). Pub. L. 106–65 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary of Defense shall authorize the Secretaries of the military departments to carry out a test program to determine the desirability of enabling graduate students to participate in the financial assistance program under this section. As part of such test program, the Secretary of a military department may provide financial assistance, as described in paragraph (1), to a student enrolled in an advanced education program beyond the baccalaureate degree level if the student also is a cadet or midshipman in an advanced training program. Not more than 15 percent of the total number of scholarships awarded under this section in any year may be awarded under the test program. No scholarship may be awarded under the test program after September 30, 1999."

**1996**—Subsec. (a). Pub. L. 104–201, §555(a), substituted "27 years of age" for "25 years of age" and "30 years of age" for "29 years of age".

Subsec. (c). Pub. L. 104–201, §553(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 104–201, §507(a)(2), substituted "performed on or after August 1, 1979, as a member" for "while serving on active duty other than for training after July 31, 1990, while a member".

Subsec. (h)(2). Pub. L. 104–106 inserted "A cadet designated under this paragraph who, having initially contracted for service as provided in subsection (b)(5)(A) and having received financial assistance for two years under an award providing for four years of financial assistance under this section, modifies such contract with the consent of the Secretary of the Army to provide for service as described in subsection (b)(5)(B), may be counted, for the year in which the contract is modified, toward the number of appointments required under the preceding sentence for financial assistance awarded for a period of four years." after first sentence and "full-time" after "for service on" in penultimate sentence.

**1992**—Subsec. (g). Pub. L. 102–484, §517(a)(2), inserted before period at end ", other than concurrent enlisted service while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve".

Subsec. (h). Pub. L. 102–484, §532(a), designated existing provisions as par. (1) and added par. (2).

**1987**—Subsec. (h). Pub. L. 100–180 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "Not more than the following numbers of cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time:

"Army program: 12,000.

"Navy program: 8,000.

"Air Force program: 9,500."

**1984**—Subsec. (b). Pub. L. 98–525, §1405(33), aligned margin of provision following par. (5)(C)(ii) flush with left margin.

Subsec. (b)(5)(A)(i). Pub. L. 98–525, §542(a)(1), inserted "or before such other date, not beyond the eighth anniversary of the midshipman's date of rank, that the Secretary of Defense may prescribe".

Subsec. (b)(5)(C)(ii). Pub. L. 98–525, §542(a)(2), substituted "at least the sixth anniversary and, at the discretion of the Secretary of Defense, up to the eighth anniversary" for "the sixth anniversary".

**1983**—Subsec. (b)(5). Pub. L. 98–94, §1003(c)(1), struck out "either" after "he will" in provisions preceding subpar. (A)(i), and added subpar. (C).

Pub. L. 98–94, §1003(c)(2), inserted in provisions following subpar. (C) "or (5)(C)" after "(5)(B)" and ", except that performance of service under clause (5)(C) shall include not less than two years of active duty".

Subsec. (c). Pub. L. 98–94, §1003(a)(3), inserted provision relating to a student enrolled in an approved academic program which requires more than four academic years for completion of the baccalaureate degree requirements.

**1981**—Subsec. (h). Pub. L. 97–60 substituted "8,000" for "6,000" in item covering the Navy program and "9,500" for "6,500" in item covering the Air Force program.

**1980**—Subsec. (a). Pub. L. 96–357, §1(a), authorized cadet or midshipmen appointments in the reserve of an armed force for eligible members of the program with active duty service in the armed forces beyond the age limitation equal to period of active duty service not to exceed 29 years of age by June 30 of calendar year of appointment and deleted provision for appointment as cadets or midshipmen from persons in two-year Senior Reserve Officers' Training Corps course up to 20 percent of number of appointees.

Subsec. (b)(5). Pub. L. 96–357, §1(b)(2), provided for exercise of discretion by the Secretary concerned, incorporated existing provisions in subcl. (A)(i), incorporated in subcl. (A)(ii) provision of former cl. (6), added subcl. (B) and defined the performance of service under such subcl. (B).

Subsec. (b)(6). Pub. L. 96–357, §1(b)(2), struck out cl. (6) requiring as condition of appointment a written agreement for active duty service of four or more years. See subcl. (5)(A)(ii).

Subsec. (e). Pub. L. 96–513, §511(62)(A), substituted "Military" for "Miilitary".

Subsec. (h). Pub. L. 96–513, §511(62)(B), substituted "this section" for "section 2107 of this title".

Pub. L. 96–357, §1(b)(3), substituted "Army program: 12,000" for "Army program: 6,500".

**1971**—Subsec. (a). Pub. L. 92–166, §1(1), substituted "Not more than 20 percent of the persons appointed as cadets or midshipmen by the Secretary in any year may be appointed from persons in the two-year Senior Reserve Officers' Training Corps course.", for "However, a member whose enrollment in the Senior Reserve Officers' Training Corps program contemplates less than four years of participation in the program may not be appointed a cadet or midshipman under this section, or receive any financial assistance authorized by this section.".

Subsec. (c). Pub. L. 92–166, §1(2), provided that at least 50% of the cadets and midshipmen appointed under this section must qualify for in-State tuition rates at their respective institutions and will receive tuition benefits at the rate.

Subsec. (h). Pub. L. 92–166, §1(4), substituted "Army program: 6500" for "Army program: 5500", "Navy program: 6000" for "Navy program: 5500" and "Air Force program: 6500" for "Air Force program: 5500".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §521(c), Nov. 24, 2003, 117 Stat. 1463, provided that: "The amendments made by this section [amending this section and section 2107a of this title] shall apply to payment of expenses of cadets and midshipmen of the Senior Reserve Officers' Training Corps program that are due after the date of the enactment of this Act [Nov. 24, 2003]."

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title V, §532(b), Oct. 23, 1992, 106 Stat. 2411, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1993."

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title X, §1003(c)(3), Sept. 24, 1983, 97 Stat. 657, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to agreements entered into under section 2107(b)(5) of title 10, United States Code, after September 30, 1983."

### EFFECTIVE DATE OF 1980 AMENDMENTS

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

Amendment by Pub. L. 96–357 effective Oct. 1, 1980, see section 1(e) of Pub. L. 96–357, set out as a note under section 2107a of this title.

### EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92–166, §2, Nov. 24, 1971, 85 Stat. 487, provided that: "This Act [amending this section] is effective July 1, 1971."

### EFFECTIVE DATE

Pub. L. 88–647, title IV, §403, Oct. 13, 1964, 78 Stat. 1074, provided that: "Insofar as it relates to the Army program and the Air Force program, section 2107(h) of title 10, United States Code [subsec. (h) of this section], becomes effective on September 1, 1968. Until that date, not more than four thousand cadets may be in either of those programs at any one time. So far as it relates to the Navy program, section 2107(h) of title 10 becomes effective on September 1, 1965."

## REGULATIONS

Pub. L. 109–163, div. A, title V, §533(b), Jan. 6, 2006, 119 Stat. 3248, provided that: "The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006."

## SAVINGS PROVISION

Pub. L. 109–163, div. A, title V, §531(c), Jan. 6, 2006, 119 Stat. 3247, provided that: "Paragraph (4) of section 2107(c) of title 10, United States Code, and paragraph (3) of section 2107a(c) of such title, as in effect on the day before the date of the enactment of this Act [Jan. 6, 2006], shall continue to apply in the case of any individual selected before the date of the enactment of this Act for appointment as a cadet or midshipman under section 2107 or 2107a of such title."

## LIEUTENANT HENRY OSSIAN FLIPPER LEADERSHIP SCHOLARSHIPS

Pub. L. 115–91, div. A, title V, §548, Dec. 12, 2017, 131 Stat. 1398, provided that:

"(a) IN GENERAL.—The Secretary of the Army shall designate a number of scholarships under the Army Senior Reserve Officers' Training Corps (SROTC) program that are available to students at minority-serving institutions as 'Lieutenant Henry Ossian Flipper Leadership Scholarships'.

"(b) NUMBER DESIGNATED.—The number of scholarships designated pursuant to subsection (a) shall be the number the Secretary determines appropriate to increase the number of Senior Reserve Officers' Training Corps scholarships at minority-serving institutions. In making the determination, the Secretary shall give appropriate consideration to the following:

"(1) The number of Senior Reserve Officers' Training Corps scholarships available at all institutions participating in the Senior Reserve Officer's Training Corps program.

"(2) The number of such minority-serving institutions that offer the Senior Reserve Officers' Training Corps program to their students.

"(c) AMOUNT OF SCHOLARSHIP.—The Secretary may increase any scholarship designated pursuant to subsection (a) to an amount in excess of the amount of the Senior Reserve Officers' Training Corps program scholarship that would otherwise be offered at the minority-serving institution concerned if the Secretary considers that a scholarship of such increased amount is appropriate for the purpose of the scholarship.

"(d) MINORITY-SERVING INSTITUTION DEFINED.—In this section, the term 'minority-serving institution' means an institution of higher education described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))."

## REVIEW REGARDING ALLOCATION OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AMONG PARTICIPATING COLLEGES AND UNIVERSITIES

Pub. L. 105–261, div. A, title V, §507, Oct. 17, 1998, 112 Stat. 2004, provided that:

"(a) REVIEW.—The Secretary of the Navy should review the process and criteria used to determine the number of Naval Reserve Officer Training Corps (NROTC) scholarship recipients who attend each college and university participating in the NROTC program and how those scholarships are allocated to those schools.

"(b) PURPOSE OF REVIEW.—The review should seek to determine—

"(1) whether the method used by the Navy to allocate NROTC scholarships could be changed so as to increase the likelihood that scholarship awardees attend the school of their choice while maintaining the Navy's capability to attain the objectives of the Naval ROTC program to meet the annual requirement for newly commissioned Navy ensigns and Marine Corps second lieutenants, as well as the overall needs of the officer corps of the Department of the Navy; and

"(2) within the determination under paragraph (1), whether the likelihood of a scholarship awardee who wants to attend a school of choice in the student's State of residence can be increased.

"(c) MATTERS REVIEWED.—The matters reviewed should include the following:

"(1) The factors and criteria considered in the process of determining the allocation of NROTC scholarships to host colleges and universities.

"(2) Historical data indicating the extent to which NROTC scholarship recipients attend colleges and universities they have indicated a preference to attend, as opposed to attending solely or mainly in order to receive an NROTC scholarship.

"(3) The extent to which the process used by the Navy to allocate NROTC scholarships to participating colleges and universities contributes to optimizing resources available for the operation of the NROTC program and improving the professional education of NROTC midshipmen.

"(4) The effects that eliminating the controlled allocation of scholarships to host colleges and universities, entirely or by State, would have on the NROTC program.

"(d) CONSULTATION REQUIREMENT.—In carrying out a review under subsection (a), the Secretary should consult with officials of interested associations and of colleges and universities which host ROTC units and such other officials as the Secretary considers appropriate."

**BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996**

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of amendments made by section 507 of Pub. L. 104–201, see section 507(c) of Pub. L. 104–201, set out as a note under section 2106 of this title.

**REPORT TO CONGRESS ON TEST PROGRAM FOR GRADUATE STUDENT PARTICIPATION IN FINANCIAL ASSISTANCE PROGRAM**

Pub. L. 104–201, div. A, title V, §553(c), Sept. 23, 1996, 110 Stat. 2526, directed the Secretary of Defense to submit to Congress a report, not later than Dec. 31, 1998, on the experience to that date under the test program authorized under the amendment to this section made by Pub. L. 104–201, §553(a)(2).

**APPLICATION OF ROTC VITALIZATION ACT OF 1964 TO APPOINTEES IN NAVAL RESERVE BEFORE OCTOBER 13, 1964**

Pub. L. 89–51, §1, June 28, 1965, 79 Stat. 173, provided: "That all provisions of law except sections 2107(b)(3) and (f) of title 10, United States Code [subsecs. (b)(3) and (f) of this section], that apply to midshipmen appointed under Public Law 88–647 [see Short Title note set out under section 2031 of this title], apply to midshipmen appointed in the Naval Reserve [now Navy Reserve] before October 13, 1964." Section 4 of Pub. L. 89–51, set out as Effective Date of 1965 Amendment note under section 2109 of this title, provided that section 1 of Pub. L. 89–51 was effective Oct. 13, 1964.

## §2107a. Financial assistance program for specially selected members: Army Reserve and Army National Guard

(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is enrolled in the Advanced Course of the Army Reserve Officers' Training Corps at a military college, military junior college, or civilian institution and who will be under 31 years of age on December 31 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army Reserve or Army National Guard.

(2) To be considered a military college or military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature and meet such other requirements as the Secretary of the Army may prescribe. For purposes of this section, a military junior college does not confer a baccalaureate degree.

(b)(1) To be eligible for appointment as a cadet under this section, a member of the program must—

(A) be a citizen or national of the United States;

(B) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

(C) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

(D) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

(E) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

(F) agree in writing that he will serve in a troop program unit of the Army Reserve or Army National Guard for not less than eight years.

(2) Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

(3)(A) Subject to subparagraph (C), in the case of a person described in subparagraph (B), the Secretary may, at any time and with the consent of the person, modify an agreement described in paragraph (1)(F) submitted by the person for the purpose of reducing or eliminating the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation.

(B) Subparagraph (A) applies with respect to the following persons:

(i) A cadet under this section at a military junior college.

(ii) A cadet or former cadet under this section who is selected under section 2114 of this title to be a medical student at the Uniformed Services University of the Health Sciences.

(iii) A cadet or former cadet under this section who signs an agreement under section 2122 of this title for participation in the Armed Forces Health Professions Scholarship and Financial Assistance program.

(C) The modification of an agreement described in paragraph (1)(F) may be made only if the Secretary determines that it is in the best interests of the United States to do so.

(c)(1) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

(2) In the case of a cadet eligible to receive financial assistance under paragraph (1), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for such cadet and other expenses required by the educational institution.

[(3) Repealed. Pub. L. 109–163, div. A, title V, §531(b), Jan. 6, 2006, 119 Stat. 3247.]

(4)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

(B) Such assistance is in addition to any provided under paragraph (1) or (2).

(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

(D) An officer receiving financial assistance under this paragraph shall be attached to a unit of the Army as determined by the Secretary and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Army shall establish the date of rank of all other officers appointed under this section.

(f) A cadet who does not complete the course of instruction, or who completes the course but

declines to accept a commission when offered, or who does not complete a baccalaureate degree within five years after appointment as a cadet under this section, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service, other than enlisted service performed after August 1, 1979, as a member of the Selected Reserve.

(h) The Secretary of the Army shall appoint each year under this section not less than 22 cadets at each military junior college at which there are not less than 22 members of the program eligible under subsection (b) for such an appointment. At any military junior college at which in any year there are fewer than 22 such members, the Secretary shall appoint each such member as a cadet under this section.

(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.

(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an "Ike Skelton Early Commissioning Program Scholarship".

(Added Pub. L. 96–357, §1(c)(1), Sept. 24, 1980, 94 Stat. 1179; amended Pub. L. 102–190, div. A, title V, §522(a), (b)(1), Dec. 5, 1991, 105 Stat. 1362; Pub. L. 104–201, div. A, title V, §§507(a)(3), 555(a), Sept. 23, 1996, 110 Stat. 2512, 2527; Pub. L. 105–85, div. A, title X, §1073(a)(36), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 107–107, div. A, title V, §§534(b), 536(a), (c), Dec. 28, 2001, 115 Stat. 1106, 1107; Pub. L. 108–136, div. A, title V, §§521(b), 522, Nov. 24, 2003, 117 Stat. 1463; Pub. L. 108–375, div. A, title V, §524(b), Oct. 28, 2004, 118 Stat. 1889; Pub. L. 109–163, div. A, title V, §§531(b), 532, 534(b), 536, Jan. 6, 2006, 119 Stat. 3247–3249; Pub. L. 109–364, div. A, title V, §535, Oct. 17, 2006, 120 Stat. 2207; Pub. L. 110–181, div. A, title V, §§522, 523, Jan. 28, 2008, 122 Stat. 102, 103; Pub. L. 111–84, div. A, title V, §522, Oct. 28, 2009, 123 Stat. 2285.)

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsec. (h). Pub. L. 111–84 substituted "22 cadets" for "17 cadets", "22 members" for "17 members", and "22 such members" for "17 such members".

**2008**—Subsec. (b)(3). Pub. L. 110–181, §522, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "In the case of a cadet under this section at a military junior college, or a cadet or former cadet under this section who signs an agreement under section 2122 of this title, the Secretary may, at any time and with the consent of the cadet, or former cadet, concerned, modify an agreement described in paragraph (1)(F) submitted by the cadet, or former cadet, to reduce or eliminate the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation. Such a modification may be made only if the Secretary determines that it is in the best interests of the United States to do so."

Subsec. (h). Pub. L. 110–181, §523, substituted "each year under this section" for "not more than 416 cadets each year under this section, to include".

**2006**—Subsec. (b)(1)(A). Pub. L. 109–163, §534(b), inserted "or national" after "citizen".

Subsec. (b)(3). Pub. L. 109–364 inserted "or a cadet or former cadet under this section who signs an agreement under section 2122 of this title," after "military junior college," and ", or former cadet," after "consent of the cadet" and after "submitted by the cadet".

Subsec. (c)(3). Pub. L. 109–163, §531(b), struck out par. (3) which read as follows: "The total amount of financial assistance, including the payment of room and board and any other educational expenses, provided to a cadet in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet under paragraph (1), or another amount determined by the Secretary of the Army, without regard to whether the room and board and other educational expenses for such cadet are paid under paragraph (2)."

Subsec. (h). Pub. L. 109–163, §532, substituted "416" for "208".

Subsec. (j). Pub. L. 109–163, §536, added subsec. (j).

**2004**—Subsec. (c)(4). Pub. L. 108–375 added par. (4).

**2003**—Subsec. (c). Pub. L. 108–136, §521(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (h). Pub. L. 108–136, §522, substituted "17" for "10" wherever appearing.

**2001**—Subsec. (a)(1). Pub. L. 107–107, §534(b), substituted "31 years of age on December 31" for "27 years of age on June 30" and struck out ", except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 30 years of age on such date" before period at end.

Subsec. (b). Pub. L. 107–107, §536(a), designated introductory provisions of subsec. (b) as introductory provisions of par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), redesignated former concluding provisions as par. (2), and added par. (3).

Subsec. (h). Pub. L. 107–107, §536(c), substituted "At any military junior college" for "At any military college" in second sentence.

**1997**—Subsec. (g). Pub. L. 105–85 inserted "the" after "August 1, 1979, as a member of".

**1996**—Subsec. (a)(1). Pub. L. 104–201, §555(a), substituted "27 years of age" for "25 years of age" and "30 years of age" for "29 years of age".

Subsec. (g). Pub. L. 104–201, §507(a)(3), inserted ", other than enlisted service performed after August 1, 1979, as a member of Selected Reserve" before period at end.

**1991**—Pub. L. 102–190, §522(b)(1), substituted "Army Reserve and Army National Guard" for "military junior colleges" in section catchline.

Subsec. (a)(1). Pub. L. 102–190, §522(a)(1), substituted "enrolled in the Advanced Course of the Army Reserve Officers' Training Corps at a military college, military junior college, or civilian institution" for "a student at a military junior college" and inserted "Reserve or Army National Guard" after "second lieutenant in the Army".

Subsec. (a)(2). Pub. L. 102–190, §522(a)(2), inserted "military college or" after "To be considered a", substituted "and meet" for "that does not confer baccalaureate degrees and that meets", and inserted at end "For purposes of this section, a military junior college does not confer a baccalaureate degree."

Subsec. (b)(6). Pub. L. 102–190, §522(a)(3), substituted "a troop program unit of the Army Reserve or Army National Guard" for "such reserve component".

Subsec. (f). Pub. L. 102–190, §522(a)(4), inserted "or who does not complete a baccalaureate degree within five years after appointment as a cadet under this section," after "when offered,".

Subsec. (h). Pub. L. 102–190, §522(a)(5), struck out par. (1) designation, substituted "not more than 208 cadets each year under this section, to include not less than 10 cadets" for "not less than 10 cadets under this section each year", and struck out par. (2) which read as follows: "If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 521(b) of Pub. L. 108–136 applicable to payment of expenses of cadets and midshipmen of Senior Reserve Officers' Training Corps Program that are due after Nov. 24, 2003, see section 521(c) of Pub. L. 108–136, set out as a note under section 2107 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §536(b), Dec. 28, 2001, 115 Stat. 1107, provided that: "The authority of the Secretary of Defense under paragraph (3) of section 2107a(b) of title 10, United States Code, as added by subsection (a), may be exercised with regard to any agreement described in paragraph (1)(F) of such section (including agreements related to participation in the Advanced Course of the Army Reserve Officers' Training Corps at a military college or civilian institution) that was entered into during the period beginning on January 1, 1991, and ending on July 12, 2000 (in addition to any agreement described in that paragraph that is entered into on or after the date of the enactment of this Act [Dec. 28, 2001])."

### EFFECTIVE DATE

Pub. L. 96–357, §1(e), Sept. 24, 1980, 94 Stat. 1180, provided that: "The amendments made by this section [enacting this section and amending sections 2107 and 2108 of this title] shall take effect on October 1, 1980."

**SAVINGS PROVISION**

Paragraph (3) of subsec. (c) of this section, as in effect on the day before Jan. 6, 2006, to continue to apply in the case of any individual selected before Jan. 6, 2006, for appointment as a cadet under this section, see section 531(c) of Pub. L. 109–163, set out as a note under section 2107 of this title.

**BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996**

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of amendments made by section 507 of Pub. L. 104–201, see section 507(c) of Pub. L. 104–201, set out as a note under section 2106 of this title.

## §2108. Advanced standing; interruption of training; delay in starting obligated service; release from program

(a) The Secretary of the military department concerned may give to any enlisted member of an armed force under his jurisdiction, or any person who has served on active duty in any armed force, such advanced standing in the program as may be justified by his education and training.

(b) In determining a member's eligibility for advanced training, the Secretary of the military department concerned may credit him with any military training that is substantially equivalent in kind to that prescribed for admission to advanced training and was received while he was taking a course of instruction in a program under the jurisdiction of another armed force or while he was on active duty in the armed forces.

(c) The Secretary of the military department concerned may excuse from a portion of the prescribed course of military instruction, including field training and practice cruises, any person found qualified on the basis of his previous education, military experience, or both.

(d) A person may become, remain, or be readmitted as, a member of the advanced training program after receiving a baccalaureate degree or completing pre-professional studies if he has not completed the course of military instruction or all field training or practice cruises prescribed by the Secretary of the military department concerned. If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.

(e) The Secretary of the military department concerned may, when he determines that the interest of the service so requires, release any person from the program and discharge him from his armed force.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1068; amended Pub. L. 96–357, §1(d), Sept. 24, 1980, 94 Stat. 1180.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Subsec. (d). Pub. L. 96–357 authorized delay in starting obligated period of active duty for training or other service in an active or inactive status in a reserved component until completion of resident graduate or professional study or military junior college studies.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–357 effective Oct. 1, 1980, see section 1(e) of Pub. L. 96–357, set out as a note

under section 2107a of this title.

## §2109. Practical military training

(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all of the training prescribed under this subsection must be completed by a member before the member is commissioned.

(b) The Secretary of the military department concerned, with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title, may—

(1) transport members of, and designated applicants for membership in, the program to and from the places designated for such training or practice cruises and furnish them subsistence while traveling to and from those places, or, instead of furnishing them transportation and subsistence, pay them a travel allowance at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for travel by the shortest usually traveled route from the places from which they are authorized to proceed to the place designated for the training or cruise and return, and pay the allowance for the return trip in advance;

(2) furnish medical attendance and supplies to members of, and designated applicants for membership in, the program while attending such training and practice cruises, and admit them to military hospitals;

(3) furnish subsistence, uniform clothing, and equipment to members of, and designated applicants for membership in, the program while attending such training or practice cruises or, instead of furnishing uniform clothing, pay them allowances at such rates as he may prescribe; and

(4) use any member of, and designated applicants for membership in, an armed force, or any employee of the department, under his jurisdiction, and such property of the United States as he considers necessary, for the training and administration of members of, and designated applicants for membership in, the program at the places designated for training or practice cruises.

(c)(1) A person who is not qualified for, and (as determined by the Secretary concerned) will not be able to become qualified for, advanced training by reason of one or more of the requirements prescribed in paragraphs (1) through (3) of section 2104(b) of this title shall not be permitted to participate in—

(A) field training or a practice cruise under section 2104(b)(6) of this title; or

(B) practical military training under subsection (a).

(2) The Secretary of the military department concerned may waive the limitation in paragraph (1) under procedures prescribed by the Secretary. Such procedures shall ensure uniform application of limitations and restrictions without regard to the reason for disqualification for advanced training.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1068; amended Pub. L. 89–51, §2, June 28, 1965, 79 Stat. 173; Pub. L. 89–718, §17, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 100–456, div. A, title VI, §633(a)(1)–(3)(A), Sept. 29, 1988, 102 Stat. 1986; Pub. L. 104–201, div. A, title V, §551(a)(2), Sept. 23, 1996, 110 Stat. 2525; Pub. L. 105–85, div. A, title X, §1073(a)(37), Nov. 18, 1997, 111 Stat. 1902.)

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Subsec. (c)(1)(A). Pub. L. 105–85 substituted "section 2104(b)(6)" for "section 2106(b)(6)".

**1996**—Subsec. (c). Pub. L. 104–201 added subsec. (c).

**1988**—Pub. L. 100–456, §633(a)(3)(A), substituted "Practical military training" for "Field training; practice

cruises" in section catchline.

Subsec. (a). Pub. L. 100–456, §633(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "For the further practical instruction of members of the program, the Secretary of the military department concerned may prescribe and conduct field training and practice cruises (other than field training and practice cruises prescribed under section 2104(b)(6)(B) of this title) which members must complete before they are commissioned."

Subsec. (b). Pub. L. 100–456, §633(a)(2), inserted ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title," before "may" in introductory provisions, and substituted "such training" for "field training" in pars. (1) to (3).

**1966**—Subsec. (b). Pub. L. 89–718 inserted "and" at end of par. (3).

**1965**—Subsec. (b). Pub. L. 89–51 inserted ", and designated applicants for membership in," after "members of" in pars. (1) to (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VI, §633(e), Sept. 29, 1988, 102 Stat. 1987, provided that: "The amendments made by this section [amending this section, section 8140 of Title 5, Government Organization and Employees, section 209 of Title 37, Pay and Allowances of the Uniformed Services, and section 101 of Title 38, Veterans' Benefits] shall apply only with respect to training performed after September 30, 1988."

### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89–51, §4, June 28, 1965, 79 Stat. 173, provided that: "The effective date of this Act [amending this section and section 209 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note under section 2107 of this title] is October 13, 1964."

## §2110. Logistical support

(a) The Secretary of the military department concerned may issue to institutions having units of the program, or to the officers of the armed force concerned who are designated as accountable or responsible for such property—

(1) supplies, means of transportation including aircraft, arms and ammunition, and military textbooks and educational materials; and

(2) uniform clothing, except that he may pay monetary allowances for uniform clothing at such rate as he may prescribe.

(b) The Secretary of the military department concerned may provide, or contract with civilian flying or aviation schools or educational institutions to provide, the personnel, aircraft, supplies, facilities, services, and instruction necessary for flight instruction and orientation for properly designated members of the program.

(c) The Secretary of the military department concerned may transport members of, and designated applicants for membership in, the program to and from installations when it is necessary for them to undergo medical or other examinations or for the purposes of making visits of observation. He may also furnish them subsistence, quarters, and necessary medical care, including hospitalization, while they are at, or traveling to or from, such an installation.

(d) The Secretary of the military department concerned may authorize members of, and designated applicants for membership in, the program to participate in aerial flights in military aircraft and in indoctrination cruises in naval vessels.

(e) The Secretary of the military department concerned may authorize such expenditures as he considers necessary for the efficient maintenance of the program.

(f) The Secretary of the military department concerned shall require, from each institution to which property is issued under subsection (a), a bond or other indemnity in such amount as he considers adequate, but not less than $5,000, for the care and safekeeping of all property so issued except uniforms, expendable articles, and supplies expended in operation, maintenance, and

instruction. The Secretary may accept a bond without surety if the institution to which the property is issued furnishes to him satisfactory evidence of its financial responsibility.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1069; amended Pub. L. 89–718, §18, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 94–273, §11(2), Apr. 21, 1976, 90 Stat. 378; Pub. L. 97–375, title I, §104(c), Dec. 21, 1982, 96 Stat. 1819.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Subsec. (b). Pub. L. 97–375 struck out requirement that the Secretary of each military department report annually to Congress in April on the progress of the flight instruction program.

**1976**—Subsec. (b). Pub. L. 94–273 substituted "April" for "January".

**1966**—Subsec. (a)(1). Pub. L. 89–718 substituted "educational" for "education".

## §2111. Personnel: administrators and instructors

The Secretary of the military department concerned may detail regular or reserve members of an armed force under his jurisdiction (including retired members and members of the Fleet Reserve and Fleet Marine Corps Reserve recalled to active duty with their consent) for instructional and administrative duties at educational institutions where units of the program are maintained. The Secretary of the Air Force may detail members of the Space Force in the same manner as regular and reserve members of the Air Force.

(Added Pub. L. 88–647, title II, §201(1), Oct. 13, 1964, 78 Stat. 1069; amended Pub. L. 118–31, div. A, title XVII, §1722(l)(3), Dec. 22, 2023, 137 Stat. 674.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 inserted at end "The Secretary of the Air Force may detail members of the Space Force in the same manner as regular and reserve members of the Air Force."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEMONSTRATION PROJECT FOR INSTRUCTION AND SUPPORT OF ARMY ROTC UNITS BY ARMY RESERVE AND NATIONAL GUARD**

Pub. L. 104–201, div. A, title V, §554, Sept. 23, 1996, 110 Stat. 2527, directed the Secretary of the Army to carry out a demonstration project in order to assess the feasibility and advisability of providing instruction and similar support to units of the Senior Reserve Officers' Training Corps of the Army through members of the Army Reserve, including members of the Individual Ready Reserve, and members of the Army National Guard, at at least one institution of higher education, and to submit to Congress a report assessing the activities under the project not later than Feb. 1 in each of 1998 and 1999, and provided that the Secretary's authority to carry out the project would expire three years after Sept. 23, 1996.

## §2111a. Support for senior military colleges

(a) DETAIL OF OFFICERS TO SERVE AS COMMANDANT OR ASSISTANT COMMANDANT OF CADETS.—(1) Upon the request of a senior military college, the Secretary of Defense may detail an officer on the active-duty list to serve as Commandant of Cadets at that college or (in the case of a college with an Assistant Commandant of Cadets) detail an officer on the active-duty list to serve as Assistant Commandant of Cadets at that college (but not both).

(2) In the case of an officer detailed as Commandant of Cadets, the officer may, upon the request of the college, be assigned from among the Professor of Military Science, the Professor of Naval

Science (if any), and the Professor of Aerospace Science (if any) at that college or may be in addition to any other officer detailed to that college in support of the program.

(3) In the case of an officer detailed as Assistant Commandant of Cadets, the officer may, upon the request of the college, be assigned from among officers otherwise detailed to duty at that college in support of the program or may be in addition to any other officer detailed to that college in support of the program.

(b) DESIGNATION OF OFFICERS AS TACTICAL OFFICERS.—Upon the request of a senior military college, the Secretary of Defense may authorize officers (other than officers covered by subsection (a)) who are detailed to duty as instructors at that college to act simultaneously as tactical officers (with or without compensation) for the Corps of Cadets at that college.

(c) DETAIL OF OFFICERS.—The Secretary of a military department shall designate officers for detail to the program at a senior military college in accordance with criteria provided by the college. An officer may not be detailed to a senior military college without the approval of that college.

(d) TERMINATION OR REDUCTION OF PROGRAM PROHIBITED.—The Secretary of Defense and the Secretaries of the military departments may not take or authorize any action to terminate or reduce a unit of the Senior Reserve Officers' Training Corps at a senior military college unless the termination or reduction is specifically requested by the college.

(e) ASSIGNMENT TO ACTIVE DUTY.—(1) The Secretary of the Army shall ensure that a graduate of a senior military college who desires to serve as a commissioned officer on active duty upon graduation from the college, who is medically and physically qualified for active duty, and who is recommended for such duty by the professor of military science at the college, shall be assigned to active duty.

(2) Nothing in this section shall be construed to prohibit the Secretary of the Army from requiring a member of the program who graduates from a senior military college to serve on active duty.

(f) SENIOR MILITARY COLLEGES.—The senior military colleges are the following:

(1) Texas A&M University.
(2) Norwich University.
(3) The Virginia Military Institute.
(4) The Citadel.
(5) Virginia Polytechnic Institute and State University.
(6) The University of North Georgia.

(Added Pub. L. 104–106, div. A, title V, §545(a), Feb. 10, 1996, 110 Stat. 317; amended Pub. L. 105–85, div. A, title V, §544(d)–(f)(1), Nov. 18, 1997, 111 Stat. 1745, 1746; Pub. L. 106–65, div. A, title V, §541(c), Oct. 5, 1999, 113 Stat. 607; Pub. L. 113–66, div. A, title V, §583, Dec. 26, 2013, 127 Stat. 776.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (f)(6). Pub. L. 113–66 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "North Georgia College and State University."

**1999**—Subsec. (e)(1). Pub. L. 106–65 struck out at end "This paragraph shall apply to a member of the program at a senior military college who graduates from the college after March 31, 1997."

**1997**—Pub. L. 105–85, §544(f)(1), substituted "Support for" for "Detail of officers to" in section catchline.

Subsecs. (d), (e). Pub. L. 105–85, §544(d)(2), added subsecs. (d) and (e). Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 105–85, §544(e), substituted "University" for "College" in par. (2) and inserted "and State University" before period at end of par. (6).

Pub. L. 105–85, §544(d)(1), redesignated subsec. (d) as (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONTINUATION OF SUPPORT TO SENIOR MILITARY COLLEGES

Pub. L. 105–85, div. A, title V, §544(a)–(c), Nov. 18, 1997, 111 Stat. 1744, provided that:

"(a) DEFINITION OF SENIOR MILITARY COLLEGES.—For purposes of this section, the term 'senior military colleges' means the following:

"(1) Texas A&M University.

"(2) Norwich University.

"(3) The Virginia Military Institute.

"(4) The Citadel.

"(5) Virginia Polytechnic Institute and State University.

"(6) North Georgia College and State University.

"(b) FINDINGS.—Congress finds the following:

"(1) The senior military colleges consistently have provided substantial numbers of highly qualified, long-serving leaders to the Armed Forces.

"(2) The quality of the military leaders produced by the senior military colleges is, in part, the result of the rigorous military environment imposed on students attending the senior military colleges by the colleges, as well as the result of the long-standing close support relationship between the Corps of Cadets at each college and the Reserve Officer Training Corps personnel at the colleges who serve as effective leadership role models and mentors.

"(3) In recognition of the quality of the young leaders produced by the senior military colleges, the Department of Defense and the military services have traditionally maintained special relationships with the colleges, including the policy to grant active duty service in the Army to graduates of the colleges who desire such service and who are recommended for such service by their ROTC professors of military science.

"(4) Each of the senior military colleges has demonstrated an ability to adapt its systems and operations to changing conditions in, and requirements of, the Armed Forces without compromising the quality of leaders produced and without interruption of the close relationship between the colleges and the Department of Defense.

"(c) SENSE OF CONGRESS.—In light of the findings in subsection (b), it is the sense of Congress that—

"(1) the proposed initiative of the Secretary of the Army to end the commitment to active duty service for all graduates of senior military colleges who desire such service and who are recommended for such service by their ROTC professors of military science is short-sighted and contrary to the long-term interests of the Army;

"(2) as they have in the past, the senior military colleges can and will continue to accommodate to changing military requirements to ensure that future graduates entering military service continue to be officers of superb quality who are quickly assimilated by the Armed Forces and fully prepared to make significant contributions to the Armed Forces through extended military careers; and

"(3) decisions of the Secretary of Defense or the Secretary of a military department that fundamentally and unilaterally change the long-standing relationship of the Armed Forces with the senior military colleges are not in the best interests of the Department of Defense or the Armed Forces and are patently unfair to students who made decisions to enroll in the senior military colleges on the basis of existing Department and Armed Forces policy."

## §2111b. Senior military colleges: Department of Defense international student program

(a) PROGRAM REQUIREMENT.—The Secretary of Defense shall establish a program to facilitate the enrollment and instruction of persons from foreign countries as international students at the senior military colleges.

(b) PURPOSES.—The purposes of the program shall be—

(1) to provide a high-quality, cost-effective military-based educational experience for international students in furtherance of the military-to-military program objectives of the Department of Defense; and

(2) to enhance the educational experience and preparation of future United States military leaders through increased, extended interaction with highly qualified potential foreign military leaders.

(c) COORDINATION WITH THE SENIOR MILITARY COLLEGES.—Guidelines for

implementation of the program shall be developed in coordination with the senior military colleges.

(d) RECOMMENDATIONS FOR ADMISSION OF STUDENTS UNDER THE PROGRAM .—The Secretary of Defense shall annually identify to the senior military colleges the international students who, based on criteria established by the Secretary, the Secretary recommends be considered for admission under the program. The Secretary shall identify the recommended international students to the senior military colleges as early as possible each year to enable those colleges to consider them in a timely manner in their respective admissions processes.

(e) DOD FINANCIAL SUPPORT.—An international student who is admitted to a senior military college under the program under this section is responsible for the cost of instruction at that college. The Secretary of Defense may, from funds available to the Department of Defense other than funds available for financial assistance under section 2107a of this title, provide some or all of the costs of instruction for any such student.

(Added Pub. L. 106–65, div. A, title V, §541(a)(1), Oct. 5, 1999, 113 Stat. 606.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 106–65, div. A, title V, §541(b), Oct. 5, 1999, 113 Stat. 607, provided that: "The Secretary of Defense shall implement the program under section 2111b of title 10, United States Code, as added by subsection (a), with students entering the senior military colleges after May 1, 2000."

## CHAPTER 104—UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sec.
2112. Establishment.
2112a. Continued operation of University.
2113. Administration of University.
2113a. Board of Regents.
2113b. Academic Health System.
2114. Students: selection; status; obligation.
2114a. Eligibility of members of foreign militaries to enroll in the University.
2115. Graduates: limitation on number permitted to perform civilian Federal service.
2116. Military nursing research.
[2117. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title V, §553, Dec. 23, 2024, 138 Stat. 1894, added item 2114a. Amendment was made pursuant to operation of section 102 of this title.

**2019**—Pub. L. 116–92, div. A, title VII, §734(b), Dec. 20, 2019, 133 Stat. 1462, added item 2113b.

**2011**—Pub. L. 111–383, div. A, title X, §1075(b)(27), Jan. 7, 2011, 124 Stat. 4370, transferred item 2113a "Board of Regents" to appear after item 2113.

**2009**—Pub. L. 111–84, div. A, title V, §525(a)(3)(A), Oct. 28, 2009, 123 Stat. 2286, struck out item 2117 "School of Nursing".

**2008**—Pub. L. 110–181, div. A, title IX, §955(g)(2), Jan. 28, 2008, 122 Stat. 296, added item 2117.

Pub. L. 110–181, div. A, title IX, §954(a)(2), Jan. 28, 2008, 122 Stat. 293, added item 2113a at the end.

**1996**—Pub. L. 104–201, div. A, title IX, §907(a)(2), Sept. 23, 1996, 110 Stat. 2620, added item 2112a.

Pub. L. 104–106, div. A, title VII, §741(b), title X, §1072(c)(2), Feb. 10, 1996, 110 Stat. 385, 446, substituted "Administration of University" for "Board of Regents" in item 2113 and added item 2116.

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(b)(2)(B), Nov. 5, 1990, 104 Stat. 1716, struck out item 2117 "Authorization for appropriations".

**1983**—Pub. L. 98–94, title XII, §1268(12)(B), Sept. 24, 1983, 97 Stat. 706, struck out item 2116 "Reports

to Congress".

**1979**—Pub. L. 96–107, title VIII, §803(c)(3), Nov. 9, 1979, 93 Stat. 812, substituted "permitted" for "electing" and "service" for "duty" in item 2115.

## §2112. Establishment

(a)(1) There is established a Uniformed Services University of the Health Sciences (in this chapter referred to as the "University") with authority to grant appropriate certificates, certifications, undergraduate degrees, and advanced degrees.

(2) The University shall be so organized as to graduate not fewer than 100 medical students annually.

(3) The headquarters of the University shall be at a site or sites selected by the Secretary of Defense within 25 miles of the District of Columbia.

(b) Except as provided in subsection (a), the numbers of persons to be graduated from the University shall be prescribed by the Secretary of Defense. In so prescribing the number of persons to be graduated from the University, the Secretary of Defense shall institute actions necessary to ensure the maximum number of first-year enrollments in the University consistent with the academic capacity of the University and the needs of the uniformed services for medical personnel.

(c) The development of the University may be by such phases as the Secretary of Defense may prescribe subject to the requirements of subsection (a).

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 713; amended Pub. L. 96–107, title VIII, §803(a), Nov. 9, 1979, 93 Stat. 811; Pub. L. 96–513, title V, §511(63), (64), Dec. 12, 1980, 94 Stat. 2925, 2926; Pub. L. 104–106, div. A, title X, §1072(b)(1), Feb. 10, 1996, 110 Stat. 446; Pub. L. 107–107, div. A, title X, §1048(e)(8), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 114–328, div. A, title VII, §724(a), Dec. 23, 2016, 130 Stat. 2230.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There is hereby authorized to be established within 25 miles of the District of Columbia a Uniformed Services University of the Health Sciences (hereinafter in this chapter referred to as the 'University'), at a site or sites to be selected by the Secretary of Defense, with authority to grant appropriate advanced degrees. It shall be so organized as to graduate not less than 100 medical students annually."

**2001**—Subsec. (a). Pub. L. 107–107 struck out ", with the first class graduating not later than September 21, 1982" before period at end.

**1996**—Subsec. (b). Pub. L. 104–106 struck out ", upon recommendation of the Board of Regents," before "institute actions necessary".

**1980**—Subsec. (a). Pub. L. 96–513 inserted "in this chapter" after "hereinafter", and substituted "September 21, 1982" for "10 years after the date of the enactment of this chapter".

**1979**—Subsec. (b). Pub. L. 96–107 inserted provisions respecting the maximum number of first-year enrollments in the University.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### SHORT TITLE

Pub. L. 92–426, §1, Sept. 21, 1972, 86 Stat. 713, provided: "That this Act [enacting this chapter and chapter 105 of this title] may be cited as the 'Uniformed Services Health Professions Revitalization Act of 1972'."

### TRANSFER OF FUNCTIONS

For transfer of authority of Board of Regents of Uniformed Services University of the Health Sciences to Secretary of Defense, see section 8091 of Pub. L. 101–511, set out as a note under section 2113 of this title.

**TEMPORARY EXEMPTION FOR UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FROM CERTAIN PAPERWORK REDUCTION ACT REQUIREMENTS**

Pub. L. 116–283, div. A, title VII, §716(a), Jan. 1, 2021, 134 Stat. 3694, provided that:

"(a) TEMPORARY EXEMPTION FROM CERTAIN PAPERWORK REDUCTION ACT REQUIREMENTS.—

"(1) IN GENERAL.—During the two-year period beginning on the date that is 30 days after the date of the enactment of this Act [Jan. 1, 2021], the requirements described in paragraph (2) shall not apply with respect to the voluntary collection of information during the conduct of research and program evaluations—

"(A) conducted or sponsored by the Uniformed Services University of the Health Sciences; and

"(B) funded through the Defense Health Program.

"(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the requirements under the following provisions of law:

"(A) Section 3506(c) of title 44, United States Code.

"(B) Sections 3507 and 3508 of such title."

**CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES**

Pub. L. 104–106, div. A, title X, §1071, Feb. 10, 1996, 110 Stat. 445, as amended by Pub. L. 104–201, div. A, title IX, §907(b)(2), Sept. 23, 1996, 110 Stat. 2620, provided that:

"(a) POLICY.—Congress reaffirms—

"(1) the prohibition set forth in subsection (a) of section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2829; 10 U.S.C. 2112 note) regarding closure of the Uniformed Services University of the Health Sciences; and

"(2) the expression of the sense of Congress set forth in subsection (b) of such section regarding the budgetary commitment to continuation of the University.

"[(b) Repealed. Pub. L. 104–201, div. A, title IX, §907(b)(2), Sept. 23, 1996, 110 Stat. 2620.]

"(c) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the operation of the Uniformed Services University of the Health Sciences during fiscal year 1997 at a level at least equal to the level of operations conducted at the University during fiscal year 1995."

Pub. L. 103–337, div. A, title IX, §922, Oct. 5, 1994, 108 Stat. 2829, as amended by Pub. L. 104–201, div. A, title IX, §907(b)(1), Sept. 23, 1996, 110 Stat. 2620, provided that:

[(a) Repealed. Pub. L. 104–201, div. A, title IX, §907(b)(1), Sept. 23, 1996, 110 Stat. 2620. See section 2112a of this title.]

"(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

"(c) GAO EVALUATION.—Not later than June 1, 1995, the Comptroller General of the United States shall submit to Congress a detailed report on the Uniformed Services University of the Health Sciences. The report shall include the following:

"(1) A comparison of the cost of obtaining physicians for the Armed Forces from the University with the cost of obtaining physicians from other sources.

"(2) An assessment of the retention rate needs of the Armed Forces for physicians in relation to the respective retention rates of physicians obtained from the University and physicians obtained from other sources and the factors that contribute to retention rates among military physicians obtained from all sources.

"(3) A review of the quality of the medical education provided at the University with the quality of medical education provided by other sources of military physicians.

"(4) A review of the overall issue of the special needs of military medicine and how those special needs are being met by physicians obtained from University and physicians obtained from other sources.

"(5) An assessment of the extent to which the University has responded to the 1990 report of the Inspector General of the Department of Defense, including recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the University, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report.

"(6) Such other recommendations as the Comptroller General considers appropriate."

**F. EDWARD HÉBERT SCHOOL OF MEDICINE**

Pub. L. 98–94, title XII, §1265, Sept. 24, 1983, 97 Stat. 704, provided that: "The School of Medicine of the Uniformed Services University of the Health Sciences shall after the date of the enactment of this Act [Sept. 24, 1983] be known and designated as the 'F. Edward Hébert School of Medicine'. Any reference to such school of medicine in any law, regulation, map, document, or other record of the United States shall after such date be deemed to be a reference to such school of medicine as the F. Edward Hébert School of Medicine."

## §2112a. Continued operation of University

The University may not be closed.

(Added Pub. L. 104–201, div. A, title IX, §907(a)(1), Sept. 23, 1996, 110 Stat. 2620; amended Pub. L. 114–328, div. A, title VII, §724(c), Dec. 23, 2016, 130 Stat. 2230.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in subsec. (a) of this section were contained in Pub. L. 103–337, div. A, title IX, §922(a), Oct. 5, 1994, 108 Stat. 2829, which was set out as a note under section 2112 of this title prior to repeal by Pub. L. 104–201, §907(b)(1).

Provisions similar to those in subsec. (b) of this section were contained in Pub. L. 104–106, div. A, title X, §1071(b), Feb. 10, 1996, 110 Stat. 445, which was set out as a note under section 2112 of this title prior to repeal by Pub. L. 104–201, §907(b)(2).

**AMENDMENTS**

**2016**—Pub. L. 114–328, §724(c), struck out "(a) CLOSURE PROHIBITED.—" before "The University" and struck out subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "During the five-year period beginning on October 1, 1996, the personnel staffing levels for the University may not be reduced below the personnel staffing levels for the University as of October 1, 1993."

## §2113. Administration of University

(a) The business of the University shall be conducted by the Secretary of Defense with funds appropriated for and provided by the Department of Defense.

(b) The Secretary shall appoint a President of the University (hereinafter in this chapter referred to as the "President").

(c)(1) The Secretary, after considering the recommendations of the President, shall obtain the services of such military and civilian professors, instructors, and administrative and other employees as may be necessary to operate the University. Civilian members of the faculty and staff shall be employed under salary schedules and granted retirement and other related benefits prescribed by the Secretary (after due consideration by the Secretary) so as to place the employees of the University on a comparable basis with the employees of fully accredited schools of the health professions identified by the Secretary for purposes of this paragraph.

(2) The Secretary may confer academic titles, as appropriate, upon military and civilian members of the faculty.

(3) The military members of the faculty shall include a professor of military, naval, or air science as the Secretary may determine.

(4) The limitations in sections 5307 and 5373 of title 5 do not apply to the authority of the Secretary under paragraph (1) to prescribe salary schedules and other related benefits. In no event may the total amount of compensation paid to an employee under paragraph (1) in any year (including salary, allowances, differentials, bonuses, awards, and other similar cash payments) exceed the total amount of annual compensation (excluding expenses) specified in section 102 of title 3.

(d) The Secretary may negotiate agreements with agencies of the Federal Government to utilize on a reimbursable basis appropriate existing Federal medical resources. Under such agreements the facilities concerned will retain their identities and basic missions. The Secretary may negotiate affiliation agreements with an accredited university or universities. Such agreements may include provisions for payments for educational services provided students participating in Department of Defense educational programs.

(e) The Secretary of Defense may establish the following educational programs at the University:

(1) Postdoctoral, postgraduate, and technological institutes.

(2) A graduate school of nursing.

(3) Other schools or programs, including certificate, certification, and undergraduate degree programs, that the Secretary determines necessary in order to operate the University in a cost-effective manner.

(f) The Secretary shall also establish programs in continuing medical education for military members of the health professions to the end that high standards of health care may be maintained within the military medical services.

(g)(1) The Secretary also is authorized—

(A) to enter into contracts with, accept grants from, and make grants to the Henry M. Jackson Foundation for the Advancement of Military Medicine established under section 178 of this title, or any other nonprofit entity, for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education;

(B) to make available to the Henry M. Jackson Foundation for the Advancement of Military Medicine, or any other nonprofit entity, on such terms and conditions as the Secretary determines appropriate, such space, facilities, equipment, and support services within the University as the Secretary considers necessary to accomplish cooperative enterprises undertaken by such Foundation, or nonprofit entity, and the University;

(C) to enter into contracts with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or any other nonprofit entity, under which the Secretary may furnish the services of such professional, technical, or clerical personnel as may be necessary to fulfill cooperative enterprises undertaken by such foundation, or nonprofit entity, and the University;

(D) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the University, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project;

(E) to enter into agreements with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or with any other nonprofit entity, under which scientists or other personnel of the Foundation or other entity may be utilized by the University for the purpose of enhancing the activities of the University in education, research, and technological applications of knowledge;

(F) to accept the voluntary services of guest scholars and other persons; and

(G) notwithstanding sections 2304,[1] 4141, and 4024 of this title, to enter into contracts and cooperative agreements with, accept grants from, and make grants to, nonprofit entities (on a sole-source basis) for the purpose specified in subparagraph (A) or for any other purpose the Secretary determines to be consistent with the mission of the University.

(2) The Secretary may not enter into any contract with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or with any other entity, if the contract would obligate the University to make outlays in advance of the enactment of budget authority for such outlays.

(3) Scientists or other medical personnel utilized by the University under an agreement described in clause (E) of paragraph (1) may be appointed to any position within the University and may be permitted to perform such duties within the University as the Secretary may approve.

(4) A person who provides voluntary services under the authority of clause (F) of paragraph (1) shall be considered to be an employee of the Federal Government for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the Federal Government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is

not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 714; amended Pub. L. 95–589, Nov. 4, 1978, 92 Stat. 2512; Pub. L. 96–513, title V, §511(64), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–36, §3, May 27, 1983, 97 Stat. 201; Pub. L. 98–132, §2(b), Oct. 17, 1983, 97 Stat. 849; Pub. L. 99–661, div. A, title V, §505, Nov. 14, 1986, 100 Stat. 3864; Pub. L. 101–189, div. A, title VII, §726(a), (b)(1), Nov. 29, 1989, 103 Stat. 1480; Pub. L. 101–510, div. A, title XIII, §1322(a)(3), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 104–106, div. A, title X, §1072(a), (b)(2), (c)(1), Feb. 10, 1996, 110 Stat. 446; Pub. L. 106–65, div. A, title XI, §1108, Oct. 5, 1999, 113 Stat. 778; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(12)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 110–181, div. A, title IX, §954(a)(3)(A), (b)(1), title XI, §1116, Jan. 28, 2008, 122 Stat. 294, 361; Pub. L. 113–66, div. A, title VII, §711, Dec. 26, 2013, 127 Stat. 793; Pub. L. 114–328, div. A, title VII, §724(b), Dec. 23, 2016, 130 Stat. 2230; Pub. L. 116–283, div. A, title VII, §714(a), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3694, 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2304 of this title, referred to in subsec. (g)(1)(G), was repealed by Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (l) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116–283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170.

### AMENDMENTS

**2021**—Subsec. (g)(1)(G). Pub. L. 116–283, §1883(b)(2), substituted "4141, and 4024 of this title" for "2361, and 2374 of this title". Amendment directing that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2304", which was redesignated as multiple sections.

Pub. L. 116–283, §714(a), added subpar. (G).

**2016**—Subsec. (d). Pub. L. 114–328, §724(b)(1), struck out "located in or near the District of Columbia" after "Federal medical resources", "in or near the District of Columbia" after "university or universities", and "The Secretary may enter into an agreement under which the University would become part of a national university of health sciences should such an institution be established in the vicinity of the District of Columbia." after "educational programs."

Subsec. (e)(3). Pub. L. 114–328, §724(b)(2), inserted ", including certificate, certification, and undergraduate degree programs," after "or programs".

**2013**—Subsec. (g)(1)(B). Pub. L. 113–66, §711(1), inserted ", or any other nonprofit entity" after "Military Medicine" and ", or nonprofit entity," after "such Foundation".

Subsec. (g)(1)(C). Pub. L. 113–66, §711(2), inserted ", or any other nonprofit entity," after "Military Medicine" and ", or nonprofit entity," after "such foundation".

**2008**—Subsec. (a). Pub. L. 110–181, §954(a)(3)(A)(i), struck out after first sentence "To assist the Secretary in an advisory capacity, there is a Board of Regents for the University. The Board shall consist of—

"(1) nine persons outstanding in the fields of health and health education who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate;

"(2) the Secretary of Defense, or his designee, who shall be an ex officio member;

"(3) the surgeons general of the uniformed services, who shall be ex officio members; and

"(4) the person referred to in subsection (d)."

Subsec. (b). Pub. L. 110–181, §954(b)(1), substituted "President" for "Dean" in two places.

Pub. L. 110–181, §954(a)(3)(A)(iv), struck out "who shall also serve as a nonvoting ex officio member of the Board" before period at end.

Pub. L. 110–181, §954(a)(3)(A)(ii), (iii), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: "The term of office of each member of the Board (other than ex officio members) shall be six years except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which his

predecessor was appointed shall be appointed for the remainder of such term;

"(2) the terms of office of the members first taking office shall expire, as designated by the President at the time of the appointment, three at the end of two years, three at the end of four years, and three at the end of six years; and

"(3) any member whose term of office has expired shall continue to serve until his successor is appointed."

Subsec. (c). Pub. L. 110–181, §954(a)(3)(A)(ii), (iii), redesignated subsec. (f) as (c) and struck out former subsec. (c) which read as follows: "One of the members of the Board (other than an ex officio member) shall be designated by the President as Chairman. He shall be the presiding officer of the Board."

Subsec. (c)(1). Pub. L. 110–181, §1116(1), inserted "(after due consideration by the Secretary)" before "so as" and substituted "identified by the Secretary for purposes of this paragraph" for "within the vicinity of the District of Columbia".

Pub. L. 110–181, §954(b)(1), substituted "President" for "Dean".

Subsec. (c)(4). Pub. L. 110–181, §1116(2), substituted "sections 5307 and 5373" for "section 5373" and inserted at end "In no event may the total amount of compensation paid to an employee under paragraph (1) in any year (including salary, allowances, differentials, bonuses, awards, and other similar cash payments) exceed the total amount of annual compensation (excluding expenses) specified in section 102 of title 3."

Subsecs. (d) to (j). Pub. L. 110–181, §954(a)(3)(A)(ii), (iii), redesignated subsecs. (d), (f), (g), (h), (i), and (j) as (b), (c), (d), (e), (f), and (g), respectively, and struck out former subsec. (e) which read as follows: "Members of the Board (other than ex officio members) while attending conferences or meetings or while otherwise performing their duties as members shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per diem and shall also be entitled to receive an allowance for necessary travel expenses while so serving away from their place of residence."

**2000**—Subsec. (f). Pub. L. 106–398 designated penultimate sentence and last sentence of par. (1) as pars. (2) and (3), respectively, redesignated former par. (3) as (4), and struck out former par. (2) which read as follows: "The Secretary may exempt, at any time, a physician who is a member of the faculty from the restrictions in subsections (a), (b), and (c) of section 5532 of title 5, if the Secretary determines that such exemption is necessary to recruit or retain well-qualified physicians for the faculty of the University. An exemption granted under this paragraph shall terminate upon any break in employment with the University by a physician of three days or more. An exemption granted under this paragraph to a person shall apply to the retired pay of such person beginning with the first month after the month in which the exemption is granted. Not more than five exemptions may be in effect under this paragraph at any time."

**1999**—Subsec. (f)(3). Pub. L. 106–65 added par. (3).

**1996**—Pub. L. 104–106, §1072(c)(1), substituted "Administration of University" for "Board of Regents" as section catchline.

Subsec. (a). Pub. L. 104–106, §1072(b)(2)(A), substituted "conducted by the Secretary of Defense" for "conducted by a Board of Regents (hereinafter in this chapter referred to as the 'Board')" and inserted after first sentence "To assist the Secretary in an advisory capacity, there is a Board of Regents for the University."

Subsec. (d). Pub. L. 104–106, §1072(b)(2)(B), substituted "The Secretary shall appoint" for "The Board shall appoint".

Subsec. (e). Pub. L. 104–106, §1072(b)(2)(C), struck out "of Defense" after "Secretary".

Subsec. (f). Pub. L. 104–106, §1072(b)(2)(D), (F), in par. (1), substituted "Secretary, after" for "Board, after", "Secretary so" for "Secretary of Defense so", and "Secretary may" for "Board may" in two places, and in par. (2), substituted "Secretary" for "Board" in two places.

Subsec. (g). Pub. L. 104–106, §1072(b)(2)(E), substituted "Secretary may negotiate agreements" for "Board is authorized to negotiate agreements", "Secretary may negotiate affiliation" for "Board is also authorized to negotiate affiliation", and "Secretary may enter" for "Board may also, subject to the approval of the Secretary of Defense, enter".

Subsec. (h). Pub. L. 104–106, §1072(a), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "The Board may establish postdoctoral, postgraduate, and technological institutes."

Subsecs. (i), (j). Pub. L. 104–106, §1072(b)(2)(F), substituted "Secretary" for "Board" wherever appearing.

**1990**—Subsec. (j)(1). Pub. L. 101–510, §1322(a)(3)(A), struck out "subject to paragraph (2)," before "to make" in subpar. (B) and before "to enter" in subpars. (C) and (E).

Subsec. (j)(2) to (5). Pub. L. 101–510, §1322(a)(3)(B), (C), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: "The authority of the Board under clauses (B), (C), and (E) of paragraph (1) may be exercised only if—

"(A) before the Board enters into any arrangement under which any space, facility, equipment, or support service is made available under clause (B) of such paragraph, before the Board enters into any

contract under clause (C) of such paragraph, or before the Board enters into any agreement under clause (E) of such paragraph, it notifies the Committees on Armed Services of the Senate and the House of Representatives in writing of the proposed arrangement, contract, or agreement, as the case may be, the terms and conditions thereof, and, in the case of a proposed agreement under clause (E) of paragraph (1), any appointments proposed to be made under the authority of paragraph (4) in connection with the agreement, and

"(B) a period of fifteen days has elapsed following the date on which the notice is received by such committees."

**1989**—Subsec. (f)(2). Pub. L. 101–189, §726(a), substituted "five exemptions" for "two exemptions".

Subsec. (j)(1)(A). Pub. L. 101–189, §726(b)(1), inserted ", accept grants from, and make grants to" after "contracts with" and substituted "or any other" for "or with any other".

**1986**—Subsec. (f). Pub. L. 99–661 designated existing provisions as par. (1) and added par. (2).

**1983**—Subsec. (j). Pub. L. 98–132 inserted "Henry M. Jackson" before "Foundation for the Advancement of Military Medicine" wherever appearing.

Pub. L. 98–36 added subsec. (j).

**1980**—Subsecs. (a) and (d). Pub. L. 96–513 inserted "in this chapter" after "hereinafter".

**1978**—Subsec. (b)(3). Pub. L. 95–589 added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### RULE OF CONSTRUCTION

Pub. L. 116–283, div. A, title VII, §714(b), Jan. 1, 2021, 134 Stat. 3694, provided that: "Nothing in section 2113(g) of title 10, United States Code, as amended by subsection (a), shall be construed to limit the ability of the Secretary of Defense, in carrying out such section, to use competitive procedures to award contracts, cooperative agreements, or grants."

### TRANSFER OF FUNCTIONS

Pub. L. 101–511, title VIII, §8091, Nov. 5, 1990, 104 Stat. 1896, provided that: "Notwithstanding any other provision of law, all authority of the Board of Regents of the Uniformed Services University of the Health Sciences is hereby transferred to the Secretary of Defense, and the Board hereafter shall be an advisory board to the Secretary of Defense."

### CERTIFICATION PROGRAM IN PROVISION OF MENTAL HEALTH SERVICES TO MEMBERS OF THE ARMED FORCES AND MILITARY FAMILIES

Pub. L. 117–263, div. A, title VII, §738, Dec. 23, 2022, 136 Stat. 2675, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the President of the Uniformed Services University of the Health Sciences, shall develop a curriculum and certification program to provide civilian mental health professionals and students in mental health-related disciplines with the specialized knowledge and skills necessary to address the unique mental health needs of members of the Armed Forces and military families.

"(b) IMPLEMENTATION.—Not later than 90 days after completing the development of the curriculum and certification program under subsection (a), the Secretary of Defense shall implement such curriculum and certification program in the Uniformed Services University of the Health Sciences.

"(c) AUTHORITY TO DISSEMINATE BEST PRACTICES.—The Secretary of Defense may disseminate best practices based on the curriculum and certification program developed and implemented under this section to other institutions of higher education, as such term is defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

"(d) TERMINATION.—The authority to carry out the curriculum and certification program under this section shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 23, 2022].

"(e) BRIEFING.—Not later than 180 days after the termination date specified in subsection (d), the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the results of the curriculum and certification program developed and implemented under this section."

[1] *See References in Text note below.*

## §2113a. Board of Regents

(a) IN GENERAL.—To assist the Secretary of Defense in an advisory capacity, there is a Board of Regents of the University.

(b) MEMBERSHIP.—The Board shall consist of—

(1) nine persons outstanding in the fields of health care, higher education administration, or public policy who shall be appointed from civilian life by the Secretary of Defense;

(2) the Secretary of Defense, or his designee, who shall be an ex officio member;

(3) the Director of the Defense Health Agency, who shall be an ex officio member;

(4) the surgeons general of the uniformed services, who shall be ex officio members; and

(5) the President of the University, who shall be a nonvoting ex officio member.

(c) TERM OF OFFICE.—The term of office of each member of the Board (other than ex officio members) shall be six years except that—

(1) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) any member whose term of office has expired shall continue to serve until his successor is appointed.

(d) CHAIRMAN.—One of the members of the Board (other than an ex officio member) shall be designated by the Secretary as Chairman. He shall be the presiding officer of the Board.

(e) COMPENSATION.—Members of the Board (other than ex officio members) while attending conferences or meetings or while otherwise performing their duties as members shall be entitled to receive compensation at a rate to be fixed by the Secretary and shall also be entitled to receive an allowance for necessary travel expenses while so serving away from their place of residence.

(f) MEETINGS.—The Board shall meet at least once a quarter.

(Added Pub. L. 110–181, div. A, title IX, §954(a)(1), Jan. 28, 2008, 122 Stat. 293; amended Pub. L. 111–84, div. A, title V, §523, Oct. 28, 2009, 123 Stat. 2285; Pub. L. 116–283, div. A, title VII, §715(a), Jan. 1, 2021, 134 Stat. 3694.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(3) to (5). Pub. L. 116–283 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

**2009**—Subsec. (b)(1). Pub. L. 111–84 substituted "health care, higher education administration, or public policy" for "health and health education".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title VII, §715(c), Jan. 1, 2021, 134 Stat. 3694, provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 2021."

### RULE OF CONSTRUCTION

Pub. L. 116–283, div. A, title VII, §715(b), Jan. 1, 2021, 134 Stat. 3694, provided that: "The amendments

made by this section [amending this section] may not be construed to invalidate any action taken by the Uniformed Services University of the Health Sciences or its Board of Regents prior to the effective date of this section [see Effective Date of 2021 Amendment note above]."

## §2113b. Academic Health System

(a) IN GENERAL.—The Secretary of Defense may establish an Academic Health System to integrate the health care, health professions education, and health research activities of the military health system, including under this chapter, in the National Capital Region.

(b) LEADERSHIP.—(1) The Secretary may appoint employees of the Department of Defense to leadership positions in the Academic Health System established under subsection (a).

(2) Such positions may include responsibilities for management of the health care, health professions education, and health research activities described in subsection (a) and are in addition to similar leadership positions for members of the armed forces.

(c) NATIONAL CAPITAL REGION DEFINED.—In this section, the term "National Capital Region" means the area, or portion thereof, as determined by the Secretary, in the vicinity of the District of Columbia.

(Added Pub. L. 116–92, div. A, title VII, §734(a), Dec. 20, 2019, 133 Stat. 1461.)

## §2114. Students: selection; status; obligation

(a) Medical students at the University shall be selected under procedures prescribed by the Secretary of Defense. In so prescribing, the Secretary shall consider the recommendations of the Board. However, selection procedures prescribed by the Secretary of Defense shall emphasize the basic requirement that students demonstrate sincere motivation and dedication to a career in the uniformed services (as defined in section 1072(1) of this title).

(b)(1) Medical students shall be commissioned officers of a uniformed service as determined under regulations prescribed by the Secretary of Defense after consulting with the Secretary of Health and Human Services. They shall be appointed as regular officers in the grade of second lieutenant or ensign and shall serve on active duty in that grade.

(2) If a member of the uniformed services selected to be a student has prior active service in a pay grade and with years of service credited for pay that would entitle the member, if the member remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the member shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the member shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the member shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after graduation, on which the basic pay for the member in the member's actual grade and years of service credited for pay exceeds the amount of basic pay to which the member is entitled based on the member's former grade and years of service.

(c) Medical students who graduate shall be required to serve on active duty unless they are covered by section 2115 of this title. Medical students who graduate shall be required, except as provided in section 2115 of this title, to serve thereafter on active duty under such regulations as the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, may prescribe for not less than seven years, unless sooner released. Upon completion of, or release from, the active-duty service obligation, a member of the program who served on active-duty for less than 10 years shall serve in the Ready Reserve for the period specified in the following table:

| Period of Service on Active Duty | **Ready Reserve Obligation** |
|---|---|
| Less than 8 years | 6 years |

| | |
|---|---|
| 8 years or more, but less than 9 | 4 years |
| 9 years or more, but less than 10 | 2 years |

The service credit exclusions specified in section 2126 of this title shall apply to students covered by this section.

(d) A period of time spent in military intern or residency training shall not be creditable in satisfying a commissioned service obligation imposed by this section.

(e) A medical student who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section. In no case shall any such student be required to serve on active duty for any period in excess of a period equal to the period he participated in the program, except that in no case may any such student be required to serve on active duty less than one year.

(f)(1) The Secretary of Defense may enter into agreements with foreign military medical schools for reciprocal education programs under which students at the University receive specialized military medical instruction at the foreign military medical school and military medical personnel of the country of such medical school receive specialized military medical instruction at the University. Any such agreement may be made on a reimbursable basis or a nonreimbursable basis.

(2) Not more than 40 persons at any one time may receive instruction at the University under this subsection. Attendance of such persons at the University may not result in a decrease in the number of students enrolled in the University. Subsection (b) does not apply to students receiving instruction under this subsection.

(3) The President of the University, with the approval of the Secretary of Defense, shall determine the countries from which persons may be selected to receive instruction under this subsection and the number of persons that may be selected from each country. The President may establish qualifications and methods of selection and shall select those persons who will be permitted to receive instruction at the University. The qualifications established shall be comparable to those required of United States citizens.

(4) Each foreign country from which a student is permitted to receive instruction at the University under this subsection shall reimburse the United States for the cost of providing such instruction, unless such reimbursement is waived by the Secretary of Defense. The Secretary of Defense shall prescribe the rates for reimbursement under this paragraph.

(5) Except as the President determines, a person receiving instruction at the University under this subsection is subject to the same regulations governing attendance, discipline, discharge, and dismissal as a student enrolled in the University. The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection that differ from the regulations that apply to a student enrolled in the University.

(g) In this section, the term "commissioned service obligation" means, with respect to an officer who is a graduate of the University, the period beginning on the date of the appointment of the officer in a regular component after graduation and ending on the tenth anniversary of that appointment.

(h)(1) The Secretary of Defense, in coordination with the Secretary of Health and Human Services and the Secretary of Veterans Affairs, shall establish such selection procedures, service obligations, and other requirements as the Secretary considers appropriate for graduate students (other than medical students) in a postdoctoral, postgraduate, or technological institute established pursuant to section 2113(e) of this title.

(2)(A) A covered employee whose employment or service with the Department of Veterans Affairs, Public Health Service, or Coast Guard (as applicable) is in a position relevant to national security or health sciences may receive instruction at the University within the scope of such employment or service.

(B) If a covered employee receives instruction at the University pursuant to subparagraph (A), the head of the Federal agency concerned shall reimburse the University for the cost of providing such

instruction to the covered employee. Amounts received by the University under this subparagraph shall be retained by the University to defray the costs of such instruction.

(C) Notwithstanding subsections (b) through (e) and subsection (i), the head of the Federal agency concerned shall determine the service obligations of the covered employee receiving instruction at the University pursuant to subparagraph (A) in accordance with applicable law.

(D) In this paragraph—

(i) the term "covered employee" means an employee of the Department of Veterans Affairs, a civilian employee of the Public Health Service, a member of the commissioned corps of the Public Health Service, a member of the Coast Guard, or a civilian employee of the Coast Guard; and

(ii) the term "head of the Federal agency concerned" means the head of the Federal agency that employs, or has jurisdiction over the uniformed service of, a covered employee permitted to receive instruction at the University under subparagraph (A) in the relevant position described in such subparagraph.

(i) A graduate of the University who is relieved of the graduate's active-duty service obligation under subsection (c) before the completion of that active-duty service obligation may be given, with or without the consent of the graduate, an alternative obligation in the same manner as provided in subparagraphs (A) and (B) of paragraph (1) of section 2123(e) of this title or paragraph (2) of such section for members of the Armed Forces Health Professions Scholarship and Financial Assistance program.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 715; amended Pub. L. 96–107, title VIII, §803(b), Nov. 9, 1979, 93 Stat. 812; Pub. L. 96–513, title I, §114, title V, §511(65), Dec. 12, 1980, 94 Stat. 2877, 2926; Pub. L. 98–525, title XV, §1535, Oct. 19, 1984, 98 Stat. 2633; Pub. L. 101–189, div. A, title V, §511(a), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 101–510, div. A, title V, §533(a), (b), Nov. 5, 1990, 104 Stat. 1564; Pub. L. 103–160, div. A, title VII, §732(a), Nov. 30, 1993, 107 Stat. 1696; Pub. L. 104–106, div. A, title X, §1072(b)(3), Feb. 10, 1996, 110 Stat. 446; Pub. L. 104–201, div. A, title VII, §741(b), Sept. 23, 1996, 110 Stat. 2599; Pub. L. 105–85, div. A, title X, §1073(a)(38), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 108–375, div. A, title V, §501(e), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 110–181, div. A, title V, §524(a), title IX, §954(a)(3)(B), (b)(2), Jan. 28, 2008, 122 Stat. 103, 294; Pub. L. 110–417, [div. A], title X, §1061(b)(8), (9), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 117–81, div. A, title VII, §718, Dec. 27, 2021, 135 Stat. 1790.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (h). Pub. L. 117–81 substituted "(1) The Secretary of Defense, in coordination with the Secretary of Health and Human Services and the Secretary of Veterans Affairs," for "The Secretary of Defense" and added par. (2).

**2008**—Subsecs. (b), (c). Pub. L. 110–181, §524(a)(1)(B), (2)(A), designated first 3 sentences of subsec. (b) as subsec. (b)(1), added subsec. (b)(2), designated last 3 sentences of subsec. (b) as subsec. (c), and substituted "Medical students who graduate" for "Upon graduation they". Former subsec. (c) redesignated (d).

Subsecs. (d) to (f). Pub. L. 110–181, §524(a)(1)(A), redesignated subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (f)(3), (5). Pub. L. 110–181, §954(b)(2), as amended by Pub. L. 110–417, §1061(b)(9), substituted "President" for "Dean" wherever appearing.

Subsec. (g). Pub. L. 110–181, §524(a)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 110–181, §954(a)(3)(B), as amended by Pub. L. 110–417, §1061(b)(8), substituted "2113(e)" for "2113(h)".

Pub. L. 110–181, §524(a)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 110–181, §524(a)(2)(B), substituted "subsection (c)" for "subsection (b)".

Pub. L. 110–181, §524(a)(1)(A), redesignated subsec. (h) as (i).

**2004**—Subsec. (b). Pub. L. 108–375, in introductory provisions, substituted "They shall be appointed as regular officers in the grade of second lieutenant or ensign and shall serve on active duty in that grade. Upon

graduation they shall be required to serve on active duty" for "Notwithstanding any other provision of law, they shall serve on active duty in pay grade O–1 with full pay and allowances of that grade. Upon graduation they shall be appointed in a regular component, if qualified,".

**1997**—Subsec. (h). Pub. L. 105–85 substituted "section 2123(e)" for "section 2123(e)(1)".

**1996**—Subsec. (e)(1). Pub. L. 104–106 substituted "The Secretary of Defense" for "The Board, upon approval of the Secretary of Defense,".

Subsec. (h). Pub. L. 104–201 added subsec. (h).

**1993**—Subsec. (a). Pub. L. 103–160, §732(a)(1), substituted "Medical students" for "Students" in first sentence.

Subsec. (b). Pub. L. 103–160, §732(a)(2), substituted "Medical students" for "Students" in two places.

Subsec. (d). Pub. L. 103–160, §732(a)(3), substituted "medical student" for "member of the program" in first sentence and "any such student" for "any such member" in two places in second sentence.

Subsec. (g). Pub. L. 103–160, §732(a)(4), added subsec. (g).

**1990**—Subsec. (b). Pub. L. 101–510, §533(b)(1), after fourth sentence inserted provisions relating to the time obligation to be served in the Ready Reserve upon completion of, or release from, the active-duty service obligation for members of the program who served on active duty for less than 10 years.

Pub. L. 101–510, §533(a), substituted "seven years" for "10 years" in fourth sentence.

Subsec. (c). Pub. L. 101–510, §533(b)(2), substituted "a commissioned service obligation" for "an active duty obligation".

Subsec. (f). Pub. L. 101–510, §533(b)(3), added subsec. (f).

**1989**—Subsec. (b). Pub. L. 101–189 substituted "10 years" for "seven years" in fourth sentence.

**1984**—Subsec. (e). Pub. L. 98–525 added subsec. (e).

**1980**—Subsec. (b). Pub. L. 96–513, §511(65), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" wherever appearing.

Pub. L. 96–513, §114, struck out provision under which officers attending the Uniformed Services University of Health Sciences were not counted against authorized military strengths.

**1979**—Subsec. (b). Pub. L. 96–107 substituted "uniformed" for "uniform".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 effective Jan. 28, 2008, and as if included in Pub. L. 110–181 as enacted, see section 1061(b) of Pub. L. 110–417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title VII, §741(c), Sept. 23, 1996, 110 Stat. 2600, provided that: "The amendments made by this section [amending this section and section 2123 of this title] shall apply with respect to individuals who first become members of the Armed Forces Health Professions Scholarship and Financial Assistance program or students of the Uniformed Services University of the Health Sciences on or after October 1, 1996."

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title VII, §732(b), Nov. 30, 1993, 107 Stat. 1697, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to students attending the Uniformed Services University of the Health Sciences on or after the date of the enactment of this Act [Nov. 30, 1993]."

### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title V, §533(d), Nov. 5, 1990, 104 Stat. 1564, provided that: "The amendment made by subsection (b) [amending this section] shall take effect on December 31, 1991, and shall apply to persons who are first admitted to the Uniformed Services University of the Health Sciences after that date."

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title V, §511(e), Nov. 29, 1989, 103 Stat. 1439, as amended by Pub. L. 101–510,

div. A, title V, §533(c), Nov. 5, 1990, 104 Stat. 1564, provided that: "The amendments made by this section [amending this section and sections 4348, 6959, and 9348 of this title] shall apply to persons who are first admitted to one of the military service academies after December 31, 1991."

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by section 114 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

Amendment by section 511(65) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

**TRANSFER OF FUNCTIONS**

For transfer of authority of Board of Regents of Uniformed Services University of the Health Sciences to Secretary of Defense, see section 8091 of Pub. L. 101–511, set out as a note under section 2113 of this title.

**TRANSITION PROVISIONS**

Pub. L. 104–201, div. A, title VII, §741(d)(2), Sept. 23, 1996, 110 Stat. 2600, provided that: "In the case of any person who, as of October 1, 1996, is serving an active-duty service obligation as a graduate of the Uniformed Services University of the Health Sciences or is incurring an active-duty service obligation as a student of the University, and who is subsequently relieved of the active-duty service obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (b) [amending this section] may be implemented by the Secretary of Defense with the agreement of the person."

## §2114a. Eligibility of members of foreign militaries to enroll in the University

(a) AUTHORITY.—(1) The Secretary of Defense may permit an individual who is a member of the military of a foreign country—

(A) to enroll (including as a full-time student) and receive instruction—

(i) as a medical student of the University; or

(ii) in a postdoctoral, postgraduate, or certificate program of the University; and

(B) to participate in training exercises of the University.

(2) Enrollment of an individual under this section—

(A) shall be subject to—

(i) the academic capacity of the University described in section 2112(b) of this title; and

(ii) an international agreement or qualifying non-binding instrument (as such terms are defined in section 112b of title 1); and

(B) may not decrease the number of members of the uniformed services enrolled in the University; and

(C) may not be given priority over the enrollment of a member of the uniformed services.

(3) The number of individuals simultaneously enrolled under this section may not exceed—

(A) 10, in the case of medical students of the University; and

(B) 40, with regards to all postdoctoral, postgraduate, and certificate programs of the University.

(b) QUALIFICATIONS; SELECTION.—In carrying out subsection (a), the Secretary may select an individual to enroll under this section—

(1) who was nominated for such enrollment by the medical command of the military of a foreign country; and

(2) pursuant to regulations prescribed by the Secretary regarding—

(A) qualifications for such enrollment that are comparable to the qualifications required of a United States citizen; and

(B) procedures for such selection.

(c) REIMBURSEMENT.—(1) The Secretary shall require the foreign country of an individual enrolled under this section to reimburse the United States for the cost of providing instruction to such individual.

(2) The Secretary shall prescribe rates for such reimbursement that equal or exceed the cost to the United States of providing such instruction to a member of the uniformed services.

(3) The Secretary may waive, in whole or in part, reimbursement with regards to an individual enrolled under this section.

(4) Amounts received by the Secretary under this subsection shall—

(A) be used to defray the costs of providing instruction to an individual enrolled under this section;

(B) be credited to appropriations available for the maintenance and operation of the University; and

(C) remain available for until expended.

(5) The source and the disposition of such amounts shall be specifically identified in records of the University.

(d) APPLICABILITY OF REGULATIONS AND POLICIES.—(1) Subject to paragraphs (2) through (4), and to the determination of the Secretary, an individual enrolled under this section shall be subject to the same regulations and policies that apply to a member of the uniformed services enrolled in the University.

(2) The Secretary may prescribe regulations regarding access to classified information by an individual enrolled under this section that differ from the regulations that apply to a member of the uniformed services enrolled in the University.

(3) An individual enrolled under this section shall not be entitled to an appointment in a uniformed service by reason of completing of a program of the University.

(4) Section 2114 of this title shall not apply to an individual enrolled under this section.

(Added Pub. L. 118–159, div. A, title V, §553, Dec. 23, 2024, 138 Stat. 1894.)

## §2115. Graduates: limitation on number permitted to perform civilian Federal service

The Secretary of Defense may allow not more than 20 percent of the graduates of each class at the University to perform civilian Federal service for not less than seven years following the completion of their professional education in lieu of active duty in a uniformed service if the needs of the uniformed services do not require that such graduates perform active duty in a uniformed service and as long as the Secretary of Defense does not recall such persons to active duty in the uniformed services. Such persons who execute an agreement in writing to perform such civilian Federal service may be released from active duty following the completion of their professional education. The location and type of their duty shall be determined by the Secretary of Defense after consultation with the heads of Federal agencies concerned.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 716; amended Pub. L. 96–107, title VIII, §803(c)(1), (2), Nov. 9, 1979, 93 Stat. 812.)

### EDITORIAL NOTES

### AMENDMENTS

**1979**—Pub. L. 96–107, §803(c)(2), substituted "permitted" for "electing" and "service" for "duty" in section catchline.

Pub. L. 96–107, §803(c)(1), substituted provisions respecting authority of the Secretary of Defense to allow graduates to perform civilian Federal service and the execution of agreements for such service as prerequisites

for release from active duty following completion of education, for provisions relating to limitations on the number of graduates electing to perform civilian Federal duty, agreements respecting such service, and release from active duty upon completion of their education.

## §2116. Military nursing research

(a) DEFINITIONS.—In this section:

(1) The term "military nursing research" means research on the furnishing of care and services by nurses in the armed forces.

(2) The term "TriService Nursing Research Program" means the program of military nursing research authorized under this section.

(b) PROGRAM AUTHORIZED.—The Secretary of Defense may establish at the University a program of military nursing research.

(c) TRISERVICE RESEARCH GROUP.—The TriService Nursing Research Program shall be administered by a TriService Nursing Research Group composed of Army, Navy, and Air Force nurses who are involved in military nursing research and are designated by the Secretary concerned to serve as members of the group.

(d) DUTIES OF GROUP.—The TriService Nursing Research Group shall—

(1) develop for the Department of Defense recommended guidelines for requesting, reviewing, and funding proposed military nursing research projects; and

(2) make available to Army, Navy, and Air Force nurses and Department of Defense officials concerned with military nursing research—

(A) information about nursing research projects that are being developed or carried out in the Army, Navy, and Air Force; and

(B) expertise and information beneficial to the encouragement of meaningful nursing research.

(e) RESEARCH TOPICS.—For purposes of this section, military nursing research includes research on the following issues:

(1) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of peace.

(2) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of war.

(3) Issues regarding how to prevent complications associated with battle injuries.

(4) Issues regarding how to prevent complications associated with the transporting of patients in the military medical evacuation system.

(5) Issues regarding how to improve methods of training nursing personnel.

(6) Clinical nursing issues, including such issues as prevention and treatment of child abuse and spouse abuse.

(7) Women's health issues.

(8) Wellness issues.

(9) Preventive medicine issues.

(10) Home care management issues.

(11) Case management issues.

(Added Pub. L. 104–106, div. A, title VII, §741(a), Feb. 10, 1996, 110 Stat. 384.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2116, added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 716, directed Secretary of Defense to report periodically to Committees on Armed Services of the Senate and House of Representatives on feasibility of establishing educational institutions similar or identical to University at any other locations he

deemed appropriate, with last such report to be submitted by June 30, 1976, prior to repeal by Pub. L. 98–94, title XII, §1268(12)(A), Sept. 24, 1983, 97 Stat. 706.

## [§2117. Repealed. Pub. L. 111–84, div. A, title V, §525(a)(1), Oct. 28, 2009, 123 Stat. 2286]

Section, added Pub. L. 110–181, div. A, title IX, §955(g)(1), Jan. 28, 2008, 122 Stat. 295, authorized Secretary of Defense to establish a School of Nursing. See section 2169 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2117, added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 716, authorized appropriations for the Uniformed Services University of the Health Sciences, prior to repeal by Pub. L. 101–510, div. A, title XIV, §1484(b)(2)(A), Nov. 5, 1990, 104 Stat. 1716.

# CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Health Professions Scholarship and Financial Assistance Program for Active Service** | **2120** |
| **II.** | **Nurse Officer Candidate Accession Program** | **2130a** |


### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337, div. A, title XVI, §1663(c)(7)(A), Oct. 5, 1994, 108 Stat. 3008, redesignated item for subchapter III as item for subchapter II and struck out former item for subchapter II "Health Professions Stipend Program for Reserve Service".

**1989**—Pub. L. 101–189, div. A, title VII, §§707(b), 725(h)(3), Nov. 29, 1989, 103 Stat. 1475, 1480, substituted "and Financial Assistance Program" for "Program" in item for subchapter I and added item for subchapter III.

**1987**—Pub. L. 100–180, div. A, title VII, §711(a)(1), Dec. 4, 1987, 101 Stat. 1108, substituted "FINANCIAL ASSISTANCE PROGRAMS" for "SCHOLARSHIP PROGRAM" in chapter heading, and added subchapter analysis, consisting of subchapters I and II.

## SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE


Sec.

2120. Definitions.
2121. Establishment.
2122. Eligibility for participation.
2123. Members of the program: active duty obligation; failure to complete training; release from program.
2124. Members of the program: numbers appointed.
2125. Members of the program: exclusion from authorized strengths.
2126. Members of the program: service credit.
2127. Scholarships and financial assistance: payments.
2128. Accession bonus for members of the program.


### EDITORIAL NOTES

**AMENDMENTS**

**2008**—Pub. L. 110–181, div. A, title VI, §623(b), Jan. 28, 2008, 122 Stat. 152, added item 2128.

**1989**—Pub. L. 101–189, div. A, title VII, §725(d)(3), (h)(2), Nov. 29, 1989, 103 Stat. 1479, 1480, substituted "AND FINANCIAL ASSISTANCE PROGRAM" for "PROGRAM" in subchapter heading and "Scholarships and financial assistance" for "Contracts for scholarships" in item 2127.

**1987**—Pub. L. 100–180, div. A, title VII, §711(a)(1), Dec. 4, 1987, 101 Stat. 1108, added subchapter heading.

**1980**—Pub. L. 96–513, title V, §511(66), Dec. 12, 1980, 94 Stat. 2926, substituted in item 2123 "program:" for "program;", and in items 2124 to 2127 ":" for ";" wherever appearing.

## §2120. Definitions

In this subchapter:

(1) The term "program" means the Armed Forces Health Professions Scholarship and Financial Assistance program provided for in this subchapter.

(2) The term "member of the program" means a person appointed a commissioned officer in a reserve component of the armed forces who is enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance program.

(3) The term "course of study" means education received at an accredited college, university, or institution in medicine, dentistry, or other health profession, leading, respectively, to a degree related to the health professions as determined under regulations prescribed by the Secretary of Defense.

(4) The term "specialized training" means advanced training in a health professions specialty received in an accredited program that is beyond the basic education required for appointment as a commissioned officer with a designation as a health professional.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 717; amended Pub. L. 98–94, title XII, §1268(13), Sept. 24, 1983, 97 Stat. 706; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. A, title VII, §711(a)(2), Dec. 4, 1987, 101 Stat. 1108; Pub. L. 101–189, div. A, title VII, §725(a), (h)(1), Nov. 29, 1989, 103 Stat. 1478, 1480.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Pars. (1), (2). Pub. L. 101–189, §725(h)(1), substituted "Scholarship and Financial Assistance program" for "Scholarship program".

Par. (4). Pub. L. 101–189, §725(a), added par. (4).

**1987**—Pub. L. 100–180 substituted "subchapter" for "chapter" in introductory text and in par. (1).

Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

**1983**—Pub. L. 98–94 substituted a colon for a dash after "In this chapter" in text preceding par. (1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEMONSTRATION PROJECT ON SERVICE OF RETIRED NURSE CORPS OFFICERS AS FACULTY AT CIVILIAN NURSING SCHOOLS**

Pub. L. 110–417, [div. A], title V, §597, Oct. 14, 2008, 122 Stat. 4479, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(8), Jan. 7, 2011, 124 Stat. 4375, which authorized the Secretary of Defense to conduct a demonstration project to encourage retired military nurses to serve as faculty at civilian nursing schools, expired on June 30, 2014.

## §2121. Establishment

(a)(1) For the purpose of obtaining adequate numbers of commissioned officers on active duty

who are qualified (A) in the various health professions or (B) as a health professional with specific skills to assist in providing mental health care to members of the armed forces, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, may establish and maintain a health professions scholarship and financial assistance program for his department.

(2) Under the program of a military department, the Secretary of that military department shall allocate a portion of the total number of scholarships to members of the program described in paragraph (1)(B) for the purpose of assisting such members to pursue a degree at the masters and doctoral level in any of the following disciplines:

(A) Social work.

(B) Clinical psychology.

(C) Psychiatry.

(D) Other disciplines that contribute to mental health care programs in that military department.

(b) The program shall consist of courses of study and specialized training in designated health professions, with obligatory periods of military training.

(c)(1) Persons participating in the program shall be commissioned officers in reserve components of the armed forces. Members pursuing a course of study shall serve on active duty in pay grade O–1 with full pay and allowances of that grade for a period of 45 days during each year of participation in the program. Members pursuing specialized training shall serve on active duty in a pay grade commensurate with their educational level, as determined by appointment under section 12207 of this title, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program. They shall be detailed as students at accredited civilian institutions, located in the United States or Puerto Rico, for the purpose of acquiring knowledge or training in a designated health profession. In addition, members of the program shall, under regulations prescribed by the Secretary of Defense, receive military and professional training and instruction.

(2) If a member of the uniformed services selected to participate in the program as a medical student has prior active service in a pay grade and with years of service credited for pay that would entitle the member, if the member remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the member shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the member shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the member shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after the conclusion of such participation, on which the basic pay for the member in the member's actual grade and years of service credited for pay exceeds the amount of basic pay to which the member is entitled based on the member's former grade and years of service.

(d) Except when serving on active duty pursuant to subsection (c), a member of the program shall be entitled to a stipend at a monthly rate established by the Secretary of Defense, but not to exceed a total of $50,000 per year. The maximum annual amount of the stipend shall be increased annually by the Secretary of Defense effective on July 1 of each year by an amount (rounded to the next highest multiple of $1) equal to—

(1) the amount of such stipend (as previously adjusted (if at all)), multiplied by

(2) the overall percentage of the adjustment (if such adjustment is an increase) in the rates of basic pay for members of the uniformed services made effective for the fiscal year in which the school year ends.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 717; amended Pub. L. 96–107, title VIII, §804(a), Nov. 9, 1979, 93 Stat. 812; Pub. L. 98–94, title IX, §935(a), Sept. 24, 1983, 97 Stat. 652; Pub. L. 101–189, div. A, title VII, §725(b), Nov. 29, 1989, 103 Stat. 1479; Pub. L. 101–510, div. A, title XIV, §1484(k)(7), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 104–106, div. A, title XV, §1501(c)(22), Feb. 10, 1996, 110 Stat. 499; Pub. L. 109–364, div. A, title V, §538(a), Oct. 17, 2006, 120 Stat. 2209; Pub. L. 110–181, div. A, title V, §524(b), Jan. 28, 2008, 122 Stat. 103; Pub. L. 111–84, div. A, title V, §524(a), Oct. 28, 2009, 123 Stat. 2285; Pub. L. 118–31, div. A, title VII, §712, Dec. 22, 2023, 137 Stat. 302.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d). Pub. L. 118–31 substituted "$50,000" for "$30,000" in introductory provisions.

**2009**—Subsec. (a). Pub. L. 111–84 designated existing provisions as par. (1), substituted "(A) in the various health professions or (B) as a health professional with specific skills to assist in providing mental health care to members of the armed forces" for "in the various health professions", and added par. (2).

**2008**—Subsec. (c). Pub. L. 110–181 designated existing provisions as par. (1) and added par. (2).

**2006**—Subsec. (d). Pub. L. 109–364, in introductory provisions, substituted "at a monthly rate established by the Secretary of Defense, but not to exceed a total of $30,000 per year" for "at the rate of $579 per month" and "The maximum annual amount of the stipend" for "That rate".

**1996**—Subsec. (c). Pub. L. 104–106 substituted "section 12207" for "section 3353, 5600, or 8353".

**1990**—Subsec. (c). Pub. L. 101–510 substituted "section" for "sections" in third sentence.

**1989**—Subsec. (a). Pub. L. 101–189, §725(b)(1), substituted "scholarship and financial assistance program" for "scholarship program".

Subsec. (b). Pub. L. 101–189, §725(b)(2), substituted "study and specialized training" for "study".

Subsec. (c). Pub. L. 101–189, §725(b)(3), substituted "pursuing a course of study" for "of the program" and inserted after second sentence "Members pursuing specialized training shall serve on active duty in a pay grade commensurate with their educational level, as determined by appointment under sections 3353, 5600, or 8353 of this title, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program."

**1983**—Subsec. (d). Pub. L. 98–94 amended subsec. (d) generally, substituting "a stipend at the rate of $579 per month" for "a stipend at the rate in effect under paragraph (1)(B) of section 751(g) of the Public Health Service Act (42 U.S.C. 294t(g)) for students in the National Health Service Corps Scholarship program" and inserting provision relating to an annual increase in the rate by the Secretary of Defense effective on July 1 of each year.

**1979**—Subsec. (d). Pub. L. 96–107 substituted provisions relating to entitlement to a stipend at the rate in effect for students in the National Health Services Corps Scholarship program, for provisions authorizing a stipend at the rate of $400 per month.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §538(d), Oct. 17, 2006, 120 Stat. 2210, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section and section 2127 of this title] shall take effect on October 1, 2006.

"(2) PROHIBITION ON ADJUSTMENTS.—The adjustments required by the second sentence of subsection (d) of section 2121 of title 10, United States Code, and the second sentence of subsection (e) of section 2127 of such title to be made in 2007 shall not be made."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c)(22), Feb. 10, 1996, 110 Stat. 499, provided that the amendment made by that section is effective on the effective date specified in section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title IX, §935(b), Sept. 24, 1983, 97 Stat. 652, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1983."

### EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–107, title VIII, §804(c), Nov. 9, 1979, 93 Stat. 812, provided that: "The amendments made by this section [amending this section and section 313 of Title 37, Pay and Allowances of the Uniformed Services] shall take effect on October 1, 1979."

## MEMBERS OF RESERVE COMPONENTS; SPECIALIZED TRAINING ASSISTANCE IN THE HEALTH PROFESSIONS

Pub. L. 99–145, title VI, §672(a)–(h), (j), Nov. 8, 1985, 99 Stat. 663, 664, effective Oct. 1, 1985, related to establishment and maintenance of program to provide financial assistance to persons engaged in specialized training in health professions who agree to incur Selective Reserve obligation of 3 years for each year for which financial assistance is provided, prior to repeal by Pub. L. 100–180, div. A, title VII, §711(c)(1), (e)(1), Dec. 4, 1987, 101 Stat. 1111, effective Dec. 4, 1987, subject to a savings provision, see below.

Pub. L. 100–180, div. A, title VII, §711(c)(2), Dec. 4, 1987, 101 Stat. 1111, provided that: "The repeal of section 672 of the Department of Defense Authorization Act, 1986 [section 672 of Pub. L. 99–145, see above], by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement."

## §2122. Eligibility for participation

(a) To be eligible for participation as a member of the program, a person must be a citizen of the United States and must—

(1) be accepted for admission to, or enrolled in, an institution in a course of study or selected to receive specialized training;

(2) sign an agreement that unless sooner separated he will—

(A) complete the educational phase of the program;

(B) accept an appropriate reappointment or designation within his military service, if tendered, based upon his health profession, following satisfactory completion of the program;

(C) participate in the intern program of his service if selected for such participation;

(D) participate in the residency program of his service, if selected, or be released from active duty for the period required to undergo civilian residency if selected for such training; and

(E) because of his sincere motivation and dedication to a career in the uniformed services, participate in military training while he is in the program, under regulations prescribed by the Secretary of Defense; and

(3) meet the requirements for appointment as a commissioned officer.

(b) The Secretary of Defense may require, as part of the agreement under subsection (a)(2), that a person must agree to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 717; amended Pub. L. 100–180, div. A, title VII, §712(a), Dec. 4, 1987, 101 Stat. 1112; Pub. L. 101–189, div. A, title VII, §725(c), Nov. 29, 1989, 103 Stat. 1479.)

### EDITORIAL NOTES

### AMENDMENTS

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "study or selected to receive specialized training" for "study, as that term is defined in section 2120(3) of this title".

**1987**—Pub. L. 100–180 designated existing provisions as subsec. (a) and added subsec. (b).

## §2123. Members of the program: active duty obligation; failure to complete training; release from program

(a) A member of the program incurs an active duty obligation. The amount of his obligation shall be determined under regulations prescribed by the Secretary of Defense, but those regulations may not provide for a period of obligation of less than one year for each year of participation in the program.

(b) A period of time spent in military intern or residency training shall not be creditable in satisfying an active duty obligation imposed by this section.

(c) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section.

(d) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member of the program who is dropped from the program from an active duty obligation imposed by this section, but such relief shall not relieve him from any military obligation imposed by any other law.

(e)(1) A member of the program who is relieved of the member's active duty obligation under this subchapter before the completion of that active duty obligation may be given, with or without the consent of the member, any of the following alternative obligations, as determined by the Secretary of the military department concerned:

(A) A service obligation in another armed force for a period of time not less than the member's remaining active duty service obligation.

(B) A service obligation in a component of the Selected Reserve for a period not less than twice as long as the member's remaining active duty service obligation.

(C) Repayment to the Secretary of Defense of a percentage of the total cost incurred by the Secretary under this subchapter on behalf of the member pursuant to the repayment provisions of section 303a(e) or 373 of title 37.

(2) In addition to the alternative obligations specified in paragraph (1), if the member is relieved of an active duty obligation by reason of the separation of the member because of a physical disability, the Secretary of the military department concerned may give the member a service obligation as a civilian employee employed as a health care professional in a facility of the uniformed services for a period of time equal to the member's remaining active duty service obligation.

(3) The Secretary of Defense shall prescribe regulations describing the manner in which an alternative obligation may be given under this subsection.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 718; amended Pub. L. 96–513, title V, §511(67), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 100–180, div. A, title VII, §711(a)(2), Dec. 4, 1987, 101 Stat. 1108; Pub. L. 101–597, title IV, §401(b), Nov. 16, 1990, 104 Stat. 3035; Pub. L. 104–201, div. A, title VII, §741(a), Sept. 23, 1996, 110 Stat. 2599; Pub. L. 109–163, div. A, title VI, §687(c)(5), Jan. 6, 2006, 119 Stat. 3334; Pub. L. 115–91, div. A, title VI, §618(a)(1)(E), Dec. 12, 2017, 131 Stat. 1426.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (e)(1)(C). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Subsec. (e)(1)(C). Pub. L. 109–163 substituted "pursuant to the repayment provisions of section 303a(e) of title 37." for "equal to the percentage of the member's total active duty service obligation being relieved, plus interest."

**1996**—Subsec. (e). Pub. L. 104–201 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Any member of the program relieved of his active duty obligation under this subchapter before the completion of such obligation may, under regulations prescribed by the Secretary of Defense, be assigned to a health professional shortage area designated by the Secretary of Health and Human Services for a period equal to the period of obligation from which he was relieved."

**1990**—Subsec. (e). Pub. L. 101–597 substituted "a health professional shortage area" for "an area of health manpower shortage".

**1987**—Subsec. (e). Pub. L. 100–180 substituted "subchapter" for "chapter".

**1980**—Subsec. (e). Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 applicable with respect to individuals who first become members of Armed Forces Health Professions Scholarship and Financial Assistance program or students of Uniformed Services University of the Health Sciences on or after Oct. 1, 1996, see section 741(c) of Pub. L. 104–201, set out as a note under section 2114 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**SAVINGS PROVISION**

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

**TRANSITION PROVISIONS**

Pub. L. 104–201, div. A, title VII, §741(d)(1), Sept. 23, 1996, 110 Stat. 2600, provided that: "In the case of any member of the Armed Forces Health Professions Scholarship and Financial Assistance program who, as of October 1, 1996, is serving an active duty obligation under the program or is incurring an active duty obligation as a participant in the program, and who is subsequently relieved of the active duty obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (a) [amending this section] may be used by the Secretary of the military department concerned with the agreement of the member."

## §2124. Members of the program: numbers appointed

(a) AUTHORIZED NUMBER OF MEMBERS OF THE PROGRAM.—The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated may not, at any time, exceed 6,300.

(b) MENTAL HEALTH PROFESSIONALS.—Of the number of persons designated as members of the program at any time, 300 may be members of the program described in section 2121(a)(1)(B) of this title.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 718; amended Pub. L. 99–145, title VI, §672(i), Nov. 8, 1985, 99 Stat. 664; Pub. L. 100–180, div. A, title VII, §§711(a)(2), 712(b)(1), Dec. 4, 1987, 101 Stat. 1108, 1112; Pub. L. 101–189, div. A, title VII, §725(g), Nov. 29, 1989, 103 Stat. 1480; Pub. L. 102–190, div. A, title VII, §717, Dec. 5, 1991, 105 Stat. 1404; Pub. L. 111–84, div. A, title V, §524(b), Oct. 28, 2009, 123 Stat. 2285.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2009**—Pub. L. 111–84 designated existing provisions as subsec. (a), inserted heading, substituted "6,300" for "6,000", and added subsec. (b).

**1991**—Pub. L. 102–190 substituted "except that the total number of persons so designated may not, at any time, exceed 6,000." for "except that—

"(1) the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 6,000; and

"(2) after September 30, 1991, of the total number of persons so designated, at least 2,500 shall be persons—

"(A) who are in the final two years of their course of study; and

"(B) who have agreed to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill."

**1989**—Par. (2). Pub. L. 101–189 inserted "after September 30, 1991," after "(2)".

**1987**—Pub. L. 100–180, §712(b)(1), substituted "except that—" and pars. (1) and (2) for "except that the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any

time, exceed 6,000."

Pub. L. 100–180, §711(a)(2), substituted "subchapter" for "chapter".

**1985**—Pub. L. 99–145 substituted "6,000" for "5,000".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. A, title VII, §712(b)(2), Dec. 4, 1987, 101 Stat. 1112, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1989."

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title VI, §672(j), Nov. 8, 1985, 99 Stat. 664, which provided that amendment made by that section was to take effect on Oct. 1, 1985, was repealed by Pub. L. 100–180, §711(c)(1), (e)(1), eff. Dec. 4, 1987.

**REPEALS**

The directory language of, but not the amendment made by, Pub. L. 99–145, title VI, §672(i), Nov. 8, 1985, 99 Stat. 664, cited as a credit to this section, was repealed by Pub. L. 100–180, §711(c)(1), (e)(1), eff. Dec. 4, 1987.

## §2125. Members of the program: exclusion from authorized strengths

Notwithstanding any other provision of law, members of the program shall not be counted against any prescribed military strengths.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 718.)

## §2126. Members of the program: service credit

(a) SERVICE NOT CREDITABLE.—Except as provided in subsection (b), service performed while a member of the program shall not be counted—

(1) in determining eligibility for retirement other than by reason of a physical disability incurred while on active duty as a member of the program; or

(2) in computing years of service creditable under section 205 of title 37.

(b) SERVICE CREDITABLE FOR CERTAIN PURPOSES.—(1) The Secretary concerned may authorize service performed by a member of the program in pursuit of a course of study under this subchapter to be counted in accordance with this subsection if the member—

(A) completes the course of study;

(B) completes the active duty obligation imposed under section 2123(a) of this title; and

(C) possesses a specialty designated by the Secretary concerned as critically needed in wartime.

(2) Service credited under paragraph (1) counts only for the award of retirement points for computation of years of service under section 12732 of this title and for computation of retired pay under section 12733 of this title.

(3) The number of points credited to a member under paragraph (1) for a year of participation in a course of study is 50. The points shall be credited to the member for one of the years of that participation at the end of each year after the completion of the course of study that the member serves in the Selected Reserve and is credited under section 12732(a)(2) of this title with at least 50 points. The points credited for the participation shall be recorded in the member's records as having been earned in the year of the participation in the course of study.

(4) Service may not be counted under paragraph (1) for more than four years of participation in a course of study as a member of the program.

(5) A member of the Selected Reserve may be considered to be in an active status while pursuing

a course of study under this subchapter only for purposes of sections 12732(a) and 12733(3) of this title.

(6) A member is not entitled to any retroactive award of, or increase in, pay or allowances under title 37 by reason of an award of service credit under paragraph (1).

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 718; amended Pub. L. 96–513, title V, §501(22), Dec. 12, 1980, 94 Stat. 2908; Pub. L. 104–201, div. A, title V, §543(a), Sept. 23, 1996, 110 Stat. 2521; Pub. L. 106–65, div. A, title V, §544, Oct. 5, 1999, 113 Stat. 608.)

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Subsec. (b)(2). Pub. L. 106–65, §544(1), added par. (2) and struck out former par. (2) which read as follows: "Service credited under paragraph (1) counts only for the following purposes:

"(A) Award of retirement points for computation of years of service under section 12732 of this title and for computation of retired pay under section 12733 of this title.

"(B) Computation of years of service creditable under section 205 of title 37."

Subsec. (b)(3). Pub. L. 106–65, §544(1), added par. (3) and struck out former par. (3) which read as follows: "For purposes of paragraph (2)(A), a member may be credited in accordance with paragraph (1) with not more than 50 points for each year of participation in a course of study that the member satisfactorily completes as a member of the program."

Subsec. (b)(5), (6). Pub. L. 106–65, §544(2), (3), added par. (5) and redesignated former par. (5) as (6).

**1996**—Pub. L. 104–201 designated existing provisions as subsec. (a), inserted heading, substituted "Except as provided in subsection (b), service performed" for "Service performed", and added subsec. (b).

**1980**—Cl. (2). Pub. L. 96–513 struck out ", other than subsection (a)(7) and (8)," after "section 205".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §2127. Scholarships and financial assistance: payments

(a) The Secretary of Defense may provide for the payment of all educational expenses incurred by a member of the program, including tuition, fees, books, and laboratory expenses. Such payments, however, shall be limited to those educational expenses normally incurred by students at the institution and in the health profession concerned who are not members of the program.

(b) The Secretary of Defense may contract with an accredited civilian educational institution for the payment of tuition and other educational expenses of members of the program authorized by this subchapter. Payment to such institutions may be made without regard to subsections (a) and (b) of section 3324 of title 31.

(c) Payments made under subsection (b) shall not cover any expenses other than those covered by subsection (a).

(d) When the Secretary of Defense determines, under regulations prescribed by the Secretary of Health and Human Services, that an accredited civilian educational institution has increased its total enrollment for the sole purpose of accepting members of the program covered by this subchapter, he may provide under a contract with such an institution for additional payments to cover the portion of the increased costs of the additional enrollment which are not covered by the institution's normal tuition and fees.

(e) A person participating as a member of the program in specialized training shall be paid an annual grant in an amount not to exceed $45,000 in addition to the stipend under section 2121(d) of this title. The maximum amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends.

(Added Pub. L. 92–426, §2(a), Sept. 21, 1972, 86 Stat. 718; amended Pub. L. 96–513, title V, §511(67), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 97–258, §3(b)(3), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98–525, title XIV, §1405(56)(A), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 100–180, div. A, title VII, §711(a)(2), Dec. 4, 1987, 101 Stat. 1108; Pub. L. 101–189, div. A, title VII, §725(d)(1), (2), Nov. 29, 1989, 103 Stat. 1479; Pub. L. 109–364, div. A, title V, §538(b), Oct. 17, 2006, 120 Stat. 2209; Pub. L. 111–84, div. A, title X, §1073(a)(19), Oct. 28, 2009, 123 Stat. 2473.)

### EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsec. (e). Pub. L. 111–84 struck out "of" after "an annual grant".

**2006**—Subsec. (e). Pub. L. 109–364 substituted "in an amount not to exceed $45,000" for "$15,000" and "The maximum amount" for "The amount".

**1989**—Pub. L. 101–189, §725(d)(2), substituted "Scholarships and financial assistance" for "Contracts for scholarships" in section catchline.

Subsec. (e). Pub. L. 101–189, §725(d)(1), added subsec. (e).

**1987**—Subsecs. (b), (d). Pub. L. 100–180 substituted "subchapter" for "chapter".

**1984**—Subsec. (b). Pub. L. 98–525 substituted "subsections (a) and (b) of section 3324" for "section 3324(a) and (b)".

**1982**—Subsec. (b). Pub. L. 97–258 substituted "section 3324(a) and (b) of title 31" for "section 3648 of the Revised Statutes (31 U.S.C. 529)".

**1980**—Subsec. (d). Pub. L. 96–513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Oct. 1, 2006, except that adjustments required by the second sentence of subsec. (e) of this section to be made in 2007 shall not be made, see section 538(d) of Pub. L. 109–364, set out as a note under section 2121 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPORTS ON IMPLEMENTATION AND ON SUCCESS OF FINANCIAL ASSISTANCE PROGRAM

Pub. L. 101–189, div. A, title VII, §725(e), Nov. 29, 1989, 103 Stat. 1479, directed Secretary of Defense, not later than Mar. 1, 1990, to submit to Congress a report describing the manner in which the new authority provided by such section 725 (amending 10 U.S.C. 2120 to 2122, 2124, and 2127) was implemented.

Pub. L. 101–189, div. A, title VII, §725(f), Nov. 29, 1989, 103 Stat. 1479, directed Secretary of Defense, not later than Mar. 1, 1991, to submit to Congress a report evaluating the success of the financial assistance program established by such section 725 and describing the number of participants in the program receiving specialized training payments under 10 U.S.C. 2127(e) and the projected number of officers to be gained, by specialty, as a result of the program for each military department.

## §2128. Accession bonus for members of the program

(a) AVAILABILITY OF BONUS.—The Secretary of Defense may offer a person who enters into an agreement under section 2122(a)(2) of this title an accession bonus of not more than $100,000 as part of the agreement.

(b) RELATION TO OTHER PAYMENTS.—An accession bonus paid a person under this section is in addition to any other amounts payable to the person under this subchapter.

(c) REPAYMENT.—A person who receives an accession bonus under this section, but fails to comply with the agreement under section 2122(a)(2) of this title or to commence or complete the

active duty obligation imposed by section 2123 of this title, shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Added Pub. L. 110–181, div. A, title VI, §623(a), Jan. 28, 2008, 122 Stat. 152; amended Pub. L. 115–91, div. A, title VI, §618(a)(1)(F), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 118–159, div. A, title VI, §612, Dec. 23, 2024, 138 Stat. 1933.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 2128 to 2130 were renumbered sections 16201 to 16203 of this title, respectively.

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159 substituted "$100,000" for "$20,000".
**2017**—Subsec. (c). Pub. L. 115–91 inserted "or 373" before "of title 37".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 110–181, div. A, title VI, §623(c), Jan. 28, 2008, 122 Stat. 152, provided that: "The amendment made by subsection (a) [enacting this section] shall apply with respect to agreements entered into under section 2122(a)(2) of title 10, United States Code, on or after the date of the enactment of this Act [Jan. 28, 2008]."

## SUBCHAPTER II—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

Sec.
2130a. Financial assistance: nurse officer candidates.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior subchapter II heading and analysis consisting of items 2128 to 2130 was repealed and sections 2128 to 2130 of this title were renumbered sections 16201 to 16203 of this title, respectively, by Pub. L. 103–337, div. A, title XVI, §1663(c)(2)–(4)(A), (7)(B), Oct. 5, 1994, 108 Stat. 3007, 3008.

**AMENDMENTS**

**1994**—Pub. L. 103–337, div. A, title XVI, §1663(c)(7)(C), Oct. 5, 1994, 108 Stat. 3008, redesignated subchapter III of this chapter as this subchapter.
**1991**—Pub. L. 101–189, div. A, title VII, §707(a), Nov. 29, 1989, 103 Stat. 1474, added subchapter heading and item 2130a.

### §2130a. Financial assistance: nurse officer candidates

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on December 31, 2026, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $40,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $20,000.

(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for each month the individual is enrolled as a full-time student in

an accredited baccalaureate degree program in nursing at a civilian educational institution by the Secretary selecting the person. The continuation bonus may be paid for not more than 24 months.

(b) ELIGIBLE STUDENTS.—A person eligible to enter into an agreement under subsection (a) is a person who—

(1) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Corps program established under section 2102 of this title by the Secretary selecting the person or that has a Senior Reserve Officers' Training Corps program for which the student is ineligible;

(2) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation; and

(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 12201 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

(c) REQUIRED AGREEMENT.—The agreement referred to in subsection (a) shall provide that the person executing the agreement agrees to the following:

(1) That the person will complete the nursing degree program described in subsection (b)(1).

(2) That, upon acceptance of the agreement by the Secretary concerned, the person will enlist in a reserve component of an armed force.

(3) That the person will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service, as the case may be, upon graduation from the nursing degree program.

(4) That the person will serve on active duty as such an officer—

(A) for a period of 4 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's fourth year of the nursing degree program; or

(B) for a period of 5 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's third year of the nursing degree program.

(d) REPAYMENT.—A person who does not complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under subsection (a), or having completed the nursing degree program, does not become an officer in the Nurse Corps of the Army or the Navy or an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service or does not complete the period of obligated active service required under the agreement, shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.

(Added Pub. L. 101–189, div. A, title VII, §707(a), Nov. 29, 1989, 103 Stat. 1474; amended Pub. L. 101–510, div. A, title VI, §613(c), title XIV, §1484(d)(1), Nov. 5, 1990, 104 Stat. 1577, 1716; Pub. L. 102–190, div. A, title VI, §612(c)(1), Dec. 5, 1991, 105 Stat. 1376; Pub. L. 102–484, div. A, title VI, §612(h), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, §611(a), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 103–337, div. A, title VI, §612(a), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, §612(a), title XV, §1501(c)(23), Feb. 10, 1996, 110 Stat. 359, 499; Pub. L. 104–201, div. A, title VI, §612(a), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, §612(a), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §612(a), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §612(a), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, §1 [[div. A], title VI, §622(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title V, §538, title VI, §612(a), Dec. 28, 2001, 115 Stat. 1107, 1135; Pub. L. 107–314, div. A, title VI, §§612(a), 615(h), Dec. 2, 2002, 116 Stat. 2567, 2569; Pub. L. 108–136, div. A, title VI, §612(a), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §612(a), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§622(a), 687(c)(6), Jan. 6, 2006, 119 Stat. 3294, 3334; Pub. L. 109–364, div. A, title VI, §612(a), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §612(a), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title

VI, §§612(a), 616(a), (b), Oct. 14, 2008, 122 Stat. 4484, 4486; Pub. L. 111–84, div. A, title VI, §612(a)(1), title X, §1073(c)(3), Oct. 28, 2009, 123 Stat. 2353, 2474; Pub. L. 111–383, div. A, title VI, §612(a)(1), title X, §1075(b)(28), Jan. 7, 2011, 124 Stat. 4236, 4370; Pub. L. 112–81, div. A, title VI, §612(a)(1), Dec. 31, 2011, 125 Stat. 1449; Pub. L. 112–239, div. A, title VI, §612(a)(1), Jan. 2, 2013, 126 Stat. 1776; Pub. L. 113–66, div. A, title VI, §612(a)(1), Dec. 26, 2013, 127 Stat. 780; Pub. L. 113–291, div. A, title VI, §612(a)(1), Dec. 19, 2014, 128 Stat. 3400; Pub. L. 114–92, div. A, title VI, §612(a)(1), Nov. 25, 2015, 129 Stat. 838; Pub. L. 114–328, div. A, title VI, §612(a)(1), Dec. 23, 2016, 130 Stat. 2157; Pub. L. 115–91, div. A, title VI, §§612(a)(1), 618(a)(1)(G), Dec. 12, 2017, 131 Stat. 1421, 1426; Pub. L. 115–232, div. A, title VI, §611(b)(1), Aug. 13, 2018, 132 Stat. 1797; Pub. L. 116–92, div. A, title VI, §611(b)(1), Dec. 20, 2019, 133 Stat. 1426; Pub. L. 116–283, div. A, title VI, §611(b)(1), Jan. 1, 2021, 134 Stat. 3673; Pub. L. 117–81, div. A, title VI, §611(b)(1), Dec. 27, 2021, 135 Stat. 1769; Pub. L. 117–263, div. A, title VI, §601(b)(1), Dec. 23, 2022, 136 Stat. 2619; Pub. L. 118–31, div. A, title V, §544, title VI, §613(b)(1), Dec. 22, 2023, 137 Stat. 265, 291; Pub. L. 118–159, div. A, title VI, §611(b)(1), Dec. 23, 2024, 138 Stat. 1932; Pub. L. 119–60, div. A, title VI, §611(b)(1), Dec. 18, 2025, 139 Stat. 906.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(1). Pub. L. 119–60 substituted "December 31, 2026" for "December 31, 2025".

**2024**—Subsec. (a)(1). Pub. L. 118–159 substituted "December 31, 2025" for "December 31, 2024".

**2023**—Subsec. (a)(1). Pub. L. 118–31, §613(b)(1), substituted "December 31, 2024" for "December 31, 2023".

Pub. L. 118–31, §544, substituted "$40,000" for "$20,000" and "$20,000" for "$10,000".

**2022**—Subsec. (a)(1). Pub. L. 117–263 substituted "December 31, 2023" for "December 31, 2022".

**2021**—Subsec. (a)(1). Pub. L. 117–81 substituted "December 31, 2022" for "December 31, 2021".

Pub. L. 116–283 substituted "December 31, 2021" for "December 31, 2020".

**2019**—Subsec. (a)(1). Pub. L. 116–92 substituted "December 31, 2020" for "December 31, 2019".

**2018**—Subsec. (a)(1). Pub. L. 115–232 substituted "December 31, 2019" for "December 31, 2018".

**2017**—Subsec. (a)(1). Pub. L. 115–91, §612(a)(1), substituted "December 31, 2018" for "December 31, 2017".

Subsec. (d). Pub. L. 115–91, §618(a)(1)(G), inserted "or 373" before "of title 37".

**2016**—Subsec. (a)(1). Pub. L. 114–328 substituted "December 31, 2017" for "December 31, 2016".

**2015**—Subsec. (a)(1). Pub. L. 114–92 substituted "December 31, 2016" for "December 31, 2015".

**2014**—Subsec. (a)(1). Pub. L. 113–291 substituted "December 31, 2015" for "December 31, 2014".

**2013**—Subsec. (a)(1). Pub. L. 113–66 substituted "December 31, 2014" for "December 31, 2013".

Pub. L. 112–239 substituted "December 31, 2013" for "December 31, 2012".

**2011**—Subsec. (a)(1). Pub. L. 112–81 substituted "December 31, 2012" for "December 31, 2011".

Pub. L. 111–383, §612(a)(1), substituted "December 31, 2011" for "December 31, 2010".

Subsec. (b)(1). Pub. L. 111–383, §1075(b)(28), substituted "Training Corps program" for "Training Program" in two places.

**2009**—Subsec. (a)(1). Pub. L. 111–84, §612(a)(1), substituted "December 31, 2010" for "December 31, 2009".

Subsec. (a)(2). Pub. L. 111–84, §1073(c)(3), made technical amendment to directory language of Pub. L. 110–417, §616(b). See 2008 Amendment note below.

**2008**—Subsec. (a)(1). Pub. L. 110–417, §616(a), substituted "$20,000" for "$10,000" and "$10,000" for "$5,000".

Pub. L. 110–417, §612(a), substituted "December 31, 2009" for "December 31, 2008".

Pub. L. 110–181 substituted "December 31, 2008" for "December 31, 2007".

Subsec. (a)(2). Pub. L. 110–417, §616(b), as amended by Pub. L. 111–84, §1073(c)(3), substituted "in an amount not to exceed the stipend rate in effect under section 2121(d) of this title" for "of not more than $1,000".

**2006**—Subsec. (a)(1). Pub. L. 109–364 substituted "December 31, 2007" for "December 31, 2006".

Pub. L. 109–163, §622(a), substituted "December 31, 2006" for "December 31, 2005".

Subsec. (d). Pub. L. 109–163, §687(c)(6), amended heading and text of subsec. (d) generally. Prior to amendment, text related to persons required to refund accession bonuses or stipends in par. (1), treatment of a

reimbursement obligation as a debt owed to the United States in par. (2), and the effect of a discharge in bankruptcy in par. (3).

**2004**—Subsec. (a)(1). Pub. L. 108–375 substituted "December 31, 2005" for "December 31, 2004".

**2003**—Subsec. (a)(1). Pub. L. 108–136 substituted "December 31, 2004" for "December 31, 2003".

**2002**—Subsec. (a)(1). Pub. L. 107–314 substituted "December 31, 2003" for "December 31, 2002" and "$10,000" for "$5,000" in first sentence and "$5,000" for "$2,500" in second sentence.

Subsec. (a)(2). Pub. L. 107–314, §615(h)(2), substituted "$1,000" for "$500".

**2001**—Subsec. (a)(1). Pub. L. 107–107, §612(a), substituted "December 31, 2002" for "December 31, 2001".

Subsec. (a)(2). Pub. L. 107–107, §538(1), struck out "that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title" after "civilian educational institution".

Subsec. (b)(1). Pub. L. 107–107, §538(2), inserted "or that has a Senior Reserve Officers' Training Program for which the student is ineligible" before semicolon at end.

**2000**—Subsec. (a)(1). Pub. L. 106–398 substituted "December 31, 2001" for "December 31, 2000".

**1999**—Subsec. (a)(1). Pub. L. 106–65 substituted "December 31, 2000" for "December 31, 1999".

**1998**—Subsec. (a)(1). Pub. L. 105–261 substituted "December 31, 1999" for "September 30, 1999".

**1997**—Subsec. (a)(1). Pub. L. 105–85 substituted "September 30, 1999" for "September 30, 1998".

**1996**—Subsec. (a)(1). Pub. L. 104–201 substituted "September 30, 1998" for "September 30, 1997".

Pub. L. 104–106, §612(a), substituted "September 30, 1997" for "September 30, 1996".

Subsec. (b)(3). Pub. L. 104–106, §1501(c)(23), substituted "section 12201" for "section 591".

**1994**—Subsec. (a)(1). Pub. L. 103–337 substituted "September 30, 1996" for "September 30, 1995".

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "September 30, 1995" for "September 30, 1993".

**1992**—Subsec. (a)(1). Pub. L. 102–484 substituted "September 30, 1993" for "September 30, 1992".

**1991**—Subsec. (a)(1). Pub. L. 102–190 made amendment identical to that made by Pub. L. 101–510, §613(c)(1). See 1990 Amendment note below.

**1990**—Subsec. (a)(1). Pub. L. 101–510, §1484(d)(1)(A), substituted "November 29, 1989," for "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991".

Pub. L. 101–510, §613(c)(1), substituted "September 30, 1992," for "September 30, 1991,".

Subsecs. (a)(2), (b)(1). Pub. L. 101–510, §613(c)(2), inserted "by the Secretary selecting the person" after "section 2102 of this title".

Subsec. (d)(3). Pub. L. 101–510, §1484(d)(1)(B), substituted "November 29, 1989" for "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(3) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

### CORRECTION OF LAPSED AUTHORITIES FOR PAYMENT OF BONUSES, SPECIAL PAYS, AND SIMILAR BENEFITS FOR MEMBERS OF THE UNIFORMED SERVICES

Pub. L. 110–181, div. A, title VI, §610, Jan. 28, 2008, 122 Stat. 147, provided that:

"(a) RETROACTIVE EFFECTIVE DATE FOR PAYMENT AUTHORITIES.—The amendments made by sections 611, 612, 613, and 614 [amending this section and section 16302 of this title and sections 301b, 302d, 302e, 302g, 302h, 302j to 302l, 308, 308b, 308c, 308d, 308g to 308i, 309, 312, 312b, 312c, 323, 324, 326, 330, and 402 of Title 37, Pay and Allowances of the Uniformed Services] shall take effect as of December 31, 2007.

"(b) RATIFICATION OF EXISTING CONTINGENT AGREEMENTS.—In the case of a provision of title

10 or 37, United States Code, amended by section 611, 612, 613, or 614 under which an individual must enter into an agreement with the Secretary concerned for receipt of a bonus, special pay, or similar benefit, the Secretary concerned may treat any agreement entered into under such a provision during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act [Jan. 28, 2008] as having taken effect as of the date on which the agreement was signed by the individual.

"(c) TEMPORARY ADDITIONAL AGREEMENT AUTHORITY.—

"(1) AUTHORITY.—In the case of a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 under which an individual must enter into an agreement with the Secretary concerned for receipt of a bonus, special pay, or similar benefit, the Secretary concerned, during the 120-day period beginning on the date of the enactment of this Act [Jan. 28, 2008], may treat any agreement entered into under such a provision by an individual described in paragraph (2) as having been signed by the individual during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act.

"(2) COVERED INDIVIDUALS.—An individual referred to in paragraph (1) is an individual who would have met all of the qualifications for a bonus, special pay, or similar benefit under a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 at any time during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act, but for the fact that the statutory authority for the bonus, special pay, or similar benefit lapsed on December 31, 2007.

"(d) TAX TREATMENT.—The payment of a bonus, special pay, or similar benefit under a provision of title 10 or 37, United States Code, amended by section 611, 612, 613, or 614 to an individual who would have been entitled to the tax treatment accorded by section 112 of the Internal Revenue Code of 1986 [26 U.S.C. 112] on the date on which the member would have otherwise earned the bonus, special pay, or similar benefit, but for the fact that the statutory authority for the bonus, special pay, or similar benefit lapsed on December 31, 2007, shall be treated as covered by such section 112.

"(e) RETROACTIVE IMPLEMENTATION OF ARMY REFERRAL BONUS.—The Secretary of the Army may pay a bonus under [former] section 3252 of title 10, United States Code, as added by section 671(a)(1), to an individual referred to in subsection (a)(2) of such section 3252 who made a referral, as described in subsection (b) of such section 3252, to an Army recruiter during the period beginning on January 1, 2008, and ending on the date of the enactment of this Act [Jan. 28, 2008].

"(f) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code."

## APPLICATION OF INCREASE

In case of amendment by section 615(h) of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of Title 37, Pay and Allowances of the Uniformed Services.

## COVERAGE OF PERIOD OF LAPSED AUTHORITY

Pub. L. 103–160, div. A, title VI, §611(d), Nov. 30, 1993, 107 Stat. 1679, provided that:

"(1) In the case of a person described in paragraph (2) who executes an agreement described in paragraph (3) during the 90-day period beginning on the date of the enactment of this Act [Nov. 30, 1993], the Secretary concerned may treat the agreement for purposes of the accession bonus, monthly stipend, or special pay authorized under the agreement as having been executed and accepted on the first date on which the person would have qualified for such an agreement had the amendments made by this section [amending this section and sections 302d and 302e of Title 37, Pay and Allowances of the Uniformed Services] taken effect on October 1, 1993.

"(2) A person referred to in paragraph (1) is a person described in section 2130a(b) of title 10, United States Code, or section 302d(a)(1) or 302e(b) of title 37, United States Code, who, during the period beginning on October 1, 1993, and ending on the date of the enactment of this Act, would have qualified for an agreement described in paragraph (3) had the amendments made by this section taken effect on October 1, 1993.

"(3) An agreement referred to in this subsection is an agreement with the Secretary concerned that is a condition for the payment of an accession bonus and monthly stipend under section 2130a of title 10, United States Code, an accession bonus under section 302d of title 37, United States Code, or incentive special pay under section 302e of title 37, United States Code.

"(4) For purposes of this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code."

[For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out

as a note under section 301b of Title 37, Pay and Allowances of the Uniformed Services.]

**ACCESSION BONUSES FOR CANDIDATES EXECUTING AGREEMENTS DURING 90-DAY PERIOD BEGINNING DECEMBER 5, 1991**

Pub. L. 102–190, div. A, title VI, §612(c)(2), Dec. 5, 1991, 105 Stat. 1376, provided that:

"(A) In the case of a person described in subparagraph (B) who executes an agreement under section 2130a of such title [10 U.S.C. 2130a] during the 90-day period beginning on the date of the enactment of this Act [Dec. 5, 1991], the Secretary concerned may treat such agreement as having been executed and accepted for purposes of such section on the first date on which the person would have qualified for such an agreement had the amendment made by paragraph (1) [amending this section] taken effect on October 1, 1991.

"(B) A person referred to in subparagraph (A) is a person who, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by paragraph (1) taken effect on October 1, 1991.

"(C) For purposes of this paragraph, the term 'Secretary concerned' has the meaning given that term in section 101(8) of such title [now 10 U.S.C. 101(a)(9)]."

# CHAPTER 106—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Sec.
2131. Reference to chapter 1606.
[2132 to 2137. Renumbered.]
2138. Savings provision.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, div. A, title XVI, §1663(b)(7), Oct. 5, 1994, 108 Stat. 3007, added items 2131 and 2138 and struck out former items 2131 to 2138.

**1984**—Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2564, substituted "MEMBERS OF THE SELECTED RESERVE" for "ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE" in chapter heading, "Time limitation for use of entitlement" for "Termination of assistance; refund by member" in item 2133, "Termination of assistance" for "Reports to Congress" in item 2134, "Failure to participate satisfactorily; penalties" for "Termination of program" in item 2135, and added items 2136 to 2138.

## §2131. Reference to chapter 1606

Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).

(Added Pub. L. 103–337, div. A, title XVI, §1663(b)(7), Oct. 5, 1994, 108 Stat. 3007.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior section 2131 was renumbered section 16131 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## [§2132. Renumbered §16132]

## [§2133. Renumbered §16133]

## [§2134. Renumbered §16134]

## [§2135. Renumbered §16135]

## [§2136. Renumbered §16136]

## [§2137. Renumbered §16137]

## §2138. Savings provision

A member who entered into an agreement under this chapter before July 1, 1985, shall continue to be eligible for educational assistance in accordance with the terms of such agreement and of this chapter as in effect before such date.

(Added Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2567.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as an Effective Date of 1984 Amendment note under section 16131 of this title.

# CHAPTER 106A—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

Sec.
2141. Educational assistance program: establishment.
2142. Educational assistance program: eligibility.
2143. Educational assistance: amount.
2144. Subsistence allowance.
2145. Adjustments of amount of educational assistance and of subsistence allowance.
2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
2148. Duration of entitlement.
2149. Applications for educational assistance.

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375, div. A, title V, §532(a)(1), Oct. 28, 2004, 118 Stat. 1896, renumbered chapter 107 of this title as this chapter.

## §2141. Educational assistance program: establishment

(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among the several armed forces.

(c) In this chapter, the term "enlistment" means original enlistment or reenlistment.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1111; amended Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100–456, div. A, title XII, §1233(k)(1), Sept. 29, 1988, 102 Stat. 2058.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1988**—Subsec. (c). Pub. L. 100–456 inserted "the term" after "In this chapter,".

**1987**—Pub. L. 100–180, which directed that subsec. (c) be amended by inserting "the term" after "In this section,", could not be executed because that phrase did not appear. See 1988 Amendment note above.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REPAYMENT OF LOANS FOR SERVICE IN THE ARMED FORCES; AUTHORIZATION, CRITERIA, ETC.**

Pub. L. 96–342, title IX, §902, Sept. 8, 1980, 94 Stat. 1115, as amended by Pub. L. 97–86, title IV, §406, Dec. 1, 1981, 95 Stat. 1106; Pub. L. 98–94, title X, §1034, Sept. 24, 1983, 97 Stat. 672; Pub. L. 98–525, title VII, §709, Oct. 19, 1984, 98 Stat. 2572, provided that the Secretary of Defense could repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of that Act, after Oct. 1, 1975, and further provided for the administration and criteria for such repayment, prior to repeal by Pub. L. 99–145, title VI, §671(a)(3), Nov. 8, 1985, 99 Stat. 663. See section 2171 et seq. of this title.

**EDUCATIONAL ASSISTANCE PILOT PROGRAM; PAYMENT OF MONTHLY CONTRIBUTION BY SECRETARY; MANNER, SCOPE, ETC., OF PAYMENTS**

Pub. L. 96–342, title IX, §903, Sept. 8, 1980, 94 Stat. 1115, provided that:

"(a)(1) As a means of encouraging enlistments and reenlistments in the Armed Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 1622 [now 3222] of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

"(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

"(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) [now 3222(a)] of title 38, United States Code.

"(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code,

shall be applicable to payments made by the Secretary of Defense under this section.

"(2) Notwithstanding the provisions of section 1631(a)(4) [now 3231(a)(4)] of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Era Veterans Education Account.

"(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

"(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

"(f) As used in this section:

"(1) The term 'program of education' shall have the same meaning as provided in chapter 32 of title 38, United States Code.

"(2) The term 'child' shall have the same meaning as provided in section 101(4) of title 38, United States Code.

"(3) The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps."

**AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF AMOUNTS**

Pub. L. 96–342, title IX, §904, Sept. 8, 1980, 94 Stat. 1116, provided that:

"(a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901), and sections 902 and 903 [set out above] a total of $75,000,000.

"(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the repayment as authorized by section 902 [set out above] of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] and of loans made under part E of such Act [20 U.S.C. 1087aa et seq.], and the educational assistance program provided for under section 903 [set out above]."

**REPORTS ON EDUCATIONAL ASSISTANCE PROGRAMS; SUBMISSION, CONTENTS, ETC.**

Pub. L. 96–342, title IX, §905, Sept. 8, 1980, 94 Stat. 1117, directed Secretary of Defense to submit to Congress, quarterly for fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of this title and of the programs provided for under sections 902 and 903 of Pub. L. 96–342, set out above, and to also submit, not later than Dec. 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of this title, the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, and the program established under section 902 of Pub. L. 96–342 have encouraged persons to enter or remain in the Armed Forces.

## §2142. Educational assistance program: eligibility

(a)(1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to educational assistance under section 2143 of this title at the time of such enlistment.

(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such

enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

(3)(A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

(2) are graduates from a secondary school; and

(3) meet such other requirements as the Secretary may consider appropriate for the purposes of this chapter and the needs of the armed forces.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1111.)

## §2143. Educational assistance: amount

(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

(b)(1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed $1,200, adjusted in accordance with section 2145 of this title.

(c) In this section, the term "accredited institution" means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1112; amended Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161.)

### EDITORIAL NOTES

### AMENDMENTS

**1987**—Subsec. (c). Pub. L. 100–180 inserted "the term" after "In this section,".

## §2144. Subsistence allowance

(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance is provided such person. The amount of a subsistence allowance under this section is $300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educational assistance to which such person is entitled.

(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by Secretary concerned).

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1112.)

## §2145. Adjustments of amount of educational assistance and of subsistence allowance

(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

(b) In this section, the term "actual cost of attendance" has the meaning given the term "cost of attendance" by section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1113; amended Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 103–35, title II, §201(c)(2), May 31, 1993, 107 Stat. 98.)

### EDITORIAL NOTES

### AMENDMENTS

**1993**—Subsec. (b). Pub. L. 103–35 substituted "has the meaning given the term 'cost of attendance' by section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)" for "means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv))".

**1987**—Subsec. (b). Pub. L. 100–180 inserted "the term" after "In this section,".

## §2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance

(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which established such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of

this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1113.)

## §2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children

(a)(1)(A) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such reenlistment elect to transfer all or any part of such entitlement to the spouse or dependent child of such person.

(B) The Secretary of the Navy may authorize a member of the Navy or Marine Corps who is entitled to educational assistance under section 2142 of this title and whose enlistment that established such entitlement was the member's second reenlistment as a member of the armed forces to transfer all or part of such entitlement to the spouse or dependent child of such member after the completion of four years of active service of that second reenlistment if that reenlistment was for a period of at least six years.

(C) A transfer under this paragraph may be revoked at any time by the person making the transfer.

(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

(d) In this section:

(1) The term "dependent child" has the meaning given the term "dependent" in section 1072(2)(D) of this title.

(2) The term "surviving spouse" means a widow or widower who is not remarried.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1113; amended Pub. L. 97–22, §10(b)(3), July 10, 1981, 95 Stat. 137; Pub. L. 99–145, title VI, §673, Nov. 8, 1985, 99 Stat. 664; Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161.)

### EDITORIAL NOTES

### AMENDMENTS

**1987**—Subsec. (d)(1), (2). Pub. L. 100–180 inserted "The term" after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

**1985**—Subsec. (a)(1). Pub. L. 99–145 designated existing first sentence as subpar. (A), added subpar. (B), and incorporated existing second sentence as subpar. (C).

**1981**—Subsec. (d)(1). Pub. L. 97–22 substituted "section 1072(2)(D) of this title" for "section 1072(2)(E)

of this title".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

## §2148. Duration of entitlement

The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1114.)

## §2149. Applications for educational assistance

To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.

(Added Pub. L. 96–342, title IX, §901(a), Sept. 8, 1980, 94 Stat. 1114.)

# CHAPTER 107—PROFESSIONAL MILITARY EDUCATION

Sec.
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[2157. Repealed.]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 107 was renumbered chapter 106A of this title.

**AMENDMENTS**

**2017**—Pub. L. 115–91, div. A, title X, §1051(a)(10)(B), Dec. 12, 2017, 131 Stat. 1561, struck out item 2157 "Annual report to Congress".

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(12), (13), Oct. 17, 2006, 120 Stat. 2399, substituted "Joint professional" for "Professional" in item 2152 and "Phase" for "phase" in item 2155.

## §2151. Definitions

(a) JOINT PROFESSIONAL MILITARY EDUCATION.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint

matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

(1) National Military Strategy.
(2) Joint planning at all levels of war.
(3) Joint doctrine.
(4) Joint command and control.
(5) Joint force and joint requirements development.
(6) Operational contract support.

(b) OTHER DEFINITIONS.—In this chapter:

(1) The term "senior level service school" means any of the following:
(A) The Army War College.
(B) The College of Naval Warfare.
(C) The Air War College.
(D) The Marine Corps War College.
(E) The Space Force Senior Level Education Program.

(2) The term "intermediate level service school" means any of the following:
(A) The United States Army Command and General Staff College.
(B) The College of Naval Command and Staff.
(C) The Air Command and Staff College.
(D) The Marine Corps Command and Staff College.
(E) The Space Force Intermediate Level Education Program.

(3) The term "joint intermediate level school" includes the National Intelligence University.

(Added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1897; amended Pub. L. 112–81, div. A, title V, §552(a)(2), Dec. 31, 2011, 125 Stat. 1412; Pub. L. 112–239, div. A, title VIII, §845(c), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 118–159, div. A, title V, §554, Dec. 23, 2024, 138 Stat. 1896; Pub. L. 119–60, div. A, title V, §552(a), Dec. 18, 2025, 139 Stat. 877.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1)(E). Pub. L. 119–60, §552(a)(1), added subpar. (E).
Subsec. (b)(2)(E). Pub. L. 119–60, §552(a)(2), added subpar. (E).
**2024**—Subsec. (b)(3). Pub. L. 118–159 substituted "National Intelligence University" for "National Defense Intelligence College".
**2013**—Subsec. (a)(6). Pub. L. 112–239 added par. (6).
**2011**—Subsec. (b)(3). Pub. L. 112–81 added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROFESSIONAL MILITARY EDUCATION: REPORT; DEFINITION

Pub. L. 117–81, div. A, title V, §559D, Dec. 27, 2021, 135 Stat. 1743, provided that:

"(a) REPORT.—

"(1) IN GENERAL.—Not later than July 1, 2022, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of a review and assessment of the definition of professional military education in the Department of Defense and the military departments as specified in subsection (c).

"(2) ELEMENTS.—The report under this subsection shall include the following elements:

"(A) A consolidated summary of all definitions of the term 'professional military education' used in the Department of Defense and the military departments.

"(B) A description of how such term is used in the Department of Defense in educational

institutions, associated schools, programs, think tanks, research centers, and support activities.

"(C) An analysis of how such term—

"(i) applies to tactical, operational, and strategic settings; and

"(ii) is linked to mission requirements.

"(D) An analysis of how professional military education has been applied and linked through all levels of Department of Defense education and training.

"(E) The applicability of professional military education to the domains of warfare, including land, air, sea, space, and cyber.

"(F) With regards to online and virtual learning in professional military education—

"(i) an analysis of the use of such learning; and

"(ii) student satisfaction in comparison to traditional classroom learning.

"(b) DEFINITION.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, in coordination with the Chairman of the Joint Chiefs of Staff and the Secretaries of the military departments, using the report under subsection (a), shall standardize the definition of 'professional military education' across the military departments and the Department of Defense."

**EXECUTIVE DOCUMENTS**

**CHANGE OF NAME**

National Defense Intelligence College changed to National Intelligence University by Department of Defense Instruction 3305.01 on Feb. 9, 2011.

## §2152. Joint professional military education: general requirements

(a) IN GENERAL.—The Secretary of Defense shall implement a comprehensive framework for the joint professional military education of officers, including officers nominated under section 661 of this title for the joint specialty.

(b) JOINT MILITARY EDUCATION SCHOOLS.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall periodically review and revise the curriculum of each school of the National Defense University (and of any other joint professional military education school) to enhance the education and training of officers in joint matters. The Secretary shall require such schools to maintain rigorous standards for the military education of officers with the joint specialty.

(c) OTHER PROFESSIONAL MILITARY EDUCATION SCHOOLS.—The Secretary of Defense shall require that each Department of Defense school concerned with professional military education periodically review and revise its curriculum for senior and intermediate grade officers in order to strengthen the focus on—

(1) joint matters; and

(2) preparing officers for joint duty assignments.

(Added and amended Pub. L. 108–375, div. A, title V, §532(a)(2), (b), Oct. 28, 2004, 118 Stat. 1897, 1900.)

**EDITORIAL NOTES**

**CODIFICATION**

Subsecs. (b) and (c) of section 663 of this title, which were transferred to this section by Pub. L. 108–375, §532(b), were based on Pub. L. 99–433, title IV, §401(a), Oct. 1, 1986, 100 Stat. 1027.

**AMENDMENTS**

**2004**—Subsecs. (b), (c). Pub. L. 108–375, §532(b), transferred subsecs. (b) and (c) of section 663 of this title to end of this section. See Codification note above.

## §2153. Capstone course: newly selected general and flag officers

(a) REQUIREMENT.—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy or the commissioned officer corps of the National Oceanic and Atmospheric Administration, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other uniformed services.

(b) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense or the Secretary of Commerce, as applicable, may waive subsection (a)—

(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

(B) when necessary for the good of the service;

(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) [1] of this title); and

(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

(Added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1897; amended Pub. L. 116–259, title II, §205(b)(3), Dec. 23, 2020, 134 Stat. 1167.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 619(e)(4) of this title, referred to in subsec. (b)(1)(C), was repealed by Pub. L. 103–160, div. A, title IX, §931(b), Nov. 30, 1993, 107 Stat. 1734. See section 619a(f) of this title.

**AMENDMENTS**

**2020**—Subsec. (a). Pub. L. 116–259, §205(b)(3)(A), inserted "or the commissioned officer corps of the National Oceanic and Atmospheric Administration" after "in the case of the Navy" and substituted "other uniformed services" for "other armed forces".

Subsec. (b)(1). Pub. L. 116–259, §205(b)(3)(B), inserted "or the Secretary of Commerce, as applicable," after "the Secretary of Defense" in introductory provisions.

[1] *See References in Text note below.*

## §2154. Joint professional military education: three-phase approach

(a) THREE-PHASE APPROACH.—The Secretary of Defense shall implement a three-phase approach to joint professional military education, as follows:

(1) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase I instruction, consisting of all the elements of a joint professional military education (as specified in section 2151(a) of this title), in addition to the principal curriculum taught to all officers at an intermediate level service school or at a joint intermediate level school.

(2) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase II instruction, consisting of—

(A) a joint professional military education curriculum taught in residence at, or offered through, the Joint Forces Staff College or a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution;

or

(B) a senior level service course of at least ten months that has been designated and certified by the Secretary of Defense as a joint professional military education course.

(3) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as the Capstone course, for officers selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) and offered in accordance with section 2153 of this title.

(b) SEQUENCED APPROACH.—The Secretary shall require the sequencing of joint professional military education so that the standard sequence of assignments for such education requires an officer to complete Phase I instruction before proceeding to Phase II instruction, as provided in section 2155(a) of this title.

(c) DISTANCE EDUCATION.—(1) Any distance education program offered to satisfy Phase I or Phase II instruction under paragraph (1) or (2) of subsection (a) shall include a pathway for a student who is a member of a reserve component to fully complete the course of instruction asynchronously and while physically separated from the course instructors and without any in-person attendance required to graduate from such program.

(2) In this subsection, the term "distance education" has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(Added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1898; amended Pub. L. 112–81, div. A, title V, §552(a)(1), Dec. 31, 2011, 125 Stat. 1412; Pub. L. 113–291, div. A, title V, §506, Dec. 19, 2014, 128 Stat. 3356; Pub. L. 114–92, div. A, title V, §554, Nov. 25, 2015, 129 Stat. 824; Pub. L. 118–159, div. A, title V, §555, Dec. 23, 2024, 138 Stat. 1896; Pub. L. 119–60, div. A, title V, §553, Dec. 18, 2025, 139 Stat. 877.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (c)(1). Pub. L. 119–60 inserted "asynchronously and" after "course of instruction".

**2024**—Subsec. (c). Pub. L. 118–159 added subsec. (c).

**2015**—Subsec. (a)(2)(A). Pub. L. 114–92 inserted ", or offered through," after "taught in residence at".

**2014**—Subsec. (a)(2). Pub. L. 113–291 substituted "consisting of—" for "consisting of a joint professional military education curriculum taught in residence at—" in introductory provisions, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows:

"(A) the Joint Forces Staff College; or

"(B) a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution."

**2011**—Subsec. (a)(1). Pub. L. 112–81 inserted "or at a joint intermediate level school" before period at end.

## §2155. Joint professional military education Phase II program of instruction

(a) PREREQUISITE OF COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION PHASE I PROGRAM OF INSTRUCTION.—(1) After September 30, 2009, an officer of the armed forces may not be accepted for, or assigned to, a program of instruction designated by the Secretary of Defense as joint professional military education Phase II unless the officer has successfully completed a program of instruction designated by the Secretary of Defense as joint professional military education Phase I.

(2) The Chairman of the Joint Chiefs of Staff may grant exceptions to the requirement under paragraph (1). Such an exception may be granted only on a case-by-case basis under exceptional circumstances, as determined by the Chairman. An officer selected to receive such an exception shall have knowledge of joint matters and other aspects of the Phase I curriculum that, to the satisfaction of the Chairman, qualifies the officer to meet the minimum requirements established for entry into

Phase II instruction without first completing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Joint Forces Staff College or a senior level service school designated by the Secretary of Defense as a joint professional military education institution who have not completed Phase I instruction should comprise no more than 10 percent of the total number of officers selected.

(b) PHASE II REQUIREMENTS.—The Secretary shall require that the curriculum for Phase II joint professional military education at any school—

(1) focus on developing joint operational expertise and perspectives and honing joint warfighting skills; and

(2) be structured—

(A) so as to adequately prepare students to perform effectively in an assignment to a joint, multiservice organization; and

(B) so that students progress from a basic knowledge of joint matters learned in Phase I instruction to the level of expertise necessary for successful performance in the joint arena.

(c) CURRICULUM CONTENT.—In addition to the subjects specified in section 2151(a) of this title, the curriculum for Phase II joint professional military education shall include the following:

(1) National security strategy.

(2) Theater strategy and campaigning.

(3) Joint planning processes and systems.

(4) Joint, interagency, and multinational capabilities and the integration of those capabilities.

(d) STUDENT RATIO; FACULTY RATIO.—Not later than September 30, 2009, for courses of instruction in a Phase II program of instruction that is offered at senior level service school that has been designated by the Secretary of Defense as a joint professional military education institution—

(1) the percentage of students enrolled in any such course who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented; and

(2) of the faculty at the school who are active-duty officers who provide instruction in such courses, the percentage who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented.

(Added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1898; amended Pub. L. 109–364, div. A, title X, §1071(a)(13), (14), Oct. 17, 2006, 120 Stat. 2399.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, §1071(a)(13), substituted "Phase" for "phase" in section catchline.

Subsec. (a). Pub. L. 109–364, §1071(a)(14), inserted "Phase" after "Education" in heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PILOT PROGRAM ON JPME PHASE II ON OTHER THAN IN-RESIDENCE BASIS**

Pub. L. 112–81, div. A, title V, §552(b), Dec. 31, 2011, 125 Stat. 1412, authorized the Secretary of Defense to carry out a pilot program to assess the feasibility and advisability of offering a program of instruction under this section on an other than in-residence basis and provided that the authority for the program would expire five years after Dec. 31, 2011.

## §2156. Joint Forces Staff College: duration of principal course of instruction

(a) DURATION.—The duration of the principal course of instruction offered at the Joint Forces Staff College may not be less than 10 weeks of resident instruction.

(b) DEFINITION.—In this section, the term "principal course of instruction" means any course of

instruction offered at the Joint Forces Staff College as Phase II joint professional military education. (Added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1900.)

## [§2157. Repealed. Pub. L. 115–91, div. A, title X, §1051(a)(10)(A), Dec. 12, 2017, 131 Stat. 1560]

Section, added Pub. L. 108–375, div. A, title V, §532(a)(2), Oct. 28, 2004, 118 Stat. 1900; amended Pub. L. 109–364, div. A, title X, §1071(a)(15), Oct. 17, 2006, 120 Stat. 2399, required annual reports to Congress regarding joint professional military education.

# CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS

Sec.
[2161. Repealed.]
2162. Preparation of budget requests for operation of professional military education schools.
2163. Degree granting authority for National Defense University.
2164. Department of Defense domestic dependent elementary and secondary schools.
2164a. Rights of parents of children attending schools operated by the Department of Defense Education Activity.
2164b. Eligibility of certain dependents for enrollment in domestic dependent elementary and secondary schools.
2164c. Authorization of dual or concurrent enrollment programs for students of Defense Dependent Schools.
2164d. Limitation on school closures and certain other actions with respect to schools operated by the Department of Defense Education Activity.
2165. National Defense University: component institutions.
[2166. Renumbered.]
2167. National Defense University: admission of private sector civilians to professional military education program.
2167a. Defense Cyber Investigations Training Academy: admission of private sector civilians to receive instruction.
2168. Defense Language Institute Foreign Language Center: degree of Associate or Bachelor of Arts in foreign language.
2169. School of Nursing: establishment.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title V, §§584, 585(a), Dec. 18, 2025, 139 Stat. 889, 891, added items 2164c and 2164d. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title V, §595(a), Dec. 23, 2024, 138 Stat. 1919, added item 2164b. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title V, §589(a), Dec. 22, 2023, 137 Stat. 284, added item 2164a. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §556(b), Dec. 27, 2021, 135 Stat. 1739, substituted "Defense Language Institute Foreign Language Center: degree of Associate or Bachelor of Arts in foreign language" for "Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language" in item 2168.

**2019**—Pub. L. 116–92, div. E, title LIII, §5324(e)(1), formerly §5324(g)(1), Dec. 20, 2019, 133 Stat. 2137, renumbered §5324(e)(1), Pub. L. 116–260, div. W, title III, §305(c)(3), Dec. 27, 2020, 134 Stat. 2367, struck out item 2161 "Degree granting authority for National Intelligence University".

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(5), Dec. 23, 2016, 130 Stat. 2512, struck out item 2166 "Western Hemisphere Institute for Security Cooperation".

**2013**—Pub. L. 112–239, div. A, title IX, §922(b)(2), Jan. 2, 2013, 126 Stat. 1879, substituted "National

Intelligence University" for "National Defense Intelligence College" in item 2161.

**2009**—Pub. L. 111–84, div. A, title V, §525(a)(3)(B), title IX, §901(b), Oct. 28, 2009, 123 Stat. 2286, 2423, added items 2167a and 2169.

**2008**—Pub. L. 110–417, [div. A], title V, §543(a)(2), (b)(2), Oct. 14, 2008, 122 Stat. 4457, 4458, added items 2161 and 2163 and struck out former items 2161 "Joint Military Intelligence College: academic degrees" and 2163 "National Defense University: master's degree programs".

Pub. L. 110–181, div. A, title V, §526(b)(2), Jan. 28, 2008, 122 Stat. 105, added item 2163 and struck out former item 2163 "National Defense University: master of science degrees".

**2006**—Pub. L. 109–163, div. A, title V, §521(b), Jan. 6, 2006, 119 Stat. 3240, substituted "National Defense University: master of science degrees" for "National Defense University: masters of science in national security strategy and in national resource strategy" in item 2163.

**2001**—Pub. L. 107–107, div. A, title V, §§528(a)(2), 531(b), Dec. 28, 2001, 115 Stat. 1103, 1104, added items 2167 and 2168.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §911(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–228, added item 2166.

**1997**—Pub. L. 105–107, title V, §501(b), Nov. 20, 1997, 111 Stat. 2262, substituted "Joint Military Intelligence College: academic degrees" for "Defense Intelligence School; master of science of strategic intelligence" in item 2261.

Pub. L. 105–85, div. A, title IX, §921(a)(2), Nov. 18, 1997, 111 Stat. 1862, added item 2165.

**1994**—Pub. L. 103–337, div. A, title III, §351(b), Oct. 5, 1994, 108 Stat. 2730, added item 2164.

**1993**—Pub. L. 103–160, div. A, title IX, §922(b), Nov. 30, 1993, 107 Stat. 1731, added item 2163.

**1990**—Pub. L. 101–510, div. A, title IX, §911(b)(1), (2), Nov. 5, 1990, 104 Stat. 1626, substituted "DEPARTMENT OF DEFENSE SCHOOLS" for "GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS" as chapter heading and added item 2162.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DANIEL K. INOUYE ASIA-PACIFIC CENTER FOR SECURITY STUDIES: REIMBURSEMENT WAIVER FOR PERSONNEL OF FOREIGN NATIONS

Pub. L. 107–248, title VIII, §8073, Oct. 23, 2002, 116 Stat. 1553, as amended by Pub. L. 113–291, div. B, title XXVIII, §2861(c), Dec. 19, 2014, 128 Stat. 3716, related to waiver by the Secretary of Defense of reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Daniel K. Inouye Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(e)(5)(D), Dec. 23, 2016, 130 Stat. 2507.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–117, div. A, title VIII, §8081, Jan. 10, 2002, 115 Stat. 2265.

Pub. L. 106–259, title VIII, §8080, Aug. 9, 2000, 114 Stat. 692.

Pub. L. 106–79, title VIII, §8085, Oct. 25, 1999, 113 Stat. 1251.

Pub. L. 105–262, title VIII, §8086, Oct. 17, 1998, 112 Stat. 2318.

Pub. L. 105–56, title VIII, §8094, Oct. 8, 1997, 111 Stat. 1242.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8121], Sept. 30, 1996, 110 Stat. 3009–71, 3009–115.

### REGIONAL DEFENSE COUNTER-TERRORISM FELLOWSHIP PROGRAM

Pub. L. 107–117, div. A, title VIII, §8125, Jan. 10, 2002, 115 Stat. 2275, provided that: "In addition to amounts provided elsewhere in this Act [see Tables for classification], $17,900,000 is hereby appropriated for the Secretary of Defense, to remain available until expended, to establish a Regional Defense Counter-terrorism Fellowship Program: *Provided*, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: *Provided further*, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: *Provided further*, That the Secretary of Defense shall establish rules to govern the administration of this program."

### ATTENDANCE AT PROFESSIONAL MILITARY EDUCATION SCHOOLS BY MILITARY PERSONNEL OF THE NEW MEMBER NATIONS OF NATO

Pub. L. 106–65, div. A, title XII, §1223, Oct. 5, 1999, 113 Stat. 787, provided that:

"(a) FINDING.—Congress finds that it is in the national interest of the United States to fully integrate

Poland, Hungary, and the Czech Republic (the new member nations of the North Atlantic Treaty Organization) into the NATO alliance as quickly as possible.

"(b) MILITARY EDUCATION AND TRAINING PROGRAMS.—The Secretary of each military department shall give due consideration to according a high priority to the attendance of military personnel of Poland, Hungary, and the Czech Republic at professional military education schools and training programs in the United States, including the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the National Defense University, the war colleges of the Armed Forces, the command and general staff officer courses of the Armed Forces, and other schools and training programs of the Armed Forces that admit personnel of foreign armed forces."

### SENSE OF CONGRESS ON GRADE OF HEADS OF SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOLS

Pub. L. 103–337, div. A, title IX, §914, Oct. 5, 1994, 108 Stat. 2829, provided that: "It is the sense of Congress that an officer serving in a position as the head of one of the senior professional military education schools of the Department of Defense (or of the separate military departments) should, while so serving, hold a grade not less than the grade (or its equivalent) held by the officer serving in that position on the date of the enactment of this Act [Oct. 5, 1994]."

### MILITARY DEPARTMENT AFFILIATION OF WAR COLLEGE STUDENTS

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8069], Sept. 30, 1996, 110 Stat. 3009–71, 3009–102, which provided that, for resident classes entering war colleges after Sept. 30, 1997, Department of Defense was to require that not less than 20 percent of total of United States military students at each war college was to be from military departments other than hosting military department and provided that each military department was to recognize attendance at sister military department war college as equivalent of attendance at its own war college for promotion and advancement of personnel, was from the Department of Defense Appropriations Act, 1997, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8084, Dec. 1, 1995, 109 Stat. 667.

Pub. L. 103–335, title VIII, §8108A, Sept. 30, 1994, 108 Stat. 2646.

### AUTHORITY FOR MILITARY SCHOOL FACULTY MEMBERS AND STUDENTS TO ACCEPT HONORARIA FOR CERTAIN SCHOLARLY AND ACADEMIC ACTIVITIES

Pub. L. 102–484, div. A, title V, §542, Oct. 23, 1992, 106 Stat. 2413, related to conditions for and exceptions to authority of Department of Defense school faculty and students to accept honoraria for appearance, speech, or article published in bona fide publication, prior to repeal by Pub. L. 107–314, div. A, title VI, §653(a), Dec. 2, 2002, 116 Stat. 2581.

[Pub. L. 107–314, div. A, title VI, §653(b), Dec. 2, 2002, 116 Stat. 2581, provided that: "The repeal made by subsection (a) [repealing section 542 of Pub. L. 102–484, formerly set out above] shall apply with respect to appearances made, speeches presented, and articles published on or after October 1, 2002."]

## [§2161. Repealed. Pub. L. 116–92, div. E, title LIII, §5324(e)(1), formerly §5324(g)(1), Dec. 20, 2019, 133 Stat. 2137, renumbered §5324(e)(1), Pub. L. 116–260, div. W, title III, §305(c)(3), Dec. 27, 2020, 134 Stat. 2367]

Section, added Pub. L. 96–450, title IV, §406(a), Oct. 14, 1980, 94 Stat. 1980; amended Pub. L. 105–107, title V, §501(a), Nov. 20, 1997, 111 Stat. 2261; Pub. L. 110–417, [div. A], title V, §543(a)(1), Oct. 14, 2008, 122 Stat. 4456; Pub. L. 112–239, div. A, title IX, §922(a), (b)(1), Jan. 2, 2013, 126 Stat. 1879, related to degree granting authority for the National Intelligence University.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective on the date on which the Secretary of Defense and the Director of National Intelligence jointly submit the joint certifications required under section 3334a(b)(1) of Title 50, War and National Defense, see section 3334a(e)(2) of Title 50.

## §2162. Preparation of budget requests for operation of professional military education schools

(a) UNIFORM COST ACCOUNTING.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall promulgate a uniform cost accounting system for use by the Secretaries of the military departments in preparing budget requests for the operation of professional military education schools.

(b) PREPARATION OF BUDGET REQUESTS.—(1) Amounts requested for a fiscal year for the operation of each professional military education school shall be set forth as a separate budget request in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense.

(2) As executive agent for funding professional development education at the National Defense University, including the Joint Forces Staff College, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall prepare the annual budget for professional development education operations at the National Defense University and set forth that request as a separate budget request in the materials submitted to Congress in support of the budget request for the Department of Defense. Nothing in the preceding sentence affects policies in effect on December 28, 2001, with respect to budgeting for the funding of logistical and base operations support for components of the National Defense University through the military departments.

(3) The Secretary of a military department preparing a budget request for a professional military education school shall carefully consider the views of the Chairman of the Joint Chiefs of Staff, particularly with respect to the amount of the request for the operation of the schools of the National Defense University and the joint professional military education curricula of the other professional military education schools.

(c) COMPARISON OF BUDGET REQUESTS.—Materials prepared in support of the budget request for a professional military education school shall describe whether the amount requested for that school is comparable to the amounts requested for other professional military education schools, taking into consideration the size and activities of the schools.

(d) PROFESSIONAL MILITARY EDUCATION SCHOOLS.—This section applies to each of the following professional military education schools:

(1) The National Defense University.
(2) The Army War College.
(3) The College of Naval Warfare.
(4) The Air War College.
(5) The United States Army Command and General Staff College.
(6) The College of Naval Command and Staff.
(7) The Air Command and Staff College.
(8) The Marine Corps University.
(9) The Space Force Senior Level Education Program.
(10) The Space Force Intermediate Level Education Program.

(Added Pub. L. 101–510, div. A, title IX, §911(a), Nov. 5, 1990, 104 Stat. 1625; amended Pub. L. 105–85, div. A, title IX, §921(b), Nov. 18, 1997, 111 Stat. 1862; Pub. L. 107–107, div. A, title V, §527(b), Dec. 28, 2001, 115 Stat. 1102; Pub. L. 107–314, div. A, title X, §1062(a)(7), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 119–60, div. A, title V, §552(b), Dec. 18, 2025, 139 Stat. 877.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (d)(9), (10). Pub. L. 119–60 added pars. (9) and (10).

**2002**—Subsec. (b)(2). Pub. L. 107–314 substituted "December 28, 2001," for "the date of the enactment of this paragraph".

**2001**—Subsec. (b)(2), (3). Pub. L. 107–107 added par. (2) and redesignated former par. (2) as (3).

**1997**—Subsec. (d). Pub. L. 105–85 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as

follows:

"(d) DEFINITIONS.—In this section:

"(1) The term 'professional military education school' means—

"(A) the National Defense University;

"(B) the Army War College;

"(C) the College of Naval Warfare;

"(D) the Air War College;

"(E) the United States Army Command and General Staff College;

"(F) the College of Naval Command and Staff;

"(G) the Air Command and Staff College; or

"(H) the Marine Corps Command and Staff College.

"(2) The term 'National Defense University' means the National War College, the Armed Forces Staff College, and the Industrial College of the Armed Forces."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 101–510, div. A, title IX, §911(b)[(c)], Nov. 5, 1990, 104 Stat. 1626, provided that: "Section 2162 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1991."

**EXECUTIVE AGENT FOR FUNDING PROFESSIONAL DEVELOPMENT EDUCATION**

Pub. L. 107–107, div. A, title V, §527(a), Dec. 28, 2001, 115 Stat. 1101, provided that:

"(1) Effective beginning with fiscal year 2003, the Secretary of Defense shall be the executive agent for funding professional development education operations of all components of the National Defense University, including the Joint Forces Staff College. The Secretary may not delegate the Secretary's functions and responsibilities under the preceding sentence to the Secretary of a military department.

"(2) Nothing in this subsection affects policies in effect on the date of the enactment of this Act [Dec. 28, 2001] with respect to—

"(A) the reporting of the President of the National Defense University to the Chairman of the Joint Chiefs of Staff; or

"(B) provision of logistical and base operations support for components of the National Defense University by the military departments."

## §2163. Degree granting authority for National Defense University

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the President of the National Defense University may, upon the recommendation of the faculty of the National Defense University, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the National Defense University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the National Defense University to award any new or existing degree.

(Added Pub. L. 103–160, div. A, title IX, §922(a), Nov. 30, 1993, 107 Stat. 1730; amended Pub. L. 109–163, div. A, title V, §521(a), Jan. 6, 2006, 119 Stat. 3239; Pub. L. 110–181, div. A, title V, §526(a), (b)(1), Jan. 28, 2008, 122 Stat. 104, 105; Pub. L. 110–417, [div. A], title V, §543(b)(1), Oct. 14, 2008, 122 Stat. 4457.)

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, section related to conferral of master of science and master of arts degrees by National Defense University.

Pub. L. 110–181, §526(b)(1), substituted "National Defense University: master's degree programs" for "National Defense University: master of science degrees" in section catchline.

Subsec. (a). Pub. L. 110–181, §526(a)(1), inserted "or master of arts" after "master of science".

Subsec. (b)(4). Pub. L. 110–181, §526(a)(2), added par. (4).

**2006**—Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) NATIONAL WAR COLLEGE DEGREE.—The President of the National Defense University, upon the recommendation of the faculty and commandant of the National War College, may confer the degree of master of science of national security strategy upon graduates of the National War College who fulfill the requirements for the degree.

"(b) ICAF DEGREE.—The President of the National Defense University, upon the recommendation of the faculty and commandant of the Industrial College of the Armed Forces, may confer the degree of master of science of national resource strategy upon graduates of the Industrial College of the Armed Forces who fulfill the requirements for the degree.

"(c) REGULATIONS.—The authority provided by subsections (a) and (b) shall be exercised under regulations prescribed by the Secretary of Defense."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title V, §543(j), Oct. 14, 2008, 122 Stat. 4465, provided that: "The amendments made by this section [amending this section and sections 2161, 4314, 4321, 7048, 7101, 7102, 9314, and 9317 of this title] shall apply to any degree granting authority established, modified, or redesignated on or after the date of enactment of this Act [Oct. 14, 2008] for an institution of professional military education referred to in such amendments."

Pub. L. 110–181, div. A, title V, §526(c), Jan. 28, 2008, 122 Stat. 105, provided that: "Paragraph (4) of section 2163(b) of title 10, United States Code, as added by subsection (a) of this section, applies with respect to any person who becomes a graduate of the National Defense University on or after September 6, 2006, and fulfills the requirements of the program referred to in such paragraph (4)."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §521(c), Jan. 6, 2006, 119 Stat. 3240, provided that: "Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005."

## §2164. Department of Defense domestic dependent elementary and secondary schools

(a) AUTHORITY OF SECRETARY.—(1) If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may enter into arrangements to provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees.

(2) The Secretary may, at the discretion of the Secretary, permit dependents of members of the armed forces and, to the extent provided in subsection (c), dependents of civilian employees of the Federal Government residing in a territory, commonwealth, or possession of the United States but not on a military installation, to enroll in an educational program provided by the Secretary pursuant to this subsection. If a member of the armed forces is assigned to a remote location or is assigned to an unaccompanied tour of duty, a dependent of the member who resides, on or off a military installation, in a territory, commonwealth, or possession of the United States, as authorized by the member's orders, may be enrolled in an educational program provided by the Secretary under this subsection.

(3)(A) Under the circumstances described in subparagraph (B), the Secretary may, at the discretion of the Secretary, permit a dependent of a member of the armed forces to enroll in an educational program provided by the Secretary pursuant to this subsection without regard to the requirement in paragraph (1) with respect to residence on a military installation.

(B) Subparagraph (A) applies only if—

(i) the dependents reside in temporary housing (regardless of whether the temporary housing is on Federal property)—

(I) because of the unavailability of adequate permanent living quarters on the military installation to which the member is assigned; or

(II) while the member is wounded, ill, or injured; and

(ii) the Secretary determines that the circumstances of such living arrangements justify extending the enrollment authority to include the dependents.

(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

(B) The extent to which the local educational agency is able to provide an appropriate educational program for such dependents.

(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children by the following local educational agencies:

(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), local educational agencies in the State that are similar to the local educational agency referred to in paragraph (1)(B).

(B) In the case of a military installation with boundaries contiguous to two or more States, local educational agencies in the contiguous States that are similar to the local educational agency referred to in paragraph (1)(B).

(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia public schools, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1)(A) A dependent of a Federal employee residing in permanent living quarters on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

(B) A dependent of a United States Customs Service employee who resides in Puerto Rico, but not on a military installation, may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico in accordance with the same rules as apply to a dependent of a Federal employee residing in permanent living quarters on a military installation.

(2)(A) Except as provided in subparagraphs (B) and (C), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

(B) At the discretion of the Secretary, a dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the dependent is otherwise qualified for enrollment, space is available in the program, and the Secretary will be reimbursed for the educational services provided. Any such extension shall cover only one school year at a time.

(C) Subparagraph (A) shall not apply to an individual who is a dependent of a Federal employee in the excepted service (as defined in section 2103 of title 5) and who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

(D) Subparagraph (A) shall not apply to a dependent covered by paragraph (1)(B). No requirement under this paragraph for reimbursement for educational services provided for the dependent shall apply with respect to the dependent, except that the Secretary may require the United States Customs Service to reimburse the Secretary for the cost of the educational services provided for the dependent.

(d) SCHOOL ADVISORY COMMITTEES.—(1) The Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall provide for the establishment of an advisory committee for each Department of Defense elementary or secondary school established at a military installation under this section.

(2) An advisory committee established under paragraph (1) for a school at a military installation—

(A) shall advise the principal or superintendent of the school with respect to the operation of the school;

(B) may make recommendations with respect to curriculum and budget matters; and

(C) except in the case of an advisory committee for a school on a military installation described in paragraph (4), shall advise the commander of the military installation with respect to problems concerning the education of dependents within the jurisdiction of the commander.

(3)(A) The membership of each advisory committee established for a school described in paragraph (1)—

(i) shall include an equal number of parents of students enrolled in the school and of employees working at the school; and

(ii) when appropriate, may include a student enrolled in the school.

(B) In addition to the members described in subparagraph (A), the membership of each advisory committee shall include one nonvoting member designated by the organization recognized as the exclusive bargaining representative of the employees working at the school.

(4) In the case of a military installation where there is more than one school in the Department of Defense elementary and secondary school system, the Secretary, acting through the Director, shall provide for the establishment of an advisory committee for the military installation to advise the commander of the military installation with respect to the education of dependents.

(5)(A) Except in the case of a nonvoting member designated under paragraph (3)(B), members of an advisory committee established under this subsection shall be elected by individuals of voting age

residing in the area to be served by the advisory committee.

(B) The Secretary, acting through the Director, shall by regulation prescribe the qualifications for election to an advisory committee established under this subsection and procedures for conducting elections of members to such an advisory committee.

(6) Members of an advisory committee established under this subsection shall serve without pay.

(e) ADMINISTRATION AND STAFF.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

(A) establish positions for civilian employees in schools established under this section;

(B) appoint individuals to such positions; and

(C) fix the compensation of such individuals for service in such positions.

(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; and

(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school established before the effective date of this section pursuant to authority similar to the authority in this section shall be considered to have been established pursuant to the authority of this section.

(4)(A) The Secretary may, without regard to the provisions of any law relating to the number, classification, or compensation of employees—

(i) transfer employees from schools established under this section to schools in the defense dependents' education system in order to provide the services referred to in subparagraph (B) to such system; and

(ii) transfer employees from such system to schools established under this section in order to provide such services to those schools.

(B) The services referred to in subparagraph (A) are the following:

(i) Administrative services.

(ii) Logistical services.

(iii) Personnel services.

(iv) Such other services as the Secretary considers appropriate.

(C) Transfers under this paragraph shall extend for such periods as the Secretary considers appropriate. The Secretary shall provide appropriate compensation for employees so transferred.

(D) The Secretary may provide that the transfer of an employee under this paragraph occur without reimbursement of the school or system concerned.

(E) In this paragraph, the term "defense dependents' education system" means the program established and operated under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN

.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(B) In the case of infants or toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants or toddlers with disabilities under part C of such Act (20 U.S.C. 1431 et seq.).

(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81–874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

(3) In this subsection:

(A) The term "children with disabilities" has the meaning given the term in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(B) The term "infants or toddlers with disabilities" has the meaning given the term in section 632 of such Act (20 U.S.C. 1432).

(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.

(h) CONTINUATION OF ENROLLMENT DESPITE CHANGE IN STATUS.—(1) The Secretary of Defense shall permit a dependent of a member of the armed forces or a dependent of a Federal employee to continue enrollment in an educational program provided by the Secretary pursuant to subsection (a) for the remainder of a school year notwithstanding a change during such school year in the status of the member or Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program.

(2) The Secretary may, for good cause, authorize a dependent of a member of the armed forces or a dependent of a Federal employee to continue enrollment in an educational program provided by the Secretary pursuant to subsection (a) notwithstanding a change in the status of the member or employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The enrollment may continue for as long as the Secretary considers appropriate.

(3) Paragraphs (1) and (2) do not limit the authority of the Secretary to remove a dependent from enrollment in an educational program provided by the Secretary pursuant to subsection (a) at any time for good cause determined by the Secretary.

(i) AMERICAN RED CROSS EMPLOYEE DEPENDENTS IN CERTAIN AREAS.—(1) The Secretary may authorize the dependent of an American Red Cross employee described in paragraph (2) to enroll in an education program provided by the Secretary pursuant to subsection (a) in a territory, commonwealth, or possession of the United States if the American Red Cross agrees to reimburse the Secretary for the educational services so provided.

(2) An employee referred to in paragraph (1) is an American Red Cross employee who—

(A) resides in a territory, commonwealth, or possession of the United States where a program referred to in paragraph (1) is provided; and

(B) performs, on a full-time basis, emergency services on behalf of members of the armed forces.

(3) In determining the dependency status of any person for the purposes of paragraph (1), the Secretary shall apply the same definitions as apply to the determination of such status with respect to Federal employees in the administration of this section.

(4) Subsection (g) shall apply with respect to determining the reimbursement rates for educational services provided pursuant to this subsection. Amounts received as reimbursement for such educational services shall be treated in the same manner as amounts received under subsection (g).

(j) TUITION-FREE ENROLLMENT OF DEPENDENTS OF FOREIGN MILITARY PERSONNEL RESIDING ON DOMESTIC MILITARY INSTALLATIONS AND DEPENDENTS OF CERTAIN DECEASED MEMBERS OF THE ARMED FORCES.—(1) The Secretary may authorize the enrollment in a Department of Defense education program provided by the Secretary pursuant to subsection (a) of a dependent not otherwise eligible for such enrollment who is the dependent of a member of a foreign armed force residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States). Enrollment of such a dependent shall be on a tuition-free basis.

(2)(A) The Secretary may authorize the enrollment in a Department of Defense education program provided by the Secretary pursuant to subsection (a) of a dependent not otherwise eligible for such enrollment who is the dependent of a member of the armed forces who died in—

(i) an international terrorist attack against the United States or a foreign country friendly to the United States, as determined by the Secretary;

(ii) military operations while serving outside the United States (including the commonwealths, territories, and possessions of the United States) as part of a peacekeeping force; or

(iii) the line of duty in a combat-related operation, as designated by the Secretary.

(B)(i) Except as provided by clause (ii), enrollment of a dependent described in subparagraph (A) in a Department of Defense education program provided pursuant to subsection (a) shall be on a tuition-free, space available basis.

(ii) In the case of a dependent described in subparagraph (A) residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may authorize enrollment of the dependent in a Department of Defense education program provided pursuant to subsection (a) on a tuition-free, space required basis.

(k) ENROLLMENT OF RELOCATED DEFENSE DEPENDENTS' EDUCATION SYSTEM STUDENTS.—(1) The Secretary of Defense may authorize the enrollment in a Department of Defense education program provided by the Secretary pursuant to subsection (a) of a dependent of a member of the armed forces or a dependent of a Federal employee who is enrolled in the defense dependents' education system established under section 1402 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921) if—

(A) the dependents departed the overseas location as a result of a evacuation order;

(B) the designated safe haven of the dependent is located within reasonable commuting distance of a school operated by the Department of Defense education program; and

(C) the school possesses the capacity and resources necessary to enable the student to attend the school.

(2) Unless waived by the Secretary of Defense, a dependent described in paragraph (1) who is enrolled in a school operated by the Department of Defense education program pursuant to such paragraph may attend the school only through the end of the school year.

(l) ENROLLMENT IN VIRTUAL ELEMENTARY AND SECONDARY EDUCATION PROGRAM.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in the virtual elementary and secondary education program established as a component of the Department of Defense education program of a dependent of a member of the armed forces on active duty who—

(A) is enrolled in an elementary or secondary school operated by a local educational agency or another accredited educational program in the United States (other than a school operated by the Department of Defense education program); or

(B) is a home-schooled student.

(2) In this subsection, the term "home-schooled student" means a student in a grade equivalent to kindergarten or any of grades 1 through 12 who receives educational instruction at home or by other nontraditional means outside of a public or private school system, either all or most of the time.

(m) MEAL PROGRAMS.—(1) The Secretary of Defense may administer a meal program, consistent with Federal law and standards prescribed by the Secretary of Agriculture for that meal program, for students enrolled in a school established under this section.

(2) In this subsection, the term "meal program" means a program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(n) ELIGIBILITY OF DEPENDENTS OF CERTAIN MEMBERS OF THE RESERVE COMPONENTS.—(1) A dependent of a member described in paragraph (2) shall be eligible to attend a school established under this section at the military installation that is the permanent station of such member and such dependent shall automatically be granted enrollment at such school at the request of such member if there is sufficient space in the school to accommodate the dependent. In the event there is not sufficient space available at such school at the time the dependent seeks to enroll, the dependent shall be placed on a wait-list for enrollment in the school.

(2) A member described in this paragraph is a member of a reserve component performing active service pursuant to an order for accompanied permanent change of station.

(Added Pub. L. 103–337, div. A, title III, §351(a), Oct. 5, 1994, 108 Stat. 2727; amended Pub. L. 104–106, div. A, title X, §1075, Feb. 10, 1996, 110 Stat. 450; Pub. L. 104–201, div. A, title XVI, §1608, Sept. 23, 1996, 110 Stat. 2737; Pub. L. 105–261, div. A, title III, §371(a)–(c)(2), Oct. 17, 1998, 112 Stat. 1988, 1989; Pub. L. 106–65, div. A, title III, §§352, 353, Oct. 5, 1999, 113 Stat. 572; Pub. L. 106–398, §1 [[div. A], title III, §361], Oct. 30, 2000, 114 Stat. 1654, 1654A–76; Pub. L. 108–446, title III, §305(a), Dec. 3, 2004, 118 Stat. 2804; Pub. L. 111–84, div. A, title V, §534, Oct. 28, 2009, 123 Stat. 2292; Pub. L. 111–383, div. A, title V, §561, Jan. 7, 2011, 124 Stat. 4221; Pub. L. 112–239, div. A, title V, §565, Jan. 2, 2013, 126 Stat. 1749; Pub. L. 113–66, div. A, title V, §553(a), Dec. 26, 2013, 127 Stat. 764; Pub. L. 117–286, §4(a)(52), Dec. 27, 2022, 136 Stat. 4311; Pub. L. 118–159, div. A, title V, §§591–594(a), Dec. 23, 2024, 138 Stat. 1917–1919; Pub. L. 119–60, div. A, title V, §§582(b), 583, Dec. 18, 2025, 139 Stat. 888.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (e)(3)(B), is the date of enactment of Pub. L. 103–337 which was approved Oct. 5, 1994.

The Individuals with Disabilities Education Act, referred to in subsec. (f)(1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Parts B and C of the Act are classified generally to subchapters II (§1411 et seq.) and III (§1431 et seq.), respectively, of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

Section 6(a) of Public Law 81–874 (20 U.S.C. 241(a)), referred to in subsec. (f)(2), was repealed by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965.

The Child Nutrition Act of 1966, referred to in subsec. (m), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (m), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

## AMENDMENTS

**2025**—Subsec. (i). Pub. L. 119–60, §582(b)(1), substituted "in Certain Areas" for "in Puerto Rico" in heading.

Subsec. (i)(1). Pub. L. 119–60, §582(b)(2), substituted "in a territory, commonwealth, or possession of the United States" for "in Puerto Rico".

Subsec. (i)(2)(A). Pub. L. 119–60, §582(b)(3), substituted "resides in a territory, commonwealth, or possession of the United States where a program referred to in paragraph (1) is provided" for "resides in Puerto Rico".

Subsec. (n). Pub. L. 119–60, §583, added subsec. (n).

**2024**—Subsec. (d). Pub. L. 118–159, §591, amended subsec. (d) generally. Prior to amendment, subsec. (d) related to establishment of a school board for Department of Defense elementary and secondary schools established at each military installation under this section.

Subsec. (j)(1). Pub. L. 118–159, §592(1), substituted "a member of a foreign armed force residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States)" for "an individual described in paragraph (2)".

Subsec. (j)(2). Pub. L. 118–159, §592(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "An individual referred to in paragraph (1) is any of the following:

"(A) A member of a foreign armed force residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States).

"(B) A deceased member of the armed forces who died in the line of duty in a combat-related operation, as designated by the Secretary."

Subsec. (l)(1)(A). Pub. L. 118–159, §593(1)(A), substituted "; or" for "; and".

Subsec. (l)(1)(B). Pub. L. 118–159, §593(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "immediately before such enrollment, was enrolled in the defense dependents' education system established under section 1402 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921)."

Subsec. (l)(2), (3). Pub. L. 118–159, §593(2), added par. (2) and struck out former pars. (2) and (3) which read as follows:

"(2) Enrollment of a dependent described in paragraph (1) pursuant to such paragraph shall be on a tuition basis.

"(3) Any payments received by the Secretary of Defense under this subsection shall be credited to the account designated by the Secretary for the operation of the virtual educational program under this subsection. Payments so credited shall be merged with other funds in the account and shall be available, to the extent provided in advance in appropriation Acts, for the same purposes and the same period as other funds in the account."

Subsec. (m). Pub. L. 118–159, §594(a), added subsec. (m).

**2022**—Subsec. (d)(6). Pub. L. 117–286 substituted "chapter 10 of title 5, but may close meetings in accordance with chapter 10 of title 5." for "the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act."

**2013**—Subsecs. (k), (l). Pub. L. 112–239 added subsecs. (k) and (l).

Subsec. (l)(3). Pub. L. 113–66 added par. (3).

**2011**—Subsec. (a)(3). Pub. L. 111–383 added par. (3).

**2009**—Subsec. (j). Pub. L. 111–84 added subsec. (j).

**2004**—Subsec. (f)(1)(B). Pub. L. 108–446, §305(a)(1), substituted "infants or toddlers" for "infants and toddlers" in two places, "part C" for "part H", and "1431 et seq." for "1471 et seq.".

Subsec. (f)(3)(A). Pub. L. 108–446, §305(a)(2)(A), substituted "section 602" for "section 602(a)(1)" and "1401" for "1401(a)(1)".

Subsec. (f)(3)(B). Pub. L. 108–446, §305(a)(2)(D), substituted "or toddlers" for "and toddlers", "632" for "672(1)", and "1432" for "1472(1)".

Pub. L. 108–446, §305(a)(2)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B) which defined the term "children with disabilities aged 3 to 5, inclusive".

Subsec. (f)(3)(C). Pub. L. 108–446, §305(a)(2)(C), redesignated subpar. (C) as (B).

**2000**—Subsec. (i). Pub. L. 106–398 added subsec. (i).

**1999**—Subsec. (c)(3). Pub. L. 106–65, §353(1), struck out par. (3) which read as follows: "A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary."

Subsec. (d)(1). Pub. L. 106–65, §352, inserted at end "The Secretary may provide for the establishment of one school board for all such schools in the Commonwealth of Puerto Rico and one school board for all such schools in Guam instead of one school board for each military installation in those locations."

Subsec. (h). Pub. L. 106–65, §353(2), added subsec. (h).

**1998**—Subsec. (a). Pub. L. 105–261, §371(a)(1), (2), designated first sentence as par. (1) and second sentence as par. (2).

Subsec. (a)(2). Pub. L. 105–261, §371(a)(3), inserted at end "If a member of the armed forces is assigned to a remote location or is assigned to an unaccompanied tour of duty, a dependent of the member who resides, on or off a military installation, in a territory, commonwealth, or possession of the United States, as authorized by the member's orders, may be enrolled in an educational program provided by the Secretary under this subsection."

Subsec. (c)(1). Pub. L. 105–261, §371(c)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(2)(B). Pub. L. 105–261, §371(b), added subpar. (B) and struck out former subpar. (B) which read as follows: "A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time."

Subsec. (c)(2)(D). Pub. L. 105–261, §371(c)(2), added subpar. (D).

**1996**—Subsec. (d)(7). Pub. L. 104–201 added par. (7).

Subsec. (e)(4). Pub. L. 104–106 added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title V, §553(b), Dec. 26, 2013, 127 Stat. 764, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to tuition payments received under section 2164(l) of title 10, United States Code, for enrollments authorized by such section, after the date of the enactment of this Act [Dec. 26, 2013], in the virtual elementary and secondary education program of the Department of Defense education program."

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title III, §371(c)(3), Oct. 17, 1998, 112 Stat. 1989, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to academic years beginning on or after the date of the enactment of this Act [Oct. 17, 1998]."

### REGULATIONS ON THE USE OF PORTABLE ELECTRONIC MOBILE DEVICES IN DEPARTMENT OF DEFENSE EDUCATION ACTIVITY SCHOOLS

Pub. L. 119–60, div. A, title V, §589B, Dec. 18, 2025, 139 Stat. 895, provided that:

"(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall update existing regulations on student use of portable electronic mobile devices in Department of Defense Education Activity (DODEA) schools to prohibit disruption in the learning environment by minimizing the use of such mobile devices to the greatest extent practicable and to standardize such regulations across all DODEA schools.

"(b) BRIEFING REQUIRED.—Not later than 60 days after completion of the updated regulations required under subsection (a), the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on the updated regulations, including—

"(1) relevant evidence taken into consideration on the use of portable electronic mobile devices in and around the classroom on learning outcomes and social dynamics;

"(2) a description of how the regulations have standardized policies across all DODEA schools;

"(3) an assessment of the influence, if any, of public-school policies on mobile devices at school or in the classroom; and

"(4) any other matters the Secretary determines relevant."

### SAVINGS PROVISION

Pub. L. 103–337, div. A, title III, §351(c), Oct. 5, 1994, 108 Stat. 2730, provided that: "Nothing in section 2164 of title 10, United States Code, as added by subsection (a), shall be construed as affecting the rights in

existence on the date of the enactment of this Act [Oct. 5, 1994] of an employee of any school established under such section (or any other provision of law enacted before the date of the enactment of this Act that established a similar school) to negotiate or bargain collectively with the Secretary with respect to wages, hours, and other terms and conditions of employment."

## TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

## MANAGEMENT OF SPECIAL EDUCATION IN SCHOOLS OPERATED BY DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

Pub. L. 119–60, div. A, title V, §589V, Dec. 18, 2025, 139 Stat. 896, provided that:

"(a) IMPROVEMENTS TO STAFFING.—The Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall implement the following measures to improve staffing of special education teachers and staff at schools operated by the Activity:

"(1) Require the inclusion, in the staffing model for a school, of service minutes required by the individualized education programs of students attending the school to more effectively determine appropriate staffing for the school. As part of such staffing model, service minutes for students with similar needs may be counted concurrently when educationally appropriate.

"(2) Collect the following data on underutilized special education staff members:

"(A) When such staff members are requested to transfer to a school with greater needs for such staff members.

"(B) How many requests for such transfers the Activity receives.

"(C) Whether such requests are approved or denied, and at what locations.

"(D) Once such a request is received, the likelihood that the transfer occurs.

"(3) Collect data on the turnover of special education teachers and staff, including reasons for departure.

"(4) Review access to and requirements for crisis training, publicize Activity-wide policies with respect to such training for consistency, and expand such training to relevant special education teachers and staff, such as paraeducators, who are not required, as of the date of the enactment of this Act [Dec. 18, 2025], to receive such training.

"(5) Require district and regional administrators to track training requirements for special education teachers and staff to ensure that such teachers and staff are meeting such requirements.

"(b) CLARIFICATION OF GUIDANCE.—The Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall implement the following measures to improve and clarify guidance relating to special education provided by schools operated by the Activity:

"(1) Review the list of types of disabilities recognized by the Activity as of the date of the enactment of this Act [Dec. 18, 2025] and determine if that list meets the most recent best practices for special education.

"(2) Standardize and implement instructions for providing special education materials to students across schools operated by the Activity.

"(3) Develop and implement a plan for standardizing special education training across the Activity.

"(4) Standardize reading intervention guidance and requirements across schools operated by the Activity, including by requiring each school and district operated by the Activity to have the same resources and instructions, and provide clear guidance on how to access additional support materials if required.

"(c) IMPLEMENTATION DEADLINE.—The Secretary of Defense shall complete implementation of the measures described in subsections (a) and (b) by not later than two years after the date of the enactment of this Act [Dec. 18, 2025].

"(d) BRIEFINGS REQUIRED.—

"(1) INITIAL BRIEFING.—Not later than April 1, 2026, the Director of the Department of Defense Education Activity shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the following:

"(A) Coordination by the Department of Defense Education Activity with the Educational and

Developmental Intervention Services programs of the military departments to determine what medical services the military departments are required to provide based on the needs of students attending schools operated by the Activity.

"(B) A description of the process in effect as of the date of the briefing, if any, to resolve a dispute with respect to required services under a student's individualized education program.

"(C) A description of issues pending, and resolutions of previous issues, under that process.

"(D) An assessment of how support instructional specialists can better assist teachers with developing curriculum for special education students.

"(E) A description of how the Activity provides services in the case of civilian or military dependents with severe medical or special education requirements that a school cannot meet, including any data on how many such cases arise on an annual basis and in what locations.

"(F) A description of the process in effect as of the date of the briefing for reassigning a family from a school located outside the United States if the education needs of a child in the family cannot be met at that school and data, for the 5 school years preceding the briefing, on where such reassignments have been done and the frequency of such reassignments.

"(G) An assessment of the pay scale for special education teachers and staff in effect as of the date of the briefing, an identification of the last time the pay scale was updated, a description of how the pay scale is determined, and a statement of how often the pay scale is updated.

"(H) Data on school and district-level requests for additional reading intervention curriculum, including the locations of such requests and whether such requests were approved or denied.

"(2) SEMI-ANNUAL BRIEFINGS.—The Director of the Department of Defense Education Activity shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the progress made in implementing the measures described in subsections (a) and (b)—

"(A) not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025]; and

"(B) every 180 days thereafter until the Director certifies to the Committees that each such measure has been implemented."

## TRAINING REQUIREMENTS TEACHERS IN 21ST CENTURY SCHOOLS OF THE DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

Pub. L. 118–159, div. A, title V, §599, Dec. 23, 2024, 138 Stat. 1922, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall require each teacher in a 21st century school to undergo training in accordance with this section.

"(b) CONTENT.—The training required under subsection (a) shall consist of specialized instruction to provide teachers with the skills necessary to effectively teach in a 21st century school environment, including instruction in—

"(1) understanding and using the physical space of a 21st century school classroom;

"(2) building the relationships necessary to succeed, including relationships with students and other teachers;

"(3) the curriculum and level of academic rigor necessary to increase student learning;

"(4) other skills necessary to support the academic achievement and social and emotional well being of students; and

"(5) such other topics as the Secretary and the Director determine appropriate.

"(c) FREQUENCY.—The training required under subsection (a) shall be provided as follows:

"(1) In the case of a teacher who has been assigned to a 21st century school, but has not commenced teaching in such school, the training shall be provided before the teacher commences teaching in such school.

"(2) In the case of a teacher who previously taught in a 21st century school, but subsequently taught in a school that is not a 21st century school for one or more school years, such training shall be provided before the teacher resumes teaching in a 21st Century School.

"(3) In the case of a teacher who is teaching in a 21st century school as of the date of the enactment of this Act [Dec. 23, 2024], such training shall be provided not later than 180 days after such date of enactment.

"(4) In the case of a teacher who teaches in a 21st century school on an ongoing basis, and who previously received training under this subsection, such training shall be provided not less frequently than once every three years.

"(d) 21ST CENTURY SCHOOL DEFINED.—In this section, the term '21st century school' means a school facility operated by the Department of Defense Education Activity that has been constructed or modernized

pursuant to the 21st Century Schools Program of the Activity."

## OVERSEAS TRANSFER PROGRAM FOR EDUCATORS IN SCHOOLS OPERATED BY THE DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

Pub. L. 118–159, div. A, title V, §599A, Dec. 23, 2024, 138 Stat. 1923, provided that:

"(a) IN GENERAL.—Not later than December 31, 2025, the Secretary of Defense, in coordination with the Director of the Department of Defense Education Activity, shall develop and implement a policy pursuant to which a teacher at an overseas DODEA school may transfer to a position at another overseas DODEA school, subject to such terms, conditions, and other requirements as the Secretary determines appropriate.

"(b) OVERSEAS DODEA SCHOOL DEFINED.—In this section, the term 'overseas DODEA school' means a school that is—

"(1) operated by the Department of Defense Education Activity; and

"(2) located outside the United States."

## PILOT PROGRAM TO EXPAND ELIGIBILITY FOR ENROLLMENT AT DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS

Pub. L. 116–283, div. A, title V, §589C, Jan. 1, 2021, 134 Stat. 3659, as amended by Pub. L. 117–263, div. A, title V, §572(a), Dec. 23, 2022, 136 Stat. 2601, which established a pilot program to expand eligibility for enrollment at domestic dependent elementary and secondary schools, was repealed by Pub. L. 118–159, div. A, title V, §595(b), Dec. 23, 2024, 138 Stat. 1920. See section 2164b of this title.

## PILOT PROGRAM ON EXPANDED ELIGIBILITY FOR DEPARTMENT OF DEFENSE EDUCATION ACTIVITY VIRTUAL HIGH SCHOOL PROGRAM

Pub. L. 116–283, div. A, title V, §589D, Jan. 1, 2021, 134 Stat. 3660, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out a pilot program on permitting dependents of members of the Armed Forces on active duty to enroll in the Department of Defense Education Activity Virtual High School program (in this section referred to as the 'DVHS program').

"(2) PURPOSES.—The purposes of the pilot program shall be as follows:

"(A) To evaluate the feasibility and scalability of the DVHS program.

"(B) To assess the impact of expanded enrollment in the DVHS program under the pilot program on military and family readiness.

"(3) DURATION.—The duration of the pilot program shall be four academic years.

"(b) PARTICIPANTS.—

"(1) IN GENERAL.—Participants in the pilot program shall be selected by the Secretary from among dependents of members of the Armed Forces on active duty who—

"(A) are in a grade 9 through 12;

"(B) are currently ineligible to enroll in the DVHS program; and

"(C) either—

"(i) require supplementary courses to meet graduation requirements in the current State of residence; or

"(ii) otherwise demonstrate to the Secretary a clear need to participate in the DVHS program.

"(2) PREFERENCE IN SELECTION.—In selecting participants in the pilot program, the Secretary shall afford a preference to the following:

"(A) Dependents who reside in a rural area.

"(B) Dependents who are home-schooled students.

"(3) LIMITATIONS.—The total number of course enrollments per academic year authorized under the pilot program may not exceed 400 course enrollments. No single dependent participating in the pilot program may take more than two courses per academic year under the pilot program.

"(c) REPORTS.—

"(1) INTERIM REPORT.—Not later than two years after the date of the enactment of this Act [Jan. 1, 2021], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on the pilot program.

"(2) FINAL REPORT.—Not later than 180 days after the completion of the pilot program, the Secretary shall submit to the committees of Congress referred to in paragraph (1) a final report on the pilot programs.

"(3) ELEMENTS.—Each report under this subsection shall include the following:

"(A) A description of the demographics of the dependents participating in the pilot program through the date of such report.

"(B) Data on, and an assessment of, student performance in virtual coursework by dependents participating in the pilot program over the duration of the pilot program.

"(C) Such recommendation as the Secretary considers appropriate on whether to make the pilot program permanent.

"(d) DEFINITIONS.—In this section:

"(1) The term 'rural area' has the meaning given the term in section 520 of the Housing Act of 1949 (42 U.S.C. 1490).

"(2) The term 'home-schooled student' means a student in a grade equivalent to grade 9 through 12 who receives educational instruction at home or by other non-traditional means outside of a public or private school system, either all or most of the time."

## PILOT PROGRAM ON ENHANCED CIVICS EDUCATION

Pub. L. 116–92, div. A, title II, §234, Dec. 20, 2019, 133 Stat. 1278, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(1), Jan. 1, 2021, 134 Stat. 3873, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Education, shall carry out a pilot program under which the Secretary provides enhanced educational support and funding to eligible entities to improve civics education programs taught by such entities.

"(b) PURPOSE.—The purpose of the pilot program is to provide enhanced civics education on the following topics:

"(1) Critical thinking and media literacy.

"(2) Voting and other forms of political and civic engagement.

"(3) Interest in employment, and careers, in public service.

"(4) Understanding of United States law, history, and Government.

"(5) The ability of participants to collaborate and compromise with others to solve problems.

"(c) CONSIDERATIONS.—In carrying out the pilot program, the Secretary of Defense shall consider innovative approaches for improving civics education.

"(d) METRICS AND EVALUATIONS.—The Secretary of Defense shall establish metrics and undertake evaluations to determine the effectiveness of the pilot program, including each of the activities carried out under subsection (e).

"(e) TYPES OF SUPPORT AUTHORIZED.—Under the pilot program the Secretary of Defense—

"(1) shall provide support to eligible entities to address, at a minimum—

"(A) the development or modification of curricula relating to civics education;

"(B) classroom activities, thesis projects, individual or team projects, internships, or community service activities relating to civics;

"(C) collaboration with government entities, nonprofit organizations, or consortia of such entities and organizations to provide participants with civics-related experiences;

"(D) civics-related faculty development programs;

"(E) recruitment of educators who are highly qualified in civics education to teach civics or to assist with the development of curricula for civics education;

"(F) presentation of seminars, workshops, and training for the development of skills associated with civic engagement;

"(G) activities that enable participants to interact with government officials and entities;

"(H) expansion of civics education programs and outreach for members of the Armed Forces, dependents and children of such members, and employees of the Department of Defense; and

"(I) opportunities for participants to obtain work experience in fields relating to civics; and

"(2) may provide any other form of support the Secretary determines to be appropriate to enhance the civics education taught by eligible entities.

"(f) REPORT.—Not later than 180 days after the conclusion of the first full academic year during which the pilot program is carried out, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) a description of the pilot program, including a description of the specific activities carried out under subsection (e); and

"(2) the metrics and evaluations used to assess the effectiveness of the program as required under subsection (d).

"(g) DEFINITIONS.—In this section:

"(1) The term 'civics education program' means an educational program that provides participants with—

"(A) knowledge of law, government, and the rights of citizens; and

"(B) skills that enable participants to responsibly participate in democracy.

"(2) The term 'eligible entity' means any of following:

"(A) A local education agency that hosts a unit of the Junior Reserve Officers' Training Corps.

"(B) A school operated by the Department of Defense Education Activity."

[Pub. L. 116–283, div. A, title X, §1081(c), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(c)(1) of Pub. L. 116–283 to section 234 of Pub. L. 116–92, set out above, is effective as of Dec. 20, 2020 (probably should be Dec. 20, 2019) and as if included in Pub. L. 116–92.]

## SUPPORT FOR WORLD LANGUAGE ADVANCEMENT AND READINESS

Pub. L. 116–92, div. A, title XVII, §1751, Dec. 20, 2019, 133 Stat. 1849, provided that:

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the Director of National Intelligence and the Secretary of Education, may carry out a program under which the Secretary may provide support to eligible entities for the establishment, improvement, or expansion of world language study for elementary school and secondary school students.

"(2) SPECIAL REQUIREMENTS FOR LOCAL EDUCATIONAL AGENCIES.—In providing support under paragraph (1) to an eligible entity that is a local educational agency, the Secretary of Defense shall support programs that—

"(A) show the promise of being continued after such support is no longer available;

"(B) demonstrate approaches that can be disseminated to and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—To be considered for support under paragraph (1), an eligible entity shall submit an application to the Secretary of Defense at such time, in such manner, and containing such information and assurances as the Secretary may require.

"(B) SPECIAL CONSIDERATION.—The Secretary of Defense shall give special consideration to applications describing programs that—

"(i) include intensive summer world language programs for professional development of world language teachers;

"(ii) link nonnative English speakers in the community with the schools in order to promote two-way language learning;

"(iii) promote the sequential study of a world language for students, beginning in elementary schools;

"(iv) make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote world language study;

"(v) promote innovative activities, such as dual language immersion, partial world language immersion, or content-based instruction; and

"(vi) are carried out through a consortium comprised of the eligible entity receiving the grant, an elementary school or secondary school, and an institution of higher education (as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means the following:

"(A) A local educational agency that hosts a unit of the Junior Reserve Officers' Training Corps.

"(B) A school operated by the Department of Defense Education Activity.

"(2) ESEA TERMS.—The terms 'elementary school', 'local educational agency' and 'secondary school' have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(3) WORLD LANGUAGE.—The term 'world language' means—

"(A) any natural language other than English, including—

"(i) languages determined by the Secretary of Defense to be critical to the national security interests of the United States;

"(ii) classical languages;

"(iii) American sign language; and

"(iv) Native American languages; and

"(B) any language described in subparagraph (A) that is taught in combination with English as part of a dual language or immersion learning program."

## §2164a. Rights of parents of children attending schools operated by the Department of Defense Education Activity

(a) IN GENERAL.—The parent of a child who attends a school operated by the Department of Defense Education Activity has the following rights:

(1) The right to review the curriculum of the school.

(2) The right to be informed if the school or the Department of Defense Education Activity alters the school's academic standards or learning benchmarks.

(3) The right to meet with each teacher of their child not less than twice during each school year.

(4) The right to review all instructional materials used by their students.

(5) The right to inspect a list of the books and other reading materials contained in the library of the school.

(6) The right to address the school advisory committee or the school board.

(7) The right to data about the school's discipline policy and any disciplinary action that results in a suspension or expulsion from the school, unless such disclosure is prohibited by law.

(8) The right to information about any plans to eliminate gifted and talented programs or accelerated coursework at the school.

(b) DISCLOSURES AND NOTIFICATIONS.—Consistent with the parental rights specified in subsection (a) and except as provided by subsection (c), a school operated by the Department of Defense Education Activity shall—

(1) post on a publicly accessible website of the school—

(A) the curriculum for each course and grade level;

(B) the academic standards or other learning benchmarks used by the school; and

(C) notice of any proposed revisions to such standards or benchmarks and a copy of any such revisions;

(2) provide the parent of a child attending the school with—

(A) the opportunity to meet in person with each teacher of their child not less frequently than twice during each school year at a time mutually agreed upon by both parties; and

(B) notice of such opportunity at the beginning of each school year;

(3) provide parents access to the online school library catalog;

(4) notify parents in a timely manner of any plans to eliminate gifted and talented programs or accelerated coursework at the school;

(5) except as provided by paragraph (6) or subsection (c), notify parents of any medical examinations or screenings the school may administer to their child and receive written consent from parents for any such examination or screening prior to conducting the examination or screening;

(6) in the event of an emergency that requires a medical examination or screening without time for parental notification, promptly notify parents of such examination or screening and provide an explanation of the emergency that prevented notification prior to such examination or screening; and

(7) notify parents of any medical information that will be collected on their child, receive written parental consent prior to collecting such information, and provide parents an opportunity to inspect such information at the parent's request.

(c) EXCEPTIONS.—(1) Paragraph (5) of subsection (a) and paragraph (3) of subsection (b) shall not be effective until the day that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024.

(2) A requirement set forth in subsection (b) shall not apply in a case in which the requirement

would violate any applicable provision of a Federal or State statute or regulation.

(d) SCHOOL ADVISORY COMMITTEES AND BOARDS.—Not less frequently than four times per year, a school advisory committee or school board for a school operated by the Department of Defense Education Activity shall provide parents of children attending the school with the opportunity to address the advisory committee or school board on any matters relating to the school or the educational services provided to their children.

(e) DEFINITIONS.—In this section:

(1) The term "medical examination or screening"—

(A) means a physical examination provided by a health care provider; and

(B) does not include an evaluation by, or an encounter with, non-clinical school staff.

(2) The term "school" means—

(A) a Department of Defense domestic dependent elementary or secondary school, as described in section 2164 of this title; or

(B) any elementary or secondary school or program for dependents operated by the Department of Defense Education Activity.

(Added Pub. L. 118–31, div. A, title V, §589(a), Dec. 22, 2023, 137 Stat. 284.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PARENTAL RIGHT TO NOTICE OF STUDENT NONPROFICIENCY IN READING OR LANGUAGE ARTS**

Pub. L. 118–159, div. A, title V, §599B, Dec. 23, 2024, 138 Stat. 1923, provided that: "The Secretary of Defense shall ensure that each elementary school operated by the Department of Defense Education Activity notifies the parents of any student enrolled in such school when the student does not score as grade-level proficient in reading or language arts at the end of the third grade based on the reading or language arts assessments administered under section 1111(b)(2)(B)(v)(I)(aa) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(v)(I)(aa)) or another assessment administered to all third grade students by such school."

## §2164b. Eligibility of certain dependents for enrollment in domestic dependent elementary and secondary schools

(a) PROGRAM AUTHORIZED.—Beginning not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, the Secretary of Defense shall carry out a program under which a dependent of a full-time, active-duty member of the armed forces may enroll in a covered DODEA school at the military installation to which the member is assigned, on a space-available basis as described in subsection (b), without regard to whether the member resides on the installation as described in section 2164(a)(1) of this title.

(b) ENROLLMENT ON SPACE-AVAILABLE BASIS.—A student participating in the program under subsection (a) may be enrolled in a covered DODEA school only if the school has the capacity to accept the student, as determined by the Director of the Department of Defense Education Activity.

(c) LOCATIONS.—The Secretary shall select military installations for participation in the program under subsection (a) based on—

(1) the readiness needs of the Secretary of the military department concerned; and

(2) the capacity of the covered DODEA schools located at the installation to accept additional

students, as determined by the Director.

(d) BRIEFINGS REQUIRED.—

(1) IN GENERAL.—Not later than April 1, 2025, and annually thereafter for four years, the Secretary shall brief the Committees on Armed Services of the Senate and House of Representatives on the program under subsection (a).

(2) ELEMENTS.—Each briefing required by paragraph (1) shall include the following:

(A) An identification of the military installations participating in the program under subsection (a).

(B) The number of students enrolled in covered DODEA schools under the program.

(e) NOTIFICATIONS OF PARTICIPATING INSTALLATIONS.—Not later than 90 days before officially announcing the participation of a new military installation in the program under subsection (a), the Secretary shall notify the Committees on Armed Services of the Senate and the House of Representatives with respect to the participation of the installation.

(f) COVERED DODEA SCHOOL DEFINED.—In this section, the term "covered DODEA school" means a domestic dependent elementary or secondary school operated by the Department of Defense Education Activity that—

(1) was established on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025; and

(2) is located in the continental United States.

(Added Pub. L. 118–159, div. A, title V, §595(a), Dec. 23, 2024, 138 Stat. 1919.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsecs. (a) and (f)(1), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 116–283, div. A, title V, §589C, Jan. 1, 2021, 134 Stat. 3659, as amended by Pub. L. 117–263, div. A, title V, §572(a), Dec. 23, 2022, 136 Stat. 2601, which was set out in a note under section 2164 of this title, prior to repeal by Pub. L. 118–159, div. A, title V, §595(b), Dec. 23, 2024, 138 Stat. 1920.

## §2164c. Authorization of dual or concurrent enrollment programs for students of Defense Dependent Schools

(a) IN GENERAL.—The Secretary of Defense, acting through the Director of the Department of Defense Education Activity, may—

(1) enter into arrangements with institutions of higher education to provide students of Defense Dependent Schools with access to postsecondary course credit through dual or concurrent enrollment programs; and

(2) subject to subsection (b), provide financial assistance to students to cover the costs associated with such programs.

(b) AMOUNT OF ASSISTANCE.—The amount of financial assistance provided to an individual student under subsection (a)(2) may not exceed $1,500 per school year.

(c) CREDIT TRANSFERABILITY.—The Secretary of Defense shall, to the greatest extent practicable, ensure that the Department of Defense Education Activity, in facilitating dual or concurrent enrollment programs with institutions of higher education under this section—

(1) establishes articulation or credit transfer agreements that promote the transferability of academic credits earned by participating students; and

(2) prioritizes agreements with institutions that offer broad acceptance of such credits across degree programs.

(d) INSTITUTIONAL INTEGRITY.—In entering into contracts or other agreements with institutions of higher education for purposes of dual or concurrent enrollment programs under this section, the Secretary of Defense shall ensure that such institutions have a program participation agreement in effect under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094) and are not provisionally or temporarily certified.

(e) PREPARATION AND INFORMING FAMILIES AND EDUCATORS.—In implementing dual or concurrent enrollment programs under this section, the Secretary of Defense, acting through the Director of the Department of Defense Education Activity, shall do the following:

(1) COURSE SEQUENCE ALIGNMENT.—Design a sequence of courses for such programs to match the academic content standards and level of rigor of the corresponding postsecondary courses, in consultation and collaboration with—

(A) educators from Defense Dependent Schools serving the military-connected community;

(B) faculty members from institutions of higher education offering dual or concurrent enrollment programs; and

(C) the school advisory committee (or the equivalent advisory body) of each Defense Dependent School.

(2) OUTREACH AND INFORMATION DISSEMINATION.—Establish outreach and awareness efforts targeted toward elementary and secondary school students, particularly those in the middle grades and their families, educators, school counselors, and principals, to provide—

(A) general information regarding the availability and benefits of dual or concurrent enrollment programs;

(B) guidance on eligibility requirements, academic expectations, and necessary preparatory coursework for such programs; and

(C) resources to support informed decisionmaking and successful student participation in such programs.

(f) TEACHER CERTIFICATION.—The Secretary of Defense shall ensure that all dual or concurrent enrollment courses facilitated by the Department of Defense Education Activity are taught by—

(1) a postsecondary faculty member who—

(A) is employed by a two-year or four-year institution of higher education (which may include a community college); and

(B) meets the applicable postsecondary accreditation standards for instructional staff; or

(2) a classroom teacher employed by a local educational agency or by the Department of Defense Education Activity, who—

(A) is qualified to teach in accordance with applicable law; and

(B) has received training or certification to deliver the dual or concurrent enrollment course curriculum in alignment with the standards of the partnering institution of higher education.

(g) ADDITIONAL REQUIREMENTS.—In carrying out this section, the Secretary of Defense shall consult with the School Advisory Committees (or the equivalent advisory bodies) and Parent Teacher Associations of participating Defense Dependent Schools.

(h) ANNUAL BRIEFINGS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this section, and annually thereafter for four years, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the status of the dual and concurrent enrollment programs authorized under this section.

(2) ELEMENTS.—Each briefing under paragraph (1) shall include, with respect to the period

covered by the briefing—

(A) the number of students who participated in dual or concurrent enrollment programs authorized under this section;

(B) the total cost to the Department of Defense of providing such programs; and

(C) an explanation of—

(i) whether and to what extent such programs consisted of online classes or in-person instruction; and

(ii) the subjects taught in postsecondary classes taken by students participating in such programs.

(3) DISAGGREGATION.—The information required under paragraph (2) shall be set forth separately for each region served by the Department of Defense Education Activity.

(i) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services of the Senate; and

(B) the Committee on Armed Services and the Committee on Education and Workforce of the House of Representatives.

(2) The term "Defense Dependent School" means—

(A) a school operated under the Defense Dependents' Education System, as authorized under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.); or

(B) a Department of Defense domestic dependent elementary and secondary school, as authorized under section 2164 of this title.

(3) The term "dual or concurrent enrollment program" means a program offered by an arrangement between the Department of Defense Education Activity and an institution of higher education and through which a student enrolled in a Defense Dependent School who has not graduated from high school with a regular high school diploma is able to enroll in one or more postsecondary courses and earn credit that applies—

(A) toward completion of a postsecondary degree or recognized educational credential as described in the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); and

(B) toward completion of high school.

(4) The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(Added Pub. L. 119–60, div. A, title V, §584, Dec. 18, 2025, 139 Stat. 889.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (h)(1), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

The Defense Dependents' Education Act of 1978, referred to in subsec. (i)(2)(A), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

The Higher Education Act of 1965, referred to in subsec. (i)(3)(A), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

## §2164d. Limitation on school closures and certain other actions with respect to

## schools operated by the Department of Defense Education Activity

(a) LIMITATION.—The Secretary of Defense may not take any action described in subsection (b) with respect to a school operated by the Department of Defense Education Activity unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives—

(A) written notice of the intent of the Secretary to take such action with respect to such school;

(B) the report required under subsection (c); and

(C) a written assurance that the Director of the Department of Defense Education Activity has met, engaged with, and solicited feedback from students, parents, teachers, administrators, military installation leadership, and the local community concerning the proposed action; and

(2) a period of one year has elapsed following the date on which the requirements under paragraph (1) have been met.

(b) ACTIONS DESCRIBED.—The actions described in this subsection are the following:

(1) Closing or terminating the operations of a school.

(2) Preparing to close or terminate the operations of a school.

(3) Reducing by 20 percent or more the number of spaces available for enrollment in a school.

(4) Significantly reducing the services provided by a school, including—

(A) curriculum offerings;

(B) special education services; and

(C) extracurricular activities.

(5) Transferring or conveying a school to a local educational agency or any other entity outside the Department of Defense.

(c) REPORT.—Before taking any action described in subsection (b), the Secretary of Defense shall prepare a report containing a justification and analysis of such action. Such justification and analysis shall include an explanation of—

(1) the monetary costs to the Department of Defense of the action; and

(2) the effects of the action on—

(A) students;

(B) curriculum;

(C) gifted education programs;

(D) special education programs, including individualized education programs (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)));

(E) educational and other accommodations provided under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(F) the Exceptional Family Member Program; and

(G) local educational agencies in the area of the affected school.

(d) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term "local educational agency" has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(Added Pub. L. 119–60, div. A, title V, §585(a), Dec. 18, 2025, 139 Stat. 891.)

## §2165. National Defense University: component institutions

(a) IN GENERAL.—There is a National Defense University in the Department of Defense.

(b) COMPONENT INSTITUTIONS.—The National Defense University consists of the following

institutions:

(1) The National War College.

(2) The Dwight D. Eisenhower School for National Security and Resource Strategy.

(3) The Joint Forces Staff College.

(4) The Institute for National Strategic Studies (including a Center for Strategic Deterrence and Weapons of Mass Destruction Studies).

(5) The College of Information and Cyberspace.

(6) The College of International Security Affairs.

(7) Any other educational institution of the Department of Defense that the Secretary considers appropriate and designates as an institution of the university.

[(c) Repealed. Pub. L. 109–364, div. A, title IX, §904(b)(2)(B), Oct. 17, 2006, 120 Stat. 2353.]

(d) SOURCE OF FUNDS FOR PROFESSIONAL DEVELOPMENT EDUCATION OPERATIONS.—Funding for the professional development education operations of the National Defense University shall be provided from funds made available to the Secretary of Defense from the annual appropriation "Operation and Maintenance, Defense-wide".

(e) ACCEPTANCE OF FACULTY RESEARCH GRANTS.—(1) The Secretary of Defense may authorize the President of the National Defense University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(4) The Secretary shall establish an account for administering funds received as research grants under this subsection. The President of the University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the National Defense University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

(6) The Secretary shall prescribe regulations for the administration of this subsection.

(f) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—(1) In engaging in research and development projects pursuant to subsection (a) of section 4001 of this title by a contract, cooperative agreement, or grant pursuant to subsection (b)(1) of such section, the Secretary may enter into such contract or cooperative agreement or award such grant through the National Defense University.

(2) The National Defense University shall be considered a Government-operated Federal laboratory for purposes of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(Added and amended Pub. L. 105–85, div. A, title IX, §§921(a)(1), 922(a), Nov. 18, 1997, 111 Stat. 1862, 1863; Pub. L. 105–261, div. A, title IX, §§904, 905(a), Oct. 17, 1998, 112 Stat. 2093; Pub. L. 106–398, §1 [[div. A], title IX, §913(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230; Pub. L. 107–107, div. A, title V, §527(c)(1), Dec. 28, 2001, 115 Stat. 1102; Pub. L. 109–163, div. A, title V, §522(a), Jan. 6, 2006, 119 Stat. 3240; Pub. L. 109–364, div. A, title IX, §904(b)(2), Oct. 17, 2006, 120 Stat. 2353; Pub. L. 112–81, div. B, title XXVIII, §2861(b), Dec. 31, 2011, 125 Stat. 1701; Pub. L. 114–328, div. A, title II, §214(a), title XVI, §1648(a), Dec. 23, 2016, 130 Stat. 2048, 2606; Pub. L. 116–283, div. A, title XVIII, §1841(e)(1), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 118–31, div. A, title IX, §912, Dec. 22, 2023, 137 Stat. 365; Pub. L. 119–60, div. A, title V, §554(a), Dec. 18, 2025, 139 Stat. 877.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60 inserted "(including a Center for Strategic Deterrence and Weapons of Mass Destruction Studies)" after "The Institute for National Strategic Studies".

**2023**—Subsec. (b)(6), (7). Pub. L. 118–31 added par. (6) and redesignated former par. (6) as (7).

**2021**—Subsec. (f)(1). Pub. L. 116–283 substituted "section 4001" for "section 2358".

**2016**—Subsec. (b)(5). Pub. L. 114–328, §1648(a), substituted "College of Information and Cyberspace" for "Information Resources Management College".

Subsec. (f). Pub. L. 114–328, §214(a), added subsec. (f).

**2011**—Subsec. (b)(2). Pub. L. 112–81 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Industrial College of the Armed Forces."

**2006**—Subsec. (b)(6), (7). Pub. L. 109–364, §904(b)(2)(A), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: "The Center for Hemispheric Defense Studies."

Subsec. (c). Pub. L. 109–364, §904(b)(2)(B), struck out heading and text of subsec. (c). Text read as follows: "Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies."

Subsec. (e). Pub. L. 109–163 added subsec. (e).

**2001**—Subsec. (d). Pub. L. 107–107 added subsec. (d).

**2000**—Subsec. (b)(3). Pub. L. 106–398 substituted "Joint Forces Staff College" for "Armed Forces Staff College".

**1998**—Subsec. (b)(7). Pub. L. 105–261, §904, added par. (7).

Subsec. (c). Pub. L. 105–261, §905(a), added subsec. (c).

**1997**—Subsec. (b)(6). Pub. L. 105–85, §922(a), added par. (6).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 114–328, div. A, title XVI, §1648(b), Dec. 23, 2016, 130 Stat. 2606, provided that: "Any reference in any law, regulation, document, record, or other paper of the United States to the Information Resources Management College shall be considered to be a reference to the College of Information and Cyberspace."

Pub. L. 112–81, div. B, title XXVIII, §2861, Dec. 31, 2011, 125 Stat. 1701, provided that:

"(a) REDESIGNATION.—The Industrial College of the Armed Forces is hereby renamed the 'Dwight D. Eisenhower School for National Security and Resource Strategy'.

"(b) CONFORMING AMENDMENT.—[Amended section 2165(b)(2) of this title.]

"(c) REFERENCES.—Any reference to the Industrial College of the Armed Forces in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Dwight D. Eisenhower School for National Security and Resource Strategy."

Pub. L. 106–398, §1 [[div. A], title IX, §913(a), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230, provided that:

"(a) CHANGE IN NAME.—The Armed Forces Staff College of the Department of Defense is hereby renamed the 'Joint Forces Staff College'.

"(c) REFERENCES.—Any reference to the Armed Forces Staff College in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Joint Forces Staff College."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §527(c)(2), Dec. 28, 2001, 115 Stat. 1102, provided that: "Subsection (d) of section 2165 of title 10, United States Code, as added by paragraph (1), shall become effective beginning with fiscal year 2003."

**MISSION OF THE CENTER FOR STRATEGIC DETERRENCE AND WEAPONS OF MASS DESTRUCTION STUDIES**

Pub. L. 119–60, div. A, title V, §554(b), Dec. 18, 2025, 139 Stat. 877, provided that: "The mission of the Center for Strategic Deterrence and Weapons of Mass Destruction Studies established under such paragraph [probably should be "subsection (a)"] shall be to—

"(1) prepare national security leaders to address the challenges of strategic deterrence and weapons of mass destruction through education, research, and outreach activities throughout the Federal Government;

"(2) develop leaders with an understanding of strategic deterrence and the implications of weapons of mass destruction;

"(3) in accordance with guidance provided by the Chairman of the Joint Chiefs of Staff, develop and provide appropriate curricula, learning outcomes, and educational tools relating to strategic deterrence and weapons of mass destruction for use at institutions that provide joint professional military education;

"(4) serve as the primary institution within the Department of Defense for the study of strategic deterrence and weapons of mass destruction education in joint professional military education;

"(5) design, develop, and implement studies and analyses to enhance understanding of—

"(A) strategic deterrence;

"(B) the threat of weapons of mass destruction to the security of the United States and globally; and

"(C) responses to prevent, mitigate, or eliminate the threat in accordance with Department and national security policies and strategies; and

"(6) provide expert support on strategic deterrence and weapons of mass destruction issues to the Secretary of Defense and other Federal Government leaders."

**CENTER FOR THE STUDY OF CHINESE MILITARY AFFAIRS**

Pub. L. 106–65, div. A, title IX, §914, Oct. 5, 1999, 113 Stat. 721, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Center for the Study of Chinese Military Affairs as part of the National Defense University. The Center shall be organized under the Institute for National Strategic Studies of the University.

"(b) QUALIFICATIONS OF DIRECTOR.—The Director of the Center shall be an individual who is a distinguished scholar of proven academic, management, and leadership credentials with a superior record of achievement and publication regarding Chinese political, strategic, and military affairs.

"(c) MISSION.—The mission of the Center is to study and inform policymakers in the Department of Defense, Congress, and throughout the Government regarding the national goals and strategic posture of the People's Republic of China and the ability of that nation to develop, field, and deploy an effective military instrument in support of its national strategic objectives. The Center shall accomplish that mission by a variety of means intended to widely disseminate the research findings of the Center.

"(d) STARTUP OF CENTER.—The Secretary of Defense shall establish the Center for the Study of Chinese Military Affairs not later than March 1, 2000. The first Director of the Center shall be appointed not later than June 1, 2000. The Center should be fully operational not later than June 1, 2001.

"(e) IMPLEMENTATION REPORT.—(1) Not later than January 1, 2001, the President of the National Defense University shall submit to the Secretary of Defense a report setting forth the President's organizational plan for the Center for the Study of Chinese Military Affairs, the proposed budget for the Center, and the timetable for initial and full operations of the Center. The President of the National Defense University shall prepare that report in consultation with the Director of the Center and the Director of the Institute for National Strategic Studies of the University.

"(2) The Secretary of Defense shall transmit the report under paragraph (1), together with whatever comments the Secretary considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than February 1, 2001."

## [§2166. Renumbered §343]

## §2167. National Defense University: admission of private sector civilians to professional military education program

(a) AUTHORITY FOR ADMISSION.—The Secretary of Defense may permit eligible private

sector employees who work in organizations relevant to national security to receive instruction at the National Defense University in accordance with this section. No more than the equivalent of 35 full-time student positions may be filled at any one time by private sector employees enrolled under this section. Upon successful completion of the course of instruction in which enrolled, any such private sector employee may be awarded an appropriate diploma or degree under section 2165 of this title.

(b) ELIGIBLE PRIVATE SECTOR EMPLOYEES.—For purposes of this section, an eligible private sector employee is an individual employed by a private firm that is engaged in providing to the Department of Defense or other Government departments or agencies significant and substantial defense-related systems, products, or services or whose work product is relevant to national security policy or strategy. A private sector employee admitted for instruction at the National Defense University remains eligible for such instruction only so long as that person remains employed by the same firm.

(c) ANNUAL CERTIFICATION BY SECRETARY OF DEFENSE.—Private sector employees may receive instruction at the National Defense University during any academic year only if, before the start of that academic year, the Secretary of Defense determines, and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, that providing instruction to private sector employees under this section during that year will further national security interests of the United States.

(d) PROGRAM REQUIREMENTS.—The Secretary of Defense shall ensure that—

(1) the curriculum for the professional military education program in which private sector employees may be enrolled under this section is not readily available through other schools and concentrates on national security relevant issues; and

(2) the course offerings at the National Defense University continue to be determined solely by the needs of the Department of Defense.

(e) TUITION.—The President of the National Defense University shall charge students enrolled under this section a rate—

(1) that is at least the rate charged for employees of the United States outside the Department of Defense, less infrastructure costs, and

(2) that considers the value to the school and course of the private sector student.

(f) STANDARDS OF CONDUCT.—While receiving instruction at the National Defense University, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the university.

(g) USE OF FUNDS.—Amounts received by the National Defense University for instruction of students enrolled under this section shall be retained by the university to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the university.

(Added Pub. L. 107–107, div. A, title V, §528(a)(1), Dec. 28, 2001, 115 Stat. 1102; amended Pub. L. 111–84, div. A, title V, §526, Oct. 28, 2009, 123 Stat. 2288; Pub. L. 111–383, div. A, title V, §592, Jan. 7, 2011, 124 Stat. 4232.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a). Pub. L. 111–383 substituted "35 full-time student positions" for "20 full-time student positions".

**2009**—Subsec. (a). Pub. L. 111–84 substituted "20" for "10".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE**

Pub. L. 107–107, div. A, title V, §528(b), Dec. 28, 2001, 115 Stat. 1103, provided that: "Section 2167 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 2002."

## §2167a. Defense Cyber Investigations Training Academy: admission of private sector civilians to receive instruction

(a) AUTHORITY FOR ADMISSION.—The Secretary of Defense may permit eligible private sector employees to receive instruction at the Defense Cyber Investigations Training Academy operating under the direction of the Defense Cyber Crime Center. No more than the equivalent of 200 full-time student positions may be filled at any one time by private sector employees enrolled under this section, on a yearly basis. Upon successful completion of the course of instruction in which enrolled, any such private sector employee may be awarded an appropriate certification or diploma.

(b) ELIGIBLE PRIVATE SECTOR EMPLOYEES.—For purposes of this section, an eligible private sector employee is an individual employed by a private firm that is engaged in providing to the Department of Defense or other Government departments or agencies significant and substantial defense-related systems, products, or services, or whose work product is relevant to national security policy or strategy. A private sector employee remains eligible for such instruction only so long as that person remains employed by an eligible private sector firm.

(c) PROGRAM REQUIREMENTS.—The Secretary of Defense shall ensure that—

(1) the curriculum in which private sector employees may be enrolled under this section is not readily available through other schools; and

(2) the course offerings at the Defense Cyber Investigations Training Academy continue to be determined solely by the needs of the Department of Defense.

(d) TUITION.—The Secretary of Defense shall charge private sector employees enrolled under this section tuition at a rate that is at least equal to the rate charged for employees of the United States. In determining tuition rates, the Secretary shall include overhead costs of the Defense Cyber Investigations Training Academy.

(e) STANDARDS OF CONDUCT.—While receiving instruction at the Defense Cyber Investigations Training Academy, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the Academy.

(f) USE OF FUNDS.—Amounts received by the Defense Cyber Investigations Training Academy for instruction of students enrolled under this section shall be retained by the Academy to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the Academy.

(Added Pub. L. 111–84, div. A, title IX, §901(a), Oct. 28, 2009, 123 Stat. 2422.)

## §2168. Defense Language Institute Foreign Language Center: degree of Associate or Bachelor of Arts in foreign language

(a) Subject to subsection (b), the Commandant of the Defense Language Institute may confer—

(1) an Associate of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree; or

(2) a Bachelor of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree.

(b) A degree may be conferred upon a student under this section only if the Provost of the Center certifies to the Commandant that the student has satisfied all the requirements prescribed for the degree.

(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 107–107, div. A, title V, §531(a), Dec. 28, 2001, 115 Stat. 1104; amended Pub. L. 117–81, div. A, title V, §556(a), Dec. 27, 2021, 135 Stat. 1739.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, §556(a)(1), substituted "Associate or Bachelor" for "Associate" in section catchline.

Subsec. (a). Pub. L. 117–81, §556(a)(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Subject to subsection (b), the Commandant of the Defense Language Institute may confer an Associate of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree."

## §2169. School of Nursing: establishment

(a) ESTABLISHMENT AUTHORIZED.—The Secretary of Defense may establish a School of Nursing.

(b) DEGREE GRANTING AUTHORITY.—The School of Nursing may include a program that awards a bachelor of science in nursing.

(c) PHASED DEVELOPMENT.—The Secretary of Defense may develop the School of Nursing in phases as determined appropriate by the Secretary.

(Added Pub. L. 111–84, div. A, title V, §525(a)(2), Oct. 28, 2009, 123 Stat. 2286.)

# CHAPTER 109—EDUCATIONAL LOAN REPAYMENT PROGRAMS

Sec.
2171. Education loan repayment program: enlisted members on active duty in specified military specialties.
[2172. Renumbered.]
2173. Education loan repayment program: commissioned officers in specified health professions.
2174. Interest payment program: members on active duty.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–314, div. A, title VI, §651(a)(2), Dec. 2, 2002, 116 Stat. 2579, added item 2174.

**1997**—Pub. L. 105–85, div. A, title VI, §651(b), Nov. 18, 1997, 111 Stat. 1803, added item 2173.

**1994**—Pub. L. 103–337, div. A, title XVI, §1671(b)(13), Oct. 5, 1994, 108 Stat. 3014, added item 2171 and struck out former items 2171 "General educational loan repayment program" and 2172 "Education loans for certain health professionals who serve in the Selected Reserve".

## §2171. Education loan repayment program: enlisted members on active duty in specified military specialties

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.);

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.); or

(D) any loan incurred for educational purposes made by a lender that is—

(i) an agency or instrumentality of a State;

(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

(iii) a pension fund approved by the Secretary for purposes of this section; or

(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as a member in an officer program or military specialty specified by the Secretary.

(b) The portion or amount of a loan that may be repaid under subsection (a) is 331/3 percent or $1,500, whichever is greater, for each year of service.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 16301 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 16301(a) of this title.

(g) Except a person described in subsection (e) who transfers to service making the person eligible for repayment of loans under section 16301 of this title, a member of the armed forces who fails to complete the period of service required to qualify for loan repayment under this section shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(h) The Secretary of Defense may prescribe, by regulations, procedures for implementing this section, including standards for qualified loans and authorized payees and other terms and conditions for making loan repayments. Such regulations may include exceptions that would allow for the payment as a lump sum of any loan repayment due to a member under a written agreement that existed at the time of a member's death or disability.

(Added Pub. L. 99–145, title VI, §671(a)(1), Nov. 8, 1985, 99 Stat. 661; amended Pub. L. 103–337, div. A, title XVI, §1663(e), Oct. 5, 1994, 108 Stat. 3009; Pub. L. 104–106, div. A, title X, §1079(a), Feb. 10, 1996, 110 Stat. 451; Pub. L. 109–163, div. A, title V, §537, Jan. 6, 2006, 119 Stat. 3249; Pub. L. 111–383, div. A, title V, §552(a), Jan. 7, 2011, 124 Stat. 4220; Pub. L. 115–91, div. A, title VI, §618(a)(1)(H), Dec. 12, 2017, 131 Stat. 1426.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), D (§1087a et seq.), and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

### AMENDMENTS

**2017**—Subsec. (g). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2011**—Subsecs. (g), (h). Pub. L. 111–383 added subsecs. (g) and (h).

**2006**—Subsec. (a)(1)(D). Pub. L. 109–163, §537(a), added subpar. (D).

Subsec. (a)(2). Pub. L. 109–163, §537(b), substituted "a member in an officer program or military specialty" for "an enlisted member in a military specialty".

**1996**—Subsec. (a)(1). Pub. L. 104–106 struck out "or" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

**1994**—Pub. L. 103–337, §1663(e)(6), substituted "Education loan repayment program: enlisted members on active duty in specified military specialties" for "General educational loan repayment program" as section catchline.

Subsec. (a)(1)(B). Pub. L. 103–337, §1663(e)(1), struck out "or" after "(B)".

Subsec. (a)(2). Pub. L. 103–337, §1663(e)(2), substituted "case of any person for—

"(A) service performed—

"(i) as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force; and

"(ii) in a reserve component and military specialty specified by the Secretary of Defense; or

"(B) service performed"

and struck out at end "In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made."

Subsec. (b). Pub. L. 103–337, §1663(e)(3), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The portion or amount of a loan that may be repaid under subsection (a) is—

"(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A); or

"(2) 331/3 percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B)."

Subsec. (e). Pub. L. 103–337, §1663(e)(4), substituted "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)" for "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection".

Subsec. (f). Pub. L. 103–337, §1663(e)(5), inserted "and section 16301 of this title" after "this section" and "and section 16301(a) of this title" after "subsection (a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Pub. L. 99–145, title VI, §671(b)(1), Nov. 8, 1985, 99 Stat. 663, provided that: "The authority provided under section 2171 of title 10, United States Code, as added by subsection (a), shall apply only—

"(A) in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980;

"(B) with respect to service performed after that date; and

"(C) with respect to loans made after October 1, 1975."

## [§2172. Renumbered §16302]

## §2173. Education loan repayment program: commissioned officers in specified health professions

(a) AUTHORITY TO REPAY EDUCATION LOANS.—For the purpose of maintaining adequate numbers of commissioned officers of the armed forces on active duty who are qualified in the various health professions, the Secretary of a military department may repay, in the case of a person described in subsection (b), a loan that—

(1) was used by the person to finance education regarding a health profession; and

(2) was obtained from a governmental entity, private financial institution, school, or other authorized entity.

(b) ELIGIBLE PERSONS.—To be eligible to obtain a loan repayment under this section, a person must—

(1) satisfy one of the requirements specified in subsection (c);

(2) be fully qualified for, or hold, an appointment as a commissioned officer in one of the health professions; and

(3) sign a written agreement to serve on active duty, or, if on active duty, to remain on active duty for a period in addition to any other incurred active duty obligation.

(c) ACADEMIC AND PROFESSIONAL REQUIREMENTS.—One of the following academic requirements must be satisfied for purposes of determining the eligibility of a person for a loan repayment under this section:

(1) The person is fully qualified in a health care profession that the Secretary of the military department concerned has determined to be necessary to meet identified skill shortages.

(2) The person is enrolled as a full-time student in the final year of a course of study at an accredited educational institution leading to a degree in a health profession other than medicine or osteopathic medicine.

(3) The person is enrolled in the final year of an approved graduate program leading to specialty qualification in medicine, dentistry, osteopathic medicine, or other health profession.

(4) The person is enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance Program under subchapter I of chapter 105 of this title for a number of years less than is required to complete the normal length of the course of study required for the health profession concerned.

(d) CERTAIN PERSONS INELIGIBLE.—Students of the Uniformed Services University of the Health Sciences established under section 2112 of this title are not eligible for the repayment of an education loan under this section.

(e) LOAN REPAYMENTS.—(1) Subject to the limits established by paragraph (2), a loan repayment under this section may consist of payment of the principal, interest, and related expenses of a loan obtained by a person described in subsection (b) for—

(A) all educational expenses, comparable to all educational expenses recognized under section 2127(a) of this title for participants in the Armed Forces Health Professions Scholarship and Financial Assistance program; and

(B) reasonable living expenses, not to exceed expenses comparable to the stipend paid under section 2121(d) of this title for participants in the Armed Forces Health Professions Scholarship and Financial Assistance program.

(2) For each year of obligated service that a person agrees to serve in an agreement described in subsection (b)(3), the Secretary of the military department concerned may pay not more than $60,000 on behalf of the person. This maximum amount shall be increased annually by the Secretary of Defense effective October 1 of each year by the percentage equal to the percent increase in the average annual cost of educational expenses and stipend costs of a single scholarship under the Armed Forces Health Professions Scholarship and Financial Assistance program.

(f) ACTIVE DUTY SERVICE OBLIGATION.—(1) A person entering into an agreement described in subsection (b)(3) incurs an active duty service obligation. The length of this obligation shall be determined under regulations prescribed by the Secretary of Defense, but those regulations may not provide for a period of obligation of less than one year for each maximum annual amount, or portion thereof, paid on behalf of the person for qualified loans.

(2) For persons on active duty before entering into the agreement, the active duty service obligation shall be served consecutively to any other obligation incurred under the agreement.

(g) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—(1) A commissioned officer who is relieved of the officer's active duty obligation under this section before the completion of that obligation may be given, with or without the consent of the officer, any alternative obligation comparable to any of the alternative obligations authorized by section 2123(e) of this title for participants in the Armed Forces Health Professions Scholarship and Financial Assistance program.

(2) An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b)(3), or the alternative obligation imposed under paragraph (1), shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section, including standards for qualified loans and authorized payees and other terms and conditions for the making of loan repayments.

(Added Pub. L. 105–85, div. A, title VI, §651(a), Nov. 18, 1997, 111 Stat. 1802; amended Pub. L. 107–314, div. A, title V, §573, Dec. 2, 2002, 116 Stat. 2558; Pub. L. 109–163, div. A, title VI, §687(c)(7), Jan. 6, 2006, 119 Stat. 3334; Pub. L. 109–364, div. A, title V, §537(a), Oct. 17, 2006, 120 Stat. 2209; Pub. L. 111–383, div. A, title V, §553, Jan. 7, 2011, 124 Stat. 4220; Pub. L. 115–91, div. A, title VI, §618(a)(1)(I), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (g)(2). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2011**—Subsec. (c)(4). Pub. L. 111–383 added par. (4).

**2006**—Subsec. (e)(2). Pub. L. 109–364 substituted "$60,000" for "$22,000".

Subsec. (g). Pub. L. 109–163 designated existing provisions as par. (1) and added par. (2).

**2002**—Subsec. (d). Pub. L. 107–314, §573(a), substituted "Students" for "Participants of the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of this title and students".

Subsec. (e)(2). Pub. L. 107–314, §573(b), struck out at end "The total amount that may be repaid on behalf of any person may not exceed an amount determined on the basis of a four-year active duty service obligation."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title V, §537(b), Oct. 17, 2006, 120 Stat. 2209, provided that:

"(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 2173 of title 10, United States Code, on or after that date.

"(2) PROHIBITION ON ADJUSTMENT.—The adjustment required by the second sentence of section 2173(e)(2) of title 10, United States Code, to be made on October 1, 2006, shall not be made."

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §2174. Interest payment program: members on active duty

(a) AUTHORITY.—(1) The Secretary concerned may pay in accordance with this section the interest and any special allowances that accrue on one or more student loans of an eligible member of the armed forces.

(2) The Secretary of a military department may exercise the authority under paragraph (1) only if approved by the Secretary of Defense and subject to such requirements, conditions, and restrictions as the Secretary of Defense may prescribe.

(b) ELIGIBLE MEMBERS.—A member of the armed forces is eligible for the benefit under subsection (a) while the member—

(1) is serving on active duty in fulfillment of the member's first enlistment in the armed forces or, in the case of an officer, is serving on active duty and has not completed more than three years of service on active duty;

(2) is the debtor on one or more unpaid loans described in subsection (c); and

(3) is not in default on any such loan.

(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

(1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).

(2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).

(3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

(d) MAXIMUM BENEFIT.—The months for which interest and any special allowance may be paid on behalf of a member of the armed forces under this section are any 36 consecutive months during which the member is eligible under subsection (b).

(e) FUNDS FOR PAYMENTS.—Appropriations available for the pay and allowances of military personnel shall be available for payments under this section.

(f) COORDINATION.—(1) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast Guard is operating shall consult with the Secretary of Education regarding the administration of the authority under this section.

(2) The Secretary concerned shall transfer to the Secretary of Education the funds necessary—

(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j)); and

(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965.

(g) SPECIAL ALLOWANCE DEFINED.—In this section, the term "special allowance" means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1).

(Added Pub. L. 107–314, div. A, title VI, §651(a)(1), Dec. 2, 2002, 116 Stat. 2578.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (c) and (f)(2)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), D (§1087a et seq.), and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 107–314, div. A, title VI, §651(e), Dec. 2, 2002, 116 Stat. 2581, provided that: "The amendments made by this section [enacting this section and amending sections 1078, 1087e, and 1087dd of Title 20, Education] shall apply with respect to interest, and any special allowance under section 438 of the Higher Education Act of 1965 [20 U.S.C. 1087–1], that accrue for months beginning on or after October 1, 2003, on

student loans described in subsection (c) of section 2174 of title 10, United States Code (as added by subsection (a)), that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of title 10, United States Code) on or after that date."

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

# CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS

Sec.
2181. Definitions.
2182. Educational assistance: dependents of captives.
2183. Educational assistance: former captives.
2184. Termination of assistance.
2185. Programs to be consistent with programs administered by the Department of Veterans Affairs.

**EDITORIAL NOTES**

**AMENDMENTS**

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(i)(5), Nov. 5, 1990, 104 Stat. 1718, inserted "administered by" after "programs" in item 2185.

**1989**—Pub. L. 101–189, div. A, title XVI, §1621(a)(7)(B), Nov. 29, 1989, 103 Stat. 1603, substituted "programs the Department of Veterans Affairs" for "programs administered by the Veterans' Administration" in item 2185.

## §2181. Definitions

In this chapter:

(1) The terms "captive status" and "former captive" have the meanings given those terms in section 559 of title 37.

(2) The term "dependent" has the meaning given that term in section 551 of that title.

(Added Pub. L. 99–399, title VIII, §806(d)(1), Aug. 27, 1986, 100 Stat. 887, and Pub. L. 100–26, §7(k)(6), Apr. 21, 1987, 101 Stat. 284.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1987**—Pub. L. 100–26, substituted "The terms 'captive' " for " 'Captive' " in par. (1) and "The term 'dependent' " for " 'Dependent' " in par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 99–399, title VIII, §806(d)(3), Aug. 27, 1986, 100 Stat. 888, provided that: "Chapter 110 of title 10, United States Code, as added by paragraph (1), shall apply with respect to persons whose captive status begins after January 21, 1981."

## §2182. Educational assistance: dependents of captives

(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

(1) subsistence;
(2) tuition;
(3) fees;
(4) supplies;
(5) books;
(6) equipment; and
(7) other educational expenses.

(b) Except as provided in section 2184 of this title, payments shall be available under this section for a dependent of a person who is in a captive status for education or training that occurs—

(1) after that person is in a captive status for not less than 90 days; and
(2) on or before—
(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;
(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the educational or training institution is not operated on a semester or quarter system; or
(C) a date specified by the Secretary concerned in order to respond to special circumstances.

(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

(Added Pub. L. 99–399, title VIII, §806(d)(1), Aug. 27, 1986, 100 Stat. 887.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section applicable with respect to persons whose captive status begins after Jan. 21, 1981, see section 806(d)(3) of Pub. L. 99–399, set out as a note under 2181 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

## §2183. Educational assistance: former captives

(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

(1) subsistence;
(2) tuition;
(3) fees;
(4) supplies;

(5) books;
(6) equipment; and
(7) other educational expenses.

(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—
(1) after the termination of the status of that person as a captive; and
(2) on or before—
(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or
(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

(Added Pub. L. 99–399, title VIII, §806(d)(1), Aug. 27, 1986, 100 Stat. 888.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section applicable with respect to persons whose captive status begins after Jan. 21, 1981, see section 806(d)(3) of Pub. L. 99–399, set out as a note under 2181 of this title.

## §2184. Termination of assistance

Assistance under this chapter—
(1) shall be discontinued for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 3524 of title 38; and
(2) may not be provided for any person for more than 45 months (or the equivalent in other than full-time education or training).

(Added Pub. L. 99–399, title VIII, §806(d)(1), Aug. 27, 1986, 100 Stat. 888; amended Pub. L. 103–337, div. A, title X, §1070(e)(7), Oct. 5, 1994, 108 Stat. 2859.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Par. (1). Pub. L. 103–337 substituted "3524" for "1724".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section applicable with respect to persons whose captive status begins after Jan. 21, 1981, see section 806(d)(3) of Pub. L. 99–399, set out as a note under 2181 of this title.

## §2185. Programs to be consistent with programs administered by the Department of Veterans Affairs

Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.

(Added Pub. L. 99–399, title VIII, §806(d)(1), Aug. 27, 1986, 100 Stat. 888; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(7)(A), Nov. 29, 1989, 103 Stat. 1603.)

### EDITORIAL NOTES

### AMENDMENTS

**1989**—Pub. L. 101–189 substituted "the Department of Veterans Affairs" for "the Veterans' Administration" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section applicable with respect to persons whose captive status begins after Jan. 21, 1981, see section 806(d)(3) of Pub. L. 99–399, set out as a note under 2181 of this title.

## CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

Sec.
2191. Graduate fellowships.
2192. Improvement of education in technical fields: general authority regarding education in science, mathematics, and engineering.
[2192a. Renumbered.]
2192b. Program on enhancement of preparation of dependents of members of armed forces for careers in science, technology, engineering, and mathematics.
2192c. Office for academic engagement relating to cyber activities.
2193. Improvement of education in technical fields: grants for higher education in science and mathematics.
2193a. Improvement of education in technical fields: general authority for support of elementary and secondary education in science and mathematics.
2193b. Improvement of education in technical fields: program for support of elementary and secondary education in science, technology, engineering, art and design, and mathematics.
2194. Education partnerships.
2195. Department of Defense cooperative education programs.
[2196, 2197. Renumbered.]
2198. Management training program in Japanese language and culture.
2199. Definitions.

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XV, §1531(a), Dec. 22, 2023, 137 Stat. 560, added item 2192c. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(p)(2)(B), (w)(2), Dec. 27, 2021, 135 Stat. 2148, 2154, struck out items 2192a "Science, Mathematics, and Research for Transformation (SMART) Defense Education Program", 2196 "Manufacturing engineering education: grant program", and 2197 "Manufacturing experts in the classroom".

Pub. L. 116–283, div. A, title V, §591(b), Jan. 1, 2021, 134 Stat. 3665, added item 2193b and struck out former item 2193b "Improvement of education in technical fields: program for support of elementary and secondary education in science, mathematics, and technology".

**2019**—Pub. L. 116–92, div. A, title II, §211(b), Dec. 20, 2019, 133 Stat. 1255, added item 2192b.

**2006**—Pub. L. 109–163, div. A, title XI, §1104(d)(2), Jan. 6, 2006, 119 Stat. 3450, added item 2192a.

**1999**—Pub. L. 106–65, div. A, title V, §580(d)(3), Oct. 5, 1999, 113 Stat. 633, added items 2192, 2193, 2193a, and 2193b and struck out former items 2192 "Science, mathematics, and engineering education" and 2193 "Science and mathematics education improvement program".

**1992**—Pub. L. 102–484, div. D, title XLII, §4238(b)(2), Oct. 23, 1992, 106 Stat. 2694, substituted "experts" for "managers" in item 2197.

**1991**—Pub. L. 102–190, div. A, title VIII, §§825(a)(2), 828(b), Dec. 5, 1991, 105 Stat. 1442, 1444, struck out item 2196 "Definition" and added items 2196 to 2199.

**1990**—Pub. L. 101–510, div. A, title II, §247(a)(2)(A), (C), Nov. 5, 1990, 104 Stat. 1523, substituted "SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION" for "NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS" in chapter heading and added items 2192 to 2196.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STUDY REGARDING ESTABLISHMENT WITHIN THE DEPARTMENT OF DEFENSE OF A DESIGNATED CENTRAL PROGRAM OFFICE TO OVERSEE ACADEMIC ENGAGEMENT PROGRAMS RELATING TO ESTABLISHING CYBER TALENT ACROSS THE DEPARTMENT

Pub. L. 117–81, div. A, title XV, §1532, Dec. 27, 2021, 135 Stat. 2052, as amended by Pub. L. 118–31, div. A, title XV, §1531(c)(5), Dec. 22, 2023, 137 Stat. 563, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a study regarding the need, feasibility, and advisability of establishing within the Department of Defense a designated central program office responsible for overseeing covered academic engagement programs across the Department. Such study shall examine the following:

"(1) Whether the Department's cyber-focused academic engagement needs more coherence, additional coordination, or improved management, and whether a designated central program office would provide such benefits.

"(2) How such a designated central program office would coordinate and harmonize Department programs relating to covered academic engagement programs.

"(3) Metrics such office would use to measure the effectiveness of covered academic engagement programs.

"(4) Whether such an office is necessary to serve as an identifiable entry point to the Department by the academic community.

"(5) Whether the cyber discipline with respect to academic engagement should be treated separately from other STEM fields.

"(6) How such an office would interact with the consortium universities (established pursuant to section 1659 of the National Defense Authorization Act for Fiscal Year 2020 (10 U.S.C. 391 note)) to assist the Secretary on cybersecurity matters.

"(7) Whether the establishment of such an office would have an estimated net savings for the Department.

"(b) CONSULTATION.—In conducting the study required under subsection (a), the Secretary of Defense shall consult with and solicit recommendations from academic institutions and stakeholders, including primary, secondary, and post-secondary educational institutions.

"(c) DETERMINATION.—

"(1) IN GENERAL.—Upon completion of the study required under subsection (a), the Secretary of Defense shall make a determination regarding the establishment within the Department of Defense of a designated central program office responsible for overseeing covered academic engagement programs across the Department.

"(2) IMPLEMENTATION.—If the Secretary of Defense makes an affirmative determination in accordance with paragraph (1), the Secretary shall establish within the Department of Defense a designated central program office responsible for overseeing covered academic programs across the Department. Not later than 180 days after such a determination, the Secretary shall promulgate such rules and regulations as are necessary to so establish such an office.

"(3) NEGATIVE DETERMINATION.—If the Secretary of Defense makes a negative determination

in accordance with paragraph (1), the Secretary shall submit to the congressional defense committees notice of such determination, together with a justification for such determination. Such justification shall include—

"(A) how the Secretary intends to coordinate and harmonize covered academic engagement programs; and

"(B) measures to determine effectiveness of covered academic engagement programs absent a designated central program office responsible for overseeing covered academic programs across the Department.

"(d) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that updates the matters required for inclusion in the reports required pursuant to section 1649 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) [133 Stat. 1758] and section 1726(c) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [134 Stat. 4116].

"(e) DISCHARGE THROUGH DIRECTOR.—In carrying out this section, the Secretary of Defense shall act through the Director of the office established under section 2192c of title 10, United States Code.

"(f) DEFINITION.—In this section, the term 'covered academic engagement program' means each of the following:

"(1) Primary, secondary, or post-secondary education programs with a cyber focus.

"(2) Recruitment or retention programs for Department of Defense cyberspace personnel, including scholarship programs.

"(3) Academic partnerships focused on establishing cyber talent.

"(4) Cyber enrichment programs."

## ENCOURAGEMENT OF CONTRACTOR SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM) PROGRAMS

Pub. L. 116–283, div. A, title II, §245(a)–(d), Jan. 1, 2021, 134 Stat. 3489, 3490, provided that:

"(a) IN GENERAL.—The Under Secretary of Defense for Research and Engineering, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall develop programs and incentives to ensure that Department of Defense contractors take appropriate steps to—

"(1) enhance undergraduate, graduate, and doctoral programs in science, technology, engineering, and mathematics (in this section referred to as 'STEM');

"(2) make investments, such as programming and curriculum development, in STEM programs within elementary schools and secondary schools;

"(3) encourage employees to volunteer in elementary schools and secondary schools, including schools that the Secretary of Defense determines serve high numbers or percentages of students from low-income families or that serve significant populations of military dependents, in order to enhance STEM education and programs;

"(4) establish partnerships with appropriate entities, including institutions of higher education for the purpose of training students in technical disciplines;

"(5) make personnel available to advise and assist in STEM educational activities aligned with functions of the Department of Defense;

"(6) award scholarships and fellowships, and establish work-based learning programs in scientific disciplines;

"(7) conduct recruitment activities to enhance the diversity of the STEM workforce; or

"(8) make internships available to students of secondary schools, undergraduate, graduate, and doctoral programs in STEM disciplines.

"(b) AWARD PROGRAM.—The Secretary of Defense shall establish procedures to recognize defense industry contractors that demonstrate excellence in supporting STEM education, partnerships, programming, and other activities to enhance participation in STEM fields.

"(c) IMPLEMENTATION.—Not later than 270 days after the date of the enactment of this Act [Jan. 1, 2021], the Under Secretary of Defense for Research and Engineering shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] a report on the steps taken to implement the requirements of this section.

"(d) DEFINITIONS.—In this section:

"(1) The terms 'elementary school' and 'secondary school' have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(2) The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

Pub. L. 112–81, div. A, title VIII, §862, Dec. 31, 2011, 125 Stat. 1521, which related to the encouragement of contractor science, technology, engineering, and math (STEM) programs, was repealed by Pub. L. 116–283, div. A, title II, §245(e), Jan. 1, 2021, 134 Stat. 3490.

## §2191. Graduate fellowships

(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to citizens and nationals of the United States who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a "National Defense Science and Engineering Graduate Fellowship".

(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability. The Secretary shall take all appropriate actions to encourage applications for such fellowships of persons who are members of groups (including minority groups, women, and disabled persons) which historically have been underrepresented in science and technology fields. Recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

(d) The regulations prescribed under this section shall include—

(1) the criteria for award of fellowships;

(2) the procedures for selecting recipients;

(3) the basis for determining the amount of a fellowship; and

(4) the maximum amount that may be awarded to an individual during an academic year.

(Added Pub. L. 101–189, div. A, title VIII, §843(d)(1), Nov. 29, 1989, 103 Stat. 1516.)

## §2192. Improvement of education in technical fields: general authority regarding education in science, mathematics, and engineering

(a) The Secretary of Defense, in consultation with the Secretary of Education, shall, on a continuing basis—

(1) identify actions which the Department of Defense may take to improve education in the scientific, mathematics, and engineering skills necessary to meet the long-term national defense needs of the United States for personnel proficient in such skills; and

(2) establish and conduct programs to carry out such actions.

(b)(1) In furtherance of the authority of the Secretary of Defense under any provision of this chapter or any other provision of law to support educational programs in science, mathematics, engineering, and technology, the Secretary of Defense may, unless otherwise specified in such provision—

(A) enter into contracts and cooperative agreements with eligible entities;

(B) make grants of financial assistance to eligible entities;

(C) provide cash awards and other items to eligible entities;

(D) accept voluntary services from eligible entities; and

(E) support national competition judging, other educational event activities, and associated award ceremonies in connection with these educational programs.

(2) The Secretary of Defense may carry out the authority in paragraph (1) through the Secretaries of the military departments.

(3) In this subsection:

(A) The term "eligible entity" includes a department or agency of the Federal Government, a State, a political subdivision of a State, an individual, and a not-for-profit or other organization in

the private sector.

(B) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

(c) The Secretary shall designate an individual within the Office of the Secretary of Defense to advise and assist the Secretary regarding matters relating to science, mathematics, and engineering education and training.

(Added Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1521; amended Pub. L. 106–65, div. A, title V, §580(d)(1), Oct. 5, 1999, 113 Stat. 633; Pub. L. 108–136, div. A, title II, §233, Nov. 24, 2003, 117 Stat. 1423; Pub. L. 111–383, div. A, title II, §211(a), Jan. 7, 2011, 124 Stat. 4162.)

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b)(2), (3). Pub. L. 111–383 added par. (2) and redesignated former par. (2) as (3).

**2003**—Subsecs. (b), (c). Pub. L. 108–136 added subsec. (b) and redesignated former subsec. (b) as (c).

**1999**—Pub. L. 106–65 amended section catchline generally. Prior to amendment, catchline read as follows: "Science, mathematics, and engineering education".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE SCHOLARSHIP PILOT PROGRAM

Pub. L. 108–375, div. A, title XI, §1105, Oct. 28, 2004, 118 Stat. 2074, as amended by Pub. L. 109–163, div. A, title X, §1056(d), title XI, §1104(a)–(c), Jan. 6, 2006, 119 Stat. 3440, 3448, 3449; Pub. L. 111–383, div. A, title X, §1075(h)(5), Jan. 7, 2011, 124 Stat. 4377, which related to a pilot program to provide financial assistance for education in science, mathematics, engineering, and technology skills and disciplines that were determined to be critical to the national security functions of the Department of Defense, was repealed and restated in section 2192a of this title by Pub. L. 109–163, div. A, title XI, §1104(d)(1)(B), (e)(1), Jan. 6, 2006, 119 Stat. 3450.

### DEPARTMENT OF DEFENSE SUPPORT FOR SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

Pub. L. 102–190, div. A, title VIII, §829, Dec. 5, 1991, 105 Stat. 1444, directed Secretary of Defense to develop and submit to Congress a master plan for activities by Department of Defense during each of fiscal years 1993 through 1997 to support education in science, mathematics, and engineering at all levels of education in the United States, with each such plan to be developed in consultation with Secretary of Education, prior to repeal by Pub. L. 104–106, div. A, title X, §1063(c), Feb. 10, 1996, 110 Stat. 444.

## [§2192a. Renumbered §4093]

## §2192b. Program on enhancement of preparation of dependents of members of armed forces for careers in science, technology, engineering, and mathematics

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to—

(1) enhance the preparation of students at covered schools for careers in science, technology, engineering, and mathematics; and

(2) provide assistance to teachers at covered schools to enhance preparation described in

paragraph (1).

(b) COORDINATION.—In carrying out the program, the Secretary shall coordinate with the following:

(1) The Secretaries of the military departments.

(2) The Secretary of Education.

(3) The National Science Foundation.

(4) Other organizations as the Secretary of Defense considers appropriate.

(c) ACTIVITIES.—Activities under the program may include the following:

(1) Establishment of targeted internships and cooperative research opportunities at defense laboratories and other technical centers for students and teachers at covered schools.

(2) Establishment of scholarships and fellowships for students at covered schools.

(3) Efforts and activities that improve the quality of science, technology, engineering, and mathematics educational and training opportunities for students and teachers at covered schools, including with respect to improving the development of curricula at covered schools.

(4) Development of travel opportunities, demonstrations, mentoring programs, and informal science education for students and teachers at covered schools.

(d) METRICS.—The Secretary shall establish outcome-based metrics and internal and external assessments to evaluate the merits and benefits of activities conducted under the program with respect to the needs of the Department of Defense.

(e) COVERED SCHOOLS DEFINED.—In this section, the term "covered schools" means elementary or secondary schools at which the Secretary determines a significant number of dependents of members of the armed forces are enrolled.

(Added Pub. L. 116–92, div. A, title II, §211(a), Dec. 20, 2019, 133 Stat. 1254.)

## §2192c. Office for academic engagement relating to cyber activities

(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, shall establish an office to establish, maintain, and oversee the activities of the Department of Defense that pertain to the relationship between the Department and academia, including with entities involved in primary, secondary, or postsecondary education, with respect to cyber-related matters (in this section referred to as the "Office").

(b) DIRECTOR.—The Office shall have a Director who shall report directly to the Chief Information Officer of the Department of Defense. An individual serving as Director, while so serving, shall be a member of the Senior Executive Service.

(c) RESPONSIBILITIES.—(1) The Office shall be responsible for the following:

(A) Serving as the consolidated focal point for engagements carried out between the Department of Defense and academia with respect to cyber-related matters.

(B) Coordinating covered academic engagement programs for the Department of Defense.

(C) Conducting ongoing analysis, as determined necessary by the Director, of the performance of cyber-related educational scholarships, camps, support efforts, and volunteer partnerships of the Department of Defense.

(D) Identifying actions the Secretary of Defense may take to improve the cyber skills of personnel within the Department of Defense through participation by such personnel in covered academic engagement programs, for the purposes of assisting the Secretary in cyber-related matters and meeting the long-term national defense needs of the United States for personnel proficient in such skills.

(E) Managing funds and resources for the National Centers for Academic Excellence in Cybersecurity program, the Department of Defense Cyber Scholarship Program, the National Defense University College of Information and Cyberspace, the University Consortium for

Cybersecurity, the senior military colleges, and other educational partnerships between academic institutions and active components of the Armed Forces.

(F) Establishing requirements, policies, and procedures to collect data on, and to monitor and evaluate, the performance of covered academic engagement programs with respect to the involvement in such programs by the Department of Defense.

(G) Monitoring and evaluating through applicable performance measurements (including those established pursuant to subparagraph (F)) the performance of covered academic engagement programs with respect to the involvement in such programs by the Department of Defense, and advising the Secretary of Defense on whether to continue, modify, or terminate such involvement.

(H) Conducting budgetary oversight and supervision, taking into consideration the findings of performance evaluations under subparagraph (G), with respect to—

(i) the involvement in covered academic engagement programs by the Department of Defense; and

(ii) other matters relating to the responsibilities under this subsection.

(2) The Office shall be the office of primary responsibility for carrying out the following:

(A) Section 2200c of title 10, United States Code.

(B) Section 1640 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2200 note).

(C) Section 1649 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1758).

(D) The duties of the Secretary of Defense under section 1659 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 391 note).

(E) The duties of the Chief Information Officer of the Department of Defense under section 1726 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 1599f note).

(F) Section 1532 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 2191 note prec.).

(G) Section 1535 of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 2200 note).

(H) Such other provisions of law as the Secretary of Defense may determine relevant.

(d) AUTHORITY RELATING TO COMPLIANCE.—The Secretary of Defense shall take such steps as may be necessary to ensure that the Director of the Office has sufficient authority to compel and enforce compliance with any decisions or directives issued pursuant to the responsibilities under subsection (c).

(e) ADDITIONAL AUTHORITIES.—In carrying out this section, the Director of the Office may, under any provision of this chapter or any other provision of this title providing for the support of educational programs in cyber-related matters (and unless otherwise specified in such provision)—

(1) enter into contracts and cooperative agreements, including for the purpose of supporting academic and hands-on programs for individuals transitioning into the cyber field of the Department;

(2) make grants of financial assistance, including to civilian and military students;

(3) provide cash awards and other items;

(4) accept voluntary services; and

(5) support national competition judging, other educational event activities, and associated award ceremonies in connection with covered academic engagement programs.

(f) RELATIONSHIP TO OTHER ENTITIES.—The Under Secretary of Defense for Research and Engineering and the Secretaries concerned shall coordinate and collaborate with the Director of the Office on covered academic engagement programs sponsored by the Under Secretary as Science, Technology, Engineering, and Mathematics (STEM) programs and activities.

(g) COVERED ACADEMIC ENGAGEMENT PROGRAM DEFINED.—In this section, the term

"covered academic engagement program" means any of the following:

(1) A primary, secondary, or post-secondary educational program with a cyber focus.

(2) A program of the Department of Defense for the recruitment or retention of cyberspace civilian and military personnel (including scholarship programs) other than a Reserve Officers' Training Corps program.

(3) An academic partnership focused on establishing cyber talent among the personnel referred to in paragraph (2).

(Added Pub. L. 118–31, div. A, title XV, §1531(a), Dec. 22, 2023, 137 Stat. 560.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1649 of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (c)(2)(C), is section 1649 of Pub. L. 116–92, div. A, title XVI, Dec. 20, 2019, 133 Stat. 1758, which is not classified to the Code.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### COLLABORATIVE CYBERSECURITY EDUCATIONAL PROGRAM

Pub. L. 119–60, div. A, title XV, §1514, Dec. 18, 2025, 139 Stat. 1151, provided that:

"(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish and carry out [a] program under which the Secretary shall seek to collaborate with academic institutions to develop cybersecurity educational programs at such institutions, including by establishing curriculum standards, developing competencies in cybersecurity at such institutions, promoting community outreach regarding participation in such educational programs, integrating best practices across such educational programs, and advancing solutions to challenges in addressing educational needs with respect to cyber.

"(b) CONSULTATION REQUIREMENTS.—In carrying out the program under subsection (a), the Secretary of Defense shall—

"(1) consult with the Director of the National Security Agency, the Director of the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, the Director of the National Institute of Standards and Technology, the Director of the Federal Bureau of Investigation, and the Director of the National Science Foundation, to ensure that the cyber education programs and educational resource development efforts and programs of the Federal Government do not compete or conflict with each other;

"(2) consult with the heads of other appropriate Federal agencies and representatives of appropriate private sector entities, academic institutions, and other organizations as determined necessary by the Secretary; and

"(3) manage instructional and participatory opportunities available through the efforts, programs, initiatives, and investments accounted for in the report required under section 1649 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1758).

"(c) DESIGNATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary of Defense shall designate academic institutions that meet the standards established under such program in one or more of cyber defense, cyber operations, and cyber research.

"(2) CRITERIA.—The Secretary of Defense shall make the designations under paragraph (1) based on the following:

"(A) Academic requirements and best practices identified by the Secretary of Defense in consultation with Departments and Agencies enabling the development of educational programs reflecting the full range of cyber work roles specified in the Defense Cyber Workforce Framework, the National Initiative on Cyber Education Workforce Framework for Cyber published by the National Institute of Standards and Technology in NIST Special Publication 800–181, Revision 5, or any successor framework.

"(B) Criteria and requirements for the academic institution emphasizing the following:

"(i) Outreach to the surrounding community of the academic institution.

"(ii) Leadership in contributing to the development of a national cyber workforce, including cultivating educational institution faculty and research leaders.

"(iii) Leadership in the development of educational and performance expectations for cyber

professionals, including through curriculum and degree offerings to prepare future cyber professionals of all knowledge and skill levels.

"(iv) Demonstrated commitment to implementing cyber best practices within the academic institution across academic disciplines.

"(v) Demonstrated commitment to seeking solutions to challenges in addressing Federal, State, local, territorial, and Tribal-level needs.

"(vi) Regional accreditation from one of the six regional accrediting agencies recognized by the Department of Education providing external review to assure quality and ongoing improvement.

"(C) Increasing collaboration within the cyber education community to support development and sharing of educational materials and curriculum.

"(D) Increasing collaboration with private sector entities and government employers at the Federal, State, local, territorial, and Tribal levels to further define workforce requirements and assist in defining academic requirements to prepare students for the field of cyber.

"(d) METRICS AND REPORT.—

"(1) METRICS.—The Secretary of Defense shall—

"(A) collaborate with the individuals described in subsection (b)(1) to identify metrics and annual data reporting requirements necessary to assess the degree to which the program established under subsection (a) is meeting the objectives of such program; and

"(B) ensure adequate data and best practices are made available to the individuals described in subsection (b)(1) to measure the efficacy of such program and the benefits provided by such program to individuals participating in such program and to the Department of Defense compared to costs of such program paid by academic institutions participating in such program and sponsors of such program.

"(2) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], and annually thereafter, the Secretary of Defense shall submit to Congress a report on the benefits provided by the program established under subsection (a) to individuals participating in such program and to the Department compared to costs of such program paid by academic institutions participating in such program and sponsors of such program.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) supersede the statutory responsibilities or authorities of any head of a [sic] departments or agencies of the Federal Government; or

"(2) authorize the appropriation of additional amounts for the program established under subsection (a).

"(f) ACADEMIC INSTITUTION DEFINED.—The term 'academic institution' means—

"(1) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) in the United States that conducts research sponsored by the Department of Defense; or

"(2) a senior military college (as defined in section 2111a(f) of title 10, United States Code)."

**DEADLINE FOR ESTABLISHMENT**

Pub. L. 118–31, div. A, title XV, §1531(b), Dec. 22, 2023, 137 Stat. 562, provided that: "The Secretary of Defense shall establish the office under section 2192c of title 10, United States Code, as added by subsection (a), by not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023]."

## §2193. Improvement of education in technical fields: grants for higher education in science and mathematics

(a)(1) The Secretary of Defense may, in accordance with the provisions of this subsection, carry out a program for awarding grants to students who have been accepted for enrollment in, or who are enrolled in, an institution of higher education as undergraduate or graduate students in scientific and engineering disciplines critical to the national security functions of the Department of Defense.

(2) Grant proceeds shall be disbursed on behalf of students awarded grants under this subsection to the institutions of higher education at which the students are enrolled. No grant proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

(3) The amount of a grant awarded a student under this subsection may not exceed the student's cost of attendance.

(4) The amount of a grant awarded a student under this subsection shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken

into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(5) The Secretary shall give priority to awarding grants under this subsection in a manner likely to stimulate the interest of women and members of minority groups in pursuing scientific and engineering careers. The Secretary may consider the financial need of applicants in making awards in accordance with such priority.

(b) In this section:

(1) The term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965.

(2) The term "cost of attendance" has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

(Added Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1521; amended Pub. L. 105–244, title I, §102(a)(2)(A), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 106–65, div. A, title V, §580(c)(2), (3), (d)(2), Oct. 5, 1999, 113 Stat. 633.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 101 of the Higher Education Act of 1965, referred to in subsec. (b)(1), is classified to section 1001 of Title 20, Education.

### AMENDMENTS

**1999**—Pub. L. 106–65, §580(d)(2), amended section catchline generally. Prior to amendment, catchline read as follows: "Science and mathematics education improvement program".

Subsec. (b). Pub. L. 106–65, §580(c)(3), redesignated subsec. (c) as (b).

Pub. L. 106–65, §580(c)(2), redesignated subsec. (b) as section 2193a of this title.

Subsec. (c). Pub. L. 106–65, §580(c)(3), redesignated subsec. (c) as (b).

**1998**—Subsec. (c)(1). Pub. L. 105–244 substituted "section 101 of the Higher Education Act of 1965" for "section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

## §2193a. Improvement of education in technical fields: general authority for support of elementary and secondary education in science and mathematics

The Secretary of Defense, in coordination with the Secretary of Education, may establish programs for the purpose of improving the mathematics and scientific knowledge and skills of elementary and secondary school students and faculty members.

(Added and amended Pub. L. 106–65, div. A, title V, §580(c)(1), (2), Oct. 5, 1999, 113 Stat. 632, 633.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2193(b) of this title, which was transferred to, and redesignated as text of, this section, was based on Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1521.

### AMENDMENTS

**1999**—Pub. L. 106–65, §580(c)(2), renumbered section 2193(b) of this title as text of this section. See

Codification note above.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PILOT PROGRAM ON ENHANCEMENT OF PREPARATION OF DEPENDENTS OF MEMBERS OF ARMED FORCES FOR CAREERS IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS**

Pub. L. 113–291, div. A, title II, §233, Dec. 19, 2014, 128 Stat. 3334, which required the Secretary of Defense to carry out a pilot program related to the enhancement of preparation of certain students for careers in science, technology, engineering, and mathematics, was repealed by Pub. L. 116–92, div. A, title II, §211(c), Dec. 20, 2019, 133 Stat. 1255. See section 2192b of this title.

## §2193b. Improvement of education in technical fields: program for support of elementary and secondary education in science, technology, engineering, art and design, and mathematics

(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may conduct a science, technology, engineering, art and design, and mathematics education improvement program known as the "Department of Defense STARBASE Program". The Secretary shall carry out the program in coordination with the Secretaries of the military departments and the Secretary of the Department in which the Coast Guard is operating.

(b) PURPOSE.—The purpose of the program is to improve knowledge and skills of students in kindergarten through twelfth grade in science, technology, engineering, art and design, and mathematics.

(c) STARBASE ACADEMIES.—(1) The Secretary shall provide for the establishment of at least 25 academies under the program.

(2) The Secretary of Defense shall establish guidelines, criteria, and a process for the establishment of STARBASE programs in addition to those in operation on October 5, 1999.

(3)(A) Except as otherwise provided under subparagraph (B), the Secretary may not support the establishment in any State of more than four academies under the program.

(B) The Secretary may support the establishment and operation of an academy in a State in excess of four academies in that State if the Secretary expressly waives, in writing, the limitation in subparagraph (A) with respect to that State. In the case of any such waiver, appropriated funds may be used for the establishment and operation of an academy in excess of four in that State only to the extent that appropriated funds are expressly available for that purpose. Any such waiver shall be made under criteria to be prescribed by the Secretary.

(d) PERSONS ELIGIBLE TO PARTICIPATE IN PROGRAM.—The Secretary shall prescribe standards and procedures for selection of persons for participation in the program.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the conduct of the program.

(f) AUTHORITY TO ACCEPT FINANCIAL AND OTHER SUPPORT.—(1) The Secretary of Defense, the Secretaries of the military departments, and the Secretary of the Department in which the Coast Guard is operating may accept financial and other support for the program from other departments and agencies of the Federal Government, State governments, local governments, and not-for-profit and other organizations in the private sector.

(2) The Secretary of Defense shall remain the executive agent to carry out the program regardless of the source of funds for the program or any transfer of jurisdiction over the program within the executive branch.

(g) ANNUAL REPORT.—Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report on the program under this section. The report shall contain a discussion of the design and conduct of the program and an evaluation of the effectiveness of the program.

(h) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana

Islands, American Samoa, and Guam.

(Added Pub. L. 106–65, div. A, title V, §580(a), Oct. 5, 1999, 113 Stat. 631; amended Pub. L. 107–107, div. A, title V, §596(b), Dec. 28, 2001, 115 Stat. 1127; Pub. L. 108–375, div. A, title V, §519, title X, §1084(d)(16), Oct. 28, 2004, 118 Stat. 1886, 2062; Pub. L. 110–181, div. A, title V, §592, Jan. 28, 2008, 122 Stat. 138; Pub. L. 111–383, div. A, title V, §595, Jan. 7, 2011, 124 Stat. 4234; Pub. L. 116–92, div. A, title V, §552, Dec. 20, 2019, 133 Stat. 1386; Pub. L. 116–283, div. A, title V, §§591(a), 592, Jan. 1, 2021, 134 Stat. 3665, 3666.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §591(a)(1), substituted "science, technology, engineering, art and design, and mathematics" for "science, mathematics, and technology" in section catchline.

Subsec. (a). Pub. L. 116–283, §591(a)(2), substituted "science, technology, engineering, art and design, and mathematics" for "science, mathematics, and technology".

Subsec. (b). Pub. L. 116–283, §591(a)(3), substituted "science, technology, engineering, art and design, and mathematics" for "mathematics, science, and technology".

Subsec. (h). Pub. L. 116–283, §592, inserted "the Commonwealth of the Northern Mariana Islands, American Samoa," before "Guam".

**2019**—Subsec. (a). Pub. L. 116–92, §552(1), inserted "and the Secretary of the Department in which the Coast Guard is operating" after "military departments".

Subsec. (f). Pub. L. 116–92, §552(2), substituted ", the Secretaries of the military departments, and the Secretary of the Department in which the Coast Guard is operating" for "and the Secretaries of the military departments".

**2011**—Subsec. (g). Pub. L. 111–383 substituted "March 31 of each year" for "90 days after the end of each fiscal year".

**2008**—Subsec. (c)(3)(A). Pub. L. 110–181, §592(1), substituted "more than four academies" for "more than two academies".

Subsec. (c)(3)(B). Pub. L. 110–181, §592(2), substituted "in excess of four" for "in excess of two" in two places.

**2004**—Subsec. (c)(2). Pub. L. 108–375, §1084(d)(16), substituted "October 5, 1999" for "the date of the enactment of this section".

Subsec. (c)(3). Pub. L. 108–375, §519, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Secretary may support the establishment and operation of any academy in excess of two academies in a State only if the Secretary has first authorized in writing the establishment of the academy and the costs of the establishment and operation of the academy are paid out of funds provided by sources other than the Department of Defense. Any such costs that are paid out of appropriated funds shall be considered as paid out of funds provided by such other sources if such sources fully reimburse the United States for the costs."

**2001**—Subsec. (f). Pub. L. 107–107 designated existing provisions as par. (1) and added par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EXISTING STARBASE ACADEMIES

Pub. L. 106–65, div. A, title V, §580(b), Oct. 5, 1999, 113 Stat. 632, provided that: "While continuing in operation, the academies existing on the date of the enactment of this Act [Oct. 5, 1999] under the Department of Defense STARBASE Program, as such program is in effect on such date, shall be counted for the purpose of meeting the requirement under section 2193b(c)(1) of title 10, United States Code (as added by subsection (a)), relating to the minimum number of STARBASE academies."

## §2194. Education partnerships

(a) The Secretary of Defense shall authorize the director of each defense laboratory to enter into one or more education partnership agreements with educational institutions in the United States for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education.

The educational institutions referred to in the preceding sentence are local educational agency, colleges, universities, and any other nonprofit institutions that are dedicated to improving science, mathematics, business, law, technology transfer or transition and engineering education.

(b) Under a partnership agreement entered into with an educational institution under this section, the director of a defense laboratory may provide, and is encouraged to provide, assistance to the educational institution by—

(1) loaning defense laboratory equipment to the institution for any purpose and duration in support of such agreement that the director considers appropriate;

(2) notwithstanding the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 or any provision of law or regulation relating to transfers of surplus property, transferring to the institution any computer equipment, or other scientific equipment, that is—

(A) commonly used by educational institutions;

(B) surplus to the needs of the defense laboratory; and

(C) determined by the director to be appropriate for support of such agreement;

(3) making laboratory personnel available to teach science courses or to assist in the development of science courses and materials for the institution;

(4) providing in the defense laboratory sabbatical opportunities for faculty and internship opportunities for students;

(5) involving faculty and students of the institution in defense laboratory projects, including research and technology transfer or transition projects;

(6) cooperating with the institution in developing a program under which students may be given academic credit for work on defense laboratory projects, including research and technology transfer or transition projects;

(7) providing academic and career advice and assistance to students of the institution; and

(8) entering into new and separate contracts or cooperative agreements with, or making grants to, the institution to provide financial assistance for activities conducted under such partnership agreement.

(c) The Secretary of Defense shall ensure that the director of each defense laboratory shall give a priority under this section to entering into an education partnership agreement with one or more historically Black colleges and universities and other minority institutions referred to in paragraphs (3), (4), and (5) of section 312(b) [1] of the Higher Education Act of 1965 (20 U.S.C. 1058(b)).

(d) The Secretary of Defense shall ensure that, in entering into education partnership agreements under this section, the director of a defense laboratory gives a priority to providing assistance to educational institutions serving women, members of minority groups, and other groups of individuals who traditionally are involved in the engineering and science professions in disproportionately low numbers.

(e) The Secretary of Defense may permit the director of a defense laboratory to enter into a cooperative agreement with an appropriate entity to act as an intermediary and assist the director in carrying out activities under this section.

(f) In this section:

(1) The term "defense laboratory" means any laboratory, product center, test center, depot, training and educational organization, or operational command under the jurisdiction of the Department of Defense.

(2) The term "local educational agency" has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965.

(3) The term "United States" includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(Added Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1522; amended Pub. L. 103–382, title III, §391(b)(4), Oct. 20, 1994, 108 Stat. 4021; Pub. L. 104–106, div. A, title XV, §1503(a)(19), Feb. 10, 1996, 110 Stat. 512; Pub. L. 106–398, §1 [[div. A], title II, §253], Oct. 30,

2000, 114 Stat. 1654, 1654A–49; Pub. L. 107–110, title X, §1076(e), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 108–178, §4(b)(1), Dec. 15, 2003, 117 Stat. 2640; Pub. L. 111–350, §5(b)(3), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 111–383, div. A, title II, §211(b), Jan. 7, 2011, 124 Stat. 4163; Pub. L. 112–239, div. A, title II, §251, Jan. 2, 2013, 126 Stat. 1688; Pub. L. 114–92, div. A, title II, §213, Nov. 25, 2015, 129 Stat. 767; Pub. L. 114–95, title IX, §9215(uuu)(4), Dec. 10, 2015, 129 Stat. 2190; Pub. L. 118–159, div. A, title II, §213, Dec. 23, 2024, 138 Stat. 1824.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)), referred to in subsec. (c), were repealed by Pub. L. 102–325, title III, §302(a)(3), July 23, 1992, 106 Stat. 472.

Section 8101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (f)(2), is classified to section 7801 of Title 20, Education.

### AMENDMENTS

**2024**—Subsec. (b)(8). Pub. L. 118–159 added par. (8).

**2015**—Subsec. (a). Pub. L. 114–92, §213(1), inserted "business, law, technology transfer or transition" after "mathematics,".

Subsec. (b)(4) to (7). Pub. L. 114–92, §213(2), added par. (4), redesignated former pars. (4) to (6) as (5) to (7), respectively, and, in pars. (5) and (6), substituted "projects, including research and technology transfer or transition projects" for "research projects".

Subsec. (f)(2). Pub. L. 114–95 substituted "section 8101 of the Elementary and Secondary Education Act of 1965" for "section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)".

**2013**—Subsec. (f)(2). Pub. L. 112–239, §251(b), inserted "(20 U.S.C. 7801)" before period at end.

Subsec. (f)(3). Pub. L. 112–239, §251(a), added par. (3).

**2011**—Subsec. (b)(2). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" in introductory provisions.

Subsecs. (e), (f). Pub. L. 111–383 added subsec. (e) and redesignated former subsec. (e) as (f).

**2003**—Subsec. (b)(2). Pub. L. 108–178 inserted "subtitle I of title 40 and title III of" before "the Federal" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

**2002**—Subsec. (e)(2). Pub. L. 107–110 substituted "section 9101 of the Elementary and Secondary Education Act of 1965" for "section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)".

**2000**—Subsec. (b). Pub. L. 106–398, §1 [[div. A], title II, §253(a)(1)], inserted ", and is encouraged to provide," after "may provide" in introductory provisions.

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title II, §253(a)(2)], inserted before semicolon "for any purpose and duration in support of such agreement that the director considers appropriate".

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title II, §253(a)(3)], added par. (2) and struck out former par. (2) which read as follows: "transferring to the institution defense laboratory equipment determined by the director to be surplus;".

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title II, §253(b)], amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "In this section, the term 'local educational agency' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)."

**1996**—Subsec. (e). Pub. L. 104–106 substituted "(20 U.S.C. 8801)" for "(20 U.S.C. 2891(12))".

**1994**—Subsec. (a). Pub. L. 103–382, §391(b)(4)(A), substituted "educational agency" for "education agencies".

Subsec. (e). Pub. L. 103–382, §394(b)(4)(B)(iii), which directed amendment of subsec. (e) by striking out "(20 U.S.C. 1058(b)" could not be executed because "(20 U.S.C. 1058(b)" does not appear in subsec. (e).

Pub. L. 103–382, §391(b)(4)(B)(i), (ii), substituted "educational agency" for "education agency" and "section 14101" for "section 1471(12)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

**EFFECTIVE DATE OF 2003 AMENDMENT**

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

[1] *See References in Text note below.*

## §2195. Department of Defense cooperative education programs

(a) The Secretary of Defense shall ensure that the director of each defense laboratory establishes, in association with one or more public or private colleges or universities in the United States or one or more consortia of colleges or universities in the United States, cooperative work-education programs for undergraduate and graduate students.

(b) Under a cooperative work-education program established under subsection (a), a director referred to in that subsection may, without regard to any applicable non-statutory limitation on the number of authorized personnel or on the aggregate amount of any personnel cost—

(1) make an offer for participation in the cooperative work-education program directly to a student and appoint such student to an entry-level position of employment in the laboratory of such director;

(2) pay such person a rate of basic pay, not to exceed the maximum rate of pay provided for grade GS–9 under the General Schedule under section 5332 of title 5, that is competitive with compensation levels provided for entry-level positions in similar industry-sponsored cooperative work-education programs;

(3) pay all travel expenses between the college or university in which the student is enrolled and the laboratory concerned for not more than six round trips per year; and

(4) pay all or part of such fees, charges, and costs related to the participation of such student in the cooperative work-education program as tuition, matriculation fees, charges for library and laboratory services, materials, and supplies, and the purchase or rental price of books.

(c) A director of a defense laboratory may—

(1) require a student, as a condition for receiving payments referred to in subsection (b)(4), to enter into a written agreement to continue employment in such defense laboratory for a period of service specified in the agreement; or

(2) make such payments without requiring such an agreement.

(d)(1) The Director of the National Security Agency may provide a qualifying employee of a defense laboratory of that Agency with living quarters at no charge, or at a rate or charge prescribed by the Director by regulation, without regard to section 5911(c) of title 5.

(2) In this subsection, the term "qualifying employee" means a student who is employed at the National Security Agency under—

(A) a Student Educational Employment Program of the Agency conducted under this section or any other provision of law; or

(B) a similar cooperative or summer education program of the Agency that meets the criteria for Federal cooperative or summer education programs prescribed by the Office of Personnel Management.

(Added Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1522; amended Pub. L. 108–136, div. A, title IX, §926, Nov. 24, 2003, 117 Stat. 1579.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (d). Pub. L. 108–136 added subsec. (d).

## [§2196. Renumbered §4843]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2196, added Pub. L. 101–510, div. A, title II, §247(a)(1), Nov. 5, 1990, 104 Stat. 1523; amended Pub. L. 102–25, title VII, §701(i)(2), Apr. 6, 1991, 105 Stat. 116, defined "defense laboratory", prior to repeal by Pub. L. 102–190, §825(a)(1). See section 2199 of this title.

## [§2197. Renumbered §4844]

## §2198. Management training program in Japanese language and culture

(a) The Secretary of Defense, in coordination with the National Science Foundation, shall establish a program for the making of grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations for the conduct of programs for scientists, engineers, and managers to learn Japanese language and culture.

(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activities that is beneficial to the development and application of defense critical technologies by such laboratories.

(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

(3) Whether an appropriate share of the costs of such activities will be paid out of funds derived from non-Federal Government sources.

(c) In this section, the term "defense critical technology" means a technology that is identified under section 4816 of this title as critical for attaining the national security objectives set forth in section 4811(a) of this title.

(Added Pub. L. 102–190, div. A, title VIII, §828(a), Dec. 5, 1991, 105 Stat. 1444; amended Pub. L. 103–35, title II, §201(c)(3), May 31, 1993, 107 Stat. 98; Pub. L. 105–85, div. A, title X, §1073(a)(39), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 116–283, div. A, title XVIII, §1867(e)(1), Jan. 1, 2021, 134 Stat. 4282.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283 substituted "section 4816" for "section 2505" and "section 4811(a)" for "section 2501(a)".

**1997**—Subsec. (c). Pub. L. 105–85 substituted "that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title." for "identified in a defense critical technologies plan submitted to the Congress under section 2506 of this title."

**1993**—Subsec. (c). Pub. L. 103–35 substituted "a defense" for "an annual defense" and "section 2506" for "section 2522".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §2199. Definitions

In this chapter:

(1) The term "defense laboratory" means a laboratory operated by the Department of Defense or owned by the Department of Defense and operated by a contractor or a facility of a Defense Agency at which research and development activities are conducted.

(2) The term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965.

(3) The term "regional center for the transfer of manufacturing technology" means a manufacturing extension center for the transfer of manufacturing technology and best business practices referred to in section 25(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

(Added Pub. L. 102–190, div. A, title VIII, §825(a)(1), Dec. 5, 1991, 105 Stat. 1441; amended Pub. L. 105–244, title I, §102(a)(2)(B), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 114–329, title V, §501(e)(1), Jan. 6, 2017, 130 Stat. 3032.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 101 of the Higher Education Act of 1965, referred to in par. (2), is classified to section 1001 of Title 20, Education.

### AMENDMENTS

**2017**—Par. (3). Pub. L. 114–329, §501(e)(1)(B), (C), inserted "and best business practices" before "referred" and substituted "section 25(b)" for "section 25(a)".

Pub. L. 114–329, §501(e)(1)(A), which directed substitution of "manufacturing extension center" for "regional center", was executed by making the substitution after "means a" outside of the defined term, to reflect the probable intent of Congress.

**1998**—Par. (2). Pub. L. 105–244 substituted "section 101 of the Higher Education Act of 1965" for "section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

# CHAPTER 112—CYBER SCHOLARSHIP PROGRAM

Sec.
2200. Programs; purpose.
2200a. Scholarship program.
2200b. Grant program.
2200c. Special considerations in awarding scholarships and grants.
2200d. Regulations.
2200e. Definitions.
2200f. Inapplicability to Coast Guard.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title XVI, §1633(b)(2), Aug. 13, 2018, 132 Stat. 2125, added item 2200c and struck out former item 2200c "Centers of Academic Excellence in Cyber Education".

**2017**—Pub. L. 115–91, div. A, title XVI, §1649(d)(1)(A), (2), Dec. 12, 2017, 131 Stat. 1752, 1753, substituted "CYBER" for "INFORMATION SECURITY" in chapter heading and "Centers of Academic Excellence in Cyber Education" for "Centers of Academic Excellence in Information Assurance Education" in item 2200c.

## §2200. Programs; purpose

(a) IN GENERAL.—To encourage the recruitment and retention of Department of Defense personnel who have the computer and network security skills necessary to meet the cyber requirements of the Department of Defense, the Secretary of Defense may carry out programs in accordance with this chapter to provide financial support for education in disciplines relevant to those requirements at institutions of higher education.

(b) TYPES OF PROGRAMS.—The programs authorized under this chapter are as follows:

(1) Scholarships for pursuit of programs of education in cyber disciplines at institutions of higher education.

(2) Grants to institutions of higher education.

(c) NAME OF PROGRAM.—The programs authorized under this chapter shall be known as the "Cyber Scholarship Program".

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–233; amended Pub. L. 115–91, div. A, title XVI, §1649(a), (d)(1)(B), Dec. 12, 2017, 131 Stat. 1752.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (a). Pub. L. 115–91, §1649(d)(1)(B)(i), substituted "the cyber requirements of the Department of Defense" for "Department of Defense information assurance requirements".

Subsec. (b)(1). Pub. L. 115–91, §1649(d)(1)(B)(ii), substituted "cyber disciplines" for "information assurance".

Subsec. (c). Pub. L. 115–91, §1649(a), added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

Pub. L. 115–91, div. A, title XVI, §1649(e)(1), Dec. 12, 2017, 131 Stat. 1753, provided that: "The Information Security Scholarship program under chapter 112 of title 10, United States Code, is redesignated

as the 'Cyber Scholarship program'. Any reference in a law (other than this section), map, regulation, document, paper, or other record of the United States to the Information Security Scholarship program shall be deemed to be a reference to the Cyber Scholarship Program."

## DEPARTMENT OF DEFENSE CYBER SERVICE ACADEMY

Pub. L. 117–263, div. A, title XV, §1535, Dec. 23, 2022, 136 Stat. 2907, as amended by Pub. L. 118–31, div. A, title XV, §§1531(c)(6), 1533, 1534, Dec. 22, 2023, 137 Stat. 563, 565, 566, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, the heads of the elements of the intelligence community, and the Director of the Office of Personnel and Management, shall establish a program to provide financial support for pursuit of programs of education at institutions of high education in covered disciplines.

"(2) COVERED DISCIPLINES.—For purposes of the Program, a covered discipline is a discipline that the Secretary of Defense determines is critically needed and is cyber- or digital technology-related, including the following:

"(A) Computer-related arts and sciences.

"(B) Cyber-related engineering.

"(C) Cyber-related law and policy.

"(D) Applied analytics related sciences, data management, and digital engineering, including artificial intelligence and machine learning.

"(E) Such other disciplines relating to cyber, cybersecurity, digital technology, or supporting functions as the Secretary of Defense considers appropriate.

"(3) DESIGNATION.—The program established under paragraph (1) shall be known as the 'Department of Defense Cyber Service Academy' (in this section referred to as the 'Program').

"(b) PROGRAM DESCRIPTION AND COMPONENTS.—The Program shall—

"(1) provide scholarships through institutions of higher education to students who are enrolled in programs of education at such institutions leading to degrees or specialized program certifications in covered disciplines; and

"(2) prioritize the placement of scholarship recipients fulfilling the post-award employment obligation under this section.

"(c) SCHOLARSHIP AMOUNTS.—

"(1) AMOUNT OF ASSISTANCE.—(A) Each scholarship under the Program shall be in such amount as the Secretary determines necessary—

"(i) to pay all educational expenses incurred by that person, including tuition, fees, cost of books, and laboratory expenses, for the pursuit of the program of education for which the assistance is provided under the Program; and

"(ii) to provide a stipend for room and board.

"(B) The Secretary shall ensure that expenses paid are limited to those educational expenses normally incurred by students at the institution of higher education involved.

"(2) SUPPORT FOR INTERNSHIP ACTIVITIES.—The financial assistance for a person under this section may also be provided to support internship activities of the person in the Department of Defense and combat support agencies in periods between the academic years leading to the degree or specialized program certification for which assistance is provided the person under the Program.

"(3) PERIOD OF SUPPORT.—Each scholarship under the Program shall be for not more than 5 years.

"(4) ADDITIONAL STIPEND.—Students demonstrating financial need, as determined by the Secretary, may be provided with an additional stipend under the Program.

"(5) MINIMUM NUMBER OF SCHOLARSHIP AWARDS.—

"(A) IN GENERAL.—The Secretary of Defense shall award not fewer than 1,000 scholarships under the Program in fiscal year 2026 and in each fiscal year thereafter.

"(B) WAIVER.—The Secretary of Defense may award fewer than the number of scholarships required under subparagraph (A) in a fiscal year if the Secretary determines and notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that fewer scholarships are necessary to address workforce needs.

"(d) POST-AWARD EMPLOYMENT OBLIGATIONS.—Each scholarship recipient, as a condition of receiving a scholarship under the Program, shall enter into an agreement under which the recipient agrees to work for a period equal to the length of the scholarship, following receipt of the student's degree or specialized

program certification, in the cyber- and digital technology-related missions of the Department or an element of the intelligence community, in accordance with the terms and conditions specified by the head concerned in regulations the head concerned shall promulgate to carry out this subsection.

"(e) HIRING AUTHORITY.—In carrying out this section, specifically with respect to enforcing the obligations and conditions of employment under subsection (d), the head concerned may use any authority otherwise available to the head concerned for the recruitment, employment, and retention of civilian personnel within the Department, including authority under section 1599f of title 10, United States Code, or within an element of the intelligence community, as the case may be.

"(f) ELIGIBILITY.—To be eligible to receive a scholarship under the Program, an individual shall—

"(1) be a citizen or lawful permanent resident of the United States;

"(2) demonstrate a commitment to a career in improving the security of information technology or advancing the development and application of digital technology;

"(3) have demonstrated a high level of competency in relevant knowledge, skills, and abilities, as defined by the national cybersecurity awareness and education program under section 303 of the Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7443);

"(4) be a full-time student, or have been accepted as a full-time student, in a program leading to a degree or specialized program certification in a covered discipline at an institution of higher education;

"(5) enter into an agreement accepting and acknowledging the post award employment obligations, pursuant to section (d);

"(6) accept and acknowledge the conditions of support under section (g); and

"(7) meet such other requirements for a scholarship as determined appropriate by the Secretary.

"(g) CONDITIONS OF SUPPORT.—

"(1) IN GENERAL.—As a condition of receiving a scholarship under this section, a recipient shall agree to provide the Office of Personnel Management (in coordination with the Department of Defense) and the institutions of higher education described in subsection (a)(1) with annual verifiable documentation of post-award employment and up-to-date contact information.

"(2) TERMS.—A scholarship recipient under the Program shall be liable to the United States as provided in subsection (i) if the individual—

"(A) fails to maintain an acceptable level of academic standing at the applicable institution of higher education, as determined by the Secretary;

"(B) is dismissed from the applicable institution of higher education for disciplinary reasons;

"(C) withdraws from the eligible degree program before completing the Program;

"(D) declares that the individual does not intend to fulfill the post-award employment obligation under this section;

"(E) fails to maintain or fulfill any of the post-graduation or post-award obligations or requirements of the individual; or

"(F) fails to fulfill the requirements of paragraph (1).

"(h) MONITORING COMPLIANCE.—As a condition of participating in the Program, an institution of higher education shall—

"(1) enter into an agreement with the head concerned to monitor the compliance of scholarship recipients with respect to their post-award employment obligations; and

"(2) provide to the head concerned and the Director of the Office of Personnel Management, on an annual basis, the post-award employment documentation required under subsection (g)(1) for scholarship recipients through the completion of their post-award employment obligations.

"(i) AMOUNT OF REPAYMENT.—

"(1) LESS THAN 1 YEAR OF SERVICE.—If a circumstance described in subsection (g)(2) occurs before the completion of 1 year of a post-award employment obligation under the Program, the total amount of scholarship awards received by the individual under the Program shall be considered a debt to the Government and repaid in its entirety.

"(2) 1 OR MORE YEARS OF SERVICE.—If a circumstance described in subparagraph (D) or (E) of subsection (g)(2) occurs after the completion of 1 or more years of a post-award employment obligation under the Program, the total amount of scholarship awards received by the individual under the Program, reduced by the ratio of the number of years of service completed divided by the number of years of service required, shall be considered a debt to the Government and repaid in accordance with subsection (j).

"(j) REPAYMENTS.—A debt described subsection (i) shall be subject to repayment, together with interest thereon accruing from the date of the scholarship award, in accordance with terms and conditions specified by the head concerned in regulations promulgated to carry out this subsection.

"(k) COLLECTION OF REPAYMENT.—

"(1) IN GENERAL.—In the event that a scholarship recipient is required to repay the scholarship award under the Program, the institution of higher education providing the scholarship shall—

"(A) determine the repayment amounts and notify the recipient, the head concerned, and the Director of the Office of Personnel Management of the amounts owed; and

"(B) collect the repayment amounts within a period of time as determined by the head concerned.

"(2) RETURNED TO TREASURY.—Except as provided in paragraph (3), any repayment under this subsection shall be returned to the Treasury of the United States.

"(3) RETAIN PERCENTAGE.—An institution of higher education may retain a percentage of any repayment the institution collects under this subsection to defray administrative costs associated with the collection. The head concerned shall establish a single, fixed percentage that will apply to all eligible entities.

"(l) PUBLIC INFORMATION.—

"(1) EVALUATION.—The Secretary, in coordination with the Director of the Office of Personnel Management, shall periodically evaluate and make public, in a manner that protects the personally identifiable information of scholarship recipients, information on the success of recruiting individuals for scholarships under the Program and on hiring and retaining those individuals in the Department of Defense workforce, including information on—

"(A) placement rates;

"(B) where students are placed, including job titles and descriptions;

"(C) salary ranges for students not released from obligations under this section;

"(D) how long after graduation students are placed;

"(E) how long students stay in the positions they enter upon graduation;

"(F) how many students are released from obligations; and

"(G) what, if any, remedial training is required.

"(2) REPORTS.—The Secretary, in consultation with the Office of Personnel Management, shall submit, not less frequently than once every two years, to Congress a report, including—

"(A) the results of the evaluation under paragraph (1);

"(B) the disparity in any reporting between scholarship recipients and their respective institutions of higher education; and

"(C) any recent statistics regarding the size, composition, and educational requirements of the relevant Department of Defense workforce.

"(3) RESOURCES.—The Secretary, in coordination with the Director of the Office of Personnel Management, shall provide consolidated and user-friendly online resources for prospective scholarship recipients, including, to the extent practicable—

"(A) searchable, up-to-date, and accurate information about participating institutions of higher education and job opportunities relating to covered disciplines; and

"(B) a modernized description of careers in covered disciplines.

"(m) ALLOCATION OF FUNDING.—

"(1) IN GENERAL.—Not less than 50 percent of the amount available for financial assistance under this section for a fiscal year shall be available only for providing financial assistance for the pursuit of programs of education referred to in subsection (b)(1) at institutions of higher education that have established, improved, or are administering programs of education in disciplines under the grant program established in section 2200b of title 10, United States Code, as determined by the Secretary.

"(2) ASSOCIATE DEGREES.—Not less than five percent of the amount available for financial assistance under this section for a fiscal year shall be available for providing financial assistance for the pursuit of an associate degree at an institution described in paragraph (1).

"(n) BOARD OF DIRECTORS.—In order to help identify workforce needs and trends relevant to the Program, the Secretary may establish a board of directors for the Program that consists of representatives of Federal departments and agencies.

"(o) COMMENCEMENT OF PROGRAM.—The Secretary shall commence the Program as early as practicable, with the first scholarships awarded under the Program for the academic year beginning no later than the fall semester of 2024.

"(p) [sic; two subsecs. (p) have been enacted] DISCHARGE THROUGH DIRECTOR.—In carrying out this section, the Secretary of Defense shall act through the Director of the office established under section 2192c of title 10, United States Code.

"(p) [sic] INTERAGENCY CONSIDERATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), a scholarship recipient may satisfy their post-award employment obligation under this section by working for an element of the intelligence community that is

not part of the Department of Defense only if—

"(A) the Secretary of Defense has entered into an agreement with the head of that element authorizing the placement of scholarship recipients under the Program in positions within that element;

"(B) under such agreement, the head of that element has agreed to reimburse the Department of Defense for the scholarship program costs associated with any scholarship recipient so placed; and

"(C) the scholarship recipient has satisfied appropriate hiring criteria and security clearance requirements applicable to that element.

"(2) LIMITATION ON PERCENTAGE PER GRADUATING CLASS.—Not more than 10 percent of each graduating class of scholarship recipients under the Program may be placed in positions not within the Department of Defense unless the Secretary of Defense submits to the congressional defense committees a certification that the Department of Defense is unable to facilitate placements in positions within the Department of Defense for such excess percentage.

"(q) DEFINITIONS.—In this section:

"(1) The term 'head concerned' means—

"(A) The [sic] Secretary of Defense, with respect to matters concerning the Department of Defense; or

"(B) the head of an element of the intelligence community, with respect to matters concerning that element.

"(2) The term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

**PROGRAM TO ESTABLISH CYBER INSTITUTES AT INSTITUTIONS OF HIGHER LEARNING**

Pub. L. 115–232, div. A, title XVI, §1640, Aug. 13, 2018, 132 Stat. 2130, as amended by Pub. L. 116–283, div. A, title XVII, §1710, Jan. 1, 2021, 134 Stat. 4086; Pub. L. 118–31, div. A, title XV, §1531(c)(1), Dec. 22, 2023, 137 Stat. 562, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program to establish a Cyber Institute at institutions of higher learning selected under subsection (b) for purposes of accelerating and focusing the development of foundational expertise in critical cyber operational skills for future military and civilian leaders of the Armed Forces and the Department of Defense, including such leaders of the reserve components.

"(b) SELECTED INSTITUTIONS OF HIGHER LEARNING.—

"(1) IN GENERAL.—The Secretary of Defense shall select institutions of higher learning for purposes of the program established under subsection (a) from among institutions of higher learning that have a Reserve Officers' Training Corps program.

"(2) CONSIDERATION OF SENIOR MILITARY COLLEGES.—In selecting institutions of higher learning under paragraph (1), the Secretary shall consider the senior military colleges with Reserve Officers' Training Corps programs.

"(c) ELEMENTS.—Each institute established under the program authorized by subsection (a) shall include the following:

"(1) Programs to provide future military and civilian leaders of the Armed Forces or the Department of Defense who possess cyber operational expertise from beginning through advanced skill levels. Such programs shall include instruction and practical experiences that lead to recognized certifications and degrees in the cyber field.

"(2) Programs of targeted strategic foreign language proficiency training for such future leaders that—

"(A) are designed to significantly enhance critical cyber operational capabilities; and

"(B) are tailored to current and anticipated readiness requirements.

"(3) Programs related to mathematical foundations of cryptography and courses in cryptographic theory and practice designed to complement and reinforce cyber education along with the strategic language programs critical to cyber operations.

"(4) Programs related to data science and courses in data science theory and practice designed to complement and reinforce cyber education along with the strategic language programs critical to cyber operations.

"(5) Programs designed to develop early interest and cyber talent through summer programs, dual enrollment opportunities for cyber, strategic language, data science, and cryptography related courses.

"(6) Training and education programs to expand the pool of qualified cyber instructors necessary to support cyber education in regional school systems.

"(d) PARTNERSHIPS WITH DEPARTMENT OF DEFENSE AND THE ARMED FORCES.—Any institute established under the program authorized by subsection (a) may enter into a partnership with one or

more components of the Armed Forces, active or reserve, or any agency of the Department of Defense to facilitate the development of critical cyber skills for students who may pursue a military career.

"(e) PARTNERSHIPS.—Any institute established under the program authorized by subsection (a) may enter into a partnership with one or more local educational agencies to facilitate the development of critical cyber skills.

"(f) SENIOR MILITARY COLLEGES DEFINED.—The term 'senior military colleges' has the meaning given such term in section 2111a(f) of title 10, United States Code.

"(g) REPORT TO CONGRESS.—Not later than September 30, 2021, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the effectiveness of the Cyber Institutes and on opportunities to expand the Cyber Institutes to additional select institutions of higher learning that have a Reserve Officers' Training Corps program.

"(h) DISCHARGE THROUGH DIRECTOR.—In carrying out this section, the Secretary of Defense shall act through the Director of the office established under section 2192c of title 10, United States Code."

**REPORT**

Pub. L. 106–398, §1 [[div. A], title IX, §922(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236, directed the Secretary of Defense to submit to committees of Congress a plan for implementing the programs under this chapter not later than Apr. 1, 2001.

## §2200a. Scholarship program

(a) AUTHORITY.—The Secretary of Defense may, subject to subsection (f), provide financial assistance in accordance with this section to a person—

(1) who is pursuing an associate, baccalaureate, advanced degree, or certificate in a cyber discipline referred to in section 2200(a) of this title at an institution of higher education; and

(2) who enters into an agreement with the Secretary as described in subsection (b).

(b) SERVICE AGREEMENT FOR SCHOLARSHIP RECIPIENTS.—(1) To receive financial assistance under this section—

(A) a member of the armed forces shall enter into an agreement to serve on active duty in the member's armed force for the period of obligated service determined under paragraph (2);

(B) an employee of the Department of Defense shall enter into an agreement to continue in the employment of the department for the period of obligated service determined under paragraph (2); and

(C) a person not referred to in subparagraph (A) or (B) shall enter into an agreement—

(i) to enlist or accept a commission in one of the armed forces and to serve on active duty in that armed force for the period of obligated service determined under paragraph (2); or

(ii) to accept and continue employment in the Department of Defense for the period of obligated service determined under paragraph (2).

(2) For the purposes of this subsection, the period of obligated service for a recipient of financial assistance under this section shall be the period determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for the financial assistance and otherwise to achieve the goals set forth in section 2200(a) of this title. In no event may the period of service required of a recipient be less than the period equal to three-fourths of the total period of pursuit of a degree for which the Secretary agrees to provide the recipient with financial assistance under this section. The period of obligated service is in addition to any other period for which the recipient is obligated to serve on active duty or in the civil service, as the case may be.

(3) An agreement entered into under this section by a person pursuing an academic degree shall include terms that provide the following:

(A) That the period of obligated service begins on a date after the award of the degree that is determined under the regulations prescribed under section 2200d of this title.

(B) That the person will maintain satisfactory academic progress, as determined in accordance with those regulations, and that failure to maintain such progress constitutes grounds for

termination of the financial assistance for the person under this section.

(C) Any other terms and conditions that the Secretary of Defense determines appropriate for carrying out this section.

(c) AMOUNT OF ASSISTANCE.—The amount of the financial assistance provided for a person under this section shall be the amount determined by the Secretary of Defense as being necessary to pay all educational expenses incurred by that person, including tuition, fees, cost of books, laboratory expenses, and expenses of room and board. The expenses paid, however, shall be limited to those educational expenses normally incurred by students at the institution of higher education involved.

(d) USE OF ASSISTANCE FOR SUPPORT OF INTERNSHIPS.—The financial assistance for a person under this section may also be provided to support internship activities of the person at the Department of Defense in periods between the academic years leading to the degree for which assistance is provided the person under this section.

(e) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) A member of an armed force who does not complete the period of active duty specified in the service agreement under subsection (b) shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(2) A civilian employee of the Department of Defense who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) or 373 of title 37 in the same manner and to the same extent as if the civilian employee were a member of the armed forces.

(f) ALLOCATION OF FUNDING.—(1) Not less than 50 percent of the amount available for financial assistance under this section for a fiscal year shall be available only for providing financial assistance for the pursuit of degrees referred to in subsection (a) at institutions of higher education that have established, improved, or are administering programs of education in cyber disciplines under the grant program established in section 2200b of this title, as determined by the Secretary of Defense.

(2) Not less than five percent of the amount available for financial assistance under this section for a fiscal year shall be available for providing financial assistance for the pursuit of an associate degree at an institution described in paragraph (1).

(g) EMPLOYMENT OF PROGRAM PARTICIPANTS.—The Secretary of Defense—

(1) may, without regard to any provision of title 5 governing appointments in the competitive service, appoint to a cyber position in the Department of Defense in the excepted service an individual who has successfully completed an academic program for which a scholarship under this section was awarded and who, under the terms of the agreement for such scholarship, at the time of such appointment owes a service commitment to the Department; and

(2) may, upon satisfactory completion of two years of substantially continuous service by an incumbent who was appointed to an excepted service position under the authority of paragraph (1), convert the appointment of such individual, without competition, to a career or career conditional appointment.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–234; amended Pub. L. 109–163, div. A, title VI, §687(c)(8), Jan. 6, 2006, 119 Stat. 3334; Pub. L. 111–84, div. A, title X, §1073(a)(20), title XI, §1103, Oct. 28, 2009, 123 Stat. 2473, 2485; Pub. L. 115–91, div. A, title VI, §618(a)(1)(J), title XVI, §1649(b), (d)(1)(C), Dec. 12, 2017, 131 Stat. 1426, 1752; Pub. L. 116–92, div. A, title XVI, §1637, Dec. 20, 2019, 133 Stat. 1749.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a)(1). Pub. L. 116–92 substituted "advanced degree, or certificate" for "or advanced degree, or a certification,".

**2017**—Subsec. (a)(1). Pub. L. 115–91, §1649(d)(1)(C)(i), substituted "a cyber discipline" for "an

information assurance discipline".

Subsec. (e). Pub. L. 115–91, §618(a)(1)(J), inserted "or 373" before "of title 37" in pars. (1) and (2).

Subsec. (f). Pub. L. 115–91, §1649(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 115–91, §1649(d)(1)(C)(ii), substituted "cyber disciplines" for "information assurance".

Subsec. (g)(1). Pub. L. 115–91, §1649(d)(1)(C)(iii), substituted "a cyber position" for "an information technology position".

**2009**—Subsec. (a). Pub. L. 111–84, §1103(b), substituted "subsection (f)," for "subsection (g)," in introductory provisions.

Subsec. (e)(1). Pub. L. 111–84, §1073(a)(20), substituted "subsection (b)" for "section (b)".

Subsec. (g). Pub. L. 111–84, §1103(a), added subsec. (g).

**2006**—Subsec. (e). Pub. L. 109–163, §687(c)(8)(A), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

"(1) A person who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall refund to the United States an amount determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for financial assistance and otherwise to achieve the goals set forth in section 2200(a) of this title.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) The Secretary of Defense may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States."

Subsecs. (f), (g). Pub. L. 109–163, §687(c)(8)(B), (C), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (e)."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §2200b. Grant program

(a) AUTHORITY.—The Secretary of Defense may provide grants of financial assistance to institutions of higher education to support the establishment, improvement, or administration of programs of education in cyber disciplines referred to in section 2200(a) of this title.

(b) PURPOSES.—The proceeds of grants under this section may be used by an institution of higher education for the following purposes:

(1) Faculty development.

(2) Curriculum development.

(3) Laboratory improvements.

(4) Faculty research in information security.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–235; amended Pub. L. 115–91, div. A, title XVI, §1649(d)(1)(D), Dec. 12, 2017, 131 Stat. 1753.)

### EDITORIAL NOTES

### AMENDMENTS

Subsec. (a). Pub. L. 115–91 substituted "cyber disciplines" for "information assurance disciplines".

## §2200c. Special considerations in awarding scholarships and grants

(a) CENTERS OF ACADEMIC EXCELLENCE IN CYBER EDUCATION.—In the selection of a recipient for the award of a scholarship or grant under this chapter, consideration shall be given to whether—

(1) in the case of a scholarship, the institution at which the recipient pursues a degree is a Center of Academic Excellence in Cyber Education; and

(2) in the case of a grant, the recipient is a Center of Academic Excellence in Cyber Education.

(b) CERTAIN INSTITUTIONS OF HIGHER EDUCATION.—In the selection of a recipient for the award of a scholarship or grant under this chapter, consideration shall be given to whether—

(1) in the case of a scholarship, the institution of higher education at which the recipient pursues a degree is an institution described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)); and

(2) in the case of a grant, the recipient is an institution described in such section.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236; amended Pub. L. 115–91, div. A, title XVI, §1649(d)(1)(E), (F), Dec. 12, 2017, 131 Stat. 1753; Pub. L. 115–232, div. A, title XVI, §1633(a), (b)(1), Aug. 13, 2018, 132 Stat. 2125.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 substituted "Special considerations in awarding scholarships and grants" for "Centers of Academic Excellence in Cyber Education" in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2017**—Pub. L. 115–91 substituted "Cyber" for "Information Assurance" in heading and in pars. (1) and (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 115–91, div. A, title XVI, §1649(e)(2), Dec. 12, 2017, 131 Stat. 1753, provided that: "Any institution of higher education designated by the Director of the National Security Agency as a Center of Academic Excellence in Information Assurance Education is redesignated as a Center of Academic Excellence in Cyber Education. Any reference in a law (other than this section), map, regulation, document, paper, or other record of the United States to a Center of Academic Excellence in Information Assurance Education shall be deemed to be a reference to a Center of Academic Excellence in Cyber Education."

## §2200d. Regulations

The Secretary of Defense shall prescribe regulations for the administration of this chapter.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236.)

## §2200e. Definitions

In this chapter:

(1) The term "cyber" includes the following:

(A) Offensive cyber operations.

(B) Defensive cyber operations.

(C) Department of Defense information network operations and defense.

(D) Any other information technology that the Secretary of Defense considers to be related to the cyber activities of the Department of Defense.

(2) The term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) The term "Center of Academic Excellence in Cyber Education" means an institution of higher education that is designated by the Director of the National Security Agency as a Center of Academic Excellence in Cyber Education.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236; amended Pub. L. 115–91, div. A, title XVI, §1649(c), Dec. 12, 2017, 131 Stat. 1752.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Pub. L. 115–91 amended section generally. Prior to amendment, section defined "information assurance", "institution of higher education", and "Center of Academic Excellence in Information Assurance Education".

## §2200f. Inapplicability to Coast Guard

This chapter does not apply to the Coast Guard when it is not operating as a service in the Navy.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §922(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–236.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

# CHAPTER 113—DEFENSE CIVILIAN TRAINING CORPS

Sec.
2200g. Establishment.
2200h. Program elements.
2200i. Model authorities.
2200j. Definitions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(4)(B), Jan. 1, 2021, 134 Stat. 3870, struck out "Sec." before each item in this analysis, except where it appears preceding item 2200g.

## §2200g. Establishment

(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish and maintain a Defense Civilian Training Corps program, organized into one or more units, at any accredited civilian educational institution authorized to grant baccalaureate degrees.

(b) PURPOSE.—The purpose of the Defense Civilian Training Corps is to target critical skills gaps necessary to achieve the objectives of the national defense strategies required by section 113(g) of this title and the national security strategies required by section 108 of the National Security Act

of 1947 (50 U.S.C. 3043) by preparing students selected for the Defense Civilian Training Corps for Department of Defense careers relating to acquisition, digital technologies, critical technologies, science, engineering, finance, and other civilian occupations determined by the Secretary of Defense.

(c) USE OF RESOURCES AND PROGRAMS.—The Under Secretary of Defense for Acquisition and Sustainment may leverage the resources and programs of the acquisition research organization within a civilian college or university that is described under section 4142(a) of this title (commonly referred to as the "Acquisition Innovation Research Center") to carry out the requirements of this chapter.

(Added Pub. L. 116–92, div. A, title VIII, §860(a), Dec. 20, 2019, 133 Stat. 1513; amended Pub. L. 116–283, div. A, title X, §1081(a)(4)(A), Jan. 1, 2021, 134 Stat. 3870; Pub. L. 117–263, div. A, title VIII, §833, Dec. 23, 2022, 136 Stat. 2713; Pub. L. 118–31, div. A, title XVIII, §1801(a)(18), Dec. 22, 2023, 137 Stat. 684; Pub. L. 118–159, div. A, title XVII, §1701(a)(26), Dec. 23, 2024, 138 Stat. 2204.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159 substituted "Under Secretary of Defense" for "Under Secretary for Defense".

**2023**—Subsec. (a). Pub. L. 118–31 inserted heading.

**2022**—Pub. L. 117–263 designated existing provisions as subsec. (a), substituted "The Secretary of Defense, acting through the Under Secretary for Defense for Acquisition and Sustainment, shall establish and maintain" for "For the purposes of preparing selected students for public service in Department of Defense occupations relating to acquisition, science, engineering, or other civilian occupations determined by the Secretary of Defense, and to target critical skill gaps in the Department of Defense, the Secretary of Defense shall establish and maintain", and added subsecs. (b) and (c).

**2021**—Pub. L. 116–283 substituted "§" for "SEC." in section designation.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION TIMELINE**

Pub. L. 116–92, div. A, title VIII, §860(b), Dec. 20, 2019, 133 Stat. 1514, provided that:

"(1) INITIAL IMPLEMENTATION.—Not later than February 15, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan and schedule to implement the Defense Civilian Training Corps program established under chapter 113 of title 10, United States Code (as added by subsection (a)) at one accredited civilian educational institution authorized to grant baccalaureate degrees not later than August 1, 2021. The plan shall include a list of critical skills gaps the program will address and recommendations for any legislative changes required for effective implementation of the program.

"(2) EXPANSION.—Not later than December 31, 2020, the Secretary of Defense shall submit to the congressional defense committees an expansion plan and schedule to expand the Defense Civilian Training Corps program to five accredited civilian educational institutions not later than August 1, 2022.

"(3) FULL IMPLEMENTATION.—Not later than December 31, 2021, the Secretary of Defense shall submit to the congressional defense committees a full implementation plan and schedule to expand the Defense Civilian Training Corps program to at least 20 accredited civilian educational institutions with not fewer than 400 members enrolled in the program not later than August 1, 2023."

## §2200h. Program elements

(a) IN GENERAL.—In establishing the program, the Secretary of Defense shall determine the following:

(1) A methodology to identify and target critical skills gaps in Department of Defense occupations relating to acquisition, science, engineering, or other civilian occupations determined by the Secretary of Defense.

(2) A mechanism to track and report the success of the program in eliminating any critical skills gaps identified under paragraph (1).

(3) Criteria for an accredited civilian educational institution to participate in the program.

(4) The eligibility of a student to become a member of the program.

(5) Criteria required for a member of the program to receive financial assistance from the Department of Defense.

(6) The term of service as an employee of the Department of Defense required for a member of the program to receive such financial assistance.

(7) Criteria required for a member of the program to be released from a term of service.

(8) The method by which a successful graduate of the program may gain immediate employment in the Department of Defense, in accordance with subsection (b).

(9) Resources required for implementation of the program.

(b) HIRING AUTHORITY.—

(1) MEMBERS.—The head of an element of the Department of Defense that partners with an institution participating in the program may, without regard to the provisions of subchapter I of chapter 33 of title 5, appoint a member of the program to a position in such element for a term of one year.

(2) GRADUATES.—

(A) IN GENERAL.—The head of an element described in paragraph (1) may—

(i) renew the appointment [1] a successful graduate of the program serving a one-year term under such paragraph until such graduate is appointed to a permanent position in such element, except that the appointment may not be renewed for more than a total of four one-year terms; and

(ii) without regard to the provisions of subchapter I of chapter 33 of title 5, appoint a graduate holding a position under an appointment renewed under clause (i) to a vacant position in the civil service (as such term is defined in section 2101 of title 5, United States Code) in the Department.

(B) LEVEL.—The position of a graduate in a term or permanent position described in subparagraph (A) shall be classified at the level of GS–9 under the General Schedule under subchapter III of chapter 53 of title 5, or an equivalent level for which the participant is qualified, without regard to any minimum time-in-grade or time-based experience requirements.

(C) LIMIT.—The authority under this section may not be used for more than 60 graduates of the program in any calendar year.

(3) COMPENSATION.—

(A) IN GENERAL.—The basic pay of an individual appointed under this subsection shall be paid from amounts available in the Department of Defense Acquisition Workforce Development Account established under section 1705 of this title.

(B) LIMITATION.—Payment under subparagraph (A) may be made only during the term of the appointment of such an individual and may not exceed a total of four years of payments for any one individual, including renewals under paragraph (1) or (2).

(C) RELATION TO OTHER AUTHORITY.—Nothing in this paragraph shall be construed to affect the authority of the Secretary of Defense to pay compensation from other available appropriations.

(4) SUNSET.—The authority under this subsection shall terminate on December 31, 2029.

(Added Pub. L. 116–92, div. A, title VIII, §860(a), Dec. 20, 2019, 133 Stat. 1514; amended Pub. L. 116–283, div. A, title X, §1081(a)(4)(A), Jan. 1, 2021, 134 Stat. 3870; Pub. L. 119–60, div. A, title VIII, §823(a), Dec. 18, 2025, 139 Stat. 954.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §823(a)(1), (2), inserted ", in accordance with subsection (b)" before period at end of par. (8), designated existing provisions as subsec. (a), and inserted heading.

Subsec. (b). Pub. L. 119–60, §823(a)(3), added subsec. (b).

**2021**—Pub. L. 116–283 substituted "§" for "SEC." in section designation.

[1] *So in original. Probably should be followed by "of".*

## §2200i. Model authorities

In making determinations under section 2200h of this title, the Secretary of Defense shall use the authorities under chapters 103 and 111 of this title as guides.

(Added Pub. L. 116–92, div. A, title VIII, §860(a), Dec. 20, 2019, 133 Stat. 1514; amended Pub. L. 116–283, div. A, title X, §1081(a)(4)(A), Jan. 1, 2021, 134 Stat. 3870.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "§" for "SEC." in section designation.

## §2200j. Definitions

In this chapter:

(1) The term "program" means the Defense Civilian Training Corps program established under section 2200g.

(2) The term "member of the program" means a student at an accredited civilian educational institution who is enrolled in the program.

(Added Pub. L. 116–92, div. A, title VIII, §860(a), Dec. 20, 2019, 133 Stat. 1514; amended Pub. L. 116–283, div. A, title X, §1081(a)(4)(A), Jan. 1, 2021, 134 Stat. 3870.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "§" for "SEC." in section designation.

# PART IV—SERVICE, SUPPLY, AND PROPERTY


| Chap. | | Sec. |
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| **131.** | **Planning and Coordination** | **2201** |
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| **[137.** | **Repealed.]** | |
| **138.** | **Cooperative Agreements with NATO Allies and Other Countries** | **2341** |
| **[139.** | **Repealed.]** | |
| **[140.** | **Transferred.]** | |
| **141.** | **Miscellaneous Provisions Relating to Property** | **2381** |
| **[142.** | **Repealed.]** | |
| **143.** | **Production by Military Agencies** | **2421** |

**[144. Repealed.]**
**[144A,**
**144B.**
**Repealed.]**
**145. Cataloging and Standardization 2451**
**146. Contracting for Performance of Civilian Commercial or Industrial Type Functions 2460**
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**[148. Repealed.]**
**[149. Transferred.]**
**[150. Repealed.]**
**152. Issue of Supplies, Services, and Facilities 2551**
**153. Exchange of Material and Disposal of Obsolete, Surplus, or Unclaimed Property 2571**
**155. Acceptance of Gifts and Services 2601**
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**163. Military Claims 2731**
**165. Accountability and Responsibility 2771**
**[167. Repealed.]**
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**[171. Repealed.]**
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## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title XVIII, §§1808(a)(4), 1821(a)(4), 1851(d)(2), 1872(b)(2), 1880(a), 1881(b), 1882(a)(2), Jan. 1, 2021, 134 Stat. 4159, 4195, 4273, 4289, 4293, substituted "SERVICE, SUPPLY, AND PROPERTY" for "SERVICE, SUPPLY, AND PROCUREMENT" in heading for part IV and "Miscellaneous Provisions Relating to Property" for "Miscellaneous Procurement Provisions" in item for chapter 141 and struck out items for chapters 137 "Procurement Generally", 139 "Research and Development", 140 "Procurement of Commercial Products and Commercial Services", 142 "Procurement Technical Assistance Cooperative Agreement Program", 144 "Major Defense Acquisition Programs", 144B "Weapon Systems Development and Related Matters", 148 "National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion", and 149 "Defense Acquisition System".

Pub. L. 116–283, div. A, title X, §1081(a)(3), Jan. 1, 2021, 134 Stat. 3870, substituted "2375." for "2377" in item for chapter 140.

**2018**—Pub. L. 115–232, div. A, title VIII, §836(e)(12), Aug. 13, 2018, 132 Stat. 1870, substituted "Procurement of Commercial Products and Commercial Services" for "Procurement of Commercial Items" and "2377" for "2375" in item for chapter 140.

**2017**—Pub. L. 115–91, div. A, title X, §1081(d)(4), Dec. 12, 2017, 131 Stat. 1600, amended directory language of Pub. L. 114–328, §805(a)(2). See 2016 Amendment note below.

**2016**—Pub. L. 114–328, div. A, title VIII, §846(2), Dec. 23, 2016, 130 Stat. 2292, struck out item for chapter 144A "Major Automated Information System Programs".

Pub. L. 114–328, div. A, title VIII, §805(a)(2), Dec. 23, 2016, 130 Stat. 2255, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(4), Dec. 12, 2017, 131 Stat. 1600, added item for chapter 144B.

**2011**—Pub. L. 111–383, div. A, title VIII, §861(b), Jan. 7, 2011, 124 Stat. 4292, added item for chapter 149.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(21), Oct. 28, 2009, 123 Stat. 2473, substituted "2551" for "2541" in item for chapter 152.

**2006**—Pub. L. 109–364, div. A, title VIII, §816(a)(2), div. B, title XXVIII, §2851(c)(1), Oct. 17, 2006, 120 Stat. 2326, 2495, added items for chapters 144A and 173.

**2003**—Pub. L. 108–136, div. A, title X, §1045(a)(1), Nov. 24, 2003, 117 Stat. 1612, substituted "2700" for "2701" in item for chapter 160.

**2001**—Pub. L. 107–107, div. A, title IX, §911(b), Dec. 28, 2001, 115 Stat. 1196, added item for chapter 135.

**1997**—Pub. L. 105–85, div. A, title III, §§355(c)(2), 371(a)(2), (c)(5), title X, §§1073(a)(2), 1074(d)(2), Nov. 18, 1997, 111 Stat. 1694, 1705, 1900, 1910, added item for chapter 136 and substituted "2460" for "2461" in item for chapter 146, "Commissaries and Exchanges and Other Morale, Welfare, and Recreation Activities" for "Utilities and Services" in item for chapter 147, "2500" for "2491" in item for chapter 148, and "2541" for "2540" in item for chapter 152.

**1996**—Pub. L. 104–201, div. A, title XI, §1123(a)(3), Sept. 23, 1996, 110 Stat. 2688, struck out item for chapter 167 "Defense Mapping Agency".

Pub. L. 104–106, div. A, title X, §1061(b)(2), Feb. 10, 1996, 110 Stat. 442, struck out item for chapter 171 "Security and Control of Supplies".

**1994**—Pub. L. 103–355, title VIII, §8101(b), Oct. 13, 1994, 108 Stat. 3389, added item for chapter 140.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(1), Nov. 30, 1993, 107 Stat. 1713, struck out item for chapter 135 "Encouragement of Aviation".

**1992**—Pub. L. 102–484, div. D, title XLII, §4271(b)(1), Oct. 23, 1992, 106 Stat. 2695, added item for chapter 148 and struck out former items for chapters 148 "Defense Industrial Base", 149 "Manufacturing Technology", and 150 "Development of Dual-Use Critical Technologies".

**1991**—Pub. L. 102–190, div. A, title VIII, §821(f), title X, §1061(a)(27)(A), Dec. 5, 1991, 105 Stat. 1432, 1474, substituted "Manufacturing" for "Maufacturing" in item for chapter 149, substituted "Development of Dual-Use Critical Technologies" for "Issue to Armed Forces" in item for chapter 150, struck out item for chapter 151 "Issue of Serviceable Material Other Than to Armed Forces", and added item for chapter 152.

**1990**—Pub. L. 101–510, div. A, title VIII, §823(b)(1), title XVIII, §1801(a)(2), Nov. 5, 1990, 104 Stat. 1602, 1757, added item for chapter 149, redesignated former item for chapter 149 as item for chapter 150, and added item for chapter 172.

**1989**—Pub. L. 101–189, div. A, title IX, §931(e)(2), Nov. 29, 1989, 103 Stat. 1535, substituted "Cooperative Agreements" for "Acquisition and Cross-Servicing Agreements" in item for chapter 138.

**1988**—Pub. L. 100–456, div. A, title III, §§342(a)(2), 344(b)(2), title VIII, §821(b)(2), Sept. 29, 1988, 102 Stat. 1961, 1962, 2016, substituted "Defense Industrial Base" for "Buy American Requirements" in item for chapter 148, substituted "Property Records and Report of Theft or Loss of Certain Property" for "Property Records" in item for chapter 161, and added item for chapter 171.

Pub. L. 100–370, §§1(e)(2), 2(a)(2), 3(a)(2), July 19, 1988, 102 Stat. 845, 854, 855, added items for chapters 134, 146, and 148.

**1987**—Pub. L. 100–26, §7(c)(1), Apr. 21, 1987, 101 Stat. 280, substituted "Acquisition and Cross-Servicing Agreements with NATO Allies and Other Countries" for "North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements" in item for chapter 138, substituted "Major Defense Acquisition Programs" for "Oversight of Cost Growth in Major Programs" and "2430" for "2431" in item for chapter 144, and substituted "2721" for "2701" in item for chapter 161.

**1986**—Pub. L. 99–661, div. A, title XIII, §1343(a)(22), Nov. 14, 1986, 100 Stat. 3994, substituted "2341" for "2321" in item for chapter 138.

Pub. L. 99–499, title II, §211(a)(2), Oct. 17, 1986, 100 Stat. 1725, added item for chapter 160.

Pub. L. 99–433, title VI, §605(b), Oct. 1, 1986, 100 Stat. 1075a, added item for chapter 144.

**1984**—Pub. L. 98–525, title XII, §1241(a)(2), Oct. 19, 1984, 98 Stat. 2606, added item for chapter 142.

**1982**—Pub. L. 97–295, §1(50)(E), Oct. 12, 1982, 96 Stat. 1300, added item for chapter 167.

Pub. L. 97–214, §2(b), July 12, 1982, 96 Stat. 169, added item for chapter 169.

**1980**—Pub. L. 96–323, §2(b), Aug. 4, 1980, 94 Stat. 1019, added item for chapter 138.

# CHAPTER 131—PLANNING AND COORDINATION

Sec.
2201. Apportionment of funds: authority for exemption; excepted expenses.
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2205. Reimbursements.

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2229. Strategic policy on prepositioning of materiel and equipment.
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## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title III, §334(a), title XVI, §1623(a)(1), Dec. 18, 2025, 139 Stat. 816, 1183, added items 2225 and 2229b. Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title X, §1017, Dec. 22, 2023, 137 Stat. 382, added item 2219. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title XVIII, §§1807(b)(2)(B), (g)(2), 1809(f)(2), (g)(2), (i)(2), Jan. 1, 2021, 134 Stat. 4157, 4159, 4161, 4162, substituted "Regulations on production, warehousing, and supply distribution functions" for "Regulations on procurement, production, warehousing, and supply distribution functions" in item 2202 and struck out items 2212 "Obligations for contract services: reporting in budget object classes", 2213 "Limitation on acquisition of excess supplies", 2216 "Defense Modernization Account", 2217 "Comparable budgeting for common procurement weapon systems", and 2229b "Comptroller General assessment of acquisition programs and initiatives".

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(a)(33), Dec. 20, 2019, 133 Stat. 1814, substituted "Comptroller General assessment of acquisition programs and initiatives" for "Comptroller General assessment of acquisition programs and related initiatives" in item 2229b.

**2018**—Pub. L. 115–232, div. A, title VIII, §833(b), Aug. 13, 2018, 132 Stat. 1859, added item 2229b.

**2016**—Pub. L. 114–328, div. A, title X, §1081(c)(4), Dec. 23, 2016, 130 Stat. 2419, made technical

correction to directory language of Pub. L. 114–92, §883(a)(2). See 2015 Amendment note below.

Pub. L. 114–328, div. A, title VIII, §833(b)(2)(B), Dec. 23, 2016, 130 Stat. 2284, struck out item 2225 "Information technology purchases: tracking and management".

**2015**—Pub. L. 114–92, div. A, title VIII, §883(a)(2), Nov. 25, 2015, 129 Stat. 947, as amended by Pub. L. 114–328, div. A, title X, §1081(c)(4), Dec. 23, 2016, 130 Stat. 2419, added item 2222 and struck out former item 2222 "Defense business systems: architecture, accountability, and modernization".

**2014**—Pub. L. 113–291, div. A, title X, §1022(a)(2), Dec. 19, 2014, 128 Stat. 3487, added item 2218a.

**2011**—Pub. L. 112–81, div. A, title VIII, §846(a)(2), Dec. 31, 2011, 125 Stat. 1517, added item 2216a.

Pub. L. 111–383, div. A, title VIII, §805(a)(2), Jan. 7, 2011, 124 Stat. 4259, added item 2223a.

**2008**—Pub. L. 110–181, div. A, title III, §§352(b), 371(f), Jan. 28, 2008, 122 Stat. 72, 81, added items 2228 and 2229a and struck out former item 2228 "Military equipment and infrastructure: prevention and mitigation of corrosion".

**2006**—Pub. L. 109–364, div. A, title III, §351(b), Oct. 17, 2006, 120 Stat. 2160, added item 2229.

**2004**—Pub. L. 108–375, div. A, title III, §332(a)(2), title VI, §651(f)(2), Oct. 28, 2004, 118 Stat. 1854, 1972, struck out item 2219 "Retention of morale, welfare, and recreation funds by military installations: limitation" and added item 2222.

**2002**—Pub. L. 107–314, div. A, title X, §§1004(h)(1), 1052(b)(2), 1067(a)(2), Dec. 2, 2002, 116 Stat. 2631, 2649, 2658, struck out item 2222 "Annual financial management improvement plan" and added items 2224a and 2228.

**2001**—Pub. L. 107–107, div. A, title X, §1009(b)(3)(B), Dec. 28, 2001, 115 Stat. 1209, substituted "Annual" for "Biennial" in item 2222.

**2000**—Pub. L. 106–398, §1 [[div. A], title VIII, §812(a)(2), title X, §§1006(a)(2), 1008(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–214, 1654A–247, 1654A–250, added items 2225, 2226, and 2227.

**1999**—Pub. L. 106–65, div. A, title X, §1043(b), Oct. 5, 1999, 113 Stat. 761, added item 2224.

**1998**—Pub. L. 105–261, div. A, title III, §331(a)(2), title IX, §§906(f)(1), 911(a)(2), title X, §1008(b), Oct. 17, 1998, 112 Stat. 1968, 2096, 2099, 2117, added item 2212, struck out items 2216a "Defense Business Operations Fund" and 2221 "Fisher House trust funds", and added item 2223.

**1997**—Pub. L. 105–85, div. A, title X, §1008(a)(2), Nov. 18, 1997, 111 Stat. 1871, added item 2222.

**1996**—Pub. L. 104–201, div. A, title X, §1074(a)(10), Sept. 23, 1996, 110 Stat. 2659, redesignated item 2216 "Defense Business Operations Fund" as 2216a.

Pub. L. 104–106, div. A, title III, §371(a)(2), title IX, §§912(a)(2), 914(a)(2), Feb. 10, 1996, 110 Stat. 279, 410, 412, added two items 2216 and item 2221.

**1994**—Pub. L. 103–355, title II, §2454(c)(3)(A), title III, §3061(b), title V, §5001(a)(2), Oct. 13, 1994, 108 Stat. 3326, 3336, 3350, substituted "Regulations on procurement, production, warehousing, and supply distribution functions" for "Obligation of funds: limitation" in item 2202, struck out item 2212 "Contracted advisory and assistance services: accounting procedures", and added item 2220.

Pub. L. 103–337, div. A, title III, §373(b), div. B, title XXVIII, §2804(b)(2), Oct. 5, 1994, 108 Stat. 2736, 3053, substituted "Reimbursements" for "Availability of reimbursements" in item 2205 and added item 2219.

**1993**—Pub. L. 103–160, div. A, title XI, §1106(a)(2), Nov. 30, 1993, 107 Stat. 1750, added item 2215.

**1992**—Pub. L. 102–484, div. A, title X, §1024(a)(2), Oct. 23, 1992, 106 Stat. 2488, added item 2218.

**1991**—Pub. L. 102–190, div. A, title III, §317(b), Dec. 5, 1991, 105 Stat. 1338, added item 2213.

**1990**—Pub. L. 101–510, div. A, title XIII, §1331(2), title XIV, §§1482(c)(2), 1484(i)(6), Nov. 5, 1990, 104 Stat. 1673, 1710, 1718, struck out item 2213 "Cooperative military airlift agreements", added item 2214, and struck out items 2215 "Reports on unobligated balances" and 2216 "Annual report on budgeting for inflation".

**1988**—Pub. L. 100–370, §1(d)(4), July 19, 1988, 102 Stat. 843, added items 2201, 2212, and 2217.

**1986**—Pub. L. 99–661, div. A, title XIII, §1307(a)(2), Nov. 14, 1986, 100 Stat. 3981, added items 2215 and 2216.

**1982**—Pub. L. 97–252, title XI, §1125(b), Sept. 8, 1982, 96 Stat. 758, added item 2213.

Pub. L. 97–214, §10(a)(1), July 12, 1982, 96 Stat. 174, struck out item 2212 "Transmission of annual military construction authorization request".

**1978**—Pub. L. 95–356, title VIII, §802(a)(2), Sept. 8, 1978, 92 Stat. 585, added item 2212.

**1962**—Pub. L. 87–651, title II, §207(b), Sept. 7, 1962, 76 Stat. 523, added items 2203 to 2211.

**1958**—Pub. L. 85–599, §3(c), Aug. 6, 1958, 72 Stat. 516, struck out item 2201 "General functions of Secretary of Defense".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**MISSION INTEGRATION MANAGEMENT**

Pub. L. 114–328, div. A, title VIII, §855, Dec. 23, 2016, 130 Stat. 2297, directed the Secretary of Defense to establish mission integration management activities for certain mission areas that involve multiple Armed Forces and multiple programs and to submit to the congressional defense committees, at the same time the fiscal year 2018 budget is submitted to Congress, a strategy for mission integration management.

**STRATEGIC MANAGEMENT PLAN**

Pub. L. 110–181, div. A, title IX, §904(d), (e), Jan. 28, 2008, 122 Stat. 275, as amended by Pub. L. 114–92, div. A, title X, §1079(e), Nov. 25, 2015, 129 Stat. 999, provided that:

"(d) STRATEGIC MANAGEMENT PLAN REQUIRED.—

"(1) REQUIREMENT.—The Secretary of Defense, acting through the Chief Management Officer of the Department of Defense, shall develop a strategic management plan for the Department of Defense.

"(2) MATTERS COVERED.—Such plan shall include, at a minimum, detailed descriptions of—

"(A) performance goals and measures for improving and evaluating the overall efficiency and effectiveness of the business operations of the Department of Defense and achieving an integrated management system for business support areas within the Department of Defense;

"(B) key initiatives to be undertaken by the Department of Defense to achieve the performance goals under subparagraph (A), together with related resource needs;

"(C) procedures to monitor the progress of the Department of Defense in meeting performance goals and measures under subparagraph (A);

"(D) procedures to review and approve plans and budgets for changes in business operations, including any proposed changes to policies, procedures, processes, and systems, to ensure the compatibility of such plans and budgets with the strategic management plan of the Department of Defense; and

"(E) procedures to oversee the development of, and review and approve, all budget requests for defense business systems.

"(e) REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and a copy of the strategic management plan required by subsection (d)."

*[1] Section renumbered by Pub. L. 116–283 without corresponding amendment of chapter analysis.*

## §2201. Apportionment of funds: authority for exemption; excepted expenses

(a) EXEMPTION FROM APPORTIONMENT REQUIREMENT.—If the President determines such action to be necessary in the interest of national defense, the President may exempt from the provisions of section 1512 of title 31 appropriations, funds, and contract authorizations available for military functions of the Department of Defense.

(b) AIRBORNE ALERTS.—Upon a determination by the President that such action is necessary, the Secretary of Defense may provide for the cost of an airborne alert as an excepted expense under section 6301(a) and (b)(1)–(3) of title 41.

(c) MEMBERS ON ACTIVE DUTY.—Upon a determination by the President that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 6301(a) and (b)(1)–(3) of title 41.

(d) NOTIFICATION TO CONGRESS.—The Secretary of Defense shall immediately notify Congress of the use of any authority under this section.

(Added Pub. L. 100–370, §1(d)(1)(A), July 19, 1988, 102 Stat. 841; amended Pub. L. 106–65, div. A, title X, §1032(a)(1), Oct. 5, 1999, 113 Stat. 751; Pub. L. 111–350, §5(b)(4), Jan. 4, 2011, 124 Stat. 3842.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8009], Dec. 19, 1985, 99 Stat. 1185, 1204.

In two instances, the source law to be codified by the bill includes provisions that on their face require that the Department of Defense notify Congress of certain actions. These notification requirements were terminated by section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433), which terminated all recurring reporting requirements applicable to the Department of Defense except for those requirements that were specifically exempted in that section. The source law sections are sections 8009(c) and 8005(j) (proviso) of the FY86 defense appropriations Act (Public Law 99–190), enacted December 19, 1985, which would be codified as section 2201 of title 10 (by section 1(d) of the bill) and section 7313(a) of title 10 (by section 1(n) of the bill). In codifying the authorities provided the Department of Defense by these two provisions of law, the committee believes that it is appropriate to reinstate the congressional notification requirements that go with those authorities. These sections were recurring annual appropriation provisions for many years and were made permanent only months before the enactment of the 1986 Reorganization Act. It is the committee's belief that the failure to exempt these provisions from the general reports termination provision was inadvertent and notes that the notification provisions had in fact previously applied to the Department of Defense for many years. The action of the committee restores the status quo as it existed before the Reorganization Act.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2201, act Aug. 10, 1956, ch. 1041, 70A Stat. 119, prescribed the general functions of the Secretary of Defense, prior to repeal by Pub. L. 85–599, §3(c), Aug. 6, 1958, 72 Stat. 516. See section 113 of this title.

**AMENDMENTS**

**2011**—Subsec. (b). Pub. L. 111–350, §5(b)(4)(A), substituted "section 6301(a) and (b)(1)–(3) of title 41" for "section 3732(a) of the Revised Statutes (41 U.S.C. 11(a))".

Subsec. (c). Pub. L. 111–350, §5(b)(4)(B), substituted "section 6301(a) and (b)(1)–(3) of title 41" for "section 3732(a) of the Revised Statutes (41 U.S.C. 11(a))".

**1999**—Subsec. (d). Pub. L. 106–65 substituted "Defense" for "Defense—", struck out par. (1) designation, substituted "this section." for "this section; and", and struck out par. (2) which read as follows: "shall submit monthly reports to Congress on the estimated obligations incurred pursuant to subsections (b) and (c)."

## §2202. Regulations on production, warehousing, and supply distribution functions

The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 120; Pub. L. 100–180, div. A, title XII, §1202, Dec. 4, 1987, 101 Stat. 1153; Pub. L. 103–355, title III, §3061(a), Oct. 13, 1994, 108 Stat. 3336; Pub. L. 116–283, div. A, title XVIII, §1807(b)(2), Jan. 1, 2021, 134 Stat. 4157.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2202 | 41:162. | July 10, 1952, ch. 630, §638, 66 Stat. 537. |

The words "an officer or agency * * * may * * * only" are substituted for the words "no officer or agency * * * shall * * * except". The word "of", before the words "the Department", is substituted for the words "in or under". The words "under regulations prescribed" are substituted for the words "in accordance with regulations issued". The words "after the effective date of this section" and 41:162(b) are omitted as executed. The words "or equipment" are omitted as covered by the definition of "supplies" in section 101(26) of this title.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 struck out "procurement," before "production," in section catchline and text.

**1994**—Pub. L. 103–355 amended heading and text generally. Prior to amendment, text read as follows:

"(a) Notwithstanding any other provision of law, an officer or agency of the Department of Defense may obligate funds for procuring, producing, warehousing, or distributing supplies, or for related functions of supply management, only under regulations prescribed by the Secretary of Defense. The purpose of this section is to achieve the efficient, economical, and practical operation of an integrated supply system to meet the needs of the military departments without duplicate or overlapping operations or functions.

"(b) Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity."

**1987**—Pub. L. 100–180 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

## §2203. Budget estimates

To account for, and report, the cost of performance of readily identifiable functional programs and activities, with segregation of operating and capital programs, budget estimates of the Department of Defense shall be prepared, presented, and justified, where practicable, and authorized programs shall be administered, in such form and manner as the Secretary of Defense, subject to the authority and direction of the President, may prescribe. As far as practicable, budget estimates and authorized programs of the military departments shall be uniform and in readily comparable form. The budget for the Department of Defense submitted to Congress for each fiscal year shall include data projecting the effect of the appropriations requested for materiel readiness requirements. The Secretary of Defense shall provide that the budget justification documents for such budget include information on the number of employees of contractors estimated to be working on contracts of the Department of Defense during the fiscal year for which the budget is submitted. Such information shall be set forth in terms of employee-years or such other measure as will be uniform and readily comparable with civilian personnel of the Department of Defense.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520; amended Pub. L. 97–295, §1(21), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 99–661, div. A, title III, §311, Nov. 14, 1986, 100 Stat. 3851.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2203 | 5:172b. | July 26, 1947, ch. 343, §403; added Aug. 10, 1949, ch. 412, §11 (5th and 6th pars.), 63 Stat. 586. |

The word "prescribe" is substituted for the word "determine". 5 U.S.C. 172b(b) is omitted as executed.

1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2203 (last sentence) | 10:2203 (note). | July 30, 1977, Pub. L. 95–79, §812 (last sentence), 91 Stat. 336. |

The words "for fiscal year 1979" are omitted as executed. The words "for each fiscal year" are substituted for "subsequent fiscal years" for consistency.

**EDITORIAL NOTES**

**AMENDMENTS**

**1986**—Pub. L. 99–661 inserted provisions that budget justification documents include information on number of employees estimated to be working during the fiscal year, such information to be set forth in terms of employee-years or other measure as is uniform and comparable with civilian personnel of the Department of Defense.

**1982**—Pub. L. 97–295 inserted provision requiring that the budget for the Department of Defense submitted annually to Congress include data projecting the effect of the appropriations requested for materiel readiness requirements.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PRESIDENTIAL RECOMMENDATIONS RESPECTING MODIFICATIONS IN CRUISE MISSILE PROGRAM**

Pub. L. 95–184, title II, §203, Nov. 15, 1977, 91 Stat. 1382, provided that in authorizing funds under that Act [Pub. L. 95–184], Congress was asserting its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 621 et seq.] and the Budget and Accounting Act, 1921 [31 U.S.C. 1101 et seq.], such modifications in the United States cruise missile programs as the President might recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

**REPORT TO CONGRESSIONAL COMMITTEES ON MATERIAL READINESS REQUIREMENTS FOR ARMED FORCES**

Pub. L. 95–79, title VIII, §812, July 30, 1977, 91 Stat. 336, as amended by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314, directed Secretary of Defense to submit to Congress, not later than February 15, 1978, a report setting forth quantifiable and measurable material readiness requirements for the Armed Forces, including the Reserve components thereof, monthly readiness status of the Armed Forces, including the reserve components thereof, during fiscal year 1977, and any changes in such requirements and status projected for fiscal years 1978 and 1979 and in the five-year defense program, and to inform Congress of any subsequent changes in the aforementioned materiel readiness requirements and the reasons for such changes.

**MODIFICATIONS IN UNITED STATES STRATEGIC ARMS PROGRAMS ON RECOMMENDATION OF PRESIDENT**

Pub. L. 95–79, title VIII, §813, July 30, 1977, 91 Stat. 337, provided that in authorizing procurement under section 101 of that Act and research and development under section 201 of that Act, Congress was asserting its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 621 et seq.] and the Budget and Accounting Act, 1921 [31 U.S.C. 1101 et seq.], such modifications in United States strategic arms programs as the President might recommend to facilitate either negotiation or agreement in the Strategic Arms Limitation Talks.

## §2204. Obligation of appropriations

To prevent overdrafts and deficiencies in the fiscal year for which appropriations are made, appropriations made to the Department of Defense or to a military department, and reimbursements

thereto, are available for obligation and expenditure only under scheduled rates of obligation, or changes thereto, that have been approved by the Secretary of Defense. This section does not prohibit the Department of Defense from incurring a deficiency that it has been authorized by law to incur.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2204 | 5:172c. | July 26, 1947, ch. 343, §404; added Aug. 10, 1949, ch. 412, §11 (7th par.), 63 Stat. 587. |

The words "on and after the beginning of the next fiscal year following August 10, 1949," are omitted as executed. The last sentence is substituted for the proviso in 5 U.S.C. 172c.

## §2205. Reimbursements

(a) AVAILABILITY OF REIMBURSEMENTS.—Reimbursements made to appropriations of the Department of Defense or a department or agency thereof under sections 1535 and 1536 of title 31, or other amounts paid by or on behalf of a department or agency of the Department of Defense to another department or agency of the Department of Defense, or by or on behalf of personnel of any department or organization, for services rendered or supplies furnished, may be credited to authorized accounts. Funds so credited are available for obligation for the same period as the funds in the account so credited. Such an account shall be accounted for as one fund on the books of the Department of the Treasury.

(b) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—The Secretary of Defense and the Secretaries of the military departments may charge a fixed rate for reimbursement of the costs of providing planning, supervision, administrative, or overhead services incident to any construction, maintenance, or repair project to real property or for providing facility services, irrespective of the appropriation financing the project or facility services.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520; amended Pub. L. 96–513, title V, §511(71), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 97–258, §3(b)(4), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 103–337, div. B, title XXVIII, §2804(a), (b)(1), Oct. 5, 1994, 108 Stat. 3053.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2205 | 5:172g. | July 26, 1947, ch. 343, §408; added Aug. 10, 1949, ch. 412, §11 (23d par.), 63 Stat. 590. |

5 U.S.C. 172g is restated to reflect more clearly its purpose to authorize the Department of Defense to operate as an integrated department by permitting supplies to be furnished and services to be rendered within and among agencies of the Department of Defense and provide that reimbursements therefor be credited to authorized accounts and be available for the same purpose and period as the accounts so credited. (See Senate Report No. 366, 81st Congress, pp. 23, 24.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 substituted "Reimbursements" for "Availability of reimbursements" as section catchline, designated existing provisions as subsec. (a) and inserted subsec. heading, and added subsec. (b).

**1982**—Pub. L. 97–258 substituted "sections 1535 and 1536 of title 31" for "the Act of March 4, 1915 (31 U.S.C. 686)".

**1980**—Pub. L. 96–513 substituted "the Act of March 4, 1915 (31 U.S.C. 686)" for "section 686 of title 31".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §2206. Disbursement of funds of military department to cover obligation of another agency of Department of Defense

As far as authorized by the Secretary of Defense, a disbursing official of a military department may, out of available advances, make disbursements to cover obligations in connection with any function, power, or duty of another department or agency of the Department of Defense and charge those disbursements on vouchers, to the appropriate appropriation of that department or agency. Disbursements so made shall be adjusted in settling the accounts of the disbursing official.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520; amended Pub. L. 97–258, §2(b)(1)(A), Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2206 | 5:172h.<br>5:171n(a) (as applicable to 5:172h). | July 26, 1947, ch. 343, §409; added Aug. 10, 1949, ch. 412, §11 (24th par.), 63 Stat. 590.<br>July 26, 1947, ch. 343, §308(a) (as applicable to §409), 61 Stat. 509. |

The word "agency" is substituted for the word "organization". The last sentence is substituted for the proviso in 5 U.S.C. 172h.

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Pub. L. 97–258 substituted "official" for "officer" wherever appearing.

## [§2207. Renumbered §4651]

## §2208. Working-capital funds

(a) To control and account more effectively for the cost of programs and work performed in the Department of Defense, the Secretary of Defense may require the establishment of working-capital funds in the Department of Defense to—

(1) finance inventories of such supplies as he may designate; and

(2) provide working capital for such industrial-type activities, and such commercial-type activities that provide common services within or among departments and agencies of the Department of Defense, as he may designate.

(b) Upon the request of the Secretary of Defense, the Secretary of the Treasury shall establish working-capital funds established under this section on the books of the Department of the Treasury.

(c) Working-capital funds shall be charged, when appropriate, with the cost of—

(1) supplies that are procured or otherwise acquired, manufactured, repaired, issued, or used, including the cost of the procurement and qualification of technology-enhanced maintenance capabilities that improve either reliability, maintainability, sustainability, or supportability and have, at a minimum, been demonstrated to be functional in an actual system application or operational environment; and

(2) services or work performed;

including applicable administrative expenses, and be reimbursed from available appropriations or otherwise credited for those costs, including applicable administrative expenses and costs of using equipment.

(d) The Secretary of Defense may provide capital for working-capital funds by capitalizing inventories. In addition, such amounts may be appropriated for the purpose of providing capital for working-capital funds as have been specifically authorized by law.

(e) Subject to the authority and direction of the Secretary of Defense, the Secretary of each military department shall allocate responsibility for its functions, powers, and duties to accomplish the most economical and efficient organization and operation of the activities, and the most economical and efficient use of the inventories, for which working-capital funds are authorized by this section. The accomplishment of the most economical and efficient organization and operation of working capital fund activities for the purposes of this subsection shall include actions toward the following:

(1) Undertaking efforts to optimize the rate structure for all requisitioning entities.

(2) Encouraging a working capital fund activity to perform reimbursable work for other entities to sustain the efficient use of the workforce.

(3) Determining the appropriate leadership level for approving work from outside entities to maximize efficiency.

(f) The requisitioning agency may not incur a cost for supplies drawn from inventories, or services or work performed by industrial-type or commercial-type activities for which working-capital funds may be established under this section, that is more than the amount of appropriations or other funds available for those purposes.

(g) The appraised value of supplies returned to working-capital funds by a department, activity, or agency may be charged to that fund. The proceeds thereof shall be credited to current applicable appropriations and are available for expenditure for the same purposes that those appropriations are so available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories under subsection (d).

(h) The Secretary of Defense shall prescribe regulations governing the operation of activities and use of inventories authorized by this section. The regulations may, if the needs of the Department of Defense require it and it is otherwise authorized by law, authorize supplies to be sold to, or services to be rendered or work performed for, persons outside the Department of Defense. However, supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense. Working-capital funds shall be reimbursed for supplies so sold, services so rendered, or work so performed by charges to applicable appropriations or payments received in cash.

(i) For provisions relating to sales outside the Department of Defense of manufactured articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, see section 7543 of this title.

(j)(1) The Secretary of a military department may authorize a working capital funded industrial facility of that department to manufacture or remanufacture articles and sell these articles, as well as manufacturing, remanufacturing, and engineering services provided by such facilities, to persons outside the Department of Defense if—

(A) the person purchasing the article or service is fulfilling a Department of Defense contract or a subcontract under a Department of Defense contract, and the solicitation for the contract or

subcontract is open to competition between Department of Defense activities and private firms; or

(B) the Secretary would advance the objectives set forth in section 2474(b)(2) of this title by authorizing the facility to do so.

(2) The Secretary of Defense may waive the conditions in paragraph (1) in the case of a particular sale if the Secretary determines that the waiver is necessary for reasons of national security and notifies Congress regarding the reasons for the waiver.

(k)(1) Subject to paragraph (2), a contract for the procurement of a capital asset financed by a working-capital fund may be awarded in advance of the availability of funds in the working-capital fund for the procurement.

(2) Paragraph (1) applies to any of the following capital assets that have a development or acquisition cost of not less than $500,000 for procurements by a major range and test facility installation or a science and technology reinvention laboratory and not less than $250,000 for procurements at all other facilities:

(A) An unspecified minor military construction project under section 2805(c) of this title.

(B) Automatic data processing equipment or software.

(C) Any other equipment.

(D) Any other capital improvement.

(l)(1) An advance billing of a customer of a working-capital fund may be made if the Secretary of the military department concerned submits to Congress written notification of the advance billing within 30 days after the end of the month in which the advanced billing was made. The notification shall include the following:

(A) The reasons for the advance billing.

(B) An analysis of the effects of the advance billing on military readiness.

(C) An analysis of the effects of the advance billing on the customer.

(2) The Secretary of Defense may waive the notification requirements of paragraph (1)—

(A) during a period of war or national emergency; or

(B) to the extent that the Secretary determines necessary to support a contingency operation.

(3)(A) Except as provided in subparagraph (B), the total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.

(B) The dollar limitation under subparagraph (A) shall not apply with respect to advance billing for relief efforts following a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) This subsection shall not apply to advance billing for background investigation and related services performed by the Defense Counterintelligence and Security Agency.

(5) In this subsection:

(A) The term "advance billing", with respect to a working-capital fund, means a billing of a customer by the fund, or a requirement for a customer to reimburse or otherwise credit the fund, for the cost of goods or services provided (or for other expenses incurred) on behalf of the customer that is rendered or imposed before the customer receives the goods or before the services have been performed.

(B) The term "customer" means a requisitioning component or agency.

(m) CAPITAL ASSET SUBACCOUNTS.—Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

(n) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—The Secretary of Defense, with respect to the working-capital funds of each Defense

Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

(o) CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE FUND.—(1) Charges for goods and services provided for an activity through a working-capital fund shall include the following:

(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

(2) Charges for goods and services provided through a working-capital fund may not include the following:

(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c) of this title.

(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

(p) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary.

(q) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President's budget.

(4) A report on the capital asset subaccount of the fund that contains the following information:

(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

(r) NOTIFICATION OF TRANSFERS.—(1) Notwithstanding any authority provided in this section to transfer funds, the transfer of funds from a working-capital fund, including a transfer to another working-capital fund, shall not be made under such authority unless the Secretary of Defense submits, in advance, a notification of the proposed transfer to the congressional defense committees in accordance with customary procedures.

(2) The amount of a transfer covered by a notification under paragraph (1) that is made in a fiscal year does not count toward any limitation on the total amount of transfers that may be made for that fiscal year under authority provided to the Secretary of Defense in a law authorizing appropriations for a fiscal year for military activities of the Department of Defense or a law making appropriations for the Department of Defense.

(s) LIMITATION ON CESSATION OR SUSPENSION OF DISTRIBUTION OF FUNDS FOR CERTAIN WORKLOAD.—(1) Except as provided in paragraph (2), the Secretary of Defense or the Secretary of a military department is not authorized—

(A) to suspend the employment of indirectly funded Government employees of the Department of Defense who are paid for out of working-capital funds by ceasing or suspending the distribution of such funds; or

(B) to cease or suspend the distribution of funds from a working-capital fund for a current project undertaken to carry out the functions or activities of the Department.

(2) Paragraph (1) shall not apply with respect to a working-capital fund if—

(A) the working-capital fund is insolvent; or

(B) there are insufficient funds in the working-capital fund to pay labor costs for the current project concerned.

(3) The Secretary of Defense or the Secretary of a military department may waive the limitation in paragraph (1) if such Secretary determines that the waiver is in the national security interests of the United States.

(4) This subsection shall not be construed to provide for the exclusion of any particular category of employees of the Department of Defense from furlough due to absence of or inadequate funding.

(t) MARKET FLUCTUATION ACCOUNT.—(1) From amounts available for Working Capital Fund, Defense, the Secretary shall reserve up to $1,000,000,000, to remain available without fiscal year limitation, for petroleum market price fluctuations. Such amounts may only be disbursed if the Secretary determines such a disbursement is necessary to absorb volatile market changes in fuel prices without affecting the standard price charged for fuel.

(2) A budget request for the anticipated costs of fuel may not take into account the availability of funds reserved under paragraph (1).

(u) USE FOR UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS TO REVITALIZE AND RECAPITALIZE DEFENSE INDUSTRIAL BASE FACILITIES.—(1) The Secretary of a military department may use a working capital fund of the department under this section to fund an unspecified minor military construction project under section 2805 of this title for the revitalization and recapitalization of a defense industrial base facility owned by the United States and under the jurisdiction of the Secretary.

(2)(A) Except as provided in subparagraph (B), section 2805 of this title shall apply with respect to a project funded using a working capital fund under the authority of this subsection in the same manner as such section applies to any unspecified minor military construction project under section 2805 of this title.

(B) For purposes of applying subparagraph (A), the dollar limitation specified in subsection (a)(2) of section 2805 of this title, subject to adjustment as provided in subsection (f) of such section, shall apply rather than the dollar limitation specified in subsection (c) of such section.

(3) In this subsection, the term "defense industrial base facility" means any Department of Defense depot, arsenal, shipyard, or plant located within the United States.

(4) The authority to use a working capital fund to fund a project under the authority of this

subsection expires on September 30, 2027.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 521; amended Pub. L. 97–295, §1(22), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 98–94, title XII, §1204(a), Sept. 24, 1983, 97 Stat. 683; Pub. L. 98–525, title III, §305, Oct. 19, 1984, 98 Stat. 2513; Pub. L. 100–26, §7(d)(2), Apr. 21, 1987, 101 Stat. 280; Pub. L. 101–510, div. A, title VIII, §801, title XIII, §1301(6), Nov. 5, 1990, 104 Stat. 1588, 1668; Pub. L. 102–172, title VIII, §8137, Nov. 26, 1991, 105 Stat. 1212; Pub. L. 102–484, div. A, title III, §374, Oct. 23, 1992, 106 Stat. 2385; Pub. L. 103–160, div. A, title I, §158(b), Nov. 30, 1993, 107 Stat. 1582; Pub. L. 105–85, div. A, title X, §1011(a), (b), Nov. 18, 1997, 111 Stat. 1873; Pub. L. 105–261, div. A, title X, §§1007(e)(1), 1008(a), Oct. 17, 1998, 112 Stat. 2115; Pub. L. 105–262, title VIII, §8146(d)(1), Oct. 17, 1998, 112 Stat. 2340; Pub. L. 106–65, div. A, title III, §§331(a)(1), 332, title X, §1066(a)(16), Oct. 5, 1999, 113 Stat. 566, 567, 771; Pub. L. 106–398, §1 [[div. A], title III, §341(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–64; Pub. L. 108–375, div. A, title X, §1009, Oct. 28, 2004, 118 Stat. 2037; Pub. L. 111–383, div. A, title XIV, §1403, Jan. 7, 2011, 124 Stat. 4410; Pub. L. 112–81, div. B, title XXVIII, §2802(c)(1), Dec. 31, 2011, 125 Stat. 1684; Pub. L. 114–92, div. A, title XIV, §§1421, 1422, Nov. 25, 2015, 129 Stat. 1083, 1084; Pub. L. 115–91, div. A, title II, §212, Dec. 12, 2017, 131 Stat. 1324; Pub. L. 115–232, div. A, title III, §321, title VIII, §809(a), title XIV, §1422, Aug. 13, 2018, 132 Stat. 1718, 1840, 2093; Pub. L. 116–92, div. A, title III, §352, title XVII, §1731(a)(29), Dec. 20, 2019, 133 Stat. 1320, 1813; Pub. L. 116–283, div. A, title III, §366, Jan. 1, 2021, 134 Stat. 3551; Pub. L. 117–263, div. A, title III, §§354, 372, Dec. 23, 2022, 136 Stat. 2534, 2540; Pub. L. 119–60, div. A, title III, §333, Dec. 18, 2025, 139 Stat. 816.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2208(a) | 5:172d(a). | July 26, 1947, ch. 343, §405; added Aug. 10, 1949, ch. 412, §11 (8th through 15th pars.), 63 Stat. 587. |
| 2208(b) | 5:172d(b). | |
| 2208(c) | 5:172d(c) (less 2d sentence). | |
| | 5:172d(d). | |
| 2208(d) | | |
| 2208(e) | 5:172d(e) | |
| 2208(f) | 5:172d(f). | |
| 2208(g) | 5:172d(h). | |
| 2208(h) | 5:172d(g). | |
| 2208(i) | 5:172d(c) (2d sentence). | |

In subsection (a)(1), (c)(1), (f), (g), and (h), the words "stores, . . . materials, and equipment" are omitted as covered by the word "supplies", as defined in section 101(26) of title 10.

In subsection (c), the word "used" is substituted for the word "consumed". The words "and costs of using equipment" are inserted to reflect an opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense, February 2, 1960.

In subsection (d), the first sentence (less 1st 18 words) of 5 U.S.C. 172d(d) is omitted as executed.

In subsection (h), the following substitutions are made: "prescribe" for "issue"; and "persons" for "purchasers or users". The word "shall" is substituted for the words "is authorized to" in the first sentence and for the word "may" in the last sentence to reflect the opinion of the Assistant General Counsel (Fiscal Matters), October 2, 1959, that the source law requires the action in question.

### 1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2208(h) (3d sentence) | 10:2208 (note). | Dec. 21, 1979, Pub. L. 96–154, §767, 93 Stat. 1163. |

The word "hereafter" is omitted as executed.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (l)(3)(B), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in subsecs. (m) to (q) of this section were contained in section 2216a of this title prior to repeal by Pub. L. 105–261, §1008(b).

### AMENDMENTS

**2025**—Subsec. (u)(4). Pub. L. 119–60 substituted "September 30, 2027" for "September 30, 2025".

**2022**—Subsec. (l)(3). Pub. L. 117–263, §354, designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), the total" for "The total", and added subpar. (B).

Subsec. (u)(4). Pub. L. 117–263, §372, substituted "2025" for "2023".

**2021**—Subsec. (l)(4), (5). Pub. L. 116–283 added par. (4) and redesignated former par. (4) as (5).

**2019**—Subsec. (u). Pub. L. 116–92, §1731(a)(29), inserted "of this title" after "2805" wherever appearing.

Subsec. (u)(1). Pub. L. 116–92, §352(1), substituted "to fund" for "to carry out".

Subsec. (u)(2). Pub. L. 116–92, §352(2), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), section 2805" for "Section 2805" and "carried out with" for "funded using", and added subpar. (B).

Subsec. (u)(4). Pub. L. 116–92, §352(3), substituted "to fund" for "to carry out".

**2018**—Subsec. (e). Pub. L. 115–232, §1422, inserted at end "The accomplishment of the most economical and efficient organization and operation of working capital fund activities for the purposes of this subsection shall include actions toward the following:

"(1) Undertaking efforts to optimize the rate structure for all requisitioning entities.

"(2) Encouraging a working capital fund activity to perform reimbursable work for other entities to sustain the efficient use of the workforce.

"(3) Determining the appropriate leadership level for approving work from outside entities to maximize efficiency."

Subsec. (i). Pub. L. 115–232, §809(a), substituted "section 7543" for "section 4543".

Subsec. (u). Pub. L. 115–232, §321, added subsec. (u).

**2017**—Subsec. (k)(2). Pub. L. 115–91 substituted "$500,000 for procurements by a major range and test facility installation or a science and technology reinvention laboratory and not less than $250,000 for procurements at all other facilities" for "$250,000" in introductory provisions.

**2015**—Subsec. (s). Pub. L. 114–92, §1421, added subsec. (s).

Subsec. (t). Pub. L. 114–92, §1422, added subsec. (t).

**2011**—Subsec. (c)(1). Pub. L. 111–383, §1403(1), inserted before semicolon ", including the cost of the procurement and qualification of technology-enhanced maintenance capabilities that improve either reliability, maintainability, sustainability, or supportability and have, at a minimum, been demonstrated to be functional in an actual system application or operational environment".

Subsec. (k)(2). Pub. L. 111–383, §1403(2), substituted "$250,000" for "$100,000" in introductory provisions.

Subsec. (k)(2)(A). Pub. L. 112–81, §2802(c)(1)(A), substituted "section 2805(c)" for "section 2805(c)(1)".

Subsec. (o)(2)(A). Pub. L. 112–81, §2802(c)(1)(B), substituted "section 2805(c)" for "section 2805(c)(1)".

**2004**—Subsec. (r). Pub. L. 108–375 added subsec. (r).

**2000**—Subsec. (j)(1). Pub. L. 106–398 substituted "contract, and the solicitation" for "contract; and" at end of subpar. (A) and all that follows through "(B) the solicitation", substituted "; or" for period after "private firms", and added a new subpar. (B).

**1999**—Subsec. (j). Pub. L. 106–65, §§331(a)(1), 332, designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, substituted ", remanufacturing, and engineering" for "or remanufacturing" in introductory provisions, inserted "or a subcontract under a Department of Defense contract" before the semicolon in subpar. (A), substituted "solicitation for the contract or subcontract" for "Department of Defense solicitation for such contract" in subpar. (B), and added par. (2).

Subsec. (l)(2)(A). Pub. L. 106–65, §1066(a)(16), inserted "of" after "during a period".

**1998**—Subsec. (l)(3), (4). Pub. L. 105–261, §1007(e)(1), and Pub. L. 105–262 amended subsec. (l)

identically, adding par. (3) and redesignating former par. (3) as (4).

Subsecs. (m) to (q). Pub. L. 105–261, §1008(a), added subsecs. (m) to (q).

**1997**—Subsec. (k). Pub. L. 105–85, §1011(a), added subsec. (k) and struck out former subsec. (k) which read as follows: "The Secretary of Defense shall provide that of the total amount of payments received in a fiscal year by funds established under this section for industrial-type activities, not less than 3 percent during fiscal year 1985, not less than 4 percent during fiscal year 1986, and not less than 5 percent during fiscal year 1987 shall be used for the acquisition of capital equipment for such activities."

Subsec. (l). Pub. L. 105–85, §1011(b), added subsec. (l).

**1993**—Subsec. (i). Pub. L. 103–160 amended subsec. (i) generally. Prior to amendment, subsec. (i) required that regulations under subsec. (h) authorize working-capital funded Army industrial facilities to sell manufactured articles and services to persons outside the Department of Defense in specified cases.

**1992**—Subsec. (j). Pub. L. 102–484 substituted "The Secretary of a military department may authorize a working capital funded industrial facility of that department" for "The Secretary of the Army may authorize a working capital funded Army industrial facility".

**1991**—Subsecs. (j), (k). Pub. L. 102–172 added subsec. (j) and redesignated former subsec. (j) as (k).

**1990**—Subsec. (i)(1). Pub. L. 101–510, §801, added par. (1), redesignated par. (3) as (2), and struck out former pars. (1) and (2) which read as follows:

"(1) Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Department of the Army arsenal that manufactures large caliber cannons, gun mounts, or recoil mechanisms to be sold to a person outside the Department of Defense if—

"(A) the article is sold to a United States manufacturer, assembler, or developer (i) for use in developing new products, or (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign government;

"(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

"(C) the article is not readily available from a commercial source in the United States; and

"(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

"(2) Services related to an article sold under this subsection may also be sold to the purchaser if the services are to be performed in the United States for the purchaser."

Subsec. (k). Pub. L. 101–510, §1301(6), struck out subsec. (k) which read as follows: "Reports annually shall be made to the President and to Congress on the condition and operation of working-capital funds established under this section."

**1987**—Subsec. (i)(3). Pub. L. 100–26 inserted "(22 U.S.C. 2778)" after "Arms Export Control Act".

**1984**—Subsecs. (i) to (k). Pub. L. 98–525 added subsecs. (i) and (j) and redesignated former subsec. (i) as (k).

**1983**—Subsec. (d). Pub. L. 98–94 substituted "In addition, such amounts may be appropriated for the purpose of providing capital for working-capital funds as have been specifically authorized by law" for "If this method does not, in the determination of the Secretary of Defense, provide adequate amounts of working capital, such amounts as may be necessary may be appropriated for that purpose".

**1982**—Subsec. (h). Pub. L. 97–295 inserted provision that supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title X, §1007(e)(2), Oct. 17, 1998, 112 Stat. 2115, and Pub. L. 105–262, title VIII, §8146(d)(2), Oct. 17, 1998, 112 Stat. 2340, provided that: "Section 2208(l)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999."

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title XII, §1204(b), Sept. 24, 1983, 97 Stat. 683, provided that: "The amendment made by

subsection (a) [amending this section] shall apply only with respect to appropriations for fiscal years beginning after September 30, 1984."

## ADVANCE BILLING FOR FISCAL YEAR 2022

Pub. L. 117–103, div. C, title VIII, §8117, Mar. 15, 2022, 136 Stat. 203, provided that: "During fiscal year 2022, the monetary limitation imposed by section 2208(l)(3) of title 10, United States Code[,] may be exceeded by up to $1,000,000,000."

## ADVANCE BILLING FOR FISCAL YEAR 2020

Pub. L. 116–136, div. B, title III, §13003, Mar. 27, 2020, 134 Stat. 522, provided that:

"(a) Notwithstanding section 2208(l)(3) of title 10, United States Code, during fiscal year 2020, the total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense may exceed the amount otherwise specified in such section.

"(b) In this section, the term 'advance billing' has the meaning given that term in section 2208(l)(4) [now 2208(l)(5)] of title 10, United States Code."

## PILOT PROGRAM FOR ACQUISITION OF COMMERCIAL SATELLITE COMMUNICATION SERVICES

Pub. L. 113–291, div. A, title XVI, §1605, Dec. 19, 2014, 128 Stat. 3623, as amended by Pub. L. 114–92, div. A, title XVI, §1612, Nov. 25, 2015, 129 Stat. 1103; Pub. L. 114–328, div. A, title XVI, §1606(a), Dec. 23, 2016, 130 Stat. 2586, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and carry out a pilot program to effectively and efficiently acquire commercial satellite communications services to meet the requirements of the military departments, Defense Agencies, and combatant commanders.

"(2) FUNDING.—Of the funds authorized to be appropriated for any of fiscal years 2015 through 2020 for the Department of Defense for the acquisition of satellite communications, not more than $50,000,000 may be obligated or expended for such pilot program during such a fiscal year.

"(3) CERTAIN AUTHORITIES.—In carrying out the pilot program under paragraph (1), the Secretary may not use the authorities provided in sections 2208(k) and 2210(b) of title 10, United States Code.

"(4) METHODS.—In carrying out the pilot program under paragraph (1), the Secretary may use a variety of methods authorized by law to effectively and efficiently acquire commercial satellite communications services, including by carrying out multiple pathfinder activities under the pilot program.

"(b) GOALS.—In developing and carrying out the pilot program under subsection (a)(1), the Secretary shall ensure that the pilot program—

"(1) provides a cost-effective and strategic method to acquire commercial satellite communications services;

"(2) incentivizes private-sector participation and investment in technologies to meet future requirements of the Department of Defense with respect to commercial satellite communications services;

"(3) takes into account the potential for a surge or other change in the demand of the Department for commercial satellite communications services in response to global or regional events;

"(4) ensures the ability of the Secretary to control and account for the cost of programs and work performed under the pilot program; and

"(5) demonstrates the potential to achieve order-of-magnitude improvements in satellite communications capability.

"(c) DURATION.—The pilot program under subsection (a)(1) shall terminate on October 1, 2020.

"(d) REPORTS AND BRIEFINGS.—

"(1) INITIAL REPORT.—Not later than 270 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(A) a plan and schedule to carry out the pilot program under subsection (a)(1); and

"(B) a description of the appropriate metrics established by the Secretary to meet the goals of the pilot program.

"(2) BRIEFING.—At the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, for each of fiscal years 2017 through 2020, the Secretary shall provide to the congressional defense committees briefing on the pilot program.

"(3) FINAL REPORT.—Not later than December 1, 2020, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a)(1). The report shall include—

"(A) an assessment of the pilot program and whether the pilot program effectively and efficiently acquires commercial satellite communications services to meet the requirements of the military departments, Defense Agencies, and combatant commanders; and

"(B) a description of—

"(i) any contract entered into under the pilot program, the funding used under such contract, and the efficiencies realized under such contract;

"(ii) the advantages and challenges of using the pilot program;

"(iii) any additional authorities the Secretary determines necessary to acquire commercial satellite communications services as described in subsection (a)(1); and

"(iv) any recommendations of the Secretary with respect to improving or extending the pilot program.

"(e) IMPLEMENTATION OF GOALS.—In developing and carrying out the pilot program under subsection (a)(1), by not later than September 30, 2017, the Secretary shall take actions to begin the implementation of each goal specified in subsection (b)."

## ADVANCE BILLING FOR FISCAL YEAR 2006

Pub. L. 109–234, title I, §1206, June 15, 2006, 120 Stat. 430, provided in part that: "Notwithstanding 10 U.S.C. 2208(l), the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in fiscal year 2006 shall not exceed $1,200,000,000".

## ADVANCE BILLING FOR FISCAL YEAR 2005

Pub. L. 109–13, div. A, title I, §1005, May 11, 2005, 119 Stat. 243, provided that for fiscal year 2005, the limitation under subsec. (l)(3) of this section on the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in a fiscal year would be applied by substituting "$1,500,000,000" for "$1,000,000,000".

## OVERSIGHT OF DEFENSE BUSINESS OPERATIONS FUND

Pub. L. 103–337, div. A, title III, §311(b)–(e), Oct. 5, 1994, 108 Stat. 2708, which related to purchase from other sources, limitation on inclusion of certain costs in DBOF charges, procedures for accumulation of funds, and annual reports and budget, was repealed and restated in section 2216a(d)(2)(B), (f) to (h)(3) of this title by Pub. L. 104–106, div. A, title III, §371(a)(1), (b)(1), Feb. 10, 1996, 110 Stat. 277–279.

Pub. L. 103–337, div. A, title III, §311(f), (g), Oct. 5, 1994, 108 Stat. 2709, required Secretary of Defense to submit to congressional defense committees, not later than Feb. 1, 1995, a report on progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September 1993, and required Comptroller General to monitor and evaluate the Department of Defense implementation of the Plan and to report to congressional defense committees not later than Mar. 1, 1995.

## CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH DEFENSE BUSINESS OPERATIONS FUND

Pub. L. 103–160, div. A, title III, §333(a), (b), Nov. 30, 1993, 107 Stat. 1621, which provided that charges for goods and services provided through Defense Business Operations Fund were to include amounts necessary to recover full costs of development, implementation, operation, and maintenance of systems supporting wholesale supply and maintenance activities of Department of Defense and use of military personnel in provision of goods and services, and were not to include amounts necessary to recover costs of military construction project other than minor construction project financed by Defense Business Operations Fund pursuant to section 2805(c)(1) of this title, and which required full cost of operation of Defense Finance Accounting Service to be financed within Defense Business Operations Fund through charges for goods and services provided through Fund, was repealed and restated in section 2216a(d)(1)(A), (C), (2)(A) of this title by Pub. L. 104–106, div. A, title III, §371(a)(1), (b)(2), Feb. 10, 1996, 110 Stat. 277–279.

## CAPITAL ASSET SUBACCOUNT

Pub. L. 102–484, div. A, title III, §342, Oct. 23, 1992, 106 Stat. 2376, as amended by Pub. L. 103–160, div. A, title III, §333(c), Nov. 30, 1993, 107 Stat. 1622, which provided that charges for goods and services provided through the Defense Business Operations Fund include amounts for depreciation of capital assets which were to be credited to a separate capital asset subaccount in the Fund, authorized Secretary of Defense to award contracts for capital assets of the Fund in advance of availability of funds in the subaccount, required Secretary to submit annual reports to congressional defense committees, authorized appropriations to the Fund

for fiscal years 1993 and 1994, and defined terms, was repealed and restated in section 2216a(d)(1)(B), (e), (h)(4), and (i) of this title by Pub. L. 104–106, div. A, title III, §371(a)(1), (b)(3), Feb. 10, 1996, 110 Stat. 277–279.

**LIMITATIONS ON USE OF DEFENSE BUSINESS OPERATIONS FUND**

Pub. L. 102–190, div. A, title III, §316, Dec. 5, 1991, 105 Stat. 1338, as amended by Pub. L. 102–484, div. A, title III, §341, Oct. 23, 1992, 106 Stat. 2374; Pub. L. 103–160, div. A, title III, §§331, 332, Nov. 30, 1993, 107 Stat. 1620; Pub. L. 103–337, div. A, title III, §311(a), Oct. 5, 1994, 108 Stat. 2708, which authorized Secretary of Defense to manage performance of certain working-capital funds established under this section, the Defense Finance and Accounting Service, the Defense Industrial Plan Equipment Center, the Defense Commissary Agency, the Defense Technical Information Service, the Defense Reutilization and Marketing Service, and certain activities funded through use of working-capital fund established under this section, directed Secretary to maintain separate accounting, reporting, and auditing of such funds and activities, required Secretary to submit to congressional defense committees, by not later than 30 days after Nov. 30, 1993, a comprehensive management plan and, by not later than Feb. 1, 1994, a progress report on plan's implementation, and directed Comptroller General to monitor and evaluate the plan and submit to congressional defense committees, not later than Mar. 1, 1994, a report, was repealed and restated in section 2216a(a)–(c) of this title by Pub. L. 104–106, div. A, title III, §371(a)(1), (b)(4), Feb. 10, 1996, 110 Stat. 277, 279.

**DEFENSE BUSINESS OPERATIONS FUND**

Pub. L. 102–172, title VIII, §8121, Nov. 26, 1991, 105 Stat. 1204, which established on the books of the Treasury a fund entitled the "Defense Business Operations Fund" to be operated as a working capital fund under the provisions of this section and to include certain existing organizations including the Defense Finance and Accounting Service, the Defense Commissary Agency, the Defense Technical Information Center, the Defense Reutilization and Marketing Service, and the Defense Industrial Plant Equipment Service, directed transfer of assets and balances of those organizations to the Fund, provided for budgeting and accounting of charges for supplies and services provided by the Fund, and directed that capital asset charges collected be credited to a subaccount of the Fund, was repealed by Pub. L. 104–106, div. A, title III, §371(b)(5), Feb. 10, 1996, 110 Stat. 280.

**SALE OF INVENTORIES FOR PERFORMANCE OF CONTRACTS WITH DEFENSE DEPARTMENT**

Pub. L. 96–154, title VII, §767, Dec. 21, 1979, 93 Stat. 1163, which had provided that supplies available in inventories financed by working capital funds established pursuant to this section could, on and after Dec. 21, 1979, be sold to contractors for use in performing contracts with the Department of Defense, was repealed and restated in subsec. (h) of this section by Pub. L. 97–295, §§1(22), 6(b), Oct. 12, 1982, 96 Stat. 1290, 1315.

## §2209. Management funds

(a) To conduct economically and efficiently the operations of the Department of Defense that are financed by at least two appropriations but whose costs cannot be immediately distributed and charged to those appropriations, there is the Army Management Fund, the Navy Management Fund, and the Air Force Management Fund, each within its respective department and under the direction of the Secretary of that department. Each such fund shall consist of a corpus of $1,000,000 and such amounts as may be appropriated thereto from time to time. An account for an operation that is to be financed by such a fund may be established only with the approval of the Secretary of Defense.

(b) Under such regulations as the Secretary of Defense may prescribe, expenditures may be made from a management fund for material (other than for stock), personal services, and services under contract. However, obligation may not be incurred against that fund if it is not chargeable to funds available under an appropriation of the department concerned or funds of another department or agency of the Department of Defense. The fund shall be promptly reimbursed from those funds for expenditures made from it.

(c) Notwithstanding any other provision of law, advances, by check or warrant, or reimbursements, may be made from available appropriations to a management fund on the basis of the estimated cost of a project. As adequate data becomes available, the estimated cost shall be

revised and necessary adjustments made. Final adjustment shall be made with the appropriate funds for the fiscal year in which the advances or reimbursements are made. Except as otherwise provided by law, amounts advanced to management funds are available for obligation only during the fiscal year in which they are advanced.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2209(a)<br>2209(b)<br>2209(c) | 5:172e(a), (b).<br>5:172e(c) (last sentence).<br>5:172e(c) (less last sentence).<br>5:172e(d). | July 3, 1942, ch. 484; restated Aug. 10, 1949, ch. 412, §11 (16th through 19th pars.), 63 Stat. 588. |

In subsection (a), the second sentence is substituted for the second sentence of 5 U.S.C. 172e(a) and the first sentence (less last 21 words) of 5 U.S.C. 172e(b) which are omitted as unnecessary.

In subsection (c), the 13th through 33d words of 5 U.S.C. 172e(d) are omitted as surplusage.

## §2210. Proceeds of sales of supplies: credit to appropriations

(a)(1) A working-capital fund established pursuant to section 2208 of this title may retain so much of the proceeds of disposals of property referred to in paragraph (2) as is necessary to recover the expenses incurred by the fund in disposing of such property. Proceeds from the sale or disposal of such property in excess of amounts necessary to recover the expenses may be credited to current applicable appropriations of the Department of Defense.

(2) Paragraph (1) applies to disposals of supplies, material, equipment, and other personal property that were not financed by stock funds established under section 2208 of this title.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursements to stock funds in such amounts and for such period as the Secretary of Defense, with the approval of the President, may determine to be necessary to maintain stock levels consistently with planned operations for the next fiscal year.

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522; amended Pub. L. 96–513, title V, §511(72), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 105–261, div. A, title X, §1009, Oct. 17, 1998, 112 Stat. 2117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2210(a)<br>2210(b) | 5:172d–1 (less proviso).<br>5:172d–1 (proviso). | Aug. 1, 1953, ch. 305, §645, 67 Stat. 357. |

In section (a), the words "proceeds of the disposal" are substituted for the words "moneys arising from the disposition".

**EDITORIAL NOTES**

**AMENDMENTS**

**1998**—Subsec. (a). Pub. L. 105–261 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Current applicable appropriations of the Department of Defense may be credited with proceeds of the disposals of supplies that are not financed by stock funds established under section 2208 of this title."

**1980**—Subsec. (b). Pub. L. 96–513 substituted "President" for "Director of the Bureau of the Budget".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §2211. Reimbursement for equipment, material, or services furnished members of the United Nations

Amounts paid by members of the United Nations for equipment or materials furnished, or services performed, in joint military operations shall be credited to appropriate appropriations of the Department of Defense in the manner authorized by section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d)).

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522; amended Pub. L. 96–513, title V, §511(73), Dec. 12, 1980, 94 Stat. 2926.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2211 | 5:171m–1. | Jan. 6, 1951, ch. 1213, §703, 64 Stat. 1235. |

The reference to section 2392(d) of title 22 is substituted for the reference to section 1574(b) of that title to reflect section 542(b) of the Act of August 26, 1954, ch. 937 (68 Stat. 861) and section 642(a)(2) and (b) of the Act of September 4, 1961, Pub. L. 87–195 (75 Stat. 460).

**EDITORIAL NOTES**

**AMENDMENTS**

**1980**—Pub. L. 96–513 substituted "section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d))" for "section 2392(d) of title 22".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## [§2212. Renumbered §3138]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2212, added Pub. L. 100–370, §1(d)(2)(A), July 19, 1988, 102 Stat. 842, directed Secretary of Defense to maintain within each military department an accounting procedure to aid in identification and control of expenditures for contracted advisory and assistance services, prior to repeal by Pub. L. 103–355, title II, §2454(c)(1), Oct. 13, 1994, 108 Stat. 3326.

Another prior section 2212, added Pub. L. 95–356, title VIII, §802(a)(1), Sept. 8, 1978, 92 Stat. 585; amended Pub. L. 97–258, §3(b)(5), Sept. 18, 1982, 96 Stat. 1063, related to transmission of annual military construction authorization request, prior to repeal by Pub. L. 97–214, §7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2859 of this title.

## [§2213. Renumbered §3070]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2213 was renumbered section 2350c of this title.

## §2214. Transfer of funds: procedure and limitations

(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.

(Added Pub. L. 101–510, div. A, title XIV, §1482(c)(1), Nov. 5, 1990, 104 Stat. 1709.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1991, see section 1482(d) of Pub. L. 101–510, set out as an Effective Date of 1990 Amendment note under section 119 of this title.

**NOTIFICATION TO CONGRESS OF REPROGRAMMING INVOLVING MILITARY CONSTRUCTION FUNDS**

Pub. L. 118–159, div. B, title XXVIII, §2810, Dec. 23, 2024, 138 Stat. 2252, provided that: "The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of any reprogramming of funds made available for military construction not later than 14 days after the date of such reprogramming."

## §2215. Transfer of funds to other departments and agencies: limitation

Funds available for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted

after November 29, 1989, unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional defense committees a certification that making those funds available to such other department or agency is in the national security interest of the United States.

(Added Pub. L. 103–160, div. A, title XI, §1106(a)(1), Nov. 30, 1993, 107 Stat. 1750; amended Pub. L. 104–106, div. A, title XV, §1502(a)(14), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–375, div. A, title X, §1084(b)(1), Oct. 28, 2004, 118 Stat. 2060.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2215, added Pub. L. 99–661, div. A, title XIII, §1307(a)(1), Nov. 14, 1986, 100 Stat. 3980, related to reports on unobligated balances, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(7), Nov. 5, 1990, 104 Stat. 1668.

Provisions similar to those in this section were contained in Pub. L. 101–189, div. A, title XVI, §1604, Nov. 29, 1989, 103 Stat. 1598, which was set out as a note under section 1531 of Title 31, Money and Finance, prior to repeal by Pub. L. 103–160, §1106(b).

**AMENDMENTS**

**2004**—Pub. L. 108–375 struck out subsec. (a) designation and heading before "Funds available", substituted "congressional defense committees" for "congressional committees specified in subsection (b)", and struck out heading and text of subsec. (b). Text of subsec. (b) read as follows: "The committees referred to in subsection (a) are—

"(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**1999**—Subsec. (b)(2). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Pub. L. 104–106 designated existing provisions as subsec. (a), inserted heading, substituted "to the congressional committees specified in subsection (b)" for "to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives", and added subsec. (b).

## [§2216. Renumbered §3136]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2216, added Pub. L. 104–106, div. A, title III, §371(a)(1), Feb. 10, 1996, 110 Stat. 277, was renumbered section 2216a of this title and subsequently repealed.

Another prior section 2216, added Pub. L. 99–661, div. A, title XIII, §1307(a)(1), Nov. 14, 1986, 100 Stat. 3980, related to annual reports on budgeting for inflation, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(8), Nov. 5, 1990, 104 Stat. 1668.

## §2216a. Rapidly meeting urgent needs: Joint Urgent Operational Needs Fund

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the "Joint Urgent Operational Needs Fund" (in this section referred to as the "Fund").

(b) ELEMENTS.—The Fund shall consist of the following:

(1) Amounts appropriated to the Fund.

(2) Amounts transferred to the Fund.

(3) Any other amounts made available to the Fund by law.

(c) USE OF FUNDS.—(1) Amounts in the Fund shall be available to the Secretary of Defense for capabilities that are determined by the Secretary, pursuant to the review process required by Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled "Urgent Capability Acquisition", to be suitable for rapid fielding in response to urgent operational needs.

(2) The Secretary shall establish a merit-based process for identifying equipment, supplies, services, training, and facilities suitable for funding through the Fund.

(3) Nothing in this section shall be interpreted to require or enable any official of the Department of Defense to provide funding under this section pursuant to a congressional earmark, as defined in clause 9 of Rule XXI of the Rules of the House of Representatives, or a congressionally directed spending item, as defined in paragraph 5 of Rule XLIV of the Standing Rules of the Senate.

(d) TRANSFER AUTHORITY.—(1) Amounts in the Fund may be transferred by the Secretary of Defense from the Fund to any of the following accounts of the Department of Defense to accomplish the purpose stated in subsection (c):

(A) Operation and maintenance accounts.

(B) Procurement accounts.

(C) Research, development, test, and evaluation accounts.

(2) Upon determination by the Secretary that all or part of the amounts transferred from the Fund under paragraph (1) are not necessary for the purpose for which transferred, such amounts may be transferred back to the Fund.

(3) The transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount so transferred.

(4) The transfer authority provided by paragraphs (1) and (2) is in addition to any other transfer authority available to the Department of Defense by law.

(e) SUNSET.—The authority to make expenditures or transfers from the Fund shall expire on September 30, 2018.

(Added Pub. L. 112–81, div. A, title VIII, §846(a)(1), Dec. 31, 2011, 125 Stat. 1516; amended Pub. L. 112–239, div. A, title X, §1076(e)(2), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–291, div. A, title VIII, §860, Dec. 19, 2014, 128 Stat. 3461; Pub. L. 117–263, div. A, title VIII, §804(d)(1), Dec. 23, 2022, 136 Stat. 2701.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2216a, added Pub. L. 104–106, div. A, title III, §371(a)(1), Feb. 10, 1996, 110 Stat. 277, §2216; renumbered §2216a and amended Pub. L. 104–201, div. A, title III, §§363(c), 364, title X, §1074(a)(10), Sept. 23, 1996, 110 Stat. 2493, 2494, 2659, related to Defense Business Operations Fund, prior to repeal by Pub. L. 105–261, div. A, title X, §1008(b), Oct. 17, 1998, 112 Stat. 2117.

### AMENDMENTS

**2022**—Subsec. (c)(1). Pub. L. 117–263 substituted "Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled 'Urgent Capability Acquisition' " for "section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2302 note)".

**2014**—Subsec. (e). Pub. L. 113–291 substituted "September 30, 2018" for "September 30, 2015".

**2013**—Subsec. (e). Pub. L. 112–239 substituted "on September 30, 2015." for "on the last day of the third fiscal year that begins after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### LIMITATION ON COMMENCEMENT OF EXPENDITURES FROM FUND

Pub. L. 112–81, div. A, title VIII, §846(b), Dec. 31, 2011, 125 Stat. 1517, provided that: "No expenditure may be made from the Joint Urgent Operational Needs Fund established by section 2216a of title 10, United

States Code (as added by subsection (a)), until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the Secretary has developed and implemented an expedited review process in compliance with the requirements of section 804 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4256; 10 U.S.C. 2302 note)."

## [§2217. Renumbered §3135]

## §2218. National Defense Sealift Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "National Defense Sealift Fund".

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the National Defense Sealift Fund shall be available for obligation and expenditure only for the following purposes:

(A) Construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels.

(B) Operation, maintenance, and lease or charter of Department of Defense vessels for national defense purposes.

(C) Installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States.

(D) Expenses for maintaining the National Defense Reserve Fleet under section 57100 of title 46 and for the costs of acquisition of vessels for, and alteration and conversion of vessels in (or to be placed in), the fleet, but only for vessels built in United States shipyards.

(2) Funds in the National Defense Sealift Fund may be obligated or expended only in amounts authorized by law.

(3) Funds obligated and expended for a purpose set forth in subparagraph (B) of paragraph (1) may be derived only from funds deposited in the National Defense Sealift Fund pursuant to subsection (d)(1).

(d) DEPOSITS.—There shall be deposited in the Fund the following:

(1) All funds appropriated to the Department of Defense for—

(A) construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

(B) operations, maintenance, and lease or charter of national defense sealift vessels; and

(C) installation and maintenance of defense features for national defense purposes on privately owned and operated vessels.

(2) All receipts from the disposition of national defense sealift vessels, excluding receipts from the sale, exchange, or scrapping of National Defense Reserve Fleet vessels under sections 57101–57104 and chapter 573 of title 46.

(3) All receipts from the charter of vessels under section 1424(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 8661 note).

(4) Any other funds made available to the Department of Defense to carry out any of the purposes described in subsection (c).

(e) ACCEPTANCE OF SUPPORT.—(1) The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money, personal property (excluding vessels), or assistance in kind for support of the sealift functions of the Department of Defense.

(2) Any contribution of property accepted under paragraph (1) may be retained and used by the Department of Defense or disposed of in accordance with procedures prescribed by the Secretary of Defense.

(3) The Secretary of Defense shall deposit in the Fund money and receipts from the disposition of any property accepted under paragraph (1).

(f) LIMITATIONS.—(1) A vessel built in a foreign ship yard may not be purchased with funds in the National Defense Sealift Fund pursuant to subsection (c)(1), unless specifically authorized by law.

(2) Construction, alteration, or conversion of vessels with funds in the National Defense Sealift Fund pursuant to subsection (c)(1) shall be conducted in United States ship yards and shall be subject to section 1424(b) of Public Law 101–510 (104 Stat. 1683).

(3)(A) Notwithstanding the limitations under subsection (c)(1)(D) and paragraph (1), the Secretary of Defense may, as part of a program to recapitalize the Ready Reserve Force component of the national defense reserve fleet and the Military Sealift Command surge fleet, purchase any used vessel, regardless of where such vessel was constructed if such vessel—

(i) participated in the Maritime Security Fleet; and

(ii) is available for purchase at a reasonable cost, as determined by the Secretary.

(B) If the Secretary determines that no used vessel meeting the requirements under clauses (i) and (ii) of subparagraph (A) is available, the Secretary may purchase a used vessel comparable to a vessel described in clause (i) of subparagraph (A), regardless of the source of the vessel or where the vessel was constructed, if such vessel is available for purchase at a reasonable cost, as determined by the Secretary.

(C) The Secretary may not use the authority under this paragraph to purchase more than 12 foreign constructed vessels.

(D) The Secretary shall ensure that the initial conversion, or modernization of any vessel purchased under the authority of subparagraph (A) occurs in a shipyard located in the United States.

(E) The Secretary may not use the authority under this paragraph to procure more than four foreign constructed vessels unless the Secretary submits to Congress, by not later than the second week of February of the fiscal year during which the Secretary plans to use such authority, a certification that—

(i) the Secretary has initiated an acquisition strategy for the construction in United States shipyards of not less than ten new vessels that are sealift vessels, auxiliary vessels, or a combination of such vessels; and

(ii) of such new vessels, the lead ship is anticipated to be delivered by not later than 2028.

(F) Not later than 30 days before the purchase of any vessel using the authority under this paragraph, the Secretary, in consultation with the Maritime Administrator, shall submit to the congressional defense committees a report that contains each of the following with respect to such purchase:

(i) The proposed date of the purchase.

(ii) The price at which the vessel would be purchased.

(iii) The anticipated cost of modernization of the vessel.

(iv) The proposed military utility of the vessel.

(v) The proposed date on which the vessel will be available for use by the Ready Reserve.

(vi) The contracting office responsible for the completion of the purchase.

(vii) Certification that—

(I) there was no vessel available for purchase at a reasonable price that was constructed in the United States; and

(II) the used vessel purchased supports the recapitalization of the Ready Reserve Force component of the National Defense Reserve Fleet or the Military Sealift Command surge fleet.

(viii) A detailed account of the criteria used to make the determination under subparagraph (B).

(G) The Secretary may not finalize or execute the final purchase of any vessel using the authority under this paragraph until 30 days after the date on which a report under subparagraph (F) is submitted with respect to such purchase.

(g) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the National Defense Sealift Fund pursuant to subsection (d)(1) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

(h) BUDGET REQUESTS.—Budget requests submitted to Congress for the National Defense Sealift Fund shall separately identify—

(1) the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

(2) the amount requested for programs, projects, and activities for operation, maintenance, and lease or charter of national defense sealift vessels;

(3) the amount requested for programs, projects, and activities for installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States; and

(4) the amount requested for programs, projects, and activities for research and development relating to national defense sealift.

(i) TITLE OR MANAGEMENT OF VESSELS.—Nothing in this section (other than subsection (c)(1)(D)) shall be construed to affect or modify title to, management of, or funding responsibilities for, any vessel of the National Defense Reserve Fleet, or assigned to the Ready Reserve Force component of the National Defense Reserve Fleet, as established by section 57100 of title 46.

(j) CONTRACTS FOR INCORPORATION OF DEFENSE FEATURES IN COMMERCIAL VESSELS.—(1) The head of an agency may enter into a contract with a company submitting an offer for that company to install and maintain defense features for national defense purposes in one or more commercial vessels owned or controlled by that company in accordance with the purpose for which funds in the National Defense Sealift Fund are available under subsection (c)(1)(C). The head of the agency may enter into such a contract only after the head of the agency makes a determination of the economic soundness of the offer. As consideration for a contract with the head of an agency under this subsection, the company entering into the contract shall agree with the Secretary of Defense to make any vessel covered by the contract available to the Secretary, fully crewed and ready for sea, at any time at any port determined by the Secretary, and for whatever duration the Secretary determines necessary.

(2) The head of an agency may make advance payments to the contractor under a contract under paragraph (1) in a lump sum, in annual payments, or in a combination thereof for costs associated with the installation and maintenance of the defense features on a vessel covered by the contract, as follows:

(A) The costs to build, procure, and install a defense feature in the vessel.

(B) The costs to periodically maintain and test any defense feature on the vessel.

(C) Any increased costs of operation or any loss of revenue attributable to the installation or maintenance of any defense feature on the vessel.

(D) Any additional costs associated with the terms and conditions of the contract.

(E) Payments of such sums as the Government would otherwise expend, if the vessel were placed in the Ready Reserve Fleet, for maintaining the vessel in the status designated as "ROS–4 status" in the Ready Reserve Fleet for 25 years.

(3) For any contract under paragraph (1) under which the United States makes advance payments under paragraph (2) for the costs associated with installation or maintenance of any defense feature on a commercial vessel, the contractor shall provide to the United States such security interests in the

vessel, by way of a preferred mortgage under section 31322 of title 46 or otherwise, as the head of the agency may prescribe in order to adequately protect the United States against loss for the total amount of those costs.

(4) Each contract entered into under this subsection shall—

(A) set forth terms and conditions under which, so long as a vessel covered by the contract is owned or controlled by the contractor, the contractor is to operate the vessel for the Department of Defense notwithstanding any other contract or commitment of that contractor; and

(B) provide that the contractor operating the vessel for the Department of Defense shall be paid for that operation at fair and reasonable rates.

(5) The head of an agency may not delegate authority under this subsection to any officer or employee in a position below the level of head of a procuring activity.

(6) The head of an agency may not enter into a contract under paragraph (1) that would provide for payments to the contractor as authorized in paragraph (2)(E) until notice of the proposed contract is submitted to the congressional defense committees and a period of 90 days has elapsed.

(k) DEFINITIONS.—In this section:

(1) The term "Fund" means the National Defense Sealift Fund established by subsection (a).

(2) The term "Department of Defense sealift vessel" means any ship owned, operated, controlled, or chartered by the Department of Defense that is any of the following:

(A) A fast sealift ship, including any vessel in the Fast Sealift Program established under section 1424 of Public Law 101–510 (104 Stat. 1683).

(B) Any other auxiliary vessel that was procured or chartered with specific authorization in law for the vessel, or class of vessels, to be funded in the National Defense Sealift Fund.

(3) The term "national defense sealift vessel" means—

(A) a Department of Defense sealift vessel; and

(B) a national defense reserve fleet vessel, including a vessel in the Ready Reserve Force maintained under section 57100 of title 46.

(4) The term "head of an agency" has the meaning given that term in section 3004 of this title.

(5) The term "Maritime Security Fleet" means the fleet established under section 53102(a) of title 46.

(Added Pub. L. 102–484, div. A, title X, §1024(a)(1), Oct. 23, 1992, 106 Stat. 2486; amended Pub. L. 102–396, title V, Oct. 6, 1992, 106 Stat. 1896; Pub. L. 104–106, div. A, title X, §1014(a), title XV, §1502(a)(15), Feb. 10, 1996, 110 Stat. 423, 503; Pub. L. 106–65, div. A, title X, §§1014(b), 1015, 1067(1), Oct. 5, 1999, 113 Stat. 742, 743, 774; Pub. L. 106–398, §1 [[div. A], title X, §1011], Oct. 30, 2000, 114 Stat. 1654, 1654A–251; Pub. L. 107–107, div. A, title X, §1048(e)(9), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 108–136, div. A, title X, §1043(b)(9), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 109–163, div. A, title X, §1018(d), Jan. 6, 2006, 119 Stat. 3426; Pub. L. 109–304, §17(a)(2), Oct. 6, 2006, 120 Stat. 1706; Pub. L. 110–417, [div. A], title XIV, §1407, Oct. 14, 2008, 122 Stat. 4647; Pub. L. 114–328, div. A, title X, §1081(b)(5), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115–91, div. A, title X, §1021(a)–(c), div. C, title XXXV, §3502(b)(1), Dec. 12, 2017, 131 Stat. 1546, 1547, 1910; Pub. L. 115–232, div. A, title VIII, §809(a), title X, §§1012, 1013, Aug. 13, 2018, 132 Stat. 1840, 1947, 1948; Pub. L. 116–92, div. A, title X, §1031(a), Dec. 20, 2019, 133 Stat. 1579; Pub. L. 116–283, div. A, title X, §1022, title XVIII, §1806(e)(1)(A), Jan. 1, 2021, 134 Stat. 3840, 4155; Pub. L. 118–159, div. A, title X, §1022, Dec. 23, 2024, 138 Stat. 2052; Pub. L. 119–60, div. A, title X, §1022, title XVII, §1701(a)(17), Dec. 18, 2025, 139 Stat. 1034, 1209.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1424 of Public Law 101–510, referred to in subsecs. (d)(3), (f)(2), and (k)(2)(A), is section 1424 of the National Defense Authorization Act for Fiscal Year 1991, which is set out as a note under section 7291 of

this title.

## CODIFICATION

Pub. L. 102–396, title V, Oct. 6, 1992, 106 Stat. 1896, provided that section 1024 of the National Defense Authorization Act for Fiscal Year 1993 [H.R. 5006, Pub. L. 102–484], as it passed the Senate on Oct. 3, 1992, shall be amended in subsection 2218(c)(2) proposed for inclusion in this chapter by deleting all after "expended only" down to and including "appropriations Act" and inserting in lieu thereof "in amounts authorized by law". It further provided that for purposes of that amendment, Pub. L. 102–396 shall be treated as having been enacted after Pub. L. 102–484, regardless of the actual dates of enactment. The date of Oct. 3, 1992, referred to as the date the Senate passed the National Defense Authorization Act for Fiscal Year 1993, apparently is based on an order adopted by the Senate on Oct. 3, 1992 [Cong. Rec., vol. 138, pt. 21, p. 30919] providing that when the conference report on the National Defense Authorization Act for Fiscal Year 1993 was received by the Senate from the House of Representatives it would be deemed to have been agreed to. On Oct. 5, 1992, the Senate received the conference report from the House, and it was considered adopted pursuant to that order [Cong. Rec., vol. 138, pt. 22, p. 31565].

## AMENDMENTS

**2025**—Subsec. (c)(1)(D). Pub. L. 119–60, §1701(a)(17), substituted "section 57100 of title 46" for "section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. 4405)".

Subsec. (f)(3)(C). Pub. L. 119–60, §1022, substituted "12" for "10".

Subsec. (k)(3)(B). Pub. L. 119–60, §1701(a)(17), substituted "section 57100 of title 46" for "section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. 4405)".

**2024**—Subsec. (f)(3)(A). Pub. L. 118–159, §1022(1)(A), substituted "subsection (c)(1)(D)" for "subsection (c)(1)(E)".

Subsec. (f)(3)(C). Pub. L. 118–159, §1022(1)(B), substituted "10" for "nine".

Subsec. (i). Pub. L. 118–159, §1022(2), substituted "subsection (c)(1)(D)" for "subsection (c)(1)(E)".

**2021**—Subsec. (f)(3)(C). Pub. L. 116–283, §1022(1), substituted "nine" for "seven".

Subsec. (f)(3)(E). Pub. L. 116–283, §1022(2)(A), substituted "four" for "two" in introductory provisions.

Subsec. (f)(3)(E)(ii). Pub. L. 116–283, §1022(2)(B), substituted "2028" for "2026".

Subsec. (f)(3)(G). Pub. L. 116–283, §1022(3), substituted "subparagraph (F)" for "subparagraph (E)".

Subsec. (k)(4). Pub. L. 116–283, §1806(e)(1)(A), substituted "section 3004" for "section 2302(1)".

**2019**—Subsec. (f)(3)(E)(i). Pub. L. 116–92, §1031(a)(1), substituted "ten new vessels that are sealift vessels, auxiliary vessels, or a combination of such vessels" for "ten new sealift vessels".

Subsec. (f)(3)(E)(ii). Pub. L. 116–92, §1031(a)(2), struck out "sealift" before "vessels".

**2018**—Subsec. (d)(3). Pub. L. 115–232, §809(a), substituted "section 1424(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 8661 note)" for "section 1424(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note)".

Subsec. (f)(3)(C). Pub. L. 115–232, §1012(1), substituted "seven" for "two" and "vessels" for "ships".

Subsec. (f)(3)(E). Pub. L. 115–232, §1012(3), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (f)(3)(F). Pub. L. 115–232, §§1012(2), 1013(1)(A), redesignated subpar. (E) as (F) and substituted "30 days before" for "30 days after" in introductory provisions.

Subsec. (f)(3)(F)(i). Pub. L. 115–232, §1013(1)(B), inserted "proposed" before "date".

Subsec. (f)(3)(F)(ii). Pub. L. 115–232, §1013(1)(C), substituted "would be purchased." for "was purchased."

Subsec. (f)(3)(F)(viii). Pub. L. 115–232, §1013(1)(D), added cl. (viii).

Subsec. (f)(3)(G). Pub. L. 115–232, §1013(2), added subpar. (G).

**2017**—Subsec. (c)(1)(D), (E). Pub. L. 115–91, §1021(a)(1)(A), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: "Research and development relating to national defense sealift."

Subsec. (c)(3). Pub. L. 115–91, §1021(a)(1)(B), struck out "or (D)" after "subparagraph (B)".

Subsec. (d)(1)(D). Pub. L. 115–91, §1021(a)(2)(A), struck out subpar. (D) which read as follows: "research and development relating to national defense sealift."

Subsec. (d)(4). Pub. L. 115–91, §1021(a)(2)(B), added par. (4).

Subsec. (f)(3). Pub. L. 115–91, §1021(b), added par. (3).

Subsec. (i). Pub. L. 115–91, §3502(b)(1), substituted "section 57100 of title 46" for "section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744)".

Subsec. (k)(5). Pub. L. 115–91, §1021(c), added par. (5).

**2016**—Subsecs. (c)(1)(E), (k)(3)(B). Pub. L. 114–328 substituted "(50 U.S.C. 4405)" for "(50 U.S.C. App. 1744)".

**2008**—Subsecs. (j), (k). Pub. L. 110–417, §1407(1), redesignated subsecs. (k) and (l) as (j) and (k),

respectively, and struck out heading and text of former subsec. (j). Text read as follows: "Upon a determination by the Secretary of Defense that such action serves the national defense interest and after consultation with the congressional defense committees, the Secretary may use funds available for obligation or expenditure for a purpose specified under subsection (c)(1)(A), (B), (C), and (D) for any purpose under subsection (c)(1)."

Subsec. (k)(2)(B) to (I). Pub. L. 110–417, §1407(2), added subpar. (B) and struck out former subpars. (B) to (I) which read as follows:

"(B) A maritime prepositioning ship.

"(C) An afloat prepositioning ship.

"(D) An aviation maintenance support ship.

"(E) A hospital ship.

"(F) A strategic sealift ship.

"(G) A combat logistics force ship.

"(H) A maritime prepositioned ship.

"(I) Any other auxiliary support vessel."

Subsec. (l). Pub. L. 110–417, §1407(1), redesignated subsec. (l) as (k).

**2006**—Subsec. (d)(2). Pub. L. 109–304 substituted "sections 57101–57104 and chapter 573 of title 46" for "sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund".

Subsec. (f)(1). Pub. L. 109–163 substituted "A vessel built in a foreign ship yard may not be" for "Not more than a total of five vessels built in foreign ship yards may be" and inserted ", unless specifically authorized by law" before period at end.

**2003**—Subsec. (l)(4), (5). Pub. L. 108–136 redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**2001**—Subsec. (d)(1). Pub. L. 107–107 struck out "for fiscal years after fiscal year 1993" after "Department of Defense" in introductory provisions.

**2000**—Subsec. (k)(1). Pub. L. 106–398, §1 [[div. A], title X, §1011(1)], inserted at end "As consideration for a contract with the head of an agency under this subsection, the company entering into the contract shall agree with the Secretary of Defense to make any vessel covered by the contract available to the Secretary, fully crewed and ready for sea, at any time at any port determined by the Secretary, and for whatever duration the Secretary determines necessary."

Subsec. (k)(2)(E). Pub. L. 106–398, §1 [[div. A], title X, §1011(2)], added subpar. (E).

Subsec. (k)(6). Pub. L. 106–398, §1 [[div. A], title X, §1011(3)], added par. (6).

**1999**—Subsec. (k). Pub. L. 106–65, §1015(a)(2), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 106–65, §1014(b), substituted "that is any of the following:" for "that is—" in introductory provisions, substituted "A" for "a" and a period for the semicolon in subpars. (A) and (B), "An" for "an" and a period for the semicolon in subpar. (C), "An" for "an" and a period for "; or" in subpar. (D), and "A" for "a" in subpar. (E), and added subpars. (F) to (I).

Subsec. (l). Pub. L. 106–65, §1015(a)(1), redesignated subsec. (k) as (l).

Subsec. (l)(4)(B). Pub. L. 106–65, §1067(1), substituted "Committee on Armed Services" for "Committee on National Security".

Subsec. (l)(5). Pub. L. 106–65, §1015(b), added par. (5).

**1996**—Subsec. (c)(1). Pub. L. 104–106, §1014(a)(1)(A), substituted "only for the following purposes:" for "only for—".

Subsec. (c)(1)(A). Pub. L. 104–106, §1014(a)(1)(B), (C), substituted "Construction" for "construction" and "vessels." for "vessels;".

Subsec. (c)(1)(B). Pub. L. 104–106, §1014(a)(1)(B), (C), substituted "Operation" for "operation" and "purposes." for "purposes;".

Subsec. (c)(1)(C). Pub. L. 104–106, §1014(a)(1)(B), (D), substituted "Installation" for "installation" and "States." for "States; and".

Subsec. (c)(1)(D). Pub. L. 104–106, §1014(a)(1)(B), substituted "Research" for "research".

Subsec. (c)(1)(E). Pub. L. 104–106, §1014(a)(1)(E), added subpar. (E).

Subsec. (i). Pub. L. 104–106, §1014(a)(2), inserted "(other than subsection (c)(1)(E))" after "Nothing in this section".

Subsec. (j). Pub. L. 104–106, §1502(a)(15)(A), substituted "the congressional defense committees" for "the

Committees on Armed Services and on Appropriations of the Senate and the House of Representatives".

Subsec. (k)(4). Pub. L. 104–106, §1502(a)(15)(B), added par. (4).

**1992**—Subsec. (c)(2). Pub. L. 102–396 substituted "in amounts authorized by law" for "for programs, projects, and activities and only in amounts authorized in, or otherwise permitted under, an Act other than an appropriations Act". See Codification note above.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1806(e)(1)(A) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title X, §1031(b), Dec. 20, 2019, 133 Stat. 1579, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2019, and shall apply with respect to fiscal years beginning on or after that date."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section relating to submitting budget requests to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### COMPLIANCE BY READY RESERVE FLEET VESSELS WITH SOLAS LIFEBOATS AND FIRE SUPPRESSION REQUIREMENTS

Pub. L. 115–232, div. C, title XXXV, §3502, Aug. 13, 2018, 132 Stat. 2308, provided that: "The Secretary of Defense shall, consistent with section 2244a of title 10, United States Code, use authority under section 2218 of such title to make such modifications to Ready Reserve Fleet vessels as are necessary for such vessels to comply [with] requirements for lifeboats and fire suppression under the International Convention for the Safety of Life at Sea by not later than October 1, 2021."

## §2218a. National Sea-Based Deterrence Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "National Sea-Based Deterrence Fund".

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the Fund shall be available for obligation and expenditure only for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(2) Funds in the Fund may not be used for a purpose or program unless the purpose or program is authorized by law.

(d) DEPOSITS.—There shall be deposited in the Fund all funds appropriated to the Department of Defense for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(e) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the Fund pursuant to subsection (d) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

(f) AUTHORITY TO ENTER INTO ECONOMIC ORDER QUANTITY CONTRACTS.—(1) The Secretary of the Navy may use funds deposited in the Fund to enter into contracts known as "economic order quantity contracts" with private shipyards and other commercial or government

entities to achieve economic efficiencies based on production economies for major components or subsystems. The authority under this subsection extends to the procurement of parts, components, and systems (including weapon systems) common with and required for other nuclear powered vessels under joint economic order quantity contracts.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(g) AUTHORITY TO BEGIN MANUFACTURING AND FABRICATION EFFORTS PRIOR TO SHIP AUTHORIZATION.—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into contracts for advance construction of national sea-based deterrence vessels to support achieving cost savings through workload management, manufacturing efficiencies, or workforce stability, or to phase fabrication activities within shipyard and manage sub-tier manufacturer capacity.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(h) AUTHORITY TO USE INCREMENTAL FUNDING TO ENTER INTO CONTRACTS FOR CERTAIN ITEMS.—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into incrementally funded contracts for—

(A) advance procurement of high value, long lead time items for nuclear powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments; and

(B) construction of the first two Columbia class submarines.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(i) AUTHORITY FOR MULTIYEAR PROCUREMENT OF CRITICAL COMPONENTS TO SUPPORT CONTINUOUS PRODUCTION.—(1) To implement the continuous production of critical components, the Secretary of the Navy may use funds deposited in the Fund, in conjunction with funds appropriated for the procurement of other nuclear-powered vessels, to enter into one or more multiyear contracts (including economic ordering quantity contracts), for the procurement of critical contractor-furnished and Government-furnished components for critical components of national sea-based deterrence vessels. The authority under this subsection extends to the procurement of equivalent critical components common with and required for other nuclear-powered vessels.

(2) In each annual budget request submitted to Congress, the Secretary shall clearly identify funds requested for critical components and the individual ships and programs for which such funds are requested.

(3) Any contract entered into pursuant to paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose and that the total liability to the Government for the termination of the contract shall be limited to the total amount of funding obligated for the contract as of the date of the termination.

(j) BUDGET REQUESTS.—Budget requests submitted to Congress for the Fund shall separately identify the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(k) DEFINITIONS.—In this section:

(1) The term "Fund" means the National Sea-Based Deterrence Fund established by subsection (a).

(2) The term "national sea-based deterrence vessel" means any submersible vessel constructed or purchased after fiscal year 2016 that is owned, operated, or controlled by the Department of

Defense and that carries operational intercontinental ballistic missiles.

(3) The term "critical component" means any of the following:

(A) A common missile compartment component.
(B) A spherical air flask.
(C) An air induction diesel exhaust valve.
(D) An auxiliary seawater valve.
(E) A hovering valve.
(F) A missile compensation valve.
(G) A main seawater valve.
(H) A launch tube.
(I) A trash disposal unit.
(J) A logistics escape trunk.
(K) A torpedo tube.
(L) A weapons shipping cradle weldment.
(M) A control surface.
(N) A launcher component.
(O) A propulsor.
(P) Major bulkheads and tanks.
(Q) All major pumps and motors.
(R) Large vertical array.
(S) Atmosphere control equipment.
(T) Diesel systems and components.
(U) Hydraulic valves and components.
(V) Bearings.
(W) Major air and blow valves and components.
(X) Decks and superstructure.
(Y) Castings, forgings, and tank structure.
(Z) Hatches and hull penetrators.

(Added Pub. L. 113–291, div. A, title X, §1022(a)(1), Dec. 19, 2014, 128 Stat. 3486; amended Pub. L. 114–92, div. A, title X, §1022(a), Nov. 25, 2015, 129 Stat. 965; Pub. L. 114–328, div. A, title X, §1023, Dec. 23, 2016, 130 Stat. 2388; Pub. L. 115–91, div. A, title X, §1022, Dec. 12, 2017, 131 Stat. 1548; Pub. L. 116–283, div. A, title X, §1023(a), Jan. 1, 2021, 134 Stat. 3840; Pub. L. 118–31, div. A, title X, §1016, Dec. 22, 2023, 137 Stat. 382.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (k)(3)(P) to (Z). Pub. L. 118–31 added subpars. (P) to (Z).

**2021**—Subsec. (h)(1). Pub. L. 116–283 substituted "incrementally funded contracts for—" for "incrementally funded contracts for advance procurement of high value, long lead time items for nuclear powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments." and added subpars. (A) and (B).

**2017**—Subsec. (i). Pub. L. 115–91, §1022(c), struck out "of the Common Missile Compartment" after "Continuous Production" in heading.

Subsec. (i)(1). Pub. L. 115–91, §1022(a)(2), substituted "equivalent critical components" for "equivalent critical parts, components, systems, and subsystems".

Pub. L. 115–91, §1022(a)(1), which directed the substitution of "critical components" for "the common missile compartment" wherever appearing, was executed by making the substitution for "the common missile compartment" the first time appearing and for "the common missile compartments" the second time appearing, to reflect the probable intent of Congress.

Subsec. (i)(2). Pub. L. 115–91, §1022(a)(1), substituted "critical components" for "the common missile compartment".

Subsec. (k)(3). Pub. L. 115–91, §1022(b), added par. (3).

**2016**—Subsecs. (i), (j). Pub. L. 114–328, §1023(a), added subsec. (i) and redesignated former subsec. (i) as

(j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 114–328, §1023(a)(1), redesignated subsec. (j) as (k).

Subsec. (k)(2). Pub. L. 114–328, §1023(b), substituted "any submersible vessel constructed or purchased after fiscal year 2016 that is" for "any vessel" and inserted "and" before "that carries".

**2015**—Subsecs. (f) to (j). Pub. L. 114–92 added subsecs. (f) to (h) and redesignated former subsecs. (f) and (g) as (i) and (j), respectively.

## §2219. Grants for improvement of Navy ship repair or alterations capability

(a) ASSISTANCE AUTHORIZED.—(1) Subject to the availability of appropriations, the Secretary of the Navy may make grants to an eligible entity for the purpose of carrying out—

(A) a capital improvement project; or

(B) a maritime training program designed to foster technical skills and operational productivity.

(2) The amount of a grant under this section may not exceed 75 percent of the total cost of the project or program funded by the grant.

(3) A grant provided under this section may not be used to construct buildings or other physical facilities, except for piers, dry docks, and structures in support of piers and dry docks, or to acquire land.

(4) The Secretary may not award a grant to an eligible entity under this section unless the Secretary determines that—

(A) the entity has access to sufficient non-Federal funding to meet the requirement under paragraph (2);

(B) the entity has authority to carry out the proposed project; and

(C) the project or program would improve—

(i) efficiency, competitive operations, capability, or quality of United States Navy ship repair or alterations; or

(ii) employee, or potential employee, skills and enhanced productivity related to United States Navy ship repair or alterations.

(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity shall—

(1) be a shipyard or other entity that provides ship repair or alteration for non-nuclear ships;

(2) submit an application, at such time, in such form, and containing such information and assurances as the Secretary may require, including a comprehensive description of—

(A) the need for the project or program proposed to be funded under the grant;

(B) the methodology to be used to implement the project or program; and

(C) any existing programs or arrangements that could be used to supplement or leverage a grant provided under this section; and

(3) enter into an agreement with the Secretary under which the entity agrees—

(A) to complete the project or program funded by the grant within a certain timeframe and without unreasonable delay and the Secretary determines such project or program is likely to be completed within the timeframe provided in such agreement;

(B) to return to the Secretary any amount of the grant that is—

(i) not used by the grant recipient for the purpose for which the grant was awarded; or

(ii) not obligated or expended within the timeframe provided in the agreement;

(C) to maintain such records as the Secretary may require and make such records available for review and audit by the Secretary; and

(D) not to purchase any product or material for the project or program using grant funds, including any commercially available off-the-shelf item, unless such product or material is—

(i) an unmanufactured article, material, or supply that has been mined or produced in the United States; or

(ii) a manufactured article, material, or supply that has been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

(c) GUIDELINES.—The Secretary shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

(1) amounts awarded as grants under this section are used for the purposes for which such amounts were made available; and

(2) an entity that receives a grant under this section complies with the terms of the agreement such entity enters into with the Secretary pursuant to subsection (b)(3).

(d) DEFINITIONS.—In this section:

(1) The term "commercially available off-the-shelf item"—

(A) means any item of supply (including construction material) that is—

(i) a commercial item, as defined by section 2.101 of title 48, Code of Federal Regulations (as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024); and

(ii) sold in substantial quantities in the commercial marketplace; and

(B) does not include bulk cargo, as defined in section 40102(4) of title 46, such as agricultural products and petroleum products.

(2) The term "product or material", with respect to a project or program—

(A) means an article, material, or supply brought to the site where the project or program is being carried out for incorporation into the project or program; and

(B) includes an item brought to the site preassembled from articles, materials, or supplies.

(3) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(Added Pub. L. 118–31, div. A, title X, §1017, Dec. 22, 2023, 137 Stat. 382.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (d)(1)(A)(i), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

**PRIOR PROVISIONS**

A prior section 2219 was renumbered section 2491c of this title.

## §2220. Performance based management: acquisition programs

(a) ESTABLISHMENT OF GOALS.—The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

(b) EVALUATION OF COST GOALS.—The Under Secretary of Defense (Comptroller) shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

(c) SUNSET.—The authority under this section shall terminate on September 30, 2018.

(Added Pub. L. 103–355, title V, §5001(a)(1), Oct. 13, 1994, 108 Stat. 3349; amended Pub. L. 104–106, div. A, title XV, §1503(a)(20), div. D, title XLIII, §4321(b)(1), Feb. 10, 1996, 110 Stat. 512, 671; Pub. L. 105–85, div. A, title VIII, §841(a), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 107–314, div. A, title X, §1041(a)(8), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 114–328, div. A, title VIII, §833(a)(2), Dec. 23, 2016, 130 Stat. 2283.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (c). Pub. L. 114–328 added subsec. (c).

**2002**—Subsec. (a). Pub. L. 107–314, §1041(a)(8)(B), (C), struck out par. (1) designation and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 107–314, §1041(a)(8)(A), (C), redesignated subsec. (a)(2) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of October 13, 1994. The Secretary shall use data from existing management systems in making the assessment."

Subsec. (c). Pub. L. 107–314, §1041(a)(8)(A), struck out heading and text of subsec. (c). Text read as follows: "Whenever the Secretary of Defense, in the assessment required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

"(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

"(2) identify suitable actions to be taken, including termination, with respect to such programs."

**1997**—Subsec. (b). Pub. L. 105–85 substituted "whether major acquisition programs" for "whether major and nonmajor acquisition programs".

**1996**—Subsec. (a)(2). Pub. L. 104–106, §1503(a)(20), substituted "Under Secretary of Defense (Comptroller)" for "Comptroller of the Department of Defense".

Subsec. (b). Pub. L. 104–106, §4321(b)(1), substituted "October 13, 1994" for "the date of the enactment of the Federal Acquisition Streamlining Act of 1994".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. D, title XLIV, §4401, Feb. 10, 1996, 110 Stat. 678, provided that:

"(a) EFFECTIVE DATE.—Except as otherwise provided in this division [div. D (§§4001–4402) of Pub. L. 104–106, see Tables for classification], this division and the amendments made by this division shall take effect on the date of the enactment of this Act [Feb. 10, 1996].

"(b) APPLICABILITY OF AMENDMENTS.—

"(1) SOLICITATIONS, UNSOLICITED PROPOSALS, AND RELATED CONTRACTS.—An amendment made by this division shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 4402 [110 Stat. 678] to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

"(2) OTHER MATTERS.—An amendment made by this division shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any matter related to—

"(A) a contract that is in effect on the date described in paragraph (3);

"(B) an offer under consideration on the date described in paragraph (3); or

"(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

"(3) DEMARCATION DATE.—The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be January 1, 1997, or any earlier date that is not within 30 days after the date on which such final regulations are published."

### PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS

Pub. L. 105–261, div. A, title VIII, §816, Oct. 17, 1998, 112 Stat. 2088, authorized the Secretary of Defense to designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support and required report to Congress by Feb. 1, 1999.

**ENHANCED SYSTEM OF PERFORMANCE INCENTIVES**

Pub. L. 103–355, title V, §5001(b), Oct. 13, 1994, 108 Stat. 3350, provided that, within one year after Oct. 13, 1994, the Secretary of Defense should review the incentives and personnel actions available for encouraging excellence in the management of defense acquisition programs and provide an enhanced system of incentives, including pay for performance, to facilitate the achievement of goals approved or defined pursuant to subsec. (a) of this section.

**RECOMMENDED LEGISLATION**

Pub. L. 103–355, title V, §5001(c), Oct. 13, 1994, 108 Stat. 3350, directed the Secretary of Defense, not later than one year after Oct 13, 1994, to submit to Congress any recommended legislation that the Secretary considered necessary to carry out this section and otherwise to facilitate and enhance management of Department of Defense acquisition programs on the basis of performance.

## [§2221. Repealed. Pub. L. 105–261, div. A, title IX, §906(f)(1), Oct. 17, 1998, 112 Stat. 2096]

Section, added Pub. L. 104–106, div. A, title IX, §914(a)(1), Feb. 10, 1996, 110 Stat. 412; amended Pub. L. 104–201, div. A, title X, §1008(a), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 105–85, div. A, title X, §1006(a), Nov. 18, 1997, 111 Stat. 1869; Pub. L. 105–261, div. A, title X, §1069(b)(2), Oct. 17, 1998, 112 Stat. 2136, related to Fisher House trust funds. See section 2493 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective 90 days after Oct. 17, 1998, see section 906(f)(3) of Pub. L. 105–261, set out as an Effective Date of 1998 Amendment note under section 1321 of Title 31, Money and Finance.

## §2222. Defense business systems: business process reengineering; enterprise architecture; management

(a) DEFENSE BUSINESS PROCESSES GENERALLY.—The Secretary of Defense shall ensure that defense business processes are reviewed, and as appropriate revised, through business process reengineering to match best commercial practices, to the maximum extent practicable, so as to minimize customization of commercial business systems.

(b) DEFENSE BUSINESS SYSTEMS GENERALLY.—The Secretary of Defense shall ensure that each covered defense business system developed, deployed, and operated by the Department of Defense—

(1) supports efficient business processes that have been reviewed, and as appropriate revised, through business process reengineering;

(2) is integrated into a comprehensive defense business enterprise architecture;

(3) is managed in a manner that provides visibility into, and traceability of, expenditures for the system; and

(4) uses an acquisition and sustainment strategy that prioritizes the use of commercial software and business practices.

(c) ISSUANCE OF GUIDANCE.—

(1) SECRETARY OF DEFENSE GUIDANCE.—The Secretary shall issue guidance to provide for the coordination of, and decision making for, the planning, programming, and control of investments in covered defense business systems.

(2) SUPPORTING GUIDANCE.—The Secretary shall direct the Chief Information Officer of

the Department of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Chief Information Officer of each of the military departments to issue and maintain supporting guidance, as appropriate and within their respective areas of responsibility, for the guidance of the Secretary issued under paragraph (1).

(d) GUIDANCE ELEMENTS.—The guidance issued under subsection (c) shall include the following elements:

(1) Policy to ensure that the business processes of the Department of Defense are continuously reviewed and revised—

(A) to implement the most streamlined and efficient business processes practicable; and

(B) to eliminate or reduce the need to tailor commercial off-the-shelf systems to meet or incorporate requirements or interfaces that are unique to the Department of Defense.

(2) A process to establish requirements for covered defense business systems.

(3) Mechanisms for the planning and control of investments in covered defense business systems, including a process for the collection and review of programming and budgeting information for covered defense business systems.

(4) Policy requiring the periodic review of covered defense business systems that have been fully deployed, by portfolio, to ensure that investments in such portfolios are appropriate.

(5) Policy to ensure full consideration of sustainability and technological refreshment requirements, and the appropriate use of open architectures.

(6) Policy to ensure that best acquisition and systems engineering practices are used in the procurement and deployment of commercial systems, modified commercial systems, and defense-unique systems to meet Department of Defense missions.

(7) Policy to ensure a covered defense business system is in compliance with the Department's auditability requirements.

(8) Policy to ensure approvals required for the development of a covered defense business system.

(e) DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.—

(1) BLUEPRINT.—The Secretary, working through the Chief Information Officer of the Department of Defense, shall develop and maintain a blueprint to guide the development of integrated business processes within the Department of Defense. Such blueprint shall be known as the "defense business enterprise architecture".

(2) PURPOSE.—The defense business enterprise architecture shall be sufficiently defined to effectively guide implementation of interoperable defense business system solutions and shall be consistent with the policies and procedures established by the Director of the Office of Management and Budget.

(3) ELEMENTS.—The defense business enterprise architecture shall—

(A) include policies, procedures, business data standards, business performance measures, and business information requirements that apply uniformly throughout the Department of Defense; and

(B) enable the Department of Defense to—

(i) comply with all applicable law, including Federal accounting, financial management, and reporting requirements;

(ii) routinely produce verifiable, timely, accurate, and reliable business and financial information for management purposes;

(iii) integrate budget, accounting, and program information and systems; and

(iv) identify whether each existing business system is a part of the business systems environment outlined by the defense business enterprise architecture, will become a part of that environment with appropriate modifications, or is not a part of that environment.

(4) INTEGRATION INTO INFORMATION TECHNOLOGY ARCHITECTURE.—(A) The

defense business enterprise architecture shall be integrated into the information technology enterprise architecture required under subparagraph (B).

(B) The Chief Information Officer of the Department of Defense shall develop an information technology enterprise architecture. The architecture shall describe a plan for improving the information technology and computing infrastructure of the Department of Defense, including for each of the major business processes conducted by the Department of Defense.

(5) COMMON ENTERPRISE DATA.—The defense business enterprise shall include enterprise data that may be automatically extracted from the relevant systems to facilitate Department of Defense-wide analysis and management of its business operations.

(6) ROLES AND RESPONSIBILITIES.—

(A) The Chief Information Officer of the Department of Defense, in coordination with the Chief Data and Artificial Intelligence Officer, shall have primary decision-making authority with respect to the development of common enterprise data. In consultation with the Defense Business Council, the Chief Information Officer shall—

(i) develop an associated data governance process; and

(ii) oversee the preparation, extraction, and provision of data across the defense business enterprise.

(B) The Chief Information Officer and the Under Secretary of Defense (Comptroller) shall—

(i) in consultation with the Defense Business Council, document and maintain any common enterprise data for their respective areas of authority;

(ii) participate in any related data governance process;

(iii) extract data from defense business systems as needed to support priority activities and analyses;

(iv) when appropriate, ensure the source data is the same as that used to produce the financial statements subject to annual audit;

(v) in consultation with the Defense Business Council, provide access, except as otherwise provided by law or regulation, to such data to the Office of the Secretary of Defense, the Joint Staff, the military departments, the combatant commands, the Defense Agencies, the Department of Defense Field Activities, and all other offices, agencies, activities, and commands of the Department of Defense; and

(vi) ensure consistency of the common enterprise data maintained by their respective organizations.

(C) The Director of Cost Assessment and Program Evaluation shall have access to data for the purpose of executing missions as designated by the Secretary of Defense.

(D) The Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, commanders of combatant commands, the heads of the Defense Agencies, the heads of the Department of Defense Field Activities, and the heads of all other offices, agencies, activities, and commands of the Department of Defense shall provide access to the relevant system of such department, combatant command, Defense Agency, Defense Field Activity, or office, agency, activity, and command organization, as applicable, and data extracted from such system, for purposes of automatically populating data sets coded with common enterprise data.

(f) DEFENSE BUSINESS COUNCIL.—

(1) REQUIREMENT FOR COUNCIL.—The Secretary shall establish a Defense Business Council to provide advice to the Secretary on developing the defense business enterprise architecture, reengineering the Department's business processes, developing and deploying defense business systems, and developing requirements for defense business systems. The Council shall be co-chaired by the Chief Information Officer and the Performance Improvement Officer of the Department of Defense.

(2) MEMBERSHIP.—The membership of the Council shall include the following:

(A) The Chief Information Officers of the military departments, or their designees.
(B) The Chief Management Officers of the military departments, or their designees.
(C) The following officials of the Department of Defense, or their designees:
(i) The Under Secretary of Defense for Acquisition and Sustainment with respect to acquisition, logistics, and installations management processes.
(ii) The Under Secretary of Defense (Comptroller) with respect to financial management and planning and budgeting processes.
(iii) The Under Secretary of Defense for Personnel and Readiness with respect to human resources management processes.
(iv) The Chief Data and Artificial Intelligence Officer of the Department of Defense.

(g) APPROVALS REQUIRED FOR DEVELOPMENT.—
(1) INITIAL APPROVAL REQUIRED.—The Secretary shall ensure that a covered defense business system program cannot proceed into development (or, if no development is required, into production or fielding) unless the appropriate approval official (as specified in paragraph (2)) determines that—
(A) the system has been, or is being, reengineered to be as streamlined and efficient as practicable, and the implementation of the system will maximize the elimination of unique software requirements and unique interfaces;
(B) the system and business system portfolio are or will be in compliance with the defense business enterprise architecture developed pursuant to subsection (e) or will be in compliance as a result of modifications planned;
(C) the system has valid, achievable requirements and a viable plan for implementing those requirements (including, as appropriate, market research, business process reengineering, and prototyping activities);
(D) the system has an acquisition strategy designed to eliminate or reduce the need to tailor commercial off-the-shelf systems to meet unique requirements, incorporate unique requirements, or incorporate unique interfaces to the maximum extent practicable; and
(E) the system is in compliance with the Department's auditability requirements.

(2) APPROPRIATE OFFICIAL.—For purposes of paragraph (1), the appropriate approval official with respect to a covered defense business system is the following:
(A) Except as may be provided in subparagraph (C), in the case of a priority defense business system, the Chief Information Officer of the Department of Defense.
(B) Except as may be provided in subparagraph (C), for any defense business system other than a priority defense business system—
(i) in the case of a system of a military department, the Chief Information Officer of that military department; and
(ii) in the case of a system of a Defense Agency or Department of Defense Field Activity, or a system that will support the business process of more than one military department or Defense Agency or Department of Defense Field Activity, the Chief Information Officer of the Department of Defense.

(C) In the case of any defense business system, such official other than the applicable official under subparagraph (A) or (B) as the Secretary designates for such purpose.

(3) ANNUAL CERTIFICATION.—For any fiscal year in which funds are expended for development or sustainment pursuant to a covered defense business system program, the appropriate approval official shall review the system and certify, certify with conditions, or decline to certify, as the case may be, that it continues to satisfy the requirements of paragraph (1). If the approval official determines that certification cannot be granted, the approval official shall notify the milestone decision authority for the program and provide a recommendation for corrective action.

(4) OBLIGATION OF FUNDS IN VIOLATION OF REQUIREMENTS.—The obligation of Department of Defense funds for a covered defense business system program that has not been certified in accordance with paragraph (3) is a violation of section 1341(a)(1)(A) of title 31.

(h) RESPONSIBILITY OF MILESTONE DECISION AUTHORITY.—The milestone decision authority for a covered defense business system program shall be responsible for the acquisition of such system and shall ensure that acquisition process approvals are not considered for such system until the relevant certifications and approvals have been made under this section.

(i) DEFINITIONS.—In this section:

(1)(A) DEFENSE BUSINESS SYSTEM.—The term "defense business system" means an information system that is operated by, for, or on behalf of the Department of Defense, including any of the following:

(i) A financial system.
(ii) A financial data feeder system.
(iii) A contracting system.
(iv) A logistics system.
(v) A planning and budgeting system.
(vi) An installations management system or real estate system.
(vii) A human resources management system.
(viii) A training and readiness system.
(ix) A budget system.
(x) A retail system.
(xi) A health care system.
(xii) A travel and expense system.
(xiii) A payroll system.
(xiv) A supply chain management system.
(xv) A Departmentwide resource planning system.
(xvi) A contractor management system.

(B) The term does not include—

(i) a national security system; or

(ii) an information system used exclusively by and within the defense commissary system or the exchange system or other instrumentality of the Department of Defense conducted for the morale, welfare, and recreation of members of the armed forces using nonappropriated funds.

(2) COVERED DEFENSE BUSINESS SYSTEM.—The term "covered defense business system" means a defense business system that is expected to have a total amount of budget authority, over the period of the current future-years defense program submitted to Congress under section 221 of this title, in excess of $50,000,000.

(3) BUSINESS SYSTEM PORTFOLIO.—The term "business system portfolio" means all business systems performing functions closely related to the functions performed or to be performed by a covered defense business system.

(4) COVERED DEFENSE BUSINESS SYSTEM PROGRAM.—The term "covered defense business system program" means a defense acquisition program to develop and field a covered defense business system or an increment of a covered defense business system.

(5) PRIORITY DEFENSE BUSINESS SYSTEM.—The term "priority defense business system" means a defense business system that is—

(A) expected to have a total amount of budget authority over the period of the current future-years defense program submitted to Congress under section 221 of this title in excess of $250,000,000; or

(B) designated by the Chief Information Officer of the Department of Defense as a priority defense business system, based on specific program analyses of factors including complexity, scope, and technical risk, and after notification to Congress of such designation.

(6) ENTERPRISE ARCHITECTURE.—The term "enterprise architecture" has the meaning given that term in section 3601(4) of title 44.

(7) INFORMATION SYSTEM.—The term "information system" has the meaning given that term in section 11101 of title 40, United States Code.

(8) NATIONAL SECURITY SYSTEM.—The term "national security system" has the meaning given that term in section 3552(b)(6)(A) of title 44.

(9) BUSINESS PROCESS MAPPING.—The term "business process mapping" means a procedure in which the steps in a business process are clarified and documented in both written form and in a flow chart.

(10) COMMON ENTERPRISE DATA.—The term "common enterprise data" means business operations or management-related data, generally from defense business systems, in a usable format that is automatically accessible by authorized personnel and organizations.

(11) DATA GOVERNANCE PROCESS.—The term "data governance process" means a system to manage the timely Department of Defense-wide sharing of data described under subsection (e)(6)(A).

(Added Pub. L. 108–375, div. A, title III, §332(a)(1), Oct. 28, 2004, 118 Stat. 1851; amended Pub. L. 109–364, div. A, title IX, §906(a), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 110–417, [div. A], title III, §351, Oct. 14, 2008, 122 Stat. 4425; Pub. L. 111–84, div. A, title X, §1072(a), Oct. 28, 2009, 123 Stat. 2470; Pub. L. 111–383, div. A, title X, §1075(b)(29), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 112–81, div. A, title IX, §901, Dec. 31, 2011, 125 Stat. 1527; Pub. L. 112–239, div. A, title IX, §906, Jan. 2, 2013, 126 Stat. 1869; Pub. L. 113–66, div. A, title IX, §901, Dec. 26, 2013, 127 Stat. 815; Pub. L. 113–283, §2(e)(5)(A), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 113–291, div. A, title VIII, §803, title IX, §901(d), (k)(3), title X, §1071(f)(16), Dec. 19, 2014, 128 Stat. 3427, 3463, 3468, 3511; Pub. L. 114–92, div. A, title VIII, §883(a)(1), (f), title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 942, 1001; Pub. L. 114–328, div. A, title X, §1081(a)(6), (c)(5), Dec. 23, 2016, 130 Stat. 2417, 2419; Pub. L. 115–91, div. A, title IX, §912(a), title X, §1081(b)(2), Dec. 12, 2017, 131 Stat. 1519, 1597; Pub. L. 115–232, div. A, title X, §1081(f)(1)(A)(ii), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116–92, div. A, title VIII, §839(a), title IX, §902(25), title XVII, §1731(a)(31), Dec. 20, 2019, 133 Stat. 1498, 1545, 1814; Pub. L. 117–263, div. A, title IX, §902, Dec. 23, 2022, 136 Stat. 2748; Pub. L. 118–159, div. A, title IX, §902(b), Dec. 23, 2024, 138 Stat. 2026; Pub. L. 119–60, div. A, title VIII, §812(a)(2), Dec. 18, 2025, 139 Stat. 951.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2222, added Pub. L. 105–85, div. A, title X, §1008(a)(1), Nov. 18, 1997, 111 Stat. 1870; amended Pub. L. 107–107, div. A, title X, §1009(b)(1)–(3)(A), Dec. 28, 2001, 115 Stat. 1208, 1209, required Secretary of Defense to submit to Congress an annual strategic plan for improvement of financial management within Department of Defense and specified statements and matters to be included in the plan, prior to repeal by Pub. L. 107–314, div. A, title X, §1004(h)(1), Dec. 2, 2002, 116 Stat. 2631.

### AMENDMENTS

**2025**—Subsec. (i)(1)(A)(vi). Pub. L. 119–60, §812(a)(2)(A), inserted "or real estate system" after "An installations management system".

Subsec. (i)(1)(A)(ix) to (xvi). Pub. L. 119–60, §812(a)(2)(B), added cls. (ix) to (xvi).

**2024**—Subsec. (f)(1). Pub. L. 118–159 substituted "co-chaired" for "chaired" and inserted "and the Performance Improvement Officer" after "Chief Information Officer".

**2022**—Subsec. (c)(2). Pub. L. 117–263, §902(1), substituted "the Chief Information Officer of the Department of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Chief Information Officer" for "the Chief Management Officer of the Department of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Chief Information Officer, and the Chief Management Officer".

Subsec. (e)(1). Pub. L. 117–263, §902(2)(A), substituted "the Chief Information Officer" for "the Chief

Management Officer".

Subsec. (e)(6)(A). Pub. L. 117–263, §902(2)(B)(i), in introductory provisions, substituted "The Chief Information Officer of the Department of Defense, in coordination with the Chief Data and Artificial Intelligence Officer," for "The Chief Management Officer of the Department of Defense" and "the Chief Information Officer shall—" for "the Chief Management Officer shall—".

Subsec. (e)(6)(B). Pub. L. 117–263, §902(2)(B)(ii), substituted "The Chief Information Officer" for " The Chief Management Officer" in introductory provisions.

Subsec. (f)(1). Pub. L. 117–263, §902(3)(A), struck out "the Chief Management Officer and" before "the Chief Information Officer".

Subsec. (f)(2). Pub. L. 117–263, §902(3)(B)(i), (ii), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (f)(2)(C)(iv). Pub. L. 117–263, §902(3)(B)(iii), added cl. (iv).

Subsec. (g)(2). Pub. L. 117–263, §902(4), substituted "the Chief Information Officer" for "the Chief Management Officer" wherever appearing.

Subsec. (i)(5)(B). Pub. L. 117–263, §902(5), substituted "the Chief Information Officer" for "the Chief Management Officer".

**2019**—Subsec. (c)(2). Pub. L. 116–92, §902(25)(A), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (d). Pub. L. 116–92, §839(a)(1), substituted "subsection (c)" for "subsection (c)(1)" in introductory provisions.

Subsec. (d)(7), (8). Pub. L. 116–92, §839(a)(2), added pars. (7) and (8).

Subsec. (f)(2)(B)(i). Pub. L. 116–92, §902(25)(B), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (i)(11). Pub. L. 116–92, §1731(a)(31), substituted "subsection (e)(6)(A)" for "subsection (a)(6)(A)".

**2018**—Pub. L. 115–232 substituted "Chief Management Officer" for "Deputy Chief Management Officer" in subsec. (c)(2) after "shall direct the" and in subsecs. (e)(1), (f)(1), (g)(2)(A), (B)(ii), and (i)(5)(B).

**2017**—Subsecs. (c)(2), (e)(1). Pub. L. 115–91, §1081(b)(2), repealed Pub. L. 114–92, §883(f)(1)(A). See 2015 Amendment notes below.

Subsec. (e)(5), (6). Pub. L. 115–91, §912(a)(1), added pars. (5) and (6).

Subsec. (f)(1). Pub. L. 115–91, §1081(b)(2), repealed Pub. L. 114–92, §883(f)(1)(B). See 2015 Amendment note below.

Subsecs. (g)(2)(A), (B)(ii), (i)(5)(B). Pub. L. 115–91, §1081(b)(2), repealed Pub. L. 114–92, §883(f)(1)(A). See 2015 Amendment notes below.

Subsec. (i)(10), (11). Pub. L. 115–91, §912(a)(2), added pars. (10) and (11).

**2016**—Pub. L. 114–328, §1081(c)(5), added subsec. (f) to section 883 of Pub. L. 114–92. See 2015 Amendment notes below.

Subsec. (d)(1)(B). Pub. L. 114–328, §1081(a)(6)(A), inserted "to" before "eliminate".

Subsec. (g)(1)(E). Pub. L. 114–328, §1081(a)(6)(B), inserted "the system" before "is in compliance".

Subsec. (i)(5). Pub. L. 114–328, §1081(a)(6)(C), struck out "program" after "system" in heading.

**2015**—Pub. L. 114–92, §883(f)(2), as added by Pub. L. 114–328, §1081(c)(5), repealed second par. (3) of section 901(k) of Pub. L. 113–291. See 2014 Amendment notes below.

Pub. L. 114–92, §883(a)(1), amended section generally. Prior to amendment, section related to architecture, accountability, and modernization of defense business systems.

Subsecs. (c)(2), (e)(1). Pub. L. 114–92, §883(f)(1)(A), as added by Pub. L. 114–328, §1081(c)(5), which directed the substitution of "Under Secretary of Defense for Business Management and Information" for "Deputy Chief Management Officer of the Department of Defense", was repealed by Pub. L. 115–91, §1081(b)(2).

Subsec. (f)(1). Pub. L. 114–92, §883(f)(1)(B), as added by Pub. L. 114–328, §1081(c)(5), which directed the substitution of "Under Secretary of Defense for Business Management and Information" for "Deputy Chief Management Officer", was repealed by Pub. L. 115–91, §1081(b)(2).

Subsecs. (g)(2)(A), (B)(ii), (i)(5)(B). Pub. L. 114–92, §883(f)(1)(A), as added by Pub. L. 114–328, §1081(c)(5), which directed the substitution of "Under Secretary of Defense for Business Management and Information" for "Deputy Chief Management Officer of the Department of Defense", was repealed by Pub. L. 115–91, §1081(b)(2).

Subsec. (j)(5). Pub. L. 114–92, §1081(a)(7), substituted "section 3552(b)(6)" for "section 3552(b)(5)". Amendment was executed prior to amendment by Pub. L. 114–92, §883(a)(1), see above, pursuant to section 1081(e) of Pub. L. 114–92, set out as a note under section 101 of this title.

**2014**—Subsec. (a). Pub. L. 113–291, §901(d)(1), inserted "and" at end of par. (1), substituted period for

"; and" at end of par. (2), and struck out par. (3) which read as follows: "the certification of the investment review board under paragraph (2) has been approved by the Defense Business Systems Management Committee established by section 186 of this title."

Subsec. (a)(1)(A). Pub. L. 113–291, §803(b)(1), inserted ", including business process mapping," after "re-engineering efforts".

Subsec. (c)(1). Pub. L. 113–291, §901(d)(2), substituted "investment review board established under subsection (g)" for "Defense Business Systems Management Committee" in introductory provisions.

Subsecs. (c)(2)(E), (f)(1)(D), (E), (2)(E). Pub. L. 113–291, §901(k)(3), which directed substitution of "the Under Secretary of Defense for Business Management and Information" for "the Deputy Chief Management Officer of the Department of Defense", but could not be executed following the general amendment of the section by Pub. L. 114–92, was repealed by Pub. L. 114–92, §883(f)(2), as added by Pub. L. 114–328, §1081(c)(5). See 2015 and 2016 Amendment notes above.

Subsec. (g)(1). Pub. L. 113–291, §901(k)(3), which directed substitution of "the Under Secretary of Defense for Business Management and Information" for "the Deputy Chief Management Officer of the Department of Defense", but could not be executed following the general amendment of the section by Pub. L. 114–92, was repealed by Pub. L. 114–92, §883(f)(2), as added by Pub. L. 114–328, §1081(c)(5). See 2015 and 2016 Amendment notes above.

Pub. L. 113–291, §901(d)(3)(A), struck out ", not later than March 15, 2012," before "to establish an investment review board".

Subsec. (g)(2)(C). Pub. L. 113–291, §901(d)(3)(B), substituted "the investment review" for "each investment review" in introductory provisions.

Subsec. (g)(2)(F). Pub. L. 113–291, §901(d)(3)(C), struck out "and the Defense Business Systems Management Committee, as required by section 186(c) of this title," after "Secretary of Defense".

Subsec. (g)(3). Pub. L. 113–291, §1071(f)(16), struck out "(A)" after "(3)".

Subsec. (g)(3)(A). Pub. L. 113–291, §901(k)(3), which directed substitution of "Under Secretary of Defense for Business Management and Information" for "Deputy Chief Management Officer" the first place appearing, and "Under Secretary" for "Deputy Chief Management Officer" the second, third, and fourth places appearing, but could not be executed following the general amendment of the section by Pub. L. 114–92, was repealed by Pub. L. 114–92, §883(f)(2), as added by Pub. L. 114–328, §1081(c)(5). See 2015 and 2016 Amendment notes above.

Subsec. (j)(1). Pub. L. 113–291, §803(a), designated existing provisions as subpar. (A), struck out ", other than a national security system," after "information system", and added subpar. (B).

Subsec. (j)(5). Pub. L. 113–283 substituted "section 3552(b)(5)" for "section 3542(b)(2)".

Subsec. (j)(6). Pub. L. 113–291, §803(b)(2), added par. (6).

**2013**—Subsec. (e)(1). Pub. L. 113–66, §901(1), substituted "target defense business systems computing environment described in subsection (d)(3)" for "defense business enterprise architecture".

Subsec. (e)(2). Pub. L. 113–66, §901(2), substituted "that will be phased out of the defense business systems computing environment within three years after review and certification as 'legacy systems' by the investment management process established under subsection (g)" for "existing as of September 30, 2011 (known as 'legacy systems') that will not be part of the defense business enterprise architecture" and struck out "that provides for reducing the use of those legacy systems in phases" before period at end.

Subsec. (e)(3). Pub. L. 113–66, §901(3), substituted "existing systems that are part of the target defense business systems computing environment" for "legacy systems (referred to in subparagraph (B)) that will be a part of the target defense business systems computing environment described in subsection (d)(3)".

Subsec. (g)(3). Pub. L. 112–239 added par. (3).

**2011**—Pub. L. 112–81 amended section generally. Prior to amendment, section related to architecture, accountability, and modernization of defense business systems.

Subsec. (a). Pub. L. 111–383 substituted "Funds" for "Effective October 1, 2005, funds".

**2009**—Subsec. (a). Pub. L. 111–84, §1072(a)(1)(A), (B), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (a)(2)(A). Pub. L. 111–84, §1072(a)(1)(C), added subpar. (A) and struck out former subpar. (A), which read as follows: "is in compliance with the enterprise architecture developed under subsection (c);".

Subsec. (a)(3). Pub. L. 111–84, §1072(a)(1)(D), substituted "the certification by the approval authority and the determination by the chief management officer are" for "the certification by the approval authority is".

Subsec. (f). Pub. L. 111–84, §1072(a)(2), designated existing provisions as par. (1), redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, of par. (1), in subpar. (E) substituted "subparagraphs (A) through (D)" for "paragraphs (1) through (4)", and added par. (2).

**2008**—Subsec. (i). Pub. L. 110–417 substituted "2013" for "2009" in introductory provisions.

**2006**—Subsec. (j)(6). Pub. L. 109–364 substituted "in section 3542(b)(2) of title 44" for "in section 2315 of this title".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(b)(2), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(2) is effective as of Nov. 25, 2015.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title X, §1081(c), Dec. 23, 2016, 130 Stat. 2419, provided that the amendment made by section 1081(c)(5) is effective as of Nov. 25, 2015, and as if included in Pub. L. 114–92 as enacted.

### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title VIII, §883(f)(1), as added by Pub. L. 114–328, div. A, title X, §1081(c)(5), Dec. 23, 2016, 130 Stat. 2419, which provided that the amendment made by section 883(f)(1) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291 (Feb. 1, 2017), was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(2), Dec. 12, 2017, 131 Stat. 1597.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(k)(3), Dec. 19, 2014, 128 Stat. 3468, which provided that the amendment made by section 901(k)(3) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291 (Feb. 1, 2017), was repealed by Pub. L. 114–92, div. A, title VIII, §883(f)(2), as added by Pub. L. 114–328, div. A, title X, §1081(c)(5), Dec. 23, 2016, 130 Stat. 2420.

### TRANSFER OF FUNCTIONS

Position of Chief Management Officer of the Department of Defense effectively abolished upon the repeal of section 132a of this title by Pub. L. 116–283, div. A, title IX, §901(a)(1), Jan. 1, 2021, 134 Stat. 3794. Duties, personnel, and functions of the Chief Management Officer transferred to other Department of Defense officers, employees, and organizations, and any reference to the Chief Management Officer of the Department of Defense to be deemed to refer to the applicable Department of Defense officer or employee as so designated, see section 901(b), (c) of Pub. L. 116–283, set out in a note under former section 132a of this title.

### FRAMEWORK FOR INTEGRATION OF INFORMATION TECHNOLOGY TECHNICAL DEBT ASSESSMENT INTO ANNUAL BUDGET PROCESS

Pub. L. 119–60, div. A, title XV, §1503, Dec. 18, 2025, 139 Stat. 1138, provided that:

"(a) FRAMEWORK DEVELOPMENT.—Not later than September 1, 2026, the Secretary of Defense shall, in coordination with the Chief Information Officer of the Department of Defense, the Secretaries of the military departments, and the Chief Information Officers of the military departments, develop a framework for the integration of technical debt assessment, tracking, and management into existing processes of the Department of Defense for information technology investment decisions and budget justification materials.

"(b) TECHNICAL DEBT CATEGORIZATION.—The Secretary of Defense shall carry out a comprehensive reevaluation of the current definition of 'technical debt' used by the Department of Defense and develop a technical debt classification that adequately reflects different types of technical debt, including application, physical infrastructure, architecture, and documentation components.

"(c) FRAMEWORK COMPONENTS.—

"(1) INTEGRATION REQUIREMENT.—The Secretary of Defense shall ensure the framework developed under subsection (a) provides for integration of technical debt considerations into existing management processes and structures of the Department of Defense relating to resourcing and programmatic decisions for existing or proposed information technology systems, services, or related programs of record.

"(2) METRICS.—The framework developed under subsection (a) shall include—

"(A) baseline measurement for technical debt for a specific technology or program;

"(B) objectives for technical debt reduction; and

"(C) consolidated metrics for Department of Defense-wide use, including outcome-based metrics for assessing operational and financial impacts.

"(3) PROCESS INTEGRATION.—The framework developed under subsection (a) shall use existing governance structures for overseeing information technology investments.

"(4) MINIMUM REQUIREMENTS.—The framework developed under subsection (a) shall—

"(A) establish methods for identifying and evaluating technical debt;

"(B) integrate technical debt management into the planning, programming, budgeting, and execution process, as well as information technology governance bodies;

"(C) establish prioritization approaches based on mission effects;

"(D) develop mechanisms for identifying gaps in resourcing and funding required to resolve technical debt; and

"(E) define organizational responsibilities for remediating assessed technical debt of a program or system.

"(5) IMPLEMENTATION.—The Secretary of Defense shall implement the framework developed under subsection (a) not later than October 1, 2026, to support the planning, programming, budgeting, and execution process for the budget justification materials to be submitted to Congress in support of the Department of Defense, as submitted with the budget of the President for fiscal year 2027 under section 1105(a) of title 31, United States Code.

"(d) BUDGET MATERIALS.—

"(1) JUSTIFICATION REQUIREMENTS.—Beginning with the fiscal year 2027 budget request, the Secretary of Defense shall ensure that, for each fiscal year, the budget justification materials to be submitted to Congress in support of the budget of the Department of Defense (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) include—

"(A) technical debt status assessments;

"(B) planned investments in physical devices, networks, and personnel, including training to develop skills, to transition to new technologies and resolve technical debt;

"(C) risk assessments of remaining gaps in the investments by the Department of Defense and the military departments required to resolve the technical debt of the Department; and

"(D) alignment with modernization priorities.

"(2) PROGRAM ALIGNMENT.—The Secretary of Defense shall ensure Defense planning guidance and program objective memoranda address the resolution of funding requirements associated with resolution of technical debt.

"(e) CONGRESSIONAL BRIEFING.—Not later than September 15, 2026, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] a briefing on the implementation and effectiveness of the framework developed under subsection (a).

"(f) DEFINITIONS.—In this section:

"(1) The term 'information technology' has the meaning given such term in section 11101 of title 40, United States Code.

"(2) The term 'technical debt' means design or implementation constructs that are expedient in the short-term, but that set up a technical context that can make a future change costlier or impossible, as defined in Department of Defense Instruction 5000.87, dated October 2, 2020, or successor instruction."

## PILOT PROGRAM ON USE OF ARTIFICIAL INTELLIGENCE FOR CERTAIN WORKFLOW AND OPERATIONS TASKS

Pub. L. 118–159, div. A, title II, §237, Dec. 23, 2024, 138 Stat. 1842, provided that:

"(a) PILOT PROGRAM REQUIRED.—Beginning not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of using artificial intelligence-enabled software to optimize the workflow and operations for—

"(1) depots, shipyards, or other manufacturing facilities run by the Department of Defense; and

"(2) contract administration for the Department, including—

"(A) the adjudication and review of contracts; and

"(B) activities related to the Modernization and Analytics Initiative managed by the Defense Contract Management Agency.

"(b) METHOD OF IMPLEMENTATION.—The Secretary of Defense may carry out subsection (a) through—

"(1) the establishment of a new pilot program; or

"(2) the designation of an existing initiative of the Department of Defense to serve as the pilot program required under such subsection.

"(c) SOFTWARE.—In carrying out the pilot program required by subsection (a), the Secretary shall—

"(1) use best in breed software platforms;

"(2) consider industry best practices in the selection of software programs;

"(3) implement the program based on human centered design practices to best identify the business needs for improvement; and

"(4) demonstrate connection to enterprise platforms of record with authoritative data sources.

"(d) CONSULTATION.—In carrying out the activities described in subsection (a)(1) under the pilot program, the Secretary of Defense shall consult with—

"(1) the Under Secretary of Defense for Acquisition and Sustainment;

"(2) the Secretary of the Army;

"(3) the Secretary of the Navy; and

"(4) the Secretary of the Air Force.

"(e) REPORT.—Not later than one year after the date of the commencement of the pilot program under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following information:

"(1) An evaluation of each software platform used in the pilot program.

"(2) An analysis of how workflows and operations were modified as part of the pilot program.

"(3) A quantitative assessment of the impact the software had at each of the locations in which the pilot program was carried out."

## NEXT GENERATION BUSINESS HEALTH METRICS

Pub. L. 118–31, div. A, title IX, §921, Dec. 22, 2023, 137 Stat. 373, provided that:

"(a) METRICS REQUIRED.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop an updated set of business health metrics to inform decision-making by senior leaders of the Department of Defense.

"(b) ELEMENTS.—In developing the metrics required by subsection (a), the Secretary of Defense shall—

"(1) using the latest literature on performance measurement, determine what additional new metrics should be implemented, or current metrics should be adapted, to reduce output-based measures and emphasize objective, measurable indicators aligned to enduring strategic goals of the Department of Defense;

"(2) assess the current business processes of the Department and provide recommendations to align the metrics with available data sources to determine what gaps might exist in such processes;

"(3) ensure that data can be collected automatically and, on a long-term basis, in a manner that provides for longitudinal analysis;

"(4) link the metrics with the Strategic Management Plan and other performance documents guiding the Department;

"(5) identify any shortfalls in resources, data, training, policy, or law that could be an impediment to implementing the metrics;

"(6) revise leading and lagging indicators associated with each such metric to provide a benchmark against which to assess progress;

"(7) improve visualization of and comprehension for the use of the metrics in data-driven decision-making, including adoption of new policies and training as needed;

"(8) incorporate the ability to aggregate and disaggregate data to provide the ability to focus on functional, component-level metrics; and

"(9) increase standardization of the use and collection of business health metrics across the Department.

"(c) ADDITIONAL SUPPORT.—The Secretary of Defense may enter into a contract or other agreement with a federally funded research and development center or university-affiliated research center to support the development of the metrics required under subsection (a)."

## PRIZE COMPETITIONS FOR BUSINESS SYSTEMS MODERNIZATION

Pub. L. 118–31, div. A, title XV, §1525, Dec. 22, 2023, 137 Stat. 556, provided that:

"(a) ESTABLISHMENT.—Not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023], under the authority of section 4025 of title 10, United States Code, the Secretary of Defense shall establish one or more prize competitions to support the business systems modernization goals of the Department of Defense.

"(b) SCOPE.—

"(1) IN GENERAL.—The Secretary of Defense shall structure any prize competition established under subsection (a) to complement, and to the extent practicable, accelerate the delivery or expand the functionality of business systems capabilities sought by the Secretaries of the military departments that are in operation, in development, or belong to any broad class of systems covered by the defense business enterprise architecture specified in section 2222(e) of title 10, United States Code.

"(2) AREAS FOR CONSIDERATION.—In carrying out subsection (a), the Secretary of Defense and the Secretaries of the military departments shall consider the following:

"(A) Integration of artificial intelligence or machine learning capabilities.

"(B) Data analytics, business intelligence, or related visualization capabilities.

"(C) Automated updating of business architectures, business systems integration, or documentation relating to existing systems or manuals.

"(D) Improvements to interfaces or processes for interacting with other non-Department of Defense business systems.

"(E) Updates or replacements for legacy defense business systems to improve operational effectiveness and efficiency, such as the system of the Defense Logistics Agency known as the 'Mechanization of Contract Administration Services' system, or any successor system.

"(F) Contract writing systems, or expanded capabilities relating to such systems, that may be integrated into existing systems of the Department of Defense.

"(G) Pay and personnel systems, or expanded capabilities relating to such systems, that may be integrated into existing systems of the Department of Defense.

"(H) Other finance and accounting systems, or expanded capabilities relating to such systems, that may be integrated into existing systems of the Department of Defense.

"(I) Systems supporting the defense industrial base and related supply chain visibility, analytics, and management.

"(c) FRAMEWORK.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the framework to be used in carrying out the prize competition under subsection (a).

"(d) ANNUAL BRIEFINGS.—Not later than October 1 of each year until the date of termination under subsection (e), the Secretary of Defense shall provide to the congressional defense committees a briefing on the results of the prize competition under subsection (a).

"(e) TERMINATION.—The authority to carry out the prize competition under subsection (a) shall terminate on September 30, 2028."

## IMPROVED RECORDING AND MAINTAINING OF DEPARTMENT OF DEFENSE REAL PROPERTY DATA

Pub. L. 116–92, div. B, title XXVIII, §2823, Dec. 20, 2019, 133 Stat. 1889, provided that:

"(a) INITIAL REPORT.—Not later than 150 days after the date of the enactment of this Act [Dec. 20, 2019], the Undersecretary [probably should be "Under Secretary"] of Defense for Acquisition and Sustainment shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that evaluates service-level best practices for recording and maintaining real property data.

"(b) ISSUANCE OF GUIDANCE.—Not later than 300 days after the date of the enactment of this Act, the Undersecretary [probably should be "Under Secretary"] of Defense for Acquisition and Sustainment shall issue service-wide guidance on the recording and collection of real property data based on the best practices described in the report."

## REFORM OF BUSINESS ENTERPRISE OPERATIONS IN SUPPORT OF CERTAIN ACTIVITIES ACROSS DEPARTMENT OF DEFENSE

Pub. L. 115–232, div. A, title IX, §921(b), Aug. 13, 2018, 132 Stat. 1927, provided that:

"(1) PERIODIC REFORM.—

"(A) IN GENERAL.—Not later than January 1, 2020, and not less frequently than once every five years thereafter, the Secretary of Defense shall, acting through the Chief Management Officer of the Department of Defense, reform enterprise business operations of the Department of Defense, through reductions, eliminations, or improvements, across all organizations and elements of the Department with respect to covered activities in order to increase effectiveness and efficiency of mission execution.

"(B) CMO REPORTS.—Not later than January 1 of every fifth calendar year beginning with January 1, 2025, the Chief Management Officer shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the activities carried out by the Chief Management Officer under this subsection during the preceding five years, including an estimate of any cost savings achieved as a result of such activities.

"(2) COVERED ACTIVITIES DEFINED.—In this subsection, the term 'covered activities' means any activity relating to civilian resources management, logistics management, services contracting, or real estate

management.

"(3) REPORTING FRAMEWORK.—Not later than January 1, 2020, the Chief Management Officer shall establish a consistent reporting framework to establish a baseline for the costs to perform all covered activities, and shall submit to Congress a report that, for each individual covered activity performed in fiscal year 2019, identifies the following:

"(A) The component or components of the Department responsible for performing such activity, and a business process map of such activity, in fiscal year 2019.

"(B) The number of the military, civilian, and contractor personnel of the component or components of the Department who performed such activity in that fiscal year.

"(C) The manpower requirements for such activity as of that fiscal year.

"(D) The systems and other resources associated with such activity as of that fiscal year.

"(E) The cost in dollars of performing such activity in fiscal year 2019.

"(4) INITIAL PLAN.—Not later than February 1, 2019, the Chief Management Officer shall submit to the congressional defense committees a plan, schedule, and cost estimate for conducting the reforms required under paragraph (1)(A).

"(5) CERTIFICATION OF COST SAVINGS.—Not later than January 1, 2020, the Chief Management Officer shall certify to the congressional defense committees that the savings and costs incurred as a result of activities carried out under paragraph (1) will achieve savings in fiscal year 2020 against the total amount obligated and expended for covered activities in fiscal year 2019 of—

"(A) not less than 25 percent of the cost in dollars of performing covered activities in fiscal year 2019 as specified pursuant to paragraph (3)(E); or

"(B) if the Chief Management Officer determines that achievement of savings of 25 percent or more will create overall inefficiencies for the Department, notice and justification will be submitted to the congressional defense committees specifying a lesser percentage of savings that the Chief Management Officer determines to be necessary to achieve efficiencies in the delivery of covered activities, which notice and justification shall be submitted by not later than October 1, 2019, together with a description of the efficiencies to be achieved.

"(6) COMPTROLLER GENERAL REPORTS.—The Comptroller General of the United States shall submit to the congressional defense committees the following:

"(A) Not later than 90 days after the submittal of the plan under paragraph (4), a report that verifies whether the plan is feasible.

"(B) Not later than 270 days after the date of enactment of this Act [Aug. 13, 2018], a report setting forth an assessment of the actions taken under paragraph (1)(A) since the date of the enactment of this Act.

"(C) Not later than 270 days after the submittal of the reporting framework under paragraph (3), a report that verifies whether the baseline established in the framework is accurate.

"(D) Not later than 270 days after the submittal of the report under paragraph (5), a report that verifies—

"(i) whether the activities described in the report were carried out; and

"(ii) whether any cost savings estimated in the report are accurate."

[For abolition and transfer of functions of Chief Management Officer of the Department of Defense, see Transfer of Functions note above.]

## ANALYSIS OF DEPARTMENT OF DEFENSE BUSINESS MANAGEMENT AND OPERATIONS DATASETS TO PROMOTE SAVINGS AND EFFICIENCIES

Pub. L. 115–232, div. A, title IX, §922, Aug. 13, 2018, 132 Stat. 1929, provided that:

"(a) IN GENERAL.—The Chief Management Officer of the Department of Defense shall develop a policy on analysis of Department of Defense datasets on business management and business operations by the public for purposes of accessing data analysis capabilities that would promote savings and efficiencies and otherwise enhance the utility of such datasets to the Department.

"(b) INITIAL DISCHARGE OF POLICY.—

"(1) IN GENERAL.—The Chief Management Officer shall commence the discharge of the policy required pursuant to subsection (a) by—

"(A) identifying one or more matters—

"(i) that are of significance to the Department of Defense;

"(ii) that are currently unresolved; and

"(iii) whose resolution from a business management or business operations dataset of the Department could benefit from a method or technique of analysis not currently familiar to the Department;

"(B) identifying between three and five business management or business operations datasets of the Department not currently available to the public whose evaluation could result in novel data analysis solutions toward management or operations problems of the Department identified by the Chief Management Officer; and

"(C) encouraging, whether by competition or other mechanisms, the evaluation of the datasets described in subparagraph (B) by appropriate persons and entities in the public or private sector (including academia).

"(2) PROTECTION OF SECURITY AND CONFIDENTIALITY.—In providing for the evaluation of datasets pursuant to this subsection, the Chief Management Officer shall take appropriate actions to protect the security and confidentiality of any information contained in the datasets, including through special precautions to ensure that any personally identifiable information is not included and no release of information will adversely affect national security missions."

[For abolition and transfer of functions of Chief Management Officer of the Department of Defense, see Transfer of Functions note above.]

## AUDIT OF FINANCIAL SYSTEMS OF THE DEPARTMENT OF DEFENSE BY PROFESSIONAL ACCOUNTANTS

Pub. L. 115–232, div. A, title X, §1004, Aug. 13, 2018, 132 Stat. 1947, provided that: "The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) or an appropriate official of a military department, shall ensure that each major implementation of, or modification to, a business system that contributes to financial information of the Department of Defense is reviewed by professional accountants with experience reviewing Federal financial systems to validate that such financial system will meet any applicable Federal requirements. The Secretary of Defense shall ensure that such accountants—

"(1) are provided all necessary data and records; and

"(2) report independently on their findings."

## STANDARDIZED BUSINESS PROCESS RULES FOR MILITARY INTELLIGENCE PROGRAM

Pub. L. 115–232, div. A, title XVI, §1624(a), Aug. 13, 2018, 132 Stat. 2119, provided that:

"(1) DEVELOPMENT.—Not later than October 1, 2020, the Chief Management Officer of the Department of Defense, in coordination with the Under Secretary of Defense (Comptroller) and the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security], shall develop and implement standardized business process rules for the planning, programming, budgeting, and execution process for the Military Intelligence Program.

"(2) TREATMENT OF DATA.—The Chief Management Officer shall develop the standardized business process rules under paragraph (1) in accordance with section 911 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat. 1519; 10 U.S.C. 2222 note) [set out below] and section 2222(e)(6) of title 10, United States Code.

"(3) USE OF EXISTING SYSTEMS.—In developing the standardized business process rules under paragraph (1), to the extent practicable, the Chief Management Officer shall use enterprise business systems of the Department of Defense in existence as of the date of the enactment of this Act [Aug. 13, 2018].

"(4) REPORT.—Not later than March 1, 2019, the Chief Management Officer of the Department of Defense, the Under Secretary of Defense (Comptroller), and the Under Secretary of Defense for Intelligence shall jointly submit to the appropriate congressional committees a report containing a plan to develop the standardized business process rules under paragraph (1).

"(5) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term 'appropriate congressional committees' means the following:

"(A) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(B) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## POLICY ON TREATMENT OF DEFENSE BUSINESS SYSTEM DATA RELATED TO BUSINESS OPERATIONS AND MANAGEMENT

Pub. L. 115–91, div. A, title IX, §911, Dec. 12, 2017, 131 Stat. 1519, provided that:

"(a) ESTABLISHMENT OF POLICY.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a data policy for the Department of Defense that mandates that any data contained in a defense business system related to business operations and management is an asset of the Department of Defense.

"(b) AVAILABILITY.—As part of the policy required by subsection (a), the Secretary of Defense shall

ensure that, except as otherwise provided by law or regulation, data described in such subsection shall be made readily available to members of the Office of the Secretary of Defense, the Joint Staff, the military departments, the combatant commands, the Defense Agencies, the Department of Defense Field Activities, and all other offices, agencies, activities, and commands of the Department of Defense, as applicable."

## ESTABLISHMENT OF DATA ANALYTICS CAPABILITY

Pub. L. 115–91, div. A, title IX, §912(e), Dec. 12, 2017, 131 Stat. 1521, provided that:

"(1) DATA ANALYTICS CAPABILITY REQUIRED.—Not later than September 30, 2020, the Chief Management Officer of the Department of Defense shall establish and maintain within the Department of Defense a data analytics capability for purposes of supporting enhanced oversight and management of the Defense Agencies and Department of Defense Field Activities.

"(2) ELEMENTS.—The data analytics capability shall permit the following:

"(A) The maintenance on a continuing basis of an accurate tabulation of the amounts expended by the Defense Agencies and Department of Defense Field Activities on Government and contractor personnel.

"(B) The maintenance on a continuing basis of an accurate number of the personnel currently supporting the Defense Agencies and Department of Defense Field Activities, including the following:

"(i) Members of the regular components of the Armed Forces.

"(ii) Members of the reserve components of the Armed Forces.

"(iii) Civilian employees of the Department of Defense.

"(iv) Detailees, whether from another organization or element of the Department or from another department or agency of the Federal Government.

"(C) The tracking of costs for employing contract personnel, including federally funded research and development centers.

"(D) The maintenance on a continuing basis of the following:

"(i) An identification of the functions being performed by each Defense Agency and Department of Defense Field Activity.

"(ii) An accurate tabulation of the amounts being expended by each Defense Agency and Department of Defense Field Activity on its functions.

"(3) REPORTING REQUIREMENTS.—

"(A) INTERIM REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Chief Management Officer of the Department of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on progress in establishing the data analytics capability. The report shall include the following:

"(i) A description and assessment of the efforts of the Chief Management Officer through the date of the report to establish the data analytics capability.

"(ii) A description of current gaps in the data required to establish the data analytics capability, and a description of the efforts to be undertaken to eliminate such gaps.

"(B) FINAL REPORT.—Not later than December 31, 2020, the Chief Management Officer shall submit to the congressional defense committees a report on the data analytics capability as established pursuant to this section."

## DATA INTEGRATION STRATEGIES PILOT PROGRAMS

Pub. L. 115–91, div. A, title IX, §912(f), Dec. 12, 2017, 131 Stat. 1522, provided that:

"(1) IN GENERAL.—The Secretary of Defense shall carry out pilot programs to develop data integration strategies for the Department of Defense to address high-priority management challenges of the Department.

"(2) ELEMENTS.—The pilot programs carried out under the authority of this subsection shall involve data integration strategies to address challenges of the Department with respect to the following:

"(A) The budget of the Department.

"(B) Logistics.

"(C) Personnel security and insider threats.

"(D) At least two other high-priority challenges of the Department identified by the Secretary for purposes of this subsection.

"(3) REPORT ON PILOT PROGRAMS.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the pilot programs to be carried out under this section, including the challenge of the Department to be addressed by the pilot program and the manner in which the data integration strategy under the pilot program will address the challenge. If any proposed pilot program requires legislative action for the waiver or

modification of a statutory requirement that otherwise prevents or impedes the implementation of the pilot program, the Secretary shall include in the report a recommendation for legislative action to waive or modify the statutory requirement."

## IMPROPER PAYMENT MATTERS

Pub. L. 115–91, div. A, title X, §1003, Dec. 12, 2017, 131 Stat. 1542, provided that: "Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense (Comptroller) shall take the following actions:

"(1) With regard to estimating improper payments:

"(A) Establish and implement key quality assurance procedures, such as reconciliations, to ensure the completeness and accuracy of sampled populations.

"(B) Revise the procedures for the sampling methodologies of the Department of Defense so that such procedures—

"(i) comply with Office of Management and Budget guidance and generally accepted statistical standards;

"(ii) produce statistically valid improper payment error rates, statistically valid improper payment dollar estimates, and appropriate confidence intervals for both; and

"(iii) in meeting clauses (i) and (ii), take into account the size and complexity of the transactions being sampled.

"(2) With regard to identifying programs susceptible to significant improper payments, conduct a risk assessment that complies with the Improper Payments Elimination and Recovery Act of 2010 (Public Law 111–204 [See Short Title of 2010 Amendment note set out under section 3301 of Title 31, Money and Finance]) and the amendments made by that Act (in this section collectively referred to as 'IPERA').

"(3) With regard to reducing improper payments, establish procedures that produce corrective action plans that—

"(A) comply fully with IPERA and associated Office of Management and Budget guidance, including by holding individuals responsible for implementing corrective actions and monitoring the status of corrective actions; and

"(B) are in accordance with best practices, such as those recommended by the Chief Financial Officers Council, including by providing for—

"(i) measurement of the progress made toward remediating root causes of improper payments; and

"(ii) communication to the Secretary of Defense and the heads of departments, agencies, and organizations and elements of the Department of Defense, and key stakeholders, on the progress made toward remediating the root causes of improper payments.

"(4) With regard to implementing recovery audits for improper payments, develop and implement procedures to—

"(A) identify costs related to the recovery audits and recovery efforts of the Department of Defense; and

"(B) evaluate improper payment recovery efforts in order to ensure that they are cost effective.

"(5) Monitor the implementation of the revised chapter of the Financial Management Regulations on recovery audits in order to ensure that the Department of Defense, the military departments, the Defense Agencies, and the other organizations and elements of the Department of Defense either conduct recovery audits or demonstrate that it is not cost effective to do so.

"(6) Develop and submit to the Office of Management and Budget for approval a payment recapture audit plan that fully complies with Office of Management and Budget guidance.

"(7) With regard to reporting on improper payments, design and implement procedures to ensure that the annual improper payment and recovery audit reporting of the Department of Defense is complete, accurate, and complies with IPERA and associated Office of Management and Budget guidance."

## FINANCIAL OPERATIONS DASHBOARD FOR THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. A, title X, §1005, Dec. 12, 2017, 131 Stat. 1544, provided that:

"(a) IN GENERAL.—The Under Secretary of Defense (Comptroller) shall develop and maintain on an Internet website available to Department of Defense agencies a tool (commonly referred to as a 'dashboard)' [sic] to permit officials to track key indicators of the financial performance of the Department of Defense. Such key indicators may include outstanding accounts payable, abnormal accounts payable, outstanding advances, unmatched disbursements, abnormal undelivered orders, negative unliquidated obligations, violations of sections 1341 and 1517(a) of title 31, United States Code (commonly referred to as the 'Anti-Deficiency Act'), costs deriving from payment delays, interest penalty payments, and improper

payments, and actual savings realized through interest payments made, discounts for timely or advanced payments, and other financial management and improvement initiatives.

"(b) INFORMATION COVERED.—The tool shall cover financial performance information for the military departments, the defense agencies, and any other organizations or elements of the Department of Defense.

"(c) TRACKING OF PERFORMANCE OVER TIME.—The tool shall permit the tracking of financial performance over time, including by month, quarter, and year, and permit users of the tool to export both current and historical data on financial performance.

"(d) UPDATES.—The information covered by the tool shall be updated not less frequently than quarterly."

## IMPROVED MANAGEMENT PRACTICES TO REDUCE COST AND IMPROVE PERFORMANCE OF CERTAIN DEPARTMENT OF DEFENSE ORGANIZATIONS

Pub. L. 114–328, div. A, title VIII, §894, Dec. 23, 2016, 130 Stat. 2325, provided that:

"(a) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall designate units, subunits, or entities of the Department of Defense, other than Centers of Industrial and Technical Excellence designated pursuant to section 2474 of title 10, United States Code, that conduct work that is commercial in nature or is not inherently governmental to prioritize efforts to conduct business operations in a manner that uses modern, commercial management practices and principles to reduce the costs and improve the performance of such organizations.

"(b) ADOPTION OF MODERN BUSINESS PRACTICES.—The Secretary shall ensure that each such unit, subunit, or entity of the Department described in subsection (a) is authorized to adopt and implement best commercial and business management practices to achieve the goals described in such subsection.

"(c) WAIVERS.—The Secretary shall authorize waivers of Department of Defense, military service, and Defense Agency regulations, as appropriate, to achieve the goals in subsection (a), including in the following areas:

"(1) Financial management.

"(2) Human resources.

"(3) Facility and plant management.

"(4) Acquisition and contracting.

"(5) Partnerships with the private sector.

"(6) Other business and management areas as identified by the Secretary.

"(d) GOALS.—The Secretary of Defense shall identify savings goals to be achieved through the implementation of the commercial and business management practices adopted under subsection (b), and establish a schedule for achieving the savings.

"(e) BUDGET ADJUSTMENT.—The Secretary shall establish policies to adjust organizational budget allocations, at the Secretary's discretion, for purposes of—

"(1) using savings derived from implementation of best commercial and business management practices for high priority military missions of the Department of Defense;

"(2) creating incentives for the most efficient and effective development and adoption of new commercial and business management practices by organizations; and

"(3) investing in the development of new commercial and business management practices that will result in further savings to the Department of Defense.

"(f) BUDGET BASELINES.—Beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2016], each such unit, subunit, or entity of the Department described in subsection (a) shall, in accordance with such guidance as the Secretary of Defense shall establish for purposes of this section—

"(1) establish an annual baseline cost estimate of its operations; and

"(2) certify that costs estimated pursuant to paragraph (1) are wholly accounted for and presented in a format that is comparable to the format for the presentation of such costs for other elements of the Department or consistent with best commercial practices."

## INCREASED USE OF COMMERCIAL DATA INTEGRATION AND ANALYSIS PRODUCTS FOR THE PURPOSE OF PREPARING FINANCIAL STATEMENT AUDITS

Pub. L. 114–328, div. A, title X, §1003, Dec. 23, 2016, 130 Stat. 2380, which required the Secretary of Defense to procure or develop technologies or services to improve data collection and analyses to support preparation of auditable financial statements for the Department of Defense, was repealed by Pub. L. 115–91, div. A, title X, §1002(f)(3), Dec. 12, 2017, 131 Stat. 1542. See section 240e of this title.

## SCIENCE AND TECHNOLOGY ACTIVITIES TO SUPPORT BUSINESS SYSTEMS INFORMATION TECHNOLOGY ACQUISITION PROGRAMS

Pub. L. 114–92, div. A, title II, §217, Nov. 25, 2015, 129 Stat. 770, as amended by Pub. L. 115–232, div. A,

title X, §1081(f)(1)(A)(v), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116–92, div. A, title IX, §902(26), Dec. 20, 2019, 133 Stat. 1545; Pub. L. 116–283, div. A, title XVIII, §1806(e)(3)(B), Jan. 1, 2021, 134 Stat. 4156, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and Under Secretary of Defense for Research and Engineering, the Chief Management Officer, and the Chief Information Officer, shall establish a set of science, technology, and innovation activities to improve the acquisition outcomes of major automated information systems through improved performance and reduced developmental and life cycle costs.

"(b) EXECUTION OF ACTIVITIES.—The activities established under subsection (a) shall be carried out by such military departments and Defense Agencies as the Under Secretary and the Chief Management Officer consider appropriate.

"(c) ACTIVITIES.—

"(1) IN GENERAL.—The set of activities established under subsection (a) may include the following:

"(A) Development of capabilities in Department of Defense laboratories, test centers, and federally funded research and development centers to provide technical support for acquisition program management and business process re-engineering activities.

"(B) Funding of intramural and extramural research and development activities as described in subsection (e).

"(2) CURRENT ACTIVITIES.—The Secretary shall identify the current activities described in subparagraphs (A) and (B) of paragraph (1) that are being carried out as of the date of the enactment of this Act [Nov. 25, 2015]. The Secretary shall consider such current activities in determining the set of activities to establish pursuant to subsection (a).

"(d) GAP ANALYSIS.—In establishing the set of activities under subsection (a), not later than 270 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary, in coordination with the Secretaries of the military departments and the heads of the Defense Agencies, shall conduct a gap analysis to identify activities that are not, as of such date, being pursued in the current science and technology program of the Department. The Secretary shall use such analysis in determining—

"(1) the set of activities to establish pursuant to subsection (a) that carry out the purposes specified in subsection (c)(1); and

"(2) the proposed funding requirements and timelines.

"(e) FUNDING OF INTRAMURAL AND EXTRAMURAL RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—In carrying out the set of activities required by subsection (a), the Secretary may award grants or contracts to eligible entities to carry out intramural or extramural research and development in areas of interest described in paragraph (3).

"(2) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity includes the following:

"(A) Entities in the defense industry.

"(B) Institutions of higher education.

"(C) Small businesses.

"(D) Nontraditional defense contractors (as defined in section 3014 of title 10, United States Code).

"(E) Federally funded research and development centers, primarily for the purpose of improving technical expertise to support acquisition efforts.

"(F) Nonprofit research institutions.

"(G) Government laboratories and test centers, primarily for the purpose of improving technical expertise to support acquisition efforts.

"(3) AREAS OF INTEREST.—The areas of interest described in this paragraph are the following:

"(A) Management innovation, including personnel and financial management policy innovation.

"(B) Business process re-engineering.

"(C) Systems engineering of information technology business systems.

"(D) Cloud computing to support business systems and business processes.

"(E) Software development, including systems and techniques to limit unique interfaces and simplify processes to customize commercial software to meet the needs of the Department of Defense.

"(F) Hardware development, including systems and techniques to limit unique interfaces and simplify processes to customize commercial hardware to meet the needs of the Department of Defense.

"(G) Development of methodologies and tools to support development and operational test of large and complex business systems.

"(H) Analysis tools to allow decision-makers to make tradeoffs between requirements, costs,

technical risks, and schedule in major automated information system acquisition programs.

"(I) Information security in major automated information system systems.

"(J) Innovative acquisition policies and practices to streamline acquisition of information technology systems.

"(K) Such other areas as the Secretary considers appropriate.

"(f) PRIORITIES.—

"(1) IN GENERAL.—In carrying out the set of activities required by subsection (a), the Secretary shall give priority to—

"(A) projects that—

"(i) address the innovation and technology needs of the Department of Defense; and

"(ii) support activities of initiatives, programs, and offices identified by the Under Secretary and Chief Management Officer; and

"(B) the projects and programs identified in paragraph (2).

"(2) PROJECTS AND PROGRAMS IDENTIFIED.—The projects and programs identified in this paragraph are the following:

"(A) Major automated information system programs.

"(B) Projects and programs under the oversight of the Chief Management Officer.

"(C) Projects and programs relating to defense procurement acquisition policy.

"(D) Projects and programs of the agencies and field activities of the Office of the Secretary of Defense that support business missions such as finance, human resources, security, management, logistics, and contract management.

"(E) Military and civilian personnel policy development for information technology workforce."

[For abolition and transfer of functions of Chief Management Officer of the Department of Defense, see Transfer of Functions note above.]

**DEADLINE FOR GUIDANCE ON COVERED DEFENSE BUSINESS SYSTEMS**

Pub. L. 114–92, div. A, title VIII, §883(b), Nov. 25, 2015, 129 Stat. 947, provided that: "The guidance required by subsection (c)(1) of section 2222 of title 10, United States Code, as amended by subsection (a)(1), shall be issued not later than December 31, 2016."

**COMPTROLLER GENERAL ASSESSMENT REQUIREMENT**

Pub. L. 114–92, div. A, title VIII, §883(d)(1), Nov. 25, 2015, 129 Stat. 947, which required the Comptroller General, in odd-numbered years, to submit an assessment of the extent to which the actions taken by the Department of Defense complied with the requirements of this section, was repealed by Pub. L. 115–232, div. A, title VIII, §833(c), Aug. 13, 2018, 132 Stat. 1859, effective Jan. 1, 2020.

**ACCOUNTING STANDARDS TO VALUE CERTAIN PROPERTY, PLANT, AND EQUIPMENT ITEMS**

Pub. L. 114–92, div. A, title X, §1002, Nov. 25, 2015, 129 Stat. 960, provided that:

"(a) REQUIREMENT FOR CERTAIN ACCOUNTING STANDARDS.—The Secretary of Defense shall work in coordination with the Federal Accounting Standards Advisory Board to establish accounting standards to value large and unordinary general property, plant, and equipment items.

"(b) DEADLINE.—The accounting standards required by subsection (a) shall be established by not later than September 30, 2017, and be available for use for the full audit on the financial statements of the Department of Defense for fiscal year 2018, as required by section 1003(a) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 842; 10 U.S.C. 2222 note)."

**ANNUAL AUDIT OF FINANCIAL STATEMENTS OF DEPARTMENT OF DEFENSE COMPONENTS BY INDEPENDENT EXTERNAL AUDITORS**

Pub. L. 114–92, div. A, title X, §1005, Nov. 25, 2015, 129 Stat. 961, which required an annual audit of financial statements of Department of Defense components by independent external auditors, was repealed by Pub. L. 115–91, div. A, title X, §1002(e)(4), Dec. 12, 2017, 131 Stat. 1541. See section 240d of this title.

**DEADLINE FOR ESTABLISHMENT OF INVESTMENT REVIEW BOARD AND INVESTMENT MANAGEMENT PROCESS**

Pub. L. 113–291, div. A, title IX, §901(e), Dec. 19, 2014, 128 Stat. 3464, provided that: "The investment review board and investment management process required by [former] section 2222(g) of title 10, United States Code, as amended by subsection (d)(3), shall be established not later than March 15, 2015."

## AUDIT OF DEPARTMENT OF DEFENSE FISCAL YEAR 2018 FINANCIAL STATEMENTS

Pub. L. 113–66, div. A, title X, §1003(a), Dec. 26, 2013, 127 Stat. 842, which required a full audit of the financial statements of the Department of Defense for fiscal year 2018, was repealed by Pub. L. 115–91, div. A, title X, §1002(b)(2), Dec. 12, 2017, 131 Stat. 1538. For similar provisions requiring annual audits, see section 240a of this title.

## REVIEW OF OBLIGATION AND EXPENDITURE THRESHOLDS

Pub. L. 111–383, div. A, title VIII, §882, Jan. 7, 2011, 124 Stat. 4308, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597; Pub. L. 116–92, div. A, title IX, §902(27), Dec. 20, 2019, 133 Stat. 1546, provided that:

"(a) PROCESS REVIEW.—Not later than one year after the date of the enactment of this Act [Jan. 7, 2011], the Chief Management Officer of the Department of Defense, in coordination with the Chief Management Officer of each military department, the Director of the Office of Performance Assessment and Root Cause Analysis, the Under Secretary of Defense (Comptroller), and the Comptrollers of the military departments, shall complete a comprehensive review of the use and value of obligation and expenditure benchmarks and propose new benchmarks or processes for tracking financial performance, including, as appropriate—

"(1) increased reliance on individual obligation and expenditure plans for measuring program financial performance;

"(2) mechanisms to improve funding stability and to increase the predictability of the release of funding for obligation and expenditure; and

"(3) streamlined mechanisms for a program manager to submit an appeal for funding changes and to have such appeal evaluated promptly.

"(b) TRAINING.—The Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense (Comptroller) shall ensure that, as part of the training required for program managers and business managers, an emphasis is placed on obligating and expending appropriated funds in a manner that achieves the best value for the Government and that the purpose and limitations of obligation and expenditure benchmarks are made clear.

"(c) REPORT.—The Deputy Chief Management Officer of the Department of Defense shall include a report on the results of the review under this section in the next update of the strategic management plan transmitted to the Committees on Armed Services of the Senate and the House of Representatives under section 904(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 275; 10 U.S.C. note prec. 2201) after the completion of the review."

[Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, formerly set out as a References note under section 131 of this title, which provided that, effective after Feb. 1, 2017, any reference to the Deputy Chief Management Officer of the Department of Defense was to be deemed to refer to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective as of Dec. 23, 2016.]

## AUDIT READINESS OF FINANCIAL STATEMENTS OF THE DEPARTMENT OF DEFENSE

Pub. L. 112–239, div. A, title X, §1005(b), Jan. 2, 2013, 126 Stat. 1904, provided that:

"(1) IN GENERAL.—The Chief Management Officer of the Department of Defense and the Chief Management Officers of each of the military departments shall ensure that plans to achieve an auditable statement of budgetary resources of the Department of Defense by September 30, 2014, include appropriate steps to minimize one-time fixes and manual work-arounds, are sustainable and affordable, and will not delay full auditability of financial statements.

"(2) ADDITIONAL ELEMENTS IN FIAR PLAN REPORT.—Each semi-annual report on the Financial Improvement and Audit Readiness Plan of the Department of Defense submitted by the Under Secretary of Defense (Comptroller) under section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note) during the period beginning on the date of the enactment of this Act [Jan. 2, 2013] and ending on September 30, 2014, shall include the following:

"(A) A description of the actions taken by the military departments pursuant to paragraph (1).

"(B) A determination by the Chief Management Officer of each military department whether or not such military department is able to achieve an auditable statement of budgetary resources by September 30, 2014, without an unaffordable or unsustainable level of one-time fixes and manual work-arounds and without delaying the full auditability of the financial statements of such military department.

"(C) If the Chief Management Officer of a military department determines under subparagraph (B) that

the military department is not able to achieve an auditable statement of budgetary resources by September 30, 2014, as described in that subparagraph—

"(i) an explanation why the military department is unable to meet the deadline;

"(ii) an alternative deadline by which the military department will achieve an auditable statement of budgetary resources; and

"(iii) a description of the plan of the military department for meeting the alternative deadline."

Pub. L. 112–81, div. A, title X, §1003, Dec. 31, 2011, 125 Stat. 1555, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

"(a) PLANNING REQUIREMENT.—

"(1) IN GENERAL.—The report to be issued pursuant to section 1003(b) of the National Defense Authorization Act for 2010 (Public Law 111–84; 123 Stat. 2440; 10 U.S.C. 2222 note) and provided by not later than May 15, 2012, shall include a plan, including interim objectives and a schedule of milestones for each military department and for the defense agencies, to support the goal established by the Secretary of Defense that the statement of budgetary resources is validated for audit by not later than September 30, 2014. Consistent with the requirements of such section, the plan shall include process and control improvements and business systems modernization efforts necessary for the Department of Defense to consistently prepare timely, reliable, and complete financial management information.

"(2) SEMIANNUAL UPDATES.—The reports to be issued pursuant to such section after the report described in paragraph (1) shall update the plan required by such paragraph and explain how the Department has progressed toward meeting the milestones established in the plan.

"(b) INCLUSION OF SUBORDINATE ACTIVITIES FOR INTERIM MILESTONES.—For each interim milestone established pursuant to section 881 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4306; 10 U.S.C. 2222 note), the Under Secretary of Defense (Comptroller), in consultation with the Deputy Chief Management Officer of the Department of Defense, the Secretaries of the military departments, and the heads of the defense agencies and defense field activities, shall include a detailed description of the subordinate activities necessary to accomplish each interim milestone, including—

"(1) a justification of the time required for each activity;

"(2) metrics identifying the progress made within each activity; and

"(3) mitigating strategies for milestone timeframe slippages.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to Congress a report relating to the Financial Improvement and Audit Readiness Plan of the Department of Defense submitted in accordance with section 1003 of the National Defense Authorization Act for 2010 (Public Law 111–84; 123 Stat. 2440 [2439]; 10 U.S.C. 2222 note) and section 881 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 121 Stat. 4306; 10 U.S.C. 2222 note).

"(2) MATTERS COVERED.—The report shall include a corrective action plan for any identified weaknesses or deficiencies in the execution of the Financial Improvement and Audit Readiness Plan. The corrective action plan shall—

"(A) identify near- and long-term measures for resolving any such weaknesses or deficiencies;

"(B) assign responsibilities within the Department of Defense to implement such measures;

"(C) specify implementation steps for such measures; and

"(D) provide timeframes for implementation of such measures."

[Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, formerly set out as a References note under section 131 of this title, which provided that, effective after Feb. 1, 2017, any reference to the Deputy Chief Management Officer of the Department of Defense was to be deemed to refer to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective as of Dec. 23, 2016.]

Pub. L. 111–383, div. A, title VIII, §881, Jan. 7, 2011, 124 Stat. 4306, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

"(a) INTERIM MILESTONES.—

"(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act [Jan. 7, 2011], the Under Secretary of Defense (Comptroller), in consultation with the Deputy Chief Management Officer of the Department of Defense, the secretaries of the military departments, and the heads of the defense agencies and defense field activities, shall establish interim milestones for achieving audit readiness of the financial statements of the Department of Defense, consistent with the requirements of section 1003

of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note).

"(2) MATTERS INCLUDED.—The interim milestones established pursuant to paragraph (1) shall include, at a minimum, for each military department and for the defense agencies and defense field activities—

"(A) an interim milestone for achieving audit readiness for each major element of the statement of budgetary resources, including civilian pay, military pay, supply orders, contracts, and funds balance with the Treasury; and

"(B) an interim milestone for addressing the existence and completeness of each major category of Department of Defense assets, including military equipment, real property, inventory, and operating material and supplies.

"(3) DESCRIPTION IN SEMIANNUAL REPORTS.—The Under Secretary shall describe each interim milestone established pursuant to paragraph (1) in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note). Each subsequent semiannual report submitted pursuant to section 1003(b) shall explain how the Department has progressed toward meeting such interim milestones.

"(b) VALUATION OF DEPARTMENT OF DEFENSE ASSETS.—

"(1) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall, in consultation with other appropriate Federal agencies and officials—

"(A) examine the costs and benefits of alternative approaches to the valuation of Department of Defense assets;

"(B) select an approach to such valuation that is consistent with principles of sound financial management and the conservation of taxpayer resources; and

"(C) begin the preparation of a business case analysis supporting the selected approach.

"(2) The Under Secretary shall include information on the alternatives considered, the selected approach, and the business case analysis supporting that approach in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note).

"(c) REMEDIAL ACTIONS REQUIRED.—In the event that the Department of Defense, or any component of the Department of Defense, is unable to meet an interim milestone established pursuant to subsection (a), the Under Secretary of Defense (Comptroller) shall—

"(1) develop a remediation plan to ensure that—

"(A) the component will meet the interim milestone no more than one year after the originally scheduled date; and

"(B) the component's failure to meet the interim milestone will not have an adverse impact on the Department's ability to carry out the plan under section 1003(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note); and

"(2) include in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note)—

"(A) a statement of the reasons why the Department of Defense, or component of the Department of Defense, will be unable to meet such interim milestone;

"(B) the revised completion date for meeting such interim milestone; and

"(C) a description of the actions that have been taken and are planned to be taken by the Department of Defense, or component of the Department of Defense, to meet such interim milestone.

"(d) INCENTIVES FOR ACHIEVING AUDITABILITY.—

"(1) REVIEW REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall review options for providing appropriate incentives to the military departments, Defense Agencies, and defense field activities to ensure that financial statements are validated as ready for audit earlier than September 30, 2017.

"(2) OPTIONS REVIEWED.—The review performed pursuant to paragraph (1) shall consider changes in policy that reflect the increased confidence that can be placed in auditable financial statements, and shall include, at a minimum, consideration of the following options:

"(A) Consistent with the need to fund urgent warfighter requirements and operational needs, priority in the release of appropriated funds.

"(B) Relief from the frequency of financial reporting in cases in which such reporting is not required by law.

"(C) Relief from departmental obligation and expenditure thresholds to the extent that such thresholds establish requirements more restrictive than those required by law.

"(D) Increases in thresholds for reprogramming of funds.

"(E) Personnel management incentives for the financial and business management workforce.

"(F) Such other measures as the Under Secretary considers appropriate.

"(3) REPORT.—The Under Secretary shall include a discussion of the review performed pursuant to paragraph (1) in the next semiannual report pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note) and for each option considered pursuant to paragraph (2) shall include—

"(A) an assessment of the extent to which the implementation of the option—

"(i) would be consistent with the efficient operation of the Department of Defense and the effective funding of essential Department of Defense programs and activities; and

"(ii) would contribute to the achievement of Department of Defense goals to prepare auditable financial statements; and

"(B) a recommendation on whether such option should be adopted, a schedule for implementing the option if adoption is recommended, or a reason for not recommending the option if adoption is not recommended."

[Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, formerly set out as a References note under section 131 of this title, which provided that, effective after Feb. 1, 2017, any reference to the Deputy Chief Management Officer of the Department of Defense was to be deemed to refer to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective as of Dec. 23, 2016.]

Pub. L. 111–84, div. A, title X, §1003, Oct. 28, 2009, 123 Stat. 2439, as amended by Pub. L. 112–239, div. A, title X, §1005(a), Jan. 2, 2013, 126 Stat. 1904; Pub. L. 113–66, div. A, title X, §1003(b), Dec. 26, 2013, 127 Stat. 842, which directed the Chief Management Officer of the Department of Defense to develop a Financial Improvement and Audit Readiness Plan and to submit semi-annual reports to Congress on the status of the implementation of such plan, was repealed by Pub. L. 115–91, div. A, title X, §1002(c)(4), Dec. 12, 2017, 131 Stat. 1540.

## BUSINESS PROCESS REENGINEERING EFFORTS; ONGOING PROGRAMS

Pub. L. 111–84, div. A, title X, §1072(b), Oct. 28, 2009, 123 Stat. 2471, provided that:

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the appropriate chief management officer for each defense business system modernization approved by the Defense Business Systems Management Committee before the date of the enactment of this Act that will have a total cost in excess of $100,000,000 shall review such defense business system modernization to determine whether or not appropriate business process reengineering efforts have been undertaken to ensure that—

"(A) the business process to be supported by such defense business system modernization will be as streamlined and efficient as practicable; and

"(B) the need to tailor commercial-off-the-shelf systems to meet unique requirements or incorporate unique interfaces has been eliminated or reduced to the maximum extent practicable.

"(2) ACTION ON FINDING OF LACK OF REENGINEERING EFFORTS.—If the appropriate chief management officer determines that appropriate business process reengineering efforts have not been undertaken with regard to a defense business system modernization as described in paragraph (1), that chief management officer—

"(A) shall develop a plan to undertake business process reengineering efforts with respect to the defense business system modernization; and

"(B) may direct that the defense business system modernization be restructured or terminated, if necessary to meet the requirements of paragraph (1).

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'appropriate chief management officer', with respect to a defense business system modernization, has the meaning given that term in paragraph (2) of [former] subsection (f) of section 2222 of title 10, United States Code (as amended by subsection (a)(2) of this section).

"(B) The term 'defense business system modernization' has the meaning given that term in [former] subsection (j)(3) of section 2222 of title 10, United States Code."

## BUSINESS TRANSFORMATION INITIATIVES FOR THE MILITARY DEPARTMENTS

Pub. L. 110–417, [div. A], title IX, §908, Oct. 14, 2008, 122 Stat. 4569, provided that:

"(a) IN GENERAL.—The Secretary of each military department shall, acting through the Chief Management Officer of such military department, carry out an initiative for the business transformation of

such military department.

"(b) OBJECTIVES.—The objectives of the business transformation initiative of a military department under this section shall include, at a minimum, the following:

"(1) The development of a comprehensive business transformation plan, with measurable performance goals and objectives, to achieve an integrated management system for the business operations of the military department.

"(2) The development of a well-defined enterprise-wide business systems architecture and transition plan encompassing end-to-end business processes and capable of providing accurately and timely information in support of business decisions of the military department.

"(3) The implementation of the business transformation plan developed pursuant to paragraph (1) and the business systems architecture and transition plan developed pursuant to paragraph (2).

"(c) BUSINESS TRANSFORMATION OFFICES.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of each military department shall establish within such military department an office (to be known as the 'Office of Business Transformation' of such military department) to assist the Chief Management Officer of such military department in carrying out the initiative required by this section for such military department.

"(2) HEAD.—The Office of Business Transformation of a military department under this subsection shall be headed by a Director of Business Transformation, who shall be appointed by the Chief Management Officer of the military department, in consultation with the Director of the Business Transformation Agency of the Department of Defense, from among individuals with significant experience managing large-scale organizations or business transformation efforts.

"(3) SUPERVISION.—The Director of Business Transformation of a military department under paragraph (2) shall report directly to the Chief Management Officer of the military department, subject to policy guidance from the Director of the Business Transformation Agency of the Department of Defense.

"(4) AUTHORITY.—In carrying out the initiative required by this section for a military department, the Director of Business Transformation of the military department under paragraph (2) shall have the authority to require elements of the military department to carry out actions that are within the purpose and scope of the initiative.

"(d) RESPONSIBILITIES OF BUSINESS TRANSFORMATION OFFICES.—The Office of Business Transformation of a military department established pursuant to subsection (b) may be responsible for the following:

"(1) Transforming the budget, finance, accounting, and human resource operations of the military department in a manner that is consistent with the business transformation plan developed pursuant to subsection (b)(1).

"(2) Eliminating or replacing financial management systems of the military department that are inconsistent with the business systems architecture and transition plan developed pursuant to subsection (b)(2).

"(3) Ensuring that the business transformation plan and the business systems architecture and transition plan are implemented in a manner that is aggressive, realistic, and accurately measured.

"(4) Such other responsibilities as the Secretary of that military department determines are appropriate.

"(e) REQUIRED ELEMENTS.—In carrying out the initiative required by this section for a military department, the Chief Management Officer and the Director of Business Transformation of the military department shall ensure that each element of the initiative is consistent with—

"(1) the requirements of the Business Enterprise Architecture and Transition Plan developed by the Secretary of Defense pursuant to section 2222 of title 10, United States Code;

"(2) the Standard Financial Information Structure of the Department of Defense;

"(3) the Federal Financial Management Improvement Act of 1996 [section 101(f) [title VIII] of title I of div. A of Pub. L. 104–208, 31 U.S.C. 3512 note] (and the amendments made by that Act); and

"(4) other applicable requirements of law and regulation.

"(f) REPORTS ON IMPLEMENTATION.—

"(1) INITIAL REPORTS.—Not later than nine months after the date of the enactment of this Act [Oct. 14, 2008], the Chief Management Officer of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken, and on the actions planned to be taken, by such military department to implement the requirements of this section.

"(2) UPDATES.—Not later than March 1 of each of 2010, 2011, and 2012, the Chief Management Officer of each military department shall submit to the congressional defense committees a current update

of the report submitted by such Chief Management Officer under paragraph (1)."

**FINANCIAL MANAGEMENT TRANSFORMATION INITIATIVE FOR THE DEFENSE AGENCIES**

Pub. L. 110–181, div. A, title X, §1005, Jan. 28, 2008, 122 Stat. 301, provided that:

"(a) FINANCIAL MANAGEMENT TRANSFORMATION INITIATIVE.—

"(1) IN GENERAL.—The Director of the Business Transformation Agency of the Department of Defense shall carry out an initiative for financial management transformation in the Defense Agencies. The initiative shall be known as the 'Defense Agencies Initiative' (in this section referred to as the 'Initiative').

"(2) SCOPE OF AUTHORITY.—In carrying out the Initiative, the Director of the Business Transformation Agency may require the heads of the Defense Agencies to carry out actions that are within the purpose and scope of the Initiative.

"(b) PURPOSES.—The purposes of Initiative shall be as follows:

"(1) To eliminate or replace financial management systems of the Defense Agencies that are duplicative, redundant, or fail to comply with the standards set forth in subsection (d).

"(2) To transform the budget, finance, and accounting operations of the Defense Agencies to enable the Defense Agencies to achieve accurate and reliable financial information needed to support financial accountability and effective and efficient management decisions.

"(c) REQUIRED ELEMENTS.—The Initiative shall include, to the maximum extent practicable—

"(1) the utilization of commercial, off-the-shelf technologies and web-based solutions;

"(2) a standardized technical environment and an open and accessible architecture; and

"(3) the implementation of common business processes, shared services, and common data structures.

"(d) STANDARDS.—In carrying out the Initiative, the Director of the Business Transformation Agency shall ensure that the Initiative is consistent with—

"(1) the requirements of the Business Enterprise Architecture and Transition Plan developed pursuant to section 2222 of title 10, United States Code;

"(2) the Standard Financial Information Structure of the Department of Defense;

"(3) the Federal Financial Management Improvement Act of 1996 [section 101(f) [title VIII] of title I of div. A of Pub. L. 104–208, 31 U.S.C. 3512 note] (and the amendments made by that Act); and

"(4) other applicable requirements of law and regulation.

"(e) SCOPE.—The Initiative shall be designed to provide, at a minimum, capabilities in the major process areas for both general fund and working capital fund operations of the Defense Agencies as follows:

"(1) Budget formulation.

"(2) Budget to report, including general ledger and trial balance.

"(3) Procure to pay, including commitments, obligations, and accounts payable.

"(4) Order to fulfill, including billing and accounts receivable.

"(5) Cost accounting.

"(6) Acquire to retire (account management).

"(7) Time and attendance and employee entitlement.

"(8) Grants financial management.

"(f) CONSULTATION.—In carrying out subsections (d) and (e), the Director of the Business Transformation Agency shall consult with the Comptroller of the Department of Defense [now Under Secretary of Defense (Comptroller)] to ensure that any financial management systems developed for the Defense Agencies, and any changes to the budget, finance, and accounting operations of the Defense Agencies, are consistent with the financial standards and requirements of the Department of Defense.

"(g) PROGRAM CONTROL.—In carrying out the Initiative, the Director of the Business Transformation Agency shall establish—

"(1) a board (to be known as the 'Configuration Control Board') to manage scope and cost changes to the Initiative; and

"(2) a program management office (to be known as the 'Program Management Office') to control and enforce assumptions made in the acquisition plan, the cost estimate, and the system integration contract for the Initiative, as directed by the Configuration Control Board.

"(h) PLAN ON DEVELOPMENT AND IMPLEMENTATION OF INITIATIVE.—Not later than six months after the date of the enactment of this Act [Jan. 28, 2008], the Director of the Business Transformation Agency shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the development and implementation of the Initiative. The plan shall provide for the implementation of an initial capability under the Initiative as follows:

"(1) In at least one Defense Agency by not later than eight months after the date of the enactment of this Act.

"(2) In not less than five Defense Agencies by not later than 18 months after the date of the enactment of this Act."

**LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN THE DEPARTMENT OF DEFENSE**

Pub. L. 109–364, div. A, title III, §321, Oct. 17, 2006, 120 Stat. 2144, as amended by Pub. L. 111–383, div. A, title X, §1075(g)(1), Jan. 7, 2011, 124 Stat. 4376, provided that:

"(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of any financial management improvement activity relating to the preparation, processing, or auditing of financial statements until the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written determination that each activity proposed to be funded is—

"(1) consistent with the financial management improvement plan of the Department of Defense required by section 376(a)(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3213); and

"(2) likely to improve internal controls or otherwise result in sustained improvements in the ability of the Department to produce timely, reliable, and complete financial management information.

"(b) EXCEPTION.—The limitation in subsection (a) shall not apply to an activity directed exclusively at assessing the adequacy of internal controls and remediating any inadequacy identified pursuant to such assessment."

**TIME-CERTAIN DEVELOPMENT FOR DEPARTMENT OF DEFENSE INFORMATION TECHNOLOGY BUSINESS SYSTEMS**

Pub. L. 109–364, div. A, title VIII, §811, Oct. 17, 2006, 120 Stat. 2316, which provided limitations for Milestone A approval and initial operational capability regarding certain Department of Defense information technology business systems, was repealed by Pub. L. 114–92, div. A, title VIII, §883(c), Nov. 25, 2015, 129 Stat. 947.

## §2223. Information technology: additional responsibilities of Chief Information Officers

(a) ADDITIONAL RESPONSIBILITIES OF CHIEF INFORMATION OFFICER OF DEPARTMENT OF DEFENSE.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 11315 of title 40, the Chief Information Officer of the Department of Defense shall—

(1) review and provide recommendations to the Secretary of Defense on Department of Defense budget requests for information technology and national security systems;

(2) ensure the interoperability of information technology and national security systems throughout the Department of Defense;

(3) ensure that information technology and national security systems standards that will apply throughout the Department of Defense are prescribed;

(4) provide for the elimination of duplicate information technology and national security systems within and between the military departments and Defense Agencies; and

(5) maintain a consolidated inventory of Department of Defense mission critical and mission essential information systems, identify interfaces between those systems and other information systems, and develop and maintain contingency plans for responding to a disruption in the operation of any of those information systems.

(b) ADDITIONAL RESPONSIBILITIES OF CHIEF INFORMATION OFFICER OF MILITARY DEPARTMENTS.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 11315 of title 40, the Chief Information Officer of a military department, with respect to the military department concerned, shall—

(1) review budget requests for all information technology and national security systems;

(2) ensure that information technology and national security systems are in compliance with standards of the Government and the Department of Defense;

(3) ensure that information technology and national security systems are interoperable with other relevant information technology and national security systems of the Government and the Department of Defense; and

(4) coordinate with the Joint Staff with respect to information technology and national security systems.

(c) DEFINITIONS.—In this section:

(1) The term "Chief Information Officer" means the senior official designated by the Secretary of Defense or a Secretary of a military department pursuant to section 3506 of title 44.

(2) The term "information technology" has the meaning given that term by section 11101 of title 40.

(3) The term "national security system" has the meaning given that term by section 3552(b)(6) of title 44.

(Added Pub. L. 105–261, div. A, title III, §331(a)(1), Oct. 17, 1998, 112 Stat. 1967; amended Pub. L. 106–398, §1 [[div. A], title VIII, §811(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–210; Pub. L. 107–217, §3(b)(1), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 109–364, div. A, title IX, §906(b), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 113–283, §2(e)(5)(B), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 114–92, div. A, title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 1001.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (c)(3). Pub. L. 114–92 substituted "section 3552(b)(6)" for "section 3552(b)(5)".

**2014**—Subsec. (c)(3). Pub. L. 113–283 substituted "section 3552(b)(5)" for "section 3542(b)(2)".

**2006**—Subsec. (c)(3). Pub. L. 109–364 substituted "section 3542(b)(2) of title 44" for "section 11103 of title 40".

**2002**—Subsecs. (a), (b). Pub. L. 107–217, §3(b)(1)(A), (B), substituted "section 11315 of title 40" for "section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)" in introductory provisions.

Subsec. (c)(2). Pub. L. 107–217, §3(b)(1)(C), substituted "section 11101 of title 40" for "section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)".

Subsec. (c)(3). Pub. L. 107–217, §3(b)(1)(D), substituted "section 11103 of title 40" for "section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452)".

**2000**—Subsec. (a)(5). Pub. L. 106–398 added par. (5).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 105–261, div. A, title III, §331(b), Oct. 17, 1998, 112 Stat. 1968, provided that: "Section 2223 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1998."

### ENHANCED SECURITY STRATEGY FOR PROCUREMENT OF PRIVATE FIFTH-GENERATION WIRELESS TECHNOLOGY

Pub. L. 119–60, div. A, title VIII, §877, Dec. 18, 2025, 139 Stat. 1005, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall require a contractor for a procurement related to fifth-generation wireless technology for private networks on military installations to provide the information described in subsection (b) to promote enhanced wireless network security requirements, including supply chain risk management.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is as follows:

"(1) A hardware bill of materials for such procurement described in subsection (a).

"(2) A description of the implementation and operational use of zero trust principles and capabilities for such procurement.

"(c) PRIORITIZATION.—With respect to a procurement described in subsection (a), the Secretary shall prioritize the use of private networks that employ Open-RAN approaches, including cloud-native capabilities

whenever possible.

"(d) DEFINITIONS.—In this section:

"(1) The term 'military installation' has the meaning given in section 2801 of title 10, United States Code.

"(2) The term 'Open-RAN' has the meaning given in section 9202 of title XCII of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [47 U.S.C. 906]."

## PLAN FOR DEPLOYING PRIVATE FIFTH GENERATION AND FUTURE GENERATION OPEN RADIO ACCESS NETWORK ARCHITECTURE ON DEPARTMENT OF DEFENSE MILITARY INSTALLATIONS

Pub. L. 119–60, div. B, title XXVIII, §2853, Dec. 18, 2025, 139 Stat. 1323, provided that:

"(a) REQUIREMENT FOR PRIORITIZED LIST OF MILITARY INSTALLATIONS.—Pursuant to section 1526 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 4571 note) and the Department of Defense Private 5G Deployment Strategy (dated October 2024), each Secretary of a military department shall develop a prioritized list of military installations that merit investment in private fifth generation and future generation information and communications networks.

"(b) CONSIDERATIONS.—In developing a list under subsection (a), a Secretary of a military department shall consider matters relating to the following:

"(1) Connection density.

"(2) Latency requirements.

"(3) Capacity requirements.

"(4) Geographic coverage requirements.

"(5) Enhanced security within wireless network services.

"(6) Military installation physical security and force protection requirements, including perimeter monitoring and detection and tracking of uncrewed aircraft systems.

"(7) Requirements with respect to large-scale warehousing and logistics operations.

"(8) The potential use of augmented or virtual reality technology, including for maintenance and training.

"(9) Requirements with respect to large-scale and high-tempo flight line operations.

"(c) INFORMING FUTURE PROCUREMENTS.—The Secretary of the Air Force shall use the prioritized list developed under subsection (a) to inform task orders issued under the Enterprise Information Technology as a Service Base Infrastructure Modernization program of the Department of the Air Force and future related contracts. To the maximum extent possible, task orders issued after the date of the enactment of this Act [Dec. 18, 2025] shall specify where existing networking technologies are fully adequate to meet requirements and where private fifth generation and future generation information and communications network performance or characteristics are needed.

"(d) COORDINATION REQUIRED.—In developing prioritized lists under subsection (a), each Secretary of a military department shall, to the extent each such Secretary determines appropriate, coordinate with the following officials:

"(1) The Under Secretary of Defense for Research and Engineering, [sic]

"(2) The Under Secretary of Defense for Acquisition and Sustainment.

"(3) The Chief Information Officer of the Department of Defense.

"(4) The service acquisition executive of the military department concerned.

"(5) Combatant commanders.

"(6) The heads of the Defense Agencies.

"(7) Installation and environment executives.

"(e) PLAN FOR PRIVATE 5G OPEN RADIO ACCESS NETWORK ARCHITECTURE DEPLOYMENTS.—Not later than March 1, 2026, the Secretary of Defense shall—

"(1) consolidate the prioritized military installation lists developed by the Secretaries of the military departments under subsection (a), and determine an optimal investment, deployment, and resourcing plan for private fifth generation and future generation networks across the Department that are based on Open Radio Access Network architecture; and

"(2) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] a report on the lists consolidated under paragraph (1) and the determinations made pursuant to such paragraph.

"(f) DEFINITIONS.—In this section:

"(1) The term 'military installation' has the meaning given such term in section 2801 of title 10, United States Code.

"(2) The term 'Open Radio Access Network architecture' has the meaning given such term in section 1526 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31).

"(3) The term 'service acquisition executive' has the meaning given such term in section 101 of title 10, United States Code."

**MODERNIZATION OF THE DEPARTMENT OF DEFENSE'S AUTHORIZATION TO OPERATE PROCESSES**

Pub. L. 118–159, div. A, title XV, §1522, Dec. 23, 2024, 138 Stat. 2140, as amended by Pub. L. 119–60, div. A, title XV, §1521, Dec. 18, 2025, 139 Stat. 1154, provided that:

"(a) ACTIVE DIRECTORY OF AUTHORIZING OFFICIALS.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, acting through the Chief Information Officer of the Department of Defense and in coordination with the Chief Information Officers of the military departments, shall establish and regularly update a digital directory of all authorizing officials in the military departments.

"(2) CONTENTS.—The directory established under paragraph (1) shall include—

"(A) the most current contact information for such authorizing official; and

"(B) a list of each training required to perform the duties and responsibilities of an authorizing official completed by such authorizing official.

"(b) PRESUMPTION OF RECIPROCAL SOFTWARE ACCREDITING STANDARDS.—

"(1) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, shall implement a policy that requires authorizing officials to adopt the security analysis and artifacts, as appropriate, of a cloud-hosted platform, service, or application that has already been authorized by another authorizing official in the Department of Defense in order to more rapidly adopt and use such cloud-hosted platforms, services, and applications, at the corresponding classification level and in accordance with the existing authorization conditions, without additional authorizations or reviews.

"(2) ELEMENTS.—The Secretary shall ensure that the policy implemented under paragraph (1)—

"(A) ensures the development of standardized and transparent documentation of the security, accreditation, performance, and operational capabilities of cloud-hosted platforms, services, and applications to enable decision making by mission owners of such cloud-hosted platforms, services, and applications;

"(B) provides for an intuitive and digital workflow to document acknowledgments among mission owners and system owners of use of the operational capabilities of cloud-hosted platforms, services, and applications;

"(C) directs a review by mission owners of existing authorization information, at the appropriate classification level, regarding the status of the operational capabilities of cloud-hosted platforms, services, and applications, including through management dashboards or other management analytic capabilities;

"(D) defines a process, including required timelines, to allow authorizing officials that disagree with the security analysis of a cloud-hosted platform, service, or application that such official would be required to adopt under such policy to present such disagreement to the Chief Information Officer of the Department of Defense, or such other individual or entity designated by the Chief Information Officer, for adjudication; and

"(E) defines Department of Defense-wide, mandatory timelines for activities performed by authorizing officials with respect to an Authorization to Operate for cloud-hosted platforms, services, and applications.

"(3) APPLICABILITY.—The policy implemented pursuant to paragraph (1) shall apply to—

"(A) all authorizing officials in the Department of Defense, including in each military department, component, and agency of the Department; and

"(B) all operational capabilities of cloud-hosted platforms, services, and applications, including capabilities on public cloud infrastructure, as authorized through the Federal Risk and Authorization Management Program established under section 3608 of title 44, United States Code, and the Defense Information Systems Agency, and capabilities on private cloud landing zones managed by the Department of Defense that are authorized by Department accrediting officials.

"(c) EXPEDITED PROCESSING.—

"(1) PROCESSES REQUIRED.—Not later than 180 days after the date of the enactment of this subsection [Dec. 18, 2025], the Chief Information Officer of the Department of Defense, in coordination with the Chief Information Officers of the military departments, shall provide to each element of the

Department of Defense with Authorization to Operate responsibilities guidance on, and direct each such element to develop and implement, one or more processes to expedite the granting of Authorizations to Operate and, where applicable, related appeals.

"(2) CRITERIA FOR EXPEDITED REVIEW.—The processes implemented by an element of the Department of Defense under paragraph (1) shall provide for expedited review of a request for an Authorization to Operate if—

"(A) such Authorization to Operate is for an information system of such element; and

"(B) the request for such Authorization to Operate was appropriately submitted to the authorizing official for such Authorization to Operate and—

"(i) the final determination whether to grant such Authorization to Operate as [sic] has been pending before such authorizing official for not fewer than 180 days without resolution;

"(ii) if a mechanism for appealing a determination by an authorizing official with respect to such Authorization to Operate exists, such an appeal has been pending before such authorizing official for not fewer than 90 days without response; or

"(iii) any other circumstances identified by the Chief Information Officer of the Department of Defense in the policy established under paragraph (1) that demonstrate unreasonable delay or impediment to the Authorization to Operate process.

"(3) ELEMENTS.—The process for expedited appeals developed under paragraph (1) shall include—

"(A) clearly defined timelines for resolution of the expedited review of the appeal, not to exceed 45 days from the date the expedited review is requested;

"(B) requirements for a written justification when such timelines cannot be met; and

"(C) tracking and reporting mechanisms to monitor compliance with such timelines.

"(d)[sic; two subsecs. (d) have been enacted] REPORTS.—

"(1) IMPLEMENTATION STATUS.—

"(A) SECRETARY REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] a report on the status of the implementation of subsections (a) and (b).

"(B) CHIEF INFORMATION OFFICER REPORT.—Not later than July 1, 2026, the Chief Information Officer of the Department of Defense shall submit to the congressional defense committees a report on the status of the implementation of subsections (c).

"(2) BIANNUAL REPORT.—

"(A) IN GENERAL.—Not later than six months after the date of the enactment of this subsection [Dec. 18, 2025], and every six months thereafter under October 1, 2031, the Secretary of Defense, in coordination with the Chief Information Officer of the Department of Defense and the Chief Information Officers of the military departments, shall submit to the congressional defense committees a report on the activities under this section in the six-month period ending on the date of the submission of such report.

"(B) CONTENTS.—Each report required under subparagraph (A) shall include, for the period covered by such report—

"(i) the number of new Authorizations to Operate issued;

"(ii) the number of requests for an Authorization to Operate that were submitted with complete and sufficient documentation to the appropriate authorizing official;

"(iii) the number of requests for Authorizations to Operate that were denied;

"(iv) the number of requests for Authorizations to Operate that were escalated to the process implemented under subsection (c), disaggregated by escalations—

"(I) to the Chief Information Officer of the Department of Defense; and

"(II) to the Chief Information Officer of each military department;

"(v) the number of requests described in clause (iv) that were resolved, disaggregated by resolutions—

"(I) by the Chief Information Officer of the Department of Defense; and

"(II) by the Chief Information Officer of each military department;

"(vi) the average time required for a capability to receive an Authorization to Operate, disaggregated each element of the Department responsible for evaluating the request for the Authorization to Operate;

"(vii) the number of Authorizations to Operate issued pursuant to the policy required by subsection (b);

"(viii) the number of requested reciprocal Authorizations to Operate denied due to insufficiency of supporting evidence, along with a narrative summary of the primary reasons for such

denials;

"(ix) a narrative summary of any recurring deficiencies in the materials required for system authorization under the Risk Management Framework;

"(x) recommendations to refine the Risk Management Framework and the Authority to Operate process, including opportunities to define, implement, and validate security controls at a higher organizational level so that subordinate systems may rely on those controls without duplicative implementation or assessment; and

"(xi) an evaluation of the training, standards, and qualification requirements for authorizing officials.

"(d)[sic] DEFINITIONS.—In this section—

"(1) the term 'Authorization to Operate' has the meaning given such term in the Office of Management and Budget Circular A-130;

"(2) the term 'authorizing official' means an officer who is authorized to assume responsibility for operating an information system at an acceptable level of risk to organizational operations (including mission, functions, image, or reputation), organizational assets, individuals, other organizations, and the United States;

"(3) the term 'military departments' has the meaning given such term in section 101(a) of title 10, United States Code;

"(4) the term 'mission owner' means the user of a cloud-based platform, service, or application; and

"(5) the term 'system owner' means the element of the Department of Defense responsible for acquiring a cloud-based platform, service, or application, but which is not a mission owner of such cloud-based platform, service, or application."

## REQUIRED POLICIES TO ESTABLISH DATALINK STRATEGY OF DEPARTMENT OF DEFENSE

Pub. L. 118–31, div. A, title XV, §1527, Dec. 22, 2023, 137 Stat. 559, as amended by Pub. L. 119–60, div. A, title XV, §1522, Dec. 18, 2025, 139 Stat. 1156, provided that:

"(a) POLICIES REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and implement policies to establish a unified datalink strategy of the Department of Defense (in this section referred to as the 'strategy').

"(2) ELEMENTS.—The policies under paragraph (1) shall provide for, at a minimum, the following:

"(A) The designation of an organization to serve as the lead coordinator of datalink activities throughout the Department of Defense.

"(B) The prioritization and coordination across the military departments with respect to the strategy within the requirements generation process of the Department.

"(C) The use throughout the Department of a common standardized datalink network or transport protocol that ensures interoperability between independently developed datalinks, regardless of physical medium used, and ensures mesh routing. In developing such policy, the Secretary of Defense shall consider the use of a subset of Internet Protocol.

"(D) A programmatic decoupling of the physical method used to transmit data, the network or transport protocols used in the transmission and reception of data, and the applications used to process and use data.

"(E) Coordination of the strategy with respect to weapon systems executing the same mission types across the military departments, including through the use of a common set of datalink waveforms. In developing such policy, the Secretary shall evaluate the use of redundant datalinks for line-of-sight and beyond-line-of-sight information exchange for each weapon systems platform.

"(F) Coordination between the Department and the intelligence community (as such term is defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) to leverage any efficiencies and overlap with existing datalink waveforms of the intelligence community.

"(G) Methods to support the rapid integration of common datalinks across the military departments.

"(H) Support for modularity of specific datalink waveforms to enable rapid integration of future datalinks, including the use of software defined radios compliant with modular open system architecture and sensor open system architecture.

"(b) INFORMATION TO CONGRESS.—Not later than June 1, 2024, the Secretary of Defense shall—

"(1) provide to the appropriate congressional committees a briefing on the proposed policies under subsection (a)(1), including timelines for the implementation of such policies; and

"(2) submit to the appropriate congressional committees—

"(A) an estimated timeline for the implementations of datalinks;

"(B) a list of any additional resources and authorities necessary to implement the strategy; and

"(C) a determination of whether a common set of datalinks can and should be implemented across all major weapon systems (as such term is defined in [former] section 3455 of title 10, United States Code) of the Department of Defense.

"(c) ANNUAL REPORTS.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025], and not less frequently than once each year thereafter through December 31, 2032, the Secretary of Defense shall submit to the appropriate congressional committees an annual report on the implementation of the strategy.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the congressional intelligence committees, as such term is defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## DEMONSTRATION PROGRAM FOR COMPONENT CONTENT MANAGEMENT SYSTEMS

Pub. L. 117–263, div. A, title IX, §917, Dec. 23, 2022, 136 Stat. 2756, provided that:

"(a) IN GENERAL.—Not later than July 1, 2023, the Chief Information Officer of the Department of Defense, in coordination with the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061), shall complete a pilot program to demonstrate the application of component content management systems to a distinct set of data of the Department.

"(b) SELECTION OF DATA SET.—In selecting a distinct set of data of the Department for purposes of the pilot program required by subsection (a), the Chief Information Officer shall consult with, at a minimum, the following:

"(1) The Office of the Secretary of Defense, with respect to directives, instructions, and other regulatory documents of the Department.

"(2) The Office of the Secretary of Defense and the Joint Staff, with respect to execution orders.

"(3) The Office of the Under Secretary of Defense for Research and Engineering and the military departments, with respect to technical manuals.

"(4) The Office of the Under Secretary of Defense for Acquisition and Sustainment, with respect to Contract Data Requirements List documents.

"(c) AUTHORITY TO ENTER INTO CONTRACTS.—Subject to the availability of appropriations, the Secretary of Defense may enter into contracts or other agreements with public or private entities to conduct studies and demonstration projects under the pilot program required by subsection (a).

"(c) [sic] BRIEFING REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Dec. 23, 2022], the Chief Information Officer shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on plans to implement the pilot program required by subsection (a).

"(d) COMPONENT CONTENT MANAGEMENT SYSTEM DEFINED.—In this section, the term 'component content management system' means any content management system that enables the management of content at a component level instead of at the document level."

## LEGACY INFORMATION TECHNOLOGIES AND SYSTEMS ACCOUNTABILITY

Pub. L. 117–81, div. A, title XV, §1522, Dec. 27, 2021, 135 Stat. 2041, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretaries of the Army, Navy, and Air Force shall each initiate efforts to identify legacy applications, software, and information technology within their respective Departments and eliminate any such application, software, or information technology that is no longer required.

"(b) SPECIFICATIONS.—To carry out subsection (a), that Secretaries of the Army, Navy, and Air Force shall each document the following:

"(1) An identification of the applications, software, and information technologies that are considered active or operational, but which are judged to no longer be required by the respective Department.

"(2) Information relating to the sources of funding for the applications, software, and information technologies identified pursuant to paragraph (1).

"(3) An identification of the senior official responsible for each such application, software, or information technology.

"(4) A plan to discontinue use and funding for each such application, software, or information technology.

"(c) EXEMPTION.—Any effort substantially similar to that described in subsections (a) and (b) that is being carried out by the Secretary of the Army, Navy, or Air Force as of the date of the enactment of this Act and completed not later 180 days after such date shall be treated as satisfying the requirements under such subsections.

"(d) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretaries of the Army, Navy, and Air Force shall each submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the documentation required under subsection (b)."

## GOVERNANCE OF FIFTH-GENERATION WIRELESS NETWORKING IN THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title II, §224, Jan. 1, 2021, 134 Stat. 3472, provided that:

"(a) TRANSITION OF 5G WIRELESS NETWORKING TO OPERATIONAL USE.—

"(1) TRANSITION PLAN REQUIRED.—The Under Secretary of Defense for Research and Engineering, in consultation with the cross functional team established under subsection (c), shall develop a plan to transition fifth-generation (commonly known as '5G') wireless technology to operational use within the Department of Defense.

"(2) ELEMENTS.—The transition plan under paragraph (1) shall include the following:

"(A) A timeline for the transition of responsibility for 5G wireless networking to the Chief Information Officer, as required under subsection (b)(1).

"(B) A description of the roles and responsibilities of the organizations and elements of the Department of Defense with respect to the acquisition, sustainment, and operation of 5G wireless networking for the Department, as determined by the Secretary of Defense in accordance with subsection (d).

"(3) INTERIM BRIEFING.—Not later than March 31, 2021[,] the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of the plan required under paragraph (1).

"(4) FINAL REPORT.—Not later than September 30, 2021, the Secretary of Defense shall submit to the congressional defense committees a report that includes the plan developed under paragraph (1).

"(b) SENIOR OFFICIAL FOR 5G WIRELESS NETWORKING.—

"(1) DESIGNATION OF CHIEF INFORMATION OFFICER.—Not later than October 1, 2023, the Secretary of Defense shall designate the Chief Information Officer as the senior official within Department of Defense with primary responsibility for—

"(A) policy, oversight, guidance, research, and coordination on matters relating to 5G wireless networking; and

"(B) making proposals to the Secretary on governance, management, and organizational policy for 5G wireless networking.

"(2) ROLE OF UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING .—The Under Secretary of Defense for Research and Engineering shall carry out the responsibilities specified in paragraph (1) until the date on which the Secretary of Defense designates the Chief Information Officer as the senior official responsible for 5G wireless networking under such paragraph.

"(c) CROSS-FUNCTIONAL TEAM FOR 5G WIRELESS NETWORKING.—

"(1) ESTABLISHMENT.—Using the authority provided under section 911(c) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note), the Secretary of Defense shall establish a cross-functional team for 5G wireless networking.

"(2) DUTIES.—The duties of the cross-functional team established under paragraph (1) shall be—

"(A) to assist the Secretary of Defense in determining the roles and responsibilities of the organizations and elements of the Department of Defense with respect to the acquisition, sustainment, and operation of 5G wireless networking, as required under subsection (d);

"(B) to assist the senior official responsible for 5G wireless networking in carrying out the responsibilities assigned to such official under subsection (b);

"(C) to oversee the implementation of the strategy developed under section 254 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2223a note [now 10 U.S.C. 2223 note]) for harnessing 5G wireless networking technologies, coordinated across all relevant elements of the Department;

"(D) to advance the adoption of commercially available, next-generation wireless communication technologies, capabilities, security, and applications by the Department and the defense industrial base; and

"(E) to support public-private partnerships between the Department and industry on matters relating to 5G wireless networking;

"(F) to coordinate research and development, implementation and acquisition activities, warfighting concept development, spectrum policy, industrial policy and commercial outreach and partnership relating to 5G wireless networking in the Department, and interagency and international engagement;

"(G) to integrate the Department's 5G wireless networking programs and policies with major initiatives, programs, and policies of the Department relating to secure microelectronics and command and control; and

"(H) to oversee, coordinate, execute, and lead initiatives to advance 5G wireless network technologies and associated applications developed for the Department.

"(3) TEAM LEADER.—The Under Secretary of Defense for Research and Engineering shall lead the cross-functional team established under paragraph (1) until the date on which the Secretary of Defense designates the Chief Information Officer as the senior official responsible for 5G wireless networking as required under subsection (b)(1). Beginning on the date of such designation, the Chief Information Officer shall lead the cross functional team.

"(d) DETERMINATION OF ORGANIZATIONAL ROLES AND RESPONSIBILITIES.—The Secretary of Defense, acting through the cross-functional team established under subsection (c), shall determine the roles and responsibilities of the organizations and elements of the Department of Defense with respect to the acquisition, sustainment, and operation of 5G wireless networking for the Department, including the roles and responsibilities of the Office of the Secretary of Defense, the intelligence components of the Department, Defense Agencies and Department of Defense Field Activities, the Armed Forces, combatant commands, and the Joint Staff.

"(e) BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees a briefing on the progress of the Secretary in—

"(1) establishing the cross-functional team under subsection (c); and

"(2) determining the roles and responsibilities of the organizations and elements of the Department of Defense with respect to 5G wireless networking as required under subsection (d).

"(f) 5G PROCUREMENT DECISIONS.—Each Secretary of a military department shall be responsible for decisions relating to the procurement of 5G wireless technology for that department.

"(g) TELECOMMUNICATIONS SECURITY PROGRAM.—

"(1) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to identify and mitigate vulnerabilities in the 5G telecommunications infrastructure of the Department of Defense.

"(2) ELEMENTS.—In carrying out the program under paragraph (1), the Secretary shall—

"(A) develop a capability to communicate clearly and authoritatively about threats by foreign adversaries;

"(B) conduct independent red-team security analysis of systems, subsystems, devices, and components of the Department of Defense including no-knowledge testing and testing with limited or full knowledge of expected functionalities;

"(C) verify the integrity of personnel who are tasked with design fabrication, integration, configuration, storage, test, and documentation of noncommercial 5G technology to be used by the Department;

"(D) verify the efficacy of the physical security measures used at Department locations where system design, fabrication, integration, configuration, storage, test, and documentation of 5G technology occurs;

"(E) direct the Chief Information Officer to assess, using existing government evaluation models and schema where applicable, 5G core service providers whose services will be used by the Department through the Department's provisional authorization process; and

"(F) direct the Defense Information Systems Agency and the United States Cyber Command to develop a capability for continuous, independent monitoring of non-commercial, government-transiting packet streams for 5G data on frequencies assigned to the Department to validate the availability, confidentiality, and integrity of the Department's communications systems.

"(3) IMPLEMENTATION PLAN.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to Congress a plan for the implementation of the program under paragraph (1).

"(4) REPORT.—Not later than 270 days after submitting the plan under paragraph (3), the Secretary of Defense shall submit to Congress a report that includes—

"(A) a comprehensive assessment of the findings and conclusions of the program under paragraph (1);

"(B) recommendations on how to mitigate vulnerabilities in the telecommunications infrastructure of the Department of Defense; and

"(C) an explanation of how the Department plans to implement such recommendations.

"(h) RULE OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed as providing the Chief Information Officer immediate responsibility for the activities of the Department of Defense in fifth-generation wireless networking experimentation and science and technology development.

"(2) PURVIEW OF EXPERIMENTATION AND SCIENCE AND TECHNOLOGY DEVELOPMENT.—The activities described in paragraph (1) shall remain within the purview of the Under Secretary of Defense for Research and Engineering, but shall inform and be informed by the activities of the cross-functional team established pursuant to subsection (c)."

## DEMONSTRATION PROJECT ON USE OF CERTAIN TECHNOLOGIES FOR FIFTH-GENERATION WIRELESS NETWORKING SERVICES

Pub. L. 116–283, div. A, title II, §225, Jan. 1, 2021, 134 Stat. 3475, provided that:

"(a) DEMONSTRATION PROJECT.—The Secretary of Defense shall carry out a demonstration project to evaluate the maturity, performance, and cost of covered technologies to provide additional options for providers of fifth-generation wireless network services.

"(b) LOCATION.—The Secretary of Defense shall carry out the demonstration project under subsection (a) in at least one location where the Secretary plans to deploy a fifth-generation wireless network.

"(c) COORDINATION.—The Secretary shall carry out the demonstration project under subsection (a) in coordination with at least one major wireless network service provider based in the United States.

"(d) COVERED TECHNOLOGIES DEFINED.—In this section, the term 'covered technologies' means—

"(1) a disaggregated or virtualized radio access network and core in which components can be provided by different vendors and interoperate through open protocols and interfaces, including those protocols and interfaces utilizing the Open Radio Access Network (commonly known as 'Open RAN' or 'oRAN') approach; and

"(2) one or more massive multiple-input, multiple-output radio arrays, provided by one or more companies based in the United States, that have the potential to compete favorably with radios produced by foreign companies in terms of cost, performance, and efficiency."

## STRATEGY AND IMPLEMENTATION PLAN FOR FIFTH GENERATION INFORMATION AND COMMUNICATIONS TECHNOLOGIES

Pub. L. 116–92, div. A, title II, §254, Dec. 20, 2019, 133 Stat. 1287, as amended by Pub. L. 117–263, div. A, title II, §232, Dec. 23, 2022, 136 Stat. 2486, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall develop—

"(1) a strategy for harnessing fifth generation (commonly known as '5G') information and communications technologies to enhance military capabilities, maintain a technological advantage on the battlefield, and accelerate the deployment of new commercial products and services enabled by 5G networks throughout the Department of Defense; and

"(2) a plan for implementing the strategy developed under paragraph (1).

"(b) ELEMENTS.—The strategy required under subsection (a) shall include the following elements:

"(1) Adoption and use of secure fourth generation (commonly known as '4G') communications technologies and the transition to advanced and secure 5G communications technologies for military applications and for military infrastructure.

"(2) Science, technology, research, and development efforts to facilitate the advancement and adoption of 5G technology and new uses of 5G systems, subsystems, and components, including—

"(A) 5G testbeds for developing military and dual-use applications; and

"(B) spectrum-sharing technologies and frameworks.

"(3) Strengthening engagement and outreach with industry, academia, international partners, and other departments and agencies of the Federal Government on issues relating to 5G technology and the deployment of such technology, including development of a common industrial base for secure microelectronics.

"(4) Defense industrial base supply chain risk, management, and opportunities.

"(5) Preserving the ability of the Joint Force to achieve objectives in a contested and congested

spectrum environment.

"(6) Strengthening the ability of the Joint Force to conduct full spectrum operations that enhance the military advantages of the United States.

"(7) Securing the information technology and weapon systems of the Department against malicious activity.

"(8) Advancing the deployment of secure 5G networks nationwide.

"(9) Such other matters as the Secretary of Defense determines to be relevant.

"(c) CONSULTATION.—In developing the strategy and implementation plan required under subsection (a), the Secretary of Defense shall consult with the following:

"(1) The Chief Information Officer of the Department of Defense.

"(2) The Under Secretary of Defense for Research and Engineering.

"(3) The Under Secretary of Defense for Acquisition and Sustainment.

"(4) The Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security].

"(5) Service Acquisition Executives of each military service.

"(d) PERIODIC BRIEFINGS.—

"(1) IN GENERAL.—Not later than March 15, 2020, and not less frequently than once every three months thereafter through December 1, 2026, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the development and implementation of the strategy required under subsection (a), including an explanation of how the Department of Defense—

"(A) is using secure 5G wireless network technology;

"(B) is reshaping the Department's policy for producing and procuring secure microelectronics; and

"(C) is working in the interagency and internationally to develop common policies and approaches.

"(2) ELEMENTS.—Each briefing under paragraph (1) shall include information on—

"(A) efforts to ensure a secure supply chain for 5G wireless network equipment and microelectronics;

"(B) the continued availability of electromagnetic spectrum for warfighting needs;

"(C) planned implementation of 5G wireless network infrastructure in warfighting networks, base infrastructure, defense-related manufacturing, and logistics;

"(D) steps taken to work with allied and partner countries to protect critical networks and supply chains; and

"(E) such other topics as the Secretary of Defense considers relevant."

## IMPROVED MANAGEMENT OF INFORMATION TECHNOLOGY AND CYBERSPACE INVESTMENTS

Pub. L. 116–92, div. A, title VIII, §892, Dec. 20, 2019, 133 Stat. 1539, provided that:

"(a) IMPROVED MANAGEMENT.—

"(1) IN GENERAL.—The Chief Information Officer of the Department of Defense shall work with the Chief Data Officer of the Department of Defense to optimize the Department's process for accounting for, managing, and reporting its information technology and cyberspace investments. The optimization should include alternative methods of presenting budget justification materials to the public and congressional staff to more accurately communicate when, how, and with what frequency capability is delivered to end users, in accordance with best practices for managing and reporting on information technology investments.

"(2) BRIEFING.—Not later than February 3, 2020, the Chief Information Officer of the Department of Defense shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the process optimization undertaken pursuant to paragraph (1), including any recommendations for legislation.

"(b) DELIVERY OF INFORMATION TECHNOLOGY BUDGET.—The Secretary of Defense shall submit to the congressional defense committees the Department of Defense budget request for information technology not later than 15 days after the submittal to Congress of the budget of the President for a fiscal year pursuant to section 1105 of title 31, United States Code."

## CHIEF DATA OFFICER RESPONSIBILITY FOR DOD DATA SETS

Pub. L. 116–92, div. A, title IX, §903(b), Dec. 20, 2019, 133 Stat. 1555, as amended by Pub. L. 117–263, div. A, title II, §212(k), Dec. 23, 2022, 136 Stat. 2470, provided that:

"(1) IN GENERAL.—In addition to any other functions and responsibilities specified in section 3520(c) of

title 44, United States, Code, the Chief Data Officer of the Department of Defense shall also be the official in the Department of Defense with principal responsibility for providing for the availability of common, usable, Defense-wide data sets.

"(2) ACCESS TO ALL DOD DATA.—In order to carry out the responsibility specified in paragraph (1), the Chief Data Officer shall have access to all Department of Defense data, including data in connection with warfighting missions and back-office data.

"(3) REPORT.—Not later than December 1, 2019, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such recommendations for legislative or administrative action as the Secretary considers appropriate to carry out this subsection."

## POLICY REGARDING THE TRANSITION OF DATA AND APPLICATIONS TO THE CLOUD

Pub. L. 116–92, div. A, title XVII, §1755, Dec. 20, 2019, 133 Stat. 1854, provided that:

"(a) POLICY REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Chief Information Officer of the Department of Defense and the Chief Data Officer of the Department shall, in consultation with the J6 of the Joint Staff and the Chief Management Officer, develop and issue enterprise-wide policy and implementing instructions regarding the transition of data and applications to the cloud under the Department cloud strategy in accordance with subsection (b).

"(b) DESIGN.—The policy required by subsection (a) shall be designed to dramatically improve support to operational missions and management processes, including by the use of artificial intelligence and machine learning technologies, by—

"(1) making the data of the Department available to support new types of analyses;

"(2) preventing, to the maximum extent practicable, the replication in the cloud of data stores that cannot readily be accessed by applications for which the data stores were not originally engineered;

"(3) ensuring that data sets can be readily discovered and combined with others to enable new insights and capabilities; and

"(4) ensuring that data and applications are readily portable and not tightly coupled to a specific cloud infrastructure or platform."

## ACTIVITIES AND REPORTING RELATING TO DEPARTMENT OF DEFENSE'S CLOUD INITIATIVE

Pub. L. 115–232, div. A, title X, §1064, Aug. 13, 2018, 132 Stat. 1971, provided that:

"(a) ACTIVITIES REQUIRED.—Commencing not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Chief Information Officer of the Department of Defense, acting through the Cloud Executive Steering Group established by the Deputy Secretary of Defense in a directive memorandum dated September 13, 2017, in order to support its Joint Enterprise Defense Infrastructure initiative to procure commercial cloud services, shall conduct certain key enabling activities as follows:

"(1) Develop an approach to rapidly acquire advanced commercial network capabilities, including software-defined networking, on-demand bandwidth, and aggregated cloud access gateways, through commercial service providers in order—

"(A) to support the migration of applications and systems to commercial cloud platforms;

"(B) to increase visibility of end-to-end performance to enable and enforce service level agreements for cloud services;

"(C) to ensure efficient and common cloud access;

"(D) to facilitate shifting data and applications from one cloud platform to another;

"(E) to improve cybersecurity; and

"(F) to consolidate networks and achieve efficiencies and improved performance;

"(2) Conduct an analysis of existing workloads that would be migrated to the Joint Enterprise Defense Infrastructure, including—

"(A) identifying all of the cloud initiatives across the Department of Defense, and determining the objectives of such initiatives in connection with the intended scope of the Infrastructure;

"(B) identifying all the systems and applications that the Department would intend to migrate to the Infrastructure;

"(C) conducting rationalization of applications to identify applications and systems that may duplicate the processing of workloads in connection with the Infrastructure; and

"(D) as result of such actions, arriving at dispositions about migration or termination of systems and applications in connection with the Infrastructure.

"(b) REPORT REQUIRED.—The Chief Information Officer shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of

Representatives] a report on the Department of Defense's Cloud Initiative to manage networks, data centers, and clouds at the enterprise level. Such report shall include each of the following:

"(1) A description [of] the status of completion of the activities required under subsection (a).

"(2) Information relating to the current composition of the Cloud Executive Steering Group and the stakeholders relating to the Department of Defense's Cloud Initiative and associated mission, objectives, goals, and strategy.

"(3) A description of the characteristics and considerations for accelerating the cloud architecture and services required for a global, resilient, and secure information environment.

"(4) Information relating to acquisition strategies and timeline for efforts associated with the Department of Defense's Cloud Initiative, including the Joint Enterprise Defense Infrastructure.

"(5) A description of how the acquisition strategies referred to in paragraph (4) provides [sic] for a full and open competition, enable the Department of Defense to continuously leverage and acquire new cloud computing capabilities, maintain the ability of the Department to leverage other cloud computing vendor products and services, incorporate elements to maintain security, and provide for the best performance, cost, and schedule to meet the cloud architecture and services requirements of the Department for the duration of such contract.

"(6) A detailed description of existing workloads that will be migrated to enterprise-wide cloud infrastructure or platforms as a result of the Department of Defense's Cloud Initiative, including estimated migration costs and timelines, based on the analysis required under subsection (a)(2).

"(7) A description of the program management and program office of the Department of Defense's Cloud Initiative, including the number of personnel, overhead costs, and organizational structure.

"(8) A description of the effect of the Joint Enterprise Defense Infrastructure on and the relationship of such Infrastructure to existing cloud computing infrastructure, platform, and service contracts across the Department of Defense, specifically the effect and relationship to the private cloud infrastructure of the Department, MilCloud 2.0 run by the Defense Information Systems Agency based on the analysis required under subsection (a)(2).

"(9) Information relating to the most recent Department of Defense Cloud Computing Strategy and description of any initiatives to update such Strategy.

"(10) Information relating to Department of Defense guidance pertaining to cloud computing capability or platform acquisition and standards, and a description of any initiatives to update such guidance.

"(11) Any other matters the Secretary of Defense determines relevant.

"(c) LIMITATION ON USE OF FUNDS.—Of the amounts authorized to be appropriated or otherwise made available by this Act [see Tables for classification] for fiscal year 2019 for the Department of Defense's Cloud Initiative, not more than 85 percent may be obligated or expended until the Secretary of Defense submits to the congressional defense committees the report required by subsection (b).

"(d) LIMITATION ON NEW SYSTEMS AND APPLICATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Deputy Secretary shall require that no new system or application will be approved for development or modernization without an assessment that such system or application is already, or can and would be, cloud-hosted.

"(2) WAIVER.—The Deputy Secretary may issue a national waiver to the requirement under paragraph (1) if the Deputy Secretary determines, pursuant to the assessment described in such paragraph, that the requirement would adversely affect the national security of the United States. If the Deputy Secretary issues a waiver under this paragraph, the Deputy Secretary shall provide to the congressional defense committees a written notification of such waiver, justification for the waiver, and identification of the system or application to which the waiver applies by not later than 15 days after the date on which the waiver is issued.

"(e) TRANSPARENCY AND COMPETITION.—The Deputy Secretary shall ensure that the acquisition approach of the Department continues to follow the Federal Acquisition Regulation with respect to competition."

## PILOT PROGRAM FOR OPEN SOURCE SOFTWARE

Pub. L. 115–91, div. A, title VIII, §875, Dec. 12, 2017, 131 Stat. 1503, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall initiate for the Department of Defense the open source software pilot program established by the Office of Management and Budget Memorandum M-16-21 titled 'Federal Source Code Policy: Achieving Efficiency, Transparency, and Innovation through Reusable and Open Source Software' and dated August 8, 2016.

"(b) REPORT TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall provide a report to Congress with details of the plan of the Department of Defense to implement the pilot program required by subsection (a). Such plan shall include identifying candidate software programs, selection criteria, intellectual property and licensing issues, and other matters determined by the Secretary.

"(c) COMPTROLLER GENERAL REPORT.—Not later than June 1, 2019, the Comptroller General of the United States shall provide a report to Congress on the implementation of the pilot program required by subsection (a) by the Secretary of Defense. The report shall address, at a minimum, the compliance of the Secretary with the requirements of the Office of Management and Budget Memorandum M-16-21, the views of various software and information technology stakeholders in the Department of Defense, and any other matters determined by the Comptroller General."

## PILOT PROGRAM ON EVALUATION OF COMMERCIAL INFORMATION TECHNOLOGY

Pub. L. 114–328, div. A, title II, §232, Dec. 23, 2016, 130 Stat. 2061, provided that:

"(a) PILOT PROGRAM.—The Director of the Defense Information Systems Agency may carry out a pilot program to evaluate commercially available information technology tools to better understand the potential impact of such tools on networks and computing environments of the Department of Defense.

"(b) ACTIVITIES.—Activities under the pilot program may include the following:

"(1) Prototyping, experimentation, operational demonstration, military user assessments, and other means of obtaining quantitative and qualitative feedback on the commercial information technology products.

"(2) Engagement with the commercial information technology industry to—

"(A) forecast military requirements and technology needs; and

"(B) support the development of market strategies and program requirements before finalizing acquisition decisions and strategies.

"(3) Assessment of novel or innovative commercial technology for use by the Department of Defense.

"(4) Assessment of novel or innovative contracting mechanisms to speed delivery of capabilities to the Armed Forces.

"(5) Solicitation of operational user input to shape future information technology requirements of the Department of Defense.

"(c) LIMITATION ON AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for research, development, test, and evaluation, Defense-wide, for each of fiscal years 2017 through 2022, not more than $15,000,000 may be expended on the pilot program in any such fiscal year."

## ADDITIONAL REQUIREMENTS RELATING TO THE SOFTWARE LICENSES OF THE DEPARTMENT OF DEFENSE

Pub. L. 113–66, div. A, title IX, §935, Dec. 26, 2013, 127 Stat. 833, provided that:

"(a) UPDATED PLAN.—

"(1) UPDATE.—The Chief Information Officer of the Department of the Defense shall, in consultation with the chief information officers of the military departments and the Defense Agencies, update the plan for the inventory of selected software licenses of the Department of Defense required under section 937 of the National Defense Authorization Act for 2013 [probably means the National Defense Authorization Act for Fiscal Year 2013] (Public Law 112–239; 10 U.S.C. 2223 note) to include a plan for the inventory of all software licenses of the Department of Defense for which a military department spends more than $5,000,000 annually on any individual title, including a comparison of licenses purchased with licenses in use.

"(2) ELEMENTS.—The update required under paragraph (1) shall—

"(A) include plans for implementing an automated solution capable of reporting the software license compliance position of the Department and providing a verified audit trail, or an audit trail otherwise produced and verified by an independent third party;

"(B) include details on the process and business systems necessary to regularly perform reviews, a procedure for validating and reporting deregistering and registering new software, and a mechanism and plan to relay that information to the appropriate chief information officer; and

"(C) a proposed timeline for implementation of the updated plan in accordance with paragraph (3).

"(3) SUBMISSION.—Not later than September 30, 2015, the Chief Information Officer of the Department of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the updated plan required under paragraph (1).

"(b) PERFORMANCE PLAN.—If the Chief Information Officer of the Department of Defense determines through the implementation of the process and business systems in the updated plan required by subsection (a) that the number of software licenses of the Department for an individual title for which a military department spends greater than $5,000,000 annually exceeds the needs of the Department for such software licenses, or the inventory discloses that there is a discrepancy between the number of software licenses purchased and those in actual use, the Chief Information Officer of the Department of Defense shall implement a plan to bring the number of such software licenses into balance with the needs of the Department and the terms of any relevant contract."

## COLLECTION AND ANALYSIS OF NETWORK FLOW DATA

Pub. L. 112–239, div. A, title IX, §935, Jan. 2, 2013, 126 Stat. 1886, provided that:

"(a) DEVELOPMENT OF TECHNOLOGIES.—The Chief Information Officer of the Department of Defense may, in coordination with the Under Secretary of Defense for Policy and the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security] and acting through the Director of the Defense Information Systems Agency, use the available funding and research activities and capabilities of the Community Data Center of the Defense Information Systems Agency to develop and demonstrate collection, processing, and storage technologies for network flow data that—

"(1) are potentially scalable to the volume used by Tier 1 Internet Service Providers to collect and analyze the flow data across their networks;

"(2) will substantially reduce the cost and complexity of capturing and analyzing high volumes of flow data; and

"(3) support the capability—

"(A) to detect and identify cyber security threats, networks of compromised computers, and command and control sites used for managing illicit cyber operations and receiving information from compromised computers;

"(B) to track illicit cyber operations for attribution of the source; and

"(C) to provide early warning and attack assessment of offensive cyber operations.

"(b) COORDINATION.—Any research and development required in the development of the technologies described in subsection (a) shall be conducted in cooperation with the heads of other appropriate departments and agencies of the Federal Government and, whenever feasible, Tier 1 Internet Service Providers and other managed security service providers."

## COMPETITION FOR LARGE-SCALE SOFTWARE DATABASE AND DATA ANALYSIS TOOLS

Pub. L. 112–239, div. A, title IX, §936, Jan. 2, 2013, 126 Stat. 1886, provided that:

"(a) ANALYSIS.—

"(1) REQUIREMENT.—The Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, shall conduct an analysis of large-scale software database tools and large-scale software data analysis tools that could be used to meet current and future Department of Defense needs for large-scale data analytics.

"(2) ELEMENTS.—The analysis required under paragraph (1) shall include—

"(A) an analysis of the technical requirements and needs for large-scale software database and data analysis tools, including prioritization of key technical features needed by the Department of Defense; and

"(B) an assessment of the available sources from Government and commercial sources to meet such needs, including an assessment by the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy to ensure sufficiency and diversity of potential commercial sources.

"(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Chief Information Officer shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the results of the analysis required under paragraph (1).

"(b) COMPETITION REQUIRED.—

"(1) IN GENERAL.—If, following the analysis required under subsection (a), the Chief Information Officer of the Department of Defense identifies needs for software systems or large-scale software database or data analysis tools, the Department shall acquire such systems or such tools based on market research and using competitive procedures in accordance with applicable law and the Defense Federal Acquisition Regulation Supplement.

"(2) NOTIFICATION.—If the Chief Information Officer elects to acquire large-scale software database or data analysis tools using procedures other than competitive procedures, the Chief Information Officer and the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit a

written notification to the congressional defense committees on a quarterly basis until September 30, 2018, that describes the acquisition involved, the date the decision was made, and the rationale for not using competitive procedures."

## SOFTWARE LICENSES OF THE DEPARTMENT OF DEFENSE

Pub. L. 112–239, div. A, title IX, §937, Jan. 2, 2013, 126 Stat. 1887, provided that:

"(a) PLAN FOR INVENTORY OF LICENSES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Chief Information Officer of the Department of the [sic] Defense shall, in consultation with the chief information officers of the military departments and the Defense Agencies, issue a plan for the inventory of selected software licenses of the Department of Defense, including a comparison of licenses purchased with licenses installed.

"(2) SELECTED SOFTWARE LICENSES.—The Chief Information Officer shall determine the software licenses to be treated as selected software licenses of the Department for purposes of this section. The licenses shall be determined so as to maximize the return on investment in the inventory conducted pursuant to the plan required by paragraph (1).

"(3) PLAN ELEMENTS.—The plan under paragraph (1) shall include the following:

"(A) An identification and explanation of the software licenses determined by the Chief Information Officer under paragraph (2) to be selected software licenses for purposes of this section, and a summary outline of the software licenses determined not to be selected software licenses for such purposes.

"(B) Means to assess the needs of the Department and the components of the Department for selected software licenses during the two fiscal years following the date of the issuance of the plan.

"(C) Means by which the Department can achieve the greatest possible economies of scale and cost savings in the procurement, use, and optimization of selected software licenses.

"(b) PERFORMANCE PLAN.—If the Chief Information Officer determines through the inventory conducted pursuant to the plan required by subsection (a) that the number of selected software licenses of the Department and the components of the Department exceeds the needs of the Department for such software licenses, the Secretary of Defense shall implement a plan to bring the number of such software licenses into balance with the needs of the Department."

## OZONE WIDGET FRAMEWORK

Pub. L. 112–81, div. A, title IX, §924, Dec. 31, 2011, 125 Stat. 1539, provided that:

"(a) MECHANISM FOR INTERNET PUBLICATION OF INFORMATION FOR DEVELOPMENT OF ANALYSIS TOOLS AND APPLICATIONS.—The Chief Information Officer of the Department of Defense, acting through the Director of the Defense Information Systems Agency, shall implement a mechanism to publish and maintain on the public Internet the application programming interface specifications, a developer's toolkit, source code, and such other information on, and resources for, the Ozone Widget Framework (OWF) as the Chief Information Officer considers necessary to permit individuals and companies to develop, integrate, and test analysis tools and applications for use by the Department of Defense and the elements of the intelligence community.

"(b) PROCESS FOR VOLUNTARY CONTRIBUTION OF IMPROVEMENTS BY PRIVATE SECTOR .—In addition to the requirement under subsection (a), the Chief Information Officer shall also establish a process by which private individuals and companies may voluntarily contribute the following:

"(1) Improvements to the source code and documentation for the Ozone Widget Framework.

"(2) Alternative or compatible implementations of the published application programming interface specifications for the Framework.

"(c) ENCOURAGEMENT OF USE AND DEVELOPMENT.—The Chief Information Officer shall, whenever practicable, encourage and foster the use, support, development, and enhancement of the Ozone Widget Framework by the computer industry and commercial information technology vendors, including the development of tools that are compatible with the Framework."

## CONTINUOUS MONITORING OF DEPARTMENT OF DEFENSE INFORMATION SYSTEMS FOR CYBERSECURITY

Pub. L. 111–383, div. A, title IX, §931, Jan. 7, 2011, 124 Stat. 4334, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall direct the Chief Information Officer of the Department of Defense to work, in coordination with the Chief Information Officers of the military

departments and the Defense Agencies and with senior cybersecurity and information assurance officials within the Department of Defense and otherwise within the Federal Government, to achieve, to the extent practicable, the following:

"(1) The continuous prioritization of the policies, principles, standards, and guidelines developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) based upon the evolving threat of information security incidents with respect to national security systems, the vulnerability of such systems to such incidents, and the consequences of information security incidents involving such systems.

"(2) The automation of continuous monitoring of the effectiveness of the information security policies, procedures, and practices within the information infrastructure of the Department of Defense, and the compliance of that infrastructure with such policies, procedures, and practices, including automation of—

"(A) management, operational, and technical controls of every information system identified in the inventory required under section 3505(c) of title 44, United States Code; and

"(B) management, operational, and technical controls relied on for evaluations under [former] section 3545 of title 44, United States Code [see now 44 U.S.C. 3555].

"(b) DEFINITIONS.—In this section:

"(1) The term 'information security incident' means an occurrence that—

"(A) actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information such system processes, stores, or transmits; or

"(B) constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies with respect to an information system.

"(2) The term 'information infrastructure' means the underlying framework, equipment, and software that an information system and related assets rely on to process, transmit, receive, or store information electronically.

"(3) The term 'national security system' has the meaning given that term in [former] section 3542(b)(2) of title 44, United States Code [see now 44 U.S.C. 3552(b)(6)]."

## [§2223a. Renumbered §4571]

## §2224. Defense Information Assurance Program

(a) DEFENSE INFORMATION ASSURANCE PROGRAM.—The Secretary of Defense shall carry out a program, to be known as the "Defense Information Assurance Program", to protect and defend Department of Defense information, information systems, and information networks that are critical to the Department and the armed forces during day-to-day operations and operations in times of crisis.

(b) OBJECTIVES OF THE PROGRAM.—The objectives of the program shall be to provide continuously for the availability, integrity, authentication, confidentiality, nonrepudiation, and rapid restitution of information and information systems that are essential elements of the Defense Information Infrastructure.

(c) PROGRAM STRATEGY.—In carrying out the program, the Secretary shall develop a program strategy that encompasses those actions necessary to assure the readiness, reliability, continuity, and integrity of Defense information systems, networks, and infrastructure, including through compliance with subchapter II of chapter 35 of title 44, including through compliance with subchapter III of chapter 35 of title 44. The program strategy shall include the following:

(1) A vulnerability and threat assessment of elements of the defense and supporting nondefense information infrastructures that are essential to the operations of the Department and the armed forces.

(2) Development of essential information assurances technologies and programs.

(3) Organization of the Department, the armed forces, and supporting activities to defend against information warfare.

(4) Joint activities of the Department with other departments and agencies of the Government, State and local agencies, and elements of the national information infrastructure.

(5) The conduct of exercises, war games, simulations, experiments, and other activities designed to prepare the Department to respond to information warfare threats.

(6) Development of proposed legislation that the Secretary considers necessary for implementing the program or for otherwise responding to the information warfare threat.

(d) COORDINATION.—In carrying out the program, the Secretary shall coordinate, as appropriate, with the head of any relevant Federal agency and with representatives of those national critical information infrastructure systems that are essential to the operations of the Department and the armed forces on information assurance measures necessary to the protection of these systems.

[(e) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(12), Nov. 24, 2003, 117 Stat. 1597.]

(f) INFORMATION ASSURANCE TEST BED.—The Secretary shall develop an information assurance test bed within the Department of Defense to provide—

(1) an integrated organization structure to plan and facilitate the conduct of simulations, war games, exercises, experiments, and other activities to prepare and inform the Department regarding information warfare threats; and

(2) organization and planning means for the conduct by the Department of the integrated or joint exercises and experiments with elements of the national information systems infrastructure and other non-Department of Defense organizations that are responsible for the oversight and management of critical information systems and infrastructures on which the Department, the armed forces, and supporting activities depend for the conduct of daily operations and operations during crisis.

(Added Pub. L. 106–65, div. A, title X, §1043(a), Oct. 5, 1999, 113 Stat. 760; amended Pub. L. 106–398, §1 [[div. A], title X, §1063], Oct. 30, 2000, 114 Stat. 1654, 1654A–274; Pub. L. 107–296, title X, §1001(c)(1)(B), Nov. 25, 2002, 116 Stat. 2267; Pub. L. 107–347, title III, §301(c)(1)(B), Dec. 17, 2002, 116 Stat. 2955; Pub. L. 108–136, div. A, title X, §1031(a)(12), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 108–375, div. A, title X, §1084(d)(17), Oct. 28, 2004, 118 Stat. 2062.)

## EDITORIAL NOTES

### AMENDMENTS

**2004**—Subsec. (c). Pub. L. 108–375 substituted "subchapter II" for "subtitle II" in introductory provisions.

**2003**—Subsec. (e). Pub. L. 108–136 struck out subsec. (e) which directed the Secretary of Defense to annually submit to Congress a report on the Defense Information Assurance Program.

**2002**—Subsec. (b). Pub. L. 107–296, §1001(c)(1)(B)(i), and Pub. L. 107–347, §301(c)(1)(B)(i), amended subsec. (b) identically, substituting "Objectives of the Program" for "Objectives and Minimum Requirements" in heading and striking out par. (1) designation before "The objectives".

Subsec. (b)(2). Pub. L. 107–347, §301(c)(1)(B)(ii), struck out par. (2) which read as follows: "The program shall at a minimum meet the requirements of sections 3534 and 3535 of title 44."

Pub. L. 107–296, §1001(c)(1)(B)(ii), which directed the striking out of "(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code." could not be executed. See above par.

Subsec. (c). Pub. L. 107–347, §301(c)(1)(B)(iii), inserted ", including through compliance with subchapter III of chapter 35 of title 44" after "infrastructure" in introductory provisions.

Pub. L. 107–296, §1001(c)(1)(B)(iii), inserted ", including through compliance with subtitle II of chapter 35 of title 44" after "infrastructure" in introductory provisions.

**2000**—Subsec. (b). Pub. L. 106–398, §1 [[div. A], title X, §1063(a)], substituted "OBJECTIVES AND MINIMUM REQUIREMENTS" for "OBJECTIVES OF THE PROGRAM" in heading, designated existing provisions as par. (1), and added par. (2).

Subsec. (e)(7). Pub. L. 106–398, §1 [[div. A], title X, §1063(b)], added par. (7).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296,

set out as an Effective Date note under section 101 of Title 6, Domestic Security.

## EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1065] of Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654, formerly set out as an Effective Date note under former section 3531 of Title 44, Public Printing and Documents.

## BIOLOGICAL DATA FOR ARTIFICIAL INTELLIGENCE

Pub. L. 119–60, div. A, title II, §245, Dec. 18, 2025, 139 Stat. 796, provided that:

"(a) AI ACCESSIBILITY TO QUALIFIED BIOLOGICAL DATA RESOURCES.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall develop and implement requirements that ensure qualified biological data resources created by research entirely funded by the Department of Defense are collected and stored in a manner that facilitates the use of such qualified biological data resources for advanced computational methods, including artificial intelligence.

"(2) ELEMENTS.—The requirements implemented under subsection (a) shall include the following:

"(A) A definition of the term 'qualified biological data resource' for the purposes of such requirements, which shall be based on one or more of the following criteria:

"(i) The type of biological data generated.

"(ii) The size of the dataset involved.

"(iii) The amount of Federal funds awarded to the research that created such qualified biological data resource.

"(iv) The level of sensitivity of the biological data generated.

"(v) Any other factor determined appropriate by the Secretary of Defense.

"(B) Guidance on the metrics and metadata included under such requirements to indicate data quality, including usability, interoperability, and completeness.

"(C) Requirements for tiered levels of cybersecurity safeguards and access controls for the storage of biological data.

"(D) Exceptions to such requirements, including for biological data that may implicate national security.

"(E) Requirements for the protection of the privacy of individuals.

"(b) CONSULTATION AND CONSIDERATIONS.—In developing and implementing the requirements under subsection (a), the Secretary shall—

"(1) consult with the Secretaries of the military departments, the heads of the research laboratories of each of the Armed Forces, and relevant individuals and entities in the private sector and academia who have received funding for research from the Department of Defense to ensure that such requirements are not overly burdensome; and

"(2) review and incorporate, to the extent the Secretary determines appropriate, existing Federal frameworks and standards for the use of qualified biological data resources for advanced computational methods."

## SECURE MOBILE PHONES FOR SENIOR OFFICIALS AND PERSONNEL PERFORMING SENSITIVE FUNCTIONS

Pub. L. 119–60, div. A, title XV, §1511, Dec. 18, 2025, 139 Stat. 1147, provided that:

"(a) IN GENERAL.—Beginning not later than 90 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall ensure that each wireless mobile phone the Department of Defense provides to a senior official of the Department or any other employee of the Department who performs sensitive national security functions, as determined by the Secretary, and all related telecommunications services are acquired under contracts or other agreements that require the enhanced cybersecurity protections described in subsection (b).

"(b) PROTECTIONS DESCRIBED.—The enhanced cybersecurity protections described in this subsection enhanced [sic] cybersecurity protections for wireless mobile phones and related telecommunication services that includes [sic]—

"(1) encryption of data on the wireless mobile phones and of all telecommunications to and from the wireless mobile phones through such telecommunication services;

"(2) capabilities to mitigate or obfuscate persistent device identifiers, including periodic rotation of network or hardware identifiers to reduce the risk of inappropriate tracking of the activity or location of the wireless mobile phones; and

"(3) the capability to continuously monitor the wireless mobile phones.

"(c) REPORT.—Not later than 180 days after the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing—

"(1) a list of the contracts or other agreements entered into pursuant to subsection (a);

"(2) the criteria used by the Secretary to determine which employees of the Department of Defense performs [sic] sensitive national security functions for the purposes of subsection (a), and the total number of such employees; and

"(3) the total costs of wireless mobile phones and telecommunication services required by subsection (a)."

## PHYSICAL AND CYBERSECURITY PROCUREMENT REQUIREMENTS FOR ARTIFICIAL INTELLIGENCE SYSTEMS

Pub. L. 119–60, div. A, title XV, §1513, Dec. 18, 2025, 139 Stat. 1149, provided that:

"(a) SECURITY FRAMEWORK.—

"(1) IN GENERAL.—The Secretary of Defense shall develop a framework for the implementation of cybersecurity and physical security standards and best practices relating to covered artificial intelligence and machine learning technologies to mitigate risks to the Department of Defense from the use of such technologies.

"(2) COVERAGE OF RELEVANT ASPECTS OF SECURITY.—The framework developed under paragraph (1) shall cover all relevant aspects of the security of artificial intelligence and machine learning systems of the Department of Defense, including the following:

"(A) Risk posed to and by the workforce of the Department of Defense, including insider threat risks.

"(B) Training and workforce development requirements, including with respect to the following:

"(i) Artificial intelligence security awareness.

"(ii) Artificial intelligence-specific threats and vulnerabilities.

"(iii) Development of a continuum of professional development and education of artificial intelligence security expertise.

"(C) Risks to the supply chains of such systems, including counterfeit parts or data poisoning risks.

"(D) Risks relating to adversarial tampering with artificial intelligence systems.

"(E) Risks relating to the unintended exposure or theft of artificial intelligence systems or data.

"(F) Security posture management practices, including governance of security measures, continuous monitoring, and incident reporting procedures.

"(G) An evaluation of commercially available platforms for continuous monitoring and assessment of such systems.

"(3) RISK-BASED FRAMEWORK.—The framework developed under paragraph (1) shall be risk-based, including security that is proportional to the national security or foreign policy risks posed by the covered artificial intelligence and machine learning technology being stolen or tampered with.

"(4) USE OF EXISTING FRAMEWORKS.—To the maximum extent feasible, the framework developed under paragraph (1) shall—

"(A) draw on existing cybersecurity reference documents, including the NIST Special Publication 800 series; and

"(B) be implemented as an extension or augmentation of existing cybersecurity frameworks developed by the Department of Defense, including the Cybersecurity Maturity Model Certification framework.

"(5) ADDRESSING EXTREME SECURITY RISKS.—

"(A) HIGHLY CAPABLE CYBER THREAT ACTORS.—The framework developed under paragraph (1) shall prioritize the most highly capable artificial intelligence systems that may be of highest interest to cyber threat actors, based on risk assessments and threat reporting.

"(B) SECURITY LEVELS.—The Secretary shall ensure that the framework developed under paragraph (1) imposes requirements for security on contractors that are designed to mitigate the cyberesecurity risks posed by the cyber threat actors described in subparagraph (A), with the most stringent security requirements under such frameworks providing protection that is similar to the protection offered by national security systems (as defined in section 3552(b)(6) of title 44, United States Code).

"(C) GENERAL DESIGN WITH SPECIFIC COMPONENTS.—To the extent feasible, any additional security requirements developed pursuant to subparagraph (B) shall be designed generally for

all software systems of the Department of Defense, but may contain components designed specifically for highly capable artificial intelligence systems.

"(b) SECURITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Defense shall amend the Defense Federal Acquisition Regulation Supplement, or take other similar action, to require covered entities to implement the best practices described in subsection (a) under the framework developed under such subsection.

"(2) RISK-BASED RULES.—Any requirements implemented pursuant to paragraph (1) shall, to the extent practicable, be narrowly tailored to the specific covered artificial intelligence and machine learning technologies developed, deployed, stored, or hosted by a covered entity, and shall be calibrated accordingly to the different tasks involved in development, deployment, storage, or hosting of components of such covered artificial intelligence and machine learning technologies.

"(3) COST-BENEFIT CONSIDERATION.—

"(A) IN GENERAL.—In carrying out paragraph (1), the Secretary of Defense shall—

"(i) consider the costs and benefits to the Department of Defense and to the national security and technological leadership of the United States, of imposing security requirements on covered entities; and

"(ii) to the extent feasible, design the requirements implemented pursuant to such paragraph to allow for trade space analysis by the Department in a transparent manner between competing requirements in order to minimize the costs and maximize the benefits of such requirements.

"(B) WEIGHING COSTS OF SLOWING DOWN DEVELOPMENT.—In carrying out subparagraph (A), the Secretary shall weigh the costs of slowing the development and deployment of artificial intelligence and machine learning against the benefits of mitigating national security risks and potential security risks to the Department of Defense from using commercial software for imposing additional physical or cybersecurity requirements for such systems.

"(c) PRIVATE SECTOR COLLABORATION.—In carrying out the requirements of subsection (a), the Secretary of Defense shall seek to collaborate with industry and academia in the development of the framework under such subsection using a process for consultation that uses a new or existing mechanism for public-private partnerships.

"(d) IMPLEMENTATION PLAN.—The framework required by subsection (a)(1) shall include a detailed plan for the implementation of the framework that—

"(1) establishes timelines and milestones for achieving the objectives outlined in the framework;

"(2) identifies resource requirements and funding mechanisms; and

"(3) provides metrics for measuring progress and effectiveness.

"(e) REPORTING REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an update on the status of implementation of the requirements of this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'artificial intelligence' has the meaning given such term in [section] 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 4061 note prec.).

"(2) The term 'covered artificial intelligence and machine learning technology' means an artificial intelligence or machine learning system acquired by the Department of Defense or an element of the Department and all associated components involved in the development and deployment lifecycle of such system, including source code, numerical parameters (including model weights) of the trained artificial intelligence or machine learning system, details of any methods and algorithms used to develop such system, data used in the development of such system, and software used for evaluating the trustworthiness of the artificial intelligence or machine learning system during development or deployment.

"(3) The term 'covered entity' means an entity that enters into a contract or other agreement with the Department of Defense under which such entity engages in the development, deployment, storage, or hosting of one or more covered artificial intelligence and machine learning technologies."

## GUIDANCE AND PROHIBITION ON USE OF CERTAIN ARTIFICIAL INTELLIGENCE

Pub. L. 119–60, div. A, title XV, §1532, Dec. 18, 2025, 139 Stat. 1157, provided that:

"(a) GUIDANCE AND PROHIBITIONS.—

"(1) EXCLUSION AND REMOVAL FROM DEPARTMENT SYSTEMS AND DEVICES.—Except as provided in subsection (b), not later than 30 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall require the exclusion and removal of covered artificial intelligence

from the systems and devices of the Department of Defense.

"(2) CONSIDERATION OF GUIDANCE FOR DEPARTMENT SYSTEMS AND DEVICES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall consider issuing Department of Defense-wide guidance to exclude and remove from systems and devices of the Department artificial intelligence developed by a covered artificial intelligence company which the Secretary determines poses a risk to national security.

"(3) PROHIBITION FOR CONTRACTORS.—

"(A) USE OF COVERED ARTIFICIAL INTELLIGENCE.—Except as provided in subsection (b), not later than 30 days after the date of enactment of this Act, no contractor may, during the period of performance of such contractor under a contract with the Department of Defense, use covered artificial intelligence with respect to the performance of a contract with the Department.

"(B) USE OF ARTIFICIAL INTELLIGENCE DEVELOPED BY A COVERED ARTIFICIAL INTELLIGENCE COMPANY.—Except as provided in subsection (b), if the Secretary of Defense issues guidance described in paragraph (2) with respect to an artificial intelligence described in such paragraph, no contractor may, during the period of performance of such contractor under a contract with the Department of Defense, use such artificial intelligence with respect to the performance of a contract with the Department.

"(b) WAIVER.—

"(1) IN GENERAL.—The Secretary of Defense may waive a prohibition under subsection (a), on a case-by-case basis, if the Secretary determines that the waiver is necessary—

"(A) for the purpose of scientifically valid research (as defined in section 102 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9501));

"(B) for the purpose of evaluation, training, testing, or other analysis needed for national security;

"(C) for the purpose of conducting counter terrorism, counterintelligence, or other operational military activities supporting national security; or

"(D) for the purpose of fulfilling mission critical functions.

"(2) MITIGATION OF RISKS.—If the Secretary of Defense issues a waiver pursuant to paragraph (1), the Secretary shall take such steps as the Secretary considers necessary to mitigate any risks due to the issuance of the waiver.

"(c) DEFINITIONS.—In this section:

"(1) The term 'artificial intelligence' has the meaning given such term in section 5002 of the National Artificial Intelligence Initiative Act of 2020 (15 U.S.C. 9401) and includes the systems and techniques described in paragraphs (1) through (5) of section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 4061 note prec.).

"(2) The term 'covered artificial intelligence' means—

"(A) any artificial intelligence, or successor artificial intelligence, developed by the Chinese company DeepSeek; or

"(B) any artificial intelligence, or successor artificial intelligence, developed by High Flyer or an entity owned by, funded by, or supported by High Flyer or an entity with respect to which High Flyer directly or indirectly owns at least a 20 percent stake.

"(3) The term 'covered nation' has the meaning given such term in section 4872 of title 10, United States Code.

"(4) The term 'covered artificial intelligence company' means an entity that produces or provides artificial intelligence models or applications and—

"(A) is included on—

"(i) the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce; or

"(ii) the civil-military fusion list maintained under section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note);

"(B) is domiciled in a covered nation; or

"(C) is subject to unmitigated foreign ownership, control, or influence by a covered nation, as determined by the Secretary of Defense in accordance with the National Industrial Security Program or any successor to such program."

## USABILITY OF ANTIQUATED AND PROPRIETARY DATA FORMATS FOR MODERN OPERATIONS

Pub. L. 118–159, div. A, title XV, §1521, Dec. 23, 2024, 138 Stat. 2138, provided that:

"(a) STRATEGY AND ROADMAP.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop—

"(A) a strategy for the Department of Defense, including each of the military departments, to identify, implement, and use modern data formats as the primary method of electronic communication for command and control activities and for weapon systems, including sensors associated with such weapon systems; and

"(B) an associated five-year roadmap for the Department of Defense, including each of the military departments, to implement modern data formats under the strategy described in subparagraph (A).

"(2) ELEMENTS.—The strategy and roadmap required under paragraph (1) shall include the following elements:

"(A) The activities of the Chief Digital and Artificial Intelligence Officer of the Department of Defense to increase and synchronize the use of modern data formats and modern data sharing standards across the Department of Defense.

"(B) Development of standard definitions for modern and antiquated data formats, including a representative catalog of the types of data formats that fall under each category.

"(C) The activities of the military departments to increase the use of modern data formats and modern data sharing standards for command and control systems, weapon systems, and sensors associated with such weapon systems.

"(D) An identification of barriers to the use of modern data formats and modern data sharing standards within weapon systems and sensors associated with such weapon systems across the Department of Defense.

"(E) An identification of barriers to the use of modern data formats and modern data sharing standards within command and control systems across the Department of Defense.

"(F) An identification of limitations on combined joint all-domain command and control capabilities resulting from the use of antiquated data formats.

"(G) An identification of policy documents, instructions, or other guidance requiring an update pursuant to such strategy.

"(H) The sources of funding for each military department with respect to implementation of such strategy.

"(3) SUBMISSION TO CONGRESS.—Upon completion of the strategy and roadmap required under this subsection, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives such strategy.

"(4) MODERN DATA FORMATS.—For the purposes of this subsection, the term 'modern data formats' includes—

"(A) the JavaScript Object Notation data format;

"(B) the Binary JavaScript Object Notation data format;

"(C) the Protocol Buffers data format; and

"(D) such other data formats that the Secretary of Defense determines would meet the requirements in this section.

"(b) PILOT PROGRAMS.—

"(1) ESTABLISHMENT.—Not later than 60 days after the completion of the strategy required by subsection (a)—

"(A) the Secretary of Defense shall establish a pilot program under which the Department of Defense, other than the military departments, shall use modern data formats to improve the usability and functionality of information stored or produced in antiquated data formats, including by the automated conversion of such information to modern data formats; and

"(B) each Secretary of a military department shall establish a pilot program under which such military department shall use modern data formats as described in subparagraph (A).

"(2) BRIEFING.—Not later than 180 days after the completion of the strategy required by subsection (a), the Secretary of Defense and the Secretaries of the military departments shall each submit to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the progress of the pilot program established by such Secretary under this subsection, including specific examples of the use of modern data formats under such pilot program to improve the usability and functionality of information stored or produced in antiquated data formats.

"(3) SUNSET.—Each pilot program established under this subsection shall terminate on the date that is five years after the date of the enactment of this Act.

"(c) MILITARY DEPARTMENT DEFINED.—In this section, the term 'military department' has the meaning given such term in section 101(a) of title 10, United States Code."

**UPDATE OF BIOMETRIC POLICY OF DEPARTMENT OF DEFENSE**

Pub. L. 118–159, div. A, title XV, §1523, Dec. 23, 2024, 138 Stat. 2142, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Intelligence and Security shall update the policy of the Department of Defense regarding the protection of biometric data.

"(b) ELEMENTS.—The policy updates required by subsection (a) shall include the following:

"(1) Standards for encrypting and protecting data on biometric collection devices.

"(2) A requirement to sanitize biometric data from collection devices and hard drives prior to disposal of the devices and hard drives.

"(3) A requirement that components of the Department maintain records that they have sanitized all data from biometric collection devices when the devices are turned in for disposal."

**REVIEW AND PLAN RELATING TO CYBER RED TEAMS OF DEPARTMENT OF DEFENSE**

Pub. L. 118–31, div. A, title XV, §1507, Dec. 22, 2023, 137 Stat. 540, provided that:

"(a) REVIEW RELATING TO PRIOR JOINT ASSESSMENT.—

"(1) REVIEW REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the officials described in subsection (c) shall review, and assess the status of the implementation of, the recommendations set forth by the Secretary of Defense in response to the joint assessment requirement under section 1660 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1771).

"(2) ELEMENTS.—The review under paragraph (1) shall include, with respect to the recommendations specified in such paragraph—

"(A) the timelines associated with each such recommendation, regardless of whether the recommendation is fully implemented or yet to be fully implemented; and

"(B) a description of any impediments to the implementation of such recommendations encountered.

"(b) PLAN REQUIRED.—

"(1) PLAN.—Not later than 180 days after the date of the enactment of this Act, the officials described in subsection (c) shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan, developed taking into account the findings of the review under subsection (a), to ensure cyber red teams of the Department of Defense achieve sufficient capacity and capability to provide services and meet current and projected future demands on a Defense-wide basis. Such plan shall include—

"(A) a description of the funding necessary for such cyber red teams to achieve such capacity and capability;

"(B) a description of any other resources, personnel, infrastructure, or authorities for access to information necessary for such cyber red teams to achieve such capacity and capability (including with respect to the emulation of threats from foreign countries with advanced cyber capabilities, automation, artificial intelligence or machine learning, and data collection and correlation); and

"(C) updated joint service standards and metrics to ensure the training, staffing, and equipping of such cyber red teams at levels necessary to achieve such capacity and capability.

"(2) IMPLEMENTATION.—Not later than one year after the date of enactment of this Act, the Secretary of Defense shall prescribe such regulations and issue such guidance as the Secretary determines necessary to implement the plan developed under subsection (a).

"(c) OFFICIALS DESCRIBED.—The officials described in this subsection are the Principal Cyber Advisor to the Secretary of Defense, the Chief Information Officer of the Department of Defense, the Director of Operational Test and Evaluation, and the Commander of the United States Cyber Command.

"(d) ANNUAL REPORTS.—Not later than January 31, 2025, and not less frequently than annually thereafter until January 31, 2031, the Director of Operational Test and Evaluation shall include in each annual report required under section 139(h) of title 10, United States Code, an update on progress made with respect to the implementation of this section, including the following:

"(1) The results of test and evaluation events, including any resource or capability shortfalls limiting the capacity or capability of cyber red teams of the Department of Defense to meet operational requirements.

"(2) The extent to which operations of such cyber red teams have expanded across the competition continuum, including during cooperation and competition phases, to match adversary positioning and cyber

activities.

"(3) A summary of identified categories of common gaps and shortfalls across cyber red teams of the military departments and Defense Agencies (as such terms are defined in section 101 of title 10, United States Code).

"(4) Any identified lessons learned that would affect training or operational employment decisions relating to the cyber red teams of the Department of Defense."

## TRANSFER OF DATA AND TECHNOLOGY DEVELOPED UNDER MOSAICS PROGRAM

Pub. L. 118–31, div. A, title XV, §1514, Dec. 22, 2023, 137 Stat. 545, provided that:

"(a) TRANSFERS AUTHORIZED.—The Secretary of Defense may transfer to eligible private sector entities data and technology developed under the MOSAICS program to enhance cyber threat detection and protection of critical industrial control system assets used for electricity distribution.

"(b) AGREEMENTS.—In carrying out subsection (a), the Secretary of Defense may—

"(1) enter into cooperative research and development agreements under section 4026 of title 10, United States Code; and

"(2) use such other mechanisms for the transfer of technology and data as are authorized by law.

"(c) [sic; there are two subsecs. (c)] NOTIFICATION.—Not later than 15 days after any date on which the Secretary determines to transfer data or technology to an eligible private sector entity under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written notification of such determination. Such notification shall include the following:

"(1) An identification of the data or technology to be transferred.

"(2) An identification of the eligible private sector entity, including an identification of the specific individual employed by or otherwise associated with such entity responsible for the security and integrity of the data or technology to be received.

"(3) A detailed description of any special security handling instructions required pursuant to an agreement entered into between the Secretary and the eligible private sector entity for such transfer.

"(4) Timelines associated with such transfer.

"(c) [sic] DEFINITIONS.—In this section:

"(1) The term 'eligible private sector entity' means a private sector entity that—

"(A) has functions relevant to the civil electricity sector; and

"(B) is determined by the Secretary of Defense to be eligible to receive data and technology transferred under subsection (a).

"(2) The term 'MOSAICS program' means the program of the Department of Defense known as the 'More Situational Awareness for Industrial Control Systems Joint Capabilities Technology Demonstration program', or successor program."

## MODERNIZATION PROGRAM FOR NETWORK BOUNDARY AND CROSS-DOMAIN DEFENSE

Pub. L. 118–31, div. A, title XV, §1515, Dec. 22, 2023, 137 Stat. 546, provided that:

"(a) MODERNIZATION PROGRAM REQUIRED.—The Secretary of Defense shall carry out a modernization program for network boundary and cross-domain defense against cyber attacks. In carrying out such modernization program, the Secretary shall expand upon the fiscal year 2023 pilot program on modernized network boundary defense capabilities and the initial deployment of such capabilities to the primary Internet access points of the Department of Defense managed by the Director of the Defense Information Systems Agency.

"(b) PROGRAM PHASES.—

"(1) IN GENERAL.—The Secretary of Defense shall implement the modernization program under subsection (a) in phases, with the objective of completing such program by October 1, 2028.

"(2) OBJECTIVES.—The phases required by paragraph (1) shall include the following objectives:

"(A) By September 30, 2026, completion of—

"(i) the pilot program specified in subsection (a) and the deployment of modernized network boundary defense capabilities to the Internet access points managed by the Director of the Defense Information Systems Agency; and

"(ii) the extension of modernized network boundary defense capabilities to all additional Internet access points of the information network of the Department of Defense.

"(B) By September 30, 2027, the conduct of a survey, completion of a pilot program, and deployment of modernized network boundary defense capabilities to the access points and cross-domain capabilities of the Secret Internet Protocol Router Network.

"(C) By September 30, 2028, the conduct of a survey, completion of a pilot program, and

deployment of modernized network boundary defense capabilities to any remaining classified network or enclave of the information network of the Department.

"(c) IMPLEMENTATION PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of the modernization program under subsection (a). Such plan shall include—

"(1) a summary of findings from the pilot program specified in subsection (a); and

"(2) an identification of the resources necessary for such implementation, including for implementing the phase of the modernization program specified in subsection (b)(2)(C)."

## ESTABLISHMENT OF CERTAIN IDENTITY, CREDENTIAL, AND ACCESS MANAGEMENT ACTIVITIES AS PROGRAM OF RECORD

Pub. L. 118–31, div. A, title XV, §1516, Dec. 22, 2023, 137 Stat. 546, provided that:

"(a) ESTABLISHMENT OF PROGRAM OF RECORD.—

"(1) PROGRAM OF RECORD.—Except as provided in subsection (b), not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall establish a program of record, governed by standard Department of Defense requirements and practices, and transition all covered activities to such program of record.

"(2) OBJECTIVES.—The program of record under subsection (a) shall include, at a minimum, covered activities undertaken to achieve the following objectives:

"(A) Correcting weaknesses in authentication and credentialing security, including with respect to the program of the Department of Defense known as the 'Public Key Infrastructure' program (or any successor program), identified by the Director of Operational Test and Evaluation in a report submitted to Congress in April, 2023, titled 'FY14–21 Observations of the Compromise of Cyber Credentials'.

"(B) Implementing improved authentication technologies, such as biometric and behavioral authentication techniques and other non-password-based solutions.

"(3) BRIEFING.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the covered activities to be included under the program of record under subsection (a).

"(b) WAIVER AUTHORITY.—

"(1) AUTHORITY.—The Secretary of Defense may waive the requirement under subsection (a) if the Secretary of Defense determines that the objectives listed in paragraph (2) of such subsection would be better achieved, and the level of rigor of the operational testing and oversight requirements applicable to such objectives would be improved, through a management approach other than the establishment of a program of record and transition of covered activities to such program of record.

"(2) JUSTIFICATION.—Not later than 14 days after issuing a waiver under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees a detailed justification for the waiver, including—

"(A) an explanation of why the establishment of a program of record is not the preferred approach to achieve the objectives listed in subsection (a)(2);

"(B) details relating to the management approach proposed to be implemented in lieu of the establishment of a program of record;

"(C) an implementation plan for such proposed alternative approach; and

"(D) such other information as the Secretary of Defense determines appropriate.

"(c) DESIGNATION OF DATA ATTRIBUTES.—Not later than 120 days after the date of the enactment of this Act, the Chief Information Officer of the Department of Defense, in coordination with the Secretaries of the military departments, shall complete the designation of Tier 1 level data attributes to be used as a baseline set of standardized attributes for identity, credential, and access management, Defense-wide.

"(d) BRIEFING.—Upon completing the requirement under subsection (c), the Chief Information Officer of the Department of Defense and the Secretaries of the military departments shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the activities carried out under this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered activity' means any activity of the Office of the Secretary of Defense or a Defense Agency relating to the identity, credential, and access management initiative of the Department of Defense.

"(2) The term 'Defense Agency' has the meaning given that term in section 101 of title 10, United

States Code."

**PILOT PROGRAM ON ASSURING CRITICAL INFRASTRUCTURE SUPPORT FOR MILITARY CONTINGENCIES**

Pub. L. 118–31, div. A, title XV, §1517, Dec. 22, 2023, 137 Stat. 548, provided that:

"(a) ESTABLISHMENT OF PILOT PROGRAM.—Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall establish a pilot program to be known as the 'Assuring Critical Infrastructure Support for Military Contingencies Pilot Program'.

"(b) SELECTION OF INSTALLATIONS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, acting through the Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs, shall select not fewer than four geographically diverse military installations at which to carry out the pilot program under subsection (a).

"(2) PRIORITIZATION.—

"(A) IN GENERAL.—In selecting military installations under paragraph (1), the Secretary of Defense shall give priority to any military installation that the Secretary determines is a key component of not fewer than two contingency plans or operational plans, with further priority given to such plans in the area of responsibility of the United States Indo-Pacific Command or the United States European Command.

"(B) SELECTION BETWEEN EQUAL PRIORITIES.—If two or more military installations qualify for equal priority under subparagraph (A), the Secretary of Defense shall give further priority for selection under such paragraph to any such military installation that the Secretary of Defense determines is—

"(i) connected to national-level infrastructure;

"(ii) located near a commercial port; or

"(iii) located near a national financial hub.

"(c) ACTIVITIES.—In carrying out the pilot program under subsection (a), the Secretary of Defense, acting through the Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs, shall—

"(1) without duplicating or disrupting existing cyber exercise activities under the National Cyber Exercise Program under section 2220B of the Homeland Security Act of 2002 (6 U.S.C. 665h), conduct cyber resiliency and reconstitution stress test scenarios through tabletop exercises and, if possible, live exercises—

"(A) to assess how to prioritize restoration of power, water, and telecommunications for a military installation in the event of a significant cyberattack on regional critical infrastructure that has similar impacts on State and local infrastructure; and

"(B) to determine the recovery process needed to ensure the military installation has the capability to function and support an overseas contingency operation or a homeland defense mission, as appropriate;

"(2) map dependencies on power, water, and telecommunications at the military installation and the connections to distribution and generation outside the military installation;

"(3) recommend priorities for the order of recovery for the military installation in the event of a significant cyberattack, considering both the requirements needed for operations of the military installation and the potential participation of personnel at the military installation in an overseas contingency operation or a homeland defense mission; and

"(4) develop a lessons-learned database from the exercises conducted under paragraph (1) across all military installations participating in the pilot program, to be shared with the Committees on Armed Services of the House of Representatives and the Senate.

"(d) COORDINATION WITH RELATED PROGRAMS.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs, shall ensure that activities under subsection (c) are coordinated with—

"(1) private entities that operate power, water, and telecommunications for a military installation participating in the pilot program under subsection (a);

"(2) relevant military and civilian personnel; and

"(3) any other entity that the Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs determines is relevant to the execution of activities under subsection (c).

"(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Assistant to the President for Homeland Security, the National Cyber Director, the head of any other relevant Sector Risk Management Agency, the Committees on Armed Services of the House of

Representatives and the Senate, and, if the Secretary of Defense determines it appropriate, relevant private sector owners and operators of critical infrastructure a report on the activities carried out under pilot program under subsection (a), including a description of any operational challenges identified.

"(f) DEFINITIONS.—In this section:

"(1) The term 'critical infrastructure' has the meaning given that term in the Critical Infrastructures Protection Act of 2001 (42 U.S.C. 5195c).

"(2) The term 'Sector Risk Management Agency' has the meaning given that term in section 2200 of the Homeland Security Act of 2002 (6 U.S.C. 650)."

## REQUIREMENTS FOR IMPLEMENTATION OF USER ACTIVITY MONITORING FOR CERTAIN PERSONNEL

Pub. L. 118–31, div. A, title XV, §1537, Dec. 22, 2023, 137 Stat. 570, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall require each head of a component of the Department of Defense to fully implement each directive, policy, and program requirement for user activity monitoring and least privilege access controls with respect to the personnel of that component, including Federal employees and contractors, granted access to classified information and classified networks, including the following directives (and any successor directives):

"(1) The Committee on National Security Systems Directive 504, issued on February 4, 2014, relating to the protection of national security systems from insider threats (including any annex to such directive).

"(2) Department of Defense Directive 5205.16, issued on September 30, 2014, relating to the insider threat program of the Department of Defense.

"(b) ADDITIONAL REQUIREMENT.—The Secretary of Defense shall require each head of a component of the Department of Defense to implement, with respect to systems, devices, and personnel of the component, automated controls to detect and prohibit privileged user accounts from performing general user activities not requiring privileged access.

"(c) PERIODIC TESTING.—The Secretary shall require that, not less frequently than once every two years, each head of a component of the Department of Defense—

"(1) conducts insider threat testing using threat-realistic tactics, techniques, and procedures; and

"(2) submits to the Under Secretary of Defense for Intelligence and Security, the Chief Information Officer of the Department of Defense, and the Director of Operational Test and Evaluation of the Department of Defense a report on the findings of the head with respect to the testing conducted pursuant to paragraph (1).

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall submit to the appropriate congressional committees a report on the implementation of this section.

"(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(2) the Committee on Armed Services and the Select Committee on Intelligence of the Senate."

## MANAGEMENT BY DEPARTMENT OF DEFENSE OF MOBILE APPLICATIONS

Pub. L. 118–31, div. A, title XV, §1552, Dec. 22, 2023, 137 Stat. 579, provided that:

"(a) IMPLEMENTATION OF RECOMMENDATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall evaluate and implement to the maximum extent practicable the recommendations of the Inspector General of the Department of Defense with respect to managing mobile applications contained in the report set forth by the Inspector General dated February 9, 2023, and titled 'Management Advisory: The DoD's Use of Mobile Applications' (Report No. DODIG–2023–041).

"(2) DEADLINE.—The Secretary shall implement each of the recommendations specified in subsection (a) by not later than one year after the date of the enactment of this Act [Dec. 22, 2023] unless the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written notification of any specific recommendation that the Secretary declines to implement or plans to implement after the date that is one year after the date of the enactment of this Act.

"(b) BRIEFING ON REQUIREMENTS RELATED TO COVERED APPLICATIONS.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall provide to the congressional defense committees a briefing on actions taken by the Secretary to enforce compliance with existing policy of the Department of Defense that prohibits—

"(A) the installation and use of covered applications on Federal Government devices; and

"(B) the use of covered applications on the Department of Defense Information Network on personal devices.

"(2) COVERED APPLICATIONS DEFINED.—In this subsection, the term 'covered applications' means the social networking service TikTok, or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited."

## ACTIONS TO ADDRESS SERIOUS DEFICIENCIES IN ELECTRONIC PROTECTION OF SYSTEMS THAT OPERATE IN THE RADIO FREQUENCY SPECTRUM

Pub. L. 118–31, div. A, title XVI, §1686, Dec. 22, 2023, 137 Stat. 620, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall—

"(1) establish requirements for and assign sufficient priority to ensuring electronic protection of military sensor, navigation, and communications systems and subsystems against jamming, spoofing, and unintended interference from military systems of the United States and foreign adversaries; and

"(2) provide management oversight and supervision of the military departments to ensure military systems that emit and receive radio frequencies are protected against threats and interference from United States and foreign adversary military systems operating in the same or adjacent radio frequencies.

"(b) SPECIFIC REQUIRED ACTIONS.—The Secretary of Defense shall require the military departments and combat support agencies to carry out the following activities:

"(1) Not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023], develop and approve requirements, through the Joint Requirements Oversight Council as appropriate, for every radar, signals intelligence, navigation, and communications system and subsystem subject to the Global Force Management process to ensure such systems and subsystems are able to withstand threat-realistic levels of jamming, spoofing, and unintended interference, including self-generated interference.

"(2) Not less frequently than once every 4 years, test each system and subsystem described in paragraph (1) at a test range that permits threat-realistic electronic warfare attacks against the system or subsystem by a red team or simulated opposition force, with the first set of highest priority systems to be initially tested by not later than the end of fiscal year 2025.

"(3) With respect to each system and subsystem described in paragraph (1) that fails to meet electronic protection requirements during testing conducted under paragraph (2)—

"(A) not later than 3 years after the initial failed test, retrofit the system or subsystem with electronic protection measures that can withstand threat-realistic jamming, spoofing, and unintended interference; and

"(B) not later than 4 years after the initial failed test, retest such systems and subsystems.

"(4) Survey, identify, and test available technology that can be practically and affordably retrofitted on the systems and subsystems described in paragraph (1) and which provides robust protection against threat-realistic jamming, spoofing, and unintended interference.

"(5) Design and build electronic protection into ongoing and future development programs to withstand expected jamming and spoofing threats and unintended interference.

"(c) WAIVER.—The Secretary of Defense may establish a process for issuing waivers, on a case-by-case basis, for the testing requirement under paragraph (2) of subsection (b) and for the retrofit requirement under paragraph (3) of such subsection.

"(d) ANNUAL REPORTS.—Concurrent with the submission of the budget of the President to Congress pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 2025 through 2030, the Director of Operational Test and Evaluation shall submit to the Electronic Warfare Executive Committee of the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives a comprehensive annual report that—

"(1) aggregates and summarizes information received from the military departments and combat support agencies for purposes of the preparation of the report; and

"(2) includes a description of—

"(A) the activities carried out to implement the requirements of this section;

"(B) the systems and subsystems subject to testing in the previous year and the results of such tests, including a description of the requirements for electronic protection established for the tested systems and subsystems; and

"(C) each waiver issued in the previous year with respect to such requirements, together with a detailed rationale for the waiver and a plan for addressing any issues that formed the basis of the waiver request."

## OPERATIONAL TESTING FOR COMMERCIAL CYBERSECURITY CAPABILITIES

Pub. L. 117–263, div. A, title XV, §1514, Dec. 23, 2022, 136 Stat. 2895, provided that:

"(a) DEVELOPMENT AND SUBMISSION OF PLANS.—Not later than February 1, 2024, the Chief Information Officer of the Department of Defense and the Chief Information Officers of the military departments shall develop and submit plans described in subsection (b) to the Director of Operational Test and Evaluation who may approve the implementation of the plans pursuant to subsection (c).

"(b) PLANS DESCRIBED.—The plans described in this subsection are plans that—

"(1) ensure covered cybersecurity capabilities are appropriately tested, evaluated, and proven operationally effective, suitable, and survivable prior to operation on a Department of Defense network; and

"(2) specify how test results will be expeditiously provided to the Director of Operational Test and Evaluation.

"(c) ASSESSMENT.—In reviewing the plans submitted under subsection (a), the Director of Operational Test and Evaluation shall conduct an assessment that includes consideration of the following:

"(1) Threat-realistic operational testing, including representative environments, variation of operational conditions, and inclusion of a realistic opposing force.

"(2) The use of Department of Defense cyber red teams, as well as any enabling contract language required to permit threat-representative red team assessments.

"(3) Collaboration with the personnel using the commercial cybersecurity capability regarding the results of the testing to improve operators' ability to recognize and defend against cyberattacks.

"(4) The extent to which additional resources may be needed to remediate any shortfalls in capability to make the commercial cybersecurity capability effective, suitable, and cyber survivable in an operational environment of the Department.

"(5) Identification of training requirements, and changes to training, sustainment practices, or concepts of operation or employment that may be needed to ensure the effectiveness, suitability, and cyber survivability of the commercial cybersecurity capability.

"(d) POLICIES AND REGULATIONS.—Not later than February 1, 2024, the Secretary of Defense shall issue such policies and guidance and prescribe such regulations as the Secretary determines necessary to carry out this section.

"(e) REPORTS.—Not later than January 31, 2025, and not less frequently than annually thereafter until January 31, 2030, the Director shall include in each annual report required by section 139(h) of title 10, United States Code, the following:

"(1) The status of the plans developed under subsection (a).

"(2) The number and type of test and evaluation events completed in the past year for such plans, disaggregated by component of the Department, and including resources devoted to each event.

"(3) The results from such test and evaluation events, including any resource shortfalls affecting the number of commercial cybersecurity capabilities that could be assessed.

"(4) A summary of identified categories of common gaps and shortfalls found during testing.

"(5) The extent to which entities responsible for developing and testing commercial cybersecurity capabilities have responded to recommendations made by the Director in an effort to gain favorable determinations.

"(6) Any identified lessons learned that would impact training, sustainment, or concepts of operation or employment decisions relating to the assessed commercial cybersecurity capabilities.

"(f) DEFINITION.—In this section, the term 'covered cybersecurity capabilities' means any of the following:

"(1) Commercial products (as defined in section 103 of title 41, United States Code) acquired and deployed by the Department of Defense to satisfy the cybersecurity requirements of one or more Department components.

"(2) Commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) acquired and deployed by the Department of Defense to satisfy the cybersecurity requirements of one or more Department components.

"(3) Noncommercial items acquired through the Adaptive Acquisition Framework and deployed by the Department of Defense to satisfy the cybersecurity requirements of one or more Department components."

## PLAN FOR COMMERCIAL CLOUD TEST AND EVALUATION

Pub. L. 117–263, div. A, title XV, §1553, Dec. 23, 2022, 136 Stat. 2920, provided that:

"(a) POLICY AND PLAN.—Not later than 180 days after the date of enactment of this Act [Dec. 23, 2022], the Secretary of Defense, in consultation with commercial industry, shall implement a policy and plan for test and evaluation of the cybersecurity of the clouds of commercial cloud service providers that provide, or are intended to provide, storage or computing of classified data of the Department of Defense.

"(b) CONTENTS.—The policy and plan under subsection (a) shall include the following:

"(1) A requirement that, beginning on the date of the enactment of this Act, future contracts with cloud service providers for storage or computing of classified data of the Department include provisions that permit the Secretary to conduct independent, threat-realistic assessments of the commercial cloud infrastructure, including with respect to—

"(A) the storage, compute, and enabling elements, including the control plane and virtualization hypervisor for mission elements of the Department supported by the cloud provider; and

"(B) the supporting systems used in the fulfillment, facilitation, or operations relating to the mission of the Department under the contract, including the interfaces with these systems.

"(2) An explanation as to how the Secretary intends to proceed on amending existing contracts with cloud service providers to permit the same level of assessments required for future contracts under paragraph (1).

"(3) Identification and description of any proposed tiered test and evaluation requirements aligned with different impact and classification levels.

"(c) WAIVER AUTHORITY.—The Secretary may include in the policy and plan under subsection (a) an authority to waive any requirement under subsection (b) if the waiver is jointly approved by the Chief Information Officer of the Department of Defense and the Director of Operational Test and Evaluation.

"(d) SUBMISSION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the policy and plan under subsection (a).

"(e) THREAT-REALISTIC ASSESSMENT DEFINED.—In this section, the term 'threat-realistic assessments' means, with respect to commercial cloud infrastructure, activities that—

"(1) are designed to accurately emulate cyber threats from advanced nation state adversaries, such as Russia and China; and

"(2) include cooperative penetration testing and no-notice threat-emulation activities where personnel of the Department of Defense attempt to penetrate and gain control of the cloud-provider facilities, networks, systems, and defenses associated with, or which enable, the supported missions of the Department."

## ASSESSMENTS OF WEAPONS SYSTEMS VULNERABILITIES TO RADIO-FREQUENCY ENABLED CYBER ATTACKS

Pub. L. 117–263, div. A, title XV, §1559, Dec. 23, 2022, 136 Stat. 2926, as amended by Pub. L. 118–31, div. A, title XV, §1502(a)(2)(F), Dec. 22, 2023, 137 Stat. 538, provided that:

"(a) ASSESSMENTS.—The Secretary of Defense shall ensure that the activities required by and conducted pursuant to section 1647 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1118) [10 U.S.C. 2224 note] and the amendments made by section 1712 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 134 Stat. 4087 [amending section 1647 of Pub. L. 114–92, set out as a note under this section, and section 1640 of Pub. L. 115–91, formerly set out as a note under this section]) include regular assessments of the vulnerabilities to and mission risks presented by radio-frequency enabled cyber attacks with respect to the operational technology embedded in weapons systems, aircraft, ships, ground vehicles, space systems, sensors, and datalink networks of the Department of Defense.

"(b) ELEMENTS.—The assessments under subsection (a) with respect to vulnerabilities and risks described in such subsection shall include—

"(1) identification of such vulnerabilities and risks;

"(2) ranking of vulnerability, severity, and priority;

"(3) development and selection of options, with associated costs and schedule, to correct such vulnerabilities, including installation of intrusion detection capabilities;

"(4) an evaluation of the cybersecurity sufficiency for Military Standard 1553; and

"(5) development of integrated risk-based plans to implement the corrective actions selected.

"(c) DEVELOPMENT OF CORRECTIVE ACTIONS.—In developing corrective actions under subsection (b)(3), the assessments under subsection (a) shall—

"(1) consider the missions supported by the assessed weapons systems, aircraft, ships, ground vehicles, space systems, sensors, or datalink networks, as the case may be, to ensure that the corrective actions focus on the vulnerabilities that create the greatest risks to the missions;

"(2) be shared and coordinated with the principal staff assistant with primary responsibility for the strategic cybersecurity program; and

"(3) address requirements for deployed and nondeployed members of the Armed Forces to analyze

data collected on the weapons systems and respond to attacks.

"(d) INTELLIGENCE INFORMED ASSESSMENTS.—The assessments under subsection (a) shall be informed by intelligence, if available, and technical judgment regarding potential threats to embedded operational technology during operations of the Armed Forces.

"(e) COORDINATION.—

"(1) COORDINATION AND INTEGRATION OF ACTIVITIES.—The assessments under subsection (a) shall be fully coordinated and integrated with activities described in such subsection.

"(2) COORDINATION OF ORGANIZATIONS.—The Secretary shall ensure that the organizations conducting the assessments under subsection (a) in the military departments, the United States Special Operations Command, and the Defense Agencies coordinate with each other and share best practices, vulnerability analyses, and technical solutions with the principal staff assistant with primary responsibility for the Strategic Cybersecurity Program."

**COORDINATION BETWEEN UNITED STATES CYBER COMMAND AND PRIVATE SECTOR**

Pub. L. 117–81, div. A, title XV, §1508, Dec. 27, 2021, 135 Stat. 2032, provided that:

"(a) VOLUNTARY PROCESS.—Not later than January 1, 2023, the Commander of United States Cyber Command shall establish a voluntary process to engage with private sector information technology and cybersecurity entities to explore and develop methods and plans through which the capabilities, knowledge, and actions of—

"(1) private sector entities operating inside the United States to defend against foreign malicious cyber actors could assist, or be coordinated with, the actions of United States Cyber Command operating outside the United States against such foreign malicious cyber actors; and

"(2) United States Cyber Command operating outside the United States against foreign malicious cyber actors could assist, or be coordinated with, the actions of private sector entities operating inside the United States against such foreign malicious cyber actors.

"(b) ANNUAL BRIEFING.—

"(1) IN GENERAL.—During the period beginning on March 1, 2022, and ending on March 1, 2026, the Commander of United States Cyber Command shall, not less frequently than once each year, provide to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a briefing on the status of any activities conducted pursuant to subsection (a).

"(2) ELEMENTS.—Each briefing provided under paragraph (1) shall include the following:

"(A) Such recommendations for legislative or administrative action as the Commander of United States Cyber Command considers appropriate to improve and facilitate the exploration and development of methods and plans under subsection (a).

"(B) Such recommendations as the Commander may have for increasing private sector participation in such exploration and development.

"(C) A description of the challenges encountered in carrying out subsection (a), including any concerns expressed to the Commander by private sector partners regarding participation in such exploration and development.

"(D) Information relating to how such exploration and development with the private sector could assist military planning by United States Cyber Command.

"(E) Such other matters as the Commander considers appropriate.

"(c) CONSULTATION.—In developing the process described in subsection (a), the Commander of United States Cyber Command shall consult with the Director of the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security and the heads of any other Federal agencies the Commander considers appropriate.

"(d) INTEGRATION WITH OTHER EFFORTS.—The Commander of United States Cyber Command shall ensure that the process described in subsection (a) makes use of, builds upon, and, as appropriate, integrates with and does not duplicate, other efforts of the Department of Homeland Security and the Department of Defense relating to cybersecurity, including the following:

"(1) The Joint Cyber Defense Collaborative of the Cybersecurity and Infrastructure Security Agency.

"(2) The Cybersecurity Collaboration Center and Enduring Security Framework of the National Security Agency.

"(3) The office for joint cyber planning of the Department of Homeland Security.

"(e) PROTECTION OF TRADE SECRETS AND PROPRIETARY INFORMATION.—The Commander of United States Cyber Command shall ensure that any trade secret or proprietary information of a private

sector entity engaged with the Department of Defense through the process established under subsection (a) that is made known to the Department pursuant to such process remains private and protected unless otherwise explicitly authorized by such entity.

"(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize United States Cyber Command to conduct operations inside the United States or for private sector entities to conduct offensive cyber activities outside the United States, except to the extent such operations or activities are permitted by a provision of law in effect on the day before the date of the enactment of this Act [Dec. 27, 2021]."

**ENTERPRISE-WIDE PROCUREMENT OF CYBER DATA PRODUCTS AND SERVICES**

Pub. L. 117–81, div. A, title XV, §1521, Dec. 27, 2021, 135 Stat. 2040, as amended by Pub. L. 118–31, div. A, title XV, §1522, Dec. 22, 2023, 137 Stat. 553; Pub. L. 118–159, div. A, title XV, §1501, Dec. 23, 2024, 138 Stat. 2131, provided that:

"(a) PROGRAM.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall designate an executive agent for Department of Defense-wide procurement of cyber data products and services. The executive agent shall establish a program management office responsible for such procurement, and the program manager of such program office shall be responsible for the following:

"(1) Surveying components of the Department for the cyber data products and services needs of such components.

"(2) Conducting market research of cyber data products and services.

"(3) Developing or facilitating development of requirements, both independently and through consultation with components, for the acquisition of cyber data products and services.

"(4) Developing and instituting model contract language for the acquisition of cyber data products and services, including contract language that facilitates components' requirements for ingesting, sharing, using and reusing, structuring, and analyzing data derived from such products and services.

"(5) Conducting procurement of cyber data products and services on behalf of the Department of Defense, including negotiating contracts with a fixed number of licenses based on aggregate component demand and negotiation of extensible contracts.

"(6) Evaluating emerging cyber technologies, such as artificial intelligence-enabled security tools, for efficacy and applicability to the requirements of the Department of Defense.

"(7) Carrying out the responsibilities specified in paragraphs (1) through (6) with respect to the cyber data products and services needs of the Cyberspace Operations Forces, such as cyber data products and services germane to cyberspace topology and identification of adversary threat activity and infrastructure, including—

"(A) facilitating the development of cyber data products and services requirements for the Cyberspace Operations Forces, conducting market research regarding the future cyber data products and services needs of the Cyberspace Operations Forces, and conducting acquisitions pursuant to such requirements and market research;

"(B) coordinating cyber data products and services acquisition and management activities with Joint Cyber Warfighting Architecture acquisition and management activities, including activities germane to data storage, data management, and development of analytics;

"(C) implementing relevant Department of Defense and United States Cyber Command policy germane to acquisition of cyber data products and services;

"(D) leading or informing the integration of relevant datasets and services, including Government-produced threat data, commercial cyber threat information, collateral telemetry data, topology-relevant data, sensor data, and partner-provided data; and

"(E) facilitating the development of tradecraft and operational workflows based on relevant cyber data products and services.

"(b) COORDINATION.—In implementing this section, each component of the Department of Defense shall coordinate its cyber data products and services requirements and potential procurement plans relating to such products and services with the program management office established pursuant to subsection (a) so as to enable such office to determine if satisfying such requirements or procurement of such products and services on an enterprise-wide basis would serve the best interests of the Department.

"(c) PROHIBITION.—Beginning not later than 540 days after the date of the enactment of this Act, no component of the Department of Defense may independently procure a cyber data product or service that has been procured by the program management office established pursuant to subsection (a), unless—

"(1) such component is able to procure such product or service at a lower per-unit price than that

available through such office;

"(2) such office has approved such independent purchase; or

"(3) such component submits to such office a justification for such component to independently procure such product or service that such component determines as demonstrating—

"(A) the compelling need for such product or service; and

"(B) either the urgency for such product or service or the need to ensure competition in the market for such product or service supports such independent procurement by such component.

"(d) EXCEPTION.—United States Cyber Command and the National Security Agency may conduct joint procurements of products and services, including cyber data products and services, except that the requirements of subsections (b) and (c) shall not apply to the National Security Agency.

"(e) DEFINITION.—In this section, the term 'cyber data products and services' means commercially-available datasets and analytic services germane to offensive cyber, defensive cyber, and DODIN operations, including products and services that provide technical data, indicators, and analytic services relating to the targets, infrastructure, tools, and tactics, techniques, and procedures of cyber threats."

## PROTECTIVE DOMAIN NAME SYSTEM WITHIN THE DEPARTMENT OF DEFENSE

Pub. L. 117–81, div. A, title XV, §1524, Dec. 27, 2021, 135 Stat. 2042, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall ensure each component of the Department of Defense uses a Protective Domain Name System (PDNS) instantiation offered by the Department.

"(b) EXEMPTIONS.—The Secretary of Defense may exempt a component of the Department from using a PDNS instantiation for any reason except with respect to cost or technical application.

"(c) REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes information relating to—

"(1) each component of the Department of Defense that uses a PDNS instantiation offered by the Department;

"(2) each component exempt from using a PDNS instantiation pursuant to subsection (b); and

"(3) efforts to ensure that each PDNS instantiation offered by the Department connects and shares relevant and timely data."

## CYBER DATA MANAGEMENT

Pub. L. 117–81, div. A, title XV, §1527, Dec. 27, 2021, 135 Stat. 2043, provided that:

"(a) IN GENERAL.—The Commander of United States Cyber Command and the Secretaries of the military departments, in coordination with the Principal Cyber Advisor to the Secretary, the Chief Information Officer and the Chief Data Officer of the Department of Defense, and the Chairman of the Joint Chiefs of Staff, shall—

"(1) access, acquire, and use mission-relevant data to support offensive cyber, defensive cyber, and DODIN operations from the intelligence community, other elements of the Department of Defense, and the private sector;

"(2) develop policy, processes, and operating procedures governing the access, ingest, structure, storage, analysis, and combination of mission-relevant data, including—

"(A) intelligence data;

"(B) internet traffic, topology, and activity data;

"(C) cyber threat information;

"(D) Department of Defense Information Network sensor, tool, routing infrastructure, and endpoint data; and

"(E) other data management and analytic platforms pertinent to United States Cyber Command missions that align with the principles of Joint All Domain Command and Control;

"(3) pilot efforts to develop operational workflows and tactics, techniques, and procedures for the operational use of mission-relevant data by the Cyberspace Operations Forces; and

"(4) evaluate data management platforms used to carry out paragraphs (1), (2), and (3) to ensure such platforms operate consistently with the Deputy Secretary of Defense's Data Decrees signed on May 5, 2021.

"(b) ROLES AND RESPONSIBILITIES.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 27, 2021], the Commander of United States Cyber Command and the Secretaries of the military departments, in coordination with the Principal Cyber Advisor to the Secretary, the Chief Information Officer and Chief Data Officer of the Department of Defense, and the Chairman of the Joint Chiefs of Staff, shall establish the

specific roles and responsibilities of the following in implementing each of the tasks required under subsection (a):

"(A) United States Cyber Command.

"(B) Program offices responsible for the components of the Joint Cyber Warfighting Architecture.

"(C) The military services.

"(D) Entities in the Office of the Secretary of Defense.

"(E) Any other program office, headquarters element, or operational component newly instantiated or determined relevant by the Secretary.

"(2) BRIEFING.—Not later than 300 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the roles and responsibilities established under paragraph (1)."

## ZERO TRUST STRATEGY, PRINCIPLES, MODEL ARCHITECTURE, AND IMPLEMENTATION PLANS

Pub. L. 118–159, div. A, title XV, §1513, Dec. 23, 2024, 138 Stat. 2136, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Chief Information Officer of the Department of Defense shall develop guidance for how—

"(1) the zero trust strategy of the Department of Defense developed under section 1528 of the National Defense Authorization Act for Fiscal Year 2022 (10 U.S.C. 2224 note) [set out below] applies to Internet of Things hardware, including human-wearable devices, sensors, and other smart technology used by the United States in military operations; and

"(2) the role identity, credential, and access management technologies serve in enforcing such zero trust strategy.

"(b) INTERNET OF THINGS DEFINED.—In this section, the term 'Internet of Things' has the meaning given such term by the National Institution of Standards and Technology in NIST Special Publication 800-172 and any amendatory or superseding document relating thereto."

Pub. L. 117–81, div. A, title XV, §1528, Dec. 27, 2021, 135 Stat. 2044, as amended by Pub. L. 117–263, div. A, title XV, §1501(c)(2), Dec. 23, 2022, 136 Stat. 2879, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 27, 2021], the Chief Information Officer of the Department of Defense and the Commander of United States Cyber Command shall jointly develop a zero trust strategy, principles, and a model architecture to be implemented across the Department of Defense Information Network, including classified networks, operational technology, and weapon systems.

"(b) STRATEGY, PRINCIPLES, AND MODEL ARCHITECTURE ELEMENTS.—The zero trust strategy, principles, and model architecture required under subsection (a) shall include, at a minimum, the following elements:

"(1) Prioritized policies and procedures for establishing implementations of mature zero trust enabling capabilities within on-premises, hybrid, and pure cloud environments, including access control policies that determine which persona or device shall have access to which resources and the following:

"(A) Identity, credential, and access management.

"(B) Macro and micro network segmentation, whether in virtual, logical, or physical environments.

"(C) Traffic inspection.

"(D) Application security and containment.

"(E) Transmission, ingest, storage, and real-time analysis of cybersecurity metadata endpoints, networks, and storage devices.

"(F) Data management, data rights management, and access controls.

"(G) End-to-end encryption.

"(H) User access and behavioral monitoring, logging, and analysis.

"(I) Data loss detection and prevention methodologies.

"(J) Least privilege, including system or network administrator privileges.

"(K) Endpoint cybersecurity, including secure host, endpoint detection and response, and comply-to-connect requirements.

"(L) Automation and orchestration.

"(M) Configuration management of virtual machines, devices, servers, routers, and similar to be maintained on a single virtual device approved list (VDL).

"(2) Policies specific to operational technology, critical data, infrastructures, weapon systems, and

classified networks.

"(3) Specification of enterprise-wide acquisitions of capabilities conducted or to be conducted pursuant to the policies referred to in paragraph (2).

"(4) Specification of standard zero trust principles supporting reference architectures and metrics-based assessment plan.

"(5) Roles, responsibilities, functions, and operational workflows of zero trust cybersecurity architecture and information technology personnel—

"(A) at combatant commands, military services, and defense agencies; and

"(B) Joint Forces Headquarters-Department of Defense Information Network.

"(c) ARCHITECTURE DEVELOPMENT AND IMPLEMENTATION.—In developing and implementing the zero trust strategy, principles, and model architecture required under subsection (a), the Chief Information Officer of the Department of Defense and the Commander of United States Cyber Command shall—

"(1) coordinate with—

"(A) the Principal Cyber Advisor to the Secretary of Defense;

"(B) the Director of the National Security Agency Cybersecurity Directorate;

"(C) the Director of the Defense Advanced Research Projects Agency;

"(D) the Chief Information Officer of each military service;

"(E) the Commanders of the cyber components of the military services;

"(F) the Principal Cyber Advisor of each military service;

"(G) the Chairman of the Joints Chiefs of Staff; and

"(H) any other component of the Department of Defense as determined by the Chief Information Officer and the Commander;

"(2) assess the utility of the Joint Regional Security Stacks, automated continuous endpoint monitoring program, assured compliance assessment solution, and each of the defenses at the Internet Access Points for their relevance and applicability to the zero trust architecture and opportunities for integration or divestment;

"(3) employ all available resources, including online training, leveraging commercially available zero trust training material, and other Federal agency training, where feasible, to implement cybersecurity training on zero trust at the—

"(A) executive level;

"(B) cybersecurity professional or implementer level; and

"(C) general knowledge levels for Department of Defense users;

"(4) facilitate cyber protection team and cybersecurity service provider threat hunting and discovery of novel adversary activity;

"(5) assess and implement means to effect Joint Force Headquarters-Department of Defense Information Network's automated command and control of the entire Department of Defense Information Network;

"(6) assess the potential of and, as appropriate, encourage, use of third-party cybersecurity-as-a-service models;

"(7) engage with and conduct outreach to industry, academia, international partners, and other departments and agencies of the Federal Government on issues relating to deployment of zero trust architectures;

"(8) assess the current Comply-to-Connect Plan; and

"(9) review past and conduct additional pilots to guide development, including—

"(A) utilization of networks designated for testing and accreditation under section 1658 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2224 note) [set out below];

"(B) use of automated red team products for assessment of pilot architectures; and

"(C) accreditation of piloted cybersecurity products for enterprise use in accordance with the findings on enterprise accreditation standards conducted pursuant to section 1654 of such Act (Public Law 116–92) [133 Stat. 1764].

"(d) IMPLEMENTATION PLANS.—

"(1) IN GENERAL.—Not later than one year after the finalization of the zero trust strategy, principles, and model architecture required under subsection (a), the head of each military department and the head of each component of the Department of Defense shall transmit to the Chief Information Officer of the Department and the Commander of Joint Forces Headquarters-Department of Defense Information Network a draft plan to implement such zero trust strategy, principles, and model architecture across the networks of their respective components and military departments.

"(2) ELEMENTS.—Each implementation plan transmitted pursuant to paragraph (1) shall include, at a minimum, the following:

"(A) Specific acquisitions, implementations, instrumentations, and operational workflows to be implemented across unclassified and classified networks, operational technology, and weapon systems.

"(B) A detailed schedule with target milestones and required expenditures.

"(C) Interim and final metrics, including a phase migration plan.

"(D) Identification of additional funding, authorities, and policies, as may be required.

"(E) Requested waivers, exceptions to Department of Defense policy, and expected delays.

"(e) IMPLEMENTATION OVERSIGHT.—

"(1) IN GENERAL.—The Chief Information Officer of the Department of Defense shall—

"(A) assess the implementation plans transmitted pursuant to subsection (d)(1) for—

"(i) adequacy and responsiveness to the zero trust strategy, principles, and model architecture required under subsection (a); and

"(ii) appropriate use of enterprise-wide acquisitions;

"(B) ensure, at a high level, the interoperability and compatibility of individual components' Solutions Architectures, including the leveraging of enterprise capabilities where appropriate through standards derivation, policy, and reviews;

"(C) use the annual investment guidance of the Chief to ensure appropriate implementation of such plans, including appropriate use of enterprise-wide acquisitions;

"(D) track use of waivers and exceptions to policy;

"(E) use the Cybersecurity Scorecard to track and drive implementation of Department components; and

"(F) leverage the authorities of the Commander of Joint Forces Headquarters-Department of Defense Information Network and the Director of the Defense Information Systems Agency to begin implementation of such zero trust strategy, principles, and model architecture.

"(2) ASSESSMENTS OF FUNDING.—Not later than March 31, 2024, and annually thereafter, each Principal Cyber Advisor of a military service shall include in the annual budget certification of such military service, as required by section 392a(c)(4) of title 10, United States Code, an assessment of the adequacy of funding requested for each proposed budget for the purposes of carrying out the implementation plan for such military service under subsection (d)(1).

"(f) INITIAL BRIEFINGS.—

"(1) ON MODEL ARCHITECTURE.—Not later than 90 days after finalizing the zero trust strategy, principles, and model architecture required under subsection (a), the Chief Information Officer of the Department of Defense and the Commander of Joint Forces Headquarters-Department of Defense Information Network shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such zero trust strategy, principles, and model architecture.

"(2) ON IMPLEMENTATION PLANS.—Not later than 90 days after the receipt by the Chief Information Officer of the Department of Defense of an implementation plan transmitted pursuant to subsection (d)(1), the secretary of a military department, in the case of an implementation plan pertaining to a military department or a military service, or the Chief Information Officer of the Department, in the case of an implementation plan pertaining to a remaining component of the Department, as the case may be, shall provide to the congressional defense committees a briefing on such implementation plan.

"(g) ANNUAL BRIEFINGS.—Effective February 1, 2022, at each of the annual cybersecurity budget review briefings of the Chief Information Officer of the Department of Defense and the military services for congressional staff, until January 1, 2030, the Chief Information Officer and the head of each of the military services shall provide updates on the implementation in their respective networks of the zero trust strategy, principles, and model architecture."

## DEMONSTRATION PROGRAM FOR AUTOMATED SECURITY VALIDATION TOOLS

Pub. L. 117–81, div. A, title XV, §1529, Dec. 27, 2021, 135 Stat. 2048, provided that:

"(a) DEMONSTRATION PROGRAM REQUIRED.—Not later than October 1, 2024, the Chief Information Officer of the Department of Defense, acting through the Director of the Defense Information Systems Agency of the Department, shall complete a demonstration program to demonstrate and assess an automated security validation capability to assist the Department by—

"(1) mitigating cyber hygiene challenges;

"(2) supporting ongoing efforts of the Department to assess weapon systems resiliency;

"(3) quantifying enterprise security effectiveness of enterprise security controls, to inform future

acquisition decisions of the Department;

"(4) assisting portfolio managers with balancing capability costs and capability coverage of the threat landscape; and

"(5) supporting the Department's Cybersecurity Analysis and Review threat framework.

"(b) CONSIDERATIONS.—In developing capabilities for the demonstration program required under subsection (a), the Chief Information Officer shall consider—

"(1) integration into automated security validation tools of advanced commercially available threat intelligence;

"(2) metrics and scoring of security controls;

"(3) cyber analysis, cyber campaign tracking, and cybersecurity information sharing;

"(4) integration into cybersecurity enclaves and existing cybersecurity controls of security instrumentation and testing capability;

"(5) endpoint sandboxing; and

"(6) use of actual adversary attack methodologies.

"(c) COORDINATION WITH MILITARY SERVICES.—In carrying out the demonstration program required under subsection (a), the Chief Information Officer, acting through the Director of the Defense Information Systems Agency, shall coordinate demonstration program activities with complementary efforts on-going within the military services, defense agencies, and field agencies.

"(d) INDEPENDENT CAPABILITY ASSESSMENT.—In carrying out the demonstration program required under subsection (a), the Chief Information Officer, acting through the Director of the Defense Information Systems Agency and in coordination with the Director, Operational Test and Evaluation, shall perform operational testing to evaluate the operational effectiveness, suitability, and cybersecurity of the capabilities developed under the demonstration program.

"(e) BRIEFING.—

"(1) INITIAL BRIEFING.—Not later than April 1, 2022, the Chief Information Officer shall brief the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the plans and status of the Chief Information Officer with respect to the demonstration program required under subsection (a).

"(2) FINAL BRIEFING.—Not later than October 31, 2024, the Chief Information Officer shall brief the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the results and findings of the Chief Information Officer with respect to the demonstration program required under subsection (a)."

## CONSIDERATIONS RELATING TO PERMANENTLY BASING UNITED STATES EQUIPMENT OR ADDITIONAL FORCES IN HOST COUNTRIES WITH AT-RISK VENDORS IN 5G OR 6G NETWORKS

Pub. L. 116–283, div. A, title X, §1058, Jan. 1, 2021, 134 Stat. 3856, as amended by Pub. L. 119–60, div. A, title VIII, §811(c)(3)(D), Dec. 18, 2025, 139 Stat. 950, provided that:

"(a) IN GENERAL.—Prior to basing a major weapon system or additional permanently assigned forces comparable to or larger than a battalion, squadron, or naval combatant in a host country with at-risk 5th generation (in this section referred to as '5G') or sixth generation (in this section referred to as '6G') wireless network equipment, software, or services, including supply chain vulnerabilities identified by the Federal Acquisition Security Council, where United States military personnel and their families will be directly connected or subscribers to networks that include such at-risk equipment, software, and services in their official duties or in the conduct of personal affairs, the Secretary of Defense shall take into consideration the risks to personnel, equipment, and operations of the Department of Defense in the host country posed by current or intended use by such country of 5G or 6G telecommunications architecture provided by at-risk vendors, including Huawei and ZTE, and any steps to mitigate those risks, including—

"(1) any steps being taken by the host country to mitigate any potential risks to the weapon systems, military units, or personnel, and the Department of Defense's assessment of those efforts;

"(2) any steps being taken by the United States Government, separately or in collaboration with the host country, to mitigate any potential risks to the weapon systems, permanently deployed forces, or personnel;

"(3) any defense mutual agreements between the host country and the United States intended to allay the costs of risk mitigation posed by the at-risk infrastructure; and

"(4) any other matters the Secretary determines to be relevant.

"(b) APPLICABILITY.—The requirements under subsection (a)—

"(1) apply with respect to the permanent long-term stationing of equipment and permanently assigned

forces; and

"(2) do not apply with respect to the short-term deployment or rotational presence of equipment or forces to a military installation outside the United States in connection with any exercise, dynamic force employment, contingency operation, or combat operation.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that contains an assessment of—

"(A) the risk to personnel, equipment, and operations of the Department of Defense in host countries posed by the current or intended use by such countries of 5G or 6G telecommunications architecture provided by at-risk vendors, including Huawei and ZTE; and

"(B) measures required to mitigate the risk described in paragraph (1).

"(2) FORM.—The report required by paragraph (1) shall be submitted in a classified form with an unclassified summary.

"(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term 'major weapon system' has the meaning given that term in section 101(a) of title 10, United States Code."

## RESPONSIBILITY FOR CYBERSECURITY AND CRITICAL INFRASTRUCTURE PROTECTION OF THE DEFENSE INDUSTRIAL BASE

Pub. L. 116–283, div. A, title XVII, §1724, Jan. 1, 2021, 134 Stat. 4111, as amended by Pub. L. 118–31, div. A, title XV, §1511, Dec. 22, 2023, 137 Stat. 541, provided that:

"(a) CRITICAL INFRASTRUCTURE DEFINED.—In this section, the term 'critical infrastructure' has the meaning given such term in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e)).

"(b) DESIGNATION.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], the Secretary of Defense shall designate a principal staff assistant from within the Office of the Secretary of Defense who shall serve as the coordinating authority for cybersecurity issues relating to the defense industrial base.

"(c) RESPONSIBILITIES.—As the coordinating authority for cybersecurity issues relating to the defense industrial base, the principal staff assistant designated under subsection (b) shall synchronize, harmonize, de-conflict, and coordinate all policies and programs germane to defense industrial base cybersecurity, including the following:

"(1) The Sector Risk Management Agency functions under Presidential Policy Directive-21 the Department of Defense has assigned to the Under Secretary of Defense for Policy for implementation.

"(2) The Under Secretary of Defense for Acquisition and Sustainment's policies and programs germane to contracting and contractual enforcement as such relate to cybersecurity assessment and assistance, and industrial base health and security.

"(3) The Under Secretary of Defense for Intelligence and Security's policies and programs germane to physical security, information security, industrial security, acquisition security and cybersecurity, all source intelligence, classified threat intelligence sharing related to defense industrial base cybersecurity activities, counterintelligence, and foreign ownership control or influence, including the Defense Intelligence Agency and National Security Agency support provided to the Department of Defense – Defense Industrial Base Collaborative Information Sharing Environment and cyber intrusion damage assessment analysis as part of defense industrial base cybersecurity activities.

"(4) The Department of Defense Chief Information Officer's policies and programs for cybersecurity standards and integrating cybersecurity threat intelligence-sharing activities and enhancing Department of Defense and defense industrial base cyber situational awareness.

"(5) The Under Secretary of Defense for Research and Engineering's policies and programs germane to protection planning requirements of emerging technologies as such relate to cybersecurity assessment and assistance, and industrial base health and security.

"(6) Other Department of Defense components' policies and programs germane to the cybersecurity of the defense industrial base, including the policies and programs of the military services and the combatant commands.

"(d) ADDITIONAL FUNCTIONS.—In carrying out this section, the principal staff assistant designated under subsection (b) shall—

"(1) coordinate or facilitate coordination with relevant Federal departments and agencies, defense

industrial base entities, independent regulatory agencies, and with State, local, territorial, and Tribal entities, as appropriate;

"(2) facilitate or coordinate the provision of incident management support to defense industrial base entities, as appropriate;

"(3) facilitate or coordinate the provision of technical assistance to and consultations with defense industrial base entities to identify cyber or cyber-physical vulnerabilities and minimize the damage of potential incidents, as appropriate; and

"(4) support or facilitate the supporting of the statutorily required reporting requirements of such relevant Federal departments and agencies by providing or facilitating the provision to such departments and agencies on an annual basis relevant critical infrastructure information, as appropriate.

"(e) DEPARTMENT OF DEFENSE ROLES AND RESPONSIBILITIES.—No later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on the following issues:

"(1) A plan for implementation of this section, including an assessment of the roles and responsibilities of entities across the Department of Defense and mechanisms and processes for coordination of policy and programs germane to defense industrial base cybersecurity.

"(2) An analysis of the feasibility and advisability of separating cybersecurity functions of a Sector Risk Management Agency pursuant to section 9002 of the National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 652a) from non-cybersecurity functions of a Sector Risk Management Agency."

## IMPROVING THE TRAINING WITH INDUSTRY PROGRAM

Pub. L. 116–283, div. A, title XVII, §1726(b), Jan. 1, 2021, 134 Stat. 4116, provided that:

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 1, 2021], the Principal Cyber Advisor of the Department of Defense, in consultation with the Principal Cyber Advisors of the military services and the Under Secretary of Defense for Personnel and Readiness, shall submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a review of the current utilization and utility of the Training With Industry (TWI) programs, including relating to the following:

"(A) Recommendations regarding how to improve and better utilize such programs, including regarding individuals who have completed such programs.

"(B) An implementation plan to carry out such recommendations.

"(2) ADDITIONAL.—Not later than 90 days after the submission of the report required under paragraph (1), the Secretary of Defense shall carry out such elements of the implementation plan required under paragraph (1)(B) as the Secretary considers appropriate and notify the congressional defense committees of the determinations of the Secretary relating thereto."

## REPORTING REQUIREMENTS FOR CROSS DOMAIN INCIDENTS AND EXEMPTIONS TO POLICIES FOR INFORMATION TECHNOLOGY

Pub. L. 116–283, div. A, title XVII, §1727, Jan. 1, 2021, 134 Stat. 4117, as amended by Pub. L. 118–159, div. A, title XV, §1511, Dec. 23, 2024, 138 Stat. 2136, provided that:

"(a) INCIDENT REPORTING.—

"(1) IN GENERAL.—Effective beginning on the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense and the secretaries of the military services shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a monthly report in writing that documents each instance or indication of a cross-domain incident within the Department of Defense.

"(2) PROCEDURES.—The Secretary of Defense shall submit to the congressional defense committees procedures for complying with the requirements of paragraph (1) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify such committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

"(3) DEFINITION.—In this subsection, the term 'cross domain incident' means any unauthorized connection of any duration between software, hardware, or both that is either used on, or designed for use on a network or system built for classified data, and systems not accredited or authorized at the same or higher classification level, including systems on the public internet, regardless of whether the unauthorized connection is later determined to have resulted in the exfiltration, exposure, or spillage of data across the cross domain connection.

"(b) EXEMPTIONS TO POLICY FOR INFORMATION TECHNOLOGY.—Not later than six months

after the date of the enactment of this Act and biannually thereafter, the Secretary of Defense and the secretaries of the military services shall submit to the congressional defense committees a report in writing that enumerates and details each current exemption to information technology policy, interim Authority To Operate (ATO) order, or both. Each such report shall include other relevant information pertaining to each such exemption, including relating to the following:

"(1) Risk categorization.

"(2) Duration.

"(3) Estimated time remaining.

"(c) TERMINATION DATE.—The requirement of the Secretary of Defense to submit a monthly report under subsection (a) shall terminate on December 31, 2025."

## PILOT PROGRAM ON CYBERSECURITY CAPABILITY METRICS

Pub. L. 116–283, div. A, title XVII, §1733, Jan. 1, 2021, 134 Stat. 4123, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense, acting through the Chief Information Officer of the Department of Defense and the Commander of United States Cyber Command, shall conduct a pilot program to assess the feasibility and advisability of developing and using speed-based metrics to measure the performance and effectiveness of security operations centers and cyber security service providers in the Department of Defense.

"(b) REQUIREMENTS.—

"(1) DEVELOPMENT OF METRICS.—(A) Not later than July 1, 2021, the Chief Information Officer and the Commander shall jointly develop metrics described in subsection (a) to carry out the pilot program under such subsection.

"(B) The Chief Information Officer and the Commander shall ensure that the metrics developed under subparagraph (A) are commensurate with the representative timelines of nation-state and non-nation-state actors when gaining access to, and compromising, Department networks.

"(2) USE OF METRICS.—(A) Not later than December 1, 2021, the Secretary shall, in carrying out the pilot program required by subsection (a), begin using the metrics developed under paragraph (1) of this subsection to assess select security operations centers and cyber security service providers, which the Secretary shall select specifically for purposes of the pilot program, for a period of not less than four months.

"(B) In carrying out the pilot program under subsection (a), the Secretary shall evaluate the effectiveness of operators, capabilities available to operators, and operators' tactics, techniques, and procedures.

"(c) AUTHORITIES.—In carrying out the pilot program under subsection (a), the Secretary may—

"(1) assess select security operations centers and cyber security service providers—

"(A) over the course of their mission performance; or

"(B) in the testing and accreditation of cybersecurity products and services on test networks designated pursuant to section 1658 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) [set out as a note below]; and

"(2) assess select elements' use of security orchestration and response technologies, modern endpoint security technologies, Big Data Platform instantiations, and technologies relevant to zero trust architectures.

"(d) BRIEFING.—

"(1) IN GENERAL.—Not later than March 1, 2022, the Secretary shall brief the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the findings of the Secretary with respect to the pilot program required by subsection (a).

"(2) ELEMENTS.—The briefing provided under paragraph (1) shall include the following:

"(A) The pilot metrics developed under subsection (b)(1).

"(B) The findings of the Secretary with respect to the assessments carried out under subsection (b)(2).

"(C) An analysis of the utility of speed-based metrics in assessing security operations centers and cyber security service providers.

"(D) An analysis of the utility of the extension of the pilot metrics to or speed-based assessment of the Cyber Mission Forces.

"(E) An assessment of the technical and procedural measures that would be necessary to meet the speed-based metrics developed and applied in the pilot program."

## INTEGRATION OF DEPARTMENT OF DEFENSE USER ACTIVITY MONITORING AND CYBERSECURITY

Pub. L. 116–283, div. A, title XVII, §1735, Jan. 1, 2021, 134 Stat. 4125, provided that:

"(a) INTEGRATION OF PLANS, CAPABILITIES, AND SYSTEMS.—The Secretary of Defense shall integrate the plans, capabilities, and systems for user activity monitoring, and the plans, capabilities, and systems for endpoint cybersecurity and the collection of metadata on network activity for cybersecurity to enable mutual support and information sharing.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall—

"(1) consider using the Big Data Platform instances that host cybersecurity metadata for storage and analysis of all user activity monitoring data collected across the Department of Defense Information Network at all security classification levels;

"(2) develop policies and procedures governing access to user activity monitoring data or data derived from user activity monitoring by cybersecurity operators; and

"(3) develop processes and capabilities for using metadata on host and network activity for user activity monitoring in support of the insider threat mission.

"(c) CONGRESSIONAL BRIEFING.—Not later than October 1, 2021, the Secretary shall provide a briefing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on actions taken to carry out this section."

## ASSESSMENT ON DEFENSE INDUSTRIAL BASE PARTICIPATION IN A THREAT INFORMATION SHARING PROGRAM

Pub. L. 116–283, div. A, title XVII, §1737, Jan. 1, 2021, 134 Stat. 4127, provided that:

"(a) DEFENSE INDUSTRIAL BASE THREAT INFORMATION PROGRAM ASSESSMENT.—Not later than 270 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall complete an assessment of the feasibility, suitability, and definition of, and resourcing required to establish, a defense industrial base threat information sharing program to collaborate and share threat information with, and obtain threat information from, the defense industrial base.

"(b) ELEMENTS.—The assessment regarding the establishment of a defense industrial base threat information sharing program under subsection (a) shall include evaluation of the following:

"(1) The feasibility and suitability of, and requirements for, the establishment of a defense industrial base threat information sharing program, including cybersecurity incident reporting requirements applicable to the defense industrial base that—

"(A) extend beyond mandatory cybersecurity incident reporting requirements as in effect on the day before the date of the enactment of this Act;

"(B) set specific, consistent timeframes for all categories of cybersecurity incident reporting;

"(C) establish a single clearinghouse for all mandatory cybersecurity incident reporting to the Department of Defense, including incidents involving covered unclassified information, and classified information; and

"(D) provide that, unless authorized or required by another provision of law or the element of the defense industrial base making the report consents, nonpublic information of which the Department becomes aware only because of a report provided pursuant to the program shall be disseminated and used only for a cybersecurity purpose (as such term is defined in section 102 of the Cybersecurity Information Sharing Act of 2015 (6 U.S.C. 1501)) and in support of national defense activities.

"(2) A mechanism for developing a shared and real-time picture of the threat environment.

"(3) Options for joint, collaborative, and co-located analytics.

"(4) Possible investments in technology and capabilities to support automated detection and analysis across the defense industrial base.

"(5) Coordinated information tipping, sharing, and deconfliction, as necessary, with relevant Federal Government agencies with similar information sharing programs.

"(6) Processes for direct sharing of threat information related to a specific defense industrial base entity with such entity.

"(7) Mechanisms for providing defense industrial base entities with clearances for national security information access, as appropriate.

"(8) Requirements to consent to queries of foreign intelligence collection databases related to a specific defense industrial base entity as a condition of participation in the threat information sharing program.

"(9) Recommendations with respect to threat information sharing program participation, including the following:

"(A) Incentives for defense industrial base entities to participate in the threat information sharing program.

"(B) Mandating minimum levels of threat information sharing program participation for any

entity that is part of the defense industrial base.

"(C) Procurement prohibitions on any defense industrial base entity that are not in compliance with the requirements of the threat information sharing program.

"(D) Waiver authority and criteria.

"(E) Adopting tiers of requirements for participation within the threat information sharing program based on—

"(i) the role of and relative threats related to defense industrial base entities; and

"(ii) Cybersecurity Maturity Model Certification level.

"(10) Options to utilize an existing federally recognized information sharing program to satisfy the requirement for a threat information sharing program if—

"(A) the existing program includes, or is modified to include, two-way sharing of threat information that is specifically relevant to the defense industrial base; and

"(B) such a program is coordinated with other Federal Government agencies with existing information sharing programs where overlap occurs.

"(11) Methods to encourage participation of defense industrial base entities in appropriate private sector information sharing and analysis centers (ISACs).

"(12) Methods to coordinate collectively with defense industrial base entities to consider methods for mitigating compliance costs.

"(13) The resources needed, governance roles and structures required, and changes in regulation or law needed for execution of a threat information sharing program, as well as any other considerations determined relevant by the Secretary.

"(14) Identification of any barriers that would prevent the establishment of a defense industrial base threat information sharing program.

"(c) CONSULTATION.—In conducting the assessment required under subsection (a), the Secretary of Defense shall consult with and solicit recommendations from representative industry stakeholders across the defense industrial base regarding the elements described in subsection (b) and potential stakeholder costs of compliance.

"(d) DETERMINATION AND BRIEFING.—Upon completion of the assessment required under subsection (a), the Secretary of Defense shall make a determination regarding the establishment by the end of fiscal year 2021 of a defense industrial base threat information sharing program and provide a briefing to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on—

"(1) the findings of the Secretary with respect to such assessment and such determination; and

"(2) such implementation plans as the Secretary may have arising from such findings.

"(e) IMPLEMENTATION.—If the Secretary of Defense makes a positive determination pursuant to subsection (d) of the feasibility and suitability of establishing a defense industrial base threat information sharing program, the Secretary shall establish such program. Not later than 180 days after a positive determination, the Secretary of Defense shall promulgate such rules and regulations as are necessary to establish the defense industrial base threat information sharing program under this section."

## ASSISTANCE FOR SMALL MANUFACTURERS IN THE DEFENSE INDUSTRIAL SUPPLY CHAIN ON MATTERS RELATING TO CYBERSECURITY

Pub. L. 116–283, div. A, title XVII, §1738, Jan. 1, 2021, 134 Stat. 4129, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Defense, in consultation with the Director of the National Institute of Standards and Technology, may award financial assistance to a Center for the purpose of providing cybersecurity services to small manufacturers.

"(b) CRITERIA.—If the Secretary carries out subsection (a), the Secretary, in consultation with the Director, shall establish and publish on the grants.gov website, or successor website, criteria for selecting recipients for financial assistance under this section.

"(c) USE OF FINANCIAL ASSISTANCE.—Financial assistance under this section—

"(1) shall be used by a Center to provide small manufacturers with cybersecurity services, including—

"(A) compliance with the cybersecurity requirements of the Department of Defense Supplement to the Federal Acquisition Regulation, including awareness, assessment, evaluation, preparation, and implementation of cybersecurity services; and

"(B) achieving compliance with the Cybersecurity Maturity Model Certification framework of the Department of Defense; and

"(2) may be used by a Center to employ trained personnel to deliver cybersecurity services to small manufacturers.

"(d) BIENNIAL REPORTS.—

"(1) IN GENERAL.—Not less frequently than once every two years, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science, Space, and Technology of the House of Representatives a report on financial assistance awarded under this section.

"(2) CONTENTS.—To the extent practicable, each report submitted under paragraph (1) shall include the following with respect to the years covered by each such report:

"(A) The number of small manufacturers assisted.

"(B) A description of the cybersecurity services provided.

"(C) A description of the cybersecurity matters addressed.

"(D) An analysis of the operational effectiveness and cost-effectiveness of such cybersecurity services.

"(e) TERMINATION.—The authority of the Secretary to award financial assistance under this section shall terminate on the date that is five years after the date of the enactment of this section [Jan. 1, 2021].

"(f) DEFINITIONS.—In this section:

"(1) CENTER.—The term 'Center' has the meaning given such term in section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)).

"(2) SMALL MANUFACTURER.—The term 'small manufacturer' has the meaning given such term in section 1644(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2224 note)."

## ASSESSMENT ON DEFENSE INDUSTRIAL BASE CYBERSECURITY THREAT HUNTING PROGRAM

Pub. L. 116–283, div. A, title XVII, §1739, Jan. 1, 2021, 134 Stat. 4130, provided that:

"(a) ASSESSMENT REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall complete an assessment of the feasibility, suitability, definition of, and resourcing required to establish a defense industrial base cybersecurity threat hunting program to actively identify cybersecurity threats and vulnerabilities within the defense industrial base.

"(b) ELEMENTS.—The assessment required under section [sic] (a) shall include evaluation of the following:

"(1) Existing defense industrial base cybersecurity threat hunting policies and programs, including the threat hunting elements at each level of the compliance-based Cybersecurity Maturity Model Certification program of the Department of Defense, including requirements germane to continuous monitoring, discovery, and investigation of anomalous activity indicative of a cybersecurity incident.

"(2) The suitability of a continuous cybersecurity threat hunting program, as a supplement to the cyber hygiene requirements of the Cybersecurity Maturity Model Certification, including consideration of the following:

"(A) Collection and analysis of metadata on network activity to detect possible intrusions.

"(B) Rapid investigation and remediation of possible intrusions.

"(C) Requirements for mitigating any vulnerabilities identified pursuant to the cybersecurity threat hunting program.

"(D) Mechanisms for the Department of Defense to share with entities in the defense industrial base malicious code, indicators of compromise, and insights on the evolving threat landscape.

"(3) Recommendations with respect to cybersecurity threat hunting program participation of prime contractors and subcontractors, including relating to the following:

"(A) Incentives for defense industrial base entities to share with the Department of Defense threat and vulnerability information collected pursuant to threat monitoring and hunting activities.

"(B) Mandating minimum levels of program participation for any defense industrial base entity.

"(C) Procurement prohibitions on any defense industrial base entity that is not in compliance with the requirements of the cybersecurity threat hunting program.

"(D) Waiver authority and criteria.

"(E) Consideration of a tiered cybersecurity threat hunting program that takes into account the following:

"(i) The cybersecurity maturity of defense industrial base entities.

"(ii) The roles of such entities.

"(iii) Whether each such entity possesses classified information or controlled unclassified information and covered defense networks.

"(iv) The covered defense information to which each such entity has access as a result of contracts with the Department of Defense.

"(4) Whether the continuous cybersecurity threat-hunting program described in paragraph (2) should be conducted by—

"(A) qualified prime contractors or subcontractors;

"(B) accredited third-party cybersecurity vendors;

"(C) with contractor consent—

"(i) United States Cyber Command; or

"(ii) a component of the Department of Defense other than United States Cyber Command;

"(D) the deployment of network sensing technologies capable of identifying and filtering malicious network traffic; or

"(E) a combination of the entities specified in subparagraphs (A) through (D).

"(5) The resources necessary, governance structures or changes in regulation or law needed, and responsibility for execution of a defense industrial base cybersecurity threat hunting program, as well as any other considerations determined relevant by the Secretary.

"(6) A timelime [sic] for establishing the defense industrial base cybersecurity threat hunting program not later than two years after the date of the enactment of this Act [Jan. 1, 2021].

"(7) Identification of any barriers that would prevent such establishment.

"(c) CONSULTATION.—In conducting the assessment required under subsection (a), the Secretary of Defense shall consult with and solicit recommendations from representative industry stakeholders across the defense industrial base regarding the elements described in subsection (b) and potential stakeholder costs of compliance.

"(d) DETERMINATION AND BRIEFING.—Upon completion of the assessment required under subsection (a), the Secretary of Defense shall make a determination regarding the establishment of a defense industrial base cybersecurity threat hunting program and provide a briefing to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on—

"(1) the findings of the Secretary with respect to such assessment and such determination; and

"(2) such implementation plans as the Secretary may have arising from such findings.

"(e) IMPLEMENTATION.—If the Secretary of Defense makes a positive determination pursuant to subsection (d) of the feasibility and suitability of establishing a defense industrial base threat cybersecurity threat hunting program, the Secretary shall establish such program. Not later than 180 days after a positive determination, the Secretary of Defense shall promulgate such rules and regulations as are necessary to establish the defense industrial base cybersecurity threat hunting program under this section."

## ROLE OF CHIEF INFORMATION OFFICER IN IMPROVING ENTERPRISE-WIDE CYBERSECURITY

Pub. L. 116–92, div. A, title XVI, §1641, Dec. 20, 2019, 133 Stat. 1750, provided that:

"(a) IN GENERAL.—In carrying out the responsibilities established in section 142 of title 10, United States Code, the Chief Information Officer of the Department of Defense shall, to the maximum extent practicable, ensure that the cybersecurity programs and capabilities of the Department—

"(1) fit into an enterprise-wide cybersecurity architecture;

"(2) are maximally interoperable with each other, including those programs and capabilities deployed by the components of the Department;

"(3) enhance enterprise-level visibility and responsiveness to threats; and

"(4) are developed, procured, instituted, and managed in a cost-efficient manner, exploiting economies of scale and enterprise-wide services and discouraging unnecessary customization and piecemeal acquisition.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Chief Information Officer shall—

"(1) manage and modernize the cybersecurity architecture of the Department, including—

"(A) ensuring the cybersecurity architecture of the Department maximizes cybersecurity capability, network, and endpoint activity data sharing across Department components;

"(B) ensuring the cybersecurity architecture of the Department supports improved automaticity of cybersecurity detection and response; and

"(C) modernizing and configuring the Department's standardized deployed perimeter, network-level, and endpoint capabilities to improve interoperability, meet pressing capability needs, and negate common adversary tactics, techniques, and procedures;

"(2) establish mechanisms to enable and mandate, as necessary, cybersecurity capability and network and endpoint activity data-sharing across Department components;

"(3) make mission data, through data tagging, automatic transmission, and other means, accessible and discoverable by Department components other than owners of such mission data;

"(4) incorporate into the cybersecurity architecture of the Department emerging cybersecurity technologies from the Defense Advanced Research Projects Agency, the Strategic Capabilities Office, the Defense Innovation Unit, the laboratories of the military departments, and the commercial sector;

"(5) ensure that the Department possesses the necessary computing infrastructure, through technology refresh, installation or acquisition of bandwidth, and the use of cloud computing power, to host and enable necessary cybersecurity capabilities; and

"(6) utilize the Department's cybersecurity expertise to improve cybersecurity performance, operations, and acquisition, including—

"(A) the cybersecurity testing, architecting, and engineering expertise of the National Security Agency; and

"(B) the technology policy, workforce, and engineering expertise of the Defense Digital Service."

## CONTROL AND ANALYSIS OF DEPARTMENT OF DEFENSE DATA STOLEN THROUGH CYBERSPACE

Pub. L. 116–92, div. A, title XVI, §1646, Dec. 20, 2019, 133 Stat. 1753, provided that:

"(a) REQUIREMENTS.—If the Secretary of Defense determines that significant Department of Defense data may have been stolen through cyberspace and evidence of theft of the data in question—

"(1) is in the possession of a component of the Department, the Secretary shall—

"(A) either transfer or replicate and transfer such Department data in a prompt and secure manner to a secure repository with access by Department personnel appropriately limited on a need-to-know basis or otherwise ensure such consistent access to the relevant data by other means;

"(B) ensure the Department applies such automated analytic tools and capabilities to the repository of potentially compromised data as are necessary to rapidly understand the scope and effect of the potential compromise;

"(C) for high priority and mission critical Department systems, develop analytic products that characterize the scope of data compromised;

"(D) ensure that relevant mission-affected entities in the Department are made aware of the theft or possible theft and, as damage assessment and mitigation proceeds, are kept apprised of the extent of the data stolen; and

"(E) ensure that Department counterintelligence organizations are—

"(i) fully integrated with any damage assessment team assigned to the breach;

"(ii) fully informed of the data that have or potentially have been stolen and the effect of such theft; and

"(iii) provided resources and tasked, in conjunction with subject matter experts and responsible authorities, to immediately and appropriately respond, including through the development and execution of relevant countermeasures, to any breach involving espionage and data theft; or

"(2) is in the possession of or under controls or restrictions imposed by the Federal Bureau of Investigation, or a national counterintelligence or intelligence organization, the Secretary shall determine, jointly with the Director of the Federal Bureau of Investigation or the Director of National Intelligence, as appropriate, the most expeditious process, means, and conditions for carrying out the activities otherwise required by paragraph (1).

"(b) RECOMMENDATIONS.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] such recommendations as the Secretary may have for legislative or administrative action to address such barriers that may be inhibiting the implementation of this section."

## USE OF NATIONAL SECURITY AGENCY CYBERSECURITY EXPERTISE TO SUPPORT EVALUATION OF COMMERCIAL CYBERSECURITY PRODUCTS

Pub. L. 116–92, div. A, title XVI, §1647, Dec. 20, 2019, 133 Stat. 1754, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(7), Jan. 1, 2021, 134 Stat. 3873, provided that:

"(a) ADVISORY MISSION.—The National Security Agency shall, as a mission in its role in securing the information systems of the Department of Defense, advise and assist the Department of Defense in its evaluation and adoption of cybersecurity products and services from industry, especially the commercial cybersecurity sector.

"(b) PROGRAM TO IMPROVE ACQUISITION OF CYBERSECURITY PRODUCTS AND

SERVICES.—

"(1) ESTABLISHMENT.—Consistent with subsection (a), the Director of the National Security Agency shall establish a permanent program consisting of market research, testing, and expertise transmission, or augments to existing programs, to improve the evaluation by the Department of Defense of cybersecurity products and services.

"(2) REQUIREMENTS.—Under the program established pursuant to paragraph (1), the Director shall, independently and at the request of the components of the Department of Defense—

"(A) test and evaluate commercially available cybersecurity products and services using—

"(i) generally known cyber operations techniques; and

"(ii) tools and cyber operations techniques and advanced tools and techniques available to the National Security Agency;

"(B) develop and establish standard procedures, techniques, and threat-informed metrics to perform the testing and evaluation required by subparagraph (A); and

"(C) advise the Chief Information Officer and the components of the Department of Defense on the merits and disadvantages of evaluated cybersecurity products, including with respect to—

"(i) any synergies between products;

"(ii) value;

"(iii) matters relating to operation and maintenance; and

"(iv) matters relating to customization requirements.

"(3) LIMITATIONS.—The program established under paragraph (1) may not—

"(A) be used to accredit cybersecurity products and services for use by the Department;

"(B) create approved products lists; or

"(C) be used for the procurement and fielding of cybersecurity products on behalf of the Department."

[Pub. L. 116–283, div. A, title X, §1081(c), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(c)(7) of Pub. L. 116–283 to section 1647 of Pub. L. 116–92, set out above, is effective as of Dec. 20, 2020 (probably should be Dec. 20, 2019) and as if included in Pub. L. 116–92.]

## FRAMEWORK TO ENHANCE CYBERSECURITY OF THE UNITED STATES DEFENSE INDUSTRIAL BASE

Pub. L. 116–92, div. A, title XVI, §1648, Dec. 20, 2019, 133 Stat. 1755, as amended by Pub. L. 117–81, div. A, title XV, §1526, Dec. 27, 2021, 135 Stat. 2043, provided that:

"(a) FRAMEWORK REQUIRED.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 [Dec. 27, 2021], the Secretary of Defense shall develop a consistent, comprehensive framework to enhance cybersecurity for the United States defense industrial base.

"(b) ELEMENTS.—The framework developed pursuant to subsection (a) shall include the following:

"(1) Identification of unified cybersecurity standards, regulations, metrics, ratings, third-party certifications, or requirements to be imposed on the defense industrial base for the purpose of assessing the cybersecurity of individual contractors.

"(2) Roles and responsibilities of the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Intelligence and Security, the Chief Information Officer, the Director of the Protecting Critical Technologies Task Force, and the Secretaries of the military departments relating to the following:

"(A) Establishing and ensuring compliance with cybersecurity standards, regulations, and policies.

"(B) Deconflicting existing cybersecurity standards, regulations, and policies.

"(C) Coordinating with and providing assistance to the defense industrial base for cybersecurity matters, particularly as relates to the programs and processes described in paragraphs (8) and (9).

"(D) Management and oversight of the acquisition process, including responsibility determination, solicitation, award, and contractor management, relating to cybersecurity standards, regulations, metrics, ratings, third-party certifications, or requirements.

"(3) The responsibilities of the prime contractors, and all subcontractors in the supply chain, for implementing the required cybersecurity standards, regulations, metrics, ratings, third-party certifications, and requirements identified under paragraph (1).

"(4) Definitions for 'Controlled Unclassified Information' (CUI) and 'For Official Use Only' (FOUO), policies regarding protecting information designated as either of such, and an explanation of the 'DoD CUI Program' and Department of Defense compliance with the responsibilities specified in Department of Defense Instruction (DoDI) 5200.48, 'Controlled Unclassified Information (CUI),' including the following:

"(A) The extent to which the Department of Defense is identifying whether information is CUI via a contracting vehicle and marking documents, material, and media containing such information in a clear and consistent manner.

"(B) Recommended regulatory or policy changes to ensure consistency and clarity in CUI identification and marking requirements.

"(C) Circumstances under which commercial information is considered CUI, and any impacts to the commercial supply chain associated with security and marking requirements pursuant to this paragraph.

"(D) Benefits and drawbacks of requiring all CUI to be marked with a unique CUI legend, versus requiring that all data marked with an appropriate restricted legend be handled as CUI.

"(E) The extent to which the Department of Defense clearly delineates Federal Contract Information (FCI) from CUI.

"(F) Examples or scenarios to illustrate information that is and is not CUI.

"(5) Methods and programs for managing controlled unclassified information, and for limiting the presence of unnecessary sensitive information on contractor networks.

"(6) A plan to provide implementation guidance, education, manuals, and, as necessary, direct technical support or assistance, to contractors on matters relating to cybersecurity.

"(7) Quantitative metrics for assessing the effectiveness of the overall framework over time, with respect to the exfiltration of controlled unclassified information from the defense industrial base.

"(8) A comprehensive list of current and planned Department of Defense programs to assist the defense industrial base with cybersecurity compliance requirements of the Department, including those programs that provide training, expertise, and funding, and maintain approved security products lists and approved providers lists.

"(9) Processes for enhanced threat information sharing between the Department of Defense and the defense industrial base.

"(c) MATTERS FOR CONSIDERATION.—In developing the framework pursuant to subsection (a), the Secretary shall consider the following:

"(1) Designating an official to be responsible for the cybersecurity of the defense industrial base.

"(2) Risk-based methodologies, standards, metrics, and tiered cybersecurity requirements for the defense industrial base, including third-party certifications such as the Cybersecurity Maturity Model Certification pilot program, as the basis for a mandatory Department standard.

"(3) Tailoring cybersecurity requirements for small- and medium-sized contractors based on a risk-based approach.

"(4) Ensuring a consistent approach across the Department to cybersecurity standards, regulations, metrics, ratings, third-party certifications, or requirements of the defense industrial base.

"(5) Ensuring the Department's traceability and visibility of cybersecurity compliance of suppliers to all levels of the supply chain.

"(6) Evaluating incentives and penalties for cybersecurity performance of suppliers.

"(7) Integrating cybersecurity and traditional counterintelligence measures, requirements, and programs.

"(8) Establishing a secure software development environment (DevSecOps) in a cloud environment inside the perimeter of the Department for contractors to perform their development work.

"(9) Establishing a secure cloud environment through which contractors may access the data of the Department needed for their contract work.

"(10) An evaluation of the resources and utilization of Department programs to assist the defense industrial base in complying with cybersecurity compliance requirements referred to in subsection (b)(1).

"(11) Technological means, operational concepts, reference architectures, offensive counterintelligence operation concepts, and plans for operationalization to complicate adversary espionage, including honeypotting and data obfuscation.

"(12) Implementing enhanced security vulnerability assessments for contractors working on critical acquisition programs, technologies, manufacturing capabilities, and research areas.

"(13) Identifying ways to better leverage technology and employ machine learning or artificial intelligence capabilities, such as Internet Protocol monitoring and data integrity capabilities, to be applied to contractor information systems that host, receive, or transmit controlled unclassified information.

"(14) Developing tools to easily segregate program data to only allow subcontractors access to their specific information.

"(15) Appropriate communications of threat assessments of the defense industrial base to the acquisition workforce at all classification levels.

"(16) A single Sector Coordinating Council for the defense industrial base.

"(17) Appropriate communications with the defense industrial base on the impact of cybersecurity requirements in contracting and procurement decisions.

"(d) CONSULTATION.—In developing the framework required pursuant to subsection (a), the Secretary shall consult with the following:

"(1) Industry groups representing the defense industrial base.

"(2) Contractors in the defense industrial base.

"(3) The Director of the National Institute of Standards and Technology.

"(4) The Secretary of Energy.

"(5) The Director of National Intelligence.

"(6) Relevant Federal regulatory agencies.

"(e) BRIEFING.—

"(1) IN GENERAL.—Not later than March 11, 2020, the Secretary of Defense shall provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with a briefing on the framework developed pursuant to subsection (a).

"(2) CONTENTS.—The briefing required by paragraph (1) shall include the following:

"(A) An overview of the framework developed pursuant to subsection (a).

"(B) Identification of such pilot programs as the Secretary considers may be required to improve the cybersecurity of the defense industrial base.

"(C) Implementation timelines and identification of costs.

"(D) Such recommendations as the Secretary may have for legislative action to improve the cybersecurity of the defense industrial base.

"(f) QUARTERLY BRIEFINGS.—

"(1) IN GENERAL.—Not less frequently than once each quarter after the briefing provided pursuant to subsection (e) until February 1, 2022, the Secretary of Defense shall brief the congressional defense committees on the status of development and implementation of the framework developed pursuant to subsection (a).

"(2) COORDINATION WITH OTHER BRIEFINGS.—Each briefing under paragraph (1) shall be conducted in conjunction with a quarterly briefing under section 484(a) of title 10, United States Code.

"(3) ELEMENTS.—Each briefing under paragraph (1) shall include the following:

"(A) The current status of the development and implementation of the framework developed pursuant to subsection (a).

"(B) A description of the efforts undertaken by the Secretary to evaluate the matters for consideration set forth in subsection (c).

"(C) The current status of any pilot programs the Secretary is carrying out to develop the framework."

## DESIGNATION OF TEST NETWORKS FOR TESTING AND ACCREDITATION OF CYBERSECURITY PRODUCTS AND SERVICES

Pub. L. 116–92, div. A, title XVI, §1658, Dec. 20, 2019, 133 Stat. 1769, provided that:

"(a) DESIGNATION.—Not later than April 1, 2020, the Secretary of Defense shall designate, for use by the Defense Information Systems Agency and such other components of the Department of Defense as the Secretary considers appropriate, three test networks for the testing and accreditation of cybersecurity products and services.

"(b) REQUIREMENTS.—The networks designated under subsection (a) shall—

"(1) be of sufficient scale to realistically test cybersecurity products and services;

"(2) feature substantially different architectures and configurations;

"(3) be live, operational networks; and

"(4) feature cybersecurity processes, tools, and technologies that are appropriate for test purposes and representative of the processes, tools, and technologies that are widely used throughout the Department.

"(c) ACCESS.—Upon request, information generated in the testing and accreditation of cybersecurity products and services shall be made available to the Office of the Director, Operational Test and Evaluation."

## PROCEDURES AND REPORTING REQUIREMENT ON CYBERSECURITY BREACHES AND LOSS OF PERSONALLY IDENTIFIABLE INFORMATION AND CONTROLLED UNCLASSIFIED INFORMATION

Pub. L. 115–232, div. A, title XVI, §1639, Aug. 13, 2018, 132 Stat. 2129, provided that:

"(a) IN GENERAL.—In the event of a significant loss of personally identifiable information of civilian or

uniformed members of the Armed Forces, or a significant loss of controlled unclassified information by a cleared defense contractor, the Secretary of Defense shall promptly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice in writing of such loss. Such notice may be submitted in classified or unclassified formats.

"(b) PROCEDURES.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirement of subsection (a). Such procedures shall be consistent with the national security of the United States, the protection of operational integrity, the protection of personally identifiable information of civilian and uniformed members of the Armed Forces, and the protection of controlled unclassified information.

"(c) DEFINITIONS.—In this section:

"(1) SIGNIFICANT LOSS OF CONTROLLED UNCLASSIFIED INFORMATION.—The term 'significant loss of controlled unclassified information' means an intentional, accidental, or otherwise known theft, loss, or disclosure of Department of Defense programmatic or technical controlled unclassified information the loss of which would have significant impact or consequence to a program or mission of the Department of Defense, or the loss of which is of substantial volume.

"(2) SIGNIFICANT LOSS OF PERSONALLY IDENTIFIABLE INFORMATION.—The term 'significant loss of personally identifiable information' means an intentional, accidental, or otherwise known disclosure of information that can be used to distinguish or trace an individual's identity, such as the name, Social Security number, date and place of birth, biometric records, home or other phone numbers, or other demographic, personnel, medical, or financial information, involving 250 or more civilian or uniformed members of the Armed Forces."

## MATTERS PERTAINING TO THE SHARKSEER CYBERSECURITY PROGRAM

Pub. L. 115–232, div. A, title XVI, §1641, Aug. 13, 2018, 132 Stat. 2131, provided that:

"(a) TRANSFER OF PROGRAM.—Not later than March 1, 2019, the Secretary of Defense shall transfer the operations and maintenance for the Sharkseer cybersecurity program from the National Security Agency to the Defense Information Systems Agency, including all associated funding and, as the Secretary considers necessary, personnel.

"(b) LIMITATION ON FUNDING FOR THE INFORMATION SYSTEMS SECURITY PROGRAM.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2019 or any subsequent fiscal year for research, development, test, and evaluation for the Information Systems Security Program for the National Security Agency, not more than 90 percent may be obligated or expended unless the Chief of Information Officer, in consultation with the Principal Cyber Advisor, certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the operations and maintenance funding for the Sharkseer program for fiscal year 2019 and the subsequent fiscal years of the current Future Years Defense Program are available or programmed.

"(c) REPORT.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Chief Information Officer shall provide to the congressional defense committees a report that assesses the transition of base operations of the SharkSeer program to the Defense Information Systems Agency, including with respect to staffing, acquisition, contracts, sensor management, and the ability to conduct cyber threat analyses and detect advanced malware. Such report shall also include a plan for continued capability development.

"(d) SHARKSEER BREAK AND INSPECT CAPABILITY.—

"(1) IN GENERAL.—The Secretary of Defense shall ensure that the decryption capability described in section 1636 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291) [128 Stat. 3644] is provided by the break and inspect subsystem of the Sharkseer cybersecurity program, unless the Chief of Information Officer, in consultation with the Principal Cyber Advisor, notifies the congressional defense committees on or before the date that is 90 days after the date of the enactment of this Act that a superior enterprise solution will be operational before October 1, 2019.

"(2) INTEGRATION OF CAPABILITY.—The Secretary shall take such actions as are necessary to integrate the break and inspect subsystem of the Sharkseer cybersecurity program with the Department of Defense public key infrastructure.

"(e) VISIBILITY TO ENDPOINTS.—The Secretary shall take such actions as are necessary to enable, by October 1, 2020, the Sharkseer cybersecurity program and computer network defense service providers to

instantly and automatically determine the specific identity and location of computer hosts and other endpoints that received or sent malware detected by the Sharkseer cybersecurity program or other network perimeter defenses.

"(f) SANDBOX AS A SERVICE.—The Secretary shall use the Sharkseer cybersecurity program sandbox-as-a-service capability as an enterprise solution and terminate all other such projects, unless the Chief of Information Officer, in consultation with the Principal Cyber Advisor, notifies the congressional defense committees on or before the date that is 90 days after the date of the enactment of this Act that a superior enterprise solution will be operational before October 1, 2019."

## DESIGNATION OF OFFICIAL FOR MATTERS RELATING TO INTEGRATING CYBERSECURITY AND INDUSTRIAL CONTROL SYSTEMS WITHIN THE DEPARTMENT OF DEFENSE

Pub. L. 115–232, div. A, title XVI, §1643, Aug. 13, 2018, 132 Stat. 2133, provided that:

"(a) DESIGNATION OF INTEGRATING OFFICIAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall designate one official to be responsible for matters relating to integrating cybersecurity and industrial control systems for the Department of Defense.

"(b) RESPONSIBILITIES.—The official designated pursuant to subsection (a) shall be responsible for matters described in such subsection at all levels of command, from the Department's leadership to the facilities owned by or operated on behalf of the Department of Defense using industrial control systems, including developing Department-wide certification standards for integration of industrial control systems and taking into consideration frameworks set forth by the National Institute of Standards and Technology for the cybersecurity of such systems."

## ASSISTANCE FOR SMALL MANUFACTURERS IN THE DEFENSE INDUSTRIAL SUPPLY CHAIN AND UNIVERSITIES ON MATTERS RELATING TO CYBERSECURITY

Pub. L. 115–232, div. A, title XVI, §1644, Aug. 13, 2018, 132 Stat. 2133, as amended by Pub. L. 116–283, div. A, title XVIII, §§1844(e)(2), 1869(e), Jan. 1, 2021, 134 Stat. 4246, 4284; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154, provided that:

"(a) DISSEMINATION OF CYBERSECURITY RESOURCES.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the Director of the National Institute of Standards and Technology, shall take such actions as may be necessary to enhance awareness of cybersecurity threats among small manufacturers and universities working on Department of Defense programs and activities.

"(2) PRIORITY.—The Secretary of Defense shall prioritize efforts to increase awareness to help reduce cybersecurity risks faced by small manufacturers and universities referred to in paragraph (1).

"(3) SECTOR FOCUS.—The Secretary of Defense shall carry out this subsection with a focus on such small manufacturers and universities as the Secretary considers critical.

"(4) OUTREACH EVENTS.—Under paragraph (1), the Secretary of Defense shall conduct outreach to support activities consistent with this section. Such outreach may include live events with a physical presence and outreach conducted through Internet websites. Such outreach may include training, including via courses and classes, to help small manufacturers and universities improve their cybersecurity.

"(5) ROADMAPS AND ASSESSMENTS.—The Secretary of Defense shall ensure that cybersecurity for defense industrial base manufacturing is included in appropriate research and development roadmaps and threat assessments.

"(b) VOLUNTARY CYBERSECURITY SELF-ASSESSMENTS.—The Secretary of Defense shall develop mechanisms to provide assistance to help small manufacturers and universities conduct voluntary self-assessments in order to understand operating environments, cybersecurity requirements, and existing vulnerabilities, including through the Mentor Protégé Program, small business programs, and engagements with defense laboratories and test ranges.

"(c) TRANSFER OF RESEARCH FINDINGS AND EXPERTISE.—

"(1) IN GENERAL.—The Secretary of Defense shall promote the transfer of appropriate technology, threat information, and cybersecurity techniques developed in the Department of Defense to small manufacturers and universities throughout the United States to implement security measures that are adequate to protect covered defense information, including controlled unclassified information.

"(2) COORDINATION WITH OTHER FEDERAL EXPERTISE AND CAPABILITIES.—The Secretary of Defense shall coordinate efforts, when appropriate, with the expertise and capabilities that exist in Federal agencies and federally sponsored laboratories.

"(3) AGREEMENTS.—In carrying out this subsection, the Secretary of Defense may enter into

agreements with private industry, institutes of higher education, or a State, United States territory, local, or tribal government to ensure breadth and depth of coverage to the United States defense industrial base and to leverage resources.

"(d) DEFENSE ACQUISITION WORKFORCE CYBER TRAINING PROGRAM.—The Secretary of Defense shall establish a cyber counseling certification program, or approve a similar existing program, to certify small business professionals and other relevant acquisition staff within the Department of Defense to provide cyber planning assistance to small manufacturers and universities.

"(e) ESTABLISHMENT OF CYBERSECURITY FOR DEFENSE INDUSTRIAL BASE MANUFACTURING ACTIVITY.—

"(1) AUTHORITY.—The Secretary of Defense may establish an activity to assess and strengthen the cybersecurity resiliency of the defense industrial base, if the Secretary determines such is appropriate.

"(2) DESIGNATION.—The activity described in paragraph (1), if established, shall be known as the 'Cybersecurity for Defense Industrial Base Manufacturing Activity'.

"(3) SPECIFICATION.—The Cybersecurity for Defense Industrial Base Manufacturing Activity, if established, shall implement the requirements specified in subsections (a) through (c).

"(f) AUTHORITIES.—In carrying out this section, the Secretary may use the following authorities:

"(1) The Manufacturing Technology Program established under section 4841 of title 10, United States Code.

"(2) The Centers for Science, Technology, and Engineering Partnership program under section 2368 of title 10, United States Code [now 10 U.S.C. 4124].

"(3) The Manufacturing Engineering Education Program established under section 2196 of title 10, United States Code [now 10 U.S.C. 4843].

"(4) The Small Business Innovation Research program.

"(5) The mentor-protégé program.

"(6) Other legal authorities as the Secretary determines necessary to effectively and efficiently carry out this section.

"(g) DEFINITIONS.—In this section:

"(1) RESOURCES.—The term 'resources' means guidelines, tools, best practices, standards, methodologies, and other ways of providing information.

"(2) SMALL BUSINESS CONCERN.—The term 'small business concern' means a small business concern as that term is used in section 3 of the Small Business Act (15 U.S.C. 632).

"(3) SMALL MANUFACTURER.—The term 'small manufacturer' means a small business concern that is a manufacturer in the defense industrial supply chain.

"(4) STATE.—The term 'State' means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico."

## EMAIL AND INTERNET WEBSITE SECURITY AND AUTHENTICATION

Pub. L. 115–232, div. A, title XVI, §1645, Aug. 13, 2018, 132 Stat. 2135, provided that:

"(a) IMPLEMENTATION OF PLAN REQUIRED.—Except as provided by subsection (b), the Secretary of Defense shall develop and implement the plan outlined in Binding Operational Directive 18–01, issued by the Secretary of Homeland Security on October 16, 2017, relating to email security and authentication and Internet website security, according to the schedule established by the Binding Operational Directive for the rest of the Executive Branch beginning with the date of enactment of this Act [Aug. 13, 2018].

"(b) WAIVER.—The Secretary may waive the requirements of subsection (a) if the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Government Affairs of the Senate a certification that existing or planned security measures for the Department of Defense either meet or exceed the information security requirements of Binding Operational Directive 18–01.

"(c) FUTURE BINDING OPERATIONAL DIRECTIVES.—The Chief Information Officer of the Department of Defense shall notify the congressional defense committees, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Government Affairs of the Senate within 180 days of the issuance by the Secretary of Homeland Security after the date of the enactment of this Act of any Binding Operational Directive for cybersecurity whether the Department of Defense will comply with the Directive or how the Department of Defense plans to meet or exceed the security objectives of the Directive."

## RISK THRESHOLDS FOR SYSTEMS AND NETWORK OPERATIONS

Pub. L. 115–232, div. A, title XVI, §1647(c), Aug. 13, 2018, 132 Stat. 2136, provided that: "The Chief Information Officer of the Department of Defense, in coordination with the Principal Cyber Advisor, the Director of Operations of the Joint Staff, and the Commander of United States Cyber Command, shall establish risk thresholds for systems and network operations that, when exceeded, would trigger heightened security measures, such as enhanced monitoring and access policy changes."

## MITIGATION OF RISKS TO NATIONAL SECURITY POSED BY PROVIDERS OF INFORMATION TECHNOLOGY PRODUCTS AND SERVICES WHO HAVE OBLIGATIONS TO FOREIGN GOVERNMENTS

Pub. L. 115–232, div. A, title XVI, §1655, Aug. 13, 2018, 132 Stat. 2149, provided that:

"(a) DISCLOSURE REQUIRED.—Subject to the regulations issued under subsection (b), the Department of Defense may not use a product, service, or system procured or acquired after the date of the enactment of this Act [Aug. 13, 2018] relating to information or operational technology, cybersecurity, an industrial control system, or weapons system provided by a person unless that person discloses to the Secretary of Defense the following:

"(1) Whether, and if so, when, within five years before or at any time after the date of the enactment of this Act, the person has allowed a foreign government to review the code of a non-commercial product, system, or service developed for the Department, or whether the person is under any obligation to allow a foreign person or government to review the code of a non-commercial product, system, or service developed for the Department as a condition of entering into an agreement for sale or other transaction with a foreign government or with a foreign person on behalf of such a government.

"(2) Whether, and if so, when, within five years before or at any time after the date of the enactment of this Act, the person has allowed a foreign government listed in section 1654 [of Pub. L. 115–232, 10 U.S.C. 394 note] to review the source code of a product, system, or service that the Department is using or intends to use, or is under any obligation to allow a foreign person or government to review the source code of a product, system, or service that the Department is using or intends to use as a condition of entering into an agreement for sale or other transaction with a foreign government or with a foreign person on behalf of such a government.

"(3) Whether or not the person holds or has sought a license pursuant to the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations, or successor regulations, for information technology products, components, software, or services that contain code custom-developed for the non-commercial product, system, or service the Department is using or intends to use.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall issue regulations regarding the implementation of subsection (a).

"(2) UNIFORM REVIEW PROCESS.—If information obtained from a person under subsection (a) or the contents of the registry under subsection (f) are the subject of a request under section 552 of title 5, United States Code (commonly referred to as the 'Freedom of Information Act'), the Secretary of Defense shall conduct a uniform review process, without regard to the office holding the information, to determine if the information is exempt from disclosure under such section 552.

"(c) PROCUREMENT.—Procurement contracts for covered products or systems shall include a clause requiring the information contained in subsection (a) be disclosed during the period of the contract if an entity becomes aware of information requiring disclosure required pursuant to such subsection, including any mitigation measures taken or anticipated.

"(d) MITIGATION OF RISKS.—

"(1) IN GENERAL.—If, after reviewing a disclosure made by a person under subsection (a), the Secretary determines that the disclosure relating to a product, system, or service entails a risk to the national security infrastructure or data of the United States, or any national security system under the control of the Department, the Secretary shall take such measures as the Secretary considers appropriate to mitigate such risks, including, as the Secretary considers appropriate, by conditioning any agreement for the use, procurement, or acquisition of the product, system, or service on the inclusion of enforceable conditions or requirements that would mitigate such risks.

"(2) THIRD-PARTY TESTING STANDARD.—Not later than two years after the date of the enactment of this Act the Secretary shall develop such third-party testing standard as the Secretary considers acceptable for commercial off the shelf (COTS) products, systems, or services to use when dealing with foreign governments.

"(e) EXEMPTION OF OPEN SOURCE SOFTWARE.—This section shall not apply to open source software.

"(f) ESTABLISHMENT OF REGISTRY.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall—

"(1) establish within the operational capabilities of the Committee for National Security Systems (CNSS) or within such other agency as the Secretary considers appropriate a registry containing the information disclosed under subsection (a); and

"(2) upon request, make such information available to any agency conducting a procurement pursuant to the Federal Acquisition Regulations or the Defense Federal Acquisition Regulations.

"(g) ANNUAL REPORTS.—Not later than one year after the date of the enactment of this Act and not less frequently than once each year thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report detailing the number, scope, product classifications, and mitigation agreements related to each product, system, and service for which a disclosure is made under subsection (a).

"(h) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Homeland Security, and the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives.

"(2) COMMERCIAL ITEM.—The term 'commercial item' has the meaning given such term in section 103 of title 41, United States Code.

"(3) INFORMATION TECHNOLOGY.—The term 'information technology' has the meaning given such term in section 11101 of title 40, United States Code.

"(4) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given such term in section 3552(b) of title 44, United States Code.

"(5) NON-COMMERCIAL PRODUCT, SYSTEM, OR SERVICE.—The term 'non-commercial product, system, or service' means a product, system, or service that does not meet the criteria of a commercial item.

"(6) OPEN SOURCE SOFTWARE.—The term 'open source software' means software for which the human-readable source code is available for use, study, re-use, modification, enhancement, and re-distribution by the users of such software."

## INTEGRATION OF STRATEGIC INFORMATION OPERATIONS AND CYBER-ENABLED INFORMATION OPERATIONS

Pub. L. 115–91, div. A, title XVI, §1637, Dec. 12, 2017, 131 Stat. 1742, provided that:

"(a) PROCESSES AND PROCEDURES FOR INTEGRATION.—

"(1) IN GENERAL.—The Secretary of Defense shall—

"(A) establish processes and procedures to integrate strategic information operations and cyber-enabled information operations across the elements of the Department of Defense responsible for such operations, including the elements of the Department responsible for military deception, public affairs, electronic warfare, and cyber operations; and

"(B) ensure that such processes and procedures provide for integrated Defense-wide strategy, planning, and budgeting with respect to the conduct of such operations by the Department, including activities conducted to counter and deter such operations by malign actors.

"(2) DESIGNATED SENIOR OFFICIAL.—The Secretary of Defense shall designate a senior official of the Department of Defense (in this section referred to as the 'designated senior official') who shall implement and oversee the processes and procedures established under paragraph (1). The designated senior official shall be selected by the Secretary from among individuals serving in the Department of Defense at or below the level of an Under Secretary of Defense.

"(3) RESPONSIBILITIES.—The designated senior official shall have, with respect to the implementation and oversight of the processes and procedures established under paragraph (1), the following responsibilities:

"(A) Oversight of strategic policy and guidance.

"(B) Overall resource management for the integration of information operations and cyber-enabled information operations of the Department.

"(C) Coordination with the head of the Global Engagement Center to support the purpose of the

Center (as described [in] section 1287(a)(2) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 22 U.S.C. 2656 note)) and liaison with the Center and other relevant Federal Government entities to support such purpose.

"(D) Development of a strategic framework for the conduct of information operations by the Department of Defense, including cyber-enabled information operations, coordinated across all relevant elements of the Department of Defense, including both near-term and long-term guidance for the conduct of such coordinated operations.

"(E) Development and dissemination of a common operating paradigm across the elements of the Department of Defense specified in paragraph (1) to counter the influence, deception, and propaganda activities of key malign actors, including in cyberspace.

"(F) Development of guidance for, and promotion of, the capability of the Department of Defense to liaison with the private sector, including social media, on matters relating to the influence activities of malign actors.

"(b) REQUIREMENTS AND PLANS FOR INFORMATION OPERATIONS.—

"(1) COMBATANT COMMAND PLANNING AND REGIONAL STRATEGY.—(A) The Secretary shall require each commander of a combatant command to develop, in coordination with the relevant regional Assistant Secretary of State or Assistant Secretaries of State and with the assistance of the Coordinator of the Global Engagement Center and the designated senior official, a regional information strategy and interagency coordination plan for carrying out the strategy, where applicable.

"(B) The Secretary shall require each commander of a combatant command to develop such requirements and specific plans as may be necessary for the conduct of information operations in support of the strategy required under subparagraph (A), including plans for deterring information operations, including deterrence in the cyber domain, by malign actors against the United States, allies of the United States, and interests of the United States.

"(2) IMPLEMENTATION PLAN FOR DOD STRATEGY FOR OPERATIONS IN THE INFORMATION ENVIRONMENT.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the designated senior official shall—

"(i) review the strategy of the Department of Defense titled 'Department of Defense Strategy for Operations in the Information Environment' and dated June 2016; and

"(ii) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementation of such strategy.

"(B) ELEMENTS.—The plan required under subparagraph (A) shall include, at a minimum, the following:

"(i) An accounting of the efforts undertaken in support of the strategy described in subparagraph (A)(i) in the period since it was issued in June 2016.

"(ii) A description of any updates or changes to such strategy that have been made since it was first issued, as well as any expected updates or changes resulting from the designation of the designated senior official.

"(iii) A description of the role of the Department of Defense as part of a broader whole-of-Government strategy for strategic communications, including a description of any assumptions about the roles and contributions of other departments and agencies of the Federal Government with respect to such a strategy.

"(iv) Defined actions, performance metrics, and projected timelines for achieving each of the 15 tasks specified in the strategy described in subparagraph (A)(i).

"(v) An analysis of any personnel, resourcing, capability, authority, or other gaps that will need to be addressed to ensure effective implementation of the strategy described in subparagraph (A)(i) across all relevant elements of the Department of Defense.

"(vi) An investment framework and projected timeline for addressing any gaps identified under clause (v).

"(vii) Such other matters as the Secretary of Defense considers relevant.

"(C) PERIODIC STATUS REPORTS.—Not less frequently than once every 90 days during the three-year period beginning on the date on which the implementation plan is submitted under subparagraph (A)(ii), the designated senior official shall submit to the congressional defense committees a report describing the status of the efforts of the Department of Defense in accomplishing the tasks specified under clauses (iv) and (vi) of subparagraph (B).

"(c) TRAINING AND EDUCATION.—Consistent with the elements of the implementation plan under

paragraph (2), the designated senior official shall recommend the establishment of programs to provide training and education to such members of the Armed Forces and civilian employees of the Department of Defense as the Secretary considers appropriate to ensure that such members and employees understand the role of information in warfare, the central goal of all military operations to affect the perceptions, views, and decision making of adversaries, and the effective management and conduct of operations in the information environment."

## EXERCISE ON ASSESSING CYBERSECURITY SUPPORT TO ELECTION SYSTEMS OF STATES

Pub. L. 115–91, div. A, title XVI, §1638, Dec. 12, 2017, 131 Stat. 1744, provided that:

"(a) INCLUSION OF CYBER VULNERABILITIES IN ELECTION SYSTEMS IN CYBER GUARD EXERCISES.—Subject to subsection (b), the Secretary of Defense, in consultation with the Secretary of Homeland Security, may carry out exercises relating to the cybersecurity of election systems of States as part of the exercise commonly known as the 'Cyber Guard Exercise'.

"(b) AGREEMENT REQUIRED.—The Secretary of Defense may carry out an exercise relating to the cybersecurity of a State's election system under subsection (a) only if the State enters into a written agreement with the Secretary under which the State—

"(1) agrees to participate in such exercise; and

"(2) agrees to allow vulnerability testing of the components of the State's election system.

"(c) REPORT.—Not later than 90 days after the completion of any Cyber Guard Exercise, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the ability of the National Guard to assist States, if called upon, in defending election systems from cyberattacks. Such report shall include a description of the capabilities, readiness levels, and best practices of the National Guard with respect to the prevention of cyber attacks on State election systems."

## MEASUREMENT OF COMPLIANCE WITH CYBERSECURITY REQUIREMENTS FOR INDUSTRIAL CONTROL SYSTEMS

Pub. L. 115–91, div. A, title XVI, §1639, Dec. 12, 2017, 131 Stat. 1744, provided that:

"(a) IN GENERAL.—Not later than January 1, 2018, the Secretary of Defense shall make such changes to the cybersecurity scorecard as are necessary to ensure that the Secretary measures the progress of each element of the Department of Defense in securing the industrial control systems of the Department against cyber threats, including such industrial control systems as supervisory control and data acquisition systems, distributed control systems, programmable logic controllers, and platform information technology.

"(b) CYBERSECURITY SCORECARD DEFINED.—In this section, the term 'cybersecurity scorecard' means the Department of Defense Cybersecurity Scorecard used by the Department to measure compliance with cybersecurity requirements as described in the plan of the Department titled 'Department of Defense Cybersecurity Discipline Implementation Plan'."

## STRATEGIC CYBERSECURITY PROGRAM

Pub. L. 115–91, div. A, title XVI, §1640, Dec. 12, 2017, 131 Stat. 1745, as amended by Pub. L. 116–283, div. A, title XVII, §1712(b), Jan. 1, 2021, 134 Stat. 4087; Pub. L. 117–81, div. A, title XV, §1525, Dec. 27, 2021, 135 Stat. 2043; Pub. L. 117–263, div. A, title XV, §1503, Dec. 23, 2022, 136 Stat. 2880, which provided for the establishment of the Strategic Cybersecurity Program to ensure the Department of Defense's ability to conduct the most important military missions of the Department, was repealed by Pub. L. 118–31, div. A, title XV, §1502(a)(2)(C), Dec. 22, 2023, 137 Stat. 537. See section 391b of this title.

## REQUIREMENT TO ENTER INTO AGREEMENTS RELATING TO USE OF CYBER OPPOSITION FORCES

Pub. L. 114–328, div. A, title XVI, §1644, Dec. 23, 2016, 130 Stat. 2602, provided that:

"(a) REQUIREMENT FOR AGREEMENTS.—Not later than September 30, 2017, the Secretary of Defense shall ensure that each commander of a combatant command establishes appropriate agreements with the Secretary relating to the use of cyber opposition forces. Each agreement shall require the command—

"(1) to support a high state of mission readiness in the command through the use of one or more cyber opposition forces in continuous exercises and other training activities as considered appropriate by the commander of the command; and

"(2) in conducting such exercises and training activities, [to] meet the standard required under subsection (b).

"(b) JOINT STANDARD FOR CYBER OPPOSITION FORCES.—Not later than March 31, 2017, the Secretary of Defense shall issue a joint training and certification standard for use by all cyber opposition

forces within the Department of Defense.

"(c) JOINT STANDARD FOR PROTECTION OF CONTROL SYSTEMS.—Not later than June 30, 2017, the Secretary of Defense shall issue a joint training and certification standard for the protection of control systems for use by all cyber operations forces within the Department of Defense. Such standard shall—

"(1) provide for applied training and exercise capabilities; and

"(2) use expertise and capabilities from other departments and agencies of the Federal Government, as appropriate.

"(d) BRIEFING REQUIRED.—Not later than September 30, 2017, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that includes—

"(1) a list of each combatant command that has established an agreement under subsection (a);

"(2) with respect to each such agreement—

"(A) special conditions in the agreement placed on any cyber opposition force used by the command;

"(B) the process for making decisions about deconfliction and risk mitigation of cyber opposition force activities in continuous exercises and training;

"(C) identification of cyber opposition forces trained and certified to operate at the joint standard, as issued under subsection (b);

"(D) identification of the annual exercises that will include participation of the cyber opposition forces; and

"(E) identification of any shortfalls in resources that may prevent annual exercises using cyber opposition forces; and

"(3) any other matters the Secretary of Defense considers appropriate."

## CYBER PROTECTION SUPPORT FOR DEPARTMENT OF DEFENSE PERSONNEL IN POSITIONS HIGHLY VULNERABLE TO CYBER ATTACK

Pub. L. 114–328, div. A, title XVI, §1645, Dec. 23, 2016, 130 Stat. 2603, provided that:

"(a) AUTHORITY TO PROVIDE CYBER PROTECTION SUPPORT.—

"(1) IN GENERAL.—Subject to a determination by the Secretary of Defense, the Secretary may provide cyber protection support for the personal technology devices of the personnel described in paragraph (2).

"(2) AT-RISK PERSONNEL.—The personnel described in this paragraph are personnel of the Department of Defense—

"(A) who the Secretary determines to be highly vulnerable to cyber attacks and hostile information collection activities because of the positions occupied by such personnel in the Department; and

"(B) whose personal technology devices are highly vulnerable to cyber attacks and hostile information collection activities.

"(b) NATURE OF CYBER PROTECTION SUPPORT.—Subject to the availability of resources, the cyber protection support provided to personnel under subsection (a) may include training, advice, assistance, and other services relating to cyber attacks and hostile information collection activities.

"(c) LIMITATION ON SUPPORT.—Nothing in this section shall be construed—

"(1) to encourage personnel of the Department of Defense to use personal technology devices for official business; or

"(2) to authorize cyber protection support for senior Department personnel using personal devices and networks in an official capacity.

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the provision of cyber protection support under subsection (a). The report shall include—

"(1) a description of the methodology used to make the determination under subsection (a)(2); and

"(2) guidance for the use of cyber protection support and tracking of support requests for personnel receiving cyber protection support under subsection (a).

"(e) PERSONAL TECHNOLOGY DEVICES DEFINED.—In this section, the term 'personal technology devices' means technology devices used by Department of Defense personnel outside of the scope of their employment with the Department and includes networks to which such devices connect."

## LIMITATION ON FULL DEPLOYMENT OF JOINT REGIONAL SECURITY STACKS

Pub. L. 114–328, div. A, title XVI, §1646, Dec. 23, 2016, 130 Stat. 2604, provided that:

"(a) LIMITATION.—The Secretary of a military department or the head of a Defense Agency may not

declare that such department or Defense Agency has achieved full operational capability for the deployment of joint regional security stacks until the date on which—

"(1) the department or Defense Agency concerned completes operational test and evaluation activities to determine the effectiveness, suitability, and survivability of the joint regional security stacks system of such department or Defense Agency; and

"(2) written certification that such testing and evaluation activities have been completed is provided to the Secretary of such department or the head of such Defense Agency by the appropriate operational test and evaluation organization of such department or Defense Agency.

"(b) WAIVER.—

"(1) IN GENERAL.—The Secretary of a military department or the head of a Defense Agency may waive the requirements of subsection (a) if a certification described in paragraph (2) is provided to the Secretary of Defense, and signed by—

"(A) the Secretary of the military department or the head of the Defense Agency concerned;

"(B) the Director of Operational Test and Evaluation for the Department of Defense; and

"(C) the Chief Information Officer of the Department of Defense.

"(2) CERTIFICATION.—A certification described in this subsection is a written certification that—

"(A) the testing and evaluation activities required under subsection (a) are unnecessary, accompanied by an explanation of the reasons such activities are unnecessary;

"(B) the effectiveness, suitability, and survivability of the joint regional security stacks system of the military department or Defense Agency concerned has been demonstrated by methods other than the testing and evaluation activities required under subsection (a), accompanied by supporting data; or

"(C) national security needs justify full deployment of the joint regional security stacks system of the military department or Defense Agency concerned before the test and evaluation activities required under subsection (a) can be completed, accompanied by an explanation of such justification and a risk management plan."

## EVALUATION OF CYBER VULNERABILITIES OF DEPARTMENT OF DEFENSE CRITICAL INFRASTRUCTURE

Pub. L. 114–328, div. A, title XVI, §1650, Dec. 23, 2016, 130 Stat. 2607, as amended by Pub. L. 115–91, div. A, title XVI, §1643, Dec. 12, 2017, 131 Stat. 1748; Pub. L. 115–232, div. A, title XVI, §1634, Aug. 13, 2018, 132 Stat. 2125; Pub. L. 118–31, div. A, title XV, §1502(a)(2)(B), Dec. 22, 2023, 137 Stat. 537, provided that:

"(a) PLAN FOR EVALUATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the evaluation of the cyber vulnerabilities of the critical infrastructure of the Department of Defense.

"(2) ELEMENTS.—The plan under paragraph (1) shall include—

"(A) an identification of each of the military installations to be evaluated; and

"(B) an estimate of the cost of the evaluation.

"(3) PRIORITY IN EVALUATION.—The plan under paragraph (1) shall prioritize the evaluation of military installations based on the criticality of the infrastructure supporting such installations, as determined by the Chairman of the Joint Chiefs of Staff based on an assessment of—

"(A) the Armed Forces stationed at such military installations; and

"(B) threats to such military installations.

"(4) INTEGRATION WITH OTHER EFFORTS.—The plan under paragraph (1) shall build upon other efforts of Department of Defense relating to the identification and mitigation of cyber vulnerabilities of major weapon systems and critical infrastructure of the Department and shall not duplicate such efforts.

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 30 days after the date on which the Secretary submits the plan under subsection (a), the Secretary, acting through a covered research laboratory and the Defense Digital Service, shall initiate a pilot program under which the Secretary shall assess the feasibility and advisability of applying new, innovative methodologies or engineering approaches—

"(A) to improve the defense of control systems against cyber attacks;

"(B) to increase the resilience of military installations against cybersecurity threats;

"(C) to prevent or mitigate the potential for high-consequence cyber attacks;

"(D) to inform future requirements for the development of such control systems; and

"(E) to assess the strategic benefits derived from, and the challenges associated with, isolating

military infrastructure from the national electric grid and the use of microgrids.

"(2) LOCATIONS.—The Secretary shall carry out the pilot program under paragraph (1) at not fewer than two military installations selected by the Secretary from among military installations that support the most critical mission-essential functions of the Department of Defense as identified in the plan under subsection (a).

"(3) TOOLS.—In carrying out the pilot program under paragraph (1), the Secretary may use tools and solutions developed under subsection (e).

"(4) REPORT.—Not later than December 31, 2020, the Secretary shall submit to the congressional defense committees a final report on the pilot program that includes—

"(A) a description of the activities carried out under the pilot program at each military installation concerned;

"(B) an assessment of the value of the methodologies or tools applied during the pilot program in increasing the resilience of military installations against cybersecurity threats;

"(C) recommendations for administrative or legislative actions to improve the ability of the Department to employ methodologies and tools for reducing cyber vulnerabilities in other activities of the Department of Defense; and

"(D) recommendations for including such methodologies or tools as requirements for relevant activities, including technical requirements for systems or military construction projects.

"(5) TERMINATION.—The authority of the Secretary to carry out the pilot program under this subsection shall terminate on September 30, 2020.

"(c) EVALUATION.—

"(1) IN GENERAL.—Not later than December 31, 2020, the Secretary shall complete an evaluation of the cyber vulnerabilities of the critical infrastructure of the Department of Defense in accordance with the plan under subsection (a).

"(2) RISK MITIGATION STRATEGIES.—The Secretary shall develop strategies for mitigating the risks of cyber vulnerabilities identified in the course of the evaluation under paragraph (1).

"(d) TOOLS AND SOLUTIONS.—The Secretary may—

"(1) develop tools that improve assessments of cyber vulnerabilities of Department of Defense critical infrastructure;

"(2) conduct non-recurring engineering for the design of mitigation solutions for such vulnerabilities; and

"(3) establish Department-wide information repositories to share findings relating to such assessments and to share such mitigation solutions.

"(e) DEFINITIONS.—In this section:

"(1) CRITICAL INFRASTRUCTURE OF THE DEPARTMENT OF DEFENSE.—The term 'critical infrastructure of the Department of Defense' means any asset of the Department of Defense of such extraordinary importance to the functioning of the Department and the operation of the Armed Forces that the incapacitation or destruction of such asset by a cyber attack would have a debilitating effect on the ability of the Department to fulfill its missions.

"(2) COVERED RESEARCH LABORATORY.—The term 'covered research laboratory' means—

"(A) a research laboratory of the Department of Defense; or

"(B) a research laboratory of the Department of Energy approved by the Secretary of Energy to carry out the pilot program under subsection (b)."

## PLAN FOR INFORMATION SECURITY CONTINUOUS MONITORING CAPABILITY AND COMPLY-TO-CONNECT POLICY; LIMITATION ON SOFTWARE LICENSING

Pub. L. 114–328, div. A, title XVI, §1653, Dec. 23, 2016, 130 Stat. 2610, provided that:

"(a) INFORMATION SECURITY MONITORING PLAN AND POLICY.—

"(1) PLAN AND POLICY.—The Chief Information Officer of the Department of Defense and the Commander of the United States Cyber Command shall jointly develop—

"(A) a plan for a modernized, Department-wide automated information security continuous monitoring capability that includes—

"(i) a proposed information security architecture for the capability;

"(ii) a concept of operations for the capability; and

"(iii) requirements with respect to the functionality and interoperability of the tools, sensors, systems, processes, and other components of the continuous monitoring capability; and

"(B) a comply-to-connect policy that requires systems to automatically comply with the configurations of the networks of the Department as a condition of connecting to such networks.

"(2) CONSULTATION.—In developing the plan and policy under paragraph (1), the Chief Information Officer and the Commander shall consult with the Principal Cyber Advisor to the Secretary of Defense.

"(3) IMPLEMENTATION.—The Chief Information Officer and the Commander shall each issue such directives as they each consider appropriate to ensure compliance with the plan and policy developed under paragraph (1).

"(4) INCLUSION IN BUDGET MATERIALS.—The Secretary of Defense shall include funding and program plans relating to the plan and policy under paragraph (1) in the budget materials submitted by the Secretary in support of the budget of the President for fiscal year 2019 (as submitted to Congress under section 1105(a) of title 31, United States Code).

"(5) INTEGRATION WITH OTHER CAPABILITIES.—The Chief Information Officer and the Commander shall ensure that information generated through automated and automation-assisted processes for continuous monitoring, asset management, and comply-to-connect policies and processes shall be accessible and usable in machine-readable form to appropriate cyber protection teams and computer network defense service providers.

"(6) SOFTWARE LICENSE COMPLIANCE MATTERS.—The plan and policy required by paragraph (1) shall comply with the software license inventory requirements of the plan issued pursuant to section 937 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 10 U.S.C. 2223 note) and updated pursuant to section 935 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 2223 note).

"(b) LIMITATION ON FUTURE SOFTWARE LICENSING.—

"(1) IN GENERAL.—Subject to paragraph (2), none of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2017 or any fiscal year thereafter for the Department of Defense may be obligated or expended on a contract for a software license with a cost of more than $5,000,000 in a fiscal year unless the Department is able, through automated means—

"(A) to count the number of such licenses in use; and

"(B) to determine the security status of each instance of use of the software licensed.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply—

"(A) beginning on January 1, 2018, with respect to any contract entered into by the Secretary of Defense on or after such date for the licensing of software; and

"(B) beginning on January 1, 2020, with respect to any contract entered into by the Secretary for the licensing of software that was in effect on December 31, 2017."

## ACQUISITION AUTHORITY OF THE COMMANDER OF UNITED STATES CYBER COMMAND

Pub. L. 114–92, div. A, title VIII, §807, Nov. 25, 2015, 129 Stat. 886, as amended by Pub. L. 115–232, div. A, title XVI, §1635, Aug. 13, 2018, 132 Stat. 2125; Pub. L. 116–92, div. A, title VIII, §821, Dec. 20, 2019, 133 Stat. 1490; Pub. L. 116–283, div. A, title XVII, §1711, Jan. 1, 2021, 134 Stat. 4086, provided that:

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Commander of the United States Cyber Command shall be responsible for, and shall have the authority to conduct, the following acquisition activities:

"(A) Development and acquisition of cyber operations-peculiar equipment and capabilities.

"(B) Acquisition and sustainment of cyber capability-peculiar equipment, capabilities, and services.

"(2) ACQUISITION FUNCTIONS.—Subject to the authority, direction, and control of the Secretary of Defense, the Commander shall have authority to exercise the functions of the head of an agency under chapter 137 of title 10, United States Code.

"(b) COMMAND ACQUISITION EXECUTIVE.—

"(1) IN GENERAL.—The staff of the Commander shall include a command acquisition executive, who shall be responsible for the overall supervision of acquisition matters for the United States Cyber Command. The command acquisition executive shall have the authority—

"(A) to negotiate memoranda of agreement with the military departments and Department of Defense components to carry out the acquisition of equipment, capabilities, and services described in subsection (a)(1) on behalf of the Command;

"(B) to supervise the acquisition of equipment, capabilities, and services described in subsection (a)(1);

"(C) to represent the Command in discussions with the military departments regarding acquisition programs for which the Command is a customer; and

"(D) to work with the military departments to ensure that the Command is appropriately represented in any joint working group or integrated product team regarding acquisition programs for which the Command is a customer.

"(2) DELIVERY OF ACQUISITION SOLUTIONS.—The command acquisition executive of the United States Cyber Command shall be—

"(A) responsible to the Commander for rapidly delivering acquisition solutions to meet validated cyber operations-peculiar requirements;

"(B) subordinate to the defense acquisition executive in matters of acquisition;

"(C) subject to the same oversight as the service acquisition executives; and

"(D) included on the distribution list for acquisition directives and instructions of the Department of Defense.

"(c) ACQUISITION PERSONNEL.—

"(1) IN GENERAL.—The Secretary of Defense shall provide the United States Cyber Command with the personnel or funding equivalent to ten full-time equivalent personnel to support the Commander in fulfilling the acquisition responsibilities provided for under this section with experience in—

"(A) program acquisition;

"(B) the Joint Capabilities Integration and Development System Process;

"(C) program management;

"(D) system engineering; and

"(E) costing.

"(2) EXISTING PERSONNEL.—The personnel provided under this subsection shall be provided from among the existing personnel of the Department of Defense.

"(d) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166 of title 10, United States Code, the budget proposal of the United States Cyber Command shall include requests for funding for—

"(1) development and acquisition of cyber operations-peculiar equipment; and

"(2) acquisition and sustainment of other capabilities or services that are peculiar to cyber operations activities.

"(e) RULE OF CONSTRUCTION REGARDING INTELLIGENCE AND SPECIAL ACTIVITIES .—Nothing in this section shall be construed to constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

"(f) IMPLEMENTATION PLAN REQUIRED.—The authority granted in subsection (a) shall become effective 30 days after the date on which the Secretary of Defense provides to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementation of those authorities under subsection (a). The plan shall include the following:

"(1) A Department of Defense definition of—

"(A) cyber operations-peculiar equipment and capabilities; and

"(B) cyber capability-peculiar equipment, capabilities, and services.

"(2) Summaries of the components to be negotiated in the memorandum of agreements with the military departments and other Department of Defense components to carry out the development, acquisition, and sustainment of equipment, capabilities, and services described in subparagraphs (A) and (B) of subsection (a)(1).

"(3) Memorandum of agreement negotiation and approval timelines.

"(4) Plan for oversight of the command acquisition executive established in subsection (b).

"(5) Assessment of the acquisition workforce needs of the United States Cyber Command to support the authority in subsection (a) until 2021.

"(6) Other matters as appropriate.

"(g) ANNUAL END-OF-YEAR ASSESSMENT.—Each year, the Cyber Investment Management Board shall review and assess the acquisition activities of the United States Cyber Command, including contracting and acquisition documentation, for the previous fiscal year, and provide any recommendations or feedback to the acquisition executive of Cyber Command."

## EVALUATION OF CYBER VULNERABILITIES OF MAJOR WEAPON SYSTEMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 114–92, div. A, title XVI, §1647, Nov. 25, 2015, 129 Stat. 1118, as amended by Pub. L. 114–328,

div. A, title XVI, §1649(b), Dec. 23, 2016, 130 Stat. 2606; Pub. L. 116–92, div. A, title XVI, §1633, Dec. 20, 2019, 133 Stat. 1746; Pub. L. 116–283, div. A, title XVII, §1712(a), Jan. 1, 2021, 134 Stat. 4087; Pub. L. 118–31, div. A, title XV, §1502(a)(2)(A), Dec. 22, 2023, 137 Stat. 537, provided that:

"(a) EVALUATION REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall, in accordance with the plan under subsection (b), complete an evaluation of the cyber vulnerabilities of each major weapon system of the Department of Defense by not later than December 31, 2019.

"(2) EXCEPTION.—The Secretary may waive the requirement of paragraph (1) with respect to a weapon system or complete the evaluation of a weapon system required by such paragraph after the date specified in such paragraph if the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] before that date that all known cyber vulnerabilities in the weapon system have minimal consequences for the capability of the weapon system to meet operational requirements or otherwise satisfy mission requirements.

"(b) PLAN FOR EVALUATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall submit to the congressional defense committees the plan of the Secretary for the evaluations of major weapon systems under subsection (a), including an identification of each of the weapon systems to be evaluated and an estimate of the funding required to conduct the evaluations.

"(2) PRIORITY IN EVALUATIONS.—The plan under paragraph (1) shall accord a priority among evaluations based on the criticality of major weapon systems, as determined by the Chairman of the Joint Chiefs of Staff based on an assessment of employment of forces and threats.

"(3) INTEGRATION WITH OTHER EFFORTS.—The plan under paragraph (1) shall build upon existing efforts regarding the identification and mitigation of cyber vulnerabilities of major weapon systems, and shall not duplicate similar ongoing efforts such as Task Force Cyber Awakening of the Navy or Task Force Cyber Secure of the Air Force.

"(c) TOOLS AND SOLUTIONS FOR ASSESSING AND MITIGATING CYBER VULNERABILITIES .—In addition to carrying out the evaluation of cyber vulnerabilities of major weapon systems of the Department under this section, the Secretary may—

"(1) develop tools to improve the detection and evaluation of cyber vulnerabilities;

"(2) conduct non-recurring engineering for the design of solutions to mitigate cyber vulnerabilities; and

"(3) establish Department-wide information repositories to share findings relating to the evaluation and mitigation of cyber vulnerabilities.

"(d) RISK MITIGATION STRATEGIES.—As part of the evaluation of cyber vulnerabilities of major weapon systems of the Department under this section, the Secretary shall develop strategies for mitigating the risks of cyber vulnerabilities identified in the course of such evaluations.

"(e) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2016 for research, development, test, and evaluation, Defense-wide, not more than $200,000,000 shall be available to the Secretary to conduct the evaluations under subsection (a)(1).

"(f) WRITTEN NOTIFICATION.—If the Secretary determines that the Department will not complete an evaluation of the cyber vulnerabilities of each major weapon system of the Department by the date specified in subsection (a)(1), the Secretary shall provide to the congressional defense committees written notification relating to each such incomplete evaluation. Such a written notification shall include the following:

"(1) An identification of each major weapon system for which an evaluation will not be complete by the date specified in subsection (a)(1), the anticipated date of completion of the evaluation of each such weapon system, and a description of the remaining work to be done for the evaluation of each such weapon system.

"(2) A justification for the inability to complete such an evaluation by the date specified in subsection (a)(1).

"(g) REPORT.—The Secretary, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall provide a report to the congressional defense committees upon completion of the requirement for an evaluation of the cyber vulnerabilities of each major weapon system of the Department under this section. Such report shall include the following:

"(1) An identification of cyber vulnerabilities of each major weapon system requiring mitigation.

"(2) An identification of current and planned efforts to address the cyber vulnerabilities of each major weapon system requiring mitigation, including efforts across the doctrine, organization, training, materiel, leadership and education, personnel, and facilities of the Department.

"(3) A description of joint and common cyber vulnerability mitigation solutions and efforts, including solutions and efforts across the doctrine, organization, training, materiel, leadership and education, personnel, and facilities of the Department.

"(4) A description of lessons learned and best practices regarding evaluations of the cyber vulnerabilities and cyber vulnerability mitigation efforts relating to major weapon systems, including an identification of useful tools and technologies for discovering and mitigating vulnerabilities, such as those specified in section 1657 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) [132 Stat. 2151], and steps taken to institutionalize the use of these tools and technologies.

"(5) A description of efforts to share lessons learned and best practices regarding evaluations of the cyber vulnerabilities and cyber vulnerability mitigation efforts of major weapon systems across the Department.

"(6) An identification of measures taken to institutionalize evaluations of cyber vulnerabilities of major weapon systems, including an identification of which major weapon systems evaluated under this section will be reevaluated in the future, when these evaluations will occur, and how evaluations will occur for future major weapon systems.

"(7) Information relating to guidance, processes, procedures, or other activities established to mitigate or address the likelihood of cyber vulnerabilities of major weapon systems by incorporation of lessons learned in the research, development, test, evaluation, and acquisition cycle, including promotion of cyber education of the acquisition workforce.

"(8) An identification of systems to be incorporated into or that have been incorporated into the National Security Agency's Strategic Cybersecurity Program and the status of these systems in the Program.

"(9) Any other matters the Secretary determines relevant.

"(h) ESTABLISHING REQUIREMENTS FOR PERIODICITY OF VULNERABILITY REVIEWS.—The Secretary of Defense shall establish policies and requirements for each major weapon system, and the priority critical infrastructure essential to the proper functioning of major weapon systems in broader mission areas, to be re-assessed for cyber vulnerabilities, taking into account upgrades or other modifications to systems and changes in the threat landscape.

"(i) IDENTIFICATION OF SENIOR OFFICIAL.—Each secretary of a military department shall identify a senior official who shall be responsible for ensuring that cyber vulnerability assessments and mitigations for weapon systems and critical infrastructure are planned, funded, and carried out."

## NOTIFICATION OF FOREIGN THREATS TO INFORMATION TECHNOLOGY SYSTEMS IMPACTING NATIONAL SECURITY

Pub. L. 113–291, div. A, title X, §1078, Dec. 19, 2014, 128 Stat. 3520, provided that:

"(a) NOTIFICATION REQUIRED.—

"(1) IN GENERAL.—Not later than 30 days after the Secretary of Defense determines, through the use of open source information or the use of existing authorities (including section 806 of the National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4260; 10 U.S.C. 2304 note)), that there is evidence of a national security threat described in paragraph (2), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification of such threat.

"(2) NATIONAL SECURITY THREAT.—A national security threat described in this paragraph is a threat to an information technology or telecommunications component or network by an agent of a foreign power in which the compromise of such technology, component, or network poses a significant risk to the programs and operations of the Department of Defense, as determined by the Secretary of Defense.

"(3) FORM.—A notification under this subsection shall be submitted in classified form.

"(b) ACTION PLAN REQUIRED.—In the event that a notification is submitted pursuant to subsection (a), the Secretary shall work with the head of any department or agency affected by the national security threat to develop a plan of action for responding to the concerns leading to the notification.

"(c) AGENT OF A FOREIGN POWER.—In this section, the term 'agent of a foreign power' has the meaning given such term in section 101(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b))."

## AUTHORITIES, CAPABILITIES, AND OVERSIGHT OF THE UNITED STATES CYBER COMMAND

Pub. L. 113–66, div. A, title IX, §932, Dec. 26, 2013, 127 Stat. 829, as amended by Pub. L. 116–283, div. A, title XVII, §1713(a), Jan. 1, 2021, 134 Stat. 4089; Pub. L. 117–81, div. A, title XV, §1503(a), Dec. 27,

2021, 135 Stat. 2021; Pub. L. 117–263, div. A, title X, §1081(d), title XV, §1501(a), (b)(2)(A), (B), Dec. 23, 2022, 136 Stat. 2797, 2877, 2878, provided that:

"(a) PROVISION OF CERTAIN OPERATIONAL CAPABILITIES.—The Secretary of Defense shall take such actions as the Secretary considers appropriate to provide the United States Cyber Command operational military units with infrastructure and equipment enabling access to the Internet and other types of networks to permit the United States Cyber Command to conduct the peacetime and wartime missions of the Command.

"(b) CYBER RANGES.—

"(1) IN GENERAL.—The Secretary shall review existing cyber ranges and adapt one or more such ranges, as necessary, to support training and exercises of cyber units that are assigned to execute offensive military cyber operations.

"(2) ELEMENTS.—Each range adapted under paragraph (1) shall have the capability to support offensive military operations against targets that—

"(A) have not been previously identified and prepared for attack; and

"(B) must be compromised or neutralized immediately without regard to whether the adversary can detect or attribute the attack.

"[(c) Transferred to section 392a(a) of this title.]

"(d) TRAINING OF CYBER PERSONNEL.—The Secretary shall establish and maintain training capabilities and facilities in the Armed Forces and, as the Secretary considers appropriate, at the United States Cyber Command, to support the needs of the Armed Forces and the United States Cyber Command for personnel who are assigned offensive and defensive cyber missions in the Department of Defense."

Pub. L. 114–328, div. A, title XVI, §1643(b), Dec. 23, 2016, 130 Stat. 2602, as amended by Pub. L. 117–263, div. A, title XV, §1501(c)(3), Dec. 23, 2022, 136 Stat. 2879, provided that: "The Principal Cyber Advisor to the Secretary of Defense, acting through the cross-functional team under section 392a(a)(3) of title 10, United States Code, and in consultation with the Commander of the United States Cyber Command, shall supervise—

"(1) the development of training standards for computer network operations tool developers for military, civilian, and contractor personnel supporting the cyber mission forces;

"(2) the rapid enhancement of capacity to train personnel to those standards to meet the needs of the cyber mission forces for tool development; and

"(3) actions necessary to ensure timely completion of personnel security investigations and adjudications of security clearances for tool development personnel."

## JOINT FEDERATED CENTERS FOR TRUSTED DEFENSE SYSTEMS FOR THE DEPARTMENT OF DEFENSE

Pub. L. 113–66, div. A, title IX, §937, Dec. 26, 2013, 127 Stat. 834, as amended by Pub. L. 114–92, div. A, title II, §231, Nov. 25, 2015, 129 Stat. 778, which provided for the establishment of a joint federation of capabilities to support the trusted defense system needs of the Department of Defense, was repealed by Pub. L. 118–159, div. A, title IX, §922(c), Dec. 23, 2024, 138 Stat. 2039. See section 4129 of this title.

## IMPROVEMENTS IN ASSURANCE OF COMPUTER SOFTWARE PROCURED BY THE DEPARTMENT OF DEFENSE

Pub. L. 112–239, div. A, title IX, §933, Jan. 2, 2013, 126 Stat. 1884, as amended by Pub. L. 116–283, div. A, title XVIII, §1806(e)(2)(A), Jan. 1, 2021, 134 Stat. 4155, provided that:

"(a) BASELINE SOFTWARE ASSURANCE POLICY.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Chief Information Officer of the Department of Defense, shall develop and implement a baseline software assurance policy for the entire lifecycle of covered systems. Such policy shall be included as part of the strategy for trusted defense systems of the Department of Defense.

"(b) POLICY ELEMENTS.—The baseline software assurance policy under subsection (a) shall—

"(1) require use of appropriate automated vulnerability analysis tools in computer software code during the entire lifecycle of a covered system, including during development, operational testing, operations and sustainment phases, and retirement;

"(2) require covered systems to identify and prioritize security vulnerabilities and, based on risk, determine appropriate remediation strategies for such security vulnerabilities;

"(3) ensure such remediation strategies are translated into contract requirements and evaluated during source selection;

"(4) promote best practices and standards to achieve software security, assurance, and quality; and

"(5) support competition and allow flexibility and compatibility with current or emerging software methodologies.

"(c) VERIFICATION OF EFFECTIVE IMPLEMENTATION.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Chief Information Officer of the Department of Defense, shall—

"(1) collect data on implementation of the policy developed under subsection (a) and measure the effectiveness of such policy, including the particular elements required under subsection (b); and

"(2) identify and promote best practices, tools, and standards for developing and validating assured software for the Department of Defense.

"(d) BRIEFING ON ADDITIONAL MEANS OF IMPROVING SOFTWARE ASSURANCE.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary for Acquisition, Technology, and Logistics shall, in coordination with the Chief Information Officer of the Department of Defense, provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the following:

"(1) A research and development strategy to advance capabilities in software assurance and vulnerability detection.

"(2) The state-of-the-art of software assurance analysis and test.

"(3) How the Department might hold contractors liable for software defects or vulnerabilities.

"(e) DEFINITIONS.—In this section:

"(1) COVERED SYSTEM.—The term 'covered system' means any Department of Defense critical information, business, or weapons system that is—

"(A) a major system, as that term is defined in section 3041 of title 10, United States Code;

"(B) a national security system, as that term is defined in [former] section 3542(b)(2) of title 44, United States Code [see now 44 U.S.C. 3552(b)(6)]; or

"(C) a Department of Defense information system categorized as Mission Assurance Category I in Department of Defense Directive 8500.01E that is funded by the Department of Defense.

"(2) SOFTWARE ASSURANCE.—The term 'software assurance' means the level of confidence that software functions as intended and is free of vulnerabilities, either intentionally or unintentionally designed or inserted as part of the software, throughout the life cycle."

## REPORTS TO DEPARTMENT OF DEFENSE ON PENETRATIONS OF NETWORKS AND INFORMATION SYSTEMS OF CERTAIN CONTRACTORS

Pub. L. 112–239, div. A, title IX, §941, Jan. 2, 2013, 126 Stat. 1889, which authorized the Secretary of Defense to establish criteria and reporting procedures applicable to penetration of cleared defense contractors' networks or information systems, was transferred to chapter 19 of this title, redesignated as section 393, and amended by Pub. L. 114–92, div. A, title XVI, §1641(a), Nov. 25, 2015, 129 Stat. 1114.

## INSIDER THREAT DETECTION

Pub. L. 112–81, div. A, title IX, §922, Dec. 31, 2011, 125 Stat. 1537, as amended by Pub. L. 114–92, div. A, title X, §1073(e), Nov. 25, 2015, 129 Stat. 996, which established a program for information sharing protection and insider threat mitigation for the information systems of the Department of Defense, was repealed by Pub. L. 119–60, div. A, title XVI, §1623(b), Dec. 18, 2025, 139 Stat. 1183. Prior to repeal, text of subsecs. (a) and (b) of section 922 of Pub. L. 112–81 were copied to section 2225 of this title.

## STRATEGY TO ACQUIRE CAPABILITIES TO DETECT PREVIOUSLY UNKNOWN CYBER ATTACKS

Pub. L. 112–81, div. A, title IX, §953, Dec. 31, 2011, 125 Stat. 1550, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall develop and implement a plan to augment the cybersecurity strategy of the Department of Defense through the acquisition of advanced capabilities to discover and isolate penetrations and attacks that were previously unknown and for which signatures have not been developed for incorporation into computer intrusion detection and prevention systems and anti-virus software systems.

"(b) CAPABILITIES.—

"(1) NATURE OF CAPABILITIES.—The capabilities to be acquired under the plan required by subsection (a) shall—

"(A) be adequate to enable well-trained analysts to discover the sophisticated attacks conducted by nation-state adversaries that are categorized as 'advanced persistent threats';

"(B) be appropriate for—

"(i) endpoints or hosts;

"(ii) network-level gateways operated by the Defense Information Systems Agency where the Department of Defense network connects to the public Internet; and

"(iii) global networks owned and operated by private sector Tier 1 Internet Service Providers;

"(C) at the endpoints or hosts, add new discovery capabilities to the Host-Based Security System of the Department, including capabilities such as—

"(i) automatic blocking of unauthorized software programs and accepting approved and vetted programs;

"(ii) constant monitoring of all key computer attributes, settings, and operations (such as registry keys, operations running in memory, security settings, memory tables, event logs, and files); and

"(iii) automatic baselining and remediation of altered computer settings and files;

"(D) at the network-level gateways and internal network peering points, include the sustainment and enhancement of a system that is based on full-packet capture, session reconstruction, extended storage, and advanced analytic tools, by—

"(i) increasing the number and skill level of the analysts assigned to query stored data, whether by contracting for security services, hiring and training Government personnel, or both; and

"(ii) increasing the capacity of the system to handle the rates for data flow through the gateways and the storage requirements specified by the United States Cyber Command; and

"(E) include the behavior-based threat detection capabilities of Tier 1 Internet Service Providers and other companies that operate on the global Internet.

"(2) SOURCE OF CAPABILITIES.—The capabilities to be acquired shall, to the maximum extent practicable, be acquired from commercial sources. In making decisions on the procurement of such capabilities from among competing commercial and Government providers, the Secretary shall take into consideration the needs of other departments and agencies of the Federal Government, State and local governments, and critical infrastructure owned and operated by the private sector for unclassified, affordable, and sustainable commercial solutions.

"(c) INTEGRATION AND MANAGEMENT OF DISCOVERY CAPABILITIES.—The plan required by subsection (a) shall include mechanisms for improving the standardization, organization, and management of the security information and event management systems that are widely deployed across the Department of Defense to improve the ability of United States Cyber Command to understand and control the status and condition of Department networks, including mechanisms to ensure that the security information and event management systems of the Department receive and correlate data collected and analyses conducted at the host or endpoint, at the network gateways, and by Internet Service Providers in order to discover new attacks reliably and rapidly.

"(d) PROVISION FOR CAPABILITY DEMONSTRATIONS.—The plan required by subsection (a) shall provide for the conduct of demonstrations, pilot projects, and other tests on cyber test ranges and operational networks in order to determine and verify that the capabilities to be acquired pursuant to the plan are effective, practical, and affordable.

"(e) REPORT.—Not later than April 1, 2012, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plan required by subsection (a). The report shall set forth the plan and include a comprehensive description of the actions being undertaken by the Department to implement the plan."

## STRATEGY ON COMPUTER SOFTWARE ASSURANCE

Pub. L. 111–383, div. A, title IX, §932, Jan. 7, 2011, 124 Stat. 4335, as amended by Pub. L. 116–283, div. A, title XVIII, §1806(e)(2)(B), Jan. 1, 2021, 134 Stat. 4155, which required Secretary of Defense to develop and implement a strategy for assuring the security of software and software-based applications for certain critical information or weapon systems by Oct. 1, 2011, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(G), Dec. 18, 2025, 139 Stat. 949.

## INSTITUTE FOR DEFENSE COMPUTER SECURITY AND INFORMATION PROTECTION

Pub. L. 106–398, §1 [[div. A], title IX, §921], Oct. 30, 2000, 114 Stat. 1654, 1654A–233, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish an Institute for Defense Computer Security and Information Protection.

"(b) MISSION.—The Secretary shall require the institute—

"(1) to conduct research and technology development that is relevant to foreseeable computer and network security requirements and information assurance requirements of the Department of Defense with a principal focus on areas not being carried out by other organizations in the private or public sector; and

"(2) to facilitate the exchange of information regarding cyberthreats, technology, tools, and other relevant issues.

"(c) CONTRACTOR OPERATION.—The Secretary shall enter into a contract with a not-for-profit entity, or a consortium of not-for-profit entities, to organize and operate the institute. The Secretary shall use competitive procedures for the selection of the contractor to the extent determined necessary by the Secretary.

"(d) FUNDING.—Of the amount authorized to be appropriated by section 301(5) [114 Stat. 1654A–52], $5,000,000 shall be available for the Institute for Defense Computer Security and Information Protection.

"(e) REPORT.—Not later than April 1, 2001, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the Secretary's plan for implementing this section."

## §2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense

(a) IN GENERAL.—The provisions of subchapter II [1] of chapter 35 of title 44 shall continue to apply through September 30, 2004, with respect to the Department of Defense, notwithstanding the expiration of authority under section 3536 [1] of such title.

(b) RESPONSIBILITIES.—In administering the provisions of subchapter II [1] of chapter 35 of title 44 with respect to the Department of Defense after the expiration of authority under section 3536 [1] of such title, the Secretary of Defense shall perform the duties set forth in that subchapter for the Director of the Office of Management and Budget.

(Added Pub. L. 107–314, div. A, title X, §1052(b)(1), Dec. 2, 2002, 116 Stat. 2648.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Provisions relating to the expiration of authority of subchapter II of chapter 35 of title 44, referred to in text, did not appear in section 3536 of title 44 subsequent to the general revision of subchapter II by Pub. L. 107–296, title X, §1001(b)(1), Nov. 25, 2002, 116 Stat. 2259. Subchapter II, as revised by Pub. L. 107–296, was repealed and a new subchapter II enacted by Pub. L. 113–283, §2(a), Dec. 18, 2014, 128 Stat. 3073.

[1] *See References in Text note below.*

## §2225. Insider threat detection

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a program for information sharing protection and insider threat mitigation for the information systems of the Department of Defense to detect unauthorized access to, use of, or transmission of classified or controlled unclassified information.

(b) ELEMENTS.—The program established under subsection (a) shall include the following:

(1) Technology solutions for deployment within the Department of Defense that allow for centralized monitoring and detection of unauthorized activities, including—

(A) monitoring the use of external ports and read and write capability controls;

(B) disabling the removable media ports of computers physically or electronically;

(C) electronic auditing and reporting of unusual and unauthorized user activities;

(D) using data-loss prevention and data-rights management technology to prevent the unauthorized export of information from a network or to render such information unusable in the event of the unauthorized export of such information;

(E) a roles-based access certification system;

(F) cross-domain guards for transfers of information between different networks; and

(G) patch management for software and security updates.

(2) Policies and procedures to support such program, including special consideration for

policies and procedures related to international and interagency partners and activities in support of ongoing operations in areas of hostilities.

(3) A governance structure and process that integrates information security and sharing technologies with the policies and procedures referred to in paragraph (2). Such structure and process shall include—

(A) coordination with the existing security clearance and suitability review process;

(B) coordination of existing anomaly detection techniques, including those used in counterintelligence investigation or personnel screening activities; and

(C) updating and expediting of the classification review and marking process.

(4) A continuing analysis of—

(A) gaps in security measures under the program; and

(B) technology, policies, and processes needed to increase the capability of the program beyond the initially established full operating capability to address such gaps.

(5) A baseline analysis framework that includes measures of performance and effectiveness.

(6) A plan for how to ensure related security measures are put in place for other departments or agencies with access to Department of Defense networks.

(7) A plan for enforcement to ensure that the program is being applied and implemented on a uniform and consistent basis.

(Added Pub. L. 119–60, div. A, title XVI, §1623(a), Dec. 18, 2025, 139 Stat. 1183.)

**EDITORIAL NOTES**

**CODIFICATION**

Text of section, as added by Pub. L. 119–60, is based on text of subsecs. (a) and (b) of section 922 of Pub. L. 112–81, div. A, title IX, Dec. 31, 2011, 125 Stat. 1537, which was formerly set out in a note under section 2224 of this title, prior to repeal by Pub. L. 119–60, div. A, title XVI, §1623(b), Dec. 18, 2025, 139 Stat. 1183.

**PRIOR PROVISIONS**

A prior section 2225, added Pub. L. 106–398, §1 [[div. A], title VIII, §812(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–212; amended Pub. L. 108–178, §4(b)(2), Dec. 15, 2003, 117 Stat. 2640; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111–350, §5(b)(6), Jan. 4, 2011, 124 Stat. 3842, related to tracking and management of information technology purchases, prior to repeal by Pub. L. 114–328, div. A, title VIII, §833(b)(2)(A), Dec. 23, 2016, 130 Stat. 2284.

## [§2226. Renumbered §4602]

## [§2227. Renumbered §4601]

## §2228. Office of Corrosion Policy and Oversight

(a) OFFICE AND DIRECTOR.—(1) There is an Office of Corrosion Policy and Oversight within the Office of the Under Secretary of Defense for Acquisition and Sustainment.

(2) The Office shall be headed by a Director of Corrosion Policy and Oversight, who shall be assigned to such position by the Under Secretary from among civilian employees of the Department of Defense with the qualifications described in paragraph (3). The Director is responsible in the Department of Defense to the Secretary of Defense (after the Under Secretary of Defense for Acquisition and Sustainment) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense.

(3) In order to qualify to be assigned to the position of Director, an individual shall—

(A) have management expertise in, and professional experience with, corrosion project and policy implementation, including an understanding of the effects of corrosion policies on infrastructure; research, development, test, and evaluation; and maintenance; and

(B) have an understanding of Department of Defense budget formulation and execution, policy formulation, and planning and program requirements.

(4) The Secretary of Defense shall designate the position of Director as a critical acquisition position under section 1731 of this title.

(b) DUTIES.—(1) The Director of Corrosion Policy and Oversight (in this section referred to as the "Director") shall oversee and coordinate efforts throughout the Department of Defense to prevent and mitigate corrosion of the military equipment and infrastructure of the Department. The duties under this paragraph shall include the duties specified in paragraphs (2) through (5).

(2) The Director shall develop and recommend any policy guidance on the prevention and mitigation of corrosion to be issued by the Secretary of Defense.

(3) The Director shall review the programs and funding levels proposed by the Secretary of each military department during the annual internal Department of Defense budget review process as those programs and funding proposals relate to programs and funding for the prevention and mitigation of corrosion and shall submit to the Secretary of Defense recommendations regarding those programs and proposed funding levels.

(4) The Director shall provide oversight and coordination of the efforts within the Department of Defense to prevent or mitigate corrosion during—

(A) the design, acquisition, and maintenance of military equipment; and

(B) the design, construction, and maintenance of infrastructure.

(5) The Director shall monitor acquisition practices within the Department of Defense—

(A) to ensure that the use of corrosion prevention technologies and the application of corrosion prevention treatments are fully considered during research and development in the acquisition process; and

(B) to ensure that, to the extent determined appropriate for each acquisition program, such technologies and treatments are incorporated into that program, particularly during the engineering and design phases of the acquisition process.

(6) The Director shall ensure that contractors of the Department of Defense carrying out activities for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense employ for such activities a substantial number of individuals who have completed, or who are currently enrolled in, a qualified training program.

(c) ADDITIONAL AUTHORITIES FOR DIRECTOR.—The Director is authorized to—

(1) develop, update, and coordinate corrosion training with the Defense Acquisition University;

(2) participate in the process within the Department of Defense for the development of relevant directives and instructions;

(3) interact directly with the corrosion prevention industry, trade associations, other government corrosion prevention agencies, academic research and educational institutions, and scientific organizations engaged in corrosion prevention, including the National Academy of Sciences; and

(4) require that any training or professional development activities for military personnel or civilian employees of the Department of Defense for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense are conducted under a qualified training program that trains and certifies individuals in meeting corrosion control standards that are recognized industry-wide.

(d) LONG-TERM STRATEGY.—(1) The Secretary of Defense shall develop and implement a long-term strategy to reduce corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense.

(2) The strategy under paragraph (1) shall include the following:

(A) Expansion of the emphasis on corrosion prevention and mitigation within the Department of Defense to include coverage of infrastructure.

(B) Application uniformly throughout the Department of Defense of requirements and criteria for the testing and certification of new corrosion-prevention technologies for equipment and infrastructure with similar characteristics, similar missions, or similar operating environments.

(C) Implementation of programs, including supporting databases, to ensure that a focused and coordinated approach is taken throughout the Department of Defense to collect, review, validate, and distribute information on proven methods and products that are relevant to the prevention of corrosion of military equipment and infrastructure.

(D) Establishment of a coordinated research and development program for the prevention and mitigation of corrosion for new and existing military equipment and infrastructure that includes a plan to transition new corrosion prevention technologies into operational systems, including through the establishment of memoranda of agreement, joint funding agreements, public-private partnerships, university research and education centers, and other cooperative research agreements.

(3) The strategy shall include, for the matters specified in paragraph (2), the following:

(A) Policy guidance.

(B) Performance measures and milestones.

(C) An assessment of the necessary personnel and funding necessary to accomplish the long-term strategy.

(e) REPORT.—(1) For each budget for a fiscal year, beginning with the budget for fiscal year 2009 and ending with the budget for fiscal year 2022, the Secretary of Defense shall submit, with the defense budget materials, a report on the following:

(A) Funding requirements for the long-term strategy developed under subsection (d).

(B) The estimated composite return on investment achieved by implementing the strategy, and documented in the assessments by the Department of Defense of completed corrosion projects and activities.

(C) For the fiscal year covered by the report and the preceding fiscal year, the funds requested in the budget compared to the funding requirements.

(D) If the full amount of funding requirements is not requested in the budget, the reasons for not including the full amount and a description of the impact on readiness, logistics, and safety of not fully funding required corrosion prevention and mitigation activities.

(E) For the fiscal year preceding the fiscal year covered by the report, the amount of funds requested in the budget for each project or activity described in subsection (d) compared to the funding requirements for the project or activity.

(F) For the fiscal year preceding the fiscal year covered by the report, a description of the specific amount of funds used for military corrosion projects, the Technical Corrosion Collaboration program, and other corrosion-related activities.

(2)(A) Each report under this section shall include, in an annex to the report, a summary of the most recent report required by subparagraph (B).

(B) Not later than December 31 of each year, through December 31, 2020, the corrosion control and prevention executive of a military department shall submit to the Director of Corrosion Policy and Oversight a report containing recommendations pertaining to the corrosion control and prevention program of the military department. Such report shall include recommendations for the funding levels necessary for the executive to carry out the duties of the executive under this section. The report required under this subparagraph shall—

(i) provide a summary of key accomplishments, goals, and objectives of the corrosion control and prevention program of the military department; and

(ii) include the performance measures used to ensure that the corrosion control and prevention

program achieved the goals and objectives described in clause (i).

(f) DEFINITIONS.—In this section:

(1) The term "corrosion" means the deterioration of a material or its properties due to a reaction of that material with its chemical environment.

(2) The term "military equipment" includes all weapon systems, weapon platforms, vehicles, and munitions of the Department of Defense, and the components of such items.

(3) The term "infrastructure" includes all buildings, structures, airfields, port facilities, surface and subterranean utility systems, heating and cooling systems, fuel tanks, pavements, and bridges.

(4) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(5) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(6) The term "qualified training program" means a training program in corrosion control, mitigation, and prevention that is—

(A) offered or accredited by an organization that sets industry corrosion standards; or

(B) an industrial coatings applicator training program registered under the Act of August 16, 1937 (popularly known as the "National Apprenticeship Act"; 29 U.S.C. 50 et seq.).

(Added Pub. L. 107–314, div. A, title X, §1067(a)(1), Dec. 2, 2002, 116 Stat. 2657; amended Pub. L. 110–181, div. A, title III, §371(a)–(e), Jan. 28, 2008, 122 Stat. 79–81; Pub. L. 110–417, [div. A], title X, §1061(b)(1), Oct. 14, 2008, 122 Stat. 4612; Pub. L. 111–383, div. A, title III, §331, Jan. 7, 2011, 124 Stat. 4185; Pub. L. 112–239, div. A, title III, §341, Jan. 2, 2013, 126 Stat. 1699; Pub. L. 114–328, div. A, title IX, §954(a), (b), Dec. 23, 2016, 130 Stat. 2376, 2377; Pub. L. 115–232, div. A, title VIII, §811(a), Aug. 13, 2018, 132 Stat. 1845; Pub. L. 116–92, div. A, title VIII, §861(j)(13), title XVII, §1731(a)(32), Dec. 20, 2019, 133 Stat. 1520, 1814; Pub. L. 117–81, div. A, title VIII, §813, Dec. 27, 2021, 135 Stat. 1823; Pub. L. 118–31, div. A, title XVIII, §1801(a)(19), Dec. 22, 2023, 137 Stat. 684.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Act of August 16, 1937, referred to in subsec. (f)(6)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, popularly known as the National Apprenticeship Act, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

### AMENDMENTS

**2023**—Subsec. (c)(2). Pub. L. 118–31 substituted "instructions;" for "instructions;;".

**2021**—Subsec. (b)(6). Pub. L. 117–81, §813(1), added par. (6).

Subsec. (c)(4). Pub. L. 117–81, §813(2), added par. (4).

Subsec. (f)(6). Pub. L. 117–81, §813(3), added par. (6).

**2019**—Subsec. (a)(2). Pub. L. 116–92, §1731(a)(32), struck out second period at end.

Subsec. (a)(4). Pub. L. 116–92, §861(j)(13), substituted "under section 1731 of this title" for "under section 1733(b)(1)(C) of this title".

**2018**—Subsec. (a)(1). Pub. L. 115–232, §811(a)(1), substituted "and Sustainment" for ", Technology, and Logistics".

Subsec. (a)(2). Pub. L. 115–232 substituted "and Sustainment" for ", Technology, and Logistics" and struck out "The Director shall report directly to the Under Secretary" after "infrastructure of the Department of Defense."

**2016**—Subsec. (e)(1). Pub. L. 114–328, §954(a)(1), inserted "and ending with the budget for fiscal year 2022" after "2009" in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 114–328, §954(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "The return on investment that would be achieved by implementing the strategy, including available validated data on return on investment for completed corrosion projects and activities."

Subsec. (e)(1)(D). Pub. L. 114–328, §954(a)(3), amended subpar. (D) generally. Prior to amendment,

subpar. (D) read as follows: "An explanation if the funding requirements are not fully funded in the budget."

Subsec. (e)(1)(F). Pub. L. 114–328, §954(a)(4), struck out "pilot" before "program".

Subsec. (e)(2). Pub. L. 114–328, §954(b), designated existing provisions as subpar. (A), substituted "a summary of the most recent report required by subparagraph (B)." for "a copy of the annual corrosion report most recently submitted by the corrosion control and prevention executive of each military department under section 903(b)(5) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4567; 10 U.S.C. 2228 note).", and added subpar. (B).

**2013**—Subsec. (e)(1)(B). Pub. L. 112–239, §341(1)(A), inserted ", including available validated data on return on investment for completed corrosion projects and activities" before period at end.

Subsec. (e)(1)(E). Pub. L. 112–239, §341(1)(B), substituted "For the fiscal year preceding the fiscal year covered by the report" for "For the fiscal year covered by the report and the preceding fiscal year".

Subsec. (e)(1)(F). Pub. L. 112–239, §341(1)(C), added subpar. (F).

Subsec. (e)(2), (3). Pub. L. 112–239, §341(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "Within 60 days after submission of the budget for a fiscal year, the Comptroller General shall provide to the congressional defense committees—

"(A) an analysis of the budget submission for corrosion control and prevention by the Department of Defense; and

"(B) an analysis of the report required under paragraph (1), including the annex to the report described in paragraph (3)."

**2011**—Subsec. (e)(1)(C). Pub. L. 111–383, §331(1)(A), substituted "For the fiscal year covered by the report and the preceding fiscal year, the" for "The".

Subsec. (e)(1)(E). Pub. L. 111–383, §331(1)(B), added subpar. (E).

Subsec. (e)(2)(B). Pub. L. 111–383, §331(2), inserted before period at end ", including the annex to the report described in paragraph (3)".

Subsec. (e)(3). Pub. L. 111–383, §331(3), added par. (3).

**2008**—Pub. L. 110–181, §371(a)(1), substituted "Office of Corrosion Policy and Oversight" for "Military equipment and infrastructure: prevention and mitigation of corrosion" in section catchline.

Subsec. (a). Pub. L. 110–181, §371(a)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Former text read as follows: "The Secretary of Defense shall designate an officer or employee of the Department of Defense, or a standing board or committee of the Department of Defense, as the senior official or organization responsible in the Department to the Secretary of Defense (after the Under Secretary of Defense for Acquisition, Technology, and Logistics) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department."

Subsec. (b)(1). Pub. L. 110–181, §371(a)(2)(A), substituted "Director of Corrosion Policy and Oversight (in this section referred to as the 'Director')" for "official or organization designated under subsection (a)".

Subsec. (b)(2) to (5). Pub. L. 110–181, §371(a)(2)(B), substituted "Director" for "designated official or organization".

Subsecs. (c), (d). Pub. L. 110–181, §371(b), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (f).

Subsec. (d)(2)(D). Pub. L. 110–181, §371(c), as amended by Pub. L. 110–417, inserted ", including through the establishment of memoranda of agreement, joint funding agreements, public-private partnerships, university research and education centers, and other cooperative research agreements" after "operational systems".

Subsec. (e). Pub. L. 110–181, §371(d), added subsec. (e).

Subsec. (f). Pub. L. 110–181, §371(b), redesignated subsec. (d) as (f).

Subsec. (f)(4), (5). Pub. L. 110–181, §371(e), added pars. (4) and (5).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 effective Jan. 28, 2008, and as if included in Pub. L. 110–181 as enacted, see section 1061(b) of Pub. L. 110–417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

### SUBMISSION OF NOTICE AND PLAN TO CONGRESS BEFORE REORGANIZING, RESTRUCTURING, OR ELIMINATING ANY POSITION OR OFFICE

Pub. L. 115–232, div. A, title VIII, §811(i), Aug. 13, 2018, 132 Stat. 1846, provided that: "Not less than 30 days before reorganizing, restructuring, or eliminating any position or office specified in this section, the

Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives notice of such reorganization, restructuring, or elimination together with a plan to ensure that mission requirements are met and appropriate oversight is conducted in carrying out such reorganization, restructuring, or elimination. Such plan shall address how user needs will be met and how associated roles and responsibilities will be accomplished for each position or office that the Secretary determines requiring reorganization, restructuring, or elimination."

## IMPLEMENTATION OF CORRECTIVE ACTIONS RESULTING FROM CORROSION STUDY OF THE F–22 AND F–35 AIRCRAFT

Pub. L. 112–81, div. A, title III, §324, Dec. 31, 2011, 125 Stat. 1362, provided that:

"(a) IMPLEMENTATION; CONGRESSIONAL BRIEFING.—Not later than January 31, 2012, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall implement the recommended actions described in subsection (b) and provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the actions taken by the Under Secretary to implement such recommended actions.

"(b) RECOMMENDED ACTIONS.—The recommended actions described in this subsection are the following four recommended actions included in the report of the Government Accountability Office report numbered GAO–11–117R and titled 'Defense Management: DOD Needs to Monitor and Assess Corrective Actions Resulting from Its Corrosion Study of the F–35 Joint Strike Fighter':

"(1) The documentation of program-specific recommendations made as a result of the corrosion study described in subsection (d) with regard to the F–35 and F–22 aircraft and the establishment of a process for monitoring and assessing the effectiveness of the corrective actions taken with respect to such aircraft in response to such recommendations.

"(2) The documentation of program-specific recommendations made as a result of such corrosion study with regard to the other weapon systems identified in the study, specifically the CH–53K helicopter, the Joint High Speed Vessel, the Broad Area Maritime Surveillance Unmanned Aircraft System, and the Joint Light Tactical Vehicle, and the establishment of a process for monitoring and assessing the effectiveness of the corrosion prevention and control programs implemented for such weapons systems in response to such recommendations.

"(3) The documentation of Air Force-specific and Navy-specific recommendations made as a result of such corrosion study and the establishment of a process for monitoring and assessing the effectiveness of the corrective actions taken by the Air Force and the Navy in response to such recommendations.

"(4) The documentation of Department of Defense-wide recommendations made as a result of such corrosion study, the implementation of any needed changes in policies and practices to improve corrosion prevention and control in new systems acquired by the Department, and the establishment of a process for monitoring and assessing the effectiveness of the corrective actions taken by the Department in response to such recommendations.

"(c) DEADLINE FOR COMPLIANCE.—Not later than December 31, 2012, the Under Secretary of Defense for Acquisition, Technology, and Logistics, in conjunction with the directors of the F–35 and F–22 program offices, the directors of the program offices for the weapons systems referred to in subsection (b)(2), the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy, shall—

"(1) take whatever steps necessary to comply with the recommendations documented pursuant to the required implementation under subsection (a) of the recommended actions described in subsection (b); or

"(2) submit to the congressional defense committees written justification of why compliance was not feasible or achieved.

"(d) CORROSION STUDY.—The corrosion study described in this subsection is the study required in House Report 111–166 accompanying H.R. 2647 of the 111th Congress [Pub. L. 111–84] conducted by the Office of the Director of Corrosion Policy and Oversight of the Office of the Secretary of Defense and titled 'Corrosion Evaluation of the F–22 Raptor and F–35 Lightning II Joint Strike Fighter'."

## CORROSION CONTROL AND PREVENTION EXECUTIVES FOR THE MILITARY DEPARTMENTS

Pub. L. 114–328, div. A, title III, §322, Dec. 23, 2016, 130 Stat. 2075, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Director of Corrosion Policy and Oversight for the Department of Defense, shall revise guidance relating to corrosion control and prevention executives to—

"(1) clarify the role of each such executive with respect to assisting the Office of Corrosion Policy and

Oversight in holding the appropriate project management office in each military department accountable for submitting the annual report required under [former] section 903(b)(5) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2228 note [set out below]); and

"(2) ensure that corrosion control and prevention executives emphasize the reduction of corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense, as required in the long-term strategy of the Department of Defense under section 2228(d) of title 10, United States Code.

"(b) CORROSION CONTROL AND PREVENTION EXECUTIVE DEFINED.—In this section, the term 'corrosion control and prevention executive' means the employee of a military department designated as the corrosion control and prevention executive of the department under section 903(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2228 note)."

Pub. L. 110–417, [div. A], title IX, §903, Oct. 14, 2008, 122 Stat. 4566, as amended by Pub. L. 113–66, div. A, title III, §334, title X, §1084(b)(1), Dec. 26, 2013, 127 Stat. 740, 871; Pub. L. 114–328, div. A, title IX, §954(c), Dec. 23, 2016, 130 Stat. 2377; Pub. L. 115–91, div. A, title IX, §924, Dec. 12, 2017, 131 Stat. 1526; Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(C), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) REQUIREMENT TO DESIGNATE CORROSION CONTROL AND PREVENTION EXECUTIVE .—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Assistant Secretary of each military department with responsibility for acquisition, technology, and logistics shall designate an employee of the military department as the corrosion control and prevention executive. Such executive shall be a senior official in the department with responsibility for coordinating department-level corrosion control and prevention program activities (including budget programming) with the military department and the Office of the Secretary of Defense, the portfolio acquisition executives of the military departments, and relevant major subordinate commands of the military departments. Each individual so designated shall be a senior civilian employee of the military department concerned in pay grade GS–15 or higher.

"(b) QUALIFICATIONS.—Any individual designated as a corrosion control and prevention executive of a military department pursuant to subsection (a) shall—

"(1) have a working knowledge of corrosion prevention and control;

"(2) have strong program management and communication skills; and

"(3) understand the acquisition, research, development, test, and evaluation, and sustainment policies and procedures of the military department, including for the sustainment of infrastructure.

"(c) DUTIES.—(1) The corrosion control and prevention executive of a military department shall ensure that corrosion control and prevention is maintained in the department's policy and guidance for management of each of the following:

"(A) System acquisition and production, including design and maintenance.

"(B) Research, development, test, and evaluation programs and activities.

"(C) Equipment standardization programs, including international standardization agreements.

"(D) Logistics research and development initiatives.

"(E) Logistics support analysis as it relates to integrated logistic support in the materiel acquisition process.

"(F) Military infrastructure design, construction, and maintenance.

"(2) The corrosion control and prevention executive of a military department shall be responsible for identifying the funding levels necessary to accomplish the items listed in subparagraphs (A) through (F) of paragraph (1).

"(3) The corrosion control and prevention executive of a military department shall, in cooperation with the appropriate staff of the department, develop, support, and provide the rationale for resources—

"(A) to initiate and sustain an effective corrosion control and prevention program in the department;

"(B) to evaluate the program's effectiveness; and

"(C) to ensure that corrosion control and prevention requirements for materiel are reflected in budgeting and policies of the department for the formulation, management, and evaluation of personnel and programs for the entire department, including its reserve components.

"(4) The corrosion control and prevention executive of a military department shall be the principal point of contact of the department to the Director of Corrosion Policy and Oversight (as assigned under section 2228 of title 10, United States Code).

"[(5) Repealed. Pub. L. 114–328, div. A, title IX, §954(c), Dec. 23, 2016, 130 Stat. 2377.]"

**DEADLINE FOR DESIGNATION OF RESPONSIBLE OFFICIAL OR ORGANIZATION; INTERIM REPORT; DEADLINE FOR LONG-TERM STRATEGY; GAO REVIEW**

Pub. L. 107–314, div. A, title X, §1067(b)–(e), Dec. 2, 2002, 116 Stat. 2658, 2659, directed the Secretary of Defense to designate a responsible official or organization under subsec. (a) of this section not later than 90 days after Dec. 2, 2002, directed the Secretary to submit to Congress a report setting forth the long-term strategy required under subsec. (c) of this section not later than one year after Dec. 2, 2002, and required the Comptroller General to monitor the implementation of such long-term strategy and, not later than 18 months after Dec. 2, 2002, to submit to Congress an assessment of the extent to which that strategy had been implemented.

## §2229. Strategic policy on prepositioning of materiel and equipment

(a) POLICY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall maintain a strategic policy on the programs of the Department of Defense for prepositioned materiel and equipment. Such policy shall take into account national security threats, strategic mobility, service requirements, support for crisis response elements, and the requirements of the combatant commands, and shall address how the Department's prepositioning programs, both ground and afloat, align with national defense strategies and departmental priorities.

(2) ELEMENTS.—The strategic policy required under paragraph (1) shall include the following elements:

(A) Overarching strategic guidance concerning planning and resource priorities that link the Department of Defense's current and future needs for prepositioned stocks, such as desired responsiveness, to evolving national defense objectives.

(B) A description of the Department's vision for prepositioning programs and the desired end state.

(C) Specific interim goals demonstrating how the vision and end state will be achieved.

(D) A description of the strategic environment, requirements for, and challenges associated with, prepositioning.

(E) Metrics for how the Department will evaluate the extent to which prepositioned assets are achieving defense objectives.

(F) A framework for joint departmental oversight that reviews and synchronizes the military services' prepositioning strategies to minimize potentially duplicative efforts and maximize efficiencies in prepositioned materiel and equipment across the Department of Defense.

(3) JOINT OVERSIGHT.—The Secretary of Defense shall establish joint oversight of the military services' prepositioning efforts to maximize efficiencies across the Department of Defense.

(b) LIMITATION OF DIVERSION OF PREPOSITIONED MATERIEL.—The Secretary of a military department may not divert materiel or equipment from prepositioned stocks except—

(1) in accordance with a change made by the Secretary of Defense to the policy maintained under subsection (a); or

(2) for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of this title.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense may not implement or change the policy required under subsection (a) until the Secretary submits to the congressional defense committees a report describing the policy or change to the policy.

(d) ANNUAL CERTIFICATION.—(1) Not later than the date of the submission of the President's budget request for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a certification in writing that the prepositioned stocks of each of the military departments meet all operations plans, in both fill and readiness, that are in effect as of the date of the submission of the certification.

(2) If, for any year, the Secretary cannot certify that any of the prepositioned stocks meet such

operations plans, the Secretary shall include with the certification for that year a list of the operations plans affected, a description of any measures that have been taken to mitigate any risk associated with prepositioned stock shortfalls, and an anticipated timeframe for the replenishment of the stocks.

(3) A certification under this subsection shall be in an unclassified form but may have a classified annex.

(Added Pub. L. 109–364, div. A, title III, §351(a), Oct. 17, 2006, 120 Stat. 2160; amended Pub. L. 112–81, div. A, title III, §341(a), Dec. 31, 2011, 125 Stat. 1369; Pub. L. 113–66, div. A, title III, §321(a), Dec. 26, 2013, 127 Stat. 730; Pub. L. 113–291, div. A, title III, §322, Dec. 19, 2014, 128 Stat. 3343; Pub. L. 114–92, div. A, title X, §1081(a)(8), Nov. 25, 2015, 129 Stat. 1001.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (d)(1). Pub. L. 114–92 substituted "a certification in writing" for "certification in writing".

**2014**—Subsec. (a)(1). Pub. L. 113–291 inserted "support for crisis response elements," after "service requirements,".

**2013**—Subsec. (a). Pub. L. 113–66 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall maintain a strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment. Such policy shall take into account national security threats, strategic mobility, service requirements, and the requirements of the combatant commands."

**2011**—Subsec. (d). Pub. L. 112–81 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### PLANS REGARDING CONDITION AND MAINTENANCE OF PREPOSITIONED STOCKPILES OF NAVY, MARINE CORPS, AND AIR FORCE

Pub. L. 118–159, div. A, title III, §333, Dec. 23, 2024, 138 Stat. 1855, provided that:

"(a) PLAN REQUIRED.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Navy and the Secretary of the Air Force shall each develop a plan to improve the required inspection procedures for the prepositioned stockpiles of the Armed Force concerned, for the purpose of identifying deficiencies and conducting maintenance repairs at levels necessary to ensure such prepositioned stockpiles are mission capable.

"(2) ADDITIONAL REQUIREMENTS FOR NAVY AND MARINE CORPS PLAN.—The plan of the Secretary of the Navy required under paragraph (1) shall include—

"(A) an analysis of the readiness of ships of the Navy and Marine Corps that hold or facilitate the off-loading of prepositioned stockpiles; and

"(B) suggestions for improving inspection procedures of such ships.

"(b) IMPLEMENTATION.—Not later than 30 days after the date on which the Secretary concerned completes the development of a plan under subsection (a), and not less frequently than twice each year thereafter for the three-year period beginning on the date of the enactment of this Act, the Secretary concerned shall inspect the prepositioned stockpiles of the Armed Force concerned in accordance with the procedures under such plan.

"(c) BRIEFINGS.—

"(1) BRIEFING ON PLAN.—Not later than 120 days after the date of the enactment of this Act, each Secretary concerned shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the plan of the Secretary developed under subsection (a).

"(2) BRIEFINGS ON STATUS OF PREPOSITIONED STOCKPILES.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter for the three-year period beginning on the date of the enactment of this Act, each Secretary concerned shall provide to the congressional defense

committees a briefing on the status and condition of the prepositioned stockpiles of the Armed Force concerned.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Armed Force concerned' means—

"(A) the Navy and the Marine Corps, with respect to the Secretary of the Navy;

"(B) the Air Force, with respect to the Secretary of the Air Force.

"(2) The term 'Secretary concerned' means—

"(A) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

"(B) the Secretary of the Air Force, with respect to matters concerning the Air Force."

## PRE-POSITIONED STOCKS OF FINISHED DEFENSE TEXTILE ARTICLES

Pub. L. 118–159, div. A, title III, §336, Dec. 23, 2024, 138 Stat. 1856, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish pre-positioned stocks of finished defense textile articles, such as uniforms and protective gear, to support the rapid mobilization and sustainment of members of the Armed Forces during a contingency operation.

"(b) PLAN TO REDUCE DELAYS.—The Secretary shall develop a plan for phasing in and targeting policy changes relating to defense textile articles to reduce delinquencies and mitigate delays between policy decisions that may result in the miscalculation of stockpiling in order to ensure ample finished textiles are available to prevent a scenario in which the demand for certain articles is ramping down by the time the supply chain can ramp up to meet the need."

## PLAN REGARDING CONDITION AND MAINTENANCE OF PREPOSITIONED STOCKPILES OF THE ARMY

Pub. L. 118–31, div. A, title III, §349, Dec. 22, 2023, 137 Stat. 228, provided that:

"(a) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of the Army shall develop a plan to improve the required inspection procedures for the prepositioned stockpiles of the Army, for the purpose of identifying deficiencies and conducting maintenance repairs at levels necessary to ensure such prepositioned stockpiles are mission-capable.

"(b) IMPLEMENTATION.—Not later than 30 days after the date on which the Secretary completes the development of the plan under subsection (a), and not less frequently than twice each year thereafter for the three-year period beginning on the date of the enactment of this Act, the Secretary shall inspect the prepositioned stockpiles of the Army in accordance with the procedures under such plan.

"(c) BRIEFINGS.—

"(1) BRIEFING ON PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the plan developed under subsection (a).

"(2) BRIEFINGS ON STATUS OF PREPOSITIONED STOCKPILES.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter for the three-year period beginning on the date of the enactment of this Act, the Secretary of the Army shall provide to the congressional defense committees a briefing on the status and condition of the prepositioned stockpiles of the Army."

## IMPLEMENTATION PLAN AND REPORT

Pub. L. 113–66, div. A, title III, §321(b), (c), Dec. 26, 2013, 127 Stat. 731, 732, as amended by Pub. L. 113–291, div. A, title III, §324, Dec. 19, 2014, 128 Stat. 3343, provided that:

"(b) IMPLEMENTATION PLAN.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementation of the prepositioning strategic policy required under section 2229(a) of title 10, United States Code, as amended by subsection (a).

"(2) ELEMENTS.—The implementation plan required under paragraph (1) shall include the following elements:

"(A) Detailed guidance for how the Department of Defense will achieve the vision, end state, and goals outlined in the strategic policy.

"(B) A comprehensive list of the Department's prepositioned materiel and equipment programs.

"(C) A detailed description of how the plan will be implemented.

"(D) A schedule with milestones for the implementation of the plan.

"(E) An assignment of roles and responsibilities for the implementation of the plan.

"(F) A description of the resources required to implement the plan.

"(G) A description of how the plan will be reviewed and assessed to monitor progress.

"(c) COMPTROLLER GENERAL REPORT.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall review the implementation plan submitted under subsection (b) and the prepositioning strategic policy required under section 2229(a) of title 10, United States Code, as amended by subsection (a), and submit to the congressional defense committees a report describing the findings of such review and including any additional information relating to the propositioning strategic policy and plan that the Comptroller General determines appropriate.

"(2) PROGRESS REPORTS.—Not later than one year after submitting the report required under paragraph (1), and annually thereafter for two years, the Comptroller General shall submit to the congressional defense committees a report assessing the progress of the Department of Defense in implementing its strategic policy and plan for its prepositioned stocks and including any additional information related to the Department's management of its prepositioned stocks that the Comptroller General determines appropriate."

**DEADLINE FOR ESTABLISHMENT OF POLICY**

Pub. L. 109–364, div. A, title III, §351(c), Oct. 17, 2006, 120 Stat. 2160, provided that:

"(1) DEADLINE.—Not later than six months after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall establish the strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment required under section 2229 of title 10, United States Code, as added by subsection (a).

"(2) LIMITATION ON DIVERSION OF PREPOSITIONED MATERIEL.—During the period beginning on the date of the enactment of this Act [Oct. 17, 2006] and ending on the date on which the Secretary of Defense submits the report required under section 2229(c) of title 10, United States Code, on the policy referred to in paragraph (1), the Secretary of a military department may not divert materiel or equipment from prepositioned stocks except for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of that title."

**IMPROVING DEPARTMENT OF DEFENSE SUPPORT FOR CIVIL AUTHORITIES**

Pub. L. 109–364, div. A, title III, §359, Oct. 17, 2006, 120 Stat. 2164, provided that:

"(a) CONSULTATION.—In the development of concept plans for the Department of Defense for providing support to civil authorities, the Secretary of Defense may consult with the Secretary of Homeland Security and State governments.

"(b) PREPOSITIONING OF DEPARTMENT OF DEFENSE ASSETS.—The Secretary of Defense may provide for the prepositioning of prepackaged or preidentified basic response assets, such as medical supplies, food and water, and communications equipment, in order to improve the ability of the Department of Defense to rapidly provide support to civil authorities. The prepositioning of basic response assets shall be carried out in a manner consistent with Department of Defense concept plans for providing support to civil authorities and section 2229 of title 10, United States Code, as added by section 351.

"(c) REIMBURSEMENT.—To the extent required by section 1535 of title 31, United States Code, or other applicable law, the Secretary of Defense shall require that the Department of Defense be reimbursed for costs incurred by the Department in the prepositioning of basic response assets under subsection (b).

"(d) MILITARY READINESS.—The Secretary of Defense shall ensure that the prepositioning of basic response assets under subsection (b) does not adversely affect the military preparedness of the United States.

"(e) PROCEDURES AND GUIDELINES.—The Secretary may develop procedures and guidelines applicable to the prepositioning of basic response assets under subsection (b)."

## §2229a. Annual report on prepositioned materiel and equipment

(a) ANNUAL REPORT REQUIRED.—Not later than the date of the submission of the President's budget request for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the materiel in the prepositioned stocks as of the end of the fiscal year preceding the fiscal year during which the report is submitted. Each report shall be unclassified and may contain a classified annex. Each report shall include the following information:

(1) The level of fill for major end items of equipment and spare parts in each prepositioned set as of the end of the fiscal year covered by the report.

(2) The material condition of equipment in the prepositioned stocks as of the end of such fiscal year, grouped by category or major end item.

(3) A list of major end items of equipment drawn from the prepositioned stocks during such fiscal year and a description of how that equipment was used and whether it was returned to the stocks after being used.

(4) A timeline for completely reconstituting any shortfall in the prepositioned stocks.

(5) An estimate of the amount of funds required to completely reconstitute any shortfall in the prepositioned stocks and a description of the Secretary's plan for carrying out such complete reconstitution.

(6) A list of any operations plan affected by any shortfall in the prepositioned stocks and a description of any action taken to mitigate any risk that such a shortfall may create.

(7) A list of any non-standard items slated for inclusion in the prepositioned stocks and a plan for funding the inclusion and sustainment of such items.

(8) A list of any equipment used in support of contingency operations slated for retrograde and subsequent inclusion in the prepositioned stocks.

(9) An efficiency strategy for limited shelf-life medical stock replacement.

(10) The status of efforts to develop a joint strategy, integrate service requirements, and eliminate redundancies.

(11) The operational planning assumptions used in the formulation of prepositioned stock levels and composition.

(12) A list of any strategic plans affected by changes to the levels, composition, or locations of the prepositioned stocks and a description of any action taken to mitigate any risk that such changes may create.

(b) COMPTROLLER GENERAL REVIEW.—(1) The Comptroller General shall review each report submitted under subsection (a) and, as the Comptroller General determines appropriate, submit to the congressional defense committees any additional information that the Comptroller General determines will further inform such committees on issues relating to the status of the materiel in the prepositioned stocks.

(2) The Secretary of Defense shall ensure the full cooperation of the Department of Defense with the Comptroller General for purposes of the conduct of the review required by this subsection, both before and after each report is submitted under subsection (a). The Secretary shall conduct periodic briefings for the Comptroller General on the information covered by each report required under subsection (a) and provide to the Comptroller General access to the data and preliminary results to be used by the Secretary in preparing each such report before the Secretary submits the report to enable the Comptroller General to conduct each review required under paragraph (1) in a timely manner.

(3) The requirement to conduct a review under this subsection shall terminate on September 30, 2015.

(Added Pub. L. 110–181, div. A, title III, §352(a), Jan. 28, 2008, 122 Stat. 71; amended Pub. L. 112–81, div. A, title III, §341(b), Dec. 31, 2011, 125 Stat. 1369; Pub. L. 112–239, div. A, title III, §343, Jan. 2, 2013, 126 Stat. 1700; Pub. L. 114–92, div. A, title III, §331, Nov. 25, 2015, 129 Stat. 791.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a)(8). Pub. L. 114–92 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "A list of any equipment used in support of Operation Iraqi Freedom, Operation New Dawn, or Operation Enduring Freedom slated for retrograde and subsequent inclusion in the prepositioned stocks."

**2013**—Subsec. (b)(1). Pub. L. 112–239 substituted "The" for "By not later than 120 days after the date on which a report is submitted under subsection (a), the" and "each report submitted under subsection (a)" for

"the report".

**2011**—Subsec. (a)(7) to (12). Pub. L. 112–81 added pars. (7) to (12).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## §2229b. Responsibility for contested logistics posture management

(a) IN GENERAL.—The Deputy Secretary of Defense, the Vice Chair of the Joint Chiefs of Staff, and the Commander of the United States Transportation Command shall be responsible for the integration of global contested logistics posture management. Such responsibilities shall include each of the following:

(1) Identifying vulnerabilities and risks across the Department of Defense enterprise for the core logistics capabilities of supply, maintenance operations, prepositioned stocks, deployment and distribution, health services support, engineering, logistics services, and operational service contracts.

(2) Developing and executing a strategy to mitigate the vulnerabilities and risks identified under paragraph (1).

(3) Integrating and deconflicting global contested logistics posture investment and management across the military departments, including with respect to—

(A) the locations of sites outside the continental United States at which stocks of supplies and equipment are stored as well as the composition of those stocks;

(B) the provision of adequate intra-theater sea and air capability to move material and personnel throughout the theater; and

(C) the monitoring and coordination of resourcing decisions by the military departments in support of operational plans and contingencies.

(b) DEPUTY MANAGEMENT ACTION GROUP MEETINGS.—In carrying out the responsibilities under subsection (a)(1) and (2), the Deputy Secretary of Defense and the Vice Chair of the Joint Chiefs of Staff shall co-chair at least two Deputy Management Action Group meetings each year, which shall be focused on contested logistics management and investment.

(c) CONTESTED LOGISTICS POSTURE STRATEGY.—(1) The Deputy Secretary of Defense, the Vice Chair of the Joint Chiefs of Staff, and the Commander of the United States Transportation Command, in coordination with any other Department official identified by the Secretary, shall develop and implement a strategy for carrying out the responsibilities described in subsection (a).

(2) The strategy required under paragraph (1) shall include each of the following:

(A) A description of—

(i) the locations of sites outside the continental United States at which stocks of supplies and equipment are prepositioned as of the date of the strategy;

(ii) the status and disposition of such prepositioned stocks; and

(iii) the operational or contingency plan such stocks are intended to support.

(B) An identification of—

(i) any shortcomings associated with the sites and prepositioned stocks described in subparagraph (A) that must be addressed to optimally execute operational and contingency plans; and

(ii) any additional sites, infrastructure, or equipment that may be needed to address such shortcomings and support such plans.

(C) A description of any additional funding or other resources required—

(i) to address the shortcomings identified under subparagraph (B)(i); and

(ii) to provide for the additional sites, infrastructure, and equipment identified under subparagraph (B)(ii).

(D) A prioritized list of investment recommendations for each item described in subparagraph (C).

(E) An identification of each case in which the military department concerned lacks the authority or ability to access a location outside the United States for purposes of providing logistics support as required under operational and contingency plans, set forth separately by location.

(F) An assessment of any existing and projected threats to sites outside the continental United States that are expected to support such operational and contingency plans.

(3) The strategy required under paragraph (1) shall cover the period of two years following the date of the strategy and shall be updated on an biennial basis.

(d) QUARTERLY BRIEFINGS.—Not later than 180 days after the date of the enactment of this section, and quarterly thereafter until December 31, 2031, the Deputy Secretary of Defense, the Vice Chair of the Joint Chiefs of Staff, and the Commander of the United States Transportation Command, or their representatives, shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the execution of the responsibilities under subsection (a)(1) and (2), including updates on the development and implementation of the strategy required under subsection (c).

(e) BUDGET JUSTIFICATION MATERIALS.—The Secretary of Defense shall include in the budget justification materials submitted to Congress in support of the budget of the President for a fiscal year pursuant to section 1105(a) of title 31, United States Code, a cumulative accounting of contested logistics investments represented in such budget and how such investments relate to the duties and responsibilities under subsection (a)(1) and (2).

(Added Pub. L. 119–60, div. A, title III, §334(a), Dec. 18, 2025, 139 Stat. 816.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 119–60, which was approved on Dec. 18, 2025.

**PRIOR PROVISIONS**

A prior section 2229b was renumbered section 3072 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR IMPLEMENTATION**

Pub. L. 119–60, div. A, title III, §334(b), Dec. 18, 2025, 139 Stat. 818, provided that: "The development of the strategy required under subsection (c) of section 2229b of title 10, United States Code, as added by subsection (a), shall be completed by not later than January 31, 2027."

## CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

Sec.
2231. Reference to chapter 1803.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 133 was transferred to end of part V of subtitle E of this title and renumbered chapter 1803.

## §2231. Reference to chapter 1803

Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).

(Added Pub. L. 103–337, div. A, title XVI, §1664(b)(11), Oct. 5, 1994, 108 Stat. 3011.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 2231 to 2239 were renumbered sections 18231 to 18239 of this title, respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Miscellaneous Authorities, Prohibitions, and Limitations on the Use of Appropriated Funds** | **2241** |
| **II.** | **Miscellaneous Administrative Authority** | **2251** |


## SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS


Sec.

2241. Availability of appropriations for certain purposes.

2241a. Prohibition on use of funds for publicity or propaganda purposes within the United States.

2241b. Prohibition on contracts providing payments for activities at sporting events to honor members of the armed forces.

2242. Authority to use appropriated funds for certain investigations and security services.

2243. Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools.

2244. Security investigations.

2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.

2245. Use of aircraft for proficiency flying: limitation.

[2245a. Repealed.]

2246. Authorization of certain support for military service academy foundations.

[2247 to 2249a. Renumbered or Repealed.]

2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces.

[2249c to 2249e. Renumbered.]


### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XVIII, §1801(a)(20), Dec. 22, 2023, 137 Stat. 684, which directed amendment of the analysis for this chapter by striking item 2249 "Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs", was executed to the analysis for this subchapter to reflect the probable intent of Congress.

**2022**—Pub. L. 117–263, div. A, title V, §551(b), Dec. 23, 2022, 136 Stat. 2592, added item 2246.

**2016**—Pub. L. 114–328, div. A, title VIII, §833(b)(1)(B), title XII, §§1241(o)(6), 1247(d), Dec. 23, 2016, 130 Stat. 2284, 2512, 2522, struck out items 2245a "Use of operation and maintenance funds for purchase of investment items: limitation", 2249a "Prohibition on providing financial assistance to terrorist countries", 2249c "Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials", 2249d "Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces", and 2249e "Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights".

**2015**—Pub. L. 114–92, div. A, title III, §341(b), title V, §573(b)(2), Nov. 25, 2015, 129 Stat. 793, 831, added item 2241b and substituted "Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools" for "Authority to use appropriated funds to support student meal programs in overseas dependents' schools" in item 2243.

**2014**—Pub. L. 113–291, div. A, title XII, §1204(a)(2), Dec. 19, 2014, 128 Stat. 3533, added item 2249e.

**2013**—Pub. L. 112–239, div. A, title V, §588(b)(2), Jan. 2, 2013, 126 Stat. 1769, substituted "Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces." for "Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display." in item 2249b.

**2011**—Pub. L. 111–383, div. A, title X, §1075(b)(30), Jan. 7, 2011, 124 Stat. 4370, transferred item 2241a "Prohibition on use of funds for publicity or propaganda purposes within the United States" to appear after item 2241.

**2009**—Pub. L. 111–84, div. A, title X, §1031(a)(2), Oct. 28, 2009, 123 Stat. 2448, added item 2241a at the end.

**2008**—Pub. L. 110–417, [div. A], title XII, §1205(a)(2), Oct. 14, 2008, 122 Stat. 4624, added item 2249d.

**2006**—Pub. L. 109–364, div. A, title XII, §1204(d)(3), Oct. 17, 2006, 120 Stat. 2416, substituted "Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials" for "Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program" in item 2249c.

Pub. L. 109–163, div. A, title III, §§372(b), 373(b), Jan. 6, 2006, 119 Stat. 3210, 3211, added items 2244a and 2245a.

**2004**—Pub. L. 108–375, div. A, title VI, §651(f)(3), Oct. 28, 2004, 118 Stat. 1972, struck out items 2246 "Department of Defense golf courses: limitation on use of appropriated funds" and 2247 "Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation".

**2003**—Pub. L. 108–136, div. A, title X, §1045(a)(5)(B), title XII, §1221(a)(2), Nov. 24, 2003, 117 Stat. 1612, 1651, struck out item 2248 "Purchase of surety bonds: prohibition" and added item 2249c.

**1996**—Pub. L. 104–201, div. A, title X, §1071(b), Sept. 23, 1996, 110 Stat. 2657, added item 2249b.

Pub. L. 104–106, div. A, title XIII, §1341(b), div. D, title XLIII, §4321(b)(2)(B), Feb. 10, 1996, 110 Stat. 485, 672, redesignated item 2247, relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs, as 2249 and added item 2249a.

**1994**—Pub. L. 103–355, title VII, §7202(a)(2), Oct. 13, 1994, 108 Stat. 3379, added item 2247 relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.

Pub. L. 103–337, div. A, title III, §372(b), title X, §1063(b), Oct. 5, 1994, 108 Stat. 2736, 2848, added item 2247 relating to use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation and item 2248.

**1993**—Pub. L. 103–160, div. A, title III, §312(b), Nov. 30, 1993, 107 Stat. 1618, added item 2246.

**1991**—Pub. L. 102–190, div. A, title X, §1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, made technical correction to directory language of Pub. L. 101–510, div. A, title XIV, §1481(e)(2), Nov. 5, 1990, 104 Stat. 1706. See 1990 amendment note below.

**1990**—Pub. L. 101–510, div. A, title XIV, §1481(e)(2), Nov. 5, 1990, 104 Stat. 1706, as amended by Pub. L. 102–190, div. A, title X, §1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, added item 2245.

Pub. L. 101–510, div. A, title IX, §904(b), Nov. 5, 1990, 104 Stat. 1621, added item 2244.

**1989**—Pub. L. 101–189, div. A, title III, §326(b), Nov. 29, 1989, 103 Stat. 1416, added item 2243.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**AUTHORIZATION OF UNITED STATES COAST GUARD ROTARY AIRCRAFT WORK AT DEPARTMENT OF DEFENSE DEPOTS**

Pub. L. 119–60, div. A, title XVII, §1705, Dec. 18, 2025, 139 Stat. 1214, provided that:

"(a) IN GENERAL.—On a reimbursable basis and subject to subsection (b), the Secretary of Defense is authorized to conduct rotary aircraft work for the United States Coast Guard at any depot of the Department of Defense.

"(b) CERTIFICATION.—Before the Secretary of Defense may use the authority under subsection (a) during any fiscal year, the Commandant of the Coast Guard shall submit to the appropriate congressional committees an annual certification for that year that includes each of the following:

"(1) Certification that the Coast Guard Aviation Logistics Center has reached or exceeded its capacity to conduct required maintenance.

"(2) Certification that the use of the authority under subsection (a) will not have a negative effect on the workforce of the Coast Guard Aviation Logistics Center.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate."

## §2241. Availability of appropriations for certain purposes

(a) OPERATION AND MAINTENANCE APPROPRIATIONS.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

(1) Morale, welfare, and recreation.
(2) Modification of personal property.
(3) Design of vessels.
(4) Industrial mobilization.
(5) Military communications facilities on merchant vessels.
(6) Acquisition of services, special clothing, supplies, and equipment.
(7) Expenses for the Reserve Officers' Training Corps and other units at educational institutions.

(b) NECESSARY EXPENSES.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

(c) ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.—Amounts appropriated for operation and maintenance may, under regulations prescribed by the Secretary of Defense, be used by the Secretary for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.

(d) IMPLEMENTATION OF VIENNA DOCUMENT 2011.—Amounts appropriated for operation and maintenance may be used by the Secretary of Defense for travel, transportation, and subsistence expenses for meetings and demonstrations hosted by the Department of Defense for the implementation of the Vienna Document 2011 on Confidence and Security-Building Measures.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 844; amended Pub. L. 108–136, div. A, title V, §518, Nov. 24, 2003, 117 Stat. 1462; Pub. L. 118–31, div. A, title X, §1043, Dec. 22, 2023, 137 Stat. 389.)

**HISTORICAL AND REVISION NOTES**

Subsection (a) of this section and sections 2253(b) and 2661(a) of this title are based on Pub. L. 98–212, title VII, §735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98–525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for "welfare and recreation" or "welfare and recreational" purposes. (Section 735 of Public Law 98–212 and section 8006(b) of Public Law 99–190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term "morale" in both of these two instances to conform to the usual "MWR" usage for morale, welfare, and recreation activities.

Subsection (b) of this section and sections 2242(1), (4) and 2253(a)(1) of this title are based on Pub. L. 98–212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Section 705 of Public Law 98–212, to be codified as 10 U.S.C. 2241(b), provides that defense appropriations may be used in connection with certain services and supplies "as may be necessary to carry out the purposes of this Act". The reference to "this Act" means Public Law 98–212, the FY84 Defense Appropriations Act. Language similar to section 705 had been enacted as part of the annual defense appropriation Act for many years. In the FY84 Act, section 705 was enacted as a permanent provision. The quoted phrase above was not, however, revised from the traditional annual wording as the provision had appeared in annual appropriations Acts in order to give it effect beyond the fiscal year concerned. Since the general purpose of a defense appropriations Act is to provide funds for national defense purposes, the committee, in codifying this provision, revised the quoted phrase so as to read "that may be necessary for the national defense". No change in meaning is intended.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (d). Pub. L. 118–31 added subsec. (d).

**2003**—Subsec. (c). Pub. L. 108–136 added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REIMBURSEMENT OF PAY, ALLOWANCES AND OTHER EXPENSES WHEN MEMBERS OF THE NATIONAL GUARD AND RESERVE PROVIDE INTELLIGENCE OR COUNTERINTELLIGENCE SUPPORT TO COMBATANT COMMANDS, DEFENSE AGENCIES AND JOINT INTELLIGENCE ACTIVITIES

Pub. L. 118–47, div. A, title VIII, §8049, Mar. 23, 2024, 138 Stat. 495, provided that: "In this fiscal year and each fiscal year thereafter, funds appropriated for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures."

### POLICY REQUIRED FOR SUPPORT OF ENTERTAINMENT PROJECTS

Pub. L. 117–263, div. A, title XII, §1257(c), Dec. 23, 2022, 136 Stat. 2852, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue a policy that describes how the Department of Defense will review requests to provide active or direct support to any film, television, or other entertainment project. The policy shall include ways to assess Chinese influence or potential influence over the content of a film, television, or other entertainment project, actions the Department can take to prevent Chinese censorship of a project, and criteria the Department shall use when evaluating requests to support a project."

### PROHIBITION ON TRANSFER OF DEPARTMENT OF DEFENSE FUNDS OR RESOURCES TO THE TALIBAN

Pub. L. 117–81, div. A, title XII, §1213, Dec. 27, 2021, 135 Stat. 1963, provided that:

"(a) PROHIBITION.—None of the funds authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available—

"(1) to provide any funds or resources to the Taliban; or

"(2) to conduct any military cooperation or sharing of military intelligence with the Taliban, unless the Secretary of Defense determines that such cooperation or sharing advances the national security interests of

the United States.

"(b) NOTIFICATION.———[SIC]

"(1) SUBMISSION REQUIRED.—If the Secretary makes an affirmative determination described in subsection (1)(a) [probably should be subsection (a)(2)], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written description of the military cooperation or military intelligence that was shared with the Taliban pursuant to such determination, not later than 5 days after the date of such cooperation or sharing. The Secretary shall include with such description any other matter the Secretary determines relevant.

"(2) FORM.—The information described in paragraph (1) shall be submitted in an unclassified format and may include a classified annex."

## PROHIBITION ON TRANSPORTING CURRENCY TO THE TALIBAN OR THE ISLAMIC EMIRATE OF AFGHANISTAN

Pub. L. 118–159, div. A, title X, §1056, Dec. 23, 2024, 138 Stat. 2063, provided that: "None of the amounts authorized to be appropriated by this Act [divs. A to D of Pub. L. 118–159, see Tables for classification] or otherwise made available for the Department of Defense may be obligated or expended to operate any aircraft of the Department of Defense to transport currency or other items of value to the Taliban, the Islamic Emirate of Afghanistan, or any subsidiary, agent, or instrumentality of either the Taliban or the Islamic Emirate of Afghanistan."

Similar provisions were contained in the following prior acts:

Pub. L. 118–31, div. A, title XII, §1271, Dec. 22, 2023, 137 Stat. 486.

Pub. L. 117–263, div. A, title XII, §1223, Dec. 23, 2022, 136 Stat. 2836.

Pub. L. 117–81, div. A, title XII, §1214, Dec. 27, 2021, 135 Stat. 1963.

## RESTRICTION ON COUNTER-ISIS TRAIN AND EQUIP FUND

Pub. L. 117–81, div. A, title XII, §1223(e), Dec. 27, 2021, 135 Stat. 1971, provided that: "Amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or the amendments made by this Act or otherwise made available for any fiscal year to the Counter-Islamic State of Iraq and Syria Train and Equip Fund are authorized to be made available only in support of partner forces eligible to receive assistance under section 1209(a) of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3541) or subsection (a) of section 1236 of such Act [128 Stat. 3558], as amended by subsection (a) of this section."

## PROHIBITION ON TRANSFERS TO THE BADR ORGANIZATION

Pub. L. 119–60, div. A, title XII, §1227, Dec. 18, 2025, 139 Stat. 1092, provided that: "None of the funds authorized to be appropriated by this Act [Pub. L. 119–60, see Tables for classification] or otherwise made available to the Secretary of Defense for fiscal year 2026 may be made available to the Badr Organization or any organization that the Director of the Defense Intelligence Agency determines to be an affiliate or successor of the Badr Organization."

Similar provisions were contained in the following prior acts:

Pub. L. 118–31, div. A, title XII, §1267, Dec. 22, 2023, 137 Stat. 483.

Pub. L. 118–159, div. A, title X, §1057, Dec. 23, 2024, 138 Stat. 2063.

Pub. L. 117–263, div. A, title XII, §1239, Dec. 23, 2022, 136 Stat. 2841.

Pub. L. 117–81, div. A, title XII, §1225, Dec. 27, 2021, 135 Stat. 1972.

## PROHIBITION ON TRANSFERS TO IRAN

Pub. L. 117–263, div. A, title XII, §1235, Dec. 23, 2022, 136 Stat. 2838, provided that: "None of the amounts authorized to be appropriated by this Act [Pub. L. 117–263, see Tables for classification] or otherwise made available to the Department of Defense may be made available to transfer or facilitate a transfer of pallets of currency, currency, or other items of value to the Government of Iran, any subsidiary of such Government, or any agent or instrumentality of Iran."

Similar provisions were contained in the following prior act:

Pub. L. 117–81, div. A, title XII, §1226, Dec. 27, 2021, 135 Stat. 1972.

## LIMITATION ON PROVISION OF FUNDS TO INSTITUTIONS OF HIGHER EDUCATION HOSTING CONFUCIUS INSTITUTES

Pub. L. 116–283, div. A, title X, §1062, Jan. 1, 2021, 134 Stat. 3859, as amended by Pub. L. 118–31, div. A, title X, §§1044(a), 1045, Dec. 22, 2023, 137 Stat. 389, 390, provided that:

"(a) LIMITATION.—Except as provided in subsection (b), none of the funds authorized to be appropriated

or otherwise made available for any fiscal year for the Department of Defense may be provided to an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance.

"(b) WAIVER.—

"(1) IN GENERAL.—The Secretary of Defense may waive the limitation under subsection (a) with respect to an institution of higher education if the Secretary, after consultation with the National Academies of Sciences, Engineering, and Medicine, determines such a waiver is appropriate.

"(2) MANAGEMENT PROCESS.—If the Secretary issues a waiver under paragraph (1), the academic liaison designated pursuant to subsection (g) [now (h)] of section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 [Pub. L. 115–232] ([former] 10 U.S.C. 2358 note) [now 10 U.S.C. 4001 note], as amended by section 1299C of this Act, shall manage the waiver process on behalf of the Secretary.

"(3) TERMINATION OF AUTHORITY.—The authority to issue a waiver under paragraph (1) shall terminate on October 1, 2026, and any waiver issued under such paragraph shall not apply on or after such date.

"(c) EFFECTIVE DATE.—The limitation under subsection (a) shall apply with respect to the first fiscal year that begins after the date that is 24 months after the date of the enactment of this Act [Jan. 1, 2021] and to any subsequent fiscal year.

"(d) DEFINITIONS.—In this section:

"(1) CONFUCIUS INSTITUTE.—The term 'Confucius Institute' means—

"(A) any program that receives funding or support from—

"(i) the Chinese International Education Foundation; or

"(ii) the Center for Language Exchange Cooperation of the Ministry of Education of the People's Republic of China; or

"(B) any cultural institute funded by the Government of the People's Republic of China.

"(2) The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)."

## OBLIGATION OF FUNDS FOR SPACE FORCE PROCUREMENT

Pub. L. 116–260, div. C, title VIII, §8089, Dec. 27, 2020, 134 Stat. 1326, provided that: "In this fiscal year and each fiscal year thereafter, funds appropriated under the heading 'Procurement, Space Force' may be obligated for payment of satellite on-orbit incentives in the fiscal year in which an incentive payment is earned: *Provided*, That any obligation made pursuant to this section may not be entered into until 30 calendar days in session after the congressional defense committees [see section 8028 of Pub. L. 116–260, set out below] have been notified that an on-orbit incentive payment has been earned."

[Pub. L. 116–260, div. C, title VIII, §8028, Dec. 27, 2020, 134 Stat. 1310, provided that: "For the purposes of this Act [div. C of 116–260, see Tables for classification], the term 'congressional defense committees' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives."]

## PROHIBITION ON USE OF FUNDS FOR CERTAIN PROGRAMS AND PROJECTS OF THE DEPARTMENT OF DEFENSE IN AFGHANISTAN THAT CANNOT BE SAFELY ACCESSED BY UNITED STATES GOVERNMENT PERSONNEL

Pub. L. 114–328, div. A, title XII, §1216, Dec. 23, 2016, 130 Stat. 2480, provided that:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Amounts available to the Department of Defense may not be obligated or expended for a construction or other infrastructure program or project of the Department in Afghanistan if military or civilian personnel of the United States Government or their representatives with authority to conduct oversight of such program or project cannot safely access such program or project.

"(2) APPLICABILITY.—Paragraph (1) shall apply only with respect to a program or project that is initiated on or after the date of the enactment of this Act [Dec. 23, 2016].

"(b) WAIVER.—

"(1) IN GENERAL.—The prohibition in subsection (a) may be waived with respect to a program or project otherwise covered by that subsection if a determination described in paragraph (2) is made as follows:

"(A) In the case of a program or project with an estimated lifecycle cost of less than $1,000,000, by the contracting officer assigned to oversee the program or project.

"(B) In the case of a program or project with an estimated lifecycle cost of $1,000,000 or more, but less than $20,000,000, by the Commander of the Combined Security Transition Command-Afghanistan.

"(C) In the case of a program or project with an estimated lifecycle cost of $20,000,000 or more, but less than $40,000,000, by the Commander of United States Forces-Afghanistan.

"(D) In the case of a program or project with an estimated lifecycle cost of $40,000,000 or more, by the Secretary of Defense.

"(2) DETERMINATION.—A determination described in this paragraph with respect to a program or project is a determination of each of the following:

"(A) That the program or project clearly contributes to United States national interests or strategic objectives.

"(B) That the Government of Afghanistan has requested or expressed a need for the program or project.

"(C) That the program or project has been coordinated with the Government of Afghanistan, and with any other implementing agencies or international donors.

"(D) That security conditions permit effective implementation and oversight of the program or project.

"(E) That the program or project includes safeguards to detect, deter, and mitigate corruption and waste, fraud, and abuse of funds.

"(F) That adequate arrangements have been made for the sustainment of the program or project following its completion, including arrangements with respect to funding and technical capacity for sustainment.

"(G) That meaningful metrics have been established to measure the progress and effectiveness of the program or project in meeting its objectives.

"(3) NOTICE ON CERTAIN WAIVERS.—In the event a waiver is issued under paragraph (1) for a program or project described in subparagraph (D) of that paragraph, the Secretary of Defense shall notify Congress of the waiver not later than 15 days after the issuance of the waiver."

## FUNDS PROHIBITED FOR SUPPORT OF DEPARTMENT OR AGENCY IN ARREARS IN MAKING PAYMENT TO DEPARTMENT OF DEFENSE

Pub. L. 113–235, div. C, title VIII, §8063, Dec. 16, 2014, 128 Stat. 2268, provided that: "During the current fiscal year and hereafter, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so."

## PUBLIC FINANCIAL DISCLOSURE REQUIRED BY SENIOR MENTOR ADVISING DEPARTMENT OF DEFENSE

Pub. L. 113–235, div. C, title VIII, §8104, Dec. 16, 2014, 128 Stat. 2278, provided that: "None of the funds appropriated or otherwise made available by this Act [div. C of Pub. L. 113–235, see Tables for classification] and hereafter may be obligated or expended to pay a retired general or flag officer to serve as a senior mentor advising the Department of Defense unless such retired officer files a Standard Form 278 (or successor form concerning public financial disclosure under part 2634 of title 5, Code of Federal Regulations) to the Office of Government Ethics."

## LIMITATION ON SOURCE OF FUNDS FOR CERTAIN JOINT CARGO AIRCRAFT EXPENDITURES

Pub. L. 110–417, [div. A], title II, §216, Oct. 14, 2008, 122 Stat. 4387, provided that:

"(a) LIMITATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act [see Tables for classification] or otherwise made available for fiscal year 2009 or any fiscal year thereafter for the Army or the Air Force, the Secretary of the Army and the Secretary of the Air Force may fund relevant expenditures for the Joint Cargo Aircraft only through amounts made available for procurement or for research, development, test, and evaluation.

"(b) RELEVANT EXPENDITURES FOR THE JOINT CARGO AIRCRAFT DEFINED.—In this section,

the term 'relevant expenditures for the Joint Cargo Aircraft' means expenditures relating to—

"(1) support equipment;

"(2) initial spares;

"(3) training simulators;

"(4) systems engineering and management; and

"(5) post-production modifications."

## PROHIBITIONS RELATING TO PROPAGANDA

Pub. L. 110–417, [div. A], title X, §1056, Oct. 14, 2008, 122 Stat. 4610, provided that:

"(a) PROHIBITION.—No part of any funds authorized to be appropriated in this or any other Act shall be used by the Department of Defense for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

"(b) REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Inspector General of the Department of Defense shall submit to Congress a report on the findings of their project number D2008–DIPOEF–0209.000, entitled 'Examination of Allegations Involving DoD Office of Public Affairs Outreach Program'.

"(c) LEGAL OPINION.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall issue a legal opinion to Congress on whether the Department of Defense violated appropriations prohibitions on publicity or propaganda activities established in Public Laws 107–117, 107–248, 108–87, 108–287, 109–148, 109–289, and 110–116, the Department of Defense Appropriations Acts for fiscal years 2002 through 2008, respectively, by offering special access to prominent persons in the private sector who serve as media analysts, including briefings and information on war efforts, meetings with high level government officials, and trips to Iraq and Guantanamo Bay, Cuba.

"(d) RULE OF CONSTRUCTION RELATED TO INTELLIGENCE ACTIVITIES.—Nothing in this section shall be construed to apply to any lawful and authorized intelligence activity of the United States Government."

## FUNDS MADE AVAILABLE FOR TRANSPORTATION OF MEDICAL SUPPLIES TO AMERICAN SAMOA AND INDIAN HEALTH SERVICE

Pub. L. 110–329, div. C, title VIII, §8058, Sept. 30, 2008, 122 Stat. 3634, provided that: "Notwithstanding any other provision of law, funds available to the Department of Defense in this Act [div. C of Pub. L. 110–329, see Tables for classification], and hereafter, shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project."

## OBLIGATION OF FUNDS FOR INSTALLATION SUPPORT FUNCTIONS

Pub. L. 108–287, title VIII, §8070, Aug. 5, 2004, 118 Stat. 987, provided that: "Hereafter, funds appropriated for Operation and maintenance and for the Defense Health Program in this Act [see Tables for classification], and in future appropriations acts for the Department of Defense, for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–87, title VIII, §8071, Sept. 30, 2003, 117 Stat. 1088.

Pub. L. 107–248, title VIII, §8072, Oct. 23, 2002, 116 Stat. 1553.

Pub. L. 107–117, div. A, title VIII, §8080, Jan. 10, 2002, 115 Stat. 2265.

Pub. L. 106–259, title VIII, §8079, Aug. 9, 2000, 114 Stat. 691.

Pub. L. 106–79, title VIII, §8084, Oct. 25, 1999, 113 Stat. 1251.

Pub. L. 105–262, title VIII, §8085, Oct. 17, 1998, 112 Stat. 2318.

Pub. L. 105–56, title VIII, §8093, Oct. 8, 1997, 111 Stat. 1241.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8119], Sept. 30, 1996, 110 Stat. 3009–71, 3009–114.

## LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE

Pub. L. 108–136, div. A, title X, §1007, Nov. 24, 2003, 117 Stat. 1585, provided that:

"(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds

appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that year in providing goods and services to the Department of State.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of October 1, 2003."

## TOTAL INFORMATION AWARENESS PROGRAM

Pub. L. 108–7, div. M, §111, Feb. 20, 2003, 117 Stat. 534, provided that:

"(a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, commencing 90 days after the date of the enactment of this Act [Feb. 20, 2003], no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Total Information Awareness program unless—

"(1) the report described in subsection (b) is submitted to Congress not later than 90 days after the date of the enactment of this Act; or

"(2) the President certifies to Congress in writing, that—

"(A) the submittal of the report to Congress within 90 days after the date of the enactment of this Act is not practicable; and

"(B) the cessation of research and development on the Total Information Awareness program would endanger the national security of the United States.

"(b) REPORT.—The report described in this subsection is a report, in writing, of the Secretary of Defense, the Attorney General, and the Director of Central Intelligence, acting jointly, that—

"(1) contains—

"(A) a detailed explanation of the actual and intended use of funds for each project and activity of the Total Information Awareness program, including an expenditure plan for the use of such funds;

"(B) the schedule for proposed research and development on each project and activity of the Total Information Awareness program; and

"(C) target dates for the deployment of each project and activity of the Total Information Awareness program;

"(2) assesses the likely efficacy of systems such as the Total Information Awareness program in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists or terrorist groups;

"(3) assesses the likely impact of the implementation of a system such as the Total Information Awareness program on privacy and civil liberties;

"(4) sets forth a list of the laws and regulations that govern the information to be collected by the Total Information Awareness program, and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program; and

"(5) includes recommendations, endorsed by the Attorney General, for practices, procedures, regulations, or legislation on the deployment, implementation, or use of the Total Information Awareness program to eliminate or minimize adverse effects of such program on privacy and other civil liberties.

"(c) LIMITATION ON DEPLOYMENT OF TOTAL INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), if and when research and development on the Total Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

"(A) notifies Congress of that development, including a specific and detailed description of—

"(i) each element of such program or component intended to be deployed or implemented; and

"(ii) the method and scope of the intended deployment or implementation of such program or component (including the data or information to be accessed or used); and

"(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

"(i) a specific authorization by law for the deployment or implementation of such program or component; and

"(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

"(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Total Information Awareness program, or a component of such program, in support of the following:

"(A) Lawful military operations of the United States conducted outside the United States.

"(B) Lawful foreign intelligence activities conducted wholly against non-United States persons.

"(d) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the Total Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

"(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

"(e) DEFINITIONS.—In this section:

"(1) TOTAL INFORMATION AWARENESS PROGRAM.—The term 'Total Information Awareness program'—

"(A) means the computer hardware and software components of the program known as Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

"(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

"(2) NON-UNITED STATES PERSON.—The term 'non-United States person' means any person other than a United States person.

"(3) UNITED STATES PERSON.—The term 'United States person' has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i))."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

## FUNDS PROHIBITED FOR CONTRACTS WITH PERSONS CONVICTED OF UNLAWFUL MANUFACTURE OR SALE OF CONGRESSIONAL MEDALS OF HONOR

Pub. L. 105–262, title VIII, §8118, Oct. 17, 1998, 112 Stat. 2331, provided that: "During the current fiscal year and hereafter, no funds appropriated or otherwise available to the Department of Defense may be used to award a contract to, extend a contract with, or approve the award of a subcontract to any person who within the preceding 15 years has been convicted under section 704 of title 18, United States Code, of the unlawful manufacture or sale of the Congressional Medal of Honor."

## USE OF FUNDS FOR MODIFICATION OF RETIRED AIRCRAFT, WEAPON, SHIP OR OTHER ITEM OF EQUIPMENT

Pub. L. 105–56, title VIII, §8053, Oct. 8, 1997, 111 Stat. 1232, which provided that none of the funds provided in the Act and hereafter would be available for use by a military department to modify an aircraft, weapon, ship or other item of equipment, that the military department concerned planned to retire or otherwise dispose of within 5 years after completion of the modification, was repealed and restated in section 2244a of this title by Pub. L. 109–163, div. A, title III, §372(a), (c), 119 Stat. 3209, 3210.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8055], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99.

Pub. L. 104–61, title VIII, §8068, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103–335, title VIII, §8079, Sept. 30, 1994, 108 Stat. 2636.

Pub. L. 103–139, title VIII, §8098, Nov. 11, 1993, 107 Stat. 1462.

Pub. L. 102–396, title IX, §9034, Oct. 6, 1992, 106 Stat. 1908.

Pub. L. 102–172, title VIII, §8034, Nov. 26, 1991, 105 Stat. 1178.

Pub. L. 101–511, title VIII, §8035, Nov. 5, 1990, 104 Stat. 1882.

## DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND

## RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 104–106, div. A, title III, §335, Feb. 10, 1996, 110 Stat. 262, directed the Secretary of Defense to conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs, directed the Secretary to submit to Congress a final report on the results of the project not later than Dec. 31, 1998, and provided that the project would terminate not later than Sept. 30, 1998.

## INTERAGENCY COURIER SERVICE

Pub. L. 103–335, title VIII, §8119, Sept. 30, 1994, 108 Stat. 2649, provided that: "During the current fiscal year and hereafter, the Department of State and the Department of Defense are authorized to provide interagency courier service on a non-reimbursable basis."

## RESTRICTIONS ON PROCUREMENTS FROM OUTSIDE OF UNITED STATES

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8109], Sept. 30, 1996, 110 Stat. 3009–71, 3009–111, provided for application of section 9005 of Public Law 102–396 (formerly set out below), prior to repeal by Pub. L. 107–107, div. A, title VIII, §832(b)(2), Dec. 28, 2001, 115 Stat. 1190.

Pub. L. 102–396, title IX, §9005, Oct. 6, 1992, 106 Stat. 1900, as amended by Pub. L. 103–139, title VIII, §8005, Nov. 11, 1993, 107 Stat. 1438; Pub. L. 103–355, title IV, §4401(e), Oct. 13, 1994, 108 Stat. 3348, provided for restrictions on procurements from outside of the United States, prior to repeal by Pub. L. 107–107, div. A, title VIII, §832(b)(1), Dec. 28, 2001, 115 Stat. 1190.

## PROHIBITION ON USE OF FUNDS TO PURCHASE DOGS OR CATS FOR MEDICAL TRAINING

Pub. L. 101–511, title VIII, §8019, Nov. 5, 1990, 104 Stat. 1879, provided that: "None of the funds appropriated by this Act [see Tables for classification] or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community."

## RESTORATION, CANCELLATION, OR CLOSURE OF CERTAIN DEPARTMENT OF DEFENSE APPROPRIATION ACCOUNT BALANCES

Pub. L. 101–511, title VIII, §8080, Nov. 5, 1990, 104 Stat. 1893, provided that:

"(a) Upon the date of enactment of this Act [Nov. 5, 1990], the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled.

"(b) During the current fiscal year and thereafter—

"(1) on the 3rd September 30th after enactment of this section [Nov. 5, 1990], all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

"(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code; and

"(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out,

any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided*, That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and

currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further*, That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided further*, That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect to a program, project or activity would cause the total amount of such obligations to exceed $4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed $25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

"(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account."

## AVAILABILITY OF APPROPRIATIONS

The following general provisions, that had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1990, Pub. L. 101–165, title IX, §§9002, 9006, 9020, 9025, 9030, 9079, Nov. 21, 1989, 103 Stat. 1129, 1130, 1133–1135, 1147:

"SEC. 9002. [Authorized Secretaries of Defense, Army, Navy, and Air Force to procure services in accordance with section 3109 of Title 5, Government Organization and Employees, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals while traveling from their homes or places of business to official duty stations and return; and was repealed and restated in section 129b of this title by Pub. L. 101–510, div. A, title XIV, §1481(b)(1), (3), Nov. 5, 1990, 104 Stat. 1704, 1705.]

"SEC. 9006. [Provided that no appropriations available to the Department of Defense could be used for operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense; and was repealed and restated in section 2245 of this title by Pub. L. 101–510, div. A, title XIV, §1481(e)(1), (3), Nov. 5, 1990, 104 Stat. 1706.]

"SEC. 9020. [Provided that no funds available to the Department of Defense could be used to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department is reimbursed for the costs of providing such care; and was repealed and restated in section 2549 of this title by Pub. L. 101–510, div. A, title XIV, §1481(f)(1), (3), Nov. 5, 1990, 104 Stat. 1707.]

"SEC. 9025. [Provided that no funds available to the Department of Defense could be used to lease to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department when suitable aircraft or vehicles are commercially available in the private sector; and was repealed and restated in section 2550 of this title by Pub. L. 101–510, div. A, title XIV, §1481(g)(1), (4), Nov. 5, 1990, 104 Stat. 1707.]

"SEC. 9030. [Provided that funds available to the Department of Defense could be used by the Department for helicopters and motorized equipment at Defense installations for removal of feral burros and horses; and was repealed and restated in section 2678 of this title by Pub. L. 101–510, div. A, title XIV, §1481(h)(1), (3), Nov. 5, 1990, 104 Stat. 1708.]

"SEC. 9079. None of the funds appropriated by this Act or hereafter shall be obligated for the second career training program authorized by Public Law 96–347 [amending sections 2109, 3307, 3381 to 3385, and 8335 of Title 5, Government Organization and Employees]."

The following general provision, that had been repeated as fiscal year provision in prior appropriation acts, was enacted as permanent law in the Department of Defense Appropriations Act, 1989, Pub. L. 100–463, title

VIII, §8098, Oct. 1, 1988, 102 Stat. 2270–35, which provided that appropriations available to the Department of Defense for operation and maintenance could be used to pay claims authorized by law to be paid by the Department (except for civil functions), was repealed and restated in section 2732 of this title by Pub. L. 101–510, div. A, title XIV, §1481(j)(1), (3), Nov. 5, 1990, 104 Stat. 1708, 1709.

## §2241a. Prohibition on use of funds for publicity or propaganda purposes within the United States

Funds available to the Department of Defense may not be obligated or expended for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

(Added Pub. L. 111–84, div. A, title X, §1031(a)(1), Oct. 28, 2009, 123 Stat. 2448.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 111–84, div. A, title X, §1031(b), Oct. 28, 2009, 123 Stat. 2448, provided that: "Section 2241a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2009, or the date of the enactment of this Act [Oct. 28, 2009], whichever is later."

## §2241b. Prohibition on contracts providing payments for activities at sporting events to honor members of the armed forces

(a) PROHIBITION.—The Department of Defense may not enter into any contract or other agreement under which payments are to be made in exchange for activities by the contractor intended to honor, or giving the appearance of honoring, members of the armed forces (whether members of the regular components or the reserve components) at any form of sporting event.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as prohibiting the Department of Defense from taking actions to facilitate activities intended to honor members of the armed forces at sporting events that are provided on a pro bono basis or otherwise funded with non-Federal funds if such activities are provided and received in accordance with applicable rules and regulations regarding the acceptance of gifts by the military departments, the armed forces, and members of the armed forces.

(Added Pub. L. 114–92, div. A, title III, §341(a), Nov. 25, 2015, 129 Stat. 792.)

## §2242. Authority to use appropriated funds for certain investigations and security services

The Secretary of Defense and the Secretary of each military department may—

(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;

(2) pay expenses incurred in connection with the administration of occupied areas;

(3) pay expenses of military courts, boards, and commissions; and

(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 844.)

### HISTORICAL AND REVISION NOTES

Paragraphs (1) and (4) of this section and sections 2241(b) and 2253(a)(1) of this title are based on Pub. L. 98–212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Paragraphs (2) and (3) are based on Pub. L. 99–190, §101(b) [title VIII, §§8005(a), 8006(a)], Dec. 19, 1985,

99 Stat. 1185, 1202, 1203.

## §2243. Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools

(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense for the operation of overseas defense dependents' schools may be used by the Secretary of Defense to enable an overseas meal program to provide students enrolled in such a school with meals at a price equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide meals under that program at a price for students equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(c) DETERMINING AVERAGE PRICE.—In determining the average price paid by students in the United States for meals under a school meal program, the Secretary of Defense shall exclude free and reduced price meals provided pursuant to income guidelines.

(d) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term "overseas meal program" means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending overseas defense dependents' schools.

(e) OVERSEAS DEFENSE DEPENDENTS' SCHOOL DEFINED.—In this section, the term "overseas defense dependents' school" means the following:

(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) An elementary or secondary school established pursuant to section 2164 of this title that is located in a territory, commonwealth, or possession of the United States.

(Added Pub. L. 101–189, div. A, title III, §326(a), Nov. 29, 1989, 103 Stat. 1415; amended Pub. L. 106–78, title VII, §752(b)(7), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 114–92, div. A, title V, §573(a), (b)(1), Nov. 25, 2015, 129 Stat. 830, 831.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (e)(1), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

### AMENDMENTS

**2015**—Pub. L. 114–92, §573(b)(1), substituted "Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools" for "Authority to use appropriated funds to support student meal programs in overseas dependents' schools" in section catchline.

Subsec. (a). Pub. L. 114–92, §573(a)(1), substituted "overseas defense dependents' schools" for "the defense dependents' education system" and "students enrolled in such a school" for "students enrolled in that system".

Subsec. (d). Pub. L. 114–92, §573(a)(2), substituted "overseas defense dependents' schools" for "Department of Defense dependents' schools which are located outside the United States".

Subsec. (e). Pub. L. 114–92, §573(a)(3), added subsec. (e).

**1999**—Subsec. (b). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

## §2244. Security investigations

(a) Funds appropriated to the Department of Defense may not be used for the conduct of an investigation by the Department of Defense, or by any other Federal department or agency, for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Defense determines both of the following:

(1) That a current, complete investigation file is not available from any other department or agency of the Federal Government with respect to that individual or facility.

(2) That no other department or agency of the Federal Government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(b) For purposes of subsection (a)(1), a current investigation file is a file on an investigation that has been conducted within the past five years.

(Added Pub. L. 101–510, div. A, title IX, §904(a), Nov. 5, 1990, 104 Stat. 1621; amended Pub. L. 102–190, div. A, title X, §1061(a)(11), Dec. 5, 1991, 105 Stat. 1473.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1991**—Subsec. (a)(1), (2). Pub. L. 102–190 substituted "Government" for "government".

## §2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

(a) PROHIBITION.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

(b) EXCEPTIONS.—

(1) EXCEPTION FOR BELOW-THRESHOLD MODIFICATIONS.—The prohibition in subsection (a) does not apply to a modification for which the cost is less than $100,000.

(2) EXCEPTION FOR TRANSFER OF REUSABLE ITEMS OF VALUE.—The prohibition in subsection (a) does not apply to a modification in a case in which—

(A) the reusable items of value, as determined by the Secretary, installed on the item of equipment as part of such modification will, upon the retirement or disposal of the item to be modified, be removed from such item of equipment, refurbished, and installed on another item of equipment; and

(B) the cost of such modification (including the cost of the removal and refurbishment of reusable items of value under subparagraph (A)) is less than $1,000,000.

(3) EXCEPTION FOR SAFETY MODIFICATIONS.—The prohibition in subsection (a) does not apply to a safety modification.

(c) WAIVER AUTHORITY.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.

(Added Pub. L. 109–163, div. A, title III, §372(a), Jan. 6, 2006, 119 Stat. 3209.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 105–56, title VIII, §8053, Oct. 8, 1997, 111 Stat. 1232, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 109–163, div. A, title III, §372(c), 119 Stat. 3210.

## §2245. Use of aircraft for proficiency flying: limitation

(a) An aircraft under the jurisdiction of a military department may not be used by a member of the armed forces for the purpose of proficiency flying except in accordance with regulations prescribed by the Secretary of Defense.

(b) Such regulations—

(1) may not require proficiency flying by a member except to the extent required for the member to maintain flying proficiency in anticipation of the member's assignment to combat operations; and

(2) may not permit proficiency flying in the case of a member who is assigned to a course of instruction of 90 days or more.

(c) In this section, the term "proficiency flying" means flying performed under competent orders by a rated or designated member of the armed forces while serving in a non-aviation assignment or in an assignment in which skills would normally not be maintained in the performance of assigned duties.

(Added Pub. L. 101–510, div. A, title XIV, §1481(e)(1), Nov. 5, 1990, 104 Stat. 1706; amended Pub. L. 110–181, div. A, title X, §1077, Jan. 28, 2008, 122 Stat. 333.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9006, Nov. 21, 1989, 103 Stat. 1130, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(e)(3).

**AMENDMENTS**

**2008**—Subsec. (c). Pub. L. 110–181 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "In this section, the term 'proficiency flying' has the meaning given that term in Department of Defense Directive 1340.4."

## [§2245a. Repealed. Pub. L. 114–328, div. A, title VIII, §833(b)(1)(A), Dec. 23, 2016, 130 Stat. 2284]

Section, added Pub. L. 109–163, div. A, title III, §373(a), Jan. 6, 2006, 119 Stat. 3210, related to limitation on use of operation and maintenance funds for purchase of investment items.

## §2246. Authorization of certain support for military service academy foundations

(a) AUTHORITY.—Subject to subsection (b) and pursuant to regulations prescribed by the Secretary of Defense, the Superintendent of a Service Academy may authorize a covered foundation to use, on an unreimbursed basis, facilities or equipment of such Service Academy.

(b) LIMITATIONS.—Use of facilities or equipment under subsection (a) may be provided only if such use—

(1) is without any liability of the United States to the covered foundation;

(2) does not affect the ability of any official or employee of the military department concerned, or any member of the armed forces, to carry out any responsibility or duty in a fair and objective

manner;

(3) does not compromise the integrity or appearance of integrity of any program of the military department concerned, or any individual involved in such a program;

(4) does not include the participation of any cadet or midshipman, other than participation in an honor guard at an event of the covered foundation;

(5) complies with the Joint Ethics Regulation; and

(6) has been reviewed and approved by an attorney of the military department concerned.

(c) BRIEFING.—In any fiscal year during which the Superintendent of a Service Academy exercises the authority under subsection (a), the Secretary of the military department concerned shall provide a briefing not later than the last day of that fiscal year to the Committees on Armed Services of the Senate and House of Representatives regarding the number of events or activities of a covered foundation supported by such exercise during such fiscal year.

(d) DEFINITIONS.—In this section:

(1) The term "covered foundation" means a charitable, educational, or civic nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986, that the Secretary concerned determines operates exclusively to support, with respect to a Service Academy, any of the following:

(A) Recruiting.

(B) Parent or alumni development.

(C) Academic, leadership, or character development.

(D) Institutional development.

(E) Athletics.

(2) The term "Service Academy" has the meaning given such term in section 347 of this title.

(Added Pub. L. 117–263, div. A, title V, §551(a), Dec. 23, 2022, 136 Stat. 2591.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (d)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

**CODIFICATION**

Pub. L. 117–263, div. A, title V, §551(a), Dec. 23, 2022, 136 Stat. 2591, which directed amendment of this subchapter by inserting this section "after section 2245 the end", was executed by inserting this section after section 2245 of this title to reflect the probable intent of Congress.

**PRIOR PROVISIONS**

A prior section 2246 of this title was renumbered section 2491a of this title.

## [§2247. Renumbered §2491b]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Another section 2247 was renumbered section 2249 of this title.

## [§2248. Repealed. Pub. L. 108–136, div. A, title X, §1045(a)(5)(A), Nov. 24, 2003, 117 Stat. 1612]

Section, added Pub. L. 103–337, div. A, title X, §1063(a), Oct. 5, 1994, 108 Stat. 2848, related to

prohibition on purchase of surety bonds.

## [§2249. Renumbered §4652]

## [§2249a. Renumbered §361]

## §2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces

(a) DISPLAY OF FLAGS BY ARMED FORCES.—The Secretary of Defense shall ensure that, whenever the official flags of all 50 States are displayed by the armed forces, such display shall include the flags of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) POSITION AND MANNER OF DISPLAY.—The display of an official flag of a State, territory, or possession of the United States at an installation or other facility of the Department shall be governed by section 7 of title 4 and any modification of section 7 under section 10 of title 4.

(Added Pub. L. 104–201, div. A, title X, §1071(a), Sept. 23, 1996, 110 Stat. 2656; amended Pub. L. 105–225, §4(a)(1), Aug. 12, 1998, 112 Stat. 1498; Pub. L. 112–239, div. A, title V, §588(a), (b)(1), Jan. 2, 2013, 126 Stat. 1768, 1769.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Pub. L. 112–239, §588(b)(1), substituted "Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces" for "Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display" in section catchline.

Subsec. (a). Pub. L. 112–239, §588(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "Funds available to the Department of Defense may not be used to prescribe or enforce any rule that arbitrarily excludes the official flag of any State, territory, or possession of the United States from any display of the flags of the States, territories, and possessions of the United States at an official ceremony of the Department of Defense."

**1998**—Subsec. (b). Pub. L. 105–225 substituted "section 7 of title 4 and any modification of section 7 under section 10 of title 4" for "the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178)".

## [§2249c. Renumbered §345]

## [§2249d. Renumbered §346]

## [§2249e. Renumbered §362]

# SUBCHAPTER II—MISCELLANEOUS ADMINISTRATIVE AUTHORITY

Sec.

2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii.
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2260. Licensing of intellectual property: retention of fees.
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2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets.
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## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title VI, §651(a), Dec. 23, 2024, 138 Stat. 1938, added item 2265. Amendment was made pursuant to operation of section 102 of this title.

**2014**—Pub. L. 113–291, div. A, title VIII, §859(b), Dec. 19, 2014, 128 Stat. 3461, added item 2264.

**2011**—Pub. L. 112–81, div. A, title X, §1082(a)(2), Dec. 31, 2011, 125 Stat. 1601, added item 2254a.

**2008**—Pub. L. 110–417, [div. A], title X, §1004(a)(2), Oct. 14, 2008, 122 Stat. 4583, added item 2263.

**2006**—Pub. L. 109–364, div. A, title X, §1051(b), Oct. 17, 2006, 120 Stat. 2396, added item 2262.

Pub. L. 109–163, div. A, title V, §589(a)(2), Jan. 6, 2006, 119 Stat. 3279, added item 2261.

**2004**—Pub. L. 108–375, div. A, title X, §1004(b), Oct. 28, 2004, 118 Stat. 2036, added item 2260.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1082(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285, added item 2259.

**1999**—Pub. L. 106–65, div. A, title V, §574(b), Oct. 5, 1999, 113 Stat. 624, added item 2257.

**1996**—Pub. L. 104–201, div. A, title IX, §911(a)(2), Sept. 23, 1996, 110 Stat. 2622, added item 2255.

**1992**—Pub. L. 102–484, div. A, title X, §1071(a)(2), Oct. 23, 1992, 106 Stat. 2508, added item 2254.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO THE FOOD PROGRAM OF THE DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. A, title X, §1093, Dec. 23, 2024, 138 Stat. 2083, provided that: "Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall—

"(1) implement the recommendations of the Comptroller General of the United States contained in the report published by the Comptroller General in June 2024 and titled 'DOD Food Program: Additional Actions Needed to Implement, Oversee, and Evaluate Nutrition Efforts for Service Members' (GAO–24–106155); or

"(2) if the Secretary does not implement any such recommendation, submit to the Committees on Armed Services of the Senate and the House of Representatives a report explaining why the Secretary has not implemented those recommendations."

### CLARIFICATION OF FOOD INGREDIENT REQUIREMENTS FOR FOOD OR BEVERAGES PROVIDED BY THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title III, §369, Jan. 1, 2021, 134 Stat. 3552, provided that:

"(a) IN GENERAL.—Before making any final rule, statement, or determination regarding the limitation or prohibition of any food or beverage ingredient in military food service, military medical foods, commissary food, or commissary food service, the Secretary of Defense shall publish in the Federal Register a notice of a

preliminary rule, statement, or determination (in this section referred to as a 'proposed action') and provide opportunity for public comment.

"(b) MATTERS TO BE INCLUDED.—The Secretary shall include in any notice published under subsection (a) the following:

"(1) The date of the notice.

"(2) Contact information for the appropriate office at the Department of Defense.

"(3) A summary of the notice.

"(4) A date for comments to be submitted and specific methods for submitting comments.

"(5) A description of the substance of the proposed action.

"(6) Findings and a statement of reasons supporting the proposed action.

"(c) WAIVER AUTHORITY.—

"(1) MILITARY OPERATIONS AND EMERGENCY RESPONSE.—The Secretary may waive subsections (a) and (b) if the Secretary determines that such a waiver is necessary for military operations or for the response to a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), a medical emergency, or a pandemic.

"(2) PROTECTION OF HUMAN HEALTH.—The Secretary may waive subsections (a) and (b) if the Food and Drug Administration, the Surgeon General of the United States, or the Surgeons General of the Department of Defense makes a recall or prohibition determination due to certain ingredients being harmful for human consumption.

"(3) NOTIFICATION REQUIRED.—

"(A) IN GENERAL.—The Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 60 days after exercising waiver authority under paragraph (1).

"(B) ELEMENTS.—The notification required under subparagraph (A) shall include, with respect to each waiver, the following elements:

"(i) The date, time, and location of the issuance of the waiver.

"(ii) A detailed justification for the issuance of the waiver.

"(iii) An identification of the rule, statement, or determination for which the Secretary issued the waiver, including the proposed duration of such rule, statement, or determination."

## §2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the military department concerned may—

(1) purchase household furnishings and automobiles from members of the armed forces and civilian employees of the Department of Defense on duty outside the United States or in Hawaii for resale at cost to incoming personnel; and

(2) provide household furnishings, without charge, in other than public quarters occupied by members of the armed forces or civilian employees of the Department of Defense who are on duty outside the United States or in Alaska or Hawaii.

(b) REQUIRED DETERMINATION.—The authority provided in subsection (a) may be used only when it is determined, under regulations approved by the Secretary of Defense, that the use of that authority would be advantageous to the United States.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 845.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 98–212, title VII, §723, Dec. 8, 1983, 97 Stat. 1443.

## §2252. Rewards: missing property

The Secretary of Defense and the Secretary of each military department may pay a reward of not more than $500 in any case for information leading to the discovery of missing property under the jurisdiction of that Secretary or leading to the recovery of such property.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 845.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8005(b)], Dec. 19, 1985, 99 Stat. 1185, 1202.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 7209 of this title prior to repeal by Pub. L. 100–370, §1(e)(3)(A).

## §2253. Motor vehicles

(a) GENERAL AUTHORITIES.—The Secretary of Defense and the Secretary of each military department may—

(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and

(2) purchase right-hand drive passenger sedans at a cost of not more than $30,000 each.

(b) HIRE OF PASSENGER VEHICLES.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 845; amended Pub. L. 105–85, div. A, title VIII, §805, Nov. 18, 1997, 111 Stat. 1834; Pub. L. 112–81, div. A, title VIII, §814(a), Dec. 31, 2011, 125 Stat. 1491.)

**HISTORICAL AND REVISION NOTES**

Subsection (a)(1) of this section and sections 2241(b) and 2242(1), (4) of this title are based on Pub. L. 98–212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Subsection (a)(2) is based on Pub. L. 99–190, §101(b) [title VIII, §8005(i)], Dec. 19, 1985, 99 Stat. 1185, 1202.

Subsection (b) of this section and sections 2241(a) and 2661(a) of this title are based on Pub. L. 98–212, title VII, §735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98–525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (a)(2). Pub. L. 112–81 substituted "passenger sedans" for "vehicles".

**1997**—Subsec. (a)(2). Pub. L. 105–85 substituted "$30,000" for "$12,000".

## §2254. Treatment of reports of aircraft accident investigations

(a) IN GENERAL.—(1) Whenever the Secretary of a military department conducts an accident investigation of an accident involving an aircraft under the jurisdiction of the Secretary, the records and report of the investigations shall be treated in accordance with this section.

(2) For purposes of this section, an accident investigation is any form of investigation of an aircraft accident other than an investigation (known as a "safety investigation") that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.

(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION .—(1) The Secretary concerned, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation, before the

release of the final accident investigation report relating to the accident, if the Secretary concerned determines—

(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

(B) that release of such tapes, reports, or other information—

(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

(ii) would not compromise national security.

(2) A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

(c) OPINIONS REGARDING CAUSATION OF ACCIDENT.—Following a military aircraft accident—

(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion (or opinions) as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion (or opinions) of the investigators as to the cause or causes of the accident; and

(2) if the evidence surrounding the accident is not sufficient for those investigators to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

(d) USE OF INFORMATION IN CIVIL PROCEEDINGS.—For purposes of any civil or criminal proceeding arising from an aircraft accident, any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in such proceeding, nor may such information be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.

(e) REGULATIONS.—The Secretary of each military department shall prescribe regulations to carry out this section.

(Added Pub. L. 102–484, div. A, title X, §1071(a)(1), Oct. 23, 1992, 106 Stat. 2507.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 102–484, div. A, title X, §1071(c), Oct. 23, 1992, 106 Stat. 2508, provided that: "Section 2254 of title 10, United States Code, as added by subsection (a), shall apply with respect to accidents occurring on or after the date on which regulations are first prescribed under that section."

**REGULATIONS**

Pub. L. 105–261, div. A, title X, §1065(c), Oct. 17, 1998, 112 Stat. 2134, provided that: "The Secretary of Defense shall prescribe regulations, which shall be applied uniformly across the Department of Defense, establishing procedures by which the military departments shall provide to the family members of any person involved in a military aviation accident periodic update reports on the conduct and progress of investigations into the accident."

Pub. L. 102–484, div. A, title X, §1071(b), Oct. 23, 1992, 106 Stat. 2508, provided that: "Regulations under section 2254 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 23, 1992]."

## §2254a. Data files of military flight operations quality assurance systems: exemption from disclosure under Freedom of Information Act

(a) AUTHORITY TO EXEMPT CERTAIN DATA FILES FROM DISCLOSURE UNDER FOIA.—

(1) The Secretary of Defense may exempt information contained in any data file of the military flight operations quality assurance system of a military department from disclosure under section 552(b)(3) of title 5, upon a written determination that—

(A) the information is sensitive information concerning military aircraft, units, or aircrew; and

(B) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(2) In this section, the term "data file" means a file of the military flight operations quality assurance (in this section referred to as "MFOQA") system that contains information acquired or generated by the MFOQA system, including—

(A) any data base containing raw MFOQA data; and

(B) any analysis or report generated by the MFOQA system or which is derived from MFOQA data.

(3) Information that is exempt under paragraph (1) from disclosure under section 552(b)(3) of title 5 shall be exempt from such disclosure even if such information is contained in a data file that is not exempt in its entirety from such disclosure.

(4) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section and which specifically cites and repeals or modifies those provisions.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall ensure consistent application of the authority in subsection (a) across the military departments.

(c) TRANSPARENCY.—Each determination of the Secretary under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request.

(Added Pub. L. 112–81, div. A, title X, §1082(a)(1), Dec. 31, 2011, 125 Stat. 1600; amended Pub. L. 118–31, div. A, title IX, §901(e)(2), Dec. 22, 2023, 137 Stat. 355.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(4), is the date of enactment of Pub. L. 112–81, which was approved Dec. 31, 2011.

#### AMENDMENTS

**2023**—Subsecs. (c), (d). Pub. L. 118–31 redesignated subsec. (d) as (c), struck out ", or the Secretary's designee," after "Secretary" and ", through the Office of the Director of Administration and Management" after "request", and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "The Secretary of Defense may delegate the authority to make a determination under subsection (a) to the Director of Administration and Management of the Department."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Pub. L. 112–81, div. A, title X, §1082(b), Dec. 31, 2011, 125 Stat. 1601, provided that: "Section 2254a of title 10, United States Code, as added by subsection (a), shall apply to any information entered into any data file of the military flight operations quality assurance system before, on, or after the date of the enactment of this Act [Dec. 31, 2011]."

## §2255. Aircraft accident investigation boards: composition requirements

(a) REQUIRED MEMBERSHIP OF BOARDS.—Whenever the Secretary of a military department convenes an aircraft accident investigation board to conduct an accident investigation (as described in section 2254(a)(2) of this title) with respect to a Class A accident involving an aircraft under the jurisdiction of the Secretary, the Secretary shall select the membership of the board so that—

(1) a majority of the members (or in the case of a board consisting of a single member, the member) is selected from units other than the mishap unit or a unit subordinate to the mishap unit; and

(2) in the case of a board consisting of more than one member, at least one member of the board is a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(b) EXCEPTION.—The Secretary of the military department concerned may waive the requirement of subsection (a)(1) in the case of an aircraft accident if the Secretary determines that—

(1) it is not practicable to meet the requirement because of—

(A) the remote location of the aircraft accident;

(B) an urgent need to promptly begin the investigation; or

(C) a lack of available persons outside of the mishap unit who have adequate knowledge and expertise regarding the type of aircraft involved in the accident; and

(2) the objectivity and independence of the aircraft accident investigation board will not be compromised.

(c) CONSULTATION REQUIREMENT.—In the case of an aircraft accident investigation board consisting of a single member, the member shall consult with a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(d) DESIGNATION OF CLASS A ACCIDENTS.—Not later than 60 days after an aircraft accident involving an aircraft under the jurisdiction of the Secretary of a military department, the Secretary shall determine whether the aircraft accident should be designated as a Class A accident for purposes of this section.

(e) DEFINITIONS.—In this section:

(1) The term "Class A accident" means an accident involving an aircraft that results in—

(A) the loss of life or permanent disability;

(B) damages to the aircraft, other property, or a combination of both, in an amount in excess of the amount specified by the Secretary of Defense for purposes of determining Class A accidents; or

(C) the destruction of the aircraft.

(2) The term "mishap unit", with respect to an aircraft accident investigation, means the unit of the armed forces (at the squadron or battalion level or equivalent) to which was assigned the flight crew of the aircraft that sustained the accident that is the subject of the investigation.

(Added Pub. L. 104–201, div. A, title IX, §911(a)(1), Sept. 23, 1996, 110 Stat. 2621; amended Pub. L. 108–136, div. A, title X, §1031(a)(13), Nov. 24, 2003, 117 Stat. 1597.)

## EDITORIAL NOTES

### AMENDMENTS

**2003**—Subsec. (b). Pub. L. 108–136 struck out par. (1) designation before "The Secretary", redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, redesignated cls. (i) to (iii) of former subpar. (A) as subpars. (A) to (C), respectively, of par. (1), and struck out par. (2) which read as follows: "The Secretary shall notify Congress of a waiver exercised under this subsection and the reasons therefor."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 104–201, div. A, title IX, §911(b), Sept. 23, 1996, 110 Stat. 2622, provided that: "Section 2255 of title 10, United States Code, as added by subsection (a), shall apply with respect to any aircraft accident investigation board convened by the Secretary of a military department after the end of the six-month period beginning on the date of the enactment of this Act [Sept. 23, 1996]."

## §2257. Use of recruiting materials for public relations

The Secretary of Defense may use for public relations purposes of the Department of Defense any advertising materials developed for use for recruitment and retention of personnel for the armed forces. Any such use shall be under such conditions and subject to such restrictions as the Secretary of Defense shall prescribe.

(Added Pub. L. 106–65, div. A, title V, §574(a), Oct. 5, 1999, 113 Stat. 624.)

## §2259. Transit pass program: personnel in poor air quality areas

(a) ESTABLISHMENT OF PROGRAM.—To encourage Department of Defense personnel assigned to duty, or employed, in poor air quality areas to use means other than single-occupancy motor vehicles to commute to or from the location of their duty assignments, the Secretary of Defense shall exercise the authority provided in section 7905 of title 5 to establish a program to provide a transit pass benefit under subsection (b)(2)(A) of that section for members of the Army, Navy, Air Force, Marine Corps, and Space Force who are assigned to duty, and to Department of Defense civilian officers and employees who are employed, in a poor air quality area.

(b) POOR AIR QUALITY AREAS.—In this section, the term "poor air quality area" means an area—

(1) that is subject to the national ambient air quality standards promulgated by the Administrator of the Environmental Protection Agency under section 109 of the Clean Air Act (42 U.S.C. 7409); and

(2) that, as determined by the Administrator of the Environmental Protection Agency, is a nonattainment area with respect to any of those standards.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1082(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285; amended Pub. L. 116–283, div. A, title IX, §924(b)(1)(O), Jan. 1, 2021, 134 Stat. 3820.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TIME FOR IMPLEMENTATION**

Pub. L. 106–398, §1 [[div. A], title X, §1082(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285, provided that: "The Secretary of Defense shall prescribe the effective date for the transit pass program required under section 2259 of title 10, United States Code, as added by subsection (a). The effective date so prescribed may not be later than the first day of the first month that begins on or after the date that is 180 days after the date of the enactment of this Act [Oct. 30, 2000]."

## §2260. Licensing of intellectual property: retention of fees

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense or the Secretary of

Homeland Security, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

(b) DESIGNATED MARKS.—The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

(c) LICENSES FOR QUALIFYING COMPANIES.—(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.

(2) For purposes of paragraph (1), a qualifying company is any United States company that—

(A) is a toy or hobby manufacturer; and

(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.

(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.

(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.

(5) A license under this subsection shall not be an exclusive license.

(d) USE OF FEES.—The Secretary concerned shall use fees retained under this section for the following purposes:

(1) For payment of the following costs incurred by the Secretary:

(A) Costs of securing trademark registrations.

(B) Costs of operating the licensing program under this section.

(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

(e) AVAILABILITY.—Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

(f) DEFINITIONS.—In this section:

(1) The terms "trademark", "service mark", "certification mark", and "collective mark" have the meanings given such terms in section 45 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).

(2) The term "Secretary concerned" has the meaning provided in section 101(a)(9) of this title and also includes—

(A) the Secretary of Defense, with respect to matters concerning the Defense Agencies and Department of Defense Field Activities; and

(B) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

(Added Pub. L. 108–375, div. A, title X, §1004(a), Oct. 28, 2004, 118 Stat. 2035; amended Pub. L. 110–181, div. A, title VIII, §882(a), Jan. 28, 2008, 122 Stat. 263; Pub. L. 110–417, [div. A], title VIII, §881, Oct. 14, 2008, 122 Stat. 4559.)

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–417, §881(1), inserted "or the Secretary of Homeland Security" after "Secretary of Defense".

Subsecs. (c) to (e). Pub. L. 110–181, §882(a), added subsec. (c) and redesignated former subsecs. (c) and

(d) as (d) and (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 110–417, §881(2), substituted "this section:" for "this section," and "(1) The" for "the" and added par. (2).

Pub. L. 110–181, §882(a)(1), redesignated subsec. (e) as (f).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–181, div. A, title VIII, §882(b), Jan. 28, 2008, 122 Stat. 264, provided that: "The Secretary of Defense shall prescribe regulations to implement the amendment made by this section [amending this section] not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008]."

## §2261. Presentation of recognition items for recruitment and retention purposes

(a) EXPENDITURES FOR RECOGNITION ITEMS.—Under regulations prescribed by the Secretary of Defense, appropriated funds may be expended—

(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

(2) to present such items—

(A) to members of the armed forces; and

(B) to members of the families of members of the armed forces, and other individuals, recognized as providing support that substantially facilitates service in the armed forces.

(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

(c) RECOGNITION ITEMS OF NOMINAL OR MODEST VALUE.—In this section, the term "recognition item of nominal or modest value" means a commemorative coin, medal, trophy, badge, flag, poster, painting, or other similar item that is valued at less than $50 per item and is designed to recognize or commemorate service in the armed forces.

(Added Pub. L. 109–163, div. A, title V, §589(a)(1), Jan. 6, 2006, 119 Stat. 3279; amended Pub. L. 109–364, div. A, title V, §594, Oct. 17, 2006, 120 Stat. 2235.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (d). Pub. L. 109–364 struck out heading and text of subsec. (d). Text read as follows: "The authority under this section shall expire December 31, 2007."

## §2262. Department of Defense conferences: collection of fees to cover Department of Defense costs

(a) AUTHORITY TO COLLECT FEES.—(1) The Secretary of Defense may collect fees from any individual or commercial participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Defense (in this section referred to collectively as a "conference").

(2) The Secretary may provide for the collection of fees under this section directly or by contract. The fees may be collected in advance of a conference.

(b) USE OF COLLECTED FEES.—Amounts collected under subsection (a) with respect to a conference shall be credited to the appropriation or account from which the costs of the conference are paid and shall be available to pay the costs of the Department of Defense with respect to the

conference or to reimburse the Department for costs incurred with respect to the conference.

(c) TREATMENT OF EXCESS AMOUNTS.—In the event the total amount of fees collected under subsection (a) with respect to a conference exceeds the actual costs of the Department of Defense with respect to the conference, the amount of such excess shall be deposited into the Treasury as miscellaneous receipts.

(Added Pub. L. 109–364, div. A, title X, §1051(a), Oct. 17, 2006, 120 Stat. 2395; amended Pub. L. 115–91, div. A, title X, §1051(a)(11), Dec. 12, 2017, 131 Stat. 1561.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (d). Pub. L. 115–91 struck out subsec. (d) which required annual reports on conferences, including information on costs and fees collected.

## §2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets

(a) IN GENERAL.—The total amount contributed by the Secretary of Defense in any fiscal year for the common-funded budgets of NATO may be an amount in excess of the maximum amount that would otherwise be applicable to those contributions in such fiscal year under the fiscal year 1998 baseline limitation.

(b) DEFINITIONS.—In this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

(Added Pub. L. 110–417, [div. A], title X, §1004(a)(1), Oct. 14, 2008, 122 Stat. 4582; amended Pub. L. 115–91, div. A, title X, §1051(a)(12), Dec. 12, 2017, 131 Stat. 1561.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The resolution of ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic approved by the Senate on April 30, 1998, referred to in subsec. (b)(2), was adopted in the 105th Congress and is not classified to the Code. See Cong. Rec., vol. 144, pt. 5, p. 7555, Apr. 30, 1998.

### AMENDMENTS

**2017**—Subsecs. (b), (c). Pub. L. 115–91 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required annual reports on contributions to the common-funded budgets of NATO.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 110–417, [div. A], title X, §1004(b), Oct. 14, 2008, 122 Stat. 4583, provided that: "The amendments made by this section [enacting this section] shall take effect on October 1, 2008, and shall apply

to fiscal years that begin on or after that date."

## §2264. Reimbursement for assistance provided to nongovernmental entertainment-oriented media producers

(a) IN GENERAL.—There shall be credited to the applicable appropriations account or fund from which the expenses described in subsection (b) were charged any amounts received by the Department of Defense as reimbursement for such expenses.

(b) DESCRIPTION OF EXPENSES.—The expenses referred to in subsection (a) are any expenses—

(1) incurred by the Department of Defense as a result of providing assistance to a nongovernmental entertainment-oriented media producer;

(2) for which the Department of Defense requires reimbursement under section 9701 of title 31 or any other provision of law; and

(3) for which the Department of Defense received reimbursement after December 19, 2014.

(Added Pub. L. 113–291, div. A, title VIII, §859(a), Dec. 19, 2014, 128 Stat. 3461; amended Pub. L. 115–91, div. A, title X, §1081(a)(29), Dec. 12, 2017, 131 Stat. 1595.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b)(3). Pub. L. 115–91 substituted "December 19, 2014" for "the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015".

## §2265. Access to broadband internet access service for certain members of the armed forces

The Secretary of a military department may provide, to a member of the armed forces who resides in military unaccompanied housing (as defined in section 2871 of this title) within the United States, broadband internet access service, at no cost to such member.

(Added Pub. L. 118–159, div. A, title VI, §651(a), Dec. 23, 2024, 138 Stat. 1938.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### GUIDANCE

Pub. L. 118–159, div. A, title VI, §651(b), Dec. 23, 2024, 138 Stat. 1938, provided that: "Not later than 90 days after the date of enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue policy and guidance for implementation of section 2265 of title 10, United States Code, as added by this section, that—

"(1) meets or exceeds any speed benchmark established for broadband internet access service by the Federal Communications Commission under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302);

"(2) maximizes access to such service in individual rooms and spaces; and

"(3) allows reasonable internet access, subject to appropriate restrictions applicable to other internet access provided by the Secretary to members of the Armed Forces."

# CHAPTER 135—SPACE PROGRAMS

Sec.
2271. Management of space programs: joint program offices and officer management programs.
§2271a. Space Contractor Responsibility Watch List.

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2273. Policy regarding assured access to space: national security payloads.
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2276. Commercial space launch cooperation.
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2277. Disclosure of National Security Space Launch program contract pricing terms.
2278. Notification of foreign interference of national security space.
2279. Foreign commercial satellite services and foreign launches.
[2279a. Repealed.]
2279b. Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise.
[2279c. Renumbered.]
2279d. Limitation on construction on United States territory of satellite positioning ground monitoring stations of certain foreign governments.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVI, §1603, Dec. 18, 2025, 139 Stat. 1175, added item 2275d. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVI, §§1601(a), 1603, Dec. 23, 2024, 138 Stat. 2157, 2160, added items 2271a and 2275c and struck out item 2275 "Reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs". Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title XVI, §§1602, 1603, Dec. 22, 2023, 137 Stat. 584, added items 2275b and 2276a. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title XVI, §1601, Dec. 23, 2022, 136 Stat. 2929, added item 2275a.

**2021**—Pub. L. 117–81, div. A, title XVI, §1601(a)(2), Dec. 27, 2021, 135 Stat. 2073, added item 2277.

Pub. L. 116–283, div. A, title X, §1081(a)(35), Jan. 1, 2021, 134 Stat. 3872, struck out item 2279c "Air Force Space Command".

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(18)(B), Aug. 13, 2018, 132 Stat. 1984, added item 2279d.

**2017**—Pub. L. 115–91, div. A, title X, §1051(a)(13)(B), title XVI, §§1601(a)(2), (b)(2)(B), (b)(2), 1603(d)(2), Dec. 12, 2017, 131 Stat. 1561, 1719, 1720, 1723, added item 2279c, substituted "Space Rapid Capabilities Office" for "Operationally Responsive Space Program Office" in item 2273a and "Foreign commercial satellite services and foreign launches" for "Foreign commercial satellite services" in item 2279, and struck out items 2277 "Report on foreign counter-space programs" and 2279a "Principal Advisor on Space Control".

**2015**—Pub. L. 114–92, div. A, title XVI, §§1602(b), 1603(b), Nov. 25, 2015, 129 Stat. 1096, 1098, added items 2279a and 2279b.

**2013**—Pub. L. 113–66, div. A, title IX, §911(b), title XVI, §1602(a)(2), Dec. 26, 2013, 127 Stat. 823, 942, added items 2278 and 2279.

Pub. L. 112–239, div. A, title IX, §§911(b), 912(b), 913(c)(2), Jan. 2, 2013, 126 Stat. 1872, 1874, 1876, added items 2275 to 2277.

**2009**—Pub. L. 111–84, div. A, title IX, §912(b), Oct. 28, 2009, 123 Stat. 2431, added item 2274 and struck out former item 2274 "Space surveillance network: pilot program for provision of satellite tracking support to entities outside United States Government".

**2006**—Pub. L. 109–364, div. A, title IX, §913(b)(2), Oct. 17, 2006, 120 Stat. 2357, substituted "Operationally Responsive Space Program Office" for "Operationally responsive national security payloads and buses: separate program element required" in item 2273a.

**2004**—Pub. L. 108–375, div. A, title IX, §913(a)(2), Oct. 28, 2004, 118 Stat. 2028, added item 2273a.
**2003**—Pub. L. 108–136, div. A, title IX, §§911(a)(2), 912(b), 913(b), Nov. 24, 2003, 117 Stat. 1564, 1565, 1567, added items 2272 to 2274.

## §2271. Management of space programs: joint program offices and officer management programs

(a) JOINT PROGRAM OFFICES.—The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that space development and acquisition programs of the Department of Defense are carried out through joint program offices.

(b) OFFICER MANAGEMENT PROGRAMS.—(1) The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that—

(A) Army, Navy, and Marine Corps officers, as well as Air Force officers, are assigned to the space development and acquisition programs of the Department of Defense; and

(B) Army, Navy, and Marine Corps officers, as well as Air Force officers, are eligible, on the basis of qualification, to hold leadership positions within the joint program offices referred to in subsection (a).

(2) The Secretary of Defense shall designate those positions in the Office of the National Security Space Architect of the Department of Defense (or any successor office) that qualify as joint duty assignment positions for purposes of chapter 38 of this title.

(Added Pub. L. 107–107, div. A, title IX, §911(a), Dec. 28, 2001, 115 Stat. 1195.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2271, act Aug. 10, 1956, ch. 1041, 70A Stat. 123, related to competitions for designs of aircraft, aircraft parts, and aeronautical accessories, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONTINUATION OF OPERATION OF DEFENSE METEOROLOGICAL SATELLITE PROGRAM

Pub. L. 119–60, div. A, title XVI, §1606, Dec. 18, 2025, 139 Stat. 1176, provided that: "The Secretary of Defense shall continue to operate the Defense Meteorological Satellite Program, and its existing functions and distribution capability, until the end of the functional life of the satellites in orbit as of the date of the enactment of this Act [Dec. 18, 2025] under such program."

### STUDY ON ESTABLISHING A TACTICAL SURVEILLANCE, RECONNAISSANCE, AND TRACKING PROGRAM OF RECORD

Pub. L. 119–60, div. A, title XVI, §1607, Dec. 18, 2025, 139 Stat. 1176, provided that:

"(a) STUDY.—The Secretary of the Air Force, in coordination with the Under Secretary of Defense for Intelligence and Security, shall conduct a study on the feasibility and advisability of establishing a program of record for tactical surveillance, reconnaissance, and tracking capabilities within the Department of Defense.

"(b) SCOPE.—The study under subsection (a) shall—

"(1) assess operational and technical requirements for tactical surveillance, reconnaissance, and tracking capabilities across the joint force, including requirements identified by the combatant commands;

"(2) evaluate options for organizational placement of such a program within the Department of Defense;

"(3) develop recommended acquisition and management approaches;

"(4) consider applicable intelligence oversight, legal, and policy regulations relevant to the collection, retention, and dissemination of information; and

"(5) provide funding profile options and estimated resource requirements to establish and sustain such a program.

"(c) COORDINATION.—In conducting the study under subsection (a), the Secretary—

"(1) shall coordinate with the Under Secretary of Defense for Acquisition and Sustainment, the Chairman of the Joint Chiefs of Staff, and commanders of the combatant commands; and

"(2) may receive support from other elements of the Department or federally funded research and development centers as the Secretary determines appropriate.

"(d) REPORT.—Not later than July 31, 2026, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report, and shall provide a briefing on, the findings and recommendations of the study under subsection (a).

"(e) AUTHORITY TO ESTABLISH.—The Secretary may establish a program of record for tactical surveillance, reconnaissance, and tracking capabilities within the Department of Defense if—

"(1) the Secretary determines in the study under subsection (a) that such establishment is advisable and feasible; and

"(2) a period of 90 days elapses following the date on which the Secretary submits the report under subsection (d); and

"(3) after such 90-day period, the Secretary notifies the congressional defense committees of carrying out this subsection.

"(f) TACTICAL SURVEILLANCE, RECONNAISSANCE, AND TRACKING CAPABILITIES DEFINED.—In this section, the term 'tactical surveillance, reconnaissance, and tracking capabilities' means the capabilities provided under the pilot program carried out by the Space Force to use commercial data and analytics to provide surveillance, reconnaissance, and tracking information to the combatant commands."

## USE OF MIDDLE TIER ACQUISITION PROGRAM FOR PROLIFERATED WARFIGHTER SPACE ARCHITECTURE OF THE SPACE DEVELOPMENT AGENCY

Pub. L. 118–31, div. A, title XVI, §1608, Dec. 22, 2023, 137 Stat. 587, as amended by Pub. L. 118–159, div. A, title VIII, §804(c)(6), title XVII, §1701(b), Dec. 23, 2024, 138 Stat. 1969, 2206; Pub. L. 119–60, div. A, title XVI, §1604, Dec. 18, 2025, 139 Stat. 1176, provided that:

"(a) IN GENERAL.—The Director of the Space Development Agency shall use a middle tier acquisition program for the rapid fielding of satellites and associated systems for each of the following tranches of the proliferated warfighter space architecture of the Agency:

"(1) Tranche 1.

"(2) Tranche 2.

"(3) Tranche 3.

"(4) Tranche 4.

"(5) Tranche 5.

"(6) Tranche 6.

"(b) RAPID PROTOTYPING AND FIELDING.—Any tranche of satellites or associated systems developed and fielded under subsection (a) shall have a level of maturity that allows such satellites or systems to be rapidly prototyped within an acquisition program or rapidly fielded within five years of the development of an approved requirement for such satellites or systems.

"(c) DESIGNATION AS MAJOR CAPABILITY ACQUISITION.—

"(1) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment may designate a tranche described in subsection (a) as a major capability acquisition program consistent with Department of Defense Instruction 5000.85, titled 'Major Capability Acquisition' and issued on August 6, 2020 (or a successor instruction).

"(2) NOTICE TO CONGRESS.—Not later than 90 days before the date on which a designation under paragraph (1) is made, the Under Secretary of Defense for Acquisition and Sustainment shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the intent of the Under Secretary to make such designation and include with such notice a justification for such designation.

"(d) SPACE ACQUISITION COUNCIL REVIEW AND WAIVER.—

"(1) REVIEW.—In accordance with section 9021 of title 10, United States Code, the Space Acquisition Council shall review each tranch described subsection (a) to ensure integration across the national security space enterprise.

"(2) WAIVER.—The Space Acquisition Council may waive the requirements of subsection (a) with respect to a tranch or portion of a tranch described in such subsection if the Council—

"(A) on the basis of the review conducted under paragraph (1), determines that the use of a middle tier acquisition program is not warranted for such tranch or portion thereof; and

"(B) not later than 14 days after making such determination, submits to the congressional defense committees notice of the intent of the Council to issue such a waiver.

"(e) MIDDLE TIER ACQUISITION PROGRAM DEFINED.—In this section, the term 'middle tier acquisition program' means an acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of title 10, United States Code[,] in a manner consistent with Department of Defense Instruction 5000.80, titled 'Operation of the Middle Tier of Acquisition (MTA)' and issued on December 30, 2019 (or a successor instruction)."

## MATTERS RELATING TO SPACE-BASED GROUND AND AIRBORNE MOVING TARGET INDICATION SYSTEMS

Pub. L. 118–31, div. A, title XVI, §1684, Dec. 22, 2023, 137 Stat. 618, as amended by Pub. L. 118–159, div. A, title XVI, §1654, Dec. 23, 2024, 138 Stat. 2201; Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) IN GENERAL.—The Secretary of the Air Force shall be responsible for presenting space-based ground and airborne moving target indication systems to the combatant commands to accomplish missions assigned to such commands under the Unified Command Plan that—

"(1) are primarily or fully funded by the Department of Defense; and

"(2) provide near real-time, direct support to satisfy the operational requirements of such commands.

"(b) MILESTONE DECISION AUTHORITY.—

"(1) IN GENERAL.—The Secretary of the Air Force, in consultation with the Director of National Intelligence, shall be the milestone decision authority (as defined in section 4204 of title 10, United States Code) for space-related acquisition programs for ground and airborne moving target indication systems described in subsection (a) that are primarily or fully funded within the military intelligence program.

"(2) APPOINTMENT OF PORTFOLIO ACQUISITION EXECUTIVE.—The service acquisition executive for the Air Force for space systems and programs shall appoint a portfolio acquisition executive, and designate an office, for the acquisition of space-based air and moving target indication systems.

"(c) INITIAL OPERATIONAL CAPABILITY.—Not later than May 31, 2025, the Chairman of the Joint Chiefs of Staff shall—

"(1) designate a date by which the space-based ground moving target indication system will achieve initial operational capability; and

"(2) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such date.

"(d) WORKING GROUP.—

"(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall establish a working group, to be known as the 'Moving Target Indication Working Group' (referred to in this section as the 'working group').

"(2) RESPONSIBILITIES.—The working group shall be responsible for—

"(A) addressing Department of Defense joint service requirements for moving target indication systems;

"(B) monitoring the cost, schedule, and performance of all efforts to replace the tactical intelligence, surveillance, and reconnaissance capability that is provided, as of the date of enactment of this Act, by the Joint Surveillance Target Attack Radar System; and

"(C) developing the processes and procedures for tasking, collection, processing, exploitation, and dissemination of the data collected by moving target indication systems.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The working group shall be composed of members selected by the Secretary of Defense as follows:

"(i) One member of the Space Force and one member of the Joint Staff each of whom shall serve as a co-chair of the working group.

"(ii) One representative of each of the following:

"(I) The Army.

"(II) The Navy.

"(III) The Marine Corps.

"(IV) The Air Force.

"(B) CONGRESSIONAL NOTIFICATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of the members selected to serve on the working group pursuant to subparagraph (A).

"(4) BRIEFING REQUIREMENTS.—

"(A) INITIAL BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the co-chairs of the working group shall provide to the congressional defense committees a briefing on—

"(i) any capabilities development documents developed by the working group that are either approved by, or in development for, the Joint Requirements Oversight Council; and

"(ii) any progress of the working group towards developing processes and procedures for tasking, collection, processing, exploitation, and dissemination of data collected by future moving target indication systems.

"(B) BIANNUAL BRIEFINGS.—Not less frequently than biannually following the initial briefing under subparagraph (A), the working group shall provide to the congressional defense committees a briefing on the status of any moving target indication programs under development by the Department of Defense as of the date of the briefing.

"(C) SUNSET.—The requirement to provide briefings under this paragraph shall terminate on the date that is five years after the date of the enactment of this Act."

## ALLIED RESPONSIVE SPACE CAPABILITIES

Pub. L. 117–263, div. A, title XVI, §1606, Dec. 23, 2022, 136 Stat. 2931, provided that:

"(a) INITIATIVES.—The Secretary of the Defense and the Secretary of State shall jointly ensure that responsive space capabilities of the Department of Defense align with initiatives by Five Eyes countries, member states of the North Atlantic Treaty Organization, and other allies to promote a globally responsive space architecture.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense and the Secretary of State, in coordination with the Commander of the United States European Command, the Commander of the United States Indo-Pacific Command, and the Commander of the United States Space Command, shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report assessing current investments and partnerships by the United States with allies of the United States with respect to responsive space efforts. The report shall include the following:

"(1) An assessment of the benefits of leveraging allied and partner spaceports for responsive launch.

"(2) A discussion of current and future plans to engage with allies and partners with respect to activities ensuring rapid reconstitution or augmentation of the space capabilities of the United States and allies.

"(3) An assessment of the shared costs and technology between the United States and allies, including if investments from the Pacific Deterrence Initiative and the European Deterrence Initiative could be considered for allied spaceports.

"(c) FIVE EYES COUNTRIES DEFINED.—In this section, the term 'Five Eyes countries' means the following:

"(1) Australia.

"(2) Canada.

"(3) New Zealand.

"(4) The United Kingdom.

"(5) The United States."

## LIMITATION ON USE OF COMMERCIAL SATELLITE SERVICES AND ASSOCIATED SYSTEMS

Pub. L. 117–81, div. A, title XVI, §1607(b), Dec. 27, 2021, 135 Stat. 2079, provided that:

"(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary of Defense may not rely solely on the use of commercial satellite services and associated systems to carry out operational requirements, including command and control requirements, targeting requirements, or other requirements that are necessary to execute strategic and tactical operations.

"(2) MITIGATION MEASURES.—The Secretary may rely solely on the use of commercial satellite services and associated systems to carry out an operational requirement described in paragraph (1) if the Secretary has taken measures to mitigate the vulnerability of any such requirement."

## CLASSIFICATION REVIEW OF PROGRAMS OF THE SPACE FORCE

Pub. L. 117–81, div. A, title XVI, §1609, Dec. 27, 2021, 135 Stat. 2081, provided that:

"(a) CLASSIFICATION REVIEW.—The Secretary of Defense shall—

"(1) not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], conduct a

review of each classified program managed under the authority of the Space Force to determine whether—

"(A) the level of classification of the program could be changed to a lower level; or

"(B) the program could be declassified; and

"(2) not later than 90 days after the date on which the Secretary completes such review, commence the change to the classification level or the declassification as determined in such review.

"(b) COORDINATION.—The Secretary shall carry out the review under subsection (a)(1) in coordination with the Assistant Secretary of Defense for Space Policy and, as the Secretary determines appropriate, the heads of other elements of the Department of Defense.

"(c) REPORT.—Not later than 60 days after the date on which the Secretary completes the review under subsection (a)(1), the Secretary, in coordination with the Assistant Secretary of Defense for Space Policy, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report identifying each program managed under the authority of the Space Force covered by a determination regarding changing the classification level of the program or declassifying the program, including—

"(1) the timeline for implementing such change or declassification; and

"(2) any risks that exist in implementing such change or declassification."

## SPACE POLICY REVIEW

Pub. L. 117–81, div. A, title XVI, §1611, Dec. 27, 2021, 135 Stat. 2081, as amended by Pub. L. 118–31, div. A, title XVI, §1605, Dec. 22, 2023, 137 Stat. 586, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall carry out a review of the space policy of the Department of Defense.

"(b) ELEMENTS.—The review under subsection (a) shall include the following:

"(1) With respect to the five-year period following the date of the review, an assessment of the threat to the space operations of the United States and the allies of the United States.

"(2) An assessment of the national security objectives of the Department relating to space.

"(3) An evaluation of the policy changes and funding necessary to accomplish such objectives during such five-year period.

"(4) An assessment of the policy of the Department with respect to deterring, responding to, and countering threats to the space operations of the United States and the allies of the United States.

"(5) An analysis of such policy with respect to normative behaviors in space, including the commercial use of space.

"(6) An analysis of the extent to which such policy is coordinated with other ongoing policy reviews, including reviews regarding nuclear, missile defense, and cyber operations.

"(7) A description of the organization and space doctrine of the Department to carry out the space policy of the Department.

"(8) An assessment of the space systems and architectures to implement such space policy.

"(9) Any other matters the Secretary considers appropriate.

"(c) REPORT.—

"(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary, in consultation with the Director, shall submit to the appropriate congressional committees a report on the results of the review under subsection (a).

"(2) UPDATES.—The Secretary shall provide for updates to the assessments, analyses, and evaluations carried out pursuant to such review. The Secretary shall submit to the appropriate congressional committees a report on any such updates concurrently with the National Defense Strategy required to be submitted to Congress under section 113(g) of title 10, United States Code.

"(3) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(2) The Committee on Science, Space, and Technology and the Permanent Select Committee on Intelligence of the House of Representatives.

"(3) The Committee on Commerce, Science, and Transportation and the Select Committee on Intelligence of the Senate."

## COMMERCIAL SPACE DOMAIN AWARENESS CAPABILITIES

Pub. L. 116–283, div. A, title XVI, §1607, Jan. 1, 2021, 134 Stat. 4047, provided that:

"(a) PROCUREMENT.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of the Air Force shall procure commercial space domain awareness services by awarding at least two contracts for such services.

"(b) LIMITATION.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2021 for the Office of the Secretary of the Air Force, not more than 75 percent may be obligated or expended until the date on which the Secretary of Defense, without delegation, certifies to the congressional committees that the Secretary of the Air Force has awarded the contracts under subsection (a).

"(c) REPORT.—Not later than January 31, 2021, the Chief of Space Operations, in coordination with the Secretary of the Air Force, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report detailing the commercial space domain awareness services, data, and analytics of objects in low-Earth orbit that have been purchased during the two-year period preceding the date of the report. The report shall be submitted in unclassified form.

"(d) COMMERCIAL SPACE DOMAIN AWARENESS SERVICES DEFINED.—In this section, the term 'commercial space domain awareness services' means space domain awareness data, processing software, and analytics derived from best-in-breed commercial capabilities to address warfighter requirements in low-Earth orbit and fill gaps in current space domain capabilities of the Space Force, including commercial capabilities to—

"(1) provide conjunction and maneuver alerts;

"(2) monitor breakup and launch events; and

"(3) detect and track objects smaller than 10 centimeters in size."

## TACTICALLY RESPONSIVE SPACE CAPABILITY

Pub. L. 116–283, div. A, title XVI, §1609, Jan. 1, 2021, 134 Stat. 4048, as amended by Pub. L. 117–81, div. A, title XVI, §1605, Dec. 27, 2021, 135 Stat. 2078; Pub. L. 117–263, div. A, title XVI, §1604, Dec. 23, 2022, 136 Stat. 2930, provided that:

"(a) PROGRAM.—The Secretary of the Air Force shall ensure that the Space Force has a tactically responsive space capability that—

"(1) addresses all lifecycle elements; and

"(2) addresses rapid deployment and reconstitution requirements—

"(A) to provide long-term continuity for tactically responsive space capabilities across the future-years defense program submitted to Congress under section 221 of title 10, United States Code;

"(B) to continue the development of concepts of operations, including with respect to tactics, training, and procedures;

"(C) to develop appropriate processes for tactically responsive space launch, including—

"(i) mission assurance processes; and

"(ii) command and control, tracking, telemetry, and communications; and

"(D) to identify basing requirements necessary to enable tactically responsive space capabilities.

"(b) REQUIREMENTS.—The Chief of Space Operations shall establish tactically responsive requirements for all national security space capabilities, if applicable, carried out under title 10, United States Code.

"(c) SUPPORT.—

"(1) ELEMENTS.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall support the tactically responsive space program under subsection (a) during the period covered by the future-years defense program submitted to Congress under section 221 of title 10, United States Code, in 2022 to ensure that the program addresses the following:

"(A) The ability to rapidly place on-orbit systems to respond to urgent needs of the commanders of the combatant commands or to reconstitute space assets and capabilities to support national security priorities if such assets and capabilities are degraded, attacked, or otherwise impaired, including such assets and capabilities relating to protected communications and intelligence, surveillance, and reconnaissance.

"(B) The entire end-to-end tactically responsive space capability, including with respect to the launch vehicle, ground infrastructure, bus, payload, operations and on-orbit sustainment.

"(2) PLAN.—As a part of the defense budget materials (as defined in section 239 of title 10, United States Code) for each of fiscal years 2023 through 2026, the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to Congress a plan for the tactically responsive space program to address the elements under paragraph (1). Such plan shall include the following:

"(A) Lessons learned from the Space Safari tactically responsive launch-2 mission of the Space Systems Command of the Space Force, and how to incorporate such lessons into future efforts regarding

tactically responsive capabilities.

"(B) How to achieve responsive acquisition timelines within the adaptive acquisition framework for space acquisition pursuant to section 807.

"(C) Plans to address supply chain issues and leverage commercial capabilities to support future reconstitution and urgent space requirements leveraging the tactically responsive space program under subsection (a)."

## SPACE-BASED ENVIRONMENTAL MONITORING MISSION REQUIREMENTS

Pub. L. 116–92, div. A, title XVI, §1605, Dec. 20, 2019, 133 Stat. 1723, provided that:

"(a) PROCUREMENT OF MODERNIZED PATHFINDER PROGRAM SATELLITE.—

"(1) IN GENERAL.—The Secretary of the Air Force shall procure a modernized pathfinder program satellite that—

"(A) addresses space-based environmental monitoring mission requirements;

"(B) reduces the risk that the Department of Defense experiences a gap in meeting such requirements during the period beginning January 1, 2023, and ending December 31, 2025; and

"(C) is launched not later than January 1, 2023.

"(2) TYPE OF SATELLITE.—The satellite described in paragraph (1) may be a free-flyer or a hosted payload satellite.

"(3) PLAN.—Not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of the Air Force shall submit to the appropriate congressional committees a plan to procure and launch the satellite described in paragraph (1), including with respect to—

"(A) the requirements for such satellite, including operational requirements;

"(B) timelines for such procurement and launch;

"(C) costs for such procurement and launch; and

"(D) the launch plan.

"(4) PROCEDURES.—The Secretary of the Air Force shall ensure that the satellite described in paragraph (1) is procured using full and open competition through the use of competitive procedures.

"(5) WITHHOLDING OF FUNDS.—The amount equal to 10 percent of the total amount authorized to be appropriated to the Office of the Secretary of Air Force for the travel of persons under the Operations and Maintenance, Defense-Wide account shall be withheld from obligation or expenditure until the date on which a contract is awarded for the procurement of the satellite described in paragraph (1).

"(b) WEATHER SYSTEM SATELLITE.—The Secretary of the Air Force shall ensure that the electro-optical/infrared weather system satellite—

"(1) meets space-based environmental monitoring mission requirements;

"(2) is procured using full and open competition through the use of competitive procedures; and

"(3) is launched not later than September 30, 2025.

"(c) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'space-based environmental monitoring mission requirements' means the national security requirements for cloud characterization and theater weather imagery."

## RESILIENT ENTERPRISE GROUND ARCHITECTURE

Pub. L. 116–92, div. A, title XVI, §1606, Dec. 20, 2019, 133 Stat. 1724, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Air Force, to advance the security of the space assets of the Department of Defense, should—

"(1) expand on complementary efforts within the Air Force that promote the adoption of a resilient enterprise ground architecture that is responsive to new and changing threats and can rapidly integrate new capabilities to make the warfighting force of the United States more resilient in a contested battlespace; and

"(2) prioritize the swift transition of space ground architecture to a common platform and leverage commercial capabilities in concurrence with the 2015 intent memorandum of the Commander of the Air Force Space Command.

"(b) FUTURE ARCHITECTURE.—The Secretary of Defense shall, to the extent practicable—

"(1) develop future satellite ground architectures of the Department of Defense to be compatible with complementary commercial systems that can support uplink and downlink capabilities with dual-band spacecraft; and

"(2) emphasize that future ground architecture transition away from stove-piped systems to a service-based platform that provides members of the Armed Forces with flexible and adaptable capabilities that—

"(A) use, as applicable, commercially available capabilities and technologies for increased resiliency and cost savings; and

"(B) build commercial opportunity and integration across the range of resilient space systems.

"(c) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the future architecture described in subsection (b)."

## SPACE WARFIGHTING POLICY, REVIEW OF SPACE CAPABILITIES, AND PLAN ON SPACE WARFIGHTING READINESS

Pub. L. 115–232, div. A, title XVI, §1607, Aug. 13, 2018, 132 Stat. 2108, provided that:

"(a) SPACE WARFIGHTING POLICY.—Not later than March 29, 2019, the Secretary of Defense shall develop a space warfighting policy.

"(b) REVIEW OF SPACE CAPABILITIES.—

"(1) IN GENERAL.—The Secretary shall conduct a review relating to the national security space enterprise that evaluates the following:

"(A) The resiliency of the national security space enterprise with respect to a conflict.

"(B) The ability of the national security space enterprise to attribute an attack on a space system in a timely manner.

"(C) The ability of the United States—

"(i) to resolve a conflict in space; and

"(ii) to determine the material means by which such conflict may be resolved.

"(D) Specific options for the national security space enterprise to provide the ability—

"(i) to defend against aggressive behavior in space at all levels of conflict;

"(ii) to defeat any adversary that demonstrates aggressive behavior in space at all levels of conflict;

"(iii) to deter aggressive behavior in space at all levels of conflict; and

"(iv) to develop a declassification strategy, if required to demonstrate deterrence.

"(E) The effectiveness and efficiency of the national security space enterprise to rapidly research, develop, acquire, and deploy space capabilities and capacities—

"(i) to deter and defend the national security space assets of the United States; and

"(ii) to respond to any new threat to such space assets.

"(F) The roles, responsibilities, and authorities of the Department of Defense with respect to space control activities.

"(G) Any emerging space threat the Secretary expects the United States to confront during the 10-year period beginning on the date of the enactment of this Act [Aug. 13, 2018].

"(H) Such other matters as the Secretary considers appropriate.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than March 29, 2019, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the review under paragraph (1).

"(B) FORM.—The report under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

"(c) PLAN ON SPACE WARFIGHTING READINESS.—

"(1) IN GENERAL.—Not later than March 29, 2019, the Secretary of Defense shall develop, and commence the implementation of, a plan that—

"(A) identifies joint mission-essential tasks for space as a warfighting domain;

"(B) identifies any additional authorities, or delegated authorities, that would need to accompany the employment of forces to meet such mission-essential tasks;

"(C) meets the readiness requirements for space warfighting, including with respect to equipment, training, and personnel, to meet such mission-essential tasks; and

"(D) considers the contributions by allies and partners of the United States with respect to defense space capabilities to increase burden sharing across space systems, as appropriate.

"(2) BRIEFING.—Not later than March 29, 2019, the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate, and to any other congressional defense

committee upon request, a briefing describing the authorities identified under paragraph (1)(B) that the Secretary determines require legislative action."

## DESIGNATION OF COMPONENT OF DEPARTMENT OF DEFENSE RESPONSIBLE FOR COORDINATION OF HOSTED PAYLOAD INFORMATION

Pub. L. 115–232, div. A, title XVI, §1611, Aug. 13, 2018, 132 Stat. 2112, provided that:

"Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, in coordination with the Secretary of the Air Force, and other Secretaries of the military departments and the heads of Defense Agencies the Secretary determines appropriate, shall designate a component of the Department of Defense or a military department to be responsible for coordinating information, processes, and lessons learned relating to using commercially hosted payloads across the military departments, Defense Agencies, and other appropriate elements of the Department of Defense. The functions of such designated component shall include, at a minimum, the following:

"(1) Systematically collecting information from past and planned hosted payload arrangements to inform future acquisition planning and space system architecture design, including integration test data, lessons learned, and design solutions.

"(2) Creating a centralized database for cost, technical data, and lessons learned on commercially hosted payloads and sharing such information with other elements of the Department."

## AIR FORCE SPACE CONTRACTOR RESPONSIBILITY WATCH LIST

Pub. L. 115–91, div. A, title XVI, §1612, Dec. 12, 2017, 131 Stat. 1729, which required the Commander of the Air Force Space and Missile Systems Center to establish and maintain a space contractor responsibility watch list, was repealed by Pub. L. 118–159, div. A, title XVI, §1601(b), Dec. 23, 2024, 138 Stat. 2158. See section 2271a of this title.

## BRIEFINGS ON THE NATIONAL SPACE DEFENSE CENTER

Pub. L. 115–31, div. N, title VI, §605(e)(2), May 5, 2017, 131 Stat. 832, as amended by Pub. L. 116–283, div. A, title XVI, §1604(c)(2), (3), Jan. 1, 2021, 134 Stat. 4043, 4044, provided that: "The Director of the National Reconnaissance Office and the Commander of the United States Space Command, in coordination with the Director of National Intelligence and Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security], shall provide to the appropriate committees of Congress briefings providing updates on activities and progress of the National Space Defense Center to begin 30 days after the date of the enactment of this Act [May 5, 2017]. Such briefings shall be quarterly for the first year following enactment, and annually thereafter."

[Pub. L. 115–31, div. N, title VI, §605(a), May 5, 2017, 131 Stat. 830, provided that: "In this section [enacting provisions set out as a note above], the term 'appropriate committees of Congress' means the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives], the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives."]

## SPACE-BASED ENVIRONMENTAL MONITORING

Pub. L. 114–328, div. A, title XVI, §1607, Dec. 23, 2016, 130 Stat. 2586, provided that:

"(a) ROLES OF DOD AND NOAA.—

"(1) MECHANISMS.—The Secretary of Defense and the Administrator of the National Oceanic and Atmospheric Administration shall jointly establish mechanisms to collaborate and coordinate in defining the roles and responsibilities of the Department of Defense and the National Oceanic and Atmospheric Administration to—

"(A) carry out space-based environmental monitoring; and

"(B) plan for future non-governmental space-based environmental monitoring capabilities, as appropriate.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to authorize a joint satellite program of the Department of Defense and the National Oceanic and Atmospheric Administration.

"(b) REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary and the Administrator shall jointly submit to the appropriate congressional committees a report on the mechanisms established under subsection (a)(1).

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(2) the Committee on Science, Space, and Technology of the House of Representatives; and

"(3) the Committee on Commerce, Science, and Transportation of the Senate."

**CONSOLIDATION OF ACQUISITION OF WIDEBAND SATELLITE COMMUNICATIONS**

Pub. L. 114–92, div. A, title XVI, §1610, Nov. 25, 2015, 129 Stat. 1102, provided that:

"(a) PLAN.—

"(1) CONSOLIDATION.—Not later than one year after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the consolidation, during the one-year period beginning on the date on which the plan is submitted, of the acquisition of wideband satellite communications necessary to meet the requirements of the Department of Defense for such communications, including with respect to military and commercial satellite communications.

"(2) ELEMENTS.—The plan under paragraph (1) shall include—

"(A) an assessment of the management and overhead costs relating to the acquisition of commercial satellite communications services across the Department of Defense;

"(B) an estimate of—

"(i) the costs of implementing the consolidation of the acquisition of such services described in paragraph (1); and

"(ii) the projected savings of the consolidation;

"(C) the identification and designation of a single acquisition agent pursuant to paragraph (3)(A); and

"(D) the roles and responsibilities of officials of the Department, including pursuant to paragraph (3).

"(3) SINGLE ACQUISITION AGENT.—

"(A) Except as provided by subparagraph (B), under the plan under paragraph (1), the Secretary of Defense shall identify and designate a single senior official of the Department of Defense to procure wideband satellite communications necessary to meet the requirements of the Department of Defense for such communications, including with respect to military and commercial satellite communications.

"(B) Notwithstanding subparagraph (A), under the plan under paragraph (1), an official described in subparagraph (C) may carry out the procurement of commercial wideband satellite communications if the official determines that such procurement is required to meet an urgent need.

"(C) An official described in this subparagraph is any of the following:

"(i) A Secretary of a military department.

"(ii) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(iii) The Chief Information Office[r] of the Department of Defense.

"(iv) A commander of a combatant command.

"(4) VALIDATION.—The Director of Cost Assessment and Program Evaluation shall validate the assessment required by subparagraph (A) of paragraph (2) and the estimates required by subparagraph (B) of such paragraph.

"(b) IMPLEMENTATION.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary of Defense shall complete the implementation of the plan under subsection (a) by not later than one year after the date on which the Secretary submits the plan under such paragraph.

"(2) WAIVER.—The Secretary may waive the implementation of the plan under subsection (a) if the Secretary—

"(A) determines that—

"(i) such implementation will require significant additional funding; or

"(ii) such waiver is in the interests of national security; and

"(B) submits to the congressional defense committees notice of such waiver and the justifications for such waiver."

**SATELLITE COMMUNICATIONS RESPONSIBILITIES OF EXECUTIVE AGENT FOR SPACE**

Pub. L. 113–291, div. A, title XVI, §1603, Dec. 19, 2014, 128 Stat. 3622, directed the revision of Department of Defense guidance relating to acquisition of satellite communications no later than 180 days after Dec. 19, 2014.

**PROHIBITION ON CONTRACTING WITH RUSSIAN SUPPLIERS OF ROCKET ENGINES FOR THE NATIONAL SECURITY SPACE LAUNCH PROGRAM**

Pub. L. 113–291, div. A, title XVI, §1608, Dec. 19, 2014, 128 Stat. 3626, as amended by Pub. L. 114–92, div. A, title XVI, §1607, Nov. 25, 2015, 129 Stat. 1100; Pub. L. 114–328, div. A, title XVI, §1602, Dec. 23, 2016, 130 Stat. 2582, provided that:

"(a) IN GENERAL.—Except as provided by subsections (b) and (c), beginning on the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense may not award or renew a contract for the procurement of property or services for space launch activities under the evolved expendable launch vehicle program [now the National Security Space Launch program] if such contract carries out such space launch activities using rocket engines designed or manufactured in the Russian Federation.

"(b) WAIVER.—The Secretary may waive the prohibition under subsection (a) with respect to a contract for the procurement of property or services for space launch activities if the Secretary determines, and certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 30 days before the waiver takes effect, that—

"(1) the waiver is necessary for the national security interests of the United States; and

"(2) the space launch services and capabilities covered by the contract could not be obtained at a fair and reasonable price without the use of rocket engines designed or manufactured in the Russian Federation.

"(c) EXCEPTION.—The prohibition in subsection (a) shall not apply to any of the following:

"(1) The placement of orders or the exercise of options under the contract numbered FA8811–13–C–0003 and awarded on December 18, 2013.

"(2) Contracts that are awarded during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017 [Dec. 23, 2016] and ending December 31, 2022, for the procurement of property or services for space launch activities that include the use of a total of 18 rocket engines designed or manufactured in the Russian Federation, in addition to the Russian-designed or Russian-manufactured engines to which paragraph (1) applies."

## INTEGRATED SPACE ARCHITECTURES

Pub. L. 111–383, div. A, title IX, §911, Jan. 7, 2011, 124 Stat. 4328, as amended by Pub. L. 113–291, div. A, title X, §1071(d)(1)(A), Dec. 19, 2014, 128 Stat. 3509, provided that: "The Secretary of Defense and the Director of National Intelligence shall develop an integrated process for national security space architecture planning, development, coordination, and analysis that—

"(1) encompasses defense and intelligence space plans, programs, budgets, and organizations;

"(2) provides mid-term to long-term recommendations to guide space-related defense and intelligence acquisitions, requirements, and investment decisions;

"(3) is independent of, but coordinated with, the space architecture planning, development, coordination, and analysis activities of each military department and each element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))); and

"(4) makes use of, to the maximum extent practicable, joint duty assignment (as defined in section 668 of title 10, United States Code) positions."

## SPACE PROTECTION STRATEGY

Pub. L. 110–181, div. A, title IX, §911(a)–(f), Jan. 28, 2008, 122 Stat. 279, 280, as amended by Pub. L. 113–66, div. A, title IX, §912(c), Dec. 26, 2013, 127 Stat. 824; Pub. L. 113–291, div. A, title X, §1071(d)(1)(B), title XVI, §1606(e), Dec. 19, 2014, 128 Stat. 3509, 3625; Pub. L. 115–232, div. A, title VIII, §813(b)(1), Aug. 13, 2018, 132 Stat. 1851, provided that:

"(a) SENSE OF CONGRESS.—It is the Sense of Congress that the United States should place greater priority on the protection of national security space systems.

"(b) STRATEGY.—The Secretary of Defense, in conjunction with the Director of National Intelligence, shall develop a strategy, to be known as the Space Protection Strategy, for the development and fielding by the United States of the capabilities that are necessary to ensure freedom of action in space for the United States.

"(c) MATTERS INCLUDED.—The strategy required by subsection (b) shall include each of the following:

"(1) An identification of the threats to, and the vulnerabilities of, the national security space systems of the United States.

"(2) A description of the capabilities currently contained in the program of record of the Department of Defense and the intelligence community that ensure freedom of action in space.

"(3) For each period covered by the strategy, a description of the capabilities that are needed for the period, including—

"(A) the hardware, software, and other materials or services to be developed or procured;

"(B) the management and organizational changes to be achieved; and

"(C) concepts of operations, tactics, techniques, and procedures to be employed.

"(4) For each period covered by the strategy, an assessment of the gaps and shortfalls between the

capabilities that are needed for the period and the capabilities currently contained in the program of record.

"(5) For each period covered by the strategy, a comprehensive plan for investment in capabilities that identifies specific program and technology investments to be made in that period.

"(6) A description of the current processes by which the systems protection requirements of the Department of Defense and the intelligence community are addressed in space acquisition programs and during key milestone decisions, an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

"(7) A description of the current processes by which the Department of Defense and the intelligence community program and budget for capabilities (including capabilities that are incorporated into single programs and capabilities that span multiple programs), an assessment of the adequacy of those processes, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in those processes.

"(8) A description of the organizational and management structure of the Department of Defense and the intelligence community for addressing policy, planning, acquisition, and operations with respect to capabilities, a description of the roles and responsibilities of each organization, and an identification of the actions of the Department and the intelligence community for addressing any inadequacies in that structure.

"(d) PERIODS COVERED.—The strategy required by subsection (b) shall cover the following periods:

"(1) Fiscal years 2008 through 2013.

"(2) Fiscal years 2014 through 2019.

"(3) Fiscal years 2020 through 2025.

"(4) Fiscal years 2026 through 2030.

"(e) DEFINITIONS.—In this section—

"(1) the term 'capabilities' means space, airborne, and ground systems and capabilities for space situational awareness and for space systems protection; and

"(2) the term 'intelligence community' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

"(f) REPORT.—

"(1) REPORT.—Not later than six months after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense, in conjunction with the Director of National Intelligence, shall submit to Congress a report on the strategy required by subsection (b), including—

"(A) each of the matters required by subsection (c); and

"(B) a description of how the Department of Defense and the intelligence community plan to provide necessary national security capabilities, through alternative space, airborne, or ground systems, if a foreign actor degrades, denies access to, or destroys United States national security space capabilities.

"(2) CLASSIFICATION.—The report required by paragraph (1) shall be in unclassified form, but may include a classified annex."

## MAINTENANCE OF CAPABILITY FOR SPACE-BASED NUCLEAR DETECTION

Pub. L. 110–181, div. A, title X, §1065, Jan. 28, 2008, 122 Stat. 324, provided that: "The Secretary of Defense shall maintain the capability for space-based nuclear detection at a level that meets or exceeds the level of capability as of the date of the enactment of this Act [Jan. 28, 2008]."

## SPACE SITUATIONAL AWARENESS STRATEGY AND SPACE CONTROL MISSION REVIEW

Pub. L. 109–163, div. A, title IX, §911, Jan. 6, 2006, 119 Stat. 3405, required the Secretary of Defense to develop a "Space Situational Awareness Strategy" for ensuring freedom to operate United States space assets affecting national security, and to provide for a review and assessment of the requirements of the Department of Defense for the space control mission, prior to repeal by Pub. L. 110–181, div. A, title IX, §911(g), Jan. 28, 2008, 122 Stat. 280.

## SPACE PERSONNEL CAREER FIELDS

Pub. L. 108–136, div. A, title V, §547, Nov. 24, 2003, 117 Stat. 1480, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, required the Secretary of Defense to develop a strategy to promote the development of space personnel career fields and required reports regarding the strategy to be submitted by the Secretary of Defense and the Comptroller General to Congress in 2004 and 2005.

## COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION OF RECOMMENDATIONS OF SPACE COMMISSION

Pub. L. 107–107, div. A, title IX, §914, Dec. 28, 2001, 115 Stat. 1197, directed the Comptroller General to

carry out an assessment through Feb. 15, 2003, of the actions taken by the Secretary of Defense in implementing the recommendations in the report of the Space Commission submitted to Congress pursuant to Pub. L. 106–65, §1623, formerly set out as a note under section 111 of this title, that were applicable to the Department of Defense, and to submit reports to committees of Congress, not later than Feb. 15, 2002, and Feb. 15, 2003, setting forth the results of the assessment.

## §2271a. Space Contractor Responsibility Watch List

(a) ESTABLISHMENT.—The Assistant Secretary of the Air Force for Space Acquisition and Integration, acting as the service acquisition executive for the Air Force for space systems and programs, shall maintain a list of contractors with a history of poor performance on space procurement contracts.

(b) BASIS FOR INCLUSION ON WATCH LIST.—(1) The Assistant Secretary shall place a contractor, which may consist of the entire contracting entity or a specific division of the contracting entity, on the watch list based on a determination made under paragraph (2).

(2)(A) In considering whether to place a contractor on the watch list, the Assistant Secretary shall determine whether there is evidence of any of the following:

(i) Poor performance on one or more space procurement contracts, or award fee scores below 50 percent.

(ii) Inadequate management, operational or financial controls, or resources.

(iii) Inadequate security controls or resources, including unremediated vulnerabilities arising from foreign ownership, control, or influence.

(iv) Any other failure of controls or performance of a nature so serious or compelling as to warrant placement of the contractor on the watch list.

(B) If the Assistant Secretary determines, based on evidence described in any of clauses (i) through (iv) of subparagraph (A), that the ability of a contractor to responsibly perform is meaningfully impaired, the Assistant Secretary shall place the contractor on the watch list.

(C) The Assistant Secretary shall establish written policies for the consideration of contractors for placement on the watch list, including policies that require that—

(i) contractors proposed for placement on the watch list shall be provided with notice and an opportunity to respond;

(ii) the basis for a final determination placing a contractor on the watch list shall be documented in writing; and

(iii) at the request of a contractor, the contractor shall be removed from the watch list if the Assistant Secretary determines that there is evidence that the issue resulting in placement on the list has been satisfactorily remediated.

(c) EFFECT OF LISTING.—(1) The Assistant Secretary may not solicit an offer from, award a contract to, consent to a subcontract with, execute a grant, cooperative agreement, or other transaction with, or exercise an option on any space procurement contract with, an entity included on the watch list unless the Assistant Secretary makes a written determination that there is a compelling reason to do so.

(2) Not later than 10 days after the Assistant Secretary makes a determination under paragraph (1), the Assistant Secretary shall notify the congressional defense committees and the Interagency Committee on Debarment and Suspension constituted under sections 4 and 5 of Executive Order 12549 (51 Fed. Reg. 6370; relating to debarment and suspension) of the determination.

(d) LIMITATION ON DELEGATION.—The Assistant Secretary may delegate the authority to make a determination under subsection (b)(2)(B) or subsection (c)(1) only if the following criteria are met:

(1) The delegation is to the suspension and debarment official of the Air Force.

(2) The delegation is made on a case-by-case basis.

(3) Not later than seven days after the date on which such determination is made, the Assistant

Secretary notifies the congressional defense committees of the delegation.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as preventing the suspension or debarment of a contractor, but inclusion on the watch list shall not be construed as a punitive measure or de facto suspension or debarment of a contractor.

(f) DEFINITIONS.—In this section:

(1) The term "contract" includes a grant, cooperative agreement, or other transaction.

(2) The term "contractor" means any individual or entity that enters into a contract.

(3) The term "watch list" means the watch list maintained under subsection (a).

(Added Pub. L. 118–159, div. A, title XVI, §1601(a), Dec. 23, 2024, 138 Stat. 2157.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 115–91, div. A, title XVI, §1612, Dec. 12, 2017, 131 Stat. 1729, which was set out in a note under section 2271 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1601(b), Dec. 23, 2024, 138 Stat. 2158.

## §2272. Space science and technology strategy: coordination

The Secretary of Defense and the Director of National Intelligence shall jointly develop and implement a space science and technology strategy and shall review and, as appropriate, revise the strategy biennially. Functions of the Secretary under this section shall be carried out jointly by the Under Secretary of Defense for Research and Engineering and the official of the Department of Defense designated as the Department of Defense Executive Agent for Space.[1]

(Added Pub. L. 108–136, div. A, title IX, §911(a)(1), Nov. 24, 2003, 117 Stat. 1563; amended Pub. L. 111–84, div. A, title IX, §911(a)(1)–(3), Oct. 28, 2009, 123 Stat. 2428, 2429; Pub. L. 111–383, div. A, title IX, §901(j)(2), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 114–92, div. A, title XVI, §1604, Nov. 25, 2015, 129 Stat. 1098; Pub. L. 116–92, div. A, title IX, §902(28), Dec. 20, 2019, 133 Stat. 1546.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2272, act Aug. 10, 1956, ch. 1041, 70A Stat. 124, related to contracts to obtain designs submitted in design competitions, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

**AMENDMENTS**

**2019**—Pub. L. 116–92 substituted "Under Secretary of Defense for Research and Engineering" for "Assistant Secretary of Defense for Research and Engineering".

**2015**—Pub. L. 114–92 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to space science and technology strategy, required coordination, and definitions.

**2011**—Subsecs. (a), (b). Pub. L. 111–383 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering" wherever appearing.

**2009**—Subsec. (a)(1). Pub. L. 111–84, §911(a)(1), substituted "The Secretary of Defense and the Director of National Intelligence shall jointly develop" for "The Secretary of Defense shall develop".

Subsec. (a)(2)(D). Pub. L. 111–84, §911(a)(2), added subpar. (D).

Subsec. (a)(5). Pub. L. 111–84, §911(a)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "The strategy shall be available for review by the congressional defense committees."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

**TRANSFER OF FUNCTIONS**

For termination and transfer of functions of the Department of Defense Executive Agent for Space, see section 1601(b)(1) of Pub. L. 115–91, set out as a Termination of Certain Positions and Entities note under former section 2279a of this title.

**INITIAL REPORT**

Pub. L. 111–84, div. A, title IX, §911(a)(4), Oct. 28, 2009, 123 Stat. 2429, required the first space science and technology strategy required to be submitted under former 10 U.S.C. 2272(a)(5) to be submitted on the date on which the President submitted to Congress the budget for fiscal year 2012 under 31 U.S.C. 1105.

[1] *See Transfer of Functions note below.*

## §2273. Policy regarding assured access to space: national security payloads

(a) POLICY.—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.

(b) INCLUDED ACTIONS.—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

(1) the availability of at least two space launch vehicles (or families of space launch vehicles) capable of delivering into space any payload designated by the Secretary of Defense or the Director of National Intelligence as a national security payload;

(2) a robust space launch infrastructure and industrial base; and

(3) the availability of rapid, responsive, and reliable space launches for national security space programs to—

(A) improve the responsiveness and flexibility of a national security space system;

(B) lower the costs of launching a national security space system; and

(C) maintain risks of mission success at acceptable levels.

(c) COORDINATION.—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the Administrator of the National Aeronautics and Space Administration and the Director of National Intelligence.

(Added Pub. L. 108–136, div. A, title IX, §912(a)(1), Nov. 24, 2003, 117 Stat. 1565; Pub. L. 110–181, div. A, title IX, §931(a)(12), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(11), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 115–232, div. A, title XVI, §1603(a), Aug. 13, 2018, 132 Stat. 2105; Pub. L. 116–92, div. A, title XVII, §1731(a)(34), Dec. 20, 2019, 133 Stat. 1814.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2273, acts Aug. 10, 1956, ch. 1041, 70A Stat. 125; Apr. 2, 1982, Pub. L. 97–164, title I, §160(a)(4), 96 Stat. 48; Oct. 29, 1992, Pub. L. 102–572, title IX, §902(b)(1), 106 Stat. 4516, related to right of United States to designs, rights of designers to patents, and rights to sue United States, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

**AMENDMENTS**

**2019**—Subsec. (b)(1). Pub. L. 116–92 inserted semicolon at end.

**2018**—Subsec. (b)(3). Pub. L. 115–232, §1603(a)(1), added par. (3).

Subsec. (c). Pub. L. 115–232, §1603(a)(2), inserted "and the Director of National Intelligence" before period at end.

**2009**—Subsec. (b)(1). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(11). See 2008 Amendment note below.

**2008**—Subsec. (b)(1). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(11), amended par. (1) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(11), was repealed by Pub. L. 111–84.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

### NATIONAL SECURITY SPACE LAUNCH PROGRAM

Pub. L. 116–283, div. A, title XVI, §1606, Jan. 1, 2021, 134 Stat. 4044, provided that:

"(a) LAUNCH SERVICES AGREEMENT.—

"(1) LIMITATION ON AMOUNTS.—Except as provided by paragraph (2), in carrying out the phase two acquisition strategy, the Secretary of the Air Force may not obligate or expend a total amount for a launch services agreement that is greater than the amount specifically appropriated for the launch services agreement.

"(2) USE OF REPROGRAMMING AND TRANSFER AUTHORITY.—The Secretary may exceed the limitation under paragraph (1) if the Secretary carries out a reprogramming or transfer for such purpose in accordance with established procedures for reprogrammings or transfers, including with respect to presenting a request for a reprogramming of funds.

"(b) REUSABILITY.—

"(1) VALIDATION.—Not later than 18 months after the date on which the Secretary determines the down-selected National Security Space Launch providers, the Secretary shall—

"(A) complete all non-recurring design validation of previously flown launch hardware for National Security Space Launch providers offering such hardware for use in phase two contracts; and

"(B) notify the appropriate congressional committees that such design validation has been completed.

"(2) REPORT.—Not later than 210 days after the date on which the Secretary determines the down-selected National Security Space Launch providers, the Secretary shall submit to the appropriate congressional committees a report on the progress of the Secretary with respect to completing all non-recurring design validation of previously flown launch hardware described in paragraph (1), including—

"(A) a justification for any deviation from the new entrant certification guide; and

"(B) a description of such progress with respect to National Security Space Launch providers that are not down-selected National Security Space Launch providers, if applicable.

"(c) FUNDING AND STRATEGY FOR TECHNOLOGY DEVELOPMENT FOR CERTIFICATION, INFRASTRUCTURE, AND INNOVATION.—

"(1) AUTHORITY.—Pursuant to section 2371b of title 10, United States Code [now 10 U.S.C. 4022], not later than September 30, 2021, the Secretary of the Air Force shall enter into agreements described in paragraph (3) with potential phase three National Security Space Launch providers—

"(A) to maintain competition in order to maximize the likelihood of at least three National Security Space Launch providers competing for phase three contracts; and

"(B) to support innovation for national security launches, including innovative technologies and systems to further advance launch capability associated with the insertion of national security payloads into relevant classes of orbits.

"(2) COMPETITIVE PROCEDURES.—The Secretary shall carry out paragraph (1) by conducting a full and open competition among all National Security Space Launch providers that plan to submit bids for a phase three contract.

"(3) AGREEMENTS.—An agreement described in this paragraph is an agreement that could provide value or technical advances to phase three of the National Security Space Launch program and that includes not more than $90,000,000 in fiscal year 2021, subject to the availability of appropriations for such purpose, for the provider to conduct either or both of the following activities:

"(A) Develop enabling technologies to meet the certification and infrastructure requirements that are—

"(i) unique to national security space missions; and

"(ii) support the likely requirements of a phase three contract.

"(B) Develop transformational technologies in support of the national security space launch capability for phase three contracts (such as technologies regarding launch, maneuver, and transport capabilities for enhanced resiliency and security technologies, technologies to support progress toward phase three national security space launches, or technologies to inform the National Security Launch Architecture study of the Space Force).

"(4) TECHNOLOGY DEVELOPMENT INVESTMENT STRATEGY.—Not later than March 15, 2021, the Secretary shall submit to the appropriate congressional committees a strategy to support investments in technologies for phase three pursuant to paragraph (1) that includes—

"(A) the funding requirements for such strategy during fiscal years 2022 through 2026;

"(B) a schedule for investments toward phase three;

"(C) associated milestones; and

"(D) a planned schedule for awarding phase three contracts.

"(5) REPORT.—Not later than 30 days after the date on which the Secretary enters into an agreement under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report explaining which enabling technologies are funded under such agreement.

"(d) BRIEFING.—Not later than March 15, 2021, and quarterly thereafter through September 30, 2023, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the progress made by the Secretary in ensuring that full and open competition exists for phase three contracts, including—

"(1) a description of progress made to establish the requirements for phase three contracts, including such requirements that the Secretary determines cannot be met by the commercial market;

"(2) whether the Secretary determines that additional development funding will be necessary for such phase;

"(3) a description of the estimated costs for the development described in subparagraphs (A) and (B) of subsection (c)(3); and

"(4) how the Secretary will—

"(A) ensure full and open competition for technology development for phase three contracts; and

"(B) maintain competition.

"(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to delay the award of phase two contracts.

"(f) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'down-selected National Security Space Launch provider' means a National Security Space Launch provider that the Secretary of the Air Force selected to be awarded phase two contracts.

"(3) The term 'phase three contract' means a contract awarded using competitive procedures for launch services under the National Security Space Launch program after fiscal year 2024.

"(4) The term 'phase two acquisition strategy' means the process by which the Secretary of the Air Force enters into phase two contracts during fiscal year 2020, orders launch missions during fiscal years 2020 through 2024, and carries out such launches under the National Security Space Launch program.

"(5) The term 'phase two contract' means a contract awarded during fiscal year 2020 using competitive procedures for launch missions ordered under the National Security Space Launch program during fiscal years 2020 through 2024."

## POLICY TO ENSURE LAUNCH OF SMALL-CLASS PAYLOADS

Pub. L. 116–283, div. A, title XVI, §1608, Jan. 1, 2021, 134 Stat. 4047, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish a small launch and satellite policy to ensure responsive and reliable access to space through the processing and launch of Department of Defense small-class payloads.

"(b) POLICY.—The policy under subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

"(1) the availability of small-class payload launch service providers using launch vehicles capable of

delivering into space small payloads designated by the Secretary of Defense as a national security payload;

"(2) a robust small-class payload space launch infrastructure and industrial base, including small launch systems and small satellite rideshare opportunities;

"(3) the availability of rapid, responsive, and reliable space launches for national security space programs to—

"(A) improve the responsiveness and flexibility of a national security space system;

"(B) lower the costs of launching a national security space system; and

"(C) maintain risks to mission success at acceptable levels;

"(4) a minimum number of dedicated launches each year; and

"(5) full and open competition, including small launch providers and rideshare opportunities."

## PROGRAM TO ENHANCE AND IMPROVE LAUNCH SUPPORT AND INFRASTRUCTURE

Pub. L. 116–92, div. A, title XVI, §1609, Dec. 20, 2019, 133 Stat. 1727, provided that:

"(a) IN GENERAL.—In support of the policy described in section 2273(a) of title 10, United States Code, the Secretary of Defense, in coordination with the Administrator of the Federal Aviation Administration, may carry out a program to enhance infrastructure and improve support activities for the processing and launch of Department of Defense small-class and medium-class payloads.

"(b) PROGRAM.—The program under subsection (a) shall include improvements to operations at launch ranges and Federal Aviation Administration-licensed spaceports that are consistent with, and necessary to permit, the use of such launch ranges and spaceports by the Department.

"(c) CONSULTATION.—In carrying out the program under subsection (a), the Secretary may consult with current and anticipated users of launch ranges and Federal Aviation Administration-licensed spaceports, including the Space Rapid Capabilities Office.

"(d) COOPERATION.—In carrying out the program under subsection (a), the Secretary may enter into a contract or agreement under section 2276 of title 10, United States Code.

"(e) REPORT.—Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary shall submit to the appropriate committees of Congress a report describing a plan for the program under subsection (a).

"(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(2) the Committee on Commerce, Science, and Transportation and the Select Committee on Intelligence of the Senate; and

"(3) the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Permanent Select Committee on Intelligence of the House of Representatives."

## USE OF REUSABLE LAUNCH VEHICLES

Pub. L. 115–232, div. A, title XVI, §1603, Aug. 13, 2018, 132 Stat. 2105, provided that:

"(a) ASSURED ACCESS TO SPACE.—[Amended this section.]

"(b) REUSABILITY OF LAUNCH VEHICLES.—

"(1) DESIGNATION.—Effective March 1, 2019, the Evolved Expendable Launch Vehicle program of the Department of Defense shall be known as the 'National Security Space Launch program'. Any reference in Federal law, regulations, guidance, instructions, or other documents of the Federal Government to the Evolved Expendable Launch Vehicle program shall be deemed to be a reference to the National Security Space Launch program.

"(2) REQUIREMENT.—In carrying out the National Security Space Launch program, the Secretary of Defense shall provide for consideration of both reusable and expendable launch vehicles with respect to any solicitation occurring on or after March 1, 2019, for which the use of a reusable launch vehicle is technically capable and maintains risk at acceptable levels.

"(3) NOTIFICATION OF SOLICITATIONS FOR NON-REUSABLE LAUNCH VEHICLES .—Beginning March 1, 2019, if the Secretary proposes to issue a solicitation for a contract for space launch services for which the use of reusable launch vehicles is not eligible for the award of the contract, the Secretary shall notify in writing the appropriate congressional committees of such proposed solicitation, including justifications for such ineligibility, by not later than 10 days after issuing such solicitation.

"(c) RISK AND COST IMPACT ANALYSIS.—

"(1) IN GENERAL.—The Secretary shall conduct a risk and cost impact analysis with respect to launch services that use reusable launch vehicles. Such analysis shall include—

"(A) an assessment of how the inspection and certification regime of the Air Force for previously

flown launch vehicles will ensure increased responsiveness and operational flexibility while maintaining acceptable risk; and

"(B) an assessment of the anticipated cost savings to the Department of Defense realized by using a previously flown launch vehicle or components.

"(2) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall submit to the appropriate congressional committees the analysis conducted under paragraph (1).

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## LAUNCH SUPPORT AND INFRASTRUCTURE MODERNIZATION

Pub. L. 115–91, div. A, title XVI, §1609, Dec. 12, 2017, 131 Stat. 1727, as amended by Pub. L. 116–92, div. A, title XVII, §1731(c), Dec. 20, 2019, 133 Stat. 1816, provided that:

"(a) IN GENERAL.—In support of the policy specified in section 2273 of title 10, United States Code, the Secretary of Defense shall carry out a program to modernize infrastructure and improve support activities for the processing and launch of United States national security space vehicles launching from Federal ranges.

"(b) ELEMENTS.—The program under subsection (a) shall include—

"(1) investments in infrastructure to improve operations at the Eastern and Western Ranges that may benefit all users, to enhance the overall capabilities of ranges, to improve safety, and to reduce the long-term cost of operations and maintenance;

"(2) measures to normalize processes, systems, and products across the Eastern and Western ranges to minimize the burden on launch providers; and

"(3) improvements in transparency, flexibility, and responsiveness for launch scheduling.

"(c) CONSULTATION.—In carrying out the program under subsection (a), the Secretary may consult with current and anticipated users of the Eastern and Western Ranges.

"(d) COOPERATION.—In carrying out the program under subsection (a), the Secretary may consider partnerships authorized under section 2276 of title 10, United States Code.

"(e) REPORT.—

"(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plan for the implementation of the program under subsection (a).

"(2) ELEMENTS.—The report under paragraph (1) shall include—

"(A) a description of plans and the resources needed to improve launch support infrastructure, utilities, support equipment, and range operations;

"(B) a description of plans to streamline and normalize processes, systems, and products at the Eastern and Western ranges, to ensure consistency for range users; and

"(C) recommendations for improving transparency, flexibility, and responsiveness in launch scheduling."

[Pub. L. 116–92, div. A, title XVII, §1731(c), Dec. 20, 2019, 133 Stat. 1816, provided that the amendment made by section 1731(c) to section 1609(b)(3) of Pub. L. 115–91, set out above, is effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted.]

## ACQUISITION STRATEGY FOR NATIONAL SECURITY SPACE LAUNCH PROGRAM

Pub. L. 114–92, div. A, title XVI, §1608, Nov. 25, 2015, 129 Stat. 1100, as amended by Pub. L. 116–283, div. A, title XVIII, §1831(j)(1), Jan. 1, 2021, 134 Stat. 4216, provided that:

"(a) TREATMENT OF CERTAIN ARRANGEMENT.—

"(1) DISCONTINUATION.—The Secretary of the Air Force shall discontinue the evolved expendable launch vehicle launch capability arrangement, as structured as of the date of the enactment of this Act [Nov. 25, 2015], for—

"(A) existing contracts using rocket engines designed or manufactured in the Russian Federation by not later than December 31, 2019; and

"(B) existing contracts using domestic rocket engines by not later than December 31, 2020.

"(2) WAIVER.—The Secretary may waive paragraph (1) if the Secretary—

"(A) determines that such waiver is necessary for the national security interests of the United

States;

"(B) notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such waiver; and

"(C) a period of 90 days has elapsed following the date of such notification.

"(b) CONSISTENT STANDARDS.—In accordance with chapter 271 of title 10, United States Code, the Secretary shall—

"(1) apply consistent and appropriate standards to certified evolved expendable launch vehicle providers with respect to certified cost and pricing data; and

"(2) conduct the appropriate audits.

"(c) ACQUISITION STRATEGY.—In accordance with subsections (a) and (b) and section 2273 of title 10, United States Code, the Secretary shall develop and carry out a 10-year phased acquisition strategy, including near and long term, for the evolved expendable launch vehicle program [now the National Security Space Launch program].

"(d) ELEMENTS.—The acquisition strategy under subsection (c) for the evolved expendable launch vehicle program [now the National Security Space Launch program] shall—

"(1) provide the necessary—

"(A) stability in budgeting and acquisition of capabilities;

"(B) flexibility to the Federal Government; and

"(C) procedures for fair competition; and

"(2) specifically take into account, as appropriate per competition, the effect of—

"(A) contracts or agreements for launch services or launch capability entered into by the Department of Defense and the National Aeronautics and Space Administration with certified evolved expendable launch vehicle providers;

"(B) the requirements of the Department of Defense, including with respect to launch capabilities and pricing data, that are met by such providers;

"(C) the cost of integrating a satellite onto a launch vehicle; and

"(D) any other matters the Secretary considers appropriate.

"(e) COMPETITION.—In awarding any contract for launch services in a national security space mission pursuant to a competitive acquisition, the evaluation shall account for the value of the evolved expendable launch vehicle launch capability arrangement per contract line item numbers in the bid price of the offeror as appropriate per launch.

"(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report on the acquisition strategy developed under subsection (c)."

## ROCKET PROPULSION SYSTEM DEVELOPMENT PROGRAM

Pub. L. 113–291, div. A, title XVI, §1604, Dec. 19, 2014, 128 Stat. 3623, as amended by Pub. L. 114–92, div. A, title XVI, §1606(a), Nov. 25, 2015, 129 Stat. 1099; Pub. L. 114–328, div. A, title XVI, §1603, Dec. 23, 2016, 130 Stat. 2582, provided that:

"(a) DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall develop a next-generation rocket propulsion system that enables the effective, efficient, and expedient transition from the use of non-allied space launch engines to a domestic alternative for national security space launches.

"(2) REQUIREMENTS.—The system developed under paragraph (1) shall—

"(A) be made in the United States;

"(B) meet the requirements of the national security space community;

"(C) be developed by not later than 2019;

"(D) be developed using full and open competition; and

"(E) be available for purchase by all space launch providers of the United States.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary shall submit to the appropriate congressional committees a report that includes—

"(1) a plan to carry out the development of the rocket propulsion system under subsection (a), including an analysis of the benefits of using public-private partnerships;

"(2) the requirements of the program to develop such system; and

"(3) the estimated cost of such system.

"(c) STREAMLINED ACQUISITION.—In developing the rocket propulsion system required under subsection (a), the Secretary shall—

"(1) use a streamlined acquisition approach, including tailored documentation and review processes, that enables the effective, efficient, and expedient transition from the use of non-allied space launch engines to a domestic alternative for national security space launches; and

"(2) prior to establishing such acquisition approach, establish well-defined requirements with a clear acquisition strategy.

"(d) USE OF FUNDS UNDER DEVELOPMENT PROGRAM.—

"(1) DEVELOPMENT OF ROCKET PROPULSION SYSTEM.—The funds described in paragraph (2)—

"(A) may be obligated or expended for—

"(i) the development of the rocket propulsion system to replace non-allied space launch engines pursuant to subsection (a); and

"(ii) the necessary interfaces to, or integration of, the rocket propulsion system with an existing or new launch vehicle; and

"(B) except as provided by paragraph (3), may not be obligated or expended to develop or procure a launch vehicle, an upper stage, a strap-on motor, or related infrastructure.

"(2) FUNDS DESCRIBED.—The funds described in this paragraph are the following:

"(A) Funds authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114–328, see Tables for classification] or otherwise made available for fiscal year 2017 for the Department of Defense for the development of the rocket propulsion system under subsection (a).

"(B) Funds authorized to be appropriated by this Act [see Tables for classification] or the National Defense Authorization Act for Fiscal Year 2016 [Pub. L. 114–92, see Tables for classification] or otherwise made available for fiscal years 2015 or 2016 for the Department of Defense for the development of the rocket propulsion system under subsection (a) that are unobligated as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017 [Dec. 23, 2016].

"(3) OTHER PURPOSES.—The Secretary may obligate or expend not more than a total of the amount calculated under paragraph (4) of the funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment for activities not authorized by paragraph (1)(A), including for developing a launch vehicle, an upper stage, a strap-on motor, or related infrastructure. The Secretary may exceed such limit calculated under paragraph (4) in fiscal year 2017 for such purposes if—

"(A) the Secretary certifies to the appropriate congressional committees that, as of the date of the certification—

"(i) the development of the rocket propulsion system is being carried out pursuant to paragraph (1)(A) in a manner that ensures that the rocket propulsion system will meet each requirement under subsection (a)(2); and

"(ii) such obligation or expenditure will not negatively affect the development of the rocket propulsion system, including with respect to meeting such requirements; and

"(B) the reprogramming or transfer is carried out in accordance with established procedures for reprogramming or transfers, including with respect to presenting a request for a reprogramming of funds.

"(4) CALCULATION OF AMOUNTS FOR OTHER PURPOSES.—In carrying out paragraph (3), the Secretary shall calculate the amount of the funds specified in such paragraph as follows:

"(A) If the total amount of funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment is equal to or less than $320,000,000, such amount shall equal 31 percent.

"(B) If the total amount of funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment is greater than $320,000,000, such amount shall equal the difference of—

"(i) the amount of funds so authorized to be appropriated, minus

"(ii) $220,000,000.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'rocket propulsion system' means, with respect to the development authorized by subsection (a), a main booster, first-stage rocket engine or motor. The term does not include a launch vehicle, an upper stage, a strap-on motor, or related infrastructure."

## §2273a. Space Rapid Capabilities Office

(a) IN GENERAL.—There is within the Space Force a program office known as the Space Rapid Capabilities Office (in this section referred to as the "Office"). The facilities of the Office may not be co-located with the headquarters facilities of the Space Force Space Systems Command.

(b) HEAD OF OFFICE.—The head of the Office shall be the designee of the Secretary of the Air Force. The head of the Office shall report to the Chief of Space Operations.

(c) MISSION.—The mission of the Office shall be—

(1) to contribute to the development of low-cost, rapid reaction payloads, busses, launch, and launch control capabilities in order to fulfill joint military operational requirements for on-demand space support and reconstitution;

(2) to coordinate and execute space rapid capabilities efforts across the Department of Defense with respect to planning, acquisition, and operations; and

(3) to rapidly develop and field new classified space capabilities.

(d) ACQUISITION AUTHORITY.—The acquisition activities of the Office shall be subject to the following:

(1) The Secretary of the Air Force shall designate the acquisition executive of the Office who shall provide streamlined acquisition authorities for projects of the Office.

(2) The Joint Capabilities Integration and Development System process shall not apply to acquisitions by the Office.

(e) REQUIRED PROGRAM ELEMENT.—(1) The Secretary of the Air Force shall ensure, within budget program elements for space programs, that—

(A) there are separate, dedicated unclassified and classified program elements for space rapid capabilities; and

(B) the Office executes the responsibilities of the Office through such program elements.

(2) The Office shall manage the program elements required by paragraph (1).

(f) BOARD OF DIRECTORS.—The Secretary of the Air Force shall establish for the Office a Board of Directors (to be known as the "Space Rapid Capabilities Board of Directors") to provide coordination, oversight, and approval of projects of the Office.

(Added Pub. L. 108–375, div. A, title IX, §913(a)(1), Oct. 28, 2004, 118 Stat. 2028; amended Pub. L. 109–364, div. A, title IX, §913(b)(1), Oct. 17, 2006, 120 Stat. 2355; Pub. L. 112–239, div. A, title IX, §914, Jan. 2, 2013, 126 Stat. 1876; Pub. L. 115–91, div. A, title XVI, §1601(b)(1), Dec. 12, 2017, 131 Stat. 1720; Pub. L. 115–232, div. A, title XVI, §1602, Aug. 13, 2018, 132 Stat. 2104; Pub. L. 116–92, div. A, title IX, §958(a)(2), title XVI, §1601(b)(2), Dec. 20, 2019, 133 Stat. 1567, 1722; Pub. L. 116–283, div. A, title IX, §924(b)(31), Jan. 1, 2021, 134 Stat. 3825; Pub. L. 119–60, div. A, title VI, §601(i), Dec. 18, 2025, 139 Stat. 905.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 substituted "Space Force Space Systems Command" for "Air Force Space and Missile Systems Center".

**2021**—Subsec. (d)(3). Pub. L. 116–283 struck out par. (3) which read as follows: "The Commander of the United States Space Command, or, if no such command exists, the Commander of the United States Strategic Command, shall—

"(A) establish and validate capability requirements; and

"(B) recommend priorities as the Commander determines appropriate."

**2019**—Subsec. (a). Pub. L. 116–92, §958(a)(2)(A), substituted "Space Force" for "Air Force Space Command".

Subsec. (b). Pub. L. 116–92, §958(a)(2)(B), substituted "Chief of Space Operations" for "Commander of the Air Force Space Command".

Subsec. (d)(3). Pub. L. 116–92, §1601(b)(2), substituted "The Commander of the United States Space Command, or, if no such command exists, the Commander of the United States Strategic Command," for "The Commander of the United States Strategic Command, acting through the United States Space Command,".

**2018**—Pub. L. 115–232 amended section generally. Prior to amendment, section related to: in subsec. (a) the Space Rapid Capabilities Office, in subsec. (b) the head of the Office, in subsec. (c) the mission of the Office, in subsec. (d) elements of the Department of Defense to be included in the Office, in subsec. (e) acquisition activities of the Office, in subsec. (f) required program elements, and in subsec. (g) establishment of an Executive Committee to provide coordination, oversight, and approval of projects.

**2017**—Pub. L. 115–91, §1601(b)(1)(A), substituted "Space Rapid Capabilities" for "Operationally Responsive Space Program" in section catchline.

Subsec. (a). Pub. L. 115–91, §1601(b)(1)(B), substituted "Air Force Space Command" for "Air Force Space and Missile Systems Center of the Department of Defense" and "Space Rapid Capabilities" for "Operationally Responsive Space Program".

Subsec. (b). Pub. L. 115–91, §1601(b)(1)(C), substituted "Air Force Space Command" for "Air Force Space and Missile Systems Center".

Subsec. (c)(2). Pub. L. 115–91, §1601(b)(1)(D), substituted "space rapid capabilities" for "operationally responsive space".

Subsec. (d). Pub. L. 115–91, §1601(b)(1)(E), substituted "space rapid capabilities" for "operationally responsive space" in introductory provisions and pars. (2) and (3)(A), "space rapid capabilities" for "capabilities for operationally responsive space" in par. (1), and "space rapid capabilities" for "operationally responsive space capabilities" in introductory provisions of par. (4)(B).

Subsec. (f)(1)(A). Pub. L. 115–91, §1601(b)(1)(D), substituted "space rapid capabilities" for "operationally responsive space".

Subsec. (g)(1). Pub. L. 115–91, §1601(b)(1)(F), substituted "Space Rapid Capabilities" for "Operationally Responsive Space".

**2013**—Subsec. (a). Pub. L. 112–239, §914(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall establish within the Department of Defense an office to be known as the Operationally Responsive Space Program Office (in this section referred to as the 'Office')."

Subsec. (b). Pub. L. 112–239, §914(b), substituted "shall be the designee of the Department of Defense Executive Agent for Space. The head of the Office shall report to the Commander of the Air Force Space and Missile Systems Center." for "shall be—

"(1) the Department of Defense Executive Agent for Space; or

"(2) the designee of the Secretary of Defense, who shall report to the Department of Defense Executive Agent for Space."

Subsec. (c)(1). Pub. L. 112–239, §914(c), substituted "launch" for "spacelift".

Subsec. (e)(1). Pub. L. 112–239, §914(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Department of Defense Executive Agent for Space shall be the senior acquisition executive of the Office."

Subsec. (g). Pub. L. 112–239, §914(e), added subsec. (g).

**2006**—Pub. L. 109–364 amended section catchline and text generally, substituting provisions relating to establishment, control, mission, elements, and authority of the Operationally Responsive Space Program Office within the Department of Defense for provisions relating to requirement for a separate, dedicated program element for operationally responsive national security payloads and buses within budget program elements for space programs of the Department of Defense.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 108–375, div. A, title IX, §913(b), Oct. 28, 2004, 118 Stat. 2028, provided that: "Subsection (a) of section 2273a of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 2005."

### UNITED STATES POLICY ON OPERATIONALLY RESPONSIVE SPACE

Pub. L. 109–364, div. A, title IX, §913(a), Oct. 17, 2006, 120 Stat. 2355, provided that: "It is the policy of the United States to demonstrate, acquire, and deploy an effective capability for operationally responsive space to support military users and operations from space, which shall consist of—

"(1) responsive satellite payloads and busses built to common technical standards;

"(2) low-cost space launch vehicles and supporting range operations that facilitate the timely launch and on-orbit operations of satellites;

"(3) responsive command and control capabilities; and

"(4) concepts of operations, tactics, techniques, and procedures that permit the use of responsive space assets for combat and military operations other than war."

**JOINT OPERATIONALLY RESPONSIVE SPACE PAYLOAD TECHNOLOGY ORGANIZATION**

Pub. L. 109–163, div. A, title IX, §913(a), Jan. 6, 2006, 119 Stat. 3408, which directed the Secretary of Defense to establish or designate an organization in the Department of Defense to coordinate joint operationally responsive space payload technology, was repealed by Pub. L. 109–364, div. A, title IX, §913(d), Oct. 17, 2006, 120 Stat. 2358.

## §2274. Space situational awareness services and information: provision to non-United States Government entities

(a) AUTHORITY.—(1) Except as provided by paragraph (2), the Secretary of Defense may provide space situational awareness services and information to, and may obtain space situational awareness data and information from, non-United States Government entities in accordance with this section. Any such action may be taken only if the Secretary determines that such action is consistent with the national security interests of the United States.

(2) Beginning January 1, 2024, the Secretary may provide space situational awareness services and information to, and may obtain space situational awareness data and information from, non-United States Government entities under paragraph (1) only to the extent that the Secretary determines such actions are necessary to meet the national security interests of the United States.

(b) ELIGIBLE ENTITIES.—The Secretary may provide services and information under subsection (a) to, and may obtain data and information under subsection (a) from, any non-United States Government entity, including any of the following:

(1) A State.

(2) A political subdivision of a State.

(3) A United States commercial entity.

(4) The government of a foreign country.

(5) A foreign commercial entity.

(c) AGREEMENT.—The Secretary may not provide space situational awareness services and information under subsection (a) to a non-United States Government entity unless that entity enters into an agreement with the Secretary under which the entity—

(1) agrees to pay an amount that may be charged by the Secretary under subsection (d);

(2) agrees not to transfer any data or technical information received under the agreement, including the analysis of data, to any other entity without the express approval of the Secretary; and

(3) agrees to any other terms and conditions considered necessary by the Secretary.

(d) CHARGES.—(1) As a condition of an agreement under subsection (c), the Secretary may (except as provided in paragraph (2)) require the non-United States Government entity entering into the agreement to pay to the Department of Defense such amounts as the Secretary determines appropriate to reimburse the Department for the costs to the Department of providing space situational awareness services or information under the agreement.

(2) The Secretary may not require the government of a State, or of a political subdivision of a State, to pay any amount under paragraph (1).

(e) CREDITING OF FUNDS RECEIVED.—(1) Funds received for the provision of space

situational awareness services or information pursuant to an agreement under this section shall be credited, at the election of the Secretary, to the following:

(A) The appropriation, fund, or account used in incurring the obligation.

(B) An appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(2) Funds credited under paragraph (1) shall be merged with, and remain available for obligation with, the funds in the appropriation, fund, or account to which credited.

(f) PROCEDURES.—The Secretary shall establish procedures by which the authority under this section shall be carried out. As part of those procedures, the Secretary may allow space situational awareness services or information to be provided through a contractor of the Department of Defense.

(g) IMMUNITY.—The United States, any agencies and instrumentalities thereof, and any individuals, firms, corporations, and other persons acting for the United States, shall be immune from any suit in any court for any cause of action arising from the provision or receipt of space situational awareness services or information, whether or not provided in accordance with this section, or any related action or omission.

(h) NOTICE OF CONCERNS OF DISCLOSURE OF INFORMATION.—If the Secretary determines that a commercial or foreign entity has declined or is reluctant to provide data or information to the Secretary in accordance with this section due to the concerns of such entity about the potential disclosure of such data or information, the Secretary shall, not later than 60 days after the Secretary makes that determination, provide notice to the congressional defense committees of the declination or reluctance of such entity.

(Added Pub. L. 108–136, div. A, title IX, §913(a), Nov. 24, 2003, 117 Stat. 1565; amended Pub. L. 109–364, div. A, title IX, §912, Oct. 17, 2006, 120 Stat. 2355; Pub. L. 110–417, [div. A], title IX, §911, Oct. 14, 2008, 122 Stat. 4571; Pub. L. 111–84, div. A, title IX, §912(a), Oct. 28, 2009, 123 Stat. 2429; Pub. L. 115–232, div. A, title XVI, §1604(a), Aug. 13, 2018, 132 Stat. 2106.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2274, act Aug. 10, 1956, ch. 1041, 70A Stat. 126, which related to procurement for experimental purposes, was repealed by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 designated existing provisions as par. (1), substituted "Except as provided by paragraph (2), the Secretary of Defense may" for "The Secretary of Defense may", and added par. (2).

**2009**—Pub. L. 111–84 amended section generally. Prior to amendment, section related to space surveillance network: pilot program for provision of satellite tracking support to entities outside United States Government.

**2008**—Subsec. (i). Pub. L. 110–417 substituted "September 30, 2010" for "September 30, 2009".

**2006**—Subsec. (i). Pub. L. 109–364 substituted "may be conducted through September 30, 2009" for "shall be conducted during the three-year period beginning on a date specified by the Secretary of Defense, which date shall be not later than 180 days after the date of the enactment of this section".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title IX, §912(c), Oct. 28, 2009, 123 Stat. 2431, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2009, or the date of the enactment of this Act [Oct. 28, 2009], whichever is later."

### PROCESS AND PLAN FOR SPACE FORCE SPACE SITUATIONAL AWARENESS

Pub. L. 118–31, div. A, title XVI, §1609, Dec. 22, 2023, 137 Stat. 588, provided that:

"(a) IN GENERAL.—The Assistant Secretary of the Air Force for Space Acquisition and Integration, in consultation with Chief of Space Operations, shall—

"(1) establish a process to regularly identify and evaluate commercial space situational awareness capabilities, including the extent to which commercial space situational awareness data could meet needs of the Space Force with respect to maintaining situational awareness in space; and

"(2) develop and implement a plan to integrate the unified data library into the operational systems of the Space Force, including operational systems for space situational awareness and space command and control missions.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Assistant Secretary of the Air Force for Space Acquisition and Integration shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes a description of the process and plan developed under subsection (a)."

**LIMITATION ON AVAILABILITY OF FUNDING FOR JOINT SPACE OPERATIONS CENTER MISSION SYSTEM**

Pub. L. 115–91, div. A, title XVI, §1610, Dec. 12, 2017, 131 Stat. 1728, provided that:

"(a) LIMITATION.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2018 for the Joint Space Operations Center mission system, not more than 75 percent may be obligated or expended until the date on which the Secretary of the Air Force certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the Secretary has developed the plan under subsection (b).

"(b) PLAN.—The Secretary shall develop and implement a plan to operationalize existing commercial space situational awareness capabilities to address warfighter requirements, consistent with the best-in-breed concept. Except as provided by subsection (c), the Secretary shall commence such implementation by not later than May 30, 2018.

"(c) WAIVER.—The Secretary may waive the implementation of the plan developed under subsection (b) if the Secretary determines that existing commercial capabilities will not address national security requirements or existing space situational awareness capability gaps. The authority under this subsection may not be delegated below the Deputy Secretary of Defense."

## [§2275. Repealed. Pub. L. 118–159, div. A, title XVI, §1603(b), Dec. 23, 2024, 138 Stat. 2160]

Section, added Pub. L. 112–239, div. A, title IX, §911(a), Jan. 2, 2013, 126 Stat. 1870; amended Pub. L. 113–291, div. A, title X, §1071(e)(3), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 116–92, div. A, title IX, §902(29), Dec. 20, 2019, 133 Stat. 1546; Pub. L. 116–283, div. A, title XVIII, §§1845(c)(3), 1846(i)(5), Jan. 1, 2021, 134 Stat. 4247, 4252; Pub. L. 117–263, div. A, title XVI, §1603, Dec. 23, 2022, 136 Stat. 2930; Pub. L. 118–31, div. A, title XVIII, §1801(a)(21), Dec. 22, 2023, 137 Stat. 684, related to reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs. See section 2275c of this title.

A prior section 2275, act Aug. 10, 1956, ch. 1041, 70A Stat. 126, which related to award of contracts and review of decisions, was repealed by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

## §2275a. Requirements for protection of satellites

(a) ESTABLISHMENT OF REQUIREMENTS.—Before a major satellite acquisition program achieves Milestone A approval, or equivalent, the Chief of Staff of the Space Force, in consultation with the Commander of the United States Space Command, shall establish requirements for the defense and resilience of the satellites under that program against the capabilities of adversaries to target, degrade, or destroy the satellites.

(b) DEFINITIONS.—In this section:

(1) The term "major satellite acquisition program" has the meaning given that term in section 2275 of this title.

(2) The term "Milestone A approval" has the meaning given that term in section 4251 of this

title 10.

(Added Pub. L. 117–263, div. A, title XVI, §1601, Dec. 23, 2022, 136 Stat. 2929.)

## §2275b. Requirements for appropriate classification guidance

(a) IN GENERAL.—Before a space major defense acquisition program achieves Milestone B approval, or equivalent, the milestone decision authority shall determine whether the classification guidance for the program remains appropriate and—

(1) if such guidance is determined to be appropriate, submit to the congressional defense committees a certification of such determination; or

(2) if such guidance is determined to be inappropriate, initiate an update to such guidance.

(b) DEFINITIONS.—In this section:

(1) The term "Milestone B approval" has the meaning given such term in section 4172(e)(7) of this title.

(2) The term "major defense acquisition program" has the meaning given such term in section 4201 of this title.

(3) The term "space major defense acquisition program" means a major defense acquisition program for the acquisition of a satellite, ground system, or command and control system.

(Added Pub. L. 118–31, div. A, title XVI, §1602, Dec. 22, 2023, 137 Stat. 584; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(27), Dec. 23, 2024, 138 Stat. 2204.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159 struck out period at end of section catchline.

## §2275c. Space Force satellite ground systems

(a) REQUIREMENT.—The Assistant Secretary of the Air Force for Space Acquisitions and Integration, acting as the service acquisition executive for the Air Force for space systems and programs, may not authorize a launch associated with a Space Force satellite acquisition program unless—

(1) the associated ground systems and modifications are completed and ready for operation at the time of the launch; and

(2) the applicable satellite capabilities may be used on completion of the launch.

(b) WAIVER.—(1) The Secretary of the Air Force may waive the requirement under subsection (a) if the Secretary determines that such waiver is necessary for reasons of national security.

(2) Not later than 10 days after making a waiver under paragraph (1), the Secretary shall notify the congressional defense committees of such waiver.

(Added Pub. L. 118–159, div. A, title XVI, §1603(a), Dec. 23, 2024, 138 Stat. 2160.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions requiring reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs were contained in section 2275 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1603(b), Dec. 23, 2024, 138 Stat. 2160.

## §2275d. Acquisition and operation of space systems for space warfighting and control

(a) REQUIREMENT.—The Secretary of Defense shall acquire and operate space systems to be used primarily for space warfighting and control to meet the requirements specified by one or more combatant commanders in carrying out the responsibilities set forth in section 164 of this title.

(b) ROLE OF COMMERCIAL SPACE SYSTEMS.—The Secretary may use one or more commercial space systems to augment the space systems acquired and operated under subsection (a) if such commercial space systems are under the direction of a member of the armed forces with responsibility for space warfighting and control operations.

(c) NATIONAL SECURITY WAIVER.—(1) The Secretary may waive the application of subsection (a) if the Secretary determines that such a waiver is in the national security interest of the United States.

(2) Not later than 10 days after exercising the waiver authority under paragraph (1), the Secretary shall submit to the congressional defense committees a notification of the use of such authority that includes—

(A) a description of the national security interest upon which the exercise of such authority is based;

(B) the anticipated vulnerabilities to national security posed by the use of such waiver;

(C) identification of which operational commander will provide direction to the commercial space system that is used pursuant to the waiver instead of a system acquired and operated by the Secretary; and

(D) the anticipated duration of such waiver.

(Added Pub. L. 119–60, div. A, title XVI, §1603, Dec. 18, 2025, 139 Stat. 1175.)

## §2276. Commercial space launch cooperation

(a) AUTHORITY.—The Secretary of Defense may take such actions as the Secretary considers to be in the best interest of the Federal Government to—

(1) maximize the use of the capacity of the space transportation infrastructure of the Department of Defense by the private sector in the United States;

(2) maximize the effectiveness and efficiency of the space transportation infrastructure of the Department of Defense;

(3) reduce the cost of services provided by the Department of Defense related to space transportation infrastructure at launch support facilities and space recovery support facilities;

(4) encourage commercial space activities by enabling investment by covered entities in the space transportation infrastructure of the Department of Defense; and

(5) foster cooperation between the Department of Defense and covered entities.

(b) AUTHORITY FOR CONTRACTS AND OTHER AGREEMENTS RELATING TO SPACE TRANSPORTATION INFRASTRUCTURE.—The Secretary of Defense—

(1) may enter into an agreement with a covered entity to provide the covered entity with support and services related to the space transportation infrastructure of the Department of Defense; and

(2) upon the request of such covered entity, may include such support and services in the space launch and reentry range support requirements of the Department of Defense if—

(A) the Secretary determines that the inclusion of such support and services in such requirements—

(i) is in the best interest of the Federal Government;

(ii) does not interfere with the requirements of the Department of Defense; and

(iii) does not compete with the commercial space activities of other covered entities, unless that competition is in the national security interests of the United States; and

(B) any commercial requirement included in the agreement has full non-Federal funding

before the execution of the agreement.

(c) CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of Defense may enter into an agreement with a covered entity on a cooperative and voluntary basis to accept contributions of funds, services, and equipment to carry out this section.

(2) USE OF CONTRIBUTIONS.—Any funds, services, or equipment accepted by the Secretary under this subsection—

(A) may be used only for the objectives specified in this section in accordance with terms of use set forth in the agreement entered into under this subsection; and

(B) shall be managed by the Secretary in accordance with regulations of the Department of Defense.

(3) REQUIREMENTS WITH RESPECT TO AGREEMENTS.—An agreement entered into with a covered entity under this subsection—

(A) shall address the terms of use, ownership, and disposition of the funds, services, or equipment contributed pursuant to the agreement; and

(B) shall include a provision that the covered entity will not recover the costs of its contribution through any other agreement with the United States.

(d) DEFENSE COOPERATION SPACE LAUNCH ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a special account to be known as the "Defense Cooperation Space Launch Account".

(2) CREDITING OF FUNDS.—Funds received by the Secretary of Defense under subsection (c) shall be credited to the Defense Cooperation Space Launch Account.

(3) USE OF FUNDS.—Funds deposited in the Defense Cooperation Space Launch Account under paragraph (2) are authorized to be appropriated and shall be available for obligation only to the extent provided in advance in an appropriation Act for costs incurred by the Department of Defense in carrying out subsection (b). Funds in the Account shall remain available until expended.

[(e) Repealed. Pub. L. 115–232, div. A, title VIII, §813(a)(2), Aug. 13, 2018, 132 Stat. 1851.]

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term "covered entity" means a non-Federal entity that—

(A) is organized under the laws of the United States or of any jurisdiction within the United States; and

(B) is engaged in commercial space activities.

(2) LAUNCH SUPPORT FACILITIES.—The term "launch support facilities" has the meaning given the term in section 50501(7) of title 51.

(3) SPACE RECOVERY SUPPORT FACILITIES.—The term "space recovery support facilities" has the meaning given the term in section 50501(11) of title 51.

(4) SPACE TRANSPORTATION INFRASTRUCTURE.—The term "space transportation infrastructure" has the meaning given that term in section 50501(12) of title 51.

(Added Pub. L. 112–239, div. A, title IX, §912(a), Jan. 2, 2013, 126 Stat. 1872; amended Pub. L. 115–232, div. A, title VIII, §813(a)(2), Aug. 13, 2018, 132 Stat. 1851.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2276, acts Aug. 10, 1956, ch. 1041, 70A Stat. 126; Sept. 7, 1962, Pub. L. 87–651, title I,

§131, 76 Stat. 514, which related to inspection and audit of plants and books of contractors and provided criminal penalties for violations, was repealed by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

## AMENDMENTS

**2018**—Subsec. (e). Pub. L. 115–232 struck out subsec. (e). Text read as follows: "Not later than January 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the funds, services, and equipment accepted and used by the Secretary under this section during the preceding fiscal year."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PLAN TO IMPROVE THREAT-SHARING ARRANGEMENTS WITH COMMERCIAL SPACE OPERATORS

Pub. L. 118–31, div. A, title XVI, §1610, Dec. 22, 2023, 137 Stat. 589, provided that:

"(a) PLAN FOR THREAT SHARING WITH COMMERCIAL SPACE OPERATORS.—The Assistant Secretary of the Air Force for Space Acquisition and Integration, in consultation with the Commander of the United States Space Command, shall develop and implement a plan to expand threat-sharing arrangements with commercial space operators that are under contract with the Department of Defense as of the date of the enactment of this Act [Dec. 22, 2023].

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary of the Air Force for Space Acquisition and Integration, in coordination with the Commander of the United States Space Command, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plan required under subsection (a)."

### NATIONAL SECURITY SPACE LAUNCH PROGRAM

Pub. L. 118–159, div. A, title XVI, §1605(b), (c), Dec. 23, 2024, 138 Stat. 2161, provided that:

"(b) NOTIFICATION OF CHANGES IN PHASE THREE ACQUISITION STRATEGY.—Not later than seven days before implementing any modification to the final phase three acquisition strategy under the National Security Space Launch program, the Assistant Secretary of the Air Force for Space Acquisition and Integration shall submit to the appropriate congressional committees notice of the proposed modification together with an explanation of the reasons for such modification.

"(c) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)).

"(2) The term 'final phase three acquisition strategy' means the acquisition strategy for phase three of the National Security Space Launch program, as approved by the Assistant Secretary of the Air Force for Space Acquisition and Integration on March 4, 2024.

"(3) The term 'phase three' has the meaning given that term in section 1601(e) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 118–71 [probably should be 117–81]; 10 U.S.C. 2276 note) [set out below]."

Pub. L. 117–81, div. A, title XVI, §1601(b), (c), (e), Dec. 27, 2021, 135 Stat. 2073–2075, as amended by Pub. L. 118–159, div. A, title XVI, §1605(a), Dec. 23, 2024, 138 Stat. 2161, provided that:

"(b) POLICY.—With respect to entering into contracts for launch services during the period beginning on the date of the enactment of this Act [Dec. 27, 2021] and ending September 30, 2029, it shall be the policy of the Department of Defense and the National Reconnaissance Office to—

"(1) use the National Security Space Launch program to the extent practical to procure launch services only from launch service providers that can meet Federal requirements with respect to delivering required payloads to reference orbits covered under the requirements of phase two; and

"(2) maximize continuous competition for launch services as the Space Force initiates planning for phase three, specifically for those technology areas that are unique to existing and emerging national security requirements.

"(c) NOTIFICATION.—If the Secretary of Defense or the Director of the National Reconnaissance Office determines that a program requiring launch services that could be met using the National Security Space

Launch program will instead use an alternative launch procurement approach, not later than seven days after the date of such determination, the Secretary of Defense or, as appropriate, the Director of National Intelligence, shall submit to the appropriate congressional committees—

"(1) a notification of such determination;

"(2) a certification that the alternative launch procurement approach is in the national security interest of the United States; and

"(3) an outline of the cost analysis and any other rationale for such determination.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) The term 'phase three' means, with respect to the National Security Space Launch program, launch missions ordered under the program after fiscal year 2024.

"(3) The term 'phase two' means, with respect to the National Security Space Launch program, launch missions ordered under the program during fiscal years 2020 through 2024."

## §2276a. Special authority for provision of space launch support services to increase space launch capacity

(a) IN GENERAL.—The Secretary of a military department may support Federal and commercial space launch capacity on any domestic real property under the control of the Secretary through the provision of space launch support services.

(b) PROVISION OF LAUNCH EQUIPMENT AND SERVICES TO COMMERCIAL ENTITIES.—

(1) CONTRACT OR OTHER TRANSACTION AUTHORITY.—The Secretary of a military department may enter into a contract or other transaction with one or more commercial entities that intend to conduct space launch activities on a military installation under the jurisdiction of the Secretary. Under such a contract or agreement, the Secretary may agree to provide to the commercial entity supplies, services, equipment, and construction needed for commercial space launch.

(2) COSTS.—

(A) DIRECT COSTS.—If the Secretary of a military department enters into a contract or other transaction with a commercial entity under paragraph (1), such contract or transaction shall include a provision that requires the commercial entity to reimburse the Department of Defense for all direct costs to the United States that are associated with any good, service, or equipment provided to the commercial entity under the contract or other transaction.

(B) INDIRECT COSTS.—If the Secretary of a military department enters into a contract or other transaction with a commercial entity under paragraph (1), such contract or transaction may include a provision that requires the commercial entity to reimburse the Department of Defense for such indirect costs as the Secretary considers to be appropriate. In such a case, such contract or other transaction may provide for the reimbursement of such indirect costs through the establishment of a rate, fixed price, or similar mechanism the Secretary concerned determines is reasonable.

(3) RETENTION OF FUNDS COLLECTED FROM COMMERCIAL USERS.—Any amount collected from a commercial entity as a reimbursement under paragraph (2) shall be credited to the appropriations account from which the cost for which such reimbursement is provided was derived.

(4) REGULATIONS.—The Secretary of each of the military departments shall prescribe regulations to carry out this subsection.

(c) NOISE MITIGATION AT SPACE FORCE LAUNCH SITES.—In providing space launch

support services to a commercial entity, the Secretary of the Air Force shall coordinate with the entity to—

(1) study the noise caused by launches at launch sites of the Space Force; and

(2) identify potential technologies and procedures to mitigate such noise to the extent practicable.

(d) DEFINITIONS.—In this section:

(1) SPACE LAUNCH.—The term "space launch" includes all activities, supplies, equipment, facilities, or services supporting launch preparation, launch, reentry, recovery, and other launch-related activities for both the payload and the space transportation vehicle.

(2) COMMERCIAL ENTITY.—The term "commercial entity" or "commercial" means a non-Federal entity organized under the laws of the United States or of any jurisdiction within the United States.

(e) TRANSITION LIMITATIONS AND REPORTING REQUIREMENTS.—For each of fiscal years 2024, 2025, and 2026, the Secretary of a military department shall—

(1) with respect to any contract or other transaction authority entered into pursuant to subsection (b), limit the amount of the indirect costs that are reimbursable under paragraph (2)(B) of such subsection to not more than 30 percent, not to exceed $5,000,000 annually (based on fiscal year 2024 constant dollars), of the total amount of the direct costs reimbursable under paragraph (2)(A) of such subsection; and

(2) not later than 90 days after the last day of each such fiscal year, provide for each of the congressional defense committees a briefing that includes—

(A) an identification of the total amounts of direct and indirect costs reimbursed to each spaceport for the fiscal year covered by the report;

(B) a description of the support provided by reimbursed indirect costs for the fiscal year covered by the report; and

(C) an identification of the rate, fixed price, or similar mechanism, if any, used to calculate the amount of the indirect costs that are reimbursable for the fiscal year following the fiscal year covered by the report.

(Added Pub. L. 118–31, div. A, title XVI, §1603, Dec. 22, 2023, 137 Stat. 584; amended Pub. L. 119–60, div. A, title XVI, §1602, Dec. 18, 2025, 139 Stat. 1175.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsecs. (c) to (e). Pub. L. 119–60 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

## §2277. Disclosure of National Security Space Launch program contract pricing terms

(a) IN GENERAL.—With respect to any contract awarded by the Secretary of the Air Force for the launch of a national security payload under the National Security Space Launch program, not later than 30 days after entering into such a contract, the Secretary shall submit to the congressional defense committees a description of the pricing terms of the contract. For those contracts that include the launch of assets of the National Reconnaissance Office, the Secretary shall also submit the pricing terms to the congressional intelligence committees (as defined by section 3 of the National Security Act of 1947 (50 U.S.C. 3003)).

(b) COMPETITIVELY SENSITIVE TRADE SECRET DATA.—The congressional defense committees and the congressional intelligence committees shall—

(1) treat a description of pricing terms submitted under subsection (a) as competitively sensitive

trade secret data; and

(2) use the description solely for committee purposes, subject to appropriate restrictions to maintain the confidentiality of the description.

(c) RULE OF CONSTRUCTION.—For purposes of section 1905 of title 18, a disclosure of contract pricing terms under subsection (a) shall be construed as a disclosure authorized by law.

(Added Pub. L. 117–81, div. A, title XVI, §1601(a)(1), Dec. 27, 2021, 135 Stat. 2073.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2277, added Pub. L. 112–239, div. A, title IX, §913(c)(1), Jan. 2, 2013, 126 Stat. 1875, related to report on foreign counter-space programs, prior to repeal by Pub. L. 115–91, div. A, title X, §1051(a)(13)(A), Dec. 12, 2017, 131 Stat. 1561.

Another prior section 2277, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to availability of appropriations, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

## §2278. Notification of foreign interference of national security space

(a) NOTICE REQUIRED.—(1) Except as provided by paragraph (2), the Commander of the United States Space Command shall, with respect to each intentional attempt by a foreign actor to disrupt, degrade, or destroy a United States critical national security space capability, provide to the appropriate congressional committees—

(A) not later than 48 hours after the Commander determines that there is reason to believe such attempt occurred, notice of such attempt; and

(B) not later than 10 days after the date on which the Commander determines that there is reason to believe such attempt occurred, a notification described in subsection (b) with respect to such attempt.

(2) With respect to intentional attempts by a foreign actor to disrupt, degrade, or destroy a United States critical national security space capability that are continuous or repetitive in nature, the Commander shall—

(A) provide the notice and notification regarding the first attempt by such foreign actor in accordance with paragraph (1); and

(B) during the period in which such foreign actor continues or repeats such attempts, provide to the appropriate congressional committees a consolidated monthly notice and notification of such attempts by not later than the tenth day of each month following the month in which the first notice under paragraph (1) was provided.

(b) NOTIFICATION DESCRIPTION.—A notification described in this subsection is a written notification that includes—

(1) the name and a brief description of the national security space capability that was impacted by an attempt by a foreign actor to disrupt, degrade, or destroy a United States national security space capability;

(2) a description of such attempt, including the foreign actor, the date and time of such attempt, and any related capability outage and the mission impact of such outage; and

(3) any other information the Commander considers relevant.

(c) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means the following:

(A) The congressional defense committees.

(B) With respect to a notice or notification relating to an attempt by a foreign actor to disrupt,

degrade, or destroy a capability that is intelligence-related, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "United States critical national security space capability" means a national security space capability of the United States provided by an asset on the critical asset list established by the Commander of the United States Space Command pursuant to Department of Defense Directive 3020.40, Department of Defense Instruction 3020.45, Joint Publication 3-01 of the Joint Chiefs of Staff, or such other relevant requirements of the Department of Defense.

(Added Pub. L. 113–66, div. A, title IX, §911(a), Dec. 26, 2013, 127 Stat. 823; amended Pub. L. 116–283, div. A, title XVI, §1604(d), Jan. 1, 2021, 134 Stat. 4044; Pub. L. 118–159, div. A, title XVI, §1604, Dec. 23, 2024, 138 Stat. 2160.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2278, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to purchases of sample aircraft, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159, §1604(1), designated introductory provisions as par. (1), substituted "Except as provided by paragraph (2), the Commander of the United States Space Command" for "The Commander of the United States Space Command", inserted "critical" before "national security space capability", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (c). Pub. L. 118–159, §1604(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees; and

"(2) with respect to a notice or notification related to an attempt by a foreign actor to disrupt, degrade, or destroy a United States national security space capability that is intelligence-related, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Space Command" for "Strategic Command".

## §2279. Foreign commercial satellite services and foreign launches

(a) PROHIBITION.—Except as provided in subsection (c), the Secretary of Defense may not enter into a contract for satellite services with a foreign entity if the Secretary reasonably believes that—

(1) the foreign entity is an entity in which the government of a covered foreign country has an ownership interest that enables that government to affect satellite operations;

(2) the foreign entity plans to or is expected to provide satellite services under the contract from a covered foreign country; or

(3) entering into such contract would create an unacceptable cybersecurity risk for the Department of Defense.

(b) LAUNCHES AND MANUFACTURERS.—

(1) LIMITATION.—In addition to the prohibition in subsection (a), and except as provided in paragraph (2) and in subsection (c), the Secretary may not enter into a contract for satellite services with any entity if the Secretary reasonably believes that such satellite services will be provided using satellites that will be—

(A) designed or manufactured in a covered foreign country, or by an entity controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country; or

(B) launched using a launch vehicle that is designed or manufactured in a covered foreign country, or that is provided by the government of a covered foreign country or by an entity

controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country, regardless of the location of the launch (unless such location is in the United States).

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply with respect to—

(A) a launch that occurs prior to December 31, 2022; or

(B) a contract or other agreement relating to launch services that, prior to the date that is 180 days after the date of the enactment of this subsection, was either fully paid for by the contractor or covered by a legally binding commitment of the contractor to pay for such services.

(3) LAUNCH VEHICLE DEFINED.—In this subsection, the term "launch vehicle" means a fully integrated space launch vehicle.

(c) NOTICE AND EXCEPTION.—The prohibitions in subsections (a) and (b) shall not apply to a contract if—

(1) the Secretary determines it is in the national security of the United States to enter into such contract; and

(2) not later than 7 days before entering into such contract, the Secretary, in consultation with the Director of National Intelligence, submits to the congressional defense committees a national security assessment for such contract that includes the following:

(A) The projected period of performance (including any period covered by options to extend the contract), the financial terms, and a description of the services to be provided under the contract.

(B) To the extent practicable, a description of the ownership interest that a covered foreign country has in the foreign entity providing satellite services to the Department of Defense under the contract and the launch or other satellite services that will be provided in a covered foreign country under the contract.

(C) A justification for entering into a contract with such foreign entity and a description of the actions necessary to eliminate the need to enter into such a contract with such foreign entity in the future.

(D) A risk assessment of entering into a contract with such foreign entity, including an assessment of mission assurance and security of information and a description of any measures necessary to mitigate risks found by such risk assessment.

(d) DELEGATION OF NOTICE AND EXCEPTION AUTHORITY.—The Secretary of Defense may only delegate the authority under subsection (c) to enter into a contract subject to the prohibition under subsection (a) or (b) to the Deputy Secretary of Defense, the Under Secretary of Defense for Policy, or the Under Secretary of Defense for Acquisition and Sustainment and such authority may not be further delegated.

(e) FORM OF ASSESSMENTS.—Each assessment under subsection (c) shall be submitted in unclassified form, but may include a classified annex.

(f) DEFINITIONS.—In this section:

(1) The term "covered foreign country" means any of the following:

(A) A country described in section 1261(c)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2019).

(B) The Russian Federation.

(2) The term "cybersecurity risk" means threats to and vulnerabilities of information or information systems and any related consequences caused by or resulting from unauthorized access, use, disclosure, degradation, disruption, modification, or destruction of such information or information systems, including such related consequences caused by an act of terrorism.

(Added Pub. L. 113–66, div. A, title XVI, §1602(a)(1), Dec. 26, 2013, 127 Stat. 941; amended Pub. L. 115–91, div. A, title XVI, §1603(a)–(d)(1), Dec. 12, 2017, 131 Stat. 1722, 1723; Pub. L. 115–232,

div. A, title X, §1081(a)(16), Aug. 13, 2018, 132 Stat. 1984; Pub. L. 116–92, div. A, title IX, §902(30), Dec. 20, 2019, 133 Stat. 1546.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

Section 1261(c)(2) of the National Defense Authorization Act for Fiscal Year 2013, referred to in subsec. (f)(1)(A), is section 1261(c)(2) of Pub. L. 112–239, which is set out in a note under section 2778 of Title 22, Foreign Relations and Intercourse.

### PRIOR PROVISIONS

A prior section 2279, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to restrictions on alien employees of contractors as to access to plans and specifications, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

### AMENDMENTS

**2019**—Subsec. (d). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2018**—Subsec. (c). Pub. L. 115–232 substituted "subsections (a) and (b)" for "subsection (a) and (b)" in introductory provisions.

**2017**—Pub. L. 115–91, §1603(d)(1)(A), substituted "services and foreign launches" for "services" in section catchline.

Subsec. (a). Pub. L. 115–91, §1603(d)(1)(B), substituted "subsection (c)" for "subsection (b)" in introductory provisions.

Subsec. (a)(2). Pub. L. 115–91, §1603(d)(1)(C), struck out "launch or other" before "satellite services".

Subsec. (a)(3). Pub. L. 115–91, §1603(a), added par. (3).

Subsec. (b). Pub. L. 115–91, §1603(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 115–91, §1603(b)(1), (d)(1)(D), redesignated subsec. (b) as (c) and substituted "prohibitions in subsection (a) and (b)" for "prohibition in subsection (a)" in introductory provisions. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 115–91, §1603(b)(1), (d)(1)(B), (E), redesignated subsec. (c) as (d) and substituted "subsection (c)" for "subsection (b)" and "prohibition under subsection (a) or (b)" for "prohibition under subsection (a)". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 115–91, §1603(b)(1), (d)(1)(B), redesignated subsec. (d) as (e) and substituted "subsection (c)" for "subsection (b)". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 115–91, §1603(b)(1), (c), redesignated subsec. (e) as (f) and amended it generally. Prior to amendment, text read as follows: "In this section, the term 'covered foreign country' means a country described in section 1261(c)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2019)."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title XVI, §1603(e), Dec. 12, 2017, 131 Stat. 1723, provided that: "Except as otherwise specifically provided, the amendments made by this section [amending this section] shall apply with respect to contracts for satellite services awarded by the Secretary of Defense on or after the date of the enactment of this Act [Dec. 12, 2017]."

## [§2279a. Repealed. Pub. L. 115–91, div. A, title XVI, §1601(b)(2)(A), Dec. 12, 2017, 131 Stat. 1719]

Section, added Pub. L. 114–92, div. A, title XVI, §1602(a), Nov. 25, 2015, 129 Stat. 1096, related to principal advisor on space control.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TERMINATION OF CERTAIN POSITIONS AND ENTITIES**

Pub. L. 115–91, div. A, title XVI, §1601(b)(1), Dec. 12, 2017, 131 Stat. 1719, provided that:

"(1) IN GENERAL.—Effective 30 days after the date of the enactment of this Act [Dec. 12, 2017]—

"(A) the position, and the office of, the Principal Department of Defense Space Advisor (previously known as the Department of Defense Executive Agent for Space) shall be terminated;

"(B) the duties, responsibilities, and personnel of such office specified in subparagraph (A) shall be transferred to a single official selected by the Deputy Secretary of Defense, without delegation, except the Deputy Secretary may not select the Secretary of the Air Force nor the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security];

"(C) any reference in Federal law, regulations, guidance, instructions, or other documents of the Federal Government to the Principal Department of Defense Space Advisor or the Department of Defense Executive Agent for Space shall be deemed to be a reference to the official selected by the Deputy Secretary under subparagraph (B);

"(D) the position, and the office of, the Deputy Chief of Staff of the Air Force for Space Operations shall be terminated; and

"(E) the Defense Space Council shall be terminated."

## §2279b. Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise

(a) ESTABLISHMENT.—There is within the Department of Defense a council to be known as the "Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise" (in this section referred to as the "Council").

(b) MEMBERSHIP.—The members of the Council shall be as follows:

(1) The Under Secretary of Defense for Policy.

(2) The Under Secretary of Defense for Research and Engineering.

(3) The Under Secretary of Defense for Acquisition and Sustainment.

(4) The Vice Chairman of the Joint Chiefs of Staff.

(5) The Commander of the United States Strategic Command.

(6) The Commander of the United States Northern Command.

(7) The Commander of the United States Space Command.

(8) The Commander of United States Cyber Command.

(9) The Director of the National Security Agency.

(10) The Chief Information Officer of the Department of Defense.

(11) The Secretaries of the military departments, who shall be ex officio members.

(12) Such other officers of the Department of Defense as the Secretary may designate.

(c) CO-CHAIR.—The Council shall be co-chaired by the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, and the Vice Chairman of the Joint Chiefs of Staff.

(d) RESPONSIBILITIES.—(1) The Council shall be responsible for oversight of the Department of Defense positioning, navigation, and timing enterprise, including positioning, navigation, and timing services provided to civil, commercial, scientific, and international users.

(2) In carrying out the responsibility for oversight of the Department of Defense positioning, navigation, and timing enterprise as specified in paragraph (1), the Council shall be responsible for the following:

(A) Oversight of performance assessments (including interoperability).

(B) Vulnerability identification and mitigation.

(C) Architecture development.

(D) Alternative methods to perform position navigation and timing.

(E) Resource prioritization.

(F) Such other responsibilities as the Secretary of Defense shall specify for purposes of this

section.

(e) ANNUAL REPORTS.—At the same time each year that the budget of the President is submitted to Congress under section 1105(a) of title 31, the Council shall submit to the congressional defense committees a report on the activities of the Council. Each report shall include the following:

(1) A description and assessment of the activities of the Council during the previous fiscal year.

(2) A description of the activities proposed to be undertaken by the Council during the period covered by the current future-years defense program under section 221 of this title.

(3) Any changes to the requirements of the Department of Defense positioning, navigation, and timing enterprise made during the previous year, along with an explanation for why the changes were made and a description of the effects of the changes to the capability of such enterprise.

(4) A breakdown of each program element in such budget that relates to the Department of Defense positioning, navigation, and timing enterprise, including how such program element relates to the operation and sustainment, research and development, procurement, or other activity of such enterprise.

(f) BUDGET AND FUNDING MATTERS.—(1) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Space Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(A) whether such budget allows the Federal Government to meet the required capabilities of the Department of Defense positioning, navigation, and timing enterprise during the fiscal year covered by the budget and the four subsequent fiscal years; and

(B) if the Commander determines that such budget does not allow the Federal Government to meet such required capabilities, a description of the steps being taken to meet such required capabilities.

(2) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Space Command under paragraph (1), the Chairman shall submit to the congressional defense committees—

(A) such assessment as it was submitted to the Chairman; and

(B) any comments of the Chairman.

(3) If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the Department of Defense positioning, navigation, and timing enterprise that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.

(g) NOTIFICATION OF ANOMALIES.—(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the Department of Defense positioning, navigation, and timing enterprise that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

(2) In this subsection, the term "anomaly" means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.

(h) TERMINATION.—The Council shall terminate on the date that is 10 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022.

(Added Pub. L. 114–92, div. A, title XVI, §1603(a), Nov. 25, 2015, 129 Stat. 1096; amended Pub. L. 116–92, div. A, title IX, §902(31), Dec. 20, 2019, 133 Stat. 1546; Pub. L. 116–283, div. A, title XVI, §1604(b), Jan. 1, 2021, 134 Stat. 4043; Pub. L. 117–81, div. A, title X, §1081(a)(27), title XVI, §1604, Dec. 27, 2021, 135 Stat. 1921, 2077.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (h), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

**AMENDMENTS**

**2021**—Subsec. (b)(7) to (11). Pub. L. 116–283, §1604(b)(1), added par. (7) and redesignated former pars. (7) to (10) as (8) to (11) (relating to the Secretaries of the military departments), respectively.

Subsec. (b)(12). Pub. L. 117–81, §1081(a)(27), redesignated par. (11), relating to such other officers of the Department of Defense as the Secretary may designate, as (12).

Subsec. (d)(2)(D) to (F). Pub. L. 117–81, §1604(1), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (f)(1), (2). Pub. L. 116–283, §1604(b)(2), substituted "Space Command" for "Strategic Command" in introductory provisions.

Subsec. (h). Pub. L. 117–81, §1604(2), substituted "National Defense Authorization Act for Fiscal Year 2022" for "National Defense Authorization Act for Fiscal Year 2016".

**2019**—Subsec. (b)(2) to (11). Pub. L. 116–92, §902(31)(A), added pars. (2) and (3), redesignated former pars. (3) to (10) as (4) to (11), respectively, and struck out former par. (2) which read as follows: "The Under Secretary of Defense for Acquisition, Technology, and Logistics."

Subsec. (c). Pub. L. 116–92, §902(31)(B), substituted "the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment," for "the Under Secretary of Defense for Acquisition, Technology, and Logistics".

## [§2279c. Renumbered §9081]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2279c was renumbered section 2279d of this title.

## §2279d. Limitation on construction on United States territory of satellite positioning ground monitoring stations of certain foreign governments

(a) LIMITATION.—

(1) CERTIFICATION.—

(A) IN GENERAL.—The President may not authorize or permit the construction of a global navigation satellite system ground monitoring station directly or indirectly controlled by a foreign government (including a ground monitoring station owned, operated, or controlled on behalf of a foreign government) in the territory of the United States unless the Secretary of Defense and the Director of National Intelligence jointly certify to the appropriate congressional committees that such ground monitoring station will not possess the capability or potential to be used for the purpose of gathering intelligence in the United States or improving any foreign weapon system.

(B) FORM.—Each certification under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(2) NATIONAL SECURITY WAIVER.—The Secretary of Defense and the Director of National Intelligence may jointly waive the certification requirement in paragraph (1) for a ground monitoring station if—

(A) the Secretary and the Director jointly determine that the waiver is in the vital interests of the national security of the United States; and

(B) the Secretary and the Director ensure that—

(i) all data collected or transmitted from ground monitoring stations covered by the waiver are not encrypted;

(ii) all persons involved in the construction, operation, and maintenance of such ground monitoring stations are United States persons;

(iii) such ground monitoring stations are not located in geographic proximity to sensitive United States national security sites;

(iv) the United States approves all equipment to be located at such ground monitoring stations;

(v) appropriate actions are taken to ensure that any such ground monitoring stations do not pose a cyber espionage or other threat, including intelligence or counterintelligence, to the national security of the United States; and

(vi) any improvements to such ground monitoring stations do not reduce or compete with the advantages of Global Positioning System technology for users.

(3) WAIVER REPORT.—For each waiver under paragraph (2), the Secretary of Defense and the Director of National Intelligence, in consultation with the Secretary of State, shall jointly submit to the appropriate congressional committees a report containing—

(A) the reason why it is not possible to provide the certification under paragraph (1) for the ground monitoring stations covered by such waiver;

(B) an assessment of the impact of the exercise of authority under paragraph (2) with respect to such ground monitoring stations on the national security of the United States;

(C) a description of the means to be used to mitigate any such impact to the United States for the duration that such ground monitoring stations are operated in the territory of the United States; and

(D) any other information in connection with the waiver that the Secretary of Defense and the Director of National Intelligence, in consultation with the Secretary of State, consider appropriate.

(4) NOTICE.—Not later than 30 days before the exercise of the authority to waive under paragraph (2) the certification requirement under paragraph (1) for a ground monitoring station, the Secretary of Defense and the Director of National Intelligence shall jointly provide to the appropriate congressional committees notice of the exercise of such authority and the report required under paragraph (3) with respect to such ground monitoring station.

(5) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to foreign governments that are allies of the United States.

(c) SUNSET.—The limitation in subsection (a) shall terminate on December 31, 2023.

(Added and amended Pub. L. 115–91, div. A, title XVI, §1602, Dec. 12, 2017, 131 Stat. 1721, §2279c; renumbered §2279d, Pub. L. 115–232, div. A, title X, §1081(a)(18)(A), Aug. 13, 2018, 132 Stat. 1984; Pub. L. 116–92, div. A, title XVII, §1731(a)(35), Dec. 20, 2019, 133 Stat. 1814.)

## EDITORIAL NOTES

### CODIFICATION

Section 1602(b) of Pub. L. 113–66, formerly set out as a note under section 2281 of this title, which was transferred to and inserted as the first subsection of this section, redesignated as subsec. (a), and amended by Pub. L. 115–91, §1602(b), was based on Pub. L. 113–66, div. A, title XVI, §1602(b), Dec. 26, 2013, 127 Stat. 943.

### AMENDMENTS

**2019**—Pub. L. 116–92 struck out period at end of section catchline.

**2018**—Pub. L. 115–232 renumbered section 2279c of this title as this section.

**2017**—Subsec. (a). Pub. L. 115–91, §1602(b), transferred section 1602(b) of Pub. L. 113–66 to this section, inserted it as the first subsection of this section, designated it as subsec. (a), substituted "Limitation" for "Limitation on Construction on United States Territory of Satellite Positioning Ground Monitoring Stations of Foreign Governments" in heading, and struck out par. (6). Prior to amendment, text of par. (6) read as follows: "Effective on the date that is five years after the date of the enactment of this Act, paragraphs (1) through (5) are repealed." See Codification note above.

# CHAPTER 136—PROVISIONS RELATING TO SPECIFIC PROGRAMS

Sec.
2281. Global Positioning System.
[2282. Repealed.]
[2283. Renumbered.]
2284. Explosive Ordnance Disposal Defense Program.
2285. Department of Defense Climate Resilience Infrastructure Initiative.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title III, §332(b), title XVII, §1701(f)(1), Dec. 27, 2021, 135 Stat. 1638, 2139, struck out item 2283 "Department of Defense small business strategy" and added item 2285.

**2018**—Pub. L. 115–232, div. A, title III, §311(b), title VIII, §851(c), Aug. 13, 2018, 132 Stat. 1709, 1884, added items 2283 and 2284.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(d)(6), Dec. 23, 2016, 130 Stat. 2505, struck out item 2282 "Authority to build the capacity of foreign security forces".

**2014**—Pub. L. 113–291, div. A, title XII, §1205(a)(2), Dec. 19, 2014, 128 Stat. 3536, added item 2282.

**2011**—Pub. L. 112–81, div. A, title X, §1061(13)(B), Dec. 31, 2011, 125 Stat. 1583, struck out item 2282 "B–2 bomber: annual report".

**2000**—Pub. L. 106–398, §1 [[div. A], title I, §131(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–29, added item 2282.

## §2281. Global Positioning System

(a) SUSTAINMENT AND OPERATION FOR MILITARY PURPOSES.—The Secretary of Defense shall provide for the sustainment of the capabilities of the Global Positioning System (hereinafter in this section referred to as the "GPS"), and the operation of basic GPS services, that are beneficial for the national security interests of the United States. In doing so, the Secretary shall—

(1) develop appropriate measures for preventing hostile use of the GPS so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the GPS by the United States and its allies for military purposes; and

(2) ensure that United States armed forces have the capability to use the GPS effectively despite hostile attempts to prevent the use of the system by such forces.

(b) SUSTAINMENT AND OPERATION FOR CIVILIAN PURPOSES.—The Secretary of Defense shall provide for the sustainment and operation of the GPS Standard Positioning Service for peaceful civil, commercial, and scientific uses on a continuous worldwide basis free of direct user fees. In doing so, the Secretary—

(1) shall provide for the sustainment and operation of the GPS Standard Positioning Service in order to meet the performance requirements of the Federal Radionavigation Plan prepared jointly by the Secretary of Defense and the Secretary of Transportation pursuant to subsection (c);

(2) shall coordinate with the Secretary of Transportation regarding the development and

implementation by the Government of augmentations to the basic GPS that achieve or enhance uses of the system in support of transportation;

(3) shall coordinate with the Secretary of Commerce, the United States Trade Representative, and other appropriate officials to facilitate the development of new and expanded civil and commercial uses for the GPS;

(4) shall develop measures for preventing hostile use of the GPS in a particular area without hindering peaceful civil use of the system elsewhere; and

(5) may not agree to any restriction on the Global Positioning System proposed by the head of a department or agency of the United States outside the Department of Defense in the exercise of that official's regulatory authority that would adversely affect the military potential of the Global Positioning System.

(c) FEDERAL RADIONAVIGATION PLAN.—The Secretary of Defense and the Secretary of Transportation shall jointly prepare the Federal Radionavigation Plan. The plan shall be revised and updated not less often than every two years. The plan shall be prepared in accordance with the requirements applicable to such plan as first prepared pursuant to section 507 of the International Maritime Satellite Telecommunications Act [1] (47 U.S.C. 756). The plan, and any amendment to the plan, shall be published in the Federal Register.

(d) DEFINITIONS.—In this section:

(1) The term "basic GPS services" means the following components of the Global Positioning System that are operated and maintained by the Department of Defense:

(A) The constellation of satellites.

(B) The navigation payloads that produce the Global Positioning System signals.

(C) The ground stations, data links, and associated command and control facilities.

(2) The term "GPS Standard Positioning Service" means the civil and commercial service provided by the basic Global Positioning System as defined in the 1996 Federal Radionavigation Plan (published jointly by the Secretary of Defense and the Secretary of Transportation in July 1997).

(Added Pub. L. 105–85, div. A, title X, §1074(d)(1), Nov. 18, 1997, 111 Stat. 1909; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title IX, §914, Nov. 24, 2003, 117 Stat. 1567; Pub. L. 111–84, div. A, title X, §1032, Oct. 28, 2009, 123 Stat. 2448; Pub. L. 112–239, div. A, title X, §1064, Jan. 2, 2013, 126 Stat. 1941.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 507 of the International Maritime Satellite Telecommunications Act, referred to in subsec. (c), is section 507 of Pub. L. 87–624 which was classified to section 756 of Title 47, Telecommunications, prior to repeal by Pub. L. 103–414, title III, §304(b)(5), Oct. 25, 1994, 108 Stat. 4298.

### AMENDMENTS

**2013**—Subsecs. (d), (e). Pub. L. 112–239 redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to biennial reports on the Global Positioning System.

**2009**—Subsec. (d)(1). Pub. L. 111–84, §1032(a)(1), in introductory provisions, substituted "the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing," for "the Secretary of Defense" and "the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives" for "the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives".

Subsec. (d)(1)(B)(ii). Pub. L. 111–84, §1032(b), inserted "validated" before "performance requirements" and "in accordance with Office of Management and Budget Circular A–109" after "Plan".

Subsec. (d)(2). Pub. L. 111–84, §1032(a)(2), added par. (2) and struck out former par. (2), which read as

follows: "In preparing the parts of each such report required under subparagraphs (C), (D), (E), (F), and (G) of paragraph (1), the Secretary of Defense shall consult with the Secretary of State, the Secretary of Commerce, and the Secretary of Transportation."

**2003**—Subsec. (d)(1)(C). Pub. L. 108–136, §914(a)(1), (2), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "The most recent determination by the President regarding continued use of the selective availability feature of the system and the expected date of any change or elimination of the use of that feature."

Subsec. (d)(1)(D). Pub. L. 108–136, §914(a)(3), redesignated subpar. (E) as (D) and substituted "Progress and challenges in" for "Any progress made toward". Former subpar. (D) redesignated (C).

Subsec. (d)(1)(E). Pub. L. 108–136, §914(a)(4), added subpar. (E). Former subpar. (E) redesignated (D).

Subsec. (d)(1)(F). Pub. L. 108–136, §914(a)(4), added subpar. (F) and struck out former subpar. (F) which read as follows: "Any progress made toward protecting GPS from disruption and interference."

Subsec. (d)(2). Pub. L. 108–136, §914(b), inserted "(C)," after "under subparagraphs".

**1999**—Subsec. (d)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### RESILIENT AND SURVIVABLE POSITIONING, NAVIGATION, AND TIMING CAPABILITIES

Pub. L. 116–283, div. A, title XVI, §1611, Jan. 1, 2021, 134 Stat. 4048, provided that:

"(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act [Jan. 1, 2021], consistent with the timescale applicable to joint urgent operational needs statements, the Secretary of Defense shall—

"(1) prioritize and rank order the mission elements, platforms, and weapons systems most critical for the operational plans of the combatant commands;

"(2) mature, test, and produce for such prioritized mission elements sufficient equipment—

"(A) to generate resilient and survivable alternative positioning, navigation, and timing signals; and

"(B) to process resilient survivable data provided by signals of opportunity and on-board sensor systems; and

"(3) integrate and deploy such equipment into the prioritized operational systems, platforms, and weapons systems.

"(b) PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to commence carrying out subsection (a) in fiscal year 2021.

"(2) REPROGRAMMING AND BUDGET PROPOSALS.—The plan submitted under paragraph (1) may include any reprogramming or supplemental budget request the Secretary considers necessary to carry out subsection (a).

"(c) COORDINATION.—In carrying out this section, the Secretary shall consult with the National Security Council, the Secretary of Homeland Security, the Secretary of Transportation, and the head of any other relevant Federal department or agency to enable civilian and commercial adoption of technologies and capabilities for resilient and survivable alternative positioning, navigation, and timing capabilities to complement the global positioning system."

### PROHIBITION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO THE GLOBAL POSITIONING SYSTEM

Pub. L. 116–283, div. A, title XVI, §1661, Jan. 1, 2021, 134 Stat. 4073, provided that:

"(a) PROHIBITION.—Except as provided by subsection (b), none of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2021 or any subsequent fiscal year for the Department of Defense may be obligated or expended to retrofit any Global Positioning System device or system, or network that uses the Global Positioning System, in order to mitigate harmful interference from commercial terrestrial operations using the 1526–1536 megahertz band, the 1627.5–1637.5 megahertz band, or the 1646.5–1656.5 megahertz band.

"(b) ACTIONS NOT PROHIBITED.—The prohibition in subsection (a) shall not apply to any action taken by the Secretary of Defense relating to—

"(1) conducting technical or information exchanges with the entity that operates the commercial

terrestrial operations in the megahertz bands specified in such subsection;

"(2) seeking compensation for harmful interference from such entity; or

"(3) Global Positioning System receiver upgrades needed to address other resiliency requirements."

## LIMITATION ON AWARDING CONTRACTS TO ENTITIES OPERATING COMMERCIAL TERRESTRIAL COMMUNICATION NETWORKS THAT CAUSE HARMFUL INTERFERENCE WITH THE GLOBAL POSITIONING SYSTEM

Pub. L. 116–283, div. A, title XVI, §1662, Jan. 1, 2021, 134 Stat. 4074, provided that: "The Secretary of Defense may not enter into a contract, or extend or renew a contract, with an entity that engages in commercial terrestrial operations using the 1525–1559 megahertz band or the 1626.5–1660.5 megahertz band unless the Secretary has certified to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that such operations do not cause harmful interference to a Global Positioning System device of the Department of Defense."

## ESTIMATE OF DAMAGES FROM FEDERAL COMMUNICATIONS COMMISSION ORDER 20–48

Pub. L. 116–283, div. A, title XVI, §1664, Jan. 1, 2021, 134 Stat. 4075, as amended by Pub. L. 117–81, div. A, title XVI, §1682, Dec. 27, 2021, 135 Stat. 2118, provided:

"(a) LIMITATION, ESTIMATE, AND CERTIFICATION.—None of the funds authorized to be appropriated by this Act [Pub. L. 116–283, see Tables for classification] or otherwise made available for fiscal year 2021 or any subsequent fiscal year may be obligated or expended by the Secretary of Defense to comply with the Order and Authorization adopted by the Federal Communications Commission on April 19, 2020 (FCC 20–48), until the Secretary—

"(1) submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an estimate of the extent of covered costs and the range of ligible reimbursable costs associated with harmful interference resulting from such Order and Authorization to the Global Positioning System of the Department of Defense; and

"(2) certifies to the congressional defense committees that the estimate submitted under paragraph (1) is accurate with a high degree of certainty.

"(b) COVERED COSTS.—For purposes of this section, covered costs include costs that would be incurred—

"(1) to upgrade, repair, or replace potentially affected receivers of the Federal Government;

"(2) to modify, repair, or replace equipment, spares, associated ancillary equipment, software, facilities, operating manuals, training, or compliance with regulations, including with regard to the underlying platform or system in which a capability of the Global Positioning System is embedded; and

"(3) for personnel of the Department to engineer, validate, and verify that any required remediation provides the Department with the same operational capability for the affected system prior to terrestrial operation in the 1525 to 1559 megahertz or 1626.5 to 1660.5 megahertz bands of electromagnetic spectrum.

"(c) RANGE OF ELIGIBLE REIMBURSABLE COSTS.—For purposes of this section, the range of eligible reimbursable costs includes—

"(1) costs associated with engineering, equipment, software, site acquisition, and construction;

"(2) any transaction expense that the Secretary determines is legitimate and prudent;

"(3) costs relating to term-limited Federal civil servant and contractor staff; and

"(4) the costs of research, engineering studies, or other expenses the Secretary determines reasonably incurred.

"(d) DISTRIBUTION OF ESTIMATE.—As soon as practicable after submitting an estimate as described in paragraph (1) of subsection (a) and making the certification described in paragraph (2) of such subsection, the Secretary shall make such estimate available to any licensee operating under the Order and Authorization described in such subsection.

"(e) AUTHORITY OF SECRETARY OF DEFENSE TO SEEK RECOVERY OF COSTS.—The Secretary may work directly with any licensee (or any future assignee, successor, or purchaser) affected by the Order and Authorization described in subsection (a) to seek recovery of costs incurred by the Department as a result of the effect of such order and authorization.

"(f) REIMBURSEMENT.—

"(1) IN GENERAL.—The Secretary shall establish and facilitate a process for any licensee (or any future assignee, successor, or purchaser) subject to the Order and Authorization described in subsection (a) to provide reimbursement to the Department, only to the extent provided in appropriation Acts, for the covered costs and eligible reimbursable costs submitted and certified to the congressional defense committees under such subsection.

"(2) USE OF FUNDS.—The Secretary shall use any funds received under this subsection, to the extent and in such amounts as are provided in advance in appropriation Acts, for covered costs described in subsection (b) and the range of eligible reimbursable costs identified under subsection (a)(1).

"(3) REPORT.—Not later than 90 days after the date on which the Secretary establishes the process required by paragraph (1), the Secretary shall submit to the congressional defense committees a report on such process."

## PROTOTYPE PROGRAM FOR MULTI-GLOBAL NAVIGATION SATELLITE SYSTEM RECEIVER DEVELOPMENT

Pub. L. 116–92, div. A, title XVI, §1607, Dec. 20, 2019, 133 Stat. 1724, provided that:

"(a) PROTOTYPE MULTI-GNSS PROGRAM.—The Secretary of the Air Force shall carry out a program to prototype an M-code based, multi-global navigation satellite system receiver that is capable of receiving covered signals to increase the resilience and capability of military position, navigation, and timing equipment against threats to the Global Positioning System and to deter the likelihood of attack on the worldwide Global Positioning System by reducing the benefits of such an attack.

"(b) ELEMENTS.—In carrying out the program under subsection (a), the Secretary shall—

"(1) with respect to each covered signal that could be received by the prototype receiver under such program, conduct an assessment of the relative benefits and risks of using that signal, including with respect to any existing or needed monitoring infrastructure that would alert users of the Department of Defense of potentially corrupted signal information, and the cyber risks and challenges of incorporating such signals into a properly designed receiver;

"(2) ensure that monitoring systems are able to include any monitoring network of the United States or allies of the United States;

"(3) conduct an assessment of the benefits and risks, including with respect to the compatibility of non-United States global navigation satellite system signals with existing position, navigation, and timing equipment of the United States, and the extent to which the capability to receive such signals would impact current receiver or antenna design; and

"(4) conduct an assessment of the desirability of establishing a program for the development and deployment of the receiver system described in subsection (a) in a manner that—

"(A) is a cooperative effort, coordinated with the Secretary of State, between the United States and the allies of the United States that may also have interest in funding a multi-global navigation satellite system and M-code program; and

"(B) the Secretary of Defense, in coordination with the Secretary of State, ensures that the United States has access to sufficient insight into trusted signals of allied systems to assure potential reliance by the United States on such signals.

"(c) BRIEFING.—Not later than 120 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary, in coordination with the Air Force GPS User Equipment Program office, shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on a plan to carry out the program under subsection (a) that includes—

"(1) the estimated cost, including total cost and out-year funding requirements for a program to develop and deploy the receiver system described in subsection (a);

"(2) the schedule for such program;

"(3) a plan for how the results of the program could be incorporated into future blocks of the Global Positioning System military user equipment program; and

"(4) the recommendations and analysis contained in the study sponsored by the Department of Defense conducted by the MITRE Corporation on the risks, benefits, and approaches to adding multi-global navigation satellite system capabilities to military user equipment.

"(d) REPORT.—Not later than 150 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the congressional defense committees a report containing—

"(1) an explanation of how the Secretary intends to comply with section 1609 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2281 note);

"(2) an outline of any potential cooperative efforts acting in accordance with the North Atlantic Treaty Organization, the European Union, or Japan that would support such compliance;

"(3) an assessment of the potential to host, or incorporate through software-defined payloads, Global Positioning System M-code functionality onto allied global navigation satellite system systems; and

"(4) an assessment of new or enhanced monitoring capabilities that would be needed to incorporate global navigation satellite system functionality into weapon systems of the Department.

"(e) LIMITATION.—Of the funds authorized to be appropriated by this Act or otherwise made available

for fiscal year 2020 for increment 2 of the acquisition of military Global Positioning System user equipment terminals, not more than 90 percent may be obligated or expended until the date on which the briefing has been provided under subsection (c) and the report has been submitted under subsection (d).

"(f) WAIVER AUTHORITY FOR TRUSTED SIGNALS CAPABILITIES.—[Amended section 1609 of Pub. L. 115–232, set out as a note below.]

"(g) DEFINITIONS.—In this section:

"(1) The term 'allied systems' means—

"(A) the Galileo system of the European Union;

"(B) the QZSS system of Japan; and

"(C) upon designation by the Secretary of Defense, in consultation with the Director of National Intelligence—

"(i) the NAVIC system of India; and

"(ii) any similarly associated wide area augmentation systems.

"(2) The term 'covered signals'—

"(A) means global navigation satellite system signals from—

"(i) allied systems; and

"(ii) non-allied systems; and

"(B) includes both encrypted signals and open signals.

"(3) The term 'encrypted signals' means global navigation satellite system signals that incorporate encryption or other internal methods to authenticate signal information.

"(4) The term 'M-code' means, with respect to global navigation satellite system signals, military code that provides enhanced positioning, navigation, and timing capabilities and improved resistance to existing and emerging threats, such as jamming.

"(5) The term 'non-allied systems' means—

"(A) the Russian GLONASS system; and

"(B) the Chinese Beidou system.

"(6) The term 'open signals' means global navigation satellite system [signals] that do not include encryption or other internal methods to authenticate signal information."

## CAPACITY TO RECEIVE ALLIED AND NON-ALLIED SIGNALS

Pub. L. 115–232, div. A, title XVI, §1609, Aug. 13, 2018, 132 Stat. 2110, as amended by Pub. L. 116–92, div. A, title XVI, §1607(f), Dec. 20, 2019, 133 Stat. 1726, provided that:

"(a) CAPABILITY FOR TRUSTED SIGNALS.—

"(1) REQUIREMENT.—Except as provided by paragraph (2), subject to appropriate mitigation efforts, the Secretary of the Air Force shall ensure that military Global Positioning System user equipment terminals have the capability to receive trusted signals from the Galileo satellites of the European Union and the QZSS satellites of Japan, beginning with increment 2 of the acquisition of such terminals.

"(2) WAIVER.—The Secretary of Defense may waive, on a case-by-case basis, the requirement under paragraph (1) for military Global Positioning System user equipment terminals to have the capability described in such paragraph if the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing—

"(A) the rationale for why the Secretary could not integrate such capability beginning with increment 2 of the acquisition of such terminals; and

"(B) a plan, including a timeline, to incorporate the capability to add multi-Global Navigation Satellite System signals to provide substantive military utility in future increments of such terminals.

"(3) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the authority under paragraph (2) to make a waiver below the Deputy Secretary of Defense.

"(b) CAPABILITY FOR OTHER SIGNALS.—The Secretary of the Air Force shall ensure that military Global Positioning System user equipment terminals having the capability to receive non-allied positioning, navigation, and timing signals, beginning with increment 2 of the acquisition of such terminals, if the Secretary of Defense, in consultation with the Commander of the United States Strategic Command, determines that—

"(1) the benefits of receiving such signals outweigh the risks; or

"(2) such risks can be appropriately mitigated.

"(c) ENGAGEMENT.—The Secretary of Defense and the Secretary of State shall jointly engage with relevant allies of the United States to—

"(1) enable military Global Positioning System user equipment terminals to receive the positioning,

navigation, and timing signals of such allies; and

"(2) negotiate as appropriate other potential agreements relating to the enhancement of positioning, navigation, and timing."

## DESIGNATION OF COMPONENT OF DEPARTMENT OF DEFENSE RESPONSIBLE FOR COORDINATION OF MODERNIZATION EFFORTS RELATING TO MILITARY-CODE CAPABLE GPS RECEIVER CARDS

Pub. L. 115–232, div. A, title XVI, §1610, Aug. 13, 2018, 132 Stat. 2111, as amended by Pub. L. 116–92, div. A, title XVI, §1602, Dec. 20, 2019, 133 Stat. 1722, provided that:

"(a) DESIGNATION.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, in coordination with the Secretaries of the military departments and the heads of Defense Agencies the Secretary determines appropriate, shall designate a component of the Office of the Secretary of Defense to be responsible for coordinating common solutions for the M-code modernization efforts among the military departments, Defense Agencies, and other appropriate elements of the Department of Defense.

"(b) ROLES AND RESPONSIBILITIES.—The roles and responsibilities of the component selected under subsection (a) shall include the following:

"(1) Identify the elements of the Department of Defense and the programs of the Department that require M-code capable receiver cards and determine—

"(A) the number of total receiver cards required by the Department, including the number required for each such element and program and the military departments;

"(B) the timeline, by fiscal year, for each program of the Department conducting M-code modernization efforts; and

"(C) the projected cost for each such program.

"(2) Systematically collect integration test data, lessons learned, and design solutions, and share such information with other elements of the Department, including with respect to each program of the Department that requires M-code capable receiver cards.

"(3) Identify ways the Department can prevent duplication in conducting M-code modernization efforts, and identify, to the extent practicable, potential cost savings that could be realized by addressing such duplication.

"(4) Coordinate the integration, testing, and procurement of M-code capable receiver cards to ensure that the Department maximizes the buying power of the Department, reduces duplication, and saves resources, where possible.

"(c) SUPPORT.—The Secretary of Defense shall ensure the military departments, the Defense Agencies, and other elements of the Department of Defense provide the component selected under subsection (a) with the appropriate support and resources needed to perform the roles and responsibilities under subsection (b), and shall clarify the roles of the Chief Information Officer and the Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise with respect to M-code modernization efforts.

"(d) REPORTS.—Not later than March 15, 2019, and annually thereafter through 2021, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on M-code modernization efforts. Each report shall include, with respect to the period covered by the report, the following:

"(1) The projected cost and schedule, by fiscal year, for the Department to acquire M-code capable receiver cards.

"(2) The programs of the Department conducting M-code modernization efforts.

"(3) The number of M-code capable receiver cards procured by the Department, the number of such receiver cards yet to be procured, and the percentage of the M-code modernization efforts completed by each program identified under paragraph (2).

"(e) DEFINITIONS.—In this section:

"(1) The term 'M-code capable receiver card' means a Global Positioning System receiver card that is capable of receiving military code that provides enhanced positioning, navigation, and timing capabilities and improved resistance to existing and emerging threats, such as jamming.

"(2) The term 'M-code modernization efforts' means the development, integration, testing, and procurement programs of the Department of Defense relating to developing M-code capable receiver cards."

## QUARTERLY REPORTS ON GLOBAL POSITIONING SYSTEM III SPACE SEGMENT, GLOBAL POSITIONING SYSTEM OPERATIONAL CONTROL SEGMENT, AND MILITARY GLOBAL POSITIONING SYSTEM USER EQUIPMENT ACQUISITION PROGRAMS

Pub. L. 114–92, div. A, title XVI, §1621, Nov. 25, 2015, 129 Stat. 1109, as amended by Pub. L. 118–159, div. A, title XVI, §1606, Dec. 23, 2024, 138 Stat. 2162, provided that:

"(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], and every 90 days thereafter, the Secretary of the Air Force shall submit to the Comptroller General of the United States a report and supporting documentation on the Global Positioning System III space segment, the Global Positioning System operational control segment, and the Military Global Positioning System user equipment acquisition programs.

"(b) ELEMENTS.—Each report required by subsection (a) shall include, with respect to an acquisition program specified in that subsection, the following:

"(1) A statement of the status of the program with respect to cost, schedule, and performance.

"(2) A description of any changes to the requirements of the program.

"(3) A description of any technical risks impacting the cost, schedule, and performance of the program.

"(4) An assessment of how such risks are to be addressed and the costs associated with such risks.

"(5) An assessment of the extent to which the segments of the program are synchronized.

"(c) COMPTROLLER GENERAL REVIEW AND ASSESSMENT; BRIEFING.—

"(1) REQUIREMENTS.—The Comptroller General shall—

"(A) review and assess the efforts of the Department of the Air Force with respect to Global Positioning System modernization and other positioning, navigation, and timing systems; and

"(B) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(i) the progress made by the Space Force in fielding military code from the Global Positioning System (commonly known as 'M-code');

"(ii) the efforts the Department of the Air Force has planned or made to develop complementary or alternative solutions for M-code to obtain positioning, navigation, and timing information through new signals, systems, and subsystems; and

"(iii) the extent to which the military departments have developed and fielded user equipment with the ability to use M-code and complementary or alternative solutions.

"(2) TIMING.—The Comptroller General shall provide to the congressional defense committees—

"(A) not later than March 1, 2025, the briefing required by paragraph (1)(B);

"(B) a report on the matters described in that paragraph, to be submitted on a date agreed upon at such briefing; and

"(C) any subsequent briefing on the matters described in that paragraph, as the Comptroller General considers appropriate.

"(d) TERMINATION.—The requirement under subsection (a) shall terminate with respect to an acquisition program specified in that subsection on the date on which that program reaches initial operational capability."

## LIMITATION ON CONSTRUCTION ON UNITED STATES TERRITORY OF SATELLITE POSITIONING GROUND MONITORING STATIONS OF FOREIGN GOVERNMENTS

Pub. L. 113–66, div. A, title XVI, §1602(b), Dec. 26, 2013, 127 Stat. 943, which limited construction within United States territory of global navigation satellite system ground monitoring stations controlled by foreign governments, was transferred to subsec. (a) of section 2279c (now 2279d) of this title by Pub. L. 115–91, div. A, title XVI, §1602(b)(1), Dec. 12, 2017, 131 Stat. 1722.

## USE OF FUNDS FOR GLOBAL POSITIONING SYSTEM

Pub. L. 112–10, div. A, title VIII, §8068, Apr. 15, 2011, 125 Stat. 73, provided that: "Funds available to the Department of Defense for the Global Positioning System during the current fiscal year, and hereafter, may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program."

## LIMITATION ON USE OF FUNDS FOR PURCHASING GLOBAL POSITIONING SYSTEM USER EQUIPMENT

Pub. L. 111–383, div. A, title IX, §913, Jan. 7, 2011, 124 Stat. 4328, as amended by Pub. L. 114–92, div. A, title XVI, §1605, Nov. 25, 2015, 129 Stat. 1099, provided that:

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated or otherwise made available by this Act or any other Act for the Department of Defense may be obligated or expended to purchase user equipment for the Global Positioning System during fiscal years after fiscal year 2017 unless the equipment is capable of receiving the military code (commonly known as the 'M code') from the Global Positioning System.

"(b) EXCEPTION.—The limitation under subsection (a) shall not apply with respect to the purchase of

passenger vehicles or commercial vehicles in which Global Positioning System equipment is installed.

"(c) WAIVER.—The Secretary of Defense may waive the limitation under subsection (a) if the Secretary determines that—

"(1) suitable user equipment capable of receiving the military code from the Global Positioning System is not available; or

"(2) with respect to a purchase of user equipment, the Department of Defense does not require that user equipment to be capable of receiving the military code from the Global Positioning System.

"(d) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The Secretary of Defense may not delegate the authority to make a waiver under subsection (c) to an official below the level of the Secretaries of the military departments or the Under Secretary of Defense for Acquisition, Technology, and Logistics."

## AUTHORIZATION OF INTERAGENCY SUPPORT FOR GLOBAL POSITIONING SYSTEM

Pub. L. 106–405, §8, Nov. 1, 2000, 114 Stat. 1753, as amended by Pub. L. 109–364, div. A, title IX, §911, Oct. 17, 2006, 120 Stat. 2354, provided that: "The use of multi-agency funding and other forms of support is hereby authorized for the functions and activities of the following organizations established pursuant to the United States Space-Based Position, Navigation, and Timing Policy issued December 8, 2004 (and any successor organization, to the extent the successor organization performs the functions of the specified organization):

"(1) The interagency committee known as the National Space-Based Positioning, Navigation, and Timing Executive Committee.

"(2) The support office for the committee specified in paragraph (1) known as the National Space-Based Positioning, Navigation, and Timing Coordination Office.

"(3) The Federal advisory committee known as the National Space-Based Positioning, Navigation, and Timing Advisory Board."

## ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM

Pub. L. 105–261, div. A, title II, §218, Oct. 17, 1998, 112 Stat. 1951, provided that:

"(a) POLICY ON PRIORITY FOR DEVELOPMENT OF ENHANCED GPS SYSTEM.—The development of an enhanced Global Positioning System is an urgent national security priority.

"(b) DEVELOPMENT REQUIRED.—To fulfill the requirements described in section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 243) [set out as a note below] and section 2281 of title 10, United States Code, the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (a). The enhanced Global Positioning System shall include the following elements:

"(1) An evolved satellite system that includes increased signal power and other improvements such as regional-level directional signal enhancements.

"(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

"(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

"(c) SENSE OF CONGRESS REGARDING FUNDING.—It is the sense of Congress that—

"(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System in accordance with the priority declared in subsection (a); and

"(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

"(d) PLAN FOR DEVELOPMENT OF ENHANCED GLOBAL POSITIONING SYSTEM.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (b).

"(e) DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—[Amended section 152(b) of Pub. L. 103–160, set out as a note below.]

"(f) FUNDING FROM AUTHORIZED APPROPRIATIONS FOR FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under section 201(3) [112 Stat. 1946], $44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program."

## SUSTAINMENT AND OPERATION OF GLOBAL POSITIONING SYSTEM

Pub. L. 105–85, div. A, title X, §1074(a), (b), Nov. 18, 1997, 111 Stat. 1907, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The Global Positioning System (consisting of a constellation of satellites and associated facilities

capable of providing users on earth with a highly precise statement of their location on earth) makes significant contributions to the attainment of the national security and foreign policy goals of the United States, the safety and efficiency of international transportation, and the economic growth, trade, and productivity of the United States.

"(2) The infrastructure for the Global Positioning System (including both space and ground segments of the infrastructure) is vital to the effectiveness of United States and allied military forces and to the protection of the national security interests of the United States.

"(3) In addition to having military uses, the Global Positioning System has essential civil, commercial, and scientific uses.

"(4) As a result of the increasing demand of civil, commercial, and scientific users of the Global Positioning System—

"(A) there has emerged in the United States a new commercial industry to provide Global Positioning System equipment and related services to the many and varied users of the system; and

"(B) there have been rapid technical advancements in Global Positioning System equipment and services that have contributed significantly to reductions in the cost of the Global Positioning System and increases in the technical capabilities and availability of the system for military uses.

"(5) It is in the national interest of the United States for the United States—

"(A) to support continuation of the multiple-use character of the Global Positioning System;

"(B) to promote broader acceptance and use of the Global Positioning System and the technological standards that facilitate expanded use of the system for civil purposes;

"(C) to coordinate with other countries to ensure (i) efficient management of the electromagnetic spectrum used by the Global Positioning System, and (ii) protection of that spectrum in order to prevent disruption of signals from the system and interference with that portion of the electromagnetic spectrum used by the system; and

"(D) to encourage open access in all international markets to the Global Positioning System and supporting equipment, services, and techniques.

"(b) INTERNATIONAL COOPERATION.—Congress urges the President to promote the security of the United States and its allies, the public safety, and commercial interests by taking the following steps:

"(1) Undertaking a coordinated effort within the executive branch to seek to establish the Global Positioning System, and augmentations to the system, as a worldwide resource.

"(2) Seeking to enter into international agreements to establish signal and service standards that protect the Global Positioning System from disruption and interference.

"(3) Undertaking efforts to eliminate any barriers to, and other restrictions of foreign governments on, peaceful uses of the Global Positioning System.

"(4) Requiring that any proposed international agreement involving nonmilitary use of the Global Positioning System or any augmentation to the system not be agreed to by the United States unless the proposed agreement has been reviewed by the Secretary of State, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce (acting as the Interagency Global Positioning System Executive Board established by Presidential Decision Directive NSTC–6, dated March 28, 1996)."

## ACCESS TO GLOBAL POSITIONING SYSTEM

Pub. L. 104–106, div. A, title II, §279, Feb. 10, 1996, 110 Stat. 243, provided that:

"(a) CONDITIONAL PROHIBITION ON USE OF SELECTIVE AVAILABILITY FEATURE.—Except as provided in subsection (b), after May 1, 1996, the Secretary of Defense may not (through use of the feature known as 'selective availability') deny access of non-Department of Defense users to the full capabilities of the Global Positioning System.

"(b) PLAN.—Subsection (a) shall cease to apply upon submission by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of a plan for enhancement of the Global Positioning System that provides for—

"(1) development and acquisition of effective capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system, together with a specific date by which those capabilities could be operational; and

"(2) development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption, together with a specific date by which those receivers and other techniques could be operational with United States military forces."

## LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED

Pub. L. 103–160, div. A, title I, §152(b), Nov. 30, 1993, 107 Stat. 1578, as amended by Pub. L. 105–261, div. A, title II, §218(e), Oct. 17, 1998, 112 Stat. 1952; Pub. L. 109–163, div. A, title II, §260(a), Jan. 6, 2006, 119 Stat. 3185, provided that: "After September 30, 2007, funds may not be obligated to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver."

[Pub. L. 109–163, div. A, title II, §260(b), Jan. 6, 2006, 119 Stat. 3186, provided that: "The amendment made by subsection (a) [amending section 152(b) of Pub. L. 103–160, set out above] shall be deemed to have taken effect at the close of September 30, 2005, and any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act [Jan. 6, 2006] to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified with respect to the provision of law specified in subsection (a)."]

*[1] See References in Text note below.*

## [§2282. Repealed. Pub. L. 114–328, div. A, title XII, §1241(d)(5)(A), Dec. 23, 2016, 130 Stat. 2504]

Section, added Pub. L. 113–291, div. A, title XII, §1205(a)(1), Dec. 19, 2014, 128 Stat. 3533, related to authority to build the capacity of foreign security forces. See section 333 of this title.

A prior section 2282, added Pub. L. 106–398, §1 [[div. A], title I, §131(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–28; amended Pub. L. 108–136, div. A, title X, §1031(a)(14), Nov. 24, 2003, 117 Stat. 1597, related to annual report on the B–2 bomber aircraft, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(13)(A), Dec. 31, 2011, 125 Stat. 1583.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Pub. L. 114–328, div. A, title XII, §1241(d)(5), Dec. 23, 2016, 130 Stat. 2504, provided that the repeal of this section is effective as of the date that is 270 days after Dec. 23, 2016.

## [§2283. Renumbered §4901]

## §2284. Explosive Ordnance Disposal Defense Program

(a) IN GENERAL.—The Secretary of Defense shall carry out a program to be known as the "Explosive Ordnance Disposal Defense Program" (in this section referred to as the "Program") under which the Secretary shall ensure close and continuous coordination between military departments on matters relating to explosive ordnance disposal support for commanders of geographic and functional combatant commands.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—The plan under subsection (a) shall include provisions under which—

(1) the Secretary of Defense shall—

(A) assign the responsibility for the direction, coordination, and integration of the Program within the Department of Defense to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; and

(B) designate the Secretary of the Navy, or a designee of the Secretary's choice, as the executive agent for the Department of Defense responsible for providing oversight of the training and technology program that coordinates and integrates joint requirements for explosive ordnance disposal, provides common individual training, and carries out joint research, development, test, and evaluation activities for common tools on behalf of the military departments with respect to explosive ordnance disposal;

(2) the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall serve as the key individual for the Program responsible for developing and overseeing policy, plans, programs, and budgets, and issuing guidance and providing direction on Department of Defense explosive ordnance disposal activities;

(3) the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall coordinate with—

(A) the Under Secretary of Defense for Intelligence on explosive ordnance technical intelligence;

(B) the Under Secretary of Defense for Acquisition and Sustainment on explosive ordnance disposal research, development, acquisition, and sustainment;

(C) the Under Secretary of Defense for Research and Engineering on explosive ordnance disposal research, development, test, and evaluation;

(D) the Assistant Secretary of Defense for Homeland Security and Global Security on explosive ordnance disposal on defense support of civil authorities; and

(E) the Assistant Secretary of Defense for Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs on explosive ordnance disposal for combating weapons of mass destruction;

(4) the Secretary of each military department shall assess the needs of the military department concerned with respect to explosive ordnance disposal and may carry out research, development, test, and evaluation activities, including other transactions and procurement activities to address military department unique needs; and

(5) the Secretary of the Army shall designate an Army explosive ordnance disposal-qualified general officer to serve as the co-chair of the Department of Defense explosive ordnance disposal defense program.

(c) DEFINITIONS.—In this section:

(1) The term "explosive ordnance" has the meaning given such term in section 283(d) of this title.

(2) The term "explosive ordnance disposal" means the detection, identification, on-site evaluation, rendering safe, exploitation, recovery, and final disposal of explosive ordnance.

(Added Pub. L. 115–232, div. A, title III, §311(a), Aug. 13, 2018, 132 Stat. 1708; amended Pub. L. 116–92, div. A, title X, §1052, title XVII, §1731(a)(36), Dec. 20, 2019, 133 Stat. 1590, 1814; Pub. L. 116–283, div. A, title III, §352(a), Jan. 1, 2021, 134 Stat. 3544; Pub. L. 118–159, div. A, title XVI, §1621(d)(3), Dec. 23, 2024, 138 Stat. 2171; Pub. L. 119–60, div. A, title X, §1004(a)(1), Dec. 18, 2025, 139 Stat. 1028.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsecs. (c), (d). Pub. L. 119–60 redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to submission of annual budget justification documents by the Secretary of Defense.

**2024**—Subsec. (b)(3)(E). Pub. L. 118–159, which directed substitution of "Nuclear Deterrence, Chemical, and Biological Defense Policy and Programs" for "Nuclear, Chemical, and Biological Defense Programs", was executed by making the substitution for "Nuclear, Chemical, and Biological Defense programs", to reflect the probable intent of Congress.

**2021**—Subsec. (b)(1)(A). Pub. L. 116–283, §352(a)(1), inserted "and" before "integration" and substituted "the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict" for "an Assistant Secretary of Defense".

Subsec. (b)(2). Pub. L. 116–283, §352(a)(2), substituted "for Special Operations and Low Intensity Conflict" for "to whom responsibility is assigned under paragraph (1)(A)".

Subsec. (b)(3) to (5). Pub. L. 116–283, §352(a)(3), (4), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

**2019**—Pub. L. 116–92, §1731(a)(36), substituted section symbol for "SEC." before section designation.

Subsec. (b)(1)(A). Pub. L. 116–92, §1052(a)(2)(A), inserted "and" at end.

Subsec. (b)(1)(B). Pub. L. 116–92, §1052(a)(2)(D)(iii)–(v), substituted "evaluation activities for common tools on behalf of the military departments" for "evaluation and procurement activities on behalf of the military departments and combatant commands".

Pub. L. 116–92, §1052(a)(2)(D)(ii), which directed insertion of ", provides common individual training," after "explosive ordnance disposal", was executed by making the insertion after "explosive ordnance disposal" the first place appearing to reflect the probable intent of Congress.

Pub. L. 116–92, §1052(a)(2)(D)(i), substituted "training and technology program that" for "joint program executive officer who".

Pub. L. 116–92, §1052(a)(2)(C), redesignated subpar. (C) as (B). Former subpar. (B) redesignated par. (2).

Pub. L. 116–92, §1052(a)(2)(B), redesignated subpar. (B) as par. (2).

Subsec. (b)(1)(C) to (E). Pub. L. 116–92, §1052(a)(2)(C), (E), redesignated subpar. (C) as (B) and struck out subpars. (D) and (E) which read as follows:

"(D) designate a combat support agency to exercise fund management responsibility of the Department of Defense-wide program element for explosive ordnance disposal research, development, test, and evaluation, transactions other than contracts, cooperative agreements, and grants related to section 2371 of this title during research projects including rapid prototyping and limited procurement urgent activities, and acquisition; and

"(E) designate an Army explosive ordnance disposal-qualified general officer from the combat support agency designated under subparagraph (D) to serve as the Chairman of the Department of Defense explosive ordnance disposal defense program board; and".

Subsec. (b)(2). Pub. L. 116–92, §1052(a)(3), inserted "(A)" after "paragraph (1)".

Pub. L. 116–92, §1052(a)(2)(B), redesignated subpar. (B) of par. (1) as par. (2). Former par. (2) redesignated (3).

Pub. L. 116–92, §1052(a)(1), redesignated par. (2) as (3).

Subsec. (b)(3). Pub. L. 116–92, §1052(a)(4), substituted "; and" for "such as weapon systems, manned and unmanned vehicles and platforms, cyber and communication equipment, and the integration of explosive ordnance disposal sets, kits and outfits and explosive ordnance disposal tools, equipment, sets, kits, and outfits developed by the department."

Pub. L. 116–92, §1052(a)(1), redesignated par. (2) as (3).

Subsec. (b)(4). Pub. L. 116–92, §1052(a)(5), added par. (4).

Subsec. (d). Pub. L. 116–92, §1052(b), added subsec. (d).

## §2285. Department of Defense Climate Resilience Infrastructure Initiative

(a) DESIGNATION.—The programs, practices, and activities carried out pursuant to this section shall be known collectively as the "Climate Resilience Infrastructure Initiative of the Department of Defense".

(b) HARDENING AND QUICK RECOVERY.—In carrying out military installation resilience plans pursuant to section 2864 of this title, the Secretary of Defense shall ensure that the development by the Department of Defense of requirements for backup utilities, communications, and transportation to ensure that the critical infrastructure of Department facilities is hardened, developed, and constructed for quick recovery from natural disasters and the impacts of extreme weather.

(c) SUSTAINMENT AND MODERNIZATION.—The Secretary shall develop sustainment and modernization requirements for facilities of the Department in connection with climate resilience.

(d) COLLABORATION IN PLANNING WITH LOCAL COMMUNITIES.—The Secretary shall develop, within existing frameworks for collaborative activities between military installations and State and local communities, and in addition to the requirements of section 2864(c) of this title, a framework that authorizes and directs installation commanders to engage with State, regional, and local agencies, and with local communities, on planning for climate resilience, to enhance efficient response to impacts of extreme weather and secure collaborative investment in infrastructure that is resilient to the current and projected impacts of extreme weather.

(e) TESTING AND TRAINING RANGE LANDS.—

(1) PRACTICES FOR SUSTAINMENT OF LANDS.—The Secretary shall develop and

implement practices to sustain the lands of the military testing and training ranges of the Department, and the lands of testing and training ranges on State-owned National Guard installations, through the adaptation and resilience of such lands to the current and projected impacts of extreme weather to ensure the ongoing availability of such lands to military personnel, weapon systems, and equipment for testing and training purposes.

(2) TRAINING AND EDUCATION ON SUSTAINMENT OF LANDS.—The Secretary shall develop a program of training and education for members of the Armed Forces (including the reserve components) on the importance of the sustainment of the lands of the military testing and training ranges as described in paragraph (1).

(3) INVESTMENT IN RESILIENCE OF LANDS.—The Secretary shall use existing programs of the Department, including the Readiness and Environmental Protection Integration Program of the Department (or such successor program), to provide for investments determined appropriate by the Secretary in the lands of the military testing and training ranges, to increase the resilience and adaptation of such lands to the current and projected impacts of extreme weather for testing and training purposes in connection with current and projected testing and training requirements in the short- and long-term.

(f) USE OF CERTAIN TECHNOLOGIES.—The Secretary shall take appropriate actions to increase the use of low emission, emission-free, and net-zero-emission energy technologies in the operations, programs, projects, and activities of the Department, provided the use is cost effective over the life-cycle of the investment.

(Added Pub. L. 117–81, div. A, title III, §332(a), Dec. 27, 2021, 135 Stat. 1637; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(28), Dec. 23, 2024, 138 Stat. 2204.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsecs. (b) to (f). Pub. L. 118–159 redesignated subsecs. (d) to (f) as (c) to (e), respectively, and the second subsec. (b), relating to use of certain technologies, as (f).

# [CHAPTER 137—REPEALED]

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEFINITIONS

For definition of "Chapter 137 legacy provisions" as used throughout part V of this subtitle, see section 3016 of this title.

## [§2301. Repealed. Pub. L. 103–355, title I, §1501(a), Oct. 13, 1994, 108 Stat. 3296]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 127; Dec. 1, 1981, Pub. L. 97–86, title IX, §909(a), 95 Stat. 1118; July 18, 1984, Pub. L. 98–369, div. B, title VII, §2721, 98 Stat. 1185; Oct. 18, 1986, Pub. L. 99–500, §101(c) [title X, §925(a)], 100 Stat. 1783–82, 1783–153, and Oct. 30, 1986, Pub. L. 99–591, §101(c) [title X, §925(a)], 100 Stat. 3341–82, 3341–153; Nov. 14, 1986, Pub. L. 99–661, div. A, title IX, formerly title IV, §925(a), 100 Stat. 3933, renumbered title IX, Apr. 21, 1987, Pub. L. 100–26, §3(5), 101 Stat. 273; Oct. 23, 1992, Pub. L. 102–484, div. A, title VIII, §808(a), 106 Stat. 2449, related to Congressional defense procurement policy.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## [§2302. Repealed. Pub. L. 116–283, div. A, title XVIII, §1806(d), Jan. 1, 2021, 134 Stat. 4155]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 127; Pub. L. 85–568, title III, §301(b), July 29, 1958, 72 Stat. 432; Pub. L. 85–861, §1(43A), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 96–513, title V, §511(74), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–369, div. B, title VII, §2722(a), July 18, 1984, 98 Stat. 1186; Pub. L. 98–525, title XII, §1211, Oct. 19, 1984, 98 Stat. 2589; Pub. L. 98–577, title V, §504(b)(3), Oct. 30, 1984, 98 Stat. 3087; Pub. L. 99–661, div. A, title XIII, §1343(a)(13), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–189, div. A, title VIII, §853(b)(1), Nov. 29, 1989, 103 Stat. 1518; Pub. L. 102–25, title VII, §701(d)(1), Apr. 6, 1991, 105 Stat. 113; Pub. L. 102–190, div. A, title VIII, §805, Dec. 5, 1991, 105 Stat. 1417; Pub. L. 103–355, title I, §1502, Oct. 13, 1994, 108 Stat. 3296; Pub. L. 104–106, div. D, title XLIII, §4321(b)(3), Feb. 10, 1996, 110 Stat. 672; Pub. L. 104–201, div. A, title VIII, §§805(a)(1), 807(a), Sept. 23, 1996, 110 Stat. 2605, 2606; Pub. L. 105–85, div. A, title VIII, §803(b), Nov. 18, 1997, 111 Stat. 1832; Pub. L. 107–217, §3(b)(2), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–350, §5(b)(8), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 111–383, div. A, title VIII, §866(g)(1), Jan. 7, 2011, 124 Stat. 4298; Pub. L. 113–291, div. A, title X, §1071(a)(2), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §815(b), Nov. 25, 2015, 129 Stat. 896; Pub. L. 115–91, div. A, title II, §221, Dec. 12, 2017, 131 Stat. 1333; Pub. L. 115–232, div. A, title VIII, §836(c)(1), Aug. 13, 2018, 132 Stat. 1864; Pub. L. 116–283, div. A, title XVIII, §1806(a)(5), (6), (b)(2)–(6), (c)(2)(A), Jan. 1, 2021, 134 Stat. 4152–4154, provided definitions for the chapter.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2302a. Renumbered §3571]

## [§2302b. Renumbered §3572]

## [§2302c. Repealed. Pub. L. 114–328, div. A, title VIII, §833(b)(5)(A)(i), Dec. 23, 2016, 130 Stat. 2285]

Section, added Pub. L. 103–355, title IX, §9002(a), Oct. 13, 1994, 108 Stat. 3402; amended Pub. L. 105–85, div. A, title VIII, §850(f)(3)(A), Nov. 18, 1997, 111 Stat. 1850; Pub. L. 105–129, §1(a)(1), Dec. 1, 1997, 111 Stat. 2551; Pub. L. 106–65, div. A, title X, §1066(a)(18), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111–350, §5(b)(11), Jan. 4, 2011, 124 Stat. 3843, related to implementation of electronic commerce capability.

## [§2302d. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, added Pub. L. 104–201, div. A, title VIII, §805(a)(2), Sept. 23, 1996, 110 Stat. 2605; amended Pub. L. 105–85, div. A, title X, §1073(a)(41), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 116–283, div. A, title XVIII, §§1806(c)(3), 1846(e)(1), Jan. 1, 2021, 134 Stat. 4155, 4249, related to definitional threshold amounts of a major system.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2302e. Renumbered §4004]

## [§2303. Repealed. Pub. L. 116–283, div. A, title XVIII, §1807(c)(4), Jan. 1, 2021, 134 Stat. 4157]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 85–568, title III, §301(b), July 29, 1958, 72 Stat. 432; Pub. L. 98–369, div. B, title VII, §2722(b), July 18, 1984, 98 Stat. 1187; Pub. L. 116–283, div. A, title XVIII, §1807(c)(2), (3), Jan. 1, 2021, 134 Stat. 4157, related to applicability of chapter. See, generally, sections 3063 and 3064 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2303a. Repealed. Pub. L. 98–577, title III, §302(c)(1), Oct. 30, 1984, 98 Stat. 3077]

Section, Pub. L. 98–525, title XII, §1212(a), Oct. 19, 1984, 98 Stat. 2590, related to publication of proposed regulations.

Section, pursuant to section 1212(b) of Pub. L. 98–525, was to have taken effect with respect to procurement policies, regulations, procedures, or forms first proposed to be issued by an agency on or after the date which was 30 days after the date of enactment of Pub. L. 98–525. Pub. L. 98–525 was approved Oct. 19, 1984. However, before that effective date, the section was repealed by Pub. L. 98–577.

## [§2304. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 85–800, §8, Aug. 28, 1958, 72 Stat. 967; Pub. L. 85–861, §33(a)(12), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 87–653, §1(a)–(c), Sept. 10, 1962, 76 Stat. 528; Pub. L. 90–268, §5, Mar. 16, 1968, 82 Stat. 50; Pub. L. 90–500, title IV, §405, Sept. 20, 1968, 82 Stat. 851; Pub. L. 93–356, §4, July 25, 1974, 88 Stat. 390; Pub. L. 96–513, title V, §511(76), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 97–86, title IX, §907(a), Dec. 1, 1981, 95 Stat. 1117; Pub. L. 97–295, §1(24), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 97–375, title I, §114, Dec. 21, 1982, 96 Stat. 1821; Pub. L. 98–369, div. B, title VII, §§2723(a), 2727(b), July 18, 1984, 98 Stat. 1187, 1194; Pub. L. 98–577, title V, §504(b)(1), (2), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 99–145, title IX, §961(a)(1), title XIII, §1303(a)(13), Nov. 8, 1985, 99 Stat. 703, 739; Pub. L. 99–500, §101(c) [title X, §§923(a)–(c), 927(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–152, 1783–155, and Pub. L. 99–591, §101(c) [title X, §§923(a)–(c), 927(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–152, 3341–155; Pub. L. 99–661, div. A, title IX, formerly title IV, §§923(a)–(c), 927(a), title XIII, §1343(a)(14), Nov. 14, 1986, 100 Stat. 3932, 3935, 3993, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §7(d)(3), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100–456, div. A, title VIII, §803, Sept. 29, 1988, 102 Stat. 2008; Pub. L. 101–189, div. A, title VIII, §§812, 817, 818, 853(d), Nov. 29, 1989, 103 Stat. 1493, 1501, 1502, 1519; Pub. L. 101–510, div. A, title VIII, §806(b), Nov. 5, 1990, 104 Stat. 1592; Pub. L. 102–25, title VII, §701(d)(2), Apr. 6, 1991, 105 Stat. 114; Pub. L. 102–484, div. A, title

VIII, §§801(h)(2), 816, title X, §1052(23), Oct. 23, 1992, 106 Stat. 2445, 2454, 2500; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–355, title I, §§1001–1003, 1004(b), 1005, title IV, §4401(a), title VII, §7203(a)(1), Oct. 13, 1994, 108 Stat. 3249, 3253, 3254, 3347, 3379; Pub. L. 104–106, div. D, title XLI, §§4101(a), 4102(a), title XLII, §4202(a)(1), title XLIII, §4321(b)(4), (5), Feb. 10, 1996, 110 Stat. 642, 643, 652, 672; Pub. L. 104–320, §§7(a)(1), 11(c)(1), Oct. 19, 1996, 110 Stat. 3871, 3873; Pub. L. 105–85, div. A, title VIII, §§841(b), 850(f)(3)(B), title X, §1073(a)(42), (43), Nov. 18, 1997, 111 Stat. 1843, 1850, 1902; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–217, §3(b)(3), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 108–375, div. A, title VIII, §815, Oct. 28, 2004, 118 Stat. 2015; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title VIII, §844(b), Jan. 28, 2008, 122 Stat. 239; Pub. L. 110–417, [div. A], title VIII, §862(b), Oct. 14, 2008, 122 Stat. 4546; Pub. L. 111–350, §5(b)(12), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 115–91, div. A, title XVII, §1709(b)(2), Dec. 12, 2017, 131 Stat. 1809; Pub. L. 115–232, div. A, title VIII, §§812(a)(2)(C)(v), 836(c)(2), Aug. 13, 2018, 132 Stat. 1847, 1864; Pub. L. 116–92, div. A, title IX, §902(39), title XVII, §1731(a)(37), Dec. 20, 2019, 133 Stat. 1547, 1814; Pub. L. 116–283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170, related to competition requirements for contracts. See, generally, sections 3201, 3203, 3204, and 3205 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2304a. Renumbered §3403]

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2304a was renumbered section 3901 of this title.

## [§2304b. Renumbered §3405]

## [§2304c. Renumbered §3406]

## [§2304d. Renumbered §3401]

## [§2304e. Renumbered §3901]

## [§2305. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 130; Pub. L. 85–861, §1(44), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 90–268, §3, Mar. 16, 1968, 82 Stat. 49; Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1191; Pub. L. 98–525, title XII, §1213(a), Oct. 19, 1984, 98 Stat. 2591; Pub. L. 99–145, title XIII, §1303(a)(14), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99–500, §101(c) [title X, §924(a), (b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–153, and Pub. L. 99–591, §101(c) [title X, §924(a), (b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–153; Pub. L. 99–661, div. A, title III, §313(b), title IX, formerly title IV, §924(a), (b), Nov. 14, 1986, 100 Stat. 3853, 3932, 3933, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat.

273; Pub. L. 100–456, div. A, title VIII, §806, Sept. 29, 1988, 102 Stat. 2010; Pub. L. 101–189, div. A, title VIII, §853(f), Nov. 29, 1989, 103 Stat. 1519; Pub. L. 101–510, div. A, title VIII, §802(a)–(d), Nov. 5, 1990, 104 Stat. 1588, 1589; Pub. L. 103–160, div. A, title XI, §1182(a)(5), Nov. 30, 1993, 107 Stat. 1771; Pub. L. 103–355, title I, §§1011–1016, title IV, §4401(b), Oct. 13, 1994, 108 Stat. 3254–3257, 3347; Pub. L. 104–106, div. D, title XLI, §§4103(a), 4104(a), title XLII, §4202(a)(2), div. E, title LVI, §5601(a), Feb. 10, 1996, 110 Stat. 643, 644, 653, 699; Pub. L. 104–201, div. A, title VIII, §821(a), title X, §1074(a)(11), (b)(4)(A), Sept. 23, 1996, 110 Stat. 2609, 2659, 2660; Pub. L. 106–65, div. A, title VIII, §821, Oct. 5, 1999, 113 Stat. 714; Pub. L. 114–328, div. A, title VIII, §825(a), Dec. 23, 2016, 130 Stat. 2279; Pub. L. 115–91, div. A, title VIII, §818(b), Dec. 12, 2017, 131 Stat. 1463; Pub. L. 115–232, div. A, title VIII, §836(c)(3), Aug. 13, 2018, 132 Stat. 1864; Pub. L. 116–283, div. A, title XVIII, §§1811(e)(2), (f)(2), (g)(2), 1816(c)(1), (2), (e)(1), (f)(1), Jan. 1, 2021, 134 Stat. 4170, 4173, 4182, 4185, related to planning, solicitation, evaluation, and award procedures for contracts. See, generally, section 3206 and chapter 241 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2305a. Renumbered §3241]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2305a was renumbered section 2439 of this title and was subsequently repealed.

## [§§2306 to 2307. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section 2306, act Aug. 10, 1956, ch. 1041, 70A Stat. 130; Pub. L. 87–653, §1(d), (e), Sept. 10, 1962, 76 Stat. 528; Pub. L. 90–378, §1, July 5, 1968, 82 Stat. 289; Pub. L. 90–512, Sept. 25, 1968, 82 Stat. 863; Pub. L. 96–513, title V, §511(77), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 97–86, title IX, §§907(b), 909(b), Dec. 1, 1981, 95 Stat. 1117, 1118; Pub. L. 98–369, div. B, title VII, §2724, July 18, 1984, 98 Stat. 1192; Pub. L. 99–145, title XIII, §1303(a)(15), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99–500, §101(c) [title X, §952(b)(1), (c)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–169, and Pub. L. 99–591, §101(c) [title X, §952(b)(1), (c)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–169; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(b)(1), (c)(1), Nov. 14, 1986, 100 Stat. 3949, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–189, div. A, title VIII, §805(a), Nov. 29, 1989, 103 Stat. 1488; Pub. L. 101–510, div. A, title VIII, §808, Nov. 5, 1990, 104 Stat. 1593; Pub. L. 102–25, title VII, §701(d)(3), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title I, §§1021, 1022(b), title IV, §§4102(b), 4401(c), title VIII, §8105(a), Oct. 13, 1994, 108 Stat. 3257, 3260, 3340, 3348, 3392; Pub. L. 105–85, div. A, title X, §1073(a)(45), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106–398, §1 [[div. A], title VIII, §802(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–205; Pub. L. 108–136, div. A, title VIII, §842, Nov. 24, 2003, 117 Stat. 1552; Pub. L. 112–81, div. B, title XXVIII, §2801(a), Dec. 31, 2011, 125 Stat. 1684; Pub. L. 115–232, div. A, title VIII, §836(c)(4), Aug. 13, 2018, 132 Stat. 1865; Pub. L. 116–283, div. A, title XVIII, §1817(b), (c), (e), (g)(1), Jan. 1, 2021, 134 Stat. 4186, 4187, related to kinds of contracts. See, generally, chapter 242 of this title.

Section 2306a, added Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–180, div. A, title VIII, §804(a), (b), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 101–510, div. A, title VIII, §803(a)(1), (d), Nov. 5, 1990, 104 Stat. 1589, 1590; Pub. L. 102–25, title VII, §701(b), (f)(8), Apr. 6, 1991, 105 Stat. 113, 115; Pub. L. 102–190, div. A, title VIII, §804(a)–(c)(1), title X, §1061(a)(9), Dec. 5, 1991, 105 Stat. 1415, 1416, 1472; Pub. L. 103–355, title I, §§1201–1209, Oct. 13, 1994, 108 Stat. 3273–3277; Pub. L. 104–106, div. D, title XLII, §4201(a), title

XLIII, §4321(a)(2), (b)(7), Feb. 10, 1996, 110 Stat. 649, 671, 672; Pub. L. 104–201, div. A, title X, §1074(a)(12), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 105–85, div. A, title X, §1073(a)(46), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 105–261, div. A, title VIII, §§805(a), 808(a), Oct. 17, 1998, 112 Stat. 2083, 2085; Pub. L. 108–375, div. A, title VIII, §818(a), Oct. 28, 2004, 118 Stat. 2015; Pub. L. 110–181, div. A, title VIII, §814, Jan. 28, 2008, 122 Stat. 222; Pub. L. 111–350, §5(b)(15), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113–291, div. A, title X, §1071(a)(3), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §§812, 851(b), 852(e), 853, Nov. 25, 2015, 129 Stat. 891, 916, 918, 919; Pub. L. 114–328, div. A, title VIII, §822, Dec. 23, 2016, 130 Stat. 2276; Pub. L. 115–91, div. A, title VIII, §811(a)(1), (b), Dec. 12, 2017, 131 Stat. 1459; Pub. L. 115–232, div. A, title VIII, §836(c)(5), Aug. 13, 2018, 132 Stat. 1865; Pub. L. 116–92, div. A, title VIII, §803, Dec. 20, 2019, 133 Stat. 1483; Pub. L. 116–283, div. A, title VIII, §814(a)(1), title X, §1081(d)(4)(B)(i), title XVIII, §1831(b), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i), Jan. 1, 2021, 134 Stat. 3749, 3874, 4209, 4211, 4213, 4214, 4216; Pub. L. 117–81, div. A, title VIII, §804(a), title XVII, §1701(b)(10)(A), Dec. 27, 2021, 135 Stat. 1816, 2133, related to cost or pricing data and truth in negotiations. See, generally, chapter 271 of this title.

Section 2306b, added Pub. L. 103–355, title I, §1022(a)(1), Oct. 13, 1994, 108 Stat. 3257; amended Pub. L. 104–106, div. A, title XV, §1502(a)(10), div. E, title LVI, §5601(b), Feb. 10, 1996, 110 Stat. 503, 699; Pub. L. 105–85, div. A, title VIII, §806(a)(1), (b)(1), (c), title X, §1073(a)(47), (48)(A), Nov. 18, 1997, 111 Stat. 1834, 1835, 1903; Pub. L. 106–65, div. A, title VIII, §809, title X, §1067(1), Oct. 5, 1999, 113 Stat. 705, 774; Pub. L. 106–398, §1 [[div. A], title VIII, §§802(c), 806], Oct. 30, 2000, 114 Stat. 1654, 1654A–205, 1654A–207; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VIII, §820(a), Dec. 2, 2002, 116 Stat. 2613; Pub. L. 108–136, div. A, title X, §1043(b)(10), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 108–375, div. A, title VIII, §814(a), title X, §1084(b)(2), Oct. 28, 2004, 118 Stat. 2014, 2060; Pub. L. 110–181, div. A, title VIII, §811(a), Jan. 28, 2008, 122 Stat. 217; Pub. L. 111–23, title I, §101(d)(2), May 22, 2009, 123 Stat. 1709; Pub. L. 113–291, div. A, title VIII, §816(a), (b), Dec. 19, 2014, 128 Stat. 3430, 3432; Pub. L. 114–92, div. A, title VIII, §811, Nov. 25, 2015, 129 Stat. 891; Pub. L. 115–91, div. A, title X, §1051(a)(14), Dec. 12, 2017, 131 Stat. 1561; Pub. L. 115–232, div. A, title VIII, §817, Aug. 13, 2018, 132 Stat. 1852; Pub. L. 116–92, div. A, title IX, §902(48), Dec. 20, 2019, 133 Stat. 1548; Pub. L. 116–283, div. A, title XVIII, §1822(b), as added Pub. L. 117–81, div. A, title XVII, §1701(k)(2)(B), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–81, div. A, title XVII, §1701(k)(2)(A), Dec. 27, 2021, 135 Stat. 2143, related to multiyear contracts for acquisition of property. Text of section 2306b was transferred to section 3501 of this title.

Section 2306c, added Pub. L. 106–398, §1 [[div. A], title VIII, §802(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–203; amended Pub. L. 107–314, div. A, title VIII, §§811(a), 827, Dec. 2, 2002, 116 Stat. 2608, 2617; Pub. L. 108–136, div. A, title VIII, §843(a), title X, §1043(c)(1), Nov. 24, 2003, 117 Stat. 1553, 1611; Pub. L. 108–375, div. A, title VIII, §814(b), Oct. 28, 2004, 118 Stat. 2014; Pub. L. 111–84, div. A, title X, §1073(a)(22), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 116–283, div. A, title XVIII, §1822(d), as added Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(D), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(C), Dec. 27, 2021, 135 Stat. 2143, related to multiyear contracts for acquisition of services. Text of section 2306c was transferred to section 3531 of this title.

Section 2307, act Aug. 10, 1956, ch. 1041, 70A Stat. 131; Pub. L. 85–800, §9, Aug. 28, 1958, 72 Stat. 967; Pub. L. 93–155, title VIII, §807(c), Nov. 16, 1973, 87 Stat. 616; Pub. L. 100–370, §1(f)(1)(A), July 19, 1988, 102 Stat. 846; Pub. L. 101–510, div. A, title VIII, §836(a), (b), title XIII, §1322(a)(4), Nov. 5, 1990, 104 Stat. 1615, 1616, 1671; Pub. L. 102–25, title VII, §701(d)(4), (j)(2)(A), Apr. 6, 1991, 105 Stat. 114, 116; Pub. L. 102–190, div. A, title X, §1061(a)(10), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. A, title X, §1052(24), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–355, title II, §2001(a)–(g), Oct. 13, 1994, 108 Stat. 3301, 3302; Pub. L. 105–85, div. A, title VIII, §802, Nov. 18, 1997, 111 Stat. 1831; Pub. L. 106–391, title III, §306, Oct. 30, 2000, 114 Stat. 1592; Pub. L. 114–328, div. A, title VIII, §831(a), Dec. 23, 2016, 130 Stat. 2282; Pub. L. 115–232, div. A, title VIII, §§836(c)(6), 852, Aug. 13, 2018, 132 Stat. 1866, 1884; Pub. L. 116–92, div. A, title XVII, §1731(a)(40), Dec. 20, 2019, 133 Stat. 1814; Pub. L. 116–283, div. A, title VIII, §815, title XVIII, §§1834(b)(1), (c)(1), (d), (e)(1), (f)(1), (g)(1), (h), 1876(e), Jan. 1, 2021, 134 Stat. 3750, 4234–4237, 4239, 4291; Pub. L. 117–81, div. A, title VIII, §814, title XVII, §1701(n)(2), (3), Dec. 27, 2021, 135 Stat. 1823, 2145, 2146, related to contract financing. See, generally, chapter 277 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2308. Renumbered §3069]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2308, acts Aug. 10, 1956, ch. 1041, 70A Stat. 131; Oct. 23, 1992, Pub. L. 102–484, div. A, title VIII, §820(a), 106 Stat. 2458; May 31, 1993, Pub. L. 103–35, title II, §201(e)(2), 107 Stat. 99; Nov. 30, 1993, Pub. L. 103–160, div. A, title IX, §904(d)(1), 107 Stat. 1728, related to assignment and delegation of procurement functions and responsibilities, prior to repeal by Pub. L. 103–355, title I, §1503(b)(1), title X, §10001, Oct. 13, 1994, 108 Stat. 3297, 3404, effective Oct. 13, 1994, except as otherwise provided.

## [§2309. Renumbered §3134]

## [§2310. Renumbered §4751]

## [§2311. Renumbered §3065]

## [§2312. Renumbered §4752]

## [§2313. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 132; Pub. L. 89–607, §1(2), Sept. 27, 1966, 80 Stat. 850; Pub. L. 98–369, div. B, title VII, §2727(c), July 18, 1984, 98 Stat. 1195; Pub. L. 99–145, title IX, §935, Nov. 8, 1985, 99 Stat. 700; Pub. L. 100–26, §7(g)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 101–510, div. A, title XIII, §1301(9), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 103–355, title II, §2201(a)(1), title IV, §4102(c), Oct. 13, 1994, 108 Stat. 3316, 3340; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 104–201, div. A, title VIII, §808(a), Sept. 23, 1996, 110 Stat. 2607; Pub. L. 106–65, div. A, title X, §1032(a)(2), Oct. 5, 1999, 113 Stat. 751; Pub. L. 110–417, [div. A], title VIII, §871(b), Oct. 14, 2008, 122 Stat. 4555; Pub. L. 116–283, div. A, title XVIII, §1835(b)(1), (2), Jan. 1, 2021, 134 Stat. 4239, related to examination of records of contractor. See section 3841 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2313a. Renumbered §3847]

## [§2313b. Renumbered §3842]

## [§§2314, 2315. Repealed. Pub. L. 116–283, div. A, title XVIII, §1807(e)(4), Jan. 1, 2021, 134 Stat. 4159]

Section 2314, act Aug. 10, 1956, ch. 1041, 70A Stat. 133; Pub. L. 96–513, title V, §511(78), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 103–160, div. A, title VIII, §822(b)(2), Nov. 30, 1993, 107 Stat. 1706; Pub. L. 111–350, §5(b)(16), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113–291, div. A, title X, §1071(a)(4), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 116–283, div. A, title XVIII, §1807(e)(2), Jan. 1, 2021, 134 Stat. 4158, related to laws inapplicable to agencies named in section 2303 of this title. Text of section 2314 was transferred to section 3068(a) of this title.

Section 2315, added Pub. L. 97–86, title IX, §908(a)(1), Dec. 1, 1981, 95 Stat. 1117; amended Pub. L. 97–295, §1(25), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 104–106, div. E, title LVI, §5601(c), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–201, div. A, title X, §1074(b)(4)(B), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105–85, div. A, title X, §1073(a)(49), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 107–217, §3(b)(5), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 109–364, div. A, title IX, §906(c), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 113–283, §2(e)(5)(C), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 114–92, div. A, title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 116–283, div. A, title XVIII, §1807(e)(3), Jan. 1, 2021, 134 Stat. 4159; Pub. L. 117–81, div. A, title XVII, §1701(b)(2)(C)(ii), Dec. 27, 2021, 135 Stat. 2132, related to law inapplicable to procurement of automatic data processing equipment and services for certain defense purposes. Text of section 2315 was transferred to section 3068(b) of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2316. Renumbered §3344]

## [§2317. Repealed. Pub. L. 103–160, div. A, title VIII, §821(a)(2), Nov. 30, 1993, 107 Stat. 1704]

Section, added Pub. L. 98–525, title XII, §1215, Oct. 19, 1984, 98 Stat. 2592, related to encouragement of competition and cost savings.

## [§2318. Renumbered §3249]

## [§2319. Renumbered §3243]

## [§§2320 to 2322. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section 2320, added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2595; amended Pub. L. 98–577, title III, §301(b), Oct. 30, 1984, 98 Stat. 3076; Pub. L. 99–145, title IX, §961(d)(1), Nov. 8, 1985, 99 Stat. 703; Pub. L. 99–500, §101(c) [title X, §953(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–169, and Pub. L. 99–591, §101(c) [title X, §953(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–169; Pub. L. 99–661, div. A, title IX, formerly title IV, §953(a), Nov. 14, 1986, 100 Stat. 3949, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §7(a)(4), Apr. 21, 1987, 101 Stat. 275; Pub. L. 100–180, div. A, title VIII, §808(a), (b), Dec. 4, 1987, 101 Stat. 1128, 1130; Pub. L. 101–189, div. A, title VIII, §853(b)(2), Nov. 29, 1989, 103 Stat. 1518; Pub. L. 103–355, title VIII, §8106(a), Oct. 13, 1994, 108 Stat. 3393; Pub. L. 108–136, div. A, title VIII, §844, Nov. 24, 2003, 117 Stat. 1553; Pub. L. 109–364, div. A, title VIII, §802(a), Oct. 17, 2006, 120 Stat. 2312; Pub. L. 111–84, div. A, title VIII, §821, Oct. 28, 2009, 123 Stat. 2411; Pub. L.

111–383, div. A, title VIII, §§801(a), 824(b), Jan. 7, 2011, 124 Stat. 4253, 4269; Pub. L. 112–81, div. A, title VIII, §§802(b), 815(a), Dec. 31, 2011, 125 Stat. 1485, 1491; Pub. L. 114–328, div. A, title VIII, §809(a)–(e), Dec. 23, 2016, 130 Stat. 2266, 2267; Pub. L. 115–91, div. A, title VIII, §835(c), Dec. 12, 2017, 131 Stat. 1471; Pub. L. 115–232, div. A, title VIII, §836(c)(7), Aug. 13, 2018, 132 Stat. 1866; Pub. L. 116–283, div. A, title VIII, §804(b)(2)(A), title XVIII, §1833(b)(1), (c)(1), (d), (e)(1), (f)(1), Jan. 1, 2021, 134 Stat. 3738, 4226, 4228–4230, related to rights in technical data. See, generally, subchapter I (§3771 et seq.) of chapter 275 of this title.

Section 2321, added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2597; amended Pub. L. 99–500 §101(c) [title X, §953(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–171, and Pub. L. 99–591, §101(c) [title X, §953(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–171; Pub. L. 99–661, div. A, title IX, formerly title IV, §953(b), Nov. 14, 1986, 100 Stat. 3951, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, Pub. L. 100–26, §7(a)(5), Apr. 21, 1987, 101 Stat. 276; Pub. L. 100–180, div. A, title XII, §1231(6), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 103–35, title II, §201(g)(4), May 31, 1993, 107 Stat. 100; Pub. L. 103–355, title VIII, §8106(b), Oct. 13, 1994, 108 Stat. 3393; Pub. L. 109–364, div. A, title VIII, §802(b), Oct. 17, 2006, 120 Stat. 2313; Pub. L. 110–181, div. A, title VIII, §815(a)(2), Jan. 28, 2008, 122 Stat. 223; Pub. L. 111–350, §5(b)(18), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 111–383, div. A, title VIII, §824(c), Jan. 7, 2011, 124 Stat. 4269; Pub. L. 112–81, div. A, title VIII, §815(b), Dec. 31, 2011, 125 Stat. 1492; Pub. L. 113–291, div. A, title X, §1071(a)(5), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §813(a), Nov. 25, 2015, 129 Stat. 891; Pub. L. 115–232, div. A, title VIII, §§836(c)(8), 865, 866(a), Aug. 13, 2018, 132 Stat. 1866, 1901; Pub. L. 116–92, div. A, title VIII, §808(b), Dec. 20, 2019, 133 Stat. 1486; Pub. L. 116–283, div. A, title X, §1081(d)(4)(B)(ii), title XVIII, §1833(h)(1), (i)(1), (j)(1), (k), (l)(1), (m), Jan. 1, 2021, 134 Stat. 3874, 4231–4233; Pub. L. 117–81, div. A, title X, §1081(a)(28), Dec. 27, 2021, 135 Stat. 1921, related to validation of proprietary data restrictions. See, generally, subchapter II (§3781 et seq.) of chapter 275 of this title.

Section 2322, added Pub. L. 115–91, div. A, title VIII, §802(a)(1), Dec. 12, 2017, 131 Stat. 1450; Pub. L. 116–283, div. A, title XVIII, §§1833(o)(1), 1877(b), Jan. 1, 2021, 134 Stat. 4234, 4291, related to management of intellectual property matters within Department of Defense. See, generally, sections 3791(a) and 1707 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2321 of this title was contained in chapter 138 and was renumbered section 2341 of this title.

A prior section 2322, added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2598; amended Pub. L. 100–26, §7(a)(6), Apr. 21, 1987, 101 Stat. 278; Pub. L. 100–180, div. A, title XII, §1231(7), Dec. 4, 1987, 101 Stat. 1160, limited small business set-asides under the Foreign Military Sales Program and provided that the section expired Jan. 17, 1987, prior to repeal by Pub. L. 102–484, div. A, title X, §1052(25)(A), Oct. 23, 1992, 106 Stat. 2500.

Another prior section 2322 was contained in chapter 138 and was renumbered section 2342 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2322a. Renumbered §4576]

## [§2323. Repealed. Pub. L. 115–232, div. A, title VIII, §812(a)(2)(A), Aug. 13, 2018, 132 Stat. 1846]

Section, added and amended Pub. L. 102–484, div. A, title VIII, §§801(a)(1), (b)–(f), 802, Oct. 23, 1992, 106 Stat. 2442–2444, 2446; Pub. L. 103–35, title II, §202(a)(6), May 31, 1993, 107 Stat. 101; Pub. L.

103–160, div. A, title VIII, §811(a)–(c), (e), Nov. 30, 1993, 107 Stat. 1702; Pub. L. 103–355, title VII, §7105, Oct. 13, 1994, 108 Stat. 3369; Pub. L. 104–106, div. D, title XLIII, §4321(b)(8), Feb. 10, 1996, 110 Stat. 672; Pub. L. 105–135, title VI, §604(a), Dec. 2, 1997, 111 Stat. 2632; Pub. L. 105–261, div. A, title VIII, §801, Oct. 17, 1998, 112 Stat. 2080; Pub. L. 106–65, div. A, title VIII, §808, Oct. 5, 1999, 113 Stat. 705; Pub. L. 107–107, div. A, title X, §1048(a)(17), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VIII, §816, Dec. 2, 2002, 116 Stat. 2610; Pub. L. 108–136, div. A, title X, §1031(a)(15), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 109–163, div. A, title VIII, §842, Jan. 6, 2006, 119 Stat. 3389; Pub. L. 109–364, div. A, title VIII, §858, Oct. 17, 2006, 120 Stat. 2349; Pub. L. 110–181, div. A, title VIII, §891, Jan. 28, 2008, 122 Stat. 270; Pub. L. 111–383, div. A, title X, §1075(b)(31), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(B), Dec. 12, 2017, 131 Stat. 1796, related to contract goals for small disadvantaged businesses and certain institutions of higher education.

A prior section 2323, added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2598; amended Pub. L. 99–500, §101(c) [title X, §926(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–153, and Pub. L. 99–591, §101(c) [title X, §926(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–153; Pub. L. 99–661, div. A, title IX, formerly title IV, §926(a)(1), Nov. 14, 1986, 100 Stat. 3933, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, related to commercial pricing for spare or repair parts, prior to repeal by Pub. L. 101–510, div. A, title VIII, §804(a), Nov. 5, 1990, 104 Stat. 1591.

## [§2323a. Renumbered §3902]

## [§2324. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, added Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 682; amended Pub. L. 99–190, §101(b) [title VIII, §8112(a)], Dec. 19, 1985, 99 Stat. 1185, 1223; Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. A, title VIII, §805(a), Dec. 4, 1987, 101 Stat. 1126; Pub. L. 100–370, §1(f)(2)(A), (3)(A), July 19, 1988, 102 Stat. 846; Pub. L. 100–456, div. A, title III, §322(a), title VIII, §§826(a), 832(a), Sept. 29, 1988, 102 Stat. 1952, 2022, 2023; Pub. L. 100–463, title VIII, §8105(a), Oct. 1, 1988, 102 Stat. 2270–36; Pub. L. 100–526, title I, §106(a)(2), Oct. 24, 1988, 102 Stat. 2625; Pub. L. 100–700, §8(b), Nov. 19, 1988, 102 Stat. 4636; Pub. L. 101–189, div. A, title III, §311(a)(1), title VIII, §853(a)(1), (b)(3), Nov. 29, 1989, 103 Stat. 1411, 1518; Pub. L. 101–510, div. A, title XIII, §1301(10), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–190, div. A, title III, §346(a), Dec. 5, 1991, 105 Stat. 1346; Pub. L. 102–484, div. A, title VIII, §818(a), title X, §1052(26), title XIII, §1352(b), Oct. 23, 1992, 106 Stat. 2457, 2500, 2559; Pub. L. 103–355, title II, §2101(a)–(d), Oct. 13, 1994, 108 Stat. 3306–3308; Pub. L. 104–106, div. D, title XLIII, §4321(a)(5), (b)(9), Feb. 10, 1996, 110 Stat. 671, 672; Pub. L. 105–85, div. A, title VIII, §808(a), Nov. 18, 1997, 111 Stat. 1836; Pub. L. 105–261, div. A, title VIII, §804(a), Oct. 17, 1998, 112 Stat. 2083; Pub. L. 111–350, §5(b)(19), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 112–81, div. A, title VIII, §803(a), (b), Dec. 31, 2011, 125 Stat. 1485; Pub. L. 112–239, div. A, title VIII, §827(g), Jan. 2, 2013, 126 Stat. 1836; Pub. L. 113–66, div. A, title VIII, §811(a), Dec. 26, 2013, 127 Stat. 806; Pub. L. 113–67, div. A, title VII, §702(a)(2), Dec. 26, 2013, 127 Stat. 1189; Pub. L. 113–291, div. A, title VIII, §857, Dec. 19, 2014, 128 Stat. 3460; Pub. L. 114–261, §1(b)(1), Dec. 14, 2016, 130 Stat. 1362; Pub. L. 115–91, div. A, title VIII, §811(e), Dec. 12, 2017, 131 Stat. 1460; Pub. L. 115–232, div. A, title VIII, §836(c)(9), Aug. 13, 2018, 132 Stat. 1866; Pub. L. 116–283, div. A, title XVIII, §1832(b)(1)–(3)(A), (4), (c)(1), (d)(1), (e)(1), (e), (f)(1), (g), (h), (i)(1)(A), (2), Jan. 1, 2021, 134 Stat. 4218, 4219, 4221, 4222, related to allowable costs under defense contracts. See, generally, subchapter I (§3741 et seq.) of chapter 273 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2324 of this title was contained in chapter 138 and was renumbered section 2344 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2325. Renumbered §3761]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2325, added Pub. L. 99–500, §101(c) [title X, §907(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–137, and Pub. L. 99–591, §101(c) [title X, §907(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–137; Pub. L. 99–661, div. A, title IX, formerly title IV, §907(a)(1), Nov. 14, 1986, 100 Stat. 3917, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 101–189, div. A, title XVI, §1622(c)(5), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 101–510, div. A, title VIII, §810, Nov. 5, 1990, 104 Stat. 1595; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, directed Secretary of Defense to ensure that requirements of Department of Defense with respect to procurement of supplies be stated in terms of functions to be performed, performance required, or essential physical characteristics, and related to preference for nondevelopmental items in procurement of supplies, prior to repeal by Pub. L. 103–355, title VIII, §8104(b)(1), Oct. 13, 1994, 108 Stat. 3391. See sections 3451 and 3453 of this title.

Another prior section 2325 was renumbered section 2345 of this title.

## [§2326. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section, added Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–140, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–140; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3920, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 101–189, div. A, title XVI, §1622(c)(6), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 102–25, title VII, §701(d)(5), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title I, §1505, Oct. 13, 1994, 108 Stat. 3298; Pub. L. 105–85, div. A, title VIII, §803(a), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 114–328, div. A, title VIII, §811, Dec. 23, 2016, 130 Stat. 2268; Pub. L. 115–91, div. A, title VIII, §815(a), (b), Dec. 12, 2017, 131 Stat. 1462; Pub. L. 116–92, div. A, title IX, §902(50), Dec. 20, 2019, 133 Stat. 1548; Pub. L. 116–283, div. A, title XVIII, §1819(b), (c)(1), (d), (e)(1), (f), (g), Jan. 1, 2021, 134 Stat. 4189–4191, related to restrictions for undefinitized contractual actions. See, generally, chapter 244 of this title.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2326 was renumbered section 2346 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2327. Renumbered §4871]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2327 was renumbered section 2347 of this title.

## [§2328. Renumbered §3794]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2328 was renumbered section 2348 of this title.

## [§2329. Renumbered §4506]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2329, added Pub. L. 100–180, div. A, title VIII, §810(a)(1), Dec. 4, 1987, 101 Stat. 1130; amended Pub. L. 100–456, div. A, title XII, §1233(j), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, related to contract terms and conditions for production special tooling and production special test equipment, prior to repeal by Pub. L. 103–355, title I, §1506(a), Oct. 13, 1994, 108 Stat. 3298.

## [§2330. Renumbered §4501]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2330, added Pub. L. 100–456, div. A, title VIII, §801(a)(1), Sept. 29, 1988, 102 Stat. 2007; amended Pub. L. 101–510, div. A, title XIV, §1484(h)(2), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102–190, div. A, title VIII, §802(d), Dec. 5, 1991, 105 Stat. 1414, related to integrated financing policy, prior to repeal by Pub. L. 102–484, div. D, title XLII, §4271(a)(1), Oct. 23, 1992, 106 Stat. 2695.

Another prior section 2330 was renumbered section 2349 of this title.

## [§2330a. Renumbered §4505]

## [§2331. Renumbered §4507]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2331 was renumbered section 2350 of this title.

## [§2332. Repealed. Pub. L. 115–232, div. A, title VIII, §812(a)(3)(A), Aug. 13, 2018, 132 Stat. 1847]

Section, added Pub. L. 107–347, title II, §210(a)(1), Dec. 17, 2002, 116 Stat. 2932, related to the authority

of a agency head to enter into share-in-savings contracts for information technology.

## [§§2333, 2334. Repealed. Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293]

Section 2333, added Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343; amended Pub. L. 110–181, div. A, title VIII, §849(a), Jan. 28, 2008, 122 Stat. 245; Pub. L. 111–84, div. A, title X, §1073(a)(23), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 116–283, div. A, title XVIII, §1810(b), Jan. 1, 2021, 134 Stat. 4162, related to joint policies on requirements definition, contingency program management, and contingency contracting. See, generally, subchapter I (§3151 et seq.) of chapter 209 of this title.

Section 2334, added Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; amended Pub. L. 111–383, div. A, title VIII, §811, Jan. 7, 2011, 124 Stat. 4263; Pub. L. 112–81, div. A, title VIII, §833, Dec. 31, 2011, 125 Stat. 1506; Pub. L. 113–66, div. A, title VIII, §812(c), Dec. 26, 2013, 127 Stat. 808; Pub. L. 114–92, div. A, title VIII, §824(b), title X, §1077(a), Nov. 25, 2015, 129 Stat. 907, 998; Pub. L. 114–328, div. A, title VIII, §§842(a), (b), 846(3), Dec. 23, 2016, 130 Stat. 2288, 2289, 2292; Pub. L. 115–91, div. A, title X, §1081(a)(31), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, §902(53), Dec. 20, 2019, 133 Stat. 1549; Pub. L. 116–283, div. A, title XVIII, §1812(b)(1), (3), (c)(1), (d), (e)(1), (f)(1), (g)(1), (h)(1), Jan. 1, 2021, 134 Stat. 4174–4177, related to independent cost estimation and cost analysis. See, generally, chapter 222 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2335. Renumbered §4660]

## [§2336. Renumbered §2679]

## [§2337. Renumbered §4324]

## [§2337a. Renumbered §4325]

## [§2338. Renumbered §3573]

## [§2339. Renumbered §4657]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2339, added Pub. L. 114–328, div. A, title II, §217(a)(1), Dec. 23, 2016, 130 Stat. 2051, set the micro-purchase threshold for basic research programs and activities of the Department of Defense science and technology reinvention laboratories, prior to repeal by Pub. L. 115–232, div. A, title VIII, §821(c)(1), Aug. 13, 2018, 132 Stat. 1853.

## [§2339a. Renumbered §3252]

## [§2339b. Renumbered §8751]

## [§2339c. Renumbered §8755]

# CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Acquisition and Cross-Servicing Agreements** | **2341** |
| **II.** | **Other Cooperative Agreements** | **2350a** |


### EDITORIAL NOTES

### PRIOR PROVISIONS

Chapter 138 was originally comprised of sections 2321 to 2331. Sections 2321 to 2328, 2330, and 2331, were renumbered sections 2341 to 2348, 2349, and 2350, respectively, of this title, by Pub. L. 99–145, title XIII, §1304(a)(1), (3), Nov. 8, 1985, 99 Stat. 741.

Section 2329, added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, required the Secretary of Defense to prescribe regulations to implement this chapter, prior to repeal by Pub. L. 99–145, title XIII, §1304(a)(2), Nov. 8, 1985, 99 Stat. 741.

### AMENDMENTS

**1990**—Pub. L. 101–510, div. A, title XIV, §1484(i)(7), Nov. 5, 1990, 104 Stat. 1718, inserted "Sec." above "2341".

**1989**—Pub. L. 101–189, div. A, title IX, §931(a)(1), Nov. 29, 1989, 103 Stat. 1531, substituted "COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES" for "ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES" in chapter heading, and added subchapter analysis, consisting of subchapters I and II.

**1987**—Pub. L. 100–26, §7(a)(8), Apr. 21, 1987, 101 Stat. 278, substituted "ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES" for "NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS" in chapter heading.

## SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS


Sec.

2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States.
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2350. Definitions.

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Pub. L. 112–239, div. A, title X, §1076(g)(3), Jan. 2, 2013, 126 Stat. 1955, struck out item 2349a "Annual report on non-NATO agreements".

**1994**—Pub. L. 103–337, div. A, title XIII, §1317(c)(2)(B), (i)(2), Oct. 5, 1994, 108 Stat. 2900, 2902, substituted "Waiver of applicability of certain laws" for "Law applicable to acquisition and cross-servicing agreements" in item 2343 and added item 2349a.

**1993**—Pub. L. 103–160, div. A, title XIV, §1431(a)(2), Nov. 30, 1993, 107 Stat. 1833, added item 2349.

**1990**—Pub. L. 101–510, div. A, title XIII, §1331(3), Nov. 5, 1990, 104 Stat. 1673, struck out item 2349 "Annual reports".

**1989**—Pub. L. 101–189, div. A, title IX, §931(a)(1), Nov. 29, 1989, 103 Stat. 1531, added subchapter heading.

**1986**—Pub. L. 99–661, div. A, title XI, §1104(g), Nov. 14, 1986, 100 Stat. 3965, substituted "elements of the armed forces deployed outside the United States" for "United States armed forces in Europe" in item 2341.

**1985**—Pub. L. 99–145, title XIII, §1304(a)(6), Nov. 8, 1985, 99 Stat. 742, renumbered items 2321 to 2328 as 2341 to 2348, respectively, and items 2330 and 2331 as 2349 and 2350, respectively, and struck out item 2329 "Regulations".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPOT-LEVEL MAINTENANCE COORDINATION IN MULTINATIONAL EXERCISES

Pub. L. 119–60, div. A, title III, §343, Dec. 18, 2025, 139 Stat. 823, provided that:

"(a) IN GENERAL.—Each year, the Secretary of the Air Force shall incorporate in at least one multinational exercise conducted in the area of operations of the United States Indo-Pacific Command—

"(1) depot-level maintenance, repair, and sustainment considerations, including binational or multinational planning sessions with covered nations on—

"(A) identifying opportunities to cooperate on depot-level maintenance and repair in ways that minimize transportation requirements in such area of operations and determining the authorities necessary to deliver the necessary joint capabilities;

"(B) facilitating real-time coordination between the United States and covered nations to maintain munitions stock levels and resupply routes in the such area of operations;

"(C) mutual recognition of airworthiness and maintenance certification between the United States and covered nations; and

"(D) emergency tabletop exercises, such as when an aircraft of a covered nation breaks down on United States territory, and vice versa, in a contested logistics environment; and

"(2) coordination with the Air Force Sustainment Center, including the participation of representatives of—

"(A) the United States Indo-Pacific Command;

"(B) United States Air Force Pacific;

"(C) the United States Air Mobility Command; and

"(D) the Air Force Sustainment Center.

"(b) REPORT.—Not later than 180 days after the date on which the first exercise is completed in accordance with subsection (a), the Secretary of the Air Force shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the lessons learned from carrying out such exercise. Such report shall include each of the following:

"(1) A list of candidate systems for co-sustainment with covered nations.

"(2) A list of depot-level repair workload opportunities to undertake with covered nations, including testing equipment or line replaceable units.

"(3) Opportunities to incorporate industry partners from covered nations in depot-level maintenance repair activities, including through public-private partnerships.

"(4) An identification of any potential logistical challenges that could arise with the host country, including with respect to workforce, housing, and location of workload.

"(5) An identification of any potential impediments involving intellectual property or data rights between original equipment manufacturers and the Department of the Air Force or between the Department of the Air Force and named partner countries.

"(6) An identification of any potential impediments related to the International Traffic in Arms

Regulations and related statutes.

"(7) Any additional recommendations to Congress that would ease the facilitation of depot-level maintenance repair partnerships with covered nations, including changes to existing status of forces agreements.

"(8) An analysis of current maintenance and repair capabilities and gaps in the organic industrial bases of covered nations.

"(9) An assessment of the types of maintenance and repair activities (depot-level, preventative, corrective) that may be most appropriate for partnership with covered nations.

"(c) COVERED NATION DEFINED.—In this section, the term 'covered nation' means any of the following:

"(1) The Commonwealth of Australia.

"(2) Canada.

"(3) Japan.

"(4) New Zealand.

"(5) The Republic of Korea.

"(6) The United Kingdom of Great Britain and Northern Ireland.

"(7) Any other nation designated a covered nation for the purposes of this section by the Secretary of the Air Force."

## §2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

(1) acquire from the Governments of North Atlantic Treaty Organization countries, from North Atlantic Treaty Organization subsidiary bodies, and from the United Nations Organization or any regional international organization logistic support, supplies, and services for elements of the armed forces deployed outside the United States; and

(2) acquire from any government not a member of the North Atlantic Treaty Organization logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) outside the United States if that country—

(A) has a defense alliance with the United States;

(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(C) has agreed to preposition materiel of the United States in such country; or

(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1016, §2321; renumbered §2341 and amended Pub. L. 99–145, title XIII, §1304(a)(1), (4), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99–661, div. A, title XI, §1104(a), Nov. 14, 1986, 100 Stat. 3963; Pub. L. 102–484, div. A, title XIII, §1312(a), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103–337, div. A, title XIII, §1317(a), Oct. 5, 1994, 108 Stat. 2899; Pub. L. 109–163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Par. (1). Pub. L. 109–163 struck out "of which the United States is a member" before "logistic support".

**1994**—Par. (1). Pub. L. 103–337 substituted a comma for "and" after "countries" and inserted ", and from the United Nations Organization or any regional international organization of which the United States is a member" after "subsidiary bodies".

**1992**—Par. (1). Pub. L. 102–484, §1312(a)(1), substituted "outside the United States" for "in Europe and adjacent waters".

Par. (2). Pub. L. 102–484, §1312(a)(2), in introductory provisions, struck out "in which elements of the

armed forces are deployed (or are to be deployed)" after "North Atlantic Treaty Organization" and substituted "outside the United States" for "in such country or in the military region in which such country is located".

**1986**—Pub. L. 99–661 substituted "elements of the armed forces deployed outside the United States" for "United States armed forces in Europe" in section catchline.

Pub. L. 99–661 amended section generally, restating existing provisions into introductory text and par. (1) and adding par. (2).

**1985**—Pub. L. 99–145 renumbered section 2321 of this title as this section and substituted "section 2343" for "section 2323".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title XIII, §1317(j), Oct. 5, 1994, 108 Stat. 2902, provided that: "The amendments made by this section [enacting section 2349a of this title and amending this section and sections 2342 to 2347 and 2350 of this title] shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act [Oct. 5, 1994]."

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title XIII, §1312(c), Oct. 23, 1992, 106 Stat. 2548, provided that: "The amendments made by this section [amending this section and section 2347 of this title] shall take effect on the date of enactment of this Act [Oct. 23, 1992] and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act."

### SHORT TITLE

Pub. L. 96–323, §1, Aug. 4, 1980, 94 Stat. 1016, provided: "That this Act [enacting this chapter] may be cited as the 'North Atlantic Treaty Organization Mutual Support Act of 1979'."

### DEMONSTRATION AND PROTOTYPING PROGRAM TO ADVANCE INTERNATIONAL PRODUCT SUPPORT CAPABILITIES IN A CONTESTED LOGISTICS ENVIRONMENT

Pub. L. 118–31, div. A, title VIII, §842, Dec. 22, 2023, 137 Stat. 340, as amended by Pub. L. 118–159, div. A, title VIII, §821, Dec. 23, 2024, 138 Stat. 1983; Pub. L. 119–60, div. A, title VIII, §§871, 872, Dec. 18, 2025, 139 Stat. 1002, provided that:

"(a) CONTESTED LOGISTICS DEMONSTRATION AND PROTOTYPING PROGRAM REQUIRED .—The Secretary of Defense shall establish a contested logistics demonstration and prototyping program to identify, develop, demonstrate, and field capabilities for product support in order to reduce or mitigate the risks associated with operations in a contested logistics environment.

"(b) ELEMENTS.—In carrying out the Program, the Secretary shall do the following:

"(1) Identify ways to capitalize on the inherent interoperability, commonality, and interchangeability of platforms and information systems operated by the United States and one or more covered nations, including to enable effective maintenance and repair activities in a contested logistics environment.

"(2) Determine, develop, or establish best practices to reduce time needed to return repaired equipment to service, including the use of—

"(A) commercial best practices for rapid supply support;

"(B) advanced manufacturing (as defined in section 4841(f) of title 10, United States Code) facilities for rapid, distributed production of parts closer to the point of use; and

"(C) common or shared parts pools.

"(3) Explore opportunities to expand the ability to preposition or store materials needed to enable rapid surge capability or to support operations in a contested logistics environment.

"(4) Identify, develop, demonstrate, and field effective and efficient means of conducting repairs of equipment away from permanent repair facilities.

"(5) Explore flexible approaches to contracting and use of partnership agreements to enable use or development of the capabilities of covered product support providers to effectively, efficiently, and timely satisfy the product support requirements of a combat commander and any applicable covered nation in a contested logistics environment.

"(6) Identify the resources, including any additional authorizations, required by the Secretary of Defense to reduce or mitigate the risks associated with operations in a contested logistics environment.

"(7) Identify and document impediments to the performance of product support by covered product support providers in a contested logistics environment, including impediments created by statute, regulation, policy, agency guidance, or limitations on expenditure, transfer, or receipt of funds for product support in contested logistics environments.

"(8) Identify and document any statutory or regulatory waivers or exemptions that may be applicable or necessary to enable the United States and covered nations to jointly carry out product support activities in contested logistics environments located outside of the United States, including, for each such waiver and exemption—

"(A) the person responsible for requesting such waiver or exemption;

"(B) the criteria for approval of such waiver or exemption; and

"(C) the person responsible for approving such waiver or exemption.

"(c) ADVANCE PLANNING AND PREPARATION.—The Secretary may establish a product support arrangement, including an agreement for prepositioning or storage of materials, with a covered product support provider to enable a rapid response in a contingency operation (as defined in section 101(a) of title 10, United States Code) to the product support requirements of such contingency operation.

"(d) AUTHORITIES.—In carrying out the Program, the Secretary may, in accordance with section 3 of the Arms Export Control Act (22 U.S.C. 2753), use the authorities under sections 2342, 2474, 3601, 4021, and 4022 of title 10, United States Code.

"(e) REPORT.—Not later than 24 months after the date of the enactment of this Act [Dec. 22, 2023], the Secretary shall submit to Congress a report summarizing Program activities, including—

"(1) any recommendations to reduce impediments to meeting the requirements of a combatant command or covered nation for product support in a contested logistics environment;

"(2) a summary of impediments identified under subsection (b)(7) and specific recommendations for necessary changes to statutory, regulatory, policy, agency guidance, or current limitations on expenditure, transfer, or receipt of funds to carry out the product support activities under this pilot indefinitely;

"(3) a summary of waivers or exemptions identified under subsection (b)(8), along with any recommendations for changes to the processes for obtaining such waivers or exemptions; and

"(4) recommendations for improving the Program, including whether to extend or make the Program permanent.

"(f) DEVELOPMENT AND PROMULGATION OF DEPARTMENT OF DEFENSE GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue guidance implementing the Program.

"(g) SUNSET.—The authority under this section shall terminate December 31, 2030.

"(h) CONTESTED LOGISTICS EXERCISE REQUIREMENT.—Not later than September 30, 2027, and biannually thereafter until the termination date in subsection (g), the Secretary of Defense, in coordination with the senior official responsible for integration of global logistics (as designated in section 2229b of this title), shall incorporate the requirements of the Program into a joint exercise that focuses on the contested logistics environment.

"(i) DEFINITIONS.—In this section:

"(1) CONTESTED LOGISTICS ENVIRONMENT.—The term 'contested logistics environment' has the meaning given such term in section 2926 of title 10, United States Code.

"(2) COVERED NATIONS.—The term 'covered nation' means—

"(A) Australia;

"(B) Canada;

"(C) Japan;

"(D) New Zealand;

"(E) the Republic of Korea;

"(F) the United Kingdom of Great Britain and Northern Ireland; or

"(G) other nations as designated as a covered nation for the purposes of this Program by the Secretary.

"(3) COVERED PRODUCT SUPPORT PROVIDER.—The term 'covered product support provider' means—

"(A) a product support provider that includes an entity within the government of a covered nation;

"(B) a private sector product support provider; or

"(C) a product support integrator domiciled in the United States or a covered nation.

"(4) PRODUCT SUPPORT; PRODUCT SUPPORT INTEGRATOR; PRODUCT SUPPORT PROVIDER.—The terms 'product support', 'product support integrator', and 'product support provider' have the meanings given, respectively, in section 4324 of title 10, United States Code.

"(5) PRODUCT SUPPORT ARRANGEMENT.—

"(A) IN GENERAL.—The term 'product support arrangement' means a contract, task order, or any other type of agreement or arrangement, between the United States and a covered product support provider, for the performance of the functions described in subparagraph (B) with respect to—

"(i) a platform or information system operated by the United States and the covered nation of such covered product support provider; or

"(ii) a subsystem or components of such a platform or information system.

"(B) FUNCTIONS DESCRIBED.—The functions described in this subparagraph, with respect to a platform, information system, subsystem, or component described in subparagraph (A), are the following:

"(i) Performance-based logistics.

"(ii) Sustainment support.

"(iii) Contractor logistics support.

"(iv) Life-cycle product support.

"(v) Weapon system product support.

"(6) PROGRAM.—The term 'Program' means the demonstration and prototyping program established under subsection (a).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Defense."

**ACCEPTANCE OF REAL PROPERTY, SERVICES, AND COMMODITIES FROM FOREIGN COUNTRIES BY AGENCIES OF DEPARTMENT OF DEFENSE**

Pub. L. 101–165, title IX, §9008, Nov. 21, 1989, 103 Stat. 1130, which authorized agencies of Department of Defense to accept use of real property from foreign countries for United States in accordance with mutual defense agreements or occupational arrangements and to accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge and to use same for support of United States forces in such areas without specific appropriation therefor, was repealed and restated in section 2350g of this title by Pub. L. 101–510, div. A, title XIV, §1451(b)(1), (c), Nov. 5, 1990, 104 Stat. 1692, 1693.

**OVERSEAS WORKLOAD PROGRAM**

Pub. L. 101–510, div. A, title XIV, §1465, Nov. 5, 1990, 104 Stat. 1700, as amended by Pub. L. 102–190, div. A, title X, §1085, Dec. 5, 1991, 105 Stat. 1483; Pub. L. 102–484, div. A, title XIII, §1353, Oct. 23, 1992, 106 Stat. 2559, which related to eligibility of a firm of any member nation of North Atlantic Treaty Organization (NATO) or of any major non-NATO ally to bid on any contract for maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the Overseas Workload Program, was repealed and restated in section 2349 of this title by Pub. L. 103–160, div. A, title XIV, §1431(a)(1), (b)(1), Nov. 30, 1993, 107 Stat. 1832, 1833. Similar provisions were contained in the following authorization or appropriation acts:

Pub. L. 102–396, title IX, §9130, Oct. 6, 1992, 106 Stat. 1935, as amended by Pub. L. 103–160, div. A, title XIV, §1431(b)(2), Nov. 30, 1993, 107 Stat. 1833.

Pub. L. 102–172, title VIII, §8122, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101–511, title VIII, §8003, Nov. 5, 1990, 104 Stat. 1873.

Pub. L. 100–180, div. A, title X, §1021, Dec. 4, 1987, 101 Stat. 1143.

## §2342. Cross-servicing agreements

(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with any of the following:

(A) The government of a North Atlantic Treaty Organization country.

(B) A subsidiary body of the North Atlantic Treaty Organization.

(C) The United Nations Organization or any regional international organization.

(D) The government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

(2) An agreement referred to in paragraph (1) is an agreement under which the United States

agrees to provide logistic support, supplies, and services to military forces of a country or organization referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or organization to elements of the armed forces.

(b)(1) The Secretary of Defense may not designate a country for an agreement under this section unless—

(A) the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

(B) in the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary submits to the appropriate committees of Congress notice of the intended designation not less than 30 days before the date on which such country is designated by the Secretary under subsection (a).

(2) In the case of a country that is not a member of the North Atlantic Treaty Organization, the Secretary of Defense may not enter into an agreement under this section unless the Secretary submits to the appropriate committees of Congress a notice of intent to enter into such an agreement not less than 30 days before the date on which the Secretary enters into the agreement.

(c) The Secretary of Defense may not use the authority of this subchapter to procure from any foreign government or international organization any goods or services reasonably available from United States commercial sources.

(d) The Secretary of Defense may not use an agreement with any government or an organization described in subsection (a)(1) to facilitate the transfer of logistic support, supplies, and services to any country or organization with which the Secretary has not signed an agreement described in subsection (a)(2).

(e) An agreement described in subsection (a)(2) may not provide or otherwise constitute a commitment for the introduction of the armed forces into hostilities.

(f) Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall designate an existing senior civilian or military official who shall have primary responsibility for—

(1) accounting for logistic support, supplies, and services received or provided under acquisition and cross-servicing agreements;

(2) ensuring consistent standards and guidance to the armed forces and combatant commands in executing acquisition and cross-servicing agreements;

(3) overseeing and monitoring the implementation of acquisition and cross-servicing agreements in coordination with the Under Secretary of Defense for Policy; and

(4) such other responsibilities as may be prescribed by the Secretary.

(g)(1) Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, the Secretary of Defense shall prescribe regulations to ensure that—

(A) contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests;

(B) adequate processes and controls are in place to provide for the accurate accounting of logistic support, supplies, and services received or provided under the authority of this subchapter; and

(C) personnel responsible for accounting for logistic support, supplies, and services received or provided under such authority are fully trained and aware of such responsibilities.

(2)(A) Not later than 270 days after the issuance of the regulations under paragraph (1), the Comptroller General of the United States shall conduct a review of the implementation by the Secretary of such regulations.

(B) The review conducted under subparagraph (A) shall—

(i) assess the effectiveness of such regulations and the implementation of such regulations to ensure the effective management and oversight of an agreement under subsection (a)(1); and

(ii) include any other matter the Comptroller General considers relevant.

(h) Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on acquisition and cross-servicing activities that sets forth, in detail, the following:

(1) A list of agreements that have entered into force or were applied provisionally pursuant to subsection (a)(1) during the preceding fiscal year.

(2) The date on which each agreement listed under paragraph (1) was signed, and, in the case of an agreement with a country that is not a member of the North Atlantic Treaty Organization, the dates on which the Secretary notified Congress—

(A) pursuant to subsection (b)(1)(B) of the designation of such country under subsection (a); and

(B) pursuant to subsection (b)(2) of the intent of the Secretary to enter into the agreement.

(3) The class of supply, total dollar amount, the amount collected, and the outstanding balance of logistic support, supplies, and services provided during the preceding fiscal year under each such agreement.

(4) The class of supply, total dollar amount, the amount collected, and the outstanding balance of logistic support, supplies, and services received during the preceding fiscal year under each such agreement.

(5) With respect to any transaction for logistic support, supplies, and services that has not been reconciled more than one year after the date on which the transaction occurred, a description of the transaction that includes the following:

(A) The date on which the transaction occurred.

(B) The country or organization to which logistic support, supplies, and services were provided.

(C) The value of the transaction.

(6) An explanation of any waiver granted under section 2347(c) during the preceding fiscal year, including an identification of the relevant contingency operation or non-combat operation.

(i) In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1016, §2322; renumbered §2342 and amended Pub. L. 99–145, title XIII, §1304(a)(1), (4), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99–661, div. A, title XI, §1104(a), Nov. 14, 1986, 100 Stat. 3963; Pub. L. 100–180, div. A, title XII, §1231(9), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 101–510, div. A, title XIV, §1451(a), Nov. 5, 1990, 104 Stat. 1692; Pub. L. 103–337, div. A, title XIII, §1317(b), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 104–106, div. A, title XV, §1502(a)(16), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 109–163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 115–232, div. A, title XII, §1271, Aug. 13, 2018, 132 Stat. 2065; Pub. L. 116–92, div. A, title XII, §1203, Dec. 20, 2019, 133 Stat. 1620.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsecs. (f) and (g)(1), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

### AMENDMENTS

**2019**—Subsec. (b). Pub. L. 116–92, §1203(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary of Defense may not designate a country for an agreement under this section unless—

"(1) the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

"(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, the Secretary submits to the appropriate committees of Congress notice of the intended designation at least 30 days before the date on which such country is designated by the Secretary under subsection (a)."

Subsec. (f). Pub. L. 116–92, §1203(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116–92, §1203(b)(1), (c), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. read as follows: "The Secretary shall prescribe regulations to ensure that contracts entered into under this subchapter are free from self-dealing, bribery, and conflict of interests."

Subsec. (h). Pub. L. 116–92, §1203(b)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 116–92, §1203(d)(1), substituted "that have entered into force or were applied provisionally" for "in effect".

Subsec. (h)(2). Pub. L. 116–92, §1203(d)(2), substituted "dates on which the Secretary notified Congress—" and subpars. (A) and (B) for "date on which the Secretary notified Congress pursuant to subsection (b)(2) of the designation of such country under subsection (a)."

Subsec. (h)(3). Pub. L. 116–92, §1203(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The total dollar amount and major categories of logistic support, supplies, and services provided during the preceding fiscal year under each such agreement."

Subsec. (h)(4). Pub. L. 116–92, §1203(d)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The total dollar amount and major categories of reciprocal provisions of logistic support, supplies, and services received under each such agreement."

Subsec. (h)(5), (6). Pub. L. 116–92, §1203(d)(5), (6), added pars. (5) and (6) and struck out former par. (5) which read as follows: "With respect to the calendar year during which the report is submitted, an assessment of the following:

"(A) The anticipated logistic support, supplies, and services requirements of the United States.

"(B) The anticipated requirements of other countries for United States logistic support, supplies, and services."

Subsec. (i). Pub. L. 116–92, §1203(b)(1), redesignated subsec. (h) as (i).

**2018**—Subsec. (b)(2). Pub. L. 115–232, §1271(c)(1), substituted "the appropriate committees of Congress" for "the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives".

Subsecs. (d) to (f). Pub. L. 115–232, §1271(a), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

Subsec. (g). Pub. L. 115–232, §1271(b), added subsec. (g).

Subsec. (h). Pub. L. 115–232, §1271(c)(2), added subsec. (h).

**2006**—Subsec. (a)(1)(C). Pub. L. 109–163 struck out "of which the United States is a member" before period at end.

**1999**—Subsec. (b)(2). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b). Pub. L. 104–106 inserted "unless" after "section" in introductory provisions, struck out "unless" after "(1)" in par. (1), and substituted "the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation" for "notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives" in par. (2).

**1994**—Subsec. (a)(1). Pub. L. 103–337, §1317(b)(1), substituted "with any of the following:" for "with—" in introductory provisions, substituted "The government" for "the government" and a period for the semicolon in subpar. (A), substituted "A subsidiary" for "a subsidiary" and "Organization." for "Organization; or" in subpar. (B), added subpar. (C), redesignated former subpar. (C) as (D) and substituted "The government" for "the government".

Subsec. (a)(2). Pub. L. 103–337, §1317(b)(2), substituted "organization" for "subsidiary body" in two places.

Subsec. (c). Pub. L. 103–337, §1317(b)(3), substituted "or international organization" for "as a routine or

normal source".

**1990**—Subsec. (a). Pub. L. 101–510 amended subsec. (a) generally, revising and restating former pars. (1) to (3) relating to reciprocal logistical support agreements as pars. (1) and (2).

**1989**—Subsecs. (c), (d). Pub. L. 101–189 substituted "this subchapter" for "this chapter".

**1987**—Pub. L. 100–180 substituted "Cross-servicing" for "Cross servicing" in section catchline.

**1986**—Pub. L. 99–661 amended section generally, restating existing provisions in introductory text and par. (1) of subsec. (a), adding pars. (2) and (3) of subsec. (a), and adding subsecs. (b) to (d).

**1985**—Pub. L. 99–145 renumbered section 2322 of this title as this section and substituted "section 2343" for "section 2323".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

### CROSS SERVICING AGREEMENTS FOR LOAN OF PERSONNEL PROTECTION AND PERSONNEL SURVIVABILITY EQUIPMENT IN COALITION OPERATIONS

Pub. L. 113–291, div. A, title XII, §1207, Dec. 19, 2014, 128 Stat. 3539, as amended by Pub. L. 115–91, div. A, title X, §1051(t)(4), Dec. 12, 2017, 131 Stat. 1566; Pub. L. 116–92, div. A, title XII, §1202, Dec. 20, 2019, 133 Stat. 1620; Pub. L. 118–31, div. A, title XII, §1206, Dec. 22, 2023, 137 Stat. 448, provided that:

"(a) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, enter into an arrangement, under an agreement concluded pursuant to section 2342 of title 10, United States Code, under which the United States agrees to loan personnel protection and personnel survivability equipment for the use of such equipment by military forces of a nation participating in the following:

"(1) A coalition operation with the United States as part of a contingency operation.

"(2) A coalition operation with the United States as part of a peacekeeping operation under the Charter of the United Nations or another international agreement.

"(3) Training of such forces in connection with the deployment of such forces to be deployed to an operation described in paragraph (1) or (2).

"(b) LIMITATIONS.—

"(1) LOAN ONLY OF EQUIPMENT FOR WHICH U.S. FORCES HAVE NO UNFULFILLED REQUIREMENTS.—Equipment may be loaned to the military forces of a nation under the authority of this section only upon a determination by the Secretary of Defense that the United States forces in the coalition operation concerned have no unfulfilled requirements for such equipment.

"(2) SCOPE OF USE OF LOANED EQUIPMENT.—Equipment loaned to the military forces of a nation under the authority of this section may be used by those forces only for personnel protection or to aid in the personnel survivability of those forces and only in—

"(A) a coalition operation with the United States described in paragraph (1) or (2) of subsection (a); or

"(B) training described in paragraph (3) of subsection (a).

"(3) DURATION OF USE OF LOANED EQUIPMENT.—Equipment loaned to the military forces of a nation under the authority of this section may be used by the military forces of that nation not longer than the duration of that country's participation in the coalition operation concerned.

"(4) NOTICE AND WAIT ON LOAN OF EQUIPMENT FOR TRAINING.—Equipment may not be loaned under subsection (a) in connection with training described in paragraph (3) of that subsection until 15 days after the date on which the Secretary of Defense submits to the appropriate committees of Congress written notice on the loan of such equipment for such purpose.

"(c) WAIVER OF REIMBURSEMENT IN CASE OF LOSS OF EQUIPMENT IN COMBAT.—

"(1) IN GENERAL.—In the case of equipment loaned under the authority of this section that is damaged or destroyed as a result of combat operations during coalition operations while held by forces to which loaned under this section, the Secretary of Defense may, with respect to such equipment, waive any other requirement under applicable law for—

"(A) reimbursement;
"(B) replacement-in-kind; or
"(C) exchange of supplies or services of an equal value.
"(2) BASIS FOR WAIVER.—Any waiver under this subsection may be made only if the Secretary determines that the waiver is in the national security interest of the United States.
"(3) WAIVER ON A CASE-BY-CASE BASIS.—Any waiver under this subsection may be made only on a case-by-case basis.
"(d) REPORTS TO CONGRESS.—If the authority provided under this section is exercised during a fiscal year, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report on the exercise of such authority by not later than October 30 of the year in which such fiscal year ends. Each report on the exercise of such authority shall specify the recipient country of the equipment loaned, the type of equipment loaned, and the duration of the loan of such equipment.
"(e) DEFINITIONS.—In this section:
"(1) The term 'appropriate committees of Congress' means—
"(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and
"(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.
"(2) The term 'personnel protection and personnel survivability equipment' means items enumerated in categories I, II, III, VII, X, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)[)] that the Secretary of Defense designates as available for loan under this section.
"(f) EXPIRATION OF AUTHORITY.—The authority in subsection (a) shall expire on December 31, 2029."

## §2343. Waiver of applicability of certain laws

Sections 4651, 3201, 3351, 3352(a), 3352(c), 3701 through 3708, and 3841 of this title and section 6306 of title 41 shall not apply to acquisitions made under the authority of section 2341 of this title or to agreements entered into under section 2342 of this title.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2323; renumbered §2343 and amended Pub. L. 99–145, title IX, §961(b), title XIII, §1304(a)(1), (5), Nov. 8, 1985, 99 Stat. 703, 741; Pub. L. 100–26, §7(g)(2), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–456, div. A, title XII, §1233(d), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102–190, div. A, title X, §1061(a)(12), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103–337, div. A, title XIII, §1317(c)(1), (2)(A), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 111–350, §5(b)(20), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 116–283, div. A, title XVIII, §§1817(h), 1831(j)(3), 1862(c)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4188, 4216, 4278, 4294; Pub. L. 117–81, div. A, title XVII, §1701(b)(10)(I)(i), Dec. 27, 2021, 135 Stat. 2134.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1883(b)(2), substituted "3201" for "2304(a)".
Pub. L. 116–283, §1862(c)(1), substituted "Sections 4651," for "Sections 2207,".
Pub. L. 116–283, §1831(j)(3), as amended by Pub. L. 117–81, §1701(b)(10)(I)(i), substituted "3701 through 3708, and 3841" for "2306a, and 2313".
Pub. L. 116–283, §1817(h), substituted "3351, 3352(a), 3352(c)" for "2306(a), 2306(b), 2306(e)".
**2011**—Pub. L. 111–350 substituted "section 6306 of title 41" for "section 3741 of the Revised Statutes (41 U.S.C. 22)".
**1994**—Pub. L. 103–337, §1317(c)(2)(A), substituted "Waiver of applicability of certain laws" for "Law applicable to acquisition and cross-servicing agreements" as section catchline.
Pub. L. 103–337, §1317(c)(1), designated subsec. (b) as entire section and struck out former subsec. (a) which read as follows: "Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2341 of this title and agreements entered into under section 2342 of this title shall be

made in accordance with chapter 137 of this title and the provisions of this subchapter."

**1991**—Subsec. (b). Pub. L. 102–190 substituted "this title and" for "this title," and struck out ", and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168)" before "shall not apply".

**1989**—Subsec. (a). Pub. L. 101–189 substituted "this subchapter" for "this chapter".

**1988**—Subsec. (b). Pub. L. 100–456 struck out "section" before "2306a".

**1987**—Subsec. (b). Pub. L. 100–26 substituted "section 2306a," for "2306(f),".

**1985**—Pub. L. 99–145, §1304(a)(1), renumbered section 2323 of this title as this section.

Subsec. (a). Pub. L. 99–145, §1304(a)(5), substituted "section 2341" for "section 2321" and "section 2342" for "section 2322".

Subsec. (b). Pub. L. 99–145, §1304(a)(5), substituted "section 2341" for "section 2321" and "section 2342" for "section 2322".

Pub. L. 99–145, §961(b), substituted "section 2304(a)" for "section 2304(g)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title IX, §961(e), Nov. 8, 1985, 99 Stat. 704, provided that: "The amendments made by subsections (a) [amending section 2304 of this title and section 253 of Title 41, Public Contracts], (b) [amending this section], and (c) [amending section 759 of former Title 40, Public Buildings, Property, and Works] shall take effect as if included in the enactment of the Competition in Contracting Act of 1984 (title VII of division B of Public Law 98–369) [see Effective Date of 1984 Amendment note set out under section 4751 of this title]."

## §2344. Methods of payment for acquisitions and transfers by the United States

(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this subchapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an equal value.

(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country or other foreign country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization under this subchapter.

(c) In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2324; amended Pub. L. 97–22, §11(a)(8), July 10, 1981, 95 Stat. 138; renumbered §2344, Pub. L. 99–145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99–661, div. A, title XI, §1104(b), Nov. 14, 1986, 100 Stat. 3964; Pub. L. 101–189, div. A, title IX, §§931(e)(1), 938(a), (b), Nov. 29, 1989, 103 Stat. 1535, 1539; Pub. L. 102–25, title VII, §701(f)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103–337, div. A, title XIII, §1317(d), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 109–163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(2)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (c)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

### AMENDMENTS

**2006**—Subsec. (b)(4). Pub. L. 109–163 struck out "of which the United States is a member" before "under this subchapter".

**1994**—Subsec. (b)(4). Pub. L. 103–337 inserted "and the United Nations Organization or any regional international organization of which the United States is a member" after "subsidiary bodies".

**1991**—Subsec. (c). Pub. L. 102–25 substituted "subchapter" for "chapter" in introductory provisions.
**1989**—Subsec. (a). Pub. L. 101–189, §§931(e)(1), 938(a), substituted "equal value" for "identical or substantially identical nature" and "this subchapter" for "this chapter".
Subsec. (b)(2)(B), (4). Pub. L. 101–189, §931(e)(1), substituted "this subchapter" for "this chapter".
Subsec. (c). Pub. L. 101–189, §938(b), added subsec. (c).
**1986**—Subsec. (b)(1), (3). Pub. L. 99–661 inserted "or other foreign country" after "country".
**1985**—Pub. L. 99–145 renumbered section 2324 of this title as this section.
**1981**—Subsec. (b)(2)(B). Pub. L. 97–22 substituted "this chapter" for "this Act".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

## §2345. Liquidation of accrued credits and liabilities

(a) Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter shall be liquidated not less often than once every 12 months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this subchapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

(c)(1) Any credits of the United States accrued as a result of the provision of logistic support, supplies, and services under the authority of this subchapter that remain unliquidated more than 18 months after the date of delivery of the logistic support, supplies, or services may, at the option of the Secretary of Defense, with the concurrence of the Secretary of State, be liquidated by offsetting the credits against any amount owed by the Department of Defense, pursuant to a transaction or transactions concluded under the authority of this subchapter, to the government or international organization to which the logistic support, supplies, or services were provided by the United States.

(2) The amount of any credits offset pursuant to paragraph (1) shall be credited as specified in section 2346 of this title as if it were a receipt of the United States.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2325; renumbered §2345, Pub. L. 99–145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99–661, div. A, title XI, §1104(c), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103–337, div. A, title XIII, §1317(e), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 114–328, div. A, title X, §1083(a), Dec. 23, 2016, 130 Stat. 2420.)

### EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (c). Pub. L. 114–328 added subsec. (c).
**1994**—Subsec. (a). Pub. L. 103–337 substituted "12 months" for "three months".
**1989**—Subsecs. (a), (b). Pub. L. 101–189 substituted "this subchapter" for "this chapter".
**1986**—Pub. L. 99–661 designated existing provisions as subsec. (a) and added subsec. (b).
**1985**—Pub. L. 99–145 renumbered section 2325 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title X, §1083(b), Dec. 23, 2016, 130 Stat. 2420, provided that: "Subsection (c) of

section 2345 of title 10, United States Code, as added by subsection (a), shall apply with respect to credits accrued by the United States that—

"(1) were accrued prior to, and remain unpaid as of, the date of the enactment of this Act [Dec. 23, 2016]; or

"(2) are accrued after the date of the enactment of this Act."

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

## §2346. Crediting of receipts

Any receipt of the United States as a result of an agreement entered into under this subchapter shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2326; renumbered §2346, Pub. L. 99–145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103–337, div. A, title XIII, §1317(f), Oct. 5, 1994, 108 Stat. 2900.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 substituted "shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made" for "shall be credited to applicable appropriations, accounts, and funds of the Department of Defense".

**1989**—Pub. L. 101–189 substituted "this subchapter" for "this chapter".

**1985**—Pub. L. 99–145 renumbered section 2326 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

## §2347. Limitation on amounts that may be obligated or accrued by the United States

(a)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $200,000,000 in any fiscal year, and of such amount not more than $50,000,000 in liabilities may be accrued for the acquisition of supplies.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing

agreements, may not exceed $60,000,000 in any fiscal year, and of such amount not more than $20,000,000 in liabilities may be accrued for the acquisition of supplies. The $60,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(b)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $150,000,000 in any fiscal year.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable credits that the United States may accrue under this subchapter (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements may not exceed $75,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.

(d) The amount of any sale, purchase, or exchange of petroleum, oils, or lubricants by the United States under this subchapter in any fiscal year shall be excluded in any computation for the purposes of subsection (a) or (b) of the amount of reimbursable liabilities or reimbursable credits that the United States accrues under this subchapter in that fiscal year.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2327; renumbered §2347, Pub. L. 99–145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99–661, div. A, title XI, §1104(d), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100–456, div. A, title X, §1001, Sept. 29, 1988, 102 Stat. 2037; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102–484, div. A, title XIII, §1312(b), Oct. 23, 1992, 106 Stat. 2547; Pub. L. 103–35, title II, §202(a)(10), May 31, 1993, 107 Stat. 101; Pub. L. 103–337, div. A, title XIII, §1317(g), Oct. 5, 1994, 108 Stat. 2901; Pub. L. 109–364, div. A, title XII, §1221(a), Oct. 17, 2006, 120 Stat. 2423.)

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (a)(1), (2). Pub. L. 109–364, §1221(a)(1), struck out "(other than petroleum, oils, and lubricants)" after "supplies".

Subsec. (d). Pub. L. 109–364, §1221(a)(2), added subsec. (d).

**1994**—Subsec. (a)(1). Pub. L. 103–337, §1317(g)(1), substituted "Organization, subsidiary" for "Organization and subsidiary", inserted ", or from the United Nations Organization or any regional international organization of which the United States is a member" after "Treaty Organization", and substituted "$200,000,000" for "$150,000,000" and "$50,000,000" for "$25,000,000".

Subsec. (a)(2). Pub. L. 103–337, §1317(g)(2), substituted "$60,000,000" for "$10,000,000" in two places and "$20,000,000" for "$2,500,000".

Subsec. (b)(1). Pub. L. 103–337, §1317(g)(3), substituted "Organization, subsidiary" for "Organization and subsidiary", inserted ", or from the United Nations Organization or any regional international organization of which the United States is a member" after "Treaty Organization", and substituted "$150,000,000" for "$100,000,000".

Subsec. (b)(2). Pub. L. 103–337, §1317(g)(4), substituted "$75,000,000" for "$10,000,000".

Subsec. (c). Pub. L. 103–337, §1317(g)(5), added subsec. (c).

**1993**—Subsec. (b)(2). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484, §1312(b)(4)(B). See 1992 Amendment note below.

**1992**—Subsec. (a)(1). Pub. L. 102–484, §1312(b)(1), substituted "armed forces" for "North Atlantic Treaty Organization" and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting

balances)".

Subsec. (a)(2). Pub. L. 102–484, §1312(b)(2), substituted "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with" for "in the military region affecting" and struck out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country" after "cross-servicing agreements,".

Subsec. (b)(1). Pub. L. 102–484, §1312(b)(3), substituted "armed forces" for "North Atlantic Treaty Organization" and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)".

Subsec. (b)(2). Pub. L. 102–484, §1312(b)(4)(A), substituted "involving the armed forces" for "in the military region affecting a country referred to in paragraph (1)".

Pub. L. 102–484, §1312(b)(4)(B), as amended by Pub. L. 103–35, substituted "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements" for "from such country (before computation of offsetting balances)".

**1989**—Pub. L. 101–189 substituted "this subchapter" for "this chapter" wherever appearing.

**1988**—Subsec. (a)(1). Pub. L. 100–456 substituted "$150,000,000" for "$100,000,000".

**1986**—Subsec. (a). Pub. L. 99–661, §1104(d)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 99–661, §1104(d)(2), designated existing provisions as par. (1) and added par. (2).

**1985**—Pub. L. 99–145 renumbered section 2327 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title XII, §1221(b), Oct. 17, 2006, 120 Stat. 2423, provided that: "The amendments made by subsection (a) [amending this section] shall take effect beginning with fiscal year 2007."

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 effective Oct. 23, 1992, and applicable to acquisitions of logistics support, supplies, and services under this chapter that are initiated on or after Oct. 23, 1992, see section 1312(c) of Pub. L. 102–484, set out as a note under section 2341 of this title.

## §2348. Inventories of supplies not to be increased

Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this subchapter.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2328; amended Pub. L. 97–22, §11(a)(8), July 10, 1981, 95 Stat. 138; renumbered §2348, Pub. L. 99–145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99–661, div. A, title XI, §1104(e), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535.)

### EDITORIAL NOTES

#### AMENDMENTS

**1989**—Pub. L. 101–189 substituted "this subchapter" for "this chapter".
**1986**—Pub. L. 99–661 struck out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body" after "chapter".
**1985**—Pub. L. 99–145 renumbered section 2328 of this title as this section.
**1981**—Pub. L. 97–22 substituted "this chapter" for "this Act".

## §2349. Overseas Workload Program

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense located outside the United States to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE OF PERFORMANCE.—A contract awarded to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the armed forces; or
(2) would violate the terms of an international agreement to which the United States is a party.

(d) DEFINITION.—In this section, the term "major non-NATO ally" has the meaning given that term in section 2350a(i)(2) of this title.

(Added Pub. L. 103–160, div. A, title XIV, §1431(a)(1), Nov. 30, 1993, 107 Stat. 1832; amended Pub. L. 108–375, div. A, title X, §1084(d)(18), Oct. 28, 2004, 118 Stat. 2062.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2349, added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2330; renumbered §2349, Pub. L. 99–145, title XIII, §1304(a)(3), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535, directed Secretary of Defense to submit a report to Congress annually relating to agreements under this chapter, prior to repeal by Pub. L. 101–510, §1301(11).

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title XIV, §1465, Nov. 5, 1990, 104 Stat. 1700, as amended, which was set out as a note under section 2341 of this title, prior to repeal by Pub. L. 103–160, §1431(b)(1). Other prior similar provisions, formerly set out under section 2341 of this title, were contained in the following authorization or appropriation acts:

Pub. L. 102–396, title IX, §9130, Oct. 6, 1992, 106 Stat. 1935, as amended by Pub. L. 103–160, div. A, title XIV, §1431(b)(2), Nov. 30, 1993, 107 Stat. 1833.
Pub. L. 102–172, title VIII, §8122, Nov. 26, 1991, 105 Stat. 1205.
Pub. L. 101–511, title VIII, §8003, Nov. 5, 1990, 104 Stat. 1873.
Pub. L. 100–180, div. A, title X, §1021, Dec. 4, 1987, 101 Stat. 1143.

### AMENDMENTS

**2004**—Subsec. (d). Pub. L. 108–375 substituted "section 2350a(i)(2)" for "section 2350a(i)(3)".

## [§2349a. Repealed. Pub. L. 112–239, div. A, title X, §1076(g)(3), Jan. 2, 2013, 126 Stat. 1955]

Section, added Pub. L. 103–337, div. A, title XIII, §1317(i)(1), Oct. 5, 1994, 108 Stat. 2902, required annual report from 1996 to 2000 regarding non-NATO cross-servicing and acquisition actions.

## §2350. Definitions

In this subchapter:

(1) The term "logistic support, supplies, and services" means food, billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. Such term includes temporary use of general purpose vehicles and other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated pursuant to section 38(a)(1) of the Arms Export Control Act.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" means—

(A) any organization within the meaning of the term "subsidiary bodies" in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.

(3) The term "military region" means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).

(4) The term "transfer" means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1019, §2331; renumbered §2350, Pub. L. 99–145, title XIII, §1304(a)(3), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99–661, div. A, title XI, §1104(f), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103–337, div. A, title XIII, §1317(h), Oct. 5, 1994, 108 Stat. 2901; Pub. L. 105–85, div. A, title XII, §1222, Nov. 18, 1997, 111 Stat. 1937.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 38(a)(1) of the Arms Export Control Act, referred to in par. (1), is classified to section 2778(a)(1) of Title 22, Foreign Relations and Intercourse.

### AMENDMENTS

**1997**—Par. (1). Pub. L. 105–85, in second sentence, substituted "other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated" for "other items of military equipment not designated as part of the United States Munitions List".

**1994**—Par. (1). Pub. L. 103–337, §1317(h)(1), inserted "(including airlift)" after "transportation", "calibration services," after "maintenance services,", and "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act." at end.

Par. (4). Pub. L. 103–337, §1317(h)(2), added par. (4).

**1989**—Pub. L. 101–189 substituted "this subchapter" for "this chapter" in introductory provisions.

**1987**—Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (1) and (3) and substituted lowercase letter.

**1986**—Par. (3). Pub. L. 99–661 added par. (3).

**1985**—Pub. L. 99–145 renumbered section 2331 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103–337, set out as a note under section 2341 of this title.

## SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

Sec.
2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.
2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment.
2350c. Cooperative military airlift agreements: allied countries.
2350d. Cooperative acquisition and logistics support agreements: NATO countries.
2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense.
2350f. Procurement of communications support and related supplies and services.
2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements.
2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories.
2350i. Foreign contributions for cooperative projects.
2350j. Burden sharing contributions by designated countries and regional organizations.
2350k. Relocation within host nation of elements of armed forces overseas.
2350*l*. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.
2350m. Participation in European program on multilateral exchange of surface transportation services.
2350n. North Atlantic Treaty Organization Joint Force Command.
2350*o*. Participation in programs relating to coordination or exchange of air refueling and air transportation services.
2350p. Reciprocal patient movement agreements.
2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program.
2350r. North Atlantic Treaty Organization Allied Special Operations Forces Command.
2350s. Authority to contribute to innovation fund.
2350t. Military medical cooperation arrangements among Five Eyes countries.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title VII, §715(a), Dec. 18, 2025, 139 Stat. 922, added item 2350t. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title X, §1051, title XIII, §1301(a)(1), Dec. 23, 2024, 138 Stat. 2061, 2110, added item 2350s and substituted "Allied Special Operations Forces Command" for "Special Operations Headquarters" in item 2350r. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title XII, §§1244(b)(1), 1271(b), Dec. 23, 2022, 136 Stat. 2845, 2860, substituted "acquisition and logistics support" for "logistic support" in item 2350d and added item 2350r. Amendment to item 2350d was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(29), title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 1921, 2154, redesignated item 2350m "Execution of projects under the North Atlantic Treaty Organization Security Investment Program" as 2350q and repealed Pub. L. 116–283, div. A, title XVIII, §1844(b)(2)(A), Jan. 1, 2021, 134 Stat. 4246, which had directed striking out item 2350l.

Pub. L. 116–283, div. A, title XII, §§1202(b), 1203(b), 1204(b), div. B, title XXV, §2503(b), Jan. 1, 2021,

134 Stat. 3910–3912, 4310, added items 2350m "Participation in European program on multilateral exchange of surface transportation services", 2350o, 2350p, and 2350m "Execution of projects under the North Atlantic Treaty Organization Security Investment Program".

**2019**—Pub. L. 116–92, div. A, title XII, §1249(b), Dec. 20, 2019, 133 Stat. 1664, added item 2350n.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(7), Dec. 23, 2016, 130 Stat. 2512, struck out item 2350m "Participation in multinational military centers of excellence".

**2008**—Pub. L. 110–417, [div. A], title XII, §1232(a)(2), Oct. 14, 2008, 122 Stat. 4639, added item 2350m.

**2001**—Pub. L. 107–107, div. A, title XII, §§1212(e)(2), 1213(b), Dec. 28, 2001, 115 Stat. 1250, 1251, substituted "Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries" for "Cooperative research and development projects: allied countries" in item 2350a and added item 2350*l*.

**1996**—Pub. L. 104–106, div. A, title XIII, §1332(a)(2), Feb. 10, 1996, 110 Stat. 484, added item 2350k.

**1993**—Pub. L. 103–160, div. A, title XIV, §1402(b), Nov. 30, 1993, 107 Stat. 1826, added item 2350j.

**1991**—Pub. L. 102–190, div. A, title X, §1047(b), Dec. 5, 1991, 105 Stat. 1468, added item 2350i.

Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, made clarifying amendment to directory language of Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693. See 1990 Amendment note below.

**1990**—Pub. L. 101–510, div. A, title XIV, §1452(a)(2), Nov. 5, 1990, 104 Stat. 1694, added item 2350h.

Pub. L. 101–510, div. A, title XIV, §1451(b)(2), Nov. 5, 1990, 104 Stat. 1693, as amended by Pub. L. 102–25, title VII, §704(a)(9), Apr. 6, 1991, 105 Stat. 119, added item 2350g.

## §2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries

(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—(1) The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more countries or organizations referred to in paragraph (2) for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

(A) The North Atlantic Treaty Organization.

(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.

(F) The European Union, including the European Defence Agency, the European Commission, and the Council of the European Union, and their suborganizations.

(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization or the common conventional defense capabilities of the United States and a country or organization referred to in subsection (a)(2).

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, or the Under Secretary of Defense for Research and Engineering.

(c) COST SHARING.—

(1) Except as provided in paragraph (2), each cooperative research and development project entered into under this section shall require sharing of the costs of the project (including the costs of claims) between the participants on an equitable basis.

(2) A cooperative research and development project may be entered into under this section under which costs are shared between the participants on an unequal basis if the Secretary of Defense, or an official specified in subsection (b)(2) to whom the Secretary delegates authority under this paragraph, makes a written determination that unequal cost sharing provides strategic value to the United States or another participant in the project.

(3) For purposes of this subsection, the term "cost" means the total value of cash and non-cash contributions.

(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of countries and organizations referred to in subsection (a)(2) in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A country or organization referred to in subsection (a)(2) may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making the contribution of that country or organization to a cooperative research and development program entered into with the United States under this section.

(e) COOPERATIVE OPPORTUNITIES.—(1) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project.

(2) A cooperative opportunities discussion referred to in paragraph (1) shall consider the following:

(A) Whether or not a project similar to the one under consideration by the Department of Defense is in development or production by any country or organization referred to in subsection (a)(2) or NATO organizations.

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more countries and organizations referred to in subsection (a)(2), an assessment as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

(D) A recommendation to the milestone decision authority as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more countries and organizations referred to in subsection (a)(2) or NATO organizations.

[(f) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(17), Nov. 24, 2003, 117 Stat. 1597.]

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Secretary of Defense should test covered equipment, munitions, and technologies to determine the ability of such covered equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of such covered equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire covered equipment, munitions, and technologies for the

purpose of conducting the testing described in that paragraph.

(3) The use of side-by-side testing under this subsection may be considered to be the use of competitive procedures for purposes of chapter 137 [1] of this title, when procuring items within 5 years after an initial determination that the items have been successfully tested and found to satisfy United States military requirements or to correct operational deficiencies.

(4) COVERED EQUIPMENT, MUNITIONS, AND TECHNOLOGIES DEFINED.—In this subsection, the term "covered equipment, munitions, and technologies" means—

(A) conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2); and

(B) conventional defense equipment, munitions, and technologies manufactured and developed domestically.

(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries to establish programs similar to the one provided for in this section.

(i) DEFINITIONS.—In this section:

(1) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more countries and organizations referred to in subsection (a)(2) under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2) The term "major non-NATO ally" means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(3) The term "NATO organization" means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

(Added Pub. L. 101–189, div. A, title IX, §931(a)(2), Nov. 29, 1989, 103 Stat. 1531; amended Pub. L. 101–510, div. A, title XIII, §1331(4), Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102–190, div. A, title X, §1053, Dec. 5, 1991, 105 Stat. 1471; Pub. L. 102–484, div. A, title VIII, §843(b)(1), Oct. 23, 1992, 106 Stat. 2469; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title XIII, §1301, Oct. 5, 1994, 108 Stat. 2888; Pub. L. 104–106, div. A, title XV, §1502(a)(17), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title IX, §911(a)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 717, 774; Pub. L. 107–107, div. A, title X, §1048(b)(2), title XII, §1212(a)–(e)(1), Dec. 28, 2001, 115 Stat. 1225, 1248–1250; Pub. L. 107–314, div. A, title X, §§1041(a)(9), 1062(f)(2), Dec. 2, 2002, 116 Stat. 2645, 2651; Pub. L. 108–136, div. A, title X, §1031(a)(17), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 110–181, div. A, title II, §237, title XII, §1251, Jan. 28, 2008, 122 Stat. 48, 401; Pub. L. 111–383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112–81, div. A, title VIII, §865, title X, §1061(14), Dec. 31, 2011, 125 Stat. 1526, 1583; Pub. L. 114–92, div. A, title VIII, §821(b)(1), Nov. 25, 2015, 129 Stat. 900; Pub. L. 114–328, div. A, title VIII, §827, Dec. 23, 2016, 130 Stat. 2280; Pub. L. 116–92, div. A, title IX, §902(54), Dec. 20, 2019, 133 Stat. 1549; Pub. L. 116–283, div. A, title II, §211, title VIII, §882, Jan. 1, 2021, 134 Stat. 3455, 3790; Pub. L. 117–263, div. A, title II, §211(a), Dec. 23, 2022, 136 Stat. 2466.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (g)(3), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

## PRIOR PROVISIONS

Provisions relating to NATO countries were contained in Pub. L. 99–145, title XI, §1103, Nov. 8, 1985, 99 Stat. 712, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §931(d)(1).

Provisions relating to major non-NATO allies were contained in section 2767a of Title 22, Foreign Relations and Intercourse, prior to repeal by Pub. L. 101–189, §931(d)(2).

## AMENDMENTS

**2022**—Subsec. (a)(2)(F). Pub. L. 117–263 added subpar. (F).

**2021**—Subsec. (b)(2). Pub. L. 116–283, §211(1), substituted "or the Under Secretary" for "and the Under Secretary".

Subsec. (c). Pub. L. 116–283, §211(2), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), each cooperative" for "Each cooperative", and added pars. (2) and (3).

Subsec. (g)(1)(A). Pub. L. 116–283, §882(1)(A), substituted "covered equipment, munitions, and technologies" for "conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2)" and "such covered equipment, munitions, and technologies" for "such equipment, munitions, and technologies".

Subsec. (g)(1)(B). Pub. L. 116–283, §882(1)(B), inserted "such covered" before "equipment, munitions, and technologies".

Subsec. (g)(2). Pub. L. 116–283, §882(2), substituted "covered equipment, munitions, and technologies" for "equipment, munitions, and technologies of the type described in paragraph (1)".

Subsec. (g)(4). Pub. L. 116–283, §882(3), added par. (4).

**2019**—Subsec. (b)(2). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering".

**2016**—Subsec. (g)(3). Pub. L. 114–328 added par. (3).

**2015**—Subsec. (e). Pub. L. 114–92, §821(b)(1)(A), struck out "Document" after "Cooperative Opportunities" in heading.

Subsec. (e)(1). Pub. L. 114–92, §821(b)(1)(B), substituted "opportunities for such cooperative research and development shall be addressed in the acquisition strategy for the project" for "the Under Secretary of Defense for Acquisition, Technology, and Logistics shall prepare a cooperative opportunities document before the first milestone or decision point with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board".

Subsec. (e)(2). Pub. L. 114–92, §821(b)(1)(C)(i), substituted "discussion" for "document" and "consider" for "include" in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 114–92, §821(b)(1)(C)(ii), substituted "Whether" for "A statement indicating whether".

Subsec. (e)(2)(B). Pub. L. 114–92, §821(b)(1)(C)(iii), struck out "by the Under Secretary of Defense for Acquisition, Technology, and Logistics" after "an assessment" and "of the United States under consideration by the Department of Defense" after "of the project".

Subsec. (e)(2)(D). Pub. L. 114–92, §821(b)(1)(C)(iv), substituted "A recommendation to the milestone decision authority" for "The recommendation of the Under Secretary".

**2011**—Subsec. (b)(2). Pub. L. 112–81, §865, substituted ", the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering" for "and to one other official of the Department of Defense".

Subsec. (g)(3). Pub. L. 112–81, §1061(14), struck out par. (3) which read as follows: "The Assistant Secretary of Defense for Research and Engineering shall notify the congressional defense committees of the intent to obligate funds made available to carry out this subsection not less than 7 days before such funds are obligated."

Pub. L. 111–383 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

**2008**—Subsec. (e)(1). Pub. L. 110–181, §1251(1), struck out subpar. (A) designation before "In order to ensure", substituted "a cooperative opportunities document before the first milestone or decision point" for "an arms cooperation opportunities document", and struck out subpar. (B) which read as follows: "The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared."

Subsec. (e)(2). Pub. L. 110–181, §1251(2), substituted "A cooperative opportunities document" for "An

arms cooperation opportunities document" in introductory provisions.

Subsec. (g)(3). Pub. L. 110–181, §237, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated."

**2003**—Subsec. (f). Pub. L. 108–136 struck out subsec. (f) which required that, not later than Mar. 1 of each year, the Under Secretary of Defense for Acquisition, Technology, and Logistics was to submit to the Speaker of the House and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section, and that, not later than Jan. 1 of each year, the Secretary of Defense was to submit to the Committees on Armed Services and Foreign Relations of the Senate and Committees on Armed Services and International Relations of the House a report specifying the countries eligible to participate in a cooperative project agreement under this section and the criteria used to determine the eligibility of such countries.

**2002**—Subsec. (g)(1)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

Subsec. (g)(4). Pub. L. 107–314, §1041(a)(9), struck out par. (4) which read as follows: "The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—

"(A) the equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2) that were evaluated under this subsection during the previous fiscal year;

"(B) the obligation of any funds under this subsection during the previous fiscal year; and

"(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year."

Subsec. (g)(4)(A). Pub. L. 107–314, §1062(f)(2), amended directory language of Pub. L. 107–107, §1212(a)(5). See 2001 Amendment note below.

**2001**—Pub. L. 107–107, §1212(e)(1), substituted "Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries" for "Cooperative research and development projects: allied countries" in section catchline.

Subsec. (a)(1). Pub. L. 107–107, §1212(a)(1)(A), (B), designated existing provisions of subsec. (a) as par. (1) and substituted "countries or organizations referred to in paragraph (2)" for "major allies of the United States or NATO organizations".

Subsec. (a)(2). Pub. L. 107–107, §1212(a)(1)(C), added par. (2).

Subsec. (a)(3). Pub. L. 107–107, §1212(b), added par. (3).

Subsec. (b)(1). Pub. L. 107–107, §1212(a)(2), struck out "(NATO)" after "North Atlantic Treaty Organization" and substituted "a country or organization referred to in subsection (a)(2)" for "its major non-NATO allies".

Subsec. (b)(2). Pub. L. 107–107, §1212(c), substituted "Deputy Secretary of Defense and to one other official of the Department of Defense" for "Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (d)(1). Pub. L. 107–107, §1212(a)(3)(A), substituted "countries and organizations referred to in subsection (a)(2)" for "the major allies of the United States".

Subsec. (d)(2). Pub. L. 107–107, §1212(a)(3)(B), substituted "country or organization referred to in subsection (a)(2)" for "major ally of the United States" and "the contribution of that country or organization" for "that ally's contribution".

Subsec. (e)(1)(A). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (e)(2)(A). Pub. L. 107–107, §1212(a)(4)(A), substituted "any country or organization referred to in subsection (a)(2)" for "one or more of the major allies of the United States".

Subsec. (e)(2)(B). Pub. L. 107–107, §§1048(b)(2), 1212(a)(4)(B), substituted "countries and organizations referred to in subsection (a)(2)" for "major allies of the United States or NATO organizations" and "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (e)(2)(C). Pub. L. 107–107, §1212(a)(4)(C), substituted "countries and organizations referred to in subsection (a)(2)" for "major allies of the United States".

Subsec. (e)(2)(D). Pub. L. 107–107, §1212(a)(4)(D), substituted "countries and organizations referred to in subsection (a)(2)" for "major allies of the United States".

Subsec. (f)(1). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (f)(2). Pub. L. 107–107, §1212(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section."

Subsec. (g)(1)(A), (4)(A). Pub. L. 107–107, §1212(a)(5), as amended by Pub. L. 107–314, §1062(f)(2), substituted "countries referred to in subsection (a)(2)" for "major allies of the United States and other friendly foreign countries".

Subsec. (h). Pub. L. 107–107, §1212(a)(6), substituted "member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries" for "major allies of the United States".

Subsec. (i)(1). Pub. L. 107–107, §1212(a)(7)(A), substituted "countries and organizations referred to in subsection (a)(2)" for "major allies of the United States or NATO organizations".

Subsec. (i)(2) to (4). Pub. L. 107–107, §1212(a)(7)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "The term 'major ally of the United States' means—

"(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

"(B) a major non-NATO ally."

**1999**—Subsec. (b)(2). Pub. L. 106–65, §911(a)(1), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (f)(2). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (f)(2). Pub. L. 104–106 substituted "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives" for "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives".

**1994**—Subsecs. (a), (e)(2)(A) to (D), (i)(1). Pub. L. 103–337, §1301(a), inserted "or NATO organizations" after "major allies of the United States".

Subsec. (i)(4). Pub. L. 103–337, §1301(b), added par. (4).

**1993**—Subsecs. (b)(2), (e)(1)(A), (2)(B), (f)(1). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1992**—Subsec. (c). Pub. L. 102–484 inserted "(including the costs of claims)" after "the project".

**1991**—Subsec. (g)(1)(A), (4)(A). Pub. L. 102–190 inserted "and other friendly foreign countries" after "major allies of the United States".

**1990**—Subsec. (g)(4). Pub. L. 101–510 amended introductory provisions generally, substituting "submit to Congress each year, not later than March 1, a report containing" for "include in the annual report to Congress required by section 2457(d) of this title".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(2) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

### TERMINATION DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title VIII, §843(c), Oct. 23, 1992, 106 Stat. 2469, as amended by Pub. L. 103–35, title II, §202(a)(7), May 31, 1993, 107 Stat. 101, provided that, effective Oct. 23, 1994, subsections (a) and (b) of section 843 of Pub. L. 102–484 (amending sections 2350a and 2350d of this title and section 2767 of Title 22, Foreign Relations and Intercourse) were to cease to be in effect, and section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) and sections 2350a(c) and 2350d(c) of this title were to read as if such subsections had not been enacted, prior to repeal by Pub. L. 103–337, div. A, title XIII, §1318, Oct. 5, 1994, 108 Stat. 2902.

## CONFORMING REGULATIONS

Pub. L. 117–263, div. A, title II, §211(c), Dec. 23, 2022, 136 Stat. 2466, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to conform with section 2350a of title 10, United States Code, as amended by subsection (a)."

## AGREEMENTS WITH FOREIGN GOVERNMENTS TO DEVELOP LAND-BASED WATER RESOURCES IN SUPPORT OF AND IN PREPARATION FOR CONTINGENCY OPERATIONS

Pub. L. 114–328, div. A, title XII, §1291, Dec. 23, 2016, 130 Stat. 2558, provided that:

"(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to enter into agreements with the governments of foreign countries to develop land-based water resources in support of and in preparation for contingency operations, including water selection, pumping, purification, storage, distribution, cooling, consumption, water reuse, water source intelligence, research and development, training, acquisition of water support equipment, and water support operations.

"(b) NOTIFICATION REQUIRED.—Not later than 30 days after entering into an agreement under subsection (a), the Secretary of Defense shall notify the appropriate congressional committees of the existence of the agreement and provide a summary of the terms of the agreement.

"(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

## ADMINISTRATION OF THE AMERICAN, BRITISH, CANADIAN, AND AUSTRALIAN ARMIES' PROGRAM AND THE FIVE EYES AIR FORCE INTEROPERABILITY COUNCIL

Pub. L. 112–239, div. A, title XII, §1274, Jan. 2, 2013, 126 Stat. 2026, as amended by Pub. L. 115–91, div. A, title XII, §1274, Dec. 12, 2017, 131 Stat. 1697; Pub. L. 117–81, div. A, title XIII, §1321, Dec. 27, 2021, 135 Stat. 2002; Pub. L. 118–31, div. A, title XII, §1222, Dec. 22, 2023, 137 Stat. 453, provided that:

"(a) AUTHORITY.—As part of the participation by the United States in the land-force program known as the American, British, Canadian, and Australian Armies' Program or the air force [sic] program known as the Five Eyes Air Force Interoperability Council (in this section referred to as the 'Program'), the Secretary of Defense may, with the concurrence of the Secretary of State, enter into agreements with the other participating countries in accordance with this section, and the Program shall be managed pursuant to a joint agreement among the participating countries.

"(b) PARTICIPATING COUNTRIES.—In addition to the United States, the countries participating in the Program are the following:

"(1) Australia.

"(2) Canada.

"(3) New Zealand.

"(4) The United Kingdom.

"(c) CONTRIBUTIONS BY PARTICIPANTS.—

"(1) IN GENERAL.—An agreement under subsection (a) shall provide that—

"(A) the United States, as the host country for the Program, shall provide office facilities and related office equipment and supplies for the Program; and

"(B) each participating country shall contribute its equitable share of the remaining costs for the Program, including—

"(i) the agreed upon share of administrative costs related to the Program, except the costs for facilities and equipment and supplies described in subparagraph (A); and

"(ii) any amount allocated against the country for monetary claims as a result of participation in the Program, in accordance with the agreement.

"(2) EQUITABLE CONTRIBUTIONS.—The contributions, as allocated under paragraph (1) and set

forth in an agreement under subsection (a), shall be considered equitable for purposes of this subsection and section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)).

"(3) AUTHORIZED CONTRIBUTION.—An agreement under subsection (a) shall provide that each participating country may provide its contribution in funds, in personal property, in services required for the Program, or any combination thereof.

"(4) FUNDING FOR UNITED STATES CONTRIBUTION.—Any monetary contribution by the United States to the Program that is provided in funds shall be made from funds available to the Department of Defense for operation and maintenance.

"(5) CONTRIBUTIONS AND REIMBURSEMENTS FROM OTHER PARTICIPATING COUNTRIES.—

"(A) IN GENERAL.—The Secretary of Defense may accept from any other participating country a contribution or reimbursement of funds, personal property, or services made by the participating country in furtherance of the Program.

"(B) CREDIT TO APPROPRIATIONS.—Any contribution or reimbursement of funds received by the United States from any other participating country to meet that country's share of the costs of the Program shall be credited to the appropriations available to the appropriate military department, as determined by the Secretary of Defense.

"(C) TREATMENT OF PERSONAL PROPERTY.—Any contribution or reimbursement of personal property received under this paragraph may be—

"(i) retained and used by the Program in the form in which it was contributed;

"(ii) sold or otherwise disposed of in accordance with such terms, conditions, and procedures as the members of the Program consider appropriate, and any resulting proceeds shall be credited to appropriations of the appropriate military department, as described in subparagraph (B); or

"(iii) converted into a form usable by the Program.

"(D) USE OF CREDITED FUNDS.—

"(i) IN GENERAL.—Amounts credited under subparagraph (B) or (C)(ii) shall be—

"(I) merged with amounts in the appropriation concerned;

"(II) subject to the same conditions and limitations as amounts in such appropriation; and

"(III) available for payment of Program expenses described in clause (ii).

"(ii) PROGRAM EXPENSES DESCRIBED.—The Program expenses described in this clause include—

"(I) payments to contractors and other suppliers, including the Department of Defense and participating countries acting as suppliers, for necessary goods and services of the Program;

"(II) payments for any damages or costs resulting from the performance or cancellation of any contract or other obligation in support of the Program;

"(III) payments or reimbursements for other Program expenses; or

"(IV) refunds to other participating countries.

"(d) AUTHORITY TO CONTRACT FOR PROGRAM ACTIVITIES.—As part of the participation by the United States in the Program, the Secretary of Defense may enter into contracts or incur other obligations on behalf of the other participating countries for activities under the Program. Any payment for such a contract or other obligation under this subsection may be paid only from contributions credited to an appropriation under subsection (c)(4).

"(e) DISPOSAL OF PROPERTY.—As part of the participation by the United States in the Program, the Secretary of Defense may, with respect to any property that is jointly acquired by the countries participating in the Program, agree to the disposal of the property without regard to any law of the United States that is otherwise applicable to the disposal of property owned by the United States. Such disposal may include the transfer of the interest of the United States in the property to one or more of the other participating countries or the sale of the property. Reimbursement for the value of the property disposed of (including the value of the interest of the United States in the property) shall be made in accordance with an agreement under subsection (a).

"(f) REPORTS.—Not later than 60 days before the expiration date of any agreement under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities, costs, and accomplishments of the Program during the five-year period ending on the date of such report."

[1] *See References in Text note below.*

## §2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 [1] of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 [1] of this title, that specifically prescribes—

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in such a cooperative project or a NATO organization makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to

contracting.

(f) In carrying out a cooperative project, the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing the Secretary of Defense—

(1) to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including section 2631 of this title and section 55305 of title 46.

(Added Pub. L. 99–145, title XI, §1102(b)(1), Nov. 8, 1985, 99 Stat. 710, §2407; amended Pub. L. 99–661, div. A, title XI, §1103(b)(1), (2)(A), title XIII, §1343(a)(15), Nov. 14, 1986, 100 Stat. 3963, 3993; renumbered §2350b and amended Pub. L. 101–189, div. A, title IX, §931(b)(1), (e)(3), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 104–106, div. A, title XIII, §1335, div. D, title XLIII, §4321(b)(10), Feb. 10, 1996, 110 Stat. 484, 672; Pub. L. 108–375, div. A, title X, §1084(d)(19), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–304, §17(a)(3), Oct. 6, 2006, 120 Stat. 1706; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

The Arms Export Control Act, referred to in subsec. (c)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

Section 2304 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (l) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116–283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170.

### AMENDMENTS

**2021**—Subsec. (c)(1). Pub. L. 116–283, which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed in introductory provisions with respect to "section 2304", which was redesignated as multiple sections.

**2006**—Subsec. (g)(2). Pub. L. 109–304 substituted "section 55305 of title 46" for "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))".

**2004**—Subsec. (g). Pub. L. 108–375, §1084(d)(19)(A), inserted "the Secretary of Defense" after "authorizing" in introductory provisions.

Subsec. (g)(1). Pub. L. 108–375, §1084(d)(19)(B), struck out "the Secretary of Defense" before "to waive".

**1996**—Subsec. (c)(1). Pub. L. 104–106, §4321(b)(10)(A), inserted "prescribes" after "specifically" in introductory provisions and struck out "prescribe" before "procedures" in subpar. (A), before "terms" in subpar. (B), and before "requirements" in subpars. (C) and (D).

Subsec. (d)(1). Pub. L. 104–106, §4321(b)(10)(B), struck out "to" after "subcontract".

Subsec. (e)(1). Pub. L. 104–106, §1335(1), inserted "or a NATO organization" after "United States)".

Subsec. (e)(2). Pub. L. 104–106, §1335(2), substituted "such a cooperative project or a NATO organization" for "a cooperative project".

**1989**—Pub. L. 101–189 renumbered section 2407 of this title as this section and substituted "Cooperative projects under Arms Export Control Act: acquisition of defense equipment" for "Acquisition of defense equipment under cooperative projects" as section catchline.

**1986**—Pub. L. 99–661, §1103(b)(2)(A), struck out "North Atlantic Treaty Organization" before "cooperative projects" in section catchline.

Subsec. (a)(1). Pub. L. 99–661, §1103(b)(1)(A), struck out "North Atlantic Treaty Organization (NATO)" before "cooperative projects".

Subsec. (c)(2). Pub. L. 99–661, §1103(b)(1)(B), struck out "NATO" after "will significantly further".

Subsec. (e). Pub. L. 99–661, §1103(b)(1)(C), struck out "NATO" after "will significantly further" in par. (1) and after "United States) in a" in par. (2).

Subsec. (g)(2). Pub. L. 99–661, §1343(a)(15), substituted "section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))" for "the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

For effective date and applicability of amendment by section 4321(b)(10) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

[1] *See References in Text note below.*

## §2350c. Cooperative military airlift agreements: allied countries

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft

operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

(d) In this section:

(1) The term "allied country" means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia, New Zealand, Japan, and the Republic of Korea.

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" has the meaning given to it by section 2350 of this title.

(Added Pub. L. 97–252, title XI, §1125(a), Sept. 8, 1982, 96 Stat. 757, §2213; amended Pub. L. 99–145, title XIII, §1304(b), Nov. 8, 1985, 99 Stat. 742; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; renumbered §2350c and amended Pub. L. 101–189, div. A, title IX, §931(b)(2), (e)(4), Nov. 29, 1989, 103 Stat. 1534, 1535; Pub. L. 102–484, div. A, title XIII, §1311, Oct. 23, 1992, 106 Stat. 2547; Pub. L. 106–398, §1 [[div. A], title XII, §1222], Oct. 30, 2000, 114 Stat. 1654, 1654A–328.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act (22 U.S.C. 2751 et seq.), referred to in subsec. (a)(4), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### AMENDMENTS

**2000**—Subsecs. (d), (e). Pub. L. 106–398 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "Notwithstanding subchapter I, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section."

**1992**—Subsec. (a)(2). Pub. L. 102–484, §1311(a), substituted "as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months." for "not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation."

Subsec. (e)(1)(B). Pub. L. 102–484, §1311(b), substituted ", New Zealand, Japan, and the Republic of Korea" for "or New Zealand".

**1989**—Pub. L. 101–189 renumbered section 2213 of this title as this section and inserted ": allied countries" after "airlift agreements" in section catchline.

Subsec. (d). Pub. L. 101–189, §931(b)(2), substituted "subchapter I" for "chapter 138 of this title".

**1987**—Subsec. (e). Pub. L. 100–26 inserted "The term" after each par. designation and substituted "allied" for "Allied" in par. (1).

**1985**—Subsec. (e)(2). Pub. L. 99–145 substituted "section 2350" for "section 2331".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPARTMENT OF DEFENSE PARTICIPATION IN EUROPEAN PROGRAM ON MULTILATERAL EXCHANGE OF AIR TRANSPORTATION AND AIR REFUELING SERVICES

Pub. L. 112–239, div. A, title XII, §1276, Jan. 2, 2013, 126 Stat. 2029, as amended by Pub. L. 115–91, div. A, title X, §1051(r)(9), Dec. 12, 2017, 131 Stat. 1565, which related to participation of the United States in the Air Transport, Air-to-Air Refueling and other Exchanges of Services (ATARES) program of the Movement Coordination Centre Europe, was repealed by Pub. L. 116–283, div. A, title XII, §1203(c), Jan. 1, 2021, 134 Stat. 3911. See section 2350o of this title.

### DEPARTMENT OF DEFENSE PARTICIPATION IN STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP

Pub. L. 110–181, div. A, title X, §1032, Jan. 28, 2008, 122 Stat. 306, provided that:

"(a) AUTHORITY TO PARTICIPATE IN PARTNERSHIP.—

"(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense may enter into a multilateral memorandum of understanding authorizing the Strategic Airlift Capability Partnership to conduct activities necessary to accomplish its purpose, including—

"(A) the acquisition, equipping, ownership, and operation of strategic airlift aircraft; and

"(B) the acquisition or transfer of airlift and airlift-related services and supplies among members of the Strategic Airlift Capability Partnership, or between the Partnership and non-member countries or international organizations, on a reimbursable basis or by replacement-in-kind or exchange of airlift or airlift-related services of an equal value.

"(2) PAYMENTS.—From funds available to the Department of Defense for such purpose, the Secretary of Defense may pay the United States equitable share of the recurring and non-recurring costs of the activities and operations of the Strategic Airlift Capability Partnership, including costs associated with procurement of aircraft components and spare parts, maintenance, facilities, and training, and the costs of claims.

"(b) AUTHORITIES UNDER PARTNERSHIP.—In carrying out the memorandum of understanding entered into under subsection (a), the Secretary of Defense may do the following:

"(1) Waive reimbursement of the United States for the cost of the following functions performed by Department of Defense personnel with respect to the Strategic Airlift Capability Partnership:

"(A) Auditing.

"(B) Quality assurance.

"(C) Inspection.

"(D) Contract administration.

"(E) Acceptance testing.

"(F) Certification services.

"(G) Planning, programming, and management services.

"(2) Waive the imposition of any surcharge for administrative services provided by the United States that would otherwise be chargeable against the Strategic Airlift Capability Partnership.

"(3) Pay the salaries, travel, lodging, and subsistence expenses of Department of Defense personnel assigned for duty to the Strategic Airlift Capability Partnership without seeking reimbursement or cost-sharing for such expenses.

"(c) CREDITING OF RECEIPTS.—Any amount received by the United States in carrying out the memorandum of understanding entered into under subsection (a) shall be credited, as elected by the Secretary of Defense, to the following:

"(1) The appropriation, fund, or account used in incurring the obligation for which such amount is received.

"(2) An appropriation, fund, or account currently providing funds for the purposes for which such obligation was made.

"(d) AUTHORITY TO TRANSFER AIRCRAFT.—

"(1) TRANSFER AUTHORITY.—The Secretary of Defense may transfer one strategic airlift aircraft to the Strategic Airlift Capability Partnership in accordance with the terms and conditions of the memorandum of understanding entered into under subsection (a).

"(2) REPORT.—Not later than 30 days before the date on which the Secretary transfers a strategic airlift aircraft under paragraph (1), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a

report on the strategic airlift aircraft to be transferred, including the type of strategic airlift aircraft to be transferred and the tail registration or serial number of such aircraft.

"(e) STRATEGIC AIRLIFT CAPABILITY PARTNERSHIP DEFINED.—In this section the term 'Strategic Airlift Capability Partnership' means the strategic airlift capability consortium established by the United States and other participating countries."

## §2350d. Cooperative acquisition and logistics support agreements: NATO countries

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Support or Procurement Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Support and Procurement Organization and its executive agencies. Any such agreement shall be for the purpose of providing cooperative acquisition and logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

(A) shall be entered into pursuant to the terms of the charter of the NATO Support and Procurement Organization and its executive agencies; and

(B) shall provide for the common acquisition and logistics support of activities common to the participating countries.

(2) Such an agreement may provide for—

(A) the transfer of logistics support, supplies, and services by the United States to the NATO Support and Procurement Organization and its executive agencies; and

(B) the acquisition of armaments and logistics support, supplies, and services by the United States from that Organization.

(b) AUTHORITY OF SECRETARY.—Under the terms of a Support or Procurement Partnership Agreement or Arrangement, the Secretary of Defense—

(1) may agree that the NATO Support and Procurement Organization and its executive agencies may enter into contracts for supply, services, support, and acquisition, including armaments for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply, services, support, and acquisition are appropriate; and

(2) may share the costs of set-up charges of facilities for use by the NATO Support and Procurement Organization and its executive agencies to provide cooperative acquisition and logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Support and Procurement Organization and its executive agencies to provide cooperative acquisition and logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Support or Procurement Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs and costs of claims incident to the agreement.

(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137 [1] of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Support or Procurement Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Support and Procurement Organization and its executive agencies for the purposes of a Support or Procurement Partnership Agreement shall be carried out in accordance with this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.

(Added and amended Pub. L. 101–189, div. A, title IX, §§931(c), 938(c), Nov. 29, 1989, 103 Stat. 1534, 1539; Pub. L. 102–484, div. A, title VIII, §843(b)(2), Oct. 23, 1992, 106 Stat. 2469; Pub. L. 113–66, div. A, title XII, §1250(a), Dec. 26, 2013, 127 Stat. 926; Pub. L. 115–232, div. A, title XII, §1279(a), Aug. 13, 2018, 132 Stat. 2072; Pub. L. 117–263, div. A, title XII, §1244(b), Dec. 23, 2022, 136 Stat. 2845.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

The Arms Export Control Act, referred to in subsec. (e), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 99–661, div. A, title XI, §1102, Nov. 14, 1986, 100 Stat. 3961, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §931(d)(2).

### AMENDMENTS

**2022**—Pub. L. 117–263, §1244(b)(1), substituted "acquisition and logistics support" for "logistic support" in section catchline.

Subsec. (a)(1). Pub. L. 117–263, §1244(b)(2)(A)(i), substituted "acquisition and logistics support" for "logistics support" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 117–263, §1244(b)(2)(A)(ii), substituted "acquisition and logistics support" for "logistic support".

Subsec. (a)(2)(B). Pub. L. 117–263, §1244(b)(2)(B), substituted "armaments and logistics support" for "logistics support".

Subsec. (b). Pub. L. 117–263, §1244(b)(3)(A), substituted "Partnership Agreement or Arrangement" for "Partnership Agreement" in introductory provisions.

Subsec. (b)(1). Pub. L. 117–263, §1244(b)(3)(B), substituted "supply, services, support, and acquisition, including armaments for requirements" for "supply and acquisition of logistics support in Europe for requirements" and "supply, services, support, and acquisition are appropriate" for "supply and acquisition are appropriate".

Subsec. (b)(2). Pub. L. 117–263, §1244(b)(3)(C), substituted "acquisition and logistics support" for "logistics support" in two places.

**2018**—Subsec. (a). Pub. L. 115–232, §1279(a)(1), substituted "NATO Support and Procurement Organization" for "NATO Support Organization" wherever appearing.

Subsec. (a)(1). Pub. L. 115–232, §1279(a)(3), substituted "Support or Procurement Partnership Agreements" for "Support Partnership Agreements" in introductory provisions.

Subsec. (b). Pub. L. 115–232, §1279(a)(1), (2), substituted "Support or Procurement Partnership Agreement" for "Support Partnership Agreement" in introductory provisions and "NATO Support and Procurement Organization" for "NATO Support Organization" wherever appearing.

Subsecs. (c), (d). Pub. L. 115–232, §1279(a)(2), substituted "Support or Procurement Partnership Agreement" for "Support Partnership Agreement".

Subsec. (e). Pub. L. 115–232, §1279(a)(1), (2), substituted "NATO Support and Procurement Organization" for "NATO Support Organization" and "Support or Procurement Partnership Agreement" for "Support Partnership Agreement".

**2013**—Subsec. (a)(1). Pub. L. 113–66, §1250(a)(1), (2)(A), in introductory provisions, substituted "Support Partnership Agreements" for "Weapon System Partnership Agreements" and "NATO Support Organization and its executive agencies" for "NATO Maintenance and Supply Organization".

Subsec. (a)(1)(A). Pub. L. 113–66, §1250(a)(1), substituted "NATO Support Organization and its executive agencies" for "NATO Maintenance and Supply Organization".

Subsec. (a)(1)(B). Pub. L. 113–66, §1250(a)(2)(B), substituted "activities" for "a specific weapon system".
Subsec. (a)(2)(A). Pub. L. 113–66, §1250(a)(1), substituted "NATO Support Organization and its executive agencies" for "NATO Maintenance and Supply Organization".
Subsec. (b). Pub. L. 113–66, §1250(a)(3), substituted "Support Partnership Agreement" for "Weapon System Partnership Agreement" in introductory provisions.
Pub. L. 113–66, §1250(a)(1), substituted "NATO Support Organization and its executive agencies" for "NATO Maintenance and Supply Organization" wherever appearing.
Subsecs. (c), (d). Pub. L. 113–66, §1250(a)(3), substituted "Support Partnership Agreement" for "Weapon System Partnership Agreement".
Subsec. (e). Pub. L. 113–66, §1250(a)(1), (3), substituted "NATO Support Organization and its executive agencies" for "NATO Maintenance and Supply Organization" and "Support Partnership Agreement" for "Weapon System Partnership Agreement".
**1992**—Subsec. (c). Pub. L. 102–484 inserted "and costs of claims" after "administrative costs".
**1989**—Subsec. (e). Pub. L. 101–189, §938(c), inserted "this chapter and" after "in accordance with".

[1] *See References in Text note below.*

## §2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) Auditing.
(B) Quality assurance.
(C) Codification.
(D) Inspection.
(E) Contract administration.
(F) Acceptance testing.
(G) Certification services.
(H) Planning, programming, and management services.

(2) Waive any surcharge for administrative services otherwise chargeable.

(3) In connection with that Program, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(c) DEFINITION.—In this section, the term "AWACS memorandum of understanding" means—

(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984;

(3) the Addendum to the Multilateral Memorandum of Understanding Between the North

Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme (dated December 6, 1978) relating to the modernization of the NATO Airborne Early Warning and Control (NAEW&C) System, dated December 7, 1990; and

(4) any other follow-on support agreement for the NATO E–3A Cooperative Programme.

(Added Pub. L. 101–189, div. A, title IX, §932(a)(1), Nov. 29, 1989, 103 Stat. 1536; amended Pub. L. 102–190, div. A, title X, §1051, Dec. 5, 1991, 105 Stat. 1470; Pub. L. 103–160, div. A, title XIV, §1413, Nov. 30, 1993, 107 Stat. 1829.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 97–86, title I, §103, Dec. 1, 1981, 95 Stat. 1100, as amended, which was set out as a note under section 2407 of this title, prior to repeal by Pub. L. 101–189, §932(b).

**AMENDMENTS**

**1993**—Subsec. (d). Pub. L. 103–160 struck out subsec. (d) which read as follows: "EXPIRATION.—The authority provided by this section expires on September 30, 1993."

**1991**—Subsec. (c)(3), (4). Pub. L. 102–190, §1051(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 102–190, §1051(2), substituted "1993" for "1991".

## §2350f. Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations, under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to the allied country or countries or allied international organization or allied international organizations, as the case may be, an equivalent value of communications support and related supplies and services. The term of an arrangement entered into under this subsection may not exceed five years.

(b)(1) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into.

(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.

(3) Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

[(c) Repealed. Pub. L. 107–314, div. A, title X, §1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.]

(d) In this section:

(1) The term "allied country" means—

(A) a country that is a member of the North Atlantic Treaty Organization;

(B) Australia, New Zealand, Japan, or the Republic of Korea; or

(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "allied international organization" means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(Added Pub. L. 98–525, title X, §1005(a), Oct. 19, 1984, 98 Stat. 2578, §2401a; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; renumbered §2350f and amended Pub. L. 101–189, div. A, title IX, §933(a)–(d), Nov. 29, 1989, 103 Stat. 1537; Pub. L. 101–510, div. A, title XIV, §1484(k)(8), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–314, div. A, title X, §1041(a)(10), Dec. 2, 2002, 116 Stat. 2645.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (c). Pub. L. 107–314 struck out subsec. (c) which read as follows: "The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of all documents evidencing an arrangement entered into under subsection (a) not later than 45 days after entering into such an arrangement."

**1999**—Subsec. (c). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (c). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1990**—Subsec. (d)(1)(A). Pub. L. 101–510 substituted a semicolon for ", or" at end.

**1989**—Pub. L. 101–189, §933(a), renumbered section 2401a of this title as this section.

Subsec. (a). Pub. L. 101–189, §933(b), substituted "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations" for "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)," and "the allied country or countries or allied international organization or allied international organizations, as the case may be," for "such country or NATO" and inserted "The term of an arrangement entered into under this subsection may not exceed five years."

Subsec. (b). Pub. L. 101–189, §933(c), designated first sentence as par. (1), inserted "Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into." after "supplies and services.", added par. (2), and designated second sentence as par. (3).

Subsec. (d). Pub. L. 101–189, §933(d)(1), (2), substituted "In this section:" and par. (1) for "In this section, the term 'allied country' means—" and redesignated former cls. (1) and (2) as cls. (A) and (B).

Subsec. (d)(1)(A). Pub. L. 101–189, §933(d)(3), which directed amendment of cl. (A) by substituting a semicolon for "; or" at end, could not be executed because "; or" did not appear.

Subsec. (d)(1)(B). Pub. L. 101–189, §933(d)(4), substituted "; or" for period at end.

Subsec. (d)(1)(C), (2). Pub. L. 101–189, §933(d)(5), added cl. (C) and par. (2).

**1987**—Subsec. (d). Pub. L. 100–26 inserted "the term" after "In this section,".

## §2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

(1) real property or the use of real property and services and supplies for the United States or for

the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

(b) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

(c) PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(Added Pub. L. 101–510, div. A, title XIV, §1451(b)(1), Nov. 5, 1990, 104 Stat. 1692; amended Pub. L. 103–160, div. A, title XI, §1105(a), Nov. 30, 1993, 107 Stat. 1749; Pub. L. 106–65, div. A, title X, §1032(a)(3), Oct. 5, 1999, 113 Stat. 751.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9008, Nov. 21, 1989, 103 Stat. 1130, which was set out as a note under section 2341 of this title, prior to repeal by Pub. L. 101–510, §1451(c).

**AMENDMENTS**

**1999**—Subsecs. (b) to (d). Pub. L. 106–65 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows:

"(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on property, services, and supplies accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property, services, and supplies having a value of more than $1,000,000.

"(2) In computing the value of any property, services, and supplies referred to in paragraph (1), the Secretary shall aggregate the value of—

"(A) similar items of property, services, and supplies accepted by the Secretary during the quarter concerned; and

"(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility."

**1993**—Subsec. (d). Pub. L. 103–160 substituted "Periodic Audits" for "Annual Audit" in heading and amended text generally. Prior to amendment, text read as follows: "The Comptroller General of the United States shall conduct an annual audit of property, services, and supplies accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress."

## §2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories

The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.

(Added Pub. L. 101–510, div. A, title XIV, §1452(a)(1), Nov. 5, 1990, 104 Stat. 1693.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR DESIGNATION OF OMBUDSMAN**

Pub. L. 101–510, div. A, title XIV, §1452(b), Nov. 5, 1990, 104 Stat. 1694, provided that the official required to be designated under this section was to be designated by the Secretary of Defense not later than 90 days after Nov. 5, 1990.

## §2350i. Foreign contributions for cooperative projects

(a) CREDITING OF CONTRIBUTIONS.—Whenever the United States participates in a cooperative project with a friendly foreign country or the North Atlantic Treaty Organization (NATO) on a cost-sharing basis, any contribution received by the United States from that foreign country or NATO to meet its share of the costs of the project may be credited to appropriations available to an appropriate military department or another appropriate organization within the Department of Defense, as determined by the Secretary of Defense.

(b) USE OF AMOUNTS CREDITED.—The amount of a contribution credited pursuant to subsection (a) to an appropriation account in connection with a cooperative project referred to in that subsection shall be available only for payment of the share of the project expenses allocated to the foreign country or NATO making the contribution. Payments for which such amount is available include the following:

(1) Payments to contractors and other suppliers (including the Department of Defense and other participants acting as suppliers) for necessary articles and services.

(2) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.

(3) Payments or reimbursements of other program expenses, including program office overhead and administrative costs.

(4) Refunds to other participants.

(c) DEFINITIONS.—In this section:

(1) The term "cooperative project" means a jointly managed arrangement, described in a written cooperative agreement entered into by the participants, that—

(A) is undertaken by the participants in order to improve the conventional defense capabilities of the participants; and

(B) provides for—

(i) one or more participants (other than the United States) to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of defense articles;

(ii) the United States and another participant concurrently to produce in the United States and the country of such other participant a defense article jointly developed in a cooperative project described in clause (i); or

(iii) the United States to procure a defense article or a defense service from another participant in the cooperative project.

(2) The term "defense article" has the meaning given such term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(3) The term "defense service" has the meaning given such term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794(4)).

(Added Pub. L. 102–190, div. A, title X, §1047(a), Dec. 5, 1991, 105 Stat. 1467.)

## §2350j. Burden sharing contributions by designated countries and regional

**organizations**

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State, for the purposes specified in subsection (c).

(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from another country or a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) AVAILABILITY OF CONTRIBUTIONS.—Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

(1) Compensation for local national employees of the Department of Defense in the host nation or another country.

(2) Military construction projects of the Department of Defense in the host nation or another country.

(3) Supplies and services of the Department of Defense in the host nation or another country.

(4) Other logistical and operational support for the armed forces in a deployed or rotational status in a country that is a member of the North Atlantic Treaty Organization.

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions placed in an account established under subsection (b) may be used—

(1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which the contributions were made and is not otherwise authorized by law; or

(2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military construction project under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report containing—

(A) an explanation of the need for the project;

(B) the then current estimate of the cost of the project; and

(C) a justification for carrying out the project under that subsection.

(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 14-day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project in an electronic medium pursuant to section 480 of this title.

(3)(A) A military construction project under subsection (d) may be carried out without regard to the requirement in paragraph (1) and the limitation in paragraph (2) if the project is necessary to support the armed forces in the country or region in which the project is carried out by reason of a declaration of war, or a declaration by the President of a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), that is in force at the time of the commencement of the project.

(B) When a decision is made to carry out a military construction project under subparagraph (A), the Secretary of Defense shall submit to the congressional defense committees—

(i) a notice of the decision; and

(ii) a statement of the current estimated cost of the project, including the cost of any real property transaction in connection with the project.

(f) REPORT ON CONTRIBUTIONS RECEIVED FROM DESIGNATED COUNTRIES.—

(1) IN GENERAL.—Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the burden sharing contributions received under this section from designated countries.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following for the preceding fiscal year:

(A) A list of all designated countries from which burden sharing contributions were received.

(B) An explanation of the purpose for which each such burden sharing contribution was provided.

(C) A description of any written agreement entered into with a designated country under this section, including the date on which the agreement was signed.

(D) For each designated country—

(i) the amount provided by the designated country; and

(ii) the amount of any remaining unobligated balance.

(E) The amount of such burden sharing contributions expended, by eligible category, including compensation for—

(i) local national employees;

(ii) military construction projects;

(iii) supplies and services of the Department of Defense; and

(iv) other logistical and operational support for the armed forces in a deployed or rotational status in a country that is a member of the North Atlantic Treaty Organization.

(F) Any other matter the Secretary of Defense considers relevant.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(g) OTHER LOGISTICAL AND OPERATIONAL SUPPORT FOR THE ARMED FORCES DEFINED.—In this section, the term "other logistical and operational support for the armed forces"—

(1) means the reasonable and proper costs of the armed forces for fuel, transportation, force protection (including cyber protection), training ammunition, utilities, and medical and maintenance services, including services required to maintain infrastructure, pre-positioned stocks, and equipment in good working order; and

(2) does not include pay, allowances, and other normal benefits to which members of the United States armed forces are entitled.

(Added Pub. L. 103–160, div. A, title XIV, §1402(a), Nov. 30, 1993, 107 Stat. 1825; amended Pub. L. 103–337, div. A, title X, §1070(a)(10), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XIII, §1331, Feb. 10, 1996, 110 Stat. 482; Pub. L. 106–65, div. A, title X, §1067(1), div. B, title XXVIII, §2801, Oct. 5, 1999, 113 Stat. 774, 845; Pub. L. 108–136, div. A, title X, §§1031(a)(18), 1043(b)(12), Nov. 24, 2003, 117 Stat. 1597, 1611; Pub. L. 115–91, div. A, title X, §1051(a)(15), div. B, title XXVIII, §2801(f), Dec. 12, 2017, 131 Stat. 1561, 1845; Pub. L. 116–283, div. A, title XII, §1299B, Jan. 1, 2021, 134 Stat. 3998; Pub. L. 119–60, div. A, title XII, §1246, Dec. 18, 2025, 139 Stat. 1105.)

**EDITORIAL NOTES**

## REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (e)(3), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

## CODIFICATION

Section, as added by Pub. L. 103–160, consists of text of Pub. L. 102–190, div. A, title X, §1045, Dec. 5, 1991, 105 Stat. 1465, as amended by Pub. L. 102–484, div. A, title XIII, §1305(a), (b), Oct. 23, 1992, 106 Stat. 2546, and revised by Pub. L. 103–160, in subsec. (a), by substituting "The Secretary" for "During fiscal years 1992 and 1993, the Secretary", inserting ", after consultation with the Secretary of State," after "Secretary of Defense", and substituting "from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State" for "from Japan, Kuwait, and the Republic of Korea", and in former subsec. (f), by substituting "each fiscal year" for "each quarter of fiscal years 1992 and 1993", "Congress" for "congressional defense committees", "each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)" for "Japan, Kuwait, and the Republic of Korea", and "the preceding fiscal year" for "the preceding quarter" in pars. (1) and (2).

## AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1246(1), inserted "another country or" before "a regional organization".

Subsec. (c)(1) to (3). Pub. L. 119–60, §1246(2)(A)–(C), inserted "in the host nation or another country" before period at end.

Subsec. (c)(4). Pub. L. 119–60, §1246(2)(D), added par. (4).

Subsec. (f)(2)(E). Pub. L. 119–60, §1246(3), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "The amount of such burden sharing contributions expended, by eligible category, including compensation for local national employees, military construction projects, and supplies and services of the Department of Defense."

Subsec. (g). Pub. L. 119–60, §1246(4), added subsec. (g).

**2021**—Subsec. (f). Pub. L. 116–283 added subsec. (f).

**2017**—Subsec. (e)(2). Pub. L. 115–91, §2801(f)(2), which directed striking out "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided", was executed by striking out "or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided" after "regarding the project", to reflect the probable intent of Congress.

Pub. L. 115–91, §2801(f)(1), substituted "14-day period" for "21-day period".

Subsec. (f). Pub. L. 115–91, §1051(a)(15), struck out subsec. (f). Text read as follows: "Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report specifying separately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)—

"(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

"(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended."

**2003**—Subsec. (e)(1). Pub. L. 108–136, §1043(b)(12)(A), substituted "congressional defense committees" for "congressional committees specified in subsection (g)" in introductory provisions.

Subsec. (e)(2). Pub. L. 108–136, §1031(a)(18), inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title".

Subsec. (e)(3)(B). Pub. L. 108–136, §1043(b)(12)(A), substituted "congressional defense committees" for "congressional committees specified in subsection (g)" in introductory provisions.

Subsec. (g). Pub. L. 108–136, §1043(b)(12)(B), struck out subsec. (g) which listed the congressional committees referred to in subsec. (e).

**1999**—Subsec. (e)(3). Pub. L. 106–65, §2801(a), added par. (3).

Subsec. (g). Pub. L. 106–65, §2801(b), substituted "subsection (e)" for "subsection (e)(1)" in introductory provisions.

Subsec. (g)(2). Pub. L. 106–65, §1067(1), substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (b). Pub. L. 104–106, §1331(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "CREDIT TO APPROPRIATIONS.—Contributions accepted in a fiscal year under subsection (a) shall be credited to appropriations of the Department of Defense that are available for that fiscal year for the purposes for which the contributions are made. The contributions so credited shall be—

"(1) merged with the appropriations to which they are credited; and

"(2) available for the same time period as those appropriations."

Subsec. (d). Pub. L. 104–106, §1331(b), substituted "placed in an account established under subsection (b)" for "credited under subsection (b) to an appropriation account of the Department of Defense".

Subsec. (e)(1). Pub. L. 104–106, §1331(c)(1), substituted "to the congressional committees specified in subsection (g) a report" for "a report to the congressional defense committees".

Subsec. (g). Pub. L. 104–106, §1331(c)(2), added subsec. (g).

**1994**—Subsec. (a). Pub. L. 103–337, §1070(a)(10)(A), inserted a comma after second reference to "Secretary of State".

Subsec. (f). Pub. L. 103–337, §1070(a)(10)(B), struck out "the" before "Congress" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### TEMPORARY AUTHORITY FOR ACCEPTANCE AND USE OF CONTRIBUTIONS FOR CERTAIN CONSTRUCTION, MAINTENANCE, AND REPAIR PROJECTS MUTUALLY BENEFICIAL TO THE DEPARTMENT OF DEFENSE AND KUWAIT MILITARY FORCES

Pub. L. 114–92, div. B, title XXVIII, §2804, Nov. 25, 2015, 129 Stat. 1170, as amended by Pub. L. 114–328, div. B, title XXVIII, §2807, Dec. 23, 2016, 130 Stat. 2715, provided that:

"(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from the government of Kuwait for the purpose of paying for the costs of construction (including military construction not otherwise authorized by law), maintenance, and repair projects mutually beneficial to the Department of Defense and Kuwait military forces.

"(b) ACCOUNTING.—Contributions accepted under subsection (a) shall be placed in an account established by the Secretary of Defense and shall remain available until expended as provided in such subsection.

"(c) PROHIBITION ON USE OF CONTRIBUTIONS TO OFFSET BURDEN SHARING CONTRIBUTIONS.—Contributions accepted under subsection (a) may not be used to offset any burden sharing contributions made by the government of Kuwait.

"(d) NOTICE.—When a decision is made to carry out a project using contributions accepted under subsection (a) and the estimated cost of the project will exceed the thresholds prescribed by section 2805 of title 10, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives written notice of decision, the justification for the project, and the estimated cost of the project.

"(e) MUTUALLY BENEFICIAL DEFINED.—A project described in subsection (a) shall be considered to be 'mutually beneficial' if—

"(1) the project is in support of a bilateral defense cooperation agreement between the United States and the government of Kuwait; or

"(2) the Secretary of Defense determines that the United States may derive a benefit from the project, including—

"(A) access to and use of facilities of the Kuwait military forces;

"(B) ability or capacity for future force posture; and

"(C) increased interoperability between the Department of Defense and Kuwait military forces.

"(f) EXPIRATION OF PROJECT AUTHORITY.—The authority to carry out projects under this section expires on September 30, 2030. The expiration of the authority does not prevent the continuation of any project commenced before that date."

## §2350k. Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept

contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(Added Pub. L. 104–106, div. A, title XIII, §1332(a)(1), Feb. 10, 1996, 110 Stat. 482; amended Pub. L. 107–314, div. A, title X, §1041(a)(11), Dec. 2, 2002, 116 Stat. 2645.)

## EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (d). Pub. L. 107–314 struck out heading and text of subsec. (d). Text read as follows: "Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

"(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

"(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 104–106, div. A, title XIII, §1332(b), Feb. 10, 1996, 110 Stat. 484, provided that: "Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date."

## §2350*l*. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party's officers, employees, or governmental agencies.

(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

(e) DEFINITIONS.—In this section:

(1) The term "direct cost", with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

(i) the use; or

(ii) the maintenance of the test facility for purposes of the use.

(2) The term "indirect cost", with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

(3) The term "test facility" means a range or other facility at which testing of defense equipment may be carried out.

(Added Pub. L. 107–107, div. A, title XII, §1213(a), Dec. 28, 2001, 115 Stat. 1250; amended Pub. L. 116–283, div. A, title XVIII, §1844(b)(1), Jan. 1, 2021, 134 Stat. 4245; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1844(b)(1), which directed the renumbering of this section as section 4145 of this title, was repealed by Pub. L. 117–81, §1701(u)(5)(B).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §2350m. Participation in European program on multilateral exchange of surface transportation services

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the participation of the Department of Defense in the Surface Exchange of Services program (in this section referred to as the "SEOS program") of the Movement Coordination Centre Europe.

(2) SCOPE OF PARTICIPATION.—Participation of the Department of Defense in the SEOS program under paragraph (1) may include—

(A) the reciprocal exchange or transfer of surface transportation on a reimbursable basis or by replacement-in-kind; and

(B) the exchange of surface transportation services of an equal value.

(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

(1) IN GENERAL.—Participation of the Department of Defense in the SEOS program shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the Movement Coordination Centre Europe.

(2) NOTIFICATION.—The Secretary of Defense shall provide to the congressional defense committees notification of any arrangement or agreement entered into under paragraph (1).

(3) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the SEOS program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost-sharing or other funding arrangement.

(4) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits or liability resulting from an unequal exchange or transfer of surface transportation services shall be liquidated through the SEOS program not less than once every five years.

(c) IMPLEMENTATION.—In carrying out any arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

(1) pay the equitable share of the Department of Defense for the operating expenses of the Movement Coordination Centre Europe and the SEOS program from funds available to the Department of Defense for operation and maintenance; and

(2) assign members of the armed forces or Department of Defense civilian personnel, within billets authorized for the United States European Command, to duty at the Movement Coordination Centre Europe as necessary to fulfill Department of Defense obligations under that

arrangement or agreement.

(d) CREDITING OF RECEIPTS.—Any amount received by the Department of Defense as part of the SEOS program shall be credited, at the option of the Secretary of Defense, to—

(1) the appropriation, fund, or account used in incurring the obligation for which such amount is received; or

(2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year in which the authority under this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense participation in the SEOS program during such fiscal year.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

(A) A description of the equitable share of the costs and activities of the SEOS program paid by the Department of Defense.

(B) A description of any amount received by the Department of Defense as part of such program, including the country from which the amount was received.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to authorize the use of foreign sealift in violation of section 2631.

(Added Pub. L. 116–283, div. A, title XII, §1202(a), Jan. 1, 2021, 134 Stat. 3908.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2350m was renumbered section 2350q of this title.

**PRIOR PROVISIONS**

A prior section 2350m was renumbered section 344 of this title.

## §2350n. North Atlantic Treaty Organization Joint Force Command

(a) AUTHORIZATION.—The Secretary of Defense shall authorize the establishment of, and the participation by members of the armed forces in, the North Atlantic Treaty Organization Joint Force Command (in this section referred to as the "Joint Force Command"), to be established in the United States.

(b) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—The Secretary may use facilities and equipment of the Department of Defense to support the Joint Force Command.

(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated to the Department of Defense shall be available to carry out the purposes of this section.

(Added Pub. L. 116–92, div. A, title XII, §1249(a), Dec. 20, 2019, 133 Stat. 1664.)

## §2350*o*. Participation in programs relating to coordination or exchange of air refueling and air transportation services

(a) PARTICIPATION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the participation of the Department of Defense in programs relating to the

coordination or exchange of air refueling and air transportation services, including in the arrangement known as the Air Transport and Air-to-Air Refueling and other Exchanges of Services program (in this section referred to as the "ATARES program").

(2) SCOPE OF PARTICIPATION.—Participation of the Department of Defense in programs referred to in paragraph (1) may include—

(A) the reciprocal exchange or transfer of air refueling and air transportation services on a reimbursable basis or by replacement-in-kind; and

(B) the exchange of air refueling and air transportation services of an equal value.

(3) LIMITATIONS WITH RESPECT TO PARTICIPATION IN ATARES PROGRAM.—

(A) IN GENERAL.—The Department of Defense balance of executed flight hours in participation in the ATARES program under paragraph (1), whether as credits or debits, may not exceed a total of 500 hours.

(B) AIR REFUELING.—The Department of Defense balance of executed flight hours for air refueling in participation in the ATARES program under paragraph (1) may not exceed 200 hours.

(b) WRITTEN ARRANGEMENT OR AGREEMENT.—Participation of the Department of Defense in a program referred to in subsection (a)(1) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State.

(c) IMPLEMENTATION.—In carrying out any arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

(1) pay the equitable share of the Department of Defense for the recurring and nonrecurring costs of the applicable program referred to in subsection (a)(1) from funds available to the Department for operation and maintenance; and

(2) assign members of the armed forces or Department of Defense civilian personnel to fulfill Department obligations under that arrangement or agreement.

(Added Pub. L. 116–283, div. A, title XII, §1203(a), Jan. 1, 2021, 134 Stat. 3910.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### AUTHORITY TO ESTABLISH A MOVEMENT COORDINATION CENTER PACIFIC IN THE INDO-PACIFIC REGION

Pub. L. 116–283, div. A, title X, §1061, Jan. 1, 2021, 134 Stat. 3858, provided that:

"(a) AUTHORITY TO ESTABLISH.—

"(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize—

"(A) the establishment of a Movement Coordination Center Pacific (in this section referred to as the 'Center'); and

"(B) the participation of the Department of Defense in an Air Transport and Air-to-Air refueling and other Exchanges of Services program (in this section referred to as the 'ATARES program') of the Center.

"(2) SCOPE OF PARTICIPATION.—Participation in the ATARES program under paragraph (1)(B) shall be limited to the reciprocal exchange or transfer of air transportation and air refueling services on a reimbursable basis or by replacement-in-kind or the exchange of air transportation or air refueling services of an equal value with foreign militaries.

"(3) LIMITATIONS.—The Department of Defense's balance of executed transportation hours, whether as credits or debits, in participation in the ATARES program under paragraph (1)(B) may not exceed 500 hours. The Department of Defense's balance of executed flight hours for air refueling in the ATARES program under paragraph (1)(B) may not exceed 200 hours.

"(b) WRITTEN ARRANGEMENT OR AGREEMENT.—

"(1) ARRANGEMENT OR AGREEMENT REQUIRED.—The participation of the Department of Defense in the ATARES program under subsection (a) shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State.

"(2) FUNDING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support the ATARES program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost-sharing or other funding arrangement.

"(3) OTHER ELEMENTS.—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits and liabilities resulting from an unequal exchange or transfer of air transportation or air refueling services shall be liquidated, not less than once every 5 years, through the ATARES program.

"(c) IMPLEMENTATION.—In carrying out any written arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

"(1) pay the Department of Defense's equitable share of the operating expenses of the Center and the ATARES program from funds available to the Department of Defense for operation and maintenance; and

"(2) assign members of the Armed Forces or Department of Defense civilian personnel, within billets authorized for the United States Indo-Pacific Command, to duty at the Center as necessary to fulfill the obligations of the Department of Defense under that arrangement or agreement."

## §2350p. Reciprocal patient movement agreements

(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary of Defense, with the concurrence of the Secretary of State, may enter into a bilateral or multilateral memorandum of understanding or other formal agreement with one or more governments of partner countries that provides for—

(1) the interchangeable, nonreimbursable use of patient movement personnel, either individually or as members of a patient movement crew or team, and equipment, belonging to one partner country to perform patient movement services aboard the aircraft, vessels, or vehicles of another partner country;

(2) the reciprocal recognition and acceptance of —

(A) national professional credentials, certifications, and licenses of patient movement personnel; and

(B) national certifications, approvals, and licenses of equipment used in the provision of patient movement services; and

(3) the acceptance of agreed-upon standards for the provision of patient movement services by aircraft, vessel, or vehicle, including, as determined to be beneficial and otherwise permitted by law, the harmonization of patient treatment standards and procedures.

(b) CERTIFICATION.—(1) Before entering into a memorandum of understanding or other formal agreement with the government of a partner country under this section, the Secretary of Defense shall certify in writing that the professional credentials, certifications, licenses, and approvals for patient movement personnel and patient movement equipment of the partner country—

(A) meet or exceed the equivalent standards of the United States for similar personnel and equipment; and

(B) will provide for a level of care comparable to, or better than, the level of care provided by the Department of Defense.

(2) A certification under paragraph (1) shall be—

(A) submitted to the appropriate committees of Congress not later than 15 days after the date on which the Secretary of Defense makes the certification; and

(B) reviewed and recertified by the Secretary of Defense not less frequently than annually.

(c) SUSPENSION.—If the Secretary of Defense is unable to recertify a partner country as required by subsection (b)(2)(B), use of the personnel or equipment of the partner country by the Department of Defense under a memorandum of understanding or other formal agreement concluded pursuant to subsection (a) shall be suspended until the date on which the Secretary of Defense is able to recertify the partner country.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(2) PARTNER COUNTRY.—The term "partner country" means any of the following:

(A) A member country of the North Atlantic Treaty Organization.

(B) Australia.

(C) Japan.

(D) New Zealand.

(E) The Republic of Korea.

(F) Any other country designated as a partner country by the Secretary of Defense, with the concurrence of the Secretary of State, for purposes of this section.

(3) PATIENT MOVEMENT.—The term "patient movement" means the act or process of moving wounded, ill, injured, or other persons (including contaminated, contagious, and potentially exposed patients) to obtain medical, surgical, mental health, or dental care or treatment.

(Added Pub. L. 116–283, div. A, title XII, §1204(a), Jan. 1, 2021, 134 Stat. 3911.)

## §2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program

(a) AUTHORITY TO EXECUTE PROJECTS.—When the United States is designated as the Host Nation for purposes of executing a project under the North Atlantic Treaty Organization Security Investment Program (in this section referred to as the "Program"), the Secretary of Defense may accept such designation and carry out such project consistent with the requirements of this section.

(b) PROJECT FUNDING.—The Secretary of Defense may fund authorized expenditures of projects accepted under subsection (a) with—

(1) contributions under subsection (c);

(2) appropriations of the Department of Defense for the Program when directed by the North Atlantic Treaty Organization to apply amounts of such appropriations as part of the share of contributions of the United States for the Program; or

(3) any combination of amounts described in paragraphs (1) and (2).

(c) AUTHORITY TO ACCEPT CONTRIBUTIONS.—(1) The Secretary of Defense may accept contributions from the North Atlantic Treaty Organization and member nations of the North Atlantic Treaty Organization for the purpose of carrying out a project under subsection (a).

(2) Contributions accepted under paragraph (1) shall be placed in an account established for the purpose of carrying out the project for which the funds were provided and shall remain available until expended.

(3)(A) If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to—

(i) the appropriations used for the project or portion thereof, if such appropriations have not yet expired; or

(ii) the appropriations for the Program, if the appropriations described in clause (i) have expired.

(B) Funding credited under subparagraph (A) shall merge with and remain available for the same purposes and duration as the appropriations to which credited.

(d) OBLIGATION AUTHORITY.—The construction agent of the Department of Defense designated by the Secretary of Defense to execute a project under subsection (a) may recognize the North Atlantic Treaty Organization project authorization amounts as budgetary resources to incur obligations against for the purposes of executing the project.

(e) INSUFFICIENT CONTRIBUTIONS.—(1) In the event that the North Atlantic Treaty Organization does not agree to contribute funding for all costs necessary for the Department of Defense to carry out a project under subsection (a), including necessary personnel costs of the construction agent designated by the Department of Defense, contract claims, and any conjunctive funding requirements that exceed the project authorization or standards of the North Atlantic Treaty Organization, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may fund such costs, and undertake such conjunctively funded requirements not otherwise authorized by law, using any unobligated funds available among funds appropriated for the Program for military construction.

(2) The use of funds under paragraph (1) from appropriations for the Program may be in addition to or in place of any other funding sources otherwise available for the purposes for which those funds are used.

(f) AUTHORIZED EXPENDITURES DEFINED.—In this section, the term "authorized expenditures" means project expenses for which the North Atlantic Treaty Organization has agreed to contribute funding.

(Added Pub. L. 116–283, div. B, title XXV, §2503(a), Jan. 1, 2021, 134 Stat. 4309; amended Pub. L. 117–81, div. A, title X, §1081(a)(29), Dec. 27, 2021, 135 Stat. 1921.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81 renumbered a second section 2350m of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 116–283, div. B, §2003, Jan. 1, 2021, 134 Stat. 4295, provided that: "Titles XXI through XXVII and title XXIX [see Tables for classification] shall take effect on the later of—

"(1) October 1, 2020; or

"(2) the date of the enactment of this Act [Jan. 1, 2021]."

## §2350r. North Atlantic Treaty Organization Allied Special Operations Forces Command

(a) AUTHORIZATION.—Of the amounts authorized to be appropriated for each fiscal year for operation and maintenance for the Army, the Secretary of Defense is authorized to use up to $55,000,000, to be derived from amounts made available for support of North Atlantic Treaty Organization (referred to in this section as "NATO") operations, for each such fiscal year for the purposes set forth in subsection (b).

(b) PURPOSES.—The Secretary shall provide funds for the NATO Allied Special Operations Forces Command—

(1) to improve coordination and cooperation between the special operations forces of NATO countries and countries approved by the North Atlantic Council as NATO partners;

(2) to facilitate joint operations by the special operations forces of NATO countries and such NATO partners;

(3) to support special operations forces peculiar command, control, and communications capabilities;

(4) to promote special operations forces intelligence and informational requirements within the

NATO structure; and

(5) to promote interoperability through the development of common equipment standards, tactics, techniques, and procedures, and through execution of a multinational education and training program.

(Added Pub. L. 117–263, div. A, title XII, §1271(a), Dec. 23, 2022, 136 Stat. 2860; amended Pub. L. 118–159, div. A, title XIII, §1301(a), Dec. 23, 2024, 138 Stat. 2110.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §1301(a)(1), substituted "Allied Special Operations Forces Command" for "Special Operations Headquarters" in section catchline.

Subsec. (a). Pub. L. 118–159, §1301(a)(2), substituted "$55,000,000" for "$50,000,000".

Subsec. (b). Pub. L. 118–159, §1301(a)(3), substituted "Allied Special Operations Forces Command" for "Special Operations Headquarters" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

Pub. L. 118–159, div. A, title XIII, §1301(b), Dec. 23, 2024, 138 Stat. 2110, provided that: "Any reference to the North Atlantic Treaty Organization Special Operations Headquarters or NATO Special Operations Headquarters in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the North Atlantic Treaty Organization Allied Special Operations Forces Command."

## §2350s. Authority to contribute to innovation fund

(a) AUTHORITY TO CONTRIBUTE TO NATO INNOVATION FUND.—Within amounts authorized by law for such purpose during the five-year period following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, the Secretary of Defense may contribute to the NATO Innovation Fund a total amount of no more than $200,000,000.

(b) DEFINITIONS.—In this section:

(1) The term "NATO" means the North Atlantic Treaty Organization.

(2) The term "NATO Innovation Fund" means the multi-sovereign, investment venture capital fund of NATO that provides secure investment in dual-use, high-impact technology.

(Added Pub. L. 118–159, div. A, title X, §1051, Dec. 23, 2024, 138 Stat. 2061.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (a), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

## §2350t. Military medical cooperation arrangements among Five Eyes countries

(a) AUTHORITY.—The Secretary of Defense may enter into a bilateral or multilateral memorandum of understanding or other formal agreement with one or more governments of the Five Eyes countries to support military medical cooperation or improve operational medical interoperability.

(b) DEFINITIONS.—In this section:

(1) The term "Five Eyes countries" means the following:

(A) Australia.

(B) Canada.
(C) New Zealand.
(D) The United Kingdom.

(2) The term "military medical cooperation" means any of the following:
(A) Information exchange.
(B) Medical interoperability, including credentialing of health care personnel.
(C) Medical education, training, exercises, and evaluation.
(D) Medical research, development, trials, and evaluation.
(E) Biodefense, including with respect to prevention, preparation, response, and investigation.
(F) Medical logistics, including the recognition of MedCM, drugs and medical equipment.
(G) Patient movement.
(H) Any other areas for cooperation designated by the Secretary of Defense.

(3) The term "military medicine" means any of the following:
(A) Combat casualty care including trauma.
(B) Military infectious disease.
(C) Chemical, biological, radiological, and nuclear medical support.
(D) Deployed health care delivery.
(E) Public health, health readiness, and force health protection.
(F) Mental health.
(G) Humanitarian response.
(H) Anomalous health incidents.
(I) Mass casualty management.
(J) Any other areas of military medicine designated by the Secretary of Defense.

(Added Pub. L. 119–60, div. A, title VII, §715(a), Dec. 18, 2025, 139 Stat. 922.)

# [CHAPTER 139—REPEALED]

## [§2351. Renumbered §3131]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2351, act Aug. 10, 1956, ch. 1041, 70A Stat. 133, related to policy, plans, and coordination relative to research and development on scientific problems relating to the national security, prior to repeal by Pub. L. 85–599, §3(d).

## [§2352. Repealed. Pub. L. 114–92, div. A, title X, §1078(c)(1), Nov. 25, 2015, 129 Stat. 999]

Section, added Pub. L. 108–136, div. A, title II, §232(a), Nov. 24, 2003, 117 Stat. 1422; amended Pub. L. 113–66, div. A, title II, §211(a), (b), Dec. 26, 2013, 127 Stat. 703, related to the biennial strategic plan of the Defense Advanced Research Projects Agency.

A prior section 2352, acts Aug. 10, 1956, ch. 1041, 70A Stat. 133; Dec. 5, 1991, Pub. L. 102–190, div. A, title VIII, §803(a)(1), 105 Stat. 1414; Pub. L. 102–484, div. A, title X, §1053(4), Oct. 23, 1992, 106 Stat. 2501, required Secretary of military department to give notice to Congress of contracts performed over a period exceeding 10 years, prior to repeal by Pub. L. 104–106, div. A, title X, §1062(c)(1), Feb. 10, 1996, 110 Stat. 444.

## [§2353. Renumbered §4174]

## [§2354. Renumbered §3861]

## [§2355. Repealed. Pub. L. 103–355, title II, §2002(a), Oct. 13, 1994, 108 Stat. 3303]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 135, authorized Secretary of each military department to prescribe by regulation the extent of itemization, substantiation, or certification of vouchers for funds spent under research or development contracts prior to payment.

## [§2356. Repealed. Pub. L. 104–106, div. A, title VIII, §802(a), Feb. 10, 1996, 110 Stat. 390]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 135; Sept. 2, 1958, Pub. L. 85–861, §1(43A), 72 Stat. 1457; July 18, 1984, Pub. L. 98–369, div. B, title VII, §2727(d), 98 Stat. 1195; Dec. 4, 1987, Pub. L. 100–180, div. A, title XII, §1231(18)(B), 101 Stat. 1161, related to delegations of authority under sections 1584, 2353, 2354, and 2355 of this title.

## [§2357. Renumbered §4067]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2357, act Aug. 10, 1956, ch. 1041, 70A Stat. 135, required Secretary of each military department to report to Congress on contracts for research and development, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1301(11), Nov. 5, 1990, 104 Stat. 1668.

## [§2358. Renumbered §4001]

## [§2358a. Renumbered §4091]

## [§2358b. Renumbered §1766]

## [§2358c. Renumbered §4094]

## [§2359. Renumbered §4007]

### EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 2359, added Pub. L. 96–107, title VIII, §819(a)(1), Nov. 9, 1979, 93 Stat. 818, related to reports on salaries of officers of Federal contract research centers, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1322(a)(5), Nov. 5, 1990, 104 Stat. 1671.

## [§2359a. Renumbered §4061]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2359a, added Pub. L. 107–314, div. A, title II, §242(a)(1), Dec. 2, 2002, 116 Stat. 2494; amended Pub. L. 109–163, div. A, title II, §255(a), Jan. 6, 2006, 119 Stat. 3180; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title II, §233, Jan. 28, 2008, 122 Stat. 46; Pub. L. 110–417, [div. A], title II, §253(b), Oct. 14, 2008, 122 Stat. 4402, related to Technology Transition Initiative, prior to repeal by Pub. L. 112–81, div. A, title II, §251(a)(1), Dec. 31, 2011, 125 Stat. 1347.

## [§2359b. Renumbered §4062]

## [§2360. Renumbered §4143]

## [§2361. Renumbered §4141]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2361 was renumbered section 2351 of this title.

## [§2361a. Renumbered §4142]

## [§2362. Renumbered §4144]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2362, added Pub. L. 99–145, title I, §123(a)(1), Nov. 8, 1985, 99 Stat. 599; amended Pub. L. 99–433, title I, §110(g)(4), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284, which related to testing requirements for wheeled or tracked armored vehicles, was repealed by Pub. L. 103–160, div. A, title VIII, §821(a)(3), Nov. 30, 1993, 107 Stat. 1704.

## [§2363. Renumbered §4123]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2363, added Pub. L. 99–145, title XIV, §1457(a), Nov. 8, 1985, 99 Stat. 762, related to encouragement of technology transfer, prior to repeal by Pub. L. 102–484, div. D, title XLII, §§4224(c), 4271(a)(2), Oct. 23, 1992, 106 Stat. 2683, 2695. See section 4832 of this title.

## [§2364. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

Section catchline and subsec. (a) were transferred to chapter 301 and redesignated as section 4014 of this title. Subsecs. (b) and (c) were transferred to subchapter III of chapter 303 and redesignated as subsecs. (a) and (b), respectively, of section 4125 of this title.

## [§2365. Renumbered §4066]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2365, added Pub. L. 99–500, §101(c) [title X, §909(a)(1), formerly §909(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–142, and Pub. L. 99–591, §101(c) [title X, §909(a)(1), formerly §909(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–142, redesignated §909(a)(1), Pub. L. 100–26, §4(b), Apr. 21, 1987, 101 Stat. 274; Pub. L. 99–661, div. A, title IX, formerly title IV, §909(a)(1), Nov. 14, 1986, 100 Stat. 3921, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §5(3)(A), Apr. 21, 1987, 101 Stat. 274; Pub. L. 100–456, div. A, title VIII, §802, Sept. 29, 1988, 102 Stat. 2008, required use of competitive prototype program strategy in development of major weapons systems, prior to repeal by Pub. L. 102–484, div. A, title VIII, §821(c)(1), Oct. 23, 1992, 106 Stat. 2460.

## [§2366. Renumbered §4172]

## [§2366a. Renumbered §4251]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2366a was renumbered section 4252 of this title.

## [§2366b. Renumbered §4252]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2366b was renumbered section 2366a of this title and subsequently was renumbered section 4251 of this title.

## [§2366c. Renumbered §4253]

## [§2367. Renumbered §4126]

## [§2368. Renumbered §4124]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2368, added Pub. L. 100–456, div. A, title VIII, §823(a)(1), Sept. 29, 1988, 102 Stat. 2018; amended Pub. L. 101–189, div. A, title VIII, §841(c)(1), Nov. 29, 1989, 103 Stat. 1514; Pub. L. 102–25, title VII, §701(g)(1), Apr. 6, 1991, 105 Stat. 115, which authorized studies in fields of research and development essential to development of critical technologies, was repealed by Pub. L. 102–190, div. A, title VIII, §821(c)(1), Dec. 5, 1991, 105 Stat. 1431.

## [§2369. Repealed. Pub. L. 103–355, title III, §3062(a), Oct. 13, 1994, 108 Stat. 3336]

Section, added Pub. L. 100–456, div. A, title VIII, §842(a), Sept. 29, 1988, 102 Stat. 2026; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, related to program for supervision and coordination of product evaluation activities within the Department of Defense.

## [§2370. Repealed. Pub. L. 104–106, div. A, title X, §1061(j)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 101–510, div. A, title II, §241(a), Nov. 5, 1990, 104 Stat. 1516, required annual report to Congress on Biological Defense Research Program.

## [§2370a. Repealed. Pub. L. 108–375, div. A, title X, §1005(a), Oct. 28, 2004, 118 Stat. 2036]

Section, added Pub. L. 103–160, div. A, title II, §214(a), Nov. 30, 1993, 107 Stat. 1586, related to medical countermeasures against biowarfare threats and allocation of funding between near-term and other threats.

## [§2371. Renumbered §4021]

## [§2371a. Renumbered §4026]

## [§2371b. Renumbered §4022]

## [§2372. Renumbered §3762]

## [§2372a. Renumbered §3763]

## [§2373. Renumbered §4023]

## [§2374. Renumbered §4024]

## [§2374a. Renumbered §4025]

## [§2374b. Renumbered §4027]

# [CHAPTER 140—TRANSFERRED]

### EDITORIAL NOTES

### CODIFICATION

Former chapter 140 of this title was renumbered chapter 247 of this title and transferred to part V of subtitle A of this title. See 2021 Amendment notes preceding section 3451 of this title.

## [§2375. Renumbered §3452]

## [§2376. Renumbered §3451]

## [§2377. Renumbered §3453]

## [§2378. Repealed. Pub. L. 114–328, div. A, title VIII, §833(b)(3)(A), Dec. 23, 2016, 130 Stat. 2284]

Section, added Pub. L. 105–85, div. A, title III, §350(a), Nov. 18, 1997, 111 Stat. 1691, related to procurement of copier paper containing specified percentages of post-consumer recycled content.

## [§2379. Renumbered §3455]

## [§2380. Renumbered §3456]

## [§2380a. Renumbered §3457]

## [§2380b. Transferred]

### EDITORIAL NOTES

### CODIFICATION

Section, added Pub. L. 114–328, div. A, title VIII, §877(a), Dec. 23, 2016, 130 Stat. 2311, §2380B; renumbered §2380b and amended Pub. L. 115–232, div. A, title VIII, §836(d)(7), (8)(G), Aug. 13, 2018, 132 Stat. 1868, 1869; Pub. L. 116–92, div. A, title XVII, §1731(a)(47), Dec. 20, 2019, 133 Stat. 1815, was transferred and redesignated as subsec. (c) of section 3457 of this title by Pub. L. 116–283, div. A, title XVIII, §1821(b)(7)(A), (B), Jan. 1, 2021, 134 Stat. 4196.

## [§2380c. Renumbered §3458]

# CHAPTER 141—MISCELLANEOUS PROVISIONS RELATING TO PROPERTY

Sec.
[2381. Renumbered.]
[2382. Repealed.]
[2383 to 2384a. Renumbered.]
2385. Arms and ammunition: immunity from taxation.
[2386. Renumbered.]
2387. Contract working dogs: requirement to transfer animals to 341st Training Squadron after service life.
2388. Security clearances for facilities of certain companies.
2389. Ensuring safety regarding insensitive munitions.
2390. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.
2391. Military base reuse studies and community planning assistance.
2392. Process for strategic basing actions for the Department of the Air Force.
[2393 to 2395. Renumbered.]
2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries.
[2397 to 2410s. Repealed, Renumbered, or Transferred.]

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. B, title XXVIII, §2803(a), Dec. 23, 2024, 138 Stat. 2247, added item 2392. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title XVIII, §1882(a)(1), (c), Jan. 1, 2021, 134 Stat. 4293, amended analysis generally, substituting items 2385 to 2396 for former items 2381 to 2410s, and directed amendment of chapter heading by substituting "PART 141—MISCELLANEOUS PROVISIONS RELATING TO PROPERTY" for "CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS" which was executed by substituting "MISCELLANEOUS PROVISIONS RELATING TO PROPERTY" for "MISCELLANEOUS PROCUREMENT PROVISIONS" to reflect the probable intent of Congress.

**2019**—Pub. L. 116–92, div. A, title VIII, §864(b), Dec. 20, 2019, 133 Stat. 1523, added item 2409a.

**2018**—Pub. L. 115–232, div. A, title X, §1081(a)(22), Aug. 13, 2018, 132 Stat. 1984, inserted period at end

of item 2410s.

**2017**—Pub. L. 115–91, div. A, title XVI, §1621(b), Dec. 12, 2017, 131 Stat. 1732, added item 2410s.

**2016**—Pub. L. 114–328, div. A, title III, §342(a)(2), title VIII, §833(b)(4)(B), Dec. 23, 2016, 130 Stat. 2082, 2285, added item 2410r and struck out item 2387 "Procurement of table and kitchen equipment for officers' quarters: limitation on".

**2013**—Pub. L. 112–239, div. A, title XVI, §1671(c)(1), Jan. 2, 2013, 126 Stat. 2084, struck out item 2382 "Consolidation of contract requirements: policy and restrictions".

**2008**—Pub. L. 110–181, div. A, title VIII, §828(b), title X, §1063(a)(11), Jan. 28, 2008, 122 Stat. 229, 322, inserted period at end of item 2410p and added item 2410q.

**2006**—Pub. L. 109–364, div. A, title VIII, §807(a)(2), div. B, title XXVIII, §2851(c)(2), Oct. 17, 2006, 120 Stat. 2315, 2495, added item 2410p and struck out items 2388 "Liquid fuels and natural gas: contracts for storage, handling, or distribution", 2394 "Contracts for energy or fuel for military installations", 2394a "Procurement of energy systems using renewable forms of energy", 2398 "Procurement of gasohol as motor vehicle fuel", 2398a "Procurement of fuel derived from coal, oil shale, and tar sands", 2404 "Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority", and 2410c "Preference for energy efficient electric equipment".

Pub. L. 109–163, div. A, title VIII, §815(d)(2), Jan. 6, 2006, 119 Stat. 3382, substituted "Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles" for "Requirement for authorization by law of certain contracts relating to vessels and aircraft" in item 2401.

**2005**—Pub. L. 109–58, title III, §369(q)(2), Aug. 8, 2005, 119 Stat. 733, added item 2398a.

**2004**—Pub. L. 108–375, div. A, title VIII, §804(a)(2), Oct. 28, 2004, 118 Stat. 2008, added item 2383.

**2003**—Pub. L. 108–136, div. A, title VIII, §801(a)(2), title X, §1005(b)(2), Nov. 24, 2003, 117 Stat. 1540, 1585, added item 2382 and substituted "Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property" for "Severable service contracts for periods crossing fiscal years" in item 2410a.

**2002**—Pub. L. 107–314, div. A, title VIII, §826(b), title X, §1062(a)(10)(B), Dec. 2, 2002, 116 Stat. 2617, 2650, transferred item 2410h "Acquisition fellowship program" to subchapter IV of chapter 87 as item 1747 and added item 2410*o*.

**2001**—Pub. L. 107–107, div. A, title VIII, §§811(a)(2), 834(a)(2), Dec. 28, 2001, 115 Stat. 1181, 1191, added items 2389 and 2410n.

**1999**—Pub. L. 106–65, div. A, title VIII, §803(b)(2), Oct. 5, 1999, 113 Stat. 704, substituted "Acquisition of certain fuel sources" for "Acquisition of petroleum and natural gas" in item 2404.

**1997**—Pub. L. 105–85, div. A, title VIII, §§801(b), 810(a)(2), 831(b), 847(b)(1), title X, §1014(b)(2), Nov. 18, 1997, 111 Stat. 1831, 1839, 1842, 1845, 1875, inserted "public utility services," after "tuition," in item 2396, struck out items 2403 "Major weapon systems: contractor guarantees" and 2405 "Limitation on adjustment of shipbuilding contracts", substituted "Severable service contracts for periods crossing fiscal years" for "Appropriated funds: availability for certain contracts for 12 months" in item 2410a, and added item 2410m.

**1996**—Pub. L. 104–106, div. A, title VIII, §§803(b), 807(a)(2), div. D, title XLIII, §4304(c)(1), Feb. 10, 1996, 110 Stat. 390, 392, 664, struck out items 2383 "Procurement of critical aircraft and ship spare parts: quality control", 2397 "Employees or former employees of defense contractors: reports", 2397a "Requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors", 2397b "Certain former Department of Defense procurement officials: limitations on employment by contractors", and 2397c "Defense contractors: requirements concerning former Department of Defense officials" and substituted "Lease of vehicles, equipment, vessels, and aircraft" for "Lease of vessels, aircraft, and vehicles" in item 2401a.

**1994**—Pub. L. 103–355, title II, §§2102(b), 2201(b)(2), 2301(c), title III, §3065(a)(2), title VI, §6005(b)(2), Oct. 13, 1994, 108 Stat. 3309, 3318, 3321, 3337, 3365, added item 2401a, struck out items 2382 "Contract profit controls during emergency periods", 2406 "Availability of cost and pricing records", 2409a "Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions", and 2410e "Contract claims: certification regulations", and substituted in item 2410 "Requests for equitable adjustment or other relief: certification" for "Contract claims: certification".

Pub. L. 103–337, div. A, title III, §363(a)(2), Oct. 5, 1994, 108 Stat. 2734, added item 2410l.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(a)(3), (c)(3), (4), Nov. 30, 1993, 107 Stat. 1713, 1714, substituted "Liquid fuels and natural gas: contracts for storage, handling, or distribution" for "Liquid fuels: contracts for storage, handling, and distribution" in item 2388, struck out item 2389 "Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation", and inserted "and natural gas" and "; acquisition by exchange; sales authority" in item 2404.

Pub. L. 103–35, title II, §202(a)(18)(B), May 31, 1993, 107 Stat. 102, made technical amendment to directory language of Pub. L. 102–484, §4470(a)(2). See 1992 Amendment note below.

Pub. L. 103–35, title II, §201(b)(1)(B), May 31, 1993, 107 Stat. 97, renumbered item 2410c relating to displaced contractor employees as item 2410j and item 2410d relating to defense contractors as item 2410k.

**1992**—Pub. L. 102–484, div. D, title XLIV, §4470(a)(2), Oct. 23, 1992, 106 Stat. 2753, as amended by Pub. L. 103–35, title II, §202(a)(18)(B), May 31, 1993, 107 Stat. 102, added item 2410d relating to defense contractors.

Pub. L. 102–484, div. D, title XLIV, §4443(b), Oct. 23, 1992, 106 Stat. 2735, 2753, added item 2410c relating to displaced contractor employees.

Pub. L. 102–484, div. A, title III, §384(a)(1)(B), title VIII, §§808(b)(2), 813(a)(2), 834(a)(2), 840(a)(2), 841(b), title XIII, §1332(b), Oct. 23, 1992, 106 Stat. 2393, 2450, 2453, 2461, 2467, 2468, 2555, added items 2410c to 2410i.

**1990**—Pub. L. 101–510, div. A, title VIII, §837(a)(2), title XIV, §1484(i)(8), Nov. 5, 1990, 104 Stat. 1619, 1718, struck out item 2407 "Acquisition of defense equipment under cooperative projects" and added item 2409a.

**1989**—Pub. L. 101–189, div. A, title VIII, §§802(a)(2), 803(b), title IX, §933(e), title XVI, §1622(b)(2), Nov. 29, 1989, 103 Stat. 1486, 1488, 1538, 1604, added items 2390, 2399, and 2400 and struck out item 2401a "Procurement of communications support and related supplies and services".

**1988**—Pub. L. 100–456, div. A, title VIII, §§805(a)(2), 834(a)(2), Sept. 29, 1988, 102 Stat. 2010, 2025, added items 2383 and 2410b.

Pub. L. 100–370, §§1(h)(3), 3(b)(2), July 19, 1988, 102 Stat. 848, 855, in item 2389 substituted "milk: price adjustments; purchases from the Commodity Credit Corporation" for "milk; price adjustment", struck out items 2399 "Limitation on availability of appropriations to reimburse a contractor for cost of commercial insurance", and 2400 "Miscellaneous procurement limitations", and added items 2410 and 2410a.

**1987**—Pub. L. 100–180, div. A, title I, §124(b)(2), Dec. 4, 1987, 101 Stat. 1043, substituted "Miscellaneous procurement limitations" for "Limitation on procurement of buses" in item 2400.

**1986**—Pub. L. 99–661, div. A, title XI, §1103(b)(2)(B), Nov. 14, 1986, 100 Stat. 3963, struck out "North Atlantic Treaty Organization" before "cooperative projects" in item 2407.

Pub. L. 99–500, §101(c) [title X, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–160, 1783–162, 1783–164, and Pub. L. 99–591, §101(c) [title X, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–160, 3341–162, 3341–164; Pub. L. 99–661, div. A, title IX, formerly title IV, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2), Nov. 14, 1986, 100 Stat. 3939, 3941–3943, 3963, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, amended analysis identically, substituting "Availability of cost and pricing records" for "Cost and price management" in item 2406 and adding items 2397b, 2397c, 2408, and 2409.

**1985**—Pub. L. 99–145, title IX, §§917(b), 923(a)(2), title XI, §1102(b)(2), Nov. 8, 1985, 99 Stat. 690, 697, 712, added items 2397a, 2406, and 2407.

**1984**—Pub. L. 98–525, title X, §1005(b), title XII, §1235(1), (2), Oct. 19, 1984, 98 Stat. 2579, 2604, substituted in item 2384 "identification of supplier and sources" for "marking with name of contractor" and added items 2401a, 2384a, and 2402 to 2405.

**1983**—Pub. L. 98–94, title XII, §§1202(a)(2), 1259(b), Sept. 24, 1983, 97 Stat. 681, 703, struck out item 2390 "Suggestions for improving procurement policies", and added item 2401.

**1982**—Pub. L. 97–321, title VIII, §801(a)(2), Oct. 15, 1982, 96 Stat. 1570, added item 2394a.

Pub. L. 97–295, §1(29)(B), Oct. 12, 1982, 96 Stat. 1294, struck out item 2394 "Availability of appropriations for procurement of technical military equipment and supplies and the construction of military public works", added item 2395 "Availability of appropriations for procurement of technical military equipment and supplies", redesignated former item 2395 as 2396, and added items 2397, 2398, 2399, and 2400.

Pub. L. 97–258, §2(b)(4)(A), Sept. 13, 1982, 96 Stat. 1052, added items 2394 and 2395.

Pub. L. 97–214, §6(a)(2), July 12, 1982, 96 Stat. 172, added item 2394.

**1981**—Pub. L. 97–86, title IX, §§911(a)(2), 912(a)(2), 913(a)(2), 914(b), Dec. 1, 1981, 95 Stat. 1122, 1123, 1125, substituted "Contract profit controls during emergency periods" for "Aircraft: contract requirements" in item 2382 and added items 2391, 2392, and 2393.

**1980**—Pub. L. 96–513, title V, §511(79), Dec. 12, 1980, 94 Stat. 2927, struck out item 2383 "Emergency purchases: war material abroad".

**1977**—Pub. L. 95–79, title VIII, §815(b), July 30, 1977, 91 Stat. 338, added item 2390.

**1966**—Pub. L. 89–696, §1(2), Oct. 19, 1966, 80 Stat. 1057, added item 2389.

**1958**—Pub. L. 85–861, §1(47), Sept. 2, 1958, 72 Stat. 1458, added items 2387 and 2388.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**MAINTENANCE INSPECTION CAPABILITIES AND REQUIREMENTS**

Pub. L. 119–60, div. A, title III, §341, Dec. 18, 2025, 139 Stat. 821, provided that:

"(a) REQUIREMENT.—Subject to the requirements of subsection (b), the Secretary of Defense shall ensure that when the Department of Defense conducts maintenance of aviation critical safety items and mission critical parts, such maintenance—

"(1) includes the use of a technical data requirement or organic or commercially available diagnostic tool, if such a requirement or tool is required and available; and

"(2) is not conducted solely through visual inspection unless—

"(A) no such requirement or tool is available; or

"(B) only a visual inspection is required under a technical data requirement.

"(b) SUSTAINMENT.—The Secretary shall ensure that the acquisition of appropriate technical data requirements and diagnostic tools for the conduct of maintenance of aviation critical safety items and mission critical parts are planned as part of the sustainment of the systems containing such items and parts.

"(c) DEFINITIONS.—In this section:

"(1) The term 'aviation critical safety item' means any part, assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system the failure, malfunction, or absence of which could cause—

"(A) a catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system;

"(B) an unacceptable risk of personal injury or loss of life; or

"(C) an uncommanded engine shutdown that jeopardizes safety.

"(2) The term 'corrosion' means the deterioration of a material or its properties, including non-metallic materials, due to a reaction of that material with the chemical environment.

"(3) The term 'diagnostic tool' means a non-destructive inspection tool capable of—

"(A) detecting corrosion, cracks, component damage, adhesion failure, and standard wear and tear; and

"(B) leveraging artificial intelligence and machine learning to build a predictive maintenance database when necessary to improve maintainability."

**PROHIBITION ON RELIANCE ON CHINA AND RUSSIA FOR SPACE-BASED WEATHER DATA**

Pub. L. 114–92, div. A, title XVI, §1614, Nov. 25, 2015, 129 Stat. 1105, provided that:

"(a) PROHIBITION.—The Secretary of Defense shall ensure that the Department of Defense does not rely on, or in the future plan to rely on, space-based weather data provided by the Government of the People's Republic of China, the Government of the Russian Federation, or an entity owned or controlled by either such government for national security purposes.

"(b) CERTIFICATION.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a certification that the Secretary is in compliance with the prohibition under subsection (a)."

## [§2381. Renumbered §3247]

## [§2382. Repealed. Pub. L. 112–239, div. A, title XVI, §1671(c)(1), Jan. 2, 2013, 126 Stat. 2084]

Section, added Pub. L. 108–136, div. A, title VIII, §801(a)(1), Nov. 24, 2003, 117 Stat. 1538; amended Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111–240, title I, §1313(b), Sept. 27, 2010, 124 Stat. 2539; Pub. L. 112–239, div. A, title X, §1076(d)(3), Jan. 2, 2013, 126 Stat. 1951, related to policy and restrictions regarding consolidation of contract requirements.

A prior section 2382, acts Aug. 10, 1956, ch. 1041, 70A Stat. 136; Dec. 1, 1981, Pub. L. 97–86, title IX, §911(a)(1), 95 Stat. 1120; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIV, §1484(b)(3), (f)(2), (g)(2), (h)(3), 104 Stat. 1716, 1717; Oct. 29, 1992, Pub. L. 102–572, title IX, §902(b)(1), 106 Stat. 4516, authorized the

President, upon declaration of war by Congress or declaration of national emergency by the President or by Congress, to prescribe regulations to control excessive profits on defense contracts during period of such war or national emergency, prior to repeal by Pub. L. 103–355, title II, §2102(a), Oct. 13, 1994, 108 Stat. 3309.

## [§2383. Renumbered §4508]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2383, added Pub. L. 100–456, div. A, title VIII, §805(a)(1), Sept. 29, 1988, 102 Stat. 2010; amended Pub. L. 102–190, div. A, title X, §1061(a)(13), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103–355, title II, §2401, Oct. 13, 1994, 108 Stat. 3324, related to quality control in procurement of critical aircraft and ship spare or repair parts, prior to repeal by Pub. L. 104–106, div. A, title VIII, §803(a), Feb. 10, 1996, 110 Stat. 390.

Another prior section 2383, act Aug. 10, 1956, ch. 1041, 70A Stat. 137, permitted Secretary of a military department to make emergency purchases of war material abroad, and provided that such material may be admitted free of duty, prior to repeal by Pub. L. 87–456, title III, §303(c), May 24, 1962, 76 Stat. 78.

## [§2384. Renumbered §4753]

## [§2384a. Renumbered §3242]

## §2385. Arms and ammunition: immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for a military department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2385 | 5:171w. | Jan. 6, 1951, ch. 1213, subch. VII, §706, 64 Stat. 1236. |

The words "No * * * may be" are substituted for the words "None * * * shall be subject to any". The words "by any Act" are omitted as surplusage.

## [§2386. Renumbered §3793]

## §2387. Contract working dogs: requirement to transfer animals to 341st Training Squadron after service life

(a) IN GENERAL.—Each contract entered into by the Secretary of Defense for the provision of a contract working dog shall require, and shall contain a contract term, that the dog be transferred to the 341st Training Squadron and assigned for veterinary screening and care in accordance with section 2583 of this title after the service life of the dog has terminated as described in subsection (b) for reclassification as a military animal and placement for adoption in accordance with such section.

(b) SERVICE LIFE.—The service life of a contract working dog has terminated and the dog is

available for transfer to the 341st Training Squadron pursuant to a contract under subsection (a) only if the contracting officer concerned has determined that—

(1) the final contractual obligation of the dog preceding such transfer is with the Department of Defense; and

(2) the dog cannot be used by another department or agency of the Federal Government due to age, injury, or performance.

(c) CONTRACT WORKING DOG.—In this section, the term "contract working dog" means a dog—

(1) that performs a service for the Department of Defense pursuant to a contract; and

(2) that is trained and kenneled by an entity that provides such a dog pursuant to such a contract.

(Added Pub. L. 114–328, div. A, title III, §342(a)(1), Dec. 23, 2016, 130 Stat. 2082, §2410r; amended Pub. L. 116–92, div. A, title III, §372(f), Dec. 20, 2019, 133 Stat. 1331; renumbered §2387, Pub. L. 116–283, div. A, title XVIII, §1882(b), Jan. 1, 2021, 134 Stat. 4293.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2387, added Pub. L. 85–861, §1(45), Sept. 2, 1958, 72 Stat. 1458, related to limitation on procurement of table and kitchen equipment for officers' quarters, prior to repeal by Pub. L. 114–328, div. A, title VIII, §833(b)(4)(A), Dec. 23, 2016, 130 Stat. 2285.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410r of this title as this section.

**2019**—Subsec. (a). Pub. L. 116–92 inserted ", and shall contain a contract term," after "shall require" and "and assigned for veterinary screening and care in accordance with section 2583 of this title" after "341st Training Squadron" and substituted "such section" for "section 2583 of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §2388. Security clearances for facilities of certain companies

(a) AUTHORITY.—If the senior management official of a covered company does not have a security clearance, the Secretary of Defense may grant a security clearance to a facility of such company only if the following criteria are met:

(1) The company has appointed a senior officer, director, or employee of the company who has a security clearance at the level of the security clearance of the facility to act as the senior management official of the company with respect to such facility.

(2) Any senior management official, senior officer, or director of the company who does not have such a security clearance will not have access to any classified information, including with respect to such facility.

(3) The company has certified to the Secretary that the senior officer, director, or employee appointed under paragraph (1) has the authority to act on behalf of the company with respect to such facility independent of any senior management official, senior officer, or director described in paragraph (2).

(4) The facility meets all of the requirements to be granted a security clearance other than any requirement relating to the senior management official of the company having an appropriate security clearance.

(b) COVERED COMPANY.—In this section, the term "covered company" means a company that has entered into a contract or agreement with the Department of Defense, assists the Department, or requires a facility to process classified information.

(Added Pub. L. 115–91, div. A, title XVI, §1621(a), Dec. 12, 2017, 131 Stat. 1732, §2410s; amended Pub. L. 115–232, div. A, title X, §1081(a)(23), Aug. 13, 2018, 132 Stat. 1984; renumbered §2388, Pub. L. 116–283, div. A, title XVIII, §1882(b), Jan. 1, 2021, 134 Stat. 4293.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2388 was renumbered section 2922 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2410s of this title as this section.
**2018**—Pub. L. 115–232 struck out period at end of section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §2389. Ensuring safety regarding insensitive munitions

The Secretary of Defense shall ensure, to the extent practicable, that insensitive munitions under development or procurement are safe throughout development and fielding when subject to unplanned stimuli.

(Added Pub. L. 107–107, div. A, title VIII, §834(a)(1), Dec. 28, 2001, 115 Stat. 1191.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2389, added Pub. L. 89–696, §1(1), Oct. 19, 1966, 80 Stat. 1056; amended Pub. L. 100–370, §1(h)(1), July 19, 1988, 102 Stat. 847, related to purchases from Commodity Credit Corporation and price adjustments for contracts for procurement of milk, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(4), Nov. 30, 1993, 107 Stat. 1704.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REPORT REQUIREMENT**

Pub. L. 107–107, div. A, title VIII, §834(b), Dec. 28, 2001, 115 Stat. 1191, directed the Secretary of Defense to submit to committees of Congress a report on insensitive munitions at the same time that the budgets for fiscal years 2003 through 2005 were submitted.

## §2390. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is

prohibited.

(2) In this section, the term "decrement stock" means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.

(Added Pub. L. 95–485, title VIII, §815(a), Oct. 20, 1978, 92 Stat. 1625, §975; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; renumbered §2390, Pub. L. 101–189, div. A, title XVI, §1622(b)(1), Nov. 29, 1989, 103 Stat. 1604.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2390, added Pub. L. 95–79, title VIII, §815(a), July 30, 1977, 91 Stat. 337; amended Pub. L. 96–470, title I, §104(a), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 96–513, title V, §511(80), Dec. 12, 1980, 94 Stat. 2927, directed Secretary of Defense to request each commissioned officer, and each civilian employee above grade GS–12, who was scheduled for retirement and who was or had been at any time within one year prior to such scheduled retirement, assigned to, or employed in, military procurement to submit suggestions for methods to improve procurement policies, prior to repeal by Pub. L. 98–94, title XII, §1259(a), Sept. 24, 1983, 97 Stat. 703.

**AMENDMENTS**

**1989**—Pub. L. 101–189 renumbered section 975 of this title as this section.

**1987**—Subsec. (a)(2). Pub. L. 100–26 inserted "the term" after "In this section,".

## §2391. Military base reuse studies and community planning assistance

(a) REUSE STUDIES.—Whenever the Secretary of Defense or the Secretary of the military department concerned publicly announces that a military installation is a candidate for closure or that a final decision has been made to close a military installation and the Secretary of Defense determines, because of the location, facilities, or other particular characteristics of the installation, that the installation may be suitable for some specific Federal, State, or local use potentially beneficial to the Nation, the Secretary of Defense may conduct such studies, including the preparation of an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), in connection with such installation and such potential use as may be necessary to provide information sufficient to make sound conclusions and recommendations regarding the possible use of the installation.

(b) ADJUSTMENT AND DIVERSIFICATION ASSISTANCE.—(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an

approved major weapon system program, (C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, (D) by the encroachment of a civilian community on a military installation, (E) by threats to military installation resilience, (F) by the closure or the significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility, or (G) by any action of the Department of Defense that negatively affects a covered depot (as such term is defined in section 2476(f) of this title), if the Secretary determines that an action described in clause (A), (B), (C), (F), or (G) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D) or (E), if the Secretary determines that either the encroachment of the civilian community or threats to military installation resilience is likely to impair the continued operational utility of the military installation.

(2) In the case of the establishment or expansion of a military installation, assistance may be made under paragraph (1) only if (A) community impact assistance or special impact assistance is not otherwise available, and (B) the establishment or expansion involves the assignment to the installation of (i) more than 2,000 military, civilian, and contractor Department of Defense personnel, or (ii) more military, civilian, and contractor Department of Defense personnel than the number equal to 10 percent of the number of persons employed in counties or independent municipalities within fifteen miles of the installation, whichever is lesser.

(3) In the case of a publicly announced planned reduction in Department of Defense spending, the closure or realignment of a military installation, the cancellation or termination of a Department of Defense contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be made under paragraph (1) only if the reduction, closure or realignment, cancellation or termination, or failure will have a direct and significant adverse impact on a community or its residents.

(4)(A) In the case of a State or local government eligible for assistance under paragraph (1), the Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist the State or local government to carry out a community adjustment and economic diversification program (including State industrial extension or modernization efforts to facilitate the economic diversification of defense contractors and subcontractors) in addition to planning such a program.

(B) The Secretary shall establish criteria for the selection of community adjustment and economic diversification programs to receive assistance under subparagraph (A). Such criteria shall include a requirement that the State or local government agree—

(i) to provide not less than 10 percent of the funding for the program from non-Federal sources;

(ii) to provide business planning and market exploration services under the program to defense contractors and subcontractors that seek modernization or diversification assistance; and

(iii) to provide training, counseling, and placement services for members of the armed forces and dislocated defense workers.

(C) The Secretary shall carry out this paragraph in coordination with the Secretary of Commerce.

(5)(A) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in planning community adjustments and economic diversification even though the State or local government is not currently eligible for assistance under paragraph (1) if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the advance planning is dependent on defense expenditures.

(B) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in enhancing its capacities—

(i) to assist communities, businesses, and workers adversely affected by an action described in paragraph (1);

(ii) to support local adjustment and diversification initiatives;

(iii) to stimulate cooperation between statewide and local adjustment and diversification efforts;

and

(iv) to support public infrastructure projects and services (including health care, housing, and defense critical infrastructure projects and services) that enhance the capabilities and resilience of the defense industrial base, defense industrial base workers, and military installations.

(C) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in enhancing the capabilities of the government to support efforts of the Department of Defense to privatize, contract for, or diversify the performance of military family support services in cases in which the capability of the Department to provide such services is adversely affected by an action described in paragraph (1).

(D) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds, in order to assist a State or local government in planning, enhancing infrastructure, and implementing measures and projects (to include resilience measures and projects involving the protection, restoration, and maintenance of natural features) that, as determined by the Secretary of Defense, will contribute to maintaining or improving military installation resilience or will prevent or mitigate encroachment that could affect operations of the Department of Defense.

(6) Funds provided to State and local governments and regional organizations under this section may be used as part or all of any required non-Federal contribution to a Federal grant-in-aid program for the purposes stated in paragraph (1).

(7) To the extent practicable, the Secretary of Defense shall inform a State or local government applying for assistance under this subsection of the approval or rejection by the Secretary of the application for such assistance as follows:

(A) Before the end of the 7-day period beginning on the date on which the Secretary receives the application, in the case of an application for a planning grant.

(B) Before the end of the 30-day period beginning on such date, in the case of an application for assistance to carry out a community adjustments and economic diversifications program.

(8)(A) In attempting to complete consideration of applications within the time period specified in paragraph (7), the Secretary of Defense shall give priority to those applications requesting assistance for a community described in subsection (f)(1).

(B) If an application under paragraph (7) is rejected by the Secretary, the Secretary shall promptly inform the State or local government of the reasons for the rejection of the application.

(c) RESEARCH AND TECHNICAL ASSISTANCE.—The Secretary of Defense may make grants to, or conclude cooperative agreements or enter into contracts with, another Federal agency, a State or local government, or any private entity to conduct research and provide technical assistance in support of activities under this section or Executive Order 12788 (57 Fed. Reg. 2213), as amended by section 33 of Executive Order 13286 (68 Fed. Reg. 10625) and Executive Order 13378 (70 Fed. Reg. 28413).

(d) DEFENSE COMMUNITY INFRASTRUCTURE PROGRAM.—(1)(A) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense to assist State governments, local governments, and not-for-profit, member-owned utility services to address deficiencies in community infrastructure supportive of a military installation.

(B) The Secretary shall establish criteria for the selection of community infrastructure projects to receive assistance under this subsection for each of the following categories:

(i) Projects that will enhance the readiness of a military department or mission assurance at a military installation.

(ii) Projects that will enhance military family quality of life at a military installation, taking into consideration subsection (e)(4)(C).

(iii) Projects that will enhance military installation resilience, as defined in section 101 of this title.

(iv) Projects that will contribute to the training of cadets enrolled in an independent Reserve

Officer Training Corps program at a covered educational institution.

(2)(A) The criteria established for the selection of community infrastructure projects to receive assistance under this subsection shall include a requirement that, except as provided in subparagraph (B), the recipient of such assistance agrees to contribute not less than 30 percent of the funding for the community infrastructure project.

(B) If a proposed community infrastructure project will be carried out in a rural area or the Secretary of Defense determines that a proposed community infrastructure project is advantageous for reasons related to national security, the Secretary—

(i) shall not penalize a State or local government for offering to make a contribution of 30 percent or less of the funding for the community infrastructure project; and

(ii) may reduce the requirement for a State or local government contribution to 30 percent or less or waive the cost-sharing requirement entirely.

(3) In selecting community infrastructure projects to receive assistance under this subsection, the Secretary shall consider infrastructure improvements identified in the report on strategic seaports required by section 3515 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1985).

(4) Amounts appropriated or otherwise made available for assistance under paragraph (1) may remain available until expended.

(e) DEFINITIONS.—In this section:

(1) The terms "military installation" and "realignment" have the meanings given those terms in section 2687 of this title. For purposes of paragraphs (1)(D) and (E) and (5)(D) of subsection (b) and subsection (d), the term "military installation" includes a military facility owned and operated by any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, even though the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the military facility is subject to significant use for training by the armed forces.

(2) The term "defense facility" means any private facility producing goods or services pursuant to a defense contract.

(3) The terms "community adjustment" and "economic diversification" include the development of feasibility studies and business plans for market diversification within a community adversely affected by an action described in clause (A), (B), (C), or (E) of subsection (b)(1) by adversely affected businesses and labor organizations located in the community.

(4)(A) The term "community infrastructure" means a project or facility described in subparagraph (B) that—

(i) is located off of a military installation or on property under the jurisdiction of a Secretary of a military department that is subject to a real estate agreement (including a lease or easement); and

(ii) is—

(I) owned by a State or local government; or

(II) a not-for-profit, member-owned utility service.

(B) A project or facility described in this subparagraph is any of the following:

(i) Any transportation project.

(ii) A school, hospital, police, fire, emergency response, or other community support facility.

(iii) A water, waste-water, telecommunications, electric, gas, or other utility infrastructure project.

(iv) A demolition project.

(C) For the purposes of determining whether proposed community infrastructure will enhance quality of life, the Secretary of Defense shall consider the impact of the community infrastructure

on alleviating installation commuter workforce issues and the benefit of schools or other local infrastructure located off of a military installation that will support members of the armed forces and their dependents residing in the community.

(5) The term "rural area" means a city, town, or unincorporated area that has a population of not more than 100,000 inhabitants.

(6) The term "covered educational institution" means a college or university that is—

(A) a part B institution, as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061);

(B) an 1890 Institution, as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601);

(C) not affiliated with a consortium; and

(D) located at least 40 miles from a major military installation.

(f) ASSISTANCE SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to make grants under this section in any fiscal year is subject to the availability of appropriations for that purpose.

(Added Pub. L. 97–86, title IX, §912(a)(1), Dec. 1, 1981, 95 Stat. 1122; amended Pub. L. 98–115, title VIII, §808, Oct. 11, 1983, 97 Stat. 789; Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–456, div. B, title XXVIII, §2805, Sept. 29, 1988, 102 Stat. 2116; Pub. L. 101–510, div. D, title XLI, §4102(b), Nov. 5, 1990, 104 Stat. 1851; Pub. L. 102–25, title VII, §701(j)(3), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. A, title X, §1052(28), div. D, title XLIII, §4301(a)–(c), Oct. 23, 1992, 106 Stat. 2500, 2696, 2697; Pub. L. 103–35, title II, §202(a)(15), May 31, 1993, 107 Stat. 101; Pub. L. 103–160, div. B, title XXIX, §2913, Nov. 30, 1993, 107 Stat. 1925; Pub. L. 103–337, div. A, title XI, §§1122(a), 1123(a), (b), Oct. 5, 1994, 108 Stat. 2870, 2871; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 104–201, div. B, title XXVIII, §2814, Sept. 23, 1996, 110 Stat. 2790; Pub. L. 105–85, div. B, title XXVIII, §2822, Nov. 18, 1997, 111 Stat. 1997; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–314, div. A, title X, §1041(a)(13), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 109–163, div. B, title XXVIII, §2832, Jan. 6, 2006, 119 Stat. 3520; Pub. L. 109–364, div. B, title XXVIII, §§2861, 2862, Oct. 17, 2006, 120 Stat. 2498; Pub. L. 110–417, div. B, title XXVIII, §2823(b), Oct. 14, 2008, 122 Stat. 4730; Pub. L. 112–239, div. B, title XXVII, §2712(c)(1), Jan. 2, 2013, 126 Stat. 2145; Pub. L. 115–232, div. B, title XXVIII, §§2805(f), 2861, Aug. 13, 2018, 132 Stat. 2263, 2282; Pub. L. 116–92, div. B, title XXVIII, §2862, Dec. 20, 2019, 133 Stat. 1899; Pub. L. 116–283, div. B, title XXVIII, §2882, Jan. 1, 2021, 134 Stat. 4369; Pub. L. 117–81, div. A, title III, §313, Dec. 27, 2021, 135 Stat. 1629; Pub. L. 117–263, div. B, title XXVIII, §§2862–2864, Dec. 23, 2022, 136 Stat. 3010, 3011; Pub. L. 118–31, div. B, title XXVIII, §2801, Dec. 22, 2023, 137 Stat. 743; Pub. L. 118–159, div. B, title XXVIII, §§2802, 2842, Dec. 23, 2024, 138 Stat. 2247, 2263; Pub. L. 119–60, div. A, title III, §371(a), div. B, title XXVIII, §§2805, 2806(a), 2807, Dec. 18, 2025, 139 Stat. 836, 1298.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Executive Order 12788, referred to in subsec. (c), is set out below.

The amendment made by section 3002 of the Military Construction Authorization Act for Fiscal Year 2002, referred to in subsec. (d)(1)(B)(i), is the amendment made by section 3002 of title XXX of div. B of Pub. L. 107–107, Dec. 28, 2001, 115 Stat. 1344, which amended the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101–510, div. B, title XXIX, part A [§2901 et seq.], Nov. 5, 1990, 104 Stat. 1808, which is set out as a note under section 2687 of this title) by adding section 2912 of such Act.

### AMENDMENTS

**2025**—Subsec. (b)(1). Pub. L. 119–60, §371(a), struck out "or" after "military installation resilience,", inserted "or (G) by any action of the Department of Defense that negatively affects a covered depot (as such term is defined in section 2476(f) of this title)," after "the defense facility,", and substituted "(C), (F), or (G)" for "(C), or (F)".

Subsec. (b)(5)(B)(iv). Pub. L. 119–60, §2805, inserted "(including health care, housing, and defense critical infrastructure projects and services)" after "projects and services" and substituted "the defense industrial base, defense industrial base workers, and military installations" for "the defense industrial base workers, if the Secretary determines such support will improve operations of the Department of Defense".

Subsec. (d)(1)(B). Pub. L. 119–60, §2806(a)(1), substituted "for each of the following categories" for ", including selection of community infrastructure projects in the following order of priority" in introductory provisions.

Subsec. (d)(1)(B)(i). Pub. L. 119–60, §2806(a)(2), which directed substitution of "the readiness of a military department or mission assurance at a military installation." for " 'military value' and all that follows through the period", was executed by striking out "military value at a military installation, taking into consideration the military value criteria originally developed by the Secretary in compliance with the amendment made by section 3002 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1344).", beginning with "military value" where first appearing, to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(ii), (iv). Pub. L. 119–60, §2806(a)(3), redesignated cls. (ii) and (iv) as (iv) and (ii), respectively, and reordered cls. accordingly.

Subsec. (e)(4)(B)(iv). Pub. L. 119–60, §2807, added cl. (iv).

**2024**—Subsec. (b)(5)(B). Pub. L. 118–159, §2842(1), inserted "or local government" after "a State" in introductory provisions.

Subsec. (b)(5)(B)(iv). Pub. L. 118–159, §2842(2)–(4), added cl. (iv).

Subsec. (d)(1)(A). Pub. L. 118–159, §2802(a)(1), substituted "State governments, local governments, and not-for-profit, member-owned utility services" for "State and local governments".

Subsec. (d)(1)(B)(iii). Pub. L. 118–159, §2802(b), substituted "section 101 of this title" for "section 101(e)(8) of this title".

Subsec. (d)(2)(A). Pub. L. 118–159, §2802(a)(2), substituted "the recipient of such assistance agrees" for "the State or local government agree".

**2023**—Subsec. (d). Pub. L. 118–31, §2801(1), struck out "Pilot" before "Program" in heading.

Subsec. (d)(5). Pub. L. 118–31, §2801(2), struck out par. (5) which read as follows: "The authority under this subsection shall expire on September 30, 2028."

**2022**—Subsec. (d)(1)(B)(ii) to (iv). Pub. L. 117–263, §2862(1), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

Subsec. (d)(3) to (5). Pub. L. 117–263, §2863, added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (e)(4)(A)(i). Pub. L. 117–263, §2864, inserted "or on property under the jurisdiction of a Secretary of a military department that is subject to a real estate agreement (including a lease or easement)" after "installation".

Subsec. (e)(6). Pub. L. 117–263, §2862(2), added par. (6).

**2021**—Subsec. (b)(5)(D). Pub. L. 117–81, §313(1), added subpar. (D).

Subsec. (d)(1). Pub. L. 116–283, §2882(a), designated existing provisions as subpar. (A), struck out ", if the Secretary determines that such assistance will enhance the military value, resilience, or military family quality of life at such military installation" after "supportive of a military installation", and added subpar. (B).

Subsec. (d)(2). Pub. L. 116–283, §2882(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall establish criteria for the selection of community infrastructure projects to receive assistance under paragraph (1). The criteria shall include a requirement that the State or local government agree to contribute not less than 30 percent of the funding for the community infrastructure project, unless the community infrastructure project is located in a rural area, or for reasons related to national security, in which case the Secretary may waive the requirement for a State or local government contribution."

Subsec. (d)(4). Pub. L. 116–283, §2882(c), substituted "on September 30, 2028" for "upon the expiration of the 10-year period which begins on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2019".

Subsec. (e)(1). Pub. L. 117–81, §313(2), substituted "paragraphs (1)(D) and (E) and (5)(D) of subsection (b) and subsection (d)" for "subsection (b)(1)(D)".

Subsec. (e)(4)(C). Pub. L. 116–283, §2882(d), added subpar. (C).

Subsec. (e)(5). Pub. L. 116–283, §2882(e), substituted "100,000 inhabitants" for "50,000 inhabitants".

**2019**—Subsec. (e)(4). Pub. L. 116–92 amended par. (4) generally. Prior to amendment, text read as follows: "The term 'community infrastructure' means any transportation project; school, hospital, police, fire, emergency response, or other community support facility; or water, waste-water, telecommunications, electric, gas, or other utility infrastructure project that is located off of a military installation and owned by a State or local government."

**2018**—Subsec. (b)(1). Pub. L. 115–232, §2805(f), substituted ", (E) by threats to military installation resilience, or (F) by the closure" for ", or (E) by the closure", "(A), (B), (C), or (F)" for "(A), (B), (C), or (E)", and "action described in clause (D) or (E), if the Secretary determines that either the encroachment of the civilian community or threats to military installation resilience" for "action described in clause (D), if the Secretary determines that the encroachment of the civilian community".

Subsecs. (d), (e). Pub. L. 115–232, §2861(1), (2), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(4), (5). Pub. L. 115–232, §2861(3), added pars. (4) and (5).

Subsec. (f). Pub. L. 115–232, §2861(1), redesignated subsec. (e) as (f).

**2013**—Subsec. (d)(1). Pub. L. 112–239 substituted "section 2687" for "section 2687(e)".

**2008**—Subsec. (d)(1). Pub. L. 110–417 inserted "the Commonwealth of the Northern Mariana Islands," after "Guam,".

**2006**—Subsec. (b)(3). Pub. L. 109–163, §2832(a), substituted "realignment of a military installation" for "significantly reduced operations of a defense facility", "closure or realignment, cancellation or" for "cancellation,", and "community or its residents." for "community and will result in the loss of—

"(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

"(B) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

"(C) one percent of the total number of civilian jobs in that area."

Subsec. (c). Pub. L. 109–364, §2861, added subsec. (c).

Subsec. (d)(1). Pub. L. 109–364, §2862, inserted at end "For purposes of subsection (b)(1)(D), the term 'military installation' includes a military facility owned and operated by any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, or the Virgin Islands, even though the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the military facility is subject to significant use for training by the armed forces."

Pub. L. 109–163, §2832(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'military installation' means any camp, post, station, base, yard, or other installation under the jurisdiction of a military department that is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam."

**2002**—Subsec. (c). Pub. L. 107–314 struck out heading and text of subsec. (c). Text read as follows: "The Secretary of Defense shall submit a report not later than December 1 of each year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives concerning the operation of this section during the preceding fiscal year. Each such report shall identify each State, unit of local government, and regional organization that received a grant under this section during such fiscal year and the total amount granted under this section during such year to each such State, unit of local government, and regional organization."

**1999**—Subsec. (c). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1997**—Subsec. (b)(5)(C). Pub. L. 105–85 added subpar. (C).

**1996**—Subsec. (b)(5). Pub. L. 104–201 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1994**—Subsec. (b)(5) to (7). Pub. L. 103–337, §1123(a), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 103–337, §1123(a)(1), (b), redesignated par. (7) as (8) and substituted "paragraph (7)" for "paragraph (6)" in subpars. (A) and (B).

Subsec. (d)(3). Pub. L. 103–337, §1122(a), added par. (3).

**1993**—Subsec. (b)(1). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484, §4301(b)(1)(C). See 1992 Amendment note below.

Subsec. (b)(6), (7). Pub. L. 103–160 added pars. (6) and (7).

**1992**—Subsec. (a). Pub. L. 102–484, §4301(c)(1), inserted heading.

Subsec. (b). Pub. L. 102–484, §4301(c)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102–484, §4301(b)(1), as amended by Pub. L. 103–35, substituted ", (D)" for ", or (D)", substituted "(C), or (E)" for "or (C)", and inserted cl. (E) before first reference to "if the Secretary".

Pub. L. 102–484, §1052(28), substituted "publicly announced" for "publicly-announced".

Subsec. (b)(3). Pub. L. 102–484, §4301(b)(2), inserted "the closure or significantly reduced operations of a defense facility," after "Defense spending," in introductory provisions.

Subsec. (b)(4), (5). Pub. L. 102–484, §4301(a)(1), (2), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 102–484, §4301(c)(3), inserted heading.

Subsec. (d). Pub. L. 102–484, §4301(b)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In this section, the term 'military installation' means any camp, post, station, base, yard, or other installation under the jurisdiction of a military department that is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam."

Subsec. (e). Pub. L. 102–484, §4301(c)(4), inserted heading.

**1991**—Subsec. (b)(3). Pub. L. 102–25 substituted "publicly announced" for "publicly-announced" and inserted a comma after "only if the reduction".

**1990**—Subsec. (b)(3) to (6). Pub. L. 101–510 added par. (3), redesignated par. (5) as (4), and struck out former pars. (3), (4), and (6), which read as follows:

"(3) In the case of the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, assistance may be made under paragraph (1) only if the cancellation, termination, or failure to proceed involves the loss of 2,500 or more full-time Department of Defense and contractor employee positions in the locality of the affected community.

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.

"(6) Not more than $2,000,000 in assistance may be provided under this subsection in any fiscal year."

**1988**—Subsec. (b)(1). Pub. L. 100–456, §2805(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments, and regional organizations composed of State and local governments, in planning community adjustments required (A) by the proposed or actual establishment, realignment, or closure of a military installation, or (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, if the Secretary of Defense determines that the action is likely to impose a significant impact on the affected community."

Subsec. (b)(4) to (6). Pub. L. 100–456, §2805(b), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

**1987**—Subsec. (d). Pub. L. 100–26 inserted "the term" after "In this section,".

**1983**—Subsec. (b)(2). Pub. L. 98–115 substituted "2,000" for "2,500".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. B, title XXVII, §2702, Sept. 29, 1988, 102 Stat. 2115, provided that: "Except as otherwise specifically provided, this division [amending this section and sections 2662, 2672, 2809, and 2828 of this title and enacting provisions set out as a note under this section] shall take effect on October 1, 1988, or the date of enactment of this Act [Sept. 29, 1988], whichever is later."

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–115, title VIII, §808, Oct. 11, 1983, 97 Stat. 789, provided that the amendment made by that section is effective Oct. 1, 1983.

### TEMPORARY PRIORITY AND ALLOCATION OF FUNDS UNDER PROGRAM

Pub. L. 119–60, div. B, title XXVIII, §2806(b), Dec. 18, 2025, 139 Stat. 1298, provided that: "During the two-year period beginning on the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall—

"(1) give priority under the Defense Community Infrastructure Program under section 2391(d) of title 10, United States Code, to projects under subparagraph (B)(ii) of such section (as amended by subsection (a)), for which an application has been previously made for assistance under that program; and

"(2) allocate not less than two-thirds of the amounts appropriated or otherwise made available for such program equally among projects under subparagraphs (B)(i) and (B)(ii) of such program (as amended by subsection (a))."

## RESTRICTIONS ON USE OF FUNDS FOR DEVELOPMENT OF PUBLIC INFRASTRUCTURE IN COMMONWEALTH OF NORTHERN MARIANA ISLANDS

Pub. L. 115–232, div. B, title XXVIII, §2863, Aug. 13, 2018, 132 Stat. 2284, provided that:

"(a) RESTRICTION.—If the Secretary of Defense determines that any grant, cooperative agreement, transfer of funds to another Federal agency, or supplement of funds available under Federal programs administered by agencies other than the Department of Defense will result in the development (including repair, replacement, renovation, conversion, improvement, expansion, acquisition, or construction) of public infrastructure in the Commonwealth of the Northern Mariana Islands (hereafter in this section referred to as the 'Commonwealth'), the Secretary of Defense may not carry out such grant, transfer, cooperative agreement, or supplemental funding unless such grant, transfer, cooperative agreement, or supplemental funding—

"(1) is specifically authorized by law; and

"(2) will be used to carry out a public infrastructure project included in the report submitted under subsection (b).

"(b) REPORT OF ECONOMIC ADJUSTMENT COMMITTEE.—

"(1) CONVENING OF COMMITTEE.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, as the chair of the Economic Adjustment Committee established in Executive Order No. 127887 [probably should be Executive Order No. 12788] (10 U.S.C. 2391 note), shall convene the Economic Adjustment Committee to consider assistance, including assistance to support public infrastructure projects, necessary to support changes in Department of Defense activities in the Commonwealth.

"(2) REPORT.—Not later than 180 days after convening the Economic Adjustment Committee under paragraph (1), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report—

"(A) describing the results of the Economic Adjustment Committee deliberations required by paragraph (1); and

"(B) containing a description of any assistance the Committee determines to be necessary to support changes in Department of Defense activities in the Commonwealth, including any public infrastructure projects the Committee determines should be carried out with such assistance.

"(c) PUBLIC INFRASTRUCTURE DEFINED.—In this section, the term 'public infrastructure' means any utility, method of transportation, item of equipment, or facility under the control of a public entity or State or local government that is used by, or constructed for the benefit of, the general public."

## ADVANCE ADJUSTMENT PLANNING

Pub. L. 102–484, div. D, title XLIII, §4301(d), Oct. 23, 1992, 106 Stat. 2697, authorized Secretary of Defense, during fiscal year 1993, to make grants and other assistance available under 10 U.S.C. 2391(b) to assist a State or local government in planning community adjustments and economic diversification even though the State or local government currently failed to meet the criteria for assistance under such section if the Secretary determined that a substantial portion of the economic activity or population of the geographic area to be subjected to the adjustment or diversification planning was dependent on Department of Defense expenditures.

## EFFECT OF 1992 AMENDMENTS ON EFFORTS OF ECONOMIC DEVELOPMENT ADMINISTRATION

Pub. L. 102–484, div. D, title XLIII, §4301(f), Oct. 23, 1992, 106 Stat. 2698, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note above] is intended to replace the efforts of the economic development program administered by the Economic Development Administration of the Department of Commerce."

## PILOT PROJECT TO IMPROVE ECONOMIC ADJUSTMENT PLANNING

Pub. L. 102–484, div. D, title XLIII, §4302, Oct. 23, 1992, 106 Stat. 2698, as amended by Pub. L. 103–160, div. A, title XIII, §1323(a), Nov. 30, 1993, 107 Stat. 1790, authorized Secretary of Defense, during fiscal years 1993 and 1994, to conduct a pilot project to examine methods to improve the provision of economic adjustment and diversification assistance under 10 U.S.C. 2391(b)(1) to State and local governments adversely affected by the closure of military installations, the cancellation or completion of defense contracts, or reductions in defense spending.

## DONATION OF REAL PROPERTY TO NONPROFIT ENTITIES PROVIDING SUPPORT TO CHILDREN WITH LIFE-THREATENING DISEASES

Pub. L. 102–172, title VIII, §8149, Nov. 26, 1991, 105 Stat. 1214, provided that:

"(a) The Secretary of Defense, during the current fiscal year or at any time thereafter, may make a donation to an entity described in subsection (b) of a parcel of real property (including structures on such property) under the jurisdiction of the Secretary that is not currently required for the needs of the Department and that the Secretary determines is needed and appropriate for the activities of that entity.

"(b) A donation under subsection (a) may be made to a nonprofit entity which provides medical, educational, and emotional support in a recreational setting to children with life-threatening diseases and their families."

## DEFENSE ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

Pub. L. 101–510, div. D, Nov. 5, 1990, 104 Stat. 1848, as amended by Pub. L. 102–190, div. A, title X, §1062(c), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 102–484, div. D, title XLII, §4212(b), Oct. 23, 1992, 106 Stat. 2664; Pub. L. 104–201, div. A, title VIII, §825, Sept. 23, 1996, 110 Stat. 2611; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(6)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–419; Pub. L. 108–136, div. A, title IX, §932, Nov. 24, 2003, 117 Stat. 1581; Pub. L. 113–66, div. B, title XXVIII, §2841, Dec. 26, 2013, 127 Stat. 1024, provided that:

"SEC. 4001. SHORT TITLE

"This division may be cited as the 'Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990'.

"SEC. 4002. FINDINGS AND POLICY

"(a) FINDINGS.—Congress makes the following findings:

"(1) There are likely to be significant reductions in the programs, projects, and activities of the Department of Defense during the first several fiscal years following fiscal year 1990.

"(2) Such reductions will adversely affect the economies of many communities in the United States and small businesses and civilian workers throughout the United States.

"(b) POLICY.—In view of the findings expressed in subsection (a), it is the policy of the United States that—

"(1) assistance be provided under existing planning assistance programs and economic adjustment assistance programs of the Federal Government to substantially and seriously affected communities, businesses, and workers to the extent necessary to facilitate an orderly transition for such communities, small businesses, and workers from economic reliance on Department of Defense spending to economic reliance on other sources of business, employment, and revenue; and

"(2) funding for such programs be increased by amounts necessary to meet the needs of such communities, small businesses, and workers without reducing the funding that would otherwise be available under those programs by reason of causes unrelated to the reductions referred to in subsection (a)(1).

"SEC. 4003. DEFINITIONS

"For purposes of this division:

"(1) The term 'major defense contract or subcontract' means—

"(A) any defense contract in an amount not less than $5,000,000 (without regard to the date on which the contract was awarded); and

"(B) any subcontract which—

"(i) is entered into in connection with a contract (without regard to the effective date of the subcontract); and

"(ii) involves not less than $500,000.

"(2) The term 'Economic Adjustment Committee' or 'Committee' means the Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note).

"(3) The term 'defense facility' means any private or government facility producing goods or services

pursuant to a defense contract.

"(4) The term 'military installation' means a base, camp, post, station, yard, center, or homeport facility for any ship in the United States, or any other facility under the jurisdiction of a military department located in the United States.

"(5) The term 'substantially and seriously affected' means—

"(A) when such term is used in conjunction with the term 'community', a community—

"(i) which has within its administrative and political jurisdiction one or more military installations or defense facilities or which is economically affected by proximity to a military installation or defense facility;

"(ii) in which the actual or threatened curtailment, completion, elimination, or realignment of a defense contract results in a workforce reduction of—

"(I) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

"(II) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

"(III) one percent of the total number of civilian jobs in that area; and

"(iii) which establishes, by evidence, that any workforce reduction referred to in clause (ii) occurred as a direct result of changes in Department of Defense requirements or programs;

"(B) when such term is used in conjunction with the term 'businesses' any business which—

"(i) holds a major defense contract or subcontract (or held such contract or subcontract before a reduction in the defense budget);

"(ii) experiences a reduction, or the threat of a reduction, of—

"(I) 25 percent or more in sales or production; or

"(II) 80 percent or more of the workforce of such business in any division of such business or at any plant or other facility of such business; and

"(iii) establishes, by evidence, that the reductions referred to in clause (ii) occurred as a direct result of a reduction in the defense budget; and

"(C) when such term is used in conjunction with the term 'group of workers', any group of 100 or more workers at a defense facility who are (or who are threatened to be), eligible to participate in the defense conversion adjustment program under section 325 of the Job Training Partnership Act [29 U.S.C. 1662d] (as added by section 4202 of this division), as in effect on the day before the date of enactment of the Workforce Investment Act of 1998 [Aug. 7, 1998].

"SEC. 4004. CONTINUATION OF ECONOMIC ADJUSTMENT COMMITTEE

"(a) TERMINATION OR ALTERATION PROHIBITED.—The Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note) may not be terminated and the duties of the Committee may not be significantly altered unless specifically authorized by a law.

"(b) CHAIRMAN.—The Secretary of Defense shall be the chairman of the Committee.

"(c) EXECUTIVE COUNCIL.—Until October 1, 1997, the National Defense Technology and Industrial Base Council shall function as an Executive Council of the Committee. Under the direction of the chairman of the Committee, the Executive Council shall develop policies and procedures to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by the departments and agency comprising the Council.

"(d) DUTIES OF COMMITTEE.—The Economic Adjustment Committee shall—

"(1) coordinate and facilitate cooperative efforts among Federal agencies represented on the Committee to implement defense economic adjustment programs; and

"(2) serve as an information clearinghouse for and between Federal, State, and local entities regarding their defense economic adjustment efforts.

## "TITLE XLI—ECONOMIC ADJUSTMENT PLANNING

"[SEC. 4101. REPEALED. PUB. L. 104–201, DIV. A, TITLE VIII, §825, SEPT. 23, 1996, 110 STAT. 2611.]

"SEC. 4102. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE THROUGH THE DEPARTMENT OF DEFENSE

"(a) IN GENERAL.—Any substantially and seriously affected community shall be eligible for economic adjustment planning assistance through the Office of Economic Adjustment in the Department of Defense

under subsection (b) of section 2391 of title 10, United States Code, subject to subsection (e) of such section. Such assistance shall be provided in accordance with the standards, procedures, and priorities established by the Committee under this division.

"(b) [Amended section 2391(b) of this title.]

"SEC. 4103. COMMUNITY ECONOMIC ADJUSTMENT ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION

"(a) IN GENERAL.—A community that has been determined by the Economic Development Administration of the Department of Commerce or the Office of Economic Adjustment of the Department of Defense, in accordance with the standards and procedures established by the Economic Adjustment Committee, to be a substantially and seriously affected community shall be eligible for economic adjustment assistance authorized under title IX of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3241 et seq.], subject to the availability of appropriations for such purpose and subject to meeting the eligibility requirements of such title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense for fiscal year 1991 $50,000,000 for purposes of carrying out subsection (a). Any amount appropriated pursuant to this subsection shall remain available until expended.

## "TITLE XLII—ADJUSTMENT ASSISTANCE FOR EMPLOYEES

"[SEC. 4201. REPEALED. PUB. L. 104–201, DIV. A, TITLE VIII, §825, SEPT. 23, 1996, 110 STAT. 2611.]

"SEC. 4202. DEFENSE CONVERSION ADJUSTMENT PROGRAM

"[Enacted section 1662d of Title 29, Labor.]

"SEC. 4203. AUTHORIZATION OF APPROPRIATIONS

"(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Defense $150,000,000 for fiscal year 1991 to carry out section 4201 and the amendment made by section 4202. Amounts appropriated pursuant to this subsection shall remain available until expended.

"(b) ADMINISTRATIVE EXPENSES.—Of amounts appropriated pursuant to this section, not more than five percent may be retained by the Secretary of Labor for the administration of the activities authorized by the amendment made by section 4202.

## "TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

"SEC. 4301. EXPANSION OF SMALL BUSINESS LOAN PROGRAM

"Not later than 180 days after the date of the enactment of this Act [Nov. 5, 1990], the President, acting with the assistance of the Committee and after consulting experts in government and the private sector, shall transmit to the Congress recommendations regarding ways that assistance provided pursuant to the business loan program under section 7(a) of the Small Business Act of 1958 [15 U.S.C. 636(a)] may be used to respond to the consequences of defense budget reductions.

"SEC. 4302. ECONOMIC PLANNING ASSISTANCE FOR EXCEPTIONAL PROJECTS

"(a) ASSISTANCE AUTHORIZED.—The Economic Development Administration, in the case of assistance under title IX of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3241 et seq.], and the Office of Economic Adjustment, in the case of planning assistance under section 2391(b) of title 10, United States Code, may award planning assistance under those programs to any substantially and seriously affected community, on behalf of a business, group of businesses, or group of workers, if such planning funds are determined by the agency concerned to be necessary and appropriate as a catalyst for projects which the agency determines, on a case-by-case basis, have exceptional promise for achieving the objectives of this division.

"(b) CONDITIONS ON ASSISTANCE.—Awards under this section shall be subject to the availability of appropriations for such purpose and shall be made in accordance with any other applicable provisions of law.

"SEC. 4303. EXPANSION OF EXPORT FINANCING FOR GOODS AND SERVICES PRODUCED BY FIRMS AND EMPLOYEES FORMERLY ENGAGED IN DEFENSE PRODUCTION

"(a) EXPORT-IMPORT BANK.—

"(1) SENSE OF CONGRESS ON PLAN FOR EXPANSION.—It is the sense of Congress that the United States businesses undergoing transition from defense production to nondefense production will need assistance in seizing export markets overseas. Therefore, in order to provide financial support for such

businesses, as well as meeting other normal demands on its resources, the annual direct lending authority of the Export-Import Bank of the United States should be increased by at least 150 percent from the fiscal year 1990 level over the five-year period beginning October 1, 1990.

"(2) REPORT OF FEASIBILITY.—Before September 30, 1990, the President, acting with the assistance of the Committee and after consulting the Board of Directors of the Export-Import Bank of the United States and other experts in government and the private sector, shall transmit to the Congress a report assessing the feasibility and desirability of a program for increasing the amount of direct loan authority in the manner described in paragraph (1) and the factors considered in making such assessment.

"(3) TRANSITION TO NONDEFENSE PRODUCTION REQUIRED TO BE CONSIDERED.—In determining whether to provide financial support for an export transaction, the Export-Import Bank of the United States shall take into account, to the extent feasible and in accordance with applicable standards and procedures established by the bank in consultation with the Committee, the fact that the product or service is produced or provided by any business or group of workers which—

"(A) was substantially and seriously affected by defense budget reductions; and

"(B) is in transition from defense to nondefense production.

"(b) SBA USE OF AUTHORITY FOR EXPORT FINANCING ASSISTANCE.—In determining whether to provide financial or other assistance under the Small Business Act [15 U.S.C. 631 et seq.], title VIII of the Omnibus Trade and Competitiveness Act of 1988 [Pub. L. 100–418, see Short Title of 1988 Amendments note set out under section 631 of Title 15, Commerce and Trade], or any program referred to in section 4301 to any small business involved in, or attempting to become involved in, the export of any product or service, the Administrator of the Small Business Administration shall take into account the fact that such product or service is produced or provided by any business or group of workers which—

"(1) has been substantially and seriously affected by defense budget reductions; and

"(2) is in transition from defense to nondefense production.

"(c) COORDINATION AND INTEGRATION OF ACTIVITIES AND ASSISTANCE WITH OTHER AGENCIES.—In providing additional financial assistance pursuant to any increase in loan authority under this division—

"(1) Federal agencies concerned with international trade shall participate in the process of coordination conducted by the Committee pursuant to section 4004(c)(1); and

"(2) such Federal agencies shall attempt, to the maximum extent practicable, to coordinate and integrate the activities and assistance of the agencies in support of exports, including financial assistance in the form of direct loans, loan guarantees, and insurance, general trade promotion, marketing assistance, and marketing and commercial information, in a manner consistent with the purposes of this division (and the amendments made by this division to other provisions of law).

"(d) REPORTING.—The annual reports made by the Export-Import Bank of the United States and the Administrator of the Small Business Administration and the annual economic stabilization and adjustment report under section 4004(c)(3) of this division shall include a description of the extent to which the bank and the Administrator are—

"(1) providing financing described in subsections (a)(2) and (b), respectively, to businesses or groups of workers which were substantially and seriously affected by defense budget reductions; and

"(2) coordinating and integrating export support and financing activities with other Federal agencies.

"SEC. 4304. BENEFIT INFORMATION FOR BUSINESSES

"(a) INFORMATION REQUIRED TO BE PROVIDED.—The Secretary of Commerce and the Administrator of the Small Business Administration shall provide any business affected by defense budget reductions with a complete description of available programs which provide any business, whether on an industrywide or an individual basis, with any planning assistance, financial, technical, or managerial assistance, worker retraining assistance, or other assistance authorized under this division.

"(b) EFFECTIVE NOTIFICATION SYSTEM.—The Secretary of Commerce and the Administrator of the Small Business Administration shall take such action as may be appropriate to ensure, to the maximum extent practicable, that each business affected by defense budget reductions receives the information required to be provided under subsection (a) on a timely basis."

## COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

Section 2819 of Pub. L. 100–456, as amended by Pub. L. 101–510, div. B, title XXIX, §2922(a), Nov. 5, 1990, 104 Stat. 1820, established Commission on Alternative Utilization of Military Facilities and required Commission to submit reports to President and Congress not later than Sept. 1 of every second year through fiscal year 1996, prior to repeal by Pub. L. 105–261, div. A, title X, §1031(b), Oct. 17, 1998, 112 Stat. 2123.

## SUBMISSION DATE FOR FIRST REPORT

Pub. L. 97–86, title IX, §912(c), Dec. 1, 1981, 95 Stat. 1123, required the first report under subsec. (c) of this section to be submitted not later than Dec. 1, 1982.

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 12682. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

Ex. Ord. No. 12682, July 7, 1989, 54 F.R. 29315, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 2819 of the Military Construction Authorization Act, 1989 (Public Law 100–456) [10 U.S.C. 2391 note], it is hereby ordered as follows:

SECTION 1. (a) I hereby establish the Commission on Alternative Utilization of Military Facilities ("Commission").

(b) The Commission shall consist of a representative of the Department of Defense designated by the Secretary of Defense, a representative of the Federal Bureau of Prisons designated by the Attorney General, a representative of the National Institute on Drug Abuse designated by the Secretary of Health and Human Services, a representative of the General Services Administration designated by the Administrator of General Services, a representative of the Department of Housing and Urban Development designated by the Secretary of Housing and Urban Development, and a representative of the Office of National Drug Control Policy designated by the Director of the Office of National Drug Control Policy. The representative of the Department of Defense shall chair the Commission.

(c) The Secretary of Defense shall provide such personnel and support to the Commission as the Secretary determines is necessary to accomplish its mission.

SEC. 2. (a) Subject to subsection (b), the Secretary of Defense shall prepare and submit to the Commission reports listing active and nonactive military facilities that are underutilized in whole or in part or otherwise excess to the needs of the Department of Defense.

(b) The first such report shall be prepared and submitted as soon as possible for inclusion in the first report of the Commission. The second report shall be prepared and submitted on January 30, 1990, and succeeding reports shall be prepared and submitted every other year commencing on January 30, 1992, and continuing until January 30, 1996.

SEC. 3. (a) Subject to subsection (b), the Commission shall submit a report to the President and then to the Congress that identifies those facilities, or parts of facilities, from the list submitted by the Secretary of Defense under Section 2 that could be effectively utilized or renovated to serve as:

(1) minimum security facilities for nonviolent prisoners,

(2) drug treatment facilities for nonviolent drug abusers, and

(3) facilities to assist the homeless.

(b) The first report of the Commission shall be submitted to the President and then to the Congress by September 1, 1989. The second, and succeeding reports of the Commission, shall be submitted to the President and then to the Congress no later than September 1, 1990, and every second year through September 1, 1996.

GEORGE BUSH.

### EX. ORD. NO. 12788. DEFENSE ECONOMIC ADJUSTMENT PROGRAM

Ex. Ord. No. 12788, Jan. 15, 1992, 57 F.R. 2213, as amended by Ex. Ord. No. 13286, §33, Feb. 28, 2003, 68 F.R. 10625; Ex. Ord. No. 13378, May 12, 2005, 70 F.R. 28413, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 *et seq*., of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510 [set out above], and to provide coordinated Federal economic adjustment assistance necessitated by changes in Department of Defense activities, it is hereby ordered as follows:

SECTION 1. *Function of the Secretary of Defense*. The Secretary of Defense shall, through the Economic Adjustment Committee, design and establish a Defense Economic Adjustment Program.

SEC. 2. *Purpose of the Defense Economic Adjustment Program*. The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist

State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations.

SEC. 3. *Functions of the Defense Economic Adjustment Program*. The Defense Economic Adjustment Program shall:

(a) Identify problems of States, regions, metropolitan areas, or communities that result from major Defense base closures, realignments, and Defense contract-related adjustments, and the encroachment of the civilian community on the mission of military installations and that require Federal assistance;

(b) Use and maintain a uniform socioeconomic impact analysis to justify the use of Federal economic adjustment resources, prior to particular realignments;

(c) Apply consistent policies, practices, and procedures in the administration of Federal programs that are used to assist Defense-affected States, regions, metropolitan areas, communities, and businesses;

(d) Identify and strengthen existing agency mechanisms to coordinate employment opportunities for displaced agency personnel;

(e) Identify and strengthen existing agency mechanisms to improve reemployment opportunities for dislocated Defense industry personnel;

(f) Assure timely consultation and cooperation with Federal, State, regional, metropolitan, and community officials concerning Defense-related impacts on Defense-affected communities' problems;

(g) Assure coordinated interagency and intergovernmental adjustment assistance concerning Defense impact problems;

(h) Prepare, facilitate, and implement cost-effective strategies and action plans to coordinate interagency and intergovernmental economic adjustment efforts;

(i) Encourage effective Federal, State, regional, metropolitan, and community cooperation and concerted involvement of public interest groups and private sector organizations in Defense economic adjustment activities;

(j) Serve as a clearinghouse to exchange information among Federal, State, regional, metropolitan, and community officials involved in the resolution of community economic adjustment problems. Such information may include, for example, previous studies, technical information, and sources of public and private financing;

(k) Assist in the diversification of local economies to lessen dependence on Defense activities;

(l) Encourage and facilitate private sector interim use of lands and buildings to generate jobs as military activities diminish;, [sic]

(m) Develop ways to streamline property disposal procedures to enable Defense-impacted communities to acquire base property to generate jobs as military activities diminish; and

(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts.

SEC. 4. *Economic Adjustment Committee.*

(a) *Membership*. The Economic Adjustment Committee ("Committee") shall be composed of the following individuals, or a designated principal deputy of these individuals, and such other individuals from the executive branch as the President may designate. Such individuals shall include the:

(1) Secretary of Agriculture;
(2) Attorney General;
(3) Secretary of Commerce;
(4) Secretary of Defense;
(5) Secretary of Education;
(6) Secretary of Energy;
(7) Secretary of Health and Human Services;
(8) Secretary of Housing and Urban Development;
(9) Secretary of the Interior;
(10) Secretary of Labor;
(11) Secretary of State;
(12) Secretary of Transportation;
(13) Secretary of the Treasury;
(14) Secretary of Veterans Affairs;
(15) Secretary of Homeland Security;
(16) Chairman, Council of Economic Advisers;
(17) Director of the Office of Management and Budget;
(18) Director of the Office of Personnel Management;
(19) Administrator of the Environmental Protection Agency;

(20) Administrator of General Services;
(21) Administrator of the Small Business Administration; and,
(22) Postmaster General.
(b) *Chairman*. The Secretary of Defense, or the Secretary's designee, shall chair the Committee.
(c) *Vice Chairman*. The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies.
(d) *Executive Director*. The head of the Department of Defense's Office of Economic Adjustment shall provide all necessary policy and administrative support for the Committee and shall be responsible for coordinating the application of the Defense Economic Adjustment Program to Department of Defense activities.
(e) *Duties*. The Committee shall:
(1) Advise, assist, and support the Defense Economic Adjustment Program;
(2) Develop procedures for ensuring that State, regional, and community officials and representatives of organized labor in those States, municipalities, localities, or labor organizations that are substantially and seriously affected by changes in Defense expenditures, realignments or closures, or cancellation or curtailment of major Defense contracts, are notified of available Federal economic adjustment programs; and,
(3) Report annually to the President and then to the Congress on the work of the Economic Adjustment Committee during the preceding fiscal year.
SEC. 5. *Responsibilities of Executive Agencies.*
(a) The head of each agency represented on the Committee shall designate an agency representative to:
(1) Serve as a liaison with the Secretary of Defense's economic adjustment staff;
(2) Coordinate agency support and participation in economic adjustment assistance projects; and,
(3) Assist in resolving Defense-related impacts on Defense-affected communities.
(b) All executive agencies shall:
(1) Support, to the extent permitted by law, the economic adjustment assistance activities of the Secretary of Defense. Such support may include the use and application of personnel, technical expertise, legal authorities, and available financial resources. This support may be used, to the extent permitted by law, to provide a coordinated Federal response to the needs of individual States, regions, municipalities, and communities adversely affected by necessary Defense changes;
(2) Afford priority consideration to requests from Defense-affected communities for Federal technical assistance, financial resources, excess or surplus property, or other requirements, that are part of a comprehensive plan used by the Committee.
SEC. 6. *Judicial Review*. This order shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, its agents, or any person.
SEC. 7. *Construction*. (a) Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.
(b) This order shall be effective immediately and shall supersede Executive Order No. 12049.
[Amendment by Ex. Ord. 13378 directing insertion of "and" after "diminish;" in section 3(m) of Ex. Ord. 12788, was executed by substituting "; and" for the comma after "diminish".]

## §2392. Process for strategic basing actions for the Department of the Air Force

(a) PROGRAMMATIC BASING DECISIONS PROHIBITED.—The Secretary of the Air Force (or a designee) shall not make any basing decision during the resource allocation plan or program objective memorandum process.
(b) QUARTERLY BRIEFINGS.—Not later than 90 days after the date of the enactment of this section, and quarterly thereafter, the Secretary of the Air Force (or a designee) shall brief the congressional defense committees on the following:
(1) Strategic basing actions approved by the strategic basing panel for review by the strategic basing executive steering group during the quarter covered by the briefing.
(2) For each strategic basing action not covered by a previous briefing, a description of the criteria for selection of candidate location for each such strategic basing action and how each

criterion will be applied to the candidate locations to determine preferred location.

(3) Updates regarding candidate locations, preferred locations, and the final location selected for each strategic basing action covered by the briefing.

(4) Any strategic basing actions with projected decision dates that will occur before the next scheduled briefing under this subsection.

(c) ADDITIONAL BRIEFINGS.—Upon request by either the Committee on Armed Services of the House of Representatives or of the Senate, the Secretary of the Air Force (or a designee) shall provide to such Committee a briefing on the information described in subsection (b).

(d) POST-BRIEFING CHANGES.—The Secretary of the Air Force (or a designee) shall notify the congressional defense committees, not later than seven days after the effective date of a change, if such change is a change—

(1) to the selection criteria or the application of selection criteria, that would result in a different decision than briefed under subsection (b) regarding the enterprise definition, identified candidate locations, or identified preferred location; or

(2) to the governance process used to oversee a strategic basing action.

(e) OVERSEAS STRATEGIC BASING ACTIONS.—With respect to a strategic basing action relating to a military installation located outside of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam, a notification required under this section may be provided in a classified form.

(f) DEFINITIONS.—In this section, the terms "enterprise definition", "program objective memorandum process", "resource allocation plan", "strategic basing action", "strategic basing executive steering group", and "strategic basing panel" have the meanings given, respectively, under the Department of the Air Force Instruction 10–503 (issued June 12, 2023, as in effect on November 1, 2024).

(Added Pub. L. 118–159, div. B, title XXVIII, §2803(a), Dec. 23, 2024, 138 Stat. 2247.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

**PRIOR PROVISIONS**

A prior section 2392 was renumbered section 4653 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 118–159, div. B, title XXVIII, §2803(b), Dec. 23, 2024, 138 Stat. 2248, provided that: "This section [enacting this section] and the amendments made by this section shall apply with respect to strategic basing actions (as defined in section 2392 of title 10, United States Code, as added by this section) made by the Secretary of the Air Force on or after the date of the enactment of this Act [Dec. 23, 2024]."

## [§2393. Renumbered §4654]

## [§2394. Renumbered §2922a]

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2394 was renumbered section 2395 of this title.

## [§2394a. Renumbered §2922b]

## [§2395. Renumbered §3132]

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2395 was renumbered section 2396 of this title.

## §2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries

(a) An advance under an appropriation to the Department of Defense may be made to pay for—

(1) compliance with laws and ministerial regulations of a foreign country;

(2) rent in a foreign country for periods of time determined by local custom;

(3) tuition; and

(4) public service utilities.

(b)(1) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy, an officer of an armed force of the United States accountable for public money may advance amounts to a disbursing official of a friendly foreign country or members of an armed force of a friendly foreign country for—

(A) pay and allowances to members of the armed force of that country; and

(B) necessary supplies and services.

(2) An advance may be made under this subsection only if the President has made an agreement with the foreign country—

(A) requiring reimbursement to the United States for amounts advanced;

(B) requiring the appropriate authority of the country to advance amounts reciprocally to members of the armed forces of the United States; and

(C) containing any other provision the President considers necessary to carry out this subsection and to safeguard the interests of the United States.

(Added Pub. L. 97–258, §2(b)(4)(B), Sept. 13, 1982, 96 Stat. 1053, §2395; renumbered §2396 and amended Pub. L. 97–295, §1(28)(B), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 105–85, div. A, title X, §1014(a), (b)(1), Nov. 18, 1997, 111 Stat. 1875; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES
1982 ACT (PUB. L. 97–258)

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2395(a) | 31:529i. | July 13, 1955, ch. 358, §602, 69 Stat. 314. |
| 2395(b) | 31:529j. | Oct. 19, 1965, Pub. L. 89–265, 79 Stat. |

| | | |
|---|---|---|
| | | 989. |

In subsection (a), the words "On and after July 13, 1955" are omitted as executed. The words "An advance" are substituted for "section 529 of this title shall not apply in the case of payments" because of the restatement.

In subsection (b), the words "armed force of the United States" are substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard" because of 10:101(4) and to avoid confusion with the phrase "armed force of a friendly foreign country".

In subsection (b)(1), before clause (A), the words "the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" are substituted for "the Secretary of the Treasury in their respective areas of responsibility" because of 14:3 and 49:1655(b)(1) and (2). The words "disbursing official" are substituted for "cashiers, disbursing officers" for consistency with other titles of the United States Code and to eliminate unnecessary words.

1982 ACT (PUB. L. 97–295)

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2396 | 10:2395. | Sept. 13, 1982, Pub. L. 97–258, §2(b)(4)(B), 96 Stat. 1053. |

This redesignates 10:2395 as 10:2396 because of the redesignation of 10:2394 (enacted by Pub. L. 97–258) as 10:2395, and substitutes "any other" for "another" in subsec. (b)(2)(C).

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (b)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in introductory provisions.

**1997**—Pub. L. 105–85, §1014(b)(1), inserted "public utility services," after "tuition," in section catchline.

Subsec. (a)(4). Pub. L. 105–85, §1014(a), added par. (4).

**1982**—Subsec. (b)(2)(C). Pub. L. 97–295 substituted "any other" for "another".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## [§§2397 to 2397c. Repealed. Pub. L. 104–106, div. D, title XLIII, §4304(b)(1), Feb. 10, 1996, 110 Stat. 664]

Section 2397, added Pub. L. 97–295, §1(29)(A), Oct. 12, 1982, 96 Stat. 1291; amended Pub. L. 99–145, title IX, §922, Nov. 8, 1985, 99 Stat. 693; Pub. L. 100–26, §7(j)(5), (k)(2), Apr. 21, 1987, 101 Stat. 283, 284; Pub. L. 102–25, title VII, §701(d)(6), Apr. 6, 1991, 105 Stat. 114; Pub. L. 102–484, div. A, title X, §1052(29), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–355, title IV, §4401(d), title VIII, §8105(d), Oct. 13, 1994, 108 Stat. 3348, 3392, related to filing of certain reports by employees or former employees of defense contractors.

Section 2397a, added Pub. L. 99–145, title IX, §923(a)(1), Nov. 8, 1985, 99 Stat. 695; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–280, §10(b), May 4, 1990, 104 Stat. 162, related to requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors.

Section 2397b, added Pub. L. 99–500, §101(c) [title X, §931(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–156, and Pub. L. 99–591, §101(c) [title X, §931(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–156; Pub. L. 99–661, div. A, title IX, formerly title IV, §931(a)(1), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–180, div. A, title VIII, §821, Dec. 4, 1987, 101 Stat. 1132; Pub. L. 103–355, title VIII, §8105(e), Oct. 13, 1994, 108 Stat. 3392, related to limitations on employment by contractors of certain former Department of Defense procurement officials.

Section 2397c, added Pub. L. 99–500, §101(c) [title X, §931(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82,

1783–159, and Pub. L. 99–591, §101(c) [title X, §931(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–159; Pub. L. 99–661, div. A, title IX, formerly title IV, §931(a)(1), Nov. 14, 1986, 100 Stat. 3938, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103–355, title VIII, §8105(f), Oct. 13, 1994, 108 Stat. 3392, related to requirements for defense contractors concerning former Department of Defense officials.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 2220 of this title.

## [§2398. Renumbered §2922c]

## [§2398a. Renumbered §2922d]

## [§2399. Renumbered §4171]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2399, added Pub. L. 97–295, §1(29)(A), Oct. 12, 1982, 96 Stat. 1293, which related to limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance, was repealed by Pub. L. 100–370, §1(f)(2)(B), July 19, 1988, 102 Stat. 846, and was restated in section 2324(e)(1)(L) of this title (now 10 U.S.C. 3744(a)(12)) by section 1(f)(2)(A) of Pub. L. 100–370.

## [§2400. Renumbered §4231]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2400 was renumbered section 4864 of this title.

## [§2401. Transferred]

**EDITORIAL NOTES**

**CODIFICATION**

Subsecs. (a) to (h) of this section were transferred to chapter 257 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(a), Jan. 1, 2021, 134 Stat. 4205. Subsecs. (a) and (b) of this section were renumbered as section 3671 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(b), Jan. 1, 2021, 134 Stat. 4206. Subsec. (c)(1) of this section was renumbered as section 3672(a) of this title by Pub. L. 116–283, div. A, title XVIII, §1825(d), Jan. 1, 2021, 134 Stat. 4207. Subsec. (c)(2) of this section was renumbered as section 3673 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(c), Jan. 1, 2021, 134 Stat. 4206. Subsec. (d) of this section was renumbered as section 3674 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(f)(1), Jan. 1, 2021, 134 Stat. 4207. Subsec. (e) of this section was renumbered as section 3672(b) of this title by Pub. L. 116–283, div. A, title XVIII, §1825(e), Jan. 1, 2021, 134 Stat. 4207. Subsec. (f) of this section was

renumbered as section 3675 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(g)(1), Jan. 1, 2021, 134 Stat. 4208. Subsec. (g) of this section was renumbered as section 3676 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(h), Jan. 1, 2021, 134 Stat. 4208. Subsec. (h) of this section was renumbered as section 3677 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(i), Jan. 1, 2021, 134 Stat. 4208.

## [§2401a. Transferred]

### EDITORIAL NOTES

### CODIFICATION

Subsec. (a) of this section was transferred to chapter 258 of this title and subsec. (b) of this section was transferred to chapter 257 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(a), Jan. 1, 2021, 134 Stat. 4205. Subsec. (a) of this section was renumbered as section 3681 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(k), Jan. 1, 2021, 134 Stat. 4208. Subsec. (b) of this section was renumbered as section 3678 of this title by Pub. L. 116–283, div. A, title XVIII, §1825(j), Jan. 1, 2021, 134 Stat. 4208.

### PRIOR PROVISIONS

A prior section 2401a was renumbered section 2350f of this title.

## [§2402. Renumbered §4655]

## [§2403. Repealed. Pub. L. 105–85, div. A, title VIII, §847(a), Nov. 18, 1997, 111 Stat. 1845]

Section, added Pub. L. 98–525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2601; amended Pub. L. 99–433, title I, §110(g)(5), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103–355, title II, §2402, Oct. 13, 1994, 108 Stat. 3324; Pub. L. 104–106, div. A, title XV, §1502(a)(21), Feb. 10, 1996, 110 Stat. 505, related to major weapon systems and contractor guarantees.

## [§2404. Renumbered §2922e]

## [§2405. Repealed. Pub. L. 105–85, div. A, title VIII, §810(a)(1), Nov. 18, 1997, 111 Stat. 1839]

Section, added Pub. L. 98–525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2604; amended Pub. L. 102–484, div. A, title VIII, §813(c), Oct. 23, 1992, 106 Stat. 2453; Pub. L. 103–355, title II, §2302(a), (b), Oct. 13, 1994, 108 Stat. 3321; Pub. L. 104–106, div. D, title XLIII, §4321(b)(14), Feb. 10, 1996, 110 Stat. 673, related to limitation on adjustment of shipbuilding contracts.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Pub. L. 105–85, div. A, title VIII, §810(b), Nov. 18, 1997, 111 Stat. 1839, provided that:

"(1) Except as provided in paragraph (2), the repeal made by subsection (a) [repealing this section] shall be effective with respect to claims, requests for equitable adjustment, and demands for payment under shipbuilding contracts that have been or are submitted before, on, or after the date of the enactment of this Act [Nov. 18, 1997].

"(2) Section 2405 of title 10, United States Code, as in effect immediately before the date of the enactment of this Act, shall continue to apply to a contractor's claim, request for equitable adjustment, or demand for payment under a shipbuilding contract that was submitted before such date if—

"(A) a contracting officer denied the claim, request, or demand, and the period for appealing the decision to a court or board under the Contract Disputes Act of 1978 [see 41 U.S.C. 7101 et seq.] expired before such date;

"(B) a court or board of contract appeals considering the claim, request, or demand (including any appeal of a decision of a contracting officer to deny the claim, request, or demand) denied or dismissed the claim, request, or demand (or the appeal), and the action of the court or board became final and unappealable before such date; or

"(C) the contractor released or releases the claim, request, or demand."

## [§2406. Repealed. Pub. L. 103–355, title II, §2201(b)(1), Oct. 13, 1994, 108 Stat. 3318]

Section, added Pub. L. 99–145, title IX, §917(a), Nov. 8, 1985, 99 Stat. 689; amended Pub. L. 99–500, §101(c) [title X, §943(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–162, and Pub. L. 99–591, §101(c) [title X, §943(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–162; Pub. L. 99–661, div. A, title IX, formerly title IV, §943(a)(1), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title XII, §1231(13), Dec. 4, 1987, 101 Stat. 1160, required contractor under covered contract with an agency to make cost and pricing data available to agency in timely manner.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## [§2407. Renumbered §2350b]

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

Pub. L. 99–661, div. A, title XI, §1102, Nov. 14, 1986, 100 Stat. 3961, which authorized Secretary of Defense to enter Weapon System Partnership Agreements with one or more governments of other member countries of NATO, was repealed by Pub. L. 101–189, div. A, title IX, §931(d)(2), Nov. 29, 1989, 103 Stat. 1535. See section 2350d of this title.

### NATO COOPERATIVE RESEARCH AND DEVELOPMENT

Pub. L. 99–145, title XI, §1103, Nov. 8, 1985, 99 Stat. 712, which urged and requested member nations of NATO to cooperate in research and development of defense equipment and munitions and in the production of defense equipment, was repealed by Pub. L. 101–189, div. A, title IX, §931(d)(1), Nov. 29, 1989, 103 Stat. 1535. See section 2350a of this title.

### AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH NATO AWACS PROGRAM

Pub. L. 97–86, title I, §103, Dec. 1, 1981, 95 Stat. 1100, as amended by Pub. L. 97–252, title I, §106, Sept. 8, 1982, 96 Stat. 720; Pub. L. 98–94, title I, §105, Sept. 24, 1983, 97 Stat. 620; Pub. L. 98–525, title I, §106, Oct. 19, 1984, 98 Stat. 2503; Pub. L. 99–145, title I, §106(b), Nov. 8, 1985, 99 Stat. 596; Pub. L. 99–661, title I, §106, Nov. 14, 1986, 100 Stat. 3827; Pub. L. 100–180, title I, §109, Dec. 4, 1987, 101 Stat. 1036, which set forth authority of Secretary of Defense in connection with NATO AWACS Program, was repealed by Pub. L. 101–189, div. A, title IX, §932(b), Nov. 29, 1989, 103 Stat. 1537. See section 2350e of this title. Similar provisions were contained in the following prior authorization acts:

Pub. L. 96–342, title I, §103, Sept. 8, 1980, 94 Stat. 1078.

Pub. L. 96–107, title I, §104, Nov. 9, 1979, 93 Stat. 804.

## [§2408. Renumbered §4656]

## [§2409. Renumbered §4701]

## [§2409a. Renumbered §4702]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2409a, added Pub. L. 101–510, div. A, title VIII, §837(a)(1), Nov. 5, 1990, 104 Stat. 1616; amended Pub. L. 102–25, title VII, §701(j)(4), (k)(2), Apr. 6, 1991, 105 Stat. 116, 117, which required promulgation of regulations prohibiting defense contractor from discharging or discriminating against employee for disclosing to Government official information concerning contract between contractor and Department of Defense evidencing violation of Federal law or regulation and providing certain complaint and investigation provisions and provided procedures for review and enforcement, was repealed by Pub. L. 103–355, title VI, §6005(b)(1), Oct. 13, 1994, 108 Stat. 3365. For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## [§2410. Renumbered §3862]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2410, added Pub. L. 100–370, §1(h)(2), July 19, 1988, 102 Stat. 847, provided that contract claims, requests for equitable adjustments, requests for relief under section 1431 et seq. of Title 50, War and National Defense, and other similar requests by contractors exceeding $100,000 were not to be paid unless senior official of contractor certified that claim or request was made in good faith and that data submitted was accurate and complete to the best of such official's knowledge and belief, prior to repeal by Pub. L. 102–484, div. A, title VIII, §813(b), Oct. 23, 1992, 106 Stat. 2453, effective upon promulgation of regulations pursuant to former section 2410e of this title [Interim rules, effective Apr. 30, 1993, were promulgated and published in the Federal Register, 58 F.R. 28458, May 13, 1993, and final rules, effective May 27, 1994, were promulgated and published in the Federal Register, 59 F.R. 27662, May 27, 1994].

## [§2410a. Renumbered §3133]

## [§2410b. Renumbered §3845]

## [§2410c. Renumbered §2922f]

### EDITORIAL NOTES

### CODIFICATION

Another section 2410c was renumbered section 4703 of this title.

## [§2410d. Renumbered §3903]

### EDITORIAL NOTES

### CODIFICATION

Another section 2410d was renumbered section 4704 of this title.

## [§2410e. Repealed. Pub. L. 103–355, title II, §2301(b), Oct. 13, 1994, 108 Stat. 3321]

Section, added Pub. L. 102–484, div. A, title VIII, §813(a)(1), Oct. 23, 1992, 106 Stat. 2452, directed Secretary of Defense to propose, for inclusion in Federal Acquisition Regulation, regulations relating to certification of contract claims, requests for equitable adjustment to contract terms, and requests for relief under section 1431 et seq. of Title 50, War and National Defense, that exceeded $100,000.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## [§2410f. Renumbered §4658]

## [§2410g. Renumbered §4603]

## [§2410h. Renumbered §1747]

## [§2410i. Renumbered §4659]

## [§2410j. Renumbered §4703]

## [§2410k. Renumbered §4704]

## [§2410*l*. Renumbered §4509]

## [§2410m. Renumbered §3863]

## [§2410n. Renumbered §3905]

## [§2410*o*. Renumbered §3551]

## [§2410p. Renumbered §4292]

## [§2410q. Renumbered §2922i]

## [§2410r. Renumbered §2387]

## [§2410s. Renumbered §2388]

# [CHAPTER 142—REPEALED]

## [§§2411, 2412. Repealed. Pub. L. 116–283, div. A, title XVIII, §1872(b)(1), Jan. 1, 2021, 134 Stat. 4289]

Section 2411, added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2605; amended Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 691; Pub. L. 99–500, §101(c) [title X, §956(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §956(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174; Pub. L. 99–661, div. A, title IX, formerly title IV, §956(a), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VIII, §807(b), Dec. 4, 1987, 101 Stat. 1128; Pub. L. 100–456, div. A, title VIII, §841(b)(2), Sept. 29, 1988, 102 Stat. 2025; Pub. L. 101–189, div. A, title VIII, §853(e), Nov. 29, 1989, 103 Stat. 1519; Pub. L. 102–25, title VII, §701(j)(5), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. A, title X, §1052(31), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 115–91, div. A, title X, §1081(a)(36), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title VIII, §852(a), Dec. 20, 2019, 133 Stat. 1511; Pub. L. 116–283, div. A, title XVIII, §1872(a)(2), Jan. 1, 2021, 134 Stat. 4288; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(A), (B), Dec. 27, 2021, 135 Stat. 2144, provided definitions for this chapter. See section 4951 of this title.

Section 2412, added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2605; amended Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 692; Pub. L. 116–283, div. A, title XVIII, §1872(a)(3), Jan. 1, 2021, 134 Stat. 4287; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(A), (B), Dec. 27, 2021, 135 Stat. 2144, defined the purposes of the program authorized by this chapter. See section 4952 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2413. Renumbered §4954]

## [§2414. Renumbered §4955]

## [§2415. Renumbered §4956]

## [§2416. Renumbered §4957]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2416 was renumbered section 2420 of this title and was subsequently repealed. Prior to repeal, text of section 2420 was transferred to section 4953 of this title.

## [§2417. Renumbered §4961]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2417 was renumbered section 2420 of this title and was subsequently repealed. Prior to repeal, text of section 2420 was transferred to section 4953 of this title.

## [§2418. Renumbered §4958]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2418 was renumbered section 2420 of this title and was subsequently repealed. Prior to repeal, text of section 2420 was transferred to section 4953 of this title.

## [§2419. Renumbered §4959]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2419 was renumbered section 2420 of this title and was subsequently repealed. Prior to repeal, text of section 2420 was transferred to section 4953 of this title.

## [§2420. Repealed. Pub. L. 116–283, div. A, title XVIII, §1872(b)(1), Jan. 1, 2021, 134 Stat. 4289]

Section, added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2606, §2416; renumbered §2417, Pub. L. 99–500, §101(c) [title X, §957(a)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §957(a)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174, and Pub. L. 99–661, div. A, title IX, formerly title IV, §957(a)(1)(A), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §2418, Pub. L. 101–510, div. A, title VIII, §814(a)(1)(A), Nov. 5, 1990, 104 Stat. 1596; renumbered §2419, Pub. L. 102–484, div. D, title XLII, §4236(a)(1)(A), Oct. 23, 1992, 106 Stat. 2691; renumbered §2420, Pub. L. 113–66, div. A, title XVI, §1611(a)(1)(A), Dec. 26, 2013, 127 Stat. 946; Pub. L. 116–283, div. A, title XVIII, §1872(a)(4), Jan. 1, 2021, 134 Stat. 4288; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(C), Dec. 27, 2021, 135 Stat. 2144, related to regulations to carry out this chapter. Text of section was transferred to section 4953 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 143—PRODUCTION BY MILITARY AGENCIES

Sec.
2421. Plantations and farms: operation, maintenance, and improvement.
2422. Bakery and dairy products: procurement outside the United States.
2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office.
2424. Procurement of supplies and services from exchange stores outside the United States.

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Pub. L. 101–189, div. A, title III, §§323(b), 324(b), Nov. 29, 1989, 103 Stat. 1414, 1415, added items 2423 and 2424.

**1986**—Pub. L. 99–661, div. A, title III, §312(b), Nov. 14, 1986, 100 Stat. 3852, added item 2422.

## §2421. Plantations and farms: operation, maintenance, and improvement

(a) Appropriations for the subsistence of members of the Army, Navy, Air Force, Marine Corps, or Space Force are available for expenditures necessary in the operation, maintenance, and improvement of any plantation or farm, outside the United States and under the jurisdiction of the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, for furnishing fresh fruits and vegetables to the armed forces. However, no land may be acquired under this subsection.

(b) Fruits and vegetables produced under subsection (a) that are over the amount furnished or sold to the armed forces or to civilians serving with the armed forces may be sold only outside the United States.

(c) Of the persons employed by the United States under subsection (a), only nationals of the United States are entitled to the benefits provided by laws relating to the employment, work, compensation, or other benefits of civilian employees of the United States.

(d) A plantation or farm covered by subsection (a) shall be operated, maintained, and improved by a private contractor or lessee, so far as practicable. Before using members of the Army, Navy, Air Force, Marine Corps, or Space Force, as the case may be, the Secretary concerned must make a reasonable effort to make a contract or lease with a person in civil life for his services for that operation, maintenance, or improvement, on terms advantageous to the United States. A determination by the Secretary as to the reasonableness of effort to make a contract or lease, and as to the advantageous nature of its terms, is final.

(e) SUNSET.—The authority under this section shall terminate on September 30, 2018.

(Aug. 10, 1956, ch. 1041, 70A Stat. 138; Pub. L. 114–328, div. A, title VIII, §833(a)(1), Dec. 23, 2016, 130 Stat. 2283; Pub. L. 116–283, div. A, title IX, §924(b)(3)(FF), Jan. 1, 2021, 134 Stat. 3822.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2421(a) | 10:1213 (less 1st and 2d provisos).<br>34:555a (less 1st and 2d | June 28, 1944, ch. 306; restated July 1, 1947, ch. 188, 61 Stat. 234; Oct. 31, 1951, ch. 654, §3(2), 65 Stat. 708. |

| | | |
|---|---|---|
| | provisos). | |
| 2421(b) | 10:1213 (2d proviso).<br>34:555a (2d proviso). | |
| 2421(c) | 10:1213 (1st proviso).<br>34:555a (1st proviso). | |
| 2421(d) | 10:1214.<br>34:555b. | |

In subsection (a), the word "management", in 10:1213 and 34:555a, is omitted as covered by the word "operation". The word "members" is substituted for the word "personnel". The word "may" is substituted for the word "shall". The words "any and all" and "the purpose of" are omitted as surplusage.

In subsections (a) and (b), the word "continental" is omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsection (b), the words "of the United States" are omitted as surplusage. The words "Fruits and vegetables produced under subsection (a)" are substituted for the words "That surplus production".

In subsection (c), the words "nationals of the United States" are substituted for the words "American nationals". The words "civil-service laws and other * * * of the United States" and "rights * * * or obligations" are omitted as surplusage.

In subsection (d), the words "after the termination of the present war" are omitted as executed. The word "by" is substituted for the words "through the instrumentality of". The words "partnership, association" are omitted as covered by the definition of "person" in section 1 of title 1. The words "United States" are substituted for the word "Government". The words "management", "for that purpose", and "or agreement" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps" wherever appearing.

**2016**—Subsec. (e). Pub. L. 114–328 added subsec. (e).

## §2422. Bakery and dairy products: procurement outside the United States

(a) The Secretary of Defense may authorize any element of the Department of Defense that procures bakery and dairy products for use by the armed forces outside the United States to procure any products described in subsection (b) through the use of procedures other than competitive procedures.

(b) The products referred to in subsection (a) are bakery or dairy products produced by the Army and Air Force Exchange Service in a facility outside the United States that began operating before July 1, 1986.

(Added Pub. L. 99–661, div. A, title III, §312(a), Nov. 14, 1986, 100 Stat. 3851.)

## §2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office

(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with a laundry and dry cleaning facility operated by the Navy Resale and Services Support Office to procure laundry and dry cleaning services for the armed forces outside the United States.

(b) APPLICATION.—Subsection (a) shall apply only with respect to a laundry and dry cleaning facility of the Navy Resale and Services Support Office that began operating before October 1, 1989.

(Added Pub. L. 101–189, div. A, title III, §323(a), Nov. 29, 1989, 103 Stat. 1414.)

## §2424. Procurement of supplies and services from exchange stores outside the United States

(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with an exchange store operated under the jurisdiction of the Secretary of a military department outside the United States to procure supplies or services for use by the armed forces outside the United States.

(b) LIMITATIONS.—(1) A contract may not be entered into under subsection (a) in an amount in excess of $100,000.

(2) Supplies provided under a contract entered into under subsection (a) shall be provided from the stocks of the exchange store on hand as of the date the contract is entered into with that exchange store.

(3) A contract entered into with an exchange store under subsection (a) may not provide for the procurement of services not regularly provided by that exchange store.

(c) EXCEPTION.—Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular beverage is a soft drink and whether the beverage was manufactured in the United States.

(Added Pub. L. 101–189, div. A, title III, §324(a), Nov. 29, 1989, 103 Stat. 1414; amended Pub. L. 103–355, title III, §3066, Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104–106, div. D, title XLIII, §4321(b)(17), Feb. 10, 1996, 110 Stat. 673; Pub. L. 109–163, div. A, title VI, §671, Jan. 6, 2006, 119 Stat. 3319.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (b). Pub. L. 109–163 substituted "$100,000" for "$50,000".

**1996**—Subsec. (c). Pub. L. 104–106 inserted heading and substituted "particular beverage" for "particular drink" and "beverage was" for "drink was".

**1994**—Subsec. (c). Pub. L. 103–355 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### OPERATION OF STARS AND STRIPES BOOKSTORES OVERSEAS BY MILITARY EXCHANGES

Pub. L. 103–160, div. A, title III, §353, Nov. 30, 1993, 107 Stat. 1627, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall provide for the commencement, not later than October 1, 1994, of the operation of Stars and Stripes bookstores outside of the United States by the military exchanges.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out subsection (a)."

# [CHAPTER 144—REPEALED]

## [§2430. Repealed. Pub. L. 116–283, div. A, title XVIII, §1846(f)(8), Jan. 1, 2021, 134 Stat. 4251]

Section, added Pub. L. 100–26, §7(b)(2)(A), Apr. 21, 1987, 101 Stat. 279; amended Pub. L. 102–484, div. A, title VIII, §817(b), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 111–23, title II, §206(b), May 22, 2009, 123 Stat. 1728; Pub. L. 113–291, div. A, title X, §1071(f)(18), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–92, div. A, title VIII, §825(a), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114–328, div. A, title VIII, §§807(b), 847(a), Dec. 23, 2016, 130 Stat. 2261, 2292; Pub. L. 115–91, div. A, title VIII, §831, title X, §1081(a)(38), Dec. 12, 2017, 131 Stat. 1467, 1596; Pub. L. 116–283, div. A, title XVIII, §1846(c)(1), (d)(1), (f)(1), Jan. 1, 2021, 134 Stat. 4248–4250, defined major defense acquisition program. See sections 4201, 4202(a), and 4204 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2430a. Renumbered §4203]

## [§2431. Renumbered §4205]

## [§2431a. Renumbered §4211]

## [§2431b. Renumbered §4212]

## [§2432. Renumbered §4351]

### EDITORIAL NOTES

### CODIFICATION

As originally enacted, Pub. L. 116–283, div. A, title XVIII, §1849(b)–(k), Jan. 1, 2021, 134 Stat. 4259–4264, transferred individual subsecs. of this section to section 4350 et seq. of this title, and section 1849(l) of Pub. L. 116–283 subsequently repealed this section. Pub. L. 117–81, div. A, title XVII, §1701(o)(1)–(5), Dec. 27, 2021, 135 Stat. 2146, 2147, amended section 1849 of Pub. L. 116–283, effective as if included therein, so that the individual transfers were eliminated and this section was transferred as a whole to section 4351 of this title. However, the repeal of this section by section 1849(l) (which was redesignated as section 1849(e)) of Pub. L. 116–283 was not eliminated and therefore could not be executed given the transfer of this section to section 4351 of this title.

## [§2433. Repealed. Pub. L. 116–283, div. A, title XVIII, §1850(l), Jan. 1, 2021, 134 Stat. 4271]

Section, added Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; amended Pub. L. 98–94, title XII, §1268(1), Sept. 24, 1983, 97 Stat. 705; Pub. L. 98–525, title XII, §1242(b), Oct. 19, 1984, 98 Stat. 2607; Pub. L. 99–145, title XIII, §1303(a)(2), Nov. 8, 1985, 99 Stat. 738; renumbered §2433 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(d)(14), (g)(8), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99–500, §101(c) [title X, §961(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–176, and Pub. L. 99–591, §101(c) [title X, §961(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–176; Pub. L. 99–661, div. A, title IX, formerly title IV, §961(b), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21,

1987, 101 Stat. 273; Pub. L. 100–26, §7(b)(4), (k)(7), Apr. 21, 1987, 101 Stat. 279, 284; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 101–510, div. A, title XIV, §1484(k)(10), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102–484, div. A, title VIII, §817(d), Oct. 23, 1992, 106 Stat. 2456; Pub. L. 103–35, title II, §201(i)(2), May 31, 1993, 107 Stat. 100; Pub. L. 103–355, title III, §§3002(a)(2), 3003, Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 105–85, div. A, title VIII, §833, Nov. 18, 1997, 111 Stat. 1842; Pub. L. 108–375, div. A, title VIII, §801(a), (b)(1), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 109–163, div. A, title VIII, §802(a)–(c), (d)(2), Jan. 6, 2006, 119 Stat. 3367–3370; Pub. L. 109–364, div. A, title II, §213(a), Oct. 17, 2006, 120 Stat. 2121; Pub. L. 110–181, div. A, title IX, §942(e), Jan. 28, 2008, 122 Stat. 288; Pub. L. 110–417, [div. A], title VIII, §811(c), Oct. 14, 2008, 122 Stat. 4522; Pub. L. 111–23, title II, §206(a)(3), May 22, 2009, 123 Stat. 1728; Pub. L. 111–84, div. A, title X, §1073(c)(4), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title X, §1075(b)(34), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title XVIII, §1850(b)(1), (c), (d), (e)(1), (f), (g)(1), (h)(1), (i)(1), Jan. 1, 2021, 134 Stat. 4265–4269, related to unit cost reports. See sections 4371 to 4375 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2433a. Repealed. Pub. L. 116–283, div. A, title XVIII, §1850(l), Jan. 1, 2021, 134 Stat. 4271]

Section, added Pub. L. 111–23, title II, §206(a)(1), May 22, 2009, 123 Stat. 1726; amended Pub. L. 111–383, div. A, title X, §1075(b)(35), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–81, div. A, title VIII, §§801(e)(4), 831, Dec. 31, 2011, 125 Stat. 1484, 1503; Pub. L. 112–239, div. A, title VIII, §813, Jan. 2, 2013, 126 Stat. 1829; Pub. L. 116–283, div. A, title XVIII, §1850(j)(1), (2), (k)(1), Jan. 1, 2021, 134 Stat. 4269, 4270, related to critical cost growth in major defense acquisition programs. See sections 4376 and 4377 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2434. Repealed. Pub. L. 114–328, div. A, title VIII, §842(c)(1), Dec. 23, 2016, 130 Stat. 2290]

Section, added Pub. L. 98–94, title XII, §1203(a)(1), Sept. 24, 1983, 97 Stat. 682, §139c; renumbered §2434 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(d)(15), (g)(9), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99–661, div. A, title XII, §1208(a)–(c)(1), Nov. 14, 1986, 100 Stat. 3975; Pub. L. 100–26, §7(b)(5), Apr. 21, 1987, 101 Stat. 279; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title V, §525, Sept. 29, 1988, 102 Stat. 1975; Pub. L. 102–190, div. A, title VIII, §801(a), (b)(1), Dec. 5, 1991, 105 Stat. 1412; Pub. L. 103–355, title III, §3004, Oct. 13, 1994, 108 Stat. 3330; Pub. L. 104–106, div. A, title VIII, §814, Feb. 10, 1996, 110 Stat. 395; Pub. L. 107–107, div. A, title VIII, §821(a), Dec. 28, 2001, 115 Stat. 1181; Pub. L. 111–23, title I, §101(d)(5), May 22, 2009, 123 Stat. 1710; Pub. L. 111–383, div. A, title VIII, §814(e), Jan. 7, 2011, 124 Stat. 4267; Pub. L. 114–92, div. A, title VIII, §831(a)–(c)(1), Nov. 25, 2015, 129 Stat. 912, related to independent cost estimates.

## [§2435. Renumbered §4214]

## [§2436. Renumbered §4293]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2436, added Pub. L. 99–500, §101(c) [title X, §905(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–134, and Pub. L. 99–591, §101(c) [title X, §905(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–134; Pub. L. 99–661, div. A, title IX, formerly title IV, §905(a)(1), Nov. 14, 1986, 100 Stat. 3914; renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–26, §7(b)(7), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title VIII, §803(c), title XII, §1231(14), Dec. 4, 1987, 101 Stat. 1125, 1160; Pub. L. 101–510, div. A, title XIV, §1484(h)(4), Nov. 5, 1990, 104 Stat. 1718, related to establishment and conduct of the defense enterprise program, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(5), Nov. 30, 1993, 107 Stat. 1704.

## [§2437. Renumbered §4321]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2437, added Pub. L. 99–500, §101(c) [title X, §906(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–135, and Pub. L. 99–591, §101(c) [title X, §906(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–135; Pub. L. 99–661, div. A, title IX, formerly title IV, §906(a)(1), Nov. 14, 1986, 100 Stat. 3915; renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–26, §7(b)(8), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title VIII, §803(b), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 100–224, §5(a)(3), Dec. 30, 1987, 101 Stat. 1538, related to designation of defense enterprise programs for milestone authorization, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(5), Nov. 30, 1993, 107 Stat. 1704.

## [§2438. Renumbered §4273]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2438, added Pub. L. 102–484, div. A, title VIII, §821(a)(1)(B), Oct. 23, 1992, 106 Stat. 2459; amended Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, required competitive prototyping of major weapon systems and subsystems prior to development under major defense acquisition program, prior to repeal by Pub. L. 103–355, title III, §3006(a), Oct. 13, 1994, 108 Stat. 3331.

Another prior section 2438 was renumbered section 2439 of this title and was subsequently repealed.

## [§2439. Renumbered §4236]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2439, added Pub. L. 99–145, title IX, §912(a)(1), Nov. 8, 1985, 99 Stat. 685, §2305a; amended Pub. L. 99–433, title I, §110(g)(3), Oct. 1, 1986, 100 Stat. 1004; renumbered §2438 and amended Pub. L. 100–26, §7(b)(9)(A), (k)(2), Apr. 21, 1987, 101 Stat. 280, 284; Pub. L. 101–510, div. A, title VIII, §805, Nov. 5, 1990, 104 Stat. 1591; renumbered §2439, Pub. L. 102–484, div. A, title VIII, §821(a)(1)(A), Oct. 23, 1992, 106 Stat. 2459, related to preparation of acquisition strategy for major programs and use of

competitive alternative sources, prior to repeal by Pub. L. 103–355, title III, §3007(a), Oct. 13, 1994, 108 Stat. 3331.

## [§2440. Renumbered §4820]

## [§2441. Renumbered §4323]

## [§2442. Renumbered §4232]

## [§2443. Renumbered §4328]

# [CHAPTER 144A—REPEALED]

## [§§2445a to 2445d. Repealed. Pub. L. 114–328, div. A, title VIII, §846(1), Dec. 23, 2016, 130 Stat. 2292]

Section 2445a, added Pub. L. 109–364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2323; amended Pub. L. 110–417, [div. A], title VIII, §812(a)(1), (2), Oct. 14, 2008, 122 Stat. 4525; Pub. L. 111–84, div. A, title VIII, §841(c), Oct. 28, 2009, 123 Stat. 2418; Pub. L. 113–66, div. A, title X, §1092(a), Dec. 26, 2013, 127 Stat. 877, defined terms for this chapter.

Section 2445b, added Pub. L. 109–364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2323; amended Pub. L. 110–417, [div. A], title VIII, §812(b), Oct. 14, 2008, 122 Stat. 4525; Pub. L. 111–84, div. A, title VIII, §841(a), Oct. 28, 2009, 123 Stat. 2418; Pub. L. 111–383, div. A, title VIII, §805(b), Jan. 7, 2011, 124 Stat. 4259; Pub. L. 113–66, div. A, title X, §1092(d)(1), Dec. 26, 2013, 127 Stat. 877; Pub. L. 114–92, div. A, title VIII, §891(a), Nov. 25, 2015, 129 Stat. 951, related to submittal to Congress of cost, schedule, and performance information.

Section 2445c, added Pub. L. 109–364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2324; amended Pub. L. 110–417, [div. A], title VIII, §812(c), Oct. 14, 2008, 122 Stat. 4526; Pub. L. 111–23, title I, §101(d)(6), May 22, 2009, 123 Stat. 1710; Pub. L. 111–84, div. A, title VIII, §841(b), Oct. 28, 2009, 123 Stat. 2418; Pub. L. 112–81, div. A, title VIII, §811, Dec. 31, 2011, 125 Stat. 1491; Pub. L. 113–66, div. A, title X, §1092(b), (c), (d)(2), (e), Dec. 26, 2013, 127 Stat. 877, 878; Pub. L. 113–291, div. A, title VIII, §802, Dec. 19, 2014, 128 Stat. 3427; Pub. L. 114–92, div. A, title VIII, §891(b), Nov. 25, 2015, 129 Stat. 952, required quarterly reports by program managers and reports on significant changes in programs.

Section 2445d, added Pub. L. 109–364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2326; amended Pub. L. 111–84, div. A, title VIII, §817(a), Oct. 28, 2009, 123 Stat. 2408, provided a rule of construction with other reporting requirements.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Pub. L. 114–328, div. A, title VIII, §846, Dec. 23, 2016, 130 Stat. 2292, provided in part that the repeal of this chapter is effective Sept. 30, 2017.

# [CHAPTER 144B—REPEALED]

## [SUBCHAPTER I—REPEALED]

**[§2446a. Renumbered §4401]**

**[§2446b. Renumbered §4402]**

**[§2446c. Renumbered §4403]**

## [SUBCHAPTER II—REPEALED]

**[§2447a. Renumbered §4421]**

**[§2447b. Renumbered §4422]**

**[§2447c. Renumbered §4423]**

**[§2447d. Renumbered §4424]**

**[§2447e. Renumbered §4425]**

## [SUBCHAPTER III—REPEALED]

**[§2448a. Renumbered §4271]**

**[§2448b. Renumbered §4272]**

# CHAPTER 145—CATALOGING AND STANDARDIZATION

Sec.
2451. Defense supply management.
2452. Duties of Secretary of Defense.
2453. Supply catalog: distribution and use.
2454. Supply catalog: new or obsolete items.

[2455. Repealed.]
2456. Coordination with General Services Administration.
2457. Standardization of equipment with North Atlantic Treaty Organization members.
2458. Inventory management policies.

**EDITORIAL NOTES**

**AMENDMENTS**

**1990**—Pub. L. 101–510, div. A, title III, §323(a)(2), title XIII, §1331(6), Nov. 5, 1990, 104 Stat. 1530, 1673, struck out item 2455 "Reports to Congress" and added item 2458.

**1982**—Pub. L. 97–295, §1(30)(B), Oct. 12, 1982, 96 Stat. 1296, added item 2457.

## §2451. Defense supply management

(a) The Secretary of Defense shall develop a single catalog system and related program of standardizing supplies for the Department of Defense.

(b) In cataloging, the Secretary shall name, describe, classify, and number each item recurrently used, bought, stocked, or distributed by the Department of Defense, so that only one distinctive combination of letters or numerals, or both, identifies the same item throughout the Department of Defense. Only one identification may be used for each item for all supply functions from purchase to final disposal in the field or other area. The catalog may consist of a number of volumes, sections, or supplements. It shall include all items of supply and, for each item, information needed for supply operations, such as descriptive and performance data, size, weight, cubage, packaging and packing data, a standard quantitative unit of measurement, and other related data that the Secretary determines to be desirable.

(c) In standardizing supplies the Secretary shall, to the highest degree practicable—

(1) standardize items used throughout the Department of Defense by developing and using single specifications, eliminating overlapping and duplicate specifications, and reducing the number of sizes and kinds of items that are generally similar;

(2) standardize the methods of packing, packaging, and preserving such items; and

(3) make efficient use of the services and facilities for inspecting, testing, and accepting such items.

(d) The Secretary shall coordinate with the Administrator of General Services to enable the use of commercial identifiers for commercial products (as defined in section 103 of title 41) within the Federal cataloging system.

(Aug. 10, 1956, ch. 1041, 70A Stat. 138; Pub. L. 85–861, §33(a)(13), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 108–136, div. A, title III, §341, Nov. 24, 2003, 117 Stat. 1448; Pub. L. 115–232, div. A, title VIII, §836(e)(9), Aug. 13, 2018, 132 Stat. 1870.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2451(a) | 5:173. | July 1, 1952, ch. 539, §§2, 4, 66 Stat. 318, 319; 1953 Reorg. Plan No. 6, §1(a) (as applicable to Defense Supply Management Agency), eff. June 30, 1953, 67 Stat. 638. |
| 2451(b) | 5:173b(a). | |
| 2451(c) | 5:173b(b). | |

In subsection (a), the words "for the Department of Defense" are inserted for clarity. 5:173 (1st sentence) is omitted as impliedly repealed by section 2 of 1953 Reorganization Plan No. 6, effective June 30, 1953, 67 Stat. 638.

In subsection (b), the words "or any of the departments thereof", "in such manner", "original", and "necessary or" are omitted as surplusage. The words "throughout the Department of Defense" are substituted

for the words "either within a bureau or service, between bureaus or services, or between the departments". The word "recurrently" is substituted for the word "repetitively". The words "Only one identification may" are substituted for the words "The single item identification shall".

In subsection (c), the words "the most" are omitted as surplusage. The words "to the highest degree practicable" are substituted for the words "achieve the highest practicable degree possible" and "The greatest practicable degree of standardization * * * shall be achieved".

**1958 ACT**

The change makes clear that clauses (2) and (3) apply to all items, whether or not standardized, used throughout the Department of Defense.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (d). Pub. L. 115–232 substituted "commercial products (as defined in section 103 of title 41)" for "commercial items".

**2003**—Subsec. (d). Pub. L. 108–136 added subsec. (d).

**1958**—Subsec. (c). Pub. L. 85–861 substituted "such" for "standardized" in cl. (2), and "such" for "those" in cl. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1958 AMENDMENT

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

### DEFENSE-WIDE ELECTRONIC MALL SYSTEM FOR SUPPLY PURCHASES

Pub. L. 105–261, div. A, title III, §332, Oct. 17, 1998, 112 Stat. 1968, provided that:

"(a) ELECTRONIC MALL SYSTEM DEFINED.—In this section, the term 'electronic mall system' means an electronic system for displaying, ordering, and purchasing supplies and materiel available from sources within the Department of Defense and from the private sector.

"(b) DEVELOPMENT AND MANAGEMENT.—(1) Using systems and technology available in the Department of Defense as of the date of the enactment of this Act [Oct. 17, 1998], the Joint Electronic Commerce Program Office of the Department of Defense shall develop a single, defense-wide electronic mall system, which shall provide a single, defense-wide electronic point of entry and a single view, access, and ordering capability for all Department of Defense electronic catalogs. The Secretary of each military department and the head of each Defense Agency shall provide to the Joint Electronic Commerce Program Office the necessary and requested data to ensure compliance with this paragraph.

"(2) The Defense Logistics Agency, under the direction of the Joint Electronic Commerce Program Office, shall be responsible for maintaining the defense-wide electronic mall system developed under paragraph (1).

"(c) ROLE OF CHIEF INFORMATION OFFICER.—The Chief Information Officer of the Department of Defense shall be responsible for—

"(1) overseeing the elimination of duplication and overlap among Department of Defense electronic catalogs; and

"(2) ensuring that such catalogs utilize technologies and formats compliant with the requirements of subsection (b).

"(d) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act, the Chief Information Officer shall develop and provide to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives]—

"(1) an inventory of all existing and planned electronic mall systems in the Department of Defense; and

"(2) a schedule for ensuring that each such system is compliant with the requirements of subsection

(b)."

**STANDARDIZATION AND INTEROPERABILITY OF NATO WEAPONS**

Pub. L. 94–361, title VIII, §803, July 14, 1976, 90 Stat. 930, which expressed the sense of Congress that the weapons systems of the NATO Allies be standardized and interoperable, that this goal would be facilitated by inter-allied procurement of arms and closer intra-European collaboration in arms procurement, and directed the Secretary of Defense to negotiate with the Allies toward these ends and to report to Congress on actions and programs undertaken to achieve them, was repealed and restated in section 2457 of this title by Pub. L. 97–295, §§1(30)(A), 6(b), Oct. 12, 1982, 96 Stat. 1294, 1314.

Pub. L. 94–106, title VIII, §814(a), (b), Oct. 7, 1975, 89 Stat. 540, as amended by Pub. L. 94–361, title VIII, §802, July 14, 1976, 90 Stat. 930, which had provided that it was the policy of the United States that the equipment of our armed forces in Europe be standardized or at least interoperable with that of our NATO Allies, directed the Secretary of Defense to carry out procurement policies toward this end and to report to Congress on any agreements with the Allies involving exchange of equipment manufactured in the United States for equipment manufactured outside it, authorized the Secretary to find such agreements contrary to the public interest and required him to report on the procurement of any major weapons system not in accord with these policies, was repealed and restated in section 2457 of this title by Pub. L. 97–295, §§1(30)(A), 6(b), Oct. 12, 1982, 96 Stat. 1294, 1314.

Pub. L. 93–365, title III, §302(c), Aug. 5, 1974, 88 Stat. 402, as amended by Pub. L. 94–106, title VIII, §814(c), Oct. 7, 1975, 89 Stat. 540; Pub. L. 97–252, title XI, §1121, Sept. 8, 1982, 96 Stat. 754, which had directed the Secretary of Defense to assess the costs and possible loss of effectiveness from the failure of the NATO Allies to standardize equipment, to suggest standardization actions, and to report these matters to the Allies and Congress and to Congress annually on them and results obtained with the Allies, was repealed and restated in section 2457 of this title by Pub. L. 97–295, §§1(30)(A), 6(b), Oct. 12, 1982, 96 Stat. 1294, 1314.

## §2452. Duties of Secretary of Defense

The Secretary of Defense shall—

(1) develop and maintain the supply catalog, and the standardization program, described in section 2451 of this title;

(2) direct and coordinate progressive use of the supply catalog in all supply functions within the Department of Defense from the determination of requirements through final disposal;

(3) direct, review, and approve—

(A) the naming, description, and pattern of description of all items;

(B) the screening, consolidation, classification, and numbering of descriptions of all items; and

(C) the publication and distribution of the supply catalog;

(4) maintain liaison with industry advisory groups to coordinate the development of the supply catalog and the standardization program with the best practices of industry and to obtain the fullest practicable cooperation and participation of industry in developing the supply catalog and the standardization program;

(5) establish, publish, review, and revise, within the Department of Defense, military specifications, standards, and lists of qualified products, and resolve differences between the military departments, bureaus, and services with respect to them;

(6) assign responsibility for parts of the cataloging and the standardization programs to the military departments, bureaus, and services within the Department of Defense, when practical and consistent with their capacity and interest in those supplies;

(7) establish time schedules for assignments made under clause (6); and

(8) make final decisions in all matters concerned with the cataloging and standardization programs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 139.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2452 | 5:173c. | July 1, 1952, ch. 539, §5, 66 Stat. 319; 1953 Reorg. Plan No. 6, §1(a) (as applicable to Defense Supply Management Agency), eff. June 30, 1953, 67 Stat. 638. |

In clause (1), the word "establish" is omitted as surplusage.

In clause (2), the words "provided for herein" and "its departments, bureaus, and services" are omitted as surplusage.

In clauses (2) and (3), the words "provide for" are omitted as surplusage.

In clause (4), the words "establish and" and "established by sections 173–173i of this title" are omitted as surplusage.

In clause (5), the words "amend" and "promulgate" are omitted as surplusage.

In clause (6), the words "established by sections 173–173i of this title" are omitted as surplusage.

Clause (7) is substituted for 5:173c(f) (last 11 words).

In clause (8), the word "programs" is substituted for the words "authority established in sections 173–173i of this title". The words "subject to review and modification by the Secretary of Defense" are omitted as surplusage.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS RELATING TO INCREASES IN PRICES FOR SPARE PARTS AND REPLACEMENT EQUIPMENT

Pub. L. 98–94, title XII, §1215, Sept. 24, 1983, 97 Stat. 688, as amended by Pub. L. 98–525, title XII, §1244, Oct. 19, 1984, 98 Stat. 2609; Pub. L. 103–35, title II, §204(b), May 31, 1993, 107 Stat. 102, provided that:

"(a) Not later than 120 days after the date of the enactment of this Act [Sept. 24, 1983], the Secretary of Defense shall issue regulations which—

"(1) except as provided in clause (2), prohibit the purchase of any spare part or replacement equipment when the price of such part or equipment, since a time in the past specified by the Secretary (in terms of days or months) or since the most recent purchase of such part or equipment by the Department of Defense, has increased in price by a percentage in excess of a percentage threshold specified by the Secretary in such regulations, and

"(2) permit the purchase of such spare part or equipment (notwithstanding the prohibition contained in clause (1)) if the contracting officer for such part or equipment certifies in writing to the head of the procuring activity before the purchase is made that—

"(A) such officer has evaluated the price of such part or equipment and concluded that the increase in the price of such part or equipment is fair and reasonable, or

"(B) the national security interests of the United States require that such part or equipment be purchased despite the increase in price of such part or equipment.

"(b)(1) The Secretary shall publish the regulations issued under this section in the Federal Register.

"(2) The Secretary may provide in such regulations for the waiver of the prohibition in subsection (a)(1) and compliance with the requirements of subsection (a)(2) in the case of a purchase of any spare part or replacement equipment made or to be made through competitive procedures.

"(c) Not less than 30 days before the Secretary publishes such regulations in accordance with subsection (b), the Secretary shall submit the text of the proposed regulations to the Committees on Armed Services of the Senate and House of Representatives."

### REPORT ON MANAGEMENT OF ACQUISITION OF SPARE PARTS

Pub. L. 98–94, title XII, §1216, Sept. 24, 1983, 97 Stat. 688, directed Secretary of Defense to submit to Congress, by June 1, 1984, a comprehensive report on management by Department of Defense of acquisition of initial and replenishment spare parts and on status of efforts within Department (including particularly the Defense Logistics Agency and the military departments) to correct problems associated with increased costs of such parts, directed Secretary, not later than Dec. 1, 1983, to submit to Congress an interim report stating briefly the actions being taken by the Department to improve acquisition and management of spare parts, and directed Secretary to put into effect at the earliest practicable date policies and procedures to achieve a

long-term solution to problems relating to excessive costs of, and long lead times in the acquisition of, initial and replenishment spare parts.

## §2453. Supply catalog: distribution and use

The Secretary of Defense shall distribute the parts of the supply catalog described in section 2451 of this title as they are completed. Existing catalogs shall be replaced according to schedules established by the Secretary. After replacement no other supply catalog may be used within the Department of Defense with respect to the kinds of items covered by that part. All property reports and records shall use the nomenclature, item numbers, and descriptive data of the supply catalog.

(Aug. 10, 1956, ch. 1041, 70A Stat. 139.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2453 | 5:173d. | July 1, 1952, ch. 539, §6, 66 Stat. 320; 1953 Reorg. Plan No. 6, §1(a) (as applicable to Defense Supply Management Agency), eff. June 30, 1953, 67 Stat. 638. |

The words "and ready for use" and "all departments, bureaus, and services" are omitted as surplusage. The words "After replacement" are substituted for the word "Thereafter". The words "with respect to the kinds of items covered by that part" are inserted for clarity.

## §2454. Supply catalog: new or obsolete items

(a) After any part of the supply catalog described in section 2451 of this title is distributed, and with respect to the kinds of items covered by that part, only the items listed in it may be procured for recurrent use in the Department of Defense. However, a military department may acquire any new item that is necessary to carry out its mission. As soon as such an item is acquired, it shall be submitted to the Secretary for inclusion in the catalog and the standardization program.

(b) Obsolete items may be deleted from the catalog at any time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 140.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2454(a) | 5:173e (less last 5 words of 1st proviso). | July 1, 1952, ch. 539, §7, 66 Stat. 320; 1953 Reorg. Plan No. 6, §1(a) (as applicable to Defense Supply Management Agency), eff. June 30, 1953, 67 Stat. 638. |
| 2454(b) | 5:173e (last 5 words of 1st proviso). | |

In subsection (a), the words "After any part * * * is distributed" are substituted for the words "Following the publication and promulgation * * * or portions thereof". The words "and with respect to the kinds of items covered by that part" are inserted for clarity. The word "recurrent" is substituted for the word "repetitive". The words "the departments, bureaus, and services of" are omitted as surplusage. The second sentence of the revised subsection is substituted for 5:173e (1st proviso, less last 5 words; and 2d proviso).

In subsection (b), the words "at any time" are inserted for clarity.

## [§2455. Repealed. Pub. L. 101–510, div. A, title XIII, §1322(a)(9), Nov. 5, 1990, 104 Stat. 1671]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 140; Jan. 2, 1975, Pub. L. 93–608, §2(2), 88 Stat. 1971; Dec. 21, 1982, Pub. L. 97–375, title II, §203(c), 96 Stat. 1823, related to reports on cataloging supplies for Department of Defense.

## §2456. Coordination with General Services Administration

To avoid unnecessary duplication, the Administrator of General Services and the Secretary of Defense shall coordinate the cataloging and standardization activities of the General Services Administration and the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 140.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2456 | 5:173i. | July 1, 1952, ch. 539, §11, 66 Stat. 320. |

## §2457. Standardization of equipment with North Atlantic Treaty Organization members

(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the members to standardize equipment;

(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance's armaments production base by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

(2) negotiate those agreements.

(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate

maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

[(d) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(22), Nov. 24, 2003, 117 Stat. 1598.]

(e) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 8302 of title 41 that acquiring that equipment manufactured in the United States is inconsistent with the public interest.

(f) The Secretary shall submit the results of each assessment and evaluation made under subsection (a)(1) and (2) to the appropriate North Atlantic Treaty Organization body to become an integral part of the overall Organization review of force goals and development of force plans.

(Added Pub. L. 97–295, §1(30)(A), Oct. 12, 1982, 96 Stat. 1294; amended Pub. L. 101–510, div. A, title XIII, §1311(5), Nov. 5, 1990, 104 Stat. 1670; Pub. L. 104–106, div. A, title XV, §1503(a)(24), Feb. 10, 1996, 110 Stat. 512; Pub. L. 108–136, div. A, title X, §1031(a)(22), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 111–350, §5(b)(33), Jan. 4, 2011, 124 Stat. 3845.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2457(a) | 10:2451 (note). | Aug. 5, 1974, Pub. L. 93–365, §302(c) (1st–3d sentences), 88 Stat. 402.<br>Oct. 7, 1975, Pub. L. 94–106, §814(a)(1), 89 Stat. 540; restated July 14, 1976, Pub. L. 94–361, §802, 90 Stat. 930. |
| 2457(b) | 10:2451 (note). | July 14, 1976, Pub. L. 94–361, §803(b) (1st–4th sentences), 90 Stat. 931. |
| 2457(c) | 10:2451 (note). | July 14, 1976, Pub. L. 94–361, §803(a) (1st, 2d sentences), (c), 90 Stat. 930, 931. |
| 2457(d) (words before (1)), (1) (related to (a)(1) and (2)) | 10:2451 (note). | Aug. 5, 1974, Pub. L. 93–365, §302(c) (5th sentence), 88 Stat. 402; Oct. 7, 1975, Pub. L. 94–106, §814(c), 89 Stat. 540. |
| 2457(d)(1) (related to (a)(3)) | 10:2451 (note). | July 14, 1976, Pub. L. 94–361, §803(b) (last sentence), 90 Stat. 931. |
| 2457(d)(2) | 10:2451 (note). | Oct. 7, 1975, Pub. L. 94–106, §814(b), 89 Stat. 540. |
| 2457(d)(3) | 10:2451 (note). | Oct. 7, 1975, Pub. L. 94–106, §814(a)(3), 89 Stat. 540; restated July 14, 1976, Pub. L. 94–361, §802, 90 Stat. 930. |
| 2457(d) (4)–(6) | 10:2451 (note). | July 14, 1976, Pub. L. 94–361, §803(a) (3d–last sentences), 90 Stat. 930. |

| | | |
|---|---|---|
| 2457(d)(7), (8) | 10:2451 (note). | Aug. 5, 1974, Pub. L. 93–365, 88 Stat. 399, §302(c) (6th, last sentences); added Sept. 8, 1982, Pub. L. 97–252, §1121, 96 Stat. 754. |
| 2457(e) | 10:2451 (note). | Oct. 7, 1975, Pub. L. 94–106, §814(a)(2), 89 Stat. 540; restated July 14, 1976, Pub. L. 94–361, §802, 90 Stat. 930. |
| 2457(f) | 10:2451 (note). | Aug. 5, 1974, Pub. L. 93–365, §302(c) (4th sentence), 88 Stat. 402. |

In the introductory matter of subsection (a), before clause (1), the word "equipment" is substituted for "impedimenta" in section 302(c) of the Department of Defense Appropriation Authorization Act, 1975 (Pub. L. 93–365, Aug. 5, 1974, 88 Stat. 402), for clarity and for consistency with section 814(a)(1) of the Department of Defense Appropriation Authorization Act, 1976 (Pub. L. 94–106, Oct. 7, 1975, 89 Stat. 540), which is restated as part of this subsection.

In subsection (a)(1), the word "undertake" is omitted as surplus. The word "members" is substituted for "countries" for consistency. The words "including the United States" are omitted as unnecessary.

In subsection (a)(2), the words "The Secretary of Defense shall also" are omitted as unnecessary. The word "maintain" is substituted for "develop" because it is more appropriate.

In subsection (a)(3), the words "of other members of the North Atlantic Treaty Organization whenever such equipment is to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty" are omitted as unnecessary because of the restatement. The words "Such procedures shall also take into . . . to be procured" are omitted as unnecessary. The text of section 814(a)(1) (4th, last sentences) is omitted as executed.

In subsection (b), the words "It is the sense of the Congress", "It is further the sense of Congress", "It is the Congress' considered judgment", "properly", "Accordingly", and "pursuant to these ends" are omitted as unnecessary.

In subsection (c)(1), the word "should" is substituted for "shall" for clarity.

In subsection (d)(1), the word "members" is substituted for "allies" for consistency. The words "The Secretary of Defense shall include in the report to the Congress required by section 302(c) of Public Law 93–365, as amended" are omitted as unnecessary because of the restatement.

In subsection (d)(2), the words "The report required under section 302(c) of Public Law 93–365 shall include" are omitted as unnecessary because of the restatement.

In subsection (d)(3), the words "he shall report that fact to the Congress in the annual report required under section 302(c) of Public Law 93–365, as amended" are omitted as unnecessary because of the restatement.

In subsection (d)(4), the words "The Secretary of Defense shall, in the reports required by section 302(c) of Public Law 93–365, as amended" are omitted as unnecessary because of the restatement.

In subsection (d)(5), the words "if none exist" are substituted for "In the absence of such common requirements" to eliminate unnecessary words. The words "the Secretary shall include a discussion of the" are omitted as unnecessary because of the restatement.

In subsection (d)(6), the words "The Secretary of Defense shall also report on" are omitted as unnecessary because of the restatement.

In subsection (d)(7), the words "those programs" are substituted for "all such existing and planned programs" and "all such programs" to eliminate unnecessary words.

In subsection (f), the words "The Secretary shall submit the results of these . . . to Congress" are omitted as unnecessary because of the source provisions restated in subsection (d)(1). The word "submit" is substituted for "cause to be brought" to eliminate unnecessary words. The words "in order that the suggested actions and recommendations can" are omitted as unnecessary because of the restatement.

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (e). Pub. L. 111–350 substituted "section 8302 of title 41" for "section 2 of the Buy American Act (41 U.S.C. 10a)".

**2003**—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which related to Secretary's biennial submission of report to Congress.

**1996**—Subsec. (e). Pub. L. 104–106 substituted "the Buy American Act (41 U.S.C. 10a)" for "title III of the Act of March 3, 1933 (41 U.S.C. 10a),".

**1990**—Subsec. (d). Pub. L. 101–510 substituted "Before February 1, 1989, and biennially thereafter" for "Before February 1 of each year".

## §2458. Inventory management policies

(a) POLICY REQUIRED.—The Secretary of Defense shall issue a single, uniform policy on the management of inventory items of the Department of Defense. Such policy shall—

(1) establish maximum levels for inventory items sufficient to achieve and maintain only those levels for inventory items necessary for the national defense;

(2) provide guidance to item managers and other appropriate officials on how effectively to eliminate wasteful practices in the acquisition and management of inventory items; and

(3) set forth a uniform system for the valuation of inventory items by the military departments and Defense Agencies.

(b) PERSONNEL EVALUATIONS.—The Secretary of Defense shall establish procedures to ensure that, with regard to item managers and other personnel responsible for the acquisition and management of inventory items of the Department of Defense, personnel appraisal systems for such personnel give appropriate consideration to efforts made by such personnel to eliminate wasteful practices and achieve cost savings in the acquisition and management of inventory items.

(Added Pub. L. 101–510, div. A, title III, §323(a)(1), Nov. 5, 1990, 104 Stat. 1530; amended Pub. L. 102–190, div. A, title III, §347(a), Dec. 5, 1991, 105 Stat. 1347.)

### EDITORIAL NOTES

### AMENDMENTS

**1991**—Subsec. (a)(3). Pub. L. 102–190 added par. (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION OF 1991 AMENDMENT

Secretary of Defense to establish uniform system of valuation described in subsec. (a)(3) of this section not later than 180 days after Dec. 5, 1991, see section 347(c) of Pub. L. 102–190, set out as a note under section 2721 of this title.

### MANAGEMENT OF CONVENTIONAL AMMUNITION INVENTORY

Pub. L. 113–291, div. A, title III, §352(a), (b), Dec. 19, 2014, 128 Stat. 3347, provided that:

"(a) CONSOLIDATION OF DATA.—Not later than 240 days after the date of the enactment of this Act [Dec. 19, 2014], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue Department-wide guidance designating an authoritative source of data for conventional ammunition. Not later than 10 days after issuing the guidance required by this subsection, the Under Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on what source of data has been designated under this subsection.

"(b) ANNUAL REPORT.—The Secretary of the Army shall include in the appropriate annual ammunition inventory reports, as determined by the Secretary, information on all available ammunition for use during the redistribution process, including any ammunition that was unclaimed and categorized for disposal by another military service during a year before the year during which the report is submitted."

### IMPROVEMENT OF INVENTORY MANAGEMENT PRACTICES

Pub. L. 111–84, div. A, title III, §328, Oct. 28, 2009, 123 Stat. 2255, which required the Secretary to submit to Congress a comprehensive plan for improving the inventory management systems of the military departments and the Defense Logistics Agency to reduce the acquisition and storage of secondary excess inventory, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(44), Aug. 13, 2018, 132 Stat. 1850.

### REPORT ON INVENTORY AND CONTROL OF MILITARY EQUIPMENT

Pub. L. 106–65, div. A, title III, §363, Oct. 5, 1999, 113 Stat. 576, provided that not later than Aug. 31, 2000, the Secretary of Defense was to submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the inventory and control of the military equipment of the Department of Defense as of the end of fiscal year 1999, and that not later than Nov. 30, 2000, the Inspector General of the Department of Defense was to review the report and submit comments to the committees.

### BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS

Pub. L. 105–261, div. A, title III, §347, Oct. 17, 1998, 112 Stat. 1980, which related to implementation of the best commercial inventory practices for the acquisition and distribution of secondary supply items, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(45), Aug. 13, 2018, 132 Stat. 1850.

### INVENTORY MANAGEMENT OF IN-TRANSIT ITEMS

Pub. L. 105–261, div. A, title III, §349, Oct. 17, 1998, 112 Stat. 1981, as amended by Pub. L. 106–398, §1 [[div. A], title III, §386], Oct. 30, 2000, 114 Stat. 1654, 1654A–88, which required a comprehensive plan to ensure visibility over all in-transit end items and secondary items, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(46), Aug. 13, 2018, 132 Stat. 1850.

### INVENTORY MANAGEMENT

Pub. L. 105–85, div. A, title III, §395, Nov. 18, 1997, 111 Stat. 1718, which required the Director of the Defense Logistics Agency to develop and submit to Congress a schedule for implementing the best commercial inventory practices for the acquisition and distribution of supplies and equipment consistent with military requirements, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(47), Aug. 13, 2018, 132 Stat. 1850.

### DIRECT VENDOR DELIVERY SYSTEM FOR CONSUMABLE INVENTORY ITEMS OF DEPARTMENT OF DEFENSE

Pub. L. 104–106, div. A, title III, §352, Feb. 10, 1996, 110 Stat. 266, provided that:

"(a) IMPLEMENTATION OF DIRECT VENDOR DELIVERY SYSTEM.—Not later than September 30, 1997, the Secretary of Defense shall, to the maximum extent practicable, implement a system under which consumable inventory items referred to in subsection (b) are delivered to military installations throughout the United States directly by the vendors of those items. The purpose for implementing the system is to reduce the expense and necessity of maintaining extensive warehouses for those items within the Department of Defense.

"(b) COVERED ITEMS.—The items referred to in subsection (a) are the following:

"(1) Food and clothing.

"(2) Medical and pharmaceutical supplies.

"(3) Automotive, electrical, fuel, and construction supplies.

"(4) Other consumable inventory items the Secretary considers appropriate."

### DATE OF ISSUANCE OF POLICY

Pub. L. 101–510, div. A, title III, §323(b), Nov. 5, 1990, 104 Stat. 1530, provided that: "The policy required by section 2458(a) of title 10, United States Code (as added by subsection (a)), shall be issued not later than 180 days after the date of the enactment of this Act [Nov. 5, 1990]."

## CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

Sec.

2460. Definition of depot-level maintenance and repair.

2461. Public-private competition required before conversion to contractor performance.

2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions.

[2462. Repealed.]

2463. Guidelines and procedures for use of civilian employees to perform Department of Defense functions.

2464. Core logistics capabilities.
2465. Prohibition on contracts for performance of firefighting or security-guard functions.
2466. Limitations on the performance of depot-level maintenance of materiel.
[2467, 2468. Repealed.]
2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition.
[2469a. Repealed.]
2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies.
[2471. Repealed.]
2472. Prohibition on management of depot employees by end strength.
2473. Annual five-year plans on improvement of depot infrastructure.
2474. Centers of Industrial and Technical Excellence: designation; public-private partnerships.
2475. Consolidation, restructuring, or reengineering of organizations, functions, or activities: notification requirements.
2476. Minimum capital investment for certain depots.

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263, div. A, title III, §373, Dec. 23, 2022, 136 Stat. 2540, added item 2473. Item was added after item 2472 to reflect the probable intent of Congress, notwithstanding directory language conforming this analysis to the addition of section 2473 after section "2742" of this title.

**2014**—Pub. L. 113–291, div. A, title X, §1060(a)(2)(B), Dec. 19, 2014, 128 Stat. 3502, struck out item 2462 "Reports on public-private competition".

**2013**—Pub. L. 112–239, div. A, title III, §322(b)(2)(B), Jan. 2, 2013, 126 Stat. 1695, substituted "Core logistics capabilities" for "Core depot-level maintenance and repair capabilities" in item 2464.

**2011**—Pub. L. 112–81, div. A, title III, §327(b), Dec. 31, 2011, 125 Stat. 1368, substituted "Core depot-level maintenance and repair capabilities" for "Core logistics capabilities" in item 2464.

Pub. L. 111–383, div. A, title VIII, §822(b), Jan. 7, 2011, 124 Stat. 4268, struck out item 2473 "Procurements from the small arms production industrial base".

**2008**—Pub. L. 110–181, div. A, title III, §§322(d), 324(a)(2), Jan. 28, 2008, 122 Stat. 60, 61, added item 2463 and struck out item 2467 "Cost comparisons: inclusion of retirement costs; consultation with employees; waiver of comparison".

**2006**—Pub. L. 109–364, div. A, title III, §332(b), Oct. 17, 2006, 120 Stat. 2150, added item 2476.

Pub. L. 109–163, div. A, title III, §341(g)(4), Jan. 6, 2006, 119 Stat. 3200, substituted "Public-private competition required" for "Commercial or industrial type functions: required studies and reports" in item 2461, "Development and implementation of system for monitoring cost saving resulting from public-private competitions" for "Development of system for monitoring cost savings resulting from workforce reductions" in item 2461a, and "Reports on public-private competition" for "Contracting for certain supplies and services required when cost is lower" in item 2462 and struck out item 2463 "Collection and retention of cost information data on converted services and functions".

**2004**—Pub. L. 108–375, div. A, title III, §322(b)(2), Oct. 28, 2004, 118 Stat. 1846, substituted "Prohibition on management of depot employees by end strength" for "Management of depot employees" in item 2472.

**2002**—Pub. L. 107–314, div. A, title III, §333(b), Dec. 2, 2002, 116 Stat. 2514, struck out item 2469a "Use of competitive procedures in contracting for performance of depot-level maintenance and repair workloads formerly performed at certain military installations".

**2001**—Pub. L. 107–107, div. A, title X, §1048(e)(10)(B), Dec. 28, 2001, 115 Stat. 1228, struck out item 2468 "Military installations: authority of base commanders over contracting for commercial activities".

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §§341(g)(2), 353(b), 354(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–64, 1654A–73, 1654A–75, added items 2461a and 2475 and struck out item 2471 "Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by".

**1999**—Pub. L. 106–65, div. A, title III, §342(b)(2), Oct. 5, 1999, 113 Stat. 569, added item 2467 and struck former item 2467 "Cost comparisons: requirements with respect to retirement costs and consultation with employees".

**1997**—Pub. L. 105–85, div. A, title III, §§355(c)(1), 356(b), 359(a)(2), 361(a)(2), 385(b), Nov. 18, 1997,

111 Stat. 1694, 1695, 1699, 1701, 1712, added item 2460, substituted "Collection and retention of cost information data on converted services and functions" for "Reports on savings or costs from increased use of DOD civilian personnel" in item 2463 and "capabilities" for "functions" in item 2464, and added items 2469a and 2474.

**1996**—Pub. L. 104–201, div. A, title VIII, §832(b), Sept. 23, 1996, 110 Stat. 2616, added item 2473.

Pub. L. 104–106, div. A, title III, §312(d), Feb. 10, 1996, 110 Stat. 251, added item 2472.

Pub. L. 104–106, div. A, title III, §311(f)(2), Feb. 10, 1996, 110 Stat. 248, which directed striking out items 2466 and 2469, was repealed by Pub. L. 105–85, div. A, title III, §363, Nov. 18, 1997, 111 Stat. 1702.

**1994**—Pub. L. 103–337, div. A, title III, §§335(b), 336(b), Oct. 5, 1994, 108 Stat. 2717, added items 2470 and 2471.

**1992**—Pub. L. 102–484, div. A, title III, §353(b), Oct. 23, 1992, 106 Stat. 2379, added item 2469.

**1991**—Pub. L. 102–190, div. A, title III, §314(a)(2), Dec. 5, 1991, 105 Stat. 1337, substituted "Limitations on the performance of depot-level maintenance of materiel" for "Prohibition on certain depot maintenance workload competitions" in item 2466.

**1989**—Pub. L. 101–189, div. A, title XI, §1131(a)(2), Nov. 29, 1989, 103 Stat. 1561, added item 2468.

**1988**—Pub. L. 100–456, div. A, title III, §§326(b), 331(b), Sept. 29, 1988, 102 Stat. 1956, 1958, added items 2466 and 2467.

## §2460. Definition of depot-level maintenance and repair

(a) IN GENERAL.—In this chapter, the term "depot-level maintenance and repair" means (except as provided in subsection (b)) material maintenance or repair requiring the overhaul, upgrading, or rebuilding of parts, assemblies, or subassemblies, and the testing and reclamation of equipment as necessary, regardless of the source of funds for the maintenance or repair or the location at which the maintenance or repair is performed. The term includes (1) all aspects of software maintenance classified by the Department of Defense as of July 1, 1995, as depot-level maintenance and repair, and (2) interim contractor support or contractor logistics support (or any similar contractor support), to the extent that such support is for the performance of services described in the preceding sentence.

(b) EXCEPTIONS.—(1) The term does not include the procurement of major modifications or upgrades of weapon systems that are designed to improve program performance or the nuclear refueling or defueling of an aircraft carrier and any concurrent complex overhaul. A major upgrade program covered by this exception could continue to be performed by private or public sector activities.

(2) The term also does not include the procurement of parts for safety modifications. However, the term does include the installation of parts for that purpose.

(Added and amended Pub. L. 112–239, div. A, title III, §322(b)(1), (c), Jan. 2, 2013, 126 Stat. 1694, 1695.)

### EDITORIAL NOTES

### CODIFICATION

Section 322(b)(1) of Pub. L. 112–239, cited as a credit to this section, revived section 2460 of this title as in effect the day before the date of the enactment of Pub. L. 112–81, Dec. 31, 2011. See Prior Provisions note below.

### PRIOR PROVISIONS

A prior section 2460, added Pub. L. 105–85, div. A, title III, §355(a), Nov. 18, 1997, 111 Stat. 1693; amended Pub. L. 105–261, div. A, title III, §341, Oct. 17, 1998, 112 Stat. 1973; Pub. L. 112–81, div. A, title III, §321, Dec. 31, 2011, 125 Stat. 1361, defined "depot-level maintenance and repair" for this chapter prior to repeal by Pub. L. 112–239, div. A, title III, §322(a)(1), Jan. 2, 2013, 126 Stat. 1694.

### AMENDMENTS

**2013**—Subsec. (b)(1). Pub. L. 112–239, §322(c), substituted "or the nuclear refueling or defueling of an aircraft carrier and any concurrent complex overhaul" for "or the nuclear refueling of an aircraft carrier".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 112–239 effective Dec. 31, 2011, immediately after enactment of Pub. L. 112–81, see section 322(f) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 4251 of this title.

### PILOT PROGRAM ON ARMY DEPOT AND ARSENAL WORKLOAD SUSTAINMENT

Pub. L. 119–60, div. A, title III, §348, Dec. 18, 2025, 139 Stat. 829, provided that:

"(a) ESTABLISHMENT OF PILOT PROGRAM.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall establish a pilot program, to be known as the 'Army Depot and Arsenal Workload Sustainment Pilot Program' (in this section referred to as the 'pilot program'), under which the Secretary shall provide a preference to certain procurement actions and solicitations for the performance of work by non-government entities at covered depots.

"(b) PREFERENCES FOR PROCUREMENT ACTIONS OR SOLICITATIONS.—

"(1) IN GENERAL.—Under the pilot program established under subsection (a), the Secretary of Defense shall provide a preference to any procurement action or solicitation for the performance of work submitted by a non-government entity that includes, as part of such procurement action or solicitation, a proposal to enter into a public-private partnership with the Secretary under which the non-government entity will perform the work at covered depots.

"(2) FURTHER PREFERENCE.—In evaluating procurement actions and solicitations under paragraph (1), the Secretary shall give an additional preference to any such action or solicitation submitted by a non-government entity that proposes to use Department of Defense employees to perform the work at a covered depot under such action or solicitation.

"(3) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations for the provision of preferences under this subsection.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the activities carried out under the pilot program during that year, including a description of any operational challenges identified.

"(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

"(A) A breakout, by relevant budget accounts, of work performed at each covered depot during the year preceding the year during which the report is submitted, including work that was carried out directly and work that was carried out through public-private partnerships under the pilot program.

"(B) An identification of the projected workload at each covered depot during the period covered by the future-years defense program submitted to Congress under section 221 of title 10, United States Code.

"(C) The capital investments projected in such future-years defense program to be made at each such covered depot to meet organic industrial base core logistics capabilities in accordance with section 2464 of title 10, United States Code.

"(d) DURATION.—The authority to carry out a pilot program under this section shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 18, 2025].

"(e) DEFINITIONS.—In this section, the term 'covered depot' has the meaning given such term in section 2476(f) of title 10, United States Code."

### REQUIREMENT FOR MILITARY DEPARTMENT INTER-SERVICE DEPOT MAINTENANCE

Pub. L. 116–92, div. A, title III, §358, Dec. 20, 2019, 133 Stat. 1323, provided that:

"(a) JOINT PROCESS FOR TECHNICAL COMPLIANCE AND QUALITY CONTROL.—If the Secretary of a military department transfers any maintenance action on a platform to a depot under the jurisdiction of the Secretary of another military department, the two Secretaries shall develop and implement a process to ensure the technical compliance and quality control for the work performed.

"(b) REQUIREMENTS.—A process developed under subsection (a) shall include the following requirements—

"(1) The Secretary of the military department with jurisdiction over the depot to which the maintenance action is transferred shall—

"(A) ensure that the technical specifications, requirements, and standards for work to be performed are provided to such action or depot; and

"(B) implement procedures to ensure that completed work complies with such specifications,

requirements and standards.

"(2) The Secretary who transfers the maintenance activity or depot shall ensure that—

"(A) the technical specifications and requirements are clearly understood; and

"(B) the work performed is completed to the technical specifications, requirements, and standards prescribed under paragraph (1), and that the Secretary of the military department with jurisdiction over the depot is informed of any shortcoming or discrepancy.

"(c) REPORTS.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing a certification that sufficient policy and procedures are in place to ensure quality control when the depot or maintenance activities of one military department support another. The report shall include a description of known shortfalls in existing policies and procedures and actions the Department of Defense is taking to address such shortfalls."

## §2461. Public-private competition required before conversion to contractor performance

(a) PUBLIC-PRIVATE COMPETITION.—(1) No function of the Department of Defense performed by Department of Defense civilian employees may be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

(A) formally compares the cost of performance of the function by Department of Defense civilian employees with the cost of performance by a contractor;

(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003, or any successor circular;

(C) includes the issuance of a solicitation;

(D) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality, reliability, and timeliness;

(E) examines the cost of performance of the function by Department of Defense civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

(ii) the estimated cost to the Government for performance of the function by Department of Defense civilian employees; and

(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

(F) requires continued performance of the function by Department of Defense civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by Department of Defense civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

(ii) $10,000,000;

(G) requires that the contractor shall not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(i) not making an employer-sponsored health insurance plan (or payment that could be used in lieu of such a plan), health savings account, or medical savings account available to the workers who are to be employed to perform the function under the contract;

(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees of the Department under chapter 89 of title 5; or

(iii) offering to such workers a retirement benefit that, in any year, costs less than the annual retirement cost factor applicable to civilian employees of the Department of Defense under chapter 84 of title 5; and

(H) examines the effect of performance of the function by a contractor on the military mission associated with the performance of the function.

(2) A function that is performed by the Department of Defense and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

(3) In no case may a function being performed by Department of Defense personnel be—

(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

(4) A military department or Defense Agency may not be required to conduct a public-private competition under Office of Management and Budget Circular A–76 or any other provision of law at the end of the performance period specified in a letter of obligation or other agreement entered into with Department of Defense civilian employees pursuant to a public-private competition for any function of the Department of Defense performed by Department of Defense civilian employees.

(5)(A) Except as provided in subparagraph (B), the duration of a public-private competition conducted pursuant to Office of Management and Budget Circular A–76 or any other provision of law for any function of the Department of Defense performed by Department of Defense civilian employees may not exceed a period of 24 months, commencing on the date on which the preliminary planning for the public-private competition begins and ending on the date on which a performance decision is rendered with respect to the function.

(B)(i) The Secretary of Defense may specify an alternative period of time for a public-private competition, which may not exceed 33 months, if the Secretary—

(I) determines that the competition is of such complexity that it cannot be completed within 24 months; and

(II) submits to Congress, as part of the formal congressional notification of a public-private competition pursuant to subsection (c), written notification that explains the basis of such determination.

(ii) The notification under clause (i)(II) shall also address each of the following:

(I) Any efforts of the Secretary to break up the study geographically or functionally.

(II) The Secretary's justification for undertaking a public-private competition instead of using internal reengineering alternatives.

(III) The cost savings that the Secretary expects to achieve as a result of the public-private competition.

(iii) If the Secretary specifies an alternative time period under this subparagraph, the alternative time period shall be binding on the Department in the same manner and to the same extent as the limitation provided in subparagraph (A).

(C) The time period specified in subparagraph (A) for a public-private competition does not include any day during which the public-private competition is delayed by reason of the filing of a protest before the Government Accountability Office or a complaint in the United States Court of Federal Claims up until the day the decision or recommendation of either authority becomes final. In the case of a protest before the Government Accountability Office, the recommendation becomes

final after the period of time for filing a request for reconsideration, or if a request for reconsideration is filed, on the day the Government Accountability Office issues a decision on the reconsideration.

(D) If a protest with respect to a public-private competition before the Government Accountability Office or the United States Court of Federal Claims is sustained, and the recommendation is final as described in subparagraph (C), and if such protest and recommendation result in an unforeseen delay in implementing a final performance decision, the Secretary of Defense may terminate the public-private competition or extend the period of time specified for the public-private competition under subparagraph (A) or subparagraph (B). If the Secretary decides not to terminate a competition, the Secretary shall submit to Congress written notice of such decision. Any such notification shall include a justification for the Secretary's decision and a new time limitation for the competition, which shall not exceed 12 months from the final decision and shall be binding on the Department.

(E) For the purposes of this paragraph, preliminary planning with respect to a public-private competition shall be conducted in accordance with guidance and procedures that shall be issued and maintained by the Under Secretary of Defense for Personnel and Readiness and shall begin on the date on which a component of the Department of Defense first obligates funds specifically for the acquisition of contract support for the preliminary planning effort, or formally assigns Department of Defense personnel, to carry out any of the following activities:

(i) Determining the scope of the public-private competition.

(ii) Conducting research to determine the appropriate grouping of functions for the competition.

(iii) Assessing the availability of workload data, quantifiable outputs of functions, and agency or industry performance standards applicable to the competition.

(iv) Determining the baseline cost of any function for which the competition is conducted.

(F) To effectively establish the date that is the first day of preliminary planning for a public-private competition, the head of a military department or Defense Agency shall submit to Congress written notice of the actions intended to be taken during the preliminary planning process and shall provide public notice of such actions by announcing such date on an appropriate Internet website and through other means as determined necessary. The date of such announcement shall be used for the purpose of computing the duration of the public private competition for purposes of this section.

(G) The Secretary of Defense shall submit to the congressional defense committees an annual report on the use, during the year covered by the report, of alternative time periods for public-private competitions under this section, and the explanations of the Secretary for such alternative time periods.

(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the Department of Defense—

(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

(B) may consult with such employees on other matters relating to that determination.

(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

(C) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of

employees referred to in subparagraph (B) for purposes of the consultation required by paragraph (1).

(c) CONGRESSIONAL NOTIFICATION.—(1) Before commencing a public-private competition under subsection (a), the Secretary of Defense shall submit to Congress a report containing the following:

(A) The function for which such public-private competition is to be conducted.

(B) The location at which the function is performed by Department of Defense civilian employees.

(C) The number of Department of Defense civilian employee positions potentially affected.

(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of a military department or Defense Agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

(2) The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

(A) Department of Defense civilian employees who would be affected by such a conversion in performance; and

(B) the local community and the Government, if more than 50 Department of Defense civilian employees perform the function.

(3)(A) A representative individual or entity at a facility where a public-private competition is conducted may submit to the Secretary of Defense an objection to the public-private competition on the grounds that the report required by paragraph (1) has not been submitted or that the certification required by paragraph (1)(E) is not included in the report submitted as a condition for the public-private competition. The objection shall be in writing and shall be submitted within 90 days after the following date:

(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

(B) If the Secretary determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public-private competition was conducted for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—This section shall not apply to a commercial or industrial type function of the Department of Defense that—

(1) is included on the procurement list established pursuant to section 8503 of title 41; or

(2) is planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with such section.

(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

(Added Pub. L. 100–370, §2(a)(1), July 19, 1988, 102 Stat. 851; amended Pub. L. 101–189, div. A, title XI, §1132, Nov. 29, 1989, 103 Stat. 1561; Pub. L. 104–106, div. D, title XLIII, §4321(b)(19), Feb. 10, 1996, 110 Stat. 673; Pub. L. 105–85, div. A, title III, §384, Nov. 18, 1997, 111 Stat. 1711; Pub. L. 105–261, div. A, title III, §342(a)–(c), Oct. 17, 1998, 112 Stat. 1974–1976; Pub. L. 106–65, div. A, title III, §341, Oct. 5, 1999, 113 Stat. 568; Pub. L. 106–398, §1 [[div. A], title III, §§351, 352], Oct. 30, 2000, 114 Stat. 1654, 1654A–71, 1654A–72; Pub. L. 107–107, div. A, title III, §344, Dec. 28, 2001, 115 Stat. 1061; Pub. L. 107–314, div. A, title III, §331, Dec. 2, 2002, 116 Stat. 2512; Pub. L. 109–163, div. A, title III, §341(a), (b), (c)(2), (3), (g)(1)–(2)(B), Jan. 6, 2006, 119 Stat. 3195, 3196, 3199, 3200; Pub. L. 110–181, div. A, title III, §§322(a), (b)(2), (c), 323, Jan. 28, 2008, 122 Stat. 58–60; Pub. L. 111–84, div. A, title III, §§321(a), 322(a), title X, §1073(a)(25), Oct. 28, 2009, 123 Stat. 2250, 2251, 2474; Pub. L. 111–350, §5(b)(34), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112–81, div. A, title IX, §937, Dec. 31, 2011, 125 Stat. 1546; Pub. L. 112–239, div. A, title X, §1076(f)(28), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 113–66, div. A, title X, §1091(a)(11), Dec. 26, 2013, 127 Stat. 876.)

## HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 96–342, title V, §502, Sept. 8, 1980, 94 Stat. 1086, as amended by Pub. L. 97–252, title XI, §1112(a), Sept. 8, 1982, 96 Stat. 747; Pub. L. 99–145, title XII, §1234(a), Nov. 8, 1985, 99 Stat. 734; Pub. L. 99–661, div. A, title XII, §1221, Nov. 14, 1986, 100 Stat. 3976.

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (a)(5)(E)(i). Pub. L. 113–66 struck out "a" before "public-private competition".

Subsec. (d)(2). Pub. L. 112–239 substituted "such section" for "that Act".

**2011**—Subsec. (a)(5)(E). Pub. L. 112–81, §937(1)(A)–(E), in introductory provisions, substituted "competition shall be conducted in accordance with guidance and procedures that shall be issued and maintained by the Under Secretary of Defense for Personnel and Readiness and shall begin on the date on which a component of the Department of Defense first obligates funds specifically for the acquisition of contract support for the preliminary planning effort" for "competition, begins on the date on which the Department of Defense obligates funds for the acquisition of contract support".

Subsec. (a)(5)(E)(i). Pub. L. 112–81, §937(1)(F), inserted "a public-private" before "competition".

Subsec. (a)(5)(F). Pub. L. 112–82, §937(2), substituted "military department or Defense Agency shall submit to Congress written notice of the actions intended to be taken during the preliminary planning process and shall provide public notice of such actions by announcing such date on an appropriate Internet website and through other means as determined necessary. The date of such announcement shall be used for the purpose" for "military department shall submit to Congress written notice of such date and shall provide public notice by announcing such date on an appropriate Internet website. Such date is the first day of preliminary planning for a public-private competition for the purpose".

Subsec. (d)(1). Pub. L. 111–350, which directed substitution of "section 8503 of title 41" for "section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47)" in subsec. (c)(1), was executed by making the substitution in subsec. (d)(1) to reflect the probable intent of Congress and the amendment by Pub. L. 110–181, §322(b)(2). See 2008 Amendment note below.

**2009**—Subsec. (a)(1). Pub. L. 111–84, §321(a), in introductory provisions, substituted "No function" for "A function" and "may be converted" for "may not be converted" and struck out "10 or more" before "Department of Defense civilian employees".

Subsec. (a)(5). Pub. L. 111–84, §322(a), added par. (5).

Subsec. (c)(3)(A). Pub. L. 111–84, §1073(a)(25), substituted "the public-private competition" for "the public private competition" in two places in introductory provisions.

**2008**—Subsec. (a)(1)(B). Pub. L. 110–181, §322(c)(1)(A), inserted ", or any successor circular" after "2003".

Subsec. (a)(1)(D). Pub. L. 110–181, §322(c)(1)(B), substituted ", reliability, and timeliness" for "and reliability".

Subsec. (a)(1)(G), (H). Pub. L. 110–181, §322(a), added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (a)(4). Pub. L. 110–181, §323, added par. (4).

Subsecs. (b), (c). Pub. L. 110–181, §322(b)(2), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 110–181, §322(c)(2), inserted "of" after "examination" in introductory provisions.

Subsecs. (d), (e). Pub. L. 110–181, §322(b)(2), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

**2006**—Pub. L. 109–163, §341(g)(2)(A), substituted "Public-private competition required" for "Commercial or industrial type functions: required studies and reports" in section catchline.

Subsec. (a). Pub. L. 109–163, §341(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "A commercial or industrial type function of the Department of Defense that, as of October 1, 1980, was being performed by Department of Defense civilian employees may not be changed to performance by the private sector until the Secretary of Defense fully complies with the reporting and analysis requirements specified in subsections (b) and (c)."

Subsec. (b). Pub. L. 109–163, §341(g)(2)(B), substituted "Congressional Notification" for "Notification and Elements of Analysis" in heading.

Subsec. (b)(1). Pub. L. 109–163, §341(b)(1)(A), in introductory provisions, substituted "a public-private competition under subsection (a)" for "to analyze a commercial or industrial type function described in subsection (a) for possible change to performance by the private sector".

Subsec. (b)(1)(A). Pub. L. 109–163, §341(b)(1)(B), substituted "for which such public-private competition is to be conducted" for "to be analyzed for possible change".

Subsec. (b)(1)(C). Pub. L. 109–163, §341(b)(1)(C), inserted "Department of Defense" before "civilian employee".

Subsec. (b)(1)(D). Pub. L. 109–163, §341(b)(1)(D), substituted "the public-private competition" for "the analysis" in two places.

Subsec. (b)(1)(E). Pub. L. 109–163, §341(b)(1)(E), struck out "commercial or industrial type" before "function" and substituted "a contractor" for "persons who are not civilian employees of the Department of Defense".

Subsec. (b)(2). Pub. L. 109–163, §341(b)(2), added par. (2) and struck out former par. (2) which read as follows: "The duty to prepare a report under paragraph (1) may be delegated. A report prepared below the major command or claimant level of a military department, or below the equivalent level in a Defense Agency, pursuant to any such delegation shall be reviewed at the major command, claimant level, or equivalent level, as the case may be, before submission to Congress."

Subsec. (b)(3). Pub. L. 109–163, §341(b)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which related to analysis of a commercial or industrial type function for possible change to performance by the private sector.

Subsec. (b)(3)(A). Pub. L. 109–163, §341(b)(4)(A), in introductory provisions, substituted "where a public-private competition is conducted" for "where a commercial or industrial type function is analyzed for possible change in performance" and "the public private competition" for "the analysis" in two places.

Subsec. (b)(3)(B). Pub. L. 109–163, §341(b)(4)(B), substituted "the function for which the public-private competition was conducted for which the objection was submitted" for "the commercial or industrial type function covered by the analysis to which objected".

Subsec. (b)(4). Pub. L. 109–163, §341(b)(3), redesignated par. (4) as (3).

Subsec. (c). Pub. L. 109–163, §341(g)(1), substituted "This section" for "Subsections (a) through (c) and subsection (g)".

Pub. L. 109–163, §341(c)(3), substituted "Exemption" for "Waiver" in heading.

Pub. L. 109–163, §341(c)(2), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to submission of analysis results by the Secretary of Defense.

Subsecs. (d) to (h). Pub. L. 109–163, §341(c)(2), redesignated subsecs. (e) and (h) as (c) and (d), respectively, and struck out former subsecs. (d), (f), and (g) which related, respectively, to waiver for small functions, additional limitations, and annual reports.

**2002**—Subsec. (c). Pub. L. 107–314 amended heading and text of subsec. (c) generally. Prior to amendment, text related to the report to Congress by the Secretary of Defense upon a decision to change the commercial or industrial type function that was the subject of the analysis to performance by the private sector, with requirements for contents of the report and submission of the report prior to the change of the function to contractor performance.

**2001**—Subsec. (g). Pub. L. 107–107 substituted "June 30" for "February 1".

**2000**—Subsec. (b)(1)(D). Pub. L. 106–398, §1 [[div. A], title III, §351(a)], inserted before period ", and a specific identification of the budgetary line item from which funds will be used to cover the cost of the analysis".

Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title III, §351(b)], added subpars. (A), (D), (E), and (G) and

redesignated former subpars. (A), (B), (C), (D), and (E) as (B), (C), (F), (H), and (I), respectively.

Subsec. (c)(2), (3). Pub. L. 106–398, §1 [[div. A], title III, §352], added par. (2) and redesignated former par. (2) as (3).

**1999**—Subsec. (b)(3)(B)(ii). Pub. L. 106–65 substituted "50 employees" for "75 employees".

**1998**—Subsec. (a). Pub. L. 105–261, §342(a)(2), added subsec. (a) and struck out former subsec. (a) which provided that commercial or industrial type functions of the Department of Defense that on Oct. 1, 1980, were being performed by Department of Defense civilian employees could not be converted to performance by private contractors unless the Secretary of Defense provided certain notices, information, certifications, and reports to Congress.

Subsec. (b). Pub. L. 105–261, §342(a)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "If, after completion of the studies required for completion of the certification and report required by paragraphs (3) and (4) of subsection (a), a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of such decision. The notification shall include the timetable for completing conversion of the function to contractor performance."

Subsec. (c). Pub. L. 105–261, §342(a)(2), added subsec. (c). Former subsec. (c) redesignated (g).

Subsec. (d). Pub. L. 105–261, §342(b), (c)(1), substituted "50" for "20" and inserted "and subsection (g)" after "Subsections (a) through (c)".

Subsec. (e). Pub. L. 105–261, §342(c)(1), (2), inserted "and subsection (g)" after "Subsections (a) through (c)" in introductory provisions and substituted "changed" for "converted" in par. (2).

Subsec. (f). Pub. L. 105–261, §342(c)(2), (3), substituted "changed" for "converted" in par. (1) and "change" for "conversion" in par. (2).

Subsecs. (g), (h). Pub. L. 105–261, §342(a)(1), redesignated subsecs. (c) and (g) as (g) and (h), respectively.

**1997**—Subsec. (a)(1). Pub. L. 105–85, §384(a), inserted "and the anticipated length and cost of the study" before semicolon at end.

Subsec. (b). Pub. L. 105–85, §384(b), inserted at end "The notification shall include the timetable for completing conversion of the function to contractor performance."

Subsec. (d). Pub. L. 105–85, §384(c), substituted "20 or fewer" for "45 or fewer".

**1996**—Subsec. (e)(1). Pub. L. 104–106 substituted "the Javits-Wagner-O'Day Act (41 U.S.C. 47)" for "the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner-O'Day Act".

**1989**—Subsecs. (e) to (g). Pub. L. 101–189 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title III, §321(b), Oct. 28, 2009, 123 Stat. 2250, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to a function for which a public-private competition is commenced on or after the date of the enactment of this Act [Oct. 28, 2009]."

Pub. L. 111–84, div. A, title III, §322(b), Oct. 28, 2009, 123 Stat. 2252, provided that: "Paragraph (5) of section 2461(a) of title 10, United States Code, as added by subsection (a), shall apply with respect to a public-private competition covered by such section that is initiated on or after the date of the enactment of this Act [Oct. 28, 2009]."

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title III, §342(d), Oct. 17, 1998, 112 Stat. 1976, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1998], but the amendments shall not apply with respect to a conversion of a function of the Department of Defense to performance by a private contractor concerning which the Secretary of Defense provided to Congress, before the date of the enactment of this Act, a notification under paragraph (1) of section 2461(a) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act."

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET INFLUENCE OVER DEPARTMENT OF DEFENSE PUBLIC-PRIVATE COMPETITIONS

Pub. L. 110–181, div. A, title III, §325, Jan. 28, 2008, 122 Stat. 61, provided that:

"(a) RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET.—The Office of Management and Budget may not direct or require the Secretary of Defense or the Secretary of a military department to prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy.

"(b) RESTRICTION ON SECRETARY OF DEFENSE.—The Secretary of Defense or the Secretary of a military department may not prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy by reason of any direction or requirement provided by the Office of Management and Budget.

"(c) INSPECTOR GENERAL REVIEW.—

"(1) COMPREHENSIVE REVIEW REQUIRED.—The Inspector General of the Department of Defense shall conduct a comprehensive review of the compliance of the Secretary of Defense and the Secretaries of the military departments with the requirements of this section during calendar year 2008. The Inspector General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the following reports on the comprehensive review:

"(A) An interim report, to be submitted by not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008].

"(B) A final report, to be submitted by not later than December 31, 2008.

"(2) INSPECTOR GENERAL ACCESS.—For the purpose of determining compliance with the requirements of this section, the Secretary of Defense shall ensure that the Inspector General has access to all Department records of relevant communications between Department officials and officials of other departments and agencies of the Federal Government, whether such communications occurred inside or outside of the Department."

## PILOT PROGRAM ON COMMERCIAL FEE-FOR-SERVICE AIR REFUELING SUPPORT FOR THE AIR FORCE

Pub. L. 111–84, div. A, title X, §1082, Oct. 28, 2009, 123 Stat. 2481, provided that:

"(a) MULTIYEAR CONTRACTS AUTHORIZED.—The Secretary of the Air Force may enter into one or more multiyear contracts, beginning with the fiscal year 2011 program year, for purposes of conducting the pilot program on utilizing commercial fee-for-service air refueling tanker aircraft for Air Force operations required by section 1081 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 335) [set out below].

"(b) COMPLIANCE WITH LAW APPLICABLE TO MULTIYEAR CONTRACTS.—Any contract entered into under subsection (a) shall be entered into in accordance with the provisions of section 2306c of title 10, United States Code [now 10 U.S.C. 3531], except that—

"(1) the term of the contract may not be more than 8 years; and

"(2) notwithstanding section 2306c(b) of such title [now 10 U.S.C. 3531(b)], the authority under section 2306c(a) of such title [now 10 U.S.C. 3531(a)] shall apply to the fee-for-service air refueling pilot program.

"(c) COMPLIANCE WITH LAW APPLICABLE TO SERVICE CONTRACTS.—A contract entered into under subsection (a) shall be entered into in accordance with the provisions of section 2401 of title 10, United States Code [see 10 U.S.C. 3671 et seq.], except that—

"(1) the Secretary shall not be required to certify to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the contract is the most cost-effective means of obtaining commercial fee-for-service air refueling tanker aircraft for Air Force operations; and

"(2) the Secretary shall not be required to certify to the congressional defense committees that there is no alternative for meeting urgent operational requirements other than making the contract.

"(d) LIMITATION ON AMOUNT.—The amount of a contract under subsection (a) may not exceed $999,999,999.

"(e) PROVISION OF GOVERNMENT INSURANCE.—A commercial air operator contracting with the Department of Defense under the pilot program referred to in subsection (a) shall be eligible to receive Government-provided insurance pursuant to chapter 443 of title 49, United States Code, if commercial insurance is unavailable on reasonable terms and conditions."

Pub. L. 110–181, div. A, title X, §1081, Jan. 28, 2008, 122 Stat. 335, as amended by Pub. L. 111–84, div. A, title X, §1081, Oct. 28, 2009, 123 Stat. 2481; Pub. L. 113–291, div. A, title X, §1061, Dec. 19, 2014, 128

Stat. 3503, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of the Air Force shall conduct, as soon as practicable after the date of the enactment of this Act [Jan. 28, 2008], a pilot program to assess the feasibility and advisability of utilizing commercial fee-for-service air refueling tanker aircraft for Air Force operations, unless the Secretary of Defense submits notification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that pursuing such a program is not in the national interest. The duration of the pilot program shall be at least five years after commencement of the program.

"(b) PURPOSE.—

"(1) IN GENERAL.—The pilot program required by subsection (a) shall evaluate the feasibility of fee-for-service air refueling to support, augment, or enhance the air refueling mission of the Air Force by utilizing commercial air refueling providers on a fee-for-service basis.

"(2) ELEMENTS.—In order to achieve the purpose of the pilot program, the Secretary of the Air Force shall—

"(A) demonstrate and validate a comprehensive strategy for air refueling on a fee-for-service basis by evaluating all mission areas, including testing support, training support to receiving aircraft, homeland defense support, deployment support, air bridge support, aeromedical evacuation, and emergency air refueling; and

"(B) integrate fee-for-service air refueling described in paragraph (1) into Air Mobility Command operations during the evaluation and execution phases of the pilot program.

"(c) ANNUAL REPORT.—The Secretary of the Air Force shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an annual report on the fee-for-service air refueling program, which includes—

"(1) information with respect to—

"(A) missions flown;

"(B) mission areas supported;

"(C) aircraft number, type, model series supported;

"(D) fuel dispensed;

"(E) departure reliability rates; and

"(F) the annual and cumulative cost to the Government for the program, including a comparison of costs of the same service provided by the Air Force;

"(2) an assessment of the impact of outsourcing air refueling on the Air Force's flying hour program and aircrew training; and

"(3) any other data that the Secretary determines is appropriate for evaluating the performance of the commercial air refueling providers participating in the pilot program."

## INAPPLICABILITY OF SUBSECTION (A)(1)(E) TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM

Pub. L. 109–163, div. A, title III, §341(e), Jan. 6, 2006, 119 Stat. 3199, as amended by Pub. L. 109–364, div. A, title X, §1071(e)(1), Oct. 17, 2006, 120 Stat. 2401, provided that: "Subsection (a)(1)(F) of section 2461 of title 10, United States Code, as amended by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note)."

## PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES

Pub. L. 109–163, div. A, title III, §343, Jan. 6, 2006, 119 Stat. 3200, which provided that the Secretary of Defense was to prescribe guidelines and procedures for ensuring that consideration be given to using Federal Government employees for work that was currently performed or would otherwise be performed under Department of Defense contracts, and that the Secretary was to include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that was performed under Department of Defense contracts, was repealed and restated in section 2463 of this title by Pub. L. 110–181, div. A, title III, §324(a)(1), (c), Jan. 28, 2008, 122 Stat. 60, 61.

## PILOT PROGRAM FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES FOR MILITARY INSTALLATIONS

Pub. L. 108–375, div. A, title III, §325, Oct. 28, 2004, 118 Stat. 1847, as amended by Pub. L. 110–181, div. B, title XXVIII, §2826, Jan. 28, 2008, 122 Stat. 546; Pub. L. 110–417, [div. A], title X, §1061(b)(16), Oct. 14,

2008, 122 Stat. 4613, which authorized a pilot program to procure certain municipal services for a military installation from the county or municipality in which the installation is located, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(48), Aug. 13, 2018, 132 Stat. 1850.

## LIMITATIONS ON CONVERSION OF WORK PERFORMED BY DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES TO CONTRACTOR PERFORMANCE

Pub. L. 108–375, div. A, title III, §327, Oct. 28, 2004, 118 Stat. 1849, which generally required the Secretary of Defense to maintain the continued performance of certain activities and functions by civilian employees unless the competitive sourcing official determined that the cost of performance of the activity or function by a contractor would be less costly by an amount that equaled or exceeded the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of the activity or function by civilian employees, was repealed by Pub. L. 109–163, div. A, title III, §341(g)(3), Jan. 6, 2006, 119 Stat. 3200.

## RESOURCES-BASED SCHEDULES FOR COMPLETION OF PUBLIC-PRIVATE COMPETITIONS FOR PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS

Pub. L. 108–136, div. A, title III, §334, Nov. 24, 2003, 117 Stat. 1443, provided that:

"(a) APPLICATION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone for the completion of a Department of Defense public-private competition shall be established solely on the basis of considered research and sound analysis regarding the availability of sufficient personnel, training, and technical resources to the Department of Defense to carry out such competition in a timely manner.

"(b) EXTENSION OF TIMEFRAMES.—(1) The Department of Defense official responsible for managing a Department of Defense public-private competition shall extend any interim or final deadline or other schedule-related milestone established (consistent with subsection (a)) for the completion of the competition if the official determines that the personnel, training, or technical resources available to the Department of Defense to carry out the competition in a timely manner are insufficient.

"(2) A determination under this subsection shall be made pursuant to procedures prescribed by the Secretary of Defense."

## DELAYED IMPLEMENTATION OF REVISED OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76 BY DEPARTMENT OF DEFENSE

Pub. L. 108–136, div. A, title III, §335, Nov. 24, 2003, 117 Stat. 1443, provided that:

"(a) LIMITATION PENDING REPORT.—No studies or competitions may be conducted under the policies and procedures contained in the revised Office of Management and Budget Circular A–76 dated May 29, 2003 (68 Fed. Reg. 32134), relating to the possible contracting out of commercial activities being performed, as of such date, by employees of the Department of Defense, until the end of the 45-day period beginning on the date on which the Secretary of Defense submits to Congress a report on the effects of the revisions.

"(b) CONTENT OF REPORT.—The report required by subsection (a) shall contain, at a minimum, specific information regarding the following:

"(1) The extent to which the revised circular will ensure that employees of the Department of Defense have the opportunity to compete to retain their jobs.

"(2) The extent to which the revised circular will provide appeal and protest rights to employees of the Department of Defense.

"(3) Identify safeguards in the revised circular to ensure that all public-private competitions are fair, appropriate, and comply with requirements of full and open competition.

"(4) The plans of the Department to ensure an appropriate phase-in period for the revised circular, as recommended by the Commercial Activities Panel of the Government [General] Accounting Office [now Government Accountability Office] in its April 2002 report to Congress, including recommendations for any legislative changes that may be required to ensure a smooth and efficient phase-in period.

"(5) The plans of the Department to provide training to employees of the Department of Defense regarding the revised circular, including how the training will be funded, how employees will be selected to receive the training, and the number of employees likely to receive the training.

"(6) The plans of the Department to collect and analyze data on the costs and quality of work contracted out or retained in-house as a result of a sourcing process conducted under the revised circular."

## PILOT PROGRAM FOR BEST-VALUE SOURCE SELECTION FOR PERFORMANCE OF INFORMATION TECHNOLOGY SERVICES

Pub. L. 108–136, div. A, title III, §336, Nov. 24, 2003, 117 Stat. 1444, which authorized a pilot program for

best-value source selection for performance of information technology services, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(49), Aug. 13, 2018, 132 Stat. 1850.

## PILOT MANPOWER REPORTING SYSTEM IN DEPARTMENT OF THE ARMY

Pub. L. 107–107, div. A, title III, §345(a)–(c), Dec. 28, 2001, 115 Stat. 1061, 1062, provided that, not later than Mar. 1 of each of the fiscal years 2002 through 2004, the Secretary of the Army was to submit to Congress a report describing the use during the previous fiscal year of non-Federal entities to provide services to the Department of the Army.

## PILOT PROGRAM FOR COMMERCIAL SERVICES

Pub. L. 106–65, div. A, title VIII, §814, Oct. 5, 1999, 113 Stat. 711, authorized the Secretary of Defense to carry out a pilot program to treat procurements of commercial services as procurements of commercial items, required the Secretary to issue guidance to procurement officials not later than 90 days after Oct. 5, 1999, and provided that the pilot program was to begin on the date that the Secretary issued the guidance and that it could continue for a period, not in excess of five years.

## PUBLIC AVAILABILITY OF OPERATING AGREEMENTS BETWEEN MILITARY INSTALLATIONS AND FINANCIAL INSTITUTIONS

Pub. L. 105–261, div. A, title III, §379, Oct. 17, 1998, 112 Stat. 1995, provided that: "With respect to an agreement between the commander of a military installation in the United States (or the designee of such an installation commander) and a financial institution that permits, allows, or otherwise authorizes the provision of financial services by the financial institution on the military installation, nothing in the terms or nature of such an agreement shall be construed to exempt the agreement from the provisions of sections 552 and 552a of title 5, United States Code."

## DEVELOPMENT OF STANDARD FORMS REGARDING PERFORMANCE WORK STATEMENT AND REQUEST FOR PROPOSAL FOR CONVERSION OF CERTAIN OPERATIONAL FUNCTIONS OF MILITARY INSTALLATIONS

Pub. L. 105–85, div. A, title III, §389, Nov. 18, 1997, 111 Stat. 1714, as amended by Pub. L. 105–261, div. A, title X, §1069(b)(1), Oct. 17, 1998, 112 Stat. 2136, provided that:

"(a) STANDARDIZATION OF REQUIREMENTS.—The Secretary of Defense is authorized and encouraged to develop standard forms (to be known as a 'standard performance work statement' and a 'standard request for proposal') for use in the consideration for conversion to contractor performance of commercial services and functions at military installations. A separate standard form shall be developed for each service and function.

"(b) RELATIONSHIP TO OMB REQUIREMENTS.—A standard performance work statement or a standard request for proposal developed under subsection (a) must fulfill the basic requirements of the performance work statement or request for proposal otherwise required under the procedures and requirements of Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) in effect at the time the standard form will be used.

"(c) PRIORITY DEVELOPMENT OF CERTAIN FORMS.—In developing standard performance work statements and standard requests for proposal, the Secretary shall give first priority to those commercial services and functions that the Secretary determines have been successfully converted to contractor performance on a repeated basis.

"(d) INCENTIVE FOR USE.—Beginning not later than October 1, 1998, if a standard performance work statement or a standard request for proposal is developed under subsection (a) for a particular service and function, the standard form may be used in lieu of the performance work statement or request for proposal otherwise required under the procedures and requirements of Office of Management and Budget Circular A–76 in connection with the consideration for conversion to contractor performance of that service or function at a military installation.

"(e) EXCLUSION OF MULTIFUNCTION CONVERSION.—If a commercial service or function for which a standard form is developed under subsection (a) is combined with another service or function (for which such a form has not yet been developed) for purposes of considering the services and functions at the military installation for conversion to contractor performance, a standard performance work statement or a standard request for a proposal developed under subsection (a) may not be used in the conversion process in lieu of the procedures and requirements of Office of Management and Budget Circular A–76.

"(f) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to supersede any other requirements or limitations, specifically contained in chapter 146 of title 10, United States Code, on the conversion to contractor performance of activities performed by civilian employees of the Department of

Defense.

"(g) GAO REPORT.—Not later than June 1, 1999, the Comptroller General shall submit to Congress a report reviewing the implementation of this section.

"(h) MILITARY INSTALLATION DEFINED.—For purposes of this section, the term 'military installation' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility."

[Pub. L. 105–261, div. A, title X, §1069(b), Oct. 17, 1998, 112 Stat. 2136, provided that the amendment made by section 1069(b)(1) to section 389 of Pub. L. 105–85, set out above, is effective as of Nov. 18, 1997, and as if included in the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85, as enacted.]

## PRIVATE-SECTOR OPERATION OF CERTAIN PAYROLL, FINANCE, AND ACCOUNTING FUNCTIONS OF DEPARTMENT OF DEFENSE; PLAN; REPORT

Pub. L. 104–106, div. A, title III, §353(a), Feb. 10, 1996, 110 Stat. 267, which required the Secretary to submit and conditionally implement a plan for payroll functions for certain civilian employees to be performed by private-sector sources, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(50), Aug. 13, 2018, 132 Stat. 1850.

## PILOT PROGRAM FOR PRIVATE-SECTOR OPERATION OF NAFI FUNCTIONS

Pub. L. 104–106, div. A, title III, §353(b), Feb. 10, 1996, 110 Stat. 267, which required the Secretary to carry out a pilot program to test the performance by private-sector sources of payroll and other accounting and finance functions of nonappropriated fund instrumentalities, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(51), Aug. 13, 2018, 132 Stat. 1850.

## DEMONSTRATION PROGRAM TO IDENTIFY OVERPAYMENTS MADE TO VENDORS

Pub. L. 105–85, div. A, title III, §388(c), Nov. 18, 1997, 111 Stat. 1714, provided that, not later than Dec. 31, 1998, the Comptroller General was to submit to Congress a report containing the results of a review by the Comptroller General of the demonstration program conducted under section 354 of Pub. L. 104–106, set out below.

Pub. L. 104–106, div. A, title III, §354, Feb. 10, 1996, 110 Stat. 268, as amended by Pub. L. 105–85, div. A, title III, §388(a), (b), Nov. 18, 1997, 111 Stat. 1713, 1714, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall conduct a demonstration program to evaluate the feasibility of using private contractors to audit accounting and procurement records of the Department of Defense in order to identify overpayments made to vendors by the Department.

"(b) PROGRAM REQUIREMENTS.—(1) Under the demonstration program, the Secretary shall, by contract, provide for one or more persons to audit the accounting and procurement records relating to fiscal years after fiscal year 1993 of the working-capital funds and industrial, commercial, and support type activities managed through the Defense Business Operations Fund, except the Defense Logistics Agency to the extent such records have already been audited. The Secretary may enter into more than one contract under the program.

"(2) A contract under the demonstration program shall require the contractor to use data processing techniques that are generally used in audits of private-sector records similar to the records audited under the contract.

"(c) AUDIT REQUIREMENTS.—In conducting an audit under the demonstration program, a contractor shall compare Department of Defense purchase agreements (and related documents) with invoices submitted by vendors under the purchase agreements. A purpose of the comparison is to identify, in the case of each audited purchase agreement, the following:

"(1) Any payments to the vendor for costs that are not allowable under the terms of the purchase agreement or by law.

"(2) Any amounts not deducted from the total amount paid to the vendor under the purchase agreement that should have been deducted from that amount on account of goods and services provided to the vendor by the Department.

"(3) Duplicate payments.

"(4) Unauthorized charges.

"(5) Other discrepancies between the amount paid to the vendor and the amount actually due the vendor under the purchase agreement.

"(d) COLLECTION METHOD.—(1) In the case of an overpayment to a vendor identified under the demonstration program, the Secretary shall consider the use of the procedures specified in section 32.611 of the Federal Acquisition Regulation, regarding a setoff against existing invoices for payment to the vendor, as

the first method by which the Department seeks to recover the amount of the overpayment (and any applicable interest and penalties) from the vendor.

"(2) The Secretary of Defense shall be solely responsible for notifying a vendor of an overpayment made to the vendor and identified under the demonstration program and for recovering the amount of the overpayment (and any applicable interest and penalties) from the vendor.

"(e) FEES FOR CONTRACTOR.—The Secretary shall pay to the contractor under the contract entered into under the demonstration program an amount not to exceed 25 percent of the total amount recovered by the Department (through the collection of overpayments and the use of setoffs) solely on the basis of information obtained as a result of the audits performed by the contractor under the program. When an overpayment is recovered through the use of a setoff, amounts for the required payment to the contractor shall be derived from funds available to the working-capital fund or industrial, commercial, or support type activity for which the overpayment is recovered."

## PROGRAM FOR IMPROVED TRAVEL PROCESS FOR DEPARTMENT OF DEFENSE

Pub. L. 104–106, div. A, title III, §356, Feb. 10, 1996, 110 Stat. 270, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(1)(B), Nov. 18, 1997, 111 Stat. 1905, which required the Secretary to evaluate options to improve the Department of Defense travel process and conduct related tests, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(52), Aug. 13, 2018, 132 Stat. 1850.

## INCREASED RELIANCE ON PRIVATE-SECTOR SOURCES FOR COMMERCIAL PRODUCTS AND SERVICES

Pub. L. 104–106, div. A, title III, §357, Feb. 10, 1996, 110 Stat. 271, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall endeavor to carry out through a private-sector source any activity to provide a commercial product or service for the Department of Defense if—

"(1) the product or service can be provided adequately through such a source; and

"(2) an adequate competitive environment exists to provide for economical performance of the activity by such a source.

"(b) APPLICABILITY.—(1) Subsection (a) shall not apply to any commercial product or service with respect to which the Secretary determines that production, manufacture, or provision of that product or service by the Government is necessary for reasons of national security.

"(2) A determination under paragraph (1) shall be made in accordance with regulations prescribed under subsection (c).

"(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. Such regulations shall be prescribed in consultation with the Director of the Office of Management and Budget.

"(d) REPORT.—(1) The Secretary shall identify activities of the Department (other than activities specified by the Secretary pursuant to subsection (b)) that are carried out by employees of the Department to provide commercial-type products or services for the Department.

"(2) Not later than April 15, 1996, the Secretary shall transmit to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and Committees on National Security and Appropriations of the House of Representatives] a report on opportunities for increased use of private-sector sources to provide commercial products and services for the Department.

"(3) The report required by paragraph (2) shall include the following:

"(A) A list of activities identified under paragraph (1) indicating, for each activity, whether the Secretary proposes to convert the performance of that activity to performance by private-sector sources and, if not, the reasons why.

"(B) An assessment of the advantages and disadvantages of using private-sector sources, rather than employees of the Department, to provide commercial products and services for the Department that are not essential to the warfighting mission of the Armed Forces.

"(C) A specification of all legislative and regulatory impediments to converting the performance of activities identified under paragraph (1) to performance by private-sector sources.

"(D) The views of the Secretary on the desirability of terminating the applicability of OMB Circular A–76 to the Department.

"(4) The Secretary shall carry out paragraph (1) in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States. In carrying out that paragraph, the Secretary shall consult with, and seek the views of, representatives of the private sector, including organizations representing small businesses."

## §2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions

(a) SYSTEM FOR MONITORING PERFORMANCE.—(1) The Secretary of Defense shall monitor the performance, including the cost of performance, of each function of the Department of Defense that, after October 30, 2000, is the subject of a public-private competition conducted under section 2461 of this title.

(2) In carrying out paragraph (1), the Secretary shall—

(A) compare the cost of performing the function before the public-private competition to the cost of performing the function after the implementation of the results of the public-private competition; and

(B) identify any actual savings of the Department of Defense after the implementation of the results of the public-private competition and compare such savings to the estimated savings identified pursuant to section 2461(a)(1)(E) of this title for that public-private competition;

(3) The monitoring of a function shall continue under this section for at least five years after the conversion, reorganization, or reengineering of the function pursuant to such a public-private competition.

(b) CONSIDERATION IN PREPARATION OF FUTURE-YEARS DEFENSE PROGRAM.—In preparing the future-years defense program under section 221 of this title, the Secretary of Defense shall, for the fiscal years covered by the program, estimate and take into account the costs to be incurred and the savings to be derived from the performance of functions by workforces selected in public-private competitions conducted under section 2461 of this title. The Secretary shall consider the results of the monitoring under this section in making the estimates.

(Added Pub. L. 106–398, §1 [[div. A], title III, §354(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–73; amended Pub. L. 107–107, div. A, title X, §1048(a)(21), (c)(11), Dec. 28, 2001, 115 Stat. 1224, 1226; Pub. L. 109–163, div. A, title III, §341(d), (g)(2)(C), Jan. 6, 2006, 119 Stat. 3199, 3200.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Pub. L. 109–163, §341(g)(2)(C), substituted "Development and implementation of system for monitoring cost saving resulting from public-private competitions" for "Development of system for monitoring cost savings resulting from workforce reductions" in section catchline.

Subsec. (a). Pub. L. 109–163, §341(d)(1), (2), redesignated subsec. (b) as (a) and struck out former subsec. (a) which defined "workforce review".

Subsec. (a)(1). Pub. L. 109–163, §341(d)(3)(A), substituted "monitor" for "establish a system for monitoring" and "a public-private competition conducted under section 2461 of this title" for "a workforce review".

Subsec. (a)(2). Pub. L. 109–163, §341(d)(3)(B), added par. (2) and struck out former par. (2) which established requirements for the monitoring system.

Subsec. (a)(3). Pub. L. 109–163, §341(d)(3)(C), inserted "pursuant to such a public-private competition" after "reengineering of the function".

Subsec. (b). Pub. L. 109–163, §341(d)(4), substituted "public-private competitions conducted under section 2461 of this title" for "workforce reviews".

Pub. L. 109–163, §341(d)(2), redesignated subsec. (e) as (b). Former subsec. (b) redesignated (a).

Subsecs. (c) to (e). Pub. L. 109–163, §341(d)(1), (2), redesignated subsec. (e) as (b) and struck out former subsecs. (c) and (d) which related to waiver for certain workforce reviews and annual report, respectively.

**2001**—Subsec. (a)(2). Pub. L. 107–107, §1048(a)(21), substituted "efficiency" for "effeciency".

Subsec. (b)(1). Pub. L. 107–107, §1048(c)(11), substituted "October 30, 2000," for "the date of the enactment of this section,".

## [§2462. Repealed. Pub. L. 113–291, div. A, title X, §1060(a)(2)(A), Dec. 19, 2014,

**128 Stat. 3502]**

Section, added Pub. L. 100–370, §2(a)(1), July 19, 1988, 102 Stat. 853; amended Pub. L. 109–163, div. A, title III, §341(c)(1), Jan. 6, 2006, 119 Stat. 3197, related to reports on public-private competition.

## §2463. Guidelines and procedures for use of civilian employees to perform Department of Defense functions

(a) GUIDELINES REQUIRED.—(1) The Under Secretary of Defense for Personnel and Readiness shall devise and implement guidelines and procedures to ensure that consideration is given to using, on a regular basis, Department of Defense civilian employees to perform new functions and functions that are performed by contractors and could be performed by Department of Defense civilian employees. The Secretary of a military department may prescribe supplemental regulations, if the Secretary determines such regulations are necessary for implementing such guidelines within that military department.

(2) The guidelines and procedures required under paragraph (1) may not include any specific limitation or restriction on the number of functions or activities that may be converted to performance by Department of Defense civilian employees.

(b) SPECIAL CONSIDERATION FOR CERTAIN FUNCTIONS.—The guidelines and procedures required under subsection (a) shall provide for special consideration to be given to using Department of Defense civilian employees to perform any function that—

(1) is performed by a contractor and—

(A) is a critical function that—

(i) is necessary to maintain sufficient Government expertise and technical capabilities; or

(ii) entails operational risk associated with contractor performance;

(B) is an acquisition workforce function;

(C) is a function closely associated with the performance of an inherently governmental function;

(D) has been performed by Department of Defense civilian employees at any time during the previous 10-year period;

(E) has been performed pursuant to a contract awarded on a non-competitive basis; or

(F) has been performed poorly, as determined by a contracting officer during the 5-year period preceding the date of such determination, because of excessive costs or inferior quality; or

(2) is a new requirement, with particular emphasis given to a new requirement that is similar to a function previously performed by Department of Defense civilian employees or is a function closely associated with the performance of an inherently governmental function.

(c) EXCLUSION OF CERTAIN FUNCTIONS FROM COMPETITIONS.—The Secretary of Defense may not conduct a public-private competition under this chapter, Office of Management and Budget Circular A–76, or any other provision of law or regulation before—

(1) in the case of a new Department of Defense function, assigning the performance of the function to Department of Defense civilian employees;

(2) in the case of any Department of Defense function described in subsection (b), converting the function to performance by Department of Defense civilian employees; or

(3) in the case of a Department of Defense function performed by Department of Defense civilian employees, expanding the scope of the function.

(d) USE OF FLEXIBLE HIRING AUTHORITY.—(1) The Secretary of Defense may use the flexible hiring authority available to the Secretary pursuant to section 9902 of title 5, to facilitate the performance by Department of Defense civilian employees of functions described in subsection (b).

(2) The Secretary shall make use of the inventory required by section 4505(c) of this title for the purpose of identifying functions that should be considered for performance by Department of Defense civilian employees pursuant to subsection (b).

(e) DETERMINATIONS RELATING TO THE CONVERSION OF CERTAIN FUNCTIONS .—(1) Except as provided in paragraph (2), in determining whether a function should be converted to performance by Department of Defense civilian employees, the Secretary of Defense shall—

(A) develop methodology for determining costs based on the guidance outlined in the Directive-Type Memorandum 09–007 entitled "Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contractor Support" or any successor guidance for the determination of costs when costs are the sole basis for the determination;

(B) take into consideration any supplemental guidance issued by the Secretary of a military department for determinations affecting functions of that military department; and

(C) ensure that the difference in the cost of performing the function by a contractor compared to the cost of performing the function by Department of Defense civilian employees would be equal to or exceed the lesser of—

(i) 10 percent of the personnel-related costs for performance of that function; or

(ii) $10,000,000.

(2) Paragraph (1) shall not apply to any function that is inherently governmental or any function described in subparagraph (A), (B), or (C) of subsection (b)(1).

(f) NOTIFICATION RELATING TO THE CONVERSION OF CERTAIN FUNCTIONS.—The Secretary of Defense shall establish procedures for the timely notification of any contractor who performs a function that the Secretary plans to convert to performance by Department of Defense civilian employees pursuant to subsection (a). The Secretary shall provide a copy of any such notification to the congressional defense committees.

(g) DEFINITIONS.—In this section:

(1) The term "functions closely associated with inherently governmental functions" has the meaning given that term in section 4508(b)(3) of this title.

(2) The term "acquisition function" has the meaning given that term under section 1721(a) of this title.

(3) The term "inherently governmental function" has the meaning given that term in the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note).

(Added Pub. L. 110–181, div. A, title III, §324(a)(1), Jan. 28, 2008, 122 Stat. 60; amended Pub. L. 111–383, div. A, title III, §353, Jan. 7, 2011, 124 Stat. 4194; Pub. L. 112–81, div. A, title IX, §938, Dec. 31, 2011, 125 Stat. 1547; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 109–163, div. A, title III, §343, Jan. 6, 2006, 119 Stat. 3200, which was set out as a note under section 2461 of this title, prior to repeal by Pub. L. 110–181, div. A, title III, §324(c), Jan. 28, 2008, 122 Stat. 61.

A prior section 2463, added Pub. L. 100–370, §2(a)(1), July 19, 1988, 102 Stat. 853; amended Pub. L. 101–189, div. A, title XVI, §1622(c)(7), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 101–510, div. A, title XIII, §1301(14), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 105–85, div. A, title III, §385(a), Nov. 18, 1997, 111 Stat. 1712, related to collection and retention of cost information data on the conversion of services and functions of the Department of Defense to or from contractor performance, prior to repeal by Pub. L. 109–163, div. A, title III, §341(f), Jan. 6, 2006, 119 Stat. 3199.

### AMENDMENTS

**2021**—Subsec. (d)(2). Pub. L. 116–283 substituted "section 4505(c)" for "section 2330a(c)".

Subsec. (g)(1). Pub. L. 116–283 substituted "section 4508(b)(3)" for "section 2383(b)(3)".

**2011**—Subsec. (b)(1). Pub. L. 112–81, §938(1), added subpars. (A), (B), and (D), redesignated former

subpars. (B), (C), and (D) as (C), (E), and (F), and struck out former subpar. (A) which read as follows: "has been performed by Department of Defense civilian employees at any time during the previous 10 years;".

Subsec. (d)(1). Pub. L. 111–383 struck out "under the National Security Personnel System, as established" before "pursuant to section 9902 of title 5".

Subsecs. (e), (f). Pub. L. 112–81, §938(3), added subsecs. (e) and (f). Former subsec. (e) redesignated (g).

Subsec. (g). Pub. L. 112–81, §938(4), substituted "this section:" for "this section the term 'functions closely associated with inherently governmental functions' has the meaning given that term in section 2383(b)(3) of this title." and added pars. (1) to (3).

Pub. L. 112–81, §938(2), redesignated subsec. (e) as (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### PROHIBITION ON ESTABLISHING GOALS OR QUOTAS FOR CONVERSION OF FUNCTIONS TO PERFORMANCE BY DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 111–383, div. A, title III, §323, Jan. 7, 2011, 124 Stat. 4184, as amended by Pub. L. 117–81, div. A, title XVII, §1702(b)(2), Dec. 27, 2021, 135 Stat. 2155, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not establish, apply, or enforce any numerical goal, target, or quota for the conversion of Department of Defense functions to performance by Department of Defense civilian employees, unless such goal, target, or quota is based on considered research and analysis, as required by section 2463, 3137 [sic, probably should refer to former section 235], or 4505 of title 10, United States Code.

"(b) DECISIONS TO INSOURCE.—In deciding which functions should be converted to performance by Department of Defense civilian employees pursuant to section 2463 of title 10, United States Code, the Secretary of Defense shall use the costing methodology outlined in the Directive-Type Memorandum 09–007 (Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contractor Support) or any successor guidance for the determination of costs when costs are the sole basis for the decision. The Secretary of a military department may issue supplemental guidance to assist in such decisions affecting functions of that military department.

"(c) REPORTS.—

"(1) REPORT TO CONGRESS.—Not later than March 31, 2011, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the decisions with respect to the conversion of functions to performance by Department of Defense civilian employees made during fiscal year 2010. Such report shall identify, for each such decision—

"(A) the agency or service of the Department involved in the decision;

"(B) the basis and rationale for the decision; and

"(C) the number of contractor employees whose functions were converted to performance by Department of Defense civilian employees.

"(2) COMPTROLLER GENERAL REVIEW.—Not later than 120 days after the submittal of the report under paragraph (1), the Comptroller General of the United States shall submit to the congressional defense committees an assessment of the report.

"(d) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to preclude the Secretary of Defense from establishing, applying, and enforcing goals for the conversion of acquisition functions and other critical functions to performance by Department of Defense civilian employees, where such goals are based on considered research and analysis; or

"(2) to require the Secretary of Defense to conduct a cost comparison before making a decision to convert any acquisition function or other critical function to performance by Department of Defense civilian employees, where factors other than cost serve as a basis for the Secretary's decision."

### DEADLINE FOR ISSUANCE OF GUIDELINES AND PROCEDURES

Pub. L. 110–181, div. A, title III, §324(a)(3), Jan. 28, 2008, 122 Stat. 61, provided that: "The Secretary of Defense shall implement the guidelines and procedures required under section 2463 of title 10, United States Code, as added by paragraph (1), by not later than 60 days after the date of the enactment of this Act [Jan. 28,

2008]."

## §2464. Core logistics capabilities

(a) NECESSITY FOR CORE LOGISTICS CAPABILITIES.—(1) It is essential for the national defense that the Department of Defense maintain a core logistics capability that is Government-owned and Government-operated (including Government personnel and Government-owned and Government-operated equipment and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

(2) The Secretary of Defense shall identify the core logistics capabilities described in paragraph (1) and the workload required to maintain those capabilities.

(3) The core logistics capabilities identified under paragraphs (1) and (2) shall include those capabilities that are necessary to maintain and repair the weapon systems and other military equipment (including mission-essential weapon systems or materiel not later than four years after achieving initial operational capability, but excluding systems and equipment under special access programs, nuclear aircraft carriers, and commercial products or commercial services described in paragraph (5)) that are identified by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as necessary to enable the armed forces to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff under section 153(a) of this title.

(4) The Secretary of Defense shall require the performance of core logistics workloads necessary to maintain the core logistics capabilities identified under paragraphs (1), (2), and (3) at Government-owned, Government-operated facilities of the Department of Defense (including Government-owned, Government-operated facilities of a military department) and shall assign such facilities sufficient workload to ensure cost efficiency and technical competence in peacetime while preserving the surge capacity and reconstitution capabilities necessary to support fully the strategic and contingency plans referred to in paragraph (3).

(5) The commercial products or commercial services covered by paragraph (3) are commercial products (as defined in section 103 of title 41) or commercial services (as defined in section 103a of such title) that have been sold or leased in substantial quantities to the general public and are purchased without modification in the same form that they are sold in the commercial marketplace, or with minor modifications to meet Federal Government requirements.

(b) LIMITATION ON CONTRACTING.—(1) Except as provided in paragraph (2), performance of workload needed to maintain a logistics capability identified by the Secretary under subsection (a)(2) may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A–76 or any successor administrative regulation or policy (hereinafter in this section referred to as OMB Circular A–76).

(2) The Secretary of Defense may waive paragraph (1) in the case of any such logistics capability and provide that performance of the workload needed to maintain that capability shall be considered for conversion to contractor performance in accordance with OMB Circular A–76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government performance of the workload is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of any such workload is no longer required for national defense reasons.

(3)(A) A waiver under paragraph (2) may not take effect until the expiration of the first period of 30 days of continuous session of Congress that begins on or after the date on which the Secretary submits a report on the waiver to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(B) For the purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than

three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) NOTIFICATION OF DETERMINATIONS REGARDING CERTAIN COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES.—The first time that a weapon system or other item of military equipment described in subsection (a)(3) is determined to be a commercial product or commercial service for the purposes of the exception contained in that subsection, the Secretary of Defense shall submit to Congress a notification of the determination, together with the justification for the determination. The justification for the determination shall include, at a minimum, the following:

(1) The estimated percentage of commonality of parts of the version of the item that is sold or leased in the commercial marketplace and the Government's version of the item.

(2) The value of any unique support and test equipment and tools that are necessary to support the military requirements if the item were maintained by the Government.

(3) A comparison of the estimated life cycle logistics support costs that would be incurred by the Government if the item were maintained by the private sector with the estimated life cycle logistics support costs that would be incurred by the Government if the item were maintained by the Government.

(d) BIENNIAL CORE REPORT.—Not later than April 1 of each even-numbered year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (except for the Coast Guard), for the fiscal year after the fiscal year during which the report is submitted, each of the following:

(1) The core depot-level maintenance and repair capability requirements and sustaining workloads, organized by work breakdown structure, expressed in direct labor hours.

(2) The corresponding workloads necessary to sustain core depot-level maintenance and repair capability requirements, expressed in direct labor hours and cost.

(3) In any case where core depot-level maintenance and repair capability requirements exceed or are expected to exceed sustaining workloads, a detailed rationale for any and all shortfalls and a plan either to correct or mitigate the effects of the shortfalls.

(4) Any workload shortfalls at any work breakdown structure category designated as a lower-level category pursuant to Department of Defense Instruction 4151.20, or any successor instruction.

(5) A description of any workload executed at a category designated as a first-level category pursuant to such Instruction, or any successor instruction, that could be used to mitigate shortfalls in similar categories.

(6) A description of any progress made on implementing mitigation plans developed pursuant to paragraph (3).

(7) A description of core capability requirements and corresponding workloads at the first level category.

(8) In the case of any shortfall that is identified, a description of the shortfall and an identification of the subcategory of the work breakdown structure in which the shortfall occurred.

(9) In the case of any work breakdown structure category designated as a special interest item or other pursuant to such Instruction, or any successor instruction, an explanation for such designation.

(10) Whether the core depot-level maintenance and repair capability requirements described in the report submitted under this subsection for the preceding fiscal year have been executed.

(Added and amended Pub. L. 112–239, div. A, title III, §322(b)(2)(A), (d), Jan. 2, 2013, 126 Stat. 1695; Pub. L. 115–91, div. A, title III, §332, Dec. 12, 2017, 131 Stat. 1354; Pub. L. 115–232, div. A, title VIII, §836(e)(10), Aug. 13, 2018, 132 Stat. 1870; Pub. L. 118–31, div. A, title III, §342, Dec. 22, 2023, 137 Stat. 224.)

## EDITORIAL NOTES

### CODIFICATION

Section 322(b)(2)(A) of Pub. L. 112–239, cited as a credit to this section, revived section 2464 of this title as in effect the day before the date of the enactment of Pub. L. 112–81, Dec. 31, 2011. See Prior Provisions note below.

### PRIOR PROVISIONS

A prior section 2464, added Pub. L. 100–370, §2(a)(1), July 19, 1988, 102 Stat. 853; amended Pub. L. 101–189, div. A, title XVI, §1622(c)(7), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 104–106, div. A, title III, §314, Feb. 10, 1996, 110 Stat. 251; Pub. L. 105–85, div. A, title III, §356(a), Nov. 18, 1997, 111 Stat. 1694; Pub. L. 105–261, div. A, title III, §343(a), Oct. 17, 1998, 112 Stat. 1976; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112–81, div. A, title III, §327(a), Dec. 31, 2011, 125 Stat. 1366, related to core depot-level maintenance and repair capabilities prior to repeal by Pub. L. 112–239, div. A, title III, §322(a)(2), Jan. 2, 2013, 126 Stat. 1694.

### AMENDMENTS

**2023**—Subsec. (e). Pub. L. 118–31 struck out subsec. (e). Text read as follows: "The Comptroller General of the United States shall review each report submitted under subsection (d) for completeness and compliance and shall submit to the congressional defense committees findings and recommendations with respect to the report by not later than 60 days after the date on which the report is submitted to Congress."

**2018**—Subsec. (a)(3). Pub. L. 115–232, §836(e)(10)(A)(i), substituted "commercial products or commercial services" for "commercial items".

Subsec. (a)(5). Pub. L. 115–232, §836(e)(10)(A)(ii), substituted "The commercial products or commercial services covered by paragraph (3) are commercial products (as defined in section 103 of title 41) or commercial services (as defined in section 103a of such title)" for "The commercial items covered by paragraph (3) are commercial items".

Subsec. (c). Pub. L. 115–232, §836(e)(10)(B), in heading, substituted "Commercial Products or Commercial Services" for "Commercial Items" and, in introductory provisions, substituted "commercial product or commercial service" for "commercial item".

**2017**—Subsec. (d)(4) to (10). Pub. L. 115–91 added pars. (4) to (10).

**2013**—Subsecs. (d), (e). Pub. L. 112–239, §322(d), added subsecs. (d) and (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE

Section and amendment by Pub. L. 112–239 effective Dec. 31, 2011, immediately after enactment of Pub. L. 112–81. See section 322(f) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 4251 of this title.

### UPDATED GUIDANCE REGARDING BIENNIAL CORE REPORT

Pub. L. 115–91, div. A, title III, §338, Dec. 12, 2017, 131 Stat. 1360, provided that: "To ensure that the biennial core reporting procedures of the Department of Defense align with the requirements of section 2464 of title 10, United States Code, and that each reporting agency provides accurate and complete information, the Secretary of Defense shall direct the Under Secretary of Defense for Acquisition, Technology and Logistics to update the Department of Defense Guidance, in particular Department of Defense Instruction 4151.20, to require future biennial core reports include instructions to the reporting agencies on how to—

"(1) report additional depot workload performed that has not been identified as a core requirement;

"(2) accurately capture inter-service workload;

"(3) calculate shortfalls; and

"(4) estimate the cost of planned workload."

# §2465. Prohibition on contracts for performance of firefighting or security-guard functions

(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting or security-guard functions at any military installation or facility.

(b) The prohibition in subsection (a) does not apply to the following contracts:

(1) A contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of a function described in subsection (a) at the expense of unit readiness.

(2) A contract to be carried out on a Government-owned but privately operated installation.

(3) A contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983.

(4) A contract that is—

(A) for a period of one year or less; and

(B) covers the performance of functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions.

(Added Pub. L. 99–661, div. A, title XII, §1222(a)(1), Nov. 14, 1986, 100 Stat. 3976, §2693; amended Pub. L. 100–180, div. A, title XI, §1112(a)–(b)(2), Dec. 4, 1987, 101 Stat. 1147; renumbered §2465, Pub. L. 100–370, §2(b)(1), July 19, 1988, 102 Stat. 854; Pub. L. 104–106, div. A, title XV, §1503(a)(25), Feb. 10, 1996, 110 Stat. 512; Pub. L. 108–136, div. A, title III, §331, Nov. 24, 2003, 117 Stat. 1442; Pub. L. 119–60, div. A, title III, §335, Dec. 18, 2025, 139 Stat. 818.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60, §335(1), substituted "that" for "for the performance of firefighting functions if the contract" in introductory provisions.

Subsec. (b)(4)(B). Pub. L. 119–60, §335(2), struck out "only" before "the performance", "firefighting" before "functions that,", and "by reason of a deployment" before period at end.

**2003**—Subsec. (b). Pub. L. 108–136 substituted "apply to the following contracts:" for "apply—" in introductory provisions, "A" for "to a" at beginning of pars. (1) to (3), period for semicolon at end of par. (1), and period for "; or" at end of par. (2), and added par. (4).

**1996**—Subsec. (b)(3). Pub. L. 104–106 substituted "under contract on September 24, 1983" for "under contract or September 24, 1983".

**1988**—Pub. L. 100–370 renumbered section 2693 of this title as this section.

**1987**—Pub. L. 100–180 inserted "or security-guard" before "functions" in section catchline and subsec. (a), and substituted "a function" for "the function" in subsec. (b)(1).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TEMPORARY AUTHORITY TO CONTRACT WITH LOCAL AND STATE GOVERNMENTS FOR PERFORMANCE OF SECURITY FUNCTIONS AT UNITED STATES MILITARY INSTALLATIONS

Pub. L. 107–56, title X, §1010, Oct. 26, 2001, 115 Stat. 395, which provided authority, during Operation Enduring Freedom and the subsequent 180 days, to use defense funds to contract with local and state governments to perform security functions at military installations, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(53), Aug. 13, 2018, 132 Stat. 1850.

### PERFORMANCE OF EMERGENCY RESPONSE FUNCTIONS AT CHEMICAL WEAPONS STORAGE INSTALLATIONS

Pub. L. 106–398, §1 [[div. A], title III, §355], Oct. 30, 2000, 114 Stat. 1654, 1654A–75, provided that:

"(a) RESTRICTION ON CONVERSION.—The Secretary of the Army may not convert to contractor

performance the emergency response functions of any chemical weapons storage installation that, as of the date of the enactment of this Act [Oct. 30, 2000], are performed for that installation by employees of the United States until the certification required by subsection (c) has been submitted in accordance with that subsection.

"(b) COVERED INSTALLATIONS.—For the purposes of this section, a chemical weapons storage installation is any installation of the Department of Defense on which lethal chemical agents or munitions are stored.

"(c) CERTIFICATION REQUIREMENT.—The Secretary of the Army shall certify in writing to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that, to ensure that there will be no lapse of capability to perform the chemical weapon emergency response mission at a chemical weapons storage installation during any transition to contractor performance of those functions at the installation, the plan for conversion of the performance of those functions—

"(1) is consistent with the recommendation contained in General Accounting Office [now Government Accountability Office] Report NSIAD–00–88, entitled 'DoD Competitive Sourcing', dated March 2000;

"(2) provides for a transition to contractor performance of emergency response functions which ensures an adequate transfer of the relevant knowledge and expertise regarding chemical weapon emergency response to the contractor personnel; and

"(3) complies with section 2465 of title 10, United States Code."

## §2466. Limitations on the performance of depot-level maintenance of materiel

(a) PERCENTAGE LIMITATION.—Not more than 50 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.

(b) WAIVER OF LIMITATION.—The Secretary of Defense may waive the limitation in subsection (a) for a fiscal year if—

(1) the Secretary determines that the waiver is necessary for reasons of national security; and

(2) the Secretary submits to Congress a notification of the waiver together with the reasons for the waiver.

(c) PROHIBITION ON DELEGATION OF WAIVER AUTHORITY.—The authority to grant a waiver under subsection (b) may not be delegated.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that was expended during the preceding fiscal year, and are projected to be expended during the current fiscal year and the ensuing fiscal year, for performance of depot-level maintenance and repair workloads by the public and private sectors.

(2) Each report required under paragraph (1) shall include as a separate item any expenditure covered by section 2474(f) of this title that was made during the fiscal year covered by the report and shall specify the amount and nature of each such expenditure.

(Added Pub. L. 100–456, div. A, title III, §326(a), Sept. 29, 1988, 102 Stat. 1955; amended Pub. L. 101–189, div. A, title III, §313, Nov. 29, 1989, 103 Stat. 1412; Pub. L. 102–190, div. A, title III, §314(a)(1), Dec. 5, 1991, 105 Stat. 1336; Pub. L. 102–484, div. A, title III, §352(a)–(c), Oct. 23, 1992, 106 Stat. 2378; Pub. L. 103–337, div. A, title III, §332, Oct. 5, 1994, 108 Stat. 2715; Pub. L. 104–106, div. A, title III, §§311(f)(1), 312(b), Feb. 10, 1996, 110 Stat. 248, 250; Pub. L. 105–85, div. A, title III, §§357, 358, 363, Nov. 18, 1997, 111 Stat. 1695, 1702; Pub. L. 106–65, div. A, title III, §333, Oct. 5, 1999, 113 Stat. 567; Pub. L. 107–107, div. A, title III, §341, Dec. 28, 2001, 115 Stat. 1060; Pub. L. 108–136, div. A, title III, §332, Nov. 24, 2003, 117 Stat. 1442; Pub. L. 108–375,

div. A, title III, §321, Oct. 28, 2004, 118 Stat. 1845; Pub. L. 109–364, div. A, title III, §331(b), Oct. 17, 2006, 120 Stat. 2149; Pub. L. 111–84, div. A, title III, §329, Oct. 28, 2009, 123 Stat. 2256.)

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsec. (d)(1). Pub. L. 111–84 substituted "90 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31" for "April 1 of each year".

**2006**—Subsec. (d). Pub. L. 109–364, §331(b)(2), struck out "and Review" after "Annual Report" in heading.

Subsec. (d)(2). Pub. L. 109–364, §331(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Not later than 90 days after the date on which the Secretary submits a report under paragraph (1), the Comptroller General shall submit to Congress the Comptroller General's views on whether—

"(A) the Department of Defense complied with the requirements of subsection (a) during the preceding fiscal year covered by the report; and

"(B) the expenditure projections for the current fiscal year and the ensuing fiscal year are reasonable."

**2004**—Subsec. (d). Pub. L. 108–375 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

"(1) Not later than February 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, as required by this section.

"(2) Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that are projected to be expended during each of the next five fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, as required by this section.

"(3) Not later than 60 days after the date on which the Secretary submits a report under this subsection, the Comptroller General shall submit to Congress the Comptroller General's views on whether—

"(A) in the case of a report under paragraph (1), the Department of Defense has complied with the requirements of subsection (a) for the fiscal years covered by the report; and

"(B) in the case of a report under paragraph (2), the expenditure projections for future fiscal years are reasonable."

**2003**—Subsecs. (d), (e). Pub. L. 108–136 redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d). Text read as follows: "Subsection (a) shall not apply with respect to the Sacramento Army Depot, Sacramento, California."

**2001**—Subsecs. (b), (c). Pub. L. 107–107 added subsecs. (b) and (c) and struck out heading and text of former subsec. (c). Text read as follows: "The Secretary of the military department concerned and, with respect to a Defense Agency, the Secretary of Defense may waive the applicability of subsection (a) for a fiscal year, to a particular workload, or to a particular depot-level activity if the Secretary determines that the waiver is necessary for reasons of national security and notifies Congress regarding the reasons for the waiver."

**1999**—Subsec. (e). Pub. L. 106–65 amended heading and text of subsec. (e) generally. Text read as follows:

"(1) Not later than February 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency, the percentage of the funds referred to in subsection (a) that were expended during the preceding fiscal year for performance of depot-level maintenance and repair workloads by the public and private sectors as required by section 2466 of this title.

"(2) Not later than 90 days after the date on which the Secretary submits the annual report under paragraph (1), the Comptroller General shall submit to Congress the Comptroller General's views on whether the Department of Defense has complied with the requirements of subsection (a) for the fiscal year covered by the report."

**1997**—Pub. L. 105–85, §363, repealed Pub. L. 104–106, §311(f)(1). See 1996 Amendment note below.

Subsec. (a). Pub. L. 105–85, §357, substituted "50 percent" for "40 percent".

Subsec. (e). Pub. L. 105–85, §358, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Not later than January 15, 1995, the Secretary of Defense shall submit to

Congress a report identifying, for each military department and Defense Agency, the percentage of funds referred to in subsection (a) that was used during fiscal year 1994 to contract for the performance by non-Federal Government personnel of depot-level maintenance and repair workload."

**1996**—Pub. L. 104–106, §311(f)(1), which directed repeal of this section, was repealed by Pub. L. 105–85, §363.

Subsec. (b). Pub. L. 104–106, §312(b), redesignated subsec. (b) as section 2472(a) of this title.

**1994**—Subsec. (a). Pub. L. 103–337, §332(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows:

"(1) Except as provided in paragraph (2), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may not contract for the performance by non-Federal Government personnel of more than 40 percent of the depot-level maintenance workload for the military department or the Defense Agency.

"(2) The Secretary of the Army shall provide for the performance by employees of the Department of Defense of not less than the following percentages of Army aviation depot-level maintenance workload:

"(A) For fiscal year 1993, 50 percent.

"(B) For fiscal year 1994, 55 percent.

"(C) For fiscal year 1995, 60 percent."

Subsec. (b). Pub. L. 103–337, §332(b), inserted "and repair" after "maintenance" in two places.

Subsec. (e). Pub. L. 103–337, §332(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

"(1) Not later than January 15, 1992, and January 15, 1993, the Secretary of the Army and the Secretary of the Air Force shall jointly submit to Congress a report describing the progress during the preceding fiscal year to achieve and maintain the percentage of depot-level maintenance required to be performed by employees of the Department of Defense pursuant to subsection (a).

"(2) Not later than January 15, 1994, the Secretary of each military department and the Secretary of Defense, with respect to the Defense Agencies, shall jointly submit to Congress a report described in paragraph (1)."

**1992**—Subsec. (a). Pub. L. 102–484, §352(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "PERCENTAGE LIMITATION.—Not less than 60 percent of the funds available for each fiscal year for depot-level maintenance of materiel managed for the Department of the Army and the Department of the Air Force shall be used for the performance of such depot-level maintenance by employees of the Department of Defense."

Subsec. (c). Pub. L. 102–484, §352(b), substituted "The Secretary of the military department concerned and, with respect to a Defense Agency, the Secretary of Defense" for "The Secretary of the Army, with respect to the Department of the Army, and the Secretary of the Air Force, with respect to the Department of the Air Force,".

Subsec. (e). Pub. L. 102–484, §352(c), designated existing provisions as par. (1) and added par. (2).

**1991**—Pub. L. 102–190 substituted section catchline for one which read "Prohibition on certain depot maintenance workload competitions" and amended text generally. Prior to amendment, text read as follows: "The Secretary of Defense shall prohibit the Secretary of the Army and the Secretary of the Air Force, in selecting an entity to perform any depot maintenance workload, from carrying out a competition for such selection—

"(1) between or among maintenance activities of the Department of the Army and the Department of the Air Force; or

"(2) between a maintenance activity of either such department and a private contractor."

**1989**—Pub. L. 101–189, in introductory provisions, substituted "shall prohibit" for "may not require", "Army and" for "Army or", and "from carrying out" for "to carry out".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONGRESSIONAL FINDINGS

Pub. L. 103–337, div. A, title III, §331, Oct. 5, 1994, 108 Stat. 2715, provided that: "Congress makes the following findings:

"(1) By providing the Armed Forces with a critical capacity to respond to the needs of the Armed Forces for depot-level maintenance and repair of weapon systems and equipment, the depot-level maintenance and repair activities of the Department of Defense play an essential role in maintaining the readiness of the Armed Forces.

"(2) It is appropriate for the capability of the depot-level maintenance and repair activities of the Department of Defense to perform maintenance and repair of weapon systems and equipment to be based on policies that take into consideration the readiness, mobilization, and deployment requirements of the military departments.

"(3) It is appropriate for the management of employees of the depot-level maintenance and repair activities of the Department of Defense to be based on the amount of workload necessary to be performed by such activities to maintain the readiness of the weapon systems and equipment of the military departments and on the funds made available for the performance of such workload."

## REUTILIZATION INITIATIVE FOR DEPOT-LEVEL ACTIVITIES

Pub. L. 103–337, div. A, title III, §337, Oct. 5, 1994, 108 Stat. 2717, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments for the purposes of—

"(1) demonstrating commercial uses of the depot-level activities that are related to the principal mission of the depot-level activities;

"(2) preserving employment and skills of employees currently employed by the depot-level activities or providing for the reemployment and retraining of employees who, as the result of the closure, realignment, or reduced in-house workload of such activities, may become unemployed; and

"(3) supporting the goals of other defense conversion, reinvestment, and transition assistance programs while also allowing the depot-level activities to remain in operation to continue to perform their defense readiness mission.

"(b) CONDITIONS.—The Secretary shall ensure that activities conducted under this section—

"(1) do not interfere with the closure or realignment of a depot-level activity of the military departments under a base closure law; and

"(2) do not adversely affect the readiness or primary mission of a participating depot-level activity."

## CONTINUATION OF PERCENTAGE LIMITATIONS ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE

Pub. L. 103–160, div. A, title III, §343, Nov. 30, 1993, 107 Stat. 1624, provided that: "The Secretary of Defense shall ensure that the percentage limitations applicable to the depot-level maintenance workload performed by non-Federal Government personnel set forth in section 2466 of title 10, United States Code, are adhered to."

## EFFECT OF 1992 AMENDMENTS ON EXISTING CONTRACTS

Pub. L. 102–484, div. A, title III, §352(d), Oct. 23, 1992, 106 Stat. 2378, provided that: "The Secretary of a military department and the Secretary of Defense, with respect to the Defense Agencies, may not cancel a depot-level maintenance contract in effect on the date of the enactment of this Act [Oct. 23, 1992] in order to comply with the requirements of section 2466(a) of title 10, United States Code, as amended by subsection (a)."

## PROHIBITION ON CANCELLATION OF CONTRACTS IN EFFECT ON DECEMBER 5, 1991

Pub. L. 102–190, div. A, title III, §314(a)(3), Dec. 5, 1991, 105 Stat. 1337, provided that: "The Secretary of the Army and the Secretary of the Air Force may not cancel a depot-level maintenance contract in effect on the date of the enactment of this Act [Dec. 5, 1991] in order to comply with the requirements of section 2466(a) of such title, as amended by subsection (a)."

## COMPETITION PILOT PROGRAM; REVIEW AND REPORT

Pub. L. 102–190, div. A, title III, §314(b)–(d), Dec. 5, 1991, 105 Stat. 1337, as amended by Pub. L. 102–484, div. A, title III, §354, Oct. 23, 1992, 106 Stat. 2379, required the Comptroller General to submit to Congress, not later than Feb. 1, 1994, an evaluation of all depot maintenance workloads of the Department of Defense that were performed by an entity selected pursuant to competitive procedures, and required the Secretary of Defense to submit to Congress, not later than Dec. 1, 1993, a report containing a five-year strategy of the Department of Defense to use competitive procedures for the selection of entities to perform depot maintenance workloads and describing the cost savings anticipated.

## PILOT PROGRAM FOR DEPOT MAINTENANCE WORKLOAD COMPETITION

Pub. L. 101–510, div. A, title IX, §922, Nov. 5, 1990, 104 Stat. 1627, authorized a depot maintenance workload competition pilot program during fiscal year 1991, outlined elements of the program, and provided

for a report not later than Mar. 31, 1992, to congressional defense committees, prior to repeal by Pub. L. 102–190, div. A, title III, §314(b)(2), Dec. 5, 1991, 105 Stat. 1337.

## [§2467. Repealed. Pub. L. 110–181, div. A, title III, §322(b)(1), Jan. 28, 2008, 122 Stat. 59]

Section, added Pub. L. 100–456, div. A, title III, §331(a), Sept. 29, 1988, 102 Stat. 1957; amended Pub. L. 106–65, div. A, title III, §342(a), (b)(1), Oct. 5, 1999, 113 Stat. 569; Pub. L. 107–107, div. A, title X, §1048(a)(22), Dec. 28, 2001, 115 Stat. 1224, related to cost comparisons: inclusion of retirement costs; consultation with employees; waiver of comparison.

## [§2468. Repealed. Pub. L. 107–107, div. A, title X, §1048(e)(10)(A), Dec. 28, 2001, 115 Stat. 1228]

Section, added Pub. L. 101–189, div. A, title XI, §1131(a)(1), Nov. 29, 1989, 103 Stat. 1560; amended Pub. L. 101–510, div. A, title IX, §921, Nov. 5, 1990, 104 Stat. 1627; Pub. L. 102–190, div. A, title III, §315(a), Dec. 5, 1991, 105 Stat. 1337; Pub. L. 103–160, div. A, title III, §370(c), Nov. 30, 1993, 107 Stat. 1634; Pub. L. 103–337, div. A, title III, §386(c), Oct. 5, 1994, 108 Stat. 2742, related to authority of military base commanders over contracting for commercial activities.

## §2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition

(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance and repair workload described in subsection (b) is not changed to performance by a contractor or by another depot-level activity of the Department of Defense unless the change is made using—

(1) merit-based selection procedures for competitions among all depot-level activities of the Department of Defense; or

(2) competitive procedures for competitions among private and public sector entities.

(b) SCOPE.—Except as provided in subsection (c), subsection (a) applies to any depot-level maintenance and repair workload that has a value of not less than $3,000,000 (including the cost of labor and materials) and is being performed by a depot-level activity of the Department of Defense.

(c) EXCEPTION FOR PUBLIC-PRIVATE PARTNERSHIPS.—The requirements of subsection (a) may be waived in the case of a depot-level maintenance and repair workload that is performed at a Center of Industrial and Technical Excellence designated under subsection (a) of section 2474 of this title by a public-private partnership entered into under subsection (b) of such section consisting of a depot-level activity and a private entity.

(d) INAPPLICABILITY OF OMB CIRCULAR A–76.—Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) does not apply to a performance change to which subsection (a) applies.

(Added Pub. L. 102–484, div. A, title III, §353(a), Oct. 23, 1992, 106 Stat. 2378; amended Pub. L. 103–160, div. A, title III, §346, title XI, §1182(a)(7), Nov. 30, 1993, 107 Stat. 1625, 1771; Pub. L. 103–337, div. A, title III, §338, Oct. 5, 1994, 108 Stat. 2718; Pub. L. 104–106, div. A, title III, §311(f)(1), Feb. 10, 1996, 110 Stat. 248; Pub. L. 105–85, div. A, title III, §§355(b), 363, Nov. 18, 1997, 111 Stat. 1694, 1702; Pub. L. 106–65, div. A, title III, §334, Oct. 5, 1999, 113 Stat. 568; Pub. L. 108–136, div. A, title III, §333, Nov. 24, 2003, 117 Stat. 1442.)

### EDITORIAL NOTES

### AMENDMENTS

**2003**—Subsec. (b). Pub. L. 108–136, §333(1), substituted "Except as provided in subsection (c), subsection" for "Subsection".

Subsecs. (c), (d). Pub. L. 108–136, §333(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

**1999**—Subsec. (b). Pub. L. 106–65 inserted "(including the cost of labor and materials)" after "$3,000,000".

**1997**—Pub. L. 105–85, §363, repealed Pub. L. 104–106, §311(f)(1). See 1996 Amendment note below.

Subsecs. (a), (b). Pub. L. 105–85, §355(b), substituted "maintenance and repair" for "maintenance or repair".

**1996**—Pub. L. 104–106, §311(f)(1), which directed repeal of this section, was repealed by Pub. L. 105–85, §363.

**1994**—Pub. L. 103–337 amended section generally. Prior to amendment, section read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense or the Secretary of a military department may not change the performance of a depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense to performance by a contractor unless the Secretary uses competitive procedures for the selection of the contractor to perform such workload.

"(b) INAPPLICABILITY OF OMB CIRCULAR A–76.—The use of Office of Management and Budget Circular A–76 shall not apply to a performance change under subsection (a)."

**1993**—Pub. L. 103–160, §346, amended section, as amended by Pub. L. 103–160, §1182(a)(7), (h), by designating existing provisions as subsec. (a), inserting heading, striking out "threshold" before "value", substituting "to performance by a contractor unless the Secretary uses competitive procedures for the selection of the contractor to perform such workload" for "unless the Secretary uses competitive procedures to make the change", and adding subsec. (b).

Pub. L. 103–160, §1182(a)(7), struck out ", prior to any such change," after "Department of Defense unless".

## [§2469a. Repealed. Pub. L. 107–314, div. A, title III, §333(a), Dec. 2, 2002, 116 Stat. 2514]

Section, added Pub. L. 105–85, div. A, title III, §359(a)(1), Nov. 18, 1997, 111 Stat. 1696; amended Pub. L. 106–65, div. A, title III, §335, title X, §1066(a)(20), Oct. 5, 1999, 113 Stat. 568, 771, related to use of competitive procedures in contracting for performance of depot-level maintenance and repair workloads formerly performed at closed or realigned military installations.

## §2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.

(Added Pub. L. 103–337, div. A, title III, §335(a), Oct. 5, 1994, 108 Stat. 2716.)

## [§2471. Repealed. Pub. L. 106–398, §1 [[div. A], title III, §341(g)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–64]

Section, added Pub. L. 103–337, div. A, title III, §336(a), Oct. 5, 1994, 108 Stat. 2717; amended Pub. L. 104–106, div. A, title XV, §1503(a)(26), Feb. 10, 1996, 110 Stat. 512; Pub. L. 105–85, div. A, title III, §361(b)(1), Nov. 18, 1997, 111 Stat. 1701, related to lease of excess depot-level equipment and facilities by persons outside the Department of Defense.

## §2472. Prohibition on management of depot employees by end strength

The civilian employees of the Department of Defense, including the civilian employees of the

military departments and the Defense Agencies, who perform, or are involved in the performance of, depot-level maintenance and repair workloads may not be managed on the basis of any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. Such employees shall be managed solely on the basis of the available workload and the funds made available for such depot-level maintenance and repair.

(Added and amended Pub. L. 104–106, div. A, title III, §312(a), (b), Feb. 10, 1996, 110 Stat. 250; Pub. L. 105–85, div. A, title III, §360, Nov. 18, 1997, 111 Stat. 1700; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–375, div. A, title III, §322(a), (b)(1), Oct. 28, 2004, 118 Stat. 1846.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2466(b) of this title, which was transferred to this section and redesignated subsec. (a) by Pub. L. 104–106, §312(b), was based on Pub. L. 102–190, div. A, title III, §314(a)(1), Dec. 5, 1991, 105 Stat. 1336; Pub. L. 103–337, div. A, title III, §332(b), Oct. 5, 1994, 108 Stat. 2715.

### AMENDMENTS

**2004**—Pub. L. 108–375 substituted "Prohibition on management of depot employees by end strength" for "Management of depot employees" in section catchline, struck out subsec. (a) designation and heading before "The civilian", and struck out heading and text of subsec. (b). Text read as follows: "Not later than December 1 of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the number of employees employed and expected to be employed by the Department of Defense during that fiscal year to perform depot-level maintenance and repair of materiel. The report shall indicate whether that number is sufficient to perform the depot-level maintenance and repair functions for which funds are expected to be provided for that fiscal year for performance by Department of Defense employees."

**1999**—Subsec. (b). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1997**—Subsec. (a). Pub. L. 105–85 inserted first sentence and struck out former first sentence which read as follows: "The civilian employees of the Department of Defense involved in the depot-level maintenance and repair of materiel may not be managed on the basis of any end-strength constraint or limitation on the number of such employees who may be employed on the last day of a fiscal year."

**1996**—Subsec. (a). Pub. L. 104–106, §312(b), renumbered section 2466(b) of this title as subsec. (a) of this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SUBMISSION OF INITIAL REPORT

Pub. L. 104–106, div. A, title III, §312(c), Feb. 10, 1996, 110 Stat. 250, required the report under subsec. (b) of this section for fiscal year 1996 to be submitted not later than Mar. 15, 1996.

## §2473. Annual five-year plans on improvement of depot infrastructure

(a) SUBMISSION.—As part of the annual budget submission of the President under section 1105(a) of title 31, each Secretary of a military department shall submit to the congressional defense committees a plan describing the objectives of that Secretary to improve depot infrastructure during the five fiscal years following the fiscal year for which such budget is submitted.

(b) ELEMENTS.—Each plan submitted by a Secretary of a military department under subsection (a) shall include the following:

(1) With respect to the five-year period covered by the plan, an identification of the major lines of effort, milestones, and specific goals of the Secretary over such period relating to the

improvement of depot infrastructure and a description of how such goals support the goals outlined in section 359(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1324; 10 U.S.C. 2476 note).

(2) The estimated costs of necessary depot infrastructure improvements and a description of how such costs would be addressed by the Department of Defense budget request submitted during the same year as the plan and the applicable future-years defense program.

(3) Information regarding the plan of the Secretary to initiate such environmental and engineering studies as may be necessary to carry out planned depot infrastructure improvements.

(4) Detailed information regarding how depot infrastructure improvement projects will be paced and sequenced to ensure continuous operations.

(c) INCORPORATION OF RESULTS-ORIENTED MANAGEMENT PRACTICES.—Each plan under subsection (a) shall incorporate the leading results-oriented management practices identified in the report of the Comptroller General of the United States titled "Actions Needed to Improve Poor Conditions of Facilities and Equipment that Affect Maintenance Timeliness and Efficiency" (GAO–19–242), or any successor report, including—

(1) analytically based goals;

(2) results-oriented metrics;

(3) the identification of required resources, risks, and stakeholders; and

(4) regular reporting on progress to decision makers.

(Added Pub. L. 117–263, div. A, title III, §373, Dec. 23, 2022, 136 Stat. 2540.)

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 117–263, §373, which directed amendment of this chapter by adding this section after section "2742", was executed by adding this section after section 2472 to reflect the probable intent of Congress.

**PRIOR PROVISIONS**

A prior section 2473, added Pub. L. 104–201, div. A, title VIII, §832(a), Sept. 23, 1996, 110 Stat. 2616; amended Pub. L. 105–261, div. A, title VIII, §809(a)–(d), Oct. 17, 1998, 112 Stat. 2085, 2086; Pub. L. 106–65, div. A, title VIII, §815(b), Oct. 5, 1999, 113 Stat. 712; Pub. L. 111–84, div. A, title VIII, §818(a), Oct. 28, 2009, 123 Stat. 2408, required the Secretary of Defense to place conditions on the procurement of property or services in order to preserve the small arms production industrial base, prior to repeal by Pub. L. 111–383, div. A, title VIII, §822(a), Jan. 7, 2011, 124 Stat. 4268.

## §2474. Centers of Industrial and Technical Excellence: designation; public-private partnerships

(a) DESIGNATION.—(1) The Secretary concerned, or the Secretary of Defense in the case of a Defense Agency, shall designate each depot-level activity or military arsenal facility of the military departments and the Defense Agencies (other than facilities approved for closure or major realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)) as a Center of Industrial and Technical Excellence in the recognized core competencies of the designee.

(2) The Secretary of Defense shall establish a policy to encourage the Secretary of each military department and the head of each Defense Agency to reengineer industrial processes and adopt best-business practices at their Centers of Industrial and Technical Excellence in connection with their core competency requirements, so as to serve as recognized leaders in their core competencies throughout the Department of Defense and in the national technology and industrial base (as defined in section 4801(1) of this title).

(3) The Secretary of a military department may conduct a pilot program, consistent with applicable requirements of law, to test any practices referred to in paragraph (2) that the Secretary

determines could improve the efficiency and effectiveness of operations at Centers of Industrial and Technical Excellence, improve the support provided by the Centers for the armed forces user of the services of the Centers, and enhance readiness by reducing the time that it takes to repair equipment.

(b) PUBLIC-PRIVATE PARTNERSHIPS.—(1) To achieve one or more objectives set forth in paragraph (2), the Secretary designating a Center of Industrial and Technical Excellence under subsection (a) may authorize and encourage the head of the Center to enter into public-private cooperative arrangements (in this section referred to as a "public-private partnership") to provide for any of the following:

(A) For employees of the Center, private industry, or other entities outside the Department of Defense to perform (under contract, subcontract, or otherwise) work related to the core competencies of the Center, including any depot-level maintenance and repair work that involves one or more core competencies of the Center.

(B) For private industry or other entities outside the Department of Defense to use, for any period of time determined to be consistent with the needs of the Department of Defense, any facilities or equipment of the Center that are not fully utilized for a military department's own production or maintenance requirements.

(2) The objectives for exercising the authority provided in paragraph (1) are as follows:

(A) To maximize the utilization of the capacity of a Center of Industrial and Technical Excellence.

(B) To reduce or eliminate the cost of ownership of a Center by the Department of Defense in such areas of responsibility as operations and maintenance and environmental remediation.

(C) To reduce the cost of products of the Department of Defense produced or maintained at a Center.

(D) To leverage private sector investment in—

(i) such efforts as plant and equipment recapitalization for a Center; and

(ii) the promotion of the undertaking of commercial business ventures at a Center.

(E) To foster cooperation between the armed forces and private industry.

(3) If the Secretary concerned, or the Secretary of Defense in the case of a Defense Agency, authorizes the use of public-private partnerships under this subsection, the Secretary shall submit to Congress a report evaluating the need for loan guarantee authority, similar to the ARMS Initiative loan guarantee program under section 7555 of this title, to facilitate the establishment of public-private partnerships and the achievement of the objectives set forth in paragraph (2).

(c) PRIVATE SECTOR USE OF EXCESS CAPACITY.—Any facilities or equipment of a Center of Industrial and Technical Excellence made available to private industry may be used to perform maintenance or to produce goods in order to make more efficient and economical use of Government-owned industrial plants and encourage the creation and preservation of jobs to ensure the availability of a workforce with the necessary manufacturing and maintenance skills to meet the needs of the armed forces.

(d) CREDITING OF AMOUNTS FOR PERFORMANCE.—Amounts received by a Center for work performed under a public-private partnership shall be credited to the appropriation or fund, including a working-capital fund, that incurs the cost of performing the work. Consideration in the form of rental payments or (notwithstanding section 3302(b) of title 31) in other forms may be accepted for a use of property accountable under a contract performed pursuant to this section. Notwithstanding section 2667(e) of this title, revenues generated pursuant to this section shall be available for facility operations, maintenance, and environmental restoration at the Center where the leased property is located.

(e) AVAILABILITY OF EXCESS EQUIPMENT TO PRIVATE-SECTOR PARTNERS .—Equipment or facilities of a Center of Industrial and Technical Excellence may be made available for use by a private-sector entity under this section only if—

(1) the use of the equipment or facilities will not have a significant adverse effect on the

readiness of the armed forces, as determined by the Secretary concerned or, in the case of a Center in a Defense Agency, by the Secretary of Defense; and

(2) the private-sector entity agrees—

(A) to reimburse the Department of Defense for the direct and indirect costs (including any rental costs) that are attributable to the entity's use of the equipment or facilities, as determined by that Secretary; and

(B) to hold harmless and indemnify the United States from—

(i) any claim for damages or injury to any person or property arising out of the use of the equipment or facilities, except under the circumstances described in section 2563(c)(3) of this title; and

(ii) any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned or the Secretary of Defense to suspend or terminate that use of equipment or facilities during a war or national emergency.

(f) EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION .—Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by private industry or other entities outside the Department of Defense pursuant to a public-private partnership.

(g) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center of Industrial and Technical Excellence by Department of Defense personnel to performance by a contractor.

(Added Pub. L. 105–85, div. A, title III, §361(a)(1), Nov. 18, 1997, 111 Stat. 1700; amended Pub. L. 106–398, §1 [[div. A], title III, §341(a)–(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–61 to 1654A–63; Pub. L. 107–107, div. A, title III, §§342, 343(b), Dec. 28, 2001, 115 Stat. 1060, 1061; Pub. L. 107–314, div. A, title III, §334, Dec. 2, 2002, 116 Stat. 2514; Pub. L. 108–375, div. A, title III, §323, title X, §1084(d)(20), Oct. 28, 2004, 118 Stat. 1846, 2062; Pub. L. 109–364, div. A, title III, §331(a), Oct. 17, 2006, 120 Stat. 2149; Pub. L. 112–81, div. A, title III, §322, Dec. 31, 2011, 125 Stat. 1362; Pub. L. 112–239, div. A, title X, §1076(d)(4), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title XVIII, §1866(d)(2), Jan. 1, 2021, 134 Stat. 4280.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 116–283 substituted "section 4801(1)" for "section 2500(1)".

**2018**—Subsec. (b)(3). Pub. L. 115–232 substituted "section 7555" for "section 4555".

**2013**—Subsec. (d). Pub. L. 112–239 substituted "section 2667(e)" for "section 2667(d)".

**2011**—Subsec. (a)(1). Pub. L. 112–81 inserted "or military arsenal facility" after "depot-level activity".

**2006**—Subsec. (f). Pub. L. 109–364 struck out "(1)" before "Amounts", "entered into during fiscal years 2003 through 2009" before "shall not be counted", and par. (2) which read as follows: "All funds covered by paragraph (1) shall be included as a separate item in the reports required under paragraphs (1), (2), and (3) of section 2466(d) of this title."

**2004**—Subsec. (f)(1). Pub. L. 108–375, §323, substituted "through 2009" for "through 2006".

Subsec. (f)(2). Pub. L. 108–375, §1084(d)(20), substituted "section 2466(d)" for "section 2466(e)".

**2002**—Subsec. (f)(1). Pub. L. 107–314, §334(1), substituted "Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract entered into during fiscal years 2003 through 2006" for "Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence".

Subsec. (f)(2), (3). Pub. L. 107–314, §334(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The funds referred to in paragraph (1) are funds available to the military departments

and Defense Agencies for depot-level maintenance and repair workloads for fiscal years 2002 through 2005."

**2001**—Subsec. (e)(2)(B)(i). Pub. L. 107–107, §343(b), substituted "under the circumstances described in section 2563(c)(3) of this title" for "in a case of willful conduct or gross negligence".

Subsecs. (f), (g). Pub. L. 107–107, §342, added subsec. (f) and redesignated former subsec. (f) as (g).

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(1)], substituted "The Secretary concerned, or the Secretary of Defense in the case of a Defense Agency," for "The Secretary of Defense" and "of the designee" for "of the activity".

Subsec. (a)(2). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(2)], inserted "of Defense" after "The Secretary" and substituted "Centers of Industrial and Technical Excellence" for "depot-level activities".

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(3)], substituted "operations at Centers of Industrial and Technical Excellence" for "depot-level operations", "by the Centers" for "by depot-level activities", and "of the Centers" for "of such activities".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title III, §341(b)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall enable Centers of Industrial and Technical Excellence to enter into public-private cooperative arrangements for the performance of depot-level maintenance and repair at such Centers and shall encourage the use of such arrangements to maximize the utilization of the capacity at such Centers. A public-private cooperative arrangement under this subsection shall be known as a 'public-private partnership'."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title III, §341(c)(3)], added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title III, §341(d)], inserted at end "Consideration in the form of rental payments or (notwithstanding section 3302(b) of title 31) in other forms may be accepted for a use of property accountable under a contract performed pursuant to this section. Notwithstanding section 2667(d) of this title, revenues generated pursuant to this section shall be available for facility operations, maintenance, and environmental restoration at the Center where the leased property is located."

Pub. L. 106–398, §1 [[div. A], title III, §341(c)(1), (2)], redesignated subsec. (c) as (d) and struck out heading and text of former subsec. (d). Text read as follows: "The policy required under subsection (a) shall include measures to enable a private sector entity that enters into a partnership arrangement under subsection (b) or leases excess equipment and facilities at a Center of Industrial and Technical Excellence pursuant to section 2471 of this title to perform additional work at the Center, subject to the limitations outlined in subsection (b) of such section, outside of the types of work normally assigned to the Center."

Subsecs. (e), (f). Pub. L. 106–398, §1 [[div. A], title III, §341(e)], added subsecs. (e) and (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### REPORTING REQUIREMENT

Pub. L. 105–85, div. A, title III, §361(c), Nov. 18, 1997, 111 Stat. 1701, provided that, not later than Mar. 1, 1999, the Secretary of Defense was to submit to Congress a report on the policies established by the Secretary pursuant to this section to implement the requirements of this section.

## §2475. Consolidation, restructuring, or reengineering of organizations, functions, or activities: notification requirements

(a) STRATEGIC SOURCING PLAN OF ACTION DEFINED.—In this section, the term "Strategic Sourcing Plan of Action" means a Strategic Sourcing Plan of Action for the Department of Defense (as identified in the Department of Defense Interim Guidance dated February 29, 2000, or

any successor Department of Defense guidance or directive) in effect for a fiscal year.

(b) NOTIFICATION OF DECISION TO EXECUTE PLAN.—If a decision is made to consolidate, restructure, or reengineer an organization, function, or activity of the Department of Defense pursuant to a Strategic Sourcing Plan of Action described in subsection (a), and such consolidation, restructuring, or reengineering would result in a manpower reduction affecting 50 or more personnel of the Department of Defense (including military and civilian personnel)—

(1) the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing that decision, including—

(A) a projection of the savings that will be realized as a result of the consolidation, restructuring, or reengineering, compared with the cost incurred by the Department of Defense to perform the function or to operate the organization or activity prior to such proposed consolidation, restructuring, or reengineering;

(B) a description of all missions, duties, or military requirements that will be affected as a result of the decision to consolidate, restructure, or reengineer the organization, function, or activity that was analyzed;

(C) the Secretary's certification that the consolidation, restructuring, or reengineering will not result in any diminution of military readiness;

(D) a schedule for performing the consolidation, restructuring, or reengineering; and

(E) the Secretary's certification that the entire analysis for the consolidation, restructuring, or reengineering is available for examination; and

(2) the head of the Defense Agency or the Secretary of the military department concerned may not implement the plan until 30 days after the date that the agency head or Secretary submits notification to the Committees on Armed Services of the Senate and House of Representatives of the intent to carry out such plan.

(Added Pub. L. 106–398, §1 [[div. A], title III, §353(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–72; amended Pub. L. 115–91, div. A, title X, §1051(a)(17), Dec. 12, 2017, 131 Stat. 1561.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (a). Pub. L. 115–91 amended subsec. (a) generally. Prior to amendment, subsec. (a) required the Secretary of Defense to submit the Strategic Sourcing Plan of Action to Congress annually.

## §2476. Minimum capital investment for certain depots

(a) MINIMUM INVESTMENT.—(1) Each fiscal year, the Secretary of a military department shall invest in the capital budgets of the covered depots of that military department a total amount equal to not less than eight percent of the average total combined maintenance, repair, and overhaul workload funded at all the depots of that military department for the preceding three fiscal years.

(2) Of the amount required to be invested in the capital budgets of the covered depots of a military department under paragraph (1) for each fiscal year—

(A) 75 percent shall be used for the modernization or improvement of the efficiency of depot facilities, equipment, work environment, or processes in direct support of depot operations; and

(B) 25 percent shall be used for the sustainment, restoration, and modernization (as such terms are defined in the Department of Defense Financial Management Regulation 7000.14–R, or successor regulation) of existing facilities or infrastructure.

(b) CAPITAL BUDGET.—For purposes of this section, the capital budget of a depot includes investment funds spent to modernize or improve the efficiency of depot facilities, equipment, work environment, or processes in direct support of depot operations.

(c) COMPLIANCE WITH CERTAIN REQUIREMENTS RELATING TO PERSONNEL AND

TOTAL FORCE MANAGEMENT.—In identifying amounts to invest pursuant to the requirement under subsection (a)(1), the Secretary of a military department shall comply with all applicable requirements of sections 129 and 129a of this title.

(d) WAIVER.—The Secretary of Defense may waive the requirement under subsection (a)(1) with respect to a military department for a fiscal year if the Secretary determines that the waiver is necessary for reasons of national security. Whenever the Secretary makes such a waiver, the Secretary shall notify the congressional defense committees of the waiver and the reasons for the waiver.

(e) ANNUAL REPORT.—(1) Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report containing budget justification documents summarizing the level of capital investment for each military department as of the end of the preceding fiscal year.

(2) Each report submitted under paragraph (1) shall include the following:

(A) A specification of any statutory, regulatory, or operational impediments to achieving the requirement under subsection (a)(1) with respect to each military department.

(B) A description of the benchmarks for capital investment established for each covered depot and military department and the relationship of the benchmarks to applicable performance measurement methods used in the private sector.

(C) If the requirement under subsection (a)(1) is not met for a military department for the fiscal year covered by the report, a statement of the reasons why the requirement was not met and a plan of actions for meeting the requirement for the fiscal year beginning in the year in which such report is submitted.

(D) Separate consideration and reporting of Navy depots and Marine Corps depots.

(E) A table showing the funded workload performed by each covered depot for the preceding three fiscal years and actual investment funds allocated to each depot for the period covered by the report.

(F) A table enumerating, for the period covered by the report, the amounts invested to meet the requirement under subsection (a)(1), disaggregated by funding source and whether the amount is allocated pursuant to subparagraph (A) or subparagraph (B) of subsection (a)(2).

(f) COVERED DEPOT.—In this section, the term "covered depot" means any of the following:

(1) With respect to the Department of the Army:

(A) Anniston Army Depot, Alabama.

(B) Letterkenny Army Depot, Pennsylvania.

(C) Tobyhanna Army Depot, Pennsylvania.

(D) Corpus Christi Army Depot, Texas.

(E) Red River Army Depot, Texas.

(F) Watervliet Arsenal, New York.

(G) Rock Island Arsenal, Illinois.

(H) Pine Bluff Arsenal, Arkansas.

(I) Tooele Army Depot, Utah.

(2) With respect to the Department of the Navy:

(A) The following Navy depots:

(i) Fleet Readiness Center East Site, Cherry Point, North Carolina.

(ii) Fleet Readiness Center Southwest Site, North Island, California.

(iii) Fleet Readiness Center Southeast Site, Jacksonville, Florida.

(iv) Portsmouth Naval Shipyard, Maine.

(v) Pearl Harbor Naval Shipyard, Hawaii.

(vi) Puget Sound Naval Shipyard, Washington.

(vii) Norfolk Naval Shipyard, Virginia.

(B) The following Marine Corps depots:
(i) Marine Corps Logistics Base, Albany, Georgia.
(ii) Marine Corps Logistics Base, Barstow, California.

(3) With respect to the Department of the Air Force:
(A) Warner-Robins Air Logistics Center, Georgia.
(B) Ogden Air Logistics Center, Utah.
(C) Oklahoma City Air Logistics Center, Oklahoma.

(Added Pub. L. 109–364, div. A, title III, §332(a), Oct. 17, 2006, 120 Stat. 2149; amended Pub. L. 110–417, [div. A], title III, §327, Oct. 14, 2008, 122 Stat. 4418; Pub. L. 111–383, div. A, title X, §1075(b)(36), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–81, div. A, title III, §325, Dec. 31, 2011, 125 Stat. 1364; Pub. L. 117–263, div. A, title III, §374(a), (b)(1), Dec. 23, 2022, 136 Stat. 2541, 2542.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a). Pub. L. 117–263, §374(a)(1), designated existing provisions as par. (1), substituted "eight percent" for "six percent", and added par. (2).

Subsec. (b). Pub. L. 117–263, §374(a)(2), struck out ", but does not include funds spent for sustainment of existing facilities, infrastructure, or equipment" before period at end.

Subsec. (c). Pub. L. 117–263, §374(a)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 117–263, §374(a)(3), (b)(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and substituted "subsection (a)(1)" for "subsection (a)" wherever appearing. Former subsec. (e) redesignated (f).

Subsec. (e)(2)(F). Pub. L. 117–263, §374(a)(5), added subpar. (F).

Subsec. (f). Pub. L. 117–263, §374(a)(3), redesignated subsec. (e) as (f).

**2011**—Subsec. (a). Pub. L. 112–81, §325(1), inserted "maintenance, repair, and overhaul" after "combined".

Subsec. (b). Pub. L. 112–81, §325(2), substituted "includes investment funds spent to modernize or improve the efficiency of depot facilities, equipment, work environment, or processes in direct support" for "includes investment funds spent on depot infrastructure, equipment, and process improvement in direct support" and inserted ", but does not include funds spent for sustainment of existing facilities, infrastructure, or equipment" before period at end.

Subsec. (d)(2)(D). Pub. L. 111–383 substituted "Navy depots" for "Navy Depots".

Subsec. (d)(2)(E). Pub. L. 112–81, §325(3), which directed addition of subpar. (E) at end of subsec. (d), was executed by adding subpar. (E) at end of par. (2) of subsec. (d) to reflect the probable intent of Congress.

Subsec. (e)(1)(I). Pub. L. 112–81, §325(4), added subpar. (I).

**2008**—Subsec. (d)(2)(D). Pub. L. 110–417, §327(b)(1), added subpar. (D).

Subsec. (e)(1)(F) to (H). Pub. L. 110–417, §327(a), added subpars. (F) to (H).

Subsec. (e)(2). Pub. L. 110–417, §327(b)(2), inserted introductory provisions for subpars. (A) and (B), redesignated former subpars. (A) to (G) as cls. (i) to (vii), respectively, of subpar. (A) and realigned margins, and redesignated former subpars. (H) and (I) as cls. (i) and (ii), respectively, of subpar. (B) and realigned margins.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title III, §374(c), Dec. 23, 2022, 136 Stat. 2542, provided that: "The amendments made by this section [amending this section and section 2861 of this title] shall apply with respect to fiscal years beginning on or after October 1, 2023."

### EFFECTIVE DATE

Pub. L. 109–364, div. A, title III, §332(c), Oct. 17, 2006, 120 Stat. 2150, provided that: "Section 2476 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2006."

### CLARIFICATION OF CALCULATION FOR CERTAIN WORKLOAD CARRYOVER OF

## DEPARTMENT OF THE ARMY

Pub. L. 117–263, div. A, title III, §377, Dec. 23, 2022, 136 Stat. 2542, as amended by Pub. L. 118–31, div. A, title III, §345, Dec. 22, 2023, 137 Stat. 225, provided that: "For purposes of calculating the amount of workload carryover with respect to the depots and arsenals of the Department of the Army, the Secretary of Defense shall authorize the Secretary of the Army to use a calculation for such carryover that—

"(1) applies a material end of period exclusion; and

"(2) excludes from the calculated carryover amount the proceeds of any foreign military sale."

## PILOT PROGRAM ON DIGITAL OPTIMIZATION OF ORGANIC INDUSTRIAL BASE MAINTENANCE AND REPAIR OPERATIONS

Pub. L. 117–81, div. A, title III, §354, Dec. 27, 2021, 135 Stat. 1656, provided that:

"(a) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Assistant Secretary of Defense for Sustainment, in coordination with the Secretaries of the military departments, shall undertake a pilot program under which the digitization of the facilities and operations of at least one covered depot shall be provided for by the Secretary concerned.

"(b) ELEMENTS OF PILOT PROGRAM.—In carrying out the pilot program under this section, the Secretary concerned shall provide for each of the following at the covered depot or depots at which the program is carried out:

"(1) The creation of a digital twin model of the maintenance, repair, and remanufacturing infrastructure and activities.

"(2) The modeling and simulation of optimized facility configuration, logistics systems, and processes.

"(3) The analysis of material flow and resource use to achieve key performance metrics for all levels of maintenance and repair.

"(4) An assessment of automated, advanced, and additive manufacturing technologies that could improve maintenance, repair, and remanufacturing operations.

"(c) REPORT.—Not later than 60 days after the completion of the digital twin model and associated analysis, the Assistant Secretary of Defense for Sustainment shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. Such report shall include—

"(1) a summary of the cost of the pilot program;

"(2) a description of the efficiencies identified under the pilot program;

"(3) a description of the infrastructure, workforce, and capital equipment investments necessary to achieve such efficiencies;

"(4) any plans to undertake such investments; and

"(5) the assessment of the Assistant Secretary of the value of the pilot program and the potential applicability of the findings of the pilot program to other covered depots.

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered depot' includes any depot covered under section 2476(e) [now 2476(f)] of title 10, United States Code, except for the following:

"(A) Portsmouth Naval Shipyard, Maine.

"(B) Pearl Harbor Naval Shipyard, Hawaii.

"(C) Puget Sound Naval Shipyard, Washington.

"(D) Norfolk Naval Shipyard, Virginia.

"(2) The terms 'military departments' and 'Secretary concerned' have the meanings given such terms in section 101 of title 10, United States Code."

## STRATEGY TO IMPROVE INFRASTRUCTURE OF CERTAIN DEPOTS OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title III, §359, Dec. 20, 2019, 133 Stat. 1323, as amended by Pub. L. 119–60, div. A, title III, §338, Dec. 18, 2025, 139 Stat. 820, provided that:

"(a) STRATEGY REQUIRED.—Not later than October 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive strategy for improving the depot infrastructure of the military departments with the objective of ensuring that all covered depots have the capacity and capability to support the readiness and material availability goals of current and future weapon systems of the Department of Defense.

"(b) ELEMENTS.—The strategy under subsection (a) shall include the following:

"(1) A comprehensive review of the conditions and performance at each covered depot, including the

following:

"(A) An assessment of the current status of the following elements:

"(i) Cost and schedule performance of the depot.

"(ii) Material availability of weapon systems supported at the depot and the impact of the performance of the depot on that availability.

"(iii) Work in progress and non-operational items awaiting depot maintenance.

"(iv) The condition of the depot.

"(v) The backlog of restoration and modernization projects at the depot.

"(vi) The condition of equipment at the depot.

"(vii) the vulnerability of the depot to adverse environmental conditions and, if necessary, the investment required to withstand those conditions.

"(B) An identification of analytically based goals relating to the elements identified in subparagraph (A).

"(2) A business-case analysis that assesses investment alternatives comparing cost, performance, risk, and readiness outcomes and recommends an optimal investment approach across the Department of Defense to ensure covered depots efficiently and effectively meet the readiness goals of the Department, including an assessment of the following alternatives:

"(A) The minimum investment necessary to meet investment requirements under section 2476 of title 10, United States Code.

"(B) The investment necessary to ensure the current inventory of facilities at covered depots can meet the mission-capable, readiness, and contingency goals of the Secretary of Defense.

"(C) The investment necessary to execute the depot infrastructure optimization plans of each military department.

"(D) Any other strategies for investment in covered depots, as identified by the Secretary.

"(3) A plan to improve conditions and performance of covered depots that identifies the following:

"(A) The approach of the Secretary of Defense for achieving the goals outlined in paragraph (1)(B).

"(B) The resources and investments required to implement the plan.

"(C) The activities and milestones required to implement the plan.

"(D) A results-oriented approach to assess—

"(i) the progress of each military department in achieving such goals; and

"(ii) the progress of the Department in implementing the plan.

"(E) Organizational roles and responsibilities for implementing the plan.

"(F) A process for conducting regular management review and coordination of the progress of each military department in implementing the plan and achieving such goals.

"(G) The extent to which the Secretary has addressed recommendations made by the Comptroller General of the United States relating to depot operations during the five-year period preceding the date of submittal of the strategy under this section.

"(H) Risks to implementing the plan and mitigation strategies to address those risks.

"(c) COMPTROLLER GENERAL REPORTS.—

"(1) ASSESSMENT OF STRATEGY.—Not later than January 1, 2021, the Comptroller General of the United States shall submit to the congressional defense committees a report assessing the extent to which the strategy under subsection (a) meets the requirements of this section.

"(2) ASSESSMENT OF IMPLEMENTATION.—Not later than April 1, 2022, the Comptroller General shall submit to the congressional defense committees a report setting forth an assessment of the extent to which the strategy under subsection (a) has been effectively implemented by each military department and the Secretary of Defense.

"(d) COVERED DEPOT DEFINED.—In this section, the term 'covered depot' has the meaning given that term in section 2476(e) [now 2476(f)] of title 10, United States Code."

**TWO YEAR PHASE-IN FOR DEPARTMENTS OF THE ARMY AND THE NAVY**

Pub. L. 109–364, div. A, title III, §332(d), Oct. 17, 2006, 120 Stat. 2150, reduced the percentage of required investment in covered depots pursuant to subsec. (a) of this section for fiscal years 2007 and 2008.

# CHAPTER 147—COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Defense Commissary and Exchange Systems** | **2481** |
| **II.** | **Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems** | **2487** |
| **III.** | **Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities** | **2491** |


## EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375, div. A, title VI, §651(a)(1), (3), Oct. 28, 2004, 118 Stat. 1964, added items for subchapters I to III and struck out items 2481 "Existence of defense commissary system and exchange stores system", 2482 "Commissary stores: operation", 2482a "Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services", 2483 "Commissary stores: reimbursement for use of commissary facilities by military departments", 2484 "Commissary stores: use of appropriated funds to cover operating expenses", 2485 "Donation of unusable food: commissary stores and other activities", 2486 "Commissary stores: merchandise that may be sold; uniform surcharges and pricing", 2487 "Commissary stores: release of certain commercially valuable information to the public", 2488 "Nonappropriated fund instrumentalities: purchase of alcoholic beverages", 2489 "Overseas package stores: treatment of United States wines", 2489a "Sale or rental of sexually explicit material prohibited", 2490a "Combined exchange and commissary stores", 2492 "Overseas commissary and exchange stores: access and purchase restrictions", 2493 "Fisher Houses: administration as nonappropriated fund instrumentality", and 2494 "Uniform funding and management of morale, welfare, and recreation programs".

**2003**—Pub. L. 108–136, div. A, title VI, §652(b), Nov. 24, 2003, 117 Stat. 1522, added item 2481.

**2002**—Pub. L. 107–314, div. A, title III, §323(b), Dec. 2, 2002, 116 Stat. 2511, added item 2494.

**2001**—Pub. L. 107–107, div. A, title III, §§332(b), 333(b), Dec. 28, 2001, 115 Stat. 1058, 1059, added item 2483 and substituted "Commissary stores: release of certain commercially valuable information to the public" for "Commissary stores: limitations on release of sales information" in item 2487.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §331(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–59, added item 2484 and struck out former item 2484 "Commissary stores: expenses".

**1998**—Pub. L. 105–261, div. A, title III, §365(b), title IX, §906(a)(2), Oct. 17, 1998, 112 Stat. 1987, 2095, added items 2492 and 2493.

**1997**—Pub. L. 105–85, div. A, title III, §371(a)(1), (c)(1), Nov. 18, 1997, 111 Stat. 1705, substituted "COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES" for "UTILITIES AND SERVICES" as chapter heading and struck out items 2481 "Utilities and services: sale; expansion and extension of systems and facilities", 2483 "Sale of electricity from alternate energy and cogeneration production facilities", and 2490 "Utility services: furnishing for certain buildings".

**1996**—Pub. L. 104–201, div. A, title III, §§341(a)(2), 343(a)(2), Sept. 23, 1996, 110 Stat. 2489, 2490, added items 2482a and 2489a.

Pub. L. 104–106, div. A, title III, §§331(b), 336(a)(2), Feb. 10, 1996, 110 Stat. 260, 264, substituted "Commissary stores: operation" for "Commissary stores: private operation" in item 2482 and added item 2490a.

**1993**—Pub. L. 103–160, div. A, title XI, §1182(a)(8)(B), Nov. 30, 1993, 107 Stat. 1771, struck out item 2490a "Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds".

**1992**—Pub. L. 102–484, div. A, title III, §§362(b), 364(b)(1), Oct. 23, 1992, 106 Stat. 2380, 2382, substituted "limitations" for "limitation" in item 2487 and added item 2490a.

**1990**—Pub. L. 101–510, div. A, title III, §324(b)(2), Nov. 5, 1990, 104 Stat. 1531, amended item 2485 generally, substituting "Donation of unusable food: commissary stores and other activities" for "Commissary stores: donation of unmarketable food".

**1988**—Pub. L. 100–370, §1(j)(2), July 19, 1988, 102 Stat. 848, added item 2490.

**1987**—Pub. L. 100–180, div. A, title III, §§311(a)(2), 313(a)(3), Dec. 4, 1987, 101 Stat. 1073, 1074, inserted "and pricing" in item 2486 and added item 2489.

**1986**—Pub. L. 99–661, div. A, title III, §313(c), Nov. 14, 1986, 100 Stat. 3853, added items 2486, 2487, and 2488.

**1985**—Pub. L. 99–145, title XIV, §1460(b), Nov. 8, 1985, 99 Stat. 765, added item 2485.

**1984**—Pub. L. 98–525, title XIV, §1401(i)(2), Oct. 19, 1984, 98 Stat. 2620, added item 2484.

Pub. L. 98–407, title VIII, §810(b), Aug. 28, 1984, 98 Stat. 1523, added item 2483.

## SUBCHAPTER I—DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

Sec.
2481. Defense commissary and exchange systems: existence and purpose.
2482. Commissary stores: criteria for establishment or closure; store size.
2483. Commissary stores: use of appropriated funds to cover operating expenses.
2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
2485. Commissary stores: operation.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(18), Oct. 17, 2006, 120 Stat. 2399, inserted period at end of item 2481.

**2004**—Pub. L. 108–375, div. A, title VI, §651(a)(3), Oct. 28, 2004, 118 Stat. 1964, added subchapter heading and items 2481 to 2485.

## §2481. Defense commissary and exchange systems: existence and purpose

(a) SEPARATE SYSTEMS.—The Secretary of Defense shall operate, in the manner provided by this chapter and other provisions of law, a world-wide system of commissary stores and a separate world-wide system of exchange stores. The stores of each system may sell, at reduced prices, food and other merchandise to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and persons authorized to use the system under chapter 54 of this title. Any reference in this chapter to "the exchange system" shall be treated as referring to each separate administrative entity within the Department of Defense through which the Secretary has implemented the requirement under this subsection for a world-wide system of exchange stores.

(b) PURPOSE OF SYSTEMS.—The defense commissary system and the exchange system are intended to enhance the quality of life of members of the uniformed services, retired members, and dependents of such members, and to support military readiness, recruitment, and retention.

(c) OVERSIGHT.—(1) The Secretary of Defense shall designate a senior official of the Department of Defense to oversee the operation of both the defense commissary system and the exchange system.

(2) The Secretary of Defense shall establish an executive governing body to provide advice to the senior official designated under paragraph (1) regarding the operation of the defense commissary and exchange systems and to ensure the complementary operation of the systems.

(3)(A) The Secretary of Defense shall develop and implement a comprehensive strategy to optimize management practices across the defense commissary system and the exchange system that reduce reliance of those systems on appropriated funding without reducing benefits to the patrons of those systems or the revenue generated by nonappropriated fund entities or instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(B) The Secretary shall ensure that savings generated due to such optimization practices are shared by the defense commissary system and the exchange system through contracts or agreements that appropriately reflect the participation of the systems in the development and implementation of such practices.

(C) If the Secretary determines that the reduced reliance on appropriated funding pursuant to subparagraph (A) is insufficient to maintain the benefits to the patrons of the defense commissary system, and if the Secretary converts the defense commissary system to a nonappropriated fund entity or instrumentality pursuant to paragraph (1) of section 2484(j) of this title, the Secretary shall transfer appropriated funds pursuant to paragraph (2) of such section to ensure the maintenance of such benefits.

(4) On not less than a quarterly basis, the Secretary shall provide to the congressional defense committees a briefing on the defense commissary system, including—

(A) an assessment of the savings the system provides patrons;
(B) the status of implementing section 2484(i) of this title;
(C) the status of implementing section 2484(j) of this title, including whether the system requires any appropriated funds pursuant to paragraph (2) of such section;
(D) the status of carrying out a program for such system to sell private label merchandise; and
(E) any other matters the Secretary considers appropriate.

(d) REDUCED PRICES DEFINED.—In this section, the term "reduced prices" means prices for food and other merchandise determined using the price setting process specified in section 2484 of this title.

(Added Pub. L. 108–375, div. A, title VI, §651(a)(3), Oct. 28, 2004, 118 Stat. 1965; amended Pub. L. 114–328, div. A, title VI, §661(a), (f), Dec. 23, 2016, 130 Stat. 2169, 2172.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2481, added Pub. L. 108–136, div. A, title VI, §652(a), Nov. 24, 2003, 117 Stat. 1522, related to the existence of defense commissary system and exchange stores system, prior to repeal by Pub. L. 108–375, div. A, title VI, §651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2481 was renumbered section 2686 of this title.

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328, §661(f), inserted at end " Any reference in this chapter to 'the exchange system' shall be treated as referring to each separate administrative entity within the Department of Defense through which the Secretary has implemented the requirement under this subsection for a world-wide system of exchange stores."

Subsec. (c)(3), (4). Pub. L. 114–328, §661(a), added pars. (3) and (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEFENSE COMMISSARY SYSTEM AND EXCHANGE SYSTEM: PATRONAGE; PRIVATIZATION

Pub. L. 119–60, div. A, title VI, §652, Dec. 18, 2025, 139 Stat. 913, provided that:

"(a) PATRONAGE.—

"(1) INTERIM AUTHORITY.—Notwithstanding the limitations under section 2481(a) and chapter 54 of title 10, United States Code, the Secretary of Defense—

"(A) may allow individuals authorized to use a commissary store or exchange store pursuant to a policy, memorandum, regulation, or pilot program of the Department of Defense in effect on October 1, 2025, to continue such use through December 31, 2026; and

"(B) may not authorize such use for any additional group of individuals.

"(2) LEGISLATIVE PROPOSAL.—Not later than April 1, 2026, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written legislative proposal that—

"(A) specifies each category of individuals that the Secretary recommends Congress authorize to use a commissary store or exchange store;

"(B) explains the recommendation of the Secretary for such authorization; and

"(C) consolidates the authorities for such use into a single statute.

"(b) PRIVATIZATION.—The Secretary may not take any action inconsistent with the restrictions in section 2485(a) of such title regarding private operation of the overall management of a commissary system or management of a commissary store."

### DEFENSE RESALE SYSTEM MATTERS

Pub. L. 116–92, div. A, title VI, §631(a)–(c), Dec. 20, 2019, 133 Stat. 1429, as amended by Pub. L. 118–31, div. A, title IX, §901(g), Dec. 22, 2023, 137 Stat. 355, provided that:

"(a) IN GENERAL.—The Under Secretary of Defense for Personnel and Readiness shall maintain oversight of business transformation efforts of the defense commissary system and the exchange stores system

in order to ensure the following:

"(1) Development of an intercomponent business strategy that maximizes efficiencies and results in a viable defense resale system in the future.

"(2) Preservation of patron savings and satisfaction from and in the defense commissary system and exchange stores system.

"(3) Sustainment of financial support of the defense commissary and exchange systems for morale, welfare, and recreation (MWR) services of the Armed Forces.

"(b) EXECUTIVE RESALE BOARD ADVICE ON OPERATIONS OF SYSTEMS.—The Executive Resale Board of the Department of Defense shall advise the Under Secretary on the implementation of sustainable, complementary operations of the defense commissary system and the exchange stores system.

"(c) INFORMATION TECHNOLOGY MODERNIZATION.—The Secretary of Defense shall, acting through the Under Secretary and with advice from the Executive Resale Board, require the Defense Commissary Agency and the Military Exchange Service to do as follows:

"(1) Field new technologies and best business practices for information technology for the defense resale system.

"(2) Implement cutting-edge marketing opportunities across the defense resale system."

## PLAN TO OBTAIN BUDGET-NEUTRALITY FOR THE DEFENSE COMMISSARY SYSTEM AND THE MILITARY EXCHANGE SYSTEM

Pub. L. 114–92, div. A, title VI, §651, Nov. 25, 2015, 129 Stat. 854, provided that:

"(a) IN GENERAL.—Not later than March 1, 2016, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive plan to achieve by October 1, 2018, budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c). In preparing the report, the Secretary shall consider the report required by section 634 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3406) and any other previous reports, studies, and surveys of matters appropriate to the report.

"(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

"(1) A description of any modifications to the commissary and exchange benefit systems the Secretary considers appropriate to obtain budget-neutrality in the delivery of commissary and exchange benefits, including the following:

"(A) The establishment of common business processes, practices, and systems to exploit synergies between the operations of defense commissaries and exchanges and to optimize the operations of the resale system and the benefits provided by the commissaries and exchanges.

"(B) The privatization of the defense commissary system and the military exchange system, in whole or in part.

"(C) Engagement of major commercial grocery retailers or other private sector entities to determine their willingness to provide eligible beneficiaries with discount savings on grocery products and certain household goods.

"(D) The closure of commissaries in locations in close proximity to other commissaries or in locations where commercial alternatives, through major grocery retailers, may be available.

"(2) An analysis of different pricing constructs to improve or enhance the delivery of commissary and exchange benefits.

"(3) A description of the impact of any modifications described pursuant to paragraph (1) on Morale, Welfare and Recreation (MWR) quality-of-life programs.

"(4) Such recommendations for legislative action as the Secretary considers appropriate to achieve by October 1, 2018, budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c).

"(c) BENCHMARKS.—The report required by subsection (a) shall ensure—

"(1) the maintenance of high levels of customer satisfaction in the delivery of commissary and exchange benefits;

"(2) the provision of high quality products; and

"(3) the sustainment of discount savings to eligible beneficiaries.

"(d) COMPTROLLER GENERAL ASSESSMENT OF PLAN.—Not later than 120 days after the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth an

assessment by the Comptroller General of the plan to achieve budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c) as set forth in the report required by subsection (a).

"(e) PILOT PROGRAMS.—

"(1) PROGRAMS AUTHORIZED.—After the reports required by subsections (a) and (d) have been submitted as described in such subsections, the Secretary may, notwithstanding any requirement in chapter 147 of title 10, United States Code, conduct one or more pilot programs to evaluate the feasibility and advisability of processes and methods for achieving budget-neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks in accordance with this section. The Secretary may authorize any commissary or exchange, or private sector entity, participating in any such pilot program to establish appropriate prices in response to market conditions and customer demand, provided that the level of savings required by paragraph (3) is maintained.

"(2) BENCHMARKS.—If the Secretary conducts a pilot program under this subsection, the Secretary shall establish specific, measurable benchmarks for measuring success in the provision of high quality grocery goods and products, discount savings to patrons, and high levels of customer satisfaction while achieving budget-neutrality in the delivery of commissary and exchange benefits under the pilot program.

"(3) REQUIRED SAVINGS TO PATRONS.—The Secretary shall ensure that the level of savings to commissary and exchange patrons under any pilot program under this subsection is not less than the level of savings to such patrons before the implementation of such pilot program, as follows:

"(A) Before commencing a pilot program the Secretary shall establish a baseline of savings to patrons achieved for each commissary or exchange to participate in such pilot program by comparing prices charged by such commissary or exchange for a representative market basket of goods to prices charged by local competitors for the same market basket of goods.

"(B) After commencement of such pilot program, the Secretary shall ensure that each commissary or exchange, or private sector entity, participating in such pilot program conducts market-basket price comparisons not less than once a month and adjusts pricing as necessary to ensure that pricing achieves savings to patrons under such pilot program that are reasonably consistent with the baseline savings for the commissary or exchange established pursuant to subparagraph (A).

"(4) DURATION OF AUTHORITY.—The authority of the Secretary to carry out a pilot program under this subsection shall expire on the date that is five years after the date of the enactment of this Act [Nov. 25, 2015]. However, if a pilot program achieves budget-neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks, as measured using the benchmarks required by paragraph (2), the Secretary may continue the pilot program for an additional period of up to five years.

"(5) REPORTS.—

"(A) INITIAL REPORTS.—If the Secretary conducts a pilot program under this subsection, the Secretary shall, not later than 30 days before commencing the pilot program, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

"(i) A description of the pilot program.

"(ii) The provisions, if any, of chapter 147 of title 10, United States Code, that will be waived in the conduct of the pilot program.

"(B) FINAL REPORTS.—Not later than 90 days after the date of the completion of any pilot program under this subsection or the date of the commencement of an extension of a pilot program under paragraph (4), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

"(i) A description and assessment of the pilot program.

"(ii) Such recommendations for administrative or legislative action as the Secretary considers appropriate in light of the pilot program."

## §2482. Commissary stores: criteria for establishment or closure; store size

(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the armed forces on active duty and the needs of dependents of such members shall be the primary consideration whenever the Secretary of Defense—

(1) assesses the need to establish a commissary store; and

(2) selects the actual location for the store.

(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members and dependents referred to in subsection (a) who use the store and on the welfare and security of the military community in which the commissary is located shall be a primary consideration.

(2) Whenever assessing whether to close a commissary store, the Secretary of Defense shall also consider the effect of the closure on the quality of life of members of the reserve components of the armed forces.

(d) CONGRESSIONAL NOTIFICATION.—(1) The closure of a commissary store in the United States shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.

(2) Paragraph (1) shall not apply in the case of the closure of a commissary store as part of the closure of a military installation under a base closure law.

(Added Pub. L. 108–375, div. A, title VI, §651(a)(3), Oct. 28, 2004, 118 Stat. 1965; amended Pub. L. 112–81, div. A, title X, §1064(6), Dec. 31, 2011, 125 Stat. 1587.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2482 was renumbered section 2485 of this title.

A prior section 2482a was renumbered section 2492 of this title.

**AMENDMENTS**

**2011**—Subsec. (d)(1). Pub. L. 112–81 inserted "in the United States" after "commissary store".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS**

Pub. L. 105–261, div. A, title III, §367, Oct. 17, 1998, 112 Stat. 1987, which provided that the operation and administration of the defense retail systems could not be consolidated or otherwise merged unless the consolidation or merger was specifically authorized by a law enacted after Oct. 17, 1998, was repealed by Pub. L. 108–375, div. A, title VI, §651(e)(3), Oct. 28, 2004, 118 Stat. 1972.

## §2483. Commissary stores: use of appropriated funds to cover operating expenses

(a) OPERATION OF AGENCY AND SYSTEM.—Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) OPERATING EXPENSES OF COMMISSARY STORES.—Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

(1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.

(2) Utilities.

(3) Communications.

(4) Operating supplies and services.

(5) Second destination transportation costs within or outside the United States.

(6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(7) Advertising of commissary sales on materials available within commissary stores and at other on-base locations.

(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities. Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title.

(Added Pub. L. 98–525, title XIV, §1401(i)(1), Oct. 19, 1984, 98 Stat. 2619, §2484; amended Pub. L. 106–398, §1 [[div. A], title III, §331(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–59; Pub. L. 108–136, div. A, title VI, §654, Nov. 24, 2003, 117 Stat. 1523; renumbered §2483, Pub. L. 108–375, div. A, title VI, §651(a)(2), (4), Oct. 28, 2004, 118 Stat. 1964, 1966; Pub. L. 114–328, div. A, title VI, §661(b), Dec. 23, 2016, 130 Stat. 2169; Pub. L. 116–92, div. A, title VI, §631(d), Dec. 20, 2019, 133 Stat. 1429.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2483, added Pub. L. 107–107, div. A, title III, §332(a), Dec. 28, 2001, 115 Stat. 1058, related to reimbursement for use of commissary facilities by military departments, prior to repeal by Pub. L. 108–375, div. A, title VI, §651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2483 was renumbered section 2916 of this title.

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8010], 98 Stat. 1904, 1924.
Dec. 8, 1983, Pub. L. 98–212, title VII, §713, 97 Stat. 1440.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §714], 96 Stat. 1833, 1852.
Dec. 29, 1981, Pub. L. 97–114, title VII, §714, 95 Stat. 1580.
Dec. 15, 1980, Pub. L. 96–527, title VII, §715, 94 Stat. 3083.
Dec. 21, 1979, Pub. L. 96–154, title VII, §715, 93 Stat. 1155.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §815, 92 Stat. 1246.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §814, 91 Stat. 902.
Sept. 22, 1976, Pub. L. 94–419, title VII, §714, 90 Stat. 1293.
Feb. 9, 1976, Pub. L. 94–212, title VII, §714, 90 Stat. 171.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §814, 88 Stat. 1227.
Jan. 2, 1974, Pub. L. 93–238, title VII, §714, 87 Stat. 1040.
Oct. 26, 1972, Pub. L. 92–570, title VII, §714, 86 Stat. 1198.
Dec. 18, 1971, Pub. L. 92–204, title VII, §714, 85 Stat. 729.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §814, 84 Stat. 2032.
Dec. 29, 1969, Pub. L. 91–171, title VI, §614, 83 Stat. 482.
Oct. 17, 1968, Pub. L. 90–580, title V, §513, 82 Stat. 1132.
Sept. 29, 1967, Pub. L. 90–96, title VI, §613, 81 Stat. 244.
Oct. 15, 1966, Pub. L. 89–687, title VI, §613, 80 Stat. 993.
Sept. 29, 1965, Pub. L. 89–213, title VI, §613, 79 Stat. 875.
Aug. 19, 1964, Pub. L. 88–446, title V, §513, 78 Stat. 477.
Oct. 17, 1963, Pub. L. 88–149, title V, §513, 77 Stat. 266.
Aug. 9, 1962, Pub. L. 87–577, title V, §513, 76 Stat. 330.
Aug. 17, 1961, Pub. L. 87–144, title VI, §613, 75 Stat. 377.

July 7, 1960, Pub. L. 86–601, title V, §513, 74 Stat. 351.
Aug. 18, 1959, Pub. L. 86–166, title V, §613, 73 Stat. 380.
Aug. 22, 1958, Pub. L. 85–724, title VI, §613, 72 Stat. 725.
Aug. 2, 1957, Pub. L. 85–117, title VI, §614, 71 Stat. 325.
July 2, 1956, ch. 488, title VI, §614, 70 Stat. 469.
July 13, 1955, ch. 358, title VI, §617, 69 Stat. 317.
June 30, 1954, ch. 432, title VII, §717, 68 Stat. 353.
Aug. 1, 1953, ch. 305, title VI, §624, 67 Stat. 353.
July 10, 1952, ch. 630, title VI, §627, 66 Stat. 535.
Oct. 18, 1951, ch. 512, title VI, §628, 65 Stat. 449.

**AMENDMENTS**

**2019**—Subsec. (b)(7). Pub. L. 116–92 added par. (7).

**2016**—Subsec. (c). Pub. L. 114–328 inserted at end "Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title."

**2004**—Pub. L. 108–375 renumbered section 2484 of this title as this section.

**2003**—Subsec. (a). Pub. L. 108–136, §654(a)(1), substituted "shall" for "may".

Subsec. (b). Pub. L. 108–136, §654(a)(2), substituted "shall" for "may" in introductory provisions.

Subsec. (c). Pub. L. 108–136, §654(b), added subsec. (c).

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing that funds available to the Department of Defense could be used to pay for certain costs in connection with the operation of commissary stores only on a reimbursable basis and allowed transportation and utilities to be furnished for the operation of those stores outside of the United States or in Alaska and Hawaii.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106–398, §1 [[div. A], title III, §331(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–59, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2001."

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing

(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

(b) AUTHORIZED COMMISSARY MERCHANDISE CATEGORIES.—Merchandise sold in, at, or by commissary stores may include items in the following categories:

(1) Meat, poultry, seafood, and fresh-water fish.
(2) Nonalcoholic beverages.
(3) Produce.
(4) Grocery food, whether stored chilled, frozen, or at room temperature.
(5) Dairy products.
(6) Bakery and delicatessen items.
(7) Nonfood grocery items.
(8) Tobacco products.
(9) Health and beauty aids.
(10) Magazines and periodicals.

(c) INCLUSION OF OTHER MERCHANDISE ITEMS.—(1) The Secretary of Defense may authorize the sale in, at, or by commissary stores of merchandise not covered by a category specified in subsection (b). The Secretary shall notify Congress of all merchandise authorized for sale pursuant to this paragraph, as well as the removal of any such authorization.

(2) Notwithstanding paragraph (1), the Department of Defense military resale system shall continue to maintain the exclusive right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

(3)(A) A military exchange shall be the vendor for the sale of tobacco products in commissary stores and may be the vendor for such merchandise as may be authorized for sale in commissary stores under paragraph (1). Except as provided in subparagraph (B), subsections (d) and (e) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

(B) When a military exchange is the vendor of tobacco products or other merchandise authorized for sale in a commissary store under paragraph (1), any revenue above the cost of procuring the merchandise shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(d) UNIFORM SALES PRICE SURCHARGE.—The Secretary of Defense shall apply a uniform surcharge equal to five percent on the sales prices established under subsection (e) for each item of merchandise sold in, at, or by commissary stores.

(e) SALES PRICE ESTABLISHMENT.—(1) The Secretary of Defense shall establish the sales price of each item of merchandise sold in, at, or by commissary stores at the level that will recoup the actual product cost of the item.

(2) Any change in the pricing policies for merchandise sold in, at, or by commissary stores shall not take effect until the Secretary of Defense submits written notice of the proposed change to Congress and a period of 90 days of continuous session of Congress expires following the date on which notice was received. For purposes of this paragraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment or recess of more than three days to a day certain are excluded in a computation of such 90-day period.

(3) The sales price of merchandise and services sold in, at, or by commissary stores shall be adjusted to cover the following:

(A) The cost of first destination commercial transportation of the merchandise in the United States to the place of sale.

(B) The actual or estimated cost of shrinkage, spoilage, and pilferage of merchandise under the control of commissary stores.

(f) PROCUREMENT OF COMMERCIAL PRODUCTS USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—The Secretary of Defense may use the exception provided in section 3204(a)(5) of this title for the procurement of any commercial product (including brand-name and generic items) for resale in, at, or by commissary stores.

(g) SPECIAL RULES FOR CERTAIN MERCHANDISE.—(1) Notwithstanding the general requirement that merchandise sold in, at, or by commissary stores be commissary store inventory, the Secretary of Defense may authorize the sale of tobacco products as noncommissary store inventory. Except as provided in paragraph (2), subsections (d) and (e) shall not apply to the pricing of such merchandise items.

(2) When tobacco products are authorized for sale in a commissary store as noncommissary store inventory, any revenue above the cost of procuring the tobacco products shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(h) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (d) only—

(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair,

maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

(B) In subparagraph (A), the term "physical infrastructure" includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of surcharges under subsection (d) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

(B) In subparagraph (A), the term "construction", with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

(3)(A) The Secretary of Defense may use the proceeds derived from surcharges imposed under subsection (d) in connection with sales of commissary merchandise through initiatives described in subparagraph (B) to offset the cost of such initiatives.

(B) Subparagraph (A) applies with respect to initiatives, utilizing temporary and mobile equipment, intended to provide members of reserve components, retired members, and other persons eligible for commissary benefits, but without reasonable access to commissary stores, improved access to commissary merchandise.

(4) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the surcharges under subsection (d) for any use specified in paragraph (1), (2), or (3), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in such paragraph.

(5) Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in paragraphs (1), (2), and (3):

(A) Sale of recyclable materials.

(B) Sale of excess and surplus property.

(C) License fees.

(D) Royalties.

(E) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.

(F) Amounts made available for any purpose set forth in paragraph (1) pursuant to an agreement with a host nation.

(G) Amounts appropriated for repair or reconstruction of a commissary store in response to a disaster or emergency.

(6) Revenues made available under paragraph (5) for the purposes set forth in paragraphs (1), (2), and (3) may be supplemented with additional funds derived from—

(A) improved management practices implemented pursuant to sections 2481(c)(3), 2485(b), and 2487(c) of this title; and

(B) the variable pricing program implemented pursuant to subsection (i).

(i) VARIABLE PRICING PROGRAM.—(1) Notwithstanding subsection (e), and subject to subsection (k), the Secretary of Defense may establish a variable pricing program pursuant to which prices may be established in response to market conditions and customer demand, in accordance with the requirements of this subsection. Notwithstanding the amount of the uniform surcharge assessed

in subsection (d), the Secretary may provide for an alternative surcharge of not more than five percent of sales proceeds under the variable pricing program to be made available for the purposes specified in subsection (h).

(2) Subject to subsection (k), before establishing a variable pricing program under this subsection, the Secretary shall establish the following:

(A) Specific, measurable benchmarks for success in the provision of high quality grocery merchandise, discount savings to patrons, and levels of customer satisfaction while achieving savings for the Department of Defense.

(B) A baseline of overall savings to patrons achieved by commissary stores prior to the initiation of the variable pricing program, based on a comparison of prices charged by those stores on a regional basis with prices charged by relevant local competitors for a representative market basket of goods.

(3) The Secretary shall ensure that the defense commissary system implements the variable pricing program by conducting price comparisons using the methodology established for paragraph (2)(B) and adjusting pricing as necessary to ensure that pricing in the variable pricing program achieves overall savings to patrons that are consistent with the baseline savings established for the relevant region pursuant to such paragraph.

(j) CONVERSION TO NONAPPROPRIATED FUND ENTITY OR INSTRUMENTALITY .—(1) Subject to subsection (k), if the Secretary of Defense determines that the variable pricing program has met the benchmarks for success established pursuant to paragraph (2)(A) of subsection (i) and the savings requirements established pursuant to paragraph (3) of such subsection over a period of at least six months, the Secretary may convert the defense commissary system to a nonappropriated fund entity or instrumentality, with operating expenses financed in whole or in part by receipts from the sale of products and the sale of services. Upon such conversion, appropriated funds shall be transferred to the defense commissary system only in accordance with paragraph (2) or section 2491 of this title. The requirements of section 2483 of this title shall not apply to the defense commissary system operating as a nonappropriated fund entity or instrumentality.

(2) If the Secretary determines that the defense commissary system operating as a nonappropriated fund entity or instrumentality is likely to incur a loss in any fiscal year as a result of compliance with the savings requirement established in subsection (i), the Secretary shall authorize a transfer of appropriated funds available for such purpose to the commissary system in an amount sufficient to offset the anticipated loss. Any funds so transferred shall be considered to be nonappropriated funds for such purpose.

(3)(A) The Secretary may identify positions of employees in the defense commissary system who are paid with appropriated funds whose status may be converted to the status of an employee of a nonappropriated fund entity or instrumentality.

(B) The status and conversion of employees in a position identified by the Secretary under subparagraph (A) shall be addressed as provided in section 2491(c) of this title for employees in morale, welfare, and recreation programs, including with respect to requiring the consent of such employee to be so converted.

(C) No individual who is an employee of the defense commissary system as of the date of the enactment of this subsection shall suffer any loss of or decrease in pay as a result of a conversion made under this paragraph.

(k) OVERSIGHT REQUIRED TO ENSURE CONTINUED BENEFIT TO PATRONS.—(1) With respect to each action described in paragraph (2), the Secretary of Defense may not carry out such action until—

(A) the Secretary provides to the congressional defense committees a briefing on such action, including a justification for such action; and

(B) a period of 30 days has elapsed following such briefing.

(2) The actions described in this paragraph are the following:

(A) Establishing the representative market basket of goods pursuant to subsection (i)(2)(B).

(B) Establishing the variable pricing program under subsection (i)(1).

(C) Converting the defense commissary system to a nonappropriated fund entity or instrumentality under subsection (j)(1).

(l) PROHIBITION ON SALE OF GARLIC FROM PEOPLE'S REPUBLIC OF CHINA.—The Secretary of Defense shall prohibit the sale at any commissary store of fresh or chilled garlic—

(1) classified under subheading 0703.20.00 of the Harmonized Tariff Schedule of the United States; and

(2) that originated from, or was processed in, the People's Republic of China.

(Added Pub. L. 99–661, div. A, title III, §313(a), Nov. 14, 1986, 100 Stat. 3852, §2486; amended Pub. L. 100–180, div. A, title III, §313(a)(1), (2), Dec. 4, 1987, 101 Stat. 1073, 1074; Pub. L. 104–201, div. A, title III, §342(a), Sept. 23, 1996, 110 Stat. 2489; Pub. L. 105–85, div. A, title III, §§372(a)–(e), 373, Nov. 18, 1997, 111 Stat. 1706, 1707; Pub. L. 105–261, div. A, title III, §364, Oct. 17, 1998, 112 Stat. 1986; Pub. L. 106–65, div. A, title X, §1066(a)(21), Oct. 5, 1999, 113 Stat. 771; Pub. L. 106–398, §1 [[div. A], title III, §§332(a), 334], Oct. 30, 2000, 114 Stat. 1654, 1654A–59, 1654A–60; Pub. L. 107–314, div. A, title X, §1041(a)(14), Dec. 2, 2002, 116 Stat. 2645; renumbered §2484 and amended Pub. L. 108–375, div. A, title VI, §651(a)(2), (4), (5), Oct. 28, 2004, 118 Stat. 1964, 1966; Pub. L. 109–364, div. A, title VI, §661, title X, §1071(g)(6), Oct. 17, 2006, 120 Stat. 2262, 2402; Pub. L. 110–417, [div. A], title VI, §641, Oct. 14, 2008, 122 Stat. 4493; Pub. L. 113–291, div. A, title VI, §631, Dec. 19, 2014, 128 Stat. 3405; Pub. L. 114–328, div. A, title VI, §661(c), Dec. 23, 2016, 130 Stat. 2170; Pub. L. 115–232, div. A, title VIII, §836(e)(11), Aug. 13, 2018, 132 Stat. 1870; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294; Pub. L. 117–81, div. A, title VI, §631, Dec. 27, 2021, 135 Stat. 1775; Pub. L. 118–159, div. A, title VI, §641(a), Dec. 23, 2024, 138 Stat. 1938.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (j)(3)(C), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

### PRIOR PROVISIONS

A prior section 2484 was renumbered section 2483 of this title.

### AMENDMENTS

**2024**—Subsec. (l). Pub. L. 118–159 added subsec. (l).

**2021**—Subsec. (f). Pub. L. 116–283 substituted "section 3204(a)(5)" for "section 2304(c)(5)".

Subsec. (h)(5)(F), (G). Pub. L. 117–81, §631(1), added subpars. (F) and (G).

Subsec. (h)(6). Pub. L. 117–81, §631(2), added par. (6).

**2018**—Subsec. (f). Pub. L. 115–232 substituted "Commercial Products" for "Commercial Items" in heading and substituted "commercial product" for "commercial item" in text.

**2016**—Subsecs. (i) to (k). Pub. L. 114–328 added subsecs. (i) to (k).

**2014**—Subsec. (f). Pub. L. 113–291 amended subsec. (f) generally. Prior to amendment, text read as follows: "The Secretary of Defense may not use the exception provided in section 2304(c)(5) of this title regarding the procurement of a brand-name commercial item for resale in, at, or by commissary stores unless the commercial item is regularly sold outside of commissary stores under the same brand name as the name by which the commercial item will be sold in, at, or by commissary stores. In determining whether a brand name commercial item is regularly sold outside of commissary stores, the Secretary shall consider only sales of the item on a regional or national basis by commercial grocery or other retail operations consisting of multiple stores."

**2008**—Subsec. (h)(3) to (5). Pub. L. 110–417 added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and substituted "paragraph (1), (2), or (3)" for "paragraph (1) or (2)" in par. (4).

**2006**—Pub. L. 109–364, §1071(g)(6), made technical correction to directory language of Pub. L. 108–375, §651(a)(5)(C). See 2004 Amendment notes for subsecs. (a) to (d) below.

Subsec. (c)(3). Pub. L. 109–364, §661(a), designated existing provisions as subpar. (A), substituted "Except

as provided in subparagraph (B), subsections" for "Subsections", and added subpar. (B).

Subsec. (g). Pub. L. 109–364, §661(b), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), subsections" for "Subsections", and added par. (2).

**2004**—Pub. L. 108–375, §651(a)(2), (4), renumbered section 2486 of this title as this section.

Subsecs. (a) to (c). Pub. L. 108–375, §651(a)(5)(C), as amended by Pub. L. 109–364, §1071(g)(6), added subsecs. (a) to (c).

Pub. L. 108–375, §651(a)(5)(A), struck out subsecs. (a) to (c) which related to operation of the Defense Commissary Agency and the defense commissary system, use of funds to cover expenses of operating commissary stores and central product processing facilities, and supplemental funds for commissary operations, respectively.

Subsec. (d). Pub. L. 108–375, §651(a)(5)(C), as amended by Pub. L. 109–364, §1071(g)(6), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–375, §651(a)(5)(B), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108–375, §651(a)(5)(D), struck out "(consistent with this section and section 2685 of this title)" before period at end.

Subsec. (f). Pub. L. 108–375, §651(a)(5)(B), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 108–375, §651(a)(5)(E), substituted "Subsections (d) and (e)" for "Subsections (c) and (d)" before "shall not apply to the pricing".

Pub. L. 108–375, §651(a)(5)(A), (B), redesignated subsec. (f) as (g) and struck out heading and text of former subsec. (g), which related to the imposition of charges by the Secretary of Defense for the collection of dishonored checks.

Subsec. (h). Pub. L. 108–375, §651(a)(5)(F), added subsec. (h).

**2002**—Subsec. (b)(12). Pub. L. 107–314 substituted ", except that the Secretary shall notify Congress of any addition of, or change in, a merchandise category under this paragraph." for ", except that the Secretary shall submit to Congress, not later than March 1 of each year, a report describing—

"(A) any addition of, or change in, a merchandise category proposed to be made under this paragraph during the one-year period beginning on that date; and

"(B) those additions and changes in merchandise categories actually made during the preceding one-year period."

**2000**—Subsec. (b)(11), (12). Pub. L. 106–398, §1 [[div. A], title III, §334(a)], added par. (11) and redesignated former par. (11) as (12).

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title III, §332(a)(1)], substituted "subsection (d) or section" for "section 2484(b) or".

Subsec. (d)(1). Pub. L. 106–398, §1 [[div. A], title III, §332(a)(2)(A)], substituted "section 2685" for "sections 2484 and 2685".

Subsec. (d)(3). Pub. L. 106–398, §1 [[div. A], title III, §332(a)(2)(B)], added par. (3).

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title III, §334(b)], struck out "(1)" before "Notwithstanding", substituted "tobacco products" for "items in the merchandise categories specified in paragraph (2)", and struck out par. (2) which read as follows: "The merchandise categories referred to in paragraph (1) are as follows:

"(A) Magazines and other periodicals.

"(B) Tobacco products."

**1999**—Subsec. (c). Pub. L. 106–65 substituted "November 18, 1997," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998," in second sentence.

**1998**—Subsec. (g). Pub. L. 105–261 added subsec. (g).

**1997**—Subsec. (a). Pub. L. 105–85, §372(e)(1), inserted heading.

Subsec. (b). Pub. L. 105–85, §372(a)(1), inserted heading and substituted "Merchandise sold in, at, or by commissary stores may include items only in the following categories:" for "Merchandise sold in commissary stores may include items in the following categories:" in introductory provisions.

Subsec. (b)(11). Pub. L. 105–85, §372(a)(2), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "Other categories designated in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense."

Subsec. (c). Pub. L. 105–85, §372(b), inserted heading, substituted "in, at, or by commissary stores." for "in commissary stores.", and inserted at end "Effective on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, the uniform percentage shall be equal to five percent and may not be changed except by a law enacted after such date."

Subsec. (d). Pub. L. 105–85, §372(c), inserted heading and amended text generally. Prior to amendment,

text read as follows: "The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall—

"(1) require the establishment of a sales price of each item of merchandise at a level which will recoup the actual product cost of the item (consistent with this section and sections 2484 and 2685 of this title); and

"(2) promote the lowest practical price of merchandise sold at commissary stores."

Subsec. (e). Pub. L. 105–85, §373, inserted at end "In determining whether a brand name commercial item is regularly sold outside of commissary stores, the Secretary shall consider only sales of the item on a regional or national basis by commercial grocery or other retail operations consisting of multiple stores."

Pub. L. 105–85, §372(e)(2), inserted heading and substituted "in, at, or by commissary stores" for "in commissary stores" in two places.

Subsec. (f). Pub. L. 105–85, §372(d), added subsec. (f).

**1996**—Subsec. (e). Pub. L. 104–201 added subsec. (e).

**1987**—Pub. L. 100–180, §313(a)(2), inserted "and pricing" in section catchline.

Subsec. (d). Pub. L. 100–180, §313(a)(1), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title VI, §641(b), Dec. 23, 2024, 138 Stat. 1938, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2026."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(6) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title III, §332(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–60, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2001."

### REGULATIONS

Pub. L. 100–180, div. A, title III, §313(b), Dec. 4, 1987, 101 Stat. 1074, required Secretary of Defense to prescribe regulations required by subsec. (d) of this section not later than 90 days after Dec. 4, 1987.

### SAVINGS PROVISION

Pub. L. 104–201, div. A, title III, §342(b), Sept. 23, 1996, 110 Stat. 2489, provided that: "Section 2486(e) [now 2484(e)] of title 10, United States Code, as added by subsection (a), shall not affect the terms, conditions, or duration of any contract or other agreement entered into by the Secretary of Defense before the date of the enactment of this Act [Sept. 23, 1996] for the procurement of commercial items for resale in commissary stores."

### PROCUREMENT BY COMMISSARY STORES OF CERTAIN LOCALLY SOURCED PRODUCTS

Pub. L. 116–92, div. A, title VI, §632, Dec. 20, 2019, 133 Stat. 1429, provided that: "The Secretary of Defense shall ensure that the dairy products and fruits and vegetables procured for commissary stores under the defense commissary system are, to the extent practicable and while maintaining mandated patron savings, locally sourced in order to ensure the availability of the freshest possible dairy products and fruits and vegetables for patrons of the stores."

### OPERATION OF DEFENSE COMMISSARY SYSTEM AS A NONAPPROPRIATED FUND ENTITY

Pub. L. 114–328, div. A, title VI, §661(g), Dec. 23, 2016, 130 Stat. 2172, provided that: "In the event that

the defense commissary system is converted to a nonappropriated fund entity or instrumentality as authorized by section 2484(j)(1) of title 10, United States Code, as added by subsection (c) of this section, the Secretary of Defense may—

"(1) provide for the transfer of commissary assets, including inventory and available funds, to the nonappropriated fund entity or instrumentality; and

"(2) ensure that revenues accruing to the defense commissary system are appropriately credited to the nonappropriated fund entity or instrumentality."

## COMPETITIVE PRICING OF LEGAL CONSUMER TOBACCO PRODUCTS SOLD IN DEPARTMENT OF DEFENSE RETAIL STORES

Pub. L. 119–75, div. A, title VIII, §8041, Feb. 3, 2026, 140 Stat. 207, provided that: "The Secretary of Defense shall issue regulations to prohibit the sale of any tobacco or tobacco-related products in military resale outlets in the United States, its territories and possessions at a price below the most competitive price in the local community: *Provided*, That such regulations shall direct that the prices of tobacco or tobacco-related products in overseas military retail outlets shall be within the range of prices established for military retail system stores located in the United States."

Similar provisions were contained in the following appropriation acts:

Pub. L. 118–47, div. A, title VIII, §8041, Mar. 23, 2024, 138 Stat. 492.
Pub. L. 117–328, div. C, title VIII, §8041, Dec. 29, 2022, 136 Stat. 4595.
Pub. L. 117–103, div. C, title VIII, §8043, Mar. 15, 2022, 136 Stat. 184.
Pub. L. 116–260, div. C, title VIII, §8036, Dec. 27, 2020, 134 Stat. 1312.
Pub. L. 116–93, div. A, title VIII, §8036, Dec. 20, 2019, 133 Stat. 2344.
Pub. L. 115–245, div. A, title VIII, §8034, Sept. 28, 2018, 132 Stat. 3007.
Pub. L. 115–141, div. C, title VIII, §8033, Mar. 23, 2018, 132 Stat. 471.
Pub. L. 115–31, div. C, title VIII, §8034, May 5, 2017, 131 Stat. 254.
Pub. L. 114–113, div. C, title VIII, §8033, Dec. 18, 2015, 129 Stat. 2358.
Pub. L. 113–235, div. C, title VIII, §8073, Dec. 16, 2014, 128 Stat. 2271.

Pub. L. 113–291, div. A, title VI, §633, Dec. 19, 2014, 128 Stat. 3405, provided that:

"(a) PROHIBITION ON BANNING SALE OF LEGAL CONSUMER TOBACCO PRODUCTS.—The Secretary of Defense and the Secretaries of the military departments may not take any action to implement any new policy that would ban the sale of any legal consumer tobacco product category sold as of January 1, 2014, within the defense retail systems or on any Department of Defense vessel at sea.

"(b) USE OF PRICES COMPARABLE TO LOCAL PRICES.—The Secretary of Defense shall issue regulations regarding the pricing of tobacco and tobacco-related products sold in an outlet of the defense retail systems inside the United States, including territories and possessions of the United States, to prohibit the sale of a product at a price below the most competitive price for that product in the local community.

"(c) APPLICATION TO OVERSEAS DEFENSE RETAIL SYSTEMS.—The regulations required by subsection (b) shall direct that the price of a tobacco or tobacco-related product sold in an outlet of the defense retail systems outside of the United States shall be within the range of prices established for that product in outlets of the defense retail systems inside the United States.

"(d) DEFENSE RETAIL SYSTEMS DEFINED.—In this section, the term 'defense retail systems' has the meaning given that term in section 2487(b)(2) of title 10, United States Code."

## TEST PROGRAM OF SALE OF CERTAIN ITEMS IN COMMISSARY STORES

Pub. L. 108–375, div. A, title VI, §651(g), Oct. 28, 2004, 118 Stat. 1972, provided that:

"(1) The Secretary of Defense may conduct a test program involving the sale of telephone cards, film, and one-time use cameras in not less than 10 commissary stores for a period selected by the Secretary, but not less than six months.

"(2) Within 90 days after the completion of the first year of the test program or within 90 days after the completion of the test program, whichever occurs first, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the test program. The report shall include an analysis of the impact of the sale of such items on the exchange dividend and such recommendations as the Secretary considers appropriate regarding legislative changes necessary to expand the sale of such items in commissary stores."

## REPORT ON MERCHANDISE CATEGORIES

Pub. L. 105–85, div. A, title III, §372(f), Nov. 18, 1997, 111 Stat. 1707, provided that, not later than 30 days after Nov. 18, 1997, the Secretary of Defense was to submit to Congress a report specifying the

merchandise categories authorized for sale sold in, at, or by commissary stores pursuant to regulations prescribed under subsection (b)(11) of this section, as in effect before Nov. 18, 1997.

## §2485. Commissary stores: operation

(a) PRIVATE OPERATION.—Under such regulations as the Secretary of Defense may approve, private persons may operate selected commissary store functions, except that such functions may not include functions relating to the procurement of products to be sold in a commissary store or functions relating to the overall management of a commissary system or the management of a commissary store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.

(b) CONTRACTS WITH OTHER AGENCIES AND INSTRUMENTALITIES.—(1) The Defense Commissary Agency, and any other agency of the Department of Defense that supports the operation of the commissary system, may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services beneficial to the efficient management and operation of the commissary system. However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 107 of title 41.

(2) A commissary store operated by a nonappropriated fund instrumentality of the Department of Defense shall be operated in accordance with section 2483 of this title. Subject to such section, the Secretary of Defense may authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency or any other agency of the Department of Defense that supports the operation of the commissary system to a nonappropriated fund instrumentality for the operation of a commissary store.

(c) GOVERNING BOARD.—(1) Notwithstanding section 192(d) of this title, the Secretary of Defense shall establish a governing board for the commissary system to provide advice to the Secretary regarding the prudent operation of the commissary system and to assist in the overall supervision of the Defense Commissary Agency. The Secretary may authorize the board to have such supervisory authority as the Secretary considers appropriate to permit the board to carry out its responsibilities.

(2) The Secretary of Defense shall determine the membership of the governing board, which shall include, at a minimum, appropriate representatives from each military department. The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries.

(3) The governing board shall be accountable only to the Secretary of Defense and to the civilian officer of the Department of Defense who is assigned the responsibility for the overall supervision of the Defense Commissary Agency pursuant to section 192(a) of this title. The Director of the Defense Commissary Agency shall be accountable to and report to the board.

(d) ASSIGNMENT OF ACTIVE DUTY MEMBERS.—(1) Except as provided in paragraph (2), members of the armed forces on active duty may not be assigned to the operation of a commissary store.

(2)(A) The Secretary of Defense may assign an officer on the active-duty list to serve as the Director of the Defense Commissary Agency.

(B) Not more than 18 members (in addition to the officer referred to in subparagraph (A)) of the armed forces on active duty may be assigned to the Defense Commissary Agency. Members who may be assigned under this subparagraph to regional headquarters of the agency shall be limited to enlisted members assigned to duty as advisers in the regional headquarters responsible for overseas commissaries and to veterinary specialists.

(e) REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS.—(1) The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under paragraph (2) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

(2) The amount payable under paragraph (1) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

(3) The Director of the Defense Commissary Agency shall credit amounts paid under paragraph (1) for use of a facility to an appropriate account to which proceeds of a surcharge applied under section 2484(d) of this title are credited.

(4) This subsection applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of a surcharge applied under section 2484(d) of this title.

(f) DONATION OF UNUSABLE FOOD.—(1) The Secretary of Defense may donate food described in paragraph (2) to any of the following entities:

(A) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

(B) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

(C) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

(D) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

(2) Food that may be donated under this subsection is commissary store food, mess food, meals ready-to-eat (MREs), rations known as humanitarian daily rations (HDRs), and other food available to the Secretary of Defense that—

(A) is certified as edible by appropriate food inspection technicians;

(B) would otherwise be destroyed as unusable; and

(C) in the case of commissary store food, is unmarketable and unsaleable.

(3) In the case of commissary store food, a donation under this subsection shall take place at the site of the commissary store that is donating the food.

(4) This subsection does not authorize any service (including transportation) to be provided in connection with a donation under this subsection.

(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

(i) The person who presented the check.

(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

(5) In this subsection, the term "commissary trust revolving fund" means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.

(h) RELEASE OF CERTAIN COMMERCIALLY VALUABLE INFORMATION TO PUBLIC .—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with paragraph (3).

(2) Paragraph (1) applies to the following:

(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

(i) Data relating to sales of goods or services.

(ii) Demographic information on customers.

(iii) Any other information pertaining to commissary transactions and operations.

(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

(3)(A) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in paragraph (2).

(B) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

(C) The Secretary of Defense shall establish performance benchmarks and shall submit information on customer satisfaction and performance data to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(D) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in paragraph (2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

(E) Each contract entered into under this paragraph shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

(4) Information described in paragraph (2) may not be released, under paragraph (3) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

(5) Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges applied under section 2484(e) of this title, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.

(i) EXPERT COMMERCIAL ADVICE.—The Secretary of Defense may enter into a contract with an entity to obtain expert commercial advice, commercial assistance, or other similar services not otherwise carried out by the Defense Commissary Agency, to implement section 2481(c), subsections (i) and (j) of section 2484, and section 2487(c) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 141, §2482; Pub. L. 100–456, div. A, title III, §321, Sept. 29, 1988, 102 Stat. 1952; Pub. L. 104–106, div. A, title III, §331(a), Feb. 10, 1996, 110 Stat. 260; Pub. L. 104–201, div. A, title III, §341(b), Sept. 23, 1996, 110 Stat. 2489; Pub. L. 105–261, div. A, title III, §§361(b), 363(a), Oct. 17, 1998, 112 Stat. 1984, 1985; Pub. L. 108–136, div. A, title VI, §653,

Nov. 24, 2003, 117 Stat. 1522; renumbered §2485 and amended Pub. L. 108–375, div. A, title VI, §651(a)(2), (6), (7), Oct. 28, 2004, 118 Stat. 1964, 1968; Pub. L. 109–163, div. A, title VI, §672, Jan. 6, 2006, 119 Stat. 3319; Pub. L. 111–350, §5(b)(35), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112–81, div. A, title X, §1061(16), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 114–328, div. A, title VI, §661(e), Dec. 23, 2016, 130 Stat. 2172.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2482 | [Uncodified]. | Aug. 1, 1953, ch. 305, §624 (last proviso), 67 Stat. 353. |

This section is codified as permanent law on the basis of an opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense, dated September 28, 1954. The words "and privately owned organizations" are omitted as surplusage since under 1 U.S.C. 1 "person" includes such an organization.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2485, added Pub. L. 99–145, title XIV, §1460(a), Nov. 8, 1985, 99 Stat. 764; amended Pub. L. 101–510, div. A, title III, §324(a), (b)(1), Nov. 5, 1990, 104 Stat. 1530; Pub. L. 104–201, div. A, title III, §365, Sept. 23, 1996, 110 Stat. 2494, related to donation of unusable food from commissary stores and other activities, prior to repeal by Pub. L. 108–375, div. A, title VI, §651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

A prior section 2486 was renumbered section 2484 of this title.

### AMENDMENTS

**2016**—Subsec. (i). Pub. L. 114–328 added subsec. (i).

**2011**—Subsec. (a). Pub. L. 112–81 struck out par. (1) designation before "Under such regulations" and struck out par. (2) which read as follows: "Any change to private operation of a commissary store function that is being performed by more than 10 Department of Defense civilian employees shall not take effect until the end of the 75-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the change. Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A–76 relating to the possible contracting out of commissary store functions."

Subsec. (b)(1). Pub. L. 111–350 substituted "section 107 of title 41" for "section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))".

**2006**—Subsec. (a)(2). Pub. L. 109–163 inserted at end "Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A–76 relating to the possible contracting out of commissary store functions."

**2004**—Pub. L. 108–375, §651(a)(2), (6), renumbered section 2482 of this title as this section.

Subsec. (b)(2). Pub. L. 108–375, §651(a)(7)(A), substituted "section 2483" for "section 2484".

Subsec. (c)(2). Pub. L. 108–375, §651(a)(7)(B), inserted at end "The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries."

Subsecs. (d) to (h). Pub. L. 108–375, §651(a)(7)(C), added subsecs. (d) to (h).

**2003**—Subsec. (a). Pub. L. 108–136 designated existing provisions as par. (1), inserted first sentence, added par. (2), and struck out former first and second sentences which read as follows: "Private persons may operate commissary stores under such regulations as the Secretary of Defense may approve. A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store."

**1998**—Subsec. (b)(1). Pub. L. 105–261, §363(a), inserted at end "However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term

is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))."

Subsec. (c). Pub. L. 105–261, §361(b), added subsec. (c).

**1996**—Pub. L. 104–106 struck out "private" after "stores:" in section catchline, designated existing text as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104–201 substituted "another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services" for "another department, agency, or instrumentality of the Department of Defense or another Federal agency to provide services".

**1988**—Pub. L. 100–456 inserted at end "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title III, §363(b), Oct. 17, 1998, 112 Stat. 1986, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to services provided or obtained on or after the date of the enactment of this Act [Oct. 17, 1998]."

### ACCEPTANCE OF MILITARY STAR CARD AT COMMISSARIES

Pub. L. 114–328, div. A, title VI, §662, Dec. 23, 2016, 130 Stat. 2172, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that—

"(1) commissary stores accept as payment the Military Star Card; and

"(2) any financial liability of the United States relating to such acceptance as payment be assumed by the Army and Air Force Exchange Service.

"(b) MILITARY STAR CARD DEFINED.—In this section, the term 'Military Star Card' means a credit card administered under the Exchange Credit Program by the Army and Air Force Exchange Service."

### DEMONSTRATION PROGRAM FOR OPERATION OF CERTAIN COMMISSARY STORES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

Pub. L. 102–484, div. A, title III, §363, Oct. 23, 1992, 106 Stat. 2380, required the Secretary of Defense to establish a demonstration program to determine the feasibility of having nonappropriated fund instrumentalities operate commissary stores at military installations and provided for termination of the program and submission of a report on its implementation, not later than the expiration of the one-year period beginning on Oct. 23, 1992.

## SUBCHAPTER II—RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

Sec.
2487. Relationship between defense commissary system and exchange stores system.
2488. Combined exchange and commissary stores.
2489. Overseas commissary and exchange stores: access and purchase restrictions.

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375, div. A, title VI, §651(b)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2487 to 2489.

## §2487. Relationship between defense commissary system and exchange stores system

(a) SEPARATE OPERATION OF SYSTEMS.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of

the Department of Defense.

(2) Paragraph (1) does not apply to the following:

(A) Combined exchange and commissary stores operated under the authority provided by section 2489 of this title.

(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.

(b) CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEFENSE RETAIL SYSTEMS.—(1) The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by an Act of Congress.

(2) In this subsection, the term "defense retail systems" means the defense commissary system and exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(c) COMMON BUSINESS PRACTICES.—(1) Notwithstanding subsections (a) and (b), the Secretary of Defense may establish common business processes, practices, and systems—

(A) to exploit synergies between the defense commissary system and the exchange system; and

(B) to optimize the operations of the defense retail systems as a whole and the benefits provided by the commissaries and exchanges.

(2) The Secretary may authorize the defense commissary system and the exchange system to enter into contracts or other agreements—

(A) for products and services that are shared by the defense commissary system and the exchange system; and

(B) for the acquisition of supplies, resale goods, and services on behalf of both the defense commissary system and the exchange system.

(3) For the purpose of a contract or agreement authorized under paragraph (2), the Secretary may—

(A) use funds appropriated pursuant to section 2483 of this title to reimburse a nonappropriated fund entity or instrumentality for the portion of the cost of a contract or agreement entered by the nonappropriated fund entity or instrumentality that is attributable to the defense commissary system; and

(B) authorize the defense commissary system to accept reimbursement from a nonappropriated fund entity or instrumentality for the portion of the cost of a contract or agreement entered by the defense commissary system that is attributable to the nonappropriated fund entity or instrumentality.

(d) ACCESS OF EXCHANGE STORES SYSTEM TO FEDERAL FINANCING BANK.—To facilitate the provision of in-store credit to patrons of the exchange stores system while reducing the costs of providing such credit, the Army and Air Force Exchange Service, Navy Exchange Service Command, and Marine Corps exchanges may issue and sell their obligations to the Federal Financing Bank as provided in section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285).

(Added Pub. L. 108–375, div. A, title VI, §651(b)(1), Oct. 28, 2004, 118 Stat. 1971; amended Pub. L. 112–81, div. A, title VI, §642, Dec. 31, 2011, 125 Stat. 1466; Pub. L. 114–328, div. A, title VI, §661(d), Dec. 23, 2016, 130 Stat. 2171.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2487, added Pub. L. 99–661, div. A, title III, §313(a), Nov. 14, 1986, 100 Stat. 3852;

amended Pub. L. 102–484, div. A, title III, §364(a), (b)(2), Oct. 23, 1992, 106 Stat. 2381, 2382; Pub. L. 104–106, div. A, title III, §332, Feb. 10, 1996, 110 Stat. 260; Pub. L. 107–107, div. A, title III, §333(a), Dec. 28, 2001, 115 Stat. 1058, related to release of certain commercially valuable information to the public by the Secretary of Defense with respect to commissary stores, prior to repeal by Pub. L. 108–375, div. A, title VI, §651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

**AMENDMENTS**

**2016**—Subsecs. (c), (d). Pub. L. 114–328 added subsec. (c) and redesignated former subsec. (c) as (d).
**2011**—Subsec. (c). Pub. L. 112–81 added subsec. (c).

## §2488. Combined exchange and commissary stores

(a) AUTHORITY.—The Secretary of Defense may authorize a nonappropriated fund instrumentality to operate a military exchange and a commissary store as a combined exchange and commissary store on a military installation.

(b) LIMITATIONS.—(1) Not more than ten combined exchange and commissary stores may be operated pursuant to this section.

(2) The Secretary may select a military installation for the operation of a combined exchange and commissary store under this section only if—

(A) the installation is to be closed, or has been or is to be realigned, under a base closure law; or

(B) a military exchange and a commissary store are operated at the installation by separate entities at the time of, or immediately before, such selection and it is not economically feasible to continue that separate operation.

(c) OPERATION AT CARSWELL FIELD.—Combined exchange and commissary stores operated under this section shall include the combined exchange and commissary store that is operated at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field, Texas, under the authority provided in section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736).

(d) ADJUSTMENTS AND SURCHARGES.—Adjustments to, and surcharges on, the sales price of a grocery food item sold in a combined exchange and commissary store under this section shall be provided for in accordance with the same laws that govern such adjustments and surcharges for items sold in a commissary store of the Defense Commissary Agency.

(e) USE OF APPROPRIATED FUNDS.—(1) If a nonappropriated fund instrumentality incurs a loss in operating a combined exchange and commissary store at a military installation under this section as a result of the requirement set forth in subsection (d), the Secretary may authorize a transfer of funds available for the Defense Commissary Agency to the nonappropriated fund instrumentality to offset the loss.

(2) The total amount of appropriated funds transferred during a fiscal year to support the operation of a combined exchange and commissary store at a military installation under this section may not exceed an amount that is equal to 25 percent of the amount of appropriated funds that was provided for the operation of the commissary store of the Defense Commissary Agency on that installation during the last full fiscal year of operation of that commissary store.

(f) NONAPPROPRIATED FUND INSTRUMENTALITY DEFINED.—In this section, the term "nonappropriated fund instrumentality" means the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 104–106, div. A, title III, §336(a)(1), Feb. 10, 1996, 110 Stat. 263, §2490a; amended Pub. L. 105–85, div. A, title X, §1061(d), Nov. 18, 1997, 111 Stat. 1891; Pub. L. 108–136, div. A, title X, §1043(c)(2), Nov. 24, 2003, 117 Stat. 1611; renumbered §2488, Pub. L. 108–375, div. A, title VI, §651(b)(3), Oct. 28, 2004, 118 Stat. 1971; Pub. L. 111–383, div. A, title X, §1075(b)(37), Jan. 7, 2011, 124 Stat. 4371.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 375 of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c), is section 375 of Pub. L. 103–337, div. A, title III, Oct. 5, 1994, 108 Stat. 2736, as amended, which is not classified to the Code.

### PRIOR PROVISIONS

A prior section 2488 was renumbered section 2495 of this title.

### AMENDMENTS

**2011**—Subsec. (f). Pub. L. 111–383 substituted "armed forces" for "Armed Forces" in two places.

**2004**—Pub. L. 108–375 renumbered section 2490a of this title as this section.

**2003**—Subsec. (f). Pub. L. 108–136, §1043(c)(2), substituted "NONAPPROPRIATED FUND INSTRUMENTALITY DEFINED.—In this section, the term" for "DEFINITIONS.—In this section:

"(1) The term"

and struck out par. (2) which read as follows: "The term 'base closure law' has the meaning given such term by section 2667(h) of this title."

**1997**—Subsec. (f)(2). Pub. L. 105–85 substituted "section 2667(h)" for "section 2667(g)".

## §2489. Overseas commissary and exchange stores: access and purchase restrictions

(a) AUTHORITY TO ESTABLISH RESTRICTIONS.—The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of treaty obligations of the United States or host nation laws (to the extent such laws are not inconsistent with United States laws).

(b) LIMITATIONS ON USE OF AUTHORITY.—In establishing a quantity or other restriction, the Secretary—

(1) may not discriminate among the various categories of eligible patrons of the commissary and exchange system; and

(2) shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

(Added Pub. L. 105–261, div. A, title III, §365(a), Oct. 17, 1998, 112 Stat. 1986, §2492; amended Pub. L. 106–65, div. A, title X, §1066(a)(22), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107–314, div. A, title X, §1041(a)(15), Dec. 2, 2002, 116 Stat. 2645; renumbered §2489, Pub. L. 108–375, div. A, title VI, §651(b)(3), Oct. 28, 2004, 118 Stat. 1971; Pub. L. 112–239, div. A, title VI, §651, Jan. 2, 2013, 126 Stat. 1783.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2489 was renumbered section 2495a of this title.

A prior section 2489a was renumbered section 2495b of this title.

A prior section 2490 was renumbered section 2868 of this title.

A prior section 2490a was renumbered section 2488 of this title.

Another prior section 2490a was renumbered section 2783 of this title.

### AMENDMENTS

**2013**—Subsec. (a). Pub. L. 112–239, §651(b)(1), redesignated par. (1) as subsec. (a) and added heading.

Subsec. (b). Pub. L. 112–239, §651(b)(2), (3), redesignated par. (2) of former subsec. (a) as (b), added heading, and redesignated subpars. (A) and (B) of former par. (2) as pars. (1) and (2), respectively.

Pub. L. 112–239, §651(a), struck out subsec. (b). Text read as follows: "For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of controlled merchandise items, except that, after October 17, 1998, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item."

Subsec. (c). Pub. L. 112–239, §651(a), struck out subsec. (c). Text read as follows: "The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States."

**2004**—Pub. L. 108–375 renumbered section 2492 of this title as this section.

**2002**—Subsec. (c). Pub. L. 107–314 added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States."

**1999**—Subsec. (b). Pub. L. 106–65 substituted "October 17, 1998" for "the date of the enactment of this section".

## SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

Sec.
2491. Uniform funding and management of morale, welfare, and recreation programs.
2491a. Department of Defense golf courses: limitation on use of appropriated funds.
2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.
2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services.
2493. Fisher Houses: administration as nonappropriated fund instrumentality.
2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
2495a. Overseas package stores: treatment of United States wines.
2495b. Sale or rental of sexually explicit material prohibited.
2496. Sale of certain goods from the Xinjiang Uyghur Autonomous Region prohibited.

### EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263, div. A, title VI, §651(b), Dec. 23, 2022, 136 Stat. 2639, added item 2496.

**2009**—Pub. L. 111–84, div. A, title VI, §651(b), Oct. 28, 2009, 123 Stat. 2369, added item 2492a.

**2004**—Pub. L. 108–375, div. A, title VI, §651(c)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2491 to 2495b.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TELEPHONE SERVICES FOR MILITARY PERSONNEL SERVING IN COMBAT ZONES

Pub. L. 110–181, div. A, title VIII, §885, Jan. 28, 2008, 122 Stat. 265, as amended by Pub. L. 111–383, div. A, title VI, §641, Jan. 7, 2011, 124 Stat. 4241; Pub. L. 112–81, div. A, title X, §1062(c), Dec. 31, 2011, 125 Stat. 1585, provided that:

"(a) COMPETITIVE PROCEDURES REQUIRED.—

"(1) REQUIREMENT.—When the Secretary of Defense considers it necessary to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall use competitive procedures when entering into a contract to provide those services.

"(2) REVIEW AND DETERMINATION.—Before soliciting bids or proposals for new contracts, or considering extensions to existing contracts, to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall review and determine whether it is in the best interest of the Department to require bids or proposals, or adjustments for the purpose of extending a contract, to include options that minimize the cost of the telephone services to individual users while providing individual users the flexibility of using phone cards from other than the prospective contractor.

"(b) EFFECTIVE DATE.—

"(1) REQUIREMENT.—Subsection (a)(1) shall apply to any new contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into after the date of the enactment of this Act [Jan. 28, 2008].

"(2) REVIEW AND DETERMINATION.—Subsection (a)(2) shall apply to any new contract or extension to an existing contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into or agreed upon after the date of the enactment of this Act.

"(c) MORALE, WELFARE, AND RECREATION TELEPHONE SERVICES DEFINED.—In this section, the term 'morale, welfare, and recreation telephone services' means unofficial telephone calling center services supporting calling centers provided by the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other nonappropriated fund instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces."

## §2491. Uniform funding and management of morale, welfare, and recreation programs

(a) AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) CONDITIONS ON AVAILABILITY.—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

(c) CONVERSION OF EMPLOYMENT POSITIONS.—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an

involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

(4) In this subsection, the term "an employee of a nonappropriated fund instrumentality" means an employee described in section 2105(c) of title 5.

(Added Pub. L. 107–314, div. A, title III, §323(a), Dec. 2, 2002, 116 Stat. 2510, §2494; renumbered §2491, Pub. L. 108–375, div. A, title VI, §651(c)(2), Oct. 28, 2004, 118 Stat. 1972.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2491 was renumbered section 4801 of this title.

**AMENDMENTS**

**2004**—Pub. L. 108–375 renumbered section 2494 of this title as this section.

## §2491a. Department of Defense golf courses: limitation on use of appropriated funds

(a) LIMITATION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to equip, operate, or maintain a golf course at a facility or installation of the Department of Defense.

(b) EXCEPTIONS.—(1) Subsection (a) does not apply to a golf course at a facility or installation outside the United States or at a facility or installation inside the United States at a location designated by the Secretary of Defense as a remote and isolated location.

(2) The Secretary of Defense shall prescribe regulations governing the use of appropriated funds under this subsection.

(Added Pub. L. 103–160, div. A, title III, §312(a), Nov. 30, 1993, 107 Stat. 1618, §2246; renumbered §2491a, Pub. L. 108–375, div. A, title VI, §651(d), Oct. 28, 2004, 118 Stat. 1972.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375 renumbered section 2246 of this title as this section.

## §2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

(a) LIMITATION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

(b) EXCEPTION.—Subsection (a) does not apply to the use of funds for the payment of utilities, the maintenance, repair, or renovation of real property, and the transportation of products made in the United States.

(Added Pub. L. 103–337, div. A, title III, §372(a), Oct. 5, 1994, 108 Stat. 2735, §2247; amended Pub. L. 105–85, div. A, title III, §375, Nov. 18, 1997, 111 Stat. 1708; renumbered §2491b, Pub. L. 108–375, div. A, title VI, §651(d), Oct. 28, 2004, 118 Stat. 1972.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375 renumbered section 2247 of this title as this section.

**1997**—Subsec. (b). Pub. L. 105–85 substituted "the maintenance, repair, or renovation of real property, and

the transportation" for "real property maintenance, and transportation".

## §2491c. Retention of morale, welfare, and recreation funds by military installations: limitation

Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of an armed force in excess of the amount necessary to meet cash requirements of that installation. Amounts in excess of that amount shall be transferred to a single nonappropriated morale, welfare, and recreation account for that armed force. This section does not apply to the Coast Guard.

(Added Pub. L. 103–337, div. A, title III, §373(a), Oct. 5, 1994, 108 Stat. 2736, §2219; amended Pub. L. 104–106, div. A, title III, §341, Feb. 10, 1996, 110 Stat. 265; renumbered §2491c, Pub. L. 108–375, div. A, title VI, §651(d), Oct. 28, 2004, 118 Stat. 1972.)

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375 renumbered section 2219 of this title as this section.

**1996**—Pub. L. 104–106, in first sentence, substituted "an armed force" for "a military department", in second sentence, substituted "a single, nonappropriated morale, welfare, and recreation account for that armed force" for "a single, department-wide nonappropriated morale, welfare, and recreation account of the military department", and inserted after second sentence "This section does not apply to the Coast Guard."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services

An agency or instrumentality of the Department of Defense that supports the operation of the exchange system, or the operation of a morale, welfare, and recreation system, of the Department of Defense may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality—

(1) to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system; or

(2) to provide or obtain food services beneficial to the efficient management and operation of the dining facilities on military installations offering food services to members of the armed forces.

(Added Pub. L. 104–201, div. A, title III, §341(a)(1), Sept. 23, 1996, 110 Stat. 2488, §2482a; renumbered §2492, Pub. L. 108–375, div. A, title VI, §651(c)(3), Oct. 28, 2004, 118 Stat. 1972; amended Pub. L. 113–291, div. A, title VI, §632, Dec. 19, 2014, 128 Stat. 3405.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2492 was renumbered section 2489 of this title.

**AMENDMENTS**

**2014**—Pub. L. 113–291 substituted "Federal department, agency, or instrumentality—" for "Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system." and added pars. (1) and (2).

**2004**—Pub. L. 108–375 renumbered section 2482a of this title as this section.

## §2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services

(a) LIMITATION.—(1) Notwithstanding section 2492 of this title, the Secretary of Defense may not authorize a Department of Defense entity to offer or provide personal information services directly to users using Department resources, personnel, or equipment, or compete for contracts to provide such personal information services directly to users, if users will be charged a fee for the personal information services to recover the cost incurred to provide the services or to earn a profit.

(2) The limitation in paragraph (1) shall not be construed to prohibit or preclude the use of Department resources, personnel, or equipment to administer or facilitate personal information services contracts with private contractors.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply if the Secretary of Defense determines that—

(1) a private sector vendor is not available to provide the personal information services at specific locations;

(2) the interests of the user population would be best served by allowing the Government to provide such services; or

(3) circumstances (as specified by the Secretary for purposes of this section) are such that the provision of such services by a Department entity is in the best interest of the Government or military users in general.

(c) PERSONAL INFORMATION SERVICES DEFINED.—In this section, the term "personal information services" means the provision of Internet, telephone, or television services to consumers.

(Added Pub. L. 111–84, div. A, title VI, §651(a), Oct. 28, 2009, 123 Stat. 2368.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SAVINGS PROVISION**

Pub. L. 111–84, div. A, title VI, §651(c), Oct. 28, 2009, 123 Stat. 2369, provided that: "Section 2492a of title 10, United States Code, as added by subsection (a), does not affect the validity or terms of any contract for the provision of personal information services entered into before the date of the enactment of this Act [Oct. 28, 2009]."

## §2493. Fisher Houses: administration as nonappropriated fund instrumentality

(a) FISHER HOUSES AND SUITES DEFINED.—In this section:

(1) The term "Fisher House" means a housing facility that—

(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

(B) is available for residential use on a temporary basis by authorized Fisher House residents; and

(C) is constructed and donated by—

(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

(ii) another source, if the Secretary of the military department concerned designates the housing facility as a Fisher House.

(2) The term "Fisher House" includes the Fisher House for the Families of the Fallen and Meditation Pavilion at Dover Air Force Base, Delaware, so long as such facility is available for residential use on a temporary basis by authorized Fisher House residents.

(3) The term "Fisher Suite" means one or more rooms that—

(A) meet the requirements of subparagraphs (A) and (B) of paragraph (1);

(B) are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph; and

(C) are designated by the Secretary of the military department concerned as a Fisher Suite.

(4) The term "authorized Fisher House residents" means the following:

(A) With respect to a Fisher House described in paragraph (1) that is located in proximity to a health care facility of the Army, the Air Force, or the Navy, the following persons:

(i) Patients of that health care facility.

(ii) Members of the families of such patients.

(iii) Other persons providing the equivalent of familial support for such patients.

(B) With respect to the Fisher House described in paragraph (2), the following persons:

(i) The primary next of kin of a member of the armed forces who dies while located or serving overseas.

(ii) Other family members of the deceased member who are eligible for transportation under section 453(f) of title 37.

(iii) An escort of a family member described in clause (i) or (ii).

(b) NONAPPROPRIATED FUND INSTRUMENTALITY.—The Secretary of each military department shall administer all Fisher Houses and Fisher Suites associated with facilities of that military department as a nonappropriated fund instrumentality of the United States.

(c) GOVERNANCE.—The Secretary of each military department shall establish a system for the governance of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(d) CENTRAL FUND.—The Secretary of each military department shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(e) ACCEPTANCE OF CONTRIBUTIONS; IMPOSITION OF FEES.—(1) The Secretary of a military department may—

(A) accept money, property, and services donated for the support of a Fisher House or Fisher Suite associated with facilities of that military department; and

(B) may impose fees relating to the use of such Fisher Houses and Fisher Suites.

(2) All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary of a military department under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites associated with facilities of that military department and shall be available to that Secretary to support all such Fisher Houses and Fisher Suites.

(f) BASE OPERATING SUPPORT.—The Secretary of a military department may provide base operating support for Fisher Houses associated with facilities of that military department.

(Added Pub. L. 105–261, div. A, title IX, §906(a)(1), Oct. 17, 1998, 112 Stat. 2093; amended Pub. L. 106–398, §1 [[div. A], title IX, §914(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230; Pub. L. 107–314, div. A, title III, §321, Dec. 2, 2002, 116 Stat. 2510; Pub. L. 112–81, div. A, title X, §1061(17), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 112–239, div. A, title VI, §652(a), (b), Jan. 2, 2013, 126 Stat. 1784; Pub. L. 114–92, div. A, title VI, §622(b), Nov. 25, 2015, 129 Stat. 841; Pub. L. 117–263, div. A, title VI, §626(c)(7), Dec. 23, 2022, 136 Stat. 2628.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (a)(4)(B)(ii). Pub. L. 117–263 substituted "section 453(f)" for "section 481f(d)".

**2015**—Subsec. (a)(4)(B)(ii). Pub. L. 114–92 substituted "section 481f(d)" for "section 481f(e)".

**2013**—Subsec. (a)(1)(B). Pub. L. 112–239. §652(a)(1), substituted "by authorized Fisher House residents;" for "by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients;".

Subsec. (a)(2) to (4). Pub. L. 112–239, §652(a)(2)–(4), added pars. (2) and (4) and redesignated former par. (2) as (3).

Subsecs. (b), (e), (f). Pub. L. 112–239, §652(b), struck out "health care" before "facilities" wherever appearing.

**2011**—Subsec. (g). Pub. L. 112–81 struck out subsec. (g), which required submission of annual report describing the operation of Fisher Houses and Fisher Suites associated with military department health care facilities.

**2002**—Subsec. (f). Pub. L. 107–314 amended heading and text of subsec. (f) generally. Prior to amendment text read as follows: "The Secretary of the Navy shall provide base operating support for Fisher Houses associated with health care facilities of the Navy. The level of the support shall be equivalent to the base operating support that the Secretary provides for morale, welfare, and recreation category B community activities (as defined in regulations, prescribed by the Secretary, that govern morale, welfare, and recreation activities associated with Navy installations)."

**2000**—Subsecs. (f), (g). Pub. L. 106–398 added subsec. (f) and redesignated former subsec. (f) as (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title IX, §914(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230, provided that: "The amendments made by subsection (a) [amending this section] shall be effective as of October 17, 1998, as if included in section 2493 of title 10, United States Code, as enacted by section 906(a) of Public Law 105–261."

### SAVINGS PROVISIONS FOR CERTAIN NAVY EMPLOYEES

Pub. L. 106–398, §1 [[div. A], title IX, §914(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230, provided that:

"(1) The Secretary of the Navy may continue to employ, and pay out of appropriated funds, any employee of the Navy in the competitive service who, as of October 17, 1998, was employed by the Navy in a position at a Fisher House administered by the Navy, but only for so long as the employee is continuously employed in that position.

"(2) After a person vacates a position in which the person was continued to be employed under the authority of paragraph (1), a person employed in that position shall be employed as an employee of a nonappropriated fund instrumentality of the United States and may not be paid for services in that position out of appropriated funds.

"(3) In this subsection:

"(A) The term 'Fisher House' has the meaning given the term in section 2493(a)(1) of title 10, United States Code.

"(B) The term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code."

[Pub. L. 106–398, §1 [[div. A], title IX, §914(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–230, provided that: "Subsection (b) [set out above] applies with respect to the pay period that includes October 17, 1998, and subsequent pay periods."]

### ESTABLISHMENT OF FUNDS AND FUNDING TRANSITION

Pub. L. 105–261, div. A, title IX, §906(b)–(e), Oct. 17, 1998, 112 Stat. 2095, provided that:

"(b) ESTABLISHMENT OF FUNDS.—Not later than 90 days after the date of the enactment of this Act [Oct. 17, 1998], the Secretary of each military department shall—

"(1) establish the fund required under section 2493(d) of title 10, United States Code (as added by subsection (a)); and

"(2) close the Fisher House Trust Fund established for that department under section 2221 of such title and transfer the amounts in the closed fund to the newly established fund.

"(c) FUNDING TRANSITION.—(1) Of the amount authorized to be appropriated pursuant to section 301(2) [112 Stat. 1960] for operation and maintenance for the Navy, the Secretary of the Navy shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Navy.

"(2) Of the amount authorized to be appropriated pursuant to section 301(4) for operation and maintenance for the Air Force, the Secretary of the Air Force shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Air Force.

"(d) REPORTING REQUIREMENTS.—The Secretary of each military department, upon completing the actions required of the Secretary under subsections (b) and (c), shall submit to Congress a report containing—

"(1) the certification of that Secretary that those actions have been completed; and

"(2) a statement of the amount deposited in the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)).

"(e) AVAILABILITY OF TRANSFERRED AMOUNTS.—Amounts transferred under subsection (b) or (c) to a fund established under section 2493(d) of title 10, United States Code (as added by subsection (a)), shall be available without fiscal year limitation for the purposes for which the fund is established and shall be administered as nonappropriated funds."

## §2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes

Appropriations for the Department of Defense may be used to provide utility services for—

(1) buildings on military installations authorized by regulation to be used for morale, welfare, and recreation purposes; and

(2) other morale, welfare, and recreation activities for members of the armed forces.

(Added Pub. L. 108–375, div. A, title VI, §651(c)(4), Oct. 28, 2004, 118 Stat. 1972.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2494 was renumbered section 2491 of this title.

## §2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages

(a) The Secretary of Defense shall provide that—

(1) covered alcoholic beverage purchases made for resale on a military installation located in the United States shall be made from the most competitive source and distributed in the most economical manner, price and other factors considered, except that

(2) in the case of malt beverages and wine, such purchases shall be made from, and delivery shall be accepted from, a source within the State in which the military installation concerned is located.

(b) If a military installation located in the contiguous States is located in more than one State, a source of supply in any State in which the installation is located shall be considered for the purposes of subsection (a)(2) to be a source within the State in which the installation is located.

(c)(1) In the case of covered alcoholic beverage purchases of distilled spirits, to determine whether a nonappropriated fund instrumentality of the Department of Defense provides the most economical method of distribution to package stores, the Secretary of Defense shall consider all components of

the distribution costs incurred by the nonappropriated fund instrumentality, such as overhead costs (including costs associated with management, logistics, administration, depreciation, and utilities), the costs of carrying inventory, and handling and distribution costs.

(2) The Secretary shall use the agencies performing audit functions on behalf of the armed forces and the Inspector General of the Department of Defense to make determinations under this subsection.

(d) In this section:

(1) The term "covered alcoholic beverage purchases" means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

(2) The term "State" includes the District of Columbia.

(Added Pub. L. 99–661, div. A, title III, §313(a), Nov. 14, 1986, 100 Stat. 3853, §2488; amended Pub. L. 100–180, div. A, title III, §312(a), Dec. 4, 1987, 101 Stat. 1073; Pub. L. 104–106, div. A, title III, §333, Feb. 10, 1996, 110 Stat. 261; Pub. L. 106–398, §1 [[div. A], title III, §335], Oct. 30, 2000, 114 Stat. 1654, 1654A–61; renumbered §2495, Pub. L. 108–375, div. A, title VI, §651(b)(2), (c)(5), Oct. 28, 2004, 118 Stat. 1971, 1972.)

## EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375 renumbered section 2488 of this title as this section.

**2000**—Subsec. (c)(2), (3). Pub. L. 106–398 redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "If the use of a private distributor would subject covered alcoholic beverage purchases of distilled spirits to direct or indirect State taxation, a nonappropriated fund instrumentality shall be considered to be the most economical method of distribution regardless of the results of the determination under paragraph (1)."

**1996**—Subsec. (a)(1). Pub. L. 104–106, §333(a), inserted "and distributed in the most economical manner" after "most competitive source".

Subsecs. (c), (d). Pub. L. 104–106, §333(b), added subsec. (c) and redesignated former subsec. (c) as (d).

**1987**—Subsec. (a)(2). Pub. L. 100–180 struck out "purchased for resale on a military installation located in the contiguous States" after "malt beverages and wines".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–180, div. A, title III, §312(b), Dec. 4, 1987, 101 Stat. 1073, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to purchases of malt beverages and wine after the end of the 60-day period beginning on the date of the enactment of this Act [Dec. 4, 1987]."

### PROCUREMENT OF MALT BEVERAGES AND WINE BY NONAPPROPRIATED FUND ACTIVITY

Pub. L. 109–148, div. A, title VIII, §8080, Dec. 30, 2005, 119 Stat. 2717, which provided that none of the funds appropriated by div. A of Pub. L. 109–148 were to be used for the support of any nonappropriated funds activity of the Department of Defense that procured malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine were procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation was located, was from the Department of Defense Appropriations Act, 2006, and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108–287, title VIII, §8087, Aug. 5, 2004, 118 Stat. 991.

Pub. L. 108–87, title VIII, §8088, Sept. 30, 2003, 117 Stat. 1093.

Pub. L. 107–248, title VIII, §8092, Oct. 23, 2002, 116 Stat. 1558.

Pub. L. 107–117, div. A, title VIII, §8108, Jan. 10, 2002, 115 Stat. 2271.

Pub. L. 106–259, title VIII, §8108, Aug. 9, 2000, 114 Stat. 698.

Pub. L. 106–79, title VIII, §8132, Oct. 25, 1999, 113 Stat. 1266.
Pub. L. 104–61, title VIII, §8055, Dec. 1, 1995, 109 Stat. 662.
Pub. L. 103–335, title VIII, §8058A, Sept. 30, 1994, 108 Stat. 2632.
Pub. L. 103–139, title VIII, §8099A, Nov. 11, 1993, 107 Stat. 1462.
Pub. L. 102–396, title IX, §9114, Oct. 6, 1992, 106 Stat. 1929.
Pub. L. 102–172, title VIII, §8111A, Nov. 26, 1991, 105 Stat. 1200.
Pub. L. 101–511, title VIII, §8068, Nov. 5, 1990, 104 Stat. 1889.
Pub. L. 101–165, title IX, §9093, Nov. 21, 1989, 103 Stat. 1149.
Pub. L. 100–463, title VIII, §8122, Oct. 1, 1988, 102 Stat. 2270–40.
Pub. L. 100–202, §101(b) [title VIII, §8081], Dec. 22, 1987, 101 Stat. 1329–43, 1329–76.
Pub. L. 99–500, §101(c) [title IX, §9090], Oct. 18, 1986, 100 Stat. 1783–82, 1783–116, and Pub. L. 99–591, §101(c) [title IX, §9090], Oct. 30, 1986, 100 Stat. 3341–82, 3341–116.
Pub. L. 99–190, §101(b) [title VIII, §8099], Dec. 19, 1985, 99 Stat. 1185, 1219.

## §2495a. Overseas package stores: treatment of United States wines

The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a "package store") that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.

(Added Pub. L. 100–180, div. A, title III, §311(a)(1), Dec. 4, 1987, 101 Stat. 1073, §2489; renumbered §2495a, Pub. L. 108–375, div. A, title VI, §651(b)(2), (c)(5), Oct. 28, 2004, 118 Stat. 1971, 1972.)

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375 renumbered section 2489 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS DEADLINE

Pub. L. 100–180, div. A, title III, §311(b), Dec. 4, 1987, 101 Stat. 1073, directed Secretary of Defense to prescribe regulations to implement this section not later than 90 days after Dec. 4, 1987.

## §2495b. Sale or rental of sexually explicit material prohibited

(a) PROHIBITION OF SALE OR RENTAL.—The Secretary of Defense may not permit the sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense.

(b) PROHIBITION OF OFFICIALLY PROVIDED SEXUALLY EXPLICIT MATERIAL.—A member of the armed forces or a civilian officer or employee of the Department of Defense acting in an official capacity may not provide for sale, remuneration, or rental sexually explicit material to another person.

(c) RESALE ACTIVITIES REVIEW BOARD.—(1) The Secretary of Defense shall establish a nine-member board to make recommendations to the Secretary regarding whether material sold or rented, or proposed for sale or rental, on property under the jurisdiction of the Department of Defense is barred from sale or rental by subsection (a).

(2)(A) The Secretary of Defense shall appoint six members of the board to broadly represent the interests of the patron base served by the defense commissary system and the exchange system. The Secretary shall appoint one of the members to serve as the chairman of the board. At least one

member appointed under this subparagraph shall be a person with experience managing or advocating for military family programs and who is also an eligible patron of the defense commissary system and the exchange system.

(B) The Secretary of each of the military departments shall appoint one member of the board.

(C) A vacancy on the board shall be filled in the same manner as the original appointment.

(3) The Secretary of Defense may detail persons to serve as staff for the board. At a minimum, the Secretary shall ensure that the board is assisted at meetings by military resale and legal advisors.

(4) The recommendations made by the board under paragraph (1) shall be made available to the public. The Secretary of Defense shall publicize the availability of such recommendations by such means as the Secretary considers appropriate.

(5) Members of the board shall be allowed travel expense, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the board.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(e) DEFINITIONS.—In this section:

(1) The term "sexually explicit material" means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

(2) The term "property under the jurisdiction of the Department of Defense" includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships' stores.

(Added Pub. L. 104–201, div. A, title III, §343(a)(1), Sept. 23, 1996, 110 Stat. 2489, §2489a; renumbered §2495b, Pub. L. 108–375, div. A, title VI, §651(b)(2), (c)(5), Oct. 28, 2004, 118 Stat. 1971, 1972; amended Pub. L. 110–417, [div. A], title VI, §642(a), Oct. 14, 2008, 122 Stat. 4493.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsecs. (c) to (e). Pub. L. 110–417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

**2004**—Pub. L. 108–375 renumbered section 2489a of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 104–201, div. A, title III, §343(b), Sept. 23, 1996, 110 Stat. 2490, provided that: "Subsection (a) of section 2489a [now 2495b] of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act [Sept. 23, 1996]."

### RESALE ACTIVITIES REVIEW BOARD: ESTABLISHMENT AND INITIAL MEETING

Pub. L. 110–417, [div. A], title VI, §642(b), Oct. 14, 2008, 122 Stat. 4494, provided that:

"(1) ESTABLISHMENT.—The board required by subsection (c) of section 2495b of title 10, United States Code, as added by subsection (a), shall be established, and its initial nine members appointed, not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008].

"(2) MEETINGS.—The board shall conduct an initial meeting within one year after the date of the appointment of the initial members of the board. At the discretion of the board, the board may consider all materials previously reviewed under such section as available for reconsideration for a minimum of 180 days following the initial meeting of the board."

## §2496. Sale of certain goods from the Xinjiang Uyghur Autonomous Region

**prohibited**

(a) PROHIBITION.—The Secretary of Defense may not knowingly permit the sale, at a commissary store or military exchange, of any good, ware, article, or merchandise—

(1) containing any product mined, produced, or manufactured, wholly or in part, by forced labor from the XUAR; or

(2) from an entity that has used labor from within or transferred from XUAR as part of a "poverty alleviation" or "pairing assistance" program.

(b) DEFINITIONS.—In this section:

(1) The term "forced labor" means any work or service that is exacted from any person under the menace of any penalty for nonperformance and that the worker does not offer to perform.

(2) The term "XUAR" means the Xinjiang Uyghur Autonomous Region of the People's Republic of China.

(Added Pub. L. 117–263, div. A, title VI, §651(a), Dec. 23, 2022, 136 Stat. 2639.)

# [CHAPTER 148—REPEALED]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 148, comprised of section 2501 et seq., relating to defense industrial base, was repealed, except for sections 2504 to 2507, by Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2504 to 2507 of that chapter were renumbered sections 2531 to 2534, respectively, of this chapter by Pub. L. 102–484, §4202(a). Sections 2531 and 2532 of this title were subsequently transferred to subchapter I of chapter 385 of this title and renumbered as sections 4851 and 4852, respectively, by Pub. L. 116–283, div. A, title XVIII, §1870(b), Jan. 1, 2021, 134 Stat. 4284. Sections 2533, 2533a, 2533b, and 2534 of this title were subsequently transferred to subchapter II of chapter 385 of this title and renumbered as sections 4861 to 4864, respectively, by Pub. L. 116–283, div. A, title XVIII, §1870(c)(2), Jan. 1, 2021, 134 Stat. 4285. Section 2533c of this title was subsequently transferred to subchapter III of chapter 385 of this title and renumbered as section 4872 by Pub. L. 116–283, div. A, title XVIII, §1870(d)(3)(B), Jan. 1, 2021, 134 Stat. 4286, as amended by Pub. L. 117–81, div. A, title XVII, §1701(t)(3), Dec. 27, 2021, 135 Stat. 2150. Sections 2533d and 2533e of this title were subsequently repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293.

## [SUBCHAPTER I—REPEALED]

## [§2500. Renumbered §4801]

## [SUBCHAPTER II—REPEALED]

## [§2501. Renumbered §4811]

### EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 2501, added Pub. L. 100–456, div. A, title VIII, §821(b)(1)(B), Sept. 29, 1988, 102 Stat. 2014, related to centralized guidance, analysis, and planning, prior to repeal by Pub. L. 102–484, §4202(a).

Another prior section 2501 was renumbered section 4861 of this title.

## [§2502. Renumbered §4812]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2502, added Pub. L. 100–456, div. A, title VIII, §821(b)(1)(B), Sept. 29, 1988, 102 Stat. 2015, related to defense industrial base policies, prior to repeal by Pub. L. 102–484, §4202(a).

Another prior section 2502 was renumbered section 4864 of this title.

## [§2503. Renumbered §4813]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2503, added Pub. L. 100–456, div. A, title VIII, §821(b)(1)(B), Sept. 29, 1988, 102 Stat. 2016; amended Pub. L. 101–189, div. A, title VIII, §842(a), (b), Nov. 29, 1989, 103 Stat. 1514, 1515; Pub. L. 102–25, title VII, §701(f)(4), Apr. 6, 1991, 105 Stat. 115; Pub. L. 102–484, div. A, title X, §1052(32), Oct. 23, 1992, 106 Stat. 2501, established defense industrial base office, prior to repeal by Pub. L. 102–484, §4202(a).

## [§2504. Renumbered §4814]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2504, added Pub. L. 102–484, div. D, title XLII, §4214(a), Oct. 23, 1992, 106 Stat. 2666, established Center for Study of Defense Economic Adjustment, prior to repeal by Pub. L. 103–160, div. A, title XIII, §1312(a)(1), Nov. 30, 1993, 107 Stat. 1786.

Another prior section 2504 was renumbered section 4851 of this title.

## [§2504a. Renumbered §4815]

## [§2505. Renumbered §4816]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2505 was renumbered section 4852 of this title.

## [§2506. Repealed. Pub. L. 116–283, div. A, title XVIII, §1867(c)(2), Jan. 1, 2021, 134 Stat. 4281]

Section, added Pub. L. 102–484, div. D, title XLII, §4216(a), Oct. 23, 1992, 106 Stat. 2668; amended Pub. L. 104–201, div. A, title VIII, §829(d), Sept. 23, 1996, 110 Stat. 2613; Pub. L. 111–383, div. A, title VIII, §895(d), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 115–91, div. A, title X, §1051(a)(18), Dec. 12, 2017, 131 Stat. 1561, related to Department of Defense technology and industrial base policy guidance. See section 4811(c) of this title.

A prior section 2506 was renumbered section 4861 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§2507. Renumbered §4818]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2507 was renumbered section 4864 of this title.

## [§2508. Renumbered §4817]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2508 was renumbered section 2522 of this title and subsequently repealed.

## [§2509. Renumbered §4819]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2509, added Pub. L. 101–510, div. A, title VIII, §825(a), Nov. 5, 1990, 104 Stat. 1604; amended Pub. L. 102–484, div. A, title X, §1052(34), Oct. 23, 1992, 106 Stat. 2501, required submission of defense industrial base annual reports, prior to repeal by Pub. L. 102–484, §4202(a).

A prior section 2510, added Pub. L. 101–510, div. A, title VIII, §826(a)(1), Nov. 5, 1990, 104 Stat. 1605, related to defense industrial base for textile and apparel products, prior to repeal by Pub. L. 102–484, §4202(a).

# [SUBCHAPTER III—REPEALED]

## [§2511. Renumbered §4831]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2511, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1600; amended Pub. L. 102–190, div. A, title VIII, §824(b), Dec. 5, 1991, 105 Stat. 1438, defined "manufacturing technology", "manufacturing extension program", and "United States-based small manufacturing firm" for purposes of former chapter 149 of this title, prior to repeal and restatement in section 2491 (now 4801) of this title by Pub. L. 102–484, §§4202(a), 4203(a).

Another prior section 2511 was renumbered section 2540 of this title and subsequently repealed.

## [§§2512, 2513. Repealed. Pub. L. 104–106, div. A, title X, §1081(f), Feb. 10, 1996, 110 Stat. 454]

Section 2512, added Pub. L. 102–484, div. D, title XLII, §4222(a), Oct. 23, 1992, 106 Stat. 2679; amended Pub. L. 103–160, div. A, title XIII, §1315(b), Nov. 30, 1993, 107 Stat. 1787; Pub. L. 103–337, div. A, title XI, §1115(b), Oct. 5, 1994, 108 Stat. 2868, related to commercial-military integration partnerships.

A prior section 2512, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1600, related to responsibility of Secretary of Defense to provide management and planning, prior to repeal by Pub. L. 102–484, §4202(a).

Section 2513, added Pub. L. 102–190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1428, §2524; renumbered §2513 and amended Pub. L. 102–484, div. D, title XLII, §4223(a)–(f), Oct. 23, 1992, 106 Stat. 2681; Pub. L. 103–35, title II, §201(d)(3), (e)(1), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. A, title XI, §1182(g)(2), title XIII, §§1315(c), 1316, Nov. 30, 1993, 107 Stat. 1774, 1787, 1789; Pub. L. 103–337, div. A, title XI, §1115(c), Oct. 5, 1994, 108 Stat. 2868, related to regional technology alliances assistance program.

A prior section 2513, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1601; amended Pub. L. 102–190, div. A, title II, §203(c), Dec. 5, 1991, 105 Stat. 1314, required annual National Defense Manufacturing Technology Plan, prior to repeal by Pub. L. 102–484, §4202(a).

## [§2514. Renumbered §4832]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2514, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1601, directed Secretary of Defense to enhance research relating to manufacturing technology, prior to repeal by Pub. L. 102–484, §4202(a).

## [§2515. Repealed. Pub. L. 115–232, div. A, title VIII, §811(b)(1), Aug. 13, 2018, 132 Stat. 1845]

Section, added Pub. L. 102–484, div. D, title XLII, §4225(a), Oct. 23, 1992, 106 Stat. 2683; amended Pub. L. 104–106, div. A, title XV, §1502(a)(22), Feb. 10, 1996, 110 Stat. 505; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(23), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 108–375, div. A, title X, §1084(b)(3), Oct. 28, 2004, 118 Stat. 2060; Pub. L. 112–81, div. A, title X, §1061(18), Dec. 31, 2011, 125 Stat. 1584, established an Office of Technology Transition within the Office of the Secretary of Defense and set out its purpose and duties.

A prior section 2515, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1602, related to computer-integrated manufacturing technology, prior to repeal by Pub. L. 102–484, §4202(a).

## [§2516. Repealed. Pub. L. 104–106, div. A, title X, §1081(g), Feb. 10, 1996, 110 Stat. 455]

Section, added Pub. L. 102–484, div. D, title XLII, §4226(a), Oct. 23, 1992, 106 Stat. 2684; amended Pub. L. 103–35, title II, §201(g)(8), May 31, 1993, 107 Stat. 100, related to Military-Civilian Integration and Technology Transfer Advisory Board.

A prior section 2516, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1602, related to enhancement of concurrent engineering practices in design and development of weapon systems, prior to repeal by Pub. L. 102–484, §4202(a).

## [§2517. Repealed. Pub. L. 115–232, div. A, title VIII, §811(c)(1), Aug. 13, 2018, 132 Stat. 1845]

Section, added Pub. L. 102–190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1430, §2525; renumbered §2517 and amended Pub. L. 102–484, div. D, title XLII, §4227, Oct. 23, 1992, 106 Stat. 2685; Pub. L. 111–383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324, established the Office for Foreign Defense Critical Technology Monitoring and Assessment and set out its responsibilities.

A prior section 2517 was renumbered section 2523 of this title and subsequently repealed.

## [§2518. Renumbered §4834]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2518 was renumbered section 2522 of this title and subsequently repealed.

## [§2519. Renumbered §4833]

## [§2520. Repealed. Pub. L. 104–106, div. A, title X, §1081(f), Feb. 10, 1996, 110 Stat. 454]

Section, added Pub. L. 103–337, div. A, title XI, §1113(b), Oct. 5, 1994, 108 Stat. 2865, related to Navy Reinvestment Program.

# [SUBCHAPTER IV—REPEALED]

## [§2521. Renumbered §4841]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2521, added Pub. L. 102–484, div. D, title XLII, §4231(a), Oct. 23, 1992, 106 Stat. 2686, related to National Defense Manufacturing Technology Program, prior to repeal by Pub. L. 104–106, div. A, title X, §1081(f), Feb. 10, 1996, 110 Stat. 454.

Another prior section 2521, added Pub. L. 102–190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1426, defined terms for purposes of former chapter 150 of this title, prior to repeal and restatement in section 2491 (now 4801) of this title by Pub. L. 102–484, §§4202(a), 4203(a).

Another prior section 2521 was renumbered section 2540 of this title and subsequently repealed.

## [§2522. Renumbered §4845]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2522, added Pub. L. 102–190, div. A, title VIII, §823(a)(1), Dec. 5, 1991, 105 Stat. 1435, §2518; renumbered §2522 and amended Pub. L. 102–484, div. D, title XLII, §4232(a), (b), Oct. 23, 1992, 106 Stat. 2687, related to defense advanced manufacturing technology partnerships, prior to repeal by Pub. L. 104–106, div. A, title X, §1081(f), Feb. 10, 1996, 110 Stat. 454.

Another prior section 2522, added Pub. L. 101–189, div. A, title VIII, §841(b)(1), Nov. 29, 1989, 103 Stat. 1512, §2508; amended Pub. L. 101–510, div. A, title VIII, §821(a), Nov. 5, 1990, 104 Stat. 1597; Pub. L. 102–25, title VII, §701(g)(3), Apr. 6, 1991, 105 Stat. 115; renumbered §2522, Pub. L. 102–190, div. A, title VIII, §821(b)(1), Dec. 5, 1991, 105 Stat. 1431, required an annual defense critical technologies plan, prior to repeal by Pub. L. 102–484, §4202(a).

## [§§2523, 2524. Repealed. Pub. L. 104–106, div. A, title X, §1081(f), Feb. 10, 1996, 110 Stat. 454]

Section 2523, added Pub. L. 101–510, div. A, title VIII, §823(a)(3), Nov. 5, 1990, 104 Stat. 1602, §2517; amended Pub. L. 102–190, div. A, title VIII, §824(a), Dec. 5, 1991, 105 Stat. 1436; renumbered §2523 and amended Pub. L. 102–484, div. D, title XLII, §4233(a), (b), Oct. 23, 1992, 106 Stat. 2687; Pub. L. 103–160, div. A, title IX, §904(d)(1), title XI, §1182(b)(2), title XIII, §1315(d), Nov. 30, 1993, 107 Stat. 1728, 1772, 1787, related to manufacturing extension programs.

A prior section 2523, added Pub. L. 102–190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1427, related to defense dual-use critical technology partnerships, prior to repeal and restatement in section 2511 (now 4831) of this title by Pub. L. 102–484, §§4202(a), 4221(a).

Section 2524, added Pub. L. 102–484, div. D, title XLII, §4234(a), Oct. 23, 1992, 106 Stat. 2687; amended Pub. L. 103–35, title II, §201(g)(9), May 31, 1993, 107 Stat. 100; Pub. L. 103–160, div. A, title XIII, §§1314, 1315(e), Nov. 30, 1993, 107 Stat. 1786, 1788; Pub. L. 103–337, div. A, title X, §1070(b)(10), title XI, §§1114(b), (c), 1115(d), Oct. 5, 1994, 108 Stat. 2857, 2867–2869; Pub. L. 104–106, div. A, title XV, §1503(a)(27), Feb. 10, 1996, 110 Stat. 512, related to defense dual-use assistance extension program.

A prior section 2524 was renumbered section 2513 of this title and was subsequently repealed.

## [§2525. Renumbered §2521]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2525 was renumbered section 2517 of this title and was subsequently repealed.

A prior section 2526 was renumbered section 4834 of this title.

# [SUBCHAPTER V—REPEALED]

## [§2531. Renumbered §4851]

## [§2532. Renumbered §4852]

## [§2533. Renumbered §4861]

**[§2533a. Renumbered §4862]**

**[§2533b. Renumbered §4863]**

**[§2533c. Renumbered §4872]**

**[§2533d. Renumbered §4873]**

**[§2533e. Renumbered §4875]**

**[§2534. Renumbered §4864]**

**[§2535. Renumbered §4881]**

**[§2536. Renumbered §4874]**

**[§2537. Renumbered §4891]**

**[§2538. Renumbered §4882]**

**[§2539. Renumbered §4883]**

**[§2539a. Renumbered §4884]**

**[§2539b. Renumbered §4892]**

## [SUBCHAPTER VI—REPEALED]

**[§2540. Renumbered §4971]**

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2540, acts Aug. 10, 1956, ch. 1041, 70A Stat. 141, §2511; renumbered §2521, Nov. 5, 1990, Pub. L. 101–510, div. A, title VIII, §823(a)(2), 104 Stat. 1600; renumbered §2540, Dec. 5, 1991, Pub. L. 102–190, div. A, title VIII, §821(e)(3), 105 Stat. 1432, related to availability or issuance to reserve components of supplies, services, and facilities of armed forces, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1664(c)(2), 1691, Oct. 5, 1994, 108 Stat. 3012, 3026, effective Dec. 1, 1994. See section 18502 of this title.

Another prior section 2540 was renumbered section 4884 of this title.

## [§2540a. Renumbered §4972]

## [§2540b. Renumbered §4973]

## [§2540c. Renumbered §4974]

## [§2540d. Renumbered §4975]

# [SUBCHAPTER VII—REPEALED]

## [§2541. Renumbered §4981]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2541 was renumbered section 2551 of this title.

Another prior section 2541 was renumbered section 4892 of this title.

## [§2541a. Renumbered §4982]

## [§2541b. Renumbered §4983]

## [§2541c. Renumbered §4984]

## [§2541d. Renumbered §4985]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 2542 to 2550 were renumbered sections 2552 to 2560 of this title, respectively.

# [CHAPTER 149—TRANSFERRED]

### EDITORIAL NOTES

### CODIFICATION

Former chapter 149 of this title was renumbered chapter 205 and transferred to part V of subtitle A. See 2021 Amendment notes preceding section 3101 of this title.

### PRIOR PROVISIONS

A prior chapter 149, comprised of sections 2511 to 2518, relating to manufacturing technology, was repealed, except for sections 2517 and 2518, by Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2517 and 2518 of that chapter were renumbered sections 2523 and 2522, respectively, of this chapter by Pub. L. 102–484, div. D, title XLII, §§4232(a), 4233(a), Oct. 23, 1992, 106 Stat. 2687, and were subsequently repealed.

Another prior chapter 149, comprised of section 2511, was successively renumbered chapter 150 of this title, comprised of section 2521, then chapter 152 of this title, comprised of section 2540 et seq.

A prior chapter 150, comprised of sections 2521 to 2526, relating to development of dual-use critical technologies, was repealed, except for sections 2524 to 2526, by Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2524, 2525, and 2526 of that chapter were renumbered sections 2513, 2517, and 2518, respectively, of chapter 148 of this title by Pub. L. 102–484, div. D, title XLII, §§4223(a), 4227(a), 4228, Oct. 23, 1992, 106 Stat. 2681, 2685. Sections 2513 and 2517 of that chapter were subsequently repealed. Section 2518 of that chapter was subsequently renumbered section 4834 of chapter 383 of this title by Pub. L. 116–283, div. A, title XVIII, §1868(b), Jan. 1, 2021, 134 Stat. 4282.

Another prior chapter 150, comprised of section 2521, was renumbered chapter 152 of this title, comprised of section 2540 et seq.

## [§2545. Renumbered §3101]

### EDITORIAL NOTES

### CODIFICATION

Section was also transferred or copied in large part to section 3001 of this title by Pub. L. 116–283, §1806(a)(2)–(4).

### PRIOR PROVISIONS

A prior section 2545 was renumbered section 2555 of this title.

## [§2546. Renumbered §3103]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2546 was renumbered section 2556 of this title.

## [§2546a. Renumbered §3102]

## [§2547. Renumbered §3104]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2547 was renumbered section 2557 of this title.

## [§2548. Renumbered §3105]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2548 was renumbered section 2558 of this title.

# CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

Sec.
2551. Equipment and barracks: national veterans' organizations.
2552. Equipment for instruction and practice: American National Red Cross.
2553. Equipment and services: Presidential inaugural ceremonies.
2554. Equipment and other services: Boy Scout Jamborees.
2555. Transportation services: international Girl Scout events.
2556. Shelter for homeless; incidental services.
2557. Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance.
2558. National military associations: assistance at national conventions.
2559. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services.
2560. Aircraft and vehicles: limitation on leasing to non-Federal agencies.
2561. Humanitarian assistance.
[2562. Repealed.]
2563. Articles and services of industrial facilities: sale to persons outside the Department of Defense.
2564. Provision of support for certain sporting events.
2564a. Provision of assistance for adaptive sports programs: members of the armed forces; certain veterans.
2565. Nuclear test monitoring equipment: furnishing to foreign governments.
2566. Space and services: provision to military welfare societies.
2567. Space and services: provision to WIC offices.
2568. Retention of combat uniforms by members deployed in support of contingency operations.
2568a. Damaged personal protective equipment: award to members separating from the Armed Forces and veterans.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Chapter was comprised of subchapter I, former section 2540, and subchapter II, former sections 2541 to 2553, prior to amendment by Pub. L. 104–106, div. A, title XV, §1503(a)(29), Feb. 10, 1996, 110 Stat. 512, which struck out headings for subchapters I and II.

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(39), Jan. 1, 2021, 134 Stat. 3873, substituted "Damaged personal protective equipment: award to members separating from the Armed Forces and veterans" for "Damaged personal protective equipment: award to members separating from the armed forces and veterans"

in item 2568a.

**2019**—Pub. L. 116–92, div. A, title V, §592(c)(2), title XVII, §1731(a)(63), Dec. 20, 2019, 133 Stat. 1415, 1816, substituted "Provision of assistance for adaptive sports programs: members of the armed forces; certain veterans" for "Provision of assistance for adaptive sports programs for members of the armed forces" in item 2564a and amended item 2568a without change.

**2018**—Pub. L. 115–232, div. A, title VI, §623(b), Aug. 13, 2018, 132 Stat. 1801, added item 2568a.

**2017**—Pub. L. 115–91, div. A, title X, §1081(a)(42), Dec. 12, 2017, 131 Stat. 1596, inserted period at end of item 2567.

**2016**—Pub. L. 114–328, div. A, title XII, §1253(a)(2)(C), div. B, title XXVIII, §2812(b), Dec. 23, 2016, 130 Stat. 2532, 2717, struck out item 2562 "Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs" and added item 2567.

**2013**—Pub. L. 112–239, div. A, title X, §1076(a)(4), Jan. 2, 2013, 126 Stat. 1948, made technical amendment to directory language of Pub. L. 112–81, §589(b). See 2011 Amendment note below.

**2011**—Pub. L. 112–81, div. A, title V, §589(b), Dec. 31, 2011, 125 Stat. 1438, as amended by Pub. L. 112–239, div. A, title X, §1076(a)(4), Jan. 2, 2013, 126 Stat. 1948, added item 2564a.

Pub. L. 111–383, div. A, title X, §1074(b)(2), Jan. 7, 2011, 124 Stat. 4368, substituted "Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance" for "Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief" in item 2557.

**2008**—Pub. L. 110–181, div. A, title III, §376(b), title X, §§1063(a)(12), 1068(b)(2), Jan. 28, 2008, 122 Stat. 84, 322, 326, inserted period at end of item 2567 and then struck out item 2567 "Supplies, services, and equipment: provision in major public emergencies" and added item 2568.

**2006**—Pub. L. 109–364, div. A, title X, §1076(b)(2), Oct. 17, 2006, 120 Stat. 2406, added item 2567.

**2002**—Pub. L. 107–314, div. A, title X, §1066(b), Dec. 2, 2002, 116 Stat. 2656, added item 2566.

**2001**—Pub. L. 107–107, div. A, title III, §361(b)(2), title XII, §1201(a)(2), Dec. 28, 2001, 115 Stat. 1065, 1245, substituted "Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief" for "Excess nonlethal supplies: humanitarian relief" in item 2557 and substituted "2565." for "2555." in item 2565.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(2), title XII, §1203(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260, 1654A–325, renumbered items 2541 to 2554 as 2551 to 2564, respectively, and added item 2555 "Nuclear test monitoring equipment: furnishing to foreign governments" at end.

**1997**—Pub. L. 105–85, div. A, title X, §1073(c)(2)(B), Nov. 18, 1997, 111 Stat. 1904, amended directory language of Pub. L. 104–201, §367(b). See 1996 Amendment note below.

**1996**—Pub. L. 104–201, div. A, title III, §367(b), Sept. 23, 1996, 110 Stat. 2497, as amended by Pub. L. 105–85, div. A, title X, §1073(c)(2)(B), Nov. 18, 1997, 111 Stat. 1904, added item 2554.

Pub. L. 104–201, div. A, title III, §366(b), Sept. 23, 1996, 110 Stat. 2496, substituted "Equipment and services: Presidential inaugural ceremonies" for "Equipment: Inaugural Committee" in item 2543.

Pub. L. 104–106, div. A, title XV, §1503(a)(29), Feb. 10, 1996, 110 Stat. 512, struck out subchapter analysis consisting of items for subchapters I "Issue to the Armed Forces" and II "Issue of Serviceable Material Other Than to the Armed Forces" and struck out headings for subchapters I "ISSUE TO THE ARMED FORCES" and II "ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES".

**1994**—Pub. L. 103–337, div. A, title III, §339(a)(2), title XVI, §1671(b)(14), Oct. 5, 1994, 108 Stat. 2720, 3014, struck out item 2540 "Reserve components: supplies, services, and facilities" and added item 2553.

**1992**—Pub. L. 102–484, div. A, title III, §304(c)(2), div. D, title XLIII, §4304(b), Oct. 23, 1992, 106 Stat. 2362, 2700, added items 2551 and 2552.

**1991**—Pub. L. 102–190, div. A, title VIII, §821(e)(1), (2), Dec. 5, 1991, 105 Stat. 1431, substituted "152" for "150" as chapter number, "ISSUE OF SUPPLIES, SERVICES, AND FACILITIES" for "ISSUE TO ARMED FORCES" as chapter heading, added subchapter analysis and subchapter I heading, renumbered item 2521 as 2540, and substituted subchapter II heading for former chapter 151 heading "ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES".

**1990**—Pub. L. 101–510, div. A, title VIII, §823(a)(1), (b)(2), title XIV, §1481(f)(2), (g)(2), Nov. 5, 1990, 104 Stat. 1600, 1602, 1707, substituted "150" for "149" as chapter number, renumbered item 2511 as 2521, and added items 2549 and 2550.

**1989**—Pub. L. 101–189, div. A, title III, §329(a)(2), Nov. 29, 1989, 103 Stat. 1417, added item 2548.

**1985**—Pub. L. 99–145, title XIV, §1454(b), Nov. 8, 1985, 99 Stat. 761, added item 2547.

**1983**—Pub. L. 98–94, title III, §305(a)(2), Sept. 24, 1983, 97 Stat. 629, added item 2546.

**1978**—Pub. L. 95–492, §2, Oct. 20, 1978, 92 Stat. 1642, added item 2545.

**1972**—Pub. L. 92–249, Mar. 10, 1972, 86 Stat. 62, added item 2544.
**1958**—Pub. L. 85–861, §1(48)(B), Sept. 2, 1958, 72 Stat. 1459, added item 2543.

## §2551. Equipment and barracks: national veterans' organizations

(a) The Secretary of a military department, under conditions prescribed by him, may lend cots, blankets, pillows, mattresses, bed sacks, and other supplies under the jurisdiction of that department to any recognized national veterans' organization for use at its national or state convention or national youth athletic or recreation tournament. He may, under conditions prescribed by him, also permit the organization to use unoccupied barracks under the jurisdiction of that department for such an occasion.

(b) Property lent under subsection (a) may be delivered on terms and at times agreed upon by the Secretary of the military department concerned and representatives of the veterans' organization. However, the veterans' organization must defray any expense incurred by the United States in the delivery, return, rehabilitation, or replacement of that property, as determined by the Secretary.

(c) The Secretary of the military department concerned shall require a good and sufficient bond for the return in good condition of property lent or used under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 142, §2541; renumbered §2551, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2541(a) | 5:150m. | Aug. 1, 1949, ch. 372, 63 Stat. 483. |
| 2541(b) | 5:150n. | |
| 2541(c) | 5:150*o*. | |

In subsection (a), the word "may" is substituted for the words "are authorized to * * * at their discretion". The word "supplies" is substituted for the words "articles or equipment". The words "available" and "as may be needed" are omitted as surplusage. The words "under the jurisdiction of that department" are substituted for the words "of the Army, Navy, or Air Force" and "under their respective jurisdictions".

In subsection (b), the words "prior to any such conventions or national youth athletic or recreation tournaments" are omitted as surplusage.

In subsection (c), the words "require of" are substituted for the words "take from".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2551 was renumbered section 2561 of this title.

**AMENDMENTS**

**2000**—Pub. L. 106–398 renumbered section 2541 of this title as this section.

## §2552. Equipment for instruction and practice: American National Red Cross

The Secretary of a military department, under regulations to be prescribed by him, may lend equipment under the jurisdiction of that department that is on hand, and that can be temporarily spared, to any organization formed by the American National Red Cross that needs it for instruction and practice for the purpose of aiding the Army, Navy, or Air Force in time of war. The Secretary shall by regulation require the immediate return, upon request, of equipment lent under this section. The Secretary shall require a bond, in double the value of the property issued under this section, for the care and safekeeping of that property and for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 142, §2542; renumbered §2552, Pub. L. 106–398, §1 [[div. A],

title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2542 | 10:1255.<br>10:1256.<br>34:549.<br>34:550. | May 8, 1914, J. Res. 15, 38 Stat. 771. |

The word "may" is substituted for the words "is authorized * * * at his discretion", in 10:1255 and 34:549. The word "lend" is substituted for the word "issue", in 10:1255 and 34:549. The words "proper", "to be", "out of equipment for medical or other establishments", and "belonging to the Government", in 10:1255 and 34:549, are omitted as surplusage. The words "that needs it" are substituted for the words "as may appear to be required". The words "under the jurisdiction of that department" are inserted for clarity. The words "upon request" are substituted for the words "when called for by the authority which issued them".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2552 was renumbered section 2562 of this title and was subsequently repealed.

**AMENDMENTS**

**2000**—Pub. L. 106–398 renumbered section 2542 of this title as this section.

## §2553. Equipment and services: Presidential inaugural ceremonies

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may, with respect to the ceremonies relating to the inauguration of a President, provide the assistance referred to in subsection (b) to—

(1) the Presidential Inaugural Committee; and

(2) the congressional Joint Inaugural Committee.

(b) ASSISTANCE.—Assistance that may be provided under subsection (a) is the following:

(1) Planning and carrying out activities relating to security and safety.

(2) Planning and carrying out ceremonial activities.

(3) Loan of property.

(4) Any other assistance that the Secretary considers appropriate.

(c) REIMBURSEMENT.—(1) The Presidential Inaugural Committee shall reimburse the Secretary for any costs incurred in connection with the provision to the committee of assistance referred to in subsection (b)(4).

(2) Costs reimbursed under paragraph (1) shall be credited to the appropriations from which the costs were paid. The amount credited to an appropriation shall be proportionate to the amount of the costs charged to that appropriation.

(d) LOANED PROPERTY.—With respect to property loaned for a presidential inauguration under subsection (b)(3), the Presidential Inaugural Committee shall—

(1) return that property within nine days after the date of the ceremony inaugurating the President;

(2) give good and sufficient bond for the return in good order and condition of that property;

(3) indemnify the United States for any loss of, or damage to, that property; and

(4) defray any expense incurred for the delivery, return, rehabilitation, replacement, or operation of that property.

(e) DEFINITIONS.—In this section:

(1) The term "Presidential Inaugural Committee" means the committee referred to in section 501 of title 36 that is appointed with respect to the inauguration of a President-elect and Vice President-elect.

(2) The term "congressional Joint Inaugural Committee" means the joint committee of the Senate and House of Representatives referred to in section 507 of title 36 that is appointed with respect to the inauguration of a President-elect and Vice President-elect.

(Added Pub. L. 85–861, §1(48)(A), Sept. 2, 1958, 72 Stat. 1458, §2543; amended Pub. L. 96–513, title V, §511(81), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 104–201, div. A, title III, §366(a), Sept. 23, 1996, 110 Stat. 2495; Pub. L. 105–225, §4(a)(2), Aug. 12, 1998, 112 Stat. 1498; renumbered §2553, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2543(a) | 36:726 (1st sentence). | Aug. 6, 1956, ch. 974, §§1(b)(1) (as applicable to §6), 6, 70 Stat. 1049, 1050. |
| 2543(b) | 36:726 (less 1st and 2d sentences). | |
| 2543(c) | 36:721(b)(1) (as applicable to 36:726).<br>36:726 (2d sentence). | |

In subsection (a), the words "under section 721 of title 36" are inserted for clarity. The words "ensigns" and "Red Cross flags" are omitted as covered by the word "flags".

In subsection (b), the words "and the whole without expense to the United States" are omitted as surplusage.

In subsection (c), the words "nine days after the date of the ceremony inaugurating the President" are substituted for the words "five days after the end of the inaugural period", in 36:726 (2d sentence), and 36:721(b)(1).

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2553 was renumbered section 2563 of this title.

### AMENDMENTS

**2000**—Pub. L. 106–398 renumbered section 2543 of this title as this section.

**1998**—Subsec. (e)(1). Pub. L. 105–225, §4(a)(2)(A), substituted "section 501 of title 36" for "subsection (b)(2) of the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721)".

Subsec. (e)(2). Pub. L. 105–225, §4(a)(2)(B), substituted "section 507 of title 36" for "the proviso in section 9 of the Presidential Inaugural Ceremonies Act (36 U.S.C. 729)".

**1996**—Pub. L. 104–201 substituted "Equipment and services: Presidential inaugural ceremonies" for "Equipment: Inaugural Committee" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) The Secretary of Defense, under such conditions as he may prescribe, may lend, to an Inaugural Committee established under the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721), hospital tents, smaller tents, camp appliances, hospital furniture, flags other than battle flags, flagpoles, litters, and ambulances and the services of their drivers, that can be spared without detriment to the public service.

"(b) The Inaugural Committee must give a good and sufficient bond for the return in good order and condition of property lent under subsection (a).

"(c) Property lent under subsection (a) shall be returned within nine days after the date of the ceremony inaugurating the President. The Inaugural Committee shall—

"(1) indemnify the United States for any loss of, or damage to, property lent under subsection (a); and

"(2) defray any expense incurred for the delivery, return, rehabilitation, replacement, or operation of that property."

**1980**—Subsec. (a). Pub. L. 96–513 substituted "the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721)" for "section 721 of title 36".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §2554. Equipment and other services: Boy Scout Jamborees

(a) The Secretary of Defense is hereby authorized, under such regulations as he may prescribe, to lend to the Boy Scouts of America, for the use and accommodation of Scouts, Scouters, and officials who attend any national or world Boy Scout Jamboree, such cots, blankets, commissary equipment, flags, refrigerators, and other equipment and without reimbursement, furnish services and expendable medical supplies, as may be necessary or useful to the extent that items are in stock and items or services are available.

(b) Such equipment is authorized to be delivered at such time prior to the holding of any national or world Boy Scout Jamboree, and to be returned at such time after the close of any such jamboree, as may be agreed upon by the Secretary of Defense and the Boy Scouts of America. No expense shall be incurred by the United States Government for the delivery, return, rehabilitation, or replacement of such equipment.

(c) The Secretary of Defense, before delivering such property, shall take from the Boy Scouts of America, good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States.

(d) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for (1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree, and (2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this section to the extent that such transportation will not interfere with the requirements of military operations.

(e) Before furnishing any transportation under subsection (d), the Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States by the Boy Scouts of America, of the actual costs of transportation furnished under this section.

(f) Amounts paid to the United States to reimburse it for expenses incurred under subsection (b) and for the actual costs of transportation furnished under subsection (d) shall be credited to the current applicable appropriations or funds to which such expenses and costs were charged and shall be available for the same purposes as such appropriations or funds.

(g) In the case of a Boy Scout Jamboree held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).

(h) Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America, equipment and other services, under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense.

(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

(B) submits to Congress a report containing such determination in a timely manner, and before

the waiver takes effect.

(Added Pub. L. 92–249, Mar. 10, 1972, 86 Stat. 62, §2544; amended Pub. L. 104–106, div. A, title III, §376, Feb. 10, 1996, 110 Stat. 283; renumbered §2554, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260l; Pub. L. 107–107, div. A, title IX, §931(a), Dec. 28, 2001, 115 Stat. 1200; Pub. L. 109–148, div. A, title VIII, §8126(c)(2), Dec. 30, 2005, 119 Stat. 2729; Pub. L. 109–163, div. A, title X, §1058(c), Jan. 6, 2006, 119 Stat. 3443.)

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 109–148, §8126(c)(2), and Pub. L. 109–163, §1058(c), amended this section by adding substantially identical subsecs. (i). The subsec. (i) added by Pub. L. 109–148, §8126(c)(2), was subsequently omitted on authority of Pub. L. 109–364, §1071(f)(1), (3), which repealed Pub. L. 109–148, §8126(c)(2), and provided that the amendments by Pub. L. 109–148, §8126(c)(2), and Pub. L. 109–163, §1058(c), to this section be executed so as to appear only once in the law as amended. See Reconciliation of Duplicate Enactments note and 2005 and 2006 Amendment notes below.

### PRIOR PROVISIONS

A prior section 2554 was renumbered section 2564 of this title.

### AMENDMENTS

**2006**—Subsec. (i). Pub. L. 109–163 added subsec. (i). See Codification note above.

**2005**—Subsec. (i). Pub. L. 109–148 added subsec. (i) which read as follows:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided."

See Codification note above.

**2001**—Subsec. (d). Pub. L. 107–107 substituted "Air Mobility Command" for "Military Airlift Command".

**2000**—Pub. L. 106–398 renumbered section 2544 of this title as this section.

**1996**—Subsecs. (g), (h). Pub. L. 104–106 added subsec. (g) and redesignated former subsec. (g) as (h).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### RECONCILIATION OF DUPLICATE ENACTMENTS

Pub. L. 109–364, div. A, title X, §1071(f)(1), Oct. 17, 2006, 120 Stat. 2402, as amended by Pub. L. 110–181, div. A, title X, §1063(c)(10), Jan. 28, 2008, 122 Stat. 323, provided that: "In executing to section 2554 of title 10, United States Code, the amendments made by section 8126(c)(2) of Public Law 109–148 [adding subsec. (i) to this section] (119 Stat. 2729) and section 1058(c) of Public Law 109–163 [adding subsec. (i) to this section] (119 Stat. 3443), such amendments shall be executed so as to appear only once in the law as amended."

### SUPPORT FOR SCOUT JAMBOREES

Pub. L. 109–148, div. A, title VIII, §8126(c)(1), Dec. 30, 2005, 119 Stat. 2729, which set forth congressional findings in support of youth organization events, such as the Boy Scouts of America's National Scout Jamboree, was repealed by Pub. L. 109–364, div. A, title X, §1071(f)(3), Oct. 17, 2006, 120 Stat. 2402.

## §2555. Transportation services: international Girl Scout events

(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military

commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for (1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States, (2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and (3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

(b) Before furnishing any transportation under subsection (a), the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished under subsection (a).

(c) Amounts paid to the United States to reimburse it for the actual costs of transportation furnished under subsection (a) shall be credited to the current applicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds.

(Added Pub. L. 95–492, §1, Oct. 20, 1978, 92 Stat. 1642, §2545; renumbered §2555, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 107–107, div. A, title IX, §931(a), Dec. 28, 2001, 115 Stat. 1200.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2555 was renumbered section 2565 of this title.

**AMENDMENTS**

**2001**—Subsec. (a). Pub. L. 107–107 substituted "Air Mobility Command" for "Military Airlift Command".

**2000**—Pub. L. 106–398 renumbered section 2545 of this title as this section.

## §2556. Shelter for homeless; incidental services

(a)(1) The Secretary of a military department may make military installations under his jurisdiction available for the furnishing of shelter to persons without adequate shelter. The Secretary may, incidental to the furnishing of such shelter, provide services as described in subsection (b). Shelter and incidental services provided under this section may be provided without reimbursement.

(2) The Secretary concerned shall carry out this section in cooperation with appropriate State and local governmental entities and charitable organizations. The Secretary shall, to the maximum extent practicable, use the services and personnel of such entities and organizations in determining to whom and the circumstances under which shelter is furnished under this section.

(b) Services that may be provided incident to the furnishing of shelter under this section are the following:

(1) Utilities.

(2) Bedding.

(3) Security.

(4) Transportation.

(5) Renovation of facilities.

(6) Minor repairs undertaken specifically to make suitable space available for shelter to be provided under this section.

(7) Property liability insurance.

(c) Shelter and incidental services may only be provided under this section to the extent that the Secretary concerned determines will not interfere with military preparedness or ongoing military

functions.

(d) The Secretary concerned may provide bedding for support of shelters for the homeless that are operated by entities other than the Department of Defense. Bedding may be provided under this subsection without reimbursement, but may only be provided to the extent that the Secretary determines that the provision of such bedding will not interfere with military requirements.

(e) The Secretary of Defense shall prescribe regulations for the administration of this section.

(Added Pub. L. 98–94, title III, §305(a)(1), Sept. 24, 1983, 97 Stat. 628, §2546; amended Pub. L. 99–167, title VIII, §825, Dec. 3, 1985, 99 Stat. 992; renumbered §2556, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Pub. L. 106–398 renumbered section 2546 of this title as this section.

**1985**—Subsecs. (d), (e). Pub. L. 99–167 added subsec. (d) and redesignated former subsec. (d) as (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 98–94, title III, §305(b), Sept. 24, 1983, 97 Stat. 629, provided that: "Section 2546 [now 2556] of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1983."

### PRIOR CERTIFICATION REQUIRED FOR USE OF DEPARTMENT OF DEFENSE FACILITIES BY OTHER FEDERAL AGENCIES FOR TEMPORARY HOUSING SUPPORT

Pub. L. 114–328, div. B, title XXVIII, §2815, Dec. 23, 2016, 130 Stat. 2718, as amended by Pub. L. 118–31, div. B, title XXVIII, §2840, Dec. 22, 2023, 137 Stat. 761, provided that: "The Secretary of Defense shall not sign a memorandum of agreement with another Federal agency to provide the agency with a vacant facility for purposes of temporary housing support unless the Secretary first submits to the Committees on Armed Services of the House of Representatives and Senate a certification that the provision of the facility to the agency for such purpose will not negatively affect military training, operations, readiness, or other military requirements, including National Guard and Reserve readiness. Upon granting such certification, the Secretary of Defense shall notify each Member of Congress representing the area in which such facility is located of such grant of certification."

## §2557. Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance

(a)(1) The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense. In addition, the Secretary may make nonlethal excess supplies of the Department available to support domestic emergency assistance activities.

(2) The Secretary of Defense may make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans. The transfer of nonlethal excess supplies to the Secretary of Veterans Affairs under this paragraph shall be without reimbursement.

(b)(1) Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies.

(2) Excess supplies made available under this section to support domestic emergency assistance activities shall be transferred to the Secretary of Homeland Security. The Secretary of Defense may provide assistance in the distribution of such supplies at the request of the Secretary of Homeland Security.

(c) This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the intelligence

committees under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

(d) In this section:

(1) The term "nonlethal excess supplies" means property, other than real property, of the Department of Defense—

(A) that is excess property, as defined in regulations of the Department of Defense; and

(B) that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death.

(2) The term "intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(Added Pub. L. 99–145, title XIV, §1454(a), Nov. 8, 1985, 99 Stat. 761, §2547; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIII, §1322(a)(10), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–88, title VI, §602(c)(3), Aug. 14, 1991, 105 Stat. 444; renumbered §2557, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 107–107, div. A, title III, §361(a), (b)(1), Dec. 28, 2001, 115 Stat. 1064, 1065; Pub. L. 111–383, div. A, title X, §1074(a), (b)(1), Jan. 7, 2011, 124 Stat. 4368; Pub. L. 113–291, div. A, title X, §1071(c)(3), Dec. 19, 2014, 128 Stat. 3508.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

**2014**—Subsec. (c). Pub. L. 113–291 substituted "(50 U.S.C. 3091 et seq.)" for "(50 U.S.C. 413 et seq.)".

**2011**—Pub. L. 111–383, §1074(b)(1), substituted "Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance" for "Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief" in section catchline.

Subsec. (a)(1). Pub. L. 111–383, §1074(a)(1), inserted at end "In addition, the Secretary may make nonlethal excess supplies of the Department available to support domestic emergency assistance activities."

Subsec. (b). Pub. L. 111–383, §1074(a)(2), designated existing provisions as par. (1) and added par. (2).

**2001**—Pub. L. 107–107, §361(b)(1), inserted "availability for homeless veteran initiatives and" before "humanitarian relief" in section catchline.

Subsec. (a). Pub. L. 107–107, §361(a), designated existing provisions as par. (1) and added par. (2).

**2000**—Pub. L. 106–398 renumbered section 2547 of this title as this section.

**1991**—Subsec. (c). Pub. L. 102–88 struck out par. (1) which read as follows: "a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or", struck out par. (2) designation, and substituted "title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)" for "section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413)".

**1990**—Subsecs. (d), (e). Pub. L. 101–510 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows:

"(1) The Secretary of State shall submit an annual report on the disposition of all excess supplies transferred by the Secretary of Defense to the Secretary of State under this section during the preceding year.

"(2) Such reports shall be submitted to the Committees on Armed Services and on Foreign Relations of the Senate and the Committees on Armed Services and on Foreign Affairs of the House of Representatives.

"(3) Such reports shall be submitted not later than June 1 of each year."

**1987**—Subsec. (e)(1), (2). Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

## §2558. National military associations: assistance at national conventions

(a) AUTHORITY TO PROVIDE SERVICES.—The Secretary of a military department may provide services described in subsection (c) in connection with an annual conference or convention

of a national military association.

(b) CONDITIONS FOR PROVIDING SERVICES.—Services may be provided under this section only if—

(1) the provision of the services in any case is approved in advance by the Secretary concerned;

(2) the services can be provided in conjunction with training in appropriate military skills; and

(3) the services can be provided within existing funds otherwise available to the Secretary concerned.

(c) COVERED SERVICES.—Services that may be provided under this section are—

(1) limited air and ground transportation;

(2) communications;

(3) medical assistance;

(4) administrative support; and

(5) security support.

(d) NATIONAL MILITARY ASSOCIATIONS.—The Secretary of Defense shall designate those organizations which are national military associations for purposes of this section.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 101–189, div. A, title III, §329(a)(1), Nov. 29, 1989, 103 Stat. 1417, §2548; renumbered §2558, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398 renumbered section 2548 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 101–189, div. A, title III, §329(b), Nov. 29, 1989, 103 Stat. 1417, provided that: "Section 2548 [now 2558] of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 29, 1989]."

## §2559. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services

(a) REIMBURSEMENT REQUIRED.—Except as provided in subsection (b), whenever the Secretary of Defense provides medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents, the Secretary shall require that the United States be reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which charges were made for the provision of such care.

(b) WAIVER WHEN RECIPROCAL SERVICES PROVIDED UNITED STATES MILITARY PERSONNEL.—Notwithstanding subsection (a), the Secretary of Defense may provide inpatient medical care in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel and their dependents in that foreign country.

(Added Pub. L. 101–510, div. A, title XIV, §1481(f)(1), Nov. 5, 1990, 104 Stat. 1707, §2549; renumbered §2559, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9020, Nov. 21, 1989, 103 Stat. 1133, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(f)(3).

**AMENDMENTS**

**2000**—Pub. L. 106–398 renumbered section 2549 of this title as this section.

## §2560. Aircraft and vehicles: limitation on leasing to non-Federal agencies

The Secretary of Defense (or Secretary of a military department) may not lease to a non-Federal agency in the United States any aircraft or vehicle owned or operated by the Department of Defense if suitable aircraft or vehicles are commercially available in the private sector. However, nothing in the preceding sentence shall affect authorized and established procedures for the sale of surplus aircraft or vehicles.

(Added Pub. L. 101–510, div. A, title XIV, §1481(g)(1), Nov. 5, 1990, 104 Stat. 1707, §2550; renumbered §2560, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9025, Nov. 21, 1989, 103 Stat. 1134, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(g)(4).

**AMENDMENTS**

**2000**—Pub. L. 106–398 renumbered section 2550 of this title as this section.

## §2561. Humanitarian assistance

(a) AUTHORIZED ASSISTANCE.—(1) To the extent provided in defense authorization Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

(2) The Secretary of Defense may use the authority provided by paragraph (1) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available. The Secretary may require reimbursement for costs incurred by the Department of Defense to transport supplies under this paragraph.

(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriation Acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

(c) NOTICE BEFORE PROVISION OF ASSISTANCE.—

(1) If the Secretary of Defense uses the authority under subsection (a) to provide assistance for any program or activity in an amount in excess of $5,000,000, the Secretary shall provide to the congressional committees specified in subsection (g) notice in writing of the use of such authority in accordance with paragraph (2). Notice under this subsection shall include an identification of each of the following:

(A) The amount, type, and purpose of assistance to be provided and the recipient of the

assistance.

(B) The goals and objectives of the assistance.

(C) The number and role of any members of the Armed Forces involved in the provision of the assistance.

(D) Any other information the Secretary determines is relevant.

(2) Notice required under paragraph (1) shall be provided—

(A) before the provision of assistance under subsection (a) using funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance; or

(B) not later than 48 hours after the provision of such assistance, if the Secretary determines that extraordinary circumstances that affect the national security interests of the United States exist.

(d) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (g) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

(A) The total amount of funds obligated for humanitarian assistance under this section.

(B) A comprehensive list of humanitarian assistance efforts for which support was provided under this section, disaggregated by foreign partner country, amount obligated, and purpose specified in subsection (b).

(C) A description of the manner in which such efforts address—

(i) the humanitarian needs of the foreign partner country; and

(ii) Department of Defense objectives and broader United States national security objectives.

(D) A description of any transfer of nonlethal excess supplies of the Department of Defense made available for humanitarian relief purposes under section 2557 of this title, including, for each such transfer—

(i) the date of the transfer;

(ii) the entity to which the transfer is made; and

(iii) the quantity of items transferred.

(e) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify the congressional committees specified in subsection (g) and the Committees on Appropriations of the Senate and House of Representatives of the Secretary's intention to provide such transportation. The notification shall be submitted not less than 15 days before the commencement of such transportation.

(f) DEFINITION.—In this section, the term "defense authorization Act" means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including authorizations of appropriations for the activities described in paragraph (7) of section 114(a) of this title.

(g) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1), (d)(1), and (e) are the following:

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(Added Pub. L. 102–484, div. A, title III, §304(c)(1), Oct. 23, 1992, 106 Stat. 2361, §2551; amended Pub. L. 104–106, div. A, title XIII, §1312, Feb. 10, 1996, 110 Stat. 474; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §2561 and amended Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1), (c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 108–136, div. A, title III, §312(d), Nov. 24, 2003, 117 Stat. 1430; Pub. L. 112–239, div. A, title X, §1076(f)(31), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 117–263, div. A, title X, §1053(a), Dec. 23, 2022, 136 Stat. 2777; Pub. L. 118–159, div. A, title XVII, §1702, Dec. 23, 2024, 138 Stat. 2207.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (c). Pub. L. 118–159, §1702(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 118–159, §1702(1), (4), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and substituted "subsection (g)" for "subsection (f)". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 118–159, §1702(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 118–159, §1702(1), (5), redesignated subsec. (f) as (g) and substituted "subsections (c)(1), (d)(1), and (e)" for "subsections (c)(1) and (d)" in introductory provisions.

**2022**—Subsec. (c)(3)(A). Pub. L. 117–263, §1053(a)(1), substituted "assistance" for "relief".

Subsec. (c)(3)(B) to (D). Pub. L. 117–263, §1053(a)(2), added subpars. (B) to (D) and struck out former subpars. (B) and (C) which read as follows:

"(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

"(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2557 of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred."

**2013**—Subsec. (f)(2). Pub. L. 112–239 substituted "Committee on Foreign Affairs" for "Committee on International Relations".

**2003**—Subsec. (a). Pub. L. 108–136 designated existing provisions as par. (1) and added par. (2).

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], renumbered section 2551 of this title as this section.

Subsec. (c)(3)(C). Pub. L. 106–398, §1 [[div. A], title X, §1033(c)(1)], substituted "section 2557" for "section 2547".

**1999**—Subsec. (f)(2). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (b). Pub. L. 104–106, §1312(1), (2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: "AUTHORITY TO TRANSFER FUNDS.—To the extent provided in defense authorization Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purposes of this section to provide for—

"(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

"(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination."

Subsec. (c). Pub. L. 104–106, §1312(1), (3), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(c) TRANSPORTATION OF HUMANITARIAN RELIEF.—(1) Transportation of humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

"(2) Such transportation shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide such transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

"(3) Nothing in this subsection shall be construed as waiving the requirements of section 2631 of this title and sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f)."

Subsec. (d). Pub. L. 104–106, §1312(4), redesignated subsec. (f) as (d) and substituted "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of

Representatives of the" for "the Committees on Appropriations and on Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the". Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 104–106, §1312(3), (5), redesignated subsec. (g) as (e) and struck out former subsec. (e) which required status reports and specified time for submission, coverage, and contents.

Subsec. (f). Pub. L. 104–106, §1312(6), added subsec. (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 104–106, §1312(5), redesignated subsec. (g) as (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NOTIFICATIONS REGARDING HUMANITARIAN RELIEF

Notification provided to appropriate congressional committees with respect to assistance under this section to include detailed description of items for which transportation is provided that are excess nonlethal supplies of Department of Defense, including quantity, acquisition value, and value at time of transportation of such items, see section 1504(c) of Pub. L. 103–160, set out in a Humanitarian and Civic Assistance note under section 401 of this title.

### LAWS COVERED BY INITIAL REPORTS

Pub. L. 102–484, div. A, title III, §304(d), Oct. 28, 1992, 106 Stat. 2362, provided that for purposes of subsec. (e) of this section, section 304 of Pub. L. 102–190 (105 Stat. 1333) and the humanitarian relief laws referred to in section 304(f)(4) of Pub. L. 102–190 (as in effect on the day before Oct. 23, 1992) were to be considered as provisions of law that authorized appropriations for humanitarian assistance to be available for the purposes of this section.

## [§2562. Repealed. Pub. L. 114–328, div. A, title XII, §1253(a)(1)(C), Dec. 23, 2016, 130 Stat. 2532]

Section, added Pub. L. 102–484, div. D, title XLIII, §4304(a), Oct. 23, 1992, 106 Stat. 2699, §2552; renumbered §2562 and amended Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1), (c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 107–217, §3(b)(8), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 107–314, div. A, title X, §1062(e)(1), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 111–350, §5(b)(41), Jan. 4, 2011, 124 Stat. 3846, related to the limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs.

## §2563. Articles and services of industrial facilities: sale to persons outside the Department of Defense

(a) AUTHORITY TO SELL OUTSIDE DOD.—(1) The Secretary of Defense may sell in accordance with this section to a person outside the Department of Defense articles and services referred to in paragraph (2) that are not available from any United States commercial source.

(2)(A) Except as provided in subparagraph (B), articles and services referred to in paragraph (1) are articles and services that are manufactured or performed by any working-capital funded industrial facility of the armed forces.

(B) The authority in this section does not apply to sales of articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, which are governed by regulations required by section 7543 of this title.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate facilities referred to in subsection (a) as the facilities from which articles and services manufactured or performed by such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—(1) A sale of articles or services may be made under this section only if—

(A) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(B) the purchaser agrees to hold harmless and indemnify the United States, except as provided in paragraph (3), from any claim for damages or injury to any person or property arising out of the articles or services;

(C) the articles or services can be substantially manufactured or performed by the industrial facility concerned with only incidental subcontracting;

(D) it is in the public interest to manufacture the articles or perform the services;

(E) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(F) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(2) The Secretary of Defense may waive the condition in paragraph (1)(A) and subsection (a)(1) that an article or service must be not available from a United States commercial source in the case of a particular sale if the Secretary determines that the waiver is necessary for reasons of national security and notifies Congress regarding the reasons for the waiver.

(3) Paragraph (1)(B) does not apply in any case of willful misconduct or gross negligence or in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the Government to comply with quality, schedule, or cost performance requirements in the contract to provide the articles or services.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of manufacture or performance.

(f) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(g) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the manufacture of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "not available", with respect to an article or service proposed to be sold under this section, means that the article or service is unavailable from a commercial source in the required quantity and quality or within the time required.

(3) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

(Added Pub. L. 103–337, div. A, title III, §339(a)(1), Oct. 5, 1994, 108 Stat. 2718, §2553; amended Pub. L. 106–65, div. A, title III, §331(a)(2), (b), Oct. 5, 1999, 113 Stat. 566, 567; renumbered §2563, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 107–107, div. A, title III, §343(a), Dec. 28, 2001, 115 Stat. 1061; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a)(2)(B). Pub. L. 115–232 substituted "section 7543" for "section 4543".

**2001**—Subsec. (c)(1)(B). Pub. L. 107–107, §343(a)(1), substituted "as provided in paragraph (3)" for "in any case of willful misconduct or gross negligence".

Subsec. (c)(3). Pub. L. 107–107, §343(a)(2), added par. (3).

**2000**—Pub. L. 106–398 renumbered section 2553 of this title as this section.

**1999**—Subsec. (c). Pub. L. 106–65, §331(a)(2), designated existing provisions as par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), and added par. (2).

Subsec. (g)(2), (3). Pub. L. 106–65, §331(b), added par. (2) and redesignated former par. (2) as (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title III, §339(b), Oct. 5, 1994, 108 Stat. 2720, provided that: "Section 2553 [now 2563] of title 10, United States Code, as added by subsection (a), shall take effect on April 1, 1995."

## §2564. Provision of support for certain sporting events

(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) OTHER ASSISTANCE.—The Secretary of Defense may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the armed forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 277 of this title and other applicable provisions of law.

(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before September 23, 1996.

(2) The Special Olympics.

(3) The Paralympics.

(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

(5) Any national or international paralympic sporting event (other than a sporting event described in paragraphs (1) through (4))—

(A) that—

(i) is held in the United States or any of its territories or commonwealths;

(ii) is governed by the International Paralympic Committee; and

(iii) is sanctioned by the United States Olympic Committee;

(B) for which participation exceeds 100 amateur athletes; and

(C) in which at least 10 percent of the athletes participating in the sporting event are members or former members of the armed forces who are participating in the sporting event based upon an injury or wound incurred in the line of duty in the armed force and veterans who are participating in the sporting event based upon a service-connected disability.

(d) TERMS AND CONDITIONS.—The Secretary of Defense may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 275 and 276 of this title.

(f) FUNDING FOR SUPPORT OF CERTAIN EVENTS.—(1) Amounts for the provision of support for a sporting event described in paragraph (4) or (5) of subsection (c) may be derived from the Support for International Sporting Competitions, Defense account established by section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 10 U.S.C. 2564 note), notwithstanding any limitation under that section relating to the availability of funds in such account for the provision of support for international sporting competitions.

(2) The total amount expended for any fiscal year to provide support for sporting events described in subsection (c)(5) may not exceed $1,000,000.

(Added Pub. L. 104–201, div. A, title III, §367(a), Sept. 23, 1996, 110 Stat. 2496, §2554; amended Pub. L. 105–85, div. A, title X, §1073(a)(56), (c)(2)(A), Nov. 18, 1997, 111 Stat. 1903, 1904; renumbered §2564, Pub. L. 106–398, §1 [[div. A], title X, §1033(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260; Pub. L. 110–181, div. A, title III, §372(a), Jan. 28, 2008, 122 Stat. 81; Pub. L. 115–91, div. A, title X, §1051(a)(20), Dec. 12, 2017, 131 Stat. 1561.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b)(3). Pub. L. 115–91, §1051(a)(20)(A), substituted "section 277" for "section 377".

Subsec. (e). Pub. L. 115–91, §1051(a)(20)(D), substituted "sections 275 and 276" for "sections 375 and 376". Directory language which read "by 'striking sections 375 and 376' " was executed as if it had read "by striking 'sections 375 and 376' ", to reflect the probable intent of Congress.

Pub. L. 115–91, §1051(a)(20)(B), (C), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required reports on assistance provided under this section.

Subsecs. (f), (g). Pub. L. 115–91, §1051(a)(20)(C), redesignated subsecs. (f) and (g) as (e) and (f), respectively.

**2008**—Subsec. (c)(4), (5). Pub. L. 110–181, §372(a)(1), added pars. (4) and (5).

Subsec. (g). Pub. L. 110–181, §372(a)(2), added subsec. (g).

**2000**—Pub. L. 106–398 renumbered section 2554 of this title as this section.

**1997**—Pub. L. 105–85, §1073(c)(2)(A), made technical amendment to directory language of Pub. L. 104–201, §367(a), which enacted this section.

Subsec. (c)(1). Pub. L. 105–85, §1073(a)(56), substituted "September 23, 1996" for "the date of the enactment of this Act".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

References to the United States Olympic Committee deemed to refer to the United States Olympic and Paralympic Committee, see section 220502(c) of Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

**SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE, ACCOUNT**

Pub. L. 104–208, div. A, title V, §5802, Sept. 30, 1996, 110 Stat. 3009–522, as amended by Pub. L. 110–181, div. A, title III, §372(b), Jan. 28, 2008, 122 Stat. 82, provided that: "There is hereby established on the books of the Treasury an account, 'Support for International Sporting Competitions, Defense' (hereinafter referred to in this section as the 'Account') to be available until expended for logistical and security support for international sporting competitions and for support of sporting competitions authorized under section 2564(c)(4) and (5), of title 10, United States Code, (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty in connection with providing such support): *Provided*, That there shall be credited to the Account: (a) unobligated balances of the funds appropriated in Public Laws 103–335 [108 Stat. 2605] and 104–61 [109 Stat. 642] under the headings 'Summer Olympics'; (b) any reimbursements received by the Department of Defense in connection with support to the 1993 World University Games; the 1994 World Cup Games; and the 1996 Games of the XXVI Olympiad held in Atlanta, Georgia; (c) any reimbursements received by the Department of Defense after the date of enactment of this Act [Sept. 30, 1996] for logistical and security support provided to international sporting competitions; and (d) amounts specifically appropriated to the Account, all to remain available until expended: *Provided further*, That none of the funds made available to the Account may be obligated until 15 days after the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] have been notified in writing by the Secretary of Defense as to the purpose for which these funds will be obligated."

## §2564a. Provision of assistance for adaptive sports programs: members of the armed forces; certain veterans

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Defense may establish a military adaptive sports program to support the provision of adaptive sports programming for—

(A) any member of the armed forces who is eligible to participate in adaptive sports because of an injury, illness, or wound incurred in the line of duty in the armed forces; and

(B) any veteran (as defined in section 101 of title 38), during the one-year period following the veteran's date of separation, who—

(i) is on the Temporary Disability Retirement List or Permanently Disabled Retirement List;

(ii) is eligible to participate in adaptive sports because of an injury, illness, or wound incurred in the line of duty in the armed forces; and

(iii) was enrolled in the program authorized under this section prior to the veteran's date of separation.

(2) In establishing the military adaptive sports program, the Secretary of Defense shall—

(A) consult with the Secretary of Veterans Affairs; and

(B) avoid duplicating programs conducted by the Secretary of Veterans Affairs under section 521A of title 38.

(b) PROVISION OF ASSISTANCE; PURPOSE.—(1) Under such criteria as the Secretary of Defense may establish under the military adaptive sports program, the Secretary may award grants

to, or enter into contracts and cooperative agreements with, entities for the purpose of planning, developing, managing, and implementing adaptive sports programming for members and veterans described in subsection (a).

(2) The Secretary of Defense shall use competitive procedures to award any grant or to enter into any contract or cooperative agreement under this subsection.

(c) USE OF ASSISTANCE.—Assistance provided under the military adaptive sports program shall be used—

(1) for the purposes specified in subsection (b); and

(2) for such related activities and expenses as the Secretary of Defense may authorize.

(Added Pub. L. 112–81, div. A, title V, §589(a), Dec. 31, 2011, 125 Stat. 1437; amended Pub. L. 116–92, div. A, title V, §592(a)–(c)(1), Dec. 20, 2019, 133 Stat. 1414, 1415.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92, §592(c)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Provision of assistance for adaptive sports programs for members of the armed forces".

Subsec. (a)(1). Pub. L. 116–92, §592(a), substituted "for—" and subpars. (A) and (B) for "for members of the armed forces who are eligible to participate in adaptive sports because of an injury or wound incurred in the line of duty in the armed forces."

Subsec. (b). Pub. L. 116–92, §592(b), inserted "and veterans" after "members".

## §2565. Nuclear test monitoring equipment: furnishing to foreign governments

(a) AUTHORITY TO TRANSFER TITLE TO OR OTHERWISE PROVIDE NUCLEAR TEST MONITORING EQUIPMENT.—Subject to subsection (b), the Secretary of Defense may—

(1) transfer title or otherwise provide to a foreign government (A) equipment for the monitoring of nuclear test explosions, and (B) associated equipment;

(2) as part of any such conveyance or provision of equipment, install such equipment on foreign territory or in international waters; and

(3) inspect, test, maintain, repair, or replace any such equipment.

(b) AGREEMENT REQUIRED.—Nuclear test explosion monitoring equipment may be provided to a foreign government under subsection (a) only pursuant to the terms of an agreement between the United States and the foreign government receiving the equipment in which the recipient foreign government agrees—

(1) to provide the United States with timely access to the data produced, collected, or generated by the equipment; and

(2) to permit the Secretary of Defense to take such measures as the Secretary considers necessary to inspect, test, maintain, repair, or replace that equipment, including access for purposes of such measures.

(c) REPORT.—Promptly after entering into any agreement under subsection (b), the Secretary of Defense shall submit to Congress a report on the agreement. The report shall identify the country with which the agreement was made, the anticipated costs to the United States to be incurred under the agreement, and the national interest of the United States that is furthered by the agreement.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may delegate the authority of the Secretary to carry out this section only to the Secretary of the Air Force. Such a delegation may be redelegated.

(Added Pub. L. 106–398, §1 [[div. A], title XII, §1203(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–324, §2555; renumbered §2565 and amended Pub. L. 107–107, div. A, title XII, §1201(a)(1), (b), Dec. 28, 2001, 115 Stat. 1245.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–107, §1201(a)(1), renumbered section 2555 of this title as this section.

Subsec. (a). Pub. L. 107–107, §1201(b)(1)(A), substituted "Transfer Title to or Otherwise" for "Convey or" in heading.

Subsec. (a)(1). Pub. L. 107–107, §1201(b)(1)(B), substituted "transfer title" for "convey" and struck out "and" after semicolon at end.

Subsec. (a)(3). Pub. L. 107–107, §1201(b)(1)(C), (D), added par. (3).

Subsec. (b). Pub. L. 107–107, §1201(b)(2)(A), substituted "provided to a foreign government" for "conveyed or otherwise provided" in introductory provisions.

Subsec. (b)(1). Pub. L. 107–107, §1201(b)(2)(B), inserted "and" after semicolon at end.

Subsec. (b)(2). Pub. L. 107–107, §1201(b)(2)(C), substituted a period for "; and" at end.

Subsec. (b)(3). Pub. L. 107–107, §1201(b)(2)(D), struck out par. (3) which read as follows: "to return such equipment to the United States (or allow the United States to recover such equipment) if either party determines that the agreement no longer serves its interests."

## §2566. Space and services: provision to military welfare societies

(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—The Secretary concerned may provide, without charge, space and services under the jurisdiction of that Secretary to a military welfare society.

(b) DEFINITIONS.—In this section:

(1) The term "military welfare society" means the following:

(A) The Army Emergency Relief Society.

(B) The Navy-Marine Corps Relief Society.

(C) The Air Force Aid Society, Inc.

(D) The Coast Guard Mutual Assistance.

(2) The term "services" includes lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone and other information technology services (including installation of lines and equipment, connectivity, and other associated services), and security systems (including installation and other associated expenses).

(Added Pub. L. 107–314, div. A, title X, §1066(a), Dec. 2, 2002, 116 Stat. 2656; amended Pub. L. 117–81, div. A, title X, §1043, Dec. 27, 2021, 135 Stat. 1903.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 117–81, §1043(1), substituted "concerned" for "of a military department".

Subsec. (b)(1)(D). Pub. L. 117–81, §1043(2), added subpar. (D).

## §2567. Space and services: provision to WIC offices

(a) ALLOTMENT OF SPACE AND PROVISION OF SERVICES AUTHORIZED.—Upon application by a WIC office, the Secretary of a military department may allot space on a military installation under the jurisdiction of the Secretary to the WIC office without charge for rent or services if the Secretary determines that—

(1) the WIC office provides or will provide services solely to members of the armed forces assigned to the installation, civilian employees of the Department of Defense employed at the installation, or dependents of such members or employees;

(2) space is available on the installation;

(3) operation of the WIC office will not hinder military mission requirements; and

(4) the security situation at the installation permits the presence of a non-Federal entity on the installation.

(b) DEFINITIONS.—In this section:

(1) The term "services" includes the provision of lighting, heating, cooling, and electricity.

(2) The term "WIC office" means a local agency (as defined in subsection (b)(6) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)) that participates in the special supplemental nutrition program for women, infants, and children under such section.

(Added Pub. L. 114–328, div. B, title XXVIII, §2812(a), Dec. 23, 2016, 130 Stat. 2716.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2567, added Pub. L. 109–364, div. A, title X, §1076(b)(1), Oct. 17, 2006, 120 Stat. 2405, which related to supplies, services, and equipment: provision in major public emergencies, was repealed by Pub. L. 110–181, div. A, title X, §1068(b)(1), Jan. 28, 2008, 122 Stat. 326.

## §2568. Retention of combat uniforms by members deployed in support of contingency operations

The Secretary of a military department may authorize a member of the armed forces under the jurisdiction of the Secretary who has been deployed in support of a contingency operation for at least 30 days to retain, after that member is no longer so deployed, the combat uniform issued to that member as organizational clothing and individual equipment.

(Added Pub. L. 110–181, div. A, title III, §376(a), Jan. 28, 2008, 122 Stat. 84.)

## §2568a. Damaged personal protective equipment: award to members separating from the Armed Forces and veterans

(a) IN GENERAL.—The Secretary of a military department, acting through a disposition service distribution center of the Defense Logistics Agency, may award to a covered individual the demilitarized PPE of that covered individual. The award of PPE under this section shall be without cost to the covered individual.

(b) DEFINITIONS.—In this section:

(1) The term "covered individual" means—

(A) a member of the armed forces—

(i) under the jurisdiction of the Secretary concerned; and

(ii) who is separating from the armed forces; or

(B) a veteran who was under the jurisdiction of the Secretary concerned while a member of the armed forces.

(2) The term "PPE" means personal protective equipment that was damaged in combat or otherwise—

(A) during the deployment of a covered individual; and

(B) after September 11, 2001.

(Added Pub. L. 115–232, div. A, title VI, §623(a), Aug. 13, 2018, 132 Stat. 1800.)

# CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF

# OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

Sec.
2571. Interchange of supplies and services.
2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange.
[2573. Repealed.]
2574. Armament: sale of individual pieces.
2575. Disposition of unclaimed property.
2576. Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies.
2576a. Excess personal property: sale or donation for law enforcement activities.
2576b. Excess personal property: sale or donation to assist firefighting agencies.
2577. Disposal of recyclable materials.
2578. Vessels: transfer between departments.
2579. War booty: procedures for handling and retaining battlefield objects.
2580. Donation of excess chapel property.
2581. Excess UH–1 Huey and AH–1 Cobra helicopters: requirements for transfer to foreign countries.
[2582. Repealed.]
2583. Military animals: transfer and adoption.

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 112–81, div. A, title X, §1061(19)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 2582 "Military equipment identified on United States munitions list: annual report of public sales".

Pub. L. 111–383, div. A, title X, §1072(c)(2), Jan. 7, 2011, 124 Stat. 4366, substituted "Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies" for "Surplus military equipment: sale to State and local law enforcement and firefighting agencies" in item 2576.

**2006**—Pub. L. 109–364, div. A, title III, §352(b), div. B, title XXVIII, §2825(d)(1)(B), Oct. 17, 2006, 120 Stat. 2161, 2477, substituted "supplies" for "property" in item 2571 and "animals" for "working dogs" in item 2583.

Pub. L. 109–163, div. A, title V, §599(d), Jan. 6, 2006, 119 Stat. 3284, struck out "at end of useful working life" after "adoption" in item 2583.

**2001**—Pub. L. 107–107, div. A, title X, §1048(a)(25), Dec. 28, 2001, 115 Stat. 1224, redesignated item 2582 relating to military working dogs as item 2583.

**2000**—Pub. L. 106–446, §1(b), Nov. 6, 2000, 114 Stat. 1933, added item 2582 relating to military working dogs.

Pub. L. 106–398, §1 [[div. A], title III, §381(b), title XVII, §1706(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–85, 1654A–367, added items 2576b and 2582 relating to military equipment identified on United States munitions list.

**1998**—Pub. L. 105–261, div. A, title XII, §1234(b), Oct. 17, 1998, 112 Stat. 2157, added item 2581.

**1997**—Pub. L. 105–85, div. A, title X, §1063(b), Nov. 18, 1997, 111 Stat. 1893, added item 2580.

**1996**—Pub. L. 104–201, div. A, title X, §1033(a)(2), Sept. 23, 1996, 110 Stat. 2640, added item 2576a.

**1993**—Pub. L. 103–160, div. A, title XI, §1171(a)(2), Nov. 30, 1993, 107 Stat. 1766, added item 2579.

**1988**—Pub. L. 100–456, div. A, title III, §324(b), Sept. 29, 1988, 102 Stat. 1954, substituted "Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange" for "Condemned or obsolete material: loan or gift to certain organizations" in item 2572.

Pub. L. 100–370, §1(k)(2), July 19, 1988, 102 Stat. 848, added item 2578.

**1982**—Pub. L. 97–214, §6(b)(2), July 12, 1982, 96 Stat. 172, added item 2577.

**1980**—Pub. L. 96–513, title V, §511(83)(B), Dec. 12, 1980, 94 Stat. 2927, struck out item 2573 "Excess property: transfers to Canal Zone Government".

**1968**—Pub. L. 90–500, title IV, §403(b), Sept. 20, 1968, 82 Stat. 851, added item 2576.

**1958**—Pub. L. 85–861, §1(50), Sept. 2, 1958, 72 Stat. 1459, substituted "property" for "supplies" in item 2571.

**IDENTIFICATION AND REPLACEMENT OF OBSOLETE ELECTRONIC PARTS**

Pub. L. 113–66, div. A, title VIII, §803, Dec. 26, 2013, 127 Stat. 805, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall implement a process for the expedited identification and replacement of obsolete electronic parts included in acquisition programs of the Department of Defense.

"(b) ISSUES TO BE ADDRESSED.—At a minimum, the expedited process established pursuant to subsection (a) shall—

"(1) include a mechanism pursuant to which contractors, or other sources of supply, may provide to appropriate Department of Defense officials information that identifies—

"(A) obsolete electronic parts that are included in the specifications for an acquisition program of the Department of Defense; and

"(B) suitable replacements for such electronic parts;

"(2) specify timelines for the expedited review and validation of information submitted by contractors, or other sources of supply, pursuant to paragraph (1);

"(3) specify procedures and timelines for the rapid submission and approval of engineering change proposals needed to accomplish the substitution of replacement parts that have been validated pursuant to paragraph (2);

"(4) provide for any incentives for contractor participation in the expedited process that the Secretary may determine to be appropriate; and

"(5) provide that, in addition to the responsibilities under section 2337 of title 10, United States Code [now 10 U.S.C. 4324], a product support manager for a major weapon system shall work to identify obsolete electronic parts that are included in the specifications for an aquisition program of the Department of Defense and approve suitable replacements for such electronic parts.

"(c) ADDITIONAL MATTERS.—For the purposes of this section—

"(1) an electronic part is obsolete if—

"(A) the part is no longer in production; and

"(B) the original manufacturer of the part and its authorized dealers do not have sufficient parts in stock to meet the requirements of such an acquisition program; and

"(2) an electronic part is a suitable replacement for an obsolete electronic part if—

"(A) the part could be substituted for an obsolete part without incurring unreasonable expense and without degrading system performance; and

"(B) the part is or will be available in sufficient quantity to meet the requirements of such an acquisition program."

## §2571. Interchange of supplies and services

(a) If either of the Secretaries concerned requests it and the other approves, supplies may be transferred, without compensation, from one armed force to another.

(b)(1) If its head approves, a department or organization within the Department of Defense may, upon request, perform work and services for, or furnish supplies to, any other of those departments or organizations, with or without reimbursement or transfer of funds.

(2) Use of the authority under this section for reimbursable support is limited to support for the purpose of providing assistance to a foreign partner pursuant to section 333 and section 345 of this title.

(c) If military or civilian personnel of a department or organization within the Department of Defense are assigned or detailed to another of those departments or organizations, and if the head of the department or organization to which they are transferred approves, their pay and allowances and the cost of transporting their dependents and household goods may be charged to an appropriation that is otherwise available for those purposes to that department or organization.

(d) No agency or official of the executive branch of the Federal Government may establish any regulation, program, or policy or take any other action which precludes, directly or indirectly, the Secretaries concerned from exercising the authority provided in this section.

(e)(1) An order placed by a department or organization on a reimbursable basis pursuant to subsection (b) shall be considered to be an obligation in the same manner as an order placed under section 6307 of title 41.

(2) Amounts received as reimbursement shall be credited in accordance with section 2205 of this title to the appropriation of the supporting department or organization used in incurring the obligation in the year or years that support is provided.

(Aug. 10, 1956, ch. 1041, 70A Stat. 143; Pub. L. 85–861, §1(49), Sept. 2, 1958, 72 Stat. 1459; Pub. L. 99–167, title VIII, §821, Dec. 3, 1985, 99 Stat. 991; Pub. L. 109–364, div. B, title XXVIII, §2825(c)(1), (d)(1)(A), Oct. 17, 2006, 120 Stat. 2477; Pub. L. 117–81, div. A, title XII, §1202, Dec. 27, 2021, 135 Stat. 1958.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2571(a) [now (b)] | 5:171t (less clause (2)). | Oct. 29, 1949, ch. 787, §621, 63 Stat. 1020. |
| 2571(b) [now (c)] | 5:171t (clause 2)). | |

In subsection (a), the words "After June 30, 1949" are omitted as executed. The words "may perform work and services for, or furnish supplies to" are substituted for the words "services, work, supplies, materials, and equipment may be rendered or supplied", since the word "supplies", as defined in section 101(26) of this title, includes "equipment" and "material". The words "upon request" are inserted for clarity.

In subsection (b), the words "on a reimbursable or other basis as authorized by law", "to duty", and "naval" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2571(a) | 14:640. | June 15, 1955, ch. 142, 69 Stat. 134. |

In subsection (a), the first 12 words are substituted for 14:640 (last 20 words). The words "may be transferred" are substituted for the words "The interchange . . . is authorized", since the words "without compensation" authorize a simple one-way transfer, while the word "interchange" normally means a mutual exchange. The words "military stores . . . and equipment of every character" are omitted as covered by the word "supplies" as defined in section 101(26) of this title. The words "armed force" are substituted for the enumeration of the armed forces.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 117–81, §1202(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "If its head approves, a department or organization within the Department of Defense may, upon request, perform work and services for, or furnish supplies to, any other of those departments or organizations, without reimbursement or transfer of funds."

Subsec. (e). Pub. L. 117–81, §1202(2), added subsec. (e).

**2006**—Pub. L. 109–364, §2825(d)(1)(A), substituted "supplies" for "property" in section catchline.

Subsec. (a). Pub. L. 109–364, §2825(c)(1), struck out "and real estate" after "supplies".

**1985**—Subsec. (d). Pub. L. 99–167 added subsec. (d).

**1958**—Pub. L. 85–861, §1(49)(A), substituted "property" for "supplies" in section catchline.

Subsecs. (a) to (c). Pub. L. 85–861, §1(49)(B), (C), added subsec. (a) and redesignated former subsecs. (a) and (b) as (b) and (c), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DISTRIBUTION TO INDIAN HEALTH SERVICE FACILITIES AND CERTAIN HEALTH CENTERS; PROPERTY DISPOSAL PRIORITY

Pub. L. 110–329, div. C, title VIII, §8075, Sept. 30, 2008, 122 Stat. 3638, provided that:

"(a) During the current fiscal year and hereafter, the Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

"(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment."

## §2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange

(a) The Secretary concerned may lend or give items described in subsection (c) that are not needed by the military department concerned (or by the Coast Guard, in the case of the Secretary of Homeland Security), to any of the following:

(1) A municipal corporation, county, or other political subdivision of a State.

(2) A servicemen's monument association.

(3) A museum, historical society, or historical institution of a State or a foreign nation or a nonprofit military aviation heritage foundation or association incorporated in a State.

(4) An incorporated museum or memorial that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.

(5) A post of the Veterans of Foreign Wars of the United States or of the American Legion or a unit of any other recognized war veterans' association.

(6) A local or national unit of any war veterans' association of a foreign nation which is recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).

(7) A post of the Sons of Veterans Reserve.

(b)(1) Subject to paragraph (2), the Secretary concerned may exchange items described in subsection (c) that are not needed by the armed forces for any of the following items or services if such items or services directly benefit the historical collection of the armed forces:

(A) Similar items held by any individual, organization, institution, agency, or nation.

(B) Conservation supplies, equipment, facilities, or systems.

(C) Search, salvage, or transportation services.

(D) Restoration, conservation, or preservation services.

(E) Educational programs.

(2) The Secretary concerned may not make an exchange under paragraph (1) unless the monetary value of property transferred, or services provided, to the United States under the exchange is not less than the value of the property transferred by the United States. The Secretary concerned may waive the limitation in the preceding sentence in the case of an exchange of property for property in any case in which the Secretary determines that the item to be received by the United States in the exchange will significantly enhance the historical collection of the property administered by the Secretary.

(c) This section applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

(d)(1) A loan or gift made under this section shall be subject to regulations prescribed by the Secretary concerned and to regulations under section 121 of title 40. The Secretary concerned shall ensure that an item authorized to be donated under this section is demilitarized in the interest of public safety, as determined necessary by the Secretary or the Secretary's delegee.

(2)(A) Except as provided in subparagraph (B), the United States may not incur any expense in connection with a loan or gift under subsection (a), including any expense associated with

demilitarizing an item under paragraph (1), for which the recipient of the item shall be responsible.

(B) The Secretary concerned may, without cost to the recipient, demilitarize, prepare, and transport in the continental United States for donation to a recognized war veterans' association an item authorized to be donated under this section if the Secretary determines the demilitarization, preparation, and transportation can be accomplished as a training mission without additional budgetary requirements for the unit involved.

(e)(1) Except as provided in paragraph (3), and notwithstanding this section or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or an entity controlled by a foreign government, or otherwise transfer or convey such an object to any person or entity for purposes of the ultimate transfer or conveyance of the object to a foreign country or entity controlled by a foreign government.

(2) In this subsection:

(A) The term "entity controlled by a foreign government" has the meaning given that term in section 4874(c)(1) of this title.

(B) The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(i) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(ii) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the armed forces; and

(iii) was brought to the United States from abroad before 1907 as a memorial of combat abroad.

(3) The prohibition imposed by paragraph (1) does not apply to a transfer of a veterans memorial object if—

(A) the transfer of that veterans memorial object is specifically authorized by law; or

(B) the transfer is made after September 30, 2022.

(Aug. 10, 1956, ch. 1041, 70A Stat. 143; Pub. L. 96–513, title V, §511(82), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 100–456, div. A, title III, §324(a), Sept. 29, 1988, 102 Stat. 1954; Pub. L. 101–510, div. A, title III, §325, Nov. 5, 1990, 104 Stat. 1531; Pub. L. 102–484, div. A, title III, §373, Oct. 23, 1992, 106 Stat. 2385; Pub. L. 103–337, div. A, title X, §1071, Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–106, div. A, title III, §372, Feb. 10, 1996, 110 Stat. 280; Pub. L. 107–107, div. A, title X, §1043(d), Dec. 28, 2001, 115 Stat. 1219; Pub. L. 107–217, §3(b)(9), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title III, §369, Dec. 2, 2002, 116 Stat. 2524; Pub. L. 110–417, [div. A], title III, §352, Oct. 14, 2008, 122 Stat. 4425; Pub. L. 112–239, div. A, title III, §355(a), Jan. 2, 2013, 126 Stat. 1702; Pub. L. 115–91, div. B, title XXVIII, §2864(a), (b), Dec. 12, 2017, 131 Stat. 1869; Pub. L. 116–283, div. A, title XVIII, §1870(d)(4), Jan. 1, 2021, 134 Stat. 4286; Pub. L. 117–81, div. A, title XVII, §1701(t)(4), Dec. 27, 2021, 135 Stat. 2150.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2572 | 5:150p. | May 22, 1896, ch. 231; restated May 26, 1928, ch. 785; restated Feb. 28, 1933, ch. 137; restated June 19, 1940, ch. 398; July 31, 1947, ch. 421; restated Feb. 27, 1948, ch. 76, §1, 62 Stat. 37; Oct. 31, 1951, ch. 654, §2(2), 65 Stat. 706. |

The word "may" is substituted for the words "are each authorized, in their discretion". The reference to posts of the Grand Army of the Republic is omitted, since that organization disbanded in 1950. The words "under regulations to be prescribed by him" are substituted for the words "subject to rules and regulations

covering the same in each department". The words "without expense to the United States" are substituted for the words "and the Government shall be at no expense in connection with any such loan or gift". The words "local unit" are inserted in clause (7) to conform to clauses (5), (6), and (8).

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (e)(2)(A). Pub. L. 116–283, §1870(d)(4), as amended by Pub. L. 117–81, §1701(t)(4), substituted "section 4874(c)(1)" for "section 2536(c)(1)".

**2017**—Subsec. (e)(2)(B)(iii). Pub. L. 115–91, §2864(a), substituted "from abroad before 1907" for "from abroad".

Subsec. (e)(3)(B). Pub. L. 115–91, §2864(b), substituted "September 30, 2022" for "September 30, 2017".

**2013**—Subsec. (e). Pub. L. 112–239 added subsec. (e).

**2008**—Subsec. (d)(1). Pub. L. 110–417, §352(1), inserted at end "The Secretary concerned shall ensure that an item authorized to be donated under this section is demilitarized in the interest of public safety, as determined necessary by the Secretary or the Secretary's delegee."

Subsec. (d)(2)(A). Pub. L. 110–417, §352(2), inserted ", including any expense associated with demilitarizing an item under paragraph (1), for which the recipient of the item shall be responsible" before period at end.

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in introductory provisions.

Subsec. (a)(3). Pub. L. 107–314 inserted before period at end "or a nonprofit military aviation heritage foundation or association incorporated in a State".

Subsec. (d)(1). Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**2001**—Subsec. (a)(1). Pub. L. 107–107, §1043(d)(1), inserted ", county, or other political subdivision of a State" before period at end.

Subsec. (a)(2). Pub. L. 107–107, §1043(d)(2), substituted "servicemen's monument" for "soldiers' monument".

Subsec. (a)(4). Pub. L. 107–107, §1043(d)(3), inserted "or memorial" after "An incorporated museum".

**1996**—Subsec. (b)(1). Pub. L. 104–106 substituted "not needed by the armed forces for any of the following items or services if such items or services directly benefit the historical collection of the armed forces:" for "not needed by the armed forces for similar items held by any individual, organization, institution, agency, or nation or for search, salvage, transportation, and restoration services which directly benefit the historical collection of the armed forces." and added subpars. (A) to (E).

**1994**—Subsec. (b)(1). Pub. L. 103–337 inserted "transportation," after "salvage,".

**1992**—Subsec. (d)(2). Pub. L. 102–484 designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), the" for "The", and added subpar. (B).

**1990**—Subsec. (b)(1). Pub. L. 101–510, §325(1), inserted before period at end "or for search, salvage, and restoration services which directly benefit the historical collection of the armed forces".

Subsec. (b)(2). Pub. L. 101–510, §325(2), inserted ", or services provided," after "monetary value of property transferred" in first sentence and "in the case of an exchange of property for property" after "preceding sentence" in second sentence.

**1988**—Pub. L. 100–456 substituted "Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange" for "Condemned or obsolete material: loan or gift to certain organizations" in section catchline, and amended text generally. Prior to amendment, text read as follows: "Subject to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of a military department, or the Secretary of Transportation, under regulations to be prescribed by him, may lend or give, without expense to the United States, books, manuscripts, works of art, drawings, plans, models, and condemned or obsolete combat material that are not needed by that department to—

"(1) a municipal corporation;

"(2) a soldiers' monument association;

"(3) a State museum;

"(4) an incorporated museum, operated and maintained for educational purposes only, whose charter denies it the right to operate for profit;

"(5) a post of the Veterans of Foreign Wars of the United States;

"(6) a post of the American Legion;

"(7) a local unit of any other recognized war veterans' association; or

"(8) a post of the Sons of Veterans Reserve."

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of a military department or the Secretary of Transportation" for "section 486 of title 40, the Secretary of a military department or the Secretary of the Treasury".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. B, title XXVIII, §2864(d), Dec. 12, 2017, 131 Stat. 1869, provided that: "The amendments made by this section [amending this section] shall take effect October 1, 2017."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### PROHIBITION ON DESTRUCTION OR SCRAPPING OF WORLD WAR II–ERA AIRCRAFT

Pub. L. 119–60, div. A, title X, §1051, Dec. 18, 2025, 139 Stat. 1042, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not destroy, dismantle, scrap, cannibalize, or otherwise render permanently inoperable any aircraft that—

"(1) was manufactured prior to December 31, 1945; and

"(2) is in the custody or administrative control of the Department of the Air Force as of the date of the enactment of this Act [Dec. 18, 2025].

"(b) AUTHORIZED DISPOSITIONS.—Aircraft described in subsection (a) may only be—

"(1) retained in the inventory of the Department of the Air Force;

"(2) transferred to an eligible entity; or

"(3) deaccessioned under a plan approved by the Secretary of Defense that supports the long-term preservation of such aircraft, consistent with guidelines described in the report of the Committee on Armed Services of the Senate accompanying S. 2296 of the 119th Congress (S. Rept. 119–39).

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition under subsection (a) on a case-by-case basis only if—

"(1) the aircraft is determined by qualified personnel of the Air Force or another eligible entity to be beyond practical restoration or preservation;

"(2) no eligible entity expresses interest in accepting the aircraft within the one-year period following the publication of public notice of the availability of the aircraft for transfer;

"(3) the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written notification and justification of the waiver; and

"(4) a period of 30 days has elapsed following the date of such submission.

"(d) DEFINITIONS.—In this section:

"(1) The term 'aircraft' includes fixed-wing and rotary-wing manned aircraft.

"(2) The term 'eligible entity' means—

"(A) the National Museum of the United States Air Force or another official Department of Defense museum; or

"(B) a Federal department or agency, nonprofit institution, or museum, with demonstrated indoor

preservation and public display capabilities."

**ACQUISITION OF HISTORICAL ARTIFACTS THROUGH EXCHANGE OF OBSOLETE OR SURPLUS PROPERTY**

Pub. L. 108–136, div. A, title X, §1052, Nov. 24, 2003, 117 Stat. 1614, provided that, during fiscal years 2004 and 2005, the Secretary of a military department could use the authority provided by this section to acquire an historical artifact that directly benefitted the historical collection of the Armed Forces in exchange for any obsolete or surplus property held by that military department, without regard to whether the property was described in subsec. (c) of this section.

**MORATORIUM ON THE RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW**

Pub. L. 106–65, div. A, title X, §1051, Oct. 5, 1999, 113 Stat. 763, as amended by Pub. L. 109–163, div. A, title X, §1061, Jan. 6, 2006, 119 Stat. 3445, established a moratorium period during which the President was prohibited from transferring a veterans memorial object to a foreign country or an entity controlled by a foreign government unless specifically authorized by law, prior to repeal by Pub. L. 112–239, div. A, title III, §355(b), Jan. 2, 2013, 126 Stat. 1702.

## [§2573. Repealed. Pub. L. 96–513, title V, §511(83)(A), Dec. 12, 1980, 94 Stat. 2927]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 143, related to transfer of excess property to the Canal Zone Government.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §2574. Armament: sale of individual pieces

A piece of armament that can be advantageously replaced, and that is not needed for its historical value, may be sold by the military department having jurisdiction over it for not less than cost, if the Secretary concerned considers that there are adequate sentimental reasons for the sale.

(Aug. 10, 1956, ch. 1041, 70A Stat. 144.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2574 | 10:1262b.<br>34:545.<br>50:69. | Mar. 2, 1905, ch. 1307 (last 55 words of last par. under "Ordnance Department"), 33 Stat. 841. |

The words "by the military department having jurisdiction over it" are inserted for clarity. The words "if the Secretary concerned considers" are substituted for the words "when there exist * * * in the judgment of the Secretary".

## §2575. Disposition of unclaimed property

(a) The Secretary of any military department, and the Secretary of Homeland Security, under such regulations as they may respectively prescribe, may each by public or private sale or otherwise, dispose of all lost, abandoned, or unclaimed personal property that comes into the custody or control of the Secretary's department, other than property subject to section 7712, 8392, or 9712 of this title

or subject to subsection (c). However, property may not be disposed of until diligent effort has been made to find the owner (or the heirs, next of kin, or legal representative of the owner). The diligent effort to find the owner (or the heirs, next of kin, or legal representative of the owner) shall begin, to the maximum extent practicable, not later than seven days after the date on which the property comes into the custody or control of the Secretary. The period for which that effort is continued may not exceed 45 days. If the owner (or the heirs, next of kin, or legal representative of the owner) is determined but not found, the property may not be disposed of until the expiration of 45 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at his last known address. When diligent effort to determine the owner (or heirs, next of kin, or legal representative of the owner) is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of more than $300, the Secretary may not dispose of the property until 45 days after the date it is received at a storage point designated by the Secretary.

(b)(1) In the case of lost, abandoned, or unclaimed personal property found on a military installation, the proceeds from the sale of the property under this section shall be credited to the operation and maintenance account of that installation and used—

(A) to reimburse the installation for any costs incurred by the installation to collect, transport, store, protect, or sell the property; and

(B) to the extent that the amount of the proceeds exceeds the amount necessary for reimbursing all such costs, to support morale, welfare, and recreation activities under the jurisdiction of the armed forces that are conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces at such installation.

(2) The net proceeds from the sale of other property under this section shall be covered into the Treasury as miscellaneous receipts.

(c) No property covered by this section may be delivered to the Armed Forces Retirement Home by the Secretary of a military department, except papers of value, sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes.

(d)(1) The owner (or heirs, next of kin, or legal representative of the owner) of personal property the proceeds of which are credited to a military installation under subsection (b)(1) may file a claim with the Secretary of Defense for the amount equal to the proceeds (less costs referred to in subparagraph (A) of such subsection). Amounts to pay the claim shall be drawn from the morale, welfare, and recreation account for the installation that received the proceeds.

(2) The owner (or heirs, next of kin, or legal representative of the owner) may file a claim with the Secretary of Defense for proceeds covered into the Treasury under subsection (b)(2).

(3) Unless a claim is filed under this subsection within 5 years after the date of the disposal of the property to which the claim relates, the claim may not be considered by a court, the Secretary of Defense (in the case of a claim filed under paragraph (1)), or the Secretary of Defense (in the case of a claim filed under paragraph (2)).

(Aug. 10, 1956, ch. 1041, 70A Stat. 144; Pub. L. 89–143, Aug. 28, 1965, 79 Stat. 581; Pub. L. 96–513, title V, §511(84), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 101–189, div. A, title III, §322(a), (b), title XVI, §1622(f)(1), Nov. 29, 1989, 103 Stat. 1413, 1605; Pub. L. 101–510, div. A, title XV, §1533(a)(2), Nov. 5, 1990, 104 Stat. 1733; Pub. L. 104–106, div. A, title III, §374(a), Feb. 10, 1996, 110 Stat. 281; Pub. L. 104–316, title II, §202(d), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2575(a) | 5:150e.<br>5:150h.<br>[Uncodified: Apr. 14, 1949, ch. | Apr. 14, 1949, ch. 50, 63 Stat. 45. |

| | | |
|---|---|---|
| | 50, §6, 63 Stat. 45]. | |
| 2575(b) | 5:150f. | |
| | 5:150g. | |
| 2575(c) | 5:150i. | |

In subsection (a), the words "under such regulations as they may respectively prescribe" are substituted for 5:150h. The words "other than property * * * subject to subsection (c)" of this section are substituted for the words "subject to the provisions of section 150i of this title". The words "other than property subject to sections 4712, 4713, 6522, 9712, or 9713 of this title" are inserted, since uncodified section 6 of the source statute provided that the source statute for this revised section did not repeal or amend the source statutes for those revised sections. The words "that comes into" are substituted for the words "which is now or may hereafter come into". The word "possession" is omitted as covered by the words "custody or control". The words "However, property may not be disposed of until" are inserted for clarity. The word "find" is substituted for the words "determine and locate". The words "until the expiration" are substituted for the words "prior to the expiration of a period". The words "determined but not found" are substituted for the words "have or has been determined". The words "or owners", "or representatives", and "sold or otherwise" are omitted as surplusage.

In subsection (b), the words "may file * * * within five years" are substituted for the words "may be filed * * * at any time prior to the expiration of five years", in 5:150g, since the claim must be disallowed if not filed within that period. The words "If not filed within that period" are substituted for the words "If claims are not filed prior to the expiration of five years from the date of the disposal of the property", in 5:150g. The words "such a claim may not be considered" are substituted for the words "they shall be barred from being acted on", in 5:150g.

In subsection (c), the words "No property * * * may * * * except" are substituted for the words "Any property * * * shall be limited". The last sentence is substituted for 5:150i (proviso).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 substituted "section 7712, 8392, or 9712" for "section 4712, 6522, or 9712".

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1996**—Subsec. (b). Pub. L. 104–106, §374(a)(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "The net proceeds from the sale of property under this section shall be covered into the Treasury as miscellaneous receipts. The owner (or the heirs, next of kin, or legal representative of the owner) may file a claim for those proceeds with the General Accounting Office within five years after the date of the disposal of the property. If not filed within that period, such a claim may not be considered by a court or the General Accounting Office."

Subsec. (d). Pub. L. 104–106, §374(a)(2), added subsec. (d).

Subsec. (d)(2), (3). Pub. L. 104–316 substituted "Secretary of Defense" for "Comptroller General of the United States".

**1990**—Subsec. (a). Pub. L. 101–510, §1533(a)(2)(A), substituted "section 4712, 6522, or 9712" for "section 4712, 4713, 6522, 9712, or 9713".

Subsec. (c). Pub. L. 101–510, §1533(a)(2)(B), substituted "Armed Forces Retirement Home" for "United States Soldiers' and Airmen's Home" and "Secretary of a military department" for "Secretary of the Army or the Secretary of the Air Force" and struck out at end "The Home shall deliver the property to the owner (or the heirs, next of kin, or legal representative of the owner), if that person establishes a right to it within two years after its receipt by the Home."

**1989**—Subsec. (a). Pub. L. 101–189, §1622(f)(1), struck out "of this section" after "subsection (c)".

Pub. L. 101–189, §322(b)(2)(A), substituted "the Secretary's department" for "his department".

Pub. L. 101–189, §322(b)(1), substituted "owner (or the heirs, next of kin, or legal representative of the owner)" for "owner, his heirs or next of kin, or his legal representative" in two places.

Pub. L. 101–189, §322(a)(3), inserted after second sentence: "The diligent effort to find the owner (or the heirs, next of kin, or legal representative of the owner) shall begin, to the maximum extent practicable, not later than seven days after the date on which the property comes into the custody or control of the Secretary. The period for which that effort is continued may not exceed 45 days."

Pub. L. 101–189, §322(a)(1), substituted "45 days" for "120 days".

Pub. L. 101–189, §322(b)(2)(B), substituted "owner (or heirs, next of kin, or legal representative of the owner)" for "owner, his heirs or next of kin, or his legal representatives" after "When diligent effort to determine the".

Pub. L. 101–189, §322(a)(2), substituted "more than $300, the Secretary may not dispose of the property until 45 days" for "$25 or more the property may not be disposed of until three months".

Subsec. (b). Pub. L. 101–189, §322(b)(1), substituted "owner (or the heirs, next of kin, or legal representative of the owner)" for "owner, his heirs or next of kin, or his legal representative".

Subsec. (c). Pub. L. 101–189, §322(b)(1), (3), substituted "owner (or the heirs, next of kin, or legal representative of the owner)" for "owner, his heirs or next of kin, or his legal representative", and "that person" for "he" before "establishes a right".

**1980**—Subsec. (a). Pub. L. 96–513, §511(84)(A), substituted "Secretary of Transportation" for "Secretary of the Treasury".

Subsec. (c). Pub. L. 96–513, §511(84)(B), substituted "United States Soldiers' and Airmen's Home" for "Soldiers' Home".

**1965**—Subsec. (a). Pub. L. 89–143 provided for notice by certified mail and substituted provision for disposition of property without delay when diligent effort to determine ownership is unsuccessful and after three months following receipt at designated storage point of property with fair market value of $25 or more, for former provision for disposition of property one year after receipt at designated storage point.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title III, §322(c), Nov. 29, 1989, 103 Stat. 1414, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to property that comes into the custody or control of the Secretary of a military department or the Secretary of Transportation after the date of the enactment of this Act [Nov. 29, 1989]."

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §2576. Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies

(a) The Secretary of Defense, under regulations prescribed by him, may sell to State and local law enforcement, firefighting, homeland security, and emergency management agencies, at fair market value, pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, gas masks, personal protective equipment, and other appropriate equipment which (1) are suitable for use by such agencies in carrying out law enforcement, firefighting, homeland security, and emergency management activities, and (2) have been determined to be surplus property under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(b) Such surplus military equipment shall not be sold under the provisions of this section to a State

or local law enforcement, firefighting, homeland security, or emergency management agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe, and such request, with respect to the type and amount of equipment so requested, is certified as being necessary and suitable for the operation of such agency by the Governor (or such State official as he may designate) of the State in which such agency is located. Equipment sold to a State or local law enforcement, firefighting, homeland security, or emergency management agency under this section shall not exceed, in quantity, the amount requested and certified for such agency and shall be for the exclusive use of such agency. Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency.

(Added Pub. L. 90–500, title IV, §403(a) Sept. 20, 1968, 82 Stat. 851; amended Pub. L. 96–513, title V, §511(85), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 107–217, §3(b)(10), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111–350, §5(b)(42), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 111–383, div. A, title X, §1072(a)–(c)(1), Jan. 7, 2011, 124 Stat. 4366.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 111–383, §1072(c)(1), substituted "Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies" for "Surplus military equipment: sale to State and local law enforcement and firefighting agencies" in section catchline.

Subsec. (a). Pub. L. 111–383, §1072(a)(1), (b), substituted "State and local law enforcement, firefighting, homeland security, and emergency management agencies" for "State and local law enforcement and firefighting agencies", "personal protective equipment, and other appropriate equipment" for "and protective body armor", and "in carrying out law enforcement, firefighting, homeland security, and emergency management activities" for "in carrying out law enforcement and firefighting activities".

Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)".

Subsec. (b). Pub. L. 111–383, §1072(a)(2), substituted "State or local law enforcement, firefighting, homeland security, or emergency management agency" for "State or local law enforcement or firefighting agency" in two places.

**2002**—Subsec. (a). Pub. L. 107–217 inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "under" for "pursuant to", and "(40 U.S.C. 471 et seq.)" for "(68 Stat. 377), as amended".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### TRANSFER OF EXCESS AIRCRAFT TO OTHER DEPARTMENTS OF THE FEDERAL GOVERNMENT AND TO STATES

Pub. L. 112–239, div. A, title X, §1091, Jan. 2, 2013, 126 Stat. 1971, as amended by Pub. L. 117–263, div. A, title X, §1060, Dec. 23, 2022, 136 Stat. 2781, provided that:

"(a) TRANSFER.—The Secretary of Defense may transfer excess aircraft specified in subsection (b) to the Secretary of Agriculture for use by the Forest Service, to the Secretary of Homeland Security for use by the United States Coast Guard, and to the Governor of a State. The transfer of any excess aircraft under this subsection shall be without reimbursement.

"(b) AIRCRAFT.—The aircraft transferred under subsection (a) are aircraft of the Department of Defense that are—

"(1) identified by the Forest Service, the United States Coast Guard, or the Governor of a State, as the case may be, as a suitable platform to carry out wildfire suppression, search and rescue, or emergency operations pertaining to wildfires;

"(2) excess to the needs of the Department of Defense, as determined by the Secretary of Defense;

"(3) in the case of aircraft to be transferred to the Secretary of Agriculture, acceptable for use by the Forest Service, as determined by the Secretary of Agriculture;

"(4) in the case of aircraft to be transferred to the Secretary of Homeland Security, acceptable for use by the United States Coast Guard, as determined by the Secretary of Homeland Security; and

"(5) in the case of aircraft to be transferred to the Governor of a State, acceptable for use by the State, as determined by the Governor.

"(c) ORDER OF TRANSFERS.—

"(1) RIGHTS OF REFUSAL.—In implementing the transfers authorized by subsection (a), the Secretary of Defense shall afford the Secretary of Agriculture the right of first refusal and the Secretary of Homeland Security the second right of refusal in the transfer to each department by the Secretary of Defense of excess aircraft specified in subsection (b) before the transfer of such excess aircraft is offered to the Governor of a State or to any other department or agency of the Federal Government.

"(2) EXPIRATION OF RIGHT OF REFUSAL.—A right of refusal afforded the Secretary of Agriculture or the Secretary of Homeland Security under paragraph (1) with regards to an aircraft shall expire upon official notice of such Secretary to the Secretary of Defense that such Secretary declines such aircraft.

"(d) CONDITIONS OF CERTAIN TRANSFERS.—Excess aircraft transferred to the Secretary of Agriculture or to the Governor of a State under subsection (a)—

"(1) may be used only for purposes of wildfire suppression, search and rescue, or emergency operations pertaining to wildfires; and

"(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts, search and rescue, emergency operations pertaining to wildfires, or for other purposes approved by the Secretary of Agriculture or Governor of the State, as the case may be, in writing in advance.

"(e) ADDITIONAL LIMITATION.—Excess aircraft transferred under subsection (a) may not be sold by the Secretary of Agriculture, the Secretary of Homeland Security, or the Governor of a State after transfer.

"(f) COSTS AFTER TRANSFER.—Any costs of operation, maintenance, sustainment, and disposal of excess aircraft transferred under subsection (a) after the date of transfer shall be borne by the Secretary of Agriculture, the Secretary of Homeland Security, or the Governor of the State to which such aircraft is transferred using only State funds, as applicable.

"(g) REPORTING.—Not later than December 1, 2022, and annually thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on aircraft transferred, during the fiscal year preceding the date of such report, to—

"(1) the Secretary of Agriculture, the Secretary of Homeland Security, or the Governor of a State under this section;

"(2) the chief executive officer of a State under section 112 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1318); or

"(3) the Secretary of the Air Force or the Secretary of Agriculture under section 1098 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 881)."

## COMMERCIAL SALE OF SMALL ARMS AMMUNITION AND SMALL ARMS AMMUNITION COMPONENTS IN EXCESS OF MILITARY REQUIREMENTS, AND FIRED CARTRIDGE CASES

Pub. L. 111–383, div. A, title III, §346, Jan. 7, 2011, 124 Stat. 4191, as amended by Pub. L. 112–81, div. A, title III, §361, Dec. 31, 2011, 125 Stat. 1377, provided that:

"(a) COMMERCIAL SALE OF SMALL ARMS AMMUNITION, SMALL [ARMS] AMMUNITION COMPONENTS, AND FIRED CARTRIDGE CASES.—Small arms ammunition and small [arms] ammunition components which are in excess of military requirements, and intact fired small arms cartridge cases shall be made available for commercial sale. Such small arms ammunition, small arms ammunition components, and intact fired cartridge cases shall not be demilitarized, destroyed, or disposed of, unless in excess of commercial demands or certified by the Secretary of Defense as unserviceable or unsafe. This provision shall not apply to ammunition, ammunition components, or fired cartridge cases stored or expended outside the continental United States (OCONUS).

"(b) DEADLINE FOR GUIDANCE.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012 [Dec. 31, 2011], the Secretary of Defense shall issue guidance to ensure compliance with subsection (a). Not later than 15 days after issuing such guidance, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and

Appropriations of the Senate and the House of Representatives] a letter of compliance providing notice of such guidance.

"(c) PREFERENCE.—No small arms ammunition or small arms ammunition components in excess of military requirements, or fired small arms cartridge cases may be made available for commercial sale under this section before such ammunition and ammunition components are offered for transfer or purchase, as authorized by law, to another Federal department or agency or for sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies pursuant to section 2576 of title 10, United States Code, as amended by this Act.

"(d) SALES CONTROLS.—All small arms ammunition and small arms ammunition components, and fired small arms cartridge cases made available for commercial sale under this section shall be subject to all explosives safety and trade security controls in effect at the time of sale.

"(e) DEFINITIONS.—In this section:

"(1) SMALL ARMS AMMUNITION.—The term 'small arms ammunition' means ammunition or ordnance for firearms up to and including .50 caliber and for shotguns.

"(2) SMALL ARMS AMMUNITION COMPONENTS.—The term 'small arms ammunition components' means components, parts, accessories, and attachments associated with small arms ammunition.

"(3) FIRED CARTRIDGE CASES.—The term 'fired cartridge cases' means expended small arms cartridge cases (ESACC)."

## AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS

Pub. L. 106–181, title VII, §740, Apr. 5, 2000, 114 Stat. 173, as amended by Pub. L. 107–296, title XVII, §1704(e)(6), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107–314, div. A, title X, §§1051, 1062(i), Dec. 2, 2002, 116 Stat. 2648, 2651, provided that:

"(a) AUTHORITY.—

"(1) SALE OF AIRCRAFT AND AIRCRAFT PARTS.—Notwithstanding subchapter II of chapter 5 of title 40, United States Code, and subject to subsections (b) and (c), the Secretary of Defense may sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

"(2) AIRCRAFT AND AIRCRAFT PARTS THAT MAY BE SOLD.—The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary of Defense to be—

"(A) excess to the needs of the Department; and

"(B) acceptable for commercial sale.

"(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

"(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan; and

"(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Homeland Security.

"(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Homeland Security certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

"(d) REGULATIONS.—

"(1) ISSUANCE.—As soon as practicable after the date of the enactment of this Act [Apr. 5, 2000], the Secretary of Defense, in consultation with the Secretary of Homeland Security and the Administrator of General Services, shall prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

"(2) CONTENTS.—The regulations shall—

"(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value, as

determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

"(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

"(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other operators in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

"(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

"(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

"(f) REPORT.—Not later than March 31, 2006, the Secretary of Defense shall transmit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on National Security and Transportation and Infrastructure of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

"(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

"(2) the persons or entities to which the aircraft were sold; and

"(3) an accounting of the current use of the aircraft sold.

"(g) STATUTORY CONSTRUCTION.—

"(1) AUTHORITY OF ADMINISTRATOR.—Nothing in this section may be construed as affecting the authority of the Administrator under any other provision of law.

"(2) CERTIFICATION REQUIREMENTS.—Nothing in this section may be construed to waive, with respect to an aircraft sold under the authority of this section, any requirement to obtain a certificate from the Administrator to operate the aircraft for any purpose (other than oil spill spotting, observation, and dispersant delivery) for which such a certificate is required.

"(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

"(i) EXPIRATION OF AUTHORITY.—The authority to sell aircraft and aircraft parts under this section expires on September 30, 2006."

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

## SALE OF AIRCRAFT FOR WILDFIRE SUPPRESSION PURPOSES

Pub. L. 104–307, Oct. 14, 1996, 110 Stat. 3811, as amended by Pub. L. 106–65, div. A, title X, §1067(23), Oct. 5, 1999, 113 Stat. 775; Pub. L. 106–398, §1 [[div. A], title III, §388], Oct. 30, 2000, 114 Stat. 1654, 1654A–89; Pub. L. 107–314, div. A, title X, §1062(k), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 112–239, div. A, title X, §1090, Jan. 2, 2013, 126 Stat. 1971; Pub. L. 119–18, §2, June 12, 2025, 139 Stat. 68, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Wildfire Suppression Aircraft Transfer Act of 1996'.

"SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

"(a) AUTHORITY.—(1) Notwithstanding subchapter II of chapter 5 of title 40, United States Code, and subject to subsections (b) and (c), the Secretary of Defense may, during the period specified in subsection (g), sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant or water by air in order to suppress wildfire.

"(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

"(A) excess to the needs of the Department; and

"(B) acceptable for commercial sale.

"(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a) may be used only for

the provision of aircraft services for wildfire suppression purposes.

"(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant or water by air.

"(d) REGULATIONS.—(1) As soon as practicable after October 14, 1996, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. The regulations prescribed under this paragraph shall be effective until the end of the period specified in subsection (g).

"(2) The regulations shall—

"(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

"(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

"(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

"(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

"(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

"(f) REPORT.—Not later than March 31, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

"(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

"(2) the persons or entities to which the aircraft were sold; and

"(3) an accounting of the current use of the aircraft sold.

"(g) PERIOD FOR EXERCISE OF AUTHORITY.—The period specified in this subsection is the period beginning on the date of the enactment of the Aerial Firefighting Enhancement Act of 2025 [June 12, 2025] and ending on October 1, 2035.

"(h) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law."

## §2576a. Excess personal property: sale or donation for law enforcement activities

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by the agencies in law enforcement activities, including counterdrug, counterterrorism, disaster-related emergency preparedness, and border security activities; and

(B) excess to the needs of the Department of Defense.

(2) The Secretary shall carry out this section in consultation with the Attorney General, the Director of National Drug Control Policy, and the Secretary of Homeland Security, as appropriate.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment;

(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the

recipient;

(5) the recipient, on an annual basis, and with the authorization of the relevant local governing body or authority, certifies that it has adopted publicly available protocols for the appropriate use of controlled property, the supervision of such use, and the evaluation of the effectiveness of such use, including auditing and accountability policies; and

(6) after the completion of the assessment required by section 1051(e) of the National Defense Authorization Act for Fiscal Year 2016, the recipient, on an annual basis, certifies that it provides annual training to relevant personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force.

(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to applications indicating that the transferred property will be used in the counterdrug, counterterrorism, disaster-related emergency preparedness, or border security activities of the recipient agency. Applications that request vehicles used for disaster-related emergency preparedness, such as high-water rescue vehicles, should receive the highest preference.

(e) PROPERTY NOT TRANSFERRABLE.—The Secretary may not transfer to a Tribal, State, or local law enforcement agency under this section the following:

(1) Bayonets.

(2) Grenades (other than stun and flash-bang grenades).

(3) Weaponized tracked combat vehicles.

(4) Weaponized drones.

(f) PUBLICLY ACCESSIBLE WEBSITE.—(1) The Secretary shall create and maintain a publicly available Internet website that provides information on the controlled property transferred under this section and the recipients of such property.

(2) The contents of the Internet website required under paragraph (1) shall include all publicly accessible unclassified information pertaining to the request, transfer, denial, and repossession of controlled property under this section, including—

(A) a current inventory of all controlled property transferred to Federal and State agencies under this section, listed by the name of the recipient and the year of the transfer;

(B) all pending requests for transfers of controlled property under this section, including the information submitted by the Federal and State agencies requesting such transfers; and

(C) all reports required to be submitted to the Secretary under this section by Federal and State agencies that receive controlled property under this section.

(g) CONTROLLED PROPERTY.—In this section, the term "controlled property" means any item assigned a demilitarization code of B, C, D, E, G, or Q under Department of Defense Manual 4160.21–M, "Defense Materiel Disposition Manual", or any successor document.

(Added Pub. L. 104–201, div. A, title X, §1033(a)(1), Sept. 23, 1996, 110 Stat. 2639; amended Pub. L. 114–92, div. A, title X, §§1051(a)–(c), 1052, Nov. 25, 2015, 129 Stat. 979–981; Pub. L. 115–91, div. A, title X, §1081(a)(43), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–283, div. A, title X, §1053, Jan. 1, 2021, 134 Stat. 3850.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1051(e) of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (b)(6), is section 1051(e) of Pub. L. 114–92, div. A, title X, Nov. 25, 2015, 129 Stat. 980, which is not classified to the Code.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, div. A, title XII, §1208, Nov. 29, 1989, 103 Stat. 1566, as amended, which was set out as a note under section 372 of this title, prior to repeal by Pub. L. 104–201, §1033(b)(1). Section 372 of this title was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

## AMENDMENTS

**2021**—Subsec. (a)(1)(A). Pub. L. 116–283, §1053(a)(1), inserted "disaster-related emergency preparedness," after "counterterrorism,".

Subsec. (b)(6). Pub. L. 116–283, §1053(b)(1), inserted ", including respect for the rights of citizens under the Constitution of the United States and de-escalation of force" before period at end.

Subsec. (d). Pub. L. 116–283, §1053(a)(2), amended subsec. (d) generally. Prior to amendment, text read as follows: "In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counterdrug, counterterrorism, or border security activities of the recipient agency."

Subsecs. (e) to (g). Pub. L. 116–283, §1053(b)(2), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**2017**—Subsec. (b)(4). Pub. L. 115–91 struck out "and" at end.

**2015**—Subsec. (a)(1)(A). Pub. L. 114–92, §1052(1)(A), substituted "counterdrug, counterterrorism, and border security activities" for "counter-drug and counter-terrorism activities".

Subsec. (a)(2). Pub. L. 114–92, §1052(1)(B), substituted "the Attorney General, the Director of National Drug Control Policy, and the Secretary of Homeland Security, as appropriate" for "the Attorney General and the Director of National Drug Control Policy".

Subsec. (b)(5), (6). Pub. L. 114–92, §1051(b), added pars. (5) and (6).

Subsec. (d). Pub. L. 114–92, §1052(2), substituted "counterdrug, counterterrorism, or border security activities" for "counter-drug or counter-terrorism activities".

Subsec. (e). Pub. L. 114–92, §1051(a), added subsec. (e).

Subsec. (f). Pub. L. 114–92, §1051(c), added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PLAN FOR USE OF EXCESS CONSTRUCTION MATERIALS ON SOUTHWEST BORDER

Pub. L. 118–31, div. B, title XXVIII, §2890, Dec. 22, 2023, 137 Stat. 785, provided that:

"(a) PLAN.—Not later than 75 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall submit to Congress a plan to use, transfer, or donate to States on the southern border of the United States all covered materials, with prioritization given to the refurbishment and or maintenance of ports of entry along the southwest border and construction projects aimed at stopping illicit human and vehicle traffic along the border of the United States with Mexico.

"(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

"(1) A detailed proposal for the disposition of such covered materials, including a timeline for disposition and the authorities under which such disposition shall occur.

"(2) An assessment of the condition of such materials being stored, including (if applicable) a description of materials that have depreciated in value, become damaged, or been lost.

"(c) REQUIREMENTS OF REQUESTING STATES.—Any State requesting the covered materials made available under this section must certify, in writing, that the materials it accepts will be exclusively used for the refurbishment or maintenance of ports of entry along the southwest border or construction projects aimed at stopping illicit human and vehicle traffic along the border of the United States with Mexico.

"(d) EXECUTION OF PLAN.—Not later than 100 days after the date of submission of the plan required by subsection (a), the Secretary of Defense shall commence execution of such plan until the date on which the Department of Defense is no longer incurring any costs to maintain, store, or protect the covered materials.

"(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the following:

"(1) A detailed description of the decision process of the Secretary to forgo the excess property disposal process of the Department of Defense and instead pay to store the covered materials.

"(2) A list of entities the Department is paying for use of their privately owned land to store the covered materials, with appropriate action taken to protect personally identifiable information, such as by making the list of entities available in an annex that is labeled as controlled unclassified information.

"(3) An explanation of the process through which the Department contracted with private landowners

to store the covered materials, including whether there was a competitive contracting process and whether the landowners have instituted an inventory review system.

"(4) A description of any investigations by the Inspector General of the Department that have been opened related to storing the covered materials.

"(f) DEFINITIONS.—In this section, the term 'covered material' means all remaining construction materials currently possessed by the United States Government that were purchased under section [sic] 2808 and [sic] 284 of title 10, United States Code, from fiscal years 2017 through 2021, including bollards and Nucor tubular square structural tubes."

**PROCESS FOR COMMUNICATING AVAILABILITY OF SURPLUS AMMUNITION**

Pub. L. 114–328, div. A, title III, §344, Dec. 23, 2016, 130 Stat. 2084, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall implement a formal process to provide Federal Government agencies outside the Department of Defense with information on the availability of surplus, serviceable ammunition from the Department of Defense for the purpose of reducing costs relating to the storage and disposal of such ammunition.

"(b) IMPLEMENTATION DEADLINE.—The Secretary shall implement the process described in subsection (a) beginning not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016]."

## §2576b. Excess personal property: sale or donation to assist firefighting agencies

(a) TRANSFER AUTHORIZED.—Subject to subsection (b), the Secretary of Defense shall transfer to a firefighting agency in a State any personal property of the Department of Defense that the Secretary determines is—

(1) excess to the needs of the Department of Defense; and

(2) suitable for use in providing fire and emergency medical services, including personal protective equipment and equipment for communication and monitoring.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense shall transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient firefighting agency accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient.

(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient firefighting agency.

(d) DEFINITIONS.—In this section:

(1) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) FIREFIGHTING AGENCY.—The term "firefighting agency" means any volunteer, paid, or combined departments that provide fire and emergency medical services.

(Added Pub. L. 106–398, §1 [[div. A], title XVII, §1706(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–367; amended Pub. L. 108–375, div. A, title III, §354, Oct. 28, 2004, 118 Stat. 1861.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsecs. (a), (b). Pub. L. 108–375 substituted "shall" for "may" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IDENTIFICATION OF DEFENSE TECHNOLOGIES SUITABLE FOR USE, OR CONVERSION FOR USE, IN PROVIDING FIRE AND EMERGENCY MEDICAL SERVICES**

Pub. L. 106–398, §1 [[div. A], title XVII, §1707], Oct. 30, 2000, 114 Stat. 1654, 1654A–367, provided that:

"(a) APPOINTMENT OF TASK FORCE; PURPOSE.—The Secretary of Defense shall appoint a task force consisting of representatives from the Department of Defense and each of the seven major fire organizations identified in subsection (b) to identify defense technologies and equipment that—

"(1) can be readily put to civilian use by fire service and the emergency response agencies; and

"(2) can be transferred to these agencies using the authority provided by section 2576b of title 10, United States Code, as added by section 1706 of this Act.

"(b) PARTICIPATING MAJOR FIRE ORGANIZATIONS.—Members of the task force shall be appointed from each of the following:

"(1) The International Association of Fire Chiefs.

"(2) The International Association of Fire Fighters.

"(3) The National Volunteer Fire Council.

"(4) The International Association of Arson Investigators.

"(5) The International Society of Fire Service Instructors.

"(6) The National Association of State Fire Marshals.

"(7) The National Fire Protection Association.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense for activities of the task force $1,000,000 for fiscal year 2001."

## §2577. Disposal of recyclable materials

(a)(1) The Secretary of Defense shall prescribe regulations to provide for the sale of recyclable materials held by a military department or defense agency and for the operation of recycling programs at military installations. Such regulations shall include procedures for the designation by the Secretary of a military department (or by the Secretary of Defense with respect to facilities of a defense agency) of military installations that have established a qualifying recycling program for the purposes of subsection (b)(2).

(2) Any sale of recyclable materials by the Secretary of Defense or Secretary of a military department shall be in accordance with the procedures in sections 541–555 of title 40 for the sale of surplus property.

(3) In this section, the term "recyclable materials" may include any quality recyclable material provided to the Department by a State or local government entity, if such material is authorized by the Office of the Secretary of Defense and identified in the regulations prescribed under paragraph (1).

(b)(1) Proceeds from the sale of recyclable materials at an installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover the costs of operations, maintenance, and overhead for processing recyclable materials at the installation (including the cost of any equipment purchased for recycling purposes).

(2) If after such funds are credited a balance remains available to a military installation and such installation has a qualifying recycling program (as determined by the Secretary of the military department concerned or the Secretary of Defense), not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. A project may not be carried out under the preceding sentence for an amount greater than 50 percent of the amount established by law as the maximum amount for a minor construction project.

(3) The remaining balance available to a military installation may be transferred to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity.

(c) If the balance available to a military installation under this section at the end of any fiscal year is in excess of $10,000,000, the amount of that excess shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 97–214, §6(b)(1), July 12, 1982, 96 Stat. 172; amended Pub. L. 98–525, title XIV,

§1405(37), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 107–217, §3(b)(11), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 116–92, div. A, title III, §§313, 314, Dec. 20, 2019, 133 Stat. 1303.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a)(3). Pub. L. 116–92, §314, added par. (3).

Subsec. (c). Pub. L. 116–92, §313, substituted "$10,000,000" for "$2,000,000".

**2002**—Subsec. (a)(2). Pub. L. 107–217 substituted "sections 541–555 of title 40" for "section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)".

**1984**—Subsec. (a)(1). Pub. L. 98–525 substituted "purposes" for "puposes".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### POLICY TO INCREASE DISPOSITION OF SPENT ADVANCED BATTERIES THROUGH RECYCLING

Pub. L. 117–263, div. A, title III, §325, Dec. 23, 2022, 136 Stat. 2518, provided that:

"(a) POLICY REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Assistant Secretary of Defense for Energy, Installations, and Environment, in coordination with the Director of the Defense Logistics Agency, shall establish a policy to increase the disposition of spent advanced batteries of the Department of Defense through recycling (including by updating the Department of Defense Manual 4160.21, titled 'Defense Material Disposition: Disposal Guidance and Procedures', or such successor document, accordingly), for the purpose of supporting the reclamation and return of precious metals, rare earth metals, and elements of strategic importance (such as cobalt and lithium) into the supply chain or strategic reserves of the United States.

"(b) CONSIDERATIONS.—In developing the policy under subsection (a), the Assistant Secretary shall consider, at a minimum, the following recycling methods:

"(1) Pyroprocessing.

"(2) Hydroprocessing.

"(3) Direct cathode recycling, relithiation, and upcycling."

## §2578. Vessels: transfer between departments

A vessel under the jurisdiction of a military department may be transferred or otherwise made available without reimbursement to another military department or to the Department of Homeland Security, and a vessel under the jurisdiction of the Department of Homeland Security may be transferred or otherwise made available without reimbursement to a military department. Any such transfer may be made only upon the request of the Secretary of the military department concerned or the Secretary of Homeland Security, as the case may be, and with the approval of the Secretary of the department having jurisdiction of the vessel.

(Added Pub. L. 100–370, §1(k)(1), July 19, 1988, 102 Stat. 848; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8012], Dec. 19, 1985, 99 Stat. 1185, 1204.

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §2579. War booty: procedures for handling and retaining battlefield objects

(a) POLICY.—The United States recognizes that battlefield souvenirs have traditionally provided military personnel with a valued memento of service in a national cause. At the same time, it is the policy and tradition of the United States that the desire for souvenirs in a combat theater not blemish the conduct of combat operations or result in the mistreatment of enemy personnel, the dishonoring of the dead, distraction from the conduct of operations, or other unbecoming activities.

(b) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations for the handling of battlefield objects that are consistent with the policies expressed in subsection (a) and the requirements of this section.

(2) When forces of the United States are operating in a theater of operations, enemy material captured or found abandoned shall be turned over to appropriate United States or allied military personnel except as otherwise provided in such regulations. A member of the armed forces (or other person under the authority of the armed forces in a theater of operations) may not (except in accordance with such regulations) take from a theater of operations as a souvenir an object formerly in the possession of the enemy.

(3) Such regulations shall provide that a member of the armed forces who wishes to retain as a souvenir an object covered by paragraph (2) may so request at the time the object is turned over pursuant to paragraph (2).

(4) Such regulations shall provide for an officer to be designated to review requests under paragraph (3). If the officer determines that the object may be appropriately retained as a war souvenir, the object shall be turned over to the member who requested the right to retain it.

(5) Such regulations shall provide for captured weaponry to be retained as souvenirs, as follows:

(A) The only weapons that may be retained are those in categories to be agreed upon jointly by the Secretary of Defense and the Secretary of the Treasury.

(B) Before a weapon is turned over to a member, the weapon shall be rendered unserviceable.

(C) A charge may be assessed in connection with each weapon in an amount sufficient to cover the full cost of rendering the weapon unserviceable.

(Added Pub. L. 103–160, div. A, title XI, §1171(a)(1), Nov. 30, 1993, 107 Stat. 1765.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 103–160, div. A, title XI, §1171(b), Nov. 30, 1993, 107 Stat. 1766, provided that: "The initial regulations required by section 2579 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 270 days after the date of enactment of this Act [Nov. 30, 1993]. Such regulations shall specifically address the following, consistent with section 2579 of title 10, United States Code, as added by subsection (a):

"(1) The general procedures for collection and disposition of weapons and other enemy material.

"(2) The criteria and procedures for evaluation and disposition of enemy material for intelligence, testing, or other military purposes.

"(3) The criteria and procedures for determining when retention of enemy material by an individual or a unit in the theater of operations may be appropriate.

"(4) The criteria and procedures for disposition of enemy material to a unit or other Department of Defense entity as a souvenir.

"(5) The criteria and procedures for disposition of enemy material to an individual as an individual

souvenir.

"(6) The criteria and procedures for determining when demilitarization or the rendering unserviceable of firearms is appropriate.

"(7) The criteria and procedures necessary to ensure that servicemembers who have obtained battlefield souvenirs in a manner consistent with military customs, traditions, and regulations have a reasonable opportunity to obtain possession of such souvenirs, consistent with the needs of the service."

## §2580. Donation of excess chapel property

(a) AUTHORITY TO DONATE.—The Secretary of a military department may donate personal property specified in subsection (b) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is a religious organization in order to assist the organization in restoring or replacing property of the organization that has been damaged or destroyed as a result of an act of arson or terrorism, as determined pursuant to procedures prescribed by the Secretary of Defense.

(b) PROPERTY COVERED.—(1) The property authorized to be donated under subsection (a) is furniture and other personal property that—

(A) is in, or was formerly in, a chapel under the jurisdiction of the Secretary of a military department and closed or being closed; and

(B) is determined by the Secretary to be excess to the requirements of the armed forces.

(2) No real property may be donated under this section.

(c) DONEES NOT TO BE CHARGED.—No charge may be imposed by the Secretary of a military department on a donee of property under this section in connection with the donation. However, the donee shall agree to defray any expense for shipping or other transportation of property donated under this section from the location of the property when donated to any other location.

(Added Pub. L. 105–85, div. A, title X, §1063(a), Nov. 18, 1997, 111 Stat. 1892.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

## §2581. Excess UH–1 Huey and AH–1 Cobra helicopters: requirements for transfer to foreign countries

(a) REQUIREMENTS.—(1) Before an excess UH–1 Huey helicopter or AH–1 Cobra helicopter is transferred on a grant or sales basis to a foreign country for the purpose of flight operations by that country, the Secretary of Defense shall make all reasonable efforts to ensure that the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair (as defined in section 2460 of this title) that the helicopter would need were the helicopter to remain in operational use with the armed forces. Any such maintenance and repair work shall be performed at no cost to the Department of Defense.

(2) The Secretary shall make all reasonable efforts to ensure that maintenance and repair work described in paragraph (1) is performed in the United States.

(b) EXCEPTION.—Subsection (a) does not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.

(Added Pub. L. 105–261, div. A, title XII, §1234(a), Oct. 17, 1998, 112 Stat. 2156.)

## [§2582. Repealed. Pub. L. 112–81, div. A, title X, §1061(19)(A), Dec. 31, 2011, 125

**Stat. 1584]**

Section, added Pub. L. 106–398, §1 [[div. A], title III, §381(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–84, related to annual report of public sales of military equipment identified on United States munitions list.

**EDITORIAL NOTES**

**CODIFICATION**

Another section 2582 was renumbered section 2583 of this title.

## §2583. Military animals: transfer and adoption

(a) AVAILABILITY FOR TRANSFER OR ADOPTION.—The Secretary of the military department concerned shall make a military animal of such military department available for transfer or adoption by a person or entity referred to in subsection (c), unless the animal has been determined to be unsuitable for transfer or adoption under subsection (b), under circumstances as follows:

(1) At the end of the animal's useful life.

(2) Before the end of the animal's useful life, if such Secretary, in such Secretary's discretion, determines that unusual or extraordinary circumstances, including circumstances under which the handler of a military working dog is killed in action, dies of wounds received in action, or is medically retired as a result of injuries received in action, justify making the animal available for transfer or adoption before that time.

(3) When the animal is otherwise excess to the needs of such military department.

(b) SUITABILITY FOR TRANSFER OR ADOPTION.—The decision whether a particular military animal is suitable or unsuitable for transfer or adoption under this section shall be made by the commander of the last unit to which the animal is assigned before being declared excess. The unit commander shall consider the recommendations of the unit's veterinarian in making the decision regarding the transferability or adoptability of the animal.

(c) AUTHORIZED RECIPIENTS.—(1) A military animal shall be made available for transfer or adoption under this section, in order of recommended priority, by—

(A) adoption by former handlers of the animal;

(B) adoption by other persons or organizations capable of humanely caring for the animal; and

(C) transfer to law enforcement agencies.

(2) If the Secretary of the military department concerned determines that an adoption is justified under subsection (a)(2) under circumstances under which the handler of a military working dog is wounded in action, the dog shall be made available for adoption only by the handler. If the Secretary of the military department concerned determines that such an adoption is justified under circumstances under which the handler of a military working dog is killed in action or dies of wounds received in action, the military working dog shall be made available for adoption only by a parent, child, spouse, or sibling of the deceased handler.

(d) CONSIDERATION.—The transfer of a military animal under this section shall be without charge to the recipient.

(e) LIMITATIONS ON LIABILITY FOR TRANSFERRED OR ADOPTED ANIMALS.—(1) Notwithstanding any other provision of law, the United States shall not be subject to any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or other economic loss) that results from, or is in any manner predicated upon, the act or omission of a former military animal transferred or adopted under this section, including any training provided to the animal while a military animal.

(2) Notwithstanding any other provision of law, the United States shall not be liable for any veterinary expense associated with a military animal transferred or adopted under this section for a

condition of the military animal before transfer or adoption under this section, whether or not such condition is known at the time of transfer or adoption under this section.

(f) VETERINARY SCREENING AND CARE FOR MILITARY WORKING DOGS TO BE RETIRED.—(1)(A) If the Secretary of the military department concerned determines that a military working dog should be retired, such Secretary shall transport the dog to the Veterinary Treatment Facility at Lackland Air Force Base, Texas.

(B) In the case of a contract working dog to be retired, transportation required by subparagraph (A) is satisfied by the transfer of the dog to the 341st Training Squadron at the end of the dog's service life as required by section 2387 of this title and assignment of the dog to the Veterinary Treatment Facility referred to in that subparagraph.

(2)(A) The Secretary of Defense shall ensure that each dog transported as described in paragraph (1) to the Veterinary Treatment Facility referred to in that paragraph is provided with a full veterinary screening, and necessary veterinary care (including surgery for any mental, dental, or stress-related illness), before transportation of the dog in accordance with subsection (g).

(B) For purposes of this paragraph, stress-related illness includes illness in connection with post-traumatic stress, anxiety that manifests in a physical ailment, obsessive compulsive behavior, and any other stress-related ailment.

(3) Transportation is not required under paragraph (1), and screening and care is not required under paragraph (2), for a military working dog located outside the United States if the Secretary of the military department concerned determines that transportation of the dog to the United States would not be in the best interests of the dog for medical reasons.

(g) TRANSPORTATION OF RETIRING MILITARY WORKING DOGS.—Upon completion of veterinary screening and care for a military working dog to be retired pursuant to subsection (f), the Secretary of the military department concerned shall—

(1) if the dog was at a location outside the United States immediately prior to transportation for such screening and care and a United States citizen or member of the armed forces living abroad agrees to adopt the dog, transport the dog to such location for adoption; or

(2) for any other dog, transport the dog—

(A) to the 341st Training Squadron; or

(B) to another location within the United States for transfer or adoption under this section.

(h) PREFERENCE IN ADOPTION OF RETIRED MILITARY WORKING DOGS FOR FORMER HANDLERS.—(1) In providing for the adoption under this section of a retired military working dog described in paragraph (1) or (3) of subsection (a), the Secretary of the military department concerned shall accord a preference to the former handler of the dog unless the Secretary determines that adoption of the dog by the former handler would not be in the best interests of the dog.

(2) In the case of a dog covered by paragraph (1) with more than one former handler seeking adoption of the dog at the time of adoption, the Secretary shall provide for the adoption of the dog by such former handler whose adoption of the dog will best serve the interests of the dog and such former handlers. The Secretary shall make any determination required by this paragraph with respect to a dog following consultation with the kennel master of the unit at which the dog was last located before adoption under this section.

(3) Nothing in this subsection shall be construed as altering, revising, or overriding any policy of a military department for the transfer of military working dogs to law enforcement agencies before the end of the dogs' useful working lives.

(i) MILITARY ANIMAL DEFINED.—In this section, the term "military animal" means the following:

(1) A military working dog, which may include a contract working dog (as such term is defined in section 2387) that has been transferred to the 341st Training Squadron.

(2) An equid (horse, mule, or donkey) owned by the Department of Defense.

(Added Pub. L. 106–446, §1(a), Nov. 6, 2000, 114 Stat. 1932, §2582; renumbered §2583, Pub. L. 107–107, div. A, title X, §1048(a)(25), Dec. 28, 2001, 115 Stat. 1224; amended Pub. L. 109–163,

div. A, title V, §599, Jan. 6, 2006, 119 Stat. 3284; Pub. L. 109–364, div. A, title III, §352(a), Oct. 17, 2006, 120 Stat. 2160; Pub. L. 110–181, div. A, title X, §1063(a)(13), Jan. 28, 2008, 122 Stat. 322; Pub. L. 112–81, div. A, title III, §351, title X, §1061(20), Dec. 31, 2011, 125 Stat. 1375, 1584; Pub. L. 112–239, div. A, title III, §371(a), Jan. 2, 2013, 126 Stat. 1706; Pub. L. 113–66, div. A, title X, §1091(b)(2), Dec. 26, 2013, 127 Stat. 876; Pub. L. 114–92, div. A, title III, §342, Nov. 25, 2015, 129 Stat. 793; Pub. L. 114–328, div. A, title III, §342(b), Dec. 23, 2016, 130 Stat. 2082; Pub. L. 115–232, div. A, title III, §352, Aug. 13, 2018, 132 Stat. 1731; Pub. L. 116–92, div. A, title III, §372(a)–(e), Dec. 20, 2019, 133 Stat. 1330, 1331; Pub. L. 116–283, div. A, title X, §1081(a)(42), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3873, 4294; Pub. L. 117–81, div. A, title III, §373(a), Dec. 27, 2021, 135 Stat. 1667.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (d). Pub. L. 117–81 substituted "shall" for "may".

Subsec. (f)(1)(B). Pub. L. 116–283, §1883(b)(2), substituted "section 2387" for "section 2410r".

Subsec. (g)(2)(A). Pub. L. 116–283, §1081(a)(42), inserted "or" after semicolon at end.

Subsec. (i)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 2387" for "section 2410r".

**2019**—Subsec. (a). Pub. L. 116–92, §372(a)(1), inserted "Transfer or" before "Adoption" in heading and substituted "transfer or adoption" for "adoption" wherever appearing.

Subsec. (b). Pub. L. 116–92, §372(a)(2), inserted "Transfer or" before "Adoption" in heading and substituted "transfer or adoption" for "adoption" in first sentence and "transferability or adoptability" for "adoptability" in second sentence.

Subsec. (c)(1). Pub. L. 116–92, §372(a)(3)(A), inserted "transfer or" before "adoption" and ", by" after "recommended priority" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 116–92, §372(a)(3)(B), inserted "adoption" before "by".

Subsec. (c)(1)(B). Pub. L. 116–92, §372(a)(3)(B), (C), inserted "adoption" before "by" and "or organizations" after "persons".

Subsec. (c)(1)(C). Pub. L. 116–92, §372(a)(3)(D), substituted "transfer to" for "by".

Subsec. (e). Pub. L. 116–92, §372(a)(4), inserted "or Adopted" after "Transferred" in heading and substituted "transferred or adopted" for "transferred" in pars. (1) and (2), and "transfer or adoption" for "transfer" in two places in par. (2).

Subsec. (f). Pub. L. 116–92, §372(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116–92, §372(b)(1), (c), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. consisted of pars. (1) to (3) relating to transfer of retired military working dogs. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 116–92, §372(b)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(3). Pub. L. 116–92, §372(d), substituted "transfer of military working dogs to law enforcement agencies before the end of the dogs' useful working lives." for "adoption of military working dogs by law enforcement agencies before the end of the dogs' useful lives."

Subsec. (i). Pub. L. 116–92, §372(b)(1), redesignated subsec. (h) as (i).

Subsec. (i)(2). Pub. L. 116–92, §372(e), added par. (2) and struck out former par. (2) which read as follows: "A horse owned by the Department of Defense."

**2018**—Subsec. (f)(3). Pub. L. 115–232 added par. (3).

**2016**—Subsec. (h)(1). Pub. L. 114–328 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "A military working dog."

**2015**—Subsec. (a). Pub. L. 114–92, §342(a), substituted "shall make" for "may make" in introductory provisions.

Subsec. (c). Pub. L. 114–92, §342(b), amended subsec. (c) generally. Prior to amendment, text read as follows: "Military animals may be adopted under this section by law enforcement agencies, former handlers of these animals, and other persons capable of humanely caring for these animals. If the Secretary of the military department concerned determines that an adoption is justified under subsection (a)(2) under circumstances under which the handler of a military working dog is wounded in action, the dog may be made available for adoption only by the handler. If the Secretary of the military department concerned determines that such an

adoption is justified under circumstances under which the handler of a military working dog is killed in action or dies of wounds received in action, the military working dog shall be made available for adoption only by a parent, child, spouse, or sibling of the deceased handler."

Subsec. (f). Pub. L. 114–92, §342(d)(1), (2), (4), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Pub. L. 114–92, §342(c), substituted "shall transfer" for "may transfer" in introductory provisions.

Subsec. (f)(1). Pub. L. 114–92, §342(d)(3)(A), struck out ", and no suitable adoption is available at the military facility where the dog is located," after "should be retired" in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 114–92, §342(d)(3)(B), inserted "within the United States" after "to another location".

Subsecs. (g), (h). Pub. L. 114–92, §342(e), added subsec. (g) and redesignated former subsec. (g) as (h).

**2013**—Subsecs. (f), (g). Pub. L. 112–239, §371(a), as amended by Pub. L. 113–66, §1091(b)(2), added subsec. (f) and redesignated former subsec. (f) as (g).

**2011**—Subsec. (a)(2). Pub. L. 112–81, §351(1), inserted ", including circumstances under which the handler of a military working dog is killed in action, dies of wounds received in action, or is medically retired as a result of injuries received in action," after "extraordinary circumstances".

Subsec. (c). Pub. L. 112–81, §351(2), inserted at end "If the Secretary of the military department concerned determines that an adoption is justified under subsection (a)(2) under circumstances under which the handler of a military working dog is wounded in action, the dog may be made available for adoption only by the handler. If the Secretary of the military department concerned determines that such an adoption is justified under circumstances under which the handler of a military working dog is killed in action or dies of wounds received in action, the military working dog shall be made available for adoption only by a parent, child, spouse, or sibling of the deceased handler.".

Subsecs. (f), (g). Pub. L. 112–81, §1061(20), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "The Secretary of Defense shall submit to Congress an annual report specifying the number of military animals adopted under this section during the preceding year, the number of these animals currently awaiting adoption, and the number of these animals euthanized during the preceding year. With respect to each euthanized military animal, the report shall contain an explanation of the reasons why the animal was euthanized rather than retained for adoption under this section."

**2008**—Subsec. (e). Pub. L. 110–181 substituted "ANIMALS" for "DOGS" in heading.

**2006**—Pub. L. 109–364, §352(a)(1), substituted "animals" for "working dogs" in section catchline.

Pub. L. 109–163, §599(d), struck out "at end of useful working life" after "adoption" in section catchline.

Subsec. (a). Pub. L. 109–364, §352(a)(2)–(4), substituted "animal's" for "dog's" in pars. (1) and (2) and "animal" for "dog" wherever appearing, and struck out "working" after "may make a military" in introductory provisions and after "useful" in pars. (1) and (2).

Pub. L. 109–163, §599(a), (b), substituted "Secretary of the military department concerned may" for "Secretary of Defense may", "such military department" for "the Department of Defense", and ", unless the dog has been determined to be unsuitable for adoption under subsection (b), under circumstances as follows:" and pars. (1) to (3) for "at the end of the dog's useful working life or when the dog is otherwise excess to the needs of the Department, unless the dog has been determined to be unsuitable for adoption under subsection (b)."

Subsec. (b). Pub. L. 109–364, §352(a)(2), (3), (5), substituted "the adoptability of the animal" for "a dog's adoptability" and "animal" for "dog" in two places and struck out "working" after "military".

Subsec. (c). Pub. L. 109–364, §352(a)(2), (3), substituted "animals" for "dogs" wherever appearing and struck out "working" after "Military".

Subsec. (d). Pub. L. 109–364, §352(a)(2), (3), substituted "animal" for "dog" and struck out "working" after "military".

**2006**—Subsec. (e). Pub. L. 109–364, §352(a)(3), substituted "animal" for "dog" wherever appearing in text.

Pub. L. 109–364, §352(a)(2), struck out "working" after "military" wherever appearing.

Subsec. (f). Pub. L. 109–364, §352(a)(2), (3), substituted "animal" for "dog" in two places and "animals" for "dogs" wherever appearing and struck out "working" after "military" in two places.

Pub. L. 109–163, §599(c), inserted "of Defense" after "Secretary".

Subsec. (g). Pub. L. 109–364, §352(a)(6), added subsec. (g).

**2001**—Pub. L. 107–107 renumbered section 2582 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2013 AMENDMENT**

Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(2) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.

# CHAPTER 155—ACCEPTANCE OF GIFTS AND SERVICES

Sec.
2601. General gift funds.
2601a. Direct acceptance of gifts by members of the armed forces and Department of Defense and Coast Guard employees and their families.
2602. American National Red Cross: cooperation and assistance.
2603. Acceptance of fellowships, scholarships, or grants.
2604. United Seamen's Service: cooperation and assistance.
2605. Acceptance of gifts for defense dependents' schools.
2606. Scouting: cooperation and assistance in foreign areas.
2607. Acceptance of gifts for the Defense Intelligence College.
2608. Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account.
[2609. Repealed.]
2610. Competitions for excellence: acceptance of monetary awards.
2611. Regional centers for security studies: acceptance of gifts and donations.
2612. National Defense University: acceptance of gifts.
2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families.
2614. Emergency communications equipment: acceptance from local public safety agencies for temporary use related to disasters.
2615. Military museums and military education programs: cooperative agreement authority.

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Pub. L. 112–239, div. B, title XXVIII, §2852(b)(2), Jan. 2, 2013, 126 Stat. 2161, added item 2615.

**2011**—Pub. L. 112–81, div. A, title V, §576(d)(2), Dec. 31, 2011, 125 Stat. 1429, substituted "Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families" for "Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families" in item 2613.

Pub. L. 111–383, div. A, title V, §591(b), Jan. 7, 2011, 124 Stat. 4232, added item 2601a.

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(19)(B), Oct. 17, 2006, 120 Stat. 2399, renumbered item 2613 "Emergency communications equipment: acceptance from local public safety agencies for temporary use related to disasters" as 2614.

Pub. L. 109–163, div. A, title IX, §903(a)(2), Jan. 6, 2006, 119 Stat. 3399, substituted "Regional centers for security studies" for "Asia-Pacific Center for Security Studies" in item 2611.

**2004**—Pub. L. 108–375, div. A, title V, §585(a)(2), title X, §1051(b), Oct. 28, 2004, 118 Stat. 1931, 2054, added two items 2613.

**2003**—Pub. L. 108–136, div. A, title IX, §931(c), Nov. 24, 2003, 117 Stat. 1581, struck out "foreign" before "gifts" in item 2611.

**2002**—Pub. L. 107–314, div. A, title IX, §931(b), Dec. 2, 2002, 116 Stat. 2625, added item 2612.

**1999**—Pub. L. 106–65, div. A, title IX, §915(b), Oct. 5, 1999, 113 Stat. 722, added item 2611.

**1996**—Pub. L. 104–201, div. A, title X, §1074(a)(15), Sept. 23, 1996, 110 Stat. 2659, struck out item 2609 "Theater Missile Defense: acceptance of contributions from allies; Theater Missile Defense Cooperation Account".

Pub. L. 104–106, div. A, title III, §377(b), Feb. 10, 1996, 110 Stat. 284, added item 2610.

**1994**—Pub. L. 103–337, div. A, title III, §353(c)(2), Oct. 5, 1994, 108 Stat. 2732, substituted "schools" for "education system" in item 2605.

**1993**—Pub. L. 103–160, div. A, title II, §242(f)(2), title XI, §1105(b)(3), Nov. 30, 1993, 107 Stat. 1605, 1750, inserted "; Defense Cooperation Account" in item 2608 and added item 2609.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(15), Dec. 5, 1991, 105 Stat. 1473, struck out "and services" after "contributions" in item 2608.

**1990**—Pub. L. 101–403, title II, §202(a)(2), Oct. 1, 1990, 104 Stat. 874, added item 2608.

**1989**—Pub. L. 101–193, title V, §502(b), Nov. 30, 1989, 103 Stat. 1708, added item 2607.

**1988**—Pub. L. 100–456, div. A, title III, §323(b), Sept. 29, 1988, 102 Stat. 1953, added item 2606.

**1986**—Pub. L. 99–661, div. A, title III, §314(b), Nov. 14, 1986, 100 Stat. 3854, added item 2605.

**1970**—Pub. L. 91–603, §3(2), Dec. 31, 1970, 84 Stat. 1675, added item 2604.

**1962**—Pub. L. 87–555, §1(2), July 27, 1962, 76 Stat. 244, added item 2603.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS TO CLARIFY GIFT ACCEPTANCE POLICY FOR SERVICE MEMBERS AND THEIR FAMILIES**

Pub. L. 109–148, div. A, title VIII, §8127, Dec. 30, 2005, 119 Stat. 2730, provided that:

"(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to provide that, subject to such limitations as may be specified in such regulations, members of the Armed Forces described in subsection (c), and the family members of such a member, may accept gifts from non-profit organizations, private parties, and other sources outside the Department of Defense, other than foreign governments and their agents. Such regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps, and, to the maximum extent feasible, to the Coast Guard, and shall apply uniformly to the active and reserve components.

"(b) AUTHORITY.—A member of the Armed Forces described in subsection (c) may accept gifts as provided in the regulations authorized in subsection (a), notwithstanding section 7353 of title 5, United States Code.

"(c) COVERED MEMBERS.—A member of the Armed Forces is described in this subsection in the case of a member who is on active duty and who on or after September 11, 2001, and while on active duty, incurred an injury or illness—

"(1) as described in section 1413a(e)(2) of title 10, United States Code; or

"(2) in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense in accordance with the regulations prescribed under subsection (a).

"(d) DEADLINE FOR REGULATIONS.—Regulations under subsection (a) shall be prescribed not later than 90 days after the date of the enactment of this Act [Dec. 30, 2005].

"(e) RETROACTIVE APPLICABILITY OF REGULATIONS.—Regulations under subsection (a) shall, to the extent provided in such regulations, also apply to the acceptance of gifts during the period beginning on September 11, 2001, and ending on the date on which such regulations go into effect."

## §2601. General gift funds

(a) GENERAL AUTHORITY TO ACCEPT GIFTS.—(1) The Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary.

(2)(A) Notwithstanding section 1342 of title 31, the Secretary concerned may accept a gift of services for a military museum program or a professional military education institution from a nonprofit entity established for the purpose of supporting a military museum program or a professional military education institution. Employees or personnel of a nonprofit entity who provide a gift of services under this subparagraph may not be considered to be employees of the United States.

(B) For the use and benefit of a military museum program, the Secretary concerned may solicit from a bona fide collector a gift of books, manuscripts, works of art, historical artifacts, drawings,

plans, models, or condemned or obsolete combat materiel.

(b) ADDITIONAL AUTHORITY TO ACCEPT GIFTS TO BENEFIT CERTAIN MEMBERS, DEPENDENTS, AND CIVILIAN EMPLOYEES.—(1) The Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, money, or services made on the condition that the gift, devise, or bequest be used for the benefit of—

(A) members of the armed forces, including members performing full-time National Guard duty under section 502(f) of title 32, who incur a wound, injury, or illness while in the line of duty;

(B) civilian employees of the Department of Defense who incur a wound, injury, or illness while in the line of duty;

(C) dependents of such members or employees; and

(D) survivors of such members or employees who are killed.

(2) The Secretary concerned may not accept a gift of services from a foreign government or international organization under this subsection. A gift of real property, personal property, or money from a foreign government or international organization may be accepted under this subsection only if the gift is not designated for a specific individual.

(3) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this subsection.

(c) GIFT FUNDS.—Gifts and bequests of money, and the proceeds of the sale of property, received under subsection (a) or (b) shall be deposited in the Treasury in the following accounts:

(1) The Department of the Army General Gift Fund, in the case of deposits made by the Secretary of the Army.

(2) The Department of the Navy General Gift Fund, in the case of deposits made by the Secretary of the Navy.

(3) The Department of the Air Force General Gift Fund, in the case of deposits made by the Secretary of the Air Force.

(4) The Coast Guard General Gift Fund, in the case of deposits made by the Secretary of Homeland Security.

(5) The Department of Defense General Gift Fund, in the case of deposits made by the Secretary of Defense.

(d) USE OF GIFTS; PROHIBITIONS.—(1) Except as provided in paragraph (2), property and money accepted under subsection (a) or (b) may be used by the Secretary concerned, and services accepted under such subsections may be performed, without further specific authorization in law.

(2) Property, money, and services may not be accepted under subsection (a) or (b)—

(A) if the use of the property or money or the performance of the services in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

(B) if the conditions attached to the property, money, or services are inconsistent with applicable law or regulations;

(C) if the Secretary concerned determines that the use of the property or money or the performance of the services would reflect unfavorably on the ability of the Department of Defense or the Coast Guard, any employee of the Department or Coast Guard, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

(D) if the Secretary concerned determines that the use of the property or money or the performance of the services would compromise the integrity or appearance of integrity of any program of the Department of Defense or Coast Guard, or any individual involved in such a program.

(3) The Secretary concerned may disburse funds deposited in a gift fund referred to in subsection (c) for the purposes specified in subsections (a) and (b), subject to the terms of the gift, devise, or bequest.

(e) ACCEPTANCE OF PROPERTY GIFTS; NAMING RIGHTS.—(1) The Secretary concerned

may accept a gift under subsection (a) or (b) consisting of the provision, acquisition, enhancement, or construction of real or personal property offered to an eligible entity even though the gift will be subject to the condition that the real or personal property, or a portion thereof, bear a specified name.

(2) The authority conferred by this subsection may be delegated by the Secretary concerned only to a civilian official appointed by the President, by and with the advice and consent of the Senate.

(3) A gift may not be accepted under paragraph (1) if—

(A) the acceptance of the gift or the imposition of the naming-rights condition would reflect unfavorably upon the United States, as provided in subsection (d)(2); or

(B) the real or personal property to be subject to the condition, or portion thereof, has been named by an act of Congress.

(4) The Secretaries concerned shall issue uniform regulations governing the circumstances under which gifts conditioned on naming rights may be accepted, appropriate naming conventions, and suitable display standards.

(5) In this subsection, the term "eligible entity" means each of the following:

(A) The United States Military Academy, the Naval Academy, the Air Force Academy, and the Coast Guard Academy.

(B) The professional military education schools listed in section 2162(d) of this title and the Defense Acquisition University.

(C) A military museum.

(f) PAYMENT OF EXPENSES.—The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest accepted under this section.

(g) TREATMENT OF GIFTS.—For the purposes of Federal income, estate, and gift taxes, any property, money, or services accepted under subsection (a) or (b) shall be considered as a gift, devise, or bequest to or for the use of the United States.

(h) MANAGEMENT OF FUNDS.—In the case of each gift fund referred to in subsection (c), the Secretary of the Treasury, upon the request of the Secretary concerned, may retain money, securities, and the proceeds of the sale of securities in the gift fund and may invest money and reinvest the proceeds of the sale of securities in the gift fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and profits accruing from those securities shall be deposited to the credit of the gift fund and may be disbursed as provided in subsection (d).

(i) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall make periodic audits of gifts, devises, and bequests accepted under subsection (a) or (b) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(j) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" includes the Secretary of Defense.

(2) The term "services" includes activities that benefit the education, morale, welfare, or recreation of members of the armed forces and their dependents or are related or incidental to the conveyance of a gift, devise, or bequest of real property or personal property under subsection (a) or (b).

(Aug. 10, 1956, ch. 1041, 70A Stat. 144; Pub. L. 96–513, title V, §511(86), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title III, §374, Jan. 6, 2006, 119 Stat. 3211; Pub. L. 110–181, div. A, title V, §593(a), Jan. 28, 2008, 122 Stat. 138; Pub. L. 112–239, div. A, title V, §587(a), div. B, title XXVIII, §2852(a), Jan. 2, 2013, 126 Stat. 1768, 2160; Pub. L. 114–92, div. B, title XXVIII, §2812, Nov. 25, 2015, 129 Stat. 1174; Pub. L. 116–283, div. B, title XXVIII, §2821, Jan. 1, 2021, 134 Stat. 4330; Pub. L. 118–159, div. A, title V, §556, Dec. 23, 2024, 138 Stat. 1896.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 2601(a) | 5:150q. | Mar. 11, 1948, ch. 107, 62 Stat. 71. |
| 2601(b) | 5:150r. | |
| 2601(c) | 5:150s. | |
| 2601(d) | 5:150t. | |

In subsection (a), the words "receive" and "administration" are omitted as surplusage.

In subsection (b), the words "and conditions" and "United States" are omitted as surplusage.

In subsection (c), the words "any gift, devise, or bequest of" and "real or personal" are omitted as surplusage.

In subsection (d), the words "or any part thereof deposited in the Treasury pursuant to section 150r of this title" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(2)(A). Pub. L. 118–159 inserted "or a professional military education institution" after "museum program" in two places.

**2021**—Subsec. (e). Pub. L. 116–283, §2821(a)(1), struck out "Real" before "Property" in heading.

Subsec. (e)(1). Pub. L. 116–283, §2821(b)(1), substituted "an eligible entity" for "the United States Military Academy, the Naval Academy, the Air Force Academy, or the Coast Guard Academy".

Pub. L. 116–283, §2821(a)(2), inserted "or personal" after "real" in two places.

Subsec. (e)(3)(B). Pub. L. 116–283, §2821(a)(3), inserted "or personal" after "real".

Subsec. (e)(5). Pub. L. 116–283, §2821(b)(2), added par. (5).

**2015**—Subsecs. (e) to (j). Pub. L. 114–92 added subsec. (e) and redesignated former subsecs. (e) to (i) as (f) to (j), respectively.

**2013**—Subsec. (a). Pub. L. 112–239, §2852(a)(1), designated existing provisions as par. (1), substituted "The" for "Subject to subsection (d)(2), the", and added par. (2).

Subsec. (b)(1). Pub. L. 112–239, §2852(a)(2)(A), substituted "The" for "Subject to subsection (d)(2), the" in introductory provisions.

Subsec. (d)(1). Pub. L. 112–239, §2852(a)(2)(B)(i), substituted "such subsections" for "subsection (b)".

Subsec. (d)(2). Pub. L. 112–239, §2852(a)(2)(B)(ii), substituted ", money, and services may not be accepted under subsection (a) or" for "and money may not be accepted under subsection (a) and property, money, and services may not be accepted under subsection" in introductory provisions.

Subsec. (f). Pub. L. 112–239, §2852(a)(2)(C), substituted ", money, or services accepted under subsection (a) or" for "or money accepted under subsection (a) and any property, money, or services accepted under subsection".

Subsec. (i)(2). Pub. L. 112–239, §587(a), inserted "education," before "morale,".

**2008**—Subsec. (b)(4). Pub. L. 110–181 struck out par. (4) which read as follows: "The authority to accept gifts, devises, or bequests under this subsection expires on December 31, 2007."

**2006**—Pub. L. 109–163 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to general gift funds.

**2002**—Subsec. (b)(4). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1980**—Subsec. (b)(4). Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### LIMITATION ON SOLICITATION OF GIFTS

Pub. L. 110–181, div. A, title V, §593(b), Jan. 28, 2008, 122 Stat. 138, provided that: "The Secretary of Defense shall prescribe regulations implementing sections 2601 and 2608 of title 10, United States Code, that prohibit the solicitation of any gift under such sections by any employee of the Department of Defense if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in such program."

## §2601a. Direct acceptance of gifts by members of the armed forces and Department of Defense and Coast Guard employees and their families

(a) REGULATIONS GOVERNING ACCEPTANCE OF GIFTS.—(1) The Secretary of Defense (and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy) shall prescribe regulations to provide that, subject to such limitations as may be specified in such regulations, the following individuals may accept gifts from nonprofit organizations, private parties, and other sources outside the Department of Defense or the Department of Homeland Security:

(A) A member of the armed forces described in subsection (b).

(B) A civilian employee of the Department of Defense or Coast Guard described in subsection (c).

(C) The family members of such a member or employee.

(D) Survivors of such a member or employee who is killed.

(2) The regulations required by this subsection shall—

(A) apply uniformly to all elements of the Department of Defense and, to the maximum extent feasible, to the Coast Guard; and

(B) require review and approval by a designated agency ethics official before acceptance of a gift to ensure that acceptance of the gift complies with the Joint Ethics Regulation.

(b) COVERED MEMBERS.—This section applies to a member of the armed forces who, while performing active duty, full-time National Guard duty, or inactive-duty training on or after September 11, 2001, incurred an injury or illness—

(1) as described in section 1413a(e)(2) of this title;

(2) in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense in accordance with the regulations prescribed under subsection (a);

(3) that results in enrollment in a Warriors in Transition program, as defined in section 738(e) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 10 U.S.C. 1071 note); or

(4) under other circumstances determined by the Secretary concerned to warrant treatment analogous to members covered by paragraph (1).

(c) COVERED EMPLOYEES.—This section applies to a civilian employee of the Department of Defense or Coast Guard who, while an employee on or after September 11, 2001, incurred an injury or illness under a circumstance described in subsection (b).

(d) GIFTS FROM CERTAIN SOURCES PROHIBITED.—The regulations prescribed under subsection (a) may not authorize the acceptance of a gift from a foreign government or international organization or their agents.

(e) APPLICATION OF CERTAIN REGULATIONS.—To the extent provided in the regulations issued under subsection (a) to implement subsection (b)(2), the regulations shall apply to the acceptance of gifts received after December 31, 2011, for injuries or illnesses incurred on or after September 11, 2001.

(Added Pub. L. 111–383, div. A, title V, §591(a), Jan. 7, 2011, 124 Stat. 4231; amended Pub. L. 112–81, div. A, title V, §543, Dec. 31, 2011, 125 Stat. 1411; Pub. L. 112–239, div. A, title X,

§1076(f)(32), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 113–291, div. A, title X, §1071(e)(4), (f)(19), Dec. 19, 2014, 128 Stat. 3510, 3511; Pub. L. 117–263, div. A, title V, §522, Dec. 23, 2022, 136 Stat. 2570.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (b)(3), (4). Pub. L. 117–263, §522(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (c). Pub. L. 117–263, §522(2), struck out "paragraph (1), (2) or (3) of" before "subsection (b)".

**2014**—Subsec. (a)(1). Pub. L. 113–291, §1071(f)(19)(A), substituted "prescribe" for "issue".

Subsec. (d). Pub. L. 113–291, §1071(f)(19)(B), substituted "prescribed" for "issued".

Subsec. (e). Pub. L. 113–291, §1071(e)(4), substituted "after December 31, 2011," for "after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012".

**2013**—Subsec. (a)(1). Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "Coast Guard" in introductory provisions.

**2011**—Subsec. (b)(2), (3). Pub. L. 112–81, §543(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 112–81, §543(2), substituted "paragraph (1), (2) or (3) of subsection (b)" for "paragraph (1) or (2) of subsection (c)".

Subsec. (e). Pub. L. 112–81, §543(3), added subsec. (e).

## §2602. American National Red Cross: cooperation and assistance

(a) Whenever the President finds it necessary, he may accept the cooperation and assistance of the American National Red Cross, and employ it under the armed forces under regulations to be prescribed by the Secretary of Defense.

(b) Personnel of the American National Red Cross who are performing duties in connection with its cooperation and assistance under subsection (a) may be furnished—

(1) transportation, at the expense of the United States, while traveling to and from, and while performing, those duties, in the same manner as civilian employees of the armed forces;

(2) meals and quarters, at their expense or at the expense of the American National Red Cross, except that where civilian employees of the armed forces are quartered without charge, employees of the American National Red Cross may also be quartered without charge; and

(3) available office space, warehousing, wharfage, and means of communication, without charge.

(c) No fee may be charged for a passport issued to an employee of the American National Red Cross for travel outside the United States to assume or perform duties under this section.

(d) Supplies of the American National Red Cross, including gifts for the use of the armed forces, may be transported at the expense of the United States, if it is determined under regulations prescribed under subsection (a) that they are necessary to the cooperation and assistance accepted under this section.

(e) For the purposes of this section, employees of the American National Red Cross may not be considered as employees of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 145.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2602(a) | 36:17. | July 17, 1953, ch. 222, §§1, 2, 7, 67 Stat. 178, 179. |
| 2602(b) | 36:17a (less provisos). | |
| 2602(c) | 36:17a (1st proviso). | |
| 2602(d) | 36:17a (last proviso). | |
| 2602(e) | 36:17b. | |

In subsection (a), the words "finds it necessary" are substituted for the words "shall find the * * * to be necessary". The words "cooperation and assistance" are substituted for the words "cooperation and use * * * assistance * * * the same". The words "under regulations to be prescribed by the Secretary of Defense" are substituted for 36:17 (last sentence). The words "tendered by the said Red Cross" are omitted as surplusage.

In subsection (b), the introductory clause is substituted for 36:17a (1st 33 words). In clause (1), the word "expense" is substituted for the words "cost and charge". The words "traveling to and from, and while performing, those duties" are substituted for the words "proceeding to their place of duty, while serving thereat, and while returning therefrom". In clause (2), the words "at their expense or at the expense of" are substituted for the words "providing the cost thereof is borne by such personnel or by". The words "quartered without charge" are substituted for the words "furnished quarters on the same basis without cost". In clause (3), the words "when such facilities are" are omitted as surplusage.

In subsection (c), the words "for travel outside the United States to assume or perform" are substituted for the words "so serving or proceeding abroad to enter upon such service".

In subsection (d), the word "equipment" is omitted as covered by the word "supplies". The words "gifts for the use of" are substituted for the words "Red Cross supplies that may be tendered as a gift and accepted for use by". The word "expense" is substituted for the words "cost and charge". The words "rules and" are omitted as surplusage.

In subsection (e), the words "Federal Government of" are omitted as surplusage.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REPORT ON ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF ARMED FORCES AND FAMILIES

Pub. L. 103–337, div. A, title III, §383(b), Oct. 5, 1994, 108 Stat. 2740, provided that, not later than Nov. 30 in each of 1994, 1995, and 1996, the Secretary of Defense was to submit to Congress a report on whether it was necessary for the Department of Defense to support the emergency communications services of the American National Red Cross in order to provide such services for members of the Armed Forces and their families.

## §2603. Acceptance of fellowships, scholarships, or grants

(a) Notwithstanding any other provision of law, a fellowship, scholarship, or grant may, under regulations to be prescribed by the President (or an individual designated by the President), be made by a corporation, fund, foundation, or educational institution that is organized and operated primarily for scientific, literary, or educational purposes to any member of the armed forces, and the benefits thereof may be accepted by the member—

(1) in recognition of outstanding performance in the field of the member;

(2) to undertake a project that may be of value to the United States; or

(3) for development of the recognized potential for future career service of the member.

However, the benefits of such a fellowship, scholarship, or grant may be accepted by the member in addition to the member's pay and allowances only to the extent that those benefits would be conferred upon the member if the education or training contemplated by that fellowship, scholarship, or grant were provided at the expense of the United States. In addition, if such a benefit, in cash or in kind, is for travel, subsistence, or other expenses, an appropriate reduction shall be made from any payment that is made for the same purpose to the member by the United States incident to the member's acceptance of the fellowship, scholarship, or grant.

(b) Each member of the armed forces who accepts a fellowship, scholarship, or grant in accordance with subsection (a) shall, before he is permitted to undertake the education or training contemplated by that fellowship, scholarship, or grant, agree in writing that, after he completes the education or training, he will serve on active duty for a period determined by the Secretary concerned, which may not be less than twice the length of the period of the education or training. Notwithstanding section 2004(c) of this title, the service obligation required under this subsection may run concurrently with any service obligations incurred under chapter 101 of this title in accordance with regulations established by the Secretary concerned.

(Added Pub. L. 87–555, §1(1), July 27, 1962, 76 Stat. 244; amended Pub. L. 111–383, div. A, title X, §1075(b)(39), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 117–263, div. A, title V, §523, Dec. 23, 2022, 136 Stat. 2571; Pub. L. 118–159, div. A, title V, §524, Dec. 23, 2024, 138 Stat. 1884.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 substituted "determined by the Secretary concerned, which may not be less than twice the length of the period of the education or training. Notwithstanding section 2004(c) of this title, the service obligation required under this subsection may run concurrently with any service obligations incurred under chapter 101 of this title in accordance with regulations established by the Secretary concerned." for "three times the length of the period of the education or training."

**2022**—Subsec. (a). Pub. L. 117–263, §523(b)(1), (4), in introductory provisions, substituted "(or an individual designated by the President)" for "or his designee" and "the member—" for "him—", and, in concluding provisions, substituted "the member's" for "his" in two places and "the member" for "him".

Subsec. (a)(1). Pub. L. 117–263, §523(b)(2), substituted "the field of the member" for "his field".

Subsec. (a)(3). Pub. L. 117–263, §523(b)(3), substituted "the recognized potential for future career service of the member" for "his recognized potential for future career service".

Subsec. (b). Pub. L. 117–263, §523(a), struck out "at least" before "three times".

**2011**—Pub. L. 111–383 substituted "armed forces" for "Armed Forces" in two places.

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 11079. REGULATIONS FOR ACCEPTANCE OF FELLOWSHIPS, SCHOLARSHIPS, OR GRANTS

Ex. Ord. No. 11079, Jan. 25, 1963, 28 F.R. 819, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 13286, §69, Feb. 28, 2003, 68 F.R. 10630, provided:

By virtue of the authority vested in me by section 2603 of Title 10, United States Code [this section], I hereby designate the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, the Secretary of Homeland Security, with respect to members of the Coast Guard when it is not operating as a service in the Navy, and the Secretary of Health and Human Services, with respect to commissioned officers of the Public Health Service, to prescribe regulations under which members of the Armed Forces and commissioned officers of the Public Health Service may accept fellowships, scholarships, or grants from corporations, funds, foundations, or educational institutions organized and operated primarily for scientific, literary, or educational purposes. To the extent practicable, such regulations shall be uniform.

## §2604. United Seamen's Service: cooperation and assistance

(a) Whenever the President finds it necessary in the interest of United States commitments abroad to provide facilities and services for United States merchant seamen in foreign areas, he may authorize the Secretary of Defense, under such regulations as the Secretary may prescribe, to cooperate with and assist the United Seamen's Service in establishing and providing those facilities and services.

(b) Personnel of the United Seamen's Service who are performing duties in connection with the cooperation and assistance under subsection (a) may be furnished—

(1) transportation, at the expense of the United States, while traveling to and from, and while performing those duties, in the same manner as civilian employees of the armed forces;

(2) meals and quarters, at their expense or at the expense of the United Seamen's Service, except that where civilian employees of the armed forces are quartered without charge, employees of the United Seamen's Service may also be quartered without charge; and

(3) available office space (including space for recreational activities for seamen), warehousing, wharfage, and means of communication, without charge.

(c) No fee may be charged for a passport issued to an employee of the United Seamen's Service for travel outside the United States to assume or perform duties under this section.

(d) Supplies of the United Seamen's Service, including gifts for the use of merchant seamen, may be transported at the expense of the United States, if it is determined under regulations prescribed under subsection (a) that they are necessary to the cooperation and assistance provided under this section.

(e) Where practicable, the President shall also make arrangements to provide for convertibility of local currencies for the United Seamen's Service, in connection with its activities under subsection (a).

(f) For the purposes of this section, employees of the United Seamen's Service may not be considered as employees of the United States.

(Added Pub. L. 91–603, §3(1), Dec. 31, 1970, 84 Stat. 1674.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SHORT TITLE**

Pub. L. 91–603, §1, Dec. 31, 1970, 84 Stat. 1674, provided: "That this Act [enacting this section, amending sections 1151, 1152, 1171, and 1223 of Title 46, Appendix, Shipping, and enacting provisions set out as a note under this section] may be cited as the 'Seamen's Service Act'."

**CONGRESSIONAL DECLARATION OF PURPOSE**

Pub. L. 91–603, §2, Dec. 31, 1970, 84 Stat. 1674, provided that: "It is the purpose of this Act [enacting this section and amending sections 1151, 1152, 1171 and 1223 of Title 46, Appendix, Shipping], by authorizing appropriate departments and agencies of the United States Government to cooperate with the United Seamen's Service (a nonprofit, charitable organization incorporated under the laws of the State of New York) in the establishment and operation of facilities for United States merchant seamen in foreign areas, to promote the welfare of such seamen, essential to the overall interests of shipment of United States goods and supplies to such areas."

## §2605. Acceptance of gifts for defense dependents' schools

(a) The Secretary of Defense may accept, hold, administer, and spend any gift (including any gift of an interest in real property) made on the condition that it be used in connection with the operation or administration of a defense dependents' school. The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

(b) There is established in the Treasury a fund to be known as the "Department of Defense Dependents' Education Gift Fund". Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of defense dependents' schools, subject to the terms of the gift.

(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

(A) retain money, securities, and the proceeds of the sale of securities, in the Department of Defense Dependents' Education Gift Fund; and

(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

(e) In this section, the term "gift" includes a devise of real property or a bequest of personal property.

(f) The Secretary of Defense shall prescribe regulations to carry out this section.

(g) In this section, the term "defense dependents' school" means the following:

(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) An elementary or secondary school established pursuant to section 2164 of this title.

(Added Pub. L. 99–661, div. A, title III, §314(a), Nov. 14, 1986, 100 Stat. 3853; amended Pub. L. 103–337, div. A, title III, §353(a)–(c)(1), Oct. 5, 1994, 108 Stat. 2731.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Defense Dependents' Education Act of 1978, referred to in subsec. (g)(1), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

**AMENDMENTS**

**1994**—Pub. L. 103–337, §353(c)(1), substituted "schools" for "education system" in section catchline.

Subsec. (a). Pub. L. 103–337, §353(a)(1), substituted "a defense dependents' school" for "the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.)".

Subsec. (b). Pub. L. 103–337, §353(a)(2), substituted "defense dependents' schools" for "the defense dependent's education system".

Subsec. (g). Pub. L. 103–337, §353(b), added subsec. (g).

## §2606. Scouting: cooperation and assistance in foreign areas

(a) Subject to subsection (b), the Secretary concerned may cooperate with and assist qualified scouting organizations in establishing and providing facilities and services for members of the armed forces and their dependents, and civilian employees of the Department of Defense and their dependents, at locations outside the United States.

(b) Cooperation and assistance under subsection (a) shall be provided under regulations prescribed by the Secretary of Defense and may be provided only if the President determines that such cooperation and assistance is necessary in the interest of the morale, welfare, and recreation of members of the armed forces.

(c) Personnel of a qualified scouting organization, including officials certified by that organization as representing that organization, who are performing duties in connection with cooperation and assistance provided under subsection (a) may be furnished—

(1) transportation at the expense of the United States while traveling to and from, and while performing, such duties in the same manner as civilian employees of the United States; and

(2) available office space (including space for recreational activities for Boy Scouts and Girl Scouts), warehousing, utilities, and a means of communication, without charge.

(d) Supplies of a qualified scouting organization may be transported at the expense of the United States if the Secretary concerned determines, under regulations prescribed under subsection (b), that the supplies are necessary to the cooperation and assistance provided under this section.

(e) The Secretary concerned may reimburse a qualified scouting organization for all or part of the pay of an employee of that organization for any period during which the employee was performing services under subsection (a). Any such reimbursement may not be made from appropriated funds and shall be made under regulations prescribed under subsection (b).

(f) For the purposes of this section, employees of a qualified scouting organization performing services under subsection (a) may not be considered to be employees of the United States.

(g) In this section, the term "qualified scouting organization" means the Girl Scouts of the United States of America and the Boy Scouts of America.

(Added Pub. L. 100–456, div. A, title III, §323(a), Sept. 29, 1988, 102 Stat. 1953.)

**EXECUTIVE DOCUMENTS**

**EX. ORD. NO. 12715. DETERMINATION FOR SUPPORT OF SCOUTING ACTIVITIES OVERSEAS**

Ex. Ord. No. 12715, May 3, 1990, 55 F.R. 19051, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to section 2606(b) of title 10, United States Code, with regard to support of scouting activities overseas, I hereby determine that the cooperation and assistance authorized by section 2606(a) of that title is necessary in the interest of the morale, welfare, and recreation of members of the armed forces. The Secretary of Defense, or his designee, shall issue regulations concerning such cooperation and support.

GEORGE BUSH.

## §2607. Acceptance of gifts for the Defense Intelligence College

(a) The Secretary of Defense may accept, hold, administer, and use any gift (including any gift of an interest in real property) made for the purpose of aiding and facilitating the work of the Defense Intelligence College and may pay all necessary expenses in connection with the acceptance of such a gift.

(b) Money, and proceeds from the sale of property, received as a gift under subsection (a) shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary of Defense to the extent provided in annual appropriation Acts.

(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

(d) In this section, the term "gift" includes a bequest of personal property or a devise of real property.

(Added Pub. L. 101–193, title V, §502(a), Nov. 30, 1989, 103 Stat. 1708.)

## §2608. Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account

(a) ACCEPTANCE AUTHORITY.—The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense.

(b) ESTABLISHMENT OF DEFENSE COOPERATION ACCOUNT.—(1) There is established in the Treasury of the United States a special account to be known as the "Defense Cooperation Account".

(2) Contributions of money and proceeds from the sale of any property accepted by the Secretary of Defense under subsection (a) shall be credited to the Defense Cooperation Account.

(c) USE OF THE DEFENSE COOPERATION ACCOUNT.—(1) Funds in the Defense Cooperation Account may be appropriated for a function described in section 114 of this title only to the extent that the appropriation of such funds for such purpose is authorized in accordance with that section.

(2) Funds in the Defense Cooperation Account shall not be made available for obligation or expenditure except to the extent and in the manner provided in subsequent appropriations Acts.

(d) USE OF PROPERTY.—Any contribution of property received under this section may be—

(1) retained and used by the Department of Defense in the form in which it was donated;

(2) sold or otherwise disposed of upon such terms and conditions and in accordance with such procedures as the Secretary determines appropriate; or

(3) converted into a form usable by the Department of Defense.

(e) REPORTING REQUIREMENT.—(1) Not later than 30 days after the end of the second quarter and the fourth quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on contributions of property accepted by the Secretary under this section during the preceding two quarters. The Secretary shall include in each such report a description of all property having a value of more than $1,000,000.

(2) In computing the value of any property referred to in paragraph (1), the Secretary shall aggregate the value of—

(A) similar items of property accepted by the Secretary during the quarter concerned; and

(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

(f) AUTHORITY TO USE PROPERTY.—Property accepted under subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property may not be used in connection with any program, project, or activity if the use of such property would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity.

(g) INVESTMENT OF MONEY.—(1) Upon request by the Secretary of Defense, the Secretary of the Treasury may invest money in the Defense Cooperation Account in securities of the United States or in securities guaranteed as to principal and interest by the United States.

(2) Any interest or other income that accrues from investment in securities referred to in paragraph (1) shall be deposited to the credit of the Defense Cooperation Account.

(h) NOTIFICATION OF CONDITIONS.—The Secretary of Defense shall notify Congress of any condition imposed by the donor on the use of any contribution accepted by the Secretary under the authority of this section.

(i) PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(j) ITEMS INCLUDED AS CONTRIBUTIONS.—In this section, the term "contribution" includes a devise of real property or a bequest of personal property.

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 101–403, title II, §202(a)(1), Oct. 1, 1990, 104 Stat. 872; amended Pub. L. 102–190, div. A, title X, §1061(a)(16), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103–160, div. A, title XI, §1105(b)(1), (2), Nov. 30, 1993, 107 Stat. 1750; Pub. L. 104–201, div. A, title X, §1063, Sept. 23, 1996, 110 Stat. 2652; Pub. L. 112–81, div. A, title X, §1064(7), Dec. 31, 2011, 125 Stat. 1587.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (e)(1). Pub. L. 112–81 substituted "the second quarter and the fourth quarter" for "each quarter" and "the preceding two quarters" for "the preceding quarter".

**1996**—Subsec. (a). Pub. L. 104–201 inserted before period at end "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense".

**1993**—Pub. L. 103–160, §1105(b)(2), inserted "; Defense Cooperation Account" in section catchline.

Subsec. (i). Pub. L. 103–160, §1105(b)(1), substituted "Periodic Audits" for "Annual Audit" in heading and amended text generally. Prior to amendment, text read as follows: "The Comptroller General of the United States shall conduct an annual audit of money and property accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress."

**1991**—Subsec. (g)(1). Pub. L. 102–190 inserted "(1)" before "Upon request".

## [§2609. Repealed. Pub. L. 104–106, div. A, title II, §253(9), Feb. 10, 1996, 110 Stat. 235]

Section, added Pub. L. 103–160, div. A, title II, §242(f)(1), Nov. 30, 1993, 107 Stat. 1605, related to acceptance of contributions from allies for Theater Missile Defense programs and establishment and use of Theater Missile Defense Cooperation Account.

## §2610. Competitions for excellence: acceptance of monetary awards

(a) ACCEPTANCE AUTHORIZED.—The Secretary of Defense may accept a monetary award given to the Department of Defense by a nongovernmental entity as a result of the participation of the Department in a competition carried out to recognize excellence or innovation in providing services or administering programs.

(b) DISPOSITION OF AWARDS.—A monetary award accepted under subsection (a) shall be credited to one or more nonappropriated fund accounts supporting morale, welfare, and recreation activities for the command, installation, or other activity that is recognized for the award. Amounts so credited may be expended only for such activities.

(c) INCIDENTAL EXPENSES.—Subject to such limitations as may be provided in appropriation Acts, appropriations available to the Department of Defense may be used to pay incidental expenses incurred by the Department to participate in a competition described in subsection (a) or to accept a monetary award under this section.

(d) REGULATIONS AND REPORTING.—(1) The Secretary shall prescribe regulations to determine the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

(2) At the end of each year, the Secretary shall submit to Congress a report for that year describing the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

(e) TERMINATION.—The authority of the Secretary under this section shall expire on February 10, 1998.

(Added Pub. L. 104–106, div. A, title III, §377(a), Feb. 10, 1996, 110 Stat. 283; amended Pub. L. 104–201, div. A, title X, §1074(a)(16), Sept. 23, 1996, 110 Stat. 2659.)

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (e). Pub. L. 104–201 substituted "on February 10, 1998" for "two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996".

## §2611. Regional centers for security studies: acceptance of gifts and donations

(a) AUTHORITY TO ACCEPT GIFTS AND DONATIONS.—(1) Subject to subsection (c), the Secretary of Defense may, on behalf of any Department of Defense regional center for security studies, any combination of such centers, or such centers generally, accept from any source specified in subsection (b) any gift or donation for purposes of defraying the costs or enhancing the operation of such a center, combination of centers, or centers generally, as the case may be.

(2) For purposes of this section, the Department of Defense regional centers for security studies are the following:

(A) The George C. Marshall European Center for Security Studies.

(B) The Daniel K. Inouye Asia-Pacific Center for Security Studies.

(C) The William J. Perry Center for Hemispheric Defense Studies.

(D) The Africa Center for Strategic Studies.

(E) The Near East South Asia Center for Strategic Studies.
(F) The Ted Stevens Center for Arctic Security Studies.

(b) SOURCES.—The sources from which gifts and donations may be accepted under subsection (a) are the following:
(1) The government of a State or a political subdivision of a State.
(2) The government of a foreign country.
(3) A foundation or other charitable organization, including a foundation or charitable organization this is organized or operates under the laws of a foreign country.
(4) Any source in the private sector of the United States or a foreign country.

(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (a) if acceptance of the gift or donation would compromise or appear to compromise—
(1) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or
(2) the integrity of any program of the Department, or of any person involved in such a program.

(d) CRITERIA FOR ACCEPTANCE.—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in subsection (c).
(e) CREDITING OF FUNDS.—Funds accepted by the Secretary under section (a) shall be credited to appropriations available to the Department of Defense for the regional center, combination of centers, or centers generally for which accepted. Funds so credited shall be merged with the appropriations to which credited and shall be available for the regional center, combination of centers, or centers generally, as the case may be, for the same purposes as the appropriations with which merged. Any funds accepted under this section shall remain available until expended.
(f) GIFT OR DONATION DEFINED.—In this section, the term "gift or donation" means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 106–65, div. A, title IX, §915(a), Oct. 5, 1999, 113 Stat. 721; amended Pub. L. 107–314, div. A, title X, §1041(a)(17), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 108–136, div. A, title IX, §931(a), (b)(1), (c), Nov. 24, 2003, 117 Stat. 1580, 1581; Pub. L. 108–375, div. A, title X, §1084(f)(2), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 109–163, div. A, title IX, §903(a)(1), Jan. 6, 2006, 119 Stat. 3397; Pub. L. 112–239, div. B, title XXVIII, §2854(b)(2), Jan. 2, 2013, 126 Stat. 2162; Pub. L. 113–291, div. B, title XXVIII, §2861(b)(2), Dec. 19, 2014, 128 Stat. 3716; Pub. L. 117–81, div. A, title X, §1082(b), Dec. 27, 2021, 135 Stat. 1922.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2)(F). Pub. L. 117–81 added subpar. (F).
**2014**—Subsec. (a)(2)(B). Pub. L. 113–291 substituted "Daniel K. Inouye Asia-Pacific Center for Security Studies" for "Asia-Pacific Center for Security Studies".
**2013**—Subsec. (a)(2)(C). Pub. L. 112–239 substituted "William J. Perry Center for Hemispheric Defense Studies" for "Center for Hemispheric Defense Studies".
**2006**—Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (f) relating to acceptance of gifts and donations for the Asia-Pacific Center for Security Studies.
**2004**—Subsec. (a)(1). Pub. L. 108–375 amended directory language of Pub. L. 108–136, §931(a)(1). See 2003 Amendment note below.
**2003**—Pub. L. 108–136, §931(c), struck out "foreign" before "gifts" in section catchline.
Subsec. (a). Pub. L. 108–136, §931(b)(1)(A), struck out "Foreign" before "Gifts" in heading.

Subsec. (a)(1). Pub. L. 108–136, §931(a)(1), as amended by Pub. L. 108–375, substituted "gifts and donations from sources described in paragraph (2)" for "foreign gifts or donations".

Subsec. (a)(2), (3). Pub. L. 108–136, §931(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 108–136, §931(b)(1)(B), struck out "foreign" before "gift".

Subsec. (f). Pub. L. 108–136, §931(b)(1)(A), (C), in heading, struck out "Foreign" before "Gift" and in text, struck out "foreign" after "section, a" and "from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country" before period at end.

**2002**—Subsec. (e). Pub. L. 107–314 struck out heading and text of subsec. (e). Text read as follows: "If the total amount of funds accepted under subsection (a) in any fiscal year exceeds $2,000,000, the Secretary shall notify Congress of the amount of those donations for that fiscal year. Any such notice shall list each of the contributors of such amounts and the amount of each contribution in that fiscal year."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108–375, div. A, title X, §1084(f), Oct. 28, 2004, 118 Stat. 2064, provided that the amendment made by section 1084(f)(2) is effective as of Nov. 24, 2003, and as if included in Pub. L. 108–136 as enacted.

## §2612. National Defense University: acceptance of gifts

(a) The Secretary of Defense may accept, hold, administer, and spend any gift, including a gift from an international organization and a foreign gift or donation (as defined in section 343(f)(4) of this title), that is made on the condition that it be used in connection with the operation or administration of the National Defense University. The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

(b) There is established in the Treasury a fund to be known as the "National Defense University Gift Fund". Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the National Defense University.

(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

(A) retain money, securities, and the proceeds of the sale of securities, in the National Defense University Gift Fund; and

(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

(e) In this section:

(1) the term "gift" includes a devise of real property or a bequest of personal property and any gift of an interest in real property.

(2) The term "National Defense University" includes any school or other component of the National Defense University specified under section 2165(b) of this title.

(f) The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 107–314, div. A, title IX, §931(a), Dec. 2, 2002, 116 Stat. 2624; amended Pub. L. 108–136, div. A, title IX, §931(d), Nov. 24, 2003, 117 Stat. 1581; Pub. L. 115–91, div. A, title X, §1081(a)(44), Dec. 12, 2017, 131 Stat. 1596.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (a). Pub. L. 115–91 substituted "section 343(f)(4)" for "section 2166(f)(4)".
**2003**—Subsec. (a). Pub. L. 108–136 substituted "2166(f)(4)" for "2611(f)".

## §2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families

(a) AUTHORITY TO ACCEPT DONATION OF TRAVEL BENEFITS.—Subject to subsection (c), the Secretary of Defense may accept from any person or government agency the donation of travel benefits for the purposes of use under subsection (d).

(b) TRAVEL BENEFIT DEFINED.—In this section, the term "travel benefit" means—

(1) frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public; and

(2) points or awards for free or reduced-cost accommodations issued by an inn, hotel, or other commercial establishment that provides lodging to transient guests.

(c) CONDITION ON AUTHORITY TO ACCEPT DONATION.—The Secretary may accept a donation of a travel benefit under this section only if the business entity referred to in subsection (b) that is the source of the benefit consents to such donation. Any such donation shall be under such terms and conditions as the business entity may specify, and the travel benefit so donated may be used only in accordance with the rules established by the business entity.

(d) USE OF DONATED TRAVEL BENEFITS.—A travel benefit accepted under this section may be used only for the purpose of—

(1) facilitating the travel of a member of the armed forces who—

(A) is deployed on active duty outside the United States away from the permanent duty station of the member in support of a contingency operation; and

(B) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member; or

(2) in the case of a member of the armed forces recuperating from an injury or illness incurred or aggravated in the line of duty during such a deployment, facilitating the travel of family members of the member in order to be reunited with the member.

(e) ADMINISTRATION.—(1) The Secretary shall designate a single office in the Department of Defense to carry out this section. That office shall develop rules and procedures to facilitate the acceptance and distribution of travel benefits under this section.

(2) For the use of travel benefits under subsection (d)(2) by family members of a member of the armed forces, the Secretary may, as the Secretary determines appropriate, limit—

(A) eligibility to family members who, by reason of affinity, degree of consanguinity, or otherwise, are sufficiently close in relationship to the member of the armed forces to justify the travel assistance;

(B) the number of family members who may travel; and

(C) the number of trips that family members may take.

(3) The Secretary of Defense may, in an exceptional case, authorize a person not described in subsection (d)(2) to use a travel benefit accepted under this subsection to visit a member of the armed forces described in subsection (d)(1) if that person has a notably close relationship with the member. The travel benefit may be used by such person only in accordance with such conditions and restrictions as the Secretary determines appropriate and the rules established by the business entity referred to in subsection (b) that is the source of the travel benefit.

(f) SERVICES OF NONPROFIT ORGANIZATION.—The Secretary of Defense may enter into

an agreement with a nonprofit organization to use the services of the organization—

(1) to promote the donation of travel benefits under this section, except that amounts appropriated to the Department of Defense may not be expended for this purpose; and

(2) to assist in administering the collection, distribution, and use of travel benefits under this section.

(g) FAMILY MEMBER DEFINED.—In this section, the term "family member" has the meaning given that term in section 451(a) of title 37.

(Added Pub. L. 108–375, div. A, title V, §585(a)(1), Oct. 28, 2004, 118 Stat. 1930; amended Pub. L. 109–364, div. A, title X, §1071(a)(20), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 112–81, div. A, title V, §576(a)–(d)(1), title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1428, 1429, 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 115–232, div. A, title X, §1081(a)(25), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 117–263, div. A, title VI, §626(c)(8), Dec. 23, 2022, 136 Stat. 2628.)

### EDITORIAL NOTES

### CODIFICATION

Another section 2613 was renumbered section 2614 of this title.

### AMENDMENTS

**2022**—Subsec. (g). Pub. L. 117–263 substituted "section 451(a)" for "section 481h(b)".

**2018**—Subsec. (g). Pub. L. 115–232 substituted "481h(b)" for "481h(b)(1)".

**2013**—Subsec. (g). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Pub. L. 112–81, §576(d)(1), substituted "Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families" for "Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families" in section catchline.

Subsec. (b). Pub. L. 112–81, §576(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) defined travel benefit.

Subsec. (c). Pub. L. 112–81, §576(b), substituted "the business entity referred to in subsection (b)" for "the air or surface carrier" and substituted "the business entity" for "the surface carrier" and for "the carrier".

Subsec. (e)(3). Pub. L. 112–81, §576(c), substituted "the business entity referred to in subsection (b)" for "the air carrier or surface carrier".

Subsec. (g). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "481h(b)(1)" for "411h(b)(1)".

**2006**—Subsec. (b). Pub. L. 109–364 substituted "In this" for "In the".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

## §2614. Emergency communications equipment: acceptance from local public safety agencies for temporary use related to disasters

(a) AUTHORITY TO ACCEPT EQUIPMENT.—(1) Subject to subsection (c), the Secretary concerned—

(1) may accept communications equipment for use in coordinating joint response and recovery operations with public safety agencies in the event of a disaster; and

(2) may accept services related to the operation and maintenance of such equipment.

(b) REGULATIONS.—The authority under subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

(c) LIMITATIONS.—(1) Equipment may be accepted under subsection (a)(1) only to the extent that communications equipment under the control of the Secretary concerned at the potential disaster response site is inadequate to meet military requirements for communicating with public safety agencies during the period of response to the disaster.

(2) Services may be accepted under subsection (a)(2) related to the operation and maintenance of communications equipment only to the extent that the necessary capabilities are not available to the military commander having custody of the equipment.

(d) LIABILITY.—A person providing services accepted under this section may not be considered, by reason of the provision of such services, to be an officer, employee, or agent of the United States for any purpose.

(Added Pub. L. 108–375, div. A, title X, §1051(a), Oct. 28, 2004, 118 Stat. 2053, §2613; renumbered §2614 and amended Pub. L. 109–364, div. A, title X, §1071(a)(19)(A), Oct. 17, 2006, 120 Stat. 2399.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364 renumbered section 2613 of this title as this section and redesignated the second subsec. (c) as (d).

## §2615. Military museums and military education programs: cooperative agreement authority

(a) USE AUTHORIZED.—The Secretary concerned may enter into a cooperative agreement with a nonprofit entity for purposes related to—

(1) a military museum program; or

(2) the support of a military educational institution program.

(b) COOPERATIVE AGREEMENT DESCRIBED.—For purposes of subsection (a), an authorized cooperative agreement is described in section 6305 of title 31, except that the use of a cooperative agreement by the Secretary concerned is limited to nonprofit entities.

(Added Pub. L. 112–239, div. B, title XXVIII, §2852(b)(1), Jan. 2, 2013, 126 Stat. 2161.)

# CHAPTER 157—TRANSPORTATION

Sec.
2631. Preference for United States vessels in transporting supplies by sea.
2631a. Contingency planning: sealift and related intermodal transportation requirements.
2632. Transportation to and from certain places of employment and on military installations.
2633. Stevedoring and terminal services: vessels carrying cargo or passengers sponsored by military department.
[2634. Repealed.]
2635. Medical emergency helicopter transportation assistance and limitation of individual liability.
2636. Deductions from amounts due carriers.
2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers.
2636b. Responsibilities for oversight of personal property transportation.
2637. Transportation in certain areas outside the United States.

2638. Transportation of civilian clothing of enlisted members.
2639. Transportation to and from school for certain minor dependents.
2640. Charter air transportation of members of the armed forces or cargo.
2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft.
2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii.
2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients.
2642. Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate.
2643. Commissary and exchange services: transportation overseas.
2644. Control of transportation systems in time of war.
2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance.
2646. Travel services: procurement for official and unofficial travel under one contract.
2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings.
2648. Persons and supplies: sea, land, and air transportation.
2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft.
2650. Civilian personnel in Alaska.
2651. Passengers and merchandise to Guam: sea transport.
2652. Prohibition on charge of certain tariffs on aircraft traveling through channel routes.
2653. Evacuation of family pets and contract working dogs during noncombatant evacuations of foreign countries.
2654. Aircraft safety: requirements for certain highly trafficked domestic airspace.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title III, §§336(a), 372, 373(a), Dec. 18, 2025, 139 Stat. 818, 836, 837, added items 2636b, 2653, and 2654. Amendments were made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1083(d)(2), Dec. 27, 2021, 135 Stat. 1923, substituted "Charter air transportation of members of the armed forces or cargo" for "Charter air transportation of members of the armed forces" in item 2640.

Pub. L. 116–283, div. A, title X, §1024(a)(2), Jan. 1, 2021, 134 Stat. 3842, substituted "Preference for United States vessels in transporting supplies by sea" for "Supplies: preference to United States vessels" in item 2631.

**2017**—Pub. L. 115–91, div. A, title X, §1044(b), Dec. 12, 2017, 131 Stat. 1555, added item 2652.

**2014**—Pub. L. 113–291, div. A, title X, §1071(f)(21), Dec. 19, 2014, 128 Stat. 3511, which directed substitution of "rate" for "rates" in item 2642, could not be executed because the word "rates" did not appear after the amendment by Pub. L. 113–291, §1044(c)(2). See below.

Pub. L. 113–291, div. A, title X, §1044(c)(2), Dec. 19, 2014, 128 Stat. 3494, amended item 2642 generally, substituting "Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate" for "Transportation services provided to certain other agencies: use of Department of Defense reimbursement rates".

**2013**—Pub. L. 113–66, div. A, title VI, §621(g)(2), title X, §1073(c), Dec. 26, 2013, 127 Stat. 784, 870, struck out item 2634 "Motor vehicles: transportation or storage for members on change of permanent station or extended deployment", added item 2642, and struck out former item 2642 "Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate".

Pub. L. 112–239, div. A, title VI, §622(b), Jan. 2, 2013, 126 Stat. 1781, substituted in item 2641b "Space-available travel on Department of Defense aircraft: program authorized and eligible recipients." for "Space-available travel on Department of Defense aircraft: retired members residing in Commonwealths and possessions of the United States for certain health care services."

**2011**—Pub. L. 111–383, div. A, title III, §352(f), Jan. 7, 2011, 124 Stat. 4194, added items 2648 and 2649 and struck out former items 2648 "Persons and supplies: sea transportation" and 2649 "Civilian passengers

and commercial cargoes: transportation on Department of Defense vessels".

**2008**—Pub. L. 110–181, div. A, title III, §374(b), Jan. 28, 2008, 122 Stat. 83, added item 2641b.

**2004**—Pub. L. 108–375, div. A, title X, §1072(d)(1), Oct. 28, 2004, 118 Stat. 2058, added items 2648 to 2651.

**2003**—Pub. L. 108–136, div. A, title VI, §634(b), title X, §1006(b)(2), Nov. 24, 2003, 117 Stat. 1510, 1585, added item 2636a and amended item 2642 generally, substituting "Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate" for "Reimbursement rate for airlift services provided to Central Intelligence Agency".

**2001**—Pub. L. 107–107, div. A, title V, §574(b), Dec. 28, 2001, 115 Stat. 1122, added item 2647.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1009(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–251, substituted "Deductions from amounts due carriers" for "Deductions from carriers because of loss or damage to material in transit" in item 2636.

**1998**—Pub. L. 105–262, title VIII, §8121(b), Oct. 17, 1998, 112 Stat. 2332, added item 2641a.

Pub. L. 105–261, div. A, title VIII, §813(b), Oct. 17, 1998, 112 Stat. 2087, added item 2646.

**1996**—Pub. L. 104–201, div. A, title III, §368(a)(2)(B), title IX, §906(d)(1), title X, §1079(b)(2), Sept. 23, 1996, 110 Stat. 2498, 2620, 2670, substituted "Motor vehicles: transportation or storage for members on change of permanent station or extended deployment" for "Motor vehicles: for members on change of permanent station" in item 2634 and added items 2644 and 2645.

Pub. L. 104–106, div. A, title III, §334(b), Feb. 10, 1996, 110 Stat. 262, added item 2643.

**1993**—Pub. L. 103–160, div. A, title XI, §1173(b), Nov. 30, 1993, 107 Stat. 1767, added item 2631a.

**1991**—Pub. L. 102–88, title V, §501(b), Aug. 14, 1991, 105 Stat. 435, added item 2642.

**1990**—Pub. L. 101–510, div. A, title III, §326(a)(2), Nov. 5, 1990, 104 Stat. 1531, added item 2637.

**1987**—Pub. L. 100–180, div. A, title XII, §1250(a)(2), Dec. 4, 1987, 101 Stat. 1168, added item 2641.

**1986**—Pub. L. 99–661, div. A, title XII, §1204(a)(2), Nov. 14, 1986, 100 Stat. 3971, added item 2640.

Pub. L. 99–550, §2(a)(2), Oct. 27, 1986, 100 Stat. 3070, struck out item 2637 "Transportation between residence and place of work for senior defense officials".

**1984**—Pub. L. 98–525, title VI, §614(b), title XIV, §1401(j)(2), Oct. 19, 1984, 98 Stat. 2540, 2620, added items 2637 to 2639.

**1982**—Pub. L. 97–258, §2(b)(5)(A), Sept. 13, 1982, 96 Stat. 1053, added item 2636.

**1979**—Pub. L. 96–125, title VIII, §807(c)(2), Nov. 26, 1979, 93 Stat. 950, inserted "and on military installations" after "places of employment" in item 2632.

**1973**—Pub. L. 93–155, title VIII, §814(b), Nov. 16, 1973, 87 Stat. 621, added item 2635.

**1965**—Pub. L. 89–101, §1(2), July 30, 1965, 79 Stat. 425, substituted "change of permanent station" for "permanent change of station" in item 2634.

**1962**—Pub. L. 87–651, title I, §111(c), Sept. 7, 1962, 76 Stat. 511, substituted "Stevedoring and terminal services: vessels carrying cargo or passengers sponsored by military department" for "Terminal Services, furnish to commercial steamship companies" in item 2633, and added item 2634.

**1957**—Pub. L. 85–44, §2, June 1, 1957, 71 Stat. 45, added item 2633.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CYBERSECURITY AND RESILIENCE ANNEX IN STRATEGIC RAIL CORRIDOR NETWORK ASSESSMENTS

Pub. L. 119–60, div. A, title X, §1067, Dec. 18, 2025, 139 Stat. 1048, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Transportation and the Secretary of Homeland Security, shall ensure that each periodic assessment of the Strategic Rail Corridor Network carried out after the date of the enactment of this Act [Dec. 18, 2025] includes an annex containing an evaluation of the cybersecurity and the resilience of the physical infrastructure of the Strategic Rail Corridor. Each such annex shall include—

"(1) a description of potential cyber threats and vulnerabilities affecting the Strategic Rail Corridor Network operations;

"(2) an assessment of the resilience of the Strategic Rail Corridor Network against cyberattacks and other disruptive actions by an adversary of the United States;

"(3) recommended actions to be taken by Congress and Federal agencies to improve the cybersecurity defenses and the resilience of the physical infrastructure of the Strategic Rail Corridor Network; and

"(4) a description of the timelines and resource requirements to implement the recommendations under paragraph (3).

"(b) STRATEGIC RAIL CORRIDOR NETWORK DEFINED.—In this section, the term 'Strategic Rail Corridor Network' means the interconnected network of rail corridors important to national defense and military mobility, as defined by the Department of Defense and the Federal Railroad Administration."

**PROCESS FOR COMPLAINTS AND INVESTIGATIONS OF TRANSPORTATION SERVICE PROVIDERS AND TRANSPORTATION OFFICERS**

Pub. L. 119–60, div. A, title X, §1090, Dec. 18, 2025, 139 Stat. 1062, provided that:

"(a) COMPLAINTS AND INVESTIGATIONS.—

"(1) PROCESS FOR SUBMITTING COMPLAINTS.—The Commander of the United States Army Transportation Command shall develop a process through which a transportation service provider may submit a complaint to the Commander regarding possible violations of the Military Freight Traffic Unified Rules Publication or the Defense Transportation Regulations by Department of Defense transportation officers and transportation service providers regarding any military shipments that are required to be processed by the Global Freight Management System.

"(2) ELEMENTS.—The complaint process required under paragraph (1) shall include each of the following:

"(A) An identification of the information the complainant should provide as part of a complaint to assist the Commander in reviewing and investigating the complaint, including references to the rules that were allegedly violated.

"(B) A timeline for the adjudication of the complaint and rendering of an initial finding by an individual designated by the Commander.

"(C) A process for any party to appeal the initial finding if the party believes the initial finding is incorrect, a timeline for the review of the appeal, and a timeline for the Commander to render a final decision.

"(D) Such other elements as the Commander determines appropriate.

"(3) CONSEQUENCES FOR VIOLATIONS.—If, pursuant to a complaint submitted through the complaint process under this section, a transportation officer or transportation service provider is found to have violated the Military Freight Traffic Unified Rules Publication or the Defense Transportation Regulations, the Commander shall impose a penalty in accordance with the Military Freight Traffic Unified Rules Publication and the Defense Transportation Regulations and, if applicable, work with the transportation officer or transportation service provider to take corrective action.

"(4) TRANSPORTATION OFFICER ACTIONS.—

"(A) NOTIFICATION PROCESS.—The Commander shall establish a timely process through which a transportation service provider may notify the United States Army Transportation Command of any action a transportation officer imposes against a transportation service provider, such as a letter of non-use, if the transportation service provider believes that such action was improper, excessive, or not in accordance with the Military Freight Traffic Unified Rules Publication or Defense Transportation Regulations.

"(B) AUTHORITY TO OVERRIDE.—The Commander may override any action taken by a transportation officer against a transportation service provider if the Commander believes such action was improper, excessive, or not in accordance with the Military Freight Traffic Unified Rules Publication or Defense Transportation Regulations. The authority under this subparagraph includes revoking a letter of non-use, reducing the duration of a letter of non-use, and removing any service failure from the record of the transportation service provider.

"(b) GLOBAL FREIGHT MANAGEMENT TRAINING.—The Commander of the United States Army Transportation Command shall provide recurring training to all transportation officers and transportation service providers that use the Global Freight Management System to process and award Department of Defense shipments. Such training shall include—

"(1) detailed instruction on the Military Freight Traffic Unified Rules Publication and Defense Transportation Regulations;

"(2) best practices for processing and awarding shipments in the Global Freight Management system;

"(3) the importance of awarding shipments transparently and in accordance with Department of Defense policies; and

"(4) such other information as the Commander determines appropriate.

"(c) FREIGHT CARRIER REGISTRATION PROGRAM.—

"(1) UPDATE.—The Commander of the United States Army Transportation Command shall update the freight carrier registration program to ensure that users of the program, including Department of Defense personnel and transportation service providers, are able to easily determine if a standard carrier

alpha code belongs to a motor carrier or broker.

"(2) ANNUAL AUDIT REQUIREMENT.—Not less frequently than annually, the Commander shall conduct an audit of the freight carrier registration program to ensure that all approved transportation service providers have active and appropriate operating authority from the Department of Transportation."

**NOTIFICATION OF CHANGES TO CERTAIN TRANSPORTATION CONTRACTS**

Pub. L. 118–159, div. A, title VIII, §852, Dec. 23, 2024, 138 Stat. 1995, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall provide a written notification and briefing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 90 days before the date on which the Secretary will implement any rule, regulation, or policy change which would—

"(1) waive, exempt, or reduce any requirement, including any security clearance requirements, regarding transportation protective services for any transportation service provider; or

"(2) allow the award of a contract or order to a transportation service provider for any shipment that requires any transportation protective service if such transportation service provider is not authorized by the Department of Defense to transport cargo regarding such a transportation protective service.

"(b) TRANSPORTATION PROTECTIVE SERVICE; TRANSPORTATION SERVICE PROVIDER DEFINED.—In this section, the terms 'transportation protective service' and 'transportation service provider' have the meanings given such terms, respectively, in the publication of the Military Surface Deployment and Distribution Command of the Department of Defense issued September 12, 2022, and titled 'MILITARY FREIGHT TRAFFIC UNIFIED RULES PUBLICATION-1 (MFTURP-1)', or any successor thereto."

**AIR TRANSPORTATION OF CIVILIAN DEPARTMENT OF DEFENSE PERSONNEL TO AND FROM AFGHANISTAN**

Pub. L. 115–91, div. A, title X, §1098, Dec. 12, 2017, 131 Stat. 1626, provided that:

"(a) POLICY REVIEW.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall conduct a policy review regarding the use of commercial air transportation or alternative forms of air transportation to transport civilian personnel of the Department of Defense to and from Afghanistan.

"(b) REPORT TO CONGRESS.—Not later than 90 days after the completion of the policy review required by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of such review.

"(c) UPDATED GUIDELINES.—Not later than 90 days after the completion of the policy review required by subsection (a), the Secretary shall issue updated guidelines, based on the report submitted under subsection (b), regarding the use of commercial air transportation or alternative forms of air transportation to transport civilian personnel of the Department to and from Afghanistan."

## §2631. Preference for United States vessels in transporting supplies by sea

(a) IN GENERAL.—Supplies bought for the Army, Navy, Air Force, Marine Corps, or Space Force, or for a Defense Agency, or otherwise transported by the Department of Defense, may only be transported by sea in—

(1) a vessel belonging to the United States; or

(2) a vessel of the United States (as such term is defined in section 116 of title 46).

(b) WAIVER AND NOTIFICATION.—(1) The Secretary of Defense may waive the requirement under subsection (a) if such a vessel is—

(A) not available at a fair and reasonable rate for commercial vessels of the United States; or

(B) otherwise not available.

(2) At least once each fiscal year, the Secretary of Defense shall submit, in writing, to the appropriate congressional committees a notice of any waiver granted under this subsection and the reasons for such waiver.

(c) REQUIREMENTS FOR REFLAGGING OR REPAIR WORK.—(1) In each request for proposals to enter into a time-charter contract for the use of a vessel for the transportation of supplies under this section, the Secretary of Defense shall require that—

(A) any reflagging or repair work on a vessel for which a proposal is submitted in response to the request for proposals be performed in the United States (including any territory of the United States); and

(B) any corrective and preventive maintenance or repair work on a vessel under contract pursuant to this section relevant to the purpose of such contract be performed in the United States (including any territory of the United States) for the duration of the contract, to the greatest extent practicable.

(2) The Secretary of Defense may waive a requirement under paragraph (1) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately submit, in writing, to the appropriate congressional committees a notice of any waiver granted under this paragraph and the reasons for such waiver.

(3) In this subsection:

(A) The term "reflagging or repair work" means work performed on a vessel—

(i) to enable the vessel to meet applicable standards to become a vessel of the United States; or

(ii) to convert the vessel to a more useful military configuration.

(B) The term "corrective and preventive maintenance or repair" means—

(i) maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(ii) scheduled maintenance or repair actions to prevent or discover functional failures.

(d) COMPLIANCE.—The Secretary of Defense shall ensure that contracting officers of the Department of Defense award contracts under this section to responsible offerors and monitor and ensure compliance with the requirements of this section. The Secretary shall—

(1) ensure that timely, accurate, and complete information on contractor performance under this section is included in any contractor past performance database used by an executive agency; and

(2) exercise appropriate contractual rights and remedies against contractors who fail to comply with this section, or subchapter I of chapter 553 of title 46, as determined by the Secretary of Transportation under such subchapter, including by—

(A) determining that a contractor is ineligible for an award of such a contract; or

(B) terminating such a contract or suspension or debarment of the contractor for such contract.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committees on Armed Services of the Senate and the House of Representatives;

(2) the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Committee on Commerce, Science, and Transportation of the Senate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 146; Pub. L. 103–160, div. A, title III, §315(a), Nov. 30, 1993, 107 Stat. 1619; Pub. L. 116–92, div. A, title X, §1033, Dec. 20, 2019, 133 Stat. 1580; Pub. L. 116–283, div. A, title IX, §924(b)(3)(GG), title X, §1024(a)(1), Jan. 1, 2021, 134 Stat. 3822, 3841.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2631 | 10:1365.<br>34:528. | Apr. 28, 1904, ch. 1766, 33 Stat. 518. |

The word "supplies" is substituted for the words "coal, provisions, fodder, or supplies of any description", in 10:1365 and 34:528. The words "pursuant to law" and "the use of", in 10:1365 and 34:528, are omitted as surplusage. The words "as otherwise provided by law", in 10:1365 and 34:528, are used rather than the words "under the law as it now exists", in section 1 of the Act of April 28, 1904, ch. 1766, 33 Stat. 518. The word

"may" is substituted for the word "shall". The words "However, if" are substituted for the words "unless * * * in which case". The words "private persons" are substituted for the words "private parties or companies", in 10:1365 and 34:528. The last sentence is substituted for the proviso of 10:1365 and 34:528.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1024(a)(1), amended section generally. Prior to amendment, section related to preference to United States vessels for transportation by sea of supplies.

Subsec. (a). Pub. L. 116–283, §924(b)(3)(GG), which directed amendment of subsec. (a) by substituting "Marine Corps, or Space Force" for "or Marine Corps", was executed by making the substitution in subsec. (a) as amended by section 1024(a)(1) of Pub. L. 116–283, to reflect the probable intent of Congress.

**2019**—Subsec. (a). Pub. L. 116–92, §1033(1), inserted "or for a Defense Agency" after "Marine Corps" in first sentence.

Subsec. (b)(2) to (4). Pub. L. 116–92, §1033(2), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and in par. (4), substituted "a requirement under paragraph (1) or (2)" for "the requirement described in paragraph (1)".

**1993**—Pub. L. 103–160 designated existing provisions as subsec. (a) and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title III, §315(b), Nov. 30, 1993, 107 Stat. 1619, provided that: "The amendment made by subsection (a) [amending this section] shall apply to a vessel for which reflagging or repair work is necessary to be performed after the date of the enactment of this Act [Nov. 30, 1993]."

### OBTAINING CARRIAGE BY VESSEL: CRITERION REGARDING OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN THE UNITED STATES

Pub. L. 109–364, div. A, title X, §1017, Oct. 17, 2006, 120 Stat. 2379, as amended by Pub. L. 110–181, div. A, title X, §1063(c)(9), div. C, title XXXV, §3526(a), Jan. 28, 2008, 122 Stat. 323, 601, provided that:

"(a) ACQUISITION POLICY.—In order to maintain the national defense industrial base, the Secretary of Defense shall issue an acquisition policy that establishes, as a criterion required to be considered in obtaining carriage by vessel of cargo for the Department of Defense, the extent to which an offeror of such carriage had overhaul, repair, and maintenance work for covered vessels of the offeror performed in shipyards located in the United States.

"(b) COVERED VESSELS.—A vessel is a covered vessel of an offeror under this section if the vessel is—

"(1) owned, operated, or controlled by the offeror; and

"(2) qualified to engage in the carriage of cargo in the coastwise or non-contiguous trade under sections 12112 and 50501 and chapter 551 of title 46, United States Code.

"(c) APPLICATION OF POLICY.—The acquisition policy shall include rules providing for application of the policy to covered vessels as expeditiously as is practicable based on the nature of carriage obtained, and by no later than June 1, 2007.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations as necessary to carry out the acquisition policy and submit such regulations to the Committees on Armed Services of the Senate and the House of Representatives, by not later than June 1, 2007.

"(2) INTERIM REGULATIONS.—

"(A) IN GENERAL.—The Secretary may prescribe interim regulations as necessary to carry out the acquisition policy. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code.

"(B) SUBMISSION TO CONGRESS.—Upon the issuance of interim regulations under this paragraph, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the interim regulations and a description of the acquisition policy developed (or being developed) under subsection (a).

"(C) EXPIRATION.—All interim regulations prescribed under the authority of this paragraph that are not earlier superseded by final regulations shall expire no later than June 1, 2007.

"(e) ANNUAL REPORT.—The Secretary, acting through the United States Transportation Command, shall

annually submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding overhaul, repair, and maintenance performed on covered vessels of each offeror of carriage to which the acquisition policy applies.

"(f) DEFINITIONS.—In this section:

"(1) FOREIGN SHIPYARD.—The term 'foreign shipyard' means a shipyard that is not located in the United States.

"(2) UNITED STATES.—The term 'United States' means—

"(A) any State of the United States; and

"(B) Guam."

[Pub. L. 110–181, div. C, title XXXV, §3526(a), Jan. 28, 2008, 122 Stat. 601, which directed amendment of section 1017(b)(2) of Pub. L. 109–364, set out above, by substituting "sections 12112, 50501, and 55102 of title 46, United States Code" for "section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), section 12106 of title 46, United States Code, and section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)", could not be executed because those words did not appear subsequent to amendment by section 1063(c)(9) of Pub. L. 110–181, which was effective as of Oct. 17, 2006, and as if included in Pub. L. 109–364 as enacted. See Effective Date of 2008 Amendment note under section 624 of this title.]

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY UNDER THE CARGO PREFERENCE ACT**

Memorandum of the President of the United States, Aug. 7, 1985, 50 F.R. 36565, provided:

Memorandum for the Honorable Caspar W. Weinberger, the Secretary of Defense

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of Defense all the functions vested in me by the Cargo preference Act of 1904, 10 U.S.C. 2631. This authority may be redelegated.

This memorandum shall be published in the Federal Register.

RONALD REAGAN.

## §2631a. Contingency planning: sealift and related intermodal transportation requirements

(a) CONSIDERATION OF PRIVATE CAPABILITIES.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

(Added Pub. L. 103–160, div. A, title XI, §1173(a), Nov. 30, 1993, 107 Stat. 1767.)

## §2632. Transportation to and from certain places of employment and on military installations

(a)(1) Whenever the Secretary of the military department concerned determines that it is necessary for the effective conduct of the affairs of his department, the Secretary may provide the transportation described in paragraph (2).

(2) Transportation that may be provided under this subsection is assured and adequate transportation by motor vehicle or water carrier as follows:

(A) Transportation among places on a military installation (including any subinstallation of a military installation).

(B) Transportation to and from their places of duty or employment on a military installation for

persons covered by this subsection.

(C) Transportation to and from a military installation for persons covered by this subsection and their dependents, in the case of a military installation located in an area determined by the Secretary concerned not to be adequately served by regularly scheduled, and timely, commercial or municipal mass transit services.

(D) Transportation to and from their places of employment for persons attached to, or employed in, a private plant that is manufacturing material for that department, but only during a war or a national emergency declared by Congress or the President.

(3) Except as provided under subsection (b)(3), transportation under this subsection shall be provided at reasonable rates of fare under regulations prescribed by the Secretary of Defense.

(4) Persons covered by this subsection, in the case of any military installation, are members of the armed forces, employees of the military department concerned, and other persons attached to that department who are assigned to or employed at that installation.

(b)(1) Transportation described in subparagraphs (B), (C), and (D) of subsection (a)(2) may not be provided unless the Secretary concerned, or an officer of the department concerned designated by the Secretary, determines that—

(A) other facilities are inadequate and cannot be made adequate;

(B) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(C) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

(2) The Secretary of Defense shall require that, in determining whether to provide transportation described in subsection (a)(2)(A) at any military installation, the Secretary of the military department concerned shall give careful consideration to the potential for saving energy and reducing air pollution.

(3) In providing transportation described in subsection (a)(2)(A) at any military installation, the Secretary concerned may not require a fare for the transportation of members of the armed forces if the transportation is incident to the performance of duty. In providing transportation described in subsection (a)(2)(C) to and from any military installation, the Secretary concerned (under regulations prescribed under subsection (a)(3)) may waive any requirement for a fare.

(4) The authority under subsection (a) to enter into contracts under which the United States is obligated to make outlays shall be effective for any fiscal year only to the extent that the budget authority for such outlays is provided in advance by appropriation Acts.

(c) To provide transportation under subsection (a), the department may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by—

(A) enlisted members of the Army, Navy, Air Force, Marine Corps, Space Force, or the Coast Guard, as the case may be;

(B) employees of the department concerned; and

(C) private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer of the department designated by the Secretary, and that may provide for the pooling of Government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 146; Pub. L. 95–362, Sept. 11, 1978, 92 Stat. 596; Pub. L. 96–125, title VIII, §807(a)–(c)(1), Nov. 26, 1979, 93 Stat. 949, 950; Pub. L. 100–180, div. A, title

III, §318(a)–(c), Dec. 4, 1987, 101 Stat. 1076, 1077; Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(vii), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2632(a) | 5:189c (introductory clause, words of clause 2 before semicolon, and 17 words before proviso of clause 3).<br>5:415d (introductory clause, words of clause 2 before semicolon, and 17 words before proviso of clause 3).<br>5:626n (introductory clause, words of clause 2 before semicolon, and 17 words before proviso of clause 3). | May 28, 1948, ch. 352, §1, 62 Stat. 276. |
| 2632(b) | 5:189c (clause 4).<br>5:415d (clause 4).<br>5:626n (clause 4). | |
| 2632(c) | 5:189c (clause 1; and clause 3, less 17 words before proviso).<br>5:415d (clause 1; and clause 3, less 17 words before proviso).<br>5:626n (clause 1; and clause 3, less 17 words before proviso). | |
| 2632(d) | 5:189c (clause 2, less words before semicolon).<br>5:415d (clause 2, less words before semicolon).<br>5:626n (clause 2, less words before semicolon). | |

In subsection (a), the words "it is necessary * * * he may * * * provide assured and adequate transportation" are substituted for the words "requires assured and adequate transportation facilities * * * he is authorized * * * to provide such transportation". The words "in the absence of adequate private or other facilities" are omitted as covered by subsection (b)(2). The words "subject, however, to the following provisions and conditions" are omitted, since the revised section states those conditions positively in the following subsections. The words "at reasonable rates of fare" are substituted for the first 23 words of clause 2 of 5:189c, 415d, and 626n. The words "under regulations to be prescribed by him" are substituted for the words "under such regulations as the Secretary of the Army [Navy, Air Force] shall prescribe" in clause 2, and the 17 words before the proviso of clause 3, of 5:189c, 415d, and 626n.

In subsection (b), the words "Transportation * * * under subsection (a)" are substituted for the words "The authority granted in this section to the Secretary of the Army [Navy, Air Force]". The words "may not be provided" are substituted for the words "shall be exercised". The word "transportation" is substituted for the word "service". The words "in each case", "as the case may be, that existing private and", and "by other means" are omitted as surplusage.

Subsection (b)(3) is substituted for the last 25 words of clause 4 of 5:189c, 415d, and 626n.

In subsection (c), the introductory clause is substituted for the words "The equipment required to provide such transportation facilities may be either". The words "considered necessary" are substituted for the words "shall determine necessary and advisable under the existing circumstances". The proviso of clause 3 of 5:189c, 415d, and 626n is stated as a positive rule in clause (3) of the revised subsection. The words "for operation by

the Department of the Army [Navy, Air Force], and when so obtained", "civil", "with such department", "Equipment so obtained", "and conditions", and the first 25 words of clause 3 of 5:189c, 415d, and 626n are omitted as surplusage.

In subsection (d), the words "Treasury as" are substituted for the words "Treasury of the United States to the credit of".

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(2)(A). Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps,".

**1987**—Subsec. (a). Pub. L. 100–180, §318(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Whenever the Secretary of a military department determines that it is necessary for the effective conduct of the affairs of that department, he may, at reasonable rates of fare under regulations to be prescribed by the Secretary of Defense, provide assured and adequate transportation by motor vehicle or water carrier—

"(1) among places on any military installation (including any subinstallation thereof) under the jurisdiction of that department; and

"(2) to and from their places of employment—

"(A) for persons attached to, or employed in, that department; and

"(B) during a war or national emergency declared by the Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for that department."

Subsec. (b)(1). Pub. L. 100–180, §318(c)(1), substituted "Transportation described in subparagraphs (B), (C), and (D) of subsection (a)(2) may not be provided" for "Transportation may not be provided under subsection (a)(2)".

Subsec. (b)(2). Pub. L. 100–180, §318(b)(1), (c)(2), redesignated subpar. (A) as par. (2) and substituted "transportation described in subsection (a)(2)(A) at any military installation" for "transportation at any military installation under subsection (a)(1)". Subpar. (B) was struck out and replaced by par. (3) and subpar. (C) was redesignated par. (4).

Subsec. (b)(3). Pub. L. 100–180, §318(b)(2), substituted par. (3) for former subpar. (2)(B) which read as follows: "In providing transportation at any military installation under such subsection, the Secretary of the military department concerned may not require any fare for the transportation of members of the armed forces if the transportation is incident to training or other operational activities on such installation."

Subsec. (b)(4). Pub. L. 100–180, §318(b)(3), (c)(3), redesignated former par. (2)(C) as par. (4) and substituted "subsection (a)" for "subsection (a)(1)".

**1979**—Pub. L. 96–125, §807(c)(1), inserted "and on military installations" after "places of employment" in section catchline.

Subsec. (a). Pub. L. 96–125, §807(a), substituted reference to Secretary of a military department and to the Secretary of Defense for references to Secretary concerned and inserted reference to any military installation (including any subinstallation thereof) under the jurisdiction of that department.

Subsec. (b). Pub. L. 96–125, §807(b), designated existing provisions as par. (1) and cls. (1) to (3) as cls. (A) to (C), substituted "subsection (a)(2)" for "subsection (a)" and added par. (2).

**1978**—Subsec. (a). Pub. L. 95–362, §1(1), substituted "concerned" for "of a military department" and "of his department" for "of that department".

Subsec. (b). Pub. L. 95–362, §1(2), struck out "of the military department" before "concerned".

Subsec. (c)(2)(A). Pub. L. 95–362, §1(3), inserted reference to the Coast Guard.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS

Pub. L. 100–180, div. A, title III, §318(d), Dec. 4, 1987, 101 Stat. 1077, required that regulations to implement amendments to this section be prescribed not later than 90 days after Dec. 4, 1987.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for

treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**PILOT PROGRAM ON CAR SHARING ON REMOTE OR ISOLATED MILITARY INSTALLATIONS**

Pub. L. 117–263, div. A, title V, §596, Dec. 23, 2022, 136 Stat. 2614, provided that:

"(a) DETERMINATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall determine whether it is feasible and advisable to carry out a pilot program to allow car sharing on more than two remote or isolated military installations.

"(b) AUTHORITY.—If the Secretary determines that such a pilot program is feasible and advisable, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to carry out the pilot program not later than 90 days after such determination.

"(c) PROGRAM ELEMENTS.—To carry out a pilot program under this section, the Secretary shall take steps including the following:

"(1) Seek to enter into an agreement with an entity that—

"(A) provides car sharing services; and

"(B) is capable of serving the selected military installations.

"(2) Provide to members assigned to such military installations the resources the Secretary determines necessary to participate in such pilot program.

"(3) Promote such pilot program to such members as the Secretary determines.

"(d) DURATION.—A pilot program under this section shall terminate two years after the Secretary commences such pilot program.

"(e) REPORT.—Upon the termination of a pilot program under this section, the Secretary of Defense shall submit to the congressional defense committees a report containing the following information:

"(1) The number of individuals who used car sharing services offered pursuant to the pilot program.

"(2) The cost to the United States of the pilot program.

"(3) An analysis of the effect of the pilot program on mental health and community connectedness of members described in subsection (b)(2).

"(4) Other information the Secretary determines appropriate.

"(f) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' has the meaning given such term in section 2801 of title 10, United States Code."

## §2633. Stevedoring and terminal services: vessels carrying cargo or passengers sponsored by military department

(a) Notwithstanding section 1301(a) of title 31, the Secretary of a military department may, under such regulations as he may prescribe, furnish stevedoring and terminal services and facilities to vessels carrying cargo, or passengers, or both, sponsored by his department.

(b) The furnishing of services and facilities under this section shall be at fair and reasonable rates.

(c) The proceeds from furnishing services and facilities under this section shall be paid to the credit of the appropriation or fund out of which the services or facilities were supplied.

(Added Pub. L. 85–44, §1, June 1, 1957, 71 Stat. 45; amended Pub. L. 87–651, title I, §111(a), Sept. 7, 1962, 76 Stat. 510; Pub. L. 96–513, title V, §511(87), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 97–258, §3(b)(7), Sept. 13, 1982, 96 Stat. 1063.)

**HISTORICAL AND REVISION NOTES**

**1962 ACT**

Section 2633 is restated, without substantive change, to conform to the style adopted for title 10.

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Subsec. (a). Pub. L. 97–258 substituted "section 1301(a) of title 31" for "section 3678 of the Revised

Statutes (31 U.S.C. 628)".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "section 3678 of the Revised Statutes (31 U.S.C. 628)" for "section 628 of title 31".

**1962**—Pub. L. 87–651 amended section generally without substantive change to conform to the style adopted for the revision of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## [§2634. Repealed. Pub. L. 113–66, div. A, title VI, §621(g)(1), Dec. 26, 2013, 127 Stat. 784]

Section, added Pub. L. 87–651, title I, §111(b), Sept. 7, 1962, 76 Stat. 510; amended Pub. L. 88–431, §1(b), Aug. 14, 1964, 78 Stat. 439; Pub. L. 89–101, §1(1), July 30, 1965, 79 Stat. 425; Pub. L. 93–548, §§1, 2, Dec. 26, 1974, 88 Stat. 1743; Pub. L. 97–60, title II, §202, Oct. 14, 1981, 95 Stat. 1005; Pub. L. 99–661, div. A, title VI, §§611, 620(b)(2), Nov. 14, 1986, 100 Stat. 3878, 3883; Pub. L. 100–26, §7(j)(6), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–180, div. A, title VI, §616(a), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 102–484, div. A, title VI, §622(b), Oct. 23, 1992, 106 Stat. 2422; Pub. L. 104–106, div. A, title VI, §642(a)(2), Feb. 10, 1996, 110 Stat. 368; Pub. L. 104–201, div. A, title III, §368(a)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2497; Pub. L. 105–261, div. A, title VI, §§631(b)(2), 653(a), Oct. 17, 1998, 112 Stat. 2044, 2051; Pub. L. 107–107, div. A, title V, §594(a), (b), Dec. 28, 2001, 115 Stat. 1126; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title V, §575(a), (b), Dec. 2, 2002, 116 Stat. 2558, 2559; Pub. L. 108–136, div. A, title VI, §631(a), Nov. 24, 2003, 117 Stat. 1508; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, related to transportation or storage of motor vehicles for members on change of permanent station or extended deployment.

## §2635. Medical emergency helicopter transportation assistance and limitation of individual liability

(a) The Secretary of Defense is authorized to assist the Department of Health and Human Services and the Department of Homeland Security in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Secretary of Defense deems appropriate and shall be subject to the following specific limitations:

(1) Assistance may be provided only in areas where military units able to provide such assistance are regularly assigned, and military units shall not be transferred from one area to another for the purpose of providing such assistance.

(2) Assistance may be provided only to the extent that it does not interfere with the performance of the military mission.

(3) The provision of assistance shall not cause any increase in funds required for the operation of the Department of Defense.

(b) No individual (or his estate) who is authorized by the Department of Defense to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services.

(Added Pub. L. 93–155, title VIII, §814(a), Nov. 16, 1973, 87 Stat. 620; amended Pub. L. 96–513, title V, §511(88), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (a). Pub. L. 107–296 substituted "Department of Homeland Security" for "Department of Transportation" in introductory provisions.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §2636. Deductions from amounts due carriers

(a) AMOUNTS FOR LOSS OR DAMAGE.—An amount deducted from an amount due a carrier shall be credited as follows:

(1) If deducted because of loss of or damage to material in transit for a military department, the amount shall be credited to the proper appropriation, account, or fund from which the same or similar material may be replaced.

(2) If deducted as an administrative offset for an overpayment previously made to the carrier under any Department of Defense contract for transportation services or as liquidated damages due under any such contract, the amount shall be credited to the appropriation or account from which payments for the transportation services were made.

(b) SIMPLIFIED OFFSET FOR COLLECTION OF CLAIMS NOT IN EXCESS OF THE SIMPLIFIED ACQUISITION THRESHOLD.—(1) In any case in which the total amount of a claim for the recovery of overpayments or liquidated damages under a contract described in subsection (a)(2) does not exceed the simplified acquisition threshold, the Secretary of Defense or the Secretary concerned, in exercising the authority to collect the claim by administrative offset under section 3716 of title 31, may apply paragraphs (2) and (3) of subsection (a) of that section with respect to that collection after (rather than before) the claim is so collected.

(2) Regulations prescribed by the Secretary of Defense under subsection (b) of section 3716 of title 31—

(A) shall include provisions to carry out paragraph (1); and

(B) shall provide the carrier for a claim subject to paragraph (1) with an opportunity to offer an alternative method of repaying the claim (rather than by administrative offset) if the collection of the claim by administrative offset has not already been made.

(3) In this subsection, the term "simplified acquisition threshold" has the meaning given that term in section 134 of title 41.

(Added Pub. L. 97–258, §2(b)(5)(B), Sept. 13, 1982, 96 Stat. 1053; amended Pub. L. 106–398, §1 [[div. A], title X, §1009(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–250; Pub. L. 111–350, §5(b)(43), Jan. 4, 2011, 124 Stat. 3846.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 2636 | 31:489a. | June 25, 1956, ch. 442, §1, 70 Stat. 336. |

The words "An amount deducted from an amount due" are substituted for "Moneys arising from deductions made from" for clarity. The words "military or naval" and "account of" are omitted as surplus. The words "a military department" are substituted for "the Departments of the Army, Navy, or Air Force" because of 10:101(7). The Department of War was designated the Department of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The Department of the Air Force is included because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488).

### EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b)(3). Pub. L. 111–350 substituted "section 134 of title 41" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))".

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, text read as follows: "An amount deducted from an amount due a carrier because of loss of or damage to material in transit for a military department shall be credited to the proper appropriation, account, or fund from which the same or similar material may be replaced."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1009(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–251, provided that: "Subsections (a)(2) and (b) of section 2636 of title 10, United States Code, as added by subsection (a)(1), shall apply with respect to contracts entered into after the date of the enactment of this Act [Oct. 30, 2000]."

## §2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers

(a) PROCUREMENT OF COVERAGE.—The Secretary of Defense shall include in a contract for the transportation at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both) a clause that requires the carrier under the contract to pay the full replacement value for loss or damage to the baggage or household effects transported under the contract.

(b) DEDUCTION UPON FAILURE OF CARRIER TO SETTLE.—In the case of a loss or damage of baggage or household effects transported under a contract with a carrier that includes a clause described in subsection (a), the amount equal to the full replacement value for the baggage or household effects shall be deducted from the amount owed by the United States to the carrier under the contract upon a failure of the carrier to settle a claim for such loss or total damage within a reasonable time. The amount so deducted shall be remitted to the claimant, notwithstanding section 2636 of this title.

(c) INAPPLICABILITY OF RELATED LIMITS.—The limitations on amounts of claims that may be settled under section 3721(b) of title 31 do not apply to a carrier's contractual obligation to pay full replacement value under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for administering this section. The regulations shall include policies and procedures for validating and evaluating claims, validating proper claimants, and determining reasonable time for settlement. The regulations may include a requirement that a member of the armed forces or civilian employee of the Department of Defense comply with reasonable restrictions or conditions prescribed by the Secretary in order to receive the full amount deducted under subsection (b).

(e) TRANSPORTATION DEFINED.—In this section, the terms "transportation" and "transport",

with respect to baggage or household effects, includes packing, crating, drayage, temporary storage, and unpacking of the baggage or household effects.

(Added Pub. L. 108–136, div. A, title VI, §634(a), Nov. 24, 2003, 117 Stat. 1509; amended Pub. L. 109–364, div. A, title III, §363(a), (b), Oct. 17, 2006, 120 Stat. 2167; Pub. L. 110–181, div. A, title III, §373, Jan. 28, 2008, 122 Stat. 82.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Subsec. (d). Pub. L. 110–181 inserted at end "The regulations may include a requirement that a member of the armed forces or civilian employee of the Department of Defense comply with reasonable restrictions or conditions prescribed by the Secretary in order to receive the full amount deducted under subsection (b)."

**2006**—Subsec. (a). Pub. L. 109–364, §363(b)(1), substituted "shall include" for "may include".

Pub. L. 109–364, §363(a), substituted "at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both)" for "of baggage and household effects for members of the armed forces at Government expense".

Subsec. (b). Pub. L. 109–364, §363(b)(2), substituted "shall be deducted" for "may be deducted".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title III, §363(b), Oct. 17, 2006, 120 Stat. 2167, provided that the amendment made by section 363(b) is effective Mar. 1, 2008.

## §2636b. Responsibilities for oversight of personal property transportation

(a) RESPONSIBILITIES.—Subject to subsection (b), not later than one year after the date of the enactment of this section, the Secretary of Defense shall assign to a single office or other organizational element within the Department of Defense the following responsibilities:

(1) Overseeing the activities and personnel of, and any other matter relating to, the following:

(A) Any office or other organizational element of a military department responsible for shipping baggage or household effects, scheduling or processing orders for such shipments, providing storage services for such baggage or household effects, or providing privately owned vehicle transportation services in connection with a permanent change of station, on behalf of members of the armed forces, including any personal property shipping office, joint or consolidated personal property shipping office, or personal property processing office of such military department.

(B) The Defense Personal Property Management Office, or any such successor office.

(2) Overseeing the adjudication of any claim filed with respect to the defense personal property program (including the adjudication of such claims under section 2636(a) of this title or section 3721 of title 31) and any other matter relating to such program.

(b) EXCLUSION.—The responsibilities under subsection (a) may not be assigned to any combatant command or component thereof.

(c) DEFENSE PERSONAL PROPERTY PROGRAM DEFINED.—In this section, the term "defense personal property program" means the program of the Department of Defense for managing the shipment of the baggage and household effects for members of the armed forces or civilian employees of the Department, or any such successor program.

(Added Pub. L. 119–60, div. A, title III, §336(a), Dec. 18, 2025, 139 Stat. 818.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS; BRIEFING

Pub. L. 119–60, div. A, title III, §336(b), (c), Dec. 18, 2025, 139 Stat. 819, provided that:

"(b) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the plan and timeline for the implementation of section 2636b of title 10, United States Code, as added by subsection (a). Such briefing shall include—

"(1) an identification of the office or other organizational element within the Department of Defense to which the Secretary plans to assign the responsibilities specified in such section 2636b;

"(2) details relating to any changes to requirements, authorities, or processes necessary to implement such section 2636b;

"(3) an estimate of the resources required to implement such section 2636b;

"(4) a plan to improve the business systems supporting the office or other organizational element identified pursuant to paragraph (1) with respect to the conduct of the responsibilities specified in such section 2636b;

"(5) a plan to provide the necessary staffing and resourcing for such office or other organizational element with respect to the conduct of such responsibilities; and

"(6) a plan for partnership with commercial service household goods providers.

"(c) REGULATIONS.—Not later than 90 days after the date on which the briefing is provided under subsection (b), the Secretary of Defense shall prescribe regulations to implement section 2636b of title 10, United States Code, as added by subsection (a)."

## §2637. Transportation in certain areas outside the United States

The Secretary of Defense may authorize the commander of a unified combatant command to use Government owned or leased vehicles to provide transportation in an area outside the United States for members of the uniformed services and Federal civilian employees under the jurisdiction of that commander, and for the dependents of such members and employees, if the commander determines that public or private transportation in such area is unsafe or not available. Such transportation shall be provided in accordance with regulations prescribed by the Secretary of Defense.

(Added Pub. L. 101–510, div. A, title III, §326(a)(1), Nov. 5, 1990, 104 Stat. 1531.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2637, added Pub. L. 98–525, title VI, §614(a), Oct. 19, 1984, 98 Stat. 2540, related to use of passenger motor vehicles of United States for transportation between residences and places of work of senior defense officials, prior to repeal by Pub. L. 99–550, §2(a)(1), Oct. 27, 1986, 100 Stat. 3070.

## §2638. Transportation of civilian clothing of enlisted members

The Secretary of the military department concerned may provide for the transportation of the civilian clothing of any person entering the armed forces as an enlisted member to the member's home of record.

(Added Pub. L. 98–525, title XIV, §1401(j)(1), Oct. 19, 1984, 98 Stat. 2620.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8005], 98 Stat. 1904, 1922.
Dec. 8, 1983, Pub. L. 98–212, title VII, §708, 97 Stat. 1438.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §708], 96 Stat. 1833, 1850.
Dec. 29, 1981, Pub. L. 97–114, title VII, §708, 95 Stat. 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §708, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §708, 93 Stat. 1152.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §808, 92 Stat. 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §807, 91 Stat. 899.
Sept. 22, 1976, Pub. L. 94–419, title VII, §707, 90 Stat. 1291.
Feb. 9, 1976, Pub. L. 94–212, title VII, §707, 90 Stat. 168.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §807, 88 Stat. 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §707, 87 Stat. 1038.
Oct. 26, 1972, Pub. L. 92–570, title VII, §707, 86 Stat. 1196.
Dec. 18, 1971, Pub. L. 92–204, title VII, §707, 85 Stat. 727.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §807, 84 Stat. 2030.
Dec. 29, 1969, Pub. L. 91–171, title VI, §607, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §506, 82 Stat. 1129.
Sept. 29, 1967, Pub. L. 90–96, title VI, §606, 81 Stat. 242.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §2639. Transportation to and from school for certain minor dependents

Funds appropriated to the Department of Defense may be used to provide minor dependents of members of the armed forces and of civilian officers and employees of the Department of Defense with transportation to and from primary and secondary schools if the schools attended by the dependents are not accessible by regular means of transportation.

(Added Pub. L. 98–525, title XIV, §1401(j)(1), Oct. 19, 1984, 98 Stat. 2620.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:
Oct. 12, 1984, Pub. L. 98–473, title I, §101(h) [title VIII, §8005], 98 Stat. 1904, 1922.
Dec. 8, 1983, Pub. L. 98–212, title VII, §708, 97 Stat. 1438.
Dec. 21, 1982, Pub. L. 97–377, title I, §101(c) [title VII, §708], 96 Stat. 1833, 1850.
Dec. 29, 1981, Pub. L. 97–114, title VII, §708, 95 Stat. 1579.
Dec. 15, 1980, Pub. L. 96–527, title VII, §708, 94 Stat. 3081.
Dec. 21, 1979, Pub. L. 96–154, title VII, §708, 93 Stat. 1152.
Oct. 13, 1978, Pub. L. 95–457, title VIII, §808, 92 Stat. 1244.
Sept. 21, 1977, Pub. L. 95–111, title VIII, §807, 91 Stat. 899.
Sept. 22, 1976, Pub. L. 94–419, title VII, §707, 90 Stat. 1291.
Feb. 9, 1976, Pub. L. 94–212, title VII, §707, 90 Stat. 168.
Oct. 8, 1974, Pub. L. 93–437, title VIII, §807, 88 Stat. 1225.
Jan. 2, 1974, Pub. L. 93–238, title VII, §707, 87 Stat. 1038.
Oct. 26, 1972, Pub. L. 92–570, title VII, §707, 86 Stat. 1196.
Dec. 18, 1971, Pub. L. 92–204, title VII, §707, 85 Stat. 727.
Jan. 11, 1971, Pub. L. 91–668, title VIII, §807, 84 Stat. 2030.

Dec. 29, 1969, Pub. L. 91–171, title VI, §607, 83 Stat. 480.
Oct. 17, 1968, Pub. L. 90–580, title V, §506, 82 Stat. 1129.
Sept. 29, 1967, Pub. L. 90–96, title VI, §606, 81 Stat. 242.
Oct. 15, 1966, Pub. L. 89–687, title VI, §606, 80 Stat. 991.
Sept. 29, 1965, Pub. L. 89–213, title VI, §606, 79 Stat. 873.
Aug. 19, 1964, Pub. L. 88–446, title V, §506, 78 Stat. 475.
Oct. 17, 1963, Pub. L. 88–149, title V, §506, 77 Stat. 264.
Aug. 9, 1962, Pub. L. 87–577, title V, §506, 76 Stat. 328.
Aug. 17, 1961, Pub. L. 87–144, title VI, §606, 75 Stat. 375.
July 7, 1960, Pub. L. 86–601, title V, §506, 74 Stat. 350.
Aug. 18, 1959, Pub. L. 86–166, title V, §606, 73 Stat. 378.
Aug. 22, 1958, Pub. L. 85–724, title VI, §606, 72 Stat. 724.
Aug. 2, 1957, Pub. L. 85–117, title VI, §607, 71 Stat. 323.
July 2, 1956, ch. 488, title VI, §607, 70 Stat. 468.
July 13, 1955, ch. 358, title VI, §609, 69 Stat. 315.
June 30, 1954, ch. 432, title VII, §709, 68 Stat. 351.
Aug. 1, 1953, ch. 305, title VI, §614, 67 Stat. 351.
July 10, 1952, ch. 630, title VI, §616, 66 Stat. 533.
Oct. 18, 1951, ch. 512, title VI, §616, 65 Stat. 446.
Sept. 6, 1950, ch. 896, Ch. X, title VI, §619, 64 Stat. 755.
Oct. 29, 1949, ch. 787, title VI, §625, 63 Stat. 1021.
June 24, 1948, ch. 632, §2, 62 Stat. 667.
July 30, 1947, ch. 357, title I, §2, 61 Stat. 569.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of this title.

## §2640. Charter air transportation of members of the armed forces or cargo

(a) REQUIREMENTS.—(1) The Secretary of Defense may not enter into a contract with an air carrier for the charter air transportation of members of the armed forces or cargo unless the air carrier—

(A) meets, at a minimum, the safety standards established by the Secretary of Transportation under chapter 447 of title 49;

(B) has at least 12 months of experience operating services in air transportation that are substantially equivalent to the service sought by the Department of Defense; and

(C) undergoes a technical safety evaluation.

(2) For purposes of paragraph (1)(C), a technical safety evaluation—

(A) shall include inspection of a representative number of aircraft; and

(B) shall be conducted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Transportation.

(b) INSPECTIONS.—The Secretary shall provide for inspections of each air carrier that contracts with the Department of Defense for the charter air transportation of members of the armed forces or cargo. The inspections shall be conducted in accordance with standards established by the Secretary, after consultation with the Secretary of Transportation, and shall include, at a minimum, the following:

(1) An on-site capability survey of the air carrier conducted at least once every two years.

(2) A performance evaluation of the air carrier conducted at least once every six months.

(3) A preflight safety inspection of each aircraft conducted at any time during the operation of, but not more than 72 hours before, each internationally scheduled charter mission departing the

United States.

(4) A preflight safety inspection of each aircraft used for domestic charter missions conducted to the greatest extent practical.

(5) Operational check-rides on aircraft conducted periodically.

(c) COMMERCIAL AIRLIFT REVIEW BOARD.—The Secretary shall establish a Commercial Airlift Review Board within the Department of Defense. The Board shall consist of personnel from the Department of Defense and other Government personnel as may be appropriate. The duties of the Board shall be—

(1) to make recommendations to the Secretary on suspension and reinstatement of air carriers under subsection (d);

(2) to make recommendations to the Secretary on waivers under subsection (g); and

(3) to carry out such other duties and make recommendations on such other matters as the Secretary considers appropriate.

(d) SUSPENSION AND REINSTATEMENT.—(1) The Secretary shall establish guidelines for the suspension of air carriers under contract with the Department of Defense for the charter air transportation of members of the armed forces or cargo and for the reinstatement of air carriers that have been so suspended. The guidelines—

(A) shall require the immediate determination of whether to suspend an air carrier if an aircraft of the air carrier is involved in a fatal accident; and

(B) may require the suspension of an air carrier—

(i) if the carrier is in violation of any order, rule, regulation, or standard prescribed under chapter 447 of title 49; or

(ii) if an aircraft of the air carrier is involved in a serious accident.

(2) The Commercial Airlift Review Board shall make recommendations to the Secretary on suspension and reinstatement under this subsection.

(3) The Secretary shall include in each contract subject to this section the provisions on suspension and reinstatement established under this subsection.

(e) AUTHORITY TO LEAVE UNSAFE AIRCRAFT.—A representative of the Military Airlift Command, the Military Traffic Management Command, or such other agency as may be designated by the Secretary of Defense (or if there is no such representative reasonably available, the senior officer on board a chartered aircraft) may order members of the armed forces or cargo to leave a chartered aircraft if the representative (or officer) determines that a condition exists on the aircraft which may endanger the safety of the members or cargo.

(f) FAA INFORMATION.—The Secretary shall request the Secretary of Transportation to provide to the Secretary a report on each inspection performed by Federal Aviation Administration personnel, and the status of corrective actions taken, on each aircraft of an air carrier under contract with the Department of Defense for the charter air transportation of members of the armed forces or cargo.

(g) WAIVER.—After considering recommendations by the Commercial Airlift Review Board, the Secretary may waive any provision of this section in an emergency.

(h) AUTHORITY TO PROTECT SAFETY-RELATED INFORMATION VOLUNTARILY PROVIDED BY AN AIR CARRIER.—(1) Subject to paragraph (2), the Secretary of Defense may (notwithstanding any other provision of law) withhold from public disclosure safety-related information that is provided to the Secretary voluntarily by an air carrier for the purposes of this section.

(2) Information may be withheld under paragraph (1) from public disclosure only if the Secretary determines that—

(A) the disclosure of the information would inhibit an air carrier from voluntarily providing, in the future, safety-related information for the purposes of this section or for other air safety purposes involving the Department of Defense or another Federal agency; and

(B) the receipt of such information generally enhances the fulfillment of responsibilities under this section or other air safety responsibilities involving the Department of Defense or another Federal agency.

(3) If the Secretary provides to the head of another agency safety-related information described in paragraph (1) with respect to which the Secretary has made a determination described in paragraph (2), the head of that agency shall (notwithstanding any other provision of law) withhold the information from public disclosure unless the disclosure is specifically authorized by the Secretary.

(i) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section, including requirements and identification of inspecting personnel with respect to preflight safety inspections required by subsection (b)(3).

(j) DEFINITIONS.—In this section:

(1) The terms "air carrier", "aircraft", "air transportation", "cargo", and "charter air transportation" have the meanings given such terms by section 40102(a) of title 49.

(2) The term "members of the armed forces" means members of the Army, Navy, Air Force, Marine Corps, and Space Force.

(Added Pub. L. 99–661, div. A, title XII, §1204(a)(1), Nov. 14, 1986, 100 Stat. 3969; amended Pub. L. 103–272, §5(b)(1), July 5, 1994, 108 Stat. 1373; Pub. L. 105–85, div. A, title X, §1075(a), Nov. 18, 1997, 111 Stat. 1911; Pub. L. 116–283, div. A, title IX, §924(b)(1)(P), Jan. 1, 2021, 134 Stat. 3820; Pub. L. 117–81, div. A, title X, §1083(d)(1), Dec. 27, 2021, 135 Stat. 1923.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, §1083(d)(1)(A), inserted "or cargo" after "armed forces" in section catchline.

Subsec. (a)(1). Pub. L. 117–81, §1083(d)(1)(B), inserted "or cargo" after "members of the armed forces" in introductory provisions.

Subsec. (b). Pub. L. 117–81, §1083(d)(1)(C), inserted "or cargo" after "members of the armed forces" in introductory provisions.

Subsec. (d)(1). Pub. L. 117–81, §1083(d)(1)(D), inserted "or cargo" after "members of the armed forces" in introductory provisions.

Subsec. (e). Pub. L. 117–81, §1083(d)(1)(E), inserted "or cargo" after "members of the armed forces" and before period at end.

Subsec. (f). Pub. L. 117–81, §1083(d)(1)(F), inserted "or cargo" after "members of the armed forces".

Subsec. (j)(1). Pub. L. 117–81, §1083(d)(1)(G), inserted " 'cargo'," after " 'air transportation',".

Subsec. (j)(2). Pub. L. 116–283 substituted "Marine Corps, and Space Force" for "and Marine Corps".

**1997**—Subsecs. (h) to (j). Pub. L. 105–85 added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

**1994**—Subsecs. (a)(1)(A), (d)(1)(B)(i). Pub. L. 103–272, §5(b)(1)(A), substituted "chapter 447 of title 49" for "title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.)".

Subsec. (i)(1). Pub. L. 103–272, §5(b)(1)(B), substituted "section 40102(a) of title 49" for "sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15))".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1075(b), Nov. 18, 1997, 111 Stat. 1911, provided that: "Subsection (h) of section 2640 of title 10, United States Code, as added by subsection (a), shall apply with respect to requests for information made on or after the date of the enactment of this Act [Nov. 18, 1997]."

### EFFECTIVE DATE

Pub. L. 99–661, div. A, title XII, §1204(c), Nov. 14, 1986, 100 Stat. 3971, provided that: "Section 2640 of title 10, United States Code, as added by subsection (a), shall apply only to contracts which are entered into on or after the date on which the regulations required by subsection (b) are prescribed [set out below]."

**REGULATIONS**

Pub. L. 99–661, div. A, title XII, §1204(b), Nov. 14, 1986, 100 Stat. 3971, required Secretary of Defense, not later than 120 days after Nov. 14, 1986, to prescribe regulations required by this section.

## §2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft

(a) The Secretary of Defense may provide transportation on an aircraft operating under the aeromedical evacuation system of the Department of Defense for the purpose of transporting a veteran to or from a Department of Veterans Affairs medical facility or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place.

(b) Transportation under this section shall be provided in accordance with an agreement entered into between the Secretary of Defense and the Secretary of Veterans Affairs. Such an agreement shall provide that transportation may be furnished to a veteran (or for the remains of a veteran) on an aircraft referred to in subsection (a) only if—

(1) the Secretary of Veterans Affairs notifies the Secretary of Defense that the veteran needs or has been furnished medical care or services in a Department of Veterans Affairs facility and the Secretary of Veterans Affairs requests such transportation in connection with the travel of such veteran (or of the remains of such veteran) to or from the Department of Veterans Affairs facility where the care or services are to be furnished or were furnished to such veteran;

(2) there is space available for the veteran (or the remains of the veteran) on the aircraft; and

(3) there is an adequate number of medical and other service attendants to care for all persons being transported on the aircraft.

(c) A veteran is not eligible for transportation under this section unless the veteran is a primary beneficiary within the meaning of clause (A) of section 8111(g)(5) of title 38.

(d)(1) A charge may not be imposed on a veteran (or on the survivors of a veteran) for transportation provided to the veteran (or for the remains of the veteran) under this section.

(2) An agreement under subsection (b) shall provide that the Department of Veterans Affairs shall reimburse the Department of Defense for any costs incurred in providing transportation to veterans (or for the remains of veterans) under this section that would not otherwise have been incurred by the Department of Defense.

(e) In this section, the term "veteran" has the meaning given that term in section 101(2) of title 38.

(Added Pub. L. 100–180, div. A, title XII, §1250(a)(1), Dec. 4, 1987, 101 Stat. 1167; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(1), (2), (8), Nov. 29, 1989, 103 Stat. 1602, 1603; Pub. L. 103–337, div. A, title VI, §652(b), title X, §1070(e)(8), Oct. 5, 1994, 108 Stat. 2794, 2859.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Subsec. (a). Pub. L. 103–337, §652(b)(1), inserted before period "or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place".

Subsec. (b). Pub. L. 103–337, §652(b)(2)(A)(i), inserted "(or for the remains of a veteran)" after "furnished to a veteran" in introductory provisions.

Subsec. (b)(1). Pub. L. 103–337, §652(b)(2)(A)(ii), inserted "(or of the remains of such veteran)" after "of such veteran".

Subsec. (b)(2). Pub. L. 103–337, §652(b)(2)(A)(iii), inserted "(or the remains of the veteran)" after "for the

veteran".

Subsec. (c). Pub. L. 103–337, §1070(e)(8), substituted "section 8111(g)(5) of title 38" for "section 5011(g)(5) of title 38".

Subsec. (d)(1). Pub. L. 103–337, §652(b)(2)(B), inserted "(or on the survivors of a veteran)" after "on a veteran" and "(or for the remains of the veteran)" after "to the veteran".

Subsec. (d)(2). Pub. L. 103–337, §652(b)(2)(C), inserted "(or for the remains of veterans)" after "to veterans".

**1989**—Subsec. (a). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (b). Pub. L. 101–189, §1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs" in introductory provisions and in par. (1).

Subsec. (b)(1). Pub. L. 101–189, §1621(a)(8), substituted "the Secretary of Veterans Affairs requests" for "the Administrator requests".

Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

Subsec. (d)(2). Pub. L. 101–189, §1621(a)(1), substituted "Department of Veterans Affairs" for "Veterans' Administration".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE FOR ENTRY INTO TRANSPORTATION AGREEMENT

Pub. L. 100–180, div. A, title XII, §1250(b), Dec. 4, 1987, 101 Stat. 1168, directed Secretary of Defense and Administrator of Veterans' Affairs to enter into an agreement required by this section not later than 60 days after Dec. 4, 1987.

## §2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii

(a) TRANSPORTATION AUTHORIZED.—The Secretary of Defense may provide transportation on Department of Defense aircraft for the purpose of transporting any veteran specified in subsection (b) between American Samoa and the State of Hawaii if such transportation is required in order to provide hospital care to such veteran as described in that subsection.

(b) VETERANS ELIGIBLE FOR TRANSPORT.—A veteran eligible for transport under subsection (a) is any veteran who—

(1) resides in and is located in American Samoa; and

(2) as determined by an official of the Department of Veterans Affairs designated for that purpose by the Secretary of Veterans Affairs, must be transported to the State of Hawaii in order to receive hospital care to which such veteran is entitled under chapter 17 of title 38 in facilities of such Department in the State of Hawaii.

(c) ADMINISTRATION.—(1) Transportation may be provided to veterans under this section only on a space-available basis.

(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

(Added Pub. L. 105–262, title VIII, §8121(a), Oct. 17, 1998, 112 Stat. 2332; amended Pub. L. 106–65, div. A, title X, §1066(a)(24), Oct. 5, 1999, 113 Stat. 771.)

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Subsec. (b)(2). Pub. L. 106–65, §1066(a)(24)(A), struck out ", United States Code," after "title 38".

Subsec. (d). Pub. L. 106–65, §1066(a)(24)(B), struck out heading and text of subsec. (d). Text read as follows: "In this section:

"(1) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States

Code.

"(2) The term 'hospital care' has the meaning given that term in section 1701(5) of title 38, United States Code."

## §2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients

(a) AUTHORITY TO ESTABLISH PROGRAM.—(1) The Secretary of Defense may establish a program (in this section referred to as the "travel program") to provide transportation on Department of Defense aircraft on a space-available basis to the categories of individuals eligible under subsection (c).

(2) If the Secretary makes a determination to establish the travel program, the Secretary shall prescribe regulations for the operation of the travel program not later than one year after the date on which the determination was made. The regulations shall take effect on that date or such earlier date as the Secretary shall specify in the regulations.

(3) Not later than 30 days after making the determination to establish the travel program, the Secretary shall submit to the congressional defense committees an initial implementation report describing—

(A) the basis for the determination;

(B) any additional categories of individuals to be eligible for the travel program under subsection (c)(6);

(C) how the Secretary will ensure that the travel program is established and operated in compliance with the conditions specified in subsection (b); and

(D) the metrics by which the Secretary will monitor the travel program to determine the efficient and effective execution of the travel program.

(b) CONDITIONS ON ESTABLISHMENT AND OPERATION.—(1) The Secretary of Defense shall operate the travel program in a budget-neutral manner.

(2) No additional funds may be used, or flight hours performed, for the purpose of providing transportation under the travel program.

(c) ELIGIBLE INDIVIDUALS.—Subject to subsection (d), the Secretary of Defense shall provide transportation under the travel program (if established) to the following categories of individuals:

(1) Members of the armed forces on active duty.

(2) Members of the Selected Reserve who hold a valid Uniformed Services Identification and Privilege Card.

(3) Retired members of a regular or reserve component of the armed forces, including retired members of reserve components who, but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

(4) Subject to subsection (f), veterans with a permanent service-connected disability rated as total.

(5) Such categories of dependents of individuals described in paragraphs (1) through (3) as the Secretary shall specify in the regulations under subsection (a), under such conditions and circumstances as the Secretary shall specify in such regulations.

(6) Such other categories of individuals as the Secretary, in the discretion of the Secretary, considers appropriate.

(d) PRIORITIES AND RESTRICTIONS.—In operating the travel program, the Secretary of Defense shall—

(1) in the sole discretion of the Secretary, establish an order of priority for transportation under the travel program for categories of eligible individuals that is based on considerations of military necessity, humanitarian concerns, and enhancement of morale;

(2) give priority in consideration of transportation under the travel program to the demands of members of the armed forces in the regular components and in the reserve components on active

duty and to the need to provide such members, and their dependents, a means of respite from such demands; and

(3) implement policies aimed at ensuring cost control (as required by subsection (b)) and the safety, security, and efficient processing of travelers, including limiting the benefit under the travel program to one or more categories of otherwise eligible individuals if considered necessary by the Secretary.

(e) SPECIAL PRIORITY FOR RETIRED MEMBERS RESIDING IN COMMONWEALTHS AND POSSESSIONS OF THE UNITED STATES WHO NEED CERTAIN HEALTH CARE SERVICES.—(1) Notwithstanding subsection (d)(1), in establishing space-available transportation priorities under the travel program, the Secretary of Defense shall provide transportation for an individual described in paragraph (2), and a single dependent of the individual if needed to accompany the individual, at a priority level in the same category as the priority level for an unaccompanied dependent over the age of 18 traveling on environmental and morale leave.

(2) Subject to paragraph (3), paragraph (1) applies with respect to an individual described in subsection (c)(3) who—

(A) resides in or is located in a Commonwealth or possession of the United States; and

(B) is referred by a military or civilian primary care provider located in that Commonwealth or possession to a specialty care provider for services to be provided outside of that Commonwealth or possession.

(3) If an individual described in subsection (c)(3) is a retired member of a reserve component who is ineligible for retired pay under chapter 1223 of this title by reason of being under the eligibility age applicable under section 12731 of this title, paragraph (1) applies to the individual only if the individual is also enrolled in the TRICARE program for certain members of the Retired Reserve authorized under section 1076e of this title.

(4) The priority for space-available transportation required by this subsection applies with respect to both—

(A) the travel from the Commonwealth or possession of the United States to receive the specialty care services; and

(B) the return travel.

(5) The requirement to provide transportation on Department of Defense aircraft on a space-available basis on the priority basis described in paragraph (1) to individuals covered by this subsection applies whether or not the travel program is established under this section.

(6) In this subsection, the terms "primary care provider" and "specialty care provider" refer to a medical or dental professional who provides health care services under chapter 55 of this title.

(f) VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL.—(1) Travel may not be provided under this section to a veteran eligible for travel pursuant to subsection (c)(4) in priority over any member eligible for travel under subsection (c)(1) or any dependent of such a member eligible for travel under this section.

(2) The authority in subsection (c)(4) may not be construed as affecting or in any way imposing on the Department of Defense, any armed force, or any commercial company with which they contract an obligation or expectation that they will retrofit or alter, in any way, military aircraft or commercial aircraft, or related equipment or facilities, used or leased by the Department or such armed force to accommodate passengers provided travel under such authority on account of disability.

(3) The authority in subsection (c)(4) may not be construed as preempting the authority of a flight commander to determine who boards the aircraft and any other matters in connection with safe operation of the aircraft.

(g) CONSTRUCTION.—The authority to provide transportation under the travel program is in addition to any other authority under law to provide transportation on Department of Defense aircraft on a space-available basis.

(Added Pub. L. 110–181, div. A, title III, §374(a), Jan. 28, 2008, 122 Stat. 82; amended Pub. L. 112–239, div. A, title VI, §622(a), Jan. 2, 2013, 126 Stat. 1779; Pub. L. 115–232, div. A, title VI, §624, Aug. 13, 2018, 132 Stat. 1801; Pub. L. 116–283, div. A, title X, §1081(a)(43), Jan. 1, 2021, 134 Stat. 3873.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(3)(B). Pub. L. 116–283 substituted "subsection (c)(6)" for "subsection (c)(5)".

**2018**—Subsec. (c)(4) to (6). Pub. L. 115–232, §624(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsecs. (f), (g). Pub. L. 115–232, §624(b), added subsec. (f) and redesignated former subsec. (f) as (g).

**2013**—Pub. L. 112–239 amended section generally. Prior to amendment, section related to increased priority for space-available transportation on Department of Defense aircraft for certain members and former members of the uniformed services.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STUDY ON SPACE-AVAILABLE TRAVEL SYSTEM OF THE DEPARTMENT OF DEFENSE

Pub. L. 114–328, div. A, title III, §352, Dec. 23, 2016, 130 Stat. 2089, provided that:

"(a) STUDY REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall seek to enter into a contract with a federally funded research and development center to conduct an independent study on the space-available travel system of the Department of Defense.

"(b) REPORT REQUIRED.—Not later than 180 days after entering into a contract with a federally funded research and development center under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the results of the study conducted under such subsection.

"(c) ELEMENTS.—The report under subsection (b) shall include, with respect to the space-available travel system, the following:

"(1) A determination of—

"(A) the capacity of the system as of the date of the enactment of this Act [Dec. 23, 2016];

"(B) the projected capacity of the system for the 10-year period following such date of enactment; and

"(C) the projected number of reserve retirees, active duty retirees, and dependents of such retirees that will exist by the end of such 10-year period.

"(2) Estimates of system capacity based [on] the projections described in paragraph (1).

"(3) A discussion of the efficiency of the system and data regarding the use of available space with respect to each category of passengers eligible for space-available travel under existing regulations.

"(4) A description of the effect on system capacity if eligibility for space-available travel is extended to—

"(A) drilling reserve component personnel and dependents of such personnel on international flights;

"(B) dependents of reserve component retirees who are less than 60 years of age;

"(C) retirees who are less than 60 years of age on international flights;

"(D) drilling reserve component personnel traveling to drilling locations; and

"(E) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

"(5) A discussion of logistical and management problems, including congestion at terminals, waiting times, lodging availability, and personal hardships experienced by travelers.

"(6) An evaluation of the cost of the system and whether space-available travel is and can remain cost-neutral.

"(7) An evaluation of the feasibility of expanding the categories of passengers eligible for space-available travel to include—

"(A) in the case of overseas travel, retired members of an active or reserve component, including retired members of reserve components, who, but for being under the eligibility age applicable to the

member under section 12731 of title 10, United States Code, would be eligible for retired pay under chapter 1223 of such title;

"(B) unremarried widows and widowers of active or reserve component members of the Armed Forces; and

"(C) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

"(8) Such other factors relating to the efficiency and cost of the system as the Secretary determines to be appropriate.

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to carrying out subsections (a) through (c), the Secretary of Defense shall—

"(1) analyze the methods used to prioritize among the categories of individuals eligible for space-available travel and make recommendations for—

"(A) re-ordering the priority of such categories; and

"(B) adding additional categories of eligible individuals; and

"(2) collect data on travelers who request but do not obtain available travel spaces under the space-available travel system.

"(e) DISABILITY RATED AS TOTAL DEFINED.—In this section, the term 'disability rated as total' has the meaning given the term in section 1414(e)(3) of title 10, United States Code."

## §2642. Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military transportation services provided by a component of the Department of Defense as follows:

(1) For military transportation services provided to the Central Intelligence Agency, if the Secretary of Defense determines that those military transportation services are provided for activities related to national security objectives.

(2) For military transportation services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.

(3) For military transportation services provided to any element of the Federal Government outside the Department of Defense in circumstances other than those specified in paragraphs (1) and (2), but only if the Secretary of Defense determines that the provision of such services will promote the improved use of transportation capacity without any negative effect on the national security objectives or the national security interests contained within the United States commercial transportation industry.

(4) For military transportation services provided in support of foreign military sales.

(5) For military transportation services provided to a State, local, or tribal agency (including any organization composed of State, local, or tribal agencies).

(6) For military transportation services provided to a Department of Defense contractor when transporting supplies that are for, or destined for, a Department of Defense entity.

(b) TERMINATION OF AUTHORITY FOR CERTAIN CATEGORIES OF TRANSPORTATION.—The provisions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, 2026.

(c) DEFINITION.—In this section, the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component of the Department of Defense.

(Added Pub. L. 102–88, title V, §501(a), Aug. 14, 1991, 105 Stat. 435; amended Pub. L. 108–136, div. A, title X, §1006(a), (b)(1), Nov. 24, 2003, 117 Stat. 1585; Pub. L. 111–84, div. A, title III, §351(a), Oct. 28, 2009, 123 Stat. 2262; Pub. L. 111–383, div. A, title X, §1075(b)(40), Jan. 7, 2011,

124 Stat. 4371; Pub. L. 113–66, div. A, title X, §1073(a), (b), Dec. 26, 2013, 127 Stat. 869; Pub. L. 113–291, div. A, title X, §§1044(a)–(c)(1), 1071(f)(22), (g)(4), Dec. 19, 2014, 128 Stat. 3493, 3494, 3511; Pub. L. 115–91, div. A, title X, §1081(f), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116–92, div. A, title III, §373, Dec. 20, 2019, 133 Stat. 1332; Pub. L. 118–159, div. A, title III, §351, Dec. 23, 2024, 138 Stat. 1857.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 substituted "October 1, 2026" for "October 1, 2024".

**2019**—Subsec. (b). Pub. L. 116–92 substituted "October 1, 2024" for "October 1, 2019".

**2017**—Subsec. (a)(3). Pub. L. 115–91, §1081(f), which directed substitution of "September 30" for "October 28" in the amendment made by Pub. L. 113–291, §1044(a)(2)(A), was executed by making the substitution the second place appearing in the quoted language to be stricken by that amendment, to reflect the probable intent of Congress. See 2014 Amendment note below.

**2014**—Pub. L. 113–291, §1044(c)(1), amended section catchline generally, substituting "Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate" for "Transportation services provided to certain other agencies: use of Department of Defense reimbursement rate".

Subsec. (a). Pub. L. 113–291, §1044(a)(1), substituted "Subject to subsection (b), the Secretary" for "The Secretary" in introductory provisions.

Subsec. (a)(3). Pub. L. 113–291, §1071(g)(4), amended Pub. L. 113–66, §1073(a)(2)(B). See 2013 Amendment note below.

Pub. L. 113–291, §1071(f)(22), inserted "and" before "military transportation services provided in support". Amendment was executed prior to amendment by Pub. L. 113–291, §1044(a)(2)(B), see below, pursuant to section 1071(k) of Pub. L. 113–291, set out as a note under section 101 of this title.

Pub. L. 113–291, §1044(a)(2)(B), substituted "Department of Defense" for "Department of Defense and military transportation services provided in support of foreign military sales".

Pub. L. 113–291, §1044(a)(2)(A), as amended by Pub. L. 115–91, §1081(f), substituted "For" for "During the period beginning on October 28, 2009, and ending on September 30, 2019, for". See 2017 Amendment note above.

Subsec. (a)(4) to (6). Pub. L. 113–291, §1044(a)(3), added pars. (4) to (6).

Subsecs. (b), (c). Pub. L. 113–291, §1044(b), added subsec. (b) and redesignated former subsec. (b) as (c).

**2013**—Pub. L. 113–66, §1073(b), substituted "Transportation" for "Airlift" in section catchline.

Subsec. (a). Pub. L. 113–66, §1073(a)(1), substituted "transportation services" for "airlift services" wherever appearing and "transportation capacity" for "airlift capacity" in par. (3).

Subsec. (a)(3). Pub. L. 113–66, §1073(a)(2)(B), as amended by Pub. L. 113–291, §1071(g)(4), inserted "military transportation services provided in support of foreign military sales" after "Department of Defense".

Pub. L. 113–66, §1073(a)(2)(A), (C), substituted "September 30, 2019" for "October 28, 2014" and "transportation industry" for "air industry".

**2011**—Subsec. (a)(3). Pub. L. 111–383 substituted "During the period beginning on October 28, 2009, and ending on October 28, 2014" for "During the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010".

**2009**—Subsec. (a)(3). Pub. L. 111–84 added par. (3).

**2003**—Pub. L. 108–136, §1006(b)(1), substituted "Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate" for "Reimbursement rate for airlift services provided to Central Intelligence Agency" as section catchline.

Subsec. (a). Pub. L. 108–136, §1006(a), inserted "as follows:

"(1) For military airlift services provided"

before "to the Central Intelligence Agency", and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(f), Dec. 12, 2017, 131 Stat. 1601, provided that the amendment made by section 1081(f) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

**EFFECTIVE DATE OF 2014 AMENDMENT**

Pub. L. 113–291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(4) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113–66 as enacted.

**EXECUTIVE BRANCH SUPPORT FOR RECENTLY ENACTED COMMISSIONS**

Pub. L. 117–263, div. A, title X, §1050, Dec. 23, 2022, 136 Stat. 2775, as amended by Pub. L. 118–31, div. A, title X, §1082(b), Dec. 22, 2023, 137 Stat. 417, provided that:

"(a) ASSISTANCE FROM DEPARTMENT OF DEFENSE.—At the request of a covered commission, the Secretary of Defense may provide to the covered commission, on a reimbursable basis, such services, funds, facilities, staff, and other support services as necessary for the performance of the functions of the commission. Amounts provided to a covered commission pursuant to this section may be provided from amounts appropriated for the Department of Defense, as provided in advance in appropriations Acts.

"(b) PROVISION OF TRAVEL SUPPORT TO CERTAIN COMMISSIONS.—For the purpose of providing support to facilitate overseas travel requests from a legislative branch commission, or any commission so designated for support under this subsection jointly by the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives, the Secretary of Defense and the Secretary of State shall consider such requests as equivalent to a request from Congress, and apply the same standards in determining the extent to which such support may be provided under law and regulation. Any support so provided shall be funded out of amounts appropriated for the operation of such commission.

"(c) COVERED COMMISSION DEFINED.—In this section, the term 'covered commission' means a commission established pursuant to any of the following sections of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81):

"(1) Section 1004 [135 Stat. 1884] (Commission on Planning, Programming, Budgeting, and Execution Reform).

"(2) section 1091 [135 Stat. 1929] (National Security Commission on Emerging Biotechnology).

"(3) section 1094 [135 Stat. 1935] (Afghanistan War Commission).

"(4) section 1095 [135 Stat. 1943] (Commission on the National Defense Strategy).

"(5) section 1687 [135 Stat. 2126] (Congressional Commission on the Strategic Posture of the United States)."

## §2643. Commissary and exchange services: transportation overseas

(a) TRANSPORTATION OPTIONS.—The Secretary of Defense shall authorize the officials responsible for operation of commissaries and military exchanges to negotiate directly with private carriers for the most cost-effective transportation of commissary and exchange supplies to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command, or the Military Traffic Management Command. Section 2631 of this title, regarding the preference for vessels of the United States or belonging to the United States in the transportation of supplies by sea, shall apply to the negotiation of contracts for sea-borne transportation under the authority of this section.

(b) PAYMENT OF TRANSPORTATION COSTS.—Section 2483(b)(5) of this title, regarding the use of appropriated funds to cover the expenses of operating commissary stores, shall apply to the transportation of commissary supplies and products. Appropriated funds for the Department of Defense shall also be used to cover the expenses of transporting exchange supplies and products to destinations outside the continental United States. Such appropriated funds may be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title.

(Added Pub. L. 104–106, div. A, title III, §334(a), Feb. 10, 1996, 110 Stat. 261; amended Pub. L. 109–163, div. A, title VI, §673, Jan. 6, 2006, 119 Stat. 3319; Pub. L. 114–328, div. A, title VI, §661(h), Dec. 23, 2016, 130 Stat. 2172.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Subsec. (b). Pub. L. 114–328 inserted at end "Such appropriated funds may be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title."

**2006**—Pub. L. 109–163 designated existing provisions as subsec. (a), inserted heading, substituted "to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command," for "by sea without relying on the Military Sealift Command" and "contracts for sea-borne transportation" for "transportation contracts", and added subsec. (b).

## §2644. Control of transportation systems in time of war

In time of war, the President, through the Secretary of Defense, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment, or for other purposes related to the emergency. So far as necessary, he may use the system to the exclusion of other traffic.

(Aug. 10, 1956, ch. 1041, 70A Stat. 266, §4742; renumbered §2644 and amended Pub. L. 104–201, div. A, title IX, §906(a), (b), Sept. 23, 1996, 110 Stat. 2620.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4742 | 10:1361. | Aug. 29, 1916, ch. 418 (last par. under "Ordnance Department"), 39 Stat. 645. |

The words "as may be needful or desirable" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–201 renumbered section 4742 of this title as this section and substituted "Secretary of Defense" for "Secretary of the Army".

## §2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance

(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by vessel war risk insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

(A) in the case of a claim for the loss of a vessel, not later than 90 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the vessel war risk insurance; and

(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

(2) When there is a loss of a vessel that is (or may be) covered by vessel war risk insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such vessel. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the vessel to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the vessel war

risk insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

(c) DEPOSIT OF FUNDS.—Any amount transferred to the Secretary of Transportation under this section shall be deposited in, and merged with amounts in, the Vessel War Risk Insurance Fund as provided in section 53909(b) of title 46.

(d) NOTICE TO CONGRESS.—In the event of a loss that is covered by vessel war risk insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of $10,000,000, the Secretary of Defense shall submit to Congress notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss.

(e) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

(f) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

[(g) Repealed. Pub. L. 108–136, div. A, title X, §1031(a)(26)(B), Nov. 24, 2003, 117 Stat. 1598.]

(h) DEFINITIONS.—In this section:

(1) VESSEL WAR RISK INSURANCE.—The term "vessel war risk insurance" means insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 539 of title 46 that is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

(2) VESSEL WAR RISK INSURANCE FUND.—The term "Vessel War Risk Insurance Fund" means the insurance fund referred to in section 53909(a) of title 46.

(3) LOSS.—The term "loss" includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the vessel war risk insurance.

(Added Pub. L. 104–201, div. A, title X, §1079(b)(1), Sept. 23, 1996, 110 Stat. 2669; amended Pub. L. 105–85, div. A, title X, §1073(a)(57), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 108–136, div. A, title X, §1031(a)(26), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 109–304, §17(a)(4), Oct. 6, 2006, 120 Stat. 1706; Pub. L. 112–81, div. A, title X, §1064(8), Dec. 31, 2011, 125 Stat. 1587.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (f), is the date of enactment of Pub. L. 104–201, which was approved Sept. 23, 1996.

### AMENDMENTS

**2011**—Subsec. (d). Pub. L. 112–81 substituted "$10,000,000" for "$1,000,000".

**2006**—Subsec. (c). Pub. L. 109–304, §17(a)(4)(A), substituted "section 53909(b) of title 46" for "the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))".

Subsec. (h)(1). Pub. L. 109–304, §17(a)(4)(B), substituted "chapter 539 of title 46" for "title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.),".

Subsec. (h)(2). Pub. L. 109–304, §17(a)(4)(C), substituted "section 53909(a) of title 46" for "the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))".

**2003**—Subsec. (d). Pub. L. 108–136, §1031(a)(26)(A), substituted "Congress" for "Congress—", struck out par. (1) designation before "notification", substituted a period for "; and" after "date of the loss", and struck out par. (2) which read as follows: "semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of such funds, pending litigation, and estimated total cost to the Government."

Subsec. (g). Pub. L. 108–136, §1031(a)(26)(B), struck out heading and text of subsec. (g). Text read as follows: "Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the vessel war risk insurance program under title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.)."

**1997**—Subsec. (a)(1)(B). Pub. L. 105–85 struck out "on which" after "after the date on which".

## §2646. Travel services: procurement for official and unofficial travel under one contract

(a) AUTHORITY.—The head of an agency may enter into a contract for travel-related services that provides for the contractor to furnish services for both official travel and unofficial travel.

(b) CREDITS, DISCOUNTS, COMMISSIONS, FEES.—(1) A contract entered into under this section may provide for credits, discounts, or commissions or other fees to accrue to the Department of Defense. The accrual and amounts of credits, discounts, or commissions or other fees may be determined on the basis of the volume (measured in the number or total amount of transactions or otherwise) of the travel-related sales that are made by the contractor under the contract.

(2) The evaluation factors applicable to offers for a contract under this section may include a factor that relates to the estimated aggregate value of any credits, discounts, commissions, or other fees that would accrue to the Department of Defense for the travel-related sales made under the contract.

(3) Commissions or fees received by the Department of Defense as a result of travel-related sales made under a contract entered into under this section shall be distributed as follows:

(A) For amounts relating to sales for official travel, credit to appropriations available for official travel for the fiscal year in which the amounts were charged.

(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

(c) DEFINITIONS.—In this section:

(1) The term "head of an agency" has the meaning given that term in section 3004 of this title.

(2) The term "official travel" means travel at the expense of the Federal Government.

(3) The term "unofficial travel" means personal travel or other travel that is not paid for or reimbursed by the Federal Government out of appropriated funds.

(d) INAPPLICABILITY TO COAST GUARD AND NASA.—This section does not apply to the Coast Guard when it is not operating as a service in the Navy, nor to the National Aeronautics and Space Administration.

(Added Pub. L. 105–261, div. A, title VIII, §813(a), Oct. 17, 1998, 112 Stat. 2087; amended Pub. L. 116–283, div. A, title XVIII, §1806(e)(1)(B), Jan. 1, 2021, 134 Stat. 4155.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(1). Pub. L. 116–283 substituted "section 3004" for "section 2302(1)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings

The Secretary of Defense may provide transportation for the next-of-kin of persons who are unaccounted for from the Korean conflict, the Cold War, Vietnam War era, or the Persian Gulf War to and from an annual meeting in the United States. Such transportation shall be provided under such regulations as the Secretary of Defense may prescribe.

(Added Pub. L. 107–107, div. A, title V, §574(a), Dec. 28, 2001, 115 Stat. 1122.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**AVAILABILITY OF FUNDS FOR NEXT-OF-KIN OF VIETNAM ERA INDIVIDUALS**

Pub. L. 107–117, div. A, title VIII, §8018, Jan. 10, 2002, 115 Stat. 2251, provided that: "Funds available in this Act [see Tables for classification] and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–259, title VIII, §8018, Aug. 9, 2000, 114 Stat. 678.
Pub. L. 106–79, title VIII, §8018, Oct. 25, 1999, 113 Stat. 1235.
Pub. L. 105–262, title VIII, §8018, Oct. 17, 1998, 112 Stat. 2301.
Pub. L. 105–56, title VIII, §8018, Oct. 8, 1997, 111 Stat. 1224.
Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8019], Sept. 30, 1996, 110 Stat. 3009–71, 3009–92.
Pub. L. 104–61, title VIII, §8025, Dec. 1, 1995, 109 Stat. 657.
Pub. L. 103–335, title VIII, §8031, Sept. 30, 1994, 108 Stat. 2625.
Pub. L. 103–139, title VIII, §8034, Nov. 11, 1993, 107 Stat. 1447.
Pub. L. 102–396, title IX, §9046, Oct. 6, 1992, 106 Stat. 1912.
Pub. L. 102–172, title VIII, §8047, Nov. 26, 1991, 105 Stat. 1182.
Pub. L. 101–511, title VIII, §8051, Nov. 5, 1990, 104 Stat. 1886.
Pub. L. 101–165, title IX, §9065, Nov. 21, 1989, 103 Stat. 1143.

## §2648. Persons and supplies: sea, land, and air transportation

Whenever the Secretary of Defense considers that space is available, the following persons and supplies may be transported on vessels, vehicles, or aircraft operated by the Department of Defense:

(1) Members of Congress.

(2) Other officers of the United States traveling on official business.

(3) Secretaries and supplies of the Armed Services Department of the Young Men's Christian Association.

(4) Officers and employees of the Commonwealth of Puerto Rico on official business.

(5) The families of members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described in paragraphs (1), (2), and (4).

However, a person described in paragraph (4) or (5) may be so transported only if the transportation is without expense to the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 266, §4744; Pub. L. 86–624, §4(d), July 12, 1960, 74 Stat. 411; renumbered §2648 and amended Pub. L. 108–375, div. A, title X, §1072(a), (b)(1), Oct. 28, 2004, 118 Stat. 2057; Pub. L. 111–383, div. A, title III, §352(d), (e)(1), Jan. 7, 2011, 124 Stat. 4193.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4744 | 10:1369.<br>10:1370.<br>10:1371 (less last 29 words). | Mar. 2, 1907, ch. 2511 (6th proviso, less last 29 words under "Transportation of the Army and Its Supplies"), 34 Stat. 1170.<br>June 30, 1921, ch. 33 (8th proviso under "Transportation of the Army and Its Supplies"), 42 Stat. 81.<br>Mar. 3, 1911, ch. 209 (3d proviso under "Transportation of the Army and Its Supplies"), 36 Stat. 1051. |

Reference to the Philippine government, contained in the source statute for 10:1371, is omitted, since the Philippine Republic now has the status of a foreign country and only possessions of the United States are intended to be covered by the source statute. The words "Armed Services Department" are substituted for the words "Army and Navy Department", in 10:1370, to reflect the present name of that Department of the Young Men's Christian Association. (See also third sentence of revision note for section 4746 of this title, below.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 111–383 substituted "Persons and supplies: sea, land, and air transportation" for "Persons and supplies: sea transportation" in section catchline and inserted ", vehicles, or aircraft" after "vessels" in introductory provisions.

**2004**—Pub. L. 108–375, §1072(b)(1), in introductory provisions, substituted "Secretary of Defense" for "Secretary of the Army" and struck out "Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any military transport agency of" before "the Department of Defense", redesignated pars. (4) to (8) as (1) to (5), respectively, in par. (5), substituted "members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described in paragraphs (1), (2), and (4)" for "persons described in clauses (1), (2), (4), (5), and (7)", in concluding provisions, substituted "paragraph (4) or (5)" for "clause (7) or (8)", and struck out former pars. (1) to (3) which read as follows:

"(1) Members of the Navy, Marine Corps, or Coast Guard.

"(2) Officers and employees of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Coast Guard.

"(3) Supplies of the Department of the Navy."

Pub. L. 108–375, §1072(a), renumbered section 4744 of this title as this section.

**1960**—Pub. L. 86–624 struck out cl. (6) which authorized transportation of officers and employees of the Territory of Hawaii, redesignated cls. (7) to (9) as (6) to (8), respectively, and substituted "clauses (1), (2), (4), (5), and (7)" for "clauses (1), (2), (4), (5), (6), and (8)" in redesignated cl. (8), and "clause (7) or (8)" for "clause (8) or (9)" in closing sentence.

## §2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft

(a) AUTHORITY.—Whenever space is unavailable on commercial lines and is available on vessels, vehicles, or aircraft operated by the Department of Defense, civilian passengers and commercial cargo may, in the discretion of the Secretary of Defense, be transported on those vessels, vehicles, or aircraft. Rates for transportation under this section may not be less than those charged by

commercial lines for the same kinds of service, except that in the case of transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance, any amount charged for such transportation may not exceed the cost of providing the transportation.

(b) CREDITING OF RECEIPTS.—Any amount received under subsection (a) with respect to transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance may be credited to the appropriation, fund, or account used in incurring the obligation for which such amount is received. In all other cases, amounts received under subsection (a) shall be covered into the Treasury as miscellaneous receipts.

(c) TRANSPORTATION OF ALLIED AND CIVILIAN PERSONNEL AND CARGO DURING CONTINGENCIES OR DISASTER RESPONSES.—When space is available on vessels, vehicles, or aircraft operated by the Department of Defense and the Secretary of Defense determines that operations in the area of a contingency operation or disaster response would be facilitated if allied and civilian personnel and cargo were to be transported using such vessels, vehicles, or aircraft, the Secretary may provide such transportation on a noninterference basis, without charge.

(d) COMMERCIAL INSURANCE.—The Secretary may enter into a contract or other arrangement with one or more commercial providers to make insurance products available to non-Department of Defense shippers using the Defense Transportation System to insure against the loss or damage of the shipper's cargo. Any such contract or arrangement shall provide that—

(1) any insurance premium is collected by the commercial provider;

(2) any claim for loss or damage is processed and paid by the commercial provider;

(3) the commercial provider agrees to hold the United States harmless and waive any recourse against the United States for amounts paid to an insured as a result of a claim; and

(4) the contract between the commercial provider and the insured shall contain a provision whereby the insured waives any claim against the United States for loss or damage that is within the scope of enumerated risks covered by the insurance product.

(Aug. 10, 1956, ch. 1041, 70A Stat. 267, §4745; Pub. L. 96–513, title V, §512(22), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 97–31, §12(3)(C), Aug. 6, 1981, 95 Stat. 154; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; renumbered §2649 and amended Pub. L. 108–375, div. A, title X, §1072(a), (b)(2), Oct. 28, 2004, 118 Stat. 2057; Pub. L. 111–383, div. A, title III, §352(a)–(c), (e)(2), Jan. 7, 2011, 124 Stat. 4193, 4194; Pub. L. 112–239, div. A, title X, §1076(e)(4), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 114–328, div. A, title X, §1041, Dec. 23, 2016, 130 Stat. 2392.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4745(a) | 10:1367 (less last 20 words). | June 5, 1920, ch. 240 (6th proviso under "Transportation of the Army and Its Supplies"), 41 Stat. 960. |
| 4745(b) | 10:1367 (last 20 words). | |

In subsection (a), the words "Federal Maritime Board" are substituted for the words "United States Maritime Commission", since the functions of the chairman of that commission were transferred to the chairman of the Board by 1950 Reorganization Plan No. 21, effective May 24, 1950, 64 Stat. 1273. The words "the same kinds of service" are substituted for the words "the same class of accommodations". The words "shipments of" and "between the same ports" are omitted as surplusage. (See also third sentence of revision note for section 4746 of this title, below.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (b). Pub. L. 114–328, §1041(c), substituted "subsection (a)" for "this section" in two places.

Subsec. (c). Pub. L. 114–328, §1041(a), substituted "and Civilian Personnel and Cargo" for "Personnel" in heading and substituted in text "When" for "Until January 6, 2016, when" and "allied and civilian personnel and cargo" for "allied forces or civilians".

Subsec. (d). Pub. L. 114–328, §1041(b), added subsec. (d).

**2013**—Subsec. (c). Pub. L. 112–239 substituted "Until January 6, 2016" for "During the 5-year period

beginning on the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011".

**2011**—Pub. L. 111–383, §352(e)(2), substituted "Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft" for "Civilian passengers and commercial cargoes: transportation on Department of Defense vessels" in section catchline.

Subsec. (a). Pub. L. 111–383, §352(a), (b)(1), inserted heading, inserted ", vehicles, or aircraft" after "vessels" in two places in first sentence, and inserted ", except that in the case of transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance, any amount charged for such transportation may not exceed the cost of providing the transportation" before period at end of second sentence.

Subsec. (b). Pub. L. 111–383, §352(b)(2), inserted heading and substituted "Any amount received under this section with respect to transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance may be credited to the appropriation, fund, or account used in incurring the obligation for which such amount is received. In all other cases, amounts" for "Amounts".

Subsec. (c). Pub. L. 111–383, §352(c), added subsec. (c).

**2004**—Pub. L. 108–375, §1072(a), (b)(2)(A), renumbered section 4745 of this title as this section and substituted "Civilian passengers and commercial cargoes: transportation on Department of Defense vessels" for "Civilian passengers and commercial cargoes: transports in trans-Atlantic service" in section catchline.

Subsec. (a). Pub. L. 108–375, §1072(b)(2)(B)–(D), struck out "(1) on vessels operated by Army transport agencies, or (2) within bulk space allocations made to the Department of the Army" after "available" and "any transport agency of" before "the Department of Defense" and substituted "Secretary of Defense, be transported" for "Secretary of the Army and the Secretary of Homeland Security, be transported".

**2002**—Subsec. (a). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1981**—Subsec. (a). Pub. L. 97–31 substituted "Secretary of Transportation" for "Secretary of Commerce".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Secretary of Commerce" for "Chairman of the Federal Maritime Board".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §2650. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on vessels or airplanes operated by the Department of Defense, if—

(1) the Secretary of Defense considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air, the transportation cannot be reasonably handled by a United States commercial air carrier.

(Aug. 10, 1956, ch. 1041, 70A Stat. 267, §4746; Pub. L. 98–443, §9(k), Oct. 4, 1984, 98 Stat. 1708; renumbered §2650 and amended Pub. L. 108–375, div. A, title X, §1072(a), (b)(3), Oct. 28, 2004, 118 Stat. 2057, 2058.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 4746 | 10:1371a. | Nov. 21, 1941, ch. 483; restated July 25, 1947, ch. 321, 61 Stat. 423. |

Before the enactment of the National Security Act of 1947, the transport functions covered by this section were performed only by the Army. Under section 2(a)(3) of the National Security Act (as it existed before August 10, 1949), the sea and air transportation functions of the Army, Navy, and Air Force were respectively consolidated into the "Military Sea Transportation Service", under the Department of the Navy, and the "Military Air Transport Service", under the Department of the Air Force. Instead of having space on its own transport vessels and airplanes, the Army is now allotted bulk space on vessels and airplanes operated by those transport services. The words "or, within bulk space allocations made to the Department of the Army, on vessels or airplanes operated by any military transport agency of the Department of Defense" are inserted, in accordance with an opinion of the Judge Advocate General of the Army (JAGA 1953/5885, 22 July 1953), to make clear that the rule applicable to Army vessels and airplanes applies to the bulk space allocated to the Army. Since the authority to perform transportation functions could again be transferred as between the military departments, the reference to "vessels or airplanes of Army transport agencies" is retained. The word "considers" is substituted for the words "in the opinion of". The words "Persons residing in Alaska who are and have been employed there by the United States" are substituted for the words "employees of the United States, residing in Alaska, who have been in such employment". The word "commercial" is substituted for the word "civil" for clarity. The words "from and after November 21, 1941", "and the carriage of all such air traffic shall be terminated", "dire", "the privilege herein granted", and "as to each eligible individual" are omitted as surplusage. The words "the continental" are omitted, since section 101(1) of this title defines the United States as "the States and the District of Columbia".

### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375, §1072(a), (b)(3)(A), renumbered section 4746 of this title as this section and, in introductory provisions, struck out "Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels or airplanes operated by any military transport agency of" before "the Department of Defense".

Par. (1). Pub. L. 108–375, §1072(b)(3)(B), substituted "Secretary of Defense" for "Secretary of the Army".

Par. (4). Pub. L. 108–375, §1072(b)(3)(C), substituted "by air, the transportation cannot" for "by air—

"(A) the Secretary of Transportation has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

"(B) the transportation cannot".

**1984**—Par. (4)(A). Pub. L. 98–443 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

## §2651. Passengers and merchandise to Guam: sea transport

Whenever space is available, passengers, and merchandise produced in the United States, or the Commonwealths and possessions, and consigned to residents and mercantile firms of Guam, may be transported to Guam on vessels operated by the Department of Defense, under regulations and at rates to be prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 267, §4747; renumbered §2651 and amended Pub. L. 108–375, div. A, title X, §1072(a), (b)(4), Oct. 28, 2004, 118 Stat. 2057, 2058; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 111–383, div. A, title X, §1075(h)(4)(A)(ii), Jan. 7, 2011, 124 Stat. 4377.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4747 | 10:1368.<br>10:1371 (last 29 words). | Mar. 3, 1911, ch. 209 (4th proviso under "Transportation of the Army and Its Supplies"), 36 Stat. 1051.<br>Mar. 2, 1907, ch. 2511 (last 29 words of 6th proviso under "Transportation of the Army and Its Supplies"), 34 Stat. 1171. |

The words "without displacing military supplies" and "of the island of", in 10:1368 and 1371, are omitted as surplusage. The words "produced in the United States, or the Territories, Commonwealths, and possessions" are substituted for the words "of American production".

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 111–383 made technical amendment to directory language of Pub. L. 109–163, §1057(a)(6). See 2006 Amendment note below.

**2006**—Pub. L. 109–163, §1057(a)(6), as amended by Pub. L. 111–383, substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

**2004**—Pub. L. 108–375, §1072(b)(4), substituted "the Department of Defense, under regulations and at rates to be prescribed by the Secretary of Defense" for "Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any transport agency of the Department of Defense, under regulations and at rates to be prescribed by the Secretary of the Army".

Pub. L. 108–375, §1072(a), renumbered section 4747 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 111–383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that amendment by section 1075(h)(4)(A)(ii) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

## §2652. Prohibition on charge of certain tariffs on aircraft traveling through channel routes

The United States Transportation Command may not charge a tariff by reason of the use by a military service of an aircraft of that military service on a route designated by the United States Transportation Command as a channel route.

(Added Pub. L. 115–91, div. A, title X, §1044(a), Dec. 12, 2017, 131 Stat. 1555.)

## §2653. Evacuation of family pets and contract working dogs during noncombatant evacuations of foreign countries

(a) AUTHORITY TO EVACUATE.—Subject to the limitations under subsection (b), in the event of a situation during which the Department of Defense evacuates noncombatants from a foreign country, the Secretary of Defense may enter into agreements with appropriate nonprofit entities under which such entities provide for the evacuation of—

(1) the family pets of citizens of the United States who are evacuated by the Department; and

(2) contract working dogs located in such country.

(b) LIMITATIONS.—The limitations under this subsection are as follows:

(1) The Department of Defense is not responsible for providing veterinary care for a family pet

or contract working dog by reason of the evacuation of the pet or dog pursuant to subsection (a).

(2) The Secretary may not exercise the authority under subsection (a) if the exercise of such authority would result in a reduction in the number of individuals who would otherwise be evacuated.

(3) The operator of a vehicle used for evacuation may refuse to evacuate a family pet or contract working dog if the operator determines that the evacuation would create a safety risk to other passengers or personnel.

(Added Pub. L. 119–60, div. A, title III, §372, Dec. 18, 2025, 139 Stat. 836.)

## §2654. Aircraft safety: requirements for certain highly trafficked domestic airspace

(a) LIMITATION ON OPERATION.—Notwithstanding section 1046 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232, 49 U.S.C. 40101 note), except as provided in subsection (b), the Secretary of a military department may not authorize any manned rotary wing aircraft of the Department of Defense to operate a training mission in a covered airspace unless such aircraft, while being operated, is actively providing warning of the proximity of such aircraft to nearby commercial aircraft in a manner compatible with the traffic alert and collision avoidance system of such commercial aircraft.

(b) WAIVER AUTHORITY.—The Secretary of a military department, with the concurrence of the Secretary of Transportation, may waive the limitation under subsection (a) with respect to the operation of an aircraft if that Secretary—

(1) determines that—

(A) such waiver is in the national security interests of the United States; and

(B) a commercial aviation compatibility risk assessment has been conducted with respect to the operation of the aircraft pursuant to the waiver to mitigate the risk associated with such operation; and

(2) in the case of a waiver to be in effect for a period exceeding 30 days, submits to appropriate congressional committees notice of such waiver, including a copy of the applicable commercial aviation compatibility risk assessment specified in paragraph (1)(B).

(c) LIMITATION ON DELEGATION.—The Secretary of a military department may not delegate the waiver authority under subsection (b) to an official whose rank is below a general or flag officer.

(d) DEFINITIONS.—

(1) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate.

(2) The term "covered airspace" means the Washington, DC Metropolitan Area Special Flight Rules Area, as such term is defined in section 93.335 of title 14, Code of Federal Regulations, or any successor regulation.

(Added Pub. L. 119–60, div. A, title III, §373(a), Dec. 18, 2025, 139 Stat. 837.)

# CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

Sec.
2661. Miscellaneous administrative provisions relating to real property.

[2661a. Repealed.]
2662. Real property transactions: reports to congressional committees.
2663. Land acquisition authorities.
2664. Limitations on real property acquisition.
2665. Sale of certain interests in land; logs.
[2666. Repealed.]
2667. Leases: non-excess property of military departments and Defense Agencies.
[2667a. Repealed.]
2668. Easements for rights-of-way.
2668a. Easements: granting restrictive easements in connection with land conveyances.
2669. Transfer of land and facilities to support contracts with federally funded research and development centers.
2670. Use of facilities by private organizations; use as polling places.
2671. Military reservations and facilities: hunting, fishing, and trapping.
2672. Protection of buildings, grounds, property, and persons.
[2672a, 2673. Repealed.]
2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region.
2675. Leases: foreign countries.
[2676, 2677. Renumbered or Repealed.]
2678. Feral horses and burros: removal from military installations.
2679. Installation-support services: intergovernmental support agreements.
2680. Minimum capital investment for facilities sustainment, restoration, and modernization for military departments.
[2681. Renumbered.]
2682. Facilities for defense agencies.
2683. Relinquishment of legislative jurisdiction; minimum drinking age on military installations.
2684. Cooperative agreements for management of cultural resources.
2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations.
2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities.
2686. Utilities and services: sale; expansion and extension of systems and facilities.
2687. Base closures and realignments.
2687a. Overseas base closures and realignments and status of United States overseas military locations.
2688. Utility systems: conveyance authority.
[2689,
2690.
Renumbered.]
2691. Restoration of land used by permit or damaged by mishap; reimbursement of State costs of fighting wildland fires.
2692. Storage, treatment, and disposal of nondefense toxic and hazardous materials.
2693. Sentinel Landscapes Partnership.
2694. Conservation and cultural activities.
2694a. Conveyance of surplus real property for natural resource conservation.
2694b. Participation in wetland mitigation banks.
2694c. Participation in conservation banking programs.
2694d. Participation in pollutant banks and water quality trading.
2695. Acceptance of funds to cover administrative expenses relating to certain real property transactions.
2696. Real property: transfer between armed forces and screening requirements for other

Federal use.

2697. Acceptance and use of landing fees charged for use of military airfields by civil aircraft.

## AMENDMENT OF ANALYSIS

*Pub. L. 118–159, div. B, title XXVIII, §2846(b), Dec. 23, 2024, 138 Stat. 2264, provided that, eff. Oct. 1, 2027, this analysis is amended by inserting "domestic" before "military airfields" in item 2697. See 2024 Amendment note below.*

## HISTORICAL AND REVISION NOTES

### 1962 ACT

This section makes necessary clerical amendments to chapter analysis.

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. B, title XXVIII, §2846(b)(1), Dec. 23, 2024, 138 Stat. 2264, inserted "domestic" before "military airfields" in item 2697. Amendment was made pursuant to operation of section 102 of this title.

Pub. L. 118–159, div. B, title XXVIII, §§2841(a), 2846(a)(1), Dec. 23, 2024, 138 Stat. 2262, 2264, added item 2680 and struck out "domestic" before "military airfields" in item 2697. Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title III, §311(a), Dec. 22, 2023, 137 Stat. 213, added item 2693. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title III, §312(b), div. B, title XXVIII, §2831(b), Dec. 23, 2022, 136 Stat. 2502, 3003, added items 2669 and 2694d.

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), (w)(3), Dec. 27, 2021, 135 Stat. 2154, struck out item 2681 "Use of test and evaluation installations by commercial entities" and repealed Pub. L. 116–283, div. A, title XVIII, §1844(b)(2)(B), Jan. 1, 2021, 134 Stat. 4246, which had previously struck out that item.

Pub. L. 116–283, div. A, title XXVIII, §2822(b)(3), Jan. 1, 2021, 134 Stat. 4332, substituted "Overseas base closures and realignments and status of United States overseas military locations" for "Overseas base closures and realignments and basing master plans" in item 2687a.

**2017**—Pub. L. 115–91, div. B, title XXVIII, §2814(c), Dec. 12, 2017, 131 Stat. 1850, substituted "Restoration of land used by permit or damaged by mishap; reimbursement of State costs of fighting wildland fires" for "Restoration of land used by permit or lease" in item 2691.

**2015**—Pub. L. 114–92, div. B, title XXVIII, §2811(b), Nov. 25, 2015, 129 Stat. 1174, added item 2672.

**2014**—Pub. L. 113–291, div. A, title III, §351(c)(2), Dec. 19, 2014, 128 Stat. 3347, added item 2679.

**2011**—Pub. L. 111–383, div. A, title III, §341(b), div. B, title XXVIII, §2814(c), Jan. 7, 2011, 124 Stat. 4190, 4464, struck out item 2680 "Leases: land for special operations activities" and added item 2697.

**2009**—Pub. L. 111–84, div. B, title XXVIII, §2822(a)(2), Oct. 28, 2009, 123 Stat. 2666, added item 2687a.

**2008**—Pub. L. 110–417, [div. A], title III, §311(b), div. B, title XXVIII, §2812(f)(2), Oct. 14, 2008, 122 Stat. 4409, 4728, added items 2667 and 2694c and struck out former items 2667 "Leases: non-excess property of military departments" and 2667a "Leases: non-excess property of Defense agencies".

Pub. L. 110–181, div. B, title XXVIII, §2822(b)(2), Jan. 28, 2008, 122 Stat. 544, struck out item 2677 "Options: property required for military construction projects".

**2006**—Pub. L. 109–364, div. B, title XXVIII, §§2822(d), 2823(b), 2825(d)(2)(B), 2851(c)(3), Oct. 17, 2006, 120 Stat. 2475–2477, 2495, added item 2668a, substituted "Real property: transfer between armed forces and screening requirements for other Federal use" for "Screening of real property for further Federal use before conveyance" in item 2696, and struck out items 2669 "Easements for rights-of-way: gas, water, sewer pipe lines", 2689 "Development of geothermal energy on military lands", 2690 "Fuel sources for heating systems; prohibition on converting certain heating facilities", and 2693 "Conveyance of certain property: Department of Justice correctional options program".

Pub. L. 109–163, div. B, title XXVIII, §2821(g), Jan. 6, 2006, 119 Stat. 3513, added items 2663 and 2664 and struck out former item 2663 "Acquisition" and items 2672 "Authority to acquire low-cost interests in land", 2672a "Acquisition: interests in land when need is urgent", and 2676 "Acquisition: limitation".

**2004**—Pub. L. 108–375, div. B, title XXVIII, §2821(e)(3), Oct. 28, 2004, 118 Stat. 2130, substituted "Use of facilities by private organizations; use as polling places" for "Military installations: use by American National Red Cross; use as polling places" in item 2670 and struck out items 2664 "Acquisition of property

for lumber production", 2666 "Acquisition: land purchase contracts; limitation on commission", 2673 "Acquisition of certain interests in land: availability of funds", and 2679 "Representatives of veterans' organizations: use of space and equipment".

**2003**—Pub. L. 108–136, div. A, title III, §314(a)(2), div. B, title XXVIII, §2811(b)(3), Nov. 24, 2003, 117 Stat. 1431, 1725, substituted "Authority to acquire low-cost interests in land" for "Acquisition: interests in land when cost is not more than $500,000" in item 2672 and added item 2694b.

**2002**—Pub. L. 107–314, div. B, title XXVIII, §§2811(b), 2812(a)(2), Dec. 2, 2002, 116 Stat. 2707, 2709, added items 2684a and 2694a.

**2001**—Pub. L. 107–107, div. A, title X, §1048(a)(26)(B)(ii), title XVI, §1607(b)(3), Dec. 28, 2001, 115 Stat. 1225, 1280, substituted "Military installations: use by American National Red Cross; use as polling places" for "Licenses: military installations; erection and use of buildings; American National Red Cross" in item 2670 and "Conveyance of certain property: Department of Justice correctional options program" for "Conveyance of certain property" in item 2693.

**1998**—Pub. L. 105–261, div. B, title XXVIII, §2812(b)(2), Oct. 17, 1998, 112 Stat. 2206, struck out "from other agencies" after "lease" in item 2691.

**1997**—Pub. L. 105–85, div. A, title III, §§343(g)(3), 371(c)(2), title X, §§1061(c)(2), 1062(b), div. B, title XXVIII, §§2811(b)(2), 2812(b), 2813(b), 2814(a)(2), Nov. 18, 1997, 111 Stat. 1688, 1705, 1891, 1892, 1992–1995, inserted "of military departments" after "property" in item 2667, added item 2667a, substituted "$500,000" for "$200,000" in item 2672, added items 2686 and 2688, substituted "Storage, treatment, and" for "Storage and" in item 2692, and added items 2695 and 2696.

**1996**—Pub. L. 104–201, div. A, title III, §§332(a)(2), 369(b)(2), div. B, title XXVIII, §2862(b), Sept. 23, 1996, 110 Stat. 2485, 2498, 2805, substituted "of Pentagon Reservation and defense facilities in National Capital Region" for "of the Pentagon Reservation" in item 2674 and added items 2684 and 2694.

**1993**—Pub. L. 103–160, div. A, title VIII, §846(b), Nov. 30, 1993, 107 Stat. 1723, added item 2681.

**1992**—Pub. L. 102–496, title IV, §403(a)(2)(B), Oct. 24, 1992, 106 Stat. 3185, substituted "reports to congressional committees" for "Reports to the Armed Services Committees" in item 2662.

**1991**—Pub. L. 102–190, div. B, title XXVIII, §2863(a)(2), Dec. 5, 1991, 105 Stat. 1560, added item 2680.

**1990**—Pub. L. 101–647, title XVIII, §1802(b), Nov. 29, 1990, 104 Stat. 4850, added item 2693.

Pub. L. 101–510, div. A, title XIV, §1481(h)(2), div. B, title XXVIII, §2804(a)(2), Nov. 5, 1990, 104 Stat. 1708, 1785, added items 2674 and 2678.

**1988**—Pub. L. 100–370, §§1(l)(4), 2(b)(2), July 19, 1988, 102 Stat. 849, 854, added items 2661 and 2673 and struck out item 2693 "Prohibition on contracts for performance of firefighting or security-guard functions".

**1987**—Pub. L. 100–224, §5(b)(3), Dec. 30, 1987, 101 Stat. 1538, inserted "; prohibition on converting certain heating facilities" after "systems" in item 2690.

Pub. L. 100–180, div. A, title XI, §1112(b)(3), Dec. 4, 1987, 101 Stat. 1147, inserted "or security-guard" before "functions" in item 2693.

**1986**—Pub. L. 99–661, div. A, title XII, §§1205(a)(2), 1222(a)(2), Nov. 14, 1986, 100 Stat. 3972, 3976, substituted "Fuel sources for heating systems" for "Restriction on fuel sources for new heating systems" in item 2690 and added item 2693.

Pub. L. 98–115, title VIII, §807(c)(2), Oct. 11, 1983, 97 Stat. 789; Pub. L. 99–167, title VIII, §806(a), Dec. 3, 1985, 99 Stat. 988, struck out item 2667a "Sale and replacement of nonexcess real property", eff. Oct. 1, 1986.

**1985**—Pub. L. 99–167, title VIII, §810(b)(2), Dec. 3, 1985, 99 Stat. 990, substituted "$200,000" for "$100,000" in item 2672.

Pub. L. 99–145, title XII, §1224(c)(2), Nov. 8, 1985, 99 Stat. 729, inserted "; minimum drinking age on military installations" in item 2683.

**1984**—Pub. L. 98–407, title VIII, §§804(b), 805(b), Aug. 28, 1984, 98 Stat. 1519, 1521, added items 2691 and 2692.

**1983**—Pub. L. 98–115, title VIII, §807(a)(2), Oct. 11, 1983, 97 Stat. 788, added item 2667a.

**1982**—Pub. L. 97–321, title VIII, §805(b)(4), Oct. 15, 1982, 96 Stat. 1573, substituted in item 2689 "Development of geothermal energy on military lands" for "Development of sources of energy on or for military installations".

Pub. L. 97–295, §1(31)(B), Oct. 12, 1982, 96 Stat. 1296, struck out item 2661a "Appropriations for advance planning of military public works".

Pub. L. 97–258, §2(b)(6)(A), Sept. 13, 1982, 96 Stat. 1053, added item 2661a.

Pub. L. 97–214, §§6(c)(2), 10(a)(4), (5)(C), July 12, 1982, 96 Stat. 173, 175, struck out items 2661 "Planning and construction of public works projects by military departments", 2673 "Restoration or

replacement of facilities damaged or destroyed", 2674 "Minor construction projects", 2678 "Acquisition of mortgaged housing units", 2681 "Construction or acquisition of family housing and community facilities in foreign countries", 2684 "Construction of family quarters; limitations on space", 2686 "Leases: military family housing", and 2688 "Use of solar energy systems in new facilities", substituted "Options: property required for military construction projects" for "Options: property required for public works projects of military departments" in item 2677, and added items 2689 and 2690.

**1980**—Pub. L. 96–513, title V, §511(89), Dec. 12, 1980, 94 Stat. 2928, struck out item 2680 "Reimbursement of owners of property acquired for public works projects for moving expenses".

Pub. L. 96–418, title VIII, §806(b), Oct. 10, 1980, 94 Stat. 1777, as amended by Pub. L. 97–22, §11(c), July 10, 1981, 95 Stat. 138, substituted "$100,000" for "$50,000" in item 2762.

**1979**—Pub. L. 96–125, title VIII, §804(a)(2), Nov. 26, 1979, 93 Stat. 948, added item 2688.

**1977**—Pub. L. 95–82, title V, §504(a)(2), title VI, §§608(b), 612(b), Aug. 1, 1977, 91 Stat. 371, 378, 380, substituted "Minor construction projects" for "Establishment and development of military facilities and installations costing less than $400,000" in item 2674 and added items 2686 and 2687.

**1975**—Pub. L. 94–107, title VI, §607(1), (9), (10), Oct. 7, 1975, 89 Stat. 566, 567, substituted "$400,000" for "$300,000" in item 2674, struck out "; structures not on a military base" in item 2675, and added item 2672a.

**1974**—Pub. L. 93–552, title VI, §611, Dec. 27, 1974, 88 Stat. 1765, added item 2685.

**1973**—Pub. L. 93–166, title V, §509(b), Nov. 29, 1973, 87 Stat. 677, added item 2684.

**1971**—Pub. L. 92–145, title VII, §707(2), Oct. 27, 1971, 85 Stat. 411, substituted "$50,000" for "$25,000" in item 2672.

**1970**—Pub. L. 91–511, title VI, §§607(1), 613(2), Oct. 26, 1970, 84 Stat. 1223, 1226, substituted "$300,000" for "$200,000" in item 2674, and added item 2683.

**1963**—Pub. L. 88–174, title VI, §609(a)(2), Nov. 7, 1963, 77 Stat. 329, added item 2682.

**1962**—Pub. L. 87–651, title I, §112(d), title II, §209(b), Sept. 7, 1962, 76 Stat. 512, 524, substituted "$25,000" for "$5,000" in item 2672 and added items 2679 to 2681.

**1960**—Pub. L. 86–500, title V, §511(2), June 8, 1960, 74 Stat. 187, substituted "Reports to the Armed Services Committees" for "Agreement with Armed Services Committees; reports" in item 2662.

**1958**—Pub. L. 85–861, §1(52), Sept. 2, 1958, 72 Stat. 1461, added items 2672 to 2678.

Pub. L. 85–337, §4(2), Feb. 28, 1958, 72 Stat. 29, added item 2671.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REQUIRED INFRASTRUCTURE PLAN PRIOR TO DEPLOYMENT OF CERTAIN NON-TACTICAL VEHICLES AT MILITARY INSTALLATIONS

Pub. L. 118–31, div. A, title III, §319, Dec. 22, 2023, 137 Stat. 219, provided that:

"(a) REQUIREMENT.—No Secretary concerned may deploy covered non-tactical vehicles to a military installation until, for each such prospective deployment—

"(1) the Secretary concerned—

"(A) ensures there is completed an infrastructure plan for that military installation relating to the prospective deployment; and

"(B) determines such plan is sufficient to ensure the satisfaction of the conditions described in subsection (b); and

"(2) in the case of the first prospective deployment to that military installation, a period of 180 days has elapsed since such determination; or

"(3) in the case of any subsequent prospective deployment to that military installation, a period of 60 days has elapsed since such determination.

"(b) CONDITIONS DESCRIBED.—The conditions described in this subsection are, with respect to a prospective deployment of covered non-tactical vehicles to a military installation, the following:

"(1) Military logistics and operational requirements of that military installation would not be substantially affected as a result of a lack of infrastructure to support the kind and quantity of such vehicles proposed to be deployed.

"(2) Adequate support facilities for the kind and quantity of such vehicles proposed to be deployed exist at that military installation.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered non-tactical vehicle' means a non-tactical vehicle that is an electric vehicle, hydrogen-powered vehicle, or advanced biofuel-powered [sic; probably should be

"advanced-biofuel-powered"] vehicle, as such terms are defined in section 328 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2519) [10 U.S.C. 2922g note].

"(2) The term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## GUIDANCE REGARDING SECURING LABORATORIES OF THE ARMED FORCES

Pub. L. 118–31, div. A, title XV, §1519, Dec. 22, 2023, 137 Stat. 550, provided that:

"(a) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the Chief Information Officer of the Department of Defense, the Chief Digital and Artificial Intelligence Officer of the Department, the Under Secretary of Defense for Research and Engineering, and the Under Secretary of Defense for Intelligence and Security, shall issue Department-wide guidance regarding methods and processes to secure laboratories of the Armed Forces from—

"(1) unauthorized access and intrusion;

"(2) damage to, and destruction, manipulation, or theft of, physical and digital laboratory assets;

"(3) accidental or intentional release or disclosure of sensitive information; and

"(4) cyber sabotage.

"(b) METHODS AND PROCESSES.—At a minimum, the guidance under subsection (a) shall include, with respect to laboratories of the Armed Forces, methods and processes to—

"(1) secure laboratory operations through zero trust principles;

"(2) control the access of devices to laboratory information networks;

"(3) secure inventory management processes of such laboratories;

"(4) control or limit access to such laboratories to authorized individuals;

"(5) maintain the security and integrity of data libraries, repositories, and other digital assets of such laboratories;

"(6) report and remediate cyber incidents or other unauthorized intrusions affecting such laboratories;

"(7) train and educate personnel of the Department on laboratory security;

"(8) develop an operations security plan to secure laboratory operations that may be used by applicable units of the Armed Forces to implement countermeasures appropriate with respect to the mission, assessed risk, and resources available to the unit (including guidelines for implementation of routine procedures and measures to be employed during daily operations or activities of the unit); and

"(9) develop and train applicable units of the Armed Forces on individualized secure laboratory critical information and indicator lists to aid in protecting critical information regarding any activity, intention, capability, or limitation of the Department over which an adversary seeks to gain a military, political, diplomatic, economic, or technological advantage."

## GUIDANCE ON DEPARTMENT OF DEFENSE-WIDE STANDARDS FOR ACCESS TO MILITARY INSTALLATIONS

Pub. L. 118–31, div. B, title XXVIII, §2851, Dec. 22, 2023, 137 Stat. 762, provided that:

"(a) INTERIM GUIDANCE.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall issue interim guidance to the appropriate official or officials within the Department of Defense for purposes of establishing final standards of the Department of Defense for determining the fitness of individuals for access to military installations, which shall include modifying volume 3 of the Department of Defense Manual 5200.08 titled 'Physical Security Program: Access to DoD Installations' (dated January 2, 2019) or any comparable or successor policy guidance document.

"(b) FINAL GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue final guidance relating to the standards described in subsection (a).

"(c) BRIEFING.—Not later than 60 days after issuing the interim guidance required under subsection (a), the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on such guidance, which shall include a timeline for the issuance of such final guidance."

## PHYSICAL ENTRANCES TO CERTAIN MILITARY INSTALLATIONS

Pub. L. 117–263, div. B, title XXVIII, §2833, Dec. 23, 2022, 136 Stat. 3003, provided that: "The Secretary of Defense shall ensure that, to the extent practicable that—

"(1) each military installation in the United States has a designated main entrance that, at all times, is manned by at least one member of the Armed Forces or civilian employee of the Department of Defense;

"(2) the location of each such designated main entrance is published on a publicly accessible internet website of the Department;

"(3) in the case of a military installation in the United States that has any additional entrance designated for commercial deliveries to the military installation, the location of such entrance (and any applicable days or hours of operation for such entrance) is published on the same internet website as the website referred to in paragraph (2); and

"(4) the information required to be published on the internet website under paragraph (2) is reviewed and, as necessary, updated on a basis that is not less frequent than annually."

## PRIZES FOR DEVELOPMENT OF NON-PFAS-CONTAINING FIRE-FIGHTING AGENT

Pub. L. 116–283, div. A, title III, §330, Jan. 1, 2021, 134 Stat. 3528, as amended by Pub. L. 117–263, div. A, title III, §343, Dec. 23, 2022, 136 Stat. 2530; Pub. L. 118–31, div. A, title III, §334(a), Dec. 22, 2023, 137 Stat. 222, provided that:

"(a) AUTHORITY.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Sustainment and the Strategic Environmental Research and Development Program, may carry out a program to award cash prizes and other types of prizes that the Secretary determines are appropriate to recognize outstanding achievements in the development of the following:

"(1) A non-PFAS-containing fire-fighting agent to replace aqueous film-forming foam with the potential for application to the performance of the military missions of the Department of Defense.

"(2) Covered personal protective firefighting equipment that does not contain an intentionally added perfluoroalkyl substance or polyfluoroalkyl substance.

"(3) Technology for the thermal destruction of perfluoroalkyl substances or polyfluoroalkyl substances.

"(b) COMPETITION REQUIREMENTS.—A program under subsection (a) shall use a competitive process for the selection of recipients of cash prizes. The process shall include the widely-advertised solicitation of submissions of research results, technology developments, and prototypes.

"(c) LIMITATIONS.—The following limitations shall apply to a program under subsection (a):

"(1) No prize competition may result in the award of a prize with a fair market value of more than $5,000,000.

"(2) No prize competition may result in the award of more than $1,000,000 in cash prizes without the approval of the Assistant Secretary of Defense for Sustainment.

"(3) No prize competition may result in the award of a solely nonmonetary prize with a fair market value of more than $10,000 without the approval of the Assistant Secretary of Defense for Sustainment.

"(d) RELATIONSHIP TO OTHER AUTHORITY.—A program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Department of Defense.

"(e) USE OF PRIZE AUTHORITY.—Use of prize authority under this section shall be considered the use of competitive procedures for the purposes of section 2304 of title 10, United States Code.

"(f) DEFINITIONS.—In this section:

"(1) The term "perfluoroalkyl substance" means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

"(2) The term "polyfluoroalkyl substance" means a man-made chemical containing at least one fully fluorinated carbon atom and at least one non-fully fluorinated carbon atom.

"(3) The term "covered personal protective firefighting equipment" means the following:

"(A) Turnout gear jacket or coat.

"(B) Turnout gear pants.

"(C) Turnout coveralls.

"(D) Any other personal protective firefighting equipment, as determined by the Secretary of Defense, in consultation with the Administrator of the United States Fire Administration.

"(g) TERMINATION.—The authority to carry out a program under this section shall terminate on December 31, 2026."

## RESEARCH AND DEVELOPMENT OF ALTERNATIVE TO AQUEOUS FILM-FORMING FOAM

Pub. L. 116–283, div. A, title III, §334, Jan. 1, 2021, 134 Stat. 3531, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the National Institute of Standards and Technology and in consultation with appropriate stakeholders and manufactures, research institutions, and other Federal agencies shall award grants and carry out other activities to—

"(1) promote and advance the research and development of additional alternatives to aqueous film-forming foam (in this section referred to as 'AFFF') containing per- and polyfluoroalkyl substances (in this section referred to as 'PFAS') to facilitate the development of a military specification and subsequent fielding of a PFAS-free fire-fighting foam;

"(2) advance the use of green and sustainable chemistry for a fluorine-free alternative to AFFF;

"(3) increase opportunities for sharing best practices within the research and development sector with respect to AFFF;

"(4) assist in the testing of potential alternatives to AFFF; and

"(5) provide guidelines on priorities with respect to an alternative to AFFF.

"(b) ADDITIONAL REQUIREMENTS.—In carrying out the program required under subsection (a), the Secretary shall—

"(1) take into consideration the different uses of AFFF and the priorities of the Department of Defense in finding an alternative;

"(2) prioritize green and sustainable chemicals that do not pose a threat to public health or the environment; and

"(3) use and leverage research from existing Department of Defense programs.

"(c) REPORT.—The Secretary shall submit to Congress a report on—

"(1) the priorities and actions taken with respect to finding an alternative to AFFF and the implementation of such priorities; and

"(2) any alternatives the Secretary has denied, and the reason for any such denial.

"(d) USE OF FUNDS.—This section shall be carried out using amounts authorized to be available for the Strategic Environmental Research and Development Program."

**REPLACEMENT OF FLUORINATED AQUEOUS FILM-FORMING FOAM**

Pub. L. 116–92, div. A, title III, §§322–324, Dec. 20, 2019, 133 Stat. 1307–1310, as amended by Pub. L. 119–60, div. A, title III, §315, Dec. 18, 2025, 139 Stat. 804, provided that:

"SEC. 322. REPLACEMENT OF FLUORINATED AQUEOUS FILM-FORMING FOAM WITH FLUORINE-FREE FIRE-FIGHTING AGENT.

"(a) USE OF FLUORINE-FREE FOAM AT MILITARY INSTALLATIONS.—

"(1) MILITARY SPECIFICATION.—Not later than January 31, 2023, the Secretary of the Navy shall publish a military specification for a fluorine-free fire-fighting agent for use at all military installations and ensure that such agent is available for use by not later than October 1, 2023.

"(2) REPORT TO CONGRESS.—Concurrent with publication of the military specification under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing a detailed plan for implementing the transition to a fluorine-free fire-fighting agent by not later than October 1, 2023. The report shall include—

"(A) a detailed description of the progress of the Department of Defense to identify a fluorine-free fire-fighting agent for use as a replacement fire-fighting agent at military installations;

"(B) a description of any technology and equipment required to implement the replacement fire-fighting agent;

"(C) funding requirements, by fiscal year, to implement the replacement fire-fighting agent, including funding for the procurement of a replacement fire-fighting agent, required equipment, and infrastructure improvements;

"(D) a detailed timeline of remaining required actions to implement such replacement.

"(b) LIMITATION.—No amount authorized to be appropriated or otherwise made available for the Department of Defense may be obligated or expended after October 1, 2026, to procure fire-fighting foam that contains detectable perfluoroalkyl substances and polyfluoroalkyl substances.

"(c) PROHIBITION ON USE.—Fluorinated aqueous film-forming foam may not be used at the following:: [sic]

"(1) Any military installation that, as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025], has transitioned to the use of a fluorine-free fire-fighting agent that meets the military specifications issued pursuant to subsection (a).

"(2) Any other military installation on or after the earlier of the following dates:

"(A) October 1, 2026.

"(B) The date on which the Secretary determines that compliance with the prohibition under this subsection is possible.

"(d) EXEMPTIONS.—Subsections (b) and (c) shall not apply to firefighting foam for use—

"(1) onboard oceangoing vessels, including use in pier-side inspection, testing, and maintenance;

"(2) that is necessary to conduct testing to meet military specification qualification requirements and ensure quality standards of the inventory of the Department;

"(3) in connection with the research, development, test, and evaluation of a fluorine-free fire-fighting agent;

"(4) on naval nuclear submarine propulsion plants; or

"(5) in any tactical vehicle, or equipment, that is incompatible with fluorine-free fire-fighting agents.

"(e) WAIVER.—

"(1) IN GENERAL.—Subject to the limitations under paragraph (2), the Secretary of Defense may waive the limitation under subsection (b) or the prohibition under subsection (c) with respect to the use of fluorinated aqueous film-forming foam, if, by not later than 60 days prior to issuing the waiver, the Secretary—

"(A) provides to the congressional defense committees a briefing on the basis for the waiver and the progress to develop and field a fluorine-free fire-fighting agent that meets the military specifications issued pursuant to subsection (a), which includes—

"(i) detailed data on the progress made to identify a replacement fluorine-free fire-fighting agent;

"(ii) a description of the range of technology and equipment-based solutions analyzed to implement replacement;

"(iii) a description of the funding, by fiscal year, applied towards research, development, test, and evaluation of replacement firefighting agents and equipment-based solutions;

"(iv) a description of any completed and projected infrastructure changes;

"(v) a description of acquisition actions made in support of developing and fielding the fluorine-free fire-fighting agent;

"(vi) an updated timeline for the completion of the transition to use of the fluorine-free fire-fighting agent; and

"(vii) a list of the categories of installation infrastructure or specific mobile firefighting equipment sets that require the waiver along with the justification;

"(B) submits to the congressional defense committees certification in writing, that—

"(i) the waiver is necessary for either installation infrastructure, mobile firefighting equipment, or both;

"(ii) the waiver is necessary for the protection of life and safety or to maintain military readiness;

"(iii) the military specification issued pursuant to subsection (a) is still valid; and

"(iv) includes details of the measures in place to minimize the release of and exposure to fluorinated compounds in fluorinated aqueous film-forming foam; and

"(C) provides for public notice of the waiver.

"(2) LIMITATION.—The following limitations apply to a waiver issued under this subsection:

"(A) Such a waiver shall apply for a period that does not exceed one year.

"(B) The Secretary may extend such a waiver once for an additional period that does not exceed one year, if the requirements under paragraph (1) are met as of the date of the extension of the waiver.

"(C) The authority to grant a waiver under this subsection may not be delegated below the level of the Under Secretary of Defense for Acquisition and Sustainment.

"(f) DEFINITIONS.—In this section:

"(1) The term 'perfluoroalkyl substances' means aliphatic substances for which all of the H atoms attached to C atoms in the nonfluorinated substance from which they are notionally derived have been replaced by F atoms, except those H atoms whose substitution would modify the nature of any functional groups present.

"(2) The term 'polyfluoroalkyl substances' means aliphatic substances for which all H atoms attached to at least one (but not all) C atoms have been replaced by F atoms, in such a manner that they contain the perfluoroalkyl moiety CnF2n+1__ (for example, C8F17CH2CH2OH).

"SEC. 323. PROHIBITION OF UNCONTROLLED RELEASE OF FLUORINATED AQUEOUS FILM-FORMING FOAM AT MILITARY INSTALLATIONS.

"(a) PROHIBITION.—Except as provided by subsection (b), the Secretary of Defense shall prohibit the uncontrolled release of fluorinated aqueous film-forming foam (hereinafter in this section referred to as 'AFFF') at military installations.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), fluorinated AFFF may be released at military installations as follows:

"(1) AFFF may be released for purposes of an emergency response.

"(2) A non-emergency release of AFFF may be made for the purposes of testing of equipment or training of personnel, if complete containment, capture, and proper disposal mechanisms are in place to ensure no AFFF is released into the environment.

"SEC. 324. PROHIBITION ON USE OF FLUORINATED AQUEOUS FILM FORMING FOAM FOR TRAINING EXERCISES.

"The Secretary of Defense shall prohibit the use of fluorinated aqueous film forming foam for training exercises at military installations."

## ACCESS TO MILITARY INSTALLATIONS

Pub. L. 116–283, div. A, title X, §1090, Jan. 1, 2021, 134 Stat. 3879, as amended by Pub. L. 118–31, div. A, title X, §1046, Dec. 22, 2023, 137 Stat. 390, provided that:

"(a) ESTABLISHMENT OF VETTING PROCEDURES.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall establish procedures to vet covered individuals for eligibility for unescorted physical access to Department of Defense installations and facilities within the United States.

"(2) CRITERIA FOR PROCEDURES.—The procedures established under paragraph (1) shall include biographic and biometric screening of covered individuals, continuous review of whether covered individuals should continue to be authorized for unescorted physical access, biographic checks of the immediate family members of covered individuals, and any other measures that the Secretary of Defense determines appropriate for vetting.

"(3) INFORMATION REQUIRED.—The Secretary of Defense shall identify the information required to conduct the vetting under this section.

"(4) COLLECTION OF INFORMATION.—The Secretary of Defense shall—

"(A) collect the information required to vet individuals under the procedures established under this subsection;

"(B) as required for the effective implementation of this section, seek to enter into agreements with the relevant departments and agencies of the United States to facilitate the sharing of information in the possession of such departments and agencies concerning covered individuals; and

"(C) ensure that the initial vetting of covered individuals is conducted as early and promptly as practicable, to minimize disruptions to United States programs to train foreign military students.

"(5) WAIVER.—

"(A) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, and without delegation, may waive the requirement to vet covered individuals under this section—

"(i) on a person-by-person basis, if the Secretary of Defense determines that the waiver is in the national security interests of the United States; or

"(ii) on a country-by-country basis, with respect to foreign nationals or other appropriate persons who hold a security clearance issued by that country, if the Secretary of Defense determines that the vetting procedures of the country are functionally equivalent to the vetting procedures of the United States for United States military personnel.

"(B) FUNCTIONAL EQUIVALENCE.—

"(i) DEFINITION.—The Secretary of Defense, acting through the Under Secretary of Defense for Intelligence and Security and in consultation, as appropriate, with the Secretary of State, shall establish and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a definition of functional equivalence for purposes of making a determination under subparagraph (A)(ii). The Secretary of Defense shall notify the congressional defense committees of any subsequent modification the Secretary makes to the definition.

"(ii) ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the vetting procedures of a country prior to making a determination of functional equivalence under subparagraph (A)(ii). Such assessment shall take into consideration any information about such procedures provided to the Secretary of Defense by the Secretary of State.

"(C) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall submit a written notification to the congressional defense committees not later than 48 hours after exercising the waiver authority under subparagraph (A), including a justification for the waiver and an assessment of the vetting procedures of a country, if appropriate.

"(b) DETERMINATION AUTHORITY.—

"(1) REVIEW OF VETTING RESULTS.—The Secretary of Defense shall assign to an organization within the Department with responsibility for security and counterintelligence the responsibility of—

"(A) reviewing the results of the vetting of a covered individual conducted under subsection (a); and

"(B) making a recommendation regarding whether such individual should be given unescorted

physical access to a Department of Defense installation or facility.

"(2) NEGATIVE RECOMMENDATION.—If the recommendation with respect to a covered individual under paragraph (1)(B) is that the individual should not be given unescorted physical access to a Department of Defense installation or facility—

"(A) such individual may only be given such access if such access is authorized by the Secretary of Defense or the Deputy Secretary of Defense; and

"(B) the Secretary of Defense shall ensure that the Secretary of State is promptly provided with notification of such recommendation.

"(c) ADDITIONAL SECURITY MEASURES.—

"(1) SECURITY MEASURES REQUIRED.—The Secretary of Defense shall ensure that—

"(A) all Department of Defense common access cards issued to foreign nationals in the United States comply with the credentialing standards issued by the Office of Personnel Management;

"(B) all such common access cards issued to foreign nationals in the United States include a visual indicator as required by the standard developed by the Department of Commerce National Institute of Standards and Technology;

"(C) unescorted physical access by covered individuals is limited, as appropriate, to those Department of Defense installations or facilities within the United States directly associated with the training or education or necessary for such individuals to access authorized benefits;

"(D) a policy is in place covering possession of firearms on Department of Defense property by covered individuals;

"(E) covered individuals who have been granted unescorted physical access to Department of Defense installations and facilities are incorporated into the Insider Threat Program of the Department of Defense; and

"(F) covered individuals are prohibited from transporting, possessing, storing, or using personally owned firearms on Department of Defense installations or property consistent with the Secretary of Defense policy memorandum dated January 16, 2020, or any successor policy guidance that restricts transporting, possessing, storing, or using personally owned firearms on Department of Defense installations or property.

"(2) EFFECTIVE DATE.—The security measures required under paragraph (1) shall take effect on the date that is 181 days after the date of the enactment of this Act [Jan. 1, 2021].

"(3) NOTIFICATION REQUIRED.—Upon the establishment of the security measures required under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives notice of the establishment of such security measures.

"(d) REPORTING REQUIREMENTS.—

"(1) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the implementation and effects of this section. Such report shall include a description of—

"(A) any positive or negative effects on the training of foreign military students as a result of this section;

"(B) the effectiveness of the vetting procedures implemented pursuant to this section in preventing harm to members of the Armed Forces and United States persons;

"(C) any mitigation strategies used to address any negative effects of the implementation of this section; and

"(D) a proposed plan to mitigate any ongoing negative effects to the vetting and training of foreign military students by the Department of Defense.

"(2) REPORT BY COMPTROLLER GENERAL.—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees an unclassified report (which may contain a classified annex) on the safety and security of United States personnel and international students assigned to United States military bases participating in programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training), particularly with respect to whether—

"(A) relevant United States diplomatic and consular personnel properly vet foreign personnel participating in such programs and entering such bases;

"(B) existing screening protocols with respect to such vetting include counter-terrorism screening and are sufficiently effective at ensuring the safety and security of United States personnel and international students assigned to such bases; and

"(C) whether existing screening protocols with respect to such vetting are in compliance with

applicable requirements of section 362 of title 10, United States Code, and sections 502B and 620M of the Foreign Assistance Act of 1961 (22 U.S.C. 2304 and 2378d).

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

"(2) The term 'covered individual'—

"(A) except as provided in subparagraph (B), means a foreign national or other appropriate person who is—

"(i) seeking unescorted physical access to a Department of Defense installation or facility within the United States; and

"(ii)(I) selected, nominated, or accepted for training or education for a period of more than 14 days occurring on a Department of Defense installation or facility within the United States; or

"(II) an immediate family member accompanying a foreign national or other appropriate person who has been so selected, nominated, or accepted for such training or education; and

"(B) does not include a foreign national or other appropriate person of Australia, Canada, New Zealand, or the United Kingdom who holds a security clearance issued by the country of the foreign national and has provided the Department of Defense a certification of such clearance.

"(3) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and Guam.

"(4) The term 'immediate family member' with respect to any individual means a person who—

"(A) is the parent, step-parent, spouse, sibling, step-sibling, half-sibling, child, or step-child of the individual; and

"(B) has attained the age of 16 years old at the time that unescorted physical access is to begin.

"(5) The term 'foreign national' means a person who is not a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

"(6) The term 'other appropriate person' means a person who is a citizen of both the United States and another country or who is an alien lawfully admitted for permanent residence in the United States, if such person intends to attend training or education on behalf of a foreign country."

Pub. L. 115–232, div. A, title VI, §626, Aug. 13, 2018, 132 Stat. 1802, provided that:

"(a) PROCEDURES FOR ACCESS OF SURVIVING SPOUSES REQUIRED.—The Secretary of Defense, acting jointly with the Secretary of Homeland Security, shall establish procedures by which an eligible surviving spouse may obtain unescorted access, as appropriate, to military installations in order to receive benefits to which the eligible surviving spouse may be entitled by law or policy.

"(b) PROCEDURES FOR ACCESS OF NEXT OF KIN AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Defense, acting jointly with the Secretary of Homeland Security, may establish procedures by which the next of kin of a covered member of the Armed Forces, in addition to an eligible surviving spouse, may obtain access to military installations for such purposes and under such conditions as the Secretaries jointly consider appropriate.

"(2) NEXT OF KIN.—If the Secretaries establish procedures pursuant to paragraph (1), the Secretaries shall jointly specify the individuals who shall constitute next of kin for purposes of such procedures.

"(c) CONSIDERATIONS.—Any procedures established under this section shall—

"(1) be applied consistently across the Department of Defense and the Department of Homeland Security, including all components of the Departments;

"(2) minimize any administrative burden on a surviving spouse or dependent child, including through the elimination of any requirement for a surviving spouse to apply as a personal agent for continued access to military installations in accompaniment of a dependent child;

"(3) take into account measures required to ensure the security of military installations, including purpose and eligibility for access and renewal periodicity; and

"(4) take into account such other factors as the Secretary of Defense or the Secretary of Homeland Security considers appropriate.

"(d) DEADLINE.—The procedures required by subsection (a) shall be established by the date that is not later than one year after the date of the enactment of this Act [Aug. 13, 2018].

"(e) DEFINITIONS.—In this section:

"(1) The term 'eligible surviving spouse' means an individual who is a surviving spouse of a covered

member of the Armed Forces, without regard to whether the individual remarries after the death of the covered member of the Armed Forces.

"(2) The term 'covered member of the Armed Forces' means a member of the Armed Forces who dies while serving—

"(A) on active duty; or

"(B) on such reserve duty as the Secretary of Defense and the Secretary of Homeland Security may jointly specify for purposes of this section."

Pub. L. 114–328, div. A, title III, §346, Dec. 23, 2016, 130 Stat. 2085, as amended by Pub. L. 115–91, div. B, title XXVIII, §2819, Dec. 12, 2017, 131 Stat. 1853, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall establish policies under which covered drivers may be authorized to access military installations.

"(b) ELEMENTS.—The policies established under subsection (a)—

"(1) shall include the terms and conditions under which a covered driver may be authorized to access a military installation;

"(2) may require a transportation company or transportation network company and a covered driver to enter into a written agreement with the Department of Defense as a precondition for obtaining authorization to access a military installation;

"(3) shall be consistent across military installations, to the extent practicable;

"(4) shall be designed to promote the expeditious entry of covered drivers onto military installations for purposes of providing commercial transportation services;

"(5) shall place appropriate restrictions on entry into sensitive areas of military installations;

"(6) shall be designed, to the extent practicable, to give covered drivers access to barracks areas, housing areas, temporary lodging facilities, hospitals, and community support facilities;

"(7) shall require transportation companies and transportation network companies—

"(A) to track, in real-time, the location of the entry and exit of covered drivers onto and off of military installations; and

"(B) to provide, on demand, the information described in subparagraph (A) to appropriate personnel and agencies of the Department; and

"(8) shall take into account force protection requirements and ensure the protection and safety of members of the Armed Forces, civilian employees of the Department of Defense, and the families of such members and employees.

"(c) CONFIDENTIALITY OF INFORMATION.—The Secretary shall ensure that any information provided to the Department by a transportation company or transportation network company under subsection (b)(7)—

"(1) is treated as confidential and proprietary information of the company that is exempt from public disclosure pursuant to section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'); and

"(2) except as provided in subsection (b)(7), is not disclosed to any person or entity without the express written consent of the company unless disclosure of such information is required by a court order.

"(d) DEFINITIONS.—In this section:

"(1) TRANSPORTATION COMPANY.—The term 'transportation company' means a corporation, partnership, sole proprietorship, or other entity outside of the Department of Defense that provides a commercial transportation service to a rider.

"(2) TRANSPORTATION NETWORK COMPANY.—The term 'transportation network company'—

"(A) means a corporation, partnership, sole proprietorship, or other entity, that uses a digital network to connect riders to covered drivers in order for the driver to transport the rider using a vehicle owned, leased, or otherwise authorized for use by the driver to a point chosen by the rider; and

"(B) does not include a shared-expense carpool or vanpool arrangement that is not intended to generate profit for the driver.

"(3) COVERED DRIVER.—The term 'covered driver'—

"(A) means an individual—

"(i) who is an employee of a transportation company or transportation network company or who is affiliated with a transportation company or transportation network company; and

"(ii) who provides a commercial transportation service to a rider; and

"(B) includes a vehicle operated by such individual for the purpose of providing such service."

[Pub. L. 115–91, div. B, title XXVIII, §2819(4)(C), Dec. 12, 2017, 131 Stat. 1853, which directed the insertion of "or transportation network company" after "transportation company" in section 346(d)(3)(A)(i) of

Pub. L. 114–328, set out above, was not executed in light of the amendment made by section 2819(2) of Pub. L. 115–91, which directed the same insertion wherever appearing in subsec. (d).]

Pub. L. 114–328, div. A, title X, §1050, Dec. 23, 2016, 130 Stat. 2396, as amended by Pub. L. 116–92, div. B, title XXVIII, §2822, Dec. 20, 2019, 133 Stat. 1889, provided that:

"(a) ACCESS TO INSTALLATIONS FOR CREDENTIALED TRANSPORTATION WORKERS.—The Secretary of Defense, to the extent practicable, shall ensure that the Transportation Worker Identification Credential is accepted as a valid credential for unescorted access to Department of Defense installations by transportation workers.

"(b) CREDENTIALED TRANSPORTATION WORKERS WITH SECRET CLEARANCE .—TWIC-carrying transportation workers who also have a current Secret Level Clearance issued by the Department of Defense shall be considered exempt from further vetting when seeking unescorted access at Department of Defense facilities. Access security personnel shall verify such person's security clearance in a timely manner and provide them with unescorted access to complete their freight service."

## §2661. Miscellaneous administrative provisions relating to real property

(a) AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—Appropriations for operation and maintenance of the active forces shall be available for the following:

(1) The repair of facilities.

(2) The installation of equipment in public and private plants.

(b) LEASING AND ROAD MAINTENANCE AUTHORITY.—The Secretary of Defense and the Secretary of each military department may provide for the following:

(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with—

(A) the conduct of field exercises and maneuvers; and

(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.

(c) PROHIBITION ON NAMING DEPARTMENT OF DEFENSE REAL PROPERTY AFTER MEMBER OF CONGRESS.—(1) Real property under the jurisdiction of the Secretary of Defense or the Secretary of a military department may not be named after, or otherwise officially identified by the name of, any individual who is a Member of Congress at the time the property is so named or identified.

(2) In this subsection:

(A) The term "Member of Congress" includes a Delegate or Resident Commissioner to the Congress.

(B) The term "real property" includes structures, buildings, or other infrastructure of a military installation, roadways and defense access roads, and any other area on the grounds of a military installation.

(d) TREATMENT OF PENTAGON RESERVATION.—In this chapter, the terms "Secretary concerned" and "Secretary of a military department" include the Secretary of Defense with respect to the Pentagon Reservation.

(Added Pub. L. 100–370, §1(l)(3), July 19, 1988, 102 Stat. 849; amended Pub. L. 108–375, div. B, title XXVIII, §2821(a)(1), (e)(1), Oct. 28, 2004, 118 Stat. 2129, 2130; Pub. L. 109–163, div. B, title XXVIII, §2821(d), (e), Jan. 6, 2006, 119 Stat. 3512; Pub. L. 112–81, div. B, title XXVIII, §2863(a), Dec. 31, 2011, 125 Stat. 1701.)

**HISTORICAL AND REVISION NOTES**

Subsection (a) of this section and sections 2241(a) and 2253(b) of this title are based on Pub. L. 98–212,

title VII, §735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98–525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

Subsection (b) is based on Pub. L. 99–190, §101(b) [title VIII, §8005(d), (f)], Dec. 19, 1985, 99 Stat. 1185, 1202.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2661, act Aug. 10, 1956, ch. 1041, 70A Stat. 147, related to planning and construction of public works projects by military departments, prior to repeal by Pub. L. 97–214, §7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

### AMENDMENTS

**2011**—Subsec. (c). Pub. L. 112–81 added subsec. (c).

**2006**—Subsec. (c). Pub. L. 109–163, §2821(d), redesignated subsec. (c) as section 2664(b) of this title.

Subsec. (d). Pub. L. 109–163, §2821(e), added subsec. (d).

**2004**—Subsecs. (a), (b). Pub. L. 108–375, §2821(e)(1), inserted headings.

Subsec. (c). Pub. L. 108–375, §2821(a)(1), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. B, title XXVIII, §2863(b), Dec. 31, 2011, 125 Stat. 1702, provided that: "The prohibition in subsection (c) of section 2661 of title 10, United States Code, as added by subsection (a), shall apply only with respect to real property of the Department of Defense named after the date of the enactment of this Act [Dec. 31, 2011]."

### RESTROOM ACCESS AT MILITARY INSTALLATIONS FOR CERTAIN TRANSPORTATION SERVICE PROVIDERS

Pub. L. 119–60, div. A, title III, §379, Dec. 18, 2025, 139 Stat. 843, provided that:

"(a) RESTROOM ACCESS.—The Secretary of Defense shall take such steps as may be necessary to ensure that, with respect to each covered location, there is a restroom—

"(1) located at or in close proximity to the covered location;

"(2) to which any covered driver, while providing a transportation protective service involving the transport of sensitive cargo to or from the covered location on behalf of the Department of Defense, is authorized access;

"(3) that to the extent practicable, provides for privacy, hand washing, accessibility, and gender-specific needs; and

"(4) in the case of a portable restroom, that is vented and equipped with adequate lighting (which may be achieved through supplementation with a temporary lighting source, as necessary).

"(b) LOCATION.—The location of a restroom under subsection (a)(1) may not be a location to which access by the covered driver would result in—

"(1) a security risk, as determined by the Secretary;

"(2) a health or safety risk to the covered driver; or

"(3) a violation of any other regulation or policy of the Department.

"(c) NOTIFICATION OF NONCOMPLIANCE.—In carrying out subsection (a), the Secretary shall—

"(1) establish a process by which a covered driver may provide to the Secretary timely notification of any covered location with respect to which access to a restroom is not provided consistent with such subsection; and

"(2) upon receiving such a notification, coordinate with the commander of the military installation concerned or other appropriate officer or employee of the Department to ensure such access is provided.

"(d) DEFINITIONS.—In this section:

"(1) The terms 'arms, ammunition, and explosives', 'safe haven', 'secure holding area', 'secure holding location', and 'transportation protective service' have the meanings given those terms in the publication of the United States Army Transportation Command issued October 4, 2024, and titled 'Military Freight Traffic Unified Rules Publication-1 (MFTURP-1)', or any successor thereto.

"(2) The term 'commercial motor vehicle' has the meaning given that term in section 31101 of title 49, United States Code.

"(3) The term 'covered driver' means an operator of a commercial motor vehicle—

"(A) authorized to provide a transportation protective service on behalf of the Department of Defense; and

"(B) subject to requirements for qualifications and maximum hours of service under section 31502(b) of title 49, United States Code.

"(4) The term 'covered location' means a safe haven, secure holding area, or secure holding location at a military installation or other facility of the Department of Defense.

"(5) The terms 'facility' and 'military installation' have the meanings given those terms in section 2801(c) of title 10, United States Code.

"(6) The term 'sensitive cargo' means—

"(A) arms, ammunition, and explosives;

"(B) classified material; or

"(C) any other cargo, or category thereof, the Secretary of Defense determines sensitive for purposes of this section."

## EXPENDITURES ON LEASED FACILITIES AND REAL PROPERTY OF THE DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. B, title XXVIII, §2850, Dec. 23, 2024, 138 Stat. 2269, provided that:

"(a) IN GENERAL.—Not later than five years after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall reduce expenditures on facilities leased by the Department of Defense by 25 percent.

"(b) REAL PROPERTY MANAGEMENT.—The Secretary of Defense shall—

"(1) publish guidance with respect to—

"(A) standards for maximum office space design for new construction, including space reconfigurations; and

"(B) desired average occupancy standards for existing Department of Defense facilities;

"(2) validate utilization rates for existing office space owned or leased by the Department prior to approving significant land acquisitions for the Department; and

"(3) use building utilization rates to validate new construction requirements, including efforts of the Department with respect to reconfiguration.

"(c) ANNUAL BRIEFING.—Not later than March 31, 2025, and annually thereafter until 2027, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) the capacity of real property owned or leased by the Department of Defense;

"(2) the average utilization rates for such real property;

"(3) the size and cost of facilities leased by the Department; and

"(4) the plan of the Secretary to satisfy the requirement under subsection (a)."

## PROHIBITION ON DISPLAY OF UNAPPROVED FLAGS

Pub. L. 118–31, div. A, title X, §1052, Dec. 22, 2023, 137 Stat. 395, provided that:

"(a) PROHIBITION.—No flag other than an approved flag shall be displayed in any work place, common access area, or public area of the Department of Defense.

"(b) EXCLUSIONS.—The prohibition under subsection (a) shall not apply to—

"(1) the public display or depiction of a flag other than an approved flag in a museum exhibit, State-issued license plate, grave site, memorial marker, monument, educational display, historical display, or work of art, if the nature of the display or depiction cannot reasonably be viewed as endorsement of the flag by the Department of Defense; or

"(2) a building or area that primarily serves as a place of residence, including a barracks, dormitory, bachelor quarters, government-operated housing, or public-private venture housing area.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of a military commander to enforce good order and discipline on a military installation.

"(d) DEFINITIONS.—In this section:

"(1) The term 'approved flag' means any of the following:

"(A) The American flag.

"(B) The flag of a State or of the District of Columbia.

"(C) A military service flag.

"(D) A flag or general officer flag.

"(E) A Presidentially-appointed, Senate-confirmed civilian flag.

"(F) A Senior Executive Service or military department-specific flag.

"(G) The National League of Families POW/MIA flag.

"(H) The flag of another country that is an ally or partner of the United States or for official protocol purposes.

"(I) The flag of an organization of which the United States is a member.

"(J) A ceremonial, command, unit, or branch flag or guidon.

"(K) The flag of an athletic team, club, cadet-led organization, academic department, unit subdivision, or other entity approved to operate at a Service Academy (as such term is defined in section 347 of title 10, United States Code) or in conjunction with a Reserve Officer Training Corps activity.

"(L) A flag or banner displayed by a retail tenant or non-government entity operating in a building owned or controlled by the Department of Defense, for the purposes of advertising business products and services, if authorized by contract.

"(M) A religious flag or banner, including a holiday flag, if otherwise authorized.

"(N) A flag approved at the discretion of the military chain of command or senior civilian leadership, as appropriate.

"(2) The term 'work place, common access area, or public area of the Department of Defense' includes the following:

"(A) An office building, facility, naval vessel, aircraft, governmental vehicle, hangar, garage, ready room, storage room, tool and equipment room, or workshop.

"(B) A sensitive compartmented information facility of other secure facility.

"(C) A schoolhouse or training facility.

"(D) The area in plain view of such a building that is not residential in nature, including the areas outside of buildings of the Department of Defense."

## TRIBAL LIAISONS AT MILITARY INSTALLATIONS

Pub. L. 118–31, div. A, title X, §1084, Dec. 22, 2023, 137 Stat. 418, provided that:

"(a) TRIBAL LIAISONS AT MILITARY INSTALLATIONS.—The Secretary of Defense shall ensure that each military installation under the jurisdiction of a military department that has an Indian Tribe, Native Hawaiian organization, or Tribal interest in the area surrounding the installation has a Tribal liaison located at the installation.

"(b) TRIBAL INTEREST.—For purposes of subsection (a), an area surrounding a military installation shall be considered to be an area in which there is a Tribal interest if an Indian Tribe or Native Hawaiian organization is historically or culturally affiliated with the land or water managed or directly affected by the military installation.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Indian Tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

"(2) The term 'Native Hawaiian organization' has the meaning given that term in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)."

## REQUIREMENTS FOR DEPLOYMENT OF FIFTH GENERATION INFORMATION AND COMMUNICATIONS CAPABILITIES TO MILITARY INSTALLATIONS AND OTHER DEPARTMENT FACILITIES

Pub. L. 118–31, div. A, title XV, §1526, Dec. 22, 2023, 137 Stat. 557, provided that:

"(a) REQUIREMENTS.—

"(1) STRATEGY FOR PRIVATE WIRELESS NETWORKS.—Not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall develop and implement a strategy for deploying to military installations and other facilities of the Department of Defense private wireless networks that are—

"(A) based on fifth generation information and communications capabilities and Open Radio Access Network architecture; and

"(B) tailored to the mission, security, and performance requirements of the respective military installation or other facility.

"(2) PROCESS FOR PUBLIC WIRELESS NETWORK SERVICE PROVIDERS.—

"(A) ESTABLISHMENT.—The Secretary shall establish a Department-wide process under which a public wireless network service provider of fifth generation information and communications capabilities may gain access to a military installation or other facility of the Department to provide

commercial subscriber services to military and civilian personnel of the Department (including contractor personnel) located at, and organizational elements of the Department maintained at, such installation or facility.

"(B) DESIGN REQUIREMENTS.—In establishing the process under subparagraph (A), the Secretary shall ensure relevant system architectures and supporting infrastructure are designed to support modular upgrades to future generation technologies.

"(3) DETERMINATION RELATING TO CONTRACT AUTHORITY.—The Secretary shall determine, on a contract-by-contract basis or as a determination with uniform applicability to contracts across military installations and other facilities of the Department, whether to enter into a contract for—

"(A) neutral hosting, under which infrastructure and services would be provided to companies deploying private wireless networks and public wireless network services to such installation or other facility through multi-operator core network architectures; or

"(B) separate private wireless network and public wireless network infrastructure at such installation or other facility (which shall include a determination by the Secretary on how to establish roaming agreements and policies between such networks).

"(4) BRIEFING.—Not later than 150 days after the date of the enactment of this Act, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the strategy developed under paragraph (1) and any other activity carried out pursuant to this subsection.

"(b) INTERNATIONAL COOPERATION ACTIVITIES.—The Secretary, using existing authorities available to the Secretary, may engage in cooperation activities with foreign allies and partners of the United States to—

"(1) improve the implementation of the strategy under subsection (a)(1); and

"(2) inform the deployment of private wireless networks to military installations and other facilities of the Department pursuant to such strategy.

"(c) OPEN RADIO ACCESS NETWORK ARCHITECTURE DEFINED.—In this section, the term 'Open Radio Access Network architecture' means a network architecture that is modular, uses open interfaces, and virtualizes functionality on commodity hardware through software."

## TARGET DATE FOR DEPLOYMENT OF 5G WIRELESS BROADBAND INFRASTRUCTURE AT ALL MILITARY INSTALLATIONS

Pub. L. 117–263, div. A, title II, §221, Dec. 23, 2022, 136 Stat. 2478, provided that:

"(a) TARGET REQUIRED.—Not later than July 30, 2023, the Secretary of Defense shall—

"(1) establish a target date by which the Secretary plans to deploy 5G wireless broadband infrastructure at all military installations; and

"(2) establish metrics, which shall be identical for each of the military departments, to measure progress toward reaching the target required by paragraph (1).

"(b) ANNUAL REPORT.—Not later than December 31, 2023, and on an annual basis thereafter until the date specified in subsection (c), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) the metrics in use pursuant to subsection (a)(2); and

"(2) the progress of the Secretary in reaching the target required by subsection (a)(1).

"(c) TERMINATION.—The requirement to submit annual reports under subsection (b) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 23, 2022]."

## NATIONAL STANDARDS FOR FEDERAL FIRE PROTECTION AT MILITARY INSTALLATIONS

Pub. L. 117–263, div. A, title III, §388, Dec. 23, 2022, 136 Stat. 2546, provided that:

"(a) STANDARDS REQUIRED.—Beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall ensure that—

"(1) members of the Armed Forces and employees of Defense Agencies who provide fire protection services to military installations comply with the national consensus standards developed by the National Fire Protection Association;

"(2) the minimum staffing requirement for any firefighting vehicle responding to a structural building emergency at a military installation is not less than four firefighters per vehicle; and

"(3) the minimum staffing requirement for any firefighting vehicle responding to an aircraft or airfield incident at a military installation is not less than three firefighters per vehicle.

"(b) REPORTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, each Secretary of a military department shall submit to the Committees on Armed Services of the House of

Representatives and the Senate a report that—

"(1) details each instance in which the standards of that military department deviate from the national consensus standards specified in subsection (a)(1), and at what military installation;

"(2) includes, for each military installation under the jurisdiction of that Secretary, a detailed description of response times for emergency services and firefighting vehicle staffing levels; and

"(3) includes an assessment of the feasibility of requiring compliance with the national consensus standards specified in subsection (a)(1) in accordance with such subsection at each military installation under the jurisdiction of that Secretary (without exception), the cost of requiring such compliance, and the estimated timeline for that Secretary to implement such requirement.

"(c) DEFINITIONS.—In this section:

"(1) The terms 'Armed Forces' and 'Defense Agency' have the meanings given such terms in section 101 of title 10, United States Code.

"(2) The term 'firefighter' has the meaning given that term in section 707(b) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92; 10 U.S.C. 1074m note).

"(3) The term 'military installation' has the meaning given that term in section 2801 of title 10, United States Code."

## PILOT PROGRAMS FOR DEPLOYMENT OF TELECOMMUNICATIONS INFRASTRUCTURE TO FACILITATE 5G DEPLOYMENT ON MILITARY INSTALLATIONS

Pub. L. 117–81, div. A, title II, §233, Dec. 27, 2021, 135 Stat. 1614, provided that:

"(a) PLANS.—

"(1) IN GENERAL.—Not later than 180 days after enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for a pilot program for the deployment of telecommunications infrastructure to facilitate the availability of fifth-generation wireless telecommunications services on military installations under the jurisdiction of the Secretary.

"(2) PLAN ELEMENTS.—Each plan submitted under paragraph (1) by a Secretary of a military department shall include, with respect to such military department, the following:

"(A) A list of military installations at which the pilot program will be carried out, including at least one military installation of the department.

"(B) A description of authorities that will be used to execute the pilot program.

"(C) A timeline for the implementation and duration of the pilot program.

"(D) The identity of each telecommunication carrier that intends to use the telecommunications infrastructure deployed pursuant to the pilot to provide fifth-generation wireless telecommunication services at each of the military installations listed under subparagraph (A).

"(E) An assessment of need for centralized processes and points of contacts to facilitate deployment of the telecommunications infrastructure.

"(b) PILOT PROGRAMS REQUIRED.—Not later than one year after the date of the enactment of this Act, each Secretary of a military department shall establish a pilot program in accordance with the plan submitted by the Secretary under subsection (a)(1).

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date on which a Secretary of a military department commences a pilot program under subsection (b), and not less frequently than once every 180 days thereafter until the completion of the pilot program, the Secretary shall submit to the congressional defense committees a report on the pilot program.

"(2) CONTENTS.—Each report submitted under paragraph (1) for a pilot program shall include the following:

"(A) A description of the status of the pilot program at each military installation at which the pilot program is carried out.

"(B) A description of the use of, and services provided by, telecommunications carriers of the telecommunications infrastructure at each military installation under the pilot program.

"(C) Such additional information as the Secretary of the military department considers appropriate.

"(d) TELECOMMUNICATIONS INFRASTRUCTURE DEFINED.—In this section, the term 'telecommunications infrastructure' includes, at a minimum, the following:

"(1) Macro towers.

"(2) Small cell poles.

"(3) Distributed antenna systems.
"(4) Dark fiber.
"(5) Power solutions."

## ESTABLISHMENT OF SECURE NEXT-GENERATION WIRELESS NETWORK (5G) INFRASTRUCTURE FOR THE NEVADA TEST AND TRAINING RANGE AND BASE INFRASTRUCTURE

Pub. L. 116–92, div. A, title II, §226, Dec. 20, 2019, 133 Stat. 1269, provided that:

"(a) ESTABLISHMENT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall establish secure fifth-generation wireless network components and capabilities at no fewer than two Department of Defense installations in accordance with this section.

"(b) INSTALLATIONS.—

"(1) LOCATIONS.—The Secretary shall establish components and capabilities under subsection (a) at the following:

"(A) The Nevada Test and Training Range, which shall serve as a Major Range and Test Facility Base (MRTFB) for fifth-generation wireless networking.

"(B) Such Department installations or other installations as the Secretary considers appropriate for the purpose set forth in paragraph (2).

"(2) PURPOSE.—The purpose of the establishment of components and capabilities under subsection (a) at the locations described in paragraph (1) of this subsection is to demonstrate the following:

"(A) The potential military utility of high bandwidth, scalable, and low latency fifth-generation wireless networking technology.

"(B) Advanced security technology that is applicable to fifth-generation networks as well as legacy Department command and control networks.

"(C) Secure interoperability with fixed and wireless systems (legacy and future systems).

"(D) Enhancements such as spectrum and waveform diversity, frequency hopping and spreading, and beam forming for military requirements.

"(E) Technology for dynamic network slicing for specific use cases and applications requiring varying levels of latency, scale, and throughput.

"(F) Technology for dynamic spectrum sharing and network isolation.

"(G) Base infrastructure installation of high bandwidth, scalable, and low latency fifth-generation wireless networking technology.

"(H) Applications for secure fifth-generation wireless network capabilities for the Department, such as the following:

"(i) Interactive augmented reality or synthetic training environments.
"(ii) Internet of things devices.
"(iii) Autonomous systems.
"(iv) Advanced manufacturing through the following:

"(I) Department-sponsored centers for manufacturing innovation (as defined in section 34(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278s(c))).
"(II) Department research and development organizations.
"(III) Manufacturers in the defense industrial base of the United States."

## DEPARTMENT OF DEFENSE POLICY ON LEAD-BASED PAINT TESTING ON MILITARY INSTALLATIONS

Pub. L. 116–92, div. B, title XXX, §3054, Dec. 20, 2019, 133 Stat. 1943, provided that:

"(a) ACCESS AND TESTING POLICY.—Not later than February 1, 2020, the Secretary of Defense shall establish a policy under which the Secretary of the military department concerned may permit a qualified individual to access a military installation for the purpose of conducting testing for the presence of lead-based paint on the installation.

"(b) TRANSMISSION OF RESULTS.—

"(1) INSTALLATIONS INSIDE THE UNITED STATES.—In the case of military installations located inside the United States, the results of any testing for lead-based paint on a military installation shall be transmitted the following:

"(A) The civil engineer of the installation.
"(B) The housing management office of the installation.
"(C) The public health organization on the installation.
"(D) The major subordinate command of the Armed Force with jurisdiction over the installation.

"(E) If required by law, any relevant Federal, State, and local agencies.

"(2) INSTALLATIONS OUTSIDE THE UNITED STATES.—In the case of military installations located outside the United States, the results of any testing for lead-based paint on a military installation shall be transmitted to the civil engineer or commander of the installation who shall transmit those results to the major subordinate command of the Armed Force with jurisdiction over the installation.

"(c) DEFINITIONS.—In this section:

"(1) The term 'United States' has the meaning given that term in section 101(a)(1) of title 10, United States Code.

"(2) The term 'qualified individual' means an individual who is certified by the Environmental Protection Agency or by a State as—

"(A) a lead-based paint inspector; or

"(B) a lead-based paint risk assessor."

## PRIORITIZATION OF ENVIRONMENTAL IMPACTS FOR FACILITIES SUSTAINMENT, RESTORATION, AND MODERNIZATION DEMOLITION

Pub. L. 115–232, div. A, title III, §359, Aug. 13, 2018, 132 Stat. 1733, provided that: "The Secretary of Defense shall establish prioritization metrics for facilities deemed eligible for demolition within the Facilities Sustainment, Restoration, and Modernization (FSRM) process. Those metrics shall include full spectrum readiness and environmental impacts, including the removal of contamination."

## INCREASED PERCENTAGE OF SUSTAINMENT FUNDS AUTHORIZED FOR REALIGNMENT TO RESTORATION AND MODERNIZATION AT EACH INSTALLATION

Pub. L. 115–91, div. A, title III, §322, Dec. 12, 2017, 131 Stat. 1353, provided that the Secretary of Defense could authorize an installation commander to realign up to 7.5 percent of an installation's sustainment funds to restoration and modernization, and such authority would expire at the close of Sept. 30, 2022.

## DISCLOSURE OF BENEFICIAL OWNERSHIP BY FOREIGN PERSONS OF HIGH SECURITY SPACE LEASED BY THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. B, title XXVIII, §2876, Dec. 12, 2017, 131 Stat. 1871, as amended by Pub. L. 115–232, div. A, title X, §1081(c)(7), Aug. 13, 2018, 132 Stat. 1985, provided that:

"(a) IDENTIFICATION OF BENEFICIAL OWNERSHIP.—Before entering into a lease agreement with a covered entity for accommodation of a military department or Defense Agency in a building (or other improvement) that will be used for high-security leased space, the Department of Defense shall require the covered entity to—

"(1) identify each beneficial owner of the covered entity by—

"(A) name;

"(B) current residential or business street address; and

"(C) in the case of a United States person, a unique identifying number from a nonexpired passport issued by the United States or a nonexpired drivers license issued by a State; and

"(2) disclose to the Department of Defense any beneficial owner of the covered entity that is a foreign person.

"(b) REQUIRED DISCLOSURE.—

"(1) INITIAL DISCLOSURE.—The Secretary of Defense shall require a covered entity to provide the information required under subsection (a), when first submitting a proposal in response to a solicitation for offers issued by the Department.

"(2) UPDATES.—The Secretary of Defense shall require a covered entity to update a submission of information required under subsection (a) not later than 60 days after the date of any change in—

"(A) the list of beneficial owners of the covered entity; or

"(B) the information required to be provided relating to each such beneficial owner.

"(c) PRECAUTIONS.—If a covered entity discloses a foreign person as a beneficial owner of a building (or other improvement) from which the Department of Defense is leasing high-security leased space, the Department of Defense shall notify the tenant of the space to take appropriate security precautions.

"(d) DEFINITIONS.—IN THIS SECTION:

"(1) BENEFICIAL OWNER.—

"(A) IN GENERAL.—The term 'beneficial owner'—

"(i) means, with respect to a covered entity, each natural person who, directly or indirectly—

"(I) exercises control over the covered entity through ownership interests, voting rights, agreements, or otherwise; or

"(II) has an interest in or receives substantial economic benefits from the assets of the covered entity; and

"(ii) does not include, with respect to a covered entity—

"(I) a minor child;

"(II) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

"(III) a person acting solely as an employee of the covered entity and whose control over or economic benefits from the covered entity derives solely from the employment status of the person;

"(IV) a person whose only interest in the covered entity is through a right of inheritance, unless the person otherwise meets the definition of 'beneficial owner' under this paragraph; and

"(V) a creditor of the covered entity, unless the creditor otherwise meets the requirements of 'beneficial owner' described above.

"(B) ANTI-ABUSE RULE.—The exceptions under subparagraph (A)(ii) shall not apply if used for the purpose of evading, circumventing, or abusing the requirements of this section.

"(2) COVERED ENTITY.—The term 'covered entity' means a person, copartnership, corporation, or other public or private entity.

"(3) FOREIGN PERSON.—The term 'foreign person' means an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States.

"(4) HIGH-SECURITY LEASED SPACE.—The term 'high-security leased space' means a space leased by the Department of Defense that has a security level of III, IV, or V, as determined in accordance with the Interagency Security Committee Risk Management Process.

"(5) UNITED STATES PERSON.—The term 'United States person' means a natural person who is a citizen of the United States or who owes permanent allegiance to the United States."

[Pub. L. 115–232, div. A, title X, §1081(c), Aug. 13, 2018, 132 Stat. 1985, provided that the amendment made by section 1081(c)(7) to section 2876 of Pub. L. 115–91, set out above, is effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted.]

**PILOT PROGRAM TO PROVIDE ADDITIONAL TOOLS FOR EFFICIENT OPERATION OF MILITARY INSTALLATIONS**

Pub. L. 107–107, div. B, title XXVIII, §2813, Dec. 28, 2001, 115 Stat. 1308, authorized the Secretary of Defense, until Dec. 31, 2005, to carry out a pilot program, known as the "Pilot Efficient Facilities Initiative", for purposes of determining the potential for increasing the efficiency and effectiveness of the operation of military installations.

**STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER**

Pub. L. 103–337, div. A, title III, §329, Oct. 5, 1994, 108 Stat. 2715, directed Secretary of the Army to submit to Congress not later than May 1, 1996, a study and report on feasibility and advisability of establishing a center for land management activities and land management training activities of Department of Defense.

## [§2661a. Repealed. Pub. L. 97–295, §1(31)(A), Oct. 12, 1982, 96 Stat. 1296]

Section, added Pub. L. 97–258, §2(b)(6)(B), Sept. 13, 1982, 96 Stat. 1054, authorized appropriations for advance design of military public works not otherwise authorized and for construction management of foreign government funded projects used primarily by United States armed forces, and required preliminary reports to Congress on military public works whose projected advance costs exceeded a specified level.

The repeal of this section by Pub. L. 97–295 reflected the effect of section 7(2) and (8) of the Military Construction Codification Act (Pub. L. 97–214, July 12, 1982, 96 Stat. 173), which repealed the source statutes of this section (subsec. (a) was based on acts Sept. 28, 1951, ch. 434, §504, 65 Stat. 364; July 15, 1955, ch. 368, §512, 69 Stat. 352; Dec. 23, 1981, Pub. L. 97–99, §902, 95 Stat. 1381 (31 U.S.C. 723); and subsec. (b) was based on acts Sept. 12, 1966, Pub. L. 89–568, §612, 80 Stat. 756; Dec. 27, 1974, Pub. L. 93–552, §607, 88 Stat. 1763 (31 U.S.C. 723a)) subsequent to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97–258, section 2(b)(6)(B) of which enacted this section.

## §2662. Real property transactions: reports to congressional committees

(a) GENERAL NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary of a military department or, with respect to a Defense Agency, the Secretary of Defense may not enter into any of the following listed transactions by or for the use of that department until the Secretary concerned

submits a report, subject to paragraph (3), to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives:

(A) An acquisition of fee title to any real property, if the estimated price is more than $750,000.

(B) A lease of any real property to the United States, if the estimated annual rental is more than $750,000.

(C) A lease, license, or easement of real property owned by the United States (other than a lease or license entered into under section 2667(g) of this title), if the estimated annual fair market rental value of the property is more than $750,000.

(D) A transfer of real property owned by the United States to another Federal agency or another military department or to a State, if the estimated value is more than $750,000.

(E) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $750,000.

(F) Any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

(G) Any transaction or contract action that results in, or includes, the acquisition or use by, or the lease or license to, the United States of real property, if the estimated annual rental or cost for the use of the real property is more than $750,000.

(H) Any transaction or contract action for the provision and operation of energy production facilities on real property under the jurisdiction of the Secretary of a military department, as authorized by section 2922a(a)(2) of this title, if the term of the transaction or contract exceeds 20 years.

(2) If a transaction covered by subparagraph (A) or (B) of paragraph (1) is part of a project, the report shall include a summary of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made, as well as the certification described in paragraph (5). The report required by this subsection concerning any report of excess real property described in subparagraph (E) of paragraph (1) shall contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such property for other real property authorized to be acquired for military purposes and has determined that the property proposed to be declared excess is not suitable for such purpose.

(3) The authority of the Secretary concerned to enter into a transaction described in paragraph (1) commences only after the end of the 14-day period beginning on the first day of the first month beginning on or after the date on which the report containing the facts concerning such transaction, and all other such proposed transactions for that month, is provided in an electronic medium pursuant to section 480 of this title.

(4) The report for a month under this subsection may not be submitted later than the first day of that month.

(5) For purposes of paragraph (2), the certification described in this paragraph with respect to an acquisition or lease of real property is a certification that the Secretary concerned—

(A) evaluated the feasibility of using space in property under the jurisdiction of the Department of Defense to satisfy the purposes of the acquisition or lease; and

(B) determined that—

(i) space in property under the jurisdiction of the Department of Defense is not reasonably available to be used to satisfy the purposes of the acquisition or lease;

(ii) acquiring the property or entering into the lease would be more cost-effective than the use of the Department of Defense property; or

(iii) the use of the Department of Defense property would interfere with the ongoing military mission of the property.

(b) ADDITIONAL REPORTING REQUIREMENTS REGARDING LEASES OF REAL PROPERTY OWNED BY THE UNITED STATES.—(1) In the case of a proposed lease, license, or

easement of real property owned by the United States covered by paragraph (1)(C) of subsection (a), the Secretary concerned shall comply with the notice-and-wait requirements of paragraph (3) of such subsection before—

(A) issuing a contract solicitation or other lease offering with regard to the transaction; and

(B) providing public notice regarding any meeting to discuss a proposed contract solicitation with regard to the transaction.

(2) The report under paragraph (3) of subsection (a) shall include the following with regard to a proposed transaction covered by paragraph (1)(C) of such subsection:

(A) A description of the proposed transaction, including the proposed duration of the lease, license, or easement.

(B) A description of the authorities to be used in entering into the transaction.

(C) A statement of the scored cost of the entire transaction, determined using the scoring criteria of the Office of Management and Budget.

(D) A determination that the property involved in the transaction is not excess property, as required by section 2667(a)(3) of this title, including the basis for the determination.

(E) A determination that the proposed transaction is directly compatible with the mission of the military installation or Defense Agency at which the property is located and a description of the anticipated long-term use of the property at the conclusion of the lease or license.

(F) A description of the requirements or conditions within the contract solicitation or other lease offering for the person making the offer to address taxation issues, including payments-in-lieu-of taxes, and other development issues related to local municipalities.

(G) If the proposed lease involves a project related to energy production, a certification by the Secretary of Defense that the project, as it will be specified in the contract solicitation or other lease offering, is consistent with the Department of Defense performance goals and plan required by section 2911 of this title.

(3) The Secretary concerned may not enter into the actual lease or license with respect to property for which the information required by paragraph (2) was submitted in a report under subsection (a)(3) unless the Secretary again complies with the notice-and-wait requirements of such subsection. The subsequent report shall include the following with regard to the proposed transaction:

(A) A cross reference to the prior report that contained the information submitted under paragraph (2) with respect to the transaction.

(B) A description of the differences between the information submitted under paragraph (2) and the information regarding the transaction being submitted in the subsequent report.

(C) A description of the payment to be required in connection with the lease, license, or easement, including a description of any in-kind consideration that will be accepted.

(D) A description of any community support facility or provision of community support services under the lease, license, or easement, regardless of whether the facility will be operated by a covered entity (as defined in section 2667(d) of this title) or the lessee or the services will be provided by a covered entity or the lessee.

(E) A description of the competitive procedures used to select the lessee or, in the case of a lease involving the public benefit exception authorized by section 2667(h)(2) of this title, a description of the public benefit to be served by the lease.

(c) EXCEPTED PROJECTS.—This section does not apply to real property for water resource development projects of the Corps of Engineers, or to leases of Government-owned real property for agricultural or grazing purposes or to any real property acquisition specifically authorized in a Military Construction Authorization Act.

(d) STATEMENTS OF COMPLIANCE IN TRANSACTION INSTRUMENTS.—A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive.

(e) REPORTS ON TRANSACTIONS INVOLVING INTELLIGENCE COMPONENTS

.—Whenever a transaction covered by this section is made by or on behalf of an intelligence component of the Department of Defense or involves real property used by such a component, any report under this section with respect to the transaction that is submitted to the congressional committees named in subsection (a) shall be submitted concurrently to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(f) EXCEPTIONS FOR TRANSACTIONS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.—(1) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection if the Secretary concerned determines that the transaction is made as a result of any of the following:

(A) A declaration of war.

(B) A declaration of a national emergency by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.).

(C) A declaration of an emergency or major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(D) The use of the militia or the armed forces after a proclamation to disperse under section 254 of this title.

(E) A contingency operation.

(2) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection if the Secretary concerned determines that—

(A) an event listed in paragraph (1) is imminent; and

(B) the transaction is necessary for purposes of preparation for such event.

(3) Not later than 30 days after entering into a real property transaction covered by paragraph (1) or (2), the Secretary concerned shall submit to the committees named in subsection (a) a report on the transaction. The report shall set forth any facts or information which would otherwise have been submitted in a report on the transaction under subsection (a), but for the operation of paragraph (1) or (2).

(g) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" includes, with respect to Defense Agencies, the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 147; Pub. L. 86–70, §6(c), June 25, 1959, 73 Stat. 142; Pub. L. 86–500, title V, §511(1), June 8, 1960, 74 Stat. 186; Pub. L. 86–624, §4(c), July 12, 1960, 74 Stat. 411; Pub. L. 92–145, title VII, §707(5), Oct. 27, 1971, 85 Stat. 412; Pub. L. 92–545, title VII, §709, Oct. 25, 1972, 86 Stat. 1154; Pub. L. 93–552, title VI, §610, Dec. 27, 1974, 88 Stat. 1765; Pub. L. 94–107, title VI, §607(5), (6), Oct. 7, 1975, 89 Stat. 566; Pub. L. 94–431, title VI, §614, Sept. 30, 1976, 90 Stat. 1367; Pub. L. 96–418, title VIII, §805, Oct. 10, 1980, 94 Stat. 1777; Pub. L. 100–456, div. B, title XXVIII, §2803, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 101–510, div. A, title XIII, §1311(6), Nov. 5, 1990, 104 Stat. 1670; Pub. L. 102–496, title IV, §403(a)(1), (2)(A), Oct. 24, 1992, 106 Stat. 3185; Pub. L. 104–106, div. A, title XV, §1502(a)(23), div. D, title XLIII, §4321(b)(21), Feb. 10, 1996, 110 Stat. 505, 673; Pub. L. 105–261, div. B, title XXVIII, §2811, Oct. 17, 1998, 112 Stat. 2204; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [div. B, title XXVIII, §2811], Oct. 30, 2000, 114 Stat. 1654, 1654A–416; Pub. L. 108–136, div. A, title X, §1031(a)(27), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 108–375, div. A, title X, §1084(d)(22), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 110–181, div. B, title XXVIII, §2821, Jan. 28, 2008, 122 Stat. 543; Pub. L. 110–417, div. B, title XXVIII, §2811, Oct. 14, 2008, 122 Stat. 4725; Pub. L. 111–383, div. B, title XXVIII, §2811(a)–(f), Jan. 7, 2011, 124 Stat. 4461, 4462; Pub. L. 112–81, div. B, title XXVIII, §2812, Dec. 31, 2011, 125 Stat. 1686; Pub. L. 112–239, div. B, title XXVIII, §2821, Jan. 2, 2013, 126 Stat. 2152; Pub. L. 115–91, div. A, title X, §1081(a)(45), div. B, title XXVIII, §§2811(a), 2812, Dec. 12, 2017, 131 Stat. 1596, 1848, 1849.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2662(a) | 40:551. | Sept. 28, 1951, ch. 434, §§601–604, 65 Stat. 365, 366. |
| 2662(b) | 40:552. | |
| 2662(c) | 40:553. | |
| 2662(d) | 40:554. | |

In subsection (a), the words "must come to an agreement * * * before entering into any of the following transactions by or for the use of that department:" are substituted for the words "shall come into agreement * * * with respect to those real-estate actions by or for the use of the military departments * * * that are described in subsection (a)–(e) of this section, and in the manner therein described". The last sentence is substituted for the last sentence of 40:551(a) and 40:551(b).

In subsection (a)(4), the words "or another military department" are substituted for the words "including transfers between the military departments". The words "under the jurisdiction of the military departments" are omitted as surplusage.

In subsection (b), the words "more than $5,000 but not more than $25,000" are substituted for the words "between $5,000 and $25,000". The words "shall report" are substituted for the words "will, in addition, furnish * * * reports".

In subsection (c), the words "the United States, Alaska, Hawaii" are substituted for the words "the continental United States, the Territory of Alaska, the Territory of Hawaii", since, as defined in section 101(1) of this title, "United States" includes the States and the District of Columbia; and "Territories" includes Alaska and Hawaii.

In subsection (d), the words "A statement * * * that the requirements of this section have been met" are substituted for the words "A recital of compliance with this chapter * * * to the effect that the requirements of this chapter have been complied with". The words "in the alternative", "or lease", and "evidence thereof" are omitted as surplusage.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (f)(1)(B), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (f)(1)(C), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

### AMENDMENTS

**2017**—Subsec. (a)(2). Pub. L. 115–91, §2812(1), inserted ", as well as the certification described in paragraph (5)" after "leases to be made".

Subsec. (a)(3). Pub. L. 115–91, §2811(a), amended par. (3) generally. Prior to amendment, par. (3) required wait periods following submittal of reports before transactions could be authorized.

Subsec. (a)(5). Pub. L. 115–91, §2812(2), added par. (5).

Subsec. (f)(1)(D). Pub. L. 115–91, §1081(a)(45), substituted "section 254" for "section 334".

**2013**—Subsec. (a)(1)(H). Pub. L. 112–239 added subpar. (H).

**2011**—Subsec. (a)(1). Pub. L. 111–383, §2811(f)(1)(A), substituted "the Secretary concerned submits" for "the Secretary submits" in introductory provisions.

Subsec. (a)(1)(C). Pub. L. 112–81, §2812(1), substituted "lease, license, or easement" for "lease or license".

Pub. L. 111–383, §2811(a), inserted "(other than a lease or license entered into under section 2667(g) of this title)" after "United States".

Subsec. (a)(3). Pub. L. 111–383, §2811(f)(1)(B), substituted "the Secretary concerned" for "the Secretary of a military department or the Secretary of Defense" in introductory provisions.

Subsec. (b). Pub. L. 111–383, §2811(b), (e), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The Secretary of each military department and, with respect to Defense

Agencies, the Secretary of Defense shall submit annually to the congressional committees named in subsection (a) a report on transactions described in subsection (a) that involve an estimated value of more than $250,000, but not more than $750,000."

Subsec. (b)(1), (2)(A), (3)(C), (D). Pub. L. 112–81, §2812(2), substituted "lease, license, or easement" for "lease or license".

Subsec. (c). Pub. L. 111–383, §2811(c), substituted "Excepted Projects" for "Geographic Scope; Excepted Projects" in heading and "This section does not" for "This section applies only to real property in the United States, Puerto Rico, Guam, the American Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. It does not" in text.

Subsecs. (e), (f). Pub. L. 111–383, §2811(d), (f)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e). Prior to amendment, text read as follows: "No element of the Department of Defense shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $750,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of the Department of Defense, until the end of the 30-day period beginning on the date on which a report of the facts concerning the proposed occupancy is submitted to the congressional committees named in subsection (a) or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title."

Subsec. (f)(1). Pub. L. 111–383, §2811(f)(3)(A), struck out ", and the reporting requirement set forth in subsection (e) shall not apply with respect to a real property transaction otherwise covered by that subsection," before "if the Secretary" in introductory provisions.

Subsec. (f)(3). Pub. L. 111–383, §2811(f)(3)(B), struck out "or (e), as the case may be" after "under subsection (a)".

Subsec. (f)(4). Pub. L. 111–383, §2811(f)(3)(C), struck out par. (4), which read as follows: "In this subsection, the term 'Secretary concerned' includes, with respect to Defense Agencies, the Secretary of Defense."

Subsec. (g). Pub. L. 111–383, §2811(f)(4), added subsec. (g). Former subsec. (g) redesignated (f).

**2008**—Subsec. (a)(1). Pub. L. 110–181, §2821(a)(1)(A), substituted "or, with respect to a Defense Agency, the Secretary of Defense" for ", or his designee," in introductory provisions.

Subsec. (a)(1)(G). Pub. L. 110–181, §2821(b), added subpar. (G).

Subsec. (a)(3). Pub. L. 110–181, §2821(a)(1)(B), inserted "or the Secretary of Defense" after "military department" in introductory provisions.

Subsec. (b). Pub. L. 110–181, §2821(a)(2), inserted "and, with respect to Defense Agencies, the Secretary of Defense" after "military department".

Subsec. (c). Pub. L. 110–417 substituted "water resource development projects of the Corps of Engineers" for "river and harbor projects or flood control projects".

Subsec. (g)(4). Pub. L. 110–181, §2821(a)(3), added par. (4).

**2004**—Subsec. (a)(2). Pub. L. 108–375 substituted "shall include a summary" for "must include a summarization" and inserted "of paragraph (1)" after "in subparagraph (E)".

**2003**—Subsec. (a). Pub. L. 108–136, §1031(a)(27)(A)(i)–(v), inserted "(1)" after subsec. heading, substituted "the Secretary submits a report, subject to paragraph (3)," for "after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted", redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), substituted "$750,000" for "$500,000" in subpars. (A) to (E), designated concluding provisions as par. (2), and substituted "subparagraph (A) or (B) of paragraph (1)" for "clause (1) or (2)" and "subparagraph (E)" for "clause (5)".

Subsec. (a)(3), (4). Pub. L. 108–136, §1031(a)(27)(A)(vi), added pars. (3) and (4).

Subsec. (b). Pub. L. 108–136, §1031(a)(27)(B), substituted "more than $250,000, but not more than $750,000" for "more than the simplified acquisition threshold specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), but not more than $500,000".

Subsec. (e). Pub. L. 108–136, §1031(a)(27)(C), substituted "$750,000" for "$500,000" and "the end of the 30-day period beginning on the date on which a report of the facts concerning the proposed occupancy is submitted to the congressional committees named in subsection (a) or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title" for "the expiration of thirty days from the date upon which a report of the facts concerning the proposed occupancy is submitted to the congressional committees named in subsection (a)".

**2000**—Subsec. (a). Pub. L. 106–398, §1 [div. B, title XXVIII, §2811(a)], substituted "$500,000" for "$200,000" wherever appearing.

Subsec. (b). Pub. L. 106–398 substituted "specified in section 4(11) of the Office of Federal Procurement

Policy Act (41 U.S.C. 403(11))," for "under section 2304(g) of this title" and "$500,000" for "$200,000".

Subsec. (e). Pub. L. 106–398, §1 [div. B, title XXVIII, §2811(a)], substituted "$500,000" for "$200,000".

**1999**—Subsec. (a). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1998**—Subsecs. (a) to (f). Pub. L. 105–261, §2811(b), inserted subsec. headings.

Subsec. (g). Pub. L. 105–261, §2811(a), added subsec. (g).

**1996**—Subsec. (a). Pub. L. 104–106, §1502(a)(23)(A), substituted "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "the Committees on Armed Services of the Senate and House of Representatives" in introductory provisions and struck out "to be submitted to the Committees on Armed Services of the Senate and House of Representatives" after "The report required by this subsection" in concluding provisions.

Subsec. (b). Pub. L. 104–106, §4321(b)(21), substituted "simplified acquisition threshold" for "small purchase threshold".

Pub. L. 104–106, §1502(a)(23)(B), substituted "shall submit annually to the congressional committees named in subsection (a) a report" for "shall report annually to the Committees on Armed Services of the Senate and the House of Representatives".

Subsec. (e). Pub. L. 104–106, §1502(a)(23)(C), substituted "the congressional committees named in subsection (a)" for "the Committees on Armed Services of the Senate and the House of Representatives".

Subsec. (f). Pub. L. 104–106, §1502(a)(23)(D), substituted "the congressional committees named in subsection (a) shall" for "the Committees on Armed Services of the Senate and the House of Representatives shall".

**1992**—Pub. L. 102–496, §403(a)(2)(A), substituted "reports to congressional committees" for "Reports to the Armed Services Committees" in section catchline.

Subsec. (f). Pub. L. 102–496, §403(a)(1), added subsec. (f).

**1990**—Subsec. (b). Pub. L. 101–510 substituted "the small purchase threshold under section 2304(g) of this title" for "$5,000".

**1988**—Subsecs. (a), (b), (e). Pub. L. 100–456 substituted "$200,000" for "$100,000" wherever appearing.

**1980**—Subsecs. (a), (b), (e). Pub. L. 96–418 substituted "$100,000" for "$50,000" wherever appearing.

**1976**—Subsec. (a). Pub. L. 94–431 provided that the report on the excess property owned by the United States contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such excess property for property suitable for military purposes and has determined such excess property not suitable for exchange.

**1975**—Subsec. (b). Pub. L. 94–107, §607(5), substituted requirement of annual reports for requirement of quarterly reports.

Subsec. (c). Pub. L. 94–107, §607(6), inserted provisions extending the applicability of the section to Guam, the American Samoa, and the Trust Territory of the Pacific Islands, and, in provisions relating to the inapplicability of the section, inserted reference to any real property acquisition specifically authorized in a Military Construction Authorization Act.

**1974**—Subsec. (a)(6). Pub. L. 93–552 added par. (6).

**1972**—Subsec. (e). Pub. L. 92–545 added subsec. (e).

**1971**—Subsec. (a)(3). Pub. L. 92–145 made the restriction applicable to a license of real property and substituted "estimated annual fair market rental value" for "estimated annual rental".

**1960**—Subsec. (a). Pub. L. 86–500 prohibited the Secretary of a military department, or his designee, from entering into any of the transactions listed in subsec. (a) until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives, and increased the amounts in pars. (1) to (5) from $25,000 to $50,000.

Subsec. (b). Pub. L. 86–500 substituted "$50,000" for "$25,000".

Subsec. (c). Pub. L. 86–624 and Pub. L. 86–500 struck out reference to Hawaii.

Subsec. (d). Pub. L. 86–500 reenacted subsection without change.

**1959**—Subsec. (c). Pub. L. 86–70 struck out reference to Alaska.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(21) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 2702 of Pub. L. 100–456, set out as a note under section 2391 of this title.

**REDUCTION OR REALIGNMENT OF TRAINING BASES**

Pub. L. 95–485, title VI, §602, Oct. 20, 1978, 92 Stat. 1617, prohibited any action to implement any substantial reduction or force structure realignment of the composite of installations, posts, camps, stations, and bases that had as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training as a part of the fiscal year 1979 Defense manpower program unless certain criteria were complied with.

**CLOSING OF FACILITIES; CLOSURES OR REALIGNMENTS PUBLICLY ANNOUNCED AFTER SEPTEMBER 30, 1977**

Pub. L. 95–82, title VI, §612(c), Aug. 1, 1977, 91 Stat. 380, provided that: "Section 611 of the Military Construction Authorization Act, 1966 (Public Law 89–188; 10 U.S.C. 2662 note), and section 612 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1366) [which was not classified to the Code], shall be inapplicable in the case of any closure of a military installation, and any realignment with respect to a military installation, which is first publicly announced after September 30, 1977."

**CLOSING OF FACILITIES; REPORTS TO CONGRESS**

Pub. L. 89–188, title VI, §611, Sept. 16, 1965, 79 Stat. 818, as amended by Pub. L. 89–568, title VI, §613, Sept. 12, 1966, 80 Stat. 757, required a report to Congress and a waiting period in connection with the closing of Defense Department facilities, prior to repeal by Pub. L. 97–214, §7(7), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982.

**EXECUTIVE DOCUMENTS**

**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## §2663. Land acquisition authorities

(a) ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES .—(1) Subject to subsection (f), the Secretary of a military department may have proceedings brought in the name of the United States, in a court of proper jurisdiction, to acquire by condemnation any interest in land, including temporary use, needed for—

(A) the site, construction, or operation of fortifications, coast defenses, or military training camps;

(B) the construction and operation of plants for the production of nitrate and other compounds, and the manufacture of explosives or other munitions of war; or

(C) the development and transmission of power for the operation of plants under subparagraph (B).

(2) In time of war or when war is imminent, the United States may, immediately upon the filing of a petition for condemnation under paragraph (1), take and use the land to the extent of the interest sought to be acquired.

(b) ACQUISITION BY PURCHASE IN LIEU OF CONDEMNATION.—The Secretary of the military department concerned may contract for or buy any interest in land, including temporary use, needed for any purpose named in subsection (a), as soon as the owner fixes a price for it and the Secretary considers that price to be reasonable.

(c) ACQUISITION OF LOW-COST INTERESTS IN LAND.—(1) The Secretary of a military department may acquire any interest in land that—

(A) the Secretary determines is needed in the interest of national defense; and

(B) does not cost more than $4,000,000, exclusive of administrative costs and the amounts of

any deficiency judgments.

(2) The Secretary of a military department may acquire any interest in land that—

(A) the Secretary determines is needed solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; and

(B) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments.

(3) This subsection does not apply to the acquisition, as a part of the same project, of more than one parcel of land unless the parcels are noncontiguous, or, if contiguous, unless the total cost is not more than $750,000, in the case of an acquisition under paragraph (1), or $1,500,000, in the case of an acquisition under paragraph (2).

(4) Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of land or interests in land under this subsection.

(d) ACQUISITION OF INTERESTS IN LAND WHEN NEED IS URGENT.—(1) The Secretary of a military department may acquire any interest in land in any case in which the Secretary determines that—

(A) the acquisition is needed in the interest of national defense;

(B) the acquisition is required to maintain the operational integrity of a military installation; and

(C) considerations of urgency do not permit the delay necessary to include the required acquisition in an annual Military Construction Authorization Act.

(2) Not later than 10 days after the date on which the Secretary of a military department determines to acquire an interest in land under the authority of this subsection, the Secretary shall submit, in an electronic medium pursuant to section 480 of this title, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a notice containing a description of the property and interest to be acquired and the reasons for the acquisition.

(3) Appropriations available for military construction may be used for the purposes of this subsection.

(e) SURVEY AUTHORITY; ACQUISITION METHODS.—Authority provided the Secretary of a military department by law to acquire an interest in real property (including a temporary interest) includes authority—

(1) to make surveys; and

(2) to acquire the interest in real property by gift, purchase, exchange of real property owned by the United States, or otherwise.

(f) ADVANCE NOTICE OF USE OF CONDEMNATION.—(1) Before commencing any legal proceeding to acquire any interest in land under subsection (a), including acquisition for temporary use, by condemnation, eminent domain, or seizure, the Secretary of the military department concerned shall—

(A) pursue, to the maximum extent practicable, all other available options for the acquisition or use of the land, such as the purchase of an easement or the execution of a land exchange; and

(B) submit to the congressional defense committees a report containing—

(i) a description of the land to be acquired;

(ii) a certification that negotiations with the owner or owners of the land occurred, and that the Secretary tendered consideration in an amount equal to the fair market value of the land, as determined by the Secretary; and

(iii) an explanation of the other approaches considered for acquiring use of the land, the reasons for the acquisition of the land, and the reasons why alternative acquisition strategies are inadequate.

(2) The Secretary concerned may have proceedings brought in the name of the United States to

acquire the land after the end of the 21-day period beginning on the date on which the report is received by the committees in an electronic medium pursuant to section 480 of this title.

(g) EXCEPTION TO ADVANCE NOTICE REQUIREMENT.—If the Secretary of a military department determines that the use of condemnation, eminent domain, or seizure to acquire an interest in land is required under subsection (a) to satisfy a requirement vital to national security, and that any delay would be detrimental to national security or the protection of health, safety, or the environment, the Secretary may have proceedings brought in the name of the United States to acquire the land in advance of submitting the report required by subsection (f)(1)(B). However, the Secretary shall submit the report not later than seven days after commencement of the legal proceedings with respect to the land.

(h) LAND ACQUISITION OPTIONS IN ADVANCE OF MILITARY CONSTRUCTION PROJECTS.—(1) The Secretary of a military department may acquire an option on a parcel of real property before or after its acquisition is authorized by law, if the Secretary considers it suitable and likely to be needed for a military project of the military department under the jurisdiction of the Secretary.

(2) As consideration for an option acquired under paragraph (1), the Secretary may pay, from funds available to the military department under the jurisdiction of the Secretary for real property activities, an amount that is not more than 12 percent of the appraised fair market value of the property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 147; Pub. L. 85–861, §33(a)(14), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 109–163, div. B, title XXVIII, §2821(a), Jan. 6, 2006, 119 Stat. 3511; Pub. L. 109–364, div. B, title XXVIII, §2821(b), Oct. 17, 2006, 120 Stat. 2474; Pub. L. 110–181, div. B, title XXVIII, §2822(a), Jan. 28, 2008, 122 Stat. 544; Pub. L. 111–383, div. A, title X, §1075(g)(6), Jan. 7, 2011, 124 Stat. 4377; Pub. L. 115–91, div. B, title XXVIII, §2811(b), (c), Dec. 12, 2017, 131 Stat. 1848; Pub. L. 118–159, div. B, title XXVIII, §2804(b), Dec. 23, 2024, 138 Stat. 2248.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2663(a) | 50:171 (less provisos). | July 2, 1917, ch. 35; restated Apr. 11, 1918, ch. 51, 40 Stat. 518. |
| 2663(b) | 50:171 (last proviso). | |
| 2663(c) | 50:171 (1st proviso). | |
| 2663(d) | 50:171 (2d proviso). [50:171 is made applicable to the Navy by 50:171–1 (less 16th through 21st words)]. | Oct. 25, 1951, ch. 563, §101 (less 22d through 43d words), 65 Stat. 641. |

In subsection (a), the words "brought * * * in a court of proper jurisdiction" are substituted for the words "instituted * * * in any court having jurisdiction of such proceedings". The words "any interest in land, including temporary use" are substituted for the words "any land, temporary use thereof or other interest therein, or right pertaining thereto". The words "relating to suits for the condemnation of property" are omitted as surplusage. The last sentence is substituted for 50:171 (words between semicolon and first proviso). The Act of July 2, 1917, ch. 35, as restated by the Act of April 11, 1918, ch. 51 (last 77 words), are not contained in 50:171. They are also omitted from the revised section as executed.

In subsection (a)(1), the word "location" is omitted as surplusage. The words "operation of" are substituted for the words "prosecution of works for".

In subsection (b), the words "That when such property is acquired" are omitted as surplusage. The words "under subsection (a)" are substituted for the words "of any land, temporary use thereof or other use therein or right pertaining thereto to be acquired for any of the purposes aforesaid". The words "take and use" are substituted for the words "possession thereof may be taken * * * and used for military purposes".

In subsection (c), the words "as soon as the owner fixes a price for it" are substituted for the words "That when the owner of such land, interest, or rights pertaining thereto shall fix a price for the same". The word "considers" is substituted for the words "which in the opinion". The words "contract for or buy" are substituted for the words "purchase or enter into a contract". The words "without further delay" are omitted as surplusage.

In subsection (d), the words "a gift of any interest in land * * * for any purpose named in subsection (a)" are substituted for 50:171 (last 15 words of 2d proviso).

**1958 ACT**

The deletion of the last sentence of section 2663(a) and the last sentence of section 2664(a) reflects their implied repeal by Rule 71A of the Rules of Civil Procedure for the United States District Courts (see 28 U.S.C. 2072). (See letter from Assistant Attorney General (Lands Division), Department of Justice, August 1957, to General Counsel, Department of Defense.) The other changes conform section 2664 to section 2663, both of which were based on the same source statute (sec. 8 of the Act of July 9, 1918, ch. 143, subch. XV, 40 Stat. 888) and both of which include the temporary use of the kinds of property respectively covered.

## EDITORIAL NOTES

### CODIFICATION

The text of section 2672, part of which was transferred to this section, redesignated subsec. (c), and amended by Pub. L. 109–163, div. B, title XXVIII, §2821(a)(2)–(5), was based on Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1459; amended Pub. L. 87–651, title I, §112(a), Sept. 7, 1962, 76 Stat. 511; Pub. L. 92–145, title VII, §707(2), (3), Oct. 27, 1971, 85 Stat. 411; Pub. L. 96–418, title VIII, §806(a), Oct. 10, 1980, 94 Stat. 1777; Pub. L. 99–167, title VIII, §810(a), (b)(1), Dec. 3, 1985, 99 Stat. 989, 990; Pub. L. 99–661, div. A, title XIII, §1343(a)(16), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–456, div. B, title XXVIII, §2804, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 105–85, div. B, title XXVIII, §2811(a), (b)(1), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108–136, div. B, title XXVIII, §2811(a)–(b)(2), Nov. 24, 2003, 117 Stat. 1724, 1725; Pub. L. 108–375, div. B, title XXVIII, §2821(d)(1), Oct. 28, 2004, 118 Stat. 2130.

The text of section 2672a of this title, which was transferred to this section, redesignated subsec. (d), and amended by Pub. L. 109–163, div. B, title XXVIII, §2821(a)(6)–(9), was based on Pub. L. 94–107, title VI, §607(8), Oct. 7, 1975, 89 Stat. 566; amended Pub. L. 98–525, title XIV, §1405(39), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(29), Nov. 24, 2003, 117 Stat. 1599; Pub. L. 108–375, div. A, title X, §1084(d)(23), Oct. 28, 2004, 118 Stat. 2062.

The text of section 2676(b) of this title, which was transferred to this section, redesignated subsec. (e), and amended by Pub. L. 109–163, div. B, title XXVIII, §2821(a)(10), (11), was based on Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460; amended Pub. L. 97–214, §5, July 12, 1982, 96 Stat. 170.

### AMENDMENTS

**2024**—Subsec. (c)(1)(B). Pub. L. 118–159 directed substitution of "$4,000,000" for the dollar amount in subsec. (c)(1), which was executed by making the substitution for "$750,000" in subsec. (c)(1)(B).

**2017**—Subsec. (d)(2). Pub. L. 115–91, §2811(b), inserted ", in an electronic medium pursuant to section 480 of this title," after "submit" and substituted "a notice" for "written notice".

Subsec. (f)(2). Pub. L. 115–91, §2811(c), struck out "or, if over sooner, the end of the 14-day period beginning on the date on which a copy of the report is provided" after "received by the committees".

**2011**—Subsec. (a)(1). Pub. L. 111–383 made technical amendment to directory language of Pub. L. 109–364, §2821(b)(1). See 2006 Amendment note below.

**2008**—Subsec. (h). Pub. L. 110–181 added subsec. (h).

**2006**—Pub. L. 109–163, §2821(a)(1)(A), substituted "Land acquisition authorities" for "Acquisition" in section catchline.

Subsec. (a). Pub. L. 109–163, §2821(a)(1)(B), (C), inserted "ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES.—(1)" before "The Secretary" in introductory provisions, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), in subpar. (C), substituted "subparagraph (B)" for "clause (2)", redesignated subsec. (b) as par. (2) and substituted "paragraph (1)" for "subsection (a)".

Subsec. (a)(1). Pub. L. 109–364, §2821(b)(1), as amended by Pub. L. 111–383, substituted "Subject to subsection (f), the Secretary" for "The Secretary" in introductory provisions.

Subsec. (b). Pub. L. 109–163, §2821(a)(1)(D), redesignated subsec. (c) as (b) and inserted heading.

Pub. L. 109–163, §2821(a)(1)(C), redesignated subsec. (b) as subsec. (a)(2).

Subsec. (c). Pub. L. 109–163, §2821(a)(2)–(5), redesignated pars. (1) and (2) of subsec. (a) and subsecs. (b) and (d) of section 2672 of this title as pars. (1), (2), (3), and (4), respectively, of subsec. (c) of this section,

inserted subsec. heading, in par. (3), substituted "This subsection" for "This section", "paragraph (1)" for "subsection (a)(1)", and "paragraph (2)" for "subsection (a)(2)", in par. (4), substituted "this subsection" for "this section", and struck out headings for former subsecs. (a), (b), and (d) of section 2672.

Pub. L. 109–163, §2821(a)(1)(D), redesignated subsec. (c) as (b).

Subsec. (d). Pub. L. 109–163, §2821(a)(6)–(9), redesignated subsecs. (a), (c), and (b) of section 2672a of this title as pars. (1), (2), and (3), respectively, of subsec. (d) of this section, inserted subsec. heading, in par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, in par. (2), substituted "this subsection" for "this section", and in par. (3), substituted "this subsection" for "this section" in first sentence and struck out second sentence which read as follows: "The authority to acquire an interest in land under this section includes authority to make surveys and acquire interests in land (including temporary use), by gift, purchase, exchange of land owned by the United States, or otherwise."

Pub. L. 109–163, §2821(a)(1)(E), struck out subsec. (d) which read as follows: "The Secretary of the military department concerned may accept for the United States a gift of any interest in land, including temporary use, for any purpose named in subsection (a)."

Subsec. (e). Pub. L. 109–163, §2821(a)(10), (11), redesignated subsec. (b) of section 2676 of this title as subsec. (e) of this section and inserted heading.

Subsecs. (f), (g). Pub. L. 109–364, §2821(b)(2), added subsecs. (f) and (g).

**1958**—Subsec. (a). Pub. L. 85–861 struck out provisions requiring proceedings under this subsection to be in accordance with the law of the State in which the suit is brought.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(g), Jan. 7, 2011, 124 Stat. 4376, provided that amendment by section 1075(g)(6) is effective as of Oct. 17, 2006, and as if included in Pub. L. 109–364 as enacted.

### EFFECTIVE DATE OF 1958 AMENDMENT

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

### SENSE OF CONGRESS

Pub. L. 109–364, div. B, title XXVIII, §2821(a), Oct. 17, 2006, 120 Stat. 2473, provided that: "It is the sense of Congress that the Secretary of Defense, when acquiring land for military purposes, should—

"(1) make every effort to acquire the land by means of purchases from willing sellers; and

"(2) employ condemnation, eminent domain, or seizure procedures only as a measure of last resort in cases of compelling national security requirements or at the request of the seller."

## §2664. Limitations on real property acquisition

(a) AUTHORIZATION FOR ACQUISITION REQUIRED.—No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law. The foregoing limitation shall not apply to the acceptance by a military department of real property acquired under the authority of the Administrator of General Services to acquire property by the exchange of Government property pursuant to subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(b) COMMISSIONS ON LAND PURCHASE CONTRACTS.—The maximum amount payable as a commission on a contract for the purchase of land from funds appropriated for the Department of Defense is two percent of the purchase price.

(c) COST LIMITATIONS.—(1) Except as provided in paragraph (2), the cost authorized for a land acquisition project may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

(2) Until subsection (d) is complied with, a land acquisition project may not be placed under

contract if, based upon the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land—

(A) the scope of the acquisition, as approved by Congress, is proposed to be reduced by more than 25 percent; or

(B) the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land, exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser.

(d) CONGRESSIONAL NOTIFICATION.—The limitations on reduction in scope or increase in cost of a land acquisition in subsection (c) do not apply if the reduction in scope or the increase in cost, as the case may be, is approved by the Secretary concerned and a notification of the facts relating to the proposed reduced scope or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the congressional defense committees. A contract for the acquisition may then be awarded only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(e) PAYMENT OF JUDGEMENTS AND SETTLEMENTS.—The Secretary concerned shall promptly pay any deficiency judgment against the United States awarded by a court in an action for condemnation of any interest in land or resulting from a final settlement of an action for condemnation of any interest in land. Payments under this subsection may be made from funds available to the Secretary concerned for military construction projects and without regard to the limitations of subsections (c) and (d).

(Added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460, §2676; amended Pub. L. 93–166, title VI, §608(2), Nov. 29, 1973, 87 Stat. 682; Pub. L. 97–214, §5, July 12, 1982, 96 Stat. 170; Pub. L. 98–407, title VIII, §802, Aug. 28, 1984, 98 Stat. 1519; Pub. L. 99–661, div. A, title XIII, §1343(a)(17)(A), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 102–190, div. B, title XXVIII, §2870(1), Dec. 5, 1991, 105 Stat. 1562; Pub. L. 107–217, §3(b)(14), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 107–314, div. A, title X, §1062(a)(11), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–136, div. A, title X, §1031(a)(30), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 108–375, div. A, title X, §1084(b)(4), Oct. 28, 2004, 118 Stat. 2061; renumbered §2664 and amended Pub. L. 109–163, div. B, title XXVIII, §2821(a)(10), (b)–(d), Jan. 6, 2006, 119 Stat. 3512; Pub. L. 111–350, §5(b)(45), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. B, title XXVIII, §2811(d), Dec. 12, 2017, 131 Stat. 1848.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2676 | [Uncodified]. | July 27, 1954, ch. 579, §501(b) (less provisos), 68 Stat. 560. |

The word "property" is substituted for the word "estate". The words "not owned by the United States" are substituted for the words "not in Federal ownership". The words "or shall be" are omitted as surplusage.

## EDITORIAL NOTES

### CODIFICATION

The text of section 2661(c) of this title, which was transferred to this section and redesignated subsec. (b) by Pub. L. 109–163, §2821(d), was based on Pub. L. 108–375, div. B, title XXVIII, §2821(a)(1), Oct. 28, 2004, 118 Stat. 2129.

### PRIOR PROVISIONS

A prior section 2664, acts Aug. 10, 1956, ch. 1041, 70A Stat. 148; Pub. L. 85–861, §33(a)(15), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 96–513, title V, §511(90), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97–31,

§12(3)(A), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97–295, §1(32), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 100–26, §7(d)(6), Apr. 21, 1987, 101 Stat. 281, related to acquisition of property for lumber production, prior to repeal by Pub. L. 108–375, div. B, title XXVIII, §2821(b), Oct. 28, 2004, 118 Stat. 2129.

## AMENDMENTS

**2017**—Subsec. (d). Pub. L. 115–91 struck out "written" before "notification of the facts" and "or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided" before "in an electronic medium" and substituted "the end of the 14-day period beginning on" for "a period of 21 days elapses from".

**2011**—Subsec. (a). Pub. L. 111–350, which directed substitution "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.)", was executed by making the substitution for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" to reflect the probable intent of Congress.

**2006**—Pub. L. 109–163, §2821(c), renumbered section 2676 of this title as this section and substituted "Limitations on real property acquisition" for "Acquisition: limitation" in section catchline.

Subsec. (a). Pub. L. 109–163, §2821(b)(1), inserted heading and struck out ", as amended" after "Federal Property and Administrative Services Act of 1949" in text.

Subsec. (b). Pub. L. 109–163, §2821(d), redesignated subsec. (c) of section 2661 of this title as subsec. (b) of this section.

Pub. L. 109–163, §2821(a)(10), transferred subsec. (b) to section 2663 of this title.

Subsec. (c). Pub. L. 109–163, §2821(b)(2)(A), inserted heading.

Subsec. (c)(2). Pub. L. 109–163, §2821(b)(2)(B), substituted "Until subsection (d) is complied with, a land" for "A land" in introductory provisions and "lesser." for "lesser," in subpar. (B) and struck out concluding provisions which read "until subsection (d) is complied with."

Subsec. (d). Pub. L. 109–163, §2821(b)(3), inserted heading.

Subsec. (e). Pub. L. 109–163, §2821(b)(4), inserted heading.

**2004**—Subsec. (d). Pub. L. 108–375 substituted "congressional defense committees" for "appropriate committees of Congress".

**2003**—Subsec. (d). Pub. L. 108–136 inserted before period at end "or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided in an electronic medium pursuant to section 480 of this title".

**2002**—Subsec. (a). Pub. L. 107–314 inserted opening parenthesis before "41 U.S.C.".

Pub. L. 107–217 inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

**1991**—Subsec. (d). Pub. L. 102–190 struck out "(1)" after "be awarded only" and ", or (2) upon the approval of those committees, if before the end of that period each such committee approves the proposed reduced scope or increased cost" before period at end.

**1986**—Subsec. (c)(2)(B). Pub. L. 99–661 amended generally language of subpar. (B) before "exceeds the amount". See 1984 Amendment note below.

**1984**—Subsec. (c)(2). Pub. L. 98–407, §802(1), inserted "or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land" in provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 98–407, §802(2), inserted "or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land,". Insertion of new language following "the agreed price for the land" was executed to text notwithstanding directory language of Pub. L. 98–407 that made a reference to a nonexistent comma following "the agreed price for the land". See 1986 Amendment note above.

Subsec. (e). Pub. L. 98–407, §802(3), added subsec. (e).

**1982**—Pub. L. 97–214 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

**1973**—Pub. L. 93–166 made limitation inapplicable to property acquired under authority of Administrator of General Services to acquire property by exchange of Government property.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title XIII, §1343(a)(17)(B), Nov. 14, 1986, 100 Stat. 3993, provided that: "The

amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98–407; 98 Stat. 1519) [amending this section]."

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §2665. Sale of certain interests in land; logs

(a) The President, through an executive department, may sell to any person or foreign government any interest in land that is acquired for the production of lumber or timber products, except land under the control of the Department of the Army or the Department of the Air Force.

(b) The President, through an executive department, may sell to any person or foreign government any forest products produced on land owned or leased by a military department or the Department in which the Coast Guard is operating.

(c) Sales under subsection (a) or (b) shall be at prices determined by the President acting through the selling agency.

(d) Appropriations of the Department of Defense may be reimbursed for all costs of production of forest products pursuant to this section from amounts received as proceeds from the sale of any such property.

(e)(1) Each State in which is located a military installation or facility from which forest products are sold in a fiscal year is entitled at the end of such year to an amount equal to 40 percent of (A) the amount received by the United States during such year as proceeds from the sale of forest products produced on such installation or facility, less (B) the amount of reimbursement of appropriations of the Department of Defense under subsection (d) during such year attributable to such installation or facility.

(2) The amount paid to a State pursuant to paragraph (1) shall be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the military installation or facility is situated.

(3) In a case in which a military installation or facility is located in more than one State or county, the amount paid pursuant to paragraph (1) shall be distributed in a manner proportional to the area of such installation or facility in each State or county.

(f)(1) There is in the Treasury a reserve account administered by the Secretary of Defense for the purposes of this section. Balances in the account may be used for costs of the military departments—

(A) for improvements of forest lands;

(B) for unanticipated contingencies in the administration of forest lands and the production of forest products for which other sources of funds are not available in a timely manner; and

(C) for natural resources management that implements approved plans and agreements.

(2) There shall be deposited into the reserve account the total amount received by the United States as proceeds from the sale of forest products sold under subsections (a) and (b) less—

(A) reimbursements of appropriations made under subsection (d), and

(B) payments made to States under subsection (e).

(3) The reserve account may not exceed $4,000,000 on December 31 of any calendar year. Unobligated balances exceeding $4,000,000 on that date shall be deposited into the United States Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 149; Pub. L. 95–82, title VI, §610, Aug. 1, 1977, 91 Stat. 378; Pub. L. 96–513, title V, §511(91), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97–31, §12(3)(B), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97–99, title IX, §910(a), Dec. 23, 1981, 95 Stat. 1386; Pub. L. 97–295, §1(33), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 98–407, title VIII, §809(a), Aug. 28, 1984, 98 Stat.

1522; Pub. L. 99–561, §4, Oct. 27, 1986, 100 Stat. 3151; Pub. L. 107–296, title XVII, §1704(b)(4), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title X, §1056(c)(6), Jan. 6, 2006, 119 Stat. 3439.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2665(a) | 50:172 (last par., less 36th through 64th, and 73d through 109th, words). | July 9, 1918, ch. 143, subch. XV, §8 (last par.), 40 Stat. 888. |
| 2665(b) | 50:172 (36th through 64th words of last par.). | |
| 2665(c) | 50:172 (73d through 90th words of last par.). | |
| 2665(d) | 50:172 (91st through 109th words of last par.). | |

In subsection (a), the words "an executive department or the Federal Maritime Board" are substituted for the words "any department or the United States Maritime Commission" to reflect an opinion of the Judge Advocate General of the Army (JAGA 1954/1723) and to name the successor of the United States Maritime Commission. The last 18 words are inserted to reflect that opinion (see the Act of February 20, 1931 (10 U.S.C. 1354)). The words "and dispose of" are omitted as surplusage.

In subsection (b), the words "an executive department or the Federal Maritime Board" are inserted for clarity and to name the successor of the United States Maritime Commission.

In subsections (a) and (b), the word "person" is substituted for the words "individuals, corporations," since section 1 of title 1 defines the word "person" to cover both individuals and corporations. The words "States or" are omitted as surplusage.

In subsection (c), the words "the selling agency" are substituted for the words "his above representatives selling or disposing of the same".

**1982 ACT**

This corrects an error in an amendment to 10:2665 made by section 12(3)(B) of the Maritime Act of 1981 (Pub. L. 97–31, Aug. 6, 1981, 95 Stat. 153).

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 struck out "under section 2664 of this title" after "land that is acquired".

**2002**—Subsec. (b). Pub. L. 107–296 substituted "Department in which the Coast Guard is operating" for "Department of Transportation".

**1986**—Subsec. (d). Pub. L. 99–561, §4(1), struck out "available for operation and maintenance during a fiscal year" after "Defense", substituted "costs" for "expenses", and struck out "during such fiscal year" after "such property".

Subsec. (e)(1). Pub. L. 99–561, §4(2), struck out "for all expenses of production of forest products" after "subsection (d)".

Subsec. (f)(1). Pub. L. 99–561, §4(3)(A), (B), substituted "costs" for "expenses" in provisions preceding subpar. (A) and amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "for expenses to enable operations of forest lands and the production of forest products to continue from the end of one fiscal year through the beginning of the next fiscal year without disruption."

Subsec. (f)(2), (3). Pub. L. 99–561, §4(3)(C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

"(2) Subject to paragraph (3), there shall be deposited into the reserve account not later than December 31 of each year, for credit to the preceding fiscal year, an amount equal to one-half of the amount (if any) remaining of the total amount received by the United States during that fiscal year as proceeds from the sale of forest products after (A) the reimbursement of appropriations of the Department of Defense under subsection (d) for expenses of production of forest products during that fiscal year, and (B) the payment to States under subsection (e) for that fiscal year.

"(3) The balance in the reserve account may not exceed $4,000,000. If a deposit under paragraph (2) would cause the balance in the account to exceed that amount, the deposit shall be made only to the extent the amount of the deposit would not cause the balance in the account to exceed $4,000,000."

**1984**—Subsec. (b). Pub. L. 98–407, §809(a)(1), substituted "forest products produced on land owned or leased by a military department or the" for "logs wholly or partly manufactured by, or otherwise procured for, the Army, Navy, or Air Force, or".

Subsec. (d). Pub. L. 98–407, §809(a)(2), substituted "forest products" for "lumber and timber products".

Subsec. (e)(1). Pub. L. 98–407, §809(a)(3), substituted "forest products" for "timber and timber products" in two places and "40 percent" for "25 percent".

Subsec. (f). Pub. L. 98–407, §809(a)(4), added subsec. (f).

**1982**—Subsecs. (a), (b). Pub. L. 97–295 substituted "executive department, may sell" for "executive department" and all that followed through "may sell" in subsecs. (a) and (b), and substituted "Air Force, or Department of Transportation." for "Air Force" and all that followed in subsec. (b), clarifying the ambiguity created by the conflicting language of Pub. L. 96–513 and Pub. L. 97–31.

**1981**—Subsecs. (a), (b). Pub. L. 97–31 struck out reference to Federal Maritime Commission in subsec. (a), and substituted "or Department of Transportation" for "or Federal Maritime Commission" and struck out "or the Federal Maritime Commission" after "department" in subsec. (b). Amendment was executed to text in accordance with the probable intent of Congress, notwithstanding amendment of section by Pub. L. 96–513 which substituted different language than language contained in amendatory provisions of Pub. L. 97–31.

Subsec. (e). Pub. L. 97–99 added subsec. (e).

**1980**—Subsecs. (a), (b). Pub. L. 96–513 substituted "Federal Maritime Commission" for "Federal Maritime Board".

**1977**—Subsec. (d). Pub. L. 95–82 substituted provisions relating to reimbursement of production expenses during any fiscal year from proceeds from sales for property during such fiscal year, for provisions requiring proceeds from sales under subsecs. (a) or (b) of this section to be credited to the appropriations under which the property concerned was procured.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VIII, §809(b), Aug. 28, 1984, 98 Stat. 1523, provided that:

"(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984.

"(2) The amendment made by subsection (a)(2)(B) [probably should be '(a)(3)(B)', which amended subsec. (e)(1) of this section] shall apply with respect to payments to States for fiscal years beginning after September 30, 1984."

### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–99, title IX, §910(b), Dec. 23, 1981, 95 Stat. 1386, provided that: "Subsection (e) of section 2665 of title 10, United States Code, as added by subsection (a), shall apply with respect to timber and timber products sold after September 30, 1981."

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## [§2666. Repealed. Pub. L. 108–375, div. B, title XXVIII, §2821(a)(2), Oct. 28, 2004, 118 Stat. 2129]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 149, related to limitation on commission on a contract for the purchase of land payable from funds appropriated for the Department of Defense.

## §2667. Leases: non-excess property of military departments and Defense Agencies

(a) LEASE AUTHORITY.—Whenever the Secretary concerned considers it advantageous to the United States, the Secretary concerned may lease to such lessee and upon such terms as the Secretary concerned considers will promote the national defense or to be in the public interest, real or personal property that—

(1) is under the control of the Secretary concerned;

(2) is not for the time needed for public use; and

(3) is not excess property, as defined by section 102 of title 40.

(b) CONDITIONS ON LEASES.—A lease under subsection (a)—

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) shall permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary;

(5) may provide, notwithstanding section 1302 of title 40 or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease;

(6) except as otherwise provided in subsection (d), shall require the lessee to provide the covered entities specified in paragraph (1) of that subsection the right to establish and operate a community support facility or provide community support services, or seek equitable compensation for morale, welfare, and recreation programs of the Department of Defense in lieu of the operation of such a facility or the provision of such services, if the Secretary determines that the lessee will provide merchandise or services in direct competition with covered entities through the lease;

(7) may not provide for a leaseback by the Secretary concerned with an annual payment in excess of $500,000, or otherwise commit the Secretary concerned or the Department of Defense to annual payments in excess of such amount; and

(8) shall provide that any facilities constructed on the property may be constructed using commercial standards in a manner that provides force protection safeguards appropriate to the activities conducted in, and the location of, such facilities.

(c) TYPES OF IN-KIND CONSIDERATION.—(1) In addition to any in-kind consideration accepted under subsection (b)(5), in-kind consideration accepted with respect to a lease under this section may include the following:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary concerned, whether or not needed for the functionality of the property or facility leased.

(B) Construction of new facilities for the Secretary concerned.

(C) Provision of facilities for use by the Secretary concerned.

(D) Provision or payment of utility services for the Secretary concerned, which shall prioritize energy resilience in the event of commercial grid outages.

(E) Provision of real property maintenance services for the Secretary concerned.

(F) Provision of such other services relating to activities that will occur on the leased property

as the Secretary concerned considers appropriate, which may include industrial process optimization.

(G) Refurbishment of existing industrial plant equipment on the leased property.

(H) Removal and replacement of industrial plant equipment on the leased property that is at or near end-of-life.

(I) Provision of new industrial plant equipment on the leased property (including new technology), installation of such equipment, and maintenance of such equipment, but only if the title to such equipment passes to the Federal Government.

(2) In-kind consideration under paragraph (1) may be accepted at any property or facilities under the control of the Secretary concerned that are selected for that purpose by the Secretary concerned.

(3) Sections 2662 and 2802 of this title shall not apply to any new facilities whose construction is accepted as in-kind consideration under this subsection.

(d) COMMUNITY SUPPORT FACILITIES AND COMMUNITY SUPPORT SERVICES UNDER LEASE; WAIVER.—(1) In this subsection and subsection (b)(6), the term "covered entity" means each of the following:

(A) The Army and Air Force Exchange Service.

(B) The Navy Exchange Service Command.

(C) The Marine Corps exchanges.

(D) The Defense Commissary Agency.

(E) The revenue-generating nonappropriated fund activities of the Department of Defense conducted for the morale, welfare, and recreation of members of the armed forces.

(2) The Secretary concerned may waive the requirement in subsection (b)(6) with respect to a lease if—

(A) the lease is entered into under subsection (g); or

(B) the Secretary determines that the waiver is in the best interests of the Government.

(3) The Secretary concerned shall submit, in an electronic medium pursuant to section 480 of this title, to the congressional defense committees a notice of each waiver under paragraph (2), including the reasons for the waiver.

(4) The covered entities shall exercise the right provided in subsection (b)(6) with respect to a lease, if at all, not later than 90 days after receiving notice from the Secretary concerned regarding the opportunity to exercise such right with respect to the lease. The Secretary may, at the discretion of the Secretary, extend the period under this paragraph for the exercise of the right with respect to a lease for such additional period as the Secretary considers appropriate.

(5) The Secretary of Defense shall prescribe in regulations uniform procedures and criteria for the evaluation of proposals for enhanced use leases involving the operation of community support facilities or the provision of community support services by either a lessee under this section or a covered entity.

(e) DEPOSIT AND USE OF PROCEEDS.—(1)(A) The Secretary concerned shall deposit in a special account in the Treasury established for that Secretary the following:

(i) All money rentals received pursuant to leases entered into by that Secretary under this section.

(ii) All proceeds received pursuant to the granting of easements by that Secretary under section 2668 of this title.

(iii) All proceeds received by that Secretary from authorizing the temporary use of other property under the control of that Secretary.

(B) Subparagraph (A) does not apply to the following proceeds:

(i) Amounts paid for utilities and services furnished lessees by the Secretary concerned pursuant to leases entered into under this section.

(ii) Money rentals referred to in paragraph (3), (4), or (5).

(C) Subject to subparagraphs (D) and (E), the proceeds deposited in the special account established for the Secretary concerned shall be available to the Secretary, in such amounts as provided in appropriation Acts, for the following:

(i) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities.

(ii) Construction or acquisition of new facilities.

(iii) Lease of facilities.

(iv) Payment of utility services.

(v) Real property maintenance services.

(vi) Administrative expenses incurred by the Secretary concerned under this section and for easements under section 2668 of this title.

(D) At least 50 percent of the proceeds deposited in the special account established for the Secretary concerned shall be available for activities described in subparagraph (C) only at the military installation or Defense Agency location where the proceeds were derived.

(E) If the proceeds deposited in the special account established for the Secretary concerned are derived from activities associated with a military museum, the proceeds shall be available for activities described in subparagraph (C) only at that museum.

(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to the appropriation account or working capital fund from which the cost of furnishing the utilities and services was paid.

(3) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary concerned (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.

(4) Money rentals received by the United States from a lease under subsection (g) at a military installation approved for closure or realignment under a base closure law shall be deposited into the Department of Defense Base Closure Account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(f) TREATMENT OF LESSEE INTEREST IN PROPERTY.—The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(g) SPECIAL RULES FOR BASE CLOSURE AND REALIGNMENT PROPERTY.—(1) Notwithstanding subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 (to the extent those provisions are inconsistent with this subsection) or subsection (a)(2) of this section, pending the final disposition of real property and personal property located at a military installation to be closed or realigned under a base closure law, the Secretary concerned may lease the property to any individual or entity under this subsection if the Secretary determines that such a lease would facilitate State or local economic adjustment efforts.

(2) Notwithstanding subsection (b)(4), the Secretary concerned may accept consideration in an amount that is less than the fair market value of the lease interest if the Secretary concerned determines that—

(A) a public interest will be served as a result of the lease; and

(B) the fair market value of the lease is (i) unobtainable, or (ii) not compatible with such public benefit.

(3) Before entering into any lease under this subsection, the Secretary shall consult with the

Administrator of the Environmental Protection Agency in order to determine whether the environmental condition of the property proposed for leasing is such that the lease of the property is advisable. The Secretary and the Administrator shall enter into a memorandum of understanding setting forth procedures for carrying out the determinations under this paragraph.

(4)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

(i) significantly affect the quality of the human environment; or

(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.

(h) COMPETITIVE PROCEDURES FOR SELECTION OF CERTAIN LESSEES; EXCEPTION .—(1) If a proposed lease under subsection (a) involves only personal property, the lease term exceeds one year, or the fair market value of the lease interest exceeds $100,000, as determined by the Secretary concerned, the Secretary shall use competitive procedures to select the lessee.

(2) Paragraph (1) does not apply if the Secretary concerned determines that—

(A) a public interest will be served as a result of the lease; and

(B) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under subparagraph (A).

(3) Paragraph (1) does not apply to a renewal or extension of a lease by the Secretary of the Navy with a selected institution for operation of a ship within the University National Oceanographic Laboratory System if, under the lease, each of the following applies:

(A) Use of the ship is restricted to federally supported research programs and to non-Federal uses under specific conditions with approval by the Secretary of the Navy.

(B) Because of the anticipated value to the Navy of the oceanographic research and training that will result from the ship's operation, no monetary lease payments are required from the lessee under the initial lease or under any renewal or extension.

(C) The lessee is required to maintain the ship in a good state of repair, readiness, and efficient operating condition, conform to all applicable regulatory requirements, and assume full responsibility for the safety of the ship, its crew, and scientific personnel aboard.

(4)(A) Paragraph (1) does not apply to a renewal, extension, or succeeding lease by the Secretary concerned with a financial institution selected in accordance with the Department of Defense Financial Management Regulation providing for the selection of financial institutions to operate on military installations if each of the following applies:

(i) The on-base financial institution was selected before the date of the enactment of this paragraph or competitive procedures are used for the selection of any new financial institutions.

(ii) A current and binding operating agreement is in place between the installation commander and the selected on-base financial institution.

(B) The renewal, extension, or succeeding lease shall terminate upon the termination of the operating agreement described in subparagraph (A)(ii) associated with that lease.

(i) DEFINITIONS.—In this section:

(1) The term "administrative expenses" means only those expenses related to assessing,

negotiating, executing, and managing lease and easement transactions. The term does not include any Government personnel costs.

(2) The term "community support facility" includes an ancillary supporting facility (as that term is defined in section 2871(1) of this title).

(3) The term "community support services" includes revenue-generating food, recreational, lodging support services, and resale operations and other retail facilities and services intended to support a community.

(4) The term "military installation" has the meaning given such term in section 2687 of this title.

(5) The term "Secretary concerned" means—

(A) the Secretary of a military department, with respect to matters concerning that military department; and

(B) the Secretary of Defense, with respect to matters concerning the Defense Agencies.

(j) EXCLUSION OF CERTAIN LANDS.—This section does not apply to oil, mineral, or phosphate lands.

(k) LEASES FOR EDUCATION.—Notwithstanding subsection (b)(4), the Secretary concerned may accept consideration in an amount that is less than the fair market value of the lease, if the lease is to a local education agency or an elementary or secondary school (as those terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

(Aug. 10, 1956, ch. 1041, 70A Stat. 150; Pub. L. 94–107, title VI, §607(7), Oct. 7, 1975, 89 Stat. 566; Pub. L. 94–412, title V, §501(b), Sept. 14, 1976, 90 Stat. 1258; Pub. L. 96–513, title V, §511(92), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97–295, §1(34), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 97–321, title VIII, §803, Oct. 15, 1982, 96 Stat. 1572; Pub. L. 101–510, div. B, title XXVIII, §2806, Nov. 5, 1990, 104 Stat. 1787; Pub. L. 102–190, div. B, title XXVIII, §2862, Dec. 5, 1991, 105 Stat. 1559; Pub. L. 102–484, div. B, title XXVIII, §2851, Oct. 23, 1992, 106 Stat. 2625; Pub. L. 103–160, div. B, title XXIX, §2906, Nov. 30, 1993, 107 Stat. 1920; Pub. L. 104–106, div. A, title XV, §1502(a)(1), div. B, title XXVIII, §§2831(a), 2832, 2833, Feb. 10, 1996, 110 Stat. 502, 558, 559; Pub. L. 105–85, div. A, title III, §361(b)(2), title X, §1061(a)–(c)(1), Nov. 18, 1997, 111 Stat. 1701, 1891; Pub. L. 105–261, div. B, title XXVIII, §2821, Oct. 17, 1998, 112 Stat. 2208; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(a)–(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–416 to 1654A–418; Pub. L. 107–107, div. A, title X, §1013, Dec. 28, 2001, 115 Stat. 1212; Pub. L. 107–217, §3(b)(12), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 107–314, div. A, title X, §1041(a)(18), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 108–136, div. A, title X, §1043(b)(15), (c)(3), Nov. 24, 2003, 117 Stat. 1611, 1612; Pub. L. 108–178, §4(b)(4), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–364, div. A, title VI, §662, div. B, title XXVIII, §2831, Oct. 17, 2006, 120 Stat. 2263, 2480; Pub. L. 110–181, div. A, title X, §1063(c)(13), div. B, title XXVIII, §2823, Jan. 28, 2008, 122 Stat. 323, 544; Pub. L. 110–417, div. B, title XXVIII, §§2812(a)–(d), (f)(1), 2831, Oct. 14, 2008, 122 Stat. 4725, 4726, 4728, 4732; Pub. L. 111–84, div. A, title X, §1073(a)(26), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–350, §5(b)(44), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 111–383, div. A, title X, §1075(b)(41), div. B, title XXVIII, §§2811(g)–2813(a), Jan. 7, 2011, 124 Stat. 4371, 4463; Pub. L. 112–239, div. B, title XXVII, §2712(c)(2), Jan. 2, 2013, 126 Stat. 2145; Pub. L. 113–66, div. B, title XXVIII, §2812, Dec. 26, 2013, 127 Stat. 1014; Pub. L. 113–291, div. B, title XXVIII, §2811, Dec. 19, 2014, 128 Stat. 3700; Pub. L. 114–92, div. B, title XXVIII, §2814, Nov. 25, 2015, 129 Stat. 1175; Pub. L. 115–91, div. A, title X, §1081(a)(46), (47), div. B, title XXVIII, §§2811(e), 2835, Dec. 12, 2017, 131 Stat. 1596, 1597, 1848, 1859; Pub. L. 115–232, div. B, title XXVIII, §2802(a), Aug. 13, 2018, 132 Stat. 2261; Pub. L. 118–159, div. B, title XXVIII, §2844, Dec. 23, 2024, 138 Stat. 2263.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2667(a) | 5:626s–3 (1st sentence).<br>10:1270 (1st sentence). | Aug. 5, 1947, ch. 493, §§1, 6, 61 Stat. 774, 775; Sept. 28, 1951, ch. 434. |

| | | |
|---|---|---|
| | 34:522a (1st sentence). | §605 (as applicable to Act of Aug. 5, 1947, ch. 493, §1), 65 Stat. 366. |
| 2667(b) | 5:626s–3 (2d through 6th sentences).<br>10:1270 (2d through 6th sentences).<br>34:522a (2d through 6th sentences). | |
| 2667(c) | 5:626s–3 (last sentence).<br>10:1270 (last sentence).<br>34:522a (last sentence). | |
| 2667(d) | 5:626s–3 (less 1st 6 sentences).<br>10:1270 (less 1st 6 sentences).<br>34:522a (less 1st 6 sentences). | |
| 2667(e) | 5:626s–6.<br>10:1270d.<br>34:522e. | |

In subsection (a), the words "considers * * * United States" are substituted for the words "shall deem * * * Government". The words "and conditions" are omitted as surplusage. The words "he considers" are substituted for the words "in his judgment".

In subsection (a)(3), the words "excess property, as defined by section 472 of title 40" are substituted for the words "surplus to the needs of the Department within the meaning of the Surplus Property Act of 1944 [Act of October 3, 1944 (58 Stat. 765)]", in 5:626s–3, 10:1270, and 34:522a, since the words "excess property" are so defined by the Federal Property and Administrative Services Act of 1949.

In subsection (b)(2), the words "may give" are substituted for the first 12 words of the third sentence of 5:626s–3, 10:1270, and 34:522a. The words "if the lease is revoked to allow the United States to sell the property" are substituted for the words "in the event of the revocation of the lease in order to permit sale thereof by the Government". The words "under any other provision of law" are inserted for clarity. The words "the first right to buy" are substituted for the words "a right of first refusal". The words "but this section shall not be construed as authorizing the sale of any property unless the sale thereof is otherwise authorized by law" are omitted as surplusage, since the revised section deals only with leases of property.

In subsection (b)(3), the words "must permit" are substituted for the words "Each such lease shall contain a provision permitting". The words "from the lease" are omitted as surplusage.

In subsection (b)(5), the words "any such lease" and "of such property" are omitted as surplusage.

In subsection (c), the words "This section does" are substituted for the words "The authority herein granted shall".

In subsection (e), the words "of property" are inserted for clarity. The words "leased under" are substituted for the words "made or created pursuant to". The words "may be taxed by State or local governments" are substituted for the words "shall be made subject to State or local taxation". The last sentence is substituted for the last sentence of 5:626s–6, 10:1270d, and 34:522e.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (g)(4)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of the enactment of this paragraph, referred to in subsec. (h)(4)(A)(i), is the date of enactment of Pub. L. 113–291, which was approved Dec. 19, 2014.

### AMENDMENTS

**2024**—Subsec. (c)(1)(A). Pub. L. 118–159, §2844(1), inserted ", whether or not needed for the functionality of the property or facility leased" before period at end.

Subsec. (c)(1)(F). Pub. L. 118–159, §2844(2), inserted ", which may include industrial process optimization" before period at end.

Subsec. (c)(1)(G) to (I). Pub. L. 118–159, §2844(3), added subpars. (G) to (I).

**2018**—Subsec. (b)(8). Pub. L. 115–232 added par. (8).

**2017**—Subsec. (c)(1)(D). Pub. L. 115–91, §2835, inserted ", which shall prioritize energy resilience in the event of commercial grid outages" after "Secretary concerned".

Subsec. (d)(3). Pub. L. 115–91, §2811(e), substituted "submit, in an electronic medium pursuant to section 480 of this title, to the congressional defense committees a notice" for "provide to the congressional defense committees written notice".

Subsec. (e)(1)(E). Pub. L. 115–91, §1081(a)(46)(A), substituted "a military museum" for "a military museum described in section 489(a) of this title".

Subsec. (e)(4). Pub. L. 115–91, §1081(a)(46)(B), substituted "shall be deposited into the Department of Defense Base Closure Account" for "before January 1, 2005, shall be deposited into the account".

Subsec. (e)(5). Pub. L. 115–91, §1081(a)(46)(C), struck out par. (5) which read as follows: "Money rentals received by the United States from a lease under subsection (g) at a military installation approved for closure or realignment under a base closure law on or after January 1, 2005, shall be deposited into the account established under section 2906A(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)."

Subsec. (k). Pub. L. 115–91, §1081(a)(47), substituted "section 8101" for "section 9101".

**2015**—Subsec. (k). Pub. L. 114–92 added subsec. (k).

**2014**—Subsec. (h)(4). Pub. L. 113–291 added par. (4).

**2013**—Subsec. (e)(1)(C)(vi). Pub. L. 113–66, §2812(a), added cl. (vi).

Subsec. (i)(1), (2). Pub. L. 113–66, §2812(b), added par. (1) and redesignated former par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (i)(3). Pub. L. 113–66, §2812(b), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 112–239 substituted "section 2687" for "section 2687(e)(1)".

Subsec. (i)(4), (5). Pub. L. 113–66, §2812(b), redesignated pars. (3) and (4) as (4) and (5), respectively.

**2011**—Subsec. (b)(7). Pub. L. 111–383, §2813(a), inserted before period at end ", or otherwise commit the Secretary concerned or the Department of Defense to annual payments in excess of such amount".

Subsec. (c)(4). Pub. L. 111–383, §2811(g)(1), struck out par. (4), which set forth reporting requirements for issuance of contract solicitations or other lease offerings with annual payments exceeding $750,000.

Subsec. (d)(6). Pub. L. 111–383, §2811(g)(2), struck out par. (6), which read as follows: "The Secretary concerned shall provide written notification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives regarding all leases under this section that include the operation of a community support facility or the provision of community support services, regardless of whether the facility will be operated by a covered entity or the lessee or the services will be provided by a covered entity or the lessee."

Subsec. (e)(1)(A)(ii). Pub. L. 111–383, §1075(b)(41)(A), substituted "section 2668" for "sections 2668 and 2669".

Subsec. (e)(1)(E). Pub. L. 111–383, §§2811(g)(3), 2812, added subpar. (E) and struck out former subpar. (E), which read as follows: "The Secretary concerned may not expend under subparagraph (C) an amount in excess of $500,000 at a single military installation or Defense Agency location until 30 days after the date on which a report on the facts of the proposed expenditure is submitted to the congressional defense committees."

Subsec. (e)(5). Pub. L. 111–383, §1075(b)(41)(B), substituted "subsection (g)" for "subsection (f)".

Subsec. (g)(1). Pub. L. 111–350, which directed substitution of "Notwithstanding subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 (to the extent those provisions are inconsistent with this subsection) or subsection (a)(2) of this section" for "Notwithstanding subsection (a)(3) or subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (to the extent subtitle I and title III are inconsistent with this subsection)" in subsec. (f)(1), was executed by making the substitution for "Notwithstanding subsection (a)(2) or subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (to the extent subtitle I and title III are inconsistent with this subsection)" in subsec. (g)(1), to reflect the probable intent of Congress and the amendment by Pub. L. 109–364, §662(b)(1), (d)(6). See 2006 Amendment note below.

Subsec. (h)(3) to (5). Pub. L. 111–383, §2811(g)(4), redesignated par. (4) as (3) and struck out former pars. (3) and (5) which related to written notice to Congress describing competitive procedures for, or public benefit served by, certain proposed leases and certification requirements for energy production leases exceeding 20 years, respectively.

**2009**—Subsec. (g)(1). Pub. L. 111–84 substituted "law, the Secretary concerned may" for "law, the Secretary of the military department concerned may".

**2008**—Pub. L. 110–417, §2812(f)(1), amended section catchline generally. Prior to amendment, catchline

read as follows: "Leases: non-excess property of military departments".

Subsec. (a). Pub. L. 110–417, §2812(a)(1), amended subsec. (a) generally. Prior to amendment, text read as follows: "Whenever the Secretary of a military department considers it advantageous to the United States, he may lease to such lessee and upon such terms as he considers will promote the national defense or be in the public interest, real or personal property that is—

"(1) under the control of that department; and

"(2) not excess property, as defined by section 102 of title 40."

Subsec. (b)(7). Pub. L. 110–417, §2812(b), added par. (7).

Subsec. (c)(1)(D) to (F). Pub. L. 110–181, §2823(a), added subpars. (D) and (E), redesignated former subpar. (E) as (F), and struck out former subpar. (D) which read as follows: "Facilities operation support for the Secretary concerned."

Subsec. (c)(4). Pub. L. 110–417, §2812(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "In the case of a lease for which all or part of the consideration proposed to be accepted by the Secretary concerned under this subsection is in-kind consideration with a value in excess of $500,000, the Secretary concerned may not enter into the lease until 30 days after the date on which a report on the facts of the lease is submitted to the congressional defense committees."

Subsec. (d)(2). Pub. L. 110–417, §2812(d)(1)(A), substituted "Secretary concerned" for "Secretary of a military department" in introductory provisions.

Subsec. (d)(3), (4), (6). Pub. L. 110–417, §2812(d)(1)(B), struck out "of the military department" after "Secretary" in pars. (3) and (6) and after "from the Secretary" in par. (4).

Subsec. (e). Pub. L. 110–181, §1063(c)(13), amended Pub. L. 109–364, §2831. See 2006 Amendment note below.

Subsec. (e)(1)(A). Pub. L. 110–417, §2812(d)(2)(A), in introductory provisions, substituted "Secretary concerned" for "Secretary of a military department" and "that Secretary" for "such military department" and, in cl. (iii), substituted "of that Secretary" for "of that military department".

Subsec. (e)(1)(B)(i). Pub. L. 110–417, §2812(d)(2)(B), substituted "Secretary concerned" for "Secretary of a military department".

Subsec. (e)(1)(B)(ii). Pub. L. 110–181, §2823(d)(1), substituted "paragraph (3), (4), or (5)" for "paragraph (4), (5), or (6)".

Subsec. (e)(1)(C). Pub. L. 110–417, §2812(d)(2)(C), in introductory provisions, substituted "established for the Secretary concerned shall be available to the Secretary" for "of a military department pursuant to subparagraph (A) shall be available to the Secretary of that military department".

Subsec. (e)(1)(C)(ii) to (v). Pub. L. 110–181, §2823(b), realigned margins of cls. (ii) and (iii), added cls. (iv) and (v), and struck out former cl. (iv) which read as follows: "Facilities operation support."

Subsec. (e)(1)(D). Pub. L. 110–417, §2812(d)(2)(D), substituted "established for the Secretary concerned" for "of a military department under subparagraph (A)" and inserted "or Defense Agency location" after "military installation".

Subsec. (e)(1)(E). Pub. L. 110–417, §2812(d)(2)(E), substituted "military installation or Defense Agency location" for "installation".

Subsec. (e)(3). Pub. L. 110–417, §2812(d)(2)(F), substituted "control of the Secretary concerned" for "control of the Secretary of a military department".

Pub. L. 110–181, §2823(d)(2), redesignated par. (4) as (3).

Subsec. (e)(4) to (6). Pub. L. 110–181, §2823(d)(2), redesignated pars. (5) and (6) as (4) and (5), respectively.

Subsec. (g)(1). Pub. L. 110–417, §2812(d)(3), which directed amendment of par. (1) by substituting "Secretary concerned" for "Secretary of a military department", could not be executed because the phrase "Secretary of a military department" did not appear in text.

Subsec. (h)(1). Pub. L. 110–181, §2823(c)(1), substituted "exceeds one year, or the fair market value of the lease" for "exceeds one year, and the fair market value of the lease".

Subsec. (h)(2) to (4). Pub. L. 110–181, §2823(c)(2), (3), added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which read as follows: "Not later than 45 days before entering into a lease described in paragraph (1), the Secretary concerned shall submit to Congress written notice describing the terms of the proposed lease and the competitive procedures used to select the lessee."

Subsec. (h)(5). Pub. L. 110–417, §2831, added par. (5).

Subsec. (i)(4). Pub. L. 110–417, §2812(a)(2), added par. (4).

**2006**—Subsec. (a). Pub. L. 109–364, §662(d)(1), inserted heading.

Subsec. (b). Pub. L. 109–364, §662(d)(2), inserted heading.

Subsec. (b)(6). Pub. L. 109–364, §662(a), added par. (6).

Subsec. (c). Pub. L. 109–364, §662(d)(3), inserted heading.

Subsec. (d). Pub. L. 109–364, §662(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–364, §2831, as amended by Pub. L. 110–181, §1063(c)(13), substituted "paragraph (4), (5), or (6)" for "paragraph (4) or (5)" in par. (1)(B)(ii), inserted "at a military installation approved for closure or realignment under a base closure law before January 1, 2005," after "lease under subsection (f)" in par. (5), and added par. (6) at the end.

Pub. L. 109–364, §662(d)(4), inserted heading and substituted "(g)" for "(f)" in par. (5).

Pub. L. 109–364, §662(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–364, §662(b)(1), (d)(5), redesignated subsec. (e) as (f) and inserted heading. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–364, §662(b)(1), (d)(6), redesignated subsec. (f) as (g), inserted heading, and substituted "(a)(2)" for "(a)(3)" in par. (1). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 109–364, §662(b)(1), (d)(7), redesignated subsec. (g) as (h) and inserted heading. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 109–364, §662(b)(1), (c), redesignated subsec. (h) as (i), inserted heading, and amended text of subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "In this section, the term 'military installation' has the meaning given such term in section 2687(e)(1) of this title." Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 109–364, §662(b)(1), (d)(8), redesignated subsec. (i) as (j) and inserted heading.

**2003**—Subsec. (b)(5). Pub. L. 108–178 struck out comma after "of title 40".

Subsec. (h). Pub. L. 108–136 redesignated introductory provisions and par. (3) as entire subsec., substituted "section," for "section:" and "this term" for "The term", struck out par. (1) which defined "congressional defense committees" to mean the Committees on Armed Services and Appropriations of the Senate and House of Representatives, and struck out par. (2) which defined "base closure law" to mean section 2687 of this title, the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Pub. L. 101–510), and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100–526).

**2002**—Subsec. (a)(2). Pub. L. 107–217, §3(b)(12)(A), substituted "section 102 of title 40" for "section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)".

Subsec. (b)(5). Pub. L. 107–217, §3(b)(12)(B), substituted "section 1302 of title 40" for "section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)".

Subsec. (d)(3). Pub. L. 107–314 struck out par. (3) which read as follows: "Not later than March 15 each year, the Secretary of Defense shall submit to the congressional defense committees a report which shall include—

"(A) an accounting of the receipt and use of all money rentals that were deposited and expended under this subsection during the fiscal year preceding the fiscal year in which the report is made; and

"(B) a detailed explanation of each lease entered into, and of each amendment made to existing leases, during such preceding fiscal year."

Subsec. (f)(1). Pub. L. 107–217, §3(b)(12)(C), inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "subtitle I and title III are" for "such Act is".

**2001**—Subsec. (g)(3). Pub. L. 107–107 added par. (3).

**2000**—Subsec. (a). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(a)], inserted "and" at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: "not for the time needed for public use; and".

Subsec. (b)(5). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(b)(1)], substituted "alteration, repair, or improvement," for "improvement, maintenance, protection, repair, or restoration," and struck out ", or of the entire unit or installation where a substantial part of it is leased," after "of the property leased".

Subsec. (c). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(b)(3)], added subsec. (c). Former subsec. (c) redesignated (i).

Subsec. (d)(1). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(c)], amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except—

"(i) amounts paid for utilities and services furnished lessees by the Secretary; and

"(ii) money rentals referred to in paragraph (4) or (5).

"(B) Sums deposited in a military department's special account pursuant to subparagraph (A) shall be available to such military department, as provided in appropriation Acts, as follows:

"(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located.

"(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department concerned."

Subsec. (d)(3). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(d)(1)], substituted "Not later than March 15 each year, the Secretary of Defense shall submit to the congressional defense committees a report which" for "As part of the request for authorizations of appropriations submitted to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives for each fiscal year, the Secretary of Defense" in introductory provisions.

Subsec. (d)(3)(A). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(d)(2)], substituted "report" for "request".

Subsec. (f)(4), (5). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(b)(4)], redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The Secretary concerned may accept under subsection (b)(5) services of a lessee for an entire installation to be closed or realigned under a base closure law, or for any part of such installation, without regard to the requirement in subsection (b)(5) that a substantial part of the installation be leased."

Subsec. (h). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(e)], amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "In this section, the term 'base closure law' means each of the following:

"(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(3) Section 2687 of this title."

Subsec. (i). Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(b)(2)], redesignated subsec. (c) as (i).

**1999**—Subsec. (d)(3). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1998**—Subsec. (f)(1). Pub. L. 105–261 inserted "or the Federal Property and Administrative Services Act of 1949 (to the extent such Act is inconsistent with this subsection)".

**1997**—Pub. L. 105–85, §1061(c)(1), inserted "of military departments" after "property" in section catchline.

Subsec. (b)(4). Pub. L. 105–85, §1061(a), struck out ", in the case of the lease of real property," after "shall provide".

Subsec. (d)(2). Pub. L. 105–85, §361(b)(2), inserted "or working capital fund" before "from which".

Subsecs. (g), (h). Pub. L. 105–85, §1061(b), added subsec. (g) and redesignated former subsec. (g) as (h).

**1996**—Subsec. (d)(1)(A)(ii). Pub. L. 104–106, §2831(a)(1), inserted "or (5)" after "paragraph (4)".

Subsec. (d)(3). Pub. L. 104–106, §1502(a)(1), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

Subsec. (d)(5). Pub. L. 104–106, §2831(a)(2), added par. (5).

Subsec. (f)(4). Pub. L. 104–106, §2832, added par. (4).

Subsec. (f)(5). Pub. L. 104–106, §2833, added par. (5).

**1993**—Subsec. (f). Pub. L. 103–160, §2906(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "Notwithstanding clause (3) of subsection (a), real property and associated personal property, which have been determined excess as the result of a defense installation realignment or closure, may be leased to State or local governments pending final disposition of such property if—

"(1) the Secretary concerned determines that such action would facilitate State or local economic adjustment efforts, and

"(2) the Administrator of General Services concurs in the action."

Subsec. (g). Pub. L. 103–160, §2906(b), added subsec. (g).

**1992**—Subsec. (b)(4). Pub. L. 102–484 inserted ", in the case of the lease of real property," after "shall provide".

**1991**—Subsec. (b)(3). Pub. L. 102–190, §2862(a)(1), substituted "shall permit" for "must permit" and struck out "and" at end.

Subsec. (b)(4). Pub. L. 102–190, §2862(a)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(5). Pub. L. 102–190, §2862(a)(2), (4), redesignated par. (4) as (5) and inserted "improvement," before "maintenance" and "the payment of" before "part or all".

Subsec. (d)(3). Pub. L. 102–190, §2862(b), redesignated subpar. (B) as par. (3), substituted "As part of the request for authorizations of appropriations submitted to the Committees on Armed Services of the Senate and

House of Representatives for each fiscal year" for "As part of the request for authorizations of appropriations to such Committees for each fiscal year after fiscal year 1992", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "As part of the request for authorizations of appropriations for fiscal year 1992 to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an explanation of each lease from which money rentals will be received and deposited under this subsection during fiscal year 1991, together with an estimate of the amount to be received from each such lease and an explanation of the anticipated expenditures of such receipts."

**1990**—Subsec. (d). Pub. L. 101–510 added pars. (1) to (3), redesignated former par. (2) as (4), and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), money rentals received by the United States directly from a lease under this section shall be covered into the Treasury as miscellaneous receipts. Payments for utilities or services furnished to the lessee under such a lease by the department concerned may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid."

**1982**—Subsec. (b)(4). Pub. L. 97–295 substituted "of" for "entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved" after "section 321 of the Act".

Subsec. (d). Pub. L. 97–321 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), money" for "Money", and added par. (2).

**1980**—Subsec. (a)(3). Pub. L. 96–513, §511(92)(A), substituted "section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)" for "section 472 of title 40".

Subsec. (b)(4). Pub. L. 96–513, §511(92)(B), substituted "section 321 of the Act entitled 'An act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b)," for "section 303b of title 40".

Subsec. (e). Pub. L. 96–513, §511(92)(C), substituted "Act" for "act".

Subsec. (f). Pub. L. 96–513, §511(92)(D), substituted "the Secretary" for "The Secretary", and substituted "the Administrator of General Services" for "The Administrator of the General Services Administration".

**1976**—Subsec. (b)(4), (5). Pub. L. 94–412 struck out par. (4) which required leases of nonexcess property of a military department include a provision making the lease revocable during a national emergency declared by the President, and redesignated par. (5) as (4).

**1975**—Subsec. (f). Pub. L. 94–107 added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, §2802(b), Aug. 13, 2018, 132 Stat. 2261, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to leases entered into during fiscal year 2019 or any of the four succeeding fiscal years."

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(13) is effective as of Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### SAVINGS PROVISION

Amendment by Pub. L. 94–412 not to affect any action taken or proceeding pending at the time of amendment, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

### LEASE DURATIONS

Pub. L. 117–263, div. H, title LXXXI, §8136, Dec. 23, 2022, 136 Stat. 3722, provided that: "The Secretary shall issue guidance on the circumstances under which a lease under section 2667 of title 10, United States Code, or section 4 of the Act of December 22, 1944 (16 U.S.C. 460d), with a term in excess of 25 years is appropriate and in the public interest."

## TEMPORARY INSTALLATION REUTILIZATION AUTHORITY FOR ARSENALS, DEPOTS, AND PLANTS

Pub. L. 115–91, div. A, title III, §345, Dec. 12, 2017, 131 Stat. 1363, as amended by Pub. L. 116–92, div. A, title III, §354, Dec. 20, 2019, 133 Stat. 1321, provided that:

"(a) MODIFIED AUTHORITY.—In the case of a military manufacturing arsenal, depot, or plant, the Secretary of the Army may authorize up to 10 leases and contracts per fiscal year under section 2667 of title 10, United States Code, for a term of up to 25 years, notwithstanding subsection (b)(1) of such section, if the Secretary determines that a lease or contract of that duration will promote the national defense for the purpose of—

"(1) helping to maintain the viability of the military manufacturing arsenal, depot, or plant and any military installations on which it is located;

"(2) eliminating, or at least reducing, the cost of Government ownership of the military manufacturing arsenal, depot, or plant, including the costs of operations and maintenance, the costs of environmental remediation, and other costs; and

"(3) leveraging private investment at the military manufacturing arsenal, depot, or plant through long-term facility use contracts, property management contracts, leases, or other agreements that support and advance the preceding purposes.

"(b) DELEGATION AND REVIEW PROCESS.—

"(1) IN GENERAL.—The Secretary of the Army may delegate the authority provided by this section to the commander of the major subordinate command of the Army that has responsibility for the military manufacturing arsenal, depot, or plant or, if part of a larger military installation, the installation as a whole. The commander may approve a lease or contract under such authority on a case-by-case basis or a class basis.

"(2) NOTICE OF APPROVAL.—Upon any approval of a lease or contract by a commander pursuant to a delegation of authority under paragraph (1), the commander shall notify the Chief of the Army Corps of Engineers and Congress of the approval.

"(3) REVIEW PERIOD.—Any lease or contract that is approved utilizing the delegation authority under paragraph (1) is subject to a 90-day hold period so that the Chief of the Army Corps of Engineers may review the lease or contract pursuant to paragraph (4).

"(4) DISPOSITION OF REVIEW.—If the Chief of the Army Corps of Engineers disapproves of a contract or lease submitted for review under paragraph (3), the agreement shall be null and void upon transmittal by the Chief of the Army Corps of Engineers to the delegating authority of a written disapproval, including a justification for such disapproval, within the 90-day hold period. If no such disapproval is transmitted within the 90-day hold period, the agreement shall be deemed approved.

"(5) APPROVAL OF REVISED AGREEMENT.—If, not later than 60 days after receiving a disapproval under paragraph (4), the delegating authority submits to the Chief of the Army Corps of Engineers a new contract or lease that addresses the concerns of the Chief of the Army Corps of Engineers outlined in such disapproval, the new contract or lease shall be deemed approved unless the Chief of the Army Corps of Engineers transmits to the delegating authority a disapproval of the new contract or lease within 30 days of such submission.

"(c) MILITARY MANUFACTURING ARSENAL, DEPOT, OR PLANT DEFINED.—In this section, the term 'military manufacturing arsenal, depot, or plant' means a Government-owned, Government-operated defense plant of the Army that manufactures weapons, weapon components, or both.

"(d) SUNSET.—The authority under this section shall terminate at the close of September 30, 2025. Any contracts entered into on or before such date shall continue in effect according to their terms."

## TRANSFERS FROM SPECIAL ACCOUNTS

Pub. L. 108–287, title VIII, §8034, Aug. 5, 2004, 118 Stat. 978, provided that: "Amounts deposited during the current fiscal year and hereafter to the special account established under 40 U.S.C. 572(b)(5)(A) and to the special account established under 10 U.S.C. 2667(d)(1) [now 2667(e)(1)] are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 572(b)(5)(B) and 10 U.S.C. 2667(d)(1)(B) [now 2667(e)(1)(B)], to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred."

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 108–87, title VIII, §8035, Sept. 30, 2003, 117 Stat. 1080.
Pub. L. 107–248, title VIII, §8035, Oct. 23, 2002, 116 Stat. 1544.
Pub. L. 107–117, div. A, title VIII, §8038, Jan. 10, 2002, 115 Stat. 2255.
Pub. L. 106–259, title VIII, §8038, Aug. 9, 2000, 114 Stat. 682.
Pub. L. 106–79, title VIII, §8040, Oct. 25, 1999, 113 Stat. 1239.
Pub. L. 105–262, title VIII, §8040, Oct. 17, 1998, 112 Stat. 2306.
Pub. L. 105–56, title VIII, §8044, Oct. 8, 1997, 111 Stat. 1230.
Pub. L. 104–61, title VIII, §8056, Dec. 1, 1995, 109 Stat. 663.
Pub. L. 103–335, title VIII, §8063, Sept. 30, 1994, 108 Stat. 2634.
Pub. L. 103–139, title VIII, §8074, Nov. 11, 1993, 107 Stat. 1457.
Pub. L. 102–396, title IX, §9107, Oct. 6, 1992, 106 Stat. 1927.

### LEASING OF DEFENSE PROPERTY; NOTIFICATION OF CONGRESS; WAIVER; REPORT TO CONGRESS; DEFINITION

Pub. L. 96–533, title I, §109(a)–(e), Dec. 16, 1980, 94 Stat. 3137, provided that before the Secretary of a military department exercised his authority under section 2667 of title 10, United States Code, in order to lease defense property to a foreign government for a period of more than six months, the President had to transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a written notification of the particulars of the proposed lease, prior to repeal by Pub. L. 97–113, title I, §109(d)(1), Dec. 29, 1981, 95 Stat. 1526. See section 2795 et seq. of Title 22, Foreign Relations and Intercourse.

## [§2667a. Repealed. Pub. L. 110–417, div. B, title XXVIII, §2812(e)(1), Oct. 14, 2008, 122 Stat. 4727]

Section, added Pub. L. 105–85, div. A, title X, §1062(a), Nov. 18, 1997, 111 Stat. 1891; amended Pub. L. 107–217, §3(b)(13), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 108–136, div. A, title X, §1031(a)(28), Nov. 24, 2003, 117 Stat. 1599, related to leases of non-excess property of Defense agencies.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2667a, added Pub. L. 98–115, title VIII, §807(a)(1), Oct. 11, 1983, 97 Stat. 786, provided for sale and replacement of nonexcess real property, prior to repeal by Pub. L. 98–115, title VIII, §807(c), Oct. 11, 1983, 97 Stat. 789, as amended by Pub. L. 99–167, title VIII, §806(a), Dec. 3, 1985, 99 Stat. 988, effective Oct. 1, 1986.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION

Pub. L. 110–417, div. B, title XXVIII, §2812(e)(2), (3), Oct. 14, 2008, 122 Stat. 4727, provided that:

"(2) EFFECT ON EXISTING CONTRACTS.—The repeal of section 2667a of title 10, United States Code, shall not affect the validity or terms of any lease with respect to property of a Defense Agency entered into by the Secretary of Defense under such section before the date of the enactment of this Act [Oct. 14, 2008].

"(3) TREATMENT OF MONEY RENTS.—Amounts in any special account established for a Defense Agency pursuant to subsection (d) of section 2667a of title 10, United States Code, before repeal of such section by paragraph (1), and amounts that would be deposited in such an account in connection with a lease referred to in paragraph (2), shall—

"(A) remain available until expended for the purposes specified in such subsection, notwithstanding the repeal of such section by paragraph (1); or

"(B) to the extent provided in appropriations Acts, be transferred to the special account required for the Secretary of Defense by subsection (e) of section 2667 of such title, as amended by subsection (d)(2) of this section."

## §2668. Easements for rights-of-way

(a) AUTHORIZED TYPES OF EASEMENTS.—If the Secretary of a military department finds that it will not be against the public interest, the Secretary may grant, upon such terms as the Secretary considers advisable, easements for rights-of-way over, in, and upon public lands permanently withdrawn or reserved for the use of that department, and other lands under the Secretary's control for—

(1) railroad tracks;

(2) gas, water, sewer, and oil pipe lines;

(3) substations for electric power transmission lines and pumping stations for gas, water, sewer, and oil pipe lines;

(4) canals;

(5) ditches;

(6) flumes;

(7) tunnels;

(8) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other improvements relating to fish-culture;

(9) roads and streets;

(10) poles and lines for the transmission or distribution of electric power;

(11) poles and lines for the transmission or distribution of communications signals (including telephone and telegraph signals);

(12) structures and facilities for the transmission, reception, and relay of such signals; and

(13) any other purpose that the Secretary considers advisable.

(b) LIMITATION ON SIZE OF EASEMENT.—No easement granted under this section may include more land than is necessary for the easement.

(c) TERMINATION.—The Secretary of the military department concerned may terminate all or part of any easement granted under this section for—

(1) failure to comply with the terms of the grant;

(2) nonuse for a two-year period; or

(3) abandonment.

(d) NOTICE TO DEPARTMENT OF THE INTERIOR.—Copies of instruments granting easements over public lands under this section shall be furnished to the Secretary of the Interior.

(e) DISPOSITION OF CONSIDERATION.—Subsections (c) and (e) of section 2667 of this title shall apply with respect to in-kind consideration and proceeds received by the Secretary of a military department in connection with an easement granted under this section in the same manner as such subsections apply to in-kind consideration and money rentals received pursuant to leases entered into by that Secretary under such section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 150; Pub. L. 98–525, title XIV, §1405(38), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 104–201, div. B, title XXVIII, §2861, Sept. 23, 1996, 110 Stat. 2804; Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(f)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–418; Pub. L. 108–136, div. B, title XXVIII, §2813(a), Nov. 24, 2003, 117 Stat. 1725; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109–364, div. B, title XXVIII, §2822(a), (b), Oct. 17, 2006, 120 Stat. 2474, 2475; Pub. L. 110–181, div. A, title X, §1063(a)(14), Jan. 28, 2008, 122 Stat. 322.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2668(a) | 43:931b (less 2d and 3d provisos of 1st sentence, and less last sentence).<br>43:931b (2d proviso of 1st | July 24, 1946, ch. 596, §7, 60 Stat. 643; Oct. 25, 1951, ch. 563, §101 (31st through 43d words), 65 Stat. 641. |

| | | |
|---|---|---|
| 2668(b) | sentence). | |
| 2668(c) | 43:931b (3d proviso of 1st sentence). | |
| 2668(d) | 43:931b (last sentence) [43:931b is made applicable to the Navy by 50:171–1 (16th through 21st words)]. | |

In subsection (a), the word "conditions" is omitted as covered by the word "terms". The description of the persons covered in the opening paragraph and the lands covered in clauses (1)–(10) is restated to reflect an opinion of the Judge Advocate General of the Army (JAGR 1952/3179, 27 Mar. 1952). The exceptions to clause (10) make express the fact that the revised section does not cover certain easements authorized by earlier law. The word "over" includes the word "across". The words "of the United States", "and empowered", "acquired lands", "jurisdiction and", and "municipality" are omitted as surplusage. The word "Commonwealth" is inserted to reflect the present status of Puerto Rico.

In subsection (b), the words "for the easement" are substituted for the words "for the purpose for which granted".

In subsections (b) and (c), the word "easement" is substituted for the word "rights-of-way".

In subsection (c), the word "terminate" is substituted for the words "annulled and forfeited". The words "and conditions" are omitted as covered by the word "terms". The words "two-year period" are substituted for the words "a period of two consecutive years". The words "of rights granted under authority hereof" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Subsec. (e). Pub. L. 110–181 substituted "and (e)" for "and (d)".

**2006**—Subsec. (a). Pub. L. 109–364, §2822(a)(1), (b)(1), inserted heading and, in introductory provisions, substituted "the Secretary may" for "he may", "the Secretary considers" for "he considers", and "the Secretary's control" for "his control, to a State, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Commonwealth, or possession,".

Pub. L. 109–163 struck out "Territory," after "a State," in two places in introductory provisions.

Subsec. (a)(2). Pub. L. 109–364, §2822(a)(2), substituted "gas, water, sewer, and oil pipe lines" for "oil pipe lines".

Subsec. (a)(13). Pub. L. 109–364, §2822(a)(3), substituted "the Secretary considers advisable" for "he considers advisable, except a purpose covered by section 2669 of this title".

Subsecs. (b) to (e). Pub. L. 109–364, §2822(b)(2)–(5), inserted subsec. headings.

**2003**—Subsec. (e). Pub. L. 108–136 substituted "Subsections (c) and (d)" for "Subsection (d)" and "subsections apply to in-kind consideration and" for "subsection applies to" and inserted "in-kind consideration and" before "proceeds".

**2000**—Subsec. (e). Pub. L. 106–398 added subsec. (e).

**1996**—Subsec. (a)(3). Pub. L. 104–201, §2861(b)(1), struck out ", telephone lines, and telegraph lines," after "transmission lines".

Subsec. (a)(9). Pub. L. 104–201, §2861(a)(1), struck out "and" at end.

Subsec. (a)(10) to (12). Pub. L. 104–201, §2861(a)(3), added pars. (10) to (12). Former par. (10) redesignated (13).

Subsec. (a)(13). Pub. L. 104–201, §2861(a)(2), (b)(2), redesignated par. (10) as (13) and struck out "or by the Act of March 4, 1911 (43 U.S.C. 961)" after "2669 of this title".

**1984**—Subsec. (a)(10). Pub. L. 98–525 substituted "the Act of March 4, 1911 (43 U.S.C. 961)" for "section 961 of title 43".

## §2668a. Easements: granting restrictive easements in connection with land conveyances

(a) AUTHORITY TO INCLUDE RESTRICTIVE EASEMENT.—In connection with the

conveyance of real property by the Secretary concerned under any provision of law, the Secretary concerned may grant an easement to an entity specified in subsection (b) restricting future uses of the conveyed real property for a conservation purpose consistent with section 170(h)(4)(A)(iv) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(4)(A)(iv)).

(b) AUTHORIZED RECIPIENTS.—An easement under subsection (a) may be granted only to—

(1) a State or local government; or

(2) a qualified organization, as that term is defined in section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)).

(c) LIMITATIONS ON USE OF EASEMENT AUTHORITY.—An easement under subsection (a) may not be granted unless—

(1) the proposed recipient of the easement consents to the receipt of the easement;

(2) the Secretary concerned determines that the easement is in the public interest and the conservation purpose to be promoted by the easement cannot be effectively achieved through the application of State law by the State or a local government without the grant of restrictive easements;

(3) the jurisdiction that encompasses the property to be subject to the easement authorizes the grant of restrictive easements; and

(4) the Secretary can give or assign to a third party the responsibility for monitoring and enforcing easements granted under this section.

(d) CONSIDERATION.—Easements granted under this section shall be without consideration from the recipient.

(e) ACREAGE LIMITATION.—No easement granted under this section may include more land than is necessary for the easement.

(f) TERMS AND CONDITIONS.—The grant of an easement under this section shall be subject to such additional terms and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.

(Added Pub. L. 109–364, div. B, title XXVIII, §2823(a), Oct. 17, 2006, 120 Stat. 2475.)

## §2669. Transfer of land and facilities to support contracts with federally funded research and development centers

(a) LEASE OF LAND, FACILITIES, AND IMPROVEMENTS.—(1) The Secretary of a military department may lease, for no consideration, land, facilities, infrastructure, and improvements to a covered FFRDC if the lease is to further the purposes of a contract between the Department of Defense and the covered FFRDC.

(2) A lease entered into under paragraph (1) shall terminate on the earlier of the following dates:

(A) The date that is 50 years after the date on which the Secretary enters into the lease.

(B) The date of the termination or non-renewal of the contract between the Department of Defense and the covered FFRDC related to the lease.

(b) CONVEYANCE OF FACILITIES AND IMPROVEMENTS.—(1) The Secretary of a military department may convey, for no consideration, ownership of facilities and improvements located on land leased to a covered FFRDC to further the purposes of a contract between the Department of Defense and the covered FFRDC.

(2) The ownership of any facilities and improvements conveyed by the Secretary of a military department or any improvements made to the leased land by the covered FFRDC under this subsection shall, as determined by the Secretary of a military department, revert or transfer to the United States upon the termination or non-renewal of the underlying land lease.

(3) Any facilities and improvements conveyed by the Secretary of a military department shall be demolished by the covered FFDRC as determined by such Secretary.

(c) CONSTRUCTION STANDARDS.—A lease entered into under this section may provide that any facilities constructed on the leased land may be constructed using commercial standards in a manner that provides force protection safeguards appropriate to the activities conducted in, and the location of, such facilities.

(d) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—(1) The conveyance or lease of property or facilities, improvements, and infrastructure under this section shall not be subject to the following provisions of law:

(A) Section 2667 of this title.

(B) Section 1302 of title 40.

(C) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(2) Sections 2662 and 2802 of this title shall not apply to any improvements or facilities constructed by the covered FFRDC on land leased or conveyed to a covered FFRDC described in subsection (a) or (b).

(e) COMPETITIVE PROCEDURES FOR SELECTION OF CERTAIN LESSEES; EXCEPTION .—If a proposed lease under this section is with respect to a covered FFRDC, the use of competitive procedures for the selection of the lessee is not required and the provisions of chapter 33 of title 41, United States Code, or chapter 221 of title 10, United States Code, and the related provisions of the Federal Acquisition Regulation shall not apply.

(f) COVERED FFRDC DEFINED.—In this section, the term "covered FFRDC" means a federally funded research and development center that is sponsored by, and has entered into a contract with, the Department of Defense.

(Added Pub. L. 117–263, div. B, title XXVIII, §2831(a), Dec. 23, 2022, 136 Stat. 3002.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2269, act Aug. 10, 1956, ch. 1041, 70A Stat. 151; Pub. L. 106–398, §1 [div. B, title XXVIII, §2812(f)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–418; Pub. L. 108–136, div. B, title XXVIII, §2813(b), Nov. 24, 2003, 117 Stat. 1725; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440, related to easements for gas, water, and sewer pipe lines, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2822(c), Oct. 17, 2006, 120 Stat. 2475.

## §2670. Use of facilities by private organizations; use as polling places

(a) USE BY RED CROSS.—Under such conditions as he may prescribe, the Secretary of any military department may issue a revocable license to the American National Red Cross to—

(1) erect and maintain, on any military installation under his jurisdiction, buildings for the storage of supplies; or

(2) use, for the storage of supplies, buildings erected by the United States.

Supplies stored in buildings erected or used under this subsection are available to aid the civilian population in a serious national disaster.

(b) USE OF CERTAIN FACILITIES AS POLLING PLACES.—(1) Notwithstanding chapter 29 of title 18 (including sections 592 and 593 of such title) or any other provision of law, the Secretary of Defense or Secretary of a military department may not (except as provided in paragraph (3)) prohibit the designation or use of a qualifying facility under the jurisdiction of the Secretary as an official polling place for local, State, or Federal elections.

(2) A Department of Defense facility is a qualifying facility for purposes of this subsection if as of December 31, 2000—

(A) the facility is designated as an official polling place by a State or local election official; or

(B) the facility has been used as such an official polling place since January 1, 1996.

(3) The limitation in paragraph (1) may be waived by the Secretary of Defense or Secretary of the military department concerned with respect to a particular Department of Defense facility if the Secretary of Defense or Secretary concerned determines that local security conditions require prohibition of the designation or use of that facility as an official polling place for any election.

(c) USE OF SPACE AND EQUIPMENT BY VETERANS SERVICE ORGANIZATIONS.—(1) Upon certification to the Secretary concerned by the Secretary of Veterans Affairs, the Secretary concerned shall allow accredited, paid, full-time representatives of the organizations named in section 5902 of title 38, or of other organizations recognized by the Secretary of Veterans Affairs, to function on military installations under the jurisdiction of the Secretary concerned that are on land and from which persons are discharged or released from active duty.

(2) The commanding officer of a military installation allowing representatives to function on the installation under paragraph (1) shall allow the representatives to use available space and equipment at the installation.

(3) This subsection does not authorize the violation of measures of military security.

(Aug. 10, 1956, ch. 1041, 70A Stat. 151; Pub. L. 107–107, div. A, title XVI, §1607(a)–(b)(2), Dec. 28, 2001, 115 Stat. 1279, 1280; Pub. L. 108–375, div. B, title XXVIII, §2821(c)(1), (e)(2), Oct. 28, 2004, 118 Stat. 2129, 2130.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2670 | 36:12. | June 3, 1916, ch. 134, §127a (5th par.); added June 4, 1920, ch. 227, subch. I, §51 (5th par.); restated July 17, 1953, ch. 222, §3, 67 Stat. 178. |

The word "issue" is substituted for the words "grant permission". The word "use" is substituted for the words "occupy for that purpose".

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375, §2821(e)(2), substituted "Use of facilities by private organizations; use as polling places" for "Military installations: use by American National Red Cross; use as polling places" in section catchline.

Subsec. (c). Pub. L. 108–375, §2821(c)(1), added subsec. (c).

**2001**—Pub. L. 107–107 substituted "Military installations: use by American National Red Cross; use as polling places" for "Licenses: military installations; erection and use of buildings; American National Red Cross" in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted "this subsection" for "this section" in concluding provisions, and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REGULATIONS**

Pub. L. 108–375, div. B, title XXVIII, §2821(c)(3), Oct. 28, 2004, 118 Stat. 2129, provided that: "The regulations prescribed to carry out [former] section 2679 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Oct. 28, 2004], shall remain in effect with regard to section 2670(c) of such title, as added by paragraph (1), until changed by joint action of the Secretary concerned (as defined in section 101(9) of such title [now 10 U.S.C. 101(a)(9)]) and the Secretary of Veterans Affairs."

## §2671. Military reservations and facilities: hunting, fishing, and trapping

(a) GENERAL REQUIREMENTS FOR HUNTING, FISHING, AND TRAPPING.—The Secretary of Defense shall, with respect to each military installation or facility under the jurisdiction

of any military department in a State—

(1) require that all hunting, fishing, and trapping at that installation or facility be in accordance with the fish and game laws of the State in which it is located;

(2) require that an appropriate license for hunting, fishing, or trapping on that installation or facility be obtained, except that with respect to members of the armed forces, such a license may be required only if the State authorizes the issuance of a license to a member on active duty for a period of more than thirty days at an installation or facility within that State, without regard to residence requirements, and upon terms otherwise not less favorable than the terms upon which such a license is issued to residents of that State; and

(3) develop, subject to safety requirements and military security, and in cooperation with the Governor (or his designee) of the State in which the installation or facility is located, procedures under which designated fish and game or conservation officials of that State may, at such time and under such conditions as may be agreed upon, have full access to that installation or facility to effect measures for the management, conservation, and harvesting of fish and game resources.

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive or otherwise modify the fish and game laws of a State otherwise applicable under subsection (a)(1) to hunting, fishing, or trapping at a military installation or facility if the Secretary determines that the application of such laws to such hunting, fishing, or trapping without modification could result in undesirable consequences for public health or safety at the installation or facility. The authority to waive such laws includes the authority to extend, but not reduce, the specified season for certain hunting, fishing, or trapping. The Secretary may not waive the requirements under subsection (a)(2) regarding a license for such hunting, fishing, or trapping or any fee imposed by a State to obtain such a license.

(2) If the Secretary determines that a waiver of fish and game laws of a State is appropriate under paragraph (1), the Secretary shall provide written notification to the appropriate State officials stating the reasons for, and extent of, the waiver. The notification shall be provided at least 30 days before implementation of the waiver.

(c) VIOLATIONS.—Whoever is guilty of an act or omission which violates a requirement prescribed under subsection (a)(1) or (2), which act or omission would be punishable if committed or omitted within the jurisdiction of the State in which the installation or facility is located, by the laws thereof in effect at the time of that act or omission, is guilty of a like offense and is subject to a like punishment.

(d) RELATION TO TREATY RIGHTS.—This section does not modify any rights granted by the treaty or otherwise to any Indian tribe or to the members thereof.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 85–337, §4(1), Feb. 28, 1958, 72 Stat. 29; amended Pub. L. 107–107, div. B, title XXVIII, §2811, Dec. 28, 2001, 115 Stat. 1307; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 111–383, div. A, title X, §1075(b)(42), Jan. 7, 2011, 124 Stat. 4371.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a)(2). Pub. L. 111–383 substituted "armed forces" for "Armed Forces".

**2006**—Subsecs. (a) to (c). Pub. L. 109–163 struck out "or Territory" after "State" wherever appearing.

**2001**—Subsec. (a). Pub. L. 107–107, §2811(b)(1), inserted heading.

Subsec. (b). Pub. L. 107–107, §2811(a)(2), added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 107–107, §2811(b)(2), inserted heading.

Subsec. (d). Pub. L. 107–107, §2811(b)(3), inserted heading.

Subsec. (e). Pub. L. 107–107, §2811(a)(1), redesignated subsec. (b) as (e), inserted heading, and transferred subsec. to end of section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**INCREASED HUNTING AND FISHING OPPORTUNITIES FOR MEMBERS OF THE ARMED FORCES, RETIRED MEMBERS, AND DISABLED VETERANS**

Pub. L. 109–364, div. A, title X, §1077(a), Oct. 17, 2006, 120 Stat. 2406, provided that: "Consistent with section 2671 of title 10, United States Code, and using such funds as are made available for this purpose, the Secretary of Defense shall ensure that members of the Armed Forces, retired members, disabled veterans, and persons assisting disabled veterans are able to utilize lands under the jurisdiction of the Department of Defense that are available for hunting or fishing."

## §2672. Protection of buildings, grounds, property, and persons

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense shall protect the buildings, grounds, and property that are under the jurisdiction, custody, or control of the Department of Defense and the persons on that property.

(b) DESIGNATION OF OFFICERS AND AGENTS.—(1) The Secretary of Defense may designate military or civilian personnel of the Department of Defense as officers and agents to perform the functions of the Secretary under subsection (a), including, with regard to civilian officers and agents, duty in areas outside the property specified in that subsection to the extent necessary to protect that property and persons on that property.

(2) A designation under paragraph (1) may be made by individual, by position, by installation, or by such other category of personnel as the Secretary determines appropriate.

(3) In making a designation under paragraph (1) with respect to any category of personnel, the Secretary shall specify each of the following:

(A) The personnel or positions to be included in the category.

(B) The authorities provided for in subsection (c) that may be exercised by personnel in that category.

(C) In the case of civilian personnel in that category—

(i) the authorities provided for in subsection (c), if any, that are authorized to be exercised outside the property specified in subsection (a); and

(ii) with respect to the exercise of any such authorities outside the property specified in subsection (a), the circumstances under which coordination with law enforcement officials outside of the Department of Defense should be sought in advance.

(4) The Secretary may make a designation under paragraph (1) only if the Secretary determines, with respect to the category of personnel to be covered by that designation, that—

(A) the exercise of each specific authority provided for in subsection (c) to be delegated to that category of personnel is necessary for the performance of the duties of the personnel in that category and such duties cannot be performed as effectively without such authorities; and

(B) the necessary and proper training for the authorities to be exercised is available to the personnel in that category.

(c) AUTHORIZED ACTIVITIES.—Subject to subsection (i) and to the extent specifically authorized by the Secretary of Defense, while engaged in the performance of official duties pursuant to this section, an officer or agent designated under subsection (b) may—

(1) enforce Federal laws and regulations for the protection of persons and property;

(2) carry firearms;

(3) make arrests—

(A) without a warrant for any offense against the United States committed in the presence of the officer or agent; or

(B) for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(4) serve warrants and subpoenas issued under the authority of the United States; and

(5) conduct investigations, on and off the property in question, of offenses that may have been committed against property under the jurisdiction, custody, or control of the Department of Defense or persons on such property.

(d) REGULATIONS.—(1) The Secretary of Defense may prescribe regulations, including traffic regulations, necessary for the protection and administration of property under the jurisdiction, custody, or control of the Department of Defense and persons on that property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property to which they apply.

(2) A person violating a regulation prescribed under this subsection shall be fined under title 18, imprisoned for not more than 30 days, or both.

(e) LIMITATION ON DELEGATION OF AUTHORITY.—The authority of the Secretary of Defense under subsections (b), (c), and (d) may be exercised only by the Secretary or the Deputy Secretary of Defense.

(f) DISPOSITION OF PERSONS ARRESTED.—A person who is arrested pursuant to authority exercised under subsection (b) may not be held in a military confinement facility, other than in the case of a person who is subject to chapter 47 of this title (the Uniform Code of Military Justice).

(g) FACILITIES AND SERVICES OF OTHER AGENCIES.—In implementing this section, when the Secretary of Defense determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, Indian tribal, and local law enforcement agencies, with the consent of those agencies, and may reimburse those agencies for the use of their facilities and services. Such services of State, Indian tribal, and local law enforcement, including application of their powers of law enforcement, may be provided notwithstanding that the property is subject to the legislative jurisdiction of the United States.

(h) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property under the jurisdiction, custody, or control of the Department of Defense and persons on that property, the Secretary of Defense may enter into agreements with Federal agencies and with State, Indian tribal, and local governments to obtain authority for civilian officers and agents designated under this section to enforce Federal laws and State, Indian tribal, and local laws concurrently with other Federal law enforcement officers and with State, Indian tribal, and local law enforcement officers.

(i) ATTORNEY GENERAL APPROVAL.—The powers granted pursuant to subsection (c) to officers and agents designated under subsection (b) shall be exercised in accordance with guidelines approved by the Attorney General. Such guidelines may include specification of the geographical extent of property outside of the property specified in subsection (a) within which those powers may be exercised.

(j) LIMITATION WITH REGARD TO OTHER FEDERAL AGENCIES.—Nothing in this section shall be construed as affecting the authority of the Secretary of Homeland Security to provide for the protection of facilities (including the buildings, grounds, and properties of the General Services Administration) that are under the jurisdiction, custody, or control, in whole or in part, of a Federal agency other than the Department of Defense and that are located off of a military installation.

(k) COOPERATION WITH LOCAL LAW ENFORCEMENT AGENCIES.—Before authorizing civilian officers and agents to perform duty in areas outside the property specified in subsection (a), the Secretary of Defense shall consult with, and is encouraged to enter into agreements with, local law enforcement agencies exercising jurisdiction over such areas for the purposes of avoiding conflicts of jurisdiction, promoting notification of planned law enforcement actions, and otherwise facilitating productive working relationships.

(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

(1) to preclude or limit the authority of any Federal law enforcement agency;

(2) to restrict the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 or of the Administrator of General Services, including the authority to promulgate

regulations affecting property under the custody and control of that Secretary or the Administrator, respectively;

(3) to expand or limit section 21 of the Internal Security Act of 1950 (50 U.S.C. 797);

(4) to affect chapter 47 of this title;

(5) to restrict any other authority of the Secretary of Defense or the Secretary of a military department; or

(6) to restrict the authority of the Director of the National Security Agency under section 11 of the National Security Agency Act of 1959 (50 U.S.C. 3609).

(Added Pub. L. 114–92, div. B, title XXVIII, §2811(a), Nov. 25, 2015, 129 Stat. 1172.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in subsec. (l)(2), is Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135, which is classified principally to chapter 1 (§101 et seq.) of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

### PRIOR PROVISIONS

A prior section 2672, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1459; amended Pub. L. 87–651, title I, §112(a), Sept. 7, 1962, 76 Stat. 511; Pub. L. 92–145, title VII, §707(2), (3), Oct. 27, 1971, 85 Stat. 411; Pub. L. 96–418, title VIII, §806(a), Oct. 10, 1980, 94 Stat. 1777; Pub. L. 99–167, title VIII, §810(a), (b)(1), Dec. 3, 1985, 99 Stat. 989, 990; Pub. L. 99–661, div. A, title XIII, §1343(a)(16), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–456, div. B, title XXVIII, §2804, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 105–85, div. B, title XXVIII, §2811(a), (b)(1), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108–136, div. B, title XXVIII, §2811(a)–(b)(2), Nov. 24, 2003, 117 Stat. 1724, 1725; Pub. L. 108–375, div. B, title XXVIII, §2821(d)(1), Oct. 28, 2004, 118 Stat. 2130; Pub. L. 109–163, div. B, title XXVIII, §2821(a)(2), Jan. 6, 2006, 119 Stat. 3511, related to authority to acquire low-cost interests in land, prior to repeal by Pub. L. 109–163, div. B, title XXVIII, §2821(f), Jan. 6, 2006, 119 Stat. 3513. See section 2663(c) of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### NOTIFICATION OF MILITARY SEX OFFENDERS AT MILITARY INSTALLATIONS

Pub. L. 119–60, div. A, title V, §565(a), Dec. 18, 2025, 139 Stat. 883, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall establish and implement a policy to ensure that registered sex offenders who reside or work on military installations are identified to the respective military community, including, as necessary, through agreements with State and local law enforcement agencies."

### PILOT PROGRAM ON SAFE STORAGE OF PERSONALLY OWNED FIREARMS

Pub. L. 117–263, div. A, title V, §595, Dec. 23, 2022, 136 Stat. 2613, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a pilot program to promote the safe storage of personally owned firearms.

"(b) ELEMENTS.—Under the pilot program under subsection (a), the Secretary of Defense shall furnish to members of the Armed Forces who are participating in the pilot program at military installations selected under subsection (e) locking devices or firearm safes, or both, for the purpose of securing personally owned firearms when not in use (including by directly providing, subsidizing, or otherwise making available such devices or safes).

"(c) PARTICIPATION.—

"(1) VOLUNTARY PARTICIPATION.—Participation by members of the Armed Forces in the pilot program under subsection (a) shall be on a voluntary basis.

"(2) LOCATION OF PARTICIPANTS.—A member of the Armed Forces may participate in the pilot program under subsection (a) carried out at a military installation selected under subsection (e) regardless of whether the member resides at the military installation.

"(d) PLAN.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of

Representatives a plan for the implementation of the pilot program under subsection (a).

"(e) SELECTION OF INSTALLATIONS.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall select not fewer than five military installations at which to carry out the pilot program under subsection (a).

"(f) EFFECT ON EXISTING POLICIES.—Nothing in this section shall be construed to circumvent or undermine any existing safe storage policies, laws, or regulations on military installations.

"(g) REPORT.—Upon the termination under subsection (h) of the pilot program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing the following information:

"(1) The number and type of locking devices and firearm safes furnished to members of the Armed Forces under the pilot program.

"(2) The cost of carrying out the pilot program.

"(3) An analysis of the effect of the pilot program on suicide prevention.

"(4) Such other information as the Secretary may determine appropriate, which shall exclude any personally identifiable information about participants in the pilot program.

"(h) TERMINATION.—The pilot program under subsection (a) shall terminate on the date that is six years after the date of the enactment of this Act."

## STANDARDIZED CREDENTIALS FOR LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF DEFENSE

Pub. L. 117–263, div. A, title XI, §1104, Dec. 23, 2022, 136 Stat. 2816, provided that:

"(a) STANDARDIZED CREDENTIALS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall ensure that—

"(1) the Secretary of each military department develops standardized credentials for Defense law enforcement officers under their respective authority;

"(2) the Secretary of each military department issues such credential to each such officer at no cost to such officer; and

"(3) any Department of Defense common access card issued to such an officer clearly identifies the officer as a Defense law enforcement officer.

"(b) DEFENSE LAW ENFORCEMENT OFFICER DEFINED.—In this section, the term 'Defense law enforcement officer' means a member of the Armed Forces or civilian employee of the Department of Defense who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law;

"(2) has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice); and

"(3) is authorized by the Department to carry a firearm."

## REQUIREMENT THAT SECRETARY OF DEFENSE IMPLEMENT SECURITY AND EMERGENCY RESPONSE RECOMMENDATIONS RELATING TO ACTIVE SHOOTER OR TERRORIST ATTACKS ON INSTALLATIONS OF DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title III, §368, Jan. 1, 2021, 134 Stat. 3552, provided that:

"(a) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall implement the applicable security and emergency response recommendations relating to active shooter or terrorist attacks on installations of the Department of Defense made in the following reports:

"(1) The report by the Government Accountability Office dated July 2015 entitled, 'Insider Threats: DOD Should Improve Information Sharing and Oversight to Protect U.S. Installations' (GAO–15–543).

"(2) The report prepared by the Department of the Navy relating to the Washington Navy Yard shooting in 2013.

"(3) The report by the Department of the Army dated August 2010 entitled 'Fort Hood, Army Internal Review Team: Final Report'.

"(4) The independent review by the Department of Defense dated January 2010 entitled 'Protecting the Force: Lessons from Fort Hood'.

"(5) The report by the Department of the Air Force dated October 2010 entitled 'Air Force Follow-On Review: Protecting the Force: Lessons from Fort Hood'.

"(b) NOTIFICATION OF INAPPLICABLE RECOMMENDATIONS.—

"(1) IN GENERAL.—If the Secretary determines that a recommendation described in subsection (a) is outdated, is no longer applicable, or has been superseded by more recent separate guidance or recommendations set forth by the Government Accountability Office, the Department of Defense, or another entity in related contracted review, the Secretary shall notify the Committees on Armed Services of the Senate and the House of Representatives not later than 45 days after the date of the enactment of this Act.

"(2) IDENTIFICATION AND JUSTIFICATION.—The notification under paragraph (1) shall include an identification, set forth by report [sic] specified in subsection (a), of each recommendation that the Secretary determines should not be implemented, with a justification for each such determination."

**DEPARTMENT OF DEFENSE POLICY FOR REGULATION IN MILITARY COMMUNITIES OF DANGEROUS DOGS KEPT AS PETS**

Pub. L. 116–283, div. B, title XXVIII, §2884, Jan. 1, 2021, 134 Stat. 4372, provided that:

"(a) POLICY REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall establish a uniform policy for the regulation of dangerous dogs kept as pets in military communities.

"(b) CONSULTATION.—The policy required by subsection (a) shall be developed in consultation with professional veterinary and animal behavior experts in regard to effective regulation of dangerous dogs kept as pets.

"(c) REGULATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations implementing the policy established under subsection (a).

"(2) BEST PRACTICES.—The regulations prescribed under paragraph (1) shall include strategies, for implementation within all military communities, for the prevention of dog bites that are consistent with the following best practices:

"(A) Enforcement of regulations relating to dangerous dogs kept as pets, with emphasis on identification of dangerous dog behavior and chronically irresponsible pet owners.

"(B) Enforcement of animal control regulations, such as leash laws and stray animal control policies.

"(C) Promotion and communication of resources for pet spaying and neutering.

"(D) Investment in community education initiatives, such as teaching criteria for pet selection, pet care best practices, owner responsibilities, and safe and appropriate interaction with dogs.

"(d) EXCLUSIONS.—This section does not apply with respect to military working dogs and any dog certified as a service animal.

"(e) DEFINITIONS.—In this section:

"(1) The term 'dangerous dog' means a dog that—

"(A) has attacked a person or another animal without justification, causing injury or death to the person or animal; or

"(B) exhibits behavior that reasonably suggests the likely risk of such an attack.

"(2) The term 'military communities' means—

"(A) all military installations; and

"(B) all military housing, including privatized military housing under subchapter IV of chapter 169 of title 10, United States Code."

**ESTABLISHMENT OF PROCESS BY WHICH MEMBERS OF THE ARMED FORCES MAY CARRY AN APPROPRIATE FIREARM ON A MILITARY INSTALLATION**

Pub. L. 114–92, div. A, title V, §526, Nov. 25, 2015, 129 Stat. 813, provided that: "Not later than December 31, 2015, the Secretary of Defense, taking into consideration the views of senior leadership of military installations in the United States, shall establish and implement a process by which the commanders of military installations in the United States, or other military commanders designated by the Secretary of Defense for military reserve centers, Armed Services recruiting centers, and such other defense facilities as the Secretary may prescribe, may authorize a member of the Armed Forces who is assigned to duty at the installation, center or facility to carry an appropriate firearm on the installation, center, or facility if the commander determines that carrying such a firearm is necessary as a personal- or force-protection measure."

## [§2672a. Repealed. Pub. L. 109–163, div. B, title XXVIII, §2821(f), Jan. 6, 2006, 119 Stat. 3513]

Section, added Pub. L. 94–107, title VI, §607(8), Oct. 7, 1975, 89 Stat. 566; amended Pub. L. 98–525, title XIV, §1405(39), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(29), Nov. 24, 2003, 117 Stat. 1599; Pub. L. 108–375, div. A, title X, §1084(d)(23), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–163, div. B, title XXVIII, §2821(a)(6), Jan. 6, 2006, 119 Stat. 3511, related to acquisition of interests in land when need is urgent. See section 2663(d) of this title.

## [§2673. Repealed. Pub. L. 108–375, div. B, title XXVIII, §2821(d)(2), Oct. 28, 2004, 118 Stat. 2130]

Section, added Pub. L. 100–370, §1(l)(1), July 19, 1988, 102 Stat. 849, related to availability of funds for acquisition of certain interests in land.

A prior section 2673, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1459, related to restoration or replacement of facilities damaged or destroyed, prior to repeal by Pub. L. 97–214, §7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2854 of this title.

## §2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region

(a) PENTAGON RESERVATION.—The Secretary of Defense has jurisdiction, custody, and control over, and responsibility for, the operation, maintenance, and management of the Pentagon Reservation.

(b) LAW ENFORCEMENT AUTHORITIES AND PERSONNEL.—(1) The Secretary shall protect the buildings, grounds, and property located in the National Capital Region that are occupied by, or under the jurisdiction, custody, or control of, the Department of Defense, and the persons on that property.

(2) The Secretary may designate military or civilian personnel to perform law enforcement functions and military, civilian, or contract personnel to perform security functions for such buildings, grounds, property, and persons, including, with regard to civilian personnel designated under this section, duty in areas outside the property referred to in paragraph (1) to the extent necessary to protect that property and persons on that property. Subject to the authorization of the Secretary, any such military or civilian personnel so designated may exercise the authorities listed in paragraphs (1) through (5) of section 2672(c) of this title.

(3) The powers granted under paragraph (2) to military and civilian personnel designated under that paragraph shall be exercised in accordance with guidelines prescribed by the Secretary and approved by the Attorney General.

(4) Nothing in this subsection shall be construed to—

(A) preclude or limit the authority of any Defense Criminal Investigative Organization or any other Federal law enforcement agency;

(B) restrict the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or the authority of the Administrator of General Services, including the authority to promulgate regulations affecting property under the custody and control of that Secretary or the Administrator, respectively;

(C) expand or limit section 21 of the Internal Security Act of 1950 (50 U.S.C. 797);

(D) affect chapter 47 of this title (the Uniform Code of Military Justice);

(E) restrict any other authority of the Secretary of Defense or the Secretary of a military department; or

(F) restrict the authority of the Director of the National Security Agency under section 11 of the National Security Agency Act of 1959 (50 U.S.C. 3609).

(5) For positions for which the permanent duty station is the Pentagon Reservation, the Secretary, in his sole and exclusive discretion, may without regard to the pay provisions of title 5, fix the rates

of basic pay for such positions occupied by civilian law enforcement and security personnel appointed under the authority of this section so as to place such personnel on a comparable basis with personnel of other similar Federal law enforcement and security organizations within the vicinity of the Pentagon Reservation, not to exceed the basic pay for personnel performing similar duties in the United States Secret Service Uniformed Division or the United States Park Police, whichever is greater.

(c) REGULATIONS AND ENFORCEMENT.—(1) The Secretary may prescribe such rules and regulations as the Secretary considers appropriate to ensure the safe, efficient, and secure operation of the Pentagon Reservation, including rules and regulations necessary to govern the operation and parking of motor vehicles on the Pentagon Reservation.

(2) Any person who violates a rule or regulation prescribed under this subsection is liable to the United States for a civil penalty of not more than $1,000.

(3) Any person who willfully violates any rule or regulation prescribed pursuant to this subsection commits a Class B misdemeanor.

(d) AUTHORITY TO CHARGE FOR PROVISION OF CERTAIN SERVICES AND FACILITIES.— The Secretary of Defense may establish rates and collect charges for space, services, protection, maintenance, construction, repairs, alterations, or facilities provided at the Pentagon Reservation.

(e) PENTAGON RESERVATION MAINTENANCE REVOLVING FUND.—(1) There is established in the Treasury of the United States a revolving fund to be known as the Pentagon Reservation Maintenance Revolving Fund (hereafter in this section referred to as the "Fund"). There shall be deposited into the Fund funds collected by the Secretary for space and services and other items provided an organization or entity using any facility or land on the Pentagon Reservation pursuant to subsection (d).

(2) Subject to paragraphs (3) and (4), monies deposited into the Fund shall be available, without fiscal year limitation, for expenditure for real property management, operation, protection, construction, repair, alteration and related activities for the Pentagon Reservation.

(3) If the cost of a construction or alteration activity proposed to be financed in whole or in part using monies from the Fund will exceed the limitation specified in section 2805 of this title for a comparable unspecified minor military construction project, the activity shall be subject to authorization as provided by section 2802 of this title before monies from the Fund are obligated for the activity.

(4)(A) Except as provided in subparagraph (B), the authority of the Secretary to use monies from the Fund to support construction or alteration activities at the Pentagon Reservation expires on September 30, 2012.

(B) Notwithstanding the date specified in subparagraph (A), the Secretary may use monies from the Fund after that date to support construction or alteration activities at the Pentagon Reservation within the limits specified in section 2805 of this title.

(f) DEFINITIONS.— In this section:

(1) The term "Pentagon Reservation" means the Pentagon, the Mark Center Campus, and the Raven Rock Mountain Complex.

(2) The term "National Capital Region" means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.

(3) The term "Pentagon" means that area of land (consisting of approximately 227 acres) and improvements thereon, including parking areas, located in Arlington County, Virginia, containing the Pentagon Office Building and its supporting facilities.

(4) The term "Mark Center Campus" means that area of land (consisting of approximately 16 acres) and improvements thereon, including parking areas, located in Alexandria, Virginia, and known on the day before the date of the enactment of this paragraph as the Fort Belvoir Mark Center Campus.

(5) The term "Raven Rock Mountain Complex" means that area of land (consisting of approximately 720 acres) and improvements thereon, including parking areas, at the Raven Rock Mountain Complex and its supporting facilities located in Maryland and Pennsylvania.

(Added Pub. L. 101–510, div. B, title XXVIII, §2804(a)(1), Nov. 5, 1990, 104 Stat. 1784; amended Pub. L. 102–190, div. A, title X, §1061(a)(18), div. B, title XXVIII, §2864, Dec. 5, 1991, 105 Stat. 1473, 1561; Pub. L. 104–106, div. A, title XV, §1502(a)(24), Feb. 10, 1996, 110 Stat. 505; Pub. L. 104–201, div. A, title III, §369(a), (b)(1), Sept. 23, 1996, 110 Stat. 2498; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title XI, §1101, Dec. 28, 2001, 115 Stat. 1234; Pub. L. 108–136, div. A, title IX, §933, Nov. 24, 2003, 117 Stat. 1581; Pub. L. 111–383, div. B, title XXVIII, §2802, Jan. 7, 2011, 124 Stat. 4458; Pub. L. 112–81, div. B, title XXVIII, §2811, Dec. 31, 2011, 125 Stat. 1686; Pub. L. 114–328, div. A, title IX, §952(a), (b), div. B, title XXVIII, §2829E, Dec. 23, 2016, 130 Stat. 2374, 2375, 2733; Pub. L. 115–91, div. A, title X, §1081(d)(16), Dec. 12, 2017, 131 Stat. 1600.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2674, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1459; amended Pub. L. 87–651, title I, §112(b), Sept. 7, 1962, 76 Stat. 511; Pub. L. 88–174, title VI, §608, Nov. 7, 1963, 77 Stat. 328; Pub. L. 89–188, title VI, §613, Sept. 16, 1965, 79 Stat. 819; Pub. L. 89–568, title VI, §608, Sept. 12, 1966, 80 Stat. 756; Pub. L. 91–511, title VI, §607(2)–(4), Oct. 26, 1970, 84 Stat. 1224; Pub. L. 92–145, title VII, §707(1), Oct. 27, 1971, 85 Stat. 411; Pub. L. 93–166, title VI, §608(1), Nov. 29, 1973, 87 Stat. 682; Pub. L. 94–107, title VI, §607(2)–(4), Oct. 7, 1975, 89 Stat. 566; Pub. L. 95–82, title VI, §608(a), Aug. 1, 1977, 91 Stat. 377; Pub. L. 95–356, title VI, §603(h)(1), Sept. 8, 1978, 92 Stat. 582; Pub. L. 96–125, title VIII, §801, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97–99, title IX, §907, Dec. 23, 1981, 95 Stat. 1385, related to minor construction projects, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2805 of this title.

### REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in subsec. (b)(4)(B), is Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135, which is classified principally to chapter 1 (§101 et seq.) of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

The date of the enactment of this paragraph, referred to in subsec. (f)(4), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

### AMENDMENTS

**2017**—Subsec. (b)(1). Pub. L. 115–91, §1081(d)(16), repealed Pub. L. 114–328, §2829E(a)(3). See 2016 Amendment note below.

**2016**—Subsec. (a). Pub. L. 114–328, §2829E(d)(1), inserted heading.

Pub. L. 114–328, §2829E(c), struck out par. (1) designation after subsec. (a) designation and struck out pars. (2) and (3) which related to annual report on the state of the renovation of the Pentagon Reservation for specified congressional committees.

Pub. L. 114–328, §2829E(b), substituted "The Secretary of Defense has jurisdiction" for "Jurisdiction" and struck out "is transferred to the Secretary of Defense" after "management of the Pentagon Reservation".

Subsec. (b). Pub. L. 114–328, §2829E(d)(2), inserted heading.

Subsec. (b)(1). Pub. L. 114–328, §2829E(a)(3), which directed insertion of "for the Pentagon Reservation and" after "law enforcement and security functions" and could not be executed, was repealed by Pub. L. 115–91, §1081(d)(16).

Pub. L. 114–328, §952(a)(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows "The Secretary may appoint military or civilian personnel or contract personnel to perform law enforcement and security functions for property occupied by, or under the jurisdiction, custody, and control of the Department of Defense, and located in the National Capital Region. Such individuals—

"(A) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status; and

"(B) shall have the same powers (other than the service of civil process) as sheriffs and constables upon the property referred to in the first sentence to enforce the laws enacted for the protection of persons and property, to prevent breaches of the peace and suppress affrays or unlawful assemblies, and to enforce any rules or regulations with respect to such property prescribed by duly authorized officials."

Subsec. (b)(2). Pub. L. 114–328, §952(a)(2), added par. (2). Former par. (2) redesignated (5).

Subsec. (b)(3), (4). Pub. L. 114–328, §952(a)(2), added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 114–328, §952(a)(1), (b), redesignated par. (2) as (5) and inserted ", whichever is greater" before period at end.

Subsec. (c). Pub. L. 114–328, §2829E(d)(3), inserted heading.

Subsec. (d). Pub. L. 114–328, §2829E(d)(4), inserted heading.

Subsec. (e). Pub. L. 114–328, §2829E(d)(5), inserted heading.

Subsec. (f). Pub. L. 114–328, §2829E(d)(6), inserted heading.

Subsec. (f)(1). Pub. L. 114–328, §2829E(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'Pentagon Reservation' means that area of land (consisting of approximately 280 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles."

Subsec. (f)(3) to (5). Pub. L. 114–328, §2829E(a)(2), added pars. (3) to (5).

Subsec. (g). Pub. L. 114–328, §2829E(a)(4), struck out subsec. (g) which read as follows: "For purposes of subsections (b), (c), (d), and (e), the terms 'Pentagon Reservation' and 'National Capital Region' shall be treated as including the land and physical facilities at the Raven Rock Mountain Complex."

**2011**—Subsec. (e)(2). Pub. L. 111–383, §2802(1), substituted "Subject to paragraphs (3) and (4), monies" for "Monies".

Subsec. (e)(3). Pub. L. 111–383, §2802(2), added par. (3).

Subsec. (e)(4). Pub. L. 112–81 designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), the authority" for "The authority", and added subpar. (B).

Pub. L. 111–383, §2802(2), added par. (4).

**2003**—Subsec. (g). Pub. L. 108–136 added subsec. (g).

**2001**—Subsec. (b). Pub. L. 107–107 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

**1999**—Subsec. (a)(3)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Pub. L. 104–201, §369(b)(1), substituted "of Pentagon Reservation and defense facilities in National Capital Region" for "of the Pentagon Reservation" in section catchline.

Subsec. (a)(2). Pub. L. 104–106, §1502(a)(24)(A), substituted "congressional committees specified in paragraph (3)" for "Committees on Armed Services of the Senate and the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives".

Subsec. (a)(3). Pub. L. 104–106, §1502(a)(24)(B), added par. (3).

Subsec. (b). Pub. L. 104–201, §369(a), substituted "in the National Capital Region" for "at the Pentagon Reservation".

**1991**—Subsec. (b)(2). Pub. L. 102–190, §2864, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property."

Subsec. (c)(3). Pub. L. 102–190, §1061(a)(18), substituted "misdemeanor" for "misdeameanor".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(16) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland

Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## COST OF PENTAGON RENOVATION

Pub. L. 108–287, title VIII, §8055, Aug. 5, 2004, 118 Stat. 982, provided that:

"(a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

"(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

"(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

"(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

"(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

"(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

"(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

"(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

"(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

"(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–87, title VIII, §8055, Sept. 30, 2003, 117 Stat. 1084.

Pub. L. 107–248, title VIII, §8056, Oct. 23, 2002, 116 Stat. 1549.

Pub. L. 107–117, div. A, title VIII, §8060, Jan. 10, 2002, 115 Stat. 2260.

## ESTABLISHMENT OF MEMORIAL TO VICTIMS OF TERRORIST ATTACK ON PENTAGON RESERVATION AND AUTHORITY TO ACCEPT MONETARY CONTRIBUTIONS FOR MEMORIAL AND REPAIR OF PENTAGON

Pub. L. 107–107, div. B, title XXVIII, §2864, Dec. 28, 2001, 115 Stat. 1333, provided that:

"(a) MEMORIAL AUTHORIZED.—The Secretary of Defense may establish a memorial at the Pentagon Reservation dedicated to the victims of the terrorist attack on the Pentagon that occurred on September 11, 2001. The Secretary shall use necessary amounts in the Pentagon Reservation Maintenance Revolving Fund established by section 2674(e) of title 10, United States Code, including amounts deposited in the Fund under subsection (c), to plan, design, construct, and maintain the memorial.

"(b) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Defense may accept monetary contributions made for the purpose of assisting in—

"(1) the establishment of the memorial to the victims of the terrorist attack; and

"(2) the repair of the damage caused to the Pentagon Reservation by the terrorist attack.

"(c) DEPOSIT OF CONTRIBUTIONS.—The Secretary of Defense shall deposit contributions accepted under subsection (b) in the Pentagon Reservation Maintenance Revolving Fund. The contributions shall be available for expenditure only for the purposes specified in subsection (b)."

## §2675. Leases: foreign countries

(a) LEASE AUTHORITY; DURATION.—The Secretary of a military department may acquire by lease in foreign countries structures and real property relating to structures that are needed for military purposes other than for military family housing. A lease under this section may be for a period of up to 10 years, or 15 years in the case of a lease in Korea, and the rental for each yearly period may be paid from funds appropriated to that military department for that year.

(b) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of interests in land under this section.

(Added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460; amended Pub. L. 91–511, title VI, §608, Oct. 26, 1970, 84 Stat. 1224; Pub. L. 94–107, title VI, §607(10), (11), Oct. 7, 1975, 89 Stat. 567; Pub. L. 95–82, title V, §505(a), Aug. 1, 1977, 91 Stat. 371; Pub. L. 95–356, title V, §503(b), Sept. 8, 1978, 92 Stat. 579; Pub. L. 96–125, title V, §502(b), Nov. 26, 1979, 93 Stat. 940; Pub. L. 96–418, title V, §504(b), Oct. 10, 1980, 94 Stat. 1765; Pub. L. 97–99, title VI, §604, Dec. 23, 1981, 95 Stat. 1374; Pub. L. 97–214, §8, July 12, 1982, 96 Stat. 174; Pub. L. 98–525, title XIV, §1405(40), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 101–510, div. A, title XIII, §1322(a)(11), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 108–136, div. B, title XXVIII, §2804(b), Nov. 24, 2003, 117 Stat. 1719; Pub. L. 108–375, div. B, title XXVIII, §2821(d)(3), Oct. 28, 2004, 118 Stat. 2130; Pub. L. 109–364, div. B, title XXVIII, §2824, Oct. 17, 2006, 120 Stat. 2476.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2675 | 5:171z–3. | Aug. 3, 1956, ch. 939, §417, 70 Stat. 1018. |

The words "that are not located on a military base" are substituted for the words "off-base".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–364 substituted "10 years" for "five years".

**2004**—Pub. L. 108–375 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2003**—Pub. L. 108–136 inserted "or 15 years in the case of a lease in Korea," after "five years,".

**1990**—Pub. L. 101–510 struck out "(a)" before "The Secretary" and struck out subsec. (b) which read as follows: "A lease may not be entered into under this section for structures or related real property in any foreign country if the average estimated annual rental during the term of the lease if more than $250,000 until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives."

**1984**—Subsec. (b). Pub. L. 98–525 substituted "30" for "thirty".

**1982**—Subsec. (a). Pub. L. 97–214, §8(a), substituted provisions that the Secretary of a military department may acquire by lease in foreign countries, structures and real property needed for military purposes other than for military family housing for up to a period of five years with the rental to be paid from funds appropriated to that military department for that year, for former provisions that had allowed such leases including leases for military family housing and in the latter case for a period of up to 10 years.

Subsec. (b). Pub. L. 97–214, §8(b), struck out "or any other provision of law" after "into under this section", and ", family housing facilities," after "for structures".

Subsecs. (c), (d). Pub. L. 97–214, §8(c), struck out subsec. (c) which provided that a statement in a lease that the requirements of this section have been met, or that the lease is not subject to this section is conclusive, and subsec. (d) which related to limitations on expenditures for the rental of family housing in foreign countries and limitations on the number of family housing units which may be leased in a foreign country at any one time.

**1981**—Subsec. (d)(1). Pub. L. 97–99, §604(1), substituted "250" for "150".

Subsec. (d)(2). Pub. L. 97–99, §604(2), substituted "22,000" for "17,000".

**1980**—Subsec. (d)(1). Pub. L. 96–418 substituted "Expenditures for the rental of family housing in foreign countries (including the cost of utilities and maintenance and operation) may not exceed $1,115 per month for any unit" for "The average unit rental for Department of Defense family housing acquired by lease in foreign countries may not exceed $550 per month for the Department, and in no event shall the rental for any one unit exceed $970 per month, including the costs of operation, maintenance, and utilities".

**1979**—Subsec. (d)(1). Pub. L. 96–125, §502(b)(1), substituted "$550" for "$485" and "$970" for "$850".

Subsec. (d)(2). Pub. L. 96–125, §502(b)(2), substituted "17,000" for "18,000".

**1978**—Subsec. (d)(1). Pub. L. 95–356, §503(b)(1), substituted "$485" for "$435" and "$850" for "$760".

Subsec. (d)(2). Pub. L. 95–356, §503(b)(2), substituted "18,000" for "15,000".

**1977**—Subsec. (a). Pub. L. 95–82, §505(a)(1), inserted provisions relating to military family housing facilities and real property related thereto.

Subsec. (b). Pub. L. 95–82, §505(a)(2), inserted "or any other provision of law for structures, family housing facilities, or related real property in any foreign country," after "section".

Subsec. (d). Pub. L. 95–82, §505(a)(3), added subsec. (d).

**1975**—Pub. L. 94–107 struck out reference to structures not on a military base in section catchline, and struck out "that are not located on a military base and" after "structures and real property relating thereto" in subsec. (a).

**1970**—Pub. L. 91–511 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–418, title VI, §608, Oct. 10, 1980, 94 Stat. 1774, provided that: "Titles I, II, III, IV, and V [enacting section 2775 of this title and section 1594h–3 of Title 42, The Public Health and Welfare, amending this section, section 2686 of this title, and sections 1594a–1 and 1594h–2 of Title 42, and repealing provisions set out as a note under section 4593 of this title] shall take effect on October 1, 1980."

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–82, title V, §505(c), Aug. 1, 1977, 91 Stat. 372, provided that: "The amendments made by subsection (a) [amending this section] and the repeal made by subsection (b) [repealing section 507(b) of Pub. L. 93–166, which was not classified to the Code] shall take effect October 1, 1977."

## [§2676. Renumbered §2664]

## [§2677. Repealed. Pub. L. 110–181, div. B, title XXVIII, §2822(b)(1), Jan. 28, 2008, 122 Stat. 544]

Section, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460; amended Pub. L. 87–554, title VI, §607, July 27, 1962, 76 Stat. 242; Pub. L. 92–145, title VII, §707(4), Oct. 27, 1971, 85 Stat. 412; Pub. L. 94–273, §6(3), Apr. 21, 1976, 90 Stat. 377; Pub. L. 97–214, §10(a)(5)(A), (B), July 12, 1982, 96 Stat. 175; Pub. L. 97–375, title I, §104(b), Dec. 21, 1982, 96 Stat. 1819; Pub. L. 98–407, title VIII, §803, Aug. 28, 1984, 98 Stat. 1519; Pub. L. 102–190, div. B, title XXVIII, §2861, Dec. 5, 1991, 105 Stat. 1559; Pub. L. 103–35, title II, §201(c)(9), May 31, 1993, 107 Stat. 98; Pub. L. 107–314, div. A, title X, §1062(a)(12), Dec. 2, 2002, 116 Stat. 2650, related to options on property required for military construction projects.

## §2678. Feral horses and burros: removal from military installations

When feral horses or burros are found on an installation under the jurisdiction of the Secretary of a military department, the Secretary may use helicopters and motorized equipment for their removal.

(Added Pub. L. 101–510, div. A, title XIV, §1481(h)(1), Nov. 5, 1990, 104 Stat. 1708.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9030, Nov. 21, 1989, 103 Stat. 1135, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(h)(3).

A prior section 2678, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460, related to acquisition of mortgaged housing units, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

## §2679. Installation-support services: intergovernmental support agreements

(a) IN GENERAL.—(1) Notwithstanding any other provision of law governing the award of Federal Government contracts for goods and services, the Secretary concerned may enter into an intergovernmental support agreement, on a sole source basis, with a State, local, or tribal government to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.

(2) An intergovernmental support agreement under paragraph (1)—

(A) may be for a term not to exceed ten years; and

(B) may use, for installation-support services provided by a State, local, or tribal government, wage grades normally paid by that State, local, or tribal government.

(3) An intergovernmental support agreement under paragraph (1) may only be used when the Secretary concerned or the State, local, or tribal government, as the case may be, providing the installation-support services already provides such services for its own use.

(4) Any contract for the provision of installation-support services awarded by the Federal Government or a State, local, or tribal government pursuant to an intergovernmental support agreement provided in subsection (a) shall be awarded on a competitive basis.

(b) EFFECT ON FIRST RESPONDER ARRANGEMENTS.—The authority provided by this section and limitations on the use of that authority are not intended to revoke, preclude, or otherwise interfere with existing or proposed mutual-aid agreements relating to police or fire protection services or other similar first responder agreements or arrangements.

(c) AVAILABILITY OF FUNDS.—Funds available to the Secretary concerned for operation and maintenance may be used to pay for such installation-support services. The costs of agreements under this section for any fiscal year may be paid using annual appropriations made available for that year. Funds received by the Secretary as reimbursement for providing installation-support services pursuant to such an agreement shall be credited to the appropriation or account charged with providing installation support.

(d) EFFECT ON OMB CIRCULAR A-76.— The Secretary concerned shall ensure that intergovernmental support agreements authorized by this section are not used to circumvent the requirements of Office of Management and Budget Circular A-76 regarding public-private competitions.

(e) PILOT PROGRAM FOR USE OF COST SAVINGS REALIZED.—(1) Each Secretary concerned shall conduct a pilot program under which the Secretary will make available to the commander of each military installation for which cost savings are realized as a result of an intergovernmental support agreement entered into under this section an amount equal to not less than 25 percent of the amount of such cost savings for that military installation for a fiscal year.

(2) Amounts made available to an installation commander under paragraph (1) shall be used solely to address sustainment restoration and modernization requirements that have been approved by the

major subordinate command or equivalent component.

(3) With respect to each military installation for which amounts are made available to the installation commander under paragraph (1), the Secretary concerned shall certify, not less frequently than annually for each fiscal year of the pilot program, to the congressional defense committees the following:

(A) The name of the installation and the amount of the cost savings achieved at the installation.

(B) The source and type of intergovernmental support agreement that achieved the cost savings.

(C) The amount of the cost savings made available to the installation commander under paragraph (1).

(D) The sustainment restoration and modernization purposes for which the amount made available under paragraph (1) were used.

(4) The authority to conduct the pilot program shall expire September 30, 2030.

(f) DEFINITIONS.—In this section:

(1) The term "installation-support services" means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions. The term does include ordnance disposal.

(2) The term "local government" includes a county, parish, municipality, city, town, township, local public authority, school district, special district, and any agency or instrumentality of a local government.

(3) The term "State" includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, the State of Yap of the Federated States of Micronesia, and the Republic of Palau, and any agency or instrumentality of a State.

(4) The term "intergovernmental support agreement" means a legal instrument reflecting a relationship between the Secretary concerned and a State, local, or tribal government that contains such terms and conditions as the Secretary concerned considers appropriate for the purposes of this section and necessary to protect the interests of the United States.

(Added Pub. L. 112–239, div. A, title III, §331(a), Jan. 2, 2013, 126 Stat. 1696, §2336; renumbered §2679 and amended Pub. L. 113–291, div. A, title III, §351(a), (b), Dec. 19, 2014, 128 Stat. 3346; Pub. L. 114–92, div. A, title X, §1081(a)(9), (b)(1), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115–91, div. B, title XXVIII, §2813, Dec. 12, 2017, 131 Stat. 1849; Pub. L. 115–232, div. A, title X, §1081(a)(26), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116–283, div. B, title XXVIII, §2861(a), Jan. 1, 2021, 134 Stat. 4356; Pub. L. 118–159, div. B, title XXVIII, §2845, Dec. 23, 2024, 138 Stat. 2264; Pub. L. 119–60, div. B, title XXVIII, §§2843–2845, Dec. 18, 2025, 139 Stat. 1318.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2679, added Pub. L. 87–651, title I, §112(c), Sept. 7, 1962, 76 Stat. 511; amended Pub. L. 101–189, div. A, title XVI, §1621(a)(9), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 103–337, div. A, title X, §1070(e)(9), Oct. 5, 1994, 108 Stat. 2859, related to use of space and equipment by representatives of veterans' organizations, prior to repeal by Pub. L. 108–375, div. B, title XXVIII, §2821(c)(2), Oct. 28, 2004, 118 Stat. 2129.

### AMENDMENTS

**2025**—Subsec. (e)(4). Pub. L. 119–60, §2843, substituted "September 30, 2030" for "September 30, 2025".

Subsec. (f)(1). Pub. L. 119–60, §2844, inserted at end "The term does include ordnance disposal."

Subsec. (f)(3). Pub. L. 119–60, §2845, struck out "and" before "United States Virgin Islands" and inserted "the State of Yap of the Federated States of Micronesia, and the Republic of Palau," after "Virgin Islands,".

**2024**—Subsec. (a). Pub. L. 118–159 substituted "State, local, or tribal government" for "State or local government" wherever appearing.

Subsec. (f)(4). Pub. L. 118–159 substituted "State, local, or tribal government" for "State or local government".

**2021**—Subsecs. (e), (f). Pub. L. 116–283 added subsec. (e) and redesignated former subsec. (e) as (f).

**2018**—Subsec. (a)(1). Pub. L. 115–232 substituted "Federal Government" for "Federal government".

**2017**—Subsec. (a)(2)(A). Pub. L. 115–91 substituted "ten years" for "five years".

**2015**—Subsec. (a)(1). Pub. L. 114–92, §1081(a)(9), struck out "with" before ", on a sole source".

Subsec. (a)(4). Pub. L. 114–92, §1081(b)(1), amended directory language of Pub. L. 113–291, §351(b)(1)(C). See 2014 Amendment note below.

**2014**—Pub. L. 113–291, §351(a), renumbered section 2336 of this title as this section and substituted "Installation-support services: intergovernmental support agreement" for "Intergovernmental support agreements with State and local governments" in section catchline.

Subsec. (a)(1). Pub. L. 113–291, §351(b)(1)(A), substituted "Notwithstanding any other provision of law governing the award of Federal government contracts for goods and services, the Secretary concerned" for "The Secretary concerned" and ", on a sole source basis, with a State or local" for "a State or local".

Subsec. (a)(2). Pub. L. 113–291, §351(b)(1)(B), substituted "An" for "Notwithstanding any other provision of law, an" in introductory provisions, redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "may be entered into on a sole-source basis;".

Subsec. (a)(4). Pub. L. 113–291, §351(b)(1)(C), as amended by Pub. L. 114–92, §1081(b)(1), added par. (4).

Subsec. (e)(4). Pub. L. 113–291, §351(b)(2), added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(1) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

### REVIEW OF AGREEMENTS WITH NON-DEPARTMENT ENTITIES WITH RESPECT TO PREVENTION AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM

Pub. L. 117–81, div. A, title III, §346, Dec. 27, 2021, 135 Stat. 1647, provided that:

"(a) REVIEW REQUIRED.—Not later than 180 days of [sic] after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall complete a review of mutual support agreements entered into with non-Department of Defense entities (including State and local entities) that involve fire suppression activities in support of missions of the Department.

"(b) MATTERS.—The review under subsection (a) shall assess, with respect to the agreements specified in such subsection, the following:

"(1) The preventative maintenance guidelines specified in such agreements for fire trucks and fire suppression systems, to mitigate the risk of equipment failure that may result in a spill of aqueous film-forming foam (in this section referred to as 'AFFF').

"(2) Any requirements specified in such agreements for the use of personal protective equipment by personnel when conducting a material transfer or maintenance activity pursuant to the agreement that may result in a spill of AFFF, or when conducting remediation activities for such a spill, including requirements for side-shield safety glasses, latex gloves, and respiratory protection equipment.

"(3) The methods by which the Secretary, or the non-Department entity with which the Secretary has entered into the agreement, ensures compliance with guidance specified in the agreement with respect to the use of such personal protective equipment.

"(c) GUIDANCE.—Not later than 90 days after the date on which the Secretary completes the review under subsection (a), the Secretary shall issue guidance (based on the results of such review) on requirements to include under the agreements specified in such subsection, to ensure the prevention and mitigation of spills of AFFF. Such guidance shall include, at a minimum, best practices and recommended requirements to ensure the following:

"(1) The supervision by personnel trained in responding to spills of AFFF of each material transfer or maintenance activity carried out pursuant to such an agreement that may result in such a spill.

"(2) The use of containment berms and the covering of storm drains and catch basins by personnel performing maintenance activities pursuant to such an agreement in the vicinity of such drains or basins.

"(3) The storage of materials for the cleanup and containment of AFFF in close proximity to fire suppression systems in buildings of the Department and the presence of such materials during any transfer

or activity specified in paragraph (1).

"(d) BRIEFING.—Not later than 30 days after the date on which the Secretary issues the guidance under subsection (c), the Secretary shall provide to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a briefing that summarizes the results of the review conducted under subsection (a) and the guidance issued under subsection (c)."

**NOTIFICATION OF CERTAIN INTERGOVERNMENTAL SUPPORT AGREEMENTS**

Pub. L. 117–81, div. A, title VIII, §876, Dec. 27, 2021, 135 Stat. 1865, provided that:

"(a) NOTIFICATION REQUIRED.—During fiscal years 2022 and 2023, not less than 60 days before entering into an intergovernmental support agreement under section 2679 of title 10, United States Code, that is an exception to the requirements of chapter 85 of title 41, United States Code, the Secretary concerned shall submit, in writing, to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report including the following relating to such agreement:

"(1) The circumstances that resulted in the need to enter into an intergovernmental support agreement that included such exception.

"(2) The anticipated benefits of entering into such agreement that included such exception.

"(3) The anticipated impact on persons covered under such chapter 85 because of such exception.

"(4) The extent to which such agreement complies with applicable policies, directives, or other guidance of the Department of Defense.

"(b) RECOMMENDATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees, along with the budget request materials for fiscal year 2023, specific recommendations for modifications to the legislative text of subsection (a)(1) of section 2679 of title 10, United States Code, along with a rationale for any such modifications, to identify specific provisions of Federal contracting law appropriate for waiver or exemption to ensure effective use of intergovernmental support agreements under such section.

"(2) BUDGET REQUEST MATERIALS DEFINED.—In this subsection, the term 'budget request materials' means the materials submitted to Congress by the President under section 1105(a) of title 31, United States Code.

"(c) BRIEFING REQUIRED.—Not later than 6 months after the date of enactment of this Act [Dec. 27, 2021] the Secretary of Defense shall provide to the congressional defense committees a briefing on activities taken to carry out the requirements of this section.

"(d) POLICY REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall issue guidance to clarify the use of the authority under section 2679 of title 10, United States Code, including with respect to—

"(1) the application of other requirements of acquisition law and policy; and

"(2) chapter 85 of title 41, United States Code.

"(e) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army, with respect to matters concerning the Army;

"(2) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

"(3) the Secretary of the Air Force, with respect to matters concerning the Air Force and the Space Force."

**PROMULGATION OF GUIDANCE**

Pub. L. 116–283, div. B, title XXVIII, §2861(b), Jan. 1, 2021, 134 Stat. 4357, provided that: "Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall promulgate guidance for the development of the pilot program required by subsection (e) of section 2679 of title 10, United States Code, as added by subsection (a)."

## §2680. Minimum capital investment for facilities sustainment, restoration, and modernization for military departments

(a) MINIMUM INVESTMENT.—Beginning in fiscal year 2027, and each fiscal year thereafter, each Secretary of a military department shall—

(1) calculate (in accordance with subsection (b)) the cumulative plant replacement value of the

total inventory of covered facilities on each military installation under the jurisdiction of the Secretary concerned; and

(2) invest in the budget for facilities sustainment, restoration, and modernization of that military department, a total amount equal to not less than the percentage specified in subsection (c) of the cumulative plant replacement value described in paragraph (1).

(b) EXCLUSION.—In making any calculation pursuant to paragraph (1) of subsection (a), each Secretary of a military department shall exclude any covered facility under the jurisdiction of such Secretary that is scheduled for demolition during the two-year period beginning after the date of such calculation.

(c) PERCENTAGE SPECIFIED.—The percentage of the specified in this subsection is—

(1) for fiscal year 2027, 1.75 percent;

(2) for fiscal year 2028, 2.5 percent;

(3) for fiscal year 2029, 3.25 percent; and

(4) for fiscal year 2030 and each subsequent fiscal year, 4 percent.

(d) CERTIFICATION.—As part of the annual budget submission of the President under section 1105(a) of title 31, each Secretary of each military department shall include—

(1) a certification to the congressional defense committees that the military department is in compliance with this section; and

(2) a list of covered facilities under the jurisdiction of that Secretary, disaggregated by military installation and location, that are scheduled for demolition during the two-year period beginning after the date of the submission of such budget, which shall include cost and schedule estimates.

(e) DEFINITIONS.—In this section:

(1) The term "covered facility" means a facility (as defined in section 2801 of this title), except that such term does not include—

(A) a facility identified as closed, disposed of, or scheduled for divestment from the inventory of the Department of Defense;

(B) a facility in which the Department does not have a total ownership interest, including—

(i) a facility leased by the Department; and

(ii) a facility in which the Department has a lesser property interest under a governing legal instrument; or

(C) a facility for which the Department uses—

(i) nonappropriated funds; or

(ii) amounts appropriated or otherwise made available for military family housing.

(2) The term "plant replacement value" means, with respect to a covered facility, the cost to replace the covered facility using amounts appropriated for facilities sustainment, restoration, and modernization from the following accounts:

(A) Operation and maintenance.

(B) Military construction.

(C) Research, development, test, and evaluation.

(D) Working capital funds.

(Added Pub. L. 118–159, div. B, title XXVIII, §2841(a), Dec. 23, 2024, 138 Stat. 2262; amended Pub. L. 119–60, div. B, title XXVIII, §2841, Dec. 18, 2025, 139 Stat. 1316.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2680, added Pub. L. 102–190, div. B, title XXVIII, §2863(a)(1), Dec. 5, 1991, 105 Stat. 1560; amended Pub. L. 103–160, div. B, title XXVIII, §2807(a), Nov. 30, 1993, 107 Stat. 1887; Pub. L.

104–106, div. B, title XXVIII, §2820(a), (b), Feb. 10, 1996, 110 Stat. 556; Pub. L. 106–65, div. A, title X, §1067(1), div. B, title XXVIII, §2811, Oct. 5, 1999, 113 Stat. 774, 851; Pub. L. 107–314, div. A, title X, §1062(a)(13), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–136, div. A, title X, §1031(a)(31), Nov. 24, 2003, 117 Stat. 1600, related to leases of land for special operations activities, prior to repeal by Pub. L. 111–383, div. B, title XXVIII, §2814(a), Jan. 7, 2011, 124 Stat. 4464.

Another prior section 2680, added Pub. L. 87–651, title I, §112(c), Sept. 7, 1962, 76 Stat. 511; amended Pub. L. 89–718, §20, Nov. 2, 1966, 80 Stat. 1118, authorized reimbursement of moving expenses to owners of property acquired for public works projects, prior to repeal by Pub. L. 91–646, title II, §220(a)(3), Jan. 2, 1971, 84 Stat. 1903. See section 4601 et seq. of Title 42, The Public Health and Welfare.

**AMENDMENTS**

**2025**—Subsec. (a)(1). Pub. L. 119–60, §2841(1), substituted "total inventory of covered facilities" for "total inventory of facilities".

Subsec. (b). Pub. L. 119–60, §2841(2), substituted "covered facility" for "facility".

Subsec. (d)(2). Pub. L. 119–60, §2841(3), substituted "covered facilities" for "facilities".

Subsec. (e). Pub. L. 119–60, §2841(4), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "In this section, the term 'plant replacement value' means, with respect to a facility, the cost to replace such facility using construction costs (including labor and materials) and standards (including methodologies and codes) in effect as of the date such cost is calculated."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECT OF REPEAL**

Pub. L. 111–383, div. B, title XXVIII, §2814(b), Jan. 7, 2011, 124 Stat. 4464, provided that: "The amendment made by subsection (a) [repealing former section 2680 of this title] shall not affect the validity of any contract entered into under section 2680 of title 10, United States Code, on or before September 30, 2005."

## §2681. Renumbered §4175]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2681, added Pub. L. 87–651, title II, §209(a), Sept. 7, 1962, 76 Stat. 523; amended Pub. L. 88–174, title V, §508, Nov. 7, 1963, 77 Stat. 326; Pub. L. 96–513, title V, §511(93), Dec. 12, 1980, 94 Stat. 2928, related to construction or acquisition of family housing and community facilities in foreign countries, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

## §2682. Facilities for defense agencies

(a) MAINTENANCE AND REPAIR.—Subject to subsection (c), the maintenance and repair of a real property facility for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense will be accomplished by or through a military department designated by the Secretary of Defense.

(b) JURISDICTION.—Subject to subsection (c), a real property facility under the jurisdiction of the Department of Defense which is used by an activity or agency of the Department of Defense (other than a military department) shall be under the jurisdiction of a military department designated by the Secretary of Defense.

(c) FACILITIES FOR INTELLIGENCE COLLECTION OR FOR SPECIAL OPERATIONS ABROAD.—(1) The Secretary of Defense may waive the requirements of subsections (a) and (b) if necessary to provide security for authorized intelligence collection or special operations activities

abroad undertaken by the Department of Defense.

(2) Not later than 48 hours after using the waiver authority under paragraph (1) for any facility for intelligence collection conducted under the authorities of the Department of Defense or special operations activity, the Secretary of Defense shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate congressional committees a notice of the use of the authority, including the justification for the waiver and the estimated cost of the project for which the waiver applies.

(3) In this subsection, the term "appropriate congressional committees" means the following:

(A) With respect to a waiver regarding special operations activities, the congressional defense committees.

(B) With respect to a waiver regarding intelligence collection conducted under the authorities of the Department of Defense—

(i) the congressional defense committees; and

(ii) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(4) The waiver authority provided by paragraph (1) expires December 31, 2020.

(Added Pub. L. 88–174, title VI, §609(a)(1), Nov. 7, 1963, 77 Stat. 329; amended Pub. L. 97–214, §10(a)(7), July 12, 1982, 96 Stat. 175; Pub. L. 112–81, div. A, title IX, §926, Dec. 31, 2011, 125 Stat. 1541; Pub. L. 114–92, div. A, title XVI, §1632, Nov. 25, 2015, 129 Stat. 1111; Pub. L. 115–91, div. B, title XXVIII, §2811(f), Dec. 12, 2017, 131 Stat. 1848.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (c)(2). Pub. L. 115–91 substituted ", in an electronic medium pursuant to section 480 of this title, to the appropriate congressional committees a notice" for "to the appropriate congressional committees written notification".

**2015**—Subsecs. (a), (b). Pub. L. 114–92, §1632(b)(2), repealed Pub. L. 112–81, §926(b). See 2011 Amendment notes below.

Subsec. (c). Pub. L. 114–92, §1632(b)(2), repealed Pub. L. 112–81, §926(b). See 2011 Amendment note below.

Pub. L. 114–92, §1632(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c)(4). Pub. L. 114–92, §1632(b)(1), added par. (4).

**2011**—Pub. L. 112–81, §926(a)(1), (2), designated first and second sentences as subsecs. (a) and (b), respectively, inserted headings, and realigned margins of subsec. (b).

Subsec. (a). Pub. L. 112–81, §926(b)(1), which directed the substitution of "The maintenance and repair" for "Subject to subsection (c), the maintenance and repair", subject to effective date set out in Effective Date of 2011 Amendment note below, was repealed by Pub. L. 114–92, §1632(b)(2).

Pub. L. 112–81, §926(a)(1), substituted "Subject to subsection (c), the maintenance and repair" for "The maintenance and repair".

Subsec. (b). Pub. L. 112–81, §926(b)(2), which directed the substitution of "A real property" for "Subject to subsection (c), a real property", subject to effective date set out in Effective Date of 2011 Amendment note below, was repealed by Pub. L. 114–92, §1632(b)(2).

Pub. L. 112–81, §926(a)(3), substituted "Subject to subsection (c), a real property" for "A real property".

Subsec. (c). Pub. L. 112–81, §926(b)(3), which directed the striking out of subsec. (c), subject to effective date set out in Effective Date of 2011 Amendment note below, was repealed by Pub. L. 114–92, §1632(b)(2).

Pub. L. 112–81, §926(a)(4), added subsec. (c).

**1982**—Pub. L. 97–214 substituted "maintenance and repair" for "construction, maintenance, rehabilitation, repair, alteration, addition, expansion, or extension".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title IX, §926(b), Dec. 31, 2011, 125 Stat. 1541, as amended by Pub. L. 113–291,

div. A, title XVI, §1624, Dec. 19, 2014, 128 Stat. 3633, which provided in part that the amendments made to this section by section 926(b) were to be effective on the later of Sept. 30, 2017, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2018, was repealed by Pub. L. 114–92, div. A, title XVI, §1632(b)(2), Nov. 25, 2015, 129 Stat. 1112.

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §2683. Relinquishment of legislative jurisdiction; minimum drinking age on military installations

(a) Notwithstanding any other provision of law, the Secretary concerned may, whenever he considers it desirable, relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State, Commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

(b) The authority granted by subsection (a) is in addition to and not instead of that granted by any other provision of law.

(c)(1) Except as provided in paragraphs (2) and (3), the Secretary concerned shall establish and enforce as the minimum drinking age on a military installation located in a State the age established by the law of that State as the State minimum drinking age.

(2)(A) In the case of a military installation located—

(i) in more than one State; or

(ii) in one State but within 50 miles of another State or Mexico or Canada,

the Secretary concerned may establish and enforce as the minimum drinking age on that military installation the lowest applicable age.

(B) In subparagraph (A), the term "lowest applicable age" means the lowest minimum drinking age established by the law—

(i) of a State in which a military installation is located; or

(ii) of a State or jurisdiction of Mexico or Canada that is within 50 miles of such military installation.

(3)(A) The commanding officer of a military installation may waive the requirement of paragraph (1) if such commanding officer determines that the exemption is justified by special circumstances.

(B) The Secretary of Defense shall define by regulations what constitute special circumstances for the purposes of this paragraph.

(4) In this subsection:

(A) The term "State" includes the District of Columbia.

(B) The term "minimum drinking age" means the minimum age or ages established for persons who may purchase, possess, or consume alcoholic beverages.

(Added Pub. L. 91–511, title VI, §613(1), Oct. 26, 1970, 84 Stat. 1226; amended Pub. L. 92–545, title VIII, §707, Oct. 25, 1972, 86 Stat. 1154; Pub. L. 93–283, §3, May 14, 1974, 88 Stat. 141; Pub. L. 99–145, title XII, §1224(a), (b)(1), (c)(1), Nov. 8, 1985, 99 Stat. 728, 729; Pub. L. 99–661, div. A, title XIII, §1343(a)(18), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–526, title I, §106(b)(2), Oct. 24, 1988, 102 Stat. 2625.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1988**—Subsec. (c)(2)(B). Pub. L. 100–526, §106(b)(2)(A), substituted "the term 'lowest applicable age' " for " 'lowest age' ".

Subsec. (c)(4)(A). Pub. L. 100–526, §106(b)(2)(B)(i), substituted "The term 'State' " for " 'State' ".

Subsec. (c)(4)(B). Pub. L. 100–526, §106(b)(2)(B)(ii), substituted "The term 'minimum' " for " 'Minimum' ".

**1986**—Subsec. (b). Pub. L. 99–661 struck out "this" before "subsection (a)".

**1985**—Pub. L. 99–145, §1224(c)(1), inserted "; minimum drinking age on military installations" in section catchline.

Subsec. (b). Pub. L. 99–145, §1224(b)(1), substituted "subsection (a)" for "section".

Subsec. (c). Pub. L. 99–145, §1224(a), added subsec. (c).

**1974**—Subsec. (a). Pub. L. 93–283 substituted "Secretary concerned" for "Secretary of a military department".

**1972**—Subsec. (a). Pub. L. 92–545 provided for relinquishment of all or part of legislative jurisdiction of the United States over lands or interests to Commonwealths, territories, or possessions of the United States.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title XII, §1224(d), Nov. 8, 1985, 99 Stat. 729, provided that: "The amendments made by this section [amending this section and provisions set out as a note under section 113 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov. 8, 1985]."

## §2684. Cooperative agreements for management of cultural resources

(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may enter into a cooperative agreement with a State or local government or other entity for the preservation, management, maintenance, and improvement of cultural resources located on a site authorized by subsection (b) and for the conduct of research regarding the cultural resources. Activities under the cooperative agreement shall be subject to the availability of funds to carry out the cooperative agreement.

(b) AUTHORIZED CULTURAL RESOURCES SITES.—To be covered by a cooperative agreement under subsection (a), cultural resources must be located—

(1) on a military installation; or

(2) on a site outside of a military installation, but only if the cooperative agreement will directly relieve or eliminate current or anticipated restrictions that would or might restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on a military installation.

(c) APPLICATION OF OTHER LAWS.—Section 1535 and chapter 63 of title 31 shall not apply to a cooperative agreement entered into under this section.

(d) CULTURAL RESOURCE DEFINED.—In this section, the term "cultural resource" means any of the following:

(1) A building, structure, site, district, or object eligible for or included in the National Register of Historic Places maintained under section 302101 of title 54.

(2) Cultural items, as that term is defined in section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)).

(3) An archaeological resource, as that term is defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)).

(4) An archaeological artifact collection and associated records covered by section 79 of title 36, Code of Federal Regulations.

(5) An Indian sacred site, as defined in section 1(b)(iii) of Executive Order No. 13007.

(Added Pub. L. 104–201, div. B, title XXVIII, §2862(a), Sept. 23, 1996, 110 Stat. 2804; amended

Pub. L. 105–85, div. A, title X, §1073(a)(58), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 110–181, div. B, title XXVIII, §2824, Jan. 28, 2008, 122 Stat. 545; Pub. L. 113–287, §5(b), Dec. 19, 2014, 128 Stat. 3264; Pub. L. 114–92, div. A, title X, §1081(a)(10), Nov. 25, 2015, 129 Stat. 1001.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order No. 13007, referred to in subsec. (d)(5), is set out under section 1996 of Title 42, The Public Health and Welfare.

**PRIOR PROVISIONS**

A prior section 2684, added Pub. L. 93–166, title V, §509(a), Nov. 29, 1973, 87 Stat. 677, related to construction of family quarters and limitations on space, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2826 of this title.

**AMENDMENTS**

**2015**—Subsec. (d)(1). Pub. L. 114–92 substituted "section 302101 of title 54" for "section 2023.01 of title 54".

**2014**—Subsec. (d)(1). Pub. L. 113–287, which directed the substitution of "section 2023.01 of title 54" for "section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a))" in subsec. (c)(1), was executed by making the substitution in subsec. (d)(1) to reflect the probable intent of Congress and the prior redesignation of subsec. (c) as (d) by Pub. L. 110–181, §2824(a)(2). See 2008 Amendment note below.

**2008**—Subsec. (a). Pub. L. 110–181, §2824(a)(1), substituted "located on a site authorized by subsection (b)" for "on military installations".

Subsecs. (b) to (d). Pub. L. 110–181, §2824(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d)(5). Pub. L. 110–181, §2824(b), added par. (5).

**1997**—Subsec. (b). Pub. L. 105–85 struck out ", United States Code," after "title 31".

## §2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity or entities described in subsection (b) to address the use or development of real property in the vicinity of, or ecologically related to, a military installation, as well as a State-owned National Guard installation, or military airspace for purposes of—

(1) limiting any development or use of the property that would be incompatible with the mission of the installation;

(2) preserving habitat on the property in a manner that—

(A) is compatible with environmental requirements; and

(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation;

(3) maintaining or improving military installation resilience; or

(4) protecting Clear Zone Areas from use or encroachment that is incompatible with the mission of the installation.

(b) ELIGIBLE ENTITIES.—For purposes of this section, an eligible entity is any of the following:

(1) A State or political subdivision of a State.

(2) A private entity that has as its stated principal organizational purpose or goal the

conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

(c) AUTHORITY TO COORDINATE.—(1) In entering into an agreement under subsection (a) or undertaking a project under such agreement, the Secretary of Defense or the Secretary of a military department, as the case may be, may coordinate with any other covered official with an interest in the activities proposed to be undertaken under such agreement.

(2) In this subsection, the term "covered official" means a Secretary concerned, the Director of the Army National Guard, or the Director of the Air National Guard.

(d) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding chapter 63 of title 31, an agreement under this section that is a cooperative agreement or a grant may be used to acquire property or services for the direct benefit or use of the United States Government.

(e) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.—(1) An agreement with an eligible entity or entities under this section shall provide for—

(A) the acquisition by an eligible entity or entities of all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and

(B) the sharing by the United States and an eligible entity or entities of the acquisition costs in accordance with paragraph (3).

(2) Property or interests may not be acquired pursuant to the agreement unless the owner of the property or interests consents to the acquisition.

(3) An agreement with an eligible entity under this section may provide for the management of natural resources on, and the monitoring and enforcement of any right, title, real property in which the Secretary concerned acquires any right, title, or interest in accordance with this subsection and for the payment by the United States of all or a portion of the costs of such natural resource management and monitoring and enforcement if the Secretary concerned determines that there is a demonstrated need to preserve or restore habitat for the purpose described in subsection (a)(2). Any such payment by the United States—

(A) may be paid in a lump sum and include an amount intended to cover the future costs of natural resource management and monitoring and enforcement; and

(B) may be placed by the eligible entity in an interest-bearing account, and any interest shall be applied for the same purposes as the principal.

(4)(A) The Secretary concerned shall determine the appropriate portion of the acquisition costs to be borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B).

(B) In lieu of or in addition to making a monetary contribution toward the cost of acquiring a parcel of real property, or an interest therein, pursuant to an agreement under this section, the Secretary concerned may convey, using the authority provided by section 2869 of this title, real property described in paragraph (2) of subsection (a) of such section, subject to the limitation in paragraph (3) of such subsection.

(C) The portion of acquisition costs borne by the United States under subparagraph (A), either through the contribution of funds or excess real property, or both, may not exceed an amount equal to, at the discretion of the Secretary concerned—

(i) the fair market value of any property or interest in property to be transferred to the United States upon the request of the Secretary concerned under paragraph (5); or

(ii) the cumulative fair market value of all properties or interests to be transferred to the United States under paragraph (5) pursuant to an agreement under subsection (a).

(D) The portion of acquisition costs borne by the United States under subparagraph (A) may exceed the amount determined under subparagraph (C), but only if—

(i) the Secretary concerned submits, in an electronic medium pursuant to section 480 of this

title, a notice to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives containing—

(I) a certification by the Secretary that the military value to the United States of the property or interest to be acquired justifies a payment in excess of the fair market value of the property or interest; and

(II) a description of the military value to be obtained; and

(ii) the contribution toward the acquisition costs of the property or interest is not made until at least 10 days after the date on which the notice is submitted under clause (i).

(E) The contribution of an entity or entities to the acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may include, with the approval of the Secretary concerned, the following or any combination of the following:

(i) The provision of funds, including funds received by such entity or entities from a Federal agency outside the Department of Defense or a State or local government in connection with a Federal, State, or local program.

(ii) The provision of in-kind services, including services related to the acquisition or maintenance of such real property or interest in real property.

(iii) The exchange or donation of real property or any interest in real property.

(5)(A) The agreement shall require the entity or entities to transfer to the United States, upon the request of the Secretary concerned, all or a portion of the property or interest acquired under the agreement or a lesser interest therein. No such requirement need be included in the agreement if the property or interest is being transferred to a State or another Federal agency, or the agreement requires it to be subsequently transferred to a State or another Federal agency, and the Secretary concerned determines that the laws and regulations applicable to the future use of such property or interest provide adequate assurance that the property concerned will be developed and used in a manner appropriate for purposes of this section. The Secretary shall limit such transfer request to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

(B) Notwithstanding subparagraph (A), if all or a portion of the property or interest acquired under the agreement is initially or subsequently transferred to a State or another Federal agency, before that State or other Federal agency may declare the property or interest in excess to its needs or propose to exchange the property or interest, the State or other Federal agency shall give the Secretary concerned reasonable advance notice of its intent. If the Secretary concerned determines it necessary to preserve the purposes of this section, the Secretary concerned may request that administrative jurisdiction over the property be transferred to the Secretary concerned at no cost, and, upon such a request being made, the administrative jurisdiction over the property shall be transferred accordingly. If the Secretary concerned does not make such a request within a reasonable time period, all such rights of the Secretary concerned to request transfer of the property or interest shall remain available to the Secretary concerned with respect to future transfers or exchanges of the property or interest and shall bind all subsequent transferees.

(6) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under the agreement.

(7) For purposes of the acceptance of property or interests under the agreement, the Secretary concerned may accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 3111 of title 40, if the Secretary concerned finds that the appraisal or title documents substantially comply with the requirements.

(f) ACQUISITION OF WATER RIGHTS.—The authority of the Secretary concerned to enter into an agreement under this section for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to

support or protect the mission of a military installation.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

(h) ANNUAL REPORTS.—(1) Not later than March 1 each year, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.

(2) Each report under paragraph (1) shall include the following:

(A) A description of the status of the projects undertaken under agreements under this section.

(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.

(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.

(D) A description of any sharing of costs by the United States and eligible entities under subsection (e) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.

(E) Information concerning the activities undertaken pursuant to the Sentinel Landscapes Partnership under section 2693 of this title.

(F) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.

(i) INTERAGENCY COOPERATION IN CONSERVATION AND RESILIENCE PROGRAMS TO AVOID OR REDUCE ADVERSE IMPACTS ON MILITARY INSTALLATION RESILIENCE AND MILITARY READINESS ACTIVITIES.—In order to facilitate interagency cooperation and enhance the effectiveness of actions that will protect the environment, military installation resilience, and military readiness, the recipient of funds provided pursuant to an agreement under this section or under the Sikes Act (16 U.S.C. 670 et seq.) may, with regard to the lands and waters within the scope of the agreement, use such funds to satisfy any matching funds or cost-sharing requirement of any conservation or resilience program of any Federal agency notwithstanding any limitation of such program on the source of matching or cost-sharing funds.

(j) FUNDING.—(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, Space Force, or Defense-wide activities may be used to enter into agreements under this section.

(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, Space Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.

(3) Funds obligated to carry out an agreement under this section shall be available for use with regard to any property in the geographic scope specified in the agreement—

(A) at the time the funds are obligated; and

(B) in any subsequent modification to the agreement.

(k) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" means the Secretary of Defense or the Secretary of a military department.

(2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

(3) The term "Clear Zone Area" means an area immediately beyond the end of the runway of an airfield that is needed to ensure the safe and unrestricted passage of aircraft in and over the area.

(Added Pub. L. 107–314, div. B, title XXVIII, §2811(a), Dec. 2, 2002, 116 Stat. 2705; amended Pub. L. 109–163, div. B, title XXVIII, §2822, Jan. 6, 2006, 119 Stat. 3513; Pub. L. 109–364, div. B, title XXVIII, §2811(g), Oct. 17, 2006, 120 Stat. 2473; Pub. L. 110–181, div. B, title XXVIII, §2825, Jan. 28, 2008, 122 Stat. 545; Pub. L. 111–84, div. A, title X, §1073(a)(27), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title X, §1075(b)(43), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–81, div. B, title XXVIII, §2813, Dec. 31, 2011, 125 Stat. 1687; Pub. L. 113–66, div. A, title III, §312(a), Dec. 26, 2013, 127 Stat. 729; Pub. L. 113–291, div. A, title X, §1071(f)(23), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. B, title XXVIII, §2811(g), Dec. 12, 2017, 131 Stat. 1848; Pub. L. 115–232, div. A, title III, §312(i), div. B, title XXVIII, §2827(b)(1), Aug. 13, 2018, 132 Stat. 1711, 2270; Pub. L. 116–283, div. A, title III, §§312(a)–(b)(2), (c), 315(b), title IX, §924(b)(33), title X, §1081(d)(12), Jan. 1, 2021, 134 Stat. 3513–3515, 3826, 3874; Pub. L. 117–81, div. A, title III, §317(b), Dec. 27, 2021, 135 Stat. 1631; Pub. L. 118–31, div. A, title III, §§311(c)(1), 314, Dec. 22, 2023, 137 Stat. 215, 216.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Sikes Act, referred to in subsec. (i), is Pub. L. 86–797, Sept. 15, 1960, 74 Stat. 1052, which is classified generally to chapter 5C (§670 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 670 of Title 16 and Tables.

### AMENDMENTS

**2023**—Subsecs. (c) to (f). Pub. L. 118–31, §314(1), (2), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 118–31, §314(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2)(E). Pub. L. 118–31, §311(c)(1), substituted "Sentinel Landscapes Partnership under section 2693 of this title" for "Sentinel Landscapes Partnership established under section 317 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2684a note)".

Subsec. (h). Pub. L. 118–31, §314(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2)(D). Pub. L. 118–31, §314(3), substituted "subsection (e)" for "subsection (d)".

Subsecs. (i) to (k). Pub. L. 118–31, §314(1), redesignated subsecs. (h) to (j) as (i) to (k), respectively.

**2021**—Subsec. (a). Pub. L. 116–283, §1081(d)(12), made technical amendment to directory language of Pub. L. 115–232, §2827(b)(1). See 2018 Amendment note below.

Subsec. (a)(2)(B). Pub. L. 116–283, §315(b)(1)(A), struck out cl. (i) designation after "(B)" and "or" after "the installation;" and struck out cl. (ii) which read as follows: "maintains or improves military installation resilience; or".

Subsec. (a)(3), (4). Pub. L. 116–283, §315(b)(1)(B), (C), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b). Pub. L. 116–283, §312(b)(1), substituted "For purposes of this section, an eligible entity is" for "An agreement under this section may be entered into with" in introductory provisions.

Subsec. (d)(1). Pub. L. 116–283, §312(b)(2), substituted "an eligible entity or entities" for "the entity or entities" in two places.

Subsec. (d)(5)(A). Pub. L. 116–283, §312(c)(1), inserted "or another Federal agency" after "to a State" in two places.

Subsec. (d)(5)(B). Pub. L. 116–283, §312(c)(2), added subpar. (B) and struck out former subpar. (B) which related to property or interest acquired under an agreement transferred to the United States where administrative jurisdiction over the property was under a Federal official other than a Secretary concerned.

Subsec. (g)(2)(E), (F). Pub. L. 117–81 added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (h). Pub. L. 116–283, §315(b)(2), amended subsec. (h) generally. Prior to amendment, subsec. (h) related to interagency cooperation in conservation programs to avoid or reduce adverse impacts on military readiness activities.

Subsec. (i)(1), (2). Pub. L. 116–283, §924(b)(33), inserted "Space Force," before "or Defense-wide activities".

Subsec. (i)(3). Pub. L. 116–283, §312(a), added par. (3).

**2018**—Subsec. (a). Pub. L. 115–232, §2827(b)(1), as amended by Pub. L. 116–283, §1081(d)(12), inserted ", as well as a State-owned National Guard installation," after "military installation" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 115–232, §312(i), designated existing provisions as cl. (i) and added cl. (ii).

**2017**—Subsec. (d)(4)(D)(i). Pub. L. 115–91, §2811(g)(1), substituted "submits, in an electronic medium pursuant to section 480 of this title, a notice" for "provides written notice" in introductory provisions.

Subsec. (d)(4)(D)(ii). Pub. L. 115–91, §2811(g)(2), substituted "10 days after the date on which the notice is submitted under clause (i)." for "14 days after the date on which the notice is submitted under clause (i) or, if earlier, at least 10 days after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title."

**2014**—Subsec. (h). Pub. L. 113–291 inserted "670" after "U.S.C.".

**2013**—Subsecs. (h) to (j). Pub. L. 113–66 added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

**2011**—Subsec. (a)(3). Pub. L. 112–81, §2813(1), added par. (3).

Subsec. (c). Pub. L. 112–81, §2813(2), amended subsec. (c) generally. Prior to amendment, text read as follows: "Chapter 63 of title 31 shall not apply to any agreement entered into under this section."

Subsec. (d)(3). Pub. L. 112–81, §2813(3)(A), inserted ", and the monitoring and enforcement of any right, title, or interest in," after "resources on" and "and monitoring and enforcement" after "natural resource management", and inserted at end "Any such payment by the United States—

"(A) may be paid in a lump sum and include an amount intended to cover the future costs of natural resource management and monitoring and enforcement; and

"(B) may be placed by the eligible entity in an interest-bearing account, and any interest shall be applied for the same purposes as the principal."

Subsec. (d)(5). Pub. L. 112–81, §2813(3)(B), designated existing provisions as subpar. (A), inserted after first sentence "No such requirement need be included in the agreement if the property or interest is being transferred to a State, or the agreement requires it to be subsequently transferred to a State, and the Secretary concerned determines that the laws and regulations applicable to the future use of such property or interest provide adequate assurance that the property concerned will be developed and used in a manner appropriate for purposes of this section.", and added subpar. (B).

Subsec. (g)(1). Pub. L. 111–383 substituted "March 1 each year" for "March 1, 2007, and annually thereafter".

Subsec. (i)(3). Pub. L. 112–81, §2813(4), added par. (3).

**2009**—Subsec. (g)(2). Pub. L. 111–84 substituted "the following" for "the following the following" in introductory provisions.

**2008**—Subsec. (d)(3), (4). Pub. L. 110–181, §2825(a), added par. (3) and redesignated former par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (d)(4)(C). Pub. L. 110–181, §2825(b)(2), substituted "equal to, at the discretion of the Secretary concerned—" and cls. (i) and (ii) for "equal to the fair market value of any property or interest to be transferred to the United States upon the request of the Secretary concerned under paragraph (4)."

Subsec. (d)(4)(D), (E). Pub. L. 110–181, §2825(b)(1), (3), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (d)(5) to (7). Pub. L. 110–181, §2825(a)(1), redesignated pars. (4) to (6) as (5) to (7), respectively.

**2006**—Subsec. (a). Pub. L. 109–163, §2822(a)(1), in introductory provisions, inserted "or entities" after "entity" and substituted "in the vicinity of, or ecologically related to, a military installation or military airspace" for "in the vicinity of a military installation".

Subsec. (d)(1). Pub. L. 109–163, §2822(a)(2)(A)(i), (b)(1)(A), inserted "or entities" after "eligible entity" and substituted "shall provide" for "may provide" in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 109–163, §2822(a)(2)(A)(ii), inserted "or entities" after "the entity".

Subsec. (d)(1)(B). Pub. L. 109–163, §2822(b)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "the sharing by the United States and the entity of the acquisition costs."

Subsec. (d)(3). Pub. L. 109–364 added subpar. (B), redesignated former subpars. (B) and (C) as (C) and (D), respectively, and in subpar. (C) substituted "under subparagraph (A), either through the contribution of funds or excess real property, or both," for "in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B)".

Pub. L. 109–163, §2822(b)(3), added par. (3). Former par. (3) redesignated (4).

Pub. L. 109–163, §2822(a)(2)(B), inserted "or entities" after "the entity".

Subsec. (d)(4) to (6). Pub. L. 109–163, §2822(b)(2), redesignated pars. (3) to (5) as (4) to (6), respectively.

Subsecs. (g) to (i). Pub. L. 109–163, §2822(c), added subsec. (g) and redesignated former subsecs. (g) and

(h) as (h) and (i), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title III, §312(b)(3), Jan. 1, 2021, 134 Stat. 3513, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall apply to any agreement entered into under section 2684a of title 10, United States Code, on or after December 2, 2002."

Pub. L. 116–283, div. A, title X, §1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(12) of Pub. L. 116–283 to section 2827(b)(1) of Pub. L. 115–232, which amended this section, is effective as of Aug. 13, 2018, and as if included in Pub. L. 115–232.

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, §2827(b)(2), Aug. 13, 2018, 132 Stat. 2270, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of December 2, 2002."

### TERMINATION OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title III, §312(b), Dec. 26, 2013, 127 Stat. 729, which provided that section 312 of Pub. L. 113–66, which amended this section, and subsec. (h) of this section would expire on Oct. 1, 2019, subject to a provision continuing any agreements existing before that date, was repealed by Pub. L. 115–91, div. A, title III, §317(f), Dec. 12, 2017, 131 Stat. 1352. Another section 317(f) of Pub. L. 115–91 was formerly set out in a note below, prior to being transferred to chapter 159 of this title and redesignated as section 2693(g) by Pub. L. 118–31, div. A, title III, §311(a), (b)(5), Dec. 22, 2023, 137 Stat. 213, 214.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (g) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### GUIDANCE ON ENCROACHMENT THAT AFFECTS COVERED SITES

Pub. L. 118–31, div. B, title XXVIII, §2887, Dec. 22, 2023, 137 Stat. 784, provided that:

"(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], each Secretary of a military department shall issue guidance to establish—

"(1) a process to identify encroachment with respect to a covered site;

"(2) a method to mitigate such encroachment; and

"(3) a procedure to certify that such encroachment does not directly result in a national security risk to the covered site.

"(b) CONSIDERATIONS.—In developing the guidance required by this section, each Secretary of a military department shall consider the following:

"(1) The process by which a commander or head of a covered site identifies and reports encroachment with respect to such covered site.

"(2) Methods to track data relating to processes, methods, and procedures described in subsection (a).

"(3) Coordination processes to track and mitigate encroachment—

"(A) within each military department; and

"(B) between the military departments and the Assistant Secretaries of Defense for Sustainment and Industrial Base Policy.

"(c) FOREIGN INVESTMENT ENCROACHMENT.—Such guidance shall include a requirement that if a Secretary of a military department determines that encroachment described in subsection (a) involves or may involve foreign investment, such Secretary shall—

"(1) report information about encroachment relating to foreign investment to the Assistant Secretary of Defense for Industrial Base Policy; and

"(2) coordinate with the Assistant Secretary of Defense for Industrial Base Policy on efforts to mitigate such encroachment or potential encroachment.

"(d) REPORT.—Not later than 180 days after the date on which the guidance required by subsection (a) is issued, the Assistant Secretary of Defense for Sustainment, in coordination with the Secretaries of the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the guidance required by this section, including—

"(1) the extent to which such guidance has been implemented within the Department of Defense;

"(2) a description of methods to update any lists of covered sites; and

"(3) an assessment of the procedure described in subsection (a)(3).

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered site' means a military installation or another facility or property of the United States Government.

"(2) The term 'encroachment' means an activity conducted within close proximity to a covered site that—

"(A) may pose a national security risk to a covered site;

"(B) may affect the operational mission of a covered site; or

"(C) is incompatible with an installation master plan of a covered site.

"(3) The term 'military department' has the meaning given such term in section 101 of title 10, United States Code.

"(4) The term 'military installation has the meaning given such term in section 2801 of title 10, United States Code."

**SENTINEL LANDSCAPES PARTNERSHIP**

Pub. L. 115–91, div. A, title III, §317(a)–(f), Dec. 12, 2017, 131 Stat. 1351, 1352, as amended by Pub. L. 117–81, div. A, title III, §317(a), Dec. 27, 2021, 135 Stat. 1631, which authorized the establishment of the Sentinel Landscapes Partnership, was transferred to chapter 159 of this title and redesignated as section 2693 by Pub. L. 118–31, div. A, title III, §311(a), Dec. 22, 2023, 137 Stat. 213. Another section 317(f) of Pub. L. 115–91 repealed section 312(b) of Pub. L. 113–66, see Termination of 2013 Amendment note above.

## §2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities

(a) ADJUSTMENT OR SURCHARGE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of Defense may, for the purposes of this section, provide for an adjustment of, or surcharge on, sales prices of goods and services sold in commissary store facilities.

(b) USE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1) The Secretary of Defense may use the proceeds from the adjustments or surcharges authorized by subsection (a) only—

(A) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

(B) to cover environmental evaluation and construction costs related to activities described in paragraph (1), including costs for surveys, administration, overhead, planning, and design.

(2) In paragraph (1), the term "physical infrastructure" includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(c) ADVANCE OBLIGATION.—The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b) or (d), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b) or (d).

(d) COOPERATION WITH NONAPPROPRIATED FUND INSTRUMENTALITIES.—(1) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

(2) In paragraph (1), the term "construction", with respect to a facility, includes acquisition,

conversion, expansion, installation, or other improvement of the facility.

(e) OTHER SOURCES OF FUNDS FOR CONSTRUCTION AND IMPROVEMENTS .—Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in subsections (b), (c), and (d):

(1) Sale of recyclable materials.

(2) Sale of excess and surplus property.

(3) License fees.

(4) Royalties.

(5) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.

(Added Pub. L. 93–552, title VI, §611, Dec. 27, 1974, 88 Stat. 1765; amended Pub. L. 95–82, title VI, §614, Aug. 1, 1977, 91 Stat. 380; Pub. L. 97–321, title VIII, §804, Oct. 15, 1982, 96 Stat. 1572; Pub. L. 103–337, div. B, title XXVIII, §2851, Oct. 5, 1994, 108 Stat. 3072; Pub. L. 105–85, div. A, title III, §374, Nov. 18, 1997, 111 Stat. 1707; Pub. L. 106–398, §1 [[div. A], title III, §333(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–60.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title III, §333(b)(1)], substituted "Secretary of Defense" for "Secretary of a military department, under regulations established by him and approved by the Secretary of Defense,".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title III, §333(a)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations and for related environmental evaluation and construction costs, including surveys, administration, overhead, planning, and design."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title III, §333(b)(2)], substituted "Secretary of Defense, with the approval of" for "Secretary of a military department, with the approval of the Secretary of Defense and" and "Secretary determines" for "Secretary of the military department determines".

Subsec. (d)(1). Pub. L. 106–398, §1 [[div. A], title III, §333(b)(3)], substituted "Secretary of Defense" for "Secretary of a military department".

**1997**—Subsecs. (a) to (d). Pub. L. 105–85, §374(b), inserted subsec. headings.

Subsec. (e). Pub. L. 105–85, §374(a), added subsec. (e).

**1994**—Subsec. (c). Pub. L. 103–337, §2851(b), inserted "or (d)" after "subsection (b)" in two places.

Subsec. (d). Pub. L. 103–337, §2851(a), added subsec. (d).

**1982**—Subsec. (c). Pub. L. 97–321 added subsec. (c).

**1977**—Subsec. (b). Pub. L. 95–82 struck out "within the United States" after "defense installations".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title III, §333(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–60, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2001."

## §2686. Utilities and services: sale; expansion and extension of systems and facilities

(a) Under such regulations and for such periods and at such prices as he may prescribe, the Secretary concerned or his designee may sell or contract to sell to purchasers within or in the immediate vicinity of an activity of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, any of the following utilities and related services, if it is determined that

they are not available from another local source and that the sale is in the interest of national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

(b) Proceeds of sales under subsection (a) shall be credited to the appropriation currently available for the supply of that utility or service.

(c) To meet local needs the Secretary concerned may make minor expansions and extensions of any distributing system or facility within an activity through which a utility or service is furnished under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 141, §2481; Pub. L. 86–156, Aug. 14, 1959, 73 Stat. 338; renumbered §2686, Pub. L. 105–85, div. A, title III, §371(b)(1), Nov. 18, 1997, 111 Stat. 1705; Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(viii), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2481(a) | 5:626s.<br>5:626s–1 (less words between semicolon and colon).<br>10:1269.<br>10:1269a (less words between semicolon and colon).<br>34:553a.<br>34:553b (less words between semicolon and colon). | July 30, 1947, ch. 394, 61 Stat. 675; Aug. 8, 1949, ch. 403, §5, 63 Stat. 576. |
| 2481(b) | 5:626s–1 (words between semicolon and colon).<br>10:1269a (words between semicolon and colon).<br>34:553b (words between semicolon and colon). | |
| 2481(c) | 5:626s–2.<br>10:1269b.<br>34:553c. | |

In subsection (a), the words "within his establishment", "of time", and the opening clauses of 5:626s–1, 10:1269a, and 34:553b, are omitted as surplusage. The words "not available from another local source" are substituted for the words "not otherwise available from local private or public sources".

In subsection (b), the words "of sales under subsection (a)" are substituted for the words "received for any such utilities and related services sold pursuant to the authority of said sections". The words "or appropriations" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2686, added Pub. L. 95–82, title V, §504(a)(1), Aug. 1, 1977, 91 Stat. 371; amended Pub. L. 95–356, title V, §503(a), Sept. 8, 1978, 92 Stat. 579; Pub. L. 96–125, title V, §502(a), Nov. 26, 1979, 93 Stat. 940; Pub. L. 96–418, title V, §504(a), Oct. 10, 1980, 94 Stat. 1765, related to military family housing leases, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2828(a), (b) of this title.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps," in introductory provisions.

**1997**—Pub. L. 105–85 renumbered section 2481 of this title as this section.

**1959**—Subsec. (a). Pub. L. 86–156, §1(1), substituted "concerned" for "of a military department" and inserted "or Coast Guard," after "Marine Corps,".

Subsec. (c). Pub. L. 86–156, §1(2), struck out "of the military department" after "Secretary".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §2687. Base closures and realignments

(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure, including a mothball action, divestiture, deactivation, or any other action to render inoperable, of any military installation at which at least 300 civilian personnel are authorized to be employed;

(2) any realignment with respect to any military installation referred to in paragraph (1) involving a reduction by more than 1,000, or by more than 50 percent, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b) of the Secretary's plan to close or realign such installation; or

(3) any construction, conversion, or rehabilitation at any military facility other than a military installation referred to in clause (1) or (2) which will or may be required as a result of the relocation of civilian personnel to such facility by reason of any closure or realignment to which clause (1) or (2) applies,

unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation referred to in such subsection may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, as part of an annual request for authorization of appropriations to such Committees, of the proposed closing or realignment and submits with the notification—

(A) an evaluation of the fiscal, local economic, budgetary, environmental, strategic, and operational consequences of such closure or realignment; and

(B) the criteria used to consider and recommend military installations for such closure or realignment, which shall include at a minimum consideration of—

(i) the ability of the infrastructure (including transportation infrastructure) of both the existing and receiving communities to support forces, missions, and personnel as a result of such closure or realignment; and

(ii) the costs associated with community transportation infrastructure improvements as part of the evaluation of cost savings or return on investment of such closure or realignment; and

(2) a period of 30 legislative days or 60 calendar days, whichever is longer, expires following the day on which the notice and evaluation referred to in clause (1) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

(c) No action described in subsection (a) with respect to the closure of, or realignment with respect to, any military installation referred to in such subsection may be taken within five years after the date on which a decision is made to reduce the civilian personnel thresholds below the levels prescribed in such subsection.

(d) This section shall not apply to the closure of a military installation, or a realignment with respect to a military installation, if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency.

(e)(1) After the expiration of the period of time provided for in subsection (b)(2) with respect to the closure or realignment of a military installation, funds which would otherwise be available to the Secretary to effect the closure or realignment of that installation may be used by him for such purpose.

(2) Nothing in this section restricts the authority of the Secretary to obtain architectural and engineering services under section 2807 of this title.

(f) If the Secretary of Defense or the Secretary of the military department concerned determines, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), that a significant transportation impact will occur as a result of an action described in subsection (a), the action may not be taken unless and until the Secretary of Defense or the Secretary of the military department concerned—

(1) analyzes the adequacy of transportation infrastructure at and in the vicinity of each military installation that would be impacted by the action;

(2) concludes consultation with the Secretary of Transportation with regard to such impact;

(3) analyzes the impact of the action on local businesses, neighborhoods, and local governments; and

(4) includes in the notification required by subsection (b)(1) a description of how the Secretary intends to remediate the significant transportation impact.

(g) In this section:

(1) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(2) The term "civilian personnel" means direct-hire, permanent civilian employees of the Department of Defense.

(3) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.

(4) The term "legislative day" means a day on which either House of Congress is in session.

(5) The term "mothball action" means placing a military installation in inactive status while maintaining such installation in a condition such that it could be reactivated at a future date.

(Added Pub. L. 95–82, title VI, §612(a), Aug. 1, 1977, 91 Stat. 379; amended Pub. L. 95–356, title VIII, §805, Sept. 8, 1978, 92 Stat. 586; Pub. L. 97–214, §10(a)(8), July 12, 1982, 96 Stat. 175; Pub. L. 98–525, title XIV, §1405(41), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 99–145, title XII, §1202(a), Nov. 8, 1985, 99 Stat. 716; Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat.

1161; Pub. L. 101–510, div. B, title XXIX, §2911, Nov. 5, 1990, 104 Stat. 1819; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 110–417, div. B, title XXVIII, §2823(a), Oct. 14, 2008, 122 Stat. 4730; Pub. L. 112–81, div. B, title XXVII, §2704, Dec. 31, 2011, 125 Stat. 1682; Pub. L. 112–239, div. A, title X, §1076(f)(33), div. B, title XXVII, §2712(a), Jan. 2, 2013, 126 Stat. 1954, 2144; Pub. L. 119–60, div. B, title XXVIII, §2846(a), Dec. 18, 2025, 139 Stat. 1318.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (f), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### AMENDMENTS

**2025**—Subsec. (a)(1). Pub. L. 119–60, §2846(a)(1), inserted ", including a mothball action, divestiture, deactivation, or any other action to render inoperable," after "closure".

Subsec. (g)(5). Pub. L. 119–60, §2846(a)(2), added par. (5).

**2013**—Subsecs. (c) to (e). Pub. L. 112–239, §2712(a)(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 112–239, §1076(f)(33), substituted "as a result" for "at a result" in introductory provisions.

Subsec. (g). Pub. L. 112–239, §2712(a)(1), redesignated subsec. (e) as (g).

**2011**—Subsec. (b)(1). Pub. L. 112–81, §2704(a), substituted "notification—" for "notification", inserted subpar. (A) designation before "an evaluation", and added subpar. (B).

Subsec. (f). Pub. L. 112–81, §2704(b), added subsec. (f).

**2008**—Subsec. (e)(1). Pub. L. 110–417 inserted "the Commonwealth of the Northern Mariana Islands," after "Virgin Islands,".

**1999**—Subsec. (b)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b)(1). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1990**—Subsec. (e)(1). Pub. L. 101–510 inserted "homeport facility for any ship," after "center," and substituted "under the jurisdiction of the Department of Defense, including any leased facility," for "under the jurisdiction of the Secretary of a military department".

**1987**—Subsec. (e). Pub. L. 100–180 inserted "The term" after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

**1985**—Pub. L. 99–145 amended section generally, thereby applying the section only to closure of bases with more than 300 civilian personnel authorized to be employed and to realignments involving a reduction by more than 1,000, or by more than 50 percent, in the number of civilian personnel authorized to be employed at bases with more than 300 authorized civilian employees, striking out advance public notice required by the Secretary of Defense or the Secretary of the military department concerned when an installation is a candidate for closure or realignment, requiring that all base closure or realignment proposals be submitted to the Committee on Armed Services of the Senate and of the House of Representatives as part of the annual budget request and that such proposals contain an evaluation of the fiscal, local economic, budgetary, environmental, strategic, and operational consequences of such action, providing that no irrevocable action to implement the closure to realignment could be taken until the expiration of 30 legislative days or 60 calendar days, whichever is longer, and making explicit the authority of the Secretary to obtain architectural and engineering services under section 2807 of this title and to use funds that would otherwise be available to effect the closure or realignment after expiration of the notice period.

**1984**—Subsec. (a)(2). Pub. L. 98–525, §1405(41)(A), substituted "1,000" for "one thousand".

Subsec. (b)(2). Pub. L. 98–525, §1405(41)(B), inserted "(42 U.S.C. 4321 et seq.)".

Subsec. (b)(4). Pub. L. 98–525, §1405(41)(C), substituted "60" for "sixty".

Subsec. (d)(1)(B). Pub. L. 98–525, §1405(41)(D), substituted "300" for "three hundred".

**1982**—Subsec. (d)(1). Pub. L. 97–214 substituted "a base, camp, post, station, yard, center, or other activity

under the jurisdiction of the Secretary of a military department" for "any camp, post, station, base, yard, or other facility under the authority of the Department of Defense".

**1978**—Subsec. (d)(1)(B). Pub. L. 95–356 substituted "three hundred" for "five hundred".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title XII, §1202(b), Nov. 8, 1985, 99 Stat. 718, provided that: "The amendment made by subsection (a) [amending this section] shall apply to closures and realignments completed on or after the date of the enactment of this Act [Nov. 8, 1985], except that any action taken to effect or implement any closure or realignment for which a public announcement was made pursuant to section 2687(b)(1) of title 10, United States Code, after April 1, 1985, and before the date of enactment of this Act shall be subject to the provisions of section 2687 of such title as in effect on the day before such date of enactment."

### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–526, §1, Oct. 24, 1988, 102 Stat. 2623, provided that: "This Act [amending sections 1095a, 2324, 2683, and 4415 of this title, enacting provisions set out as notes under this section and sections 154 and 2306 of this title, and amending provisions set out as notes under section 2324 of this title] may be cited as the 'Defense Authorization Amendments and Base Closure and Realignment Act'."

### EFFECTIVE DATE OF 1994 AMENDMENTS BY SECTION 2813(D)(1) AND (2) OF PUB. L. 103–337

Pub. L. 103–337, div. B, title XXVIII, §2813(d)(3), Oct. 5, 1994, 108 Stat. 3055, provided that: "The amendments made by paragraphs (1) and (2) [amending section 209(10) of Pub. L. 100–526 and section 2910(9) of Pub. L. 101–510, set out below] shall take effect as if included in the amendments made by section 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927)."

### EFFECTIVE DATE OF 1991 AMENDMENTS BY SECTION 344 OF PUB. L. 102–190

Pub. L. 102–190, div. A, title III, §344(c), Dec. 5, 1991, 105 Stat. 1346, provided that: "The amendments made by this section [amending provisions set out as notes below] shall apply with regard to the transfer or disposal of any real property or facility pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act [Pub. L. 100–526, set out below] or the Defense Base Closure and Realignment Act of 1990 [part A of title XXIX of div. B of Pub. L. 101–510, set out below] occurring on or after the date of the enactment of this Act [Dec. 5, 1991]."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### BASE REALIGNMENT AND CLOSURE UPON NOTICE FROM GOVERNOR OF STATE

Pub. L. 115–232, div. B, title XXVII, §§2702, 2703, Aug. 13, 2018, 132 Stat. 2257, 2259, provided that:

"SEC. 2702. ADDITIONAL AUTHORITY TO REALIGN OR CLOSE CERTAIN MILITARY INSTALLATIONS.

"(a) AUTHORIZATION.—Notwithstanding sections 993 or 2687 of title 10, United States Code, and subject to subsection (d), the Secretary of Defense may take such actions as may be necessary to carry out the realignment or closure of a military installation in a State during a fiscal year if—

"(1) the military installation is the subject of a notice which is described in subsection (b); and

"(2) the Secretary includes the military installation in the report submitted under paragraph (2) of subsection (c) with respect to the fiscal year.

"(b) NOTICE FROM GOVERNOR OF STATE.—A notice described in this subsection is a notice received by the Secretary of Defense from the Governor of a State (or, in the case of the District of Columbia, the

Mayor of the District of Columbia) in which the Governor recommends that the Secretary carry out the realignment or closure of a military installation located in the State, and which includes each of the following elements:

"(1) A specific description of the military installation, or a specific description of the relevant real and personal property.

"(2) Statements of support for the realignment or closure from units of local government in which the installation is located.

"(3) A detailed plan for the reuse or redevelopment of the real and personal property of the installation, together with a description of the local redevelopment authority which will be responsible for the implementation of the plan.

"(c) RESPONSE TO NOTICE.—

"(1) MANDATORY RESPONSE TO GOVERNOR AND CONGRESS.—Not later than 1 year after receiving a notice from the Governor of a State (or, in the case of the District of Columbia, from the Mayor of the District of Columbia), the Secretary of Defense shall submit a response to the notice to the Governor and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] indicating whether or not the Secretary accepts the recommendation for the realignment or closure of a military installation which is the subject of the notice.

"(2) ACCEPTANCE OF RECOMMENDATION.—If the Secretary of Defense determines that it is in the interests of the United States to accept the recommendation for the realignment or closure of a military installation which is the subject of a notice received under subsection (b) and intends to carry out the realignment or closure of the installation pursuant to the authority of this section during a fiscal year, at the time the budget is submitted under section 1105(a) of title 31, United States Code, for the fiscal year, the Secretary shall submit a report to the congressional defense committees which includes the following:

"(A) The identification of each military installation for which the Secretary intends to carry out a realignment or closure pursuant to the authority of this section during the fiscal year, together with the reasons the Secretary of Defense believes that it is in the interest of the United States to accept the recommendation of the Governor of the State involved for the realignment or closure of the installation.

"(B) For each military installation identified under subparagraph (A), a master plan describing the required scope of work, cost, and timing for all facility actions needed to carry out the realignment or closure, including the construction of new facilities and the repair or renovation of existing facilities.

"(C) For each military installation identified under subparagraph (A), a certification that, not later than the end of the fifth fiscal year after the completion of the realignment or closure, the savings resulting from the realignment or closure will exceed the costs of carrying out the realignment or closure, together with an estimate of the annual recurring savings that would be achieved by the realignment or closure of the installation and the timeframe required for the financial savings to exceed the costs of carrying out the realignment or closure.

"(d) LIMITATIONS.—

"(1) TIMING.—The Secretary may not initiate the realignment or closure of a military installation pursuant to the authority of this section until the expiration of the 90-day period beginning on the date the Secretary submits the report under paragraph (2) of subsection (c).

"(2) TOTAL COSTS.—Subject to appropriations, the aggregate cost to the government in carrying out the realignment or closure of military installations pursuant to the authority of this section for all fiscal years may not exceed $2,000,000,000. In determining the cost to the government for purposes of this section, there shall be included the costs of planning and design, military construction, operations and maintenance, environmental restoration, information technology, termination of public-private contracts, guarantees, and other factors contributing to the cost of carrying out the realignment or closure, as determined by the Secretary.

"(e) PROCESS FOR IMPLEMENTATION.—The implementation of the realignment or closure of a military installation pursuant to the authority of this section shall be carried out in accordance with section 2905 of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) in the same manner as the implementation of a realignment or closure of a military installation pursuant to the authority of such Act.

"(f) STATE DEFINED.—In this section, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(g) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out a realignment or closure pursuant to this section shall terminate at the end of fiscal year 2029.

"SEC. 2703. PROHIBITION ON CONDUCTING ADDITIONAL BASE REALIGNMENT AND CLOSURE

(BRAC) ROUND.

"Nothing in this Act [div. B of Pub. L. 115–232, see Tables for classification] shall be construed to authorize an additional Base Realignment and Closure (BRAC) round."

[Pub. L. 115–232, div. B, §2003, Aug. 13, 2018, 132 Stat. 2241, provided that: "Titles XXI through XXVII [enacting sections 2702 and 2703 of title XXVII of div. B of Pub. L. 115–232, set out above] and title XXIX shall take effect on the later of—

["(1) October 1, 2018; or

["(2) the date of the enactment of this Act [Aug. 13, 2018]."]

## CLOSURE OF EXISTING CURRENT ACCOUNTS; TRANSFER OF FUNDS

Pub. L. 112–239, div. B, title XXVII, §2711(b), Jan. 2, 2013, 126 Stat. 2143, provided that:

"(1) CLOSURE.—Subject to paragraph (2), the Secretary of the Treasury shall close, pursuant to section 1555 of title 31, United States Code, the following accounts on the books of the Treasury:

"(A) The Department of Defense Base Closure Account 2005 established by section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

"(B) The Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

"(C) The Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), as in effect on the effective date of this section.

"(2) TRANSFER OF FUNDS.—All amounts remaining in the three accounts specified in paragraph (1) as of the effective date of this section, shall be transferred, effective on that date, to the Department of Defense Base Closure Account established by section 2906 of the Defense Base Closure and Realignment Act of 1990, as added by subsection (a).

"(3) CROSS REFERENCES.—Except as provided in this subsection or the context requires otherwise, any reference in a law, regulation, document, paper, or other record of the United States to an account specified in paragraph (1) shall be deemed to be a reference to the Department of Defense Base Closure Account established by section 2906 of the Defense Base Closure and Realignment Act of 1990, as added by subsection (a)."

[Section 2711(b) of Pub. L. 112–239, set out above, effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113–76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

## AUTHORITY TO COMPLETE SPECIFIC BASE CLOSURE AND REALIGNMENT RECOMMENDATIONS

Pub. L. 112–81, div. B, title XXVII, §2703, Dec. 31, 2011, 125 Stat. 1681, provided that:

"(a) LIMITED AUTHORITY TO EXTEND IMPLEMENTATION PERIOD.—The Secretary of Defense shall—

"(1) complete all closures and realignments recommended in the report of the Base Closure and Realignment Commission transmitted by the President to Congress in accordance with section 2914(e) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as expeditiously as possible; and

"(2) complete the closure of the Umatilla Chemical Depot, Oregon, as recommended in the report of the Base Closure and Realignment Commission transmitted by the President to Congress in accordance with section 2914(e) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)—

"(A) without regard to any condition contained in that recommendation; and

"(B) not later than one year after the completion of the chemical demilitarization mission in accordance with the Chemical Weapons Convention Treaty.

"(b) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Defense shall carry out the authority provided under subsection (a), and any related property management and disposal activities, in accordance with the procedures and authorities under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)."

## SUPPORT FOR REALIGNMENT OF MILITARY INSTALLATIONS AND RELOCATION OF MILITARY PERSONNEL ON GUAM

Pub. L. 114–92, div. B, title XXVIII, §2822(a), (b), Nov. 25, 2015, 129 Stat. 1177, 1178, provided that:

"(a) REPORT REQUIRED.—Not later than the date of the submission of the budget of the President for each of fiscal years 2017 through 2026 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that specifies each of the following:

"(1) The total amount contributed by the Government of Japan during the most recently concluded Japanese fiscal year under section 2350k of title 10, United States Code, for deposit in the Support for United States Relocation to Guam Account.

"(2) The anticipated contributions to be made by the Government of Japan under such section during the current and next Japanese fiscal years.

"(3) The projects carried out on Guam or the Commonwealth of the Northern Mariana Islands during the previous fiscal year using amounts in the Support for United States Relocation to Guam Account.

"(4) The anticipated projects that will be carried out on Guam or the Commonwealth of the Northern Mariana Islands during the fiscal year covered by the budget submission using amounts in such Account.

"(b) FORM OF REPORT.—Each report required by subsection (a) shall be submitted in unclassified form, but may contain a classified annex as necessary."

Pub. L. 113–291, div. B, title XXVIII, §2821, Dec. 19, 2014, 128 Stat. 3701, provided that:

"(a) LIMITATION BASED ON COST ESTIMATES.—

"(1) LIMITATION AMOUNT.—Pursuant to the Supplemental Environmental Impact Statement for the 'Guam and Commonwealth of the Northern Mariana Islands Military Relocation (2012 Roadmap Adjustments)', the total amount obligated or expended from funds appropriated or otherwise made available for military construction for implementation of the Record of Decision for the relocation of Marine Corps forces to Guam associated with such Supplemental Environmental Impact Statement may not exceed $8,725,000,000, subject to such adjustment as may be made under paragraph (2).

"(2) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount specified in paragraph (1) by the following:

"(A) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2014.

"(B) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, Guam or Commonwealth of the Northern Mariana Islands, or local laws enacted after September 30, 2014.

"(3) WRITTEN NOTICE OF ADJUSTMENT.—At the same time that the budget for a fiscal year is submitted to Congress under section 1105(a) of title 31, United States Code, the Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written notice of any adjustment to the amount specified in paragraph (1) made by the Secretary during the preceding fiscal year pursuant to the authority provided by paragraph (2).

"(b) RESTRICTION ON DEVELOPMENT OF PUBLIC INFRASTRUCTURE.—

"(1) RESTRICTION.—If the Secretary of Defense determines that any grant, cooperative agreement, transfer of funds to another Federal agency, or supplement of funds available under Federal programs administered by agencies other than the Department of Defense will result in the development (including repair, replacement, renovation, conversion, improvement, expansion, acquisition, or construction) of public infrastructure on Guam, the Secretary of Defense may not carry out such grant, transfer, cooperative agreement, or supplemental funding unless such grant, transfer, cooperative agreement, or supplemental funding—

"(A) is specifically authorized by law; and

"(B) will be used to carry out a public infrastructure project included in the report prepared by the Secretary of Defense under section 2822(d)(2) of the Military Construction Authorization Act for Fiscal Year 2014 (division B of Public Law 113–66; 127 Stat. 1017), as in effect on the day before the date of the enactment of this Act [Dec. 19, 2014].

"(2) PUBLIC INFRASTRUCTURE DEFINED.—In this subsection, the term 'public infrastructure' means any utility, method of transportation, item of equipment, or facility under the control of a public entity or State or local government that is used by, or constructed for the benefit of, the general public.

"(c) REPEAL OF SUPERSEDED LAW.—Section 2822 of the Military Construction Authorization Act for Fiscal Year 2014 (division B of Public Law 113–66; 127 Stat. 1016) is repealed. The repeal of such section does not affect the validity of the amendment made by subsection (f) of such section or the responsibilities of the Economic Adjustment Committee and the Secretary of Defense under subsection (d) of such section, as in effect on the day before the date of the enactment of this Act."

[For termination, effective Dec. 31, 2021, of reporting provisions in section 2821(a)(3) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

Pub. L. 112–81, div. B, title XXVIII, §2841, Dec. 31, 2011, 125 Stat. 1696, provided that:

"(a) MANAGEMENT OF WORKFORCE HEALTH CARE.—Subject to subsection (b), the Secretary of the Navy may not award any additional Navy or Marine Corps construction project or associated task order on Guam associated with the Record of Decision for the Guam and CNMI Military Relocation dated September 2010 if the aggregate of the number of employees holding a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b); known as 'H–2B workers') to support such relocation exceeds 2,000 until the Secretary of the Navy certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that a system of health care for the H–2B workers is available.

"(b) SYSTEM OF HEALTH CARE.—The health care system required to be certified in subsection (a) shall—

"(1) include a comprehensive medical plan for the H–2B workers;

"(2) include comprehensive planning and coordination with contractor-provided healthcare services and with Guam's civilian and military healthcare community; and

"(3) access local healthcare assets to help meet the health care needs of the H–2B workers.

"(c) ELEMENTS OF MEDICAL PLAN.—The comprehensive medical plan referred to in subsection (b)(1) shall—

"(1) address significant health issues, injury, or series of injuries in addition to basic first responder medical services for H–2B workers;

"(2) provide pre-deployment health screening at the country of origin of H–2B workers, ensuring—

"(A) all major or chronic disease conditions of concern are identified;

"(B) proper immunizations are administered;

"(C) screening for tuberculosis and communicable diseases are conducted; and

"(D) all H–2B workers are fit and healthy for work prior to deployment;

"(3) provide that an arrival health screening process is developed to ensure the H–2B workers are fit to work and that the risk of spreading communicable diseases to the resident population is minimized; and

"(4) provide comprehensive on-site medical services, including emergency medical care for the H–2B workers, primary health care to include care for chronic diseases, preventive services and acute care delivery, and accessible prescription services maintaining oversight, authorization access, and delivery of prescription medications to the workforce.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be construed as requiring the Secretary of the Navy to establish a United States Government-sponsored or funded health care system required to be certified in subsection (a) or to be responsible in any way for the administration of a health care system or plan or the provision of health care services for the H–2B workers identified in subsection (a)."

Pub. L. 111–84, div. B, title XXVIII, §2832(a)–(c), Oct. 28, 2009, 123 Stat. 2669, 2670, provided that:

"(a) SPECIAL PURPOSE ENTITY DEFINED.—In this section, the term 'special purpose entity' means any private person, corporation, firm, partnership, company, State or local government, or authority or instrumentality of a State or local government that the Secretary of Defense determines is capable of producing military family housing or providing utilities to support the realignment of military installations and the relocation of military personnel on Guam.

"(b) REPORT ON INTENDED USE SPECIAL PURPOSE ENTITIES.—

"(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the intended use of special purpose entities to provide military family housing or utilities to support the realignment of military installations and the relocation of military personnel on Guam.

"(2) NOTICE AND WAIT.—The Secretary of Defense may not authorize the use of special use entities as described in paragraph (1) until the end of the 30-day period (15-day period if the report is submitted electronically) beginning on the date on which the report required by such paragraph is submitted.

"(c) APPLICABILITY OF UNIFIED FACILITIES CRITERIA.—

"(1) APPLICABILITY TO SECTION 2350K CONTRIBUTIONS.—[Amended section 2824(c)(4) of Pub. L. 110–417, set out as a note below]

"(2) APPLICABILITY TO SPECIAL PURPOSE ENTITY CONTRIBUTIONS.—The unified facilities criteria promulgated by the Under Secretary of Defense for Acquisition, Technology, and Logistics and dated May 29, 2002, and any successor to such criteria shall be the minimum standard

applicable to projects funded using contributions provided by a special purpose entity.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing an evaluation of various options, including a preferred option, that the Secretary could utilize to comply with the unified facilities criteria referred to in paragraph (2) in the acquisition of military housing on Guam in connection with the realignment of military installations and the relocation of military personnel on Guam. In preparing the report, the Secretary shall consider the impact of—

"(A) increasing the overseas housing allowance for members of the Armed Forces serving on Guam; and

"(B) providing a direct Federal subsidy to public-private ventures."

Pub. L. 111–84, div. B, title XXVIII, §2835, Oct. 28, 2009, 123 Stat. 2674, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(24), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 113–66, div. B, title XXVIII, §2821, Dec. 26, 2013, 127 Stat. 1015; Pub. L. 116–283, div. B, title XXVIII, §2851, Jan. 1, 2021, 134 Stat. 4354, which related to the Interagency Coordination Group of Inspectors General for Guam Realignment, was repealed by Pub. L. 117–263, div. B, title XXVIII, §2868, Dec. 23, 2022, 136 Stat. 3012.

Pub. L. 110–417, div. B, title XXVIII, §2824, Oct. 14, 2008, 122 Stat. 4730, as amended by Pub. L. 111–84, div. B, title XXVIII, §§2832(c)(1), 2833, 2834(a), Oct. 28, 2009, 123 Stat. 2670–2672; Pub. L. 114–92, div. B, title XXVIII, §2822(c), Nov. 25, 2015, 129 Stat. 1178, provided that:

"(a) ESTABLISHMENT OF ACCOUNT.—There is established on the books of the Treasury an account to be known as the 'Support for United States Relocation to Guam Account' (in this section referred to as the 'Account').

"(b) CREDITS TO ACCOUNT.—

"(1) AMOUNTS IN FUND.—There shall be credited to the Account all contributions received during fiscal year 2009 and subsequent fiscal years under section 2350k of title 10, United States Code, for the realignment of military installations and the relocation of military personnel on Guam.

"(2) NOTICE OF RECEIPT OF CONTRIBUTIONS.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written notice of the receipt of contributions referred to in paragraph (1), including the amount of the contributions, not later than 30 days after receiving the contributions.

"(c) USE OF ACCOUNT.—

"(1) AUTHORIZED USES.—Subject to paragraph (2), amounts in the Account may be used as follows:

"(A) To carry out or facilitate the carrying out of a transaction authorized by this section in connection with the realignment of military installations and the relocation of military personnel on Guam, including military construction, military family housing, unaccompanied housing, general facilities constructions for military forces, and utilities improvements.

"(B) To carry out improvements of property or facilities on Guam as part of such a transaction.

"(C) To obtain property support services for property or facilities on Guam resulting from such a transaction.

"(D) To develop military facilities or training ranges in the Commonwealth of the Northern Mariana Islands.

"(2) COMPLIANCE WITH GUAM MASTER PLAN.—Transactions authorized by paragraph (1) shall be consistent with the Guam Master Plan, as incorporated in decisions made in the manner provided in section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(3) LIMITATION REGARDING MILITARY HOUSING.—To extent that the authorities provided under subchapter IV of chapter 169 of title 10, United States Code, are available to the Secretary of Defense, the Secretary shall use such authorities to acquire, construct, or improve family housing units or ancillary supporting facilities in connection with the relocation of military personnel on Guam.

"(4) SPECIAL REQUIREMENTS REGARDING USE OF CONTRIBUTIONS.—

"(A) TREATMENT OF CONTRIBUTIONS.—Except as provided in subparagraph (C), the use of contributions referred to in subsection (b)(1) shall not be subject to conditions imposed on the use of appropriated funds by chapter 169 of title 10, United States Code, or contained in annual military construction appropriations Acts.

"(B) NOTICE OF OBLIGATION.—Contributions referred to in subsection (b)(1) may not be obligated for a transaction authorized by paragraph (1) until the Secretary of Defense submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of the transaction, including a detailed cost estimate, and a period of

21 days has elapsed after the date on which the notification is received by the committees or, if earlier, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium.

"(C) COST AND SCOPE OF WORK VARIATIONS.—Section 2853 of title 10, United States Code, shall apply to the use of contributions referred to in subsection (b)(1).

"(D) APPLICABILITY OF UNIFIED FACILITIES CRITERIA.—The unified facilities criteria promulgated by the Under Secretary of Defense for Acquisition, Technology, and Logistics and dated May 29, 2002, and any successor to such criteria shall be the minimum standard applicable to projects funded using contributions referred to in subsection (b)(1) for a transaction authorized by paragraph (1).

"(5) APPLICATION OF PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of subchapter IV of chapter 31 of title 40, United States Code, shall apply to any military construction project or other transaction authorized by paragraph (1) that is carried out on Guam using contributions referred to in subsection (b)(1) or appropriated funds.

"(B) SECRETARY OF LABOR AUTHORITIES.—In order to carry out the requirements of subparagraph (A) and paragraph (6) (relating to composition of workforce for construction projects), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Number 14 of 1950 [set out in Appendix to Title 5, Government Organization and Employees] and section 3145 of title 40, United States Code.

"(C) WAGE RATE DETERMINATION.—In making wage rate determinations pursuant to subparagraph (A), the Secretary of Labor shall not include in the wage survey any persons who hold a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

"(D) ADDITION TO WEEKLY STATEMENT ON THE WAGES PAID.—In the case of projects and other transactions covered by subparagraph (A), the weekly statement required by section 3145 of title 40, United States Code, shall also identify each employee working on the project or transaction who holds a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

"(E) DURATION OF REQUIREMENTS.—The Secretary of Labor shall make and issue a wage rate determination for Guam annually until 90 percent of the funds in the Account and other funds made available for the realignment of military installations and the relocation of military personnel on Guam have been expended.

"(6) COMPOSITION OF WORKFORCE FOR CONSTRUCTION PROJECTS.—

"(A) LIMITATION.—With respect to each construction project that is carried out using amounts described in subparagraph (B), no work may be performed by a person holding a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) unless—

"(i) the application for that visa has been approved pursuant to the issuance of a temporary labor certification by the Governor of Guam as provided under section 214.2 of title 8, Code of Federal Regulations; and

"(ii) the Governor of Guam, in consultation with the Secretary of Labor, makes the certification described in subparagraph (C) to the Secretary of Defense.

"(B) SOURCE OF FUNDS.—Subparagraph (A) applies to—

"(i) amounts in the Account used for projects associated with the realignment of military installations and the relocation of military personnel on Guam;

"(ii) funds associated with activities under section 2821 of this Act [amending section 2688 of this title]; and

"(iii) funds for authorized military construction projects.

"(C) CERTIFICATION.—The certification referred to in subparagraph (A) is a certification, in addition to the certifications required by section 214.2 of title 8, Code of Federal Regulations, that—

"(i) there are not sufficient United States workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the persons holding visas described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) are to perform such skilled or unskilled labor; and

"(ii) the employment of such persons holding visas described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) will not adversely affect the wages and working conditions of workers in Guam similarly employed.

"(D) SOLICITATION OF WORKERS.—In order to ensure compliance with subparagraph (A), as a condition of a contract covered by such subparagraph, the contractor shall be required to advertise

and solicit for construction workers in the United States, including Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico, in accordance with a recruitment plan approved by the Secretary of Labor. The contractor shall submit a copy of the employment offer, including a description of wages and other terms and conditions of employment, to the Secretary of Labor at least 60 days before the start date of the workers under a contract. The contractor shall authorize the Secretary of Labor to post a notice of the employment offer on a website, with State, territorial, and local job banks, with State and territorial workforce agencies, and with any other referral and recruitment sources the Secretary of Labor determines may be pertinent to the employment opportunity.

"(E) RECRUITMENT PERIOD.—The Secretary of Labor shall ensure that a contractor's recruitment of construction workers complies with the recruitment plan required by subparagraph (D) for a period beginning 60 days before the start date of workers under a contract and continuing for the next 28 days. During the recruitment period, the contractor shall interview all qualified and available United States construction workers who have applied for the employment opportunity, and, at the close of the recruitment period, the contractor shall provide the Secretary of Labor with a recruitment report providing any reasons for which the contractor did not hire an applicant who is a qualified United States construction worker. Not later than 21 days before the start date of the workers under a contract, the Secretary of Labor shall certify to the Governor of Guam whether the contractor has satisfied the recruitment plan created under subparagraph (D).

"(F) LIMITATION.—An employer, its attorney or agent, the Secretary of Labor, the Governor of Guam, and any designee thereof, may not seek or receive payment of any kind from any worker for any activity related to obtaining an H-2B labor certification with respect to any construction project that is carried out using amounts described in subparagraph (B).

"(d) TRANSFER AUTHORITY.—

"(1) TRANSFER TO HOUSING FUNDS.—The Secretary of Defense may transfer funds from the Account to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code.

"(2) TREATMENT OF TRANSFERRED AMOUNTS.—Amounts transferred under paragraph (1) to a fund referred to in that paragraph shall be available in accordance with the provisions of section 2883 of title 10, United States Code for activities on Guam authorized under subchapter IV of chapter 169 of such title.

"[(e) Repealed. Pub. L. 114–92, div. B, title XXVIII, §2822(c), Nov. 25, 2015, 129 Stat. 1178.]

"(f) SENSE OF CONGRESS.—It is the sense of Congress that the use of the Account to facilitate construction projects associated with the realignment of military installations and the relocation of military personnel on Guam, as authorized by subsection (c)(1), provides a great opportunity for business enterprises of the United States and its territories to contribute to the United States strategic presence in the western Pacific by competing for contracts awarded for such construction. Congress urges the Secretary of Defense to ensure maximum participation by business enterprises of the United States and its territories in such construction."

## REQUIRED CONSULTATION WITH STATE AND LOCAL ENTITIES ON ISSUES RELATED TO INCREASE IN NUMBER OF MILITARY PERSONNEL AT MILITARY INSTALLATIONS

Pub. L. 109–163, div. B, title XXVIII, §2835, Jan. 6, 2006, 119 Stat. 3521, provided that: "If the base closure and realignment decisions of the 2005 round of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or the Integrated Global Presence and Basing Strategy would result in an increase in the number of members of the Armed Forces assigned to a military installation, the Secretary of Defense, during the development of the plans to implement the decisions or strategy with respect to that installation, shall consult with appropriate State and local entities to ensure that matters affecting the local community, including requirements for transportation, utility infrastructure, housing, education, and family support activities, are considered."

## CONSIDERATION OF SURGE REQUIREMENTS IN 2005 ROUND OF BASE REALIGNMENTS AND CLOSURES

Pub. L. 108–136, div. B, title XXVIII, §2822, Nov. 24, 2003, 117 Stat. 1726, directed the Secretary of Defense to assess the probable threats to national security and, as part of such assessment, determine the surge

requirements to meet those threats, and to use such surge requirements determination in the base realignment and closure process under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, set out below).

## REPORT ON CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

Pub. L. 105–85, div. B, title XXVIII, §2824, Nov. 18, 1997, 111 Stat. 1998, as amended by Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(9), (f)(8)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–420, 2681–430, required the Secretary of Defense to prepare and submit to the Committees on Armed Services and Appropriations of Senate and House of Representatives, not later than the date on which the President submitted to Congress the budget for fiscal year 2000, a report on the costs and savings attributable to the rounds of base closures and realignments conducted under the base closure laws and on the need, if any, for additional rounds of base closures and realignments.

## RETENTION OF CIVILIAN EMPLOYEE POSITIONS AT MILITARY TRAINING BASES TRANSFERRED TO NATIONAL GUARD

Pub. L. 104–201, div. A, title XVI, §1602, Sept. 23, 1996, 110 Stat. 2734, directed the Secretary of Defense to retain civilian employee positions at each military training installation that was approved for closure in 1995 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, set out below), is scheduled for transfer to National Guard operation and control, and will continue to be used to provide training support to active and reserve components of the Armed Forces.

## USE OF FUNDS TO IMPROVE LEASED PROPERTY

Pub. L. 104–106, div. B, title XXVIII, §2837(b), Feb. 10, 1996, 110 Stat. 561, authorized any department or agency of the Federal Government that enters into a lease of property under section 2905(b)(4)(E) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, set out below), to improve the leased property using funds appropriated or otherwise available to the department or agency for such purpose.

## REGULATIONS TO CARRY OUT SECTION 204(E) OF PUB. L. 100–526 AND SECTION 2905(F) OF PUB. L. 101–510

Pub. L. 104–106, div. B, title XXVIII, §2840(c), Feb. 10, 1996, 110 Stat. 566, provided that not later than nine months after Feb. 10, 1996, the Secretary of Defense was to prescribe any regulations necessary to carry out section 204(e) of the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100–526) and section 2905(f) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Pub. L. 101–510), set out in notes below.

## PROHIBITION ON OBLIGATION OF FUNDS FOR PROJECTS ON INSTALLATIONS CITED FOR REALIGNMENT

Pub. L. 104–6, title I, §112, Apr. 10, 1995, 109 Stat. 82, prohibited the use of Department of Defense funds designated for military construction or family housing to initiate construction projects after Apr. 10, 1995, on an installation that was included in the closure and realignment recommendations submitted either to the the Base Closure and Realignment Commission on Feb. 28, 1995, or to Congress in 1995 in accordance with the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of div. B of Pub. L. 101–510, set out below).

## APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF PUB. L. 103–421

Pub. L. 103–421, §2(e), Oct. 25, 1994, 108 Stat. 4352, as amended by Pub. L. 104–106, div. A, title XV, §1505(f), Feb. 10, 1996, 110 Stat. 515; Pub. L. 107–107, div. A, title X, §1048(d)(5), Dec. 28, 2001, 115 Stat. 1227, set out provisions related to the use of buildings and property at military installations approved for closure under the 1988 or 1990 base closure Act for the assistance of the homeless.

## PREFERENCE FOR LOCAL RESIDENTS

Pub. L. 103–337, div. A, title VIII, §817, Oct. 5, 1994, 108 Stat. 2820, authorized the Secretary of Defense, effective until Sept. 30, 1997, to give preference to entities that plan to hire local residents in awarding contracts for services to be performed at a military installation that is affected by closure or realignment under a base closure law.

## GOVERNMENT RENTAL OF FACILITIES LOCATED ON CLOSED MILITARY INSTALLATIONS

Pub. L. 103–337, div. B, title XXVIII, §2814, Oct. 5, 1994, 108 Stat. 3056, as amended by Pub. L. 107–314, div. A, title X, §1062(l), Dec. 2, 2002, 116 Stat. 2652; Pub. L. 109–163, div. A, title X, §1056(a)(3), Jan. 6, 2006, 119 Stat. 3439, provided that:

"(a) AUTHORIZATION TO RENT BASE CLOSURE PROPERTIES.—To promote the rapid conversion of military installations that are closed pursuant to a base closure law, the Administrator of the General Services may give priority consideration, when leasing space in accordance with chapter 5 or 33 of title 40, United States Code, to facilities of such an installation that have been acquired by a non-Federal entity.

"(b) BASE CLOSURE LAW DEFINED.—In this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code."

## REPORT OF EFFECT OF BASE CLOSURES ON FUTURE MOBILIZATION OPTIONS

Pub. L. 103–337, div. B, title XXVIII, §2815, Oct. 5, 1994, 108 Stat. 3056, required the Secretary of Defense to prepare and submit to the congressional defense committees, not later than Jan. 31, 1996, a report evaluating the effect of base closures and realignments conducted since Jan. 1, 1987, on the ability of the Armed Forces to remobilize to the end strength levels authorized for fiscal year 1987 by sections 401, 403, 411, and 421 of the National Defense Authorization Act for Fiscal Year 1987 (Pub. L. 99–661; 100 Stat. 3859).

## CONGRESSIONAL FINDINGS WITH RESPECT TO BASE CLOSURE COMMUNITY ASSISTANCE

Pub. L. 103–160, div. B, title XXIX, §2901, Nov. 30, 1993, 107 Stat. 1909, set out congressional findings related to assistance for local communities in light of the closure and realignment of military installations.

## CONSIDERATION OF ECONOMIC NEEDS AND COOPERATION WITH STATE AND LOCAL AUTHORITIES IN DISPOSING OF PROPERTY

Pub. L. 103–160, div. B, title XXIX, §2903(c), (d), Nov. 30, 1993, 107 Stat. 1915, directed the Secretary of Defense to consider, in disposing of property as part of the closure of a military installation under a base closure law, the local and regional economic development priorities and to cooperate with the State in which the military installation is located, with the redevelopment authority with respect to the installation, and with local government and other interested persons located near the installation.

## REGULATIONS TO CARRY OUT SECTION 204 OF PUB. L. 100–526 AND SECTION 2905 OF PUB. L. 101–510

Pub. L. 103–160, div. B, title XXIX, §2908(c), Nov. 30, 1993, 107 Stat. 1924, directed the Secretary of Defense to prescribe, in consultation with the Administrator of the Environmental Protection Agency, regulations necessary to carry out section 204(d) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526, set out below) and section 2905(e) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, set out below) not later than nine months after Nov. 30, 1993.

## COMPLIANCE WITH CERTAIN ENVIRONMENTAL REQUIREMENTS

Pub. L. 103–160, div. B, title XXIX, §2911, Nov. 30, 1993, 107 Stat. 1924, directed the Secretary of Defense to complete any environmental impact anaylses required under a base closure law or pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a redevelopment plan for any military installation approved for closure under such base closure law not later than 12 months after the submittal of the redevelopment plan.

## PREFERENCE FOR LOCAL AND SMALL BUSINESSES IN CONTRACTING

Pub. L. 103–160, div. B, title XXIX, §2912, Nov. 30, 1993, 107 Stat. 1925, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(14), Oct. 5, 1994, 108 Stat. 2857, provided that:

"(a) PREFERENCE REQUIRED.—In entering into contracts with private entities as part of the closure or realignment of a military installation under a base closure law, the Secretary of Defense shall give preference, to the greatest extent practicable, to qualified businesses located in the vicinity of the installation and to small business concerns and small disadvantaged business concerns. Contracts for which this preference shall be given shall include contracts to carry out activities for the environmental restoration and mitigation at military installations to be closed or realigned.

"(b) DEFINITIONS.—In this section:

"(1) The term 'small business concern' means a business concern meeting the requirements of section 3 of the Small Business Act (15 U.S.C. 632).

"(2) The term 'small disadvantaged business concern' means the business concerns referred to in section 8(d)(1) of such Act (15 U.S.C. 637(d)(1)).

"(3) The term 'base closure law' includes section 2687 of title 10, United States Code."

## TRANSITION COORDINATORS FOR ASSISTANCE TO COMMUNITIES AFFECTED BY CLOSURE OF INSTALLATIONS

Pub. L. 103–160, div. B, title XXIX, §2915, Nov. 30, 1993, 107 Stat. 1926, as amended by Pub. L. 107–107, div. A, title X, §1048(d)(4), Dec. 28, 2001, 115 Stat. 1227, directed the Secretary of Defense to designate, not later than 15 days after the date of approval of closure of a military installation to be closed under a base closure law, a transition coordinator for such installation, and set out the responsibilities of the transition coordinator with respect to the closing installation.

## DEFINITIONS FOR SUBTITLE A OF TITLE XXIX OF PUB. L. 103–160

Pub. L. 103–160, div. B, title XXIX, §2918(a), Nov. 30, 1993, 107 Stat. 1927, provided that: "In this subtitle [subtitle A (§§2901 to 2918) of title XXIX of div. B of Pub. L. 103–160, amending sections 2391 and 2667 of this title, enacting provisions set out as notes under this section and section 9620 of Title 42, The Public Health and Welfare, and amending provisions set out as notes under this section]:

"(1) The term 'base closure law' means the following:

"(A) The provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) The term 'date of approval', with respect to a closure or realignment of an installation, means the date on which the authority of Congress to disapprove a recommendation of closure or realignment, as the case may be, of such installation under the applicable base closure law expires.

"(3) The term 'redevelopment authority', in the case of an installation to be closed under a base closure law, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing the implementation of such plan.

"(4) The term 'redevelopment plan', in the case of an installation to be closed under a base closure law, means a plan that—

"(A) is agreed to by the redevelopment authority with respect to the installation; and

"(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure of the installation."

## LIMITATION ON EXPENDITURES FROM DEFENSE BASE CLOSURE ACCOUNT 1990 FOR MILITARY CONSTRUCTION IN SUPPORT OF TRANSFERS OF FUNCTIONS

Pub. L. 103–160, div. B, title XXIX, §2922, Nov. 30, 1993, 107 Stat. 1930, as amended by Pub. L. 104–106, div. A, title XV, §1502(c)(1), Feb. 10, 1996, 110 Stat. 506; Pub. L. 106–65, div. A, title X, §1067(7), Oct. 5, 1999, 113 Stat. 774, prohibited the expenditure of funds from the Defense Base Closure Account 1990 for military construction in support of the transfer of a function from a military installation recommended for closure or realignment to another installation unless that other istallation is identified in the documents submitted to the Defense Base Closure and Realignment Commission in support of such closure or realignment.

## SENSE OF CONGRESS ON DEVELOPMENT OF BASE CLOSURE CRITERIA

Pub. L. 103–160, div. B, title XXIX, §2925, Nov. 30, 1993, 107 Stat. 1932, as amended by Pub. L. 104–106, div. A, title XV, §1502(c)(1), Feb. 10, 1996, 110 Stat. 506, set out the sense of Congress that the Secretary of Defense include the direct costs of defense base closures and realignments to other Federal departments and agencies in developing amended criteria in accordance with section 2903(b)(2)(B) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510, set out below) and directed the Secretary to submit to Congress a report on any amended criteria developed after Nov. 30, 1993.

## MILITARY BASE CLOSURE REPORT

Pub. L. 102–581, title I, §107(d), Oct. 31, 1992, 106 Stat. 4879, provided that within 30 days after the date on which the Secretary of Defense recommended a list of military bases for closure or realignment pursuant to section 2903(c) of the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101–510, set out below), the Administrator of the Federal Aviation Administration was to submit to Congress and the Defense Base

Closure and Realignment Commission a report on the effects of all those recommendations involving military airbases, including the effect on civilian airports and airways in the local community and region; potential modifications and costs necessary to convert such bases to civilian aviation use; and in the case of air traffic control or radar coverage currently provided by the Department of Defense, potential installations or adjustments of equipment and costs necessary for the Federal Aviation Administration to maintain existing levels of service for the local community and region.

## INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTY

Pub. L. 102–484, div. A, title III, §330, Oct. 23, 1992, 106 Stat. 2371, as amended by Pub. L. 103–160, div. A, title X, §1002, Nov. 30, 1993, 107 Stat. 1745, provided that:

"(a) IN GENERAL.—(1) Except as provided in paragraph (3) and subject to subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in paragraph (2) from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

"(2) The persons and entities described in this paragraph are the following:

"(A) Any State (including any officer, agent, or employee of the State) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1).

"(B) Any political subdivision of a State (including any officer, agent, or employee of the State) that acquires such ownership or control.

"(C) Any other person or entity that acquires such ownership or control.

"(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

"(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

"(b) CONDITIONS.—No indemnification may be afforded under this section unless the person or entity making a claim for indemnification—

"(1) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

"(2) furnishes to the Department of Defense copies of pertinent papers the entity receives;

"(3) furnishes evidence or proof of any claim, loss, or damage covered by this section; and

"(4) provides, upon request by the Department of Defense, access to the records and personnel of the entity for purposes of defending or settling the claim or action.

"(c) AUTHORITY OF SECRETARY OF DEFENSE.—(1) In any case in which the Secretary of Defense determines that the Department of Defense may be required to make indemnification payments to a person under this section for any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage referred to in subsection (a)(1), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

"(2) In any case described in paragraph (1), if the person to whom the Department of Defense may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this section.

"(d) ACCRUAL OF ACTION.—For purposes of subsection (b)(1), the date on which a claim accrues is the date on which the plaintiff knew (or reasonably should have known) that the personal injury or property damage referred to in subsection (a) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at any military installation (or portion thereof) described in subsection (a)(1).

"(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

"(f) DEFINITIONS.—In this section:

"(1) The terms 'facility', 'hazardous substance', 'release', and 'pollutant or contaminant' have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601(9), (14), (22), and (33)).

"(2) The term 'military installation' has the meaning given such term under section 2687(e)(1) [now 2687(g)(1)] of title 10, United States Code.

"(3) The term 'base closure law' means the following:

"(A) The Defense Base Closure and Realignment Act of 1990 [part A of title XXIX of div. B of Pub. L. 101–510] (10 U.S.C. 2687 note).

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act [Pub. L. 100–526] (10 U.S.C. 2687 note).

"(C) Section 2687 of title 10, United States Code.

"(D) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of the enactment of this Act [Oct. 23, 1992]."

## DEMONSTRATION PROJECT FOR USE OF NATIONAL RELOCATION CONTRACTOR TO ASSIST DEPARTMENT OF DEFENSE

Pub. L. 102–484, div. B, title XXVIII, §2822, Oct. 23, 1992, 106 Stat. 2608, provided that, subject to the availability of appropriations therefor, the Secretary of Defense was to enter into a one-year contract, not later than 30 days after Oct. 23, 1992, with a private relocation contractor operating on a nationwide basis to test the cost-effectiveness of using national relocation contractors to administer the Homeowners Assistance Program and that, not later than one year after the date on which the Secretary of Defense entered into the contract, the Comptroller General was to submit to Congress a report containing the Comptroller General's evaluation of the effectiveness of using the national contractor for administering the program.

## ENVIRONMENTAL RESTORATION REQUIREMENTS AT MILITARY INSTALLATIONS TO BE CLOSED

Pub. L. 102–190, div. A, title III, §334, Dec. 5, 1991, 105 Stat. 1340, prescribed requirements for certain installations to be closed under 1989 or 1991 base closure lists by requiring that all draft final remedial investigations and feasibility studies related to environmental restoration activities at each such military installation be submitted to Environmental Protection Agency not later than 24 months after Dec. 5, 1991, for bases on 1989 closure list and not later than 36 months after such date for bases on 1991 closure list, prior to repeal by Pub. L. 104–201, div. A, title III, §328, Sept. 23, 1996, 110 Stat. 2483.

## WITHHOLDING INFORMATION FROM CONGRESS OR COMPTROLLER GENERAL

Pub. L. 102–190, div. B, title XXVIII, §2821(i), Dec. 5, 1991, 105 Stat. 1546, provided that: "Nothing in this section [enacting and amending provisions set out below] or in the Defense Base Closure and Realignment Act of 1990 [part A of title XXIX of div. B of Pub. L. 101–510, set out below] shall be construed to authorize the withholding of information from Congress, any committee or subcommittee of Congress, or the Comptroller General of the United States."

## CONSISTENCY IN BUDGET DATA

Pub. L. 102–190, div. B, title XXVIII, §2822, Dec. 5, 1991, 105 Stat. 1546, as amended by Pub. L. 102–484, div. B, title XXVIII, §2825, Oct. 23, 1992, 106 Stat. 2609, directed the Secretary of Defense to ensure that the amounts of authorizations requested for military construction related to the closure or realignment of military installations in fiscal years 1992 through 1999 do not exceed the estimates of the costs of such construction provided to the Defense Base Closure and Realignment Commission, unless the Secretary submits to Congress an explanation for any request for an authorization that exceeds the cost estimate.

## DISPOSITION OF FACILITIES OF DEPOSITORY INSTITUTIONS ON MILITARY INSTALLATIONS TO BE CLOSED

Pub. L. 102–190, div. B, title XXVIII, §2825, Dec. 5, 1991, 105 Stat. 1549, as amended by Pub. L. 103–160, div. B, title XXIX, §2928(a), (b)(1), (c), Nov. 30, 1993, 107 Stat. 1934, 1935, provided that:

"(a) AUTHORITY TO CONVEY FACILITIES.—(1) Subject to subsection (c) and notwithstanding any other provision of law, the Secretary of the military department having jurisdiction over a military installation being closed pursuant to a base closure law may convey all right, title, and interest of the United States in a facility located on that installation to a depository institution that—

"(A) conducts business in the facility; and

"(B) constructed or substantially renovated the facility using funds of the depository institution.

"(2) In the case of the conveyance under paragraph (1) of a facility that was not constructed by the depository institution but was substantially renovated by the depository institution, the Secretary shall require the depository institution to pay an amount determined by the Secretary to be equal to the value of the facility

in the absence of the renovations.

"(b) AUTHORITY TO CONVEY LAND.—As part of the conveyance of a facility to a depository institution under subsection (a), the Secretary of the military department concerned shall permit the depository institution to purchase the land upon which that facility is located. The Secretary shall offer the land to the depository institution before offering such land for sale or other disposition to any other entity. The purchase price shall be not less than the fair market value of the land, as determined by the Secretary.

"(c) LIMITATION.—The Secretary of a military department may not convey a facility to a depository institution under subsection (a) if the Secretary determines that the operation of a depository institution at such facility is inconsistent with the redevelopment plan with respect to the installation.

"(d) BASE CLOSURE LAW DEFINED.—For purposes of this section, the term 'base closure law' means the following:

"(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 104 Stat. 1808; 10 U.S.C. 2687 note).

"(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; 10 U.S.C. 2687 note).

"(3) Section 2687 of title 10, United States Code.

"(4) Any other similar law enacted after the date of the enactment of this Act [Dec. 5, 1991].

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' has the meaning given that term in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A))."

## REPORT ON ENVIRONMENTAL RESTORATION COSTS FOR INSTALLATIONS TO BE CLOSED UNDER 1990 BASE CLOSURE LAW

Pub. L. 102–190, div. B, title XXVIII, §2827(b), Dec. 5, 1991, 105 Stat. 1551, directed the Secretary of Defense to submit an annual report to Congress on the funding needed for environmental restoration activities at certain designated military installations for the fiscal year for which a budget was submitted and for each of the four following fiscal years, prior to repeal by Pub. L. 104–106, div. A, title X, §1061(m), Feb. 10, 1996, 110 Stat. 443.

## SENSE OF CONGRESS REGARDING JOINT RESOLUTION OF DISAPPROVAL OF 1991 BASE CLOSURE COMMISSION RECOMMENDATION

Pub. L. 102–172, title VIII, §8131, Nov. 26, 1991, 105 Stat. 1208, set out the sense of the Congress that in acting on the Joint Resolution of Disapproval of the 1991 Base Closure Commission's recommendation, it took no position on whether there had been compliance by the Commission, and the Department of Defense with the requirements of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of div. B of Pub. L. 101–510, set out below), and that the vote on the resolution should not be interpreted to imply Congressional approval of all actions taken by the Commission and the Department of Defense in fulfillment of their responsibilities and duties under the Defense Base Closure and Realignment Act of 1990, but only the approval of the recommendations issued by the Commission.

## REQUIREMENTS FOR BASE CLOSURE AND REALIGNMENT PLANS

Pub. L. 103–335, title VIII, §8040, Sept. 30, 1994, 108 Stat. 2626, which directed Secretary of Defense to include in any base closure and realignment plan submitted to Congress after Sept. 30, 1994, a complete review of expectations for the five-year period beginning on Oct. 1, 1994, including force structure and levels, installation requirements, a budget plan, cost savings to be realized through realignments and closures of military installations, and the economic impact on local areas affected, was from the Department of Defense Appropriations Act, 1995, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–139, title VIII, §8045, Nov. 11, 1993, 107 Stat. 1450.

Pub. L. 102–396, title IX, §9060, Oct. 6, 1992, 106 Stat. 1915.

Pub. L. 102–172, title VIII, §8063, Nov. 26, 1991, 105 Stat. 1185.

Pub. L. 101–511, title VIII, §8081, Nov. 5, 1990, 104 Stat. 1894.

## DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Pub. L. 101–510, div. B, title XXIX, part A, Nov. 5, 1990, 104 Stat. 1808, as amended by Pub. L. 102–190, div. A, title III, §344(b)(1), div. B, title XXVIII, §§2821(a)–(h)(1), 2827(a)(1), (2), Dec. 5, 1991, 105 Stat. 1345, 1544–1546, 1551; Pub. L. 102–484, div. A, title X, §1054(b), div. B, title XXVIII, §§2821(b), 2823, Oct. 23, 1992, 106 Stat. 2502, 2607, 2608; Pub. L. 103–160, div. B, title XXIX, §§2902(b), 2903(b), 2904(b), 2905(b), 2907(b), 2908(b), 2918(c), 2921(b), (c), 2923, 2926, 2930(a), Nov. 30, 1993, 107 Stat. 1911, 1914,

1916, 1918, 1921, 1923, 1928–1930, 1932, 1935; Pub. L. 103–337, div. A, title X, §1070(b)(15), (d)(2), div. B, title XXVIII, §§2811, 2812(b), 2813(c)(2), (d)(2), (e)(2), Oct. 5, 1994, 108 Stat. 2857, 2858, 3053–3056; Pub. L. 103–421, §2(a)–(c), (f)(2), Oct. 25, 1994, 108 Stat. 4346–4352, 4354; Pub. L. 104–106, div. A, title XV, §§1502(d), 1504(a)(9), 1505(e)(1), div. B, title XXVIII, §§2831(b)(2), 2835, 2836, 2837(a), 2838, 2839(b), 2840(b), Feb. 10, 1996, 110 Stat. 508, 513, 514, 558, 560, 561, 564, 565; Pub. L. 104–201, div. B, title XXVIII, §§2812(b), 2813(b), Sept. 23, 1996, 110 Stat. 2789; Pub. L. 105–85, div. A, title X, §1073(d)(4)(B), div. B, title XXVIII, §2821(b), Nov. 18, 1997, 111 Stat. 1905, 1997; Pub. L. 106–65, div. A, title X, §1067(10), div. B, title XVIII, §§2821(a), 2822, Oct. 5, 1999, 113 Stat. 774, 853, 856; Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(2), div. B, title XXVIII, §2821(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293, 1654A–419; Pub. L. 107–107, div. A, title X, §1048(d)(2), div. B, title XXVIII, §2821(b), title XXX, §§3001–3007, Dec. 28, 2001, 115 Stat. 1227, 1312, 1342–1351; Pub. L. 107–314, div. A, title X, §1062(f)(4), (m)(1)–(3), div. B, title XXVIII, §§2814(b), 2854, Dec. 2, 2002, 116 Stat. 2651, 2652, 2710, 2728; Pub. L. 108–136, div. A, title VI, §655(b), div. B, title XXVIII, §§2805(d)(2), 2821, Nov. 24, 2003, 117 Stat. 1523, 1721, 1726; Pub. L. 108–375, div. A, title X, §1084(i), div. B, title XXVIII, §§2831–2834, Oct. 28, 2004, 118 Stat. 2064, 2132–2134; Pub. L. 109–163, div. B, title XXVIII, §2831, Jan. 6, 2006, 119 Stat. 3518; Pub. L. 110–181, div. B, title XXVII, §2704(a), Jan. 28, 2008, 122 Stat. 532; Pub. L. 110–417, div. B, title XXVII, §§2711, 2712(a)(1)(A), (b), Oct. 14, 2008, 122 Stat. 4715, 4716; Pub. L. 111–84, div. B, title XXVII, §2715(a), Oct. 28, 2009, 123 Stat. 2658; Pub. L. 112–239, div. B, title XXVII, §2711(a), (c)(2), (3)(A), Jan. 2, 2013, 126 Stat. 2140, 2143; Pub. L. 113–291, div. B, title XXVII, §2721, Dec. 19, 2014, 128 Stat. 3693; Pub. L. 117–263, div. B, title XXVII, §2702(a), Dec. 23, 2022, 136 Stat. 2990, provided that:

"SEC. 2901. SHORT TITLE AND PURPOSE

"(a) SHORT TITLE.—This part may be cited as the 'Defense Base Closure and Realignment Act of 1990'.

"(b) PURPOSE.—The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

"SEC. 2902. THE COMMISSION

"(a) ESTABLISHMENT.—There is established an independent commission to be known as the 'Defense Base Closure and Realignment Commission'.

"(b) DUTIES.—The Commission shall carry out the duties specified for it in this part.

"(c) APPOINTMENT.—(1)(A) The Commission shall be composed of eight members appointed by the President, by and with the advise [advice] and consent of the Senate.

"(B) The President shall transmit to the Senate the nominations for appointment to the Commission—

"(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

"(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

"(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

"(C) If the President does not transmit to Congress the nominations for appointment to the Commission on or before the date specified for 1993 in clause (ii) of subparagraph (B) or for 1995 in clause (iii) of such subparagraph, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

"(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with—

"(A) the Speaker of the House of Representatives concerning the appointment of two members;

"(B) the majority leader of the Senate concerning the appointment of two members;

"(C) the minority leader of the House of Representatives concerning the appointment of one member; and

"(D) the minority leader of the Senate concerning the appointment of one member.

"(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

"(d) TERMS.—(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

"(2) The Chairman of the Commission shall serve until the confirmation of a successor.

"(e) MEETINGS.—(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

"(2)(A) Each meeting of the Commission, other than meetings in which classified information is to be

discussed, shall be open to the public.

"(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

"(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness and Management Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

"(ii) The Chairman and the ranking minority party member of the Subcommittee on Readiness of the Committee on Armed Services of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

"(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

"(f) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

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

"(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(h) DIRECTOR OF STAFF.—(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.

"(2) The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(i) STAFF.—(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

"(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"(3)(A) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.

"(B)(i) Not more than one-fifth of the professional analysts of the Commission staff may be persons detailed from the Department of Defense to the Commission.

"(ii) No person detailed from the Department of Defense to the Commission may be assigned as the lead professional analyst with respect to a military department or defense agency.

"(C) A person may not be detailed from the Department of Defense to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within the Department of Defense concerning the preparation of recommendations for closures or realignments of military installations.

"(D) No member of the Armed Forces, and no officer or employee of the Department of Defense, may—

"(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from the Department of Defense to that staff;

"(ii) review the preparation of such a report; or

"(iii) approve or disapprove such a report.

"(4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

"(5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

"(6) The following restrictions relating to the personnel of the Commission shall apply during 1992 and

1994:

"(A) There may not be more than 15 persons on the staff at any one time.

"(B) The staff may perform only such functions as are necessary to prepare for the transition to new membership on the Commission in the following year.

"(C) No member of the Armed Forces and no employee of the Department of Defense may serve on the staff.

"(j) OTHER AUTHORITY.—(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

"(2) The Commission may lease space and acquire personal property to the extent funds are available.

"(k) FUNDING.—(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

"(2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100–526 [set out below]. Such funds shall remain available until expended.

"(3)(A) The Secretary may transfer not more than $300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.

"(B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under [former] section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(l) TERMINATION.—The Commission shall terminate on December 31, 1995.

"(m) PROHIBITION AGAINST RESTRICTING COMMUNICATIONS.—Section 1034 of title 10, United States Code, shall apply with respect to communications with the Commission.

"SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS

"(a) FORCE-STRUCTURE PLAN.—(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

"(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan—

"(A) a description of the assessment referred to in paragraph (1);

"(B) a description (i) of the anticipated force structure during and at the end of each such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

"(C) a description of the anticipated implementation of such force-structure plan.

"(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

"(b) SELECTION CRITERIA.—(1) The Secretary shall, by no later than December 31, 1990, publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

"(2)(A) The Secretary shall, by no later than February 15, 1991, publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15, 1991.

"(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than January 15 of the year

concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before February 15 of the year concerned.

"(c) DOD RECOMMENDATIONS.—(1) The Secretary may, by no later than April 15, 1991, March 15, 1993, and March 1, 1995, publish in the Federal Register and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned.

"(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation. The Secretary shall transmit the matters referred to in the preceding sentence not later than 7 days after the date of the transmittal to the congressional defense committees and the Commission of the list referred to in paragraph (1).

"(3)(A) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

"(4) In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

"(5)(A) Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person's knowledge and belief.

"(B) Subparagraph (A) applies to the following persons:

"(i) The Secretaries of the military departments.

"(ii) The heads of the Defense Agencies.

"(iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

"(6) Any information provided to the Commission by a person described in paragraph (5)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 24 hours after the submission of the information to the Commission.

"(d) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

"(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

"(B) Subject to subparagraph (C), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated

substantially from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

"(C) In the case of a change described in subparagraph (D) in the recommendations made by the Secretary, the Commission may make the change only if the Commission—

"(i) makes the determination required by subparagraph (B);

"(ii) determines that the change is consistent with the force-structure plan and final criteria referred to in subsection (c)(1);

"(iii) publishes a notice of the proposed change in the Federal Register not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (2); and

"(iv) conducts public hearings on the proposed change.

"(D) Subparagraph (C) shall apply to a change by the Commission in the Secretary's recommendations that would—

"(i) add a military installation to the list of military installations recommended by the Secretary for closure;

"(ii) add a military installation to the list of military installations recommended by the Secretary for realignment; or

"(iii) increase the extent of a realignment of a particular military installation recommended by the Secretary.

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.

"(3) The Commission shall explain and justify in its report submitted to the President pursuant to paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (c). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President under paragraph (2).

"(4) After July 1 of each year in which the Commission transmits recommendations to the President under this subsection, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

"(5) The Comptroller General of the United States shall—

"(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (c); and

"(B) by no later than April 15 of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

"(e) REVIEW BY THE PRESIDENT.—(1) The President shall, by no later than July 15 of each year in which the Commission makes recommendations under subsection (d), transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

"(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of such approval.

"(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15 of the year concerned, a revised list of recommendations for the closure and realignment of military installations.

"(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval.

"(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by September 1 of any year in which the Commission has transmitted recommendations to the President under this part, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

"SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

"(a) IN GENERAL.—Subject to subsection (b), the Secretary shall—

"(1) close all military installations recommended for closure by the Commission in each report transmitted to the Congress by the President pursuant to section 2903(e);

"(2) realign all military installations recommended for realignment by such Commission in each such report;

"(3) carry out the privatization in place of a military installation recommended for closure or

realignment by the Commission in the 2005 report only if privatization in place is a method of closure or realignment of the military installation specified in the recommendations of the Commission in such report and is determined by the Commission to be the most cost-effective method of implementation of the recommendation;

"(4) initiate all such closures and realignments no later than two years after the date on which the President transmits a report to the Congress pursuant to section 2903(e) containing the recommendations for such closures or realignments; and

"(5) complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments.

"(b) CONGRESSIONAL DISAPPROVAL.—(1) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a joint resolution is enacted, in accordance with the provisions of section 2908, disapproving such recommendations of the Commission before the earlier of—

"(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

"(B) the adjournment of Congress sine die for the session during which such report is transmitted.

"(2) For purposes of paragraph (1) of this subsection and subsections (a) and (c) of section 2908, the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

"SEC. 2905. IMPLEMENTATION

"(a) IN GENERAL.—(1) In closing or realigning any military installation under this part, the Secretary may—

"(A) take such actions as may be necessary to close or realign any military installation, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from a military installation being closed or realigned to another military installation, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance;

"(B) provide—

"(i) economic adjustment assistance to any community located near a military installation being closed or realigned, and

"(ii) community planning assistance to any community located near a military installation to which functions will be transferred as a result of the closure or realignment of a military installation,

if the Secretary of Defense determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for economic adjustment assistance or community planning assistance;

"(C) carry out activities for the purposes of environmental restoration and mitigation at any such installation, and shall use for such purposes funds in the Account;

"(D) provide outplacement assistance to civilian employees employed by the Department of Defense at military installations being closed or realigned, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for outplacement assistance to employees; and

"(E) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or realignment, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense and available for such purpose.

"(2) In carrying out any closure or realignment under this part, the Secretary shall ensure that environmental restoration of any property made excess to the needs of the Department of Defense as a result of such closure or realignment be carried out as soon as possible with funds available for such purpose.

"(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property, facilities, and personal property located at a military installation closed or realigned under this part—

"(A) the authority of the Administrator to utilize excess property under subchapter II of chapter 5 of title 40, United States Code;

"(B) the authority of the Administrator to dispose of surplus property under subchapter III of chapter 5 of title 40, United States Code;

"(C) the authority to dispose of surplus property for public airports under sections 47151 through

47153 of title 49, United States Code; and

"(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

"(2)(A) Subject to subparagraph (B) and paragraphs (3), (4), (5), and (6), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

"(i) all regulations governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949 [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of Title 41, Public Contracts]; and

"(ii) all regulations governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)) [now 40 U.S.C. 545 note].

"(B) The Secretary may, with the concurrence of the Administrator of General Services—

"(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

"(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority.

"(C) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

"(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

"(E) If a military installation to be closed, realigned, or placed in an inactive status under this part includes a road used for public access through, into, or around the installation, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering the continued availability of the road for public use after the installation is closed, realigned, or placed in an inactive status.

"(3)(A) Not later than 6 months after the date of approval of the closure or realignment of a military installation under this part, the Secretary, in consultation with the redevelopment authority with respect to the installation, shall—

"(i) inventory the personal property located at the installation; and

"(ii) identify the items (or categories of items) of such personal property that the Secretary determines to be related to real property and anticipates will support the implementation of the redevelopment plan with respect to the installation.

"(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to an installation, the Secretary shall consult with—

"(i) the local government in whose jurisdiction the installation is wholly located; or

"(ii) a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State in which the installation is located.

"(C)(i) Except as provided in subparagraphs (E) and (F), the Secretary may not carry out any of the activities referred to in clause (ii) with respect to an installation referred to in that clause until the earlier of—

"(I) one week after the date on which the redevelopment plan for the installation is submitted to the Secretary;

"(II) the date on which the redevelopment authority notifies the Secretary that it will not submit such a plan;

"(III) twenty-four months after the date of approval of the closure or realignment of the installation; or

"(IV) ninety days before the date of the closure or realignment of the installation.

"(ii) The activities referred to in clause (i) are activities relating to the closure or realignment of an installation to be closed or realigned under this part as follows:

"(I) The transfer from the installation of items of personal property at the installation identified in accordance with subparagraph (A).

"(II) The reduction in maintenance and repair of facilities or equipment located at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes.

"(D) Except as provided in paragraph (4), the Secretary may not transfer items of personal property located at an installation to be closed or realigned under this part to another installation, or dispose of such items, if such items are identified in the redevelopment plan for the installation as items essential to the reuse or

redevelopment of the installation. In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.

"(E) This paragraph shall not apply to any personal property located at an installation to be closed or realigned under this part if the property—

"(i) is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

"(ii) is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components);

"(iii) is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary and the redevelopment authority);

"(iv) is stored at the installation for purposes of distribution (including spare parts or stock items); or

"(v)(I) meets known requirements of an authorized program of another Federal department or agency for which expenditures for similar property would be necessary, and (II) is the subject of a written request by the head of the department or agency.

"(F) Notwithstanding subparagraphs (C)(i) and (D), the Secretary may carry out any activity referred to in subparagraph (C)(ii) or (D) if the Secretary determines that the carrying out of such activity is in the national security interest of the United States.

"(4)(A) The Secretary may transfer real property and personal property located at a military installation to be closed or realigned under this part to the redevelopment authority with respect to the installation for purposes of job generation on the installation.

"(B) The transfer of property located at a military installation under subparagraph (A) may be for consideration at or below the estimated fair market value or without consideration. The determination of such consideration may account for the economic conditions of the local affected community and the estimated costs to redevelop the property. The Secretary may accept, as consideration, a share of the revenues that the redevelopment authority receives from third-party buyers or lessees from sales and long-term leases of the conveyed property, consideration in kind (including goods and services), real property and improvements, or such other consideration as the Secretary considers appropriate. The transfer of property located at a military installation under subparagraph (A) may be made for consideration below the estimated fair market value or without consideration only if the redevelopment authority with respect to the installation—

"(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the initial transfer of property under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

"(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) For purposes of subparagraph (B)(i), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

"(i) Road construction.

"(ii) Transportation management facilities.

"(iii) Storm and sanitary sewer construction.

"(iv) Police and fire protection facilities and other public facilities.

"(v) Utility construction.

"(vi) Building rehabilitation.

"(vii) Historic property preservation.

"(viii) Pollution prevention equipment or facilities.

"(ix) Demolition.

"(x) Disposal of hazardous materials generated by demolition.

"(xi) Landscaping, grading, and other site or public improvements.

"(xii) Planning for or the marketing of the development and reuse of the installation.

"(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).

"(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) A lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.

"(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of subchapters II and III of chapter 5 of title 40, United States Code, if the Secretary determines that the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.

"(G) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.

"(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if—

"(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

"(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

"(III) the terms of the modification do not compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

"(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act [Pub. L. 100–526, 10 U.S.C. 2687 note], with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d).

"(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

"(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

"(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000 [Oct. 5, 1999], at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.

"(J) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

"(5)(A) Except as provided in subparagraphs (B) and (C), the Secretary shall take such actions as the Secretary determines necessary to ensure that final determinations under paragraph (1) regarding whether another department or agency of the Federal Government has identified a use for any portion of a military installation to be closed or realigned under this part, or will accept transfer of any portion of such installation, are made not later than 6 months after the date of approval of closure or realignment of that installation.

"(B) The Secretary may, in consultation with the redevelopment authority with respect to an installation, postpone making the final determinations referred to in subparagraph (A) with respect to the installation for such period as the Secretary determines appropriate if the Secretary determines that such postponement is in the best interests of the communities affected by the closure or realignment of the installation.

"(C)(i) Before acquiring non-Federal real property as the location for a new or replacement Federal facility of any type, the head of the Federal agency acquiring the property shall consult with the Secretary regarding the feasibility and cost advantages of using Federal property or facilities at a military installation closed or realigned or to be closed or realigned under this part as the location for the new or replacement facility. In considering the availability and suitability of a specific military installation, the Secretary and the head of the Federal agency involved shall obtain the concurrence of the redevelopment authority with respect to the installation and comply with the redevelopment plan for the installation.

"(ii) Not later than 30 days after acquiring non-Federal real property as the location for a new or replacement Federal facility, the head of the Federal agency acquiring the property shall submit to Congress a report containing the results of the consultation under clause (i) and the reasons why military installations referred to in such clause that are located within the area to be served by the new or replacement Federal facility or within a 200-mile radius of the new or replacement facility, whichever area is greater, were considered to be unsuitable or unavailable for the site of the new or replacement facility.

"(iii) This subparagraph shall apply during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 [Nov. 18, 1997] and ending on July 31, 2001.

"(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) to military installations closed under this part. For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence [Oct. 25, 1994], see paragraph (7).

"(B)(i) Not later than the date on which the Secretary of Defense completes the determination under paragraph (5) of the transferability of any portion of an installation to be closed under this part, the Secretary shall—

"(I) complete any determinations or surveys necessary to determine whether any building or property referred to in clause (ii) is excess property, surplus property, or unutilized or underutilized property for the purpose of the information referred to in section 501(a) of such Act (42 U.S.C. 11411(a)); and

"(II) submit to the Secretary of Housing and Urban Development information on any building or property that is so determined.

"(ii) The buildings and property referred to in clause (i) are any buildings or property located at an installation referred to in that clause for which no use is identified, or of which no Federal department or agency will accept transfer, pursuant to the determination of transferability referred to in that clause.

"(C) Not later than 60 days after the date on which the Secretary of Defense submits information to the Secretary of Housing and Urban Development under subparagraph (B)(ii), the Secretary of Housing and Urban Development shall—

"(i) identify the buildings and property described in such information that are suitable for use to assist the homeless;

"(ii) notify the Secretary of Defense of the buildings and property that are so identified;

"(iii) publish in the Federal Register a list of the buildings and property that are so identified, including with respect to each building or property the information referred to in section 501(c)(1)(B) of such Act [42 U.S.C. 11411(c)(1)(B)]; and

"(iv) make available with respect to each building and property the information referred to in section 501(c)(1)(C) of such Act in accordance with such section 501(c)(1)(C).

"(D) Any buildings and property included in a list published under subparagraph (C)(iii) shall be treated as property available for application for use to assist the homeless under section 501(d) of such Act.

"(E) The Secretary of Defense shall make available in accordance with section 501(f) of such Act any buildings or property referred to in subparagraph (D) for which—

"(i) a written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act;

"(ii) an application for use of such buildings or property for such purpose is submitted to the Secretary

of Health and Human Services in accordance with section 501(e)(2) of such Act; and

"(iii) the Secretary of Health and Human Services—

"(I) completes all actions on the application in accordance with section 501(e)(3) of such Act; and

"(II) approves the application under section 501(e) of such Act.

"(F)(i) Subject to clause (ii), a redevelopment authority may express in writing an interest in using buildings and property referred to subparagraph (D), and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C), or use such buildings and property, in accordance with the redevelopment plan with respect to the installation at which such buildings and property are located as follows:

"(I) If no written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act during the 60-day period beginning on the date of the publication of the buildings and property under subparagraph (C)(iii).

"(II) In the case of buildings and property for which such notice is so received, if no completed application for use of the buildings or property for such purpose is received by the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act during the 90-day period beginning on the date of the receipt of such notice.

"(III) In the case of buildings and property for which such application is so received, if the Secretary of Health and Human Services rejects the application under section 501(e) of such Act.

"(ii) Buildings and property shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and property, or to use such buildings and property, under clause (i) as follows:

"(I) In the case of buildings and property referred to in clause (i)(I), during the one-year period beginning on the first day after the 60-day period referred to in that clause.

"(II) In the case of buildings and property referred to in clause (i)(II), during the one-year period beginning on the first day after the 90-day period referred to in that clause.

"(III) In the case of buildings and property referred to in clause (i)(III), during the one-year period beginning on the date of the rejection of the application referred to in that clause.

"(iii) A redevelopment authority shall express an interest in the use of buildings and property under this subparagraph by notifying the Secretary of Defense, in writing, of such an interest.

"(G)(i) Buildings and property available for a redevelopment authority under subparagraph (F) shall not be available for use to assist the homeless under section 501 of such Act [42 U.S.C. 11411] while so available for a redevelopment authority.

"(ii) If a redevelopment authority does not express an interest in the use of buildings or property, or commence the use of buildings or property, under subparagraph (F) within the applicable time periods specified in clause (ii) of such subparagraph, such buildings or property shall be treated as property available for use to assist the homeless under section 501(a) of such Act.

"(7)(A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in

the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure or realignment of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV); and

"(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the decision regarding the disposal of the buildings and property covered by the agreements by the Secretary of Defense under subparagraph (K) or (L).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

"(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

"(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

"(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a

redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Defense and the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to such Secretaries, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.

"(ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.

"(iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.

"(iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.

"(v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter [probably means subchapter II (§47151 et seq.) of chapter 471 of Title 49, Transportation] (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall—

"(I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and

"(II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).

"(iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.

"(II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.

"(III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.

"(IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

"(V) In the case of a request for a conveyance under subclause (I) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter [probably means subchapter II (§47151 et seq.) of Title 49, Transportation] (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K) or (L), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure or realignment of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

"(O) For purposes of this paragraph, the term 'communities in the vicinity of the installation', in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.

"(P) For purposes of this paragraph, the term 'other interested parties', in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.

"(8)(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part, if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.

"(B) The Secretary may exercise the authority provided under this paragraph without regard to the provisions of chapter 146 of title 10, United States Code.

"(C) The Secretary may not exercise the authority under subparagraph (A) with respect to an installation earlier than 180 days before the date on which the installation is to be closed.

"(D) The Secretary shall include in a contract for services entered into with a local government under this paragraph a clause that requires the use of professionals to furnish the services to the extent that professionals are available in the area under the jurisdiction of such government.

"(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, and, except as provided in paragraph (2), the Department of Defense in carrying out this part.

"(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this part (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

"(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider—

"(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission;

"(ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or

"(iii) military installations alternative to those recommended or selected.

"(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act.

"(d) WAIVER.—The Secretary of Defense may close or realign military installations under this part without regard to—

"(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriations or authorization Act; and

"(2) sections 2662 and 2687 of title 10, United States Code.

"(e) TRANSFER AUTHORITY IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.—(1)(A) Subject to paragraph (2) of this subsection and section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the Secretary may enter into an agreement to transfer by deed real property or facilities referred to in subparagraph (B) with any person who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and concurrences.

"(B) The real property and facilities referred to in subparagraph (A) are the real property and facilities located at an installation closed or to be closed, or realigned or to be realigned, under this part that are available exclusively for the use, or expression of an interest in a use, of a redevelopment authority under subsection (b)(6)(F) during the period provided for that use, or expression of interest in use, under that subsection. The real property and facilities referred to in subparagraph (A) are also the real property and facilities located at an installation approved for closure or realignment under this part after 2001 that are available for purposes other than to assist the homeless.

"(C) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the Secretary considers appropriate to protect the interests of the United

States.

"(2) A transfer of real property or facilities may be made under paragraph (1) only if the Secretary certifies to Congress that—

"(A) the costs of all environmental restoration, waste management, and environmental compliance activities otherwise to be paid by the Secretary with respect to the property or facilities are equal to or greater than the fair market value of the property or facilities to be transferred, as determined by the Secretary; or

"(B) if such costs are lower than the fair market value of the property or facilities, the recipient of the property or facilities agrees to pay the difference between the fair market value and such costs.

"(3) In the case of property or facilities covered by a certification under paragraph (2)(A), the Secretary may pay the recipient of such property or facilities an amount equal to the lesser of—

"(A) the amount by which the costs incurred by the recipient of such property or facilities for all environmental restoration, waste, management, and environmental compliance activities with respect to such property or facilities exceed the fair market value of such property or facilities as specified in such certification; or

"(B) the amount by which the costs (as determined by the Secretary) that would otherwise have been incurred by the Secretary for such restoration, management, and activities with respect to such property or facilities exceed the fair market value of such property or facilities as so specified.

"(4) As part of an agreement under paragraph (1), the Secretary shall disclose to the person to whom the property or facilities will be transferred any information of the Secretary regarding the environmental restoration, waste management, and environmental compliance activities described in paragraph (1) that relate to the property or facilities. The Secretary shall provide such information before entering into the agreement.

"(5) Nothing in this subsection shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(6) Section 330 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2687 note) shall not apply to any transfer under this subsection to persons or entities described in subsection (a)(2) of such section 330, except in the case of releases or threatened releases not disclosed pursuant to paragraph (4).

"(f) REPORT ON DESIGNATION OF PROPERTY AS EXCESS INSTEAD OF SURPLUS.—(1) Not later than 180 days after the date on which real property located at a military installation closed or realigned under this part is declared excess, but not surplus, the Secretary of Defense shall submit to the congressional defense committees a report identifying the property and including the information required by paragraph (2). The Secretary shall update the report every 180 days thereafter until the property is either declared surplus or transferred to another Federal agency.

"(2) Each report under paragraph (1) shall include the following elements:

"(A) The reason for the excess designation.

"(B) The nature of the contemplated transfer.

"(C) The proposed timeline for the transfer.

"(D) Any impediments to completing the Federal agency screening process.

"(g) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this part, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this part, or make a payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

"(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

"(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

"(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

"(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.

"SEC. 2906. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

"(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the 'Department of Defense Base Closure Account' which shall be administered by the Secretary as a single account.

"(b) CREDITS TO ACCOUNT.—There shall be credited to the Account the following:

"(1) Funds authorized for and appropriated to the Account.

"(2) Funds transferred to the Account pursuant to section 2711(b) of the Military Construction Authorization Act for Fiscal Year 2013 [div. B of Pub. L. 112–239].

"(3) Funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that funds may be transferred under the authority of this paragraph only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees.

"(4) Proceeds received from the lease, transfer, or disposal of any property at a military installation closed or realigned under this part or the 1988 BRAC law.

"(c) USE OF ACCOUNT.—

"(1) AUTHORIZED PURPOSES.—The Secretary may use the funds in the Account only for the following purposes:

"(A) To carry out the Defense Environmental Restoration Program under section 2701 of title 10, United States Code, and other environmental restoration and mitigation activities at military installations closed or realigned under this part or the 1988 BRAC law.

"(B) To cover property management, disposal, and caretaker costs incurred at military installations closed or realigned under this part or the 1988 BRAC law.

"(C) To cover costs associated with supervision, inspection, overhead, engineering, and design of military construction projects undertaken under this part or the 1988 BRAC law before September 30, 2013, and subsequent claims, if any, related to such activities.

"(D) To record, adjust, and liquidate obligations properly chargeable to the following accounts:

"(i) The Department of Defense Base Closure Account 2005 established by section 2906A of this part, as in effect on September 30, 2013.

"(ii) The Department of Defense Base Closure Account 1990 established by this section, as in effect on September 30, 2013.

"(iii) The Department of Defense Base Closure Account established by section 207 of the 1988 BRAC law, as in effect on September 30, 2013.

"(E) To carry out the demolition or removal of any building or structure under the control of the Secretary of the Navy that is not designated as historic under a Federal, State, or local law and is located on a military installation closed or realigned under a base closure law (as such term is defined in section 101 of title 10, United States Code) at which the sampling or remediation of radiologically contaminated materials has been the subject of substantiated allegations of fraud, without regard to—

"(i) whether the building or structure is radiologically impacted; or

"(ii) whether such demolition or removal is carried out, as part of a response action or otherwise, under the Defense Environmental Restoration Program specified in subparagraph (A) or CERCLA (as such term is defined in section 2700 of title 10, United States Code).

"(2) SOLE SOURCE OF FUNDS.—The Account shall be the sole source of Federal funds for the activities specified in paragraph (1) at a military installation closed or realigned under this part or the 1988 BRAC law.

"(3) PROHIBITION ON USE OF ACCOUNT FOR NEW MILITARY CONSTRUCTION.—Except as provided in paragraph (1), funds in the Account may not be used, directly or by transfer to another appropriations account, to carry out a military construction project, including a minor military construction project, under section 2905(a) or any other provision of law at a military installation closed or realigned under this part or the 1988 BRAC law.

"(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—

"(1) DEPOSIT OF PROCEEDS IN RESERVE ACCOUNT.—If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the 1988 BRAC law.

"(2) The amount so deposited under paragraph (1) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary.

"(3) USE OF RESERVE FUNDS.—Subject to the limitation contained in section 204(b)(7)(C)(iii) of the 1988 BRAC law, amounts in the reserve account are hereby made available to the Secretary, without

appropriation and until expended, for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(e) CONSOLIDATED BUDGET JUSTIFICATION DISPLAY FOR ACCOUNT.—

"(1) CONSOLIDATED BUDGET INFORMATION REQUIRED.—The Secretary shall establish a consolidated budget justification display in support of the Account that for each fiscal year—

"(A) details the amount and nature of credits to, and expenditures from, the Account during the preceding fiscal year;

"(B) separately details the caretaker and environmental remediation costs associated with each military installation for which a budget request is made;

"(C) specifies the transfers into the Account and the purposes for which these transferred funds will be further obligated, to include caretaker and environment remediation costs associated with each military installation;

"(D) specifies the closure or realignment recommendation, and the base closure round in which the recommendation was made, that precipitated the inclusion of the military installation; and

"(E) details any intra-budget activity transfers within the Account that exceeded $1,000,000 during the preceding fiscal year or that are proposed for the next fiscal year and will exceed $1,000,000.

"(2) SUBMISSION.—The Secretary shall include the information required by paragraph (1) in the materials that the Secretary submits to Congress in support of the budget for a fiscal year submitted by the President pursuant to section 1105 of title 31, United States Code.

"(f) CLOSURE OF ACCOUNT; TREATMENT OF REMAINING FUNDS.—

"(1) CLOSURE.—The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code, except that unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under paragraph (2).

"(2) FINAL REPORT.—No later than 60 days after the closure of the Account under paragraph (1), the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

"(A) all the funds credited to and expended from the Account or otherwise expended under this part or the 1988 BRAC law; and

"(B) any funds remaining in the Account.

"(g) DEFINITIONS.—In this section:

"(1) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(2) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(3) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

"(4) The term '1988 BRAC law' means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"[SEC. 2906A. REPEALED. PUB. L. 112–239, DIV. B, TITLE XXVII, §2711(A), JAN. 2, 2013, 126 STAT. 2140.]

"[SEC. 2907. REPEALED. PUB. L. 112–239, DIV. B, TITLE XXVII, §2711(C)(2), JAN. 2, 2013, 126 STAT. 2143.]

"SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

"(a) TERMS OF THE RESOLUTION.—For purposes of section 2904(b), the term 'joint resolution' means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), and—

"(1) which does not have a preamble;

"(2) the matter after the resolving clause of which is as follows: 'That Congress disapproves the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on ———', the blank space being filled in with the appropriate date; and

"(3) the title of which is as follows: 'Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission.'.

"(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A

resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

"(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A Member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

"(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

"(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

"(a) IN GENERAL.—Except as provided in subsection (c), during the period beginning on November 5, 1990, and ending on April 15, 2006, this part shall be the exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.

"(b) RESTRICTION.—Except as provided in subsection (c), none of the funds available to the Department

of Defense may be used, other than under this part, during the period specified in subsection (a)—

"(1) to identify, through any transmittal to the Congress or through any other public announcement or notification, any military installation inside the United States as an installation to be closed or realigned or as an installation under consideration for closure or realignment; or

"(2) to carry out any closure or realignment of a military installation inside the United States.

"(c) EXCEPTION.—Nothing in this part affects the authority of the Secretary to carry out—

"(1) closures and realignments under title II of Public Law 100–526 [set out below]; and

"(2) closures and realignments to which section 2687 of title 10, United States Code, is not applicable, including closures and realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.

"SEC. 2910. DEFINITIONS

"As used in this part:

"(1) The term 'Account' means the Department of Defense Base Closure Account established by section 2906(a).

"(2) The term 'congressional defense committees' means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

"(3) The term 'Commission' means the Commission established by section 2902.

"(4) The term 'military installation' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense.

"(5) The term 'realignment' includes any action which both reduces and relocates functions and civilian personnel positions but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.

"(6) The term 'Secretary' means the Secretary of Defense.

"(7) The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

"(8) The term 'date of approval', with respect to a closure or realignment of an installation, means the date on which the authority of Congress to disapprove a recommendation of closure or realignment, as the case may be, of such installation under this part expires.

"(9)(A) The term 'redevelopment authority', in the case of an installation to be closed or realigned under this part, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.

"(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to a military installation, the term shall include the following:

"(i) The local government in whose jurisdiction the military installation is wholly located.

"(ii) A local government agency or State government agency designated by the chief executive officer of the State in which the military installation is located under subparagraph (B) of section 2905(b)(3) for the purpose of the consultation required by subparagraph (A) of such section.

"(10) The term 'redevelopment plan' in the case of an installation to be closed or realigned under this part, means a plan that—

"(A) is agreed to by the local redevelopment authority with respect to the installation; and

"(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure or realignment of the installation.

"(11) The term 'representative of the homeless' has the meaning given such term in section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

"SEC. 2911. CLARIFYING AMENDMENT

"[Amended this section.]

"SEC. 2912. 2005 ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS.

"(a) FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.—

"(1) PREPARATION AND SUBMISSION.—As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2005, the Secretary shall

include the following:

"(A) A force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period.

"(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

"(2) RELATIONSHIP OF PLAN AND INVENTORY.—Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

"(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

"(B) A discussion of categories of excess infrastructure and infrastructure capacity.

"(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

"(3) SPECIAL CONSIDERATIONS.—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

"(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

"(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

"(4) REVISION.—The Secretary may revise the force-structure plan and infrastructure inventory. If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress not later than March 15, 2005. For purposes of selecting military installations for closure or realignment under this part in 2005, no revision of the force-structure plan or infrastructure inventory is authorized after that date.

"(b) CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.—

"(1) CERTIFICATION REQUIRED.—On the basis of the force-structure plan and infrastructure inventory prepared under subsection (a) and the descriptions and economic analysis prepared under such subsection, the Secretary shall include as part of the submission of the plan and inventory—

"(A) a certification regarding whether the need exists for the closure or realignment of additional military installations; and

"(B) if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011.

"(2) EFFECT OF FAILURE TO CERTIFY.—If the Secretary does not include the certifications referred to in paragraph (1), the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(c) COMPTROLLER GENERAL EVALUATION.—

"(1) EVALUATION REQUIRED.—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

"(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria specified in section 2913, including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

"(B) The need for the closure or realignment of additional military installations.

"(2) SUBMISSION.—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.

"(d) AUTHORIZATION OF ADDITIONAL ROUND; COMMISSION.—

"(1) APPOINTMENT OF COMMISSION.—Subject to the certifications required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this part in 2005 by transmitting to the Senate, not later than March 15, 2005, nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Closure and Realignment Commission.

"(2) EFFECT OF FAILURE TO NOMINATE.—If the President does not transmit to the Senate the nominations for the Commission by March 15, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(3) MEMBERS.—Notwithstanding section 2902(c)(1), the Commission appointed under the authority of this subsection shall consist of nine members.

"(4) TERMS; MEETINGS; TERMINATION.—Notwithstanding subsections (d), (e)(1), and (l) of section 2902, the Commission appointed under the authority of this subsection shall meet during calendar year 2005 and shall terminate on April 15, 2006.

"(5) FUNDING.—If no funds are appropriated to the Commission by the end of the second session of the 108th Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.

"SEC. 2913. FINAL SELECTION CRITERIA FOR ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.

"(a) FINAL SELECTION CRITERIA.—The final criteria to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 shall be the military value and other criteria specified in subsections (b) and (c).

"(b) MILITARY VALUE CRITERIA.—The military value criteria are as follows:

"(1) The current and future mission capabilities and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, and readiness.

"(2) The availability and condition of land, facilities, and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

"(3) The ability to accommodate contingency, mobilization, surge, and future total force requirements at both existing and potential receiving locations to support operations and training.

"(4) The cost of operations and the manpower implications.

"(c) OTHER CRITERIA.—The other criteria that the Secretary shall use in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 are as follows:

"(1) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

"(2) The economic impact on existing communities in the vicinity of military installations.

"(3) The ability of the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel.

"(4) The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

"(d) PRIORITY GIVEN TO MILITARY VALUE.—The Secretary shall give priority consideration to the military value criteria specified in subsection (b) in the making of recommendations for the closure or realignment of military installations.

"(e) EFFECT ON DEPARTMENT AND OTHER AGENCY COSTS.—The selection criteria relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

"(f) RELATION TO OTHER MATERIALS.—The final selection criteria specified in this section shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

"(g) RELATION TO CRITERIA FOR EARLIER ROUNDS.—Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations in 2005.

"SEC. 2914. SPECIAL PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES FOR 2005 ROUND; COMMISSION CONSIDERATION OF RECOMMENDATIONS.

"(a) RECOMMENDATIONS REGARDING CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.—If the Secretary makes the certifications required under section 2912(b), the Secretary shall publish in the Federal Register and transmit to the congressional defense committees and the Commission, not later than May 16, 2005, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under section 2912 and the final selection criteria specified in section 2913.

"(b) PREPARATION OF RECOMMENDATIONS.—

"(1) IN GENERAL.—The Secretary shall comply with paragraphs (2) through (6) of section 2903(c) in preparing and transmitting the recommendations under this section. However, paragraph (6) of section 2903(c) relating to submission of information to Congress shall be deemed to require such submission within 48 hours.

"(2) CONSIDERATION OF LOCAL GOVERNMENT VIEWS.—(A) In making recommendations to the Commission in 2005, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

"(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

"(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.

"[(c) Repealed. Pub. L. 108–375, div. B, title XXVIII, §2833, Oct. 28, 2004, 118 Stat. 2134.]

"(d) COMMISSION REVIEW AND RECOMMENDATIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, section 2903(d) shall apply to the consideration by the Commission of the recommendations transmitted by the Secretary in 2005. The Commission's report containing its findings and conclusions, based on a review and analysis of the Secretary's recommendations, shall be transmitted to the President not later than September 8, 2005.

"(2) AVAILABILITY OF RECOMMENDATIONS TO CONGRESS.—After September 8, 2005, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

"(3) LIMITATIONS ON AUTHORITY TO CONSIDER ADDITIONS TO CLOSURE OR REALIGNMENT LISTS.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary's list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(d)(2)(C)—

"(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

"(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

"(4) TESTIMONY BY SECRETARY.—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary's recommendations.

"(5) REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS .—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

"(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

"(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is supported by at least seven members of the Commission.

"(6) COMPTROLLER GENERAL REPORT.—The Comptroller General report required by section 2903(d)(5)(B) analyzing the recommendations of the Secretary and the selection process in 2005 shall be transmitted to the congressional defense committees not later than July 1, 2005.

"(e) REVIEW BY THE PRESIDENT.—

"(1) IN GENERAL.—Except as provided in this subsection, section 2903(e) shall apply to the review by the President of the recommendations of the Commission under this section, and the actions, if any, of the Commission in response to such review, in 2005. The President shall review the recommendations of the Secretary and the recommendations contained in the report of the Commission under subsection (d) and prepare a report, not later than September 23, 2005, containing the President's approval or disapproval of the Commission's recommendations.

"(2) COMMISSION RECONSIDERATION.—If the Commission prepares a revised list of recommendations under section 2903(e)(3) in 2005 in response to the review of the President in that year under paragraph (1), the Commission shall transmit the revised list to the President not later than October 20, 2005.

"(3) EFFECT OF FAILURE TO TRANSMIT.—If the President does not transmit to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) by November 7, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(4) EFFECT OF TRANSMITTAL.—A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908."

[Pub. L. 117–263, div. B, §2803(a), Dec. 23, 2022, 136 Stat. 2970, provided that: "Titles XXI through XXVII [of Pub. L. 117–263, 136 Stat. 2971–2989, amending section 2906 of Pub. L. 101–510, set out above, and otherwise not classified to the Code] shall take effect on the later of—

["(1) October 1, 2022; or

["(2) the date of the enactment of this Act [Dec. 23, 2022]."]

[Another section 2803(a) of Pub. L. 117–263 amended section 2805 of this title. Section 2803(a) of Pub. L. 117–263, set out above, probably should be section 2003(a) of Pub. L. 117–263, as it followed section 2002.]

[For effective date of amendments by section 2711(a), (c)(2), (3)(A) of Pub. L. 112–239 to sections 2906 to 2907 and 2910 of Pub. L. 101–510, set out above, see section 2711(d) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

[Pub. L. 110–417, div. B, title XXVII, §2712(a)(2), Oct. 14, 2008, 122 Stat. 4716, provided that: "The amendments made by paragraph (1) [amending Pub. L. 110–181, §2704(a), set out above] shall take effect on January 28, 2008, as if included in the enactment of section 2704 of the Military Construction Authorization Act for Fiscal Year 2008 [Pub. L. 110–181]."]

[Pub. L. 110–417, div. B, §2003, Oct. 14, 2008, 122 Stat. 4658, provided that: "Titles XXI, XXII, XXIII, XXIV, XXV, XXVI [122 Stat. 4658, 4669, 4675, 4687, 4698], XXVII [enacting Pub. L. 110–417, §2712(a)(2), set out above, and amending Pub. L. 110–510, div. B, title XXIX, part A, and Pub. L. 110–181, §2704, which amended Pub. L. 110–510, div. B, title XXIX, part A, set out above], and XXIX [122 Stat. 4741] shall take effect on the later of—

["(1) October 1, 2008; or

["(2) the date of the enactment of this Act [Oct. 14, 2008]."]

[Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(4) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.]

[For effective date of amendment by section 2813(d)(2) of Pub. L. 103–337 to section 2910 of Pub. L. 101–510, set out above, see Effective Date of 1994 Amendments by Section 2813(d)(1) and (2) of Pub. L. 103–337 note set out above.]

[Pub. L. 103–160, div. B, title XXIX, §2902(c), Nov. 30, 1993, 107 Stat. 1912, provided that: "For the purposes of section 2905(b)(3) of the Defense Base Closure and Realignment Act of 1990 [Pub. L. 101–510, set out above], as added by subsection (b), the date of approval of closure of any installation approved for closure before the date of the enactment of this Act [Nov. 30, 1993] shall be deemed to be the date of the enactment of this Act."]

[Pub. L. 103–160, div. B, title XXIX, §2904(c), Nov. 30, 1993, 107 Stat. 1916, provided that: "The Secretary of Defense shall make the determinations required under section 2905(b)(5) of the Defense Base Closure and Realignment Act of 1990 [Pub. L. 101–510, set out above], as added by subsection (b), in the case of installations approved for closure under such Act [part A of title XXIX of div. B of Pub. L. 101–510, set out above] before the date of the enactment of this Act [Nov. 30, 1993], not later than 6 months after the date of the enactment of this Act."]

[Pub. L. 103–160, div. B, title XXIX, §2930(b), Nov. 30, 1993, 107 Stat. 1935, provided that: "The amendment made by this section [amending section 2903(d)(1) of Pub. L. 101–510 set out above] shall apply with respect to all public hearings conducted by the Defense Base Closure and Realignment Commission after the date of the enactment of this Act [Nov. 30, 1993]."]

[For effective date of amendments by section 344(b)(1) of Pub. L. 102–190 to section 2906 of Pub. L. 101–510, set out above, see Effective Date of 1991 Amendments by Section 344 of Pub. L. 102–190 note set out above.]

[Pub. L. 102–190, div. B, title XXVIII, §2821(h)(2), Dec. 5, 1991, 105 Stat. 1546, provided that: "The amendment made by paragraph (1) [amending section 2910 of Pub. L. 101–510 set out above] shall take effect as of November 5, 1990, and shall apply as if it had been included in section 2910(4) of the Defense Base Closure and Realignment Act of 1990 [section 2910 of Pub. L. 101–510] on that date."]

[Pub. L. 102–190, div. B, title XXVIII, §2827(a)(3), Dec. 5, 1991, 105 Stat. 1551, provided that: "The amendments made by this subsection [amending sections 2905 and 2906 of Pub. L. 101–510 set out above] shall take effect on the date of the enactment of this Act [Dec. 5, 1991]."]

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

## CLOSURE OF FOREIGN MILITARY INSTALLATIONS

Pub. L. 108–287, title VIII, §8018, Aug. 5, 2004, 118 Stat. 974, provided that: "Notwithstanding any other provision of law, during the current fiscal year and hereafter, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for subsequent fiscal years shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees [Committees on Armed Services of the Senate and House of Representatives and Subcommittees on Defense of the Committees on Appropriations of the Senate and House of Representatives], the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision."

Similar provisions for specified fiscal years were contained in the following appropriation acts:

Pub. L. 108–87, title VIII, §8018, Sept. 30, 2003, 117 Stat. 1075.

Pub. L. 107–248, title VIII, §8018, Oct. 23, 2002, 116 Stat. 1540.

Pub. L. 107–117, div. A, title VIII, §8019, Jan. 10, 2002, 115 Stat. 2251.

Pub. L. 106–259, title VIII, §8019, Aug. 9, 2000, 114 Stat. 678.

Pub. L. 106–79, title VIII, §8019, Oct. 25, 1999, 113 Stat. 1235.

Pub. L. 105–262, title VIII, §8019, Oct. 17, 1998, 112 Stat. 2301.

Pub. L. 105–56, title VIII, §8019, Oct. 8, 1997, 111 Stat. 1224.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8020], Sept. 30, 1996, 110 Stat. 3009–71, 3009–92.

Pub. L. 104–61, title VIII, §8027, Dec. 1, 1995, 109 Stat. 657.

Pub. L. 103–335, title VIII, §8033, Sept. 30, 1994, 108 Stat. 2625.

Pub. L. 103–139, title VIII, §8036, Nov. 11, 1993, 107 Stat. 1448.

Pub. L. 102–396, title IX, §9047A, Oct. 6, 1992, 106 Stat. 1913, as amended by Pub. L. 104–106, div. A, title XV, §1502(f)(2), Feb. 10, 1996, 110 Stat. 509.

Pub. L. 101–510, div. B, title XXIX, §2921, Nov. 5, 1990, 104 Stat. 1819, as amended by Pub. L. 102–190, div. A, title III, §344(b)(2), Dec. 5, 1991, 105 Stat. 1345; Pub. L. 102–484, div. B, title XXVIII, §§2821(c), 2827, Oct. 23, 1992, 106 Stat. 2608, 2609; Pub. L. 103–160, div. B, title XXIX, §2924(b), Nov. 30, 1993, 107 Stat. 1931; Pub. L. 103–337, div. A, title XIII, §1305(c), div. B, title XXVIII, §2817, Oct. 5, 1994, 108 Stat. 2891, 3057; Pub. L. 104–106, div. A, title X, §1063(b), title XV, §§1502(c)(4)(D), 1505(e)(2), Feb. 10, 1996, 110 Stat. 444, 508, 515; Pub. L. 105–85, div. A, title X, §1073(d)(4)(C), Nov. 18, 1997, 111 Stat. 1905; Pub. L. 106–65, div. A, title X, §1067(10), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(b), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 113–66, div. B, title XXVIII, §2807(b)(1), Dec. 26, 2013, 127 Stat. 1011, set forth the sense of Congress that military operations at military installations outside the United States

be terminated at the earliest opportunity and that the Secretary of Defense should take steps to ensure that the United States receives fair market value consideration for the improvements made by the United States at facilities that will be released to host countries.

## TASK FORCE REPORT

Pub. L. 102–380, §125, Oct. 5, 1992, 106 Stat. 1372, reconvened the environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821; formerly set out below) and directed the task force, until all military base closure and realignment activities were completed, to monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under such section and to annually submit to Congress a report containing recommendations concerning ways to expedite and improve environmental response actions at military installations and a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

Pub. L. 101–510, div. B, title XXIX, §2923(c), Nov. 5, 1990, 104 Stat. 1821, established an environmental response task force and directed the Secretary of Defense to submit to Congress, not later than 12 months after Nov. 5, 1990, a report containing the findings and recommendations of the task force concerning ways to improve interagency coordination and streamline procedures with respect to environmental response actions at closed or realigned military installations.

## COMMUNITY PREFERENCE CONSIDERATION IN CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

Pub. L. 101–510, div. B, title XXIX, §2924, Nov. 5, 1990, 104 Stat. 1822, provided that: "In any process of selecting any military installation inside the United States for closure or realignment, the Secretary of Defense shall take such steps as are necessary to assure that special consideration and emphasis is given to any official statement from a unit of general local government adjacent to or within a military installation requesting the closure or realignment of such installation."

## CONTRACTS FOR CERTAIN ENVIRONMENTAL RESTORATION ACTIVITIES

Pub. L. 101–510, div. B, title XXIX, §2926, Nov. 5, 1990, 104 Stat. 1822, as amended by Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717; Pub. L. 107–314, div. A, title X, §1062(m)(4), Dec. 2, 2002, 116 Stat. 2652, provided for a model program for base closure environmental restoration, prior to repeal by Pub. L. 108–136, div. A, title III, §316, Nov. 24, 2003, 117 Stat. 1432.

## CONSIDERATION OF DEPARTMENT OF DEFENSE HOUSING FOR COAST GUARD

Pub. L. 101–225, title II, §216, Dec. 12, 1989, 103 Stat. 1915, deemed the Coast Guard to be an instrumentality within the Department of Defense for certain purposes related to housing under section 204(b) of Pub. L. 100–526 (set out below).

## FIVE-YEAR PLAN FOR ENVIRONMENTAL RESTORATION AT BASES TO BE CLOSED

Pub. L. 101–189, div. A, title III, §353, Nov. 29, 1989, 103 Stat. 1423, directed Secretary of Defense to develop a comprehensive five-year plan for environmental restoration at military installations that would be closed or realigned during fiscal years 1991 through 1995, pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act, Pub. L. 100–526, set out below, and, at same time President submits to Congress budget for fiscal year 1991 pursuant to 31 U.S.C. 1105, to submit to Congress a report on the five-year plan.

## PROHIBITION ON REDUCING END STRENGTH LEVELS FOR MEDICAL PERSONNEL AS A RESULT OF BASE CLOSURES AND REALIGNMENTS

Pub. L. 101–189, div. A, title VII, §723, Nov. 29, 1989, 103 Stat. 1478, provided that:

"(a) PROHIBITION.—The end strength levels for medical personnel for each component of the Armed Forces, and the number of civilian personnel of the Department of Defense assigned to military medical facilities, may not be reduced as a result of the closure or realignment of a military installation under section 2687 of title 10, United States Code, or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(b) MEDICAL PERSONNEL DEFINED.—For purposes of subsection (a), the term 'medical personnel' has the meaning given that term in subparagraph (D) of section 115(b)(1) of title 10, United States Code."

## USE OF CLOSED BASES FOR PRISONS AND DRUG TREATMENT FACILITIES

Pub. L. 101–189, div. B, title XXVIII, §2832, Nov. 29, 1989, 103 Stat. 1660, set forth the sense of Congress that certain real property of the Department of Defense rendered excess or surplus as a result of the recommendations of the Commission on Base Realignment and Closure be made available to another Federal agency or a State or local government for use as a penal or correctional facility or as a drug abuse prevention, treatment, or rehabilitation center.

## NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

Pub. L. 101–189, div. B, title XXVIII, §2833, Nov. 29, 1989, 103 Stat. 1661, directed the Secretary of Defense to identify each local educational agency that will experience a significant increase or decrease in the number of children in its jurisdiction during the next academic year as a result of the closure or realignment of a military installation under the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; set out below) by not later than January 1 of that year and to provide notice to that local educational agency and to the relevent State government education agency of such identification.

## CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

Pub. L. 100–526, title II, Oct. 24, 1988, 102 Stat. 2627, as amended by Pub. L. 101–510, div. B, title XXIX, §2923(b)(1), Nov. 5, 1990, 104 Stat. 1821; Pub. L. 102–190, div. A, title III, §344(a), Dec. 5, 1991, 105 Stat. 1344; Pub. L. 102–484, div. B, title XXVIII, §2821(a), Oct. 23, 1992, 106 Stat. 2606; Pub. L. 103–160, div. B, title XXIX, §§2902(a), 2903(a), 2904(a), 2905(a), 2907(a), 2908(a), 2918(b), 2921(a), Nov. 30, 1993, 107 Stat. 1909, 1912, 1915, 1916, 1921, 1922, 1928, 1929; Pub. L. 103–337, div. A, title X, §1070(b)(13), div. B, title XXVIII, §§2812(a), 2813(a)–(c)(1), (d)(1), (e)(1), Oct. 5, 1994, 108 Stat. 2857, 3054, 3055; Pub. L. 103–421, §2(f)(1), Oct. 25, 1994, 108 Stat. 4354; Pub. L. 104–106, div. A, title XV, §§1504(a)(9), 1505(e)(3), div. B, title XXVIII, §§2831(b)(1), 2839(a), 2840(a), Feb. 10, 1996, 110 Stat. 513, 515, 558, 563, 564; Pub. L. 104–201, div. B, title XXVIII, §§2811, 2812(a), 2813(a), Sept. 23, 1996, 110 Stat. 2788, 2789; Pub. L. 105–85, div. A, title X, §1073(d)(6), div. B, title XXVIII, §2821(a), Nov. 18, 1997, 111 Stat. 1906, 1996; Pub. L. 106–65, div. B, title XXVIII, §2821(b), Oct. 5, 1999, 113 Stat. 855; Pub. L. 106–398, §1 [div. B, title XXVIII, §2821(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–419; Pub. L. 107–107, div. A, title X, §1048(d)(3), div. B, title XXVIII, §2821(a), Dec. 28, 2001, 115 Stat. 1227, 1311; Pub. L. 107–314, div. A, title X, §1062(n), div. B, title XXVIII, §2814(a), Dec. 2, 2002, 116 Stat. 2652, 2710; Pub. L. 108–136, div. A, title VI, §655(a), div. B, title XXVIII, §2805(d)(1), Nov. 24, 2003, 117 Stat. 1523, 1721; Pub. L. 112–239, div. B, title XXVII, §2711(c)(1), (3)(B), Jan. 2, 2013, 126 Stat. 2143, provided that:

"SEC. 201. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

"The Secretary shall—

"(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

"(2) realign all military installations recommended for realignment by such Commission in such report; and

"(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995, except that no such closure or realignment may be initiated before January 1, 1990.

"SEC. 202. CONDITIONS

"(a) IN GENERAL.—The Secretary may not carry out any closure or realignment of a military installation under this title unless—

"(1) no later than January 16, 1989, the Secretary transmits to the Committees on Armed Services of the Senate and the House of Representatives a report containing a statement that the Secretary has approved, and the Department of Defense will implement, all of the military installation closures and realignments recommended by the Commission in the report referred to in section 201(1);

"(2) the Commission has recommended, in the report referred to in section 201(1), the closure or realignment, as the case may be, of the installation, and has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a copy of such report and the statement required by section 203(b)(2); and

"(3) the Secretary of Defense has transmitted to the Commission the study required by section 206(b).

"(b) JOINT RESOLUTION.—The Secretary may not carry out any closure or realignment under this title if, within the 45-day period beginning on March 1, 1989, a joint resolution is enacted, in accordance with the

provisions of section 208, disapproving the recommendations of the Commission. The days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of such 45-day period.

"(c) TERMINATION OF AUTHORITY.—(1) Except as provided in paragraph (2), the authority of the Secretary to carry out any closure or realignment under this title shall terminate on October 1, 1995.

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.

"SEC. 203. THE COMMISSION

"(a) MEMBERSHIP.—The Commission shall consist of 12 members appointed by the Secretary of Defense.

"(b) DUTIES.—The Commission shall—

"(1) transmit the report referred to in section 201(1) to the Secretary no later than December 31, 1988, and shall include in such report a description of the Commission's recommendations of the military installations to which functions will be transferred as a result of the closures and realignments recommended by the Commission; and

"(2) on the same date on which the Commission transmits such report to the Secretary, transmit to Committees on Armed Services of the Senate and the House of Representatives—

"(A) a copy of such report; and

"(B) a statement certifying that the Commission has identified the military installations to be closed or realigned by reviewing all military installations inside the United States, including all military installations under construction and all those planned for construction.

"(c) STAFF.—Not more than one-half of the professional staff of the Commission shall be individuals who have been employed by the Department of Defense during calendar year 1988 in any capacity other than as an employee of the Commission.

"SEC. 204. IMPLEMENTATION

"(a) IN GENERAL.—In closing or realigning a military installation under this title, the Secretary—

"(1) subject to the availability of funds authorized for and appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance and the availability of funds in the Account, may carry out actions necessary to implement such closure or realignment, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from such military installation to another military installation;

"(2) subject to the availability of funds authorized for and appropriated to the Department of Defense for economic adjustment assistance or community planning assistance and the availability of funds in the Account, shall provide—

"(A) economic adjustment assistance to any community located near a military installation being closed or realigned; and

"(B) community planning assistance to any community located near a military installation to which functions will be transferred as a result of such closure or realignment,

if the Secretary determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate; and

"(3) subject to the availability of funds authorized for and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris.

"(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary, with respect to excess and surplus real property, facilities, and personal property located at a military installation closed or realigned under this title—

"(A) the authority of the Administrator to utilize excess property under subchapter II of chapter 5 of title 40, United States Code;

"(B) the authority of the Administrator to dispose of surplus property under subchapter III of chapter 5 of title 40, United States Code; and

"(C) the authority to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code.

"(2)(A) Subject to subparagraph (B), the Secretary shall exercise authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

"(i) all regulations in effect on the date of the enactment of this title [Oct. 24, 1988] governing utilization of excess property and disposal of surplus property under the Federal Property and Administrative Services Act of 1949 [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of Title 41, Public Contracts]; and

"(ii) all regulations in effect on the date of the enactment of this title governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

"(B) The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

"(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

"(D) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this title, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

"(E) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this title, the Secretary shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

"(F) The provisions of this paragraph and paragraph (1) are subject to paragraphs (3) through (6).

"(3)(A) Not later than 6 months after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994 [Nov. 30, 1993], the Secretary, in consultation with the redevelopment authority with respect to each military installation to be closed under this title after such date of enactment, shall—

"(i) inventory the personal property located at the installation; and

"(ii) identify the items (or categories of items) of such personal property that the Secretary determines to be related to real property and anticipates will support the implementation of the redevelopment plan with respect to the installation.

"(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to an installation, the Secretary shall consult with—

"(i) the local government in whose jurisdiction the installation is wholly located; or

"(ii) a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State in which the installation is located.

"(C)(i) Except as provided in subparagraphs (E) and (F), the Secretary may not carry out any of the activities referred to in clause (ii) with respect to an installation referred to in that clause until the earlier of—

"(I) one week after the date on which the redevelopment plan for the installation is submitted to the Secretary;

"(II) the date on which the redevelopment authority notifies the Secretary that it will not submit such a plan;

"(III) twenty-four months after the date referred to in subparagraph (A); or

"(IV) ninety days before the date of the closure of the installation.

"(ii) The activities referred to in clause (i) are activities relating to the closure of an installation to be closed under this title as follows:

"(I) The transfer from the installation of items of personal property at the installation identified in accordance with subparagraph (A).

"(II) The reduction in maintenance and repair of facilities or equipment located at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes.

"(D) Except as provided in paragraph (4), the Secretary may not transfer items of personal property located at an installation to be closed under this title to another installation, or dispose of such items, if such items are identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation. In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.

"(E) This paragraph shall not apply to any related personal property located at an installation to be closed under this title if the property—

"(i) is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

"(ii) is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components);

"(iii) is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary and the redevelopment authority);

"(iv) is stored at the installation for purposes of distribution (including spare parts or stock items); or

"(v)(I) meets known requirements of an authorized program of another Federal department or agency for which expenditures for similar property would be necessary, and (II) is the subject of a written request by the head of the department or agency.

"(F) Notwithstanding subparagraphs (C)(i) and (D), the Secretary may carry out any activity referred to in subparagraph (C)(ii) or (D) if the Secretary determines that the carrying out of such activity is in the national security interest of the United States.

"(4)(A) The Secretary may transfer real property and personal property located at a military installation to be closed or realigned under this title to the redevelopment authority with respect to the installation for purposes of job generation on the installation.

"(B) The transfer of property of a military installation under subparagraph (A) shall be without consideration if the redevelopment authority with respect to the installation—

"(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the initial transfer of property under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

"(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) For purposes of subparagraph (B), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

"(i) Road construction.

"(ii) Transportation management facilities.

"(iii) Storm and sanitary sewer construction.

"(iv) Police and fire protection facilities and other public facilities.

"(v) Utility construction.

"(vi) Building rehabilitation.

"(vii) Historic property preservation.

"(viii) Pollution prevention equipment or facilities.

"(ix) Demolition.

"(x) Disposal of hazardous materials generated by demolition.

"(xi) Landscaping, grading, and other site or public improvements.

"(xii) Planning for or the marketing of the development and reuse of the installation.

"(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).

"(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) A lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation,

the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.

"(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of subchapters II and III of chapter 5 of title 40, United States Code, if the Secretary determines that the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.

"(G) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.

"(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if—

"(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

"(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

"(III) the terms of the modification do not compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

"(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under paragraph (7)(C), with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with [former] section 2906(d) of the Defense Base Closure and Realignment Act of 1990 [Pub. L. 101–510, 10 U.S.C. 2687 note].

"(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

"(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

"(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000 [Oct. 5, 1999], at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.

"(J) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

"(5)(A) Except as provided in subparagraphs (B) and (C), the Secretary shall take such actions as the Secretary determines necessary to ensure that final determinations under paragraph (1) regarding whether another department or agency of the Federal Government has identified a use for any portion of a military installation to be closed under this title after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994 [Nov. 30, 1993], or will accept transfer of any portion of such installation, are made not later than 6 months after such date of enactment.

"(B) The Secretary may, in consultation with the redevelopment authority with respect to an installation, postpone making the final determinations referred to in subparagraph (A) with respect to the installation for such period as the Secretary determines appropriate if the Secretary determines that such postponement is in the best interests of the communities affected by the closure of the installation.

"(C)(i) Before acquiring non-Federal real property as the location for a new or replacement Federal facility of any type, the head of the Federal agency acquiring the property shall consult with the Secretary regarding the feasibility and cost advantages of using Federal property or facilities at a military installation closed or realigned or to be closed or realigned under this title as the location for the new or replacement facility. In considering the availability and suitability of a specific military installation, the Secretary and the head of the

Federal agency involved shall obtain the concurrence of the redevelopment authority with respect to the installation and comply with the redevelopment plan for the installation.

"(ii) Not later than 30 days after acquiring non-Federal real property as the location for a new or replacement Federal facility, the head of the Federal agency acquiring the property shall submit to Congress a report containing the results of the consultation under clause (i) and the reasons why military installations referred to in such clause that are located within the area to be served by the new or replacement Federal facility or within a 200-mile radius of the new or replacement facility, whichever area is greater, were considered to be unsuitable or unavailable for the site of the new or replacement facility.

"(iii) This subparagraph shall apply during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 [Nov. 18, 1997] and ending on July 31, 2001.

"(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) to military installations closed under this title.

"(B)(i) Not later than the date on which the Secretary of Defense completes the determination under paragraph (5) of the transferability of any portion of an installation to be closed under this title, the Secretary shall—

"(I) complete any determinations or surveys necessary to determine whether any building or property referred to in clause (ii) is excess property, surplus property, or unutilized or underutilized property for the purpose of the information referred to in section 501(a) of such Act (42 U.S.C. 11411(a)); and

"(II) submit to the Secretary of Housing and Urban Development information on any building or property that is so determined.

"(ii) The buildings and property referred to in clause (i) are any buildings or property located at an installation referred to in that clause for which no use is identified, or of which no Federal department or agency will accept transfer, pursuant to the determination of transferability referred to in that clause.

"(C) Not later than 60 days after the date on which the Secretary of Defense submits information to the Secretary of Housing and Urban Development under subparagraph (B)(ii), the Secretary of Housing and Urban Development shall—

"(i) identify the buildings and property described in such information that are suitable for use to assist the homeless;

"(ii) notify the Secretary of Defense of the buildings and property that are so identified;

"(iii) publish in the Federal Register a list of the buildings and property that are so identified, including with respect to each building or property the information referred to in section 501(c)(1)(B) of such Act [42 U.S.C. 11411(c)(1)(B)]; and

"(iv) make available with respect to each building and property the information referred to in section 501(c)(1)(C) of such Act in accordance with such section 501(c)(1)(C).

"(D) Any buildings and property included in a list published under subparagraph (C)(iii) shall be treated as property available for application for use to assist the homeless under section 501(d) of such Act.

"(E) The Secretary of Defense shall make available in accordance with section 501(f) of such Act any buildings or property referred to in subparagraph (D) for which—

"(i) a written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act;

"(ii) an application for use of such buildings or property for such purpose is submitted to the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act; and

"(iii) the Secretary of Health and Human Services—

"(I) completes all actions on the application in accordance with section 501(e)(3) of such Act; and

"(II) approves the application under section 501(e) of such Act.

"(F)(i) Subject to clause (ii), a redevelopment authority may express in writing an interest in using buildings and property referred to in subparagraph (D), and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C), or use such buildings and property, in accordance with the redevelopment plan with respect to the installation at which such buildings and property are located as follows:

"(I) If no written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act during the 60-day period beginning on the date of the publication of the buildings and property under subparagraph (C)(iii).

"(II) In the case of buildings and property for which such notice is so received, if no completed application for use of the buildings or property for such purpose is received by the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act during the 90-day period beginning on

the date of the receipt of such notice.

"(III) In the case of building and property for which such application is so received, if the Secretary of Health and Human Services rejects the application under section 501(e) of such Act.

"(ii) Buildings and property shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and property, or to use such buildings and property, under clause (i) as follows:

"(I) In the case of buildings and property referred to in clause (i)(I), during the one-year period beginning on the first day after the 60-day period referred to in that clause.

"(II) In the case of buildings and property referred to in clause (i)(II), during the one-year period beginning on the first day after the 90-day period referred to in that clause.

"(III) In the case of buildings and property referred to in clause (i)(III), during the one-year period beginning on the date of the rejection of the application referred to in that clause.

"(iii) A redevelopment authority shall express an interest in the use of buildings and property under this subparagraph by notifying the Secretary of Defense, in writing, of such an interest.

"(G)(i) Buildings and property available for a redevelopment authority under subparagraph (F) shall not be available for use to assist the homeless under section 501 of such Act [42 U.S.C. 11411] while so available for a redevelopment authority.

"(ii) If a redevelopment authority does not express an interest in the use of buildings or property, or commence the use of buildings or property, under subparagraph (F) within the applicable time periods specified in clause (ii) of such subparagraph, such buildings or property shall be treated as property available for use to assist the homeless under section 501(a) of such Act.

"(7)(A) Except as provided in subparagraph (B) or (C), all proceeds—

"(i) from any transfer under paragraphs (3) through (6); and

"(ii) from the transfer or disposal of any other property or facility made as a result of a closure or realignment under this title,

shall be deposited into the Account.

"(B) In any case in which the General Services Administration is involved in the management or disposal of such property or facility, the Secretary shall reimburse the Administrator of General Services from the proceeds of such disposal, in accordance with section 1535 of title 31, United States Code, for any expenses incurred in such activities.

"(C)(i) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this title, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in a reserve account established in the Treasury to be administered by the Secretary. Subject to the limitation in clause (iii), amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended, for the purpose of acquiring, constructing, and improving—

"(I) commissary stores; and

"(II) real property and facilities for nonappropriated fund instrumentalities.

"(ii) The amount deposited under clause (i) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(iii) The aggregate amount obligated from the reserve account established under clause (i) may not exceed the following:

"(I) In fiscal year 2004, $31,000,000.

"(II) In fiscal year 2005, $24,000,000.

"(III) In fiscal year 2006, $15,000,000.

"(iv) As used in this subparagraph:

"(I) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(II) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(III) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

"(8)(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts,

cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this title, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this title, if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.

"(B) The Secretary may exercise the authority provided under this paragraph without regard to the provisions of chapter 146 of title 10, United States Code.

"(C) The Secretary may not exercise the authority under subparagraph (A) with respect to an installation earlier than 180 days before the date on which the installation is to be closed.

"(D) The Secretary shall include in a contract for services entered into with a local government under this paragraph a clause that requires the use of professionals to furnish the services to the extent that professionals are available in the area under the jurisdiction of such government.

"(c) APPLICABILITY OF OTHER LAW.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to—

"(A) the actions of the Commission, including selecting the military installations which the Commission recommends for closure or realignment under this title, recommending any military installation to receive functions from an installation to be closed or realigned, and making its report to the Secretary and the committees under section 203(b); and

"(B) the actions of the Secretary in establishing the Commission, in determining whether to accept the recommendations of the Commission, in selecting any military installation to receive functions from an installation to be closed or realigned, and in transmitting the report to the Committees referred to in section 202(a)(1).

"(2) The provisions of the National Environmental Policy Act of 1969 shall apply to the actions of the Secretary (A) during the process of the closing or realigning of a military installation after such military installation has been selected for closure or realignment but before the installation is closed or realigned and the functions relocated, and (B) during the process of the relocating of functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated. In applying the provisions of such Act, the Secretary shall not have to consider—

"(i) the need for closing or realigning a military installation which has been selected for closure or realignment by the Commission;

"(ii) the need for transferring functions to another military installation which has been selected as the receiving installation; or

"(iii) alternative military installations to those selected.

"(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), or with respect to any requirement of the Commission made by this title, of any action or failure to act by the Secretary during the closing, realigning, or relocating referred to in clauses (A) and (B) of paragraph (2), or of any action or failure to act by the Commission under this title, may not be brought later than the 60th day after the date of such action or failure to act.

"(d) TRANSFER AUTHORITY IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.—(1)(A) Subject to paragraph (2) of this subsection and section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the Secretary may enter into an agreement to transfer by deed real property or facilities referred to in subparagraph (B) with any person who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and concurrences.

"(B) The real property and facilities referred to in subparagraph (A) are the real property and facilities located at an installation closed or to be closed under this title that are available exclusively for the use, or expression of an interest in a use, of a redevelopment authority under subsection (b)(6)(F) during the period provided for that use, or expression of interest in use, under that subsection.

"(C) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the Secretary considers appropriate to protect the interests of the United States.

"(2) A transfer of real property or facilities may be made under paragraph (1) only if the Secretary certifies to Congress that—

"(A) the costs of all environmental restoration, waste management, and environmental compliance activities to be paid by the recipient of the property or facilities are equal to or greater than the fair market

value of the property or facilities to be transferred, as determined by the Secretary; or

"(B) if such costs are lower than the fair market value of the property or facilities, the recipient of the property or facilities agrees to pay the difference between the fair market value and such costs.

"(3) As part of an agreement under paragraph (1), the Secretary shall disclose to the person to whom the property or facilities will be transferred any information of the Secretary regarding the environmental restoration, waste management, and environmental compliance activities described in paragraph (1) that relate to the property or facilities. The Secretary shall provide such information before entering into the agreement.

"(4) Nothing in this subsection shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(5) Section 330 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2687 note) shall not apply to any transfer under this subsection to persons or entities described in subsection (a)(2) of such section 330.

"(6) The Secretary may not enter into an agreement to transfer property or facilities under this subsection after the expiration of the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994 [Nov. 30, 1993].

"[(e) Repealed. Pub. L. 108–136, div. B, title XXVIII, §2805(d)(1), Nov. 24, 2003, 117 Stat. 1721.]

"(f) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this title, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this title, or make a payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

"(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

"(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

"(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

"(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.

"SEC. 205. WAIVER

"The Secretary may carry out this title without regard to—

"(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriation or authorization Act; and

"(2) the procedures set forth in sections 2662 and 2687 of title 10, United States Code.

"SEC. 206. REPORTS

"(a) IN GENERAL.—As part of each annual budget request for the Department of Defense, the Secretary shall transmit to the appropriate committees of Congress—

"(1) a schedule of the closure and realignment actions to be carried out under this title in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

"(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

"(b) STUDY.—(1) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than October 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and the House of Representatives. In developing its recommendations to the Secretary under this title, the Commission shall consider the Secretary's study.

"(2) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

"(3) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and

suggestions as it considers appropriate regarding the Secretary's study of the overseas base structure.

"[SEC. 207. REPEALED. PUB. L. 112–239, DIV. B, TITLE XXVII, §2711(C)(1), JAN. 2, 2013, 126 STAT. 2143.]

"SEC. 208. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

"(a) TERMS OF THE RESOLUTION.—For purposes of section 202(b), the term 'joint resolution' means only a joint resolution which is introduced before March 15, 1989, and—

"(1) which does not have a preamble;

"(2) the matter after the resolving clause of which is as follows: 'That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ', the blank space being appropriately filled in; and

"(3) the title of which is as follows: 'Joint resolution disapproving the recommendations of the Commission on Base Realignment and Closure.'.

"(b) REFERRAL.—A resolution described in subsection (a), introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

"(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) before March 15, 1989, such committee shall be, as of March 15, 1989, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

"(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

"(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"SEC. 209. DEFINITIONS

"In this title:

"(1) The term 'Account' means the Department of Defense Base Closure Account established by section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) The term 'appropriate committees of Congress' means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

"(3) The terms 'Commission on Base Realignment and Closure' and 'Commission' mean the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988, and as altered thereafter with respect to the membership and voting.

"(4) The term 'charter establishing such Commission' means the charter referred to in paragraph (3).

"(5) The term 'initiate' includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

"(6) The term 'military installation' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department.

"(7) The term 'realignment' includes any action which both reduces and relocates functions and civilian personnel positions.

"(8) The term 'Secretary' means the Secretary of Defense.

"(9) The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

"(10) The term 'redevelopment authority', in the case of an installation to be closed under this title, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.

"(11) The term 'redevelopment plan' in the case of an installation to be closed under this title, means a plan that—

"(A) is agreed to by the redevelopment authority with respect to the installation; and

"(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse or redevelopment as a result of the closure of the installation."

[For effective date of amendments by section 2711(c)(1), (3)(B) of Pub. L. 112–239 to sections 204, 207, and 209 of Pub. L. 100–526, set out above, see section 2711(d) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

[For effective date of amendment by section 2813(d)(1) of Pub. L. 103–337 to section 209 of Pub. L. 100–526, set out above, see Effective Date of Amendment by Section 2813(d)(1) and (2) of Pub. L. 103–337 note set out above.]

[For effective date of amendment by section 344(a) of Pub. L. 102–190 to sections 204 and 209 of Pub. L. 100–526, set out above, see Effective Date of 1991 Amendments by Section 344 of Pub. L. 102–190 note set out above.]

[Pub. L. 101–510, div. B, title XXIX, §2923(b)(2), Nov. 5, 1990, 104 Stat. 1821, provided that: "The amendment made by paragraph (1) [amending section 207 of Pub. L. 100–526 set out above] does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act [Nov. 5, 1990]."]

## §2687a. Overseas base closures and realignments and status of United States overseas military locations

(a) ANNUAL REPORT ON STATUS OF OVERSEAS CLOSURES AND REALIGNMENTS

AND OVERSEAS MILITARY LOCATIONS.—(1) At the same time that the budget is submitted under section 1105(a) of title 31 for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on—

(A) the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy; and

(B) the status of overseas military locations, whether such a location is designated as an enduring location or contingency location.

(2) To satisfy the reporting requirement specified in paragraph (1)(B), a report under paragraph (1) shall contain the following:

(A) A list of overseas military locations. For any overseas military location established during the previous fiscal year, the reasons for the establishment of the overseas military location.

(B) A description of the strategic goal and operational requirements supported by each overseas military location.

(C) A list of each construction or facility improvement project carried out by the Department of Defense regardless of the funding source, and each construction or facility improvement project accepted as a payment-in-kind, at overseas military locations during the previous fiscal year if the construction or facility improvement project was not specifically authorized in a Military Construction Authorization Act or congressional notice of the construction or facility improvement project was not provided by another means. Each construction or facility improvement project on the list shall be delineated by project location, project title or description, project cost, including costs covered by the host country, and authority used to undertake the project.

(D) For each overseas military location first designated as an enduring location in one of the previous two required reports, a list of required construction and facility improvement projects anticipated to be carried out by the Department of Defense directly or through the acceptance of payments-in-kind during the fiscal year in which the report is submitted and the next four fiscal years. Each construction or facility improvement project on the list shall be delineated by project location, project title or description, estimated project cost, including costs anticipated to be covered by the host country, and authority to be used to undertake the project.

(E) An overview of any annual lease or access costs to the United States for each overseas military location designated as an enduring location.

(F) A description of any plans to transition an existing contingency overseas military location to an enduring overseas military location, or to upgrade or downgrade the designation of an existing enduring or contingency overseas military location, during the fiscal year in which the report is submitted.

(G) A list of any overseas military locations that, during the previous fiscal year, were transferred to the control of security forces of the host country or another military force, closed, or for any other reason no longer used by the armed forces, including a summary of any costs associated with the transfer or closure of the overseas military location.

(H) A summary of any force protection risks identified for cooperative security locations and contingency locations, the actions proposed to mitigate such risks, and the resourcing and implementation plan to implement the mitigation actions.

(I) Such other such matters related to overseas military locations as the Secretary of Defense considers appropriate.

(3) In this subsection:

(A)(i) The term "overseas military location" covers both enduring locations and contingency locations established outside the United States.

(ii) An enduring location is primarily characterized either by the presence of permanently assigned United States forces with robust infrastructure and quality of life amenities to support that presence, by the sustained presence of allocated United States forces with infrastructure and

quality of life amenities consistent with that presence, or by the periodic presence of allocated United States forces with little or no permanent United States military presence or controlled infrastructure. Enduring locations include main operating bases, forward operating sites, and cooperative security locations.

(iii) A contingency location refers to a location outside of the United States that is not covered by subparagraph (B), but that is used by United States forces to support and sustain operations during named and unnamed contingency operations or other operations as directed by appropriate authority and is categorized by mission life-cycle requirements as initial, temporary, or semi-permanent.

(B)(i) The term "construction or facility improvement project" includes any construction, development, conversion, or extension of a building, structure, or other improvement to real property carried out at an overseas military location, whether to satisfy temporary or permanent requirements, and any acquisition of land for an overseas military location.

(ii) The term does not include repairs to a building, structure, or other improvement to real property, unless the building, structure, or other improvement cannot effectively be used for its designated functional purpose in the absence of the repairs.

(4) The Secretary of Defense shall prepare the report under paragraph (1) in coordination with the Under Secretary of Defense for Policy and the Under Secretary of Defense for Acquisition and Sustainment.

(5) A report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex as necessary.

(b) DEPARTMENT OF DEFENSE OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—(1) Except as provided in subsection (c), amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into the Department of Defense Overseas Military Facility Investment Recovery Account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with—

(A) military construction, facility maintenance and repair, and environmental restoration at military installations in the United States; and

(B) military construction, facility maintenance and repair, and compliance with applicable environmental laws at military installations outside the United States at which the Secretary anticipates the United States will have an enduring presence.

(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(4) Not later than December 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report detailing all expenditures made from the Department of Defense Overseas Facility Investment Recovery Account during the preceding fiscal year.

(c) TREATMENT OF AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—In the case of a payment referred to in subsection (b)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note). The Secretary of Defense may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(d) OMB REVIEW OF PROPOSED OVERSEAS BASING SETTLEMENTS.—(1) The Secretary

of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000. The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2) Each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the fair market value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.

(e) CONGRESSIONAL OVERSIGHT OF USE OF PAYMENTS-IN-KIND FOR CONSTRUCTION OR OPERATIONS.—(1) Before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project.

(B) An explanation of the military requirement to be satisfied with the project.

(C) A certification that the project is included in the current future-years defense program.

(2) Before concluding an agreement for acceptance of host country support or host country payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments in the current or the next fiscal year.

(3) When the Secretary of Defense submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(f) ACCEPTANCE OF MILITARY CONSTRUCTION PROJECTS AS PAYMENTS-IN-KIND AND IN-KIND CONTRIBUTIONS.—(1)(A) Except as provided in subparagraph (B), a military construction project costing more than $6,000,000 may be accepted as payment-in-kind or as an in-kind contribution required by a bilateral agreement with a host country only if that military construction project is authorized by law.

(B) Subparagraph (A) does not apply to a military construction project that—

(i) was specified in a bilateral agreement with a host country that was entered into before December 26, 2013;

(ii) was the subject of negotiation between the United States and a host country as of the date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015; or

(iii) was accepted as payment-in-kind for the residual value of improvements made by the United States at military installations released to the host country under section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) before December 26, 2013.

(2)(A) If the Secretary of Defense accepts a military construction project to be built for Department of Defense personnel outside the United States as a payment-in-kind or an in-kind contribution required by a bilateral agreement with a host country, the Secretary shall submit to the congressional defense committees a written notification at least 30 days before the initiation date for any such military construction project.

(B) A notification under subparagraph (A) with respect to a proposed military construction project shall include the following:

(i) The requirements for, and purpose and description of, the proposed project.

(ii) The cost of the proposed project.

(iii) The scope of the proposed project.

(iv) The schedule for the proposed project.

(v) Such other details as the Secretary considers relevant.

(C) Subparagraph (A) shall not apply to a military construction project authorized in a Military Construction Authorization Act.

(3) To the extent that a payment-in-kind or an in-kind contribution is provided under a bilateral agreement with a host country with respect to a military construction project for which funds have already been obligated or expended by the Secretary of Defense, the Secretary shall return to the Treasury funds in an amount equal to the value of the funds already obligated or expended for the project.

(4) In this subsection, the term "military construction project" has the meaning given such term in section 2801 of this title.

(g) DEFINITIONS.—In this section:

(1) The term "fair market value of the improvements" means the value of improvements determined by the Secretary of Defense on the basis of their highest use.

(2) The term "improvements" includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(3) The term "nonappropriated funds" means funds received from—

(A) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of this title; or

(B) a nonappropriated fund instrumentality.

(4) The term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the armed forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 111–84, div. B, title XXVIII, §2822(a)(1), Oct. 28, 2009, 123 Stat. 2665; amended Pub. L. 111–383, div. A, title X, §1075(b)(44), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–239, div. A, title X, §1076(f)(34), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 113–66, div. B, title XXVIII, §2807(a), Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113–291, div. B, title XXVIII, §2803(a), Dec. 19, 2014, 128 Stat. 3696; Pub. L. 114–92, div. A, title X, §1081(a)(11), (b)(7), Nov. 25, 2015, 129 Stat. 1001, 1002; Pub. L. 114–328, div. B, title XXVIII, §2811(a), (c), Dec. 23, 2016, 130 Stat. 2715, 2716; Pub. L. 115–91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 116–283, div. B, title XXVIII, §2822(a)–(b)(2), Jan. 1, 2021, 134 Stat. 4330–4332.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015, referred to in subsec. (f)(1)(B)(ii), is the date of enactment of div. B of Pub. L. 113–291, which was approved Dec. 19,

2014.

## AMENDMENTS

**2021**—Pub. L. 116–283, §2822(b)(2), amended section catchline generally, substituting "Overseas base closures and realignments and status of United States overseas military locations" for "Overseas base closures and realignments and basing master plans".

Subsec. (a). Pub. L. 116–283, §2822(a)(1), substituted "Overseas Military Locations" for "Master Plans" in heading.

Subsec. (a)(1)(B). Pub. L. 116–283, §2822(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations."

Subsec. (a)(2) to (5). Pub. L. 116–283, §2822(a)(3), added pars. (2) to (5) and struck out former par. (2) which related to elements of annual status report of overseas closures and realignments and master plans.

Subsec. (e)(2). Pub. L. 116–283, §2822(b)(1), substituted "host country" for "host nation" in two places in introductory provisions.

**2017**—Subsec. (f). Pub. L. 115–91, §1081(d)(15), amended Pub. L. 114–328, §2811(c). See 2016 Amendment note below.

**2016**—Subsec. (f). Pub. L. 114–328, §2811(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to authorized use of payments-in-kind and in-kind contributions.

Pub. L. 114–328, §2811(c), as amended by Pub. L. 115–91, §1081(d)(15), repealed Pub. L. 113–291, §2803(a). See 2014 Amendment note below.

**2015**—Subsec. (d)(2). Pub. L. 114–92, §1081(a)(11), inserted "fair market" before "value".

Subsec. (f). Pub. L. 114–92, §1081(b)(7), amended Pub. L. 113–291, §2803(a). See 2014 Amendment note below.

**2014**—Subsec. (f). Pub. L. 113–291, §2803(a), as amended by Pub. L. 114–92, §1081(b)(7), which amended subsec. (f) generally by substituting provisions related to authorized use of payments-in-kind and in-kind contributions for provisions related to authorized use of payments-in-kind, was repealed by Pub. L. 114–328, §2811(c), as amended by Pub. L. 115–91, §1081(d)(15).

**2013**—Pub. L. 113–66, §2807(a), amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) which related to an annual status report of overseas base closures, realignments, and basing master plans and required elements of the report, respectively.

Subsec. (a). Pub. L. 112–239, §1076(f)(34)(A), substituted "Foreign Relations" for "Foreign relations".

Subsec. (b)(1). Pub. L. 112–239, §1076(f)(34)(B), struck out comma after "including" and substituted "the Treaty" for "The Treaty".

**2011**—Subsec. (a). Pub. L. 111–383 substituted "31 for" for "31for" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(15) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(7) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. B, title XXVIII, §2803(d), Dec. 19, 2014, 128 Stat. 3697, which provided the effective date for the amendments made by section 2803 of Pub. L. 113–291, was repealed by Pub. L. 114–328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716.

### REPEAL OF 2014 AMENDMENT

Pub. L. 114–328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716, as amended by Pub. L. 115–91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600, provided that: "Section 2803 of the Carl

Levin and Howard 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3696) [amending this section and section 2802 of this title and enacting provisions set out as a note under this section] is repealed."

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**NOTICE RELATING TO CONTRACTS OR OTHER AGREEMENTS TO ESTABLISH AN ENDURING LOCATION IN A FOREIGN COUNTRY**

Pub. L. 119–60, div. B, title XXVIII, §2890, Dec. 18, 2025, 139 Stat. 1334, provided that: "Not later than 30 days after the date on which the Secretary of Defense, a Secretary of a military department, or a combatant commander enters into a contract or other agreement to establish an enduring location (as described in section 2687a of title 10, United States Code) in a foreign country for purposes of supporting members of the Armed Forces in such foreign country, the Secretary of Defense shall submit to appropriate congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification of such action."

**PROHIBITION RELATING TO CLOSURE OR RETURN TO HOST NATION OF EXISTING MILITARY INSTALLATIONS, INFRASTRUCTURE, OR REAL PROPERTY IN EUROPE**

Pub. L. 116–283, div. B, title XXVIII, §2828, Jan. 1, 2021, 134 Stat. 4338, provided that:

"(a) PROHIBITION ON CLOSURE OR RETURN.—Except as provided by subsection (b), the Secretary of Defense shall not implement any activity that closes or returns to the host nation any military installation, infrastructure, or real property in Europe that, as of the date of enactment of this Act [Jan. 1, 2021], is under the operational control of the Department of Defense or a military department and is utilized by the United States Armed Forces.

"(b) WAIVER AND EXCEPTION.—The Secretary of Defense may waive the prohibition under subsection (a) if the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that there is no longer a foreseeable need for the military installation, infrastructure, or real property, or a portion of the military installation in the case of a partial closure and return of a military installation, to support a permanent or rotational United States military presence in the European theater."

## §2688. Utility systems: conveyance authority

(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(b) SELECTION OF CONVEYEE.—(1) If more than one utility or entity referred to in subsection (a) notifies the Secretary concerned of an interest in a conveyance under such subsection, the Secretary shall carry out the conveyance through the use of competitive procedures.

(2) Notwithstanding paragraph (1), the Secretary concerned may use procedures other than competitive procedures, but only in accordance with subsections (a), (b), (d), and (e) of section 3204 of this title, to select the conveyee of a utility system (or part of a utility system) under subsection (a).

(3) With respect to the solicitation process used in connection with the conveyance of a utility system (or part of a utility system) under subsection (a), the Secretary concerned shall ensure that the process is conducted in a manner consistent with the laws and regulations of the State in which the utility system is located to the extent necessary to ensure that all interested regulated and unregulated utility companies and other interested entities receive an opportunity to acquire and operate the utility system to be conveyed.

(c) CONSIDERATION.—(1) The Secretary concerned may require as consideration for a conveyance under subsection (a) an amount equal to the fair market value (as determined by the Secretary) of the right, title, or interest of the United States conveyed. The consideration may take

the form of—

(A) a lump sum payment; or

(B) a reduction in charges for utility services provided by the utility or entity concerned to the military installation at which the utility system is located.

(2) If the utility services proposed to be provided as consideration under paragraph (1) are subject to regulation by a Federal or State agency, any reduction in the rate charged for the utility services shall be subject to establishment or approval by that agency.

(d) CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract for the receipt of utility services as consideration under subsection (c), or any other contract for utility services entered into by the Secretary concerned in connection with the conveyance of a utility system under this section, may be for a period not to exceed 10 years.

(2) The Secretary concerned may authorize a contract for utility services described in paragraph (1) or the renewal of such a contract to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary concerned determines that a contract for a longer term will be cost effective. The determination of cost effectiveness shall be made using a business case analysis that includes an independent estimate of the level of investment that should be required to maintain adequate operation of the utility system over the proposed term of the contract or contract renewal. The business case analysis must also demonstrate how a privatized system will operate in a manner consistent with subsection (g)(3). A renewal of a contract pursuant to this paragraph may be entered into only within the last five years of the existing contract term.

(e) TREATMENT OF PAYMENTS.—(1) A lump sum payment received under subsection (c) shall be credited, at the election of the Secretary concerned—

(A) to an appropriation of the military department concerned available for the procurement of the same utility services as are provided by the utility system conveyed under this section;

(B) to an appropriation of the military department available for carrying out energy savings projects or water conservation projects; or

(C) to an appropriation of the military department available for improvements to other utility systems.

(2) Amounts so credited shall be merged with funds in the appropriation to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriation with which merged.

[(f) Repealed. Pub. L. 112–81, div. A, title X, §1061(21)(C), Dec. 31, 2011, 125 Stat. 1584.]

(g) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(2) The Secretary concerned shall require in any contract for the conveyance of a utility system (or part of a utility system) under subsection (a) that the conveyee manage and operate the utility system in a manner consistent with applicable Federal and State regulations pertaining to health, safety, fire, and environmental requirements.

(3) The Secretary concerned shall require in any contract for the conveyance of a utility system (or part of a utility system) under subsection (a) that the conveyee manage and operate the utility system in a manner consistent with energy resilience and cybersecurity requirements and associated metrics provided to the conveyee to ensure that the reliability of the utility system meets mission requirements.

(4) The Secretary of Defense, in consultation with the Secretaries of the military departments, shall include in the report submitted under section 2925(a) [1] of this title a description of progress in meeting energy resilience metrics for all conveyance contracts entered into pursuant to this section.

(h) ASSISTANCE FOR CONSTRUCTION, REPAIR, OR REPLACEMENT OF UTILITY SYSTEMS.—In lieu of carrying out a military construction project to construct, repair, or replace a utility system, the Secretary concerned may use funds authorized and appropriated for the project to facilitate the conveyance of the utility system under this section by making a contribution toward the

cost of construction, repair, or replacement of the utility system by the entity to which the utility system is being conveyed.

(i) UTILITY SYSTEM DEFINED.—(1) In this section, the term "utility system" means any of the following:

(A) A system for the generation and supply of electric power.

(B) A system for the treatment or supply of water.

(C) A system for the collection or treatment of wastewater.

(D) A system for the generation or supply of steam, hot water, and chilled water.

(E) A system for the supply of natural gas.

(F) A system for the transmission of telecommunications.

(2) The term "utility system" includes the following:

(A) Equipment, fixtures, structures, and other improvements utilized in connection with a system referred to in paragraph (1).

(B) Real property, easements, and rights-of-way associated with a system referred to in that paragraph.

(j) CONVEYANCE OF ADDITIONAL UTILITY INFRASTRUCTURE AFTER CONVEYANCE OF A UTILITY SYSTEM.—(1) Upon conveyance of a utility system, the Secretary of a military department may convey additional utility infrastructure under the jurisdiction of the Secretary on a military installation to a utility or entity to which a utility system for the installation has been conveyed under subsection (a) if the Secretary determines that—

(A) the additional utility infrastructure cannot operate without being a part of the conveyed utility system or operation of the additional utility infrastructure by the utility or entity would be in the best interest of the Government; and

(B) the military department receives as consideration an amount for the utility infrastructure determined in the same manner as the consideration the Secretary could require under subsection (c) for a conveyance under subsection (a).

(2) The conveyance under this paragraph may consist of all right, title, and interest of the United States or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(k) IMPROVEMENT OF CONVEYED UTILITY SYSTEM.—(1) In lieu of carrying out a military construction project for an infrastructure improvement that enhances the reliability, resilience, efficiency, physical security, or cybersecurity of a utility system conveyed under subsection (a), the Secretary concerned may use funds authorized and appropriated for the project to make a monetary contribution equal to the total amount for the completed project to the conveyee of the utility system to carry out the project using a contract for utility services entered into under subsection (d).

(2) All right, title, and interest to infrastructure improvements constructed by the conveyee pursuant to paragraph (1) shall vest in the conveyee.

(3) The Secretary concerned shall provide to the conveyee the necessary real property interests to access and use lands under the jurisdiction and control of the Secretary for construction of the project under paragraph (1) and for ongoing use, operations, and maintenance.

(4) If the Secretary concerned exercises a repurchase option under a contract entered into under subsection (d) for a system conveyed under subsection (a), the Secretary shall receive an offset in the amount of the contribution to the conveyee under paragraph (1) against the payment made by the Secretary as consideration for the repurchase, except that the maximum offset may not exceed the full amount of the consideration for the repurchase.

(5) The Secretary concerned may make a monetary contribution authorized by paragraph (1) notwithstanding the following provisions of law:

(A) Sections 7540, 8612, and 9540 of this title.

(B) Subchapters I and III of chapter 169 of this title.

(C) Chapters 221 and 223 of this title.

(l) LIMITATION.—This section shall not apply to projects constructed or operated by the Army Corps of Engineers under its civil works authorities.

(Added Pub. L. 105–85, div. B, title XXVIII, §2812(a), Nov. 18, 1997, 111 Stat. 1992; amended Pub. L. 106–65, div. A, title X, §1067(1), div. B, title XXVIII, §2812, Oct. 5, 1999, 113 Stat. 774, 851; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(15), div. B, title XXVIII, §2813], Oct. 30, 2000, 114 Stat. 1654, 1654A–291, 1654A–418; Pub. L. 108–136, div. A, title X, §1031(a)(32), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 109–163, div. B, title XXVIII, §2823(a)–(d), Jan. 6, 2006, 119 Stat. 3514–3516; Pub. L. 110–417, div. B, title XXVIII, §2813, Oct. 14, 2008, 122 Stat. 4728; Pub. L. 111–84, div. B, title XXVIII, §2821, Oct. 28, 2009, 123 Stat. 2664; Pub. L. 112–81, div. A, title X, §1061(21), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 113–66, div. B, title XXVIII, §2813, Dec. 26, 2013, 127 Stat. 1014; Pub. L. 114–92, div. B, title XXVIII, §2813, Nov. 25, 2015, 129 Stat. 1175; Pub. L. 115–91, div. B, title XXVIII, §2834, Dec. 12, 2017, 131 Stat. 1858; Pub. L. 115–232, div. A, title III, §312(e), Aug. 13, 2018, 132 Stat. 1710; Pub. L. 116–92, div. A, title III, §315, Dec. 20, 2019, 133 Stat. 1304; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), div. B, title XXVIII, §§2823(a), 2824, Jan. 1, 2021, 134 Stat. 4294, 4333; Pub. L. 118–31, div. B, title XXVIII, §2811(a), Dec. 22, 2023, 137 Stat. 748; Pub. L. 118–159, div. A, title XVII, §1701(a)(29), Dec. 23, 2024, 138 Stat. 2204; Pub. L. 119–60, div. B, title XXVIII, §2842, Dec. 18, 2025, 139 Stat. 1317.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2925(a) of this title, referred to in subsec. (g)(4), was struck out, and a new subsec. (a) of section 2925 of this title relating to annual reports on energy performance, resilience, and readiness of Department of Defense was added, by Pub. L. 117–263, div. A, title III, §314(b)(1)(B), Dec. 23, 2022, 136 Stat. 2504.

### PRIOR PROVISIONS

A prior section 2688, added Pub. L. 96–125, title VIII, §804(a)(1), Nov. 26, 1979, 93 Stat. 948; amended Pub. L. 96–418, title VIII, §804, Oct. 10, 1980, 94 Stat. 1777; Pub. L. 97–22, §11(a)(9), July 10, 1981, 95 Stat. 138; Pub. L. 97–99, title IX, §901, Dec. 23, 1981, 95 Stat. 1381, related to use of solar energy systems in new facilities, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2915 of this title.

### AMENDMENTS

**2025**—Subsec. (k). Pub. L. 119–60 amended subsec. (k) generally. Prior to amendment, subsec. (k) related to military construction projects to carry out improvements of conveyed utility systems.

**2024**—Subsec. (g)(4). Pub. L. 118–159 struck out "installation energy" before "report submitted".

**2023**—Subsec. (k). Pub. L. 118–31 amended subsec. (k) generally. Prior to amendment, text read as follows: "In the case of a utility system that is conveyed under this section and that only provides utility services to a military installation, the Secretary concerned may use amounts authorized to be appropriated for military construction to improve the reliability, resilience, efficiency, physical security, or cybersecurity of the utility system."

**2021**—Subsec. (b)(2). Pub. L. 116–283, §1883(b)(2), substituted "subsections (a), (b), (d), and (e) of section 3204" for "subsections (c) through (f) of section 2304".

Subsec. (d)(2). Pub. L. 116–283, §2824, substituted "The Secretary concerned" for "The Secretary of Defense, or the designee of the Secretary," and "if the Secretary concerned" for "if the Secretary".

Pub. L. 116–283, §2823(a), inserted "or the renewal of such a contract" after "paragraph (1)", substituted "the contract or contract renewal." for "the contract.", and inserted at end "A renewal of a contract pursuant to this paragraph may be entered into only within the last five years of the existing contract term."

**2019**—Subsecs. (k), (l). Pub. L. 116–92 added subsec. (k) and redesignated former subsec. (k) as (l).

**2018**—Subsec. (d)(2). Pub. L. 115–232, §312(e)(1), inserted at end "The business case analysis must also demonstrate how a privatized system will operate in a manner consistent with subsection (g)(3)."

Subsec. (g)(3). Pub. L. 115–232, §312(e)(2), substituted "shall require" for "may require" and "consistent with energy resilience and cybersecurity requirements and associated metrics" for "consistent with energy

resilience requirements and metrics".

**2017**—Subsec. (g)(3), (4). Pub. L. 115–91 added pars. (3) and (4).

**2015**—Subsec. (j). Pub. L. 114–92, §2813(1), substituted "Conveyance of Additional" for "Construction of" in heading.

Subsec. (j)(1). Pub. L. 114–92, §2813(2), redesignated subpar. (B) as (A) and substituted "utility system or operation of the additional utility infrastructure by the utility or entity would be in the best interest of the Government; and" for "utility system;", redesignated subpar. (D) as (B) and substituted "amount for" for "amount equal to the fair market value of", and struck out former subpars. (A) and (C) which read as follows:

"(A) the additional utility infrastructure was constructed or installed after the date of the conveyance of the utility system;

"(C) the additional utility infrastructure was planned and coordinated with the entity operating the conveyed utility system; and".

**2013**—Subsec. (d)(2). Pub. L. 113–66 inserted at end "The determination of cost effectiveness shall be made using a business case analysis that includes an independent estimate of the level of investment that should be required to maintain adequate operation of the utility system over the proposed term of the contract."

**2011**—Subsec. (a). Pub. L. 112–81, §1061(21)(A), struck out par. (1) designation before "The Secretary of a military department" and struck out pars. (2) and (3) which related to conditions for entry into a contract to convey all or part of a utility system and conditions under which the Secretary concerned could not reconsider conversion to contractor operation under section 2461 of this title for a five-year period, respectively.

Subsec. (d)(2). Pub. L. 112–81, §1061(21)(B), struck out at end "The economic analysis submitted to the congressional defense committees under subsection (a)(2) for the conveyance of the utility system, or part thereof, with regard to which the utility services contract will be entered into by the Secretary concerned shall include the determination required by this paragraph, an explanation of the need for the longer term contract, and a comparison of costs between a 10-year contract and the longer-term contract."

Subsec. (f). Pub. L. 112–81, §1061(21)(C), struck out subsec. (f). Prior to amendment, text read as follows: "Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter."

Subsec. (h). Pub. L. 112–81, §1061(21)(D), struck out at end "The Secretary concerned shall consider any such contribution in the economic analysis required under subsection (a)(2)."

**2009**—Subsec. (a)(2)(A)(ii). Pub. L. 111–84, §2821(a), substituted "system by 10 percent of the long-term cost for provision of those utility services in the agency tender; and" for "system; and".

Subsec. (a)(3). Pub. L. 111–84, §2821(b), added par. (3).

**2008**—Subsecs. (j), (k). Pub. L. 110–417 added subsec. (j) and redesignated former subsec. (j) as (k).

**2006**—Subsec. (a). Pub. L. 109–163, §2823(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 109–163, §2823(b), substituted "may require" for "shall require" in introductory provisions.

Subsec. (c)(3). Pub. L. 109–163, §2823(c)(2), redesignated subsec. (c)(3) as (d).

Subsec. (d). Pub. L. 109–163, §2823(c)(2), redesignated subsec. (c)(3) as (d), substituted "CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract" for "A contract", "subsection (c)" for "paragraph (1)", and "10 years" for "50 years", and added par. (2). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–163, §2823(c)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–163, §2823(d)(1), struck out at end "The report shall include, for each such conveyance, an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

"(1) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

"(2) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned."

Pub. L. 109–163, §2823(c)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–163, §2823(c)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 109–163, §2823(d)(2), substituted "subsection (a)(2)" for "subsection (e)".

Pub. L. 109–163, §2823(c)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 109–163, §2823(c)(1), redesignated subsecs. (h) and (i) as (i) and (j), respectively.

**2003**—Subsec. (e). Pub. L. 108–136 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary concerned may not make a conveyance under subsection (a) until—

"(1) the Secretary submits to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

"(A) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

"(B) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned; and

"(2) a period of 21 days has elapsed after the date on which the economic analysis is received by the committees."

**2000**—Subsec. (b). Pub. L. 106–398, §1 [div. B, title XXVIII, §2813(a)], designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f). Pub. L. 106–398, §1 [div. B, title XXVIII, §2813(b)], designated existing provisions as par. (1) and added par. (2).

Subsecs. (h) to (j). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(15)], redesignated subsecs. (i) and (j) as (h) and (i), respectively.

**1999**—Subsec. (c)(3). Pub. L. 106–65, §2812(a), added par. (3).

Subsec. (e)(1). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

Subsec. (g). Pub. L. 106–65, §2812(c)(2), added subsec. (g). Former subsec. (g) redesignated (i).

Subsec. (g)(2)(B). Pub. L. 106–65, §2812(b), substituted "Real property, easements," for "Easements".

Subsecs. (h) to (j). Pub. L. 106–65, §2812(c)(1), redesignated subsecs. (g) and (h) as (i) and (j), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### SENSE OF CONGRESS REGARDING INCLUSION OF STORMWATER SYSTEMS AND COMPONENTS WITHIN THE MEANING OF "WASTEWATER SYSTEM" UNDER THE DEPARTMENT OF DEFENSE AUTHORITY FOR CONVEYANCE OF UTILITY SYSTEMS

Pub. L. 114–328, div. B, title XXVIII, §2813, Dec. 23, 2016, 130 Stat. 2717, provided that: "It is the sense of Congress that the reference to a system for the collection or treatment of wastewater in the definition of 'utility system' in section 2688 of title 10, United States Code, which authorizes the Department of Defense to convey utility systems, includes stormwater systems and components."

[1] *See References in Text note below.*

## [§2689. Renumbered §2917]

## [§2690. Renumbered §2918]

## §2691. Restoration of land used by permit or damaged by mishap; reimbursement of State costs of fighting wildland fires

(a) RESTORATION OF OTHER AGENCY LAND USED BY PERMIT.—The Secretary of the military department concerned may remove improvements and take any other action necessary in the judgment of the Secretary to restore land used by that military department by permit from another military department or Federal agency if the restoration is required by the permit making that land available to the military department. The Secretary concerned may carry out this section using funds available for operations and maintenance or for military construction.

(b) SCREENING FOR USE OF IMPROVED LAND.—Unless otherwise prohibited by law or the terms of the permit, before restoration of any land under subsection (a) is begun, the Secretary concerned shall determine, under the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, whether another military department or Federal agency has a use for the land in its existing, improved state. During the period required to make such a determination, the Secretary may provide for maintenance and repair of improvements on the land to the standards established for excess property by the Administrator of General Services.

(c) RESTORATION OF DEPARTMENT OF DEFENSE LAND USED BY OTHER AGENCY .—(1) As a condition of any permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal or restoration work.

(d) WILDLAND FIRES ON STATE LAND.—The Secretary of Defense may, in any lease, permit, license, or other grant of access for use of lands owned by a State, agree to reimburse the State for the reasonable costs of the State in suppressing wildland fires caused by the activities of the Department of Defense under such lease, permit, license, or other grant of access.

(e) RESTORATION OF LAND DAMAGED BY MISHAP.—(1) When land under the administrative jurisdiction of a Federal agency that is not a part of the Department of Defense is damaged as the result of a mishap involving a vessel, aircraft, or vehicle of the Department of Defense, the Secretary of Defense may, with the consent of the Federal agency, restore the land.

(2) When land under the administrative jurisdiction of the Department of Defense or a military department is damaged as the result of a mishap involving a vessel, aircraft, or vehicle of a Federal agency that is not a part of the Department of Defense, the head of the Federal agency under whose control the vessel, aircraft, or vehicle was operating may, with the consent of the Department of Defense, restore the land.

(3) The authority under paragraphs (1) and (2) includes activities and expenditures necessary to complete restoration to meet the regulations of the Federal department or agency with administrative jurisdiction over the affected land, which may be different than the regulations of the Department of Defense.

(Added Pub. L. 98–407, title VIII, §804(a), Aug. 28, 1984, 98 Stat. 1519; amended Pub. L. 99–145, title XIII, §1303(a)(17), Nov. 8, 1985, 99 Stat. 739; Pub. L. 105–261, div. B, title XXVIII, §2812(a), (b)(1), Oct. 17, 1998, 112 Stat. 2205; Pub. L. 107–217, §3(b)(15), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111–350, §5(b)(46), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. B, title XXVIII, §2814(a), (b), Dec. 12, 2017, 131 Stat. 1849, 1850; Pub. L. 115–232, div. A, title III, §353, title X, §1081(a)(27), Aug. 13, 2018, 132 Stat. 1731, 1985; Pub. L. 117–263, div. A, title X, §1081(a)(3), Dec. 23, 2022, 136 Stat. 2797.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Pub. L. 117–263 substituted "State" for "state" in section catchline.

**2018**—Pub. L. 115–232, §1081(a)(27), substituted "state" for "State" in section catchline.

Subsec. (e)(3). Pub. L. 115–232, §353, added par. (3).

**2017**—Pub. L. 115–91, §2814(b)(1), substituted "damaged by mishap; reimbursement of State costs of fighting wildland fires" for "lease" in section catchline.

Subsec. (a). Pub. L. 115–91, §2814(a)(1), (b)(2), inserted heading and struck out "or lease" after "permit" in two places.

Subsec. (b). Pub. L. 115–91, §2814(a)(2), (b)(3), inserted heading and struck out "or lease" after "permit".

Subsec. (c). Pub. L. 115–91, §2814(b)(4), inserted heading.

Subsec. (c)(1). Pub. L. 115–91, §2814(a)(3), struck out "lease," before "permit,".

Subsecs. (d), (e). Pub. L. 115–91, §2814(a)(4), added subsecs. (d) and (e).

**2011**—Subsec. (b). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)".

**2002**—Subsec. (b). Pub. L. 107–217 inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

**1998**—Pub. L. 105–261, §2812(b)(1), struck out "from other agencies" after "lease" in section catchline.

Subsec. (c). Pub. L. 105–261, §2812(a), added subsec. (c).

**1985**—Pub. L. 99–145 substituted "used by" for "used of" in section catchline.

## §2692. Storage, treatment, and disposal of nondefense toxic and hazardous materials

(a)(1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage, treatment, or disposal of any material that is a toxic or hazardous material and that is not owned either by the Department of Defense or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the installation.

(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of that Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature.

(b) Subsection (a) does not apply to the following:

(1) The storage, treatment, or disposal of materials that will be or have been used in connection with an activity of the Department of Defense or in connection with a service to be performed on an installation of the Department for the benefit of the Department.

(2) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services.

(3) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal, State, or local agency concerned.

(4) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities.

(5) The disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements.

(6) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy.

(7) The storage of materials that constitute military resources intended to be used during

peacetime civil emergencies in accordance with applicable Department of Defense regulations.

(8) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

(9) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of the Department of Defense, including the use of such a facility for testing material or training personnel.

(10) The treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of that military department and the Secretary enters into a contract or agreement with the prospective user that—

(A) is consistent with the best interest of national defense and environmental security; and

(B) provides for the prospective user's continued financial and environmental responsibility and liability with regard to the material.

(11) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the use of a space launch facility located on an installation of the Department of Defense or on other land controlled by the United States.

(c) The Secretary of Defense may grant exceptions to subsection (a) when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the exception is essential and if the storage or disposal authorized does not compete with private enterprise.

(d)(1) The Secretary may assess a charge for any storage or disposal provided under this section. Any such charge shall be on a reimbursable cost basis.

(2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary.

(Added Pub. L. 98–407, title VIII, §805(a), Aug. 28, 1984, 98 Stat. 1520; amended Pub. L. 102–484, div. B, title XXVIII, §2852, Oct. 23, 1992, 106 Stat. 2625; Pub. L. 103–337, div. A, title III, §325, Oct. 5, 1994, 108 Stat. 2711; Pub. L. 105–85, div. A, title III, §343(a)–(g)(2), Nov. 18, 1997, 111 Stat. 1686, 1687; Pub. L. 106–65, div. A, title X, §1066(a)(25), Oct. 5, 1999, 113 Stat. 772; Pub. L. 109–364, div. A, title X, §1071(a)(21), Oct. 17, 2006, 120 Stat. 2399.)

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (b)(9). Pub. L. 109–364 substituted "testing material" for "testing materiel".

**1999**—Subsec. (b). Pub. L. 106–65 substituted "apply to the following:" for "apply to—" in introductory provisions, "The" for "the" at the beginning of each of pars. (1) to (11), a period for the semicolon at the end of each of pars. (1) to (9), and a period for "; and" at the end of par. (10).

**1997**—Pub. L. 105–85, §343(g)(2), substituted "Storage, treatment, and" for "Storage and" in section catchline.

Subsec. (a)(1). Pub. L. 105–85, §343(g)(1), substituted "storage, treatment, or disposal" for "storage or disposal".

Pub. L. 105–85, §343(a), substituted "either by the Department of Defense or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the installation" for "by the Department of Defense".

Subsec. (b)(1), (2). Pub. L. 105–85, §343(b), added par. (1) and redesignated former par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 105–85, §343(b)(1), (c), redesignated par. (2) as (3) and substituted "Federal, State, or local law enforcement" for "Federal law enforcement" and "Federal, State, or local agency" for "Federal

agency". Former par. (3) redesignated (4).

Subsec. (b)(4) to (8). Pub. L. 105–85, §343(b)(1), redesignated pars. (3) to (7) as (4) to (8), respectively. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 105–85, §343(b)(1), (d), redesignated par. (8) as (9) and substituted "in connection with the authorized and compatible use of a" for "by a private person in connection with the authorized and compatible use by that person of an industrial-type" and ", including the use of such a facility for testing materiel or training personnel;" for "; and". Former par. (9) redesignated (10).

Subsec. (b)(10). Pub. L. 105–85, §343(b)(1), (e), redesignated par. (9) as (10) and substituted "in connection with the authorized and compatible use of a" for "by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type", "or agreement with the prospective user" for "with that person", "for the prospective user's" for "for that person's", and "; and" for period at end.

Subsec. (b)(11). Pub. L. 105–85, §343(f), added par. (11).

**1994**—Subsec. (b)(9). Pub. L. 103–337 added par. (9).

**1992**—Subsec. (b)(8). Pub. L. 102–484 added par. (8).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SAVINGS PROVISION**

Pub. L. 105–85, div. A, title III, §343(h), Nov. 18, 1997, 111 Stat. 1688, provided that: "Nothing in the amendments made by this section [amending this section] is intended to modify environmental laws or laws relating to the siting of facilities."

## §2693. Sentinel Landscapes Partnership

(a) ESTABLISHMENT.—The Secretary of Defense, in coordination with the Secretary of Agriculture, the Secretary of the Interior, and the heads of other Federal departments and agencies that elect to become full partners in the program, may establish and carry out a program to preserve and restore sentinel landscapes. The program shall be known as the "Sentinel Landscapes Partnership".

(b) DESIGNATION OF SENTINEL LANDSCAPES.—The Secretary of Defense, the Secretary of Agriculture, the Secretary of the Interior, and the heads of other Federal departments and agencies that elect to become full partners in the Sentinel Landscapes Partnership may, as such Secretaries and other heads determine appropriate, collectively designate one or more sentinel landscapes.

(c) COORDINATION OF ACTIVITIES.—In carrying out this section, the Secretaries and the other heads of Federal departments and agencies may coordinate actions between their departments and agencies and with other Federal, State, interstate, and local agencies, Indian Tribes, and private entities to more efficiently work together for the mutual benefit of conservation, resilience, working lands, and national defense, and to encourage owners and managers of land to engage in voluntary land management, resilience, and conservation activities that contribute to the sustainment of military installations, State-owned National Guard installations, and associated airspace.

(d) PRIORITY CONSIDERATION.—In carrying out this section, the Secretaries and the other heads of Federal departments and agencies may give to any eligible owner or manager of land within a designated sentinel landscape priority consideration for participation in any easement, grant, or assistance program administered by that Secretary or head. Participation by an eligible owner or manager of land in any such program pursuant to this section shall be voluntary.

(e) PARTICIPATION BY OTHER AGENCIES.—Other Federal agencies with programs addressing conservation or resilience may, and are encouraged to—

(1) participate in the activities of the Sentinel Landscapes Partnership; and

(2) become full partners in the Sentinel Landscapes Partnership.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require an owner or manager of land, including a private landowner or agricultural producer, to participate in any land management, resilience, or conservation activity under this section.

(g) DEFINITIONS.—In this section:

(1) MILITARY INSTALLATION.—The term "military installation" has the same meaning as provided in section 100(1) of the Sikes Act (16 U.S.C. 670(1)).

(2) STATE-OWNED NATIONAL GUARD INSTALLATION.—The term "State-owned National Guard installation" has the same meaning as provided in section 100(3) of the Sikes Act (16 U.S.C. 670(3)).

(3) SENTINEL LANDSCAPE.—The term "sentinel landscape" means a landscape-scale area encompassing—

(A) one or more military installations or state-owned National Guard installations and associated airspace; and

(B) the publicly and privately owned lands that serve to protect and support the rural economy, the natural environment, outdoor recreation, and the national defense missions of a military installation or State-owned National Guard installation.

(4) RESILIENCE.—The term "resilience" means the capability to avoid, prepare for, minimize the effect of, adapt to, and recover from extreme weather events, flooding, wildfire, or other anticipated or unanticipated changes in environmental conditions.

(Added and amended Pub. L. 118–31, div. A, title III, §311(a), (b), Dec. 22, 2023, 137 Stat. 213, 214.)

## EDITORIAL NOTES

### CODIFICATION

Section, as added and amended by section 311(a) and (b) of Pub. L. 118–31, is based on Pub. L. 115–91, div. A, title III, §317(a)–(f), Dec. 12, 2017, 131 Stat. 1351, 1352, as amended by Pub. L. 117–81, div. A, title III, §317(a), Dec. 27, 2021, 135 Stat. 1631, which was formerly set out as a note under section 2684a of this title before being transferred to this chapter and renumbered as this section. Another section 317(f) of Pub. L. 115–91 repealed section 312(b) of Pub. L. 113–66, see Termination of 2013 Amendment note under section 2684a of this title.

### PRIOR PROVISIONS

A prior section 2693, added Pub. L. 101–647, title XVIII, §1802(a), Nov. 29, 1990, 104 Stat. 4849; amended Pub. L. 107–107, div. A, title X, §1048(a)(26)(A), (B)(i), Dec. 28, 2001, 115 Stat. 1224, 1225; Pub. L. 109–364, div. B, title XXVIII, §2825(b), Oct. 17, 2006, 120 Stat. 2476, related to conveyance of real property or facility for utilization under the correctional options program, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2825(c)(2), Oct. 17, 2006, 120 Stat. 2477. See section 2696(f) of this title.

Another prior section 2693 was renumbered section 2465 of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31, §311(a), transferred section 317 of Pub. L. 115–91, as amended, to this chapter and renumbered it as this section. See Codification note above.

Subsec. (a). Pub. L. 118–31, §311(b)(1), substituted ", the Secretary of the Interior, and the heads of other Federal departments and agencies that elect to become full partners in the program" for "and the Secretary of the Interior".

Subsec. (b). Pub. L. 118–31, §311(b)(2), substituted "the Secretary of the Interior, and the heads of other Federal departments and agencies that elect to become full partners in the Sentinel Landscapes Partnership may, as such Secretaries and other heads" for "and the Secretary of the Interior, may, as the Secretaries".

Subsec. (c). Pub. L. 118–31, §311(b)(3), amended subsec. (c) generally. Prior to amendment, text read as follows: "The Secretaries may coordinate actions between their departments and with other agencies and private organizations to more efficiently work together for the mutual benefit of conservation, resilience, working lands, and national defense, and to encourage private landowners to engage in voluntary land management, resilience, and conservation activities that contribute to the sustainment of military installations, ranges, and airspace."

Subsec. (d). Pub. L. 118–31, §311(b)(4), substituted "In carrying out this section, the Secretaries and the other heads of Federal departments and agencies may give to any eligible owner or manager of land within a designated sentinel landscape priority consideration for participation in any easement, grant, or assistance

program administered by that Secretary or head." for "The Secretary of Agriculture and the Secretary of the Interior may give to any eligible landowner or agricultural producer within a designated sentinel landscape priority consideration for participation in any easement, grant, or assistance programs administered by that Secretary's department." and "an eligible owner or manager of land" for "an eligible landowner or agricultural producer".

Subsec. (f). Pub. L. 118–31, §311(b)(6), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 118–31, §311(b)(5), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 118–31, §311(b)(7)(A), substituted "section 100(1) of the Sikes Act (16 U.S.C. 670(1))" for "section 670(1) of title 16, United States Code".

Subsec. (g)(2). Pub. L. 118–31, §311(b)(7)(B), substituted "section 100(3) of the Sikes Act (16 U.S.C. 670(3))" for "section 670(3) of title 16, United States Code".

Subsec. (g)(3)(B). Pub. L. 118–31, §311(b)(7)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the working or natural lands that serve to protect and support the rural economy, the natural environment, outdoor recreation, and the national defense test and training missions of the military- or State-owned National Guard installation or installations."

## §2694. Conservation and cultural activities

(a) ESTABLISHMENT.—The Secretary of Defense may establish and carry out a program to conduct and manage in a coordinated manner the conservation and cultural activities described in subsection (b).

(b) ACTIVITIES.—(1) A conservation or cultural activity eligible for the program that the Secretary establishes under subsection (a) is any activity—

(A) that has regional or Department of Defense-wide significance and that involves more than one military department or involves a sentinel landscape;

(B) that is necessary to meet legal requirements or to support military operations or that would contribute to maintaining or improving military installation resilience;

(C) that can be more effectively managed at the Department of Defense level; and

(D) for which no executive agency has been designated responsible by the Secretary.

(2) Such activities include the following:

(A) The development of ecosystem-wide land management plans or nature-based climate resilience plans.

(B) The conduct of wildlife studies to ensure the safety and sustainability of military operations.

(C) The identification and return of Native American human remains and cultural items in the possession or control of the Department of Defense, or discovered on land under the jurisdiction of the Department, to the appropriate Native American tribes.

(D) The control of invasive species that may hinder military activities or degrade military training ranges.

(E) The establishment of a regional curation system for artifacts found on military installations.

(F) The implementation of ecosystem-wide land management plans—

(i) for a single ecosystem—

(I) that encompasses at least two non-contiguous military installations, if those military installations are not all under the administrative jurisdiction of the same Secretary of a military department; and

(II) providing synergistic benefits unavailable if the installations acted separately; or

(ii) for one or more ecosystems within a sentinel landscape.

(c) COOPERATIVE AGREEMENTS.—The Secretary may negotiate and enter into cooperative agreements with public and private agencies, organizations, institutions, individuals, or other entities to carry out the program established under subsection (a).

(d) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed or interpreted as preempting any otherwise applicable Federal, State, or local law or regulation relating to the

management of natural and cultural resources on military installations.

(e) SENTINEL LANDSCAPE DEFINED.—In this section, the term "sentinel landscape" has the meaning given that term in section 2693(g) of this title.

(Added Pub. L. 104–201, div. A, title III, §332(a)(1), Sept. 23, 1996, 110 Stat. 2484; amended Pub. L. 105–85, div. A, title X, §1073(a)(59), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 112–81, div. B, title XXVIII, §2814, Dec. 31, 2011, 125 Stat. 1688; Pub. L. 117–81, div. A, title III, §317(c), Dec. 27, 2021, 135 Stat. 1632; Pub. L. 118–31, div. A, title III, §311(c)(2), Dec. 22, 2023, 137 Stat. 215.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (e). Pub. L. 118–31 substituted "meaning given that term in section 2693(g) of this title" for "meaning given that term in section 317(f) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2684a note)".

**2021**—Subsec. (b)(1)(A). Pub. L. 117–81, §317(c)(1)(A)(i), inserted "or involves a sentinel landscape" before semicolon at end.

Subsec. (b)(1)(B). Pub. L. 117–81, §317(c)(1)(A)(ii), inserted "or that would contribute to maintaining or improving military installation resilience" before semicolon at end.

Subsec. (b)(2)(A). Pub. L. 117–81, §317(c)(1)(B)(i), inserted "or nature-based climate resilience plans" before period at end.

Subsec. (b)(2)(F)(i). Pub. L. 117–81, §317(c)(1)(B)(ii)(I), inserted a dash after "single ecosystem", designated remaining existing provisions as subcl. (I), redesignated provisions of existing cl. (ii) as subcl. (II) of cl. (i), and realigned margins.

Subsec. (b)(2)(F)(ii). Pub. L. 117–81, §317(c)(1)(B)(ii)(II), added cl. (ii). Former cl. (ii) redesignated cl. (i)(II).

Subsec. (e). Pub. L. 117–81, §317(c)(2), added subsec. (e).

**2011**—Subsec. (b)(2)(B). Pub. L. 112–81, §2814(1), inserted "and sustainability" after "safety".

Subsec. (b)(2)(F). Pub. L. 112–81, §2814(2), added subpar. (F).

**1997**—Subsec. (b)(1)(D). Pub. L. 105–85 substituted "executive agency" for "executive ageny".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 104–201, div. A, title III, §332(b), Sept. 23, 1996, 110 Stat. 2485, provided that: "Section 2694 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996."

## §2694a. Conveyance of surplus real property for natural resource conservation

(a) AUTHORITY TO CONVEY.—The Secretary of a military department may convey to an eligible entity described in subsection (b) any surplus real property that—

(1) is under the administrative control of the Secretary;

(2) is suitable and desirable for conservation purposes;

(3) has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

(4) is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property disposal processes and authorities under subtitle I of title 40.

(b) ELIGIBLE ENTITIES.—The conveyance of surplus real property under this section may be made to any of the following:

(1) A State or political subdivision of a State.

(2) A nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

(c) REVERSIONARY INTEREST AND OTHER DEED REQUIREMENTS.—(1) The deed of conveyance of any surplus real property conveyed under this section shall require the property to be used and maintained for the conservation of natural resources in perpetuity. If the Secretary concerned determines at any time that the property is not being used or maintained for such purpose, then, at the option of the Secretary, all or any portion of the property shall revert to the United States.

(2) The deed of conveyance may permit the recipient of the property—

(A) to convey the property to another eligible entity, subject to the approval of the Secretary concerned and subject to the same covenants and terms and conditions as provided in the deed from the United States; and

(B) to conduct incidental revenue-producing activities on the property that are compatible with the use of the property for conservation purposes.

(3) The deed of conveyance may contain such additional terms, reservations, restrictions, and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.

(d) RELEASE OF COVENANTS.—With the concurrence of the Secretary of Interior, the Secretary concerned may grant a release from a covenant included in the deed of conveyance of real property conveyed under this section, subject to the condition that the recipient of the property pay the fair market value, as determined by the Secretary concerned, of the property at the time of the release of the covenant. The Secretary concerned may reduce the amount required to be paid under this subsection to account for the value of the natural resource conservation benefit that has accrued to the United States during the period the covenant was in effect, if the benefit was not taken into account in determining the original consideration for the conveyance.

(e) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may not approve of the reconveyance of real property under subsection (c) or grant the release of a covenant under subsection (d) until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the proposed reconveyance or release.

(f) LIMITATIONS.—The conveyance of real property under this section shall not be used as a condition of allowing any defense activity under any Federal, State, or local permitting or review process. The Secretary concerned may make the conveyance, with the restrictions specified in subsection (c), to establish a mitigation bank, but only if the establishment of the mitigation bank does not occur in order to satisfy any condition for permitting military activity under a Federal, State, or local permitting or review process.

(g) CONSIDERATION.—In fixing the consideration for the conveyance of real property under this section, or in determining the amount of any reduction of the amount to be paid for the release of a covenant under subsection (d), the Secretary concerned shall take into consideration any benefit that has accrued or may accrue to the United States from the use of such property for the conservation of natural resources.

(h) RELATION TO OTHER CONVEYANCE AUTHORITIES.—(1) The Secretary concerned may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of the base closure law.

(2) In the case of real property on Guam, the Secretary concerned may not make a conveyance under this section unless the Government of Guam has been first afforded the opportunity to acquire the real property as authorized by section 1 of Public Law 106–504 (114 Stat. 2309).

(i) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" has the meaning given such term in section 2801 of this title.

(2) The term "Secretary concerned" means the Secretary of a military department.

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, and American Samoa.

(Added Pub. L. 107–314, div. B, title XXVIII, §2812(a)(1), Dec. 2, 2002, 116 Stat. 2707; amended

Pub. L. 109–163, div. A, title X, §1056(a)(1), (b), Jan. 6, 2006, 119 Stat. 3438, 3439; Pub. L. 109–364, div. A, title X, §1071(a)(22), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 111–383, div. B, title XXVIII, §2803(a), Jan. 7, 2011, 124 Stat. 4458; Pub. L. 115–91, div. B, title XXVIII, §2811(h), Dec. 12, 2017, 131 Stat. 1849.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1 of Public Law 106–504 (114 Stat. 2309), referred to in subsec. (h)(2), is set out as a note under section 521 of Title 40, Public Buildings, Property, and Works.

**AMENDMENTS**

**2017**—Subsec. (e). Pub. L. 115–91 added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "The Secretary concerned may not approve of the reconveyance of real property under subsection (c) or grant the release of a covenant under subsection (d) until the Secretary notifies the appropriate committees of Congress of the proposed reconveyance or release and a period of 21 days elapses from the date the notification is received by the committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title."

**2011**—Subsec. (e). Pub. L. 111–383 inserted before period at end "or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**2006**—Subsec. (c). Pub. L. 109–364 substituted "Reversionary" for "Revisionary" in heading.

Subsec. (i)(2) to (4). Pub. L. 109–163 struck out par. (2), which defined "base closure law", redesignated pars. (3) and (4) as (2) and (3), respectively, and, in par. (3), substituted "Guam, the Virgin Islands, and American Samoa" for "and the territories and possessions of the United States".

## §2694b. Participation in wetland mitigation banks

(a) AUTHORITY TO PARTICIPATE.—The Secretary of a military department, and the Secretary of Defense with respect to matters concerning a Defense Agency, when engaged in an authorized activity that may or will result in the destruction of, or an adverse impact to, a wetland, may make payments to a wetland mitigation banking program or "in-lieu-fee" mitigation sponsor approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995) or the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66913; November 7, 2000), or any successor administrative guidance or regulation.

(b) ALTERNATIVE TO CREATION OF WETLAND.—Participation in a wetland mitigation banking program or consolidated user site under subsection (a) shall be in lieu of mitigating wetland impacts through the creation of a wetland on Federal property.

(c) TREATMENT OF PAYMENTS.—Payments made under subsection (a) to a wetland mitigation banking program or consolidated user site may be treated as eligible project costs for military construction.

(Added Pub. L. 108–136, div. A, title III, §314(a)(1), Nov. 24, 2003, 117 Stat. 1430.)

## §2694c. Participation in conservation banking programs

(a) AUTHORITY TO PARTICIPATE.—Subject to the availability of appropriated funds, the Secretary concerned, when engaged or proposing to engage in an activity described in subsection (b) that may or will result in an adverse impact to one or more species protected (or pending protection) under any applicable provision of law, or habitat for such species, may make payments to a conservation banking program or "in-lieu-fee" mitigation sponsor approved in accordance with—

(1) the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995);

(2) the Guidance for the Establishment, Use, and Operation of Conservation Banks (68 Fed. Reg. 24753; May 2, 2003);

(3) the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66915; November 7, 2000); or

(4) any successor or related administrative guidance or regulation.

(b) COVERED ACTIVITIES.—Payments to a conservation banking program or "in-lieu-fee" mitigation sponsor under subsection (a) may be made only for the purpose of facilitating one or more of the following activities:

(1) Military testing, operations, training, or other military activity.

(2) Military construction.

(c) TREATMENT OF AMOUNTS FOR CONSERVATION BANKING.—Payments made under subsection (a) to a conservation banking program or "in-lieu-fee" mitigation sponsor for the purpose of facilitating military construction may be treated as eligible costs of the military construction project.

(d) SOURCE OF FUNDS.—Amounts available from any of the following shall be available for activities under this section:

(1) Operation and maintenance.

(2) Military construction.

(3) Research, development, test, and evaluation.

(4) The Support for United States Relocation to Guam Account established under section 2824 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4730; 10 U.S.C. 2687 note).

(e) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" means—

(1) the Secretary of a military department; and

(2) the Secretary of Defense with respect to a Defense Agency.

(Added Pub. L. 110–417, [div. A], title III, §311(a), Oct. 14, 2008, 122 Stat. 4408; amended Pub. L. 111–84, div. A, title III, §311, Oct. 28, 2009, 123 Stat. 2247; Pub. L. 111–383, div. A, title X, §1075(b)(45), Jan. 7, 2011, 124 Stat. 4371.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (d)(4). Pub. L. 111–383 inserted "Authorization" after "Military Construction".

**2009**—Subsec. (a). Pub. L. 111–84, §311(1), struck out "to carry out this section" after "appropriated funds" in introductory provisions.

Subsecs. (d), (e). Pub. L. 111–84, §311(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 110–417, [div. A], title III, §311(c), Oct. 14, 2008, 122 Stat. 4409, provided that: "Section 2694c of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2008, and only funds appropriated for fiscal years beginning after September 30, 2008, may be used to carry out such section."

## §2694d. Participation in pollutant banks and water quality trading

(a) AUTHORITY TO PARTICIPATE.—The Secretary of a military department, and the Secretary of Defense with respect to matters concerning a Defense Agency, when engaged in an authorized activity that may or will result in the discharge of pollutants, may make payments to a pollutant banking program or water quality trading program approved in accordance with the Water Quality Trading Policy dated January 13, 2003, set forth by the Office of Water of the Environmental Protection Agency, or any successor administrative guidance or regulation.

(b) TREATMENT OF PAYMENTS.—Payments made under subsection (a) to a pollutant banking program or water quality trading program may be treated as eligible project costs for military construction.

(c) DISCHARGE OF POLLUTANTS DEFINED.—In this section, the term "discharge of pollutants" has the meaning given that term in section 502(12) of the Federal Water Pollution Control Act (33 U.S.C. 1362(12)) (commonly referred to as the "Clean Water Act").

(Added Pub. L. 117–263, div. A, title III, §312(a), Dec. 23, 2022, 136 Stat. 2502.)

## §2695. Acceptance of funds to cover administrative expenses relating to certain real property transactions

(a) AUTHORITY TO ACCEPT.—In connection with a real property transaction referred to in subsection (b) with a non-Federal person or entity, the Secretary of a military department may accept amounts provided by the person or entity to cover administrative expenses incurred by the Secretary in entering into the transaction.

(b) COVERED TRANSACTIONS.—Subsection (a) applies to the following transactions involving real property under the control of the Secretary of a military department:

(1) The exchange of real property.

(2) The grant of an easement over, in, or upon real property of the United States.

(3) The lease or license of real property of the United States.

(4) The disposal of real property of the United States for which the Secretary will be the disposal agent.

(5) The conveyance of real property under section 2694a of this title.

(c) USE OF AMOUNTS COLLECTED.—(1) Amounts collected by the Secretary of a military department under subsection (a) for administrative expenses shall be credited, at the option of the Secretary—

(A) to the appropriation, fund, or account from which the expenses were paid; or

(B) to an appropriate appropriation, fund, or account currently available to the Secretary for the purposes for which the expenses were paid.

(2) Amounts credited under paragraph (1) shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(Added Pub. L. 105–85, div. B, title XXVIII, §2813(a), Nov. 18, 1997, 111 Stat. 1993; amended Pub. L. 106–65, div. B, title XXVIII, §2813, Oct. 5, 1999, 113 Stat. 851; Pub. L. 107–314, div. B, title XXVIII, §2812(b), Dec. 2, 2002, 116 Stat. 2709; Pub. L. 113–291, div. B, title XXVIII, §2812(a), Dec. 19, 2014, 128 Stat. 3700.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (c)(1). Pub. L. 113–291, §2812(a)(1), substituted "(1) Amounts collected by the Secretary of a military department under subsection (a) for administrative expenses shall be credited, at the option of the Secretary—" and subpars. (A) and (B) for "Amounts collected under subsection (a) for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid."

Subsec. (c)(2). Pub. L. 113–291, §2812(a)(2), substituted "(2) Amounts credited under paragraph (1)" for "Amounts so credited".

**2002**—Subsec. (b)(5). Pub. L. 107–314 added par. (5).

**1999**—Subsec. (b). Pub. L. 106–65 inserted "involving real property under the control of the Secretary of a military department" after "transactions" in introductory provisions and added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. B, title XXVIII, §2812(b), Dec. 19, 2014, 128 Stat. 3700, provided that: "The amendments made by subsection (a) [amending this section] shall not apply to administrative expenses related to a real property transaction referred to in section 2695(b) of title 10, United States Code, that were covered by the Secretary of a military department using amounts appropriated to the Secretary before the date of the enactment of this Act [Dec. 19, 2014]."

### ADMINISTRATIVE COSTS OF LAND CONVEYANCES

Pub. L. 106–541, title II, §226, Dec. 11, 2000, 114 Stat. 2598, provided that: "Notwithstanding any other provision of law, the administrative costs associated with the conveyance of property by the Secretary to a non-Federal governmental or nonprofit entity shall be limited to the extent that the Secretary determines that such limitation is necessary to complete the conveyance based on the entity's ability to pay."

## §2696. Real property: transfer between armed forces and screening requirements for other Federal use

(a) TRANSFERS BETWEEN ARMED FORCES.—If either of the Secretaries concerned requests it and the other approves, real property may be transferred, without compensation, from one armed force to another. Section 2571(d) of this title shall apply to the transfer of real property under this subsection.

(b) SCREENING REQUIREMENTS FOR ADDITIONAL FEDERAL USE.—The Secretary concerned may not convey real property that is authorized or required to be conveyed, whether for or without consideration, by any provision of law enacted after December 31, 1997, unless the Administrator of General Services has screened the property for further Federal use in accordance with subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(c) TIME FOR SCREENING.—(1) Before the end of the 30-day period beginning on the date of the enactment of a provision of law authorizing or requiring the conveyance of a parcel of real property by the Secretary concerned, the Administrator of General Services shall complete the screening referred to in subsection (b) with regard to the real property and notify the Secretary concerned and Congress of the results of the screening. The notice shall include—

(A) the name of the Federal agency requesting transfer of the property;

(B) the proposed use to be made of the property by the Federal agency; and

(C) the fair market value of the property, including any improvements thereon, as estimated by the Administrator.

(2) If the Administrator fails to complete the screening and notify the Secretary concerned and Congress within such period, the Secretary concerned shall proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance.

(d) EFFECT OF SUBMISSION OF NOTICE.—If the Administrator of General Services submits notice under subsection (c)(1) that further Federal use of a parcel of real property is requested by a Federal agency, the Secretary concerned may not proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance until the end of the 180-day period beginning on the date on which the notice is submitted to Congress.

(e) EXCEPTED CONVEYANCE AUTHORITIES.—The screening requirements of subsection (b) shall not apply to real property authorized or required to be conveyed under any of the following

provisions of law:

(1) A base closure law.

(2) Chapter 5 of title 40.

(3) Any specific provision of law authorizing or requiring the transfer of administrative jurisdiction over a parcel of real property between Federal agencies.

(f) SCREENING AND CONVEYANCE OF PROPERTY FOR CORRECTIONAL FACILITIES PURPOSES.—(1) Except as provided in paragraph (2), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary of Defense shall—

(A) provide adequate notification of the availability of such real property or facility within the Department of Defense;

(B) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

(C) if the Attorney General certifies to the Secretary of Defense that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a),[1] convey the real property or facility, without reimbursement, to a public agency referred to in paragraph (1) or (3) of subsection (a) of such section for such utilization.

(2) Paragraph (1) shall not apply—

(A) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) is applicable; and

(B) during any portion of a fiscal year after four conveyances have been made under paragraph (1) in such fiscal year.

(Added Pub. L. 105–85, div. B, title XXVIII, §2814(a)(1), Nov. 18, 1997, 111 Stat. 1994; amended Pub. L. 106–65, div. A, title X, §1066(a)(26), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107–217, §3(b)(16), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 108–136, div. A, title X, §§1031(a)(33), 1043(c)(4), Nov. 24, 2003, 117 Stat. 1600, 1612; Pub. L. 109–364, div. B, title XXVIII, §2825(a), (b)(5), (c)(3), (d)(2)(A), Oct. 17, 2006, 120 Stat. 2476, 2477; Pub. L. 111–350, §5(b)(47), Jan. 4, 2011, 124 Stat. 3846.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (f)(1)(C), is section 515 of title I of Pub. L. 90–351, which was classified as section 3762a of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as section 10171 of Title 34, Crime Control and Law Enforcement.

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (f)(2)(A), is Pub. L. 100–526, Oct. 24, 1988, 102 Stat. 2623. Title II of the Act is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of this title and Tables.

### CODIFICATION

The text of section 2693 of this title, which was transferred to the end of this section and redesignated as subsec. (f), by Pub. L. 109–364, §2825(b)(5), was based on Pub. L. 101–647, title XVIII, §1802(a), Nov. 29, 1990, 104 Stat. 4849; amended Pub. L. 107–107, div. A, title X, §1048(a)(26)(A), (B)(i), Dec. 28, 2001, 115 Stat. 1224, 1225; Pub. L. 109–364, div. B, title XXVIII, §2825(b), Oct. 17, 2006, 120 Stat. 2476.

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 111–350, which directed substitution of "division C (except sections 3302,

3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" in subsec. (a), was executed by making the substitution in subsec. (b) to reflect the probable intent of Congress.

**2006**—Pub. L. 109–364, §2825(d)(2)(A), substituted "Real property: transfer between armed forces and screening requirements for other Federal use" for "Screening of real property for further Federal use before conveyance" in section catchline.

Subsec. (a). Pub. L. 109–364, §2825(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 109–364, §2825(c)(3)(A), substituted "Requirements for Additional Federal Use" for "Requirement" in heading.

Pub. L. 109–364, §2825(a)(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 109–364, §2825(a)(1), redesignated subsec. (b) as (c).

Subsec. (c)(1). Pub. L. 109–364, §2825(c)(3)(B), substituted "subsection (b)" for "subsection (a)" in introductory provisions.

Subsec. (d). Pub. L. 109–364, §2825(c)(3)(C), substituted "subsection (c)(1)" for "subsection (b)(1)".

Subsec. (e). Pub. L. 109–364, §2825(c)(3)(D), substituted "subsection (b)" for "this section" in introductory provisions.

Subsec. (f). Pub. L. 109–364, §2825(b)(5), transferred the text of section 2693 of this title to end of this section and redesignated it as subsec. (f). See Codification note above.

**2003**—Subsec. (b)(1). Pub. L. 108–136, §1031(a)(33)(A)(i), inserted "and Congress" before "of the results" in introductory provisions.

Subsec. (b)(2). Pub. L. 108–136, §1031(a)(33)(A)(ii), inserted "and Congress" before "within such period".

Subsec. (c). Pub. L. 108–136, §1031(a)(33)(B), struck out heading and text of subsec. (c). Text read as follows: "If the Administrator of General Services notifies the Secretary concerned under subsection (b) that further Federal use of a parcel of real property authorized or required to be conveyed by any provision of law is requested by a Federal agency, the Secretary concerned shall submit a copy of the notice to Congress."

Subsec. (d). Pub. L. 108–136, §1031(a)(33)(C), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: "If the Secretary concerned submits a notice under subsection (c) with regard to a parcel of real property, the Secretary concerned may not proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance if Congress enacts a law rescinding the conveyance authority or requirement before the end of the 180-day period beginning on the date on which the Secretary concerned submits the notice."

Subsec. (e). Pub. L. 108–136, §1043(c)(4), added par. (1), redesignated pars. (5) and (6) as (2) and (3), respectively, and struck out former pars. (1) to (4) which read as follows:

"(1) Section 2687 of this title.

"(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(3) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(4) Any provision of law authorizing the closure or realignment of a military installation that is enacted after November 18, 1997."

**2002**—Subsec. (a). Pub. L. 107–217, §3(b)(16)(A), inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

Subsec. (e)(5). Pub. L. 107–217, §3(b)(16)(B), substituted "Chapter 5 of title 40" for "Title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)".

**1999**—Subsec. (a). Pub. L. 106–65, §1066(a)(26)(A), inserted "enacted after December 31, 1997," after "any provision of law".

Subsec. (b)(1). Pub. L. 106–65, §1066(a)(26)(B), substituted "referred to in subsection (a)" for "required by paragraph (1)" in introductory provisions.

Subsec. (e)(4). Pub. L. 106–65, §1066(a)(26)(C), substituted "November 18, 1997" for "the date of enactment of the National Defense Authorization Act for Fiscal Year 1998".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 105–85, div. B, title XXVIII, §2814(b), Nov. 18, 1997, 111 Stat. 1995, provided that: "Section 2696 of title 10, United States Code, as added by subsection (a) of this section, shall apply with respect to any real property authorized or required to be conveyed under a provision of law covered by such section that is

enacted after December 31, 1997."

**TRANSFER OF FUNCTIONS**

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 10142(3) to (6) of Title 34, Crime Control and Law Enforcement, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, §108(b)] of Pub. L. 106–113, set out as a note under section 10141 of Title 34.

[1] *See References in Text note below.*

## §2697. Acceptance and use of landing fees charged for use of military airfields by civil aircraft

(a) AUTHORITY.—The Secretary of a military department may impose landing fees for the use by civil aircraft of military airfields under the jurisdiction of that Secretary and may use any fees received under this section as a source of funding for the operation and maintenance of airfields of that department.

(b) UNIFORM LANDING FEES.—The Secretary of Defense shall prescribe the amount of the landing fees that may be imposed under this section. Such fees shall be uniform among the military departments.

(c) USE OF PROCEEDS.—Amounts received for a fiscal year in payment of landing fees imposed under this section for the use of a military airfield shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of that military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

(d) LIMITATION.—The Secretary of a military department shall determine whether consideration for a landing fee has been received in a lease, license, or other real estate agreement for an airfield and shall use such a determination to offset appropriate amounts imposed under subsection (a) for that airfield.

(Added Pub. L. 111–383, div. A, title III, §341(a), Jan. 7, 2011, 124 Stat. 4189; amended Pub. L. 118–159, div. B, title XXVIII, §2846, Dec. 23, 2024, 138 Stat. 2264.)

**AMENDMENT OF SECTION**

*Pub. L. 118–159, div. B, title XXVIII, §2846(b), Dec. 23, 2024, 138 Stat. 2264, provided that, effective Oct. 1, 2027, this section is amended in the section catchline and subsec. (a) by inserting "domestic" before "military airfields". See 2024 Amendment notes below.*

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §2846(b)(1), inserted "domestic" before "military airfields" in section catchline.
Pub. L. 118–159, §2846(a)(1), struck out "domestic" before "military airfields" in section catchline.
Subsec. (a). Pub. L. 118–159, §2846(b)(2), inserted "domestic" before "military airfields".
Pub. L. 118–159, §2846(a)(2), struck out "domestic" before "military airfields".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2024 AMENDMENT**

Pub. L. 118–159, div. B, title XXVIII, §2846(b), Dec. 23, 2024, 138 Stat. 2264, provided that the amendment made by section 2846(b) is effective Oct. 1, 2027.

# CHAPTER 160—ENVIRONMENTAL RESTORATION

Sec.
2700. Definitions.
2701. Environmental restoration program.
2702. Research, development, and demonstration program.
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2704. Commonly found unregulated hazardous substances.
2705. Notice of environmental restoration activities.
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**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title III, §332, Dec. 22, 2023, 137 Stat. 222, added item 2716. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title III, §341(b), Dec. 27, 2021, 135 Stat. 1642, added items 2714 and 2715.

Pub. L. 116–283, div. A, title III, §§318(b), 319(b), Jan. 1, 2021, 134 Stat. 3519, 3521, added items 2712 and 2713.

**2011**—Pub. L. 112–81, div. A, title III, §317(b), title X, §1061(22)(B), Dec. 31, 2011, 125 Stat. 1360, 1584, struck out item 2706 "Annual reports to Congress" and added item 2711.

**2002**—Pub. L. 107–314, div. A, title III, §313(d)(1), Dec. 2, 2002, 116 Stat. 2508, added items 2700 and 2707 and struck out former item 2707 "Definitions".

**2001**—Pub. L. 107–107, div. A, title III, §311(a)(2), Dec. 28, 2001, 115 Stat. 1051, added item 2710.

**1999**—Pub. L. 106–65, div. A, title III, §323(b)(2), Oct. 5, 1999, 113 Stat. 563, added item 2709.

**1996**—Pub. L. 104–201, div. A, title III, §322(a)(2), Sept. 23, 1996, 110 Stat. 2478, substituted "accounts" for "transfer account" in item 2703.

**1991**—Pub. L. 102–190, div. A, title III, §331(a)(2), Dec. 5, 1991, 105 Stat. 1340, added item 2708.

Pub. L. 102–25, title VII, §701(e)(6), Apr. 6, 1991, 105 Stat. 114, substituted "Annual reports to Congress" for "Annual report to Congress" in item 2706.

**1989**—Pub. L. 101–189, div. A, title III, §357(a)(2)(B), Nov. 29, 1989, 103 Stat. 1427, which directed amendment of the item relating to section 2706 in the table of sections at the beginning of chapter 106 to read "Annual reports to Congress", could not be executed because item 2706 is in this chapter and not in chapter 106.

## §2700. Definitions

In this chapter:

(1) The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) The terms "environment", "facility", "hazardous substance", "person", "pollutant or contaminant", "release", "removal", "response", "disposal", and "hazardous waste" have the meanings given those terms in section 101 of CERCLA (42 U.S.C. 9601).

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "National Guard facility" includes land used for training the National Guard pursuant to chapter 5 of title 32 with funds provided by the Secretary of Defense or the Secretary of a military department, without regard to—

(A) the owner or operator of the facility; or

(B) whether the facility is under the jurisdiction of the Department of Defense or a military department.

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1725, §2707; renumbered §2700 and amended Pub. L. 107–314, div. A, title III, §313(a)(1), (c)(1), Dec. 2, 2002, 116 Stat. 2507; Pub. L. 111–383, div. A, title X, §1075(b)(46)(A), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 116–92, div. A, title III, §316(b), Dec. 20, 2019, 133 Stat. 1304; Pub. L. 116–283, div. A, title III, §314(b), Jan. 1, 2021, 134 Stat. 3514; Pub. L. 117–263, div. A, title III, §313(a), Dec. 23, 2022, 136 Stat. 2502; Pub. L. 118–31, div. A, title III, §312(a), title XVIII, §1801(a)(22), Dec. 22, 2023, 137 Stat. 215, 684.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in par. (1), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

### AMENDMENTS

**2023**—Par. (2). Pub. L. 118–31, §1801(a)(22), substituted "The terms" for "The term".

Par. (4). Pub. L. 118–31, §312(a), struck out "State-owned" before "National Guard facility" and "owned and operated by a State when such land is" before "used for training" and substituted "without regard to—" and subpars. (A) and (B) for "even though such land is not under the jurisdiction of the Department of Defense."

**2022**—Par. (4). Pub. L. 117–263 added par. (4).

**2021**—Par. (2). Pub. L. 116–283, §314(b), which directed amendment of par. (1) by substituting "The term" for "(A) The terms" and striking subpar. (B), was executed by making the amendment in par. (2) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) of par. (2) read as follows: "The term 'facility' includes real property that is owned by, leased to, or otherwise possessed by the United States at locations at which military activities are conducted under this title or title 32 (including real property owned or leased by the Federal Government that is licensed to and operated by a State for training for the National Guard)."

**2019**—Par. (2). Pub. L. 116–92 designated existing provisions as subpar. (A) and added subpar. (B).

**2011**—Par. (2). Pub. L. 111–383 inserted " 'pollutant or contaminant'," after " 'person',".

**2002**—Pub. L. 107–314, §313(c)(1), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Pub. L. 107–314, §313(a)(1), renumbered section 2707 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS CLAUSE

Pub. L. 116–92, div. A, title III, §316(d), Dec. 20, 2019, 133 Stat. 1304, provided that: "Nothing in this section [amending this section and sections 2701 and 2707 of this title], or the amendments made by this section, shall affect any requirement or authority under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.)."

## §2701. Environmental restoration program

(a) ENVIRONMENTAL RESTORATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense shall carry out a program of environmental

restoration at facilities under the jurisdiction of the Secretary and at National Guard facilities. The program shall be known as the "Defense Environmental Restoration Program".

(2) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the program described in subsection (b)(1) shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of CERCLA (42 U.S.C. 9620).

(3) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

(4) ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

(b) PROGRAM GOALS.—Goals of the program shall include the following:

(1) The identification, investigation, research and development, and cleanup of contamination from a hazardous substance or pollutant or contaminant.

(2) Correction of other environmental damage (such as detection and disposal of unexploded ordnance) which creates an imminent and substantial endangerment to the public health or welfare or to the environment.

(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances or pollutants or contaminants from each of the following:

(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

(B) Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances or pollutants or contaminants.

(C) Each vessel owned or operated by the Department of Defense.

(D) Each National Guard facility being used for training the National Guard pursuant to chapter 5 of title 32 with funds provided by the Secretary of Defense or the Secretary of a military department at the time of actions leading to contamination by hazardous substances or pollutants or contaminants.

(2) OTHER RESPONSIBLE PARTIES.—Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 (relating to settlements) of CERCLA (42 U.S.C. 9622).

(3) STATE FEES AND CHARGES.—The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances or pollutants or contaminants on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

(d) SERVICES OF OTHER ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary may enter into agreements on a reimbursable or other basis with any other Federal agency, any State or local government agency, any Indian tribe, any owner of covenant property, or any nonprofit conservation organization to obtain the services of the agency, Indian tribe, owner, or organization to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be

obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction or at a National Guard facility.

(2) CROSS-FISCAL YEAR AGREEMENTS.—An agreement with an agency under paragraph (1) may be for a period that begins in one fiscal year and ends in another fiscal year so long as the period of the agreement does not exceed two years. This two-year limitation does not apply to an agreement funded using amounts in the Department of Defense Base Closure Account established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(3) LIMITATION ON REIMBURSABLE AGREEMENTS.—An agreement with an agency under paragraph (1) may not provide for reimbursement of the agency for regulatory enforcement activities. An agreement under such paragraph with respect to a site also may not change the cleanup standards selected for the site pursuant to law.

(4) DEFINITIONS.—In this subsection:

(A) The term "Indian tribe" has the meaning given such term in section 101(36) of CERCLA (42 U.S.C. 9601(36)).

(B) The term "nonprofit conservation organization" means any non-governmental nonprofit organization whose primary purpose is conservation of open space or natural resources.

(C) The term "owner of covenant property" means an owner of property subject to a covenant provided by the United States in accordance with the requirements of paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), so long as the covenant property is the site at which the services procured under paragraph (1) are to be performed.

(5) SAVINGS CLAUSE.—Nothing in this subsection affects the applicability of section 120 of CERCLA (42 U.S.C. 9620) to the Department of Defense or the obligations and responsibilities of the Department of Defense under subsection (h) of such section.

(e) RESPONSE ACTION CONTRACTORS.—The provisions of section 119 of CERCLA (42 U.S.C. 9619) apply to response action contractors (as defined in that section) who carry out response actions under this section.

(f) USE OF APPROPRIATED FUNDS AT FORMER DOD SITES.—Appropriations available to the Department of Defense may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense.

(g) REMOVAL OF UNSAFE BUILDINGS AND DEBRIS BEFORE RELEASE FROM FEDERAL CONTROL.—In the case of property formerly used by the Department of Defense which is to be released from Federal Government control and at which there are unsafe buildings or debris of the Department of Defense, all actions necessary to comply with regulations of the General Services Administration on the transfer of property in a safe condition shall be completed before the property is released from Federal Government control, except in the case of property to be conveyed to an entity of State or local government or to a native corporation.

(h) SURETY-CONTRACTOR RELATIONSHIP.—Any surety which provides a bid, performance, or payment bond in connection with any direct Federal procurement for a response action contract under the Defense Environmental Restoration Program and begins activities to meet its obligations under such bond, shall, in connection with such activities or obligations, be entitled to any indemnification and the same standard of liability to which its principal was entitled under the contract or under any applicable law or regulation.

(i) SURETY BONDS.—

(1) APPLICABILITY OF SECTIONS 3131 AND 3133 OF TITLE 40.—If under sections 3131 and 3133 of title 40 surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program and are not waived pursuant to section 3134 of title 40, the surety bonds shall be issued in accordance with sections 3131 and 3133.

(2) LIMITATION OF ACCRUAL OF RIGHTS OF ACTION UNDER BONDS.—If, under

applicable Federal law, surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program, no right of action shall accrue on the performance bond issued on such contract to or for the use of any person other than an obligee named in the bond.

(3) LIABILITY OF SURETIES UNDER BONDS.—If, under applicable Federal law, surety bonds are required for any direct Federal procurement of any response action contract under the Defense Environmental Restoration Program, unless otherwise provided for by the Secretary in the bond, in the event of a default, the surety's liability on a performance bond shall be only for the cost of completion of the contract work in accordance with the plans and specifications of the contract less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by a breach of the bonded contract.

(4) NONPREEMPTION.—Nothing in this section shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices, or procedures. Nothing in this section shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgment, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

(j) APPLICABILITY.—(1) Subsections (h) and (i) shall not apply to bonds executed before December 5, 1991.

(2) Subsections (h) and (i) shall not apply to bonds to which section 119(g) of CERCLA (42 U.S.C. 9619(g)) applies.

(k) UXO PROGRAM MANAGER.—(1) The Secretary of Defense shall designate a program manager who shall serve as the single point of contact in the Department of Defense for policy and budgeting issues involving the characterization, research, remediation, and management of explosive and related risks with respect to unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (as such terms are defined in section 2710 [1] of this title) that pose a threat to human health or safety.

(2) The position of program manager shall be filled by—

(A) an employee in a position that is equivalent to pay grade O–6 or above; or

(B) a member of the armed forces who is serving in the grade of colonel or, in the case of the Navy, captain, or in a higher grade.

(3) The program manager shall report to the Assistant Secretary of Defense for Energy, Installations, and Environment.

(4) The program manager may establish an independent advisory and review panel that may include representatives of the National Academy of Sciences, nongovernmental organizations with expertise regarding unexploded ordnance, discarded military munitions, or munitions constituents, the Environmental Protection Agency, States (as defined in section 2710 [1] of this title), and tribal governments. If established, the panel shall report annually to Congress on progress made by the Department of Defense to address unexploded ordnance, discarded military munitions, or munitions constituents at defense sites and make such recommendations as the panel considers appropriate.

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1719; amended Pub. L. 101–510, div. A, title XIV, §1481(i)(1), Nov. 5, 1990, 104 Stat. 1708; Pub. L. 102–190, div. A, title III, §336(a), Dec. 5, 1991, 105 Stat. 1342; Pub. L. 102–484, div. A, title III, §331(b), title X, §1052(35), Oct. 23, 1992, 106 Stat. 2373, 2501; Pub. L. 103–35, title II, §201(d)(6), May 31, 1993, 107 Stat. 99; Pub. L. 103–337, div. A, title III, §§322, 323, Oct. 5, 1994, 108 Stat. 2711; Pub. L. 104–106, div. A, title III, §321(a)(1), title XV, §1504(a)(1), div. D, title XLIII, §4321(b)(22), Feb. 10, 1996, 110 Stat. 251, 513, 673; Pub. L. 104–201, div. A, title III, §329, Sept. 23, 1996, 110 Stat. 2483; Pub. L. 107–107, div. A, title III, §314, Dec. 28, 2001, 115 Stat. 1053; Pub. L. 107–217, §3(b)(17), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 107–314, div. A, title III, §§311, 312, 313(c)(2),

div. B, title XXVIII, §2812(c), Dec. 2, 2002, 116 Stat. 2506, 2508, 2709; Pub. L. 108–375, div. A, title X, §1084(d)(24), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 109–163, div. A, title III, §312(a), Jan. 6, 2006, 119 Stat. 3190; Pub. L. 109–284, §2, Sept. 27, 2006, 120 Stat. 1211; Pub. L. 109–364, div. A, title III, §§311, 312, Oct. 17, 2006, 120 Stat. 2137; Pub. L. 111–84, div. A, title X, §1073(a)(28), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title X, §1075(b)(46)(B), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–239, div. B, title XXVII, §2711(c)(4)(A), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 113–291, div. A, title IX, §901(n)(2), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 116–92, div. A, title III, §316(c), Dec. 20, 2019, 133 Stat. 1304; Pub. L. 117–263, div. A, title III, §313(b), (c), Dec. 23, 2022, 136 Stat. 2503; Pub. L. 118–31, div. A, title III, §312(b)–(d), Dec. 22, 2023, 137 Stat. 215.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2710 of this title, referred to in subsec. (k), was subsequently amended, and no longer defines the term "unexploded ordnance".

### PRIOR PROVISIONS

Provisions similar to those in subsecs. (f) and (g) of this section were contained in Pub. L. 101–165, title IX, §9038, Nov. 21, 1989, 103 Stat. 1137, which was set out below, prior to repeal by Pub. L. 101–510, §1481(i)(2).

A prior section 2701 was renumbered section 2721 of this title.

### AMENDMENTS

**2023**—Subsec. (a)(1). Pub. L. 118–31, §312(b), struck out "State-owned" before "National Guard".

Subsec. (c)(1)(D). Pub. L. 118–31, §312(c), struck out "State-owned" before "National Guard".

Subsec. (d)(1). Pub. L. 118–31, §312(d), inserted "or at a National Guard facility" after "the Secretary's jurisdiction".

**2022**—Subsec. (a)(1). Pub. L. 117–263, §313(b), inserted "and at State-owned National Guard facilities" after "jurisdiction of the Secretary".

Subsec. (c)(1)(D). Pub. L. 117–263, §313(c), added subpar. (D).

**2019**—Subsec. (c). Pub. L. 116–92 inserted "or pollutants or contaminants" after "hazardous substances" wherever appearing.

**2013**—Subsec. (d)(2). Pub. L. 112–239 substituted "Department of Defense Base Closure Account established by section 2906" for "Department of Defense Base Closure Account 1990 or the Department of Defense Base Closure Account 2005 established under sections 2906 and 2906A".

**2011**—Subsec. (b)(1). Pub. L. 111–383 substituted "a hazardous substance or pollutant or contaminant" for "hazardous substances, pollutants, and contaminants".

**2009**—Subsec. (d)(5). Pub. L. 111–84 substituted "9620)" for "6920)".

**2006**—Subsec. (d)(1). Pub. L. 109–163, §312(a)(1), inserted "any owner of covenant property," after "any Indian tribe," and "owner," after ", Indian tribe,".

Subsec. (d)(2). Pub. L. 109–364, §312, inserted at end "This two-year limitation does not apply to an agreement funded using amounts in the Department of Defense Base Closure Account 1990 or the Department of Defense Base Closure Account 2005 established under sections 2906 and 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)."

Subsec. (d)(3). Pub. L. 109–163, §312(a)(2), inserted "An agreement under such paragraph with respect to a site also may not change the cleanup standards selected for the site pursuant to law." at end.

Subsec. (d)(4)(C). Pub. L. 109–163, §312(a)(3), added subpar. (C).

Subsec. (d)(5). Pub. L. 109–163, §312(a)(4), added par. (5).

Subsec. (i)(1). Pub. L. 109–284 substituted "sections 3131 and 3133 of title 40" for "miller act" in heading.

Subsec. (k)(1). Pub. L. 109–364, §311(1), substituted "designate" for "establish" and inserted "research," after "characterization,".

Subsec. (k)(2) to (4). Pub. L. 109–364, §311(2), (3), added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which read as follows: "The authority to establish the program manager may be delegated to the Secretary of a military department, who may delegate the authority to the Under Secretary of that military department. The authority may not be further delegated.".

**2004**—Subsec. (a)(2). Pub. L. 108–375, §1084(d)(24)(A), inserted "(42 U.S.C. 9620)" before period at end.

Subsec. (c)(2). Pub. L. 108–375, §1084(d)(24)(B), substituted "(relating to settlements) of CERCLA (42

U.S.C. 9622)" for "of CERCLA (relating to settlements)".

Subsec. (e). Pub. L. 108–375, §1084(d)(24)(C), inserted "(42 U.S.C. 9619)" after "CERCLA".

Subsec. (j)(2). Pub. L. 108–375, §1084(d)(24)(D), substituted "CERCLA" for "the Comprehensive Environmental Response, Compensation, and Liability Act of 1980".

**2002**—Subsec. (a)(2). Pub. L. 107–314, §313(c)(2), substituted "CERCLA" for "the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA') (42 U.S.C. 9601 et seq.)".

Subsec. (d). Pub. L. 107–314, §2812(c)(1), substituted "Entities" for "Agencies" in heading.

Subsec. (d)(1). Pub. L. 107–314, §§311(1), 2812(c)(2), substituted "paragraph (3)" for "paragraph (2)", "any State or local government agency, any Indian tribe, or any nonprofit conservation organization" for "with any State or local government agency, or with any Indian tribe,", and "the agency, Indian tribe, or organization" for "the agency".

Subsec. (d)(2), (3). Pub. L. 107–314, §311(2), (3), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 107–314, §2812(c)(3), added par. (4) and struck out heading and text of former par. (4). Text read as follows: "In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36))."

Pub. L. 107–314, §311(2), redesignated par. (3) as (4).

Subsec. (i)(1). Pub. L. 107–217 substituted "sections 3131 and 3133 of title 40" for "the Miller Act (40 U.S.C. 270a et seq.)", "section 3134 of title 40" for "the Act of April 29, 1941 (40 U.S.C. 270e–270f)", and "sections 3131 and 3133" for "the Miller Act".

Subsec. (k). Pub. L. 107–314, §312, added subsec. (k).

**2001**—Subsec. (j)(1). Pub. L. 107–107 struck out ", or after December 31, 1999" before period at end.

**1996**—Subsec. (d). Pub. L. 104–201 substituted ", with any State or local government agency, or with any Indian tribe," for ", or with any State or local government agency," in par. (1) and added par. (3).

Pub. L. 104–106, §1504(a)(1), made technical correction to directory language of Pub. L. 103–337, §322(1). See 1994 Amendment note below.

Pub. L. 104–106, §321(a)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "SERVICES OF OTHER AGENCIES.—

> "(1) IN GENERAL.—The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency or any Indian tribe, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.
>
> "(2) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36))."

Subsec. (i)(1). Pub. L. 104–106, §4321(b)(22), substituted "Miller Act (40 U.S.C. 270a et seq.)" for "Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the 'Miller Act'," and "the Miller Act" for "such Act of August 24, 1935".

**1994**—Subsec. (d). Pub. L. 103–337, §322(1), as amended by Pub. L. 104–106, §1504(a)(1), designated existing provisions as par. (1) and inserted par. (1) heading.

Subsec. (d)(1). Pub. L. 103–337, §322(2), inserted "or any Indian tribe" after "any State or local government agency".

Subsec. (d)(2). Pub. L. 103–337, §322(3), added par. (2).

Subsec. (j)(1). Pub. L. 103–337, §323, substituted "December 31, 1999" for "December 31, 1995".

**1993**—Subsec. (j)(2). Pub. L. 103–35 substituted "(42 U.S.C. 9619(g)) applies" for "applies (42 U.S.C. 9619(g))".

**1992**—Subsec. (j). Pub. L. 102–484, §1052(35), substituted "December 5, 1991," for "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993" in par. (1).

Pub. L. 102–484, §331(b), substituted "December 31, 1995" for "December 31, 1992", designated existing provisions as par. (1), and added par. (2).

**1991**—Subsecs. (h) to (j). Pub. L. 102–190 added subsecs. (h) to (j).

**1990**—Subsecs. (f), (g). Pub. L. 101–510 added subsecs. (f) and (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

"Assistant Secretary of Defense for Energy, Installations, and Environment" substituted for "Deputy Under Secretary of Defense for Installations and Environment" in subsec. (k)(3) on authority of section 901(n)(2) of Pub. L. 113–291, set out as a References note under section 131 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. B, title XXVII, §2711(d), Jan. 2, 2013, 126 Stat. 2144, provided that: "This section and the amendments made by this section [amending this section and sections 2703, 2705, and 2883 of this title and enacting and amending provisions set out as notes under section 2687 of this title] shall take effect on the later of—

"(1) October 1, 2013; and [sic]

"(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 [div. J of Pub. L. 113–76, approved Jan. 17, 2014]."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1504(a), Feb. 10, 1996, 110 Stat. 513, provided that the amendment made by that section is effective as of Oct. 5, 1994, and as if included in Pub. L. 103–337 as enacted.

For effective date and applicability of amendment by section 4321(b)(22) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### SAVINGS CLAUSE

Nothing in amendments by section 316 of Pub. L. 116–92 to affect any requirement or authority under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), see section 316(d) of Pub. L. 116–92, set out as a note under section 2700 of this title.

### PROVISION OF ALTERNATIVE DRINKING WATER TO HOUSEHOLDS WHOSE PRIVATE DRINKING WATER IS CONTAMINATED WITH PERFLUOROOCTANESULFONIC ACID AND PERFLUOROOCTANOIC ACID SUBSTANCES FROM DEPARTMENT OF DEFENSE ACTIVITIES

Pub. L. 119–60, div. A, title III, §317, Dec. 18, 2025, 139 Stat. 806, provided that:

"(a) IN GENERAL.—Subject to subsections (b) and (c), on and after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall offer alternative drinking water to a household if—

"(1) the household is downgradient from a military installation;

"(2) the household receives water from one or more private drinking water wells where contamination from detections of perfluorooctanesulfonic acid and perfluorooctanoic acid substances resulting solely from activities of the Department of Defense, as determined by the Secretary, carried out at such military installation has, at one point in time, exceeded the maximum contaminant level for such substances established by the Environmental Protection Agency; and

"(3) as of the date of the enactment of this Act, another household located in the same community was eligible for alternative drinking water provided by the Secretary by reason of contamination from detections of perfluorooctanesulfonic acid and perfluorooctanoic acid substances resulting from activities of the Department carried out at the same military installation.

"(b) COORDINATION WITH OTHER AUTHORITIES.—The Secretary of Defense shall carry out this section in a manner that is consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the authorities of the Secretary under environmental law, including by prioritizing and coordinating the efforts of the Secretary under subsection (a) with other efforts to address releases of perfluorooctanesulfonic acid and perfluorooctanoic acid.

"(c) EXCEPTION.—The Secretary is not required to offer or provide alternative drinking water to a household under subsection (a) if—

"(1) the household is part of a community, as determined by the Secretary, where all the households in the community that have been affected by contamination from detections of perfluorooctanesulfonic acid and perfluorooctanoic acid substances resulting from activities of the Department have been connected to a municipal drinking water distribution system; or

"(2) the Secretary has otherwise taken action under the Comprehensive, [sic] Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to reduce drinking water exposures, including by meeting the relevant Federal or State drinking water standards for perfluorooctanesulfonic acid and perfluorooctanoic acid substances.

"(d) DEFINITIONS.—In this section:

"(1) The term 'alternative drinking water' includes—

"(A) provision of bottled water;

"(B) connection to public water systems for members of the public using private wells; and

"(C) provision of filtration systems for private residences.

"(2) The term 'Federal drinking water standard' means an enforceable Federal standard for drinking water, as described in section 121(d)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)(A)(i)).

"(3) The terms 'maximum contaminant level' and 'public water system' have the meanings given those terms in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

"(4) The term 'private drinking water well' means a drinking water well that is not a public water system and is not connected to a public water system.

"(5) The term 'State drinking water standard' means an enforceable State standard, in effect in that State, for drinking water, as described in section 121(d)(2)(A)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)(A)(ii))."

## STRATEGY TO ACCELERATE REMEDIATION OF CONTAMINATION FROM PERFLUOROALKYL SUBSTANCES AND POLYFLUOROALKYL SUBSTANCES

Pub. L. 119–60, div. A, title III, §322, Dec. 18, 2025, 139 Stat. 814, provided that:

"(a) STRATEGY.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a strategy to accelerate the response efforts of the Department of Defense with respect to releases of perfluoroalkyl substances or polyfluoroalkyl substances from the activities of the Department. Consistent with CERCLA, the strategy shall include—

"(1) criteria that the Department uses to prioritize response actions on military installations and National Guard facilities based on relative risk to human health and the environment, including concentrations of releases of perfluoroalkyl substances or polyfluoroalkyl substances, migration pathways, and proximity to receptors;

"(2) timelines for completing each phase of the cleanup process under CERCLA with respect to such releases for each such military installation or National Guard facility;

"(3) a plan for deploying additional technologies, personnel, or other resources to reduce delays to remediation efforts, including an identification of—

"(A) the number of laboratories accredited by the environmental laboratory accreditation program of the Department to test for the presence of perfluoroalkyl substances and polyfluoroalkyl substances; and

"(B) the number of laboratories in the process of being so accredited; and

"(4) benchmarks for evaluating the performance of each military department or Defense Agency in reducing the relative risk with respect to response efforts to address releases of perfluoroalkyl substances and polyfluoroalkyl substances.

"(b) PUBLIC DASHBOARD.—Not later than one year after the date of the enactment of this Act, the Secretary shall publish on a publicly accessible website of the Department, an online dashboard that provides information on the actions of the Department, including each military department, addressing releases of perfluoroalkyl substances and polyfluoroalkyl substances from activities of the Department. The dashboard shall be updated on a semiannual basis and shall include a summary of—

"(1) funding that has been obligated or expended address such releases, dissagregated by each military installation or National Guard facility with respect to which efforts are planned or underway;

"(2) the status of response efforts to address such releases under the applicable phase of the cleanup process under CERCLA, including the status of any interim removal actions, at each such site;

"(3) projected and actual timelines for the completion of response actions with respect to such releases at each such site; and

"(4) points of contact for community engagement.

"(c) DEFINITIONS.—In this section:

"(1) The terms 'CERCLA', 'National Guard facility', 'removal', and 'response' have the meanings given those terms in section 2700 of title 10, United States Code.

"(2) The term 'Defense Agency' has the meaning given such term in section 101(a) of title 10, United States Code."

## AUTHORITY TO USE CERTAIN TECHNOLOGIES TO DESTROY OR DISPOSE OF PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES

Pub. L. 119–60, div. A, title III, §324, Dec. 18, 2025, 139 Stat. 815, provided that:

"(a) AUTHORITY.—The Secretary of Defense may use technologies for the destruction or disposal of a perfluoroalkyl or polyfluoroalkyl substance that—

"(1) are cost effective; and

"(2) are permitted or otherwise approved by a Federal or State agency that regulates the destruction or disposal of such a substance.

"(b) GUIDANCE.—The Secretary shall—

"(1) issue guidance implementing the authority under subsection (a), including by setting forth technologies that the Secretary determines meet the criteria specified in paragraphs (1) and (2) of such subsection; and

"(2) periodically review and revise such guidance, taking into account the development of new technologies."

## USE OF EXPEDITIONARY SOLID WASTE DISPOSAL SYSTEMS BY DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title III, §380, Dec. 18, 2025, 139 Stat. 844, provided that:

"(a) EXPEDITIONARY SOLID WASTE DISPOSAL SYSTEMS.—

"(1) AUTHORIZED USE.—The Secretary of Defense may use expeditionary solid waste disposal systems for the destruction of covered materials.

"(2) EQUIPPING AND AVAILABILITY OF SYSTEMS.—Expeditionary solid waste disposal systems units deployed for use in accordance with paragraph (1) shall be—

"(A) equipped to support operations relating to border security and the elimination of contraband; and

"(B) made available with respect to military installations, forward operating bases, and the security forces of allies and partners of the United States as necessary to assist in countering infiltration and the unauthorized use of military assets of the United States.

"(b) PROHIBITION ON USE OF OPEN-AIR BURN PITS TO DISPOSE OF COVERED MATERIAL .—In addition to the prohibition on the disposal of certain wastes in open-air burn pits under section 317 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 10 U.S.C. 2701 note), the Secretary of Defense may not use open-air burn pits for the disposal of any covered material.

"(c) COVERED MATERIAL DEFINED.—In this section, the term 'covered material' means the following:

"(1) Contraband or other property that is illegal to possess, including seized counterfeit materials and unauthorized military equipment.

"(2) Classified equipment or materials."

## GUIDANCE AND TARGET GOAL RELATING TO FORMERLY USED DEFENSE SITES PROGRAMS

Pub. L. 117–263, div. A, title III, §326, Dec. 23, 2022, 136 Stat. 2518, provided that:

"(a) GUIDANCE RELATING TO SITE PRIORITIZATION.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall issue guidance setting forth how, in prioritizing sites for activities funded under the 'Environmental Restoration Account, Formerly Used Defense Sites' account established under section 2703(a)(5) of title 10, United States Code, the Assistant Secretary shall weigh the relative risk or other factors between Installation Restoration Program sites and Military Munitions Response Program sites.

"(b) TARGET GOAL FOR MILITARY MUNITIONS RESPONSE PROGRAM.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall establish a target goal for the completion of the cleanup of all Military Munitions Response Program sites."

## ANNUAL BRIEFINGS ON DEPARTMENT OF DEFENSE PROCUREMENT OF COVERED ITEMS CONTAINING PFOS OR PFOA

Pub. L. 117–263, div. A, title III, §347(b), (c), Dec. 23, 2022, 136 Stat. 2532, provided that:

"(b) ANNUAL BRIEFINGS.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2022], and annually thereafter, the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing that includes a description of each of the following:

"(1) Steps taken to identify covered items procured by the Department of Defense that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA).

"(2) Steps taken to identify products and vendors of covered items that do not contain PFOS or PFOA.

"(3) Steps taken to limit the procurement by the Department of covered items that contain PFOS or PFOA.

"(4) Steps the Secretary intends to take to limit the procurement of covered items that contain PFOS or PFOA.

"(c) COVERED ITEM DEFINED.—In this section, the term 'covered item' means—

"(1) nonstick cookware or cooking utensils for use in galleys or dining facilities; and

"(2) upholstered furniture, carpets, and rugs that have been treated with stain-resistant coatings."

## TEMPORARY MORATORIUM ON INCINERATION BY DEPARTMENT OF DEFENSE OF PERFLUOROALKYL SUBSTANCES, POLYFLUOROALKYL SUBSTANCES, AND AQUEOUS FILM FORMING FOAM

Pub. L. 117–81, div. A, title III, §343, Dec. 27, 2021, 135 Stat. 1643, as amended by Pub. L. 118–31, div. A, title III, §335, Dec. 22, 2023, 137 Stat. 222, provided that:

"(a) TEMPORARY MORATORIUM.—Except as provided in subsection (c), beginning not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall prohibit the incineration of covered materials until the earlier of the following:

"(1) The date on which the Secretary issues guidance implementing—

"(A) the interim guidance on the destruction and disposal of PFAS and materials containing PFAS published by the Administrator of the Environmental Protection Agency under section 7361 of the National Defense Authorization Act for Fiscal Year 2020 (15 U.S.C. 8961); and

"(B) section 330 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2701 note).

"(2) The date on which the Administrator of the Environmental Protection Agency publishes in the Federal Register a final rule regarding the destruction and disposal of such materials pursuant to such section.

"(b) REQUIRED ADOPTION OF FINAL RULE.—Upon publication of the final rule specified in subsection (a)(2), the Secretary shall adopt such final rule, regardless of whether the Secretary previously implemented the interim guidance specified in subsection (a)(1)(A).

"(c) TREATMENT OF CERTAIN MATERIALS.—Notwithstanding subsection (a), until the date on which the Secretary adopts the final rule pursuant to subsection (b), the Secretary may treat covered materials, including soils that have been contaminated with PFAS, through the use of any remediation or disposal technology that is approved by the Administrator of the Environmental Protection Agency.

"(d) REPORT.—Not later than one year after the enactment of this Act, and annually thereafter for three years, the Secretary shall submit to the Administrator and the Committees on Armed Services of the Senate and the House of Representatives a report on all incineration by the Department of Defense of covered materials during the year covered by the report, including—

"(1) the total amount of covered materials incinerated;

"(2) the temperature range specified in the permit where the covered materials were incinerated;

"(3) the locations and facilities where the covered materials were incinerated;

"(4) details on actions taken by the Department of Defense to implement section 330 of the National Defense Authorization Act for Fiscal Year 2020; and

"(5) recommendations for the safe storage of PFAS and PFAS-containing materials prior to destruction and disposal.

"(e) SCOPE.—The prohibition in subsection (a) and reporting requirements in subsection (d) shall apply not only to materials sent directly by the Department of Defense to an incinerator, but also to materials sent to another entity or entities, including any waste processing facility, subcontractor, or fuel blending facility, prior to incineration.

"(f) DEFINITIONS.—In this section:

"(1) The term 'AFFF' means aqueous film forming foam.

"(2) The term 'covered material' means any AFFF formulation containing PFAS, material contaminated by AFFF release, or spent filter or other PFAS-contaminated material resulting from site remediation or water filtration that—

"(A) has been used by the Department of Defense or a military department;

"(B) is being discarded for disposal by the Department of Defense or a military department; or

"(C) is being removed from sites or facilities owned or operated by the Department of Defense.

"(3) The term 'PFAS' means per- or polyfluoroalkyl substances."

## REVIEW AND GUIDANCE RELATING TO PREVENTION AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM

Pub. L. 117–81, div. A, title III, §344, Dec. 27, 2021, 135 Stat. 1644, provided that:

"(a) REVIEW REQUIRED.—Not later than 180 days of after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall complete a review of the efforts of the Department of Defense to prevent or mitigate spills of aqueous film-forming foam (in this section referred to as 'AFFF'). Such review shall assess the following:

"(1) The preventative maintenance guidelines for fire trucks of the Department and fire suppression systems in buildings of the Department, to mitigate the risk of equipment failure that may result in a spill of AFFF.

"(2) Any requirements for the use of personal protective equipment by personnel when conducting a material transfer or maintenance activity of the Department that may result in a spill of AFFF, or when conducting remediation activities for such a spill, including requirements for side-shield safety glasses, latex gloves, and respiratory protection equipment.

"(3) The methods by which the Secretary ensures compliance with guidance specified in material safety data sheets with respect to the use of such personal protective equipment.

"(b) GUIDANCE.—Not later than 90 days after the date on which the Secretary completes the review under subsection (a), the Secretary shall issue guidance on the prevention and mitigation of spills of AFFF based on the results of such review that includes, at a minimum, best practices and recommended requirements to ensure the following:

"(1) The supervision by personnel trained in responding to spills of AFFF of each material transfer or maintenance activity of the Department of Defense that may result in such a spill.

"(2) The use of containment berms and the covering of storm drains and catch basins by personnel performing maintenance activities for the Department in the vicinity of such drains or basins.

"(3) The storage of materials for the cleanup and containment of AFFF in close proximity to fire suppression systems in buildings of the Department and the presence of such materials during any transfer or activity specified in paragraph (1).

"(c) BRIEFING.—Not later than 30 days after the date on which the Secretary issues the guidance under subsection (b), the Secretary shall provide to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a briefing that summarizes the results of the review conducted under subsection (a) and the guidance issued under subsection (b)."

## NOTIFICATION TO AGRICULTURAL OPERATIONS LOCATED IN AREAS EXPOSED TO DEPARTMENT OF DEFENSE PFAS USE

Pub. L. 116–283, div. A, title III, §335, Jan. 1, 2021, 134 Stat. 3532, provided that:

"(a) NOTIFICATION REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in consultation with the Secretary of Agriculture, shall provide a notification described in subsection (b) to any agricultural operation located within one mile down gradient of a military installation or National Guard facility where covered PFAS—

"(1) has been detected in groundwater;

"(2) has been hydrologically linked to a local agricultural or drinking water source, including a water well; and

"(3) is suspected to be, or known to be, the result of the use of PFAS at an installation of the Department of Defense located in the United States or State-owned facility of the National Guard.

"(b) NOTIFICATION REQUIREMENTS.—The notification required under subsection (a) shall include the following information:

"(1) The name of the Department of Defense installation or National Guard facility from which the covered PFAS in groundwater originated.

"(2) The specific covered PFAS detected in groundwater.

"(3) The levels of the covered PFAS detected.

"(4) Relevant governmental information regarding the health and safety of the covered PFAS detected, including relevant Federal or State standards for PFAS in groundwater, livestock, food commodities and drinking water, and any known restrictions for sale of agricultural products that have been irrigated or watered with water containing PFAS.

"(c) ADDITIONAL TESTING RESULTS.—The Secretary of Defense shall provide to an agricultural operation that receives a notice under subsection (a) any pertinent updated information, including any results of new elevated testing, by not later than 15 days after receiving validated test results.

"(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the

status of providing notice under subsection (a). Such report shall include, for the period covered by the report—

"(1) the approximate locations of such operations relative to installations of the Department of Defense located in the United States and State-owned facilities of the National Guard;

"(2) the covered PFAS detected in groundwater; and

"(3) the levels of covered PFAS detected.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered PFAS' means each of the following:

"(A) Perfluorooctanoic acid (commonly referred to as 'PFOA') (Chemical Abstracts Service No. 335–67–1) detected in groundwater above 70 parts per trillion, individually or in combination with PFOS.

"(B) Perfluorooctane sulfonic acid (commonly referred to as 'PFOS') (Chemical Abstracts Service No. 1763–23–1) detected in groundwater above 70 parts per trillion, individually or in combination with PFOA.

"(C) Perfluorobutanesulfonic acid (commonly referred to as 'PFBS') (Chemical Abstracts Service No. 375–73–5) detected in groundwater above 40 parts per billion.

"(2) The term 'PFAS' means a perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated carbon atom, including the chemical GenX."

**CONTAMINATION BY PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES**

Pub. L. 118–31, div. A, title III, §321(b), Dec. 22, 2023, 137 Stat. 221, provided that: "Beginning not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall publish on the publicly available website established under section 331(b) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2701 note) timely and regularly updated information on the status of cleanup at sites for which the Secretary has obligated funds for environmental restoration activities."

Pub. L. 117–263, div. A, title III, §341(a), Dec. 23, 2022, 136 Stat. 2528, provided that:

"(1) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], [the] Secretary of Defense shall publish on the publicly available website established under section 331(b) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2701 note) timely and regularly updated information on the research efforts of the Department of Defense relating to perfluoroalkyl substances or polyfluoroalkyl substances, which shall include the following:

"(A) A description of any research collaboration or data sharing by the Department with the Department of Veterans Affairs, the Agency for Toxic Substances and Disease Registry, or any other agency (as defined in section 551 of title 5, United States Code), State, academic institution, nongovernmental organization, or other entity.

"(B) Regularly updated information on research projects supported or conducted by the Department of Defense pertaining to the development, testing, and evaluation of a fluorine-free firefighting foam or any other alternative to aqueous film forming foam that contains perfluoroalkyl substances or polyfluoroalkyl substances, excluding any proprietary information that is business confidential.

"(C) Regularly updated information on research projects supported or conducted by the Department pertaining to the health effects of perfluoroalkyl substances or polyfluoroalkyl substances, including information relating to the impact of such substances on firefighters, veterans, and military families, and excluding any personally identifiable information.

"(D) Regularly updated information on research projects supported or conducted by the Department pertaining to treatment options for drinking water, surface water, ground water, and the safe disposal of perfluoroalkyl substances or polyfluoroalkyl substances.

"(E) Budget information, including specific spending information for the research projects relating to perfluoroalkyl substances or polyfluoroalkyl substances that are supported or conducted by the Department.

"(F) Such other matters as may be relevant to ongoing research projects supported or conducted by the Department to address the use of perfluoroalkyl substances or polyfluoroalkyl substances and the health effects of the use of such substances.

"(2) FORMAT.—The information published under paragraph (1) shall be made available in a downloadable, machine-readable, open, and user-friendly format.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'military installation' includes active, inactive, and former military installations.

"(B) The term 'perfluoroalkyl substance' means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

"(C) The term 'polyfluoroalkyl substance' means a man-made chemical containing a mix of fully fluorinated carbon atoms, partially fluorinated carbon atoms, and nonfluorinated carbon atoms."

Pub. L. 116–92, div. A, title III, §§329–332, Dec. 20, 2019, 133 Stat. 1312, 1313, provided that:

"SEC. 329. PROHIBITION ON PERFLUOROALKYL SUBSTANCES AND POLYFLUOROALKYL SUBSTANCES IN MEALS READY-TO-EAT FOOD PACKAGING.

"(a) PROHIBITION.—Not later than October 1, 2021, the Director of the Defense Logistics Agency shall ensure that any food contact substances that are used to assemble and package meals ready-to-eat (MREs) procured by the Defense Logistics Agency do not contain any perfluoroalkyl substances or polyfluoroalkyl substances.

"(b) DEFINITIONS.—In this section:

"(1) PERFLUOROALKYL SUBSTANCE.—The term 'perfluoroalkyl substance' means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

"(2) POLYFLUOROALKYL SUBSTANCE.—The term 'polyfluoroalkyl substance' means a man-made chemical containing a mix of fully fluorinated carbon atoms, partially fluorinated carbon atoms, and nonfluorinated carbon atoms.

"SEC. 330. DISPOSAL OF MATERIALS CONTAINING PER- AND POLYFLUOROALKYL SUBSTANCES OR AQUEOUS FILM-FORMING FOAM.

"(a) IN GENERAL.—The Secretary of Defense shall ensure that when materials containing per- and polyfluoroalkyl substances (referred to in this section as 'PFAS') or aqueous film forming foam (referred to in this section as 'AFFF') are disposed—

"(1) all incineration is conducted at a temperature range adequate to break down PFAS chemicals while also ensuring the maximum degree of reduction in emission of PFAS, including elimination of such emissions where achievable;

"(2) all incineration is conducted in accordance with the requirements of the Clean Air Act (42 USC 7401 et seq.), including controlling hydrogen fluoride;

"(3) any materials containing PFAS that are designated for disposal are stored in accordance with the requirement under part 264 of title 40, Code of Federal Regulations; and

"(4) all incineration is conducted at a facility that has been permitted to receive waste regulated under subtitle C of the Solid Waste Disposal Act (42 USC 6921 et seq.).

"(b) SCOPE OF APPLICATION.—The requirements in subsection (a) only apply to all legacy AFFF formulations containing PFAS, materials contaminated by AFFF release, and spent filters or other PFAS contaminated materials resulting from site remediation or water filtration that—

"(1) have been used by the Department of Defense or a military department; or

"(2) are being discarded for disposal by means of incineration by the Department of Defense or a military department; or

"(3) are being removed from sites or facilities owned or operated by the Department of Defense.

"SEC. 331. AGREEMENTS TO SHARE MONITORING DATA RELATING TO PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES AND OTHER CONTAMINANTS OF CONCERN.

"(a) IN GENERAL.—The Secretary of Defense shall seek to enter into agreements with municipalities or municipal drinking water utilities located adjacent to military installations under which both the Secretary and the municipalities and utilities would share monitoring data relating to perfluoroalkyl substances, polyfluoroalkyl substances, and other emerging contaminants of concern collected at the military installation.

"(b) PUBLICLY AVAILABLE WEBSITE.—The Secretary of Defense shall maintain a publicly available website that provides a clearinghouse for information about the exposure of members of the Armed Forces, their families, and their communities to per- and polyfluoroalkyl substances. The information provided on the website shall include information on testing, clean-up, and recommended available treatment methodologies.

"(c) PUBLIC COMMUNICATION.—An agreement under subsection (a) does not negate the responsibility of the Secretary to communicate with the public about drinking water contamination from perfluoroalkyl substances, polyfluoroalkyl substances, and other contaminants.

"(d) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' has the meaning given that term in section 2801(c) of title 10, United States Code.

"SEC. 332. COOPERATIVE AGREEMENTS WITH STATES TO ADDRESS CONTAMINATION BY PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.

"(a) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—Upon request from the Governor or chief executive of a State, the Secretary of Defense shall work expeditiously, pursuant to section 2701(d) of title 10, United States Code, to finalize a

cooperative agreement, or amend an existing cooperative agreement to address testing, monitoring, removal, and remedial actions relating to the contamination or suspected contamination of drinking, surface, or ground water from PFAS originating from activities of the Department of Defense by providing the mechanism and funding for the expedited review and approval of documents of the Department related to PFAS investigations and remedial actions from an active or decommissioned military installation, including a facility of the National Guard.

"(2) MINIMUM STANDARDS.—A cooperative agreement finalized or amended under paragraph (1) shall meet or exceed the most stringent of the following standards for PFAS in any environmental media:

"(A) An enforceable State standard, in effect in that State, for drinking, surface, or ground water, as described in section 121(d)(2)(A)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)(A)(ii)).

"(B) An enforceable Federal standard for drinking, surface, or ground water, as described in section 121(d)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)(A)(i)).

"(C) A health advisory under section 1412(b)(1)(F) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(1)(F)).

"(3) OTHER AUTHORITY.—In addition to the requirements for a cooperative agreement under paragraph (1), when otherwise authorized to expend funds for the purpose of addressing ground or surface water contaminated by a perfluorinated compound, the Secretary of Defense may, to expend those funds, enter into a grant agreement, cooperative agreement, or contract with—

"(A) the local water authority with jurisdiction over the contamination site, including—

"(i) a public water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)); and

"(ii) a publicly owned treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)); or

"(B) a State, local, or Tribal government.

"(b) REPORT.—Beginning on February 1, 2020, if a cooperative agreement is not finalized or amended under subsection (a) within one year after the request from the Governor or chief executive under that subsection, and annually thereafter, the Secretary of Defense shall submit to the appropriate committees and Members of Congress a report—

"(1) explaining why the agreement has not been finalized or amended, as the case may be; and

"(2) setting forth a projected timeline for finalizing or amending the agreement.

"(c) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES AND MEMBERS OF CONGRESS.—The term 'appropriate committees and Members of Congress' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Senators who represent a State impacted by PFAS contamination described in subsection (a)(1); and

"(C) the Members of the House of Representatives who represent a district impacted by such contamination.

"(2) FULLY FLUORINATED CARBON ATOM.—The term 'fully fluorinated carbon atom' means a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

"(3) PFAS.—The term 'PFAS' means perfluoroalkyl and polyfluoroalkyl substances that are man-made chemicals with at least one fully fluorinated carbon atom.

"(4) STATE.—The term 'State' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)."

## TREATMENT OF CONTAMINATED WATER NEAR MILITARY INSTALLATIONS

Pub. L. 116–92, div. A, title III, subtitle C, Dec. 20, 2019, 133 Stat. 1317, provided that:

"SEC. 341. SHORT TITLE.

"This subtitle may be cited as the 'Prompt and Fast Action to Stop Damages Act of 2019'.

"SEC. 342. DEFINITIONS.

"In this subtitle:

"(1) PFOA.—The term 'PFOA' means perfluorooctanoic acid.

"(2) PFOS.—The term 'PFOS' means perfluorooctane sulfonate.

"SEC. 343. PROVISION OF WATER UNCONTAMINATED WITH PERFLUOROOCTANOIC ACID

(PFOA) AND PERFLUOROOCTANE SULFONATE (PFOS) FOR AGRICULTURAL PURPOSES.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Using amounts authorized to be appropriated or otherwise made available for operation and maintenance for the military department concerned, or for operation and maintenance Defense-wide in the case of the Secretary of Defense, the Secretary concerned may provide water sources uncontaminated with perfluoroalkyl and polyfluoroalkyl substances, including PFOA and PFOS, or treatment of contaminated waters, for agricultural purposes used to produce products destined for human consumption in an area in which a water source has been determined pursuant to paragraph (2) to be contaminated with such compounds by reason of activities on a military installation under the jurisdiction of the Secretary concerned.

"(2) APPLICABLE STANDARD.—For purposes of paragraph (1), an area is determined to be contaminated with PFOA or PFOS if—

"(A) the level of contamination is above the Lifetime Health Advisory for contamination with such compounds issued by the Environmental Protection Agency and printed in the Federal Register on May 25, 2016; or

"(B) on or after the date the Food and Drug Administration sets a standard for PFOA and PFOS in raw agricultural commodities and milk, the level of contamination is above such standard.

"(b) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' means the following:

"(1) The Secretary of the Army, with respect to the Army.

"(2) The Secretary of the Navy, with respect to the Navy, the Marine Corps, and the Coast Guard (when it is operating as a service in the Navy).

"(3) The Secretary of the Air Force, with respect to the Air Force.

"(4) The Secretary of Defense, with respect to the Defense Agencies.

"SEC. 344. ACQUISITION OF REAL PROPERTY BY AIR FORCE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of the Air Force may acquire one or more parcels of real property within the vicinity of an Air Force base that has shown signs of contamination from PFOA and PFOS due to activities on the base and which would extend the contiguous geographic footprint of the base and increase the force protection standoff near critical infrastructure and runways.

"(2) IMPROVEMENTS AND PERSONAL PROPERTY.—The authority under paragraph (1) to acquire real property described in that paragraph shall include the authority to purchase improvements and personal property located on that real property.

"(3) RELOCATION EXPENSES.—The authority under paragraph (1) to acquire real property described in that paragraph shall include the authority to provide Federal financial assistance for moving costs, relocation benefits, and other expenses incurred in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(b) ENVIRONMENTAL ACTIVITIES.—The Air Force shall conduct such activities at a parcel or parcels of real property acquired under subsection (a) as are necessary to remediate contamination from PFOA and PFOS related to activities at the Air Force base.

"(c) FUNDING.—Funds for the land acquisitions authorized under subsection (a) shall be derived from amounts authorized to be appropriated for fiscal year 2020 for military construction or the unobligated balances of appropriations for military construction that are enacted after the date of the enactment of this Act [Dec. 20, 2019].

"(d) RULE OF CONSTRUCTION.—The authority under this section constitutes authority to carry out land acquisitions for purposes of section 2802 of title 10, United States Code.

"SEC. 345. REMEDIATION PLAN.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to Congress a remediation plan for cleanup of all water at or adjacent to a military installation that is contaminated with PFOA or PFOS.

"(b) STUDY.—In preparing the remediation plan under subsection (a), the Secretary shall conduct a study on the contamination of water at military installations with PFOA or PFOS.

"(c) BUDGET AMOUNT.—The Secretary shall ensure that each budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, requests funding in amounts necessary to address remediation efforts under the remediation plan submitted under subsection (a)."

**PLAN, FUNDING DOCUMENTS, AND MANAGEMENT REVIEW RELATING TO EXPLOSIVE**

## ORDNANCE DISPOSAL

Pub. L. 114–328, div. A, title III, §343, Dec. 23, 2016, 130 Stat. 2082, provided that:

"(a) PLAN REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall develop a plan to establish an explosive ordnance disposal program in the Department of Defense to ensure close and continuous coordination among the military departments on matters relating to explosive ordnance disposal.

"(2) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—The plan under paragraph (1) shall include provisions under which—

"(A) the Secretary of Defense shall—

"(i) assign responsibility for the coordination and integration of explosive ordnance disposal to a joint office or entity in the Office of the Secretary of Defense; and

"(ii) designate the Secretary of the Navy (or a designee of the Secretary of the Navy) as the executive agent for the Department of Defense to coordinate and integrate research, development, test, and evaluation activities and procurement activities of the military departments relating to explosive ordnance disposal; and

"(B) the Secretary of each military department shall assess the needs of the military department concerned with respect to explosive ordnance disposal and may carry out research, development, test, and evaluation activities and procurement activities to address such needs.

"(b) ANNUAL EXPLOSIVE ORDNANCE DISPOSAL FUNDING DOCUMENTS.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2017, a consolidated funding display, in classified and unclassified form, that identifies the funding source for all explosive ordnance disposal activities within the Department of Defense.

"(2) ELEMENTS.—The funding display under paragraph (1) for a fiscal year shall include a single program element from each military department for each of the following:

"(A) Research, development, test, and evaluation.

"(B) Procurement.

"(C) Operation and maintenance.

"(D) Any other program element used to fund explosive ordnance disposal activities (but not including any program element relating to military construction).

"(c) MANAGEMENT REVIEW AND ASSESSMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall review and assess the effectiveness of current management structures in supporting the explosive ordnance disposal needs of the combatant commands and the military departments.

"(2) ELEMENTS.—The review and assessment under paragraph (1) shall include the following:

"(A) A review of the organizational structures and responsibilities within the Office of the Secretary of Defense that provide policy and oversight of the policies, programs, acquisition activities, and personnel of the military departments relating to explosive ordnance disposal.

"(B) A review of the organizational structures and responsibilities within the military departments that—

"(i) man, equip, and train explosive ordnance disposal forces; and

"(ii) support such forces with manpower, technology, equipment, and readiness.

"(C) A review of the organizational structures and responsibilities of the Secretary of the Navy as the executive agent for explosive ordnance disposal technology and training.

"(D) Budget displays for each military department that support research, development, test, and evaluation; procurement; and operation and maintenance, relating to explosive ordnance disposal.

"(E) An assessment of the adequacy of the organizational structures and responsibilities and the alignment of funding within the military departments in supporting the needs of the combatant commands and the military departments with respect to explosive ordnance disposal.

"(d) BRIEFING.—Not later than March 1, 2017, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that includes—

"(1) details of the plan required under subsection (a);

"(2) the results of the review and assessment under subsection (c);

"(3) a description of any measures undertaken to improve joint coordination, oversight, and management of programs relating to explosive ordnance disposal;

"(4) recommendations to the Secretary to improve the capabilities and readiness of explosive ordnance disposal forces; and

"(5) an explanation of the advantages and disadvantages of assigning responsibility for the

coordination and integration of explosive ordnance disposal to a single joint office or entity in the Office of the Secretary of Defense.

"(e) DEFINITIONS.—In this section:

"(1) EXPLOSIVE ORDNANCE.—The term 'explosive ordnance' means any munition containing explosives, nuclear fission or fusion materials, or biological or chemical agents, including—

"(A) bombs and warheads;

"(B) guided and ballistic missiles;

"(C) artillery, mortar, rocket, and small arms munitions;

"(D) mines, torpedoes, and depth charges;

"(E) demolition charges;

"(F) pyrotechnics;

"(G) clusters and dispensers;

"(H) cartridge and propellant actuated devices;

"(I) electro-explosive devices; and

"(J) clandestine and improvised explosive devices.

"(2) DISPOSAL.—The term 'disposal' means, with respect to explosive ordnance, the detection, identification, field evaluation, defeat, disablement, or rendering safe, recovery and exploitation, and final disposition of the ordnance."

## PROHIBITION ON DISPOSING OF WASTE IN OPEN-AIR BURN PITS

Pub. L. 111–84, div. A, title III, §317, Oct. 28, 2009, 123 Stat. 2249, as amended by Pub. L. 112–81, div. A, title III, §316, Dec. 31, 2011, 125 Stat. 1358; Pub. L. 113–66, div. A, title III, §314, Dec. 26, 2013, 127 Stat. 729; Pub. L. 113–291, div. A, title X, §1071(g)(1), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 117–81, div. A, title III, §316, Dec. 27, 2021, 135 Stat. 1630, provided that:

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall prescribe regulations prohibiting the disposal of covered waste in open-air burn pits during contingency operations except in circumstances in which the Secretary determines that no alternative disposal method is feasible. Such regulations shall apply to contingency operations that are ongoing as of the date of the enactment of this Act, including Operation Iraqi Freedom and Operation Enduring Freedom, and to contingency operations that begin after the date of the enactment of this Act.

"(2) NOTIFICATION.—In determining that no alternative disposal method is feasible for an open-air burn pit pursuant to regulations prescribed under paragraph (1), the Secretary shall—

"(A) not later than 30 days after such determination is made, submit to the Committees on Armed Services of the Senate and House of Representatives notice of such determination, including the circumstances, reasoning, and methodology that led to such determination; and

"(B) after notice is given under subparagraph (A), for each subsequent 180-day-period during which covered waste is disposed of in the open-air burn pit covered by such notice, submit to the Committees on Armed Services of the Senate and House of Representatives the justifications of the Secretary for continuing to operate such open-air burn pit.

"(3) EXEMPTION AUTHORITY FOR CERTAIN LOCATIONS.—

"(A) IN GENERAL.—The Secretary may exempt a location from the prohibition under paragraph (1) if the Secretary determines it is in the paramount interest of the United States to do so.

"(B) NONDELEGATION.—The Secretary may not delegate the authority under subparagraph (A).

"(4) REPORTING REQUIREMENT FOR LOCATION EXEMPTIONS.—

"(A) IN GENERAL.—Not later than 30 days after granting an exemption pursuant to paragraph (3)(A) with respect to the use of an open-air burn pit at a location, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written report that identifies—

"(i) the location of the open-air burn pit;

"(ii) the number of personnel of the United States assigned to the location where the open-air burn pit is being used;

"(iii) the size and expected duration of use of the open-air burn pit;

"(iv) the personal protective equipment or other health risk mitigation efforts that will be used by members of the armed forces when airborne hazards are present, including how such equipment will be provided when required; and

"(v) the need for the open-air burn pit and rationale for granting the exemption.

"(B) FORM.—A report submitted under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of open-air burn pits by the United States Armed Forces. Such report shall include—

"(1) an explanation of the situations and circumstances under which open-air burn pits are used to dispose of waste during military exercises and operations worldwide;

"(2) a detailed description of the types of waste authorized to be burned in open-air burn pits;

"(3) a plan through which the Secretary intends to develop and implement alternatives to the use of open-air burn pits;

"(4) a copy of the regulations required to be prescribed by subsection (a);

"(5) the health and environmental compliance standards the Secretary has established for military and contractor operations in Iraq and Afghanistan with regard to solid waste disposal, including an assessment of whether those standards are being met;

"(6) a description of the environmental, health, and operational impacts of open-pit burning of plastics and the feasibility of including plastics in the regulations prescribed pursuant to subsection (a); and

"(7) an assessment of the ability of existing medical surveillance programs to identify and track exposures to toxic substances that result from open-air burn pits, including recommendations for such changes to such programs as would be required to more accurately identify and track such exposures.

"(c) HEALTH ASSESSMENT REPORTS.—Not later than 180 days after notice is due under subsection (a)(2), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a health assessment report on each open-air burn pit at a location where at least 100 personnel have been employed for 90 consecutive days or more. Each such report shall include each of the following:

"(1) An epidemiological description of the short-term and long-term health risks posed to personnel in the area where the burn pit is located because of exposure to the open-air burn pit.

"(2) A copy of the methodology used to determine the health risks described in paragraph (1).

"(3) A copy of the assessment of the operational risks and health risks when making the determination pursuant to subsection (a) that no alternative disposal method is feasible for the open-air burn pit.

"(d) DEFINITIONS.—In this section:

"(1) The term 'contingency operation' has the meaning given that term by section 101(a)(13) of title 10, United States Code.

"(2) The term 'covered waste' includes—

"(A) hazardous waste, as defined by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5));

"(B) medical waste;

"(C) tires;

"(D) treated wood;

"(E) batteries;

"(F) plastics, except insignificant amounts of plastic remaining after a good-faith effort to remove or recover plastic materials from the solid waste stream;

"(G) munitions and explosives, except when disposed of in compliance with guidance on the destruction of munitions and explosives contained in the Department of Defense Ammunition and Explosives Safety Standards, DoD Manual 6055.09-M;

"(H) compressed gas cylinders, unless empty with valves removed;

"(I) fuel containers, unless completely evacuated of its contents;

"(J) aerosol cans;

"(K) polychlorinated biphenyls;

"(L) petroleum, oils, and lubricants products (other than waste fuel for initial combustion);

"(M) asbestos;

"(N) mercury;

"(O) foam tent material;

"(P) any item containing any of the materials referred to in a preceding paragraph; and

"(Q) other waste as designated by the Secretary."

## PURPOSE OF PUB. L. 109–284

Pub. L. 109–284, §1, Sept. 27, 2006, 120 Stat. 1211, provided that: "The purpose of this Act [amending this section, sections 107 and 210 of Title 23, Highways, section 1499 of Title 28, Judiciary and Judicial Procedure, sections 2301, 20908, 40103, 70912, 150511, 151303, 153513, 220104, 220501, 220505, 220506,

220509, 220511, 220512, and 220521 of Title 36, Patriotic and National Observances, Ceremonies, and Organizations, and sections 522, 552, 554, 581, 593, 611, 3131, 3133, 3141, 3142, 3701, 3702, 3704, 6111, 8104, 8105, 8501, 8502, 8711, 8712, 8722, 9302, 14308, and 17504 of Title 40, Public Buildings, Property, and Works] is to make technical corrections to the United States Code relating to cross references, typographical errors, and stylistic matters."

## FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

Pub. L. 106–398, §1 [div. C, title XXXI, §3138], Oct. 30, 2000, 114 Stat. 1654, 1654A–461, provided that:

"(a) CONTINGENT LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN TRAVEL EXPENSES.—Effective November 1, 2001, but subject to subsection (b), no funds authorized to be appropriated or otherwise made available by this or any other Act for the Department of Energy or the Department of the Army may be obligated or expended for travel by—

"(1) the Secretary of Energy or any officer or employee of the Office of the Secretary of Energy; or

"(2) the Chief of Engineers.

"(b) EFFECTIVE DATE.—The limitation in subsection (a) shall not take effect if before November 1, 2001, both of the following certifications are submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]:

"(1) A certification by the Secretary of Energy that the Department of Energy is in compliance with the requirements of section 3131 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 925; 10 U.S.C. 2701 note).

"(2) A certification by the Chief of Engineers that the Corps of Engineers is in compliance with the requirements of that section.

"(c) TERMINATION.—If the limitation in subsection (a) takes effect, the limitation shall cease to be in effect when both certifications referred to in subsection (b) have been submitted to the congressional defense committees."

Pub. L. 106–65, div. C, title XXXI, §3131, Oct. 5, 1999, 113 Stat. 925, provided that: "Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act [see Tables for classification], or by any Act authorizing appropriations for the military activities of the Department of Defense or the defense activities of the Department of Energy for a fiscal year after fiscal year 2000, may be obligated or expended to conduct treatment, storage, or disposal activities at any site designated as a site under the Formerly Utilized Site Remedial Action Program as of the date of the enactment of this Act [Oct. 5, 1999]."

Pub. L. 106–60, title VI, §611, Sept. 29, 1999, 113 Stat. 502, provided that:

"(a) The Secretary of the Army, acting through the Chief of Engineers, in carrying out the program known as the Formerly Utilized Sites Remedial Action Program, shall undertake the following functions and activities to be performed at eligible sites where remediation has not been completed:

"(1) Sampling and assessment of contaminated areas.

"(2) Characterization of site conditions.

"(3) Determination of the nature and extent of contamination.

"(4) Selection of the necessary and appropriate response actions as the lead Federal agency.

"(5) Cleanup and closeout of sites.

"(6) Any other functions and activities determined by the Secretary of the Army, acting through the Chief of Engineers, as necessary for carrying out that program, including the acquisition of real estate interests where necessary, which may be transferred upon completion of remediation to the administrative jurisdiction of the Secretary of Energy.

"(b) Any response action under that program by the Secretary of the Army, acting through the Chief of Engineers, shall be subject to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (in this section referred to as 'CERCLA'), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300).

"(c) Any sums recovered under CERCLA or other authority from a liable party, contractor, insurer, surety, or other person for any expenditures by the Army Corps of Engineers or the Department of Energy for response actions under that program shall be credited to the amounts made available to carry out that program and shall be available until expended for costs of response actions for any eligible site.

"(d) The Secretary of Energy may exercise the authority under section 168 of the Atomic Energy Act of 1954 (42 U.S.C. 2208) to make payments in lieu of taxes for federally owned property at which activities under that program are carried out, regardless of which Federal agency has administrative jurisdiction over the property and notwithstanding any reference to 'the activities of the Commission' in that section.

"(e) This section does not alter, curtail, or limit the authorities, functions, or responsibilities of other

agencies under CERCLA or, except as stated in this section, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(f) This section shall apply to fiscal year 2000 and each succeeding fiscal year."

## SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY DEPARTMENT OF DEFENSE

Pub. L. 105–261, div. A, title III, §321, Oct. 17, 1998, 112 Stat. 1962, provided that:

"(a) NOTICE OF NEGOTIATIONS.—The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

"(b) AUTHORIZATION REQUIRED FOR USE OF FUNDS FOR PAYMENT OF SETTLEMENT.—No funds may be used for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law or international agreement, including a treaty."

## RECOVERY AND SHARING OF COSTS OF ENVIRONMENTAL RESTORATION AT DEPARTMENT OF DEFENSE SITES

Pub. L. 105–85, div. A, title III, §348, Nov. 18, 1997, 111 Stat. 1689, provided that:

"(a) REGULATIONS.—Not later than March 1, 1998, the Secretary of Defense shall prescribe regulations containing the guidelines and requirements described in subsections (b) and (c).

"(b) GUIDELINES.—(1) The regulations prescribed under subsection (a) shall contain uniform guidelines for the military departments and defense agencies concerning the cost-recovery and cost-sharing activities of those departments and agencies.

"(2) The Secretary shall take appropriate actions to ensure the implementation of the guidelines.

"(c) REQUIREMENTS.—The regulations prescribed under subsection (a) shall contain requirements for the Secretaries of the military departments and the heads of defense agencies to—

"(1) obtain all data that is relevant for purposes of cost-recovery and cost-sharing activities; and

"(2) identify any negligence or other misconduct that may preclude indemnification or reimbursement by the Department of Defense for the costs of environmental restoration at a Department site or justify the recovery or sharing of costs associated with such restoration.

"(d) DEFINITION.—In this section, the term 'cost-recovery and cost-sharing activities' means activities concerning—

"(1) the recovery of the costs of environmental restoration at Department of Defense sites from contractors of the Department and other private parties that contribute to environmental contamination at such sites; and

"(2) the sharing of the costs of such restoration with such contractors and parties."

## PILOT PROGRAM FOR SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES

Pub. L. 107–107, div. A, title III, §316(b), Dec. 28, 2001, 115 Stat. 1053, directed the Secretary of Defense to prepare a report concerning the operation of the pilot program for the sale of economic incentives for the reduction of emission of air pollutants attributable to military facilities, as authorized by section 351 of Pub. L. 105–85, formerly set out below, and to submit the report to the Congress not later than Mar. 1, 2003.

Pub. L. 105–85, div. A, title III, §351, Nov. 18, 1997, 111 Stat. 1692, as amended by Pub. L. 106–65, div. A, title III, §325, Oct. 5, 1999, 113 Stat. 563; Pub. L. 107–107, div. A, title III, §316(a), Dec. 28, 2001, 115 Stat. 1053, authorized the Secretary of Defense, until Sept. 30, 2003, to carry out a pilot program to assess the feasibility and advisability of the sale of economic incentives for the reduction of emission of air pollutants attributable to a facility of a military department.

## AUTHORITY TO DEVELOP AND IMPLEMENT LAND USE PLANS FOR DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

Pub. L. 104–201, div. A, title III, §325, Sept. 23, 1996, 110 Stat. 2481, provided that:

"(a) AUTHORITY.—The Secretary of Defense may, to the extent possible and practical, develop and implement, as part of the Defense Environmental Restoration Program provided for in chapter 160 of title 10, United States Code, a land use plan for any defense site selected by the Secretary under subsection (b).

"(b) SELECTION OF SITES.—The Secretary may select up to 10 defense sites, from among sites where the Secretary is planning or implementing environmental restoration activities, for which land use plans may be developed under this section.

"(c) REQUIREMENT TO CONSULT WITH REVIEW COMMITTEE OR ADVISORY BOARD.—In

developing a land use plan under this section, the Secretary shall consult with a technical review committee established pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established pursuant to section 2705(d) of such title, a local land use redevelopment authority, or another appropriate State agency.

"(d) 50-YEAR PLANNING PERIOD.—A land use plan developed under this section shall cover a period of at least 50 years.

"(e) IMPLEMENTATION.—For each defense site for which the Secretary develops a land use plan under this section, the Secretary shall take into account the land use plan in selecting and implementing, in accordance with applicable law, environmental restoration activities at the site.

"(f) DEADLINES.—For each defense site for which the Secretary intends to develop a land use plan under this section, the Secretary shall develop a draft land use plan by October 1, 1997, and a final land use plan by March 15, 1998.

"(g) DEFINITION OF DEFENSE SITE.—For purposes of this section, the term 'defense site' means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft under the jurisdiction of the Department of Defense, or (B) any site or area under the jurisdiction of the Department of Defense where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

"(h) REPORT.—In the annual report required under [former] section 2706(a) of title 10, United States Code, the Secretary shall include information on the land use plans developed under this section and the effect such plans have had on environmental restoration activities at the defense sites where they have been implemented. The annual report submitted in 1999 shall include recommendations on whether such land use plans should be developed and implemented throughout the Department of Defense.

"(i) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a land use plan developed under this section with respect to a defense site, shall be construed as requiring any modification to a land use plan that was developed before the date of the enactment of this Act [Sept. 23, 1996].

"(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority."

## FISCAL YEAR 1996 RESTRICTIONS ON REIMBURSEMENTS UNDER AGREEMENTS FOR SERVICES OF OTHER AGENCIES

Pub. L. 104–106, div. A, title III, §321(a)(2), Feb. 10, 1996, 110 Stat. 251, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(1)(A), Nov. 18, 1997, 111 Stat. 1905, provided that:

"(A) Except as provided in subparagraph (B), the total amount of funds available for reimbursements under agreements entered into under section 2701(d) of title 10, United States Code, as amended by paragraph (1), in fiscal year 1996 may not exceed $10,000,000.

"(B) The Secretary of Defense may pay in fiscal year 1996 an amount for reimbursements under agreements referred to in subparagraph (A) in excess of the amount specified in that subparagraph for that fiscal year if—

"(i) the Secretary certifies to Congress that the payment of the amount under this subparagraph is essential for the management of the Defense Environmental Restoration Program under chapter 160 of title 10, United States Code; and

"(ii) a period of 60 days has expired after the date on which the certification is received by Congress."

## ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM FOR DEFENSE PERSONNEL

Pub. L. 103–337, div. A, title III, §328, Oct. 5, 1994, 108 Stat. 2714, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish and conduct an education and training program for members of the Armed Forces and civilian employees of the Department of Defense whose responsibilities include planning or executing the environmental mission of the Department. The Secretary shall conduct the program to ensure that such members and employees obtain and maintain the knowledge and skill required to comply with existing environmental laws and regulations.

"(b) IDENTIFICATION OF MILITARY FACILITIES WITH ENVIRONMENTAL TRAINING EXPERTISE.—As part of the program, the Secretary may identify military facilities that have existing expertise (or the capacity to develop such expertise) in conducting education and training activities in various

environmental disciplines. In the case of a military facility identified under this subsection, the Secretary should encourage the use of the facility by members and employees referred to in subsection (a) who are not under the jurisdiction of the military department operating the facility."

## GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE EDUCATION AND TRAINING IN ENVIRONMENTAL RESTORATION TO DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS

Pub. L. 103–160, div. A, title XIII, §1333, Nov. 30, 1993, 107 Stat. 1798, as amended by Pub. L. 103–337, div. A, title X, §1070(b)(11), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105–244, title I, §102(a)(2)(D), Oct. 7, 1998, 112 Stat. 1617; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(8), (f)(7)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–420, 2681–430; Pub. L. 109–163, div. A, title X, §1056(a)(2), Jan. 6, 2006, 119 Stat. 3438, provided that:

"(a) GRANT PROGRAM AUTHORIZED.—(1) The Secretary of Defense may establish a program to provide demonstration grants to institutions of higher education to assist such institutions in providing education and training in environmental restoration and hazardous waste management to eligible dislocated defense workers and young adults described in subsection (d). The Secretary shall award the grants pursuant to a merit-based selection process.

"(2) A grant provided under this subsection may cover a period of not more than three fiscal years, except that the payments under the grant for the second and third fiscal year shall be subject to the approval of the Secretary and to the availability of appropriations to carry out this section in that fiscal year.

"(b) APPLICATION.—To be eligible for a grant under subsection (a), an institution of higher education shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require. The application shall include the following:

"(1) An assurance by the institution of higher education that it will use the grant to supplement and not supplant non-Federal funds that would otherwise be available for the education and training activities funded by the grant.

"(2) A proposal by the institution of higher education to provide expertise, training, and education in hazardous materials and waste management and other environmental fields applicable to defense manufacturing sites and Department of Defense and Department of Energy defense facilities.

"(c) USE OF GRANT FUNDS.—(1) An institution of higher education receiving a grant under subsection (a) shall use the grant to establish a consortium consisting of the institution and one or more of each of the entities described in paragraph (2) for the purpose of establishing and conducting a program to provide education and training in environmental restoration and waste management to eligible individuals described in subsection (d). To the extent practicable, the Secretary shall authorize the consortium to use a military installation closed or selected to be closed under a base closure law in providing on-site basic skills training to participants in the program.

"(2) The entities referred to in paragraph (1) are the following:

"(A) Appropriate State and local agencies.

"(B) local [sic] workforce investment boards established under [former] section 117 of the Workforce Investment Act of 1998 [former 29 U.S.C. 2832].

"(C) Community-based organizations (as defined in section 4(5) of such Act (29 U.S.C. 1503(5)).

"(D) Businesses.

"(E) Organized labor.

"(F) Other appropriate educational institutions.

"(d) ELIGIBLE INDIVIDUALS.—A program established or conducted using funds provided under subsection (a) may provide education and training in environmental restoration and waste management to—

"(1) individuals who have been terminated or laid off from employment (or have received notice of termination or lay off) as a consequence of reductions in expenditures by the United States for defense, the cancellation, termination, or completion of a defense contract, or the closure or realignment of a military installation under a base closure law, as determined in accordance with regulations prescribed by the Secretary; or

"(2) individuals who have attained the age of 16 but not the age of 25.

"(e) ELEMENTS OF EDUCATION AND TRAINING PROGRAM.—In establishing or conducting an education and training program using funds provided under subsection (a), the institution of higher education shall meet the following requirements:

"(1) The institution of higher education shall establish and provide a work-based learning system consisting of education and training in environmental restoration—

"(A) which may include basic educational courses, on-site basic skills training, and mentor

assistance to individuals described in subsection (d) who are participating in the program; and

"(B) which may lead to the awarding of a certificate or degree at the institution of higher education.

"(2) The institution of higher education shall undertake outreach and recruitment efforts to encourage participation by eligible individuals in the education and training program.

"(3) The institution of higher education shall select participants for the education and training program from among eligible individuals described in paragraph (1) or (2) of subsection (d).

"(4) To the extent practicable, in the selection of young adults described in subsection (d)(2) to participate in the education and training program, the institution of higher education shall give priority to those young adults who—

"(A) have not attended and are otherwise unlikely to be able to attend an institution of higher education; or

"(B) have, or are members of families who have, received a total family income that, in relation to family size, is not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))); or

"(ii) 70 percent of the lower living standard income level.

"(5) To the extent practicable, the institution of higher education shall select instructors for the education and training program from institutions of higher education, appropriate community programs, and industry and labor.

"(6) To the extent practicable, the institution of higher education shall consult with appropriate Federal, State, and local agencies carrying out environmental restoration programs for the purpose of achieving coordination between such programs and the education and training program conducted by the consortium.

"(f) SELECTION OF GRANT RECIPIENTS.—To the extent practicable, the Secretary shall provide grants to institutions of higher education under subsection (a) in a manner which will equitably distribute such grants among the various regions of the United States.

"(g) LIMITATION ON AMOUNT OF GRANT TO A SINGLE RECIPIENT.—The amount of a grant under subsection (a) that may be made to a single institution of higher education in a fiscal year may not exceed 1/3 of the amount made available to provide grants under such subsection for that fiscal year.

"(h) REPORTING REQUIREMENTS.—(1) The Secretary may provide a grant to an institution of higher education under subsection (a) only if the institution agrees to submit to the Secretary, in each fiscal year in which the Secretary makes payments under the grant to the institution, a report containing—

"(A) a description and evaluation of the education and training program established by the consortium formed by the institution under subsection (c); and

"(B) such other information as the Secretary may reasonably require.

"(2) Not later than 18 months after the date of the enactment of this Act [Nov. 30, 1993], the Secretary shall submit to the President and Congress an interim report containing—

"(A) a compilation of the information contained in the reports received by the Secretary from each institution of higher education under paragraph (1); and

"(B) an evaluation of the effectiveness of the demonstration grant program authorized by this section.

"(3) Not later than January 1, 1997, the Secretary shall submit to the President and Congress a final report containing—

"(A) a compilation of the information described in the interim report; and

"(B) a final evaluation of the effectiveness of the demonstration grant program authorized by this section, including a recommendation as to the feasibility of continuing the program.

"(i) DEFINITIONS.—For purposes of this section:

"(1) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.

"(2) ENVIRONMENTAL RESTORATION.—The term 'environmental restoration' means actions taken consistent with a permanent remedy to prevent or minimize the release of hazardous substances into the environment so that such substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001].

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Defense.

"(j) CONFORMING REPEAL.—Section 4452 of the Defense Conversion, Reinvestment, and Transition

Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 2701 note) is repealed."

**ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM**

Pub. L. 103–160, div. A, title XIII, §1334, Nov. 30, 1993, 107 Stat. 1801, as amended by Pub. L. 105–244, title I, §102(a)(2)(E), Oct. 7, 1998, 112 Stat. 1617, provided that:

"(a) AUTHORITY.—The Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, may establish a scholarship program in order to enable eligible individuals described in subsection (d) to undertake the educational training or activities relating to environmental engineering, environmental sciences, or environmental project management in fields related to hazardous waste management and cleanup described in subsection (b) at the institutions of higher education described in subsection (c).

"(b) EDUCATIONAL TRAINING OR ACTIVITIES.—(1) The program established under subsection (a) shall be limited to educational training or activities related to—

"(A) site remediation;

"(B) site characterization;

"(C) hazardous waste management;

"(D) hazardous waste reduction;

"(E) recycling;

"(F) process and materials engineering;

"(G) training for positions related to environmental engineering, environmental sciences, or environmental project management (including training for management positions); and

"(H) environmental engineering with respect to the construction of facilities to address the items described in subparagraphs (A) through (G).

"(2) The program established under subsection (a) shall be limited to educational training or activities designed to enable individuals to achieve specialization in the following fields:

"(A) Earth sciences.

"(B) Chemistry.

"(C) Chemical Engineering.

"(D) Environmental engineering.

"(E) Statistics.

"(F) Toxicology.

"(G) Industrial hygiene.

"(H) Health physics.

"(I) Environmental project management.

"(c) ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION.—Scholarship funds awarded under this section shall be used by individuals awarded scholarships to enable such individuals to attend institutions of higher education associated with hazardous substance research centers to enable such individuals to undertake a program of educational training or activities described in subsection (b) that leads to an undergraduate degree, a graduate degree, or a degree or certificate that is supplemental to an academic degree.

"(d) ELIGIBLE INDIVIDUALS.—Individuals eligible for scholarships under the program established under subsection (a) are the following:

"(1) Any member of the Armed Forces who—

"(A) was on active duty or full-time National Guard duty on September 30, 1990;

"(B) during the 5-year period beginning on that date—

"(i) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

"(ii) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title; and

"(C) is not entitled to retired or retainer pay incident to that separation.

"(2) Any civilian employee of the Department of Energy or the Department of Defense (other than an employee referred to in paragraph (3)) who—

"(A) is terminated or laid off from such employment during the five-year period beginning on September 30, 1990, as a result of reductions in defense-related spending (as determined by the appropriate Secretary); and

"(B) is not entitled to retired or retainer pay incident to that termination or lay off.

"(3) Any civilian employee of the Department of Defense whose employment at a military installation approved for closure or realignment under a base closure law is terminated as a result of such closure or

realignment.

"(e) AWARD OF SCHOLARSHIP.—(1)(A) The Secretary of Defense shall award scholarships under this section to such eligible individuals as the Secretary determines appropriate pursuant to regulations or policies promulgated by the Secretary.

"(B) In awarding a scholarship under this section, the Secretary shall—

"(i) take into consideration the extent to which the qualifications and experience of the individual applying for the scholarship prepared such individual for the educational training or activities to be undertaken; and

"(ii) award a scholarship only to an eligible individual who has been accepted for enrollment in the institution of higher education described in subsection (c) and providing the educational training or activities for which the scholarship assistance is sought.

"(2) The Secretary of Defense shall determine the amount of the scholarships awarded under this section, except that the amount of scholarship assistance awarded to any individual under this section may not exceed—

"(A) $10,000 in any 12-month period; and

"(B) a total of $20,000.

"(f) APPLICATION; PERIOD FOR SUBMISSION.—(1) Each individual desiring a scholarship under this section shall submit an application to the Secretary of Defense in such manner and containing or accompanied by such information as the Secretary may reasonably require.

"(2) A member of the Armed Forces described in subsection (d)(1) who desires to apply for a scholarship under this section shall submit an application under this subsection not later than 180 days after the date of the separation of the member. In the case of members described in subsection (d)(1) who were separated before the date of the enactment of this Act [Nov. 30, 1993], the Secretary shall accept applications from these members submitted during the 180-day period beginning on the date of the enactment of this Act.

"(3) A civilian employee described in paragraph (2) or (3) of subsection (d) who desires to apply for a scholarship under this section, but who receives no prior notice of such termination or lay off, may submit an application under this subsection at any time after such termination or lay off. A civilian employee described in paragraph (1) or (2) of subsection (d) who receives a notice of termination or lay off shall submit an application not later than 180 days before the effective date of the termination or lay off. In the case of employees described in such paragraphs who were terminated or laid off before the date of the enactment of this Act [Nov. 30, 1993], the Secretary shall accept applications from these employees submitted during the 180-day period beginning on the date of the enactment of this Act.

"(g) REPAYMENT.—(1) Any individual receiving scholarship assistance from the Secretary of Defense under this section shall enter into an agreement with the Secretary under which the individual agrees to pay to the United States the total amount of the scholarship assistance provided to the individual by the Secretary under this section, plus interest at the rate prescribed in paragraph (4), if the individual does not complete the educational training or activities for which such assistance is provided.

"(2) If an individual fails to pay to the United States the total amount required pursuant to paragraph (1), including the interest, at the rate prescribed in paragraph (4), the unpaid amount shall be recoverable by the United States from the individual or such individual's estate by—

"(A) in the case of an individual who is an employee of the United States, set off against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the United States; and

"(B) such other method as is provided by law for the recovery of amounts owing to the United States.

"(3) The Secretary of Defense may waive in whole or in part a required repayment under this subsection if the Secretary determines that the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(4) The total amount of scholarship assistance provided to an individual under this section, for purposes of repayment under this subsection, shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

"(h) COORDINATION OF BENEFITS.—Any scholarship assistance provided to an individual under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(i) REPORT TO CONGRESS.—Not later than January 1, 1995, the Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall submit to the Congress a report describing the activities undertaken under the program authorized by subsection (a) and containing recommendations for future activities under the program.

"(j) FUNDING.—(1) To carry out the scholarship program authorized by subsection (a), the Secretary of Defense may use the unobligated balance of funds made available pursuant to section 4451(k) of the National

Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2701 note) for fiscal year 1993 for environmental scholarship and fellowship programs for the Department of Defense.

"(2) The cost of carrying out the program authorized by subsection (a) may not exceed $8,000,000 in any fiscal year.

"(k) DEFINITIONS.—For purposes of this section:

"(1) The term 'base closure law' means the following:

"(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) The term 'hazardous substance research centers' means the hazardous substance research centers described in section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)). Such term includes the Great Plains and Rocky Mountain Hazardous Substance Research Center, the Northeast Hazardous Substance Research Center, the Great Lakes and Mid-Atlantic Hazardous Substance Research Center, the South and Southwest Hazardous Substance Research Center, and the Western Region Hazardous Substance Research Center.

"(3) The term 'institution of higher education' has the same meaning given such term in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]."

## TRAINING AND EMPLOYMENT OF DEPARTMENT OF DEFENSE EMPLOYEES TO CARRY OUT ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS TO BE CLOSED

Pub. L. 103–160, div. A, title XIII, §1335, Nov. 30, 1993, 107 Stat. 1804, provided that:

"(a) TRAINING PROGRAM.—The Secretary of Defense may establish a program to provide such training to eligible civilian employees of the Department of Defense as the Secretary considers to be necessary to qualify such employees to carry out environmental assessment, remediation, and restoration activities (including asbestos abatement) at military installations closed or to be closed.

"(b) EMPLOYMENT OF GRADUATES.—In the case of eligible civilian employees of the Department of Defense who successfully complete the training program established pursuant to subsection (a), the Secretary may—

"(1) employ such employees to carry out environmental assessment, remediation, and restoration activities at military installations referred to in subsection (a); or

"(2) require, as a condition of a contract for the private performance of such activities at such an installation, the contractor to be engaged in carrying out such activities to employ such employees.

"(c) ELIGIBLE EMPLOYEES.—Eligibility for selection to participate in the training program under subsection (a) shall be limited to those civilian employees of the Department of Defense whose employment would be terminated by reason of the closure of a military installation if not for the selection of the employees to participate in the training program.

"(d) PRIORITY IN TRAINING AND EMPLOYMENT.—The Secretary shall give priority in providing training and employment under this section to eligible civilian employees employed at a military installation the closure of which will directly result in the termination of the employment of at least 1,000 civilian employees of the Department of Defense.

"(e) EFFECT ON OTHER ENVIRONMENTAL REQUIREMENTS.—Nothing in this section shall be construed to revise or modify any requirement established under Federal or State law relating to environmental assessment, remediation, or restoration activities at military installations closed or to be closed."

## COOPERATIVE AGREEMENTS AND GRANTS TO IMPLEMENT LEGACY RESOURCE MANAGEMENT PROGRAM

Pub. L. 103–139, title II, Nov. 11, 1993, 107 Stat. 1422, provided in part: "That notwithstanding the provisions of the Federal Cooperative Grant and Agreement Act of 1977 (31 U.S.C. 6303–6308), the Department of Defense may hereafter negotiate and enter into cooperative agreements and grants with public and private agencies, organizations, institutions, individuals or other entities to implement the purposes of the Legacy Resource Management Program".

## PILOT PROGRAM FOR EXPEDITED ENVIRONMENTAL RESPONSE ACTIONS

Pub. L. 102–484, div. A, title III, §323, Oct. 23, 1992, 106 Stat. 2365, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a pilot program to expedite the performance of on-site environmental restoration at—

"(1) military installations scheduled for closure under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note);

"(2) military installations scheduled for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

"(3) facilities for which the Secretary is responsible under the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

"(b) SELECTION OF INSTALLATIONS AND FACILITIES.—(1) For participation in the pilot program, the Secretary shall select—

"(A) 2 military installations referred to in subsection (a)(1);

"(B) 4 military installations referred to in subsection (a)(2), consisting of—

"(i) 2 military installations scheduled for closure as of the date of the enactment of this Act [Oct. 23, 1992]; and

"(ii) 2 military installations included in the list transmitted by the Secretary no later than April 15, 1993, pursuant to section 2903(c)(1) of the Defense Base Closure and Realignment Act of 1990 [Pub. L. 101–510] (10 U.S.C. 2687 note) and recommended in a report transmitted by the President in that year pursuant to section 2903(e) of such Act and for which a joint resolution disapproving such recommendations is not enacted by the deadline set forth in section 2904(b) of such Act [10 U.S.C. 2687 note]; and

"(C) not less than 4 facilities referred to in subsection (a)(3) with respect to each military department.

"(2)(A) Except as provided in subparagraph (B), the selections under paragraph (1) shall be made not later than 60 days after the date of the enactment of this Act.

"(B) The selections under paragraph (1) of military installations described in subparagraph (B)(ii) of such paragraph shall be made not later than 60 days after the date on which the deadline (set forth in section 2904(b) of such Act) for enacting a joint resolution of disapproval with respect to the report transmitted by the President has passed.

"(3) The installations and facilities selected under paragraph (1) shall be representative of—

"(A) a variety of the environmental restoration activities required for facilities under the Defense Environmental Restoration Program and for military installations scheduled for closure under the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) [see Short Title of 1988 Amendment note under 10 U.S.C. 2687] and the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and

"(B) the different sizes of such environmental restoration activities to provide, to the maximum extent practicable, opportunities for the full range of business sizes to enter into environmental restoration contracts with the Department of Defense and with prime contractors to perform activities under the pilot program.

"(c) EXECUTION OF PROGRAM.—Subject to subsection (d), and to the maximum extent possible, the Secretary shall, in order to eliminate redundant tasks and to accelerate environmental restoration at military installations, use the authorities granted in existing law to carry out the pilot program, including—

"(1) the development and use of innovative contracting techniques;

"(2) the use of all reasonable and appropriate methods to expedite necessary Federal and State administrative decisions, agreements, and concurrences; and

"(3) the use (including any necessary request for the use) of existing authorities to ensure that environmental restoration activities under the pilot program are conducted expeditiously, with particular emphasis on activities that may be conducted in advance of any final plan for environmental restoration.

"(d) PROGRAM PRINCIPLES.—The Secretary shall carry out the pilot program consistent with the following principles:

"(1) Activities of the pilot program shall be carried out subject to and in accordance with all applicable Federal and State laws and regulations.

"(2) Competitive procedures shall be used to select the contractors.

"(3) The experience and ability of the contractors shall be considered, in addition to cost, as a factor to be evaluated in the selection of the contractors.

"(e) PROGRAM RESTRICTIONS.—The pilot program established in this section shall not result in the delay of environmental restoration activities at other military installations and former sites of the Department of Defense."

## OVERSEAS ENVIRONMENTAL RESTORATION

Pub. L. 102–484, div. A, title III, §324, Oct. 23, 1992, 106 Stat. 2367, as amended by Pub. L. 108–136, div. A, title X, §1031(d)(1), Nov. 24, 2003, 117 Stat. 1604, provided that:

"It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located."

## ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS FOR DEPARTMENT OF DEFENSE

Pub. L. 102–484, div. D, title XLIV, §4451, Oct. 23, 1992, 106 Stat. 2735, as amended by Pub. L. 105–244, title I, §102(a)(2)(F), Oct. 7, 1998, 112 Stat. 1617, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense (hereinafter in this section referred to as the 'Secretary') may conduct scholarship and fellowship programs for the purpose of enabling individuals to qualify for employment in the field of environmental restoration or other environmental programs in the Department of Defense.

"(b) ELIGIBILITY.—To be eligible to participate in the scholarship or fellowship program, an individual must—

"(1) be accepted for enrollment or be currently enrolled as a full-time student at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]);

"(2) be pursuing a program of education that leads to an appropriate higher education degree in engineering, biology, chemistry, or another qualifying field related to environmental activities, as determined by the Secretary;

"(3) sign an agreement described in subsection (c);

"(4) be a citizen or national of the United States or be an alien lawfully admitted to the United States for permanent residence; and

"(5) meet any other requirements prescribed by the Secretary.

"(c) AGREEMENT.—An agreement between the Secretary and an individual participating in a scholarship or fellowship established in subsection (a) shall be in writing, shall be signed by the individual, and shall include the following provisions:

"(1) The agreement of the Secretary to provide the individual with educational assistance for a specified number of school years (not to exceed 5 years) during which the individual is pursuing a course of education in a qualifying field. The assistance may include payment of tuition, fees, books, laboratory expenses, and (in the case of a fellowship) a stipend.

"(2) The agreement of the individual to perform the following:

"(A) Accept such educational assistance.

"(B) Maintain enrollment and attendance in the educational program until completed.

"(C) Maintain, while enrolled in the educational program, satisfactory academic progress as prescribed by the institution of higher education in which the individual is enrolled.

"(D) Serve, upon completion of the educational program and selection by the Secretary under subsection (e), as a full-time employee in an environmental restoration or other environmental position in the Department of Defense for the applicable period of service specified in subsection (d).

"(d) PERIOD OF SERVICE.—The period of service required under subsection (c)(2)(D) is as follows:

"(1) For an individual who completes a bachelor's degree under a scholarship program established under subsection (a), a period of 12 months for each school year or part thereof for which the individual is provided a scholarship under the program.

"(2) For an individual who completes a master's degree or other post-graduate degree under a fellowship program established under subsection (a), a period of 24 months for each school year or part thereof for which the individual is provided a fellowship under the program.

"(e) SELECTION FOR SERVICE.—The Secretary shall annually review the number and performance under the agreement of individuals who complete educational programs during the preceding year under any scholarship and fellowship programs conducted pursuant to subsection (a). From among such individuals, the Secretary shall select individuals for environmental positions in the Department of Defense, based on the type and availability of such positions.

"(f) REPAYMENT.—(1) Any individual participating in a scholarship or fellowship program under this section shall agree to pay to the United States the total amount of educational assistance provided to the individual under the program, plus interest at the rate prescribed in paragraph (4), if—

"(A) the individual does not complete the educational program as agreed to pursuant to subsection (c)(2)(B), or is selected by the Secretary under subsection (e) but declines to serve, or fails to complete the service, in a position in the Department of Defense as agreed to pursuant to subsection (c)(2)(D); or

"(B) the individual is involuntarily separated for cause from the Department of Defense before the end of the period for which the individual has agreed to continue in the service of the Department of Defense.

"(2) If an individual fails to fulfill the agreement of the individual to pay to the United States the total amount of educational assistance provided under a program established under subsection (a), plus interest at the rate prescribed in paragraph (4), a sum equal to the amount of the educational assistance (plus such interest, if applicable) shall be recoverable by the United States from the individual or his estate by—

"(A) in the case of an individual who is an employee of the Department of Defense or other Federal agency, set off against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the United States; and

"(B) such other method provided by law for the recovery of amounts owing to the United States.

"(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(4) The total amount of educational assistance provided to an individual under a program established under subsection (a) shall, for purposes of repayment under this section, bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

"(g) PREFERENCE.—In evaluating applicants for the award of a scholarship or fellowship under a program established under subsection (a), the Secretary shall give a preference to—

"(1) individuals who are, or have been, employed by the Department of Defense or its contractors and subcontractors who have been engaged in defense-related activities; and

"(2) individuals who are or have been members of the Armed Forces.

"(h) COORDINATION OF BENEFITS.—A scholarship or fellowship awarded under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(i) AWARD OF SCHOLARSHIPS AND FELLOWSHIPS.—The Secretary may award to qualified applicants not more than 100 scholarships (for undergraduate students) and not more than 30 fellowships (for graduate students) in fiscal year 1993.

"(j) REPORT TO CONGRESS.—Not later than January 1, 1994, the Secretary shall submit to the Congress a report on activities undertaken under the programs established under subsection (a) and recommendations for future activities under the programs.

"(k) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301(5) [106 Stat. 2360]—

"(1) $7,000,000 shall be available to carry out the scholarship and fellowship programs established in subsection (a); and

"(2) $3,000,000 shall be available to provide training to Department of Defense personnel to obtain the skills required to comply with existing environmental statutory and regulatory requirements."

## GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE TRAINING IN ENVIRONMENTAL RESTORATION AND HAZARDOUS WASTE MANAGEMENT

Pub. L. 102–484, div. D, title XLIV, §4452, Oct. 23, 1992, 106 Stat. 2738, authorized the Secretary of Defense to establish a program to assist institutions of higher education, as defined in former section 1141(a) of Title 20, Education, to provide education and training in environmental restoration and hazardous waste management and to award grants to such institutions, prior to repeal by Pub. L. 103–160, div. A, title XIII, §1333(j), Nov. 30, 1993, 107 Stat. 1800. See section 1333 of Pub. L. 103–160, set out above.

## POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE

Pub. L. 101–510, div. A, title III, §342(b), Nov. 5, 1990, 104 Stat. 1537, provided that:

"(1) The Secretary of Defense shall develop a policy for determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations.

"(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

"(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense

determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

"(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

"(5) For purposes of this subsection, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located outside the United States and outside any territory, commonwealth, or possession of the United States."

## ENVIRONMENTAL EDUCATION PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL

Pub. L. 101–510, div. A, title III, §344, Nov. 5, 1990, 104 Stat. 1538, directed Secretary of Defense to establish a program for the purpose of educating Department of Defense personnel in environmental management and, not later than date on which President submits budget for FY 1992 to Congress pursuant to 31 U.S.C. 1105(a), to submit to Congress recommendations regarding whether program should be continued after Sept. 30, 1991.

## USE OF OZONE DEPLETING SUBSTANCES WITHIN DEPARTMENT OF DEFENSE

Pub. L. 102–484, div. A, title III, §325, Oct. 23, 1992, 106 Stat. 2367, required the Director of the Defense Logistics Agency to evaluate the use of class I and class II substances, listed under 42 U.S.C. 7671a, by the military departments and Defense Agencies for the years 1992 to 1995 and to submit to the congressional defense committees a report on the status of the evaluation in 1993.

Pub. L. 101–510, div. A, title III, §345, Nov. 5, 1990, 104 Stat. 1538, provided that:

"(a) DOD REQUIREMENTS FOR OZONE DEPLETING CHEMICALS OTHER THAN CFCs.—(1) In addition to the functions of the advisory committee established pursuant to section 356(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 [Pub. L. 101–189] (10 U.S.C. 2701 note), it shall be the function of the Committee to study (A) the use of methyl chloroform, hydrochlorofluorcarbons (HCFCs), and carbon tetrachloride by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the costs and feasibility of using alternative compounds or technologies for methyl chloroform, HCFCs, and carbon tetrachloride.

"(2) Within 120 days after the date of the enactment of this Act [Nov. 5, 1990], the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of methyl chloroform, HCFCs, or carbon tetrachloride.

"(3) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of methyl chloroform, HCFCs, or carbon tetrachloride but cannot be met without the use of one or more of such substances.

"(b) REQUIREMENT.—In preparing the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 [Pub. L. 101–189, set out below] and the report required by subsection (d) of this section, the Committee shall work closely with the Strategic Environmental Research and Development Program Council and shall provide to such Council such reports.

"(c) EXTENSION OF REPORTING DEADLINE FOR CFCs.—The deadline for submitting to Congress the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 concerning the uses of CFCs is hereby extended to June 30, 1991.

"(d) REPORTING DEADLINE FOR METHYL CHLOROFORM, HCFCs, AND CARBON TETRACHLORIDE.—Not later than September 30, 1991, the Secretary shall submit to Congress a report containing the results of the study by the Committee required by subsection (a)(1) of this section."

## REQUIREMENT FOR DEVELOPMENT OF ENVIRONMENTAL DATA BASE

Pub. L. 101–189, div. A, title III, §352, Nov. 29, 1989, 103 Stat. 1423, provided that:

"(a) ENVIRONMENTAL DATA BASE.—The Secretary of Defense shall develop and maintain a comprehensive data base on environmental activities carried out by the Department of Defense pursuant to, and environmental compliance obligations to which the Department is subject under, chapter 160 of title 10, United States Code, and all other applicable Federal and State environmental laws. At a minimum, the information in the data base shall include all the fines and penalties assessed against the Department of

Defense pursuant to environmental laws and paid by the Department, all notices of violations of environmental laws received by the Department, and all obligations of the Department for compliance with environmental laws. The Secretary may include any other information he considers appropriate.

"(b) REPORT.—Not later than one year after the date of the enactment of this Act [Nov. 29, 1989], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress in development of the data base required under subsection (a). The report shall include a summary of the information collected for the data base with respect to environmental activities during 1989."

## FUNDING FOR WASTE MINIMIZATION PROGRAMS FOR CERTAIN INDUSTRIAL-TYPE ACTIVITIES OF DEPARTMENT OF DEFENSE

Pub. L. 101–189, div. A, title III, §354, Nov. 29, 1989, 103 Stat. 1424, as amended by Pub. L. 102–190, div. A, title III, §332, Dec. 5, 1991, 105 Stat. 1340, directed the Secretary of Defense to require the Secretary of each military department to establish a program for fiscal years 1992, 1993, and 1994 to reduce the volume of solid and hazardous wastes disposed of, and hazardous materials used by, each industrial-type activity within the department that was a depot maintenance installation and for which a working-capital fund had been established under section 2208 of this title, and to submit to Congress, not later than 90 days after Nov. 29, 1989, the name of each industrial-type or commercial-type activity of each military department which was not covered by the waste minimization program because the activity did not carry out depot maintenance installation functions.

## USE OF CHLOROFLUOROCARBONS AND HALONS IN DEPARTMENT OF DEFENSE

Pub. L. 101–189, div. A, title III, §356, Nov. 29, 1989, 103 Stat. 1425, as amended by Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that:

"(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, Technology, and Logistics a program to reduce the unnecessary release of chlorofluorocarbons (hereinafter in this section referred to as 'CFCs') and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

"(b) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act [Nov. 29, 1989], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can be achieved only with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

"(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment.

"(c) DOD REQUIREMENTS FOR CFCS.—(1) Not later than 30 days after the date of the enactment of this Act [Nov. 29, 1989], the Secretary shall establish an advisory committee to be known as the 'CFC Advisory Committee' (hereinafter in this section referred to as the 'Committee'). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply the Department of Defense with products or equipment that require the use of CFCs.

"(2) It shall be the function of the Committee to study (A) the use of CFCs by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the cost and feasibility of using alternative compounds for CFCs or using alternative technologies that do not require the use of CFCs.

"(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

"(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

"(d) REPORT.—Not later than September 30, 1990, the Secretary shall submit to the committees named in subsection (b) a report containing the results of the study by the Committee. The report shall—

"(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

"(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the time necessary for completing the substitution;

"(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available;

"(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

"(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

"(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

"(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the additional costs resulting from modification of Department of Defense contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs."

**REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES**

Pub. L. 101–189, div. A, title III, §358, Nov. 29, 1989, 103 Stat. 1427, directed Secretary of Defense, not later than two years after Nov. 29, 1989, to submit to Congress a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

**STUDY OF WASTE RECYCLING**

Pub. L. 101–189, div. A, title III, §361, Nov. 29, 1989, 103 Stat. 1429, as amended by Pub. L. 101–510, div. A, title III, §343, Nov. 5, 1990, 104 Stat. 1538, required the Secretary of Defense to conduct a study of current practices and future plans for managing postconsumer waste at facilities of the Department of Defense at which such waste was generated and the feasibility of such Department of Defense facilities participating in programs at military installations or in local communities to recycle the postconsumer waste generated at the facilities, and to submit to Congress a report describing the findings and conclusions of the Secretary resulting from the study not later than Mar. 1, 1991.

**USE OF DEPARTMENT OF DEFENSE APPROPRIATIONS FOR REMOVAL OF UNSAFE BUILDINGS OR DEBRIS**

Pub. L. 101–165, title IX, §9038, Nov. 21, 1989, 103 Stat. 1137, which authorized appropriations available to the Department of Defense to be used at sites formerly used by the Department for removal of unsafe buildings or debris of the Department and required that removal be completed before the property is released from Federal Government control, was repealed and restated in subsecs. (f) and (g) of this section by Pub. L. 101–510, div. A, title XIV, §1481(i), Nov. 5, 1990, 104 Stat. 1708.

[1] *See References in Text note below.*

## §2702. Research, development, and demonstration program

(a) PROGRAM.—As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator and the advisory council established under section 311(a)(5) of CERCLA (42 U.S.C. 9660(a)(5)). The program shall include research, development, and demonstration with respect to each of the following:

(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

(4) Toxicological data collection and methodology on risk of exposure to hazardous waste

generated by the Department of Defense.

(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treat hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner and standards as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the office of technology demonstration of the Environmental Protection Agency.

(b) SPECIAL PERMIT.—The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act (42 U.S.C. 6925(g)) to issue a permit for testing and evaluation which receives support under this section.

(c) CONTRACTS AND GRANTS.—The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are available for that purpose.

(d) INFORMATION COLLECTION AND DISSEMINATION.—

(1) IN GENERAL.—The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

(2) ROLE OF EPA.—The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information through the office of technology demonstration of the Environmental Protection Agency.

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1721; amended Pub. L. 108–375, div. A, title X, §1084(d)(25), Oct. 28, 2004, 118 Stat. 2063.)

## EDITORIAL NOTES

### AMENDMENTS

**2004**—Subsec. (a). Pub. L. 108–375 inserted "(42 U.S.C. 9660(a)(5))" after "311(a)(5) of CERCLA".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PARTNERSHIPS FOR INVESTMENT IN INNOVATIVE ENVIRONMENTAL TECHNOLOGIES

Pub. L. 105–85, div. A, title III, §349, Nov. 18, 1997, 111 Stat. 1690, as amended by Pub. L. 106–65, div. A, title X, §1067(4), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112–81, div. A, title X, §1062(k)(1), Dec. 31, 2011, 125 Stat. 1586, authorized the Secretary of Defense, until three years after Nov. 18, 1997, to enter into a partnership with one or more private entities to demonstrate and validate innovative environmental technologies, and to provide funds to the partner or partners from appropriations available to the Department of Defense for environmental activities for a period of up to five years.

### AGREEMENTS FOR SERVICES OF OTHER AGENCIES IN SUPPORT OF ENVIRONMENTAL TECHNOLOGY CERTIFICATION

Pub. L. 105–85, div. A, title III, §342(d), Nov. 18, 1997, 111 Stat. 1686, provided that not later than 90 days after Nov. 18, 1997, the Secretary of Defense was to submit to Congress a report setting forth the guidelines established by the Secretary for reimbursement of State and local governments, and for cost-sharing between the Department of Defense, such governments, and vendors, under cooperative agreements entered into under section 327 of Pub. L. 104–201, formerly set out below.

Pub. L. 104–201, div. A, title III, §327, Sept. 23, 1996, 110 Stat. 2483, as amended by Pub. L. 105–85, div. A, title III, §342(a)–(c), Nov. 18, 1997, 111 Stat. 1686, authorized the Secretary of Defense, until five years after Sept. 23, 1996, to enter into a cooperative agreement with an agency of a State or local government, or with an Indian tribe, to obtain assistance in certifying environmental technologies.

## §2703. Environmental restoration accounts

(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

(1) An account to be known as the "Environmental Restoration Account, Defense".

(2) An account to be known as the "Environmental Restoration Account, Army".

(3) An account to be known as the "Environmental Restoration Account, Navy".

(4) An account to be known as the "Environmental Restoration Account, Air Force".

(5) An account to be known as the "Environmental Restoration Account, Formerly Used Defense Sites".

(b) PROGRAM ELEMENTS FOR ORDNANCE REMEDIATION.—The Secretary of Defense shall establish a program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents within each environmental restoration account established under subsection (a). In this subsection, the terms "discarded military munitions" and "munitions constituents" have the meanings given such terms in section 2710 of this title.

(c) OBLIGATION OF AUTHORIZED AMOUNTS.—(1) Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law.

(2) Funds authorized for deposit in an account under subsection (a) shall remain available until expended.

(d) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

(e) CREDIT OF AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

(1) Amounts recovered under CERCLA for response actions.

(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

(f) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Environmental Restoration Account, Defense, or to any environmental restoration account of a military department, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.

(g) SOLE SOURCE OF FUNDS FOR OPERATION AND MONITORING OF ENVIRONMENTAL REMEDIES.—(1) Except as provided in subsection (h), the sole source of funds for all phases of an environmental remedy at a site under the jurisdiction of the Department of Defense, a National Guard facility, or a formerly used defense site shall be the applicable environmental restoration account established under subsection (a).

(2) In this subsection, the term "environmental remedy" has the meaning given the term "remedy" in section 101 of CERCLA (42 U.S.C. 9601).

(h) SOLE SOURCE OF FUNDS FOR ENVIRONMENTAL REMEDIATION AT CERTAIN BASE REALIGNMENT AND CLOSURE SITES.—In the case of property disposed of pursuant to a base closure law and subject to a covenant that was required to be provided by paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), the sole source of funds for services procured under section 2701(d)(1) of this title shall be the Department of Defense Base Closure Account established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of

title XXIX of Public Law 101–510; 10 U.S.C. 2687 note). The limitation in this subsection shall expire upon the closure of such base closure account.

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1722; amended Pub. L. 103–337, div. A, title III, §321, Oct. 5, 1994, 108 Stat. 2710; Pub. L. 104–106, div. A, title III, §322, Feb. 10, 1996, 110 Stat. 252; Pub. L. 104–201, div. A, title III, §322(a)(1), Sept. 23, 1996, 110 Stat. 2477; Pub. L. 106–65, div. A, title III, §321, title X, §1066(a)(27), Oct. 5, 1999, 113 Stat. 560, 772; Pub. L. 106–398, §1 [[div. A], title III, §§311, 312], Oct. 30, 2000, 114 Stat. 1654, 1654A–53, 1654A–54; Pub. L. 107–107, div. A, title III, §312, Dec. 28, 2001, 115 Stat. 1051; Pub. L. 108–136, div. A, title III, §313(a), Nov. 24, 2003, 117 Stat. 1430; Pub. L. 108–375, div. A, title X, §1084(d)(26), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 109–163, div. A, title III, §312(b), title X, §1056(c)(7), Jan. 6, 2006, 119 Stat. 3191, 3439; Pub. L. 109–364, div. A, title X, §1071(a)(23), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 112–239, div. B, title XXVII, §2711(c)(4)(B), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 113–291, div. A, title III, §311, Dec. 19, 2014, 128 Stat. 3336; Pub. L. 118–31, div. A, title III, §312(e), Dec. 22, 2023, 137 Stat. 215.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (g)(1). Pub. L. 118–31 inserted ", a National Guard facility," after "Department of Defense".

**2014**—Subsec. (f). Pub. L. 113–291 struck out "for fiscal years 1995 through 2010," before "or to any environmental" and "for fiscal years 1997 through 2010" before ", may be used".

**2013**—Subsec. (h). Pub. L. 112–239 substituted "the Department of Defense Base Closure Account established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)" for "the applicable Department of Defense base closure account" and "such base closure account" for "the applicable base closure account".

**2006**—Subsec. (b). Pub. L. 109–163, §1056(c)(7), substituted "In this subsection, the terms 'discarded military munitions' and" for "For purposes of the preceding sentence, the terms 'unexploded ordnance', 'discarded military munitions', and".

Subsec. (g)(1). Pub. L. 109–163, §312(b)(1), substituted "Except as provided in subsection (h), the sole source" for "The sole source".

Subsec. (h). Pub. L. 109–364 substituted "section 2701(d)(1)" for "subsection 2701(d)(1)".

Pub. L. 109–163, §312(b)(2), added subsec. (h).

**2004**—Subsec. (b). Pub. L. 108–375 substituted "For purposes of the preceding sentence, the terms" for "The terms".

**2003**—Subsec. (c)(1). Pub. L. 108–136, §313(a)(1), substituted "only to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law." for "only—

"(A) to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law; and

"(B) to pay for the costs of permanently relocating a facility because of a release or threatened release of hazardous substances, pollutants, or contaminants from—

"(i) real property on which the facility is located and that is currently under the jurisdiction of the Secretary of Defense or the Secretary of a military department; or

"(ii) real property on which the facility is located and that was under the jurisdiction of the Secretary of Defense or the Secretary of a military department at the time of the actions leading to the release or threatened release."

Subsec. (c)(2). Pub. L. 108–136, §313(a)(3), redesignated par. (4) as (2) and struck out second sentence which read as follows: "Not more than 5 percent of the funds deposited in an account under subsection (a) for a fiscal year may be used to pay relocation costs under paragraph (1)(B)."

Pub. L. 108–136, §313(a)(2), struck out par. (2) which read as follows: "The authority provided by paragraph (1)(B) expires September 30, 2003. The Secretary of Defense or the Secretary of a military department may not pay the costs of permanently relocating a facility under such paragraph unless the Secretary—

"(A) determines that permanent relocation—

"(i) is the most cost effective method of responding to the release or threatened release of hazardous substances, pollutants, or contaminants from the real property on which the facility is located;

"(ii) has the approval of relevant regulatory agencies; and

"(iii) is supported by the affected community; and

"(B) submits to Congress written notice of the determination before undertaking the permanent relocation of the facility, including a description of the response action taken or to be taken in connection with the permanent relocation and a statement of the costs incurred or to be incurred in connection with the permanent relocation."

Subsec. (c)(3). Pub. L. 108–136, §313(a)(2), struck out par. (3) which read as follows: "If relocation costs are to be paid under paragraph (1)(B) with respect to a facility located on real property described in clause (ii) of such paragraph, the Secretary of Defense or the Secretary of the military department concerned may use only fund transfer mechanisms otherwise available to the Secretary."

Subsec. (c)(4). Pub. L. 108–136, §313(a)(3), redesignated par. (4) as (2).

**2001**—Subsecs. (b) to (g). Pub. L. 107–107 added subsec. (b) and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

**2000**—Subsec. (a)(5). Pub. L. 106–398, §1 [[div. A], title III, §311(a)], added par. (5).

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title III, §312], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended."

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title III, §311(b)], added subsec. (f).

**1999**—Subsec. (c). Pub. L. 106–65, §1066(a)(27), struck out "United States Code," after "title 31,".

Subsec. (e). Pub. L. 106–65, §321, substituted "through 2010," for "through 1999," in two places.

**1996**—Pub. L. 104–201 substituted "accounts" for "transfer account" in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (f) establishing the Defense Environmental Restoration Account and providing for deposits into and withdrawals from the Account.

Subsec. (e). Pub. L. 104–106 amended subsec. (e) generally, substituting

"(e) AMOUNTS RECOVERED.—The following amounts shall be credited to the transfer account:

"(1) Amounts recovered under CERCLA for response actions of the Secretary.

"(2) Any other amounts recovered by the Secretary or the Secretary of the military department concerned from a contractor, insurer, surety, or other person to reimburse the Department of Defense for any expenditure for environmental response activities." for

"(e) AMOUNTS RECOVERED UNDER CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account."

**1994**—Subsec. (f). Pub. L. 103–337 added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113–76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112–239, set out as a note under section 2701 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title III, §313(a), Nov. 24, 2003, 117 Stat. 1430, provided that the amendment made by that section is effective Oct. 1, 2003.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title III, §322(e), Sept. 23, 1996, 110 Stat. 2479, provided that: "The amendments made by this section [amending this section and section 2705 of this title] shall take effect on the later of—

"(1) October 1, 1996; or

"(2) the date of the enactment of this Act [Sept. 23, 1996]."

### EFFECTIVE DATE

Pub. L. 99–499, title II, §211(c), Oct. 17, 1986, 100 Stat. 1726, provided that: "Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986."

### EFFECT OF AMENDMENT BY PUB. L. 108–136 ON EXISTING AGREEMENTS

Pub. L. 108–136, div. A, title III, §313(b), Nov. 24, 2003, 117 Stat. 1430, provided that: "An agreement in effect on September 30, 2003, under section 2703(c)(1)(B) of title 10, United States Code, as in effect on that date, to pay for the costs of permanently relocating a facility because of a release or threatened release of hazardous substances, pollutants, or contaminants shall remain in effect after that date, subject to the terms of the agreement, and costs may be paid in accordance with the terms of the agreement, notwithstanding the amendments made by subsection (a) [amending this section]."

**REFERENCES TO DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT**

Pub. L. 104–201, div. A, title III, §322(b), Sept. 23, 1996, 110 Stat. 2478, provided that: "Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1))."

**UNOBLIGATED BALANCES IN DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT**

Pub. L. 104–201, div. A, title III, §322(d), Sept. 23, 1996, 110 Stat. 2479, provided that unobligated balances remaining in the Defense Environmental Restoration Account under this section as of Oct. 1, 1996, would be transferred on such date to the Environmental Restoration Account, Defense, established under this section.

## §2704. Commonly found unregulated hazardous substances

(a) NOTICE TO HHS.—

(1) IN GENERAL.—The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under the Secretary's jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

(2) DEFINITION.—In this subsection, the term "unregulated hazardous substance" means a hazardous substance—

(A) for which no standard, requirement, criteria, or limitation is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

(b) TOXICOLOGICAL PROFILES.—The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

(c) DOD SUPPORT.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary (1) for the preparation of toxicological profiles under subsection (b) or (2) for other health related activities under section 104(i) of CERCLA (42 U.S.C. 9604(i)). The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this section.

(d) EPA HEALTH ADVISORIES.—

(1) PREPARATION.—At the request of the Secretary of Defense, the Administrator shall, in a timely manner, prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance—

(A) for which no advisory exists;

(B) which is found to threaten drinking water; and

(C) which is emanating from a facility under the jurisdiction of the Secretary.

(2) CONTENT OF HEALTH ADVISORIES.—Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where available toxicological data exist.

(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

(e) CROSS REFERENCE.—Section 104(i) of CERCLA (42 U.S.C. 9604(i)) applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section.

(f) FUNCTIONS OF HHS TO BE CARRIED OUT THROUGH ATSDR.—The functions of the Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 104(i) of CERCLA (42 U.S.C. 9604(i)).

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1722; amended Pub. L. 102–25, title VII, §701(j)(10), Apr. 6, 1991, 105 Stat. 116; Pub. L. 108–375, div. A, title X, §1084(d)(27), Oct. 28, 2004, 118 Stat. 2063.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (a)(2)(A), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (a)(2)(A), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (a)(2)(A), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 15B (§1857 et seq.) of Title 42. On enactment of Pub. L. 95–95, the Act was reclassified to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Clean Water Act, referred to in subsec. (a)(2), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

### AMENDMENTS

**2004**—Subsecs. (c), (e), (f). Pub. L. 108–375 inserted "(42 U.S.C. 9604(i))" after "CERCLA".

**1991**—Subsec. (f). Pub. L. 102–25 substituted "Agency for Toxic Substances" for "Agency of Toxic

Substances".

## §2705. Notice of environmental restoration activities

(a) EXPEDITED NOTICE.—The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

(1) The discovery of releases or threatened releases of hazardous substances at the facility.

(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

(b) COMMENT BY EPA AND STATE AND LOCAL AUTHORITIES.—

(1) RELEASE NOTICES.—The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

(2) PROPOSALS FOR RESPONSE ACTIONS.—The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

(c) TECHNICAL REVIEW COMMITTEE.—Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of any such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

(2)(A) The Secretary shall prescribe regulations regarding the establishment, characteristics, composition, and funding of restoration advisory boards pursuant to this subsection.

(B) The issuance of regulations under subparagraph (A) shall not be a precondition to the establishment of restoration advisory boards under this subsection.

(C) Chapter 10 of title 5 shall not apply to a restoration advisory board established under this subsection.

(3) The Secretary may authorize the commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to pay routine administrative expenses of a restoration advisory board established for that installation. Such payments shall be made from funds available under subsection (g).

(e) TECHNICAL ASSISTANCE.—(1) The Secretary may, upon the request of the technical review committee for an installation, restoration advisory board for an installation, community concerned with respect to an installation, or individual member of such community, authorize the commander of the installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to obtain from covered sources technical assistance for the committee, advisory board, community, or individual (as the case may be) to

interpret scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted, at the installation. The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) shall use funds made available under subsection (g) for obtaining assistance under this paragraph.

(2) The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) may obtain technical assistance under paragraph (1) for a technical review committee, restoration advisory board, community, or individual only if the technical assistance—

(A) is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; or

(B) is a service described in paragraph (3).

(3) A service described in this paragraph is a service to improve public participation in, or assist in the navigation of, environmental restoration activities at an installation by the community concerned or an individual member of such community, including with respect to the following:

(A) The interpretation of site-related documents, including documents concerning the nature of a release or threatened release at the installation, monitoring, testing plans, and reports associated with site assessment and characterization at the installation.

(B) The interpretation of health-related information.

(C) The interpretation of documents, plans, proposed actions, and final decisions relating to—

(i) an interim remedial action;

(ii) a remedial investigation or feasibility study;

(iii) a record of decision;

(iv) a remedial design;

(v) the selection and construction of remedial action;

(vi) operation and maintenance;

(vii) a five-year review at the installation; or

(viii) a removal action at the installation.

(D) Assistance with the preparation of public comments.

(E) The development of outreach materials to improve public participation.

(F) The provision of advice and guidance regarding additional technical assistance for which the community or individual, as the case may be, may be eligible.

(4) In this subsection, the term "covered source" means a private sector source, a Federal department or agency other than the Department of Defense (pursuant to a Federal interagency agreement), or a nonprofit entity (pursuant to a cooperative agreement entered into with such entity).

(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation (or group of installations), the Secretary shall consult with and seek the advice of the committee or board on the following issues:

(1) Identifying environmental restoration activities and projects at the installation or installations.

(2) Monitoring progress on these activities and projects.

(3) Collecting information regarding restoration priorities for the installation or installations.

(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation or installations.

(5) Developing environmental restoration strategies for the installation or installations.

(g) FUNDING.—The Secretary shall, to the extent provided in appropriations Acts, make funds available for administrative expenses and technical assistance under this section using funds in the

following accounts:

(1) In the case of a military installation not approved for closure pursuant to a base closure law, the environmental restoration account concerned under section 2703(a) of this title.

(2) In the case of an installation approved for closure pursuant to such a law, the Department of Defense Base Closure Account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(Added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 103–337, div. A, title III, §326(a)–(c), Oct. 5, 1994, 108 Stat. 2712, 2713; Pub. L. 104–106, div. A, title III, §324(a)–(d)(1), (e), Feb. 10, 1996, 110 Stat. 252–254; Pub. L. 104–201, div. A, title III, §322(c), Sept. 23, 1996, 110 Stat. 2479; Pub. L. 108–136, div. A, title III, §317(b), title X, §1043(c)(5), Nov. 24, 2003, 117 Stat. 1432, 1612; Pub. L. 112–239, div. B, title XXVII, §2711(c)(4)(C), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 117–286, §4(a)(53), Dec. 27, 2022, 136 Stat. 4311; Pub. L. 118–31, div. A, title III, §313, Dec. 22, 2023, 137 Stat. 215.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (e)(1). Pub. L. 118–31, §313(1), substituted "upon the request of the technical review committee for an installation, restoration advisory board for an installation, community concerned with respect to an installation, or individual member of such community" for "upon the request of the technical review committee or restoration advisory board for an installation" and "to obtain from covered sources technical assistance for the committee, advisory board, community, or individual (as the case may be) to interpret" for "to obtain for the committee or advisory board, as the case may be, from private sector sources technical assistance for interpreting".

Subsec. (e)(2). Pub. L. 118–31, §313(2), substituted "technical review committee, restoration advisory board, community, or individual only if the technical assistance—" and subpars. (A) and (B) for "technical review committee or restoration advisory board only if—

"(A) the technical review committee or restoration advisory board demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation, and available Department of Defense personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

"(B) the technical assistance—

"(i) is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

"(ii) is likely to contribute to community acceptance of environmental restoration activities at the installation."

Subsec. (e)(3), (4). Pub. L. 118–31, §313(3), added pars. (3) and (4).

**2022**—Subsec. (d)(2)(C). Pub. L. 117–286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)".

**2013**—Subsec. (g)(2). Pub. L. 112–239 substituted "Closure Account" for "Closure Account 1990".

**2003**—Subsec. (d)(2)(C). Pub. L. 108–136, §317(b), added subpar. (C).

Subsec. (h). Pub. L. 108–136, §1043(c)(5), struck out heading and text of subsec. (h). Text read as follows: "In this section, the term 'base closure law' means the following:

"(1) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(3) Section 2687 of this title."

**1996**—Subsec. (d)(2). Pub. L. 104–106, §324(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall prescribe regulations regarding the characteristics, composition, funding, and establishment of restoration advisory boards pursuant to this subsection. However, the issuance of regulations shall not be a precondition to the establishment of a restoration advisory board or affect the existence or operation of a restoration advisory board established before the date of the enactment of this section."

Subsec. (d)(3). Pub. L. 104–106, §324(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Secretary may provide for the payment of routine administrative expenses of a restoration

advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(3)."

Subsec. (e). Pub. L. 104–106, §324(c), added subsec. (e) and struck out former subsec. (e) which authorized Secretary to make technical assistance grants under section 9617(e) of title 42 in connection with installations containing facilities listed on the National Priorities List and to make funds available to facilitate participation on technical review committees and restoration advisory boards relating to environmental restoration activities at other installations.

Subsec. (g). Pub. L. 104–106, §324(d)(1), added subsec. (g).

Subsec. (g)(1). Pub. L. 104–201 substituted "the environmental restoration account concerned" for "the Defense Environmental Restoration Account established".

Subsec. (h). Pub. L. 104–106, §324(e), added subsec. (h).

**1994**—Subsecs. (d) to (f). Pub. L. 103–337 added subsecs. (d) to (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113–76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112–239, set out as a note under section 2701 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 322(e) of Pub. L. 104–201, set out as a note under section 2703 of this title.

### REQUIREMENTS FOR RESTORATION ADVISORY BOARDS AND EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 108–136, div. A, title III, §317(a), Nov. 24, 2003, 117 Stat. 1432, provided that: "The Secretary of Defense shall amend the regulations required by section 2705(d)(2) of title 10, United States Code, relating to the establishment, characteristics, composition, and funding of restoration advisory boards to ensure that each restoration advisory board complies with the following requirements:

"(1) Each restoration advisory board shall be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

"(2) Unless a closed or partially closed meeting is determined to be proper in accordance with one or more of the exceptions listed in section 552b(c) of title 5, United States Code, each meeting of a restoration advisory board shall be—

"(A) held at a reasonable time and in a manner or place reasonably accessible to the public, including individuals with disabilities; and

"(B) open to the public.

"(3) Timely notice of each meeting of a restoration advisory board shall be published in a local newspaper of general circulation.

"(4) Interested persons may appear before or file statements with a restoration advisory board, subject to such reasonable restrictions as the Secretary may prescribe.

"(5) Subject to section 552 of title 5, United States Code, the records, reports, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to, prepared for, or prepared by each restoration advisory board shall be available for public inspection and copying at a single, publicly accessible location, such as a public library or an appropriate office of the military installation for which the restoration advisory board is established, at least until the restoration advisory board is terminated.

"(6) Detailed minutes of each meeting of each restoration advisory board shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the restoration advisory board. The accuracy of the minutes of a restoration advisory board shall be certified by the chairperson of the board."

### IMPLEMENTATION REQUIREMENTS FOR RESTORATION ADVISORY BOARDS

Pub. L. 103–337, div. A, title III, §326(d), Oct. 5, 1994, 108 Stat. 2713, provided that: "Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish restoration advisory boards, the Secretary shall—

"(1) prescribe the regulations required under subsection (d)(2) of section 2705 of title 10, United States Code, as added by subsection (a); and

"(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as added by subsection (b)."

**REPORT ON RESTORATION ADVISORY BOARDS AND ASSISTANCE FOR CITIZEN PARTICIPATION ON COMMITTEES AND BOARDS**

Pub. L. 103–337, div. A, title III, §326(e), Oct. 5, 1994, 108 Stat. 2713, directed Secretary of Defense to submit, not later than May 1, 1996, report regarding establishment of restoration advisory boards under subsections (d) and (e) of this section and the expenditure of funds for assistance for citizen participation on technical review committees under subsection (e) of this section.

**RESTRICTIONS ON ADMINISTRATIVE AND TECHNICAL ASSISTANCE FUNDING**

Pub. L. 104–106, div. A, title III, §324(d)(2), Feb. 10, 1996, 110 Stat. 254, provided that:

"(2)(A) Subject to subparagraph (B), the total amount of funds made available under section 2705(g) of title 10, United States Code, as added by paragraph (1), for fiscal year 1996 may not exceed $6,000,000.

"(B) Amounts may not be made available under subsection (g) of such section 2705 after September 15, 1996, unless the Secretary of Defense publishes proposed final or interim final regulations required under subsection (d) of such section, as amended by subsection (a)."

## [§2706. Repealed. Pub. L. 112–81, div. A, title X, §1061(22)(A), Dec. 31, 2011, 125 Stat. 1584]

Section, added Pub. L. 99–499, title II, §211(a)(1)(B), Oct. 17, 1986, 100 Stat. 1724; amended Pub. L. 101–189, div. A, title III, §357(a)(1), (2)(A), Nov. 29, 1989, 103 Stat. 1426, 1427; Pub. L. 101–510, div. A, title III, §§341, 342(a), Nov. 5, 1990, 104 Stat. 1536, 1537; Pub. L. 103–160, div. A, title X, §1001(a)–(d), Nov. 30, 1993, 107 Stat. 1742–1744; Pub. L. 103–337, div. A, title X, §1070(b)(9), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 104–106, div. A, title III, §324(f), Feb. 10, 1996, 110 Stat. 254; Pub. L. 104–201, div. A, title III, §321, Sept. 23, 1996, 110 Stat. 2477; Pub. L. 105–85, div. A, title III, §§344(a), 345, Nov. 18, 1997, 111 Stat. 1688; Pub. L. 105–261, div. A, title III, §325, Oct. 17, 1998, 112 Stat. 1965; Pub. L. 106–65, div. A, title III, §§322, 323(c)(1), Oct. 5, 1999, 113 Stat. 560, 563; Pub. L. 107–107, div. A, title III, §315, Dec. 28, 2001, 115 Stat. 1053; Pub. L. 109–163, div. A, title III, §311, Jan. 6, 2006, 119 Stat. 3190, related to annual reports by the Secretary of Defense to Congress regarding environmental restoration activities, environmental quality programs and other environmental activities, and the Department of Defense's environmental technology program.

## §2707. Environmental restoration projects for environmental responses

(a) ENVIRONMENTAL RESTORATION PROJECTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

(b) TREATMENT OF PROJECT.—Any construction, development, conversion, or extension of a structure, and any installation of equipment, that is included in an environmental restoration project under this section may not be considered military construction (as that term is defined in section 2801(a) of this title).

(c) SOURCE OF FUNDS.—Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

(d) ENVIRONMENTAL RESTORATION PROJECT DEFINED.—In this section, the term "environmental restoration project" includes any construction, development, conversion, or extension of a structure, or installation of equipment, in direct support of a response.

(Added Pub. L. 107–314, div. A, title III, §313(a)(2), Dec. 2, 2002, 116 Stat. 2507; amended Pub. L. 116–92, div. A, title III, §316(a), Dec. 20, 2019, 133 Stat. 1304; Pub. L. 116–283, div. A, title III, §314(a), Jan. 1, 2021, 134 Stat. 3514; Pub. L. 118–31, div. A, title III, §312(f)(1), Dec. 22, 2023, 137

Stat. 215.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2707 was renumbered section 2700 of this title.

**AMENDMENTS**

**2023**—Subsec. (e). Pub. L. 118–31 struck out subsec. (e). Text read as follows:

"(1) Notwithstanding subsection (a) of this section and section 2701(c)(1) of this title, the Secretary concerned may use funds described in subsection (c) to carry out an environmental restoration project at a facility where military activities are conducted by the National Guard of a State under title 32 in response to perfluorooctanoic acid or perfluorooctane sulfonate contamination under this chapter or CERCLA.

"(2) The Secretary concerned may use the authority under section 2701(d) of this title to carry out environmental restoration projects under paragraph (1)."

**2021**—Subsec. (e). Pub. L. 116–283 designated existing provisions as par. (1), inserted "where military activities are conducted by the National Guard of a State under title 32" after "facility", and added par. (2).

**2019**—Subsec. (e). Pub. L. 116–92 added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SAVINGS CLAUSE**

Nothing in amendment by section 316 of Pub. L. 116–92 to affect any requirement or authority under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), see section 316(d) of Pub. L. 116–92, set out as a note under section 2700 of this title.

## §2708. Contracts for handling hazardous waste from defense facilities

(a) REIMBURSEMENT REQUIREMENT.—(1) Each contract or subcontract to which this section applies shall provide that, upon receipt of hazardous wastes properly characterized pursuant to applicable laws and regulations, the contractor or subcontractor will reimburse the Federal Government for all liabilities incurred by, penalties assessed against, costs incurred by, and damages suffered by, the Government that are caused by—

(A) the contractor's or subcontractor's breach of any term or provision of the contract or subcontract; and

(B) any negligent or willful act or omission of the contractor or subcontractor, or the employees of the contractor or subcontractor, in the performance of the contract or subcontract.

(2) Not later than 30 days after such a contract or subcontract is awarded, the contractor or subcontractor shall demonstrate that the contractor or subcontractor will reimburse the Federal Government as provided in paragraph (1).

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies to each contract entered into by the Secretary of Defense or the Secretary of a military department, and any subcontract under any such contract, with an owner or operator of a hazardous waste treatment or disposal facility during fiscal years 1992 through 1996 for the offsite treatment or disposal of hazardous wastes from a facility under the jurisdiction of the Secretary of Defense.

(2) This section does not apply to—

(A) any contract or subcontract to perform remedial action or corrective action under the Defense Environmental Restoration Program, other programs or activities of the Department of Defense, or authorized State hazardous waste programs;

(B) any contract or subcontract under which the generation of the hazardous waste to be disposed of is incidental to the performance of the contract; or

(C) any contract or subcontract to dispose of ammunition or solid rocket motors.

(c) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Notwithstanding subsection (a), in the case of any contract to which this section applies, if the Secretary of Defense or the Secretary of the military department concerned determines that—

(1) there is only one responsible offeror or there is no responsible offeror willing to provide the reimbursement required by subsection (a) for such contract; or

(2) failure to award the contract would place the facility concerned in violation of any requirement of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.),

then the contract may be awarded without including the reimbursement provision required by subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term "hazardous waste" has the meaning given that term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls.

(2) The term "remedial action" has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(3) The term "corrective action" has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

(4) The term "polychlorinated biphenyls" has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) EFFECT ON LIABILITY.—Nothing in this section shall affect the liability of the Federal Government under any Federal or State law or under common law.

(Added Pub. L. 102–190, div. A, title III, §331(a)(1), Dec. 5, 1991, 105 Stat. 1339; amended Pub. L. 102–484, div. A, title III, §321, title X, §1052(36), Oct. 23, 1992, 106 Stat. 2365, 2501; Pub. L. 103–160, div. A, title X, §1004, Nov. 30, 1993, 107 Stat. 1748.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c)(2), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

### AMENDMENTS

**1993**—Subsec. (b)(1). Pub. L. 103–160 substituted "fiscal years 1992 through 1996" for "fiscal years 1992 and 1993".

**1992**—Subsec. (b)(1). Pub. L. 102–484, §1052(36)(A), substituted "each contract" for "all contracts" and "any subcontract under any such contract" for "all subcontracts under such contracts".

Pub. L. 102–484, §321, substituted "fiscal years 1992 and 1993" for "fiscal year 1992".

Subsec. (d). Pub. L. 102–484, §1052(36)(B), substituted "In" for "For purposes of" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 102–190, div. A, title III, §331(b), Dec. 5, 1991, 105 Stat. 1340, provided that: "Section 2708 of title 10, United States Code, shall apply with respect to contracts entered into after the expiration of the 60-day period beginning on the date of the enactment of this Act [Dec. 5, 1991]."

## §2709. Investment control process for environmental technologies

(a) INVESTMENT CONTROL PROCESS.—The Secretary of Defense shall ensure that the technology planning process developed to implement section 4811 of this title and section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2469) provides for an investment control process for the selection, prioritization, management, and evaluation of environmental technologies by the Department of Defense, the military departments, and the Defense Agencies.

(b) PLANNING AND EVALUATION.—The environmental technology investment control process required by subsection (a) shall provide, at a minimum, for the following:

(1) The active participation by end-users of environmental technology, including the officials responsible for the environmental security programs of the Department of Defense and the military departments, in the selection and prioritization of environmental technologies.

(2) The development of measurable performance goals and objectives for the management and development of environmental technologies and specific mechanisms for assuring the achievement of the goals and objectives.

(3) Annual performance reviews to determine whether the goals and objectives have been achieved and to take appropriate action in the event that they are not achieved.

(Added Pub. L. 106–65, div. A, title III, §323(b)(1), Oct. 5, 1999, 113 Stat. 562; amended Pub. L. 116–283, div. A, title XVIII, §1867(e)(2), Jan. 1, 2021, 134 Stat. 4282.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2469), referred to in subsec. (a), was formerly set out as a note under section 2501 of this title, prior to repeal by Pub. L. 111–84, div. A, title II, §241, Oct 28, 2009, 123 Stat. 2237.

#### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "section 4811" for "section 2501".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### PURPOSES OF SECTION 323 OF PUB. L. 106–65

Pub. L. 106–65, div. A, title III, §323(a), Oct. 5, 1999, 113 Stat. 562, provided that: "The purposes of this section [enacting this section, amending section 2706 of this title, and enacting provisions set out as a note under section 2706 of this title] are—

"(1) to hold the Department of Defense and the military departments accountable for achieving performance-based results in the management of environmental technology by providing a connection between program direction and the achievement of specific performance-based results;

"(2) to assure the identification of end-user requirements for environmental technology within the military departments;

"(3) to assure results, quality of effort, and appropriate levels of service and support for end-users of environmental technology within the military departments; and

"(4) to promote improvement in the performance of environmental technologies by establishing objectives for environmental technology programs, measuring performance against such objectives, and making public reports on the progress made in such performance."

## §2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges)

(a) INVENTORY REQUIRED.—(1) The Secretary of Defense shall develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents.

(2) The information in the inventory for each defense site shall include, at a minimum, the following:

(A) A unique identifier for the defense site.

(B) An appropriate record showing the location, boundaries, and extent of the defense site, including identification of the State and political subdivisions of the State, including the county, where applicable, in which the defense site is located and any Tribal lands encompassed by the defense site.

(C) Known persons and entities, other than a military department, with any current ownership interest or control of lands encompassed by the defense site.

(D) Any restrictions or other land use controls currently in place at the defense site that might affect the potential for public and environmental exposure to the unexploded ordnance, discarded military munitions, or munitions constituents.

(b) SITE PRIORITIZATION.—(1) The Secretary shall develop, in consultation with representatives of the States and Indian Tribes, a proposed protocol for assigning to each defense site a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents based on the overall conditions at the defense site. After public notice and comment on the proposed protocol, the Secretary shall issue a final protocol and shall apply the protocol to defense sites listed on the inventory. The level of response priority assigned the site shall be included with the information required by subsection (a)(2).

(2) In assigning the response priority for a defense site on the inventory, the Secretary shall primarily consider factors relating to safety and environmental hazard potential, such as the following:

(A) Whether there are known, versus suspected, unexploded ordnance, discarded military munitions, or munitions constituents on all or any portion of the defense site and the types of unexploded ordnance, discarded military munitions, or munitions constituents present or suspected to be present.

(B) Whether public access to the defense site is controlled, and the effectiveness of these controls.

(C) The potential for direct human contact with unexploded ordnance, discarded military munitions, or munitions constituents at the defense site and evidence of people entering the site.

(D) Whether a response action has been or is being undertaken at the defense site under the Formerly Used Defense Sites program or other program.

(E) The planned or mandated dates for transfer of the defense site from military control.

(F) The extent of any documented incidents involving unexploded ordnance, discarded military munitions, or munitions constituents at or from the defense site, including incidents involving explosions, discoveries, injuries, reports, and investigations.

(G) The potential for drinking water contamination or the release of munitions constituents into the air.

(H) The potential for destruction of sensitive ecosystems and damage to natural resources.

(3) The priority assigned to a defense site included on the inventory shall not impair, alter, or diminish any applicable Federal or State authority to establish requirements for the investigation of, and response to, environmental problems at the defense site.

(c) UPDATES AND AVAILABILITY.—(1) The Secretary shall annually update the inventory and site prioritization list to reflect new information that becomes available. The inventory shall be available in published and electronic form.

(2) The Secretary shall work with communities adjacent to a defense site to provide information concerning conditions at the site and response activities. At a minimum, the Secretary shall provide the site inventory information and site prioritization list to appropriate Federal, State, tribal, and local

officials, and, to the extent the Secretary considers appropriate, to civil defense or emergency management agencies and the public.

(d) EXCEPTIONS.—This section does not apply to the following:

(1) Any locations outside the United States.

(2) The presence of military munitions resulting from combat operations.

(3) Operating storage and manufacturing facilities.

(4) Operational ranges.

(e) DEFINITIONS.—In this section:

(1) The term "defense site" applies to locations that are or were owned by, leased to, or otherwise possessed or used by the Department of Defense. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions.

(2) The term "discarded military munitions" means military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of, consistent with applicable environmental laws and regulations.

(3) The term "munitions constituents" means any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and nonexplosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions.

(4) The term "possessions" includes Johnston Atoll, Kingman Reef, Midway Island, Nassau Island, Palmyra Island, and Wake Island.

(5) The term "Secretary" means the Secretary of Defense.

(6) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions.

(7) The term "United States", in a geographic sense, means the States, territories, and possessions and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.

(Added Pub. L. 107–107, div. A, title III, §311(a)(1), Dec. 28, 2001, 115 Stat. 1048; amended Pub. L. 108–136, div. A, title X, §1042(b), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 111–84, div. A, title III, §318(a), Oct. 28, 2009, 123 Stat. 2250.)

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsec. (a)(2)(B). Pub. L. 111–84 inserted ", including the county, where applicable," after "political subdivisions of the State".

**2003**—Subsec. (e). Pub. L. 108–136 redesignated pars. (4), (6), (7), (8), and (10) as (3) to (7), respectively, and struck out former pars. (3), (5), and (9) which defined terms "military munitions", "operational range", and "unexploded ordnance", respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### EXPEDITED USE OF APPROPRIATE TECHNOLOGY RELATED TO UNEXPLODED

## ORDNANCE DETECTION

Pub. L. 110–417, [div. A], title III, §314, Oct. 14, 2008, 122 Stat. 4410, as amended by Pub. L. 111–84, div. A, title X, §1073(c)(1), Oct. 28, 2009, 123 Stat. 2474, provided that:

"(a) EXPEDITED USE OF APPROPRIATE TECHNOLOGIES.—The Secretary of Defense shall expedite the use of appropriate unexploded ordnance detection instrument technology developed through research funded by the Department of Defense or developed by entities other than the Department of Defense.

"(b) REPORT.—Not later than October 1, 2009, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing and evaluating the following:

"(1) The amounts allocated for research, development, test, and evaluation for unexploded ordnance detection technologies.

"(2) The amounts allocated for transition of new unexploded ordnance detection technologies.

"(3) Activities undertaken by the Department to transition such technologies and train operators on emerging detection instrument technologies.

"(4) Any impediments to the transition of new unexploded ordnance detection instrument technologies to regular operation in remediation programs.

"(5) The transfer of such technologies to private sector entities involved in the detection of unexploded ordnance.

"(6) Activities undertaken by the Department to raise public awareness regarding unexploded ordnance.

"(c) UNEXPLODED ORDNANCE DEFINED.—In this section, the term 'unexploded ordnance' has the meaning given such term in section 101(e)(5) of title 10, United States Code [now 10 U.S.C. 101(f)(5)]."

[Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(1) to section 314 of Pub. L. 110–417, set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 therein as enacted.]

## RESPONSE PLAN FOR REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS

Pub. L. 109–364, div. A, title III, §313(a)–(d), Oct. 17, 2006, 120 Stat. 2138, 2139, provided that:

"(a) PERFORMANCE GOALS FOR REMEDIATION.—The Secretary of Defense shall set the following remediation goals with regard to unexploded ordnance, discarded military munitions, and munitions constituents:

"(1) To complete, by not later than September 30, 2007, preliminary assessments of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

"(2) To complete, by not later than September 30, 2010, site inspections of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

"(3) To achieve, by not later than September 30, 2009, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all military installations closed or realigned as part of a round of defense base closure and realignment occurring prior to the 2005 round.

"(4) To achieve, by a date certain established by the Secretary of Defense, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges) and all military installations realigned or closed under the 2005 round of defense base closure and realignment.

"(b) RESPONSE PLAN REQUIRED.—

"(1) IN GENERAL.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan for addressing the remediation of unexploded ordnance, discarded military munitions, and munitions constituents at current and former defense sites (other than operational ranges).

"(2) CONTENT.—The plan required by paragraph (1) shall include—

"(A) a schedule, including interim goals, for achieving the goals described in paragraphs (1) through (3) of subsection (a), based upon the Munitions Response Site Prioritization Protocol established by the Department of Defense;

"(B) such interim goals as the Secretary determines feasible for efficiently achieving the goal required under paragraph (4) of such subsection; and

"(C) an estimate of the funding required to achieve the goals established pursuant to such subsection and the interim goals established pursuant to subparagraphs (A) and (B).

"(3) UPDATES.—Not later than March 15 of 2008, 2009, and 2010, the Secretary shall submit to the congressional defense committees an update of the plan required under paragraph (1). The Secretary may include the update in the report on environmental restoration activities that is submitted to Congress under [former] section 2706(a) of title 10, United States Code, in the year in which that update is required and may include in the update any adjustment to the remediation goals established under subsection (a) that the Secretary determines necessary to respond to unforeseen circumstances.

"(c) REPORT ON REUSE STANDARDS AND PRINCIPLES.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the status of the efforts of the Department of Defense to achieve agreement with relevant regulatory agencies on appropriate reuse standards or principles, including—

"(1) a description of any standards or principles that have been agreed upon; and

"(2) a discussion of any issues that remain in disagreement, including the impact that any such disagreement is likely to have on the ability of the Department of Defense to carry out the response plan required by subsection (b).

"(d) DEFINITIONS.—In this section:

"(1) The terms 'unexploded ordnance' and 'operational range' have the meanings given such terms in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

"(2) The terms 'discarded military munitions', 'munitions constituents', and 'defense site' have the meanings given such terms in section 2710(e) of such title."

## RESEARCH ON EFFECTS OF OCEAN DISPOSAL OF MUNITIONS

Pub. L. 109–364, div. A, title III, §314, Oct. 17, 2006, 120 Stat. 2139, provided that:

"(a) IDENTIFICATION OF DISPOSAL SITES.—

"(1) HISTORICAL REVIEW.—The Secretary of Defense shall conduct a historical review of available records to determine the number, size, and probable locations of sites where the Armed Forces disposed of military munitions in coastal waters. The historical review shall, to the extent possible, identify the types of munitions at individual sites.

"(2) COOPERATION.—The Secretary shall request the assistance of the Coast Guard, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies in conducting the review required by this subsection.

"(3) INTERIM REPORTS.—The Secretary shall periodically, but no less often than annually, release any new information obtained during the historical review conducted under paragraph (1). The Secretary may withhold from public release the exact nature and locations of munitions the potential unauthorized retrieval of which could pose a significant threat to the national defense or public safety.

"(4) INCLUSION OF INFORMATION IN ANNUAL REPORT ON ENVIRONMENTAL RESTORATION ACTIVITIES.—The Secretary shall include the information obtained pursuant to the review conducted under paragraph (1) in the annual report on environmental restoration activities submitted to Congress under [former] section 2706 of title 10, United States Code.

"(5) FINAL REPORT.—The Secretary shall complete the historical review required under paragraph (1) and submit a final report on the findings of such review in the annual report on environmental restoration activities submitted to Congress for fiscal year 2009.

"(b) IDENTIFICATION OF NAVIGATIONAL AND SAFETY HAZARDS.—

"(1) IDENTIFICATION OF HAZARDS.—The Secretary of Defense shall provide available information to the Secretary of Commerce to assist the National Oceanic and Atmospheric Administration in preparing nautical charts and other navigational materials for coastal waters that identify known or potential hazards posed by disposed military munitions to private activities, including commercial shipping and fishing operations.

"(2) CONTINUATION OF INFORMATION ACTIVITIES.—The Secretary of Defense shall continue activities to inform potentially affected users of the ocean environment, particularly fishing operations, of the possible hazards from contact with disposed military munitions and the proper methods to mitigate such hazards.

"(c) RESEARCH.—

"(1) IN GENERAL.—The Secretary of Defense shall continue to conduct research on the effects on the ocean environment and those who use it of military munitions disposed of in coastal waters.

"(2) SCOPE.—Research under paragraph (1) shall include—

"(A) the sampling and analysis of ocean waters and sea beds at or adjacent to military munitions disposal sites selected pursuant to paragraph (3) to determine whether the disposed military munitions have caused or are causing contamination of such waters or sea beds;

"(B) investigation into the long-term effects of seawater exposure on disposed military munitions, particularly effects on chemical munitions;

"(C) investigation into the impacts any such contamination may have on the ocean environment and those who use it, including public health risks;

"(D) investigation into the feasibility of removing or otherwise remediating the military munitions; and

"(E) the development of effective safety measures for dealing with such military munitions.

"(3) RESEARCH CRITERIA.—In conducting the research required by this subsection, the Secretary shall ensure that the sampling, analysis, and investigations are conducted at representative sites, taking into account factors such as depth, water temperature, nature of the military munitions present, and relative proximity to onshore populations. In conducting such research, the Secretary shall select at least two representative sites each in the areas of the Atlantic coast, the Pacific coast (including Alaska), and the Hawaiian Islands.

"(4) AUTHORITY TO MAKE GRANTS AND ENTER INTO COOPERATIVE AGREEMENTS .—In conducting research under this subsection, the Secretary may make grants to, and enter into cooperative agreements with, qualified research entities.

"(d) MONITORING.—If the historical review required by subsection (a) or the research required by subsection (c) indicates that contamination is being released into the ocean waters from disposed military munitions at a particular site or that the site poses a significant public health or safety risk, the Secretary of Defense shall institute appropriate monitoring mechanisms at that site and report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on any additional measures that may be necessary to address the release or risk, as applicable.

"(e) DEFINITIONS.—In this section:

"(1) The term 'coastal waters' means that part of the ocean extending from the coast line of the United States to the outer boundary of the outer Continental Shelf.

"(2) The term 'coast line' has the meaning given that term in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

"(3) The term 'military munitions' has the meaning given that term in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

"(4) The term 'outer Continental Shelf' has the meaning given that term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))."

**INITIAL INVENTORY**

Pub. L. 107–107, div. A, title III, §311(b), Dec. 28, 2001, 115 Stat. 1051, provided that: "The requirements of section 2710 of title 10, United States Code, as added by subsection (a), shall be implemented as follows:

"(1) The initial inventory required by subsection (a) of such section shall be completed not later than May 31, 2003.

"(2) The proposed prioritization protocol required by subsection (b) of such section shall be available for public comment not later than November 30, 2002."

## §2711. Annual report on defense environmental programs

(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report on progress made by environmental programs of the Department of Defense during the preceding fiscal year.

(b) ELEMENTS.—Each report under subsection (a) shall include, for the year covered by the report, the following:

(1) With respect to environmental restoration activities of the Department of Defense, and for each of the military departments, information on the Defense Environmental Restoration Program under section 2701 of this title, including—

(A) the total number of sites at which such program was carried out;

(B) the progress of remediation for sites that have not yet completed cleanup;

(C) the remaining cost to complete cleanup of known sites, including information on the costs

associated with investigating and remediating releases of per- and polyfluoroalkyl substances, including—

(i) detailed information regarding the total potential cost to the Department of investigating and remediating such releases at all locations where investigation and remediation is expected to be funded by the Department; and

(ii) the cost-to-complete analysis required under subsection (d); and

(D) an assessment by the Secretary of Defense of the overall progress of such program.

(2) An assessment by the Secretary of achievements for environmental conservation and planning by the Department.

(3) An assessment by the Secretary of achievements for environmental compliance by the Department.

(4) An assessment by the Secretary of achievements for climate resiliency by the Department.

(5) An assessment by the Secretary of the progress made by the Department in achieving the objectives and goals of the Environmental Technology Program of the Department.

(c) CONSOLIDATION.—The Secretary of Defense may consolidate, attach with, or otherwise include in any report required under subsection (a) any annual report or other requirement that is aligned or associated with, or would be better understood if presented as part of a consolidated report addressing environmental restoration, compliance, and resilience.

(d) PFAS COST-TO-COMPLETE ANALYSIS.—The Secretary shall carry out an annual cost-to-complete analysis with respect to the most important contributors to the costs to the Department of investigating and remediating per- and polyfluoroalkyl substances releases that—

(1) includes—

(A) an assessment of any changes in regulatory standards, treatment technologies, and site prioritization that could affect the cost to complete;

(B) examples of how modifying assumptions about contamination extent, remediation timelines, or emerging disposal methods could affect the cost to complete; and

(C) an identification of any funding shortfalls or other constraints that could affect the investigation and remediation of such contamination; and

(2) incorporates a risk and uncertainty analysis with respect to the effects of potential changes in the most important contributors to the costs to the Department to complete the known per- and polyfluoroalkyl substances sites, including—

(A) variability in the extent of such contamination based on ongoing site assessments, inspections, and investigations;

(B) shifts in regulatory requirements that could alter investigation and remediation strategies; and

(C) advances in technologies for the treatment and disposal such contamination that could reduce or increase long-term costs.

(Added Pub. L. 112–81, div. A, title III, §317(a), Dec. 31, 2011, 125 Stat. 1359; amended Pub. L. 117–263, div. A, title III, §314(a), Dec. 23, 2022, 136 Stat. 2503; Pub. L. 119–60, div. A, title III, §311, Dec. 18, 2025, 139 Stat. 803.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1)(C). Pub. L. 119–60, §311(1), substituted "sites, including information on the costs associated with investigating and remediating releases of per- and polyfluoroalkyl substances, including—" for "sites; and" and added cls. (i) and (ii).

Subsec. (d). Pub. L. 119–60, §311(2), added subsec. (d).

**2022**—Pub. L. 117–263 added subsecs. (a) to (c) and struck out former subsecs. (a) and (b) which related to

report required and definitions, respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REPORTING ON LEAD SERVICE LINES AND LEAD PLUMBING**

Pub. L. 117–263, div. B, title XXVIII, §2853, Dec. 23, 2022, 136 Stat. 3009, provided that:

"(a) INITIAL REPORT.—Not later than January 1, 2025, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) a list of military installations (including Government-owned family housing facilities), military housing, and privatized military housing projects that, as of the date of the report, are being serviced by lead service lines or lead plumbing for the purposes of receiving drinking water;

"(2) an evaluation of whether military installations and privatized military housing projects are in compliance with the Lead and Copper Rule and, to the extent that such installations and projects are not in compliance, an identification of—

"(A) the name and location of each such installation or project that is not in compliance; and

"(B) the timeline and plan for bringing each such installation or project into compliance; and

"(3) an identification of steps and resources needed to remove any remaining lead plumbing from military installations and housing.

"(b) INCLUSION OF INFORMATION IN ANNUAL REPORT.—If, after reviewing the initial report required under subsection (a), the Secretary of Defense finds that any military installation or privatized family housing project is not in compliance with the Lead and Copper Rule, the Secretary shall include in the annual report on defense environmental programs required under section 2711 of title 10, United States Code, for each year after the year in which the initial report is submitted, an update on the efforts of the Secretary, including negotiations with privatized military family housing providers, to fully comply with the Lead and Copper Rule."

## §2712. Reporting on usage and spills of aqueous film-forming foam

(a) IN GENERAL.—Not later than 48 hours after the Deputy Assistant Secretary of Defense for Environment receives notice of the usage or spill of aqueous film forming foam, either as concentrate or mixed foam, at any military installation, the Deputy Assistant Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives notice of a usage or spill of greater than 10 gallons of concentrate, or greater than 300 gallons of mixed foam. Each such notice shall include each of the following information:

(1) The name of the installation where the usage or spill occurred.

(2) The date on which the usage or spill occurred.

(3) The amount, type, and specified concentration of aqueous film-forming foam that was used or spilled.

(4) The cause of the usage or spill.

(5) A summary narrative of the usage or spill.

(b) ACTION PLAN.—Not later than 60 days after submitting notice of a usage or spill under subsection (a), the Deputy Assistant Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives an action plan for addressing such usage or spill. The action plan shall include the following:

(1) A description of what actions have been taken to arrest and clean up a spill.

(2) A description of any coordination with relevant local and State environmental protection agencies.

(Added Pub. L. 116–283, div. A, title III, §318(a), Jan. 1, 2021, 134 Stat. 3519.)

## §2713. Native American lands environmental mitigation program

(a) ESTABLISHMENT.—The Secretary of Defense may establish and carry out a program to

mitigate the environmental effects of actions by the Department of Defense on Indian lands and on other locations where the Department, an Indian tribe, and the current land owner agree that such mitigation is appropriate.

(b) PROGRAM ACTIVITIES.—The activities that may be carried out under the program established under subsection (a) are the following:

(1) Identification, investigation, and documentation of suspected environmental effects attributable to past actions by the Department of Defense.

(2) Development of mitigation options for such environmental effects, including development of cost-to-complete estimates and a system for prioritizing mitigation actions.

(3) Direct mitigation actions that the Secretary determines are necessary and appropriate to mitigate the adverse environmental effects of past actions by the Department.

(4) Demolition and removal of unsafe buildings and structures used by, under the jurisdiction of, or formerly used by or under the jurisdiction of the Department.

(5) Training, technical assistance, and administrative support to facilitate the meaningful participation of Indian tribes in mitigation actions under the program.

(6) Development and execution of a policy governing consultation with Indian tribes that have been or may be affected by action by the Department, including training personnel of the Department to ensure compliance with the policy.

(c) COOPERATIVE AGREEMENTS.—(1) In carrying out the program established under subsection (a), the Secretary of Defense may enter into a cooperative agreement with an Indian tribe or an instrumentality of tribal government.

(2) Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit of the United States Government.

(3) A cooperative agreement under this section for the procurement of severable services may begin in one fiscal year and end in another fiscal year only if the total period of performance does not exceed five calendar years.

(d) DEFINITIONS.—In this section:

(1) The term "Indian land" includes—

(A) any land located within the boundaries and a part of an Indian reservation, pueblo, or rancheria;

(B) any land that has been allotted to an individual Indian but has not been conveyed to such Indian with full power of alienation;

(C) Alaska Native village and regional corporation lands; and

(D) lands and waters upon which any federally recognized Indian tribe has rights reserved by treaty, Act of Congress, or action by the President.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) LIMITATION.—Nothing in this section shall be interpreted to require, compel, or otherwise authorize access to any lands without the landowner's consent.

(Added Pub. L. 116–283, div. A, title III, §319(a), Jan. 1, 2021, 134 Stat. 3520; amended Pub. L. 118–159, div. A, title III, §312, Dec. 23, 2024, 138 Stat. 1851.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (d)(2), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For

complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

**AMENDMENTS**

**2024**—Subsec. (c)(3). Pub. L. 118–159 substituted "five calendar years" for "two calendar years".

## §2714. Perfluoroalkyl Substances and Polyfluoroalkyl Substances Task Force

(a) IN GENERAL.—The Secretary of Defense shall establish a task force to address the effects of the release of perfluoroalkyl substances and polyfluoroalkyl substances from activities of the Department of Defense (in this section referred to as the "PFAS Task Force").

(b) MEMBERSHIP.—The members of the PFAS Task Force are the following:

(1) The Assistant Secretary of Defense for Energy, Installations, and Environment.

(2) The Assistant Secretary of the Army for Installations, Energy, and Environment.

(3) The Assistant Secretary of the Navy for Energy, Installations, and Environment.

(4) The Assistant Secretary of the Air Force for Installations, Environment, and Energy.

(5) The Assistant Secretary of Defense for Health Affairs.

(c) CHAIRMAN.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall be the chairman of the PFAS Task Force.

(d) SUPPORT.—The Under Secretary of Defense for Personnel and Readiness and such other individuals as the Secretary of Defense considers appropriate shall support the activities of the PFAS Task Force.

(e) DUTIES.—The duties of the PFAS Task Force are the following:

(1) Monitoring the health aspects of exposure to perfluoroalkyl substances and polyfluoroalkyl substances, as found by the Secretary of Health and Human Services.

(2) Identifying, and funding the procurement of, an effective alternative to firefighting foam containing perfluoroalkyl substances or polyfluoroalkyl substances.

(3) Coordinating within the Department of Defense with respect to mitigating the effects of the release of perfluoroalkyl substances and polyfluoroalkyl substances.

(4) Assessing the perceptions of Congress and the public of the efforts of the Department of Defense with respect to mitigating the effects of the release of perfluoroalkyl substances and polyfluoroalkyl substances from activities of the Department.

(5) Supporting research efforts relating to perfluoroalkyl substances or polyfluoroalkyl substances.

(6) Establishing practices to ensure the timely and complete dissemination of research findings and related data relating to perfluoroalkyl substances or polyfluoroalkyl substances to the general public.

(f) REPORT.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, and annually thereafter through 2029, the Chairman of the PFAS Task Force shall submit to Congress a report on the activities of the task force.

(g) DEFINITIONS.—In this section:

(1) The term "perfluoroalkyl substance" means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

(2) The term "polyfluoroalkyl substance" means a man-made chemical containing a mix of fully fluorinated carbon atoms, partially fluorinated carbon atoms, and nonfluorinated carbon atoms.

(Added Pub. L. 117–81, div. A, title III, §341(a), Dec. 27, 2021, 135 Stat. 1641; amended Pub. L. 117–263, div. A, title III, §341(b), Dec. 23, 2022, 136 Stat. 2529; Pub. L. 118–31, div. A, title III, §331, Dec. 22, 2023, 137 Stat. 221.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (f), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

**AMENDMENTS**

**2023**—Subsec. (f). Pub. L. 118–31 substituted "and annually thereafter through 2029," for "and quarterly thereafter,".

**2022**—Subsec. (e)(5), (6). Pub. L. 117–263 added pars. (5) and (6).

## §2715. Testing for perfluoroalkyl substances and polyfluoroalkyl substances at military installations and facilities of the National Guard

(a) IN GENERAL.—Not later than two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, the Secretary of Defense shall complete preliminary assessment and site inspection testing for perfluoroalkyl substances and polyfluoroalkyl substances at all military installations and facilities of the National Guard located in the United States that are identified as of March 31, 2021, as having a release of perfluoroalkyl substances or polyfluoroalkyl substances.

(b) DETERMINATION OF CONTAMINATION.—Testing conducted under subsection (a) at a military installation or facility of the National Guard shall determine—

(1) whether the installation or facility has contamination from a perfluoroalkyl substance or polyfluoroalkyl substance; and

(2) whether activities in connection with such installation or facility have caused contamination from a perfluoroalkyl substance or polyfluoroalkyl substance outside of such installation or facility.

(c) ADDITIONAL RESPONSE ACTIONS.—Testing conducted under subsection (a) shall provide at least a preliminary basis for determining whether additional environmental response actions are necessary to address contamination from a perfluoroalkyl substance or polyfluoroalkyl substance.

(d) TYPE OF TESTING.—When testing for perfluoroalkyl substances or polyfluoroalkyl substances under subsection (a) or any other provision of law, the Secretary shall use a method to measure for all perfluoroalkyl substances or polyfluoroalkyl substances in drinking water that has been validated by the Administrator of the Environmental Protection Agency.

(e) DEFINITIONS.—In this section:

(1) The term "military installation" has the meaning given such term in section 2801(c)(4) of this title.

(2) The terms "perfluoroalkyl substance" and "polyfluoroalkyl substance" have the meanings given such terms in section 2714 of this title.

(Added Pub. L. 117–81, div. A, title III, §341(a), Dec. 27, 2021, 135 Stat. 1642.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (a), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PUBLIC DISCLOSURE OF RESULTS OF DEPARTMENT OF DEFENSE TESTING OF WATER FOR PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES**

Pub. L. 117–81, div. A, title III, §345, Dec. 27, 2021, 135 Stat. 1645, as amended by Pub. L. 117–263, div. A, title III, §344, Dec. 23, 2022, 136 Stat. 2530; Pub. L. 118–31, div. A, title III, §312(f)(2), Dec. 22, 2023,

137 Stat. 215, provided that:

"(a) PUBLIC DISCLOSURE OF RESULTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 20 days after the receipt of a final result of testing water for perfluoroalkyl or polyfluoroalkyl substances (commonly referred to as 'PFAS') in a covered area, the Secretary of Defense shall publicly disclose such final result, including—

"(A) the results of all such testing conducted in the covered area by the Department of Defense; and

"(B) the results of all such testing conducted in the covered area by a non-Department entity (including any Federal agency and any public or private entity) under a contract, or pursuant to an agreement, with the Department of Defense.

"(2) CONSENT BY PRIVATE PROPERTY OWNERS.—The Secretary of Defense may not publicly disclose personally identifiable information in connection with the results of testing for perfluoroalkyl or polyfluoroalkyl substances conducted on private property without the consent of the property owner.

"(b) PUBLIC DISCLOSURE OF PLANNED TESTING OF WATER.—Not later than 180 days after the date of the enactment of the Act [Dec. 27, 2021], and every 90 days thereafter, the Secretary of Defense shall publicly disclose the anticipated timeline for, and general location of, any planned testing for perfluoroalkyl or polyfluoroalkyl substances proposed to be conducted in a covered area, including—

"(1) all such testing to be conducted by the Department of Defense; and

"(2) all such testing to be conducted by a non-Department entity (including any Federal agency and any public or private entity) under a contract, or pursuant to an agreement, with the Department.

"(c) NATURE OF DISCLOSURE.—The Secretary of Defense may satisfy the disclosure requirements under subsections (a) and (b) by publishing the results and information referred to in such subsections—

"(1) on the publicly available website established under section 331(b) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C 2701 note);

"(2) on another publicly available website of the Department of Defense; or

"(3) in the Federal Register.

"(d) LOCAL NOTIFICATION.—Prior to conducting any testing of water for perfluoroalkyl or polyfluoroalkyl substances, including any testing which has not been planned or publicly disclosed pursuant to subsection (b), the Secretary of Defense shall provide notice of the testing to—

"(1) the managers of the public water system serving the covered area where such testing is to occur;

"(2) the heads of the municipal government serving the covered area where such testing is to occur; and

"(3) as applicable, the members of the restoration advisory board for the military installation where such testing is to occur.

"(e) METHODS FOR TESTING.—In testing water for perfluoroalkyl or polyfluoroalkyl substances, the Secretary of Defense shall adhere to methods for measuring the amount of such substances in drinking water that have been validated by the Administrator of the Environmental Protection Agency.

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered area' means an area in the United States that is located immediately adjacent to and down gradient from a military installation, a formerly used defense site, or a National Guard facility, as such term is defined in section 2700 of title 10, United States Code.

"(2) The term 'formerly used defense site' means any site formerly used by the Department of Defense or National Guard eligible for environmental restoration by the Secretary of Defense funded under the "Environmental Restoration Account, Formerly Used Defense Sites" account established under section 2703(a)(5) of title 10, United States Code.

"(3) The term 'military installation' has the meaning given such term in section 2801(c)(4) of title 10, United States Code.

"(4) The term 'perfluoroalkyl or polyfluoroalkyl substance' means any man-made chemical with at least one fully fluorinated carbon atom.

"(5) The term 'public water system' has the meaning given such term under section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f(4)).

"(6) The term 'restoration advisory board' means a restoration advisory board established pursuant to section 2705(d) of title 10, United States Code."

## §2716. Budget justification document for funding relating to perfluoroalkyl substances and polyfluoroalkyl substances

The Secretary of Defense shall submit to Congress, concurrent with the submission to Congress of the budget of the President for each fiscal year pursuant to section 1105(a) of title 31, a separate budget justification document that consolidates all information pertaining to activities of the Department of Defense relating to perfluoroalkyl substances or polyfluoroalkyl substances, including funding for and descriptions of—

(1) research and development efforts;

(2) testing;

(3) remediation;

(4) contaminant disposal; and

(5) community outreach.

(Added Pub. L. 118–31, div. A, title III, §332, Dec. 22, 2023, 137 Stat. 222.)

# CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY

Sec.

2721. Property records: maintenance on quantitative and monetary basis.

2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury.

2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs.

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Pub. L. 106–65, div. A, title X, §1042(b), Oct. 5, 1999, 113 Stat. 760, added item 2723.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(17)(B), Dec. 5, 1991, 105 Stat. 1473, substituted "Property records: maintenance on quantitative and monetary basis" for "Basis" in item 2721.

**1990**—Pub. L. 101–510, div. A, title XIII, §1331(7), Nov. 5, 1990, 104 Stat. 1673, substituted "Basis" for "Basis: reports" in item 2721.

**1988**—Pub. L. 100–456, div. A, title III, §344(b)(1), Sept. 29, 1988, 102 Stat. 1962, inserted "AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY" in chapter heading and added item 2722.

**1986**—Pub. L. 99–499, title II, §211(a)(3), Oct. 17, 1986, 100 Stat. 1725, redesignated item 2701 as item 2721.

## §2721. Property records: maintenance on quantitative and monetary basis

(a) Under regulations prescribed by him, the Secretary of Defense shall have the records of the fixed property, installations, major equipment items, and stored supplies of the military departments maintained on both a quantitative and a monetary basis, so far as practicable.

(b) The regulations prescribed pursuant to subsection (a) shall include a requirement that the records maintained under such subsection—

(1) to the extent practicable, provide up-to-date information on all items in the inventory of the Department of Defense;

(2) indicate whether the inventory of each item is sufficient or excessive in relation to the needs of the Department for that item; and

(3) permit the Secretary of Defense to include in the budget submitted to Congress under section 1105 of title 31 for each fiscal year, information relating to—

(A) the amounts proposed for each appropriation account in such budget for inventory purchases of the Department of Defense; and

(B) the amounts obligated for such inventory purchases out of the corresponding appropriations account for the preceding fiscal year.

(Aug. 10, 1956, ch. 1041, 70A Stat. 152, §2701; renumbered §2721, Pub. L. 99–499, title II,

§211(a)(1)(A), Oct. 17, 1986, 100 Stat. 1719; amended Pub. L. 101–510, div. A, title XIII, §1322(a)(12), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–190, div. A, title III, §347(b), title X, §1061(a)(17)(A), Dec. 5, 1991, 105 Stat. 1347, 1473.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2701(a) | 5:172i (less last sentence). | July 26, 1947, ch. 343, §410; added Aug. 10, 1949, ch. 412, §11(410), 63 Stat. 590. |
| 2701(b) | 5:172i (last sentence). | |

In subsection (a), the words "equipment" and "materials" are omitted, since the word "supplies", as defined in section 101(26) of this title, includes equipment and materials. The word "stored" is substituted for the words "held in store by the armed services".

In subsection (b), the words "on property records maintained under this section" are substituted for the word "thereon".

**EDITORIAL NOTES**

**AMENDMENTS**

**1991**—Pub. L. 102–190, §1061(a)(17)(A), substituted section catchline for one which read "Basis: reports".

Pub. L. 102–190, §347(b), designated existing provisions as subsec. (a) and added subsec. (b).

**1990**—Pub. L. 101–510 struck out "(a)" before "Under regulations" and struck out subsec. (b) which read as follows: "The Secretary shall report once a year to Congress and the President on property records maintained under this section."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPLEMENTATION OF 1991 AMENDMENT**

Pub. L. 102–190, div. A, title III, §347(c), Dec. 5, 1991, 105 Stat. 1347, provided that: "The Secretary of Defense shall establish the uniform system of valuation described in section 2458(a)(3) of title 10, United States Code (as added by subsection (a)), and prescribe the regulations required by section 2721(b) of such title (as added by subsection (b)), not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991]."

**INVENTORY INVESTIGATIONS**

Pub. L. 100–456, div. A, title III, §343, Sept. 29, 1988, 102 Stat. 1961, provided that:

"(a) UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

"(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

"(b) INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security and incidents involving the loss of Department of Defense supplies (including munitions)."

## §2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury

(a) IN GENERAL.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 72 hours, if possible, after the discovery of such theft or loss.

(b) EXCLUSION FOR CERTAIN ITEMS.—The Secretary of Defense may exclude from the reporting requirement under subsection (a) any item referred to in that subsection if—

(1) the Secretary determines that the item represents a low risk of danger to the public and would be of minimal utility to any person who may illegally receive such item; and

(2) the exclusion of such item is specified as being excluded from the reporting requirement in a memorandum of agreement between the Secretary of Defense and the Secretary of the Treasury.

(c) DEFINITIONS.—In this section:

(1) The term "explosive material" means explosives, blasting agents, and detonators.

(2) The terms "destructive device" and "ammunition" have the meanings given those terms by paragraphs (4) and (17), respectively, of section 921(a) of title 18.

(Added Pub. L. 100–456, div. A, title III, §344(a), Sept. 29, 1988, 102 Stat. 1961; amended Pub. L. 109–364, div. A, title X, §1071(a)(24), Oct. 17, 2006, 120 Stat. 2399.)

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (c)(2). Pub. L. 109–364 substituted "921(a)" for "921".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 100–456, div. A, title III, §344(c), Sept. 29, 1988, 102 Stat. 1962, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act [Sept. 29, 1988]."

### INCIDENT REPORTING REQUIREMENTS FOR DEPARTMENT OF DEFENSE REGARDING LOST OR STOLEN WEAPONS

Pub. L. 117–81, div. A, title III, §363, Dec. 27, 2021, 135 Stat. 1661, as amended by Pub. L. 118–159, div. A, title III, §342, Dec. 23, 2024, 138 Stat. 1857, provided that:

"(a) IN GENERAL.—For each of fiscal years 2022 through 2029, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on security, control, thefts, losses, and recoveries of sensitive conventional arms, ammunition, and explosives (commonly referred to as 'AA&E') of the Department of Defense during such year, including the following:

"(1) M–16 or M4s.

"(2) Light automatic weapons up to and including M249, M2, and 40mm MK19 machine guns.

"(3) Functional launch tube with umbilical squib installed and grip stock for the Stinger missile.

"(4) Launch tube, sight assembly, and grip stock for missiles.

"(5) Tracker for the Dragon missile.

"(6) Mortar tubes up to and including 81mm.

"(7) Grenade launchers.

"(8) Rocket and missile launchers with an unpacked weight of 100 pounds or less.

"(9) Flame throwers.

"(10) The launcher, missile guidance se, or the optical sight for the TOW and the Javelin Command Launch Unit.

"(11) Single shot and semi-automatic (non-automatic) shoulder-fired weapons such as shotguns and bolt action rifles and weapons barrels.

"(12) Handguns.

"(13) Recoil-less rifles up to and including 106mm.

"(14) Man-portable missiles and rockets in a ready-to-fire configuration or when jointly stored or transported with the launcher tube or grip-stock and the explosive round.

"(15) Stinger missiles.

"(16) Dragon, Javelin, light antitank weapon (66mm), shoulder-launched multi-purpose assault weapon rocket (83mm), M136 (AT4) anti-armor launcher and cartridge (84mm).

"(17) Missiles and rockets that are crew-served or require platform-mounted launchers and other equipment to function, including HYDRA–70 rockets and tube-launched optically wire guided (TOW) missiles.

"(18) Missiles and rockets that require platform-mounted launchers and complex hardware equipment

to function including the HELLFIRE missile.

"(19) Explosive rounds of any missile or rocket listed in paragraphs (1) through (18).

"(20) Hand or rifle grenades (high-explosive and white phosphorous).

"(21) Antitank or antipersonnel mines.

"(22) Explosives used in demolition operations, C–4, military dynamite, and trinitrotoluene (TNT).

"(23) Warheads for sensitive missiles and rockets weighing less than 50 pounds each.

"(24) Ammunition that is .50 caliber or larger with explosive-filled projectile.

"(25) Incendiary grenades and fuses for high-explosive grenades.

"(26) Blasting caps.

"(27) Supplementary charges.

"(28) Bulk explosives.

"(29) Detonating cord.

"(30) Riot control agents.

"(b) IMMEDIATE REPORTING OF CONFIRMED THEFTS, LOSSES, AND RECOVERIES.—Not later than 72 hours after a confirmed theft, loss, or recovery of a sensitive conventional arm, ammunition, or explosive covered by the report required by subsection (a), the Secretary shall report such theft, loss, or recovery to—

"(1) the National Crime Information Center;

"(2) local law enforcement; and

"(3) the Committees on Armed Services of the Senate and the House of Representatives."

## §2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs

(a) REQUIRED NOTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each security or counterintelligence failure or compromise of classified information relating to any defense operation, system, or technology of the United States that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States. The Secretary shall consult with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, before submitting any such notification.

(b) MANNER OF NOTIFICATION.—Notification of a failure or compromise of classified information under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (c), not later than 30 days after the date on which the Department of Defense determines that the failure or compromise has taken place.

(c) PROCEDURES.—The Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(d) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to the Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 3091).

(Added Pub. L. 106–65, div. A, title X, §1042(a), Oct. 5, 1999, 113 Stat. 759; amended Pub. L. 110–181, div. A, title IX, §931(a)(13), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(12), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(12), Dec. 19, 2014, 128 Stat. 3509.)

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (d)(2). Pub. L. 113–291 substituted "(50 U.S.C. 3091)" for "(50 U.S.C. 413)".

**2009**—Subsec. (a). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(12). See 2008 Amendment note below.

**2008**—Subsec. (a). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(12), amended subsec. (a) identically, substituting "Director of National Intelligence" for "Director of Central Intelligence". Pub. L. 110–417, §932(a)(12), was repealed by Pub. L. 111–84. See 2009 Amendment note above.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

# CHAPTER 163—MILITARY CLAIMS

Sec.
2731. Definition.
2732. Payment of claims: availability of appropriations.
2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force.
2733a. Medical malpractice claims by members of the uniformed services.
2734. Property loss; personal injury or death: incident to noncombat activities of the armed forces; foreign countries.
2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements.
2734b. Property loss; personal injury or death: incident to activities of armed forces of foreign countries in United States; international agreements.
2735. Settlement: final and conclusive.
2736. Property loss; personal injury or death: advance payment.
2737. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law.
2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action.
2739. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations.
2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available.

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, div. A, title VII, §731(a)(2), Dec. 20, 2019, 133 Stat. 1459, added item 2733a.

**2011**—Pub. L. 111–383, div. A, title III, §354(a)(2), Jan. 7, 2011, 124 Stat. 4195, added item 2740.

**1998**—Pub. L. 105–261, div. A, title X, §1010(a)(2), Oct. 17, 1998, 112 Stat. 2117, added item 2739.

**1994**—Pub. L. 103–337, div. A, title V, §557(b), Oct. 5, 1994, 108 Stat. 2776, added item 2738.

**1990**—Pub. L. 101–510, div. A, title XIV, §1481(j)(2), Nov. 5, 1990, 104 Stat. 1708, added item 2732.

**1984**—Pub. L. 98–525, title XIV, §1405(42)(B), Oct. 19, 1984, 98 Stat. 2625, substituted "in foreign countries" for ": foreign countries" in item 2734a.

**1968**—Pub. L. 90–521, §2, Sept. 26, 1968, 82 Stat. 874, substituted "advance payment" for "incident to aircraft or missile operation" in item 2736.

**1966**—Pub. L. 89–718, §21(b), Nov. 2, 1966, 80 Stat. 1118, substituted "2737" for "2736" as item number for "Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law".

**1964**—Pub. L. 88–558, §5(2), Aug. 31, 1964, 78 Stat. 768, struck out item 2732 "Property loss: incident to service; members of Army, Navy, Air Force, or Marine Corps and civilian employees", effective two years after Aug. 31, 1964. Pub. L. 88–558, was itself repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

**1962**—Pub. L. 87–769, §1(1)(B), Oct. 9, 1962, 76 Stat. 768, added item 2736 "Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law".

Pub. L. 87–651, title I, §113(b), Sept. 7, 1962, 76 Stat. 513, added items 2734a and 2734b.

**1961**—Pub. L. 87–212, §1(2), Sept. 8, 1961, 75 Stat. 488, added item 2736 "Property loss; personal injury or death: incident to aircraft or missile operation".

**1959**—Pub. L. 86–223, §1(2), Sept. 1, 1959, 73 Stat. 454, substituted "armed forces" for "Department of Army, Navy, or Air Force" in item 2734.

## §2731. Definition

In this chapter, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 152.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2731 | [No source]. | [No source]. |

The revised section is inserted for clarity and is based on usage in the source laws for this revised chapter.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONGRESSIONAL DEFENSE COMMITTEES DEFINED

Pub. L. 116–93, div. A, title VIII, §8027, Dec. 20, 2019, 133 Stat. 2342, provided that: "For the purposes of this Act [div. A of Pub. L. 116–93, see Tables for classification], the term 'congressional defense committees' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 115–245, div. A, title VIII, §8026, Sept. 28, 2018, 132 Stat. 3005.

Pub. L. 115–141, div. C, title VIII, §8026, Mar. 23, 2018, 132 Stat. 469.

Pub. L. 115–31, div. C, title VIII, §8027, May 5, 2017, 131 Stat. 252.

Pub. L. 114–113, div. C, title VIII, §8026, Dec. 18, 2015, 129 Stat. 2356.

Pub. L. 113–235, div. C, title VIII, §8026, Dec. 16, 2014, 128 Stat. 2258.

Pub. L. 113–76, div. C, title VIII, §8025, Jan. 17, 2014, 128 Stat. 109.

### EX GRATIA PAYMENTS

Pub. L. 116–93, div. A, title VIII, §8104, Dec. 20, 2019, 133 Stat. 2361, provided that:

"(a) Of the funds appropriated in this Act [div. A of Pub. L. 116–93, see Tables for classification] for the Department of Defense, amounts should be made available, under such regulations as the Secretary of Defense may prescribe, to local military commanders appointed by the Secretary, or by an officer or employee designated by the Secretary, to provide at their discretion ex gratia payments in amounts consistent with subsection (d) of this section for damage, personal injury, or death that is incident to combat operations of the Armed Forces in a foreign country.

"(b) An ex gratia payment under this section may be provided only if—

"(1) the prospective foreign civilian recipient is determined by the local military commander to be friendly to the United States;

"(2) a claim for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the 'Foreign Claims Act'); and

"(3) the property damage, personal injury, or death was not caused by action by an enemy.

"(c) Any payments provided under a program under subsection (a) shall not be considered an admission or acknowledgement of any legal obligation to compensate for any damage, personal injury, or death.

"(d) If the Secretary of Defense determines a program under subsection (a) to be appropriate in a particular setting, the amounts of payments, if any, to be provided to civilians determined to have suffered harm incident to combat operations of the Armed Forces under the program should be determined pursuant to regulations prescribed by the Secretary and based on an assessment, which should include such factors as cultural appropriateness and prevailing economic conditions.

"(e) Local military commanders shall receive legal advice before making ex gratia payments under this subsection. The legal advisor, under regulations of the Department of Defense, shall advise on whether an ex gratia payment is proper under this section and applicable Department of Defense regulations.

"(f) A written record of any ex gratia payment offered or denied shall be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

"(g) The Secretary of Defense shall report to the congressional defense committees [Committees on Armed Services and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] on an annual basis the efficacy of the ex gratia payment program including the number of types of cases considered, amounts offered, the response from ex gratia payment recipients, and any recommended modifications to the program."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 115–245, div. A, title VIII, §8106, Sept. 28, 2018, 132 Stat. 3025.

Pub. L. 115–141, div. C, title VIII, §8107, Mar. 23, 2018, 132 Stat. 488.

Pub. L. 115–31, div. C, title VIII, §8107, May 5, 2017, 131 Stat. 272.

Pub. L. 114–113, div. C, title VIII, §8111, Dec. 18, 2015, 129 Stat. 2377.

Pub. L. 113–235, div. C, title VIII, §8121, Dec. 16, 2014, 128 Stat. 2281.

Pub. L. 113–76, div. C, title VIII, §8127, Jan. 17, 2014, 128 Stat. 134.

## AUTHORITY FOR CERTAIN PAYMENTS TO REDRESS INJURY AND LOSS

Pub. L. 116–92, div. A, title XII, §1213, Dec. 20, 2019, 133 Stat. 1629, as amended by Pub. L. 117–81, div. A, title XIII, §1331(a)–(d), Dec. 27, 2021, 135 Stat. 2006, 2007; Pub. L. 117–263, div. A, title XII, §1221, Dec. 23, 2022, 136 Stat. 2836; Pub. L. 118–31, div. A, title XII, §1209, Dec. 22, 2023, 137 Stat. 449, provided that:

"(a) AUTHORITY.—During the period beginning on the date of the enactment of this Act [Dec. 20, 2019] and ending on December 31, 2033, not more than $3,000,000 for each calendar year, to be derived from funds authorized to be appropriated to the Office of the Secretary of Defense under the Operation and Maintenance, Defense-wide account, may be made available for ex gratia payments for damage, personal injury, or death that is incident to the use of force by the United States Armed Forces, a coalition that includes the United States, a military organization supporting the United States, or a military organization supporting the United States or such coalition.

"(b) CONDITIONS ON PAYMENT.—An ex gratia payment authorized pursuant to subsection (a) may be provided only if—

"(1) the prospective foreign civilian recipient is not otherwise ineligible for payment under any other provision of law;

"(2) a request for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the 'Foreign Claims Act');

"(3) the property damage, personal injury, or death was not caused by action by an enemy;

"(4) the prospective foreign civilian recipient suffered property damage, personal injury, or death that was—

"(A) caused by the United States Armed Forces, a coalition that includes the United States, or a military organization supporting the United States or such a coalition; and

"(B) occurred during an operation carried out by the United States, such coalition, or such military organization; and

"(5) the prospective foreign civilian recipient had no involvement in planning or executing an attack or other hostile action that gave rise to the use of force by the United States, such coalition, or such military organization resulting in such property damage, personal injury, or death.

"(c) NATURE OF PAYMENT.—A payment provided pursuant to the authority under subsection (a) may not be construed or considered as an admission or acknowledgment of any legal obligation to provide compensation for any property damage, personal injury, or death.

"(d) PROCEDURES TO REVIEW ALLEGATIONS.—

"(1) PROCEDURES REQUIRED.—Not later than 180 days after the date of enactment of this subsection [Dec. 27, 2021], the Secretary of Defense shall establish procedures to receive, evaluate, and respond to allegations of civilian harm resulting from military operations involving the United States Armed Forces, a coalition that includes the United States, or a military organization supporting the United States. Such responses may include—

"(A) a formal acknowledgement of such harm;

"(B) a nonmonetary expression of condolence; or

"(C) an ex gratia payment.

"(2) CONSULTATION.—In establishing the procedures under paragraph (1), the Secretary of Defense shall consult with the Secretary of State and with nongovernmental organizations that focus on addressing civilian harm in conflict.

"(3) POLICY UPDATES.—Not later than one year after the date of the enactment of this subsection, the Secretary of Defense shall ensure that procedures established under paragraph (1) are formalized through updates to the policy referred to in section 936 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 134 note).

"(e) AMOUNT OF PAYMENTS.—If the Secretary of Defense determines a payment under subsection (a) to be appropriate in a particular setting, the amounts of payments, if any, to be provided to civilians determined to have suffered harm incident to the use of force by the United States Armed Forces under the program should be determined pursuant to regulations prescribed by the Secretary and based on an assessment, conducted in consultation with the Secretary of State, that includes such factors as cultural appropriateness and prevailing economic conditions. A copy of any regulations so prescribed shall be provided to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] upon finalization.

"(f) LEGAL ADVICE.—Local military commanders shall receive legal advice before making ex gratia payments under this subsection. The legal advisor, under regulations of the Department of Defense, shall advise on whether an ex gratia payment is proper under this section and applicable Department of Defense regulations.

"(g) WRITTEN RECORD.—A written record of any ex gratia payment offered pursuant to the authority under subsection (a), and whether accepted or denied, shall be kept by the local military commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

"(h) QUARTERLY REPORT.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], and every 90 days thereafter, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report including the following:

"(1) With respect to each ex gratia payment made under the authority in this section or any other authority during the preceding 90-day period, each of the following:

"(A) The amount used for such payments and the country with respect to which each such payment was made.

"(B) The manner in which requests for such payments were verified.

"(C) The position of the official who approved the payment.

"(D) The manner in which payments are made.

"(2) The status of all other pending or denied ex gratia payments or requests, including—

"(A) when any such request was made;

"(B) what steps the Department is taking to respond to the request;

"(C) whether the Department denied any requests for any such payment, along with the reason for such denial;

"(D) whether any such payment was refused, along with the reason for such refusal, if known; or

"(E) any other reason for which a payment was not offered or made.

"(3) The status of Department of Defense efforts to establish the requests procedures required under subsection (d)(1) and to otherwise implement this section.

"(i) RELATION TO OTHER AUTHORITIES.—Notwithstanding any other provision of law, the authority provided by this section shall be construed as the sole authority available to make ex gratia payments for property damage, personal injury, or death that is incident to the use of force by the United States Armed Forces."

[Pub. L. 117–81, div. A, title XIII, §1331(e), Dec. 27, 2021, 135 Stat. 2007, provided that: "Nothing in this section [amending section 1213 of Pub. L. 116–92, set out above] or the amendments made by this section

may be construed to require the Secretary of Defense to pause, suspend, or otherwise alter the provision of ex gratia payments in accordance with section 1213 of the National Defense Authorization Act for Fiscal Year 2020, as amended, in the course of developing the procedures required by subsection (d) of such section (as added by subsection (d) of this section)."]

**REPORT ON DEPARTMENT POLICY ON PAYMENT OF CLAIMS FOR LOSS OF PERSONAL PROPERTY**

Pub. L. 105–85, div. A, title X, §1013(b), Nov. 18, 1997, 111 Stat. 1874, provided that: "The Secretary of Defense shall submit to Congress a report describing the Department of Defense policy regarding the payment of a claim by a member of the Armed Forces who is not assigned to quarters of the United States for losses and damage to personal property of the member incurred at the member's residence as a result of a natural disaster. The report shall include a description of the number of such claims received over the past 10 years, the number of claims paid, and the number of claims rejected. If the Secretary determines the Department of Defense should modify its policy in order to accept additional claims by members who are not assigned to quarters of the United States for losses and damage to personal property, the Secretary shall also include in the report any legislative changes that the Secretary considers necessary to enable the Secretary to implement the policy change."

**PUBLIC HEALTH SERVICE**

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Authority vested by sections 2731, 2732, and 2735 of this title in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or his designee, see section 3071 of Title 33, Navigation and Navigable Waters.

## §2732. Payment of claims: availability of appropriations

Appropriations available to the Department of Defense for operation and maintenance may be used for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including—

(1) claims for damages arising under training contracts with carriers; and

(2) repayment of amounts determined by the Secretary concerned to have been erroneously collected—

(A) from military and civilian personnel of the Department of Defense; or

(B) from States or territories or the District of Columbia (or members of the National Guard units thereof).

(Added Pub. L. 101–510, div. A, title XIV, §1481(j)(1), Nov. 5, 1990, 104 Stat. 1708.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 100–463, title VIII, §8098, Oct. 1, 1988, 102 Stat. 2270–35, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(j)(3).

A prior section 2732, acts Aug. 10, 1956, ch. 1041, 70A Stat. 152; Sept. 2, 1958, Pub. L. 85–861, §§1(53), 33(a)(16), 72 Stat. 1461, 1565; Sept. 15, 1965, Pub. L. 89–185, §1, 79 Stat. 789, related to settlement of property loss incident to service, prior to repeal by Pub. L. 88–558, §5(3), Aug. 31, 1964, 78 Stat. 768, effective two years from Aug. 31, 1964. See section 3701 et seq. of Title 31, Money and Finance.

## §2733. Property loss; personal injury or death: incident to noncombat activities

## of Department of Army, Navy, or Air Force

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief Counsel of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than $100,000, a claim against the United States for—

(1) damage to or loss of real property, including damage or loss incident to use and occupancy;

(2) damage to or loss of personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be; or

(3) personal injury or death;

either caused by a civilian officer or employee of that department, or the Coast Guard, or a member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of this title or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States.

(d) If the Secretary concerned considers that a claim in excess of $100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) For the purposes of this section, a member of the National Oceanic and Atmospheric Administration or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.

(g) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed $25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.

(h) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a military department under this section with respect to the settlement of claims based on damage, loss, personal injury, or death caused by a civilian officer or employee of the Department of Defense acting within the scope of his employment or otherwise incident to noncombat activities of that department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 153; Pub. L. 85–729, §1, Aug. 23, 1958, 72 Stat. 813; Pub. L. 85–861, §1(54), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90–522, Sept. 26, 1968, 82 Stat. 875; Pub. L. 90–525, §§1, 3–5, Sept. 26, 1968, 82 Stat. 877, 878; Pub. L. 91–312, §2, July 8, 1970, 84 Stat. 412; Pub. L. 93–336, §1, July 8, 1974, 88 Stat. 291; Pub. L. 96–513, title V, §511(94), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 98–564, §1, Oct. 30, 1984, 98 Stat. 2918; Pub. L. 104–316, title II, §202(e), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 116–283, div. A, title IX, §924(b)(2)(A)(ix), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2733(a) | 31:223b (1st sentence, less 52d through 62d, and 76th through 93d, words; and less proviso). | July 3, 1943, ch. 189, §1 (less 4th sentence), 57 Stat. 372; May 29, 1945, ch. 135, §4, 59 Stat. 225; June 28, 1946, ch. 514, §1, 60 Stat. 332; July 3, 1952, ch. 570, §2(c), 66 Stat. 334; Mar. 31, 1953, ch. 13 (as applicable to Act of July 3, 1952, ch. 570, §2(c)), 67 Stat. 18; June 30, 1953, ch. 172 (as applicable to Act of July 3, 1952, ch. 570, §2(c)), 67 Stat. 131. |
| 2733(b) | [Uncodified: Aug. 2, 1946, ch. 753, §424(a) (4th clause), 60 Stat. 847]. | |
| 2733(c) | 31:223b (76th through 93d words and proviso of 1st sentence; and 2d sentence). | |
| 2733(d) | 31:223b (3d sentence). | |
| 2733(e) | 31:223b (last sentence). | |
| 2733(f) | 31:223b (52d through 62d words of 1st sentence). | Aug. 2, 1946, ch. 753, §424(a) (4th clause), 60 Stat. 847. |
| | 31:222h. | Dec. 28, 1945, ch. 597, §1, 59 Stat. 662; June 28, 1946, ch. 514, §2, 60 Stat. 333. |
| | [31:223b is made applicable to the Navy by 31:223d and 223e]. | Dec. 28, 1945, ch. 597, §6; added Mar. 20, 1946, ch. 104 (last par.), 60 Stat. 56. |

In subsection (a), the words "a civilian officer or employee of that department, or a member of the Army, Navy, Air Force, or Marine Corps, as the case may be" are substituted for the words "military personnel or civilian employees of the Department of the Army or of the Army". The words "whether under a lease, express or implied" are omitted as surplusage. The words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 2731 of this title. The words "arising on or after May 27, 1941" are omitted as executed, since, under revised subsection (b), a claim must be filed within one year after it accrues, or within one year after the war is terminated, if it accrues in time of war.

In subsection (a)(1), the words "or loss" are inserted before the word "incident", for clarity.

In subsection (b)(1), the words "it accrues" are substituted for the words "the accident or incident out of which such claim arises shall have occurred", in 31:223b. The words "the claim accrues" are substituted for the words "That if such accident or incident occurs". The words "not later than" are substituted for the words "within" to make it clear that a claim may be presented during a war. The words "the war is terminated" are substituted for the words "after peace is established", since the other time covered is "time of war". 31:223b (last 49 words of proviso of 2d sentence) is omitted as executed.

In subsection (b)(2), the words "or section 2672 of title 28" are substituted for the words "claims cognizable under part 2 of this title", to reflect the express amendment of 31:223b and 223c by the fourth clause of section 424(a) of the Federal Tort Claims Act, 60 Stat. 847. Section 424(a) of the Federal Tort Claims Act referred to "claims cognizable under part 2 of this title". Part 2 of that act consisted of sections 403 and 404 which were repealed by section 39 of the Act of June 25, 1948, ch. 646, 62 Stat. 1008, and replaced by sections 2672 and 2673 of title 28. The words "or possessions thereof" are omitted, since possessions of foreign countries are not specifically covered by the section to which the words refer.

In subsection (d), the words "claim * * * that would otherwise be covered by this section" are substituted for the words "such claims".

In subsection (e), the words "and final settlement" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2733 | 31:223b. | Mar. 29, 1956, ch. 103, §§1–3, 70 Stat. 60, 61. |

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, Space Force," for "Marine Corps," in par. (2) and in concluding provisions.

**1996**—Subsec. (d). Pub. L. 104–316 substituted "Secretary of the Treasury" for "Comptroller General".

**1984**—Subsec. (a). Pub. L. 98–564, §1(1), substituted "Chief Counsel" for "chief legal officer" and "$100,000" for "$25,000" in provisions preceding par. (1).

Subsec. (d). Pub. L. 98–564, §1(2), amended subsec. (d) generally, substituting "$100,000" for "$25,000" and provisions requiring Secretary to report excess to the Comptroller General for provisions requiring reporting to Congress.

Subsec. (g). Pub. L. 98–564, §1(3), substituted provisions permitting officers and employees of Secretary concerned to settle claims not otherwise payable under this section in amounts not to exceed $25,000 and providing for an appeal to Secretary concerned or his designee for provisions which provided for delegation of claims settlement authority by Secretary for cases not to exceed $5,000 and for appeal therefrom.

**1980**—Subsec. (f). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1974**—Subsec. (a). Pub. L. 93–336, §1(1), substituted "$25,000" for "$15,000".

Subsec. (d). Pub. L. 93–336, §1(2), substituted "$25,000" for "$15,000" wherever appearing.

Subsec. (g). Pub. L. 93–336, §1(3), substituted "$5,000" for "$2,500".

**1970**—Subsec. (a). Pub. L. 91–312, §2(a), substituted "$15,000" for "$5,000".

Subsec. (d). Pub. L. 91–312, §2(b), substituted "$15,000" for "$5,000" wherever appearing.

**1968**—Subsec. (a). Pub. L. 90–525, §1, substituted "Secretary concerned" for "Secretary of a military department", and authorized the Chief Legal Officer of the Coast Guard to settle claims, settlement of claims for damage or loss to personal property in possession of the Coast Guard, and settlements when the torts are caused by civilian officers or employees and members of the Coast Guard when acting within scope of employment or otherwise incident to noncombat activities of the Coast Guard.

Subsec. (b)(4). Pub. L. 90–522, §1(1), authorized application of local law in determining effect of claimant's contributory negligence.

Subsec. (d). Pub. L. 90–525, §5, struck out "of the military department" after "Secretary".

Subsec. (g). Pub. L. 90–525, §3, increased limitation on amount of settlement from $1,000 to $2,500, struck out "military" before "department concerned", and provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of an armed force. See Pub. L. 90–522, §1(2), hereunder, for identical provision for appeals to Secretary concerned.

Pub. L. 90–522, §1(2), provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of an armed force.

Subsec. (h). Pub. L. 90–525, §4, added subsec. (h).

**1966**—Subsec. (f). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

**1958**—Subsec. (a). Pub. L. 85–729, §1(1)(A), substituted "the Judge Advocate General of an armed force under his jurisdiction, if designated by him, may settle, and pay in an amount not more than $5,000" for "any officer designated by him may settle, and pay in an amount not more than $1,000".

Subsec. (b). Pub. L. 85–861, §1(54)(A), (B), in cl. (1), substituted "two years" for "one year" in three places and included claims accruing in time of armed conflict, and inserted sentence providing for the determination of dates of the beginning and ending of an armed conflict.

Subsec. (c). Pub. L. 85–861, §1(54)(C), substituted provisions prohibiting payment for reimbursement for medical, hospital, or burial services furnished at the expense of the United States for provisions which prohibited allowance of claims for personal injury or death for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

Subsec. (d). Pub. L. 85–729, §1(1)(B), substituted provisions authorizing partial payments on claims over $5,000 for provisions which authorized the Secretary of the military department concerned to report a claim for more than $1,000 to Congress for its consideration.

Subsec. (e). Pub. L. 85–729, §1(1)(B), substituted "Except as provided in subsection (d), no claim may be paid under this section" for "No claim may be paid under subsection (a)".

Subsec. (g). Pub. L. 85–729, §1(1)(C), added subsec. (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### CLAIMS FOR INJURY OR DEATH ACCRUED BEFORE MARCH 30, 1956

Pub. L. 85–861, §17, Sept. 2, 1958, 72 Stat. 1558, disallowed claims for personal injury or death under section 2733 of this title, for more than the cost of reasonable medical, hospital, and burial expenses actually incurred if the claim accrued before March 30, 1956.

### EXECUTIVE DOCUMENTS

#### TRANSFER OF FUNCTIONS

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §2733a. Medical malpractice claims by members of the uniformed services

(a) IN GENERAL.—Consistent with this section and under such regulations as the Secretary of Defense shall prescribe under subsection (h), the Secretary may allow, settle, and pay a claim against the United States for personal injury or death incident to the service of a member of the uniformed services that was caused by the medical malpractice of a Department of Defense health care provider.

(b) REQUIREMENT FOR CLAIMS.—A claim may be allowed, settled, and paid under subsection (a) only if—

(1) the claim is filed by the member of the uniformed services who is the subject of the medical malpractice claimed, or by an authorized representative on behalf of such member who is deceased or otherwise unable to file the claim due to incapacitation;

(2) the claim is for personal injury or death caused by the negligent or wrongful act or omission of a Department of Defense health care provider in the performance of medical, dental, or related health care functions while such provider was acting within the scope of employment;

(3) the act or omission constituting medical malpractice occurred in a covered military medical treatment facility;

(4) the claim is presented to the Department in writing within two years after the claim accrues;

(5) the claim is not allowed to be settled and paid under any other provision of law; and

(6) the claim is substantiated as prescribed in regulations prescribed by the Secretary of Defense under subsection (h).

(c) LIABILITY.—(1) The Department of Defense is liable for only the portion of compensable injury, loss, or damages attributable to the medical malpractice of a Department of Defense health care provider.

(2) The Department of Defense shall not be liable for the attorney fees of a claimant under this section.

(d) PAYMENT OF CLAIMS.—(1) If the Secretary of Defense determines, pursuant to regulations prescribed by the Secretary under subsection (h), that a claim under this section in excess of $100,000 is meritorious, and the claim is otherwise payable under this section, the Secretary may pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(2) Except as provided in paragraph (1), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(e) REPORTING MEDICAL MALPRACTICE.—Not later than 30 days after a determination of medical malpractice or the payment of all or part of a claim under this section, the Secretary of Defense shall submit to the Director of the Defense Health Agency a report documenting such determination or payment to be used by the Director for all necessary and appropriate purposes, including medical quality assurance.

(f) JUSTIFICATION OF DENIAL.—If a claim under this section is denied, the Secretary of Defense shall provide the claimant with detailed reasoning justifying the denial of the claim, including—

(1) copies of any written reports prepared by any expert upon which the denial is based, and information regarding the qualifications of each such expert who provided an expert medical opinion; and

(2) all records and documents relied upon in preparing such written reports, other than medical quality assurance records (as such term is defined in section 1102 of this title).

(g) EXPERT MEDICAL OPINIONS.—In using an expert medical opinion to evaluate a claim under this section, the Secretary of Defense shall use the opinion of—

(1) an individual who is board-certified in the medical specialty with respect to that claim; or

(2) if the claim involves medical, dental, or related health care functions for which board certification does not apply, an individual who is a highly qualified expert regarding the relevant medical, dental, or related health care function.

(h) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to implement this section.

(2) Regulations prescribed by the Secretary under paragraph (1) shall include the following:

(A) Policies and procedures to ensure the timely, efficient, and effective processing and administration of claims under this section, including—

(i) the filing, receipt, investigation, and evaluation of a claim;

(ii) the negotiation, settlement, and payment of a claim;

(iii) such other matters relating to the processing and administration of a claim, including an administrative appeals process, as the Secretary considers appropriate.

(B) Uniform standards consistent with generally accepted standards used in a majority of States in adjudicating claims under chapter 171 of title 28 (commonly known as the "Federal Tort Claims Act") to be applied to the evaluation, settlement, and payment of claims under this section without regard to the place of occurrence of the medical malpractice giving rise to the claim or the military department or service of the member of the uniformed services, and without regard to foreign law in the case of claims arising in foreign countries, including uniform standards to be applied to determinations with respect to—

(i) whether an act or omission by a Department of Defense health care provider in the context of performing medical, dental, or related health care functions was negligent or wrongful,

considering the specific facts and circumstances;

(ii) whether the personal injury or death of the member was caused by a negligent or wrongful act or omission of a Department of Defense health care provider in the context of performing medical, dental, or related health care functions, considering the specific facts and circumstances;

(iii) requirements relating to proof of duty, breach of duty, and causation resulting in compensable injury or loss, subject to such exclusions as may be established by the Secretary of Defense; and

(iv) calculation of damages.

(C) Such other matters as the Secretary considers appropriate.

(3) In order to implement expeditiously the provisions of this section, the Secretary may prescribe the regulations under this subsection—

(A) by prescribing an interim final rule; and

(B) not later than one year after prescribing such interim final rule and considering public comments with respect to such interim final rule, by prescribing a final rule.

(i) LIMITATION ON ATTORNEY FEES.—(1) No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 20 percent of any claim paid pursuant to this section.

(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with a claim under this section any amount in excess of the amount allowed under paragraph (1), if recovery be had, shall be fined not more than $2,000, imprisoned not more than one year, or both.

(j) ANNUAL REPORTS.—Not less frequently than annually until 2028, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on claims processed under this section that includes, with respect to the period covered by the report, the following:

(1) The number of claims processed under this section.

(2) The average timeline for resolving such claims.

(3) The resolution of each such claim.

(4) The number of claims that were denied based on the claim not meeting one or more requirement specified in subsection (b) (other than for not being substantiated pursuant to paragraph (6)), disaggregated by each such requirement.

(5) Any other information that the Secretary determines may enhance the effectiveness of the claims process under this section.

(k) DEFINITIONS.—In this section:

(1) COVERED MILITARY MEDICAL TREATMENT FACILITY.—The term "covered military medical treatment facility" means a facility described in subsection (b), (c), or (d) of section 1073d of this title.

(2) DEPARTMENT OF DEFENSE HEALTH CARE PROVIDER.—The term "Department of Defense health care provider" means a member of the uniformed services, civilian employee of the Department of Defense, or personal services contractor of the Department (under section 1091 of this title) authorized by the Department to provide health care services and acting within the scope of employment of such individual.

(3) MEMBER OF THE UNIFORMED SERVICES.—The term "member of the uniformed services" includes a member of a reserve component of the armed forces if the claim by the member under this section is in connection with personal injury or death that occurred while the member was in Federal status.

(Added Pub. L. 116–92, div. A, title VII, §731(a)(1), Dec. 20, 2019, 133 Stat. 1457; amended Pub. L. 118–31, div. A, title VII, §713, Dec. 22, 2023, 137 Stat. 302; Pub. L. 118–159, div. A, title VII, §§731, 732, Dec. 23, 2024, 138 Stat. 1955, 1956.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsecs. (a), (b)(6), (d)(1). Pub. L. 118–159, §731(1), substituted "subsection (h)" for "subsection (g)".

Subsec. (f)(1). Pub. L. 118–159, §731(2), inserted ", and information regarding the qualifications of each such expert who provided an expert medical opinion" before the semicolon.

Subsecs. (g) to (i). Pub. L. 118–159, §731(3), (4), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 118–159, §§731(3), 732, redesignated subsec. (i) as (j) and amended it generally. Prior to amendment, subsec. related to annual reports.

Subsec. (k). Pub. L. 118–159, §731(3), redesignated subsec. (j) as (k).

**2023**—Subsec. (a). Pub. L. 118–31, §713(1), substituted "subsection (g)" for "subsection (f)".

Subsec. (b)(6). Pub. L. 118–31, §713(2), substituted "subsection (g)" for "subsection (f)".

Subsec. (d)(1). Pub. L. 118–31, §713(3), substituted "subsection (g)" for "subsection (f)".

Subsecs. (f) to (j). Pub. L. 118–31, §713(4), (5), added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 116–92, div. A, title VII, §731(d), Dec. 20, 2019, 133 Stat. 1460, provided that:

"(1) EFFECTIVE DATE.—The amendments made by this section [enacting this section and amending section 2735 of this title and section 1304 of Title 31, Money and Finance] shall apply to any claim filed under section 2733a of such title, as added by subsection (a)(1), on or after January 1, 2020.

"(2) TRANSITION.—Any claim filed in calendar year 2020 shall be deemed to be filed within the time period specified in section 2733a(b)(4) of such title, as so added, if it is filed within three years after it accrues."

## §2734. Property loss; personal injury or death: incident to noncombat activities of the armed forces; foreign countries

(a) To promote and to maintain friendly relations through the prompt settlement of meritorious claims, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Secretary may prescribe, one or more claims commissions, each composed of one or more officers or employees or combination of officers or employees of the armed forces, to settle and pay in an amount not more than $100,000, a claim against the United States for—

(1) damage to, or loss of, real property of any foreign country or of any political subdivision or inhabitant of a foreign country, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property of any foreign country or of any political subdivision or inhabitant of a foreign country, including property bailed to the United States; or

(3) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs outside the United States, or the Commonwealths or possessions, and is caused by, or is otherwise incident to noncombat activities of, the armed forces under his jurisdiction, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. The claim of an insured, but not that of a subrogee, may be considered under this subsection. In this section, "foreign country" includes any place under the jurisdiction of the United States in a foreign country. An officer or employee may serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but shall perform his duties under regulations of the department appointing the commission.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented within two years after it accrues;

(2) in the case of a national of a country at war with the United States, or of any ally of that country, the claimant is determined by the commission or by the local military commander to be friendly to the United States; and

(3) it did not arise from action by an enemy or result directly or indirectly from an act of the armed forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

(c) The Secretary concerned may appoint any officer or employee under the jurisdiction of the Secretary to act as an approval authority for claims determined to be allowable under subsection (a) in an amount in excess of $10,000.

(d) If the Secretary concerned considers that a claim in excess of $100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Upon the request of the department concerned, a claim arising in that department and covered by subsection (a) may be settled and paid by a commission appointed under subsection (a) and composed of officers of an armed force under the jurisdiction of another department.

(g) Payment of claims against the Coast Guard arising while it is operating as a service in the Department of Homeland Security shall be made out of the appropriation for the operating expenses of the Coast Guard.

(h) The Secretary of Defense may designate any claims commission appointed under subsection (a) to settle and pay, as provided in this section, claims for damage caused by a civilian employee of the Department of Defense other than an employee of a military department. Payments of claims under this subsection shall be made from appropriations as provided in section 2732 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 154; Pub. L. 85–861, §1(55), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 86–223, §1(1), Sept. 1, 1959, 73 Stat. 453; Pub. L. 86–411, Apr. 8, 1960, 74 Stat. 16; Pub. L. 90–521, §§1, 3, Sept. 26, 1968, 82 Stat. 874; Pub. L. 91–312, §1, July 8, 1970, 84 Stat. 412; Pub. L. 93–336, §2, July 8, 1974, 88 Stat. 292; Pub. L. 96–513, title V, §511(95), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 98–564, §2, Oct. 30, 1984, 98 Stat. 2918; Pub. L. 101–510, div. A, title XIV, §1481(j)(4)(A), Nov. 5, 1990, 104 Stat. 1709; Pub. L. 104–316, title II, §202(e), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2734(a) | 31:224d (less 98th through 109th words and provisos).<br>31:224d (1st and 3d provisos). | Jan. 2, 1942, ch. 645, §§1 (less last proviso), 6, 7, 55 Stat. 880; restated Apr. 22, 1943, ch. 67, §§1 (less last proviso), 6, 7, 57 Stat. 66, 67. |
| 2734(b) | 31:224d (2d proviso, less words after semicolon). | |
| 2734(c) | | |
| 2734(d) | 31:224d (words of 2d proviso after semicolon). | |
| 2734(e) | 31:224d (98th through 109th words). | |
| 2734(f) | 31:224i. | |

| | | |
|---|---|---|
| 2734(g) | 31:224h. | |

In subsection (a), the words "for such purposes", "or destruction", "public", "private", "Army * * * forces", and "whether under a lease, express or implied" are omitted as surplusage. The words "armed forces under his jurisdiction" are substituted for the words "Army, Air Force, Navy, or Marine Corps". The same words are substituted for the words "Army, Air Force, Navy, or Marine Corps forces" to reflect the opinion of the Judge Advocate General of the Army (JAGD/D–55–51000, 17 Jan. 55). The word "settle" is substituted for the words "consider, ascertain, adjust, determine", since the word "settle", as defined in section 2731 of this title, includes those actions. The words "a member thereof, or by a civilian employee of the department concerned" are substituted for the words "or individual members thereof, including military personnel and civilian employees". The last sentence is substituted for the words "including places located therein which are under the temporary or permanent jurisdiction of the United States".

In subsection (a)(2), the words "United States" are substituted for the word "Government".

In subsection (b), the word "accident" is omitted as surplusage. The words "except that claims arising out of accidents or incidents occurring after December 6, 1941, but prior to May 1, 1943, may be presented at any time prior to May 1, 1944" are omitted as executed. Clauses (2) and (3) are substituted for 31:224d (3d proviso).

In subsection (c), the first 28 words of the second proviso of 31:224d and the words "but does not exceed $5,000" are omitted as covered by subsection (a). The words "commanding officer or other" are omitted as surplusage. The word "commissioned" is inserted for clarity. The word "designated" is substituted for the words "may prescribe".

In subsection (d), the word "may" is substituted for the words "shall have authority, if he deems". The words "that would otherwise be covered by this section" are inserted for clarity. The words "to be meritorious" and "character of such" are omitted as surplusage.

In subsection (f), the words "a military department" are substituted for the words "service concerned" after the words "the request of the". The words "or Commissions" and "even though not" are omitted as surplusage. The words "an armed force under the jurisdiction of another military department" are substituted for the words "service concerned" after the words "officers of the". 31:224i (last 19 words) is omitted, since all claims are paid from one appropriation made to the Department of Defense.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2734(a) | 31:224d. | July 28, 1956, ch. 769, §1, 70 Stat. 703. |
| 2734(d) | 31:224d. | |
| 2734(f) | 31:224i. | |
| 2734(h) | 31:224i–1. | |

In subsections (a)(1) and (2), the words "a foreign country" are substituted for the words "that country" to make clear that damage to a political subdivision or an inhabitant of a foreign country need not have occurred in that country.

In subsection (h), the word "settle" is substituted for the words "consider, ascertain, adjust, determine,", since the word "settle", as defined in section 2731 of this title, includes those actions. The words "as provided in this section" are substituted for the words "as described in section 224d of this title" and 31:224i–1 (2d sentence).

## EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions" in concluding provisions.

**2002**—Subsec. (g). Pub. L. 107–296 substituted "Department of Homeland Security" for "Department of Transportation".

**1996**—Subsec. (d). Pub. L. 104–316 substituted "Secretary of the Treasury" for "Comptroller General".

**1990**—Subsec. (h). Pub. L. 101–510 substituted "as provided in section 2732 of this title" for "available to the Office of the Secretary of Defense for the payment of claims".

**1984**—Subsec. (a). Pub. L. 98–564, §2(1), substituted "$100,000" for "$25,000" and inserted provisions whereby employees as well as officers of the Secretary may settle claims in text preceding par. (1).

Pub. L. 98–564, §2(2), inserted "or employee" after "An officer" in last sentence.

Subsec. (c). Pub. L. 98–564, §2(3), substituted provisions whereby the Secretary may appoint officers and employees to act as approval authority for claims in excess of $10,000 for provisions which provided that allowance of a claim for more than $2,500 may be subject to the approval of any commissioned officer designated by the Secretary concerned.

Subsec. (d). Pub. L. 98–564, §2(4), substituted provisions providing that if the Secretary considers a claim in excess of $100,000 meritorious, the Secretary may pay $100,000 and report any excess amount to the Comptroller General for provisions which provided that for claims in excess of $25,000 the Secretary may pay $25,000 and certify any excess to Congress as a legal claim to be paid from appropriations.

**1980**—Subsec. (g). Pub. L. 96–513 substituted "Department of Transportation" for "Department of the Treasury".

**1974**—Subsec. (a). Pub. L. 93–336 substituted "$25,000" for "$15,000".

Subsec. (d). Pub. L. 93–336 substituted "$25,000" for "$15,000" in two places.

**1970**—Subsec. (d). Pub. L. 91–312 authorized the Secretary to pay, without certification to Congress, up to $15,000 towards the settlement of meritorious claims in excess of $15,000.

Subsec. (e). Pub. L. 91–312 excepted claims under subsec. (d) from requirement that all claims paid be accepted by the claimant in full satisfaction, and struck out provision limiting the application of such requirement to claims payable under subsec. (a) of this section.

**1968**—Subsec. (a). Pub. L. 90–521, §1, struck out "under his jurisdiction" after "armed forces" in text preceding cl. (1) and permitted an officer to serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but required him to perform his duties under regulations of the department appointing the commission, respectively.

Subsec. (b)(3). Pub. L. 90–521, §3, provided for allowance of claim if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including the airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

**1960**—Subsec. (b). Pub. L. 86–411 substituted "two years" for "one year" in cl. (1).

**1959**—Pub. L. 86–223, §1(1)(A), substituted "the armed forces" for "Department of Army, Navy, or Air Force" in section catchline.

Subsec. (a). Pub. L. 86–223, §1(1)(B), substituted "concerned" and "the military department concerned or the Coast Guard, as the case may be" for "of a military department" and "the department concerned", respectively.

Subsecs. (c), (d). Pub. L. 86–223, §1(1)(C), struck out "of the military department" after "Secretary".

Subsec. (f). Pub. L. 86–223, §1(1)(D), substituted "the department concerned" for "a military department" and deleted "military" after "another".

Subsec. (g). Pub. L. 86–223, §1(1)(E), substituted provision for payment of claims against the Coast Guard arising while it is operating as a service in the Department of the Treasury out of the appropriation for the operating expenses of the Coast Guard for provisions excluding such claims unless they arise, are settled and paid while the Coast Guard is operating as a service of the Navy and authorizing Coast Guard officers to serve on claims commissions or to approve settlements, only for claims against the Coast Guard.

**1958**—Subsec. (a). Pub. L. 85–861, §1(55)(A)–(D), struck out "arising in foreign countries" after "meritorious claims", and substituted "$15,000" for "$5,000", "outside the United States, or the Territories, Commonwealths, or possessions," for "in that country", and "a foreign country" for "that country" in cls. (1) and (2).

Subsec. (d). Pub. L. 85–861, §1(55)(A), substituted "$15,000" for "$5,000".

Subsec. (f). Pub. L. 85–861, §1(55)(E), substituted "Upon" for "In time of war and upon".

Subsec. (h). Pub. L. 85–861, §1(55)(F), added subsec. (h).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements

(a) When the United States is a party to an international agreement which provides for the settlement or adjudication and cost sharing of claims against the United States arising out of the acts or omissions of a member or civilian employee of an armed force of the United States done in the performance of official duty, or arising out of any other act, omission, or occurrence for which an armed force of the United States is legally responsible under the law of another party to the international agreement, and causing damage in the territory of such party, the Secretary of Defense or the Secretary of Homeland Security or their designees may—

(1) reimburse the party to the agreement for the agreed pro rata share of amounts, including any authorized arbitration costs, paid by that party in satisfying awards or judgments on claims, in accordance with the agreement; or

(2) pay the party to the agreement the agreed pro rata share of any claim, including any authorized arbitration costs, for damage to property owned by it, in accordance with the agreement.

(b) A claim arising out of an act of an enemy of the United States or arising, directly or indirectly, from an act of the armed forces, or a member thereof, while engaged in combat may not be considered or paid under this section.

(c) A reimbursement or payment under this section shall be made by the Secretary of Defense out of appropriations as provided in section 2732 of this title except that payment of claims against the Coast Guard arising while it is operating as a service of the Department of Homeland Security shall be made out of the appropriations for the operating expenses of the Coast Guard. The appropriations referred to in this subsection may be used to buy foreign currencies required for the reimbursement or payment.

(d) Upon the request of the Secretary of Homeland Security or his designee, any payments made relating to claims arising from the activities of the Coast Guard and covered by subsection (a) may be reimbursed or paid to the foreign country concerned by the authorized representative of the Department of Defense out of appropriations as provided in section 2732 of this title, subject to reimbursement from the Department of Homeland Security.

(Added Pub. L. 87–651, title I, §113(a), Sept. 7, 1962, 76 Stat. 512; amended Pub. L. 90–521, §4, Sept. 26, 1968, 82 Stat. 874; Pub. L. 94–390, §1(1), Aug. 19, 1976, 90 Stat. 1191; Pub. L. 98–525, title XIV, §1405(42)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101–510, div. A, title XIV, §1481(j)(4)(B), Nov. 5, 1990, 104 Stat. 1709; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2734a(a) | 31:224i–2 (less proviso). | Aug. 31, 1954, ch. 1152, §§1 (less proviso, as applicable to §2), 4 (as applicable to §1), 68 Stat. 1006, 1007. |
| 2734a(b) | 31:224i–2 (proviso, as applicable to 31:224i–2). | |
| 2734a(c) | 31:224i–5 (as applicable to 31–224i–2). | |

In subsection (a), the following substitutions are made: "Under" for "Pursuant to the terms"; "country" for "government"; "under its laws and regulations" for "in accordance with the laws and regulations of such foreign government"; "may" for "is authorized"; "amounts" for "sums"; and "spent" for "expended". The words "now or may hereafter be" are omitted as surplusage.

In subsection (b), the following substitutions are made: "act" for "action" and "may" for "shall".

In subsection (c), the words "pro rata" are omitted as surplusage. The following substitutions are made: "under this section" for "by the United States with respect to a settlement, award, or compromise made pursuant to sections 224i–2 to 224i–5 of this title"; "to buy" for "for the purchase of"; and "needed" for

"necessary". The words "which appropriations are authorized" are omitted as unnecessary.

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsecs. (a), (c), (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" wherever appearing.

**1990**—Subsec. (c). Pub. L. 101–510, §1481(j)(4)(B)(i), substituted "as provided in section 2732 of this title" for "for that purpose".

Subsec. (d). Pub. L. 101–510, §1481(j)(4)(B)(ii), substituted "appropriations as provided in section 2732 of this title" for "the appropriation for claims of the Department of Defense".

**1984**—Pub. L. 98–525 substituted "in foreign countries" for "; foreign countries" in section catchline.

**1976**—Subsec. (a). Pub. L. 94–390 substituted provisions authorizing the Secretary of Defense or the Secretary of Transportation to reimburse or pay, including arbitration costs, claims arising under international agreements to which the United States is a party and providing for settlement or adjudication and cost sharing based on the responsibility of the United States under the law of the other party to the international agreement, for provisions authorizing the Secretary of Defense to reimburse or pay claims arising under international agreements to which the United States is a party and providing for adjudication by the other country under its laws and regulations.

**1968**—Subsec. (c). Pub. L. 90–521, §4(a), provided for payment of claims against the Coast Guard arising while it is operating as a service of the Department of Transportation out of appropriations for operating expenses of the Coast Guard.

Subsec. (d). Pub. L. 90–521, §4(b), added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §2734b. Property loss; personal injury or death: incident to activities of armed forces of foreign countries in United States; international agreements

(a) When the United States is a party to an international agreement which provides for the settlement or adjudication by the United States under its laws and regulations, and subject to agreed pro rata reimbursement, of claims against another party to the agreement arising out of the acts or omissions of a member or civilian employee of an armed force of that party done in the performance of official duty, or arising out of any other act, omission, or occurrence for which that armed force is legally responsible under applicable United States law, and causing damage in the United States, or a territory, Commonwealth, or possession thereof; those claims may be prosecuted against the United States, or settled by the United States, in accordance with the agreement, as if the acts or omissions upon which they are based were the acts or omissions of a member or a civilian employee of an armed force of the United States.

(b) When a dispute arises in the settlement or adjudication of a claim under this section whether an act or omission was in the performance of official duty, or whether the use of a vehicle of the armed forces was authorized, the dispute shall be decided under the international agreement with the foreign country concerned. Such a decision is final and conclusive. The Secretary of Defense may pay that part of the cost of obtaining such a decision that is chargeable to the United States under that agreement.

(c) A claim arising out of an act of an enemy of the United States may not be considered or paid under this section.

(d) A payment under this section shall be made by the Secretary of Defense out of appropriations as provided in section 2732 of this title.

(Added Pub. L. 87–651, title I, §113(a), Sept. 7, 1962, 76 Stat. 512; amended Pub. L. 94–390, §1(2),

Aug. 19, 1976, 90 Stat. 1191; Pub. L. 101–510, div. A, title XIV, §1481(j)(4)(C), Nov. 5, 1990, 104 Stat. 1709.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2734b(a) | 31:224i–3. | Aug. 31, 1954, ch. 1152, §§1 (proviso, less applicability to §1), 2, 3, 4 (less applicability to §1), 68 Stat. 1006, 1007. |
| 2734b(b) | 31:224i–4. | |
| 2734b(c) | 31:224i–2 (proviso, less applicability to 31:224i–2). | |
| 2734b(d) | 31:224i–5 (less applicability to 31:224i–2). | |

In subsection (a), the following omissions as surplusage are made: "the terms of" and "now or may hereafter be". The following substitutions are made: "country" for "government"; "in the United States, or a Territory, Commonwealth, or possession" for "within the territory of the United States"; "under" for "in accordance with"; "upon which they are based were the acts or omissions of" for "were performed".

In subsection (b), the following substitutions are made: "under this section" for "asserted under section 224i–3 of this title"; "the dispute" for "such disputed question or questions"; "under" for "in accordance with the terms of"; and the last sentence for the last sentence of 31:224i–4. The following omissions as surplusage are made: "of a civilian employee or military personnel of a foreign country" and "of the armed forces for such party".

In subsection (c), the word "act" is substituted for the word "action".

In subsection (d), the words "under this section" are substituted for the words "by the United States with respect to a settlement, award, or compromise made pursuant to section 224i–2 to 224i–5 of this title". The words "which appropriations are authorized" are omitted as unnecessary.

**EDITORIAL NOTES**

**AMENDMENTS**

**1990**—Subsec. (d). Pub. L. 101–510 substituted "as provided in section 2732 of this title" for "for that purpose".

**1976**—Subsec. (a). Pub. L. 94–390 substituted provisions authorizing claims, for which another armed force is legally responsible under applicable United States law, to be prosecuted against the United States or settled by the United States in accordance with an international agreement providing for the settlement or adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were of a member or a civilian employee of an armed force of the United States, for provisions authorizing claims to be prosecuted against the United States or settled by the United States by adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were the acts or omissions in the performance of official duty of a civilian employee or a member of an armed force.

## §2735. Settlement: final and conclusive

Notwithstanding any other provision of law, the settlement of a claim under section 2733, 2733a, 2734, 2734a, 2734b, or 2737 of this title is final and conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 155; Pub. L. 88–558, §5(1), Aug. 31, 1964, 78 Stat. 768; Pub. L. 92–413, Aug. 29, 1972, 86 Stat. 649; Pub. L. 116–92, div. A, title VII, §731(c)(1), Dec. 20, 2019, 133 Stat. 1460.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2735 | 31:222c (1st sentence of (e)).<br>31:223b (4th sentence).<br>31:224d (last proviso). | May 29, 1945, ch. 135, §1 (e) (1st sentence); restated July 3, 1952, ch. 548, §1 (1st sentence of last par.), 66 |

| | | |
|---|---|---|
| | | Stat. 323.<br>July 3, 1943, ch. 189, §1 (4th sentence), 57 Stat. 373.<br>Jan. 2, 1942, ch. 645, §1 (last proviso); restated Apr. 22, 1943, ch. 67, §1 (last proviso), 57 Stat. 67. |

The words "for all purposes" and "to the contrary", in each source credit; "by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Defense, or their designees" and "such regulations as they, respectively, may prescribe hereunder", in 31:222c(e); "by the Secretary of the Army, or his designee" and "such regulations as he may prescribe hereunder", in 31:223b; and "by such Commissions", in 31:224d; are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92 substituted "2733, 2733a," for "2733,".
**1972**—Pub. L. 92–413 inserted reference to sections 2734a, 2734b, and 2737 of this title.
**1964**—Pub. L. 88–558 struck out reference to section 2732.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116–92 applicable to any claim filed under section 2733a of this title, on or after Jan. 1, 2020, and any claim filed in calendar year 2020 deemed to be filed within the time period specified in section 2733a(b)(4) of this title if it is filed within three years after it accrues, see section 731(d) of Pub. L. 116–92, set out as an Effective Date note under section 2733a of this title.

### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–558, §5, Aug. 31, 1964, 78 Stat. 768, provided that the amendment made by that section is effective two years from Aug. 31, 1964.

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 88–558, Aug. 31, 1964, 78 Stat. 767, cited as a credit to this section and in the Effective Date of 1964 Amendment note above, was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

## §2736. Property loss; personal injury or death: advance payment

(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to allow a claim, the Secretary of the military department concerned may make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed $100,000.

(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of $25,000 or less.

(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.

(b) Any amount paid under subsection (a) shall be deducted from any amount that may be allowed

under any other provision of law to the person, or his legal representative, for injury, death, damage, or loss attributable to the accident concerned.

(c) So far as practicable, regulations prescribed under this section shall be uniform for the military departments.

(d) Payment of an amount under subsection (a) is not an admission by the United States of liability for the accident concerned.

(Added Pub. L. 87–212, §1(1), Sept. 8, 1961, 75 Stat. 488; amended Pub. L. 90–521, §2, Sept. 26, 1968, 82 Stat. 874; Pub. L. 98–564, §3, Oct. 30, 1984, 98 Stat. 2919; Pub. L. 100–456, div. A, title VII, §735(a), Sept. 29, 1988, 102 Stat. 2005.)

### EDITORIAL NOTES

### AMENDMENTS

**1988**—Subsec. (a). Pub. L. 100–456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Under such regulations as the Secretary of a military department may prescribe, payment of an amount not in excess of $10,000 may be made in advance of the submission of a claim to or for any person, or his legal representatives, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law. Payments under this subsection are limited to those which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32."

**1984**—Subsec. (a). Pub. L. 98–564 substituted "$10,000" for "$1,000".

**1968**—Pub. L. 90–521 substituted "advance payment" for "incident to aircraft or missile operation" in section catchline.

Subsec. (a). Pub. L. 90–521 substituted "under circumstances" for "as the result of an accident involving an aircraft or missile under the control of that department".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VII, §735(b), Sept. 29, 1988, 102 Stat. 2006, provided that: "The amendment made by subsection (a) [amending this section] shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act [Sept. 29, 1988]."

## §2737. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law

(a) Under such regulations as the Secretary concerned may prescribe, he or his designee may settle and pay, in an amount not more than $1,000, a claim against the United States, not cognizable under any other provision of law, for—

(1) damage to, or loss of, property; or

(2) personal injury or death;

caused by a civilian official or employee of a military department or the Coast Guard, or a member of the armed forces, incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(b) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a military department with respect to a claim, not cognizable under any other provision of law, for—

(1) damage to, or loss of, property; or

(2) personal injury or death;

caused by a civilian official or employee of the Department of Defense not covered by subsection

(a), incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(c) A claim may not be allowed under subsection (a) or (b) if the damage to, or loss of, property, or the personal injury or death was caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee.

(d) A claim for personal injury or death under this section may not be allowed for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

(e) No claim may be allowed under this section unless it is presented in writing within two years after it accrues.

(f) A claim may not be paid under subsection (a) or (b) unless the amount tendered is accepted by the claimant in full satisfaction.

(g) No claim or any part thereof, the amount of which is legally recoverable by the claimant under an indemnifying law or indemnity contract, may be paid under this section. No subrogated claim may be paid under this section.

(h) So far as practicable, regulations prescribed under this section shall be uniform. Regulations prescribed under this section by the Secretaries of the military departments must be approved by the Secretary of Defense.

(Added Pub. L. 87–769, §1(1)(A), Oct. 9, 1962, 76 Stat. 767, §2736; renumbered §2737, Pub. L. 89–718, §21(a), Nov. 2, 1966, 80 Stat. 1118.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

(a) AUTHORITY TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.

(Added Pub. L. 103–337, div. A, title V, §557(a), Oct. 5, 1994, 108 Stat. 2775.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 103–337, div. A, title V, §557(c), Oct. 5, 1994, 108 Stat. 2776, provided that:

"(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses

incurred after June 30, 1990.

"(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act [Oct. 5, 1994], a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment."

## §2739. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations

(a) CREDITING OF COLLECTIONS.—Any qualifying military department third-party collection shall be credited to the appropriate current appropriation. Amounts so credited shall be merged with the funds in that appropriation and shall be available for the same period and purposes as the funds with which merged.

(b) APPROPRIATE CURRENT APPROPRIATION.—For purposes of subsection (a), the appropriate current appropriation with respect to a qualifying military department third-party collection is the appropriation currently available, as of the date of the collection, for the payment of claims by that military department for loss or damage of personal property shipped or stored at Government expense.

(c) QUALIFYING MILITARY DEPARTMENT THIRD-PARTY COLLECTIONS.—For purposes of subsection (a), a qualifying military department third-party collection is any amount that a military department collects under sections 3711, 3716, 3717, and 3721 of title 31 from a third party for a loss or damage to personal property that occurred during shipment or storage of the property at Government expense and for which the Secretary of the military department paid the owner in settlement of a claim.

(Added Pub. L. 105–261, div. A, title X, §1010(a)(1), Oct. 17, 1998, 112 Stat. 2117.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 105–261, div. A, title X, §1010(b), Oct. 17, 1998, 112 Stat. 2117, provided that: "Section 2739 of title 10, United States Code, as added by subsection (a), applies with respect to amounts collected by a military department on or after the date of the enactment of this Act [Oct. 17, 1998]."

## §2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available

The Secretary of Defense and the Secretaries of the military departments, in paying a claim under section 3721 of title 31 arising from loss or damage to household goods stored or transported at the expense of the Department of Defense, may pay the claim on the basis of full replacement value in any of the following cases in which reimbursement for the full replacement value for the loss or damage is not available directly from a carrier under section 2636a of this title:

(1) A case in which—

(A) the lost or damaged goods were stored or transported under a contract, tender, or solicitation in accordance with section 2636a of this title that requires the transportation service provider to settle claims on the basis of full replacement value; and

(B) the loss or damage occurred under circumstances that exclude the transportation service provider from liability.

(2) A case in which—

(A) the loss or damage occurred while the lost or damaged goods were in the possession of an ocean carrier that was transporting, loading, or unloading the goods under a Department of

Defense contract for ocean carriage; and

(B) the land-based portions of the transportation were under contracts, in accordance with section 2636a of this title, that require the land carriers to settle claims on the basis of full replacement value.

(3) A case in which—

(A) the lost or damaged goods were transported or stored under a contract or solicitation that requires at least one of the transportation service providers or carriers that handled the shipment to settle claims on the basis of full replacement value pursuant to section 2636a of this title;

(B) the lost or damaged goods have been in the custody of more than one independent contractor or transportation service provider; and

(C) a claim submitted to the delivering transportation service provider or carrier is denied in whole or in part because the loss or damage occurred while the lost or damaged goods were in the custody of a prior transportation service provider or carrier or government entity.

(Added Pub. L. 111–383, div. A, title III, §354(a)(1), Jan. 7, 2011, 124 Stat. 4194.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 111–383, div. A, title III, §354(b), Jan. 7, 2011, 124 Stat. 4195, provided that: "Section 2740 of title 10, United States Code, as added by subsection (a), shall apply with respect to losses incurred after the date of the enactment of this Act [Jan. 7, 2011]."

# CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
2771. Final settlement of accounts: deceased members.
2772. Share of fines and forfeitures to benefit Armed Forces Retirement Home.
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2773a. Departmental accountable officials.
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[2784. Renumbered.]
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2787. Reports of survey.
2788. Property accountability: regulations.
2789. Individual equipment: unauthorized disposition.
2790. Recovery of improperly disposed of Department of Defense property.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(2), Dec. 27, 2021, 135 Stat. 2139, struck out item 2784 "Management of purchase cards".

**2011**—Pub. L. 111–383, div. A, title III, §355(b), Jan. 7, 2011, 124 Stat. 4197, added item 2790.

**2008**—Pub. L. 110–181, div. A, title III, §375(b), Jan. 28, 2008, 122 Stat. 83, added items 2788 and 2789.

**2006**—Pub. L. 109–364, div. A, title X, §1053(a)(2), Oct. 17, 2006, 120 Stat. 2396, added item 2773b.

**2002**—Pub. L. 107–314, div. A, title X, §§1005(b), 1006(a)(2), 1007(b)(2), 1008(b), Dec. 2, 2002, 116 Stat. 2632–2635, substituted "purchase" for "credit" in item 2784 and added items 2773a, 2784a, and 2787.

**1999**—Pub. L. 106–65, div. A, title IX, §933(a)(2), title X, §1008(a)(2), Oct. 5, 1999, 113 Stat. 730, 738, added items 2784 to 2786.

**1996**—Pub. L. 104–316, title I, §105(d), Oct. 19, 1996, 110 Stat. 3830, struck out item 2778 "Accounts of the military departments".

Pub. L. 104–106, div. B, title XXVIII, §2821(b), Feb. 10, 1996, 110 Stat. 556, added item 2782.

**1993**—Pub. L. 103–160, div. A, title XI, §1182(a)(8)(C), Nov. 30, 1993, 107 Stat. 1771, added item 2783.

**1990**—Pub. L. 101–510, div. A, title XIV, §1405(c)(2), title XV, §1533(a)(4)(B), Nov. 5, 1990, 104 Stat. 1680, 1734, substituted "Retirement Home" for "retirement homes" in item 2772 and struck out item 2782 "Unobligated balances withdrawn from availability for obligation: limitations on restoration".

**1989**—Pub. L. 101–189, div. A, title III, §342(a)(2), title XVI, §1603(a)(2), Nov. 29, 1989, 103 Stat. 1420, 1598, added items 2772 and 2782.

**1988**—Pub. L. 100–370, §1(m)(2), July 19, 1988, 102 Stat. 850, added item 2781.

**1987**—Pub. L. 100–26, §7(j)(7)(C), Apr. 21, 1987, 101 Stat. 283, substituted "allowances and of" for "allowances, and" in item 2774.

**1986**—Pub. L. 99–661, div. A, title XIII, §1309(b), Nov. 14, 1986, 100 Stat. 3983, added item 2780.

**1985**—Pub. L. 99–224, §2(b), Dec. 28, 1985, 99 Stat. 1742, substituted "and" for "other than" in item 2774.

Pub. L. 99–167, title VIII, §802(d)(2), Dec. 3, 1985, 99 Stat. 987, substituted "assigned to military housing" for "for damage to housing and related equipment and furnishings" in item 2775.

**1984**—Pub. L. 98–407, title VIII, §801(a)(2), Aug. 28, 1984, 98 Stat. 1518, substituted "members for damage to housing and related equipment and furnishings" for "member for damages to family housing, equipment, and furnishings" in item 2775.

**1982**—Pub. L. 97–258, §2(b)(7)(A), (8)(A), Sept. 13, 1982, 96 Stat. 1054, substituted "Designation, powers, and accountability of deputy disbursing officials" for "Accountability for public money: disbursing officers; agent officers" in item 2773 and added items 2776, 2777, 2778, and 2779.

**1980**—Pub. L. 96–513, title V, §511(96), Dec. 12, 1980, 94 Stat. 2928, struck out item 2772 "Withholding pay of officers".

Pub. L. 96–418, title V, §506(b), Oct. 10, 1980, 94 Stat. 1766, added item 2775.

**1972**—Pub. L. 92–453, §1(2), Oct. 2, 1972, 86 Stat. 759, added item 2774.

**1962**—Pub. L. 87–480, §1(1)(B), June 8, 1962, 76 Stat. 94, added item 2773.

## §2771. Final settlement of accounts: deceased members

(a) In the settlement of the accounts of a deceased member of the armed forces, an amount due from the armed force of which he was a member shall be paid to the person highest on the following list living on the date of death:

(1) Beneficiary designated by him in writing to receive such an amount, if the designation is received, before the deceased member's death, at the place named in regulations to be prescribed by the Secretary concerned.

(2) Surviving spouse.

(3) Children and their descendants, by representation.

(4) Father and mother in equal parts or, if either is dead, the survivor.

(5) Legal representative.

(6) Person entitled under the law of the domicile of the deceased member.

(b) Designations and changes of designation of beneficiaries under subsection (a)(1) are subject to regulations to be prescribed by the Secretary concerned. So far as practicable, these regulations shall

be uniform for the uniformed services.

(c) Payments under subsection (a) shall be made by the Secretary of Defense.

(d) A payment under this section bars recovery by any other person of the amount paid.

(Aug. 10, 1956, ch. 1041, 70A Stat. 155; Pub. L. 85–861, §1(56), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 86–641, July 12, 1960, 74 Stat. 473; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §511(97), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 103–160, div. A, title XI, §1182(a)(11), Nov. 30, 1993, 107 Stat. 1771; Pub. L. 104–316, title II, §202(f), Oct. 19, 1996, 110 Stat. 3842.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2771(a) | 10:868 (less proviso).<br>34:941a (less proviso). | June 30, 1906, ch. 3914, §1 (last par. under "State or Territorial Homes for Disabled Soldiers and Sailors"); restated Dec. 7, 1944, ch. 519; restated Feb. 25, 1946, ch. 35, §4, 60 Stat. 30. |
| 2771(b) | 10:868 (proviso).<br>34:941a (proviso). | Feb. 25, 1946, ch. 35, §1, 60 Stat. 30; Aug. 4, 1949, ch. 393, §18, 63 Stat. 560. |

In subsections (a) and (b), the words "General Accounting Office" are substituted for the words "accounting officers", for clarity.

In subsection (a), the word "member" is substituted for the words "officers or enlisted persons", in 10:868 and 34:941a. The words "his legal representative" are substituted for the words "a duly appointed legal representative of the estate", since an estate, being property and not an entity, has no representative. The words "duly appointed" are omitted as surplusage. The words "highest on the following list" are substituted for the words "following order of precedence", in 10:868 and 34:941a. Clauses (1)–(4) are substituted for the words between the first and second colons of 10:868 and 34:941a. The words "Surviving spouse" are substituted for the words "widow or widower" after the words "First, to".

In subsection (b), the words "That this section shall not be so construed as to prevent", "or persons", and "actually", in 10:868 and 34:941a, are omitted as surplusage.

### 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2771(a) | 37:361.<br>37:362.<br>37:365. | July 12, 1955, ch. 328, §§1–3, 4 (less proviso), 5 (first sentence), 69 Stat. 295, 296. |
| 2771(b) | 37:364 (less proviso). | |
| 2771(c) | 37:363 (less last sentence).<br>37:363 (last sentence). | |
| 2771(d) | | |

In subsection (a), the definition of the term "Department", in 37:361, is omitted as unnecessary, since the particular departments referred to are spelled out in the revised text. The definition of the term "uniformed services", in 37:361, is omitted as covered by the word "member" in this revised section and by sections 3 and 4 of the Act enacting this revised section. Clauses (1)–(6) are substituted for the last 5 clauses of 37:362. The words "regulations to be prescribed by the Secretary concerned" are substituted for the words "regulations of the Department concerned", since the "Department", as such, cannot issue regulations.

In subsection (a)(2), the words "surviving spouse" are substituted for the words "widow or widower". As defined in section 101(32), "spouse" includes a widower.

In subsection (b), the words "are subject to" are substituted for the words "shall be made under".

In subsection (c), the word "Under" is substituted for the words "Subject to". The words "rules and" are

omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (c). Pub. L. 104–316 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Under such regulations as the Comptroller General may prescribe, payments under subsection (a) shall be made by the military department concerned or the Department of Transportation, as the case may be. Payment under clause (6) of subsection (a) shall be made—

"(1) upon settlement by the General Accounting Office; or

"(2) as otherwise authorized by the Comptroller General."

**1993**—Subsec. (a). Pub. L. 103–160, §1182(a)(11)(A), struck out "who dies after December 31, 1955" after "armed forces" in introductory provisions.

Subsec. (b). Pub. L. 103–160, §1182(a)(11)(B), substituted "for the uniformed services" for "for the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service".

**1980**—Subsec. (b). Pub. L. 96–513, §511(97)(A), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (c). Pub. L. 96–513, §511(97)(B), substituted "Department of Transportation" for "Department of the Treasury".

**1966**—Subsec. (b). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

**1960**—Subsec. (c). Pub. L. 86–641 substituted provisions requiring payment under clause (6) of subsection (a) to be made upon settlement by the General Accounting Office or as otherwise authorized by the Comptroller General for provisions which permitted payments under clauses (2) to (6) of subsection (a) to be made only after settlement by the General Accounting Office.

**1958**—Subsec. (a). Pub. L. 85–861 amended subsec. (a) generally to restrict application of section to members of the armed forces who die after Dec. 31, 1955, and to permit payment to the designated beneficiaries, surviving spouse, children and their descendants, and to parents before payment to the legal representative.

Subsec. (b). Pub. L. 85–861 substituted provisions relating to designations and changes of designation of beneficiaries for provisions which authorized reimbursement of funeral expenses.

Subsecs. (c), (d). Pub. L. 85–861 added subsecs. (c) and (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### FINAL SETTLEMENT OF ACCOUNTS OF MEMBERS WHO DIED BEFORE JANUARY 1, 1960

Pub. L. 85–861, §29, Sept. 2, 1958, 72 Stat. 1563, authorized the General Accounting Office, in the settlement of the accounts of a member of the Army, Navy, Air Force, or Marine Corps who died before Jan. 1, 1956, to allow any amount due to the person highest on a list of persons living on the date of settlement and to provide reimbursement for funeral expenses from the amount due the decedent's estate.

### DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Pub. L. 85–861, §31, Sept. 2, 1958, 72 Stat. 1563, provided that: "The designation of a beneficiary made for the purposes of any six months' death gratuity, including the designation of a person whose right to the gratuity does not depend upon that designation, and received in the military department concerned, the Department of the Treasury, the Department of Commerce, or the Department of Health, Education, and Welfare, as the case may be, before January 1, 1956, is considered as the designation of a beneficiary for the purposes of section 2771 of title 10, United States Code [this section], section 714 of title 32, United States Code, and sections 3 and 4 of this Act [amending section 857a of Title 33, and section 213a of Title 42], in the

absence of a designation under one of those sections, unless the member making the designation was missing, missing in action, in the hands of a hostile force, or interned in a foreign country any time after July 11, 1955, and before January 1, 1956."

### EXECUTIVE DOCUMENTS

### TRANSFER OF FUNCTIONS

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §2772. Share of fines and forfeitures to benefit Armed Forces Retirement Home

(a) DEPOSIT REQUIRED.—The Secretary of the military department concerned or, in the case of the Coast Guard, the Commandant shall deposit in the Armed Forces Retirement Home Trust Fund a percentage (determined under subsection (b)) of the following amounts:

(1) The amount of forfeitures and fines adjudged against an enlisted member, warrant officer, or limited duty officer of the armed forces by sentence of a court martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member, warrant officer, or limited duty officer for the reimbursement of the United States or any individual.

(2) The amount of forfeitures on account of the desertion of an enlisted member, warrant officer, or limited duty officer of the armed forces.

(b) DETERMINATION OF PERCENTAGE.—The Chief Operating Officer of the Armed Forces Retirement Home shall determine, on the basis of the financial needs of the Armed Forces Retirement Home, the percentage of the amounts referred to in subsection (a) to be deposited in the trust fund referred to in such subsection.

(Added Pub. L. 101–189, div. A, title III, §342(a)(1), Nov. 29, 1989, 103 Stat. 1419; amended Pub. L. 101–510, div. A, title XV, §1533(a)(3), (4)(A), Nov. 5, 1990, 104 Stat. 1733; Pub. L. 111–281, title II, §205(b)(1), Oct. 15, 2010, 124 Stat. 2911; Pub. L. 112–81, div. A, title V, §567(b)(2)(B), Dec. 31, 2011, 125 Stat. 1425.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2772, act Aug. 10, 1956, ch. 1041, 70A Stat. 156, authorized withholding of pay of officers of the Army, Navy, Air Force, or Marine Corps, and is covered by section 1007 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(3), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 112–81 substituted "Chief Operating Officer of the Armed Forces Retirement Home" for "Armed Forces Retirement Home Board".

**2010**—Subsec. (a). Pub. L. 111–281, §205(b)(1)(A), inserted "or, in the case of the Coast Guard, the Commandant" after "concerned" in introductory provisions.

Subsec. (c). Pub. L. 111–281, §205(b)(1)(B), struck out subsec. (c). Text read as follows: "In this section, the term 'armed forces' does not include the Coast Guard when it is not operating as a service in the Navy."

**1990**—Pub. L. 101–510, §1533(a)(4)(A), substituted "Retirement Home" for "retirement homes" in section catchline and amended text generally, substituting subsecs. (a) to (c) relating to shares of fines and forfeitures to benefit the Armed Forces Retirement Home for former subsecs. (a) and (b) relating to shares of fines and forfeitures to benefit the Soldiers' Home and the Naval Home.

Pub. L. 101–510, §1533(a)(3), inserted "and forfeitures" after "fines" in subsecs. (a)(1)(A) and (b)(1)(A) and substituted ", warrant officer, or limited duty officer" for "or warrant officer" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title XV, §1533(a)(3), Nov. 5, 1990, 104 Stat. 1733, provided that the amendment by that section was effective Nov. 5, 1990, prior to repeal by Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

Amendment by section 1533(a)(4)(A) of Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

**EFFECTIVE DATE**

Pub. L. 101–189, div. A, title III, §342(b), Nov. 29, 1989, 103 Stat. 1420, provided that:

"(1) Subsection (a) of section 2772 of such title [10 U.S.C. 2772(a)], as added by subsection (a), shall apply with respect to fines and forfeitures adjudged after the date of the enactment of this Act [Nov. 29, 1989].

"(2) Subsection (b) of such section shall apply with respect to fines and forfeitures adjudged after May 31, 1990."

## §2773. Designation, powers, and accountability of deputy disbursing officials

(a)(1) Subject to paragraph (3), a disbursing official of the Department of Defense may designate a deputy disbursing official—

(A) to make payments as the agent of the disbursing official;

(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

(C) to carry out other duties required under law.

(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Defense or, in the case of a disbursing official of a military department, the Secretary of that military department.

(b)(1) If a disbursing official of the Department of Defense dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the 2d month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

(Added Pub. L. 87–480, §1(1)(A), June 8, 1962, 76 Stat. 94; amended Pub. L. 97–258, §2(b)(7)(B), Sept. 13, 1982, 96 Stat. 1054; Pub. L. 104–106, div. A, title IX, §913(a)(2), Feb. 10, 1996, 110 Stat. 410.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2773(a) | 10:2773. | |
| | 31:103a. | July 3, 1926, ch. 775, 44 Stat. 888; June 6, 1972, Pub. L. 92–310, §231(bb), 86 Stat. 212. |
| 2773(b) | 31:103b. | July 31, 1953, ch. 300, 67 Stat. 296; June 6, 1972, Pub. L. 92–310, §231(ff), 86 Stat. 213. |

In the section, the words "disbursing official" are substituted for "disbursing officer" for consistency with other titles of the United States Code. The words "Secretary of the Treasury" are substituted for "Treasurer of

the United States" because of section 1(a) of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated as section 321 of the revised title contained in section 1 of the bill. The text of 10:2773 is omitted as being superseded by 31:103a and 103b.

In subsection (a)(1), before clause (A), the words "With the approval of a Secretary of a military department when the Secretary considers it necessary" are substituted for "When, in the opinion of the Secretary of the Army, Navy, or Air Force, the exigencies of the service so require . . . with the approval of the head of their executive department" in 31:103a because of 10:101(7), to eliminate unnecessary words, and for consistency. The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The Secretary of the Air Force is included because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). The words "deputy disbursing official" are substituted for "deputies" for clarity. In clause (A), the words "to make payments" are substituted for "for the purpose of having them make disbursements" to eliminate unnecessary words. In clause (C), the words "to be performed by such disbursing officers" are omitted as unnecessary.

In subsection (a)(2), the words "deputy disbursing official" are substituted for "agent officer" for clarity and consistency.

In subsection (b)(1), the word "disabled" is substituted for "incapacity" for consistency in the title. The word "until" is substituted for "for a period of time not to extend beyond" to eliminate unnecessary words.

In subsection (b)(2), the words "The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official" are substituted for "The former disbursing officer or his estate . . . but the deputy disbursing officer shall be responsible therefor" for clarity and because of the restatement. The word "liable" is substituted for "subject to any legal liability or penalty" to eliminate unnecessary words. The word "actions" is substituted for "official acts and defaults". The words "in the name or in the place of the former disbursing officer" are omitted as unnecessary.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (a)(1). Pub. L. 104–106, §913(a)(2)(A)(i), substituted "Subject to paragraph (3), a disbursing official of the Department of Defense" for "With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department".

Subsec. (a)(3). Pub. L. 104–106, §913(a)(2)(A)(ii), added par. (3).

Subsec. (b)(1). Pub. L. 104–106, §913(a)(2)(B), substituted "the Department of Defense" for "any military department".

**1982**—Pub. L. 97–258 substituted provisions authorizing a disbursing official of a military department to designate a deputy disbursing official with the same duties and penalties for misconduct as those of the disbursing official and allowing a deputy disbursing official to continue the accounts and payments in the name of a former disbursing official for two months after the death, disability, or separation of the former disbursing official for provisions authorizing any officer of an armed force accountable for public money to entrust it to another officer of an armed force to make disbursement as his agent, with both officers pecuniarily responsible to the United States for that money.

## §2773a. Departmental accountable officials

(a) DESIGNATION BY SECRETARY OF DEFENSE.—The Secretary of Defense may designate any civilian employee of the Department of Defense or member of the armed forces under the Secretary's jurisdiction who is described in subsection (b) as an employee or member who, in addition to any other potential accountability, may be held accountable through personal monetary liability for an illegal, improper, or incorrect payment made by the Department of Defense described in subsection (c). Any such designation shall be in writing. Any employee or member who is so designated may be referred to as a "departmental accountable official".

(b) COVERED EMPLOYEES AND MEMBERS.—An employee or member of the armed forces described in this subsection is an employee or member who—

(1) is responsible in the performance of the employee's or member's duties for providing to a certifying official of the Department of Defense information, data, or services that are directly

relied upon by the certifying official in the certification of vouchers for payment; and

(2) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of such vouchers.

(c) PECUNIARY LIABILITY.—(1) The Secretary of Defense may subject a departmental accountable official to pecuniary liability for an illegal, improper, or incorrect payment made by the Department of Defense if the Secretary determines that such payment—

(A) resulted from information, data, or services that that official provided to a certifying official and upon which that certifying official directly relies in certifying the voucher supporting that payment; and

(B) was the result of fault or negligence on the part of that departmental accountable official.

(2) Pecuniary liability under this subsection shall apply in the same manner and to the same extent as applies to an official accountable under subtitle III of title 31.

(3) Any pecuniary liability of a departmental accountable official under this subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment is joint and several with that of any other officer or employee of the United States or member of the uniformed services who is pecuniarily liable for such loss.

(d) CERTIFYING OFFICIAL DEFINED.—In this section, the term "certifying official" means an employee who has the responsibilities specified in section 3528(a) of title 31.

(Added Pub. L. 107–314, div. A, title X, §1005(a), Dec. 2, 2002, 116 Stat. 2631; amended Pub. L. 109–163, div. A, title X, §1056(c)(8), Jan. 6, 2006, 119 Stat. 3440.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 inserted "by" after "incorrect payment made".

## §2773b. Parking of funds: prohibition; penalties

(a) PROHIBITION.—An officer or employee of the Department of Defense may not direct the designation of funds for a particular purpose in the budget of the President, as submitted to Congress pursuant to section 1105 of title 31, or the supporting documents of the Department of Defense component of such budget, with the knowledge or intent that such funds, if made available to the Department, will not be used for the purpose for which they are designated.

(b) PENALTIES.—The direction of the designation of funds in violation of the prohibition in subsection (a) shall be treated for purposes of chapter 13 of title 31 as a violation of section 1341(a)(1)(A) of such title.

(Added Pub. L. 109–364, div. A, title X, §1053(a)(1), Oct. 17, 2006, 120 Stat. 2396.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 109–364, div. A, title X, §1053(b), Oct. 17, 2006, 120 Stat. 2396, provided that:

"(1) IN GENERAL.—The amendments made by subsection (a) [enacting this section] shall take effect on the date that is 31 days after the date of the enactment of this Act [Oct. 17, 2006].

"(2) MODIFICATION OF CERTAIN POLICIES AND REGULATIONS.—Not later than 30 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall modify the policies and regulations of the Department of Defense regarding the preparation and submittal to Congress of budget materials for the Department of Defense to take into account section 2773b of title 10, United States Code, as added by subsection (a)."

## §2774. Claims for overpayment of pay and allowances and of travel and transportation allowances

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances, to or on behalf of a member or former member of the uniformed services, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Director of the Office of Management and Budget; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than $10,000; and

(B) the waiver is made in accordance with standards which the Director of the Office of Management and Budget shall prescribe.

(b) The Director of the Office of Management and Budget or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of five years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(Added Pub. L. 92–453, §1(1), Oct. 2, 1972, 86 Stat. 758; amended Pub. L. 96–513, title V, §511(98), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 99–224, §2(a), Dec. 28, 1985, 99 Stat. 1741; Pub. L. 100–26, §7(j)(7)(A), (B), Apr. 21, 1987, 101 Stat. 283; Pub. L. 102–190, div. A, title VI, §657(b), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104–316, title I, §105(b), Oct. 19, 1996, 110 Stat. 3830; Pub. L. 109–364, div. A, title VI, §671(a), Oct. 17, 2006, 120 Stat. 2270.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (a)(2)(A). Pub. L. 109–364, §671(a)(1), substituted "$10,000" for "$1,500".

Subsec. (b)(2). Pub. L. 109–364, §671(a)(2), substituted "five years" for "three years".

**1996**—Subsec. (a). Pub. L. 104–316, §105(b)(1), substituted "Director of the Office of Management and Budget" for "Comptroller General" in par. (1), and in par. (2) inserted "and" at end of subpar. (A), redesignated subpar. (C) as (B) and substituted "Director of the Office of Management and Budget" for "Comptroller General", and struck out former subpar. (B) which read as follows "the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and".

Subsec. (b). Pub. L. 104–316, §105(b)(2), substituted "Director of the Office of Management and Budget" for "Comptroller General".

**1991**—Subsec. (a)(2)(A). Pub. L. 102–190 substituted "$1,500" for "$500".

**1987**—Pub. L. 100–26, §7(j)(7)(A), substituted "allowances and of" for "allowances, and" in section catchline.

Subsec. (a). Pub. L. 100–26, §7(j)(7)(B), struck out "as defined in section 101(3) of title 37," after "uniformed services,".

**1985**—Pub. L. 99–224, §2(a)(1), substituted "and" for "other than" in section catchline.

Subsec. (a). Pub. L. 99–224, §2(a)(2), substituted "made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances" for ", other than travel and transportation allowances, made before or after October 2, 1972".

Subsec. (b)(2). Pub. L. 99–224, §2(a)(3), struck out "of pay or allowances, other than travel and transportation allowances," after "payment".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "October 2, 1972" for "the effective date of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, §671(c), Oct. 17, 2006, 120 Stat. 2270, provided that: "The amendments made by this section [amending this section and section 716 of Title 32, National Guard] shall take effect on March 1, 2007."

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–316 effective 60 days after Oct. 19, 1996, see section 101(e) of Pub. L. 104–316, set out as a note under section 4593 of Title 2, The Congress.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–224 applicable to any claim arising out of an erroneous payment of travel and transportation allowances made on or after Dec. 28, 1985, see section 4 of Pub. L. 99–224, set out as a note under section 5584 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### CANCELLATION OF DEBTS UP TO $2,500 OF UNIFORMED SERVICE MEMBERS INCURRED IN CONNECTION WITH OPERATION DESERT SHIELD/STORM

Pub. L. 104–61, title VIII, §8052, Dec. 1, 1995, 109 Stat. 662, provided that: "Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: *Provided*, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, §8060, Sept. 30, 1994, 108 Stat. 2633.

Pub. L. 103–139, title VIII, §8071, Nov. 11, 1993, 107 Stat. 1457.

Pub. L. 102–396, title IX, §9100, Oct. 6, 1992, 106 Stat. 1926.

Pub. L. 102–172, title VIII, §8138, Nov. 26, 1991, 105 Stat. 1212.

## §2775. Liability of members assigned to military housing

(a)(1) A member of the armed forces shall be liable to the United States for damage to any family housing unit or unaccompanied personnel housing unit, or damage to or loss of any equipment or furnishings of any family housing unit or unaccompanied personnel housing unit, assigned to or provided such member if (as determined under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy) the damage or loss was caused by the abuse or negligence of the member (or a dependent of the member) or of a guest of the member (or a dependent of the member).

(2) A member of the armed forces—

(A) who is assigned or provided a family housing unit; and

(B) who fails to clean satisfactorily that housing unit (as determined under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy) upon termination of the assignment or provision of that housing unit,

shall be liable to the United States for the cost of cleaning made necessary as a result of that failure.

(b) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may establish limitations on liability under this section, including (in the case of liability under subsection (a)(1)) different limitations based upon the degree of abuse or negligence involved, and may compromise or waive a claim of the United States under this section.

(c)(1) The Secretary concerned may deduct from a member's pay an amount sufficient to pay for the cost of any repair or replacement made necessary as the result of any abuse or negligence referred to in subsection (a)(1), or the cost of any cleaning made necessary by a failure to clean satisfactorily a family housing unit referred to in subsection (a)(2), for which the member is liable. Regulations implementing this section may also provide for the collection of amounts owed under this section by any other authorized means.

(2) The final determination of an amount to be deducted from the pay of an officer of an armed force in accordance with regulations prescribed under this section shall be deemed to be a special order authorizing such deduction for the purposes of section 1007 of title 37.

(d) Amounts received under this section shall be credited to the family housing operations and maintenance account, in the case of damage to a family housing unit (or the equipment or furnishings of a family housing unit) or failure to clean satisfactorily a family housing unit, or to the operations and maintenance account, in the case of damage to an unaccompanied personnel housing unit (or the equipment or furnishings of an unaccompanied personnel housing unit), of the military department or defense agency concerned, or the operating expenses account of the Coast Guard, as appropriate. Amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in those accounts.

(e) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section. Such regulations shall include—

(1) regulations for determining the cost of repairs and replacements made necessary as the result of abuse or negligence for which a member is liable under subsection (a)(1);

(2) regulations for determining the cost of cleaning made necessary as a result of the failure to clean satisfactorily for which a member is liable under subsection (a)(2); and

(3) provisions for limitations of liability, the compromise or waiver of claims, and the collection of amounts owed under this section.

(Added Pub. L. 96–418, title V, §506(a), Oct. 10, 1980, 94 Stat. 1765; amended Pub. L. 97–214, §10(a)(6), July 12, 1982, 96 Stat. 175; Pub. L. 98–407, title VIII, §801(a)(1), Aug. 28, 1984, 98 Stat. 1517; Pub. L. 99–167, title VIII, §802(a)–(d)(1), Dec. 3, 1985, 99 Stat. 986; Pub. L. 99–661, div. A, title XIII, §1343(a)(19), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsecs. (a)(1), (2)(B), (b), (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1986**—Subsec. (a)(1). Pub. L. 99–661, §1343(a)(19)(A), substituted "(as determined under regulations prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard

when it is not operating as a service in the Navy) the" for "it is determined, under regulations prescribed by the Secretary of Defense and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, that the".

Subsec. (b). Pub. L. 99–661, §1343(a)(19)(B), inserted a comma after "Secretary of Defense", substituted "with respect to the Coast Guard when it" for "when the Coast Guard", and inserted a comma after "Navy".

Subsec. (e). Pub. L. 99–661, §1343(a)(19)(C), substituted "with respect to the Coast Guard when it" for "when the Coast Guard".

**1985**—Pub. L. 99–167, §802(d)(1), substituted "assigned to military housing" for "for damage to housing and related equipment and furnishings" in section catchline.

Subsec. (a). Pub. L. 99–167, §802(a), (b)(1), designated existing provisions as par. (1), and in par. (1) as so designated, inserted "and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy", and added par. (2).

Subsec. (b). Pub. L. 99–167, §802(b)(1), (c)(1), inserted "and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy" and "(in the case of liability under subsection (a)(1))".

Subsec. (c)(1). Pub. L. 99–167, §802(c)(2), substituted "subsection (a)(1), or the cost of any cleaning made necessary by a failure to clean satisfactorily a family housing unit referred to in subsection (a)(2)," for "subsection (a)".

Subsec. (d). Pub. L. 99–167, §802(b)(2), (c)(3), inserted "or failure to clean satisfactorily a family housing unit" and ", or the operating expenses account of the Coast Guard, as appropriate".

Subsec. (e). Pub. L. 99–167, §802(c)(4), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary of Defense shall prescribe regulations to carry out the provisions of this section, including (1) regulations for determining the cost of repairs and replacements made necessary as the result of abuse or negligence referred to in subsection (a), and (2) regulations providing for limitations of liability, the compromise or waiver of claims, and the collection of amounts owed under this section."

**1984**—Pub. L. 98–407 substituted "Liability of members for damage to housing and related equipment and furnishings" for "Liability of member for damages to family housing, equipment, and furnishings" in section catchline.

Subsec. (a). Pub. L. 98–407 amended subsec. (a) generally, inserting references to unaccompanied personnel housing units, and expanding liability of members of the Armed Forces to include damages caused by the abuse or negligence of a guest of the member or of a dependent of the member.

Subsec. (b). Pub. L. 98–407 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 98–407 redesignated former subsec. (b) as (c), in subsec. (c)(1) as so redesignated substituted reference to any abuse or negligence for which the member is liable for reference to any abuse or negligence on the part of such member or any dependent of such member, inserted provision that regulations implementing this section may also provide for the collection of amounts owed under this section by any other authorized means, and in subsec. (c)(2), as so redesignated, substituted reference to regulations prescribed under this section for reference to regulations issued under this section. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 98–407 redesignated former subsec. (c) as (d) and substituted provisions requiring that amounts received under this section be credited either to the family housing operations and maintenance account of the department or agency concerned, (in the case of damage to family housing or equipment or furnishings therein) or the operations and maintenance account of the department or agency concerned (in the case of damage to an unaccompanied personnel housing unit or equipment or furnishings therein) for provisions that amounts deducted from members' pay under this section had to be credited to the Department of Defense Military Family Housing Management Account provided for in section 2831 of this title. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 98–407 redesignated former subsec. (d) as (e)(1), substituted reference to abuse or negligence referred to in subsec. (a) for reference to abuse or negligence on the part of a member or dependent of a member, and added par. (2).

**1982**—Subsec. (c). Pub. L. 97–214, §10(a)(6), substituted "Military Family Housing Management Account provided for in section 2831 of this title" for "family housing management account established under section 501 of Public Law 87–554 (76 Stat. 236; 42 U.S.C. 1594a–1)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1980, see section 608 of title VI of Pub. L. 96–418, set out as an Effective Date of 1980 Amendment note under section 2675 of this title.

**PROMULGATION OF REGULATIONS AND APPLICABILITY OF 1984 AMENDMENTS**

Pub. L. 98–407, title VIII, §801(b), Aug. 28, 1984, 98 Stat. 1518, provided that:

"(1) Regulations shall be prescribed under subsection (e) of section 2775 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act [Aug. 28, 1984]. That section shall apply with respect to the liability of a member under such section for damage or loss to an unaccompanied personnel housing unit (or the equipment or furnishings of an unaccompanied personnel housing unit) or for damage or loss caused by a guest of the member or of a dependent of the member to a family housing unit (or the equipment or furnishings of a family housing unit) only in the case of damage or loss caused on or after the date that such regulations take effect.

"(2) The authority of the Secretary of Defense under subsection (b) of such section is applicable to any claim of the United States under such section, whether such claim arose before, on, or after the date of the enactment of this Act [Aug. 28, 1984]."

## §2776. Use of receipts of public money for current expenditures

Without deposit to the credit of the Secretary of the Treasury and without withdrawal on money requisitions, a disbursing official of the Department of Defense may use receipts of public money charged in the disbursing official's accounts (except receipts to be credited to river, harbor, and flood control appropriations) for current expenditures, with necessary bookkeeping adjustments being made.

(Added Pub. L. 97–258, §2(b)(8)(B), Sept. 13, 1982, 96 Stat. 1055.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2776 | 31:493a. | Aug. 1, 1953, ch. 305, §611, 67 Stat. 350. |

The words "disbursing official" are substituted for "officer . . . on disbursing duty" for consistency with other titles of the United States Code. The words "On and after August 1, 1953" are omitted as executed. The words "Secretary of the Treasury" are substituted for "Treasury of the United States" because of section 1(a) of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated in section 321 of the revised title contained in section 1 of the bill. The words "from sales or other sources" are omitted as surplus. The words "with" and "being" are added because of the restatement. The words "of appropriations, funds, and accounts to be . . . in the settlement of their disbursing accounts" are omitted as unnecessary.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Act Aug. 1, 1953, cited as the source of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following appropriation acts:

July 10, 1952, ch. 630, title VI, §613, 66 Stat. 532.
Oct. 18, 1951, ch. 512, title VI, §613, 65 Stat. 446.
Sept. 6, 1950, ch. 896, Ch. X, title VI, §615, 64 Stat. 753.
Oct. 29, 1949, ch. 787, title VI, §618, 63 Stat. 1020.
June 24, 1948, ch. 632, 62 Stat. 651.

July 30, 1947, ch. 357, title I, §1, 61 Stat. 551.
July 16, 1946, ch. 583, §1, 60 Stat. 543.
July 3, 1945, ch. 265, §1, 59 Stat. 386.
June 28, 1944, ch. 303, §1, 58 Stat. 575.
July 1, 1943, ch. 185, §1, 57 Stat. 349.
July 2, 1942, ch. 477, §1, 56 Stat. 613.
June 30, 1941, ch. 262, §1, 55 Stat. 369.
June 13, 1940, ch. 343, §1, 54 Stat. 355.
Apr. 26, 1939, ch. 88, §1, 53 Stat. 597.
June 11, 1938, ch. 347, §1, 52 Stat. 646.
July 1, 1937, ch. 423, §1, 50 Stat. 446.

## §2777. Requisitions for advances and removal of charges outstanding in accounts of advances

(a) The Secretary of a military department may issue to a disbursing official or agent of the department a requisition for an advance of not more than the total appropriation for the department. The amount advanced shall be—

(1) under an "account of advances" for the department;
(2) on a proper voucher;
(3) only for obligations payable under specific appropriations;
(4) charged to, and within the limits of, each specific appropriation; and
(5) returned to the account of advances.

(b) A charge outstanding in an account of advances of a military department shall be removed by crediting the account of advances of the department and deducting the amount of the charge from an appropriation made available for advances to the department when—

(1) relief has been granted or may be granted later to a disbursing official or agent of the department operating under an account of advances and under a law having no provision for removing charges outstanding in an account of advances; or
(2) the charge has been—
(A) outstanding in the account of advances of the department for 2 complete fiscal years; and
(B) certified by the head of the department as uncollectable.

(c) Subsection (b) does not affect the financial liability of a disbursing official or agent.

(Added Pub. L. 97–258, §2(b)(8)(B), Sept. 13, 1982, 96 Stat. 1055; amended Pub. L. 98–525, title XIV, §1405(43), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 104–316, title I, §105(c), Oct. 19, 1996, 110 Stat. 3830.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2777(a) | 31:536, 537. | June 5, 1920, ch. 240 (1st, 2d pars. under heading "Advances to Disbursing Officers"), 41 Stat. 975. |
| | 31:539, 540. | June 19, 1878, ch. 312, §§1, 2, 20 Stat. 167. |
| 2777(b), (c) | 31:95b (related to Army, Navy, Air Force). | June 4, 1954, ch. 264, §1 (related to Army, Navy, Air Force), 68 Stat. 175; June 6, 1972, Pub. L. 92–310, §231(gg), 86 Stat. 213. |

In the section, the words "disbursing official" are substituted for "disbursing officers" for consistency with other titles of the United States Code.

In subsection (a), before clause (1), the words "Secretary of a military department" are substituted for "Secretary of the Army" in 31:536 and for "Secretary of the Navy" in 31:539 because of 10:101(7). The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The Secretary of the Air Force is included because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). In clause (1), the word "General" in 31:539 is omitted as surplus. In clause (3), the words "and 'Pay of the Navy' shall be used only for its legitimate purpose, as provided by law" are omitted as unnecessary. In clause (5), the words "by pay and counterwarrant" in 31:537 and 540 are omitted as unnecessary.

In subsection (b), before clause (1), the word "appropriate" is omitted as surplus. The words "deducting the amount of the charge from" are substituted for "debiting" for clarity. In clause (2)(B), the word "concerned" is omitted as surplus.

In subsection (c), the words "in any way" and "of the United States" are omitted as surplus.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (b)(2)(B). Pub. L. 104–316 struck out "to the Comptroller General" after "head of the department".

**1984**—Subsec. (c). Pub. L. 98–525 struck out "of this section" after "Subsection (b)".

## [§2778. Repealed. Pub. L. 104–316, title I, §105(d), Oct. 19, 1996, 110 Stat. 3830]

Section, added Pub. L. 97–258, §2(b)(8)(B), Sept. 13, 1982, 96 Stat. 1055, related to management of accounts of military departments by Comptroller General.

## §2779. Use of funds because of fluctuations in currency exchange rates of foreign countries

(a) TRANSFERS BACK TO FOREIGN CURRENCY FLUCTUATIONS APPROPRIATION .—(1) Funds transferred from the appropriation "Foreign Currency Fluctuations, Defense" may be transferred back to the appropriation—

(A) when the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; and

(B) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay the obligations.

(2) A transfer back to the Foreign Currency Fluctuations, Defense appropriation may not be made after the end of the second fiscal year after the fiscal year that the appropriation to which the funds were originally transferred is available for obligation.

(b) FUNDING FOR LOSSES IN MILITARY CONSTRUCTION AND FAMILY HOUSING .—(1) One hundred million dollars, plus $25,000,000 from Family Housing, Defense, are appropriated to the Secretary of Defense, to remain available until spent. The appropriation is available only to provide funds to eliminate losses in military construction or expenses of family housing for the Department of Defense caused by fluctuations in currency exchange rates of foreign countries that changed after a budget request was submitted to Congress.

(2) Funds provided under this subsection are merged with and are available for the same purpose and for the same time period as the appropriation to which they are applied. An authorization or limitation limiting the amount that may be obligated or spent is increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(3) An obligation payable in the currency of a foreign country may be recorded as an obligation based on exchange rates used in preparing a budget submission. A change reflecting fluctuations in

the exchange rate may be recorded as a disbursement is made.

(c) TRANSFERS TO MILITARY PERSONNEL ACCOUNTS.—The Secretary of Defense may transfer funds to military personnel appropriations for a fiscal year out of funds available to the Department of Defense for that fiscal year under the appropriation "Foreign Currency Fluctuations, Defense".

(d) TRANSFERS TO FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—(1) The Secretary of Defense may transfer to the appropriation "Foreign Currency Fluctuations, Defense" unobligated amounts of funds appropriated for operation and maintenance and unobligated amounts of funds appropriated for military personnel.

(2) Any transfer from an appropriation under paragraph (1) shall be made not later than the end of the second fiscal year following the fiscal year for which the appropriation is provided.

(3) Any transfer made pursuant to the authority provided in this subsection shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time the transfer is made.

(e) CONDITIONS OF AVAILABILITY FOR TRANSFERRED FUNDS.—Amounts transferred under subsection (c) or (d) shall be merged with and be available for the same purposes and for the same period as the appropriations to which transferred.

(Added Pub. L. 97–258, §2(b)(8)(B), Sept. 13, 1982, 96 Stat. 1056; amended Pub. L. 101–510, div. A, title XIII, §1301(15), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 104–106, div. A, title IX, §911(a)–(c), (e), Feb. 10, 1996, 110 Stat. 406, 407.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2779(a) | 31:628–2. | July 25, 1979, Pub. L. 96–38, §100 (last par. under heading "General Provisions"), 93 Stat. 100. |
| 2779(b) | 31:628–3. | Nov. 30, 1979, Pub. L. 96–130, §100 (par. under heading "Foreign Currency Fluctuation, Construction, Defense"), 93 Stat. 1019. |

In subsection (a)(1), before clause (A), the words "during the current fiscal year or on and after July 25, 1979" are omitted as executed. The words "from an appropriation to which they were transferred" are omitted as surplus. In clause (A), the words "of foreign countries" are added for consistency.

In subsection (a)(2), the words "back to the Foreign Currency Fluctuations, Defense appropriation" are substituted for "authorized by this provision" for clarity.

In subsection (b)(1), the words "the sum of", "which shall be derived", and "to appropriations and funds" are omitted as surplus. The word "only" is added for clarity. The words "for those appropriations or funds" are omitted as surplus. The words "available during fiscal year 1980, or thereafter" are omitted as executed. The words "Department of Defense" are substituted for "military departments and Defense agencies" because of 10:101(5).

In subsection (b)(2), the words "or fund" are omitted as surplus. The words "now or on and after November 30, 1979" are omitted as executed. The words "contained within appropriations or other provisions of law", "hereby", and "applicable" are omitted as surplus.

In subsection (b)(3), the words "contracts or other . . . entered into" are omitted as surplus.

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (d) of this section were contained in Pub. L. 97–377, title I, §101(c) [title VII, §791], Dec. 21, 1982, 96 Stat. 1865, which was set out as a note under section 114 of this title, prior to repeal by Pub. L. 104–106, §911(d)(2).

### AMENDMENTS

**1996**—Subsec. (a). Pub. L. 104–106, §911(e)(1), inserted heading.
Subsec. (a)(2). Pub. L. 104–106, §911(e)(2), substituted "second fiscal year" for "2d fiscal year".
Subsec. (b). Pub. L. 104–106, §911(e)(3), inserted heading.
Subsec. (c). Pub. L. 104–106, §911(a), added subsec. (c).
Subsec. (d). Pub. L. 104–106, §911(b), added subsec. (d).
Subsec. (e). Pub. L. 104–106, §911(c), added subsec. (e).
**1990**—Subsec. (b)(4). Pub. L. 101–510 struck out par. (4) which read as follows: "The Secretary each year shall report to Congress on funds made available under this subsection."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title IX, §911(f), Feb. 10, 1996, 110 Stat. 407, provided that: "Subsections (c) and (d) of section 2779 of title 10, United States Code, as added by subsections (a) and (b), and the repeals made by subsection (d) [repealing provisions set out as a note under section 114 of this title], shall apply only with respect to amounts appropriated for a fiscal year after fiscal year 1995."

## §2780. Debt collection

(a)(1) Subject to paragraph (2), the Secretary of Defense shall enter into one or more contracts with a person for collection services to recover indebtedness owed to the United States (arising out of activities related to Department of Defense) that is delinquent by more than three months.

(2) The authority of the Secretary to enter into a contract under this section for any fiscal year is subject to the availability of appropriations.

(3) Any such contract shall provide that the person submit to the Secretary a status report on the person's success in collecting such debts at least once each six months. Section 3718 of title 31 shall apply to any such contract, to the extent not inconsistent with this subsection.

(b)(1) Except as provided in paragraph (2), the Secretary of Defense shall disclose to consumer reporting agencies, in accordance with paragraph (1) of section 3711(e) of title 31, information concerning any debt described in subsection (a) of more than $100 that is delinquent by more than 31 days.

(2) No disclosure shall be made under paragraph (1) with respect to an indebtedness while a decision regarding waiver of collection of the indebtedness is pending under section 2774 of this title or section 716 of title 32, or while a decision regarding remission or cancellation of the indebtedness is pending under section 7837, 8271, or 9837 of this title, unless the Secretary concerned (as defined in section 101(5) of title 37) determines that disclosure under that paragraph pending such decision is in the best interests of the United States.

(Added Pub. L. 99–661, div. A, title XIII, §1309(a), Nov. 14, 1986, 100 Stat. 3982; amended Pub. L. 104–316, title I, §115(g)(2)(C), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 109–364, div. A, title VI, §672(a), Oct. 17, 2006, 120 Stat. 2270; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (b)(2). Pub. L. 115–232 substituted "section 7837, 8271, or 9837" for "section 4837, 6161, or 9837".
**2006**—Subsec. (b). Pub. L. 109–364 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the Secretary of Defense" for "The Secretary", and added par. (2).
**1996**—Subsec. (b). Pub. L. 104–316 substituted "section 3711(e)" for "section 3711(f)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–364, div. A, title VI, §672(b), Oct. 17, 2006, 120 Stat. 2270, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on March 1, 2007.

"(2) APPLICATION TO PRIOR ACTIONS.—Paragraph (2) of section 2780(b) of title 10, United States Code, as added by subsection (a), shall not be construed to apply to or invalidate any action taken under such section before March 1, 2007."

**CONTRACTS FOR RECOVERY OF INDEBTEDNESS**

Pub. L. 101–165, title IX, §9019, Nov. 21, 1989, 103 Stat. 1133, provided that: "During the current fiscal year and hereafter, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code."

## §2781. Availability of appropriations: exchange fees; losses in accounts

Amounts appropriated to the Department of Defense may be used for—

(1) exchange fees; and

(2) losses in the accounts of disbursing officials and agents in accordance with law.

(Added Pub. L. 100–370, §1(m)(1), July 19, 1988, 102 Stat. 849.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8006(c)], Dec. 19, 1985, 99 Stat. 1185, 1203.

## §2782. Damage to real property: disposition of amounts recovered

Except as provided in section 2775 of this title, amounts recovered for damage caused to real property under the jurisdiction of the Secretary of a military department or, with respect to the Defense Agencies, under the jurisdiction of the Secretary of Defense shall be credited to the account available for the repair or replacement of the real property at the time of recovery. In such amounts as are provided in advance in appropriation Acts, amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in the account.

(Added Pub. L. 104–106, div. B, title XXVIII, §2821(a), Feb. 10, 1996, 110 Stat. 556.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2782, added Pub. L. 101–189, div. A, title XVI, §1603(a)(1), Nov. 29, 1989, 103 Stat. 1597, related to limits on restoration of unobligated balances withdrawn from availability for obligation, prior to repeal by Pub. L. 101–510, div. A, title XIV, §1405(c)(1), Nov. 5, 1990, 104 Stat. 1680.

## §2783. Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds

(a) REGULATION OF MANAGEMENT AND USE OF NONAPPROPRIATED FUNDS.—The Secretary of Defense shall prescribe regulations governing—

(1) the purposes for which nonappropriated funds of a nonappropriated fund instrumentality of the United States within the Department of Defense may be expended; and

(2) the financial management of such funds to prevent waste, loss, or unauthorized use.

(b) PENALTIES FOR VIOLATIONS.—(1) A civilian employee of the Department of Defense who is paid from nonappropriated funds and who commits a substantial violation of the regulations prescribed under subsection (a) shall be subject to the same penalties as are provided by law for misuse of appropriations by a civilian employee of the Department of Defense paid from appropriated funds. The Secretary of Defense shall prescribe regulations to carry out this paragraph.

(2) The Secretary shall provide in regulations that a violation of the regulations prescribed under subsection (a) by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).

(c) NOTIFICATION OF VIOLATIONS.—(1) A civilian employee of the Department of Defense (whether paid from nonappropriated funds or from appropriated funds), and a member of the armed forces, whose duties include the obligation of nonappropriated funds, shall notify the Secretary of Defense of information which the person reasonably believes evidences—

(A) a violation by another person of any law, rule, or regulation regarding the management of such funds; or

(B) other mismanagement or gross waste of such funds.

(2) The Secretary of Defense shall designate civilian employees of the Department of Defense or members of the armed forces to receive a notification described in paragraph (1) and ensure the prompt investigation of the validity of information provided in the notification.

(3) The Secretary shall prescribe regulations to protect the confidentiality of a person making a notification under paragraph (1).

(Added Pub. L. 102–484, div. A, title III, §362(a), Oct. 23, 1992, 106 Stat. 2379, §2490a; renumbered §2783 and amended Pub. L. 103–160, div. A, title XI, §1182(a)(8)(A), Nov. 30, 1993, 107 Stat. 1771.)

### EDITORIAL NOTES

### AMENDMENTS

**1993**—Pub. L. 103–160 renumbered section 2490a of this title as this section.

Subsec. (b)(2). Pub. L. 103–160, §1182(a)(8)(A)(i), substituted "chapter 47 of this title" for "chapter 47 of title 10, United States Code", "Justice) is" for "Justice), is", and "section 892 of this title" for "section 892 of such title".

Subsec. (c)(1). Pub. L. 103–160, §1182(a)(8)(A)(ii), substituted "armed forces" for "Armed Forces".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### STANDARDIZATION OF CERTAIN PROGRAMS AND ACTIVITIES OF MILITARY EXCHANGES

Pub. L. 102–484, div. A, title III, §361, Oct. 23, 1992, 106 Stat. 2379, directed the Secretary of Defense to standardize among the military departments the accounting, financial reporting formats, and automatic data processing and telecommunications data transfer of information by no later than Mar. 31, 1994, and report to Congress, no later than Mar. 31, 1993, on other programs and activities that could be standardized or consolidated.

## [§2784. Renumbered §4754]

## §2784a. Management of travel cards

(a) DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO CREDITORS.—(1) The Secretary of Defense shall require that any part of a travel or transportation allowance of an

employee of the Department of Defense or a member of the armed forces be disbursed directly to the issuer of a Defense travel card if the amount is disbursed to the issuer in payment of amounts of expenses of official travel that are charged by the employee or member on the Defense travel card.

(2) The Secretary of Defense may waive the requirement for a direct payment to a travel card issuer under paragraph (1) in any case the Secretary determines appropriate.

(3) For the purposes of this subsection, the travel and transportation allowances referred to in paragraph (1) are amounts to which an employee of the Department of Defense is entitled under section 5702 of title 5 or a member of the armed forces is entitled under section 452 of title 37.

(b) OFFSETS FOR DELINQUENT TRAVEL CARD CHARGES.—(1) The Secretary of Defense may require that there be deducted and withheld from any basic pay payable to an employee of the Department of Defense or a member of the armed forces any amount that is owed by the employee or member to a creditor by reason of one or more charges of expenses of official travel of the employee or member on a Defense travel card issued by the creditor if the employee or member—

(A) is delinquent in the payment of such amount under the terms of the contract under which the card is issued; and

(B) does not dispute the amount of the delinquency.

(2) The amount deducted and withheld from pay under paragraph (1) with respect to a debt owed a creditor as described in that paragraph shall be disbursed to the creditor to reduce the amount of the debt.

(3) The amount of pay deducted and withheld from the pay owed to an employee or member with respect to a pay period under paragraph (1) may not exceed 15 percent of the disposable pay of the employee or member for that pay period, except that a higher amount may be deducted and withheld with the written consent of the employee or member.

(4) The Secretary of Defense shall prescribe procedures for deducting and withholding amounts from pay under this subsection. The procedures shall be substantially equivalent to the procedures under section 3716 of title 31.

(c) OFFSETS OF RETIRED PAY.—In the case of a former employee of the Department of Defense or a retired member of the armed forces who is receiving retired pay and who owes an amount to a creditor by reason of one or more charges on a Defense travel card that were made before the retirement of the employee or member, the Secretary may require amounts to be deducted and withheld from any retired pay of the former employee or retired member in the same manner and subject to the same conditions as the Secretary deducts and withholds amounts from basic pay payable to an employee or member under subsection (b).

(d) DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.—(1) The Secretary of Defense shall evaluate the creditworthiness of an employee of the Department of Defense or a member of armed forces before issuing a Defense travel card to such an employee or member. The evaluation may include an examination of the individual's credit history in available credit records.

(2) An individual may not be issued a Defense travel card if the individual is found not creditworthy as a result of the evaluation required under paragraph (1).

(e) REGULATIONS ON DISCIPLINARY ACTION.—(1) The Secretary of Defense shall prescribe regulations for making determinations regarding the taking of disciplinary action, including assessment of penalties, against Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.

(2) The regulations prescribed under paragraph (1) shall—

(A) provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the Department of Defense violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a Defense travel card, including removal in appropriate cases; and

(B) provide that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).

(f) DEFINITIONS.—In this section:

(1) The term "Defense travel card" means a charge or credit card that—

(A) is issued to an employee of the Department of Defense or a member of the armed forces under a contract entered into by the Department of Defense with the issuer of the card; and

(B) is to be used for charging expenses incurred by the employee or member in connection with official travel.

(2) The term "disposable pay", with respect to a pay period, means the amount equal to the excess of the amount of basic pay or retired pay, as the case may be, payable for the pay period over the total of the amounts deducted and withheld from such pay.

(3) The term "retired pay" means—

(A) in the case of a former employee of the Department of Defense, any retirement benefit payable to that individual, out of the Civil Service Retirement and Disability Fund, based (in whole or in part) on service performed by such individual as a civilian employee of the Department of Defense; and

(B) in the case of a retired member of the armed forces or member of the Fleet Reserve or Fleet Marine Corps Reserve, retired or retainer pay to which the member is entitled.

(g) EXCLUSION OF COAST GUARD.—This section does not apply to the Coast Guard.

(Added Pub. L. 107–314, div. A, title X, §1008(a), Dec. 2, 2002, 116 Stat. 2634; amended Pub. L. 108–136, div. A, title X, §1009(a)–(c)(1), Nov. 24, 2003, 117 Stat. 1587, 1588; Pub. L. 109–364, div. A, title X, §1071(a)(25), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–81, div. A, title VI, §603(e), Dec. 27, 2021, 135 Stat. 1767.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(3). Pub. L. 117–81 substituted "section 452" for "section 474".

**2013**—Subsec. (a)(3). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsec. (a)(3). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "474" for "404".

**2006**—Subsec. (a)(2). Pub. L. 109–364 substituted "card" for "care".

**2003**—Subsec. (a)(1). Pub. L. 108–136, §1009(a)(1), substituted "The Secretary of Defense shall require" for "The Secretary of Defense may require".

Subsec. (a)(2), (3). Pub. L. 108–136, §1009(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (d) to (g). Pub. L. 108–136, §1009(b), (c)(1), added subsecs. (d) and (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §2785. Remittance addresses: regulation of alterations

The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall prescribe regulations setting forth controls on alteration of remittance addresses. Those regulations shall ensure that—

(1) a remittance address for a disbursement that is provided by an officer or employee of the Department of Defense authorizing or requesting the disbursement is not altered by any officer or employee of the department authorized to prepare the disbursement; and

(2) a remittance address for a disbursement is altered only if the alteration—

(A) is requested by the person to whom the disbursement is authorized to be remitted; and

(B) is made by an officer or employee authorized to do so who is not an officer or employee referred to in paragraph (1).

(Added Pub. L. 106–65, div. A, title IX, §933(a)(1), Oct. 5, 1999, 113 Stat. 729.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS

Pub. L. 106–65, div. A, title IX, §933(b)(2), Oct. 5, 1999, 113 Stat. 730, provided that: "Regulations under section 2785 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999]."

## §2786. Department of Defense payments by electronic transfers of funds: exercise of authority for waivers

With respect to any Federal payment of funds covered by section 3332(f) of title 31 (relating to electronic funds transfers) for which payment is made or authorized by the Department of Defense, the waiver authority provided in paragraph (2)(A)(i) of that section shall be exercised by the Secretary of Defense. The Secretary of Defense shall carry out the authority provided under the preceding sentence in consultation with the Secretary of the Treasury.

(Added Pub. L. 106–65, div. A, title X, §1008(a)(1), Oct. 5, 1999, 113 Stat. 737.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION

Pub. L. 106–65, div. A, title X, §1008(a)(3), Oct. 5, 1999, 113 Stat. 738, provided that: "Any waiver in effect on the date of the enactment of this Act [Oct. 5, 1999] under paragraph (2)(A)(i) of section 3332(f) of title 31, United States Code, shall remain in effect until otherwise provided by the Secretary of Defense under section 2786 of title 10, United States Code, as added by paragraph (1)."

## §2787. Reports of survey

(a) ACTION ON REPORTS OF SURVEY.—Under regulations prescribed pursuant to subsection (c), any officer of the Army, Navy, Air Force, Marine Corps, or Space Force or any civilian employee of the Department of Defense designated in accordance with those regulations may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense.

(b) FINALITY OF ACTION.—(1) Action taken under subsection (a) is final except as provided in paragraph (2).

(2) An action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by a person designated to do so by the Secretary of a military department,

commander of a combatant command, or Director of a Defense Agency, as the case may be, who has jurisdiction of the person held pecuniarily liable. The person designated to provide final approval shall be an officer of an armed force, or a civilian employee, under the jurisdiction of the official making the designation.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 107–314, div. A, title X, §1006(a)(1), Dec. 2, 2002, 116 Stat. 2632; amended Pub. L. 116–283, div. A, title IX, §924(b)(3)(HH), Jan. 1, 2021, 134 Stat. 3822.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 107–314, div. A, title X, §1006(d), Dec. 2, 2002, 116 Stat. 2633, provided that: "The amendments made by this section [enacting this section, amending section 1007 of Title 37, Pay and Allowances of the Uniformed Services, and repealing sections 4835 and 9835 of this title] shall apply with respect to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense occurring on or after the effective date of regulations prescribed pursuant to section 2787 of title 10, United States Code, as added by subsection (a)."

## §2788. Property accountability: regulations

The Secretary of a military department may prescribe regulations for the accounting for the property of that department and the fixing of responsibility for that property.

(Added Pub. L. 110–181, div. A, title III, §375(a), Jan. 28, 2008, 122 Stat. 83.)

## §2789. Individual equipment: unauthorized disposition

(a) PROHIBITION.—No member of the armed forces may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished to such member by the United States to any person other than a member of the armed forces or an officer of the United States who is authorized to receive it.

(b) SEIZURE OF IMPROPERLY DISPOSED PROPERTY.—If a member of the armed forces has disposed of property in violation of subsection (a) and the property is in the possession of a person who is neither a member of the armed forces nor an officer of the United States who is authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize the property, wherever found, subject to applicable regulations. Possession of such property furnished by the United States to a member of the armed forces by a person who is neither a member of the armed forces, nor an officer of the United States, is prima facie evidence that the property has been disposed of in violation of subsection (a).

(c) DELIVERY OF SEIZED PROPERTY.—If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, the officer shall deliver the property to a person who is authorized to retain it.

(Added Pub. L. 110–181, div. A, title III, §375(a), Jan. 28, 2008, 122 Stat. 83.)

## §2790. Recovery of improperly disposed of Department of Defense property

(a) PROHIBITION.—No member of the armed forces, civilian employee of the United States

Government, contractor personnel, or other person may sell, lend, pledge, barter, or give any clothing, arms, articles, equipment, or other military or Department of Defense property except in accordance with the statutes and regulations governing Government property.

(b) TRANSFER OF TITLE OR INTEREST INEFFECTIVE.—If property has been disposed of in violation of subsection (a), the person holding the property has no right or title to, or interest in, the property.

(c) AUTHORITY FOR SEIZURE OF IMPROPERLY DISPOSED OF PROPERTY.—If any person is in the possession of military or Department of Defense property without right or title to, or interest in, the property because it has been disposed of in material violation of subsection (a), any Federal, State, or local law enforcement official may seize the property wherever found. Unless an exception to the warrant requirement under the fourth amendment to the Constitution applies, seizure may be made only—

(1) pursuant to—

(A) a warrant issued by the district court of the United States for the district in which the property is located, or for the district in which the person in possession of the property resides or is subject to service; or

(B) pursuant to an order by such court, issued after a determination of improper transfer under subsection (e); and

(2) after such a court has issued such a warrant or order.

(d) INAPPLICABILITY TO CERTAIN PROPERTY.—Subsections (b) and (c) shall not apply to—

(1) property on public display by public or private collectors or museums in secured exhibits; or

(2) property in the collection of any museum or veterans organization or held in a private collection for the purpose of public display, provided that any such property, the possession of which could undermine national security or create a hazard to public health or safety, has been fully demilitarized.

(e) DETERMINATIONS OF VIOLATIONS.—(1) The district court of the United States for the district in which the property is located, or the district in which the person in possession of the property resides or is subject to service, shall have jurisdiction, regardless of the current approximated or estimated value of the property, to determine whether property was disposed of in violation of subsection (a). Any such determination shall be by a preponderance of the evidence.

(2) Except as provided in paragraph (3), in the case of property, the possession of which could undermine national security or create a hazard to public health or safety, the determination under paragraph (1) may be made after the seizure of the property, as long as the United States files an action seeking such determination within 90 days after seizure of the property. If the person from whom the property is seized is found to have been lawfully in possession of the property and the return of the property could undermine national security or create a hazard to public health or safety, the Secretary of Defense shall reimburse the person for the market value for the property.

(3) Paragraph (2) shall not apply to any firearm, ammunition, or ammunition component, or firearm part or accessory that is not prohibited for commercial sale.

(f) DELIVERY OF SEIZED PROPERTY.—Any law enforcement official who seizes property under subsection (c) and is not authorized to retain it for the United States shall deliver the property to an authorized member of the armed forces or other authorized official of the Department of Defense or the Department of Justice.

(g) SCOPE OF ENFORCEMENT.—This section shall apply to the following:

(1) Any military or Department of Defense property disposed of after January 6, 2011, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such property.

(2) Any significant military equipment disposed of on or after January 1, 2002, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the

time of the disposal of such significant military equipment.

(h) RULE OF CONSTRUCTION.—The authority of this section is in addition to any other authority of the United States with respect to property to which the United States may have right or title.

(i) DEFINITIONS.—In this section:

(1) The term "significant military equipment" means defense articles on the United States Munitions List for which special export controls are warranted because of their capacity for substantial military utility or capability.

(2) The term "museum" has the meaning given that term in section 273(1) of the Museum Services Act (20 U.S.C. 9172(1)).

(3) The term "fully demilitarized" means, with respect to equipment or material, the destruction of the military offensive or defensive advantages inherent in the equipment or material, including, at a minimum, the destruction or disabling of key points of such equipment or material, such as the fuselage, tail assembly, wing spar, armor, radar and radomes, armament and armament provisions, operating systems and software, and classified items.

(4) The term "veterans organization" means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.

(Added Pub. L. 111–383, div. A, title III, §355(a), Jan. 7, 2011, 124 Stat. 4195; amended Pub. L. 112–239, div. A, title X, §1076(e)(5), Jan. 2, 2013, 126 Stat. 1951.)

### EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (g)(1). Pub. L. 112–239 substituted "after January 6, 2011," for "on or after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011".

## [CHAPTER 167—REPEALED]

## [§2791. Repealed. Pub. L. 104–201, div. A, title XI, §1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, related to establishment and duties of Defense Mapping Agency.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## [§2792. Renumbered §451]

## [§2793. Renumbered §452]

## [§2794. Renumbered §453]

## [§2795. Renumbered §454]

## [§2796. Renumbered §455]

## [§2797. Repealed. Pub. L. 104–201, div. A, title XI, §1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 103–337, div. A, title X, §1074(a), Oct. 5, 1994, 108 Stat. 2861, related to unauthorized use of Defense Mapping Agency name, initials, or seal.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

## [§2798. Renumbered §456]

# CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Military Construction** | **2801** |
| **II.** | **Military Family Housing** | **2821** |
| **III.** | **Administration of Military Construction and Military Family Housing.** | **2851** |
| **IV.** | **Alternative Authority for Acquisition and Improvement of Military Housing** | **2871** |
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### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, div. B, title XXX, §3011(c)(2), Dec. 20, 2019, 133 Stat. 1920, added item for subchapter V.

**1996**—Pub. L. 104–106, div. B, title XXVIII, §2801(a)(2), Feb. 10, 1996, 110 Stat. 551, added item for subchapter IV.

# SUBCHAPTER I—MILITARY CONSTRUCTION


| Sec. | |
|---|---|
| 2801. | Scope of chapter; definitions. |
| 2802. | Military construction projects. |
| 2803. | Emergency construction. |
| 2804. | Contingency construction. |
| 2805. | Unspecified minor construction. |
| 2806. | Contributions for North Atlantic Treaty Organizations Security Investment. |
| 2807. | Architectural and engineering services and construction design. |
| 2808. | Construction authority in the event of a declaration of war or national emergency. |

2808a. Facility construction or repair: transactions other than contracts and grants.
2809. Long-term facilities contracts for certain activities and services.
2810. Military construction projects for innovation, research, development, test, and evaluation.
2811. Repair of facilities.
2812. Lease-purchase of facilities.
2813. Acquisition of existing facilities in lieu of authorized construction.
2814. Special authority for development of Ford Island, Hawaii.
2815. Military installation resilience projects.
2815a. Stormwater management, shoreline erosion control, and water resilience projects for installations and defense access roads.
2816. Consideration of energy security and energy resilience in life-cycle cost for military construction.
2817. Authority for certain construction projects in friendly foreign countries.
2818. Contracts for design and construction of facilities of Department of Defense.
2819. Strategy and assessment with respect to non-operational, underutilized, and other Department of Defense facilities: assessments of historical significance.
2820. Development of infrastructure improvement plan for each military department.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. B, title XXVIII, §§2802(a), 2803, Dec. 18, 2025, 139 Stat. 1292, 1293, added items 2808a and 2820. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. B, title XXVIII, §§2822(a), 2843, 2847(a)(1), Dec. 23, 2024, 138 Stat. 2254, 2263, 2264, substituted "Stormwater management, shoreline erosion control, and water resilience projects for installations and defense access roads" for "Stormwater management projects for installation and defense access road resilience and waterway and ecosystems conservation" in item 2815a and added items 2818 and 2819. Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. B, title XXVIII, §2805, Dec. 22, 2023, 137 Stat. 744, added item 2817. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. B, title XXVIII, §2805(b), Dec. 23, 2022, 136 Stat. 2995, added item 2810.

**2021**—Pub. L. 117–81, div. B, §2003(b), title XXVIII, §2803, Dec. 27, 2021, 135 Stat. 2162, 2186, added item 2815a.

Pub. L. 116–283, div. A, title X, §1081(c)(9), div. B, title XXVIII, §2804(b), Jan. 1, 2021, 134 Stat. 3873, 4321, added item 2816 and amended directory language of Pub. L. 116–92, §2801(b)(2). See 2019 Amendment note below.

**2019**—Pub. L. 116–92, div. B, title XXVIII, §2801(b)(2), Dec. 20, 2019, 133 Stat. 1881, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(9), Jan. 1, 2021, 134 Stat. 3873, added item 2815.

**2011**—Pub. L. 112–81, div. A, title X, §1061(23)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 2815 "Joint use military construction projects: annual evaluation".

**2002**—Pub. L. 107–314, div. A, title III, §313(d)(2), Dec. 2, 2002, 116 Stat. 2508, struck out item 2810 "Construction projects for environmental response actions".

**2000**—Pub. L. 106–398, §1 [div. B, title XXVIII, §2801(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–412, added item 2815.

**1999**—Pub. L. 106–65, div. B, title XXVIII, §2802(a)(2), Oct. 5, 1999, 113 Stat. 848, added item 2814.

**1996**—Pub. L. 104–201, div. B, title XXVIII, §2802(c)(2), Sept. 23, 1996, 110 Stat. 2787, substituted "Organizations Security Investment" for "Organization Infrastructure" in item 2806.

Pub. L. 104–106, div. A, title XV, §1503(a)(31), Feb. 10, 1996, 110 Stat. 512, inserted period at end of item 2811.

**1994**—Pub. L. 103–337, div. B, title XXVIII, §2801(b), Oct. 5, 1994, 108 Stat. 3050, substituted "Repair" for "Renovation" in item 2811.

**1993**—Pub. L. 103–160, div. B, title XXVIII, §2805(a)(2), Nov. 30, 1993, 107 Stat. 1887, added item 2813.

**1991**—Pub. L. 102–190, div. B, title XXVIII, §2805(a)(2), Dec. 5, 1991, 105 Stat. 1538, substituted "Long-term facilities contracts for certain activities and services" for "Test of long-term facilities contracts" in item 2809.

**1989**—Pub. L. 101–189, div. B, title XXVIII, §2809(b), Nov. 29, 1989, 103 Stat. 1650, added item 2812.

**1987**—Pub. L. 100–26, §7(e)(3), Apr. 21, 1987, 101 Stat. 281, redesignated item 2810 "Renovation of facilities" as item 2811.

**1986**—Pub. L. 99–661, div. A, title III, §315(b), Nov. 14, 1986, 100 Stat. 3854, added item 2810 "Renovation of facilities".

Pub. L. 99–499, title II, §211(b)(2), Oct. 17, 1986, 100 Stat. 1726, added item 2810 "Construction projects for environmental response actions".

**1985**—Pub. L. 99–167, title VIII, §811(b), Dec. 3, 1985, 99 Stat. 991, added item 2809.

## §2801. Scope of chapter; definitions

(a) The term "military construction" as used in this chapter or any other provision of law includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation, whether to satisfy temporary or permanent requirements, or any acquisition of land or construction of a defense access road (as described in section 210 of title 23).

(b) A military construction project includes all military construction work, or any contribution authorized by this chapter, necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility (or to produce such portion of a complete and usable facility or improvement as is specifically authorized by law).

(c) In this chapter and chapter 173 of this title:

(1) The term "appropriate committees of Congress" means the congressional defense committees and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "facility" means a building, structure, or other improvement to real property.

(3) The term "life-cycle cost-effective", with respect to a project, product, or measure, means that the sum of the present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and replacement costs, as estimated for the lifetime of the project, product, or measure, does not exceed the base case (current or standard) for the practice, product, or measure.

(4) The term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense, without regard to the duration of operational control.

(5) The term "Secretary concerned" includes the Secretary of Defense with respect to matters concerning the Defense Agencies.

(d) This chapter (other than sections 2830,[1] 2835, and 2836 of this chapter) does not apply to the Coast Guard or to civil works projects of the Army Corps of Engineers.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 153; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. A, title VI, §632(b)(1), title XII, §1231(15), div. B, subdiv. 3, title I, §2306(b), Dec. 4, 1987, 101 Stat. 1105, 1160, 1216; Pub. L. 102–484, div. A, title X, §1052(37), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 102–496, title IV, §403(b), Oct. 24, 1992, 106 Stat. 3185; Pub. L. 104–106, div. A, title XV, §1502(a)(10), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1043(b)(16), div. B, title XXVIII, §2801, Nov. 24, 2003, 117 Stat. 1611, 1719; Pub. L. 109–163, div. A, title X, §1056(c)(9), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109–364, div. B, title XXVIII, §2851(b)(4), Oct. 17, 2006, 120 Stat. 2495; Pub. L. 110–181, div. B, title XXVIII, §2802(b), Jan. 28, 2008, 122 Stat. 539; Pub. L. 110–417, div. B, title XXVIII, §2801(a), Oct. 14, 2008, 122 Stat. 4719.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2830 of this chapter, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. B, title

XXVIII, §2812(a), Jan. 1, 2021, 134 Stat. 4326.

## AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–181 inserted ", or any acquisition of land or construction of a defense access road (as described in section 210 of title 23)" before period at end.

Subsec. (c). Pub. L. 110–417 added par. (3) and redesignated former pars. (4), (1), (2), and (3) as (1), (2), (4), and (5), respectively.

**2006**—Subsec. (c). Pub. L. 109–364 inserted "and chapter 173 of this title" after "this chapter" in introductory provisions.

Subsec. (d). Pub. L. 109–163 substituted "sections 2830, 2835, and 2836 of this chapter" for "sections 2830 and 2835".

**2003**—Subsec. (a). Pub. L. 108–136, §2801(a), inserted before period at end ", whether to satisfy temporary or permanent requirements".

Subsec. (c)(2). Pub. L. 108–136, §2801(b), inserted before period at end ", without regard to the duration of operational control".

Subsec. (c)(4). Pub. L. 108–136, §1043(b)(16), substituted "the congressional defense committees" for "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives".

**1999**—Subsec. (c)(4). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (c)(4). Pub. L. 104–106 substituted "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the" for "the Committees on Armed Services and on Appropriations of the Senate and".

**1992**—Subsec. (c)(4). Pub. L. 102–496 inserted before period at end "and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate".

Subsec. (d). Pub. L. 102–484 substituted "sections 2830 and 2835" for "sections 2828(g) and 2830".

**1987**—Subsec. (c). Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (1), (2), and (4) and substituted lowercase letter.

Subsec. (c)(3). Pub. L. 100–180, §1231(15), substituted "Defense Agencies" for "defense agencies".

Subsec. (d). Pub. L. 100–180, §2306(b), substituted "(other than sections 2828(g) and 2830)" for "(other than section 2830)".

Pub. L. 100–180, §632(b)(1), inserted "(other than section 2830)" after "This chapter".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 97–214, §12, July 12, 1982, 96 Stat. 176, provided:

"(a) Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1982 Amendment note below] shall take effect on October 1, 1982, and shall apply to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date.

"(b) The amendment made by section 4 [amending section 138(f)(1) [now 114(b)] of this title] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1983."

### SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–214, §1, July 12, 1982, 96 Stat. 153, provided that: "This Act [see Tables for classification] may be cited as the 'Military Construction Codification Act'."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### PLAN AND REPORT ON CRITICAL INFRASTRUCTURE SYSTEMS AT MILITARY

**INSTALLATIONS**

Pub. L. 118–31, div. B, title XXVIII, §2853, Dec. 22, 2023, 137 Stat. 763, provided that:

"(a) PLAN.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with each Secretary of a military department, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to implement a standardized system to measure and report on the condition and performance of, the level of investment in, and any applicable risks to critical infrastructure systems owned by the Federal Government that—

"(1) have not been privatized or transferred pursuant to a conveyance under section 2688 of title 10, United States Code; and

"(2) are located on a military installation (as defined in section 2801 of such title).

"(b) REPORT.—

"(1) IN GENERAL.—Beginning on February 1 of the year immediately following the date on which the plan under subsection (a) is submitted, and annually thereafter, the Secretary of Defense, in coordination with each Secretary of a military department, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a consolidated report on the condition of critical infrastructure systems owned by the Federal Government located at military installations.

"(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

"(A) Installation-level data for each critical infrastructure system described in paragraph (1) that includes the following for each such system:

"(i) For the five-year period preceding the date of submission of the report, all instances of noncompliance of such system with any applicable Federal or State law or regulation, including information on any prior or current consent order or equivalent compliance agreement with any Federal or State regulatory agency.

"(ii) The year of original installation of critical infrastructure system components, including treatment facilities, pump stations, and storage tanks.

"(iii) The average age of distribution system piping and wiring.

"(iv) The rate of system recapitalization, represented as an annual percentage replacement rate of all critical infrastructure system assets.

"(v) For the one-year period preceding the date of submission of the report, the percentage of key system operational components (including fire hydrants, valves, and backflow preventors) inspected and determined through testing to be fully operational.

"(vi) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all unplanned system outages.

"(vii) For the one-year period preceding the date of submission of the report, the absolute duration, and a normalized measure for comparative purposes, of all unplanned system outages.

"(viii) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all critical infrastructure system main breaks and leaks.

"(B) A standardized risk assessment for each military installation, identifying the current and projected level of risk related to the following:

"(i) The ability to maintain compliance with applicable current and proposed State regulations and standards and applicable regulations and policies of the Department of Defense and the military departments related to each critical infrastructure system described in paragraph (1), and the ability to operate critical infrastructure systems in accordance with accepted industry standards.

"(ii) The ability to maintain a consistent and compliant supply of water for current and projected future installation needs based on current and projected source water availability and quality, including an assessment of source water contamination risks for each critical infrastructure system described in paragraph (1).

"(iii) The ability of each critical infrastructure system described in paragraph (1) to withstand severe weather events, including drought, flooding, and temperature fluctuations.

"(iv) The ability for utility industrial controls systems for each critical infrastructure system described in paragraph (1) to maintain compliance with applicable current and proposed cybersecurity standards and regulations.

"(3) FORM.—A report under this subsection shall be submitted in an unclassified form but may contain a classified annex.

"(c) CRITICAL INFRASTRUCTURE SYSTEM DEFINED.—In this section, the term 'critical infrastructure system' includes a transportation infrastructure system and a utilities infrastructure system."

**PILOT PROGRAM TO SUPPORT COMBATANT COMMAND MILITARY CONSTRUCTION PRIORITIES**

Pub. L. 116–283, div. B, title XXVIII, §2863, Jan. 1, 2021, 134 Stat. 4358, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to evaluate the usefulness of reserving a portion of the military construction funds of the military departments to help the combatant commands satisfy their military construction priorities in a timely manner.

"(b) LOCATION.—The Secretary of Defense shall conduct the pilot program for the benefit of the United States Indo-Pacific Command in the area of responsibility of the United States Indo-Pacific Command.

"(c) REQUIRED INVESTMENT.—For each fiscal year during which the pilot program is conducted, the Secretary of Defense shall reserve to carry out military construction projects under the pilot program an amount equal to 10 percent of the total amount authorized to be appropriated for military construction projects by titles XXI, XXII, and XXIII of the Military Construction Authorization Act for that fiscal year.

"(d) COMMENCEMENT AND DURATION.—

"(1) COMMENCEMENT.—The Secretary of Defense shall commence the pilot program no later than October 1, 2023. The Secretary may commence the pilot program as early as October 1, 2022, if the Secretary determines that compliance with the reservation of funds requirement under subsection (c) is practicable beginning with fiscal year 2023.

"(2) DURATION.—The pilot program shall be in effect for the fiscal year in which the Secretary commences the pilot program, as described in paragraph (1), and the subsequent two fiscal years. Any construction commenced under the pilot program before the expiration date may continue to completion.

"(e) PROGRESS REPORT.—Not later than February 15 of the final fiscal year of the pilot program, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report evaluating the success of the pilot program in improving the timeliness of the United States Indo-Pacific Command in achieving its military construction priorities. The Secretary shall include in the report—

"(1) an evaluation of the likely positive and negative impacts were the pilot program extended or made permanent and, if extended or made permanent, the likely positive and negative impacts of expansion to cover all or additional combatant commands; and

"(2) the recommendations of the Secretary regarding whether the pilot program should be extended or made permanent and expanded."

**PERMITTING MACHINE ROOM-LESS ELEVATORS IN DEPARTMENT OF DEFENSE FACILITIES**

Pub. L. 115–91, div. B, title XXVIII, §2875, Dec. 12, 2017, 131 Stat. 1871, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall issue modifications to all relevant construction and facilities specifications to ensure that machine room-less elevators (MRLs) are not prohibited in buildings and facilities throughout the Department of Defense, including modifications to the Unified Facilities Guide Specifications (UFGS), the Naval Facilities Engineering Command Interim Technical Guidance, and the Army Corps of Engineers Engineering and Construction Bulletin.

"(b) CONFORMING TO BEST PRACTICES.—In addition to the modifications required under subsection (a), the Secretary may issue further modifications to conform generally with commercial best practices as reflected in the safety code for elevators and escalators as issued by the American Society of Mechanical Engineers.

"(c) DEADLINES.—The Secretary shall promulgate interim MRL standards not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], and shall issue final and formal MRL specifications not later than 1 year after the date of the enactment of this Act.

"(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the integration and utilization of MRLs, including information on quantity, location, problems, and successes."

[1] *See References in Text note below.*

## §2802. Military construction projects

(a) The Secretary of Defense and the Secretaries of the military departments may carry out such

military construction projects, land acquisitions, and defense access road projects (as described under section 210 of title 23) as are authorized by law.

(b) Authority provided by law to carry out a military construction project includes authority for—

(1) surveys and site preparation;

(2) acquisition, conversion, rehabilitation, and installation of facilities;

(3) acquisition and installation of equipment and appurtenances integral to the project;

(4) acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project;

(5) planning, supervision, administration, and overhead incident to the project; and

(6) personnel and personal services contracts required to carry out paragraphs (1) through (5).

(c) In determining the scope of a proposed military construction project, the Secretary concerned shall submit to the President such recommendations as the Secretary considers to be appropriate regarding the incorporation and inclusion of life-cycle cost-effective practices as an element in the project documents submitted to Congress in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which a contract is proposed to be awarded for the project.

[(d) Repealed. Pub. L. 114–328, div. B, title XXVIII, §2811(b), Dec. 23, 2016, 130 Stat. 2716.]

(e)(1) If a construction project, land acquisition, or defense access road project described in paragraph (2) will be carried out pursuant to a provision of law other than a Military Construction Authorization Act, the Secretary concerned shall—

(A) comply with the congressional notification requirement contained in the provision of law under which the construction project, land acquisition, or defense access road project will be carried out and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement; or

(B) in the absence of such a congressional notification requirement, submit to the congressional defense committees, in an electronic medium pursuant to section 480 of this title, a report describing the construction project, land acquisition, or defense access road project at least 15 days before commencing the construction project, land acquisition, or defense access road project.

(2) Except as provided in paragraph (3), a construction project, land acquisition, or defense access road project subject to the notification requirement imposed by paragraph (1) is a construction project, land acquisition, or defense access road project that—

(A) is not specifically authorized in a Military Construction Authorization Act;

(B) will be carried out by a military department, Defense Agency, or Department of Defense Field Activity; and

(C) will be located on a military installation.

(3) This subsection does not apply to a construction project, land acquisition, or defense access road project described in paragraph (2) whose cost is less than or equal to the threshold amount specified in section 2805(b) of this title.

(f)(1) In addition to any other applicable consultation requirement pursuant to law or Department of Defense policy, if a proposed military construction project is likely to significantly impact tribal lands, known sacred sites, or tribal treaty rights, the Secretary concerned shall initiate consultation with the tribal government of each impacted Indian tribe—

(A) to determine the nature and extent of such impact;

(B) to determine whether such impact can be avoided or mitigated in the design and implementation of the project; and

(C) if such impact cannot be avoided, to develop feasible measures consistent with applicable law to mitigate the impact and estimate the cost of the mitigation measures.

(2) As part of the Department of Defense Form 1391 submitted to the appropriate committees of

Congress for a military construction project covered by paragraph (1), the Secretary concerned, to the extent possible at the time of such submission, shall include a description of the current status of the consultation conducted under such paragraph and specifically address each of the items specified in subparagraphs (A), (B), and (C) of such paragraph.

(3) The requirement under paragraph (1) does not affect the obligation of the Secretary concerned to comply with any other applicable consultation requirement pursuant to law or Department of Defense policy.

(4) In this subsection:

(A) The term "Indian tribe" has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(B) The term "tribal government" means the recognized governing body of an Indian tribe.

(C) The term "sacred site" has the meaning given that term in Executive Order No. 13007, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 110–181, div. B, title XXVIII, §2802(a), Jan. 28, 2008, 122 Stat. 539; Pub. L. 110–417, div. B, title XXVIII, §2801(b), Oct. 14, 2008, 122 Stat. 4719; Pub. L. 113–66, div. B, title XXVIII, §2807(c), Dec. 26, 2013, 127 Stat. 1012; Pub. L. 113–291, div. B, title XXVIII, §§2801, 2803(b), Dec. 19, 2014, 128 Stat. 3695, 3697; Pub. L. 114–328, div. B, title XXVIII, §2811(b), (c), Dec. 23, 2016, 130 Stat. 2716; Pub. L. 115–91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 115–232, div. B, title XXVIII, §2803, Aug. 13, 2018, 132 Stat. 2261; Pub. L. 116–92, div. A, title XVII, §1731(a)(53), div. B, title XXVIII, §2802, Dec. 20, 2019, 133 Stat. 1815, 1881; Pub. L. 119–60, div. B, title XXVIII, §2808(b), Dec. 18, 2025, 139 Stat. 1298.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order No. 13007, referred to in subsec. (f)(4)(C), is Ex. Ord. No. 13007, May 24, 1996, 61 F.R. 26771, which is set out as a note under section 1996 of Title 42, The Public Health and Welfare.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (f)(4)(C), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

### AMENDMENTS

**2025**—Subsec. (b)(6). Pub. L. 119–60 added par. (6).

**2019**—Subsec. (e)(1). Pub. L. 116–92, §1731(a)(53), substituted "shall—" for "shall" and inserted subpar. (A) designation before "comply with the congressional notification requirement".

Subsec. (f). Pub. L. 116–92, §2802, added subsec. (f).

**2018**—Subsec. (e)(1). Pub. L. 115–232 substituted "Secretary concerned shall" for "Secretary concerned shall—", struck out subpar. (A) designation before "comply with the congressional notification requirement", and inserted "and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement" after "road project will be carried out".

**2017**—Subsec. (d). Pub. L. 115–91, §1081(d)(15), amended Pub. L. 114–328, §2811(c). See 2016 Amendment note below.

**2016**—Subsec. (d). Pub. L. 114–328, §2811(b), struck out subsec. (d) which related to requirements for military construction projects funded through payments-in-kind or in-kind contributions, inclusion of such projects in budget justification documents, and exceptions to those requirements.

Pub. L. 114–328, §2811(c), as amended by Pub. L. 115–91, §1081(d)(15), repealed Pub. L. 113–291, §2803(b). See 2014 Amendment note below.

**2014**—Subsec. (d). Pub. L. 113–291, §2803(b), which substituted "payments-in-kind or in-kind contributions" for "payment-in-kind contributions" in par. (1), added par. (3) and struck out former par. (3) which described certain military construction projects to which subsec. (d) did not apply, and substituted "paragraph (3), by reference to section 2687a(f)(4)(D) of this title," for "paragraph (3)(C)" in par. (4), was repealed by Pub. L. 114–328, §2811(c), as amended by Pub. L. 115–91, §1081(d)(15).

Subsec. (e). Pub. L. 113–291, §2801, added subsec. (e).

**2013**—Subsec. (d). Pub. L. 113–66 added subsec. (d).

**2008**—Subsec. (a). Pub. L. 110–181 inserted ", land acquisitions, and defense access road projects (as described under section 210 of title 23)" after "military construction projects".

Subsec. (c). Pub. L. 110–417 added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(15) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### MULTIYEAR CONTRACTING AUTHORITY FOR CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 119–60, div. B, title XXVIII, §2814, Dec. 18, 2025, 139 Stat. 1302, provided that:

"(a) AUTHORITY FOR MULTIYEAR CONTRACTING.—Subject to section 3501 of title 10, United States Code, each Secretary of a military department may enter into one or more multiyear contracts for any procurement relating to one or more authorized military construction projects for facilities at one or more military installations if the Secretary concerned—

"(1) has identified such project as a multiyear contract in the budget submitted to Congress by the Secretary of Defense pursuant to section 1105 of title 31, United States Code—

"(A) a list of locations included in the multiyear contract;

"(B) the total number of facilities included such [sic] contract; and

"(C) the total anticipated cost of the such [sic] contract;

"(2) has determined the use of such contract will result in significant savings of the total anticipated cost for carrying out projects under the contract as compared to other contract types;

"(3) has determined that the minimum need for such projects is expected to remain substantially unchanged during the proposed contract period; and

"(4) has a reasonable expectation that throughout the proposed contract period funding for the contract will be available.

"(b) CONDITIONS FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after the fiscal year in which the contract is awarded is subject to the availability of appropriations or funds for that purpose for such later fiscal year.

"(c) AUTHORITY FOR ADVANCE PROCUREMENT.—A Secretary of a military department may enter into one or more contracts for an advance procurement associated with a military construction project for which authorization to enter into a multiyear contract is provided under subsection (a), which may include procurement of economic order quantities of materials or components for such a project when cost savings are achievable.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) COST SAVINGS CERTIFICATION.—A Secretary of a military department desiring to award a multiyear contract under the authority of this section shall—

"(A) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a certification that such contract will result in cost savings of at least ten percent compared to a similar one-year contract; and

"(B) not award such contract until the end of the 14-day period beginning on the date of submission of the certification described in subparagraph (A).

"(2) LIMITATIONS.—A Secretary of a military department may only use the authority under this section for military construction projects that—

"(A) are included in the future-years defense program submitted under section 221 of title 10, United States Code; and

"(B) use standardized and repeatable designs."

### DESIGNATION OF OFFICIAL RESPONSIBLE FOR COORDINATION OF DEFENSE SITES

## WITHIN AREA OF RESPONSIBILITY OF JOINT REGION MARIANAS

Pub. L. 119–60, div. B, title XXVIII, §2884, Dec. 18, 2025, 139 Stat. 1330, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Commander of Joint Region Marianas shall designate an official to be responsible for, in coordination with appropriate officials of the military departments (as defined in section 101 of title 10, United States Code) and the United States Indo-Pacific Command—

"(1) coordinating Department of Defense-wide efforts with respect to the management of defense sites within the Joint Region Marianas area of responsibility;

"(2) ensuring the continuity of such efforts at such defense sites, including necessary infrastructure investments; and

"(3) ensuring clear and consistent communication to such Federal, State, and local officials with respect to the needs and priorities of the Department of Defense for such defense sites.

"(b) SELECTION.—In making the designation under subsection (a), the Commander of Joint Region Marianas may appoint an individual with a significant background and expertise in—

"(1) relevant legal and technical aspects related to land use or real estate issues; and

"(2) working with officials at all levels of government.

"(c) NOTIFICATION.—Not later than 30 days after the date on which the Commander of Joint Region Marianas designates an individual pursuant to subsection (a), the Commander shall submit to the Committees on Armed Services of the House of Representatives and the Senate and appropriate officials of the defense sites within the Joint Region Marianas area of responsibility a notification that includes the name and contact information of such individual.

"(d) DEFENSE SITE DEFINED.—In this section, the term 'defense site' has the meaning given such term in section 2710 of title 10, United States Code."

## PILOT PROGRAM ON USE OF ADVANCED MANUFACTURING CONSTRUCTION TECHNOLOGIES AT MILITARY INSTALLATIONS

Pub. L. 119–60, div. B, title XXVIII, §2887, Dec. 18, 2025, 139 Stat. 1331, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, acting through each Secretary of a military department, shall carry out a pilot program relating to the use of advanced manufacturing construction technologies for military construction projects (including unspecified minor military construction projects authorized under section 2805 of title 10, United States Code) on military installations selected under subsection (d).

"(b) DESIGNATION OF OFFICIAL.—The Secretary of Defense shall designate an individual to administer the pilot program established under this section. Such individual shall establish guidelines and procedures with respect to carrying out military construction projects using advanced manufacturing construction technologies under the pilot program.

"(c) ELEMENTS.—Under the pilot program, the Secretary of Defense shall—

"(1) assess the cost, schedule, and quality advantages of advanced manufacturing construction technologies for military construction projects;

"(2) identify and validate technical standards, design templates, and contracting methods for use under the pilot program;

"(3) establish a Department-wide framework for lessons learned, data sharing, and future adoption of advanced manufacturing construction technologies for military construction projects; and

"(4) create a centralized catalog of advanced manufacturing construction technologies that are compliant with the requirements of the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) and suitable for use across military installations.

"(d) SELECTION OF INSTALLATIONS.—The Secretary of Defense, in coordination with the official designated under subsection (b), shall—

"(1) select one or more military installations at which to carry out the pilot program established under this section; and

"(2) minimize any disruption to the operations of any selected installation due to participation in the pilot program.

"(e) REPORTS.—

"(1) INTERIM REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of the pilot program established under this section, including—

"(A) a summary of any barriers to such implementation, including any statutory or resource

limitations;

"(B) a summary of the recommendations to address any such barrier; and

"(C) any other recommendation of the Secretary for improving the pilot program.

"(2) FINAL REPORT.—Not later than 180 days after the termination date in subsection (f), the Secretary shall submit to the congressional defense committees a report on the results of the pilot program.

"(f) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 18, 2025].

"(g) DEFINITIONS.—In this section:

"(1) The term 'advanced manufacturing' has the meaning given in section 4841 of title 10, United States Code.

"(2) The term 'military installation' has the meaning given in section 2801 of title 10, United States Code."

## CONSIDERATION OF MODULAR CONSTRUCTION METHODS FOR MILITARY CONSTRUCTION PROJECTS WITH PROTECTIVE DESIGN ELEMENTS

Pub. L. 119–60, div. B, title XXVIII, §2889, Dec. 18, 2025, 139 Stat. 1333, provided that:

"(a) IN GENERAL.—In determining the requirements for a proposed military construction project with protective design elements, the Secretary of Defense shall consider the use of modular construction methods along with other construction methods to determine the most effective method for such military construction project to meet mission needs.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and Senate a report on the use of modular construction methods as described in subsection (a). Such report shall include the following:

"(1) A summary of current Department of Defense policy and guidance governing the use of modular construction for military construction projects, including modular construction methodologies with protective design elements.

"(2) A cost-benefit analysis that—

"(A) compares modular construction methods to other construction methods for military construction projects; and

"(B) describes the effect of modular construction methods on construction timelines and life-cycle costs.

"(3) An identification of potential use cases for modular construction methods and any limitations or constraints on the use of such methods.

"(c) DEFINITIONS.—In this section:

"(1) The term 'modular construction' means a construction process in which components of a military construction project are prefabricated off-site under controlled conditions and then transported to the site of such project for assembly.

"(2) The term 'protective design elements' means, with respect to a military construction project, that such project requires use of materials that have been blast hardened or ballistic hardened."

## PILOT PROGRAM TO OPTIMIZE AND CONSOLIDATE DEPARTMENT OF DEFENSE FACILITIES TO IMPROVE HEALTH AND RESILIENCY IN DEFENSE COMMUNITIES

Pub. L. 118–159, div. B, title XXVIII, §2848, Dec. 23, 2024, 138 Stat. 2266, provided that:

"(a) ESTABLISHMENT.—Using funds available for minor military construction, the Secretary of Defense may conduct a pilot program to—

"(1) conduct a study to assess the feasability [sic] and effectiveness of the implementation of a more comprehensive initiative to optimize the total square footage of facilities maintained by the Department of Defense; and

"(2) subject to the requirements of subsection (b) carry out military construction projects, not otherwise authorized by law, to—

"(A) optimize and consolidate facilities, including leased facilities, to ensure the scale and scope of the infrastructure footprint of such facilities aligns with the operational needs of the Department; and

"(B) create more resilient and healthy communities located on military installations.

"(b) MILITARY CONSTRUCTION PROJECTS AUTHORIZED.—

"(1) REQUIREMENTS.—The Secretary may carry out a military construction project under such pilot program if—

"(A) the facilities subject to such a military construction project are occupied as of the date of the

commencement of such military construction project;

"(B) except as provided in paragraph (2), such facilities are demolished pursuant to such military construction project;

"(C) in the case of a facility subject to such a military construction project that is leased by the Department, the Secretary terminates the lease for such facility, expect as provided in paragraph (2); and

"(D) the military construction project will result in new facilities that have at least 20 percent less square footage (or equivalent unit of measure) than the facilities subject to such military construction project;

"(E) the Secretary conducts an economic analysis of the military construction project that accounts for anticipated cost requirements for the design, construction, sustainment, restoration, modernization, operation, and demolition of new and existing facilities subject to such military construction project; and

"(F) the results of such economic analysis support a positive net present value over a 20-year period.

"(2) EXCEPTION.—The requirements of subparagraphs (B) and (C) of paragraph (1) shall not apply to a facility that is subject to a military construction project under the pilot program if the Secretary determines that such facility will be an integral part of new facilities constructed pursuant to such military construction project.

"(3) PROJECT COST.—A military construction project carried out under such pilot program may not exceed a total cost of $25,000,000.

"(4) LIMITATION.—Not more than five military construction projects may be carried out under the pilot program.

"(c) CONGRESSIONAL NOTIFICATION.—

"(1) IN GENERAL.—Not later than 14 days before awarding a contract for a military construction project under such pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of such military construction project.

"(2) ELEMENTS.—Such notice shall include, with respect to the military construction project covered by such notice—

"(A) the justification and current cost estimate;

"(B) the expected savings-to-investment ratio;

"(C) simple payback estimates;

"(D) the measurement and verification cost estimate; and

"(E) a description of how the project would improve the functions of the supported military department and the efficient management of real property of the Department of Defense.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section [Dec. 23, 2024], the Secretary shall submit to the congressional defense committees a report on completed military construction projects carried out pursuant to the pilot program.

"(2) ELEMENTS.—Such report shall include, for each military construction project covered by the report, the following:

"(A) The title and location of the military construction project, a brief description of the scope of work, the original project cost estimate, and the completed total project cost.

"(B) The original expected savings-to-investment ratio, simple payback estimates included in the notice required under subsection (c), annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

"(C) The actual savings-to-investment ratio, and simple payback estimates, annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

"(D) A brief description of the measurement and verification plan and planned funding source, to include the net change in the square footage (or other unit of measure) reduction accomplished by the military construction project.

"(E) How the military construction project improved the functions of and the efficient management of real property by the supported military department or entity using the applicable facility.

"(F) Such other information as the Secretary considers appropriate.

"(e) SUNSET.—

"(1) TERMINATION DATE.—Except as provided in paragraph (2), the authority of the Secretary to carry out a military construction project under the pilot program shall terminate on the date that is three

years after the date of the enactment of this section.

"(2) EXCEPTION.—If the Secretary submits a congressional notification under subsection (d) before the date that is three years after the date of the enactment of this section, the covered project that is the subject of such notification may be carried out to completion.

"(f) DEFINITIONS.—In this section, the terms 'facility' and 'military construction project' have the meanings given such terms, respectively, in section 2801 of title 10, United States Code."

## GUIDANCE REGARDING MAINTENANCE OF AGGREGATE SQUARE FOOTAGE OF FACILITIES OF DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. B, title XXVIII, §2849, Dec. 23, 2024, 138 Stat. 2268, as amended by Pub. L. 119–60, div. B, title XXVIII, §2808(c), Dec. 18, 2025, 139 Stat. 1299, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue guidance regarding the maintenance of the aggregate square footage of facilities of the Department of Defense, which shall be designated as '1 in 1 out guidance', pursuant to the requirements of this section.

"(b) MAINTENANCE OF SQUARE FOOTAGE.—Guidance required under subsection (a) shall ensure that every square footage of growth of a facility is offset with an equivalent reduction in square footage by—

"(1) a funded disposal action; or

"(2) identifying facilities to be entered into a contingency operational status.

"(c) DOCUMENTATION.—Upon completion of the design phase of a project that results in the growth of a facility, the Secretary of Defense shall update the Department of Defense Form 1391 for such project to identify the reduction in square footage to accompany such increase.

"(d) SUBMISSION.—Not later than 15 days after the date of submission of the defense budget materials for fiscal year 2026 (as submitted to Congress in support of the budget of the President under section 1105(a) of title 31, United States Code), and for each subsequent submission thereafter, each Secretary of a military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

"(1) a list of facilities scheduled for a disposal action described in subsection (b) for the fiscal year covered by the submission and the subsequent fiscal year; and

"(2) a list of facilities, disaggregated by military installation, for which a disposal action has been completed during the fiscal year preceding the date of the submission.

"(e) APPLICATION.—This section and the requirements of this section shall apply to—

"(1) military construction or unspecified minor military construction (as defined under section 2805 of title 10, United States Code) funded in fiscal year 2027 or a subsequent fiscal year; and

"(2) other sources of growth on or after the date of the enactment of this Act [Dec. 23, 2024].

"(f) EXCEPTIONS.—This section and the requirements of this section do not apply to the following:

"(1) The Sentinel intercontinental ballistic missile weapon system program.

"(2) Public shipyards covered by the Shipyard Infrastructure Optimization Program.

"(3) MHPI housing (as defined under section 606 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2871 note).

"(4) The construction project for the headquarters facilities for the United States Space Command.

"(g) GROWTH OF A FACILITY DEFINED.—In this section, the term 'growth of a facility' means, with respect to a facility (as defined in section 2801 of title 10, United States Code), an increase in the square footage of such facility due to—

"(1) carrying out a military construction project or an unspecified minor military construction project (pursuant to section 2805 of title 10, United States Code);

"(2) acquisition of an existing facility on land owned by a military department;

"(3) a gift of construction;

"(4) construction of a facility carried out through the use of nonappropriated funds, private funds, or family housing funds, if the facility will be sustained with appropriated operation and maintenance funds; or

"(5) the use of appropriated funds to sustain a facility that was previously sustained with nonappropriated funds, private funds, or family housing funds."

## NOTIFICATION TO MEMBERS OF CONGRESS FOR AWARDS OF CONTRACTS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–159, div. B, title XXVIII, §2874, Dec. 23, 2024, 138 Stat. 2283, provided that:

"(a) NOTIFICATION REQUIRED.—Not later than 30 days after the date of award of a contract for a military construction project, the Secretary of the military department with jurisdiction over such project shall

notify the following Members of Congress:

"(1) Any Member representing the State in which such contract will be performed.

"(2) Any Member representing the State in which the contractor awarded such contract is a constituent of such Member.

"(b) ELEMENTS.—A notification under subsection (a) shall include the following:

"(1) The proposed value of the contract.

"(2) The contractor awarded the contract.

"(3) A brief description of the project that is the subject of the contract, including the location in which the contract will be performed."

## DESIGNATION OF OFFICIALS RESPONSIBLE FOR COORDINATION OF INFRASTRUCTURE PROJECTS TO SUPPORT ADDITIONAL MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES IN THE INDO-PACIFIC REGION

Pub. L. 118–159, div. B, title XXVIII, §2880, Dec. 23, 2024, 138 Stat. 2290, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate two officials employed by the Department of Defense or a military department as of the date of the enactment of this Act as follows:

"(1) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Hawaii.

"(2) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Guam and the Northern Mariana Islands.

"(b) DUTIES.—Each official described in subsection (a) shall, in coordination with appropriate officials from the military departments and the United States Indo-Pacific Command—

"(1) coordinate Department of Defense-wide efforts relating to the infrastructure needs associated with the significant addition of members of the Armed Forces and their families to the region for which such official is the designated official pursuant to subsection (a) during the 10-year period following the date of the enactment of this Act;

"(2) analyze the expected impact on State and local government services of—

"(A) military infrastructure projects in the designated region of such official; and

"(B) the significant addition of members of the Armed Forces and their families as described in paragraph (1); and

"(3) ensure clear and consistent communication to State and local elected officials and the public in the designated region of such official regarding the infrastructure needs and priorities of the Department of Defense, including conveying any finding or conclusion regarding the expected impact described in paragraph (2)(B).

"(c) SELECTION.—

"(1) HAWAII.—For the designation under paragraph (1) [of] subsection (a), the Secretary of Defense may appoint an individual with significant background and expertise in—

"(A) the legal and technical aspects of city planning, State and local government services, and military infrastructure; and

"(B) liaising with State and local elected officials and the public.

"(2) GUAM AND THE NORTHERN MARIANA ISLANDS.—For the designation under paragraph (2) of subsection (a), the Secretary of Defense shall appoint the Under Secretary of the Navy.

"(d) NOTIFICATION.—For the designations under paragraph (1) and paragraph (2) of subsection (a), the Secretary of Defense shall, not later than 30 days after the date of the designation, submit to the congressional defense committees and the Governor of Hawaii or the Governors of Guam and the Northern Mariana Islands, respectively, a notification that includes the name and contact information of the individual so designated."

## INCLUSION ON DEPARTMENT OF DEFENSE FORM 1391 OF INFORMATION ON CONSIDERATION OF CERTAIN METHODS OF CONSTRUCTION FOR CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–31, div. B, title XXVIII, §2808, Dec. 22, 2023, 137 Stat. 746, provided that:

"(a) IN GENERAL.—As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a covered military construction project, each covered official shall, to the extent practicable, include information on whether all relevant construction materials and methods of construction included in the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) were considered in the design of such covered military construction project.

"(b) DEFINITIONS.—In this section:

"(1) The terms 'appropriate committees of Congress' and 'military construction project' have the meanings given in section 2801 of title 10, United States Code.

"(2) The term 'covered military construction project' means a military construction project with an estimated total cost in excess of $9,000,000.

"(3) The term 'covered official' means—

"(A) the Secretary of Defense; and

"(B) each Secretary of a military department."

## INCLUSION OF MILITARY INSTALLATION RESILIENCE IN REAL PROPERTY MANAGEMENT AND INSTALLATION MASTER PLANNING OF DEPARTMENT

Pub. L. 118–31, div. B, title XXVIII, §2857, Dec. 22, 2023, 137 Stat. 767, provided that:

"(a) [sic; there is no subsec. (b)] IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

"(1) update Department of Defense Instruction 4165.70 (relating to real property management) and Unified Facilities Criteria 2–100–01 (relating to installation master planning) to—

"(A) include a requirement to incorporate the impact of military installation resilience in all installation master plans;

"(B) include a list of all sources of information approved by the Department of Defense;

"(C) define the 17 identified military installation resilience hazards to ensure that the impacts from such hazards are reported consistently across the Department;

"(D) require each commander of a military installation to address the rationale for determining that any such hazard is not applicable to the military installation concerned;

"(E) standardize reporting formats for military installation resilience plans;

"(F) establish and define standardized risk rating categories for the use by each Secretary of a military department; and

"(G) define criteria for determining the level of risk to a military installation to compare hazards between military departments; and

"(2) require each Secretary of a military department to update the handbook for the military department concerned to incorporate the requirements under paragraph (1)."

## CONSIDERATION OF INSTALLATION OF INTEGRATED SOLAR ROOFING TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117–263, div. B, title XXVIII, §2810, Dec. 23, 2022, 136 Stat. 2997, provided that: "The Secretary of Defense shall amend the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that planning and design for military construction projects inside the United States include consideration of the feasibility and cost-effectiveness of installing integrated solar roofing as part of the project, for the purpose of—

"(1) promoting on-installation energy security and energy resilience;

"(2) providing grid support to avoid energy disruptions; and

"(3) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code."

## REVISION OF UNIFIED FACILITIES GUIDE SPECIFICATIONS AND UNIFIED FACILITIES CRITERIA TO INCLUDE SPECIFICATIONS ON USE OF GAS INSULATED SWITCHGEAR AND CRITERIA AND SPECIFICATIONS ON MICROGRIDS AND MICROGRID CONVERTERS

Pub. L. 117–263, div. B, title XXVIII, §2811, Dec. 23, 2022, 136 Stat. 2997, provided that:

"(a) GAS INSULATED SWITCHGEAR.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Acquisition and Sustainment shall modify the Unified Facilities Guide Specifications to include a distinct specification for medium voltage gas insulated switchgear.

"(b) MICROGRIDS.—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment shall—

"(1) modify the Unified Facilities Criteria to include criteria for microgrids; and

"(2) modify the Unified Facilities Guide Specifications to include specifications for microgrids and microgrid controllers."

## DETERMINATION AND NOTIFICATION RELATING TO EXECUTIVE ORDERS THAT IMPACT COST AND SCOPE OF WORK OF MILITARY CONSTRUCTION PROJECTS

Pub. L. 117–263, div. B, title XXVIII, §2812, Dec. 23, 2022, 136 Stat. 2997, provided that:

"(a) DETERMINATION AND UPDATE OF FORM 1391.—Not later than 30 days after the date on which an Executive order is signed by the President, the Secretary concerned shall—

"(1) determine whether implementation of the Executive order would cause a cost or scope of work variation for a military construction project under the jurisdiction of the Secretary concerned;

"(2) assess the potential for life-cycle cost savings associated with implementation of the Executive order for such a project; and

"(3) update the Department of Defense Form 1391 for each such project that has not been submitted for congressional consideration, where such implementation would affect such cost or scope of work variation, including—

"(A) projects to be commenced in the next fiscal year beginning after the date on which the Executive order was signed; and

"(B) projects covered by the future-years defense program submitted under section 221 of title 10, United States Code.

"(b) NOTIFICATION TO CONGRESS.—Not later than 10 days after determining under subsection (a)(1) that implementation of an Executive order would cause a cost or scope of work variation for a military construction project, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report indicating the estimated cost increases, scope of work increases, life-cycle costs, and any other impacts of such implementation.

"(c) CERTIFICATION.—Along with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, United States Code, each Secretary concerned shall certify to Congress that each Department of Defense Form 1391 provided to Congress for that fiscal year for a military construction project has been updated with any cost or scope of work variation specified in subsection (a)(1) with respect to an Executive order signed during the four-year period preceding such certification, including an indication of any cost increases for such project that is directly attributable to such Executive order.

"(d) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code."

## REQUIREMENT FOR INCLUSION OF DEPARTMENT OF DEFENSE FORMS 1391 WITH ANNUAL BUDGET SUBMISSION BY PRESIDENT

Pub. L. 117–263, div. B, title XXVIII, §2813, Dec. 23, 2022, 136 Stat. 2998, provided that: "Concurrently with the submission to Congress by the President of the annual budget of the Department of Defense for a fiscal year under section 1105(a) of title 31, United States Code, the President shall include each Department of Defense Form 1391, or successor similar form, for a military construction project to be carried out during that fiscal year."

## ELECTRICAL CHARGING CAPABILITY CONSTRUCTION REQUIREMENTS RELATING TO PARKING FOR FEDERAL GOVERNMENT MOTOR VEHICLES

Pub. L. 117–263, div. B, title XXVIII, §2875, Dec. 23, 2022, 136 Stat. 3014, provided that:

"(a) IN GENERAL.—If the Secretary concerned develops plans for a project to construct any facility that includes or will include parking for covered motor vehicles, the Secretary concerned shall include in any Department of Defense Form 1391, or successor form, submitted to Congress for that project—

"(1) the provision of electric vehicle charging capability at the facility adequate to provide electrical charging, concurrently, for not less than 15 percent of all covered motor vehicles planned to be parked at the facility;

"(2) the inclusion of the cost of constructing such capability in the overall cost of the project; and

"(3) an analysis of whether a parking structure or lot will be the primary charging area for covered motor vehicles or if another area, such as public works or the motor pool, will be the primary charging area.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered motor vehicle' means a Federal Government motor vehicle, including a motor vehicle leased by the Federal Government.

"(2) The term 'Secretary concerned' means—

"(A) the Secretary of a military department with respect to facilities under the jurisdiction of that Secretary; and

"(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and facilities of a reserve component owned by a State rather than the United States."

## AMENDMENT OF UNIFIED FACILITIES CRITERIA TO REQUIRE INCLUSION OF PRIVATE

## NURSING AND LACTATION SPACE IN CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 117–81, div. B, title XXVIII, §2841, Dec. 27, 2021, 135 Stat. 2201, provided that:

"(a) AMENDMENT REQUIRED.—The Secretary of Defense shall amend UFC 1–4.2 (Nursing and Lactation Rooms) of the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that military construction planning and design for buildings likely to be regularly frequented by nursing mothers who are members of the uniformed services, civilian employees of the Department of Defense, contractor personnel, or visitors include a private nursing and lactation room or other private space suitable for that purpose.

"(b) DEADLINE.—The Secretary of Defense shall complete the amendment process required by subsection (a) and implement the amended UFC 1–4.2 not later than one year after the date of the enactment of this Act [Dec. 27, 2021]."

## REVISIONS TO UNIFIED FACILITIES CRITERIA REGARDING USE OF VARIABLE REFRIGERANT FLOW SYSTEMS

Pub. L. 117–81, div. B, title XXVIII, §2842, Dec. 27, 2021, 135 Stat. 2201, provided that:

"(a) PUBLICATION AND COMMENT PERIOD REQUIREMENTS.—The Under Secretary of Defense for Acquisition and Sustainment shall publish any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems in the Federal Register and shall specify a comment period of at least 60 days.

"(b) NOTICE AND JUSTIFICATION REQUIREMENTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notice and justification for any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems not later than 30 days after the date of publication in the Federal Register."

## AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE ENERGY EFFICIENT MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2843, Dec. 27, 2021, 135 Stat. 2202, provided that:

"(a) UNIFIED FACILITIES CRITERIA AMENDMENT REQUIRED.—To the extent practicable, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019.

"(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense shall complete the amendment process required by subsection (a) in a timely manner so that any Department of Defense Form 1391 submitted to Congress in connection with the budget submission for fiscal year 2024 and thereafter complies with the Unified Facilities Criteria, as amended pursuant to such subsection.

"(c) REPORTING REQUIREMENT.—Not later than February 1, 2024, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report—

"(1) describing the extent to which the Unified Facilities Criteria, as amended pursuant to subsection (a), incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019, as required by such subsection; and

"(2) in the case of any instance in which the Unified Facilities Criteria continues to deviate from such consensus-based codes and standards for energy efficiency and conservation, identifying the deviation and explaining the reasons for the deviation."

## ADDITIONAL DEPARTMENT OF DEFENSE ACTIVITIES TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2844, Dec. 27, 2021, 135 Stat. 2202, provided that:

"(a) CONSIDERATION OF INCLUDING ENERGY MICROGRID IN MILITARY CONSTRUCTION PROJECTS.—

"(1) AMENDMENT OF UNIFIED FACILITIES CRITERIA REQUIRED.—The Secretary of Defense shall amend the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that planning and design for military construction projects inside the United States include consideration of the feasibility and cost-effectiveness of installing an energy microgrid as part of the project, including intentional islanding capability of at least seven consecutive days, for the purpose of—

"(A) promoting on-installation energy security and energy resilience; and

"(B) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code, as added and amended by section 2825 of the Military Construction Authorization Act for Fiscal Year 2021 (division B of Public Law 116–283).

"(2) DEADLINE.—The Secretary of Defense shall complete the amendment process required by paragraph (1) and implement the amendment not later than September 1, 2022.

"(b) CONTRACTS FOR EMERGENCY ACCESS TO EXISTING ON-INSTALLATION RENEWABLE ENERGY SOURCES.—In the case of a covered renewable energy generating source located on a military installation pursuant to a lease of non-excess defense property under section 2667 of title 10, United States Code, the Secretary of the military department concerned is encouraged to negotiate with the owner and operator of the renewable energy generating source to revise the lease contract to permit the military installation to access the renewable energy generating source during an emergency. The negotiations shall include consideration of the ease of modifying the renewable energy generating source to include an islanding capability, the necessity of additional infrastructure to tie the renewable energy generating source into the installation energy grid, and the cost of such modifications and infrastructure.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered renewable energy generating source' means a renewable energy generating source that, on the date of the enactment of this Act [Dec. 27, 2021]—

"(A) is located on a military installation inside the United States; but

"(B) cannot be used as a direct source of resilient energy for the installation in the event of a power disruption.

"(2) The term 'islanding capability' refers to the ability to remove an energy system, such as a microgrid, from the local utility grid and to operate the energy system, at least temporarily, as an integrated, stand-alone system, during an emergency involving the loss of external electric power supply.

"(3) The term 'microgrid' means an integrated energy system consisting of interconnected loads and energy resources with an islanding capability to permit functioning separate from the local utility grid."

## PILOT PROGRAM ON INCREASED USE OF SUSTAINABLE BUILDING MATERIALS IN MILITARY CONSTRUCTION

Pub. L. 117–81, div. B, title XXVIII, §2861, Dec. 27, 2021, 135 Stat. 2212, as amended by Pub. L. 117–263, div. B, title XXVIII, §2865, Dec. 23, 2022, 136 Stat. 3011; Pub. L. 118–31, div. B, title XXVIII, §2871, Dec. 22, 2023, 137 Stat. 775; Pub. L. 119–60, div. B, title XXVIII, §2812, Dec. 18, 2025, 139 Stat. 1301, provided that:

"(a) PILOT PROGRAM REQUIRED.—Each Secretary of a military department shall conduct a pilot program to evaluate the effect that the use of sustainable building materials as the primary construction material in military construction may have on the environmental sustainability, infrastructure resilience, cost effectiveness, and construction timeliness of military construction.

"(b) PROJECT SELECTION AND LOCATIONS.—

"(1) MINIMUM NUMBER OF PROJECTS.—Each Secretary of a military department shall carry out, under the pilot program, at least two military construction projects.

"(2) PROJECT LOCATIONS.—The pilot program shall be conducted at military installations in the United States—

"(A) that are identified as vulnerable to extreme weather events; and—

"(B) for which a military construction project is authorized but a request for proposal has not been released.

"(c) INCLUSION OF MILITARY UNACCOMPANIED HOUSING PROJECT.—The Secretaries of the military departments shall coordinate the selection of military construction projects to be carried out under the pilot program so that at least one of the military construction projects involves construction of military unaccompanied housing.

"(d) DURATION OF PROGRAM.—The authority of the Secretary of a military department to carry out a military construction project under the pilot program shall expire on September 30, 2029. Any construction commenced under the pilot program before the expiration date may continue to completion.

"(e) DEADLINE FOR COMMENCEMENT OF CONSTRUCTION.—Any construction pursuant to a military construction project carried out under the pilot program must commence by not later than January 1, 2029.

"(f) USE OF CERTAIN TECHNOLOGIES.—In carrying out each project under the pilot program commencing on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 [Dec. 18, 2025], the Secretary concerned shall use not fewer than three technologies identified in the report published by the Comptroller General of the United States on February 11, 2025, and titled 'Science &

Tech Spotlight: Sustainable Building Technologies' (GAO–25–107931). Nothing in this subsection shall be construed to require the redesign, modification, or reauthorization of any project initiated prior to the date of the enactment of such Act.

"(g) REPORTING REQUIREMENT.—

"(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], and every 180 days thereafter through December 31, 2030, the Secretaries of the military departments shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report on the progress of the pilot program.

"(2) REPORT ELEMENTS.—The report shall include the following:

"(A) A description of the status of the military construction projects selected to be conducted under the pilot program.

"(B) An explanation of the reasons why those military construction projects were selected.

"(C) An analysis of the following:

"(i) The projected or actual carbon footprint over the full life cycle of the various sustainable building materials evaluated in the pilot program.

"(ii) The life cycle costs of the various sustainable building materials evaluated in the pilot program.

"(iii) The resilience to extreme weather events of the various sustainable building materials evaluated in the pilot program.

"(iv) Any impact on construction timeliness of using the various sustainable building materials evaluated in the pilot program.

"(v) The cost effectiveness of the military construction projects conducted under the pilot program using sustainable building materials as compared to other materials historically used in military construction.

"(D) Any updated guidance the Under Secretary of Defense for Acquisition and Sustainment has released in relation to the procurement policy for future military construction projects based on comparable benefits realized from use of sustainable building materials, including guidance on prioritizing sustainable materials in establishing evaluation criteria for military construction project contracts when technically feasible.

"(h) SUSTAINABLE BUILDING MATERIALS DEFINED.—In this section, the term 'sustainable building material' means any building material identified in the report published by the Comptroller General of the United States on February 11, 2025, and titled 'Science & Tech Spotlight: Sustainable Building Technologies' (GAO–25–107931) the use of which will reduce carbon emissions over the life cycle of the building. The term includes mass timber, concrete, and other carbon-reducing materials."

## PILOT PROGRAM TO AUTHORIZE ADDITIONAL MILITARY CONSTRUCTION PROJECTS FOR CHILD DEVELOPMENT CENTERS AT MILITARY INSTALLATIONS

Pub. L. 116–283, div. B, title XXVIII, §2865, Jan. 1, 2021, 134 Stat. 4360, provided that:

"(a) AUTHORIZATION OF ADDITIONAL PROJECTS.—Each Secretary of a military department shall conduct a pilot program under which the Secretary may carry out military construction projects for child development centers at military installations, as specified in the funding table in section 4601 of a National Defense Authorization Act for a fiscal year covered by the pilot program. The military construction projects authorized under the pilot program are in addition to other military construction projects authorized by this Act or other National Defense Authorization Acts for fiscal years covered by the pilot program.

"(b) REPORTING REQUIREMENT AS CONDITION OF AUTHORIZATION.—

"(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of a National Defense Authorization Act for a fiscal year covered by the pilot program, the Secretary of the military department concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the location, title, and cost, together with a Department of Defense Form 1391, for each military construction project the Secretary proposes to carry out under the pilot program pursuant to that National Defense Authorization Act.

"(2) TIMING OF AVAILABILITY OF FUNDS.—No funds may be obligated or expended for a military construction project under the pilot program—

"(A) unless the project is included in a report submitted under paragraph (1); and

"(B) until the expiration of the 30-day period beginning on the date on which the Secretary concerned submits the report under paragraph (1) in which the project is included.

"(c) EXPIRATION OF AUTHORIZATION.—Section 2002 of a National Defense Authorization Act for a fiscal year covered by the pilot program shall apply with respect to the authorization of a military construction project carried out under the pilot program pursuant to that National Defense Authorization Act in the same manner as such section applies to the authorization of military construction projects contained in titles XXI through XXIII of that National Defense Authorization Act.

"(d) COVERED FISCAL YEARS.—The pilot program shall be carried out for each of fiscal years 2021 through 2025, as provided in the National Defense Authorization Act for that fiscal year."

## AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE MILITARY INSTALLATION RESILIENCE, ENERGY RESILIENCE, ENERGY AND CLIMATE RESILIENCY, AND CYBER RESILIENCE

Pub. L. 116–92, div. B, title XXVIII, §2804, Dec. 20, 2019, 133 Stat. 1882, provided that:

"(a) AMENDMENT REQUIRED.—

"(1) IN GENERAL.—Not later than September 1, 2020, the Secretary of Defense shall amend the Unified Facility Criteria relating to military construction planning and design, to ensure that building practices and standards of the Department of Defense promote military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

"(2) CONSIDERATIONS AND CONSULTATION.—In preparing amendments pursuant to paragraph (1), the Secretary of Defense—

"(A) shall take into account historical data, current conditions, and sea level rise projections; and

"(B) may consult with the heads of other Federal departments and agencies with expertise regarding military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

"(b) CONDITIONAL AVAILABILITY OF FUNDS.—Not more than 25 percent of the funds authorized to be appropriated for fiscal year 2020 for Department of Defense planning and design accounts relating to military construction projects may be obligated until the date on which the Secretary of Defense submits to the Committees on Armed Services of the House of Representatives and the Senate a certification that the Secretary—

"(1) has initiated the amendment process required by subsection (a)(1); and

"(2) intends to complete such process by September 1, 2020.

"(c) UPDATE OF UNIFIED FACILITIES CRITERIA TO INCLUDE CHANGING ENVIRONMENTAL CONDITION PROJECTIONS.—[Amended section 2805(c) of Pub. L. 115–232, set out as a note under section 2864 of this title.]

"(d) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

"(1) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2020 shall comply with the Unified Facility Criteria, as amended pursuant to this section.

"(2) CERTIFICATION.—Not later than March 1, 2021, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion and full incorporation into military construction planning and design—

"(A) amendments made pursuant to subsection (a); and

"(B) amendments made pursuant to section 2805(c) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2864 note), as amended by subsection (c).

"(e) ANNUAL REVIEW.—Beginning with fiscal year 2022, and annually thereafter, the Secretary of Defense shall conduct a review comparing the Unified Facility Criteria and industry best practices, for the purpose of ensuring that military construction building practices and standards of the Department of Defense relating to military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience remain up-to-date.

"(f) DEFINITIONS.—In this section:

"(1) The terms 'energy resilience' and 'military installation resilience' have the meanings given those terms in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

"(2) The term 'energy and climate resiliency' has the meaning given that term in section 2864 of title 10, United States Code."

## MODIFICATION TO DEPARTMENT OF DEFENSE FORM 1391 REGARDING CONSIDERATION OF POTENTIAL LONG-TERM ADVERSE ENVIRONMENTAL EFFECTS

Pub. L. 116–92, div. B, title XXVIII, §2805, Dec. 20, 2019, 133 Stat. 1884, provided that:

"(a) MODIFICATION.—

"(1) CERTIFICATION REQUIREMENT.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval, the inclusion of a certification by the Secretary of Defense or the Secretary of the military department concerned that the proposed military construction project takes into consideration—

"(A) the potential adverse consequences of long-term changes in environmental conditions, such as increasingly frequent extreme weather events, that could affect the military installation resilience of the installation for which the military construction project is proposed; and

"(B) building requirements in effect for the locality in which the military construction project is proposed and industry best practices that are developed to withstand extreme weather events and other consequences of changes in environmental conditions.

"(2) ELEMENTS OF CERTIFICATION.—As part of the certification required by paragraph (1) for a proposed military construction project, the Secretary concerned shall identify the potential changes in environmental conditions, such as increasingly frequent extreme weather events, considered and addressed under subparagraphs (A) and (B) of paragraph (1).

"(b) RELATION TO RECENT MODIFICATION REQUIREMENT.—The modification of Department of Defense Form 1391 required by subsection (a) is in addition to, and expands upon, the modification of Department of Defense Form 1391 with respect to flood risk disclosure for military construction required by section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note).

"(c) MILITARY INSTALLATION RESILIENCE DEFINED.—In this section, the term 'military installation resilience' has the meaning given that term in section 101(e)(8) of title 10, United States Code [now 10 U.S.C. 101(f)(8)]."

## PILOT PROGRAM TO EXTEND SERVICE LIFE OF ROADS AND RUNWAYS UNDER THE JURISDICTION OF THE SECRETARY OF DEFENSE

Pub. L. 116–92, div. B, title XXVIII, §2865, Dec. 20, 2019, 133 Stat. 1901, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Transportation, may carry out a pilot program to design, build, and test technologies, techniques, and materials in order to extend the service life of roads and runways under the jurisdiction of the Secretary of Defense.

"(b) SCOPE.—The pilot program under subsection (a) shall include the following:

"(1) The design, testing, and assembly of technologies and systems suitable for pavement applications.

"(2) Research, development, and testing of pavement materials for use in different geographic areas in the United States.

"(3) The design and procurement of platforms and equipment to test the performance, cost, feasibility, and effectiveness of the technologies, systems, and materials described in paragraphs (1) and (2).

"(c) AWARD OF CONTRACTS OR GRANTS.—

"(1) IN GENERAL.—The Secretary of Defense may carry out the pilot program under subsection (a) through the award of contracts or grants for the designing, building, or testing of technologies, techniques, and materials under the pilot program.

"(2) MERIT-BASED SELECTION.—Any award of a contract or grant under the pilot program under subsection (a) shall be made using merit-based selection procedures.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than two years after the commencement of the pilot program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program.

"(2) CONTENTS.—The report under paragraph (1) with respect to the pilot program shall include the following:

"(A) An assessment of the effectiveness of activities under the pilot program in improving the service life of roads and runways under the jurisdiction of the Secretary.

"(B) An analysis of the potential lifetime cost savings and reduction in energy demands associated with the extended service life of such roads and runways.

"(e) TERMINATION OF AUTHORITY.—The pilot program under subsection (a) shall terminate on September 30, 2024."

## UPDATES AND MODIFICATIONS TO DEPARTMENT OF DEFENSE FORM 1391, UNIFIED FACILITIES CRITERIA, AND MILITARY INSTALLATION MASTER PLANS

Pub. L. 117–81, div. B, title XXVIII, §2805(d), Dec. 27, 2021, 135 Stat. 2189, provided that:

"(1) AMENDMENT REQUIRED.—Not later than September 1, 2022, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the minimum flood mitigation requirements of section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note), as amended by this section.

"(2) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

"(A) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2022, shall comply with the Unified Facilities Criteria, as amended pursuant to paragraph (1).

"(B) CERTIFICATION.—Not later than March 1, 2023, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion of the amendment process required by paragraph (1) and the full incorporation of the amendments into military construction planning and design."

Pub. L. 115–232, div. B, title XXVIII, §2805(a), (b), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116–92, div. B, title XXVIII, §2806, Dec. 20, 2019, 133 Stat. 1884; Pub. L. 117–81, div. B, title XXVIII, §2805(a)–(c), Dec. 27, 2021, 135 Stat. 2189, provided that:

"(a) FLOOD RISK DISCLOSURE FOR MILITARY CONSTRUCTION.—

"(1) IN GENERAL.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval—

"(A) disclosure whether a proposed project will be sited within or partially within a 100-year floodplain or a 500-year floodplain if outside a 100-year floodplain, according to the most recent available Federal Emergency Management Agency flood hazard data, or will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project; and

"(B) if the proposed project will be sited within or partially within a floodplain described in subparagraph (A) or will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the specific risk mitigation plan.

"(2) DELINEATION OF FLOODPLAIN.—To the extent that Federal Emergency Management Agency flood hazard data are not available for a proposed major or minor military construction site, the Secretary concerned shall establish a process for delineating the 100-year floodplain using risk analysis that is consistent with the standards used to inform Federal flood risk assessments.

"(3) REPORTING REQUIREMENTS.—For proposed projects that are to be sited within or partially within a 100-year floodplain or are to be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report with the following:

"(A) An assessment of flood vulnerability for the proposed project using hydrologic, hydraulic, and hydrodynamic data, methods, and analysis that integrate current and projected changes in flooding based on climate science over the anticipated service life of the facility and future forecasted land use changes.

"(B) Any information concerning alternative construction sites that were considered, and an explanation of why those sites do not satisfy mission requirements.

"(C) A description of planned flood mitigation measures.

"(D) A description of how the proposed project has taken into account projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

"(4) MINIMUM FLOOD MITIGATION REQUIREMENTS.—When mitigating the flood risk of a major or minor military construction project within or partially within the 100-year floodplain or that will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall require any mitigation plan to assume—

"(A) an additional 2 feet above the base flood elevation for non-mission critical facilities, as determined by the Secretary;

"(B) an additional 3 feet above the base flood elevation for mission-critical facilities, as determined by the Secretary; and

"(C) any additional flooding that will result from projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

"(b) DISCLOSURE REQUIREMENTS FOR DEPARTMENT OF DEFENSE FORM 1391.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend Department of Defense Form 1391 to require, for each requested military construction project—

"(1) disclosure whether the project was included in the prior year's future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code; and

"(2) inclusion of an energy study or life cycle analysis."

**REQUIREMENTS RELATED TO PROVIDING WORLD CLASS MILITARY MEDICAL CENTERS**

Pub. L. 111–383, div. B, title XXVIII, §2852, Jan. 7, 2011, 124 Stat. 4475, provided that:

"(a) UNIFIED CONSTRUCTION STANDARD FOR MILITARY CONSTRUCTION AND REPAIRS TO MILITARY MEDICAL CENTERS.—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall establish a unified construction standard for military construction and repairs for military medical centers that provides a single standard of care. This standard shall also include—

"(1) size standards for operating rooms and patient recovery rooms; and

"(2) such other construction standards that the Secretary considers necessary to support military medical centers.

"(b) INDEPENDENT REVIEW PANEL.—

"(1) ESTABLISHMENT; PURPOSE.—The Secretary of Defense shall establish an independent advisory panel for the purpose of—

"(A) reviewing the unified construction standards established pursuant to subsection (a) to determine the standards consistency with industry practices and benchmarks for world class medical construction;

"(B) reviewing ongoing construction programs within the Department of Defense to ensure medical construction standards are uniformly applied across applicable military medical centers;

"(C) assessing the approach of the Department of Defense approach to planning and programming facility improvements with specific emphasis on—

"(i) facility selection criteria and proportional assessment system; and

"(ii) facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the military departments;

"(D) assessing whether the Comprehensive Master Plan for the National Capital Region Medical, dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the plan result in world class military medical centers in the National Capital Region; and

"(E) making recommendations regarding any adjustments of the master plan referred to in subparagraph (D) that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

"(2) MEMBERS.—

"(A) APPOINTMENTS BY SECRETARY.—The panel shall be composed of such members as determined by the Secretary of Defense, except that the Secretary shall include as members—

"(i) medical facility design experts;

"(ii) military healthcare professionals;

"(iii) representatives of premier health care centers in the United States; and

"(iv) former retired senior military officers with joint operational and budgetary experience.

"(B) CONGRESSIONAL APPOINTMENTS.—The chairmen and ranking members of the Committees on the Armed Services of the Senate and House of Representatives may each designate one member of the panel.

"(C) TERM.—Members of the panel may serve on the panel until the termination date specified in paragraph (7).

"(D) COMPENSATION.—While performing duties on behalf of the panel, a member and any adviser referred to in paragraph (4) shall be reimbursed under Government travel regulations for necessary travel expenses.

"(3) MEETINGS.—The panel shall meet not less than quarterly. The panel or its members may make other visits to military treatment centers and military headquarters in connection with the duties of the panel.

"(4) STAFF AND ADVISORS.—The Secretary of Defense shall provide necessary administrative staff support to the panel. The panel may call in advisers for consultation.

"(5) REPORTS.—

"(A) INITIAL REPORT.—Not later than 120 days after the first meeting of the panel, the panel shall submit to the Secretary of Defense a written report containing—

"(i) an assessment of the adequacy of the plan of the Department of Defense to address the

items specified in subparagraphs (A) through (E) of paragraph (1) relating to the purposes of the panel; and

"(ii) the recommendations of the panel to improve the plan.

"(B) ADDITIONAL REPORTS.—Not later than February 1, 2011, and each February 1 thereafter until termination of the panel, the panel shall submit to the Secretary of Defense a report on the findings and recommendations of the panel to address any deficiencies identified by the panel.

"(6) ASSESSMENT OF RECOMMENDATIONS.—Not later than 30 days after the date of the submission of each report under paragraph (5), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report including—

"(A) a copy of the panel's assessment;

"(B) an assessment by the Secretary of the findings and recommendations of the panel; and

"(C) the plans of the Secretary for addressing such findings and recommendations.

"(7) TERMINATION.—The panel shall terminate on September 30, 2015.

"(c) DEFINITIONS.—In this section:

"(1) NATIONAL CAPITAL REGION.—The term 'National Capital Region' has the meaning given the term in section 2674(f) of title 10, United States Code.

"(2) WORLD CLASS MILITARY MEDICAL CENTER.—The term 'world class military medical center' has the meaning given the term 'world class military medical facility' by the National Capital Region Base Realignment and Closure Health Systems Advisory Subcommittee of the Defense Health Board in appendix B of the report titled 'Achieving World Class—An Independent Review of the Design Plans for the Walter Reed National Military Medical Center and the Fort Belvoir Community Hospital' and published in May 2009, as required by section 2721 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4716)."

## DAMAGE TO AVIATION FACILITIES CAUSED BY ALKALI SILICA REACTIVITY

Pub. L. 106–398, §1 [[div. A], title III, §389], Oct. 30, 2000, 114 Stat. 1654, 1654A–89, provided that:

"(a) ASSESSMENT OF DAMAGE AND PREVENTION AND MITIGATION TECHNOLOGY.—The Secretary of Defense shall require the Secretaries of the military departments to assess—

"(1) the damage caused to aviation facilities of the Armed Forces by alkali silica reactivity; and

"(2) the availability of technologies capable of preventing, treating, or mitigating alkali silica reactivity in hardened concrete structures and pavements.

"(b) EVALUATION OF TECHNOLOGIES.—(1) Taking into consideration the assessment under subsection (a), the Secretary of each military department may conduct a demonstration project at a location selected by the Secretary concerned to test and evaluate the effectiveness of technologies intended to prevent, treat, or mitigate alkali silica reactivity in hardened concrete structures and pavements.

"(2) The Secretary of Defense shall ensure that the locations selected for the demonstration projects represent the diverse operating environments of the Armed Forces.

"(c) NEW CONSTRUCTION.—The Secretary of Defense shall develop specific guidelines for appropriate testing and use of lithium salts to prevent alkali silica reactivity in new construction of the Department of Defense.

"(d) COMPLETION OF ASSESSMENT AND DEMONSTRATION.—The assessment conducted under subsection (a) and the demonstration projects, if any, conducted under subsection (b) shall be completed not later than September 30, 2006.

"(e) DELEGATION OF AUTHORITY.—The authority to conduct the assessment under subsection (a) may be delegated only to the Chief of Engineers of the Army, the Commander of the Naval Facilities Engineering Command, and the Civil Engineer of the Air Force.

"(f) LIMITATION ON EXPENDITURES.—The Secretary of Defense and the Secretaries of the military departments may not expend more than a total of $5,000,000 to conduct both the assessment under subsection (a) and all of the demonstration projects under subsection (b)."

## REPORTS RELATING TO MILITARY CONSTRUCTION FOR FACILITIES SUPPORTING NEW WEAPON SYSTEMS

Pub. L. 102–190, div. B, title XXVIII, §2868, Dec. 5, 1991, 105 Stat. 1562, as amended by Pub. L. 108–136, div. A, title X, §1031(c)(2), Nov. 24, 2003, 117 Stat. 1604, which required the Secretary of Defense to submit to Congress a report relating to the permanent basing of a new weapon system not later than 30 days after selecting a site or sites for such permanent basing, was repealed by Pub. L. 112–81, div. A, title X, §1062(m), Dec. 31, 2011, 125 Stat. 1586.

## §2803. Emergency construction

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the five-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c)(1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is $50,000,000.

(2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 102–190, div. B, title XXVIII, §§2803, 2870(2), Dec. 5, 1991, 105 Stat. 1537, 1562; Pub. L. 102–484, div. A, title X, §1053(9), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 108–136, div. A, title X, §1031(a)(34), div. B, title XXVIII, §2802, Nov. 24, 2003, 117 Stat. 1600, 1719; Pub. L. 109–364, div. B, title XXVIII, §2801, Oct. 17, 2006, 120 Stat. 2466; Pub. L. 112–81, div. A, title X, §1064(9), Dec. 31, 2011, 125 Stat. 1587; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(1), Dec. 12, 2017, 131 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 struck out "in writing" after "submit a report" and "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided" after "such committees" and substituted "five-day period" for "seven-day period".

**2011**—Subsec. (b). Pub. L. 112–81 substituted "after the end of the seven-day period" for "after the end of the 21-day period".

**2006**—Subsec. (c)(1). Pub. L. 109–364 substituted "$50,000,000" for "$45,000,000".

**2003**—Subsec. (b). Pub. L. 108–136, §1031(a)(34), inserted before period at end "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

Subsec. (c)(1). Pub. L. 108–136, §2802, substituted "$45,000,000" for "$30,000,000".

**1992**—Subsec. (b). Pub. L. 102–484 made technical amendment to directory language of Pub. L. 102–190, §2870(2). See 1991 Amendment note below.

**1991**—Subsec. (a). Pub. L. 102–190, §2803, substituted "or to the protection of health, safety, or the quality of the environment, and" for ", and" in cl. (1) and inserted "or the protection of health, safety, or environmental quality, as the case may be" before period at end of cl. (2).

Subsec. (b). Pub. L. 102–190, §2870(2), as amended by Pub. L. 102–484, struck out ", or after each such committee has approved the project, if the committee approves the project before the end of that period" after "by such committees".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title X, §1053, Oct. 23, 1992, 106 Stat. 2501, provided that the amendment made by that section is effective Dec. 5, 1991.

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2804. Contingency construction

(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report to the appropriate committees of Congress on that decision. Each such report shall include the justification for the project, the current estimate of the cost of the project, and the justification for carrying out the project under this section. The project may then be carried out only after the end of the seven-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 155; amended Pub. L. 102–190, div. B, title XXVIII, §2870(3), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 108–136, div. A, title X, §1031(a)(35), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 109–163, div. B, title XXVIII, §2801(a), Jan. 6, 2006, 119 Stat. 3504; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(2), Dec. 12, 2017, 131 Stat. 1840; Pub. L. 116–92, div. A, title XVII, §1731(a)(54), Dec. 20, 2019, 133 Stat. 1815; Pub. L. 116–283, div. A, title X, §1081(a)(44), Jan. 1, 2021, 134 Stat. 3873.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (b). Pub. L. 116–283 struck out "; and" after "seven-day period".

**2019**—Subsec. (b). Pub. L. 116–92 substituted "include the justification" for "include (1) the justification", "project, the current" for "project and the current", and "and the justification" for "and (2) the justification".

**2017**—Subsec. (b). Pub. L. 115–91 struck out "in writing" after "submit a report" and "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided" after "such committees" and substituted "seven-day period; and" for "14-day period".

**2006**—Subsec. (b). Pub. L. 109–163 substituted "14-day period" for "21-day period" and "seven-day period" for "14-day period".

**2003**—Subsec. (b). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**1991**—Subsec. (b). Pub. L. 102–190 struck out before period at end ", or after each such committee has approved the project, if the committees approve the project before the end of that period".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

**AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CERTAIN CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES**

Pub. L. 108–136, div. B, title XXVIII, §2808, Nov. 24, 2003, 117 Stat. 1723, as amended by Pub. L. 108–375, div. B, title XXVIII, §2810, Oct. 28, 2004, 118 Stat. 2128; Pub. L. 109–163, div. B, title XXVIII, §2809, Jan. 6, 2006, 119 Stat. 3508; Pub. L. 109–364, div. B, title XXVIII, §2802, Oct. 17, 2006, 120 Stat. 2466; Pub. L. 110–181, div. B, title XXVIII, §2801(a)–(d), Jan. 28, 2008, 122 Stat. 538, 539; Pub. L.

110–417, div. B, title XXVIII, §2806, Oct. 14, 2008, 122 Stat. 4724; Pub. L. 111–84, div. B, title XXVIII, §2806, Oct. 28, 2009, 123 Stat. 2662; Pub. L. 111–383, div. B, title XXVIII, §2804, Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112–81, div. B, title XXVIII, §2804, Dec. 31, 2011, 125 Stat. 1685; Pub. L. 112–239, div. B, title XXVIII, §2804, Jan. 2, 2013, 126 Stat. 2149; Pub. L. 113–66, div. B, title XXVIII, §2808, Dec. 26, 2013, 127 Stat. 1012; Pub. L. 113–291, div. B, title XXVIII, §2806, Dec. 19, 2014, 128 Stat. 3699; Pub. L. 114–92, div. B, title XXVIII, §2802, Nov. 25, 2015, 129 Stat. 1169; Pub. L. 114–328, div. B, title XXVIII, §2804, Dec. 23, 2016, 130 Stat. 2713; Pub. L. 115–91, div. B, title XXVIII, §2804, Dec. 12, 2017, 131 Stat. 1846; Pub. L. 115–232, div. B, title XXVIII, §2807, Aug. 13, 2018, 132 Stat. 2264; Pub. L. 116–283, div. B, title XXVIII, §2806, Jan. 1, 2021, 134 Stat. 4322; Pub. L. 117–81, div. B, title XXVIII, §2806, Dec. 27, 2021, 135 Stat. 2190; Pub. L. 117–263, div. B, title XXVIII, §2809(a), (b)(1), (3)–(c), 136 Stat. 2996, provided that:

"(a) IN GENERAL.—The Secretary of Defense may obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States that the Secretary determines meets each of the following conditions:

"(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of a declaration of war, the declaration by the President of a national emergency under section 201 of the National Emergencies Act (50 U.S.C. 1621), or a contingency operation.

"(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

"(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

"(4) The level of construction is the minimum necessary to meet the temporary operational requirements.

"(b) NOTIFICATION OF OBLIGATION OF FUNDS.—Before using appropriated funds available for operation and maintenance to carry out a construction project outside the United States that has an estimated cost in excess of the amounts authorized for unspecified minor military construction projects under section 2805(c) of title 10, United States Code, the Secretary of Defense shall submit to the congressional committees specified in subsection (d) a notice regarding the construction project. The project may be carried out only after the end of the 14-day period beginning on the date the notice is received by the committees, including when a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code. The notice shall include the following:

"(1) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

"(2) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

"(3) All relevant documentation detailing the construction project.

"(4) An estimate of the total amount obligated for the construction.

"(c) ANNUAL LIMITATION ON USE OF AUTHORITY.—(1) The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $50,000,000 during each of the following periods:

"(A) The period beginning October 1, 2021, and ending on the earlier of December 31, 2022, or the date of the enactment of an Act authorizing funds for military activities of the Department of Defense for fiscal year 2023 [Dec. 23, 2022].

"(B) The period beginning October 1, 2022, and ending on the earlier of December 31, 2023, or the date of the enactment of an Act authorizing funds for military activities of the Department of Defense for fiscal year 2024.

"(2) Notwithstanding paragraph (1), the Secretary of Defense may authorize the obligation under this section of not more than an additional $10,000,000 of appropriated funds available for operation and maintenance for a fiscal year if the Secretary determines that the additional funds are needed for costs associated with contract closeouts.

"(3) The total amount of operation and maintenance funds used for a single construction project carried out under the authority of this section shall not exceed $15,000,000. The Secretary of Defense may waive this limitation on a project-by-project basis. This waiver authority may not be delegated.

"(d) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the following:

"(1) The Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

"(2) The Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

"(e) EFFECT OF FAILURE TO SUBMIT PROJECT NOTIFICATIONS.—If the advance notice of the proposed obligation of the funds for a construction project required by subsection (b) is not submitted to the congressional committees specified in subsection (d) by the required date, appropriated funds available for operation and maintenance may not be obligated or expended after that date under the authority of this section to carry out construction projects outside the United States until the date on which the notice is finally submitted."

[Pub. L. 117–263, div. B, title XXVIII, §2809(d), Dec. 23, 2022, 136 Stat. 2997, provided that: "The Law Revision Counsel is directed to classify section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by subsection (a), as a note following section 2804 of title 10, United States Code."]

## §2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project, land acquisition, or demolition project that has an approved cost equal to or less than $9,000,000.

(3) Notwithstanding the requirements of this section, the Secretary concerned may use amounts authorized pursuant to another law or regulation to carry out a demolition project described in paragraph (2).

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—(1) An unspecified minor military construction project costing more than $750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

(2) When a decision is made to carry out an unspecified minor military construction project to which paragraph (1) is applicable and which costs more than $6,000,000, the Secretary concerned shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notification of that decision not later than 90 days after the date on which the Secretary concerned obligates funds for the project. Such notification shall include a description of the project, a justification for the project, and an estimation of the total cost of the project.

(c) USE OF OPERATION AND MAINTENANCE FUNDS.—The Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

(d) LABORATORY REVITALIZATION.—(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an unspecified minor military construction project costing not more than $9,000,000, notwithstanding subsection (c); or

(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law or from funds authorized to be made available under section 4123(a) of this title, amounts necessary to carry out an unspecified minor military construction project costing not more than $9,000,000.

(2) For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $9,000,000.

(3) If the Secretary concerned makes a decision to carry out an unspecified minor military

construction project to which this subsection applies, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(4) In this subsection, the term "laboratory" includes—

(A) a research, engineering, and development center; and

(B) a test and evaluation activity.

(e) PROHIBITION ON USE FOR NEW HOUSING UNITS.—Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

(f) ADJUSTMENT OF DOLLAR LIMITATIONS FOR LOCATION.—

(1) ADJUSTMENT OF LIMITATIONS.—Each fiscal year, the Secretary concerned shall adjust the dollar limitations specified in this section applicable to an unspecified minor military construction project to reflect the area construction cost index for military construction projects published by the Department of Defense during the prior fiscal year for the location of the project, except that no limitation specified in this section may exceed $14,000,000 as the result of any adjustment made under this paragraph.

[(2) Repealed. Pub. L. 118–31, div. B, title XXVIII, §2803(2), Dec. 22, 2023, 137 Stat. 744.]

[(3) Repealed. Pub. L. 118–31, div. B, title XXVIII, §2802(c)(2), Dec. 22, 2023, 137 Stat. 743.]

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 155; amended Pub. L. 99–167, title VIII, §809, Dec. 3, 1985, 99 Stat. 989; Pub. L. 99–661, div. B, title VII, §2702(a), Nov. 14, 1986, 100 Stat. 4040; Pub. L. 100–180, div. B, subdiv. 3, title I, §2310, Dec. 4, 1987, 101 Stat. 1217; Pub. L. 101–510, div. A, title XIII, §1301(16), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–190, div. B, title XXVIII, §§2807, 2870(4), Dec. 5, 1991, 105 Stat. 1540, 1563; Pub. L. 104–106, div. B, title XXVIII, §§2811(a), 2812, Feb. 10, 1996, 110 Stat. 552; Pub. L. 104–201, div. B, title XXVIII, §2801(a), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 105–85, div. B, title XXVIII, §2801, Nov. 18, 1997, 111 Stat. 1989; Pub. L. 107–107, div. B, title XXVIII, §2801, Dec. 28, 2001, 115 Stat. 1305; Pub. L. 108–136, div. A, title X, §1031(a)(36), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 110–181, div. B, title XXVIII, §§2803, 2804, Jan. 28, 2008, 122 Stat. 539; Pub. L. 111–84, div. B, title XXVIII, §2801(a)(1), (2), (b), Oct. 28, 2009, 123 Stat. 2660; Pub. L. 112–81, div. B, title XXVIII, §2802(a), (b), Dec. 31, 2011, 125 Stat. 1684; Pub. L. 113–66, div. B, title XXVIII, §2801(a), Dec. 26, 2013, 127 Stat. 1006; Pub. L. 113–291, div. B, title XXVIII, §2802, Dec. 19, 2014, 128 Stat. 3695; Pub. L. 114–328, div. B, title XXVIII, §2801, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. A, title II, §220(c)(2), div. B, title XXVIII, §§2801(a)(3), 2802, 2803, Dec. 12, 2017, 131 Stat. 1333, 1840, 1845, 1846; Pub. L. 116–92, div. A, title XVII, §1731(a)(55), Dec. 20, 2019, 133 Stat. 1815; Pub. L. 116–283, div. A, title XVIII, §1843(c), div. B, title XXVIII, §2802, Jan. 1, 2021, 134 Stat. 4245, 4319; Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(B), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 117–263, div. B, title XXVIII, §§2802, 2803(a), 2804, Dec. 23, 2022, 136 Stat. 2992, 2994; Pub. L. 118–31, div. B, title XXVIII, §§2802(a)–(c), 2803, Dec. 22, 2023, 137 Stat. 743, 744; Pub. L. 118–159, div. B, title XXVIII, §§2804(a), 2805, Dec. 23, 2024, 138 Stat. 2248, 2249; Pub. L. 119–60, div. B, title XXVIII, §§2871, 2872(a), 2873, Dec. 18, 2025, 139 Stat. 1328.)

## EDITORIAL NOTES

### CODIFICATION

Another section 2803(a) of Pub. L. 117–263 (136 Stat. 2970), is set out as a note under section 2687 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(2). Pub. L. 119–60, §2872(a), substituted "$6,000,000" for "$4,000,000".

Pub. L. 119–60, §2871, substituted "shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notification of that decision not later than 90 days after the date on which the Secretary concerned obligates funds for the project. Such notification shall include a

description of the project, a justification for the project, and an estimation of the total cost of the project." for "shall notify the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.".

Subsec. (g). Pub. L. 119–60, §2873, redesignated subsec. (g) as section 2810(f) of this title.

**2024**—Subsec. (a)(2). Pub. L. 118–159, §2804(a), substituted ", land acquisition, or demolition project" for "or a demolition project".

Subsec. (g)(6)(B). Pub. L. 118–159, §2805, substituted "$4,000,000" for "$1,000,000".

**2023**—Subsec. (a)(2). Pub. L. 118–31, §2802(a)(1), (b)(1), inserted "or a demolition project" after "is a military construction project" and substituted "$9,000,000" for "$6,000,000".

Subsec. (a)(3). Pub. L. 118–31, §2802(a)(2), added par. (3).

Subsec. (b)(2). Pub. L. 118–31, §2802(b)(2), substituted "$4,000,000" for "$2,000,000".

Subsec. (c). Pub. L. 118–31, §2802(b)(3), substituted "$4,000,000" for "$2,000,000".

Subsec. (d)(1)(A). Pub. L. 118–31, §2802(b)(4)(A)(i), substituted "$9,000,000" for "$6,000,000".

Subsec. (d)(1)(B). Pub. L. 118–31, §2802(b)(4)(A)(ii), substituted "$9,000,000" for "$6,000,000".

Subsec. (d)(2). Pub. L. 118–31, §2802(b)(4)(B), substituted "$9,000,000" for "$6,000,000".

Subsec. (f)(1). Pub. L. 118–31, §§2802(c)(1), 2803(1), struck out "inside the United States" after "construction project" and substituted "$14,000,000" for "$10,000,000".

Subsec. (f)(2). Pub. L. 118–31, §2803(2), struck out par. (2). Text read as follows: "For purposes of paragraph (1), a project shall be considered to be inside the United States if the project is carried out in any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, Wake Island, the Commonwealth of the Northern Mariana Islands, or a former United States Trust Territory now in a Compact of Free Association with the United States."

Subsec. (f)(3). Pub. L. 118–31, §2802(c)(2), struck out par. (3). Text read as follows: "The requirements of this subsection shall not apply with respect to any fiscal year after fiscal year 2027."

**2022**—Subsec. (d)(5). Pub. L. 117–263, §2804, struck out par. (5) which read as follows: "The authority to carry out a project under this subsection expires on September 30, 2025."

Subsec. (f)(2). Pub. L. 117–263, §2802, substituted "Wake Island, the Commonwealth" for "or the Commonwealth" and inserted ", or a former United States Trust Territory now in a Compact of Free Association with the United States" after "Mariana Islands".

Subsec. (g). Pub. L. 117–263, §2803(a), added subsec. (g).

**2021**—Subsec. (d)(1)(B). Pub. L. 116–283, §1843(c), as amended by Pub. L. 117–81, §1701(u)(4)(B), substituted "section 4123(a)" for "section 2363(a)".

Subsec. (f)(3). Pub. L. 116–283, §2802, substituted "2027" for "2022".

**2019**—Subsec. (d)(1)(B). Pub. L. 116–92 inserted "under" after "made available".

**2017**—Subsec. (a)(2). Pub. L. 115–91, §2802(a), substituted "$6,000,000" for "$3,000,000" and struck out at end "However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, an unspecified minor military construction project may have an approved cost equal to or less than $4,000,000."

Subsec. (b)(1). Pub. L. 115–91, §2802(b), substituted "$750,000" for "$1,000,000".

Subsec. (b)(2). Pub. L. 115–91, §2802(c), substituted "to which paragraph (1) is applicable and which costs more than $2,000,000" for "to which paragraph (1) is applicable".

Pub. L. 115–91, §2801(a)(3)(A), struck out "in writing" after "shall notify" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by the committees" and substituted "14-day period" for "21-day period".

Subsec. (c). Pub. L. 115–91, §2802(d), substituted "$2,000,000" for "$1,000,000".

Subsec. (d)(1)(B). Pub. L. 115–91, §220(c)(2), substituted "section 2363(a) of this title" for "under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note)".

Subsec. (d)(3). Pub. L. 115–91, §2801(a)(3)(B), struck out "in writing" after "shall notify" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by the committees" and substituted "14-day period" for "21-day period".

Subsec. (f). Pub. L. 115–91, §2803, added subsec. (f).

**2016**—Subsec. (d)(1). Pub. L. 114–328, §2801(a), substituted "$6,000,000" for "$4,000,000" in subpars. (A) and (B).

Subsec. (d)(2). Pub. L. 114–328, §2801(a), (b)(1), substituted "$6,000,000" for "$4,000,000" in first sentence and struck out second sentence which read as follows: "The Secretary of Defense shall establish

procedures for the review and approval of requests from the Secretary of a military department to carry out a construction project under this subsection."

Subsec. (d)(3). Pub. L. 114–328, §2801(b)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Not later than February 1, 2014, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by this subsection. The report shall include a list and description of the construction projects carried out under this subsection, including the location and cost of each project."

Subsec. (d)(5). Pub. L. 114–328, §2801(c), substituted "2025" for "2018".

**2014**—Subsec. (a)(2). Pub. L. 113–291, §2802(a), substituted "$3,000,000" for "$2,000,000" in first sentence and "$4,000,000" for "$3,000,000" in second sentence.

Subsec. (b)(1). Pub. L. 113–291, §2802(b), substituted "$1,000,000" for "$750,000".

Subsec. (c). Pub. L. 113–291, §2802(c), substituted "$1,000,000" for "$750,000".

**2013**—Subsec. (d)(1)(A). Pub. L. 113–66, §2801(a)(1), substituted "not more than $4,000,000, notwithstanding subsection (c)" for "not more than $2,000,000".

Subsec. (d)(2). Pub. L. 113–66, §2801(a)(2), substituted "For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $4,000,000." for "For an unspecified minor military construction project conducted pursuant to this subsection, $2,000,000 shall be deemed to be the amount specified in subsection (b)(1) regarding when advance approval of the project by the Secretary concerned and congressional notification is required."

Subsec. (d)(5). Pub. L. 113–66, §2801(a)(3), substituted "2018" for "2016".

**2011**—Subsec. (c). Pub. L. 112–81, §2802(a), substituted "The" for "(1) Except as provided in paragraph (2), the" and "not more than $750,000." for "not more than—

"(A) $1,500,000, in the case of an unspecified minor military construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

"(B) $750,000, in the case of any other unspecified minor military construction project.

"(2) The limitations specified in paragraph (1) shall not apply to an unspecified minor military construction project if the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies."

Subsec. (d)(3). Pub. L. 112–81, §2802(b)(1), substituted "February 1, 2014" for "February 1, 2010".

Subsec. (d)(5). Pub. L. 112–81, §2802(b)(2), substituted "September 30, 2016" for "September 30, 2012".

**2009**—Subsec. (a). Pub. L. 111–84, §2801(a)(1), substituted "Within" for "Except as provided in paragraph (2), within" in par. (1), redesignated the second and third sentences of par. (1) as par. (2), and struck out former par. (2) which read as follows: "A Secretary may not use more than $5,000,000 for exercise-related unspecified minor military construction projects coordinated or directed by the Joint Chiefs of Staff outside the United States during any fiscal year."

Subsec. (c). Pub. L. 111–84, §2801(a)(2), substituted "paragraph (2)" for "paragraphs (2) and (3)" in par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: "The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified minor military construction project coordinated or directed by the Joint Chiefs of Staff outside the United States."

Subsec. (d)(1)(B). Pub. L. 111–84, §2801(b)(1), inserted "or from funds authorized to be made available under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note)" after "authorized by law".

Subsec. (d)(3) to (6). Pub. L. 111–84, §2801(b)(2), (3), redesignated pars. (4) to (6) as (3) to (5), respectively, and struck out former par. (3) which read as follows: "For purposes of this subsection, the total amount allowed to be applied in any one fiscal year to projects at any one laboratory shall be limited to the larger of the amounts applicable under paragraph (1)."

**2008**—Subsec. (a). Pub. L. 110–181, §2804(b)(1), inserted subsec. heading.

Subsec. (a)(1). Pub. L. 110–181, §2803, substituted "$2,000,000" for "$1,500,000".

Subsecs. (b), (c). Pub. L. 110–181, §2804(b)(2), (3), inserted subsec. headings.

Subsecs. (d), (e). Pub. L. 110–181, §2804(a), (b)(4), added subsec. (d), redesignated former subsec. (d) as (e), and inserted subsec. (e) heading.

**2003**—Subsec. (b)(2). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**2001**—Subsec. (b)(1). Pub. L. 107–107, §2801(a), substituted "$750,000" for "$500,000".

Subsec. (c)(1)(A). Pub. L. 107–107, §2801(b)(1), substituted "$1,500,000" for "$1,000,000".

Subsec. (c)(1)(B). Pub. L. 107–107, §2801(b)(2), substituted "$750,000" for "$500,000".

**1997**—Subsec. (a)(1). Pub. L. 105–85, §2801(c)(1), substituted "unspecified minor military construction projects" for "minor military construction projects", "An unspecified minor" for "A minor", and "an unspecified minor" for "a minor".

Subsec. (b)(1). Pub. L. 105–85, §2801(c)(2), substituted "An unspecified minor" for "A minor".

Pub. L. 105–85, §2801(a), inserted at end "This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies."

Subsec. (b)(2). Pub. L. 105–85, §2801(c)(3), substituted "an unspecified minor" for "a minor".

Subsec. (c)(1). Pub. L. 105–85, §2801(c)(4), substituted "unspecified minor military" for "unspecified military" wherever appearing.

Pub. L. 105–85, §2801(b)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)" in introductory provisions.

Subsec. (c)(2). Pub. L. 105–85, §2801(c)(4), substituted "unspecified minor military" for "unspecified military".

Subsec. (c)(3). Pub. L. 105–85, §2801(b)(2), added par. (3).

**1996**—Subsec. (a)(1). Pub. L. 104–106, §2812, in second sentence, struck out "(1) that is for a single undertaking at a military installation, and (2)" after "is a military construction project".

Pub. L. 104–106, §2811(a)(1), inserted at end "However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, a minor military construction project may have an approved cost equal to or less than $3,000,000."

Subsec. (c)(1). Pub. L. 104–106, §2811(a)(2), substituted "not more than—" for "not more than $300,000." and added subpars. (A) and (B).

Subsec. (c)(1)(B). Pub. L. 104–201 substituted "$500,000" for "$300,000".

**1991**—Subsec. (a)(1). Pub. L. 102–190, §2807(a), substituted "$1,500,000" for "$1,000,000".

Subsec. (b)(2). Pub. L. 102–190, §2870(4), in second sentence struck out "(A)" after "carried out only" and ", or (B) after each such committee approves the project, if the committees approve the project before the end of that period" before period at end.

Subsec. (c)(1). Pub. L. 102–190, §2807(b), substituted "$300,000" for "$200,000".

**1990**—Subsec. (b)(3). Pub. L. 101–510 struck out par. (3) which read as follows: "A project for the relocation of any activity from one installation to another that involves 25 or more full-time civilian employees of the Department of Defense but that is not subject to paragraph (1) may not be carried out under the authority of this section until the appropriate committees of Congress have been notified by the Secretary concerned of the intent to carry out such relocation under the authority of this section."

**1987**—Subsec. (a). Pub. L. 100–180, §2310(b), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), within" for "Within", and added par. (2).

Subsec. (c). Pub. L. 100–180, §2310(a), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the" for "The", and added par. (2).

**1986**—Subsec. (a). Pub. L. 99–661, §2702(a)(1), substituted "$1,000,000" for "the amount specified by law as the maximum amount for a minor military construction project".

Subsec. (b)(1). Pub. L. 99–661, §2702(a)(2), substituted "$500,000" for "50 percent of the amount specified by law as the maximum amount for a minor military construction project".

Subsec. (c). Pub. L. 99–661, §2702(a)(3), substituted "$200,000" for "20 percent of the amount specified by law as the maximum amount for a minor military construction project".

**1985**—Subsec. (a). Pub. L. 99–167, §809(1), inserted "an amount equal to 125 percent of".

Subsec. (c). Pub. L. 99–167, §809(2), substituted "The" for "Only funds authorized for minor construction projects may be used to accomplish unspecified minor construction projects, except that the".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. B, title XXVIII, §2803(b), Dec. 23, 2022, 136 Stat. 2994, provided that: "Subsection (g) of section 2805 of title 10, United States Code, as added by subsection (a), shall apply with respect only to amounts appropriated after the date of the enactment of this Act [Dec. 23, 2022]."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1843(c) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## TEMPORARY EXPANSION OF AUTHORITY FOR CAISSON REQUIREMENTS

Pub. L. 119–60, div. B, title XXVIII, §2810(b), Dec. 18, 2025, 139 Stat. 1301, provided that: "Not later than 30 days after each use of the authority described under section 2804(c) of the Military Construction Authorization Act for Fiscal Year 2025 (division B of Public Law 118–159; 10 U.S.C. 2805 note), the Secretary of the Army shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such use."

Pub. L. 118–159, div. B, title XXVIII, §2804(c), Dec. 23, 2024, 138 Stat. 2248, as amended by Pub. L. 119–60, div. B, title XXVIII, §2810(a), Dec. 18, 2025, 139 Stat. 1300, provided that: "During the period beginning on the date of the enactment of this section [Dec. 23, 2024] and ending on August 1, 2026, the Secretary of the Army may use the authority under section 2805 of such title [meaning title 10, United States Code] for the purchase of interests in land at not more than 200 percent of the applicable dollar threshold specified in such section to support the caisson requirements of the Department of the Army with respect to equine welfare."

## AUTHORITY FOR INDO-PACIFIC POSTURE UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–31, div. B, title XXVIII, §2810, Dec. 22, 2023, 137 Stat. 747, as amended by Pub. L. 118–159, div. B, title XXVIII, §2807, Dec. 23, 2024, 138 Stat. 2250, provided that:

"(a) AUTHORITY.—To support the posture of the Armed Forces in the United States Indo-Pacific Command area of operations, the Commander of the United States Indo-Pacific Command (in this section referred to as the 'Commander') may carry out unspecified minor military construction projects not otherwise authorized by law with an approved cost less than $30,000,000.

"(b) SCOPE OF PROJECT AUTHORITY.—A project carried out under this section may include—

"(1) the design, construction, development, conversion, extension, renovation, or repair of a facility, whether to satisfy temporary or permanent requirements; and

"(2) to the extent necessary, as either a stand-alone acquisition or as part of a minor military construction project, any acquisition of interests in land, or support or reimbursement for acquisition of interests in land, for establishment of a defense site or other area over which the Secretary of a military department or the Secretary of Defense will exercise operational control, without regard to the duration of the operational control.

"(c) PURPOSES.—A project carried out under this section shall be for the purpose of—

"(1) supporting the rotational deployments of the Armed Forces;

"(2) enhancing facility preparedness and military installation resilience (as defined in section 101(e)(8) of title 10, United States Code) in support of potential, planned, or anticipated defense activities;

"(3) providing for prepositioning and storage of equipment and supplies; or

"(4) acquiring interests in land, defense sites, or operational control over an area needed to support another project or projects under this section or to support a future military construction project.

"(d) LOCATION OF PROJECTS.—A project carried out under this section must be located within the area of responsibility of the United States Indo-Pacific Command and at a military installation or planned military installation that includes a main operating base, cooperative security location, forward operating site, or contingency location for use by the Armed Forces.

"(e) AVAILABLE AMOUNTS.—In carrying out a project under this section, the Commander may use amounts appropriated for—

"(1) the INDOPACOM Military Construction Pilot Program fund (as specified in the funding table in section 4601 [Pub. L. 118–31, 137 Stat. 901]); and

"(2) operation and maintenance, not to exceed 200 percent of the amount specified in subsection (c) of section 2805, United States Code, subject to adjustment upward to reflect a construction cost index published pursuant to subsection (f) of such section if such an index applies to the location of the project, except that the adjusted amount may not exceed the limit under subsection (a).

"(f) NOTICE TO CONGRESS.—

"(1) IN GENERAL.—If the Commander decides to carry out a project under this section with a cost

exceeding $2,000,000, the Commander shall submit a written notification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of that decision.

"(2) RELEVANT DETAILS.—A notice under paragraph (1) with respect to a project shall include relevant details and justification of the project, including the estimated cost, and may include a classified annex.

"(3) TIMING.—A project under this section covered by paragraph (1) may not be carried out until the end of the 14-day period beginning on the date of receipt of the notification under such paragraph by the congressional defense committees.

"(g) PROJECT EXECUTION.—

"(1) PROJECT SUPERVISION.—Subsections (a) and (b) of section 2851 of title 10, United States Code, shall not apply to projects carried out by the Commander under this section.

"(2) APPLICATION OF CHAPTER 169 OF TITLE 10, UNITED STATES CODE.—When exercising the authority under subsection (a), the Commander shall, for purposes of chapter 169 of title 10, United States Code, be considered the Secretary concerned.

"(h) ANNUAL REPORT.—Not later than December 31, 2024, and annually thereafter until the termination date in subsection (i), the Commander shall submit to the congressional defense committees a report containing a list of projects funded, lessons learned, and, subject to the concurrence of the Secretary of Defense, recommended adjustments to the authority under this section for the most recently ended fiscal year covered by the report.

"(i) TERMINATION.—The authority to carry out a project under this section expires on March 31, 2029."

## TEMPORARY INCREASE OF AMOUNTS IN CONNECTION WITH AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION

Pub. L. 117–263, div. B, title XXVIII, §2801, Dec. 23, 2022, 136 Stat. 2992, which increased amounts in connection with authority to carry out unspecified minor military construction projects for the period beginning on Dec. 23, 2022, and ending on Dec. 1, 2025, was repealed by Pub. L. 118–31, div. B, title XXVIII, §2802(e), Dec. 22, 2023, 137 Stat. 743.

## NO APPLICATION TO CURRENT PROJECTS

Pub. L. 113–66, div. B, title XXVIII, §2801(b), Dec. 26, 2013, 127 Stat. 1006, provided that: "The amendments made by subsection (a) [amending this section] do not apply to any laboratory revitalization project for which the design phase has been completed as of the date of the enactment of this Act [Dec. 26, 2013]."

## RELATION TO OTHER AUTHORITIES

Pub. L. 108–136, div. B, title XXVIII, §2808(e), Nov. 24, 2003, 117 Stat. 1724, which directed that the temporary authority provided by section 2808 of Pub. L. 108–136, and the limited authority provided by section 2805(c) of this title, to use appropriated funds available for operation and maintenance to carry out a construction project were the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects, was repealed by Pub. L. 117–263, div. B, title XXVIII, §2809(b)(2), Dec. 23, 2022, 136 Stat. 2996.

## DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM

Pub. L. 104–106, div. B, title XXVIII, §2892, Feb. 10, 1996, 110 Stat. 590, as amended by Pub. L. 105–261, div. B, title XXVIII, §2871, Oct. 17, 1998, 112 Stat. 2225; Pub. L. 108–375, div. B, title XXVIII, §2891, Oct. 28, 2004, 118 Stat. 2154, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program (to be known as the 'Department of Defense Laboratory Revitalization Demonstration Program') for the revitalization of Department of Defense laboratories. Under the program, the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

"(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS .—For purpose of any military construction project carried out under the program—

"(1) the amount provided in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

"(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

"(3) the amount provided in subsection (c)(1)(B) of such section shall be deemed to be $1,000,000.

"(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

"(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.

"(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.

"(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

"(f) DEFINITIONS.—In this section:

"(1) The term 'laboratory' includes—

"(A) a research, engineering, and development center;

"(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

"(C) a supporting facility of a laboratory.

"(2) The term 'supporting facility', with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at the laboratory.

"(g) EXPIRATION OF AUTHORITY.—The Secretary may not commence a construction project under the program after September 30, 2005."

**INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW**

Maximum amount of $1,000,000 for unspecified minor military construction project under this section during the period beginning Oct. 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(1) of Pub. L. 97–214, set out as a note under section 2828 of this title.

## §2806. Contributions for North Atlantic Treaty Organizations Security Investment

(a) Within amounts authorized by law for such purpose, the Secretary of Defense may make contributions for the United States share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area.

(b)(1) Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization Security Investment program in any year unless such funds have been authorized by law for such program.

(2) If any funds authorized for the North Atlantic Treaty Organization Security Investment program for a fiscal year are available to be obligated or expended at the end of that fiscal year and no funds have been authorized for the following fiscal year, not more than 50 percent of the amount authorized for the North Atlantic Treaty Organization Security Investment program for that fiscal year shall be deemed to be authorized by law for purposes of paragraph (1) for the following fiscal year.

(c)(1) The Secretary of Defense may make contributions in excess of the amount appropriated for contribution under subsection (a) if the amount of the contribution in excess of that amount does not exceed 200 percent of the amount specified by section 2805(a) of this title as the maximum amount for a minor military construction project.

(2) If the Secretary determines that the amount appropriated for contribution under subsection (a) in any fiscal year must be exceeded by more than the amount authorized under paragraph (1), the Secretary may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated, only after the end of the 14-day period beginning on the date on which the

Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the increase, including the reasons for the increase and the source of the funds to be used for the increase.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 156; amended Pub. L. 97–321, title VIII, §805(b)(1), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 99–661, div. B, title V, §2503(a), Nov. 14, 1986, 100 Stat. 4039; Pub. L. 100–26, §7(f)(1), Apr. 21, 1987, 101 Stat. 281; Pub. L. 102–190, div. B, title XXVIII, §2870(5), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 104–201, div. B, title XXVIII, §2802(a), (c)(1), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 111–84, div. B, title XXVIII, §2801(a)(3), Oct. 28, 2009, 123 Stat. 2660; Pub. L. 111–383, div. B, title XXVIII, §2803(b), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(4), Dec. 12, 2017, 131 Stat. 1840; Pub. L. 118–159, div. B, title XXV, §2503, Dec. 23, 2024, 138 Stat. 2236.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 designated existing provisions as par. (1) and added par. (2).

**2017**—Subsec. (c)(1). Pub. L. 115–91, §2801(a)(4)(A), inserted "of Defense" after "The Secretary".

Subsec. (c)(2). Pub. L. 115–91, §2801(a)(4)(B), substituted ", only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the increase, including the reasons for the increase and the source of the funds to be used for the increase." for "(A) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and (B) after a period of 21 days has elapsed from the date of receipt of the report or, if earlier, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title."

**2011**—Subsec. (c)(2)(B). Pub. L. 111–383 inserted before period at end "or, if earlier, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**2009**—Subsec. (c)(1). Pub. L. 111–84 substituted "section 2805(a)" for "section 2805(a)(2)".

**1996**—Pub. L. 104–201, §2802(c)(1), substituted "Organizations Security Investment" for "Organization Infrastructure" in section catchline.

Subsec. (b). Pub. L. 104–201, §2802(a), substituted "Security Investment program" for "Infrastructure program".

**1991**—Subsec. (c)(2)(B). Pub. L. 102–190 substituted "after" for "after either" and struck out before period at end "or after each such committee has indicated approval of the increased contribution".

**1987**—Subsec. (c)(1). Pub. L. 100–26 substituted "specified by section 2805(a)(2) of this title" for "specified by law".

**1986**—Subsec. (a). Pub. L. 99–661 inserted "and for related expenses" after "headquarters)".

**1982**—Pub. L. 97–321 substituted "Infrastructure" for "infrastructure" in section catchline.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 104–201, div. B, title XXVIII, §2802(b), Sept. 23, 1996, 110 Stat. 2787, provided that: "Any reference to the North Atlantic Treaty Organization Infrastructure program in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the North Atlantic Treaty Organization Security Investment program."

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. B, §2003, Dec. 23, 2024, 138 Stat. 2212, provided that: "Titles XXI through XXVII [of Pub. L. 118–159, amending this section and enacting provisions related to military construction authorizations not set out in the Code] shall take effect on the later of—

"(1) October 1, 2024; or

"(2) the date of the enactment of this Act [Dec. 23, 2024]."

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. B, title V, §2503(b), Nov. 14, 1986, 100 Stat. 4039, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to contributions made with funds appropriated for fiscal years after fiscal year 1986."

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

**RESTRICTION ON CERTAIN FUNDING**

Pub. L. 99–661, div. B, title V, §2504, Nov. 14, 1986, 100 Stat. 4039, prohibited Secretary of Defense from obligating or expending any funds after fiscal year 1987 with respect to NATO infrastructure program under this section until Secretary submitted to Committees on Armed Services of Senate and House (1) a comprehensive master plan for establishing adequate active defenses for air bases in Europe at which operations of United States aircraft are planned, sites in Europe used by United States for logistic support of NATO or for prepositioned overseas matériel configured to unit sets, and (2) a report containing a certification by Secretary that sufficient funds have been budgeted by Department of Defense in fiscal year 1988 five-year defense plan to meet objectives of such comprehensive master plan.

## §2807. Architectural and engineering services and construction design

(a) Within amounts appropriated for military construction and military family housing, the Secretary concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects, family housing projects, and projects undertaken in connection with the authority provided under section 2854 of this title that are not otherwise authorized by law. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the armed forces of the United States are the primary user.

(b) In the case of architectural and engineering services and construction design to be undertaken under subsection (a) for which the estimated cost exceeds $5,000,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services before the initial obligation of funds for such services. The Secretary may then obligate funds for such services only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(c) If the Secretary concerned determines that the amount authorized for activities under subsection (a) in any fiscal year must be increased the Secretary may proceed with activities at such higher level only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the need for the increase, including the source of funds to be used for the increase.

(d) For architectural and engineering services and construction design related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 156; amended Pub. L. 98–115, title VIII, §804, Oct. 11, 1983, 97 Stat. 785; Pub. L. 99–661, div. B, title VII, §§2702(b), 2712(a), Nov. 14, 1986, 100 Stat. 4040, 4041; Pub. L. 102–190, div. B, title XXVIII, §2870(6), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 105–261, div. B, title XXVIII, §2801, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 108–136, div. A, title X, §1031(a)(37), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(5), Dec. 12, 2017, 131 Stat. 1841; Pub. L. 119–60, div. B, title XXVIII, §2872(b), Dec. 18, 2025, 139 Stat. 1328.)

**EDITORIAL NOTES**

## AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60 substituted "$5,000,000" for "$1,000,000".

**2017**—Subsec. (b). Pub. L. 115–91, §2801(a)(5)(A), substituted "14-day period" for "21-day period" and struck out "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided" after "received by the committees".

Subsec. (c). Pub. L. 115–91, §2801(a)(5)(B), substituted "only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the need for the increase, including the source of funds to be used for the increase." for "(1) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of funds to be used for the increase, and (2) after a period of 21 days has elapsed from the date of receipt of the report or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title."

**2003**—Subsec. (b). Pub. L. 108–136, §1031(a)(37)(A), substituted "$1,000,000" for "$500,000", struck out "not less than 21 days" after "of such services", and inserted last sentence.

Subsec. (c)(2). Pub. L. 108–136, §1031(a)(37)(B), inserted before period at end "or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**1998**—Subsec. (b). Pub. L. 105–261, §2801(a), substituted "$500,000" for "$300,000".

Subsec. (d). Pub. L. 105–261, §2801(b), substituted "architectural and engineering services and construction design" for "study, planning, design, architectural, and engineering services".

**1991**—Subsec. (c)(2). Pub. L. 102–190 substituted "after" for "after either" and struck out before period at end "or after each such committee has indicated approval of the increased level of activity".

**1986**—Subsec. (b). Pub. L. 99–661, §2702(b), substituted "$300,000" for "the maximum amount specified by law for the purposes of this section".

Subsec. (d). Pub. L. 99–661, §2712(a), added subsec. (d).

**1983**—Subsec. (a). Pub. L. 98–115 substituted "Within amounts appropriated for military construction and military family housing" for "Within amounts appropriated for such purposes" and inserted ", family housing projects, and projects undertaken in connection with the authority provided under section 2854 of this title that are" after "in connection with military construction projects".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. B, title VII, §2712(b), Nov. 14, 1986, 100 Stat. 4041, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to funds appropriated for fiscal years after fiscal year 1985."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### OBLIGATION AND EXECUTION OF DESIGN FUNDS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–159, div. B, title XXVIII, §2811, Dec. 23, 2024, 138 Stat. 2252, as amended by Pub. L. 119–60, div. B, title XXVIII, §2811, Dec. 18, 2025, 139 Stat. 1301, provided that:

"(a) IN GENERAL.—Not later than one year after amounts are appropriated for any fiscal year for the congressionally-directed design of a military construction project, the Secretary of Defense shall ensure that the construction agent responsible for such project enters into a contract pursuant to section 2807 of title 10, United States Code, for the obligation and execution of such amounts.

"(b) COMPLETION OF WORK.—If a military construction project designated pursuant to subsection (a) has an estimated construction cost of less than $150,000,000, not less than 35 percent of the project design under a contract described in subsection (a) shall be completed not later than 240 days after the date of the award of such contract.

"(c) NOTIFICATION.—If the Secretary determines that a construction agent who is responsible for a military construction project under subsection (a) fails to satisfy the requirements of subsection (a) or (b), the Secretary shall, not later than 30 days after the Secretary makes such determination and at the end of each

ninety-day period thereafter until such military construction project reaches 35 percent design, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification that includes—

"(1) a statement of whether the construction agent has exceeded the duration to—

"(A) enter into a contract under subsection (a); or

"(B) complete 35 percent project design under subsection (b);

"(2) the reason for the delay in the satisfaction of such requirements; and

"(3) the projected dates such requirements will be satisfied."

**ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN CONTRACTS FOR MILITARY CONSTRUCTION PROJECTS**

Pub. L. 98–212, title VII, §796, Dec. 8, 1983, 97 Stat. 1455, provided that: "No funds appropriated for the Departments of Defense, Army, Navy, or the Air Force shall be obligated by their respective Secretaries for architectural and engineering services and construction design contracts for Military Construction projects in the amount of $85,000 and over, unless competition for such contracts is open to all firms regardless of size in accordance with 40 U.S.C. §541, et seq. [now chapter 11 of Title 40, Public Buildings, Property, and Works.]"

**SMALL BUSINESS SET-ASIDE FOR ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN**

Pub. L. 98–115, title VIII, §806, Oct. 11, 1983, 97 Stat. 786, provided that:

"(a) The Secretary of Defense shall conduct a comprehensive review of current policies and practices of the Department of Defense with regard to the award of contracts for architectural and engineering services and construction design for military construction projects. The Secretary shall conduct such review with a view to determining whether current policies and practices of the Department of Defense result in a reasonable distribution of such contracts to firms of all sizes throughout the architect-engineer community.

"(b) Upon the completion of such review, the Secretary shall modify current policies and practices of the Department to the extent necessary to ensure—

"(1) that small business concerns (as defined in section 3 of the Small Business Act [15 U.S.C. 632]) are assured of a reasonable share of such contracts; and

"(2) that large architect-engineer firms are not precluded from competing for such contracts when the estimated amount of such contracts is greater than a reasonable threshold amount prescribed by the Secretary.

"(c) Not later than March 1, 1984, the Secretary shall submit to the appropriate committees of Congress a written report on the results of the review required by subsection (a) and on any changes made to current policies and practices as required by subsection (b).

"(d) For the purposes of this section:

"(1) The term 'reasonable share' means an appropriate percentage share of all contracts referred to in subsection (a) as determined by the Secretary of Defense after consultation with the Admininstrator [sic] of the Small Business Administration and representatives of the architect-engineer community.

"(2) The term 'reasonable threshold amount' means an appropriate estimated contract dollar amount determined by the Secretary of Defense after consultation with the Administrator of the Small Business Administration and representatives of the architect-engineer community."

**INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW**

Amounts of $300,000 or more for contracts for architectural and engineering services or construction design subject to the reporting requirement under this section during the period beginning on Oct. 1, 1982, and ending on the date of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(2) of Pub. L. 97–214, set out as a note under section 2828 of this title.

## §2808. Construction authority in the event of a declaration of war or national emergency

(a) CONSTRUCTION AUTHORIZED.—In the event of a declaration of war or the declaration by the President of a national emergency in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) that requires use of the armed forces, the Secretary of Defense, without regard to any

other provision of law, may undertake military construction projects, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces.

(b) CONDITIONS ON SOURCES OF FUNDS.—A military construction project to be undertaken using the construction authority described in subsection (a) may be undertaken only within the total amount of funds that have been appropriated for military construction, excluding funds appropriated for family housing, that—

(1) remain unobligated as of the date on which the first contract would be entered into in support of the national emergency declaration described in subsection (a); and

(2) are available because the military construction project for which the funds were appropriated—

(A) has been canceled; or

(B) has reduced costs as a result of project modifications or other cost savings.

(c) LIMITATION ON AMOUNT OF FUNDS AVAILABLE FOR NATIONAL EMERGENCY .—(1) Except as provided in paragraph (2), in the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, the total cost of all military construction projects undertaken using that authority during the national emergency may not exceed $500,000,000.

(2) In the event of a national emergency declaration in which the construction authority described in subsection (a) will be used only within the United States, the total cost of all military construction projects undertaken using that authority during the national emergency may not exceed $100,000,000.

(d) WAIVER OF OTHER PROVISIONS OF LAW IN EVENT OF NATIONAL EMERGENCY .—In the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, the authority provided by such subsection to waive or disregard another provision of law that would otherwise apply to a military construction project authorized by this section may be used only if—

(1) such other provision of law does not provide a means by which compliance with the requirements of the law may be waived, modified, or expedited; and

(2) the Secretary of Defense determines that the nature of the national emergency necessitates the noncompliance with the requirements of the law.

(e) NOTIFICATION REQUIREMENT.—(1)When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify, in an electronic medium pursuant to section 480 of this title, the appropriate committees of Congress of the following:

(A) The reasons for the decision to use the construction authority described in subsection (a), including, in the event of a declaration by the President of a national emergency, the reasons why use of the armed forces is required in response to the declared national emergency.

(B) The construction projects to be undertaken using the construction authority described in subsection (a), including, in the event of a declaration by the President of a national emergency, an explanation of how each construction project directly supports the immediate security, logistical, or short-term housing and ancillary supporting facility needs of the members of the armed forces used in the national emergency.

(C) The estimated cost of the construction projects to be undertaken using the construction authority described in subsection (a), including the cost of any real estate action pertaining to the construction projects, and certification of compliance with the funding conditions imposed by subsections (b) and (c).

(D) Any determination made pursuant to subsection (d)(2) to waive or disregard another provision of law to undertake any construction project using the construction authority described in subsection (a).

(E) The military construction projects, including any ancillary supporting facility projects,

whose cancellation, modification, or other cost savings result in funds being available to undertake construction projects using the construction authority described in subsection (a) and the possible impact of the cancellation or modification of such military construction projects on military readiness and the quality of life of members of the armed forces and their dependents.

(2) In the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, a construction project to be undertaken using such construction authority may be carried out only after the end of the five-day period beginning on the date the notification required by paragraph (1) is received by the congressional defense committees.

(f) TERMINATION OF AUTHORITY.—The authority described in subsection (a) shall terminate with respect to any war or national emergency at the end of the war or national emergency.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 157; amended Pub. L. 115–91, div. B, title XXVIII, §2801(a)(6), Dec. 12, 2017, 131 Stat. 1841; Pub. L. 116–283, div. B, title XXVIII, §2801(a)–(e), Jan. 1, 2021, 134 Stat. 4317–4319.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Emergencies Act (50 U.S.C. 1601 et seq.), referred to in subsec. (a), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97–99, title IX, §903, Dec. 23, 1981, 95 Stat. 1382, which was set out as a note under section 140 [now 127] of this title, prior to repeal by Pub. L. 97–214, §7(18).

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §2801(b), (e)(1), inserted heading and struck out "Such projects may be undertaken only within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated." at end.

Subsec. (b). Pub. L. 116–283, §2801(b), added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 116–283, §2801(a)(2), added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 116–283, §2801(c), added subsec. (d).

Subsec. (e). Pub. L. 116–283, §2801(a)(1), (d), (e)(2), redesignated subsec. (b) as (e), inserted heading and par. (1) designation before "When a decision", substituted "of the following:" and subpars. (A) to (E) for "of the decision and of the estimated cost of the construction projects, including the cost of any real estate action pertaining to those construction projects.", and added par. (2).

Subsec. (f). Pub. L. 116–283, §2801(a)(1), (e)(3), redesignated subsec. (c) as (f) and inserted heading.

**2017**—Subsec. (b). Pub. L. 115–91 inserted ", in an electronic medium pursuant to section 480 of this title," after "shall notify".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### EXCEPTION FOR PANDEMIC MITIGATION AND RESPONSE PROJECTS

Pub. L. 116–283, div. B, title XXVIII, §2801(f), Jan. 1, 2021, 134 Stat. 4319, provided that: "Subsections (b), (c), (d) of section 2808 of title 10, United States Code, as added by this section, shall not apply to a military construction project commenced under the authority of subsection (a) of such section 2808 during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)) if the Secretary of Defense determines that the military construction project will directly support pandemic mitigation and response efforts of health care providers or support members of the Armed Forces directly

participating in such pandemic mitigation and response efforts. Subsection (e) of section 2808 of title 10, United States Code, as redesignated by subsection (a)(1) and amended by subsection (d) of this section, shall still apply to any such military construction project."

**EXECUTIVE DOCUMENTS**

**EXECUTIVE ORDER NO. 12734**

Ex. Ord. No. 12734, Nov. 14, 1990, 55 F.R. 48099, which related to national emergency construction authority, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, listed in a table under section 1701 of Title 50, War and National Defense.

**EX. ORD. NO. 13235. NATIONAL EMERGENCY CONSTRUCTION AUTHORITY**

Ex. Ord. No. 13235, Nov. 16, 2001, 66 F.R. 58343, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, I declared a national emergency that requires the use of the Armed Forces of the United States, by Proclamation 7463 of September 14, 2001 [50 U.S.C. 1621 note], because of the terrorist attacks on the World Trade Center and the Pentagon, and because of the continuing and immediate threat to the national security of the United States of further terrorist attacks. To provide additional authority to the Department of Defense to respond to that threat, and in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby order that the emergency construction authority at 10 U.S.C. 2808 is invoked and made available in accordance with its terms to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments.

GEORGE W. BUSH.

## §2808a. Facility construction or repair: transactions other than contracts and grants

(a) AUTHORITY.—Subject to the requirements of section 2853 of this title, the Secretary concerned may enter into transactions (other than contracts, cooperative agreements, or grants) to carry out repair and construction projects for facilities, including the planning, design, engineering, prototyping, piloting, and execution of such repair and construction projects.

(b) USE OF AMOUNTS.—The Secretary concerned may carry out projects under subsection (a) using amounts available to such Secretary for military construction, operation and maintenance, or research, development, test, and evaluation, notwithstanding chapters 221 and 223 and section 2851(a) of this title.

(c) FOLLOW-ON TRANSACTIONS.—A transaction entered into under this section for a project may provide for the award of a follow-on production contract or transaction to the participants in the transaction without further competition, if—

(1) competitive procedures were used for the selection of parties for participation in the original transaction; and

(2) the participants in the original transaction successfully completed—

(A) a complete and useable facility; or

(B) a complete and useable improvement to a facility.

(d) NOTIFICATION REQUIREMENT.—(1) Not later than 14 days before entering into a transaction for a project under this section, the Secretary concerned shall submit to the congressional defense committees a notification of the intent to use this authority in an electronic medium pursuant to section 480 of this title.

(2) Each notification under paragraph (1) shall include—

(A) the project title;

(B) a description of the project and its location;

(C) the estimated project cost and source of funds;

(D) the recipient or contractor selected to execute the project, if known at the time of

notification; and

(E) the rationale for using the authority under this section instead of the process for military construction projects under subchapter I of chapter 169 of title 10, United States Code.

(e) REPORT.—Not later than 180 days after the date of enactment of this section, and biannually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report summarizing the use of the authority under this section during the period covered by the report, including—

(1) the military department or Defense Agency carrying out each project;

(2) the total cost of each project and the source of the funds obligated;

(3) a description of the scope, purpose, and location of each project;

(4) any observed differences in project delivery timelines or execution speed as a result of using the authority under this section;

(5) an assessment of cost savings, efficiencies, or risk reductions realized through the use of such authority; and

(6) lessons learned and recommendations to improve the implementation, oversight, or scope of such authority.

(Added Pub. L. 119–60, div. B, title XXVIII, §2802(a), Dec. 18, 2025, 139 Stat. 1292.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 119–60, div. B, title XXVIII, §2802(b), Dec. 18, 2025, 139 Stat. 1293, provided that: "The amendments made by this section [enacting this section] shall apply with respect to transactions entered into on or after the date of the enactment of this Act [Dec. 18, 2025]."

## §2809. Long-term facilities contracts for certain activities and services

(a) SUBMISSION AND AUTHORIZATION OF PROPOSED PROJECTS.—The Secretary concerned may enter into a contract for the procurement of services in connection with the construction, management, and operation of a facility on or near a military installation for the provision of an activity or service described in subsection (b) if—

(1) the Secretary concerned has identified the proposed project for that facility in the budget material submitted to Congress by the Secretary of Defense in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which the contract is proposed to be awarded;

(2) the Secretary concerned has determined that the services to be provided at that facility can be more economically provided through the use of a long-term contract than through the use of conventional means; and

(3) the project has been authorized by law.

(b) AUTHORIZED PURPOSES OF CONTRACT.—The activities and services referred to in subsection (a) are as follows:

(1) Child care services.

(2) Utilities, including potable and waste water treatment services.

(3) Depot supply activities.

(4) Troop housing.

(5) Transient quarters.
(6) Hospital or medical facilities.
(7) Other logistic and administrative services, other than depot maintenance.

(c) CONDITIONS ON OBLIGATION OF FUNDS.—A contract entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment given under the authority of this section does not constitute an obligation of the United States.

(d) COMPETITIVE PROCEDURES.—Each contract entered into under this section shall be awarded through the use of competitive procedures as provided in chapter 137 [1] of this title. In accordance with such procedures, the Secretary concerned shall solicit bids or proposals for a contract for each project that has been authorized by law.

(e) TERM OF CONTRACT.—A contract under this section may be for any period not in excess of 32 years, excluding the period for construction.

(f) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may enter into a contract under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the facility covered by the proposed contract, including an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost effective when compared with alternative means of furnishing the same facility.

(Added Pub. L. 99–167, title VIII, §811(a), Dec. 3, 1985, 99 Stat. 990; amended Pub. L. 99–661, div. A, title XIII, §1343(a)(20), div. B, title VII, §2711, Nov. 14, 1986, 100 Stat. 3994, 4041; Pub. L. 100–180, div. B, subdiv. 3, title I, §2302(a), (b), Dec. 4, 1987, 101 Stat. 1215; Pub. L. 100–456, div. B, title XXVIII, §2801, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 101–189, div. B, title XXVIII, §2803, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 102–190, div. B, title XXVIII, §2805(a)(1), Dec. 5, 1991, 105 Stat. 1537; Pub. L. 108–136, div. A, title X, §1031(a)(38), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(7), Dec. 12, 2017, 131 Stat. 1841.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

### AMENDMENTS

**2017**—Subsec. (f). Pub. L. 115–91 added subsec. (f) and struck out former subsec. (f) which related to written or electronic notice and wait requirements for a contract.

**2003**—Subsec. (f)(2). Pub. L. 108–136 struck out "calendar" after "21" and inserted before period at end "or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title".

**1991**—Pub. L. 102–190 substituted section catchline for one which read "Test of long-term facilities contracts" and amended text generally, substituting present provisions for provisions authorizing contracts for construction, management, and operation of facilities on or near military installations for the provision of

certain enumerated activities or services, setting out procedures, terms, and other limits for such contracts, providing that no more than 5 contracts may be entered into under this section other than contracts for child care centers, and providing that authority to enter into such contracts was to expire on Sept. 30, 1991.

**1989**—Subsec. (a)(1)(B)(ii). Pub. L. 101–189, §2803(1), substituted "Utilities, including potable" for "Potable".

Subsec. (b). Pub. L. 101–189, §2803(2), substituted "activities and services described in clause (i) or (ii) of subsection (a)(1)(B)" for "child care centers".

Subsec. (c). Pub. L. 101–189, §2803(3), substituted "1991" for "1989".

**1988**—Subsec. (a)(3). Pub. L. 100–456 substituted "32" for "20".

**1987**—Subsec. (a)(1)(B)(vi), (vii). Pub. L. 100–180, §2302(a), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (c). Pub. L. 100–180, §2302(b), substituted "1989" for "1987".

**1986**—Subsec. (a)(1). Pub. L. 99–661, §2711, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary concerned may enter into a contract for the construction, management, and operation of a facility on or near a military installation in the United States for the provision of child care services, waste water treatment, or depot supply activities in a case in which the Secretary concerned determines that the facility can be more efficiently and more economically provided under a long-term contract than by other appropriate means."

Pub. L. 99–661, §1343(a)(20)(A), substituted "a contract" for "contracts", "a facility" for "facilities", "a military installation" for "military installations", "a case" for "cases", "facility" for "facilities", and "a long-term contract" for "long-term contracts" and inserted a comma after "waste water treatment".

Subsec. (a)(2). Pub. L. 99–661, §1343(a)(20)(B), substituted "this section" for "subsection (a)".

Subsec. (a)(3). Pub. L. 99–661, §1343(a)(20)(C), substituted "20" for "twenty".

Subsec. (a)(4)(A). Pub. L. 99–661, §1343(a)(20)(D), struck out "the" before "Congress".

Subsec. (b). Pub. L. 99–661, §1343(a)(20)(E), struck out "the authority of subsection (a) of" after "under".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div B, title XXVIII, §2805(b), Dec. 5, 1991, 105 Stat. 1538, provided that: "Section 2809 of title 10, United States Code, as amended by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]."

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 2702 of Pub. L. 100–456, set out as a note under section 2391 of this title.

### DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS

Pub. L. 107–107, div. B, title XXVIII, §2814, Dec. 28, 2001, 115 Stat. 1310, as amended by Pub. L. 107–314, div. B, title XXVIII, §2813(a)–(d)(1), Dec. 2, 2002, 116 Stat. 2709, 2710, provided that:

"(a) AUTHORITY TO CARRY OUT PROGRAM.—The Secretary of Defense or the Secretary of a military department may conduct a demonstration program to assess the feasibility and desirability of including facility maintenance requirements in construction contracts for military construction projects for the purpose of determining whether such requirements facilitate reductions in the long-term facility maintenance costs of the military departments.

"(b) CONTRACTS.—(1) Not more than 12 contracts per military department may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

"(2) The demonstration program may only cover contracts entered into on or after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Pub. L. 107–314, approved Dec. 2, 2002], except that the Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in such subsection between that date and December 28, 2001, as a contract for the purpose of the demonstration program.

"(c) EFFECTIVE PERIOD OF REQUIREMENTS.—The effective period of a requirement referred to in subsection (a) that is included in a contract for the purpose of the demonstration program may not exceed five years.

"(d) REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Secretary of Defense shall submit to Congress a report on the demonstration program, including the following:

"(1) A description of all contracts that contain requirements referred to in subsection (a) for the purpose of the demonstration program.

"(2) An evaluation of the demonstration program and a description of the experience of the Secretary with respect to such contracts.

"(3) Any recommendations, including recommendations for the termination, continuation, or expansion of the demonstration program, that the Secretary considers appropriate.

"(e) EXPIRATION.—The authority under subsection (a) to include requirements referred to in that subsection in contracts under the demonstration program shall expire on September 30, 2006.

"(f) FUNDING.—Amounts authorized to be appropriated for the military departments or defense-wide for a fiscal year for military construction shall be available for the demonstration program under this section in such fiscal year."

[Pub. L. 107–314, div. B, title XXVIII, §2813(d)(2), Dec. 2, 2002, 116 Stat. 2710, provided that: "The amendment made by paragraph (1) [amending section 2814(f) of Pub. L. 107–107, set out above] shall not affect the availability for the purpose of the demonstration program under section 2814 of the Military Construction Authorization Act for Fiscal Year 2002, as amended by this section, of any amounts authorized to be appropriated before the date of the enactment of this Act [Dec. 2, 2002] for the Army for military construction that have been obligated for the demonstration program, but not expended, as of that date."]

**REPORT**

Pub. L. 100–180, div. B, subdiv. 3, title I, §2302(c), Dec. 4, 1987, 101 Stat. 1215, directed each Secretary who has entered into a contract under this section to submit a report to Committees on Armed Services of Senate and House of Representatives by Feb. 15, 1989, containing date and duration of, other party to, and nature of activities carried out under each such contract, and recommendations, and reasons therefor, concerning whether authority to enter into contracts under this section should be extended.

[1] *See References in Text note below.*

## §2810. Military construction projects for innovation, research, development, test, and evaluation

(a) PROJECT AUTHORIZATION REQUIRED.—The Secretary of Defense may carry out such military construction projects for innovation, research, development, test, and evaluation as are authorized by law, using funds appropriated or otherwise made available for that purpose.

(b) SUBMISSION OF PROJECT PROPOSALS.—As part of the defense budget materials for each fiscal year, the Secretary of Defense shall include the following information for each military construction project covered by subsection (a):

(1) The project title.

(2) The location of the project.

(3) A brief description of the scope of work.

(4) A completed Department of Defense Form 1391 budget justification that includes the original project cost estimate.

(5) A current working cost estimate, if different that the cost estimate contained in such Form 1391.

(6) Such other information as the Secretary considers appropriate.

(c) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall include with the defense budget materials for each fiscal year a consolidated budget justification display that individually identifies each military construction project covered by subsection (a) and the amount requested for such project for such fiscal year.

(d) APPLICATION TO MILITARY CONSTRUCTION PROJECTS.—This section shall apply to military construction projects covered by subsection (a) for which a Department of Defense Form 1391 is submitted to the appropriate committees of Congress in connection with the budget of the Department of Defense for fiscal year 2023 and thereafter.

(e) ANNUAL FIVE-YEAR PLANS ON IMPROVEMENT OF INNOVATION

INFRASTRUCTURE.—

(1) SUBMISSION.—Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, each Secretary of a military department and the Secretary of Defense shall submit to the congressional defense committees a plan that describes the objectives of that Secretary to improve innovation infrastructure during the five fiscal years following the fiscal year for which such budget is submitted.

(2) ELEMENTS.—Each plan submitted by a Secretary of a military department under paragraph (1) shall include the following:

(A) With respect to the five-year period covered by the plan, an identification of the major lines of effort, milestones, and investment goals of the Secretary over such period relating to the improvement of innovation infrastructure and a description of how such goals support such goals, including the use of—

(i) military construction, facilities restoration and modernization funds;

(ii) the defense lab modernization program under section 2805(d) of this title; and

(iii) military construction projects for innovation, research, development, test, and evaluation under this section.

(B) The estimated costs of necessary innovation infrastructure improvements and a description of how such costs would be addressed by the Department of Defense budget request submitted during the same year as the plan and the applicable future-years defense program.

(C) Information regarding the plan of the Secretary to initiate such environmental and engineering studies as may be necessary to carry out planned innovation infrastructure improvements.

(D) Detailed information regarding how innovation infrastructure improvement projects will be paced and sequenced to ensure continuous operations.

(3) INCORPORATION OF RESULTS-ORIENTED MANAGEMENT PRACTICES.—Each plan under subsection (a) shall incorporate the leading results-oriented management practices identified in the report of the Comptroller General of the United States titled "Actions Needed to Improve Poor Conditions of Facilities and Equipment that Affect Maintenance Timeliness and Efficiency" (GAO–19–242), or any successor report, including—

(A) analytically based goals;

(B) results-oriented metrics;

(C) the identification of required resources, risks, and stakeholders; and

(D) regular reporting on progress to decision makers.

(4) INNOVATIVE INFRASTRUCTURE DEFINED.—In this subsection, the term "innovation infrastructure" includes laboratories, test and evaluation ranges, and any other infrastructure whose primary purpose is research, development, test, and evaluation.

(f) DEFENSE LABORATORY MODERNIZATION PROGRAM.—(1) Using amounts appropriated or otherwise made available to the Department of Defense for research, development, test, and evaluation, the Secretary of Defense may fund a military construction project described in paragraph (4) at any of the following:

(A) A Department of Defense science and technology reinvention laboratory (as designated under section 4121(b) of this title).

(B) A Department of Defense federally funded research and development center that functions primarily as a research laboratory.

(C) A Department of Defense facility in support of a technology development program that is consistent with the fielding of offset technologies as described in section 218 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. note 4811).

(D) A Department of Defense research, development, test, and evaluation facility that is not designated as a science and technology reinvention laboratory, but nonetheless is involved with

developmental test and evaluation.

(2) Subject to the condition that a military construction project under paragraph (1) be authorized in a Military Construction Authorization Act, the authority to carry out the military construction project includes authority for—

(A) surveys, site preparation, and advanced planning and design;

(B) acquisition, conversion, rehabilitation, and installation of facilities;

(C) acquisition and installation of equipment and appurtenances integral to the project; acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and

(D) planning, supervision, administration, and overhead expenses incident to the project.

(3)(A) The Secretary of Defense shall include military construction projects proposed to be carried out under paragraph (1) in the budget justification documents for the Department of Defense submitted to Congress in connection with the budget for a fiscal year submitted under 1105 of title 31.

(B) Not less than 14 days prior to the first obligation of funds described in paragraph (1) for a military construction project to be carried out under such paragraph, the Secretary of Defense shall submit to the congressional defense committees a notification providing an updated construction description, cost, and schedule for the project and any other matters regarding the project as the Secretary considers appropriate.

(4) The authority provided by paragraph (1) to fund military construction projects using amounts appropriated or otherwise made available for research, development, test, and evaluation is limited to military construction projects that the Secretary of Defense, in the budget justification documents exhibits submitted pursuant to paragraph (3)(A), determines—

(A) will support research and development activities at laboratories described in paragraph (1);

(B) will establish facilities that will have significant potential for use by entities outside the Department of Defense, including universities, industrial partners, and other Federal agencies;

(C) are endorsed for funding by more than one military department or Defense Agency; and

(D) cannot be fully funded within the thresholds otherwise specified in this section.

(5) The maximum amount of funds appropriated or otherwise made available for research, development, test, and evaluation that may be obligated in any fiscal year for military construction projects under paragraph (1) is $150,000,000.

(6)(A) In addition to the authority provided to the Secretary of Defense under paragraph (1) to use amounts appropriated or otherwise made available for research, development, test, and evaluation for a military construction project referred to in such subsection, the Secretary of the military department concerned may use amounts appropriated or otherwise made available for research, development, test, and evaluation to obtain architectural and engineering services and to carry out construction design in connection with such a project.

(B) In the case of architectural and engineering services and construction design to be undertaken under this paragraph for which the estimated cost exceeds $4,000,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services before the initial obligation of funds for such services. The Secretary may then obligate funds for such services only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 117–263, div. B, title XXVIII, §2805(a), Dec. 23, 2022, 136 Stat. 2994; amended Pub. L. 118–159, div. B, title XXVIII, §2806(a), Dec. 23, 2024, 138 Stat. 2249; Pub. L. 119–60, div. B, title XXVIII, §2873, Dec. 18, 2025, 139 Stat. 1328.)

**EDITORIAL NOTES**

### CODIFICATION

The text of section 2805(g) of this title, which was transferred to this section and redesignated subsec. (f) by Pub. L. 119–60, §2873, was based on Pub. L. Pub. L. 117–263, div. B, title XXVIII, §2803(a), Dec. 23, 2022, 136 Stat. 2992; Pub. L. 118–159, div. B, title XXVIII, §2805, Dec. 23, 2024, 138 Stat. 2249.

### PRIOR PROVISIONS

A prior section 2810, added Pub. L. 99–499, title II, §211(b)(1), Oct. 17, 1986, 100 Stat. 1725, related to military construction projects for environmental response actions, prior to repeal by Pub. L. 107–314, div. A, title III, §313(b), Dec. 2, 2002, 116 Stat. 2507.

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60 renumbered section 2805(g) of this title as subsec. (f) of this section. See Codification note above.

**2024**—Subsec. (e). Pub. L. 118–159 added subsec. (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEADLINE

Pub. L. 118–159, div. B, title XXVIII, §2806(b), Dec. 23, 2024, 138 Stat. 2250, provided that: "The first plan required under subsection (e) of such section [meaning 10 U.S.C. 2810] (as amended by subsection (a)) shall be submitted as part of the annual budget submission of the President to Congress pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2027."

### GUIDANCE FOR MILITARY CONSTRUCTION PROJECTS FOR INNOVATION, RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Pub. L. 119–60, div. B, title XXVIII, §2815, Dec. 18, 2025, 139 Stat. 1303, provided that:

"(a) GUIDANCE REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall issue written guidance on the implementation of section 2810 of title 10, United States Code.

"(b) CONTENTS.—The guidance required by this section shall include, at minimum, the following:

"(1) Procedures and criteria for the development and submission of project proposals pursuant to subsection (b) of section 2810 of title 10, United States Code.

"(2) Definitions for roles and responsibilities for Department of Defense employees with respect to review, approval, and execution of projects carried out under the authority of such section 2810.

"(3) Clarification on how the use of the authority to carry out projects under such section 2810 may be coordinated with the use of authorities for such projects under sections 2803, 2805, and 4123 of title 10, United States Code.

"(4) A process for internal review and validation of projects proposed to be carried out using the authority under section 2810 of title 10, United States Code, which shall include—

"(A) assessments of how such proposed projects could be integrated across military departments;

"(B) comprehensive time-phased milestone plans for such proposed projects with clearly defined dependencies; and

"(C) explicit documentation of budget programming action decisions of the Secretary of the military department with jurisdiction over such project."

## §2811. Repair of facilities

(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than $7,500,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the

facility is more cost effective than replacement, and that the project is an appropriate use of operation and maintenance funds.

(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.

(d) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a repair project under this section with an estimated cost in excess of $7,500,000, the Secretary concerned shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a report containing—

(1) the justification for the repair project and the current estimate of the cost of the project, including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project;

(2) if the current estimate of the cost of the repair project exceeds 75 percent of the estimated cost of a military construction project to replace the facility, an explanation of the reasons why replacement of the facility is not in the best interest of the Government; and

(3) a description of the elements of military construction, including the elements specified in section 2802(b) of this title, incorporated into the repair project.

(e) REPAIR PROJECT DEFINED.—In this section, the term "repair project" means a project—

(1) to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose; or

(2) to convert a real property facility, system, or component to a new functional purpose without increasing its external dimensions.

(Added Pub. L. 99–661, div. A, title III, §315(a), Nov. 14, 1986, 100 Stat. 3854, §2810; renumbered §2811, Pub. L. 100–26, §7(e)(3), Apr. 21, 1987, 101 Stat. 281; amended Pub. L. 103–337, div. B, title XXVIII, §2801(a), Oct. 5, 1994, 108 Stat. 3050; Pub. L. 105–85, div. B, title XXVIII, §2802, Nov. 18, 1997, 111 Stat. 1990; Pub. L. 108–375, div. B, title XXVIII, §2801, Oct. 28, 2004, 118 Stat. 2119; Pub. L. 111–84, div. B, title XXVIII, §2802, Oct. 28, 2009, 123 Stat. 2661; Pub. L. 114–328, div. B, title XXVIII, §2802, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(8), Dec. 12, 2017, 131 Stat. 1841.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (d). Pub. L. 115–91 inserted ", in an electronic medium pursuant to section 480 of this title," after "shall submit" in introductory provisions.

**2016**—Subsec. (e). Pub. L. 114–328 amended subsec. (e) generally. Prior to amendment, text read as follows: "In this section, the term 'repair project' means a project to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose."

**2009**—Subsec. (d)(2), (3). Pub. L. 111–84 added pars. (2) and (3) and struck out former par. (2) which read as follows: "the justification for carrying out the project under this section."

**2004**—Subsec. (b). Pub. L. 108–375, §2801(a), substituted "$7,500,000" for "$5,000,000".

Subsec. (d). Pub. L. 108–375, §2801(b), substituted "$7,500,000" for "$10,000,000" in introductory provisions.

Subsec. (d)(1). Pub. L. 108–375, §2801(c), inserted before semicolon ", including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project".

**1997**—Subsecs. (d), (e). Pub. L. 105–85 added subsecs. (d) and (e).

**1994**—Pub. L. 103–337 substituted "Repair" for "Renovation" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) The Secretary concerned may carry out renovation projects that combine maintenance, repair, and minor construction projects for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance.

"(b) The amount obligated on such a renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

"(c) Construction of new facilities or additions to existing facilities may not be carried out under the

authority of this section."

## §2812. Lease-purchase of facilities

(a)(1) The Secretary concerned may enter into an agreement with a private contractor for the lease of a facility of the kind specified in paragraph (2) if the facility is provided at the expense of the contractor on a military installation under the jurisdiction of the Department of Defense.

(2) The facilities that may be leased pursuant to paragraph (1) are as follows:

(A) Administrative office facilities.

(B) Troop housing facilities.

(C) Energy production facilities.

(D) Utilities, including potable and waste water treatment facilities.

(E) Hospital and medical facilities.

(F) Transient quarters.

(G) Depot or storage facilities.

(H) Child care centers.

(I) Classroom and laboratories.

(b) Leases entered into under subsection (a)—

(1) may not exceed a term of 32 years;

(2) shall provide that, at the end of the term of the lease, title to the leased facility shall vest in the United States; and

(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

(c)(1) The Secretary concerned may enter into a lease under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the facility covered by the proposed lease, including an economic analysis (based upon accepted life-cycle costing procedures) that demonstrates the cost effectiveness of the proposed lease compared with a military construction project for the same facility.

(2) Each Secretary concerned may, under this section, enter into—

(A) not more than three leases in fiscal year 1990; and

(B) not more than five leases in each of the fiscal years 1991 and 1992.

(d) Each lease entered into under this section shall include a provision that the obligation of the United States to make payments under the lease in any fiscal year is subject to the availability of appropriations for that purpose.

(Added Pub. L. 101–189, div. B, title XXVIII, §2809(a), Nov. 29, 1989, 103 Stat. 1649; amended Pub. L. 101–510, div. B, title XXVIII, §2864, Nov. 5, 1990, 104 Stat. 1806; Pub. L. 108–136, div. A, title X, §1031(a)(39), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(9), Dec. 12, 2017, 131 Stat. 1841.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (c)(1). Pub. L. 115–91 added par. (1) and struck out former par. (1) which set out justification, economic analysis, and wait requirements for entering into a lease.

**2003**—Subsec. (c)(1)(B). Pub. L. 108–136 inserted before period at end "or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title".

**1990**—Subsec. (a)(2)(I). Pub. L. 101–510 added subpar. (I).

## §2813. Acquisition of existing facilities in lieu of authorized construction

(a) ACQUISITION AUTHORITY.—Using funds appropriated for a military construction project authorized by law for a military installation, the Secretary of the military department concerned may acquire an existing facility (including the real property on which the facility is located) at or near the military installation instead of carrying out the authorized military construction project if the Secretary determines that—

(1) the acquisition of the facility satisfies the requirements of the military department concerned for the authorized military construction project; and

(2) it is in the best interests of the United States to acquire the facility instead of carrying out the authorized military construction project.

(b) MODIFICATION OR CONVERSION OF ACQUIRED FACILITY.—(1) As part of the acquisition of an existing facility under subsection (a), the Secretary of the military department concerned may carry out such modifications, repairs, or conversions of the facility as the Secretary considers to be necessary so that the facility satisfies the requirements for which the military construction project was authorized.

(2) The costs of anticipated modifications, repairs, or conversions under paragraph (1) are required to remain within the authorized amount of the military construction project. The Secretary concerned shall consider such costs in determining whether the acquisition of an existing facility is—

(A) more cost effective than carrying out the authorized military construction project; and

(B) in the best interests of the United States.

(c) NOTICE AND WAIT REQUIREMENTS.—A contract may not be entered into for the acquisition of a facility under subsection (a) until the Secretary concerned notifies the appropriate committees of Congress of the determination to acquire an existing facility instead of carrying out the authorized military construction project. The notification shall include the reasons for acquiring the facility. After the notification is transmitted, the Secretary may then enter into the contract only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 103–160, div. B, title XXVIII, §2805(a)(1), Nov. 30, 1993, 107 Stat. 1886; amended Pub. L. 104–106, div. A, title XV, §1502(a)(25), Feb. 10, 1996, 110 Stat. 506; Pub. L. 108–136, div. A, title X, §1031(a)(40), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 109–163, div. B, title XXVIII, §2801(b), Jan. 6, 2006, 119 Stat. 3504; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(10), Dec. 12, 2017, 131 Stat. 1841.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (c). Pub. L. 115–91 substituted "notifies the appropriate committees of Congress" for "transmits to the appropriate committees of Congress a written notification" and "14-day period" for "21-day period" and struck out "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided" after "received by the committees".

**2006**—Subsec. (c). Pub. L. 109–163 substituted "21-day period" for "30-day period" and "14-day period" for "21-day period".

**2003**—Subsec. (c). Pub. L. 108–136 struck out "the end of the 30-day period beginning on the date" after "until" and inserted last sentence.

**1996**—Subsec. (c). Pub. L. 104–106 substituted "appropriate committees of Congress" for "Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 103–160, div. B, title XXVIII, §2805(b), Nov. 30, 1993, 107 Stat. 1887, provided that: "Section 2813 of title 10, United States Code, as added by subsection (a), shall apply with respect to military construction projects authorized on or after the date of the enactment of this Act [Nov. 30, 1993]."

## §2814. Special authority for development of Ford Island, Hawaii

(a) IN GENERAL.—(1) Subject to paragraph (2), the Secretary of the Navy may exercise any authority or combination of authorities in this section for the purpose of developing or facilitating the development of Ford Island, Hawaii, to the extent that the Secretary determines the development is compatible with the mission of the Navy.

(2) The Secretary of the Navy may not exercise any authority under this section until—

(A) the Secretary submits to the appropriate committees of Congress a master plan for the development of Ford Island, Hawaii; and

(B) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees.

(b) CONVEYANCE AUTHORITY.—(1) The Secretary of the Navy may convey to any public or private person or entity all right, title, and interest of the United States in and to any real property (including any improvements thereon) or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines—

(A) is excess to the needs of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A conveyance under this subsection may include such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) LEASE AUTHORITY.—(1) The Secretary of the Navy may lease to any public or private person or entity any real property or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines—

(A) is not needed for current operations of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A lease under this subsection shall be subject to section 2667(b)(1) of this title and may include such other terms as the Secretary considers appropriate to protect the interests of the United States.

(3) A lease of real property under this subsection may provide that, upon termination of the lease term, the lessee shall have the right of first refusal to acquire the real property covered by the lease if the property is then conveyed under subsection (b).

(4)(A) The Secretary may provide property support services to or for real property leased under this subsection.

(B) To the extent provided in appropriations Acts, any payment made to the Secretary for services provided under this paragraph shall be credited to the appropriation, account, or fund from which the cost of providing the services was paid.

(d) ACQUISITION OF LEASEHOLD INTEREST BY SECRETARY.—(1) The Secretary of the Navy may acquire a leasehold interest in any facility constructed under subsection (f) as consideration for a transaction authorized by this section upon such terms as the Secretary considers appropriate to promote the purpose of this section.

(2) The term of a lease under paragraph (1) may not exceed 10 years, unless the Secretary of Defense approves a term in excess of 10 years for purposes of this section.

(3) A lease under this subsection may provide that, upon termination of the lease term, the United States shall have the right of first refusal to acquire the facility covered by the lease.

(e) REQUIREMENT FOR COMPETITION.—The Secretary of the Navy shall use competitive procedures for purposes of selecting the recipient of real or personal property under subsection (b) and the lessee of real or personal property under subsection (c).

(f) CONSIDERATION.—(1) As consideration for the conveyance of real or personal property under subsection (b), or for the lease of real or personal property under subsection (c), the Secretary of the Navy shall accept cash, real property, personal property, or services, or any combination thereof, in an aggregate amount equal to not less than the fair market value of the real or personal property conveyed or leased.

(2) Subject to subsection (i), the services accepted by the Secretary under paragraph (1) may include the following:

(A) The construction or improvement of facilities at Ford Island.

(B) The restoration or rehabilitation of real property at Ford Island.

(C) The provision of property support services for property or facilities at Ford Island.

(g) NOTICE AND WAIT REQUIREMENTS.—The Secretary of the Navy may carry out a transaction authorized by this section only after the end of the 20-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the transaction, including a detailed description of the transaction and a justification for the transaction specifying the manner in which the transaction will meet the purposes of this section.

(h) FORD ISLAND IMPROVEMENT ACCOUNT.—(1) There is established on the books of the Treasury an account to be known as the "Ford Island Improvement Account".

(2) There shall be deposited into the account the following amounts:

(A) Amounts authorized and appropriated to the account.

(B) Except as provided in subsection (c)(4)(B), the amount of any cash payment received by the Secretary for a transaction under this section.

(i) USE OF ACCOUNT.—(1) Subject to paragraph (2), to the extent provided in advance in appropriations Acts, funds in the Ford Island Improvement Account may be used as follows:

(A) To carry out or facilitate the carrying out of a transaction authorized by this section.

(B) To carry out improvements of property or facilities at Ford Island.

(C) To obtain property support services for property or facilities at Ford Island.

(2) To extent that the authorities provided under subchapter IV of this chapter are available to the Secretary of the Navy, the Secretary may not use the authorities in this section to acquire, construct, or improve family housing units, military unaccompanied housing units, or ancillary supporting facilities related to military housing.

(3)(A) The Secretary may transfer funds from the Ford Island Improvement Account to the following funds:

(i) The Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of this title.

(ii) The Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of this title.

(B) Amounts transferred under subparagraph (A) to a fund referred to in that subparagraph shall be available in accordance with the provisions of section 2883 of this title for activities authorized under subchapter IV of this chapter at Ford Island.

(j) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—Except as otherwise provided in this section, transactions under this section shall not be subject to the following:

(1) Sections 2667 and 2696 of this title.

(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(3) Subchapter II of chapter 5 and sections 541–555 of title 40.

(k) SCORING.—Nothing in this section shall be construed to waive the applicability to any lease entered into under this section of the budget scorekeeping guidelines used to measure compliance

with the Balanced Budget and Emergency Deficit Control Act of 1985.

(l) PROPERTY SUPPORT SERVICE DEFINED.—In this section, the term "property support service" means the following:

(1) Any utility service or other service listed in section 2686(a) of this title.

(2) Any other service determined by the Secretary to be a service that supports the operation and maintenance of real property, personal property, or facilities.

(Added Pub. L. 106–65, div. B, title XXVIII, §2802(a)(1), Oct. 5, 1999, 113 Stat. 845; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(16)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 107–107, div. A, title X, §1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, §3(b)(18), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111–383, div. B, title XXVIII, §2803(c), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(11), Dec. 12, 2017, 131 Stat. 1842.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (k), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

**AMENDMENTS**

**2017**—Subsec. (g). Pub. L. 115–91 added subsec. (g) and struck out former subsec. (g) which set out notice and wait requirements for a transaction authorized by this section.

**2011**—Subsec. (g)(2). Pub. L. 111–383 inserted before period at end "or, if earlier, a period of 20 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**2002**—Subsec. (j)(3). Pub. L. 107–217 substituted "Subchapter II of chapter 5 and sections 541–555 of title 40" for "Sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)".

**2001**—Subsec. (j)(2). Pub. L. 107–107 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

**2000**—Subsec. (k). Pub. L. 106–398 inserted "and" after "Balanced Budget".

## §2815. Military installation resilience projects

(a) PROJECTS REQUIRED.—The Secretary of Defense shall carry out military construction projects, including unspecified minor military construction projects not otherwise authorized by law, for military installation resilience, in accordance with—

(1) section 2802 of this title (except as provided in subsection (e)); or

(2) section 2805 of this title.

(b) CONGRESSIONAL NOTIFICATION.—(1) When a decision is made to carry out a project under this section, the Secretary of Defense shall notify the congressional defense committees of that decision.

(2) The Secretary of Defense shall include in each notification submitted under paragraph (1) the rationale for how the project would—

(A) enhance military installation resilience;

(B) enhance mission assurance;

(C) support mission critical functions; and

(D) address known vulnerabilities.

(c) TIMING OF PROJECTS.—Except as provided in subsection (e)(2), a project may be carried out under this section only after the end of the 14-day period beginning on the date that notification with respect to that project under subsection (b) is received by the congressional defense committees in an electronic medium pursuant to section 480 of this title.

(d) LOCATION OF PROJECTS.—Projects carried out pursuant to this section may be carried out—

(1) on a military installation;

(2) on a facility used by the Department of Defense that is owned and operated by a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, even if the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the facility is subject to significant use by the armed forces for testing or training; or

(3) outside of a military installation or facility described in paragraph (2) if the Secretary concerned determines that the project would preserve or enhance the resilience of—

(A) a military installation;

(B) a facility described in paragraph (2); or

(C) community infrastructure determined by the Secretary concerned to be necessary to maintain, improve, or rapidly reestablish installation mission assurance and mission-essential functions.

(e) ALTERNATIVE FUNDING SOURCE.—(1) In carrying out a project under this section, the Secretary concerned may use amounts available for operation and maintenance for the military department concerned if the Secretary concerned submits a notification to the congressional defense committees of the decision to carry out the project using such amounts and includes in the notification—

(A) the current estimate of the cost of the project;

(B) the source of funds for the project; and

(C) a certification that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A project carried out under this section using amounts under paragraph (1) may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from amounts available to the military department concerned for operation and maintenance in any fiscal year for projects under the authority of this subsection is $125,000,000.

(f) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year until December 31, 2025, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the planned and active projects carried out under this section (including completed projects), and shall include in the report with respect to each such project the following information:

(1) The title, location, a brief description of the scope of work, the original project cost estimate, and the current working cost estimate.

(2) The information provided under subsection (b)(2).

(3) Such other information as the Secretary considers appropriate.

(Added Pub. L. 116–92, div. B, title XXVIII, §2801(b)(1), Dec. 20, 2019, 133 Stat. 1880; amended Pub. L. 116–283, div. A, title III, §315(a), Jan. 1, 2021, 134 Stat. 3514; Pub. L. 118–31, div. B, title XXVIII, §2804, Dec. 22, 2023, 137 Stat. 744; Pub. L. 119–60, div. B, title XXVIII, §2874, Dec. 18, 2025, 139 Stat. 1329.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2815, added Pub. L. 106–398, §1 [div. B, title XXVIII, §2801(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–412; amended Pub. L. 107–314, div. A, title X, §1062(a)(14), Dec. 2, 2002, 116 Stat. 2650, related to annual evaluation of joint use military construction projects, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(23)(A), Dec. 31, 2011, 125 Stat. 1584.

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60 inserted ", including unspecified minor military construction projects not otherwise authorized by law," after "military construction projects" and substituted "in accordance with—" and pars. (1) and (2) for "in accordance with section 2802 of this title (except as provided in subsections (d)(3) and (e))."

**2023**—Subsec. (e)(3). Pub. L. 118–31 substituted "$125,000,000" for "$100,000,000".

**2021**—Subsec. (a). Pub. L. 116–283, §315(a)(1), inserted "(except as provided in subsections (d)(3) and (e))" before period at end.

Subsec. (c). Pub. L. 116–283, §315(a)(2), substituted "Except as provided in subsection (e)(2), a project" for "A project".

Subsecs. (d) to (f). Pub. L. 116–283, §315(a)(3), (4), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

## §2815a. Stormwater management, shoreline erosion control, and water resilience projects for installations and defense access roads

(a) PROJECTS AUTHORIZED.—The Secretary concerned may carry out one or more of the following projects on or related to a military installation:

(1) A stormwater management project for the purposes of—

(A) improving military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting a military installation; and

(B) protecting nearby waterways and stormwater-stressed ecosystems.

(2) A shoreline erosion control project for the purpose of improving, protecting, or repairing shoreline to protect the infrastructure of a military installation or a defense access road.

(3) A project to provide water storage and filtration, flood mitigation, or otherwise support water resilience.

(b) PROJECT METHODS AND FUNDING SOURCES.—Using such amounts as may be provided in advance in appropriation Acts, the Secretary concerned may carry out a project under this section as, or as part of, any of the following:

(1) An authorized military construction project.

(2) An unspecified minor military construction project under section 2805 of this title, including using appropriations available for operation and maintenance subject to the limitation in subsection (c) of such section.

(3) A military installation resilience project under section 2815 of this title, including the use of appropriations available for operations and maintenance subject to the limitation of subsection (e)(3) of such section.

(4) A defense community infrastructure resilience project under section 2391(d) of this title.

(5) A military installation resilience project under section 2684a of this title.

(6) A construction project under section 2914 of this title.

(7) A reserve component facility project under section 18233 of this title.

(8) A defense access road project under section 210 of title 23.

(c) PROJECT PRIORITIES.—In selecting projects to be carried out under this section, the Secretary concerned shall give a priority to a project proposal that—

(1) minimizes the runoff of untreated stormwater into freshwater systems or tidal systems;

(2) protects military installations and defense access roads from stormwater runoff and water

levels resulting from extreme weather conditions;

(3) controls shoreline erosion control that involve the improvement, protection, or repair of shoreline subject to wave action or stormwater runoff and water levels resulting from extreme weather condition; or

(4) supports water resilience at military installations.

(d) PROJECT ACTIVITIES.—Activities carried out as part of a project under this section may include, but are not limited to, the following:

(1) The installation, expansion, or refurbishment of stormwater ponds and other water-slowing, retention, or filtration measures to address storm water management.

(2) The installation of permeable pavement in lieu of, or to replace existing, nonpermeable pavement.

(3) The use of planters, tree boxes, cisterns, and rain gardens to reduce stormwater runoff.

(4) The capture or storage of stormwater for use in supporting water resilience at a military installation.

(5) The use of sheet piles, riprap, armor stone, sea walls, natural plantings, or any other technologies created to address shoreline erosion control.

(e) PROJECT COORDINATION.—(1) In the case of a project carried out under this section on or related to a military installation and any project related to the same installation carried out under section 2391, 2684, 2815, or 2914 of this title, the Secretary concerned shall ensure coordination between the projects regarding the water access, management, conservation, security, and resilience aspects of the projects.

(2) The Assistant Secretary of Defense for Energy, Installations, and Environment shall designate an official to be responsible for coordinating projects under this section among the military departments.

(f) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, each Secretary concerned shall submit to the congressional defense committees a report describing—

(A) the status of planned and active projects carried out by that Secretary under this section; and

(B) all projects completed by the Secretary concerned during the previous fiscal year.

(2) Each report shall include the following information with respect to each project described in the report:

(A) The title, location, a brief description of the scope of work, the original project cost estimate, and the current working cost estimate.

(B) The rationale for how the project will—

(i) improve military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting a military installation;

(ii) protect waterways and stormwater-stressed ecosystems;

(iii) improve, protect, or repair shoreline to protect infrastructure of a military installation or a defense access road from shoreline erosion; or

(iv) provide water storage and filtration, flood mitigation, or otherwise support water resilience.

(C) Such other information as the Secretary concerned considers appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "defense access road" means a road certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.

(2) The terms "facility" and "State" have the meanings given those terms in section 18232 of this title.

(3) The term "military installation" includes a facility of a reserve component owned by a State rather than the United States.

(4) The term "military installation resilience" has the meaning given that term in section 101 of this title.

(5) The term "Secretary concerned" means—

(A) the Secretary of a military department with respect to military installations under the jurisdiction of that Secretary; and

(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and facilities of a reserve component owned by a State rather than the United States.

(6) The term "water resilience" means the capacity of a military installation to mitigate, respond, or adapt to changes in water availability due to manmade or natural phenomena.

(Added Pub. L. 117–81, div. B, title XXVIII, §2803, Dec. 27, 2021, 135 Stat. 2186; amended Pub. L. 118–159, div. B, title XXVIII, §2847, Dec. 23, 2024, 138 Stat. 2264.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §2847(a)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Stormwater management projects for installation and defense access road resilience and waterway and ecosystems conservation".

Subsec. (a). Pub. L. 118–159, §2847(a)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary concerned may carry out a stormwater management project on or related to a military installation for the purpose of—

"(1) improving military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting the military installation; and

"(2) protecting nearby waterways and stormwater-stressed ecosystems."

Subsec. (b). Pub. L. 118–159, §2847(a)(3)(A), struck out "stormwater management" before "project under this section" in introductory provisions.

Subsec. (b)(5) to (8). Pub. L. 118–159, §2847(a)(3)(B), (C), added par.(5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

Subsec. (c). Pub. L. 118–159, §2847(a)(4), amended subsec. (c) generally. Prior to amendment, text read as follows: "In selecting stormwater management projects to be carried out under this section, the Secretary concerned shall give a priority to project proposals involving the retrofitting of buildings and grounds on a military installation or retrofitting a defense access road to reduce stormwater runoff and ponding or standing water that includes the combination of stormwater runoff and water levels resulting from extreme weather conditions."

Subsec. (d). Pub. L. 118–159, §2847(a)(5)(A), struck out "stormwater management" before "project" in introductory provisions.

Subsec. (d)(1). Pub. L. 118–159, §2847(a)(5)(B), substituted ", retention, or filtration measures to address storm water management" for "and retention measures".

Subsec. (d)(4), (5). Pub. L. 118–159, §2847(a)(5)(C), added pars. (4) and (5).

Subsec. (e). Pub. L. 118–159, §2847(a)(6), designated existing provisions as par. (1), struck out "stormwater management" before "project carried", substituted "section 2391, 2684," for "section 2391(d),", and added par. (2).

Subsec. (f)(1)(A). Pub. L. 118–159, §2847(a)(7)(A), struck out "stormwater management" before "projects".

Subsec. (f)(2). Pub. L. 118–159, §2847(a)(7)(A), struck out "stormwater management" before "project" in introductory provisions.

Subsec. (f)(2)(B)(iii), (iv). Pub. L. 118–159, §2847(a)(7)(B), added cls. (iii) and (iv).

Subsec. (g)(4). Pub. L. 118–159, §2847(b), substituted "section 101" for "section 101(e)(8)".

Subsec. (g)(6). Pub. L. 118–159, §2847(a)(8), added par. (6).

## §2816. Consideration of energy security and energy resilience in life-cycle cost for military construction

(a) IN GENERAL.—(1) The Secretary concerned, when evaluating the life-cycle designed cost of

a covered military construction project, shall include as a facility requirement the long-term consideration of energy security and energy resilience that would ensure that the resulting facility is capable of continuing to perform its missions, during the life of the facility, in the event of a natural or human-caused disaster, an attack, or any other unplanned event that would otherwise interfere with the ability of the facility to perform its missions.

(2) A facility requirement under paragraph (1) shall not be weighed, for cost purposes, against other facility requirements in determining the design of the facility.

(b) INCLUSION IN THE BUILDING LIFE-CYCLE COST PROGRAM.—The Secretary shall include the requirements of subsection (a) in applying the latest version of the building life-cycle cost program, as developed by the National Institute of Standards and Technology, to consider on-site distributed energy assets in a building design for a covered military construction project.

(c) COVERED MILITARY CONSTRUCTION PROJECT DEFINED.—(1) In this section, the term "covered military construction project" means a military construction project for a facility that is used to perform critical functions during a natural or human-caused disaster, an attack, or any other unplanned event.

(2) For purposes of paragraph (1), the term "facility" includes at a minimum any of the following:

(A) Operations centers.

(B) Nuclear command and control facilities.

(C) Integrated strategic and tactical warning and attack assessment facilities.

(D) Continuity of government facilities.

(E) Missile defense facilities.

(F) Air defense facilities.

(G) Hospitals.

(H) Armories and readiness centers of the National Guard.

(I) Communications facilities.

(J) Satellite and missile launch and control facilities.

(Added Pub. L. 116–283, div. B, title XXVIII, §2804(a), Jan. 1, 2021, 134 Stat. 4320.)

## §2817. Authority for certain construction projects in friendly foreign countries

(a) CONSTRUCTION AUTHORIZED.—Using funds available for operations and maintenance, the Secretary of Defense may carry out a construction project in a friendly foreign country, and perform planning and design to support such a project, that the Secretary determines meets each of the following conditions:

(1) The commander of the geographic combatant command in which the construction project will be carried out identified the construction project as necessary to support vital United States military requirements at an air port of debarkation, sea port of debarkation, or rail or other logistics support location.

(2) The construction project will not be carried out at a military installation.

(3) The funds made available under the authority of this section for the construction project—

(A) will be sufficient to—

(i) construct a complete and usable facility or make an improvement to a facility; or

(ii) complete the repair of an existing facility or improvement to a facility; and

(B) will not require additional funds from other Department of Defense accounts.

(4) The level of construction for the construction project may not exceed the minimum necessary to meet the military requirements identified under paragraph (1).

(5) Deferral of the construction project pending inclusion of the construction project proposal in the national defense authorization Act for a subsequent fiscal year is inconsistent with the military requirements identified under paragraph (1) and other national security or national interests of the United States.

(b) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION REQUIRED.—Upon determining to carry out a construction project under this section that has an estimated cost in excess of the amounts authorized for unspecified minor military construction projects under section 2805(c) of this title, the Secretary of Defense shall submit to the specified congressional committees a notification of such determination.

(2) ELEMENTS.—The notification required by paragraph (1) shall include the following:

(A) A certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(B) A justification for such project.

(C) An estimate of the cost of such project.

(3) NOTICE AND WAIT.—The Secretary of Defense may carry out a construction project only after the end of the 30-day period beginning on the date the notice required by paragraph (1) is received by the specified congressional committees in an electronic medium pursuant to section 480 of this title.

(c) ANNUAL LIMITATIONS ON USE OF AUTHORITY.—

(1) TOTAL COST LIMITATION.—The Secretary of Defense may not obligate more than $200,000,000 in any fiscal year under the authority provided by this section.

(2) ADDITIONAL OBLIGATION AUTHORITY.—Notwithstanding paragraph (1), the Secretary of Defense may authorize the obligation under this section of not more than an additional $10,000,000 from funds available for operations and maintenance for a fiscal year if the Secretary determines that the additional funds are needed for costs associated with contract closeouts for all construction projects during such fiscal year.

(3) PROJECT LIMITATION.—The maximum amount that the Secretary may obligate for a single construction project is $15,000,000.

(d) SPECIFIED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "specified congressional committees" means—

(1) the Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

(Added Pub. L. 118–31, div. B, title XXVIII, §2805, Dec. 22, 2023, 137 Stat. 744.)

## §2818. Contracts for design and construction of facilities of Department of Defense

(a) IN GENERAL.—The head of an element of the Department of Defense (as defined in section 111(b) of this title) may award a contract to any other such element for the design and construction of facilities of the Department of Defense, including facility maintenance and repair projects and unspecified minor military construction projects under section 2805 of this title, on a reimbursable basis.

(b) CONSIDERATION AS AN OBLIGATION.—A contract awarded under subsection (a) by such head shall be considered to be an obligation of such head in the same manner as a similar order or contract placed by such head with a private entity.

(c) LIMITATION.—An awardee of a contract under subsection (a) may include an amount equal to not more than 10 percent of the proposed value of the contract for contingency expenses.

(Added Pub. L. 118–159, div. B, title XXVIII, §2843, Dec. 23, 2024, 138 Stat. 2263; amended Pub.

L. 119–60, div. A, title XVII, §1701(a)(18), Dec. 18, 2025, 139 Stat. 1209.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60 substituted "contract" for "contact".

## §2819. Strategy and assessment with respect to non-operational, underutilized, and other Department of Defense facilities: assessments of historical significance

(a) STRATEGY FOR DEMOLITION.—Each Secretary concerned shall develop a strategy to demolish facilities under the respective jurisdiction of each such Secretary that—

(1) are in poor or failing condition under the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31);

(2) are not in operational use; or

(3) such Secretary determines are underutilized.

(b) ASSESSMENT OF CERTAIN MAINTENANCE COSTS.—Each Secretary concerned shall conduct an assessment to determine the total cost to the United States to maintain facilities that—

(1) are not in operational use; and

(2) such Secretary determines are underutilized.

(c) REQUIRED CONSIDERATION.—In determining whether a facility is underutilized pursuant to subsections (a) or (b), each Secretary concerned shall compare the occupancy of such facility to the total square footage of such facility.

(d) ASSESSMENTS OF HISTORIC SIGNIFICANCE.—(1) Not later than December 1, 2025, and on an annual basis thereafter, each Secretary concerned shall conduct an assessment of each facility under the jurisdiction of the Secretary concerned that was constructed at least 25 years prior to the year covered by the assessment to determine whether the facility—

(A) is historically significant; or

(B) will be historically significant at the end of the 25-year period beginning on the date of the completion of such assessment.

(2) For each facility described in paragraph (1) that a Secretary concerned determines is not, or will not be, historically significant pursuant to an assessment under such paragraph, the Secretary concerned shall—

(A) conduct an assessment of the condition of such facility;

(B) make an initial determination of whether such facility will be modernized or demolished during such 25-year period; and

(C) submit to the digital facilities management system of the military department under the jurisdiction of such Secretary—

(i) the results of the assessment under subparagraph (A); and

(ii) the initial determination required by subparagraph (B).

(3) If, during the course of any assessment of a facility described in paragraph (1), the Secretary concerned changes a determination with respect to the historic significance of the facility or plans of such Secretary to modernize or demolish the facility, such Secretary shall revise the information submitted to the applicable digital facilities management system pursuant to subparagraph (C) of paragraph (2).

(e) ANNUAL BRIEFING.—(1) Along with the budget for fiscal year 2027 submitted by the President pursuant to section 1105(a) of title 31, United States Code, and on an annual basis

thereafter, each Secretary concerned shall provide to the congressional defense committees a briefing on—

(A) the strategy required by subsection (a); and

(B) the results of the assessments required by subsections (b) and (d).

(2) Each such briefing shall include—

(A) a summary of the existing authorities of each Secretary concerned to demolish the facilities covered by such strategy;

(B) a plan to implement such strategy; and

(C) recommendations of each such Secretary with respect to reducing—

(i) the inventory of facilities in poor or failing condition under the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31); and

(ii) the total cost to the United States to maintain the facilities covered by the assessment required by subsection (b) of such section.

(Added Pub. L. 118–159, div. B, title XXVIII, §2822(a), Dec. 23, 2024, 138 Stat. 2254; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(19), Dec. 18, 2025, 139 Stat. 1209.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 2838 of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsecs. (a)(1) and (e)(2)(C)(i), is section 2838 of Pub. L. 118–31, which is set out as a note preceding section 2851 of this title.

**AMENDMENTS**

**2025**—Subsec. (e). Pub. L. 119–60 inserted "the" before "congressional defense committees".

## §2820. Development of infrastructure improvement plan for each military department

(a) IN GENERAL.—Not later than the date on which the budget of the President for fiscal year 2027 is submitted to Congress pursuant to section 1105 of title 31, and once every five years thereafter, each Secretary concerned shall submit to the congressional defense committees each of the following:

(1) A detailed plan with respect to the improvement of infrastructure and facilities under the jurisdiction of the Secretary concerned during the 20-year period beginning after the date on which the plan is submitted that includes—

(A) a summary of major efforts of the Secretary concerned to be carried out pursuant to the plan;

(B) milestones and specific goals for such major efforts;

(C) a description of objectives of the Secretary concerned to manage and improve such infrastructure and facilities during such period, including—

(i) utility systems (electric, water and wastewater systems, energy distribution systems, transportation, and communication networks); and

(ii) all physical structures located on a military installation under the jurisdiction of the Secretary concerned.

(2) A certification that the budget of the President for the applicable fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of planning, design, and construction at a level that is sufficient to meet the requirements specified in the plan under paragraph (1) on the schedule provided in such plan.

(b) ELEMENTS.—Each plan submitted by a Secretary concerned under subsection (a)(1) shall include the following:

(1) The estimated costs of necessary infrastructure and facility improvements and a description of how such costs would be addressed by the budget request of the Department of Defense and the future-years defense program submitted for the applicable fiscal year.

(2) An assessment of how the military department is accurately accounting for the costs of sustaining facilities and addressing the identified necessary improvements of infrastructure and facilities as outlined in the plan.

(c) INCORPORATION OF RESULTS-ORIENTED MANAGEMENT PRACTICES.—Each plan under subsection (a)(1) shall incorporate the leading results-oriented management practices, including—

(1) analytically based goals;

(2) results-oriented metrics;

(3) an identification of required resources, risks, and stakeholders; and

(4) regular reporting on progress to decision makers.

(d) SERVICE CHIEF ASSESSMENT.—Each service chief (as defined in section 3101 of this title) shall—

(1) assess each plan and certification developed by the Secretary concerned under subsection (a); and

(2) submit to the congressional defense committees, not later than the date on which the Secretary concerned submits the plan and certification to such committees, an unaltered copy of the results of such assessment.

(Added Pub. L. 119–60, div. B, title XXVIII, §2803, Dec. 18, 2025, 139 Stat. 1293.)

## SUBCHAPTER II—MILITARY FAMILY HOUSING

Sec.
2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.
2822. Requirement for authorization of number of family housing units.
[2823. Repealed.]
2824. Authorization for acquisition of existing family housing in lieu of construction.
2825. Improvements to family housing units.
2826. Military family housing: local comparability of room patterns and floor areas.
2827. Relocation of military family housing units.
2828. Leasing of military family housing.
2829. Multi-year contracts for supplies and services.
[2830. Repealed.]
2831. Military family housing management account.
2832. Homeowners assistance program.
2833. Family housing support.
2834. Participation in Department of State housing pools.
2835. Long-term leasing of military family housing to be constructed.
2835a. Use of military family housing constructed under build and lease authority to house other members.
2836. Military housing rental guarantee program.
2837. Housing Requirements and Market Analysis.
2838. Leasing of military family housing to Secretary of Defense.
[2839. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. B, title XXVIII, §2826(d), Dec. 18, 2025, 139 Stat. 1310, struck out item 2839 "Application of certain authorities and standards to historic military housing and associated historic properties of the Department of the Army". Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. B, title XXVIII, §2823(b), Dec. 23, 2024, 138 Stat. 2256, which directed amendment of the analysis for this chapter by adding item 2839, was executed to the analysis for this subchapter, to reflect the probable intent of Congress.

**2022**—Pub. L. 117–263, div. B, title XXVIII, §2821(a), Dec. 23, 2022, 136 Stat. 2999, added item 2837. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. B, title XXVIII, §2812(b), Jan. 1, 2021, 134 Stat. 4327, struck out item 2830 "Occupancy of substandard family housing units".

**2013**—Pub. L. 113–66, div. B, title XXVIII, §2802(a)(2), Dec. 26, 2013, 127 Stat. 1006, struck out item 2837 "Limited partnerships with private developers of housing".

**2008**—Pub. L. 110–417, div. B, title XXVIII, §§2803(b), 2804(b), Oct. 14, 2008, 122 Stat. 4720, 4721, added items 2835a and 2838.

**2006**—Pub. L. 109–364, div. B, title XXVIII, §2803(b), Oct. 17, 2006, 120 Stat. 2467, struck out item 2823 "Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing".

**2000**—Pub. L. 106–398, §1 [div. B, title XXVIII, §2803(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413, substituted "Military family housing: local comparability of room patterns and floor areas" for "Limitations on space by pay grade" in item 2826.

**1994**—Pub. L. 103–337, div. B, title XXVIII, §2803(b), Oct. 5, 1994, 108 Stat. 3053, added item 2837.

**1991**—Pub. L. 102–190, div. B, title XXVIII, §§2806(a)(2), 2809(a)(2), Dec. 5, 1991, 105 Stat. 1540, 1543, added items 2835 and 2836.

**1985**—Pub. L. 99–167, title VIII, §§804(b)(2), 808(b), Dec. 3, 1985, 99 Stat. 987, 989, added items 2833 and 2834.

## §2821. Requirement for authorization of appropriations for construction and acquisition of military family housing

(a) Except as provided in subsection (b), funds may not be appropriated for the construction, acquisition, leasing, addition, extension, expansion, alteration, relocation, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by law.

(b) In addition to the funds authorized to be appropriated by law in any fiscal year for the purposes described in subsection (a), there are authorized to be appropriated such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds appropriated for the purposes described in such subsection.

(c) Amounts authorized by law for construction of military family housing units include amounts for (1) site preparation (including demolition), (2) installation of utilities, (3) ancillary supporting facilities, (4) shades, screens, ranges, refrigerators, and all other equipment and fixtures installed in such units, and (5) construction supervision, inspection, and overhead.

(d) Amounts authorized by law for construction and acquisition of military family housing and facilities include amounts for—

(1) minor construction;

(2) improvements to existing military family housing units and facilities;

(3) relocation of military family housing units under section 2827 of this title; and

(4) architectural and engineering services and construction design.

(e) The Secretary concerned shall provide for the installation and maintenance of an appropriate number of carbon monoxide detectors in each unit of military family housing under the jurisdiction of the Secretary.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 157; amended Pub. L. 99–145, title XIII, §1303(a)(18), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99–167, title VIII, §804(a), Dec. 3, 1985, 99 Stat. 987; Pub. L. 116–92, div. B, title XXX, §3031, Dec. 20, 2019, 133 Stat. 1936.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (e). Pub. L. 116–92 added subsec. (e).

**1985**—Subsec. (b). Pub. L. 99–145 substituted "such subsection" for "such paragraph".

Subsec. (d). Pub. L. 99–167 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### PILOT PROGRAM FOR EMERGING TECHNOLOGIES FOR MOISTURE CONTROL AND MITIGATION

Pub. L. 119–60, div. B, title XXVIII, §2829, Dec. 18, 2025, 139 Stat. 1312, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall carry out a pilot program to assess and implement emerging technologies for moisture control and mitigation in covered housing.

"(b) SELECTION OF LOCATIONS.—The Secretary shall select not fewer than three and not more than five military installations at which to carry out the pilot program established under subsection (a). The Secretary shall prioritize selection of military installations in regions with elevated climate-related risk factors for mold growth, such as persistent humidity, frequent rainfall, or outdated HVAC infrastructure.

"(c) ELEMENTS.—In carrying out the pilot program established under this section, the Secretary shall—

"(1) install moisture detection systems with advanced capabilities, including sensor-based humidity or spore monitoring technologies capable of generating early warnings for environmental risk conditions;

"(2) implement noninvasive or technology-enabled mold remediation tools, such as antimicrobial coatings, dry fogging systems, or UV-based sterilization units;

"(3) define infrastructure requirements, including upgrades to building materials or HVAC systems, necessary to support sustained mold prevention using the selected moisture detection systems;

"(4) train relevant personnel on the deployment, maintenance, and data interpretation of selected moisture detection systems;

"(5) designate an individual at each military installation selected under subsection (b) to oversee the implementation of the pilot program; and

"(6) develop a strategic implementation and evaluation plan to assess performance of the selected moisture detection systems and inform future decisions relating to such systems.

"(d) REPORT AND BRIEFINGS.—

"(1) REPORT.—Not later than 180 days after the termination date in subsection (e), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the pilot program, including recommendations for broader implementation and an assessment of costs and benefits.

"(2) BRIEFINGS.—

"(A) PLAN.—Upon completion of the plan required under subsection (c)(6), the Secretary shall provide to the congressional defense committees a briefing on the plan and any preliminary findings.

"(B) DISPLACEMENTS.—Not later than 180 days after the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall provide to the congressional defense committees a briefing on—

"(i) the number of individuals displaced from covered housing for reasons relating to mold or moisture control or mitigation during fiscal year 2025, disaggregated by military department;

"(ii) the number of days such individuals were displaced; and

"(iii) the result of the displacement.

"(e) TERMINATION.—The authority to carry out the pilot program under this section shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 18, 2025].

"(f) COVERED HOUSING DEFINED.—In this section, the term 'covered housing' means housing

provided under subchapter II or subchapter IV of chapter 169 of title 10, United States Code."

## INSPECTIONS BY QUALIFIED HOME INSPECTOR OF PRIVATIZED AND GOVERNMENT-OWNED MILITARY HOUSING

Pub. L. 119–60, div. B, title XXVIII, §2831, Dec. 18, 2025, 139 Stat. 1314, provided that:

"(a) ESTABLISHMENT OF INDEPENDENT INSPECTION PROTOCOL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall establish a standardized inspection and audit program for privatized military housing and Government-owned military housing that provides for such inspections and audits to be conducted by an independent qualified home inspector.

"(b) INSPECTION REQUIREMENTS.—Under the program established by subsection (a), a qualified home inspector shall annually inspect not less than five percent of privatized military housing and Government-owned military housing units. Such inspection shall include, at a minimum—

"(1) an evaluation of HVAC systems, plumbing, electrical systems, and structural integrity of the privatized military housing and Government-owned military housing units; and

"(2) an inspection for signs of water intrusion, visible and nonvisible mold, microbial contamination, and other indoor air quality concerns.

"(c) INSPECTION IMPLEMENTATION PLAN.—Not later than February 1, 2026, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to implement the program established under subsection (a), including—

"(1) contracting procedures for qualified home inspectors;

"(2) inspection methodologies;

"(3) protocols for reporting, remediation, and follow-up actions; and

"(4) integration with existing oversight and compliance frameworks for privatized military housing and Government-owned military housing.

"(d) REPORTING REQUIREMENTS.—Not later than March 1, 2027, and annually thereafter until March 1, 2032, the Secretary of Defense shall submit to the congressional defense committees a report on the results of inspections conducted under this section during the preceding calendar year. The report shall include—

"(1) findings and deficiencies identified;

"(2) remediation timelines and actions taken; and

"(3) recommendations for improving housing conditions and oversight.

"(e) DEFINITIONS.—In this section:

"(1) The term 'privatized military housing' has the meaning given in section 3001(a)(2) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2821 note).

"(2) The term 'qualified home inspector' means an individual who—

"(A) possesses housing inspection credentials required by the State in which the inspection is performed; and

"(B) is not an employee of, or in a fiduciary relationship with—

"(i) the Federal Government; or

"(ii) any entity that owns or manages privatized military housing or Government-owned military housing."

## IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO CRITICAL MILITARY HOUSING SUPPLY AND AFFORDABILITY

Pub. L. 119–60, div. B, title XXVIII, §2852, Dec. 18, 2025, 139 Stat. 1322, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], and except as provided in subsection (c), the Secretary of Defense shall implement each recommendation of the Comptroller General of the United States contained in the report dated October 30, 2024, and entitled 'Military Housing: DOD Should Address Critical Supply and Affordability Challenges for Service Members' (GAO–25–106208), as those recommendations are modified under subsection (b).

"(b) RECOMMENDATIONS TO BE IMPLEMENTED.—In carrying out the requirements under subsection (a), the Secretary of Defense shall implement the recommendations specified under such subsection as follows:

"(1) The Secretary shall—

"(A) perform a structured analysis to develop a comprehensive list of housing areas in which members of the Armed Forces and their families may face the most critical challenges in finding and affording private sector housing in the community;

"(B) in conducting the analysis under subparagraph (A), consider the unique characteristics of a

location, such as vacation rental areas; and

"(C) regularly update the list required under subparagraph (A) not less frequently than once every two years.

"(2) The Secretary shall obtain and use feedback on the financial and quality-of-life effects of limited supply or unaffordable housing on members of the Armed Forces through the status of forces survey and other service or installation-specific feedback mechanisms.

"(3) The Secretary shall, in coordination with each Secretary of a military department—

"(A) develop a plan for how the Department of Defense can respond to and address the financial and quality-of-life effects in housing areas identified under paragraph (1); and

"(B) in developing the plan under subparagraph (A), examine strategies for increasing housing supply or providing alternative compensation to offset the effects of limited supply or unaffordable housing in housing areas identified under paragraph (1).

"(4) The Secretary shall clarify, through the issuance of guidance to the military departments, the role of the Office of the Secretary of Defense in oversight of the Housing Requirements and Market Analysis process of the military departments to ensure that—

"(A) the military departments conduct such process in a timely manner; and

"(B) the Secretary submits to Congress any plans or other matters relating to such process for each fiscal year as required by existing law.

"(5) The Secretary shall ensure that the Assistant Secretary of Defense for Energy, Installations, and Environment provides updated guidance to the military departments on how installations of the Department of Defense should coordinate with local communities, including by clearly defining the roles and responsibilities of commanders and military housing offices of such installations in addressing housing needs.

"(c) NON-IMPLEMENTATION REPORTING REQUIREMENT.—If the Secretary of Defense elects not to implement a recommendation specified under subsection (a), as modified under subsection (b), the Secretary shall, not later than one year after the date of the enactment of this Act [Dec. 18, 2025], submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes a justification for such election."

## INCLUSION OF QUESTIONS REGARDING MILITARY HOUSING FOR MEMBERS OF THE ARMED FORCES IN STATUS OF FORCES SURVEY

Pub. L. 118–31, div. B, title XXVIII, §2824, Dec. 22, 2023, 137 Stat. 752, provided that: "The Secretary of Defense shall include, at a minimum, in each status of forces survey of the Department of Defense conducted on or after the date of the enactment of this Act [Dec. 22, 2023] questions specifically relating to the following:

"(1) Overall satisfaction with current military housing of members of the Armed Forces.

"(2) Satisfaction of such members with the physical condition of such military housing.

"(3) Satisfaction of such members with the affordability of such military housing.

"(4) Whether such military housing of such members has impacted any decision of such a member related to reenlistment in the Armed Forces."

## PILOT PROGRAM FOR MILITARY CONSTRUCTION PROJECTS TO REPLACE CERTAIN COVERED MILITARY UNACCOMPANIED HOUSING FACILITIES

Pub. L. 118–31, div. B, title XXVIII, §2835, Dec. 22, 2023, 137 Stat. 758, provided that:

"(a) IN GENERAL.—Each Secretary of a military department may carry out a pilot program under which each such Secretary administers a military construction project, not otherwise authorized by law, to replace a covered military unaccompanied housing facility—

"(1) that such Secretary determines is not in compliance with the uniform standards for covered military unaccompanied housing under section 2856b of title 10, United States Code (as added by section 2832); and

"(2) for which the total cost of a repair project to bring such covered military unaccompanied facility into compliance with such uniform standards exceeds 75 percent of the total cost of such a military construction project.

"(b) FACILITY REQUIREMENTS.—A facility constructed pursuant to a military construction project under a pilot program under subsection (a)—

"(1) with respect to the covered military unaccompanied housing facility such facility replaces—

"(A) may not have a capacity to house more members of the Armed Forces;

"(B) shall be designed and utilized for the same purpose; and

"(C) shall be located on the same military installation; and

"(2) shall be designed to meet, at a minimum, standards for construction, utilization, and force protection.

"(c) NONDELEGATION.—For the purposes of carrying out a military construction project under a pilot program under subsection (a), the authority of a Secretary of a military department to determine whether a covered military unaccompanied housing facility is in substandard condition may not be delegated.

"(d) SOURCE OF FUNDS.—A Secretary of a military department may spend amounts available to such Secretary for operation and maintenance or unspecified military construction to carry out this section.

"(e) CONGRESSIONAL NOTIFICATION.—With respect to a military construction project proposed to be carried out under a pilot program under subsection (a) with an estimated cost in excess of $10,000,000, the Secretary of the military department concerned shall submit to the appropriate committees of Congress a report that includes—

"(1) a justification for such military construction project;

"(2) an estimate of the total cost of such military construction project; and

"(3) a description of the elements of military construction, including the elements specified in section 2802(b) of title 10, United States Code, incorporated into such military construction project.

"(f) SUNSET.—The authority to carry out a pilot program pursuant to subsection (a) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 22, 2023].

"(g) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' has the meaning given such term in section 2801 of title 10, United States Code.

"(2) The term 'covered military unaccompanied housing' has the meaning given such term in section 2856 of such title (as amended by section 2831)."

## PILOT PROGRAM TO PROVIDE AIR PURIFICATION TECHNOLOGY IN COVERED MILITARY HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2873, Dec. 22, 2023, 137 Stat. 777, provided that:

"(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to—

"(1) provide commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) for air purification and covered sensors to landlords; and

"(2) monitor and measure the effect of such items on the environmental health and public health of tenants of covered military housing.

"(b) SELECTION OF INSTALLATIONS.—

"(1) IN GENERAL.—The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each select one military installation under the jurisdiction of such Secretary to carry out any pilot program carried out under this section.

"(2) CONSIDERATIONS.—Each Secretary shall ensure that the military installation selected under this section contains military unaccompanied housing in which the items described in subsection (a) may be used.

"(c) DEVICES.—An air purification item or a covered sensor provided under this section shall use technology proven to reduce indoor air risks and yield measurable environmental health and public health outcomes.

"(d) BRIEFING.—Not later than 365 days after the date on which a pilot program is commenced under this section, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the pilot program established under this section, including a description of the items described in subsection (a) used under such program. The briefing shall include—

"(1) a description of any cost savings identified from use of such items relating to—

"(A) extending the durability and habitability of covered military housing; and

"(B) reducing maintenance frequency; and

"(2) with respect to cost savings identified in paragraph (1), a plan to expand the use of covered sensors and air purification items in newly constructed covered military housing.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered sensor' means a commercially available off-the-shelf item (as defined in section 104 of title 41, United States Code) manufactured in the United States that detects the conditions for potential mold growth before mold is present.

"(2) The term 'covered military housing' means—

"(A) military unaccompanied housing; and

"(B) Government-owned units of military housing.

"(3) The term 'military unaccompanied housing' has the meaning given in section 2871 of title 10, United States Code."

## REQUIREMENT THAT SECRETARY OF DEFENSE IMPLEMENT RECOMMENDATIONS RELATING TO MILITARY FAMILY HOUSING CONTAINED IN REPORT BY INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. B, title XXVIII, §2815, Jan. 1, 2021, 134 Stat. 4328, provided that: "Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall implement the recommendations of the Inspector General of the Department of Defense contained in the report of the Inspector General dated April 30, 2020, and entitled 'Evaluation of the DoD's Management of Health and Safety Hazards in Government-Owned and Government-Controlled Military Family Housing'."

## TOOL FOR ASSESSMENT OF HAZARDS IN DEPARTMENT OF DEFENSE HOUSING

Pub. L. 116–92, div. B, title XXX, §3052, Dec. 20, 2019, 133 Stat. 1942, provided that:

"(a) HAZARD ASSESSMENT TOOL.—

"(1) DEVELOPMENT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall develop an assessment tool, such as a rating system or similar mechanism, to identify and measure health and safety hazards in housing under the jurisdiction of the Department of Defense (including privatized military housing).

"(2) COMPONENTS.—The assessment tool shall provide for the identification and measurement of the following hazards:

"(A) Physiological hazards, including dampness and mold growth, lead-based paint, asbestos and manmade fibers, radiation, biocides, carbon monoxide, and volatile organic compounds.

"(B) Psychological hazards, including ease of access by unlawful intruders, and lighting issues.

"(C) Infection hazards.

"(D) Safety hazards.

"(3) PUBLIC FORUMS.—In developing the assessment tool, the Secretary of Defense shall provide for multiple public forums at which the Secretary may receive input with respect to such assessment tool from occupants of housing under the jurisdiction of the Department of Defense (including privatized military housing).

"(4) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the assessment tool.

"(b) HAZARD ASSESSMENTS.—

"(1) ASSESSMENTS REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, using the assessment tool developed under subsection (a)(1), shall complete a hazard assessment for each housing facility under the jurisdiction of the Department of Defense (including privatized military housing).

"(2) TENANT INFORMATION.—As soon as practicable after the completion of the hazard assessment conducted for a housing facility under paragraph (1), the Secretary of Defense shall provide to each individual who leases or is assigned to a housing unit in the facility a summary of the results of the assessment."

[For definitions of terms used in section 3052 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

## PROCESS TO IDENTIFY AND ADDRESS ENVIRONMENTAL HEALTH HAZARDS IN DEPARTMENT OF DEFENSE HOUSING

Pub. L. 116–283, div. B, title XXVIII, §2817, Jan. 1, 2021, 134 Stat. 4329, provided that: "As part of the process developed by the Secretary of Defense pursuant to section 3053 of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1943; 10 U.S.C. 2821 note) [set out below] to identify, record, and resolve environmental health hazards in military housing, the Secretary shall promulgate guidance regarding situations in which the presence of mold in a unit of housing under the jurisdiction of the Department of Defense (including privatized military housing) is an emergency situation requiring the relocation of the residents of the unit."

Pub. L. 116–92, div. B, title XXX, §3053, Dec. 20, 2019, 133 Stat. 1943, provided that:

"(a) PROCESS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a process to identify, record, and resolve environmental health hazards in housing under the jurisdiction of the

Department of Defense (including privatized housing) in a timely manner.

"(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall provide for the following with respect to each identified environmental health hazard:

"(1) Categorization of the hazard.

"(2) Identification of health risks posed by the hazard.

"(3) Identification of the number of housing occupants potentially affected by the hazard.

"(4) Recording and maintenance of information regarding the hazard.

"(5) Resolution of the hazard, which shall include—

"(A) the performance by the Secretary of Defense (or in the case of privatized housing, the landlord) of hazard remediation activities at the affected facility; and

"(B) follow-up by the Secretary of Defense to collect information on medical care related to the hazard sought or received by individuals affected by the hazard.

"(c) COORDINATION.—The Secretary of Defense shall ensure coordination between military treatment facilities, appropriate public health officials, and housing managers at military installations with respect to the development and implementation of the process required by subsection (a).

"(d) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the process required by subsection (a)."

[For definitions of terms used in section 3053 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

## SATISFACTION SURVEY FOR TENANTS OF MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3058, Dec. 20, 2019, 133 Stat. 1945, provided that:

"(a) SURVEY REQUIRED.—Not later than March 1, 2020, the Secretary of Defense shall require that each installation of the Department of Defense use the same satisfaction survey for tenants of military housing, including privatized military housing.

"(b) FORM OF SURVEY.—The satisfaction survey required by subsection (a) shall be an electronic survey with embedded privacy and security mechanisms.

"(c) PRIVACY AND SECURITY MECHANISMS.—The privacy and security mechanisms used in the satisfaction survey required by subsection (a)—

"(1) may include a code unique to the tenant to be surveyed that is sent to the cell phone number of the tenant and required to be entered to access the survey; and

"(2) in the case of privatized military housing, shall ensure the survey is not shared with the landlord providing the privatized military housing until the survey is reviewed and the results are tallied by Department of Defense personnel."

[For definitions of terms used in section 3058 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

## DEPARTMENT OF THE ARMY PILOT PROGRAM TO BUILD AND MONITOR USE OF SINGLE FAMILY HOMES

Pub. L. 116–92, div. B, title XXX, §3064, Dec. 20, 2019, 133 Stat. 1947, provided that:

"(a) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to build and monitor the use of not fewer than five single family homes for members of the Army and their families.

"(b) LOCATION.—The Secretary of the Army shall carry out the pilot program at no less than two installations of the Army located in different climate regions of the United States as determined by the Secretary.

"(c) DESIGN.—In building homes under the pilot program, the Secretary of the Army shall use the All-American Abode design from the suburban single-family division design by the United States Military Academy."

## MITIGATION OF RISKS POSED BY CERTAIN ITEMS IN MILITARY FAMILY HOUSING UNITS

Pub. L. 116–92, div. B, title XXX, §3062, Dec. 20, 2019, 133 Stat. 1946, provided that:

"(a) ANCHORING OF ITEMS BY RESIDENTS.—The Secretary of Defense shall allow a resident of a military family housing unit to anchor any furniture, television, or large appliance to the wall of the unit for purposes of preventing such item from tipping over without incurring a penalty or obligation to repair the wall upon vacating the unit.

"(b) ANCHORING OF ITEMS FOR ALL UNITS.—

"(1) EXISTING UNITS.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall ensure that all freestanding chests, door chests, armoires, dressers,

entertainment centers, bookcases taller than 27 inches, televisions, and large appliances provided by the Department of Defense are securely anchored in each furnished military family housing unit under the jurisdiction of the Department as of the date of the enactment of this Act.

"(2) NEW UNITS.—The Secretary of Defense shall ensure that all freestanding chests, door chests, armoires, dressers, entertainment centers, bookcases taller than 27 inches, televisions, and large appliances provided by the Department of Defense are securely anchored in each furnished military family housing unit made available after the date of the enactment of this Act."

Pub. L. 114–328, div. A, title III, §345, Dec. 23, 2016, 130 Stat. 2085, provided that:

"(a) REMOVAL OF CERTAIN WINDOW COVERINGS.—Not later than three years after the date of enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall remove and replace disqualified window coverings from—

"(1) military housing units owned by the Department of Defense in which children under the age of 9 may reside; and

"(2) military housing units leased by the Department of Defense in which children under the age of 9 may reside if the lease for such units requires the Department to provide window coverings.

"(b) PROHIBITION ON DISQUALIFIED WINDOW COVERINGS IN MILITARY HOUSING UNITS ACQUIRED OR CONSTRUCTED BY CONTRACT.—All contracts entered into by the Secretary of Defense after September 30, 2017, for the acquisition or construction of military family housing, including military family housing acquired or constructed pursuant to subchapter IV of chapter 169 of title 10, United States Code, shall prohibit the use of disqualified window coverings in such housing.

"(c) DISQUALIFIED WINDOW COVERING DEFINED.—In this section, the term 'disqualified window covering' means—

"(1) a window covering with an accessible cord that exceeds 8 inches in length; or

"(2) a window covering with an accessible continuous loop cord that does not have a cord tension device that prevents operation when the cord is not anchored to the wall."

## REPAIR AND MAINTENANCE OF FAMILY HOUSING UNITS

Pub. L. 119–37, div. D, title I, §119, Nov. 12, 2025, 139 Stat. 597, provided that: "Notwithstanding any other provision of law, funds made available in this title [see Tables for classification] for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification, or 14 days for a notification provided in an electronic medium pursuant to sections 480 and 2883 of title 10, United States Code, to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 118–42, div. A, title I, §119, Mar. 9, 2024, 138 Stat. 34.

Pub. L. 117–328, div. J, title I, §119, Dec. 29, 2022, 136 Stat. 4945.

Pub. L. 117–103, div. J, title I, §119, Mar. 15, 2022, 136 Stat. 535.

Pub. L. 116–260, div. J, title I, §119, Dec. 27, 2020, 134 Stat. 1661.

Pub. L. 116–94, div. F, title I, §119, Dec. 20, 2019, 133 Stat. 2785.

Pub. L. 115–244, div. C, title I, §119, Sept. 21, 2018, 132 Stat. 2952.

Pub. L. 115–141, div. J, title I, §119, Mar. 23, 2018, 132 Stat. 802.

Pub. L. 114–223, div. A, title I, §119, Sept. 29, 2016, 130 Stat. 864.

Pub. L. 114–113, div. J, title I, §119, Dec. 18, 2015, 129 Stat. 2681.

Pub. L. 113–235, div. I, title I, §121, Dec. 16, 2014, 128 Stat. 2550.

Pub. L. 113–76, div. J, title I, §121, Jan. 17, 2014, 128 Stat. 445.

Pub. L. 113–6, div. E, title I, §121, Mar. 26, 2013, 127 Stat. 391.

Pub. L. 112–74, div. H, title I, §121, Dec. 23, 2011, 125 Stat. 1144.

Pub. L. 111–117, div. E, title I, §123, Dec. 16, 2009, 123 Stat. 3295.

Pub. L. 110–329, div. E, title I, §123, Sept. 30, 2008, 122 Stat. 3700.

Pub. L. 110–161, div. I, title I, §123, Dec. 26, 2007, 121 Stat. 2261.

Pub. L. 109–114, title I, §124, Nov. 30, 2005, 119 Stat. 2380, as amended by Pub. L. 109–148, div. B, title V, §5013, Dec. 30, 2005, 119 Stat. 2815.

Pub. L. 108–324, div. A, §124, Oct. 13, 2004, 118 Stat. 1228.
Pub. L. 108–132, §125, Nov. 22, 2003, 117 Stat. 1382.
Pub. L. 107–249, §127, Oct. 23, 2002, 116 Stat. 1586.
Pub. L. 107–64, §127, Nov. 5, 2001, 115 Stat. 482.
Pub. L. 106–246, div. A, §127, July 13, 2000, 114 Stat. 518.
Pub. L. 106–52, §128, Aug. 17, 1999, 113 Stat. 267.

**PILOT PROGRAM FOR MILITARY FAMILY HOUSING**

Pub. L. 100–180, div. B, subdiv. 3, title II, §2321, Dec. 4, 1987, 101 Stat. 1218, required Secretary of Defense, using $1,000,000 of funds appropriated pursuant to authorization in subsection (a)(10)(B) of section 2145 of Pub. L. 100–180, to establish and carry out, during fiscal years 1988, 1989, and 1990, a pilot program for purpose of assisting units of general local government to increase amount of affordable family housing available to military personnel; required Secretary, establishing and carrying out such programs, to select at least five units of general local government severely impacted by presence of military bases and personnel; set forth criteria for selection of units of general local government, authority to make grants, cooperative agreements, etc., and uses of available funds; and required Secretary to report to Committees on Armed Services of Senate and House no later than Mar. 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

**MILITARY HOUSING RENTAL GUARANTEE PROGRAM**

Pub. L. 98–115, title VIII, §802, Oct. 11, 1983, 97 Stat. 783, as amended by Pub. L. 98–407, title VIII, §806(b), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 99–167, title VIII, §801(a), Dec. 3, 1985, 99 Stat. 985; Pub. L. 99–661, div. B, title VII, §2713(a), Nov. 14, 1986, 100 Stat. 4042; Pub. L. 100–180, div. B, subdiv. 3, title I, §2307, Dec. 4, 1987, 101 Stat. 1216; Pub. L. 101–189, div. B, title XXVIII, §2801, Nov. 29, 1989, 103 Stat. 1646; Pub. L. 101–510, div. B, title XXVIII, §2811, Nov. 5, 1990, 104 Stat. 1788, provided for agreements and contracts relating to military housing rental guarantee program, prior to repeal by Pub. L. 102–190, div. B, title XXVIII, §2809(b), (c), Dec. 5, 1991, 105 Stat. 1543, such repeal not to affect the validity of any contract entered into before Dec. 5, 1991, under section 802 of Pub. L. 98–115 as in effect on Dec. 4, 1991. See section 2836 of this title.

**FAMILY HOUSING CONSTRUCTED OVERSEAS**

Pub. L. 98–115, title VIII, §803, Oct. 11, 1983, 97 Stat. 784, as amended by Pub. L. 98–407, title VIII, §812, Aug. 28, 1984, 98 Stat. 1524; Pub. L. 101–510, div. A, title XIII, §1302(f), Nov. 5, 1990, 104 Stat. 1669, provided that any contract entered into for the construction of military family housing for the Department of Defense in a foreign country was to require the use of housing fabricated in the United States by a United States contractor or, in the case of concrete housing, the use of housing produced in a plant that was fabricated in the United States by a United States company, and for which the materials, fixtures, and equipment used in the construction (other than cement, sand, and aggregates) were manufactured in the United States, prior to repeal by Pub. L. 107–314, div. B, title XXVIII, §2804, Dec. 2, 2002, 116 Stat. 2705.

**DEFINITIONS**

Pub. L. 116–92, div. B, title XXX, §3001(a), Dec. 20, 2019, 133 Stat. 1916, as amended by Pub. L. 118–159, div. B, title XXVIII, §2827, Dec. 23, 2024, 138 Stat. 2258, provided that: "In this title [see Tables for classification]:

"(1) The term 'landlord' means an eligible entity that enters into, or has entered into, a contract as a partner with the Secretary concerned for the acquisition or construction of a housing unit under subchapter IV of chapter 169 of title 10, United States Code. The term includes any agent of the eligible entity or any subsequent lessor who owns, manages, or is otherwise responsible for a housing unit. The term does not include an entity of the Federal Government.

"(2) The term 'privatized military housing' means military housing that is not Government-owned or Government-controlled that is provided under subchapter IV of chapter 169 of title 10, United States Code.

"(3) The term 'tenant' means a member of the armed forces, including a reserve component thereof in an active status, or a dependent of a member of the armed forces who resides at a housing unit, is a party to a lease for a housing unit, or is authorized to act on behalf of the member under subchapters IV and V of chapter 169 of title 10, United States Code, in the event of the assignment or deployment of a member."

## §2822. Requirement for authorization of number of family housing units

(a) Except as otherwise provided in subsection (b) or as otherwise authorized by law, the Secretary concerned may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law.

(b) Subsection (a) does not apply to the following:

(1) Housing units acquired under section 404 of the Housing Amendments of 1955 (42 U.S.C. 1594a).

(2) Housing units leased under section 2828 of this title.

(3) Housing units acquired under the Homeowners Assistance Program referred to in section 2832 of this title.

(4) Housing units acquired without consideration.

(5) Replacement housing units constructed under section 2825(c) of this title.

(6) Housing units constructed or provided under section 2869 of this title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 158; amended Pub. L. 98–525, title XIV, §1405(44), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 100–180, div. B, subdiv. 3, title I, §2308, Dec. 4, 1987, 101 Stat. 1216; Pub. L. 101–510, div. A, title XIII, §1301(17), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–25, title VII, §701(j)(9), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. B, title XXVIII, §2802(b), Oct. 23, 1992, 106 Stat. 2606; Pub. L. 108–136, div. B, title XXVIII, §2805(b), Nov. 24, 2003, 117 Stat. 1721.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2003**—Subsec. (b)(6). Pub. L. 108–136 added par. (6).

**1992**—Subsec. (b)(5). Pub. L. 102–484 added par. (5).

**1991**—Subsec. (b)(4). Pub. L. 102–25 realigned margin of par. (4).

**1990**—Subsec. (b)(4). Pub. L. 101–510 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Housing units acquired without consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 21 days elapses after the notification is received by those committees."

**1987**—Subsec. (b)(4). Pub. L. 100–180 added par. (4).

**1984**—Subsec. (b)(3). Pub. L. 98–525 substituted "section 2832" for "section 2833".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## [§2823. Repealed. Pub. L. 109–364, div. B, title XXVIII, §2803(a), Oct. 17, 2006, 120 Stat. 2467]

Section, added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 158; amended Pub. L. 105–85, div. A, title X, §1041(b), Nov. 18, 1997, 111 Stat. 1885, related to determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing.

## §2824. Authorization for acquisition of existing family housing in lieu of construction

(a) In lieu of constructing any family housing units authorized by law to be constructed, the Secretary concerned may acquire sole interest in existing family housing units that are privately owned or that are held by the Department of Housing and Urban Development, except that in foreign

countries the Secretary concerned may acquire less than sole interest in existing family housing units.

(b) When authority provided by law to construct military family housing units is used to acquire existing family housing units under subsection (a), the authority includes authority to acquire interests in land.

(c) The net floor area of a family housing unit acquired under the authority of this section may not exceed the applicable limitation specified in section 2826 of this title. The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on February 10, 1996.

(d) Family housing units may not be acquired under this section through the exercise of eminent domain authority.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 104–106, div. B, title XXVIII, §2813, Feb. 10, 1996, 110 Stat. 553; Pub. L. 104–201, div. A, title X, §1074(a)(17), Sept. 23, 1996, 110 Stat. 2659.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (c). Pub. L. 104–201 substituted "February 10, 1996" for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996".

Pub. L. 104–106 inserted at end "The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2825. Improvements to family housing units

(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

(2) In this section, the term "improvement" includes rehabilitation of a housing unit and major maintenance or repair work to be accomplished concurrently with an improvement project. Such term does not include day-to-day maintenance and repair work.

(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) $50,000 multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index.

(2) The Secretary concerned may waive the limitations contained in paragraph (1) if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective. If the Secretary concerned makes a determination under the preceding sentence with respect to an improvement, the waiver under that sentence with respect to that improvement may take effect only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium

pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.

(3) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of major maintenance or repair work undertaken in connection with the improvement.

(B) Any cost, other than the cost of activities undertaken beyond a distance of five feet from the unit or units concerned, in connection with—

(i) the furnishing of electricity, gas, water, and sewage disposal;

(ii) the construction or repair of roads, drives, and walks; and

(iii) grading and drainage work.

(4) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall not include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of the installation of communications, security, or antiterrorism equipment required by an occupant of the unit or units to perform duties assigned to the occupant as a member of the armed forces.

(B) The cost of the maintenance or repair of equipment described in subparagraph (A) installed for the purpose specified in such subparagraph.

(5) The limitation contained in paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that paragraph if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.

(c)(1) The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—

(A) the improvement of the existing housing units has been authorized by law; and

(B) the Secretary determines that the improvement project is no longer cost-effective after a review of post-design or bid cost estimates.

(2) The amount that may be expended to construct replacement military family housing units under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement project.

(d) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 99–661, div. B, title VII, §2702(c), Nov. 14, 1986, 100 Stat. 4040; Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. B, subdiv. 3, title I, §2305, Dec. 4, 1987, 101 Stat. 1215; Pub. L. 101–189, div. B, title XXVIII, §2804, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 101–510, div. B, title XXVIII, §2812, Nov. 5, 1990, 104 Stat. 1788; Pub. L. 102–484, div. B, title XXVIII, §2802(a), Oct. 23, 1992, 106 Stat. 2605; Pub. L. 103–337, div. B, title XXVIII, §2802, Oct. 5, 1994, 108 Stat. 3050; Pub. L. 104–106, div. A, title XV, §1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 104–201, div. B, title XXVIII, §2803, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106–398, §1 [div. B, title XXVIII, §2802], Oct. 30, 2000, 114 Stat. 1654, 1654A–413; Pub. L. 108–136, div. A, title X, §1031(a)(41), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 112–81, div. A, title X, §1061(24), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 115–91, div. B, title XXVIII, §2801(b)(1), Dec. 12, 2017, 131 Stat. 1842.)

## EDITORIAL NOTES

## AMENDMENTS

**2017**—Subsec. (b)(1), (2). Pub. L. 115–91, §2801(b)(1)(C), redesignated second and third sentences of par. (1) as par. (2) and, in par. (2), substituted "contained in paragraph (1)" for "contained in the preceding sentence" and "the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective." for "the Secretary transmits a notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective, to the appropriate committees of Congress and a period of 21 days has elapsed after the date on which the notification is received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title." Former par. (2) redesignated (3).

Subsec. (b)(3), (4). Pub. L. 115–91, §2801(b)(1)(A), redesignated pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 115–91, §2801(b)(1)(A), (B), redesignated par. (4) as (5), struck out "the first sentence of" before "paragraph (1)", and substituted "in that paragraph" for "in that sentence".

**2011**—Subsec. (c)(1). Pub. L. 112–81 inserted "and" at end of subpar. (A), substituted period for semicolon at end of subpar. (B), and struck out subpars. (C) and (D), which read as follows:

"(C) the Secretary submits to the committees referred to in subsection (b)(1) a notice containing—

"(i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the armed forces in the same pay grade or grades as those members who occupy the existing housing units; and

"(ii) if the replacement housing units are intended for members of the armed forces in a different pay grade or grades, a justification of the need for the replacement housing units based upon the long-term requirements of the armed forces in the location concerned; and

"(D) a period of 21 days elapses after the date on which the Secretary submits the notice required by subparagraph (C) or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title."

**2003**—Subsec. (b)(1). Pub. L. 108–136, §1031(a)(41)(A), struck out "(i)" before "such Secretary determines" and substituted period and last sentence for ", and (ii) a period of 21 days elapses after the date on which the appropriate committees of Congress receive a notice from such Secretary of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.".

Subsec. (c)(1)(D). Pub. L. 108–136, §1031(a)(41)(B), inserted before period at end "or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title".

**2000**—Subsec. (b)(3), (4). Pub. L. 106–398 added par. (3) and redesignated former par. (3) as (4).

**1996**—Subsec. (a)(2). Pub. L. 104–201, §2803(a), inserted "major" before "maintenance or repair" and "Such term does not include day-to-day maintenance and repair work." at end.

Subsec. (b)(1). Pub. L. 104–106 substituted "appropriate committees of Congress" for "Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives".

Subsec. (b)(2). Pub. L. 104–201, §2803(b), added par. (2) and struck out former par. (2) which read as follows: "In determining the applicability of the limitation contained in paragraph (1), there shall be included as part of the cost of the improvement the cost of repairs undertaken in connection with the improvement and any cost in connection with (A) the furnishing of electricity, gas, water and sewage disposal, (B) the construction or repair of roads and walks, and (C) grading and drainage work."

**1994**—Subsec. (b)(3). Pub. L. 103–337 added par. (3).

**1992**—Subsecs. (c), (d). Pub. L. 102–484 added subsec. (c) and redesignated former subsec. (c) as (d).

**1990**—Subsec. (b)(1). Pub. L. 101–510 substituted "$50,000" for "$40,000" in cl. (A) and inserted at end sentence authorizing Secretary concerned to waive limitations contained in preceding sentence.

**1989**—Subsec. (b)(1). Pub. L. 101–189 inserted "(A)" after "will exceed" and added cl. (B).

**1987**—Subsec. (a)(2). Pub. L. 100–26 inserted "the term" after "In this section,".

Subsec. (b)(1). Pub. L. 100–180 substituted "$40,000" for "$30,000".

**1986**—Subsec. (b)(1). Pub. L. 99–661 substituted "$30,000" for "an amount specified by law for such purpose".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

**PROVISION OF ADEQUATE STORAGE SPACE TO SECURE PERSONAL PROPERTY OUTSIDE OF ASSIGNED MILITARY FAMILY HOUSING UNIT**

Pub. L. 109–364, div. A, title III, §362, Oct. 17, 2006, 120 Stat. 2167, as amended by Pub. L. 114–328, div. A, title VI, §618(d), Dec. 23, 2016, 130 Stat. 2160, provided that: "The Secretary of a military department shall ensure that a member of the Armed Forces under the jurisdiction of the Secretary who occupies a unit of military family housing is provided with adequate storage space to secure personal property that the member is unable to secure within the unit whenever—

"(1) the member is assigned to duty in an area for which special pay under section 310, or paragraph (1) or (3) of section 351(a), of title 37, United States Code, is available and the assignment is pursuant to orders specifying an assignment of 180 days or more; and

"(2) the dependents of the member who otherwise occupy the unit of military family housing are absent from the unit for more than 30 consecutive days during the period of the assignment of the member."

**INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW**

Maximum amount of $30,000 per unit for an improvement project for family housing units under this section during the period beginning Oct. 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(3) of Pub. L. 97–214, set out as a note under section 2828 of this title.

## §2826. Military family housing: local comparability of room patterns and floor areas

(a) LOCAL COMPARABILITY.—In the construction, acquisition, and improvement of military family housing, the Secretary concerned shall ensure that the room patterns and floor areas of military family housing in a particular locality (as designated by the Secretary concerned for purposes of this section) are similar to room patterns and floor areas of similar housing in the private sector in that locality.

(b) REQUESTS FOR AUTHORITY FOR MILITARY FAMILY HOUSING.—(1) In submitting to Congress a request for authority to carry out the construction, acquisition, or improvement of military family housing, the Secretary concerned shall include in the request information on the net floor area of each unit of military family housing to be constructed, acquired, or improved under the authority.

(2) In this subsection, the term "net floor area", in the case of a military family housing unit, means the total number of square feet of the floor space inside the exterior walls of the unit, excluding the floor area of an unfinished basement, an unfinished attic, a utility space, a garage, a carport, an open or insect-screened porch, a stairwell, and any space used for a solar-energy system.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 102–190, div. B, title XXVIII, §2808, Dec. 5, 1991, 105 Stat. 1540; Pub. L. 104–106, div. B, title XXVIII, §§2814, 2815, Feb. 10, 1996, 110 Stat. 553; Pub. L. 104–201, div. A, title X, §1074(a)(17), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 106–398, §1 [div. B, title XXVIII, §2803(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (i) which limited the net floor area allowed in the construction, acquisition, and improvement of military family housing units.

**1996**—Subsec. (e). Pub. L. 104–106, §2814, struck out at end "The authority provided by this subsection shall expire on September 30, 1994."

Subsec. (i). Pub. L. 104–106, §2815, added subsec. (i).

Subsec. (i)(1). Pub. L. 104–201 substituted "February 10, 1996" for "the date of the enactment of the

National Defense Authorization Act for Fiscal Year 1996".

**1991**—Subsecs. (d) to (h). Pub. L. 102–190 added subsecs. (d) and (e) and redesignated former subsecs. (d) to (f) as (f) to (h), respectively.

**1987**—Subsec. (f). Pub. L. 100–26 inserted "the term" after "In this section,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [div. B, title XXVIII, §2803(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413, provided that:

"(1) The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2001, but the Secretary of Defense shall anticipate the requirements of section 2826 of title 10, United States Code, as added by such subsection, when preparing the budget request for new construction, acquisition, or improvement of military family housing for fiscal year 2002.

"(2) Section 2826 of title 10, United States Code, as in effect on September 30, 2001, shall continue to apply with respect to the construction, acquisition, or improvement of military family housing commenced on or before that date."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2827. Relocation of military family housing units

(a) RELOCATION AUTHORITY.—Subject to subsection (b), the Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a housing shortage.

(b) NOTICE AND WAIT REQUIREMENTS.—A contract to carry out a relocation of military family housing units under subsection (a) may be awarded only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 160; amended Pub. L. 108–136, div. A, title X, §1031(a)(42), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 115–91, div. B, title XXVIII, §2801(b)(2), Dec. 12, 2017, 131 Stat. 1842.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91, §2801(b)(2)(A), inserted heading.

Subsec. (b). Pub. L. 115–91, §2801(b)(2)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: "A contract to carry out a relocation of military family housing units under subsection (a) may not be awarded until (1) the Secretary concerned has notified the appropriate committees of Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title."

**2003**—Subsec. (b)(2). Pub. L. 108–136 inserted before period at end "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

**CONVEYANCE TO INDIAN TRIBES OF RELOCATABLE MILITARY HOUSING UNITS AT MILITARY INSTALLATIONS IN THE UNITED STATES**

Pub. L. 114–92, div. B, title XXVIII, §2805, Nov. 25, 2015, 129 Stat. 1171, provided that:

"(a) DEFINITIONS.—In this section:

"(1) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of Walking Shield, Inc.

"(2) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe included on the list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1) [now 25 U.S.C. 5131].

"(b) REQUESTS FOR CONVEYANCE.—

"(1) IN GENERAL.—The Executive Director may submit to the Secretary of the military department concerned, on behalf of any Indian tribe, a request for conveyance of any relocatable military housing unit located at a military installation in the United States.

"(2) CONFLICTS.—The Executive Director shall resolve any conflict among requests of Indian tribes for housing units described in paragraph (1) before submitting a request to the Secretary of the military department concerned under this subsection.

"(c) CONVEYANCE BY A SECRETARY.—Notwithstanding any other provision of law, on receipt of a request under subsection (b)(1), the Secretary of the military department concerned may convey to the Indian tribe that is the subject of the request, at no cost to such military department and without consideration, any relocatable military housing unit described in subsection (b)(1) that, as determined by such Secretary, is in excess of the needs of the military."

## §2828. Leasing of military family housing

(a)(1) Subject to paragraph (2), the Secretary of the military department concerned may lease housing facilities at or near a military installation in the United States, Puerto Rico, or Guam for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with fair market rental charge, as family housing to civilian employees of the Department of Defense stationed at such installation.

(2) A lease may only be made under paragraph (1) if the Secretary concerned finds that there is a shortage of adequate housing at or near such military installation and that—

(A) the requirement for such housing is temporary;

(B) leasing would be more cost effective than construction or acquisition of new housing;

(C) family housing is required for personnel attending service school academic courses on permanent change of station orders;

(D) construction of family housing at such installation has been authorized by law but is not yet completed; or

(E) a military construction authorization bill pending in Congress includes a request for authorization of construction of family housing at such installation.

(b)(1) Not more than 10,000 family housing units may be leased at any one time under subsection (a).

(2) Except as provided in paragraphs (3), (4), and (7), expenditures for the rental of housing units under subsection (a) (including the cost of utilities, maintenance, and operation) may not exceed $12,000 per unit per year, as adjusted from time to time under paragraph (5).

(3) Not more than 500 housing units may be leased under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed $14,000 per unit per year, as adjusted from time to time under paragraph (5).

(4)(A) The Secretary of the Army may lease not more than eight housing units in the vicinity of Miami, Florida, for key and essential personnel, as designated by the Secretary, for the United States

Southern Command for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation, including security enhancements) exceeds the expenditure limitations in paragraphs (2) and (3).

(B) The amount of all leases under this paragraph may not exceed $280,000 per year, as adjusted from time to time under paragraph (6).

(C) The term of any lease under this paragraph may not exceed 5 years.

(D) Until September 30, 2008, the Secretary of the Army may authorize family members of a member of the armed forces on active duty who is assigned to a family-member-restricted area and who, before such assignment, was occupying a housing unit leased under this paragraph, to remain in the leased housing unit until the member completes the assignment. Costs incurred for the leased housing unit during the assignment shall be included in the costs subject to the limitation under subparagraph (B).

(5) At the beginning of each fiscal year, the Secretary concerned shall adjust the maximum lease amount provided for leases under paragraphs (2), (3), and (7) for the previous fiscal year by the percentage (if any) by which the national average monthly cost of housing (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the national average monthly cost of housing (as so calculated) for the fiscal year before such preceding fiscal year.

(6) At the beginning of each fiscal year, the Secretary of the Army shall adjust the maximum aggregate amount for leases under paragraph (4) for the previous fiscal year by the percentage (if any) by which the annual average cost of housing for the Miami Military Housing Area (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the annual average cost of housing for the Miami Military Housing Area (as so calculated) for the fiscal year before such preceding fiscal year.

(7)(A) Not more than 600 housing units may be leased by the Secretary of the Army under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed $35,000 per unit per year, as adjusted from time to time under paragraph (5).

(B) The maximum lease amount provided in subparagraph (A) shall apply only to Army family housing in areas designated by the Secretary of the Army.

(C) The term of a lease under subparagraph (A) may not exceed 2 years.

(c) The Secretary concerned may lease housing facilities in foreign countries for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with or without rental charge, as family housing to civilian employees of the Department of Defense—

(1) under circumstances specified in clause (A), (B), (D), or (E) of subsection (a)(2);

(2) for incumbents of special command positions (as determined by the Secretary of Defense);

(3) in countries where excessive costs of housing or other lease terms would cause undue hardship on Department of Defense personnel; and

(4) in countries that prohibit leases by individual military or civilian personnel of the United States.

(d)(1) Leases of housing units in foreign countries under subsection (c) for assignment as family housing may be for any period not in excess of 10 years, or 15 years in the case of leases in Korea, and the costs of such leases for any year may be paid out of annual appropriations for that year.

(2) The Secretary may enter into an agreement under this paragraph in connection with a lease entered into under subsection (c). Such an agreement—

(A) shall be for the purpose of compensating a developer for any costs resulting from the termination of the lease during the construction of the housing units that are to be occupied pursuant to the lease;

(B) may be for a period not in excess of three years; and

(C) shall include a provision that the obligation of the United States to make payments under the agreement in any fiscal year is subject to the availability of appropriations.

(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per year, except that 450 units may be leased in foreign countries for not more than $25,000 per unit per year. These maximum lease amounts may be waived by the Secretary concerned with respect to not more than a total of 350 such units that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy, subject to that maximum lease amount.

(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 1,175 units of family housing in Korea subject to that maximum lease amount.

(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 2,800 units of family housing in Korea subject to a maximum lease amount of $35,000 per unit per year.

(5) The Secretary concerned shall adjust the maximum lease amounts provided for under paragraphs (1), (2), (3), and (4) for the previous fiscal year—

(A) for foreign currency fluctuations from October 1, 1987; and

(B) at the beginning of each fiscal year, by the percentage (if any) by which the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, during the preceding fiscal year exceeds such Consumer Price Index for the fiscal year before such preceding fiscal year.

(6) The maximum number of family housing units that may be leased in foreign countries under this section at any one time is 55,775.

(f) A lease for family housing facilities, or for real property related to family housing facilities, in a foreign country for which the average estimated annual rental during the term of the lease exceeds $1,000,000 may be made under this section only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the facts concerning the proposed lease.

(g) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 161; amended Pub. L. 97–321, title VIII, §805(b)(2), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 98–115, title VIII, §801, Oct. 11, 1983, 97 Stat. 782; Pub. L. 98–407, title VIII, §806(a), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 99–167, title VIII, §§801(b), 803, 805, Dec. 3, 1985, 99 Stat. 985, 987, 988; Pub. L. 99–661, div. B, title VII, §§2702(d)–(g), 2713(b), 2714, Nov. 14, 1986, 100 Stat. 4040–4042; Pub. L. 100–26, §7(j)(8), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–180, div. B, subdiv. 3, title I, §§2306(a), 2309, 2311, Dec. 4, 1987, 101 Stat. 1216, 1217; Pub. L. 100–370, §1(l)(2), July 19, 1988, 102 Stat. 849; Pub. L. 100–456, div. B, title XXVIII, §2802, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 101–189, div. B, title XXVIII, §§2802, 2805, Nov. 29, 1989, 103 Stat. 1646, 1647; Pub. L. 102–190, div. B, title XXVIII, §2806(b), Dec. 5, 1991, 105 Stat. 1540; Pub. L. 103–35, title II, §201(d)(7), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. B, title XXVIII, §2801, Nov. 30, 1993, 107 Stat. 1883; Pub. L. 104–106, div. B, title XXVIII, §2816, Feb. 10, 1996, 110 Stat. 553; Pub. L. 105–85, div. B, title XXVIII, §2803, Nov. 18, 1997, 111 Stat. 1990; Pub. L. 105–261, div. B, title XXVIII, §2802, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 106–398, §1 [div. B, title XXVIII, §2804], Oct. 30, 2000, 114 Stat. 1654, 1654A–414; Pub. L. 107–314, div. A, title X, §1062(a)(15), div. B, title XXVIII, §2801, Dec. 2, 2002, 116 Stat. 2650, 2702; Pub. L. 108–136, div. B, title XXVIII, §§2803, 2804(a), Nov. 24, 2003, 117 Stat. 1719; Pub. L. 109–163, div. B, title XXVIII, §2802, Jan. 6, 2006, 119 Stat. 3505; Pub. L. 109–364, div. B, title XXVIII, §2804, Oct. 17, 2006, 120 Stat. 2467; Pub. L. 110–181, div. B, title

XXVIII, §2806(a)–(c), Jan. 28, 2008, 122 Stat. 540, 541; Pub. L. 110–417, div. B, title XXVIII, §2802, Oct. 14, 2008, 122 Stat. 4719; Pub. L. 111–383, div. B, title XXVIII, §2803(d), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, §2801(b)(3), Dec. 12, 2017, 131 Stat. 1842.)

## HISTORICAL AND REVISION NOTES

### 1988 ACT

Subsection (h) of this section and section 2673 of this title are based on Pub. L. 98–212, title VII, §707, Dec. 8, 1983, 97 Stat. 1438.

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (f). Pub. L. 115–91 substituted "may be made under this section only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the facts concerning the proposed lease." for "may not be made under this section until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed lease, and (2) a period of 21 days elapses after the notification is received by those committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title."

**2011**—Subsec. (f)(2). Pub. L. 111–383 inserted before period at end "or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**2008**—Subsec. (b)(2). Pub. L. 110–181, §2806(a)(1), substituted "paragraphs (3), (4), and (7)" for "paragraphs (3) and (4)".

Subsec. (b)(5). Pub. L. 110–181, §2806(a)(2), substituted "paragraphs (2), (3), and (7)" for "paragraphs (2) and (3)".

Subsec. (b)(7). Pub. L. 110–181, §2806(a)(3), added par. (7).

Subsec. (b)(7)(A). Pub. L. 110–417 substituted "$35,000 per unit" for "$18,620 per unit".

Subsec. (e)(2). Pub. L. 110–181, §2806(b), substituted "the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy" for "the Secretary of the Navy may lease not more than 2,800 units of family housing in Italy, and the Secretary of the Army may lease not more than 500 units of family housing in Italy".

Subsec. (f). Pub. L. 110–181, §2806(c), substituted "$1,000,000" for "$500,000".

**2006**—Subsec. (b)(4)(D). Pub. L. 109–364 added subpar. (D).

Subsec. (e)(4). Pub. L. 109–163 substituted "2,800" for "2,400".

**2003**—Subsec. (d)(1). Pub. L. 108–136, §2804(a), substituted "10 years, or 15 years in the case of leases in Korea," for "ten years,".

Subsec. (e)(2). Pub. L. 108–136, §2803, substituted "2,800" for "2,000".

**2002**—Subsec. (b)(2). Pub. L. 107–314, §1062(a)(15), inserted "time" after "from time to".

Subsec. (e)(3). Pub. L. 107–314, §2801(a), substituted "1,175 units" for "800 units".

Subsec. (e)(4). Pub. L. 107–314, §2801(b)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 107–314, §2801(b)(1), (3), redesignated par. (4) as (5) and substituted "(3), and (4)" for "and (3)" in introductory provisions. Former par. (5) redesignated (6).

Subsec. (e)(6). Pub. L. 107–314, §2801(b)(1), (4), redesignated par. (5) as (6) and substituted "55,775" for "53,000".

**2000**—Subsec. (b)(2). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(c)(1)], inserted ", as adjusted from time to under paragraph (5)" after "per year".

Subsec. (b)(3). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(c)(2)], substituted "the maximum amount per unit per year in effect under paragraph (2) but does not exceed $14,000 per unit per year, as adjusted from time to time under paragraph (5)" for "$12,000 per unit per year but does not exceed $14,000 per unit per year".

Subsec. (b)(4). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(a)], designated existing provisions as subpar. (A), struck out last sentence which read as follows: "The total amount for all leases under this paragraph may not exceed $280,000 per year, and no lease on any individual housing unit may exceed $60,000 per year.", and added subpars. (B) and (C).

Subsec. (b)(5), (6). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(b)], added pars. (5) and (6) and struck

out former par. (5) which read as follows: "At the beginning of each fiscal year, the Secretary concerned shall adjust the maximum lease amount provided for under paragraphs (2), (3), and (4) for the previous fiscal year by the percentage (if any) by which the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, during the preceding fiscal year exceeds such Consumer Price Index for the fiscal year before such preceding fiscal year."

**1998**—Subsec. (e)(2). Pub. L. 105–261, §2802(a)(1), inserted ", and the Secretary of the Army may lease not more than 500 units of family housing in Italy," after "family housing in Italy".

Subsec. (e)(3). Pub. L. 105–261, §2802(a)(3), added par. (3). Former par. (3) redesignated (4).

Subsec. (e)(4). Pub. L. 105–261, §2802(b), substituted ", (2), and (3)" for "and (2)".

Pub. L. 105–261, §2802(a)(2), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 105–261, §2802(a)(2), redesignated par. (4) as (5).

**1997**—Subsec. (b)(2). Pub. L. 105–85, §2803(a)(1), substituted "paragraphs (3) and (4)" for "paragraph (3)".

Subsec. (b)(4). Pub. L. 105–85, §2803(a)(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 105–85, §2803(b), substituted "paragraphs (2), (3), and (4)" for "paragraphs (2) and (3)".

Pub. L. 105–85, §2803(a)(2), redesignated par. (4) as (5).

**1996**—Subsec. (e)(1). Pub. L. 104–106, §2816(1), substituted "450 units" for "300 units" in first sentence and "350 such units" for "220 such units" in second sentence.

Subsec. (e)(2). Pub. L. 104–106, §2816(2), substituted "450 units" for "300 units".

**1993**—Subsec. (b)(2), (3). Pub. L. 103–35 substituted "per year" for "per annum" in par. (2) and in two places in par. (3).

Subsec. (b)(4). Pub. L. 103–160, §2801(a), added par. (4).

Subsec. (e)(1). Pub. L. 103–160, §2801(b)(1), (2), substituted ", except that 300 units may be leased in foreign countries for not more than $25,000 per unit per year" for "as adjusted for foreign currency fluctuation from October 1, 1987" in first sentence and "These maximum lease amounts" for "That maximum lease amount" in second sentence.

Pub. L. 103–35 substituted "per year" for "per annum".

Subsec. (e)(2) to (4). Pub. L. 103–160, §2801(b)(3), (4), added pars. (2) and (3) and redesignated former par. (2) as (4).

**1991**—Subsecs. (g), (h). Pub. L. 102–190 redesignated subsec. (h) as (g) and struck out former subsec. (g) which authorized contracts for lease of family housing units on or near military installations at which there is a validated deficit in family housing. See section 2835 of this title.

**1989**—Subsec. (b)(2). Pub. L. 101–189, §2802(1), substituted "$12,000" for "$10,000".

Subsec. (b)(3). Pub. L. 101–189, §2802(2), substituted "Not" for "(A) Except as provided in subparagraph (B), not", "$12,000" for "$10,000", and "$14,000" for "$12,000" and struck out subpar. (B) which read as follows: "During fiscal years 1986 and 1987, the number of housing units that may be leased pursuant to the provisions of subparagraph (A) may be increased by 500 units for each such fiscal year. The Secretary concerned shall provide written notification to the Committees on Armed Services of the Senate and House of Representatives concerning the location, purpose, and cost of the additional units permitted by this subparagraph. Such notification shall be made periodically as the leases are entered into."

Subsec. (e)(1). Pub. L. 101–189, §2802(3), inserted "as adjusted for foreign currency fluctuation from October 1, 1987" after "$20,000 per unit per annum".

Subsec. (e)(2). Pub. L. 101–189, §2802(4), substituted "53,000" for "38,000".

Subsec. (g)(7). Pub. L. 101–189, §2805(1), added par. (7) and struck out former par. (7) which provided that this subsection could only be implemented by a pilot program, and that in carrying out such program, the Secretary of each military department or the Secretary of Transportation with respect to the Coast Guard, could not enter into more than two contracts under this subsection, and any such contract could not be for more than 300 family housing units.

Subsec. (g)(8). Pub. L. 101–189, §2805, redesignated par. (9) as (8), substituted "1991" for "1989", and struck out former par. (8) which authorized the Secretaries of the military departments and the Secretary of Transportation to enter into contracts for family housing units in addition to those authorized in par. (7).

Subsec. (g)(9), (10). Pub. L. 101–189, §2805(2), redesignated par. (10) as (9). Former par. (9) redesignated (8).

**1988**—Subsec. (e)(2). Pub. L. 100–456 substituted "38,000" for "36,000".

Subsec. (h). Pub. L. 100–370 added subsec. (h).

**1987**—Subsec. (a)(1). Pub. L. 100–26 substituted "armed forces" for "Armed Forces".

Subsec. (b)(2). Pub. L. 100–180, §2309(b)(1), inserted "per unit per annum" after "$10,000".

Subsec. (b)(3)(A). Pub. L. 100–180, §2309(b)(2), substituted "$10,000 per unit per annum but does not exceed $12,000 per unit per annum" for "$10,000 but does not exceed $12,000".

Subsec. (c). Pub. L. 100–26 substituted "armed forces" for "Armed Forces".

Subsec. (e)(1). Pub. L. 100–180, §2309(a)(1), substituted "$20,000 per unit per annum" for "$16,800".

Subsec. (e)(2). Pub. L. 100–180, §2309(a)(2), substituted "36,000" for "32,000".

Subsec. (f). Pub. L. 100–180, §2311, substituted "$500,000" for "$250,000".

Subsec. (g)(1). Pub. L. 100–180, §2306(a)(1), inserted ", or the Secretary of Transportation with respect to the Coast Guard," after "military department" and "or rehabilitated to residential use" after "constructed".

Subsec. (g)(7)(A). Pub. L. 100–180, §2306(a)(2), inserted ", or the Secretary of Transportation with respect to the Coast Guard," after "military department".

Subsec. (g)(8)(C). Pub. L. 100–180, §2306(a)(3), added subpar. (C).

Subsec. (g)(9). Pub. L. 100–180, §2306(a)(4), substituted "1989" for "1988".

**1986**—Subsec. (b)(2). Pub. L. 99–661, §2702(d)(1), substituted "$10,000" for "the amount specified by law as the maximum annual domestic family housing unit lease amount".

Subsec. (b)(3)(A). Pub. L. 99–661, §2702(d)(2), substituted "$10,000 but does not exceed $12,000" for "the maximum annual domestic family housing unit lease amount but does not exceed 120 percent of that amount".

Subsec. (e)(1). Pub. L. 99–661, §2714, substituted "220" for "200".

Pub. L. 99–661, §2702(e), substituted "$16,800" for "the amount specified by law as the maximum annual foreign family housing unit lease amount".

Subsec. (e)(2). Pub. L. 99–661, §2702(f), substituted "is 32,000" for "shall be specified by law".

Subsec. (f). Pub. L. 99–661, §2702(g), substituted "$250,000" for "the amount specified by law for such purpose".

Subsec. (g)(8)(B). Pub. L. 99–661, §2713(b)(1), substituted "1,600" for "600".

Subsec. (g)(9). Pub. L. 99–661, §2713(b)(2), substituted "September 30, 1988" for "September 30, 1986".

Subsec. (g)(10). Pub. L. 99–661, §2713(b)(3), added par. (10).

**1985**—Subsec. (b)(3). Pub. L. 99–167, §805, designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), not" for "Not", and added subpar. (B).

Subsec. (d). Pub. L. 99–167, §803, designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(8). Pub. L. 99–167, §801(b)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (g)(9). Pub. L. 99–167, §801(b)(1), substituted "September 30, 1986" for "October 1, 1985".

**1984**—Subsec. (g)(8), (9). Pub. L. 98–407 added par. (8) and redesignated former par. (8) as (9).

**1983**—Subsec. (g). Pub. L. 98–115 added subsec. (g).

**1982**—Subsec. (e)(1). Pub. L. 97–321 inserted "the" after "may be waived by" in second sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. B, title XXVIII, §2806(c), Dec. 5, 1991, 105 Stat. 1540, provided that: "Section 2835 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b)(1) [amending this section] shall not affect the validity of any contract entered into before that date under section 2828(g) of such title, as in effect on the day before that date."

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 2702 of Pub. L. 100–456, set out as a note under section 2391 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VIII, §806(c), Aug. 28, 1984, 98 Stat. 1521, provided that: "The amendments made by this section [amending this section and provisions set out as a note under section 2821 of this title] shall take effect on October 1, 1984."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2829. Multi-year contracts for supplies and services

The Secretary concerned may make contracts for periods of up to four years for supplies and services for the management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year out of annual appropriations for that year.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 162.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## [§2830. Repealed. Pub. L. 116–283, div. B, title XXVIII, §2812(a), Jan. 1, 2021, 134 Stat. 4326]

Section, added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 162; amended Pub. L. 99–348, title III, §304(a)(4), July 1, 1986, 100 Stat. 703; Pub. L. 100–180, div. A, title VI, §632(a), Dec. 4, 1987, 101 Stat. 1105; Pub. L. 105–85, div. A, title VI, §603(d)(2)(B), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314, related to occupancy of substandard family housing units.

## §2831. Military family housing management account

(a) ESTABLISHMENT.—There is on the books of the Treasury an account known as the Department of Defense Military Family Housing Management Account (hereinafter in this section referred to as the "account"). The account shall be used for the management and administration of funds appropriated or otherwise made available to the Department of Defense for military family housing programs.

(b) CREDITS TO ACCOUNT.—The account shall be administered as a single account. There shall be transferred into the account—

(1) appropriations made for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operation and maintenance, and disposal of military family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) [1] of the National Housing Act (12 U.S.C. 1715m(c));

(2) proceeds from the rental of family housing and mobile home facilities under the control of a military department, reimbursements from the occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the account; and

(3) proceeds of the handling and the disposal of family housing of a military department (including related land and improvements), whether carried out by a military department or any other Federal agency, but less those expenses payable pursuant to section 572(a) of title 40.

(c) AVAILABILITY OF AMOUNTS IN ACCOUNT.—Amounts in the account shall remain available until spent.

(d) USE OF ACCOUNT.—The Secretary concerned may make obligations against the account, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b).

(e) NOTICE AND WAIT REQUIREMENT.—The Secretary concerned may not carry out a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project will or may result in the total operation, maintenance, and

repair costs for the unit for the fiscal year to exceed $35,000, until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the maintenance or repair project, including an estimate of the cost of the project.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 162; amended Pub. L. 107–217, §3(b)(19), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–375, div. B, title XXVIII, §2802(a), (b), Oct. 28, 2004, 118 Stat. 2119, 2120; Pub. L. 109–364, div. A, title X, §1071(a)(26), div. B, title XXVIII, §2805, Oct. 17, 2006, 120 Stat. 2399, 2467; Pub. L. 115–91, div. A, title X, §1051(a)(21), div. B, title XXVIII, §2801(b)(4), Dec. 12, 2017, 131 Stat. 1561, 1843.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 222(c) of the National Housing Act (12 U.S.C. 1715m(c)), referred to in subsec. (b)(1), was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

### AMENDMENTS

**2017**—Subsec. (e). Pub. L. 115–91, §2801(b)(4), substituted "until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the maintenance or repair project, including an estimate of the cost of the project." for "until—

"(1) the Secretary concerned submits to the congressional defense committees, in writing, a justification of the need for the maintenance or repair project and an estimate of the cost of the project; and

"(2) a period of 21 days has expired following the date on which the justification and estimate are received by the committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and estimate are provided in an electronic medium pursuant to section 480 of this title."

Pub. L. 115–91, §1051(a)(21)(C), substituted "The Secretary" for "(1) Except as provided in paragraphs (2) and (3), the Secretary", redesignated subpars. (A) and (B) of par. (1) as pars. (1) and (2), respectively, and struck out former pars. (2) and (3) which read as follows:

"(2) The project justification and cost estimate required by paragraph (1)(A) may be submitted after the commencement of a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project is a necessary environmental remediation project for the unit or is necessary for occupant safety or security, and the need for the project arose after the submission of the most recent report under subsection (e).

"(3) Paragraph (1) shall not apply in the case of a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the unit was identified in the most recent report submitted under subsection (e) and the cost of the maintenance or repair project was included in the total of anticipated operation, maintenance, and repair costs for the unit specified in the report."

Pub. L. 115–91, §1051(a)(21)(A), (B), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required reports on general officers and flag officers quarters.

Subsec. (f). Pub. L. 115–91, §1051(a)(21)(B), redesignated subsec. (f) as (e).

**2006**—Subsecs. (a) to (d). Pub. L. 109–364, §2805(b)(1)–(4), inserted subsec. headings.

Subsec. (e). Pub. L. 109–364, §2805(b)(5), struck out "Cost of" before "General Officers" in heading.

Subsec. (e)(1)(B). Pub. L. 109–364, §2805(a)(2)(A), substituted "identified under subparagraph (A)" for "so identified".

Subsec. (e)(1)(C) to (E). Pub. L. 109–364, §2805(a)(1), (2)(B), (3), added subpars. (C) to (E).

Subsec. (f)(2). Pub. L. 109–364, §1071(a)(26), substituted "environmental" for "enviromental".

**2004**—Subsecs. (e), (f). Pub. L. 108–375 added subsecs. (e) and (f).

**2002**—Subsec. (b)(3). Pub. L. 107–217 substituted "section 572(a) of title 40" for "section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b))".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under

section 2801 of this title.

[1] *See References in Text note below.*

## §2832. Homeowners assistance program

The Secretary of Defense may exercise the authority provided in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 101–189, div. B, title XXVIII, §2831(a), Nov. 29, 1989, 103 Stat. 1660; Pub. L. 104–106, div. A, title XV, §1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 107–107, div. A, title X, §1048(e)(11), Dec. 28, 2001, 115 Stat. 1228.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Pub. L. 107–107 struck out "(a)" before "The Secretary of Defense" and struck out subsec. (b) which read as follows:

"(b)(1) Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

"(A) the Secretary of Defense may transfer not more than $31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

"(B) any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

"(2) Amounts may be transferred under paragraph (1) only after the date on which the appropriate committees of Congress receive from the Secretary written notice of, and justification for, the transfer."

**1996**—Subsec. (b)(2). Pub. L. 104–106 substituted "appropriate committees of Congress" for "Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives".

**1989**—Pub. L. 101–189 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. B, title XXVIII, §2831(b), Nov. 29, 1989, 103 Stat. 1660, provided that: "The amendments made by subsection (a) [amending this section] shall apply only to funds appropriated or transferred to, or otherwise deposited in, the Department of Defense Base Closure Account for, or during, fiscal years beginning after September 30, 1989."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2833. Family housing support

Amounts authorized by law for support of military family housing include amounts for—

(1) operating expenses;

(2) leasing expenses;

(3) maintenance of real property expenses;

(4) payments of principal and interest on mortgage debts incurred; and

(5) payments of mortgage insurance premiums authorized under section 222 [1] of the National

Housing Act (12 U.S.C. 1715m).

(Added Pub. L. 99–167, title VIII, §804(b)(1), Dec. 3, 1985, 99 Stat. 987.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 222 of the National Housing Act (12 U.S.C. 1715m), referred to in par. (5), was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

[1] *See References in Text note below.*

## §2834. Participation in Department of State housing pools

(a) The Secretary concerned may enter into an agreement with the Secretary of State under which the Secretary of State agrees to provide housing and related services for personnel under the jurisdiction of the Secretary concerned who are assigned to duty in a foreign country if the Secretary concerned determines—

(1) that there is a shortage of adequate housing in the area of the foreign country in which such personnel are assigned to duty; and

(2) that participation in the Department of State housing pool is the most cost-effective means of providing housing for such personnel.

The Secretary concerned shall reimburse the Secretary of State, as provided in the agreement, for housing and related services furnished personnel under the jurisdiction of the Secretary concerned.

(b) The maximum lease amounts specified in section 2828(e)(1) of this title for the rental of family housing in foreign countries shall not apply to housing made available to the Department of Defense under this section. To the extent that the lease amount for units of housing made available under this subsection exceeds such maximum lease amounts, such units shall not be counted in applying the limitation contained in such section on the number of units of family housing for which the Secretary concerned may waive such maximum lease amounts.

(Added Pub. L. 99–167, title VIII, §808(a), Dec. 3, 1985, 99 Stat. 989; amended Pub. L. 101–510, div. A, title XIII, §1301(18), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 103–160, div. B, title XXVIII, §2806, Nov. 30, 1993, 107 Stat. 1887.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1993**—Subsec. (b). Pub. L. 103–160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "In computing the number of leases for which the maximum lease amount may be waived by the Secretary concerned under the second sentence of section 2828(e)(1) of this title, housing made available to the Department of Defense under this section shall be included."

**1990**—Subsecs. (b), (c). Pub. L. 101–510 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Agreements entered into with the Secretary of State under this section may not be executed until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed agreement, and (2) a period of 21 days has elapsed after the day on which the notification is received by the committees."

## §2835. Long-term leasing of military family housing to be constructed

(a) BUILD AND LEASE AUTHORIZED.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for the lease of family housing units to

be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. Housing units leased under this section shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

(b) SUBMISSION AND AUTHORIZATION OF PROPOSED LEASE CONTRACTS.—(1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into a lease contract under subsection (a) for such military housing as is authorized by law for the purposes of this section.

(2) The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing projects for which lease contracts are proposed to be entered into under subsection (a) in such fiscal year.

(c) COMPETITIVE PROCESS.—Each contract under subsection (a) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 [1] of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a contract for the lease of military housing authorized in accordance with subsection (b)(1). Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

(d) CONDITIONS ON OBLIGATION OF FUNDS.—A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(4) A requirement that housing units constructed pursuant to the contract shall be constructed—

(A) to Department of Defense specifications, in the case of a Department of Defense contract; and

(B) to Department of Homeland Security specifications, in the case of a contract for the Coast Guard.

(e) LEASE TERM.—A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

(f) RIGHT OF FIRST REFUSAL TO ACQUIRE.—A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

(g) NOTICE AND WAIT REQUIREMENTS.—A contract may be entered into for the lease of housing facilities under this section only after the end of the 14-day period beginning on the date on which the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities.

(h) SUPPORT BUILDINGS.—A contract for the lease of family housing under this section may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.

(Added Pub. L. 102–190, div. B, title XXVIII, §2806(a)(1), Dec. 5, 1991, 105 Stat. 1539; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–383, div. B, title XXVIII, §2803(e), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112–239, div. A, title X, §1076(f)(35),

Jan. 2, 2013, 126 Stat. 1954; Pub. L. 115–91, div. B, title XXVIII, §2801(b)(5), Dec. 12, 2017, 131 Stat. 1843.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (c), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in subsec. (g) of section 2828 of this title, prior to repeal by Pub. L. 102–190, §2806(b)(1).

### AMENDMENTS

**2017**—Subsec. (g). Pub. L. 115–91 added subsec. (g) and struck out former subsec. (g) which set out written notice and wait requirements.

**2013**—Subsec. (a), (g)(1). Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "Coast Guard".

**2011**—Subsec. (g)(2). Pub. L. 111–383 struck out "calendar" after "21" and inserted before period at end "or, if earlier, a period of 14 days has elapsed from the date on which a copy of the analysis is provided in an electronic medium pursuant to section 480 of this title".

**2002**—Subsecs. (a) to (c), (d)(4)(B), (g)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section applicable with respect to contracts entered into under this section on or after Dec. 5, 1991, see section 2806(c) of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 2828 of this title.

[1] *See References in Text note below.*

## §2835a. Use of military family housing constructed under build and lease authority to house other members

(a) INDIVIDUAL ASSIGNMENT OF MEMBERS WITHOUT DEPENDENTS.—(1) To the extent that the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is not needed to house members of the armed forces eligible for assignment to military family housing, the Secretary may assign, without rental charge, members without dependents to the housing.

(2) A member without dependents who is assigned to housing pursuant to paragraph (1) shall be considered to be assigned to quarters pursuant to section 403(e) of title 37.

(b) CONVERSION TO LONG-TERM LEASING OF MILITARY UNACCOMPANIED HOUSING.—(1) If the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is excess to the long-term needs of the family housing program of the Secretary, the Secretary may convert the lease contract entered into under subsection (a) of such section into a long-term lease of military unaccompanied housing.

(2) The term of the lease contract for military unaccompanied housing converted from military family housing under paragraph (1) may not exceed the remaining term of the lease contract for the family housing so converted.

(c) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may not convert military family housing to military unaccompanied housing under subsection (b) until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion.

(d) APPLICATION TO HOUSING LEASED UNDER FORMER AUTHORITY.—This section also shall apply to housing initially acquired or constructed under the former section 2828(g) of this title (commonly known as the "Build to Lease program"), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat 782).

(Added Pub. L. 110–417, div. B, title XXVIII, §2803(a), Oct. 14, 2008, 122 Stat. 4719; amended Pub. L. 115–91, div. B, title XXVIII, §2801(b)(6), Dec. 12, 2017, 131 Stat. 1843; Pub. L. 116–92, div. A, title XVII, §1731(a)(56), Dec. 20, 2019, 133 Stat. 1815.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 2828(g) of this title (commonly known as the "Build to Lease program"), as added by section 801 of the Military Construction Authorization Act, 1984, referred to in subsec. (d), means the subsection (g) added to section 2828 of this title by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, §2806(b), Dec. 5, 1991, 105 Stat. 1540.

**AMENDMENTS**

**2019**—Subsec. (c). Pub. L. 116–92 struck out par. (1) designation before "The Secretary".

**2017**—Subsec. (c). Pub. L. 115–91 substituted "until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion." for "until—" and struck out subpars. (A) and (B) which required a notice of intent and a wait period and par. (2) which read as follows: "The notice required by paragraph (1) shall include—

"(A) an explanation of the reasons for the conversion of the military family housing to military unaccompanied housing;

"(B) a description of the long-term lease to be converted;

"(C) amounts to be paid under the lease; and

"(D) the expiration date of the lease."

## §2836. Military housing rental guarantee program

(a) AUTHORITY.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into an agreement to assure the occupancy of rental housing to be constructed or rehabilitated to residential use by a private developer or by a State or local housing authority on private land, on land owned by a State or local government, or on land owned by the United States, if the housing is to be located on or near a new military installation or an existing military installation that has a shortage of housing to meet the requirements of eligible members of the armed forces (with or without accompanying dependents). The authority provided under this subsection shall be exercised under uniform regulations prescribed by the Secretary of Defense.

(b) SUBMISSION AND AUTHORIZATION OF PROPOSED AGREEMENTS.—The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into agreements pursuant to subsection (a) for such military housing rental guaranty projects as are authorized by law.

(c) CONTENT OF AGREEMENT.—An agreement under subsection (a)—

(1) may not assure the occupancy of more than 97 percent of the units constructed under the

agreement;

(2) shall establish initial rental rates that are not more than rates for comparable rental dwelling units in the same general market area and may include an escalation clause;

(3) may apply to existing housing;

(4) shall require that the housing units be constructed—

(A) in the case of a Department of Defense agreement, to Department of Defense specifications or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes; and

(B) in the case of an agreement for the Coast Guard when it is not operating as a service in the Navy, to Department of Homeland Security specifications;

(5) may not be for a term in excess of 25 years;

(6) may not be renewed unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term;

(7) may not assure more than an amount equivalent to the shelter rent of the housing units, determined on the basis of amortizing initial construction costs;

(8) may only be entered into to the extent that there is a shortage in military family housing;

(9) may only be entered into if existing military-controlled housing at all installations in the commuting area (except for a new installation or an installation for which there is projected a significant increase in the number of families due to an increase in the number of authorized personnel) has exceeded 97 percent use for a period of not less than 18 consecutive months immediately preceding the date on which the agreement is entered into, excluding units temporarily inactivated for major repair or improvements;

(10) shall provide for priority of occupancy for military families;

(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;

(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing;

(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the Federal Government at no cost to the occupant to the same extent that these items are provided to occupants of housing owned by the Federal Government; and

(14) may require that rent collection and operation and maintenance services in connection with the housing be under the terms of a separate agreement or be carried out by personnel of the Federal Government.

(d) CONDITIONS ON OBLIGATION OF FUNDS.—An agreement entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the agreement in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the agreement when and to the extent that funds are appropriated for such project for such fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(e) COMPETITIVE PROCESS.—An agreement under subsection (a) shall be made through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 [1] of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals

for a guaranty agreement for each military housing rental guaranty project authorized in accordance with subsection (b).

(f) DISPUTES.—The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by chapter 71 of title 41.

(Added Pub. L. 102–190, div. B, title XXVIII, §2809(a)(1), Dec. 5, 1991, 105 Stat. 1541; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, §1031(a)(43), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111–350, §5(b)(48), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 112–81, div. A, title X, §1061(25), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 112–239, div. A, title X, §1076(f)(36), Jan. 2, 2013, 126 Stat. 1954.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (e), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

### PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 98–115, title VIII, §802, Oct. 11, 1983, 97 Stat. 783, as amended, which was set out as a note under section 2821 of this title, prior to repeal by Pub. L. 102–190, §2809(b).

### AMENDMENTS

**2013**—Subsecs. (a), (c)(4)(B), (11). Pub. L. 112–239 inserted "when it is not operating as a service in the Navy" after "Coast Guard".

**2011**—Subsec. (b). Pub. L. 112–81, §1061(25)(A), struck out par. (1) designation before "The Secretary of a military department" and struck out par. (2) which read as follows: "The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing rental guaranty projects for which agreements are proposed to be entered into under subsection (a) in that fiscal year."

Subsec. (f). Pub. L. 112–81, §1061(25)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "An agreement may not be entered into under subsection (a) until—

"(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

"(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title."

Subsec. (g). Pub. L. 112–81, §1061(25)(C), redesignated subsec. (g) as (f).

Pub. L. 111–350 substituted "chapter 71 of title 41" for "the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)".

**2003**—Subsec. (f)(2). Pub. L. 108–136 substituted "21 days" for "21 calendar days" and inserted before period at end "or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title".

**2002**—Subsecs. (a), (b), (c)(4)(B), (11), (e), (f)(1). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" wherever appearing.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Pub. L. 102–190, div. B, title XXVII, §2809(c), Dec. 5. 1991, 105 Stat. 1543, provided that: "Section 2836 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b) [repealing provisions set out as a note under section 2821 of this title] shall not affect the validity of any contract entered into before that date under section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), as in effect on the day before that date."

[1] *See References in Text note below.*

## §2837. Housing Requirements and Market Analysis

(a) IN GENERAL.—Not less frequently than once every five years and in accordance with the requirements of this section, the Secretary concerned shall conduct a Housing Requirements and Market Analysis (in this section referred to as an "HRMA") for each military installation under the jurisdiction of the Secretary concerned that is located in the United States.

(b) PRIORITIZATION OF INSTALLATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary concerned shall prioritize the conduct of HRMAs for military installations—

(A) for which an HRMA has not been conducted during the five-year period preceding the date of the enactment of this section; or

(B) in locations with housing shortages.

(2) EXISTING 5-YEAR REQUIREMENT.—Paragraph (1) shall not apply to a military department that required an HRMA to be conducted for each military installation not less frequently than once every five years before the date of the enactment of this section.

(c) SUBMITTAL TO CONGRESS.—The Secretary of Defense shall include with the budget materials for the Department of Defense for fiscal year 2024 and each subsequent fiscal year (as submitted to Congress pursuant to section 1105 of title 31, United States Code) a list of the military installations for which the Secretary concerned plans to conduct an HRMA during the fiscal year covered by such budget materials.

(d) HOUSING REQUIREMENTS AND MARKET ANALYSIS.—The term "Housing Requirements and Market Analysis"or "HRMA" means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total population of such installation, including members of the armed forces, civilian employees of the Department of Defense, and defense contractors.

(Added Pub. L. 117–263, div. B, title XXVIII, §2821(a), Dec. 23, 2022, 136 Stat. 2999; amended Pub. L. 119–60, div. B, title XXVIII, §2821(a), Dec. 18, 2025, 139 Stat. 1304.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2837, added Pub. L. 103–337, div. B, title XXVIII, §2803(a), Oct. 5, 1994, 108 Stat. 3051; amended Pub. L. 104–106, div. B, title XXVIII, §2802, Feb. 10, 1996, 110 Stat. 551; Pub. L. 106–65, div. A, title X, §1066(a)(28), Oct. 5, 1999, 113 Stat. 772; Pub. L. 108–136, div. A, title X, §1031(a)(44), Nov. 24, 2003, 117 Stat. 1602, authorized the Secretary of a military department to enter into limited partnerships with private developers of housing through Sept. 30, 2000, further authorized such Secretary to enter into collateral incentive agreements with those private developers, and established the Defense Housing Investment Account,

prior to repeal by Pub. L. 113–66, div. B, title XXVIII, §2802(a)(1), Dec. 26, 2013, 127 Stat. 1006. For effects of repeal on existing contracts and on the Defense Housing Investment Account, see section 2802(b) and (c) of Pub. L. 113–66, set out as notes below.

**AMENDMENTS**

**2025**—Subsec. (d). Pub. L. 119–60 substituted "total population of such installation, including members of the armed forces, civilian employees of the Department of Defense, and defense contractors" for "total military population of such installation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**HOUSING REQUIREMENTS AND MARKET ANALYSIS: TIME FRAME AND SUBMITTAL OF INFORMATION**

Pub. L. 117–263, div. B, title XXVIII, §2821(b), (c), Dec. 23, 2022, 136 Stat. 2999, provided that:

"(b) TIME FRAME.—

"(1) IN GENERAL.—During each of fiscal years 2023 through 2027, the Secretary concerned shall conduct an HRMA for 20 percent of the military installations under the jurisdiction of the Secretary concerned located in the United States.

"(2) SUBMITTAL OF INFORMATION TO CONGRESS.—Not later than January 15, 2023, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of military installations for which the Secretary concerned plans to conduct an HRMA during fiscal year 2023.

"(c) DEFINITIONS.—In this section:

"(1) The term 'HRMA' means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total military population of such installation.

"(2) The term 'military installation' has the meaning given in section 2801 of title 10, United States Code.

"(3) The term 'Secretary concerned' has the meaning given that term in section 101(a) of title 10, United States Code."

**EFFECT ON EXISTING CONTRACTS**

Pub. L. 113–66, div. B, title XXVIII, §2802(b), Dec. 26, 2013, 127 Stat. 1006, provided that: "The repeal of [former] section 2837 of title 10, United States Code, shall not affect the validity or terms of any contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) of such section entered into before the date of the enactment of this Act [Dec. 26, 2013]."

**EFFECT ON DEFENSE HOUSING INVESTMENT ACCOUNT**

Pub. L. 113–66, div. B, title XXVIII, §2802(c), Dec. 26, 2013, 127 Stat. 1006, provided that: "Any unobligated amounts remaining in the Defense Housing Investment Account on the date of the enactment of this Act [Dec. 26, 2013] shall be transferred to the Department of Defense Family Housing Improvement Fund. Amounts transferred shall be merged with amounts in such fund and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund."

## §2838. Leasing of military family housing to Secretary of Defense

(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any available military housing units that are already substantially equipped for executive communications and security.

(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the

pay grade of O–10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all amounts received pursuant to leases entered into by the Secretary under this section into a special account in the Treasury established for such military department.

(2) The proceeds deposited into the special account of a military department pursuant to paragraph (1) shall be available to the Secretary of that military department, without further appropriation, for the maintenance, protection, alteration, repair, improvement, or restoration of military housing on the military installation at which the housing leased pursuant to subsection (a) is located.

(Added Pub. L. 110–417, div. B, title XXVIII, §2804(a), Oct. 14, 2008, 122 Stat. 4720.)

## [§2839. Repealed. Pub. L. 119–60, div. B, title XXVIII, §2826(d), Dec. 18, 2025, 139 Stat. 1310]

Section, added Pub. L. 118–159, div. B, title XXVIII, §2823(a), Dec. 23, 2024, 138 Stat. 2255, related to application of certain authorities and standards to historic military housing and associated historic properties of the Department of the Army.

## SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Sec.
2851. Supervision of military construction projects.
2851a. Supervision of military housing by Chief Housing Officer.
2852. Military construction projects: waiver of certain restrictions.
2853. Authorized cost and scope of work variations.
2854. Restoration or replacement of damaged or destroyed facilities.
2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds.
2855. Law applicable to contracts for architectural and engineering services and construction design.
2856. Military unaccompanied housing: standards.
2856a. Covered military unaccompanied housing: waivers of covered privacy and configuration standards and covered health and safety standards.
2856b. Covered military unaccompanied housing: standards for habitability.
2857. Window fall prevention devices in military family housing units.
2858. Limitation on the use of funds for expediting a construction project.
[2859. Repealed.]
2860. Availability of appropriations.
2861. Military construction projects in connection with industrial facility investment program.
2862. Turn-key selection procedures.
2863. Payment of contractor claims.
2864. Master plans for major military installations.
2865. Work in Process Curve charts and outlay tables for military construction projects.
2866. Water conservation at military installations.
2866a. Risk-based approach to water management and water security at military installations.
2867. Energy monitoring and utility control system specification for military construction and military family housing activities.
2868. Utility services: furnishing for certain buildings.
2869. Exchange of property at military installations.
[2870. Repealed.]

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. B, title XXVIII, §§2804(a), 2822(a)(1), 2848(a), Dec. 18, 2025, 139 Stat. 1294, 1305, 1319, added item 2866a, inserted "and covered health and safety standards" after "standards" in item 2856a, and struck out item 2859 "Construction requirements related to antiterrorism and force protection or urban-training operations". Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVII, §1701(a)(30), Dec. 23, 2024, 138 Stat. 2204, substituted "Military unaccompanied housing: standards" for "Covered military unaccompanied housing: design standards" in item 2856.

**2023**—Pub. L. 118–31, div. B, title XXVIII, §§2831(a)(2), 2832(a), 2833(b), Dec. 22, 2023, 137 Stat. 753–755, substituted "Covered military unaccompanied housing: design standards" for "Military unaccompanied housing: local comparability of floor areas" in item 2856 and added items 2856a and 2856b. Addition of items 2856a and 2856b was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. B, §2003(b), title XXVIII, §2812(a), Dec. 27, 2021, 135 Stat. 2162, 2191, renumbered item 2879 in analysis under subchapter IV of this chapter as 2857 and transferred it to appear after item 2856.

Pub. L. 116–283, div. A, title VIII, §818(b)(1), div. B, title XXVIII, §2811(k)(1)(A), Jan. 1, 2021, 134 Stat. 3751, 4326, added item 2851a and struck out item 2870 "Use of qualified apprentices by military construction contractors".

**2019**—Pub. L. 116–92, div. A, title VIII, §865(a)(2), Dec. 20, 2019, 133 Stat. 1524, added item 2870.

**2018**—Pub. L. 115–232, div. B, title XXVIII, §2806(a)(2), Aug. 13, 2018, 132 Stat. 2264, added item 2865.

**2013**—Pub. L. 112–239, div. B, title XXVIII, §2802(b), Jan. 2, 2013, 126 Stat. 2147, added item 2864.

Pub. L. 112–239, div. A, title X, §1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, made technical amendment to directory language of Pub. L. 112–81, §2815(c). See 2011 Amendment note below.

**2011**—Pub. L. 112–81, div. B, title XXVIII, §2815(c), Dec. 31, 2011, 125 Stat. 1689, as amended by Pub. L. 112–239, div. A, title X, §1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, substituted "Exchange of property at military installations" for "Conveyance of property at military installations to limit encroachment" in item 2869.

Pub. L. 111–383, div. A, title X, §1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, made technical amendment to directory language of Pub. L. 111–84, §2804(d)(2). See 2009 Amendment note below.

**2009**—Pub. L. 111–84, div. B, title XXVIII, §2841(a)(2), Oct. 28, 2009, 123 Stat. 2680, added item 2867.

Pub. L. 111–84, div. B, title XXVIII, §2804(d)(2), Oct. 28, 2009, 123 Stat. 2662, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, substituted "Conveyance of property at military installations to limit encroachment" for "Conveyance of property at military installations to support military construction or limit encroachment" in item 2869.

**2006**—Pub. L. 109–364, div. B, title XXVIII, §§2807(a)(2), 2808(b)(2), 2809(b), 2810(b), 2811(f)(2), 2851(c)(4), Oct. 17, 2006, 120 Stat. 2468–2471, 2473, 2495, added item 2861, inserted "or urban-training operations" after "force protection" in item 2859, substituted "Military unaccompanied housing: local comparability of floor areas" for "Limitations on barracks space by pay grade" in item 2856 and "to support military construction or limit encroachment" for "closed or realigned to support military construction" in item 2869, and struck out items 2857 "Use of renewable forms of energy in new facilities", 2864 "Military construction contracts on Guam", 2865 "Energy savings at military installations", and 2867 "Sale of electricity from alternate energy and cogeneration production facilities".

Pub. L. 109–163, div. B, title XXVIII, §2804(c)(2), Jan. 6, 2006, 119 Stat. 3507, substituted "Authorized cost and scope of work variations" for "Authorized cost variations" in item 2853.

Pub. L. 108–375, div. B, title XXVIII, §2804(a)(2), Oct. 28, 2004, 118 Stat. 2122, added item 2859.

**2003**—Pub. L. 108–136, div. A, title X, §1044(b)(2), div. B, title XXVIII, §2805(a)(2), Nov. 24, 2003, 117 Stat. 1612, 1721, struck out item 2859 "Transmission of annual military construction authorization request" and added item 2869.

**2001**—Pub. L. 107–107, div. B, title XXVIII, §2803(b), Dec. 28, 2001, 115 Stat. 1305, struck out item 2861 "Annual report to Congress".

**1997**—Pub. L. 105–85, div. A, title III, §371(c)(3), Nov. 18, 1997, 111 Stat. 1705, added items 2867 and 2868.

**1996**—Pub. L. 104–106, div. B, title XXVIII, §2818(a)(2), Feb. 10, 1996, 110 Stat. 555, added item 2854a.

**1993**—Pub. L. 103–160, div. B, title XXVIII, §2803(b), Nov. 30, 1993, 107 Stat. 1885, added item 2866.

**1990**—Pub. L. 101–510, div. B, title XXVIII, §2851(b), Nov. 5, 1990, 104 Stat. 1804, added item 2865.

**1989**—Pub. L. 101–189, div. B, title XXVIII, §2807(b), Nov. 29, 1989, 103 Stat. 1648, added item 2864.

**1987**—Pub. L. 100–180, div. B, subdiv. 3, title I, §2303(b), Dec. 4, 1987, 101 Stat. 1215, added item 2863.

**1986**—Pub. L. 99–661, div. A, title XIII, §1343(a)(21)(B), Nov. 14, 1986, 100 Stat. 3994, struck out "for five years" after "Availability of appropriations" in item 2860.

**1985**—Pub. L. 99–167, title VIII, §807(b), Dec. 3, 1985, 99 Stat. 988, added item 2862.

**1982**—Pub. L. 97–321, title VIII, §801(b)(3), Oct. 15, 1982, 96 Stat. 1571, substituted "renewable forms of energy in new facilities" for "solar energy systems" in item 2857.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STANDARDIZATION OF MOLD REMEDIATION GUIDELINES ACROSS MILITARY DEPARTMENTS

Pub. L. 119–60, div. B, title XXVIII, §2830, Dec. 18, 2025, 139 Stat. 1313, provided that:

"(a) REQUIREMENT TO ESTABLISH COMMON GUIDELINES.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop and implement uniform guidelines for the remediation of mold in military housing, facilities, and other real property under jurisdiction of each such Secretary.

"(b) CONSISTENCY WITH ESTABLISHED STANDARDS.—The guidelines required under subsection (a) shall be consistent with—

"(1) applicable municipal and State health and environmental standards; and

"(2) third-party industry standards, including the standard of the Institute of Inspection Cleaning and Restoration Certification titled 'S520 Standard for Professional Mold Remediation', or any successor standard.

"(c) APPLICABILITY.—The guidelines required under subsection (a) shall apply—

"(1) to contracts or task orders for mold remediation entered into on or after the date of the issuance of such guidelines; and

"(2) to mold remediation procedures conducted on or after such date of issuance.

"(d) REPORT.—Not later than 180 days after date of the issuance of the guidelines under subsection (a), the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes the guidelines and describes plans for implementation of the guidelines and monitoring compliance with the guidelines."

### PLAN TO IMPROVE ACCURACY, INTEGRATION, AND INTEROPERABILITY OF DEPARTMENT OF DEFENSE DATA WITH RESPECT TO REAL PROPERTY, INFRASTRUCTURE, AND MILITARY UNACCOMPANIED HOUSING

Pub. L. 119–60, div. B, title XXVIII, §2832, Dec. 18, 2025, 139 Stat. 1315, provided that:

"(a) PLAN REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and implement a plan to—

"(A) improve the accuracy, integration, and interoperability of data across systems of a military department to track and maintain data with respect to real property, infrastructure, or military unaccompanied housing under the jurisdiction of a Secretary concerned; and

"(B) enhance, across each military department, the tracking, management, and reporting of data with respect to—

"(i) the condition of military unaccompanied housing; and

"(ii) the occupancy rates of military unaccompanied housing.

"(2) ELEMENTS.—Such plan shall include the following:

"(A) A requirement for each Secretary of a military department to update, on an annual basis, the system of the appropriate military department—

"(i) for real property planning to include—

"(I) an accurate statement of deficits in the occupancy of military unaccompanied housing under the jurisdiction of the Secretary;

"(II) a summary that aligns such deficits with unit stationing decisions of the Secretary; and

"(III) a description of the effects of relevant changes in force structure; and

"(ii) to track and maintain data with respect to military unaccompanied housing to include—

"(I) real-time occupancy data and room assignment records with respect to military unaccompanied housing under the jurisdiction of the Secretary; and

"(II) a standardized automated process to track completion times of maintenance requests work orders with respect to such military unaccompanied housing.

"(B) Standards to ensure, with respect to any system of a military department to assess the condition of infrastructure under the jurisdiction of a Secretary of a military department, that—

"(i) data maintained by any such system is synchronized; and

"(ii) any such system integrates predictive maintenance tools to—

"(I) forecast infrastructure deterioration; and

"(II) prioritize repairs.

"(C) Enhanced data validation protocols across all housing records of the Department of Defense to—

"(i) eliminate discrepancies in such housing records; and

"(ii) ensure accuracy of reports that include data from such housing records.

"(D) A requirement for each Secretary of a military department to audit, on a periodic basis, data with respect to real property, infrastructure, and military unaccompanied housing under the jurisdiction of the Secretary.

"(E) Specific milestones to achieve full data synchronization across each system of a military department to track and maintain data with respect to military unaccompanied housing.

"(F) Requirements, for each system described in subparagraph (E), with respect to system integration, user training, and compliance monitoring.

"(G) A Department of Defense-wide verification framework to ensure accurate barracks occupancy reporting, which shall include—

"(i) required physical inspections;

"(ii) automated reconciliation of unit personnel records with housing assignments; and

"(iii) mechanisms to prevent ghost occupancy.

"(H) A Department of Defense-wide strategy for real-time data analytics to—

"(i) optimize investments in military unaccompanied housing;

"(ii) improve facility lifecycle management; and

"(iii) enable predictive maintenance planning;

"(I) A Department of Defense-wide governance policy for data with respect to military unaccompanied housing, that includes—

"(i) enforceable protocols for data entry, frequency of updates, access controls, cybersecurity protections; and

"(ii) standardized reporting requirements.

"(J) A requirement for each Secretary of a military department to implement a standardized system for members of the Armed Forces, including commanders of military installations to—

"(i) report discrepancies in data maintained by the Secretary with respect to military unaccompanied housing; and

"(ii) submit to the Secretary concerned requests for improvements to the system of the appropriate military department to track and maintain data with respect to military unaccompanied housing.

"(b) DEADLINE.—The Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives the plan required by subsection (a) by not later than September 30, 2026."

## ANALYSIS OF HOUSING AVAILABILITY FOR CRITICAL CIVILIAN AND CONTRACTOR PERSONNEL NEAR RURAL MILITARY INSTALLATIONS

Pub. L. 118–159, div. B, title XXVIII, §2828, Dec. 23, 2024, 138 Stat. 2258, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall revise the Department of Defense Manual 4165.63–M titled 'DoD Housing Management' issued October 28, 2010, to require an analysis of the availability of suitable housing located in close proximity to a military installation in a rural area for civilian personnel and defense contractors that provide critical functions for the operations of such military installation, as determined by the Secretary.

"(b) DEFINITIONS.—In this section:

"(1) The term 'military installation' has the meaning given such term in section 2801 of title 10, United States Code.

"(2) The term 'rural area' has the meaning given such term in section 2391 of such title."

## DIGITAL FACILITIES MANAGEMENT SYSTEMS FOR MILITARY DEPARTMENTS

Pub. L. 118–159, div. B, title XXVIII, §2829, Dec. 23, 2024, 138 Stat. 2258, provided that:

"(a) DIGITAL FACILITIES MANAGEMENT SYSTEMS FOR MILITARY DEPARTMENTS.—

"(1) CRITERIA.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Assistant Secretary of Defense for Energy, Installations, and Environment, in coordination with each

covered Assistant Secretary, shall develop criteria for a new or established digital facilities management system for each military department. Each such system shall have the capability to, with respect to each military installation—

"(A) track conditions of individual facilities, applying the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) [set out as a note below], for each military installation under the jurisdiction of each such covered Assistant Secretary;

"(B) plan for maintenance actions for each facility; and

"(C) generate reports that include data on—

"(i) the type and function of each facility;

"(ii) the overall condition of each facility;

"(iii) planned maintenance for each facility during a five-year period following the date of submission of the criteria;

"(iv) conditions that may lead to a failure to maintain minimum physical security or configuration standards for members of the Armed Forces during the 12-month period following the date of submission of the criteria; and

"(v) the date on which the facility will have been in use for 40 years.

"(2) BRIEFING.—Not later than 30 days after the date on which the Assistant Secretary of Defense for Energy, Installations, and Environment develops the criteria required under paragraph (1), the Assistant Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such criteria.

"(3) IMPLEMENTATION.—Not later than one year after the date on which the Assistant Secretary of Defense for Energy, Installations, and Environment develops the criteria required under paragraph (1), each covered Assistant Secretary shall implement a digital facilities management system for the military department under the jurisdiction of that covered Assistant Secretary that meets the criteria described in paragraph (1).

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered Assistant Secretary' means—

"(A) the Assistant Secretary of the Army for Installations, Energy, and Environment;

"(B) the Assistant Secretary of the Navy for Energy, Installations, and Environment; and

"(C) the Assistant Secretary of the Air Force for Installations, Environment, and Energy [probably should be "Energy, Installations, and Environment"].

"(2) The term 'facility' has the meaning given in section 2801 of title 10, United States Code.

"(3) The term 'military department' has the meaning given in section 101 of such title.

"(4) The term 'military installation' has the meaning given in section 2801 of such title."

## ESTABLISHMENT OF CIVILIAN EMPLOYEES FOR OVERSIGHT OF COVERED MILITARY UNACCOMPANIED HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2836, Dec. 22, 2023, 137 Stat. 759, provided that:

"(a) ESTABLISHMENT CIVILIAN EMPLOYEES.—

"(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023] and subject to paragraph (3), the Secretary of Defense shall issue regulations to require each Secretary of a military department to establish a civilian employee at the housing office of each military installation under the respective jurisdiction of each such Secretary to be responsible for oversight of covered military unaccompanied housing at that military installation. Such civilian employee shall be an employee of—

"(A) the Department of Defense; or

"(B) the military department concerned.

"(2) SUPERVISORY CHAIN.—Each civilian employee described in paragraph (1) and member of the Armed Forces described in paragraph (3) shall report to an appropriate supervisory civilian employee at the housing office for the applicable military installation.

"(3) EXCEPTION.—The requirement under the regulations issued pursuant to paragraph (1) shall not apply with respect to military installations at which oversight of covered military unaccompanied housing is performed by a member of the Armed Forces with an occupational specialty that defines the primary duty of such member as a barracks manager or an equivalent occupation.

"(b) LIMITATION ON ROLE BY MEMBERS OF THE ARMED FORCES; POSITION DESIGNATION.—

"(1) LIMITATION.—The Secretary of Defense and the Secretaries of the military departments concerned may not allow an enlisted member of the Armed Forces or commissioned officer to, as a collateral duty, be designated as a barracks manager or supervisor overseeing, managing, accepting, or

compiling maintenance records for any covered military unaccompanied housing at the applicable military installation.

"(2) DESIGNATION.—Except as provided in paragraph (3) of subsection (a), the functions of a barracks manager or supervisor described in paragraph (1) shall be completed by a civilian employee described in paragraph (1) of such subsection.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered military unaccompanied housing' has the meaning given such term in section 2856 of title 10, United States Code (as amended by section 2831).

"(2) The term 'military installation' has the meaning given such term in section 2801 of such title."

## MAINTENANCE WORK ORDER MANAGEMENT PROCESS FOR COVERED MILITARY UNACCOMPANIED HOUSING

Pub. L. 118–159, div. B, title XXVIII, §2826(b), Dec. 23, 2024, 138 Stat. 2258, provided that: "The Secretary of Defense shall issue guidance with respect to the requirements of such subsection [section 2837(b) of Pub. L. 118–31, set out below] (as amended by subsection (a)) not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024]."

Pub. L. 118–31, div. B, title XXVIII, §2837, Dec. 22, 2023, 137 Stat. 759, as amended by Pub. L. 118–159, div. B, title XXVIII, §2826(a), Dec. 23, 2024, 138 Stat. 2257, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall issue rules to establish for each military department a process associated with maintenance work order management for covered military unaccompanied housing under the jurisdiction of such military department that is—

"(1) in existence on or before the date of the enactment of this Act; or

"(2) constructed or used on or after such date of enactment.

"(b) USE OF PROCESS.—The processes required under subsection (a) shall include clearly defined requirements for effective and timely maintenance work order management, including requirements with respect to—

"(1) quality assurance for maintenance completed;

"(2) a digital system through which residents of covered military unaccompanied housing may submit to individuals responsible for the management of such housing requests for maintenance work orders;

"(3) communication of maintenance progress and resolution with individuals responsible for the management of the covered military unaccompanied housing and the residents of such housing; and

"(4) standardized performance metrics, such as the timeliness of completion of maintenance work orders.

"(c) ADMINISTRATION.—The Secretary of each military department shall administer the process for maintenance work order management required under subsection (a) for the military department under the jurisdiction of such Secretary and shall issue or update relevant guidance as necessary.

"(d) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this section, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831)."

## UNIFORM INDEX FOR EVALUATING THE CONDITION OF COVERED MILITARY UNACCOMPANIED HOUSING FACILITIES

Pub. L. 118–31, div. B, title XXVIII, §2838, Dec. 22, 2023, 137 Stat. 760, provided that:

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, acting through the Assistant Secretary of Defense for Energy, Installations, and Environment, shall establish a uniform index for evaluating the condition of covered military unaccompanied housing facilities—

"(1) that exist as of the date of the enactment of this Act; and

"(2) that are constructed or used on or after such date.

"(b) COMPLETION OF INDEX.—Not later than 6 months after the date of the enactment of this Act, each Secretary of a military department shall apply the uniform index established under subsection (a) to evaluate the condition of each military installation under the jurisdiction of each such Secretary.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831).

"(2) The term 'military department' has the meaning given in section 101 of such title.

"(3) The term 'military installation' has the meaning given in section 2801 of such title."

**ELIMINATION OF FLEXIBILITIES FOR CONSTRUCTION STANDARDS FOR COVERED MILITARY UNACCOMPANIED HOUSING**

Pub. L. 118–31, div. B, title XXVIII, §2841, Dec. 22, 2023, 137 Stat. 762, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense and each Secretary of a military department shall modify all directives, instructions, manuals, regulations, policies, and other guidance and issuances of the Department of Defense or appropriate military department to eliminate the grant of any flexibilities to the standards for construction of new covered military unaccompanied housing.

"(b) MATTERS INCLUDED.—The requirement under subsection (a) shall include modifications that remove the flexibility provided to the military departments with respect to new construction standards for covered military unaccompanied housing, including modification of the Department of Defense Manual 4165.63 titled 'DoD Housing Management' and dated October 28, 2010 (or a successor document).

"(c) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this section, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831)."

**IMPROVEMENT OF SECURITY OF LODGING AND LIVING SPACES ON MILITARY INSTALLATIONS**

Pub. L. 117–81, div. B, title XXVIII, §2815, Dec. 27, 2021, 135 Stat. 2193, provided that:

"(a) ASSESSMENT.—Not later than 60 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall conduct an assessment of all on-base dormitories and barracks at military installations for purposes of identifying—

"(1) locking mechanisms on points of entry into the main facility, including doors and windows, or interior doors leading into private sleeping areas that require replacing or repairing;

"(2) areas, such as exterior sidewalks, entry points, and other public areas where closed-circuit television security cameras should be installed; and

"(3) other passive security measures, such as additional lighting, that may be necessary to prevent crime, including sexual assault.

"(b) EMERGENCY REPAIRS.—The Secretary of Defense shall make any necessary repairs of broken locks or other safety mechanisms discovered during the assessment conducted under subsection (a) not later than 30 days after discovering the issue.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report on the results of the assessment conducted under subsection (a).

"(2) ELEMENTS.—The report under paragraph (1) shall include—

"(A) a cost estimate to make any improvements recommended pursuant to the assessment under subsection (a), disaggregated by military department and installation; and

"(B) an estimated schedule for making such improvements."

## §2851. Supervision of military construction projects

(a) SUPERVISION OF MILITARY DEPARTMENT PROJECTS.—Each contract entered into by the United States in connection with a military construction project or a military family housing project shall be carried out under the direction and supervision of a Secretary of a military department or Government agency (as approved by the Secretary of Defense) to assure the most efficient, expeditious, and cost-effective completion of the project.

(b) SUPERVISION OF DEFENSE AGENCY PROJECTS.—A military construction project for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense shall be accomplished by or through a military department designated by the Secretary of Defense.

(c) MAINTENANCE OF MILITARY CONSTRUCTION INFORMATION ON INTERNET; ACCESS.—(1) The Secretary of Defense shall maintain an Internet site that will permit a person to access and view on a separate page of the Internet site a document or other file containing the information required by paragraph (2) for the following:

(A) Each military construction project or military family housing project that has been specifically authorized by Act of Congress.

(B) Each project carried out with funds authorized for the operation and maintenance of military family housing.

(C) Each project carried out with funds authorized for the improvement of military family housing units.

(D) Each unspecified minor construction project carried out under the authority of section 2805(a) of this title.

(E) Each military department project with a total cost in excess of $15,000,000 for Facilities Sustainment, Restoration, and Modernization.

(F) Each military construction project, military department Facilities Sustainment, Restoration, and Modernization project, or military family housing project regarding which a statutory requirement exists to notify Congress.

(2) The information to be provided via the Internet site required by paragraph (1) for each project described in such paragraph shall include the following:

(A) The solicitation date and award date (or anticipated dates) for each contract entered into (or to be entered into) by the United States in connection with the project.

(B) The contract recipient, contract award amount, construction milestone schedule proposed by the contractor, and construction completion date stipulated in the awarded contract.

(C) The most current Department of Defense Form 1391, Military Construction Project Data, for the project.

(D) The progress of the project, including the percentage of construction currently completed and the current estimated construction completion date.

(E) The current contract obligation of funds for the project, including any changes to the original contract award amount.

(F) If funds appropriated for the project have been diverted for use in another project, the project to which the funds were diverted and the amount so diverted.

(G) For accounts such as planning and design, unspecified minor construction, and family housing operation and maintenance, detailed information regarding expenditures and anticipated expenditures under these accounts and the purposes for which the expenditures are made.

(3) The information required to be provided for each project described in paragraph (1) shall be made available on the Internet site required by such paragraph not later than 90 days after the award of a contract or delivery order for the project. The Secretary of Defense shall update the required information as promptly as practicable, but not less frequently than once a month, to ensure that the information is available in a timely manner.

(d) REPORT ON SUPERVISION OF LARGE MILITARY CONSTRUCTION PROJECTS .—Before the award of a contract of a value greater than $500,000,000 in connection with a military construction project, the individual directing and supervising such military construction project under subsection (a) or the individual designated pursuant to subsection (b) (as applicable) shall submit to the appropriate committees of Congress a report on the intended supervision, inspection, and overhead plan to manage such military construction project. Each such report shall include the following:

(1) A determination of the overall funding intended to manage the supervision, inspection, and overhead of the military construction project.

(2) An assessment of whether a Department of Defense Field Activity directly reporting to such individual should be established.

(3) A description of the quality assurance approach to the military construction project.

(4) The independent cost estimate described in section 3221(b)(6)(A) of this title.

(5) The overall staffing approach to oversee the military construction project for each year of the contract term.

(e) ANNUAL REPORT ON SCHEDULE DELAYS.—Not later than March 1 of each year (beginning with 2018), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and Senate a report on each military construction project or military family housing project for which, as of the end of the most recent fiscal year, the estimated completion date is more than 1 year later than the completion date proposed at the time the contract for the project was awarded.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 109–163, div. B, title XXVIII, §2803(a), (c), Jan. 6, 2006, 119 Stat. 3505, 3506; Pub. L. 111–383, div. B, title XXVIII, §2801, Jan. 7, 2011, 124 Stat. 4458; Pub. L. 115–91, div. B, title XXVIII, §2822, Dec. 12, 2017, 131 Stat. 1855; Pub. L. 117–81, div. B, title XXVIII, §2801(a), Dec. 27, 2021, 135 Stat. 2184; Pub. L. 117–263, div. B, title XXVIII, §2806(a), Dec. 23, 2022, 136 Stat. 2995; Pub. L. 119–60, div. B, title XXVIII, §2808(a), Dec. 18, 2025, 139 Stat. 1298.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 substituted "a Secretary of a military department or Government agency (as approved by the Secretary of Defense)" for "the Secretary of the Army (acting through the Chief of Engineers), the Secretary of the Navy (acting through the Commander of the Naval Facilities Engineering Command), or such other department or Government agency as the Secretary of Defense approves".

**2022**—Subsecs. (d), (e). Pub. L. 117–263 added subsec. (d) and redesignated former subsec. (d) as (e).

**2021**—Subsec. (c)(1)(E). Pub. L. 117–81, §2801(a)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (c)(1)(F). Pub. L. 117–81, §2801(a)(1), (3), redesignated subpar. (E) as (F) and inserted ", military department Facilities Sustainment, Restoration, and Modernization project," after "construction project".

**2017**—Subsec. (d). Pub. L. 115–91 added subsec. (d).

**2011**—Subsec. (c)(1). Pub. L. 111–383, §2801(c)(1), substituted "that will permit a person" for "that, when activated by a person authorized under paragraph (3), will permit the person".

Subsec. (c)(2)(F) to (H). Pub. L. 111–383, §2801(a), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: "The estimated final cost of the project and, if the estimated final cost of the project exceeds the amount appropriated for the project and funds have been provided from another source to meet the increased cost, the source of the funds and the amount provided."

Subsec. (c)(3), (4). Pub. L. 111–383, §2801(b), (c)(2), redesignated par. (4) as (3), substituted "on the Internet site required by such paragraph" for "to the persons referred to in paragraph (3)" and struck out "to such persons" before "in a timely manner", and struck out former par. (3) which read as follows: "Access to the Internet site required by paragraph (1) shall be restricted to the following persons:

"(A) Members of the congressional defense committees and their staff.

"(B) Staff of the congressional defense committees."

**2006**—Subsecs. (a), (b). Pub. L. 109–163, §2803(c), inserted headings.

Subsec. (c). Pub. L. 109–163, §2803(a), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. B, title XXVIII, §2806(c), Dec. 23, 2022, 136 Stat. 2995, provided that: "This section [amending this section and section 3221 of this title] and the amendments made by this section shall apply to contracts entered into on or after the date of the enactment of this Act [Dec. 23, 2022]."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### APPLICATION OF AMENDMENT BY PUB. L. 117–81

Pub. L. 117–81, div. B, title XXVIII, §2801(b), Dec. 27, 2021, 135 Stat. 2184, provided that: "Subparagraph (E) of section 2851(c)(1) of title 10, United States Code, as added by subsection (a)(2), and

subparagraph (F) of such section, as amended by subsection (a)(3), shall apply with respect to a military department Facilities Sustainment, Restoration, and Modernization project described in such subparagraphs for which an award of a contract or delivery order for the project is made on or after June 1, 2022."

**IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO INFORMATION SHARING TO IMPROVE OVERSIGHT OF MILITARY CONSTRUCTION**

Pub. L. 119–60, div. B, title XXVIII, §2817, Dec. 18, 2025, 139 Stat. 1304, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall—

"(1) implement the recommendations of the Comptroller General of the United States in the report titled 'Military Construction: Better Information Sharing Would Improve DOD's Oversight' (GAO–24–106499; published September 16, 2024); or

"(2) if the Secretary does not implement any such recommendation, submit to the Committees on Armed Services of the Senate and the House of Representatives a report explaining why the Secretary has not implemented those recommendations."

**IMPLEMENTATION OF INTERNET SITE**

Pub. L. 109–163, div. B, title XXVIII, §2803(b), Jan. 6, 2006, 119 Stat. 3506, provided that: "The Internet site required by subsection (c) of section 2851 of title 10, United States Code, as added by subsection (a), shall be available to the persons referred to in paragraph (3) of such subsection not later than July 15, 2006."

**IDENTIFICATION OF REQUIREMENTS TO REDUCE BACKLOG IN MAINTENANCE AND REPAIR OF DEFENSE FACILITIES**

Pub. L. 106–398, §1 [[div. A], title III, §374], Oct. 30, 2000, 114 Stat. 1654, 1654A–81, which required the Secretary of Defense to submit to Congress, not later than March 15, 2001, a report identifying a list of requirements to reduce the backlog in maintenance and repair needs of facilities and infrastructure under the jurisdiction of the Department of Defense or a military department, which report was to be updated annually, was repealed by Pub. L. 112–81, div. A, title X, §1062(i)(1), Dec. 31, 2011, 125 Stat. 1585.

## §2851a. Supervision of military housing by Chief Housing Officer

(a) IN GENERAL.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer, who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as "covered housing units").

(b) PRINCIPAL DUTIES.—(1) The Chief Housing Officer shall oversee all aspects of the provision of covered housing units, including the following:

(A) Creation and standardization of policies and processes regarding covered housing units.

(B) Oversight of the administration of any Department of Defense-wide policies regarding covered housing units, to include, in coordination with the Secretaries of the military departments, the housing documents developed pursuant to section 2890 of this title entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities.

(2) The duties specified in paragraph (1) may not be further delegated.

(Added Pub. L. 116–92, div. B, title XXX, §3012(a), Dec. 20, 2019, 133 Stat. 1921, §2890a; renumbered §2851a and amended Pub. L. 116–283, div. B, title XXVIII, §2811(a), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 117–263, div. B, title XXVIII, §2807, Dec. 23, 2022, 136 Stat. 2995.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (a). Pub. L. 117–263 amended subsec. (a) generally. Prior to amendment, text read as follows:

"(1) The Secretary of Defense shall designate, from among officials of the Department of Defense who are

appointed by the President with the advice and consent of the Senate, a Chief Housing Officer who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as 'covered housing units').

"(2) The official of the Department of Defense designated as Chief Housing Officer may be assigned duties in addition to the duties as Chief Housing Officer under subsection (b)."

**2021**—Pub. L. 116–283, §2811(a)(3), renumbered section 2890a of this title as this section.

Pub. L. 116–283, §2811(a)(2), inserted "Supervision of military housing by" before "Chief" in section catchline.

Subsec. (a)(1). Pub. L. 116–283, §2811(a)(1)(A), substituted "family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as 'covered housing units')" for "housing units".

Subsec. (b)(1). Pub. L. 116–283, §2811(a)(1)(B)(ii), inserted "covered" before "housing units" in subpars. (A) and (B).

Pub. L. 116–283, §2811(a)(1)(B)(i), substituted "covered housing units" for "housing under subchapter IV and this subchapter" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NOTIFICATION OF DESIGNATION

Pub. L. 116–92, div. B, title XXX, §3012(b), Dec. 20, 2019, 133 Stat. 1921, provided that not later than 60 days after Dec. 20, 2019, the Secretary of Defense was to notify the Committees on Armed Services and Appropriations of the Senate and the House of Representatives of the official of the Department of Defense designated as Chief Housing Officer under this section. As amended by Pub. L. 117–263, subsec. (a) of this section provides that the Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer.

## §2852. Military construction projects: waiver of certain restrictions

(a) The Secretary of Defense and the Secretaries of the military departments may carry out authorized military construction projects and authorized military family housing projects without regard to subsections (a) and (b) of section 3324 of title 31.

(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

(1) before title to the land on which the project is to be carried out is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(c) In the case of a military construction project or a military family housing project, the contract amount thresholds specified in subchapter III of chapter 31 of title 40 (commonly referred to as the Miller Act) shall be applied by substituting "$150,000" for "$100,000" for purposes of determining when a performance bond and payment bond are required under section 3131 of such title and when alternatives to payment bonds as payment protections for suppliers of labor and materials are required under section 3132 of such title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 164; amended Pub. L. 97–295, §1(35), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 97–321, title VIII, §805(a)(1), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 99–145, title XIII, §1303(a)(19), Nov. 8, 1985, 99 Stat. 739; Pub. L. 107–217, §3(b)(20), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 112–81, div. B, title XXVIII, §2803, Dec. 31, 2011, 125 Stat. 1685.)

### HISTORICAL AND REVISION NOTES

In 10:2852(a), the title 31 citation is substituted on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted title 31.

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (c). Pub. L. 112–81 added subsec. (c).

**2002**—Subsec. (b)(1). Pub. L. 107–217 substituted "section 3111 of title 40" for "section 355 of the Revised Statutes (40 U.S.C. 255)".

**1985**—Subsec. (a). Pub. L. 99–145 substituted "subsections (a) and (b) of section 3324" for "section 3324(a) and (b)".

**1982**—Subsec. (a). Pub. L. 97–295 substituted "section 3324(a) and (b) of title 31" for "section 3648 of the Revised Statutes (31 U.S.C. 529)".

Subsec. (b). Pub. L. 97–321 substituted "may be exercised on land not owned by the United States" for "on land not owned by the United States may be exercised" in introductory text, redesignated former cl. (1) as par. (1), added par. (2), and struck out former cl. (2) which read as follows: "even though the land is held temporarily".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2853. Authorized cost and scope of work variations

(a) COST VARIATIONS AUTHORIZED; LIMITATION.—Except as provided in subsection (c), (d), or (e), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the total authorized cost of the project or 200 percent of the minor construction project ceiling specified in section 2805(a) of this title, whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was authorized by Congress.

(b) SCOPE OF WORK VARIATIONS AUTHORIZED; LIMITATION.—(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition. Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(2) Except as provided in subsection (d), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(3) In this subsection, the term "scope of work" refers to the function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(c) EXCEPTIONS TO LIMITATION ON COST VARIATIONS AND SCOPE OF WORK REDUCTIONS.—(1)(A) Except as provided in subparagraph (D), the Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a

military family housing project under subsection (a) and approve an increase in the cost authorized for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost increase in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall—

(i) identify the amount of the cost increase and the reasons for the increase;

(ii) certify that the cost increase is sufficient to meet the mission requirement identified in the justification data provided to Congress as part of the request for authorization of the project; and

(iii) describe the funds proposed to be used to finance the cost increase.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(D) The Secretary concerned may not use the authority provided by subparagraph (A) to waive the cost limitation applicable to a military construction project with a total authorized cost greater than $500,000,000 or a military family housing project with a total authorized cost greater than $500,000,000 if that waiver would increase the project cost by more than 50 percent of the total authorized cost of the project.

(E) In addition to the notification required by this paragraph, subsection (f) applies whenever a military construction project or military family housing project with a total authorized cost greater than $40,000,000 will have a cost increase of 25 percent or more. Subsection (f) may not be construed to authorize a cost increase in excess of the limitation imposed by subparagraph (D).

(2)(A) The Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a military family housing project under subsection (a) and approve a decrease in the cost authorized for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost decrease not later than 14 days after the date funds are obligated in connection with the project.

(B) The notification required by subparagraph (A) shall be provided in an electronic medium pursuant to section 480 of this title.

(3)(A) The Secretary concerned may waive the limitation on a reduction in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve a scope of work reduction for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall—

(i) describe the reduction in the scope of work and the reasons for the decrease; and

(ii) certify that the mission requirement identified in the justification data provided to Congress can still be met with the reduced scope.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(d) EXCEPTIONS TO LIMITATION ON SCOPE OF WORK INCREASES.—(1) Except as provided in paragraph (4), the Secretary concerned may waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve an increase in the scope of work for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this subsection.

(2) The notification required by paragraph (1) shall describe the increase in the scope of work and the reasons for the increase.

(3) A waiver and approval by the Secretary concerned under paragraph (1) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such

paragraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(4) The Secretary concerned may not use the authority provided by paragraph (1) to waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project and approve an increase in the scope of work for the project that would increase the scope of work by more than 10 percent of the amount specified for the project in the justification data provided to Congress as part of the request for authorization of the project.

(e) ADDITIONAL COST VARIATION EXCEPTIONS.—The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

(f) ADDITIONAL REPORTING REQUIREMENT FOR CERTAIN COST INCREASES.—(1) In addition to the notification sent under paragraph (1) of subsection (c) of a cost increase with respect to a project, the Secretary concerned shall provide an additional report notifying the congressional defense committees of any military construction project or military family housing project with a total authorized cost greater than $40,000,000 that has a cost increase of 25 percent or more.

(2) The report under paragraph (1) shall include the following—

(A) A description of the specific reasons for the cost increase and the specific organizations and individuals responsible.

(B) A description of any ongoing or completed proceedings or investigation into a government employee, prime contractor, subcontractor, or non-governmental organization that may be responsible for the cost increase, and the status of such proceeding or investigation.

(C) If any proceeding or investigation identified in subparagraph (B) resulted in final judicial or administrative action, the following:

(i) In the case of a judicial or administrative action taken against a government employee, the report shall identify the individual's organization, position within the organization, and the action taken against the individual, but shall exclude personally identifiable information about the individual.

(ii) In the case of a judicial or administrative action taken against a prime contractor, subcontractor, or non-governmental organization, the report shall identify the prime contractor, subcontractor, or non-governmental organization and the action taken against the prime contractor, subcontractor, or non-governmental organization.

(D) A summary of any changes the Secretary concerned believes may be required to the organizational structure, project management and oversight practices, policy, or authorities of a government organization involved in military construction projects as a result of problems identified and lessons learned from the project.

(3) If any proceeding or investigation described in paragraph (2)(C) is still ongoing at the time the Secretary concerned submits the report under paragraph (1), the Secretary shall provide a supplemental report to the congressional defense committees not later than 30 days after such proceeding or investigation has been completed. If such proceeding or investigation resulted in final judicial or administrative action against a government employee, prime contractor, subcontractor, or non-governmental organization, the Secretary shall include in the supplemental report the information required by paragraph (2)(C).

(4) Each report under this subsection shall be cosigned by the senior engineer authorized to supervise military construction projects and military family housing projects under section 2851(a).

(5) The Secretary shall send the report required under paragraph (1) with respect to a project not

later than 180 days after the Secretary sends to the appropriate committees of Congress the notification under paragraph (1) of subsection (c) of a cost increase with respect to the project.

(g) RELATION TO OTHER LAW.—Notwithstanding the authority under subsections (a) through (f), the Secretary concerned shall ensure compliance of contracts for military construction projects and for the construction, improvement, and acquisition of military family housing projects with section 1341 of title 31 (commonly referred to as the "Anti-Deficiency Act").

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 164; amended Pub. L. 98–407, title VIII, §807, Aug. 28, 1984, 98 Stat. 1521; Pub. L. 100–26, §7(f)(2), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100–180, div. B, subdiv. 3, title I, §§2312, 2313, Dec. 4, 1987, 101 Stat. 1217, 1218; Pub. L. 101–189, div. B, title XXVIII, §2808, Nov. 29, 1989, 103 Stat. 1648; Pub. L. 104–106, div. B, title XXVIII, §2817, Feb. 10, 1996, 110 Stat. 553; Pub. L. 107–107, div. B, title XXVIII, §2802, Dec. 28, 2001, 115 Stat. 1305; Pub. L. 108–375, div. B, title XXVIII, §2803, Oct. 28, 2004, 118 Stat. 2121; Pub. L. 109–163, div. B, title XXVIII, §2804(a)–(c)(1), Jan. 6, 2006, 119 Stat. 3506; Pub. L. 109–364, div. B, title XXVIII, §2806, Oct. 17, 2006, 120 Stat. 2468; Pub. L. 111–84, div. B, title XXVIII, §2803, Oct. 28, 2009, 123 Stat. 2661; Pub. L. 112–81, div. B, title XXVIII, §2802(c)(2), Dec. 31, 2011, 125 Stat. 1685; Pub. L. 112–239, div. B, title XXVIII, §2801, Jan. 2, 2013, 126 Stat. 2146; Pub. L. 113–291, div. A, title X, §1071(f)(24), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–328, div. B, title XXVIII, §2803, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(1), 2821, Dec. 12, 2017, 131 Stat. 1843, 1853; Pub. L. 116–283, div. B, title XXVIII, §2803(a), (b), Jan. 1, 2021, 134 Stat. 4319, 4320; Pub. L. 117–81, div. B, title XXVIII, §2802, Dec. 27, 2021, 135 Stat. 2184; Pub. L. 117–263, div. B, title XXVIII, §2808, Dec. 23, 2022, 136 Stat. 2996.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (c)(1)(D). Pub. L. 117–263 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "The Secretary concerned may not use the authority provided by subparagraph (A)—

"(i) to waive the cost limitation applicable to a military construction project with a total authorized cost greater than $500,000,000 or a military family housing project with a total authorized cost greater than $500,000,000; and

"(ii) to approve an increase in the cost authorized for the project that would increase the project cost by more than 50 percent of the total authorized cost of the project."

**2021**—Subsec. (a). Pub. L. 117–81, §2802(b), (c)(1), inserted heading and substituted "the total authorized cost of the project" for "the amount appropriated for such project" in text.

Subsec. (b). Pub. L. 117–81, §2802(c)(2), inserted heading.

Subsec. (c). Pub. L. 117–81, §2802(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to situations where limitation on cost variations or the limitation on scope reduction did not apply.

Subsec. (c)(1). Pub. L. 116–283, §2803(b), inserted "(subject to subsection (f))" after "cost increase" in introductory provisions.

Subsec. (d). Pub. L. 117–81, §2802(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to situations where the limitation on an increase in the scope of work did not apply.

Subsec. (e). Pub. L. 117–81, §2802(c)(3), inserted heading.

Subsec. (f). Pub. L. 117–81, §2802(c)(4), inserted heading.

Subsec. (f)(1), (3). Pub. L. 116–283, §2803(a)(1), struck out "and the Comptroller General of the United States" after "congressional defense committees".

Subsec. (f)(6). Pub. L. 116–283, §2803(a)(2), struck out par. (6) which read as follows: "The Comptroller General of the United States shall review each report submitted under this subsection and validate or correct as necessary the information provided."

Subsec. (g). Pub. L. 117–81, §2802(c)(5), inserted heading.

**2017**—Subsec. (c)(1)(A). Pub. L. 115–91, §2801(c)(1)(A), struck out "in writing" after "committees of Congress".

Subsec. (c)(1)(B). Pub. L. 115–91, §2801(c)(1)(B), substituted "14-day period" for "period of 21 days" and struck out "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided" after "received by the committees".

Subsec. (c)(2). Pub. L. 115–91, §2801(c)(1)(A), (C), inserted ", using an electronic medium pursuant to section 480 of this title," after "notifies" and struck out "in writing" after "committees of Congress".

Subsec. (f). Pub. L. 115–91, §2821(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115–91, §2821(1), (3), redesignated subsec. (f) as (g) and substituted "subsections (a) through (f)" for "subsections (a) through (e)".

**2016**—Subsec. (a). Pub. L. 114–328, §2803(c), inserted "of this title" after "section 2805(a)".

Pub. L. 114–328, §2803(b)(1), substituted "subsection (c), (d), or (e)" for "subsection (c) or (d)".

Subsec. (b)(2). Pub. L. 114–328, §2803(a)(1), substituted "Except as provided in subsection (d), the scope of work" for "The scope of work".

Subsec. (d). Pub. L. 114–328, §2803(a)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114–328, §2803(a)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 114–328, §2803(a)(2), (b)(2), redesignated subsec. (e) as (f) and substituted "through (e)" for "through (d)".

**2014**—Subsec. (c)(1)(A). Pub. L. 113–291 substituted "can still be" for "can be still be".

**2013**—Subsec. (a). Pub. L. 112–239, §2801(1), substituted "was authorized" for "was approved originally".

Subsec. (b)(1). Pub. L. 112–239, §2801(2)(A), inserted at end "Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition."

Subsec. (b)(3). Pub. L. 112–239, §2801(2)(B), added par. (3).

Subsec. (c)(1)(A). Pub. L. 112–239, §2801(3), substituted ", the reasons therefor, a certification that the mission requirement identified in the justification data provided to Congress can be still be met with the reduced scope, and a description" for "and the reasons therefor, including a description".

Subsec. (e). Pub. L. 112–239, §2801(4), added subsec. (e).

**2011**—Subsec. (a). Pub. L. 112–81 substituted "section 2805(a)" for "section 2805(a)(1)".

**2009**—Subsec. (b). Pub. L. 111–84, §2803(1), designated existing provisions as par. (1), substituted "may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition." for "may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress.", and added par. (2).

Subsec. (c). Pub. L. 111–84, §2803(2), substituted "subsection (b)(1)" for "subsection (b)" in introductory provisions.

**2006**—Pub. L. 109–163, §2804(c)(1), substituted "Authorized cost and scope of work variations" for "Authorized cost variations" in section catchline.

Subsec. (a). Pub. L. 109–163, §2804(a)(1), substituted "may be increased or decreased by not more than 25 percent" for "may be increased by not more than 25 percent" and "if the Secretary concerned determines that such revised cost is required" for "if the Secretary concerned determines that such an increase in cost is required".

Subsec. (c). Pub. L. 109–364 substituted "if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and—" for "if—" in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) to (3) which read as follows:

"(1) the variation in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the variation or reduction and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title."

Pub. L. 109–163, §2804(a)(2), (b), substituted "limitation on cost variations" for "limitation on cost increase" in introductory provisions, "the variation" for "the increase" in pars. (1) and (2), and inserted ", including a description of the funds proposed to be used to finance any increased costs" after "the reasons therefor" in par. (2).

Subsec. (d). Pub. L. 109–163, §2804(a)(3), substituted "limitation on cost variations" for "limitation on cost increases" in introductory provisions.

**2004**—Subsec. (c)(3). Pub. L. 108–375 inserted before period at end "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to

section 480 of this title".

**2001**—Subsec. (d). Pub. L. 107–107 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The limitation on cost increases in subsection (a) does not apply to the settlement of a contractor claim under a contract."

**1996**—Subsec. (d). Pub. L. 104–106 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The limitation on cost increases in subsection (a) does not apply to a within-scope modification to a contract or to the settlement of a contractor claim under a contract if the increase in cost is approved by the Secretary concerned, and the Secretary concerned promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress."

**1989**—Pub. L. 101–189 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (f).

**1987**—Subsec. (a)(1). Pub. L. 100–180, §2312, substituted "Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the minor project ceiling) may be increased by not more than 25 percent of the total amount appropriated for such projects" for "Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the minor project ceiling (as defined in subsection (f))) may be increased by not more than 25 percent of the amount appropriated for the project".

Pub. L. 100–26, §7(f)(2)(A), substituted "the minor project ceiling (as defined in subsection (f))" for "the amount specified by law as the maximum amount for a minor military construction project".

Pub. L. 100–26, §7(f)(2)(B), substituted "the minor project ceiling" for "the amount specified by law as the maximum amount for a minor military construction project".

Subsec. (a)(2). Pub. L. 100–26, §7(f)(2)(B), substituted "the minor project ceiling" for "the amount specified by law as the maximum amount for a minor military construction project" in two places.

Subsec. (b). Pub. L. 100–26, §7(f)(2)(B), (C), substituted "the minor project ceiling" for "the amount specified by law as the maximum amount for a minor military construction project" and "the amount of such ceiling" for "such maximum amount" in two places.

Subsec. (c). Pub. L. 100–180, §2313, substituted "construction, improvement," for "construction".

Subsec. (e). Pub. L. 100–26, §7(f)(2)(B), substituted "the minor project ceiling" for "the amount specified by law as the maximum amount for a minor military construction project".

Subsec. (f). Pub. L. 100–26, §7(f)(2)(D), added subsec. (f).

**1984**—Subsec. (e). Pub. L. 98–407 inserted "is more than the amount specified by law as the maximum amount for a minor military construction project and".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2854. Restoration or replacement of damaged or destroyed facilities

(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

(b) When a decision is made to carry out construction under subsection (a) and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c)(1) In using the authority described in subsection (a) to carry out a military construction project to replace a facility, including a family housing facility, that has been damaged or destroyed, the Secretary concerned may use appropriations available for operation and maintenance if—

(A) the damage or destruction to the facility was the result of a natural disaster or a terrorism incident; and

(B) the Secretary submits a notification to the appropriate committees of Congress of the decision to carry out the replacement project, and includes in the notification—

(i) the current estimate of the cost of the replacement project;

(ii) the source of funds for the replacement project;

(iii) in the case of damage to a facility rather than destruction, a certification that the replacement project is more cost-effective than repair or restoration; and

(iv) a certification that deferral of the replacement project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A replacement project under this subsection may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from appropriations available for operation and maintenance in any fiscal year for replacement projects under the authority of this subsection is $300,000,000.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 165; amended Pub. L. 102–190, div. B, title XXVIII, §2870(7), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 108–136, div. A, title X, §1031(a)(45), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(2), 2805, Dec. 12, 2017, 131 Stat. 1843, 1846; Pub. L. 116–92, div. B, title XXVIII, §2803, Dec. 20, 2019, 133 Stat. 1882; Pub. L. 119–60, div. B, title XXVIII, §2813, Dec. 18, 2025, 139 Stat. 1302.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c)(3). Pub. L. 119–60 substituted "$300,000,000" for "$100,000,000".

**2019**—Subsec. (c)(3). Pub. L. 116–92 substituted "$100,000,000" for "$50,000,000".

**2017**—Subsec. (b). Pub. L. 115–91, §2805(b), substituted "under subsection (a)" for "under this section".

Pub. L. 115–91, §2801(c)(2), struck out "in writing" after "shall notify" and "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided" after "received by such committees" and substituted "14-day period" for "21-day period".

Subsec. (c). Pub. L. 115–91, §2805(a), added subsec. (c).

**2003**—Subsec. (b). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**1991**—Subsec. (b). Pub. L. 102–190 struck out "(1)" after "carried out only" and ", or (2) after each such committee has approved the project, if the committees approve the project before the end of that period" before period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds

(a) AUTHORITY TO CONVEY.—(1) The Secretary concerned may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real

property associated with the facility conveyed.

(2) The authority of this section does not apply to family housing facilities located at military installations approved for closure under a base closure law or family housing facilities located at an installation outside the United States at which the Secretary of Defense terminates operations.

(3) The aggregate total value of the family housing facilities conveyed by the Department of Defense under the authority in this subsection in any fiscal year may not exceed $5,000,000.

(4) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such facility.

(b) CONSIDERATION.—(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

(2) The Secretary concerned shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determination shall be final.

(c) NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary concerned may enter into an agreement to convey a family housing facility under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice containing a justification for the conveyance under the agreement.

(2) A notice under paragraph (1) shall include—

(A) an estimate of the consideration to be provided the United States under the agreement;

(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

(C) an estimate of the cost of replacing the family housing facility to be conveyed.

(d) INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

(1) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.).

(e) USE OF PROCEEDS.—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the appropriate fund established under section 2883 of this title and shall be available—

(A) to construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed;

(B) to repair or restore existing military family housing; and

(C) to reimburse the Secretary concerned for the costs incurred by the Secretary in conveying the family housing facility.

(2) Notwithstanding section 2883(d) of this title, proceeds derived from a conveyance of a family housing facility under this section shall be available under paragraph (1) without any further appropriation.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary concerned considers satisfactory, including by survey in the case of real property.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 104–106, div. B, title XXVIII, §2818(a)(1), Feb. 10, 1996, 110 Stat. 553; amended Pub. L. 107–107, div. A, title X, §1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217,

§3(b)(21), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title X, §1031(a)(46), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111–350, §5(b)(49), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. B, title XXVIII, §2801(c)(3), Dec. 12, 2017, 131 Stat. 1843.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(2), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Title V of the Act is classified generally to subchapter V (§11411 et seq.) of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

### AMENDMENTS

**2017**—Subsec. (c). Pub. L. 115–91 added subsec. (c) and struck out former subsec. (c) which set out written notice and wait requirements.

**2011**—Subsec. (d)(1). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)".

**2003**—Subsec. (c)(2). Pub. L. 108–136 struck out "calendar" after "21" and inserted before period at end "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the justification is provided in an electronic medium pursuant to section 480 of this title".

**2002**—Subsec. (d)(1). Pub. L. 107–217 substituted "Subtitle I of title 40 and title III of the" for "The" and "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

**2001**—Subsec. (d)(2). Pub. L. 107–107 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

## §2855. Law applicable to contracts for architectural and engineering services and construction design

(a) Contracts for architectural and engineering services and construction design in connection with a military construction project or a military family housing project shall be awarded in accordance with chapter 11 of title 40.

(b)(1) In the case of a contract referred to in subsection (a), if the Secretary concerned estimates that the initial award of the contract will be in an amount less than the threshold amount determined under paragraph (2), the contract shall be awarded in accordance with the set aside provisions of the Small Business Act (15 U.S.C. 631 et seq.).

(2) The threshold amount under paragraph (1) is $1,000,000.

(3) This subsection does not restrict the award of contracts to small business concerns under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 98–407, title VIII, §808(a), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 107–217, §3(b)(22), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title XIV, §1427(a), Nov. 24, 2003, 117 Stat. 1670; Pub. L. 115–232, div. B, title XXVIII, §2804(a), (b), Aug. 13, 2018, 132 Stat. 2261.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (b)(1), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

### AMENDMENTS

**2018**—Subsec. (b)(1). Pub. L. 115–232, §2804(a), substituted "subsection (a)," for "subsection (a)—",

struck out subpar. (B) designation before "if the Secretary", and struck out subpar. (A) which read as follows: "if the Secretary concerned estimates that the initial award of the contract will be in an amount greater than or equal to the threshold amount determined under paragraph (2), the contract may not be set aside exclusively for award to small business concerns; and".

Subsec. (b)(2). Pub. L. 115–232, §2804(b), substituted "threshold" for "initial threshold" and "$1,000,000" for "$300,000" and struck out last sentence which read as follows: "The Secretary of Defense may revise that amount in order to ensure that small business concerns receive a reasonable share of contracts referred to in subsection (a)."

**2003**—Subsec. (b)(2). Pub. L. 108–136 substituted "$300,000" for "$85,000".

**2002**—Subsec. (a). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

**1984**—Pub. L. 98–407 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, §2804(c), Aug. 13, 2018, 132 Stat. 2262, provided that: "The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year."

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VIII, §808(b), Aug. 28, 1984, 98 Stat. 1522, provided that: "Subsection (b) of section 2855 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded after September 30, 1984, except that the authority of the Secretary of Defense under paragraph (2) of that subsection shall apply only with respect to contracts awarded after September 30, 1985."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2856. Military unaccompanied housing: standards

(a) LOCAL COMPARABILITY IN FLOOR AREAS.—In the construction, acquisition, and improvement of covered military unaccompanied housing, the Secretary concerned shall ensure that the floor areas of such housing in a particular locality (as designated by the Secretary concerned for purposes of this section) do not exceed the floor areas of similar housing in the private sector in that locality, except for purposes of meeting minimum area requirements under subsection (b)(1)(A).

(b) FLOOR SPACE AND NUMBER OF MEMBERS ALLOWED.—In the design and configuration of covered military unaccompanied housing, the Secretary of Defense shall establish uniform design standards that—

(1) provide a minimum area of floor space, not including bathrooms or closets, per individual occupying a unit of covered military unaccompanied housing;

(2) ensure that not more than two individuals may occupy such a unit; and

(3) provide definitions and measures that specify—

(A) criteria of design;

(B) quality of construction material to be used; and

(C) levels of maintenance to be required.

(c) COVERED MILITARY UNACCOMPANIED HOUSING.—For purposes of this section, section 2856a, and section 2856b, the term "covered military unaccompanied housing" means Government-owned military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 101–510, div. A, title XIII, §1301(19), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 109–364, div. B, title XXVIII, §2807(a)(1), Oct. 17, 2006, 120 Stat. 2468; Pub. L. 118–31, div. B, title XXVIII, §2831(a)(1), Dec. 22, 2023, 137

Stat. 753; Pub. L. 118–159, div. A, title XVII, §1701(a)(31), Dec. 23, 2024, 138 Stat. 2205.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159 substituted "subsection (b)(1)(A)." for "subsection (b)(1)(A),.".

**2023**—Pub. L. 118–31, §2831(a)(1)(B)–(D), designated existing provisions as subsec. (a) and inserted heading, inserted "covered" before "military unaccompanied housing" and ", except for purposes of meeting minimum area requirements under subsection (b)(1)(A)," before period at end, and added subsecs. (b) and (c).

Pub. L. 118–31, §2831(a)(1)(A), substituted "standards" for "local comparability of floor areas" in section catchline.

**2006**—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, text read as follows: "The Secretary of Defense shall prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks construction. Such regulations shall be uniform for the armed forces under the jurisdiction of the Secretary of a military department."

**1990**—Pub. L. 101–510 struck out "(a)" before "The Secretary of Defense" and struck out subsec. (b) which read as follows: "Before taking effect, any regulations under this section, and any modifications to such regulations, shall be submitted to the appropriate committees of Congress. Such regulations (including any modifications to such regulations) may not then take effect until 21 days after being received by such committees."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### IMPROVEMENT OF ADMINISTRATION OF MILITARY UNACCOMPANIED HOUSING

Pub. L. 119–60, div. B, title XXVIII, §2827, Dec. 18, 2025, 139 Stat. 1311, provided that:

"(a) UPDATED GUIDANCE ON SURVEYS.—The Secretary of Defense, in carrying out the satisfaction survey requirement under section 3058 of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 10 U.S.C. 2821 note), shall update guidance to the Secretaries of the military departments to ensure that members of the Armed Forces living in military unaccompanied housing are surveyed in a consistent and comparable manner.

"(b) REVIEW ON PROCESSES AND METHODOLOGIES FOR CONDITION SCORES.—

"(1) IN GENERAL.—The Secretary of Defense shall conduct a review of the processes and methodologies by which the Secretaries of the military departments calculate condition scores for military unaccompanied housing facilities under the jurisdiction of the Secretary concerned.

"(2) ELEMENTS.—The review required under paragraph (1) shall, among other factors—

"(A) consider how best to ensure a condition score of a facility reflects—

"(i) the physical condition of the facility; and

"(ii) the effect of that condition on the quality of life of members of the Armed Forces; and

"(B) aim to increase methodological consistency among the military departments.

"(3) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review conducted under paragraph (1).

"(c) ACCOUNTING OF MEMBERS RESIDING IN MILITARY UNACCOMPANIED HOUSING.—

"(1) IN GENERAL.—The Secretary of Defense shall include with the submission to Congress by the President of the annual budget of the Department of Defense under section 1105(a) of title 31, United States Code, an accounting of unaccompanied members of the Armed Forces whose rank would require that they live in military unaccompanied housing, but that also receive a basic allowance for housing under section 403 of title 37, United States Code.

"(2) ELEMENTS.—The accounting required under paragraph (1) shall include—

"(A) the number of members of the Armed Forces described in such paragraph;

"(B) the total value of basic allowance for housing payments provided to those members; and

"(C) such other information as the Secretary considers appropriate.

"(d) CENTRALIZED TRACKING.—Not later than one year after the date of the enactment of this Act,

each Secretary of a military department shall develop a means for centralized tracking, at the service level, of all military construction requirements related to military unaccompanied housing that have been identified at the installation level, regardless of whether or not such requirements are submitted for funding.

"(e) MILITARY UNACCOMPANIED HOUSING DEFINED.—In this section, the term 'military unaccompanied housing' has the meaning given that term in section 2871 of title 10, United States Code."

**UNIFORM DESIGN STANDARDS**

Pub. L. 118–31, div. B, title XXVIII, §2831(b), (c), Dec. 22, 2023, 137 Stat. 753, 754, provided that:

"(b) COMPLETION AND ISSUANCE OF UNIFORM DESIGN STANDARDS.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

"(1) ensure that the uniform design standards required under section 2856(b)(1) of title 10, United States Code, as added by subsection (a)(1)(D), are completed, issued, and submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; or

"(2) submit to the congressional defense committees a report—

"(A) explaining in detail why such standards are not completed and issued;

"(B) indicating when such standards are expected to be completed and issued; and

"(C) specifying the names of the personnel responsible for the failure to complete and issue such standards.

"(c) COMPLIANCE WITH UNIFORM DESIGN STANDARDS.—

"(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Secretary of each military department shall ensure that all covered military unaccompanied housing located on a military installation under the jurisdiction of such Secretary complies with the uniform standards established under section 2856(b)(1) of title 10, United States Code, as added by subsection (a)(1)(D).

"(2) NO WAIVER.—The requirement under paragraph (1) may not be waived.

"(3) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this subsection, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by subsection (a))."

## §2856a. Covered military unaccompanied housing: waivers of covered privacy and configuration standards and covered health and safety standards

(a) PROCEDURES FOR ISSUANCE OF CERTAIN WAIVERS.—Any waiver of covered privacy and configuration standards or covered health and safety standards shall be issued in accordance with the following:

(1) A commander of a military installation desiring a waiver of covered privacy and configuration standards or covered health and safety standards shall submit to the Secretary of the military department concerned a request for such waiver.

(2) A Secretary of a military department may approve a request under paragraph (1) only if such Secretary has exhausted all options available to such Secretary to provide housing that meets covered privacy and configuration standards or covered health and safety standards (as applicable), including the—

(A) use of available privately-owned military housing;

(B) modification of unit integrity goals to allow the use of each available unit of covered military unaccompanied housing that meets covered privacy and configuration standards or covered health and safety standards (as applicable); and

(C) issuance of a certificate of nonavailability of covered military unaccompanied housing to allow eligibility for basic allowance for housing under section 403 of title 37.

(3) An official described in paragraph (1) or (2) may not delegate the respective authorities under such paragraphs.

(4) Any waiver of covered privacy and configuration standards or covered health and safety standards issued pursuant to this paragraph shall terminate on the date that is 15 months after the date on which such waiver was issued. A Secretary of a military department may not renew any such waiver.

(b) ANNUAL REPORT ON WAIVERS.—Not later than March 1, 2025, and annually thereafter not later than 15 days after the submission of the budget of the President to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate and the Comptroller General of the United States a report on waivers issued under this section that includes—

(1) the number of such waivers that were issued during the period covered by the report;

(2) a plan to remedy the deficiencies, if any, of covered military unaccompanied housing that required the issuance of such a waiver, and a timeline to implement such plan;

(3) a strategy to remedy issues, if any, caused by covered military unaccompanied housing that did not comply with applicable standards;

(4) a strategy to remedy the factors, if any, that require a commander of a military installation to submit to the applicable Secretary of a military department a request for consecutive waivers of applicable standards, including a timeline for the implementation of such strategy;

(5) an analysis of strategies to remedy the factors described in paragraph (4), including—

(A) projects to modernize existing covered military unaccompanied housing to comply with applicable standards;

(B) projects to construct new covered military unaccompanied housing; and

(C) modifications to relevant policies of the Department of Defense, excluding such policies relating to infrastructure;

(6) an assessment of whether a need for future waivers has been identified;

(7) a summary of the analysis performed under subsection (a)(2), including a certification by the Secretary of each military department that the Secretary has—

(A) complied with the requirements for issuing a waiver; and

(B) identified all covered military unaccompanied housing that does not meet covered privacy and configuration standards or covered health and safety standards;

(8) information about costs associated with remediation of covered military unaccompanied housing that requires such waivers, including—

(A) funding needs for military construction projects related to such remediation;

(B) funding needs for facilities sustainment, restoration, and modernization projects related to such remediation; and

(C) any increase required to the basic allowance for housing under section 403 of title 37 for members of the armed forces that would otherwise be living in covered military unaccompanied housing but for the need for such remediation; and

(9) a description of the status of the response of the Department to open recommendations contained in the 2023 report by the Comptroller General of the United States titled "Military Barracks: Poor Living Conditions Undermine Quality of Life and Readiness" (GAO–23–105797), including any privacy and configuration standard or health and safety standard of a military department that differs from the covered privacy and configuration standards or covered health and safety standards (as applicable).

(c) DEFINITIONS.—In this section:

(1) The term "covered health and safety standard" means the minimum health and safety criteria applicable to covered military unaccompanied housing established by the Secretary of Defense and may include standards relating to mold, ventilation, fire safety, or other related habitability conditions necessary to ensure safe occupancy.

(2) The term "covered privacy and configuration standard" means the minimum standards for privacy and configuration applicable to covered military unaccompanied housing described in Department of Defense Manual 4165.63 titled "DoD Housing Management" and dated October 28, 2010 (or a successor document).

(Added Pub. L. 118–31, div. B, title XXVIII, §2833(b), Dec. 22, 2023, 137 Stat. 755; amended Pub. L. 118–159, div. B, title XXVIII, §2824, Dec. 23, 2024, 138 Stat. 2256; Pub. L. 119–60, div. B, title XXVIII, §2822, Dec. 18, 2025, 139 Stat. 1305.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 118–31, div. B, title XXVIII, §2833(b), Dec. 22, 2023, 137 Stat. 755, which directed amendment of "Subchapter III of title 10" by adding this section after section 2856 of this title, was executed to subchapter III of chapter 169 of this title, to reflect the probable intent of Congress.

### AMENDMENTS

**2025**—Pub. L. 119–60, §2822(a)(1), inserted "and covered health and safety standards" after "standards" in section catchline.

Subsec. (a). Pub. L. 119–60, §2822(a)(2)(A), (B), in introductory provisions, substituted "Any" for "Effective March 2, 2024, any" and inserted "or covered health and safety standards" after "covered privacy and configuration standards".

Subsec. (a)(1). Pub. L. 119–60, §2822(a)(2)(C)(ii), substituted "covered privacy and configuration standards or covered health and safety standards" for "covered habitability standards".

Pub. L. 119–60, §2822(a)(2)(C)(i), which directed the insertion of "or covered health and safety standards" after "covered privacy and configuration standards" could not be executed because "covered privacy and configuration standards" does not appear in text.

Subsec. (a)(2). Pub. L. 119–60, §2822(b), substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions.

Pub. L. 119–60, §2822(a)(2)(D), inserted "or covered health and safety standards (as applicable)" after "covered privacy and configuration standards" in introductory provisions and in subpar. (B).

Subsec. (a)(4). Pub. L. 119–60, §2822(a)(2)(E), inserted "or covered health and safety standards" after "covered privacy and configuration standards".

Subsec. (b)(2). Pub. L. 119–60, §2822(a)(3)(B), inserted ", and a timeline to implement such plan" after "waiver".

Subsec. (b)(3), (4), (5)(A). Pub. L. 119–60, §2822(a)(3)(A), substituted "applicable standards" for "such uniform standards".

Subsec. (b)(6) to (9). Pub. L. 119–60, §2822(a)(3)(C)–(E), added pars. (6) to (9).

Subsec. (c). Pub. L. 119–60, §2822(a)(4), amended subsec. (c) generally. Prior to amendment, subsec. (c) defined "covered privacy and configuration standard".

**2024**—Subsec. (a)(4). Pub. L. 118–159 substituted "15 months" for "9 months".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REVISIONS TO RULES, GUIDANCE, OR OTHER ISSUANCES

Pub. L. 118–31, div. B, title XXVIII, §2833(d), Dec. 22, 2023, 137 Stat. 757, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense and Secretaries of the military departments shall revise any rule, guidance, or other issuance of the Department of Defense and the military departments under the respective jurisdictions of such Secretaries to include the procedures for the issuance of waivers of covered privacy and configuration standards [see section 2833(f) of Pub. L. 118–31, set out as a note below] pursuant to section 2856a of title 10, United States Code (as added by subsection (a))."

### TERMINATION OF EXISTING WAIVERS OF COVERED PRIVACY AND CONFIGURATION STANDARDS

Pub. L. 118–31, div. B, title XXVIII, §2833(a), Dec. 22, 2023, 137 Stat. 755, provided that: "Any waiver of covered privacy and configuration standards [see section 2833(f) of Pub. L. 118–31, set out as a note below] in effect on or before the date of the enactment of this Act [Dec. 22, 2023] shall terminate on March 1, 2024."

### COVERED PRIVACY AND CONFIGURATION STANDARD

Pub. L. 118–31, div. B, title XXVIII, §2833(f), Dec. 22, 2023, 137 Stat. 757, provided that: "The term 'covered privacy and configuration standard' has the meaning given in section 2856a of title 10, United States

Code (as added by subsection (a))."

**DEFINITIONS**

For definition of "covered military unaccompanied housing" as used in this section, see section 2856(c) of this title.

## §2856b. Covered military unaccompanied housing: standards for habitability

(a) STANDARDS REQUIRED.—For the purposes of assigning a member of the armed forces to a unit of covered military unaccompanied housing, the Secretary of Defense shall establish uniform minimum standards for covered military unaccompanied housing, that shall include minimum requirements for—

(1) condition;
(2) habitability, health, and environmental comfort;
(3) safety and security; and
(4) any other element the Secretary of Defense determines appropriate.

(b) LIMITATION ON ISSUANCE OF WAIVERS.—Any waiver of a uniform standard described in subsection (a) may only be issued by a Secretary of a military department.

(c) CERTIFICATION.—The Secretary of Defense shall include, in conjunction with the submission of the budget of the President to Congress pursuant to section 1105 of title 31, a certification from each Secretary of a military department to the congressional defense committees that the cost for all needed repairs and improvements for each occupied covered military unaccompanied housing facility under the jurisdiction of such Secretary does not exceed 20 percent of the replacement cost of such facility, as mandated by Department of Defense Manual 4165.63 titled "DoD Housing Management" and dated October 28, 2010 (or a successor document).

(Added and amended Pub. L. 118–31, div. B, title XXVIII, §§2832(a), 2834, Dec. 22, 2023, 137 Stat. 754, 757.)

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–31, div. B, title XXVIII, §2832(a), Dec. 22, 2023, 137 Stat. 754, which directed amendment of "Subchapter III of title 10" by adding this section after section 2856a of this title, was executed to subchapter III of chapter 169 of this title, to reflect the probable intent of Congress.

**AMENDMENTS**

**2023**—Subsec. (c). Pub. L. 118–31, §2834, added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**GUIDANCE**

Pub. L. 118–31, div. B, title XXVIII, §2832(b), Dec. 22, 2023, 137 Stat. 754, provided that: "Not later than 30 days after the date on which the Secretary of Defense develops the uniform standards under section 2856b of title 10, United States Code (as added by subsection (a)), the Secretary of Defense shall issue to each Secretary of a military department guidance on such uniform standards."

**DEFINITIONS**

For definition of "covered military unaccompanied housing" as used in this section, see section 2856(c) of this title.

## §2857. Window fall prevention devices in military family housing units

(a) REQUIRING USE OF DEVICES ON CERTAIN WINDOWS.—

(1) REQUIREMENT.—The Secretary concerned shall ensure that if a window in any military family housing unit is described in subsection (c), including a window designed for emergency escape or rescue, the window is equipped with fall prevention devices described in paragraph (3).

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to the following military family housing units:

(A) A unit for which the contract for the construction of the unit is first entered into after October 1, 2019.

(B) Any other unit which is subject to a whole-house renovation project for which the contract is entered into on or after October 1, 2019.

(3) FALL PREVENTION DEVICE DESCRIBED.—A fall prevention device is a window screen or guard that complies with applicable standards in ASTM standard F2090–13 (or any successor standard).

(b) RETROFITTING OR REPLACING EXISTING WINDOWS.—

(1) PROGRAM TO RETROFIT EXISTING WINDOWS.—The Secretary concerned shall carry out a program under which, in military family housing units which are not subject to the requirements of subsection (a), windows which are described in subsection (c), including windows designed for emergency escape or rescue, are retrofitted to be equipped with fall prevention devices described in paragraph (3) of subsection (a) or are replaced with windows which are equipped with fall prevention devices described in such paragraph.

(2) GRANTS.—The Secretary concerned may carry out the program under this subsection by making grants to private entities to retrofit or replace existing windows, in accordance with such criteria as the Secretary may establish by regulation.

(3) USE OF OPERATIONS FUNDING.—The Secretary may carry out the program under this subsection during a fiscal year with amounts made available to the Secretary for family housing operations for such fiscal year.

(c) WINDOWS DESCRIBED.—A window is described in this subsection if the bottom sill of the window is within 42 inches of the floor, as measured in the interior of the unit, and is more than 72 inches above the ground, as measured on the exterior grade of the building.

(d) RECORD OF INCIDENTS; ANNUAL REPORT.—The Secretary concerned shall keep a record of each incident (as defined in Department of Defense Instruction 6055.7 series) in which a minor child is injured or killed as the result of an unintentional window fall in a military family housing unit. Not later than 90 days after the end of each calendar year (beginning with 2017), the Secretary of Defense shall submit a report to the Committees on Armed Services of the House of Representatives and Senate on all such window falls occurring in the previous year.

(e) APPLICABILITY TO ALL MILITARY FAMILY HOUSING.—This section applies to military family housing under the jurisdiction of the Department of Defense and military family housing acquired or constructed under subchapter IV of this chapter.

(Added Pub. L. 115–91, div. B, title XXVIII, §2817(a)(1), Dec. 12, 2017, 131 Stat. 1851, §2879; amended Pub. L. 115–232, div. A, title X, §1081(a)(28), div. B, title XXVIII, §2823(a), Aug. 13, 2018, 132 Stat. 1985, 2269; Pub. L. 116–92, div. A, title XVII, §1731(a)(57), div. B, title XXX, §3034, Dec. 20, 2019, 133 Stat. 1815, 1936; renumbered §2857 and amended Pub. L. 117–81, div. B, title XXVIII, §2812(a), (b), Dec. 27, 2021, 135 Stat. 2191.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2857 was renumbered section 2915 of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81, §2812(a), renumbered section 2879 of this title as this section and transferred it to

appear after section 2856 of this title.

Subsec. (a)(1). Pub. L. 117–81, §2812(b)(1), struck out "acquired or constructed under this chapter" after "housing unit".

Subsec. (b)(1). Pub. L. 117–81, §2812(b)(2), struck out "acquired or constructed under this chapter" after "housing units".

Subsec. (e). Pub. L. 117–81, §2812(b)(3), added subsec. (e).

**2019**—Subsec. (a)(1). Pub. L. 116–92, §3034(a)(1), substituted "described in paragraph (3)" for "that protect against unintentional window falls by young children and that are in compliance with applicable International Building Code (IBC) standards".

Subsec. (a)(2)(A). Pub. L. 116–92, §3034(a)(2)(A), substituted "October 1, 2019" for "December 11, 2017".

Pub. L. 116–92, §1731(a)(57), struck out comma before period at end.

Subsec. (a)(2)(B). Pub. L. 116–92, §3034(a)(2)(B), substituted "October 1, 2019" for "September 1, 2018".

Subsec. (a)(3). Pub. L. 116–92, §3034(a)(3), added par. (3).

Subsec. (b)(1). Pub. L. 116–92, §3034(c), substituted "paragraph (3)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–92, §3034(b), substituted "42 inches" for "24 inches".

**2018**—Subsec. (a)(1). Pub. L. 115–232, §2823(a)(1), substituted "subsection (c)" for "subsection (b)".

Subsec. (a)(2)(A). Pub. L. 115–232, §1081(a)(28), substituted "after December 11, 2017," for "on or after the date of the enactment of this section".

Subsecs. (b) to (d). Pub. L. 115–232, §2823(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, §2823(b), Aug. 13, 2018, 132 Stat. 2269, provided that: "The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year."

## §2858. Limitation on the use of funds for expediting a construction project

Funds appropriated for military construction (including military family housing) may not be expended for additional costs involved in expediting a construction project unless the Secretary concerned (1) certifies that expenditures for such costs are necessary to protect the national interest, and (2) establishes a reasonable completion date for the project. In establishing such a completion date, the Secretary shall take into consideration the urgency of the requirement for completion of the project, the type and location of the project, the climatic and seasonal conditions affecting the construction involved, and the application of economical construction practices.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## [§2859. Repealed. Pub. L. 119–60, div. B, title XXVIII, §2848(a), Dec. 18, 2025, 139 Stat. 1319]

Section, added Pub. L. 108–375, div. B, title XXVIII, §2804(a)(1), Oct. 28, 2004, 118 Stat. 2121; amended Pub. L. 109–364, div. B, title XXVIII, §2808(a), (b)(1), Oct. 17, 2006, 120 Stat. 2469; Pub. L. 112–239, div. A, title X, §1081(2), Jan. 2, 2013, 126 Stat. 1960; Pub. L. 113–66, div. B, title XXVIII, §2803(a), Dec. 26, 2013, 127 Stat. 1006; Pub. L. 115–91, div. A, title X, §1051(a)(22), Dec. 12, 2017, 131 Stat. 1562, related to construction requirements pertaining to antiterrorism and force protection or urban-training operations.

## §2860. Availability of appropriations

Funds appropriated to a military department or to the Secretary of Defense for a fiscal year for military construction or military family housing purposes may remain available for obligation beyond such fiscal year to the extent provided in appropriation Acts.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 99–167, title VIII, §812(a), Dec. 3, 1985, 99 Stat. 991; Pub. L. 99–173, §121(b), Dec. 10, 1985, 99 Stat. 1029; Pub. L. 99–661, div. A, title XIII, §1343(a)(21)(A), Nov. 14, 1986, 100 Stat. 3994.)

### EDITORIAL NOTES

### AMENDMENTS

**1986**—Pub. L. 99–661 substituted "to the Secretary of Defense" for "defense agency", inserted "for obligation" after "remains available", and struck out "the" before "appropriation Acts".

**1985**—Pub. L. 99–173 substituted "Availability of appropriations" for "Availability of appropriations for five years" as section catchline, and amended text generally. Prior to amendment, text read as follows: "Subject to the provisions of appropriation Acts, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law."

Pub. L. 99–167 struck out subsection designation "(a)" and "and except as otherwise provided under subsection (b)" after "provisions of appropriation Acts", and struck out subsec. (b) which provided: "Should a requirement develop to obligate funds for a military construction project after the end of the fourth fiscal year after the fiscal year for which such funds were appropriated, such obligation may be made after the end of the 21-day period beginning on the date on which the appropriate committees of Congress receive notification of the need for such obligation and the reasons therefor."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1985 AMENDMENTS

Pub. L. 99–173, §121(c), Dec. 10, 1985, 99 Stat. 1029, provided that: "The amendment made by subsection (b) [amending this section] shall apply to funds appropriated after the date of the enactment of Public Law 99–103 [Sept. 30, 1985]."

Pub. L. 99–167, title VIII, §812(b), Dec. 3, 1985, 99 Stat. 991, provided that: "The amendments made by subsection (a) [amending this section] shall apply to funds appropriated after September 30, 1985."

### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

### AVAILABILITY OF APPROPRIATIONS FOR FIVE YEARS

Pub. L. 109–114, title I, §117, Nov. 30, 2005, 119 Stat. 2378, which provided that any funds made available to a military department or defense agency for the construction of military projects could be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) were obligated from funds available for military construction projects; and (2) did not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law, was from the Military Construction, Military Quality of Life and Veterans Affairs Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–324, div. A, §117, Oct. 13, 2004, 118 Stat. 1227.

Pub. L. 108–132, §117, Nov. 22, 2003, 117 Stat. 1380.

Pub. L. 107–249, §117, Oct. 23, 2002, 116 Stat. 1583.

Pub. L. 107–64, §117, Nov. 5, 2001, 115 Stat. 479.

Pub. L. 106–246, div. A, §117, July 13, 2000, 114 Stat. 516.
Pub. L. 106–52, §117, Aug. 17, 1999, 113 Stat. 264.
Pub. L. 105–237, §117, Sept. 20, 1998, 112 Stat. 1558.
Pub. L. 105–45, §117, Sept. 30, 1997, 111 Stat. 1147.
Pub. L. 104–196, §117, Sept. 16, 1996, 110 Stat. 2391.
Pub. L. 104–32, §117, Oct. 3, 1995, 109 Stat. 289.
Pub. L. 103–307, §118, Aug. 23, 1994, 108 Stat. 1664.
Pub. L. 103–110, §118, Oct. 21, 1993, 107 Stat. 1043.
Pub. L. 102–380, §119, Oct. 5, 1992, 106 Stat. 1371.
Pub. L. 102–136, §119, Oct. 25, 1991, 105 Stat. 643.
Pub. L. 101–519, §119, Nov. 5, 1990, 104 Stat. 2246.
Pub. L. 101–148, §121, Nov. 10, 1989, 103 Stat. 925.
Pub. L. 100–447, §124, Sept. 27, 1988, 102 Stat. 1835.

**TRANSFER OF FUNDS FOR FOREIGN CURRENCY FLUCTUATIONS**

Pub. L. 108–132, §118, Nov. 22, 2003, 117 Stat. 1380, which provided that during the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations would not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations could be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred, was from the Military Construction Appropriations Act, 2005 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 107–249, §118, Oct. 23, 2002, 116 Stat. 1584.
Pub. L. 107–64, §118, Nov. 5, 2001, 115 Stat. 480.
Pub. L. 106–246, div. A, §118, July 13, 2000, 114 Stat. 516.
Pub. L. 106–52, §118, Aug. 17, 1999, 113 Stat. 264.
Pub. L. 105–237, §118, Sept. 20, 1998, 112 Stat. 1559.
Pub. L. 105–45, §118, Sept. 30, 1997, 111 Stat. 1147.
Pub. L. 104–196, §118, Sept. 16, 1996, 110 Stat. 2392.
Pub. L. 104–32, §118, Oct. 3, 1995, 109 Stat. 289.
Pub. L. 103–307, §119, Aug. 23, 1994, 108 Stat. 1665.
Pub. L. 103–110, §120, Oct. 21, 1993, 107 Stat. 1043.
Pub. L. 102–380, §121, Oct. 5, 1992, 106 Stat. 1372.
Pub. L. 102–136, §122, Oct. 25, 1991, 105 Stat. 643.

Pub. L. 99–500, §101(k) [title I, §121], Oct. 18, 1986, 100 Stat. 1783–287, 1783–293, and Pub. L. 99–591, §101(k) [title I, §121], Oct. 30, 1986, 100 Stat. 3341–287, 3341–293, as amended by Pub. L. 102–136, §122, Oct. 25, 1991, 105 Stat. 643, provided that: "For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in

preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation 'Foreign Currency Fluctuations, Construction, Defense' the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation."

## §2861. Military construction projects in connection with industrial facility investment program

(a) AUTHORITY.—The Secretary of Defense may carry out a military construction project, not previously authorized, for the purpose of carrying out activities under section 2474(a)(2) of this title, using funds appropriated or otherwise made available for that purpose in military construction accounts.

(b) CREDITING OF FUNDS TO CAPITAL BUDGET.—Funds appropriated or otherwise made available in a fiscal year for the purpose of carrying out a military construction project with respect to a covered depot (as defined in subsection (f) of section 2476 of this title) may be credited to the amount required by subsection (a)(1) of such section to be invested in the capital budgets of the covered depots in that fiscal year.

(c) NOTICE AND WAIT REQUIREMENT.—When a decision is made to carry out a project under subsection (a), the Secretary of Defense shall notify the appropriate committees of Congress of that decision and the savings estimated to be realized from the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109–364, div. B, title XXVIII, §2809(a), Oct. 17, 2006, 120 Stat. 2470; amended Pub. L. 115–91, div. A, title X, §1051(a)(23), div. B, title XXVIII, §2801(c)(4), Dec. 12, 2017, 131 Stat. 1562, 1844; Pub. L. 117–263, div. A, title III, §374(b)(2), Dec. 23, 2022, 136 Stat. 2542.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2861, added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 100–26, §7(f)(1), (j)(9), Apr. 21, 1987, 101 Stat. 281, 283; Pub. L. 104–106, div. B, title XXVIII, §2811(b), Feb. 10, 1996, 110 Stat. 552; Pub. L. 104–201, div. B, title XXVIII, §2802(d)(1), Sept. 23, 1996, 110 Stat. 2787, required the Secretary of Defense to submit an annual report to the appropriate committees of Congress with respect to military construction activities and military family housing activities, prior to repeal by Pub. L. 107–107, div. B, title XXVIII, §2803(a), Dec. 28, 2001, 115 Stat. 1305.

### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263 substituted "subsection (f) of section 2476" for "subsection (e) of section 2476" and "subsection (a)(1) of such section" for "subsection (a) of such section".

**2017**—Subsec. (c). Pub. L. 115–91, §2801(c)(4), struck out "in writing" after "shall notify" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by such committees" and substituted "14-day period" for "21-day period".

Subsec. (d). Pub. L. 115–91, §1051(a)(23), struck out subsec. (d). Text read as follows: "Not later than December 31 of each year, the Secretary shall submit to Congress a report describing actions taken under this section and the savings realized from such actions during the fiscal year ending in the year in which the report is submitted."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2022 AMENDMENT**

Amendment by Pub. L. 117–263 applicable with respect to fiscal years beginning on or after Oct. 1, 2023, see section 374(c) of Pub. L. 117–263, set out as a note under section 2476 of this title.

## §2862. Turn-key selection procedures

(a) AUTHORITY TO USE FOR CERTAIN PURPOSES.—The Secretary concerned may use one-step turn-key selection procedures for the purpose of entering into a contract for any of the following purposes:

(1) The construction of an authorized military construction project.

(2) A repair project (as defined in section 2811(e) of this title) with an approved cost equal to or less than $4,000,000.[1]

(3) The construction of a facility as part of an authorized security assistance activity.

(b) DEFINITIONS.—In this section:

(1) The term "one-step turn-key selection procedures" means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary concerned.

(2) The term "security assistance activity" means—

(A) humanitarian and civic assistance authorized by sections 401 and 2561 of this title;

(B) foreign disaster assistance authorized by section 404 of this title;

(C) foreign military construction sales authorized by section 29 of the Arms Export Control Act (22 U.S.C. 2769);

(D) foreign assistance authorized under sections 607 and 632 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357, 2392); and

(E) other international security assistance specifically authorized by law.

(Added Pub. L. 99–167, title VIII, §807(a), Dec. 3, 1985, 99 Stat. 988; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. B, subdiv. 3, title I, §2301, Dec. 4, 1987, 101 Stat. 1214; Pub. L. 101–189, div. B, title XXVIII, §2806, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 102–190, div. B, title XXVIII, §2802, Dec. 5, 1991, 105 Stat. 1537; Pub. L. 113–291, div. B, title XXVIII, §2804, Dec. 19, 2014, 128 Stat. 3697.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2014**—Pub. L. 113–291 amended section generally. Prior to amendment, text read as follows:

"(a) AUTHORITY TO USE.—The Secretary concerned may use one-step turn-key selection procedures for the purpose of entering into contracts for the construction of authorized military construction projects.

"(b) DEFINITION.—In this section, the term 'one-step turn-key selection procedures' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary concerned."

**1991**—Pub. L. 102–190 redesignated par. (1) of subsec. (a) as entire subsec. (a) and inserted heading, redesignated par. (2) of subsec. (a) as (b), inserted heading, and struck out former subsecs. (b) and (c) which read as follows:

"(b) The Secretary of Defense, with respect to any Defense Agency, or the Secretary of a military department may not, during any fiscal year, enter into more than three contracts for military construction projects using procedures authorized by this section.

"(c) The authority under this section shall expire on October 1, 1991."

**1989**—Subsec. (a)(1). Pub. L. 101–189, §2806(1), struck out at end "Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense."

Subsec. (c). Pub. L. 101–189, §2806(2), substituted "1991" for "1990".

**1987**—Subsec. (a)(1). Pub. L. 100–180, §2301(1), substituted "The Secretary concerned" for "The Secretaries of the military departments, with the approval of the Secretary of Defense," and inserted provision at end that such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense.

Subsec. (a)(2). Pub. L. 100–26 inserted "the term" after "In this section,".

Subsec. (b). Pub. L. 100–180, §2301(2), inserted "Secretary of Defense, with respect to any Defense Agency, or the" after "The".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 99–167, title VIII, §807(c), Dec. 3, 1985, 99 Stat. 989, provided that: "The amendments made by this section [enacting this section] shall take effect on October 1, 1986."

**TEMPORARY EXPANSION OF AUTHORITY FOR USE OF ONE-STEP TURN-KEY PROCEDURES FOR REPAIR PROJECTS**

Pub. L. 118–31, div. B, title XXVIII, §2806, Dec. 22, 2023, 137 Stat. 745, provided that: "During the five-year period beginning on the date of the enactment of this Act [Dec. 22, 2023], section 2862(a)(2) of title 10, United States Code, shall be applied and administered by substituting '$8,000,000' for '$4,000,000'."

*[1] See Temporary Expansion of Authority for Use of One-Step Turn-Key Procedures for Repair Projects note below.*

## §2863. Payment of contractor claims

Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary of Defense, with respect to a Defense Agency, or the Secretary of a military department may use for such purpose any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.

(Added Pub. L. 100–180, div. B, subdiv. 3, title I, §2303(a), Dec. 4, 1987, 101 Stat. 1215.)

## §2864. Master plans for major military installations

(a) PLANS REQUIRED.—(1) At a time interval prescribed by the Secretary concerned (but not less frequently than once every 10 years), the commander of each major military installation under the jurisdiction of the Secretary shall ensure that an installation master plan is developed to address environmental planning, sustainable design and development, sustainable range planning, real property master planning, military installation resilience, and transportation planning.

(2) To address the requirements under paragraph (1), each installation master plan shall include consideration of—

(A) planning for compact and infill development;

(B) horizontal and vertical mixed-use development;

(C) the full lifecycle costs of real property planning decisions;

(D) capacity planning through the establishment of growth boundaries around cantonment areas to focus development towards the core and preserve range and training space; and

(E) energy and climate resiliency efforts and military installation resilience.

(3)(A) The commander of a major military installation shall develop and update the master plan for that major military installation in consultation with representatives of the government of the State in which the installation is located and representatives of local governments in the vicinity of the installation to improve cooperation and consistency between the Department of Defense and such governments in addressing each component of the master plan described in paragraph (1).

(B) The consultation required by subparagraph (A) is in addition to the consultation specifically required by subsection (b)(1) in connection with the transportation component of the master plan for a major military installation.

(b) TRANSPORTATION COMPONENT.—(1) The transportation component of the master plan for a major military installation shall be developed and updated in consultation with the metropolitan planning organization designated for the metropolitan planning area in which the military installation is located.

(2) To address the requirements under subsection (a) and paragraph (1), each installation master plan shall include consideration of ways to diversify and connect transit systems.

(c) MILITARY INSTALLATION RESILIENCE COMPONENT.—To address military installation resilience under subsection (a)(1), each installation master plan shall discuss the following:

(1) Risks and threats to military installation resilience that exist at the time of the development of the plan and that are projected for the future, including from extreme weather events, mean sea level fluctuation, wildfires, flooding, and other changes in environmental conditions.

(2) Assets or infrastructure located on the military installation vulnerable to the risks and threats described in paragraph (1), with a special emphasis on assets or infrastructure critical to the mission of the installation and the mission of members of the armed forces.

(3) Lessons learned from the impacts of extreme weather events, including changes made to the military installation to address such impacts, since the prior master plan developed under this section.

(4) Ongoing or planned infrastructure projects or other measures, as of the time of the development of the plan, to mitigate the impacts of the risks and threats described in paragraph (1).

(5) Community infrastructure and resources located outside the installation (such as medical facilities, transportation systems, and energy infrastructure) that are—

(A) necessary to maintain mission capability or that impact the resilience of the military installation; and

(B) vulnerable to the risks and threats described in paragraph (1).

(6) Agreements in effect or planned, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(7) Extent of current coordination efforts and plans for additional coordination, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(8) Projections from recognized governmental and scientific entities such as the Census Bureau, the National Academies of Sciences, the United States Geological Survey, and the United States Global Change Research Office (or any similar successor entities) with respect to future risks and threats (including the risks and threats described in paragraph (1)) to the resilience of any project considered in the installation master plan during the 50-year lifespan of the installation.

(d) REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report listing all master plans completed pursuant to this section in the prior calendar year.

(e) DEFINITIONS.—In this section:

(1) The term "major military installation" has the meaning given to the term "large site" in the most recent version of the Department of Defense Base Structure Report issued before the time interval prescribed for development of installation master plans arises under subsection (a).

(2) The terms "metropolitan planning area" and "metropolitan planning organization" have the meanings given those terms in section 134(b) of title 23 and section 5303(b) of title 49.

(3) The term "energy and climate resiliency" means anticipation, preparation for, and adaptation

to utility disruptions and changing environmental conditions and the ability to withstand, respond to, and recover rapidly from utility disruptions while ensuring the sustainment of mission-critical operations.

(4) The term "military installation resilience" has the meaning given that term in section 101(e) [1] of this title.

(Added Pub. L. 112–239, div. B, title XXVIII, §2802(a), Jan. 2, 2013, 126 Stat. 2147; amended Pub. L. 113–66, div. B, title XXVIII, §2811, Dec. 26, 2013, 127 Stat. 1013; Pub. L. 115–232, div. B, title XXVIII, §2805(d), Aug. 13, 2018, 132 Stat. 2263; Pub. L. 116–92, div. B, title XXVIII, §2801(a), Dec. 20, 2019, 133 Stat. 1879; Pub. L. 117–81, div. B, title XXVIII, §§2831, 2832, Dec. 27, 2021, 135 Stat. 2198; Pub. L. 118–31, div. A, title XVIII, §1801(a)(23), Dec. 22, 2023, 137 Stat. 684; Pub. L. 119–60, div. B, title XXVIII, §2848(b), Dec. 18, 2025, 139 Stat. 1319.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 101(e) of this title, referred to in subsec. (e)(4), was redesignated section 101(f) of this title, and a new subsec. (e) of section 101 was added, by Pub. L. 118–31, div. A, title XVII, §1713(a), Dec. 22, 2023, 137 Stat. 625.

### PRIOR PROVISIONS

A prior section 2864, added Pub. L. 101–189, div. B, title XXVIII, §2807(a), Nov. 29, 1989, 103 Stat. 1648; amended Pub. L. 104–106, div. A, title X, §1062(g), Feb. 10, 1996, 110 Stat. 444, related to military construction contracts on Guam, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2810(a), Oct. 17, 2006, 120 Stat. 2470.

### AMENDMENTS

**2025**—Subsecs. (e), (f). Pub. L. 119–60 redesignated subsec. (f) as (e) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: "Nothing in this section shall supersede the requirements of section 2859(a) of this title."

**2023**—Subsec. (f)(4), (6). Pub. L. 118–31 redesignated par. (6) as (4).

**2021**—Subsec. (a)(2)(E). Pub. L. 117–81, §2832(a), inserted "and military installation resilience" before period at end.

Subsec. (a)(3). Pub. L. 117–81, §2831, added par. (3).

Subsec. (c)(7), (8). Pub. L. 117–81, §2832(b), added par. (7) and redesignated former par. (7) as (8).

Subsec. (f)(6). Pub. L. 117–81, §2832(c), added par. (6).

**2019**—Subsec. (a)(1). Pub. L. 116–92, §2801(a)(1)(A), inserted "military installation resilience," after "master planning,".

Subsec. (c). Pub. L. 116–92, §2801(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 116–92, §2801(a)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsecs. (e), (f). Pub. L. 116–92, §2801(a)(1)(B), redesignated subsecs. (c) and (d) as (e) and (f), respectively.

**2018**—Subsec. (a)(2)(E). Pub. L. 115–232, §2805(d)(1), added subpar. (E).

Subsec. (d)(3). Pub. L. 115–232, §2805(d)(2), added par. (3).

**2013**—Subsec. (a). Pub. L. 113–66, §2811(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 113–66, §2811(2), designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 113–66, §2811(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### INTERAGENCY REGIONAL COORDINATOR FOR RESILIENCE PILOT PROJECT

Pub. L. 117–263, div. B, title XXVIII, §2872, Dec. 23, 2022, 136 Stat. 3014, provided that:

"(a) PILOT PROJECT.—The Secretary of Defense shall carry out a pilot program under which the Secretary shall establish within the Department of Defense four Interagency Regional Coordinators. Each Interagency Regional Coordinator shall be responsible for improving the resilience of a community that

supports a military installation and serving as a model for enhancing community resilience before disaster strikes.

"(b) SELECTION.—Each Interagency Regional Coordinator shall support military installations and surrounding communities within a geographic area, with at least one such Coordinator serving each of the East, West, and Gulf coasts. For purposes of the project, the Secretary shall select geographic areas—

"(1) with significant sea level rise and recurrent flooding that prevents members of the Armed Forces from reaching their posts or jeopardizes military readiness; and

"(2) where communities have collaborated on multi-jurisdictional climate adaptation planning efforts, including such collaboration with the Army Corps of Engineers Civil Works Department and through Joint Land Use Studies.

"(c) COLLABORATION.—In carrying out the pilot project, the Secretary shall build on existing efforts through collaboration with State and local entities, including emergency management, transportation, planning, housing, community development, natural resource managers, and governing bodies and with the heads of appropriate Federal departments and agencies."

## STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS; IMPLICATIONS OF MILITARY INSTALLATION RESILIENCE FOR STRATEGY; PLANS AND PLANNING DOCUMENTS; DEFINITIONS

Pub. L. 117–81, div. A, title III, §311(d)–(g), (j), Dec. 27, 2021, 135 Stat. 1626, 1627, provided that:

"(d) STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS.—The Secretary of each military department, with respect to any installation under the jurisdiction of that Secretary, and the Secretary of Defense, with respect to any installation of the Department of Defense that is not under the jurisdiction of the Secretary of a military department, shall consider the strategic risks associated with military installation resilience.

"(e) NATIONAL DEFENSE STRATEGY AND NATIONAL MILITARY STRATEGY.—The Secretary of Defense, in coordination with the heads of such other Federal agencies as the Secretary determines appropriate, shall incorporate the security implications of military installation resilience into the National Defense Strategy and the National Military Strategy.

"(f) NATIONAL SECURITY PLANNING DOCUMENTS.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall consider the security implications associated with military installation resilience in developing the Defense Planning Guidance under section 113(g)(2) of title 10, United States Code, the Risk Assessment of the Chairman of the Joint Chiefs of Staff under section 153(b)(2) of such title, and other relevant strategy, planning, and programming documents and processes.

"(g) CAMPAIGN PLANS OF COMBATANT COMMANDS.—The Secretary of Defense shall ensure that the national security implications associated with military installation resilience are integrated into the campaign plans of the combatant commands.

"(j) DEFINITIONS.—In this section [transferring section 118a of this title to section 118b of this title, amending sections 113, 153, and 2925 of this title, enacting provisions set out as notes under this section and section 2925 of this title, and amending provisions set out as a note under section 118b of this title]:

"(1) The term 'military installation resilience' has the meaning given that term in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

"(2) The term 'National Defense Strategy' means the national defense strategy under section 113(g)(1) of such title.

"(3) The term 'National Military Strategy' means the national military strategy under section 153(b) of such title."

## PROMPT COMPLETION OF MILITARY INSTALLATION RESILIENCE COMPONENT OF MASTER PLANS FOR AT-RISK MAJOR MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2833, Dec. 27, 2021, 135 Stat. 2199, provided that:

"(a) IDENTIFICATION OF AT-RISK INSTALLATIONS.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall—

"(1) identify at least two major military installations under the jurisdiction of that Secretary that the Secretary considers at risk from extreme weather events; and

"(2) notify the Committees on Armed Services of the Senate and the House of Representatives of the major military installations identified under paragraph (1).

"(b) COMPLETION DEADLINE.—Not later than one year after the date of the enactment of this Act, each Secretary of a military department shall ensure that the military installation resilience component of the master plan for each major military installation identified by the Secretary under subsection (a) is completed.

"(c) BRIEFINGS.—Not later than 60 days after completion of a master plan component as required by subsection (b) for a major military installation, the Secretary of the military department concerned shall brief the Committees on Armed Services of the Senate and the House of Representatives regarding the results of the master plan efforts for that major military installation.

"(d) DEFINITIONS.—In this section:

"(1) The term 'major military installation' has the meaning given that term in section 2864(f) [now 2864(e)] of title 10, United States Code.

"(2) The term 'master plan' means the master plan required by section 2864(a) of title 10, United States Code, for a major military installation."

## REMOVAL OF BARRIERS THAT DISCOURAGE INVESTMENTS TO INCREASE MILITARY INSTALLATION RESILIENCE

Pub. L. 116–92, div. A, title III, §327, Dec. 20, 2019, 133 Stat. 1311, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall—

"(1) identify and seek to remove barriers that discourage investments to increase military installation resilience;

"(2) reform policies and programs that unintentionally increased the vulnerability of systems to related extreme weather events; and

"(3) develop, and update at least once every four years, an adaptation plan to assess how climate impacts affected the ability of the Department of Defense to accomplish its mission, and the short-and long-term actions the Department can take to ensure military installation resilience.

"(b) MILITARY INSTALLATION RESILIENCE.—In this section, the term 'military installation resilience' has the meaning given such term in section 101(e)(8) of title 10, United States Code [now 10 U.S.C. 101(f)(8)]."

## INCORPORATION OF CHANGING ENVIRONMENTAL CONDITION PROJECTIONS IN MILITARY CONSTRUCTION DESIGNS AND MODIFICATIONS

Pub. L. 115–232, div. B, title XXVIII, §2805(c), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116–92, div. A, title XVII, §1731(b)(4), div. B, title XXVII, §2804(c), Dec. 20, 2019, 133 Stat. 1816, 1882, provided that:

"(1) FISCAL YEAR 2019.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend section 3–5.6.2.3 of Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02 (or any similar successor regulations) to provide that in order to anticipate changing environmental conditions during the design life of existing or planned new facilities and infrastructure, projections from reliable and authorized sources such as the Census Bureau (for population projections), the National Academies of Sciences (for land use change projections and climate projections), the U.S. Geological Survey (for land use change projections), and the U.S. Global Change Research Office and National Climate Assessment (for climate projections) shall be considered and incorporated into military construction designs and modifications.

"(2) FISCAL YEAR 2020.—

"(A) AMENDMENTS REQUIRED.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019], the Secretary of Defense shall amend the Unified Facilities Criteria as follows:

"(i) To require that installations of the Department of Defense assess the risks from extreme weather and related effects, and develop plans to address such risks.

"(ii) To require in the development of such Criteria the use of—

"(I) land use change projections through the use of land use and land cover modeling by the United States Geological Survey; and

"(II) weather projections—

"(aa) from the United States Global Change Research Program, including in the National Climate Assessment; or

"(bb) from the National Oceanic and Atmospheric Administration, if such projections are more up-to-date than projections under item (aa).

"(iii) To require the Secretary of Defense to provide guidance to project designers and master planners on how to use weather projections.

"(iv) To require the use throughout the Department of the Naval Facilities Engineering Command Climate Change Installation Adaptation and Resilience planning handbook, as amended (or similar publication of the Army Corps of Engineers).

"(B) NOTIFICATION.—If the Secretary of Defense determines that a projection other than a projection described in subparagraph (A)(ii) is more appropriate for use in amending the Unified Facilities Criteria, the Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such determination, which shall include the rationale underlying such determination and a description of such other projection."

[Section 1731(b)(4) of Pub. L. 116–92, which directed amendment of section 2805(c) of Pub. L. 115–232, set out above, by substituting "Unified Facilities Criteria" for "United Facilities Criteria", was not executed in light of the amendment by section 2804(c)(2) of Pub. L. 116–92, which substituted "Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02" for "United Facilities Criteria (UFC) 2–100–01 and UFC 2–100–02".]

[1] *See References in Text note below.*

## §2865. Work in Process Curve charts and outlay tables for military construction projects

Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include for any military construction project over $90,000,000, as an addendum to be included within the same document as the 1391s for the Military Construction Program budget documentation, a Project Spending Plan that includes—

(1) a Work in Process Curve chart to identify funding, obligations, and outlay figures; and

(2) a monthly outlay table for funding, obligations, and outlay figures.

(Added Pub. L. 115–232, div. B, title XXVIII, §2806(a)(1), Aug. 13, 2018, 132 Stat. 2264.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2865, added Pub. L. 101–510, div. B, title XXVIII, §2851(a), Nov. 5, 1990, 104 Stat. 1803; amended Pub. L. 102–484, div. B, title XXVIII, §2801, Oct. 23, 1992, 106 Stat. 2604; Pub. L. 103–160, div. B, title XXVIII, §2804, Nov. 30, 1993, 107 Stat. 1885; Pub. L. 103–337, div. A, title X, §1070(a)(14), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, §1502(a)(27), div. B, title XXVIII, §2819, Feb. 10, 1996, 110 Stat. 506, 555; Pub. L. 105–85, div. A, title III, §371(d)(2), div. B, title XXVIII, §2804(a), Nov. 18, 1997, 111 Stat. 1706, 1990; Pub. L. 107–314, div. B, title XXVIII, §2805, Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108–136, div. A, title X, §1031(a)(47), div. B, title XXVIII, §2812(a), Nov. 24, 2003, 117 Stat. 1602, 1725, related to energy savings at military installations, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2851(a)(2), Oct. 17, 2006, 120 Stat. 2494.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPARTMENT OF DEFENSE GUIDANCE

Pub. L. 115–232, div. B, title XXVIII, §2806(b), Aug. 13, 2018, 132 Stat. 2264, provided that: "The Secretary of Defense shall, in coordination with the Under Secretary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14–R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with section 2865 of title 10, United States Code, as added by this section."

## §2866. Water conservation at military installations

(a) WATER CONSERVATION ACTIVITIES.—(1) The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by a utility for the management of water demand or for water conservation.

(2) The Secretary of Defense may authorize a military installation to accept a financial incentive

(including an agreement to reduce the amount of a future water bill), goods, or services generally available from a utility, for the purpose of adopting technologies and practices that—

(A) relate to the management of water demand or to water conservation; and

(B) as determined by the Secretary, are cost effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into an agreement with a utility to design and implement a cost-effective program that provides incentives for the management of water demand and for water conservation and that addresses the requirements and circumstances of the installation. Activities under the program may include the provision of water management services, the alteration of a facility, and the installation and maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received from utilities for management of water demand or water conservation under subsection (a)(2) shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(2) Water cost savings realized under subsection (a)(3) shall be used as follows:

(A) One-half of the amount shall be used for water conservation activities at such buildings, facilities, or installations of the Department of Defense as may be designated (in accordance with regulations prescribed by the Secretary of Defense) by the head of the department, agency, or instrumentality that realized the water cost savings.

(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

(i) improvements to existing military family housing units;

(ii) any unspecified minor construction project that will enhance the quality of life of personnel; or

(iii) any morale, welfare, or recreation facility or service.

(c) WATER CONSERVATION CONSTRUCTION PROJECTS.—(1) The Secretary of Defense may carry out a military construction project for water conservation, not previously authorized, using funds appropriated or otherwise made available to the Secretary for water conservation.

(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify the appropriate committees of Congress of that decision. Such project may be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 103–160, div. B, title XXVIII, §2803(a), Nov. 30, 1993, 107 Stat. 1884; amended Pub. L. 104–106, div. A, title XV, §1502(a)(27), Feb. 10, 1996, 110 Stat. 506; Pub. L. 105–85, div. B, title XXVIII, §2804(b), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108–136, div. A, title X, §1031(a)(48), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 109–364, div. B, title XXVIII, §2851(d), Oct.

17, 2006, 120 Stat. 2495; Pub. L. 113–291, div. A, title X, §1071(f)(25), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1051(a)(24), div. B, title XXVIII, §2801(c)(5), Dec. 12, 2017, 131 Stat. 1562, 1844.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b)(3). Pub. L. 115–91, §1051(a)(24), struck out par. (3) which read as follows: "The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this subsection in that fiscal year."

Subsec. (c)(2). Pub. L. 115–91, §2801(c)(5), substituted "14-day period" for "21-day period" and struck out "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by such committees".

**2014**—Subsec. (a)(4)(A). Pub. L. 113–291 substituted "repaid" for "repayed".

**2006**—Subsec. (b). Pub. L. 109–364 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) Financial incentives received under subsection (a)(2) shall be used as provided in section 2865(b)(3) of this title.

"(2) Water cost savings realized under subsection (a)(3) shall be used as provided in section 2865(b)(2) of this title."

**2003**—Subsec. (c)(2). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**1997**—Subsec. (b). Pub. L. 105–85 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(b) USE OF WATER COST SAVINGS.—Water cost savings realized under this section shall be used as provided in section 2865(b)(2) of this title."

**1996**—Subsec. (c)(2). Pub. L. 104–106 substituted "appropriate committees of Congress" for "Committees on Armed Services and Appropriations of the Senate and House of Representatives".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPROVING WATER MANAGEMENT AND SECURITY ON MILITARY INSTALLATIONS

Pub. L. 116–283, div. B, title XXVIII, §2827, Jan. 1, 2021, 134 Stat. 4336, which related to adoption of a risk-based approach to water management and security for military installations, was repealed by Pub. L. 119–60, div. B, title XXVIII, §2804(b), Dec. 18, 2025, 139 Stat. 1297. See section 2866a of this title.

### ESTABLISHMENT OF TARGETS FOR WATER USE

Pub. L. 116–92, div. A, title III, §319(c), Dec. 20, 2019, 133 Stat. 1306, provided that: "The Secretary of Defense shall, where life-cycle cost-effective, improve water use efficiency and management by the Department of Defense, including storm water management, by—

"(1) installing water meters and collecting and using water balance data of buildings and facilities to improve water conservation and management;

"(2) reducing industrial, landscaping, and agricultural water consumption in gallons by two percent annually through fiscal year 2030 relative to a baseline of such consumption by the Department in fiscal year 2010; and

"(3) installing appropriate sustainable infrastructure features on installations of the Department to help with storm water and wastewater management."

## §2866a. Risk-based approach to water management and water security at military installations

(a) IN GENERAL.—(1) The Secretary of Defense shall adopt a risk-based approach to water management and water security for each military installation.

(2) In implementing paragraph (1), the Secretary shall prioritize those military installations that the Secretary determines—

(A) are experiencing the greatest risks to water management and water security; and

(B) face, or potentially face, the most severe adverse effects on mission assurance because of such risks.

(3) Determinations under paragraph (2) shall be made on the basis of the water management and water security assessments made by the Secretary concerned under subsection (b).

(b) WATER MANAGEMENT AND WATER SECURITY ASSESSMENTS.—(1) The Secretary of Defense, in coordination with each Secretary of a military department, shall develop a methodology to assess, for each military installation—

(A) risks to water management and water security; and

(B) adverse effects on mission assurance because of such risks.

(2) Such methodology shall include the following:

(A) An evaluation of all water sources available to a military installation, disaggregated by—

(i) total available water volume;

(ii) treated potable water; and

(iii) treated nonpotable water.

(B) An assessment of relevant water supply connections for a military installation, including the number, type, water flow rate, seasonal variability, and the extent of competition for each such connection.

(C) A calculation of the total water requirement of a military installation that—

(i) includes an identification of the water usage by each tenant command located on the military installation; and

(ii) describes the water uses that comprise such total water requirement, disaggregated by—

(I) drinking water uses; and

(II) nonpotable water uses, including—

(aa) cooling;

(bb) irrigation groundskeeping;

(cc) wash water; and

(dd) other industrial and agricultural uses.

(D) An evaluation of the age, condition, and jurisdictional control of water infrastructure serving a military installation, including an estimate of the percentage of water lost due to water infrastructure that is in poor or failing condition.

(E) An evaluation of water security risks that could have an adverse effect on mission assurance for a military installation, including—

(i) if the military installation is located in a drought-prone region;

(ii) decreasing water levels or sources that supply water to the military installation;

(iii) effects of new defense water uses on the total water requirement of the military installation; and

(iv) increases to the demand for water that result from nondefense or defense-adjacent requirements and that could affect—

(I) the supply of water available for use by the military installation;

(II) the quality of such water; and

(III) any legal rights to use of such water by the military installation, such as water rights disputes.

(F) An evaluation of the capacity of the water supply of a military installation to withstand or quickly recover from water constraints, and the overall health of the aquifer basin of which the water supply is a part, including the robustness of the resource, redundancy, and ability to recover

from disruption.

(G) An evaluation of existing water metering and water consumption at a military installation, disaggregated—

(i) by type of activity, including training, maintenance, medical, housing, and grounds maintenance and landscaping; and

(ii) by fluctuations in consumption, including peak consumption by quarter.

(H) A determination of the appropriate frequency for reassessment of military installations with the highest water security risk.

(3) The Secretary of Defense, in coordination with each Secretary of a military department, shall update the methodology under paragraph (1) not less frequently than once every ten years.

(c) REASSESSMENT OF WATER SECURITY RISK.—The Secretary of Defense shall update assessments of the military installations with the highest water security risk not less frequently than as determined under subsection (b)(2)(H).

(d) MITIGATION OF HIGHEST WATER SECURITY RISK INSTALLATIONS.—(1) Each Secretary of a military department shall—

(A) identify the three military installations under the jurisdiction of the Secretary with the highest water security risk; and

(B) develop, for each military installation identified, a plan of action and milestones to address—

(i) risks to water security; and

(ii) adverse effects on mission assurance because of such risks.

(2) Each such plan of action shall include the following:

(A) A description of each risk and the effect on the capacity of the military installation and mission assurance.

(B) A list of the factors contributing to the risk, disaggregated by risks originating from—

(i) the geographic area under the control of the military installation; and

(ii) the geographic area not under the control of the military installation.

(C) A plan for implementing installation-level water metering to ensure more accurate assessments of demand for water at the military installation.

(D) An assessment of—

(i) the effects of planned future missions and tenant commands on the demand for water at the military installation; and

(ii) the corresponding requirements for water infrastructure serving the military installation.

(E) A list of infrastructure projects to mitigate loss of available water supply to leakage, including new construction, recapitalization, required maintenance, and modernization of existing infrastructure.

(F) A cost-benefit analysis of using "no dig" technologies to mitigate infrastructure degradation that leads to water loss.

(e) EVALUATION OF INSTALLATIONS FOR NONPOTABLE WATER REUSE.—(1) The Secretary of Defense shall evaluate each military installation identified under subsection (d) to determine the potential to mitigate risks to water security for such installation through the reuse of nonpotable water for nondrinking water uses.

(2) Such evaluation shall include the following:

(A) An evaluation of alternative water sources to offset use of freshwater, including water recycling and harvested rainwater for use as nonpotable water.

(B) An assessment of the feasibility of incorporating, when practicable, water-efficient technologies and systems to minimize water consumption and wastewater discharge on the

installation.

(C) An evaluation of the practicality of implementing water reuse systems and other water-saving infrastructure into new construction in water-constrained areas, as determined pursuant to the applicable water management and security assessment under subsection (b).

(f) COST EFFECTIVE LANDSCAPING MANAGEMENT PRACTICES.—(1) The Secretary of Defense shall, to the maximum extent practicable, implement, at each military installation identified under subsection (d), landscaping management practices that mitigate risks to water management and water security and enhance mission assurance by enabling greater quantities of water availability for operational, training, and maintenance requirements.

(2) For military installations located in arid or semi-arid regions, such landscaping management practices shall, to the extent practicable, include practices that avoid the cost of irrigation.

(3) To the extent practicable, each Secretary of a military department shall institute landscaping management practices that include plants native to, or appropriate for, the region in which the installation is located and native grass and plants that decrease water consumption requirements.

(g) BRIEFINGS REQUIRED.—(1) Not later than 180 days after the date of the enactment of this section, the Secretary of Defense shall provide to the Committees of the Armed Services of the House of Representatives and the Senate a briefing that includes—

(A) an identification, in ranked order, of the military installations identified under subsection (d) with the highest water security risk; and

(B) a description of the schedule for developing each plan of action required by subsection (d).

(2) Not later than one year after the date of the enactment of this section, and annually thereafter not later than the date of President's budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall provide to the Committees of the Armed Services of the House of Representatives and the Senate a briefing that includes, with respect to the period covered by the briefing—

(A) an update on the progress of the Secretary concerned toward completing the water security assessment required by subsection (b);

(B) updated cost estimates for infrastructure projects to mitigate loss of available water supply to leakage identified pursuant to subsection (d)(1)(E); [1] and

(C) a description of—

(i) any agreement between a Secretary of a military department and the head of a non-Department of Defense entity with respect to property under the jurisdiction of such Secretary that may affect—

(I) the supply of water available to a military installation under the jurisdiction of such Secretary; or

(II) the demand for water of such installation; and

(ii) any change to—

(I) the water supply of a military installation under the jurisdiction such Secretary; or

(II) the demand for water of such military installation.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the repetition or replacement of any prior water assessment or evaluation conducted before the date of the enactment of section 2827 of the Military Construction Authorization Act for Fiscal Year 2021 (division B of Public Law 118–159; 10 U.S.C. 2866 note) [2] that is accurate and reflects current mission requirements.

(Added Pub. L. 119–60, div. B, title XXVIII, §2804(a), Dec. 18, 2025, 139 Stat. 1294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (g), is the date of enactment of Pub. L. 119–60, which was approved on Dec. 18, 2025.

Section 2827 of the Military Construction Authorization Act for Fiscal Year 2021, referred to in subsec. (h), is section 2827 of div. B of Pub. L. 116–283, which was formerly set out as a note under section 2866 of this title, prior to repeal by Pub. L. 119–60, div. B, title XXVIII, §2804(b), Dec. 18, 2025, 139 Stat. 1297.

[1] *So in original. Probably should be "subsection (d)(2)(E);".*

[2] *See References in Text note below.*

## §2867. Energy monitoring and utility control system specification for military construction and military family housing activities

(a) ADOPTION OF DEPARTMENT-WIDE, OPEN PROTOCOL, ENERGY MONITORING AND UTILITY CONTROL SYSTEM SPECIFICATION.—(1) The Secretary of Defense shall adopt an open protocol energy monitoring and utility control system specification for use throughout the Department of Defense in connection with a military construction project, military family housing activity, or other activity under this chapter for the purpose of monitoring and controlling, with respect to the project or activity, the items specified in paragraph (2) with the goal of establishing installation-wide energy monitoring and utility control systems.

(2) The energy monitoring and utility control system specification required by paragraph (1) shall cover the following:

(A) Utilities and energy usage, including electricity, gas, steam, and water usage.

(B) Indoor environments, including temperature and humidity levels.

(C) Heating, ventilation, and cooling components.

(D) Central plant equipment.

(E) Renewable energy generation systems.

(F) Lighting systems.

(G) Power distribution networks.

(b) EXCLUSION.—(1) The energy monitoring and utility control system specification required by subsection (a) is not required to apply to projects carried out under the authority provided in subchapter IV of chapter 169 of this title.

(2) The Secretary concerned may waive the application of the energy monitoring and utility control system specification required by subsection (a) with respect to a specific military construction project, military family housing activity, or other activity under this chapter if the Secretary determines that the application of the specification to the project or activity is not life cycle cost-effective. The Secretary concerned shall notify the congressional defense committees of any waiver granted under this paragraph.

(Added Pub. L. 111–84, div. B, title XXVIII, §2841(a)(1), Oct. 28, 2009, 123 Stat. 2679.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2867 was renumbered section 2916 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### SUSPENSION OF RESIDENT ENERGY CONSERVATION PROGRAM AND RELATED PROGRAMS FOR PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3063, Dec. 20, 2019, 133 Stat. 1947, as amended by Pub. L. 116–283, div. B, title XXVIII, §2811(j), Jan. 1, 2021, 134 Stat. 4326, provided that:

"(a) SUSPENSION REQUIRED.—The Secretary of Defense shall suspend the initiative of the Department of Defense known as the Resident Energy Conservation Program and instruct the Secretary of each military department to suspend any program carried out by such Secretary that measures the energy usage for individual units of privatized military housing on installations of the Department of Defense.

"(b) TERM OF SUSPENSION.—Subject to subsection (c), the suspension required by subsection (a) shall remain in effect for an installation of the Department of Defense until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that 100 percent of the privatized military housing covered by a program suspended under subsection (a) on the installation is individually metered to each respective unit of privatized military housing and the meter accurately measures the energy usage of the unit.

"(c) TERMINATION.—If the Secretary of Defense is unable to make the certification required by subsection (b) for an installation of the Department of Defense before the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], each program suspended pursuant to subsection (a) at that installation shall terminate at the end of such period."

[For definition of "privatized military housing" as used in section 3063 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

**DEADLINE FOR ADOPTION**

Pub. L. 111–84, div. B, title XXVIII, §2841(a)(3), Oct. 28, 2009, 123 Stat. 2680, provided that: "The Secretary of Defense shall adopt the open protocol energy monitoring and utility control system specification required by section 2867 of title 10, United States Code, as added by paragraph (1), not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009]."

## §2868. Utility services: furnishing for certain buildings

Appropriations for the Department of Defense may be used for utility services for buildings constructed at private cost, as authorized by law.

(Added Pub. L. 100–370, §1(j)(1), July 19, 1988, 102 Stat. 848, §2490; renumbered §2868, Pub. L. 105–85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; amended Pub. L. 108–375, div. A, title VI, §651(e)(2), Oct. 28, 2004, 118 Stat. 1972.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8006(b)], Dec. 19, 1985, 99 Stat. 1185.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for "welfare and recreation" or "welfare and recreational" purposes. (Section 735 of Public Law 98–212 and section 8006(b) of Public Law 99–190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term "morale" in both of these two instances to conform to the usual "MWR" usage for morale, welfare, and recreation activities.

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375 substituted "for buildings constructed at private cost, as authorized by law." for "for—

"(1) buildings constructed at private cost, as authorized by law; and

"(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes."

**1997**—Pub. L. 105–85 renumbered section 2490 of this title as this section.

## §2869. Exchange of property at military installations

(a) EXCHANGE AUTHORIZED.—(1) The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the person in and to a parcel of real property, including any improvements thereon under

the person's control, or to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations.

(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned—

(A) that is located on a military installation that is closed or realigned under a base closure law; or

(B) that is located on a military installation not covered by subparagraph (A) and for which the Secretary concerned makes a determination that the conveyance under paragraph (1) is advantageous to the United States.

(3)(A) The Secretary of Defense shall establish a pilot program under which the Secretary concerned, during the term of the pilot program, may use the authority provided by paragraph (1) to also convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to provide—

(i) installation-support services (as defined in section 2679(f) of this title); or

(ii) a new facility or improvements to an existing facility.

(B) The acquisition of a facility or improvements to an existing facility using the authority provided by subparagraph (A) shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(C) The expanded conveyance authority provided by subparagraph (A) applies only during the eight-year period beginning on the date on which the Secretary of Defense issues guidance regarding the use by the Secretaries concerned of such authority.

(b) CONDITIONS ON CONVEYANCE AUTHORITY.—(1) The fair market value of the real property, installation-support services, or facility or improvements to an existing facility obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the real property conveyed by the Secretary concerned exceeds the fair market value of the real property, installation-support services, or facility or improvements received by the Secretary, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.

(2) In the case of a conveyance of real property to a political subdivision of a State, the value of the real property to be conveyed by the Secretary concerned under subsection (a) may exceed the fair market value of the land to be obtained, as determined under paragraph (1), by an amount not to exceed the reduction in value of the land which is attributable to voluntary zoning actions taken by such political subdivision to limit encroachment on a military installation, but only if the notice required by subsection (d)(2) contains—

(A) a certification by the Secretary concerned that the military value to the United States of the land to be acquired justifies a payment in excess of the fair market value; and

(B) a description of the military value to be obtained.

(3) The Secretary concerned may agree to accept a facility or improvements to an existing facility under subsection (a)(3) only if the Secretary concerned determines that the facility or improvements—

(A) are completed and usable, fully functional, and ready for occupancy;

(B) satisfy all operational requirements; and

(C) meet all Federal, State, and local requirements applicable to the facility relating to health, safety, and the environment.

(c) LIMITATION ON USE OF CONVEYANCE AUTHORITY AT INSTALLATIONS CLOSED UNDER BASE CLOSURE LAWS.—The authority under subsection (a)(2)(A) to convey property located on a military installation may only be used to the extent the conveyance is

consistent with an approved redevelopment plan for such installation.

(d) ADVANCE NOTICE OF USE OF AUTHORITY.—(1) Notice of the proposed use of the conveyance authority provided by subsection (a) shall be provided in such manner as the Secretary of Defense may prescribe, including publication in the Federal Register and otherwise. When real property located at a military installation is proposed for conveyance by means of a public sale, the Secretary concerned may notify prospective purchasers that consideration for the property may be provided in the manner authorized by such subsection.

(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

(A) the Secretary submits to Congress notice of the conveyance, including—

(i) a description of the real property to be conveyed by the Secretary under the agreement;

(ii) a description of the land acquisition to be carried out under the agreement in exchange for the conveyance of the property; and

(iii) the amount of any payment to be made under subsection (b) or under section 2684a(d) [1] of this title to equalize the fair market values of the property to be conveyed and the land acquisition to be carried out under the agreement in exchange for the conveyance of the property; and

(B) the waiting period applicable to that notice under paragraph (3) expires.

(3) If the notice submitted under paragraph (2) deals with the conveyance of real property located on a military installation that is closed or realigned under a base closure law or the conveyance of real property under an agreement entered into under section 2684a of this title, the Secretary concerned may enter into the agreement under subsection (a) for the conveyance of the property after the end of the 14-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title. In the case of other real property to be conveyed under subsection (a), the Secretary concerned may enter into the agreement only after the end of the 45-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title.

(e) DEPOSIT AND USE OF FUNDS.—The Secretary concerned shall deposit funds received under subsection (b) in the appropriation "Foreign Currency Fluctuations, Construction, Defense". The funds deposited shall be available, in such amounts as provided in appropriation Acts, for the purpose of paying increased costs of overseas military construction and family housing construction or improvement associated with unfavorable fluctuations in currency exchange rates. The use of such funds for this purpose does not relieve the Secretary concerned from the duty to provide advance notice to Congress under section 2853(c) of this title whenever the Secretary approves an increase in the cost of an overseas project under such section.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary concerned.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 108–136, div. B, title XXVIII, §2805(a)(1), Nov. 24, 2003, 117 Stat. 1719; amended Pub. L. 109–364, div. B, title XXVIII, §2811(a)–(f)(1), Oct. 17, 2006, 120 Stat. 2471–2473; Pub. L. 111–84, div. B, title XXVIII, §2804(a)–(d)(1), Oct. 28, 2009, 123 Stat. 2661, 2662; Pub. L. 112–81, div. B, title XXVIII, §2815(a), (b), Dec. 31, 2011, 125 Stat. 1688, 1689; Pub. L. 112–239, div. B, title XXVIII, §2811, Jan. 2, 2013, 126 Stat. 2150; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(6), 2815, 2816, Dec. 12, 2017, 131 Stat. 1844, 1850; Pub. L. 116–283, div. B, title XXVIII, §2862(a), (b), Jan. 1, 2021, 134 Stat. 4357; Pub. L. 118–159, div. B, title XXVIII, §2851, Dec. 23, 2024, 138 Stat. 2269.)

**REFERENCES IN TEXT**

Section 2684a(d) of this title, referred to in subsec. (d)(2)(A)(iii), was redesignated section 2684a(e) of this title by Pub. L. 118–31, div. A, title III, §314(1), Dec. 22, 2023, 137 Stat. 216.

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(3)(A)(i). Pub. L. 118–159, §2851(b), substituted "section 2679(f)" for "2679(e)".

Subsec. (a)(3)(C). Pub. L. 118–159, §2851(a), substituted "eight-year period" for "five-year period".

**2021**—Subsec. (a)(3). Pub. L. 116–283, §2862(a), added par. (3).

Subsec. (b)(1). Pub. L. 116–283, §2862(b)(1), substituted "of the real property, installation-support services, or facility or improvements to an existing facility" for "of the land to be" and "of the real property conveyed by the Secretary concerned exceeds the fair market value of the real property, installation-support services, or facility or improvements received by the Secretary" for "of the land is less than the fair market value of the real property to be conveyed".

Subsec. (b)(3). Pub. L. 116–283, §2862(b)(2), added par. (3).

**2017**—Subsec. (a)(2). Pub. L. 115–91, §2815, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned that—

"(A) is located on a military installation that is closed or realigned under a base closure law; or

"(B) is located on a military installation not covered by subparagraph (A) and is determined to be excess to the needs of the Department of Defense."

Subsec. (b). Pub. L. 115–91, §2816, amended subsec. (b) generally. Prior to amendment, text read as follows: "The fair market value of the land to be obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the land is less than the fair market value of the real property to be conveyed, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values."

Subsec. (d)(3). Pub. L. 115–91, §2801(c)(6), substituted "after the end of the 14-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title." for "after a period of 21 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title." and "only after the end of the 45-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title." for "only after a period of 60 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 45 days has elapsed from the date on which the electronic copy is provided."

**2013**—Subsec. (a)(1). Pub. L. 112–239 substituted "any person" for "any eligible entity", "the person" for "the entity", and "the person's control" for "their control".

**2011**—Pub. L. 112–81, §2815(a)(1), substituted "Exchange of property at military installations" for "Conveyance of property at military installations to limit encroachment" in section catchline.

Subsec. (a). Pub. L. 112–81, §2815(a)(2)(A), substituted "Exchange Authorized" for "Conveyance Authorized; Consideration" in heading.

Subsec. (a)(1). Pub. L. 112–81, §2815(a)(2)(B), substituted "to any eligible entity who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the entity in and to a parcel of real property, including any improvements thereon under their control, or to carry out a land acquisition" for "to any person who agrees, in exchange for the real property, to carry out a land acquisition".

Subsecs. (f) to (h). Pub. L. 112–81, §2815(b), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f), which provided that authority to enter into an agreement under this section would expire on September 30, 2013.

**2009**—Pub. L. 111–84, §2804(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Conveyance of property at military installations to support military construction or limit encroachment".

Subsec. (a)(1). Pub. L. 111–84, §2804(a)(1)(A), struck out subpar. (A) designation before "to carry out", substituted "real property," for "real property—", " to carry out a land acquisition" for "to carry out a military construction project or land acquisition", and a period for "; or", and struck out subpar. (B) which read as follows: "to transfer to the Secretary concerned housing that is constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable military family housing, military unaccompanied housing, or both."

Subsec. (a)(3). Pub. L. 111–84, §2804(a)(1)(B), struck out par. (3) which read as follows: "Subparagraph (B) of paragraph (2) shall apply only during the period beginning on the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007 and ending on September 30, 2008. Any conveyance of real property described in such subparagraph for which the Secretary concerned has provided the advance public notice required by subsection (d)(1) before the expiration date may be completed after that date."

Subsec. (b). Pub. L. 111–84, §2804(a)(2), substituted "fair market value of the land" for "fair market value of the military construction, military family housing, or military unaccompanied housing" in two places.

Subsec. (c). Pub. L. 111–84, §2804(a)(3), added subsec. (c) and struck out former subsec. (c) which related to pilot program for use of conveyance authority.

Subsec. (d)(2)(A)(ii), (iii). Pub. L. 111–84, §2804(a)(4), substituted "land acquisition" for "military construction project, land acquisition, military family housing, or military unaccompanied housing".

Subsec. (e). Pub. L. 111–84, §2804(b), designated par. (3) as entire subsec., substituted "The Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'. The funds deposited shall be available" for "The funds deposited under paragraph (2) shall be available", and struck out pars. (1) and (2), which read as follows:

"(1) Except as provided in paragraph (2), the Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.

"(2) During the period specified in paragraph (3) of subsection (a), the Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'."

Subsec. (f). Pub. L. 111–84, §2804(c), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to annual reports on conveyances and effect of failure to submit report.

**2006**—Pub. L. 109–364, §2811(f)(1), substituted "to support military construction or limit encroachment" for "closed or realigned to support military construction" in section catchline.

Subsec. (a). Pub. L. 109–364, §2811(a), (b), designated existing provisions as par. (1), in introductory provisions substituted "described in paragraph (2)" for "located on a military installation that is closed or realigned under a base closure law", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in subpar. (A) substituted "land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations" for "land acquisition", and added pars. (2) and (3).

Subsec. (d)(1). Pub. L. 109–364, §2811(c)(1), substituted "is proposed for conveyance" for "closed or realigned under the base closure laws is to be conveyed".

Subsec. (d)(2), (3). Pub. L. 109–364, §2811(c)(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: "The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

"(A) the Secretary submits to Congress notice of the conveyance, including the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the conveyance; and

"(B) a period of 14 days expires beginning on the date on which the notice is submitted."

Subsec. (e). Pub. L. 109–364, §2811(d), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title."

Subsec. (f). Pub. L. 109–364, §2811(e), in heading substituted "Annual Reports; Effect of Failure to Submit" for "Annual Report", designated existing provisions as par. (1), in introductory provisions substituted "Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a report detailing the following:" for "In the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense shall include a report detailing the following:", redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, in subpar. (C) inserted "and of excess real property at military installations" before period at end, and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ISSUANCE OF GUIDANCE

Pub. L. 116–283, div. B, title XXVIII, §2862(c), Jan. 1, 2021, 134 Stat. 4358, provided that: "Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall issue guidance providing for the implementation of the pilot program required by section 2869(a)(3) of title 10,

United States Code, as added by this section."

[1] *See References in Text note below.*

## [§2870. Repealed. Pub. L. 116–283, div. A, title VIII, §818(a), Jan. 1, 2021, 134 Stat. 3751]

Section, added Pub. L. 116–92, div. A, title VIII, §865(a)(1), Dec. 20, 2019, 133 Stat. 1523, related to use of qualified apprentices by military construction contractors.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VIII, §865(b), Dec. 20, 2019, 133 Stat. 1524, which provided that the amendments made by section 865 of Pub. L. 116–92 (enacting this section) would apply with respect to contracts awarded on or after 180 days after Dec. 20, 2019, was repealed by Pub. L. 116–283, div. A, title VIII, §818(b)(2), Jan. 1, 2021, 134 Stat. 3751.

# SUBCHAPTER IV—ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING

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### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–21, title II, §20001(c)(1), July 4, 2025, 139 Stat. 113, substituted "Temporary authority for acquisition or construction of privatized military unaccompanied housing" for "Pilot projects for acquisition or construction of military unaccompanied housing" in item 2881a. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. B, §2003(b), title XXVIII, §2812(a), Dec. 27, 2021, 135 Stat. 2162, 2191, renumbered item 2879 as 2857 and transferred it to appear after item 2856 in analysis under subchapter III of this chapter.

**2019**—Pub. L. 116–92, div. B, title XXX, §§3014(d)(2), 3033(b), Dec. 20, 2019, 133 Stat. 1926, 1936, added item 2872b and struck out item 2886 "Prohibiting collection of amounts in addition to rent from members assigned to units".

**2018**—Pub. L. 115–232, div. A, title X, §1081(c)(5), Aug. 13, 2018, 132 Stat. 1985, made technical amendment to directory language of Pub. L. 115–91, §2817(a)(2), effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted. See 2017 Amendment note below.

**2017**—Pub. L. 115–91, div. B, title XXVIII, §2817(a)(2), Dec. 12, 2017, 131 Stat. 1852, as amended by Pub. L. 115–232, div. A, title X, §1081(c)(5), Aug. 13, 2018, 132 Stat. 1985, added item 2879.

Pub. L. 115–91, div. A, title VI, §602(b), Dec. 12, 2017, 131 Stat. 1418, added item 2886.

**2008**—Pub. L. 110–417, div. B, title XXVIII, §2805(a)(2), (e)(2), Oct. 14, 2008, 122 Stat. 4722, 4724, added items 2882 and 2885 and struck out former item 2882 "Assignment of members of the armed forces to housing units".

**2004**—Pub. L. 108–375, div. B, title XXVIII, §2805(b)(2), Oct. 28, 2004, 118 Stat. 2122, struck out item 2885 "Expiration of authority".

**2002**—Pub. L. 107–314, div. B, title XXVIII, §§2802(b)(3), (c)(2), 2803(a)(2), Dec. 2, 2002, 116 Stat. 2703, 2705, struck out "to be constructed" after "Leasing of housing" in item 2874, struck out item 2879 "Interim leases", and added item 2881a.

**2001**—Pub. L. 107–107, div. B, title XXVIII, §2804(b), Dec. 28, 2001, 115 Stat. 1306, added item 2883a.

**2000**—Pub. L. 106–398, §1 [div. B, title XXVIII, §2805(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–415, added item 2872a.

**1999**—Pub. L. 106–65, div. B, title XXVIII, §2803(h)(2), Oct. 5, 1999, 113 Stat. 849, added item 2875 and struck out former item 2875 "Investments in nongovernmental entities".

## §2871. Definitions

In this subchapter and subchapter V of this chapter:

(1) The term "ancillary supporting facilities" means facilities related to housing units, including facilities to provide or support elementary or secondary education, child care centers, day care centers, child development centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

(2) The term "child development center" includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.

(3) The term "construction" means the construction of housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

(4) The term "contract" includes any contract, lease, or other agreement entered into under the authority of this subchapter. The fact that an agreement between an eligible entity and the Secretary concerned is designated as an agreement rather than a contract shall not be construed to exclude the agreement from the term "contract" for purposes of this subchapter and subchapter V.

(5) The term "eligible entity" means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of housing units and ancillary supporting facilities.

(6) The term "Fund" means the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund established under section 2883(a) of this title.

(7) The term "housing document" means a document developed by the Secretary of Defense under section 2890 of this title and known as the Military Housing Privatization Initiative Tenant Bill of Rights or the Military Housing Privatization Initiative Tenant Responsibilities.

(8) The term "housing unit" means a unit of family housing or military unaccompanied housing acquired or constructed under this subchapter.

(9) The term "incentive fees" means any amounts payable to a landlord for meeting or

exceeding performance metrics as specified in a contract with the Department of Defense.

(10) The term "landlord" means an eligible entity that enters into, or has entered into, a contract as a partner with the Secretary concerned for the acquisition or construction of a housing unit under this subchapter. The term includes any agent of the eligible entity or any subsequent lessor who owns, manages, or is otherwise responsible for a housing unit. The term does not include an entity of the Federal Government.

(11) The term "military unaccompanied housing" means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents and transient housing intended to be occupied by members of the armed forces on temporary duty.

(12) The term "tenant" means a member of the armed forces, including a reserve component thereof in an active status, or a dependent of a member of the armed forces who resides at a housing unit, is a party to a lease for a housing unit, or is authorized to act on behalf of the member under this subchapter and subchapter V of this chapter in the event of the assignment or deployment of a member.

(13) The term "United States" includes the Commonwealth of Puerto Rico.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 544; amended Pub. L. 105–261, div. B, title XXVIII, §2803, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 106–65, div. B, title XXVIII, §2803(a), Oct. 5, 1999, 113 Stat. 848; Pub. L. 107–314, div. B, title XXVIII, §2803(b), Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108–136, div. A, title X, §1043(c)(6), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 109–163, div. B, title XXVIII, §2805(b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–417, div. B, title XXVIII, §2805(c), Oct. 14, 2008, 122 Stat. 4723; Pub. L. 116–92, div. B, title XXX, §§3001(b)–3011(a), Dec. 20, 2019, 133 Stat. 1916, 1917.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92, §3011(a), inserted "and subchapter V of this chapter" after "this subchapter" in introductory provisions.

Pars. (1), (3). Pub. L. 116–92, §3001(c), struck out "military" before "housing units".

Par. (4). Pub. L. 116–92, §3001(b)(1), inserted at end "The fact that an agreement between an eligible entity and the Secretary concerned is designated as an agreement rather than a contract shall not be construed to exclude the agreement from the term 'contract' for purposes of this subchapter and subchapter V."

Par. (5). Pub. L. 116–92, §3001(c), struck out "military" before "housing units".

Pars. (7) to (10). Pub. L. 116–92, §3001(b)(3), added pars. (7) to (10). Former pars. (7) and (8) redesignated (11) and (13), respectively.

Par. (11). Pub. L. 116–92, §3001(b)(2), redesignated par. (7) as (11).

Par. (12). Pub. L. 116–92, §3001(b)(4), added par. (12).

Par. (13). Pub. L. 116–92, §3001(b)(2), redesignated par. (8) as (13).

**2008**—Par. (5). Pub. L. 110–417 inserted before period at end "that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of military housing units and ancillary supporting facilities".

**2006**—Par. (1). Pub. L. 109–163, §2805(b)(1), inserted "child development centers," after "day care centers,".

Par. (2). Pub. L. 109–163, §2805(b)(2), added par. (2).

**2003**—Par. (2). Pub. L. 108–136 struck out par. (2) which read as follows: "The term 'base closure law' means the following:

"(A) Section 2687 of this title.

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)."

**2002**—Par. (7). Pub. L. 107–314 inserted "and transient housing intended to be occupied by members of the armed forces on temporary duty" before period at end.

**1999**—Pars. (5) to (8). Pub. L. 106–65 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

**1998**—Par. (1). Pub. L. 105–261 inserted "facilities to provide or support elementary or secondary education," after "including".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### COMMAND OVERSIGHT OF MILITARY PRIVATIZED HOUSING AS ELEMENT OF PERFORMANCE EVALUATIONS

Pub. L. 117–81, div. A, title V, §525, Dec. 27, 2021, 135 Stat. 1688, provided that:

"(a) EVALUATIONS IN GENERAL.—Each Secretary of a military department shall ensure that the performance evaluations of any individual described in subsection (b) under the jurisdiction of such Secretary provides for an assessment of the extent to which such individual has or has not exercised effective oversight and leadership in the following:

"(1) Improving conditions of privatized housing under subchapter IV of chapter 169 of title 10, United States Code.

"(2) Addressing concerns with respect to such housing of members of the Armed Forces and their families who reside in such housing on an installation of the military department concerned.

"(b) COVERED INDIVIDUALS.—The individuals described in this subsection are as follows:

"(1) The commander of an installation of a military department at which on-installation housing is managed by a landlord of privatized housing under subchapter IV of chapter 169 of title 10, United States Code.

"(2) Each officer or senior enlisted member of the Armed Forces at an installation described in paragraph (1) whose duties include facilities or housing management at such installation.

"(3) Any other officer or enlisted member of the Armed Forces (whether or not at an installation described in paragraph (1)) as specified by the Secretary of the military department concerned for purposes of this section."

### PROMULGATION OF GUIDANCE TO FACILITATE RETURN OF MILITARY FAMILIES DISPLACED FROM PRIVATIZED MILITARY HOUSING

Pub. L. 116–283, div. B, title XXVIII, §2816, Jan. 1, 2021, 134 Stat. 4328, provided that:

"(a) GUIDANCE REQUIRED.—The Secretary of Defense shall promulgate guidance for commanders of military installations and installation housing management offices to assist such commanders and offices in facilitating and managing the relocation and return of tenants of privatized military housing when tenants are displaced from such housing—

"(1) as a result of an environmental hazard or other damage adversely affecting the habitability of the privatized military housing; or

"(2) during remediation or repair activities in response to the hazard or damages.

"(b) FINANCIAL IMPACT OF DISPLACEMENT.—As part of the promulgation of the guidance, the Secretary of Defense shall consider—

"(1) the extent to which displaced tenants of privatized military housing under the circumstances described in subsection (a) incur relocation, per diem, or similar expenses as a direct result of such displacement that are not covered by a landlord, insurance, or claims process; and

"(2) the feasibility of providing reimbursement for uncovered expenses.

"(c) CONSULTATION.—The Secretary of Defense shall promulgate the guidance in consultation with the Secretaries of the military departments, the Chief Housing Officer, landlords, and other interested persons.

"(d) IMPLEMENTATION.—The Secretaries of the military departments shall be responsible for implementation of the guidance at military installations under the jurisdiction of the Secretary concerned, while recognizing that the guidance cannot anticipate every situation in which tenants of privatized military housing must be displaced from such housing under the circumstances described in subsection (a).

"(e) DEFINITIONS.—In this section, the terms 'landlord', 'privatized military housing', and 'tenant' have the meanings given those terms in section 3001(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1916; 10 U.S.C. 2821 note)."

### UNIFORM CODE OF BASIC STANDARDS FOR PRIVATIZED MILITARY HOUSING AND PLAN TO CONDUCT INSPECTIONS AND ASSESSMENTS

Pub. L. 116–283, div. B, title XXVIII, §2818, Jan. 1, 2021, 134 Stat. 4329, provided that:

"(a) UNIFORM CODE OF BASIC STANDARDS FOR MILITARY HOUSING.—The Secretary of Defense shall expand the uniform code of basic housing standards for safety, comfort, and habitability for privatized military housing established pursuant to section 3051(a) of the Military Construction Authorization

Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1941; 10 U.S.C. 2871 note) [set out below] to include Government-owned and Government-controlled military family housing located inside or outside the United States and occupied by members of the Armed Forces.

"(b) INSPECTION AND ASSESSMENT PLAN.—The Secretary of Defense shall expand the Department of Defense housing inspection and assessment plan prepared pursuant to section 3051(b) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1941; 10 U.S.C. 2871 note) [set out below] to include Government-owned and Government-controlled military family housing located inside or outside the United States and occupied by members of the Armed Forces and commence inspections and assessments of such military family housing pursuant to the plan."

Pub. L. 116–92, div. B, title XXX, §3051, Dec. 20, 2019, 133 Stat. 1941, provided that:

"(a) UNIFORM CODE.—Not later than February 1, 2021, the Secretary of Defense shall establish and implement a uniform code of basic housing standards for safety, comfort, and habitability for privatized military housing, which shall meet or exceed requirements informed by a nationally recognized, consensus-based, model property maintenance code.

"(b) INSPECTION AND ASSESSMENT PLAN.—Not later than February 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a Department of Defense plan to contract with qualified home inspectors to conduct a thorough inspection and assessment of the structural integrity and habitability of each unit of privatized military housing. The plan shall include the implementation plan for the uniform code to be established under subsection (a).

"(c) IMPLEMENTATION OF INSPECTIONS AND ASSESSMENTS.—

"(1) IMPLEMENTATION.—Not later than February 1, 2021, the Secretary of the military department concerned shall commence conducting inspections and assessments of units of privatized military housing pursuant to the plan submitted under subsection (b) to identify issues and ensure compliance with applicable housing codes, including the uniform code established under subsection (a).

"(2) REPORT.—Not later than March 1, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the inspections and assessments conducted under paragraph (1).

"(d) QUALIFIED HOME INSPECTORS DESCRIBED.—For purposes of this section, a qualified home inspector must possess the appropriate credentials for the work the inspector will perform, as defined by the respective State in which the work will be performed. A qualified home inspector may not be an employee or in a fiduciary relationship with—

"(1) the Federal Government; or

"(2) an individual or entity who owns or manages privatized military housing."

[For definition of "privatized military housing" as used in section 3051 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

## RADON TESTING OF PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3061, Dec. 20, 2019, 133 Stat. 1946, provided that:

"(a) REPORT.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report identifying the installations of the Department of Defense that have privatized military housing that should be monitored for levels of radon at or above the action level.

"(b) TESTING PROCEDURES AND STANDARDS.—The Secretaries of the military departments shall ensure that landlords providing privatized military housing at installations identified under subsection (a) establish testing procedures that are consistent with then current national consensus standards and are in compliance with applicable Federal, State, and local radon regulations in order to ensure radon levels are below recommended levels established by the Environmental Protection Agency, whether through—

"(1) regular testing of privatized military housing by persons who possess certification pursuant to the proficiency program operated under section 305(a)(2) of the Toxic Substances Control Act (15 U.S.C. 2665(a)(2)); or

"(2) the installation of monitoring equipment in privatized military housing.

"(c) NOTIFICATION REGARDING NEED FOR MITIGATION.—If, as a result of testing described in subsection (b), a unit of privatized military housing needs radon mitigation to ensure radon levels are below recommended levels, the landlord providing the housing unit shall submit to the Secretary of the military department concerned, not later than seven days after the determination of the need for radon mitigation, the mitigation plan for the housing unit."

[For definitions of "landlord" and "privatized military housing" as used in section 3061 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

**MILITARY HOUSING PRIVATIZATION INITIATIVE**

Pub. L. 115–232, div. A, title VI, §606, Aug. 13, 2018, 132 Stat. 1795, as amended by Pub. L. 116–92, div. B, title XXX, §§3036(a), 3037, Dec. 20, 2019, 133 Stat. 1938, 1939; Pub. L. 116–283, div. B, title XXVIII, §2811(i), Jan. 1, 2021, 134 Stat. 4326; Pub. L. 117–81, div. B, title XXVIII, §2811, Dec. 27, 2021, 135 Stat. 2191; Pub. L. 118–31, div. B, title XXVIII, §§2822(c), 2839(d), Dec. 22, 2023, 137 Stat. 751, 761, provided that:

"(a) USE OF FUNDS IN CONNECTION WITH MHPI.—

"(1) PAYMENTS TO LESSORS GENERALLY.—

"(A) PAYMENT AUTHORITY.—Each month beginning with the first month after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019], each Secretary of a military department shall use funds, in an amount determined under subparagraph (B), to make monthly payments to lessors of covered housing in the manner provided by this subsection, as in effect on the day before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020.

"(B) CALCULATION OF MONTHLY PAYMENTS.—For purposes of making payments under subparagraph (A) for a month, the Secretary of the military department concerned shall determine the amount equal to 50 percent of the aggregate of the amounts calculated under section 403(b)(3)(A)(ii) of title 37, United States Code, for covered housing under the jurisdiction of the Secretary for that month.

"(2) ADDITIONAL PAYMENTS TO LESSORS RESPONSIBLE FOR UNDERFUNDED PROJECTS.—

"(A) PAYMENT AUTHORITY.—Except as provided in subparagraph (D), each month beginning with the first month after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, each Secretary of a military department shall use funds, in an amount determined under subparagraph (B), to make additional monthly payments, under such terms and in such amounts as determined by the Secretary, to one or more lessors responsible for underfunded MHPI housing projects identified pursuant to subparagraph (C) under the jurisdiction of the Secretary for the purposes of future sustainment, recapitalization, and financial sustainability of the projects.

"(B) CALCULATION OF MONTHLY PAYMENTS.—For purposes of making payments under subparagraph (A) for a month, the Secretary of the military department concerned shall determine the amount equal to 50 percent of the aggregate of the amounts calculated under section 403(b)(3)(A)(ii) of title 37, United States Code, for covered housing under the jurisdiction of the Secretary for that month.

"(C) IDENTIFICATION OF UNDERFUNDED PROJECTS.—The Chief Housing Officer of the Department of Defense, in conjunction with the Secretaries of the military departments, shall assess MHPI housing projects for the purpose of identifying all MHPI housing projects that are underfunded. Once identified, the Chief Housing Officer shall prioritize for payments under subparagraph (A) those MHPI housing projects most in need of funding to rectify such underfunding.

"(D) LIMITATION ON PAYMENT.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary of a military department may not make a payment under subparagraph (A) to a lessor unless the Assistant Secretary of Defense for Energy, Installations, and Environment determines the lessor is in compliance with the Military Housing Privatization Initiative Tenant Bill of Rights developed under section 2890 of title 10, United States Code.

"(ii) APPLICATION.—The limitation under clause (i) shall apply to any payment under a housing agreement entered into on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023] by the Secretary of a military department with a lessor.

"(3) ALTERNATIVE AUTHORITY IN EVENT OF LACK OF UNDERFUNDED PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the Chief Housing Officer determines that no MHPI housing projects for a military department require additional funding under paragraph (2) for a month, the Secretary of the military department concerned, in consultation with the Chief Housing Officer, may allocate the funds otherwise available to the Secretary under such paragraph for that month to support improvements designed to enhance the quality of life of members of the uniformed services and their families who reside in MHPI housing.

"(B) CONDITIONS.—Before the Secretary of a military department may allocate funds as authorized by subparagraph (A), the Chief Housing Officer shall certify to the Committees on Armed

Services of the Senate and the House of Representatives that there are no MHPI housing projects for the military department that require additional funding under paragraph (2). The certification shall include sufficient details to show why no projects are determined to need the additional funds.

"(4) BRIEFING REQUIRED.—Not later than March 1, 2020, and each year thereafter, each Secretary of a military department shall provide a briefing to the Committee on Armed Services of the Senate and the House of Representatives detailing the expenditure of funds under paragraphs (2) and (3), the MHPI housing projects receiving funds under such paragraphs, and any other information the Secretary considers relevant.

"(b) PLAN FOR MHPI HOUSING.—Not later than December 1, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a long-range plan to develop measures to consistently address the future sustainment, recapitalization, and financial condition of MHPI housing. The plan shall include—

"(1) efforts to mitigate the losses incurred by MHPI housing projects because of the reductions to BAH under section 603 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; [which amended] 37 U.S.C. 403(b)(3)(B)); and

"(2) a full assessment of the effects of such reductions (in relation to calculations of market rates for rent and utilities) on the financial condition of MHPI housing.

"(c) REPORTING.—The Secretary shall direct the Assistant Secretary of Defense for Energy, Installations, and Environment to take the following steps regarding reports under section 2884(c) of title 10, United States Code:

"(1) Provide additional contextual information on MHPI housing to identify any differences in the calculation of debt coverage ratios and any effect of such differences on their comparability.

"(2) Immediately resume issuing such reports on the financial condition of MHPI housing.

"(3) Revise Department of Defense guidance on MHPI housing—

"(A) to ensure that relevant financial data (such as debt coverage ratios) in such reports are consistent and comparable in terms of the time periods of the data collected;

"(B) to include a requirement that the secretary of each military department includes measures of future sustainment into each assessments of MHPI housing projects; and

"(C) to require the secretary of each military department to define risk tolerance regarding the future sustainability of MHPI housing projects.

"(4) Report financial information on future sustainment of each MHPI housing project in such reports.

"(5) Provide Department of Defense guidance to the secretaries of the military departments to—

"(A) assess the significance of the specific risks to individual MHPI housing projects from the reduction in BAH; and

"(B) identify methods to mitigate such risks based on their significance.

"(6) Not later than December 1, 2018, finalize Department of Defense guidance that clearly defines—

"(A) the circumstances in which the military departments shall provide notification of housing project changes to the congressional defense committees; and

"(B) which types of such changes require prior notification to or prior approval from the congressional defense committees.

"(d) DEFINITIONS.—In this section:

"(1) The term 'BAH' means the basic allowance for housing under section 403 of title 37, United States Code.

"(2) The term 'covered housing' means a unit of MHPI housing that is leased to a member of a uniformed service who resides in such unit.

"(3) The term 'MHPI housing' means housing procured, acquired, constructed, or for which any phase or portion of a project agreement was first finalized and signed, under the alternative authority of subchapter IV of chapter 169 of title 10, United States Code (known as the Military Housing Privatization Initiative), on or before September 30, 2014."

[Pub. L. 116–92, div. B, title XXX, §3036(b), Dec. 20, 2019, 133 Stat. 1939, provided that: "The amendment made by this section [amending section 606 of Pub. L. 115–232, set out above] shall take effect on the date of the enactment of this Act [Dec. 20, 2019] and shall apply with respect to months beginning after that date."]

## §2872. General authority

In addition to any other authority provided under this chapter for the acquisition or construction of

military family housing or military unaccompanied housing, the Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition or construction by eligible entities of the following:

(1) Family housing units on or near military installations within the United States and its territories and possessions, including such units for civilian employees of the Department of Defense and defense contractors.

(2) Military unaccompanied housing units on or near such military installations.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106–65, div. B, title XXVIII, §2803(b), Oct. 5, 1999, 113 Stat. 849; Pub. L. 119–60, div. B, title XXVIII, §2821(b), Dec. 18, 2025, 139 Stat. 1304.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Par. (1). Pub. L. 119–60 substituted inserted ", including such units for civilian employees of the Department of Defense and defense contractors" before period at end.

**1999**—Pub. L. 106–65 substituted "eligible entities" for "private persons" in introductory provisions.

## §2872a. Utilities and services

(a) AUTHORITY TO FURNISH.—The Secretary concerned may furnish utilities and services referred to in subsection (b) in connection with any military housing acquired or constructed pursuant to the exercise of any authority or combination of authorities under this subchapter if the military housing is located on a military installation.

(b) COVERED UTILITIES AND SERVICES.—The utilities and services that may be furnished under subsection (a) are the following:

(1) Electric power.

(2) Steam.

(3) Compressed air.

(4) Water.

(5) Sewage and garbage disposal.

(6) Natural gas.

(7) Pest control.

(8) Snow and ice removal.

(9) Mechanical refrigeration.

(10) Telecommunications service.

(11) Firefighting and fire protection services.

(12) Police protection services.

(13) Street sweeping.

(14) Tree trimming and removal.

(c) REIMBURSEMENT.—(1) The Secretary concerned shall be reimbursed for any utilities or services furnished under subsection (a).

(2) The amount of any cash payment received under paragraph (1) as reimbursement for the cost of furnishing utilities or services shall—

(A) in the case of a cost paid using funds appropriated or otherwise made available before October 1, 2014, be credited to the appropriation or working capital account from which the cost of furnishing utilities or services concerned was paid; or

(B) in the case of a cost paid using funds appropriated or otherwise made available on or after October 1, 2014, be credited to the appropriation or working capital account currently available for the purpose of furnishing utilities or services under subsection (a).

(3) Amounts credited under paragraph (2) to an appropriation or account shall be merged with funds in such appropriation or account, and shall be available to the same extent, and subject to the same terms and conditions, as such funds.

(Added Pub. L. 106–398, §1 [div. B, title XXVIII, §2805(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–414; amended Pub. L. 107–314, div. B, title XXVIII, §2802(a), Dec. 2, 2002, 116 Stat. 2703; Pub. L. 113–66, div. B, title XXVIII, §2804, Dec. 26, 2013, 127 Stat. 1007; Pub. L. 116–92, div. B, title XXX, §3032, Dec. 20, 2019, 133 Stat. 1936.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Subsec. (b)(13), (14). Pub. L. 116–92 added pars. (13) and (14).

**2013**—Subsec. (c)(2), (3). Pub. L. 113–66 substituted "under paragraph (1) as reimbursement for the cost of furnishing utilities or services shall—" for "under paragraph (1) shall be credited to the appropriation or working capital account from which the cost of furnishing the utilities or services concerned was paid.", added subpars. (A) and (B), designated second sentence of par. (2) as par. (3), and substituted "Amounts credited under paragraph (2)" for "Amounts so credited".

**2002**—Subsec. (b)(11), (12). Pub. L. 107–314 added pars. (11) and (12).

## §2872b. Treatment of breach of contract

(a) RESPONSE TO MATERIAL BREACH.—In the case of a material breach of contract under this subchapter by a party to the contract, the Secretary concerned shall use the authorities available to the Secretary, including withholding amounts to be paid under the contract, to encourage the party to cure the breach.

(b) RESCINDING OF CONTRACT.—If a material breach of the contract is not cured in a timely manner, as determined by the Secretary concerned, the Secretary may—

(1) rescind the contract pursuant to the terms of the contract; and

(2) prohibit the offending party from entering into a new contract or undertaking expansions of other existing contracts, or both, with the Secretary under this subchapter.

(Added Pub. L. 116–92, div. B, title XXX, §3033(a), Dec. 20, 2019, 133 Stat. 1936.)

## §2873. Direct loans and loan guarantees

(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary concerned may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to an eligible entity if the proceeds of the loan are to be used by the eligible entity to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

(A) the amount equal to 80 percent of the value of the project; or

(B) the amount of the outstanding principal of the loan.

(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees

of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106–65, div. B, title XXVIII, §2803(c), Oct. 5, 1999, 113 Stat. 849.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Subsec. (a)(1). Pub. L. 106–65, §2803(c)(1), substituted "an eligible entity" for "persons in the private sector" and "the eligible entity" for "such persons".

Subsec. (b)(1). Pub. L. 106–65, §2803(c)(2), substituted "an eligible entity" for "any person in the private sector" and "the eligible entity" for "the person".

## §2874. Leasing of housing

(a) LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

(b) USE OF LEASED UNITS.—The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.

(c) LEASE TERMS.—A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 107–314, div. B, title XXVIII, §2802(b)(1), (2), Dec. 2, 2002, 116 Stat. 2703.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–314, §2802(b)(2), in section catchline struck out "to be constructed" after "Leasing of housing".

Subsec. (a). Pub. L. 107–314, §2802(b)(1)(B), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "The Secretary concerned may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this subchapter."

Subsecs. (b), (c). Pub. L. 107–314, §2802(b)(1), added subsec. (b) and redesignated former subsec. (b) as (c).

## §2875. Investments

(a) INVESTMENTS AUTHORIZED.—The Secretary concerned may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) FORMS OF INVESTMENT.—An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in an eligible entity may not exceed an amount equal to 331/3 percent [1] of the capital cost (as determined by the Secretary concerned) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(2) If the Secretary concerned conveys land or facilities to an eligible entity as all or part of an investment in the eligible entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent [1] of the capital cost (as determined by the Secretary) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(3) In this subsection, the term "capital cost", with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 105–85, div. B, title XXVIII, §2805, Nov. 18, 1997, 111 Stat. 1991; Pub. L. 106–65, div. B, title XXVIII, §2803(d), (h)(1), Oct. 5, 1999, 113 Stat. 849; Pub. L. 108–136, div. A, title X, §1031(a)(50), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 113–66, div. B, title XXVIII, §2805, Dec. 26, 2013, 127 Stat. 1008.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (e). Pub. L. 113–66 struck out subsec. (e). Text read as follows: "Amounts in the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund may be used to make a cash investment under this section in an eligible entity only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the investment to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title."

**2003**—Subsec. (e). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title".

**1999**—Pub. L. 106–65, §2803(h)(1), struck out "in nongovernmental entities" after "Investments" in section catchline.

Subsec. (a). Pub. L. 106–65, §2803(d)(1), substituted "an eligible entity" for "nongovernmental entities".

Subsec. (c). Pub. L. 106–65, §2803(d)(2), substituted "an eligible entity" for "a nongovernmental entity" in pars. (1) and (2) and "the eligible entity" for "the entity" wherever appearing in pars. (1) and (2).

Subsec. (d). Pub. L. 106–65, §2803(d)(3), substituted "eligible" for "nongovernmental".

Subsec. (e). Pub. L. 106–65, §2803(d)(4), substituted "an eligible entity" for "a nongovernmental entity".

**1997**—Subsec. (e). Pub. L. 105–85 added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TEMPORARY INCREASE IN PERCENTAGE OF VALUE OF AUTHORIZED INVESTMENT IN CERTAIN PRIVATIZED MILITARY HOUSING PROJECTS

Pub. L. 119–21, title II, §20001(b), July 4, 2025, 139 Stat. 112, provided that:

"(1) IN GENERAL.—During the period beginning on the date of the enactment of this section [July 4, 2025] and ending on September 30, 2029, the Secretary concerned shall apply—

"(A) paragraph (1) of subsection (c) of section 2875 of title 10, United States Code, by substituting '60 percent' for '33 1/3 percent'; and

"(B) paragraph (2) of such subsection by substituting '60 percent' for '45 percent'.

"(2) SECRETARY CONCERNED DEFINED.—In this subsection, the term 'Secretary concerned' has the meaning given such term in section 101 of title 10, United States Code."

*[1] See Temporary Increase in Percentage of Value of Authorized Investment in Certain Privatized Military Housing Projects note below.*

## §2876. Rental guarantees

The Secretary concerned may enter into agreements with eligible entities that acquire or construct military family housing units or military unaccompanied housing units under this subchapter in order to assure—

(1) the occupancy of such units at levels specified in the agreements; or

(2) rental income derived from rental of such units at levels specified in the agreements.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 106–65, div. B, title XXVIII, §2803(e), Oct. 5, 1999, 113 Stat. 849.)

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Pub. L. 106–65 substituted "eligible entities" for "private persons" in introductory provisions.

## §2877. Differential lease payments

Pursuant to an agreement entered into by the Secretary concerned and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 106–65, div. B, title XXVIII, §2803(f), Oct. 5, 1999, 113 Stat. 849.)

### EDITORIAL NOTES

### AMENDMENTS

**1999**—Pub. L. 106–65 substituted "a lessor" for "a private lessor".

## §2878. Conveyance or lease of existing property and facilities

(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to eligible entities for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

(b) INAPPLICABILITY TO PROPERTY AT INSTALLATION APPROVED FOR CLOSURE .—The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

(c) COMPETITIVE PROCESS.—The Secretary concerned shall ensure that the time, method, and terms and conditions of the reconveyance or lease of property or facilities under this section from the

eligible entity permit full and free competition consistent with the value and nature of the property or facilities involved.

(d) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

(e) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

(1) Section 2667 of this title.

(2) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(3) Section 1302 of title 40.

(4) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(f) NOTICE OF LEASE EXTENSIONS.—(1) The Secretary concerned shall provide to the congressional defense committees notice in writing and a briefing—

(A) not later than 60 days after beginning negotiations with a lessor for the extension of the term of any ground lease of property or facilities under this section; and

(B) not later than 90 days before extending the term of any ground lease of property or facilities under this section.

(2) A notice and briefing required under paragraph (1) shall include each of the following:

(A) A description of any material differences between the extended ground lease and the original ground lease, including with respect to—

(i) the length of the term of the lease, as extended; and

(ii) any new provisions that materially affect the rights and responsibilities of the ground lessor or the ground lessee under the original ground lease.

(B) The number of housing units or facilities subject to the ground lease that, during the lease extension, are to be—

(i) constructed;

(ii) demolished; or

(iii) renovated.

(C) The source of any additional financing the lessor has obtained, or intends to obtain, during the term of the ground lease extension that will be used for the development of the property or facilities subject to the ground lease.

(D) The following information, displayed annually, for the five-year period preceding the date of the notice and briefing:

(i) The debt-to-net operating income ratio for the property or facility subject to the ground lease.

(ii) The occupancy rates for the housing units subject to the ground lease.

(iii) A report on maintenance response times and completion of maintenance requests for the housing units subject to the ground lease.

(iv) The occupancy rates and debt-to-net operating income ratios of any other military privatized housing initiative projects managed by a company that controls, or that is under common control with, the ground lessee entering into the lease extension.

(E) An assessment of compliance by the lessor with the Military Housing Privatization Initiative Tenant Bill of Rights developed under section 2890 of this title.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 105–85, div. A, title X, §1073(a)(60), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. B, title XXVIII, §2803(g), Oct. 5, 1999, 113 Stat. 849; Pub. L. 107–107, div. A, title X, §1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, §3(b)(23), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 110–417, div. B, title XXVIII, §2805(d), Oct. 14, 2008, 122 Stat. 4723; Pub. L. 111–350, §5(b)(50), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 117–263, div. B, title XXVIII, §2822, Dec. 23, 2022, 136 Stat. 3000; Pub. L. 118–31, div. A, title XVIII, §1801(a)(24), div. B, title XXVIII, §2822(a), Dec. 22, 2023, 137 Stat. 684, 751.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (f)(2)(D)(iii). Pub. L. 118–31, §1801(a)(24), substituted "A report" for "An report".

Subsec. (f)(2)(E). Pub. L. 118–31, §2822(a), added subpar. (E).

**2022**—Subsec. (f). Pub. L. 117–263 added subsec. (f).

**2011**—Subsec. (e)(2). Pub. L. 111–350, which directed substitution of "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" in subsec. (d)(2), was executed by making the substitution in subsec. (e)(2) to reflect the probable intent of Congress and the amendment by Pub. L. 110–417. See 2008 Amendment note below.

**2008**—Subsecs. (c) to (e). Pub. L. 110–417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

**2002**—Subsec. (d)(2). Pub. L. 107–217, §3(b)(23)(A), substituted "Subtitle I of title 40 and title III of the" for "The" and "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

Subsec. (d)(3). Pub. L. 107–217, §3(b)(23)(B), substituted "Section 1302 of title 40" for "Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (40 U.S.C. 303b)".

**2001**—Subsec. (d)(4). Pub. L. 107–107 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

**1999**—Subsec. (a). Pub. L. 106–65 substituted "eligible entities" for "private persons".

**1997**—Subsec. (d)(4). Pub. L. 105–85 substituted "11411" for "11401".

## [§2879. Renumbered §2857]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 2879, added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 547, related to interim leases of completed units pending completion of a project to acquire or construct military family housing units or military unaccompanied housing units, prior to repeal by Pub. L. 107–314, div. B, title XXVIII, §2802(c)(1), Dec. 2, 2002, 116 Stat. 2703.

## §2880. Unit size and type

(a) CONFORMITY WITH SIMILAR HOUSING UNITS IN LOCALE.—The Secretary concerned shall ensure that the room patterns and floor areas of military family housing units and military unaccompanied housing units acquired or constructed under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

(b) INAPPLICABILITY OF LIMITATIONS ON SPACE BY PAY GRADE.—Sections 2826 and 2856 of this title shall not apply to military family housing or military unaccompanied housing units

acquired or constructed under this subchapter.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 108–136, div. B, title XXVIII, §2806, Nov. 24, 2003, 117 Stat. 1722; Pub. L. 109–364, div. B, title XXVIII, §2807(b), Oct. 17, 2006, 120 Stat. 2469.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (b). Pub. L. 109–364 substituted "Sections 2826 and 2856" for "(1) Section 2826", inserted "or military unaccompanied housing" after "military family housing", and struck out par. (2) which read as follows: "The regulations prescribed under section 2856 of this title shall not apply to any military unaccompanied housing unit acquired or constructed under this subchapter."

**2003**—Subsec. (b)(2). Pub. L. 108–136 struck out "unless the unit is located on a military installation" before period at end.

## §2881. Ancillary supporting facilities

(a) AUTHORITY TO ACQUIRE OR CONSTRUCT.—Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter may include the acquisition or construction of ancillary supporting facilities for the housing units concerned.

(b) RESTRICTION.—A project referred to in subsection (a) may not include the acquisition or construction of an ancillary supporting facility (other than a child development center) if, as determined by the Secretary concerned, the facility is to be used for providing merchandise or services in direct competition with—

(1) the Army and Air Force Exchange Service;

(2) the Navy Exchange Service Command;

(3) a Marine Corps exchange;

(4) the Defense Commissary Agency; or

(5) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 106–65, div. B, title XXVIII, §2804, Oct. 5, 1999, 113 Stat. 849; Pub. L. 109–163, div. B, title XXVIII, §2805(a), Jan. 6, 2006, 119 Stat. 3507.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (b). Pub. L. 109–163 inserted "(other than a child development center)" after "ancillary supporting facility" in introductory provisions.

**1999**—Pub. L. 106–65 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONSTRUCTION OF 2006 AMENDMENT**

Pub. L. 109–163, div. B, title XXVIII, §2805(c), Jan. 6, 2006, 119 Stat. 3507, provided that: "Nothing in the amendment made by subsection (a) [amending this section] may be construed to alter any law and regulation applicable to the operation of a child development center, as defined in section 2871(2) of title 10, United States Code."

## §2881a. Temporary authority for acquisition or construction of privatized military unaccompanied housing

(a) IN GENERAL.—The Secretary concerned may use the authority under this subchapter to enter into contracts with appropriate private sector entities for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

(b) TREATMENT OF HOUSING; ASSIGNMENT OF MEMBERS.—The Secretary concerned may assign members of the armed forces without dependents to housing units acquired or constructed pursuant to this section, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

(c) BASIC ALLOWANCE FOR HOUSING.—(1) The Secretary of Defense may prescribe and, under section 403(o) of title 37, pay for members of the armed forces without dependents in privatized housing units acquired or constructed pursuant to this section higher rates of partial basic allowance for housing than the rates authorized under paragraph (2) of such section.

(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(d) FUNDING.—(1) The Secretary concerned shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities pursuant to this section.

(2) Subject to 30 days prior notification to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

(e) EXPIRATION.—The authority of the Secretary concerned to enter into a contract under this section shall expire September 30, 2029.

(Added Pub. L. 107–314, div. B, title XXVIII, §2803(a)(1), Dec. 2, 2002, 116 Stat. 2703; amended Pub. L. 109–163, div. A, title X, §1056(c)(10), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109–364, div. B, title XXVIII, §2812, Oct. 17, 2006, 120 Stat. 2473; Pub. L. 111–383, div. B, title XXVIII, §2803(f), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. A, title X, §1051(a)(25), div. B, title XXVIII, §2801(d)(1), Dec. 12, 2017, 131 Stat. 1562, 1844; Pub. L. 117–263, div. A, title VI, §613(b), Dec. 23, 2022, 136 Stat. 2623; Pub. L. 119–21, title II, §20001(c), July 4, 2025, 139 Stat. 113.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–21, §20001(c)(1), substituted "Temporary authority for acquisition or construction of privatized military unaccompanied housing" for "Pilot projects for acquisition or construction of military unaccompanied housing" in section catchline.

Subsec. (a). Pub. L. 119–21, §20001(c)(2), (4), substituted "In General" for "Pilot Projects Authorized" in heading, "Secretary concerned" for "Secretary of the Navy", and "use the authority under this subchapter to enter into contracts with appropriate private sector entities" for "carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector".

Subsec. (b). Pub. L. 119–21, §20001(c)(2), (3), substituted "Secretary concerned" for "Secretary of the Navy" and "pursuant to this section" for "under the pilot projects".

Subsec. (c)(1). Pub. L. 119–21, §20001(c)(3), (5), substituted "privatized housing units" for "privatized housing" and "pursuant to this section" for "under the pilot projects".

Subsec. (d)(1). Pub. L. 119–21, §20001(c)(2), (3), substituted "Secretary concerned" for "Secretary of the Navy" and "pursuant to this section" for "under the pilot projects".

Subsec. (e). Pub. L. 119–21, §20001(c)(7), substituted "under this section" for "under the pilot programs" and "September 30, 2029" for "September 30, 2009".

Pub. L. 119–21, §20001(c)(6), redesignated subsec. (f) as (e). Former subsec. (e) had been struck out by Pub. L. 115–91. See 2017 Amendment note below.

Subsec. (f). Pub. L. 119–21, §20001(c)(6), redesignated subsec. (f) as (e).

Pub. L. 119–21, §20001(c)(2), substituted "Secretary of the Navy" for "Secretary concerned".

**2022**—Subsec. (c)(1). Pub. L. 117–263 substituted "section 403(o)" for "section 403(n)".

**2017**—Subsec. (d)(2). Pub. L. 115–91, §2801(d)(1), inserted "in an electronic medium pursuant to section 480 of this title" after "Congress".

Subsec. (e). Pub. L. 115–91, §1051(a)(25), struck out subsec. (e) which required reports describing certain proposed contracts, conveyances, or leases.

**2011**—Subsec. (e)(2). Pub. L. 111–383 inserted before period at end "or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**2006**—Subsecs. (d)(2), (e)(2). Pub. L. 109–364, §2812(a), substituted "30 days" for "90 days".

Subsec. (f). Pub. L. 109–364, §2812(b), substituted "2009" for "2007".

Pub. L. 109–163 substituted "The" for "Notwithstanding section 2885 of this title, the".

## §2882. Effect of assignment of members to housing units acquired or constructed under alternative authority

(a) TREATMENT AS QUARTERS OF THE UNITED STATES.—Except as provided in subsection (b), housing units acquired or constructed under this subchapter shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

(b) AVAILABILITY OF BASIC ALLOWANCE FOR HOUSING.—A member of the armed forces who is assigned to a housing unit acquired or constructed under this subchapter that is not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 105–85, div. A, title VI, §603(d)(2)(C), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 110–417, div. B, title XXVIII, §2805(e)(1), Oct. 14, 2008, 122 Stat. 4723.)

### EDITORIAL NOTES

### AMENDMENTS

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, section related to assignment of members of the armed forces to housing units by the Secretary concerned, treatment of such housing as quarters of the United States, entitlement to a basic allowance for housing, and making of lease payments through pay allotments.

**1997**—Subsec. (b)(1). Pub. L. 105–85, §603(d)(2)(C)(i), substituted "section 403" for "section 403(b)".

Subsec. (b)(2). Pub. L. 105–85, §603(d)(2)(C)(ii), substituted "basic allowance for housing under section 403 of title 37" for "basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

## §2883. Department of Defense Housing Funds

(a) ESTABLISHMENT.—There are hereby established on the books of the Treasury the following accounts:

(1) The Department of Defense Family Housing Improvement Fund.

(2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

(b) COMMINGLING OF FUNDS PROHIBITED.—(1) The Secretary of Defense shall administer each Fund separately.

(2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.

(3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

(c) CREDITS TO FUNDS.—(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition, improvement, or construction of military family housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing.

(D) Income derived from any activities under this subchapter with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military unaccompanied housing.

(D) Income derived from any activities under this subchapter with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of

this title.

(d) USE OF AMOUNTS IN FUNDS.—(1)(A) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(B) The Secretary of Defense shall require that eligible entities receiving amounts from the Department of Defense Family Housing Improvement Fund prioritize the use of such amounts for expenditures related to asset recapitalization, operating expenses, and debt payments before other program management-incentive fee expenditures. In the case of asset recapitalization, the primary purpose of the expenditures must be to sustain existing housing units owned or managed by the eligible entity or for which the eligible entity is otherwise responsible.

(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

(e) LIMITATION ON OBLIGATIONS.—(1) The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.

(f) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to a Fund under subparagraph (B) of paragraph (1) or subparagraph (B) of paragraph (2) of subsection (c) may be made only after the end of the 14-day period beginning on the date the Secretary of Defense submits notice of, and justification for, the transfer to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 104–201, div. B, title XXVIII, §2804, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106–65, div. B, title XXVIII, §2802(b), Oct. 5, 1999, 113 Stat. 848; Pub. L. 108–136, div. A, title X, §1031(a)(51), div. B, title XXVIII, §2805(c), Nov. 24, 2003, 117 Stat. 1603, 1721; Pub. L. 108–375, div. B, title XXVIII, §2805(a), Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109–163, div. B, title XXVIII, §2806(a), (b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–181, div. B, title XXVII, §2705, Jan. 28, 2008, 122 Stat. 533; Pub. L. 112–239, div. B, title XXVII, §2711(c)(5), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 115–91, div. B, title XXVIII, §2801(d)(2), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116–283, div. B, title XXVIII, §2813(a), Jan. 1, 2021, 134 Stat. 4327.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (d)(1). Pub. L. 116–283 designated existing provisions as subpar. (A) and added subpar. (B).

**2017**—Subsec. (f). Pub. L. 115–91 substituted "14-day period" for "30-day period" and struck out "written" before "notice" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided" before "in an electronic medium".

**2013**—Subsec. (c)(1)(G). Pub. L. 112–239, §2711(c)(5)(A)(i), struck out subpar. (G), which read as follows: "Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005."

Subsec. (c)(2)(G). Pub. L. 112–239, §2711(c)(5)(A)(ii), struck out subpar. (G), which read as follows: "Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005."

Subsec. (f). Pub. L. 112–239, §2711(c)(5)(B), struck out "or (G)" after "subparagraph (B)" in two places in first sentence, and struck out second sentence which read: "In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act."

**2008**—Subsec. (c)(1)(G). Pub. L. 110–181, §2705(a)(1), added subpar. (G).

Subsec. (c)(2)(G). Pub. L. 110–181, §2705(a)(2), added subpar. (G).

Subsec. (f). Pub. L. 110–181, §2705(b), substituted "subparagraph (B) or (G) of paragraph (1) or subparagraph (B) or (G) of paragraph (2)" for "paragraph (1)(B) or (2)(B)" and inserted at end "In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act."

**2006**—Subsec. (c)(1)(B). Pub. L. 109–163, §2806(b), substituted "acquisition, improvement, or construction" for "acquisition or construction".

Subsec. (e). Pub. L. 109–163, §2806(a), designated existing provisions as par. (1) and added par. (2).

**2004**—Subsec. (g). Pub. L. 108–375 struck out heading and text of subsec. (g). Text read as follows: "The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter shall not exceed—

"(1) $850,000,000 for the acquisition or construction of military family housing; and

"(2) $150,000,000 for the acquisition or construction of military unaccompanied housing."

**2003**—Subsec. (c)(1)(F). Pub. L. 108–136, §2805(c)(1), added subpar. (F).

Subsec. (c)(2)(F). Pub. L. 108–136, §2805(c)(2), added subpar. (F).

Subsec. (f). Pub. L. 108–136, §1031(a)(51), inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title".

**1999**—Subsec. (c)(1)(E). Pub. L. 106–65, §2802(b)(1), added subpar. (E).

Subsec. (c)(2)(E). Pub. L. 106–65, §2802(b)(2), added subpar. (E).

**1996**—Subsec. (d)(1), (2). Pub. L. 104–201 inserted at end "The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. B, title XXVIII, §2813(b), Jan. 1, 2021, 134 Stat. 4327, provided that: "The requirements set forth in subparagraph (B) of section 2883(d)(1) of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Jan. 1, 2021] between the Secretary of a military department and a landlord regarding privatized military housing. In this subsection, the terms 'landlord' and 'privatized military housing' have the meanings given those terms in section 3001(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1916; 10 U.S.C. 2821 note)."

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113–76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112–239, set out as a note under section 2701 of this title.

## §2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units

(a) AUTHORITY TO TRANSFER FUNDS TO COVER HOUSING ALLOWANCES.—During the fiscal year in which a contract is awarded for the acquisition or construction of military family housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

(b) AMOUNT TRANSFERRED.—The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

(c) TRANSFERS SUBJECT TO APPROPRIATIONS.—The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 107–107, div. B, title XXVIII, §2804(a), Dec. 28, 2001, 115 Stat. 1305.)

## §2884. Reports

(a) PROJECT REPORTS.—(1) The Secretary concerned shall transmit to the appropriate committees of Congress a report describing—

(A) each contract or agreement for the acquisition or construction of family housing units or unaccompanied housing units under this subchapter; and

(B) each conveyance or lease proposed under section 2878 of this title.

(2) A report required by paragraph (1) shall include the following:

(A) A description of the contract, agreement, conveyance, or lease, including a summary of the terms of the contract, agreement, conveyance, or lease.

(B) A description of the authorities to be utilized in entering into the contract, agreement, conveyance, or lease and the intended method of participation of the United States in the contract, agreement, conveyance, or lease, including a justification of the intended method of participation.

(C) A statement of the scored cost of the contract, agreement, conveyance, or lease, as determined by the Office of Management and Budget.

(D) A statement of the United States funds required for the contract, agreement, conveyance, or lease and a description of the source of such funds, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, agreement, conveyance, or lease.

(E) An economic assessment of the life cycle costs of the contract, agreement, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over the life of the contract, agreement, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, agreement, conveyance, or lease.

(3)(A) In the case of a contract or agreement described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract or agreement will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of—

(i) the closure or realignment of the installation for which housing will be provided under the contract or agreement;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.

(B) If the contract or agreement will or may include such a guarantee, the report shall also—

(i) describe the nature of the guarantee; and

(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.

(4) The report shall be submitted in an electronic medium pursuant to section 480 of this title not later than 21 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

(b) ANNUAL REPORTS TO ACCOMPANY BUDGET MATERIALS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

(1) A separate report on the expenditures and receipts during the preceding fiscal year covering each of the Funds established under section 2883 of this title, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.

(2) A report setting forth, by armed force, the following:

(A) An estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter.

(B) The number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.

(3) A description of the plans for housing privatization activities to be carried out under this subchapter—

(A) during the fiscal year for which the budget is submitted; and

(B) during the period covered by the then-current future-years defense plan under section 221 of this title.

(4) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded $50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.

(c) SEMI-ANNUAL REPORT ON PRIVATIZATION PROJECTS.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual report containing an evaluation of the status of oversight and accountability measures under section 2885 of this title for military housing privatization projects. To the extent each Secretary concerned has the right to attain the information described in this subsection, each report shall include, at a minimum, the following:

(1) An assessment of the backlog of maintenance and repair at each military housing privatization project where a significant backlog exists, including an estimation of the cost of eliminating the maintenance and repair backlog.

(2) If the debt associated with a privatization project exceeds net operating income or the occupancy rates for the housing units are below 75 percent for more than one year, the plan

developed to mitigate the financial risk of the project.

(3) An assessment of any significant project variances between the actual and pro forma deposits in the recapitalization account, to specifically include any unique variances associated with litigation costs.

(4) The details of any significant withdrawals from a recapitalization account, including the purpose and rationale of the withdrawal and, if the withdrawal occurs before the normal recapitalization period, the impact of the early withdrawal on the financial health of the project.

(5) An assessment of the extent to which the information required to comply with paragraphs (1) through (4) has been requested by the Secretaries, but has not been made available.

(6) An assessment of cost assessed to members of the armed forces for utilities compared to utility rates in the local area.

(7) An assessment of the condition of housing units based on the average age of those units and the estimated time until recapitalization.

(8) An assessment of tenant complaints.

(9) An assessment of maintenance response times and completion of maintenance requests.

(10) An assessment of the dispute resolution process under section 2894(c) of this title, which shall include a list of dispute resolution cases by installation and the final outcome of each case.

(11) An assessment of overall customer service for tenants.

(12) A description of the results of any no-notice housing inspections conducted.

(13) The results of any resident surveys conducted.

(14) With regard to issues of lead-based paint in housing units, a summary of data relating to the presence of lead-based paint in such housing units, including the following by military department:

(A) The total number of housing units containing lead-based paint.

(B) A description of the reasons for the failure to inspect any housing unit that contains lead-based paint.

(C) A description of all abatement or mitigation efforts completed or underway in housing units containing lead-based paint.

(D) A certification as to whether military housing under the jurisdiction of the Secretary concerned complies with requirements relating to lead-based paint, lead-based paint activities, and lead-based paint hazards, as described in section 408 of the Toxic Substances Control Act (15 U.S.C. 2688).

(15) An explanation of—

(A) the housing data used by each Secretary concerned; and

(B) the housing data each Secretary concerned requests from companies responsible for managing privatization projects.

(16) An assessment of how each Secretary concerned uses such housing data to inform the on-base housing decisions for the military department under the jurisdiction of the Secretary.

(17) An explanation of—

(A) the limitations of any tenant satisfaction data collected by the Secretary concerned (including limitations with respect to the availability of such data);

(B) the process of the Secretary concerned for determining tenant satisfaction; and

(C) reasons for missing tenant satisfaction data, if any.

(18) To the maximum extent practicable, a breakdown of the information described in paragraphs (1) through (17), disaggregated by—

(A) military installation; and

(B) military housing privatization project.

(d) ANNUAL BRIEFINGS.—Not later than February 1 of each year, each Secretary concerned shall provide to the Committees on Armed Services of the Senate and House of Representatives a

briefing on military housing privatization projects under the jurisdiction of the Secretary. Such briefing shall include, for the 12-month period preceding the date of the briefing, each of the following:

(1) The information described in paragraphs (1) through (18) of subsection (c) of subsection (c) with respect to all military housing privatization projects under the jurisdiction of the Secretary.

(2) A review of any such project that is expected to require the restructuring of a loan, including any public or private loan.

(3) For any such project expected to require restructuring, a timeline for when such restructuring is expected to occur.

(4) Such other information as the Secretary determines appropriate.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 550; amended Pub. L. 108–136, div. B, title XXVIII, §2807, Nov. 24, 2003, 117 Stat. 1722; Pub. L. 108–375, div. B, title XXVIII, §2806, Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109–163, div. B, title XXVIII, §2806(c), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–417, div. B, title XXVIII, §2805(b), (f), Oct. 14, 2008, 122 Stat. 4723, 4724; Pub. L. 111–383, div. A, title X, §1075(h)(6), div. B, title XXVIII, §2803(g), Jan. 7, 2011, 124 Stat. 4377, 4459; Pub. L. 112–239, div. B, title XXVIII, §2803(b), Jan. 2, 2013, 126 Stat. 2148; Pub. L. 113–66, div. B, title XXVIII, §2806, Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113–291, div. A, title X, §1071(f)(26), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. B, title XXVIII, §2801(d)(3), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116–92, div. B, title XXX, §3016(d), Dec. 20, 2019, 133 Stat. 1929; Pub. L. 116–283, div. B, title XXVIII, §§2803(c), 2811(h), Jan. 1, 2021, 134 Stat. 4320, 4326; Pub. L. 117–263, div. B, title XXVIII, §2823, Dec. 23, 2022, 136 Stat. 3001; Pub. L. 119–60, div. B, title XXVIII, §2823(a), Dec. 18, 2025, 139 Stat. 1306.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60, §2823(a)(1)(B), substituted "Semi-annual" for "Annual" in heading.

Subsec. (c)(15) to (18). Pub. L. 119–60, §2823(a)(1)(A), added pars. (15) to (18).

Subsec. (d)(1). Pub. L. 119–60, §2823(a)(2), substituted "paragraphs (1) through (18) of subsection (c)" for "paragraphs (1) through (14) of subsection (c)".

**2022**—Subsec. (d). Pub. L. 117–263 added subsec. (d).

**2021**—Subsec. (a)(1). Pub. L. 116–283, §2803(c)(1)(A), substituted "The Secretary concerned" for "The Secretary of Defense" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 116–283, §2803(c)(1)(B), inserted "or agreement" after "each contract" and struck out "that the Secretary proposes to solicit" after "unaccompanied housing units".

Subsec. (a)(2). Pub. L. 116–283, §2803(c)(2), substituted "A report required by paragraph (1)" for "For each proposed contract, conveyance, or lease described in paragraph (1), the report required by such paragraph" in introductory provisions and inserted "agreement," after "contract," wherever appearing.

Subsec. (a)(3). Pub. L. 116–283, §2803(c)(3), inserted "or agreement" after "contract" wherever appearing.

Subsec. (c)(10). Pub. L. 116–283, §2811(h), amended par. (10) generally. Prior to amendment, par. (10) read as follows: "An assessment of the dispute resolution process, which shall include a specific analysis of each denied tenant request to withhold rent payments and each instance in which the dispute resolution process resulted in a favorable outcome for the landlord."

**2019**—Subsec. (c)(7) to (14). Pub. L. 116–92 added pars. (7) to (14).

**2017**—Subsec. (a)(4). Pub. L. 115–91 added par. (4) and struck out former par. (4) which read as follows: "The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title."

**2014**—Subsec. (c). Pub. L. 113–291 substituted "an evaluation" for "on evaluation" in introductory provisions.

**2013**—Subsecs. (b), (c). Pub. L. 112–239 added subsecs. (b) and (c) and struck out former subsec. (b) which required the Secretary of Defense to provide annual reports to Congress.

Subsec. (c)(3). Pub. L. 113–66 inserted ", to specifically include any unique variances associated with litigation costs" before period at end.

**2011**—Subsec. (a)(4). Pub. L. 111–383, §2803(g), inserted before period at end "or, if earlier, a period of

20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

Subsec. (b)(1). Pub. L. 111–383, §1075(h)(6), made technical correction to directory language of Pub. L. 109–163, §2806(c)(2)(A). See 2006 Amendment note below.

**2008**—Subsec. (b)(7). Pub. L. 110–417, §2805(b), added par. (7).

Subsec. (b)(8). Pub. L. 110–417, §2805(f), added par. (8).

**2006**—Subsec. (a)(2)(D). Pub. L. 109–163, §2806(c)(1), inserted before period ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease".

Subsec. (b)(1). Pub. L. 109–163, §2806(c)(2)(B), (C), substituted "covering each of the Funds" for "covering the Funds" and inserted before period at end ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year".

Pub. L. 109–163, §2806(c)(2)(A), as amended by Pub. L. 111–383, §1075(h)(6), substituted "A separate report" for "A report".

**2004**—Subsec. (a)(2). Pub. L. 108–375, §2806(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation."

Subsec. (b)(5), (6). Pub. L. 108–375, §2806(b), added par. (5) and redesignated former par. (5) as (6).

**2003**—Subsec. (a)(2) to (4). Pub. L. 108–136, §2807(a), designated second sentence of par. (2) as par. (4) and added par. (3).

Subsec. (b)(2). Pub. L. 108–136, §2807(b)(1), inserted before period at end ", and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future".

Subsec. (b)(3) to (5). Pub. L. 108–136, §2807(b)(2), added pars. (3) to (5) and struck out former par. (3) which read as follows: "A description of the objectives of the Department of Defense for providing military family housing and military unaccompanied housing for members of the armed forces."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that amendment by section 1075(h)(6) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

#### FINAL REPORT

Pub. L. 104–106, div. B, title XXVIII, §2801(b), Feb. 10, 1996, 110 Stat. 551, provided that, not later than Mar. 1, 2000, the Secretary of Defense was to submit to the congressional defense committees a report on the use by the Secretary of Defense and the Secretaries of the military departments of the authorities provided by subchapter IV of chapter 169 of this title.

## §2885. Oversight and accountability for privatization projects

(a) OVERSIGHT AND ACCOUNTABILITY MEASURES.—Each Secretary concerned shall prescribe regulations to effectively oversee and manage military housing privatization projects carried out under this subchapter during the course of the construction or renovation of the housing units. The regulations shall include the following requirements for each privatization project:

(1) The installation asset manager shall conduct monthly site visits and provide quarterly reports on the progress of the construction or renovation of the housing units. The reports shall be submitted quarterly to the assistant secretary for installations and environment of the respective military department.

(2) The installation asset manager, and, as applicable, the resident construction manager, privatization asset manager, bondholder representative, project owner, developer, general contractor, and construction consultant for the project shall conduct meetings to ensure that the

construction or renovation of the units meets performance and schedule requirements and that appropriate operating and ground lease agreements are in place and adhered to.

(3) In the case of a project for new construction, if the project is 90 days or more behind schedule or otherwise appears to be substantially failing to adhere to the obligations or milestones under the contract, the assistant secretary for installations and environment of the respective military department shall submit a notice of deficiency to the Assistant Secretary of Defense for Energy, Installations, and Environment, the Secretary concerned, the managing member, and the trustee for the project.

(4)(A) Not later than 15 days after the submittal of a notice of deficiency under paragraph (3), the Secretary concerned or designated representative shall submit to the project owner, developer, or general contractor responsible for the project a summary of deficiencies related to the project.

(B) If the project owner, developer, or general contractor responsible for the privatization project is unable, within 60 days after receiving a notice of deficiency under subparagraph (A), to make progress on the issues outlined in such notice, the Secretary concerned shall notify, in an electronic medium pursuant to section 480 of this title, the congressional defense committees of the status of the project and include a recommended course of action to correct the problems.

(b) REQUIRED QUALIFICATIONS.—The Secretary concerned or designated representative shall ensure that the project owner, developer, or general contractor that is selected for each military housing privatization initiative project has construction experience commensurate with that required to complete the project.

(c) BONDING LEVELS.—The Secretary concerned shall ensure that the project owner, developer, or general contractor responsible for a military housing privatization initiative project has sufficient payment and performance bonds or suitable instruments in place for each phase of a construction or renovation portion of the project to ensure successful completion of the work in amounts as agreed to in the project's legal documents, but in no case less than 50 percent of the total value of the active phases of the project, prior to the commencement of work for that phase.

(d) REPORTING OF EFFORTS TO SELECT SUCCESSOR IN EVENT OF DEFAULT.—In the event a military housing privatization initiative project enters into default, the assistant secretary for installations and environment of the respective military department shall submit, in an electronic medium pursuant to section 480 of this title, a report to the congressional defense committees every 90 days detailing the status of negotiations to award the project to a new project owner, developer, or general contractor.

(e) EFFECT OF NOTICES OF DEFICIENCY ON CONTRACTORS AND AFFILIATED ENTITIES.—(1) The Secretary concerned shall keep a record of all plans of action or notices of deficiency issued to a project owner, developer, or general contractor under subsection (a)(4), including the identity of each parent, subsidiary, affiliate, or other controlling entity of such owner, developer, or contractor.

(2) Each military department shall consult all records maintained under paragraph (1) when reviewing the past performance of owners, developers, and contractors in the bidding process for a contract or other agreement for a military housing privatization initiative project.

(f) FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES.—(1) The regulations required by subsection (a) shall address the following requirements for each military housing privatization project upon the completion of the construction or renovation of the housing units:

(A) The financial health and performance of the privatization project, including the debt-coverage ratio of the project and occupancy rates for the housing units.

(B) An assessment of the backlog of maintenance and repair of the housing units.

(2) If the debt service coverage for a military housing privatization project falls below 1.0 or the occupancy rates for the housing units of the project are below 75 percent for more than one year, the Secretary concerned shall require the development of a plan to address the financial risk of the project.

(Added Pub. L. 110–417, div. B, title XXVIII, §2805(a)(1), Oct. 14, 2008, 122 Stat. 4721; amended

Pub. L. 112–239, div. B, title XXVIII, §2803(a), Jan. 2, 2013, 126 Stat. 2147; Pub. L. 113–66, div. A, title X, §1084(a)(3), Dec. 26, 2013, 127 Stat. 871; Pub. L. 113–291, div. A, title IX, §901(n)(2), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. B, title XXVIII, §2801(d)(4), Dec. 12, 2017, 131 Stat. 1844.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 2885, added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 551; amended Pub. L. 105–85, div. A, title X, §1073(a)(61), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–398, §1 [div. B, title XXVIII, §2806], Oct. 30, 2000, 114 Stat. 1654, 1654A–415; Pub. L. 107–107, div. B, title XXVIII, §2805, Dec. 28, 2001, 115 Stat. 1306, related to expiration of authority to enter into a contract under this subchapter, prior to repeal by Pub. L. 108–375, div. B, title XXVIII, §2805(b)(1), Oct. 28, 2004, 118 Stat. 2122.

### AMENDMENTS

**2017**—Subsec. (a)(4)(B). Pub. L. 115–91, §2801(d)(4)(A), inserted ", in an electronic medium pursuant to section 480 of this title," after "notify" and substituted "and include" for ", and shall provide".

Subsec. (d). Pub. L. 115–91, §2801(d)(4)(B), inserted ", in an electronic medium pursuant to section 480 of this title," after "submit".

**2013**—Subsec. (a). Pub. L. 112–239, §2803(a)(2), in introductory provisions, inserted "during the course of the construction or renovation of the housing units" before period at end of first sentence.

Subsec. (a)(3). Pub. L. 113–66 substituted "In the case of a project for new construction, if the project" for "If a project".

Subsec. (f). Pub. L. 112–239, §2803(a)(1), added subsec. (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

"Assistant Secretary of Defense for Energy, Installations, and Environment" substituted for "Deputy Under Secretary of Defense (Installations and Environment)" in subsec. (a)(3) on authority of section 901(n)(2) of Pub. L. 113–291, set out as a References note under section 131 of this title.

## [§2886. Repealed. Pub. L. 116–92, div. B, title XXX, §3014(d)(1), Dec. 20, 2019, 133 Stat. 1926]

Section, added Pub. L. 115–91, div. A, title VI, §602(a), Dec. 12, 2017, 131 Stat. 1417, prohibited collection of amounts in addition to rent from members assigned to military family housing units or military unaccompanied housing units. See section 2891a(f) of this title.

# SUBCHAPTER V—OVERSIGHT OF LANDLORDS AND PROTECTIONS AND RESPONSIBILITIES FOR TENANTS OF PRIVATIZED MILITARY HOUSING

Sec.
2890. Rights and responsibilities of tenants of housing units.
[2890a. Renumbered.]
2891. Requirements relating to contracts for provision of housing units.
2891a. Requirements relating to management of housing units.
2891b. Considerations of eligible entity housing history in contracts for privatized military housing.
2891c. Transparency regarding finances and performance metrics.
2892. Maintenance work order system for housing units.

2892a. Access by tenants to historical maintenance information.
2892b. Prohibition on requirement to disclose personally identifiable information in requests for certain maintenance.
2893. Treatment of incentive fees for landlords of housing units for failure to remedy health or environmental hazards.
2894. Landlord-tenant dispute resolution process and treatment of certain payments during process.
2894a. Complaint database.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. B, title XXVIII, §§2811(k)(1)(B), (2), 2814(d)(2), Jan. 1, 2021, 134 Stat. 4326, 4328, added items 2891c and 2892b and struck out former items 2890a "Chief Housing Officer", 2891c "Financial transparency", and 2892b "Prohibition on requirement to disclose personally identifiable information in electronic requests for maintenance".

## §2890. Rights and responsibilities of tenants of housing units

(a) DEVELOPMENT OF TENANT BILL OF RIGHTS AND TENANT RESPONSIBILITIES DOCUMENTS.—(1) The Secretary of Defense shall develop two separate documents, to be known as the Military Housing Privatization Initiative Tenant Bill of Rights and the Military Housing Privatization Initiative Tenant Responsibilities, for tenants of housing units.

(2) The Secretary of each military department shall ensure that the housing documents are attached to each lease agreement for a housing unit.

(3) The rights and responsibilities contained in the housing documents are not intended to be exclusive. The omission of a tenant right or responsibility shall not be construed to deny the existence of such a right or responsibility for tenants.

(4) Each contract between the Secretary concerned and a landlord shall incorporate the housing documents and guarantee the rights and responsibilities of tenants who reside in housing units covered by the contract.

(5) The Secretary of Defense shall develop the housing documents in coordination with the Secretaries of the military departments.

(b) ELEMENTS OF TENANT BILL OF RIGHTS.—At a minimum, the Military Housing Privatization Initiative Tenant Bill of Rights shall address the following rights of tenants of housing units:

(1) The right to reside in a housing unit and community that meets applicable health and environmental standards.

(2) The right to reside in a housing unit that has working fixtures, appliances, and utilities and to reside in a community with well-maintained common areas and amenity spaces.

(3) The right to be provided with a maintenance history of the prospective housing unit before signing a lease, as provided in section 2892a of this title.

(4) The right to a written lease with clearly defined rental terms to establish tenancy in a housing unit, including any addendums and other regulations imposed by the landlord regarding occupancy of the housing unit and use of common areas.

(5) The right to a plain-language briefing, before signing a lease and 30 days after move-in, by the installation housing office on all rights and responsibilities associated with tenancy of the housing unit, including information regarding the existence of any additional fees authorized by the lease, any utilities payments, the procedures for submitting and tracking work orders, the identity of the military tenant advocate, and the dispute resolution process.

(6) The right to have sufficient time and opportunity to prepare and be present for move-in and move-out inspections, including an opportunity to obtain and complete necessary paperwork.

(7) The right to report inadequate housing standards or deficits in habitability of the housing unit to the landlord, the chain of command, and housing management office without fear of

reprisal or retaliation, as provided in subsection (e), including reprisal or retaliation in the following forms:

(A) Unlawful recovery of, or attempt to recover, possession of the housing unit.

(B) Unlawfully increasing the rent, decreasing services, or increasing the obligations of a tenant.

(C) Interference with a tenant's right to privacy.

(D) Harassment of a tenant.

(E) Refusal to honor the terms of the lease.

(F) Interference with the career of a tenant.

(8) The right of access to a military tenant advocate, as provided in section 2894(b)(4) of this title, through the housing management office of the installation of the Department at which the housing unit is located.

(9) The right to receive property management services provided by a landlord that meet or exceed industry standards and that are performed by professionally and appropriately trained, responsive, and courteous customer service and maintenance staff.

(10) The right to have multiple, convenient methods to communicate directly with the landlord maintenance staff, and to receive consistently honest, accurate, straightforward, and responsive communications.

(11) The right to have access to an electronic work order system through which a tenant may request maintenance or repairs of a housing unit and track the progress of the work.

(12) With respect to maintenance and repairs to a housing unit, the right to the following:

(A) Prompt and professional maintenance and repair.

(B) To be informed of the required time frame for maintenance or repairs when a maintenance request is submitted.

(C) In the case of maintenance or repairs necessary to ensure habitability of a housing unit, to prompt relocation into suitable lodging or other housing at no cost to the tenant until the maintenance or repairs are completed.

(13) The right to receive advice from military legal assistance on procedures involving mechanisms for resolving disputes with the property management company or property manager to include mediation, arbitration, and filing claims against a landlord.

(14) The right to enter into a dispute resolution process, as provided in section 2894 of this title, should all other methods be exhausted and, in which case, a decision in favor of the tenant may include a reduction in rent or an amount to be reimbursed or credited to the tenant.

(15) The right to have the tenant's basic allowance housing payments segregated, with approval of a designated commander, and not used by the property owner, property manager, or landlord pending completion of the dispute resolution process.

(16) The right to have reasonable, advance notice of any entrance by a landlord, installation housing staff, or chain of command into the housing unit, except in the case of an emergency or abandonment of the housing unit.

(17) The right to not pay non-refundable fees or have application of rent credits arbitrarily held.

(18) The right to expect common documents, forms, and processes for housing units will be the same for all installations of the Department, to the maximum extent applicable without violating local, State, and Federal regulations.

(c) ELEMENTS OF TENANT RESPONSIBILITIES.—At a minimum, the Military Housing Privatization Initiative Tenant Responsibilities shall address the following responsibilities of tenants of housing units:

(1) The responsibility to report in a timely manner any apparent environmental, safety, or health hazards of the housing unit to the landlord and any defective, broken, damaged, or malfunctioning building systems, fixtures, appliances, or other parts of the housing unit, the common areas, or related facilities.

(2) The responsibility to maintain standard upkeep of the housing unit as instructed by the housing management office.

(3) The responsibility to conduct oneself as a tenant in a manner that will not disturb neighbors, and to assume responsibility for one's actions and those of a family member or guest in the housing unit or common areas.

(4) The responsibility not to engage in any inappropriate, unauthorized, or criminal activity in the housing unit or common areas.

(5) The responsibility to allow the landlord reasonable access to the rental home in accordance with the terms of the tenant lease agreement to allow the landlord to make necessary repairs in a timely manner.

(6) The responsibility to read all lease-related materials provided by the landlord and to comply with the terms of the lease agreement, lease addenda, and any associated rules and guidelines.

(d) SUBMISSION TO CONGRESS AND PUBLIC AVAILABILITY.—(1) As part of the budget submission for fiscal year 2021, and biennially thereafter, each Secretary of a military department shall submit the then-current housing documents to the congressional defense committees.

(2) Any change made to a housing document must be submitted to Congress at least 30 days before the change takes effect.

(3) Upon submission of a housing document under paragraph (1) or (2), each Secretary of a military department shall publish the housing document on a publicly available Internet website of the military department under the jurisdiction of such Secretary.

(e) INVESTIGATION OF REPORTS OF REPRISALS.—(1) The Inspector General of the Department of Defense shall investigate all reports of reprisal against a tenant for reporting an issue relating to a housing unit.

(2) If the Inspector General determines under paragraph (1) that a landlord has retaliated against a tenant for reporting an issue relating to a housing unit, the Inspector General shall—

(A) provide initial notice to the Committees on Armed Services of the Senate and the House of Representatives as soon as practicable after making that determination; and

(B) following that initial notice, provide an update to such committees every 30 days thereafter until such time as the Inspector General has taken final action with respect to the retaliation.

(3) The Inspector General of the Department of Defense shall carry out this subsection in coordination with the Inspector General of the military department concerned.

(f) PROHIBITION ON USE OF NONDISCLOSURE AGREEMENTS.—(1) A tenant or prospective tenant of a housing unit may not be required to sign a nondisclosure agreement in connection with entering into, continuing, or terminating a lease for the housing unit. Any such agreement against the interests of the tenant is invalid.

(2) Paragraph (1) shall not apply to a nondisclosure agreement executed—

(A) as part of the settlement of litigation; or

(B) to avoid litigation if the tenant has retained legal counsel or has sought military legal assistance under section 1044 of this title.

(3) A party presenting a proposed nondisclosure agreement to a tenant shall notify such tenant that such tenant may, not later than 10 business days after such presentation, seek legal counsel with respect to the terms of and implications of entering into such agreement. A tenant may not be required to sign such agreement before the end of such 10-day period.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§3011(b), 3023, 3024(a), Dec. 20, 2019, 133 Stat. 1917, 1935; Pub. L. 116–283, div. B, title XXVIII, §2811(b), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 118–31, div. B, title XXVIII, §§2822(b), 2823, 2839(e), Dec. 22, 2023, 137 Stat. 751, 752, 761.)

**EDITORIAL NOTES**

## AMENDMENTS

**2023**—Subsec. (d)(1). Pub. L. 118–31, §2839(e)(1), substituted "each Secretary of a military department" for "the Secretary of Defense".

Subsec. (d)(3). Pub. L. 118–31, §2839(e), substituted "each Secretary of a military department" for "the Secretary of Defense" and "the military department under the jurisdiction of such Secretary" for "the Department of Defense".

Subsec. (e)(1). Pub. L. 118–31, §2822(b)(1), substituted "Inspector General of the Department of Defense" for "Assistant Secretary of Defense for Sustainment" and "tenant" for "member of the armed forces".

Subsec. (e)(2). Pub. L. 118–31, §2822(b)(2)(A), in introductory provisions, substituted "Inspector General determines" for "Assistant Secretary of Defense for Sustainment determines", "tenant" for "member of the armed forces", and "Inspector General shall" for "Assistant Secretary shall".

Subsec. (e)(2)(B). Pub. L. 118–31, §2822(b)(2)(B), substituted "Inspector General" for "Assistant Secretary".

Subsec. (e)(3). Pub. L. 118–31, §2822(b)(3), substituted "Inspector General of the Department of Defense" for "Assistant Secretary of Defense for Sustainment" and "Inspector General of the military department concerned" for "Secretary of the military department concerned".

Subsec. (f)(3). Pub. L. 118–31, §2823, added par. (3).

**2021**—Subsec. (b)(15). Pub. L. 116–283, §2811(b)(1), struck out "and held in escrow" after "payments segregated".

Subsec. (e)(2). Pub. L. 116–283, §2811(b)(2), inserted "a" before "landlord" in introductory provisions.

Subsec. (f)(2). Pub. L. 116–283, §2811(b)(3), added par. (2) and struck out former par. (2) which read as follows: "Paragraph (1) shall not apply to a nondisclosure agreement executed as part of the settlement of litigation."

**2019**—Subsec. (e). Pub. L. 116–92, §3023, added subsec. (e).

Subsec. (f). Pub. L. 116–92, §3024(a), added subsec. (f).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3024(c), Dec. 20, 2019, 133 Stat. 1935, provided that: "Subsection (f) of section 2890 of title 10, United States Code, as added by subsection (a), shall apply with respect to any nondisclosure agreement covered by the terms of such subsection (f) regardless of the date on which the agreement was executed."

### REGULATIONS

Pub. L. 116–92, div. B, title XXX, §3024(b), Dec. 20, 2019, 133 Stat. 1935, provided that: "The Secretary of Defense and the Secretaries of the military departments shall promulgate such regulations as may be necessary to give full force and effect to subsection (f) of section 2890 of title 10, United States Code, as added by subsection (a)."

### IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO STRENGTHENING OVERSIGHT OF PRIVATIZED MILITARY HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2825, Dec. 22, 2023, 137 Stat. 752, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall implement each recommendation of the Comptroller General of the United States contained in the report titled 'DOD Can Further Strengthen Oversight of Its Privatized Housing Program' (GAO–23–105377), dated April 6, 2023, and reissued with revisions on April 20, 2023.

"(b) NON-IMPLEMENTATION REPORTING REQUIREMENT.—If the Secretary elects not to implement any such recommendation, the Secretary shall, not later than one year after the date of the enactment of this Act, submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes a justification for such election."

### REQUIREMENTS RELATING TO MOVE-IN, MOVE-OUT, AND MAINTENANCE OF PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3056, Dec. 20, 2019, 133 Stat. 1944, provided that:

"(a) MOVE-IN AND MOVE-OUT CHECKLIST.—

"(1) CHECKLIST REQUIRED.—The Secretary of Defense shall develop a uniform move-in and move-out checklist for use by landlords providing privatized military housing and by tenants of such

housing.

"(2) REQUIRED MOVE-IN ELEMENT.—A tenant who will occupy a unit of privatized military housing is entitled to be present for an inspection of the housing unit before accepting occupancy of the housing unit to ensure that the unit is habitable and that facilities and common areas of the building are in good repair.

"(3) REQUIRED MOVE-OUT ELEMENT.—A tenant of a unit of privatized military housing is entitled to be present for the move-out inspection of the housing unit and must be given sufficient time to address any concerns related to the tenant's occupancy of the housing unit.

"(b) MAINTENANCE CHECKLIST.—The Secretary of Defense shall—

"(1) develop a uniform checklist to be used by housing management offices to validate the completion of all maintenance work related to health and safety issues at privatized military housing; and

"(2) require that all maintenance issues and work orders related to health and safety issues at privatized military housing be reported to the commander of the installation for which the housing is provided.

"(c) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretaries of the military departments.

"(d) DEADLINE.—The uniform checklists required by this section shall be completed not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019]."

[For definitions of "landlord", "privatized military housing", and "tenant" as used in section 3056 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

**STANDARDIZED DOCUMENTATION, TEMPLATES, AND FORMS FOR PRIVATIZED MILITARY HOUSING**

Pub. L. 116–92, div. B, title XXX, §3057, Dec. 20, 2019, 133 Stat. 1945, provided that:

"(a) DEVELOPMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall develop standardized documentation, templates, and forms for use throughout the Department of Defense with respect to privatized military housing. In developing such documentation, templates, and forms, the Secretary shall ensure that, to the maximum extent practicable, the documentation, templates, and forms do not conflict with applicable State and local housing regulations.

"(2) INITIAL GUIDANCE.—Not later than 30 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall issue guidance for the development of the following:

"(A) Policies and standard operating procedures of the Department for privatized military housing.

"(B) A universal lease agreement for privatized military housing that includes—

"(i) the documents developed pursuant to section 2890 of title 10, United States Code, as added by section 3011, entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities; and

"(ii) any lease addendum required by the law of the State in which the unit of privatized military housing is located.

"(3) CONSULTATION.—The Secretary of Defense shall carry out this subsection in consultation with the Secretaries of the military departments.

"(b) MILITARY DEPARTMENT PLANS.—Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of this section by that military department."

[For definition of "privatized military housing" as used in section 3057 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

## [§2890a. Renumbered §2851a]

## §2891. Requirements relating to contracts for provision of housing units

(a) IN GENERAL.—The requirements of this section condition contracts entered into using the authorities provided to the Secretary concerned under section 2872 of this title and other authorities provided under subchapter IV of this chapter and this subchapter.

(b) EXCLUSION OF CERTAIN EMPLOYEES.—A landlord providing a housing unit shall prohibit any employee of the landlord who commits work-order fraud under the contract from doing any work under the contract.

(c) DISPUTE RESOLUTION PROCESS.—Any decision the commander renders in favor of the tenant in the formal dispute resolution process established pursuant to section 2894 of this title will be taken into consideration in determining whether to pay or withhold all or part of any incentive fees for which a landlord may otherwise be eligible under the contract.

(d) RESPONSIBILITY FOR CERTAIN MEDICAL COSTS.—

(1) REIMBURSEMENT REQUIRED UNDER CERTAIN CIRCUMSTANCES.—If the Secretary concerned finds that a landlord fails to maintain safe and sanitary conditions for a housing unit under the contract and that, subject to paragraph (2), these conditions result in a tenant of the housing unit receiving medical evaluations and treatment, the landlord shall be responsible for reimbursing the Department of Defense for any costs incurred by the Department to provide the medical evaluations and treatment to the tenant, whether such evaluations and treatment are provided in a military medical treatment facility or through the TRICARE provider network.

(2) REVIEW PROCESS.—Before the Secretary concerned may submit a claim under paragraph (1) to a landlord for reimbursement of Department medical evaluation and treatment costs—

(A) a military medical professional must determine that the tenant's medical conditions were caused by unsafe and unsanitary conditions of the housing unit; and

(B) the documentation of the medical evaluation showing causation must be sent to the Director of the Defense Health Agency for review and approval.

(3) UNIFORM PROCESSES AND PROCEDURES.—Not later than 180 days after the date of the enactment of this section, the Director of the Defense Health Agency shall develop and publish uniform processes and procedures to be used by medical providers in military medical treatment facilities to make determinations regarding whether environmental hazards within housing units serve as causative factors for medical conditions being evaluated and treated in military medical treatment facilities or through the TRICARE provider network.

(e) RESPONSIBILITY FOR RELOCATION COSTS.—

(1) PERMANENT RELOCATION.—A landlord providing a housing unit shall pay reasonable relocation costs associated with the permanent relocation of a tenant from the housing unit to a different housing unit due to health or environmental hazards—

(A) present in the housing unit being vacated through no fault of the tenant; and

(B) confirmed by the housing management office of the installation for which the housing unit is provided as making the unit uninhabitable or unable to be remediated safely while the tenant occupies the housing unit.

(2) TEMPORARY RELOCATION.—The landlord shall pay reasonable relocation costs and actual costs of living, including per diem, associated with the temporary relocation of a tenant to a different housing unit due to health or environmental hazards—

(A) present in the housing unit being vacated through no fault of the tenant; and

(B) confirmed by the housing management office of the installation as making the unit uninhabitable or unable to be remediated safely while the tenant occupies the housing unit.

(f) MAINTENANCE WORK ORDER SYSTEM.—(1) A landlord providing a housing unit shall ensure that the maintenance work order system of the landlord (hardware and software) is up to date, including—

(A) by providing a reliable mechanism through which a tenant may submit work order requests through an Internet portal and mobile application, which shall incorporate the ability to upload photos, communicate with maintenance personnel, and rate individual service calls;

(B) by allowing real-time access to such system by officials of the Department at the installation, major subordinate command, and service-wide levels; and

(C) except as provided in paragraph (2), by allowing the work order or maintenance ticket to be closed only after the landlord makes not fewer than three documented attempts to notify the resident of work completion through means that include—

(i) the resident Internet portal for the housing unit;

(ii) text messaging;

(iii) email; and

(iv) telephone.

(2) If a resident does not respond to a landlord after three attempts of the landlord to notify the resident of work completion pursuant to paragraph (1)(C), the landlord may close the work order or maintenance ticket only if—

(A) the landlord submits to the head of the applicable housing management office notice that the landlord intends to close the work order or maintenance ticket; and

(B) the head of the applicable housing management office does not object, in writing, to the closure.

(g) APPLICABILITY OF DISABILITY LAWS.—For purposes of this subchapter and subchapter IV of this chapter, housing units shall be considered as military family housing for purposes of application of Department of Defense policy implementing section 804 of the Fair Housing Act (42 U.S.C. 3604) and title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181 et seq.).

(h) IMPLEMENTATION.—The Secretary concerned shall create such legal documents as may be necessary to carry out this section.

(Added Pub. L. 116–92, div. B, title XXX, §3013(a), Dec. 20, 2019, 133 Stat. 1921; amended Pub. L. 116–283, div. B, title XXVIII, §2811(c), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 117–81, div. B, title XXVIII, §2813(a), Dec. 27, 2021, 135 Stat. 2192; Pub. L. 119–60, div. B, title XXVIII, §2824, Dec. 18, 2025, 139 Stat. 1307.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

The Americans with Disabilities Act of 1990, referred to in subsec. (g), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title III of the Act is classified generally to subchapter III (§12181 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 2891, added Pub. L. 100–456, div. A, title III, §342(a)(1), Sept. 29, 1988, 102 Stat. 1959; amended Pub. L. 102–484, div. A, title III, §372, Oct. 23, 1992, 106 Stat. 2384, required Secretary of Defense to submit to Congress for each of fiscal years 1992, 1993, and 1994, a report regarding security and control of Department of Defense supplies, prior to repeal by Pub. L. 104–106, div. A, title X, §1061(b)(1), Feb. 10, 1996, 110 Stat. 442.

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60, §2824(1), (2), inserted par. (1) designation before "A landlord providing" and redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively.

Subsec. (f)(1)(C). Pub. L. 119–60, §2824(3), added subpar. (C) and struck out former subpar. (C), as so redesignated, which read as follows: "by allowing the work order or maintenance ticket to be closed only once the tenant and the head of the housing management office of the installation sign off."

Subsec. (f)(2). Pub. L. 119–60, §2824(4), added par. (2).

**2021**—Subsec. (e)(1). Pub. L. 116–283, §2811(c)(1)(A), inserted "unit" after "different housing" in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 116–283, §2811(c)(1)(B), inserted "the" before "tenant".
Subsec. (e)(2)(B). Pub. L. 116–283, §2811(c)(2), inserted "the" before "tenant".
Subsecs. (g), (h). Pub. L. 117–81 added subsec. (g) and redesignated former subsec. (g) as (h).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2019 AMENDMENT**

Pub. L. 116–92, div. B, title XXX, §3013(b), Dec. 20, 2019, 133 Stat. 1923, provided that: "The requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing."

[For definitions of "landlord" and "privatized military housing" as used in section 3013(b) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

**RETROACTIVE LANDLORD AGREEMENTS**

Pub. L. 116–92, div. B, title XXX, §3013(c), Dec. 20, 2019, 133 Stat. 1923, provided that:

"(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

"(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a).

"(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing."

[For definitions of "landlord" and "privatized military housing" as used in section 3013(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

## §2891a. Requirements relating to management of housing units

(a) IN GENERAL.—The Secretary of Defense shall ensure that each contract between the Secretary concerned and a landlord regarding the management of housing units for an installation of the Department of Defense includes the requirements set forth in this section.

(b) REQUIREMENTS FOR INSTALLATION COMMANDERS.—(1) The installation commander shall be responsible for—

(A) reviewing, on an annual basis, the mold mitigation plan and pest control plan of each landlord managing housing units for the installation; and

(B) notifying the landlord and the major subordinate command of any deficiencies found in either plan.

(2) In response to a request by the head of the housing management office of an installation, the installation commander shall use the assigned bio-environmental personnel or contractor equivalent at the installation to test housing units for mold, unsafe water conditions, and other health and safety conditions.

(c) REQUIREMENTS FOR HOUSING MANAGEMENT OFFICE.—(1) The head of the housing management office of an installation shall be responsible for—

(A) conducting a physical inspection of, and approving the habitability of, a vacant housing unit for the installation before the landlord managing the housing unit is authorized to offer the housing

unit available for occupancy;

(B) conducting a physical inspection of the housing unit upon tenant move-out; and

(C) maintaining all test results relating to the health, environmental, and safety condition of the housing unit and the results of any inspection conducted by the housing management office, landlord, or third-party contractor for the life of the contract relating to that housing unit.

(2) The head of the installation housing management office shall be provided a list of any move-out charges that a landlord seeks to collect from an outgoing tenant.

(3) The head of the installation housing management office shall initiate contact with a tenant regarding the satisfaction of the tenant with the housing unit of the tenant not later than—

(A) 15 days after move-in; and

(B) 60 days after move-in.

(d) REQUIREMENTS FOR LANDLORDS.—(1) The landlord providing a housing unit shall disclose to the Secretary of Defense any bonus structures offered for community managers and regional executives and any bonus structures relating to maintenance of housing units, in order to minimize the impact of those incentives on the operating budget of the installation for which the housing units are provided.

(2) With respect to test results relating to the health and safety condition of a housing unit, the landlord providing the housing unit shall—

(A) not later than three days after receiving the test results, share the results with the tenant of the housing unit and submit the results to the head of the installation housing management office; and

(B) include with any environmental hazard test results a simple guide explaining those results, preferably citing standards set forth by the Federal Government relating to environmental hazards.

(3) Before a prospective tenant signs a lease to occupy a housing unit, the landlord providing the housing unit shall conduct a walkthrough inspection of the housing unit—

(A) for the prospective tenant; or

(B) if the prospective tenant is not able to be present for the inspection, with an official of the housing management office designated by the prospective tenant to conduct the inspection on the tenant's behalf.

(4) In the event that the installation housing management office determines that a housing unit does not meet minimum health, safety, and welfare standards set forth in Federal, State, and local law as a result of a walkthrough inspection or an inspection conducted under subsection (c), the landlord providing the housing unit shall remediate any issues and make any appropriate repairs to the satisfaction of the housing management office and subject to another inspection by the housing management office.

(5) A landlord providing a housing unit may not conduct any promotional events to encourage tenants to fill out maintenance comment cards or satisfaction surveys of any kind, without the approval of the chief of the housing management office.

(6) A landlord providing a housing unit may not award an installation of the Department of Defense or an officer or employee of the Department a "Partner of the Year award" or similar award.

(7) A landlord providing a housing unit may not enter into any form of settlement, nondisclosure, or release of liability agreement with a tenant without—

(A) first notifying the tenant of the tenant's right to assistance from the legal assistance office at the installation; and

(B) not later than five days before entering into such settlement, nondisclosure, or release of liability agreement, providing a copy of the agreement and terms to the Assistant Secretary of Defense for Sustainment.

(8) A landlord providing a housing unit may not change the position of a prospective tenant on a

waiting list for a housing unit or remove a prospective tenant from the waiting list in response to the prospective tenant turning down an offer for a housing unit, if the housing unit is determined unsatisfactory by the prospective tenant and the determination is confirmed by the housing management office and the installation commander.

(9) A landlord providing a housing unit shall allow employees of the housing management office and other officers and employees of the Department to conduct—

(A) with the permission of the tenant of the housing unit as appropriate, physical inspections of the housing unit; and

(B) physical inspections of any common areas maintained by the landlord.

(10) A landlord providing a housing unit shall agree to participate in the dispute resolution and payment-withholding processes established pursuant to section 2894 of this title.

(11) Upon request by a prospective tenant, a landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning the prospective tenant to a housing unit provided by the landlord.

(12) A landlord providing a housing unit shall maintain an electronic work order system that enables access by the tenant to view work order history, status, and other relevant information, as required by section 2892 of this title.

(13) A landlord providing a housing unit shall agree to have any agreements or forms to be used by the landlord approved by the Assistant Secretary of Defense for Sustainment, including the following:

(A) A common lease agreement.

(B) Any disclosure or nondisclosure forms that could be given to a tenant.

(e) REQUIREMENTS FOR SECRETARY CONCERNED.—The Secretary concerned shall be responsible for—

(1) providing for a mold inspection of each vacant housing unit before any new tenant moves into the unit; and

(2) providing to the new tenant the results of the inspection.

(f) PROHIBITION AGAINST COLLECTION OF AMOUNTS IN ADDITION TO RENT.—(1) A landlord providing a housing unit may not impose on a tenant of the housing unit a supplemental payment, such as an out-of-pocket fee, in addition to the amount of rent the landlord charges for a unit of similar size and composition to the housing unit, without regard to whether or not the amount of the basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces is less than the amount of the rent.

(2) Nothing in paragraph (1) shall be construed—

(A) to prohibit a landlord from imposing an additional payment—

(i) for optional services provided to military tenants, such as access to a gym or a parking space;

(ii) for non-essential utility services, as determined in accordance with regulations promulgated by the Secretary concerned; or

(iii) to recover damages associated with tenant negligence, consistent with subsection (c)(2); or

(B) to limit or otherwise affect the authority of the Secretary concerned to enter into rental guarantee agreements under section 2876 of this title or to make differential lease payments under section 2877 of this title, so long as such agreements or payments do not require a tenant to pay an out-of-pocket fee or payment in addition to the amount of any basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces.

(3)(A) Costs incurred to reasonably modify or upgrade a housing unit to comply with standards addressing discrimination against an individual with a disability established pursuant to the

Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or to meet the reasonable modification and accommodation requirements of section 804 of the Fair Housing Act (42 U.S.C. 3604) and in order to facilitate occupancy of a housing unit by an individual with a disability, may not be considered optional services under paragraph (2)(A)(i) or another exception to the prohibition in paragraph (1) against collection from tenants of housing units of amounts in addition to rent.

(B) In subparagraph (A), the term "disability" has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(Added Pub. L. 116–92, div. B, title XXX, §3014(a), Dec. 20, 2019, 133 Stat. 1924; amended Pub. L. 116–283, div. B, title XXVIII, §2811(d), Jan. 1, 2021, 134 Stat. 4324; Pub. L. 117–81, div. A, title X, §1081(a)(31), div. B, title XXVIII, §2813(b)(1), Dec. 27, 2021, 135 Stat. 1921, 2192; Pub. L. 117–263, div. B, title XXVIII, §2824, Dec. 23, 2022, 136 Stat. 3001.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (e)(3)(A), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

### AMENDMENTS

**2022**—Subsecs. (e), (f). Pub. L. 117–263 added subsec. (e) and redesignated former subsec. (e) as (f).

**2021**—Subsec. (b)(2). Pub. L. 116–283, §2811(d)(1), inserted period at end.

Subsec. (d)(11). Pub. L. 116–283, §2811(d)(2), added par. (11) and struck out former par. (11) which read as follows: "A landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning prospective tenants to housing units provided by the landlord."

Subsec. (e)(1). Pub. L. 117–81, §1081(a)(31), substituted "the basic allowance" for "the any basic allowance".

Subsec. (e)(2)(B). Pub. L. 116–283, §2811(d)(3), substituted "any" for "the any".

Subsec. (e)(3). Pub. L. 117–81, §2813(b)(1), added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. B, title XXVIII, §2813(b)(2), Dec. 27, 2021, 135 Stat. 2192, provided that: "Subsection (e)(3) of section 2891a of title 10, United States Code [now 10 U.S.C. 2891e(f)(3)], as added by paragraph (1), shall apply to contracts described in subsection (a) of such section entered into on or after the date of the enactment of this Act [Dec. 27, 2021]."

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3014(c), Dec. 20, 2019, 133 Stat. 1926, provided that: "The requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing."

[For definitions of "landlord" and "privatized military housing" as used in section 3014(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

### IMPLEMENTATION OF RECOMMENDATIONS FROM AUDIT OF MEDICAL CONDITIONS OF RESIDENTS IN PRIVATIZED MILITARY HOUSING

Pub. L. 117–263, div. B, title XXVIII, §2825, Dec. 23, 2022, 136 Stat. 3001, provided that: "Not later than March 1, 2023, the Secretary of Defense shall implement the recommendations contained in the report of the Inspector General of the Department of Defense published on April 1, 2022, and titled 'Audit of Medical Conditions of Residents in Privatized Military Housing' (DODIG–2022–078)."

**MILITARY DEPARTMENT IMPLEMENTATION PLANS**

Pub. L. 116–92, div. B, title XXX, §3014(b), Dec. 20, 2019, 133 Stat. 1926, provided that: "Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation by that military department of section 2891a of title 10, United States Code, as added by subsection (a)."

**RETROACTIVE LANDLORD AGREEMENTS**

Pub. L. 116–92, div. B, title XXX, §3014(e), Dec. 20, 2019, 133 Stat. 1926, provided that:

"(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

"(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a).

"(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing."

[For definitions of "landlord" and "privatized military housing" as used in section 3014(e) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

## §2891b. Considerations of eligible entity housing history in contracts for privatized military housing

(a) CONSIDERATION REQUIRED.—To assist in making a determination whether to enter into a new contract, or renew an existing contract, with an eligible entity, the Secretary of Defense shall develop a standard process by which the Secretary concerned may evaluate the past performance of the eligible entity for purposes of informing future decisions regarding the award of such a contract.

(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall include, at a minimum, consideration of the following:

(1) Any history of the eligible entity of providing substandard housing.

(2) The recommendation of the commander of the installation for which housing units will be provided under the contract.

(3) The recommendation of the commander of any other installation for which the eligible entity has provided housing units.

(Added Pub. L. 116–92, div. B, title XXX, §3015, Dec. 20, 2019, 133 Stat. 1927.)

## §2891c. Transparency regarding finances and performance metrics

(a) SUBMISSION OF LANDLORD FINANCIAL INFORMATION.—(1) Not less frequently than annually, the Secretary of Defense shall require that each landlord submit to the Secretary a report providing information regarding all housing units provided by the landlord.

(2) Information provided under paragraph (1) by a landlord shall include the following:

(A) A comprehensive summary of the landlord's financial performance.

(B) The amount of base management fees relating to all housing units provided by the landlord.

(C) The amount of asset management fees relating to such housing units.

(D) The amount of preferred return fees relating to such housing units.

(E) The residual cashflow distributions relating to such housing units.

(F) The amount of deferred fees or other fees relating to such housing units.

(G) Information with respect to each insurance policy maintained by the landlord for such housing units, including the—

(i) scope of coverage;
(ii) deductible;
(iii) policy limit; and
(iv) total premium amount.

(H) The total amount of any payments made by the landlord to tenants of such housing units pursuant to a dispute resolution process.

(3) In this subsection:

(A) The term "base management fees" means the monthly management fees collected for services associated with accepting and processing rent payments, ensuring tenant rent payments, property inspections, maintenance management, and emergency maintenance calls.

(B) the term "asset management fees" means fees paid to manage a housing unit for the purpose of ensuring the housing unit is maintained in good condition and making repairs over the lifecycle of the housing unit.

(C) the term "preferred return fees" means fees associated with any claims on profits furnished to preferred investors with an interest in the housing unit.

(D) the term "residual cashflow distribution" means the steps a specific housing project takes to restructure after it is determined that the project is in an unacceptable financial condition.

(E) the term "deferred fee" means any fee that was not paid to a person in a calendar year in order to meet other financial obligations of the landlord.

(b) AVAILABILITY OF INFORMATION ON PERFORMANCE METRICS AND USE OF INCENTIVE FEES.—(1) Not less frequently than annually, the Secretary of Defense shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information regarding the use by the Secretary concerned of incentive fees to support contracts for the provision or management of housing units.

(2)(A) For purposes of paragraph (1)(A), the indicators underlying the performance metrics for a contract for the provision or management of housing units shall measure at a minimum the following:

(i) Tenant satisfaction.
(ii) Maintenance management.
(iii) Safety.
(iv) Financial management.

(B) An assessment required to be made available under paragraph (1)(A) shall include a detailed description of each indicator underlying the performance metrics, including the following information:

(i) The limitations of available survey data.
(ii) How tenant satisfaction and maintenance management is calculated.
(iii) Whether any relevant data is missing.

(3) The information provided under paragraph (1)(B) shall include, with respect to each contract for the provision or management of housing units, the following:

(A) The applicable incentive fees.
(B) The metrics used to determine the incentive fees.
(C) Whether incentive fees were paid in full, or were withheld in part or in full, during the

period covered by the release of information.

(D) If any incentive fees were withheld, the reasons for such withholding.

(Added Pub. L. 116–92, div. B, title XXX, §3016(a), Dec. 20, 2019, 133 Stat. 1927; amended Pub. L. 116–283, div. B, title XXVIII, §2814(a)–(d)(1), Jan. 1, 2021, 134 Stat. 4327, 4328; Pub. L. 119–60, div. B, title XXVIII, §2825, Dec. 18, 2025, 139 Stat. 1308.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a)(2)(G), (H). Pub. L. 119–60 added subpars. (G) and (H).

**2021**—Pub. L. 116–283, §2814(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Financial transparency".

Subsec. (b). Pub. L. 116–283, §2814(a)(1), inserted "Performance Metrics and" before "Use of Incentive Fees" in heading.

Subsec. (b)(1). Pub. L. 116–283, §2814(a)(2), substituted "shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information"

for "shall publish, on a publicly accessible website, information".

Subsec. (b)(2). Pub. L. 116–283, §2814(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 116–283, §2814(b)(1), (c), redesignated par. (2) as (3) and substituted "paragraph (1)(B)" for "paragraph (1)" and "each contract for the provision or management of housing units" for "each contract" in introductory provisions.

## §2892. Maintenance work order system for housing units

(a) ELECTRONIC WORK ORDER SYSTEM REQUIRED.—The Secretary of Defense shall require that each landlord of a housing unit have an electronic work order system to track all maintenance requests relating to the housing unit.

(b) ACCESS BY DEPARTMENT PERSONNEL.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the following persons:

(1) Personnel of the housing management office at the installation for which the housing unit is provided.

(2) Personnel of the installation and engineer command or center of the military department concerned.

(3) Such other personnel of the Department of Defense as the Secretary determines necessary.

(c) ACCESS BY TENANTS.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the tenant of the housing unit to permit the tenant, at a minimum, to track the status and progress of work orders for maintenance requests relating to the housing unit.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§3017, 3018, Dec. 20, 2019, 133 Stat. 1930.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Subsec. (c). Pub. L. 116–92, §3018, added subsec. (c).

## §2892a. Access by tenants to historical maintenance information

(a) MAINTENANCE INFORMATION FOR PROSPECTIVE TENANTS.—The Secretary concerned shall require each eligible entity or subsequent landlord that offers for lease a housing unit to provide to a prospective tenant of the housing unit—

(1) not later than five business days before the prospective tenant is asked to sign the lease, a summary of maintenance conducted with respect to that housing unit for the previous seven years; and

(2) not later than two business days after the prospective tenant requests additional information regarding maintenance conducted with respect to that housing unit during such period, all information possessed by the eligible entity or subsequent landlord regarding such maintenance conducted during such period.

(b) MAINTENANCE INFORMATION FOR EXISTING TENANTS.—A tenant of a housing unit who did not receive maintenance information described in subsection (a) regarding that housing unit while a prospective tenant may request such maintenance information and shall receive such maintenance information not later than five business days after the making the request.

(c) MAINTENANCE DEFINED.—In the section, the term "maintenance" includes any renovations of the housing unit during the period specified in subsection (a)(1).

(Added Pub. L. 116–92, div. B, title XXX, §3019, Dec. 20, 2019, 133 Stat. 1931; amended Pub. L. 116–283, div. B, title XXVIII, §2811(e), Jan. 1, 2021, 134 Stat. 4324.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 added section text and struck out former text which read as follows: "The Secretary concerned shall require each eligible entity or subsequent landlord that offers for lease a housing unit to provide to a prospective tenant of the housing unit, before the prospective tenant moves into the housing unit as a tenant, all information regarding maintenance conducted with respect to that housing unit for the previous seven years. In this section, the term 'maintenance' includes any renovations of the housing unit during such period."

## §2892b. Prohibition on requirement to disclose personally identifiable information in requests for certain maintenance

A landlord responsible for a housing unit may not require the disclosure of personally identifiable information as a part of the submission of a request for maintenance regarding a housing unit or common area when the disclosure of personally identifiable information is not needed to identify the location at which such maintenance will be performed.

(Added Pub. L. 116–92, div. B, title XXX, §3020(a), Dec. 20, 2019, 133 Stat. 1931.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3020(b), Dec. 20, 2019, 133 Stat. 1931, provided that: "The prohibition in section 2892b of title 10, United States Code, as added by subsection (a), shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 20, 2019]."

## §2893. Treatment of incentive fees for landlords of housing units for failure to remedy health or environmental hazards

The Secretary concerned shall not approve the payment of incentive fees otherwise authorized to

be paid to a landlord that the Secretary determines has demonstrated a pattern of failing to remedy, or failing to remedy in a timely manner, a health or environmental hazard at a housing unit provided by the landlord.

(Added Pub. L. 116–92, div. B, title XXX, §3021, Dec. 20, 2019, 133 Stat. 1931; amended Pub. L. 116–283, div. B, title XXVIII, §2811(f), Jan. 1, 2021, 134 Stat. 4324.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "pattern of" for "propensity for".

## §2894. Landlord-tenant dispute resolution process and treatment of certain payments during process

(a) PROCESS REQUIRED; PURPOSE.—The Secretary concerned shall implement a standardized formal dispute resolution process to ensure the prompt and fair resolution of disputes that arise between landlords providing housing units and tenants residing in housing units concerning maintenance and repairs, damage claims, rental payments, move-out charges, and such other issues relating to housing units as the Secretary determines appropriate.

(b) PROCESS ELEMENTS.—(1) The dispute resolution process shall include the process by which a tenant may request that certain payments otherwise authorized to be paid to a landlord are withheld, as provided in subsection (e).

(2) The process shall designate the installation or regional commander in charge of oversight of housing units as the deciding authority under the dispute resolution process.

(3) The Secretary concerned shall establish a standardized mechanism and forms by which a tenant of a housing unit may submit, through online or other means, a request for resolution of a landlord-tenant dispute through the dispute resolution process.

(4) The Secretary shall ensure that, in preparing a request described in paragraph (3), a tenant has access to advice and assistance from a military housing advocate employed by the military department concerned or a military legal assistance attorney under section 1044 of this title.

(5) The Secretary concerned shall minimize costs to tenants for participation in the dispute resolution process.

(6) The dispute resolution process shall require the installation or regional commander (as the case may be) to record each dispute in the complaint database established under section 2894a of this title.

(c) RESOLUTION PROCESS.—(1) Not later than two business days after receiving a request from a tenant for resolution of a landlord-tenant dispute through the dispute resolution process, the Secretary concerned shall—

(A) notify the tenant that the request has been received;

(B) transmit a copy of the request to the installation or regional commander (as the case may be), housing management office responsible for the housing unit, and the landlord of the housing unit; and

(C) if the request includes a request to withhold payments under subsection (e), initiate the process under such subsection.

(2) For purposes of conducting an assessment necessary to render a decision under the dispute resolution process, both the landlord and representatives of the installation housing management office may access the housing unit at a time and for a duration mutually agreed upon amongst the parties.

(3) Not later than seven business days after the date on which the request was received by the installation housing management office, such office shall complete an investigation that includes a physical inspection and transmit the results of the investigation to the installation or regional commander (as the case may be).

(4) Before making any decision with respect to a dispute under the dispute resolution process, the commander shall certify that the commander has solicited recommendations or information relating to the dispute from, at a minimum, the following persons:

(A) The chief of the installation housing management office.

(B) A representative of the landlord for the housing unit.

(C) The tenant submitting the request for dispute resolution.

(D) A qualified judge advocate or civilian attorney who is a Federal employee.

(E) If the dispute involves maintenance or another facilities-related matter, a civil engineer.

(5)(A) The commander shall make a decision with respect to a request under the dispute resolution process not later than 30 calendar days after the request was submitted.

(B) The commander may take longer than such 30-day period in limited circumstances as determined by the Secretary of Defense, but in no case shall such a decision be made more than 60 calendar days after the request was submitted.

(6) Except as provided in paragraph (5)(B), a final decision shall be transmitted to the tenant, landlord, and the installation or regional commander (as the case may be) not later than 30 calendar days after the request was submitted.

(7) The decision shall include instructions for distribution of any funds that were withheld under subsection (e) and such instructions for the landlord for further remediation as the commander considers necessary.

(8) The decision by the commander under this subsection shall be final.

(d) EFFECT OF FAILURE TO COMPLY WITH DECISION.—(1) If the final decision rendered under subsection (c) for resolution of a landlord-tenant dispute includes instructions for the landlord responsible for the housing unit to further remediate the housing unit, the decision shall specify a reasonable period of time, but not less than 10 business days, for the landlord to complete the remediation.

(2) If the landlord does not remediate the issues before the end of the time period specified in the final decision in a manner consistent with the instructions contained in the decision, any amounts payable to the landlord for the housing unit shall be reduced by 10 percent for each period of five calendar days during which the issues remain unremediated.

(e) REQUEST TO WITHHOLD PAYMENTS DURING RESOLUTION PROCESS.—(1) As part of the submission of a request for resolution of a landlord-tenant dispute through the dispute resolution process regarding maintenance guidelines or procedures or habitability, the tenant may request that all or part of the payments described in paragraph (3) for lease of the housing unit be segregated and not used by the property owner, property manager, or landlord pending completion of the dispute resolution process.

(2) The amount allowed to be withheld under paragraph (1) shall be limited to amounts associated with the period during which—

(A) the landlord has not met maintenance guidelines and procedures established by the Department of Defense, either through contract or otherwise; or

(B) the housing unit is uninhabitable according to State and local law for the jurisdiction in which the housing unit is located.

(3) This subsection applies to the following:

(A) Any basic allowance for housing payable to the tenant (including for any dependents of the tenant in the tenant's household) under section 403 of title 37.

(B) All or part of any pay of a tenant subject to allotment as described in section 2882(c) of this title.

(f) DISCLOSURE OF RIGHTS.—(1) Each housing management office of the Department of Defense shall disclose in writing to each new tenant of a housing unit, upon the signing of the lease

for the housing unit, the tenant's rights under this section and the procedures under this section for submitting a request for resolution of a landlord-tenant dispute through the dispute resolution process, including the ability to submit a request to withhold payments during the resolution process.

(2) The Secretary of Defense shall ensure that each lease entered into with a tenant for a housing unit clearly expresses, in a separate addendum, the dispute resolution procedures.

(g) RULE OF CONSTRUCTION ON USE OF OTHER ADJUDICATIVE BODIES.—Nothing in this section or any other provision of law shall be construed to prohibit a tenant of a housing unit from pursuing a claim against a landlord in any adjudicative body with jurisdiction over the housing unit or the claim.

(Added Pub. L. 116–92, div. B, title XXX, §3022(a), Dec. 20, 2019, 133 Stat. 1932; amended Pub. L. 116–283, div. B, title XXVIII, §2811(g), Jan. 1, 2021, 134 Stat. 4324.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(6). Pub. L. 116–283, §2811(g)(1), added par. (6).

Subsec. (c)(1). Pub. L. 116–283, §2811(g)(2)(A), substituted "two business days" for "24 hours" in introductory provisions.

Subsec. (c)(3). Pub. L. 116–283, §2811(g)(2)(B), inserted "business" before "days" and ", such office" before "shall complete".

Subsec. (c)(4). Pub. L. 116–283, §2811(g)(2)(C), inserted ", at a minimum," before "the following persons" in introductory provisions.

Subsec. (c)(5). Pub. L. 116–283, §2811(g)(2)(D), inserted "calendar" before "days" in subpars. (A) and (B).

Subsec. (c)(6). Pub. L. 116–283, §2811(g)(2)(E), added par. (6) and struck out former par. (6) which read as follows: "A final decision will be transmitted to the tenant and landlord no later than 30 days from initial receipt by the office of the commander, except as provided in paragraph (5)(B)."

Subsecs. (d), (e). Pub. L. 116–283, §2811(g)(3), added subsecs. (d) and (e) and struck out former subsecs. (d) and (e) which related to effect of failure to comply with decision and request to withhold payments during resolution process, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TIMING OF ESTABLISHMENT OF DISPUTE RESOLUTION PROCESS

Pub. L. 116–92, div. B, title XXX, §3022(c), Dec. 20, 2019, 133 Stat. 1934, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall establish the dispute resolution process required under section 2894 of title 10, United States Code, as added by subsection (a)."

### LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, §3022(d), Dec. 20, 2019, 133 Stat. 1934, provided that:

"(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to participate in the dispute resolution and payment-withholding processes required under section 2894 of title 10, United States Code, as added by subsection (a).

"(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to participate in the dispute resolution and payment-withholding processes.

"(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing."

[For definitions of "landlord" and "privatized military housing" as used in section 3022(d) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

## §2894a. Complaint database

(a) DATABASE REQUIRED.—The Secretary of Defense shall establish a database of complaints made by a tenant regarding covered dwelling units.

(b) PUBLIC AVAILABILITY.—The database shall be available to the public.

(c) INCLUSION OF TENANT COMPLAINTS.—The Secretary of Defense shall permit a tenant of a covered dwelling unit to file a complaint regarding the covered dwelling unit for inclusion in the database.

(d) INCLUSION OF CERTAIN INFORMATION.—(1) Information accessible in the database regarding a complaint shall include the following:

(A) The name of the installation for which the covered dwelling unit is provided.

(B) The name of the landlord responsible for the covered dwelling unit.

(C) A description of the nature of the complaint.

(2) The Secretary of Defense may not disclose personally identifiable information through the database.

(e) RESPONSE BY LANDLORDS.—(1) The Secretary of Defense shall include in any contract with a landlord responsible for a housing unit a requirement that the landlord respond in a timely manner to any complaints included in the database that relate to the housing unit.

(2) The Secretary shall include landlord responses in the database.

(f) DEFINITIONS.—In this section:

(1) The term "covered armed force" means the Army, Navy, Marine Corps, Air Force, or Space Force.

(2) The term "covered dwelling unit" means a unit of accompanied family housing, unaccompanied housing, or barracks—

(A) that is acquired or constructed pursuant to subchapter IV of chapter 169 of this title;

(B) in which a member of a covered armed force resides; and

(C) that such member does not own.

(3) The term "tenant" means any of the following:

(A) A member of a covered armed force who resides in a covered dwelling unit.

(B) A dependent of a member described in subparagraph (A) who resides in a covered dwelling unit.

(Added Pub. L. 116–92, div. B, title XXX, §3016(b), Dec. 20, 2019, 133 Stat. 1929; amended Pub. L. 118–159, div. B, title XXVIII, §2825(a), Dec. 23, 2024, 138 Stat. 2256.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159, §2825(a)(1), substituted "by a tenant regarding covered dwelling units" for "regarding housing units".

Subsecs. (c), (d). Pub. L. 118–159, §2825(a)(2), substituted "covered dwelling unit" for "housing unit" in two places.

Subsec. (f). Pub. L. 118–159, §2825(a)(3), added subsec. (f).

# [CHAPTER 171—REPEALED]

## [§§2891, 2892. Repealed. Pub. L. 104–106, div. A, title X, §1061(b)(1), Feb. 10, 1996, 110 Stat. 442]

Section 2891, added Pub. L. 100–456, div. A, title III, §342(a)(1), Sept. 29, 1988, 102 Stat. 1959; amended

Pub. L. 102–484, div. A, title III, §372, Oct. 23, 1992, 106 Stat. 2384, required Secretary of Defense to submit to Congress for each of fiscal years 1992, 1993, and 1994, a report regarding security and control of Department of Defense supplies.

Section 2892, added Pub. L. 100–456, div. A, title III, §342(a)(1), Sept. 29, 1988, 102 Stat. 1960, directed Secretary of Defense to require investigations of discrepancies in accounting for Department supplies and to separate offices ordering supplies from offices receiving supplies.

# CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

Sec.
2901. Strategic Environmental Research and Development Program.
2902. Strategic Environmental Research and Development Program Council.
2903. Executive Director.
2904. Strategic Environmental Research and Development Program Scientific Advisory Board.

## §2901. Strategic Environmental Research and Development Program

(a) The Secretary of Defense shall establish a program to be known as the "Strategic Environmental Research and Development Program".

(b) The purposes of the program are as follows:

(1) To address environmental matters of concern to the Department of Defense and the Department of Energy through support for basic and applied research and development of technologies that can enhance the capabilities of the departments to meet their environmental obligations.

(2) To identify research, technologies, and other information developed by the Department of Defense and the Department of Energy for national defense purposes that would be useful to governmental and private organizations involved in the development of energy technologies and of technologies to address environmental restoration, waste minimization, hazardous waste substitution, and other environmental concerns, and to share such research, technologies, and other information with such governmental and private organizations.

(3) To furnish other governmental organizations and private organizations with data, enhanced data collection capabilities, and enhanced analytical capabilities for use by such organizations in the conduct of environmental research, including research concerning global environmental change.

(4) To identify technologies developed by the private sector that are useful for Department of Defense and Department of Energy defense activities concerning environmental restoration, hazardous and solid waste minimization and prevention, hazardous material substitution, and provide for the use of such technologies in the conduct of such activities.

(Added Pub. L. 101–510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1751.)

## §2902. Strategic Environmental Research and Development Program Council

(a) There is a Strategic Environmental Research and Development Program Council (hereinafter in this chapter referred to as the "Council").

(b) The Council is composed of 12 members as follows:

(1) The official within the Office of the Under Secretary of Defense for Research and Engineering who is responsible for science and technology.

(2) The Vice Chairman of the Joint Chiefs of Staff.

(3) The official within the Office of the Under Secretary of Defense for Acquisition and Sustainment who is responsible for environmental security.

(4) The Assistant Secretary of Energy for Defense programs.

(5) The Assistant Secretary of Energy responsible for environmental restoration and waste management.

(6) The Director of the Department of Energy Office of Science.

(7) The Administrator of the Environmental Protection Agency.

(8) One representative from each of the Army, Navy, Air Force, and Coast Guard.

(9) The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

(c) The Secretary of Defense shall designate a member of the Council as chairman for each odd numbered fiscal year. The Secretary of Energy shall designate a member of the Council as chairman for each even-numbered fiscal year.

(d) The Council shall have the following responsibilities:

(1) To prescribe policies and procedures to implement the Strategic Environmental Research and Development Program.

(2) To enter into contracts, grants, and other financial arrangements, in accordance with other applicable law, to carry out the purposes of the Strategic Environmental Research and Development Program.

(3) To prepare an annual report that contains the following:

(A) A description of activities of the strategic environmental research and development program carried out during the fiscal year before the fiscal year in which the report is prepared.

(B) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

(C) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

(D) A summary of the actions of the Strategic Environmental Research and Development Program Scientific Advisory Board during the year preceding the year in which the report is submitted and any recommendations, including recommendations on program direction and legislation, that the Advisory Board considers appropriate regarding the program.

(4) To promote the maximum exchange of information, and to minimize duplication, regarding environmentally related research, development, and demonstration activities through close coordination with the military departments and Defense Agencies, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, other departments and agencies of the Federal Government or any State and local governments, including the National Science and Technology Council, and other organizations engaged in such activities.

(5) To ensure that research and development activities under the Strategic Environmental Research and Development Program do not duplicate other ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, or any other department or agency of the Federal Government.

(6) To ensure that the research and development programs identified for support pursuant to policies and procedures prescribed by the council utilize, to the maximum extent possible, the talents, skills, and abilities residing at the Federal laboratories, including the Department of Energy multiprogram and defense laboratories, the Department of Defense laboratories, and Federal contract research centers. To utilize the research capabilities of institutions of higher education and private industry to the extent practicable.

(e) In carrying out subsection (d)(1), the Council shall prescribe policies and procedures that—

(1) provide for appropriate access by Federal Government personnel, State and local government personnel, college and university personnel, industry personnel, and the general

public to data under the control of, or otherwise available to, the Department of Defense that is relevant to environmental matters by—

(A) identifying the sources of such data;

(B) publicizing the availability and sources of such data by appropriately-targeted dissemination of information to such personnel and the general public, and by other means; and

(C) providing for review of classified data relevant to environmental matters with a view to declassifying or preparing unclassified summaries of such data;

(2) provide governmental and nongovernmental entities with analytic assistance, consistent with national defense missions, including access to military platforms for sensor deployment and access to computer capabilities, in order to facilitate environmental research;

(3) provide for the identification of energy technologies developed for national defense purposes (including electricity generation systems, energy storage systems, alternative fuels, biomass energy technology, and applied materials technology) that might have environmentally sound, energy efficient applications for other programs of the Department of Defense and the Department of Energy national security programs;

(4) provide for the identification and support of programs of basic and applied research, development, and demonstration in technologies useful—

(A) to facilitate environmental compliance, remediation, and restoration activities of the Department of Defense and at Department of Energy defense facilities;

(B) to minimize waste generation, including reduction at the source, by such departments; or

(C) to substitute use of nonhazardous, nontoxic, nonpolluting, and other environmentally sound materials and substances for use of hazardous, toxic, and polluting materials and substances by such departments;

(5) provide for the identification and support of research, development, and application of other technologies developed for national defense purposes which not only are directly useful for programs, projects, and activities of such departments, but also have useful applications for solutions to such national and international environmental problems as climate change and ozone depletion;

(6) provide for the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, in cooperation with other Federal and State agencies, as appropriate, to conduct joint research, development, and demonstration projects relating to innovative technologies, management practices, and other approaches for purposes of—

(A) preventing pollution from all sources;

(B) minimizing hazardous and solid waste, including recycling; and

(C) treating hazardous and solid waste, including the use of thermal, chemical, and biological treatment technologies;

(7) encourage transfer of technologies referred to in clauses (2) through (6) to the private sector under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other applicable laws;

(8) provide for the identification of, and planning for the demonstration and use of, existing environmentally sound, energy-efficient technologies developed by the private sector that could be used directly by the Department of Defense;

(9) provide for the identification of military specifications that prevent or limit the use of environmentally beneficial technologies, materials, and substances in the performance of Department of Defense contracts and recommend changes to such specifications; and

(10) to ensure that the research and development programs identified for support pursuant to the policies and procedures prescribed by the Council are closely coordinated with, and do not duplicate, ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, or other Federal agencies.

(f) The Council shall be subject to the authority, direction, and control of the Secretary of Defense in prescribing policies and procedures under subsection (d)(1).

(g) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense the annual report prepared pursuant to subsection (d)(3).

(Added Pub. L. 101–510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1751; amended Pub. L. 102–190, div. A, title II, §257(a), title X, §1061(a)(19), Dec. 5, 1991, 105 Stat. 1331, 1473; Pub. L. 102–484, div. A, title X, §1052(38), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 103–160, div. A, title II, §265(a), Nov. 30, 1993, 107 Stat. 1611; Pub. L. 104–106, div. A, title II, §203(a)–(b)(2), (c), Feb. 10, 1996, 110 Stat. 217, 218; Pub. L. 105–245, title III, §309(b)(2)(B), Oct. 7, 1998, 112 Stat. 1853; Pub. L. 106–65, div. A, title III, §324, Oct. 5, 1999, 113 Stat. 563; Pub. L. 106–398, §1 [[div. A], title III, §313(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–55; Pub. L. 108–136, div. A, title X, §1031(a)(52), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 111–383, div. A, title IX, §901(j)(5), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 116–92, div. A, title IX, §902(80), Dec. 20, 2019, 133 Stat. 1553.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (e)(7), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

### AMENDMENTS

**2019**—Subsec. (b)(1). Pub. L. 116–92, §902(80)(A), substituted "Office of the Under Secretary of Defense for Research and Engineering" for "Office of the Assistant Secretary of Defense for Research and Engineering".

Subsec. (b)(3). Pub. L. 116–92, §902(80)(B), substituted "Office of the Under Secretary of Defense for Acquisition and Sustainment" for "Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2011**—Subsec. (b)(1). Pub. L. 111–383, §901(j)(5)(A), substituted "official within the Office of the Assistant Secretary of Defense for Research and Engineering who is responsible for science and technology" for "Deputy Under Secretary of Defense for Science and Technology".

Subsec. (b)(3). Pub. L. 111–383, §901(j)(5)(B), substituted "official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics who is" for "Deputy Under Secretary of Defense".

**2003**—Subsec. (g). Pub. L. 108–136 struck out designation for par. (1) before "Not later than February" and struck out par. (2) which read as follows: "Not later than March 15 of each year, the Secretary of Defense shall submit such annual report to Congress, along with such comments as the Secretary considers appropriate."

**2000**—Subsec. (d)(3)(D). Pub. L. 106–398 added subpar. (D).

**1999**—Subsec. (b)(1). Pub. L. 106–65 substituted "Deputy Under Secretary of Defense for Science and Technology" for "Director of Defense Research and Engineering".

**1998**—Subsec. (b)(6). Pub. L. 105–245 substituted "Science" for "Energy Research".

**1996**—Subsec. (b). Pub. L. 104–106, §203(a)(1), substituted "12" for "thirteen" in introductory provisions.

Subsec. (b)(3) to (7). Pub. L. 104–106, §203(a)(2), (3), redesignated pars. (4) to (8) as (3) to (7), respectively, and struck out former par. (3) which read as follows: "The Assistant Secretary of the Air Force responsible for matters relating to space."

Subsec. (b)(8). Pub. L. 104–106, §203(a)(3), (4), redesignated par. (9) as (8) and struck out ", who shall be nonvoting members" after "Coast Guard". Former par. (8) redesignated (7).

Subsec. (b)(9), (10). Pub. L. 104–106, §203(a)(3), redesignated pars. (9) and (10) as (8) and (9), respectively.

Subsec. (d)(3). Pub. L. 104–106, §203(b)(1)(A), added par. (3) and struck out former par. (3) which read as follows: "To prepare an annual five-year strategic environmental research and development plan that shall cover the fiscal year in which the plan is prepared and the four fiscal years following such fiscal year."

Subsec. (d)(4). Pub. L. 104–106, §203(b)(1)(B), substituted "National Science and Technology Council" for

"Federal Coordinating Council on Science, Engineering, and Technology".

Subsec. (e)(3). Pub. L. 104–106, §203(c), substituted "national security programs" for "national security programs, particularly technologies that have the potential for industrial, commercial, and other governmental applications, and to support programs of research in and development of such applications".

Subsecs. (f), (g). Pub. L. 104–106, §203(b)(2), added subsec. (g), redesignated former subsec. (g) as (f), and struck out former subsec. (f) which authorized Secretaries of Defense and Energy to submit to the Council proposals for conducting environmental research under this chapter.

Subsec. (h). Pub. L. 104–106, §203(b)(2)(A), struck out subsec. (h) which required Council to submit to Secretary of Defense and to Congress an annual report on annual five-year strategic environmental research and development plan.

**1993**—Subsec. (b)(1) to (4). Pub. L. 103–160, §265(a)(1)–(3), redesignated pars. (2) to (4) as (1) to (3), respectively, added par. (4), and struck out former par. (1) which read as follows: "The Assistant Secretary of Defense responsible for matters relating to production and logistics."

Subsec. (b)(6). Pub. L. 103–160, §265(a)(4), added par. (6) and struck out former par. (6) which read as follows: "The Director of the Department of Energy Office of Environmental Restoration and Waste Management."

**1992**—Subsec. (b)(9). Pub. L. 102–484 substituted "nonvoting" for "non-voting".

**1991**—Subsec. (b). Pub. L. 102–190, §257(a)(1), substituted "thirteen" for "nine" in introductory provisions.

Subsec. (b)(9), (10). Pub. L. 102–190, §257(a)(2), (3), added par. (9) and redesignated former par. (9) as (10).

Subsec. (f)(2)(A). Pub. L. 102–190, §1061(a)(19), substituted "department's" for "Department's".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title II, §203(b)(3), Feb. 10, 1996, 110 Stat. 218, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to the annual report prepared during fiscal year 1997 and each fiscal year thereafter."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### FIRST ANNUAL REPORT OF STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM COUNCIL

Pub. L. 101–510, div. A, title XVIII, §1801(c), Nov. 5, 1990, 104 Stat. 1758, provided that the first annual report required by former subsec. (h) of this section be submitted to Secretary of Defense, Secretary of Energy, and Administrator of the Environmental Protection Agency not later than Feb. 1, 1992, that the Strategic Environmental Research and Development Program Council conduct and include as part of report an assessment of advisability of, and various alternatives to, charging fees for information released, as required pursuant to section 2901(b)(3) of this title and subsecs. (e)(1), (2), and (g)(2)(I) [now (f)(2)(I)] of this section, to private sector entities operating for a profit, and that Secretary of Defense, Secretary of Energy, and Administrator of the Environmental Protection Agency submit to Congress any recommendations for changes in structure or personnel of Council that Secretaries and Administrator consider necessary to carry out environmental activities of strategic environmental research and development program.

## §2903. Executive Director

(a) There shall be an Executive Director of the Council appointed by the Secretary of Defense

after consultation with the Secretary of Energy.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Executive Director is responsible for the management of the Strategic Environmental Research and Development Program in accordance with the policies established by the Council.

(c) The Executive Director may enter into contracts using competitive procedures. The Executive Director may enter into other agreements in accordance with applicable law. In either case, the Executive Director shall first obtain the approval of the Council for any contract or agreement in an amount equal to or in excess of $500,000 or such lesser amount as the Council may prescribe.

(d)(1) The Executive Director, with the concurrence of the Council, may appoint such professional and clerical staff as may be necessary to carry out the responsibilities and policies of the Council.

(2) The Executive Director, with the concurrence of the Council and without regard to the provisions of chapter 51 of title 5 and subchapter III of chapter 53 of such title, may establish the rates of basic pay for professional, scientific, and technical employees appointed pursuant to paragraph (1).

(Added Pub. L. 101–510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1755; amended Pub. L. 102–25, title VII, §701(h)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103–160, div. A, title II, §265(b), Nov. 30, 1993, 107 Stat. 1611; Pub. L. 104–106, div. A, title II, §203(d), (e)(1), Feb. 10, 1996, 110 Stat. 218.)

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (c). Pub. L. 104–106, §203(d), substituted "contracts using competitive procedures. The Executive Director may enter into" for "contracts or" and "law. In either case," for "law, except that".

Subsec. (d)(2). Pub. L. 104–106, §203(e)(1), struck out at end "The authority provided in the preceding sentence shall expire on September 30, 1995."

**1993**—Subsec. (d)(2). Pub. L. 103–160 substituted "September 30, 1995" for "November 5, 1992".

**1991**—Subsec. (d)(2). Pub. L. 102–25 substituted "on November 5, 1992" for "two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title II, §203(e)(2), Feb. 10, 1996, 110 Stat. 218, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of September 29, 1995."

## §2904. Strategic Environmental Research and Development Program Scientific Advisory Board

(a) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall jointly appoint a Strategic Environmental Research and Development Program Scientific Advisory Board (hereafter in this section referred to as the "Advisory Board") consisting of not less than six and not more than 14 members.

(b)(1) The following persons shall be permanent members of the Advisory Board:

(A) The Science Advisor to the President, or his designee.

(B) The Administrator of the National Oceanic and Atmospheric Administration, or his designee.

(2) Other members of the Advisory Board shall be appointed from among persons eminent in the fields of basic sciences, engineering, ocean and environmental sciences, education, research management, international and security affairs, health physics, health sciences, or social sciences, with due regard given to the equitable representation of scientists and engineers who are women or who represent minority groups. At least one member of the Advisory Board shall be a representative

of environmental public interest groups and one member shall be a representative of the interests of State governments.

(3) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall request—

(A) that the head of the National Academy of Sciences, in consultation with the head of the National Academy of Engineering and the head of the Institutes of Medicine of the National Academy of Sciences, nominate persons for appointment to the Advisory Board;

(B) that the Council on Environmental Quality nominate for appointment to the Advisory Board at least one person who is a representative of environmental public interest groups; and

(C) that the National Association of Governors nominate for appointment to the Advisory Board at least one person who is representative of the interests of State governments.

(4) Members of the Advisory Board shall be appointed for terms of not less than two and not more than four years.

(c) A member of the Advisory Board who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of chapter 81 of title 5 (relating to compensation for work-related injuries) and chapter 171 of title 28 (relating to tort claims).

(d) The Advisory Board shall prescribe procedures for carrying out its responsibilities. Such procedures shall define a quorum as a majority of the members, provide for annual election of the Chairman by the members of the Advisory Board, and require at least four meetings of the Advisory Board each year.

(e) The Council shall refer to the Advisory Board, and the Advisory Board shall review, each proposed research project including its estimated cost, for research in and development of technologies related to environmental activities in excess of $1,000,000. The Advisory Board shall make any recommendations to the Council that the Advisory Board considers appropriate regarding such project or proposal.

(f) The Advisory Board may make recommendations to the Council regarding technologies, research, projects, programs, activities, and, if appropriate, funding within the scope of the Strategic Environmental Research and Development Program.

(g) The Advisory Board shall assist and advise the Council in identifying the environmental data and analytical assistance activities that should be covered by the policies and procedures prescribed pursuant to section 2902(d)(1) of this title.

(h) Each member of the Advisory Board shall be required to file a financial disclosure report under subchapter I of chapter 131 of title 5.

(Added Pub. L. 101–510, div. A, title XVIII, §1801(a)(1), Nov. 5, 1990, 104 Stat. 1756; amended Pub. L. 102–190, div. A, title II, §257(b), Dec. 5, 1991, 105 Stat. 1331; Pub. L. 105–85, div. A, title III, §341, Nov. 18, 1997, 111 Stat. 1686; Pub. L. 106–398, §1 [[div. A], title III, §313(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–55; Pub. L. 117–286, §4(c)(21), Dec. 27, 2022, 136 Stat. 4356.)

## EDITORIAL NOTES

### AMENDMENTS

**2022**—Subsec. (h). Pub. L. 117–286 substituted "subchapter I of chapter 131 of title 5." for "title I of the Ethics in Government Act of 1978 (5 U.S.C. App.)."

**2000**—Subsecs. (h), (i). Pub. L. 106–398 redesignated subsec. (i) as (h) and struck out former subsec. (h) which read as follows: "Not later than March 15 of each year, the Advisory Board shall submit to the Congress an annual report setting forth its actions during the year preceding the year in which the report is submitted and any recommendations, including recommendations on projects, programs, and information exchange and recommendations for legislation, that the Advisory Board considers appropriate regarding the Strategic Environmental Research and Development Program."

**1997**—Subsec. (b)(4). Pub. L. 105–85 substituted "not less than two and not more than four" for "three years".

**1991**—Subsec. (a). Pub. L. 102–190, §257(b)(1), substituted "14 members" for "13 members".

Subsec. (b)(1). Pub. L. 102–190, §257(b)(2), added par. (1) and struck out former par. (1) which read as follows: "The Science Advisor to the President, or his designee, shall be a permanent member of the Advisory Board."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### INITIAL APPOINTMENTS OF ADVISORY BOARD MEMBERS

Pub. L. 101–510, div. A, title XVIII, §1801(b), Nov. 5, 1990, 104 Stat. 1757, directed Secretary of Defense and Secretary of Energy to make the appointments required by 10 U.S.C. 2904(a) not later than 60 days after Nov. 5, 1990, and provided that up to one-half of the members originally appointed to the Strategic Environmental Research and Development Program Scientific Advisory Board could be appointed for terms of not more than six and not less than two years in order to provide for staggered expiration of the terms of members.

### FIRST ANNUAL REPORT OF ADVISORY BOARD

Pub. L. 101–510, div. A, title XVIII, §1801(d), Nov. 5, 1990, 104 Stat. 1758, directed that first annual report of the Strategic Environmental Research and Development Program Scientific Advisory Board be submitted not later than Mar. 15, 1992.

### TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

# CHAPTER 173—ENERGY SECURITY


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Energy Security Activities** | **2911** |
| **II.** | **Energy-Related Procurement** | **2922** |
| **III.** | **General Provisions** | **2924** |


### EDITORIAL NOTES

### AMENDMENTS

**2011**—Pub. L. 112–81, div. B, title XXVIII, §2821(a)(2)(A), Dec. 31, 2011, 125 Stat. 1691, substituted "2924" for "2925" in item III.

**2011**—Pub. L. 111–383, div. A, title X, §1075(b)(47), Jan. 7, 2011, 124 Stat. 4371, inserted "Sec." above "2911".

## SUBCHAPTER I—ENERGY SECURITY ACTIVITIES


Sec.

2911. Energy policy of the Department of Defense.
2912. Availability and use of energy cost savings.
2913. Energy savings contracts and activities.
2914. Military construction projects for energy resilience, energy security, and energy conservation.
2915. Facilities: use of renewable forms of energy and energy efficient products.
2916. Sale of electricity from alternate energy and cogeneration production facilities.
2917. Development of geothermal energy on military lands.
2918. Fuel sources for heating systems; prohibition on converting certain heating facilities.
2919. Department of Defense participation in programs for management of energy demand or reduction of energy usage during peak periods.

2920. Energy resilience and energy security measures on military installations.
2921. Energy efficiency targets for data centers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title III, §312(a)(2), Dec. 27, 2021, 135 Stat. 1628, added item 2921.

Pub. L. 116–283, div. A, title III, §316(b), div. B, title XXVIII, §2805(b), Jan. 1, 2021, 134 Stat. 3519, 4322, added items 2914 and 2920 and struck out former item 2914 "Energy resilience and conservation construction projects".

**2019**—Pub. L. 116–92, div. A, title XVII, §1731(a)(59), Dec. 20, 2019, 133 Stat. 1815, which directed amendment of the analysis at the beginning of this chapter by substituting "Energy resilience and conservation construction projects" for "Energy resiliency and conservation construction projects"in item 2914, was executed in the analysis for this subchapter to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232, div. A, title X, §1081(c)(6), Aug. 13, 2018, 132 Stat. 1985, made technical amendment to directory language of Pub. L. 115–91, §2831(b), effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted. See 2017 Amendment note below.

**2017**—Pub. L. 115–91, div. B, title XXVIII, §2831(b), Dec. 12, 2017, 131 Stat. 1857, as amended by Pub. L. 115–232, div. A, title X, §1081(c)(6), Aug. 13, 2018, 132 Stat. 1985, which directed amendment of the analysis at the beginning of this chapter by adding item 2911 and striking out former item 2911 "Energy performance goals and master plan for the Department of Defense", was executed in the analysis for this subchapter to reflect the probable intent of Congress.

**2016**—Pub. L. 114–328, div. B, title XXVIII, §2805(a)(2), Dec. 23, 2016, 130 Stat. 2714, which directed amendment of the analysis at the beginning of this chapter by adding item 2914 and striking out former item 2914 "Energy conservation construction projects", was executed in the analysis for this subchapter to reflect the probable intent of Congress.

**2011**—Pub. L. 111–383, div. B, title XXVIII, §2832(c)(2), Jan. 7, 2011, 124 Stat. 4470, added items 2911 and 2915 and struck out former items 2911 "Energy performance goals and plan for Department of Defense" and 2915 "New construction: use of renewable forms of energy and energy efficient products".

**2009**—Pub. L. 111–84, div. B, title XXVIII, §2843(b), Oct. 28, 2009, 123 Stat. 2682, added item 2919.

## §2911. Energy policy of the Department of Defense

(a) GENERAL ENERGY POLICY.—The Secretary of Defense shall ensure the readiness of the armed forces for their military missions by pursuing energy security and energy resilience.

(b) AUTHORITIES.—In order to achieve the policy set forth in subsection (a), the Secretary of Defense may—

(1) establish metrics and standards for the assessment of energy resilience;

(2) require the Secretary of a military department to perform mission assurance and readiness assessments of energy power systems for mission critical assets and supporting infrastructure, applying uniform mission standards established by the Secretary of Defense;

(3) require the Secretary of a military department to establish and maintain an energy resilience master plan for an installation;

(4) authorize the use of energy security and energy resilience, including the benefits of on-site generation resources that reduce or avoid the cost of backup power, as factors in the cost-benefit analysis for procurement of energy; and

(5) in selecting facility energy projects that will use renewable energy sources, pursue energy security and energy resilience by giving favorable consideration to projects that provide power directly to a military facility or into the installation electrical distribution network.

(c) ENERGY PERFORMANCE GOALS.—(1) The Secretary of Defense shall submit to the congressional defense committees the energy performance goals for the Department of Defense regarding transportation systems, support systems, utilities, and infrastructure and facilities.

(2) The energy performance goals shall be submitted annually not later than the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31 and cover that fiscal year as well as the next five, l0, and 20 years. The Secretary shall identify changes

to the energy performance goals since the previous submission.

(3) The Secretary of Defense shall include the energy security and resilience goals of the Department of Defense in the report submitted under section 2925(a) of this title for fiscal year 2018 and every fiscal year thereafter. In the development of energy security and resilience goals, the Department of Defense shall conform with the definitions of energy security and resilience under this title. The report shall include the amount of critical energy load, together with the level of availability and reliability by fiscal year the Department of Defense deems necessary to achieve energy security and resilience.

(d) ENERGY PERFORMANCE MASTER PLAN.—(1) The Secretary of Defense shall develop a comprehensive master plan for the achievement of the energy performance goals of the Department of Defense, as set forth in laws, executive orders, and Department of Defense policies.

(2) The master plan shall include the following:

(A) A separate master plan, developed by each military department and Defense Agency, for the achievement of energy performance goals.

(B) The use of a baseline standard for the measurement of energy consumption by transportation systems, support systems, utilities, and facilities and infrastructure that is consistent for all of the military departments.

(C) A method of measurement of reductions or conservation in energy consumption that provides for the taking into account of changes in the current size of fleets, number of facilities, and overall square footage of facility plants.

(D) Metrics to track annual progress in meeting energy performance goals.

(E) A description of specific requirements, and proposed investments, in connection with the achievement of energy performance goals reflected in the budget of the President for each fiscal year (as submitted to Congress under section 1105(a) of title 31).

(F) The up-to date list of energy-efficient products maintained under section 2915(e)(2) of this title.

(3) Not later than 30 days after the date on which the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of title 31, the Secretary shall submit the current version of the master plan to Congress.

(e) SPECIAL CONSIDERATIONS.—For the purpose of developing and implementing the energy performance goals and energy performance master plan, the Secretary of Defense shall consider at a minimum the following:

(1) Opportunities to reduce the current rate of consumption of energy, the future demand for energy, and the requirement for the use of energy.

(2) Opportunities to enhance energy resilience to ensure the Department of Defense has the ability to prepare for and recover from energy disruptions that affect mission assurance on military installations.

(3) Opportunities to implement conservation measures to improve the efficient use of energy.

(4) Opportunities for the high-performance construction, lease, operation, and maintenance of buildings.

(5) Cost effectiveness, cost savings, and net present value of alternatives.

(6) The value of diversification of types and sources of energy used.

(7) The value of economies-of-scale associated with fewer energy types used.

(8) The value of the use of renewable energy sources.

(9) The potential for an action to serve as an incentive for members of the armed forces and civilian personnel to reduce energy consumption or adopt an improved energy performance measure.

(10) Opportunities for improving energy security for facility energy projects that will use renewable energy sources.

(11) Opportunities to leverage financing provided by a non-Department entity to address installation energy needs.

(12) The reliability and security of energy resources in the event of a military conflict.

(13) The value of resourcing energy from partners and allies of the United States.

(f) SELECTION OF ENERGY CONSERVATION MEASURES.—For the purpose of implementing the energy performance master plan, the Secretary of Defense shall provide that the selection of energy conservation measures, including energy efficient maintenance, shall be limited to those measures that—

(1) are readily available;

(2) demonstrate an economic return on the investment;

(3) are consistent with the energy performance goals and energy performance master plan for the Department; and

(4) are supported by the special considerations specified in subsection (c).

(g) GOAL REGARDING USE OF RENEWABLE ENERGY TO MEET FACILITY ENERGY NEEDS.—(1) It shall be the goal of the Department of Defense—

(A) to produce or procure not less than 25 percent of the total quantity of facility energy it consumes within its facilities during fiscal year 2025 and each fiscal year thereafter from renewable energy sources; and

(B) to produce or procure facility energy from renewable energy sources whenever the use of such renewable energy sources is consistent with the energy performance goals and energy performance master plan for the Department and supported by the special considerations specified in subsection (c).

(2) To help ensure that the goal specified in paragraph (1)(A) regarding the use of renewable energy by the Department of Defense is achieved, the Secretary of Defense shall establish an interim goal for fiscal year 2018 for the production or procurement of facility energy from renewable energy sources.

(3)(A) The Secretary of Defense shall establish a policy to maximize savings for the bulk purchase of replacement renewable energy certificates in connection with the development of facility energy projects using renewable energy sources.

(B) Under the policy required by subparagraph (A), the Secretary of a military department shall submit requests for the purchase of replacement renewable energy certificates to a centralized purchasing authority maintained by such department or the Defense Logistics Agency with expertise regarding—

(i) the market for renewable energy certificates;

(ii) the procurement of renewable energy certificates; and

(iii) obtaining the best value for the military department by maximizing the purchase of renewable energy certificates from projects placed into service before January 1, 1999.

(C) The centralized purchasing authority shall solicit industry for the most competitive offer for replacement renewable energy certificates, to include a combination of renewable energy certificates from new projects and projects placed into service before January 1, 1999.

(D) Subparagraph (B) does not prohibit the Secretary of a military department from entering into an agreement outside of the centralized purchasing authority if the Secretary will obtain the best value by bundling the renewable energy certificates with the facility energy project through a power purchase agreement or other contractual mechanism at the installation.

(E) Nothing in this paragraph shall be construed to authorize the purchase of renewable energy certificates to meet Federal goals or mandates in the absence of the development of a facility energy project using renewable energy sources.

(F) This policy does not make the purchase of renewable energy certificates mandatory, but the policy shall apply whenever original renewable energy certificates are proposed to be swapped for replacement renewable energy certificates.

(h) PROMOTION OF ON-SITE ENERGY SECURITY AND ENERGY RESILIENCE.—(1) Consistent with the energy security and resilience goals of the Department of Defense and the energy

performance master plan referred to in this section, the Secretary concerned shall consider, when feasible, projects for the production of installation energy that benefits military readiness and promotes installation energy security and energy resilience in the following manner:

(A) Location of the energy-production infrastructure on the military installation that will consume the energy.

(B) Incorporation of energy resilience features, such as microgrids, to ensure that energy remains available to the installation even when the installation is not connected to energy sources located off the installation.

(C) Reduction in periodic refueling needs from sources off the installation to not more than once every two years.

(2)(A) Using amounts made available for military construction projects under section 2914 of this title, the Secretary of Defense shall carry out at least four projects to promote installation energy security and energy resilience in the manner described in paragraph (1).

(B) At least one project shall be designed to develop technology that demonstrates the ability to connect an existing on-site energy generation facility that uses solar power with one or more installation facilities performing critical missions in a manner that allows the generation facility to continue to provide electrical power to these facilities even if the installation is disconnected from the commercial power supply.

(C) At least one project shall be designed to develop technology that demonstrates that one or more installation facilities performing critical missions can be isolated, for purposes of electrical power supply, from the remainder of the installation and from the commercial power supply in a manner that allows an on-site energy generation facility that uses a renewable energy source, other than solar energy, to provide the necessary power exclusively to these facilities.

(D) At least two projects shall be designed to develop technology that demonstrates the ability to store sufficient electrical energy from an on-site energy generation facility that uses a renewable energy source to provide the electrical energy required to continue operation of installation facilities performing critical missions during nighttime operations.

(E) The authority of the Secretary of Defense to commence a project under this paragraph expires on September 30, 2025.

(3) In this subsection, the term "microgrid" means an integrated energy system consisting of interconnected loads and energy resources that, if necessary, can be removed from the local utility grid and function as an integrated, stand-alone system.

(i) ASSESSMENT OF LIFE-CYCLE COSTS AND PERFORMANCE OF POTENTIAL ENERGY RESILIENCE PROJECTS.—(1) Subject to the availability of appropriations, the Secretary of Defense shall develop and institute a process to ensure that the Department of Defense, when evaluating energy resilience measures, uses analytical tools that are accurate and effective in projecting the costs and performance of such measures.

(2) Analytical tools used under paragraph (1) shall be—

(A) designed to—

(i) provide an accurate projection of the costs and performance of the energy resilience measure being analyzed;

(ii) be used without specialized training; and

(iii) produce resulting data that is understandable and usable by the typical source selection official;

(B) consistent with standards and analytical tools commonly applied by the Department of Energy and by commercial industry;

(C) adaptable to accommodate a rapidly changing technological environment;

(D) peer reviewed for quality and precision and measured against the highest level of development for such tools; and

(E) periodically reviewed and updated, but not less frequently than once every three years.

(j) AGGREGATE ENERGY CONSERVATION MEASURES AND FUNDING.—(1) To the maximum extent practicable, the Secretary concerned shall take a holistic view of the energy project opportunities on installations under the jurisdiction of such Secretary and shall consider aggregate energy conservation measures, including energy conservation measures with quick payback, with energy resilience enhancement projects and other projects that may have a longer payback period.

(2) In considering aggregate energy conservation measures under paragraph (1), the Secretary concerned shall incorporate all funding available to such Secretary for such measures, including—

(A) appropriated funds, such as—

(i) funds appropriated for the Energy Resilience and Conservation Investment Program of the Department; and

(ii) funds appropriated for the Facilities Sustainment, Restoration, and Modernization program of the Department; and

(B) funding available under performance contracts, such as energy savings performance contracts and utility energy service contracts.

(Added and amended Pub. L. 109–364, div. B, title XXVIII, §§2851(a)(1), 2852, Oct. 17, 2006, 120 Stat. 2489, 2496; Pub. L. 111–84, div. B, title XXVIII, §2842, Oct. 28, 2009, 123 Stat. 2680; Pub. L. 111–383, div. B, title XXVIII, §§2831, 2832(a), Jan. 7, 2011, 124 Stat. 4467, 4468; Pub. L. 112–81, div. B, title XXVIII, §§2821(b)(1), 2822(b), 2823(a), 2824(a), 2825(b), Dec. 31, 2011, 125 Stat. 1691, 1692, 1694; Pub. L. 115–91, div. A, title III, §312, div. B, title XXVIII, §2831(a), Dec. 12, 2017, 131 Stat. 1348, 1857; Pub. L. 115–232, div. A, title III, §312(a), (b), Aug. 13, 2018, 132 Stat. 1709, 1710; Pub. L. 116–92, div. A, title III, §320(b), Dec. 20, 2019, 133 Stat. 1307; Pub. L. 116–283, div. B, title XXVIII, §2825(a), (b)(1), Jan. 1, 2021, 134 Stat. 4333, 4334; Pub. L. 117–81, div. A, title III, §314(a), Dec. 27, 2021, 135 Stat. 1629; Pub. L. 117–263, div. A, title III, §§315, 316, Dec. 23, 2022, 136 Stat. 2505; Pub. L. 118–159, div. A, title XVII, §1701(a)(32), Dec. 23, 2024, 138 Stat. 2205; Pub. L. 119–60, div. A, title III, §312(1), Dec. 18, 2025, 139 Stat. 803.)

## EDITORIAL NOTES

### CODIFICATION

Section 312 of Pub. L. 115–91 amended subsec. (c) of this section, and section 2831(a)(2) and (4) of Pub. L. 115–91 respectively redesignated subsec. (c) as (e) and made amendments substantially identical to those made by section 312. Pub. L. 116–92 subsequently amended subsec. (e) to address the duplicate amendments. See 2019 and 2017 Amendment notes below.

### AMENDMENTS

**2025**—Subsec. (e)(4) to (15). Pub. L. 119–60 redesignated pars. (5) to (9) and (11) to (15) as (4) to (8) and (9) to (13), respectively, and struck out former pars. (4) and (10) which read as follows:

"(4) Opportunities to pursue alternative energy initiatives, including the use of alternative fuels and hybrid-electric drive in military vehicles and equipment."

"(10) The value of incorporating electric, hybrid-electric, and high efficiency vehicles into vehicle fleets."

**2024**—Subsec. (c)(3). Pub. L. 118–159 struck out "installation energy" before "report submitted under section 2925(a) of this title".

**2022**—Subsec. (e)(14), (15). Pub. L. 117–263, §316, added pars. (14) and (15).

Subsec. (j). Pub. L. 117–263, §315, added subsec. (j).

**2021**—Subsec. (h). Pub. L. 116–283, §2825(a), added subsec. (h) containing pars. (1) and (3).

Subsec. (h)(2). Pub. L. 116–283, §2825(b)(1), added par. (2).

Subsec. (i). Pub. L. 117–81 added subsec. (i).

**2019**—Subsec. (e)(1), (2). Pub. L. 116–92, §320(b)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) Opportunities to reduce the current rate of consumption of energy, the future demand for energy, and the requirement for the use of energy.

"(2) Opportunities to enhance energy resilience to ensure the Department of Defense has the ability to prepare for and recover from energy disruptions that impact mission assurance on military installations."

Subsec. (e)(13). Pub. L. 116–92, §320(b)(2), which directed striking out "the second paragraph (13)", was

executed by striking out the par. (13) added by Pub. L. 115–91, §2831(a)(4)(C), which read as follows: "Opportunities to leverage third-party financing to address installation energy needs." See 2017 Amendment note below.

**2018**—Subsec. (b). Pub. L. 115–232, §312(a), added pars. (1) and (2) and redesignated former pars. (1) to (3) as (3) to (5), respectively.

Subsec. (c)(3). Pub. L. 115–232, §312(b), added par. (3).

**2017**—Pub. L. 115–91, §2831(a)(1), substituted "policy of" for "performance goals and master plan for" in section catchline.

Subsecs. (a) to (d). Pub. L. 115–91, §2831(a)(2), (3), added subsecs. (a) and (b) and redesignated former subsecs. (a) and (b) as (c) and (d), respectively. Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 115–91, §2831(a)(2), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsec. (e)(1). Pub. L. 115–91, §§312(1), 2831(a)(4)(A), amended par. (1) identically, inserting ", the future demand for energy, and the requirement for the use of energy" after "consumption of energy". See Codification note above.

Subsec. (e)(2). Pub. L. 115–91, §§312(2), 2831(a)(4)(B), made similar amendments to par. (2), resulting in substitution of "enhance energy resilience to ensure the Department of Defense has the ability to prepare for and recover from energy disruptions that impact mission assurance on military installations" for "reduce the future demand and the requirements for the use of energy". See Codification note above.

Subsec. (e)(13). Pub. L. 115–91, §2831(a)(4)(C), added par. (13) which read "Opportunities to leverage third-party financing to address installation energy needs." See Codification note above.

Pub. L. 115–91, §312(3), added par. (13) which read "Opportunities to leverage financing provided by a non-Department entity to address installation energy needs." See Codification note above.

Subsecs. (f), (g). Pub. L. 115–91, §2831(a)(2), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

**2011**—Pub. L. 111–383, §2832(a)(3), substituted "Energy performance goals and master plan for the Department of Defense" for "Energy performance goals and plan for Department of Defense" in section catchline.

Pub. L. 111–383, §2832(a)(2), substituted "master plan" for "plan" wherever appearing in subsecs. (c) to (e).

Subsec. (b). Pub. L. 111–383, §2832(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall develop, and update as necessary, a comprehensive plan to help achieve the energy performance goals for the Department of Defense."

Subsec. (b)(2)(F). Pub. L. 112–81, §2825(b), added subpar. (F).

Subsec. (c)(4). Pub. L. 111–383, §2831(1), inserted "and hybrid-electric drive" after "alternative fuels".

Subsec. (c)(5) to (11). Pub. L. 111–383, §2831(2)–(5), added pars. (5) and (10) and redesignated former pars. (5) to (8) and (9) as (6) to (9) and (11), respectively.

Subsec. (c)(12). Pub. L. 112–81, §2822(b), added par. (12).

Subsec. (d). Pub. L. 112–81, §2821(b)(1)(A), struck out par. (1) designation, redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, and struck out former par. (2), which defined "energy efficient maintenance".

Subsec. (e)(2). Pub. L. 112–81, §2823(a), added par. (2).

Pub. L. 112–81, §2821(b)(1)(B), struck out par. (2), which defined "renewable energy source".

Subsec. (e)(3). Pub. L. 112–81, §2824(a), added par. (3).

**2009**—Subsec. (e). Pub. L. 111–84, §2842(c), substituted "Facility Energy Needs" for "Electricity Needs" in heading.

Pub. L. 111–84, §2842(a), (b), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), in par. (1)(A), substituted "facility energy" for "electric energy" and struck out "and in its activities" after "facilities" and "(as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)))" after "sources", in par. (1)(B), substituted "facility energy" for "electric energy", and added par. (2).

**2006**—Subsec. (e). Pub. L. 109–364, §2852, added subsec. (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (a) and (b)(3) of this section requiring

submittal of annual reports to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**RESPONSIBILITIES OF EXECUTIVE AGENT FOR INSTALLATION AND OPERATIONAL NUCLEAR ENERGY**

Pub. L. 119–60, div. A, title III, §318, Dec. 18, 2025, 139 Stat. 807, provided that:

"(a) EXECUTIVE AGENT.—The Secretary of Defense, in coordination with the Secretary of the Army, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the Director of the Strategic Capabilities Office of the Department of Defense, shall ensure that, not later than one year after the date of the enactment of this Act [Dec. 18, 2025], there is designated an executive agent of the Department of Defense for installation and operational nuclear energy.

"(b) RESPONSIBILITIES.—The responsibilities of the executive agent specified in subsection (a) shall include the following:

"(1) In coordination with the commanders of the combatant commands and the Joint Chiefs of Staff, assessing installation and operational nuclear energy needs.

"(2) Consulting with project developers and other experts from the commercial nuclear industry, potential private owners and operators of nuclear reactors to be deployed at military installations, and other persons determined appropriate by the executive agent, to assess the technological capabilities, development status, costs, timelines, risks, and potential need for design evolution of nuclear reactors to meet the needs of the Department of Defense referred to paragraph (1).

"(3) In coordination with the Secretary of Energy, the Secretaries of the military departments, and the Nuclear Regulatory Commission, assessing the technology readiness, licensability, deployability, operability, and maintainability of nuclear reactors with respect to potential deployment at military installations.

"(4) In coordination with the Secretary of Defense and the Secretaries of the military departments, integrating technical and project resources across the Department of Defense for the use of nuclear reactors to meet the needs of the Department of Defense referred to in paragraph (1), including by developing a plan to aggregate the demand for, and the acquisition and deployment of, nuclear reactors across military installations and military departments.

"(5) In coordination with the Secretary of Energy and the Nuclear Regulatory Commission—

"(A) evaluating the regulatory framework and other requirements applicable to the use of nuclear reactors to meet such needs; and

"(B) establishing training programs and plans relating to the acquisition and operation of nuclear reactors to meet such needs.

"(6) Identifying the timelines and resource requirements necessary for the acquisition and operation of nuclear reactors to meet such needs, including—

"(A) any support necessary from the national laboratories of the Department of Energy; and

"(B) any funding necessary to carry out interim pilot programs for the limited deployment of nuclear reactors until such timelines and resource requirements are met.

"(7) Including resource requirements identified pursuant to paragraph (6), and any other resource requirements necessary to carry out this subsection, in applicable planning, programming, budgeting, and execution processes of the Department of Defense, including by preparing, as applicable—

"(A) a program objective memorandum for any new resource so required; and

"(B) a budget justification for any new resource so required for inclusion in the budget materials submitted by the Secretary of Defense to Congress in support of the President's annual budget request (submitted to Congress pursuant to section 1105 of title 31, United States Code).

"(8) Providing technical support for programs of the military departments relating to the deployment of nuclear reactors for installation energy resilience.

"(c) ANNUAL REPORTS.—Not later than September 30, 2026, and annually thereafter for a period of five years, the executive agent specified in subsection (a) shall submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the actions taken to implement this section during the one-year period ending on the date of the submission of such report.

"(d) PLAN FOR PROGRAM OF RECORD.—

"(1) SUBMISSION.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in coordination with the executive agent specified in subsection (a), shall submit to the congressional defense committees a plan to establish a program of record of the Department of Defense to meet installation and operational nuclear energy needs.

"(2) ELEMENTS.—The plan under paragraph (1) shall include the following:

"(A) An identification of requirements necessary for the establishment of the program of record specified in such paragraph.

"(B) A budget estimate for such program of record through 2030 or through the conclusion of the five-year period following the first date on which a nuclear reactor is deployed at a military installation, whichever is later.

"(C) A summary of actions taken to implement the responsibilities under subsection (b) and information derived as a result of such actions.

"(D) Use cases for nuclear reactors, developed in coordination with the commanders of combatant commands with respect to installation and operational needs (including needs relating to the electrification of operational energy, elimination of fuel supply vulnerabilities, military installation resilience, sustainment of military installations, enablement of multi-domain operations, and advanced weaponry).

"(E) An identification of the minimum potential number of military installations at which nuclear reactors would be necessary to deploy in order to establish a cost-effective program, and projected dates by which such nuclear reactors would achieve initial operational capability.

"(F) An estimate of fuel requirements necessary to support the deployment of various models of nuclear reactors at military installations, to inform future acquisition planning.

"(e) COMPLIANCE WITH APPLICABLE DIRECTIVE.—The Secretary shall carry out this section in compliance with Directive 5101.01.

"(f) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.01, the Secretary shall ensure that the military departments, the Defense Agencies, and other elements of the Department of Defense provide the executive agent specified in subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

"(g) DEFINITIONS.—In this section—

"(1) The term 'Directive 5101.01' means Department of Defense Directive 5101.01, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

"(2) The terms 'energy resilience' and 'military installation resilience' have the meanings given those terms in section 101 of title 10, United States Code.

"(3) The term 'executive agent' has the meaning given the term 'DoD Executive Agent' in Directive 5101.01.

"(4) The term 'installation and operational nuclear energy' means energy that is—

"(A) generated by a utilization facility authorized pursuant to section 91b. [probably should be "section 91(b)"] of the Atomic Energy Act of 1954 (42 U.S.C. 2121(b)); and

"(B) used exclusively for the purposes of providing—

"(i) operational energy (as such term is defined in section 2924 of title 10, United States Code); or

"(ii) the energy required for a military installation (as such term is defined in section 2801 of title 10, United States Code)."

## NOTIFICATION REQUIREMENT WITH RESPECT TO NUCLEAR POWER IN GUAM

Pub. L. 119–60, div. A, title III, §323, Dec. 18, 2025, 139 Stat. 815, provided that:

"(a) NOTIFICATION.—Except as provided in subsection (b), the Secretary of Defense shall, not later than one year before any date on which the Secretary carries out the placement of a permanent nuclear reactor in Guam, submit to Congress and the Governor of Guam a notification of such placement.

"(b) EXCEPTION.—Subsection (a) shall not apply to a nuclear reactor aboard a naval vessel.

"(c) NUCLEAR REACTOR DEFINED.—In this section, the term 'nuclear reactor' has the meaning given the term 'advanced nuclear reactor' in section 951 of the Energy Policy Act of 2005 (42 U.S.C. 16271)."

## PROTOTYPE AND DEMONSTRATION PROJECTS FOR ENERGY RESILIENCE AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 117–263, div. A, title III, §322, Dec. 23, 2022, 136 Stat. 2511, as amended by Pub. L. 118–31, div. A, title III, §316(a), Dec. 22, 2023, 137 Stat. 217, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations for such purpose, each Secretary of a military department shall ensure that covered prototype and demonstration projects are conducted at each military installation under the jurisdiction of that Secretary that is designated by the Secretary of Defense as an 'Energy Resilience Testbed' pursuant to subsection (b).

"(b) SELECTION OF MILITARY INSTALLATIONS.—

"(1) NOMINATION.—Each Secretary of a military department shall nominate military installations

under the jurisdiction of that Secretary for selection under paragraph (2), and submit to the Secretary of Defense a list of such nominations.

"(2) SELECTION.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall select, from among the lists of nominated military installations provided by the Secretaries of the military departments under paragraph (1), at least one such nominated military installation per military department for designation pursuant to paragraph (4).

"(3) CONSIDERATIONS.—In selecting military installations under paragraph (2), the Secretary of Defense shall, to the extent practicable, take into consideration the following:

"(A) The mission of the installation.

"(B) The geographic terrain of the installation and of the community surrounding the installation.

"(C) The energy resources available to support the installation.

"(D) An assessment of any extreme weather risks or vulnerabilities at the installation and the community surrounding the installation.

"(4) DESIGNATION AS ENERGY RESILIENCE TESTBED.—Each military installation selected under paragraph (2) shall be known as an 'Energy Resilience Testbed'.

"(c) COVERED TECHNOLOGIES.—Covered prototype and demonstration projects conducted at military installations designated pursuant to subsection (b) shall include the prototype and demonstration of technologies in the following areas:

"(1) Energy storage technologies, including long-duration energy storage systems.

"(2) Technologies to improve building energy efficiency in a cyber-secure manner, such as advanced lighting controls, high-performance cooling systems, and technologies for waste heat recovery.

"(3) Technologies to improve building energy management and control in a cyber-secure manner.

"(4) Tools and processes for design, assessment, and decision making on the installation with respect to all hazards resilience and hazard analysis, energy use, management, and the construction of resilient buildings and infrastructure.

"(5) Carbon sequestration technologies.

"(6) Technologies relating to on-site resilient energy generation, including the following:

"(A) Advanced geothermal technologies.

"(B) Advanced nuclear technologies, including small modular reactors.

"(C) Hydrogen creation, storage, and power generation technologies using natural gas or renewable electricity.

"(7) Port electrification and surrounding defense community infrastructure.

"(8) Tidal and wave power technologies.

"(9) Distributed ledger technologies.

"(d) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall provide to the appropriate congressional committees a briefing on the conduct of covered prototype and demonstration projects at each military installation designated pursuant to subsection (b). Such briefing shall include the following:

"(1) An identification of each military installation so designated.

"(2) A justification as to why each military installation so designated was selected for such designation.

"(3) A strategy for commencing the conduct of such projects at each military installation so designated by not later than one year after the date of the enactment of this Act.

"(e) DEADLINE FOR COMMENCEMENT OF PROJECTS.—Beginning not later than one year after the date of the enactment of this Act, covered prototype and demonstration projects shall be conducted at, and such conduct shall be incorporated into the mission of, each military installation designated pursuant to subsection (b).

"(f) RESPONSIBILITY FOR ADMINISTRATION AND OVERSIGHT.—Notwithstanding the responsibility of the Secretary of Defense to select each military installation for designation pursuant to subsection (b)(2), the administration and oversight of the conduct of covered prototype and demonstration projects at a military installation so designated, as required under subsection (a), shall be the responsibility of the Secretary of the military department with jurisdiction over that military installation.

"(g) CONSORTIUMS.—

"(1) IN GENERAL.—Each Secretary of a military department may enter into a partnership with, or seek to establish, a consortium of industry, academia, and other entities described in paragraph (2) to conduct covered prototype and demonstration projects at a military installation that is under the jurisdiction of that Secretary and designated by the Secretary of Defense pursuant to subsection (b).

"(2) CONSORTIUM ENTITIES.—The entities described in this paragraph are as follows:

"(A) National laboratories.

"(B) Industry entities the primary work of which relates to technologies and business models relating to energy resilience and all hazards resilience.

"(h) AUTHORITIES.—

"(1) IN GENERAL.—Covered prototype and demonstration projects required under this section may be conducted as part of the program for operational energy prototyping established under section 324(c) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 134 Stat. 3523; 10 U.S.C. 2911 note) (including by using funds available under the Operational Energy Prototyping Fund established pursuant to such section), using the other transactions authority under section 4021 or 4022 of title 10, United States Code, or using any other available authority or funding source the Secretary of Defense determines appropriate.

"(2) FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.—Each Secretary of a military department shall ensure that, to the extent practicable, any transaction entered into under the other transactions authority under section 4022 of title 10, United States Code, for the conduct of a covered prototype and demonstration project under this section shall provide for the award of a follow-on production contract or transaction pursuant to subsection (f) of such section 4022.

"(i) INTERAGENCY COLLABORATION.—In carrying out this section, to the extent practicable, the Secretary of Defense shall collaborate with the Secretary of Energy and the heads of such other Federal departments and agencies as the Secretary of Defense may determine appropriate, including by entering into relevant memoranda of understanding.

"(j) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as precluding any Secretary of a military department from carrying out any activity, including conducting a project or making an investment, relating to the improvement of energy resilience or all hazards resilience under an authority other than this section.

"(k) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives; and

"(B) the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate.

"(2) The term 'community infrastructure' has the meaning given that term in section 2391(e) of title 10, United States Code.

"(3) The term 'covered prototype and demonstration project' means a project to prototype and demonstrate advanced technologies to enhance energy resilience, including with respect to energy supply disruptions, and all hazards resilience at a military installation.

"(4) The term 'military installation' has the meaning given that term in section 2867 of title 10 [probably should be "section 2687 of title 10"], United States Code."

[Pub. L. 118–31, div. A, title III, §316(b), Dec. 22, 2023, 137 Stat. 217, provided that: "The amendments made by subsection (a) [amending section 322 of Pub. L. 117–263, set out above] shall apply with respect to covered prototype and demonstration projects (as defined in section 322(k) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2511; 10 U.S.C. 2911 note)) commencing on or after the date of the enactment of this Act [Dec. 22, 2023]."]

## PILOT PROGRAM FOR DEVELOPMENT OF ELECTRIC VEHICLE CHARGING SOLUTIONS TO MITIGATE GRID STRESS

Pub. L. 117–263, div. A, title III, §323, Dec. 23, 2022, 136 Stat. 2513, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments, and in consultation with the Secretary of Energy, shall carry out a pilot program to develop and test covered infrastructure to mitigate grid stress caused by electric vehicles through the implementation and maintenance on certain military installations of charging stations, microgrids, and other covered infrastructure sufficient to cover the energy demand at such installations.

"(b) SELECTION OF MILITARY INSTALLATIONS.—

"(1) SELECTION.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], each Secretary of a military department shall—

"(A) select at least one military installation of each Armed Force under the jurisdiction of that Secretary at which to carry out the pilot program under subsection (a); and

"(B) submit to the Committees on Armed Services of the House of Representatives and the Senate a notification containing an identification of each such selected installation.

"(2) CONSIDERATIONS.—In choosing a military installation for selection pursuant to paragraph (1), each Secretary of a military department shall take into account the following:

"(A) A calculation of existing loads at the installation and the existing capacity of the installation for the charging of electric vehicles, including (as applicable) light duty trucks.

"(B) Any required upgrades to covered infrastructure on the installation, including electrical wiring, anticipated by the Secretary.

"(C) The ownership, financing, operation, and maintenance models of existing and planned covered infrastructure on the installation.

"(D) An assessment of local grid needs, and any required updates relating to such needs anticipated by the Secretary.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date on which a Secretary of a military department submits a notification identifying a selected military installation under subsection (b), that Secretary shall submit to the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives and the Committee on Armed Services of the Senate a report on—

"(A) the covered infrastructure to be implemented under the pilot program at the installation;

"(B) the methodology by which each type of covered infrastructure so implemented shall be assessed for efficacy and efficiency at providing sufficient energy to cover the anticipated energy demand of the electric vehicle fleet at the installation and mitigating grid stress; and

"(C) the maintenance on the military installation of charging stations and other covered infrastructure, including a microgrid, that will be sufficient to—

"(i) cover the anticipated electricity demand of such fleet; and

"(ii) improve installation energy resilience.

"(2) ELEMENTS.—Each report under paragraph (1) shall include, with respect to the selected military installation for which the report is submitted, the following:

"(A) A determination of the type and number of charging stations to implement on the installation, taking into account the interoperability of chargers and the potential future needs or applications for chargers, such as vehicle-to-grid or vehicle-to-building applications.

"(B) A determination of the optimal ownership model to provide charging stations on the installation, taking into account the following:

"(i) Use of Government-owned (purchased, installed, and maintained) charging stations.

"(ii) Use of third-party financed, installed, operated, and maintained charging stations.

"(iii) Use of financing models in which energy and charging infrastructure operations and maintenance are treated as a service.

"(iv) Cyber and physical security considerations and best practices associated with different ownership, network, and control models.

"(C) A determination of the optimal power source to provide charging stations at the installation, taking into account the following:

"(i) Transformer and substation requirements.

"(ii) Microgrids and distributed energy to support both charging requirements and energy storage.

"(3) SOURCE OF SERVICES.—Each Secretary of a military department may use expertise within the military department or enter into a contract with a non-Department of Defense entity to make the determinations specified in paragraph (2).

"(d) FINAL REPORT.—Not later than January 1, 2025, the Secretary of Defense shall submit to the congressional committees specified in subsection (c)(1) a final report on the pilot program under subsection (a). Such report shall include the observations and findings of the Department relating to the charging stations and other covered infrastructure implemented and maintained under such pilot program, including with respect to the elements specified in subsection (c)(2).

"(e) DEFINITIONS.—In this section:

"(1) The terms 'Armed Forces' and 'military departments' have the meanings given those terms in section 101 of title 10, United States Code.

"(2) The term 'charging station' means a collection of one or more electric vehicle supply equipment units serving the purpose of charging an electric vehicle battery.

"(3) The term 'covered infrastructure'—

"(A) means infrastructure that the Secretary of Defense determines may be used to—

"(i) charge electric vehicles, including by transmitting electricity to such vehicles directly; or

"(ii) support the charging of electric vehicles, including by supporting the resilience of grids

or other systems for delivering energy to such vehicles (such as through the mitigation of grid stress); and

"(B) includes—

"(i) charging stations;

"(ii) batteries;

"(iii) battery-swapping systems;

"(iv) microgrids;

"(v) off-grid charging systems; and

"(vi) other apparatuses installed for the specific purpose of delivering energy to an electric vehicle or to a battery intended to be used in an electric vehicle, including wireless charging technologies.

"(4) The term 'electric vehicle' includes—

"(A) a plug-in hybrid electric vehicle that uses a combination of electric and gas powered engine that can use either gasoline or electricity as a fuel source; and

"(B) a plug-in electric vehicle that runs solely on electricity and does not contain an internal combustion engine or gas tank.

"(5) The term 'electric vehicle supply equipment unit' means the port that supplies electricity to one vehicle at a time.

"(6) The term 'microgrid' means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid.

"(7) The term 'military installation' has the meaning given that term in section 2801 of title 10, United States Code.

"(8) The term 'wireless charging' means the charging of a battery by inductive charging or by any means in which a battery is charged without a wire, or plug-in wire, connecting the power source and battery."

## ANALYSIS AND PLAN FOR ADDRESSING HEAT ISLAND EFFECT ON MILITARY INSTALLATIONS

Pub. L. 117–263, div. A, title III, §327, Dec. 23, 2022, 136 Stat. 2519, provided that:

"(a) INSTALLATION ANALYSIS.—Each Secretary of a military department shall conduct an analysis of the military installations under the jurisdiction of that Secretary to assess the extent to which heat islands affect readiness, infrastructure service life, and utilities costs. Each such analysis shall contain each of the following:

"(1) An analysis of how heat islands exacerbate summer heat conditions and necessitate the increased use of air conditioning on the installations, including an estimate of the cost of such increased usage with respect to both utilities costs and shortened service life of air conditioning units.

"(2) An assessment of any readiness effects related to heat islands, including the loss of training hours due to black flag conditions, and the corresponding cost of such effects.

"(b) PLAN.—Based on the results of the analyses conducted under subsection (a), the Secretaries of the military departments shall jointly—

"(1) develop a plan for mitigating the effects of heat islands at the most severely affected installations, including by increasing tree coverage, installing cool roofs or green roofs, and painting asphalt; and

"(2) promulgate best practices enterprise-wide for cost avoidance and reduction of the effects of heat islands.

"(c) BRIEFING.—Not later than September 30, 2024, the Secretaries of the military departments shall jointly provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) the findings of each analysis conducted under subsection (a);

"(2) the plan developed under subsection (b); and

"(3) such other matters as the Secretaries determine appropriate.

"(d) HEAT ISLAND DEFINED.—The term 'heat island' means an area with a high concentration of structures (such as building, roads, and other infrastructure) that absorb and re-emit the sun's heat more than natural landscapes such as forests or bodies of water."

## COMBATING MILITARY RELIANCE ON RUSSIAN ENERGY

Pub. L. 117–263, div. A, title X, §1086, Dec. 23, 2022, 136 Stat. 2801, as amended by Pub. L. 118–31, div. A, title XVIII, §1803, Dec. 22, 2023, 137 Stat. 685; Pub. L. 118–159, div. A, title X, §1082, Dec. 23, 2024, 138 Stat. 2077, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) reliance on Russian energy poses a critical challenge for national security activities in the area of responsibility of the United States European Command; and

"(2) in order to reduce the vulnerability of United States military facilities to disruptions caused by reliance on Russian energy, the Department of Defense should establish and implement plans to reduce reliance on Russian energy for all operating bases in the area of responsibility of the United States European Command.

"(b) ELIMINATING USE OF RUSSIAN ENERGY.—It shall be the goal of the Department of Defense to eliminate the use of Russian energy on each operating base in the area of responsibility of the United States European Command by not later than five years after the date of the completion of an installation energy plan for such base, as required under this section.

"(c) INSTALLATION ENERGY PLANS FOR OPERATING BASES.—

"(1) IDENTIFICATION OF INSTALLATIONS.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of operating bases within the area of responsibility of the United States European Command ranked according to mission criticality and vulnerability to energy disruption as follows:

"(A) In the case of a main operating base, by not later than June 1, 2023.

"(B) In the case of any operating base other than a main operating base, by not later than June 1, 2024.

"(2) SUBMITTAL OF PLANS.—

"(A) MAIN OPERATING BASES; FEASIBILITY ASSESSMENT.—Not later than December 23, 2023, the Secretary of Defense shall submit to the congressional defense committees—

"(i) an installation energy plan for each main operating base on the list submitted under paragraph (1)(A); and

"(ii) an assessment of the feasibility of reaching the goal for the elimination of the use of Russian energy pursuant to subsection (b) on that base, including—

"(I) a description of the steps that would be required to meet such goal; and

"(II) an analysis of the effects such steps would have on the national security of the United States.

"(B) US EUROPEAN COMMAND OPERATING BASES.—Not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 [Dec. 23, 2024], the Secretary of Defense shall submit to the congressional defense committees an installation energy plan for each operating base within the area of responsibility of the United States European Command.

"(d) CONTENT OF PLANS.—Each installation energy plan for an operating base shall include each of the following with respect to that base:

"(1) An assessment of the energy resilience requirements, resiliency gaps, and energy-related cybersecurity requirements of the base, including with respect to operational technology, control systems, and facilities-related control systems.

"(2) An identification of investments in technology required to improve energy resilience, reduce demand, strengthen energy conservation, and support mission readiness.

"(3) An identification of investments in infrastructure, including microgrids, required to strengthen energy resilience and mitigate risk due to grid disturbance.

"(4) Recommendations related to opportunities for the use of renewable energy, clean energy, nuclear energy, and energy storage projects to reduce dependence on natural gas.

"(5) An assessment of how the requirements and recommendations included pursuant to paragraphs (2) through (4) interact with the energy policies of the country where the base is located, both at present and into the future.

"(e) IMPLEMENTATION OF PLANS.—

"(1) DEADLINE FOR IMPLEMENTATION.—Not later than 30 days after the date on which the Secretary submits an installation energy plan for a base under subsection (c)(2), the Secretary shall—

"(A) begin implementing the plan; and

"(B) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the contents of the plan and the strategy of the Secretary for implementing the mitigation measures identified in the plan.

"(2) PRIORITIZATION OF CERTAIN PROJECTS.—In implementing an installation energy plan for a base under this section, the Secretary shall prioritize projects requested under section 2914 of title 10, United States Code, to mitigate assessed risks and improve energy resilience, energy security, and energy conservation at the base.

"(3) NONAPPLICATION OF CERTAIN OTHER AUTHORITIES.—Subsection (d) of section 2914

of title 10, United States Code, shall not apply with respect to any project carried out pursuant to this section or pursuant to an installation energy plan for a base under this section.

"(f) POLICY FOR FUTURE BASES.—The Secretary of Defense shall establish a policy to ensure that any new military base in the area of responsibility of the United States European Command is established in a manner that proactively includes the consideration of energy security, energy resilience, and mitigation of risk due to energy disruption.

"(g) ANNUAL CONGRESSIONAL BRIEFINGS.—The Secretary of Defense shall provide to the congressional defense committees annual briefings on the installation energy plans required under this section. Such briefings shall include an identification of each of the following:

"(1) The actions each operating base is taking to implement the installation energy plan for that base.

"(2) The progress that has been made toward reducing the reliance of United States bases on Russian energy.

"(3) The steps being taken and planned across the future-years defense program to meet the goal of eliminating reliance on Russian energy.

"(h) LIMITATION.—Of the funds authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2025 [Pub. L. 118–159, see Tables for classification] or otherwise made available for fiscal year 2025 for the Office of the Secretary of Defense for travel, not more than 75 percent may be obligated or expended until the submission of the installation energy plans and assessment required under subsection (c)(2)(A).

"(i) DEFINITION OF OPERATING BASE.—In this section, the term 'operating base' has the meaning of that term as used in the most recently submitted Global Defense Posture Report, as required to be submitted under section 113(g)(4)(A)(iii) of title 10, United States Code."

## ENERGY, WATER, AND WASTE NET-ZERO REQUIREMENT FOR MAJOR MILITARY INSTALLATIONS

Pub. L. 117–81, div. A, title III, §319(a), (d), Dec. 27, 2021, 135 Stat. 1633, 1634, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall improve military installation efficiency, performance, and management by ensuring that at least 10 percent of major military installations achieve energy net-zero and water or waste net-zero by fiscal year 2035.

"(d) MAJOR MILITARY INSTALLATION DEFINED.—In this section [enacting this note and provisions not set out in the Code], the term 'major military installation' has the meaning given to the term 'large site' in the most recent version of the Department of Defense Base Structure Report issued before the date of the enactment of this Act [Dec. 27, 2021]."

## LONG-DURATION DEMONSTRATION INITIATIVE AND JOINT PROGRAM

Pub. L. 117–81, div. A, title III, §321, Dec. 27, 2021, 135 Stat. 1635, provided that:

"(a) ESTABLISHMENT OF INITIATIVE.—Not later than March 1, 2022, the Secretary of Defense shall establish a demonstration initiative composed of demonstration projects focused on the development of long-duration energy storage technologies.

"(b) SELECTION OF PROJECTS.—To the maximum extent practicable, in selecting demonstration projects to participate in the demonstration initiative under subsection (a), the Secretary of Defense shall—

"(1) ensure a range of technology types;

"(2) ensure regional diversity among projects; and

"(3) consider bulk power level, distribution power level, behind-the-meter, microgrid (grid-connected or islanded mode), and off-grid applications.

"(c) JOINT PROGRAM.—

"(1) ESTABLISHMENT.—As part of the demonstration initiative under subsection (a), the Secretary of Defense, in consultation with the Secretary of Energy, shall establish within the Department of Defense a joint program to carry out projects—

"(A) to demonstrate promising long-duration energy storage technologies at different scales to promote energy resiliency; and

"(B) to help new, innovative long-duration energy storage technologies become commercially viable.

"(2) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall enter into a memorandum of understanding with the Secretary of Energy to administer the joint program.

"(3) INFRASTRUCTURE.—In carrying out the joint program, the Secretary of Defense and the Secretary of Energy shall—

"(A) use existing test-bed infrastructure at—

"(i) installations of the Department of Defense; and

"(ii) facilities of the Department of Energy; and

"(B) develop new infrastructure for identified projects, if appropriate.

"(4) GOALS AND METRICS.—The Secretary of Defense and the Secretary of Energy shall develop goals and metrics for technological progress under the joint program consistent with energy resilience and energy security policies.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—To the maximum extent practicable, in selecting projects to participate in the joint program, the Secretary of Defense and the Secretary of Energy may—

"(i) ensure that projects are carried out under conditions that represent a variety of environments with different physical conditions and market constraints; and

"(ii) ensure an appropriate balance of—

"(I) larger, operationally-scaled projects, adapting commercially-proven technology that meets military service defined requirements; and

"(II) smaller, lower-cost projects.

"(B) PRIORITY.—In carrying out the joint program, the Secretary of Defense and the Secretary of Energy shall give priority to demonstration projects that—

"(i) make available to the public project information that will accelerate deployment of long-duration energy storage technologies that promote energy resiliency; and

"(ii) will be carried out as field demonstrations fully integrated into the installation grid at an operational scale."

## PILOT PROGRAM TO TEST NEW SOFTWARE TO TRACK EMISSIONS AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 117–81, div. A, title III, §322, Dec. 27, 2021, 135 Stat. 1636, provided that:

"(a) IN GENERAL.—The Secretary of Defense may conduct a pilot program (to be known as the 'Installations Emissions Tracking Program') to evaluate the feasibility and effectiveness of software and emerging technologies and methodologies to track real-time emissions from military installations and installation assets.

"(b) GOALS.—The goals of the Installations Emissions Tracking Program shall be—

"(1) to evaluate the capabilities of software and emerging technologies and methodologies to effectively track emissions in real time; and

"(2) to reduce energy costs and increase efficiencies.

"(c) LOCATIONS.—If the Secretary conducts the Installations Emissions Tracking Program, the Secretary shall select, for purposes of the Program, four major military installations located in different geographical regions of the United States."

## DEPARTMENT OF DEFENSE PLAN TO REDUCE GREENHOUSE GAS EMISSIONS

Pub. L. 117–81, div. A, title III, §323, Dec. 27, 2021, 135 Stat. 1636, provided that:

"(a) PLAN REQUIRED.—Not later than September 30, 2022, the Secretary of Defense shall submit to Congress a plan to reduce the greenhouse gas emissions of the Department of Defense.

"(b) BRIEFINGS.—The Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate annual briefings on the progress of the Department of Defense toward meeting science-based emissions targets in the plan required by subsection (a)."

## IMPROVEMENT OF THE OPERATIONAL ENERGY CAPABILITY IMPROVEMENT FUND OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title III, §324, Jan. 1, 2021, 134 Stat. 3523, provided that:

"(a) MANAGEMENT OF THE OPERATIONAL ENERGY CAPABILITY IMPROVEMENT FUND .—The Assistant Secretary of Defense for Energy, Installations, and Environment shall exercise authority, direction, and control over the Operational Energy Capability Improvement Fund of the Department of Defense (in this section referred to as the 'OECIF').

"(b) ALIGNMENT AND COORDINATION WITH RELATED PROGRAMS.—

"(1) REALIGNMENT OF OECIF.—Not later than 60 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall realign the OECIF under the Assistant Secretary of Defense for Energy, Installations, and Environment, with such realignment to include personnel positions adequate for the mission of the OECIF.

"(2) BETTER COORDINATION WITH RELATED PROGRAMS.—The Assistant Secretary shall ensure that the placement under the authority of the Assistant Secretary of the OECIF along with the

Strategic Environmental Research Program, the Environmental Security Technology Certification Program, and the Operational Energy Prototyping Program is utilized to advance common goals of the Department, promote organizational synergies, and avoid unnecessary duplication of effort.

"(c) PROGRAM FOR OPERATIONAL ENERGY PROTOTYPING.—

"(1) IN GENERAL.—Commencing not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, through the Assistant Secretary of Defense for Energy, Installations, and Environment, shall carry out a program for the demonstration of technologies related to operational energy prototyping, including demonstration of operational energy technology and validation prototyping.

"(2) OPERATION OF PROGRAM.—The Secretary shall ensure that the program under paragraph (1) operates in conjunction with the OECIF to promote the transfer of innovative technologies that have successfully established proof of concept for use in production or in the field.

"(3) PROGRAM ELEMENTS.—In carrying out the program under paragraph (1) the Secretary shall—

"(A) identify and demonstrate the most promising, innovative, and cost-effective technologies and methods that address high-priority operational energy requirements of the Department of Defense;

"(B) in conducting demonstrations under subparagraph (A)—

"(i) collect cost and performance data to overcome barriers against employing an innovative technology because of concerns regarding technical or programmatic risk; and

"(ii) ensure that components of the Department have time to establish new requirements where necessary and plan, program, and budget for technology transition to programs of record;

"(C) utilize project structures similar to those of the OECIF to ensure transparency and accountability throughout the efforts conducted under the program; and

"(D) give priority, in conjunction with the OECIF, to the development and fielding of clean technologies that reduce reliance on fossil fuels.

"(4) TOOL FOR ACCOUNTABILITY AND TRANSITION.—

"(A) IN GENERAL.—In carrying out the program under paragraph (1) the Secretary shall develop and utilize a tool to track relevant investments in operational energy from applied research to transition to use to ensure user organizations have the full picture of technology maturation and development.

"(B) TRANSITION.—The tool developed and utilized under subparagraph (A) shall be designed to overcome transition challenges with rigorous and well-documented demonstrations that provide the information needed by all stakeholders for acceptance of the technology.

"(5) LOCATIONS.—

"(A) IN GENERAL.—The Secretary shall carry out the testing and evaluation phase of the program under paragraph (1) at installations of the Department of Defense or in conjunction with exercises conducted by the Joint Staff, a combatant command, or a military department.

"(B) FORMAL DEMONSTRATIONS.—The Secretary shall carry out any formal demonstrations under the program under paragraph (1) at installations of the Department or in operational settings to document and validate improved warfighting performance and cost savings."

## IMPROVED ELECTRICAL METERING OF DEPARTMENT OF DEFENSE INFRASTRUCTURE SUPPORTING CRITICAL MISSIONS

Pub. L. 116–283, div. B, title XXVIII, §2826, Jan. 1, 2021, 134 Stat. 4334, provided that:

"(a) OPTIONS TO IMPROVE ELECTRICAL METERING.—The Secretary of Defense and the Secretaries of the military departments shall improve the metering of electrical energy usage of covered defense structures to accurately determine energy consumption by such a structure to increase energy efficiency and improve energy resilience, using any combination of the options specified in subsection (b) or such other methods as the Secretary concerned considers practicable.

"(b) METERING OPTIONS.—Electrical energy usage options to be considered for a covered defense structure include the following:

"(1) Installation of a smart meter at the electric power supply cable entry point of the covered defense structure, with remote data storage and retrieval capability using cellular communication, to provide historical energy usage data on an hourly basis to accurately determine the optimum cost effective energy efficiency and energy resilience measures for the covered defense structure.

"(2) Use of an energy usage audit firm to individually meter the covered defense structure using clamp-on meters and data storage to provide year–long electric energy load profile data, particularly in the

case of a covered defense structure located in climates with highly variable use based on weather or temperature changes, to accurately identify electric energy usage demand for both peak and off peak periods for a covered defense structure.

"(3) Manual collection and calculation of the connected load via nameplate data survey of all the connected electrical devices for the covered defense structure and comparison of such data to the designed maximum rating of the incoming electric supply to determine the maximum electrical load for the covered defense structure.

"(c) CYBERSECURITY.—The Secretary of Defense and the Secretaries of the military departments shall consult with the Chief Information Officer of the Department of Defense to ensure that the electrical energy metering options considered under subsection (b) do not compromise the cybersecurity of Department of Defense networks.

"(d) CONSIDERATION OF PARTNERSHIPS.—The Secretary of Defense and the Secretaries of the military departments shall consider the use of arrangements (known as public-private partnerships) with appropriate entities outside the Government to reduce the cost of carrying out this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered defense structure' means any infrastructure under the jurisdiction of the Department of Defense inside the United States that the Secretary of Defense or the Secretary of the military department concerned determines—

"(A) is used to support a critical mission of the Department; and

"(B) is located at a military installation with base-wide resilient power.

"(2) The term 'energy resilience' has the meaning given that term in section 101(e)(6) of title 10, United States Code [now 10 U.S.C. 101(f)(6)].

"(f) IMPLEMENTATION REPORT.—As part of the Department of Defense energy management report to be submitted under section 2925 of title 10, United States Code, during fiscal year 2022, the Secretary of Defense shall include information on the progress being made to comply with the requirements of this section."

## PILOT PROGRAM TO TEST USE OF EMERGENCY DIESEL GENERATORS IN A MICROGRID CONFIGURATION AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 116–283, div. B, title XXVIII, §2864, Jan. 1, 2021, 134 Stat. 4359, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a pilot program (to be known as the 'Emergency Diesel Generator Microgrid Program') to evaluate the feasibility and cost effectiveness of connecting existing diesel generators at a military installation selected pursuant to subsection (c) to create and support one or more microgrid configurations at the installation capable of providing full-scale electrical power for the defense critical facilities located at the installation during an emergency involving the loss of external electric power supply caused by an extreme weather condition, manmade intentional infrastructure damage, or other circumstance.

"(b) GOALS OF PILOT PROGRAM.—The goals of the Emergency Diesel Generator Microgrid Program are—

"(1) to test assumptions about lower operating and maintenance costs, parts interchangeability, lower emissions, lower fuel usage, increased resiliency, increased reliability, and reduced need for emergency diesel generators; and

"(2) to establish design criteria that could be used to build and sustain emergency diesel generator microgrids at other military installations.

"(c) PILOT PROGRAM LOCATIONS.—As the locations to conduct the Emergency Diesel Generator Microgrid Program, the Secretary of Defense shall select two major military installations located in different geographical regions of the United States that the Secretary determines—

"(1) are defense critical electric infrastructure sites or contain, or are served by, defense critical electric infrastructure;

"(2) contain more than one defense critical function for national defense purposes and the mission assurance of such critical defense facilities are paramount to maintaining national defense and force projection capabilities at all times; and

"(3) face unique electric energy supply, delivery, and distribution challenges that, based on the geographic location of the installations and the overall physical size of the installations, adversely impact rapid electric infrastructure restoration after an interruption.

"(d) SPECIFICATIONS OF DIESEL GENERATORS AND MICROGRID.—

"(1) GENERATOR SPECIFICATIONS.—The Secretary of Defense shall use existing diesel generators that are sized >/= 750kW output.

"(2) MICROGRID SPECIFICATIONS.—The Secretary of Defense shall create the microgrid using commercially available and proven designs and technologies. The existing diesel generators used for the microgrid should be spaced within 1.0 to 1.5 mile of each other and, using a dedicated underground electric cable network, be tied into a microgrid configuration sufficient to supply mission critical facilities within the service area of the microgrid. A selected military installation may contain more than one such microgrid under the Emergency Diesel Generator Microgrid Program.

"(e) PROGRAM AUTHORITIES.—The Secretary of Defense may use the authority under section 2914 of title 10, United States Code (known as the Energy Resilience and Conservation Investment Program), and energy savings performance contracts to conduct the Emergency Diesel Generator Microgrid Program.

"(f) DEFINITIONS.—For purposes of the Emergency Diesel Generator Microgrid Program:

"(1) The term 'defense critical electric infrastructure' has the meaning given that term in section 215A of the Federal Power Act (16 U.S.C. 824o–1).

"(2) The term 'energy savings performance contract' has the meaning given that term in section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)).

"(3) The term 'existing diesel generators' means diesel generators located, as of the date of the enactment of this Act [Jan. 1, 2021], at a major military installation selected as a location for the Emergency Diesel Generator Microgrid Program and intended for emergency use.

"(4) The term 'major military installation' has the meaning given that term in section 2864 of title 10, United States Code."

## PILOT PROGRAM FOR AVAILABILITY OF WORKING-CAPITAL FUNDS FOR INCREASED COMBAT CAPABILITY THROUGH ENERGY OPTIMIZATION

Pub. L. 116–92, div. A, title III, §337, Dec. 20, 2019, 133 Stat. 1316, provided that:

"(a) IN GENERAL.—Notwithstanding section 2208 of title 10, United States Code, the Secretary of Defense and the military departments may use a working capital fund established pursuant to that section for expenses directly related to conducting a pilot program for energy optimization initiatives described in subsection (b).

"(b) ENERGY OPTIMIZATION INITIATIVES.—Energy optimization initiatives covered by the pilot program include the research, development, procurement, installation, and sustainment of technologies or weapons system platforms, and the manpower required to do so, that would improve the efficiency and maintainability, extend the useful life, lower maintenance costs, or provide performance enhancement of the weapon system platform or major end item.

"(c) LIMITATION ON CERTAIN PROJECTS.—Funds may not be used pursuant to subsection (a) for—

"(1) any product improvement that significantly changes the performance envelope of an end item; or

"(2) any single component with an estimated total cost in excess of $10,000,000.

"(d) LIMITATION IN FISCAL YEAR PENDING TIMELY REPORT.—If during any fiscal year the report required by paragraph (1) of subsection (e) is not submitted by the date specified in paragraph (2) of that subsection, funds may not be used pursuant to subsection (a) during the period—

"(1) beginning on the date specified in such paragraph (2); and

"(2) ending on the date of the submittal of the report.

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary of Defense shall submit an annual report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the use of the authority under subsection (a) during the preceding fiscal year.

"(2) DEADLINE FOR SUBMITTAL.—The report required by paragraph (1) in a fiscal year shall be submitted not later than 60 days after the date of the submittal to Congress of the budget of the President for the succeeding fiscal year pursuant to section 1105 of title 31, United States Code.

"(3) RECOMMENDATION.—In the case of the report required to be submitted under paragraph (1) during fiscal year 2020, the report shall include the recommendation of the Secretary of Defense and the military departments regarding whether the authority under subsection (a) should be made permanent.

"(f) SUNSET.—The authority under subsection (a) shall expire on October 1, 2024."

## AGGREGATION OF ENERGY EFFICIENCY AND ENERGY RESILIENCE PROJECTS IN LIFE CYCLE COST ANALYSES

Pub. L. 115–91, div. B, title XXVIII, §2837, Dec. 12, 2017, 131 Stat. 1859, provided that: "The Secretary of Defense or the Secretary of a military department, when conducting life cycle cost analyses with respect to investments designed to lower costs and reduce energy and water consumption, shall aggregate energy efficiency projects and energy resilience improvements as appropriate."

## ENERGY SECURITY FOR MILITARY INSTALLATIONS IN EUROPE

Pub. L. 116–92, div. B, title XXVIII, §2821(a)–(c), Dec. 20, 2019, 133 Stat. 1888, provided that:

"(a) PROHIBITION ON USE OF CERTAIN ENERGY SOURCE.—The Secretary of Defense shall ensure that each contract for the acquisition of furnished energy for a covered military installation in Europe does not use any energy sourced from inside the Russian Federation as a means of generating the furnished energy for the covered military installation.

"(b) WAIVER FOR NATIONAL SECURITY INTERESTS.—

"(1) WAIVER AUTHORITY; CERTIFICATION.—The Secretary of Defense may waive application of subsection (a) to a specific contract for the acquisition of furnished energy for a covered military installation if the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that—

"(A) the waiver of such subsection is necessary to ensure an adequate supply of furnished energy for the covered military installation; and

"(B) the Secretary has balanced these national security requirements against the potential risk associated with reliance upon the Russian Federation for furnished energy.

"(2) SUBMISSION OF WAIVER NOTICE.—Not later than 14 days before the execution of any energy contract for which a waiver is granted under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of the waiver. The waiver notice shall include the following:

"(A) The rationale for the waiver, including the basis for the certifications required by subparagraphs (A) and (B) of paragraph (1).

"(B) An assessment of how the waiver may impact the European energy resiliency strategy.

"(C) An explanation of the measures the Department of Defense is taking to mitigate the risk of using Russian Federation furnished energy.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered military installation' means a military installation in Europe identified by the Department of Defense as a main operating base.

"(2) The term 'furnished energy' means energy furnished to a covered military installation in any form and for any purpose, including heating, cooling, and electricity."

Pub. L. 115–91, div. B, title XXVIII, §2880, Dec. 12, 2017, 131 Stat. 1875, provided that:

"(a) AUTHORITY.—The Secretary of Defense shall take appropriate measures, to the extent practicable, to—

"(1) reduce the dependency of all United States military installations in Europe on energy sourced inside Russia; and

"(2) ensure that all United States military installations in Europe are able to sustain operations in the event of a supply disruption.

"(b) CERTIFICATION REQUIREMENT.—Not later than December 31, 2021, the Secretary of Defense shall certify to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] whether or not at United States military installations in Europe the Department of Defense—

"(1) has taken significant steps to minimize to the extent practicable the dependency on energy sourced inside the Russian Federation at such installations; and

"(2) has the ability to sustain mission critical operations during an energy supply disruption.

"(c) DEFINITION OF ENERGY SOURCES INSIDE RUSSIA.—In this section, the term 'energy sourced inside Russia' means energy that is produced, owned, or facilitated by companies that are located in the Russian Federation or owned or controlled by the Government of the Russian Federation."

## BUSINESS CASE ANALYSIS OF ANY PLAN TO DESIGN, REFURBISH, OR CONSTRUCT A BIOFUEL REFINERY

Pub. L. 113–291, div. A, title III, §314, Dec. 19, 2014, 128 Stat. 3338, provided that: "Not later than 30 days before entering into a contract for the planning, design, refurbishing, or construction of a biofuel refinery, or of any other facility or infrastructure used to refine biofuels, the Secretary of Defense or the Secretary of the military department concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a business case analysis for such planning, design, refurbishing, or construction."

## GUIDANCE ON FINANCING FOR RENEWABLE ENERGY PROJECTS

Pub. L. 112–239, div. B, title XXVIII, §2824, Jan. 2, 2013, 126 Stat. 2153, as amended by Pub. L. 113–291,

div. A, title IX, §901(n)(2), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 116–92, div. A, title IX, §902(81), Dec. 20, 2019, 133 Stat. 1553, provided that:

"(a) GUIDANCE ON USE OF AVAILABLE FINANCING APPROACHES.—

"(1) ISSUANCE.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall—

"(A) issue guidance about the use of available financing approaches for financing renewable energy projects; and

"(B) direct the Secretaries of the military departments to update their military department-wide guidance accordingly.

"(2) ELEMENTS.—The guidance issued pursuant to paragraph (1) should describe the requirements and restrictions applicable to the underlying authorities and any Department of Defense-specific guidelines for using appropriated funds and alternative-financing approaches for renewable energy projects to maximize cost savings and energy efficiency for the Department of Defense.

"(b) GUIDANCE ON USE OF BUSINESS CASE ANALYSES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance that establishes and clearly describes the processes used by the military departments to select financing approaches for renewable energy projects to ensure that business case analyses are completed to maximize cost savings and energy efficiency and mitigate drawbacks and risks associated with different financing approaches.

"(c) INFORMATION SHARING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop a formalized communications process, such as a shared Internet website, that will enable officials at military installations to have timely access on an ongoing basis to information related to financing renewable energy projects on other installations, including best practices and lessons that officials at other installations have learned from their experiences in financing renewable energy projects.

"(d) CONSULTATION.—The Secretary of Defense shall issue the guidance under subsections (a) and (b) and develop the communications process under subsection (c) in consultation with the Under Secretary of Defense for Acquisition and Sustainment. The Secretary of Defense shall also issue the guidance under subsection (b) in consultation with the Secretaries of the military departments."

## ENERGY-EFFICIENT TECHNOLOGIES IN CONTRACTS FOR LOGISTICS SUPPORT OF CONTINGENCY OPERATIONS

Pub. L. 112–81, div. A, title III, §315, Dec. 31, 2011, 125 Stat. 1357, as amended by Pub. L. 116–92, div. A, title IX, §902(82), title XVII, §1731(e), Dec. 20, 2019, 133 Stat. 1553, 1816, provided that:

"(a) ENERGY PERFORMANCE MASTER PLAN.—The energy performance master plan for the Department of Defense developed under section 2911 of title 10, United States Code, shall specifically address the application of energy-efficient or energy reduction technologies or processes meeting the requirements of subsection (b) in logistics support contracts for contingency operations. In accordance with the requirements of such section, the plan shall include goals, metrics, and incentives for achieving energy efficiency in such contracts.

"(b) REQUIREMENTS FOR ENERGY TECHNOLOGIES AND PROCESSES.—Energy-efficient and energy reduction technologies or processes described in subsection (a) are technologies or processes that meet the following criteria:

"(1) The technology or process achieves long-term savings for the Government by reducing overall demand for fuel and other sources of energy in contingency operations.

"(2) The technology or process does not disrupt the mission, the logistics, or the core requirements in the contingency operation concerned.

"(3) The technology or process is able to integrate seamlessly into the existing infrastructure in the contingency operation concerned.

"(c) REGULATIONS AND GUIDANCE.—The Under Secretary of Defense for Acquisition and Sustainment shall issue such regulations and guidance as may be needed to implement the requirements of this section and ensure that goals established pursuant to subsection (a) are met. Such regulations or guidance shall consider the lifecycle cost savings associated with the energy technology or process being offered by a vendor for defense logistics support and oblige the offeror to demonstrate the savings achieved over traditional technologies.

"(d) REPORT.—The annual report required by section 2925(b) of title 10, United States Code [as amended by Pub. L. 117–263, §314(b)(1)(B), section 2925(b) of this title relates to elements in reports required by section 2925(a) of this title], shall include information on the progress in the implementation of this section, including savings achieved by the Department resulting from such implementation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'defense logistics support contract' means a contract for services, or a task order under such a contract, awarded by the Department of Defense to provide logistics support during times of military mobilizations, including contingency operations, in any amount greater than the simplified acquisition threshold.

"(2) The term 'contingency operation' has the meaning provided in section 101(a)(13) of title 10, United States Code."

[Pub. L. 116–92, div. A, title XVII, §1731(e), Dec. 20, 2019, 133 Stat. 1816, provided that the amendment made by section 1731(e) to section 315 of Pub. L. 112–81, set out above, is effective as of Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted. Consequently, the amendment made by section 902(82) of Pub. L. 116–92, which was directed to subsec. (d), was executed to subsec. (c) as redesignated by section 1731(e), to reflect the probable intent of Congress.]

## POLICY OF PURSUING ENERGY SECURITY

Pub. L. 112–81, div. B, title XXVIII, §2822(a), Dec. 31, 2011, 125 Stat. 1691, provided that:

"(1) POLICY REQUIRED.—Not later than 180 days after the date of enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall establish a policy for military installations that includes the following:

"(A) Favorable consideration for energy security in the design and development of energy projects on the military installation that will use renewable energy sources.

"(B) Guidance for commanders of military installations inside the United States on planning measures to minimize the effects of a disruption of services by a utility that sells natural gas, water, or electric energy to those installations in the event that a disruption occurs.

"(2) NOTIFICATION.—The Secretary of Defense shall provide notification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 30 days after entering into any agreement for a facility energy project described in paragraph (1)(A) that excludes pursuit of energy security on the grounds that inclusion of energy security is cost prohibitive. The Secretary shall also provide a cost-benefit-analysis of the decision.

"(3) ENERGY SECURITY DEFINED.—In this subsection, the term 'energy security' has the meaning given that term in [former] paragraph (3) of section 2924 of title 10, United States Code, as added by section 2821(a)."

## DEADLINE FOR CONGRESSIONAL NOTIFICATION

Pub. L. 112–81, div. B, title XXVIII, §2823(b), Dec. 31, 2011, 125 Stat. 1692, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the interim renewable energy goal established pursuant to the amendment made by subsection (a) [amending this section]."

## DEPARTMENT OF DEFENSE TO CAPTURE AND TRACK DATA GENERATED IN METERING DEPARTMENT FACILITIES

Pub. L. 112–81, div. B, title XXVIII, §2827, Dec. 31, 2011, 125 Stat. 1694, provided that: "The Secretary of Defense shall require that the information generated by the installation energy meters be captured and tracked to determine baseline energy consumption and facilitate efforts to reduce energy consumption."

## TRAINING POLICY FOR DEPARTMENT OF DEFENSE ENERGY MANAGERS

Pub. L. 112–81, div. B, title XXVIII, §2829, Dec. 31, 2011, 125 Stat. 1694, provided that:

"(a) ESTABLISHMENT OF TRAINING POLICY.—The Secretary of Defense shall establish a training policy for Department of Defense energy managers designated for military installations in order to—

"(1) improve the knowledge, skills, and abilities of energy managers by ensuring understanding of existing energy laws, regulations, mandates, contracting options, local renewable portfolio standards, current renewable energy technology options, energy auditing, and options to reduce energy consumption;

"(2) improve consistency among energy managers throughout the Department in the performance of their responsibilities;

"(3) create opportunities and forums for energy managers to exchange ideas and lessons learned within each military department, as well as across the Department of Defense; and

"(4) collaborate with the Department of Energy regarding energy manager training.

"(b) ISSUANCE OF POLICY.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall issue the training policy for Department of Defense energy managers. In creating the policy, the Secretary shall consider the best practices and certifications available in either the military services or in the private sector.

"(c) BRIEFING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, or designated representatives of the Secretary, shall brief the Committees on Armed Services of the Senate and House of Representatives regarding the details of the energy manager policy."

## PILOT PROGRAM ON COLLABORATIVE ENERGY SECURITY

Pub. L. 111–383, div. A, title II, §242, Jan. 7, 2011, 124 Stat. 4176, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense, in coordination with the Secretary of Energy, may carry out a collaborative energy security pilot program involving one or more partnerships between one military installation and one national laboratory, for the purpose of evaluating and validating secure, salable microgrid components and systems for deployment.

"(b) SELECTION OF MILITARY INSTALLATION AND NATIONAL LABORATORY.—If the Secretary of Defense carries out a pilot program under this section, the Secretary of Defense and the Secretary of Energy shall jointly select a military installation and a national laboratory for the purpose of carrying out the pilot program. In making such selections, the Secretaries shall consider each of the following:

"(1) A commitment to participate made by a military installation being considered for selection.

"(2) The findings and recommendations of relevant energy security assessments of military installations being considered for selection.

"(3) The availability of renewable energy sources at a military installation being considered for selection.

"(4) Potential synergies between the expertise and capabilities of a national laboratory being considered for selection and the infrastructure, interests, or other energy security needs of a military installation being considered for selection.

"(5) The effects of any utility tariffs, surcharges, or other considerations on the feasibility of enabling any excess electricity generated on a military installation being considered for selection to be sold or otherwise made available to the local community near the installation.

"(c) PROGRAM ELEMENTS.—A pilot program under this section shall be carried out as follows:

"(1) Under the pilot program, the Secretaries shall evaluate and validate the performance of new energy technologies that may be incorporated into operating environments.

"(2) The pilot program shall involve collaboration with the Office of Electricity Delivery and Energy Reliability of the Department of Energy and other offices and agencies within the Department of Energy, as appropriate, and the Environmental Security Technical Certification Program of the Department of Defense.

"(3) Under the pilot program, the Secretary of Defense shall investigate opportunities for any excess electricity created for the military installation to be sold or otherwise made available to the local community near the installation.

"(4) The Secretary of Defense shall use the results of the pilot program as the basis for informing key performance parameters and validating energy components and designs that could be implemented in various military installations across the country and at forward operating bases.

"(5) The pilot program shall support the effort of the Secretary of Defense to use the military as a test bed to demonstrate innovative energy technologies.

"(d) IMPLEMENTATION AND DURATION.—If the Secretary of Defense carries out a pilot program under this section, such pilot program shall begin by not later than July 1, 2011, and shall be not less than three years in duration.

"(e) REPORTS.—

"(1) INITIAL REPORT.—If the Secretary of Defense carries out a pilot program under this section, the Secretary shall submit to the appropriate congressional committees by not later than October 1, 2011, an initial report that provides an update on the implementation of the pilot program, including an identification of the selected military installation and national laboratory partner and a description of technologies under evaluation.

"(2) FINAL REPORT.—Not later than 90 days after completion of a pilot program under this section, the Secretary shall submit to the appropriate congressional committees a report on the pilot program, including any findings and recommendations of the Secretary.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Science and Technology [now Committee on Science, Space, and Technology] of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) The term 'microgrid' means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators, energy storage devices, and smart controls) that can operate with the utility grid or in an intentional islanding mode.

"(3) The term 'national laboratory' means—

"(A) a national laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)); or

"(B) a national security laboratory (as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471))."

## ENERGY SECURITY ON DEPARTMENT OF DEFENSE INSTALLATIONS

Pub. L. 111–84, div. A, title III, §335, Oct. 28, 2009, 123 Stat. 2259, provided that:

"(a) PLAN FOR ENERGY SECURITY REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall develop a plan for identifying and addressing areas in which the electricity needed to carry out critical military missions on Department of Defense installations is vulnerable to disruption.

"(2) ELEMENTS.—The plan developed under paragraph (1) shall include, at a minimum, the following:

"(A) An identification of the areas of vulnerability as described in paragraph (1), and an identification of priorities in addressing such areas of vulnerability.

"(B) A schedule for the actions to be taken by the Department to address such areas of vulnerability.

"(C) A strategy for working with other public or private sector entities to address such areas of vulnerability that are beyond the control of the Department.

"(D) An estimate of and consideration for the costs to the Department associated with implementation of the strategy.

"(b) WORK WITH NON-DEPARTMENT OF DEFENSE ENTITIES.—The Secretary of Defense shall work with other Federal entities, and with State and local government entities, to develop any regulations or other mechanisms needed to require or encourage actions to address areas of vulnerability identified pursuant to the plan developed under subsection (a) that are beyond the control of the Department of Defense."

## CONSIDERATION OF FUEL LOGISTICS SUPPORT REQUIREMENTS IN PLANNING, REQUIREMENTS DEVELOPMENT, AND ACQUISITION PROCESSES

Pub. L. 110–417, [div. A], title III, §332, Oct. 14, 2008, 122 Stat. 4420, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(5), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 118–31, div. A, title III, §315, Dec. 22, 2023, 137 Stat. 217, provided that:

"(a) PLANNING.—In the case of analyses and force planning processes that are used to establish capability requirements and inform acquisition decisions, the Secretary of Defense shall require that analyses and force planning processes consider the requirements for, and vulnerability of, fuel logistics.

"(b) CAPABILITY REQUIREMENTS DEVELOPMENT PROCESS.—

"(1) IN GENERAL [sic].—The Secretary of Defense shall develop and implement a methodology to enable the implementation of a fuel efficiency key performance parameter in the requirements development process for the modification of existing or development of new fuel consuming systems.

"(2) WAIVER OF FUEL EFFICIENCY KEY PERFORMANCE PARAMETER.—

"(A) IN GENERAL.—The fuel efficiency key performance parameter implemented pursuant to paragraph (1) may be waived with respect to a system only if—

"(i) such waiver is approved by the Under Secretary of Defense for Acquisition and Sustainment; and

"(ii) the system is a fuel consuming system that the Under Secretary of Defense for Acquisition and Sustainment determines requires, or is likely to require, sustainment on at least an occasional basis.

"(B) NONDELEGATION.—The authority to approve a waiver under subparagraph (A) may not be delegated.

"(c) ACQUISITION PROCESS.—The Secretary of Defense shall require that the life-cycle cost analysis for new capabilities include the fully burdened cost of fuel during analysis of alternatives and evaluation of alternatives and acquisition program design trades.

"(d) IMPLEMENTATION PLAN.—The Secretary of Defense shall prepare a plan for implementing the requirements of this section. The plan shall be completed not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008] and provide for the implementation of the requirements by not later than

three years after the date of the enactment of this Act.

"(e) PROGRESS REPORT.—Not later than two years after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing progress made to implement the requirements of this section, including an assessment of whether the implementation plan required by subsection (d) is being carried out on schedule.

"(f) NOTIFICATION OF COMPLIANCE.—As soon as practicable during the three-year period beginning on the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall notify the congressional defense committees that the Secretary has complied with the requirements of this section. If the Secretary is unable to provide the notification, the Secretary shall submit to the congressional defense committees at the end of the three-year period a report containing—

"(1) an explanation of the reasons why the requirements, or portions of the requirements, have not been implemented; and

"(2) a revised plan under subsection (d) to complete implementation or a rationale regarding why portions of the requirements cannot or should not be implemented.

"(g) FULLY BURDENED COST OF FUEL DEFINED.—In this section, the term 'fully burdened cost of fuel' means the commodity price for fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the fuel is received from the commercial supplier to the point of use."

## MITIGATION OF POWER OUTAGE RISKS FOR DEPARTMENT OF DEFENSE FACILITIES AND ACTIVITIES

Pub. L. 110–417, [div. A], title III, §335, Oct. 14, 2008, 122 Stat. 4422, as amended by Pub. L. 114–92, div. A, title X, §1079(d)(1), Nov. 25, 2015, 129 Stat. 999, provided that:

"(a) RISK ASSESSMENT.—The Secretary of Defense shall conduct a comprehensive technical and operational risk assessment of the risks posed to mission critical installations, facilities, and activities of the Department of Defense by extended power outages resulting from failure of the commercial electricity supply or grid and related infrastructure.

"(b) RISK MITIGATION PLANS.—

"(1) IN GENERAL.—The Secretary of Defense shall develop integrated prioritized plans to eliminate, reduce, or mitigate significant risks identified in the risk assessment under subsection (a).

"(2) ADDITIONAL CONSIDERATIONS.—In developing the risk mitigation plans under paragraph (1), the Secretary of Defense shall—

"(A) prioritize the mission critical installations, facilities, and activities that are subject to the greatest and most urgent risks; and

"(B) consider the cost effectiveness of risk mitigation options."

## USE OF ENERGY EFFICIENT LIGHTING FIXTURES AND BULBS IN DEPARTMENT OF DEFENSE FACILITIES

Pub. L. 110–181, div. B, title XXVIII, §2863, Jan. 28, 2008, 122 Stat. 560, provided that:

"(a) CONSTRUCTION AND ALTERATION OF BUILDINGS.—Each building constructed or significantly altered by the Secretary of Defense or the Secretary of a military department shall be equipped, to the maximum extent feasible as determined by the Secretary concerned, with lighting fixtures and bulbs that are energy efficient.

"(b) MAINTENANCE OF BUILDINGS.—Each lighting fixture or bulb that is replaced in the normal course of maintenance of buildings under the jurisdiction of the Secretary of Defense or the Secretary of a military department shall be replaced, to the maximum extent feasible as determined by the Secretary concerned, with a lighting fixture or bulb that is energy efficient.

"(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Secretary of Defense or the Secretary of a military department shall consider—

"(1) the life cycle cost effectiveness of the fixture or bulb;

"(2) the compatibility of the fixture or bulb with existing equipment;

"(3) whether use of the fixture or bulb could result in interference with productivity;

"(4) the aesthetics relating to use of the fixture or bulb; and

"(5) such other factors as the Secretary concerned determines appropriate.

"(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

"(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a); or

"(2) the Secretary of Defense or the Secretary of a military department has otherwise determined that the fixture or bulb is energy efficient.

"(e) SIGNIFICANT ALTERATIONS.—A building shall be treated as being significantly altered for purposes of subsection (a) if the alteration is subject to congressional authorization under section 2802 of title 10, United States Code.

"(f) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirements of this section if the Secretary determines that such a waiver is necessary to protect the national security interests of the United States.

"(g) EFFECTIVE DATE.—The requirements of subsections (a) and (b) shall take effect one year after the date of the enactment of this Act [Jan. 28, 2008]."

## REPORTING REQUIREMENTS RELATING TO RENEWABLE ENERGY USE BY DEPARTMENT OF DEFENSE TO MEET DEPARTMENT ELECTRICITY NEEDS

Pub. L. 110–181, div. B, title XXVIII, §2864, Jan. 28, 2008, 122 Stat. 561, related to reporting requirements relating to renewable energy use by Department of Defense to meet Department electricity needs, prior to repeal by Pub. L. 113–66, div. A, title X, §1084(b)(2)(B), Dec. 26, 2013, 127 Stat. 872.

## UTILIZATION OF FUEL CELLS AS BACK-UP POWER SYSTEMS IN DEPARTMENT OF DEFENSE OPERATIONS

Pub. L. 109–364, div. A, title III, §358, Oct. 17, 2006, 120 Stat. 2164, provided that: "The Secretary of Defense shall consider the utilization of fuel cells as replacements for current back-up power systems in a variety of Department of Defense operations and activities, including in telecommunications networks, perimeter security, individual equipment items, and remote facilities, in order to increase the operational longevity of back-up power systems and stand-by power systems in such operations and activities."

## ENERGY EFFICIENCY IN WEAPONS PLATFORMS

Pub. L. 109–364, div. A, title III, §360(a), Oct. 17, 2006, 120 Stat. 2164, provided that: "It shall be the policy of the Department of Defense to improve the fuel efficiency of weapons platforms, consistent with mission requirements, in order to—

"(1) enhance platform performance;

"(2) reduce the size of the fuel logistics systems;

"(3) reduce the burden high fuel consumption places on agility;

"(4) reduce operating costs; and

"(5) dampen the financial impact of volatile oil prices."

## DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAM

Pub. L. 107–107, div. A, title III, §317, Dec. 28, 2001, 115 Stat. 1054, directed the Secretary of Defense to carry out a program to significantly improve the energy efficiency of facilities of the Department of Defense through 2010 and to submit annual reports to the congressional defense committees through 2010 regarding the progress made toward achieving the energy efficiency goals.

# EXECUTIVE DOCUMENTS

## EX. ORD. NO. 13972. PROMOTING SMALL MODULAR REACTORS FOR NATIONAL DEFENSE AND SPACE EXPLORATION

Ex. Ord. No. 13972, Jan. 5, 2021, 86 F.R. 3727, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. Nuclear energy is critical to United States national security. That is why I have taken a series of actions to promote its development and facilitate its use. On June 29, 2017, I announced an initiative to revive and expand the nuclear energy sector and directed a complete review of United States nuclear energy policy to help find new ways to revitalize this crucial energy resource. On July 12, 2019, I signed a Presidential Memorandum entitled "The Effect of Uranium Imports on the National Security and Establishment of the United States Nuclear Fuel Working Group," with the goal of examining the current state of domestic nuclear fuel production and reinvigorating the nuclear fuel supply chain, consistent with United States national security and nonproliferation goals. On August 20, 2019, I signed National Security

Presidential Memorandum–20, entitled "Launch of Spacecraft Containing Space Nuclear Systems," calling for development and use of space nuclear systems to enable or enhance space exploration and operational capabilities.

The purpose of this order is to take an important additional step to revitalize the United States nuclear energy sector, reinvigorate America's space exploration program, and develop diverse energy options for national defense needs. Under this action, the United States Government will coordinate its nuclear activities to apply the benefits of nuclear energy most effectively toward American technology supremacy, including the use of small modular reactors for national defense and space exploration. This work is critical to advancing my Administration's priorities for the United States to lead in research, technology, invention, innovation, and advanced technology development; its mission to promote and protect the United States national security innovation base; its drive to secure energy dominance; and its commitment to achieving all of these goals in a manner consistent with the highest nuclear nonproliferation standards.

The United States was the first nation to invent and develop the technology to harness nuclear energy. Since the 1950s, the United States Navy has been operating and advancing transportable nuclear reactors, resulting in powerfully enhanced marine propulsion for its aircraft carriers and allowing nuclear-powered submarines to remain submerged for extended periods of time.

The United States must sustain its ability to meet the energy requirements for its national defense and space exploration initiatives. The ability to use small modular reactors will help maintain and advance United States dominance and strategic leadership across the space and terrestrial domains.

SEC. 2. *Policy*. It is the policy of the United States to promote advanced reactor technologies, including small modular reactors, to support defense installation energy flexibility and energy security, and for use in space exploration, guided by the following principles:

(a) A healthy and robust nuclear energy industry is critical to the national security, energy security, and economic prosperity of the United States;

(b) The United States should maintain technology supremacy for nuclear research and development, manufacturing proficiency, and security and safety; and

(c) The United States Government should bolster national defense and space exploration capabilities and enable private-sector innovation of advanced reactor technologies.

SEC. 3. *Demonstration of Commercial Reactors to Enhance Energy Flexibility at a Defense Installation*. (a) Micro-reactors have the potential to enhance energy flexibility and energy security at domestic military installations in remote locations. Accordingly, the Secretary of Defense shall, within 180 days of the date of this order [Jan. 5, 2021], establish and implement a plan to demonstrate the energy flexibility capability and cost effectiveness of a Nuclear Regulatory Commission-licensed micro-reactor at a domestic military installation.

(b) If the demonstration is successful, the Secretary of Defense shall identify opportunities at domestic military installations where this capability could enhance or supplement the fulfillment of installation energy requirements. In identifying these opportunities, the Secretary of Defense shall take into account considerations that are unique to national defense needs and requirements that may not be relevant in the private sector, such as:

(i) the ability to provide resilient, independent energy delivery to installations in the event that connections to an electrical grid are compromised;

(ii) the ability to operate for an extended period of time without refueling;

(iii) system resistance to disruption from an electro-magnetic pulse event; and

(iv) system cybersecurity requirements.

SEC. 4. *Defense Capabilities*. (a) The Department of Defense is one of the largest consumers of energy in the world, using more than 10 million gallons of fuel per day and 30,000 gigawatt-hours of electricity per year, nearly all of which is provided through civilian electrical grids. Fuel demands for a modern United States military have dramatically grown since World War II and are anticipated to continue to increase in order to support high-energy-usage military systems. In this context, nuclear power could significantly enhance national defense power capabilities.

(b) The Secretary of Defense shall, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Energy, and the Administrator of the National Aeronautics and Space Administration (NASA Administrator):

(i) determine whether advanced nuclear reactors can be made to benefit Department of Defense future space power needs;

(ii) pilot a transportable micro-reactor prototype;

(iii) direct an analysis of alternatives for personnel, regulatory, and technical requirements to inform future decisions with respect to nuclear power usage; and

(iv) direct an analysis of United States military uses for space nuclear power and propulsion technologies and an analysis of foreign adversaries' space power and propulsion programs.

SEC. 5. *Space Exploration*. (a) Nuclear power sources that use uranium fuel or plutonium heat sources are essential to deep space exploration and in areas where solar power is not practical. NASA uses radioisotope power systems, such as radioisotope thermoelectric generators and radioisotope heater units, to provide power and heat for deep space robotic missions. Nuclear power sources in the kilowatt range may be needed for demonstrating In-situ Resource Utilization (ISRU) and robotic exploration of permanently shadowed craters on the Moon that contain frozen water. Nuclear reactors up to 100 kilowatts may be needed to support human habitats, ISRU, other facilities, and rovers on both the Moon and Mars. Power sources in the megawatt range would be necessary for efficient, long-duration deep space propulsion. Affordable, lightweight nuclear power sources in space would enable new opportunities for scientific discovery. The sustainable exploration of the Moon, Mars, and other locations will be enhanced if small modular reactors can be deployed and operated remotely from Earth.

(b) Within 180 days of the date of this order, the NASA Administrator, in consultation with heads of other executive departments and agencies (agencies), as appropriate, shall define requirements for NASA utilization of nuclear energy systems for human and robotic exploration missions through 2040 and analyze the costs and benefits of such requirements. In defining these requirements, the NASA Administrator shall take into account considerations unique to the utilization of nuclear energy systems in space, such as:

(i) transportability of a reactor prior to and after deployment;

(ii) thermal management in a reduced- or zero-gravity environment in a vacuum or near-vacuum;

(iii) fluid transfer within reactor systems in a reduced or zero-gravity environment;

(iv) reactor size and mass that can be launched from Earth and assembled in space;

(v) cooling of nuclear reactors in space;

(vi) electric power requirements;

(vii) space safety rating to enable operations as part of human space exploration missions;

(viii) period of time for which a reactor can operate without refueling; and

(ix) conditioning of reactor components for use in the space environment.

SEC. 6. *Domestic Fuel Supply*. (a) A thriving and secure domestic nuclear fuel supply chain is critical to the national interests of the United States. A viable domestic nuclear fuel supply chain not only supports defense and national security activities, but also enables the success of the commercial nuclear industry. Many advanced reactor concepts, however, will require high-assay, low-enriched uranium (HALEU), for which no domestic commercial enrichment capability currently exists. The United States must take steps to ensure a viable United States-origin HALEU supply.

(b) The Secretary of Energy shall complete the Department of Energy's ongoing 3-year, $115 million demonstration of a United States-origin enrichment technology capable of producing HALEU for use in defense-related advanced reactor applications. Within funding available for the demonstration project, the Secretary of Energy should develop a plan to promote successful transition of this technology to the private sector for commercial adoption.

(c) The Secretary of Energy shall consult with the Secretary of Defense, the Director of the Office of Management and Budget, and the NASA Administrator regarding how advanced fuels and related technologies can best support implementation of sections 3, 4, and 5 of this order.

SEC. 7. *Common Technology Roadmap*. (a) The Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, and the NASA Administrator shall develop a common technology roadmap through 2030 that describes potential development programs and that coordinates, to the extent practicable, terrestrial-based advanced nuclear reactor and space-based nuclear power and propulsion efforts. Agencies shall remain responsible for funding their respective mission-unique requirements. The roadmap shall also include, at a minimum:

(i) assessments of foreign nations' space nuclear power and propulsion technological capabilities;

(ii) pathways for transitioning technologies developed through Federally supported programs to private-sector activities; and

(iii) other applications supporting the goals provided in section 1 of this order.

(b) The roadmap shall be submitted to the President by the Director of the Office of Management and Budget, the Assistant to the President for Domestic Policy, the Director of the Office of Science and Technology Policy, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and the Executive Secretary of the National Space Council before submissions of budget proposals by the Secretary of State, the Secretary of Commerce, the Secretary of Energy, and the NASA Administrator.

SEC. 8. *Definitions*. For purposes of this order:

(a) The term "small modular reactor" refers to an advanced nuclear reactor of electric generation capacity less than 300 megawatt-electric. Because of the smaller size, small modular reactors can generally be designed for factory fabrication and modular construction to take advantage of economies of serial production and shorter construction times.

(b) The term "micro-reactor" refers to a nuclear reactor of electric generation capacity less than 10 megawatt-electric that can be deployed remotely. Micro-reactors are a subset of small modular reactors and are also known as "very small modular reactors."

(c) The term "transportable micro-reactor" refers to a micro-reactor that can be moved by truck, ship, or large military transport aircraft and is capable of both rapid deployment and teardown or removal, typically with safe teardown or removal less than 1 week after 1 year of full-power operation.

(d) The term "space exploration" refers to in-space scientific and resource exploration, in-space economic and industrial development, and development of associated in-space logistical infrastructure.

(e) The term "national defense" refers to the protection of the United States and its interests from foreign attack or other natural danger, including phenomena occurring on Earth and in space.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## §2912. Availability and use of energy cost savings

(a) AVAILABILITY.—An amount of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts entered into under section 2913 of this title, and, in the case of operational energy, from both training and operational missions, shall remain available for obligation under subsection (b) or (c), as the case may be, for that fiscal year and the succeeding fiscal year, without additional authorization or appropriation.

(b) USE.—Except as provided in subsection (c) with respect to operational energy cost savings, the Secretary of Defense shall provide that the amount that remains available for obligation under subsection (a) and the funds made available under section 2916(b)(2) of this title shall be used as follows:

(1) One-half of the amount shall be used for the implementation of additional energy resilience, mission assurance, weather damage repair and prevention, energy conservation, and energy security measures, including energy resilience and energy conservation construction projects, at buildings, facilities, or installations of the Department of Defense or related to vehicles and equipment of the Department, which are designated, in accordance with regulations prescribed by the Secretary of Defense, by the head of the department, agency, or instrumentality that realized the savings referred to in subsection (a).

(2) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

(A) improvements to existing military family housing units;

(B) any unspecified minor construction project that will enhance the quality of life of personnel; or

(C) any morale, welfare, or recreation facility or service.

(c) USE OF OPERATIONAL ENERGY COST SAVINGS.—(1) The amount that remains available for obligation under subsection (a) that relates to operational energy cost savings realized

by the Department shall be used for the implementation of operational energy initiatives.

(2) The Secretary of Defense shall design operational energy initiatives under paragraph (1) to advance the objectives of the Department in the areas of energy resilience and fuel efficiency.

(3) Operational energy initiatives carried out under paragraph (1) may directly contribute to enhanced mission and combat capabilities, fund operational environment training activities, or establish programs to incentivize demonstrable reductions in energy expenditures within the department, agency, or instrumentality credited with achieving the energy cost savings under subsection (a).

(d) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from gas or electric utilities under section 2913 of this title shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(e) TRANSFER OF AMOUNTS.—(1) Not later than 60 days after being notified of amounts described in subsection (a) that remain available for obligation, the Secretary of Defense shall transfer such amounts to other funding accounts of the Department of Defense if the purpose for which such amounts will be used is a purpose specified in subsection (b) or (c).

(2) Amounts transferred to a funding account of the Department under paragraph (1) shall be available for obligation for the same period as amounts in that account.

(3) At the end of each fiscal year, the Secretary of Defense shall submit to Congress a report detailing any funds transferred pursuant to paragraph (1) during that fiscal year, including a detailed description of the purpose for which such amounts have been used.

(f) OPERATIONAL ENERGY COST SAVINGS DEFINED.—In this section, the term "operational energy cost savings" means the monetary savings achieved through measures to reduce energy expenditures relative to the amount that would have been necessary to sustain an equivalent level of capability in the absence of such measures.

(Added Pub. L. 109–364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2491; amended Pub. L. 112–239, div. B, title XXVIII, §2822, Jan. 2, 2013, 126 Stat. 2152; Pub. L. 115–91, div. A, title X, §1051(a)(26), div. B, title XXVIII, §2832, Dec. 12, 2017, 131 Stat. 1562, 1858; Pub. L. 115–232, div. A, title III, §312(h), Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116–92, div. A, title III, §317, Dec. 20, 2019, 133 Stat. 1304; Pub. L. 116–283, div. A, title III, §317, Jan. 1, 2021, 134 Stat. 3519; Pub. L. 117–81, div. A, title III, §315, Dec. 27, 2021, 135 Stat. 1630; Pub. L. 119–60, div. A, title III, §313, Dec. 18, 2025, 139 Stat. 804.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60, §313(1), designated existing provisions as par. (1), substituted "operational energy initiatives." for "additional operational energy resilience, efficiencies, mission assurance, energy conservation, or energy security within the department, agency, or instrumentality that realized that savings." and added pars. (2) and (3).

Subsec. (e)(1). Pub. L. 119–60, §313(2), substituted "Not later than 60 days after being notified of amounts described in subsection (a) that remain available for obligation, the Secretary of Defense shall transfer such amounts" for "The Secretary of Defense may transfer amounts described in subsection (a) that remain available for obligation".

Subsec. (f). Pub. L. 119–60, §313(3), added subsec. (f).

**2021**—Subsec. (a). Pub. L. 117–81, §315(1), substituted "for that fiscal year and the succeeding fiscal year" for "until expended".

Pub. L. 116–283 inserted "and, in the case of operational energy, from both training and operational missions," after "under section 2913 of this title,".

Subsec. (e). Pub. L. 117–81, §315(2), added subsec. (e).

**2019**—Subsec. (a). Pub. L. 116–92, §317(1), substituted "subsection (b) or (c), as the case may be," for "subsection (b)".

Subsec. (b). Pub. L. 116–92, §317(2), substituted "Except as provided in subsection (c) with respect to operational energy cost savings, the Secretary of Defense" for "The Secretary of Defense" in introductory provisions.

Subsecs. (c), (d). Pub. L. 116–92, §317(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

**2018**—Subsec. (b)(1). Pub. L. 115–232 inserted ", including energy resilience and energy conservation construction projects," after "energy security measures".

**2017**—Subsec. (b)(1). Pub. L. 115–91, §2832, substituted "energy resilience, mission assurance, weather damage repair and prevention, energy conservation, and" for "energy conservation and".

Subsec. (d). Pub. L. 115–91, §1051(a)(26), struck out subsec. (d). Text read as follows: "The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this section in that fiscal year."

**2013**—Subsec. (b)(1). Pub. L. 112–239 inserted "and energy security" after "additional energy conservation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNDS FOR ENERGY AND WATER EFFICIENCY IN FEDERAL BUILDINGS**

Pub. L. 109–148, div. A, title VIII, §8054, Dec. 30, 2005, 119 Stat. 2710, provided that: "Appropriations available under the heading 'Operation and Maintenance, Defense-Wide' for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred."

Similar provisions for specified fiscal years were contained in the following prior appropriation acts:

Pub. L. 108–287, title VIII, §8058, Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108–87, title VIII, §8058, Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107–248, title VIII, §8059, Oct. 23, 2002, 116 Stat. 1550.

Pub. L. 107–117, div. A, title VIII, §8064, Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106–259, title VIII, §8063, Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106–79, title VIII, §8066, Oct. 25, 1999, 113 Stat. 1245.

Pub. L. 105–262, title VIII, §8066, Oct. 17, 1998, 112 Stat. 2312.

Pub. L. 105–56, title VIII, §8072, Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8081], Sept. 30, 1996, 110 Stat. 3009–71, 3009–104.

Pub. L. 104–61, title VIII, §8097, Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103–139, title VIII, §8149, Nov. 11, 1993, 107 Stat. 1475.

## §2913. Energy savings contracts and activities

(a) SHARED ENERGY SAVINGS CONTRACTS.—(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department of Defense as well as the private sector.

(2) In carrying out paragraph (1), the Secretary of Defense may—

(A) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance information, from firms engaged in providing shared energy savings contracting;

(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the

project.

(3) In carrying out paragraph (1), the Secretary may also provide for the direct negotiation, by departments, agencies, and instrumentalities of the Department of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

(b) PARTICIPATION IN GAS OR ELECTRIC UTILITY PROGRAMS.—The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation.

(c) ACCEPTANCE OF FINANCIAL INCENTIVE, GOODS, OR SERVICES.—The Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a State or local government or gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

(d) AGREEMENTS WITH GAS OR ELECTRIC UTILITIES.—(1) The Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

(2) If an agreement under this subsection provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repaid by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

(3) Subject to the availability of appropriations, repayment of costs advanced under paragraph (2) shall be made from funds available to a military department for the purchase of utility services.

(4) An agreement under this subsection shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(Added and amended Pub. L. 109–364, div. B, title XXVIII, §§2851(a)(1), 2853, Oct. 17, 2006, 120 Stat. 2491, 2496; Pub. L. 110–140, title V, §511(c), Dec. 19, 2007, 121 Stat. 1658; Pub. L. 110–181, div. B, title XXVIII, §2861, Jan. 28, 2008, 122 Stat. 559; Pub. L. 115–232, div. A, title III, §312(g), Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116–92, div. A, title III, §320(a)(1)(A), title XVII, §1731(a)(58), Dec. 20, 2019, 133 Stat. 1306, 1815.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (c). Pub. L. 116–92, §320(a)(1)(A), substituted "government or" for "government".

Pub. L. 116–92, §1731(a)(58), substituted "government gas or electric utility" for "government a gas or electric utility". Amendment executed before amendment by section 320(a)(1)(A) of Pub. L. 116–92, see above, pursuant to section 1731(f) of Pub. L. 116–92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

**2018**—Subsec. (c). Pub. L. 115–232 inserted "a State or local government" after "generally available from".

**2008**—Subsec. (e). Pub. L. 110–181, which directed the amendment of this section by striking out subsec. (e), could not be executed because subsec. (e) was previously repealed by Pub. L. 110–140, §511(c). See 2007 Amendment note below.

**2007**—Subsec. (e). Pub. L. 110–140 struck out heading and text of subsec. (e). Text read as follows: "When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of $7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The

contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title."

**2006**—Subsec. (e). Pub. L. 109–364, §2853, added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2007 AMENDMENT**

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## §2914. Military construction projects for energy resilience, energy security, and energy conservation

(a) PROJECT AUTHORIZATION REQUIRED.—The Secretary of Defense may carry out such military construction projects for energy resilience, energy security, and energy conservation as are authorized by law, using funds appropriated or otherwise made available for that purpose.

(b) SUBMISSION OF PROJECT PROPOSALS.—(1) As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a military construction project covered by subsection (a), the Secretary of Defense shall include the following information:

(A) The project title.

(B) The location of the project.

(C) A brief description of the scope of work.

(D) The original project cost estimate and the current working cost estimate, if different.

(E) Such other information as the Secretary considers appropriate.

(2) In the case of a military construction project for energy conservation, the Secretary also shall include the following information:

(A) The original expected savings-to-investment ratio and simple payback estimates and measurement and verification cost estimate.

(B) The most current expected savings-to-investment ratio and simple payback estimates and measurement and verification plan and costs.

(C) A brief description of the measurement and verification plan and planned funding source.

(3) In the case of a military construction project for energy resilience or energy security, the Secretary also shall include the rationale for how the project would enhance mission assurance, support mission critical functions, and address known vulnerabilities.

(c) ALTERNATIVE FUNDING SOURCE.—(1) In addition to the authority under section 2805(c) of this title, in carrying out a military construction project for energy resilience, energy security, or energy conservation under this section, the Secretary concerned may use amounts available for operation and maintenance for the military department concerned if the Secretary concerned submits to the congressional defense committees a notification of the decision to carry out the project using such amounts and includes in the notification—

(A) the current estimate of the cost of the project;

(B) the source of funds for the project; and

(C) a certification that deferring the project pending the availability of funds appropriated for or otherwise made available for military construction would be inconsistent with the timely assurance of energy resilience, energy security, or energy conservation for one or more critical national security functions.

(2) A project carried out under this section using amounts under paragraph (1) may be carried out only after the end of the seven-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from amounts available to the military department concerned for operation and maintenance in any fiscal year for projects under the authority of this subsection is $100,000,000.

(d) RELATION TO CERTAIN OTHER AUTHORITIES.—A project under this section may include—

(1) activities related to a utility system authorized under subsections (h), (j), and (k) of section 2688 or section 2913 of this title, notwithstanding that the United States does not own the utility system covered by the project; and

(2) energy-related activities included as a separate requirement in an energy savings performance contract (as defined in section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3))).

(e) INCORPORATION OF CYBERSECURITY SUPPLY CHAIN RISK MANAGEMENT TOOLS AND METHODS.—(1) The Secretary of Defense shall incorporate into covered projects cybersecurity supply chain risk management tools and solutions to provide continuous analysis, monitoring, and mitigation of cyber vulnerabilities.

(2) In carrying out the requirements of paragraph (1), the Secretary of Defense shall consider, to the maximum extent practicable, the following:

(A) The adoption of commercially available cybersecurity supply chain risk management tools and solutions.

(B) The inclusion of existing databases on cyber vulnerabilities when selecting such tools and solutions.

(C) The need for such tools and methods to provide continuous analysis, monitoring, and mitigation of cyber vulnerabilities in covered projects.

(D) Beginning with fiscal year 2026, documentation for any new requirements for cybersecurity supply chain risk management in annual guidance for covered projects that is submitted along with the annual budget request of the President submitted pursuant to section 1105 of title 31.

(3) In this subsection, the term "covered project" means a project connected to a Department of Defense Information Network for which funds are made available under this section.

(f) APPLICATION TO MILITARY CONSTRUCTION PROJECTS.—This section shall apply to military construction projects covered by subsection (a) for which a Department of Defense Form 1391 is submitted to the appropriate committees of Congress in connection with the budget of the Department of Defense for fiscal year 2023 and thereafter.

(Added Pub. L. 109–364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493; amended Pub. L. 114–328, div. B, title XXVIII, §2805(a)(1), (b)(1)(A), (2), Dec. 23, 2016, 130 Stat. 2713, 2714; Pub. L. 115–91, div. B, title XXVIII, §§2801(e)(1), 2831(c)(1), Dec. 12, 2017, 131 Stat. 1845, 1857; Pub. L. 115–232, div. A, title X, §1081(a)(29), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116–283, div. B, title XXVIII, §§2805(a), 2823(b), Jan. 1, 2021, 134 Stat. 4321, 4333; Pub. L. 117–81, div. B, title XXVIII, §2804, Dec. 27, 2021, 135 Stat. 2188; Pub. L. 118–31, div. B, title XXVIII, §2809, Dec. 22, 2023, 137 Stat. 746.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsecs. (e), (f). Pub. L. 118–31 added subsec. (e) and redesignated former subsec. (e) as (f).

**2021**—Pub. L. 116–283, §2805(a), amended section generally. Prior to amendment, section related to energy resilience and conservation construction projects.

Subsecs. (c), (d). Pub. L. 117–81 added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 116–283, §2823(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 117–81, §2804(1), redesignated subsec. (d) as (e).

**2018**—Pub. L. 115–232 substituted "resilience" for "resiliency" in section catchline.

**2017**—Pub. L. 115–91, §2831(c)(1), substituted "energy resilience" for "energy resiliency" wherever appearing in text.

Subsec. (b)(1). Pub. L. 115–91, §2801(e)(1), struck out "in writing" after "shall notify" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by such committees" and substituted "14-day period" for "21-day period".

**2016**—Pub. L. 114–328, §2805(a)(1)(A), inserted "resiliency and" before "conservation construction projects" in section catchline. Text quoted in directory language of amendment was editorially conformed to the style of the catchline.

Subsec. (a). Pub. L. 114–328, §2805(a)(1)(B), substituted "military construction project for energy resiliency, energy security, or energy conservation" for "military construction project for energy conservation".

Subsec. (b). Pub. L. 114–328, §2805(b)(1)(A), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 114–328, §2805(b)(2), added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114–328, div. B, title XXVIII, §2805(b)(1)(B), Dec. 23, 2016, 130 Stat. 2714, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply with respect to notifications provided during fiscal year 2017 or any succeeding fiscal year."

## §2915. Facilities: use of renewable forms of energy and energy efficient products

(a) USE OF RENEWABLE FORMS OF ENERGY ENCOURAGED.—The Secretary of Defense shall encourage the use of energy systems using solar energy or other renewable forms of energy as a source of energy for military construction projects (including military family housing projects) and facility repairs and renovations where use of such form of energy is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(b) CONSIDERATION DURING DESIGN PHASE OF PROJECTS.—(1) The Secretary concerned shall require that the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—

(A) is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title; and

(B) supported by the special considerations specified in subsection (e) of such section.

(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that energy systems using solar energy or other renewable forms of energy be installed if such systems can be shown to be cost effective.

(c) DETERMINATION OF COST EFFECTIVENESS.—(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with such a system, and (B) the original investment cost of the energy system for the facility without such a system can be recovered over the expected life of the facility.

(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(d) EXCEPTION TO SQUARE FEET AND COST PER SQUARE FOOT LIMITATIONS.—In order to equip a military construction project (including a military family housing project) with heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or

other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this subsection shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

(e) USE OF ENERGY EFFICIENT PRODUCTS IN FACILITIES.—(1) The Secretary of Defense shall ensure, to the maximum extent practicable, that energy efficient products meeting the requirements of the Department of Defense are used in construction, repair, or renovation of facilities by or for the Department carried out under chapter 169 of this title if such products are readily available and their use is consistent with the energy performance goals and energy performance master plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(2)(A) The Secretary of Defense shall prescribe a definition of the term "energy-efficient product" for purposes of this subsection and establish and maintain a list of products satisfying the definition. The definition and list shall be developed in consultation with the Secretary of Energy to ensure, to the maximum extent practicable, consistency with definitions of the term used by other Federal agencies.

(B) The Secretary shall modify the definition and list of energy-efficient products as necessary to account for emerging or changing technologies.

(C) The list of energy-efficient products shall be included as part of the energy performance master plan developed pursuant to section 2911(d)(2) of this title.

(3) In determining the energy efficiency of products, the Secretary shall consider products that—

(A) meet or exceed Energy Star specifications; or

(B) are listed on the Federal Energy Management Program Product Energy Efficiency Recommendations product list of the Department of Energy.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 166, §2857; amended Pub. L. 97–321, title VIII, §801(b)(1), (2), Oct. 15, 1982, 96 Stat. 1571; Pub. L. 98–525, title XIV, §1405(45)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101–218, §8(b), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 101–510, div. B, title XXVIII, §2852(b), Nov. 5, 1990, 104 Stat. 1804; Pub. L. 102–25, title VII, §701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered §2915 and amended Pub. L. 109–364, div. B, title XXVIII, §§2851(b)(1), (3)(A), 2854, Oct. 17, 2006, 120 Stat. 2494, 2497; Pub. L. 111–383, div. B, title XXVIII, §2832(b), Jan. 7, 2011, 124 Stat. 4468; Pub. L. 112–81, div. B, title XXVIII, §2825(a), Dec. 31, 2011, 125 Stat. 1693; Pub. L. 115–91, div. B, title XXVIII, §2831(c)(2), Dec. 12, 2017, 131 Stat. 1857.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsecs. (a), (b)(1)(B), (e)(1). Pub. L. 115–91, §2831(c)(2)(A), substituted "subsection (e)" for "subsection (c)".

Subsec. (e)(2)(C). Pub. L. 115–91, §2831(c)(2)(B), substituted "2911(d)(2)" for "2911(b)(2)".

**2011**—Pub. L. 111–383, §2832(b)(4), substituted "Facilities: use of renewable forms of energy and energy efficient products" for "New construction: use of renewable forms of energy and energy efficient products" in section catchline.

Subsec. (a). Pub. L. 111–383, §2832(b)(1), inserted "and facility repairs and renovations" after "military family housing projects)" and substituted "energy performance master plan" for "energy performance plan".

Subsec. (b)(1). Pub. L. 111–383, §2832(b)(2), substituted "the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—" for "the design of all new facilities (including family housing) shall include consideration of energy systems using solar energy or other renewable forms of energy." and added subpars. (A) and (B).

Subsec. (e). Pub. L. 111–383, §2832(b)(3)(A), substituted "Use of Energy Efficient Products in Facilities"

for "Use of Energy Efficiency Products in New Construction" in heading.

Subsec. (e)(1). Pub. L. 111–383, §2832(b)(3)(B), substituted "construction, repair, or renovation of facilities" for "new facility construction" and "energy performance master plan" for "energy performance plan".

Subsec. (e)(2). Pub. L. 112–81 added par. (2) and struck out former par. (2), which related to energy efficient products and provided examples of technologies, consistent with the products specified in paragraph (3).

Pub. L. 111–383, §2832(b)(3)(D), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 111–383, §2832(b)(3)(C), redesignated par. (2) as (3).

**2006**—Pub. L. 109–364, §2854(b)(1), substituted "New construction: use of renewable forms of energy and energy efficient products" for "Use of renewable forms of energy in new facilities" in section catchline.

Pub. L. 109–364, §2851(b)(1), renumbered section 2857 of this title as this section.

Subsec. (a). Pub. L. 109–364, §2854(b)(2),(3)(A)(i), inserted heading and substituted "is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section" for "would be practical and economically feasible".

Subsec. (b). Pub. L. 109–364, §2854(b)(3), inserted heading.

Subsec. (b)(1). Pub. L. 109–364, §2851(b)(3)(A)(ii), struck out "in those cases in which use of such forms of energy has the potential for reduced energy costs" before period at end.

Subsecs. (c), (d). Pub. L. 109–364, §2854(b)(4), (5) inserted headings.

Subsec. (e). Pub. L. 109–364, §2854(a), added subsec. (e).

**1991**—Subsec. (c)(2). Pub. L. 102–25 inserted "(42 U.S.C. 8254(a))" after "Policy Act".

**1990**—Subsec. (c)(2), (3). Pub. L. 101–510 added par. (2) and struck out former pars. (2) and (3) which read as follows:

"(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a facility shall be made using accepted life-cycle costing procedures and shall include—

"(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system with and without an energy system using solar energy or other renewable forms of energy over the expected life of the facility or during a period of 25 years, whichever is shorter;

"(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

"(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

"(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit."

**1989**—Subsec. (b)(1). Pub. L. 101–218 substituted "reduced energy costs" for "significant savings of fossil-fuel-derived energy".

**1984**—Subsec. (b)(1). Pub. L. 98–525 substituted "use of such forms of energy has the potential for" for "use of solar energy has the potential for".

**1982**—Pub. L. 97–321, §801(b)(2), substituted "renewable forms of energy in new facilities" for "solar energy systems" in section catchline.

Subsec. (a). Pub. L. 97–321, §801(b)(1)(A), substituted "energy systems using solar energy or other renewable forms of energy" and "such form of energy would" for "solar energy systems" and "solar energy would", respectively.

Subsec. (b)(1). Pub. L. 97–321, §801(b)(1)(B), substituted "energy systems using solar energy or other renewable forms of energy" for "solar energy systems" and directed that "such form of energy has" be substituted for "a solar energy has", but "a solar energy has" did not appear in par. (1). See 1984 Amendment note above.

Subsec. (b)(2). Pub. L. 97–321, §801(b)(1)(B)(i), substituted "energy systems using solar energy or other renewable forms of energy" for "solar energy systems".

Subsec. (c). Pub. L. 97–321, §801(b)(1)(C)–(E), substituted: in par. (1) "an energy system using solar energy or other renewable forms of energy" for "a solar energy system" before "for a facility" and in items (A) and (B) "such a system" for "a solar energy system"; in par. (2)(A) "an energy system using solar energy or other renewable forms of energy" for "a solar energy system"; and in par. (3) "energy system using solar energy or other renewable forms of energy" for "solar energy system", respectively.

Subsec. (d). Pub. L. 97–321, §801(b)(1)(F), substituted "heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy energy system using solar energy or other renewable forms of energy" for "solar heating equipment, solar

cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title XIV, §1405(45)(B), Oct. 19, 1984, 98 Stat. 2625, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect as if it had been included in the amendments made by section 801 of Public Law 97–321."

**EFFECTIVE DATE**

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2916. Sale of electricity from alternate energy and cogeneration production facilities

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(b)(1) Except as provided in paragraph (3), proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.

(2) Subject to the availability of appropriations for this purpose, proceeds credited under paragraph (1) may be used to carry out military construction projects under the energy performance plan developed by the Secretary of Defense under section 2911(c) [1] of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

(3) In the case of proceeds from a sale of electrical energy generated from any geothermal energy resource—

(A) 50 percent shall be credited to the appropriation account described in paragraph (1); and

(B) 50 percent shall be deposited in a special account in the Treasury established by the Secretary concerned which shall be provided directly to the commander of the military installation in which the geothermal energy resource is located to be used for—

(i) military construction projects described in paragraph (2) that benefit the military installation where the geothermal energy resource is located; or

(ii) energy or water security projects that—

(I) benefit the military installation where the geothermal energy resource is located;

(II) the commander of the military installation determines are necessary; and

(III) are directly coordinated with local area energy or groundwater governing authorities.

(c) Before carrying out a military construction project described in subsection (b) using proceeds from sales under subsection (a), the Secretary concerned shall notify Congress of the project, the justification for the project, and the estimated cost of the project. The project may be carried out only after the end of the 14-day period beginning on the date the notification is received by Congress in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 98–407, title VIII, §810(a), Aug. 28, 1984, 98 Stat. 1523, §2483; amended Pub. L. 103–160, div. B, title XXVIII, §2802, Nov. 30, 1993, 107 Stat. 1884; renumbered §2867, Pub. L. 105–85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; Pub. L. 108–136, div. A, title X, §1031(a)(49), Nov. 24, 2003, 117 Stat. 1602; renumbered §2916 and amended Pub. L. 109–364, div. B, title XXVIII, §2851(b)(1), (3)(B), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 115–91, div. B, title

XXVIII, §§2801(e)(2), 2831(c)(3), Dec. 12, 2017, 131 Stat. 1845, 1858; Pub. L. 115–232, div. A, title III, §313, Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116–92, div. A, title III, §318, Dec. 20, 2019, 133 Stat. 1305.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

Section 2911(c) of this title, referred to in subsec. (b)(2), was, prior to amendment by Pub. L. 115–91, a reference to section 2911(b) of this title. Pub. L. 115–91 redesignated subsec. (b) of section 2911, relating to the development of an energy performance master plan, as (d), not (c).

**AMENDMENTS**

**2019**—Subsec. (b)(3)(B). Pub. L. 116–92 substituted "shall be provided directly to the commander of the military installation in which the geothermal energy resource is located to be used for—" for "shall be available, for military construction projects described in paragraph (2) or for installation energy or water security projects directly coordinated with local area energy or groundwater governing authorities, for the military installation in which the geothermal energy resource is located." and added cls. (i) and (ii).

**2018**—Subsec. (b)(1). Pub. L. 115–232, §313(1), substituted "Except as provided in paragraph (3), proceeds" for "Proceeds".

Subsec. (b)(3). Pub. L. 115–232, §313(2), added par. (3).

**2017**—Subsec. (b)(2). Pub. L. 115–91, §2831(c)(3), substituted "2911(c)" for "2911(b)".

Subsec. (c). Pub. L. 115–91, §2801(e)(2), struck out "in writing" after "notify Congress" and "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided" after "received by Congress" and substituted "14-day period" for "21-day period".

**2006**—Pub. L. 109–364, §2851(b)(1), renumbered section 2867 of this title as this section.

Subsec. (b)(2). Pub. L. 109–364, §2851(b)(3)(B), substituted "2911(b)" for "2865(a)".

**2003**—Subsec. (c). Pub. L. 108–136 inserted before period at end "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**1997**—Pub. L. 105–85 renumbered section 2483 of this title as this section.

**1993**—Subsec. (b). Pub. L. 103–160, §2802(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 103–160, §2802(b), added subsec. (c).

[1] *See References in Text note below.*

## §2917. Development of geothermal energy on military lands

(a) DEVELOPMENT AUTHORIZED.—The Secretary of a military department may develop, or authorize the development of, any geothermal energy resource within lands under the Secretary's jurisdiction, including public lands, for the use or benefit of the Department of Defense if that development is in the public interest, as determined by the Secretary concerned, and will not deter commercial development and use of other portions of such resource if offered for leasing.

(b) CONSIDERATION OF ENERGY SECURITY.—The development of a geothermal energy project under subsection (a) should include consideration of energy security in the design and development of the project.

(Added Pub. L. 97–214, §6(c)(1), July 12, 1982, 96 Stat. 172, §2689; renumbered §2917, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(1), Oct. 17, 2006, 120 Stat. 2494; amended Pub. L. 112–81, div. B, title XXVIII, §2822(c), Dec. 31, 2011, 125 Stat. 1692.)

**EDITORIAL NOTES**

### AMENDMENTS

**2011**—Pub. L. 112–81 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2006**—Pub. L. 109–364 renumbered section 2689 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2918. Fuel sources for heating systems; prohibition on converting certain heating facilities

(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of the system.

(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary determines that the conversion—

(1) is required by the government of the country in which the facility is located; or

(2) is cost-effective over the life cycle of the facility.

(Added Pub. L. 97–214, §6(c)(1), July 12, 1982, 96 Stat. 173, §2690; amended Pub. L. 99–661, div. A, title XII, §1205(a)(1), Nov. 14, 1986, 100 Stat. 3971; Pub. L. 105–85, div. A, title X, §1041(a), Nov. 18, 1997, 111 Stat. 1885; renumbered §2918, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(1), Oct. 17, 2006, 120 Stat. 2494.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Pub. L. 109–364 renumbered section 2690 of this title as this section.

**1997**—Subsec. (b). Pub. L. 105–85 substituted "unless the Secretary determines that the conversion—" for "unless the Secretary—" in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

"(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility; and

"(2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice."

**1986**—Pub. L. 99–661 substituted "Fuel sources for heating systems; prohibition on converting certain heating facilities" for "Restriction on fuel sources for new heating systems" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) Except as provided in subsection (b), a new heating system that requires a heat input rate of fifty million British thermal units per hour or more and that uses oil or gas (or a derivative of oil or gas) as fuel may not be constructed on lands under the jurisdiction of a military department.

"(b) The Secretary of the military department concerned may waive the provisions of subsection (a) in rare and unusual cases, but such a waiver may not become effective until after the Secretary has notified the appropriate committees of Congress in writing of the waiver.

"(c) The Secretary of the military department concerned may not provide service for a new heating system in increments in order to avoid the prohibition contained in subsection (a)."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2919. Department of Defense participation in programs for management of energy demand or reduction of energy usage during peak periods

(a) PARTICIPATION IN DEMAND RESPONSE OR LOAD MANAGEMENT PROGRAMS .—The Secretary of Defense, the Secretaries of the military departments, the heads of the Defense Agencies, and the heads of other instrumentalities of the Department of Defense are authorized to participate in demand response programs for the management of energy demand or the reduction of energy usage during peak periods conducted by any of the following parties:

(1) An electric utility.

(2) An independent system operator.

(3) A State agency.

(4) A third party entity (such as a demand response aggregator or curtailment service provider) implementing demand response programs on behalf of an electric utility, independent system operator, or State agency.

(b) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from an entity specified in subsection (a) shall be—

(1) received as a cost reduction in the utility bill for a facility; or

(2) deposited into the fund established under subsection (c) for use, to the extent provided for in an appropriations Act, by the military department, Defense Agency, or instrumentality receiving such financial incentive for energy management initiatives.

(c) ENERGY SAVINGS FINANCIAL INCENTIVES FUND.—There is established in the Treasury a fund to be known as the "Energy Savings Financial Incentives Fund". The Fund shall consist of any amount deposited in the Fund pursuant to subsection (b)(2) and amounts appropriated or otherwise made available to the Fund by law.

(Added Pub. L. 111–84, div. B, title XXVIII, §2843(a), Oct. 28, 2009, 123 Stat. 2681.)

## §2920. Energy resilience and energy security measures on military installations

(a) ENERGY RESILIENCE MEASURES.—(1) The Secretary of Defense shall, by the end of fiscal year 2030, provide that 100 percent of the energy load required to maintain the critical missions of each installation have a minimum level of availability of 99.9 percent per fiscal year.

(2) The Secretary of Defense shall issue standards establishing levels of availability relative to specific critical missions, with such standards providing a range of not less than 99.9 percent availability per fiscal year and not more than 99.9999 percent availability per fiscal year, depending on the criticality of the mission.

(3) The Secretary may establish interim goals to take effect prior to fiscal year 2025 to ensure the requirements under this subsection are met.

(4) The Secretary of each military department and the head of each Defense Agency shall ensure that their organizations meet the requirements of this subsection.

(5) The Secretary shall establish internal processes to support coordination with external regulatory and planning entities involved in grid reliability, transmission infrastructure, and long-term energy planning, in order to assess and mitigate risks to defense-critical installations,

advance the energy security objectives of the Department, and comply with statutory mandates under this section.

(6) Coordination under paragraph (5)—

(A) shall include identification of mission-critical loads and infrastructure dependencies and load profiles at or near military installations; and

(B) may include consultation with relevant Federal and non-Federal entities.

(b) PLANNING.—(1) The Secretary of Defense shall require the Secretary of each military department and the head of each Defense Agency to plan for the provision of energy resilience and energy security for installations.

(2) Planning under paragraph (1) shall—

(A) promote the use of multiple and diverse sources of energy, with an emphasis favoring energy resources originating on the installation such as modular generation;

(B) promote installing microgrids to ensure the energy security and energy resilience of critical missions; and

(C) favor the use of full-time, installed energy sources rather than emergency generation.

(c) DEVELOPMENT OF INFORMATION.—The planning required by subsection (b) shall identify each of the following for each installation:

(1) The critical missions of the installation.

(2) The energy requirements of those critical missions.

(3) The duration that those energy requirements are likely to be needed in the event of a disruption or emergency.

(4) The current source of energy provided to those critical missions.

(5) The duration that the currently provided energy would likely be available in the event of a disruption or emergency.

(6) Any currently available sources of energy that would provide uninterrupted energy to critical missions in the event of a disruption or emergency.

(7) Alternative sources of energy that could be developed to provide uninterrupted energy to critical missions in the event of a disruption or emergency.

(d) TESTING AND MEASURING.—(1)(A) The Secretary of Defense shall require the Secretary of each military department and head of each Defense Agency to conduct monitoring, measuring, and testing to provide the data necessary to comply with this section.

(B) Any data provided under subparagraph (A) shall be made available to the Assistant Secretary of Defense for Sustainment upon request.

(2)(A) The Secretary of Defense shall require that black start exercises be conducted to assess the energy resilience and energy security of installations for periods established to evaluate the ability of the installation to perform critical missions without access to off-installation energy resources.

(B) A black start exercise conducted under subparagraph (A) may exclude, if technically feasible, housing areas, commissaries, exchanges, and morale, welfare, and recreation facilities.

(C) The Secretary of Defense shall—

(i) provide uniform policy for the military departments and the Defense Agencies with respect to conducting black start exercises; and

(ii) establish a schedule of black start exercises for the military departments and the Defense Agencies, with each military department and Defense Agency scheduled to conduct such an exercise on a number of installations each year sufficient to allow that military department or Defense Agency to meet the goals of this section, but in any event not fewer than five installations each year for each military department through fiscal year 2032.

(D)(i) Except as provided in clause (ii), the Secretary of each military department shall, notwithstanding any other provision of law, conduct black start exercises in accordance with the schedule provided for in subparagraph (C)(ii), with any such exercise not to last longer than five

days.

(ii) The Secretary of a military department may conduct more black start exercises than those identified in the schedule provided for in subparagraph (C)(ii).

(e) CONTRACT REQUIREMENTS.—For contracts for energy and utility services, the Secretary of Defense shall—

(1) specify methods and processes to measure, manage, and verify compliance with subsection (a); and

(2) ensure that such contracts include requirements appropriate to ensure energy resilience and energy security, including requirements for metering to measure, manage, and verify energy consumption, availability, and reliability consistent with this section and the energy resilience metrics and standards under section 2911(b) of this title.

(f) EXCEPTION.—This section does not apply to fuels used in aircraft, vessels, or motor vehicles.

(g) REPORT.—If by the end of fiscal year 2027, the Secretary determines that the Department will be unable to meet the requirements under subsection (a), not later than 90 days after the end of such fiscal year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report detailing—

(1) the projected shortfall;

(2) reasons for the projected shortfall;

(3) any statutory, technological, or monetary impediments to achieving such requirements;

(4) any impact to readiness or ability to meet the national defense posture; and

(5) any other relevant information as the Secretary considers appropriate.

(h) DEFINITIONS.—In this section:

(1) The term "availability" means the availability of required energy at a stated instant of time or over a stated period of time for a specific purpose.

(2) The term "black start exercise" means an exercise in which delivery of energy provided from off an installation is terminated before backup generation assets on the installation are turned on. Such an exercise shall—

(A) determine the ability of the backup systems to start independently, transfer the load, and carry the load until energy from off the installation is restored;

(B) align organizations with critical missions to coordinate in meeting critical mission requirements;

(C) validate mission operation plans, such as continuity of operations plans;

(D) identify infrastructure interdependencies; and

(E) verify backup electric power system performance.

(3) The term "critical mission"—

(A) means those aspects of the missions of an installation, including mission essential operations, that are critical to successful performance of the strategic national defense mission;

(B) may include operational headquarters facilities, airfields and supporting infrastructure, harbor facilities supporting naval vessels, munitions production and storage facilities, missile fields, radars, satellite control facilities, cyber operations facilities, space launch facilities, operational communications facilities, and biological defense facilities; and

(C) does not include military housing (including privatized military housing), morale, welfare, and recreation facilities, exchanges, commissaries, or privately owned facilities.

(4) The term "energy" means electricity, natural gas, steam, chilled water, and heated water.

(5) The term "installation" has the meaning given the term "military installation" in section 2801(c)(4) of this title.

(Added Pub. L. 116–283, div. A, title III, §316(a), Jan. 1, 2021, 134 Stat. 3516; amended Pub. L. 118–159, div. A, title III, §§313, 314(a), Dec. 23, 2024, 138 Stat. 1851; Pub. L. 119–60, div. B, title XXVIII, §2847, Dec. 18, 2025, 139 Stat. 1319.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(5), (6). Pub. L. 119–60 added pars. (5) and (6).
**2024**—Subsec. (d)(2)(C)(ii). Pub. L. 118–159, §313, substituted "2032" for "2027".
Subsec. (g). Pub. L. 118–159, §314(a), substituted "2027" for "2029" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON PROCUREMENT OF UTILITY SERVICES FOR INSTALLATIONS OF THE DEPARTMENT OF DEFENSE THROUGH AREAWIDE CONTRACTS

Pub. L. 119–60, div. B, title XXVIII, §2888, Dec. 18, 2025, 139 Stat. 1332, provided that:

"(a) PILOT PROGRAM REQUIRED.—Not later than 30 days after the date of the enactment of this Act [Dec 18, 2025], the Secretary of Defense shall establish a pilot program (in this section referred to as the 'pilot program') for the purposes of procuring utility services through an areawide contract with a public utility provider for any utility services that support energy resilience and mission readiness of a military installation.

"(b) DEADLINE FOR CONTRACTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall enter into at least one areawide contract with a public utility provider pursuant to the pilot program.

"(c) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary shall carry out the pilot program by entering into one or more public-private partnerships through an areawide contract entered into under the pilot program.

"(d) COMPETITION.—In carrying out the pilot program, the Secretary shall, in accordance with part 6.302 of the Federal Acquisition Regulation, develop—

"(1) a justification and approval template to be used by all acquisition commands of the military departments when entering into an areawide contract pursuant to the pilot program; and

"(2) a process for granting waivers with respect to the requirements of the Defense Federal Acquisition Regulation.

"(e) TERMINATION DATE.—The authority of the Secretary of Defense to carry out the pilot program shall terminate on the date that is one year after the date on which the Secretary commences the pilot program.

"(f) REPORTING REQUIREMENT.—Not later than 90 days after the date on which the pilot program is terminated pursuant to subsection (e), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) an analysis of the pilot program, including any efficiencies, benefits, and cost-savings associated with utilizing areawide contracts under the pilot program to procure utility services from a public utility provider; and

"(2) proposed solutions, including recommended legislative text and modifications to the Federal Acquisition Regulation or policy guidance of the Department of Defense, to overcome any remaining legal and policy hurdles that the Secretary identifies as inhibiting adherence to and implementation of section 2811(b) of the Military Construction Authorization Act for Fiscal Year 2024 (division B of Public Law 118–31; 10 U.S.C. 2920 note).

"(g) DEFINITIONS.—In this section:

"(1) The terms 'areawide contract', 'energy resilience', and 'utility service' have the meanings given such terms in section 2811(b)(3) of such Act.

"(2) The term 'military installation' has the meaning given such term in section 2801 of title 10, United States Code."

### DEPARTMENT OF DEFENSE INFRASTRUCTURE RESILIENCE AND READINESS

Pub. L. 118–31, div. B, title XXVIII, §2811(b), Dec. 22, 2023, 137 Stat. 748, provided that:

"(1) AUTHORITY.—The Secretary of Defense and the Secretary of the military department concerned may utilize existing areawide contracts to procure utility services from a utility service supplier—

"(A) to support installation energy resilience and mission readiness;

"(B) for the protection of critical infrastructure of the Department of Defense located at a military installation; and

"(C) to achieve energy resilience at military installations through implementation of utility system

infrastructure projects, to include facilities sustainment, restoration, and modernization of such infrastructure.

"(2) SUNSET.—The authority under this subsection shall terminate on September 30, 2032.

"(3) DEFINITIONS.—In this section:

"(A) AREAWIDE CONTRACT.—The term 'areawide contract' means a contract entered into between the General Services Administration and a utility service supplier under section 501 of title 40, United States Code, to procure the utility service needs of Federal agencies within the franchise territory of the supplier.

"(B) ENERGY RESILIENCE.—The term 'energy resilience' has the meaning given the term in section 101(e) of title 10, United States Code.

"(C) FRANCHISE TERRITORY.—The term 'franchise territory' means a geographical area that a utility service supplier has a right to serve based upon a franchise granted by an independent regulatory body, a certificate of public convenience and necessity, or other legal means.

"(D) UTILITY SERVICE.—The term 'utility service'—

"(i) means a utility or service described in section 2872a(b) of title 10, United States Code;

"(ii) includes the services supplied by a utility service supplier described in an areawide contract such as connection, change, disconnection, continue service, line extension, alteration or relocation, metering, and special facilities, including primary generation, backup generation, microgrid controls, charging capabilities, and any supporting infrastructure; and

"(iii) includes ancillary services, including total maintenance and repair, major restoration and repair, studies, and any other services, as appropriate.

"(E) UTILITY SERVICE SUPPLIER.—The term 'utility service supplier' means an entity that supplies a utility service.

"(F) UTILITY SYSTEM.—The term 'utility system' has the meaning given the term in subsections (i)(1)(A) and (i)(2)(A) of section 2688 of title 10, United States Code."

## §2921. Energy efficiency targets for data centers

(a) COVERED DATA CENTERS.—

(1) For each covered data center, the Secretary of Defense shall—

(A) develop a power usage effectiveness target for the data center, based on location, resiliency, industry standards, and best practices;

(B) develop a water usage effectiveness target for the data center, based on location, resiliency, industry standards, and best practices;

(C) develop other energy efficiency or water usage targets for the data center based on industry standards and best practices, as applicable to meet energy efficiency and resiliency goals;

(D) identify potential renewable or clean energy resources, or related technologies such as advanced battery storage capacity, to enhance resiliency at the data center, including potential renewable or clean energy purchase targets based on the location of the data center; and

(E) identify any statutory, regulatory, or policy barriers to meeting any target under any of subparagraphs (A) through (C).

(2) The Secretary of Defense shall ensure that targets developed under paragraph (1) are consistent with guidance issued by the Secretary of Energy.

(3) In this subsection, the term "covered data center" means a data center of the Department of Defense that—

(A) is one of the 50 data centers of the Department with the highest annual power usage rates; and

(B) has been established before the date of the enactment of this section.

(b) NEW DATA CENTERS.—(1) Except as provided in paragraph (2), in the case of any Department of Defense data center established on or after the date of the enactment of this section,

the Secretary of Defense shall establish energy, water usage, and resiliency-related standards that the data center shall be required to meet based on location, resiliency, industry and Federal standards, and best practices. Such standards shall include—

(A) power usage effectiveness standards;

(B) water usage effectiveness standards; and

(C) any other energy or resiliency standards the Secretary determines are appropriate.

(2) The Secretary may waive the requirement for a Department data center established on or after the date of the enactment of this section to meet the standards established under paragraph (1) if the Secretary—

(A) determines that such waiver is in the national security interest of the United States; and

(B) submits to the Committee on Armed Services of the House of Representatives notice of such waiver and the reasons for such waiver.

(Added Pub. L. 117–81, div. A, title III, §312(a)(1), Dec. 27, 2021, 135 Stat. 1627.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsecs. (a)(3)(B) and (b), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

## SUBCHAPTER II—ENERGY-RELATED PROCUREMENT

Sec.
2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution.
2922a. Contracts for energy or fuel for military installations.
2922b. Procurement of energy systems using renewable forms of energy.
2922c. Procurement of gasohol as motor vehicle fuel.
2922d. Procurement of fuel derived from coal, oil shale, and tar sands.
2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority.
2922f. Preference for energy efficient electric equipment.
2922g. Preference for motor vehicles using electric or hybrid propulsion systems; purchase or lease of certain electric and other vehicles.
[2922h. Repealed.]
2922i. Multiyear contracts: purchase of electricity from renewable energy sources.
2922j. Annual report on purchase of drop-in fuel.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title III, §315, Dec. 23, 2024, 138 Stat. 1851, added item 2922j and struck out item 2922h "Limitation on procurement of drop-in fuels". Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title III, §317(b), Dec. 23, 2022, 136 Stat. 2507, added item 2922g and struck out former item 2922g "Preference for motor vehicles using electric or hybrid propulsion systems".

**2021**—Pub. L. 116–283, div. A, title XVIII, §1879(b), Jan. 1, 2021, 134 Stat. 4293, added item 2922i.

**2015**—Pub. L. 114–92, div. A, title III, §311(b), Nov. 25, 2015, 129 Stat. 787, added item 2922h.

**2009**—Pub. L. 111–84, div. B, title XXVIII, §2844(b), Oct. 28, 2009, 123 Stat. 2682, added item 2922g.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PROHIBITION AND REPORT REQUIREMENT RELATING TO CERTAIN ENERGY PROGRAMS OF DEPARTMENT OF DEFENSE**

Pub. L. 118–31, div. A, title III, §320, Dec. 22, 2023, 137 Stat. 220, provided that:

"(a) PROHIBITION.—None of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for the Department of Defense for any operational energy program may be provided to any entity owned by, or with known financial or leadership ties to, the Russian Federation or the Chinese Communist Party.

"(b) REPORT REQUIREMENT.—As part of the report submitted under section 2925(a) of title 10, United States Code, for fiscal year 2024, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on operational energy programs that includes—

"(1) a list of each operational energy program; and

"(2) to the extent such information may be determined, a description of—

"(A) how each such program improves military readiness or capabilities;

"(B) how each such program shall be sustained (including in a contested environment); and

"(C) the estimated life-cycle costs of each such program, including the estimated cost avoidance over such life cycle.

"(c) OPERATIONAL ENERGY PROGRAM DEFINED.—In this section, the term 'operational energy program' means any program carried out under an operational energy initiative of the Department of Defense specified in section 2925(b)(3) of title 10, United States Code."

## PILOT PROGRAM ON USE OF SUSTAINABLE AVIATION FUEL

Pub. L. 117–263, div. A, title III, §324, Dec. 23, 2022, 136 Stat. 2516, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Secretary of Defense shall conduct a pilot program on the use of sustainable aviation fuel by the Department of Defense (in this section referred to as the 'pilot program').

"(2) DESIGN OF PROGRAM.—The pilot program shall be designed to—

"(A) identify any logistical challenges with respect to the use of sustainable aviation fuel by the Department;

"(B) promote understanding of the technical and performance characteristics of sustainable aviation fuel when used in a military setting; and

"(C) engage nearby commercial airports to explore opportunities and challenges to partner on the increased use of sustainable aviation fuel.

"(b) SELECTION OF FACILITIES.—

"(1) SELECTION.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall select not fewer than two geographically diverse facilities of the Department at which to carry out the pilot program.

"(B) ONSITE REFINERY.—Not fewer than one facility selected under subparagraph (A) shall be a facility with an onsite refinery that is located in proximity to not fewer than one major commercial airport that is also actively seeking to increase the use of sustainable aviation fuel.

"(2) NOTICE TO CONGRESS.—Upon the selection of each facility under paragraph (1), the Secretary shall submit to the appropriate congressional committees notice of the selection, including an identification of the facility selected.

"(c) USE OF SUSTAINABLE AVIATION FUEL.—

"(1) PLANS.—For each facility selected under subsection (b), not later than one year after the selection of the facility, the Secretary shall—

"(A) develop a plan on how to implement, by September 30, 2028, a target of exclusively using at the facility aviation fuel that is blended to contain not less than 10 percent sustainable aviation fuel;

"(B) submit the plan developed under subparagraph (A) to the appropriate congressional committees; and

"(C) provide to the appropriate congressional committees a briefing on such plan that includes, at a minimum—

"(i) a description of any operational, infrastructure, or logistical requirements, and recommendations, for the blending and use of sustainable aviation fuel; and

"(ii) a description of any stakeholder engagement in the development of the plan, including any consultations with nearby commercial airport owners or operators.

"(2) IMPLEMENTATION OF PLANS.—For each facility selected under subsection (b), during the period beginning on a date that is not later than September 30, 2028, and for five years thereafter, the

Secretary shall require, in accordance with the respective plan developed under paragraph (1), the exclusive use at the facility of aviation fuel that is blended to contain not less than 10 percent sustainable aviation fuel.

"(d) CRITERIA FOR SUSTAINABLE AVIATION FUEL.—Sustainable aviation fuel used under the pilot program shall meet the following criteria:

"(1) Such fuel shall be produced in the United States from domestic feedstock sources.

"(2) Such fuel shall constitute drop-in fuel that meets all specifications and performance requirements of the Department of Defense and the Armed Forces.

"(e) WAIVER.—The Secretary may waive the use of sustainable aviation fuel at a facility under the pilot program if the Secretary—

"(1) determines such use is not feasible due to a lack of domestic availability of sustainable aviation fuel or a national security contingency; and

"(2) submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of such waiver and the reasons for such waiver.

"(f) FINAL REPORT.—

"(1) IN GENERAL.—At the conclusion of the pilot program, the Assistant Secretary of Defense for Energy, Installations, and Environment shall submit to the appropriate congressional committees a final report on the pilot program.

"(2) ELEMENTS.—The report under paragraph (1) shall include each of the following:

"(A) An assessment of the effect of using sustainable aviation fuel on the overall fuel costs of blended fuel.

"(B) A description of any operational, infrastructure, or logistical requirements, and recommendations, for the blending and use of sustainable aviation fuel, with a focus on scaling up adoption of such fuel throughout the Armed Forces.

"(C) Recommendations with respect to how military installations can leverage proximity to commercial airports and other jet fuel consumers to increase the rate of use of sustainable aviation fuel, for both military and non-military use, including potential collaboration on innovative financing or purchasing and shared supply chain infrastructure.

"(D) A description of the effects on performance and operation of aircraft using sustainable aviation fuel, including—

"(i) if used, considerations of various blending ratios and the associated benefits thereof;

"(ii) efficiency and distance improvements of flights using sustainable aviation fuel;

"(iii) weight savings on large transportation aircraft and other types of aircraft by using blended fuel with higher concentrations of sustainable aviation fuel;

"(iv) maintenance benefits of using sustainable aviation fuel, including with respect to engine longevity;

"(v) the effect of the use of sustainable aviation fuel on emissions and air quality;

"(vi) the effect of the use of sustainable aviation fuel on the environment and on surrounding communities, including environmental justice factors that are created by the demand for and use of sustainable aviation fuel by the Department of Defense; and

"(vii) benefits with respect to job creation in the sustainable aviation fuel production and supply chain.

"(g) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means the following:

"(A) The Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) The Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) The term 'sustainable aviation fuel' has the meaning given such term in section 40007(e) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14' (Public Law 117–169) [49 U.S.C. 44504 note]."

## PILOT PROGRAM ON ALTERNATIVE FUEL VEHICLE PURCHASING

Pub. L. 116–283, div. A, title III, §321, Jan. 1, 2021, 134 Stat. 3521, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Energy and the Administrator of the General Services Administration, shall carry out a pilot program under which the Secretary of Defense may, notwithstanding section 400AA of the Energy Policy and Conservation Act (42

U.S.C. 6374), purchase new alternative fuel vehicles for which the initial cost of such vehicles exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by not more than 10 percent.

"(b) LOCATIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out the pilot program under subsection (a) at not fewer than 2 facilities or installations of each military department in the continental United States that—

"(A) have the largest total number of attached noncombat vehicles as compared to other facilities or installations of the Department of Defense; and

"(B) are located within 20 miles of public or private refueling or recharging stations.

"(2) AIR FORCE LOGISTICS CENTER.—One of the facilities or installations selected under paragraph (1) shall be an Air Force Logistics Center.

"(c) ALTERNATIVE FUEL VEHICLE DEFINED.—In this section, the term 'alternative fuel vehicle' includes a vehicle that uses—

"(1) a fuel or power source described in the first sentence of section 241(2)of the Clean Air Act (42 U.S.C. 7581(2)); or

"(2) propane."

## §2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution

(a) AUTHORITY TO CONTRACT.—The Secretary of Defense and the Secretary of a military department may each contract for storage facilities for, or the storage, handling, or distribution of, liquid fuels or natural gas.

(b) PERIOD OF CONTRACT.—The period of a contract entered into under subsection (a) may not exceed 5 years. However, the contract may provide options for the Secretary to renew the contract for additional periods of not more than 5 years each, but not for more than a total of 30 years.

(c) OPTION TO PURCHASE FACILITY.—A contract under this section may contain an option for the purchase by the United States of the facility covered by the contract at the expiration or termination of the contract, without regard to subsections (a) and (b) of section 3324 of title 31, and before approval of title to the underlying land by the Attorney General.

(Added Pub. L. 85–861, §1(46), Sept. 2, 1958, 72 Stat. 1457, §2388; amended Pub. L. 97–214, §10(a)(3), July 12, 1982, 96 Stat. 175; Pub. L. 97–258, §3(b)(6), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97–295, §1(27), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 98–525, title XIV, §1405(56)(A), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 101–510, div. A, title XIII, §1322(a)(6), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103–160, div. A, title VIII, §825, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 103–355, title III, §3064, Oct. 13, 1994, 108 Stat. 3337; renumbered §2922, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 115–91, div. A, title VIII, §881(a), Dec. 12, 2017, 131 Stat. 1504.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2388(a) | 50:98i (1st sentence). | Aug. 3, 1956, ch. 939, §416, 70 Stat. 1018. |
| 2388(b) | 50:98i (2d sentence). | |
| 2388(c) | 50:98i (less 1st and 2d sentences and proviso of last sentence). | |
| 2388(d) | 50:98i (proviso of last sentence). | |

In subsection (b), the words "section applies only" are substituted for the words "authority is limited". The word "standards" is substituted for the word "criteria".

In subsection (c), the words "A contract under this section" are substituted for the words "Such contracts". The last 33 words are substituted for 50:98i (28 words before proviso of last sentence).

### 1982 ACT

In 10:2388(c), the title 31 citation is substituted on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted title 31.

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (b). Pub. L. 115–91 substituted "30 years" for "20 years".

**2006**—Pub. L. 109–364 renumbered section 2388 of this title as this section.

**1994**—Subsec. (a). Pub. L. 103–355 substituted "liquid fuels or natural gas" for "liquid fuels and natural gas".

**1993**—Pub. L. 103–160, §825(b), substituted "Liquid fuels and natural gas: contracts for storage, handling, or distribution" for "Liquid fuels: contracts for storage, handling, and distribution" as section catchline.

Subsecs. (a), (b). Pub. L. 103–160, §825(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) The Secretary of a military department may contract for the storage, handling, and distribution of liquid fuels for periods of not more than five years, with options to renew for additional periods of not more than five years each, but not for more than a total of 20 years.

"(b) This section applies only to facilities that conform to standards prescribed by the Secretary of Defense for protection, including dispersal, and that are in a program approved by the Secretary of Defense for the protection of petroleum facilities."

Subsec. (c). Pub. L. 103–160, §825(a)(2), inserted heading.

**1990**—Subsec. (d). Pub. L. 101–510 struck out subsec. (d) which read as follows: "The Secretary concerned shall report to the Committees on Armed Services of the Senate and the House of Representatives the terms of the contracts made under this section and the names of the contractors. The reports shall be made at such times and in such form as may be agreed upon by the Secretary and those Committees."

**1984**—Subsec. (c). Pub. L. 98–525 substituted "subsections (a) and (b) of section 3324" for "section 3324(a) and (b)".

**1982**—Subsec. (c). Pub. L. 97–295, §1(27), substituted "section 3324(a) and (b) of title 31" for "section 3648 of the Revised Statutes (31 U.S.C. 529)", clarifying the ambiguity created by previous amendments by Pub. L. 97–214 and Pub. L. 97–258.

Pub. L. 97–258, §3(b)(6), directed the substitution of "section 3324(a) and (b) of title 31" for "section 529 of title 31", which could not be executed in view of prior substitution of language by Pub. L. 97–214.

Pub. L. 97–214, §10(a)(3), substituted "section 3648 of the Revised Statutes (31 U.S.C. 529)" for "section 4774(d) or 9774(d) of this title, section 529 of title 31, or section 259 or 267 of title 40,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title VIII, §881(b), Dec. 12, 2017, 131 Stat. 1504, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into on or after the date of the enactment of this Act [Dec. 12, 2017], and may be applied to a contract entered into before that date if the total contract period under the contract (including options) has not expired as of the date of any extension of such contract period by reason of such amendment."

### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

### IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS RELATING TO OVERSIGHT OF DEFENSE FUEL SUPPORT POINTS

Pub. L. 118–159, div. A, title III, §320, Dec. 23, 2024, 138 Stat. 1853, provided that: "With respect to each recommendation of the Inspector General of the Department of Defense contained in the report published by the Inspector General on April 11, 2024, and titled 'Audit of the Defense Logistics Agency Oversight of Defense Fuel Support Points' (DODIG–2024–075), by not later than May 1, 2026, the Secretary of Defense shall—

"(1) implement such recommendation; or

"(2) submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an explanation of why the Secretary has not implemented the recommendation."

**BULK FUEL MANAGEMENT IN UNITED STATES INDO-PACIFIC COMMAND AREA OF RESPONSIBILITY**

Pub. L. 116–283, div. B, title XXVIII, §2854, Jan. 1, 2021, 134 Stat. 4355, as amended by Pub. L. 117–81, div. A, title III, §352(d), Dec. 27, 2021, 135 Stat. 1655, provided that:

"(a) BULK FUEL MANAGEMENT STRATEGY.—

"(1) STRATEGY REQUIRED.—The Secretary of Defense shall prepare a bulk fuel management strategy for the United States Indo-Pacific Command Area of Responsibility designed to develop the required bulk fuel management infrastructure and programs to optimally support bulk fuel management in the United States Indo-Pacific Command Area of Responsibility.

"(2) ADDITIONAL ELEMENTS.—The strategy shall include the following additional elements:

"(A) A description of current organizational responsibility of bulk fuel management in the United States Indo-Pacific Command Area of Responsibility from ordering, storage, strategic transportation, and tactical transportation to the last tactical mile.

"(B) A description of legacy bulk fuel management assets that can be used to support the United States Indo-Pacific Command.

"(C) A description of current programs for platforms and weapon systems and research and development aimed at managing fuel constraints through decreasing demand.

"(b) COORDINATION.—The bulk fuel management strategy required by subsection (a) shall be prepared in coordination with subject-matter experts of the United States Indo-Pacific Command, the United States Transportation Command, the Defense Logistics Agency, and the military departments."

**NOTICE OF PURCHASE OF DROP-IN FUEL**

Pub. L. 113–291, div. A, title III, §316(c), (d), Dec. 19, 2014, 128 Stat. 3339, 3340, provided that:

"(c) NOTICE OF PURCHASE REQUIRED.—If the Secretary of Defense intends to purchase a drop-in fuel intended for operational use with a fully burdened cost in excess of 10 percent more than the fully burdened cost of a traditional fuel available for the same purpose, the Secretary shall provide notice of such intended purchase to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than 30 days before the date on which such purchase is intended to be made.

"(d) DEFINITIONS.—In this section [this note]:

"(1) The term 'drop-in fuel' means a neat or blended liquid hydrocarbon fuel designed as a direct replacement for a traditional fuel with comparable performance characteristics and compatible with existing infrastructure and equipment.

"(2) The term 'traditional fuel' means a liquid hydrocarbon fuel derived or refined from petroleum.

"(3) The term 'operational purposes' means for the purposes of conducting military operations, including training, exercises, large scale demonstrations, and moving and sustaining military forces and military platforms. The term does not include research, development, testing, evaluation, fuel certification, or other demonstrations.

"(4) The term 'fully burdened cost' means the commodity price of the fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the fuel is received from the commercial supplier to the point of use."

**PURCHASES OF GASOHOL AS FUEL FOR MOTOR VEHICLES**

Pub. L. 96–107, title VIII, §815, Nov. 9, 1979, 93 Stat. 817, which had authorized the Secretary of Defense to buy domestically produced alcohol and gasohol for use as fuel in Department of Defense motor vehicles, was repealed and reenacted as section 2398 (now 2922c) of this title by Pub. L. 97–295, §§1(29)(A), 6(b), Oct. 12, 1982, 96 Stat. 1293, 1315.

## §2922a. Contracts for energy or fuel for military installations

(a) Subject to subsection (b), the Secretary of a military department may enter into contracts for periods of up to 30 years—

(1) under section 2917 of this title; and

(2) for the provision and operation of energy production facilities on real property under the Secretary's jurisdiction or on private property and the purchase of energy produced from such facilities.

(b) A contract may be made under subsection (a) only after the approval of the proposed contract by the Secretary of Defense.

(c) The costs of contracts under this section for any year may be paid from annual appropriations for that year.

(d) The Secretary concerned shall ensure energy security and energy resilience are included as critical factors in the provision and operation of energy production facilities under this section.

(Added Pub. L. 97–214, §6(a)(1), July 12, 1982, 96 Stat. 171, §2394; amended Pub. L. 97–321, title VIII, §805(b)(3), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIII, §1301(12), Nov. 5, 1990, 104 Stat. 1668; renumbered §2922a and amended Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), (3)(C), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 115–91, div. B, title XXVIII, §2833, Dec. 12, 2017, 131 Stat. 1858; Pub. L. 115–232, div. A, title III, §312(d), Aug. 13, 2018, 132 Stat. 1710; Pub. L. 116–92, div. A, title III, §320(a)(2)(A), Dec. 20, 2019, 133 Stat. 1306.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (d). Pub. L. 116–92 substituted "energy resilience are included as critical factors" for "resilience are prioritized and included".

**2018**—Subsec. (d). Pub. L. 115–232 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Secretary concerned shall prioritize energy security and resilience."

**2017**—Subsec. (d). Pub. L. 115–91 added subsec. (d).

**2006**—Pub. L. 109–364, §2851(b)(2), renumbered section 2394 of this title as this section.

Subsec. (a)(1). Pub. L. 109–364, §2851(b)(3)(C), substituted "section 2917" for "section 2689".

**1990**—Subsec. (b). Pub. L. 101–510 substituted "only after the approval of the proposed contract by the Secretary of Defense" for "only—

"(1) after the approval of the proposed contract by the Secretary of Defense; and

"(2) after the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar amount of the contract and the amount of energy or fuel to be delivered to the Government under the contract".

**1987**—Subsec. (c). Pub. L. 100–26, which directed that "The term" be inserted in each paragraph after the paragraph designation and the first word after the first quotation marks in each paragraph be revised so that the initial letter of such word is lowercase, could not be executed because subsec. (c) contained no paragraphs and no quoted words. The probable intent of Congress was to amend section 2393(c) of this title.

**1982**—Subsec. (a). Pub. L. 97–321, §805(b)(3)(A), substituted "subsection (b)" for "subsection (c)".

Subsecs. (c), (d). Pub. L. 97–321, §805(b)(3)(B), redesignated subsec. (d) as (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §2922b. Procurement of energy systems using renewable forms of energy

(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible, suited to supplying the energy needs of the military department under the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance

plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (e) of such section.

(b) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2915 of this title.

(Added Pub. L. 97–321, title VIII, §801(a)(1), Oct. 15, 1982, 96 Stat. 1569, §2394a; amended Pub. L. 98–525, title XIV, §1405(36), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 101–510, div. A, title XIII, §1322(a)(7), div. B, title XXVIII, §2852(a), Nov. 5, 1990, 104 Stat. 1671, 1804; Pub. L. 102–25, title VII, §701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered §2922b and amended Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), (3)(D), Oct. 17, 2006, 120 Stat. 2494, 2495; Pub. L. 115–91, div. B, title XXVIII, §2831(c)(4), Dec. 12, 2017, 131 Stat. 1858.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91 substituted "subsection (e)" for "subsection (c)".

**2006**—Pub. L. 109–364, §2851(b)(2), renumbered section 2394a of this title as this section.

Subsec. (a). Pub. L. 109–364, §2851(b)(3)(D)(i), substituted "possible, suited" for "possible and will be cost effective, reliable, and otherwise suited" and "the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (c) of such section" for "his jurisdiction".

Subsec. (b). Pub. L. 109–364, §2851(b)(3)(D)(ii), struck out "cost effective and" before "reliable" and substituted "2915" for "2857".

Subsec. (c). Pub. L. 109–364, §2851(b)(3)(D)(iii), struck out subsec. (c) which read as follows:

"(c)(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system using such a form of energy, and (B) the original investment cost of the energy system not using such a form of energy can be recovered over the expected life of the system.

"(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a))."

**1991**—Subsec. (c)(2). Pub. L. 102–25 inserted "(42 U.S.C. 8254(a))" after "Policy Act".

**1990**—Subsec. (b). Pub. L. 101–510, §1322(a)(7), struck out "(1)" after "(b)" and struck out par. (2) which read as follows: "The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives not less often than every two years a report on the studies conducted pursuant to paragraph (1). Each such report shall include any findings of the Secretary with respect to the use of solar energy and other renewable forms of energy in supplying the energy needs of the Department of Defense and any recommendations of the Secretary for changes in law that may be appropriate in light of such studies."

Subsec. (c)(2), (3). Pub. L. 101–510, §2852(a), added par. (2) and struck out former pars. (2) and (3) which read as follows:

"(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a system shall be made using accepted life-cycle costing procedures and shall include—

"(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system using solar energy or other renewable forms of energy, and not using such a form of energy, over the expected life of the system or during a period of 25 years, whichever is shorter;

"(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

"(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

"(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit."

**1984**—Pub. L. 98–525 substituted "using" for "powered by" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SUBMISSION DATE FOR FIRST REPORT**

Pub. L. 97–321, title VIII, §801(a)(3), Oct. 15, 1982, 96 Stat. 1571, required the first report under subsec. (b)(2) of this section to be submitted not later than two years after Oct. 15, 1982.

## §2922c. Procurement of gasohol as motor vehicle fuel

(a) OTHER FEDERAL FUEL PROCUREMENTS.—Consistent with the vehicle management practices prescribed by the heads of affected departments and agencies of the Federal Government and consistent with Executive Order Number 12261, whenever the Secretary of Defense enters into a contract for the procurement of unleaded gasoline that is subject to tax under section 4081 of the Internal Revenue Code of 1986 for motor vehicles of a department or agency of the Federal Government other than the Department of Defense, the Secretary shall buy alcohol-gasoline blends containing at least 10 percent domestically produced alcohol in any case in which the price of such fuel is the same as, or lower than, the price of unleaded gasoline.

(b) SOLICITATIONS.—Whenever the Secretary issues a solicitation for bids to procure unleaded gasoline under subsection (a), the Secretary shall expressly include in such solicitation a request for bids on alcohol-gasoline blends containing at least 10 percent domestically produced alcohol.

(Added Pub. L. 97–295, §1(29)(A), Oct. 12, 1982, 96 Stat. 1293, §2398; amended Pub. L. 102–190, div. A, title VIII, §841(a), Dec. 5, 1991, 105 Stat. 1448; Pub. L. 104–106, div. A, title X, §1061(h), Feb. 10, 1996, 110 Stat. 443; renumbered §2922c, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2398 | 10:2388 (note). | Nov. 9, 1979, Pub. L. 96–107, §815, 93 Stat. 817. |

The word "prescribed" is substituted for "determined" because it is more appropriate. The word "Secretary" is substituted for "Department of Defense" because the responsibility is in the head of the agency. The word "shall" is substituted for "is authorized and directed" for clarity.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order Number 12661, referred to in subsec. (a), is set out under section 8871 of Title 42, The Public Health and Welfare.

Section 4081 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 4081 of Title 26, Internal Revenue Code.

**AMENDMENTS**

**2006**—Pub. L. 109–364 renumbered section 2398 of this title as this section.

**1996**—Subsec. (a). Pub. L. 104–106, §1061(h)(1), (2)(A), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: "DOD MOTOR VEHICLES.—To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense."

Subsec. (b). Pub. L. 104–106, §1061(h)(2), redesignated subsec. (c) as (b) and substituted "subsection (a)" for "subsection (b)". Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104–106, §1061(h)(2)(A), redesignated subsec. (c) as (b).

**1991**—Pub. L. 102–190 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1991 AMENDMENT**

Pub. L. 102–190, div. A, title VIII, §841(b), Dec. 5, 1991, 105 Stat. 1448, provided that: "Section 2398(b) [now 2922c(a)] of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded pursuant to solicitations issued after the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 5, 1991]."

## §2922d. Procurement of fuel derived from coal, oil shale, and tar sands

(a) USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a "covered fuel") that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) AUTHORITY TO PROCURE.—The Secretary of Defense may enter into one or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet one or more fuel requirements of the Department of Defense.

(c) CLEAN FUEL REQUIREMENTS.—A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) MULTIYEAR CONTRACT AUTHORITY.—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for one or more years at the election of the Secretary of Defense.

(e) FUEL SOURCE ANALYSIS.—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.

(Added Pub. L. 109–58, title III, §369(q)(1), Aug. 8, 2005, 119 Stat. 733, §2398a; renumbered §2922d, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 111–383, div. A, title X, §1075(b)(48), Jan. 7, 2011, 124 Stat. 4371.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsecs. (b), (d). Pub. L. 111–383 substituted "one or more" for "1 or more" wherever appearing.

**2006**—Pub. L. 109–364 renumbered section 2398a of this title as this section.

## §2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority

(a) WAIVER AUTHORITY.—The Secretary of Defense may, for any purchase of a defined fuel source, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines—

(1) that market conditions for the defined fuel source have adversely affected (or will in the near future adversely affect) the acquisition of that defined fuel source by the Department of Defense; and

(2) the waiver will expedite or facilitate the acquisition of that defined fuel source for

Government needs.

(b) SCOPE OF WAIVER.—A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of a defined fuel source may also be made applicable to a subcontract under that contract.

(c) EXCHANGE AUTHORITY.—The Secretary of Defense may acquire a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source.

(d) AUTHORITY TO SELL.—The Secretary of Defense may sell a defined fuel source of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the acquisition of a defined fuel source or services related to a defined fuel source. Amounts so credited shall be available for obligation for the same period as the appropriations to which the amounts are credited.

(Added Pub. L. 98–525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2604, §2404; amended Pub. L. 100–26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIII, §1322(a)(8), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103–160, div. A, title VIII, §826, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 106–65, div. A, title VIII, §803(a), (b)(1), Oct. 5, 1999, 113 Stat. 703; renumbered §2922e, Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 112–81, div. B, title XXVIII, §2821(b)(2), Dec. 31, 2011, 125 Stat. 1691.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsecs. (e), (f). Pub. L. 112–81 struck out subsecs. (e) and (f), which, respectively, defined "petroleum" and "defined fuel source".

**2006**—Pub. L. 109–364 renumbered section 2404 of this title as this section.

**1999**—Pub. L. 106–65, §803(b)(1), substituted "Acquisition of certain fuel sources" for "Acquisition of petroleum and natural gas" in section catchline.

Subsec. (a). Pub. L. 106–65, §803(a)(1), substituted "a defined fuel source" for "petroleum or natural gas" in introductory provisions, "market conditions for the defined fuel source" for "petroleum market conditions or natural gas market conditions, as the case may be," and "acquisition of that defined fuel source" for "acquisition of petroleum or acquisition of natural gas, respectively," in par. (1), and "that defined fuel source" for "petroleum or natural gas, as the case may be," in par. (2).

Subsec. (b). Pub. L. 106–65, §803(a)(2), substituted "a defined fuel source" for "petroleum or natural gas" in second sentence.

Subsec. (c). Pub. L. 106–65, §803(a)(3), which directed the substitution of "a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source." for " 'petroleum' and all that follows through the period", was executed by substituting the material for "petroleum, petroleum-related services, natural gas, or natural gas-related services by exchange of petroleum, petroleum-related services, natural gas, or natural gas-related services." to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 106–65, §803(a)(4), substituted "a defined fuel source" for "petroleum or natural gas" in first sentence and "a defined fuel source or services related to a defined fuel source." for "petroleum, petroleum-related services, natural gas, or natural gas-related services." in second sentence.

Subsec. (f). Pub. L. 106–65, §803(a)(5), added subsec. (f).

**1993**—Pub. L. 103–160, §826(d)(2), substituted "petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority" for "petroleum: authority to waive contract procedures" as section catchline.

Subsec. (a). Pub. L. 103–160, §826(a)(1), (d)(1)(A), inserted heading, inserted "or natural gas" after "petroleum" in introductory provisions, inserted "or natural gas market conditions, as the case may be," after "petroleum market conditions" and "or acquisition of natural gas, respectively," after "acquisition of petroleum" in par. (1), and inserted "or natural gas, as the case may be," after "petroleum" in par. (2).

Subsec. (b). Pub. L. 103–160, §826(a)(2), (d)(1)(B), inserted heading and inserted "or natural gas" after

"petroleum" in second sentence.

Subsec. (c). Pub. L. 103–160, §826(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary of Defense may acquire petroleum by exchange of petroleum or petroleum derivatives."

Subsec. (d). Pub. L. 103–160, §826(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103–160, §826(c)(1), (d)(1)(C), redesignated subsec. (d) as (e) and inserted heading.

**1990**—Subsecs. (d), (e). Pub. L. 101–510 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "The Secretary of Defense shall notify the Congress within 10 days of the date on which any waiver is made under this section and of the reasons for the necessity of exercising such waiver."

**1987**—Subsec. (e). Pub. L. 100–26 inserted "the term" after "In this section,".

## §2922f. Preference for energy efficient electric equipment

(a) In establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(b) Subsection (a) applies to the following electric equipment:

(1) Electric lamps.

(2) Electric ballasts.

(3) Electric motors.

(4) Electric refrigeration equipment.

(Added Pub. L. 102–484, div. A, title III, §384(a)(1)(A), Oct. 23, 1992, 106 Stat. 2392, §2410c; renumbered §2922f and amended Pub. L. 109–364, div. B, title XXVIII, §2851(b)(2), (3)(E), Oct. 17, 2006, 120 Stat. 2494, 2495; Pub. L. 115–91, div. B, title XXVIII, §2831(c)(5), Dec. 12, 2017, 131 Stat. 1858.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a). Pub. L. 115–91 substituted "subsection (e)" for "subsection (c)".

**2006**—Pub. L. 109–364, §2851(b)(2), renumbered section 2410c of this title as this section.

Subsec. (a). Pub. L. 109–364, §2851(b)(3)(E), substituted "In" for "When cost effective, in" and "if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section" for "as the case may be".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title III, §384(a)(2), Oct. 23, 1992, 106 Stat. 2393, provided that: "The amendments made by paragraph (1) [enacting this section] shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act [Oct. 23, 1992]."

### ELECTRIC LIGHTING AND REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAMS

Pub. L. 102–484, div. A, title III, §384(b)–(d), Oct. 23, 1992, 106 Stat. 2393, provided that:

"(b) ELECTRIC LIGHTING DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment.

"(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

"(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

"(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

"(B) to determine the costs of, and the savings that would result from, such improvements.

"(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

"(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

"(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

"(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

"(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

"(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

"(B) to determine the costs of, and the savings that would result from, such improvements.

"(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

"(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act [Oct. 23, 1992].

"(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

"(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

"(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out other improvements relating to energy efficiency that are more cost effective than that conversion."

## §2922g. Preference for motor vehicles using electric or hybrid propulsion systems; purchase or lease of certain electric and other vehicles

(a) PREFERENCE.—During the period preceding October 1, 2035, in leasing or procuring motor vehicles for use by a military department or Defense Agency, the Secretary of the military department or the head of the Defense Agency may provide a preference for the lease or procurement of motor vehicles using electric or hybrid propulsion systems, including plug-in hybrid systems, if the electric or hybrid vehicles—

(1) will meet the requirements or needs of the Department of Defense; and

(2) are commercially available at a cost, including operating cost, reasonably comparable to motor vehicles containing only an internal combustion or heat engine using combustible fuel.

(b) EXCEPTION.—Subsection (a) does not apply with respect to tactical vehicles designed for use in combat.

(c) RELATION TO OTHER VEHICLE TECHNOLOGIES THAT REDUCE CONSUMPTION OF FOSSIL FUELS.—The preference required by subsection (a) does not preclude the Secretary of Defense from authorizing, during the period specified in subsection (a), the Secretary of a military department or head of a Defense Agency to provide a preference for another vehicle technology that reduces the consumption of fossil fuels if the Secretary of Defense determines that the technology is consistent with the energy performance goals and plan of the Department required by section 2911 of this title.

(d) REQUIREMENT.—Except as provided in subsection (e), beginning on October 1, 2035, each covered nontactical vehicle purchased or leased by or for the use of the Department of Defense shall

be—

(1) an electric or zero emission vehicle that uses a charging connector type (or other means to transmit electricity to the vehicle) that meets applicable industry accepted standards for interoperability and safety;

(2) an advanced-biofuel-powered vehicle; or

(3) a hydrogen-powered vehicle.

(e) RELATION TO OTHER VEHICLE TECHNOLOGIES THAT REDUCE CONSUMPTION OF FOSSIL FUELS.—Notwithstanding the requirement under subsection (d), beginning on October 1, 2035, the Secretary of Defense may authorize the purchase or lease of a covered nontactical vehicle that is not described in such subsection if the Secretary determines, on a case-by-case basis, that—

(1) the technology used in the vehicle to be purchased or leased reduces the consumption of fossil fuels compared to vehicles that use conventional internal combustion technology;

(2) the purchase or lease of such vehicle is consistent with the energy performance goals and plan of the Department of Defense required by section 2911 of this title; and

(3) the purchase or lease of a vehicle described in subsection (d) is impracticable under the circumstances.

(f) WAIVER.—(1) The Secretary of Defense may waive the requirement under subsection (d).

(2) The Secretary of Defense may not delegate the waiver authority under paragraph (1).

(g) DEFINITIONS.—In this section:

(1) The term "advanced-biofuel-powered vehicle" includes a vehicle that uses a fuel described in section 9001(3)(A) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101(3)(A)).

(2) The term "covered nontactical vehicle" means any vehicle—

(A) that is not a tactical vehicle designed for use in combat; and

(B) that is purchased or leased by the Department of Defense pursuant to a contract entered into, renewed, modified, or amended on or after October 1, 2035.

(3) The term "hydrogen-powered vehicle" means a vehicle that uses hydrogen as the main source of motive power, either through a fuel cell or internal combustion.

(Added Pub. L. 111–84, div. B, title XXVIII, §2844(a), Oct. 28, 2009, 123 Stat. 2682; amended Pub. L. 112–81, div. B, title XXVIII, §2821(b)(3), Dec. 31, 2011, 125 Stat. 1691; Pub. L. 117–263, div. A, title III, §317(a), Dec. 23, 2022, 136 Stat. 2506; Pub. L. 118–159, div. A, title XVII, §1701(a)(33), Dec. 23, 2024, 138 Stat. 2205; Pub. L. 119–60, div. A, title III, §312(2), Dec. 18, 2025, 139 Stat. 804.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 substituted "may" for "shall" in introductory provisions.

**2024**—Subsec. (g)(1). Pub. L. 118–159 substituted "2002" for "2202".

**2022**—Pub. L. 117–263, §317(a)(1), substituted "systems; purchase or lease of certain electric and other vehicles" for "systems" in section catchline.

Subsec. (a). Pub. L. 117–263, §317(a)(2), substituted "During the period preceding October 1, 2035, in leasing" for "In leasing" in introductory provisions.

Subsec. (c). Pub. L. 117–263, §317(a)(3), inserted ", during the period specified in subsection (a)," after "from authorizing".

Subsecs. (d) to (g). Pub. L. 117–263, §317(a)(4), added subsecs. (d) to (g).

**2011**—Subsec. (d). Pub. L. 112–81 struck out subsec. (d), which defined "hybrid".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**REGULATIONS**

Pub. L. 111–84, div. B, title XXVIII, §2844(c), Oct. 28, 2009, 123 Stat. 2682, provided that: "The Secretary of Defense shall prescribe regulations to implement section 2922g of title 10, United States Code, as added by subsection (a), within one year after the date of the enactment of this Act [Oct. 28, 2009]."

**REQUIREMENT THAT ELECTRIC VEHICLES, ADVANCED-BIOFUEL-POWERED VEHICLES, OR HYDROGEN-POWERED VEHICLES BE IN COMPLIANCE WITH APPLICABLE REGULATION**

Pub. L. 117–263, div. A, title III, §328(c), (d), Dec. 23, 2022, 136 Stat. 2521, provided that:

"(c) ADDITIONAL PROHIBITION.—None of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for the Department of Defense may be obligated or expended to procure non-tactical vehicles that are electric vehicles, advanced-biofuel-powered vehicles, or hydrogen-powered vehicles, or any components or spare parts associated with such vehicles, that are not in compliance with subpart 22.15 of the Federal Acquisition Regulation (or any successor regulations).

"(d) DEFINITIONS.—In this section:

"(1) The term 'advanced-biofuel-powered vehicle' includes a vehicle that uses a fuel described in section 9001(3)(A) of the Farm Security and Rural Investment Act of 2202 [2002] (7 U.S.C. 8101(3)(A)).

"(2) The term 'charging station' means a parking space with electric vehicle supply equipment that supplies electric energy for the recharging of electric vehicles with at least a level two charger.

"(3) The term 'electric grid requirements' means the power grid and infrastructure requirements needed to support plug-in electric vehicles and vehicle-to-grid requirements.

"(4) The term 'electric non-tactical vehicle' means a non-tactical vehicle that is an electric vehicle.

"(5) The terms 'electric vehicle' includes—

"(A) a plug-in hybrid electric vehicle that uses a combination of electric and gas powered engine that can use either gasoline or electricity as a fuel source; and

"(B) a plug-in electric vehicle that runs solely on electricity and does not contain an internal combustion engine or gas tank.

"(6) The term 'hydrogen-powered vehicle' means a vehicle that uses hydrogen as the main source of motive power, either through a fuel cell or internal combustion.

"(7) The term 'non-tactical vehicle' means a vehicle other than a tactical vehicle.

"(8) The term 'tactical vehicle' means a motor vehicle designed to military specification, or a commercial design motor vehicle modified to military specification, to provide direct transportation support of combat or tactical operations, or for the training of personnel for such operations."

## [§2922h. Repealed. Pub. L. 118–159, div. A, title III, §315(a), Dec. 23, 2024, 138 Stat. 1851]

Section, added Pub. L. 114–92, div. A, title III, §311(a), Nov. 25, 2015, 129 Stat. 787, limited Secretary of Defense's procurement of drop-in fuels.

## §2922i. Multiyear contracts: purchase of electricity from renewable energy sources

(a) MULTIYEAR CONTRACTS AUTHORIZED.—Subject to subsection (b), the Secretary of Defense may enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)).

(b) LIMITATIONS ON CONTRACTS FOR PERIODS IN EXCESS OF FIVE YEARS.—The Secretary may exercise the authority in subsection (a) to enter into a contract for a period in excess of five years only if the Secretary determines, on the basis of a business case analysis prepared by the Department of Defense, that—

(1) the proposed purchase of electricity under such contract is cost effective for the Department of Defense; and

(2) it would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

(c) RELATIONSHIP TO OTHER MULTIYEAR CONTRACTING AUTHORITY.—Nothing in this section shall be construed to preclude the Department of Defense from using other multiyear contracting authority of the Department to purchase renewable energy.

(Added Pub. L. 110–181, div. A, title VIII, §828(a), Jan. 28, 2008, 122 Stat. 229, §2410q; renumbered §2922i, Pub. L. 116–283, div. A, title XVIII, §1879(a), Jan. 1, 2021, 134 Stat. 4293.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2410q of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §2922j. Annual report on purchase of drop-in fuel

(a) IN GENERAL.—Not less frequently than annually, the Secretary of Defense shall submit to Congress a report that, for the year covered by the report—

(1) identifies each instance in which the Secretary purchased drop-in fuel that was not cost-competitive with traditional fuel; and

(2) for each instance identified under paragraph (1), states whether the purchase was based on a military requirement or not.

(b) DEFINITIONS.—In this section:

(1) The term "drop-in fuel" means a neat or blended liquid hydrocarbon fuel designed as a direct replacement for a traditional fuel with comparable performance characteristics and compatible with existing infrastructure and equipment.

(2) The term "traditional fuel" means a liquid hydrocarbon fuel derived or refined from petroleum.

(Added Pub. L. 118–159, div. A, title III, §315(b), Dec. 23, 2024, 138 Stat. 1852.)

# SUBCHAPTER III—GENERAL PROVISIONS

Sec.
2924. Definitions.
2925. Annual report on energy performance, resilience, and readiness of Department of Defense.
2926. Operational energy.
2927. Global bulk fuel management and delivery.
2928. Programs on reduction of fuel reliance and promotion of energy-aware behaviors.

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–263, div. A, title III, §§314(b)(2), 319(a), Dec. 23, 2022, 136 Stat. 2505, 2507, added items 2925 and 2928 and struck out former item 2925 "Annual Department of Defense energy management reports".

**2021**—Pub. L. 117–81, div. A, title III, §352(a)(2), Dec. 27, 2021, 135 Stat. 1654, added item 2927.

**2019**—Pub. L. 116–92, div. A, title III, §320(c)(2), Dec. 20, 2019, 133 Stat. 1307, which directed amendment of the analysis at the beginning of this chapter by substituting "Operational energy" for "Operational energy activities" in item 2926, was executed in the analysis for this subchapter to reflect the probable intent of Congress.

**2014**—Pub. L. 113–291, div. A, title IX, §901(l)(3), Dec. 19, 2014, 128 Stat. 3468, added item 2926.

**2011**—Pub. L. 112–81, div. B, title XXVIII, §2821(a)(2)(B), Dec. 31, 2011, 125 Stat. 1691, added item 2924.

**2008**—Pub. L. 110–417, [div. A], title III, §331(b)(2), Oct. 14, 2008, 122 Stat. 4420, added item 2925 and struck out former item 2925 "Annual report".

## §2924. Definitions

In this chapter:

(1) The term "defined fuel source" means any of the following:

(A) Petroleum.

(B) Natural gas.

(C) Coal.

(D) Coke.

(2) The term "energy-efficient maintenance" includes—

(A) the repair of military vehicles, equipment, or facility and infrastructure systems, such as lighting, heating, or cooling equipment or systems, or industrial processes, by replacement with technology that—

(i) will achieve energy savings over the life-cycle of the equipment or system being repaired; and

(ii) will meet the same end needs as the equipment or system being repaired; and

(B) improvements in an operation or maintenance process, such as improved training or improved controls, that result in energy savings.

(3) The term "hybrid", with respect to a motor vehicle, means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system.

(4) The term "operational energy" means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.

(5) The term "petroleum" means natural or synthetic crude, blends of natural or synthetic crude, and products refined or derived from natural or synthetic crude or from such blends.

(6) The term "renewable energy source" means energy generated from renewable sources, including the following:

(A) Solar, including electricity.

(B) Wind.

(C) Biomass.

(D) Biogas.

(E) Landfill gas.

(F) Ocean, including tidal, wave, current, and thermal.

(G) Geothermal, including electricity and heat pumps.

(H) Municipal solid waste.

(I) New hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project. For purposes of this subparagraph, hydroelectric generation capacity is "new" if it was placed in service on or after January 1,

1999.

(J) Thermal energy generated by any of the preceding sources.

(7) The term "biomass" has the meaning given the term "renewable biomass" in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)).

(8) The term "biogas" means biogas as such term is used in section 211(o)(1)(B)(ii)(V) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)(ii)(V)).

(Added Pub. L. 112–81, div. B, title XXVIII, §2821(a)(1), Dec. 31, 2011, 125 Stat. 1689; amended Pub. L. 115–91, div. B, title XXVIII, §2831(c)(6), Dec. 12, 2017, 131 Stat. 1858; Pub. L. 117–263, div. A, title III, §318, Dec. 23, 2022, 136 Stat. 2507.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Par. (6)(D) to (J). Pub. L. 117–263, §318(1), added subpar. (D) and redesignated former subpars. (D) to (I) as (E) to (J), respectively.

Pars. (7), (8). Pub. L. 117–263, §318(2), added pars. (7) and (8).

**2017**—Pars. (3) to (7). Pub. L. 115–91 redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which defined "energy security".

## §2925. Annual report on energy performance, resilience, and readiness of Department of Defense

(a) REPORT REQUIRED.—Not later than 240 days after the end of each fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report detailing the fulfillment during that fiscal year of the authorities and requirements under sections 2688, 2911, 2912, 2920, and 2926 of this title, including progress on energy resilience at military installations and the use of operational energy in combat platforms and at contingency locations.

(b) ELEMENTS.—Each report under subsection (a) shall include the following:

(1) For the year covered by the report, the following:

(A) A description of the progress made to achieve the goals of the Energy Policy Act of 2005 (Public Law 109–58), section 2911(g) of this title, and the Energy Independence and Security Act of 2007 (Public Law 110–140).

(B) A description of the energy savings, return on investment, and enhancements to installation mission assurance realized by the fulfillment of the goals described in subparagraph (A).

(C) A description of and progress toward the energy security, resilience, and performance goals and master planning for the Department of Defense, including associated metrics pursuant to subsections (c) and (d) of section 2911 of this title and requirements under section 2688(g) of this title.

(D) An evaluation of progress made by the Department in implementing the operational energy strategy of the Department, including the progress of key initiatives and technology investments related to operational energy demand and management.

(E) Details of the amounts of any funds transferred by the Secretary of Defense pursuant to section 2912 of this title, including a detailed description of the purpose for which such amounts have been used.

(2) Statistical information on operational energy demands of the Department, in terms of expenditures and consumption, for the preceding five fiscal years, including information on funding made available in regular defense appropriations Acts and any supplemental appropriations Acts.

(3) A description of each initiative related to the operational energy strategy of the Department

and a summary of funds appropriated for each initiative in the previous fiscal year and current fiscal year and requested for each initiative for the next five fiscal years.

(4) Such recommendations as the Secretary considers appropriate for additional changes in organization or authority within the Department to enable further implementation of the energy strategy and such other comments and recommendations as the Secretary considers appropriate.

(c) CLASSIFIED FORM.—If a report under subsection (a) is submitted in classified form, the Secretary of Defense shall, concurrently with such report, submit to the congressional defense committees an unclassified version of the report.

(d) CONSOLIDATION.—The Secretary of Defense may consolidate, attach with, or otherwise include in any report required under subsection (a) any annual report or other requirement that is aligned or associated with, or would be better understood if presented as part of a consolidated report addressing energy performance, resilience, and readiness.

(Added Pub. L. 109–364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493; amended Pub. L. 110–417, [div. A], title III, §331(a), (b)(1), div. B, title XXVIII, §2832, Oct. 14, 2008, 122 Stat. 4419, 4420, 4732; Pub. L. 111–84, div. A, title III, §332(a), Oct. 28, 2009, 123 Stat. 2257; Pub. L. 111–383, div. B, title XXVIII, §2832(c)(1), Jan. 7, 2011, 124 Stat. 4469; Pub. L. 112–81, div. A, title III, §§314(b), 342, div. B, title XXVIII, §§2821(b)(4), 2822(d), 2824(b), 2826, Dec. 31, 2011, 125 Stat. 1357, 1370, 1691–1694; Pub. L. 112–239, div. A, title X, §1076(c)(3), (d)(6), Jan. 2, 2013, 126 Stat. 1950, 1951; Pub. L. 113–291, div. A, title IX, §901(k)(4), Dec. 19, 2014, 128 Stat. 3468; Pub. L. 114–92, div. A, title III, §313, Nov. 25, 2015, 129 Stat. 789; Pub. L. 114–328, div. A, title III, §311, Dec. 23, 2016, 130 Stat. 2072; Pub. L. 115–91, div. A, title X, §1081(a)(48), div. B, title XXVIII, §§2831(c)(7), 2836, Dec. 12, 2017, 131 Stat. 1597, 1858, 1859; Pub. L. 115–232, div. A, title III, §§312(c), 314(b)(1), Aug. 13, 2018, 132 Stat. 1710, 1712; Pub. L. 116–92, div. A, title III, §§319(a), 320(a)(2)(B), Dec. 20, 2019, 133 Stat. 1305, 1306; Pub. L. 116–283, div. A, title III, §336(a), Jan. 1, 2021, 134 Stat. 3533; Pub. L. 117–81, div. A, title III, §311(i)(1), Dec. 27, 2021, 135 Stat. 1626; Pub. L. 117–263, div. A, title III, §314(b)(1), Dec. 23, 2022, 136 Stat. 2503.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Energy Policy Act of 2005, referred to in subsec. (b)(1)(A), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, which enacted chapter 149 of Title 42, The Public Health and Welfare, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of Title 42 and Tables.

The Energy Independence and Security Act of 2007, referred to in subsec. (b)(1)(A), is Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1492, which enacted chapter 152 of Title 42, The Public Health and Welfare, and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 17001 of Title 42 and Tables.

### AMENDMENTS

**2022**—Pub. L. 117–263, §314(b)(1)(B), added subsecs. (a) to (d) and struck out former subsecs. (a) and (b) which related to annual report related to installations energy management, energy resilience, and mission assurance and readiness and annual report related to operational energy, respectively.

Pub. L. 117–263, §314(b)(1)(A), substituted "Annual report on energy performance, resilience, and readiness of Department of Defense" for "Annual Department of Defense energy management reports" in section catchline.

**2021**—Subsec. (a)(7). Pub. L. 116–283, §336(a)(2), added par. (7). Former par. (7) redesignated (8), then (10).

Subsec. (a)(8). Pub. L. 117–81, §311(i)(1)(B), added par. (8). Former par. (8) redesignated (10).

Pub. L. 116–283, §336(a)(1), redesignated par. (7) as (8), which was subsequently redesignated (10).

Subsec. (a)(9), (10). Pub. L. 117–81 added par. (9) and redesignated par. (8) as (10).

**2019**—Subsec. (a). Pub. L. 116–92, §319(a)(1), (2), inserted "and Readiness" after "Mission Assurance" in heading and "The Secretary shall ensure that mission operators of critical facilities provide to personnel of military installations any information necessary for the completion of such report." after "by the Secretary." in

introductory provisions.

Subsec. (a)(3). Pub. L. 116–92, §320(a)(2)(B), substituted "degrading energy resilience at military installations (excluding planned outages for maintenance reasons), whether caused by on- or off-installation disruptions, including the total number of outages and their locations, the duration of each outage, the financial effect of each outage, whether or not the mission was affected, the downtimes (in minutes or hours) the mission can afford based on mission requirements and risk tolerances, the responsible authority managing the utility, and measures taken to mitigate the outage by the responsible authority." for "impacting energy resilience at military installations (excluding planned outages for maintenance reasons), whether caused by on- or off-installation disruptions, including the total number and location of outage, the duration of the outage, the financial impact of the outage, whether or not the mission was impacted, the downtimes (in minutes or hours) these missions can afford based on their mission requirements and risk tolerances, the responsible authority managing the utility, and measure taken to mitigate the outage by the responsible authority."

Subsec. (a)(4). Pub. L. 116–92, §319(a)(3), substituted "electric and thermal loads" for "megawatts" in introductory provisions.

Subsec. (a)(5). Pub. L. 116–92, §319(a)(4), substituted "electric and thermal loads" for "megawatts".

**2018**—Subsec. (a). Pub. L. 115–232, §312(c)(1), inserted ", including progress on energy resilience at military installations according to metrics developed by the Secretary" after "under section 2911 of this title" in introductory provisions.

Subsec. (a)(3). Pub. L. 115–232, §312(c)(2), substituted "the downtimes (in minutes or hours) these missions can afford based on their mission requirements and risk tolerances" for "the mission requirements associated with disruption tolerances based on risk to mission".

Subsec. (a)(4). Pub. L. 115–232, §312(c)(3), inserted "(including critical energy loads in megawatts and the associated downtime tolerances for critical energy loads)" after "energy requirements and critical energy requirements" in introductory provisions.

Subsec. (a)(5) to (7). Pub. L. 115–232, §312(c)(4), (5), added pars. (5) and (6) and redesignated former par. (5) as (7).

Subsec. (b)(1). Pub. L. 115–232, §314(b)(1), substituted "section 2926(d)" for "section 2926(b)".

**2017**—Subsec. (a). Pub. L. 115–91, §2831(c)(7)(A), substituted "Energy Resilience" for "Resiliency" in heading.

Subsec. (a)(1). Pub. L. 115–91, §2836(1), inserted ", including progress on energy resilience at military installations according to metrics developed by the Secretary" before period at end.

Pub. L. 115–91, §2831(c)(7)(B), substituted "2911(g)" for "2911(e)".

Subsec. (a)(3). Pub. L. 115–91, §2836(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Details of all commercial utility outages caused by threats and those caused by hazards at military installations that last eight hours or longer, whether or not the outage was mitigated by backup power, including non-commercial utility outages and Department of Defense-owned infrastructure, including the total number and location of outages, the financial impact of the outages, and measure taken to mitigate outages in the future at the affected locations and across the Department of Defense."

Subsec. (a)(4), (5). Pub. L. 115–91, §2836(3), (4), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(1). Pub. L. 115–91, §1081(a)(48), substituted "section 2926(b)" for "section 138c".

**2016**—Subsec. (a). Pub. L. 114–328, §311(1), inserted ", Resiliency, and Mission Assurance" after "Annual Report Related to Installations Energy Management" in heading.

Subsec. (a)(2) to (11). Pub. L. 114–328, §311(2)–(4), added par. (2), redesignated pars. (9) and (11) as pars. (3) and (4), respectively, and struck out former pars. (2) to (8) and (10), which required various tables and descriptions in reports.

**2015**—Subsec. (a)(4). Pub. L. 114–92, §313(1), (2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "In addition to the information contained in the table listing energy projects financed through third party financing mechanisms, as required by paragraph (3), the table also shall list any renewable energy certificates associated with each project, including information regarding whether the renewable energy certificates were bundled or unbundled, the purchasing authority for the renewable energy certificates, and the price of the associated renewable energy certificates."

Subsec. (a)(5), (6). Pub. L. 114–92, §313(2), redesignated pars. (6) and (8) as (5) and (6), respectively. Former par. (5) redesignated (4).

Subsec. (a)(7). Pub. L. 114–92, §313(3), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "A description and estimate of the progress made by the military departments to meet the certification requirements for sustainable green-building standards in construction and major renovations as required by section 433 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1612)."

Pub. L. 114–92, §313(1), (2), redesignated par. (9) as (7) and struck out former par. (7) which read as follows: "An estimate of the types and quantities of energy consumed by the Department of Defense and members of the armed forces and civilian personnel residing or working on military installations during the preceding fiscal year, including a breakdown of energy consumption by user groups and types of energy, energy costs, and the quantities of renewable energy produced or procured by the Department."

Subsec. (a)(8). Pub. L. 114–92, §313(2), redesignated par. (10) as (8). Former par. (8) redesignated (6).

Subsec. (a)(9). Pub. L. 114–92, §313(4), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "Details of utility outages at military installations including the total number and locations of outages, the financial impact of the outage, and measures taken to mitigate outages in the future at the affected location and across the Department of Defense."

Pub. L. 114–92, §313(2) redesignated par. (11) as (9). Former par. (9) redesignated (7).

Subsec. (a)(10). Pub. L. 114–92, §313(2), redesignated par. (12) as (10). Former par. (10) redesignated (8).

Subsec. (a)(11). Pub. L. 114–92, §313(5) added par. (11). Former par. (11) redesignated (9).

Subsec. (a)(12). Pub. L. 114–92, §313(2), redesignated par. (12) as (10).

**2014**—Subsec. (b)(1). Pub. L. 113–291 substituted "Energy, Installations, and Environment" for "Operational Energy Plans and Programs".

**2013**—Subsec. (a)(1). Pub. L. 112–239, §1076(d)(6)(A), substituted "section 553" for "section 533".

Subsec. (b)(1). Pub. L. 112–239, §1076(c)(3)(A), (d)(6)(B), substituted "Assistant Secretary of Defense for" for "Director of" and "section 138c" for "section 139b".

Subsec. (b)(2)(G). Pub. L. 112–239, §1076(c)(3)(B), substituted "Assistant Secretary" for "Director" in two places.

**2011**—Subsec. (a). Pub. L. 112–81, §2826, in introductory provisions, substituted "Not later than 120 days after the end of each fiscal year, the Secretary of Defense shall submit to the congressional defense committees an installation energy report detailing the fulfillment during that fiscal year of the energy performance goals for the Department of Defense under section 2911 of this title. Each report shall contain the following:" for "As part of the annual submission of the energy performance goals for the Department of Defense under section 2911 of this title, the Secretary of Defense shall submit a report containing the following:".

Subsec. (a)(3). Pub. L. 112–81, §2822(d)(1), inserted "whether the project incorporates energy security into its design," after "through the duration of each such mechanism,".

Subsec. (a)(4). Pub. L. 112–81, §2824(b)(2), added par. (4). Former par. (4) redesignated (5).

Pub. L. 111–383, §2832(c)(1), substituted "energy performance master plan" for "energy performance plan".

Subsec. (a)(5) to (9). Pub. L. 112–81, §2824(b)(1), redesignated pars. (4) to (8) as (5) to (9), respectively.

Subsec. (a)(10). Pub. L. 112–81, §2824(b)(1), redesignated par. (9) as (10). Former par. (10) redesignated (11).

Pub. L. 112–81, §2822(d)(3), added par. (10). Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 112–81, §2824(b)(1), redesignated par. (10) as (11). Former par. (11) redesignated (12).

Pub. L. 112–81, §2822(d)(2), redesignated par. (10) as (11).

Subsec. (a)(12). Pub. L. 112–81, §2824(b)(1), redesignated par. (11) as (12).

Subsec. (b)(2)(E). Pub. L. 112–81, §314(b)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (b)(2)(F). Pub. L. 112–81, §342(2), added subpar. (F). Former subpar. (F) redesignated (G).

Pub. L. 112–81, §314(b)(1), redesignated subpar. (E) as (F).

Subsec. (b)(2)(G). Pub. L. 112–81, §342(1), redesignated subpar. (F) as (G).

Subsec. (b)(4). Pub. L. 112–81, §2821(b)(4), struck out par. (4) which read as follows: "In this subsection, the term 'operational energy' means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms."

**2009**—Subsec. (a). Pub. L. 111–84, in par. (1), inserted "section 2911(e) of this title, section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b)," after "(Public Law 109–58),", added pars. (2), (3), (9), and (10), and redesignated former pars. (2) to (6) as (4) to (8), respectively.

**2008**—Pub. L. 110–417, §331(b)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Annual report".

Subsec. (a). Pub. L. 110–417, §2832, in heading substituted "Annual Report Related to Installations Energy Management" for "Report Required", in par. (1) inserted ", the Energy Independence and Security Act of 2007 (Public Law 110–140)," after "(Public Law 109–58)", and added par. (6).

Subsec. (b). Pub. L. 110–417, §331(a), added subsec. (b) and struck out former subsec. (b) which related to

requirements for the initial report to be submitted by the Secretary of Defense.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 116–283, div. A, title III, §336(b), Jan. 1, 2021, 134 Stat. 3533, provided that: "The reporting requirement under paragraph (7) of section 2925(a) of title 10, United States Code, as added by subsection (a) of this section, applies to reports submitted under such section 2925 for fiscal year 2021 and thereafter."

**USE OF ASSESSMENT TOOL**

Pub. L. 117–81, div. A, title III, §311(i)(2), Dec. 27, 2021, 135 Stat. 1627, provided that: "The Secretary [of Defense] shall use the Climate Vulnerability and Risk Assessment Tool of the Department [of Defense] (or such successor tool) in preparing each report under section 2925(a) of title 10, United States Code (as amended by paragraph (1)) [section 2925(a) of this title struck out, and new section 2925(a) of this title added, by Pub. L. 117–263, see 2022 Amendment note above]."

## §2926. Operational energy

(a) OPERATIONAL ENERGY POLICY.—In carrying out section 2911(a) of this title, the Secretary of Defense shall ensure the types, availability, and use of operational energy promote the readiness of the armed forces for their military missions in contested logistics environments.

(b) RESPONSIBILITIES.—The Secretary of Defense shall—

(1) require the Secretaries concerned and the commanders of the combatant commands to assess the energy supportability in contested logistics environments of systems, capabilities, and plans;

(2) authorize the use of energy security, cost of backup power, supportability in contested logistics environments, and energy resilience as factors in the cost-benefit analysis for procurement of operational equipment; and

(3) in selecting equipment that will use operational energy, give favorable consideration to the acquisition of equipment that enhances energy security, energy resilience, energy conservation, and reduces logistical vulnerabilities in contested logistics environments.

(c) FUNCTIONS OF THE ASSISTANT SECRETARY OF DEFENSE FOR ENERGY, INSTALLATIONS, AND ENVIRONMENT.—The Assistant Secretary of Defense for Energy, Installations, and Environment, in consultation with the heads of the appropriate Department of Defense components and in coordination with the working group under subsection (d), shall—

(1) oversee the operational energy activities of the Department of Defense, including the activities of the working group established under subsection (d), and oversee the investments of the Department in such activities;

(2) make recommendations to the Secretary regarding the policies and investments that affect the use of operational energy across the Department of Defense, taking into account the findings of the working group under subsection (d);

(3) establish guidelines and recommend to the Secretary policy to improve warfighting capability through energy security and energy resilience, taking into account the findings of the working group under subsection (d);

(4) encourage collaboration with and leveraging of investments made by the Department of Energy, the Department of Agriculture, and other relevant Federal agencies to advance alternative fuel development to the benefit of the Department of Defense; and

(5) certify the budget associated with the investment of the Department of Defense in alternative fuel activities in accordance with subsection (f)(4).

(d) WORKING GROUP.—(1) The Secretary of Defense shall establish a working group to integrate efforts to mitigate contested logistics challenges through the reduction of operational

energy demand that are carried out within each armed force, across the armed forces, and with the Office of the Secretary of Defense and to conduct other coordinated functions relating to such efforts.

(2) The head of the working group under paragraph (1) shall be the Assistant Secretary of Defense for Energy, Installations, and Environment. The Assistant Secretary shall supervise the members of the working group and provide guidance to such members with respect to specific operational energy plans and programs to be carried out pursuant to the strategy under subsection (e).

(3) The members of the working group under paragraph (1) shall be as follows:

(A) A senior official of each armed force, who shall be nominated by the Secretary concerned and confirmed by the Senate to represent such armed force.

(B) A senior official from each geographic and functional combatant command, who shall be appointed by the commander of the respective combatant command to represent such combatant command.

(C) A senior official under the jurisdiction of the Chairman of the Joint Chiefs of Staff, who shall be appointed by the Chairman to represent the Joint Chiefs of Staff and the Joint Staff.

(D) A senior official of the Defense Logistics Agency, who shall be appointed by the Director of the Defense Logistics Agency to represent the Defense Logistics Agency.

(E) An official of the Office of the Under Secretary of Defense for Research and Engineering, who shall be nominated by the Secretary of Defense and confirmed by the Senate to represent such Office.

(F) The Assistant Secretary of Defense for Acquisition, who shall represent the Office of the Under Secretary of Defense for Acquisition.

(G) The Assistant Secretary of Defense for Sustainment, who shall represent the Office of the Assistant Secretary of Defense for Sustainment.

(4) Each member of the working group shall be responsible for carrying out operational energy plans and programs and implementing coordinated initiatives, or developing capabilities for such purposes, pursuant to the strategy under subsection (e) for the respective component of the Department that the member represents.

(5) The duties of the working group under paragraph (1) shall be as follows:

(A) Planning for the integration of efforts to mitigate contested logistics challenges through the reduction of operational energy demand carried out within each armed force, across the armed forces, and with the Office of the Secretary of Defense.

(B) Developing recommendations regarding the strategy for operational energy under subsection (e).

(C) Developing recommendations relating to the development of, and modernization efforts for, platforms and weapons systems of the armed forces.

(D) Developing recommendations to ensure that such development and modernization efforts lead to increased lethality, extended range, and extended on-station time for tactical assets.

(E) Developing recommendations to mitigate the effects of hostile action by a near-peer adversary targeting operational energy storage and operations of the armed forces, including through the use of innovative delivery systems, distributed storage, flexible contracting, and improved automation.

(6) The working group under paragraph (1) shall meet not less frequently than quarterly.

(7)(A) Not later than February 1 of each year, the working group under paragraph (1) shall submit to the congressional defense committees a report that contains a description of the following:

(i) The topics addressed in the meetings of the working group during the preceding year.

(ii) The priorities of the working group for the following year (including with respect to any shortfalls in personnel, equipment, infrastructure, energy and storage, or capabilities) in support of the operational plans of the Department of Defense.

(iii) Any steps taken by the working group, as of the date of the submission, to address any identified shortfalls in budget or capabilities.

(B) Each report under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(e) OPERATIONAL ENERGY STRATEGY.—(1) The Assistant Secretary of Defense for Energy, Installations, and Environment, in coordination with the working group under subsection (d), shall be responsible for the establishment and maintenance of a department-wide transformational strategy for operational energy. The strategy shall be updated every five years and shall establish near-term, mid-term, and long-term goals, performance metrics to measure progress in meeting the goals, and a plan for implementation of the strategy within each armed force, across the armed forces, and with the Office of the Secretary of Defense.

(2) The strategy required under paragraph (1) shall include the following:

(A) A plan to integrate efforts to mitigate contested logistics challenges through the reduction of operational energy demand within each armed force.

(B) An assessment of how industry trends transitioning from the production of internal combustion engines to the development and production of alternative propulsion systems may affect the long-term availability of parts for military equipment, the fuel costs for such equipment, and the sustainability of such equipment.

(C) An assessment of any technologies, including electric, hydrogen, or other sustainable fuel technologies, that may reduce operational energy demand in the near-term or long-term.

(D) An assessment of how the Secretaries concerned and the commanders of the combatant commands can better plan for challenges presented by near-peer adversaries in a contested logistics environment, including through innovative delivery systems, distributed storage, flexible contracting, and improved automation.

(E) A biennial assessment of any infrastructure investments of allied and partner countries that may affect operational energy availability in the event of a conflict with a near-peer adversary, which shall include—

(i) an identification of efforts by the United States and allied and partner countries to mitigate mutual contested logistics challenges and to develop complementary energy security and energy reliance measures;

(ii) an analysis of investments made by allied and partner countries in any technology, including electric, hydrogen, nuclear, biofuels, and any other sustainable fuel technology or renewable energy technology, that may reduce demand for operational energy in the near-term or long-term;

(iii) an identification of any limitations or barriers to closing or mitigating gaps in operational energy investment with allied and partner countries, including any additional authorities or appropriations that may be required; and

(iv) an analysis of the feasibility and advisability of establishing a partnership program using existing authorities to collaborate with the national security forces of allied and partner countries for the purpose of developing and maintaining transformational strategies for operational energy with the objectives of enhancing the readiness of such countries and employing diverse energy sources that reduce demand and logistical vulnerabilities.

(3) By authority of the Secretary of Defense, and taking into consideration the findings of the working group, the Assistant Secretary shall prescribe policies and procedures for the implementation of the strategy and make recommendations to the Secretary of Defense and Deputy Secretary of Defense with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

(4) Not later than 30 days after the date on which the budget for fiscal year 2024 is submitted to Congress pursuant to section 1105 of title 31, and every five years thereafter, the Assistant Secretary shall submit to the congressional defense committees the strategy required under paragraph (1).

(f) BUDGETARY AND FINANCIAL MATTERS.—(1) The Assistant Secretary of Defense for Energy, Installations, and Environment shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the Assistant Secretary for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

(3) The Assistant Secretary shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the Assistant Secretary with respect to the proposed budget, together with the certification of the Assistant Secretary regarding whether the proposed budget is adequate for implementation of the strategy.

(4) Not later than 30 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that were reviewed by the Assistant Secretary under paragraph (3).

(5) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is not adequate for implementation of the strategy, the report shall include the following:

(A) A copy of the report set forth in paragraph (3).

(B) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budget.

(C) An appendix prepared by the Chairman of the Joint Chiefs of Staff describing—

(i) the progress made by the Joint Requirements Oversight Council in implementing the energy Key Performance Parameter; and

(ii) details regarding how operational energy is being addressed in defense planning, scenarios, support to strategic analysis, and resulting policy to improve combat capability.

(D) An appendix prepared by the Under Secretary for Defense for Acquisition and Sustainment certifying that and describing how the acquisition system is addressing operational energy in the procurement process, including long-term sustainment considerations, and how programs are extending combat capability as a result of these considerations.

(E) A separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Assistant Secretary in carrying out the duties of the Assistant Secretary.

(F) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(6) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is adequate for implementation of the strategy, the report shall include the items set forth in subparagraphs (C), (D), and (E) of paragraph (5).

(g) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) Each member of the working group under subsection (d) shall submit to the Assistant Secretary of Defense for Energy, Installations, and Environment the results of all studies and initiatives conducted by the respective component of the Department that the member represents for purposes of the working group in connection with the operational energy strategy.

(2) The Assistant Secretary shall have access to all records and data in the Department of Defense (including the records and data of each armed force) necessary in order to permit the Assistant Secretary to carry out the duties of the Assistant Secretary.

(h) CONTESTED LOGISTICS ENVIRONMENT DEFINED.—In this section, the term "contested logistics environment" means an environment in which the armed forces engage in conflict with an adversary that presents challenges in all domains and directly targets logistics operations, facilities, and activities in the United States, abroad, or in transit from one location to the other.

(Added and amended Pub. L. 113–291, div. A, title IX, §901(g)(1), Dec. 19, 2014, 128 Stat. 3464; Pub. L. 114–92, div. A, title X, §1081(a)(12), (b)(2), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115–232, div. A, title III, §314(a), Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116–92, div. A, title III, §320(a)(1)(B), (c)(1), title IX, §902(83), Dec. 20, 2019, 133 Stat. 1306, 1307, 1553; Pub. L. 117–81, div. A, title III, §351(a)–(e), Dec. 27, 2021, 135 Stat. 1650–1653; Pub. L. 118–31, div. A, title III, §343(1)(A), (2), (3), title X, §1053, Dec. 22, 2023, 137 Stat. 224, 396.)

## EDITORIAL NOTES

### CODIFICATION

Subsec. (c)(3) of section 138c of this title, which was transferred to subsec. (a) (now (c)) of this section by Pub. L. 113–291, §901(g)(1)(B), was based on Pub. L. 112–81, div. A, title III, §314(a), Dec. 31, 2011, 125 Stat. 1357. Subsecs. (d) to (f) of section 138c of this title, which were transferred to subsecs. (b) to (d) (now (d) to (f)), respectively, of this section by Pub. L. 113–291, §901(g)(1)(D), were based on Pub. L. 110–417, [div. A], title IX, §902(a), Oct. 14, 2008, 122 Stat. 4564; amended Pub. L. 111–383, div. A, title IX, §901(b)(7)(B)–(D), Jan. 7, 2011, 124 Stat. 4320; Pub. L. 112–81, div. A, title III, §311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 113–66, div. A, title III, §311, Dec. 26, 2013, 127 Stat. 728.

### AMENDMENTS

**2023**—Subsec. (d)(3). Pub. L. 118–31, §343(1)(A)(i), struck out "appointed" after "shall be" in introductory provisions.

Subsec. (d)(3)(D) to (G). Pub. L. 118–31, §343(1)(A)(ii), added subpars. (D) to (G).

Subsec. (d)(4). Pub. L. 118–31, §343(2), inserted ", or developing capabilities for such purposes," after "coordinated initiatives".

Subsec. (d)(6), (7). Pub. L. 118–31, §343(3), added pars. (6) and (7).

Subsec. (e)(2)(E). Pub. L. 118–31, §1053, substituted "A biennial assessment" for "An assessment" and "adversary, which shall include—" for "adversary." and added cls. (i) to (iv).

**2021**—Subsec. (a). Pub. L. 117–81, §351(a)(1), inserted "in contested logistics environments" after "missions".

Subsec. (b). Pub. L. 117–81, §351(a)(2)(A), (B), substituted "Responsibilities" for "Authorities" in heading and "shall" for "may" in introductory provisions.

Subsec. (b)(1). Pub. L. 117–81, §351(a)(2)(C), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "require the Secretary of a military department or the commander of a combatant command to assess the energy supportability of systems, capabilities, and plans;".

Subsec. (b)(2). Pub. L. 117–81, §351(a)(2)(D), inserted "supportability in contested logistics environments," after "power,".

Subsec. (b)(3). Pub. L. 117–81, §351(a)(2)(E), inserted "in contested logistics environments" after "vulnerabilities".

Subsec. (c). Pub. L. 117–81, §351(b)(1)(A), inserted "and in coordination with the working group under subsection (d)" after "components" in introductory provisions.

Subsec. (c)(1). Pub. L. 117–81, §351(b)(1)(B), substituted "Defense, including the activities of the working group established under subsection (d), and oversee" for "Defense and oversee".

Subsec. (c)(2). Pub. L. 117–81, §351(b)(1)(C), inserted ", taking into account the findings of the working group under subsection (d)" after "Defense".

Subsec. (c)(3). Pub. L. 117–81, §351(b)(1)(D), inserted ", taking into account the findings of the working group under subsection (d)" after "resilience".

Subsec. (c)(5). Pub. L. 117–81, §351(e), substituted "subsection (f)(4)" for "subsection (e)(4)".

Subsec. (d). Pub. L. 117–81, §351(b)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 117–81, §351(b)(2), (c), redesignated subsec. (d) as (e) and amended it generally. Prior to amendment, subsec. related to budgetary and financial matters relating to the operational energy strategy. Section 351(c), which directed amending subsec. (e) to read as follows but omitted the subsec. designation and heading, was executed by amending the text of subsec. (e) and retaining the existing designation and heading, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 117–81, §351(b)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

Subsec. (g)(1). Pub. L. 117–81, §351(b)(4)(A), substituted "Each member of the working group under subsection (d)" for "The Secretary of a military department" and "conducted by the respective component of the Department that the member represents for purposes of the working group" for "conducted by the military

department".

Subsec. (g)(2). Pub. L. 117–81, §351(b)(4)(B), substituted "armed force" for "military department".

Subsec. (h). Pub. L. 117–81, §351(d), added subsec. (h).

**2019**—Pub. L. 116–92, §320(c)(1), substituted "Operational energy" for "Operational energy activities" in section catchline.

Subsec. (d)(1). Pub. L. 116–92, §320(a)(1)(B), substituted "the Defense Agencies" for "Defense Agencies".

Subsec. (e)(5)(D). Pub. L. 116–92, §902(83), substituted "Under Secretary for Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2018**—Subsecs. (a), (b). Pub. L. 115–232, §314(a)(2), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 115–232, §314(a)(3)(A), (B), substituted "Functions of the Assistant Secretary of Defense for Energy, Installations, and Environment" for "Alternative Fuel Activities" in heading and "heads of the appropriate Department of Defense components" for "heads of the military departments and the Assistant Secretary of Defense for Research and Engineering" in introductory provisions.

Pub. L. 115–232, §314(a)(1), redesignated subsec. (a) as (c). Former subsec. (c) redesignated (e).

Subsec. (c)(1). Pub. L. 115–232, §314(a)(3)(C), substituted "oversee the operational energy activities" for "lead the alternative fuel activities".

Subsec. (c)(2). Pub. L. 115–232, §314(a)(3)(D), substituted "regarding the policies and investments that affect the use of operational energy across the Department of Defense" for "regarding the development of alternative fuels by the military departments and the Office of the Secretary of Defense".

Subsec. (c)(3). Pub. L. 115–232, §314(a)(3)(E), substituted "recommend to the Secretary policy to improve warfighting capability through energy security and energy resilience" for "prescribe policy to streamline the investments in alternative fuel activities across the Department of Defense".

Subsec. (c)(5). Pub. L. 115–232, §314(a)(3)(F), substituted "subsection (e)(4)" for "subsection (c)(4)".

Subsecs. (d) to (f). Pub. L. 115–232, §314(a)(1), redesignated subsecs. (b) to (d) as (d) to (f), respectively.

**2015**—Pub. L. 114–92, §1081(a)(12), substituted "for Energy, Installations, and Environment" for "for Installations, Energy, and Environment" in subsecs. (a) to (d).

Subsec. (b)(4). Pub. L. 114–92, §1081(b)(2), amended directory language of Pub. L. 113–291, §901(g)(1)(F). See 2014 Amendment note below.

**2014**—Subsec. (a). Pub. L. 113–291, §901(g)(1)(E), inserted "of Defense for Installations, Energy, and Environment" after "The Assistant Secretary" in introductory provisions.

Pub. L. 113–291, §901(g)(1)(B)–(C)(ii), transferred subsec. (c)(3) of section 138c of this title to subsec. (a) of this section, inserted heading, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively. See Codification note above.

Subsec. (a)(5). Pub. L. 113–291, §901(g)(1)(C)(iii), substituted "subsection (c)(4)" for "subsection (e)(4)".

Subsec. (b). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (d) of section 138c of this title to subsec. (b) of this section. See Codification note above.

Subsec. (b)(1). Pub. L. 113–291, §901(g)(1)(E), inserted "of Defense for Installations, Energy, and Environment" after "The Assistant Secretary".

Subsec. (b)(4). Pub. L. 113–291, §901(g)(1)(F), as amended by Pub. L. 114–92, §1081(b)(2), substituted "make recommendations to the Secretary of Defense and Deputy Secretary of Defense and provide guidance to the Secretaries of the military departments" for "provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments,".

Subsec. (c). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (e) of section 138c of this title to subsec. (c) of this section. See Codification note above.

Subsec. (c)(1). Pub. L. 113–291, §901(g)(1)(E), inserted "of Defense for Installations, Energy, and Environment" after "The Assistant Secretary".

Subsec. (c)(4) to (6). Pub. L. 113–291, §901(g)(1)(G), amended pars. (4) to (6) generally. Prior to amendment, pars. (4) to (6) required the Secretary of Defense to report to Congress, by a certain date, on proposed budgets not certified by the Assistant Secretary under par. (3), including a separate statement of certain estimated expenditures and requested appropriations.

Subsec. (d). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (f) of section 138c of this title to subsec. (d) of this section. See Codification note above.

Subsec. (d)(1). Pub. L. 113–291, §901(g)(1)(E), inserted "of Defense for Installations, Energy, and Environment" after "the Assistant Secretary".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2015 AMENDMENT**

Pub. L. 114–92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions in subsec. (c)(4) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

**TIMING FOR APPOINTMENT OF ADDITIONAL WORKING GROUP MEMBERS**

Pub. L. 118–31, div. A, title III, §343(1)(B), Dec. 22, 2023, 137 Stat. 224, provided that: "Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall appoint the additional members of the working group required under subparagraphs (D) through (G) of paragraph (3) of such section [10 U.S.C. 2926(d)], as added by subparagraph (A)."

## §2927. Global bulk fuel management and delivery

(a) RESPONSIBLE ELEMENT.—(1) Beginning during the period described in paragraph (2) and permanently thereafter, the United States Transportation Command shall be the element responsible for bulk fuel management and delivery of the Department of Defense on a global basis.

(2) The period described in this paragraph is the period beginning on January 1, 2023, and ending on February 1, 2023.

(b) COORDINATION WITH DEFENSE LOGISTICS AGENCY.—In carrying out the responsibilities specified in subsection (a), the Commander of the United States Transportation Command shall coordinate with the Director of the Defense Logistics Agency.

(c) RULE OF CONSTRUCTION.—Except to the extent that, prior to January 1, 2023, a responsibility specified in subsection (a) was a specific function of the Defense Logistics Agency Energy, nothing under this section shall be construed as—

(1) limiting any other function of the Defense Logistics Agency Energy; or

(2) requiring the transfer of any function, personnel, or asset from the Defense Logistics Agency Energy to the United States Transportation Command.

(Added Pub. L. 117–81, div. A, title III, §352(a)(1), Dec. 27, 2021, 135 Stat. 1654.)

## §2928. Programs on reduction of fuel reliance and promotion of energy-aware behaviors

(a) ESTABLISHMENT.—Each Secretary of a military department shall establish a program for the promotion of energy-aware behaviors and the reduction of unnecessary fuel consumption within that military department.

(b) GOALS.—The goals of the programs established under subsection (a) shall be as follows:

(1) To increase operational energy resiliency.

(2) To decrease energy-related strategic vulnerabilities and enhance military readiness.

(3) To integrate sustainability features for new and existing military installations and other facilities of the Department.

(c) MINIMUM REQUIRED ELEMENTS.—Under the program of a military department under subsection (a), the Secretary of the military department shall carry out, with respect to the military department, and at a minimum, the following:

(1) The development and implementation of a strategy for the collection and analysis of data on fuel consumption, to identify operational inefficiencies and enable data-driven decision making with respect to fuel logistics and the reduction of fuel consumption.

(2) The fostering of an energy-aware culture across the military department to reduce fuel

consumption, including through—

(A) the incorporation of energy conservation and resiliency principles into training curricula and other training materials of the military department, including by updating such materials to include information on the effect of energy-aware behaviors on improving readiness and combat capability; and

(B) the review of standard operating procedures, and other operational manuals and procedures, of the military department, to identify procedures that increase fuel consumption with no operational benefit.

(3) The integration of operational energy factors into the wargaming of the military department and related training activities that involve the modeling of scenarios, in accordance with subsection (d), to provide to participants in such activities realistic data on the risks and challenges relating to operational energy and fuel logistics.

(4) The implementation of data-driven procedures, operations planning, and logistics, to optimize cargo transport and refueling operations within the military department.

(d) WARGAMING ELEMENTS.—In integrating operational energy factors into the wargaming and related training activities of a military department under subsection (c)(3), the Secretary of the military department shall seek to ensure that the planning, design, and execution of such activities include—

(1) coordination with the elements of the military department responsible for fuel and logistics matters, to ensure the modeling of energy demand and network risk during such activities are accurate, taking into account potential shortfalls and the direct and indirect effects of the efforts of foreign adversaries to target fuel supply chains; and

(2) a focus on improving integrated life-cycle management processes and fuel supply logistics.

(Added Pub. L. 117–263, div. A, title III, §319(a), Dec. 23, 2022, 136 Stat. 2507.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEADLINE FOR ESTABLISHMENT**

Pub. L. 117–263, div. A, title III, §319(b), Dec. 23, 2022, 136 Stat. 2508, provided that: "The programs required under section 2928 of title 10, United States Code, as added by subsection (a), shall be established by not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022]."

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## EDITORIAL NOTES

### CODIFICATION

Capitalization in subpart items in this analysis was editorially reformatted from the original to conform to their corresponding subpart headings.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(1), title XVII, §1701(a)(20), (21), Dec. 18, 2025, 139 Stat. 948, 1209, substituted "327. Weapon Systems Development and Related Matters" for "326. Weapon Systems Development And Related Matters", struck out item for chapter 345 "Acquisition of Information Technology", and substituted "Development, Application, and Support of Dual-Use Technologies" for "Development, Application, and Support of Dual-use Technologies" in item for chapter 383. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVII, §1701(a)(34)(F), Dec. 23, 2024, 138 Stat. 2205, which directed the insertion of new items for subpart F and chapters 321 to 326 after the item relating to chapter 307, was so executed, notwithstanding that items for subpart F and chapters 321 to 327 (which chapter items did not include designators indicating the first section of each chapter) had been added previously by Pub. L. 116–283, div. A, title XVIII, §1846(a), Jan. 1, 2021, 134 Stat. 4247. See 2021 Amendment note below.

Pub. L. 118–159, div. A, title XVII, §1701(a)(34)(A)–(E), (G)–(I), Dec. 23, 2024, 138 Stat. 2205, added items for chapters 207, 225, 243, 272, 363, 367, and 383; struck out former items for chapters 207 "Budgeting and Appropriations Matters", 225 "Planning and Solicitation Relating to Particular Items or Services", 243 "Other Matters Relating to Awarding and Types of Contracts", 272 "Other Provisions Relating to Cost or Pricing Data", 363 "Prohibitions and Penalties", 367 "Other Administrative and Miscellaneous Provisions", and 383 "Development, Application, & Support of Dual-Use Technologies"; and substituted "3901" for "3961" in item for chapter 287.

**2022**—Pub. L. 117–263, div. A, title VIII, §804(b), Dec. 23, 2022, 136 Stat. 2701, added item for chapter 253 and struck out former item for chapter 253 "[Reserved]".

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(8)(A), (l)(2), Dec. 27, 2021, 135 Stat. 2142, 2144, which directed amendment of this analysis by substituting "[Reserved]" for "Foreign Acquisitions" and starting section number 3881 in item for chapter 283 and by adding item for chapter 287 and striking out former item for chapter 287 "Socioeconomic Programs", was executed by amending this analysis as directed, notwithstanding that other amendments by section 1701(i) and (l) of Pub. L. 117–81 were directed to Pub. L. 116–283, and not to the Code directly, and that such amendments are effective as if included in title XVIII of Pub. L. 116–283.

Pub. L. 117–81, div. A, title XVII, §1701(i)(5)(A), (B)(ii), Dec. 27, 2021, 135 Stat. 2141, made similar amendments, resulting in the substitution of "[Reserved]" for "Rapid Acquisition Procedures" and starting section number 3601 in item for chapter 253. Section 1701(i)(5)(B)(ii) amended Pub. L. 116–283, div. A, title XVIII, §1824(b), Jan. 1, 2021, 134 Stat. 4205, which had added the item for chapter 253, while section 1701(i)(5)(A) amended this analysis directly.

Pub. L. 117–81, div. A, title XVII, §1701(g), Dec. 27, 2021, 135 Stat. 2140, substituted "3061", "3101", and "3131", respectively, for "3021", "3051", and "3101", respectively, in items for chapters 203, 205, and 207, added item for chapter 247 and struck out former item for chapter 247 "Acquisition of Commercial Items", substituted "3571" for "3551" in item for chapter 251, added items for chapters 257 and 258 and struck out former item for chapter 257 "Contracts for Long-Term Lease or Charter of Vessels, Aircraft, and Combat", and substituted "Provisions" for "requirements" in item for subpart D.

Pub. L. 116–283, div. A, title XVIII, §§1841(a)(2), 1856(a), Jan. 1, 2021, 134 Stat. 4243, 4273, as amended by Pub. L. 117–81, div. A, title XVII, §1701(i)(9)(A), (u)(1), Dec. 27, 2021, 135 Stat. 2142, 2150, added items for subpart E and chapters 301 to 307 and item for chapter 343.

Pub. L. 116–283, div. A, title XVIII, §§1811(a), 1816(a), 1824(b), 1825(l), 1831(l), 1833(a)(2), 1846(a), 1866(a), 1873(f), Jan. 1, 2021, 134 Stat. 4164, 4181, 4205, 4208, 4217, 4226, 4247, 4279, 4290, added items for chapters 221 to 225, 241 to 244, 253, 257, 271, 272, and 275, items for subpart F and chapters 321 to 327, and items for chapters 341, 381 to 385, and 387 to 389 and struck out former items for chapters 221 "Planning and Solicitation Generally", 223 "Planning and Solicitation Relating to Particular Items or Services", 241 "Awarding of Contracts", 243 "Specific Types of Contracts", 253 "Emergency and Rapid Acquisitions", 271 "Truthful Cost or Pricing Data", 275 "Proprietary Contractor Data and Technical Data", and 285 "Small Business Programs", items for subpart E "special categories of contracting: major defense acquisition programs and major systems" and chapters 301 "Major Defense Acquisition Programs", 303 "Weapon Systems Development and Related Matters", and 305 "Other Matters Relating to Major Systems" and for subpart F "special categories of contracting: research, development, test, and evaluation" and for chapters 321 "Research and Development Generally", 323 "Innovation", 325 "Department of Defense Laboratories", 327 "Research and Development Centers and Facilities", and 329 "Operational Test and Evaluation; Developmental Test and Evaluation", and former items for chapters 341 "Contracting for Performance of Civilian Commercial or Industrial Type Functions", 343 "Acquisition of Services", 381 "Defense Industrial Base Generally", 383 "Loan Guarantee Programs", and 385 "Procurement Technical Assistance Cooperative Agreement Program".

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1825, added analysis for part V consisting of items for subparts A to I and chapters 201 to 385. Capitalization in subpart headings is as it appears in the original.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REDESIGNATIONS BY PUB. L. 115–232 OF CHAPTERS AND SECTIONS IN FORMER SUBTITLES B TO D

Chapters 301 to 953 and sections 3001 to 9448 of this title, which formerly comprised subtitles B to D, were significantly redesignated by Pub. L. 115–232, div. A, title VIII, §§806–808, Aug. 13, 2018, 132 Stat. 1832–1839. The chapter and section redesignations made by Pub. L. 115–232 throughout subtitles B to D of this title are shown in the following table:

TABLE SHOWING REDESIGNATIONS MADE BY PUB. L. 115–232

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| 5031 | 10 U.S.C. 8031 |
| 5032 | 10 U.S.C. 8032 |
| 5033 | 10 U.S.C. 8033 |
| 5035 | 10 U.S.C. 8035 |
| 5036 | 10 U.S.C. 8036 |
| 5037 | 10 U.S.C. 8037 |
| 5038 | 10 U.S.C. 8038 |
| Ch. 506 | 10 U.S.C. Ch. 806 |
| 5041 | 10 U.S.C. 8041 |
| 5042 | 10 U.S.C. 8042 |
| 5043 | 10 U.S.C. 8043 |
| 5044 | 10 U.S.C. 8044 |
| 5045 | 10 U.S.C. 8045 |
| 5046 | 10 U.S.C. 8046 |
| 5047 | 10 U.S.C. 8047 |
| Ch. 507 | 10 U.S.C. Ch. 807 |
| 5061 | 10 U.S.C. 8061 |
| 5062 | 10 U.S.C. 8062 |
| 5063 | 10 U.S.C. 8063 |
| Ch. 513 | 10 U.S.C. Ch. 809 |
| 5131 | 10 U.S.C. 8071 |

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| 5135 | 10 U.S.C. 8075 |
| 5137 | 10 U.S.C. 8077 |
| 5138 | 10 U.S.C. 8078 |
| 5139 | 10 U.S.C. 8079 |
| 5141 | 10 U.S.C. 8081 |
| 5142 | 10 U.S.C. 8082 |
| 5142a | 10 U.S.C. 8082a |
| 5143 | 10 U.S.C. 8083 |
| 5144 | 10 U.S.C. 8084 |
| 5148 | 10 U.S.C. 8088 |
| 5149 | 10 U.S.C. 8089 |
| 5150 | 10 U.S.C. 8090 |
| Ch. 533 | 10 U.S.C. Ch. 811 |
| 5441 | 10 U.S.C. 8101 |
| 5450 | 10 U.S.C. 8102 |
| 5451 | 10 U.S.C. 8103 |
| Ch. 535 | 10 U.S.C. Ch. 812 |
| 5501 | 10 U.S.C. 8111 |
| 5502 | 10 U.S.C. 8112 |
| 5503 | 10 U.S.C. 8113 |
| 5508 | 10 U.S.C. 8118 |
| Ch. 537 | 10 U.S.C. Ch. 813 |
| 5540 | 10 U.S.C. 8120 |
| Ch. 539 | 10 U.S.C. Ch. 815 |
| 5582 | 10 U.S.C. 8132 |
| 5585 | 10 U.S.C. 8135 |
| 5587 | 10 U.S.C. 8137 |
| 5587a | 10 U.S.C. 8138 |
| 5589 | 10 U.S.C. 8139 |
| 5596 | 10 U.S.C. 8146 |
| Ch. 551 | 10 U.S.C. Ch. 821 |
| 5942 | 10 U.S.C. 8162 |
| 5943 | 10 U.S.C. 8163 |
| 5944 | 10 U.S.C. 8164 |
| 5945 | 10 U.S.C. 8165 |
| 5946 | 10 U.S.C. 8166 |
| 5947 | 10 U.S.C. 8167 |
| 5948 | 10 U.S.C. 8168 |
| 5949 | 10 U.S.C. 8169 |
| 5951 | 10 U.S.C. 8171 |
| 5952 | 10 U.S.C. 8172 |
| Ch. 553 | 10 U.S.C. Ch. 823 |
| 5983 | 10 U.S.C. 8183 |
| 5985 | 10 U.S.C. 8185 |
| 5986 | 10 U.S.C. 8186 |
| Ch. 555 | 10 U.S.C. Ch. 825 |
| 6011 | 10 U.S.C. 8211 |

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| 6013 | 10 U.S.C. 8213 |
| 6014 | 10 U.S.C. 8214 |
| 6019 | 10 U.S.C. 8215 |
| 6021 | 10 U.S.C. 8216 |
| 6022 | 10 U.S.C. 8217 |
| 6024 | 10 U.S.C. 8218 |
| 6027 | 10 U.S.C. 8219 |
| 6029 | 10 U.S.C. 8220 |
| 6031 | 10 U.S.C. 8221 |
| 6032 | 10 U.S.C. 8222 |
| 6035 | 10 U.S.C. 8225 |
| 6036 | 10 U.S.C. 8226 |
| Ch. 557 | 10 U.S.C. Ch. 827 |
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| 6082 | 10 U.S.C. 8242 |
| 6083 | 10 U.S.C. 8243 |
| 6084 | 10 U.S.C. 8244 |
| 6085 | 10 U.S.C. 8245 |
| 6086 | 10 U.S.C. 8246 |
| 6087 | 10 U.S.C. 8247 |
| Ch. 559 | 10 U.S.C. Ch. 829 |
| 6113 | 10 U.S.C. 8253 |
| Ch. 561 | 10 U.S.C. Ch. 831 |
| 6141 | 10 U.S.C. 8261 |
| 6151 | 10 U.S.C. 8262 |
| 6152 | 10 U.S.C. 8263 |
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| 6154 | 10 U.S.C. 8265 |
| 6155 | 10 U.S.C. 8266 |
| 6156 | 10 U.S.C. 8267 |
| 6160 | 10 U.S.C. 8270 |
| 6161 | 10 U.S.C. 8271 |
| Ch. 563 | 10 U.S.C. Ch. 833 |
| 6201 | 10 U.S.C. 8281 |
| 6202 | 10 U.S.C. 8282 |
| 6203 | 10 U.S.C. 8283 |
| Ch. 565 | 10 U.S.C. Ch. 835 |
| 6221 | 10 U.S.C. 8286 |
| 6222 | 10 U.S.C. 8287 |
| Ch. 567 | 10 U.S.C. Ch. 837 |
| 6241 | 10 U.S.C. 8291 |
| 6242 | 10 U.S.C. 8292 |
| 6243 | 10 U.S.C. 8293 |
| 6244 | 10 U.S.C. 8294 |
| 6245 | 10 U.S.C. 8295 |
| 6246 | 10 U.S.C. 8296 |
| 6247 | 10 U.S.C. 8297 |

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| 6253 | 10 U.S.C. 8303 |
| 6254 | 10 U.S.C. 8304 |
| 6255 | 10 U.S.C. 8305 |
| 6256 | 10 U.S.C. 8306 |
| 6257 | 10 U.S.C. 8307 |
| 6258 | 10 U.S.C. 8308 |
| Ch. 569 | 10 U.S.C. Ch. 839 |
| 6292 | 10 U.S.C. 8317 |
| Ch. 571 | 10 U.S.C. Ch. 841 |
| 6321 | 10 U.S.C. 8321 |
| 6322 | 10 U.S.C. 8322 |
| 6323 | 10 U.S.C. 8323 |
| 6324 | 10 U.S.C. 8324 |
| 6325 | 10 U.S.C. 8325 |
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| 6327 | 10 U.S.C. 8327 |
| 6328 | 10 U.S.C. 8328 |
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| 6330 | 10 U.S.C. 8330 |
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| 6332 | 10 U.S.C. 8332 |
| 6333 | 10 U.S.C. 8333 |
| 6334 | 10 U.S.C. 8334 |
| 6335 | 10 U.S.C. 8335 |
| 6336 | 10 U.S.C. 8336 |
| Ch. 573 | 10 U.S.C. Ch. 843 |
| 6371 | 10 U.S.C. 8371 |
| 6383 | 10 U.S.C. 8372 |
| 6389 | 10 U.S.C. 8373 |
| 6404 | 10 U.S.C. 8374 |
| 6408 | 10 U.S.C. 8375 |
| Ch. 575 | 10 U.S.C. Ch. 845 |
| 6483 | 10 U.S.C. 8383 |
| 6484 | 10 U.S.C. 8384 |
| 6485 | 10 U.S.C. 8385 |
| 6486 | 10 U.S.C. 8386 |
| Ch. 577 | 10 U.S.C. Ch. 847 |
| 6522 | 10 U.S.C. 8392 |
| Ch. 601 | 10 U.S.C. Ch. 851 |
| 6911 | 10 U.S.C. 8411 |
| 6912 | 10 U.S.C. 8412 |
| 6913 | 10 U.S.C. 8413 |
| 6915 | 10 U.S.C. 8415 |

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| Ch. 602 | 10 U.S.C. Ch. 852 |
| 6931 | 10 U.S.C. 8431 |
| 6932 | 10 U.S.C. 8432 |
| Ch. 603 | 10 U.S.C. Ch. 853 |
| 6951 | 10 U.S.C. 8451 |
| 6951a | 10 U.S.C. 8451a |
| 6952 | 10 U.S.C. 8452 |
| 6953 | 10 U.S.C. 8453 |
| 6954 | 10 U.S.C. 8454 |
| 6955 | 10 U.S.C. 8455 |
| 6956 | 10 U.S.C. 8456 |
| 6958 | 10 U.S.C. 8458 |
| 6959 | 10 U.S.C. 8459 |
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| 6962 | 10 U.S.C. 8462 |
| 6963 | 10 U.S.C. 8463 |
| 6964 | 10 U.S.C. 8464 |
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| 6966 | 10 U.S.C. 8466 |
| 6967 | 10 U.S.C. 8467 |
| 6968 | 10 U.S.C. 8468 |
| 6969 | 10 U.S.C. 8469 |
| 6970 | 10 U.S.C. 8470 |
| 6970a | 10 U.S.C. 8470a |
| 6971 | 10 U.S.C. 8471 |
| 6972 | 10 U.S.C. 8472 |
| 6973 | 10 U.S.C. 8473 |
| 6974 | 10 U.S.C. 8474 |
| 6975 | 10 U.S.C. 8475 |
| 6976 | 10 U.S.C. 8476 |
| 6977 | 10 U.S.C. 8477 |
| 6978 | 10 U.S.C. 8478 |
| 6979 | 10 U.S.C. 8479 |
| 6980 | 10 U.S.C. 8480 |
| 6981 | 10 U.S.C. 8481 |
| Ch. 605 | 10 U.S.C. Ch. 855 |
| 7041 | 10 U.S.C. 8541 |
| 7042 | 10 U.S.C. 8542 |
| 7043 | 10 U.S.C. 8543 |
| 7044 | 10 U.S.C. 8544 |
| 7045 | 10 U.S.C. 8545 |
| 7046 | 10 U.S.C. 8546 |
| 7047 | 10 U.S.C. 8547 |
| 7048 | 10 U.S.C. 8548 |
| 7049 | 10 U.S.C. 8549 |
| 7050 | 10 U.S.C. 8550 |
| Ch. 607 | 10 U.S.C. Ch. 857 |

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| 7085 | 10 U.S.C. 8585 |
| 7086 | 10 U.S.C. 8586 |
| 7087 | 10 U.S.C. 8587 |
| 7088 | 10 U.S.C. 8588 |
| Ch. 609 | 10 U.S.C. Ch. 859 |
| 7101 | 10 U.S.C. 8591 |
| 7102 | 10 U.S.C. 8592 |
| 7103 | 10 U.S.C. 8593 |
| 7104 | 10 U.S.C. 8594 |
| Ch. 631 | 10 U.S.C. Ch. 861 |
| 7204 | 10 U.S.C. 8604 |
| 7205 | 10 U.S.C. 8605 |
| 7207 | 10 U.S.C. 8607 |
| 7211 | 10 U.S.C. 8611 |
| 7212 | 10 U.S.C. 8612 |
| 7214 | 10 U.S.C. 8614 |
| 7216 | 10 U.S.C. 8616 |
| 7219 | 10 U.S.C. 8619 |
| 7220 | 10 U.S.C. 8620 |
| 7221 | 10 U.S.C. 8621 |
| 7222 | 10 U.S.C. 8622 |
| 7223 | 10 U.S.C. 8623 |
| 7224 | 10 U.S.C. 8624 |
| 7225 | 10 U.S.C. 8625 |
| 7226 | 10 U.S.C. 8626 |
| 7227 | 10 U.S.C. 8627 |
| 7228 | 10 U.S.C. 8628 |
| 7229 | 10 U.S.C. 8629 |
| 7231 | 10 U.S.C. 8631 |
| 7233 | 10 U.S.C. 8633 |
| 7234 | 10 U.S.C. 8634 |
| 7235 | 10 U.S.C. 8635 |
| Ch. 633 | 10 U.S.C. Ch. 863 |
| 7291 | 10 U.S.C. 8661 |
| 7292 | 10 U.S.C. 8662 |
| 7293 | 10 U.S.C. 8663 |
| 7294 | 10 U.S.C. 8664 |
| 7297 | 10 U.S.C. 8667 |
| 7299 | 10 U.S.C. 8669 |
| 7299a | 10 U.S.C. 8669a |
| 7300 | 10 U.S.C. 8670 |
| 7301 | 10 U.S.C. 8671 |
| 7303 | 10 U.S.C. 8673 |
| 7304 | 10 U.S.C. 8674 |

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| 7305 | 10 U.S.C. 8675 |
| 7305a | 10 U.S.C. 8675a |
| 7306 | 10 U.S.C. 8676 |
| 7306a | 10 U.S.C. 8676a |
| 7306b | 10 U.S.C. 8676b |
| 7307 | 10 U.S.C. 8677 |
| 7308 | 10 U.S.C. 8678 |
| 7309 | 10 U.S.C. 8679 |
| 7310 | 10 U.S.C. 8680 |
| 7311 | 10 U.S.C. 8681 |
| 7312 | 10 U.S.C. 8682 |
| 7313 | 10 U.S.C. 8683 |
| 7314 | 10 U.S.C. 8684 |
| 7315 | 10 U.S.C. 8685 |
| 7316 | 10 U.S.C. 8686 |
| 7317 | 10 U.S.C. 8687 |
| 7318 | 10 U.S.C. 8688 |
| 7319 | 10 U.S.C. 8689 |
| 7320 | 10 U.S.C. 8690 |
| 7321 | 10 U.S.C. 8691 |
| Ch. 637 | 10 U.S.C. Ch. 865 |
| 7361 | 10 U.S.C. 8701 |
| 7362 | 10 U.S.C. 8702 |
| 7363 | 10 U.S.C. 8703 |
| 7364 | 10 U.S.C. 8704 |
| Ch. 639 | 10 U.S.C. Ch. 867 |
| 7395 | 10 U.S.C. 8715 |
| 7396 | 10 U.S.C. 8716 |
| Ch. 641 | 10 U.S.C. Ch. 869 |
| 7420 | 10 U.S.C. 8720 |
| 7421 | 10 U.S.C. 8721 |
| 7422 | 10 U.S.C. 8722 |
| 7423 | 10 U.S.C. 8723 |
| 7424 | 10 U.S.C. 8724 |
| 7425 | 10 U.S.C. 8725 |
| 7427 | 10 U.S.C. 8727 |
| 7428 | 10 U.S.C. 8728 |
| 7429 | 10 U.S.C. 8729 |
| 7430 | 10 U.S.C. 8730 |
| 7431 | 10 U.S.C. 8731 |
| 7432 | 10 U.S.C. 8732 |
| 7433 | 10 U.S.C. 8733 |
| 7435 | 10 U.S.C. 8735 |
| 7436 | 10 U.S.C. 8736 |
| 7437 | 10 U.S.C. 8737 |
| 7438 | 10 U.S.C. 8738 |
| 7439 | 10 U.S.C. 8739 |
| Ch. 643 | 10 U.S.C. Ch. 871 |

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| 7472 | 10 U.S.C. 8742 |
| 7473 | 10 U.S.C. 8743 |
| 7476 | 10 U.S.C. 8746 |
| 7477 | 10 U.S.C. 8747 |
| 7478 | 10 U.S.C. 8748 |
| 7479 | 10 U.S.C. 8749 |
| 7479a | 10 U.S.C. 8749a |
| 7480 | 10 U.S.C. 8750 |
| Ch. 645 | 10 U.S.C. Ch. 873 |
| 7522 | 10 U.S.C. 8752 |
| 7523 | 10 U.S.C. 8753 |
| 7524 | 10 U.S.C. 8754 |
| Ch. 647 | 10 U.S.C. Ch. 875 |
| 7541 | 10 U.S.C. 8761 |
| 7541a | 10 U.S.C. 8761a |
| 7541b | 10 U.S.C. 8761b |
| 7542 | 10 U.S.C. 8762 |
| 7543 | 10 U.S.C. 8763 |
| 7544 | 10 U.S.C. 8764 |
| 7545 | 10 U.S.C. 8765 |
| 7546 | 10 U.S.C. 8766 |
| 7547 | 10 U.S.C. 8767 |
| Ch. 649 | 10 U.S.C. Ch. 877 |
| 7571 | 10 U.S.C. 8771 |
| 7572 | 10 U.S.C. 8772 |
| 7573 | 10 U.S.C. 8773 |
| 7576 | 10 U.S.C. 8776 |
| 7577 | 10 U.S.C. 8777 |
| 7579 | 10 U.S.C. 8779 |
| 7580 | 10 U.S.C. 8780 |
| 7581 | 10 U.S.C. 8781 |
| 7582 | 10 U.S.C. 8782 |
| Ch. 651 | 10 U.S.C. Ch. 879 |
| 7601 | 10 U.S.C. 8801 |
| 7602 | 10 U.S.C. 8802 |
| 7603 | 10 U.S.C. 8803 |
| 7604 | 10 U.S.C. 8804 |
| 7605 | 10 U.S.C. 8805 |
| 7606 | 10 U.S.C. 8806 |
| Ch. 653 | 10 U.S.C. Ch. 881 |
| 7621 | 10 U.S.C. 8821 |
| 7622 | 10 U.S.C. 8822 |
| 7623 | 10 U.S.C. 8823 |
| Ch. 655 | 10 U.S.C. Ch. 883 |
| 7651 | 10 U.S.C. 8851 |
| 7652 | 10 U.S.C. 8852 |
| 7653 | 10 U.S.C. 8853 |
| 7654 | 10 U.S.C. 8854 |

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| 7666 | 10 U.S.C. 8866 |
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| 7668 | 10 U.S.C. 8868 |
| 7669 | 10 U.S.C. 8869 |
| 7670 | 10 U.S.C. 8870 |
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| 7672 | 10 U.S.C. 8872 |
| 7673 | 10 U.S.C. 8873 |
| 7674 | 10 U.S.C. 8874 |
| 7675 | 10 U.S.C. 8875 |
| 7676 | 10 U.S.C. 8876 |
| 7677 | 10 U.S.C. 8877 |
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| 7681 | 10 U.S.C. 8881 |
| Ch. 657 | 10 U.S.C. Ch. 885 |
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| 7722 | 10 U.S.C. 8892 |
| 7723 | 10 U.S.C. 8893 |
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| 7729 | 10 U.S.C. 8899 |
| 7730 | 10 U.S.C. 8900 |
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| 7852 | 10 U.S.C. 8902 |
| 7853 | 10 U.S.C. 8903 |
| 7854 | 10 U.S.C. 8904 |
| Ch. 661 | 10 U.S.C. Ch. 889 |
| 7861 | 10 U.S.C. 8911 |
| 7862 | 10 U.S.C. 8912 |
| 7863 | 10 U.S.C. 8913 |
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| Ch. 665 | 10 U.S.C. Ch. 893 |
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| 7903 | 10 U.S.C. 8933 |
| Ch. 667 | 10 U.S.C. Ch. 895 |
| 7912 | 10 U.S.C. 8942 |
| 7913 | 10 U.S.C. 8943 |
| Ch. 669 | 10 U.S.C. Ch. 897 |
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| Ch. 801 | 10 U.S.C. Ch. 901 |
| Ch. 803 | 10 U.S.C. Ch. 903 |
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| 8012 | 10 U.S.C. 9012 |
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| 8014 | 10 U.S.C. 9014 |
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| 8022 | 10 U.S.C. 9022 |
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| 8024 | 10 U.S.C. 9024 |
| Ch. 805 | 10 U.S.C. Ch. 905 |
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| 8039 | 10 U.S.C. 9039 |
| 8040 | 10 U.S.C. 9040 |
| Ch. 807 | 10 U.S.C. Ch. 907 |
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| 8084 | 10 U.S.C. 9084 |
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| 8210 | 10 U.S.C. 9110 |

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**EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 117–81, div. A, title XVII, §1701(a), Dec. 27, 2021, 135 Stat. 2131, provided that:

"(1) DEFINITIONS.—In this section [see Tables for classification], the terms 'FY2021 NDAA' and 'such Act' mean the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [see Tables for classification].

"(2) AMENDMENTS TO APPLY PRE-TRANSFER OF DEFENSE ACQUISITION STATUTES .—The amendments made by subsections (b), (i), and (j) through (v) [see Tables for classification] shall apply as if included in the enactment of title XVIII of the FY2021 NDAA as enacted.

"(3) AMENDMENTS TO TAKE EFFECT POST-TRANSFER OF DEFENSE ACQUISITION STATUTES.—The amendments made by subsections (c) through (h) and (w) [see Tables for classification] shall take effect immediately after the amendments made by title XVIII of the FY2021 NDAA have taken effect. Sections 1883 through 1885 of the FY2021 NDAA [enacting provisions set out as notes below] shall apply with respect to the transfers, redesignations, and amendments made under such subsections as if such transfers, redesignations, and amendments were made under title XVIII of the FY2021 NDAA.

"(4) REORGANIZATION REGULATION UPDATE NOTICE.—[Amended section 1801(d) of Pub. L. 116–283, set out as a note below.]

"(5) SAVINGS PROVISION RELATING TO TRANSFER AND REORGANIZATION OF DEFENSE ACQUISITION STATUTES.—If this Act is enacted after December 31, 2021 [Pub. L. 117–81 approved Dec. 27, 2021], notwithstanding section 1801(d)(1) of the FY2021 NDAA, the amendments made by title XVIII of the FY2021 NDAA shall take effect immediately after the enactment of this Act."

Pub. L. 116–283, div. A, title XVIII, §1801(d), Jan. 1, 2021, 134 Stat. 4151, as amended by Pub. L. 117–81, div. A, title XVII, §1701(a)(4), Dec. 27, 2021, 135 Stat. 2131, provided that:

"(1) DELAYED ENACTMENT.—Except as specifically provided, this title [see Tables for classification] and the amendments made by this title shall take effect on January 1, 2022.

"(2) DELAYED IMPLEMENTATION.—Not later than January 1, 2023, the Secretary of Defense shall take such action as necessary to revise or modify the Department of Defense Supplement to the Federal Acquisition Regulation and other existing authorities affected by the enactment of this title and the amendments made by this title.

"(3) APPLICABILITY.—

"(A) IN GENERAL.—The Secretary of Defense shall apply the law as in effect on December 31, 2021, with respect to contracts entered into during the covered period.

"(B) COVERED PERIOD DEFINED.—In this paragraph, the term 'covered period' means the period beginning on January 1, 2022, and ending on the earlier of—

"(i) the date on which the Secretary of Defense revises or modifies authorities pursuant to paragraph (2) and provides public notice that such authorities have been revised and modified pursuant to such paragraph; or

"(ii) January 1, 2023."

**EFFECTIVE DATE OF 2018 AMENDMENT; COORDINATION OF AMENDMENTS**

Pub. L. 115–232, div. A, title VIII, §800, Aug. 13, 2018, 132 Stat. 1825, provided that:

"(a) EFFECTIVE DATES.—

"(1) PARTS I AND II.—Parts I and II of this subtitle [probably means parts I (§801) and II (§§806–809) of subtitle A of title VIII of div. A of Pub. L. 115–232, see Tables for classification], and the redesignations and amendments made by such parts, shall take effect on February 1, 2019.

"(2) PART III.—Part III of this subtitle [probably means part III (§§811–813) of subtitle A of title VIII of div. A of Pub. L. 115–232, see Tables for classification] shall take effect on the date of the enactment of this Act [Aug. 13, 2018].

"(b) COORDINATION OF AMENDMENTS.—The redesignations and amendments made by part II of this subtitle shall be executed before the amendments made by part I of this subtitle.

"(c) RULE FOR CERTAIN REDESIGNATIONS.—In the case of a redesignation specified in part II of this subtitle (1) that is to be made to a section of subtitle B, C, or D of title 10, United States Code, for which the current section designation consists of a four-digit number and a letter, and (2) that is directed to be made by the addition of a specified number to the current section designation, the new section designation shall consist of a new four-digit number and the same letter, with the new four-digit number being the number that is the sum of the specified number and the four-digit number in the current section designation."

**RULE OF CONSTRUCTION**

Pub. L. 116–283, div. A, title XVIII, §1885, Jan. 1, 2021, 134 Stat. 4294, provided that: "This title [see Tables for classification], including the amendments made by this title, is intended only to reorganize title 10, United States Code, and may not be construed to alter—

"(1) the effect of a provision of title 10, United States Code, including any authority or requirement therein;

"(2) a department or agency interpretation with respect to title 10, United States Code; or

"(3) a judicial interpretation with respect to title 10, United States Code."

## SAVINGS PROVISIONS

Pub. L. 116–283, div. A, title XVIII, §1884, Jan. 1, 2021, 134 Stat. 4294, provided that:

"(a) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A regulation, order, or other administrative action in effect under a provision of title 10, United States Code, redesignated by this title [see Tables for classification] continues in effect under the provision as so redesignated.

"(b) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision of title 10, United States Code, redesignated by this title is deemed to have been taken or committed under the provision as so redesignated."

## TRANSFER AND REORGANIZATION OF DEFENSE ACQUISITION STATUTES

Pub. L. 116–283, div. A, title XVIII, §1801(a), (b), Jan. 1, 2021, 134 Stat. 4150, provided that:

"(a) ACTIVITIES.—Not later than February 1, 2021, the Secretary of Defense shall establish a process to engage interested parties and experts from the public and private sectors, as determined appropriate by the Secretary, in a comprehensive review of this title [see Tables for classification] and the amendments made by this title.

"(b) ASSESSMENT AND REPORT.—Not later than March 15, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report evaluating this title and the amendments made by this title that shall include the following elements:

"(1) Specific recommendations for modifications to the legislative text of this title and the amendments made by this title, along with a list of conforming amendments to law required by this title and the amendments made by this title.

"(2) A summary of activities conducted pursuant to the process established under subsection (a), including an assessment of the effect of this title and the amendments made by this title on related Department of Defense activities, guidance, and interagency coordination.

"(3) An implementation plan for updating the regulations and guidance relating to this title and the amendments made by this title that contains the following elements:

"(A) A description of how the plan will be implemented.

"(B) A schedule with milestones for the implementation of the plan.

"(C) A description of the assignment of roles and responsibilities for the implementation of the plan.

"(D) A description of the resources required to implement the plan.

"(E) A description of how the plan will be reviewed and assessed to monitor progress.

"(4) Such other items as the Secretary considers appropriate."

## REFERENCES TO SECTIONS REDESIGNATED BY TITLE XVIII OF PUB. L. 116–283

Pub. L. 116–283, div. A, title XVIII, §1883, Jan. 1, 2021, 134 Stat. 4294, provided that:

"(a) DEFINITIONS.—In this section:

"(1) REDESIGNATED SECTION.—The term 'redesignated section' means a section of title 10, United States Code, that is redesignated by this title [see Tables for classification], as that section is so redesignated.

"(2) SOURCE SECTION.—The term 'source section' means a section of title 10, United States Code, that is redesignated by this title, as that section was in effect before the redesignation.

"(b) REFERENCE TO SOURCE SECTION.—

"(1) TREATMENT OF REFERENCE.—Except as otherwise provided in this title, a reference to a source section, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding redesignated section.

"(2) TITLE 10.—Except as otherwise provided in this title, in title 10, United States Code, each reference in the text of such title to a source section is amended by striking such reference and inserting a reference to the appropriate redesignated section."

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 14265. MODERNIZING DEFENSE ACQUISITIONS AND SPURRING INNOVATION IN THE DEFENSE INDUSTRIAL BASE

Ex. Ord. No. 14265, Apr. 9, 2025, 90 F.R. 15621, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. As Chief Executive and Commander in Chief, I am committed to ensuring that the United States military possesses the most lethal warfighting capabilities in the world. America's defense industrial base is central to this effort. Similarly, the defense acquisition workforce is a national strategic asset that will be decisive in any conflict, where the factory floor can be just as significant as the battlefield.

Unfortunately, after years of misplaced priorities and poor management, our defense acquisition system does not provide the speed and flexibility our Armed Forces need to have decisive advantages in the future. In order to strengthen our military edge, America must deliver state-of-the?art [sic] capabilities at speed and scale through a comprehensive overhaul of this system.

SEC. 2. *Policy*. It is the policy of the United States Government to accelerate defense procurement and revitalize the defense industrial base to restore peace through strength. To achieve this, the United States will rapidly reform our antiquated defense acquisition processes with an emphasis on speed, flexibility, and execution. We will also modernize the duties and composition of the defense acquisition workforce, as well as incentivize and reward risk-taking and innovation from these personnel.

SEC. 3. *Acquisition Process Reform*. Within 60 days of the date of this order [Apr. 9, 2025], the Secretary of Defense shall submit to the President a plan to reform the Department of Defense's acquisition processes that, to the maximum extent possible, incorporates the following:

(a) Utilization of existing authorities to expedite acquisitions throughout the Department of Defense, including a first preference for commercial solutions and a general preference for Other Transactions Authority, application of Rapid Capabilities Office policies, or any other authorities or pathways to promote streamlined acquisitions under the Adaptative Acquisition Framework. Starting upon issuance of this order, and during the formation of the plan, the Secretary of Defense shall prioritize use of these authorities in all pending Department of Defense contracting actions and require their application, where appropriate and consistent with applicable law, for all Department of Defense contracting actions pursued while the plan directed by this section is under consideration.

(b) A detailed process review of each functional support role within the acquisition workforce to eliminate unnecessary tasks, reduce duplicative approvals, and centralize decision-making. These reviews should also include evaluations of program managers, contracting officers, engineering authorities, financial managers, cost estimators, and logisticians.

(c) A detailed process by which the Under Secretary of Defense for Acquisition and Sustainment, Service Acquisition Executives, and Component Acquisition Executives can effectively manage risk for all acquisition programs through a formal steering board known as a Configuration Steering Board.

SEC. 4. *Internal Regulations Review*. The Secretary of Defense shall oversee the review of and, as appropriate, propose revisions to relevant Department of Defense instructions, implementation guides, manuals, and regulations relating to acquisition to:

(a) Eliminate or revise any unnecessary supplemental regulations or any other internal guidance, such as relevant parts of the Financial Management Regulation and Defense Federal Acquisition Regulation Supplement.

(b) Promote expedited and streamlined acquisitions. Where new supplemental regulations or internal guidance is proposed, the Secretary of Defense shall apply the ten-for-one rule as described in Executive Order 14192 of January 31, 2025 (Unleashing Prosperity Through Deregulation) [5 U.S.C. 601 note].

SEC. 5. *Acquisition Workforce Reform*. Within 120 days of the date of this order, the Secretary of Defense, in coordination with the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and Component Acquisition Executives, shall develop and submit to the President a plan for consideration to reform, right-size, and train the acquisition workforce that includes the following components:

(a) The restructuring of performance evaluation metrics for acquisition workforce members to include the ability to demonstrate and apply a first consideration of commercial solutions, adaptive acquisition pathways through the Adaptive Acquisition Framework, and iterative requirements based on the perspective of the end user.

(b) An analysis of acquisition workforce staff levels required to develop, deliver, and sustain warfighting capabilities.

(c) The establishment of field training teams by the Under Secretary of Defense for Acquisition and

Sustainment, led by senior acquisition executives or managers with expertise in innovative acquisition authorities and commercial solutions, and modeled after field training teams authorized by section 832 of Public Law 118–159 (10 U.S.C. 1749). These teams should provide hands-on guidance, deliver templates and case studies of successful approaches for implementing innovative acquisition authorities, and should assist integrated functional program teams in completing acquisition and sustainment tasks.

(d) The development and implementation of policies, procedures, and tools to incentivize acquisition officials to, in good faith, utilize innovative acquisition authorities and take measured and calculated risks.

SEC. 6. *Major Defense Acquisition Program Review*. (a) Within 90 days of the date of this order, the Secretary of Defense, acting through the Deputy Secretary of Defense, in coordination with the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretary of Defense for Acquisition and Sustainment, and Component Acquisition Executives, shall complete a comprehensive review of all major defense acquisition programs (MDAPs), as defined in section 4201 of title 10, United States Code, to determine if any such programs are inconsistent with the policy objectives set forth in section 2 of this order. As part of the review of all MDAPs:

(i) any program more than 15 percent behind schedule based on the current Acquisition Program Baseline (APB), 15 percent over cost based on the current APB, unable to meet any key performance parameters, or unaligned with the Secretary of Defense's mission priorities, will be considered for potential cancellation. The Secretary of Defense shall submit the potential cancellation list to the Director of the Office of Management and Budget (OMB) for future budget determinations.

(ii) the Secretary of Defense shall provide a listing of all MDAPs contracts, along with performance against original and approved Government cost estimates to the Director of OMB for review within 90 days from the date of this order.

(b) Following this comprehensive review of MDAPs, the Secretary of Defense shall provide the Director of OMB with a plan for reviewing all remaining major systems, as defined in section 3041 of title 10, United States Code, that are not MDAPs.

SEC. 7. *Requirements*. The Secretary of Defense, acting through the Deputy Secretary of Defense, in coordination with the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Joint Chiefs of Staff, shall complete a comprehensive review of the Joint Capabilities Integration and Development System within 180 days of the date of this order, with the goal of streamlining and accelerating acquisition.

SEC. 8. *Definitions*. For purposes of this order:

(a) The term "Adaptive Acquisition Framework" means the series of acquisition pathways that enable the workforce to deliver "effective, suitable, survivable, sustainable, and affordable solutions to the end user in a timely manner," as stated in Department of Defense Instruction 5000.02.

(b) The term "Acquisition Program Baseline" means the formally established cost, schedule, and performance baselines of a program, as described in Department of Defense Instruction 5000.85.

(c) The term "commercial solutions" means any of the methods for procurement of a commercial product or service described in part 12 of the Federal Acquisition Regulation, subpart 212.2 of the Defense Federal Acquisition Regulation Supplement, or subpart 212.70 of the Defense Federal Acquisition Regulation Supplement; or other industry solutions funded by private investment that meet military needs.

(d) The term "Configuration Steering Board" means an annual review of potential requirements changes, critical intelligence parameter changes, and any significant technical configuration changes as described in Department of Defense Instruction 5000.85.

(e) The term "innovative acquisition authorities" means Other Transactions Authority, commercial solutions, application of Rapid Capabilities Office policies, or any other authorities or pathways to promote streamlined acquisitions under the Adaptive Acquisition Framework.

(f) The term "Joint Capabilities Integration and Development System" means the formally established Department of Defense process used to identify, assess, and prioritize joint military capability requirements across the Department of Defense.

(g) The term "Other Transactions Authority" means the ability of the United States Government to enter into contracts other than standard contracts, grants, or cooperative agreements.

(h) The term "Rapid Capabilities Office" means the Army Rapid Capabilities and Critical Technologies Office, Naval Air Warfare Rapid Capabilities Office, Department of the Air Force Rapid Capabilities Office, or Space Force Rapid Capabilities Office.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of

appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

[1] *See Amendment note below for Pub. L. 118–159, div. A, title XVII, §1701(a)(34)(F).*

# Subpart A—General

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1826, added subpart heading.

## CHAPTER 201—DEFINITIONS


| Subchapter | | Sec. |
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| **I.** | **Definitions Relating to Defense Acquisition System Generally** | **3001** |
| **II.** | **Definitions Applicable to Procurement Generally** | **3011** |
| **III.** | **Definitions Relating to Major Systems and Major Defense Acquisition Programs** | **3041** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 201 "DEFINITIONS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1826, and consisting of reserved section 3001, was repealed by Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), Jan. 1, 2021, 134 Stat. 4151.

## SUBCHAPTER I—DEFINITIONS RELATING TO DEFENSE ACQUISITION SYSTEM GENERALLY


Sec.

3001. Defense acquisition system; element of the defense acquisition system.

3002. Federal Acquisition Regulation.

3003. [Reserved].

3004. Head of an agency.

3005. [Reserved].

3006. Acquisition workforce.


**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(1)(A), Dec. 27, 2021, 135 Stat. 2140, amended Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), Jan. 1, 2021, 134 Stat. 4151, which added this analysis, by substituting "[Reserved]" for "Defense Federal Acquisition Regulation Supplement" in item 3003 and for "Service chief concerned" in item 3005.

### §3001. Defense acquisition system; element of the defense acquisition system

(a) DEFENSE ACQUISITION SYSTEM.—In this part, the term "defense acquisition system" means—

(1) the workforce engaged in carrying out the acquisition of property and services for the

Department of Defense;

(2) the management structure responsible for directing and overseeing the acquisition of property and services for the Department of Defense; and

(3) the statutory, regulatory, and policy framework that guides the acquisition of property and services for the Department of Defense.

(b) ELEMENT OF THE DEFENSE ACQUISITION SYSTEM.—In this part, the term "element of the defense acquisition system" means an organization that—

(1) employs members of the acquisition workforce;

(2) carries out acquisition functions; and

(3) focuses primarily on acquisition.

(c) ACQUISITION.—In this part, the term "acquisition" has the meaning provided in section 131 of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(a)(1)–(4), Jan. 1, 2021, 134 Stat. 4152; Pub. L. 117–81, div. A, title XVII, §1701(b)(1), Dec. 27, 2021, 135 Stat. 2132; Pub. L. 119–60, div. A, title XVIII, §1801(e)(2), Dec. 18, 2025, 139 Stat. 1225.)

## EDITORIAL NOTES

### CODIFICATION

The text of pars. (2), (3), and (1) of section 2545 of this title, which were transferred or copied to this section, redesignated as subsecs. (a), (b), and (c), respectively, and amended by Pub. L. 116–283, §1806(a)(2)–(4), was based on Pub. L. 111–383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288; Pub. L. 113–291, div. A, title X, §1071(a)(11), Dec. 19, 2014, 128 Stat. 3505.

Section 2545 of this title, which was transferred or copied in large part to this section by Pub. L. 116–283, §1806(a)(2)–(4), was also transferred to section 3101 of this title by Pub. L. 116–283, §1808(a)(2).

### PRIOR PROVISIONS

A prior section 3001 was renumbered section 7001 of this title.

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60 substituted "this part" for "this section".

**2021**—Subsec. (a). Pub. L. 116–283, §1806(a)(2), redesignated par. (2) of section 2545 of this title as subsec. (a) of this section, inserted heading and realigned margin, substituted "In this part, the term" for "The term", and inserted dash after "means", par. (1) designation before "the workforce", par. (2) designation before "the management", and par. (3) designation before "the statutory,".

Subsec. (b). Pub. L. 116–283, §1806(a)(3), redesignated par. (3) of section 2545 of this title as subsec. (b) of this section, inserted heading and realigned margin, substituted "In this part, the term" for "The term", "workforce;" for "workforce,", and "functions;" for "functions,", and inserted dash after "organization that", par. (1) designation before "employs", par. (2) designation before "carries out", and par. (3) designation before "focuses".

Subsec. (c). Pub. L. 116–283, §1806(a)(4), as amended by Pub. L. 117–81, §1701(b)(1), added subsec. (c) consisting of text of par. (1) of section 2545 of this title, inserted heading, and substituted "In this section, the term" for "The term".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding this section and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an

Effective Date of 2021 Amendment note preceding this section.

## §3002. Federal Acquisition Regulation

In this part, the term "Federal Acquisition Regulation" means the Federal Acquisition Regulation issued pursuant to section 1303(a)(1) of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), (5), Jan. 1, 2021, 134 Stat. 4152.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (6) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(a)(5), was based on Pub. L. 101–189, div. A, title VIII, §853(b)(1), Nov. 29, 1989, 103 Stat. 1518; Pub. L. 111–350, §5(b)(8)(B), Jan. 4, 2011, 124 Stat. 3843.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1806(a)(5), transferred par. (6) of section 2302 of this title to this section, realigned margin, struck out par. (6) designation at beginning, and substituted "In this part, the term" for "The term".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3003. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), Jan. 1, 2021, 134 Stat. 4152; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(1)(B), Dec. 27, 2021, 135 Stat. 2140.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(1)(B), amended Pub. L. 116–283, §1806(a)(1), which enacted this section, by adding section 3003 designation and catchline "[Reserved]" and striking out former section 3003 designation and catchline "Defense Federal Acquisition Regulation Supplement".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3004. Head of an agency

In this part, the term "head of an agency" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Homeland Security, and the Administrator of the National Aeronautics and Space Administration.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), (6), Jan. 1, 2021, 134 Stat. 4152, 4153.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (1) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(a)(6), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 127; Pub. L. 85–568, title III, §301(b), July 29, 1958, 72 Stat. 432; 96–513, title V, §511(74), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–369, div. B, title VII, §2722(a), July 18, 1984, 98 Stat. 1186; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1806(a)(6), transferred par. (1) of section 2302 of this title to this section, realigned margin, struck out par. (1) designation at beginning, and substituted "In this part, the term" for "The term".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3005. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), Jan. 1, 2021, 134 Stat. 4152; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(1)(C), Dec. 27, 2021, 135 Stat. 2141.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(1)(C), amended Pub. L. 116–283, §1806(a)(1), which enacted this section, by adding section 3005 designation and heading "[Reserved]" and striking out former section 3005 heading and catchline "Service chief concerned".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3006. Acquisition workforce

For the definition of the term "acquisition workforce" for the purposes of this part, see section 101(a)(18) of this title.

(Added Pub. L. 116–283, div. A, title XVIII, §1806(a)(1), Jan. 1, 2021, 134 Stat. 4152.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 3010 was renumbered section 7011 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# SUBCHAPTER II—DEFINITIONS APPLICABLE TO PROCUREMENT GENERALLY

Sec.
3011. Definitions incorporated from title 41.
3012. Competitive procedures.
3013. Technical data.
3014. Nontraditional defense contractor.
3015. Simplified acquisition threshold.
3016. Chapter 137 legacy provisions.

## §3011. Definitions incorporated from title 41

In any chapter 137 legacy provision, the following terms have the meanings provided such terms in chapter 1 of title 41:

(1) The term "procurement".
(2) The term "procurement system".
(3) The term "standards".
(4) The term "full and open competition".
(5) The term "responsible source".
(6) The term "item".
(7) The term "item of supply".
(8) The term "supplies".
(9) The term "commercial product".
(10) The term "commercial service".
(11) The term "nondevelopmental item".
(12) The term "commercial component".
(13) The term "component".

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(b)(1), (2), Jan. 1, 2021, 134 Stat. 4153.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of par. (3) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(b)(2), was based on Pub. L. 103–355, title I, §1502(1), Oct. 13, 1994, 108 Stat. 3296; Pub. L. 104–106, div. D, title XLIII, §4321(b)(3), Feb. 10, 1996, 110 Stat. 672; Pub. L. 111–350, §5(b)(8), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 115–232, div. A, title VIII, §836(c)(1), Aug. 13, 2018, 132 Stat. 1864.

**PRIOR PROVISIONS**

A prior section 3011 was renumbered section 7011 of this title.

Another prior section 3011 was renumbered section 7012 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1806(b)(2), transferred par. (3) of section 2302 of this title to this section, realigned margin, struck out par. (3) designation at beginning, substituted "In any chapter 137 legacy provision, the following" for "The following" in introductory provisions, and redesignated subpars. (A) to (M) as pars. (1) to (13), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3012. Competitive procedures

In this part, the term "competitive procedures" means procedures under which the head of an agency enters into a contract pursuant to full and open competition. Such term also includes—

(1) procurement of architectural or engineering services conducted in accordance with chapter 11 of title 40;

(2) the competitive selection for award of science and technology proposals resulting from a general solicitation and the peer review or scientific review (as appropriate) of such proposals;

(3) the procedures established by the Administrator of General Services for the multiple award schedule program of the General Services Administration if—

(A) participation in the program has been open to all responsible sources; and

(B) orders and contracts under such program result in the best value to meet the needs of the United States;

(4) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

(5) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(b)(1), (3), Jan. 1, 2021, 134 Stat. 4153; Pub. L. 119–60, div. A, title VIII, §812(a)(3), Dec. 18, 2025, 139 Stat. 951.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of par. (2) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(b)(3), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 127; Pub. L. 98–369, div. B, title VII, §2722(a), July 18, 1984, 98 Stat. 1186; Pub. L. 98–577, title V, §504(b)(3), Oct. 30, 1984, 98 Stat. 3087; Pub. L. 99–661, div. A, title XIII, §1343(a)(13), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 107–217, §3(b)(2), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 115–91, div. A, title II, §221, Dec. 12, 2017, 131 Stat. 1333.

### PRIOR PROVISIONS

A prior section 3012 was renumbered section 7012 of this title.

Another prior section 3012 was renumbered section 3013 of this title and subsequently repealed.

### AMENDMENTS

**2025**—Par. (3)(B). Pub. L. 119–60 substituted "best value" for "lowest overall cost alternative".

**2021**—Pub. L. 116–283, §1806(b)(3), transferred par. (2) of section 2302 of this title to this section, realigned margin, struck out par. (2) designation at beginning, substituted "In this part, the term" for "The term" in introductory provisions, redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and, in par. (3), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3013. Technical data

In any chapter 137 legacy provision, the term "technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(b)(1), (4), Jan. 1, 2021, 134 Stat. 4153.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (4) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(b)(4), was based on Pub. L. 98–525, title XII, §1211, Oct. 19, 1984, 98 Stat. 2589; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284.

### PRIOR PROVISIONS

A prior section 3013 was renumbered section 7013 of this title.

Another prior section 3013, acts Aug. 10, 1956, ch. 1041, 70A Stat. 157, §3012; Sept. 2, 1958, Pub. L. 85–861, §1(57), 72 Stat. 1462; Sept. 7, 1962, Pub. L. 87–651, title II, §211, 76 Stat. 524; Aug. 14, 1964, Pub. L. 88–426, title III, §§305(2), 306(j)(1), 78 Stat. 422, 431; Nov. 2, 1966, Pub. L. 89–718, §22, 80 Stat. 1118; renumbered §3013, Oct. 1, 1986, Pub. L. 99–433, title V, §501(a)(2), 100 Stat. 1034, related to Secretary of the Army, powers and duties, and delegations, prior to repeal by Pub. L. 99–433, §501(a)(5).

Another prior section 3013 was renumbered section 3014 of this title and subsequently repealed.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1806(b)(4), transferred par. (4) of section 2302 of this title to this section, realigned margin, struck out par. (4) designation at beginning, and substituted "In any chapter 137 legacy provision, the term" for "The term".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3014. Nontraditional defense contractor

In this part, the term "nontraditional defense contractor", with respect to a procurement or with respect to a transaction authorized under section 4021(a) or 4022 of this title, means an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to section 1502 of title 41 and the regulations implementing such section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(b)(1), (5), Jan. 1, 2021, 134 Stat. 4153, 4154; Pub. L. 117–263, div. A, title X, §1081(a)(4), Dec. 23, 2022, 136 Stat. 2797.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (9) of section 2302 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1806(b)(5), was based on Pub. L. 111–383, div. A, title VIII, §866(g)(1), Jan. 7, 2011, 124 Stat. 4298; Pub. L. 113–291, div. A, title X, §1071(a)(2)(B), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §815(b), Nov. 25, 2015, 129 Stat. 896.

### PRIOR PROVISIONS

A prior section 3014 was renumbered section 7014 of this title.

Another prior section 3014, acts Aug. 10, 1956, ch. 1041, 70A Stat. 158, §3013; Aug. 6, 1958, Pub. L. 85–599, §8(a), 72 Stat. 519; Sept. 2, 1958, Pub. L. 85–861, §1(58), 72 Stat. 1462; Aug. 14, 1964, Pub. L. 88–426, title III, §305(3), 78 Stat. 422; Dec. 1, 1967, Pub. L. 90–168, §2(12), 81 Stat. 523; Dec. 31, 1970, Pub. L. 91–611, title II, §211(a), 84 Stat. 1829; Nov. 9, 1979, Pub. L. 96–107, title VIII, §820(b), 93 Stat. 819; Sept. 24, 1983, Pub. L. 98–94, title XII, §1212(c)(1), 97 Stat. 687; renumbered §3014, Oct. 1, 1986, Pub. L. 99–433, title V, §501(a)(2), 100 Stat. 1034, related to Under Secretary and Assistant Secretaries of the Army, appointment, and duties, prior to repeal by Pub. L. 99–433, §501(a)(5).

Another prior section 3014 was renumbered section 3015 of this title and subsequently repealed.

### AMENDMENTS

**2022**—Pub. L. 117–263 substituted "section 4021(a) or 4022" for "section 4002(a) or 4003".

**2021**—Pub. L. 116–283, §1806(b)(5), transferred par. (9) of section 2302 of this title to this section, realigned margin, struck out par. (9) designation at beginning, and substituted "In this part, the term" for "The term" and "section 4002(a) or 4003" for "section 2371(a) or 2371b".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### EXEMPTIONS FOR NONTRADITIONAL DEFENSE CONTRACTORS

Pub. L. 119–60, div. A, title XVIII, §1826, Dec. 18, 2025, 139 Stat. 1249, provided that:

"(a) EXEMPTION.—For the purposes of contracts, subcontracts, or agreements of the Department of Defense, products and services provided by nontraditional defense contractors (as defined in section 3014 of title 10, United States Code) shall be exempt from the following requirements:

"(1) Section 252.242–7006 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(2) Section 252.234–7002 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(3) Section 252.215–7002 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(4) Section 252.242–7004 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(5) Section 252.245–7003 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(6) Section 252.244–7001 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(7) Section 252.242–7005 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(8) Section 215.407 of the Department of Defense Supplement to the Federal Acquisition Regulation, or successor regulation.

"(9) Section 3702 of title 10, United States Code.

"(10) Part 31 of the Federal Acquisition Regulation, or successor regulation.

"(b) WAIVER AND REPORTING.—

"(1) IN GENERAL.—The requirement under subsection (a) may be waived or modified with respect to a product or service with a written determination approved by the head of the relevant contracting activity.

"(2) DELEGATION.—The authority to approve a written determination under paragraph (1) may only be delegated to a senior contracting official for the relevant contracting activity or a more senior official.

"(3) PARTIAL APPLICATION.—One or more of the requirements described in paragraphs (1) through (10) of subsection (a) may be applied to a contract, subcontract, or other agreement with a nontraditional defense contractor upon a written determination approved by the head of the relevant contracting activity that includes a justification explaining why application of such requirements is in the best interest of the Federal Government.

"(4) CONGRESSIONAL NOTICE.—Not later than 60 days after the date on which a waiver is issued under this section, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notice of the waiver, including with a discussion of efforts made to adapt the acquisition approach for the product or service with respect to which the such waiver was granted so that such waiver would not be necessary."

## §3015. Simplified acquisition threshold

In this part:

(1) The term "simplified acquisition threshold" has the meaning provided that term in section 134 of title 41, except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation, the term means an amount equal to two times the amount specified for that term in such section.

(2) The term "humanitarian or peacekeeping operation" means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(b)(1), (6), Jan. 1, 2021, 134 Stat. 4153, 4154.)

### EDITORIAL NOTES

### CODIFICATION

The text of pars. (7) and (8) of section 2302 of this title, which were transferred to this section, redesignated as pars. (1) and (2), respectively, and amended by Pub. L. 116–283, §1806(b)(6), was based on Pub. L. 103–355, title I, §1502, Oct. 13, 1994, 108 Stat. 3296; Pub. L. 104–201, div. A, title VIII, §807(a), Sept. 23, 1996, 110 Stat. 2606; Pub. L. 105–85, div. A, title VIII, §803(b), Nov. 18, 1997, 111 Stat. 1832; Pub. L. 111–350, §5(b)(8)(C), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113–291, div. A, title X, §1071(a)(2)(A), Dec. 19, 2014, 128 Stat. 3504.

### PRIOR PROVISIONS

A prior section 3015 was renumbered section 7015 of this title.

Another prior section 3015, acts Aug. 10, 1956, ch. 1041, 70A Stat. 158, §3014; renumbered §3015, Oct. 1, 1986, Pub. L. 99–433, title V, §501(a)(2), 100 Stat. 1034, related to Comptroller and Deputy Comptroller of the Army, powers and duties, and appointment, prior to repeal by Pub. L. 99–433, §501(a)(5).

Another prior section 3015 was renumbered section 3040 of this title and subsequently repealed.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1806(b)(6), redesignated pars. (7) and (8) of section 2302 of this title as pars. (1) and (2), respectively, of this section and inserted introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3016. Chapter 137 legacy provisions

In this part, the term "chapter 137 legacy provisions" means the following sections of this title: sections 3002, 3004, 3011–3015, 3041, 3063–3069, 3134, 3151–3157, 3201–3208, 3221–3227, 3241, 3243, 3249, 3252, 3301–3309, 3321–3323, 3344, 3345, 3371–3375, 3377, 3401, 3403, 3405, 3406, 3501–3511, 3531–3535, 3571, 3572, 3573, 3701–3708, 3741–3750, 3761, 3771–3775, 3781–3786, 3791, 3794, 3801–3807, 3841, 3842, 3847, 3881, 3901, 3902, 4202(b), 4324, 4325, 4501, 4502, 4505, 4506, 4507, 4576, 4657, 4660, 4751, 4752, and 8751.

(Added Pub. L. 116–283, div. A, title XVIII, §1806(b)(7), Jan. 1, 2021, 134 Stat. 4154.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3016 was renumbered section 7016 of this title.

Another prior section 3016 was renumbered section 7018 of this title.

Prior sections 3017 and 3018 were renumbered sections 7017 and 7018 of this title, respectively.

Another prior section 3018, added Pub. L. 85–861, §1(59)(A), Sept. 2, 1958, 72 Stat. 1462, prescribed compensation of General Counsel of Department of the Army, prior to repeal by Pub. L. 88–426, title III, §305(40)(A), Aug. 14, 1964, 78 Stat. 427, eff. first day of first pay period beginning on or after July 1, 1964.

A prior section 3019 was renumbered section 7019 of this title.

Another prior section 3019 was renumbered section 7038 of this title.

A prior section 3020 was renumbered section 7020 of this title.

A prior section 3021 was renumbered section 7021 of this title.

Another prior section 3021 was renumbered section 10302 of this title.

Prior sections 3022 to 3024, 3031, and 3032 were renumbered sections 7022 to 7024, 7031, and 7032 of this title, respectively.

A prior section 3033 was renumbered section 7033 of this title.

Another prior section 3033 was renumbered section 10302 of this title.

A prior section 3034 was renumbered section 7034 of this title.

Another prior section 3034 was renumbered section 7033 of this title.

A prior section 3035 was renumbered section 7035 of this title.

Another prior section 3035 was renumbered section 7034 of this title.

Prior sections 3036 and 3037 were renumbered sections 7036 and 7037 of this title, respectively.

A prior section 3038 was renumbered section 7038 of this title.

Another prior section 3038, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, charged Chief of Engineers with responsibility for Army construction, real estate acquisition and management, and the operation of water, gas, electric, and sewer utilities, prior to repeal by Pub. L. 89–718, §25(a), Nov. 2, 1966, 80 Stat. 1119.

A prior section 3039, act Aug. 10, 1956, ch. 1041, 70A Stat. 165, §3040; Pub. L. 95–485, title VIII,

§805(a), Oct. 20, 1978, 92 Stat. 1621; renumbered §3039 and amended Pub. L. 99–433, title V, §502(f)(2), Oct. 1, 1986, 100 Stat. 1042, related to deputy and assistant chiefs of branches, prior to repeal by Pub. L. 114–328, div. A, title V, §502(n)(1), Dec. 23, 2016, 130 Stat. 2103.

Another prior section 3039, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, related to Inspector General and Provost Marshal General, prior to repeal by Pub. L. 99–433, §502(f)(1). See section 7020 of this title.

A prior section 3040, acts Aug. 10, 1956, ch. 1041, 70A Stat. 159, §3015; Aug. 6, 1958, Pub. L. 85–599, §12, 72 Stat. 521; renumbered §3040, Oct. 1, 1986, Pub. L. 99–433, title V, §501(a)(1), 100 Stat. 1034; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to National Guard Bureau, Chief of Bureau, appointment and acting Chief, prior to repeal by Pub. L. 103–337, div. A, title IX, §904(b)(1), (d), Oct. 5, 1994, 108 Stat. 2827, effective at the end of the 90-day period beginning on Oct. 5, 1994. See sections 10501, 10502, and 10505 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## SUBCHAPTER III—DEFINITIONS RELATING TO MAJOR SYSTEMS AND MAJOR DEFENSE ACQUISITION PROGRAMS

Sec.
3041. Major system.
3042. Major defense acquisition program.

## §3041. Major system

(a) IN GENERAL.—In this part (other than in sections 4292(e) and 4321), the term "major system" means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property.

(b) SYSTEM CONSIDERED TO BE A MAJOR SYSTEM.—A system shall be considered a major system if—

(1) the conditions of subsection (c) or (d), as applicable, are satisfied; or

(2) the system is designated a "major system" by the head of the agency responsible for the system.

(c) DEPARTMENT OF DEFENSE SYSTEMS.—

(1) IN GENERAL.—For purposes of subsection (b), a system for which the Department of Defense is responsible shall be considered a major system if—

(A) the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $275,000,000 (based on fiscal year 2024 constant dollars); or

(B) the eventual total expenditure for procurement for the system is estimated to be more than $1,300,000,000 (based on fiscal year 2024 constant dollars).

(2) ADJUSTMENT AUTHORITY.—Authority for the Secretary of Defense to adjust amounts and the base fiscal year in effect under this subsection is provided in section 4202(b) of this title.

(d) CIVILIAN AGENCY SYSTEMS.—For purposes of subsection (b), a system for which a civilian agency is responsible shall be considered a major system if total expenditures for the system are estimated to exceed the greater of—

(1) $2,000,000 (based on fiscal year 2024 constant dollars); or

(2) the dollar threshold for a "major system" established by the agency pursuant to Office of Management and Budget (OMB) Circular A–109, entitled "Major Systems Acquisitions".

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1806(c), Jan. 1, 2021, 134 Stat. 4154; Pub. L. 119–60, div. A, title XVIII, §1804(a), Dec. 18, 2025, 139 Stat. 1234.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (5) of section 2302 of this title, which was transferred to this section, redesignated as subsecs. (a) and (b), and amended by Pub. L. 116–283, §1806(c)(2), was based on Pub. L. 98–525, title XII, §1211, Oct. 19, 1984, 98 Stat. 2589; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 104–201, div. A, title VIII, §805(a)(1), Sept. 23, 1996, 110 Stat. 2605.

The text of subsecs. (a) and (b) of section 2302d of this title, which were transferred to this section, redesignated as subsecs. (c) and (d), respectively, and amended by Pub. L. 116–283, §1806(c)(3), was based on Pub. L. 104–201, div. A, title VIII, §805(a)(2), Sept. 23, 1996, 110 Stat. 2605; Pub. L. 105–85, div. A, title X, §1073(a)(41), Nov. 18, 1997, 111 Stat. 1902.

### AMENDMENTS

**2025**—Subsec. (c)(1)(A). Pub. L. 119–60, §1804(a)(1)(A), substituted "$275,000,000 (based on fiscal year 2024 constant dollars)" for "$115,000,000 (based on fiscal year 1990 constant dollars)".

Subsec. (c)(1)(B). Pub. L. 119–60, §1804(a)(1)(B), substituted "$1,300,000,000 (based on fiscal year 2024 constant dollars)" for "$540,000,000 (based on fiscal year 1990 constant dollars)".

Subsec. (d)(1). Pub. L. 119–60, §1804(a)(2), substituted "$2,000,000 (based on fiscal year 2024 constant dollars)" for "$750,000 (based on fiscal year 1980 constant dollars)".

**2021**—Subsec. (a). Pub. L. 116–283, §1806(c)(2)(A), redesignated par. (5) of section 2302 of this title as subsec. (a) of this section, realigned margin, inserted heading, and substituted "In this part (other than in sections 4292(e) and 4321), the term" for "The term". Former third sentence of subsec. (a) designated (b).

Subsec. (b). Pub. L. 116–283, §1806(c)(2)(B), (C), after transfer of section 2302(5) of this title to subsec. (a) of this section, designated third sentence of subsec. (a) as (b), inserted heading, and substituted "system if—" and pars. (1) and (2) for "system if (A) the conditions of section 2302d of this title are satisfied, or (B) the system is designated a 'major system' by the head of the agency responsible for the system."

Subsec. (c). Pub. L. 116–283, §1806(c)(3), redesignated subsec. (a) of section 2302d of this title as subsec. (c) of this section, substituted "subsection (b)" for "section 2302(5) of this title" in introductory provisions, designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 116–283, §1806(c)(3), redesignated subsec. (b) of section 2302d of this title as subsec. (d) of this section and substituted "subsection (b)" for "section 2302(5) of this title" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3042. Major defense acquisition program

For the definition of the term "major defense acquisition program" for purposes of this part, see section 4201 of this title.

(Added Pub. L. 116–283, div. A, title XVIII, §1806(c)(1), Jan. 1, 2021, 134 Stat. 4154.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3061 was renumbered section 7061 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## CHAPTER 203—GENERAL MATTERS

Sec.
3061. [Reserved].
3062. Regulations.
3063. Covered agencies.
3064. Applicability of chapter 137 legacy provisions.
3065. Assignment and delegation of procurement functions and responsibilities: delegation within agency.
3066. Assignment and delegation of procurement functions and responsibilities: procurements for or with other agencies.
3067. Approval required for military department termination or reduction in participation in joint acquisition programs.
3068. Inapplicability of certain laws.
3069. Buy-to-budget acquisition: end items.
[3070. Repealed.]
3071. [Reserved].
3072. Comptroller General assessment of acquisition programs and initiatives.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 203 "GENERAL MATTERS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1826, and consisting of reserved section 3021, was repealed by Pub. L. 116–283, div. A, title XVIII, §1807(a), Jan. 1, 2021, 134 Stat. 4156.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(2), Dec. 18, 2025, 139 Stat. 948, struck out item 3070 "Limitation on acquisition of excess supplies". Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title VIII, §813(b), Dec. 23, 2024, 138 Stat. 1980, substituted "Comptroller General assessment of acquisition programs and initiatives" for "Comptroller General assessment of acquisition programs and efforts" in item 3072.

**2022**—Pub. L. 117–263, div. A, title VIII, §812(b), Dec. 23, 2022, 136 Stat. 2706, substituted "efforts" for "initiatives" in item 3072.

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(3), Dec. 27, 2021, 135 Stat. 2139, inserted "of" after "Applicability" in item 3064.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### INTERNAL CONTROLS FOR DEPARTMENT OF DEFENSE PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS

Pub. L. 108–375, div. A, title VIII, §802, Oct. 28, 2004, 118 Stat. 2004, as amended by Pub. L. 109–313, §2(c)(2), Oct. 6, 2006, 120 Stat. 1735; Pub. L. 116–92, div. A, title IX, §902(38), Dec. 20, 2019, 133 Stat. 1547, provided that:

"(a) INITIAL INSPECTOR GENERAL REVIEW AND DETERMINATION.—(1) Not later than March 15, 2005, the Inspector General of the Department of Defense and the Inspector General of the General

Services Administration shall jointly—

"(A) review—

"(i) the policies, procedures, and internal controls of each GSA Client Support Center; and

"(ii) the administration of those policies, procedures, and internal controls; and

"(B) for each such Center, determine in writing whether—

"(i) the Center is compliant with defense procurement requirements;

"(ii) the Center is not compliant with defense procurement requirements, but the Center made significant progress during 2004 toward becoming compliant with defense procurement requirements; or

"(iii) neither of the conclusions stated in clauses (i) and (ii) is correct.

"(2) If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of such paragraph is correct in the case of a GSA Client Support Center, those Inspectors General shall, not later than March 15, 2006, jointly—

"(A) conduct a second review regarding that GSA Client Support Center as described in paragraph (1)(A); and

"(B) determine in writing whether that GSA Client Support Center is or is not compliant with defense procurement requirements.

"(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a GSA Client Support Center is compliant with defense procurement requirements if the GSA Client Support Center's policies, procedures, and internal controls, and the manner in which they are administered, are adequate to ensure compliance of that Center with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

"(c) LIMITATIONS ON PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS.—(1) After March 15, 2005, and before March 16, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through any GSA Client Support Center for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

"(2) After March 15, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through any GSA Client Support Center that has not been determined under this section as being compliant with defense procurement requirements.

"(d) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—(1) No limitation applies under subsection (c) with respect to the procurement of property and services from a particular GSA Client Support Center during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition and Sustainment, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through that GSA Client Support Center.

"(2) A written determination with respect to a GSA Client Support Center under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary of Defense for Acquisition and Sustainment shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

"(e) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (c) shall cease to apply to a GSA Client Support Center on the date on which the Inspector General of the Department of Defense and the Inspector General of the General Services Administration jointly determine that such Center is compliant with defense procurement requirements and notify the Secretary of Defense of that determination.

"(f) GSA CLIENT SUPPORT CENTER DEFINED.—In this section, the term 'GSA Client Support Center' means a Client Support Center of the Federal Acquisition Service of the General Services Administration."

## §3062. Regulations

The Secretary of Defense is required by section 2202 of this title to prescribe regulations governing the performance within the Department of Defense of the procurement functions, and related functions, of the Department of Defense.

(Added Pub. L. 116–283, div. A, title XVIII, §1807(b)(1), Jan. 1, 2021, 134 Stat. 4157; amended Pub. L. 117–81, div. A, title XVII, §1701(b)(2)(A), (j), Dec. 27, 2021, 135 Stat. 2132, 2143.)

**EDITORIAL NOTES**

## PRIOR PROVISIONS

A prior section 3062 was renumbered section 7062 of this title.

## AMENDMENTS

**2021**—Pub. L. 117–81, §1701(j), amended text of section enacted by Pub. L. 116–283, §1807(b)(1), by substituting "is required by section 2202 of this title to prescribe" for "shall prescribe".

Pub. L. 117–81, §1701(b)(2)(A), amended directory language of Pub. L. 116–283, §1807(b)(1), which enacted this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

## EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## PILOT PROGRAM ON MILITARY WORKING DOG AND EXPLOSIVES DETECTION CANINE HEALTH AND EXCELLENCE

Pub. L. 117–81, div. A, title III, §381, Dec. 27, 2021, 135 Stat. 1671, as amended by Pub. L. 117–263, div. A, title III, §386(a), Dec. 23, 2022, 136 Stat. 2544, provided that:

"(a) PILOT PROGRAM.—Not later than September 31, 2022, the Secretary of Defense shall carry out a pilot program to ensure the health and excellence of explosives detection military working dogs. Under such pilot program, the Secretary shall consult with domestic breeders of working dog lines, covered institutions of higher education, and covered national domestic canine associations, to—

"(1) facilitate the presentation, both in a central location and at regional field evaluations in the United States, of domestically-bred explosives detection military working dogs for assessment for procurement by the Department of Defense, at a rate of at least 250 canines presented per fiscal year;

"(2) facilitate the delivery and communication to domestic breeders, covered institutions of higher education, and covered national domestic canine associations, of information regarding—

"(A) any specific needs or requirements for the future acquisition by the Department of explosives detection military working dogs; and

"(B) any factors identified as relevant to the success or failure of explosives detection military working dogs presented for assessment pursuant to this section;

"(3) collect information on the biological and health factors of explosives detection military working dogs procured by the Department, and make such information available for academic research and to domestic breeders;

"(4) collect and make available genetic and phenotypic information, including canine rearing and training data for study by domestic breeders and covered institutions of higher education, for the further development of working canines that are bred, raised, and trained domestically; and

"(5) evaluate current Department guidance for the procurement of military working dogs to ensure that pricing structures and procurement requirements for foreign and domestic canine procurements accurately account for input cost differences between foreign and domestic canines.

"(b) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on October 1, 2025.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered institution of higher education' means an institution of higher education, as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), with demonstrated expertise in veterinary medicine for working canines.

"(2) The term 'covered national domestic canine association' means a national domestic canine association with demonstrated expertise in the breeding and pedigree of working canine lines.

"(3) The term 'explosives detection military working dog' means a canine that, in connection with the work duties of the canine performed for the Department of Defense, is certified and trained to detect odors indicating the presence of explosives in a given object or area, in addition to the performance of such other

duties for the Department as may be assigned."

**RESTRICTION ON DEPARTMENT OF DEFENSE PROCUREMENT OF CERTAIN ITEMS CONTAINING PERFLUOROOCTANE SULFONATE OR PERFLUOROOCTANOIC ACID**

Pub. L. 116–283, div. A, title III, §333, Jan. 1, 2021, 134 Stat. 3531, provided that:

"(a) PROHIBITION.—The Department of Defense may not procure any covered item that contains perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA).

"(b) DEFINITIONS.—In this section, the term 'covered item' means—

"(1) nonstick cookware or cooking utensils for use in galleys or dining facilities; and

"(2) upholstered furniture, carpets, and rugs that have been treated with stain-resistant coatings.

"(c) EFFECTIVE DATE.—This section shall take effect on April 1, 2023."

## §3063. Covered agencies

For purposes of any provision of law referring to this section, the agencies named in this section are the following:

(1) The Department of Defense.

(2) The Department of the Army.

(3) The Department of the Navy.

(4) The Department of the Air Force.

(5) The Coast Guard.

(6) The National Aeronautics and Space Administration.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(c)(1), (2), Jan. 1, 2021, 134 Stat. 4157.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of pars. (1) to (6) of section 2303(a) of this title, which were transferred to this section by Pub. L. 116–283, §1807(c)(2), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 85–568, title III, §301(b), July 29, 1958, 72 Stat. 432; Pub. L. 98–369, div. B, title VII, §2722(b)(1)(C), (D), July 18, 1984, 98 Stat. 1187.

**PRIOR PROVISIONS**

A prior section 3063 was renumbered section 7063 of this title.

**AMENDMENTS**

**2021**—Pars. (1) to (6). Pub. L. 116–283, §1807(c)(2), transferred pars. (1) to (6) of section 2303(a) of this title to this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3064. Applicability of chapter 137 legacy provisions

(a) GENERAL APPLICABILITY.—Any provision of this part that is a chapter 137 legacy provision applies to the procurement by any of the agencies named in section 3063 of this title, for its use or otherwise, of all property (other than land) and all services for which payment is to be made from appropriated funds.

(b) APPLICABILITY TO CONTRACTS FOR INSTALLATION OR ALTERATION.—The

provisions of this part that are chapter 137 legacy provisions that apply to the procurement of property apply also to contracts for its installation or alteration.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(c)(1), (3), Jan. 1, 2021, 134 Stat. 4157; Pub. L. 117–81, div. A, title XVII, §1701(b)(2)(B), Dec. 27, 2021, 135 Stat. 2132.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) introductory provisions and subsec. (b) of section 2303 of this title, which were transferred to this section and amended by Pub. L. 116–283, §1807(c)(3), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 98–369, div. B, title VII, §2722(b)(1)(A), (B), (3), July 18, 1984, 98 Stat. 1187.

### PRIOR PROVISIONS

A prior section 3064 was renumbered section 7064 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1807(c)(3), transferred introductory provisions of subsec. (a) and subsec. (b) of section 2303 of this title to this section.

Subsec. (a). Pub. L. 116–283, §1807(c)(3)(A), as amended by Pub. L. 117–81, §1701(b)(2)(B), inserted heading and substituted "Any provision of this part that is a chapter 137 legacy provision" for "This chapter", "of the agencies named in section 3063 of this title" for "of the following agencies", and period for colon at end.

Subsec. (b). Pub. L. 116–283, §1807(c)(3)(B), inserted heading and substituted "The provisions of this part that are chapter 137 legacy provisions" for "The provisions of this chapter".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3065. Assignment and delegation of procurement functions and responsibilities: delegation within agency

Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under any provision of this part that is a chapter 137 legacy provision.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2311; Pub. L. 85–800, §11, Aug. 28, 1958, 72 Stat. 967; Pub. L. 87–653, §1(g), Sept. 10, 1962, 76 Stat. 529; Pub. L. 90–378, §3, July 5, 1968, 82 Stat. 290; Pub. L. 97–86, title IX, §§907(c), 909(f), Dec. 1, 1981, 95 Stat. 1117, 1120; Pub. L. 98–369, div. B, title VII, §2726, July 18, 1984, 98 Stat. 1194; Pub. L. 98–525, title XII, §1214, Oct. 19, 1984, 98 Stat. 2592; Pub. L. 98–577, title V, §505, Oct. 30, 1984, 98 Stat. 3087; Pub. L. 103–355, title I, §1503(a)(1), Oct. 13, 1994, 108 Stat. 3296; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(49), Dec. 20, 2019, 133 Stat. 1548; renumbered §3065 and amended Pub. L. 116–283, div. A, title XVIII, §1807(d)(1), (2)(A)–(C), (3), Jan. 1, 2021, 134 Stat. 4157, 4158.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2311 | 41:156(a) (less 1st sentence).<br>41:156(b). | Feb. 19, 1948, ch. 65, §7(a) (less 1st sentence), (b), 62 Stat. 24. |

The words "in his discretion and" and "including the making of such determinations and decisions" are omitted as surplusage. The words "except the power to make determinations and decisions" are substituted for the words "Except as provided in subsection (b) of this section" and "The power of the agency head to make the determinations or decisions specified in paragraphs (12)–(16) of section 151(c) of this title and in section 154(a) of this title shall not be delegable".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3065 was renumbered section 7065 of this title.

Provisions similar to those in this section were contained in section 2308 of this title prior to repeal by Pub. L. 103–355, §1503(b)(1).

### AMENDMENTS

**2021**—Pub. L. 116–283, §1807(d)(2)(C), (3), in section catchline, substituted "Assignment and delegation of procurement functions and responsibilities: delegation within agency" for "Emergency situations involving weapons of mass destruction" and, in text, struck out subsec. (a) designation and heading "In General" at beginning, and substituted "under any provision of this part that is a chapter 137 legacy provision" for "under this chapter".

Pub. L. 116–283, §1807(d)(1), renumbered section 2311 of this title as this section.

Subsecs. (b), (c). Pub. L. 116–283, §1807(d)(2)(A), (B), transferred subsecs. (b) and (c) of this section to sections 3066 and 3067 of this title, respectively.

**2019**—Subsec. (c)(1), (2)(B). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2001**—Subsec. (c)(1), (2)(B). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1994**—Pub. L. 103–355 substituted "Assignment and delegation of procurement functions and responsibilities" for "Delegation" as section catchline and amended text generally. Prior to amendment, text read as follows: "Except as provided in section 2304(d)(2) of this title, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter."

**1984**—Pub. L. 98–577 struck out "(a)" before "Except as provided in" and struck out subsec. (b) which related to delegation of authority by heads of procuring activities of agencies of certain functions.

Pub. L. 98–525 designated existing provisions as subsec. (a) and added subsec. (b).

Pub. L. 98–369 inserted provision relating to the exception provided in section 2304(d)(2) of this title and struck out provision that the power to make determinations and decisions under cls. (11)–(16) of section 2304(a) of this title could not be delegated, but that the power to make a determination or decision under section 2304(a)(11) of this title could be delegated to any other officer of official of that agency who was responsible for procurement, and only for contracts requiring the expenditure of not more than $5,000,000.

**1981**—Pub. L. 97–86 struck out in first sentence cl. (1) designation and cl. (2) relating to authorizing of contracts in excess of three years under section 2306(g) of this title, and in second sentence substituted "$5,000,000" for "$100,000".

**1968**—Pub. L. 90–378 designated provisions after "the power to make determinations and decisions" as cl. (1) and added cl. (2).

**1962**—Pub. L. 87–653 substituted "delegated to any other officer" for "delegated only to a chief officer" and "$100,000" for "$25,000".

**1958**—Pub. L. 85–800 struck out ", or section 2307(a)" after "of section 2304(a)" in first sentence.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to any solicitation for bids or proposals issued after Mar. 31, 1985, see section 2751 of Pub. L. 98–369, set out as a note under section 4751 of this title.

### EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–653, §1(h), Sept. 10, 1962, 76 Stat. 529, provided that: "The amendments made by this Act [amending this section and sections 2304, 2306, and 2310 (now 4751) of this title] shall take effect on the first day of the third calendar month which begins after the date of enactment of this Act [Sept. 10, 1962]."

## §3066. Assignment and delegation of procurement functions and responsibilities: procurements for or with other agencies

Subject to section 3065 of this title, to facilitate the procurement of property and services covered by any provision of this part that is a chapter 137 legacy provision by each agency named in section 3063 of this title for any other agency, and to facilitate joint procurement by those agencies—

(1) the head of an agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(d)(2)(A), (D), Jan. 1, 2021, 134 Stat. 4158.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2311 of this title, which was transferred first to section 3065(b) of this title and then to this section and amended by Pub. L. 116–283, §1807(d)(1), (2)(A), (D), was based on Pub. L. 103–355, title I, §1503(a)(1), Oct. 13, 1994, 108 Stat. 3296.

### PRIOR PROVISIONS

A prior section 3066, acts Aug. 10, 1956, ch. 1041, 70A Stat. 167; Sept. 2, 1958, Pub. L. 85–861, §33(a)(19), 72 Stat. 1565, authorized President, by and with consent of Senate, to make temporary appointments in grades of general and lieutenant general from officers of Army on active duty in any grade above brigadier general and specified number of positions in each such grade, prior to repeal by Pub. L. 96–513, title II, §201, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981. See section 601 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1807(d)(2)(D), transferred subsec. (b) of section 3065 of this title to this section, and, in introductory provisions, struck out subsec. (b) designation and heading "Procurements For or With Other Agencies" at beginning and substituted "Subject to section 3065 of this title" for "Subject to subsection (a)", "covered by any provision of this part that is a chapter 137 legacy provision" for "covered by this chapter", and "section 3063" for "section 2303".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3067. Approval required for military department termination or reduction in participation in joint acquisition programs

(a) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Sustainment from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

(b) REQUIRED CONTENT OF REGULATIONS.—The regulations shall include the following provisions:

(1) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

(2) A provision that authorizes the Under Secretary of Defense for Acquisition and Sustainment to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(d)(2)(B), (E), Jan. 1, 2021, 134 Stat. 4158.)

### EDITORIAL NOTES

#### CODIFICATION

The text of subsec. (c) of section 2311 of this title, which was transferred first to section 3065(c) of this title and then to this section and amended by Pub. L. 116–283, §1807(d)(1), (2)(B), (E), was based on Pub. L. 103–355, title I, §1503(a)(1), Oct. 13, 1994, 108 Stat. 3296; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(49), Dec. 20, 2019, 133 Stat. 1548.

#### PRIOR PROVISIONS

A prior section 3067 was renumbered section 7067 of this title.

#### AMENDMENTS

**2021**—Pub. L. 116–283, §1807(d)(2)(E), redesignated subsec. (c) of section 3065 of this title as subsec. (a) of this section, struck out par. (1) designation before "The Secretary of Defense shall", redesignated par. (2) and its subpars. (A) and (B) as subsec. (b) and pars. (1) and (2), respectively, and inserted subsec. (b) heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3068. Inapplicability of certain laws

(a) LAWS INAPPLICABLE TO AGENCIES NAMED IN SECTION 3063.—Sections 6101 and 6304 of title 41 do not apply to the procurement or sale of property or services by the agencies named in section 3063 of this title.

(b) LAWS INAPPLICABLE TO PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES FOR CERTAIN DEFENSE PURPOSES.—For purposes of subtitle

III of title 40, the term "national security system", with respect to a telecommunications and information system operated by the Department of Defense, has the meaning given that term by section 3552(b)(6) of title 44.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(e)(1)–(3), Jan. 1, 2021, 134 Stat. 4158, 4159; Pub. L. 117–81, div. A, title XVII, §1701(b)(2)(C), Dec. 27, 2021, 135 Stat. 2132.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2314 of this title, which was transferred to this section, designated as subsec. (a), and amended by Pub. L. 116–283, §1807(e)(2), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 133; Pub. L. 96–513, title V, §511(78), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 103–160, div. A, title VIII, §822(b)(2), Nov. 30, 1993, 107 Stat. 1706; Pub. L. 111–350, §5(b)(16), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113–291, div. A, title X, §1071(a)(4), Dec. 19, 2014, 128 Stat. 3504.

The text of section 2315 of this title, which was transferred to this section, designated as subsec. (b), and amended by Pub. L. 116–283, §1807(e)(3), was based on Pub. L. 97–86, title IX, §908(a)(1), Dec. 1, 1981, 95 Stat. 1117; amended Pub. L. 97–295, §1(25), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 104–106, div. E, title LVI, §5601(c), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–201, div. A, title X, §1074(b)(4)(B), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105–85, div. A, title X, §1073(a)(49), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 107–217, §3(b)(5), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 109–364, div. A, title IX, §906(c), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 113–283, §2(e)(5)(C), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 114–92, div. A, title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 1001.

### PRIOR PROVISIONS

A prior section 3068 was renumbered section 7068 of this title.

Another prior section 3068, acts Aug. 10, 1956, ch. 1041, 70A Stat. 168; Sept. 7, 1962, Pub. L. 87–649, §6(a)(1), 76 Stat. 494, contained substantially the same provisions as section 7068, which formerly was numbered as section 3068, but placed the upper limit for the rank of officers of the Medical Service Corps at colonel, prior to repeal by Pub. L. 89–603.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1807(e)(2), as amended by Pub. L. 117–81, §1701(b)(2)(C)(i), transferred text of section 2314 of this title to this section, designated it as subsec. (a), inserted heading, and substituted "section 3063" for "section 2303".

Subsec. (b). Pub. L. 116–283, §1807(e)(3), as amended by Pub. L. 117–81, §1701(b)(2)(C)(ii), transferred text of section 2315 of this title to this section, designated it as subsec. (b), and inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3069. Buy-to-budget acquisition: end items

(a) AUTHORITY TO ACQUIRE ADDITIONAL END ITEMS.—Using funds available to the Department of Defense for the acquisition of an end item, a contracting officer making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that contracting officer determines in writing that:

(1) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition.

(2) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions.

(3) The amount of the funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

(c) WAIVER BY OTHER LAW.—A provision of law may not be construed as prohibiting the acquisition of a higher quantity of an end item under this section unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that the acquisition of the higher quantity of the end item is prohibited notwithstanding the authority provided in this section.

(d) DEFINITIONS.—(1) For the purposes of this section, a quantity of an end item shall be considered specified in a law if the quantity is specified either in a provision of that law or in any related representation that is set forth separately in a table, chart, or explanatory text included in a joint explanatory statement or governing committee report accompanying the law.

(2) In this section, the term "end item" means a production product assembled, completed, and ready for issue or deployment.

(Added Pub. L. 107–314, div. A, title VIII, §801(a)(1), Dec. 2, 2002, 116 Stat. 2600, §2308; amended Pub. L. 108–136, div. A, title X, §1043(b)(11), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 114–328, div. A, title VIII, §852, Dec. 23, 2016, 130 Stat. 2296; renumbered §3069 and amended Pub. L. 116–283, div. A, title XVIII, §1807(f), Jan. 1, 2021, 134 Stat. 4159; Pub. L. 119–60, div. A, title VIII, §812(a)(4), Dec. 18, 2025, 139 Stat. 951.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3069 was renumbered section 7069 of this title.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §812(a)(4)(A)(i), in introductory provisions, substituted "a contracting officer making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that contracting officer determines in writing that:" for "the head of an agency making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that head of an agency makes each of the following findings:".

Subsec. (a)(4). Pub. L. 119–60, §812(a)(4)(A)(ii), struck out par. (4) which read as follows: "The amount so provided is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item."

Subsec. (b). Pub. L. 119–60, §812(a)(4)(B), struck out "The regulations shall include, at a minimum, the following:" after "administration of this section." in introductory provisions and struck out pars. (1) and (2) which read as follows:

"(1) The level of approval within the Department of Defense that is required for a decision to acquire a higher quantity of an end item under subsection (a).

"(2) Authority (subject to subsection (a)) to acquire up to 10 percent more than the quantity of an end item approved in a justification and approval of the use of procedures other than competitive procedures for the acquisition of the end item under sections 3201 through 3205 of this title."

Subsecs. (c), (d). Pub. L. 119–60, §812(a)(4)(C), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c). Prior to amendment, subsec. (c) related to notification of Congress regarding a decision to acquire a higher quantity of an end item than is specified in a law described in subsection (a).

Subsec. (d)(2). Pub. L. 119–60, §812(a)(4)(D), amended par. (2) generally. Prior to amendment, par. (2)

defined terms "end item" and "head of an agency".

Subsec. (e). Pub. L. 119–60, §812(a)(4)(C), redesignated subsec. (e) as (d).

**2021**—Pub. L. 116–283 renumbered section 2308 of this title as this section.

Subsec. (b)(2). Pub. L. 116–283 substituted "sections 3201 through 3205" for "section 2304".

**2016**—Subsec. (c). Pub. L. 114–328 designated existing provisions as par. (1), inserted ", except as provided in paragraph (2)," after "but", and added par. (2).

**2003**—Subsec. (e)(2). Pub. L. 108–136 redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "The term 'congressional defense committees' means—

"(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§3070. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(2), Dec. 18, 2025, 139 Stat. 948]

Section, added Pub. L. 102–190, div. A, title III, §317(a), Dec. 5, 1991, 105 Stat. 1338, §2213; renumbered §3070, Pub. L. 116–283, div. A, title XVIII, §1807(g)(1), Jan. 1, 2021, 134 Stat. 4159; amended Pub. L. 118–159, div. A, title VIII, §812, Dec. 23, 2024, 138 Stat. 1979, related to limitation on acquisition of excess supplies.

A prior section 3070 was renumbered section 7070 of this title.

A prior section 3071, acts Aug. 10, 1956, ch. 1041, 70A Stat. 169; Sept. 7, 1962, Pub. L. 87–649, §6(a)(2), (3), 76 Stat. 494; Nov. 8, 1967, Pub. L. 90–130, §1(8)(C), 81 Stat. 374, prescribed composition of Women's Army Corps and provided for a Director, a Deputy Director, and other positions for Women's Army Corps, prior to repeal by Pub. L. 95–485, title VIII, §820(b), Oct. 20, 1978, 92 Stat. 1627.

## §3072. Comptroller General assessment of acquisition programs and initiatives

(a) ASSESSMENT REQUIRED.—The Comptroller General of the United States shall submit to the congressional defense committees an annual assessment of selected acquisition programs and initiatives of the Department of Defense by March 30th of each year from 2020 through 2029.

(b) ANALYSES TO BE INCLUDED.—The assessment required under subsection (a) shall include—

(1) a macro analysis of how well acquisition programs and initiatives are performing and reasons for that performance;

(2) specific analyses of individual acquisition programs and initiatives; and

(3) other issues as determined appropriate by the Comptroller General.

(c) ACQUISITION PROGRAMS AND INITIATIVES TO BE CONSIDERED.—The assessment required under subsection (a) shall consider the following programs and initiatives:

(1) Selected weapon systems, as determined appropriate by the Comptroller General.

(2) Selected information technology systems and initiatives, including defense business systems, networks, and software-intensive systems, as determined appropriate by the Comptroller General.

(3) Selected prototyping and rapid fielding activities and initiatives, as determined appropriate by the Comptroller General.

(Added Pub. L. 115–232, div. A, title VIII, §833(a), Aug. 13, 2018, 132 Stat. 1858, §2229b;

renumbered §3072 and amended Pub. L. 116–283, div. A, title VIII, §813, title XVIII, §1807(g)(1), Jan. 1, 2021, 134 Stat. 3749, 4159; Pub. L. 117–263, div. A, title VIII, §812(a), Dec. 23, 2022, 136 Stat. 2706; Pub. L. 118–159, div. A, title VIII, §813(a), Dec. 23, 2024, 138 Stat. 1980; Pub. L. 119–60, div. A, title XVII, §1701(a)(22), Dec. 18, 2025, 139 Stat. 1209.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 3072 to 3075 were renumbered sections 7072 to 7075 of this title, respectively.

Prior sections 3076 to 3080 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994, except as otherwise provided.

Section 3076, act Aug. 10, 1956, ch. 1041, 70A Stat. 170, related to composition of Army Reserve. See section 10104 of this title.

Section 3077, act Aug. 10, 1956, ch. 1041, 70A Stat. 170, related to composition of Army National Guard of United States. See section 10105 of this title.

Section 3078, act Aug. 10, 1956, ch. 1041, 70A Stat. 171, provided that Army National Guard is a component of Army while in service of United States. See section 10106 of this title.

Section 3079, act Aug. 10, 1956, ch. 1041, 70A Stat. 171, related to status of Army National Guard of United States when not in Federal service. See section 10107 of this title.

Section 3080, added Pub. L. 86–603, §1(2)(A), July 7, 1960, 74 Stat. 357, related to authority of officers of Army National Guard of United States with respect to Federal status. See section 10215 of this title.

Prior sections 3081, 3082, 3083, and 3084 were renumbered sections 7081, 10542, 7083, and 7084 of this title, respectively.

### AMENDMENTS

**2025**—Subsec. (c). Pub. L. 119–60 substituted "Initiatives" for "Efforts" in heading.

**2024**—Pub. L. 118–159, §813(a)(1), (2), substituted "initiatives" for "efforts" in section catchline and wherever appearing in text.

Subsec. (a). Pub. L. 118–159, §813(a)(3), substituted "2029" for "2026".

Subsec. (b)(2), (3). Pub. L. 118–159, §813(a)(4), added par. (3), redesignated former par. (3) as (2), and struck out former par. (2) which read as follows: "a discussion of selected organizational, policy, and legislative changes, as determined appropriate by the Comptroller General, and the potential implications for execution and oversight of programs and efforts; and".

**2022**—Pub. L. 117–263, §812(a)(1), (2), substituted "efforts" for "initiatives" in section catchline and wherever appearing in text.

Subsec. (a). Pub. L. 117–263, §812(a)(3), substituted "through 2026" for "through 2023".

Subsec. (c). Pub. L. 117–263, §812(a)(4), substituted "Efforts" for "Initiatives" in heading.

**2021**—Pub. L. 116–283, §1807(g)(1), renumbered section 2229b of this title as this section.

Subsec. (b)(2). Pub. L. 116–283, §813, substituted "a discussion of selected organizational, policy, and legislative changes, as determined appropriate by the Comptroller General, and the potential" for "a summary of organizational and legislative changes and emerging assessment methodologies since the last assessment, and a discussion of the".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1807(g)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## CHAPTER 205—DEFENSE ACQUISITION SYSTEM

Sec.
3101. Definitions.
3102. Objectives of the defense acquisition system.

3103. Civilian management of the defense acquisition system.
3104. Acquisition-related functions of service chiefs.
3105. Elements of the defense acquisition system: performance assessments.
[3106. Repealed.]

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 205 "DEFENSE ACQUISITION SYSTEM", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1826, and consisting of reserved section 3051, was repealed by Pub. L. 116–283, div. A, title XVIII, §1808(a)(1), Jan. 1, 2021, 134 Stat. 4159.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(3), title XVIII, §1801(a)(1), (c)(1)(A), Dec. 18, 2025, 139 Stat. 948, 1221, 1223, substituted "Objectives of the defense acquisition system" for "Customer-oriented acquisition system" and "Acquisition-related functions of service chiefs" for "Acquisition-related functions of chiefs of the armed forces" in items 3102 and 3104, respectively, and struck out item 3106 "Elements of the defense acquisition system: performance goals". Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title XVIII, §1801(a)(25), Dec. 22, 2023, 137 Stat. 684, inserted period at end of item 3106.

**2021**—Pub. L. 116–283, div. A, title XVIII, §§1808(a)(1), (3)(B), (c)(3), Jan. 1, 2021, 134 Stat. 4159, 4160, transferred chapter 149 of this title to this chapter, renumbered items 2545, 2546, 2546a, 2547, and 2548 as 3101, 3103, 3102, 3104, and 3105, respectively, moved item 3102 so as to follow item 3101, added items 3105 and 3106, and struck out former item 3105 (as renumbered from 2548) "Performance assessments of the defense acquisition system".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REVIEW AND ALIGNMENT OF STANDARDS, GUIDANCE, AND POLICIES RELATING TO DIGITAL ENGINEERING

Pub. L. 119–60, div. A, title II, §221, Dec. 18, 2025, 139 Stat. 779, provided that:

"(a) REVIEW REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], each Secretary of a military department, in coordination with the officials specified in subsection (c), shall complete a comprehensive review of the standards, guidance, and policies relating to digital engineering within the covered Armed Forces under the jurisdiction of that Secretary.

"(2) ELEMENTS.—Each review under paragraph (1) shall include, with respect to the covered Armed Forces under the jurisdiction of the Secretary concerned, the following:

"(A) A review of the reference architectures, standards, and best practices for the use of digital engineering tools (including digital twins and digital threads) as in effect at the time of the review, including standards for the use of such tools at all stages of program design, development, and testing.

"(B) Identification of the current standards guiding the use of such digital engineering tools, at all stages of program design, development, and testing.

"(C) Assessment of—

"(i) the extent to which the use of such standards and related governance structures is consistent across the covered Armed Forces under the jurisdiction of the Secretary concerned; and

"(ii) the level of interoperability of such standards across such Armed Forces.

"(D) Identification of best practices for digital engineering within each such Armed Force.

"(E) Recommendations for improvements to the use of digital engineering tools in each such Armed Force.

"(b) DEVELOPMENT OF STANDARD REFERENCE ARCHITECTURE.—

"(1) IN GENERAL.—Not later than 180 days after the date on which the Secretary of a military department completes the review required under subsection (a), the Secretary shall develop and implement a standard reference architecture to guide the use of, and best practices for, digital engineering for program design, development, and testing within each covered Armed Force under the jurisdiction of that Secretary. Each reference architecture shall include—

"(A) a framework and clear requirements for developing and deploying digital engineering tools

across program lifecycles;

"(B) defined standards for data management and modeling; and

"(C) consideration for either consensus-based standards or nonconsensus-based standards, depending on what is determined to be in the best interests of the government based on the ability to adopt such standards quickly and prevent technology vendor lock.

"(2) PERIODIC REVIEW.—Not less frequently than once every three years following implementation of the standard reference architecture required under paragraph (1), but ending on September 30, 2034, each Secretary of a military department shall—

"(A) conduct periodic reviews of the reference architecture to ensure it effectively addresses advancements in technology and evolving operational needs; and

"(B) if necessary, modify the reference architecture to address such advancements and needs.

"(3) APPROVAL AND CERTIFICATION REQUIRED.—Before a reference architecture may be implemented under this subsection, the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Under Secretary of Defense for Research and Engineering and the Director of Operational Test and Evaluation, shall—

"(A) review and approve the reference architecture; and

"(B) submit certification of such approval to the Secretary of the military department concerned.

"(4) RECOMMENDATIONS FOR FURTHER STANDARDIZATION.—Based on the reviews conducted under paragraph (3), the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Under Secretary of Defense for Research and Engineering and the Director of Operational Test and Evaluation, shall—

"(A) identify and develop recommendations regarding areas in which further standardization of reference architectures across the covered Armed Forces may be feasible; and

"(B) submit such recommendations to the Secretaries of the military departments.

"(c) OFFICIALS SPECIFIED.—The officials specified in this subsection are the following:

"(1) The Under Secretary of Defense for Acquisition and Sustainment.

"(2) The Under Secretary of Defense for Research and Engineering.

"(3) The Director of Operational Test and Evaluation.

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Space Force.

"(2) The term 'reference architecture' means an authoritative source of information about a specific subject area that guides and constrains the instantiations of multiple architectures and solutions, as described in the guidance of the Office of the Assistant Secretary of Defense titled 'Reference Architecture Description', dated June 2010, or any successor to such guidance."

## PILOT PROGRAM FOR DATA-ENABLED GROUND VEHICLE MAINTENANCE

Pub. L. 119–60, div. A, title III, §350, Dec. 18, 2025, 139 Stat. 831, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary concerned with respect to a covered Armed Force, in consultation with the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall establish in such covered Armed Force a pilot program under which the covered Armed Force shall use commercially available artificial intelligence technologies to improve the maintenance of ground vehicles performed by such covered Armed Force.

"(b) OBJECTIVES.—Under the pilot program established under subsection (a), the Secretary concerned shall—

"(1) assess the feasibility and effectiveness of artificial intelligence-driven approaches in improving maintenance regimes for ground vehicles;

"(2) assess the cost savings resulting from the use of artificial intelligence technology for the maintenance of ground vehicles; and

"(3) identify and mitigate potential challenges and risks associated with the integration of artificial intelligence technology for modernized maintenance of ground vehicles, including cybersecurity concerns.

"(c) REPORT.—Not later than one year after the date of the enactment of this Act, each Secretary concerned with respect to a covered Armed Force shall submit to Committees on Armed Services of the House of Representatives and the Senate a report on the activities performed under the pilot program established under subsection (a) in such covered Armed Force.

"(d) TERMINATION.—The authority to carry out a pilot program under subsection (a) shall terminate on January 1, 2029.

"(e) DEFINITIONS.— In this section:

"(1) The term 'covered Armed Force' means the Army, Navy, or Air Force.

"(2) The term 'Secretary concerned' has the meaning given such term in section 101(a)(9) of title 10, United States Code."

## OBJECTIVES FOR ACCELERATING REQUIREMENTS; CONSULTATION

Pub. L. 119–60, div. A, title XVIII, §1812(c), (d), Dec. 18, 2025, 139 Stat. 1245, provided that:

"(c) OBJECTIVES FOR ACCELERATING REQUIREMENTS.—Not later than 90 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall establish annual objectives for requirements processes that include, at a minimum, objectives for—

"(1) the end-to-end time to complete the requirements process, from problem statement to validated decision;

"(2) the percentage of requirements decisions made within standard timelines;

"(3) the rate and median time of transition from successful prototype to production (including timelines for follow-on production contracts or transactions, as defined in section 4022 of title 10, United States Code); and

"(4) the use and effectiveness of systematic, iterative cycles of concept exploration, prototyping, mission-based analysis, and rigorous field demonstrations in informing capability requirements.

"(d) CONSULTATION.—In carrying out this section, the Secretary of Defense shall consult, as appropriate, with the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Under Secretary of Defense for Acquisition and Sustainment, the Director of Cost Assessment and Program Evaluation, the Chief Information Officer of the Department of Defense, each Secretary of a military department, the commanders of the combatant commands, and relevant mission-engineering and integration activities."

## MANAGEMENT AND UTILIZATION OF DIGITAL DATA TO ENHANCE MAINTENANCE ACTIVITIES

Pub. L. 118–159, div. A, title II, §233, Dec. 23, 2024, 138 Stat. 1838, provided that:

"(a) POLICIES REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Secretaries of the military departments and the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall develop and implement policies to manage and utilize data derived from digital data systems for aircraft, ships, and ground vehicles to inform and support maintenance activities conducted with respect to such aircraft, ships, and vehicles.

"(b) ELEMENTS.—The policies required by subsection (a) shall include investment in advanced and scalable data infrastructure to efficiently record, transmit, categorize, and otherwise process data generated by digital data systems described in such subsection. Such policies shall—

"(1) require development of a strategy to invest in advanced technologies, including automated systems and artificial intelligence, to streamline the process of organizing, indexing, and categorizing data;

"(2) require work with vendors to address and resolve limitations imposed by proprietary information and data, including through the adoption of open data and open mission systems approaches;

"(3) address data transmission capabilities, such as—

"(A) implementing high-speed data transfer technologies;

"(B) optimizing network infrastructure; and

"(C) developing secure and efficient methods for transmitting mission-critical data between bases;

"(4) require central compilation of maintenance data and creation of user interfaces, prioritizing analysis of long-lead components;

"(5) require the use of vendor-agnostic, government-owned tagging and interoperable systems, except in cases where there is a compelling reason not to use such systems;

"(6) require review of classification policies relating to digital data to ensure that data is appropriately classified without unnecessarily restricting its usability; and

"(7) establish protocols for detecting unauthorized access or intrusion into vehicle or platform systems.

"(c) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on—

"(1) the policies developed under subsection (a); and

"(2) the status of the implementation of such policies."

## MODERNIZING THE DEPARTMENT OF DEFENSE REQUIREMENTS PROCESS

Pub. L. 118–31, div. A, title VIII, §811, Dec. 22, 2023, 137 Stat. 321, provided that:

"(a) MODERNIZING THE DEPARTMENT OF DEFENSE REQUIREMENTS PROCESS.—Not later than October 1, 2025, the Secretary of Defense, acting through the Vice Chairman of the Joint Chiefs of Staff, in coordination with the Secretaries of the military departments and the commanders of the combatant commands, and in consultation with the Under Secretary of Defense for Acquisition and Sustainment, shall develop and implement a streamlined requirements development process for the Department of Defense, to include revising the Joint Capabilities Integration and Development System, in order to improve alignment between modern warfare concepts, technologies, and system development and reduce the time to deliver needed capabilities to warfighters.

"(b) REFORM ELEMENTS.—The process required by subsection (a) shall—

"(1) streamline requirements documents, reviews, and approval processes, focusing on programs below the major defense acquisition program threshold described in section 4201 of title 10, United States Code;

"(2) revise requirements management practices using a clean-sheet approach that avoids prescriptive language, is based on mission outcomes and assessed threats, enables a more iterative and collaborative approach with the Armed Forces, maximizes the use of commercial products or commercial services in accordance with section 3453 of title 10, United States Code, and allows for a broader range of new or alternative technological opportunities to be incorporated without the requirement being validated again;

"(3) develop a capability needs and requirements framework and pathways that are aligned to the pathways of the adaptive acquisition framework (as described in Department of Defense Instruction 5000.02, 'Operation of the Adaptive Acquisition Framework'), and better aligned and integrated with the science and technology development processes of the Department;

"(4) provide continuity to the acquisition and research programs of the military departments by enabling the military departments to develop, with respect to collections of capabilities grouped by function by the Department of Defense, sets of requirements that are designed to remain applicable to programs and systems relating to such capabilities over substantial periods of time;

"(5) require the military departments to—

"(A) articulate in a concise model and document with a set of mission impact measures the sets of requirements developed under paragraph (4); and

"(B) seek to continuously improve the capabilities subject to such sets of requirements the acquisition of additional capabilities;

"(6) establish a process to rapidly validate the ability of commercial products and services to meet capability needs or opportunities;

"(7) retire and replace the Department of Defense Architecture Framework with a new structure focused on enabling interoperability through application program interfaces, enterprise architectures and platforms, and government and commercial standards; and

"(8) ensure that requirements processes for software, artificial intelligence, data, and related capability areas enable a more rapid, dynamic, and iterative approach than the requirements processes for traditional hardware systems.

"(c) ELEMENTS.—With respect to the implementation of the process required by subsection (a), the Vice Chairman of the Joint Chiefs of Staff shall—

"(1) collaborate with industry partners, contractors of the Department and nontraditional defense contractors (as defined in section 3014 of title 10, United States Code), and Department of Defense science and technology reinvention laboratories (as designated under section 4121(b) of title 10, United States Code) regarding the development of the streamlined requirements development process under subsection (a) to ensure such process effectively uses the innovation ecosystem (as defined in section 236(g) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 [Pub. L. 117–263] (10 U.S.C. 4001 note));

"(2) develop a formal career path, training, and structure for requirements managers; and

"(3) publish new policies, guidance, and templates for the operational, requirements, and acquisition workforces online in digital formats.

"(d) INTERIM REPORT.—Not later than October 1, 2024, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the development and implementation of the process required by subsection (a), including—

"(1) a description of the efforts to develop and implement the streamlined requirements development process under subsection (a);

"(2) the plans of the Department of Defense to implement, communicate, and continuously improve the requirements development process required by subsection (a); and

"(3) any additional recommendations for legislation that the Secretary determines appropriate.

"(e) FINAL REPORT.—Not later than October 1, 2025, the Secretary of Defense shall submit to the congressional defense committees a report describing activities carried out pursuant to this section."

## DIGITAL MODERNIZATION OF ANALYTICAL AND DECISION-SUPPORT PROCESSES FOR MANAGING AND OVERSEEING DEPARTMENT OF DEFENSE ACQUISITION PROGRAMS

Pub. L. 116–283, div. A, title VIII, §836, Jan. 1, 2021, 134 Stat. 3756, provided that:

"(a) DIGITAL DATA MANAGEMENT AND ANALYTICS CAPABILITIES.—

"(1) IN GENERAL.—The Secretary of Defense shall iteratively develop and integrate advanced digital data management and analytics capabilities, consistent with private sector best practices, that—

"(A) integrate all aspects of the defense acquisition system, including the development of capability requirements, research, design, development, testing, evaluation, acquisition, management, operations, and sustainment of systems;

"(B) facilitate the management and analysis of all relevant data generated during the development of capability requirements, research, design, development, testing, evaluation, acquisition, operations, and sustainment of systems;

"(C) enable the use of such data to inform further development, acquisition, management and oversight of such systems, including portfolio management; and

"(D) include software capabilities to collect, transport, organize, manage, make available, and analyze relevant data throughout the life cycle of defense acquisition programs, including any data needed to support individual and portfolio management of acquisition programs.

"(2) REQUIREMENTS.—The capabilities developed under paragraph (1) shall—

"(A) be accessible to, and useable by, individuals throughout the Department of Defense who have responsibilities relating to activities described in clauses (A) through (C) of paragraph (1);

"(B) enable the development, use, curation, and maintenance of original form and real-time digital systems by—

"(i) ensuring shared access to data within the Department;

"(ii) supplying data to digital engineering models for use in the defense acquisition, sustainment, and portfolio management processes; and

"(iii) supplying data to testing infrastructure and software to support automated approaches for testing, evaluation, and deployment throughout the defense acquisition, sustainment, and portfolio management processes; and

"(C) feature—

"(i) improved data management and sharing processes;

"(ii) timely, high-quality, transparent, and actionable analyses; and

"(iii) analytical models and simulations.

"(3) ENABLING DATA INFRASTRUCTURE, TOOLS, AND PROCESSES.—In developing the capability required under paragraph (1), the Secretary of Defense shall—

"(A) move supporting processes and the data associated with such processes from analog to digital format, including planning and reporting processes;

"(B) make new and legacy data more accessible to, and usable by, appropriate employees and contractors (at any tier) of the Department of Defense and members of the Armed Forces, including through migration of program and other documentation into digital formats;

"(C) modernize the query, collection, storage, retrieval, reporting, and analysis capabilities for stakeholders within the Department, including research entities, Program Management Offices, analytic organizations, oversight staff, and decision makers;

"(D) automate data collection and storage to minimize or eliminate manual data entry or manual reporting;

"(E) enable employees and other appropriate users to access data from all relevant data sources, including through—

"(i) streamlining data access privileges;

"(ii) sharing of appropriate data between and among Federal Government and contractor information systems; and

"(iii) enabling timely and continuous data collection and sharing from all appropriate personnel, including contractors;

"(F) modernize existing enterprise information systems to enable interoperability consistent with technical best practices; and

"(G) provide capabilities and platforms to enable continuous development and integration of software using public and private sector best practices.

"(b) PORTFOLIO MANAGEMENT.—The Secretary of Defense shall establish capabilities for robust, effective, and data-driven portfolio management described in subsection (a)(1)(C), using the capability established in this section, to improve the Department of Defense-wide assessment, management, and optimization of the investments in weapon systems of the Department, including through consolidation of duplicate or similar weapon system programs.

"(c) DEMONSTRATION ACTIVITIES.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out activities to demonstrate the capability required under subsection (a).

"(2) ACTIVITY SELECTION.—Not later than July 15, 2021, the Secretary of Defense shall select decision support processes and individual acquisition programs to participate in the demonstration activities under paragraph (1), including—

"(A) decision support processes, including—

"(i) portfolio management as described in subsection (b);

"(ii) one or more acquisition data management test cases; and

"(iii) one or more development and test modeling and simulation test cases to demonstrate the ability to collect data from tests and operations in the field, and feed the data back into models and simulations for better software development and testing;

"(B) individual acquisition programs representing—

"(i) one or more defense business systems;

"(ii) one or more command and control systems;

"(iii) one or more middle tier of acquisition programs;

"(iv) programs featuring a cost-plus contract type, and a fixed-price contract type, and a transaction authorized under section 2371 [now 10 U.S.C. 4021] or 2371b [now 10 U.S.C. 4022] of title 10, United States Code; and

"(v) at least one program in each military department.

"(3) EXECUTION OF DEMONSTRATION ACTIVITIES.—As part of the demonstration activities under paragraph (1), the Secretary shall—

"(A) conduct a comparative analysis that assesses the risks and benefits of the digital management and analytics capability used in each of the programs participating in the demonstration activities relative to the traditional data collection, reporting, exposing, and analysis approaches of the Department;

"(B) ensure that the intellectual property strategy for each of the programs participating in the demonstration activities is best aligned to meet the goals of the program; and

"(C) develop a workforce and infrastructure plan to support any new policies and guidance implemented in connection with the demonstration activities, including any policies and guidance implemented after the completion of such activities.

"(d) POLICIES AND GUIDANCE REQUIRED.—Not later than March 15, 2022, based on the results of the demonstration activities carried out under subsection (c), the Secretary of Defense shall issue or modify policies and guidance to—

"(1) promote the use of digital data management and analytics capabilities; and

"(2) address roles, responsibilities, and procedures relating to such capabilities.

"(e) STEERING COMMITTEE.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a steering committee to assist the Secretary in carrying out subsections (a) through (c).

"(2) MEMBERSHIP.—The steering committee shall be composed of the following members or their designees:

"(A) The Deputy Secretary of Defense.

"(B) The Chief Information Officer.

"(C) The Director of Cost Assessment and Program Evaluation.

"(D) The Under Secretary of Defense for Research and Engineering.

"(E) The Under Secretary of Defense for Acquisition and Sustainment.

"(F) The Director of Operational Test and Evaluation.

"(G) The Service Acquisition Executives.

"(H) The Director for Force Structure, Resources, and Assessment of the Joint Staff.

"(I) The Director of the Defense Digital Service.

"(J) Such other officials of the Department of Defense as the Secretary determines appropriate.

"(f) INDEPENDENT ASSESSMENTS.—

"(1) INITIAL ASSESSMENT.—

"(A) IN GENERAL.—The Defense Innovation Board, in consultation with the Defense Digital

Service, shall conduct an independent assessment and cost-benefits analysis to identify recommended approaches for the implementation of subsections (a) through (c).

"(B) ELEMENTS.—The assessment under subparagraph (A) shall include the following:

"(i) A plan for the development and implementation of the capabilities required under subsection (a), including a plan for any procurement that may be required as part of such development and implementation.

"(ii) An independent cost assessment of the total estimated cost of developing and implementing the capability, as well as an assessment of any potential cost savings.

"(iii) An independent estimate of the schedule for the development approach, and order of priorities for implementation of the capability, including a reasonable estimate of the dates on which the capability can be expected to achieve initial operational capability and full operational capability, respectively.

"(iv) A recommendation identifying the office or other organization of the Department of Defense that would be most appropriate to manage and execute the capability.

"(C) REPORT.—Not later than July 15, 2021, the Defense Innovation Board, in consultation with the Defense Digital Service, shall submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the assessment under subparagraph (A), including the findings of the assessment with respect to each element specified in subparagraph (B).

"(2) SECOND ASSESSMENT.—

"(A) IN GENERAL.—Not later than March 15, 2023, the Defense Innovation Board and the Defense Science Board shall jointly complete an independent assessment of the progress of the Secretary in implementing subsections (a) through (c). The Secretary of Defense shall ensure that the Defense Innovation Board and the Defense Science Board have access to the resources, data, and information necessary to complete the assessment.

"(B) INFORMATION TO CONGRESS.—Not later than 30 days after the date on which the assessment under subparagraph (A) is completed, the Defense Innovation Board and the Defense Science Board shall jointly provide to the congressional defense committees—

"(i) a report summarizing the assessment; and

"(ii) a briefing on the findings of the assessment.

"(g) DEMONSTRATIONS AND BRIEFING.—

"(1) DEMONSTRATION OF IMPLEMENTATION.—Not later than October 20, 2021, the Secretary of Defense shall submit to the congressional defense committees a demonstration and briefing on the progress of the Secretary in implementing subsections (a) through (c). The briefing shall include an explanation of how the results of the demonstration activities carried out under subsection (c) will be incorporated into the policy and guidance required under subsection (d), particularly the policy and guidance of the members of the steering committee established under subsection (e).

"(2) BRIEFING ON LEGISLATIVE RECOMMENDATIONS.—Not later than February 1, 2022, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a briefing that identifies any changes to existing law that may be necessary to facilitate the implementation of subsections (a) through (c).

"(3) DEMONSTRATION OF PORTFOLIO MANAGEMENT.—In conjunction with the budget of the President for fiscal year 2023 (as submitted to Congress under section 1105(a) of title 21 [probably should be title "31"], United States Code), the Deputy Secretary of Defense shall schedule a demonstration of the portfolio management capability developed under subsection (b) with the congressional defense committees."

## PROTOTYPE PROJECTS TO DIGITIZE DEFENSE ACQUISITION REGULATIONS, POLICIES, AND GUIDANCE, AND EMPOWER USER TAILORING OF ACQUISITION PROCESS

Pub. L. 115–91, div. A, title VIII, §868, Dec. 12, 2017, 131 Stat. 1495, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall conduct development efforts to develop prototypes to digitize defense acquisition regulations, policies, and guidance and to develop a digital decision support tool that facilitates the ability of users to tailor programs in accordance with existing laws, regulations, and guidance.

"(b) ELEMENTS.—Under the prototype projects, the Secretary shall—

"(1) convert existing acquisition policies, guides, memos, templates, and reports to an online, interactive digital format to create a dynamic, integrated, and authoritative knowledge environment for purposes of assisting program managers and the acquisition workforce of the Department of Defense to

navigate the complex lifecycle for each major type of acquisition program or activity of the Department;

"(2) as part of this digital environment, create a digital decision support capability that uses decision trees and tailored acquisition models to assist users to develop strategies and facilitate coordination and approvals; and

"(3) as part of this environment, establish a foundational data layer to enable advanced data analytics on the acquisition enterprise of the Department, to include business process reengineering to improve productivity.

"(c) USE OF PROTOTYPES IN ACQUISITION ACTIVITIES.—The Under Secretary of Defense for Research and Engineering shall encourage the use of these prototypes to model, develop, and test any procedures, policies, instructions, or other forms of direction and guidance that may be required to support acquisition training, practices, and policies of the Department of Defense.

"(d) FUNDING.—The Secretary may use the authority under section 1705(e)(4)(B) of title 10, United States Code, to develop acquisition support prototypes and tools under this program."

## SOFTWARE DEVELOPMENT PILOT PROGRAM USING AGILE BEST PRACTICES

Pub. L. 115–91, div. A, title VIII, §874, Dec. 12, 2017, 131 Stat. 1500, which required the Secretary of Defense to identify no fewer than four and up to eight software development activities within the Department of Defense or military departments to be developed in a pilot program using agile acquisition methods, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(6)(B), Dec. 18, 2025, 139 Stat. 948.

## ESTABLISHMENT OF SET OF ACTIVITIES THAT USE DATA ANALYSIS, MEASUREMENT, AND OTHER EVALUATION-RELATED METHODS TO IMPROVE ACQUISITION PROGRAM OUTCOMES

Pub. L. 115–91, div. A, title IX, §913, Dec. 12, 2017, 131 Stat. 1523, as amended by Pub. L. 115–232, div. A, title X, §1081(c)(2), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 118–159, div. A, title XVII, §1701(d)(2), Dec. 23, 2024, 138 Stat. 2207, provided that:

"(a) ESTABLISHMENT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a set of activities that use data analysis, measurement, and other evaluation-related methods to improve the acquisition outcomes of the Department of Defense and enhance organizational learning.

"(b) TYPES OF ACTIVITIES.—The set of activities established under subsection (a) may include any or all of the following:

"(1) Establishment of data analytics capabilities and organizations within an Armed Force.

"(2) Development of capabilities in Department of Defense laboratories, test centers, and federally funded research and development centers to provide technical support for data analytics activities that support acquisition program management and business process re-engineering activities.

"(3) Increased use of existing analytical capabilities available to acquisition programs and offices to support improved acquisition outcomes.

"(4) Funding of intramural and extramural research and development activities to develop and implement data analytics capabilities in support of improved acquisition outcomes.

"(5) Publication, to the maximum extent practicable, and in a manner that protects classified and proprietary information, of data collected by the Department of Defense related to acquisition program costs and activities for access and analyses by the general public or Department research and education organizations.

"(6) Promulgation by the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Chief of Space Operations, and the Commandant of the Marine Corps, in coordination with the Deputy Secretary of Defense, the Under Secretary of Defense for Research and Engineering, and the Under Secretary for Acquisition and Sustainment, of a consistent policy as to the role of data analytics in establishing budgets and making milestone decisions for major defense acquisition programs.

"(7) Continual assessment, in consultation with the private sector, of the efficiency of current data collection and analyses processes, so as to minimize the requirement for collection and delivery of data by, from, and to Government organizations.

"(8) Promulgation of guidance to acquisition programs and activities on the efficient use, quality, and sharing of enterprise data between programs and organizations to improve acquisition program analytics and outcomes.

"(9) Establishment of focused research and educational activities at the Defense Acquisition University, and appropriate private sector academic institutions, to support enhanced use of data management, data analytics, and other evaluation-related methods to improve acquisition outcomes."

[Pub. L. 115–232, div. A, title X, §1081(c), Aug. 13, 2018, 132 Stat. 1985, provided that the amendment made by section 1081(c)(2) to section 913 of Pub. L. 115–91, set out above, is effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted.]

**REVIEW OF TIME-BASED REQUIREMENTS PROCESS AND BUDGETING AND ACQUISITION SYSTEMS**

Pub. L. 114–92, div. A, title VIII, §810, Nov. 25, 2015, 129 Stat. 890, which related to review of time-based requirements process and budgeting and acquisition systems, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(8)(B), Dec. 18, 2025, 139 Stat. 948.

## §3101. Definitions

In this chapter:

(1) The term "best value" means, with respect to an acquisition, the optimal combination of cost, quality, technical capability or solution quality, and delivery schedule.

(2) The term "capability requirement" means a capability that is critical or essential to address an operational problem.

(3) The term "cost-effective" means, with respect to an acquisition, delivering superior end-user results at equal or lower cost compared to alternatives.

(4) The term "operational problem" means—

(A) a challenge of a military department in achieving an assigned military objective based on current doctrine, emerging threats, or future concepts; and

(B) may include limitations in capabilities, capacity, resources, or the ability to effectively and efficiently coordinate across the joint force, with another combatant command, or among military capabilities.

(5) The term "service chief" means—

(A) the Chief of Staff of the Army, with respect to matters concerning the Army;

(B) the Chief of Naval Operations, with respect to matters concerning the Navy;

(C) the Commandant of the Marine Corps, with respect to matters concerning the Marine Corps;

(D) the Chief of Staff of the Air Force, with respect to matters concerning the Air Force; and

(E) the Chief of Space Operations, with respect to matters concerning the Space Force.

(Added Pub. L. 111–383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288, §2545; amended Pub. L. 113–291, div. A, title X, §1071(a)(11), Dec. 19, 2014, 128 Stat. 3505; renumbered §3101 and amended Pub. L. 116–283, div. A, title XVIII, §1808(a)(2), (b)(1), Jan. 1, 2021, 134 Stat. 4159, 4160; Pub. L. 119–60, div. A, title XVIII, §1801(e)(1), Dec. 18, 2025, 139 Stat. 1224.)

**EDITORIAL NOTES**

**CODIFICATION**

Section 2545 of this title, which was transferred to this section by Pub. L. 116–283, §1808(a)(2), was also transferred or copied in large part to section 3001 of this title by Pub. L. 116–283, §1806(a)(2)–(4).

**AMENDMENTS**

**2025**—Pub. L. 119–60 amended text generally. Prior to amendment, text defined the term "acquisition".

**2021**—Pub. L. 116–283, §1808(b)(1), substituted "In this chapter, the term" for "In this chapter:", par. (1) designation, and "The term" and struck out pars. (2) to (4) which defined "defense acquisition system", "element of the defense acquisition system", and "acquisition workforce".

Pub. L. 116–283, §1808(a)(2), renumbered section 2545 of this title as this section.

**2014**—Par. (1). Pub. L. 113–291 substituted "section 131 of title 41" for "section 4(16) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(16))".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3102. Objectives of the defense acquisition system

(a) IN GENERAL.—The Secretary of Defense shall ensure that the defense acquisition system expeditiously provides the armed forces with the capabilities necessary to operate effectively, to address evolving threats, and to sustain the military advantage of the United States in the most cost-effective manner practicable.

(b) GUIDANCE.—The Secretary of Defense shall issue guidance to carry out subsection (a) and shall ensure that the defense acquisition system prioritizes the needs of end users and is validated by direct engagement, experimentation, and iteration. Such guidance shall require the following:

(1) All activities of the defense acquisition system contribute to the expeditious delivery of capabilities to enhance the operational readiness of the armed forces and enable the missions of the Department of Defense.

(2) A leadership culture and organizational structure that empowers individuals in the management of the defense acquisition system and encourages appropriate delegation authority, collaboration, and mission-focused risk-taking.

(3) Sufficient numbers of members of the acquisition workforce to support the defense acquisition system, and that such members are properly trained and assigned.

(4) Resource decisions for the defense acquisition system to prioritize best value and seek to balance life-cycle costs, schedule, performance, and quantity through continuous trade-off analysis informed by prototyping and direct feedback from end users.

(5) Adoption and integration in the defense acquisition system of advanced approaches in digital engineering, model-based engineering, and simulation environments to enable rapid, iterative designs and technology insertion to maximize mission outcomes.

(6) Active pursuit of innovative solutions to enhance effectiveness of the armed forces and responsiveness to emerging threats, including the acquisition and integration of commercial products and commercial services.

(7) Approaches to workforce training and development that equally balance emphasis on functional and technical skills with skills in cross-functional integration, critical thinking, and innovative approaches that best deliver solutions to operational problems.

(Added Pub. L. 114–92, div. A, title VIII, §802(a)(1), Nov. 25, 2015, 129 Stat. 878, §2546a; renumbered §3102 and amended Pub. L. 116–283, div. A, title XVIII, §1808(a)(2), (3)(A), Jan. 1, 2021, 134 Stat. 4159; Pub. L. 119–60, div. A, title XVIII, §1801(a)(1), Dec. 18, 2025, 139 Stat. 1221.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60 amended section generally. Prior to amendment, text related to the objective of the defense acquisition system, the customer of the defense acquisition system, and the role of the customer of a major defense acquisition program.

**2021**—Pub. L. 116–283 renumbered section 2546a of this title as this section and transferred it so as to appear after section 3101 of this title. Directory language transferring this section "within such section" was executed as if it had read "within such chapter", meaning chapter 205 of this title, to reflect the probable intent of Congress.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**CONSIDERATION OF TRADE-OFFS AMONG COST, SCHEDULE, AND PERFORMANCE OBJECTIVES IN DEPARTMENT OF DEFENSE ACQUISITION PROGRAMS**

Pub. L. 111–23, title II, §201(a), May 22, 2009, 123 Stat. 1719, which related to consideration of trade-offs among cost, schedule, and performance objectives in Department of Defense acquisition programs, was repealed by Pub. L. 119–60, div. A, title XVIII, §1811(h)(4), Dec. 18, 2025, 139 Stat. 1244.

## §3103. Civilian management of the defense acquisition system

(a) RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND SUSTAINMENT.—Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment shall be responsible for the management of the defense acquisition system and shall exercise such control of the system and perform such duties as are necessary in accordance with the objectives of the defense acquisition system established pursuant to section 3102 of this title, including the duties enumerated and assigned to the Under Secretary elsewhere in this title.

(b) RESPONSIBILITY OF THE SERVICE ACQUISITION EXECUTIVES.—Subject to the direction of the Under Secretary of Defense for Acquisition and Sustainment on matters pertaining to acquisition, and subject to the authority, direction, and control of the Secretary of the military department concerned, a service acquisition executive of a military department shall be responsible for the management of elements of the defense acquisition system in that military department and shall exercise such control of the system and perform such duties as are necessary in accordance with the objectives of the defense acquisition system established pursuant to section 3102 of this title. In carrying out this subsection, each service acquisition executive shall—

(1) implement strategies to adapt rapidly to evolving end-user requirements, validated through end user engagement;

(2) use data analytics to manage trade-offs among life-cycle costs, delivery schedules, performance objectives, technical feasibility, and procurement quantity objectives to maximize best value for the end user;

(3) conduct iterative cycles to develop, test with end-users, and terminate capabilities that deviate from priorities or significantly exceed cost or schedule thresholds;

(4) notify the Joint Requirements Oversight Council within 30 days after changes to a defense acquisition program that result in a material difference in capability requirements, procurement quantities, or delivery schedules;

(5) assign personnel to critical acquisition positions (as defined in section 1731 of this title) to build expertise and accountability, equipping such personnel with strategies to empower teams, delegate authority, and embrace mission-focused risk-taking; and

(6) foster mutual transparency and cooperation between the Government and private sector entities and require collaboration with such entities to ensure delivery of safe, suitable, and effective systems on relevant timelines and on established cost baselines.

(Added Pub. L. 111–383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288, §2546; amended Pub. L. 116–92, div. A, title IX, §902(78), Dec. 20, 2019, 133 Stat. 1552; renumbered §3103, Pub. L. 116–283, div. A, title XVIII, §1808(a)(2), Jan. 1, 2021, 134 Stat. 4159; Pub. L. 119–60, div. A, title XVIII, §1801(b), Dec. 18, 2025, 139 Stat. 1222.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §1801(b)(1), substituted "in accordance with the objectives of the defense acquisition system established pursuant to section 3102 of this title" for "to ensure the successful and

efficient operation of the defense acquisition system".

Subsec. (b). Pub. L. 119–60, §1801(b)(2), substituted "in accordance with the objectives of the defense acquisition system established pursuant to section 3102 of this title. In carrying out this subsection, each service acquisition executive shall—" and pars. (1) to (6) for "to ensure the successful and efficient operation of such elements of the defense acquisition system."

**2021**—Pub. L. 116–283 renumbered section 2546 of this title as this section.

**2019**—Subsec. (a). Pub. L. 116–92, §902(78)(A), (B), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in heading and text.

Subsec. (b). Pub. L. 116–92, §902(78)(C), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3104. Acquisition-related functions of service chiefs

(a) PERFORMANCE OF CERTAIN ACQUISITION-RELATED FUNCTIONS.—The Secretary of Defense shall ensure that the service chiefs assist the Secretary of the military department concerned, in accordance with the objectives established pursuant to section 3102 of this title, in the performance of the following acquisition-related functions of such department:

(1) The development of capability requirement statements for equipping the armed force concerned that—

(A) describes the operational problem to provide necessary context for the capability requirement;

(B) proposes nonprescriptive solutions to operational problems; and

(C) ensures system interoperability, where appropriate, between and among joint military capabilities (as defined in section 181 of this title).

(2) Implement strategies to support timely adjustments to capability requirement statements developed in paragraph (1).

(3) Advise on trade-offs among life-cycle costs, delivery schedules, performance objectives, technical feasibility, and procurement quantity objectives to maximize best value for the end user.

(4) In consultation with the Joint Requirements Oversight Council, prioritize—

(A) capability needs for investment; and

(B) resource allocation to meet operational readiness requirements (as defined in section 4324 of this title) and the materiel readiness objectives established under section 118(c) of this title.

(5) Make available appropriate personnel to provide end-user feedback for the development of new capabilities.

(6) Recommend modification, discontinuation, or termination of the development of capabilities—

(A) that no longer align with a capability requirement established by the Secretary of Defense; or

(B) that are experiencing significant cost growth, technical or performance deficiencies, or delays in schedule.

(7) Build acquisition career paths for officers and personnel (as required by section 1722a of this title) to ensure such officers and personnel have the necessary skills and opportunities for career progression to fulfill the objectives established pursuant to section 3102 of this title.

(b) ADHERENCE TO REQUIREMENTS IN MAJOR DEFENSE ACQUISITION PROGRAMS .—(1) The Secretary of the military department concerned shall ensure that any requirements document for a major defense acquisition program may not be approved until the service chief concerned determines in writing that the requirements in the document are necessary and realistic in relation to the program cost and fielding targets established under section 4271(a) of this title.

(2) Consistent with the performance of duties under subsection (a), the service chief concerned, or in the case of a joint program the service chiefs concerned, with respect to major defense acquisition programs, shall—

(A) concur with the need for a materiel solution as identified in the Materiel Development Decision Review;

(B) concur with the life-cycle cost, delivery schedule, performance objective, technical feasibility, and procurement quantity trade-offs that have been made with regard to the program before Milestone A approval is granted under section 4251 of this title;

(C) concur that appropriate trade-offs among cost, schedule, technical feasibility, and performance objectives have been made to ensure that the program is affordable when considering the per unit cost and the total life-cycle cost before Milestone B approval is granted under section 4252 of this title; and

(D) concur that the requirements in the program capability document are necessary and realistic in relation to program cost and fielding targets as required by paragraph (1) before Milestone C approval is granted.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the assignment of functions under section 7014(c)(1)(A), section 8014(c)(1)(A), or section 9014(c)(1)(A) of this title, except as explicitly provided in this section.

(d) REQUIREMENTS DOCUMENT DEFINED.—In this section, the term "requirements document" means a document that establishes the need for a materiel approach to address an operational problem.

(Added Pub. L. 111–383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289, §2547; amended Pub. L. 112–239, div. A, title IX, §951(c), Jan. 2, 2013, 126 Stat. 1891; Pub. L. 114–92, div. A, title VIII, §802(b), Nov. 25, 2015, 129 Stat. 879; Pub. L. 114–328, div. A, title VIII, §807(c), Dec. 23, 2016, 130 Stat. 2261; Pub. L. 115–91, div. A, title VIII, §833, Dec. 12, 2017, 131 Stat. 1468; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–92, div. A, title XVII, §1731(a)(52), Dec. 20, 2019, 133 Stat. 1815; renumbered §3104 and amended Pub. L. 116–283, div. A, title IX, §924(b)(32), title XVIII, §1808(a)(2), (b)(2), Jan. 1, 2021, 134 Stat. 3825, 4159, 4160; Pub. L. 119–60, div. A, title XVIII, §1801(c), Dec. 18, 2025, 139 Stat. 1223.)

## EDITORIAL NOTES

### CODIFICATION

In addition to being transferred to this section as part of the renumbering of section 2547 of this title, subsec. (b) of section 2547 of this title had also been directed to be transferred to section 4274 of this title and redesignated as subsec. (a) of that section by Pub. L. 116–283, div. A, title XVIII, §1847(e)(4)(B), Jan. 1, 2021, 134 Stat. 4257. Section 1847(e)(4)(B) of Pub. L. 116–283 was repealed by Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149, effective as if included in title XVIII of Pub. L. 116–283.

### AMENDMENTS

**2025**—Pub. L. 119–60, §1801(c)(1)(A), substituted "Acquisition-related functions of service chiefs" for "Acquisition-related functions of chiefs of the armed forces" in section catchline.

Subsec. (a). Pub. L. 119–60, §1801(c)(1)(B)(i), (ii), in introductory provisions, substituted "service chiefs assist" for "Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the

Commandant of the Marine Corps, and the Chief of Space Operations assist" and inserted ", in accordance with the objectives established pursuant to section 3102 of this title," after "Secretary of the military department concerned".

Subsec. (a)(1) to (7). Pub. L. 119–60, §1801(c)(1)(B)(iii), amended pars. (1) to (7) generally. Prior to amendment, pars. (1) to (7) read as follows:

"(1) The development of requirements for equipping the armed force concerned (subject, where appropriate, to validation by the Joint Requirements Oversight Council pursuant to section 181 of this title).

"(2) Decisions regarding the balancing of resources and priorities, and associated trade-offs among cost, schedule, technical feasibility, and performance on major defense acquisition programs.

"(3) The coordination of measures to control requirements creep in the defense acquisition system.

"(4) The recommendation of trade-offs among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, to ensure acquisition programs deliver best value in meeting the approved military requirements.

"(5) Termination of development or procurement programs for which life-cycle cost, schedule, and performance expectations are no longer consistent with approved military requirements and levels of priority, or which no longer have approved military requirements.

"(6) The development and management of career paths in acquisition for military personnel (as required by section 1722a of this title).

"(7) The assignment and training of contracting officer representatives when such representatives are required to be members of the armed forces because of the nature of the contract concerned."

Subsec. (b)(1). Pub. L. 119–60, §1801(c)(2)(A), substituted "any requirements document" for "the program capability document supporting a Milestone B or subsequent decision" and "service chief concerned" for "chief of the armed force concerned".

Subsec. (b)(2). Pub. L. 119–60, §1801(c)(2)(B)(i), in introductory provisions, substituted "service chief concerned" for "Chief of the armed force concerned" and "service chiefs concerned" for "chiefs of the armed forces concerned".

Subsec. (b)(2)(A). Pub. L. 119–60, §1801(c)(2)(B)(ii), struck out "prior to entry into the Materiel Solution Analysis Phase under Department of Defense Instruction 5000.02" before semicolon at end.

Subsec. (b)(2)(B). Pub. L. 119–60, §1801(c)(2)(B)(iii), substituted "life-cycle cost, delivery schedule, performance objective, technical feasibility, and procurement quantity trade-offs" for "cost, schedule, technical feasibility, and performance trade-offs".

Subsec. (d). Pub. L. 119–60, §1801(c)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined the terms "requirements creep", 'requirements document", and "program capability document".

**2021**—Pub. L. 116–283, §1808(a)(2), renumbered section 2547 of this title as this section.

Subsec. (a). Pub. L. 116–283, §924(b)(32), substituted "the Commandant of the Marine Corps, and the Chief of Space Operations" for "and the Commandant of the Marine Corps".

Subsec. (b)(1). Pub. L. 116–283, §1808(b)(2)(A), substituted "section 4271(a)" for "section 2448a(a)".

Subsec. (b)(2)(B). Pub. L. 116–283, §1808(b)(2)(B), substituted "section 4251" for "section 2366a".

Subsec. (b)(2)(C). Pub. L. 116–283, §1808(b)(2)(C), substituted "section 4252" for "section 2366b".

Subsec. (d)(3). Pub. L. 116–283, §1808(b)(2)(D), substituted "section 4401(b)(5)" for "section 2446a(b)(5)".

**2019**—Subsec. (b)(2)(A). Pub. L. 116–92 substituted "materiel" for "material" and "Materiel" for "Material" in two places.

**2018**—Subsec. (c). Pub. L. 115–232 substituted "section 7014(c)(1)(A), section 8014(c)(1)(A), or section 9014(c)(1)(A)" for "section 3014(c)(1)(A), section 5014(c)(1)(A), or section 8014(c)(1)(A)".

**2017**—Subsec. (b). Pub. L. 115–91 designated existing provisions as par. (1) and added par. (2).

**2016**—Subsecs. (b), (c). Pub. L. 114–328, §807(c)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114–328, §807(c)(1), redesignated subsec. (c) as (d).

Subsec. (d)(3). Pub. L. 114–328, §807(c)(3), added par. (3).

**2015**—Subsec. (a)(2) to (5). Pub. L. 114–92, §802(b)(1), (2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively. Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 114–92, §802(b)(1), (3), redesignated par. (5) as (6) and substituted "The development and management" for "The development". Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 114–92, §802(b)(1), redesignated par. (6) as (7).

**2013**—Subsec. (a)(1). Pub. L. 112–239, §951(c)(1), substituted "of requirements for equipping the armed force concerned" for "of requirements relating to the defense acquisition system".

Subsec. (a)(3) to (6). Pub. L. 112–239, §951(c)(2), (3), added pars. (3) and (4) and redesignated former

pars. (3) and (4) as (5) and (6), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1808(a)(2), (b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION**

Pub. L. 119–60, div. A, title XVIII, §1801(d), Dec. 18, 2025, 139 Stat. 1224, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall revise Department of Defense Directive 5000.01 and any other relevant instructions, policies, or guidance to carry out the requirements of this section and the amendments made by this section [amending this section and sections 133b, 139, 139a, 3102, and 3103 of this title]."

## §3105. Elements of the defense acquisition system: performance assessments

(a) PERFORMANCE ASSESSMENTS REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, the Director of Procurement and Acquisition Policy, and the Director of the Office of Performance Assessment and Root Cause Analysis, shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent performance assessments of elements of the defense acquisition system for the purpose of—

(1) determining the extent to which such elements of the defense acquisition system deliver value to the Department of Defense, taking into consideration the performance elements identified in subsection (b);

(2) assisting senior officials of the Department of Defense in identifying and developing lessons learned from best practices and shortcomings in the performance of such elements of the defense acquisition system; and

(3) assisting senior officials of the Department of Defense in developing acquisition workforce excellence under section 1701a of this title.

(b) AREAS CONSIDERED IN PERFORMANCE ASSESSMENTS.—(1) Each performance assessment conducted pursuant to subsection (a) shall consider, at a minimum—

(A) the extent to which acquisitions conducted by the element of the defense acquisition system under review meet applicable cost, schedule, and performance objectives; and

(B) the staffing and quality of the acquisition workforce and the effectiveness of the management of the acquisition workforce, including workforce incentives and career paths.

(2) The Secretary of Defense shall ensure that the performance assessments required by this section are appropriately tailored to reflect the diverse nature of the work performed by each element of the defense acquisition system. In addition to the mandatory areas under paragraph (1), a performance assessment may consider, as appropriate, specific areas of acquisition concern, such as—

(A) the selection of contractors, including—

(i) the extent of competition and the use of exceptions to competition requirements;

(ii) compliance with Department of Defense policies regarding the participation of small business concerns and various categories of small business concerns, including the use of

contract bundling and the availability of non-bundled contract vehicles;

(iii) the quality of market research;

(iv) the effective consideration of contractor past performance; and

(v) the number of bid protests, the extent to which such bid protests have been successful, and the reasons for such success;

(B) the negotiation of contracts, including—

(i) the appropriate application of sections 3701 through 3708 of this title (relating to truth in negotiations);

(ii) the appropriate use of contract types appropriate to specific procurements;

(iii) the appropriate use of performance requirements;

(iv) the appropriate acquisition of technical data and other rights and assets necessary to support long-term sustainment and follow-on procurement; and

(v) the timely definitization of any undefinitized contract actions; and

(C) the management of contractor performance, including—

(i) the assignment of appropriately qualified contracting officer representatives and other contract management personnel;

(ii) the extent of contract disputes, the reasons for such disputes, and the extent to which they have been successfully addressed;

(iii) the appropriate consideration of long-term sustainment and energy efficiency objectives; and

(iv) the appropriate use of integrated testing.

(c) CONTENTS OF GUIDANCE.—The guidance issued pursuant to subsection (a) shall ensure that each element of the defense acquisition system is subject to a performance assessment under this section not less often than once every four years, and shall address, at a minimum—

(1) the designation of elements of the defense acquisition system that are subject to performance assessment at an organizational level that ensures such assessments can be performed in an efficient and integrated manner;

(2) the frequency with which such performance assessments should be conducted;

(3) goals, standards, tools, and metrics for use in conducting performance assessments;

(4) the composition of the teams designated to perform performance assessments;

(5) any phase-in requirements needed to ensure that qualified staff are available to perform performance assessments;

(6) procedures for tracking the implementation of recommendations made pursuant to performance assessments;

(7) procedures for developing and disseminating lessons learned from performance assessments; and

(8) procedures for ensuring that information from performance assessments are retained electronically and are provided in a timely manner to the Under Secretary of Defense for Acquisition and Sustainment and the Director of the Office of Performance Assessment and Root Cause Analysis as needed to assist them in performing their responsibilities under this section.

(Added Pub. L. 111–383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289, §2548; amended Pub. L. 112–239, div. A, title X, §1076(d)(5), (f)(30), Jan. 2, 2013, 126 Stat. 1951, 1953; Pub. L. 115–91, div. A, title X, §1081(a)(41), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, §902(79), Dec. 20, 2019, 133 Stat. 1553; renumbered §3105 and amended Pub. L. 116–283, div. A, title XVIII, §1808(a)(2), (b)(3), (c)(1)(A), (2), Jan. 1, 2021, 134 Stat. 4159, 4160.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1808(a)(2), (c)(2), renumbered section 2548 of this title as this section and

substituted "Elements of the defense acquisition system: performance assessments" for "Performance assessments of the defense acquisition system" in section catchline.

Subsec. (b)(2)(B)(i). Pub. L. 116–283, §1808(b)(3), substituted "sections 3701 through 3708" for "section 2306a".

Subsecs. (d), (e). Pub. L. 116–283, §1808(c)(1)(A), transferred subsecs. (d) and (e) of this section to section 3106 of this title.

**2019**—Subsecs. (a), (c)(8). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2017**—Subsec. (e). Pub. L. 115–91 substituted "Requirement" for "Requirements" in heading, struck out introductory provisions "Beginning with fiscal year 2012—", substituted "The annual report prepared by the Secretary" for "(1) the annual report prepared by the Secretary", and struck out par. (2) which read as follows: "the annual report prepared by the Director of the Office of Performance Assessment and Root Cause Analysis pursuant to section 2438(f) of this title shall include information on the activities undertaken by the Department pursuant to such section, including a summary of significant findings or recommendations arising out of performance assessments."

**2013**—Subsec. (a). Pub. L. 112–239, §1076(f)(30)(A)(i), substituted "The Secretary" for "Not later than 180 days after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Secretary" in introductory provisions.

Subsec. (a)(3). Pub. L. 112–239, §1076(f)(30)(A)(ii), inserted period at end.

Subsec. (d). Pub. L. 112–239, §1076(f)(30)(B), inserted "and" after "Government Performance" in heading and substituted "The" for "Beginning with fiscal year 2012, the" in text.

Subsec. (e)(1). Pub. L. 112–239, §1076(f)(30)(C), struck out ", United States Code," after "title 31".

Subsec. (e)(2). Pub. L. 112–239, §1076(d)(5), substituted "section 2438(f) of this title" for "section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2430 note),".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§3106. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(3), Dec. 18, 2025, 139 Stat. 948]

Section, added and amended Pub. L. 116–283, div. A, title XVIII, §1808(c)(1), Jan. 1, 2021, 134 Stat. 4160, related to performance goals for elements of the defense acquisition system.

# CHAPTER 207—BUDGETING AND APPROPRIATIONS

Sec.
3131. Availability of appropriations.
3132. Availability of appropriations for procurement of technical military equipment and supplies.
3133. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.
3134. Allocation of appropriations.
3135. Comparable budgeting for common procurement weapon systems.
3136. Defense Modernization Account.
3137. Procurement of contract services: specification of amounts requested in budget.[1]
3138. Obligations for contract services: reporting in budget object classes.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 207 "BUDGETING AND APPROPRIATIONS MATTERS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1826, and consisting of reserved section 3101, was repealed by Pub. L. 116–283, div. A, title XVIII, §1809(a), Jan. 1, 2021, 134 Stat. 4160.

*[1] Section omitted by Pub. L. 117–81 without corresponding amendment of chapter analysis.*

## §3131. Availability of appropriations

(a) Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years.

(b) Funds appropriated to the Department of Defense for research and development may be used—

(1) for the purposes of section 4141 of this title; and

(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.

(Added Pub. L. 97–258, §2(b)(3)(B), Sept. 13, 1982, 96 Stat. 1052, §2361; renumbered §2351 and amended Pub. L. 100–370, §1(g)(1), July 19, 1988, 102 Stat. 846; renumbered §3131 and amended Pub. L. 116–283, div. A, title XVIII, §§1809(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4161, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(1), Dec. 27, 2021, 135 Stat. 2136.)

HISTORICAL AND REVISION NOTES

1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2361 | 31:649c(2). | Aug. 10, 1956, ch. 1041, §40(2), 70A Stat. 636; Nov. 17, 1971, Pub. L. 92–156, §201(b), 85 Stat. 424. |

The words "Unless otherwise provided in the appropriation Act concerned" are omitted as unnecessary and for consistency. The word "Funds" is substituted for "moneys" for consistency in title 10.

**1988 ACT**

Subsection (a) is based on section 2361 of this title.

Subsection (b) is based on Pub. L. 99–190, §101(b) [title VIII, §8015], Dec. 19, 1985, 99 Stat. 1185, 1205.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1809(b), renumbered section 2351 of this title as this section.

Subsec. (b)(1). Pub. L. 117–81, which directed the substitution of "section 4141" for "section 2353", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4141" for "section 2353".

**1988**—Pub. L. 100–370 renumbered section 2361 of this title as section 2351, designated such provisions as subsec. (a), and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3132. Availability of appropriations for procurement of technical military equipment and supplies

Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies remain available until spent.

(Added Pub. L. 97–258, §2(b)(4)(B), Sept. 13, 1982, 96 Stat. 1052, §2394; renumbered §2395 and amended Pub. L. 97–295, §1(28)(A), Oct. 12, 1982, 96 Stat. 1291; renumbered §3132, Pub. L. 116–283, div. A, title XVIII, §1809(c), Jan. 1, 2021, 134 Stat. 4161.)

HISTORICAL AND REVISION NOTES

1982 ACT (PUB. L. 97–258)

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2394 | 31:649c(1). | Aug. 10, 1956, ch. 1041, §40(1), 70A Stat. 636; Nov. 17, 1971, Pub. L. 92–156, §201(b), 85 Stat. 424. |

The words "Unless otherwise provided in the appropriation Act concerned" are omitted as unnecessary and for consistency. The word "Funds" is substituted for "moneys" for consistency in title 10. The word "military" is added before "public" for clarity. The words "including moneys appropriated to the Department of the Navy for the procurement and construction of guided missiles" are omitted as included in "technical military equipment".

1982 ACT (PUB. L. 97–295)

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2395 | 10:2394. | Sept. 13, 1982, Pub. L. 97–258, §2(b)(4)(B), 96 Stat. 1053. |

This redesignates 10:2394 (enacted by Pub. L. 97–258) as 10:2395 because of the enactment of another 10:2394 by Pub. L. 97–214, §6(a)(1), July 12, 1982, 96 Stat. 171, and amends the section generally to eliminate the words "and the construction of military public works" because of section 10(b)(5) of the Military Construction Codification Act (Pub. L. 97–214, July 12, 1982, 96 Stat. 176) which struck corresponding words from the source statute for 10:2394 subsequent to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97–258, section 2(b)(4)(B) of which enacted 10:2394.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2395 of this title as this section.

**1982**—Pub. L. 97–295 struck out "and the construction of military public works" after "supplies".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3133. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property

(a) AUTHORITY.—(1) The Secretary of Defense, the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service

in the Navy, may enter into a contract for a purpose described in paragraph (2) for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

(2) The purpose of a contract described in this paragraph is as follows:

(A) The procurement of severable services.

(B) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement.

(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).

(Added Pub. L. 100–370, §1(h)(2), July 19, 1988, 102 Stat. 847, §2410a; amended Pub. L. 102–190, div. A, title III, §342, Dec. 5, 1991, 105 Stat. 1343; Pub. L. 104–324, title II, §214(b), Oct. 19, 1996, 110 Stat. 3915; Pub. L. 105–85, div. A, title VIII, §801(a), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, §1005(a), (b)(1), Nov. 24, 2003, 117 Stat. 1584; renumbered §3133, Pub. L. 116–283, div. A, title XVIII, §1809(d), Jan. 1, 2021, 134 Stat. 4161.)

## HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8005(e), (h), (l)], Dec. 19, 1985, 99 Stat. 1185, 1202.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410a of this title as this section.

**2003**—Pub. L. 108–136, §1005(b)(1), amended section catchline generally, substituting "Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property" for "Severable service contracts for periods crossing fiscal years".

Subsec. (a). Pub. L. 108–136, §1005(a), inserted "(1)" before "The Secretary of Defense", substituted "for a purpose described in paragraph (2)" for "for procurement of severable services", and added par. (2).

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1997**—Pub. L. 105–85 amended section generally. Prior to amendment, section related to availability of appropriated funds for payments under contracts for various types of maintenance, leases, and operations and authorized Secretary of Transportation to enter into contracts for procurement of severable services.

**1996**—Pub. L. 104–324 designated existing provisions as subsec. (a) and added subsec. (b).

**1991**—Par. (1). Pub. L. 102–190, §342(1), inserted ", equipment," after "tools".

Par. (4). Pub. L. 102–190, §342(2), added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title X, §1005(c), Nov. 24, 2003, 117 Stat. 1585, provided that: "The amendments made by this section [amending this section] shall not apply to funds appropriated for a fiscal year before fiscal year 2004."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §3134. Allocation of appropriations

(a) Appropriations available for procurement by an agency named in section 3063 of this title may, through administrative allotment, be made available for obligation for procurement by any other agency in amounts authorized by the head of the allotting agency and without transfer of funds on the books of the Department of the Treasury.

(b) A disbursing official of the allotting agency may make any disbursement chargeable to an allotment under subsection (a) upon a voucher certified by an officer or civilian employee of the procuring agency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2309; Pub. L. 97–258, §2(b)(1)(B), Sept. 13, 1982, 96 Stat. 1052; renumbered §3134 and amended Pub. L. 116–283, div. A, title XVIII, §1809(e), Jan. 1, 2021, 134 Stat. 4161; Pub. L. 117–81, div. A, title XVII, §1701(b)(3), Dec. 27, 2021, 135 Stat. 2132.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2309(a) | 41:159 (2d sentence). | Feb. 19, 1948, ch. 65, §10 (less 1st sentence), 62 Stat. 25. |
| 2309(b) | 41:159 (less 1st and 2d sentences). | |

In subsection (a), the words "an agency named in section 2303 of this title" are substituted for the words "any such agency".

In subsection (b), the words "an allotment under subsection (a)" are substituted for the words "such allotments".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1809(e)(1), renumbered section 2309 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1809(e)(2)(A), substituted "named in section 3063" for "named in section 2303".

Subsec. (c). Pub. L. 116–283, §1809(e)(2)(B), which directed adding subsec. (c), was repealed by Pub. L. 117–81, §1701(b)(3).

**1982**—Subsec. (b). Pub. L. 97–258 substituted "disbursing official" for "disbursing officer".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3135. Comparable budgeting for common procurement weapon systems

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common

procurement weapon systems.

(b) COMPTROLLER.—The Secretary shall carry out this section through the Under Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, Marine Corps, and Space Force request procurement funds in a defense budget.

(Added Pub. L. 100–370, §1(d)(3)(A), July 19, 1988, 102 Stat. 843, §2217; amended Pub. L. 104–106, div. A, title XV, §1503(a)(20), Feb. 10, 1996, 110 Stat. 512; renumbered §3135 and amended Pub. L. 116–283, div. A, title IX, §924(b)(1)(N), title XVIII, §1809(f)(1), Jan. 1, 2021, 134 Stat. 3820, 4161.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–500, §101(c) [title X, §955], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, and Pub. L. 99–591, §101(c) [title X, §955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, §955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1809(f)(1), renumbered section 2217 of this title as this section.

Subsec. (c)(2). Pub. L. 116–283, §924(b)(1)(N), substituted "Marine Corps, and Space Force" for "and Marine Corps".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller of the Department of Defense".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1809(f)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3136. Defense Modernization Account

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the "Defense Modernization Account".

(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:

(1) Amounts appropriated to the Defense Modernization Account for the costs of projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsection (c)(1)(B)(ii) out of savings derived from such projects.

(2) Amounts transferred to the Defense Modernization Account under subsection (c).

(c) TRANSFERS TO ACCOUNT.—(1)(A) Upon a determination by the Secretary of a military department, or the Secretary of Defense with respect to Defense-wide appropriations accounts, of the availability and source of funds described in subparagraph (B), the Secretary concerned may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after

the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

(B) This subsection applies to the following funds that have been appropriated for fiscal years after fiscal year 2016 and are available to the Secretary concerned:

(i) Unexpired funds in appropriations accounts that are available for new obligations and that, as a result of economies, efficiencies, and other savings achieved in carrying out an acquisition program, are excess to the requirements of that program.

(ii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).

(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

(2) Funds referred to in paragraph (1) may not be transferred to the Defense Modernization Account if the balance of funds in the account, after transfer of funds to the account, would exceed $1,000,000,000.

(3) Amounts deposited in the Defense Modernization Account shall remain available for transfer and obligation until the end of the third fiscal year that follows the fiscal year in which the amounts are deposited in the account.

(d) AUTHORIZED USE OF FUNDS.—Funds in the Defense Modernization Account may be used for the following purposes:

(1) For paying the costs of any project that, in accordance with criteria prescribed by the Secretary concerned, is undertaken by the Secretary of a military department or the head of a Defense Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.

(2) For increasing, subject to subsection (e), the quantity of items and services procured under an acquisition program in order to achieve a more efficient production or delivery rate.

(3) For research, development, test, and evaluation, for procurement, and for sustainment activities necessary for paying costs of unforeseen contingencies that are approved by the milestone decision authority concerned, that could prevent an ongoing acquisition program from meeting critical schedule or performance requirements.

(4) For paying costs of changes to program requirements or system configuration that are approved by the configuration steering board for a major defense acquisition program.

(5) For procuring and integrating available commercial technologies and services to satisfy a joint urgent operational need, joint emergent operational need, or a validated service requirement.

(6) For providing infrastructure to support Department goals of accelerating the fielding and adoption of new capabilities.

(e) LIMITATIONS.—(1) Funds in the Defense Modernization Account may not be used to increase the quantity of an item or services procured under a particular acquisition program to the extent that doing so would—

(A) result in procurement of a total quantity of items or services in excess of a specific limitation provided by law on the quantity of the items or services that may be procured; or

(B) result in an obligation or expenditure of funds in excess of a specific limitation provided by law on the amount that may be obligated or expended, respectively, for that acquisition program.

(2) Funds in the Defense Modernization Account may not be used for a purpose or program for which Congress has not authorized appropriations, unless the procedures for initiating a new start program are complied with.

(3) Funds may not be transferred from the Defense Modernization Account in any year for the purpose of—

(A) making an expenditure for which there is no corresponding obligation; or

(B) making an expenditure that would satisfy an unliquidated or unrecorded obligation arising in a prior fiscal year.

(f) TRANSFER OF FUNDS.—(1) The Secretary of a military department, or the Secretary of Defense with respect to Defense-wide appropriations accounts, may transfer funds in the Defense Modernization Account to appropriations available for purposes set forth in subsection (d).

(2) Funds in the Defense Modernization Account may not be transferred under paragraph (1) until 30 days after the date on which the Secretary concerned notifies the congressional defense committees in writing of the amount and purpose of the proposed transfer.

(3) The total amount of transfers from the Defense Modernization Account during any fiscal year under this subsection may not exceed $500,000,000.

(g) AVAILABILITY OF FUNDS BY APPROPRIATION.—In addition to transfers under subsection (f), funds in the Defense Modernization Account may be made available for purposes set forth in subsection (d), but only to the extent authorized in an Act other than an appropriations Act. Funds deposited in the Defense Modernization Account shall remain available for obligation until the end of the third fiscal year that follows the fiscal year in which the amounts are deposited in the account.

(h) SECRETARY TO ACT THROUGH COMPTROLLER.—(1) The Secretary of Defense shall carry out this section through the Under Secretary of Defense (Comptroller), who shall be authorized to implement this section through the issuance of any necessary regulations, policies, and procedures after consultation with the General Counsel and Inspector General of the Department of Defense.

(2) The regulations prescribed under paragraph (1) shall, at a minimum, provide for—

(A) the establishment and management of subaccounts for each of the military departments and Defense Agencies concerned for the use of funds in the Defense Modernization Account, consistent with each military department's or Defense Agency's deposits in the Account;

(B) the submission of proposals by the Secretaries concerned or heads of Defense Agencies or other elements of the Department of Defense to the Comptroller for the use of Defense Modernization Account funds for purposes set forth in subsection (d);

(C) the use of a competitive process for the evaluation of such proposals and the selection of programs, projects, and activities to be funded out of the Defense Modernization Account and subaccounts from among those proposed for such funding; and

(D) the calculation of—

(i) the savings to be derived from projects described in subsection (d)(1) that are to be funded out of the Defense Modernization Account; and

(ii) the amounts to be reimbursed to the Defense Modernization Account out of such savings pursuant to subsection (c)(1)(B)(ii).

(i) DEFINITIONS.—In this section:

(1) The term "major defense acquisition program" has the meaning given the term in section 4201 of this title.

(2) The term "unexpired funds" means funds appropriated for a definite period that remain available for obligation.

(Added Pub. L. 104–106, div. A, title IX, §912(a)(1), Feb. 10, 1996, 110 Stat. 407, §2216; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §§1008(a)–(f)(1), 1043(b)(8), Nov. 24, 2003, 117 Stat. 1586, 1587, 1611; Pub. L. 109–364, div. A, title X, §1071(a)(16), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 113–66, div. A, title X, §1084(a)(2), Dec. 26, 2013, 127 Stat. 871; Pub. L. 114–328, div. A, title VIII, §804, Dec. 23, 2016, 130 Stat. 2250; Pub. L. 116–92, div. A, title XVII, §1731(a)(30), Dec. 20, 2019, 133 Stat. 1814; renumbered §3136 and amended Pub. L. 116–283, div. A, title XVIII, §§1809(g)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4161, 4294; Pub. L. 117–263, div. A, title VIII, §813, Dec. 23, 2022, 136 Stat. 2707; Pub. L. 118–159, div. A, title X, §1003(a), Dec. 23, 2024, 138 Stat. 2047; Pub. L. 119–60, div. A, title XVIII, §1811(g)(1), Dec. 18, 2025, 139 Stat. 1243.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (e)(1)(A). Pub. L. 119–60 substituted "in excess of a specific limitation" for "in excess of—

"(i) a specific limitation"

and struck out cl. (ii) which read as follows: "the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense; or".

**2024**—Subsec. (d)(5), (6). Pub. L. 118–159 added pars. (5) and (6).

**2022**—Subsec. (j). Pub. L. 117–263 struck out subsec. (j). Text read as follows:

"(1) The authority under subsection (c) to transfer funds into the Defense Modernization Account terminates at the close of September 30, 2022.

"(2) Three years after the termination date specified in paragraph (1), the Defense Modernization Account shall be closed and any remaining balance in the account shall be canceled and thereafter shall not be available for any purpose."

**2021**—Pub. L. 116–283, §1809(g)(1), renumbered section 2216 of this title as this section.

Subsec. (i)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 4201 of this title" for "section 2430(a) of this title".

**2019**—Subsec. (b)(1). Pub. L. 116–92 substituted "subsection (c)(1)(B)(ii)" for "subsection (c)(1)(B)(iii)".

**2016**—Subsec. (b)(1). Pub. L. 114–328, §804(a), struck out "commencing" before "projects described".

Subsec. (c)(1)(A). Pub. L. 114–328, §804(b)(1), substituted ", or the Secretary of Defense with respect to Defense-wide appropriations accounts," for "or the Secretary of Defense with respect to Defense-wide appropriations accounts" and "the Secretary concerned" for "that Secretary" before "may transfer".

Subsec. (c)(1)(B). Pub. L. 114–328, §804(b)(2)(A), in introductory provisions, inserted "that have been appropriated for fiscal years after fiscal year 2016 and are" after "following funds".

Subsec. (c)(1)(B)(i). Pub. L. 114–328, §804(b)(2)(B), substituted "or new obligations" for "for procurement", "an acquisition program" for "a particular procurement", and "that program" for "that procurement".

Subsec. (c)(1)(B)(ii), (iii). Pub. L. 114–328, §804(b)(2)(C), (D), redesignated cl. (iii) as (ii) and struck out former cl. (ii) which read as follows: "Unexpired funds that are available during the final 30 days of a fiscal year for support of installations and facilities and that, as a result of economies, efficiencies, and other savings, are excess to the requirements for support of installations and facilities."

Subsec. (c)(2). Pub. L. 114–328, §804(b)(3), struck out ", other than funds referred to in subparagraph (B)(iii) of such paragraph," after "Funds referred to in paragraph (1)" and substituted "if the balance of funds" for "if—

"(A) the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred to that account; or

"(B) the balance of funds".

Subsec. (c)(3). Pub. L. 114–328, §804(b)(4), substituted "deposited in" for "credited to" in two places and inserted "and obligation" after "available for transfer".

Subsec. (c)(4). Pub. L. 114–328, §804(b)(5), struck out par. (4) which read as follows: "The period of availability of funds for expenditure provided for in sections 1551 and 1552 of title 31 may not be extended by transfer into the Defense Modernization Account."

Subsec. (d)(1). Pub. L. 114–328, §804(c)(1), struck out "commencing" before "any project" and substituted "Secretary concerned" for "Secretary of Defense".

Subsec. (d)(2). Pub. L. 114–328, §804(c)(2), substituted "an acquisition program" for "a procurement program".

Subsec. (d)(3). Pub. L. 114–328, §804(c)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "For research, development, test, and evaluation and for procurement necessary for modernization of an existing system or of a system being procured under an ongoing procurement program."

Subsec. (d)(4). Pub. L. 114–328, §804(c)(4), added par. (4).

Subsec. (e)(1). Pub. L. 114–328, §804(d)(1), substituted "acquisition program" for "procurement program" in introductory provisions and subpar. (B).

Subsec. (e)(2). Pub. L. 114–328, §804(d)(2), substituted "authorized appropriations, unless the procedures for initiating a new start program are complied with" for "authorized appropriations".

Subsec. (f)(1). Pub. L. 114–328, §804(e), substituted "Secretary of a military department, or the Secretary

of Defense with respect to Defense-wide appropriations accounts," for "Secretary of Defense".

Subsec. (g). Pub. L. 114–328, §804(f), struck out "in accordance with the provisions of appropriations Acts" after "subsection (d)" and inserted at end "Funds deposited in the Defense Modernization Account shall remain available for obligation until the end of the third fiscal year that follows the fiscal year in which the amounts are deposited in the account."

Subsec. (h)(2)(A), (B). Pub. L. 114–328, §804(g)(1), (2), added subpar. (A) and redesignated former subpar. (A) as (B). Former subpar. (B) redesignated (C).

Subsec. (h)(2)(C). Pub. L. 114–328, §804(g)(1), (3), redesignated subpar. (B) as (C) and inserted "and subaccounts" after "Account". Former subpar. (C) redesignated (D).

Subsec. (h)(2)(D). Pub. L. 114–328, §804(g)(1), redesignated subpar. (C) as (D).

Subsec. (h)(2)(D)(ii). Pub. L. 114–328, §804(g)(4), substituted "subsection (c)(1)(B)(ii)" for "subsection (c)(1)(B)(iii)".

Subsec. (i)(1). Pub. L. 114–328, §804(h), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'Secretary concerned' includes the Secretary of Defense with respect to Defense-wide appropriations accounts."

Subsec. (j)(1). Pub. L. 114–328, §804(j), substituted "terminates at the close of September 30, 2022" for "terminates at the close of September 30, 2006".

**2013**—Subsecs. (i) to (k). Pub. L. 113–66 redesignated subsecs. (j) and (k) as (i) and (j), respectively, and struck out former subsec. (i) which related to an annual report submitted by the Secretary of Defense to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

**2006**—Subsec. (b)(1). Pub. L. 109–364 substituted "subsection (c)(1)(B)(iii)" for "subsections (c)(1)(B)(iii)".

**2003**—Subsec. (b). Pub. L. 108–136, §1008(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–136, §1008(a)(1), (2), redesignated subsec. (b) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "Funds transferred to the Defense Modernization Account from funds appropriated for a military department, Defense Agency, or other element of the Department of Defense shall be available in accordance with subsections (f) and (g) only for transfer to funds available for that military department, Defense Agency, or other element."

Subsec. (c)(1)(B)(iii). Pub. L. 108–136, §1008(c)(1), added cl. (iii).

Subsec. (c)(2). Pub. L. 108–136, §1008(c)(2), inserted ", other than funds referred to in subparagraph (B)(iii) of such paragraph," after "Funds referred to in paragraph (1)".

Subsec. (d). Pub. L. 108–136, §1008(b), substituted "in the Defense Modernization Account" for "available from the Defense Modernization Account pursuant to subsection (f) or (g)" in introductory provisions, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (h). Pub. L. 108–136, §1008(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (i). Pub. L. 108–136, §1008(e)(1), substituted "Annual Report" for "Quarterly Reports" in heading.

Subsec. (i)(1). Pub. L. 108–136, §1008(e)(1), (2), substituted "fiscal year" for "calendar quarter" in introductory provisions and "fiscal year" for "quarter" in subpars. (A) to (C).

Subsec. (j)(3). Pub. L. 108–136, §1043(b)(8), struck out par. (3) which read as follows: "The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

Subsec. (k). Pub. L. 108–136, §1008(f)(1), added subsec. (k).

**1999**—Subsec. (j)(3)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title X, §1003(b), Dec. 23, 2024, 138 Stat. 2047, provided that: "Paragraphs (5) and (6) of subsection (d) of section 3136 of title 10, United States Code, as added by subsection (a), shall apply only with respect to funds made available, and transferred to the Defense Modernization Account, on or after the date of the enactment of this Act [Dec. 23, 2024]."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 104–106, div. A, title IX, §912(b), Feb. 10, 1996, 110 Stat. 410, provided that: "Section 2216 of title 10, United States Code [now 10 U.S.C. 3136] (as added by subsection (a)), shall apply only to funds appropriated for fiscal years after fiscal year 1995."

## [§3137. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 116–283, div. A, title XVIII, §1809(h)(1), Jan. 1, 2021, 134 Stat. 4162, directed the transfer of section 235 of this title to this section, which was to take effect Jan. 1, 2022. However, Pub. L. 117–81, div. A, title VIII, §815(b)(1), Dec. 27, 2021, 135 Stat. 1825, subsequently repealed section 235 of this title effective Dec. 27, 2021, effectively eliminating that transfer and omitting this section before it took effect.

## §3138. Obligations for contract services: reporting in budget object classes

(a) LIMITATION ON REPORTING IN MISCELLANEOUS SERVICES OBJECT CLASS .—The Secretary of Defense shall ensure that, in reporting to the Office of Management and Budget (pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates)) obligations of the Department of Defense for any period of time for contract services, no more than 15 percent of the total amount of obligations so reported is reported in the miscellaneous services object class.

(b) DEFINITION OF REPORTING CATEGORIES FOR ADVISORY AND ASSISTANCE SERVICES.—In carrying out section 1105(g) of title 31 for the Department of Defense (and in determining what services are to be reported to the Office of Management and Budget in the advisory and assistance services object class), the Secretary of Defense shall apply to the terms used for the definition of "advisory and assistance services" in paragraph (2)(A) of that section the following meanings (subject to the authorized exemptions):

(1) MANAGEMENT AND PROFESSIONAL SUPPORT SERVICES.—The term "management and professional support services" (used in clause (i) of section 1105(g)(2)(A) of title 31) means services that provide engineering or technical support, assistance, advice, or training for the efficient and effective management and operation of organizations, activities, or systems. Those services—

(A) are closely related to the basic responsibilities and mission of the using organization; and

(B) include efforts that support or contribute to improved organization or program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, auditing, and administrative or technical support for conferences and training programs.

(2) STUDIES, ANALYSES, AND EVALUATIONS.—The term "studies, analyses, and evaluations" (used in clause (ii) of section 1105(g)(2)(A) of title 31) means services that provide organized, analytic assessments to understand or evaluate complex issues to improve policy development, decisionmaking, management, or administration and that result in documents containing data or leading to conclusions or recommendations. Those services may include databases, models, methodologies, and related software created in support of a study, analysis, or evaluation.

(3) ENGINEERING AND TECHNICAL SERVICES.—The term "engineering and technical services" (used in clause (iii) of section 1105(g)(2)(A) of title 31) means services that take the

form of advice, assistance, training, or hands-on training necessary to maintain and operate fielded weapon systems, equipment, and components (including software when applicable) at design or required levels of effectiveness.

(c) PROPER CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Before the submission to the Office of Management and Budget of the proposed Department of Defense budget for inclusion in the President's budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall conduct a review of Department of Defense services expected to be performed as contract services during the fiscal year for which that budget is to be submitted in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class.

(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress each year, not later than 30 days after the date on which the budget for the next fiscal year is submitted pursuant to section 1105 of title 31, a report containing the information derived from the review under subsection (c).

(e) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (d) each year and shall—

(A) assess the methodology used by the Secretary in obtaining the information submitted to Congress in that report; and

(B) assess the information submitted to Congress in that report.

(2) Not later than 120 days after the date on which the Secretary submits to Congress the report required under subsection (d) for any year, the Comptroller General shall submit to Congress the Comptroller General's report containing the results of the review for that year under paragraph (1).

(f) DEFINITIONS.—In this section:

(1) The term "contract services" means all services that are reported to the Office of Management and Budget pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates) in budget object classes that are designated in the Object Class 25 series.

(2) The term "advisory and assistance services object class" means those contract services constituting the budget object class that is denominated "Advisory and Assistance Service" and designated (as of October 17, 1998) as Object Class 25.1 (or any similar object class established after October 17, 1998, for the reporting of obligations for advisory and assistance contract services).

(3) The term "miscellaneous services object class" means those contract services constituting the budget object class that is denominated "Other Services (services not otherwise specified in the 25 series)" and designated (as of October 17, 1998) as Object Class 25.2 (or any similar object class established after October 17, 1998, for the reporting of obligations for miscellaneous or unspecified contract services).

(4) The term "authorized exemptions" means those exemptions authorized (as of October 17, 1998) under Department of Defense Directive 4205.2, captioned "Acquiring and Managing Contracted Advisory and Assistance Services (CAAS)" and issued by the Under Secretary of Defense for Acquisition and Technology on February 10, 1992, such exemptions being set forth in Enclosure 3 to that directive (captioned "CAAS Exemptions").

(Added Pub. L. 105–261, div. A, title IX, §911(a)(1), Oct. 17, 1998, 112 Stat. 2097, §2212; amended Pub. L. 106–65, div. A, title X, §1066(a)(17), Oct. 5, 1999, 113 Stat. 771; renumbered §3138, Pub. L. 116–283, div. A, title XVIII, §1809(i)(1), Jan. 1, 2021, 134 Stat. 4162.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2212 of this title as this section.

**1999**—Subsec. (f)(2), (3). Pub. L. 106–65 substituted "as of October 17, 1998" for "as of the date of the enactment of this section" and "after October 17, 1998," for "after the date of the enactment of this section".

Subsec. (f)(4). Pub. L. 106–65, §1066(a)(17)(B), substituted "as of October 17, 1998" for "as of the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Reference to Under Secretary of Defense for Acquisition and Technology deemed to refer to Under Secretary of Defense for Acquisition, Technology, and Logistics, pursuant to section 911(a)(1) of Pub. L. 106–65, formerly set out as a note under section 133 of this title.

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## CHAPTER 209—OPERATIONAL CONTRACT SUPPORT


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Joint Policies on Requirements Definition, Contingency Program Management, and Contingency Contracting** | **3151** |
| **II.** | **[Reserved]** | |


### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 209 "OPERATIONAL CONTRACT SUPPORT", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3151, was repealed by Pub. L. 116–283, div. A, title XVIII, §1810(a), Jan. 1, 2021, 134 Stat. 4162.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(2)(A), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116–283, div. A, title XVIII, §1810(a), Jan. 1, 2021, 134 Stat. 4162, which added this analysis, by substituting "[Reserved]" for "Other Provisions Relating to Operational Contract Support" in item for subchapter II.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### RESPONSIBILITY WITHIN DEPARTMENT OF DEFENSE FOR OPERATIONAL CONTRACT SUPPORT

Pub. L. 112–239, div. A, title VIII, §843, Jan. 2, 2013, 126 Stat. 1845, provided that:

"(a) GUIDANCE REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall develop and issue guidance establishing the chain of authority and responsibility within the Department of Defense for policy, planning, and execution of operational contract support.

"(b) ELEMENTS.—The guidance under subsection (a) shall, at a minimum—

"(1) specify the officials, offices, and components of the Department within the chain of authority and responsibility described in subsection (a);

"(2) identify for each official, office, and component specified under paragraph (1)—

"(A) requirements for policy, planning, and execution of contract support for operational contract support, including, at a minimum, requirements in connection with—

"(i) coordination of functions, authorities, and responsibilities related to operational contract support, including coordination with relevant Federal agencies;

"(ii) assessments of total force data in support of Department force planning scenarios, including the appropriateness of and necessity for the use of contractors for identified functions;

"(iii) determinations of capability requirements for nonacquisition community operational contract support, and identification of resources required for planning, training, and execution to meet such requirements; and

"(iv) determinations of policy regarding the use of contractors by function, and identification

of the training exercises that will be required for operational contract support (including an assessment [of] whether or not such exercises will include contractors); and

"(B) roles, authorities, responsibilities, and lines of supervision for the achievement of the requirements identified under subparagraph (A); and

"(3) ensure that the chain of authority and responsibility described in subsection (a) is appropriately aligned with, and appropriately integrated into, the structure of the Department for the conduct of overseas contingency operations, including the military departments, the Joint Staff, and the commanders of the unified combatant commands."

**COMPETITION AND REVIEW OF CONTRACTS FOR PROPERTY OR SERVICES IN SUPPORT OF A CONTINGENCY OPERATION**

Pub. L. 112–81, div. A, title VIII, §844(a), (b), Dec. 31, 2011, 125 Stat. 1515, which authorized the Secretary of Defense to establish goals for competition in contracts for procurement of property or services to be used outside the United States in support of a contingency operation and to develop processes to measure and monitor such competition and required annual review of such contracts, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(2)(A), Dec. 23, 2024, 138 Stat. 1979.

# SUBCHAPTER I—JOINT POLICIES ON REQUIREMENTS DEFINITION, CONTINGENCY PROGRAM MANAGEMENT, AND CONTINGENCY CONTRACTING

Sec.
3151. Joint policy requirement.
3152. Requirements definition matters covered.
3153. Contingency program management matters covered.
3154. Contingency contracting matters covered.
3155. Training for personnel outside acquisition workforce.
3156. Mission readiness exercises.
3157. Definitions; applicability.

## §3151. Joint policy requirement

The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop joint policies for requirements definition, contingency program management, and contingency contracting during combat operations and post-conflict operations.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(1), Jan. 1, 2021, 134 Stat. 4162, 4163.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (a) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(1), was based on Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1810(b)(1), transferred subsec. (a) of section 2333 of this title to this section and struck out subsec. (a) designation and heading "Joint Policy Requirement" at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an

Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3152. Requirements definition matters covered

The joint policy for requirements definition required by section 3151 of this title shall, at a minimum, provide for the following:

(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate experience and qualifications related to the definition of requirements to be satisfied through acquisition contracts (such as for delivery of products or services, performance of work, or accomplishment of a project), to act as head of requirements definition and coordination during combat operations, post-conflict operations, and contingency operations, if required, including leading a requirements review board involving all organizations concerned.

(2) An organizational approach to requirements definition and coordination during combat operations, post-conflict operations, and contingency operations that is designed to ensure that requirements are defined in a way that effectively implements United States Government and Department of Defense objectives, policies, and decisions regarding the allocation of resources, coordination of interagency efforts in the theater of operations, and alignment of requirements with the proper use of funds.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(2), Jan. 1, 2021, 134 Stat. 4162, 4163.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(2), was based on Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1810(b)(2), transferred subsec. (b) of section 2333 of this title to this section and, in introductory provisions, struck out subsec. (b) designation and heading "Requirements Definition Matters Covered" at beginning and substituted "section 3151 of this title" for "subsection (a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3153. Contingency program management matters covered

The joint policy for contingency program management required by section 3151 of this title shall, at a minimum, provide for the following:

(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate program management experience and qualifications, to act as head of program management during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving multiple United States Government agencies and international organizations, if required.

(2) A preplanned organizational approach to program management during combat operations, post-conflict operations, and contingency operations that is designed to ensure that the Department of Defense is prepared to conduct such program management.

(3) Identification of a deployable cadre of experts, with the appropriate tools and authority, and

trained in processes under paragraph (6).

(4) Utilization of the hiring and appointment authorities necessary for the rapid deployment of personnel to ensure the availability of key personnel for sufficient lengths of time to provide for continuing program and project management.

(5) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to program management personnel in—

(A) the use of laws, regulations, policies, and directives related to program management in combat or contingency environments;

(B) the integration of cost, schedule, and performance objectives into practical acquisition strategies aligned with available resources and subject to effective oversight; and

(C) procedures of the Department of Defense related to funding mechanisms and contingency contract management.

(6) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

(7) Such steps as may be needed to ensure jointness and cross-service coordination in the area of program management during contingency operations.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(3), Jan. 1, 2021, 134 Stat. 4162, 4163.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(3), was based on Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1810(b)(3), transferred subsec. (c) of section 2333 of this title to this section and, in introductory provisions, struck out subsec. (c) designation and heading "Contingency Program Management Matters Covered" at beginning and substituted "section 3151 of this title" for "subsection (a)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### ENHANCEMENT OF INTERAGENCY SUPPORT DURING CONTINGENCY OPERATIONS AND TRANSITION PERIODS

Pub. L. 114–328, div. A, title XII, §1281, Dec. 23, 2016, 130 Stat. 2541, provided that:

"(a) AUTHORITY.—The Secretary of Defense and the Secretary of State may enter into an agreement under which each Secretary may provide covered support, supplies, and services on a reimbursement basis, or by exchange of covered support, supplies, and services, to the other Secretary during a contingency operation and related transition period for up to 2 years following the end of such contingency operation.

"(b) AGREEMENT.—An agreement entered into under this section shall be in writing and shall include the following terms:

"(1) The price charged by a supplying agency shall be the direct costs that such agency incurred by providing the covered support, supplies, or services to the requesting agency under this section.

"(2) Credits and liabilities of the agencies accrued as a result of acquisitions and transfers of covered support, supplies, and services under this section shall be liquidated not less often than once every 3 months by direct payment to the agency supplying such support, supplies, or services by the agency receiving such support, supplies, or services.

"(3) Exchange entitlements accrued as a result of acquisitions and transfers of covered support,

supplies, and services under this section shall be satisfied within 12 months after the date of the delivery of the covered support, supplies, or services. Exchange entitlements not so satisfied shall be immediately liquidated by direct payment to the agency supplying such covered support, supplies, or services.

"(c) EFFECT OF OBLIGATION AND AVAILABILITY OF FUNDS.—An order placed by an agency pursuant to an agreement under this section is deemed to be an obligation in the same manner that a similar order placed under a contract with, or a contract for similar goods or services awarded to, a private contractor is an obligation. Appropriations remain available to pay an obligation to the servicing agency in the same manner as appropriations remain available to pay an obligation to a private contractor.

"(d) DEFINITIONS.—In this section:

"(1) COVERED SUPPORT, SUPPLIES, AND SERVICES.—The term 'covered support, supplies, and services' means food, billeting, transportation (including airlift), petroleum, oils, lubricants, communications services, medical services, ammunition, base operations support, use of facilities, spare parts and components, repair and maintenance services, and calibration services.

"(2) CONTINGENCY OPERATION.—The term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

"(e) CREDITING OF RECEIPTS.—Any receipt as a result of an agreement entered into under this section shall be credited, at the option of the Secretary of Defense with respect to the Department of Defense and the Secretary of State with respect to the Department of State, to—

"(1) the appropriation, fund, or account used in incurring the obligation; or

"(2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

"(f) NOTIFICATION.—Not later than 30 days after the end of a fiscal year in which covered support, supplies, and services are provided or exchanged pursuant to an agreement under this section, the Secretary of Defense and the Secretary of State shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a notification that contains a copy of such agreement and a description of such covered support, supplies, and services."

## §3154. Contingency contracting matters covered

(a) IN GENERAL.—The joint policy for contingency contracting required by section 3151 of this title shall, at a minimum, provide for the following:

(1) The designation of a senior commissioned officer or civilian member of the senior executive service in each military department with the responsibility for administering the policy.

(2) The assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur.

(3) A sourcing approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving interagency organizations, if required.

(4) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

(A) the use of law, regulations, policies, and directives related to contingency contracting operations;

(B) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under sections 3201 through 3205 of this title, sealed bidding, letter contracts, indefinite delivery-indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

(C) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

(D) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process.

(5) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

(6) Such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

(b) INTERAGENCY PLANS.—To the extent practicable, the joint policy for contingency contracting required by section 3151 of this title should be taken into account in the development of interagency plans for stabilization and reconstruction operations, consistent with the report submitted by the President under section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2388) on interagency operating procedures for the planning and conduct of stabilization and reconstruction operations.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(4), (c), Jan. 1, 2021, 134 Stat. 4162–4164.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007, referred to in subsec. (b), is section 1035 of Pub. L. 109–364, div. A, title X, Oct. 17, 2006, 120 Stat. 2388, which is not classified to the Code.

#### CODIFICATION

The text of subsec. (d) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(4), (c), was based on Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343Pub. L. 111–84, div. A, title X, §1073(a)(23)(A), (B), Oct. 28, 2009, 123 Stat. 2473.

#### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1810(b)(4)(A), (C), (D), substituted "In General" for "Contingency Contracting Matters Covered" in heading and "section 3151 of this title" for "subsection (a)" in introductory provisions, struck out par. (1) designation at beginning, redesignated subpars. (A) to (F) as pars. (1) to (6), respectively, and, in par. (4), redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively. Former par. (2) redesignated subsec. (b).

Pub. L. 116–283, §1810(b)(4), redesignated subsec. (d) of section 2333 of this title as subsec. (a) of this section.

Subsec. (a)(4)(B). Pub. L. 116–283, §1810(c), substituted "sections 3201 through 3205" for "section 2304".

Subsec. (b). Pub. L. 116–283, §1810(b)(4)(B), (C), redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, and substituted "section 3151 of this title" for "subsection (a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3155. Training for personnel outside acquisition workforce

(a) REQUIRED TRAINING.—The joint policy for requirements definition, contingency program management, and contingency contracting required by section 3151 of this title shall provide for training of military personnel outside the acquisition workforce (including operational field

commanders and officers performing key staff functions for operational field commanders) who are expected to have acquisition responsibility, including oversight duties associated with contracts or contractors, during combat operations, post-conflict operations, and contingency operations.

(b) SCOPE OF TRAINING.—Training under subsection (a) shall be sufficient to ensure that the military personnel referred to in that subsection—

(1) understand the scope and scale of contractor support they will experience in contingency operations; and

(2) are prepared for their roles and responsibilities with regard to—

(A) requirements definition;

(B) program management (including contractor oversight); and

(C) contingency contracting.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(5), Jan. 1, 2021, 134 Stat. 4162, 4163.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e)(1) and (2) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(5), was based on Pub. L. 110–181, div. A, title VIII, §849(a), Jan. 28, 2008, 122 Stat. 245.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1810(b)(5)(A), (B), redesignated subsec. (e)(1) and (2) of section 2333 of this title as subsec. (a) of this section, in heading, substituted "Required Training" for "Training for Personnel Outside Acquisition Workforce", and, in text, struck out par. (1) designation at beginning and substituted "section 3151 of this title" for "subsection (a)". Par. (2) subsequently redesignated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1810(b)(5)(C), redesignated subsec. (a)(2) as (b), inserted heading, and substituted "Training under subsection (a)" for "Training under paragraph (1)" and "referred to in that subsection—" and pars. (1) and (2) for "referred to in that paragraph understand the scope and scale of contractor support they will experience in contingency operations and are prepared for their roles and responsibilities with regard to requirements definition, program management (including contractor oversight), and contingency contracting."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3156. Mission readiness exercises

The joint policy required by section 3151 of this title shall also provide for the incorporation of contractors and contract operations in mission readiness exercises for operations that will include contracting and contractor support.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(6), Jan. 1, 2021, 134 Stat. 4162, 4164.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e)(3) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(6), was based on Pub. L. 110–181, div. A, title VIII, §849(a), Jan. 28, 2008, 122 Stat. 245.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1810(b)(6), transferred subsec. (e)(3) of section 2333 of this title to this section, struck out par. (3) designation at beginning, and inserted "required by section 3151 of this title" after "The joint policy".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3157. Definitions; applicability

In this subchapter:

(1) REQUIREMENTS DEFINITION.—The term "requirements definition" means the process of translating policy objectives and mission needs into specific requirements, the description of which will be the basis for awarding acquisition contracts for projects to be accomplished, work to be performed, or products to be delivered.

(2) CONTINGENCY PROGRAM MANAGEMENT.—The term "contingency program management" means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating civilian and military personnel and organizations for the management of a specific defense acquisition program or programs during combat operations, post-conflict operations, and contingency operations.

(3) CONTINGENCY CONTRACTING.—The term "contingency contracting" means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

(4) CONTINGENCY CONTRACTING PERSONNEL.—The term "contingency contracting personnel" means members of the armed forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1810(a), (b)(7), Jan. 1, 2021, 134 Stat. 4162, 4164.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f)(1), (2), (5), and (6) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1810(b)(7), was based on Pub. L. 109–364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343; Pub. L. 110–181, div. A, title VIII, §849(a), Jan. 28, 2008, 122 Stat. 245.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1810(b)(7), redesignated pars. (6), (5), (2), and (1) of subsec. (f) of section 2333 of this title as pars. (1) to (4), respectively, of this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# SUBCHAPTER II—[RESERVED]

Sec.
3171. [Reserved].
3172. [Reserved].

**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 117–81, div. A, title XVII, §1701(i)(2)(B), Dec. 27, 2021, 135 Stat. 2141, generally amended Pub. L. 116–283, div. A, title XVIII, §1810(d), Jan. 1, 2021, 134 Stat. 4164, which added this analysis, by substituting "[RESERVED]" for "OTHER PROVISIONS RELATING TO OPERATIONAL CONTRACT SUPPORT" in subchapter II heading and "[Reserved]" for "Contracts for property or services in support of a contingency operation: competition and review" in item 3171 and for "Operational contract support: chain of authority and responsibility within Department of Defense" in item 3172, thereby omitting this analysis.

## §3171. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1810(d), Jan. 1, 2021, 134 Stat. 4164; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(2)(B), Dec. 27, 2021, 135 Stat. 2141.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1701(i)(2)(B), amended Pub. L. 116–283, §1810(d), which enacted this section, by substituting "[Reserved]" for "Contracts for property or services in support of a contingency operation: competition and review" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3172. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1810(d), Jan. 1, 2021, 134 Stat. 4164; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(2)(B), Dec. 27, 2021, 135 Stat. 2141.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1701(i)(2)(B), amended Pub. L. 116–283, §1810(d), which enacted this section, by substituting "[Reserved]" for "Operational contract support: chain of authority and responsibility within Department of Defense" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# Subpart B—Acquisition Planning

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, added subpart heading.

## CHAPTER 221—PLANNING AND SOLICITATION GENERALLY

Sec.
3201. Full and open competition.
3202. [Reserved].
3203. Exclusion of particular source or restriction of solicitation to small business concerns.
3204. Use of procedures other than competitive procedures.
3205. Simplified procedures for small purchases.
3206. Planning and solicitation requirements.
3207. Assessment before contract for acquisition of supplies is entered into.
3208. Planning for future competition in contracts for major systems.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 221 "PLANNING AND SOLICITATION GENERALLY", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3201, was repealed by Pub. L. 116–283, div. A, title XVIII, §1811(b), Jan. 1, 2021, 134 Stat. 4164.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**POLICY ON QUALIFICATIONS OF CONTRACTORS FOR INTO-PLANE FUEL DELIVERIES FOR HEAVY-LIFT AIRCRAFT**

Pub. L. 118–159, div. A, title I, §163, Dec. 23, 2024, 138 Stat. 1817, provided that:

"(a) ESTABLISHMENT OF POLICY.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Director of the Defense Logistics Agency shall develop and implement a policy pursuant to which acquisition planning shall be performed for any contract providing for the into-plane procurement for heavy-lift aircraft of an estimated 5,000,000 gallons or more of aviation fuel per year within the continental United States.

"(b) USE OF EVALUATION FACTORS.—As part of the acquisition planning required under subsection (a), the Director of the Defense Logistics Agency shall determine whether to use evaluation factors to assess the qualifications of fixed-based operators bidding on contracts described in such subsection. In the event the Director determines it is appropriate to use such evaluation factors, the factors may include the following:

"(1) Whether the fixed-base operator is able to maintain sufficient onsite fuel storage.

"(2) Whether the fixed-base operator's total number of employees is sufficient to service military customers.

"(3) Whether the fixed-based operator is capable of performing a sufficient range of cargo on-load, off-load, and handling operations, including for dangerous goods and cargo, for military aircraft of all sizes.

"(4) Whether the fixed-based operator has acceptable past performance history on similar

procurements.

"(5) Any other factors the Director determines appropriate.

"(c) CONSULTATION.—The Director of the Defense Logistics Agency shall, as appropriate, consult with appropriate personnel of the military departments in developing mission requirements at commercial airports for purposes of the acquisition planning required under subsection (a).

"(d) HEAVY-LIFT AIRCRAFT DEFINED.—In this section, the term 'heavy-lift aircraft' means an aircraft with a maximum gross takeoff weight in excess of 107,000 pounds."

## PROCUREMENT OF CLEANING PRODUCTS

Pub. L. 118–159, div. A, title VIII, §856, Dec. 23, 2024, 138 Stat. 1997, provided that: "The Secretary of Defense shall procure, to the maximum extent practicable, only those cleaning products that are identified—

"(1) under the Safer Choice program; or

"(2) by an independent third-party organization that provides certifications in a manner consistent with the Safer Choice program."

## PROCUREMENT OF COVERED HEARING PROTECTION DEVICES

Pub. L. 118–159, div. A, title VIII, §858, Dec. 23, 2024, 138 Stat. 1998, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the head of the Hearing Center of Excellence, may enter into one or more contracts to procure covered hearing protection devices for members of the Armed Forces.

"(b) PRIORITIZATION.—The Secretary shall prioritize the award of such a contract to a domestic offeror.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered hearing protection device' means an active hearing protection device—

"(A) that is a commercially available off-the-shelf item (as defined in section 104 of title 41, United States Code); and

"(C) [sic] that has been identified, tested, and qualified by the Hearing Center of Excellence.

"(2) The term 'Hearing Center of Excellence' means the center of excellence for hearing loss and auditory system injury established pursuant to section 721 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417) [10 U.S.C. 1071 note]."

## PROCUREMENT OF DEPARTMENT OF DEFENSE BATTERIES

Pub. L. 118–159, div. A, title VIII, §883, Dec. 23, 2024, 138 Stat. 2018, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall—

"(1) coordinate a Department of Defense-wide approach to establishing a battery strategy to further leverage the advancements of domestic and allied commercial industry with respect to batteries; and

"(2) in coordination with the Secretaries of the military departments and the other relevant elements of the Department of Defense, identify mechanisms for measuring and addressing risks to the defense supply chain, diminishing manufacturing capability, and material shortages for legacy system batteries by transitioning the Department to safer batteries with higher energy capabilities with supply chain growth.

"(b) LEGACY BATTERY STRATEGY CONTENTS.—The strategy established pursuant to subsection (a)(1) strategy shall include the following:

"(1) The establishment of a Department of Defense-wide accounting of advanced batteries for current and future applications, including obsolete batteries in existing systems, and improved mechanisms for aligning the battery procurement requirements across the Department.

"(2) Requirements for the supply chain for batteries for the Department of Defense to enable to [sic] Department to leverage advancements by domestic industry and industry located in allies of the United States with respect to batteries.

"(3) The application of the requirements described in paragraph (2) to the near-term, mid-term, and long-term horizons of the Department.

"(4) Creating a Department of Defense-wide Science and Technology battery strategy, in coordination with the military services, to define an approach, technical targets, and link into procurement activities.

"(5) Consideration of the existing battery strategies completed by the services.

"(6) A determination of how the military services can standardize the battery systems across the existing and future programs of such Armed Service.

"(7) Identify obstacles with respect to the raw materials required to achieve the goals of the strategy established pursuant to subsection (a)(1) and determine ways to overcome such obstacles, including through the Industrial Base Analysis and Sustainment program of the Department of Defense and the use of authorities under the Defense Production Act [of 1950] (50 U.S.C. 4501 et seq.).

"(8) Processes and guidelines for rapid testing and certification to field batteries.

"(9) A discussion of the workforce challenges, if any, that may inhibit the Department of Defense from achieving the goals of the strategy established pursuant to subsection (a)(1).

"(c) BRIEFINGS AND FINAL REPORT.—

"(1) INITIAL BRIEFING.—Not later than 180 days after enactment [probably means the date of the enactment of this Act, Dec. 23, 2024], the Secretary of Defense, in consultation with the Secretaries of the military departments and the other relevant elements of the Department of Defense, shall brief the Committees on Armed Services of the Senate and [the] House of Representatives on the approach to establishing the strategy described in subsection (a)(1).

"(2) UPDATE BRIEFINGS.—Not later than 180 days after the date of the briefing under paragraph (1), and not less frequently than every 6 months thereafter until the strategy described in subsection (a)(1) is established, the Secretary of Defense, in consultation with the Secretaries of the military departments and the other relevant elements of the Department of Defense, shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the status of the establishment of such strategy.

"(3) FINAL REPORT.—Not later than September 30, 2026, the Secretary of Defense, in consultation with the Secretaries of the military departments and the other relevant elements of the Department of Defense, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a final report on the establishment of the strategy pursuant to subsection (a).

"(d) MILITARY DEPARTMENT DEFINED.—In this section, the term 'military department' has the meaning given such term in section 101(a) of title 10, United States Code."

## PROHIBITION ON SOLICITATION OF PROPRIETARY ARMOR FOR CERTAIN TACTICAL VEHICLES

Pub. L. 118–31, div. A, title I, §153, Dec. 22, 2023, 137 Stat. 180, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not include in a solicitation for a tactical tracked vehicle or tactical wheeled vehicle a requirement that such vehicle use proprietary armor.

"(b) APPLICABILITY.—Subsection (a) shall not apply to a contract for the procurement of a tactical tracked vehicle or tactical wheeled vehicle entered into before the date of the enactment of this Act [Dec. 22, 2023]."

## DEFENSE INDUSTRIAL BASE MUNITION SURGE CAPACITY CRITICAL RESERVE

Pub. L. 118–31, div. A, title II, §245, Dec. 22, 2023, 137 Stat. 210, provided that:

"(a) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the service acquisition executive of each military department, may establish a reserve of long-lead items and components to accelerate the delivery of munitions described in section 222c(c) of title 10, United States Code.

"(b) QUANTITY.—The quantity of long-lead items and components reserved pursuant to subsection (a) should be in amounts commensurate to fulfill the requirements identified as Out-Year Unconstrained Total Munitions Requirement and Out-Year inventory numbers under section 222c(a) of title 10, United States Code.

"(c) AUTHORITY FOR ADVANCE PROCUREMENT.—The Under Secretary of Defense for Acquisition and Sustainment may enter into one or more contracts, beginning in fiscal year 2024, for the advance procurement of long-lead items and components, or economic order quantities of such items and components when cost savings are achievable, associated with munitions identified in subsection (a). Advance procurement authority may include the cost of shipping, storage, tracking, maintenance, and obsolescence management of long-lead items and components while held in the reserve described in subsection (a).

"(d) LIMITATIONS.—No long-lead item or component may be procured under this section if the anticipated life cycle of such item or component requires disposal due to lack of military utility less than 8 years after such item or component is procured.

"(e) REPORT.—Not later than February 1, 2025, and annually thereafter until February 1, 2030, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the use of the authority under this section, including—

"(1) the type, number, and value of long-lead items and components procured under each contractual action; and

"(2) information about the location of storage of such items and components.

"(f) DEFINITIONS.—In this section:

"(1) The term 'long-lead item or component' means a material, component, or subsystem of a munition that must be procured well in advance of the need for such munition.

"(2) The terms 'service acquisition executive' and 'military department' have the meanings given, respectively, in section 101 of title 10, United States Code."

## RESTRICTION ON PROCUREMENT OR PURCHASING BY DEPARTMENT OF DEFENSE OF TURNOUT GEAR FOR FIREFIGHTERS CONTAINING PERFLUOROALKYL SUBSTANCES OR POLYFLUOROALKYL SUBSTANCES

Pub. L. 117–263, div. A, title III, §345, Dec. 23, 2022, 136 Stat. 2530, as amended by Pub. L. 119–60, div. A, title III, §316, Dec. 18, 2025, 139 Stat. 805, provided that:

"(a) PROHIBITION ON PROCUREMENT AND PURCHASING.—Subject to subsection (d), beginning on October 1, 2026, the Secretary of Defense may not enter into a contract to procure or purchase covered personal protective firefighting equipment for use by Federal or civilian firefighters unless such equipment meets the specifications set forth in the most recently published edition of the National Fire Protection Associate 1970 standard, including by not containing any substance on the restricted substances list in excess of the maximum acceptable levels of such substance.

"(b) IMPLEMENTATION.—

"(1) INCLUSION IN CONTRACTS.—The Secretary of Defense shall include the prohibition under subsection (a) in any contract entered into by the Department of Defense to procure covered personal protective firefighting equipment for use by Federal or civilian firefighters.

"(2) NO OBLIGATION TO TEST.—In carrying out the prohibition under subsection (a), the Secretary shall not have an obligation to test covered personal protective firefighting equipment to confirm the absence of perfluoroalkyl substances or polyfluoroalkyl substances.

"(c) EXISTING INVENTORY.—Nothing in this section shall impact existing inventories of covered personal protective firefighting equipment.

"(d) AVAILABILITY OF ALTERNATIVES.—

"(1) IN GENERAL.—The requirement under subsection (a) shall be subject to the availability of sufficiently protective covered personal protective firefighting equipment that meets the specifications set forth in the most recently published edition of the National Fire Protection Associate 1970 standard, including by not containing any substance on the restricted substances list in excess of the maximum acceptable levels of such substance.

"(2) EXTENSION OF EFFECTIVE DATE.—If the Secretary of Defense determines that no sufficiently protective covered personal protective firefighting equipment that meets the specifications set forth in the most recently published edition of the National Fire Protection Associate 1970 standard, including by not containing any substance on the restricted substances list in excess of the maximum acceptable levels of such substance, is available, the deadline under subsection (a) shall be extended until the Secretary determines that such covered personal protective firefighting equipment is available.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered personal protective firefighting equipment' means—

"(A) any product that provides protection to the upper and lower torso, arms, legs, head, hands, and feet; or

"(B) any other personal protective firefighting equipment, as determined by the Secretary of Defense.

"(2) The term 'perfluoroalkyl substance' means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

"(3) The term 'polyfluoroalkyl substance' means a man-made chemical containing at least one fully fluorinated carbon atom and at least one non-fully fluorinated carbon atom."

## MIDDLE TIER OF ACQUISITION FOR RAPID PROTOTYPING AND RAPID FIELDING

Pub. L. 116–92, div. A, title VIII, §837, Dec. 20, 2019, 133 Stat. 1497, provided that:

"(a) REPORT.—Not later than December 15, 2019, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes the guidance required under [former] section 804(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note [former 10 U.S.C. 3201 note prec., formerly set out below] [see 10 U.S.C. 3602(a)]). The Under Secretary of Defense for Acquisition and Sustainment shall ensure such guidance includes the business case elements required by an acquisition program established pursuant to such guidance and the metrics required to assess the performance of such a program.

"(b) LIMITATION.—

"(1) IN GENERAL.—Beginning on December 15, 2019, if the Under Secretary of Defense for

Acquisition and Sustainment has not submitted the report required under subsection (a), not more than 75 percent of the funds specified in paragraph (2) may be obligated or expended until the date on which the report required under subsection (a) has been submitted.

"(2) FUNDS SPECIFIED.—The funds specified in this paragraph are the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2020 for the Department of Defense that remain unobligated as of December 15, 2019, for the following:

"(A) The execution of any acquisition program established pursuant to the guidance required under such [former] section 804(a) [see 10 U.S.C. 3602(a)].

"(B) The operations of the Office of the Under Secretary of Defense for Research & Engineering.

"(C) The operations of the Office of the Under Secretary of Defense for Acquisition & Sustainment.

"(D) The operations of the Office of the Director of Cost Analysis and Program Evaluation.

"(E) The operations of the offices of the service acquisition executives of the military departments."

Pub. L. 114–92, div. A, title VIII, §804, Nov. 25, 2015, 129 Stat. 882, as amended by Pub. L. 114–328, div. A, title VIII, §§849(a), 864(b), 897, title X, §1081(c)(2), Dec. 23, 2016, 130 Stat. 2293, 2304, 2327, 2419; Pub. L. 115–91, div. A, title VIII, §866, Dec. 12, 2017, 131 Stat. 1495; Pub. L. 116–92, div. A, title IX, §902(33), Dec. 20, 2019, 133 Stat. 1546; Pub. L. 116–283, div. A, title VIII, §805, Jan. 1, 2021, 134 Stat. 3742, which authorized the Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Comptroller of the Department of Defense and the Vice Chairman of the Joint Chiefs of Staff, to establish guidance for a middle tier of acquisition programs covering rapid prototyping and rapid fielding pathways, was repealed by Pub. L. 118–159, div. A, title VIII, §804(b), Dec. 23, 2024, 138 Stat. 1968. See section 3602 of this title.

## USE OF ALTERNATIVE ACQUISITION PATHS TO ACQUIRE CRITICAL NATIONAL SECURITY CAPABILITIES

Pub. L. 114–92, div. A, title VIII, §805, Nov. 25, 2015, 129 Stat. 885, as amended by Pub. L. 114–328, div. A, title VIII, §849(b), Dec. 23, 2016, 130 Stat. 2293, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall establish procedures for alternative acquisition pathways to acquire capital assets and services that meet critical national security needs. The procedures shall—

"(1) be separate from existing acquisition procedures;

"(2) be supported by streamlined contracting, budgeting, life-cycle cost management, and requirements processes;

"(3) establish alternative acquisition paths based on the capabilities being bought and the time needed to deploy these capabilities; and

"(4) maximize the use of flexible authorities in existing law and regulation."

## REVIEW AND JUSTIFICATION OF PASS-THROUGH CONTRACTS

Pub. L. 112–239, div. A, title VIII, §802, Jan. 2, 2013, 126 Stat. 1824, provided that: "Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall issue such guidance and regulations as may be necessary to ensure that in any case in which an offeror for a contract or a task or delivery order informs the agency pursuant to section 52.215-22 of the Federal Acquisition Regulation that the offeror intends to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order, the contracting officer for the contract is required to—

"(1) consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work;

"(2) make a written determination that the contracting approach selected is in the best interest of the Government; and

"(3) document the basis for such determination."

## REVIEW OF ACQUISITION PROCESS FOR RAPID FIELDING OF CAPABILITIES IN RESPONSE TO URGENT OPERATIONAL NEEDS

Pub. L. 111–383, div. A, title VIII, §804, Jan. 7, 2011, 124 Stat. 4256, which required a review of, and subsequent report on, the process for the fielding of capabilities in response to urgent operational needs, was repealed by Pub. L. 117–263, div. A, title VIII, §804(c)(1), Dec. 23, 2022, 136 Stat. 2701.

## INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF

**DEFENSE**

Pub. L. 110–417, [div. A], title VIII, §804(a)–(c), Oct. 14, 2008, 122 Stat. 4519, which related to internal controls for procurements by the Departments of Commerce and Energy on behalf of the Department of Defense, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(14)(C), Dec. 18, 2025, 139 Stat. 949.

Pub. L. 110–181, div. A, title VIII, §801, Jan. 28, 2008, 122 Stat. 202, as amended by Pub. L. 110–417, [div. A], title VIII, §804(d), Oct. 14, 2008, 122 Stat. 4519; Pub. L. 111–84, div. A, title VIII, §806, Oct. 28, 2009, 123 Stat. 2404; Pub. L. 112–81, div. A, title VIII, §817, Dec. 31, 2011, 125 Stat. 1493; Pub. L. 112–239, div. A, title VIII, §§801, 805, Jan. 2, 2013, 126 Stat. 1824, 1826; Pub. L. 113–291, div. A, title X, §1071(d)(1)(B), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 116–92, div. A, title IX, §902(42), Dec. 20, 2019, 133 Stat. 1547; Pub. L. 116–283, div. A, title XVIII, §1806(e)(5), Jan. 1, 2021, 134 Stat. 4156, provided that:

"(a) INSPECTORS GENERAL REVIEWS AND DETERMINATIONS.—

"(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such covered non-defense agency may jointly—

"(A) review—

"(i) the procurement policies, procedures, and internal controls of such covered non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such covered non-defense agency; and

"(ii) the administration of such policies, procedures, and internal controls; and

"(B) determine in writing whether such covered non-defense agency is or is not compliant with applicable procurement requirements.

"(2) SEPARATE REVIEWS AND DETERMINATIONS.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by joint agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate government-wide acquisition contracts, of the covered non-defense agency. If such separate reviews are conducted, the Inspectors General shall make a separate determination under paragraph (1)(B) with respect to each such separate review.

"(3) MEMORANDA OF UNDERSTANDING FOR REVIEWS AND DETERMINATIONS.—Not later than one year before a review and determination is to be performed under this subsection with respect to a covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of the covered non-defense agency may enter into a memorandum of understanding with each other to carry out such review and determination.

"(4) TERMINATION OF NON-COMPLIANCE DETERMINATION.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency determine, pursuant to paragraph (1)(B), that a covered non-defense agency is not compliant with applicable procurement requirements, the Inspectors General may terminate such a determination effective on the date on which the Inspectors General jointly—

"(A) determine that the non-defense agency is compliant with applicable procurement requirements; and

"(B) notify the Secretary of Defense of that determination.

"(5) RESOLUTION OF DISAGREEMENTS.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency are unable to agree on a joint determination under this subsection, a determination by the Inspector General of the Department of Defense under this subsection shall be conclusive for the purposes of this section.

"(b) LIMITATION ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

"(1) Except as provided in paragraph (2), an acquisition official of the Department of Defense may place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold through a non-defense agency only if—

"(A) in the case of a procurement by any non-defense agency in any fiscal year, the head of the non-defense agency has certified that the non-defense agency will comply with applicable procurement requirements for the fiscal year;

"(B) in the case of—

"(i) a procurement by a covered non-defense agency in a fiscal year for which a memorandum of understanding is to be entered into under subsection (a)(3), the Inspector General of the Department of Defense and the Inspector General of the covered non-defense agency have entered into such a memorandum of understanding; or

"(ii) a procurement by a covered non-defense agency in a fiscal year following the Inspectors General review and determination provided for under subsection (a), the Inspectors General have determined that a covered non-defense agency is compliant with applicable procurement requirements

or have terminated a prior determination of non-compliance in accordance with subsection (a)(4); and

"(C) the procurement is not otherwise prohibited by section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) or section 811 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) [see notes below].

"(2) EXCEPTION FOR PROCUREMENTS OF NECESSARY PROPERTY AND SERVICES.—

"(A) IN GENERAL.—The limitation in paragraph (1) shall not apply to the procurement of property and services on behalf of the Department of Defense by a non-defense agency during any fiscal year for which there is in effect a written determination of the Under Secretary of Defense for Acquisition and Sustainment that it is necessary in the interest of the Department of Defense to procure property and services through the non-defense agency during such fiscal year.

"(B) SCOPE OF PARTICULAR EXCEPTION.—A written determination with respect to a non-defense agency under subparagraph (A) shall apply to any category of procurements through the non-defense agency that is specified in the determination.

"(3) TREATMENT OF PROCUREMENTS UNDER JOINT PROGRAMS WITH INTELLIGENCE COMMUNITY.—For purposes of this subsection, a contract entered into by a non-defense agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) for the performance of a joint program conducted to meet the needs of the Department of Defense and the non-defense agency shall not be considered a procurement of property or services for the Department of Defense through a non-defense agency.

"(c) GUIDANCE ON INTERAGENCY CONTRACTING.—

"(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall issue guidance on the use of interagency contracting by the Department of Defense.

"(2) MATTERS COVERED.—The guidance required by paragraph (1) shall address the circumstances in which it is appropriate for Department of Defense acquisition officials to procure goods or services through a contract entered into by an agency outside the Department of Defense. At a minimum, the guidance shall address—

"(A) the circumstances in which it is appropriate for such acquisition officials to use direct acquisitions;

"(B) the circumstances in which it is appropriate for such acquisition officials to use assisted acquisitions;

"(C) the circumstances in which it is appropriate for such acquisition officials to use interagency contracting to acquire items unique to the Department of Defense and the procedures for approving such interagency contracting;

"(D) the circumstances in which it is appropriate for such acquisition officials to use interagency contracting to acquire items that are already being provided under a contract awarded by the Department of Defense;

"(E) tools that should be used by such acquisition officials to determine whether items are already being provided under a contract awarded by the Department of Defense; and

"(F) procedures for ensuring that applicable procurement requirements are identified and communicated to outside agencies involved in interagency contracting.

"(d) COMPLIANCE WITH APPLICABLE PROCUREMENT REQUIREMENTS.—

"(1) Except as provided in paragraph (2), for the purposes of this section, a non-defense agency is compliant with applicable procurement requirements if the procurement policies, procedures, and internal controls of the non-defense agency applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure the compliance of the non-defense agency with the following:

"(A) The Federal Acquisition Regulation and other laws and regulations that apply to procurements of property and services by Federal agencies.

"(B) Laws and regulations (including applicable Department of Defense financial management regulations) that apply to procurements of property and services made by the Department of Defense through other Federal agencies.

"(2) In the case of the procurement of property or services on behalf of the Department of Defense through the Work for Others program of the Department of Energy, the laws and regulations applicable under paragraph (1)(B) are the Department of Energy Acquisition Regulations, pertinent interagency agreements, and Department of Defense and Department of Energy policies related to the Work for Others program.

"(e) TREATMENT OF PROCUREMENTS FOR FISCAL YEAR PURPOSES.—For the purposes of this

section, a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for the procurement in that fiscal year.

"(f) DEFINITIONS.—In this section:

"(1) NON-DEFENSE AGENCY.—The term 'non-defense agency' means any department or agency of the Federal Government other than the Department of Defense. Such term includes a covered non-defense agency.

"(2) COVERED NON-DEFENSE AGENCY.—The term 'covered non-defense agency' means each of the following:

"(A) The General Services Administration.

"(B) The Department of the Interior.

"(C) The Department of Veterans Affairs.

"(D) The National Institutes of Health.

"(E) The Department of Commerce.

"(F) The Department of Energy.

"(3) GOVERNMENT-WIDE ACQUISITION CONTRACT.—The term 'government-wide acquisition contract' means a task or delivery order contract that—

"(A) is entered into by a non-defense agency; and

"(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

"(4) SIMPLIFIED ACQUISITION THRESHOLD.—The term 'simplified acquisition threshold' has the meaning provided by section 3015(a) of title 10, United States Code.

"(5) INTERAGENCY CONTRACTING.—The term 'interagency contracting' means the exercise of the authority under section 1535 of title 31, United States Code, or other statutory authority, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

"(6) ACQUISITION OFFICIAL.—The term 'acquisition official', with respect to the Department of Defense, means—

"(A) a contracting officer of the Department of Defense; or

"(B) any other Department of Defense official authorized to approve a direct acquisition or an assisted acquisition on behalf of the Department of Defense.

"(7) DIRECT ACQUISITION.—The term 'direct acquisition', with respect to the Department of Defense, means the type of interagency contracting through which the Department of Defense orders an item or service from a government-wide acquisition contract maintained by a non-defense agency.

"(8) ASSISTED ACQUISITION.—The term 'assisted acquisition', with respect to the Department of Defense, means the type of interagency contracting through which acquisition officials of a non-defense agency award a contract or task or delivery order for the procurement of goods or services on behalf of the Department of Defense."

Pub. L. 109–364, div. A, title VIII, §817, Oct. 17, 2006, 120 Stat. 2326, as amended by Pub. L. 116–92, div. A, title IX, §902(43), Dec. 20, 2019, 133 Stat. 1547, provided that:

"(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

"(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2007, jointly—

"(A) review—

"(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

"(ii) the administration of those policies, procedures, and internal controls; and

"(B) determine in writing whether—

"(i) such non-defense agency is compliant with defense procurement requirements;

"(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements;

"(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency; or

"(iv) such non-defense agency is not compliant with defense procurement requirements to such an extent that the interests of the Department of Defense are at risk in procurements conducted by such non-defense agency.

"(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General

determine under paragraph (1) that a conclusion stated in clause (ii), (iii), or (iv) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2008, jointly—

"(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2007; and

"(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

"(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a covered non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

"(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Oct. 17, 2006], the Inspector General of the Department of Defense and the Inspector General of each covered non-defense agency shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

"(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by mutual agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraph (1) or (2) of subsection (a), as applicable, with respect to each such separate review.

"(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

"(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2007, and before June 16, 2008, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency for which a determination described in clause (iii) or (iv) of paragraph (1)(B) of subsection (a) has been made under subsection (a).

"(2) LIMITATION AFTER REVIEW PERIOD.—After June 15, 2008, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

"(3) LIMITATION FOLLOWING FAILURE TO REACH MOU.—Commencing on the date that is 60 days after the date of the enactment of this Act [Oct. 17, 2006], if a memorandum of understanding between the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency cannot be attained causing the review required by this section to not be performed, no official of the Department of Defense, except as provided in subsection (e) or (f), may order, purchase or otherwise procure property or services in an amount in excess of $100,000 through such non-defense agency.

"(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

"(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a covered non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition and Sustainment, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

"(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a covered non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

"(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a covered non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of such non-defense agency jointly—

"(1) determine that such non-defense agency is compliant with defense procurement requirements; and

"(2) notify the Secretary of Defense of that determination.

"(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR .—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

"(h) RESOLUTION OF DISAGREEMENTS.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency are unable to agree on a joint determination under subsection (a) or (f), a determination by the Inspector General of the Department of Defense under such subsection shall be conclusive for the purposes of this section.

"(i) DEFINITIONS.—In this section:

"(1) The term 'covered non-defense agency' means each of the following:

"(A) The Department of Veterans Affairs.

"(B) The National Institutes of Health.

"(2) The term 'governmentwide acquisition contract', with respect to a covered non-defense agency, means a task or delivery order contract that—

"(A) is entered into by the non-defense agency; and

"(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government."

Pub. L. 109–163, div. A, title VIII, §811, Jan. 6, 2006, 119 Stat. 3374, as amended by Pub. L. 116–92, div. A, title IX, §902(44), Dec. 20, 2019, 133 Stat. 1547, provided that:

"(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

"(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

"(A) review—

"(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

"(ii) the administration of those policies, procedures, and internal controls; and

"(B) determine in writing whether—

"(i) such non-defense agency is compliant with defense procurement requirements;

"(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements; or

"(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

"(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2007, jointly—

"(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

"(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

"(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a covered non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

"(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Jan. 6, 2006], the Inspector General of the Department of Defense and the Inspector General of each covered non-defense agency shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

"(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by mutual agreement conduct separate reviews of

the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraph (1) or (2) of subsection (a), as applicable, with respect to each such separate review.

"(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

"(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2006, and before June 16, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

"(2) LIMITATION AFTER REVIEW PERIOD.—After June 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

"(3) LIMITATION FOLLOWING FAILURE TO REACH MOU.—Commencing on the date that is 60 days after the date of the enactment of this Act [Jan. 6, 2006], if a memorandum of understanding between the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency cannot be attained causing the review required by this section to not be performed, no official of the Department of Defense, except as provided in subsection (e) or (f), may order, purchase or otherwise procure property or services in an amount in excess of $100,000 through such non-defense agency.

"(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

"(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a covered non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition and Sustainment, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

"(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a covered non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

"(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a covered non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of such non-defense agency jointly—

"(1) determine that such non-defense agency is compliant with defense procurement requirements; and

"(2) notify the Secretary of Defense of that determination.

"(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR .—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

"(h) DEFINITIONS.—In this section:

"(1) The term 'covered non-defense agency' means each of the following:

"(A) The Department of the Treasury.

"(B) The Department of the Interior.

"(C) The National Aeronautics and Space Administration.

"(2) The term 'governmentwide acquisition contract', with respect to a covered non-defense agency, means a task or delivery order contract that—

"(A) is entered into by the non-defense agency; and

"(B) may be used as the contract under which property or services are procured for 1 or more other departments or agencies of the Federal Government."

## EMPLOYMENT OF STATE RESIDENTS IN STATES HAVING UNEMPLOYMENT RATE IN EXCESS OF NATIONAL AVERAGE

Pub. L. 109–289, div. A, title VIII, §8048, Sept. 29, 2006, 120 Stat. 1284, provided that: "Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year and hereafter for construction or service performed in whole or in part in a State (as defined in section 381(d)

[now 281(d)] of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security."

## RAPID ACQUISITION AND DEPLOYMENT PROCEDURES

Pub. L. 107–314, div. A, title VIII, §806, Dec. 2, 2002, 116 Stat. 2607, as amended by Pub. L. 108–136, div. A, title VIII, §845, Nov. 24, 2003, 117 Stat. 1553; Pub. L. 108–375, div. A, title VIII, §811, Oct. 28, 2004, 118 Stat. 2012; Pub. L. 109–364, div. A, title X, §1071(h), Oct. 17, 2006, 120 Stat. 2403; Pub. L. 111–383, div. A, title VIII, §803, Jan. 7, 2011, 124 Stat. 4255; Pub. L. 112–81, div. A, title VIII, §845(a), (b), Dec. 31, 2011, 125 Stat. 1515; Pub. L. 114–92, div. A, title VIII, §803, Nov. 25, 2015, 129 Stat. 880; Pub. L. 114–328, div. A, title VIII, §801, Dec. 23, 2016, 130 Stat. 2247, which required prescription of procedures for the rapid acquisition and deployment of certain supplies and associated support services, was repealed by Pub. L. 117–263, div. A, title VIII, §804(c)(2), Dec. 23, 2022, 136 Stat. 2701. See section 3601 of this title.

## REQUIREMENTS RELATING TO MICRO-PURCHASES

Pub. L. 105–85, div. A, title VIII, §848, Nov. 18, 1997, 111 Stat. 1846, as amended by Pub. L. 113–291, div. A, title X, §1071(b)(10), Dec. 19, 2014, 128 Stat. 3507, provided that:

"(a) REQUIREMENT.—(1) Not later than October 1, 1998, at least 60 percent of all eligible purchases made by the Department of Defense for an amount less than the micro-purchase threshold shall be made through streamlined micro-purchase procedures.

"(2) Not later than October 1, 2000, at least 90 percent of all eligible purchases made by the Department of Defense for an amount less than the micro-purchase threshold shall be made through streamlined micro-purchase procedures.

"(b) ELIGIBLE PURCHASES.—The Secretary of Defense shall establish which purchases are eligible for purposes of subsection (a). In establishing which purchases are eligible, the Secretary may exclude those categories of purchases determined not to be appropriate or practicable for streamlined micro-purchase procedures.

"(c) PLAN.—Not later than March 1, 1998, the Secretary of Defense shall provide to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan to implement this section.

"(d) REPORT.—Not later than March 1 in each of the years 1999, 2000, and 2001, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on the implementation of this section. Each report shall include—

"(A) the total dollar amount of all Department of Defense purchases for an amount less than the micro-purchase threshold in the fiscal year preceding the year in which the report is submitted;

"(B) the total dollar amount of such purchases that were considered to be eligible purchases;

"(C) the total amount of such eligible purchases that were made through a streamlined micro-purchase method; and

"(D) a description of the categories of purchases excluded from the definition of eligible purchases established under subsection (b).

"(e) DEFINITIONS.—In this section:

"(1) The term 'micro-purchase threshold' has the meaning provided in section 1902 of title 41, United States Code.

"(2) The term 'streamlined micro-purchase procedures' means procedures providing for the use of the Government-wide commercial purchase card or any other method for carrying out micro-purchases that the Secretary of Defense prescribes in the regulations implementing this subsection."

## DEFENSE FACILITY-WIDE PILOT PROGRAM

Pub. L. 104–106, div. A, title VIII, §822, Feb. 10, 1996, 110 Stat. 396, as amended by Pub. L. 106–65, div. A, title X, §1067(6), Oct. 5, 1999, 113 Stat. 774, which authorized the Secretary of Defense to conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in facilities by using commercial practices on a facility-wide basis, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(21), Dec. 18, 2025, 139 Stat. 950.

## ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENT CONTRACTS

Pub. L. 102–484, div. A, title III, §326, Oct. 23, 1992, 106 Stat. 2368, as amended by Pub. L. 104–106, div. A, title XV, §§1502(c)(2)(A), 1504(c)(1), Feb. 10, 1996, 110 Stat. 506, 514; Pub. L. 106–65, div. A, title X, §1067(8), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–291, div. A, title X, §1071(b)(14), Dec. 19, 2014, 128 Stat. 3508, provided that:

"(a) ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES.—(1) No Department of Defense contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available.

"(2)(A)(i) Not later than 60 days after the completion of the first modification, amendment, or extension after June 1, 1993, of a contract referred to in clause (ii), the senior acquisition official (or the designee of that official) shall carry out an evaluation of the contract in order to determine—

"(I) whether the contract includes a specification or standard that requires the use of a class I ozone-depleting substance or can be met only through the use of such a substance; and

"(II) in the event of a determination that the contract includes such a specification or standard, whether the contract can be carried out through the use of an economically feasible substitute for the ozone-depleting substance or through the use of an economically feasible alternative technology for a technology involving the use of the ozone-depleting substance.

"(ii) A contract referred to in clause (i) is any contract in an amount in excess of $10,000,000 that—

"(I) was awarded before June 1, 1993; and

"(II) as a result of the modification, amendment, or extension described in clause (i), will expire more than 1 year after the effective date of the modification, amendment, or extension.

"(iii) A contract under evaluation under clause (i) may not be further modified, amended, or extended until the evaluation described in that clause is complete.

"(B) If the acquisition official (or designee) determines that an economically feasible substitute substance or alternative technology is available for use in a contract under evaluation, the appropriate contracting officer shall enter into negotiations to modify the contract to require the use of the substitute substance or alternative technology.

"(C) A determination that a substitute substance or technology is not available for use in a contract under evaluation shall be made in writing by the senior acquisition official (or designee).

"(D) The Secretary of Defense may, consistent with the Federal Acquisition Regulation, adjust the price of a contract modified under subparagraph (B) to take into account the use by the contractor of a substitute substance or alternative technology in the modified contract.

"(3) The senior acquisition official authorized to grant an approval under paragraph (1) and the senior acquisition official and designees authorized to carry out an evaluation and make a determination under paragraph (2) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in paragraph (1).

"(4) Each official who grants an approval authorized under paragraph (1) or makes a determination under paragraph (2)(B) shall submit to the Secretary of Defense a report on that approval or determination, as the case may be, as follows:

"(A) Beginning on October 1, 1993, and continuing for 8 calendar quarters thereafter, by submitting a report on the approvals granted or determinations made under such authority during the preceding quarter not later than 30 days after the end of such quarter.

"(B) Beginning on January 1, 1997, and continuing for 4 years thereafter, by submitting a report on the approvals granted or determinations made under such authority during the preceding year not later than 30 days after the end of such year.

"(5) The Secretary shall promptly transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives each report submitted to the Secretary under paragraph (4). The Secretary shall transmit the report in classified and unclassified forms.

"(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an

alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may adjust the price of the contract in a manner consistent with the Federal Acquisition Regulation.

"(c) DEFINITIONS.—In this section:

"(1) The term 'class I ozone-depleting substance' means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

"(2) The term 'Federal Acquisition Regulation' means the single Government-wide procurement regulation issued under section 1303(a) of title 41, United States Code."

**MINIMUM PERCENTAGE OF COMPETITIVE PROCUREMENTS**

Pub. L. 99–145, title IX, §913, Nov. 8, 1985, 99 Stat. 687, as amended by Pub. L. 101–510, div. A, title XIII, §1322(d)(1), Nov. 5, 1990, 104 Stat. 1672, which required the Secretary of Defense to establish for each fiscal year a goal for the percentage of defense procurements to be made during that year that were to be competitive procurements, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(23), Dec. 18, 2025, 139 Stat. 950.

## §3201. Full and open competition

(a) IN GENERAL.—Except as provided in sections 3203, 3204(a), and 3205 of this title and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

(1) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this section and sections 3069, 3203, 3204, 3205, 3403, 3405, 3406, 3901, 4501, and 4502 of this title and the Federal Acquisition Regulation; and

(2) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

(b) DETERMINATION OF APPROPRIATE COMPETITIVE PROCEDURES.—In determining the competitive procedure appropriate under the circumstances, the head of an agency—

(1) shall solicit sealed bids if—

(A) time permits the solicitation, submission, and evaluation of sealed bids;

(B) the award will be made on the basis of price and other price-related factors;

(C) it is not necessary to conduct discussions with the responding sources about their bids; and

(D) there is a reasonable expectation of receiving more than one sealed bid; and

(2) shall request competitive proposals if sealed bids are not appropriate under paragraph (1).

(c) EFFICIENT FULFILLMENT OF GOVERNMENT REQUIREMENTS.—The Federal Acquisition Regulation shall ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements.

(d) CERTAIN PURCHASES OR CONTRACTS TO BE TREATED AS IF MADE WITH SEALED-BID PROCEDURES.—For the purposes of the following, purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures:

(1) Chapter 65 of title 41.

(2) Sections 3141–3144, 3146, and 3147 of title 40.

(e) NEW CONTRACTS AND MERIT-BASED SELECTION PROCEDURES.—

(1) CONGRESSIONAL POLICY.—It is the policy of Congress that an agency named in section 3063 of this title should not be required by legislation to award a new contract to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

(2) NEW CONTRACT DESCRIBED.—For purposes of this subsection, a contract is a new contract unless the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract.

(3) PROVISION OF LAW DESCRIBED.—A provision of law may not be construed as requiring a new contract to be awarded to a specified non-Federal Government entity unless that provision of law—

(A) specifically refers to this subsection;

(B) specifically identifies the particular non-Federal Government entity involved; and

(C) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in paragraph (1).

(4) EXCEPTION.—This subsection shall not apply with respect to any contract that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 3063 of this title and to report on such matters to the Congress or any agency of the Federal Government.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(c), Jan. 1, 2021, 134 Stat. 4165; Pub. L. 117–81, div. A, title XVII, §1701(b)(4)(A), Dec. 27, 2021, 135 Stat. 2132.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2304 of this title, which was transferred to this section, redesignated as subsecs. (a) and (b), and amended by Pub. L. 116–283, §1811(c)(2), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 99–145, title XIII, §1303(a)(13), Nov. 8, 1985, 99 Stat. 739; Pub. L. 100–26, §7(d)(3)(A), Apr. 21, 1987, 101 Stat. 281; Pub. L. 103–355, title I, §1001(1), Oct. 13, 1994, 108 Stat. 3249.

The text of subsec. (j) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1811(c)(3), was based on Pub. L. 104–106, div. D, title XLI, §4101(a)(2), Feb. 10, 1996, 110 Stat. 642.

The text of subsec. (h) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (d), and amended by Pub. L. 116–283, §1811(c)(4), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 96–513, title V, §511(76), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 97–295, §1(24)(B), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 98–369, div. B, title VII, §§2723(a)(1)(B), 2727(b), July 18, 1984, 98 Stat. 1187, 1194; Pub. L. 98–577, title V, §504(b)(2), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 104–106, div. D, title XLIII, §4321(b)(5), Feb. 10, 1996, 110 Stat. 672; Pub. L. 107–217, §3(b)(3), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 111–350, §5(b)(12)(E), Jan. 4, 2011, 124 Stat. 3843.

The text of subsec. (k) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (e), and amended by Pub. L. 116–283, §1811(c)(5), was based on Pub. L. 103–355, title VII, §7203(a)(1)(B), Oct. 13, 1994, 108 Stat. 3379; Pub. L. 104–106, div. D, title XLI, §4101(a)(1), Feb. 10, 1996, 110 Stat. 642.

### PRIOR PROVISIONS

A prior section 3201 was renumbered section 7101 of this title.

Another prior section 3201, act Aug. 10, 1956, ch. 1041, 70A Stat. 172; Pub. L. 85–861, §1(62), Sept. 2, 1958, 72 Stat. 1462; Pub. L. 88–647, title III, §301(4), Oct. 13, 1964, 78 Stat. 1071, prescribed the authorized strength of the Army in members on active duty, exclusive of certain categories, and the authorized daily average strength of the Army in members on active duty during the fiscal year, exclusive of certain categories, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

A prior section 3202, act Aug. 10, 1956, ch. 1041, 70A Stat. 172; Pub. L. 85–861, §1(63), Sept. 2, 1958, 72 Stat. 1463; Pub. L. 90–228, §1(1), (2), Dec. 28, 1967, 81 Stat. 745; Pub. L. 96–513, title II, §203(a), Dec. 12, 1980, 94 Stat. 2878, related to authorized strength of Army in general officers on active duty, prior to repeal by Pub. L. 101–510, div. A, title IV, §403(b)(1)(A), Nov. 5, 1990, 104 Stat. 1545.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1811(c)(2)(B), (C), as amended by Pub. L. 117–81,

§1701(b)(4)(A)(i), inserted heading, struck out par. (1) designation at beginning and substituted "Except as provided in sections 3203, 3204(a), and 3205 of this title" for "Except as provided in subsections (b), (c), and (g)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Par. (2) subsequently redesignated subsec. (b).

Pub. L. 116–283, §1811(c)(2), transferred subsec. (a) of section 2304 of this title to this section.

Subsec. (a)(1). Pub. L. 116–283, §1811(c)(2)(D), as amended by Pub. L. 117–81, §1701(b)(4)(A)(ii), substituted "this section and sections 3069, 3203, 3204, 3205, 3403, 3405, 3406, 3901, 4501, and 4502 of this title" for "this chapter".

Subsec. (b). Pub. L. 116–283, §1811(c)(2)(A), (E), redesignated subsec. (a)(2) as (b) and inserted heading, redesignated subpar. (A) and cls. (i) to (iv) as par. (1) and subpars. (A) to (D), respectively, and redesignated subpar. (B) as par. (2) and substituted "paragraph (1)" for "clause (A)".

Subsec. (c). Pub. L. 116–283, §1811(c)(3), redesignated subsec. (j) of section 2304 of this title as subsec. (c) of this section and inserted heading.

Subsec. (d). Pub. L. 116–283, §1811(c)(4), redesignated subsec. (h) of section 2304 of this title as subsec. (d) of this section and inserted heading.

Subsec. (e). Pub. L. 116–283, §1811(c)(5), redesignated subsec. (k) of section 2304 of this title as subsec. (e) of this section, inserted subsec. and par. headings, switched order and designations of pars. (2) and (3), realigned margins of pars. (2) to (4), and substituted "section 3063" for "section 2303(a)" in pars. (1) and (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

#### COMPETITION FOR PROCUREMENT OF SMALL ARMS SUPPLIED TO IRAQ AND AFGHANISTAN

Pub. L. 110–181, div. A, title VIII, §892, Jan. 28, 2008, 122 Stat. 270, which required the Secretary of Defense to ensure, consistent with the provisions of former section 2304 of this title, full and open competition for procurement of small arms supplied to Iraq and Afghanistan, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(B), Dec. 23, 2024, 138 Stat. 1979.

#### COMPETITIVE AWARD OF CONTRACTS FOR RECONSTRUCTION ACTIVITIES IN IRAQ

Pub. L. 108–136, div. A, title VIII, §805(a), Nov. 24, 2003, 117 Stat. 1542, which required the Department of Defense to fully comply with former chapter 137 of this title for contracts awarded competitively for reconstruction activities of the Iraqi oil industry, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(A), Dec. 23, 2024, 138 Stat. 1979.

## §3203. Exclusion of particular source or restriction of solicitation to small business concerns

(a) EXCLUSION OF PARTICULAR SOURCE.—

(1) CRITERIA FOR EXCLUSION.—The head of an agency may provide for the procurement of property or services covered by chapter 137 legacy provisions using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service if the head of the agency determines that to do so—

(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services;

(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a

national emergency or industrial mobilization;

(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.

(2) DETERMINATION FOR CLASS DISALLOWED.—A determination under paragraph (1) may not be made for a class of purchases or contracts.

(b) EXCLUSION OF OTHER THAN SMALL BUSINESS CONCERNS.—The head of an agency may provide for the procurement of property or services covered by chapter 137 legacy provisions using competitive procedures, but excluding concerns other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 638, 644).

(c) INAPPLICABILITY OF JUSTIFICATION AND APPROVAL REQUIREMENTS.—A contract awarded pursuant to the competitive procedures referred to in subsections (a)(1) and (b) shall not be subject to the justification and approval required by section 3204(e)(1) of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(d)(1), (2), Jan. 1, 2021, 134 Stat. 4166; Pub. L. 117–81, div. A, title XVII, §1701(d)(3), Dec. 27, 2021, 135 Stat. 2136.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2304 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(d)(2), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 98–577, title V, §504(b)(1), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 99–661, div. A, title XIII, §1343(a)(14), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 101–189, div. A, title VIII, 853(d), Nov. 29, 1989, 103 Stat. 1519; Pub. L. 102–484, div. A, title VIII, §801(h)(2), Oct. 23, 1992, 106 Stat. 2445; Pub. L. 103–355, title I, §1002, Oct. 13, 1994, 108 Stat. 3249; Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(v), Aug. 13, 2018, 132 Stat. 1847.

### PRIOR PROVISIONS

A prior section 3203, act Aug. 10, 1956, ch. 1041, 70A Stat. 173; Pub. L. 85–861, §1(64), Sept. 2, 1958, 72 Stat. 1463, prescribed authorized strength of Regular Army in members on active duty, exclusive of officers candidates, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1811(d)(2)(A), redesignated subsec. (b) of section 2304 of this title as subsec. (a) of this section and inserted heading.

Subsec. (a)(1). Pub. L. 116–283, §1811(d)(2)(A)–(C), inserted heading, substituted "covered by chapter 137 legacy provisions" for "covered by this chapter" in introductory provisions, and realigned margins of subpars. (A) to (F).

Subsec. (a)(2). Pub. L. 116–283, §1811(d)(2)(F), redesignated par. (4) as (2), inserted heading, and realigned margin. Former pars. (2) and (3) redesignated subsecs. (b) and (c), respectively.

Subsec. (b). Pub. L. 116–283, §1811(d)(2)(D), redesignated subsec. (a)(2) as (b), inserted heading, and substituted "chapter 137 legacy provisions" for "this section".

Subsec. (c). Pub. L. 117–81 substituted "subsections (a)(1) and (b)" for "paragraphs (1) and (2)".

Pub. L. 116–283, §1811(d)(2)(E), redesignated subsec. (a)(3) as (c), inserted heading, and substituted "section 3204(e)(1) of this title" for "subsection (f)(1)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3204. Use of procedures other than competitive procedures

(a) WHEN PROCEDURES OTHER THAN COMPETITIVE PROCEDURES MAY BE USED .—The head of an agency may use procedures other than competitive procedures only when—

(1) the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency;

(2) the agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals;

(3) it is necessary to award the contract to a particular source or sources in order—

(A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization;

(B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center; or

(C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or to procure the services of an expert or neutral for use in any part of an alternative dispute resolution or negotiated rulemaking process, whether or not the expert is expected to testify;

(4) the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

(5) subject to section 3201(e) of this title, a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source, or the agency's need is for a brand-name commercial product for authorized resale;

(6) the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

(7) the head of the agency (who may not delegate the authority under this paragraph)—

(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

(b) PROPERTY OR SERVICES CONSIDERED TO BE AVAILABLE FROM ONLY ONE SOURCE.—For the purposes of applying subsection (a)(1)—

(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a

concept—

(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and

(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment, or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures when it is likely that award to a source other than the original source would result in—

(i) substantial duplication of cost to the United States which is not expected to be recovered through competition; or

(ii) unacceptable delays in fulfilling the agency's needs.

(c) PROPERTY OR SERVICES NEEDED WITH UNUSUAL AND COMPELLING URGENCY.—

(1) ALLOWABLE CONTRACT PERIOD.—The contract period of a contract described in paragraph (2) that is entered into by an agency pursuant to the authority provided under subsection (a)(2)—

(A) may not exceed the time necessary—

(i) to meet the unusual and compelling requirements of the work to be performed under the contract; and

(ii) for the agency to enter into another contract for the required goods or services through the use of competitive procedures; and

(B) may not exceed one year unless the head of the agency entering into such contract determines that exceptional circumstances apply.

(2) APPLICABILITY OF ALLOWABLE CONTRACT PERIOD.—This subsection applies to any contract in an amount greater than the simplified acquisition threshold.

(d) OFFER REQUESTS TO POTENTIAL SOURCES.—The head of an agency using procedures other than competitive procedures to procure property or services by reason of the application of paragraph (2) or (6) of subsection (a) shall request offers from as many potential sources as is practicable under the circumstances.

(e) JUSTIFICATION FOR USE OF PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—

(1) PREREQUISITES FOR AWARDING CONTRACT.—Except as provided in paragraphs (3), (4), and (7), the head of an agency may not award a contract using procedures other than competitive procedures unless—

(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

(B) the justification is approved—

(i) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $100,000,000), by the competition advocate for the procuring activity (without further delegation) or by an official referred to in clause (ii) or (iii);

(ii) in the case of a contract for an amount exceeding $100,000,000 (but equal to or less than $500,000,000), by the head of the procuring activity (or the head of the procuring activity's delegate designated pursuant to paragraph (5)(A)); or

(iii) in the case of a contract for an amount exceeding $500,000,000, by the senior procurement executive of the agency designated pursuant to section 1702(c) of title 41 (without further delegation) or in the case of the Under Secretary of Defense for Acquisition

and Sustainment, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (5)(B); and

(C) any required notice has been published with respect to such contract pursuant to section 1708 of title 41 and all bids or proposals received in response to that notice have been considered by the head of the agency.

(2) ELEMENTS OF JUSTIFICATION.—The justification required by paragraph (1)(A) shall include—

(A) a description of the agency's needs;

(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor's qualifications or the nature of the procurement, of the reasons for using that exception;

(C) a determination that the anticipated cost will be fair and reasonable;

(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

(F) a statement of the actions, if any, the agency may take to remove or overcome any barrier to competition before a subsequent procurement for such needs.

(3) JUSTIFICATION AND APPROVAL ALLOWED AFTER CONTRACT AWARDED.—In the case of a procurement permitted by subsection (a)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded.

(4) JUSTIFICATION AND APPROVAL NOT REQUIRED.—The justification and approval required by paragraph (1) is not required—

(A) when a statute expressly requires that the procurement be made from a specified source;

(B) when the agency's need is for a brand-name commercial product for authorized resale;

(C) in the case of a procurement permitted by subsection (a)(7);

(D) in the case of a procurement conducted under (i) chapter 85 of title 41, or (ii) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

(E) in the case of a procurement permitted by subsection (a)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures.

(5) RESTRICTIONS ON AGENCIES.—

(A) In no case may the head of an agency—

(i) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

(ii) procure property or services from another agency unless such other agency complies fully with the requirements of chapter 137 legacy provisions in its procurement of such property or services.

(B) The restriction contained in subparagraph (A)(ii) is in addition to, and not in lieu of, any other restriction provided by law.

(6) LIMITATION ON DELEGATIONS OF AUTHORITY UNDER PARAGRAPH (1)(B).—(A) The authority of the head of a procuring activity under paragraph (1)(B)(ii) may be delegated only to an officer or employee who—

(i) if a member of the armed forces, is a general or flag officer; or

(ii) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of brigadier general or rear admiral (lower half).

(B) The authority of the Under Secretary of Defense for Acquisition and Sustainment under paragraph (1)(B)(iii) may be delegated only to—

(i) an Assistant Secretary of Defense; or

(ii) with respect to the element of the Department of Defense (as specified in section 111(b) of this title), other than a military department, carrying out the procurement action concerned, an officer or employee serving in or assigned or detailed to that element who—

(I) if a member of the armed forces, is serving in a grade above brigadier general or rear admiral (lower half); or

(II) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of major general or rear admiral.

(7) JUSTIFICATION AND APPROVAL NOT REQUIRED FOR PHASE III SBIR AWARD .—The justification and approval required by paragraph (1) is not required in the case of a Phase III award made pursuant to section 9(r)(4) of the Small Business Act (15 U.S.C. 638(r)(4)).

(f) PUBLIC AVAILABILITY OF JUSTIFICATION AND APPROVAL REQUIRED FOR USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—

(1) TIME REQUIREMENT.—

(A) WITHIN 14 DAYS AFTER CONTRACT AWARD.—Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (a), the head of an agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (e)(1) with respect to the procurement.

(B) WITHIN 30 DAYS AFTER CONTRACT AWARD.—In the case of a procurement permitted by subsection (a)(2), subparagraph (A) shall be applied by substituting "30 days" for "14 days".

(2) AVAILABILITY ON WEBSITES.—The documents shall be made available on the website of the agency and through a government-wide website selected by the Administrator for Federal Procurement Policy.

(3) EXCEPTION.—This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5.

(g) REGULATIONS WITH RESPECT TO NEGOTIATION OF PRICES.—

(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures.

(2) The regulations required by paragraph (1) shall—

(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial products sold in substantial quantities to the general public.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(d)(1), (3)–(8), Jan. 1, 2021, 134 Stat. 4166–4169; Pub. L. 117–81, div. A, title XVII, §1701(b)(4)(B)–(E), Dec. 27, 2021, 135 Stat.

2132; Pub. L. 119–60, div. A, title XVIII, §1804(b), Dec. 18, 2025, 139 Stat. 1234.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1811(d)(3), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 99–500, §101(c) [title X, §923(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–152, and Pub. L. 99–591, §101(c) [title X, §923(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–152; Pub. L. 99–661, div. A, title IX, formerly title IV, §923(a), Nov. 14, 1986, 100 Stat. 3932, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title I, §1005, title VII, §7203(a)(1)(A), Oct. 13, 1994, 108 Stat. 3254, 3379; Pub. L. 104–320, §§7(a)(1), 11(c)(1), Oct. 19, 1996, 110 Stat. 3871, 3873; Pub. L. 105–85, div. A, title X, §1073(a)(42), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 115–232, div. A, title VIII, 836(c)(2)(A), Aug. 13, 2018, 132 Stat. 1864.

The text of subsec. (d) of section 2304 of this title, which was transferred to this section, redesignated as subsecs. (b) and (c), and amended by Pub. L. 116–283, §1811(d)(4), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 99–500, §101(c) [title X, §923(b), (c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–152, and Pub. L. 99–591, §101(c) [title X, §923(b), (c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–152,Pub. L. 99–661, div. A, title IX, formerly title IV, §923(b), (c), Nov. 14, 1986, 100 Stat. 3932, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 110–417, [div. A], title VIII, §862(b), Oct. 14, 2008, 122 Stat. 4546.

The text of subsec. (e) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (d), and amended by Pub. L. 116–283, §1811(d)(5), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187.

The text of subsec. (f) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (e), and amended by Pub. L. 116–283, §1811(d)(6), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 98–577, title V, §504(b)(2), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 99–145, title IX, §961(a)(1), Nov. 8, 1985, 99 Stat. 703; Pub. L. 100–26, §7(d)(3)(A), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100–456, div. A, title VIII, §803, Sept. 29, 1988, 102 Stat. 2008; Pub. L. 101–189, div. A, title VIII, §§817, 818, Nov. 29, 1989, 103 Stat. 1501, 1502; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–355, title I, §1003, Oct. 13, 1994, 108 Stat. 3249; Pub. L. 104–106, div. D, title XLI, §§4102(a), title XLIII, §4321(b)(4), Feb. 10, 1996, 110 Stat. 643, 672; Pub. L. 105–85, div. A, title VIII, §841(b), title X, §1073(a)(43), Nov. 18, 1997, 111 Stat. 1843, 1902; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 108–375, div. A, title VIII, §815, Oct. 28, 2004, 118 Stat. 2015; Pub. L. 109–364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title VIII, §844(b)(2), Jan. 28, 2008, 122 Stat. 239; Pub. L. 111–350, §5(b)(12)(A)–(C), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 115–91, div. A, title XVII, §1709(b)(2), Dec. 12, 2017, 131 Stat. 1809; Pub. L. 115–232, div. A, title VIII, §836(c)(2)(A), Aug. 13, 2018, 132 Stat. 1864; Pub. L. 116–92, div. A, title IX, §902(39), title XVII, §1731(a)(37), Dec. 20, 2019, 133 Stat. 1547, 1814.

The text of subsec. (l) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (f), and amended by Pub. L. 116–283, §1811(d)(7), was based on Pub. L. 110–181, div. A, title VIII, §844(b)(1), Jan. 28, 2008, 122 Stat. 239.

The text of subsec. (i) of section 2304 of this title, which was transferred to this section, redesignated as subsec. (g), and amended by Pub. L. 116–283, §1811(d)(8), was based on Pub. L. 99–500, §101(c) [title X, §927(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–155, and Pub. L. 99–591, §101(c) [title X, §927(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–155; Pub. L. 99–661, div. A, title IX, formerly title IV, §927(a), Nov. 14, 1986, 100 Stat. 3935, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 115–232, div. A, title VIII, §836(c)(2)(C), Aug. 13, 2018, 132 Stat. 1864.

### PRIOR PROVISIONS

A prior section 3204, act Aug. 10, 1956, ch. 1041, 70A Stat. 173, Pub. L. 85–600, §1(2), Aug. 6, 1958, 72 Stat. 522; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069, prescribed authorized strength of Regular Army in commissioned officers of active list, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2025**—Subsec. (e)(1)(B). Pub. L. 119–60 substituted "$10,000,000" for "$500,000" in cl. (i), "$100,000,000" for "$10,000,000" in cls. (i) and (ii), and "$500,000,000" for "$75,000,000" in cls. (ii) and

(iii).

**2021**—Subsec. (a). Pub. L. 116–283, §1811(d)(3)(A), inserted heading.

Pub. L. 116–283, §1811(d)(3), redesignated subsec. (c) of section 2304 of this title as subsec. (a) of this section.

Subsec. (a)(3). Pub. L. 116–283, §1811(d)(3)(B), as amended by Pub. L. 117–81, §1701(b)(4)(B), inserted dash after "in order" and reformatted subpars. (A) to (C) to add line breaks before each subpar. designation and substituted semicolons for commas.

Subsec. (a)(5). Pub. L. 116–283, §1811(d)(3)(C), substituted "section 3201(e) of this title" for "subsection (k)".

Subsec. (a)(7). Pub. L. 116–283, §1811(d)(3)(D), inserted "(who may not delegate the authority under this paragraph)" after "the head of the agency" in introductory provisions.

Subsec. (b). Pub. L. 116–283, §1811(d)(4)(A), (B), inserted heading, struck out par. (1) designation at beginning, and substituted "subsection (a)(1)" for "subsection (c)(1)" in introductory provisions.

Pub. L. 116–283, §1811(d)(4), redesignated subsec. (d) of section 2304 of this title as subsec. (b) of this section.

Subsec. (b)(2). Pub. L. 116–283, §1811(d)(4)(C), struck out par. (2) which read as follows: "The authority of the head of an agency under subsection (c)(7) may not be delegated."

Subsec. (c). Pub. L. 116–283, §1811(d)(4)(D), as amended by Pub. L. 117–81, §1701(b)(4)(C), redesignated subsec. (b)(3) as (c) and inserted heading; redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, inserted headings, and realigned margins; in par. (1) as redesignated, substituted "paragraph (2)" for "subparagraph (B)" and "subsection (a)(2)" for "subsection (c)(2)" in introductory provisions, redesignated cl. (i) and subcls. (I) and (II) as subpar. (A) and cls. (i) and (ii), respectively, redesignated cl. (ii) as subpar. (B), and realigned margins; and, in par. (2) as redesignated, substituted "This subsection" for "This paragraph".

Subsec. (d). Pub. L. 116–283, §1811(d)(5), as amended by Pub. L. 117–81, §1701(b)(4)(D), redesignated subsec. (e) of section 2304 of this title as subsec. (d) of this section, inserted heading, and substituted "paragraph (2) or (6) of subsection (a)" for "subsection (c)(2) or (c)(6)".

Subsec. (e). Pub. L. 116–283, §1811(d)(6)(A), as amended by Pub. L. 117–81, §1701(b)(4)(E)(i), inserted heading.

Pub. L. 116–283, §1811(d)(6), redesignated subsec. (f) of section 2304 of this title as subsec. (e) of this section.

Subsec. (e)(1). Pub. L. 116–283, §1811(d)(6)(A), (B), as amended by Pub. L. 117–81, §1701(b)(4)(E)(ii), inserted heading, substituted "Except as provided in paragraphs (3), (4), and (7)" for "Except as provided in paragraph (2) and paragraph (6)", and realigned margins of subpars. (A) to (C).

Subsec. (e)(2). Pub. L. 116–283, §1811(d)(6)(C), (D), (K), redesignated par. (3) as (2), inserted heading, and realigned margin. Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 116–283, §1811(d)(6)(C), (E), (K), redesignated par. (2) as (3), inserted heading, substituted "subsection (a)(2)" for "subsection (c)(2)", and realigned margin. Former par. (3) redesignated (2).

Subsec. (e)(4). Pub. L. 116–283, §1811(d)(6)(G), (K), designated second sentence of par. (3) as (4), inserted heading, realigned margin, and substituted "subsection (a)(7)" for "subsection (c)(7)" in subpar. (C) and "subsection (a)(4)" for "subsection (c)(4)" in subpar. (E). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 116–283, §1811(d)(6)(F), (H), (K), redesignated par. (4) as (5), inserted heading, and realigned margin; inserted subpar. (A) designation before "In no case", redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and, in cl. (ii), substituted "chapter 137 legacy provisions" for "this chapter"; and designated concluding provisions as subpar. (B) and substituted "subparagraph (A)(ii)" for "clause (B)". Former par. (5) redesignated (6).

Subsec. (e)(6). Pub. L. 116–283, §1811(d)(6)(I), (K), redesignated par. (5) as (6), inserted heading, and realigned margin. Former par. (6) redesignated (7).

Subsec. (e)(7). Pub. L. 116–283, §1811(d)(6)(J), (K), redesignated par. (6) as (7), inserted heading, and realigned margin.

Subsec. (f). Pub. L. 116–283, §1811(d)(7)(A), inserted heading.

Pub. L. 116–283, §1811(d)(7), redesignated subsec. (l) of section 2304 of this title as subsec. (f) of this section.

Subsec. (f)(1). Pub. L. 116–283, §1811(d)(7)(A)–(C), inserted par. and subpar. headings, substituted "subsection (a)" for "subsection (c)" and "subsection (e)(1)" for "subsection (f)(1)" in subpar. (A) and "subsection (a)(2)" for "subsection (c)(2)" in subpar. (B).

Subsec. (f)(2), (3). Pub. L. 116–283, §1811(d)(7)(D)–(F), inserted headings and realigned margins.

Subsec. (g). Pub. L. 116–283, §1811(d)(8)(A), inserted heading.

Pub. L. 116–283, §1811(d)(8), redesignated subsec. (i) of section 2304 of this title as subsec. (g) of this section.

Subsec. (g)(1). Pub. L. 116–283, §1811(d)(8)(B), struck out ", as defined in section 2302(2) of this title" before period at end.

Subsec. (g)(2), (3). Pub. L. 116–283, §1811(d)(8)(C), realigned margins.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### PILOT PROGRAM TO INCENTIVIZE CONTRACTING WITH EMPLOYEE-OWNED BUSINESSES

Pub. L. 117–81, div. A, title VIII, §874, Dec. 27, 2021, 135 Stat. 1863, as amended by Pub. L. 118–31, div. A, title VIII, §872, Dec. 22, 2023, 137 Stat. 349, provided that:

"(a) QUALIFIED BUSINESS WHOLLY-OWNED THROUGH AN EMPLOYEE STOCK OWNERSHIP PLAN DEFINED.—The term 'qualified businesses wholly-owned through an Employee Stock Ownership Plan' means an S corporation (as defined in section 1361(a)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 1361(a)(1)]) for which 100 percent of the outstanding stock is held through an employee stock ownership plan (as defined in section 4975(e)(7) of such Code [26 U.S.C. 4975(e)(7)]).

"(b) PILOT PROGRAM TO USE NONCOMPETITIVE PROCEDURES FOR CERTAIN FOLLOW-ON CONTRACTS TO QUALIFIED BUSINESSES WHOLLY-OWNED THROUGH AN EMPLOYEE STOCK OWNERSHIP PLAN.—

"(1) ESTABLISHMENT.—The Secretary of Defense may establish a pilot program and prescribe regulations to carry out the requirements of this section.

"(2) FOLLOW-ON CONTRACTS.—Notwithstanding the requirements of section 2304 of title 10, United States Code [see 10 U.S.C. 3201 et seq.], and with respect to a follow-on contract for the continued development, production, or provision of products or services that are the same as or substantially similar to the products or services procured by or for the Department of Defense under a prior contract held by a qualified business wholly-owned through an Employee Stock Ownership Plan, the products or services to be procured under the follow-on contract may be procured by or for the Department of Defense through procedures other than competitive procedures if the performance of the qualified business wholly-owned through an Employee Stock Ownership Plan on the prior contract was rated as satisfactory (or the equivalent) or better in the applicable past performance database.

"(3) LIMITATION.—Each contract held by a qualified business wholly-owned through an Employee Stock Ownership Plan may have a single opportunity for award of a sole-source follow-on contract under this section, unless a senior contracting official (as defined in section 1737 of title 10, United States Code) approves a waiver of the requirements of this section.

"(c) VERIFICATION AND REPORTING OF QUALIFIED BUSINESSES WHOLLY-OWNED THROUGH AN EMPLOYEE STOCK OWNERSHIP PLAN.—Under a pilot program established under this section, the Secretary of Defense shall establish procedures—

"(1) for businesses to verify status as a qualified businesses wholly-owned through an Employee Stock Ownership Plan for the purposes of this section by using existing Federal reporting mechanisms;

"(2) for a qualified businesses wholly-owned through an Employee Stock Ownership Plan to certify that not more than 50 percent of the amount paid under the contract will be expended on subcontracts, except—

"(A) to the extent subcontracted amounts exceeding 50 percent are subcontracted to other qualified businesses wholly-owned through an Employee Stock Ownership Plan;

"(B) in the case of contracts for products, to the extent subcontracted amounts exceeding 50 percent are for materials not available from another qualified business wholly-owned through an Employee Stock Ownership Plan; or

"(C) pursuant to such necessary and reasonable waivers as the Secretary may prescribe; and

"(3) to record information on each follow-on contract awarded under subsection (b), including details relevant to the nature of such contract and the qualified business wholly-owned through an Employee Stock Ownership Plan that received such contract, and to provide such information to the Comptroller General of the United States.

"(d) DATA.—

"(1) IN GENERAL.—If the Secretary of Defense establishes a pilot program under this section, the Secretary shall establish mechanisms to collect and analyze data on the pilot program for the purposes of—

"(A) developing and sharing best practices relating to the pilot program;

"(B) providing information to leadership and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the pilot program, including with respect to each qualified business wholly-owned through an Employee Stock Ownership Plan that received a follow-on contract under this section—

"(i) the size of such business;

"(ii) performance of the follow-on contract; and

"(iii) other information as determined necessary; and

"(C) providing information to leadership and the congressional defense committees on policy issues related to the pilot program.

"(2) LIMITATION.—The Secretary of Defense may not carry out the pilot program under this section before—

"(A) completing a data collection and reporting strategy and plan to meet the requirements of this subsection; and

"(B) submitting the strategy and plan to the congressional defense committees.

"(e) SUNSET.—Any pilot program established under this section shall expire on the date that is eight years after the date of the enactment of this Act [Dec. 27, 2021].

"(f) COMPTROLLER GENERAL REPORT.—

"(1) IN GENERAL.—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on any individual and aggregate uses of the authority under a pilot program established under this section.

"(2) ELEMENTS.—The report under paragraph (1) shall include the following elements:

"(A) An assessment of the frequency and nature of the use of the authority under the pilot program.

"(B) An assessment of the impact of the pilot program in supporting the national defense strategy required under section 113(g) of title 10, United States Code.

"(C) The number of businesses that became qualified businesses wholly-owned through an Employee Stock Ownership Plan in order to benefit from the pilot program and the factors that influenced that decision.

"(D) Acquisition authorities that could incentivize businesses to become qualified businesses wholly-owned through an Employee Stock Ownership Plan, including an extension of the pilot program.

"(E) Any related matters the Comptroller General considers appropriate."

## MODIFICATION OF JUSTIFICATION AND APPROVAL REQUIREMENT FOR CERTAIN DEPARTMENT OF DEFENSE CONTRACTS

Pub. L. 116–92, div. A, title VIII, §823, Dec. 20, 2019, 133 Stat. 1490, provided that:

"(a) MODIFICATION OF JUSTIFICATION AND APPROVAL REQUIREMENT.—Notwithstanding section 811 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2405) [41 U.S.C. 3304 note]—

"(1) no justification and approval is required under such section for a sole-source contract awarded by the Department of Defense in a covered procurement for an amount not exceeding $100,000,000; and

"(2) for purposes of subsections (a)(2) and (c)(3)(A) of such section, the appropriate official designated to approve the justification for a sole-source contract awarded by the Department of Defense in a covered procurement exceeding $100,000,000 is the official designated in section 2304(f)(1)(B)(ii) of title 10, United States Code [now 10 U.S.C. 3204(e)(1)(B)(ii)].

"(b) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall issue guidance to implement the authority under subsection (a).

"(c) COMPTROLLER GENERAL REVIEW.—

"(1) DATA TRACKING AND COLLECTION.—The Department of Defense shall track the use of the authority as modified by subsection (a) and make the data available to the Comptroller General for purposes

of the report required under paragraph (2).

"(2) REPORT.—Not later than March 1, 2022, the Comptroller General of the United States shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the use of the authority as modified by subsection (a) through the end of fiscal year 2021. The report shall include—

"(A) a review of the financial effect of the change to the justification and approval requirement in subsection (a) on the native corporations and businesses and associated native communities;

"(B) a description of the nature and extent of contracts excluded from the justification and approval requirement by subsection (a); and

"(C) other matters the Comptroller General deems appropriate."

## §3205. Simplified procedures for small purchases

(a) AUTHORIZATION.—In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for—

(1) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

(2) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial products or commercial services.

(b) PROHIBITION ON DIVIDING CONTRACTS.—A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified procedures required by subsection (a).

(c) PROMOTION OF COMPETITION.—In using simplified procedures, the head of an agency shall promote competition to the maximum extent practicable.

(d) COMPLIANCE WITH SPECIAL REQUIREMENTS OF FEDERAL ACQUISITION REGULATION.—The head of an agency shall comply with the Federal Acquisition Regulation provisions referred to in section 1901(e) of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(d)(1), (9), Jan. 1, 2021, 134 Stat. 4166, 4170.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2304 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(d)(9), was based on Pub. L. 98–369, div. B, title VII, §2723(a)(1)(C), July 18, 1984, 98 Stat. 1187; Pub. L. 100–26, §7(d)(3)(A), Apr. 21, 1987, 101 Stat. 281; Pub. L. 101–510, div. A, title VIII, §806(b), Nov. 5, 1990, 104 Stat. 1592; Pub. L. 102–25, title VII, §701(d)(2)(A), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title I, §1001(2), title IV, §4401(a), Oct. 13, 1994, 108 Stat. 3249, 3347; Pub. L. 104–106, div. D, title XLII, §4202(a)(1), Feb. 10, 1996, 110 Stat. 652; Pub. L. 105–85, div. A, title VIII, §850(f)(3)(B), Nov. 18, 1997, 111 Stat. 1850; Pub. L. 111–350, §5(b)(12)(D), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 115–232, div. A, title VIII, §836(c)(2), Aug. 13, 2018, 132 Stat. 1864.

### PRIOR PROVISIONS

A prior section 3205, act Aug. 10, 1956, ch. 1041, 70A Stat. 173; Pub. L. 85–600, §1(3), Aug. 6, 1958, 72 Stat. 522; Pub. L. 85–861, §1(60), (65), Sept. 2, 1958, 72 Stat. 1462, 1463; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069, prescribed authorized strength of Regular Army in commissioned officers on active list, exclusive of certain categories, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1811(d)(9)(A), (C), inserted heading, struck out par. (1) designation

before "In order to", and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former pars. (2) to (4) redesignated subsecs. (b) to (d), respectively.

Pub. L. 116–283, §1811(d)(9), redesignated subsec. (g) of section 2304 of this title as subsec. (a) of this section.

Subsec. (b). Pub. L. 116–283, §1811(d)(9)(B), (D), redesignated subsec. (a)(2) as (b), inserted heading, and substituted "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1811(d)(9)(B), (E), redesignated subsec. (a)(3) as (c) and inserted heading.

Subsec. (d). Pub. L. 116–283, §1811(d)(9)(B), (F), redesignated subsec. (a)(4) as (d) and inserted heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3206. Planning and solicitation requirements

(a) PLANNING AND SPECIFICATIONS.—

(1) PREPARING FOR PROCUREMENT.—In preparing for the procurement of property or services, the head of an agency shall—

(A) specify the agency's needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

(B) use advance procurement planning and market research; and

(C) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

(2) REQUIREMENTS OF SPECIFICATIONS.—Each solicitation under chapter 137 legacy provisions shall include specifications which—

(A) consistent with the provisions of chapter 137 legacy provisions, permit full and open competition; and

(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

(3) TYPES OF SPECIFICATIONS.—For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

(A) function, so that a variety of products or services may qualify;

(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

(C) design requirements.

(b) CONTENTS OF SOLICITATION.—In addition to the specifications described in subsection (a), a solicitation for sealed bids or competitive proposals (other than for a procurement for commercial products or commercial services using special simplified procedures or a purchase for an amount not greater than the simplified acquisition threshold) shall at a minimum include—

(1) a statement of—

(A) all significant factors and significant subfactors which the head of the agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors); and

(B) the relative importance assigned to each of those factors and subfactors; and

(2)(A) in the case of sealed bids—
(i) a statement that sealed bids will be evaluated without discussions with the bidders; and
(ii) the time and place for the opening of the sealed bids; or

(B) in the case of competitive proposals—
(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and
(ii) the time and place for submission of proposals.

(c) EVALUATION FACTORS.—
(1) IN GENERAL.—In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—
(A) shall (except as provided in paragraph (3)) clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);
(B) shall (except as provided in paragraph (3)) include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and
(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—
(i) significantly more important than cost or price;
(ii) approximately equal in importance to cost or price; or
(iii) significantly less important than cost or price.

(2) RESTRICTION ON IMPLEMENTING REGULATIONS.—The regulations implementing paragraph (1)(C) may not define the terms "significantly more important" and "significantly less important" as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.
(3) EXCEPTIONS FOR CERTAIN MULTIPLE TASK OR DELIVERY ORDER CONTRACTS.—If the head of an agency issues a solicitation for multiple task or delivery order contracts under section 3403(d)(1)(B) of this title for the same or similar services and intends to make a contract award to each qualifying offeror—
(A) cost or price to the Federal Government need not, at the Government's discretion, be considered under paragraph (1)(B) as an evaluation factor for the contract award; and
(B) if, pursuant to subparagraph (A), cost or price to the Federal Government is not considered as an evaluation factor for the contract award—
(i) the disclosure requirement of paragraph (1)(C) shall not apply; and
(ii) cost or price to the Federal Government shall be considered in conjunction with the issuance pursuant to section 3406(c) of this title of a task or delivery order under any contract resulting from the solicitation.

(4) DEFINITION.—In paragraph (3), the term "qualifying offeror" means an offeror that—
(A) is determined to be a responsible source;
(B) submits a proposal that conforms to the requirements of the solicitation; and
(C) the contracting officer has no reason to believe would likely offer other than fair and reasonable pricing.

(5) EXCLUSION OF APPLICABILITY TO CERTAIN CONTRACTS.—Paragraph (3) shall not apply to multiple task or delivery order contracts if the solicitation provides for sole source task or delivery order contracts pursuant to section 8(a) of the Small Business Act (15 U.S.C.

637(a)).

(d) ADDITIONAL INFORMATION IN SOLICITATION.—Nothing in this section prohibits an agency from—

(1) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

(2) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.

(e) LIMITATION ON EVALUATION OF PURCHASE OPTIONS.—The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(e), Jan. 1, 2021, 134 Stat. 4170; Pub. L. 117–81, div. A, title XVII, §1701(b)(4)(F), (d)(4), Dec. 27, 2021, 135 Stat. 2133, 2136.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(e)(2)–(7), was based on Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1191; Pub. L. 99–500, §101(c) [title X, §924(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–153, and Pub. L. 99–591, §101(c) [title X, §924(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–153; Pub. L. 99–661, div. A, title IX, formerly title IV, §924(a), Nov. 14, 1986, 100 Stat. 3932, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–510, div. A, title VIII, §802(a)–(c), Nov. 5, 1990, 104 Stat. 1588, 1589; Pub. L. 103–355, title I, §1011, 1012, title IV, §4401(b), Oct. 13, 1994, 108 Stat. 3254, 3255, 3347; Pub. L. 104–106, div. D, title XLII, §4202(a)(2), Feb. 10, 1996, 110 Stat. 653; Pub. L. 114–328, div. A, title VIII, §825(a), Dec. 23, 2016, 130 Stat. 2279; Pub. L. 115–232, div. A, title VIII, §836(c)(3)(A), Aug. 13, 2018, 132 Stat. 1864.

### PRIOR PROVISIONS

A prior section 3206, act Aug. 10, 1956, ch. 1041, 70A Stat. 173; Pub. L. 85–155, title I, §101(4), Aug. 21, 1957, 71 Stat. 376; Pub. L. 90–130, §1(9)(A), (B), Nov. 8, 1967, 81 Stat. 375, prescribed authorized strength of Regular Army Nurse Corps in commissioned officers on active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1811(e)(2), transferred subsec. (a) of section 2305 of this title to this section and redesignated pars. (2) to (5) thereof as subsecs. (b) to (e), respectively.

Subsec. (a). Pub. L. 116–283, §1811(e)(3)(A), (E)(i), inserted heading and redesignated subpars. (A) to (C) of par. (1) as pars. (1) to (3), respectively.

Subsec. (a)(1). Pub. L. 116–283, §1811(e)(3)(E), as amended by Pub. L. 117–81, §1701(b)(4)(F), redesignated par. (1)(A) as (1), inserted heading, redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and realigned margins.

Subsec. (a)(2). Pub. L. 116–283, §1811(e)(3)(A), (B), (D), redesignated par. (1)(B) as (2), inserted heading, and realigned margin, redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and substituted "chapter 137 legacy provisions" for "this chapter" in introductory provisions and in subpar. (A). Former par. (2) redesignated subsec. (b).

Subsec. (a)(3). Pub. L. 117–81, §1701(d)(4), substituted "paragraphs (1) and (2)" for "subparagraphs (A) and (B)" in introductory provisions.

Pub. L. 116–283, §1811(e)(3)(A), (C), (D), as amended by Pub. L. 117–81, §1701(b)(4)(F), redesignated par. (1)(C) as (3), inserted heading, and realigned margin and redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively. Former par. (3) redesignated subsec. (c).

Subsec. (b). Pub. L. 116–283, §1811(e)(2), (4), redesignated subsec. (a)(2) as (b), inserted heading, and substituted "subsection (a)" for "paragraph (1)" in introductory provisions, redesignated subpar. (A) and its

cls. (i) and (ii) as par. (1) and subpars. (A) and (B), respectively, and redesignated subpar. (B), its cls. (i) and (ii), and each of their subcls. (I) and (II) as par. (2), subpars. (A) and (B), and cls. (i) and (ii), respectively.

Subsec. (c). Pub. L. 116–283, §1811(e)(2), (5)(A), (B), redesignated subsec. (a)(3) as (c), inserted heading, redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and realigned margins.

Subsec. (c)(1). Pub. L. 116–283, §1811(e)(5)(A), (C), inserted heading, substituted "paragraph (3)" for "subparagraph (C)" in two places, redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and, in subpar. (C) as redesignated, redesignated subcls. (I) to (III) as cls. (i) to (iii), respectively.

Subsec. (c)(2). Pub. L. 116–283, §1811(e)(5)(B), (D), redesignated par. (3)(B) as (2), inserted heading, and substituted "paragraph (1)(C)" for "clause (iii) of subparagraph (A)".

Subsec. (c)(3). Pub. L. 116–283, §1811(e)(5)(B), (E), redesignated par. (3)(C) as (3), inserted heading, and substituted "section 3403(d)(1)(B)" for "section 2304a(d)(1)(B)" in introductory provisions; redesignated cl. (i) as subpar. (A) and substituted "paragraph (1)(B)" for "clause (ii) of subparagraph (A)"; and redesignated cl. (ii) and its subcls. (I) and (II) as subpar. (B) and cls. (i) and (ii), respectively, and substituted "subparagraph (A)" for "clause (i)" in introductory provisions, "paragraph (1)(C)" for "clause (iii) of subparagraph (A)" in cl. (i), and "section 3406(c)" for "section 2304c(b)" in cl. (ii).

Subsec. (c)(4). Pub. L. 116–283, §1811(e)(5)(B), (F), redesignated par. (3)(D) as (4), inserted heading, substituted "paragraph (3)" for "subparagraph (C)" in introductory provisions, and redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively.

Subsec. (c)(5). Pub. L. 116–283, §1811(e)(5)(B), (G), redesignated par. (3)(E) as (5), inserted heading, and substituted "Paragraph (3)" for "Subparagraph (C)".

Subsec. (d). Pub. L. 116–283, §1811(e)(2), (6), redesignated subsec. (a)(4) as (d), inserted heading, substituted "this section" for "this subsection" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (e). Pub. L. 116–283, §1811(e)(2), (7), redesignated subsec. (a)(5) as (e) and inserted heading.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(4)(F) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(d)(4) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### BALANCING SECURITY AND INNOVATION IN SOFTWARE DEVELOPMENT AND ACQUISITION

Pub. L. 116–283, div. A, title VIII, §835, Jan. 1, 2021, 134 Stat. 3755, provided that:

"(a) REQUIREMENTS FOR SOLICITATIONS OF COMMERCIAL AND DEVELOPMENTAL SOLUTIONS.—The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Chief Information Officer of the Department of Defense, shall develop requirements for appropriate software security criteria to be included in solicitations for commercial and developmental solutions and the evaluation of bids submitted in response to such solicitations, including a delineation of what processes were or will be used for a secure software development life cycle. Such requirements shall include—

"(1) establishment and enforcement of secure coding practices;

"(2) management of supply chain risks and third-party software sources and component risks;

"(3) security of the software development environment;

"(4) secure deployment, configuration, and installation processes; and

"(5) an associated vulnerability management plan and identification of tools that will be applied to achieve an appropriate level of security.

"(b) SECURITY REVIEW OF CODE.—The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Chief Information Officer of the Department of Defense, shall develop—

"(1) procedures for the security review of code; and

"(2) other procedures necessary to fully implement the pilot program required under section 875 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2223 note).

"(c) COORDINATION WITH CYBERSECURITY ACQUISITION POLICY EFFORTS.—The Under Secretary of Defense for Acquisition and Sustainment shall develop the requirements and procedures described under subsections (a) and (b) in coordination with the efforts of the Department of Defense to develop new cybersecurity and program protection policies and guidance that are focused on cybersecurity in the context of acquisition and program management and on safeguarding information."

**PILOT PROGRAM TO USE ALPHA CONTRACTING TEAMS FOR COMPLEX REQUIREMENTS**

Pub. L. 116–92, div. A, title VIII, §802, Dec. 20, 2019, 133 Stat. 1483, which required the Secretary of Defense to select initiatives to participate in a pilot program to use teams that focused on the development of complex contract technical requirements for services, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(4)(B), Dec. 18, 2025, 139 Stat. 948.

## §3207. Assessment before contract for acquisition of supplies is entered into

The Secretary of Defense shall ensure that before a contract for the delivery of supplies to the Department of Defense is entered into—

(1) when the appropriate officials of the Department are making an assessment of the most advantageous source for acquisition of the supplies (considering quality, price, delivery, and other factors), there is a review of the availability and cost of each item of supply—

(A) through the supply system of the Department of Defense; and

(B) under standard Government supply contracts, if the item is in a category of supplies defined under regulations of the Secretary of Defense as being potentially available under a standard Government supply contract; and

(2) there is a review of both the procurement history of the item and a description of the item, including, when necessary for an adequate description of the item, a picture, drawing, diagram, or other graphic representation of the item.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(f), Jan. 1, 2021, 134 Stat. 4173.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (c) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(f)(2), was based on Pub. L. 98–525, title XII, §1213(a), Oct. 19, 1984, 98 Stat. 2591.

**PRIOR PROVISIONS**

A prior section 3207, act Aug. 10, 1956, ch. 1041, 70A Stat. 173; Pub. L. 85–155, title I, §101(5), Aug. 21, 1957, 71 Stat. 376; Pub. L. 90–130, §1(9)(C), (D), Nov. 8, 1967, 81 Stat. 375, prescribed authorized strength of Army Medical Specialist Corps in commissioned officers on active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1811(f)(2), transferred subsec. (c) of section 2305 of this title to this section and struck out subsec. (c) designation at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

**ESTABLISHING BIOBASED PRODUCT MERIT GUIDANCE**

Pub. L. 119–60, div. A, title II, §248, Dec. 18, 2025, 139 Stat. 799, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Under Secretary of Defense for Research and Engineering, in coordination with the Secretaries of the military departments, shall develop and make publicly available guidance for private entities on how such entities can effectively demonstrate, validate, and verify that a biobased product of such entity provides capabilities meeting the requirements of the Department of Defense.

"(b) ANALYSIS.—In developing the guidance required by subsection (a), the Under Secretary of Defense for Research and Engineering shall conduct an analysis of current military specifications for suitable product categories and make such analysis publicly available for use by private entities, such as in industry or academia. Such analysis shall include:

"(1) Assessment of all current military specifications and identification of those that may—

"(A) have existing biobased products that meet such specifications;

"(B) could be met with biobased products with some modification; or

"(C) have no military specification where a new one may be required.

"(2) Assessment of current validation and verification processes related to military specifications to determine if modifications to such processes are needed to consider biobased product alternatives.

"(3) Review of existing acquisition policy and practices related to procurement of materials meeting military specifications to determine if any changes to such processes are recommended to accommodate biobased products.

"(c) BIOBASED PRODUCT DEFINED.—In this section, the term 'biobased product' means a product manufactured, produced, or developed through the application of living organisms to alter living or non-living materials."

## PROCESS FOR ENHANCED SUPPLY CHAIN SCRUTINY

Pub. L. 115–91, div. A, title VIII, §807, Dec. 12, 2017, 131 Stat. 1456, provided that:

"(a) PROCESS.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a process for enhancing scrutiny of acquisition decisions in order to improve the integration of supply chain risk management into the overall acquisition decision cycle.

"(b) ELEMENTS.—The process under subsection (a) shall include the following elements:

"(1) Designation of a senior official responsible for overseeing the development and implementation of the process.

"(2) Development or integration of tools to support commercial due-diligence, business intelligence, or otherwise analyze and monitor commercial activity to understand business relationships with entities determined to be threats to the United States.

"(3) Development of risk profiles of products or services based on commercial due-diligence tools and data services.

"(4) Development of education and training curricula for the acquisition workforce that supports the process.

"(5) Integration, as needed, with intelligence sources to develop threat profiles of entities determined to be threats to the United States.

"(6) Periodic review and assessment of software products and services on computer networks of the Department of Defense to remove prohibited products or services.

"(7) Synchronization of the use of current authorities for making supply chain decisions, including section 806 of Public Law 111–383 (10 U.S.C. 2304 note) or improved use of suspension and debarment officials.

"(8) Coordination with interagency, industrial, and international partners, as appropriate, to share information, develop Government-wide strategies for dealing with significant entities determined to be significant threats to the United States, and effectively use authorities in other departments and agencies to provide consistent, Government-wide approaches to supply chain threats.

"(9) Other matters as the Secretary considers necessary.

"(c) NOTIFICATION.—Not later than 90 days after establishing the process required by subsection (a), the Secretary shall provide a written notification to the Committees on Armed Services of the Senate and House of Representatives that the process has been established. The notification also shall include the following:

"(1) Identification of the official designated under subsection (b)(1).

"(2) Identification of tools and services currently available to the Department of Defense under subsection (b)(2).

"(3) Assessment of additional tools and services available under subsection (b)(2) that the Department of Defense should evaluate.

"(4) Identification of, or recommendations for, any statutory changes needed to improve the effectiveness of the process.

"(5) Projected resource needs for implementing any recommendations made by the Secretary."

## §3208. Planning for future competition in contracts for major systems

(a) DEVELOPMENT CONTRACT.—

(1) DETERMINING WHETHER PROPOSALS ARE NECESSARY.—The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a development contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in paragraph (2). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

(2) CONTENTS OF PROPOSALS.—Proposals referred to in the first sentence of paragraph (1) are the following:

(A) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

(B) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

(b) PRODUCTION CONTRACT.—

(1) DETERMINING WHETHER PROPOSALS ARE NECESSARY.—The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a production contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in paragraph (2). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

(2) CONTENTS OF PROPOSALS.—Proposals referred to in the first sentence of paragraph (1) are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocured in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

(A) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive reprocurement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

(B) Proposals for the qualification or development of multiple sources of supply for the item.

(c) CONSIDERATION OF FACTORS AS OBJECTIVES IN NEGOTIATIONS.—If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system, the factors specified in subsections (a) and (b) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded. Such objectives may not impair the rights of prospective contractors or subcontractors otherwise provided by law.

(d) ITEMS DEVELOPED EXCLUSIVELY AT PRIVATE EXPENSE.—

(1) LIMITATION.—Whenever the head of an agency requires that proposals described in subsection (a)(2) or (b)(2) be submitted by an offeror in its offer, the offeror shall not be required

to provide a proposal that enables the United States to acquire competitively in the future an identical item if the item was developed exclusively at private expense unless the head of the agency determines that—

(A) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

(B) proposals by the original supplier of such item to meet the mobilization requirements are insufficient to meet the agency's mobilization needs.

(2) EVALUATION.—In considering offers in response to a solicitation requiring proposals described in subsection (a)(2) or (b)(2), the head of an agency shall base any evaluation of items developed exclusively at private expense on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(g), Jan. 1, 2021, 134 Stat. 4173.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(g)(2)–(6) was based on Pub. L. 98–525, title XII, §1213(a), Oct. 19, 1984, 98 Stat. 2591; Pub. L. 100–456, div. A, title VIII, §806, Sept. 29, 1988, 102 Stat. 2010.

### PRIOR PROVISIONS

A prior section 3209, act Aug. 10, 1956, ch. 1041, 70A Stat. 174; Pub. L. 85–861, §1(60), Sept. 2, 1958, 72 Stat. 1462; Pub. L. 90–130, §1(9)(E), Nov. 8, 1967, 81 Stat. 375; Pub. L. 95–485, title VIII, §820(c)(1), (2), Oct. 20, 1978, 92 Stat. 1627, prescribed, with exception of Army Nurse Corps and Army Medical Specialist Corps, the authorized strength of each branch in commissioned officers on active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

A prior section 3210 was renumbered section 7110 of this title.

A prior section 3211, acts Aug. 10, 1956, ch. 1041, 70A Stat. 175; Sept. 2, 1958, Pub. L. 85–861, §1(67), 72 Stat. 1463; Nov. 8, 1967, Pub. L. 90–130, §1(9)(F), 81 Stat. 375, prescribed authorized strength of Regular Army in officers in each regular grade on promotion lists set forth in section 3296 of this title, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981. See section 521 et seq. of this title.

A prior section 3212, acts Aug. 10, 1956, ch. 1041, 70A Stat. 175; Sept. 2, 1958, Pub. L. 85–861, §1(68), 72 Stat. 1463; June 30, 1960, Pub. L. 86–559, §1(6), 74 Stat. 265; Nov. 8, 1967, Pub. L. 90–130, §1(9)(G), 81 Stat. 375; Dec. 12, 1980, Pub. L. 96–513, title V, §502(6), 94 Stat. 2909, related to temporary increases in authorized strength in grades of Army Reserve and Army National Guard of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12009 of this title.

Prior sections 3213 and 3214 were repealed by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

Section 3213, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, prescribed authorized strength of Regular Army in warrant officers on active list.

Section 3214, acts Aug. 10, 1956, ch. 1041, 70A Stat. 176; Sept. 2, 1958, Pub. L. 85–861, §1(64), 72 Stat. 1463, prescribed authorized strength of Regular Army in enlisted members on active duty, exclusive of officer candidates.

A prior section 3215, acts Aug. 10, 1956, ch. 1041, 70A Stat. 176; Nov. 8, 1967, Pub. L. 90–130, §1(9)(H), 81 Stat. 375, authorized strength of Women's Army Corps of Regular Army in warrant officers on active list and in enlisted members on active duty to be prescribed by Secretary, prior to repeal by Pub. L. 95–485, title VIII, §820(c)(3), Oct. 20, 1978, 92 Stat. 1627.

A prior section 3216, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, prescribed authorized strength of Corps of Engineers in enlisted members on active duty, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

Prior sections 3217 to 3220 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994.

Section 3217, added Pub. L. 85–861, §1(69)(A), Sept. 2, 1958, 72 Stat. 1463, related to authorized strength of Army in reserve commissioned officers in active status. See section 12003 of this title.

Section 3218, added Pub. L. 85–861, §1(69)(A), Sept. 2, 1958, 72 Stat. 1463; amended Pub. L. 96–107, title III, §302(a), Nov. 9, 1979, 93 Stat. 806; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 102–190, div. A, title X, §1061(a)(20)(B), Dec. 5, 1991, 105 Stat. 1473, related to authorized strength of Army in reserve general officers in active status. See section 12004 of this title.

Section 3219, added Pub. L. 85–861, §1(69)(A), Sept. 2, 1958, 72 Stat. 1464, related to authorized strength of Army in reserve commissioned officers in active status in grades below brigadier general. See section 12005(a) of this title.

Section 3220, added Pub. L. 85–861, §1(69)(A), Sept. 2, 1958, 72 Stat. 1464; amended Pub. L. 95–485, title VIII, §820(c)(4), Oct. 20, 1978, 92 Stat. 1627, related to distribution of reserve commissioned officers by Secretary of the Army. See section 12007 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1811(g)(2), redesignated subsec. (d) of section 2305 of this title as subsec. (a) of this section and redesignated pars. (2) to (4) thereof as subsecs. (b) to (d), respectively.

Subsec. (a). Pub. L. 116–283, §1811(g)(3), inserted subsec. heading, redesignated par. (1)(A) as (1), inserted par. heading, and substituted "paragraph (2)" for "subparagraph (B)", and redesignated par. (1)(B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively, inserted par. heading, and substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions.

Subsec. (b). Pub. L. 116–283, §1811(g)(2), (4), redesignated subsec. (a)(2) as (b), inserted subsec. heading, redesignated subpar. (A) as par. (1), inserted par. heading, and substituted "paragraph (2)" for "subparagraph (B)", and redesignated subpar. (B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively, inserted par. heading, and substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions.

Subsec. (c). Pub. L. 116–283, §1811(g)(2), (5), redesignated subsec. (a)(3) as (c), inserted heading, and substituted "subsections (a) and (b)" for "paragraphs (1) and (2)".

Subsec. (d). Pub. L. 116–283, §1811(g)(2), (6), redesignated subsec. (a)(4) as (d), inserted subsec. heading, and substituted "subsection (a)(2) or (b)(2)" for "paragraph (1)(B) or (2)(B)" in introductory provisions; redesignated subpar. (A) and its cls. (i) and (ii) as par. (1) and subpars. (A) and (B), respectively, inserted par. heading, and realigned margins; and redesignated subpar. (B) as par. (2), inserted heading, realigned margin, and substituted "subsection (a)(2) or (b)(2)" for "paragraph (1)(B) or (2)(B)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# CHAPTER 222—INDEPENDENT COST ESTIMATION AND COST ANALYSIS

Sec.[1]
3221. Director of Cost Assessment and Program Evaluation.
3222. Independent cost estimate required before approval.
3223. Director: review of cost estimates, cost analyses, and records of the military departments and Defense Agencies.
3224. Director: participation, concurrence, and approval in cost estimation.
3225. Discussion of risk in cost estimates.
3226. Estimates for program baseline and analyses and targets for contract negotiation purposes.
3227. Guidelines and collection method for acquisition of cost data.

[1] *Editorially supplied.*

## §3221. Director of Cost Assessment and Program Evaluation

(a) IN GENERAL.—The Director of Cost Assessment and Program Evaluation shall ensure that the cost estimation and cost analysis processes of the Department of Defense provide accurate information and realistic estimates of cost for the acquisition programs of the Department of Defense.

(b) FUNCTIONS.—In carrying out the responsibility of the Director under subsection (a), the Director shall—

(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of cost estimation and cost analysis for the acquisition programs of the Department of Defense;

(2) with respect to cost estimation in the Department of Defense in general and with respect to specific cost estimates and cost analyses to be conducted in connection with a major defense acquisition program or major subprogram under chapters 321, 324, and 325, subchapter I of chapter 322, and sections 3042, 4232, 4273, 4293, 4321, 4323, and 4328 of this title, provide guidance to and consult with—

(A) the Secretary of Defense;

(B) the Under Secretary of Defense for Acquisition and Sustainment;

(C) the Under Secretary of Defense (Comptroller);

(D) the Secretaries of the military departments; and

(E) the heads of the Defense Agencies;

(3) issue guidance relating to the proper discussion of risk in cost estimates generally, and specifically, for the proper discussion of risk in cost estimates for major defense acquisition programs and major subprograms;

(4) issue guidance relating to full consideration of life-cycle management and sustainability costs in major defense acquisition programs and major subprograms;

(5) review all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major subprograms;

(6) conduct or approve independent cost estimates and cost analyses for all major defense acquisition programs and major subprograms—

(A) in advance of—

(i) any decision to grant milestone approval pursuant to section 4252 of this title;

(ii) any decision to enter into low-rate initial production or full-rate production;

(iii) any certification under section 4376 of this title; and

(iv) any decision to enter into a contract in connection with a military construction project of a value greater than $500,000,000; and

(B) at any other time considered appropriate by the Director, upon the request of the Under Secretary of Defense for Acquisition and Sustainment, or upon the request of the milestone decision authority;

(7) periodically assess and update the cost indexes used by the Department to ensure that such indexes have a sound basis and meet the Department's needs for realistic cost estimation; and

(8) annually review the cost and associated information required to be included, by section 4351(c)(1) of this title, in the Selected Acquisition Reports required by that section.

(c) STAFF.—The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation has sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director under this chapter.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (b), Jan. 1, 2021, 134 Stat. 4174; Pub. L. 117–81, div. A, title XVII, §1701(c)(1), (d)(5), (o)(6)(A)(i), Dec. 27, 2021, 135 Stat.

2135, 2136, 2147; Pub. L. 117–263, div. B, title XXVIII, §2806(b), Dec. 23, 2022, 136 Stat. 2995; Pub. L. 118–159, div. A, title VIII, §806(b)(2), title XVII, §1701(a)(35), Dec. 23, 2024, 138 Stat. 1974, 2205.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2334 of this title, which was transferred to this section, redesignated as subsecs. (a) and (b), and amended by Pub. L. 116–283, §1812(b)(1), (2), was based on Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 113–66, div. A, title VIII, §812(c)(1), Dec. 26, 2013, 127 Stat. 808; Pub. L. 114–92, div. A, title VIII, §824(b), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114–328, div. A, title VIII, §§842(a)(1), (2), (b)(1), (2), 846(3), Dec. 23, 2016, 130 Stat. 2288, 2289, 2292; Pub. L. 115–91, div. A, title X, §1081(a)(31), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, §902(53), Dec. 20, 2019, 133 Stat. 1549.

The text of subsec. (h) of section 2334 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1812(b)(3), was based on Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114–92, div. A, title X, §1077(a), Nov. 25, 2015, 129 Stat. 998; Pub. L. 114–328, div. A, title VIII, §842(a)(3), Dec. 23, 2016, 130 Stat. 2288.

### PRIOR PROVISIONS

A prior section 3221, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, related to authorized strength of Army Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12001 of this title.

### AMENDMENTS

**2024**—Subsec. (b)(6)(A)(i). Pub. L. 118–159, §806(b)(2), struck out "4251 or" before "4252 of this title".

Subsec. (b)(6)(A)(iv), (v). Pub. L. 118–159, §1701(a)(35), redesignated cl. (v) as (iv) and struck out former cl. (iv) which read as follows: "any report under section 2445c(f) of this title; and".

**2022**—Subsec. (b)(6)(A)(v). Pub. L. 117–263 added cl. (v).

**2021**—Subsec. (a). Pub. L. 116–283, §1812(b)(1), transferred subsec. (a) of section 2334 of this title to this section.

Subsec. (b). Pub. L. 116–283, §1812(b)(1), (2)(A), designated second sentence of subsec. (a) as (b), inserted heading, and substituted "In carrying out the responsibility of the Director under subsection (a)," for "In carrying out that responsibility," in introductory provisions.

Subsec. (b)(2). Pub. L. 117–81, §1701(d)(5), in introductory provisions, substituted "chapters 321, 324, and 325, subchapter I of chapter 322, and sections 3042, 4232, 4273, 4293, 4321, 4323, and 4328" for "chapter 144".

Pub. L. 116–283, §1812(b)(2)(B), struck out "provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense (Comptroller), the Secretaries of the military departments, and the heads of the Defense Agencies" before "with respect to cost estimation" and substituted "of this title, provide guidance to and consult with—" and subpars. (A) to (E) for "of this title;".

Subsec. (b)(6)(A)(i). Pub. L. 116–283, §1812(b)(2)(C)(i), substituted "section 4251 or 4252" for "section 2366a or 2366b".

Subsec. (b)(6)(A)(iii). Pub. L. 116–283, §1812(b)(2)(C)(ii), substituted "section 4376" for "section 2433a".

Subsec. (b)(8). Pub. L. 116–283, §1812(b)(2)(D), as amended by Pub. L. 117–81, §1701(o)(6)(A)(i), substituted "section 4351(c)(1)" for "section 2432(c)(1)".

Subsec. (c). Pub. L. 117–81, §1701(c)(1), substituted "under this chapter" for "under this section".

Pub. L. 116–283, §1812(b)(3), redesignated subsec. (h) of section 2334 of this title as subsec. (c) of this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–263 applicable to contracts entered into on or after Dec. 23, 2022, see section 2806(c) of Pub. L. 117–263, set out as a note under section 2851 of this title.

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1701(c)(1), (d)(5) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(o)(6)(A)(i) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3222. Independent cost estimate required before approval

(a) REQUIREMENT.— A milestone decision authority may not approve entering the engineering and manufacturing development phase, or production and deployment phase, of a major defense acquisition program or major subprogram unless an independent cost estimate has been conducted or approved by the Director of Cost Assessment and Program Evaluation and considered by the milestone decision authority that includes a cost estimate of the full life-cycle cost of the program or subprogram.

(b) REGULATIONS.—The regulations governing the content and submission of independent cost estimates required by section 3221 of this title shall require that the independent cost estimate of the full life-cycle cost of a program or subprogram include—

(1) all costs of development, procurement, military construction, operations and support, and trained manpower to operate, maintain, and support the program or subprogram upon full operational deployment, without regard to funding source or management control; and

(2) an analysis to support decisionmaking that identifies and evaluates alternative courses of action that may reduce cost and risk, and result in more affordable programs and less costly systems.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (c), Jan. 1, 2021, 134 Stat. 4174, 4175; Pub. L. 118–159, div. A, title VIII, §806(b)(3), Dec. 23, 2024, 138 Stat. 1974.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (b) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(c), was based on Pub. L. 114–328, div. A, title VIII, §842(a)(4), Dec. 23, 2016, 130 Stat. 2288.

**PRIOR PROVISIONS**

A prior section 3222, act Aug. 10, 1956, ch. 1041, 70A Stat. 176; Pub. L. 96–513, title V, §502(7), Dec. 12, 1980, 94 Stat. 2909, related to authorized strength of Army Reserve, exclusive of members on active duty, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12002(a) of this title.

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159, §806(b)(3)(B), which directed substitution of "authority that includes a cost estimate" for "authority that—" in introductory provisions, par. (1), and "(2) for the for the engineering and manufacturing development phase, or production and deployment phase, includes a cost estimate", was executed by making the substitution for "authority that—" in introductory provisions, par. (1), and "(2) for the engineering and manufacturing development phase, or production and deployment phase, includes a cost estimate", to reflect the probable intent of Congress.

Pub. L. 118–159, §806(b)(3)(A), substituted "the engineering and manufacturing development phase, or production and deployment phase," for "a milestone phase" in introductory provisions.

**2021**—Subsec. (a). Pub. L. 116–283, §1812(c)(1), (2)(A), (D), redesignated subsec. (b) of section 2334 of this title as subsec. (a) of this section, substituted "Requirement" for "Independent Cost Estimate Required Before Approval" in heading, struck out par. (1) designation before "A milestone", and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1812(c)(2)(B)–(D), redesignated subsec. (a)(2) as (b), inserted heading, substituted "section 3221 of this title" for "subsection (a)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3223. Director: review of cost estimates, cost analyses, and records of the military departments and Defense Agencies

The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation—

(1) promptly receives the results of all cost estimates and cost analyses conducted by the military departments and Defense Agencies, and all studies conducted by the military departments and Defense Agencies in connection with such cost estimates and cost analyses, for major defense acquisition programs and major subprograms of the military departments and Defense Agencies; and

(2) has timely access to any records and data in the Department of Defense (including the records and data of each military department and Defense Agency and including classified and proprietary information) that the Director considers necessary to review in order to carry out any duties under this chapter.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (d), Jan. 1, 2021, 134 Stat. 4174, 4175; Pub. L. 117–81, div. A, title XVII, §1701(c)(2), Dec. 27, 2021, 135 Stat. 2136.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(d), was based on Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114–328, div. A, title VIII, §842(a)(3), (b)(2), Dec. 23, 2016, 130 Stat. 2288, 2289.

### PRIOR PROVISIONS

A prior section 3223, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, related to authorized strength of Army Reserve in warrant officers, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12008 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1812(d), transferred subsec. (c) of section 2334 of this title to this section and struck out subsec. (c) designation and heading "Review of Cost Estimates, Cost Analyses, and Records of the Military Departments and Defense Agencies" at beginning.

Par. (2). Pub. L. 117–81 substituted "under this chapter" for "under this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of

Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3224. Director: participation, concurrence, and approval in cost estimation

The Director of Cost Assessment and Program Evaluation may—

(1) participate in the discussion of any discrepancies between an independent cost estimate and the cost estimate of a military department or Defense Agency for a major defense acquisition program or major subprogram of the Department of Defense;

(2) comment on deficiencies in the methodology or execution of any cost estimate or cost analysis developed by a military department or Defense Agency for a major defense acquisition program or major subprogram;

(3) concur in the choice of a cost estimate within the baseline description or any other cost estimate (including the discussion of risk for any such cost estimate) for use at any event specified in section 3221(b)(6) of this title; and

(4) participate in the consideration of any decision to request authorization of a multiyear procurement contract for a major defense acquisition program or major subprogram.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (e), Jan. 1, 2021, 134 Stat. 4174, 4175.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (d) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(e), was based on Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114–328, div. A, title VIII, §842(a)(3), (5), (b)(3), (4), Dec. 23, 2016, 130 Stat. 2288–2290.

**PRIOR PROVISIONS**

A prior section 3224, act Aug. 10, 1956, ch. 1041, 70A Stat. 177, related to authorized strength of Army National Guard of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12001 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1812(e)(1), (2)(A), transferred subsec. (d) of section 2334 of this title to this section and struck out subsec. (d) designation and heading "Participation, Concurrence, and Approval in Cost Estimation" at beginning.

Par. (3). Pub. L. 116–283, §1812(e)(2)(B), substituted "section 3221(b)(6) of this title" for "subsection (a)(6)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3225. Discussion of risk in cost estimates

The Director of Cost Assessment and Program Evaluation, and the Secretary of the military

department concerned or the head of the Defense Agency concerned (as applicable), shall each—

(1) issue guidance requiring a discussion of risk, the potential impacts of risk on program costs, and approaches to mitigate risk in cost estimates for major defense acquisition programs and major subprograms;

(2) ensure that cost estimates are developed, to the extent practicable, based on historical actual cost information that is based on demonstrated contractor and Government performance and that such estimates provide a high degree of confidence that the program or subprogram can be completed without the need for significant adjustment to program budgets; and

(3) include the information required in the guidance under paragraph (1)—

(A) in any decision documentation approving a cost estimate within the baseline description or any other cost estimate for use at any event specified in section 3221(b)(6) of this title; and

(B) in the next Selected Acquisition Report pursuant to section 4351 of this title in the case of a major defense acquisition program or major subprogram.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (f), Jan. 1, 2021, 134 Stat. 4174, 4176; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(A)(ii), Dec. 27, 2021, 135 Stat. 2147; Pub. L. 118–159, div. A, title XVII, §1701(a)(36), Dec. 23, 2024, 138 Stat. 2205.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(f), was based on Pub. L. 111–23, title I, §101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 111–383, div. A, title VIII, §811(1), Jan. 7, 2011, 124 Stat. 4263; Pub. L. 114–328, div. A, title VIII, §842(a)(3), (6), (b)(5), Dec. 23, 2016, 130 Stat. 2288–2290.

### PRIOR PROVISIONS

A prior section 3225, act Aug. 10, 1956, ch. 1041, 70A Stat. 177; Pub. L. 96–513, title V, §502(7), Dec. 12, 1980, 94 Stat. 2909; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to authorized strength of Army National Guard and Army National Guard of United States, exclusive of members on active duty, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12002 of this title.

### AMENDMENTS

**2024**—Par. (3)(B). Pub. L. 118–159 struck out ", or the next quarterly report pursuant to section 2445c of this title in the case of a major automated information system program" before period at end.

**2021**—Pub. L. 116–283, §1812(f)(1), (2)(A), transferred subsec. (e) of section 2334 of this title to this section and struck out subsec. (e) designation and heading "Discussion of Risk in Cost Estimates" at beginning.

Par. (3)(A). Pub. L. 116–283, §1812(f)(2)(B), substituted "section 3221(b)(6) of this title" for "subsection (a)(6)".

Par. (3)(B). Pub. L. 116–283, §1812(f)(2)(C), as amended by Pub. L. 117–81, §1701(o)(6)(A)(ii), substituted "section 4351" for "section 2432".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3226. Estimates for program baseline and analyses and targets for contract negotiation purposes

(a) COST ESTIMATES DEVELOPED FOR SPECIFIED PURPOSES NOT TO BE USED FOR CONTRACT NEGOTIATIONS OR OBLIGATION OF FUNDS.—The policies, procedures, and guidance issued by the Director of Cost Assessment and Program Evaluation in accordance with the requirements of section 3221 of this title shall provide that cost estimates developed for baseline descriptions and other program purposes conducted pursuant to subsection (b)(6) of such section are not to be used for the purpose of contract negotiations or the obligation of funds.

(b) COST ESTIMATES DEVELOPED FOR SPECIFIED PURPOSES NOT TO BE USED FOR CONTRACT NEGOTIATIONS OR OBLIGATION OF FUNDS.—The Under Secretary of Defense for Acquisition and Sustainment shall, in consultation with the Director of Cost Assessment and Program Evaluation, develop policies, procedures, and guidance to ensure that cost analyses and targets developed for the purpose of contract negotiations and the obligation of funds are based on the Government's reasonable expectation of successful contractor performance in accordance with the contractor's proposal and previous experience.

(c) PROGRAM MANAGER AND CONTRACTING OFFICER.—The program manager and contracting officer for each major defense acquisition program and major subprogram shall ensure that cost analyses and targets developed for the purpose of contract negotiations and the obligation of funds are carried out in accordance with the requirements of subsection (a) and the policies, procedures, and guidance issued by the Under Secretary of Defense for Acquisition and Sustainment under subsection (b).

(d) AVAILABILITY OF EXCESS FUNDS.—

(1) Funds that are made available for a major defense acquisition program or major subprogram in accordance with a cost estimate conducted pursuant to section 3221(b)(6) of this title, but are excess to a cost analysis or target developed pursuant to subsection (b), shall remain available for obligation in accordance with the terms of applicable authorization and appropriations Acts.

(2) Funds described in paragraph (1) may be used—

(A) to cover any increased program costs identified by a revised cost analysis or target developed pursuant to subsection (b);

(B) to acquire additional end items in accordance with section 3069 of this title; or

(C) to cover the cost of risk reduction and process improvements.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (g), Jan. 1, 2021, 134 Stat. 4174, 4176; Pub. L. 119–60, div. A, title VIII, §812(a)(5), Dec. 18, 2025, 139 Stat. 951.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(g), was based on Pub. L. 111–383, div. A, title VIII, §811(3), Jan. 7, 2011, 124 Stat. 4263; Pub. L. 112–81, div. A, title VIII, §833, Dec. 31, 2011, 125 Stat. 1506; Pub. L. 114–328, div. A, title VIII, §842(a)(3), (b)(3), (6), Dec. 23, 2016, 130 Stat. 2288–2290; Pub. L. 116–92, div. A, title IX, §902(53), Dec. 20, 2019, 133 Stat. 1549.

### AMENDMENTS

**2025**—Subsec. (d)(2). Pub. L. 119–60 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Funds described in paragraph (1)—

"(A) may be used—

"(i) to cover any increased program costs identified by a revised cost analysis or target developed pursuant to subsection (b);

"(ii) to acquire additional end items in accordance with the requirements of section 3069 of this title; or

"(iii) to cover the cost of risk reduction and process improvements; and

"(B) may be reprogrammed, in accordance with established procedures, only if determined to be excess to program needs on the basis of a cost estimate developed with the concurrence of the Director of

Cost Assessment and Program Evaluation."

**2021**—Subsec. (a). Pub. L. 116–283, §1812(g)(1), (2)(A), (B), redesignated subsec. (f) of section 2334 of this title as subsec. (a) of this section, substituted "Cost Estimates Developed for Specified Purposes Not to Be Used for Contract Negotiations or Obligation of Funds" for "Estimates for Program Baseline and Analyses and Targets for Contract Negotiation Purposes" in heading, struck out par. (1) designation before "The policies,", and substituted "section 3221 of this title" for "subsection (a)" and "subsection (b)(6) of such section" for "subsection (a)(6)". Pars. (2), (3), (4), and (5) of subsec. (a) redesignated subsecs. (b), (c), (d)(1), and (d)(2), respectively.

Subsec. (b). Pub. L. 116–283, §1812(g)(2)(C), redesignated subsec. (a)(2) as (b) and inserted heading.

Subsec. (c). Pub. L. 116–283, §1812(g)(2)(D), redesignated subsec. (a)(3) as (c), inserted heading, and substituted "The program manager" for "The Program Manager", "subsection (a)" for "paragraph (1)", and "subsection (b)" for "paragraph (2)".

Subsec. (d). Pub. L. 116–283, §1812(g)(2)(E)(i), (iii), redesignated subsec. (a)(4) and (5) as (d)(1) and (2), respectively, inserted subsec. heading, and realigned margin of par. (2).

Subsec. (d)(1). Pub. L. 116–283, §1812(g)(2)(E)(ii), substituted "section 3221(b)(6) of this title" for "subsection (a)(6)" and "subsection (b)" for "paragraph (2)".

Subsec. (d)(2). Pub. L. 116–283, §1812(g)(2)(E)(iv), substituted "paragraph (1)" for "paragraph (4)" in introductory provisions, "subsection (b)" for "paragraph (2)" in subpar. (A)(i), and "section 3069" for "section 2308" in subpar. (A)(ii).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3227. Guidelines and collection method for acquisition of cost data

(a) DIRECTOR OF CAPE TO DEVELOP GUIDELINES AND COLLECTION METHOD.—The Director of Cost Assessment and Program Evaluation shall, in consultation with the Under Secretary of Defense for Acquisition and Sustainment, develop policies, procedures, guidance, and a collection method to ensure that quality acquisition cost data are collected to facilitate cost estimation and comparison across acquisition programs.

(b) APPLICABILITY TO ACQUISITION PROGRAMS IN AMOUNT GREATER THAN SPECIFIED THRESHOLD.—The program manager and contracting officer for each acquisition program in an amount greater than an amount described in section 3041(c)(1) of this title, in consultation with the cost estimating component of the relevant military department or Defense Agency, shall ensure that cost data are collected in accordance with the requirements of subsection (a).

(c) LIMITATION ON WAIVER AUTHORITY.—The requirement under subsection (a) may be waived only by the Director of Cost Assessment and Program Evaluation.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1812(a), (h), Jan. 1, 2021, 134 Stat. 4174, 4177; Pub. L. 118–159, div. A, title VIII, §801, Dec. 23, 2024, 138 Stat. 1965.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1812(h), was based on Pub. L. 114–328, div. A, title VIII, §842(a)(7), Dec. 23, 2016, 130 Stat. 2289; Pub. L. 116–92, div. A, title IX, §902(53), Dec. 20, 2019, 133 Stat. 1549.

### PRIOR PROVISIONS

A prior section 3230, added Pub. L. 85–861, §1(69)(B), Sept. 2, 1958, 72 Stat. 1464, provided that members of Army who are detailed for duty with agencies of United States outside Department of Defense on

a reimbursable basis not be counted in computing strengths under any law, prior to repeal by Pub. L. 96–513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 substituted "an amount described in section 3041(c)(1) of this title" for "$100,000,000".

**2021**—Subsec. (a). Pub. L. 116–283, §1812(h)(1), (2)(A), redesignated subsec. (g) of section 2334 of this title as subsec. (a) of this section, substituted "DIRECTOR OF CAPE TO DEVELOP GUIDELINES AND COLLECTION METHOD" for "GUIDELINES AND COLLECTION OF COST DATA" in heading, and struck out par. (1) designation before "The Director". Amendment striking heading was executed to reflect the probable intent of Congress notwithstanding error in formatting of text. Pars. (2) and (3) of subsec. (a) redesignated subsecs. (b) and (c), respectively.

Subsec. (b). Pub. L. 116–283, §1812(h)(2)(B), redesignated subsec. (a)(2) as (b), inserted heading, and substituted "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1812(h)(2)(C), redesignated subsec. (a)(3) as (c), inserted heading, and substituted "subsection (a)" for "paragraph (1)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## CHAPTER 223—OTHER PROVISIONS RELATING TO PLANNING AND SOLICITATION GENERALLY

Sec.
3241. Design-build selection procedures.
3242. Supplies: economic order quantities.
3243. Encouragement of new competitors: qualification requirement.
3244. [Reserved].
3245. [Reserved].
3246. [Reserved].
3247. Contracts: regulations for bids.
3248. [Reserved].
3249. Advocates for competition.
3250. [Reserved].
3251. [Reserved].
3252. Requirements for information relating to supply chain risk.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 223 "PLANNING AND SOLICITATION RELATING TO PARTICULAR ITEMS OR SERVICES", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3251, was repealed by Pub. L. 116–283, div. A, title XVIII, §1811(b), Jan. 1, 2021, 134 Stat. 4164.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(4), Dec. 27, 2021, 135 Stat. 2139, added "[Reserved]" for item 3248 and struck out former item 3248 "Matters relating to reverse auctions".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### INTERIM NATIONAL SECURITY WAIVERS FOR SUPPLY CHAIN ILLUMINATION EFFORTS

Pub. L. 119–60, div. A, title VIII, §833, Dec. 18, 2025, 139 Stat. 962, provided that:

"(a) ELIGIBILITY FOR INTERIM NATIONAL SECURITY WAIVER.—

"(1) IN GENERAL.—If a contractor, through the use of supply chain illumination efforts, discovers a noncompliant item in a supply chain and promptly discloses that discovery to the program manager responsible for such supply chain, the contractor shall be eligible for a waiver described in subsection (b) to deliver an end item subject to the requirements of this section.

"(2) DISCLOSURES.—A disclosure described in paragraph (1) may include a disclosure resulting from supply chain illumination efforts conducted by the contractor, a subcontractor, or by a third-party entity acting on behalf of the contractor or subcontractor to increase supply chain transparency. Discoveries of non-compliance by the United States Government is not a disclosure described under paragraph (1).

"(b) INTERIM NATIONAL SECURITY WAIVER.—

"(1) IN GENERAL.—The Secretary of Defense or the Secretary concerned (as defined in section 101 of title 10, United States Code) may issue an interim national security waiver under this section to allow a contractor to—

"(A) accept delivery of an end item that contains a noncompliant item if the program manager determines the noncompliant item does not represent a security, safety, or flight risk; and

"(B) make payment for the delivery of the end item.

"(2) DELEGATION.—The authority to issue a waiver under paragraph (1) may be delegated—

"(A) to the service acquisition executive of the military department responsible for the acquisition program concerned; or

"(B) if the end item is used in acquisition programs of more than one military department, to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Sustainment.

"(c) REQUIREMENTS FOR INTERIM NATIONAL SECURITY WAIVERS.—

"(1) WRITTEN DETERMINATION.—An interim national security waiver issued under this section shall be include [sic] written determination with the following:

"(A) The preliminary facts and circumstances regarding the identified noncompliant item and the likely cause for noncompliance.

"(B) The types of end items to which the waiver applies, including any additional items currently being evaluated for potential noncompliance with statutes listed in subsection (g).

"(C) A determination that any identified noncompliant items in an end item to which the waiver applies and any additional item being evaluated for potential noncompliance do not represent a security, safety, or flight risk.

"(D) An assessment of program risk due to the acceptance and use of an end item that contains a noncompliant item to be procured under the waiver.

"(2) SUBMISSION TO CONGRESS.—A written determination under this subsection shall be submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than five days after the date on which a waiver is issued for the end item that is the subject of such determination.

"(d) CONTRACTOR RESPONSIBILITY.—A contractor receiving a waiver under this section shall develop and implement a corrective plan to ensure future compliance and demonstrate procurement of the noncompliant item was neither willful nor knowing, as determined by the program manager described in subsection (a). With respect to future deliveries of an end item for which a waiver was granted under this section, the contractor shall use reasonably expedient means to qualify an alternative compliant supplier, where available, for noncompliant items contained in such end item.

"(e) TERMINATION; APPLICABILITY.—The authority to issue an interim national security waiver under this section shall expire on January 1, 2028. A waiver issued before such date shall apply with respect to any contract for procurement of an end item entered into one or before such date.

"(f) BRIEFINGS.—Not later than April 1, 2026, and April 1, 2027, the Under Secretary of Defense for Acquisition and Sustainment shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on waivers issued under this section and corrective action plans of contractors to ensure future compliance with existing authorities.

"(g) NONCOMPLIANT ITEM DEFINED.—In this section, the term 'noncompliant item' means an item covered by one or more of the following provisions of law:

"(1) Section 4863 of title 10, United States Code, relating to a requirement to buy strategic materials critical to national security from American sources.

"(2) Section 4872 of title 10, United States Code, relating to a prohibition on acquisition of sensitive materials from non-allied foreign nations.

"(3) Section 4873 of title 10, United States Code, relating to additional requirements pertaining to

printed circuit boards.

"(4) Section 1211 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. 4651 note prec.), relating to a prohibition on procurements from Chinese military companies.

"(5) Section 805 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 4651 note prec.), relating to a prohibition on procurements related to entities identified as Chinese military companies operating in the United States.

"(6) Section 154 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 4651 note prec.), relating to a prohibition on availability of funds for procurement of certain batteries.

"(7) Section 244 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 4651 note prec.), relating to a limitation on sourcing chemical materials for munitions from certain countries."

## SUPPLY CHAIN ILLUMINATION INCENTIVES

Pub. L. 118–159, div. A, title VIII, §849, Dec. 23, 2024, 138 Stat. 1994, provided that:

"(a) IN GENERAL.—Not later than April 1, 2026, the Secretary of Defense shall develop and implement policies, procedures, and tools to incentivize each contractor of the Department of Defense to assess and monitor the entire supply chain of goods and services provided to the Department by such contractor to identify potential vulnerabilities and noncompliance risks with respect to such goods and services.

"(b) BRIEFING.—Not later than September 30, 2025, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the development and implementation of the policies, procedures, and tools under subsection (a), including information on obstacles to developing and implementing such policies, if any, and additional authorities or resources required to develop and implement such policies."

## PILOT PROGRAM TO ANALYZE AND MONITOR CERTAIN SUPPLY CHAINS

Pub. L. 118–31, div. A, title VIII, §856, Dec. 22, 2023, 137 Stat. 345, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment shall establish and carry out a pilot program to analyze, map, and monitor supply chains for up to five covered weapons platforms, under which the Under Secretary shall—

"(1) identify impediments to production and opportunities to expand the production of components of such a covered weapons platform;

"(2) identify potential risks to and vulnerabilities of suppliers for such covered weapons platforms and ways to mitigate such risks; and

"(3) identify critical suppliers for such covered weapons platforms.

"(b) USE OF TOOLS.—The Under Secretary may use a combination of commercial tools and tools available to the Department of Defense to carry out the program established under this section, including artificial intelligence and machine learning tools to improve data analysis capabilities for such supply chains.

"(c) ANNUAL REPORTS.—Not later than one year after the date of the enactment of this Act, and annually thereafter until the date specified in subsection (d), the Under Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing—

"(1) a list of the vulnerabilities of the supply chains for each covered weapons platform selected under subsection (a), categorized by severity of threat or risk to deployment of such a platform;

"(2) for each vulnerability, a description of such vulnerability, whether such vulnerability has been resolved, and, if resolved, the time from identification to resolution; and

"(3) an assessment of any efficiencies achieved by addressing impediments to the supply chain.

"(d) TERMINATION.—The authority to carry out the pilot program under this section shall terminate on January 1, 2028.

"(e) COVERED WEAPONS PLATFORM DEFINED.—In this section, the term 'covered weapons platform' means any weapons platform identified in the reports submitted under section 1251(d)(1) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] (10 U.S.C. 113 note)."

## PILOT PROGRAM RELATING TO SEMICONDUCTOR SUPPLY CHAIN AND CYBERSECURITY COLLABORATION CENTER

Pub. L. 118–31, div. A, title XV, §1513, Dec. 22, 2023, 137 Stat. 543, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the Director of the National Security Agency, shall commence the conduct of a pilot program under which the Cybersecurity Collaboration Center of the National Security Agency may collaborate with, including by entering into contracts or other agreements with, eligible persons under subsection (c), for the purpose of assessing the feasibility and advisability of improving the cybersecurity of the semiconductor supply chain (in this section referred to as the 'pilot program').

"(b) PROGRAM OBJECTIVES.—Under the pilot program, the Secretary of Defense shall seek to improve the cybersecurity of the supply chain for the design, manufacturing, assembly, packaging, and testing of semiconductors, including through the following:

"(1) Improving the cybersecurity of processes for such design, manufacturing, assembly, packaging, and testing.

"(2) Protecting against cyber-driven intellectual property theft with respect to such design, manufacturing, assembly, packaging, and testing.

"(3) Reducing the risk of disruptions caused by cyberattacks to the supply chain for such design, manufacturing, assembly, packaging, and testing.

"(c) ELIGIBILITY.—A person is eligible to participate in the pilot program if such person—

"(1) directly supports the design, manufacturing, assembly, packaging, or testing of semiconductors within the United States; and

"(2) provides semiconductor components for the Department of Defense, any national security system (as such term is defined in section 3552(b) of title 44, United States Code), or the defense industrial base.

"(d) BRIEFINGS.—

"(1) INITIAL BRIEFING.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall provide to the appropriate congressional committees an initial briefing on the pilot program.

"(B) ELEMENTS.—The briefing under subparagraph (A) shall include the following:

"(i) A description of the status of the implementation of the pilot program.

"(ii) An identification of key priorities for the pilot program.

"(iii) An identification of any challenges to implementing the pilot program or impediments to participation in the pilot program by eligible persons under subsection (c).

"(2) ANNUAL BRIEFINGS.—

"(A) IN GENERAL.—Not later than one year after the date of the initial briefing under paragraph (1), and annually thereafter until the date of termination under subsection (f), the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the progress of the pilot program.

"(B) ELEMENTS.—Each briefing under subparagraph (A) shall include the following:

"(i) Recommendations for addressing relevant policy, budgetary, security, and legislative gaps to increase the effectiveness of the pilot program, including, with respect to the first briefing under such subparagraph, an assessment of the resources necessary for successful implementation of the pilot program.

"(ii) Recommendations for increasing participation in the pilot program by eligible persons under subsection (c).

"(iii) A description of any challenges encountered in carrying out the pilot program, including any concerns expressed by manufacturers of semiconductors or suppliers of semiconductor components.

"(iv) The findings of the Secretary, in consultation with the Director of the National Security Agency, with respect to the feasibility and advisability of extending or expanding the pilot program.

"(v) Such other matters as the Secretary considers appropriate.

"(e) TERMINATION.—The pilot program shall terminate on the date that is four years after the date of the enactment of this Act [Dec. 22, 2023].

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(2) the Committee on Armed Services and the Select Committee on Intelligence of the Senate."

## QUANTIFIABLE ASSURANCE CAPABILITY FOR SECURITY OF MICROELECTRONICS

Pub. L. 117–263, div. A, title II, §219, Dec. 23, 2022, 136 Stat. 2477, provided that:

"(a) DEVELOPMENT AND IMPLEMENTATION OF CAPABILITY.—The Secretary of Defense shall

develop and implement a capability for quantifiable assurance to achieve practical, affordable, and risk-based objectives for security of microelectronics to enable the Department of Defense to access and apply state-of-the-art microelectronics for military purposes.

"(b) ESTABLISHMENT OF REQUIREMENTS AND SCHEDULE OF SUPPORT FOR DEVELOPMENT, TEST, AND ASSESSMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], the Deputy Secretary of Defense shall, in consultation with the Under Secretary of Defense for Research and Engineering, establish requirements and a schedule for support from the National Security Agency to develop, test, assess, implement, and improve the capability required by subsection (a).

"(2) NATIONAL SECURITY AGENCY.—The Director of the National Security Agency shall take such actions as may be necessary to satisfy the requirements established under paragraph (1).

"(3) BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense for Research and Engineering and the Director of the National Security Agency shall jointly provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the requirements and the schedule for support established under paragraph (1).

"(c) ASSESSMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall assess whether the Department of Defense, to enable expanded use of unprogrammed application specific integrated circuits or other custom-designed integrated circuits manufactured by a supplier that is not using processes accredited by the Defense Microelectronics Activity for the purpose of enabling the Department to access commercial state-of-the-art microelectronics technology using risk-based quantifiable assurance security methodology, should—

"(A) seek changes to the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations, and Department of Defense Instruction 5200.44 (relating to protection of mission critical functions to achieve trusted systems and networks); and

"(B) expand the use of unprogrammed custom-designed integrated circuits that are not controlled by such regulations.

"(2) BRIEFING.—Not later than April 1, 2023, the Secretary of Defense shall provide the congressional defense committees a briefing on the findings of the Secretary with respect to the assessment conducted under paragraph (1)."

## GOVERNMENT-INDUSTRY-ACADEMIA WORKING GROUP ON MICROELECTRONICS

Pub. L. 117–263, div. A, title II, §220, Dec. 23, 2022, 136 Stat. 2478, provided that:

"(a) ESTABLISHMENT AND DESIGNATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall establish a working group to facilitate coordination among industry, academia, and the Department of Defense on issues of mutual interest relating to microelectronics as described in subsection (c).

"(2) DESIGNATION.—The working group established under paragraph (1) shall be known as the 'Government-Industry-Academia Working Group on Microelectronics' (referred to in this section as the 'Working Group').

"(b) COMPOSITION.—The Working Group shall be composed of representatives of organizations and elements of the Department of Defense, industry, and academia.

"(c) SCOPE.—The Secretary shall ensure that the Working Group supports dialogue and coordination among industry, academia, and the Department of Defense on the following issues relating to microelectronics:

"(1) Research needs.

"(2) Infrastructure needs and shortfalls.

"(3) Technical and process standards.

"(4) Training and certification needs for the workforce.

"(5) Supply chain issues.

"(6) Supply chain, manufacturing, and packaging security.

"(7) Technology transition issues and opportunities.

"(d) CHARTER AND POLICIES.—Not later than March 1, 2023, the Secretary of Defense shall develop a charter and issue policies for the functioning of the Working Group.

"(e) ADMINISTRATIVE SUPPORT.—The joint federation of capabilities established under section 937 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 2224 note) shall provide administrative support to the Working Group.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to allow the Department of Defense to provide any competitive advantage to any participant in the Working Group.

"(g) SUNSET.—The provisions of this section shall terminate on December 31, 2030."

**RISK MANAGEMENT FOR DEPARTMENT OF DEFENSE PHARMACEUTICAL SUPPLY CHAINS**

Pub. L. 118–159, div. A, title VIII, §850, Dec. 23, 2024, 138 Stat. 1994, provided that:

"(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment shall—

"(1) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on—

"(A) existing information streams within the Federal Government, if any, for excipients and key starting materials for final drug products that may be used to assess the reliance by the Department of Defense on high-risk foreign suppliers analyzed in the report required under section 860(a) of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2734; 10 U.S.C. 3241 note prec.) [set out below];

"(B) active pharmaceutical ingredients, final drug products, and respective excipients and key starting materials analyzed in such report that are manufactured in a high-risk foreign country, as determined by the Secretary of Defense;

"(C) any limitations on the ability of the Secretary to—

"(i) obtain or analyze the information identified under subparagraphs (A) and (B);

"(ii) monitor the temperature of active pharmaceutical ingredients, final drug products, and respective excipients and key starting materials throughout the supply chain of the Department; and

"(iii) use data analytics to monitor vulnerabilities in the pharmaceutical supply chain of the Department;

"(D) how the Secretary plans to address the limitations identified under subparagraph (C); and

"(E) any recommendations of the Secretary to address those limitations; and

"(2) update risk management guidance developed by the Under Secretary under section 860(a)(1) of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 3241 note prec.) to include any relevant findings identified in paragraph (1).

"(b) FDA DETERMINATIONS.—For the purposes of this section, the excipients and key starting materials for final drug products shall be such excipients and key starting materials as determined by the Food and Drug Administration or under regulations issued by the Food and Drug Administration."

Pub. L. 117–263, div. A, title VIII, §860, Dec. 23, 2022, 136 Stat. 2734, provided that:

"(a) RISK MANAGEMENT FOR ALL DEPARTMENT OF DEFENSE PHARMACEUTICAL SUPPLY CHAINS.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Acquisition and Sustainment shall—

"(1) develop and issue implementing guidance for risk management for Department of Defense supply chains for pharmaceutical materiel for the Department;

"(2) identify, in coordination with the Secretary of Health and Human Services, supply chain information gaps regarding the Department's reliance on foreign suppliers of drugs, including active pharmaceutical ingredients and final drug products; and

"(3) submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding—

"(A) existing information streams, if any, that may be used to assess the reliance by the Department of Defense on high-risk foreign suppliers of drugs;

"(B) vulnerabilities in the drug supply chains of the Department of Defense; and

"(C) any recommendations to address—

"(i) information gaps identified under paragraph (2); and

"(ii) any risks related to such reliance on foreign suppliers.

"(b) RISK MANAGEMENT FOR DEPARTMENT OF DEFENSE PHARMACEUTICAL SUPPLY CHAIN.—The Director of the Defense Health Agency shall—

"(1) not later than one year after the issuance of the guidance required under subsection (a)(1), develop and publish implementing guidance for risk management for the Department of Defense supply chain for pharmaceuticals; and

"(2) establish a working group—

"(A) to assess risks to the Department's pharmaceutical supply chain;

"(B) to identify the pharmaceuticals most critical to beneficiary care at military treatment

facilities; and

"(C) to establish policies for allocating scarce pharmaceutical resources of the Department of Defense in case of a supply disruption."

## AUTHORITY FOR EXPLOSIVE ORDNANCE DISPOSAL UNITS TO ACQUIRE NEW OR EMERGING TECHNOLOGIES AND CAPABILITIES

Pub. L. 115–91, div. A, title I, §142, Dec. 12, 2017, 131 Stat. 1320, provided that: "The Secretary of Defense, after consultation with the head of each military service, may provide to an explosive ordnance disposal unit the authority to acquire new or emerging technologies and capabilities that are not specifically provided for in the authorized equipment allowance for the unit, as such allowance is set forth in the table of equipment and table of allowance for the unit."

## ANNUAL REPORT ON MILITARY WORKING DOGS USED BY THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. A, title III, §334, Dec. 12, 2017, 131 Stat. 1356, provided that:

"(a) CAPACITY.—The Secretary of Defense, acting through the Executive Agent for Military Working Dogs (hereinafter in this section referred to as the 'Executive Agent'), shall—

"(1) identify the number of military working dogs required to fulfill the various missions of the Department of Defense for which such dogs are used, including force protection, facility and check point security, and explosives and drug detection;

"(2) take such steps as are practicable to ensure an adequate number of military working dog teams are available to meet and sustain the mission requirements identified in paragraph (1);

"(3) ensure that the Department's needs and performance standards with respect to military working dogs are readily available to dog breeders and trainers; and

"(4) coordinate with other Federal, State, and local agencies, nonprofit organizations, universities, and private sector entities, as appropriate, to increase the training capacity for military working dog teams.

"(b) MILITARY WORKING DOG PROCUREMENT.—The Secretary, acting through the Executive Agent, shall work to ensure that military working dogs are procured as efficiently as possible and at the best value to the Government, while maintaining the necessary level of quality and encouraging increased domestic breeding.

"(c) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], and annually thereafter until September 30, 2021, the Secretary, acting through the Executive Agent, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the procurement and retirement of military working dogs for the fiscal year preceding the fiscal year during which the report is submitted. Each report under this subsection shall include the following for the fiscal year covered by the report:

"(1) The number of military working dogs procured, by source, by each military department or Defense Agency.

"(2) The cost of procuring military working dogs incurred by each military department or Defense Agency.

"(3) The number of domestically-bred and sourced military working dogs procured by each military department or Defense Agency, including a list of vendors, their location, cost, and the quantity of dogs procured from each vendor.

"(4) The number of non-domestically-bred military working dogs procured from non-domestic sources by each military department or Defense Agency, including a list of vendors, their location, cost, and the quantity of dogs procured from each vendor.

"(5) The cost of procuring pre-trained and green dogs for force protection, facility and checkpoint security, and improvised explosive device, other explosives, and drug detection.

"(6) An analysis of the procurement practices of each military department or Defense Agency that limit market access for domestic canine vendors and breeders.

"(7) The total cost of procuring domestically-bred military working dogs versus the total cost of procuring dogs from non-domestic sources.

"(8) The total number of domestically-bred dogs and the number of dogs from foreign sources procured by each military department or Defense Agency and the number and percentage of those dogs that are ultimately deployed for their intended use.

"(9) An explanation for any significant difference in the cost of procuring military working dogs from different sources.

"(10) An estimate of the number of military working dogs expected to retire annually and an

identification of the primary cause of the retirement of such dogs.

"(11) An identification of the final disposition of military working dogs no longer in service.

"(d) MILITARY WORKING DOG DEFINED.—For purposes of this section, the term 'military working dog' means a dog used in any official military capacity, as defined by the Secretary of Defense."

[Similar provisions were contained in Pub. L. 110–417, [div. A], title III, §358, Oct. 14, 2008, 122 Stat. 4427, as amended by Pub. L. 111–84, div. A, title III, §341, Oct. 28, 2009, 123 Stat. 2260; Pub. L. 111–383, div. A, title X, §1075(e)(6), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 112–81, div. A, title III, §349, Dec. 31, 2011, 125 Stat. 1375; Pub. L. 114–92, div. A, title X, §1073(h), Nov. 25, 2015, 129 Stat. 996.]

## STRATEGY FOR ASSURED ACCESS TO TRUSTED MICROELECTRONICS

Pub. L. 114–328, div. A, title II, §231, Dec. 23, 2016, 130 Stat. 2059, as amended by Pub. L. 116–283, div. A, title II, §276, Jan. 1, 2021, 134 Stat. 3504, provided that:

"(a) STRATEGY.—The Secretary of Defense shall, in collaboration with the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary for Research and Engineering, and the Director of the Defense Advanced Research Projects Agency, develop a strategy to ensure that the Department of Defense has assured access to trusted microelectronics by not later than June 1, 2021.

"(b) ELEMENTS.—The strategy under subsection (a) shall include the following:

"(1) Definitions of the various levels of trust required by classes of Department of Defense systems.

"(2) Means of classifying systems of the Department of Defense based on the level of trust such systems are required to maintain with respect to microelectronics.

"(3) Means by which trust in microelectronics can be assured.

"(4) Means to increase the supplier base for assured microelectronics to ensure multiple supply pathways.

"(5) An assessment of the microelectronics needs of the Department of Defense in future years, including the need for trusted, radiation-hardened microelectronics.

"(6) An assessment of the microelectronic needs of the Department of Defense that may not be fulfilled by entities outside the Department of Defense.

"(7) The resources required to assure access to trusted microelectronics, including infrastructure, workforce, and investments in science and technology.

"(8) A research and development strategy to ensure that the Department of Defense can, to the maximum extent practicable, use state of the art commercial microelectronics capabilities or their equivalent, while satisfying the needs for trust.

"(9) Recommendations for changes in authorities, regulations, and practices, including acquisition policies, financial management, public-private partnership policies, or in any other relevant areas, that would support the achievement of the goals of the strategy.

"(10) An approach to ensuring the continuing production of cutting-edge microelectronics for national security needs, including access to state-of-the-art node sizes through commercial manufacturing, heterogeneous integration, advantaged sensor manufacturing, boutique chip designs, and variable volume production capabilities.

"(11) An assessment of current microelectronics supply chain management best practices, including—

"(A) intellectual property controls;

"(B) international standards;

"(C) guidelines of the National Institute of Standards and Technology;

"(D) product traceability and provenance; and

"(E) location of design, manufacturing, and packaging facilities.

"(12) An assessment of existing risks to the current microelectronics supply chain.

"(13) A description of actions that may be carried out by the defense industrial base to implement best practices described in paragraph (11) and mitigate risks described in paragraph (12).

"(14) A plan for increasing commercialization of intellectual property developed by the Department of Defense for commercial microelectronics research and development.

"(15) An assessment of the feasibility, usefulness, efficacy, and cost of—

"(A) developing a national laboratory exclusively focused on the research and development of microelectronics to serve as a center for Federal Government expertise in high-performing, trusted microelectronics and as a hub for Federal Government research into breakthrough microelectronics-related technologies; and

"(B) incorporating into such national laboratory a commercial incubator to provide early-stage microelectronics startups, which face difficulties scaling due to the high costs of microelectronics design and fabrication, with access to funding resources, fabrication facilities, design tools, and shared

intellectual property.

"(16) The development of multiple models of public-private partnerships to execute the strategy, including in-depth analysis of establishing a semiconductor manufacturing corporation to leverage private sector technical, managerial, and investment expertise, and private capital, that would have the authority and funds to provide grants or approve investment tax credits, or both, to implement the strategy.

"(17) Processes and criteria for competitive selection of commercial companies, including companies headquartered in countries that are allies or partners with the United States, to provide design, foundry and assembly, and packaging services and to build and operate the industrial capabilities associated with such services.

"(18) The role that other Federal agencies should play in organizing and supporting the strategy, including any required direct or indirect funding support, or legislative and regulatory actions, including restricting procurement to domestic sources, and providing antitrust and export control relief.

"(19) All potential funding sources and mechanisms for initial and sustaining investments in microelectronics.

"(20) Such other matters as the Secretary of Defense determines to be relevant.

"(c) SUBMISSION AND UPDATES.—(1) Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the strategy developed under subsection (a). The strategy shall be submitted in unclassified form, but may include a classified annex.

"(2) Not later than two years after submitting the strategy under paragraph (1) and not less frequently than once every two years thereafter until September 30, 2024, the Secretary shall update the strategy as the Secretary considers appropriate to support Department of Defense missions.

"(d) DIRECTIVE REQUIRED.—Not later than June 1, 2021, the Secretary of Defense shall issue a directive for the Department of Defense describing how Department of Defense entities may access assured and trusted microelectronics supply chains for Department of Defense systems.

"(e) REPORT AND CERTIFICATION.—Not later than June 1, 2021, the Secretary of the Defense shall submit to the congressional defense committees—

"(1) a report on—

"(A) the status of the implementation of the strategy developed under subsection (a);

"(B) the actions being taken to achieve full implementation of such strategy, and a timeline for such implementation; and

"(C) the status of the implementation of the directive required by subsection (d); and

"(2) a certification of whether the Department of Defense has an assured means for accessing a sufficient supply of trusted microelectronics, as required by the strategy developed under subsection (a).

"(f) SUBMISSION.—Not later than June 1, 2021, the Secretary of Defense shall submit the strategy required in subsection (a), along with any views and recommendations and an estimated budget to implement the strategy, to the President, the National Security Council, and the National Economic Council.

"(g) DEFINITIONS.—In this section:

"(1) The term 'assured' refers, with respect to microelectronics, to the ability of the Department of Defense to guarantee availability of microelectronics parts at the necessary volumes and with the performance characteristics required to meet the needs of the Department of Defense.

"(2) The terms 'trust' and 'trusted' refer, with respect to microelectronics, to the ability of the Department of Defense to have confidence that the microelectronics function as intended and are free of exploitable vulnerabilities, either intentionally or unintentionally designed or inserted as part of the system at any time during its life cycle."

## USE OF LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION PROCESS

Pub. L. 114–328, div. A, title VIII, §813, Dec. 23, 2016, 130 Stat. 2270, as amended by Pub. L. 115–91, div. A, title VIII, §822(a), (b)(1), Dec. 12, 2017, 131 Stat. 1465; Pub. L. 116–92, div. A, title VIII, §806(a)(1), Dec. 20, 2019, 133 Stat. 1485, provided that:

"(a) STATEMENT OF POLICY.—It shall be the policy of the Department of Defense to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Department the benefits of cost and technical tradeoffs in the source selection process.

"(b) REVISION OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall revise the Defense Federal Acquisition Regulation Supplement to require that, for solicitations issued on or after the date that is 120 days after the date of the enactment of this Act, lowest price technically acceptable source selection criteria are used only in situations in which—

"(1) the Department of Defense is able to comprehensively and clearly describe the minimum requirements expressed in terms of performance objectives, measures, and standards that will be used to determine acceptability of offers;

"(2) the Department of Defense would realize no, or minimal, value from a contract proposal exceeding the minimum technical or performance requirements set forth in the request for proposal;

"(3) the proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal;

"(4) the source selection authority has a high degree of confidence that a review of technical proposals of offerors other than the lowest bidder would not result in the identification of factors that could provide value or benefit to the Department;

"(5) the contracting officer has included a justification for the use of a lowest price technically acceptable evaluation methodology in the contract file;

"(6) the Department of Defense has determined that the lowest price reflects full life-cycle costs, including for operations and support;

"(7) the Department of Defense would realize no, or minimal, additional innovation or future technological advantage by using a different methodology; and

"(8) with respect to a contract for procurement of goods, the goods procured are predominantly expendable in nature, nontechnical, or have a short life expectancy or short shelf life.

"(c) AVOIDANCE OF USE OF LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION CRITERIA IN CERTAIN PROCUREMENTS.—To the maximum extent practicable, the use of lowest price technically acceptable source selection criteria shall be avoided in the case of a procurement that is predominately for the acquisition of—

"(1) information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, audit or audit readiness services, or other knowledge-based professional services;

"(2) personal protective equipment; or

"(3) knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq."

[Pub. L. 115–91, div. A, title VIII, §822(b)(2), Dec. 12, 2017, 131 Stat. 1465, provided that: "The amendment made by this subsection [amending section 813 of Pub. L. 114–328, set out above] shall apply with respect to the second, third, and fourth reports submitted under [former] subsection (d) of section 813 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat 2271; 10 U.S.C. 2305 note)."]

## USE OF COMMERCIAL OR NON-GOVERNMENT STANDARDS IN LIEU OF MILITARY SPECIFICATIONS AND STANDARDS

Pub. L. 114–328, div. A, title VIII, §875, Dec. 23, 2016, 130 Stat. 2310, as amended by Pub. L. 116–92, div. A, title IX, §902(45), Dec. 20, 2019, 133 Stat. 1548, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that the Department of Defense uses commercial or non-Government specifications and standards in lieu of military specifications and standards, including for procuring new systems, major modifications, upgrades to current systems, non-developmental and commercial items, and programs in all acquisition categories, unless no practical alternative exists to meet user needs. If it is not practicable to use a commercial or non-Government standard, a Government-unique specification may be used.

"(b) LIMITED USE OF MILITARY SPECIFICATIONS.—

"(1) IN GENERAL.—Military specifications shall be used in procurements only to define an exact design solution when there is no acceptable commercial or non-Government standard or when the use of a commercial or non-Government standard is not cost effective.

"(2) WAIVER.—A waiver for the use of military specifications in accordance with paragraph (1) shall be approved by either the appropriate milestone decision authority, the appropriate service acquisition executive, or the Under Secretary of Defense for Acquisition and Sustainment.

"(c) REVISION TO DFARS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Under Secretary of Defense for Acquisition and Sustainment shall revise the Defense Federal Acquisition Regulation Supplement to encourage contractors to propose commercial or non-Government standards and industry-wide practices that meet the intent of the military specifications and standards.

"(d) DEVELOPMENT OF NON-GOVERNMENT STANDARDS.—The Under Secretary of Defense for Research and Engineering shall form partnerships with appropriate industry associations to develop commercial or non-Government standards for replacement of military specifications and standards where

practicable.

"(e) EDUCATION, TRAINING, AND GUIDANCE.—The Under Secretary of Defense for Acquisition and Sustainment shall ensure that training, education, and guidance programs throughout the Department are revised to incorporate specifications and standards reform.

"(f) LICENSES.—The Under Secretary of Defense for Acquisition and Sustainment shall negotiate licenses for standards to be used across the Department of Defense and shall maintain an inventory of such licenses that is accessible to other Department of Defense organizations."

## REQUIREMENT AND REVIEW RELATING TO USE OF BRAND NAMES OR BRAND-NAME OR EQUIVALENT DESCRIPTIONS IN SOLICITATIONS

Pub. L. 114–328, div. A, title VIII, §888, Dec. 23, 2016, 130 Stat. 2322, as amended by Pub. L. 116–92, div. A, title IX, §902(46), Dec. 20, 2019, 133 Stat. 1548, provided that:

"(a) REQUIREMENT.—The Secretary of Defense shall ensure that competition in Department of Defense contracts is not limited through the use of specifying brand names or brand-name or equivalent descriptions, or proprietary specifications or standards, in solicitations unless a justification for such specification is provided and approved in accordance with section 2304(f) of title 10, United States Code [now 10 U.S.C. 3204(e)].

"(b) REVIEW OF ANTI-COMPETITIVE SPECIFICATIONS IN INFORMATION TECHNOLOGY ACQUISITIONS.—

"(1) REVIEW REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Under Secretary of Defense for Acquisition and Sustainment shall conduct a review of the policy, guidance, regulations, and training related to specifications included in information technology acquisitions to ensure current policies eliminate the unjustified use of potentially anti-competitive specifications. In conducting the review, the Under Secretary shall examine the use of brand names or proprietary specifications or standards in solicitations for procurements of goods and services, as well as the current acquisition training curriculum related to those areas.

"(2) BRIEFING REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary shall provide a briefing to the Committees on Armed Services of the Senate and House of Representatives on the results of the review required by paragraph (1).

"(3) ADDITIONAL GUIDANCE.—Not later than one year after the date of the enactment of this Act, the Under Secretary shall revise policies, guidance, and training to incorporate such recommendations as the Under Secretary considers appropriate from the review required by paragraph (1)."

## MATTERS RELATING TO REVERSE AUCTIONS

Pub. L. 113–291, div. A, title VIII, §824, Dec. 19, 2014, 128 Stat. 3436, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall clarify regulations on reverse auctions, as necessary, to ensure that—

"(1) single bid contracts may not be entered into resulting from reverse auctions unless compliant with existing Federal regulations and Department of Defense memoranda providing guidance on single bid offers;

"(2) all reverse auctions provide offerors with the ability to submit revised bids throughout the course of the auction;

"(3) if a reverse auction is conducted by a third party—

"(A) inherently governmental functions are not performed by private contractors, including by the third party; and

"(B) past performance or financial responsibility information created by the third party is made available to offerors; and

"(4) reverse auctions resulting in design-build military construction contracts specifically authorized in law are prohibited.

"(b) TRAINING.—Not later than 180 days after the date of the enactment of this Act, the President of the Defense Acquisition University shall establish comprehensive training available for contract specialists in the Department of Defense on the use of reverse auctions.

"(c) DESIGN-BUILD DEFINED.—In this section, the term 'design-build' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary of Defense."

## CONSIDERATION OF CORROSION CONTROL IN PRELIMINARY DESIGN REVIEW

Pub. L. 113–291, div. A, title VIII, §852, Dec. 19, 2014, 128 Stat. 3458, as amended by Pub. L. 116–92,

div. A, title IX, §902(34), Dec. 20, 2019, 133 Stat. 1546, provided that: "The Under Secretary of Defense for Acquisition and Sustainment shall ensure that Department of Defense Instruction 5000.02 and other applicable guidance require full consideration, during preliminary design review for a product, of metals, materials, and technologies that effectively prevent or control corrosion over the life cycle of the product."

**DETECTION AND AVOIDANCE OF COUNTERFEIT ELECTRONIC PARTS**

Pub. L. 112–81, div. A, title VIII, §818(a)–(g), Dec. 31, 2011, 125 Stat. 1493–1496, as amended by Pub. L. 112–239, div. A, title VIII, §833, Jan. 2, 2013, 126 Stat. 1844; Pub. L. 113–291, div. A, title VIII, §817, Dec. 19, 2014, 128 Stat. 3432; Pub. L. 114–92, div. A, title VIII, §885, Nov. 25, 2015, 129 Stat. 948; Pub. L. 114–328, div. A, title VIII, §815, Dec. 23, 2016, 130 Stat. 2271; Pub. L. 115–232, div. A, title VIII, §812(b)(5), Aug. 13, 2018, 132 Stat. 1848, provided that:

"(a) ASSESSMENT OF DEPARTMENT OF DEFENSE POLICIES AND SYSTEMS.—The Secretary of Defense shall conduct an assessment of Department of Defense acquisition policies and systems for the detection and avoidance of counterfeit electronic parts.

"(b) ACTIONS FOLLOWING ASSESSMENT.—Not later than 180 days after the date of the enactment of the [probably should be "this"] Act [Dec. 31, 2011], the Secretary shall, based on the results of the assessment required by subsection (a)—

"(1) establish Department-wide definitions of the terms 'counterfeit electronic part' and 'suspect counterfeit electronic part', which definitions shall include previously used parts represented as new;

"(2) issue or revise guidance applicable to Department components engaged in the purchase of electronic parts to implement a risk-based approach to minimize the impact of counterfeit electronic parts or suspect counterfeit electronic parts on the Department, which guidance shall address requirements for training personnel, making sourcing decisions, ensuring traceability of parts, inspecting and testing parts, reporting and quarantining counterfeit electronic parts and suspect counterfeit electronic parts, and taking corrective actions (including actions to recover costs as described in subsection (c)(2));

"(3) issue or revise guidance applicable to the Department on remedial actions to be taken in the case of a supplier who has repeatedly failed to detect and avoid counterfeit electronic parts or otherwise failed to exercise due diligence in the detection and avoidance of such parts, including consideration of whether to suspend or debar a supplier until such time as the supplier has effectively addressed the issues that led to such failures;

"(4) establish processes for ensuring that Department personnel who become aware of, or have reason to suspect, that any end item, component, part, or material contained in supplies purchased by or for the Department contains counterfeit electronic parts or suspect counterfeit electronic parts provide a report in writing within 60 days to appropriate Government authorities and to the Government-Industry Data Exchange Program (or a similar program designated by the Secretary); and

"(5) establish a process for analyzing, assessing, and acting on reports of counterfeit electronic parts and suspect counterfeit electronic parts that are submitted in accordance with the processes under paragraph (4).

"(c) REGULATIONS.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to address the detection and avoidance of counterfeit electronic parts.

"(2) CONTRACTOR RESPONSIBILITIES.—The revised regulations issued pursuant to paragraph (1) shall provide that—

"(A) covered contractors who supply electronic parts or products that include electronic parts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and for any rework or corrective action that may be required to remedy the use or inclusion of such parts; and

"(B) the cost of counterfeit electronic parts and suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are not allowable costs under Department contracts, unless—

"(i) the covered contractor has an operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts that has been reviewed and approved by the Department of Defense pursuant to subsection (e)(2)(B);

"(ii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the covered contractor as Government property in accordance with part 45 of the Federal Acquisition Regulation or were obtained by the covered contractor in accordance with regulations described in paragraph (3); and

"(iii) the covered contractor discovers the counterfeit electronic parts or suspect counterfeit electronic parts and provides timely notice to the Government pursuant to paragraph (4).

"(3) SUPPLIERS MEETING ANTICOUNTERFEITING REQUIREMENTS.—The revised regulations issued pursuant to paragraph (1) shall—

"(A) require that the Department and Department contractors and subcontractors at all tiers—

"(i) obtain electronic parts that are in production or currently available in stock from the original manufacturers of the parts or their authorized dealers, or from suppliers identified as suppliers that meet anticounterfeiting requirements in accordance with regulations issued pursuant to subparagraph (C) or (D) and that obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers;

"(ii) obtain electronic parts that are not in production or currently available in stock from suppliers identified as suppliers that meet anticounterfeiting requirements in accordance with regulations issued pursuant to subparagraph (C) or (D); and

"(iii) obtain electronic parts from alternate suppliers if such parts are not available from original manufacturers, their authorized dealers, or suppliers identified as suppliers that meet anticounterfeiting requirements in accordance with regulations prescribed pursuant to subparagraph (C) or (D);

"(B) establish requirements for notification of the Department, and for inspection, testing, and authentication of electronic parts that the Department or a Department contractor or subcontractor obtains from any source other than a source described in clause (i) or (ii) of subparagraph (A), if obtaining the electronic parts in accordance with such clauses is not possible;

"(C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code [now 10 U.S.C. 3243], pursuant to which the Department may identify suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

"(D) authorize Department contractors and subcontractors to identify and use additional suppliers that meet anticounterfeiting requirements, provided that—

"(i) the standards and processes for identifying such suppliers comply with established industry standards;

"(ii) the contractor or subcontractor assumes responsibility for the authenticity of parts provided by such suppliers as provided in paragraph (2); and

"(iii) the selection of such suppliers is subject to review, audit, and approval by appropriate Department officials.

"(4) REPORTING REQUIREMENT.—The revised regulations issued pursuant to paragraph (1) shall require that any Department contractor or subcontractor who becomes aware, or has reason to suspect, that any end item, component, part, or material contained in supplies purchased by the Department, or purchased by a contractor or subcontractor for delivery to, or on behalf of, the Department, contains counterfeit electronic parts or suspect counterfeit electronic parts report in writing within 60 days to appropriate Government authorities and the Government-Industry Data Exchange Program (or a similar program designated by the Secretary).

"(5) CONSTRUCTION OF COMPLIANCE WITH REPORTING REQUIREMENT.—A Department contractor or subcontractor that provides a written report required under this subsection shall not be subject to civil liability on the basis of such reporting, provided the contractor or subcontractor made a reasonable effort to determine that the end item, component, part, or material concerned contained counterfeit electronic parts or suspect counterfeit electronic parts.

"(d) INSPECTION PROGRAM.—The Secretary of Homeland Security shall establish and implement a risk-based methodology for the enhanced targeting of electronic parts imported from any country, after consultation with the Secretary of Defense as to sources of counterfeit electronic parts and suspect counterfeit electronic parts in the supply chain for products purchased by the Department of Defense.

"(e) IMPROVEMENT OF CONTRACTOR SYSTEMS FOR DETECTION AND AVOIDANCE OF COUNTERFEIT ELECTRONIC PARTS.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall implement a program to enhance contractor detection and avoidance of counterfeit electronic parts.

"(2) ELEMENTS.—The program implemented pursuant to paragraph (1) shall—

"(A) require covered contractors that supply electronic parts or systems that contain electronic parts to establish policies and procedures to eliminate counterfeit electronic parts from the defense supply chain, which policies and procedures shall address—

"(i) the training of personnel;

"(ii) the inspection and testing of electronic parts;

"(iii) processes to abolish counterfeit parts proliferation;

"(iv) mechanisms to enable traceability of parts;

"(v) the use of suppliers that meet applicable anticounterfeiting requirements;

"(vi) the reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts;

"(vii) methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit;

"(viii) the design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

"(ix) the flow down of counterfeit avoidance and detection requirements to subcontractors; and

"(B) establish processes for the review and approval of contractor systems for the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts, which processes shall be comparable to the processes established for contractor business systems under section 893 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4311; 10 U.S.C. 2302 note [now 10 U.S.C. 3841 note prec.]).

"(f) DEFINITIONS.—In subsections (a) through (e) of this section:

"(1) The term 'covered contractor' has the meaning given that term in section 893(f)(2) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

"(2) The term 'electronic part' means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly."

[(g) Repealed. Pub. L. 115–232, div. A, title VIII, §812(b)(5), Aug. 13, 2018, 132 Stat. 1848.]

## CONTRACTS FOR COMMERCIAL IMAGING SATELLITE CAPACITIES

Pub. L. 111–383, div. A, title I, §127, Jan. 7, 2011, 124 Stat. 4161, which required any contract, entered into by the Department of Defense after Dec. 31, 2010, for additional commercial imaging satellite capability or capacity to have aperture of not less than 1.5 meters, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(C), Dec. 23, 2024, 138 Stat. 1979.

## PILOT PROGRAM ON ACQUISITION OF MILITARY PURPOSE NONDEVELOPMENTAL ITEMS

Pub. L. 111–383, div. A, title VIII, §866(a)–(f), Jan. 7, 2011, 124 Stat. 4296–4298, as amended by Pub. L. 113–66, div. A, title VIII, §814, Dec. 26, 2013, 127 Stat. 808; Pub. L. 113–291, div. A, title X, §1071(b)(1)(B), Dec. 19, 2014, 128 Stat. 3505; Pub. L. 114–92, div. A, title VIII, §892, Nov. 25, 2015, 129 Stat. 952; Pub. L. 115–91, div. A, title X, §1051(p)(3), Dec. 12, 2017, 131 Stat. 1564; Pub. L. 116–283, div. A, title XVIII, §§1806(e)(3)(E), 1831(j)(2), Jan. 1, 2021, 134 Stat. 4156, 4216, which authorized the Secretary of Defense to carry out a pilot program to assess the feasibility and advisability of acquiring military purpose nondevelopmental items, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(F), Dec. 18, 2025, 139 Stat. 949.

## PUBLICATION OF NOTIFICATION OF BUNDLING OF CONTRACTS OF THE DEPARTMENT OF DEFENSE

Pub. L. 111–84, div. A, title VIII, §820, Oct. 28, 2009, 123 Stat. 2410, provided that:

"(a) REQUIREMENT TO PUBLISH NOTIFICATION FOR BUNDLING.—A contracting officer of the Department of Defense carrying out a covered acquisition shall publish a notification consistent with the requirements of paragraph (c)(2) of subpart 10.001 of the Federal Acquisition Regulation on the website known as FedBizOpps.gov (or any successor site) at least 30 days prior to the release of a solicitation for such acquisition and, if the agency has determined that measurably substantial benefits are expected to be derived as a result of bundling such acquisition, shall include in the notification a brief description of the benefits.

"(b) COVERED ACQUISITION DEFINED.—In this section, the term 'covered acquisition' means an acquisition that is—

"(1) funded entirely using funds of the Department of Defense; and

"(2) covered by subpart 7.107 of the Federal Acquisition Regulation (relating to acquisitions involving bundling).

"(c) CONSTRUCTION.—

"(1) NOTIFICATION.—Nothing in this section shall be construed to alter the responsibility of a contracting officer to provide the notification referred to in subsection (a) with respect to a covered

acquisition, or otherwise provide notification, to any party concerning such acquisition under any other requirement of law or regulation.

"(2) DISCLOSURE.—Nothing in this section shall be construed to require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code, or is otherwise restricted from public disclosure by law or Executive order.

"(3) ISSUANCE OF SOLICITATION.—Nothing in this section shall be construed to require a contracting officer to delay the issuance of a solicitation in order to meet the requirements of subsection (a) if the expedited issuance of such solicitation is otherwise authorized under any other requirement of law or regulation."

## SMALL ARMS ACQUISITION STRATEGY AND REQUIREMENTS REVIEW

Pub. L. 110–417, [div. A], title I, §143, Oct. 14, 2008, 122 Stat. 4381, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(1), Jan. 7, 2011, 124 Stat. 4374, which required the Secretary of Defense to submit to the congressional defense committees a report on the small arms requirements of the Armed Forces and the industrial base of the United States, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(14)(A), Dec. 18, 2025, 139 Stat. 949.

## TRUSTED DEFENSE SYSTEMS

Pub. L. 110–417, [div. A], title II, §254, Oct. 14, 2008, 122 Stat. 4402, as amended by Pub. L. 116–92, div. A, title IX, §902(37), Dec. 20, 2019, 133 Stat. 1547; Pub. L. 116–283, div. A, title XVIII, §1806(e)(2)(C), Jan. 1, 2021, 134 Stat. 4155, which required various assessments, strategy development, and policies and actions related to trusted defense systems, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(14)(B), Dec. 18, 2025, 139 Stat. 949.

## ENHANCED AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN AFGHANISTAN

Pub. L. 110–181, div. A, title VIII, §886, Jan. 28, 2008, 122 Stat. 266, as amended by Pub. L. 112–239, div. A, title VIII, §842, Jan. 2, 2013, 126 Stat. 1845; Pub. L. 114–92, div. A, title VIII, §886(a), Nov. 25, 2015, 129 Stat. 949, which allowed the Secretary of Defense to procure products or services acquired in support of military operations or stability operations in Afghanistan (including security, transition, reconstruction, and humanitarian relief activities), was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(B), Dec. 23, 2024, 138 Stat. 1979.

## PREVENTION OF EXPORT CONTROL VIOLATIONS

Pub. L. 110–181, div. A, title VIII, §890, Jan. 28, 2008, 122 Stat. 269, as amended by Pub. L. 110–417, [div. A], title X, §1061(b)(6), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111–383, div. A, title X, §1075(f)(6), Jan. 7, 2011, 124 Stat. 4376, provided that:

"(a) PREVENTION OF EXPORT CONTROL VIOLATIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall prescribe regulations requiring any contractor under a contract with the Department of Defense to provide goods or technology that is subject to export controls under the Arms Export Control Act [22 U.S.C. 2751 et seq.] or the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.] (as continued in effect under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.]) to comply with those Acts and applicable regulations with respect to such goods and technology, including the International Traffic in Arms Regulations and the Export Administration Regulations. Regulations prescribed under this subsection shall include a contract clause enforcing such requirement.

"(b) TRAINING ON EXPORT CONTROLS.—The Secretary of Defense shall ensure that any contractor under a contract with the Department of Defense to provide goods or technology that is subject to export controls under the Arms Export Control Act or the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act) is made aware of any relevant resources made available by the Department of State and the Department of Commerce to assist in compliance with the requirement established by subsection (a) and the need for a corporate compliance plan and periodic internal audits of corporate performance under such plan.

"(c) REPORT.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report assessing the utility of—

"(1) requiring defense contractors (or subcontractors at any tier) to periodically report on measures taken to ensure compliance with the International Traffic in Arms Regulations and the Export Administration Regulations;

"(2) requiring periodic audits of defense contractors (or subcontractors at any tier) to ensure compliance with all provisions of the International Traffic in Arms Regulations and the Export Administration Regulations;

"(3) requiring defense contractors to maintain a corporate training plan to disseminate information to appropriate contractor personnel regarding the applicability of the Arms Export Control Act and the Export Administration Act of 1979; and

"(4) requiring a designated corporate liaison, available for training provided by the United States Government, whose primary responsibility would be contractor compliance with the Arms Export Control Act and the Export Administration Act of 1979.

"(d) DEFINITIONS.—In this section:

"(1) EXPORT ADMINISTRATION REGULATIONS.—The term 'Export Administration Regulations' means those regulations contained in parts 730 through 774 of title 15, Code of Federal Regulations (or successor regulations).

"(2) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—The term 'International Traffic in Arms Regulations' means those regulations contained in parts 120 through 130 of title 22, Code of Federal Regulations (or successor regulations)."

## QUALITY CONTROL IN PROCUREMENT OF SHIP CRITICAL SAFETY ITEMS AND RELATED SERVICES

Pub. L. 109–364, div. A, title I, §130(a)–(c), Oct. 17, 2006, 120 Stat. 2110, provided that:

"(a) QUALITY CONTROL POLICY.—The Secretary of Defense shall prescribe in regulations a quality control policy for the procurement of the following:

"(1) Ship critical safety items.

"(2) Modifications, repair, and overhaul of ship critical safety items.

"(b) ELEMENTS.—The policy required under subsection (a) shall include requirements as follows:

"(1) That the head of the design control activity for ship critical safety items establish processes to identify and manage the procurement, modification, repair, and overhaul of such items.

"(2) That the head of the contracting activity for a ship critical safety item enter into a contract for the procurement, modification, repair, or overhaul of such item only with a source on a qualified manufacturers list or a source approved by the design control activity in accordance with section 2319 of title 10, United States Code [now 10 U.S.C. 3243] (as amended by subsection (d)).

"(3) That the ship critical safety items delivered, and the services performed with respect to such items, meet all technical and quality requirements specified by the design control activity.

"(c) DEFINITIONS.—In this section, the terms 'ship critical safety item' and 'design control activity' have the meanings given such terms in subsection (g) of section 2319 of title 10, United States Code [now 10 U.S.C. 3243(h)] (as so amended)."

## REVIEW AND DEMONSTRATION PROJECT RELATING TO CONTRACTOR EMPLOYEES

Pub. L. 108–375, div. A, title VIII, §851, Oct. 28, 2004, 118 Stat. 2019, which required the Secretary of Defense to conduct a review of policies, procedures, practices, and penalties of the Department of Defense relating to employees of defense contractors for purposes of ensuring that the Department of Defense was in compliance with Executive Order No. 12989, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(18), Dec. 18, 2025, 139 Stat. 949.

## QUALITY CONTROL IN PROCUREMENT OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES

Pub. L. 108–136, div. A, title VIII, §802(a)–(c), Nov. 24, 2003, 117 Stat. 1540, provided that:

"(a) QUALITY CONTROL POLICY.—The Secretary of Defense shall prescribe in regulations a quality control policy for the procurement of aviation critical safety items and the procurement of modifications, repair, and overhaul of such items.

"(b) CONTENT OF REGULATIONS.—The policy set forth in the regulations shall include the following requirements:

"(1) That the head of the design control activity for aviation critical safety items establish processes to identify and manage the procurement, modification, repair, and overhaul of aviation critical safety items.

"(2) That the head of the contracting activity for an aviation critical safety item enter into a contract for the procurement, modification, repair, or overhaul of such item only with a source approved by the design control activity in accordance with section 2319 of title 10, United States Code [now 10 U.S.C. 3243].

"(3) That the aviation critical safety items delivered, and the services performed with respect to aviation critical safety items, meet all technical and quality requirements specified by the design control

activity.

"(c) DEFINITIONS.—In this section, the terms 'aviation critical safety item' and 'design control activity' have the meanings given such terms in section 2319(g) of title 10, United States Code [now 10 U.S.C. 3243(h)], as amended by subsection (d)."

## PROCUREMENT OF ENVIRONMENTALLY PREFERABLE PROCUREMENT ITEMS

Pub. L. 107–314, div. A, title III, §314, Dec. 2, 2002, 116 Stat. 2508, as amended by Pub. L. 109–163, div. A, title X, §1056(e)(1), Jan. 6, 2006, 119 Stat. 3440, provided that:

"(a) TRACKING SYSTEM.—The Secretary of Defense shall develop and implement an effective and efficient tracking system to identify the extent to which the Defense Logistics Agency procures environmentally preferable procurement items or procurement items made with recovered material. The system shall provide for the separate tracking, to the maximum extent practicable, of the procurement of each category of procurement items that, as of the date of the enactment of this Act [Dec. 2, 2002], has been determined to be environmentally preferable or made with recovered material.

"(b) ASSESSMENT OF TRAINING AND EDUCATION.—The Secretary of Defense shall assess the need to establish a program, or enhance existing programs, for training and educating Department of Defense procurement officials to ensure that they are aware of any Department requirements, preferences, or goals for the procurement of environmentally preferable procurement items or procurement items made with recovered material.

"(c) REPORTING REQUIREMENT.—Not later than March 1, 2004, and each March 1 thereafter through 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing the results obtained from the tracking system developed under subsection (a).

"(d) RELATION TO OTHER LAWS.—Nothing in this section shall be construed to alter the requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(e) DEFINITIONS.—In this section:

"(1) The term 'environmentally preferable', in the case of a procurement item, means that the item has a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. The comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

"(2) The terms 'procurement item' and 'recovered material' have the meanings given such terms in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)."

## REQUIREMENT TO DISREGARD CERTAIN AGREEMENTS IN AWARDING CONTRACTS FOR PURCHASE OF FIREARMS OR AMMUNITION

Pub. L. 106–398, §1 [[div. A], title VIII, §826], Oct. 30, 2000, 114 Stat. 1654, 1654A–220, which prohibited the Secretary of Defense, in awarding a contract for the purchase of firearms or ammunition, from taking into account whether a manufacturer or vendor of firearms or ammunition was a party to an agreement under which the manufacturer or vendor agreed to adopt limitations with respect to importing, manufacturing, or dealing in firearms or ammunition in the commercial market, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(20), Dec. 18, 2025, 139 Stat. 950.

## PROCUREMENT OF CONVENTIONAL AMMUNITION

Pub. L. 119–60, div. A, title VIII, §817(b), Dec. 18, 2025, 139 Stat. 954, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall—

"(1) review Department of Defense Instruction 5160.68 (relating to 'Single Manager for Conventional Ammunition');

"(2) assess whether to modify the definition of 'conventional ammunition' in such Instruction to include one-way lethal or non-lethal armed/attack unmanned aerial vehicles and systems; and

"(3) if the Secretary determines such modification is appropriate, update the Instruction accordingly."

Pub. L. 105–261, div. A, title VIII, §806, Oct. 17, 1998, 112 Stat. 2084, as amended by Pub. L. 119–60, div. A, title VIII, §817(a), Dec. 18, 2025, 139 Stat. 953, provided that:

"(a) AUTHORITY.—The official in the Department of Defense designated as the single manager for conventional ammunition in the Department shall have the authority to restrict the procurement of conventional ammunition to sources within the national technology and industrial base in accordance with the authority in section 2304(c) of title 10, United States Code [now 10 U.S.C. 3204(a)].

"(b) REQUIREMENT.—The official in the Department of Defense designated as the single manager for conventional ammunition in the Department of Defense shall limit a specific procurement of ammunition to sources within the national technology and industrial base in accordance with section 2304(c)(3) of title 10,

United States Code [now 10 U.S.C. 3204(a)(3)], in any case in which that manager determines that such limitation is necessary to maintain a facility, producer, manufacturer, or other supplier available for furnishing an essential item of ammunition or ammunition component in cases of national emergency or to achieve industrial mobilization.

"(c) CONVENTIONAL AMMUNITION DEFINED.—For purposes of this section, the term 'conventional ammunition' has the meaning given that term in Department of Defense Directive 5160.65, or any successor directive or instruction."

**FIGHTER AIRCRAFT ENGINE WARRANTY**

Pub. L. 97–377, title I, §101(c) [title VII, §797], Dec. 21, 1982, 96 Stat. 1865, provided that: "None of the funds made available in the Act or any subsequent Act shall be available for the purchase of the alternate or new model fighter aircraft engine that does not have a written warranty or guarantee attesting that it will perform not less than 3,000 tactical cycles. The warranty will provide that the manufacturer must perform the necessary improvements or replace any parts to achieve the required performance at no cost to the Government."

## §3241. Design-build selection procedures

(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build established under chapter 11 of title 40 is used or another acquisition procedure authorized by law is used, the head of an agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when—

(1) the contracting officer anticipates that three or more offers will be received for such contract;

(2) design work must be performed before an offeror can develop a price or cost proposal for such contract;

(3) the offeror will incur a substantial amount of expense in preparing the offer; and

(4) the contracting officer has considered information such as the following:

(A) The extent to which the project requirements have been adequately defined.

(B) The time constraints for delivery of the project.

(C) The capability and experience of potential contractors.

(D) The suitability of the project for use of the two-phase selection procedures.

(E) The capability of the agency to manage the two-phase selection process.

(F) Other criteria established by the agency.

(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

(1) DEVELOPMENT OF SCOPE OF WORK STATEMENT.—The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. If the agency contracts for development of the scope of work statement, the agency shall contract for architectural and engineering services as defined by and in accordance with chapter 11 of title 40.

(2) SOLICITATION OF PHASE-ONE PROPOSALS.—The contracting officer solicits phase-one proposals that—

(A) include information on the offeror's—

(i) technical approach; and

(ii) technical qualifications; and

(B) do not include—
(i) detailed design information; or
(ii) cost or price information.

(3) EVALUATION FACTORS.—
(A) EVALUATION FACTORS TO BE USED.—The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include—
(i) specialized experience and technical competence;
(ii) capability to perform;
(iii) past performance of the offeror's team (including the architect-engineer and construction members of the team); and
(iv) other appropriate factors, except that cost-related or price-related evaluation factors are not permitted.

(B) RELATIVE IMPORTANCE OF EVALUATION FACTORS AND SUBFACTORS .—Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals.
(C) EVALUATION OF PROPOSALS.—The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

(4) SELECTION BY CONTRACTING OFFICER.—
(A) NUMBER OF OFFERORS SELECTED AND WHAT IS TO BE EVALUATED.—The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—
(i) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and
(ii) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with subsections (b), (c), and (d) of section 3206 of this title.

(B) The contracting officer separately evaluates the submissions described in clauses (i) and (ii) of subparagraph (A).

(5) AWARDING OF CONTRACT.—The agency awards the contract in accordance with section 3303 of this title.

(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). If the contract value exceeds $4,000,000, the maximum number specified in the solicitation shall not exceed 5 unless—
(1) the solicitation is issued pursuant to an indefinite delivery-indefinite quantity contract for design-build construction; or
(2)(A) the head of the contracting activity, delegable to a level no lower than the senior contracting official within the contracting activity, approves the contracting officer's justification with respect to an individual solicitation that a maximum number greater than 5 is in the interest of the Federal Government; and
(B) the contracting officer provides written documentation of how a maximum number greater than 5 is consistent with the purposes and objectives of the two-phase selection procedures.

(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition

Regulation shall include guidance—

(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

(2) regarding the factors that may be used in selecting contractors; and

(3) providing for a uniform approach to be used Government-wide.

(f) SPECIAL AUTHORITY FOR MILITARY CONSTRUCTION PROJECTS.—(1) Subject to paragraph (4), each Secretary concerned may use funds available to the Secretary under section 2807(a) or 18233(e) of this title to accelerate the design effort in connection with a military construction project for which the two-phase selection procedures described in subsection (c) are used to select the contractor for both the design and construction portion of the project before the project is specifically authorized by law and before funds are appropriated for the construction portion of the project. Notwithstanding the limitations contained in such sections, use of such funds for the design portion of a military construction project may continue despite the subsequent authorization of the project. The advance notice requirement of section 2807(b) of this title shall continue to apply whenever the estimated cost of the design portion of the project exceeds the amount specified in such section.

(2) Any construction contract for a military construction project that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience before funds are first made available for construction may not exceed an amount attributable to the final design of the project.

(3) Not later than March 1, 2028, and annually thereafter until March 1, 2033, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority under this subsection that includes the following:

(A) A description of the military construction project for which such authority was used, including project title, location, scope, and rationale for selecting such project.

(B) The date of award of a contract for such military construction project, the initial estimated contract value, and the current projected total cost of such project.

(C) A comparison of projected schedule for completion of such project with the actual schedule, including dates for completing the design of such project and commencing construction.

(D) Any realized or anticipated cost savings or efficiencies, including those related to time, resources, or design innovation, attributable to the use of the authority under this subsection for a military construction project.

(E) An assessment of risk management benefits, including any improvements in design flexibility or coordination between contractors and the Secretary concerned.

(F) Any challenges encountered, and mitigation efforts made, in the use of such authority for a military construction project.

(4) Each Secretary concerned may exercise the authority under this subsection using amounts appropriated for such purpose on or after the date of the enactment of this paragraph.

(g) Authorization of Progressive Design-build Contracts.—(1) Notwithstanding subsections (b) through (e), the Secretary concerned may enter into a progressive design-build contract for a military construction project under the authority of subsection (a) in accordance with the following requirements:

(A) The contract is awarded in a single phase based on qualifications and demonstrated capabilities of the offeror without submission of a detailed construction cost or price proposal at the time of award.

(B) The contract provides for collaboration between the Secretary concerned and the contractor to develop and refine the project scope and design, including cost estimates.

(C) Following development of the project scope and preliminary design, the contract provide for the Secretary concerned and contractor to negotiate a guaranteed maximum price or other fixed-price agreement for the construction phase of the military construction project.

(D) If negotiations described in subparagraph (C) fail, the contract includes terms for termination or renegotiation.

(2) The Secretary concerned shall issue rules to ensure appropriate oversight, risk management, and contract administration consistent with the requirements of this subsection.

(3) Not later than March 1, 2028, and annually thereafter until March 1, 2033, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority under this subsection that includes the following:

(A) A description of the military construction project for which such authority was used, including project title, location, scope, and rationale for selecting such project.

(B) The date of award of a contract for such military construction project, the initial estimated contract value, and the current projected total cost of such project.

(C) A comparison of projected schedule for completion of such project with the actual schedule, including dates for completing the design of such project and commencing construction.

(D) Any realized or anticipated cost savings or efficiencies, including those related to time, resources, or design innovation, attributable to the use of the authority under this subsection for a military construction project.

(E) An assessment of risk management benefits, including any improvements in design flexibility or coordination between contractors and the Secretary concerned.

(F) Any challenges encountered, and mitigation efforts made, in the use of such authority for the military construction project.

(4) Each Secretary concerned may exercise the authority under this subsection using amounts appropriated for such purpose on or after the date of the enactment of this paragraph.

(Added Pub. L. 104–106, div. D, title XLI, §4105(a)(1), Feb. 10, 1996, 110 Stat. 645, §2305a; amended Pub. L. 105–85, div. A, title X, §1073(a)(44), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 107–217, §3(b)(4), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 108–178, §4(b)(3), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 108–375, div. B, title XXVIII, §2807, Oct. 28, 2004, 118 Stat. 2123; Pub. L. 109–163, div. B, title XXVIII, §2807, Jan. 6, 2006, 119 Stat. 3508; Pub. L. 113–291, div. A, title VIII, §814, Dec. 19, 2014, 128 Stat. 3430; Pub. L. 115–91, div. A, title VIII, §823, Dec. 12, 2017, 131 Stat. 1465; Pub. L. 116–92, div. A, title XVII, §1731(a)(38), Dec. 20, 2019, 133 Stat. 1814; renumbered §3241 and amended Pub. L. 116–283, div. A, title XVIII, §1813(b), Jan. 1, 2021, 134 Stat. 4177; Pub. L. 119–60, div. B, title XXVIII, §2809, Dec. 18, 2025, 139 Stat. 1299.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsecs. (f)(4) and (g)(4), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

### AMENDMENTS

**2025**—Subsec. (f)(1). Pub. L. 119–60, §2809(1)(A), substituted "Subject to paragraph (4), each Secretary concerned" for "The Secretary of a military department".

Subsec. (f)(2). Pub. L. 119–60, §2809(1)(B), substituted "Any construction contract for a military construction project" for "Any military construction contract".

Subsec. (f)(3), (4). Pub. L. 119–60, §2809(1)(C), amended pars. (3) and (4) generally. Prior to amendment, pars. (3) and (4) read as follows:

"(3) For each fiscal year during which the authority provided by this subsection is in effect, the Secretary of a military department may select not more than two military construction projects to include the accelerated design effort authorized by paragraph (1) for each armed force under the jurisdiction of the Secretary. To be eligible for selection under this subsection, a request for the authorization of the project, and for the authorization of appropriations for the project, must have been included in the annual budget of the President for a fiscal year submitted to Congress under section 1105(a) of title 31.

"(4) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense

committees a report evaluating the usefulness of the authority provided by this subsection in expediting the design and construction of military construction projects. The authority provided by this subsection expires September 30, 2008, except that, if the report required by this paragraph is not submitted by March 1, 2008, the authority shall expire on that date."

Subsec. (g). Pub. L. 119–60, §2809(2), added subsec. (g).

**2021**—Pub. L. 116–283, §1813(b), renumbered section 2305a of this title as this section.

Subsec. (b). Pub. L. 116–283, §1813(b)(1), inserted dash after "or work when", reorganized remainder of former introductory provisions of subsec. (b) into designated pars. (1) to (4), and redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (4) and realigned margins.

Subsec. (c)(1), (2). Pub. L. 116–283, §1813(b)(2)(A), (B), inserted headings.

Subsec. (c)(3). Pub. L. 116–283, §1813(b)(2)(C)(i), (ii), inserted par. heading, designated first, second, and third sentences of existing provisions as subpars. (A), (B), and (C), respectively, and inserted subpar. headings.

Subsec. (c)(3)(A). Pub. L. 116–283, §1813(b)(2)(C)(iii), inserted dash after "and include—" and reorganized remainder of subpar. (A) into designated cls. (i) to (iv).

Subsec. (c)(4). Pub. L. 116–283, §1813(b)(2)(D)(i), (ii), (iv), inserted par. heading, designated first sentence as subpar. (A), inserted subpar. heading, and redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and designated concluding provisions as subpar. (B) and realigned margin.

Subsec. (c)(4)(A)(ii). Pub. L. 116–283, §1813(b)(2)(D)(iii), substituted "subsections (b), (c), and (d) of section 3206" for "paragraphs (2), (3), and (4) of section 2305(a)".

Subsec. (c)(4)(B). Pub. L. 116–283, §1813(b)(2)(D)(v), substituted "clauses (i) and (ii) of subparagraph (A)" for "subparagraphs (A) and (B)".

Subsec. (c)(5). Pub. L. 116–283, §1813(b)(2)(E), inserted heading and substituted "section 3303" for "section 2305(b)(4)".

**2019**—Subsec. (d)(1). Pub. L. 116–92 substituted "an indefinite" for "a indefinite".

**2017**—Subsec. (d). Pub. L. 115–91 substituted "If the contract value exceeds $4,000,000, the maximum number specified in the solicitation shall not exceed 5 unless—" and pars. (1) and (2) for "If the contract value exceeds $4,000,000, the maximum number specified in the solicitation shall not exceed 5 unless the head of the contracting activity, delegable to a level no lower than the senior contracting official within the contracting activity, approves the contracting officer's justification with respect to an individual solicitation that a number greater than 5 is in the Federal Government's interest. The contracting officer shall provide written documentation of how a maximum number exceeding 5 is consistent with the purposes and objectives of the two-phase selection procedures."

**2014**—Subsec. (d). Pub. L. 113–291 substituted "If the contract value exceeds $4,000,000, the maximum number specified in the solicitation shall not exceed 5 unless the head of the contracting activity, delegable to a level no lower than the senior contracting official within the contracting activity, approves the contracting officer's justification with respect to an individual solicitation that a number greater than 5 is in the Federal Government's interest. The contracting officer shall provide written documentation of how a maximum number exceeding 5 is consistent with the purposes and objectives of the two-phase selection procedures." for "The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process."

**2006**—Subsec. (f)(2). Pub. L. 109–163, §2807(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience may not exceed the actual costs incurred as of the termination date."

Subsec. (f)(4). Pub. L. 109–163, §2807(b), substituted "2008" for "2007" wherever appearing.

**2004**—Subsec. (f). Pub. L. 108–375 added subsec. (f).

**2003**—Subsec. (c)(1). Pub. L. 108–178 substituted "chapter 11 of title 40" for "the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.)".

**2002**—Subsec. (a). Pub. L. 107–217 substituted "chapter 11 of title 40" for "the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.)".

**1997**—Subsec. (a). Pub. L. 105–85 substituted "(40 U.S.C." for "(41 U.S.C.".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2003 AMENDMENT**

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE**

For effective date and applicability of section, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 2220 of this title.

## §3242. Supplies: economic order quantities

(a) QUANTITY TO PROCURE.—

(1) An agency referred to in section 3063 of this title shall procure supplies in such quantity as—

(A) will result in the total cost and unit cost most advantageous to the United States, where practicable; and

(B) does not exceed the quantity reasonably expected to be required by the agency.

(2) The Secretary of Defense shall take paragraph (1) into account in approving rates of obligation of appropriations under section 2204 of this title.

(b) OPINION OF OFFEROR WITH RESPECT TO QUANTITY TO BE PROCURED.—Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.

(Added Pub. L. 98–525, title XII, §1233(a), Oct. 19, 1984, 98 Stat. 2600, §2384a; renumbered §3242 and amended Pub. L. 116–283, div. A, title XVIII, §1813(c), Jan. 1, 2021, 134 Stat. 4179; Pub. L. 117–81, div. A, title XVII, §1701(b)(5), Dec. 27, 2021, 135 Stat. 2133.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1813(c), renumbered section 2384a of this title as this section.

Subsec. (a). Pub. L. 116–283, §1813(c)(1), as amended by Pub. L. 117–81, §1701(b)(5), inserted heading, in par. (1), substituted "section 3063" for "section 2303(a)" and reformatted subpars. (A) and (B) to add line breaks before each subpar. designation, and, in par. (2), realigned margin.

Subsec. (b). Pub. L. 116–283, §1813(c)(2), inserted heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 98–525, title XII, §1233(b), Oct. 19, 1984, 98 Stat. 2601, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1984]."

## §3243. Encouragement of new competitors: qualification requirement

(a) QUALIFICATION REQUIREMENT DEFINED.—In this section, the term "qualification requirement" means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

(b) ACTIONS BEFORE ESTABLISHING QUALIFICATION REQUIREMENT.—Except as provided in subsection (c), the head of the agency shall, before establishing a qualification requirement—

(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

(4) ensure that a potential offeror is provided, upon request and on a reimbursable basis, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

(5) if testing and evaluation services are provided under contract to the agency for the purposes of paragraph (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

(c) APPLICABILITY, WAIVER AUTHORITY, AND REFERRAL OF OFFERS.—

(1) APPLICABILITY.—Subsection (b) does not apply with respect to a qualification requirement established by statute or administrative action before October 19, 1984, unless such requirement is a qualified products list.

(2) WAIVER AUTHORITY.—

(A) SUBMISSION OF DETERMINATION OF UNREASONABLENESS.—Except as provided in subparagraph (C), if it is unreasonable to specify the standards for qualification which a prospective offeror or its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement.

(B) AUTHORITY TO GRANT WAIVER.—After considering any comments of the advocate for competition reviewing such determination, the head of the purchasing office may waive the requirements of clauses (2) through (6) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

(C) INAPPLICABILITY TO QUALIFIED PRODUCTS LIST.—The waiver authority provided in this paragraph does not apply with respect to a qualified products list.

(3) SUBMISSION AND CONSIDERATION OF OFFER NOT TO BE DENIED IN CERTAIN CASES.—A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror (A) is not on a qualified bidders list, qualified manufacturers list, or qualified products list, or (B) has not been identified as meeting a qualification requirement established after October 19, 1984, if the potential offeror can demonstrate to the satisfaction of the contracting officer (or, in the case of a contract for the procurement of an aviation critical safety item or ship critical safety item, the head of the design control activity for such item) that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

(4) REFERRAL TO SMALL BUSINESS ADMINISTRATION.—Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

(5) DELAY OF PROCUREMENT NOT REQUIRED.—The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

(6) REQUIREMENTS BEFORE ENFORCEMENT OF CERTAIN LISTS.—The requirements of subsection (b) also apply before enforcement of any qualified products list, qualified manufacturers list, or qualified bidders list.

(d) FEWER THAN 2 ACTUAL MANUFACTURERS.—

(1) SOLICITATION AND TESTING OF ADDITIONAL SOURCES OR PRODUCTS.—If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement.

(2) CERTIFICATION REQUIRED.—The head of an agency shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act (15 U.S.C. 632).

(e) ADVANCED MANUFACTURING CRISIS QUALIFICATION FRAMEWORKS.—The head of the agency shall establish a process to streamline and expedite the qualification of advanced manufacturing sources, processes, or products prior to or during wartime or upon activation of the Civil Reserve Manufacturing Network (as defined in section 1832 [1] of National Defense Authorization Act for Fiscal Year 2026), that addresses materials, systems, and processes using a risk framework suitable for wartime or during periods in which the CRMN is activated.

(f) EXAMINATION AND REVALIDATION OF QUALIFICATION REQUIREMENT.—Within seven years after the establishment of a qualification requirement under subsection (b) or within seven years following an agency's enforcement of a qualified products list, qualified manufacturers

list, or qualified bidders list, any such qualification requirement shall be examined and revalidated in accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

(g) RESTRICTION ON ENFORCEMENT.—Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).

(h) DEFINITIONS.—In this section:

(1) The term "aviation critical safety item" means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system, an unacceptable risk of personal injury or loss of life, or an uncommanded engine shutdown that jeopardizes safety.

(2) The term "ship critical safety item" means any ship part, assembly, or support equipment containing a characteristic the failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in loss of or serious damage to the ship or unacceptable risk of personal injury or loss of life.

(3) The term "design control activity", with respect to an aviation critical safety item or ship critical safety item, means the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment, or the seaworthiness of a ship or ship equipment, in which such item is to be used.

(Added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2593, §2319; amended Pub. L. 100–26, §7(d)(5), (i)(4), (k)(3), Apr. 21, 1987, 101 Stat. 281, 282, 284; Pub. L. 108–136, div. A, title VIII, §802(d), Nov. 24, 2003, 117 Stat. 1541; Pub. L. 109–364, div. A, title I, §130(d), Oct. 17, 2006, 120 Stat. 2110; renumbered §3243 and amended Pub. L. 116–283, div. A, title XVIII, §1813(d), Jan. 1, 2021, 134 Stat. 4179; Pub. L. 119–60, div. A, title VIII, §812(a)(6), title XVIII, §1841(f)(2), Dec. 18, 2025, 139 Stat. 952, 1257.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1832 of National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (e), probably means section 1841 of Pub. L. 119–60, which relates to the Civil Reserve Manufacturing Network. Subsecs. (a) to (e) of section 1841 are set out as a note under section 4811 of this title. Subsec. (f) of section 1841 amends sections 3243 and 4841 of this title. Section 1832 of Pub. L. 119–60, which amends sections 4402 and 4403 of this title, relates to modifications to requirements for modular open system approach.

### AMENDMENTS

**2025**—Subsec. (d)(1)(B). Pub. L. 119–60, §812(a)(6)(A), struck out "subject to paragraph (2)," before "bear the cost".

Subsec. (d)(2), (3). Pub. L. 119–60, §812(a)(6)(B), (C), redesignated par. (3) as (2) and struck out par. (2). Text of former par. (2) read as follows: "Costs may be borne under paragraph (1)(B) only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency within a reasonable period of time considering the duration and dollar value of anticipated future requirements."

Subsecs. (e) to (h). Pub. L. 119–60, §1841(f)(2), added subsec. (e) and redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

**2021**—Pub. L. 116–283, §1813(d)(1), substituted "Encouragement of new competitors: qualification requirement" for "Encouragement of new competitors" in section catchline.

Pub. L. 116–283, §1813(d), renumbered section 2319 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1813(d)(2), inserted heading.

Subsec. (b). Pub. L. 116–283, §1813(d)(3)(A), inserted heading.

Subsec. (b)(5). Pub. L. 116–283, §1813(d)(3)(B), substituted "paragraph (4)" for "clause (4)".

Subsec. (c). Pub. L. 116–283, §1813(d)(4)(A), inserted heading.

Subsec. (c)(1). Pub. L. 116–283, §1813(d)(4)(A), inserted heading and struck out "of this section" after "Subsection (b)".

Subsec. (c)(2). Pub. L. 116–283, §1813(d)(4)(C)(i), inserted heading and realigned margin.

Subsec. (c)(2)(A). Pub. L. 116–283, §1813(d)(4)(C)(i), inserted heading and substituted "Except as provided in subparagraph (C)," for "Except as provided in subparagraph (B),".

Subsec. (c)(2)(B). Pub. L. 116–283, §1813(d)(4)(C)(iii), (iv), redesignated second sentence of subsec. (c)(2)(A) as (B) and inserted heading. Former subpar. (B) redesignated (C).

Subsec. (c)(2)(B), (C). Pub. L. 116–283, §1813(d)(4)(C)(ii), (v), redesignated subpar. (B) as (C) and inserted heading.

Subsec. (c)(3) to (6). Pub. L. 116–283, §1813(d)(4)(B), (D)–(G), inserted headings and realigned margins.

Subsec. (d). Pub. L. 116–283, §1813(d)(5)(A), inserted heading.

Subsec. (d)(1). Pub. L. 116–283, §1813(d)(5)(A), (F), inserted heading and realigned margins of subpars. (A) and (B).

Subsec. (d)(1)(B). Pub. L. 116–283, §1813(d)(5)(C), inserted "subject to paragraph (2)," before "bear the cost of" and substituted "that requirement." for "that requirement, but such costs may be borne". Remainder of subpar. (B) redesignated par. (2).

Subsec. (d)(2). Pub. L. 116–283, §1813(d)(5)(D), (E), designated text of par. (1)(B) beginning with "only if the head" as (2), inserted heading, and inserted "Costs may be borne under paragraph (1)(B)" at beginning. Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 116–283, §1813(d)(5)(B), redesignated par. (2) as (3), inserted heading, and realigned margin.

Subsecs. (e), (f). Pub. L. 116–283, §1813(d)(6), (7), inserted headings.

**2006**—Subsec. (c)(3). Pub. L. 109–364, §130(d)(1), inserted "or ship critical safety item" after "aviation critical safety item".

Subsec. (g)(2), (3). Pub. L. 109–364, §130(d)(2), added par. (2), redesignated former par. (2) as (3), inserted "or ship critical safety item" after "aviation critical safety item" and ", or the seaworthiness of a ship or ship equipment," after "or equipment", and substituted "such item" for "the item".

**2003**—Subsec. (c)(3). Pub. L. 108–136, §802(d)(1), inserted "(or, in the case of a contract for the procurement of an aviation critical safety item, the head of the design control activity for such item)" after "the contracting officer".

Subsec. (g). Pub. L. 108–136, §802(d)(2), added subsec. (g).

**1987**—Subsec. (a). Pub. L. 100–26, §7(k)(3), inserted "the term" after "In this section,".

Subsec. (c)(1), (3). Pub. L. 100–26, §7(i)(4), substituted "October 19, 1984," for "the date of the enactment of the Defense Procurement Reform Act of 1984".

Subsec. (c)(4). Pub. L. 100–26, §7(d)(5)(A), inserted "(15 U.S.C. 637(b)(7))" after "Small Business Act".

Subsec. (d)(2). Pub. L. 100–26, §7(d)(5)(B), inserted "(15 U.S.C. 632)" after "Small Business Act".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 98–525, title XII, §1216(c)(2), Oct. 19, 1984, 98 Stat. 2599, provided that: "Sections 2319 [now 10 U.S.C. 3243], [former] 2320, and [former] 2321 of title 10, United States Code (as added by subsection (a)), shall apply with respect to solicitations issued after the end of the one-year period beginning on the date of the enactment of this Act [Oct. 19, 1984]."

[1] *See References in Text note below.*

## §3247. Contracts: regulations for bids

(a) The Secretary of Defense may—

(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and

(2) require that a bid be accompanied by a written guaranty, signed by one or more responsible persons, undertaking that the bidder, if his bid is accepted, will, within the time prescribed by the Secretary or other officer authorized to make the contract, make a contract and furnish a bond with good and sufficient sureties for the performance of the contract.

(b) If a bidder, after being notified of the acceptance of his bid, fails within the time prescribed under subsection (a)(2) to enter into a contract and furnish the prescribed bond, the Secretary concerned or other authorized officer shall—

(1) contract with another person; and

(2) charge against the defaulting bidder and his guarantors the difference between the amount specified by the bidder in his bid and the amount for which a contract is made with the other person, this difference being immediately recoverable by the United States for the use of the military department concerned in an action against the bidder and his guarantors, jointly or severally.

(c) Proceedings under this section are subject to regulations under section 121 of title 40, unless exempted therefrom under section 501(a)(2) of title 40.

(Aug. 10, 1956, ch. 1041, 70A Stat. 136, §2381; Pub. L. 98–525, title XIV, §1405(35), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 103–355, title I, §1507, Oct. 13, 1994, 108 Stat. 3298; Pub. L. 107–217, §3(b)(6), Aug. 21, 2002, 116 Stat. 1295; renumbered §3247, Pub. L. 116–283, div. A, title XVIII, §1813(e), Jan. 1, 2021, 134 Stat. 4181.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2381(a) | 5:218 (1st sentence, less 1st 16 words; and 2d sentence). | Apr. 10, 1878, ch. 58, 20 Stat. 36; Mar. 3, 1883, ch. 120, 22 Stat. 487; Oct. 31, 1951, ch. 654, §2(4), 65 Stat. 706. |
| 2381(b) | 5:218 (less 1st and 2d sentences). | |
| 2381(c) | 5:218 (1st 16 words of 1st sentence) [applicability of 5:218 extended to Navy by 5:412b and 41:161 (1st sentence)]. | Feb. 19, 1948, ch. 65, §12 (1st sentence), 62 Stat. 26. |

In subsection (a)(1), the word "may" is substituted for the words "is authorized to". The words "rules and * * * to be observed" are omitted as surplusage.

In subsection (a)(2), the word "undertaking" is substituted for the words "to the effect that he or they undertake". The words "make a contract" are inserted for clarity. The words "in the premises" are omitted as surplusage. The words "for the performance of the contract" are substituted for the words "to furnish the supplies proposed or to perform the service required".

In subsection (b), the word "duly" is omitted as surplusage. The words "with good and sufficient security for the proper fulfillment of its terms" are omitted as covered by subsection (a)(2). The words "the prescribed" are inserted before the word "bond".

Subsection (b)(1) is substituted for the words "proceed to contract with some other person to furnish the supplies or perform the services required".

In subsection (b)(2) the word "charge" is substituted for the words "forthwith cause * * * to be charged". The words "a contract is made with the other person" are substituted for the words "he may have contracted with another party to furnish the supplies or perform the service for the whole period of the proposal". The words "guarantor or" are omitted as surplusage. The words "this difference being" are substituted for the words "and the sum may be". The words "of debt" are omitted, since that action no longer exists. The words "the bidder and his guarantors, jointly or severally" are substituted for the words "either or all of such persons".

In subsection (c), the words "Proceedings under this section are" are inserted for clarity. The words "unless exempted therefrom under section 481(a) of that title" are inserted to preserve the possibility of exemption of

proceedings under the revised section from the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2381 of this title as this section.

**2002**—Subsec. (c). Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" and "section 501(a)(2) of title 40" for "section 201(a) of that Act (40 U.S.C. 481(a))".

**1994**—Subsec. (a). Pub. L. 103–355 substituted "The Secretary of Defense may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and"

for "The Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts with that department; and".

**1984**—Subsec. (c). Pub. L. 98–525 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40" and "section 201(a) of that Act (40 U.S.C. 481(a))" for "section 481(a) of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3249. Advocates for competition

Each advocate for competition designated pursuant to section 1705(a) of title 41 for an agency named in section 3063 of this title shall be a general or flag officer if a member of the armed forces or in a position classified above GS–15 pursuant to section 5108 of title 5, if a civilian employee and shall be designated to serve for a minimum of two years.

(Added Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2593, §2318; amended Pub. L. 100–26, §7(d)(4), Apr. 21, 1987, 101 Stat. 281; Pub. L. 102–25, title VII, §701(f)(1), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103–355, title I, §1031, Oct. 13, 1994, 108 Stat. 3260; Pub. L. 111–350, §5(b)(17), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 112–239, div. A, title X, §1076(f)(24), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 115–232, div. A, title VIII, §811(d), Aug. 13, 2018, 132 Stat. 1845; renumbered §3249 and amended Pub. L. 116–283, div. A, title XVIII, §1813(f), Jan. 1, 2021, 134 Stat. 4181.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3251 was renumbered section 7131 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1813(f), renumbered section 2318 of this title as this section and substituted "section 3063" for "section 2303(a)".

**2018**—Pub. L. 115–232 substituted "Each advocate for competition designated pursuant to section 1705(a) of title 41 for" for "(b) Each advocate for competition of" and "in a position classified above GS–15 pursuant to section 5108 of title 5" for "a grade GS–16 or above under the General Schedule (or in a comparable or higher position under another schedule)" and struck out subsec. (a) which related to designation of an officer or employee of the Defense Logistics Agency to serve as the advocate for competition of the agency.

**2013**—Subsec. (a)(2). Pub. L. 112–239 substituted "subsections (b) and (c) of section 1705" for "section

1705(b) and (c)".

**2011**—Subsec. (a)(1). Pub. L. 111–350, §5(b)(17)(A), substituted "section 1705(a) of title 41" for "section 20(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(a))".

Subsec. (a)(2). Pub. L. 111–350, §5(b)(17)(B), substituted "section 1705(b) and (c) of title 41" for "sections 20(b) and 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(b), (c))".

**1994**—Subsec. (c). Pub. L. 103–355 struck out subsec. (c) which read as follows: "Each advocate for competition of an agency of the Department of Defense shall transmit to the Secretary of Defense a report describing his activities during the preceding year. The report of each advocate for competition shall be included in the annual report of the Secretary of Defense required by section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419), in the form in which it was submitted to the Secretary."

**1991**—Subsec. (c). Pub. L. 102–25 substituted "section 23" for "section 21".

**1987**—Subsec. (a)(1). Pub. L. 100–26, §7(d)(4)(A), inserted "(41 U.S.C. 418(a))" after "Policy Act".

Subsec. (a)(2). Pub. L. 100–26, §7(d)(4)(B), inserted "(41 U.S.C. 418(b), (c))" after "Policy Act".

Subsec. (c). Pub. L. 100–26, §7(d)(4)(C), inserted "(41 U.S.C. 419)" after "Policy Act".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 98–525, title XII, §1216(c)(1), Oct. 19, 1984, 98 Stat. 2599, provided that: "Section 2318 of title 10, United States Code [now 10 U.S.C. 3249] (as added by subsection (a)), shall take effect on April 1, 1985."

## §3252. Requirements for information relating to supply chain risk

(a) AUTHORITY.—Subject to subsection (b), the head of a covered agency may—

(1) carry out a covered procurement action; and

(2) limit, notwithstanding any other provision of law, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action.

(b) DETERMINATION AND NOTIFICATION.—The head of a covered agency may exercise the authority provided in subsection (a) only after—

(1) consulting with procurement or other relevant officials of the covered agency;

(2) making a determination in writing, in unclassified or classified form, that—

(A) use of the authority in subsection (a)(1) is necessary to protect national security by reducing supply chain risk;

(B) less intrusive measures are not reasonably available to reduce such supply chain risk; and

(C) in a case where the head of the covered agency plans to limit disclosure of information under subsection (a)(2), the risk to national security due to the disclosure of such information outweighs the risk due to not disclosing such information; and

(3) providing a classified or unclassified notice of the determination made under paragraph (2) to the appropriate congressional committees, which notice shall include—

(A) a summary of the risk assessment that serves as the basis for the written determination required by paragraph (2); and

(B) a summary of the basis for the determination, including a discussion of less intrusive measures that were considered and why they were not reasonably available to reduce supply chain risk.

(c) LIMITATION ON DISCLOSURE.—If the head of a covered agency has exercised the authority provided in subsection (a)(2) to limit disclosure of information—

(1) no action undertaken by the agency head under such authority shall be subject to review in a bid protest before the Government Accountability Office or in any Federal court; and

(2) the agency head shall—

(A) notify appropriate parties of a covered procurement action and the basis for such action only to the extent necessary to effectuate the covered procurement action;

(B) notify other Department of Defense components or other Federal agencies responsible for procurements that may be subject to the same or similar supply chain risk, in a manner and to the extent consistent with the requirements of national security; and

(C) ensure the confidentiality of any such notifications.

(d) DEFINITIONS.—In this section:

(1) HEAD OF A COVERED AGENCY.—The term "head of a covered agency" means each of the following:

(A) The Secretary of Defense.

(B) The Secretary of the Army.

(C) The Secretary of the Navy.

(D) The Secretary of the Air Force.

(2) COVERED PROCUREMENT ACTION.—The term "covered procurement action" means any of the following actions, if the action takes place in the course of conducting a covered procurement:

(A) The exclusion of a source that fails to meet qualification standards established in accordance with the requirements of section 3243 of this title for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The decision to withhold consent for a contractor to subcontract with a particular source or to direct a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(3) COVERED PROCUREMENT.—The term "covered procurement" means—

(A) a source selection for a covered system or a covered item of supply involving either a performance specification, as provided in section 3206(a)(3)(B) of this title, or an evaluation factor, as provided in section 3206(b)(1) of this title, relating to supply chain risk;

(B) the consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 3406(d)(3) of this title, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk; or

(C) any contract action involving a contract for a covered system or a covered item of supply where such contract includes a clause establishing requirements relating to supply chain risk.

(4) SUPPLY CHAIN RISK.—The term "supply chain risk" means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system.

(5) COVERED SYSTEM.—The term "covered system" means a national security system, as that term is defined in section 3552(b)(6) of title 44.

(6) COVERED ITEM OF SUPPLY.—The term "covered item of supply" means an item of information technology (as that term is defined in section 11101 of title 40) that is purchased for inclusion in a covered system, and the loss of integrity of which could result in a supply chain risk for a covered system.

(7) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) in the case of a covered system included in the National Intelligence Program or the Military Intelligence Program, the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the congressional defense committees; and

(B) in the case of a covered system not otherwise included in subparagraph (A), the congressional defense committees.

(Added Pub. L. 115–232, div. A, title VIII, §881(a)(1), Aug. 13, 2018, 132 Stat. 1910, §2339a; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(43), Dec. 20, 2019, 133 Stat. 1814; renumbered §3252 and amended Pub. L. 116–283, div. A, title X, §1081(a)(36), title XVIII, §1813(g), Jan. 1, 2021, 134 Stat. 3872, 4181; Pub. L. 118–159, div. A, title VIII, §841, Dec. 23, 2024, 138 Stat. 1990.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3252, added Pub. L. 110–181, div. A, title VI, §671(a)(1), Jan. 28, 2008, 122 Stat. 181; amended Pub. L. 110–417, [div. A], title VI, §615(b), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §616(2), Oct. 28, 2009, 123 Stat. 2354; Pub. L. 111–383, div. A, title VI, §616(2), Jan. 7, 2011, 124 Stat. 4238, related to bonus to encourage Army personnel to refer persons for enlistment in the Army, prior to repeal by Pub. L. 114–92, div. A, title VI, §618(a), Nov. 25, 2015, 129 Stat. 840.

Another prior section 3252, act Aug. 10, 1956, ch. 1041, 70A Stat. 177, provided that temporary enlistments could be made only in the Army without specification of component, prior to repeal by Pub. L. 90–235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756.

A prior section 3253, acts Aug. 10, 1956, ch. 1041, 70A Stat. 177; Pub. L. 87–143, §1(1), Aug. 17, 1961, 75 Stat. 364; Pub. L. 90–235, §2(a)(2)(A), Jan. 2, 1968, 81 Stat. 756; Pub. L. 96–513, title V, §512(3), Dec. 12, 1980, 94 Stat. 2929, provided that, in peace time, Army enlistment was available only to citizens and persons lawfully admitted to the United States for permanent residence, prior to repeal by Pub. L. 109–163, div. A, title V, §542(b)(1), Jan. 6, 2006, 119 Stat. 3253.

Prior sections 3254 to 3256 were repealed by Pub. L. 90–235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756.

Section 3254, act Aug. 10, 1956, ch. 1041, 70A Stat. 178, provided for temporary enlistments in the Army during war or emergency.

Section 3255, act Aug. 10, 1956, ch. 1041, 70A Stat. 178, provided for recruiting campaigns to obtain enlistments in the Regular Army.

Section 3256, act Aug. 10, 1956, ch. 1041, 70A Stat. 178, set forth qualifications for and term of enlistments in the Regular Army and the grade in which such enlistments were made.

A prior section 3258 was renumbered section 7138 of this title.

Prior sections 3259 to 3261 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(b)(3), 1691, Oct. 5, 1994, 108 Stat. 2990, 3026, effective Dec. 1, 1994.

Section 3259, acts Aug. 10, 1956, ch. 1041, 70A Stat. 179; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to transfers in grade of enlisted members of Army National Guard of United States to Army Reserve. See section 12105 of this title.

Section 3260, act Aug. 10, 1956, ch. 1041, 70A Stat. 179, provided that enlisted members of Army National Guard of United States are transferred to Army Reserve upon withdrawal as members of Army National Guard. See section 12106 of this title.

Section 3261, acts Aug. 10, 1956, ch. 1041, 70A Stat. 179; Sept. 2, 1958, Pub. L. 85–861, §33(a)(20), 72 Stat. 1565; Oct. 4, 1961, Pub. L. 87–378, §3, 75 Stat. 808, related to enlistment in Army National Guard of United States. See section 12107 of this title.

A prior section 3262 was renumbered section 7142 of this title.

Another prior section 3262, acts Aug. 10, 1956, ch. 1041, 70A Stat. 180; Sept. 2, 1958, Pub. L. 85–861, §1(71), 72 Stat. 1464, provided for extension of enlistment of members of the Army needing medical care or hospitalization, prior to repeal by Pub. L. 90–235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756.

A prior section 3263, Pub. L. 85–861, §1(71)(B), Sept. 2, 1958, 72 Stat. 1465; Pub. L. 87–649, §14c(4), Sept. 7, 1962, 76 Stat. 501, provided for voluntary extension of enlistments in the Army, prior to repeal by Pub. L. 90–235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756.

A prior section 3264, added Pub. L. 107–107, div. A, title V, §541(a)(1), Dec. 28, 2001, 115 Stat. 1109, related to an 18-month enlistment pilot program to increase participation of prior service persons in Selected Reserve and to provide assistance in building pool of participants in Individual Ready Reserve, prior to repeal by Pub. L. 107–314, div. A, title V, §531(c), Dec. 2, 2002, 116 Stat. 2544.

Prior sections 3281 to 3283 were renumbered sections 7151 to 7153 of this title, respectively.

Prior sections 3284 to 3300 were repealed by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981.

Section 3284, act Aug. 10, 1956, ch. 1041, 70A Stat. 181, provided that appointments in commissioned grades in Regular Army be made by President, by and with the advice and consent of Senate. See section 531 of this title.

Section 3285, acts Aug. 10, 1956, ch. 1041, 70A Stat. 181; Sept. 2, 1958, Pub. L. 85–861, §1(72), 72 Stat. 1465, prescribed eligibility requirements for original appointment in a commissioned grade in Regular Army, except in Medical Corps or Dental Corps and except a graduating cadet. See section 532 of this title.

Section 3286, acts Aug. 10, 1956, ch. 1041, 70A Stat. 181; Sept. 2, 1958, Pub. L. 85–861, §1(73), 72 Stat. 1465, prescribed age limitations for original appointment in a commissioned grade in Regular Army, except in Medical Corps, Dental Corps, Army Nurse Corps, or Army Medical Specialist Corps. See section 532 of this title.

Section 3287, acts Aug. 10, 1956, ch. 1041, 70A Stat. 182; Sept. 2, 1958, Pub. L. 85–861, §1(74), 72 Stat. 1466, provided service credit, in the discretion of the Secretary of the Army, for a person originally appointed in a commissioned grade in the Regular Army, except the Medical Corps, Dental Corps, Army Nurse Corps, or Army Medical Specialist Corps, for the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Army, and eligibility for promotion, with appointment and service credit restrictions on persons who were cadets at the United States Military, Naval, or Air Force Academies but were not graduated, and a disallowance of service credits under this section for persons who graduated from one of these Academies. See section 533 of this title.

Section 3288, acts Aug. 10, 1956, ch. 1041, 70A Stat. 183; Aug. 21, 1957, Pub. L. 85–155, title I, §101(7), 71 Stat. 376; Sept. 2, 1958, Pub. L. 85–861, §1(75), 72 Stat. 1466, provided for determination of grade of a person originally appointed as a commissioned officer in Regular Army, except in Medical Corps, Dental Corps, Army Nurse Corps, or Army Medical Specialist Corps. See section 533 of this title.

Section 3289, act Aug. 10, 1956, ch. 1041, 70A Stat. 183, provided that no person be originally appointed as a first lieutenant in Regular Army in Medical Corps until he passes an examination of his professional fitness before an examining board composed of at least three officers of Medical Corps designated by Secretary of the Army. See section 532 of this title.

Section 3290, act Aug. 10, 1956, ch. 1041, 70A Stat. 183, provided that an original appointment in Regular Army in Medical Service Corps be made only in grade of second lieutenant and from members of Regular Army, reserves not in an inactive status, or graduates of an accredited school of pharmacy or optometry, or of a school or college who hold a degree in a science allied to medicine or any other degree approved by Surgeon General. See section 532 of this title.

Section 3291, acts Aug. 10, 1956, ch. 1041, 70A Stat. 183; Aug. 21, 1957, Pub. L. 85–155, title I, §101(8), 71 Stat. 376; Sept. 30, 1966, Pub. L. 89–609, §1(4), 80 Stat. 852, prescribed eligibility requirements for an original appointment in Regular Army in Army Nurse Corps or Army Medical Specialist Corps in grade of second lieutenant, first lieutenant, and captain and provided for determination of years of service creditable for promotion. See section 532 of this title.

Section 3292, act Aug. 10, 1956, ch. 1041, 70A Stat. 184, provided that original appointments in commissioned grades in Regular Army in Judge Advocate General's Corps be made from officers of Regular Army in other branches, reserve commissioned officers assigned to Judge Advocate General's Corps, or qualified civilian graduates of accredited law schools. See section 532 of this title.

Section 3293, act Aug. 10, 1956, ch. 1041, 70A Stat. 184, provided that no person in civil life be originally appointed as a chaplain in Regular Army unless he has passed an examination prescribed by President as to his morale, mental, and physical qualifications. See section 532 of this title.

Section 3294, acts Aug. 10, 1956, ch. 1041, 70A Stat. 184; Sept. 2, 1958, Pub. L. 85–861, §1(77), 72 Stat. 1467, provided that original appointments in Regular Army be made in grades of first lieutenant through colonel in Medical Corps or Dental Corps as the Army requires, from qualified doctors of medicine, osteopathy, or dentistry who are citizens of the United States and have such other qualifications as the Secretary of the Army prescribes, with specific additional eligibility requirements for a doctor of osteopathy, and that officers so appointed receive service credit for determining grade, position on a promotion list, seniority in grade in Regular Army, and eligibility for promotion. See section 532 of this title.

Section 3295, acts Aug. 10, 1956, ch. 1041, 70A Stat. 184; Sept. 2, 1958, Pub. L. 85–861, §1(78), 72 Stat.

1467, provided for determination of the place on a promotion list of name of each person who is originally appointed in a commissioned grade in Regular Army and whose name is to be carried on a promotion list, other than persons appointed in Medical Corps, Dental Corps, Army Nurse Corps, or Army Medical Specialist Corps. See section 624 of this title.

Section 3296, acts Aug. 10, 1956, ch. 1041, 70A Stat. 184; Aug. 21, 1957, Pub. L. 85–155, title I, §101(10), 71 Stat. 377; Aug. 6, 1958, Pub. L. 85–600, §1(5), 72 Stat. 522; June 4, 1968, Pub. L. 90–329, 82 Stat. 170; Oct. 20, 1978, Pub. L. 95–485, title VIII, §820(d)(2), 92 Stat. 1627; Oct. 30, 1978, Pub. L. 95–551, §2, 92 Stat. 2069, provided for promotion lists in Regular Army for all commissioned officers in grades below brigadier general on active list, with exceptions, which officers are known as "promotion-list officers", a separate list for Chaplains and each of the several branches of Army Medical Department, and determination of place on list upon transfer or promotion. See section 624 of this title.

Section 3297, acts Aug. 10, 1956, ch. 1041, 70A Stat. 185; Aug. 21, 1957, Pub. L. 85–155, title I, §101(11), 71 Stat. 377; July 12, 1960, Pub. L. 86–616, §1(1), 74 Stat. 386; Oct. 20, 1978, Pub. L. 95–485, title VIII, §820(d)(3), 92 Stat. 1627, provided for selection boards to recommend promotion-list officers and brigadier generals of Regular Army for promotion in Regular Army. See section 611 et seq. of this title.

Section 3298, acts Aug. 10, 1956, ch. 1041, 70A Stat. 185; Aug. 21, 1957, Pub. L. 85–155, title I, §101(12), 71 Stat. 377; Nov. 8, 1967, Pub. L. 90–130, §1(10)(A), 81 Stat. 375, provided for promotion from grade of second lieutenant to first lieutenant after 3 years of service, discharge under section 3814 of this title upon failure of promotion, and filling vacancies for first lieutenants with second lieutenants prior to completion of 3 years of service. See section 630 of this title.

Section 3299, acts Aug. 10, 1956, ch. 1041, 70A Stat. 186; Aug. 21, 1957, Pub. L. 85–155, title I, §101(13), 71 Stat. 377; Sept. 2, 1958, Pub. L. 85–861, §33(a)(21), 72 Stat. 1565; Nov. 8, 1967, Pub. L. 90–130, §1(10)(B), 81 Stat. 375, provided that promotion-list officers be promoted to regular grades of captain, major, and lieutenant colonel, after specified length of service or without regard to length of service in view of actual or anticipated vacancies if Secretary of the Army so directs, or be eliminated from active list under section 3303 of this title and a promotion-list officer who has twice been considered and not recommended for promotion to any one regular grade not be again considered for promotion under this section. See sections 631 and 632 of this title.

Section 3300, acts Aug. 10, 1956, ch. 1041, 70A Stat. 186; July 12, 1960, Pub. L. 86–616, §1(2), 74 Stat. 386, provided for selection board procedure when promotion-list officers in regular grade of first lieutenant, captain, or major are to be considered for promotion under section 3299 of this title. See section 611 et seq. of this title.

## AMENDMENTS

**2024**—Subsec. (b)(1). Pub. L. 118–159, §841(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "obtaining a joint recommendation by the Under Secretary of Defense for Acquisition and Sustainment and the Chief Information Officer of the Department of Defense, on the basis of a risk assessment by the Under Secretary of Defense for Intelligence and Security, that there is a significant supply chain risk to a covered system;".

Subsec. (b)(2). Pub. L. 118–159, §841(1)(B), struck out "with the concurrence of the Under Secretary of Defense for Acquisition and Sustainment," after "in unclassified or classified form," in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 118–159, §841(1)(C)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the information required by section 3204(e)(2) of this title;".

Subsec. (b)(3)(B) to (D). Pub. L. 118–159, §841(1)(C)(ii), (iii), redesignated subpar. (D) as (B) and struck out former subpars. (B) and (C) which read as follows:

"(B) the joint recommendation by the Under Secretary of Defense for Acquisition and Sustainment and the Chief Information Officer of the Department of Defense as specified in paragraph (1);

"(C) a summary of the risk assessment by the Under Secretary of Defense for Intelligence that serves as the basis for the joint recommendation specified in paragraph (1); and".

Subsecs. (c) to (e). Pub. L. 118–159, §841(2), (3), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "The head of a covered agency may not delegate the authority provided in subsection (a) or the responsibility to make a determination under subsection (b) to an official below the level of the service acquisition executive for the agency concerned."

**2021**—Pub. L. 116–283, §1813(g), renumbered section 2339a of this title as this section.

Subsec. (b)(1). Pub. L. 116–283, §1081(a)(36), inserted "and Security" after "for Intelligence".

Subsec. (b)(3)(A). Pub. L. 116–283, §1813(g)(1), substituted "section 3204(e)(2)" for "section 2304(f)(3)".

Subsec. (e)(2)(A). Pub. L. 116–283, §1813(g)(2), substituted "section 3243" for "section 2319".
Subsec. (e)(3)(A). Pub. L. 116–283, §1813(g)(3)(A), substituted "section 3206(a)(3)(B)" for "section 2305(a)(1)(C)(ii)" and "section 3206(b)(1)" for "section 2305(a)(2)(A)".
Subsec. (e)(3)(B). Pub. L. 116–283, §1813(g)(3)(B), substituted "section 3406(d)(3)" for "section 2304c(d)(3)".
**2019**—Subsec. (e)(5). Pub. L. 116–92 substituted "section 3552(b)(6)" for "section 3542(b)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1813(g) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## CHAPTER 225—[Reserved]

Sec.
3271. [Reserved].

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(3), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116–283, div. A, title XVIII, §1813(h), Jan. 1, 2021, 134 Stat. 4181, which added this analysis, by substituting "[Reserved]" for "PLANNING AND SOLICITATION RELATING TO PARTICULAR ITEMS OR SERVICES" in chapter heading.

# Subpart C—Contracting Methods and Contract Types

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, added subpart heading.

## CHAPTER 241—AWARDING OF CONTRACTS

Sec.
3301. Basis of award and rejection.
3302. Sealed bids.
3303. Competitive proposals.
3304. Post-award debriefings.
3305. Pre-award debriefings.
3306. Encouragement of alternative dispute resolution.
3307. Antitrust violations.
3308. Protests.
3309. Prohibition on release of contractor proposals.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 241 "AWARDING OF CONTRACTS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3301, was repealed by Pub. L. 116–283, div. A, title XVIII, §1816(b), Jan. 1, 2021, 134 Stat. 4182.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM FOR ANYTHING-AS-A-SERVICE

Pub. L. 118–31, div. A, title VIII, §809, Dec. 22, 2023, 137 Stat. 320, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish a pilot program to explore the use of consumption-based solutions to address any defense need, hereafter 'anything-as-a-service', that is feasible to provide users on-demand access, quickly add newly released capabilities, and bill based on actual usage at fixed price units.

"(b) REQUIREMENTS.—A contract or other agreement for anything-as-a-service entered into under the pilot program shall require the outcomes of the capability to be measurable, including the cost and speed of delivery in comparison to using processes other than anything-as-a-service, at the regular intervals that are customary for the type of solution provided.

"(c) NOTICE.—With respect to each opportunity to participate in the pilot program established under subsection (a), the Secretary shall make publicly available a notice of such opportunity for not less than 60 days.

"(d) TIMING.—The Secretary shall, to the extent practicable, enter into a contract or other agreement under this section not later than 100 days after the date on which the Secretary, under subsection (c), makes publicly available a notice to participate in the pilot program established under this section.

"(e) EXEMPTIONS.—A contract or other agreement entered into under this section shall be exempt from the following:

"(1) The requirements of section 3702 of title 10, United States Code.

"(2) With respect to a modification to add new features or capabilities in an amount less than or equal to 25 percent of the total value of such contract or other agreement, the requirements of full and open competition (as defined in [former] section 2302 of title 10, United States Code [see 10 U.S.C. 3011]).

"(f) BRIEFING.—Not later than June 30, 2024, the Secretary of Defense shall provide a briefing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the implementation of the pilot program.

"(g) ANYTHING-AS-A-SERVICE DEFINED.—In this section, the term 'anything-as-a-service' means a model under which a technology-supported capability is provided to the Department of Defense and may utilize any combination of software, hardware or equipment, data, and labor or services that provides a capability that is metered and billed based on actual usage at fixed price units."

### DEVELOPMENT OF PROCUREMENT ADMINISTRATIVE LEAD TIME

Pub. L. 115–91, div. A, title VIII, §886, Dec. 12, 2017, 131 Stat. 1505, as amended by Pub. L. 118–159, div. A, title XVII, §1701(d)(1), Dec. 23, 2024, 138 Stat. 2207, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall develop, make available for public comment, and finalize—

"(1) a definition of the term 'procurement administrative lead time' or 'PALT', to be applied Department of Defense-wide, that describes the amount of time from the date on which a solicitation is issued to the date of an initial award of a contract or task order of the Department of Defense; and

"(2) a plan for measuring and publicly reporting data on PALT for Department of Defense contracts and task orders above the simplified acquisition threshold.

"(b) REQUIREMENT FOR DEFINITION.—Unless the Secretary determines otherwise, the amount of time in the definition of PALT developed under subsection (a) shall—

"(1) begin on the date on which the initial solicitation is issued for a contract or task order of the Department of Defense by the Secretary of a military department or head of a Defense Agency; and

"(2) end on the date of the award of the contract or task order.

"(c) COORDINATION.—In developing the definition of PALT, the Secretary shall coordinate with—

"(1) the senior contracting official of each military department and Defense Agency to determine the variations of the definition in use across the Department of Defense and each military department and Defense Agency; and

"(2) the Administrator of the General Services Administration on modifying the existing data system of the Federal Government to determine the date on which the initial solicitation is issued.

"(d) USE OF EXISTING PROCUREMENT DATA SYSTEMS.—In developing the plan for measuring and publicly reporting data on PALT required by subsection (a), the Secretary shall, to the maximum extent practicable, rely on the information contained in the Federal procurement data system established pursuant to section 1122(a)(4) of title 41, United States Code, including any modifications to that system."

## §3301. Basis of award and rejection

(a) AWARD.—The head of an agency shall evaluate sealed bids and competitive proposals and make an award based solely on the factors specified in the solicitation.

(b) REJECTION.—All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the agency determines that such action is in the public interest.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(A), (3), Jan. 1, 2021, 134 Stat. 4182.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b)(1), (2) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(A), (3), was based on Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1191, 1192; Pub. L. 101–510, div. A, title VIII, §802(d)(1), Nov. 5, 1990, 104 Stat. 1589.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1816(c)(3), redesignated subsec. (b)(1) and (2) of section 2305 of this title as subsecs. (a) and (b), respectively, of this section and inserted headings.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### INCREASING COMPETITION IN DEFENSE CONTRACTING

Pub. L. 119–60, div. A, title VIII, §824, Dec. 18, 2025, 139 Stat. 956, provided that:

"(a) USES OF PAST PERFORMANCE.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall issue guidance, including examples and templates where appropriate, on—

"(A) when the Department of Defense should accept past performance on a wider range of projects, such as a requirement without much precedent, in order to have increased competition among eligible firms with capability to perform a requirement, by including commercial or non-government projects as relevant past performance for the purposes of awarding contracts or other agreements;

"(B) a means by which the Department may validate non-government past performance references, including by requiring an official of an entity providing past performance references to attest to their authenticity and by providing verifiable contact information for the references; and

"(C) using alternative methods of evaluation other than past performance that may be appropriate for a requirement without much precedent, such as demonstrations and testing of technologies as part of the proposal process for contracts or other awards of the Department.

"(2) SUPPLEMENT NOT SUPPLANT.—The guidance issued under paragraph (1) shall supplement existing Department of Defense policy and procedures for consideration of past performance and other evaluation factors and methods.

"(b) ENHANCING COMPETITION IN DEFENSE PROCUREMENT.—

"(1) COUNCIL RECOMMENDATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall convene the Defense Acquisition Regulations Council (in this section referred to as the 'Council'), to make recommendations to identify and eliminate specific, unnecessary procedural barriers that disproportionately affect the ability of small business concerns and nontraditional defense contractors, to compete for contracts with the Department of Defense, with a focus on streamlining documentation and qualification requirements unrelated to the protection of privacy and civil liberties.

"(2) CONSULTATION.—The Council shall obtain input from the public, including from the APEX Accelerators program (formerly known as Procurement Technical Assistance Center network) and other contractor representatives, to identify procurement policies and regulations that are obsolete, overly

burdensome or restrictive, not adequately harmonized, or otherwise serve to create barriers to small business concerns and nontraditional defense contractors contracting with the Department or that unnecessarily increase bid and proposal costs.

"(3) EXAMINATION OF ACTIONS.—The Council shall consider the input obtained under paragraph (2) and any other information determined to be relevant by the Council to identify legislative, regulatory, and other actions to increase competition and remove barriers to small business concerns and nontraditional defense contractors participating in the procurement process of the Department of Defense.

"(4) IMPLEMENTATION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Defense shall implement the regulatory and other non-legislative actions identified under paragraph (3), as determined necessary by the Secretary, to remove barriers to entry for small business concerns and nontraditional defense contractors seeking to participate in Department of Defense procurement.

"(5) BRIEFING.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the legislative actions identified under paragraph (3) and the actions implemented under paragraph (4).

"(c) CONSIDERATION OF COST-EFFICIENCY AND QUALIFY.—The Secretary of Defense shall advocate for and prioritize contracting policies that ensure that cost-efficiency and quality of goods and services are key determining factors in awarding procurement contracts.

"(d) DEFINITIONS.—In this section—

"(1) the term 'nontraditional defense contractors' has the meaning given such term in section 3014 of title 10, United States Code; and

"(2) the term 'small business concern' has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632)."

## CONSIDERATION OF THE PAST PERFORMANCE OF AFFILIATE COMPANIES OF SMALL BUSINESS CONCERNS

Pub. L. 118–31, div. A, title VIII, §865, Dec. 22, 2023, 137 Stat. 348, provided that: "Not later than July 1, 2024, the Secretary of Defense shall amend section 215.305 of the Defense Federal Acquisition Supplement (or any successor regulation) to require that when small business concerns bid on Department of Defense contracts, the past performance evaluation and source selection processes shall consider, if relevant, the past performance information of affiliate companies of the small business concerns."

## INCLUSION OF BEST AVAILABLE INFORMATION REGARDING PAST PERFORMANCE OF SUBCONTRACTORS AND JOINT VENTURE PARTNERS

Pub. L. 115–232, div. A, title VIII, §823, Aug. 13, 2018, 132 Stat. 1855, provided that: "Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense, in consultation with the Federal Acquisition Regulatory Council and the Administrator for Federal Procurement Policy, shall develop policies for the Department of Defense to ensure the best information regarding past performance of certain subcontractors and joint venture partners is available when awarding Department of Defense contracts. The policies shall include proposed revisions to the Defense Federal Acquisition Regulation Supplement as follows:

"(1) Required performance evaluations, as part of a government-wide evaluation reporting tool, for first-tier subcontractors on construction and architect-engineer contracts performing a portion of the contract valued at the threshold set forth in section 42.1502(e) of the Federal Acquisition Regulation, or 20 percent of the value of the prime contract, whichever is higher, provided—

"(A) the information included in rating the subcontractor is not inconsistent with the information included in the rating for the prime contractor;

"(B) the subcontractor evaluation is conducted consistent with the provisions of section 42.15 of the Federal Acquisition Regulation;

"(C) negative evaluations of a subcontractor in no way obviate the prime contractor's responsibility for successful completion of the contract and management of its subcontractors; and

"(D) that in the judgment of the contracting officer, the overall execution of the work is impacted by the performance of the subcontractor or subcontractors.

"(2) Required performance evaluations, as part of a government-wide evaluation reporting tool, of individual partners of joint venture-awarded construction and architect-engineer contracts valued at the

threshold set forth in section 42.1502(e) of the Federal Acquisition Regulation, to ensure that past performance on joint venture projects is considered in future awards to individual joint venture partners, provided—

"(A) at a minimum, the rating for joint ventures includes an identification that allows the evaluation to be retrieved for each partner of the joint venture;

"(B) each partner, through the joint venture, is given the same opportunity to submit comments, rebutting statements, or additional information, consistent with the provisions of section 42.15 of the Federal Acquisition Regulation; and

"(C) the rating clearly identifies the responsibilities of joint venture partners for discrete elements of the work where the partners are not jointly and severally responsible for the project.

"(3) Processes to request exceptions from the annual evaluation requirement under section 42.1502(a) of the Federal Acquisition Regulation for construction and architect-engineer contracts where submission of the annual evaluations would not provide the best representation of the performance of a contractor, including subcontractors and joint venture partners, including—

"(A) where no severable element of the work has been completed;

"(B) where the contracting officer determines that—

"(i) an insubstantial portion of the contract work has been completed in the preceding year; and

"(ii) the lack of performance is at no fault to the contractor; or

"(C) where the contracting officer determines that there is an issue in dispute which, until resolved, would likely cause the annual rating to inaccurately reflect the past performance of the contractor."

## INCLUSION OF DATA ON CONTRACTOR PERFORMANCE IN PAST PERFORMANCE DATABASES FOR SOURCE SELECTION DECISIONS

Pub. L. 112–81, div. A, title VIII, §806, Dec. 31, 2011, 125 Stat. 1487, as amended by Pub. L. 112–239, div. A, title X, §1076(a)(11), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 116–92, div. A, title IX, §902(35), Dec. 20, 2019, 133 Stat. 1547, provided that:

"(a) STRATEGY ON INCLUSION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Under Secretary of Defense for Acquisition and Sustainment shall develop a strategy for ensuring that timely, accurate, and complete information on contractor performance is included in past performance databases used for making source selection decisions.

"(b) ELEMENTS.—The strategy required by subsection (a) shall, at a minimum—

"(1) establish standards for the timeliness and completeness of past performance submissions for purposes of databases described in subsection (a);

"(2) assign responsibility and management accountability for the completeness of past performance submissions for such purposes; and

"(3) ensure that past performance submissions for such purposes are consistent with award fee evaluations in cases where such evaluations have been conducted.

"(c) CONTRACTOR COMMENTS.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Under Secretary of Defense for Acquisition and Sustainment shall revise the Defense Supplement to the Federal Acquisition Regulation to require the following:

"(1) That affected contractors are provided, in a timely manner, information on contractor performance to be included in past performance databases in accordance with subsection (a).

"(2) That such contractors are afforded up to 14 calendar days, from the date of delivery of the information provided in accordance with paragraph (1), to submit comments, rebuttals, or additional information pertaining to past performance for inclusion in such databases.

"(3) That agency evaluations of contractor past performance, including any information submitted under paragraph (2), are included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information provided in accordance with paragraph (1).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a contractor from submitting comments, rebuttals, or additional information pertaining to past performance after the period described in subsection (c)(2) has elapsed or to prohibit a contractor from challenging a past performance evaluation in accordance with applicable laws, regulations, or procedures.

"(e) COMPTROLLER GENERAL REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 31, 2011], the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken by the Under Secretary of Defense for Acquisition and

Sustainment pursuant to this section, including an assessment of the extent to which such actions have achieved the objectives of this section."

## §3302. Sealed bids

(a) OPENING OF BIDS.—Sealed bids shall be opened publicly at the time and place stated in the solicitation.

(b) CRITERIA FOR AWARDING CONTRACT.—The head of the agency shall evaluate the bids in accordance with section 3301(a) of this title without discussions with the bidders and, except as provided in section 3301(b) of this title, shall award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation.

(c) NOTICE OF AWARD.—The award of a contract shall be made by transmitting, in writing or by electronic means, notice of the award to the successful bidder. Within three days after the date of contract award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(B), (4), Jan. 1, 2021, 134 Stat. 4182.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b)(3) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(B), (4) was based on Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1192; Pub. L. 101–510, div. A, title VIII, §802(d)(2), Nov. 5, 1990, 104 Stat. 1589; Pub. L. 103–355, title I, §1013(a), Oct. 13, 1994, 108 Stat. 3255.

### PRIOR PROVISIONS

A prior section 3302, act Aug. 10, 1956, ch. 1041, 70A Stat. 187, related to promotion to captain, major, or lieutenant colonel of commissioned officers of Medical Corps, Dental Corps, and Veterinary Corps upon examination of professional fitness and effect upon failure of promotion, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See sections 631 and 632 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1816(c)(4)(A), (C), redesignated subsec. (b)(3) of section 2305 of this title as subsec. (a) of this section and inserted heading. Former second and third sentences of subsec. (a) designated subsecs. (b) and (c), respectively.

Subsec (b). Pub. L. 116–283, §1816(c)(4)(B), (D), designated second sentence of subsec. (a) as subsec. (b) of this section, inserted heading, and substituted "section 3301(a) of this title" for "paragraph (1)" and "section 3301(b) of this title" for "paragraph (2)".

Subsec. (c). Pub. L. 116–283, §1816(c)(4)(B), (E), designated third sentence of subsec. (a) as subsec. (c) of this section and inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3303. Competitive proposals

(a) EVALUATION AND AWARD.—The head of an agency shall evaluate competitive proposals

in accordance with section 3301(a) of this title and may award a contract—

(1) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

(2) based on the proposals received, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) provided that the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.

(b) LIMIT ON NUMBER OF PROPOSALS.—If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under subsection (a)(1) exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly in accordance with such criteria.

(c) CRITERIA FOR AWARDING CONTRACT.—Except as provided in section 3301(b) of this title, the head of the agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only cost or price and the other factors included in the solicitation.

(d) NOTICE OF AWARD.—The head of the agency shall award the contract by transmitting, in writing or by electronic means, notice of the award to such source and, within three days after the date of contract award, shall notify, in writing or by electronic means, all other offerors of the rejection of their proposals.

(e) EXCEPTION FOR PERISHABLE SUBSISTENCE ITEMS.—Subsections (c) and (d) do not apply with respect to the award of a contract for the acquisition of perishable subsistence items.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(C), (5), Jan. 1, 2021, 134 Stat. 4182, 4183; Pub. L. 117–81, div. A, title XVII, §1701(b)(6)(A), Dec. 27, 2021, 135 Stat. 2133.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b)(4) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(C), (5) was based on Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1192; Pub. L. 99–500, §101(c) [title X, §924(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–153, and Pub. L. 99–591, §101(c) [title X, §924(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–153; Pub. L. 99–661, div. A, title III, §313(b), title IX, formerly title IV, §924(b), Nov. 14, 1986, 100 Stat. 3853, 3933, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–189, div. A, title VIII, §853(f), Nov. 29, 1989, 103 Stat. 1519; Pub. L. 101–510, div. A, title VIII, §802(d), Nov. 5, 1990, 104 Stat. 1589; Pub. L. 103–355, title I, §1013(b), Oct. 13, 1994, 108 Stat. 3255; Pub. L. 104–106, div. D, title XLI, §4103(a), Feb. 10, 1996, 110 Stat. 643.

### PRIOR PROVISIONS

A prior section 3303, act Aug. 10, 1956, ch. 1041, 70A Stat. 188; Pub. L. 86–616, §1(3), July 12, 1960, 74 Stat. 386; Pub. L. 87–509, §4(a), June 28, 1962, 76 Stat. 121, related to effect of failure of a promotion-list officer considered for promotion to grade of captain, major, or lieutenant colonel under section 3299 of this title to be recommended for promotion, which officer was to be known as a "deferred officer", prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See sections 631 and 632 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1816(c)(5)(A), transferred subsec. (b)(4) of section 2305 of this title to this section and struck out par. (4) designation at beginning.

Subsec. (a). Pub. L. 116–283, §1816(c)(5)(B), (D), redesignated subpar. (A) of former section 2305(b)(4) of this title as subsec. (a) of this section, inserted heading, substituted "section 3301(a) of this title" for "paragraph (1)" in introductory provisions, and redesignated cls. (i) and (ii) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1816(c)(5)(B), (E), redesignated subpar. (B) of former section 2305(b)(4) of

this title as subsec. (b) of this section, inserted heading, and substituted "subsection (a)(1)" for "subparagraph (A)(i)".

Subsec. (c). Pub. L. 116–283, §1816(c)(5)(B), (F), redesignated subpar. (C) of former section 2305(b)(4) of this title as subsec. (c) of this section, inserted heading, and substituted "section 3301(b) of this title" for "paragraph (2)". Former second and third sentences designated subsec. (d).

Subsec. (d). Pub. L. 116–283, §1816(c)(5)(C), (G), as amended and added by Pub. L. 117–81, §1701(b)(6)(A), designated the second sentence of subsec. (c) as subsec. (d) and inserted heading.

Subsec. (e). Pub. L. 116–283, §1816(c)(5)(C), (H), as amended and added by Pub. L. 117–81, §1701(b)(6)(A), designated the third sentence of subsec. (c) as subsec. (e), inserted heading, and substituted "Subsections (c) and (d) do not" for "This subparagraph does not".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

#### PROCUREMENT OF TENTS OR OTHER TEMPORARY STRUCTURES

Pub. L. 112–81, div. A, title III, §368, Dec. 31, 2011, 125 Stat. 1381, provided that:

"(a) IN GENERAL.—In procuring tents or other temporary structures for use by the Armed Forces, and in establishing or maintaining an alternative source for such tents and structures, the Secretary of Defense shall award contracts that provide the best value to the United States. In determining the best value to the United States under this section, the Secretary shall consider the total life-cycle costs of such tents or structures, including the costs associated with any equipment or fuel needed to heat or cool such tents or structures.

"(b) INTERAGENCY PROCUREMENT.—The requirements of this section shall apply to any agency or department of the United States that procures tents or other temporary structures on behalf of the Department of Defense."

## §3304. Post-award debriefings

(a) REQUEST FOR DEBRIEFING.—When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award.

(b) WHEN DEBRIEFING TO BE CONDUCTED.—The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

(c) INFORMATION TO BE PROVIDED.—(1) The debriefing shall include, at a minimum—

(A) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

(C) the overall ranking of all offers;

(D) a summary of the rationale for the award;

(E) in the case of a proposal that includes a commercial product that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract;

(F) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency; and

(G) an opportunity for a disappointed offeror to submit, within two business days after receiving a post-award debriefing, additional questions related to the debriefing.

(2) The agency shall respond in writing to any additional question submitted under paragraph (1)(G) within five business days after receipt of the question. The agency shall not consider the debriefing to be concluded until the agency delivers its written responses to the disappointed offeror.

(d) INFORMATION NOT TO BE INCLUDED.—The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552(b) of title 5.

(e) INCLUSION OF STATEMENT IN SOLICITATION.—Each solicitation for competitive proposals shall include a statement that information described in subsection (c) may be disclosed in post-award debriefings.

(f) AFTER SUCCESSFUL PROTEST.—If, within one year after the date of the contract award and as a result of a successful procurement protest, the agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

(1) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

(2) the same information that would have been provided to the original offerors.

(g) SUMMARY TO BE INCLUDED IN FILE.—The contracting officer shall include a summary of any debriefing conducted under this section in the contract file.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(D), (6), Jan. 1, 2021, 134 Stat. 4182, 4183; Pub. L. 118–31, div. A, title XVIII, §1801(a)(26), Dec. 22, 2023, 137 Stat. 684.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b)(5) of section 2305 of this title, which was transferred to this section, redesignated as subsecs. (a) to (f), and amended by Pub. L. 116–283, §1816(c)(1), (2)(D), (6)(A)–(J), was based on Pub. L. 103–355, title I, §1014(2), Oct. 13, 1994, 108 Stat. 3256; Pub. L. 104–106, div. D, title XLI, §4104(a)(1), Feb. 10, 1996, 110 Stat. 644; Pub. L. 115–91, div. A, title VIII, §818(b), Dec. 12, 2017, 131 Stat. 1463; Pub. L. 115–232, div. A, title VIII, §836(c)(3), Aug. 13, 2018, 132 Stat. 1864.

For derivation of subsec. (g) of this section, see Codification note related to subsec. (f) set out under section 3305 of this title.

### PRIOR PROVISIONS

A prior section 3304, act Aug. 10, 1956, ch. 1041, 70A Stat. 189; Pub. L. 85–155, title I, §101(14), Aug. 21, 1957, 71 Stat. 378, covered promotion of officers in the Army Nurse Corps and the Army Medical Specialists Corps to colonel and lieutenant colonel, set out the requirements of officers on the promotion lists, and provided for the procedure to be followed in determining the order of promotion, prior to repeal by Pub. L. 90–130, §1(10)(C), Nov. 8, 1967, 81 Stat 375.

### AMENDMENTS

**2023**—Subsec. (g). Pub. L. 118–31 inserted "under" before "this section".

**2021**—Pub. L. 116–283, §1816(c)(6)(A), transferred subsec. (b)(5) of section 2305 of this title to this section and struck out par. (5) designation at beginning.

Subsec. (a). Pub. L. 116–283, §1816(c)(6)(B), (E), redesignated subpar. (A) of former section 2305(b)(5) of this title as subsec. (a) of this section and inserted heading. Former second sentence of subsec. (a) designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1816(c)(6)(C), (F), designated second sentence of subsec. (a) as subsec. (b) of this section and inserted heading.

Subsec. (c)(1). Pub. L. 116–283, §1816(c)(6)(B), (G)(i), (ii), redesignated subpar. (B) of former section 2305(b)(5) of this title and its cls. (i) to (vii) as subsec. (c)(1) of this section and subpars. (A) to (G), respectively, and inserted subsec. heading.

Subsec. (c)(2). Pub. L. 116–283, §1816(c)(6)(D), (G)(iii), redesignated subpar. (C) of former section 2305(b)(5) of this title as subsec. (c)(2) of this section and substituted "paragraph (1)(G)" for "subparagraph (B)(vii)".

Subsec. (d). Pub. L. 116–283, §1816(c)(6)(B), (H), redesignated subpar. (D) of former section 2305(b)(5) of this title as subsec. (d) of this section and inserted heading.

Subsec. (e). Pub. L. 116–283, §1816(c)(6)(B), (I), redesignated subpar. (E) of former section 2305(b)(5) of this title as subsec. (e) of this section, inserted heading, and substituted "subsection (c)" for "subparagraph (B)".

Subsec. (f). Pub. L. 116–283, §1816(c)(6)(B), (J), redesignated subpar. (F) of former section 2305(b)(5) of this title as subsec. (f) of this section, inserted heading, and redesignated cls. (i) and (ii) as pars. (1) and (2), respectively.

Subsec. (g). Pub. L. 116–283, §1816(c)(6)(K), added subsec. (g) identical to subsec. (f) of section 3305 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### ENHANCED POST-AWARD DEBRIEFING RIGHTS; RELEASE OF CONTRACT AWARD INFORMATION

Pub. L. 115–91, div. A, title VIII, §818(a), Dec. 12, 2017, 131 Stat. 1463, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to require that all required post-award debriefings, while protecting the confidential and proprietary information of other offerors, include, at a minimum, the following:

"(1) In the case of a contract award in excess of $100,000,000, a requirement for disclosure of the agency's written source selection award determination, redacted to protect the confidential and proprietary information of other offerors for the contract award, and, in the case of a contract award in excess of $10,000,000 and not in excess of $100,000,000 with a small business or nontraditional contractor, an option for the small business or nontraditional contractor to request such disclosure.

"(2) A requirement for a written or oral debriefing for all contract awards and task or delivery orders valued at $10,000,000 or higher.

"(3) Provisions ensuring that both unsuccessful and winning offerors are entitled to the disclosure described in paragraph (1) and the debriefing described in paragraph (2).

"(4) Robust procedures, consistent with section 2305(b)(5)(D) of title 10, United States Code [now 10 U.S.C. 3304(d)], and provisions implementing that section in the Federal Acquisition Regulation, to protect the confidential and proprietary information of other offerors."

## §3305. Pre-award debriefings

(a) REQUEST FOR DEBRIEFING.—When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award.

(b) WHEN DEBRIEFING TO BE CONDUCTED.—The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

(c) PRECONDITION FOR POST-AWARD DEBRIEFING.—The contracting officer is required to debrief an excluded offeror in accordance with section 3304 of this title only if that offeror requested and was refused a preaward debriefing under subsections (a) and (b).

(d) INFORMATION TO BE PROVIDED.—The debriefing conducted under subsections (a) and (b) shall include—

(1) the executive agency's evaluation of the significant elements in the offeror's offer;

(2) a summary of the rationale for the offeror's exclusion; and

(3) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

(e) INFORMATION NOT TO BE DISCLOSED.—The debriefing conducted under subsections (a) and (b) may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

(f) SUMMARY TO BE INCLUDED IN FILE.—The contracting officer shall include a summary of any debriefing conducted under this section in the contract file.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(E), (7), Jan. 1, 2021, 134 Stat. 4182, 4183; Pub. L. 117–81, div. A, title XVII, §1701(b)(6)(B), Dec. 27, 2021, 135 Stat. 2133.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b)(6) of section 2305 of this title, which was transferred to this section, redesignated as subsecs. (a) to (e), and amended by Pub. L. 116–283, §1816(c)(1), (2)(E), (7)(A), (C)–(I), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644; Pub. L. 104–201, div. A, title X, §1074(a)(11), Sept. 23, 1996, 110 Stat. 2659.

The text of subsec. (b)(7) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (f), and amended by Pub. L. 116–283, §1816(c)(1), (2)(E), (7)(B), (J), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644.

### PRIOR PROVISIONS

A prior section 3305, act Aug. 10, 1956, ch. 1041, 70A Stat. 189; Pub. L. 85–155, title I, §101(16), Aug. 21, 1957, 71 Stat. 379; Pub. L. 90–130, §1(10)(D), (E), Nov. 8, 1967, 81 Stat. 375, related to promotion of officers in regular grade of lieutenant colonel to grade of colonel, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 619 et seq. of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1816(c)(7)(A), transferred subsec. (b)(6) of section 2305 of this title to this section and struck out par. (6) designation at beginning.

Subsec. (a). Pub. L. 116–283, §1816(c)(7)(C), (E), redesignated subpar. (A) of former section 2305(b)(6) of this title as subsec. (a) of this section and inserted heading. Former second sentence of subsec. (a) designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1816(c)(7)(D), (F), designated second sentence of subsec. (a) as subsec. (b) of this section and inserted heading.

Subsec. (c). Pub. L. 116–283, §1816(c)(7)(B), (G), redesignated subpar. (B) of former section 2305(b)(6) of this title as subsec. (c) of this section, inserted heading, and substituted "section 3304 of this title" for "paragraph (5)" and "subsections (a) and (b)" for "subparagraph (A)".

Subsec. (d). Pub. L. 116–283, §1816(c)(7)(B), (H), redesignated subpar. (C) of former section 2305(b)(6) of this title and its cls. (i) to (iii) as subsec. (d) of this section and pars. (1) to (3), respectively, inserted heading, and substituted "subsections (a) and (b)" for "subparagraph (A)" in introductory provisions.

Subsec. (e). Pub. L. 116–283, §1816(c)(7)(B), (I), redesignated subpar. (D) of former section 2305(b)(6) of this title as subsec. (e) of this section, inserted heading, and substituted "subsections (a) and (b)" for "subparagraph (A)".

Subsec. (f). Pub. L. 116–283, §1816(c)(7)(B), (J), as amended by Pub. L. 117–81, §1701(b)(6)(B), redesignated subsec. (b)(7) of section 2305 of this title as subsec. (f) of this section, inserted heading, and substituted "under this section" for "under paragraph (5) or (6)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3306. Encouragement of alternative dispute resolution

The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(F), (8), Jan. 1, 2021, 134 Stat. 4182, 4185.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (b)(8) of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(F), (8), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644.

**PRIOR PROVISIONS**

A prior section 3306, act Aug. 10, 1956, ch. 1041, 70A Stat. 190, related to promotion of officers in regular grade of colonel to grade of brigadier general, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 619 et seq. of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1816(c)(8), transferred subsec. (b)(8) of section 2305 of this title to this section and struck out par. (8) designation at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3307. Antitrust violations

If the head of an agency considers that a bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(G), (9), Jan. 1, 2021, 134 Stat. 4182, 4185.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (b)(9) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(G), (9), was based on Pub. L. 98–369, div. B, title VII, §2723(b), July 18, 1984, 98 Stat. 1192; Pub. L. 99–145, title XIII, §1303(a)(14), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103–355,

title I, §1014(1), Oct. 13, 1994, 108 Stat. 3255; Pub. L. 104–106, div. D, title XLI, §4104(a), Feb. 10, 1996, 110 Stat. 644.

**PRIOR PROVISIONS**

A prior section 3307, act Aug. 10, 1956, ch. 1041, 70A Stat. 191, related to promotion of officers in regular grade of brigadier general to grade of major general, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 619 et seq. of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1816(c)(9), transferred subsec. (b)(9) of section 2305 of this title to this section and struck out par. (9) designation at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3308. Protests

(a) PROTEST FILE.—

(1) ESTABLISHMENT AND ACCESS.—If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

(2) REDACTED INFORMATION.—Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

(b) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(d), (e), Jan. 1, 2021, 134 Stat. 4185.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (e) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1816(e), was based on Pub. L. 103–355, title I, §1015, Oct. 13, 1994, 108 Stat. 3256; Pub. L. 104–106, div. E, title LVI, §5601(a), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–201, div. A, title X, §1074(b)(4)(A), Sept. 23, 1996, 110 Stat. 2660.

The text of subsec. (f) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1816(e)(1), was based on Pub. L. 103–355, title I, §1016, Oct. 13, 1994, 108 Stat. 3257.

**PRIOR PROVISIONS**

A prior section 3308, act Aug. 10, 1956, ch. 1041, 70A Stat. 192, related to effect of removal from recommended list by President of name of any promotion-list officer or brigadier general of Regular Army

who in President's opinion is not qualified for promotion or who is not confirmed by Senate, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 629 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1816(e), redesignated subsec. (e) of section 2305 of this title as subsec. (a) of this section and, in pars. (1) and (2), inserted headings and realigned margins.

Subsec. (b). Pub. L. 116–283, §1816(e)(1), redesignated subsec. (f) of section 2305 of this title as subsec. (b) of this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3309. Prohibition on release of contractor proposals

(a) DEFINITION.—In this section, the term "proposal" means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.

(b) PROHIBITION.—Except as provided in subsection (c), a proposal in the possession or control of an agency named in section 3063 of this title may not be made available to any person under section 552 of title 5.

(c) INAPPLICABILITY.—Subsection (b) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the Department and the contractor that submitted the proposal.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(d), (f), Jan. 1, 2021, 134 Stat. 4185.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(f), was based on Pub. L. 104–201, div. A, title VIII, §821(a), Sept. 23, 1996, 110 Stat. 2609; Pub. L. 106–65, div. A, title VIII, §821, Oct. 5, 1999, 113 Stat. 714.

### PRIOR PROVISIONS

A prior section 3309, act Aug. 10, 1956, ch. 1041, 70A Stat. 192, provided that President prescribe a system of physical examination for all commissioned officers of Regular Army in grades below brigadier general to determine their fitness for promotion in Regular Army, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 624 of this title.

A prior section 3310, act Aug. 10, 1956, ch. 1041, 70A Stat. 192, provided that original appointments as warrant officers in the Regular Army were to be made from persons who have served on active duty at least one year in the Army, prior to repeal by Pub. L. 115–232, div. A, title V, §511(a), Aug. 13, 2018, 132 Stat. 1751.

A prior section 3311, acts Aug. 10, 1956, ch. 1041, 70A Stat. 192; Sept. 2, 1958, Pub. L. 85–861, §1(60), 72 Stat. 1462, provided that with the exception of those appointed as commissioned officers in Medical Corps, Dental Corps, Medical Service Corps, Veterinary Corps, Army Nurse Corps, or Army Medical Specialist Corps, women be appointed as commissioned officers in Regular Army only in Women's Army Corps, prior to repeal by Pub. L. 95–485, title VIII, §820(d)(4), Oct. 20, 1978, 92 Stat. 1627.

Prior sections 3312 to 3314 were repealed by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981.

Section 3312, act Aug. 10, 1956, ch. 1041, 70A Stat. 193, provided that an officer who is promoted in

Regular Army is considered to have accepted his promotion on date of the order announcing it, unless he expressly declines it, without the need to take oath of office upon promotion if his service since last taking it has been continuous. See section 626 of this title.

Section 3313, act Aug. 10, 1956, ch. 1041, 70A Stat. 193, provided that in time of war or national emergency declared by Congress or President, President may suspend operation of provision of law relating to promotion, mandatory retirement, or separation of commissioned officers of the Regular Army. See section 123(a) and (b) of this title.

Section 3314, added Pub. L. 85–861, §1(79)(A), Sept. 2, 1958, 72 Stat. 1467, provided that promotion to a higher grade of a commissioned officer of Regular Army who is on a recommendation list awaiting promotion not be withheld or delayed because of original appointment of any other person to a commissioned grade in Regular Army and that this section does not apply to appointments in Medical Corps, Dental Corps, Army Nurse Corps, or Army Medical Specialist Corps. See section 624 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1816(f)(1)(A), transferred subsec. (g) of section 2305 of this title to this section and struck out subsec. (g) designation and heading "Prohibition on Release of Contractor Proposals" at beginning.

Subsec. (a). Pub. L. 116–283, §1816(f)(1)(B), (C), (2), redesignated par. (3) of former section 2305(g) of this title as subsec. (a) of this section, moved it to the beginning, inserted heading, and substituted "In this section," for "In this subsection,".

Subsec. (b). Pub. L. 116–283, §1816(f)(1)(B), (3), redesignated par. (1) of former section 2305(g) of this title as subsec. (b) of this section, inserted heading, and substituted "subsection (c)," for "paragraph (2)," and "section 3063" for "section 2303".

Subsec. (c). Pub. L. 116–283, §1816(f)(1)(B), (4), redesignated par. (2) of former section 2305(g) of this title as subsec. (c) of this section, inserted heading, and substituted "Subsection (b)" for "Paragraph (1)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# CHAPTER 242—SPECIFIC TYPES OF CONTRACTS

Sec.
3321. Contracts awarded using procedures other than sealed-bid procedures.
3322. Cost contracts.
3323. Cost-plus contracting prohibited for military construction and military family housing projects.
3324. [Reserved].

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(4)(A), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116–283, div. A, title XVIII, §1817(a), Jan. 1, 2021, 134 Stat. 4186, which added this analysis, by substituting "[Reserved]" for "Preference for fixed-price contracts" in item 3324.

## §3321. Contracts awarded using procedures other than sealed-bid procedures

(a) AUTHORIZED TYPES.—Subject to the limitation in section 3322(a) of this title, the other provisions of this chapter, and other applicable provisions of law, the head of an agency, in awarding contracts under chapter 137 legacy provisions after using procedures other than sealed-bid procedures, may enter into any kind of contract that he considers will promote the best interests of the United States.

(b) REQUIRED WARRANTY.—

(1) CONTENT.—Each contract awarded under chapter 137 legacy provisions after using procedures other than sealed-bid procedures shall contain a warranty, determined to be suitable by the head of the agency, that the contractor has employed or retained no person or selling agency to solicit or obtain the contract under an understanding or agreement for a commission, percentage, brokerage, or contingent fee, except a bona fide employee or established commercial or selling agency maintained by the contractor to obtain business.

(2) REMEDY FOR BREAKING WARRANTY.—If a contractor breaks such a warranty the United States—

(A) may annul the contract without liability; or

(B) may deduct the commission, percentage, brokerage, or contingent fee from the contract price or consideration.

(3) INAPPLICABILITY TO CERTAIN CONTRACTS.—This subsection does not apply—

(A) to a contract that is for an amount not greater than the simplified acquisition threshold; or

(B) to a contract for the acquisition of commercial products or commercial services.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1817(a), (b), (d), Jan. 1, 2021, 134 Stat. 4186.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2306 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1817(b), (d)(1), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 130; Pub. L. 87–653, §1(d), Sept. 10, 1962, 76 Stat. 528; Pub. L. 98–369, div. B, title VII, §2724(a), July 18, 1984, 98 Stat. 1192; Pub. L. 99–145, title XIII, §1303(a)(15), Nov. 8, 1985, 99 Stat. 739.

The text of subsec. (b) of section 2306 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1817(b), (d)(2), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 130; Pub. L. 98–369, div. B, title VII, §2724(b), July 18, 1984, 98 Stat. 1193; Pub. L. 103–355, title IV, §4102(b), Oct. 13, 1994, 108 Stat. 3340; Pub. L. 115–232, div. A, title VIII, §836(c)(4), Aug. 13, 2018, 132 Stat. 1865.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1817(b), (d)(1), transferred subsec. (a) of section 2306 of this title to this section, inserted heading before second sentence, and substituted "section 3322(a) of this title" for "the preceding sentence", "provisions of this chapter" for "provisions of this section", and "under chapter 137 legacy provisions" for "under this chapter". Former first sentence of subsec. (a) designated section 3322(a) of this title.

Subsec. (b). Pub. L. 116–283, §1817(b), (d)(2), transferred subsec. (b) of section 2306 of this title to this section, inserted heading, and designated first, second, and third sentences as pars. (1) to (3), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1817(d)(2)(A)–(C), inserted heading and substituted "under chapter 137 legacy provisions" for "under this chapter" and "maintained by the contractor" for "maintained by him".

Subsec. (b)(2). Pub. L. 116–283, §1817(d)(2)(E), inserted heading, inserted dash after "the United States" and subpar. (A) designation before "may annul", substituted "liability; or" for "liability or", and inserted subpar. (B) designation before "may deduct".

Subsec. (b)(3). Pub. L. 116–283, §1817(d)(2)(F), inserted heading, inserted dash after "does not apply" and subpar. (A) designation before "to a contract that is", substituted "threshold; or" for "threshold or", and inserted subpar. (B) designation before "to a contract for the acquisition".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3322. Cost contracts

(a) COST-PLUS-A-PERCENTAGE-OF-COST SYSTEM OF CONTRACTING PROHIBITED .—The cost-plus-a-percentage-of-cost system of contracting may not be used.

(b) COST-PLUS-A-FIXED-FEE CONTRACTS.—The fee for performing a cost-plus-a-fixed-fee contract for experimental, developmental, or research work may not be more than 15 percent of the estimated cost of the contract, not including the fee. The fee for performing a cost-plus-a-fixed-fee contract for architectural or engineering services for a public work or utility plus the cost of those services to the contractor may not be more than 6 percent of the estimated cost of that work or project, not including fees. The fee for performing any other cost-plus-a-fixed-fee contract may not be more than 10 percent of the estimated cost of the contract, not including the fee. Determinations under this subsection of the estimated costs of a contract or project shall be made by the head of the agency at the time the contract is made.

(c) ADVANCE NOTICE OF CERTAIN SUBCONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each cost contract and each cost-plus-a-fixed-fee contract shall provide for notice to the agency by the contractor before the making, under the prime contract, of—

(A) a cost-plus-a-fixed-fee subcontract; or

(B) a fixed-price subcontract or purchase order involving more than the greater of (i) the simplified acquisition threshold, or (ii) 5 percent of the estimated cost of the prime contract.

(2) EXCEPTION.—Paragraph (1) shall not apply to a prime contract with a contractor that maintains a purchasing system approved by the contracting officer for the contract.

(d) LIMITATION ON CERTAIN OPTIONS.—

(1) IN GENERAL.—Except as provided by paragraph (2), a covered contract shall limit the number of low-rate production lots for any production quantities procured using fixed-priced options under such covered contract to not more than one.

(2) WAIVER.—

(A) IN GENERAL.—The service acquisition executive of the military department concerned or, in the case of program that is a joint program, the Secretary of Defense may waive the limit required under paragraph (1) with respect to the number of low-rate production lots for a production quantity under a covered contract if such service acquisition executive or the Secretary of Defense, as applicable, determines that such waiver is in the best interest of the Department of Defense.

(B) DELEGATION LIMIT.—Neither a service acquisition executive nor the Secretary of Defense may delegate the authority under subparagraph (A) to waive the limit required under paragraph (1) below the level of a service acquisition executive.

(3) DEFINITIONS.—In this subsection:

(A) The term "covered contract" means a cost reimbursement contract for the development of a major system.

(B) The term "low-rate initial production" has the same meaning as in section 4231 of this title.

(C) The term "major system" has the meaning given such term in section 3041 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1817(a), (c), (e), (f), Jan. 1, 2021, 134 Stat. 4186, 4187; Pub. L. 118–159, div. A, title VIII, §802(a), Dec. 23, 2024, 138 Stat. 1965.)

### EDITORIAL NOTES

### CODIFICATION

For derivation of subsec. (a) of this section, see Codification note related to subsec. (a) of section 2306 of this title set out under section 3321 of this title.

The text of subsec. (d) of section 2306 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1817(e), (f)(2), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 131.

The text of subsec. (e) of section 2306 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1817(e), (f)(3), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 131; Pub. L. 98–369, div. B, title VII, §2724, July 18, 1984, 98 Stat. 1193; Pub. L. 102–25, title VII, §701(d)(3), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title IV, 4401(c), Oct. 13, 1994, 108 Stat. 3348; Pub. L. 108–136, div. A, title VIII, §842, Nov. 24, 2003, 117 Stat. 1552.

### AMENDMENTS

**2024**—Subsec. (d). Pub. L. 118–159 added subsec. (d).

**2021**—Subsec. (a). Pub. L. 116–283, §1817(c), (f)(1), transferred first sentence of subsec. (a) of section 3321 of this title to this section, designated it as subsec. (a), and inserted heading.

Subsec. (b). Pub. L. 116–283, §1817(e), (f)(2), redesignated subsec. (d) of section 2306 of this title as subsec. (b) of this section and inserted heading.

Subsec. (c). Pub. L. 116–283, §1817(e), (f)(3), redesignated subsec. (e) of section 2306 of this title as subsec. (c) of this section, inserted subsec. and par. headings, and realigned margin of par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### CONFORMING REGULATIONS

Pub. L. 118–159, div. A, title VIII, §802(b), Dec. 23, 2024, 138 Stat. 1965, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to implement subsection (d) of section 3322 of title 10, United States Code, as added by subsection (a) of this section."

## §3323. Cost-plus contracting prohibited for military construction and military family housing projects

(a) PROHIBITION.—A contract entered into by the United States in connection with a military construction project or a military family housing project may not use any form of cost-plus contracting.

(b) APPLICABILITY.—The prohibition specified in subsection (a)—

(1) is in addition to the prohibition specified in section 3322(a) of this title on the use of the cost-plus-a-percentage-of-cost system of contracting; and

(2) applies notwithstanding a declaration of war or the declaration by the President of a national emergency under section 201 of the National Emergencies Act (50 U.S.C. 1621) that includes the use of the armed forces.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1817(a), (g), Jan. 1, 2021, 134 Stat. 4186, 4187; Pub. L. 118–31, div. A, title XVIII, §1801(a)(27), Dec. 22, 2023, 137 Stat. 684.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2306 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1817(g), was based on Pub. L. 112–81, div. B, title XXVIII, §2801(a), Dec. 31, 2011, 125 Stat. 1684.

### AMENDMENTS

**2023**—Subsec. (b)(2). Pub. L. 118–31 struck out period after "notwithstanding".

**2021**—Subsec. (a). Pub. L. 116–283, §1817(g)(1), (2), redesignated subsec. (c) of section 2306 of this title as subsec. (a) of this section and inserted heading. Former second sentence of subsec. (a) designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1817(g)(1), (3), designated second sentence of subsec. (a) as subsec. (b), inserted heading, and substituted "The prohibition specified in subsection (a)—

"(1) is in addition to the prohibition specified in section 3322(a) of this title on the use of the cost-plus-a-percentage-of-cost system of contracting; and

"(2) applies notwithstanding. a declaration"

for "This prohibition is in addition to the prohibition specified in subsection (a) on the use of the cost-plus-a-percentage-of-cost system of contracting and applies notwithstanding a declaration".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3324. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1817(a), Jan. 1, 2021, 134 Stat. 4186; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(4)(B), Dec. 27, 2021, 135 Stat. 2141.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(4)(B), amended Pub. L. 116–283, §1817(a), which enacted this section, by adding section 3324 designation and heading "[Reserved]" and striking out former section 3324 heading and catchline "Preference for fixed-price contracts".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# CHAPTER 243—OTHER MATTERS RELATING TO AWARDING OF CONTRACTS

Sec.
3341. [Reserved].
3342. [Reserved].
3343. [Reserved].
3344. Disclosure of identity of contractor.
[3345. Omitted.]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 243 "SPECIFIC TYPES OF CONTRACTS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3351, was repealed by Pub. L. 116–283, div. A, title XVIII, §1816(b), Jan. 1, 2021, 134 Stat. 4182.

## AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(v)(1)(B), Dec. 27, 2021, 135 Stat. 2154, amended Pub. L. 116–283, div. A, title XVIII, §1818(a), Jan. 1, 2021, 134 Stat. 4188, which added this analysis, by striking out item 3345 "Contract authority for advanced development of initial or additional prototype units".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ASSURING INTEGRITY OF OVERSEAS FUEL SUPPLIES

Pub. L. 117–81, div. A, title VIII, §843, Dec. 27, 2021, 135 Stat. 1840, provided that:

"(a) IN GENERAL.—Before awarding a contract to an offeror for the supply of fuel for any overseas contingency operation, the Secretary of Defense shall—

"(1) ensure, to the maximum extent practicable, that no otherwise responsible offeror is disqualified for such award on the basis of an unsupported denial of access to a facility or equipment by the host nation government; and

"(2) require assurances that the offeror will comply with the requirements of subsections (b) and (c).

"(b) REQUIREMENT.—An offeror for the supply of fuel for any overseas contingency operation shall—

"(1) certify that the provided fuel, in whole or in part, or derivatives of such fuel, is not sourced from a nation or region prohibited from selling petroleum to the United States; and

"(2) furnish such records as are necessary to verify compliance with such anticorruption statutes and regulations as the Secretary determines necessary, including—

"(A) the Foreign Corrupt Practices Act [of 1977] ([see] 15 U.S.C. 78dd–1 et seq.);

"(B) the regulations contained in parts 120 through 130 of title 22, Code of Federal Regulations, or successor regulations (commonly known as the 'International Traffic in Arms Regulations');

"(C) the regulations contained in parts 730 through 774 of title 15, Code of Federal Regulations, or successor regulations (commonly known as the 'Export Administration Regulations'); and

"(D) such regulations as may be promulgated by the Office of Foreign Assets Control of the Department of the Treasury.

"(c) APPLICABILITY.—Subsections (a) and (b) of this section shall apply with respect to contracts entered into on or after the date of the enactment of this Act [Dec. 27, 2021].

"(d) CONSIDERATION OF TRADEOFF PROCESSES.—If the Secretary of Defense awards a contract for fuel procurement for an overseas contingency operation, the contracting officer for such contract shall consider tradeoff processes (as described in subpart 15 of the Federal Acquisition Regulation, or any successor regulation), including consideration of past performance evaluation, cost, anticorruption training, and compliance. With respect to any such contract awarded for which the contracting officer does not consider tradeoff processes, the contracting officer shall, before issuing a solicitation for such contract, submit to the Secretary a written justification for not considering tradeoff processes in awarding such contract."

### GUIDANCE, TRAINING, AND REPORT ON PLACE OF PERFORMANCE CONTRACT REQUIREMENTS

Pub. L. 117–81, div. A, title VIII, §875, Dec. 27, 2021, 135 Stat. 1865, which related to guidance, training, and report on place of performance contract requirements, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(2)(C), Dec. 18, 2025, 139 Stat. 948.

### DEPARTMENT OF DEFENSE CONTRACTING DISPUTE MATTERS

Pub. L. 115–232, div. A, title VIII, §822, Aug. 13, 2018, 132 Stat. 1853, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall carry out a study of the frequency and effects of bid protests involving the same contract award or proposed award that have been filed at both the Government Accountability Office and the United States Court of Federal Claims. The study shall cover Department of Defense contracts and include, at a minimum—

"(1) the number of protests that have been filed with both tribunals and results;

"(2) the number of such protests where the tribunals differed in denying or sustaining the action;

"(3) the length of time, in average time and median time—

"(A) from initial filing at the Government Accountability Office to decision in the United States

Court of Federal Claims;

"(B) from filing with each tribunal to decision by such tribunal;

"(C) from the time at which the basis of the protest is known to the time of filing in each tribunal; and

"(D) in the case of an appeal from a decision of the United States Court of Federal Claims, from the date of the initial filing of the appeal to decision in the appeal;

"(4) the number of protests where performance was stayed or enjoined and for how long;

"(5) if performance was stayed or enjoined, whether the requirement was obtained in the interim through another vehicle or in-house, or whether during the period of the stay or enjoining the requirement went unfulfilled;

"(6) separately for each tribunal, the number of protests where performance was stayed or enjoined and monetary damages were awarded, which shall include for how long performance was stayed or enjoined and the amount of monetary damages;

"(7) whether the protestor was a large or small business; and

"(8) whether the protestor was the incumbent in a prior contract for the same or similar product or service.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report on the results of the study, along with related recommendations for improving the expediency of the bid protest process. In preparing the report, the Secretary shall consult with the Attorney General of the United States, the Comptroller General of the United States, and the United States Court of Federal Claims.

"(c) ONGOING DATA COLLECTION.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall establish and continuously maintain a data repository to collect on an ongoing basis the information described in subsection (a) and any additional relevant bid protest data the Secretary determines necessary and appropriate to allow the Department of Defense, the Government Accountability Office, and the United States Court of Federal Claims to assess and review bid protests over time.

"(d) ESTABLISHMENT OF EXPEDITED PROCESS FOR SMALL VALUE CONTRACTS.—

"(1) IN GENERAL.—Not later than December 1, 2019, the Secretary of Defense shall develop a plan and schedule for an expedited bid protest process for Department of Defense contracts with a value of less than $100,000.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary of Defense may consult with the Government Accountability Office and the United States Court of Federal Claims to the extent such entities may establish a similar process at their election.

"(3) REPORT.—Not later than May 1, 2019, the Secretary of Defense shall submit to the congressional defense committees a report on the plan and schedule for implementation of the expedited bid protest process, which shall include a request for any additional authorities the Secretary determines appropriate for such efforts."

## GUIDANCE ON USE OF TIERED EVALUATIONS OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS

Pub. L. 109–163, div. A, title VIII, §816, Jan. 6, 2006, 119 Stat. 3382, which required the Secretary of Defense to prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers for contracts and for task or delivery orders under contracts, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(17)(B), Dec. 18, 2025, 139 Stat. 949.

## AUTHORIZATION OF EVALUATION FACTOR FOR DEFENSE CONTRACTORS EMPLOYING OR SUBCONTRACTING WITH MEMBERS OF THE SELECTED RESERVE OF THE RESERVE COMPONENTS OF THE ARMED FORCES

Pub. L. 109–163, div. A, title VIII, §819, Jan. 6, 2006, 119 Stat. 3385, as amended by Pub. L. 116–283, div. A, title VIII, §821, Jan. 1, 2021, 134 Stat. 3753, provided that:

"(a) DEFENSE CONTRACTS.—In awarding any contract for the procurement of goods or services to an entity, the Secretary of Defense is authorized to use as an evaluation factor whether the entity intends to carry out the contract using employees or individual subcontractors who are members of the Selected Reserve of the reserve components of the Armed Forces.

"(b) REGULATIONS.—The Federal Acquisition Regulation shall be revised as necessary to implement

this section."

## §3344. Disclosure of identity of contractor

The Secretary of Defense may disclose the identity or location of a person awarded a contract by the Department of Defense to any individual, including a Member of Congress, only after the Secretary makes a public announcement identifying the contractor. When the identity of a contractor is to be made public, the Secretary shall announce publicly that the contract has been awarded and the identity of the contractor.

(Added Pub. L. 97–295, §1(26)(A), Oct. 12, 1982, 96 Stat. 1291, §2316; renumbered §3344, Pub. L. 116–283, div. A, title XVIII, §1818(b), Jan. 1, 2021, 134 Stat. 4188; amended Pub. L. 117–81, div. A, title XVII, §1701(b)(7), Dec. 27, 2021, 135 Stat. 2133.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2316 | 10:2304 (note). | Oct. 7, 1970, Pub. L. 91–441, §507, 84 Stat. 913. |

The words "company, or corporation" are omitted as included in "person" because of section 1:1. The words "On and after the date of enactment of this Act" are omitted as executed. The word "contractor" is substituted for "person, company, or corporation to whom such contract has been awarded" and "person, company, or corporation to whom any defense contract has been awarded" to eliminate unnecessary words. The words "and the identity of the contractor" are substituted for "and to whom it was awarded" for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 3351 and 3352 were renumbered sections 12211 and 12213 of this title, respectively.

Prior sections 3353 and 3354 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3353, added Pub. L. 85–861, §1(80)(B), Sept. 2, 1958, 72 Stat. 1468; amended Pub. L. 86–559, §1(8), June 30, 1960, 74 Stat. 265; Pub. L. 96–513, title II, §205(a), Dec. 12, 1980, 94 Stat. 2881; Pub. L. 97–22, §5(c), July 10, 1981, 95 Stat. 128; Pub. L. 98–94, title X, §1007(c)(3), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100–180, div. A, title VII, §714(b), Dec. 4, 1987, 101 Stat. 1112; Pub. L. 103–160, div. A, title V, §509(b), Nov. 30, 1993, 107 Stat. 1647, related to service credit upon original appointment as reserve commissioned officer in Army. See section 12207 of this title.

Section 3354, acts Aug. 10, 1956, ch. 1041, 70A Stat. 194; Sept. 2, 1958, Pub. L. 85–861, §1(80)(C), 72 Stat. 1468, related to appointment of warrant officers and enlisted members of Army National Guard of United States as reserve officers.

A prior section 3355, acts Aug. 10, 1956, ch. 1041, 70A Stat. 194; Sept. 2, 1958, Pub. L. 85–861, §33(a)(22), 72 Stat. 1565, related to appointment of graduates of Reserve Officers' Training Corps as reserve commissioned officers, prior to repeal by Pub. L. 88–647, title III, §301(5), Oct. 13, 1964, 78 Stat. 1071. See section 2106 of this title.

Prior sections 3357 to 3370 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3357, acts Aug. 10, 1956, ch. 1041, 70A Stat. 194; Sept. 2, 1958, Pub. L. 85–861, §1(60), (80)(D), 72 Stat. 1462, 1468, related to eligibility for appointment as reserve officer for service in Army Reserve in Army Nurse Corps or Army Medical Specialist Corps.

Section 3359, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1469; amended Pub. L. 98–94, title X, §1014(a), Sept. 24, 1983, 97 Stat. 666; Pub. L. 98–525, title V, §521(a), Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–145, title V, §521(a), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100–180, div. A, title V, §502(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §503(a), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102–484, div. A, title V, §519(a), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103–160, div. A, title V, §514(a),

Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104–106, div. A, title V, §511(a), Feb. 10, 1996, 110 Stat. 298, related to determination of grade upon original appointment as reserve officer of Army. See section 12201 et seq. of this title.

Section 3360, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1469; amended Pub. L. 86–559, §1(9), June 30, 1960, 74 Stat. 266; Pub. L. 96–513, title V, §§502(10), 512(4), Dec. 12, 1980, 94 Stat. 2910, 2929; Pub. L. 98–94, title X, §1016(b), Sept. 24, 1983, 97 Stat. 668, related to service required for promotion of Reserve commissioned officers. See section 14001 et seq. of this title.

Section 3362, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1470; amended Pub. L. 86–559, §1(10), June 30, 1960, 74 Stat. 266, related to convening of selection boards to consider Reserve commissioned officers for promotion. See section 14101 et seq. of this title.

Section 3363, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1470; amended Pub. L. 86–559, §1(11), June 30, 1960, 74 Stat. 266; Pub. L. 95–485, title VIII, §820(e)(1), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to requirements and procedures for promotion of officers in reserve grades. See section 14301 et seq. of this title.

Section 3364, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1471; amended Pub. L. 86–559, §1(12), June 30, 1960, 74 Stat. 266; Pub. L. 95–485, title VIII, §820(e)(2)–(4), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 98–525, title V, §512, Oct. 19, 1984, 98 Stat. 2521; Pub. L. 100–456, div. A, title XII, §1234(a)(4), Sept. 29, 1988, 102 Stat. 2059, related to commissioned reserve officers' selection for promotion, order of promotion, zone of consideration lists, and declinations of promotion. See section 14301 et seq. of this title.

Section 3365, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1472, related to promotion of second lieutenants of Army Reserve. See section 14301 et seq. of this title.

Section 3366, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1472; amended Pub. L. 86–559, §1(13), June 30, 1960, 74 Stat. 267; Pub. L. 90–130, §1(11)(A), Nov. 8, 1967, 81 Stat. 375, related to promotion of first lieutenants, captains, and majors of Army Reserve or Army National Guard of United States. See section 14301 et seq. of this title.

Section 3367, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1473; amended Pub. L. 86–559, §1(14), June 30, 1960, 74 Stat. 268; Pub. L. 90–130, §1(11)(B), Nov. 8, 1967, 81 Stat. 375, related to promotion of first lieutenants, captains, and majors of Army Reserve to fill vacancies. See section 14301 et seq. of this title.

Section 3368, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1474, related to second consideration for promotion of first lieutenants, captains, and majors of Army Reserve. See section 14301 et seq. of this title.

Section 3369, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1474, related to first promotion of reserve officers not assigned to unit after transfer from unit or from Army National Guard of United States.

Section 3370, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1474; amended Pub. L. 86–559, §1(15), June 30, 1960, 74 Stat. 269; Nov. 8, 1967, Pub. L. 90–130, §1(11)(C), (D), 81 Stat. 375; Pub. L. 100–456, div. A, title XII, §1234(a)(5), Sept. 29, 1988, 102 Stat. 2059, related to promotion of officers to grade of colonel to fill vacancies. See section 14301 et seq. of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1818(b), as amended by Pub. L. 117–81, §1701(b)(7), renumbered section 2316 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§3345. Omitted]

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1818(c), Jan. 1, 2021, 134 Stat. 4188, initially transferred section 2302e of this title to this section, to become effective Jan. 1, 2022. Pub. L. 117–81, div. A, title XVII, §1701(v)(1)(A), Dec. 27, 2021, 135 Stat. 2154, repealed section 1818(c) of Pub. L. 116–283, effective as if included therein, which eliminated that transfer, thereby omitting this section before it took effect. Another amendment by Pub. L. 117–81 resulted in the transfer of section 2302e to section 4004 of this title.

## CHAPTER 244—UNDEFINITIZED CONTRACTUAL ACTIONS

Sec.
3371. Undefinitized contractual actions: required description of anticipated effect on military department requirements if use of undefinitized contractual action results in delay.
3372. Undefinitized contractual actions: requirements and limitations relating to definitization of contractual terms, specifications, and price.
[3373. Repealed.]
3374. Undefinitized contractual actions: allowable profit.
3375. Undefinitized contractual actions: time limit.
3376. [Reserved].
3377. Inapplicability to Coast Guard and National Aeronautics and Space Administration; definitions.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(4), Dec. 18, 2025, 139 Stat. 948, struck out item 3373 "Undefinitized contractual actions: limitation on inclusion of non-urgent requirements and on modification of scope". Amendment was made pursuant to operation of section 102 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION AND ENFORCEMENT OF REQUIREMENTS APPLICABLE TO UNDEFINITIZED CONTRACTUAL ACTIONS

Pub. L. 110–181, div. A, title VIII, §809, Jan. 28, 2008, 122 Stat. 216, provided that:

"(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to ensure the implementation and enforcement of requirements applicable to undefinitized contractual actions.

"(b) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

"(1) the circumstances in which it is, and is not, appropriate for Department of Defense officials to use undefinitized contractual actions;

"(2) approval requirements (including thresholds) for the use of undefinitized contractual actions;

"(3) procedures for ensuring that timelines for the definitization of undefinitized contractual actions are met;

"(4) procedures for ensuring compliance with regulatory limitations on the obligation of funds pursuant to undefinitized contractual actions;

"(5) procedures for ensuring compliance with regulatory limitations on profit or fee with respect to costs incurred before the definitization of an undefinitized contractual action; and

"(6) reporting requirements for undefinitized contractual actions that fail to meet required timelines for definitization or fail to comply with regulatory limitations on the obligation of funds or on profit or fee.

"(c) REPORTS.—

"(1) REPORT ON GUIDANCE AND INSTRUCTIONS.—Not later than 210 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the guidance and instructions issued pursuant to subsection (a).

"(2) GAO REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the extent to which the guidance and instructions issued pursuant to subsection (a) have resulted in improvements to—

"(A) the level of insight that senior Department of Defense officials have into the use of undefinitized contractual actions;

"(B) the appropriate use of undefinitized contractual actions;

"(C) the timely definitization of undefinitized contractual actions; and

"(D) the negotiation of appropriate profits and fees for undefinitized contractual actions."

## §3371. Undefinitized contractual actions: required description of anticipated effect on military department requirements if use of undefinitized contractual action results in delay

The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (b), Jan. 1, 2021, 134 Stat. 4189.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2326 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1819(b), was based on Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–140, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–140; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3920, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

### PRIOR PROVISIONS

A prior section 3371, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1475, related to promotion of brigadier generals and colonels not assigned to units, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14301 et seq. of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1819(b), transferred subsec. (a) of section 2326 of this title to this section and struck out subsec. (a) designation and heading "In General" at beginning.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3372. Undefinitized contractual actions: requirements and limitations relating to definitization of contractual terms, specifications, and price

(a) CONTRACTUAL ACTION TO PROVIDE TIME FOR DEFINITIZATION OF CONTRACTUAL TERMS, SPECIFICATIONS, AND PRICE; LIMITATIONS ON OBLIGATION

OF FUNDS.—

(1) TERMS FOR TIME FOR DEFINITIZATION TO BE INCLUDED IN CONTRACTUAL ACTION.—A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

(2) LIMITATION ON OBLIGATION OF FUNDS BEFORE DEFINITIZATION.—

(A) 50 PERCENT LIMITATION.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(B) 75 PERCENT LIMITATION WHEN CONTRACTOR SUBMITS QUALIFYING PROPOSAL.—If a contractor submits a qualifying proposal (as defined in section 3377(b) of this title) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(3) WAIVER AUTHORITY.—The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if that head of an agency determines that the waiver is necessary in order to support any of the following operations:

(A) A contingency operation.

(B) A humanitarian or peacekeeping operation.

(4) INAPPLICABILITY WITH RESPECT TO PURCHASE OF INITIAL SPARES.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

(b) LIMITATION ON UNILATERAL DEFINITIZATION BY CONTRACTING OFFICER.—

(1) IN GENERAL.—With respect to any undefinitized contractual action with a value greater than $50,000,000, if agreement is not reached on contractual terms, specifications, and price within the period or by the date provided in subsection (a)(1), the contracting officer may not unilaterally definitize those terms, specifications, or price over the objection of the contractor until—

(A) the service acquisition executive for the military department that awarded the contract, or the Under Secretary of Defense for Acquisition and Sustainment if the contract was awarded by a Defense Agency or other component of the Department of Defense, approves the definitization in writing;

(B) the contracting officer provides a copy of the written approval to the contractor; and

(C) a period of 30 calendar days has elapsed after the written approval is provided to the contractor.

(2) TREATMENT OF UNILATERAL DEFINITIZATION OF A CONTRACT AS A FINAL DECISION.—A unilateral definitization by a contracting officer shall be considered a final decision under chapter 71 of title 41, and a contractor may appeal this decision to the Armed Services Board of Contract Appeals or the United States Court of Federal Claims.

(c) FOREIGN MILITARY CONTRACTS.—

(1) 180-DAY REQUIREMENT.—Except as provided in paragraph (2), a contracting officer of

the Department of Defense may not enter into an undefinitized contractual action for a foreign military sale unless the contractual action provides for agreement upon contractual terms, specifications, and price by the end of the 180-day period described in subsection (a)(1)(A).

(2) WAIVER AUTHORITY.—The requirement under paragraph (1) may be waived in accordance with subsection (a)(3).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (c), Jan. 1, 2021, 134 Stat. 4189; Pub. L. 118–159, div. A, title VIII, §803, Dec. 23, 2024, 138 Stat. 1965.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1819(c)(1), (2), was based on Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–140, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–140; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3920, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title I, §1505(a), (b), Oct. 13, 1994, 108 Stat. 3298; Pub. L. 105–85, div. A, title VIII, §803(a), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 115–91, div. A, title VIII, §815(b), Dec. 12, 2017, 131 Stat. 1462. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

The text of subsec. (c) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1819(c)(1), (3), was based on Pub. L. 115–91, div. A, title VIII, §815(a)(2), Dec. 12, 2017, 131 Stat. 1462.

The text of subsec. (h) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1819(c)(1), (4), was based on Pub. L. 114–328, div. A, title VIII, §811(3), Dec. 23, 2016, 130 Stat. 2268; Pub. L. 115–91, div. A, title VIII, §815(a)(1), Dec. 12, 2017, 131 Stat. 1462.

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159 designated introductory provisions as par. (1) and inserted heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1) and realigned margins, and added par. (2).

**2021**—Subsec. (a). Pub. L. 116–283, §1819(c)(1), (2)(A), redesignated subsec. (b) of section 2326 of this title as subsec. (a) of this section and substituted "Contractual Action to Provide Time for Definitization of Contractual Terms, Specifications, and Price; Limitations on Obligation of Funds" for "Limitations on Obligation of Funds" in heading.

Subsec. (a)(1). Pub. L. 116–283, §1819(c)(2)(A), inserted heading.

Subsec. (a)(2). Pub. L. 116–283, §1819(c)(2)(C), inserted par. (2) designation and heading. Former par. (2) redesignated subpar. (A) of par. (2).

Subsec. (a)(2)(A). Pub. L. 116–283, §1819(c)(2)(B), (D), redesignated subsec. (a)(2) as (a)(2)(A), inserted heading, realigned margin, and substituted "Except as provided in subparagraph (B)," for "Except as provided in paragraph (3),".

Subsec. (a)(2)(B). Pub. L. 116–283, §1819(c)(2)(B), (E), redesignated subsec. (a)(3) as (a)(2)(B), inserted heading, realigned margin, and substituted "section 3377(b) of this title" for "subsection (h)".

Subsec. (a)(3). Pub. L. 116–283, §1819(c)(2)(F), redesignated par. (4) as (3) and inserted heading. Former par. (3) redesignated subpar. (B) of par. (2).

Subsec. (a)(4), (5). Pub. L. 116–283, §1819(c)(2)(G), redesignated par. (5) as (4) and inserted heading. Former par. (4) redesignated (3).

Subsec. (b). Pub. L. 116–283, §1819(c)(1), (3), redesignated subsec. (c) of section 2326 of this title as subsec. (b) of this section and substituted "subsection (a)(1)" for "subsection (b)(1)" in introductory provisions.

Subsec. (c). Pub. L. 116–283, §1819(c)(1), redesignated subsec. (h) of section 2326 of this title as subsec. (c) of this section.

Subsec. (c)(1). Pub. L. 116–283, §1819(c)(4)(A), (B), inserted heading and substituted "subsection (a)(1)(A)" for "subsection (b)(1)(A)".

Subsec. (c)(2). Pub. L. 116–283, §1819(c)(4)(C), (D), inserted heading and substituted "subsection (a)(3)" for "subsection (b)(4)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### EXISTING AGREEMENT LIMITS FOR OPERATION WARP SPEED

Pub. L. 117–263, div. A, title VIII, §883, Dec. 23, 2022, 136 Stat. 2746, which provided that the value of any modification to, or order made under, a contract or other agreement by the Department of Defense on or after March 1, 2020, to address the COVID–19 pandemic through vaccines and other therapeutic measures generally would not be counted toward any limit established prior to March 1, 2020, on the total estimated amount of all projects to be issued under the contract or other agreement, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(1), Dec. 18, 2025, 139 Stat. 948.

### RELAXATION OF UNDEFINITIZED CONTRACT ACTION LIMITATIONS AND RESTRICTIONS RELATED TO NATIONAL EMERGENCY FOR CORONAVIRUS DISEASE 2019

Pub. L. 116–136, div. B, title III, §13004, Mar. 27, 2020, 134 Stat. 522, provided that:

"(a) Section 2326(b)(3) of title 10, United States Code [now 10 U.S.C. 3372(a)(2)(B)], shall not apply to any undefinitized contract action of the Department of Defense related to the national emergency for the Coronavirus Disease 2019 (COVID–19).

"(b) In this section, the term 'undefinitized contract action' has the meaning given that term in section 2326(j)(6) of title 10, United States Code [probably means section 2326(j)(1) of title 10, now 10 U.S.C. 3377(b)(1), which defines "undefinitized contractual action"]."

Pub. L. 116–136, div. B, title III, §13005, Mar. 27, 2020, 134 Stat. 522, provided that:

"(a) The head of an agency may waive the provisions of section 2326(b) of title 10, United States Code [now 10 U.S.C. 3372(a)], with respect to a contract of such agency if the head of the agency determines that the waiver is necessary due to the national emergency for the Coronavirus Disease 2019 (COVID–19).

"(b) In this section, the term 'head of an agency' has the meaning given that term in section 2302(2) [probably means section 2302(1); now 10 U.S.C. 3004] of title 10, United States Code."

## [§3373. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(4), Dec. 18, 2025, 139 Stat. 948]

Section, added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (d), Jan. 1, 2021, 134 Stat. 4189, 4190, related to limitation on inclusion of non-urgent requirements and on modification of scope in undefinitized contractual actions.

## §3374. Undefinitized contractual actions: allowable profit

(a) ALLOWED PROFIT TO REFLECT COST RISKS OF CONTRACTOR.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated;

(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract;

(3) the increased cost risk of the contractor with respect to any costs incurred prior to the award of the undefinitized contractual action when such costs—

(A) would have been directly chargeable to the contract if incurred after the award of the contract; and

(B) were incurred to meet an anticipated contract delivery schedule or anticipated contract price targets of the Government under an acquisition strategy required under section 4211 of this title; and

(4) the increased cost risk of the contractor with respect to negotiations continuing for more than 180 days beginning on the date on which the contractor submitted the qualifying proposal to definitize such undefinitized contractual action.

(b) DATE AS OF WHICH CONTRACTOR COST RISK TO BE DETERMINED.—If a contractor submits a qualifying proposal to definitize an undefinitized contractual action and the contracting officer for such action definitizes the contract after the end of the 180-day period beginning on the date on which the contractor submitted the qualifying proposal, the head of the agency concerned shall ensure that the profit allowed on the contract accurately reflects the cost risk of the contractor as such risk existed on the date the contractor submitted the qualifying proposal.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (e), Jan. 1, 2021, 134 Stat. 4189, 4190; Pub. L. 119–60, div. A, title VIII, §814(a), Dec. 18, 2025, 139 Stat. 953.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2326 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1819(e), was based on Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–141, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–141; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3921, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 114–328, div. A, title VIII, §811(1), Dec. 23, 2016, 130 Stat. 2268; Pub. L. 115–91, div. A, title VIII, §815(a)(1), Dec. 12, 2017, 131 Stat. 1462. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §814(a)(1), struck out "Certain Reduced" before "Cost Risks" in heading.

Subsec. (a)(3), (4). Pub. L. 119–60, §814(a)(2)–(4), added pars. (3) and (4).

**2021**—Pub. L. 116–283, §1819(e)(1)(A), transferred subsec. (f) of section 2326 of this title to this section and struck out subsec. (f) designation and heading "Allowable Profit" at beginning.

Subsec. (a). Pub. L. 116–283, §1819(e)(1)(B), (2), redesignated par. (1) of former section 2326(f) of this title as subsec. (a) of this section, inserted heading, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1819(e)(1)(B), (3), redesignated par. (2) of former section 2326(f) of this title as subsec. (b) of this section and inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### REGULATIONS

Pub. L. 119–60, div. A, title VIII, §814(b), Dec. 18, 2025, 139 Stat. 953, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to carry out section 3374(a) of title 10, United States Code, as amended by subsection (a)."

## §3375. Undefinitized contractual actions: time limit

No undefinitized contractual action may extend beyond 90 days without a written determination by the Secretary of the military department concerned, the head of the Defense Agency concerned, the commander of the combatant command concerned, or the Under Secretary of Defense for Acquisition and Sustainment (as applicable) that it is in the best interests of the military department,

the Defense Agency, the combatant command, or the Department of Defense, respectively, to continue the action.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (f), Jan. 1, 2021, 134 Stat. 4189, 4190.)

### EDITORIAL NOTES

#### CODIFICATION

The text of subsec. (g) of section 2326 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1819(f), was based on Pub. L. 114–328, div. A, title VIII, §811(3), Dec. 23, 2016, 130 Stat. 2268; Pub. L. 115–91, div. A, title VIII, §815(a)(1), Dec. 12, 2017, 131 Stat. 1462; Pub. L. 116–92, div. A, title IX, §902(50), Dec. 20, 2019, 133 Stat. 1548.

#### PRIOR PROVISIONS

A prior section 3375, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1475, related to transfer or discharge of reserve generals ceasing to occupy commensurate positions, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14314(a) of this title.

#### AMENDMENTS

**2021**—Pub. L. 116–283, §1819(f), transferred subsec. (g) of section 2326 of this title to this section and struck out subsec. (g) designation and heading "Time Limit" at beginning.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3377. Inapplicability to Coast Guard and National Aeronautics and Space Administration; definitions

(a) APPLICABILITY.—This chapter does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(b) DEFINITIONS.—In this chapter:

(1) The term "undefinitized contractual action" means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

(A) Purchases in an amount not in excess of the amount of the simplified acquisition threshold.

(B) Special access programs.

(C) Congressionally mandated long-lead procurement contracts.

(2) The term "qualifying proposal" means a proposal that contains sufficient information to enable the Department of Defense to conduct a meaningful audit of the information contained in the proposal.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1819(a), (g), Jan. 1, 2021, 134 Stat. 4189, 4191.)

### EDITORIAL NOTES

## CODIFICATION

The text of subsec. (i) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1819(g), was based on Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–141, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–141; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3921, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

The text of subsec. (j) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1819(g), was based on Pub. L. 99–500, §101(c) [title X, §908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–141, and Pub. L. 99–591, §101(c) [title X, §908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–141; Pub. L. 99–661, div. A, title IX, formerly title IV, §908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3921, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–189, div. A, title XVI, §1622(c)(6), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 102–25, title VII, §701(d)(5), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title I, §1505, Oct. 13, 1994, 108 Stat. 3298; Pub. L. 114–328, div. A, title VIII, §811(2), (4), Dec. 23, 2016, 130 Stat. 2268, 2269; Pub. L. 115–91, div. A, title VIII, §815(a)(1), Dec. 12, 2017, 131 Stat. 1462. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

## PRIOR PROVISIONS

Prior sections 3378 to 3390 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3378, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1476, related to promotion of reserve commissioned officers removed from active status. See section 14317(a) of this title.

Section 3380, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1476; amended Pub. L. 98–94, title X, §1015(a)(1), Sept. 24, 1983, 97 Stat. 667; Pub. L. 99–145, title V, §521(b), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100–180, div. A, title V, §502(b)(1), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §503(b)(1), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102–484, div. A, title V, §519(b), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103–160, div. A, title V, §514(b), Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104–106, div. A, title V, §511(b), Feb. 10, 1996, 110 Stat. 298, related to promotion of reserve commissioned officers on active duty and not on the active duty list. See section 14311(e) of this title.

Section 3382, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1476, related to promotion of second lieutenants of Army Reserve assigned to units. See section 14301 et seq. of this title.

Section 3383, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477; amended Pub. L. 86–559, §1(16), June 30, 1960, 74 Stat. 270; Pub. L. 88–620, §2, Oct. 3, 1964, 78 Stat. 999; Pub. L. 90–130, §1(11)(E), Nov. 8, 1967, 81 Stat. 376; Pub. L. 95–485, title VIII, §820(e)(5), Oct. 20, 1978, 92 Stat. 1627, related to promotion of officers of Army Reserve to grades of first lieutenant, captain, major, lieutenant colonel, and colonel to fill vacancies. See section 14301 et seq. of this title.

Section 3384, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477, related to promotion of officers of Army Reserve to grades of brigadier general or major general to fill vacancies. See section 14315 of this title.

Section 3385, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477, related to promotion of officers of Army National Guard of United States upon Federal recognition. See section 14308(f) of this title.

Section 3386, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478, related to promotion of reserve commissioned officers upon release from active duty. See section 14301 et seq. of this title.

Section 3388, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478, related to effect of commissioned officer of Army Reserve entering upon active duty while eligible for promotion. See section 14301 et seq. of this title.

Section 3389, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478; amended Pub. L. 86–559, §1(17), June 30, 1960, 74 Stat. 270, related to promotion of commissioned officers of Army Reserve or Army National Guard of United States to higher reserve grades after temporary appointments. See section 14301 et seq. of this title.

Section 3390, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to procedure for promotion to higher reserve grade of officer of Army National Guard of United States after temporary appointment. See section 14301 et seq. of this title.

A prior section 3391, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479; Pub. L. 86–559, §1(18), June 30, 1960, 74 Stat. 270, prohibited promotion of reserve officers of Army Nurse Corps or Army Medical Specialist Corps to reserve grades above colonel and prohibited promotion of reserve officers of

Women's Army Corps to reserve grades above lieutenant colonel, prior to repeal by Pub. L. 90–130, §1(11)(F), Nov. 8, 1967, 81 Stat. 376.

Prior sections 3392 to 3396 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3392, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to appointment of adjutants general or assistant adjutants general as reserve officers of Army. See section 12215(a) of this title.

Section 3393, added Pub. L. 85–861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479, provided that sea or foreign service not be made condition for promotion of reserve commissioned officers in reserve grades.

Section 3394, act Aug. 10, 1956, ch. 1041, 70A Stat. 195, related to acceptance of promotion by officers of Army National Guard of United States or Army Reserve. See section 14309 of this title.

Section 3395, act Aug. 10, 1956, ch. 1041, 70A Stat. 195, related to appointment of reserve officers in time of war. See section 14301 et seq. of this title.

Section 3396, added Pub. L. 96–513, title II, §206(a), Dec. 12, 1980, 94 Stat. 2884, provided that chapter, except section 3353, did not apply to reserve officers on active-duty list.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1819(g), redesignated subsecs. (i) and (j) of section 2326 of this title as subsecs. (a) and (b), respectively, of this section and substituted "chapter" for "section" in subsec. (a) and in introductory provisions of subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## CHAPTER 245—TASK AND DELIVERY ORDER CONTRACTS (MULTIPLE AWARD CONTRACTS)

Sec.
3401. Task and delivery order contracts: definitions.
3402. [Reserved].
3403. Task and delivery order contracts: general authority.
3404. [Reserved].
3405. Task order contracts: advisory and assistance services.
3406. Task and delivery order contracts: orders.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 245 "TASK AND DELIVERY ORDER CONTRACTS (MULTIPLE AWARD CONTRACTS)", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3401, was repealed by Pub. L. 116–283, div. A, title XVIII, §1820(a), Jan. 1, 2021, 134 Stat. 4191.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(b)(8)(A), Dec. 27, 2021, 135 Stat. 2133, amended Pub. L. 116–283, div. A, title XVIII, §1820(a), Jan. 1, 2021, 134 Stat. 4191, which added this analysis, by substituting "[Reserved]" for "Guidance on use of task and delivery order contracts" in item 3404.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

Pub. L. 103–355, title I, §1004(d), Oct. 13, 1994, 108 Stat. 3253, as amended by Pub. L. 108–136, div. A,

title X, §1045(f), Nov. 24, 2003, 117 Stat. 1613, provided that: "Nothing in section 2304a [now 10 U.S.C. 3403], 2304b [now 10 U.S.C. 3405], 2304c [now 10 U.S.C. 3406], or 2304d [now 10 U.S.C. 3401] of title 10, United States Code, as added by subsection (a), and nothing in the amendments made by subsections (b) and (c) [amending former sections 2304 of this title (now 10 U.S.C. 3201 et seq.) and 2331 of this title (now 10 U.S.C. 4507)], shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under chapter 11 of title 40, United States Code."

## §3401. Task and delivery order contracts: definitions

In this chapter:

(1) DELIVERY ORDER CONTRACT.—The term "delivery order contract" means a contract for property—

(A) that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity); and

(B) that provides for the issuance of orders for the delivery of property during the period of the contract.

(2) TASK ORDER CONTRACT.—The term "task order contract" means a contract for services—

(A) that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity); and

(B) that provides for the issuance of orders for the performance of tasks during the period of the contract.

(Added Pub. L. 103–355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3253, §2304d; renumbered §3401 and amended Pub. L. 116–283, div. A, title XVIII, §1820(b), Jan. 1, 2021, 134 Stat. 4191.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1820(b)(1), (2), renumbered section 2304d of this title as this section, substituted "In this chapter" for "In sections 2304a, 2304b, and 2304c of this title" in introductory provisions, and reversed order and designations of pars. (1) and (2).

Par. (1). Pub. L. 116–283, §1820(b)(3), inserted heading, inserted dash after "for property", and reorganized remainder of text of par. (1) into designated subpars. (A) and (B).

Par. (2). Pub. L. 116–283, §1820(b)(4), inserted heading, inserted dash after "for services", and reorganized remainder of text of par. (2) into designated subpars. (A) and (B).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding this section.

## §3403. Task and delivery order contracts: general authority

(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, section 3406 of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract (as defined in section 3401 of this title) for procurement of services or property.

(b) SOLICITATION.—The solicitation for a task or delivery order contract shall include the following:

(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES .—The head of an agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if—

(1) an exception in subsection (a) of section 3204 of this title applies to the contract; and

(2) the use of such procedures is approved in accordance with subsection (e) of such section.

(d) SINGLE AND MULTIPLE CONTRACT AWARDS.—

(1) EXERCISE OF AUTHORITY.—The head of an agency may exercise the authority provided in this section—

(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) DETERMINATION NOT REQUIRED.—No determination under section 3203 of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) WHEN SINGLE SOURCE AWARDS FOR TASK OR DELIVERY ORDER CONTRACTS EXCEEDING $100,000,000 ARE ALLOWED.—(A) Except as provided under subparagraph (B), no task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single source unless the head of the agency determines in writing that—

(i) the task or delivery orders expected under the contract are so integrally related that only a single source can efficiently perform the work;

(ii) the contract provides only for firm, fixed price task orders or delivery orders for—

(I) products for which unit prices are established in the contract; or

(II) services for which prices are established in the contract for the specific tasks to be performed;

(iii) only one source is qualified and capable of performing the work at a reasonable price to the government; or

(iv) because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.

(B) A task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single source without the written determination otherwise required under subparagraph (A) if the head of the agency has made a written determination pursuant to section 3204(a) of this title that procedures other than competitive procedures may be used for the awarding of such contract.

(4) REGULATIONS.—The regulations implementing this subsection shall—

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS.—A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) CONTRACT PERIOD.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover any period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification of the contract. The total contract period as extended may not exceed 10 years unless such head of an agency determines in writing that exceptional circumstances necessitate a longer contract period.

(g) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES .—Except as otherwise specifically provided in section 3405 of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

(Added Pub. L. 103–355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3249, §2304a; amended Pub. L. 108–136, div. A, title VIII, §843(b), Nov. 24, 2003, 117 Stat. 1553; Pub. L. 108–375, div. A, title VIII, §813(a), Oct. 28, 2004, 118 Stat. 2014; Pub. L. 110–181, div. A, title VIII, §843(a)(1), Jan. 28, 2008, 122 Stat. 236; Pub. L. 111–84, div. A, title VIII, §814(a), Oct. 28, 2009, 123 Stat. 2407; Pub. L. 112–81, div. A, title VIII, §809(b), Dec. 31, 2011, 125 Stat. 1490; Pub. L. 115–232, div. A, title VIII, §816, Aug. 13, 2018, 132 Stat. 1852; Pub. L. 116–92, div. A, title VIII, §816, Dec. 20, 2019, 133 Stat. 1487; renumbered §3403 and amended Pub. L. 116–283, div. A, title XVIII, §1820(c), Jan. 1, 2021, 134 Stat. 4191; Pub. L. 117–81, div. A, title XVII, §1701(b)(8)(B), Dec. 27, 2021, 135 Stat. 2133.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1820(c)(1), renumbered section 2304a of this title as this section.

Subsec. (a). Pub. L. 116–283, §1820(c)(2), substituted "section 3406" for "section 2304c" and "section 3401" for "section 2304d".

Subsec. (c). Pub. L. 116–283, §1820(c)(3), as amended by Pub. L. 117–81, §1701(b)(8)(B), inserted dash after "only if", reorganized remainder of text of subsec. (c) into designated pars. (1) and (2), and substituted "subsection (a) of section 3204" for "subsection (c) of section 2304" and "subsection (e)" for "subsection (f)".

Subsec. (d)(1). Pub. L. 116–283, §1820(c)(4)(A), inserted heading.

Subsec. (d)(2). Pub. L. 116–283, §1820(c)(4)(B), inserted heading and substituted "section 3203" for "section 2304(b)".

Subsec. (d)(3). Pub. L. 116–283, §1820(c)(4)(C), inserted heading and substituted "section 3204(a)" for "section 2304(c)" in subpar. (B).

Subsec. (d)(4). Pub. L. 116–283, §1820(c)(4)(D), inserted heading.

Subsec. (g). Pub. L. 116–283, §1820(c)(5), substituted "section 3405" for "section 2304b".

**2019**—Subsec. (d)(3). Pub. L. 116–92 designated existing provisions as subpar. (A), substituted "Except as provided under subparagraph (B), no task or delivery order contract" for "No task or delivery order contract", redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A), redesignated cls. (i) and (ii) of former subpar. (B) as subcls. (I) and (II), respectively, of subpar. (A)(ii), and added subpar. (B).

**2018**—Subsec. (d)(3)(A). Pub. L. 115–232 substituted "efficiently perform the work" for "reasonably perform the work".

**2011**—Subsec. (d)(3). Pub. L. 112–81 struck out subpar. (A) designation before "No task", redesignated cls. (i) to (iv) of former subpar. (A) as subpars. (A) to (D), respectively, of par. (3), redesignated subcls. (I) and (II) of former cl. (ii) as cls. (i) and (ii), respectively, of subpar. (B), and struck out former subpar. (B) which read as follows: "The head of the agency shall notify the congressional defense committees within 30 days after any determination under clause (i), (ii), (iii), or (iv) of subparagraph (A)."

**2009**—Subsec. (d)(3)(B). Pub. L. 111–84 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "The head of the agency shall notify Congress within 30 days after any determination under subparagraph (A)(iv)."

**2008**—Subsec. (d)(3), (4). Pub. L. 110–181 added par. (3) and redesignated former par. (3) as (4).

**2004**—Subsec. (f). Pub. L. 108–375 substituted "any period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification of the contract. The total contract period as extended may not exceed 10 years unless such head of an agency determines in writing that exceptional circumstances necessitate a longer contract period" for "a total period of not more than five years".

**2003**—Subsecs. (f) to (h). Pub. L. 108–136 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VIII, §843(a)(3)(A), Jan. 28, 2008, 122 Stat. 237, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on the date that is 120 days after the date of the enactment of this Act [Jan. 28, 2008], and shall apply with respect to any contract awarded on or after such date."

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding section 3401 of this title.

## §3405. Task order contracts: advisory and assistance services

(a) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term "advisory and assistance services" has the meaning given such term in section 1105(g) of title 31.

(b) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, section 3406 of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 3401 of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(c) LIMITATION ON CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is

applicable to such contract.

(d) CONTENT OF NOTICE.—The notice required by section 1708 of title 41 and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

(e) REQUIRED CONTENT OF SOLICITATION AND CONTRACT.—

(1) SOLICITATION.—The solicitation for the proposed task order contract shall include the information (regarding services) described in section 3403(b) of this title.

(2) CONTRACT.—A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

(f) MULTIPLE AWARDS.—

(1) AUTHORITY TO MAKE MULTIPLE AWARDS.—The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

(2) CONTENT OF SOLICITATION.—If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

(A) provide for a multiple award authorized under paragraph (1); and

(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

(3) NONAPPLICATION.—Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

(g) CONTRACT MODIFICATIONS.—

(1) INCREASE IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT ONLY BY MODIFICATION OF CONTRACT.—A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

(2) USE OF COMPETITIVE PROCEDURES.—Unless use of procedures other than competitive procedures is authorized by an exception in subsection (a) of section 3204 of this title and approved in accordance with subsection (e) of such section, competitive procedures shall be used for making such a modification.

(3) NOTICE.—Notice regarding the modification shall be provided in accordance with section 1708 of title 41 and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(h) CONTRACT EXTENSIONS.—

(1) WHEN CONTRACT MAY BE EXTENDED.—Notwithstanding the limitation on the contract period set forth in subsection (c) or in a solicitation or contract pursuant to subsection (f), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that—

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending

the award of, and commencement of performance under, the follow-on contract.

(2) LIMIT OF ONE EXTENSION.—A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

(i) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

(Added Pub. L. 103–355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3251, §2304b; amended Pub. L. 111–350, §5(b)(13), Jan. 4, 2011, 124 Stat. 3843; renumbered §3405 and amended Pub. L. 116–283, div. A, title XVIII, §1820(d), Jan. 1, 2021, 134 Stat. 4192; Pub. L. 117–81, div. A, title XVII, §1701(b)(8)(C), Dec. 27, 2021, 135 Stat. 2133.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1820(d)(1), (2), renumbered section 2304b of this title as this section, moved subsec. (i) to the beginning of the section and redesignated it as (a), and redesignated former subsecs. (a) to (h) as (b) to (i), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1820(d)(3), substituted "section 3406" for "section 2304c" and "section 3401" for "section 2304d".

Subsec. (e). Pub. L. 116–283, §1820(d)(4)(A), (B), as amended by Pub. L. 117–81, §1701(b)(8)(C), inserted par. headings, substituted "section 3403(b)" for "section 2304a(b)" in par. (1), and realigned margin of par. (2).

Subsec. (f). Pub. L. 116–283, §1820(d)(5), inserted par. headings and realigned margins of pars. (2) and (3).

Subsec. (g)(1). Pub. L. 116–283, §1820(d)(6)(A), inserted heading.

Subsec. (g)(2). Pub. L. 116–283, §1820(d)(6)(B), (C), inserted heading, realigned margin, and substituted "subsection (a) of section 3204" for "subsection (c) of section 2304" and "subsection (e)" for "subsection (f)".

Subsec. (g)(3). Pub. L. 116–283, §1820(d)(6)(B), (D), inserted heading and realigned margin.

Subsec. (h)(1). Pub. L. 116–283, §1820(d)(7)(A), (B), inserted heading, and substituted "subsection (c)" for "subsection (b)" and "subsection (f)" for "subsection (e)".

Subsec. (h)(2). Pub. L. 116–283, §1820(d)(7)(C), inserted heading and realigned margin.

**2011**—Subsecs. (c), (f)(3). Pub. L. 111–350 substituted "section 1708 of title 41" for "section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding section 3401 of this title.

## §3406. Task and delivery order contracts: orders

(a) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 3403 and 3405 of this title.

(b) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 1708 of title 41 or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (c), a competition (or a waiver of competition approved in accordance with section 3204(e) of this title) that is separate from that used for entering into the contract.

(c) MULTIPLE AWARD CONTRACTS.—When multiple task or delivery order contracts are awarded under section 3403(d)(1)(B) or 3405(f) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of $2,500 that is to be issued under any of the contracts unless—

(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis;

(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee; or

(5) the task or delivery order satisfies one of the exceptions in section 3204(a) of this title to the requirement to use competitive procedures.

(d) ENHANCED COMPETITION FOR ORDERS IN EXCESS OF $5,000,000.—In the case of a task or delivery order in excess of $5,000,000, the requirement to provide all contractors a fair opportunity to be considered under subsection (c) is not met unless all such contractors are provided, at a minimum—

(1) a notice of the task or delivery order that includes a clear statement of the agency's requirements;

(2) a reasonable period of time to provide a proposal in response to the notice;

(3) disclosure of the significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating such proposals, and their relative importance;

(4) in the case of an award that is to be made on a best value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors; and

(5) an opportunity for a post-award debriefing consistent with the requirements of section 3304 of this title.

(e) STATEMENT OF WORK.—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

(f) PROTESTS.—(1) A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for—

(A) a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued; or

(B) a protest of an order valued in excess of $35,000,000.

(2) Notwithstanding section 3556 of title 31, the Comptroller General of the United States shall have exclusive jurisdiction of a protest authorized under paragraph (1)(B).

(g) TASK AND DELIVERY ORDER OMBUDSMAN.—

(1) APPOINTMENT OR DESIGNATION AND RESPONSIBILITIES.—Each head of an agency who awards multiple task or delivery order contracts pursuant to section 3403(d)(1)(B) or 3405(f) of this title shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (c).

(2) WHO IS ELIGIBLE.—The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

(h) ARCHITECTURAL AND ENGINEERING SERVICES.—

(1) QUALIFICATION-BASED SELECTIONS REQUIRED.—Task or delivery orders for architectural and engineering services issued under section 3403 or 3405 of this title shall be qualification-based selections executed in accordance with chapter 11 of title 40.

(2) MULTIPLE AWARD CONTRACTS.—When issuing a task or delivery order for architectural and engineering services under a multiple award contract, the head of an agency may not routinely request additional information relating to qualifications from the contractor for such multiple award contract.

(Added Pub. L. 103–355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3252, §2304c; amended Pub. L. 110–181, div. A, title VIII, §843(a)(2), Jan. 28, 2008, 122 Stat. 237; Pub. L. 111–350, §5(b)(14), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 111–383, div. A, title VIII, §825, title X, §1075(f)(5)(A), Jan. 7, 2011, 124 Stat. 4270, 4376; Pub. L. 112–239, div. A, title VIII, §830, Jan. 2, 2013, 126 Stat. 1842; Pub. L. 114–328, div. A, title VIII, §§825(b), 835(a), Dec. 23, 2016, 130 Stat. 2280, 2285; renumbered §3406 and amended Pub. L. 116–283, div. A, title XVIII, §1820(e), Jan. 1, 2021, 134 Stat. 4194; Pub. L. 117–263, div. A, title VIII, §802, Dec. 23, 2022, 136 Stat. 2693; Pub. L. 118–159, div. A, title VIII, §885(f), Dec. 23, 2024, 138 Stat. 2022.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 3441 and 3442 were repealed by Pub. L. 96–513, title II, §207, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981.

Section 3441, act Aug. 10, 1956, ch. 1041, 70A Stat. 195, provided that temporary appointments be made only in the Army without specification of component.

Section 3442, act Aug. 10, 1056, ch. 1041, 70A Stat. 195, provided that a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed, based upon ability and efficiency with regard being given to seniority and age, in a temporary grade that is equal to or higher than his regular or reserve grade, without vacating any other grade held by him. See section 601 of this title.

A prior section 3443, act Aug. 10, 1956, ch. 1041, 70A Stat. 196, related to grade of appointment of reserve commissioned officers on active duty, prior to repeal by Pub. L. 85–861, §36B(6), Sept. 2, 1958, 72 Stat. 1570.

Prior sections 3444 and 3445 were repealed by Pub. L. 96–513, title II, §207, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981.

Section 3444, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85–861, §1(81)(A), 72 Stat. 1480, authorized the President, in time of war or national emergency, to appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary grade, provided for vacation of the appointment, and permitted, for purposes of determining grade, position on a promotion list, seniority in temporary grade, and eligibility for promotion, an officer of the Medical Corps or Dental Corps who is appointed in a temporary grade to be credited, when he enters active duty, with constructive service authorized by section 3294(b) of this title. See section 603 of this title.

Section 3445, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85–861, §1(81)(B), 72

Stat. 1480, provided that in addition to the temporary appointments authorized, in time of war or national emergency, a regular officer or a reserve warrant officer may be appointed in any temporary grade higher than his regular or reserve grade, without vacating that grade, or a person who holds no commissioned grade in the Regular Army be appointed in any temporary commissioned grade. See section 603 of this title.

A prior section 3446 was renumbered section 7176 of this title.

Prior sections 3447 to 3449 were repealed by Pub. L. 96–513, title II, §§207, 208, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981.

Section 3447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85–861, §1(81)(D), 72 Stat. 1480; Sept. 28, 1971, Pub. L. 92–129, title VI, §602, 85 Stat. 361, provided that temporary appointment of a person be made without reference to any other appointment that he may hold in the Army, temporary appointments of commissioned officers in the Regular Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades of lieutenant colonel and above, temporary appointments of commissioned officers in the reserve components of the Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades above major, and that the President may vacate at any time a temporary appointment in a commissioned grade. See section 601 of this title.

Section 3448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 197; Aug. 8, 1958, Pub. L. 85–603, §1(2), 72 Stat. 526, authorized the Secretary of the Army, upon his determination of need, to appoint qualified persons as warrant officers, with such appointments to continue at the pleasure of the Secretary, and such warrant officers entitled to count all periods of active duty under the appointment as warrant or enlisted service for all purposes and to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

Section 3449, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that temporary promotions in warrant officer grades be governed by such regulations as the Secretary of the Army prescribe. See section 602 of this title.

A prior section 3450, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided for suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of the Army, prior to repeal by Pub. L. 90–235, §3(b)(1), Jan. 2, 1968, 81 Stat. 758.

## AMENDMENTS

**2024**—Subsec. (f)(1)(B). Pub. L. 118–159 substituted "$35,000,000" for "$25,000,000".

**2022**—Subsec. (h). Pub. L. 117–263 added subsec. (h).

**2021**—Pub. L. 116–283, §1820(e)(1), (2), renumbered section 2304c of this title as this section, redesignated subsecs. (g), (a), (b), (c), (e), and (f) as (a), (b), (c), (e), (f), and (g), respectively, and reordered subsecs. accordingly.

Subsec. (a). Pub. L. 116–283, §1820(e)(3), substituted "sections 3403 and 3405" for "sections 2304a and 2304b".

Subsec. (b)(2). Pub. L. 116–283, §1820(e)(4), substituted "subsection (c)" for "subsection (b)" and "section 3204(e)" for "section 2304(f)".

Subsec. (c). Pub. L. 116–283, §1820(e)(5)(A), which directed substitution of "section 3403(d)(1)(B) or 3405(f)" for "section 2304a(d)(1) or 2304b(c)", was executed by making the substitution for "section 2304a(d)(1)(B) or 2304b(e)" in introductory provisions, to reflect the probable intent of Congress.

Subsec. (c)(5). Pub. L. 116–283, §1820(e)(5)(B), substituted "section 3204(a)" for "section 2304(c)".

Subsec. (d). Pub. L. 116–283, §1820(e)(6)(A), substituted "subsection (c)" for "subsection (b)" in introductory provisions.

Subsec. (d)(5). Pub. L. 116–283, §1820(e)(6)(B), substituted "section 3304" for "section 2305(b)(5)".

Subsec. (g). Pub. L. 116–283, §1820(e)(7), designated first and second sentences as pars. (1) and (2), respectively, and inserted headings and, in par. (1), substituted "section 3403(d)(1)(B) or 3405(f)" for "section 2304a(d)(1)(B) or 2304b(e)" and "subsection (c)" for "subsection (b)".

**2016**—Subsec. (b)(5). Pub. L. 114–328, §825(b), added par. (5).

Subsec. (e)(1)(B). Pub. L. 114–328, §835(a), substituted "$25,000,000" for "$10,000,000".

**2013**—Subsec. (e)(3). Pub. L. 112–239 struck out par. (3) which read as follows: "Paragraph (1)(B) and paragraph (2) of this subsection shall not be in effect after September 30, 2016."

**2011**—Subsec. (a)(1). Pub. L. 111–350 substituted "section 1708 of title 41" for "section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)".

Subsec. (e). Pub. L. 111–383, §1075(f)(5)(A), made technical correction to directory language of Pub. L. 110–181, §843(a)(2)(C). See 2008 Amendment note below.

Subsec. (e)(3). Pub. L. 111–383, §825, amended par. (3) generally. Prior to amendment, par. (3) read as

follows: "This subsection shall be in effect for three years, beginning on the date that is 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008."

**2008**—Subsec. (d). Pub. L. 110–181, §843(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–181, §843(a)(2)(C), as amended by Pub. L. 111–383, §1075(f)(5)(A), added subsec. (e) and struck out former subsec. (e). Former text read as follows: "A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued."

Pub. L. 110–181, §843(a)(2)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 110–181, §843(a)(2)(A), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VIII, §843(a)(3)(B), Jan. 28, 2008, 122 Stat. 238, provided that: "The amendments made by paragraph (2) [amending this section] shall take effect on the date that is 120 days after the date of the enactment of this Act [Jan. 28, 2008], and shall apply with respect to any task or delivery order awarded on or after such date."

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding section 3401 of this title.

# CHAPTER 247—PROCUREMENT OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Sec.
3451. Definitions.
3452. Relationship of other provisions of law to procurement of commercial products and commercial services.
3453. Preference for commercial products and commercial services.
[3455. Repealed.]
3456. Commercial product and commercial service determinations by Department of Defense.
3457. Treatment of certain products and services as commercial products and commercial services.
3458. Authority to acquire innovative commercial products and commercial services using general solicitation competitive procedures.
3459. Limitation on required flowdown of contract clauses to subcontractors providing commercial products or commercial services.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 247 "ACQUISITION OF COMMERCIAL ITEMS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3451, was repealed by

Pub. L. 116–283, div. A, title XVIII, §1821(a)(1), Jan. 1, 2021, 134 Stat. 4194.

## AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(5), title XVIII, §1824, Dec. 18, 2025, 139 Stat. 948, 1248, struck out item 3455 "Procurement of a major weapon system as a commercial product: requirement for prior determination by Secretary of Defense and notification to Congress" and added item 3459. Amendments were made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title VIII, §803(b)(2), Dec. 27, 2021, 135 Stat. 1816, added item 3458.

Pub. L. 116–283, div. A, title XVIII, §1821(a)(1), (3), (b)(1)(B), (7)(C), Jan. 1, 2021, 134 Stat. 4194–4196, transferred chapter 140 of this title to this chapter, renumbered items 2375, 2376, 2377, 2379, 2380, and 2380a as 3452, 3451, 3453, 3455, 3456, and 3457, respectively, moved item 3451 so as to precede item 3452, and struck out item 2380b "Treatment of commingled items purchased by contractors as commercial products".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON MODERNIZED HEALTH AND USAGE MONITORING SYSTEMS TO ADDRESS OBSOLESCENCE IN ROTARY-WING AND TILTROTOR AIRCRAFT

Pub. L. 119–60, div. A, title II, §229, Dec. 18, 2025, 139 Stat. 787, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of the Army and Secretary of the Navy may establish and carry out a pilot program to evaluate commercially available, next-generation Health and Usage Monitoring Systems (referred to in this section as 'HUMS') technologies intended to address obsolescence issues affecting legacy HUMS currently installed on Army and Marine Corps rotary-wing and tiltrotor aircraft.

"(b) OBJECTIVES.—In conducting the pilot program, the Secretary of the Army and Secretary of the Navy shall assess whether modernized HUMS technologies—

"(1) effectively mitigate obsolescence risks associated with legacy HUMS systems;

"(2) enhance the operational readiness, availability, and sustainment of Army and Marine Corps rotary-wing and tiltrotor aircraft; and

"(3) deliver advanced predictive analytics capabilities, reducing maintenance burden and lifecycle costs.

"(c) DURATION.—The pilot program shall be carried out for a period not exceeding one year.

"(d) REPORT.—Not later than 90 days after completion of the pilot program, the Secretary of the Army and Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing—

"(1) the pilot program results, including effectiveness in addressing obsolescence, improving predictive maintenance, and enhancing readiness and aircraft availability; and

"(2) recommendations regarding broader adoption of evaluated HUMS technologies across the Army and Marine Corps rotary-wing and tiltrotor aircraft fleet."

### PILOT PROGRAM FOR CONTRACTED AMPHIBIOUS AIR RESOURCES FOR THE AREA OF RESPONSIBILITY OF THE UNITED STATES INDO-PACIFIC COMMAND

Pub. L. 119–60, div. A, title III, §381, Dec. 18, 2025, 139 Stat. 845, provided that:

"(a) AUTHORITY.—The Secretary of Defense, in conjunction with the Secretary of the Navy and the Commander of the United States Indo-Pacific Command, may carry out a pilot program for the contracted operation of a fleet of commercial amphibious aviation resources to be made available to the commanders of the combatant commands and the commanders of other components of the Department of Defense for mission tasking within the area of responsibility of the United States Indo-Pacific Command.

"(b) FIELDING AND ADJUDICATING MISSION REQUESTS.—The Commander of the United States Indo-Pacific Command shall establish a process to field and adjudicate mission requests pursuant to the pilot program under subsection (a) in a timely manner.

"(c) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on the date that is three years after the date of the enactment of this Act [Dec. 18, 2025]."

### PROCUREMENT AND DISTRIBUTION OF SPORTS FOODS AND DIETARY SUPPLEMENTS TO MEMBERS OF THE ARMED FORCES ASSIGNED TO THE UNITED STATES SPECIAL OPERATIONS COMMAND

Pub. L. 119–60, div. A, title X, §1087, Dec. 18, 2025, 139 Stat. 1058, provided that:

"(a) PROCUREMENT AND DISTRIBUTION.—The Commander of the United States Special Operations Command may authorize, from amounts appropriated to the Department of Defense for Major Force Program 11—

"(1) the procurement of sports foods and dietary supplements; and

"(2) the distribution of such foods and supplements to members of the Armed Forces assigned to the United States Special Operations Command.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The Commander of the United States Special Operations Command shall—

"(A) establish policies for the procurement and distribution of sports foods and dietary supplements under this section; and

"(B) require that such procurement and distribution is in compliance with—

"(i) Department of Defense Instruction 6130.06, titled 'Use of Dietary Supplements in the Department of Defense'; and

"(ii) the prohibited dietary supplement ingredients list of the Department.

"(2) POLICIES.—The policies established under paragraph (1) shall provide that—

"(A) dietary supplements procured or distributed under this section are required to be certified by a non-Department third-party certifying organization that Operation Supplement Safety of the Department has vetted for end-product quality assurance;

"(B) dietary supplements and sports foods procured or distributed under this section are required to be free of contaminants and ingredients and substances prohibited by the Department (including any ingredients and substances that are synonymous with such prohibited ingredients and substances);

"(C) sports foods and dietary supplements may only be distributed to members of the Armed Forces—

"(i) by a credentialed and privileged registered (performance) dietitian or a medical clinician with prescribing authority who is assigned to or supporting the United States Special Operations Command at the operational unit level; and

"(ii) under the guidance and oversight of a primary care sports medicine physician.

"(c) RULE OF CONSTRUCTION.—The procurement and distribution of sports foods and dietary supplements under this section shall be construed to supplement and not supplant—

"(1) any morale, welfare, or recreation funds or activities otherwise required or available; and

"(2) any funding made available for, and services provided by, any dining facility of the Department.

"(d) REPORT.—Not later than September 30, 2026, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that contains an assessment of the feasibility and advisability of expanding the authority under this section for the procurement and distribution of sports foods and third-party certified dietary supplements to include the military departments.

"(e) DEFINITIONS.—In this section:

"(1) The term 'dietary supplement' means a product under meaning given that term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)) for which nutrition labeling in the form of a supplement facts panel is required.

"(2) The term 'sports food' means a food product that—

"(A) delivers essential energy (in the form of calories) and nutrients; and

"(B) is packaged in a container that includes nutrition labeling in the form of a supplement facts panel."

## USE OF CAPABILITY-BASED ANALYSIS OF PRICE OF GOODS OR SERVICES OFFERED BY NONTRADITIONAL DEFENSE CONTRACTORS

Pub. L. 118–159, div. A, title VIII, §864, Dec. 23, 2024, 138 Stat. 2002, as amended by Pub. L. 119–60, div. A, title VIII, §812(b), Dec. 18, 2025, 139 Stat. 952, provided that:

"(a) PILOT PROGRAM.—A contracting officer of the Department of Defense may use alternative capability-based analysis to determine whether the proposed price or fee for a commercial product or commercial service offered by a nontraditional defense contractor (as that term is defined in section 3014 of title 10, United States Code) is fair and reasonable.

"(b) REPORT.—Not later than February 1, 2028, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report evaluating the use of the authority under subsection (a), including the following elements:

"(1) A summary of activities conducted because of the inclusion of alternative capability-based

analysis into the evaluation of proposals offered by nontraditional contractors, including specific examples.

"(2) An analysis of the effectiveness of the authority under subsection (a) in increasing nontraditional defense contractor participation in the defense industrial base and in increasing access by the Department of Defense to new technologies or capabilities.

"(3) Recommendations on—

"(A) the continuation of the authority under subsection (a);

"(B) changes to existing law; and

"(C) the expansion of the program to include other contractors.

"(c) SUNSET.—The authority under subsection (a) shall expire on September 30, 2029.

"(d) ALTERNATIVE CAPABILITY-BASED ANALYSIS DEFINED.—In this section, the term 'alternative capability-based analysis' means an analysis of the value to the Federal Government of a commercial product or commercial service that considers one or more of the following elements:

"(1) The fitness of the product or service for the particular purpose such commercial product or commercial service is being procured.

"(2) The unique nature of, technical expertise required to produce or provide, and the non-Federal resources expended to develop such commercial product or commercial service.

"(3) The business model or financial projections of the nontraditional defense contractor, commensurate with the scale of the potential investment by the Secretary of Defense, which may include cost information, self-funded risk, financial projections, expenditure rates, estimates of total sales market, and other financial, technical, or management data.

"(4) The estimated total cost avoidance or increased capability afforded by such commercial product or commercial service in relation to current and future costs of programs and operations that provide the same or similar capabilities.

"(5) Input from the anticipated users of such commercial product or commercial service on the potential value added by the improved capabilities or production processes resulting from such commercial product or commercial service."

## PROCUREMENT OF COMMERCIAL SERVICES

Pub. L. 110–181, div. A, title VIII, §805, Jan. 28, 2008, 122 Stat. 212, as amended by Pub. L. 110–417, [div. A], title X, §1061(b)(4), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 113–291, div. A, title X, §1071(b)(2)(A), Dec. 19, 2014, 128 Stat. 3506; Pub. L. 115–232, div. A, title VIII, §836(f)(6), Aug. 13, 2018, 132 Stat. 1871, provided that:

"(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall modify the regulations of the Department of Defense for the procurement of commercial services for or on behalf of the Department of Defense.

"(b) APPLICABILITY OF COMMERCIAL PROCEDURES.—

"(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial services for purposes of section 2306a of title 10, United States Code [see 10 U.S.C. 3701 et seq.] (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

"(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

"(A) prices paid for the same or similar commercial services under comparable terms and conditions by both government and commercial customers; and

"(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

"(c) TIME-AND-MATERIALS CONTRACTS.—

"(1) COMMERCIAL SERVICES ACQUISITIONS.—The regulations modified pursuant to subsection (a) shall ensure that procedures applicable to time-and-materials contracts and labor-hour contracts for commercial service acquisitions may be used only for the following:

"(A) Services procured for support of a service, as described in section 103a(1) of title 41, United States Code.

"(B) Emergency repair services.

"(C) Any other commercial services only to the extent that the head of the agency concerned

approves a determination in writing by the contracting officer that—

"(i) the services to be acquired are commercial services as defined in section 103a(2) of title 41, United States Code;

"(ii) if the services to be acquired are subject to subsection (b), the offeror of the services has submitted sufficient information in accordance with that subsection;

"(iii) such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

"(iv) the use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

"(2) NON-COMMERCIAL SERVICES ACQUISITIONS.—Nothing in this subsection shall be construed to preclude the use of procedures applicable to time-and-materials contracts and labor-hour contracts for non-commercial service acquisitions for the acquisition of any category of services."

**PLAN FOR RESTRICTING GOVERNMENT-UNIQUE CONTRACT CLAUSES ON COMMERCIAL CONTRACTS**

Pub. L. 110–181, div. A, title VIII, §821, Jan. 28, 2008, 122 Stat. 226, as amended by Pub. L. 113–291, div. A, title X, §1071(b)(2)(B), Dec. 19, 2014, 128 Stat. 3506; Pub. L. 115–232, div. A, title VIII, §836(f)(3), Aug. 13, 2018, 132 Stat. 1871; Pub. L. 116–92, div. A, title IX, §902(41), Dec. 20, 2019, 133 Stat. 1547, which provided that the Under Secretary of Defense for Acquisition and Sustainment was to develop and implement a plan to minimize the number of government-unique contract clauses used in commercial contracts by restricting the clauses to government-unique clauses authorized by law or regulation and any additional clauses that were relevant and necessary to a specific contract, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(15)(C), Dec. 18, 2025, 139 Stat. 949.

## §3451. Definitions

In this chapter:

(1) The terms "commercial product", "commercial service", "nondevelopmental item", "component", and "commercial component" have the meanings provided in sections 103, 103a, 110, 105, and 102, respectively, of title 41.

(2) The term "head of an agency" means the Secretary of Defense, the Secretary of Homeland Security, and the Administrator of the National Aeronautics and Space Administration.

(3) The term "agency" means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

(Added Pub. L. 103–355, title VIII, §8103, Oct. 13, 1994, 108 Stat. 3390, §2376; amended Pub. L. 107–107, div. A, title X, §1048(a)(19), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–350, §5(b)(22), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 115–232, div. A, title VIII, §836(d)(2), Aug. 13, 2018, 132 Stat. 1866; renumbered §3451 and amended Pub. L. 116–283, div. A, title XVIII, §1821(a)(2), (b)(1)(A), Jan. 1, 2021, 134 Stat. 4195.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 3451, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that an officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion, prior to repeal by Pub. L. 96–513, title II, §207, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1821(b)(1)(A), transferred this section so as to precede section 3452 and appear at the beginning of this chapter.

Pub. L. 116–283, §1821(a)(2), renumbered section 2376 of this title as this section.

**2018**—Par. (1). Pub. L. 115–232 substituted "terms 'commercial product', 'commercial service'," for "terms 'commercial item'," and "sections 103, 103a, 110, 105, and 102, respectively, of title 41" for "chapter 1 of title

41".

**2011**—Par. (1). Pub. L. 111–350 substituted "chapter 1 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)".

**2002**—Par. (2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2001**—Par. (1). Pub. L. 107–107 inserted "(41 U.S.C. 403)" after "section 4 of the Office of Federal Procurement Policy Act".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §3452. Relationship of other provisions of law to procurement of commercial products and commercial services

(a) APPLICABILITY OF GOVERNMENT-WIDE STATUTES.—(1) No contract for the procurement of a commercial product or commercial service entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1906(b) of title 41.

(2) No subcontract under a contract for the procurement of a commercial product or commercial service entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1906(c) of title 41.

(3) No contract for the procurement of a commercially available off-the-shelf item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1907 of title 41.

(b) APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO CONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.—The Department of Defense Supplement to the Federal Acquisition Regulation shall include a list of defense-unique contract clause requirements based on laws, executive orders, or acquisition policies that may be applied to contracts for the procurement of commercial products and commercial services entered into by the Department of Defense.

(c) APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.—(1) The Department of Defense Supplement to the Federal Acquisition Regulation shall include a list of defense-unique contract clause requirements based on laws, executive orders, or acquisition policies that may be applied to subcontracts for the procurement of commercial products and commercial services.

(2) In this subsection, the term "subcontract"—

(A) includes a transfer of commercial products and commercial services between divisions, subsidiaries, or affiliates of a contractor or subcontractor; and

(B) does not include any agreement entered into by a contractor or subcontractor for the supply of products or services that are intended for use in the performance of multiple contracts with the Department of Defense or with other parties, and that are not identifiable to any particular contract.

(3) This subsection does not authorize the waiver of the applicability of any provision of law or contract clause requirement with respect to any first-tier subcontract under a contract with a prime contractor reselling or distributing commercial products and commercial services of another contractor without adding value.

(d) APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO CONTRACTS OR SUBCONTRACTS FOR COMMERCIALLY AVAILABLE, OFF-THE-SHELF ITEMS.—The Department of Defense Supplement to the Federal Acquisition Regulation shall include a list of defense-unique contract clause requirements based on laws, executive orders, or acquisition policies that are applicable to contracts or subcontracts for the procurement of commercially available off-the-shelf items entered into by the Department of Defense.

(e) APPLICABLE REQUIREMENTS.—The Secretary of Defense shall ensure that the lists required by subsections (b) and (c)(1) shall include any contract clause to implement the requirements of—

(1) chapter 385 of this title;

(2) section 5949 of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 41 U.S.C. 4713 note);

(3) section 805 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31); or

(4) a statute that specifically refers to this section and provides that, notwithstanding this section, such statute shall be applicable to contracts for the procurement of commercial products and commercial services.

(Added Pub. L. 103–355, title VIII, §8102, Oct. 13, 1994, 108 Stat. 3390, §2375; amended Pub. L. 105–85, div. A, title X, §1073(a)(51), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 107–107, div. A, title X, §1048(a)(18), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 111–350, §5(b)(21), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 114–328, div. A, title VIII, §874(a), Dec. 23, 2016, 130 Stat. 2308; Pub. L. 115–232, div. A, title VIII, §§836(d)(1), (8)(B), 837(a), Aug. 13, 2018, 132 Stat. 1866, 1868, 1875; Pub. L. 116–92, div. A, title IX, §902(57), Dec. 20, 2019, 133 Stat. 1549; renumbered §3452 and amended Pub. L. 116–283, div. A, title XVIII, §§1821(a)(2), (b)(2), 1870(c)(6)(A), Jan. 1, 2021, 134 Stat. 4195, 4285; Pub. L. 119–60, div. A, title XVIII, §1821, Dec. 18, 2025, 139 Stat. 1245.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 805 of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (e)(3), is section 805 of Pub. L. 118–31, which is set out as a note preceding section 4651 of this title.

### PRIOR PROVISIONS

A prior section 3452, added Pub. L. 85–861, §1(81)(E), Sept. 2, 1958, 72 Stat. 1480, provided that, notwithstanding any other provision of law, an officer of Medical Corps or Dental Corps may be promoted to temporary grade of captain at any time after first anniversary of date upon which he graduated from a medical, osteopathic, or dental school, prior to repeal by Pub. L. 96–513, title II, §207, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2025**—Subsecs. (b) to (e). Pub. L. 119–60 added subsecs. (b) to (e) and struck out former subsecs. (b) to (e) which related to applicability of defense-unique statutes to contracts for commercial products and commercial services, applicability of defense-unique statutes to subcontracts for commercial products and commercial services, applicability of defense-unique statutes to contracts for commercially available, off-the-shelf items, and covered provision of law or contract clause requirement, respectively.

**2021**—Pub. L. 116–283, §1821(a)(2), renumbered section 2375 of this title as this section.

Subsec. (e)(2). Pub. L. 116–283, §§1821(b)(2), 1870(c)(6)(A), made identical amendments, substituting "section 4862" for "section 2533a" and "section 4863" for "section 2533b". Section 1870(c)(6)(A) amended former section 2375 while section 1821(b)(2) amended this section. See Amendment note above.

**2019**—Subsecs. (b)(2), (c)(2), (d)(2), (e). Pub. L. 116–92 substituted "Under Secretary of Defense for

Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2018**—Pub. L. 115–232, §836(d)(8)(B), substituted "Relationship of other provisions of law to procurement of commercial products and commercial services" for "Relationship of commercial item provisions to other provisions of law" in section catchline.

Subsec. (a)(1), (2). Pub. L. 115–232, §836(d)(1)(A), substituted "commercial product or commercial service" for "commercial item".

Subsec. (b). Pub. L. 115–232, §836(d)(1)(B), in heading, substituted "Commercial Products and Commercial Services" for "Commercial Items" and, in text, substituted "commercial products and commercial services" for "commercial items" wherever appearing.

Subsec. (b)(2). Pub. L. 115–232, §837(a), substituted "October 13, 1994" for "January 1, 2015".

Subsec. (c). Pub. L. 115–232, §836(d)(1)(B), in heading, substituted "Commercial Products and Commercial Services" for "Commercial Items" and, in text, substituted "commercial products and commercial services" for "commercial items" wherever appearing.

Subsec. (e)(3). Pub. L. 115–232, §836(d)(1)(C), substituted "commercial products and commercial services" for "commercial items".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows:

"(a) APPLICABILITY OF TITLE.—Unless otherwise specifically provided, nothing in this chapter shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

"(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 1906 of title 41).

"(c) CROSS REFERENCE TO EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.—For a provision relating to an exception for requirements for cost or pricing data for contracts for the procurement of commercial items, see section 2306a(b) of this title."

**2011**—Subsec. (b). Pub. L. 111–350 substituted "section 1906 of title 41" for "section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)".

**2001**—Subsec. (b). Pub. L. 107–107 inserted "(41 U.S.C. 430)" after "section 34 of the Office of Federal Procurement Policy Act".

**1997**—Subsec. (c). Pub. L. 105–85 substituted "a provision relating to an exception" for "provisions relating to exceptions" and "section 2306a(b)" for "section 2306a(d)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 836(d)(1), (8)(B) of Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE

For effective date and applicability of chapter, see section 10001 of Pub. L. 103–355 set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

### CHANGES TO DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT

Pub. L. 114–328, div. A, title VIII, §874(b), Dec. 23, 2016, 130 Stat. 2310, as amended by Pub. L. 116–92, div. A, title IX, §902(58), Dec. 20, 2019, 133 Stat. 1549, provided that:

"(1) IN GENERAL.—To the maximum extent practicable, the Under Secretary of Defense for Acquisition and Sustainment shall ensure that—

"(A) the Defense Federal Acquisition Regulation Supplement does not require the inclusion of contract clauses in contracts for the procurement of commercial items or contracts for the procurement of commercially available off-the-shelf items, unless such clauses are—

"(i) required to implement provisions of law or executive orders applicable to such contracts; or

"(ii) determined to be consistent with standard commercial practice; and

"(B) the flow-down of contract clauses to subcontracts under contracts for the procurement of commercial items or commercially available off-the-shelf items is prohibited unless such flow-down is required to implement provisions of law or executive orders applicable to such subcontracts.

"(2) SUBCONTRACTS.—In this subsection, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor. The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract."

**PROVISIONS NOT AFFECTED BY TITLE VIII OF PUB. L. 103–355**

Pub. L. 103–355, title VIII, §8304, Oct. 13, 1994, 108 Stat. 3398, as amended by Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(iii), Aug. 13, 2018, 132 Stat. 1847, provided that: "Nothing in this title [see Tables for classification] shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

"(1) section 7102 of the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103–355, 15 U.S.C. 644 note];

"(2) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759));

"(3) Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 541 et seq.) [now 40 U.S.C. 1101–1104]);

"(4) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637(a) and (d)); or

"(5) the Javits-Wagner-O'Day Act ([former] 41 U.S.C. 46–48c) [now 41 U.S.C. 8501 et seq.]."

## §3453. Preference for commercial products and commercial services

(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

(A) functions to be performed;

(B) performance required; or

(C) essential physical characteristics;

(2) such requirements are defined so that commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products, may be procured to fulfill such requirements; and

(3) offerors of commercial services, commercial products, and nondevelopmental items other than commercial products are provided an opportunity to compete in any procurement to fill such requirements.

(b) IMPLEMENTATION.—The head of an agency shall ensure that acquisition officials in such agency and prime contractors and subcontractors (at any tier) performing contracts with such agency (including those performing consulting, research, and advisory services to acquisition officials of such agency) to the maximum extent practicable—

(1) acquire commercial services, commercial products, or nondevelopmental items other than commercial products to meet the needs of the agency;

(2) require such prime contractors and subcontractors to incorporate commercial services, commercial products, or nondevelopmental items other than commercial products as components of items supplied to the agency;

(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products;

(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products in response to the agency solicitations;

(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial products and commercial services;

(6) require training of appropriate personnel in the acquisition of commercial products and commercial services; and

(7) establish criteria in performance evaluations for appropriate personnel to reward risk-informed decisions that maximize the acquisition of commercial products, commercial services, or nondevelopmental items other than commercial products.

(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

(A) before developing new specifications for a procurement by that agency;

(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold; and

(C) before awarding a task order or delivery order in excess of the simplified acquisition threshold.

(2) The head of an agency shall use the results of market research to determine whether there are commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products available that—

(A) meet the agency's requirements;

(B) could be modified to meet the agency's requirements; or

(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.

(3) In conducting market research, the head of an agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).

(4) The head of an agency shall document the results of market research in a manner appropriate to the size and complexity of the acquisition.

(5) The head of an agency shall take appropriate steps to ensure that any prime contractor of a contract (or task order or delivery order) in an amount in excess of $5,000,000 for the procurement of products other than commercial products or services other than commercial services engages in such market research as may be necessary to carry out the requirements of subsection (b)(2) before making purchases for or on behalf of the Department of Defense.

(d) NON-COMMERCIAL DETERMINATION REQUIRED.—(1) The head of an agency shall establish a process for determinations regarding the non-availability of commercial products or commercial services, including that—

(A) a product or service that is not a commercial product or commercial service may not be procured until the head of the agency determines that the market research conducted in accordance with subsection (c)(2) resulted in a determination that no commercial product, commercial service, or nondevelopmental item exists that is suitable to meet the needs of the agency; and

(B) prior to acquiring a product or service that is not a commercial product or commercial service, the relevant program manager shall submit a written memorandum confirming the results of the determination in subparagraph (A), which shall be signed by the portfolio acquisition executive; and

(2) ensure the determination in paragraph (1)(A) does not inhibit the ability of a contracting officer

to determine whether a product, component of a product, or service is a commercial product or commercial service (as applicable).

(e) MARKET RESEARCH FOR PRICE ANALYSIS.—The Secretary of Defense shall ensure that procurement officials in the Department of Defense conduct or obtain market research to support the determination of the reasonableness of price for commercial products or commercial services contained in any bid or offer submitted in response to an agency solicitation. To the extent necessary to support such market research, the procurement official for the solicitation may require the offeror to submit relevant information.

(f) MARKET RESEARCH TRAINING REQUIRED.—The Secretary of Defense shall provide mandatory training for members of the armed forces and employees of the Department of Defense responsible for the conduct of market research required under subsections (c) and (d). Such mandatory training shall, at a minimum—

(1) provide comprehensive information on the subject of market research and the function of market research in the acquisition of commercial products and commercial services;

(2) teach best practices for conducting and documenting market research; and

(3) provide methodologies for establishing standard processes and reports for collecting and sharing market research across the Department.

(Added Pub. L. 103–355, title VIII, §8104(a), Oct. 13, 1994, 108 Stat. 3390, §2377; amended Pub. L. 110–181, div. A, title VIII, §826(a), Jan. 28, 2008, 122 Stat. 227; Pub. L. 114–92, div. A, title VIII, §844(a), Nov. 25, 2015, 129 Stat. 915; Pub. L. 114–328, div. A, title VIII, §871, Dec. 23, 2016, 130 Stat. 2307; Pub. L. 115–232, div. A, title VIII, §836(d)(3), (8)(C), Aug. 13, 2018, 132 Stat. 1866, 1868; Pub. L. 116–92, div. A, title VIII, §818(a), Dec. 20, 2019, 133 Stat. 1488; renumbered §3453 and amended Pub. L. 116–283, div. A, title XVIII, §1821(a)(2), (b)(3), Jan. 1, 2021, 134 Stat. 4195; Pub. L. 118–159, div. A, title VIII, §834, Dec. 23, 2024, 138 Stat. 1986; Pub. L. 119–60, div. A, title VIII, §811(d)(1), title XVIII, §1822(a), Dec. 18, 2025, 139 Stat. 950, 1246.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1822(a)(1)(A), in introductory provisions, substituted "acquisition officials in such agency and prime contractors and subcontractors (at any tier) performing contracts with such agency (including those performing consulting, research, and advisory services to acquisition officials of such agency)" for "procurement officials in that agency,".

Subsec. (b)(2). Pub. L. 119–60, §1822(a)(1)(B), substituted "such prime contractors and subcontractors" for "prime contractors and subcontractors at all levels under the agency contracts".

Subsec. (d). Pub. L. 119–60, §1822(a)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 119–60, §811(d)(1), substituted "the procurement official for the solicitation may require the offeror to submit relevant information." for "the procurement official for the solicitation—

"(1) in the case of products or services acquired under section 3455 of this title, shall use information submitted under subsection (d) of that section; and

"(2) in the case of other products or services, may require the offeror to submit relevant information."

Subsec. (e). Pub. L. 119–60, §1822(a)(4), which directed substitution of "for the solicitation" for "for the solicitation" through "in the case of other products or services,", could not be executed in view of the prior amendment by Pub. L. 119–60, §811(d)(1). See note above.

Pub. L. 119–60, §1822(a)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 119–60, §1822(a)(2), redesignated subsec. (e) as (f).

**2024**—Subsec. (b)(7). Pub. L. 118–159 added par. (7).

**2021**—Pub. L. 116–283, §1821(a)(2), renumbered section 2377 of this title as this section.

Subsec. (d)(1). Pub. L. 116–283, §1821(b)(3), substituted "section 3455" for "section 2379".

**2019**—Subsec. (c)(4). Pub. L. 116–92, §818(a)(1)(B), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 116–92, §818(a)(2), amended directory language of Pub. L. 115–232, §836(d)(3)(C)(ii). See 2018 Amendment note below.

Pub. L. 116–92, §818(a)(1), redesignated par. (4) as (5).

**2018**—Pub. L. 115–232, §836(d)(8)(C), substituted "commercial products and commercial services" for

"acquisition of commercial items" in section catchline.

Subsec. (a)(2). Pub. L. 115–232, §836(d)(3)(A)(i), substituted "commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products" for "commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items".

Subsec. (a)(3). Pub. L. 115–232, §836(d)(3)(A)(ii), substituted "commercial services, commercial products, and nondevelopmental items other than commercial products" for "commercial items and nondevelopmental items other than commercial items".

Subsec. (b)(1), (2). Pub. L. 115–232, §836(d)(3)(B)(i), substituted "commercial services, commercial products, or nondevelopmental items other than commercial products" for "commercial items or nondevelopmental items other than commercial items".

Subsec. (b)(3), (4). Pub. L. 115–232, §836(d)(3)(B)(ii), substituted "commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products" for "commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items".

Subsec. (b)(5), (6). Pub. L. 115–232, §836(d)(3)(B)(iii), substituted "commercial products and commercial services" for "commercial items".

Subsec. (c)(2). Pub. L. 115–232, §836(d)(3)(C)(i), in introductory provisions, substituted "commercial services or commercial products or, to the extent that commercial products suitable to meet the agency's needs are not available, nondevelopmental items other than commercial products" for "commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items".

Subsec. (c)(5). Pub. L. 115–232, §836(d)(3)(C)(ii), as amended by Pub. L. 116–92, §818(a)(2), substituted "products other than commercial products or services other than commercial services" for "items other than commercial items".

Subsec. (d). Pub. L. 115–232, §836(d)(3)(D)(i), substituted "commercial products or commercial services" for "commercial items" in introductory provisions.

Subsec. (d)(1), (2). Pub. L. 115–232, §836(d)(3)(D)(ii), (iii), substituted "products or services" for "items".

Subsec. (e)(1). Pub. L. 115–232, §836(d)(3)(E), substituted "commercial products and commercial services" for "commercial items".

**2016**—Subsecs. (d), (e). Pub. L. 114–328 added subsec. (d), redesignated former subsec. (d) as (e), and in introductory provisions of subsec. (e), substituted "subsections (c) and (d)" for "subsection (c)".

**2015**—Subsec. (d). Pub. L. 114–92 added subsec. (d).

**2008**—Subsec. (c)(1)(C). Pub. L. 110–181, §826(a)(1), added subpar. (C).

Subsec. (c)(4). Pub. L. 110–181, §826(a)(2), added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### BRIDGING OPERATIONAL OBJECTIVES AND SUPPORT FOR TRANSITION PROGRAM

Pub. L. 119–60, div. A, title XVIII, §1833, Dec. 18, 2025, 139 Stat. 1253, provided that:

"(a) ESTABLISHMENT.—The Director of the Defense Innovation Unit shall establish a program to be known as the 'Bridging Operational Objectives and Support for Transition program' (in this section referred to as the 'BOOST program') to accelerate the adoption or integration of commercial technologies into programs of record or fielded capabilities of the Department of Defense.

"(b) PROGRAM EXECUTION.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall issue guidance to—

"(1) allow portfolio acquisition executives, program managers, or product support managers to request from the Director assistance in identifying, adopting, or integrating commercial technologies; and

"(2) require the Director to—

"(A) review commercial technologies in response to each request and identify viable commercial technologies to address the issue presented by such request;

"(B) upon request, execute coordinated development, experimentation, or integration of identified commercial technologies to enable adoption or integration of commercial technologies into programs of record or fielded capabilities; and

"(C) establish criteria to allow the Director to terminate assistance provided in response to a request.

"(c) SUPPORT TO OTHER PROGRAMS.—The Director shall ensure the BOOST program works in coordination with other authorities, programs, and activities of the Department of Defense responsible for adoption or integration of commercial technologies into programs of record or fielded capabilities, including—

"(1) the Defense Research and Development Rapid Innovation Program established under section 4061(a) of title 10, United States Code;

"(2) the Small Business Innovation Research Program and the Small Business Technology Transfer Program established under section 9 of the Small Business Act (15 U.S.C. 639 [15 U.S.C. 638]); and

"(3) urgent acquisition of items established under section 3601 of title 10, United States Code.

"(d) FUNDING.—Subject to the availability of appropriations, amounts authorized to be appropriated the [sic] Director of the Defense Innovation Unit may be used to carry out the BOOST program.

"(e) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Under Secretary of Defense for Acquisition and Sustainment and the Director, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report assessing BOOST program effectiveness in accelerating the adoption or integration of commercial technologies into programs of record or fielded capabilities of the Department of Defense, including—

"(1) a summary of persons assisted and integrated commercial technologies;

"(2) recommendations of the Secretary to improve the BOOST program; and

"(3) a recommendation whether to continue or terminate the BOOST program.

"(f) SUNSET.—The BOOST program established under this section, and the authorities and requirements under this section, shall expire on December 31, 2030.

"(g) DEFINITIONS.—In this section:

"(1) The term 'portfolio acquisition executive' has the meaning given in section 1732 of title 10, United States Code, as added by section 1802 of this Act.

"(2) The term 'program manager' has the meaning given in section 1737 of title 10, United States Code.

"(3) The term 'product support manager' has the meaning given in section 1733 of title 10, United States Code, as added by section 1803 of this Act."

## INCREASE IN AIR FORCE AND NAVY USE OF COMMERCIAL DUAL-USE PARTS IN CERTAIN AIRCRAFT AND ENGINES

Pub. L. 117–263, div. A, title I, §161, Dec. 23, 2022, 136 Stat. 2461, as amended by Pub. L. 118–159, div. A, title I, §161, Dec. 23, 2024, 138 Stat. 1815, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of the Air Force, with respect to the Air Force, and the Secretary of the Navy, with respect to the Navy, shall develop and implement processes and procedures for—

"(1) the acquisition of new, used, overhauled, reconditioned, and remanufactured commercial dual-use parts; and

"(2) the use of such commercial dual-use parts in all—

"(A) commercial derivative aircraft and engines; and

"(B) aircraft used by the Air Force or Navy that are based on the design of commercial products.

"(b) PROCUREMENT OF PARTS.—The processes and procedures implemented under subsection (a) shall provide that commercial dual-use parts shall be acquired—

"(1) pursuant to competitive procedures (as defined in section 3012 of title 10, United States Code); and

"(2) only from suppliers that provide parts that possess an Authorized Release Certificate Federal Aviation Administration Form 8130-3 Airworthy Approval Tag from a certified repair station pursuant to

part 145 of title 14, Code of Federal Regulations, or from a certified production approval holder pursuant to part 21 of title 14, Code of Federal Regulations.

"(c) DEFINITIONS.—In this section:

"(1) COMMERCIAL DERIVATIVE.—The term 'commercial derivative' means an item procured by the Department of Defense that is or was produced using the same or similar production facilities, a common supply chain, and the same or similar production processes that are used for the production of the item as predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.

"(2) COMMERCIAL DUAL-USE PART.—The term 'commercial dual-use part' means a product that is—

"(A) a commercial product;

"(B) dual-use;

"(C) described in subsection (b)(2); and

"(D) not a life-limited part.

"(3) COMMERCIAL PRODUCT.—The term 'commercial product' has the meaning given such term in section 103 of title 41, United States Code.

"(4) DUAL-USE.—The term 'dual-use' has the meaning given such term in section 4801 of title 10, United States Code."

## USE OF COMMERCIAL ITEMS IN DISTRIBUTED COMMON GROUND SYSTEMS

Pub. L. 115–91, div. A, title XVI, §1698, Dec. 12, 2017, 131 Stat. 1794, provided that:

"(a) IN GENERAL.—The procurement process for each covered Distributed Common Ground System shall be carried out in accordance with section 2377 of title 10, United States Code [now 10 U.S.C. 3453].

"(b) CERTIFICATION.—Not later than 30 days after the date of the enactment of this Act [Dec. 12, 2017], the service acquisition executive responsible for each covered Distributed Common Ground System shall certify to the appropriate congressional committees that the procurement process for increments of the system procured after the date of the enactment of this Act will be carried out in accordance with section 2377 of title 10, United States Code [now 10 U.S.C. 3453].

"(c) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) The term 'covered Distributed Common Ground System' includes the following:

"(A) The Distributed Common Ground System of the Army.

"(B) The Distributed Common Ground System of the Navy.

"(C) The Distributed Common Ground System of the Marine Corps.

"(D) The Distributed Common Ground System of the Air Force.

"(E) The Distributed Common Ground System of the Special Operations Forces."

## COMMERCIAL OPERATIONAL AND SUPPORT SAVINGS INITIATIVE

Pub. L. 114–328, div. A, title VIII, §849(d), Dec. 23, 2016, 130 Stat. 2294, as amended by Pub. L. 115–232, div. A, title VIII, §836(f)(7), Aug. 13, 2018, 132 Stat. 1871, provided that:

"(1) IN GENERAL.—The Secretary of Defense may establish a commercial operational and support savings initiative to improve readiness and reduce operations and support costs by inserting existing commercial products or technology into military legacy systems through the rapid development of prototypes and fielding of production items based on current commercial technology.

"(2) PROGRAM PRIORITY.—The commercial operational and support savings initiative shall fund programs that—

"(A) reduce the costs of owning and operating a military system, including the costs of personnel, consumables, goods and services, and sustaining the support and investment associated with the peacetime operation of a weapon system;

"(B) take advantage of the commercial sector's technological innovations by inserting commercial technology into fielded weapon systems; and

"(C) emphasize prototyping and experimentation with new technologies and concepts of operations.

"(3) FUNDING PHASES.—

"(A) IN GENERAL.—Projects funded under the commercial operational and support savings initiative shall consist of two phases, Phase I and Phase II.

"(B) PHASE I.—(i) Funds made available during Phase I shall be used to perform the non-recurring engineering, testing, and qualification that are typically needed to adapt a commercial product or technology for use in a military system.

"(ii) Phase I shall include—

"(I) establishment of cost and performance metrics to evaluate project success;

"(II) establishment of a transition plan and agreement with a military department or Defense Agency for adoption and sustainment of the technology or system; and

"(III) the development, fabrication, and delivery of a demonstrated prototype to a military department for installation into a fielded Department of Defense system.

"(iii) Programs shall be terminated if no agreement is established within two years of project initiation.

"(iv) The Office of the Secretary of Defense may provide up to 50 percent of Phase I funding for a project. The military department or Defense Agency concerned may provide the remainder of Phase I funding, which may be provided out of operation and maintenance funding.

"(v) Phase I funding shall not exceed three years.

"(vi) Phase I projects shall be selected based on a merit-based process using criteria to be established by the Secretary of Defense.

"(C) PHASE II.—(i) Phase II shall include the purchase of limited production quantities of the prototype kits and transition to a program of record for continued sustainment.

"(ii) Phase II awards may be made without competition if general solicitation competitive procedures were used for the selection of parties for participation in a Phase I project.

"(iii) Phase II awards may be made as firm fixed-price awards.

"(4) TREATMENT AS COMPETITIVE PROCEDURES.—The use of a merit-based process for selection of projects under the commercial operational and support savings initiative shall be considered to be the use of competitive procedures for purposes of [former] chapter 137 of title 10, United States Code.

"(5) DEFINITION.—In this subsection, the term 'commercial product' has the meaning given that term in section 103 of title 41."

## PREFERENCE FOR COMMERCIAL SERVICES

Pub. L. 114–328, div. A, title VIII, §876, Dec. 23, 2016, 130 Stat. 2311, as amended by Pub. L. 116–92, div. A, title IX, §902(59), Dec. 20, 2019, 133 Stat. 1550, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall revise the guidance issued pursuant to section 855 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2377 note) to provide that—

"(1) the head of an agency may not enter into a contract in excess of $10,000,000 for facilities-related services, knowledge-based services (except engineering services), construction services, medical services, or transportation services that are not commercial services unless the service acquisition executive of the military department concerned, the head of the Defense Agency concerned, the commander of the combatant command concerned, or the Under Secretary of Defense for Acquisition and Sustainment (as applicable) determines in writing that no commercial services are suitable to meet the agency's needs as provided in section 2377(c)(2) of title 10, United States Code [now 10 U.S.C. 3453(c)(2)]; and

"(2) the head of an agency may not enter into a contract in an amount above the simplified acquisition threshold and below $10,000,000 for facilities-related services, knowledge-based services (except engineering services), construction services, medical services, or transportation services that are not commercial services unless the contracting officer determines in writing that no commercial services are suitable to meet the agency's needs as provided in section 2377(c)(2) of such title [now 10 U.S.C. 3453(c)(2)]."

## INCORPORATION INTO MANAGEMENT CERTIFICATION TRAINING MANDATE

Pub. L. 114–92, div. A, title VIII, §844(b), Nov. 25, 2015, 129 Stat. 915, which required the Chairman of the Joint Chiefs of Staff to ensure that the requirements of former 10 U.S.C. 3453(e) (now 10 U.S.C. 3453(f)) were incorporated into the requirements management certification training mandate of the Joint Capabilities Integration Development System, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(8)(C), Dec. 18, 2025, 139 Stat. 948.

## MARKET RESEARCH AND PREFERENCE FOR COMMERCIAL ITEMS

Pub. L. 114–92, div. A, title VIII, §855, Nov. 25, 2015, 129 Stat. 919, as amended by Pub. L. 116–92, div. A, title IX, §902(60), Dec. 20, 2019, 133 Stat. 1550, provided that:

"(a) GUIDANCE REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], the Under Secretary of Defense for Acquisition and Sustainment shall issue guidance to ensure that

acquisition officials of the Department of Defense fully comply with the requirements of section 2377 of title 10, United States Code [now 10 U.S.C. 3453], regarding market research and commercial items. The guidance issued pursuant to this subsection shall, at a minimum—

"(1) provide that the head of an agency may not enter into a contract in excess of the simplified acquisition threshold for information technology products or services that are not commercial items unless the head of the agency determines in writing that no commercial items are suitable to meet the agency's needs as provided in subsection (c)(2) of such section; and

"(2) ensure that market research conducted in accordance with subsection (c) of such section is used, where appropriate, to inform price reasonableness determinations.

"(b) REVIEW REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Chairman and the Vice Chairman of the Joint Chiefs of Staff, in consultation with the Under Secretary of Defense for Acquisition and Sustainment, shall review Chairman of the Joint Chiefs of Staff Instruction 3170.01, the Manual for the Operation of the Joint Capabilities Integration and Development System, and other documents governing the requirements development process and revise these documents as necessary to ensure that the Department of Defense fully complies with the requirement in section 2377(c) of title 10, United States Code [now 10 U.S.C. 3453(c)], and section 10.001 of the Federal Acquisition Regulation for Federal agencies to conduct appropriate market research before developing new requirements.

"(c) MARKET RESEARCH DEFINED.—For the purposes of this section, the term 'market research' means a review of existing systems, subsystems, capabilities, and technologies that are available or could be made available to meet the needs of the Department of Defense in whole or in part. The review may include any of the techniques for conducting market research provided in section 10.002(b)(2) of the Federal Acquisition Regulation and shall include, at a minimum, contacting knowledgeable individuals in Government and industry regarding existing market capabilities."

**COMMERCIAL SOFTWARE REUSE PREFERENCE**

Pub. L. 110–417, [div. A], title VIII, §803, Oct. 14, 2008, 122 Stat. 4519, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that contracting officials identify and evaluate, at all stages of the acquisition process (including concept refinement, concept decision, and technology development), opportunities for the use of commercial computer software and other non-developmental software.

"(b) REPORT.—Not later than 270 days after the date of enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on actions taken to implement subsection (a), including a description of any relevant regulations and policy guidance."

**REQUIREMENT TO DEVELOP TRAINING AND TOOLS**

Pub. L. 110–181, div. A, title VIII, §826(b), Jan. 28, 2008, 122 Stat. 228, provided that: "The Secretary of Defense shall develop training to assist contracting officers, and market research tools to assist such officers and prime contractors, in performing appropriate market research as required by subsection (c) of section 2377 of title 10, United States Code [now 10 U.S.C. 3453(c)], as amended by this section."

## [§3455. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(5), Dec. 18, 2025, 139 Stat. 948]

Section, added Pub. L. 109–163, div. A, title VIII, §803(a)(1), Jan. 6, 2006, 119 Stat. 3370, §2379; amended Pub. L. 110–181, div. A, title VIII, §815(a)(1), Jan. 28, 2008, 122 Stat. 222; Pub. L. 113–291, div. A, title X, §1071(a)(7), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §852(a)–(d), Nov. 25, 2015, 129 Stat. 917, 918; Pub. L. 114–328, div. A, title VIII, §872, Dec. 23, 2016, 130 Stat. 2307; Pub. L. 115–232, div. A, title VIII, §836(d)(4), (8)(D), Aug. 13, 2018, 132 Stat. 1868, 1869; renumbered §3455 and amended Pub. L. 116–283, div. A, title XVIII, §§1821(a)(2), (b)(4), 1831(j)(4), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4195, 4217, 4294; Pub. L. 117–81, div. A, title XVII, §1701(b)(10)(i)(ii), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 117–263, div. A, title VIII, §803, Dec. 23, 2022, 136 Stat. 2693, related to requirement for prior determination by Secretary of Defense and notification to Congress for the procurement of a major weapon system as a commercial product.

## §3456. Commercial product and commercial service determinations by

## Department of Defense

(a) IN GENERAL.—The Secretary of Defense shall—

(1) establish and maintain a centralized capability with necessary expertise and resources to provide assistance to the military departments and Defense Agencies in making commercial product and commercial service determinations, conducting market research, and performing analysis of price reasonableness for the purposes of procurements by the Department of Defense; and

(2) assist each Secretary of a military department and each head of a Defense Agency with performing market research in accordance with the requirements of section 3453 of this title relating to market research and the determination regarding the non-availability of commercial products or commercial services, and other analysis, used to determine the reasonableness of price for the purposes of procurements by the Department of Defense.

(b) DETERMINATIONS REGARDING THE COMMERCIAL NATURE OF PRODUCTS OR SERVICES.—

(1) IN GENERAL.—In making a determination whether a particular product or service offered by a contractor meets the definition of a commercial product or commercial service, a contracting officer of the Department of Defense may—

(A) request support from the Director of the Defense Contract Management Agency, the Director of the Defense Contract Audit Agency, or other appropriate experts in the Department to make a determination whether a product or service is a commercial product or commercial service; and

(B) consider the views of appropriate public and private sector entities.

(2) MEMORANDUM.—Within 30 days after a contract award, the contracting officer shall, consistent with the policies and regulations of the Department, submit a written memorandum summarizing the determination referred to in paragraph (1), including a detailed justification why the product or service was determined to be commercial or noncommercial. The contracting officer shall consider the results in the memorandum of the program manager required under section 3453(d)(1)(B) of this title when developing the memorandum required under this paragraph. Upon the request of the contractor or subcontractor offering the product or service for which such determination is summarized in such memorandum, the contracting officer shall provide to such contractor or subcontractor a copy of such memorandum.

(c) ITEMS PREVIOUSLY ACQUIRED USING COMMERCIAL ACQUISITION PROCEDURES.—

(1) DETERMINATIONS.—A contract or subcontract for a product (including a product without a part number or a product with a prior part number that has the same functionality as the product had with the prior part number) or service acquired using commercial acquisition procedures under part 12 of the Federal Acquisition Regulation shall serve as a prior commercial product or commercial service determination with respect to such product or service for purposes of this chapter, including when subject to minor modifications, unless—

(A) the prior determination was not issued or approved by a contracting officer of the Department of Defense; or

(B) the senior procurement executive of the military department or the Department of Defense as designated for purposes of section 1702(c) of title 41 determines in writing that it is no longer appropriate to acquire the product or service using commercial acquisition procedures.

(2) LIMITATION.—(A) Except as provided under subparagraph (B), funds appropriated or otherwise made available to the Department of Defense may not be used for the procurement

under part 15 of the Federal Acquisition Regulation of a product or service that was previously acquired under a contract using commercial acquisition procedures under part 12 of the Federal Acquisition Regulation.

(B) The limitation under subparagraph (A) does not apply to the procurement of a product or service that was previously acquired using commercial acquisition procedures under part 12 of the Federal Acquisition Regulation following—

(i) a written determination by the head of contracting activity pursuant to section 3703(d)(2) of this title that the use of such procedures was improper; or

(ii) a written determination by the senior procurement executive of the military department or the Department of Defense as designated for purposes of section 1702(c) of title 41 that it is no longer appropriate to acquire the product or service using such procedures.

(Added Pub. L. 114–92, div. A, title VIII, §851(a)(1), Nov. 25, 2015, 129 Stat. 916, §2380; amended Pub. L. 114–328, div. A, title VIII, §873, Dec. 23, 2016, 130 Stat. 2307; Pub. L. 115–91, div. A, title VIII, §848, Dec. 12, 2017, 131 Stat. 1487; Pub. L. 115–232, div. A, title VIII, §836(d)(5), (8)(E), Aug. 13, 2018, 132 Stat. 1868, 1869; renumbered §3456 and amended Pub. L. 116–283, div. A, title VIII, §816, title XVIII, §§1821(a)(2), (b)(5), 1831(j)(5), Jan. 1, 2021, 134 Stat. 3750, 4195, 4217; Pub. L. 117–81, div. A, title XVII, §1701(b)(9), (10)(I)(ii), Dec. 27, 2021, 135 Stat. 2133, 2134; Pub. L. 118–31, div. A, title VIII, §801, Dec. 22, 2023, 137 Stat. 312; Pub. L. 118–159, div. A, title VIII, §814, Dec. 23, 2024, 138 Stat. 1980; Pub. L. 119–60, div. A, title XVIII, §1822(b), Dec. 18, 2025, 139 Stat. 1247.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(2). Pub. L. 119–60, §1822(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "provide to officials of the Department of Defense access to previous Department of Defense commercial product and commercial service determinations, market research, and analysis used to determine the reasonableness of price for the purposes of procurements by the Department of Defense."

Subsec. (b)(2). Pub. L. 119–60, §1822(b)(2), inserted "The contracting officer shall consider the results in the memorandum of the program manager required under section 3453(d)(1)(B) of this title when developing the memorandum required under this paragraph." after "commercial or noncommercial."

**2024**—Subsec. (c)(1). Pub. L. 118–159 added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "A contract for a product or service acquired using commercial acquisition procedures under part 12 of the Federal Acquisition Regulation shall serve as a prior commercial product or service determination with respect to such product or service for purposes of this chapter unless the senior procurement executive of the military department or the Department of Defense as designated for purposes of section 1702(c) of title 41 determines in writing that it is no longer appropriate to acquire the product or service using commercial acquisition procedures."

**2023**—Subsec. (b)(2). Pub. L. 118–31 substituted "why the product or service was determined to be commercial or noncommercial" for "for such determination" and inserted at end "Upon the request of the contractor or subcontractor offering the product or service for which such determination is summarized in such memorandum, the contracting officer shall provide to such contractor or subcontractor a copy of such memorandum."

**2021**—Pub. L. 116–283, §1821(a)(2), renumbered section 2380 of this title as this section.

Subsec. (b). Pub. L. 116–283, §816(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(2)(B)(i). Pub. L. 116–283, §1831(j)(5), which directed amendment of subsec. (b)(2)(B)(i) of section 2380 of this title (now subsec. (c)(2)(B)(i) of this section) by substituting "section 3703(d)(2)" for "section 2306a(b)(4)(B)", was repealed by Pub. L. 117–81, §1701(b)(10)(I)(ii). Identical amendment was made to subsec. (c)(2)(B)(i) of this section by Pub. L. 116–283, §1821(b)(5), see below.

Subsec. (c). Pub. L. 116–283, §816(1), redesignated subsec. (b) as (c).

Subsec. (c)(2)(B)(i). Pub. L. 116–283, §1821(b)(5), as amended by Pub. L. 117–81, §1701(b)(9), substituted "section 3703(d)(2)" for "section 2306a(b)(4)(B)".

**2018**—Pub. L. 115–232, §836(d)(8)(E), substituted "Commercial product and commercial service" for "Commercial item" in section catchline.

Subsec. (a). Pub. L. 115–232, §836(d)(5)(A), substituted "commercial product and commercial service

determinations" for "commercial item determinations" in pars. (1) and (2).

Subsec. (b). Pub. L. 115–232, §836(d)(5)(B)(i)–(iii), in heading, struck out "Item" after "Commercial" and, in text, substituted "a product or service" for "an item" and struck out "item" after "using commercial" wherever appearing.

Subsec. (b)(1). Pub. L. 115–232, §836(d)(5)(B)(iv)–(vi) substituted "prior commercial product or service determination" for "prior commercial item determination", "such product or service" for "such item", and "the product or service" for "the item".

Subsec. (b)(2)(B)(ii). Pub. L. 115–232, §836(d)(5)(B)(vi), substituted "the product or service" for "the item".

**2017**—Pub. L. 115–91 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**2016**—Pars. (1), (2). Pub. L. 114–328 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

"(1) establish and maintain a centralized capability with necessary expertise and resources to oversee the making of commercial item determinations for the purposes of procurements by the Department of Defense; and

"(2) provide public access to Department of Defense commercial item determinations for the purposes of procurements by the Department of Defense."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by sections 1821(a)(2), (b)(5) and 1831(j)(5) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### REGULATIONS

Pub. L. 114–92, div. A, title VIII, §851(d), Nov. 25, 2015, 129 Stat. 917, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Defense Federal Acquisition Regulation Supplement shall be updated to reflect the requirements of this section [enacting this section, amending section 2306a of this title, and enacting provisions set out as notes under section 2306a of this title] and the amendments made by this section."

### CONSTRUCTION

Pub. L. 114–92, div. A, title VIII, §851(e), Nov. 25, 2015, 129 Stat. 917, provided that: "Nothing in this section [enacting this section, amending section 2306a of this title, and enacting provisions set out as notes under section 2306a of this title] or the amendments made by this section shall be construed to preclude the contracting officer for the procurement of a commercial item from requiring the contractor to supply information that is sufficient to determine the reasonableness of price, regardless of whether or not the contractor was required to provide such information in connection with any earlier procurement."

### DEFINITION OF COMMERCIAL ITEM

Pub. L. 114–92, div. A, title VIII, §851(c), Nov. 25, 2015, 129 Stat. 917, provided that: "Nothing in this section [enacting section 2380 of this title, amending section 2306a of this title, and enacting provisions set out as notes under section 2306a of this title] or the amendments made by this section shall affect the meaning of the term 'commercial item' under subsection (a)(5) of section 2464 of title 10, United States Code, or any requirement under subsection (a)(3) or subsection (c) of such section." [Pub. L. 115–232 amended subsecs. (a)(3), (5) and (c) of section 2464 of title 10 by substituting references to "commercial products or commercial services" for references to "commercial items". See 2018 Amendment notes set out under that section.]

## §3457. Treatment of certain products and services as commercial products and commercial services

(a) GOODS AND SERVICES PROVIDED BY NONTRADITIONAL DEFENSE CONTRACTORS.—Notwithstanding section 3451(1) of this title, products and services provided by nontraditional defense contractors (as that term is defined in section 3014 of this title) may be treated by the head of an agency as commercial products and commercial services, respectively, for purposes of this chapter.

(b) SERVICES PROVIDED BY CERTAIN NONTRADITIONAL CONTRACTORS .—Notwithstanding section 3451(1) of this title, services provided by a business unit that is a nontraditional defense contractor (as that term is defined in section 3014 of this title) shall be treated as commercial services for purposes of this chapter, to the extent that such services use the same pool of employees as used for commercial customers and are priced using methodology similar to methodology used for commercial pricing.

(c) COMMINGLED ITEMS PURCHASED BY CONTRACTORS.—Notwithstanding section 3451(1) of this title, items valued at less than $10,000 that are purchased by a contractor for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract shall be treated as a commercial product for purposes of this chapter.

(Added Pub. L. 114–92, div. A, title VIII, §857(a), Nov. 25, 2015, 129 Stat. 921, §2380A; renumbered §2380a and amended Pub. L. 114–328, div. A, title VIII, §878(a), (b)(1), Dec. 23, 2016, 130 Stat. 2312; Pub. L. 115–232, div. A, title VIII, §836(d)(6), (8)(F), Aug. 13, 2018, 132 Stat. 1868, 1869; renumbered §3457 and amended Pub. L. 116–283, div. A, title XVIII, §1821(a)(2), (b)(6), (7)(A), (B), Jan. 1, 2021, 134 Stat. 4195, 4196.)

### EDITORIAL NOTES

### CODIFICATION

Section 1821(a)(1), (2) of Pub. L. 116–260 transferred chapter 140 of this title (§§2375 to 2380b) to this chapter and renumbered all the sections within it, except for final section 2380b. At that point, the last two sections of this chapter were this section (renumbered from section 2380a) followed by section 2380b. Section 1821(b)(7)(A) subsequently struck out "the heading of the final section of" this chapter, which was executed by incorporating the text of former section 2380b at the end of this section. The text of section 2380b of this title was based on Pub. L. 114–328, div. A, title VIII, §877(a), Dec. 23, 2016, 130 Stat. 2311; Pub. L. 115–232, div. A, title VIII, §836(d)(7), (8)(G), Aug. 13, 2018, 132 Stat. 1868, 1869; Pub. L. 116–92, div. A, title XVII, §1731(a)(47), Dec. 20, 2019, 133 Stat. 1815.

### PRIOR PROVISIONS

A prior section 3491 was renumbered section 7191 of this title.

Prior sections 3492 and 3493 were repealed by Pub. L. 90–235, §1(a)(2), (b), Jan. 2, 1968, 81 Stat. 753.

Section 3492, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, provided for extension of active service of Army members during war. See section 671a of this title.

Section 3493, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, empowered the President to order commissioned officers of the Army Reserve to active duty with the Corps of Engineers.

A prior section 3494, added Pub. L. 85–861, §1(82)(A), Sept. 2, 1958, 72 Stat. 1481; amended Pub. L. 86–559, §1(20), June 30, 1960, 74 Stat. 271, provided that a reserve commissioned officer who is ordered to active duty be ordered to that duty in his reserve grade unless the Secretary of the Army orders him to active duty, other than for training, in a higher temporary grade and authorized a reserve commissioned officer who is selected for participation in a program under which he will be ordered to active duty for at least one academic year at a civilian school or college to be ordered, upon his request, to that duty in a temporary grade that is lower than his reserve grade, without affecting his reserve grade, prior to repeal by Pub. L. 96–513, title II, §209(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2955, effective Sept. 15, 1981. See section 12320 of this title.

Prior sections 3495 to 3500 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(f)(2), 1691, Oct. 5, 1994, 108 Stat. 2994, 3026, effective Dec. 1, 1994.

Section 3495, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, provided that members of Army National Guard of United States were not in active Federal service except when ordered thereto under law. See section 12401 of this title.

Section 3496, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, authorized President to order commissioned officers of Army National Guard of United States to active duty in National Guard Bureau. See section 12402(a), (b)(1) of this title.

Section 3497, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, provided that members of Army National Guard of United States ordered to active duty were to be ordered to duty as Reserves of Army. See section 12403 of this title.

Section 3498, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, related to organization during initial mobilization of units of Army National Guard of United States ordered into active Federal service. See section 12404 of this title.

Section 3499, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, related to application of laws governing Army to members of Army National Guard called into Federal service. See section 12405 of this title.

Section 3500, acts Aug. 10, 1956, ch. 1041, 70A Stat. 199; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), (3), 102 Stat. 2059, authorized President to call Army National Guard units and members into Federal service. See section 12406 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1821(a)(2), renumbered section 2380a of this title as this section.

Subsecs. (a), (b). Pub. L. 116–283, §1821(b)(6), substituted "section 3451(1)" for "section 2376(1)" and "section 3014" for "section 2302(9)".

Subsec. (c). Pub. L. 116–283, §1821(b)(7)(A), (B), transferred section 2380b of this title to this section and struck out section designation and catchline, designated text as subsec. (c) and inserted heading, and substituted "Notwithstanding section 3451(1)" for "Notwithstanding section 2376(1)". See Codification note above.

**2018**—Pub. L. 115–232, §836(d)(8)(F), substituted "products and services as commercial products and commercial services" for "items as commercial items" in section catchline.

Subsec. (a). Pub. L. 115–232, §836(d)(6)(A), substituted "products and" for "items and" and "commercial products and commercial services, respectively," for "commercial items".

Subsec. (b). Pub. L. 115–232, §836(d)(6)(B), substituted "commercial services" for "commercial items".

**2016**—Pub. L. 114–328, §878(b)(1), which directed amendment of "Section 2380A of title 10" by striking out the section catchline and inserting "§2380a. Treatment of certain items as commercial items", was executed by redesignating this section as section 2380a and substituting "Treatment of certain items as commercial items" for "Treatment of goods and services provided by nontraditional defense contractors as commercial items" in section catchline, to reflect the probable intent of Congress.

Pub. L. 114–328, §878(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

## §3458. Authority to acquire innovative commercial products and commercial services using general solicitation competitive procedures

(a) AUTHORITY.—The Secretary of Defense and each Secretary of a military department may acquire commercial products, commercial services, or nondevelopmental items through a

competitive selection of proposals resulting from a general solicitation and a peer review, technical review, or operational review (as appropriate) of such proposals.

(b) TREATMENT AS COMPETITIVE PROCEDURES.—Use of general solicitation competitive procedures under subsection (a) shall be considered to be use of competitive procedures for purposes of chapter 221 of this title.

(c) FOLLOW-ON PRODUCTION AGREEMENTS.—With respect to a product, service, or item acquired through the competitive procedures described under subsection (a), the Secretary of Defense or each Secretary of a military department may enter into—

(1) a follow-on production contract (including a sole source contract), subject to the approval requirements of section 3204(e) of this title; or

(2) a follow-on production contract or transaction, as defined in section 4022 of this title.

(d) LIMITATIONS.—(1) Contracts or agreements entered into using the authority under subsection (a) shall be fixed-price, including fixed-price incentive contracts.

(2) Notwithstanding section 3451(1) of this title, products and services acquired using the authority under subsection (a) shall be treated as commercial products and commercial services.

(e) CONGRESSIONAL NOTIFICATION REQUIRED.—(1) Not later than 45 days after the award of a contract for an amount exceeding $100,000,000 using the authority in subsection (a), the Secretary shall notify the congressional defense committees of such award.

(2) Notice of an award under paragraph (1) shall include the following:

(A) Description of the commercial product, commercial service, or nondevelopmental item acquired.

(B) Description of the requirement, capability gap, or potential technological advancement with respect to which the commercial product, commercial service, or nondevelopmental item acquired provides a solution or a potential new capability.

(C) Amount of the contract awarded.

(D) Identification of the contractor awarded the contract.

(Added §2380c, renumbered §3458, and amended Pub. L. 117–81, div. A, title VIII, §803(a)(1), (b)(1), (3), Dec. 27, 2021, 135 Stat. 1814–1816; Pub. L. 117–263, div. A, title VIII, §814(a), Dec. 23, 2022, 136 Stat. 2707; Pub. L. 119–60, div. A, title XVIII, §1823, Dec. 18, 2025, 139 Stat. 1247.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1823(1), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense and the Secretaries of the military departments may acquire innovative commercial products and commercial services through a competitive selection of proposals resulting from a general solicitation and the peer review of such proposals."

Subsec. (c). Pub. L. 119–60, §1823(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 119–60, §1823(5), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "The Secretary may not enter into a contract or agreement in excess of $100,000,000 using the authority under subsection (a) without a written determination from the Under Secretary of Defense for Acquisition and Sustainment or the relevant service acquisition executive of the efficacy of the effort to meet mission needs of the Department of Defense or the relevant military department."

Pub. L. 119–60, §1823(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 119–60, §1823(2), (3), redesignated subsec. (d) as (e) and struck out former subsec. (e). Text of former subsec. (e) read as follows: "In this section, the term 'innovative' means—

"(1) any technology, process, or method, including research and development, that is new as of the date of submission of a proposal; or

"(2) any application that is new as of the date of submission of a proposal of a technology, process, or method existing as of such date."

Subsec. (e)(2)(A), (B). Pub. L. 119–60, §1823(6), substituted "commercial product, commercial service, or nondevelopmental item" for "innovative commercial product or commercial service".

**2022**—Subsec. (c)(2). Pub. L. 117–263 substituted "fixed-price incentive contracts" for "fixed-price

incentive fee contracts".

**2021**—Pub. L. 117–81, §803(b)(1), renumbered section 2380c of this title as this section.

Subsec. (b). Pub. L. 117–81, §803(b)(3)(A), substituted "chapter 221" for "chapter 137".

Subsec. (c)(3). Pub. L. 117–81, §803(b)(3)(B), substituted "section 3451(1)" for "section 2376(1)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. A, title VIII, §803(b)(4), Dec. 27, 2021, 135 Stat. 1816, provided that: "The transfer, redesignation, and amendments made by this subsection [amending this section and repealing provisions set out as a note under section 2302 of this title] shall take [sic] as if included in title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283)."

### FOCUSED COMMERCIAL SOLUTIONS OPENINGS OPPORTUNITIES

Pub. L. 118–31, div. A, title VIII, §813, Dec. 22, 2023, 137 Stat. 325, as amended by Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) REQUIREMENT.—During each fiscal year beginning after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the service acquisition executives of each military department, shall exercise the authority under section 3458 of title 10, United States Code, not less than four times to acquire goods or services addressing the mission needs of a geographic combatant command.

"(b) EXECUTION.—With respect to acquisition carried out under section 3458 of title 10, United States Code, pursuant to subsection (a), the Secretary of Defense shall—

"(1) assign the responsibility for carrying out such acquisition to a portfolio acquisition executive and a head of a science and technology reinvention laboratory from the same military department, who shall co-lead such acquisition; and

"(2) ensure that the portfolio acquisition executive and the head of a science and technology reinvention laboratory assigned as co-leads under paragraph (1) have similar existing requirements and funding for transitioning technologies to acquisition programs within the area of focus for such acquisition.

"(c) SUNSET.—Subsection (a) shall expire on September 30, 2027.

"(d) DEFINITIONS.—In this section:

"(1) The terms 'military department' and 'services acquisition executive' have the meanings given such terms in section 101(a) of title 10, United States Code.

"(2) The term 'portfolio acquisition executive' has the meaning given such term in section 1737(a) of title 10, United States Code.

"(3) The term 'science and technology reinvention laboratory' means a science and technology reinvention laboratory designated under section 4121(b) of title 10, United States Code."

### DATA COLLECTION

Pub. L. 117–81, div. A, title VIII, §803(a)(3), Dec. 27, 2021, 135 Stat. 1815, provided that:

"(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department shall collect and analyze data on the use of the authority under section 2380c of title 10, United States Code [now 10 U.S.C. 3458], as added by paragraph (1), for the purposes of—

"(i) developing and sharing best practices for achieving the objectives of the authority;

"(ii) gathering information on the implementation of the authority and related policy issues; and

"(iii) informing the congressional defense committees on the use of the authority.

"(B) PLAN REQUIRED.—The authority under section 2380c [now 3458] of title 10, United States Code, as added by paragraph (1), may not be exercised by the Secretary of Defense or any Secretary of a military department during the period beginning on October 1, 2022, and ending on the date on which the Secretary of Defense submits to the congressional defense committees a completed plan for carrying out the data collection required under paragraph (1).

"(C) CONGRESSIONAL DEFENSE COMMITTEES; MILITARY DEPARTMENT DEFINED.—In this paragraph, the terms 'congressional defense committees' and 'military department' have the meanings given such terms in section 101(a) of title 10, United States Code."

### REFERENCES; SAVINGS PROVISION; RULE OF CONSTRUCTION

Pub. L. 117–81, div. A, title VIII, §803(b)(5), Dec. 27, 2021, 135 Stat. 1816, provided that: "Sections 1883 through 1885 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [set out as notes preceding section 3001 of this title] shall apply with respect to the

transfers, redesignations, and amendments made under this subsection [amending this section and repealing provisions set out as a note under section 2302 of this title] as if such transfers, redesignations, and amendments were made under title XVIII of such Act."

## §3459. Limitation on required flowdown of contract clauses to subcontractors providing commercial products or commercial services

(a) IN GENERAL.—The Secretary of Defense may not require that a clause be included in a subcontract for the acquisition of commercial products or commercial services other than a clause that is on the lists required by section 3452 of this title or unless otherwise applicable pursuant to subsection (e) of such section.

(b) APPLICABILITY TO OTHER SUPPLY AGREEMENTS.—The Secretary of Defense may not require the application of any contract clauses to other supply agreements unless otherwise applicable pursuant to subsection (e) of section 3452 of this title.

(c) DEFINITIONS.—In this section, the terms "other supply agreement" and "subcontract" have the meanings given such terms, respectively, in section 3452(c)(2) of this title.

(d) APPLICABILITY.—Subsection (a) shall apply only with respect to subcontracts entered into after the earliest date on which the lists required by section 3452 of this title are published in the Defense Federal Acquisition Regulation Supplement.

(Added Pub. L. 119–60, div. A, title XVIII, §1824, Dec. 18, 2025, 139 Stat. 1248.)

# CHAPTER 249—MULTIYEAR CONTRACTS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Multiyear Contracts for Acquisition of Property** | **3501** |
| **II.** | **Multiyear Contracts for Acquisition of Services** | **3531** |
| **III.** | **Other Authorities Relating to Multiyear Contracts** | **3551** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 249 "MULTIYEAR CONTRACTS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3501, was repealed by Pub. L. 116–283, div. A, title XVIII, §1822(a), Jan. 1, 2021, 134 Stat. 4196.

# SUBCHAPTER I—MULTIYEAR CONTRACTS FOR ACQUISITION OF PROPERTY


Sec.

3501. Multiyear contracts: acquisition of property.


**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(k)(1)(A), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116–283, div. A, title XVIII, §1822(a), Jan. 1, 2021, 134 Stat. 4196, which added this analysis, by adding item 3501 and striking out what would have been items 3501 to 3511.

## §3501. Multiyear contracts: acquisition of property

(a) IN GENERAL.—To the extent that funds are otherwise available for obligation, the head of an agency may enter into multiyear contracts for the purchase of property whenever the head of that agency finds each of the following:

(1) That the use of such a contract will result in—

(A) savings of the total anticipated costs of carrying out the program through annual contracts; or

(B) necessary defense industrial base stability not otherwise achievable through annual contracts.

(2) That the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities.

(3) That there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation.

(4) That there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive.

(5) That the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

(6) In the case of a purchase by the Department of Defense, that the use of such a contract will promote the national security of the United States.

(7) In the case of a contract in an amount equal to or greater than $500,000,000, that the conditions required by subparagraphs (C) through (F) of subsection (i)(3) will be met, in accordance with the Secretary's certification and determination under such subsection, by such contract.

(b) REGULATIONS.—(1) Each official named in paragraph (2) shall prescribe acquisition regulations for the agency or agencies under the jurisdiction of such official to promote the use of multiyear contracting as authorized by subsection (a) in a manner that will allow the most efficient use of multiyear contracting.

(2)(A) The Secretary of Defense shall prescribe the regulations applicable to the Department of Defense.

(B) The Secretary of Homeland Security shall prescribe the regulations applicable to the Coast Guard, except that the regulations prescribed by the Secretary of Defense shall apply to the Coast Guard when it is operating as a service in the Navy.

(C) The Administrator of the National Aeronautics and Space Administration shall prescribe the regulations applicable to the National Aeronautics and Space Administration.

(c) CONTRACT CANCELLATIONS.—The regulations may provide for cancellation provisions in multiyear contracts to the extent that such provisions are necessary and in the best interests of the United States. The cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

(d) PARTICIPATION BY SUBCONTRACTORS, VENDORS, AND SUPPLIERS.—In order to broaden the defense industrial base, the regulations shall provide that, to the extent practicable—

(1) multiyear contracting under subsection (a) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

(2) upon accrual of any payment or other benefit under such a multiyear contract to any subcontractor, vendor, or supplier company participating in such contract, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

(e) PROTECTION OF EXISTING AUTHORITY.—The regulations shall provide that, to the extent practicable, the administration of this section, and of the regulations prescribed under this section, shall not be carried out in a manner to preclude or curtail the existing ability of an agency—

(1) to provide for competition in the production of items to be delivered under such a contract; or

(2) to provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

(f) CANCELLATION OR TERMINATION FOR INSUFFICIENT FUNDING.—In the event funds are not made available for the continuation of a contract made under this section into a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

(3) funds appropriated for those payments.

(g) CONTRACT CANCELLATION CEILINGS EXCEEDING $100,000,000.—(1) Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the head of the agency concerned shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the congressional defense committees, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

(2) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (1), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall, as part of the certification required by subsection (i)(1)(A),[1] give written notification to the congressional defense committees of—

(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

(C) a financial risk assessment of not including budgeting for costs of contract cancellation.

(h) DEFENSE ACQUISITIONS OF WEAPON SYSTEMS.—In the case of the Department of Defense, the authority under subsection (a) includes authority to enter into the following multiyear contracts in accordance with this section:

(1) A multiyear contract for the purchase of a weapon system, items and services associated with a weapon system, and logistics support for a weapon system.

(2) A multiyear contract for advance procurement of components, parts, and materials necessary to the manufacture of a weapon system, including a multiyear contract for such advance procurement that is entered into in order to achieve economic-lot purchases and more efficient production rates.

(i) DEFENSE ACQUISITIONS SPECIFICALLY AUTHORIZED BY LAW.—(1) In the case of the Department of Defense, a multiyear contract in an amount equal to or greater than $500,000,000 may not be entered into under this section unless the contract is specifically authorized by law in an Act other than an appropriations Act.

(2) In submitting a request for a specific authorization by law to carry out a defense acquisition program using multiyear contract authority under this section, the Secretary of Defense shall include in the request a report containing preliminary findings of the agency head required in paragraphs (1) through (6) of subsection (a), together with the basis for such findings.

(3) A multiyear contract may not be entered into under this section for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless the Secretary of Defense certifies in writing, not later than 30 days before entry into the contract, that each of the following conditions is satisfied:

(A) The Secretary has determined that each of the requirements in paragraphs (1) through (6) of subsection (a) will be met by such contract and has provided the basis for such determination to

the congressional defense committees.

(B) The Secretary's determination under subparagraph (A) was made after completion of a cost analysis conducted on the basis of section 3226(b) of this title, and the analysis supports the determination.

(C) The system being acquired pursuant to such contract has not been determined to have experienced cost growth in excess of the critical cost growth threshold pursuant to section 4374 of this title within 5 years prior to the date the Secretary anticipates such contract (or a contract for advance procurement entered into consistent with the authorization for such contract) will be awarded.

(D) A sufficient number of end items of the system being acquired under such contract have been delivered at or within the most current estimates of the program acquisition unit cost or procurement unit cost for such system to determine that current estimates of such unit costs are realistic.

(E) During the fiscal year in which such contract is to be awarded, sufficient funds will be available to perform the contract in such fiscal year, and the future-years defense program for such fiscal year will include the funding required to execute the program without cancellation.

(F) The contract is a fixed price type contract.

(G) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(4) If for any fiscal year a multiyear contract to be entered into under this section is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that significant savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.

(5)(A) The Secretary may obligate funds for procurement of an end item under a multiyear contract for the purchase of property only for procurement of a complete and usable end item.

(B) The Secretary may obligate funds appropriated for any fiscal year for advance procurement under a contract for the purchase of property only for the procurement of those long-lead items necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law).

(6) The Secretary may make the certification under paragraph (3) notwithstanding the fact that one or more of the conditions of such certification are not met, if the Secretary determines that, due to exceptional circumstances, proceeding with a multiyear contract under this section is in the best interest of the Department of Defense and the Secretary provides the basis for such determination with the certification.

(7) The Secretary may not delegate the authority to make the certification under paragraph (3) or the determination under paragraph (6) to an official below the level of Under Secretary of Defense for Acquisition and Sustainment.

(j) DEFENSE CONTRACT OPTIONS FOR VARYING QUANTITIES.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

(k) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so

provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(l) VARIOUS ADDITIONAL REQUIREMENTS WITH RESPECT TO MULTIYEAR DEFENSE CONTRACTS.—(1)(A) The head of an agency may not initiate a contract described in subparagraph (B) unless the congressional defense committees are notified of the proposed contract at least 30 days in advance of the award of the proposed contract.

(B) Subparagraph (A) applies to the following contracts:

(i) A multiyear contract—

(I) that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract; or

(II) that includes an unfunded contingent liability in excess of $20,000,000.

(ii) Any contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year.

(2) The head of an agency may not initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability.

(3) The head of an agency may not initiate a multiyear procurement contract for any system (or component thereof) if the value of the multiyear contract would exceed $500,000,000 unless authority for the contract is specifically provided in an appropriations Act.

(4) Each report required by paragraph (5) with respect to a contract (or contract extension) shall contain the following:

(A) The amount of total obligational authority under the contract (or contract extension) and the percentage that such amount represents of—

(i) the applicable procurement account; and

(ii) the agency procurement total.

(B) The amount of total obligational authority under all multiyear procurements of the agency concerned (determined without regard to the amount of the multiyear contract (or contract extension)) under multiyear contracts in effect at the time the report is submitted and the percentage that such amount represents of—

(i) the applicable procurement account; and

(ii) the agency procurement total.

(C) The amount equal to the sum of the amounts under subparagraphs (A) and (B), and the percentage that such amount represents of—

(i) the applicable procurement account; and

(ii) the agency procurement total.

(D) The amount of total obligational authority under all Department of Defense multiyear procurements (determined without regard to the amount of the multiyear contract (or contract extension)), including any multiyear contract (or contract extension) that has been authorized by the Congress but not yet entered into, and the percentage that such amount represents of the procurement accounts of the Department of Defense treated in the aggregate.

(5) The head of an agency may not enter into a multiyear contract (or extend an existing multiyear contract), the value of which would exceed $500,000,000 (when entered into or when extended, as the case may be), until the Secretary of Defense submits to the congressional defense committees a report containing the information described in paragraph (4) with respect to the contract (or contract extension).

(6) The head of an agency may not terminate a multiyear procurement contract until 10 days after the date on which notice of the proposed termination is provided to the congressional defense committees.

(7) The execution of multiyear contracting authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

(8) This subsection does not apply to the National Aeronautics and Space Administration or to the Coast Guard.

(9) In this subsection:

(A) The term "applicable procurement account" means, with respect to a multiyear procurement contract (or contract extension), the appropriation account from which payments to execute the contract will be made.

(B) The term "agency procurement total" means the procurement accounts of the agency entering into a multiyear procurement contract (or contract extension) treated in the aggregate.

(m) INCREASED FUNDING AND REPROGRAMMING REQUESTS.—Any request for increased funding for the procurement of a major system under a multiyear contract authorized under this section shall be accompanied by an explanation of how the request for increased funding affects the determinations made by the Secretary under subsection (i).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §§1822(a), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4197, 4294; Pub. L. 116–283, div. A, title XVIII, §1822(b), as added Pub. L. 117–81, div. A, title XVII, §1701(k)(2)(B), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–81, div. A, title XVII, §1701(k)(1)(B), (2)(A), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–263, div. A, title VIII, §815, Dec. 23, 2022, 136 Stat. 2707; Pub. L. 118–31, div. A, title VIII, §820, Dec. 22, 2023, 137 Stat. 326; Pub. L. 119–60, div. A, title VIII, §804(c), Dec. 18, 2025, 139 Stat. 944.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Subsection (i)(1)(A), referred to in subsec. (g)(2), related to certification of full funding of support costs in multiyear contracts, prior to the general amendment of subsec. (i) by Pub. L. 113–291, div. A, title VIII, §816(a), Dec. 19, 2014, 128 Stat. 3430. As amended, subsec. (i) no longer contains a par. (1)(A).

### CODIFICATION

Pub. L. 116–283, §1822(b)–(l), which had initially directed the transfers of various subsections of section 2306b of this title to sections 3501 to 3511, was amended by Pub. L. 117–81, §1701(k)(2), by striking out subsecs. (b) to (l) and adding a new subsec. (b). After that amendment, such transfers were no longer directed. Instead, Pub. L. 116–283, §1822(b), as added by Pub. L. 117–81, directed the transfer of section 2306b of this title in its entirety to this section, thereby omitting what would have been sections 3502 to 3511 of this title. The transfer of section 2306b to this section was executed by transferring the text only of section 2306b, as the section designation and catchline had already been enacted by Pub. L. 116–283, §1822(a), as amended by Pub. L. 117–81, §1701(k)(1)(B).

The text of section 2306b of this title, which was transferred to this section by Pub. L. 116–283, §1822(b), as amended by Pub. L. 117–81, §1701(k)(2)(B), was based on Pub. L. 103–355, title I, §1022(a)(1), Oct. 13, 1994, 108 Stat. 3257; Pub. L. 104–106, div. A, title XV, §1502(a)(10), div. E, title LVI, §5601(b), Feb. 10, 1996, 110 Stat. 503, 699; Pub. L. 105–85, div. A, title VIII, §806(a)(1), (b)(1), (c), title X, §1073(a)(47), (48)(A), Nov. 18, 1997, 111 Stat. 1834, 1835, 1903; Pub. L. 106–65, div. A, title VIII, §809, title X, §1067(1), Oct. 5, 1999, 113 Stat. 705, 774; Pub. L. 106–398, §1 [[div. A], title VIII, §§802(c), 806], Oct. 30, 2000, 114 Stat. 1654, 1654A–205, 1654A–207; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VIII, §820(a), Dec. 2, 2002, 116 Stat. 2613; Pub. L. 108–136, div. A, title X, §1043(b)(10), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 108–375, div. A, title VIII, §814(a), title X, §1084(b)(2), Oct. 28, 2004, 118 Stat. 2014, 2060; Pub. L. 110–181, div. A, title VIII, §811(a), Jan. 28, 2008, 122 Stat. 217; Pub. L. 111–23, title I, §101(d)(2), May 22, 2009, 123 Stat. 1709; Pub. L. 113–291, div. A, title VIII, §816(a), (b), Dec. 19, 2014, 128 Stat. 3430, 3432; Pub. L. 114–92, div. A, title VIII, §811, Nov. 25, 2015, 129 Stat. 891; Pub. L. 115–91, div. A, title X, §1051(a)(14), Dec. 12, 2017, 131 Stat. 1561; Pub. L. 115–232, div. A, title VIII, §817, Aug. 13, 2018, 132 Stat. 1852; Pub. L. 116–92, div. A, title IX, §902(48), Dec. 20, 2019, 133 Stat. 1548.

### PRIOR PROVISIONS

Prior sections 3501 and 3502 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(f)(2), 1691, Oct.

5, 1994, 108 Stat. 2994, 3026, effective Dec. 1, 1994.

Section 3501, acts Aug. 10, 1956, ch. 1041, 70A Stat. 199; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to period of service and apportionment of members and units of Army National Guard called into Federal service. See section 12407 of this title.

Section 3502, act Aug. 10, 1956, ch. 1041, 70A Stat. 200, related to physical examinations of members of Army National Guard called into Federal service. See section 12408 of this title.

A prior section 3503 was renumbered section 7203 of this title.

Prior sections 3504, 3531, and 3532 were repealed by Pub. L. 96–513, title II, §§210, 233(a), 234, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2887, 2955, effective Sept. 15, 1981.

Section 3504, acts Aug. 10, 1956, ch. 1041, 70A Stat. 200; Sept. 2, 1958, Pub. L. 85–861, §1(83), 72 Stat. 1481, authorized the President to order any retired member of the Regular Army to active duty.

## AMENDMENTS

**2025**—Subsec. (a)(1)(A). Pub. L. 119–60 struck out "significant" before "savings".

**2023**—Subsec. (a)(1). Pub. L. 118–31 inserted dash after "will result in" and subpar. (A) designation before "significant savings", substituted "; or" for period at end, and added subpar. (B).

**2022**—Subsec. (i)(2). Pub. L. 117–263 substituted "shall include in the request a report" for "shall include in the request the following:

"(A) A report" and struck out subpar. (B) which read as follows: "Confirmation that the preliminary findings of the agency head under subparagraph (A) were supported by a preliminary cost analysis performed by the Director of Cost Assessment and Program Evaluation."

**2021**—Pub. L. 117–81, §1701(k)(1)(B), amended Pub. L. 116–283, §1822(a), which enacted this section, by substituting "Multiyear contracts: acquisition of property" for "Multiyear contracts for acquisition of property: authority; definitions" in section catchline.

Pub. L. 116–283, §1822(b), as added by Pub. L. 117–81, §1701(k)(2)(B), transferred text of section 2306b of this title to this section. See Codification note above.

Subsec. (i)(3)(B). Pub. L. 116–283, §1883(b)(2), substituted "section 3226(b)" for "section 2334(e)(2)".

Subsec. (i)(3)(C). Pub. L. 116–283, §1883(b)(2), substituted "section 4374" for "section 2433(d)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### MULTIYEAR PROCUREMENT AUTHORITY FOR COVERED SYSTEMS AND CERTAIN MUNITIONS

Pub. L. 119–60, div. A, title VIII, §804(a), (b), Dec. 18, 2025, 139 Stat. 942, provided that:

"(a) MULTIYEAR PROCUREMENT FOR COVERED SYSTEMS.—

"(1) IN GENERAL.—Subject to section 3501 of title 10, United States Code, the Secretary of the Defense shall submit to Congress a request for a specific authorization to enter into one or more multiyear contracts for the procurement of a covered system if—

"(A) a decision has been made by the responsible head of agency to proceed to full-rate production for such covered system; and

"(B) such covered system is planned to maintain full-rate production for a period of five or more consecutive years after entering into such a contract.

"(2) WAIVER.—The Secretary of Defense may waive the requirements of paragraph (1) if the Secretary determines that the projected threat environment in which the covered system is to be fielded has changed in a manner such that the procurement of such covered system is no longer necessary.

"(3) APPLICABILITY.—This section and the requirements of this section shall apply with respect to a multiyear contract for the procurement of a covered system entered into on or after the date of the enactment of this Act [Dec. 18, 2025].

"(4) COVERED SYSTEM DEFINED.—In this subsection, the term 'covered system' has the meaning given 'major system' in section 3041 of title 10, United States Code.

"(b) MULTIYEAR PROCUREMENT FOR CERTAIN MUNITIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), subject to section 3501 of title 10, United States Code, the head of an agency is authorized to enter into one or more multiyear contracts, beginning in fiscal year 2026, for the procurement of any of the following:

"(A) Standard Missile-3 ('SM–3') Block 1B missile systems (and products, services, and logistics support associated with SM–3 Block 1B systems or a subsystem that performs a critical function of the missile system).

"(B) Standard Missile-6 ('SM–6') missile systems (and products, services, and logistics support associated with SM–6 systems or a subsystem that performs a critical function of the missile system).

"(C) Tomahawk Cruise Missile systems, including both Tomahawk Cruise Missile system variants (and products, services, and logistics support associated with Tomahawk Cruise Missile systems or a subsystem that performs a critical function of the missile system), for more than one, but not more than seven, program years.

"(D) Advanced Medium-Range Air-to-Air Missile ('AMRAAM') systems (and products, services, and logistics support associated with AMRAAM systems or a subsystem that performs a critical function of the missile system).

"(E) Joint Air-to-Surface Standoff Missile ('JASSM') systems (and products, services, and logistics support associated with JASSM systems or a subsystem that performs a critical function of the missile system).

"(F) Long Range Anti-Ship Missile ('LRASM') systems (and products, services, and logistics support associated with LRASM systems or a subsystem that performs a critical function of the missile system).

"(G) Terminal High Altitude Area Defense ('THAAD') systems (and products, services, and logistics support associated with THAAD systems or a subsystem that performs a critical function of the missile system), for more than one, but not more than seven, program years.

"(H) Patriot Advanced Capability-3 ('PAC–3') Missile Segment Enhancement (MSE) systems (and products, services, and logistics support associated with PAC–3 MSE systems or a subsystem that performs a critical function of the missile system), for more than one, but not more than seven, program years.

"(I) Family of Affordable Mass Munitions ('FAMM'), Extended-Range Attack Munition ('ERAM'), Enterprise Test Vehicle ('ETV'), or ground-launched low-cost cruise missile systems (and products, services, and logistics support associated with FAMM, ERAM, ETV, or ground-launched low-cost cruise missile systems or a subsystem that performs a critical function of the missile system).

"(J) Low-cost hypersonic strike systems (and products, services, and logistics support associated with low-cost hypersonic strike systems or a subsystem that performs a critical function of the missile system).

"(2) PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.—The systems and subsystems described in paragraph (1) may be procured through modifications or extensions to any existing contract for such systems and subsystems.

"(3) LIMITED APPLICABILITY OF MULTIYEAR CONTRACTING PROVISION.—Paragraphs (3)(B), (3)(C), (3)(D), and (4) of subsection (i) of section 3501 of title 10, United States Code, shall not apply with respect to a multiyear contract entered into under this subsection.

"(4) ADDITIONAL REQUIREMENTS.—

"(A) DESIGN STABILITY.—Notwithstanding subsection 3501(a)(4) of this title, with respect to a multiyear contract entered into under this subsection that provides, in the terms of such contract included on the date on which such contract is entered into, for the potential insertion of upgraded components or design changes that address obsolescence or producibility requirements, such upgraded components or design changes may be included in the end product if, not later than 180 days before the insertion of such upgraded components or design changes, the head of an agency that is a party to such contract provides to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such upgraded components or design changes, including a testing plan to ensure such upgraded components or design changes will meet system requirements.

"(B) CERTIFICATION REQUIREMENTS.—In applying the requirements of subsection (i)(3) of section 3501 of title 10, United States Code, to a multiyear contract entered into under this subsection, the Secretary of Defense may not make the certification described in such subsection—

"(i) for Tomahawk Cruise Missile systems described in paragraph (1)(C), until the Secretary has provided a certification for FAMM, ERAM, ETV, or ground-launched low-cost cruise missile systems described in paragraph (1)(I);

"(ii) for JASSM systems described in paragraph (1)(E), until the Secretary has provided a certification for FAMM, ERAM, ETV, or ground-launched low-cost cruise missile systems described in paragraph (1)(I);and

"(iii) for SM–6 missile systems described in paragraph (1)(B), until the Secretary has provided a certification for low-cost hypersonic strike systems described in paragraph (1)(J).

"(5) AUTHORITY FOR ADVANCE PROCUREMENT.—The head of an agency may enter into one or more contracts for advance procurement, beginning in fiscal year 2026, associated with a system or subsystem described in paragraph (1) for which authorization to enter into a multiyear procurement contract is provided under such paragraph, which may include procurement of economic order quantities of material and equipment when cost savings are achievable.

"(6) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2026 is subject to the availability of appropriations for that purpose for such later fiscal year.

"(7) HEAD OF AN AGENCY DEFINED.—In this subsection, the term 'head of an agency' means—

"(A) the Secretary of Defense;

"(B) the Secretary of the Army;

"(C) the Secretary of the Navy; or

"(D) the Secretary of the Air Force."

## MULTIPLE PROGRAM MULTIYEAR CONTRACT PILOT DEMONSTRATION PROGRAM

Pub. L. 114–328, div. A, title VIII, §853, Dec. 23, 2016, 130 Stat. 2296, provided that:

"(a) AUTHORITY.—The Secretary of Defense may conduct a multiyear contract, over a period of up to four years, for the purchase of units for multiple defense programs that are produced at common facilities at a high rate, and which maximize commonality, efficiencies, and quality, in order to provide maximum benefit to the Department of Defense. Contracts awarded under this section should allow for significant savings, as determined consistent with the authority under section 2306b of title 10, United States Code [see 10 U.S.C. 3501], to be achieved as compared to using separate annual contracts under individual programs to purchase such units, and may include flexible delivery across the overall period of performance.

"(b) SCOPE.—The contracts authorized in subsection (a) shall at a minimum provide for the acquisition of units from three discrete programs from two of the military departments.

"(c) DOCUMENTATION.—Each contract awarded under subsection (a) shall include the documentation required to be provided for a multiyear contract proposal under section 2306b(i) of title 10 [see 10 U.S.C. 3501(i)].

"(d) DEFINITIONS.—In this section:

"(1) The term 'high rate' means total annual production across the multiple defense programs of more than 200 end-items per year.

"(2) The term 'common facilities' means production facilities operating within the same general and allowable rate structure.

"(e) SUNSET.—No new contracts may be awarded under the authority of this section after September 30, 2021."

## MULTIYEAR PROCUREMENT CONTRACTS

Pub. L. 105–56, title VIII, §8008, Oct. 8, 1997, 111 Stat. 1221, provided that:

"(a) None of the funds provided in this Act [see Tables for classification] shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the

value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

"Funds appropriated in title III of this Act [111 Stat. 1211] may be used for multiyear procurement contracts as follows:

"Apache Longbow radar;

"AV–8B aircraft; and

"Family of Medium Tactical Vehicles.

"(b) None of the funds provided in this Act and hereafter may be used to submit to Congress (or to any committee of Congress) a request for authority to enter into a contract covered by those provisions of subsection (a) that precede the first proviso of that subsection unless—

"(1) such request is made as part of the submission of the President's Budget for the United States Government for any fiscal year and is set forth in the Appendix to that budget as part of proposed legislative language for appropriations bills for the next fiscal year; or

"(2) such request is formally submitted by the President as a budget amendment; or

"(3) the Secretary of Defense makes such request in writing to the congressional defense committees."

Similar provisions were contained in the following appropriation acts:

Pub. L. 119–75, div. A, title VIII, §8010, Feb. 3, 2026, 140 Stat. 198.

Pub. L. 118–47, div. A, title VIII, §8010, Mar. 23, 2024, 138 Stat. 483.

Pub. L. 117–328, div. C, title VIII, §8010, Dec. 29, 2022, 136 Stat. 4587.

Pub. L. 117–103, div. C, title VIII, §8010, Mar. 15, 2022, 136 Stat. 175.

Pub. L. 116–260, div. C, title VIII, §8010, Dec. 27, 2020, 134 Stat. 1304.

Pub. L. 116–93, div. A, title VIII, §8010, Dec. 20, 2019, 133 Stat. 2337.

Pub. L. 115–245, div. A, title VIII, §8010, Sept. 28, 2018, 132 Stat. 3000.

Pub. L. 115–141, div. C, title VIII, §8010, Mar. 23, 2018, 132 Stat. 464.

Pub. L. 115–31, div. C, title VIII, §8010, May 5, 2017, 131 Stat. 247.

Pub. L. 114–113, div. C, title VIII, §8010, Dec. 18, 2015, 129 Stat. 2352.

Pub. L. 113–235, div. C, title VIII, §8010, Dec. 16, 2014, 128 Stat. 2253.

Pub. L. 113–76, div. C, title VIII, §8010, Jan. 17, 2014, 128 Stat. 105.

Pub. L. 113–6, div. C, title VIII, §8010, Mar. 26, 2013, 127 Stat. 297.

Pub. L. 112–74, div. A, title VIII, §8010, Dec. 23, 2011, 125 Stat. 806.

Pub. L. 112–10, div. A, title VIII, §8010, Apr. 15, 2011, 125 Stat. 57.

Pub. L. 111–118, div. A, title VIII, §8011, Dec. 19, 2009, 123 Stat. 3428, as amended by Pub. L. 111–212, title I, §305, July 29, 2010, 124 Stat. 2311.

Pub. L. 110–329, div. C, title VIII, §8011, Sept. 30, 2008, 122 Stat. 3621.

Pub. L. 110–116, div. A, title VIII, §8010, Nov. 13, 2007, 121 Stat. 1315.

Pub. L. 109–289, div. A, title VIII, §8008, Sept. 29, 2006, 120 Stat. 1273.

Pub. L. 109–148, div. A, title VIII, §8008, Dec. 30, 2005, 119 Stat. 2698.

Pub. L. 108–287, title VIII, §8008, Aug. 5, 2004, 118 Stat. 970.

Pub. L. 108–87, title VIII, §8008, Sept. 30, 2003, 117 Stat. 1072.

Pub. L. 107–248, title VIII, §8008, Oct. 23, 2002, 116 Stat. 1537.

Pub. L. 107–117, div. A, title VIII, §8008, Jan. 10, 2002, 115 Stat. 2248.

Pub. L. 106–259, title VIII, §8008, Aug. 9, 2000, 114 Stat. 675.

Pub. L. 106–79, title VIII, §8008, Oct. 25, 1999, 113 Stat. 1232.

Pub. L. 105–262, title VIII, §8008, Oct. 17, 1998, 112 Stat. 2298.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8009], Sept. 30, 1996, 110 Stat. 3009–71, 3009–89.

Pub. L. 104–61, title VIII, §8010, Dec. 1, 1995, 109 Stat. 653.

Pub. L. 103–335, title VIII, §8010, Sept. 30, 1994, 108 Stat. 2618.

Pub. L. 103–139, title VIII, §8011, Nov. 11, 1993, 107 Stat. 1439.

Pub. L. 102–396, title IX, §9013, Oct. 6, 1992, 106 Stat. 1903.

Pub. L. 102–172, title VIII, §8013, Nov. 26, 1991, 105 Stat. 1173.

Pub. L. 101–511, title VIII, §8014, Nov. 5, 1990, 104 Stat. 1877.

Pub. L. 101–165, title IX, §9021, Nov. 21, 1989, 103 Stat. 1133.

[1] *See References in Text note below.*

## [§§3502 to 3511. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

See Codification note set out under section 3501 of this title.

## SUBCHAPTER II—MULTIYEAR CONTRACTS FOR ACQUISITION OF SERVICES

Sec.
3531. Multiyear contracts: acquisition of services.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(A)(i), (B), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116–283, div. A, title XVIII, §1822(c), formerly §1822(m), Jan. 1, 2021, 134 Stat. 4203, which added this analysis, by making the redesignation of section 1822(m) as 1822(c) and by adding item 3531 and striking out what would have been items 3531 to 3535.

## §3531. Multiyear contracts: acquisition of services

(a) AUTHORITY.—Subject to subsections (d) and (e), the head of an agency may enter into contracts for periods of not more than five years for services described in subsection (b), and for items of supply related to such services, for which funds would otherwise be available for obligation only within the fiscal year for which appropriated whenever the head of the agency finds that—

(1) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

(2) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force; and

(3) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(b) COVERED SERVICES.—The authority under subsection (a) applies to the following types of services:

(1) Operation, maintenance, and support of facilities and installations.

(2) Maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment.

(3) Specialized training necessitating high quality instructor skills (for example, pilot and air crew members; foreign language training).

(4) Base services (for example, ground maintenance; in-plane refueling; bus transportation; refuse collection and disposal).

(5) Environmental remediation services for—

(A) an active military installation;

(B) a military installation being closed or realigned under a base closure law; or

(C) a site formerly used by the Department of Defense.

(c) APPLICABLE PRINCIPLES.—In entering into multiyear contracts for services under the authority of this section, the head of the agency shall be guided by the following principles:

(1) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the

anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, with due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

(2) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed three years, at prices not to include charges for plant, equipment and other nonrecurring costs, already amortized.

(3) Consideration shall be given to the desirability of reserving in the agency the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

(d) RESTRICTIONS APPLICABLE GENERALLY.—(1) The head of an agency may not initiate under this section a contract for services that includes an unfunded contingent liability in excess of $20,000,000 unless the congressional defense committees are notified of the proposed contract at least 30 days in advance of the award of the proposed contract.

(2) The head of an agency may not initiate a multiyear contract for services under this section if the value of the multiyear contract would exceed $500,000,000 unless authority for the contract is specifically provided by law.

(3) The head of an agency may not terminate a multiyear procurement contract for services until 10 days after the date on which notice of the proposed termination is provided to the congressional defense committees.

(4) Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the head of the agency concerned shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the congressional defense committees, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

(5) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (4), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall give written notification to the congressional defense committees of—

(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

(C) a financial risk assessment of not including budgeting for costs of contract cancellation.

(e) CANCELLATION OR TERMINATION FOR INSUFFICIENT FUNDING AFTER FIRST YEAR.—In the event that funds are not made available for the continuation of a multiyear contract for services into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

(3) funds appropriated for those payments.

(f) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

[(g) Repealed. Pub. L. 108–136, div. A, title VIII, §843(a), Nov. 24, 2003, 117 Stat. 1553.]

(h) MILITARY INSTALLATION DEFINED.—In this section, the term "military installation" has the meaning given such term in section 2801(c)(4) of this title.

(Added Pub. L. 116–283, div. A, title XVIII, §1822(c), formerly §1822(m), Jan. 1, 2021, 134 Stat. 4203, as renumbered and amended Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(A)(ii), (B), Dec. 27, 2021, 135 Stat. 2143; amended Pub. L. 116–283, div. A, title XVIII, §1822(d), as added Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(D), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–81, div. A, title XVII, §1701(k)(3)(C), Dec. 27, 2021, 135 Stat. 2143.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, §1822(n)–(s), which had initially directed the transfers of various subsections of section 2306c of this title to sections 3531 to 3535, was struck out by Pub. L. 117–81, §1701(k)(3)(C). Instead, Pub. L. 116–283, §1822(d), as added by Pub. L. 117–81, §1701(k)(3)(D), directed the transfer of section 2306c of this title in its entirety to this section, thereby omitting what would have been sections 3532 to 3535 of this title. The transfer of section 2306c to this section was executed by transferring the text only of section 2306c, as the section designation and catchline had already been enacted by Pub. L. 116–283, §1822(c), formerly §1822(m), as renumbered and amended by Pub. L. 117–81, §1701(k)(3)(A)(ii), (B).

The text of section 2306c of this title, which was transferred to this section by Pub. L. 116–283, §1822(d), as added by Pub. L. 117–81, §1701(k)(3)(D), was based on Pub. L. 106–398, §1 [[div. A], title VIII, §802(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–203; Pub. L. 107–314, div. A, title VIII, §§811(a), 827, Dec. 2, 2002, 116 Stat. 2608, 2617; Pub. L. 108–136, div. A, title VIII, §843(a), title X, §1043(c)(1), Nov. 24, 2003, 117 Stat. 1553, 1611; Pub. L. 108–375, div. A, title VIII, §814(b), Oct. 28, 2004, 118 Stat. 2014; Pub. L. 111–84, div. A, title X, §1073(a)(22), Oct. 28, 2009, 123 Stat. 2473.

### PRIOR PROVISIONS

Prior sections 3531 and 3532 were repealed by Pub. L. 96–513, title II, §§210, 233(a), 234, title VII, §701, Dec. 12, 1980, 94 Stat. 2884, 2887, 2955, effective Sept. 15, 1981.

Section 3531, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, related to appointment of a general officer of the Army as the Chief of Staff to the President.

Section 3532, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, provided that a colonel on the active list of the Regular Army who is detailed as special assistant to the Comptroller of the Department of Defense, has the grade of brigadier general while so serving, unless he is entitled to a higher grade.

Prior sections 3533 and 3534 were renumbered sections 7213 and 7214 of this title, respectively.

A prior section 3535, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, provided that an officer assigned as Assistant to the Chief of Engineers in charge of civil works, including river and harbor and flood control improvements, be entitled to the rank, pay, and allowances of a brigadier general while so serving, prior to repeal by Pub. L. 96–513, title II, §235, title VII, §701, Dec. 12, 1980, 94 Stat. 2887, 2955, effective Sept. 15, 1981.

A prior section 3536 was renumbered section 7216 of this title.

Prior sections 3538 and 3539 were repealed by Pub. L. 90–235, §4(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 759, 760.

Section 3538, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, provided for detail of officers of Ordinance Corps of the Army to serve with the Geological Survey.

Section 3539, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, provided for detail of officers of Army Medical Service for duty with the Service to Armed Forces Division of American National Red Cross and for detail of an officer of Medical Corps of the Army to be in charge of first-aid department of American National Red Cross. See section 711a of this title.

A prior section 3540, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, related to detail of members of regular or reserve components as professors and instructors in military science and tactics to educational institutions, prior to repeal by Pub. L. 88–647, title III, §301(7), Oct. 13, 1964, 78 Stat. 1071. See section 2111 of this title.

Prior sections 3541 and 3542 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(c)(2), 1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2982, 2996, 3026, effective Dec. 1, 1994.

Section 3541, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, authorized President to assign regular and reserve Army officers to National Guard Bureau. See section 10507 of this title.

Section 3542, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, authorized President to detail certain officers as chief and assistant chief of staff of divisions of Army National Guard in Federal service. See section 12502(a) of this title.

A prior section 3543, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, related to number of authorized aides,

prior to repeal by Pub. L. 114–328, div. A, title V, §502(s)(1), Dec. 23, 2016, 130 Stat. 2104.

Prior sections 3544 and 3545 were repealed by Pub. L. 90–235, §4(a)(6), (b)(1), Jan. 2, 1968, 81 Stat. 759, 760.

Section 3544, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, restricted performance of civil functions by commissioned officers of Regular Army. See section 973 of this title.

Section 3545, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, provided that cooking for enlisted members of Army should be superintended by officers of organizations to which members belonged.

A prior section 3546, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, required officers of the Medical Corps and contract surgeons to attend families of members of the Army, prior to repeal by Pub. L. 85–861, §36B(7), Sept. 2, 1958, 72 Stat. 1570.

Prior sections 3547 and 3548 were renumbered sections 7217 and 7218 of this title, respectively.

## AMENDMENTS

**2021**—Pub. L. 117–81, §1701(k)(3)(A)(ii), (B), amended Pub. L. 116–283, §1822(c), formerly §1822(m), which enacted this section, by renumbering such section 1822(m) as 1822(c) and by substituting "Multiyear contracts: acquisition of services" for "Multiyear contracts for acquisition of services: authority; definitions" in section catchline.

Pub. L. 116–283, §1822(n), which had originally transferred subsecs. (a), (b), (f), and (h) of section 2306c of this title to this section, was repealed by Pub. L. 117–81, §1701(k)(3)(C).

Pub. L. 116–283, §1822(d), as added by Pub. L. 117–81, §1701(k)(3)(D), transferred text of section 2306c of this title to this section. See Codification note above.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### PILOT PROGRAM FOR LONGER TERM MULTIYEAR SERVICE CONTRACTS

Pub. L. 115–91, div. A, title VIII, §854, Dec. 12, 2017, 131 Stat. 1492, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a pilot program under which the Secretary may use the authority under subsection (a) of section 2306c of title 10, United States Code [see 10 U.S.C. 3531], to enter into up to five contracts for periods of not more than 10 years for services described in subsection (b) of such section. Each contract entered into pursuant to this subsection may be extended for up to five additional one-year terms.

"(b) STUDY.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall enter into an agreement with an independent organization with relevant expertise to study best practices and lessons learned from using services contracts for periods longer than five years by commercial companies, foreign governments, and State governments, as well as service contracts for periods longer than five years used by the Federal Government, such as energy savings performance contracts (as defined in section to section [sic] 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)).

"(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the study conducted under paragraph (1).

"(c) COMPTROLLER GENERAL REPORT.—Not later than five years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the pilot program carried out under this section."

## [§§3532 to 3535. Omitted]

### EDITORIAL NOTES

### CODIFICATION

See Codification note set out under section 3531 of this title.

## SUBCHAPTER III—OTHER AUTHORITIES RELATING TO MULTIYEAR CONTRACTS

Sec.
3551. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(k)(4), Dec. 27, 2021, 135 Stat. 2144, amended Pub. L. 116–283, div. A, title XVIII, §1822(e)(1), formerly §1822(t)(1), Jan. 1, 2021, 134 Stat. 4204, which added this analysis, by renumbering such section 1822(t)(1) as 1822(e)(1).

## §3551. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products

(a) TEN-YEAR CONTRACT PERIOD.—The Secretary of Defense may enter into a contract for a period of up to 10 years for the purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products for the support of a United States national security program or a United States space program.

(b) EXTENSIONS.—A contract entered into for more than one year under the authority of subsection (a) may be extended for a total of not more than 10 years pursuant to any option or options set forth in the contract.

(Added Pub. L. 107–314, div. A, title VIII, §826(a), Dec. 2, 2002, 116 Stat. 2617, §2410o; renumbered §3551, Pub. L. 116–283, div. A, title XVIII, §1822(e)(2), formerly §1822(t)(2), Jan. 1, 2021, 134 Stat. 4205, renumbered Pub. L. 117–81, div. A, title XVII, §1701(k)(4), Dec. 27, 2021, 135 Stat. 2144.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410o of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 251—SIMPLIFIED ACQUISITION PROCEDURES

Sec.
3571. Simplified acquisition threshold.
3572. Implementation of simplified acquisition procedures.
3573. Micro-purchase threshold.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 251 "SIMPLIFIED ACQUISITION PROCEDURES", consisting of reserved section 3551, was repealed by Pub. L. 116–283, div. A, title XVIII, §1823(a), Jan. 1, 2021, 134 Stat. 4205.

## §3571. Simplified acquisition threshold

(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 3063 of this title, the simplified acquisition threshold is as specified in section 134 of title 41.

(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 1905 of title 41 shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.

(Added and amended Pub. L. 103–355, title IV, §§4002(a), 4102(a), Oct. 13, 1994, 108 Stat. 3338, 3340, §2302a; Pub. L. 111–350, §5(b)(9), Jan. 4, 2011, 124 Stat. 3843; renumbered §3571 and amended Pub. L. 116–283, div. A, title XVIII, §1823(b), (c)(1), Jan. 1, 2021, 134 Stat. 4205.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 3571, act Aug. 10, 1956, ch. 1041, 70A Stat. 204; Pub. L. 85–861, §1(85), Sept. 2, 1958, 72 Stat. 1481; Pub. L. 86–559, §1(21), June 30, 1960, 74 Stat. 271, provided that commissioned officers of the Army on active duty in the same grade rank among themselves according to date of rank and specified procedures for determining date of rank, prior to repeal by Pub. L. 96–513, title II, §211, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 741 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1823(b), renumbered section 2302a of this title as this section.

Subsec. (a). Pub. L. 116–283, §1823(c)(1), substituted "section 3063" for "section 2303".

**2011**—Subsec. (a). Pub. L. 111–350, §5(b)(9)(A), substituted "section 134 of title 41" for "section 4(11) of the Office of Federal Procurement Policy Act".

Subsec. (b). Pub. L. 111–350, §5(b)(9)(B), substituted "section 1905 of title 41" for "section 33 of the Office of Federal Procurement Policy Act".

**1994**—Subsec. (b). Pub. L. 103–355, §4102(a), added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## §3572. Implementation of simplified acquisition procedures

The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 1901 of title 41 shall apply as provided in such section to the agencies named in section 3063 of this title.

(Added Pub. L. 103–355, title IV, §4203(a)(1), Oct. 13, 1994, 108 Stat. 3345, §2302b; amended Pub. L. 111–350, §5(b)(10), Jan. 4, 2011, 124 Stat. 3843; renumbered §3572 and amended Pub. L. 116–283, div. A, title XVIII, §1823(b), (c)(2), Jan. 1, 2021, 134 Stat. 4205.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3572 was renumbered section 7222 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2302b of this title as this section and substituted "section 3063" for "section 2303(a)".

**2011**—Pub. L. 111–350 substituted "section 1901 of title 41" for "section 31 of the Office of Federal Procurement Policy Act".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## §3573. Micro-purchase threshold

The micro-purchase threshold for the Department of Defense is $10,000.

(Added Pub. L. 114–328, div. A, title VIII, §821(a), Dec. 23, 2016, 130 Stat. 2276, §2338; amended Pub. L. 115–232, div. A, title VIII, §821(a), Aug. 13, 2018, 132 Stat. 1853; renumbered §3573, Pub. L. 116–283, div. A, title XVIII, §1823(b), Jan. 1, 2021, 134 Stat. 4205.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 3573 and 3574 were repealed by Pub. L. 96–513, title II, §211, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

Section 3573, act Aug. 10, 1956, ch. 1041, 70A Stat. 204, specified the date of rank of an officer whose regular grade is brigadier general and the date of rank of an officer whose regular grade is major general and provided that the names of general officers of the Regular Army be carried on a seniority list in the order of seniority in both regular grade and date of rank. See section 741 of this title.

Section 3574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 205; Sept. 2, 1958, Pub. L. 85–861, §§1(86), 33(a)(24), 72 Stat. 1481, 1565, provided for determination of rank of commissioned officers of the same grade in the Regular Army who are on the same promotion list, rank of commissioned officers of the same grade in the Regular Army who are not on the same promotion list or not on a promotion list, and rank among graduates of each class at the United States Military, Naval, or Air Force Academies who, upon graduation, are appointed to the Regular Army. See section 741 of this title.

A prior section 3575 was renumbered section 7225 of this title.

Prior sections 3576 and 3578 were repealed by Pub. L. 90–235, §5(a)(2), Jan. 2, 1968, 81 Stat. 761.

Section 3576, act Aug. 10, 1956, ch. 1041, 70A Stat. 205, provided for command when different commands

of the Army and Marine Corps joined or served together. See section 747 of this title.

Section 3578, act Aug. 10, 1956, ch. 1041, 70A Stat. 205, provided for command when two or more commissioned officers of the Army in the same grade were on duty at the same place. See section 749 of this title.

A prior section 3579 was renumbered section 7229 of this title.

A prior section 3580, act Aug. 10, 1956, ch. 1041, 70A Stat. 206, provided that the Secretary of the Army prescribe the military authority that commissioned officers of the Women's Army Corps may exercise, prior to repeal by Pub. L. 95–485, title VIII, §820(f), Oct. 20, 1978, 92 Stat. 1627.

A prior section 3581 was renumbered section 7231 of this title.

A prior section 3582, act Aug. 10, 1956, ch. 1041, 70A Stat. 206, provided that a retired officer has no right to command except when on active duty, prior to repeal by Pub. L. 96–513, title II, §211, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 750 of this title.

A prior section 3583 was renumbered section 7233 of this title.

Prior sections 3611 and 3612 were repealed by Pub. L. 90–235, §8(2), Jan. 2, 1968, 81 Stat. 764.

Section 3611, act Aug. 10, 1956, ch. 1041, 70A Stat. 206, provided that the President could prescribe the uniform of the Army.

Section 3612, act Aug. 10, 1956, ch. 1041, 70A Stat. 206, provided for disposition of uniforms of enlisted members of Army who were discharged and for disposition of uniforms of and issuance of civilian clothing to enlisted members of Army who were discharged otherwise than honorably.

A prior section 3631, act Aug. 10, 1956, ch. 1041, 70A Stat. 207, prohibited officers of the Quartermaster Corps of the Army and officers performing duties of officers of that branch from dealing in quartermaster supplies, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

Prior sections 3632 and 3633 were repealed by Pub. L. 87–649, §§14c(6), (7), 15, Sept. 7, 1962, 76 Stat. 501, 502, effective Nov. 1, 1962.

Section 3632, act Aug. 10, 1956, ch. 1041, 70A Stat. 207, provided for forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs. See section 802 of Title 37, Pay and Allowances of the Uniformed Services.

Section 3633, act Aug. 10, 1956, ch. 1041, 70A Stat. 207, provided for forfeiture of pay of commissioned officers when dropped from rolls. See section 803 of Title 37.

A prior section 3634, act Aug. 10, 1956, ch. 1041, 70A Stat. 207; Pub. L. 101–510, div. A, title III, §327(a), Nov. 5, 1990, 104 Stat. 1531, generally prohibited Army band from being paid for performance outside Army post, prior to repeal by Pub. L. 110–181, div. A, title V, §590(b)(1), Jan. 28, 2008, 122 Stat. 138. See section 974 of this title.

A prior section 3635, act Aug. 10, 1956, ch. 1041, 70A Stat. 207, set forth restrictions on civilian employment for enlisted members of Army on active duty, prior to repeal by Pub. L. 90–235, §6(a)(7), Jan. 2, 1968, 81 Stat. 762.

A prior section 3636, act Aug. 10, 1956, ch. 1041, 70A Stat. 208, provided that pay and allowances do not accrue to an enlisted member of Army who is in confinement under sentence of dishonorable discharge, while execution of sentence to discharge is suspended, prior to repeal by Pub. L. 87–649, §§14c(8), 15, Sept. 7, 1962, 76 Stat. 501, 502, effective Nov. 1, 1962. See section 858b of this title.

A prior section 3637, act Aug. 10, 1956, ch. 1041, 70A Stat. 208, provided that an enlisted member of the Army who deserted forfeited all right to a pension, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

A prior section 3638, act Aug. 10, 1956, ch. 1041, 70A Stat. 208, required enlisted members to make up time lost, prior to repeal by Pub. L. 85–861, §36B(8), Sept. 2, 1958, 72 Stat. 1570. See section 972(a) of this title.

A prior section 3639 was renumbered section 7239 of this title.

## AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2338 of this title as this section.

**2018**—Pub. L. 115–232 substituted "The micro-purchase threshold for the Department of Defense is $10,000" for "Notwithstanding subsection (a) of section 1902 of title 41, the micro-purchase threshold for the Department of Defense for purposes of such section is $5,000".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 253—RAPID ACQUISITION PROCEDURES

Sec.
3601. Procedures for urgent acquisition and deployment of capabilities needed in response to urgent operational needs or vital national security interest.
3602. Middle tier of acquisition for rapid prototyping and rapid fielding.
3603. Software acquisition pathways.
3604. Program to accelerate the procurement and fielding of innovative technologies.
3605. Authority to acquire consumption-based solutions.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 253 "EMERGENCY AND RAPID ACQUISITIONS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3601, was repealed by Pub. L. 116–283, div. A, title XVIII, §1824(a), Jan. 1, 2021, 134 Stat. 4205.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVIII, §1825, Dec. 18, 2025, 139 Stat. 1248, added item 3605. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title VIII, §§804(a), 805(a), 861(a), Dec. 23, 2024, 138 Stat. 1966, 1969, 1999, added items 3602 to 3604. Amendments were made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title VIII, §804(a), Dec. 23, 2022, 136 Stat. 2696, amended chapter analysis generally, substituting "RAPID ACQUISITION PROCEDURES" for "[Reserved]" in heading and item 3601 for former items for subchapters I and II, which were both "[Reserved]".

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(5)(B)(i), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116–283, div. A, title XVIII, §1824(a), Jan. 1, 2021, 134 Stat. 4205, which added this analysis, by substituting "[Reserved]" for "RAPID ACQUISITION PROCEDURES" in chapter heading.

## §3601. Procedures for urgent acquisition and deployment of capabilities needed in response to urgent operational needs or vital national security interest

(a) PROCEDURES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe procedures for the urgent acquisition and deployment of capabilities needed in response to urgent operational needs. The capabilities for which such procedures may be used in response to an urgent operational need are those—

(A) that, subject to such exceptions as the Secretary considers appropriate for purposes of this section—

(i) can be fielded within a period of two to 24 months;

(ii) do not require substantial development effort;

(iii) are based on technologies that are proven and available; and

(iv) can appropriately be acquired under fixed-price contracts;

(B) that can be developed or procured under a rapid acquisition pathway; or

(C) with respect to an armed attack by a country of concern (as defined in section 1(m) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(m))), to which the United States is not a party, for purposes of—

(i) replenishing United States stockpiles of defense articles when such stockpiles are diminished as a result of the United States providing defense articles in response to such armed attack by a country of concern against—

(I) a United States ally (as that term is defined in section 201(d) of the Act of December 2, 1942, titled "To provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes" (56 Stat. 1028, chapter 668; 42 U.S.C. 1711(d))); or

(II) a United States partner; or

(ii) contracting for the movement or delivery of defense articles transferred to such ally or partner through the President's drawdown authorities under sections 506(a)(1) and 614 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2364) in connection with such response.

(2) RAPID ACQUISITION PATHWAY DEFINED.—In this section, the term "rapid acquisition pathway" means the rapid prototyping or the rapid fielding acquisition pathway authorized under section 3602 of this title.

(b) MATTERS TO BE INCLUDED.—The procedures prescribed under subsection (a) shall include the following:

(1) A process for streamlined communications between the Chairman of the Joint Chiefs of Staff, the acquisition community, and the research and development community, including—

(A) a process for the commanders of the combatant commands and the Chairman of the Joint Chiefs of Staff to communicate their needs to the acquisition community and the research and development community; and

(B) a process for the acquisition community and the research and development community to propose capabilities that meet the needs communicated by the combatant commands and the Chairman of the Joint Chiefs of Staff.

(2) Procedures for demonstrating, rapidly acquiring, and deploying a capability proposed pursuant to paragraph (1)(B), including—

(A) a process for demonstrating and evaluating for current operational purposes the performance of the capability;

(B) a process for developing an acquisition and funding strategy for the deployment of the capability; and

(C) a process for making deployment and utilization determinations based on information obtained pursuant to subparagraphs (A) and (B).

(3) A process to determine the disposition of a capability, including termination (demilitarization or disposal), continued sustainment, or transition to a program of record.

(4) Specific procedures in accordance with section 3602 of this title.

(c) RESPONSE TO COMBAT EMERGENCIES AND CERTAIN URGENT OPERATIONAL NEEDS.—

(1) DETERMINATION OF NEED FOR URGENT ACQUISITION AND DEPLOYMENT .—(A) In the case of any capability that, as determined in writing by the Secretary of Defense, is urgently needed to eliminate a documented deficiency that has resulted in combat casualties, or is likely to result in combat casualties, the Secretary may use the procedures developed under this section in order to accomplish the urgent acquisition and deployment of the needed capability.

(B) In the case of any capability that, as determined in writing by the Secretary of Defense, is urgently needed to eliminate a documented deficiency that impacts an ongoing or anticipated contingency operation and that, if left unfulfilled, could potentially result in loss of life or critical mission failure, the Secretary may use the procedures developed under this section in order to accomplish the urgent acquisition and deployment of the needed capability.

(C)(i) In the case of any cyber capability that, as determined in writing by the Secretary of Defense, is urgently needed to eliminate a deficiency that as the result of a cyber attack has

resulted in critical mission failure, the loss of life, property destruction, or economic effects, or if left unfilled is likely to result in critical mission failure, the loss of life, property destruction, or economic effects, the Secretary may use the procedures developed under this section in order to accomplish the urgent acquisition and deployment of the needed offensive or defensive cyber capability.

(ii) In this subparagraph, the term "cyber attack" means a deliberate action to alter, disrupt, deceive, degrade, or destroy computer systems or networks or the information or programs resident in or transiting these systems or networks.

(2) DESIGNATION OF SENIOR OFFICIAL RESPONSIBLE.—(A)(i) Except as provided under clause (ii), whenever the Secretary of Defense makes a determination under subparagraph (A), (B), or (C) of paragraph (1) that a capability is urgently needed to eliminate a deficiency described in that subparagraph, the Secretary shall designate a senior official of the Department of Defense to ensure that the needed capability is acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the capability within 15 days.

(ii) Clause (i) does not apply to an acquisition initiated in the case of a determination by the Secretary of Defense that funds are necessary to immediately initiate a project under a rapid acquisition pathway if the designated official for acquisitions using such pathway is a service acquisition executive.

(B) Upon designation of a senior official under subparagraph (A) with respect to a needed capability, the Secretary shall authorize that senior official to waive any provision of law or regulation described in subsection (d) that such senior official determines in writing would unnecessarily impede the urgent acquisition and deployment of such capability. In a case in which such capability cannot be acquired without an extensive delay, the senior official shall require that an interim solution be implemented and deployed using the procedures developed under this section to minimize adverse consequences resulting from the urgent need.

(3) USE OF FUNDS.—(A) Subject to subparagraph (C), in any fiscal year in which the Secretary of Defense makes a determination described in subparagraph (A), (B), or (C) of paragraph (1) with respect to a capability, or upon the Secretary making a determination that funds are necessary to immediately initiate a project under a rapid acquisition pathway based on a compelling national security need, the Secretary may use any funds available to the Department of Defense to urgently acquire and deploy such capability or immediately initiate such project, respectively, if the determination includes a written finding that the use of such funds is necessary to address in a timely manner the deficiency documented or identified under such subparagraph (A), (B), or (C) or the compelling national security need identified for purposes of such section 804 pathway,[1] respectively.

(B) The authority provided by this section may only be used to acquire capability—

(i) in the case of determinations by the Secretary under paragraph (1)(A), in an amount aggregating not more than $200,000,000 during any fiscal year;

(ii) in the case of determinations by the Secretary under paragraph (1)(B), in an amount aggregating not more than $200,000,000 during any fiscal year;

(iii) in the case of determinations by the Secretary under paragraph (1)(C), in an amount aggregating not more than $200,000,000 during any fiscal year; and

(iv) in the case of a determination by the Secretary that funds are necessary to immediately initiate a project under a rapid acquisition pathway, in an amount aggregating not more than $50,000,000 during any fiscal year.

(C) In exercising the authority under this section—

(i) none of the amounts appropriated for Operation and Maintenance may be used to carry out this section except for amounts appropriated for—

(I) Operation and Maintenance, Defense-wide;

(II) Operation and Maintenance, Army;

(III) Operation and Maintenance, Navy;

(IV) Operation and Maintenance, Marine Corps;

(V) Operation and Maintenance, Air Force; or
(VI) Operation and Maintenance, Space Force; and

(ii) when funds are utilized for sustainment purposes, this authority may not be used for more than 2 years.

(4) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(A) In the case of a determination by the Secretary of Defense under subparagraph (A) or (C) of paragraph (1), the Secretary shall notify the congressional defense committees of the determination within 15 days after the date of the determination.

(B) In the case of a determination by the Secretary under paragraph (1)(B), the Secretary shall notify the congressional defense committees of the determination at least 10 days before the date on which the determination is effective.

(C) In the case of a determination by the Secretary under paragraph (3)(A) that funds are necessary to immediately initiate a project under a rapid acquisition pathway, the Secretary shall notify the congressional defense committees of the determination within 10 days after the date of the use of such funds.

(D) A notice under this paragraph shall include the following:

(i) Identification of the capability to be acquired.
(ii) The amount anticipated to be expended for the acquisition.
(iii) The source of funds for the acquisition.

(E) A notice under this paragraph shall fulfill any requirement to provide notification to Congress for a program (referred to as a "new start program") that has not previously been specifically authorized by law or for which funds have not previously been appropriated.

(F) A notice under this paragraph shall be provided in consultation with the Director of the Office of Management and Budget.

(5) LIMITATION ON OFFICERS WITH AUTHORITY.—The authority to make determinations under subparagraph (A), (B), or (C) of paragraph (1) and under paragraph (3)(A) that funds are necessary to immediately initiate a project under a rapid acquisition pathway, to designate a senior official responsible under paragraph (3), and to provide notification to the congressional defense committees under paragraph (4) may be exercised only by the Secretary of Defense or the Deputy Secretary of Defense.

(d) AUTHORITY TO WAIVE CERTAIN LAWS AND REGULATIONS.—

(1) AUTHORITY.—Following a determination described in subsection (c)(1), the senior official designated in accordance with subsection (c)(2), with respect to that designation, may waive any provision of law or regulation addressing—

(A) the establishment of a requirement or specification for the capability to be acquired;
(B) the research, development, test, and evaluation of the capability to be acquired;
(C) the production, fielding, and sustainment of the capability to be acquired; or
(D) the solicitation, selection of sources, and award of the contracts for procurement of the capability to be acquired.

(2) LIMITATIONS.—Nothing in this subsection authorizes the waiver of—

(A) the requirements of this section;
(B) any provision of law imposing civil or criminal penalties; or
(C) any provision of law governing the proper expenditure of appropriated funds.

(e) OPERATIONAL ASSESSMENTS.—

(1) IN GENERAL.—The process prescribed under subsection (b)(2)(A) for demonstrating and evaluating for current operational purposes the performance of a capability proposed pursuant to subsection (b)(1)(B) shall include the following:

(A) An operational assessment in accordance with procedures prescribed by the Director of Operational Test and Evaluation.

(B) A requirement to provide information about any deficiency of the capability in meeting the original requirements for the capability (as stated in a statement of the urgent operational need or similar document) to the deployment decision-making authority.

(2) LIMITATION.—The process prescribed under subsection (b)(2)(A) may not include a requirement for any deficiency of capability identified in the operational assessment to be the determining factor in deciding whether to deploy the capability.

(3) DIRECTOR OF OPERATIONAL TEST AND EVALUATION ACCESS.—If a capability is deployed under the procedures prescribed pursuant to this section, or under any other authority, before operational test and evaluation of the capability is completed, the Director of Operational Test and Evaluation shall have access to operational records and data relevant to such capability in accordance with section 139(e)(3) of this title for the purpose of completing operational test and evaluation of the capability. Such access shall be provided in a time and manner determined by the Secretary of Defense consistent with requirements of operational security and other relevant operational requirements.

(Added Pub. L. 117–263, div. A, title VIII, §804(a), Dec. 23, 2022, 136 Stat. 2696; amended Pub. L. 118–31, div. A, title VIII, §831, title XVIII, §1801(a)(28), Dec. 22, 2023, 137 Stat. 336, 684; Pub. L. 118–159, div. A, title VIII, §804(c)(1), title XVII, §1701(a)(37), Dec. 23, 2024, 138 Stat. 1968, 2205; Pub. L. 119–60, div. A, title XVII, §1701(a)(23), Dec. 18, 2025, 139 Stat. 1209.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Such section 804 pathway, referred to in subsec. (c)(3)(A), related to "section 804 rapid acquisition pathway" which is no longer defined in subsec. (a)(2) of this section after amendment by section 804(c)(1)(A)(ii) of Pub. L. 118–159 substituting "rapid acquisition pathway" for "section 804 rapid acquisition pathway" because section 804 of Pub. L. 114–92, formerly set out as a note preceding section 3201 of this title, was repealed by Pub. L. 118–159, div. A, title VIII, §804(b), Dec. 23, 2024, 138 Stat. 1968. See 2024 Amendment note below.

### AMENDMENTS

**2025**—Subsec. (a)(1)(C). Pub. L. 119–60 inserted closing parenthesis after "(22 U.S.C. 2651a(m))".

**2024**—Subsec. (a)(1)(B). Pub. L. 118–159, §804(c)(1)(A)(i), substituted "rapid acquisition pathway" for "section 804 rapid acquisition pathway".

Subsec. (a)(2). Pub. L. 118–159, §1701(a)(37), which directed insertion of "note" before "prec.", could not be executed because "prec." did not appear after the intervening amendment by section 804(c)(1)(A)(ii) of Pub. L. 118–159. See below.

Pub. L. 118–159, §804(c)(1)(A)(ii), amended par. (2) generally. Prior to amendment, text read as follows: "In this section, the term 'section 804 rapid acquisition pathway' means the rapid fielding acquisition pathway or the rapid prototyping acquisition pathway authorized under section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 3201 prec.)."

Subsec. (b)(4). Pub. L. 118–159, §804(c)(1)(B), substituted "section 3602 of this title" for "the guidance developed under section 804(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 3201 note prec.)".

Subsec. (c). Pub. L. 118–159, §804(c)(1)(C), substituted "rapid acquisition pathway" for "section 804 rapid acquisition pathway" wherever appearing.

**2023**—Subsec. (a)(1)(C). Pub. L. 118–31, §831, added subpar. (C).

Subsec. (b)(4). Pub. L. 118–31, §1801(a)(28), inserted "note" before "prec."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### COMBATANT COMMAND EXPERIMENTATION AUTHORITY

Pub. L. 119–60, div. A, title VIII, §873, Dec. 18, 2025, 139 Stat. 1003, provided that:

"(a) AUTHORITY.—Each commander of a combatant command shall have the authority to conduct experimentation, prototyping, and technology demonstrations to support the development and testing of innovative technologies and capability solutions to address operational needs identified by the combatant command.

"(b) PROCEDURES.—The commander of a combatant command may use the special authorities for contracting described in subsection (b) of section 843 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 3601 note) for activities carried out under subsection (a), provided that the procedures described in such section are followed.

"(c) RECOMMENDATION FOR FOLLOW-ON PRODUCTION.—Upon completion of an experiment, prototype, or technology demonstration, if a commander of a combatant command submits to a senior contracting official (as defined in section 1737 of title 10, United States Code) a written determination that the demonstrated technology or capability meets the operational need of the combatant command, such written determination may be used to fulfill the following requirements:

"(1) A justification for using other than competitive procedures under section 3204 of title 10, United States Code, to acquire the technology or capability which was successfully demonstrated.

"(2) A validated capability needs statement or a written determination that the capability is needed to address a deficiency that affects performance of missions assigned to that command.

"(d) SUNSET.—The authority under this section shall terminate on September 30, 2028.

"(e) INCLUSION IN ANNUAL REPORT.—The Chairman on of [sic] the Joint Chiefs of Staff, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall include in each report required after the date of the enactment of this Act [Dec. 18, 2025] by subsection (e) of section 843 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 6 U.S.C. 3601 note) an explanation of each use of the authority under this section during the period covered by the report."

## RAPID RESPONSE TO EMERGENT TECHNOLOGY ADVANCEMENTS OR THREATS

Pub. L. 118–31, div. A, title II, §229, Dec. 22, 2023, 137 Stat. 200, provided that:

"(a) AUTHORITIES.—Upon approval by the Secretary of Defense of a determination described in subsection (b), the Secretary of a military department may use the rapid acquisition and funding authorities established pursuant to section 3601 of title 10, United States Code, to initiate urgent or emerging operational development activities for a period of up to one year, in order to—

"(1) leverage an emergent technological advancement of value to the national defense to address a military service-specific need; or

"(2) provide a rapid response to an emerging threat identified by a military service.

"(b) DETERMINATION.—A determination described in this subsection is a determination by the Secretary of a military department submitted in writing to the Secretary of Defense that provides the following:

"(1) Identification of a compelling urgent or emergency national security need to immediately initiate development activity in anticipation of a programming or budgeting action, in order to leverage an emergent technological advancement or provide a rapid response to an emerging threat.

"(2) Justification for why the effort cannot be delayed until the next submission of the budget of the President (under section 1105(a) of title 31, United States Code) without harming the national defense.

"(3) Funding is identified for the effort in the current fiscal year to initiate the activity.

"(4) An appropriate acquisition pathway and programmed funding for transition to continued development, integration, or sustainment is identified to on-ramp this activity within two years.

"(c) ADDITIONAL PROCEDURES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall amend the procedures for the rapid acquisition and deployment of capabilities needed in response to urgent operational needs prescribed pursuant to such section 3601 to carry out this section. Such updated procedures shall be provided to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] concurrently with the promulgation to the rest of the Department of Defense.

"(2) REQUIREMENTS TO BE INCLUDED.—The procedures amended under paragraph (1) shall include the following requirements:

"(A) FUNDING.—(i) Subject to clause (ii), in any fiscal year in which a determination described in subsection (b) is made, the Secretary of the military department making the determination may initiate the activities authorized under subsection (a) using any funds available to the Secretary for such fiscal year for—

"(I) procurement; or

"(II) research, development, test, and evaluation.

"(ii) The total cost of all developmental activities within the Department of Defense, funded under this section, may not exceed $100,000,000 for any fiscal year.

"(B) WAIVER AUTHORITY.—(i) Subject to clause (ii), the Secretary of the military department making a determination under subsection (b) may issue a waiver under subsection (d) of such section 3601.

"(ii) Chapter 221 of title 10, United States Code, may not be waived pursuant to clause (i).

"(C) TRANSITION.—(i) Any acquisition initiated under subsection (a) shall transition to an appropriate acquisition pathway for transition and integration of the development activity, or be transitioned to a newly established program element or procurement line for completion of such activity.

"(ii)(I) Transition shall be completed within one year of initiation, but may be extended one time only at the discretion of the Secretary of the military department for one additional year.

"(II) In the event an extension determination is made under subclause (I), the affected Secretary of the military department shall submit to the congressional defense committees, not later than 30 days before the extension takes effect, written notification of the extension with a justification for the extension.

"(3) SUBMITTAL TO CONGRESS.—Concurrent with promulgation to the Department of the amendments to the procedures under paragraph (1), the Secretary shall submit to the congressional defense committees the procedures updated by such amendments.

"(d) CONGRESSIONAL NOTIFICATION.—Within 15 days after the Secretary of Defense approves a determination described in subsection (b), the Secretary of the military department making the determination shall provide written notification of such determination to the congressional defense committees following the procedures for notification in subsections (c)(4)(D) and (c)(4)(F) of such section 3601. A notice under this subsection shall be sufficient to fulfill any requirement to provide notification to Congress for a new start program."

## SPECIAL AUTHORITY FOR RAPID CONTRACTING FOR COMMANDERS OF COMBATANT COMMANDS

Pub. L. 118–31, div. A, title VIII, §843, Dec. 22, 2023, 137 Stat. 342, provided that:

"(a) IN GENERAL.—The commander of a combatant command, upon providing a written determination to a senior contracting official (as defined in section 1737 of title 10, United States Code), may request use of the special authorities described in subsection (b)—

"(1) in support of a contingency operation (as defined in section 101(a) of title 10, United States Code);

"(2) to facilitate the defense against or recovery from a cyber attack, nuclear attack, biological attack, chemical attack, or radiological attack against the United States;

"(3) in support of a humanitarian or peacekeeping operation (as the term is defined in section 3015(2) of title 10, United States Code); and

"(4) for purposes of protecting the national security interests of the United States during directed operations that are below the threshold of traditional armed conflict.

"(b) SPECIAL AUTHORITIES DESCRIBED.—The special authorities for contracting that may be used by the senior contracting official to rapidly respond to time-sensitive or unplanned emergency situations are as follows:

"(1) Procedures applicable to purchases below micro-purchase threshold (described in section 1902 of title 41, United States Code), with respect to a single contracting action taken under subsection (a) for a contract to be awarded and performed, or purchase to be made—

"(A) in the United States, with a value less than $15,000; or

"(B) outside the United States, with a value less than $25,000.

"(2) Simplified acquisition procedures (described in section 1901 of title 41, United States Code), with respect to a single contracting action taken under subsection (a) for a contract to be awarded and performed, or purchase to be made—

"(A) in the United States, with a value less than $750,000; or

"(B) outside the United States, with a value less than $1,500,000.

"(3) For simplified procedures for purchases under section 3205 of title 10, United States Code, subsection (a)(2) of such section shall be applied by substituting '$10,000,000' for '$5,000,000'.

"(4) The property or service being procured may be treated as a commercial product or a commercial service for the purpose of carrying out the procurement.

"(c) DETERMINATION.—A written determination required under subsection (a)—

"(1) may include more than one requested action;

"(2) may be directed to more than one senior contracting official; and

"(3) shall include—

"(A) the rationale for the request in accordance with paragraphs (1) through (4) of such subsection;

"(B) a description of any special authority requested; and

"(C) an attestation that funds are available for such special authority.

"(d) SUNSET.—The authority under subsection (a) shall terminate on September 30, 2028.

"(e) ANNUAL REPORT.—Not later than January 15, 2025, and annually thereafter for four years, the Chairman of the Joint Chiefs of Staff, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of the authority under this section for the fiscal year preceding the date of submission of the report. The report shall include a summary of each instance of the authority being used, including—

"(1) an identification of each commander submitting a request under subsection (a);

"(2) an identification of each senior contracting official responding to such request; and

"(3) the specific special authority requested, including an identification of the contractor that performed the contract and the value of the contract."

## NOTICE TO COMMITTEES ON APPROPRIATIONS TO BE CONCURRENTLY SUBMITTED TO SUBCOMMITTEES ON DEFENSE

Pub. L. 119–75, div. A, title VIII, §8070, Feb. 3, 2026, 140 Stat. 216, provided that: "Any notice that is required to be submitted to the Committees on Appropriations of the House of Representatives and the Senate under section 3601 of title 10, United States Code, as added by section 804(a) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 [Pub. L. 117–263] shall be submitted pursuant to that requirement concurrently to the Subcommittees on Defense of the Committees on Appropriations of the House of Representatives and the Senate."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 118–47, div. A, title VIII, §8071, Mar. 23, 2024, 138 Stat. 501.

Pub. L. 117–328, div. C, title VIII, §8072, Dec. 29, 2022, 136 Stat. 4605.

Pub. L. 117–103, div. C, title VIII, §8074, Mar. 15, 2022, 136 Stat. 193, as amended by Pub. L. 117–263, div. A, title VIII, §804(d)(2), Dec. 23, 2022, 136 Stat. 2701.

## RAPID ACQUISITION AND DEPLOYMENT PROCEDURES FOR UNITED STATES SPECIAL OPERATIONS COMMAND

Pub. L. 113–291, div. A, title VIII, §851, Dec. 19, 2014, 128 Stat. 3457, as amended by Pub. L. 117–263, div. A, title VIII, §804(d)(3), Dec. 23, 2022, 136 Stat. 2701, provided that:

"(a) AUTHORITY TO ESTABLISH PROCEDURES.—The Secretary may prescribe procedures for the rapid acquisition and deployment of items for the United States Special Operations Command that are currently under development by the Department of Defense or available from the commercial sector and are—

"(1) urgently needed to react to an enemy threat or to respond to significant and urgent safety situations;

"(2) needed to avoid significant risk of loss of life or mission failure; or

"(3) needed to avoid collateral damage risk where the absence of collateral damage is a requirement for mission success.

"(b) ISSUES TO BE ADDRESSED.—The procedures prescribed under subsection (a) shall include the following:

"(1) A process for streamlined communication between the Commander of the United States Special Operations Command and the acquisition and research and development communities, including—

"(A) a process for the Commander to communicate needs to the acquisition community and the research and development community; and

"(B) a process for the acquisition community and the research and development community to propose items that meet the needs communicated by the Commander.

"(2) Procedures for demonstrating, rapidly acquiring, and deploying items proposed pursuant to paragraph (1)(B), including—

"(A) a process for demonstrating performance and evaluating for current operational purposes the existing capability of an item;

"(B) a process for developing an acquisition and funding strategy for the deployment of an item; and

"(C) a process for making deployment determinations based on information obtained pursuant to subparagraphs (A) and (B).

"(c) TESTING REQUIREMENT.—

"(1) IN GENERAL.—The process for demonstrating performance and evaluating for current operational purposes the existing capability of an item prescribed under subsection (b)(2)(A) shall include—

"(A) an operational assessment in accordance with expedited procedures prescribed by the Director of Operational Testing and Evaluation; and

"(B) a requirement to provide information to the deployment decision-making authority about any deficiency of the item in meeting the original requirements for the item (as stated in an operational requirements document or similar document).

"(2) DEFICIENCY NOT A DETERMINING FACTOR.—The process may not include a requirement for any deficiency of an item to be the determining factor in deciding whether to deploy the item.

"(3) ADDITIONAL REQUIREMENT IN CASE OF DEFICIENCY.—In the case of any deficiency of an item, a decision to deploy the item may be made only if the Commander of the United States Special Operations Command determines that, for reasons of national security, the deficiency of the item is acceptable.

"(d) LIMITATION.—The quantity of items of a system procured using the procedures prescribed pursuant to this section may not exceed the number established for low-rate initial production for the system. Any such items shall be counted for purposes of the number of items of the system that may be procured through low-rate initial production.

"(e) ANNUAL FUNDING LIMITATION.—Of the funds available to the Commander of the United States Special Operations Command in any given fiscal year, not more than $50,000,000 may be used to procure items under this section.

"(f) RELATIONSHIP TO OTHER RAPID ACQUISITION AUTHORITY.—The Commander of the United States Special Operations Command may not use the authority under this section at the same time the Commander uses the authority under section 3601 of title 10, United States Code.

"(g) CONGRESSIONAL NOTIFICATIONS.—

"(1) NOTIFICATION BEFORE PROCEDURES GO INTO EFFECT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] at least 30 days before the procedures prescribed pursuant to this section are made effective.

"(2) NOTIFICATION AFTER USE OF PROCEDURES.—The Secretary of Defense shall notify the congressional defense committees not later than 48 hours after each use of the procedures prescribed pursuant to this section."

[1] *See References in Text note below.*

## §3602. Middle tier of acquisition for rapid prototyping and rapid fielding

(a) GUIDANCE REQUIRED.—The Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Comptroller of the Department of Defense and the Vice Chairman of the Joint Chiefs of Staff, shall establish pathways as described under subsection (b) to establish a process for conducting middle tier acquisitions for programs or projects that are intended to be completed in a period of two to five years.

(b) ACQUISITION PATHWAYS.—The Under Secretary of Defense for Acquisition and Sustainment shall establish the following two acquisition pathways:

(1) RAPID PROTOTYPING.—The rapid prototyping pathway shall provide for the use of innovative technologies to rapidly develop fieldable prototypes to demonstrate new capabilities and meet emerging military needs. The objective of an acquisition program or project under this pathway shall be to field a prototype that can be demonstrated in an operational environment and provide for a residual operational capability within five years of the development of an approved requirement.

(2) RAPID FIELDING.—The rapid fielding pathway shall provide for the use of proven technologies to field production quantities of new or upgraded systems with minimal development

required. The objective of an acquisition program or project under this pathway shall be to begin production within six months and complete fielding within five years of the development of an approved requirement.

(c) EXPEDITED PROCESS.—

(1) IN GENERAL.—Before using the authority under this section, the Under Secretary shall develop a streamlined and coordinated requirements, budget, and acquisition process that results in the development of an approved requirement for each acquisition program or project in a period of not more than six months from the time that the process is initiated. Programs or projects carried out under the authority of this section shall not be subject to the Joint Capabilities Integration and Development System Manual and Department of Defense Directive 5000.01.

(2) RAPID PROTOTYPING.—With respect to the rapid prototyping pathway, the process described in paragraph (1) shall include—

(A) a merit-based process for the consideration of innovative technologies and new capabilities to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders;

(B) a process for developing and implementing acquisition and funding strategies for a program or project to be carried out under such pathway;

(C) a process for demonstrating and evaluating the performance of fieldable prototypes developed pursuant to such program or project in an operational environment;

(D) a process for transitioning successful prototypes to new or existing acquisition programs for production and fielding under the rapid fielding pathway or the major capability acquisition pathway (as defined under Department of Defense Instruction 5000.85 or successor instruction); and

(E) a process for iterating prototyping and fielding within the rapid prototyping pathway that may use a process described in paragraph (4)(F).

(3) RAPID FIELDING.—With respect to the rapid fielding pathway, the process described in paragraph (1) shall include—

(A) a merit-based process for the consideration of existing products and proven technologies to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders;

(B) a process for demonstrating performance and evaluating for current operational purposes the proposed products and technologies;

(C) a process for developing and implementing acquisition and funding strategies for a program or project to be carried out under such pathway;

(D) a process for considering lifecycle costs and addressing issues of logistics support and system interoperability; and

(E) a process for identifying and exploiting opportunities to use the rapid fielding pathway to reduce total ownership costs.

(4) STREAMLINED PROCEDURES.—The process described in paragraph (1) may provide for any of the following streamlined procedures:

(A) The service acquisition executive of the military department concerned may appoint a program manager for a program or project for which the authority under this section is used from among candidates from among civilian employees or members of the armed forces who have significant and relevant experience managing large and complex programs.

(B) A program manager appointed under subparagraph (A) may be provided staff positions for a technical staff, including experts in business management, cost estimation, contracting, auditing, engineering, certification, testing, and logistics, to enable the program manager to manage the program without the technical assistance of another element of the Department of Defense to the maximum extent practicable.

(C) A program manager appointed under subparagraph (A) may, in coordination with the users of the good or service to be acquired under such a program or project and the test

community, to make trade-offs among life-cycle costs, requirements, and schedules to meet the goals of the program or project.

(D) Each service acquisition executive, acting in coordination with the defense acquisition executive, may serve as the decision authority for a program or project for which the authority under this section is used, or shall delegate such decision authority.

(E) A program manager appointed under subparagraph (A) may seek an expedited waiver from any regulatory requirement, or in the case of a statutory requirement, a waiver from Congress, that the program manager determines adds cost, schedule, or performance delays with little or no value to the management of such program or project.

(F) If an operational capability is fielded for a program or project for which the authority under this section is used, the appropriate service acquisition executive may permit continuous iterative prototyping and fielding under the same program or project for an unlimited number of subsequent periods, where each period is intended to be five years.

(Added Pub. L. 118–159, div. A, title VIII, §804(a), Dec. 23, 2024, 138 Stat. 1966.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 114–92, div. A, title VIII, §804, Nov. 25, 2015, 129 Stat. 882, as amended by Pub. L. 114–328, div. A, title VIII, §§849(a), 864(b), 897, title X, §1081(c)(2), Dec. 23, 2016, 130 Stat. 2293, 2304, 2327, 2419; Pub. L. 115–91, div. A, title VIII, §866, Dec. 12, 2017, 131 Stat. 1495; Pub. L. 116–92, div. A, title IX, §902(33), Dec. 20, 2019, 133 Stat. 1546; Pub. L. 116–283, div. A, title VIII, §805, Jan. 1, 2021, 134 Stat. 3742, which was set out in a note preceding section 3201 of this title, prior to repeal by Pub. L. 118–159, div. A, title VIII, §804(b), Dec. 23, 2024, 138 Stat. 1968.

## §3603. Software acquisition pathways

(a) SOFTWARE ACQUISITION AND DEVELOPMENT PATHWAYS.—The Secretary of Defense shall establish pathways as described under subsection (b) to provide for the efficient and effective acquisition, development, integration, and timely delivery of software and covered hardware.

(b) PATHWAYS.—The Secretary of Defense may establish as many pathways under this section as the Secretary determines appropriate and shall establish the following pathways:

(1) APPLICATIONS.—The applications pathway shall provide for the use of rapid development and implementation of applications and other software or software improvements operated by the Department of Defense, which may include applications and associated procurement of covered hardware (including modifications of a type not customarily available in the commercial marketplace to meet Department requirements), commercially available cloud computing platforms, and other nondevelopmental items.

(2) EMBEDDED SYSTEMS.—The embedded systems pathway shall provide for the rapid development and insertion of upgrades and improvements for software and covered hardware embedded in weapon systems and other hardware systems unique to the Department of Defense.

(c) REQUIREMENTS FOR PATHWAYS.—A pathway established under this section shall provide for the use of proven technologies and solutions to continuously engineer and deliver capabilities for software and covered hardware.

(d) CONSIDERATIONS FOR USE OF AUTHORITY.—In using the authority under this section, the Secretary shall consider how such use will—

(1) initiate the engineering of new software capabilities quickly and, if applicable, the integration of such capabilities into covered hardware;

(2) demonstrate the viability and effectiveness of such capabilities for operational use not later than one year after the date on which funds are first obligated to acquire or develop software; and

(3) allow for the continuous updating and delivery of new capabilities not less frequently than

annually to iteratively meet a requirement.

(e) TREATMENT NOT AS MAJOR DEFENSE ACQUISITION PROGRAM.—Software and covered hardware acquired or developed using the authority under this section shall not be treated as a major defense acquisition program for purposes of section 4201 of title 10, United States Code, or Department of Defense Directive 5000.01 without the specific designation of such software and covered hardware by the Under Secretary of Defense for Acquisition and Sustainment or a service acquisition executive.

(f) RISK-BASED APPROACH.—The Secretary of Defense shall use a risk-based approach for the consideration of innovative technologies and new capabilities for software and covered hardware to be acquired or developed under this authority to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders.

(g) EXPEDITED PROCESS.—

(1) IN GENERAL.—A pathway established under this section shall provide for—

(A) a streamlined and coordinated requirements, budget, and acquisition process to support rapid fielding of software applications and of software upgrades to embedded systems for operational use in a period of not more than one year from the time that the process is initiated;

(B) the collection of data on software and covered hardware fielded; and

(C) continuous engagement with the users of software and covered hardware to support—

(i) engineering activities of the Department of Defense; and

(ii) delivery of software and covered hardware for operational use in periods of not more than one year.

(2) EXPEDITED SOFTWARE REQUIREMENTS PROCESS.—

(A) INAPPLICABILITY OF JOINT CAPABILITIES INTEGRATION AND DEVELOPMENT SYSTEM MANUAL.—Software and covered hardware acquisition or development conducted under the authority of this section shall not be subject to the Joint Capabilities Integration and Development System Manual, except pursuant to a modified process specifically provided for the acquisition or development of software by the Vice Chairman of the Joint Chiefs of Staff, in consultation with Under Secretary of Defense for Acquisition and Sustainment and each service acquisition executive.

(B) INAPPLICABILITY OF DEFENSE ACQUISITION SYSTEM DIRECTIVE.—Software and covered hardware acquisition or development conducted under the authority of this section shall not be subject to Department of Defense Directive 5000.01, except when specifically provided for the acquisition or development of software by the Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Vice Chairman of the Joint Chiefs of Staff and each service acquisition executive.

(h) ELEMENTS.—In implementing a pathway established under the authority of this section, the Secretary shall tailor requirements relating to—

(1) iterative development of requirements for software and covered hardware to be acquired or developed under the authority of this section through engagement with the user community and through user feedback, in order to continuously define and update priorities for such requirements;

(2) early identification of the warfighter or user needs including the rationale for how software and covered hardware to be acquired or developed under the authority of this section will be tailored to address such needs;

(3) initial contract requirements and format, including the use of summary-level lists of problems in existing software and desired features or capabilities of new or upgraded software;

(4) continuous refinement and prioritization of contract requirements, informed by continuous engagement with users throughout the period of development and implementation of software and covered hardware to be acquired or developed under this section;

(5) continuous consideration of issues related to lifecycle costs, technical data rights, and systems interoperability;

(6) planning for support of capabilities of software to be acquired or developed under this section if the software developer stops supporting the software;

(7) rapid contracting procedures, including expedited timeframes for making awards, selecting contract types, defining teaming arrangements, and defining options;

(8) program execution processes, including supporting development and test infrastructure, automation and tools, digital engineering, data collection and sharing with Department of Defense stakeholders and with Congress, the role of developmental and operational testing activities, key decision-making and oversight events, and supporting processes and activities (such as independent costing activity, operational demonstration, and performance metrics);

(9) assurances that cybersecurity metrics of the software to be acquired or developed, such as metrics relating to the density of vulnerabilities within the code of such software, the time from vulnerability identification to patch availability, the existence of common weaknesses within such code, and other cybersecurity metrics based on widely-recognized standards and industry best practices, are generated and made available to the Department of Defense and the congressional defense committees;

(10) administrative procedures, including procedures relating to who may initiate and approve an acquisition under this authority, the roles and responsibilities of persons implementing or supporting the use of authority under this section, team selection and staffing process, governance and oversight roles and responsibilities, and appropriate independent technology assessments, testing, and cost estimation (including relevant thresholds or designation criteria);

(11) mechanisms and waivers designed to ensure flexibility in the implementation of a pathway under this section, including the use of other transaction authority, broad agency announcements, and other procedures; and

(12) mechanisms the Secretary will use for appropriate reporting to Congress on the use of the authority under this section, including notice of initiation of the use of a pathway and data regarding individual programs or acquisition activities, how acquisition activities are reflected in budget justification materials or requests to reprogram appropriated funds, and compliance with other reporting requirements.

(i) DEFINITIONS.—In this section:

(1) The term "covered hardware" means hardware—

(A) that is a commercial product (as defined in section 103 of title 41) or a nondevelopmental item; and

(B) in which software acquired under this section is embedded.

(2) The term "nondevelopmental item" has the meaning given in section 110 of title 41.

(Added Pub. L. 118–159, div. A, title VIII, §805(a), Dec. 23, 2024, 138 Stat. 1969; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(24), Dec. 18, 2025, 139 Stat. 1209.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 116–92, div. A, title VIII, §800, Dec. 20, 2019, 133 Stat. 1478, which was set out in a note under section 4571 of this title, prior to repeal by Pub. L. 118–159, div. A, title VIII, §805(c)(1), Dec. 23, 2024, 138 Stat. 1972.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 struck out "Such a pathway shall include the following:" at end.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### GUIDANCE REQUIRED

Pub. L. 118–159, div. A, title VIII, §805(b), Dec. 23, 2024, 138 Stat. 1972, provided that: "Not later than 90

days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue or modify guidance to implement the requirements of this section."

**IMPLEMENTATION OF RECOMMENDATIONS OF THE FINAL REPORT OF THE DEFENSE SCIENCE BOARD TASK FORCE ON THE DESIGN AND ACQUISITION OF SOFTWARE FOR DEFENSE SYSTEMS**

Pub. L. 115–232, div. A, title VIII, §868, Aug. 13, 2018, 132 Stat. 1902, provided that:

"(a) IMPLEMENTATION REQUIRED.—Not later than 18 months after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall, except as provided under subsection (b), commence implementation of each recommendation submitted as part of the final report of the Defense Science Board Task Force on the Design and Acquisition of Software for Defense Systems.

"(b) EXCEPTIONS.—

"(1) DELAYED IMPLEMENTATION.—The Secretary of Defense may commence implementation of a recommendation described under subsection (a) later than the date required under such subsection if the Secretary provides the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with a specific justification for the delay in implementation of such recommendation.

"(2) NONIMPLEMENTATION.—The Secretary of Defense may opt not to implement a recommendation described under subsection (a) if the Secretary provides to the congressional defense committees—

"(A) the reasons for the decision not to implement the recommendation; and

"(B) a summary of the alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

"(c) IMPLEMENTATION PLANS.—For each recommendation that the Secretary is implementing, or that the Secretary plans to implement, the Secretary shall submit to the congressional defense committees—

"(1) a summary of actions that have been taken to implement the recommendation; and

"(2) a schedule, with specific milestones, for completing the implementation of the recommendation."

## §3604. Program to accelerate the procurement and fielding of innovative technologies

(a) PROGRAM.—Subject to availability of appropriations, the Secretary of Defense shall establish a competitive, merit-based program to accelerate the procurement and fielding of innovative technologies by, with respect to such technologies—

(1) reducing acquisition or life-cycle costs;

(2) addressing technical risks;

(3) improving the timeliness and thoroughness of test and evaluation outcomes; and

(4) rapidly implementing such technologies to directly support defense missions.

(b) GUIDELINES.—

(1) IN GENERAL.—The Secretary shall issue guidelines for the operation of the program established under this section.

(2) CONTENTS.—At a minimum, the guidelines for the operation of the program established under this section required under paragraph (1) shall provide for the following:

(A) The issuance of one or more solicitations for proposals by the Department of Defense in support of the program, with a priority established for technologies developed by small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) or nontraditional defense contractors (as defined under section 3014 of this title).

(B) The issuance of not more than two solicitations for proposals by the Department of Defense in support of the program each fiscal year for innovative technologies from entities that, during the one-year period preceding the issuance of the solicitation, have not performed on contracts and subcontracts for the Department under which the aggregate obligations of the Department to such entity for such period exceeds $400,000,000.

(C) A process for—

(i) the review of proposals received in response to a solicitation issued under subparagraph

(A) by the Secretary of Defense and by each Secretary of a military department;

(ii) the merit-based selection of the most promising cost-effective proposals; and

(iii) the procurement of goods or services offered by such a proposal through contracts, cooperative agreements, other transaction authority, or by another appropriate process.

(c) AMOUNT.—The total amount of funding provided for any proposal selected for an award under the program established under this section shall be greater than or equal to $10,000,000 and shall not exceed $50,000,000, unless the Secretary (or designee of the Secretary) approves a greater amount of funding.

(d) DATA COLLECTION.—

(1) PLAN REQUIRED BEFORE IMPLEMENTATION.—The Secretary of Defense may not provide funding under this section until the date on which the Secretary—

(A) completes a plan for carrying out the data collection required under paragraph (2); and

(B) submits the plan to the congressional defense committees.

(2) DATA COLLECTION REQUIRED.—The Secretary of Defense shall collect and analyze data on the program established under this section for the purposes of—

(A) developing and sharing best practices for achieving the objectives of the program;

(B) providing information on the implementation of the program and related policy issues; and

(C) reporting to the congressional defense committees as required under subsection (e).

(e) BIANNUAL REPORT.—Not later than March 1 and September 1 of each year beginning after the date of the enactment of this section, the Secretary of Defense shall submit to the congressional defense committees a report on the program established under this section.

(f) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees within 30 days after funding has been provided for a proposal selected for an award under the program established under this section.

(Added Pub. L. 118–159, div. A, title VIII, §861(a), Dec. 23, 2024, 138 Stat. 1999; amended Pub. L. 119–60, div. A, title VIII, §813, Dec. 18, 2025, 139 Stat. 952.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 117–81, div. A, title VIII, §834, Dec. 27, 2021, 135 Stat. 1835, as amended by Pub. L. 117–263, div. A, title VIII, §845, Dec. 23, 2022, 136 Stat. 2720, which was set out in a note under section 4061 of this title, prior to repeal by Pub. L. 118–159, div. A, title VIII, §861(b), Dec. 23, 2024, 138 Stat. 2000.

**AMENDMENTS**

**2025**—Subsec. (c). Pub. L. 119–60 struck out "Maximum" before "Amount" in heading and inserted "shall be greater than or equal to $10,000,000 and" before "shall not exceed".

## §3605. Authority to acquire consumption-based solutions

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments may acquire services through consumption-based solutions.

(b) GUIDANCE REQUIRED.—The Secretary of Defense shall amend the Department of Defense Supplement to the Federal Acquisition Regulation to implement the authority under subsection (a), including creating a new subcategory of services under part 237 of the Department of Defense

Supplement to the Federal Acquisition Regulation, entitled "Consumption-based solutions", that—

(1) is any combination of hardware, equipment, software, labor, or services that together provides a seamless capability;

(2) has the ability to be metered and billed based on actual usage;

(3) has predetermined pricing at fixed-price units;

(4) requires the awardee to notify the Department of Defense contracting officer when consumption under the contract reaches 75 percent and 90 percent of the funded amount, respectively, of the contract; and

(5) treats modifications to a contract entered into under the authority established in subsection (a) to add new features or capabilities in an amount less than or equal to 25 percent of the total value of such contract, as originally awarded, as procurements made using competitive procedures for the purposes of chapter 221 of this title.

(c) FUNDING.—Amounts authorized to be appropriated for acquisitions using the authority under subsection (a)—

(1) may be used for expenses for—

(A) research, development, test and evaluation;

(B) procurement;

(C) production;

(D) modification; and

(E) operation and maintenance; and

(2) may be used to enter into incrementally funded contracts or other agreements, including advanced payments.

(d) CONSUMPTION-BASED SOLUTION DEFINED.—In this section, the term "consumption-based solution" means a model under which a service is provided to the Department of Defense and may utilize any combination of software, hardware or equipment, data, and labor or services that provides a capability that is metered and billed based on actual usage at fixed-price units.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of the authority created under this section in combination with another contract type provided for under the Department of Defense Supplement to the Federal Acquisition Regulation.

(Added Pub. L. 119–60, div. A, title XVIII, §1825, Dec. 18, 2025, 139 Stat. 1248.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON THE USE OF CONSUMPTION-BASED SOLUTIONS TO ADDRESS SOFTWARE-INTENSIVE WARFIGHTING CAPABILITY

Pub. L. 116–283, div. A, title VIII, §834, Jan. 1, 2021, 134 Stat. 3754, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Defense is authorized to establish a pilot program to explore the use of consumption-based solutions to address software-intensive warfighting capability.

"(b) SELECTION OF INITIATIVES.—Each Secretary of a military department and each commander of a combatant command with acquisition authority shall propose for selection by the Secretary of Defense for the pilot program at least one and not more than three initiatives that are well-suited to explore consumption-based solutions, to include addressing software-intensive warfighting capability. The initiatives may be new or existing programs of record, and may include applications that—

"(1) rapidly analyze sensor data;

"(2) secure warfighter networks, including multilevel security;

"(3) swiftly transport information across various networks and network modalities;

"(4) enable joint all-domain operational concepts, including in a contested environment; or

"(5) advance military capabilities and effectiveness.

"(c) REQUIREMENTS.—A contract or other agreement for consumption-based solutions entered into

under the pilot program shall require—

"(1) the effectiveness of the solution to be measurable at regular intervals customary for the type of solution provided under contract or other agreement; and

"(2) that the awardee notify the Secretary of Defense when consumption under the contract or other agreement reaches 75 percent and 90 percent of the funded amount, respectively, of the contract or other agreement.

"(d) EXEMPTION.—A modification to a contract or other agreement entered into under this section to add new features or capabilities in an amount less than or equal to 25 percent of the total value of such contract or other agreement shall be exempt from the requirements of full and open competition (as defined in section 2302 of title 10, United States Code [see 10 U.S.C. 3011]).

"(e) DURATION.—The duration of a contract or other agreement entered into under this section may not exceed three years.

"(f) MONITORING AND EVALUATION OF PILOT PROGRAM.—The Director of Cost Assessment and Program Evaluation shall continuously monitor and evaluate the pilot program, including by collecting data on cost, schedule, and performance from the program office, the user community, and the awardees involved in the program.

"(g) REPORTS.—

"(1) INITIAL REPORT.—Not later than May 15, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on initiatives selected for the pilot program, roles, and responsibilities for implementing the program, and the monitoring and evaluation approach that will be used for the program.

"(2) PROGRESS REPORT.—Not later than October 15, 2021, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the initiatives selected for the pilot program.

"(3) FINAL REPORT.—Not later than 3 years after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees a report on the cost, schedule, and performance outcomes of the initiatives carried out under the pilot program. The report shall also include lessons learned about the use of consumption-based solutions for software-intensive capabilities and any recommendations for statutory or regulatory changes to facilitate the use of such solutions.

"(h) CONSUMPTION-BASED SOLUTION DEFINED.—In this section, the term 'consumption-based solution' means any combination of software, hardware or equipment, and labor or services that provides a seamless capability that is metered and billed based on actual usage and predetermined pricing per resource unit, and includes the ability to rapidly scale capacity up or down."

# CHAPTER 255—CONTRACTING WITH OR THROUGH OTHER AGENCIES

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, added chapter heading.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEFENSE PROCUREMENTS MADE THROUGH CONTRACTS OF OTHER AGENCIES

Pub. L. 108–375, div. A, title VIII, §854, Oct. 28, 2004, 118 Stat. 2022, provided that:

"(a) LIMITATION.—The head of an agency may not procure goods or services (under section 1535 of title 31, United States Code, pursuant to a designation under section 11302(e) of title 40, United States Code, or otherwise) through a contract entered into by an agency outside the Department of Defense for an amount greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code [now 10 U.S.C. 3205], unless the procurement is done in accordance with procedures prescribed by that head of an agency for reviewing and approving the use of such contracts.

"(b) EFFECTIVE DATE.—The limitation in subsection (a) shall apply only with respect to orders for goods or services that are issued by the head of an agency to an agency outside the Department of Defense on or after the date that is 180 days after the date of the enactment of this Act [Oct. 28, 2004].

"(c) INAPPLICABILITY TO CONTRACTS FOR CERTAIN SERVICES.—This section does not apply to procurements of the following services:

"(1) Printing, binding, or blank-book work to which section 502 of title 44, United States Code, applies.

"(2) Services available under programs pursuant to section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 114 Stat. 2187; 2 U.S.C. 182c).

"(d) ANNUAL REPORT.—(1) For each of fiscal years 2005 and 2006, each head of an agency shall submit to the Secretary of Defense a report on the service charges imposed on purchases made for an amount greater than the simplified acquisition threshold during such fiscal year through a contract entered into by an agency outside the Department of Defense.

"(2) In the case of procurements made on orders issued by the head of a Defense Agency, Department of Defense Field Activity, or any other organization within the Department of Defense (other than a military department) under the authority of the Secretary of Defense as the head of an agency, the report under paragraph (1) shall be submitted by the head of that Defense Agency, Department of Defense Field Activity, or other organization, respectively.

"(3) The report for a fiscal year under this subsection shall be submitted not later than December 31 of the calendar year in which such fiscal year ends.

"(e) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force.

"(2) The term 'Defense Agency' has the meaning given such term in section 101(a)(11) of title 10, United States Code.

"(3) The term 'Department of Defense Field Activity' has the meaning given such term in section 101(a)(12) of such title."

## PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS

Pub. L. 107–107, div. A, title III, §318, Dec. 28, 2001, 115 Stat. 1055, provided that:

"(a) DEFENSE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by the Administrator for the Department of Defense fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

"(2) The Secretary, in consultation with the Administrator, may waive the policy regarding the procurement of hybrid vehicles in paragraph (1) to the extent that the Secretary determines necessary—

"(A) in the case of trucks that are exempt from the requirements of section 303 of the Energy Policy Act of 1992 for national security reasons under subsection (b)(3)(E) of such section, to meet specific requirements of the Department of Defense for capabilities of light duty trucks;

"(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government; or

"(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles.

"(3) This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

"(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the Department of Defense to which section 303 of the Energy Policy Act of 1992 [42 U.S.C. 13212] applies—

"(A) five percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and

"(B) ten percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.

"(2) Light duty trucks acquired for the Department of Defense that are counted to comply with section 303 of the Energy Policy Act of 1992 for a fiscal year shall be counted to determine the total number of light duty trucks procured for the Department of Defense for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.

"(c) REPORT ON PLANS FOR IMPLEMENTATION.—At the same time that the President submits the

budget for fiscal year 2003 to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the plans for carrying out subsections (a) and (b).

"(d) DEFINITIONS.—In this section:

"(1) The term 'hybrid vehicle' means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

"(A) an internal combustion or heat engine using combustible fuel; and

"(B) a rechargeable energy storage system.

"(2) The term 'alternative fueled vehicle' has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)."

## §3651. [Reserved]

[Reserved]

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 3661 to 3663 were repealed by Pub. L. 90–377, §6(1), July 5, 1968, 82 Stat. 288.

Section 3661, act Aug. 10, 1956, ch. 1041, 70A Stat. 208, provided for organization and administration of United States Disciplinary Barracks.

Section 3662, act Aug. 10, 1956, ch. 1041, 70A Stat. 209, provided for military training, organization, and equipping of prisoners who have been sent to United States Disciplinary Barracks.

Section 3663, act Aug. 10, 1956, ch. 1041, 70A Stat. 209, authorized Secretary of the Army to parole or remit sentence and restore to duty offenders who are confined in United States Disciplinary Barracks.

# CHAPTER 257—CONTRACTS FOR LONG-TERM LEASE OR CHARTER OF VESSELS, AIRCRAFT, AND COMBAT VEHICLES

Sec.

3671. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.

3672. Requirement of specific authorization by law for appropriation, and for obligation and expenditure, of funds for certain contracts relating to aircraft, naval vessels, and combat vehicles.

3673. Limitation on indemnification.

3674. Long-term lease or charter defined; substantial termination liability.

3675. Capital lease or lease-purchase treated as an acquisition.

3676. Guidelines.

3677. Contracts for lease or use of vessels for a term of greater than two years but less than five years: prior notice to congressional committees.

[3678. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(6), Dec. 18, 2025, 139 Stat. 948, struck out item 3678 "Contracts with terms of 18 months or more: limitation". Amendment was made pursuant to operation of section 102 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### RIDING GANG MEMBER REQUIREMENTS

Pub. L. 109–364, div. A, title X, §1018, Oct. 17, 2006, 120 Stat. 2380, as amended by Pub. L. 110–417, div. C, title XXXV, §3504, Oct. 14, 2008, 122 Stat. 4762, provided that:

"(a) IN GENERAL.—The Secretary of Defense may not award, renew, extend, or exercise an option to extend any charter of a vessel documented under chapter 121 of title 46, United States Code, for the Department of Defense, or any contract for the carriage of cargo by a vessel documented under that chapter for the Department of Defense, unless the charter or contract, respectively, includes provisions that—

"(1) subject to paragraph (2), allow riding gang members to perform work on the vessel during the effective period of the charter or contract only under terms, conditions, restrictions, and requirements as provided in section 8106 of title 46, United States Code; and

"(2) require that riding gang members hold a merchant mariner's document issued under chapter 73 of title 46, United States Code, or a transportation security card issued under section 70105 of such title.

"(b) EXEMPTION.—

"(1) IN GENERAL.—In accordance with regulations issued by the Secretary of Defense, an individual shall not be treated as a riding gang member for the purposes of section 8106 of title 46, United States Code, and this section if—

"(A) the individual is aboard a vessel that is under charter or contract for the carriage of cargo for the Department of Defense, for purposes other than engaging in the operation or maintenance of the vessel; and

"(B) the individual—

"(i) accompanies, supervises, guards, or maintains unit equipment aboard a ship, commonly referred to as supercargo personnel;

"(ii) is one of the force protection personnel of the vessel;

"(iii) is a specialized repair technician; or

"(iv) is otherwise required by the Secretary of Defense to be aboard the vessel.

"(2) BACKGROUND CHECK.—

"(A) IN GENERAL.—This section shall not apply to an individual unless—

"(i) the name and other necessary identifying information for the individual is submitted to the Secretary for a background check; and

"(ii) except as provided in subparagraph (B), the individual successfully passes a background check by the Secretary prior to going aboard the vessel.

"(B) WAIVER.—The Secretary may waive the application of subparagraph (A)(ii) for an individual who holds a merchant mariner's document issued under chapter 73 of title 46, United States Code, or a transportation security card issued under section 70105 of such title.

"(3) EXEMPTED INDIVIDUAL NOT TREATED AS IN ADDITION TO THE CREW.—An individual who, under paragraph (1), is not treated as a riding gang member shall not be counted as an individual in addition to the crew for the purposes of section 3304 of title 46, United States Code."

[Amendments made by Pub. L. 117–263 to section 70105 of Title 46, Shipping, referred to in section 1018(a)(2), (b)(2)(B) of Pub. L. 109–364, set out above, are such that section 70105 now refers to "transportation worker identification credential" rather than "transportation security card". See section 70105 of Title 46.]

## §3671. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles

(a)(1) The Secretary of a military department may make a contract for the lease of a vessel, aircraft, or combat vehicle or for the provision of a service through use by a contractor of a vessel, aircraft, or combat vehicle only as provided in subsection (b) if—

(A) the contract will be a long-term lease or charter; or

(B) the terms of the contract provide for a substantial termination liability on the part of the United States.

(2) The Secretary of a military department may make a contract that is an agreement to lease or charter or an agreement to provide services and that is (or will be) accompanied by a contract for the actual lease, charter, or provision of services only as provided in subsection (b) if the contract for the actual lease, charter, or provision of services is (or will be) a contract described in paragraph (1).

(b)(1) The Secretary may make a contract described in subsection (a)(1) if—

(A) the Secretary has been specifically authorized by law to make the contract;

(B) before a solicitation for proposals for the contract was issued the Secretary notified the

congressional defense committees of the Secretary's intention to issue such a solicitation;

(C) the Secretary has notified those committees of the proposed contract and provided a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than providing for the lease, charter, or services involved through purchase of the vessel, aircraft, or combat vehicle to be used under the contract, and a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees; and

(D) the Secretary has certified to those committees—

(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations.

(2) For purposes of paragraph (1)(C), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in a computation of such 30-day period.

(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).

(5) In the case of a contract described in subsection (a)(1)(B), the commander of the special operations command may make a contract without regard to this subsection if funds are available and obligated for the full cost of the contract (including termination costs) on or before the date the contract is awarded.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (b), Jan. 1, 2021, 134 Stat. 4206; Pub. L. 118–159, div. A, title VIII, §811(b), Dec. 23, 2024, 138 Stat. 1979.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2401 of this title, which was transferred to this section by Pub. L. 116–283, §1825(b), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 109–163, div. A, title VIII, §815(a)(1), Jan. 6, 2006, 119 Stat. 3381.

The text of subsec. (b) of section 2401 of this title, which was transferred to this section by Pub. L. 116–283, §1825(b), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 104–106, div. A, title XV, §§1502(a)(20), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(13)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 109–163, div. A, title VIII, §815(a)(1), (b), Jan. 6, 2006, 119 Stat. 3381; Pub. L. 110–181, div. A, title VIII, §824, Jan. 28, 2008, 122 Stat. 227; Pub. L. 112–239, div. A, title X, §1076(f)(26), Jan. 2, 2013, 126 Stat. 1953.

### AMENDMENTS

**2024**—Subsec. (b)(5). Pub. L. 118–159 substituted "subsection if funds" for "subsection if—(A) funds" and period for semicolon at end and struck out former subpars. (B) and (C) which read as follows:

"(B) the Secretary of Defense submits to the congressional defense committees a certification that there is no alternative for meeting urgent operational requirements other than making the contract; and

"(C) a period of 30 days of continuous session of Congress has expired following the date on which the certification was received by such committees."

**2021**—Pub. L. 116–283, §1825(b), transferred subsecs. (a) and (b) of section 2401 of this title to this

section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM

Pub. L. 107–206, title I, §308, Aug. 2, 2002, 116 Stat. 841, provided that: "During the current fiscal year and hereafter, section 2533a of title 10, United States Code [now 10 U.S.C. 4862], shall not apply to any transaction entered into to acquire or sustain aircraft under the authority of section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284) [set out below]."

Pub. L. 107–117, div. A, title VIII, §8159, Jan. 10, 2002, 115 Stat. 2284, as amended by Pub. L. 107–248, title VIII, §8117, Oct. 23, 2002, 116 Stat. 1564; Pub. L. 113–76, div. C, title VIII, §8122, Jan. 17, 2014, 128 Stat. 133, provided that:

"(a) The Secretary of the Air Force may, from funds provided in this Act [see Tables for classification] or any future appropriations Act, establish and make payments on a multi-year pilot program for leasing general purpose Boeing 767 aircraft and Boeing 737 aircraft in commercial configuration.

"(b) Sections 2401 [see 10 U.S.C. 3671 et seq.] and 2401a [see former 10 U.S.C. 3678, 10 U.S.C. 3681] of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

"(c) Under the aircraft lease Pilot Program authorized by this section:

"(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein. Notwithstanding the provisions of Section [sic] 3324 of Title 31, United States Code, payment for the acquisition of leasehold interests under this section may be made for each annual term up to one year in advance.

"(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

"(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of 1 year's lease payment under the lease.

"(4) Subchapter IV of chapter 15 of title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

"(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

"(6) Lease arrangements authorized by this section may not commence until:

"(A) The Secretary submits a report to the congressional defense committees [Committees on Armed Services of the Senate and the House of Representatives and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

"(B) A period of not less than 30 calendar days has elapsed after submitting the report.

"[(7) Repealed. Pub. L. 113–76, div. C, title VIII, §8122, Jan. 17, 2014, 128 Stat. 133.]

"(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

"(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

"(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

"(d) No lease entered into under this authority shall provide for—

"(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

"(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

"(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

"(f) The authority provided under this section may be used to lease not more than a total of 100 Boeing 767 aircraft and 4 Boeing 737 aircraft for the purposes specified herein.

"(g) Notwithstanding any other provision of law, any payments required for a lease entered into under this Section, or any payments made pursuant to subsection (c)(3) above, may be made from appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the lease takes effect; appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the payment is due; or funds appropriated for those payments."

**LEASE OF FIREFIGHTING, CRASH RESCUE, AND SNOW REMOVAL EQUIPMENT**

Pub. L. 105–262, title VIII, §8126, Oct. 17, 1998, 112 Stat. 2333, provided that:

"(a) The Secretary of the Army and the Secretary of the Air Force may each enter into one or more multiyear leases of nontactical firefighting equipment, nontactical crash rescue equipment, or nontactical snow removal equipment. The period of a lease entered into under this section shall be for any period not in excess of 10 years. Any such lease shall provide that performance under the lease during the second and subsequent years of the contract is contingent upon the appropriation of funds and shall provide for a cancellation payment to be made to the lessor if such appropriations are not made.

"(b) Lease payments made under subsection (a) shall be made from amounts provided in this or future appropriations Acts.

"(c) This section is effective for all fiscal years beginning after September 30, 1998."

## §3672. Requirement of specific authorization by law for appropriation, and for obligation and expenditure, of funds for certain contracts relating to aircraft, naval vessels, and combat vehicles

(a) LIMITATION.—Funds may not be appropriated for any fiscal year to or for any armed force or obligated or expended for—

(1) the long-term lease or charter of any aircraft, naval vessel, or combat vehicle; or

(2) for the lease or charter of any aircraft, naval vessel, or combat vehicle the terms of which provide for a substantial termination liability on the part of the United States,

unless funds for that purpose have been specifically authorized by law.

(b) MATTER TO BE SUBMITTED TO CONGRESS.—(1) Whenever a request is submitted to Congress for the authorization of the long-term lease or charter of aircraft, naval vessels, or combat vehicles or for the authorization of a lease or charter of aircraft, naval vessels, or combat vehicles which provides for a substantial termination liability on the part of the United States, the Secretary of Defense shall submit with that request an analysis of the cost to the United States (including lost tax revenues) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft, naval vessels, or combat vehicles by the United States.

(2) Any such analysis shall be reviewed and evaluated by the Director of the Office of Management and Budget and the Secretary of the Treasury within 30 days after the date on which the request and analysis are submitted to Congress. The Director and Secretary shall conduct such review and evaluation on the basis of the guidelines issued pursuant to section 3676 of this title and shall report to Congress in writing on the results of their review and evaluation at the earliest practicable date, but in no event more than 45 days after the date on which the request and analysis are submitted to the Congress.

(3) Whenever a request is submitted to Congress for the authorization of funds for the Department of Defense for the long-term lease or charter of aircraft, naval vessels, or combat vehicles authorized under this chapter, the Secretary of Defense—

(A) shall indicate in the request what portion of the requested funds is attributable to capital-hire; and

(B) shall reflect such portion in the appropriate procurement account in the request.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (d), (e), Jan. 1, 2021, 134 Stat. 4206, 4207.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (1) of subsec. (c) of section 2401 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1825(d), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 98–525, title XII, §1232(a)(1), Oct. 19, 1984, 98 Stat. 2600; Pub. L. 109–163, div. A, title VIII, §815(a)(2), Jan. 6, 2006, 119 Stat. 3381.

The text of subsec. (e) of section 2401 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1825(e), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 109–163, div. A, title VIII, §815(a)(3), Jan. 6, 2006, 119 Stat. 3381; Pub. L. 116–92, div. A, title XVII, §1731(a)(48), Dec. 20, 2019, 133 Stat. 1815.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1825(d), after transfer of par. (2) of section 2401(c) of this title to section 3673 of this title, redesignated remainder of subsec. (c) of section 2401 of this title as subsec. (a) of this section, inserted heading, struck out par. (1) designation before "Funds may not", and redesignated subpars. (A) and (B) of such former par. (1) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1825(e), redesignated subsec. (e) of section 2401 of this title as subsec. (b) of this section, inserted heading, and substituted "section 3676 of this title" for "subsection (g)" in par. (2) and "this chapter" for "this section" in introductory provisions of par. (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3673. Limitation on indemnification

Funds appropriated to the Department of Defense may not be used to indemnify any person under the terms of a contract entered into under this chapter—

(1) for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1986; or

(2) to pay any attorneys' fees in connection with such contract.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (c), Jan. 1, 2021, 134 Stat. 4206.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in par. (1), is classified generally to Title 26, Internal Revenue Code.

### CODIFICATION

The text of par. (2) of subsec. (c) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(c), was based on Pub. L. 98–525, title XII, §1232(a)(1)(C), Oct. 19, 1984, 98 Stat. 2600; Pub. L. 103–35, title II, §201(c)(6), May 31, 1993, 107 Stat. 98; Pub. L. 104–106, div. A, title XV, §1503(a)(21), Feb. 10, 1996, 110 Stat. 512.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(c), transferred par. (2) of section 2401(c) of this title to this section, struck

out par. (2) designation at beginning, substituted "this chapter" for "this section" in introductory provisions, and redesignated subpars. (A) and (B) of such former par. (2) as pars. (1) and (2), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3674. Long-term lease or charter defined; substantial termination liability

(a) LONG-TERM LEASE OR CHARTER.—

(1) GENERAL RULE.—

(A) In this chapter, the term "long-term lease or charter" (except as provided in paragraph (2)) means a lease, charter, service contract, or conditional sale agreement—

(i) the term of which is for a period of five years or longer or more than one-half the useful life of the vessel, aircraft, or combat vehicle; or

(ii) the initial term of which is for a period of less than five years but which contains an option to renew or extend the agreement for a period which, when added to the initial term (or any previous renewal or extension), is five years or longer.

(B) Such term includes the extension or renewal of a lease or charter agreement if the term of the extension or renewal thereof is for a period of five years or longer or if the term of the lease or charter agreement being extended or renewed was for a period of five years or longer.

(2) SPECIAL RULE.—

(A) In the case of an agreement under which the lessor first places the property in service under the agreement or the property has been in service for less than one year and there is allowable to the lessor or charterer an investment tax credit or depreciation for the property leased, chartered, or otherwise provided under the agreement under section 168 of the Internal Revenue Code of 1986 (unless the lessor or charterer has elected depreciation on a straightline method for such property), the term "long-term lease or charter" means a lease, charter, service contract, or conditional sale agreement—

(i) the term of which is for a period of three years or longer; or

(ii) the initial term of which is for a period of less than three years but which contains an option to renew or extend the agreement for a period which, when added to the initial term (or any previous renewal or extension), is three years or longer.

(B) Such term includes the extension or renewal of a lease or charter agreement if the term of the extension or renewal thereof is for a period of three years or longer or if the term of the lease or charter agreement being extended or renewed was for a period of three years or longer.

(b) SUBSTANTIAL TERMINATION LIABILITY.—For the purposes of this chapter, the United States shall be considered to have a substantial termination liability under a contract—

(1) if there is an agreement by the United States under the contract to pay an amount not less than the amount equal to 25 percent of the value of the vessel, aircraft, or combat vehicle under lease or charter, calculated on the basis of the present value of the termination liability of the United States under such charter or lease (as determined under regulations prescribed by the Secretary of Defense); or

(2) if (as determined under regulations prescribed by the Secretary of Defense) the sum of—

(A) the present value of the amount of the termination liability of the United States under the contract as of the end of the term of the contract (exclusive of any option to extend the

contract); and

(B) the present value of the total of the payments to be made by the United States under the contract (excluding any option to extend the contract) attributable to capital-hire,

is more than one-half the price of the vessel, aircraft, or combat vehicle involved.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (f), Jan. 1, 2021, 134 Stat. 4206, 4207.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 168 of the Internal Revenue Code of 1986, referred to in subsec. (a)(2)(A), is classified to section 168 of Title 26, Internal Revenue Code.

#### CODIFICATION

The text of subsec. (d) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(f), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 100–26, §7(h)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 109–163, div. A, title VIII, §815(a)(1), Jan. 6, 2006, 119 Stat. 3381.

#### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(f)(1), transferred subsec. (d) of section 2401 of this title to this section, struck out subsec. (d) designation at beginning, and redesignated pars. (1) and (2) of such former subsec. (d) as subsecs. (a) and (b), respectively.

Subsec. (a). Pub. L. 116–283, §1825(f)(2)(A), (C), (D), (E), after redesignation of section 2401(d)(1) of this title as subsec. (a) of this section, inserted subsec. heading, redesignated subpar. (A)(i) and (ii) and its concluding provisions as par. (1)(A)(i) and (ii) and (B), respectively, redesignated subpar. (B)(i) and (ii) and its concluding provisions as par. (2)(A)(i) and (ii) and (B), respectively, and inserted par. headings.

Subsec. (a)(1)(A). Pub. L. 116–283, §1825(f)(2)(A), (B), substituted "In this chapter" for "In this section" and "paragraph (2)" for "subparagraph (B)" in introductory provisions.

Subsec. (b). Pub. L. 116–283, §1825(f)(3), after redesignation of section 2401(d)(2) of this title as subsec. (b) of this section, inserted heading, substituted "this chapter" for "this section" in introductory provisions, and redesignated subpar. (A) as par. (1) and subpar. (B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3675. Capital lease or lease-purchase treated as an acquisition

(a) IN GENERAL.—If a lease or charter covered by this chapter is a capital lease or a lease-purchase—

(1) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

(2) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

(b) DEFINITIONS.—In this section, the terms "capital lease" and "lease-purchase" have the meanings given those terms in Appendix B to Office of Management and Budget Circular A–11, as in effect on January 6, 2006.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (g), Jan. 1, 2021, 134 Stat. 4206, 4208.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(g), was based on Pub. L. 109–163, div. A, title VIII, §815(c)(2), Jan. 6, 2006, 119 Stat. 3382; Pub. L. 111–84, div. A, title X, §1073(a)(24), Oct. 28, 2009, 123 Stat. 2473.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(g)(1)(A), transferred subsec. (f) of section 2401 of this title to this section, struck out subsec. (f) designation at beginning, and redesignated pars. (1) and (2) of such former subsec. (f) as subsecs. (a) and (b), respectively.

Subsec. (a). Pub. L. 116–283, §1825(g)(2), after redesignation of section 2401(f)(1) of this title as subsec. (a) of this section, inserted heading, substituted "this chapter" for "this section" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1825(g)(3), after redesignation of section 2401(d)(2) of this title as subsec. (b) of this section, inserted heading and substituted "In this section" for "In this subsection".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3676. Guidelines

The Director of the Office of Management and Budget and the Secretary of the Treasury shall jointly issue guidelines for determining under what circumstances the Department of Defense may use lease or charter arrangements for aircraft, naval vessels, and combat vehicles rather than directly procuring such aircraft, vessels, and combat vehicles.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (h), Jan. 1, 2021, 134 Stat. 4206, 4208.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(h), was based on Pub. L. 98–94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 98–525, title XII, §1232(a)(2), Oct. 19, 1984, 98 Stat. 2600; Pub. L. 109–163, div. A, title VIII, §815(c)(1), Jan. 6, 2006, 119 Stat. 3382.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(h), transferred subsec. (g) of section 2401 of this title to this section and struck out subsec. (g) designation at beginning.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3677. Contracts for lease or use of vessels for a term of greater than two years but less than five years: prior notice to congressional committees

The Secretary of a military department may make a contract for the lease of a vessel or for the provision of a service through use by a contractor of a vessel, the term of which is for a period of greater than two years, but less than five years, only if—

(1) the Secretary has notified the congressional defense committees of the proposed contract and included in such notification—

(A) a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than obtaining the capability provided for by the lease, charter, or services involved through purchase of the vessel;

(B) a determination that entering into the proposed contract as a means of obtaining the vessel is the most cost-effective means of obtaining such vessel; and

(C) a plan for meeting the requirement provided by the proposed contract upon completion of the term of the lease contract; and

(2) a period of 60 days has expired following the date on which notice was received by such committees.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (i), Jan. 1, 2021, 134 Stat. 4206, 4208.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (h) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(i), was based on Pub. L. 110–181, div. A, title X, §1011, Jan. 28, 2008, 122 Stat. 303; Pub. L. 112–239, div. A, title VIII, §821, title X, §1076(f)(26), Jan. 2, 2013, 126 Stat. 1830, 1953.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(i), transferred subsec. (h) of section 2401 of this title to this section and struck out subsec. (h) designation at beginning.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## [§3678. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(6), Dec. 18, 2025, 139 Stat. 948]

Section, added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (j), Jan. 1, 2021, 134 Stat. 4206, 4208, related to contracts with terms of 18 months or more: limitation.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### LEASES FOR TANKER AIRCRAFT UNDER MULTIYEAR AIRCRAFT-LEASE PILOT PROGRAM

Pub. L. 107–314, div. A, title I, §133, Dec. 2, 2002, 116 Stat. 2477, which provided that the Secretary of the Air Force could not enter into a lease for the acquisition of tanker aircraft for the Air Force under section 8159 of div. A of Pub. L. 107–117 (10 U.S.C. 3671 note) until certain requirements were met, was repealed by Pub.

L. 119–60, div. A, title VIII, §811(b)(19)(A), Dec. 18, 2025, 139 Stat. 949.

# CHAPTER 258—OTHER TYPES OF CONTRACTS USED FOR PROCUREMENTS FOR PARTICULAR PURPOSES

Sec.
3681. Leasing of commercial vehicles and equipment.

## §3681. Leasing of commercial vehicles and equipment

The Secretary of Defense may use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary determines that such leasing is practicable and efficient.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (k), Jan. 1, 2021, 134 Stat. 4206, 4208.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2401a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(k), was based on Pub. L. 104–106, div. A, title VIII, §807(a)(1)(B), Feb. 10, 1996, 110 Stat. 391; Pub. L. 105–85, div. A, title X, §1073(a)(52), Nov. 18, 1997, 111 Stat. 1903.

### PRIOR PROVISIONS

A prior section 3681 was renumbered section 7251 of this title.

Another prior section 3681, act Aug. 10, 1956, ch. 1041, 70A Stat. 210, related to service listed in the official Army Register, prior to repeal by Pub. L. 85–861, §36B(9), Sept. 2, 1958, 72 Stat. 1570. See section 122 of this title.

A prior section 3682, act Aug. 10, 1956, ch. 1041, 70A Stat. 210, provided that in computing length of service, no commissioned officer of the Army could be credited with service as a cadet at the Military Academy or as a midshipman at the Naval Academy, if he was appointed as a cadet or midshipman after Aug. 24, 1912, prior to repeal by Pub. L. 90–235, §6(a)(2), Jan. 2, 1968, 81 Stat. 761. See section 971 of this title.

A prior section 3683, acts Aug. 10, 1956, ch. 1041, 70A Stat. 210; Aug. 25, 1959, Pub. L. 86–197, §1(4), 73 Stat. 426, related to service credit for certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department, prior to repeal by Pub. L. 99–145, title XIII, §1301(b)(1)(A), Nov. 8, 1985, 99 Stat. 735. Pub. L. 99–145, title XIII, §1301(b)(1)(C), Nov. 8, 1985, 99 Stat. 735, provided that such repeal would not apply in the case of a person who performed active service described in section 3683 of this title as that section was in effect on the day before Nov. 8, 1985.

A prior section 3684 was renumbered section 7252 of this title.

A prior section 3685, acts Aug. 10, 1956, ch. 1041, 70A Stat. 211; Sept. 2, 1958, Pub. L. 85–861, §1(89), 72 Stat. 1482, set forth restrictions on the consideration of a husband or child as the dependent of a female member of the Regular Army, Army National Guard of the United States or Army Reserve, prior to repeal by Pub. L. 90–235, §7(a)(3), Jan. 2, 1968, 81 Stat. 763.

A prior section 3686, acts Aug. 10, 1956, ch. 1041, 70A Stat. 211; Sept. 24, 1980, Pub. L. 96–357, §5(a), 94 Stat. 1182; Oct. 19, 1984, Pub. L. 98–525, title IV, §414(a)(7)(A), 98 Stat. 2519, related to credit to members of Army National Guard of United States for service as members of Army National Guard, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, effective Dec. 1, 1994. See section 12602 of this title.

A prior section 3687, acts Aug. 10, 1956, ch. 1041, 70A Stat. 212; Sept. 2, 1958, Pub. L. 85–861, §1(90), 72 Stat. 1482; Sept. 7, 1962, Pub. L. 87–649, §6(d), 76 Stat. 494, related to compensation for members of Army other than of Regular Army, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), (g), Nov. 14, 1986, 100 Stat. 3877, 3878, applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die.

A prior section 3688, act Aug. 10, 1956, ch. 1041, 70A Stat. 212, related to payment of death gratuity to survivors of members of the Army, prior to repeal by Pub. L. 85–861, §36B(10), Sept. 2, 1958, 72 Stat. 1570. See section 1475 et seq. of this title.

A prior section 3689, acts Aug. 10, 1956, ch. 1041, 70A Stat. 213; Sept. 26, 1961, Pub. L. 87–304, §9(c), 75 Stat. 665, related to assignments and allotments of pay, prior to repeal by Pub. L. 87–649, §§14c(9), 15, Sept. 7, 1962, 76 Stat. 501, 502, effective Nov. 1, 1962. See section 701 of Title 37, Pay and Allowances of the Uniformed Services.

A prior section 3690, act Aug. 10, 1956, ch. 1041, 70A Stat. 213, exempted enlisted members of the Army, while on active duty, from arrest for any debt, unless it was contracted before enlistment and amounted to at least $20 when first contracted, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

Prior section 3691 was renumbered section 7253 of this title.

A prior section 3692, act Aug. 10, 1956, ch. 1041, 70A Stat. 213, provided qualifications to receive a rating as a pilot in time of peace, prior to repeal by Pub. L. 92–168, §1(1), Nov. 24, 1971, 85 Stat. 489. See section 2003 of this title.

A prior section 3693, act Aug. 10, 1956, ch. 1041, 70A Stat. 214, provided for replacement of a lost or destroyed certificate of discharge from Army, prior to repeal by Pub. L. 90–235, §7(a)(3), Jan. 2, 1968, 81 Stat. 763. See section 1041 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1825(k), transferred subsec. (a) of section 2401a of this title to this section and struck out subsec. (a) designation and heading "Leasing of Commercial Vehicles and Equipment" at beginning.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# Subpart D—General Contracting Provisions

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(h)(1), Dec. 27, 2021, 135 Stat. 2140, amended subpart heading generally. Prior to amendment, heading read as follows: "General Contracting Requirements".

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, added subpart heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM TO ACCELERATE CONTRACTING AND PRICING PROCESSES

Pub. L. 115–232, div. A, title VIII, §890, Aug. 13, 2018, 132 Stat. 1919, as amended by Pub. L. 116–92, div. A, title VIII, §825, Dec. 20, 2019, 133 Stat. 1491; Pub. L. 116–283, div. A, title XVIII, §1831(j)(7), Jan. 1, 2021, 134 Stat. 4217; Pub. L. 117–263, div. A, title VIII, §818, Dec. 23, 2022, 136 Stat. 2708; Pub. L. 118–31, div. A, title VIII, §841, Dec. 22, 2023, 137 Stat. 339, which related to a pilot program to accelerate contracting and pricing processes, was transferred to section 3709 of this title and amended by Pub. L. 119–60, div. A, title VIII, §812(c), Dec. 18, 2025, 139 Stat. 952.

### GUIDANCE AND TRAINING RELATED TO EVALUATING REASONABLENESS OF PRICE

Pub. L. 112–239, div. A, title VIII, §831, Jan. 2, 2013, 126 Stat. 1842, as amended by Pub. L. 119–60, div. A, title VIII, §811(d)(2), Dec. 18, 2025, 139 Stat. 951, provided that:

"(a) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue guidance on the use of the authority provided by section 3705 of title 10, United States Code. The guidance shall—

"(1) include standards for determining whether information on the prices at which the same or similar items have previously been sold is adequate for evaluating the reasonableness of price;

"(2) include standards for determining the extent of uncertified cost information that should be required in cases in which price information is not adequate for evaluating the reasonableness of price;

"(3) ensure that in cases in which such uncertified cost information is required, the information shall be provided in the form in which it is regularly maintained by the offeror in its business operations; and

"(4) provide that no additional cost information may be required by the Department of Defense in any case in which there are sufficient non-Government sales to establish reasonableness of price.

"(b) TRAINING AND EXPERTISE.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop and begin implementation of a plan of action to—

"(1) train the acquisition workforce on the use of the authority provided by section 3705 of title 10, United States Code, in evaluating reasonableness of price in procurements of commercial items; and

"(2) develop a cadre of experts within the Department of Defense to provide expert advice to the acquisition workforce in the use of the authority provided by such sections in accordance with the guidance issued pursuant to subsection (a).

"(c) DOCUMENTATION REQUIREMENTS.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall ensure that requests for uncertified cost information for the purposes of evaluating reasonableness of price are sufficiently documented. The Under Secretary shall require that the contract file include, at a minimum, the following:

"(1) A justification of the need for additional cost information.

"(2) A copy of any request from the Department of Defense to a contractor for additional cost information.

"(3) Any response received from the contractor to the request, including any rationale or justification provided by the contractor for a failure to provide the requested information.

"(d) COMPTROLLER GENERAL REVIEW AND REPORT.—

"(1) REVIEW REQUIREMENT.—The Comptroller General of the United States shall conduct a review of data collected pursuant to sections 2306a(d) [now 10 U.S.C. 3705] and 2379 [renumbered as former 10 U.S.C. 3455] of title 10, United States Code, during the two-year period beginning on the date of the enactment of this Act.

"(2) REPORT REQUIREMENT.—Not later than 180 days after the end of the two-year period referred to in paragraph (1), the Comptroller General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on—

"(A) the extent to which the Department of Defense needed access to additional cost information pursuant to sections 2306a(d) [now 10 U.S.C. 3705] and 2379 [renumbered as former 10 U.S.C. 3455] of title 10, United States Code, during such two-year period in order to determine price reasonableness;

"(B) the extent to which acquisition officials of the Department of Defense complied with the guidance issued pursuant to subsection (a) during such two-year period;

"(C) the extent to which the Department of Defense needed access to additional cost information during such two-year period to determine reasonableness of price, but was not provided such information by the contractor on request; and

"(D) recommendations for improving evaluations of reasonableness of price by Department of Defense acquisition professionals, including recommendations for any amendments to law, regulations, or guidance."

## GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS

Pub. L. 107–314, div. A, title VIII, §817, Dec. 2, 2002, 116 Stat. 2610, as amended by Pub. L. 112–81, div. A, title VIII, §809(a), Dec. 31, 2011, 125 Stat. 1490; Pub. L. 113–291, div. A, title X, §1071(b)(7), Dec. 19, 2014, 128 Stat. 3507; Pub. L. 115–91, div. A, title X, §1051(j), Dec. 12, 2017, 131 Stat. 1563; Pub. L. 115–232, div. A, title VIII, §§825, 836(f)(4), Aug. 13, 2018, 132 Stat. 1856, 1871, provided that:

"(a) GUIDANCE FOR EXCEPTIONS IN EXCEPTIONAL CIRCUMSTANCES.—Not later than 60 days after the date of the enactment of this Act [Dec. 2, 2002], the Secretary of Defense shall issue guidance on the circumstances under which it is appropriate to grant an exceptional case exception or waiver with respect to certified cost and pricing data and cost accounting standards.

"(b) DETERMINATION REQUIRED FOR EXCEPTIONAL CASE EXCEPTION OR WAIVER.—The guidance shall, at a minimum, include a limitation that a grant of an exceptional case exception or waiver is appropriate with respect to a contract, subcontract, or (in the case of submission of certified cost and pricing data) modification only upon a determination that—

"(1) the property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the grant of the exception or waiver;

"(2) the price can be determined to be fair and reasonable without the submission of certified cost and pricing data or the application of cost accounting standards, as the case may be; or

"(3) there are demonstrated benefits to granting the exception or waiver.

"(c) APPLICABILITY OF NEW GUIDANCE.—The guidance issued under subsection (a) shall apply to each exceptional case exception or waiver that is granted on or after the date on which the guidance is issued.

"(d) DEFINITIONS.—In this section:

"(1) The term 'exceptional case exception or waiver' means either of the following:

"(A) An exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code [now 10 U.S.C. 3703(a)(3)], relating to submission of certified cost and pricing data.

"(B) A waiver pursuant to section 1502(b)(3)(B) of title 41, United States Code, relating to the applicability of cost accounting standards to contracts and subcontracts.

"(2) The term 'commercial product-commercial service exception' means an exception pursuant to section 2306a(b)(1)(B) of title 10, United States Code [now 10 U.S.C. 3703(a)(2)], relating to submission of certified cost and pricing data."

[Section 836(f)(4)(A) of Pub. L. 115–232, which directed amendment of section 817(d)(1) of Pub. L. 107–314, set out above, by substituting "commercial product-commercial service exceptions" for "commercial item exceptions", could not be executed because those words did not appear subsequent to amendment by section 1051(j) of Pub. L. 115–91.]

# CHAPTER 271—TRUTHFUL COST OR PRICING DATA (TRUTH IN NEGOTIATIONS)

Sec.
3701. Definitions.
3702. Required cost or pricing data and certification.
3703. Exceptions.
3704. Cost or pricing data on below-threshold contracts.
3705. Submission of other information.
3706. Price reductions for defective cost or pricing data.
3707. Interest and penalties for certain overpayments.
3708. Right to examine contractor records.
3709. Program to accelerate contracting and pricing processes.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 271, "TRUTHFUL COST OR PRICING DATA", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3701, was repealed by Pub. L. 116–283, div. A, title XVIII, §1831(a), Jan. 1, 2021, 134 Stat. 4208.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title VIII, §812(c)(1), (2)(A), Dec. 18, 2025, 139 Stat. 952, added item 3709. Amendment was made pursuant to operation of section 102 of this title.

## §3701. Definitions

In this chapter:

(1) COST OR PRICING DATA.—The term "cost or pricing data" means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), or, if applicable consistent with section 3706(a)(2) of this title, another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

(2) SUBCONTRACT.—The term "subcontract" includes a transfer of commercial products or commercial services between divisions, subsidiaries, or affiliates of a contractor or a

subcontractor.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (b), Jan. 1, 2021, 134 Stat. 4209; Pub. L. 117–81, div. A, title XVII, §1701(b)(10)(A), Dec. 27, 2021, 135 Stat. 2133.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (h) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(b), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VIII, §804(a), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 103–355, title I, §§1204(1), 1208, Oct. 13, 1994, 108 Stat. 3275, 3277; Pub. L. 104–106, div. D, title XLII, §4201(a)(2)(B), Feb. 10, 1996, 110 Stat. 651; Pub. L. 111–350, §5(b)(15), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 115–232, div. A, title VIII, §836(c)(5)(C), Aug. 13, 2018, 132 Stat. 1865. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1831(b), as amended by Pub. L. 117–81, §1701(b)(10)(A), transferred subsec. (h) of section 2306a of this title to this section, struck out subsec. (h) designation and heading "Definitions" at beginning, and substituted "this chapter" for "this section" in introductory provisions and "section 3706(a)(2) of this title" for "subsection (e)(1)(B)" in par. (1).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3702. Required cost or pricing data and certification

(a) WHEN REQUIRED.—The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

(1) OFFEROR FOR PRIME CONTRACT.—An offeror for a prime contract under a chapter 137 legacy provision to be entered into using procedures other than sealed-bid procedures that is only expected to receive one bid shall be required to submit cost or pricing data before the award of a contract if—

(A) in the case of a prime contract entered into after June 30, 2026, the price of the contract to the United States is expected to exceed $10,000,000; and

(B) in the case of a prime contract entered into on or before June 30, 2026, the price of the contract to the United States is expected to exceed $2,000,000.

(2) CONTRACTOR.—The contractor for a prime contract under a chapter 137 legacy provision shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $10,000,000.

(3) OFFEROR FOR SUBCONTRACT.—(A) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the

subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this chapter and—

(i) in the case of a prime contract entered into after June 30, 2026, the price of the subcontract is expected to exceed $10,000,000; or

(ii) in the case of a prime contract entered into on or before June 30, 2026, the price of the subcontract is expected to exceed $2,000,000..[1]

(B)(i) An offeror for a subcontract (at any tier) of a contract under this chapter that is required to submit cost or pricing data under subparagraph (A) with respect to such subcontract may submit prices paid for the covered goods and services of such offeror for such subcontract under this clause if—

(I) such offeror is a nontraditional defense contractor (as defined in section 3014 of this title);

(II) the prices to be submitted are prices that were paid for the same goods and services as such covered goods and services; and

(III) the price of such subcontract is not expected to exceed $5,000,000.

(ii) The submission of prices paid under clause (i) by an offeror with respect to a subcontract shall be deemed to be the submission of cost or pricing data by such offeror with respect to such subcontract as required by subparagraph (A) if a contracting officer of the Department of Defense determines that the prices submitted under such clause are fair and reasonable based on supported cost or pricing data within the last 12 months.

(iii) In this subparagraph, the term "covered goods and services" means, with respect to an offeror for a subcontract (at any tier), the goods and services such offeror would provide under such subcontract.

(4) SUBCONTRACTOR.—The subcontractor for a subcontract covered by paragraph (3) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $2,000,000.

(b) CERTIFICATION.—A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under subsection (a) (or required by the head of the agency concerned to submit such data under section 3704 of this title) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

(c) TO WHOM SUBMITTED.—Cost or pricing data required to be submitted under subsection (a) (or under section 3704 of this title), and a certification required to be submitted under subsection (b), shall be submitted—

(1) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

(2) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

(d) APPLICABILITY OF CHAPTER.—Except as provided under section 3703 of this title, this chapter applies to contracts entered into by the head of an agency on behalf of a foreign government.

(e) SUBCONTRACTS NOT AFFECTED BY WAIVER.—A waiver of requirements for submission of certified cost or pricing data that is granted under section 3703(a)(3) of this title in the case of a contract or subcontract does not waive the requirement under subsection (a)(3) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the procuring activity granting the waiver determines that the requirement under that subsection should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.

(f) MODIFICATIONS TO PRIOR CONTRACTS.—Under subsection (a), in connection with a prime contract entered into on or before June 30, 2018, the head of the agency that entered into such contract shall modify the contract as soon as practicable to reflect paragraphs (1) and (2) of such subsection, without requiring consideration.

(g) ADJUSTMENT OF AMOUNTS.—Effective on October 1 of each year that is divisible by 5, each amount set forth in subsection (a) shall be adjusted in accordance with section 1908 of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (c), Jan. 1, 2021, 134 Stat. 4209; Pub. L. 117–81, div. A, title VIII, §804(b), title XVII, §1701(b)(10)(B)–(G), (c)(3), Dec. 27, 2021, 135 Stat. 1816, 2133, 2134, 2136; Pub. L. 118–31, div. A, title XVIII, §1801(a)(29), Dec. 22, 2023, 137 Stat. 684; Pub. L. 118–159, div. A, title VIII, §815, Dec. 23, 2024, 138 Stat. 1980; Pub. L. 119–60, div. A, title XVII, §1701(a)(25), title XVIII, §1804(c), Dec. 18, 2025, 139 Stat. 1209, 1234.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(c), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VIII, §804(b)(1), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 101–510, div. A, title VIII, §803(a)(1), Nov. 5, 1990, 104 Stat. 1589; Pub. L. 102–25, title VII, §701(b), Apr. 6, 1991, 105 Stat. 113; Pub. L. 102–190, div. A, title VIII, §804(a)–(c)(1), Dec. 5, 1991, 105 Stat. 1415, 1416; Pub. L. 103–355, title I, §§1201, 1202(b), Oct. 13, 1994, 108 Stat. 3273, 3274; Pub. L. 105–85, div. A, title X, §1073(a)(46), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 105–261, div. A, title VIII, §805(a), Oct. 17, 1998, 112 Stat. 2083; Pub. L. 114–328, div. A, title VIII, §822(1), Dec. 23, 2016, 130 Stat. 2276; Pub. L. 115–91, div. A, title VIII, §811(a)(1), Dec. 12, 2017, 131 Stat. 1459; Pub. L. 116–283, div. A, §814(a)(1), Jan. 1, 2021, 134 Stat. 3479; Pub. L. 117–81, div. A, title VIII, §804(a), Dec. 27, 2021, 135 Stat. 1816. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2025**—Subsec. (a)(1)(A). Pub. L. 119–60, §1804(c)(1)(B), substituted "$10,000,000" for "$2,000,000".

Pub. L. 119–60, §1804(c)(1)(A), substituted "June 30, 2026" for "June 30, 2018".

Subsec. (a)(1)(B). Pub. L. 119–60, §1804(c)(1)(C), substituted "$2,000,000" for "$750,000".

Pub. L. 119–60, §1804(c)(1)(A), substituted "June 30, 2026" for "June 30, 2018".

Subsec. (a)(2). Pub. L. 119–60, §1804(c)(2), substituted "$10,000,000" for "$2,000,000".

Subsec. (a)(3)(A). Pub. L. 119–60, §1804(c)(3), substituted "chapter and—" and cls. (i) and (ii) for "chapter and the price of the subcontract is expected to exceed $2,000,000".

Subsec. (a)(3)(B)(ii). Pub. L. 119–60, §1701(a)(25), substituted "offeror" for "offereor".

**2024**—Subsec. (a)(3). Pub. L. 118–159 designated existing provisions as subpar. (A) and added subpar. (B).

**2023**—Subsec. (a)(4). Pub. L. 118–31, §1801(a)(29)(A), substituted "paragraph (3)" for "subparagraph (C)".

Subsec. (f). Pub. L. 118–31, §1801(a)(29)(B), substituted "paragraphs (1) and (2) of such subsection" for "subparagraphs (B) and (C) of such paragraph".

**2021**—Pub. L. 116–283, §1831(c)(1), (2)(A), transferred subsec. (a) of section 2306a of this title to this section and redesignated pars. (1) to (7) of such former subsec. (a) as subsecs. (a) to (g), respectively.

Subsec. (a). Pub. L. 116–283, §1831(c)(2)(A), (B), (3), as amended by Pub. L. 117–81, §1701(b)(10)(B), after redesignation of section 2306a(a)(1) of this title as subsec. (a) of this section, substituted "When Required" for "Required Cost or Pricing Data and Certification" in heading, redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, and substituted "a prime contract under a chapter 137 legacy provision" for "a prime contract under this chapter" in introductory provisions of pars. (1) and (2).

Subsec. (a)(1). Pub. L. 116–283, §1831(c)(2)(C), inserted heading and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (a)(2). Pub. L. 116–283, §1831(c)(2)(D)(ii)–(v), which directed amendment of par. (2) by redesignating cls. (i) to (iii) as subpars. (A) to (C), respectively, and making further substitutions in text and which could not be executed, was repealed by Pub. L. 117–81, §1701(b)(10)(C)(i).

Pub. L. 116–283, §1831(c)(2)(D), as amended by Pub. L. 117–81, §1701(b)(10)(C)(ii), inserted heading.

Subsec. (a)(3). Pub. L. 117–81, §1701(c)(3)(A), substituted "under this chapter" for "under this section".

Pub. L. 116–283, §1831(c)(2)(E)(ii)–(v), which directed amendment of par. (3) by redesignating cls. (i) to (iii) as subpars. (A) to (C), respectively, and making further substitutions in text and which could not be

executed, was repealed by Pub. L. 117–81, §1701(b)(10)(D)(i).

Pub. L. 116–283, §1831(c)(2)(E), as amended by Pub. L. 117–81, §1701(b)(10)(D)(ii), (iii), inserted heading.

Subsec. (a)(4). Pub. L. 116–283, §1831(c)(2)(F)(ii), (iv), (v), which directed amendment of par. (4) by redesignating cls. (i) and (ii) as subpars. (A) and (B), respectively, and making further substitutions in text and which could not be executed, was repealed by Pub. L. 117–81, §1701(b)(10)(E)(i).

Pub. L. 116–283, §1831(c)(2)(F)(iii), which directed substitution of "paragraph (3)" for "subparagraph (C)" in introductory provisions of par. (4) and which could not be executed as directed but could be executed in text of par. (4), was repealed by Pub. L. 117–81, §1701(b)(10)(E)(i).

Pub. L. 116–283, §1831(c)(2)(F), as amended by Pub. L. 117–81, §1701(b)(10)(E)(ii), (iii), inserted heading.

Subsec. (b). Pub. L. 116–283, §1831(c)(4), as amended by Pub. L. 117–81, §1701(b)(10)(F), after redesignation of section 2306a(a)(2) of this title as subsec. (b) of this section, inserted heading and substituted "subsection (a)" for "paragraph (1)" and "section 3704 of this title" for "subsection (c)".

Subsec. (c). Pub. L. 116–283, §1831(c)(5), after redesignation of section 2306a(a)(3) of this title as subsec. (c) of this section, inserted heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and, in introductory provisions, substituted "subsection (a) (or under section 3704 of this title)" for "paragraph (1) (or under subsection (c))" and "subsection (b)" for "paragraph (2)".

Subsec. (d). Pub. L. 117–81, §1701(c)(3)(B), substituted "this chapter" for "this section".

Pub. L. 116–283, §1831(c)(6), after redesignation of section 2306a(a)(4) of this title as subsec. (d) of this section, inserted heading and substituted "section 3703 of this title" for "subsection (b)".

Subsec. (e). Pub. L. 116–283, §1831(c)(7), after redesignation of section 2306a(a)(5) of this title as subsec. (e) of this section, inserted heading and substituted "section 3703(a)(3) of this title" for "subsection (b)(1)(C)", "subsection (a)(3)" for "paragraph (1)(C)", and "that subsection" for "that paragraph".

Subsec. (f). Pub. L. 116–283, §1831(c)(8)(D), which directed substitution of "paragraphs (2)(B) and (3)(B) of subsection (a)" for "subparagraphs (B)(ii) and (C)(ii) of paragraph (1)", could not be executed because the phrase "subparagraphs (B)(ii) and (C)(ii) of paragraph (1)" did not appear after the intervening amendment made by Pub. L. 117–81, §804(a), to subsec. (a)(6) of section 2306a of this title prior to its transfer to subsec. (f) of this section.

Pub. L. 116–283, §1831(c)(8)(C), which directed substitution of "that subsection" for "that paragraph" and could not be executed, was repealed by Pub. L. 117–81, §1701(b)(10)(G).

Pub. L. 116–283, §1831(c)(8)(B), substituted "subsection (a)" for "paragraph (1)".

Pub. L. 116–283, §1831(c)(8)(A), as amended by Pub. L. 117–81, §804(b), inserted heading.

Subsec. (g). Pub. L. 116–283, §1831(c)(9), after redesignation of section 2306a(a)(7) of this title as subsec. (g) of this section, inserted heading and substituted "subsection (a)" for "paragraph (1)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(10)(B)–(G) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(c)(3) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### DATA COLLECTION

Pub. L. 117–81, div. A, title VIII, §862(b), Dec. 27, 2021, 135 Stat. 1852, provided that: "The Secretary of Defense shall develop and implement a plan to collect and analyze data on the use of authority under such section 873 [of Pub. L. 114–92, set out below] for the purposes of—

"(1) developing and sharing best practices; and

"(2) providing information to the Secretary of Defense and Congress on the use of authority under such section 873 and related policy issues."

**PILOT PROGRAM FOR STREAMLINING AWARDS FOR INNOVATIVE TECHNOLOGY PROJECTS**

Pub. L. 114–92, div. A, title VIII, §873(a)–(g), Nov. 25, 2015, 129 Stat. 939, 940, as amended by Pub. L. 114–328, div. A, title VIII, §896, Dec. 23, 2016, 130 Stat. 2326; Pub. L. 116–283, div. A, title VIII, §832, Jan. 1, 2021, 134 Stat. 3753; Pub. L. 117–81, div. A, title VIII, §862(a), Dec. 27, 2021, 135 Stat. 1852; Pub. L. 118–159, div. A, title VIII, §863, Dec. 23, 2024, 138 Stat. 2001, provided that:

"(a) EXCEPTION FROM CERTIFIED COST AND PRICING DATA REQUIREMENTS.—The requirements under section 2306a(a) of title 10, United States Code [now 10 U.S.C. 3702], shall not apply to a contract, subcontract, or modification of a contract or subcontract valued at less than $7,500,000 awarded to a small business or nontraditional defense contractor pursuant to—

"(1) a technical, merit-based selection procedure, such as a broad agency announcement, or

"(2) the Small Business Innovation Research Program, a multiyear contract (as defined in section 3501 of title 10, United States Code), a block buy or multi-ship buy authorized by Congress, or the or [sic] Small Business Technology Transfer Program,

unless the head of the agency determines that submission of cost and pricing data should be required based on past performance of the specific small business or nontraditional defense contractor, or based on analysis of other information specific to the award.

"(b) EXCEPTION FROM RECORDS EXAMINATION REQUIREMENT.—The requirements under subparagraphs (A), (B), and (C) of section 2313(a)(2) of title 10, United States Code [now 10 U.S.C. 3841(b)(2)(A)–(C)], and subsection (b) of section 2313 of title 10, United States Code [now 10 U.S.C. 3841(c)], shall not apply to a contract valued at less than $7,500,000 awarded to a small business or nontraditional defense contractor pursuant to—

"(1) a technical, merit-based selection procedure, such as a broad agency announcement, or

"(2) the Small Business Innovation Research Program,

unless the head of the agency determines that auditing of records should be required based on past performance of the specific small business or nontraditional defense contractor, or based on analysis of other information specific to the award, and if such performance audit is initiated within 18 months of the contract completion.

"(c) TREATMENT AS COMPETITIVE PROCEDURES.—Use of a technical, merit-based selection procedure or the Small Business Innovation Research Program or Small Business Technology Transfer Program for the pilot program under this section shall be considered to be use of competitive procedures for purposes of [former] chapter 137 of title 10, United States Code.

"(d) DISCRETION TO USE NON-CERTIFIED ACCOUNTING SYSTEMS.—In executing programs under this pilot program, the Secretary of Defense shall establish procedures under which a small business or nontraditional contractor may engage an independent certified public accountant for the review and certification of its accounting system for the purposes of any audits required by regulation, unless the head of the agency determines that this is not appropriate based on past performance of the specific small business or nontraditional defense contractor, or based on analysis of other information specific to the award.

"(e) GUIDANCE AND TRAINING.—The Secretary of Defense shall ensure that acquisition and auditing officials are provided guidance and training on the flexible use and tailoring of authorities under the pilot program to maximize efficiency and effectiveness.

"(f) SUNSET.—The exceptions under subsections (a) and (b) shall terminate on October 1, 2029.

"(g) DEFINITIONS.—In this section [enacting this note and amending section 638 of Title 15, Commerce and Trade]:

"(1) SMALL BUSINESS.—The term 'small business' has the meaning given the term 'small business concern' under section 3 of the Small Business Act (15 U.S.C. 632).

"(2) NONTRADITIONAL DEFENSE CONTRACTOR.—The term 'nontraditional defense contractor' has the meaning given that term in section 2302(9) of title 10, United States Code [now 10 U.S.C. 3014]."

[Section 896(2)(B) of Pub. L. 114–328, which directed amendment of par. (2) of subsec. (b) of section 873 of Pub. L. 114–92, set out above, by inserting ", and if such performance audit is initiated within 18 months of the contract completion" before the period at the end, was executed by making the insertion before the period at the end of the concluding provisions of subsec. (b), to reflect the probable intent of Congress.]

[1] *So in original.*

## §3703. Exceptions

(a) IN GENERAL.—Submission of certified cost or pricing data shall not be required under section 3702 of this title in the case of a contract, a subcontract, or modification of a contract or subcontract—

(1) for which the price agreed upon is based on—

(A) adequate price competition; or

(B) prices set by law or regulation;

(2) for the acquisition of a commercial product or a commercial service;

(3) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this chapter may be waived and justifies in writing the reasons for such determination; or

(4) to the extent such data—

(A) relates to an offset agreement in connection with a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm; and

(B) does not relate to a contract or subcontract under the offset agreement for work performed in such foreign country or by such foreign firm that is directly related to the weapon system or defense-related item being purchased under the contract.

(b) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES.—In the case of a modification of a contract or subcontract for a commercial product or commercial services that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1) or (2) of subsection (a), submission of certified cost or pricing data shall not be required under section 3702 of this title if—

(1) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1) or (2) of subsection (a); and

(2) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial product or commercial services to a contract or subcontract for the acquisition of an item other than a commercial product or commercial services.

(c) NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL PRODUCTS.—(1) The exception in subsection (a)(2) does not apply to cost or pricing data on noncommercial modifications of a commercial product that are expected to cost, in the aggregate, more than the amount specified in section 3702(a)(1)(A) of this title, as adjusted from time to time under section 3702(g) of this title, or 5 percent of the total price of the contract (at the time of contract award), whichever is greater.

(2) In this subsection, the term "noncommercial modification", with respect to a commercial product, means a modification of such product that is not a modification described in section 103(3)(A) of title 41.

(3) Nothing in paragraph (1) shall be construed—

(A) to limit the applicability of the exception in paragraph (1) or (3) of subsection (a) to cost or pricing data on a noncommercial modification of a commercial product; or

(B) to require the submission of cost or pricing data on any aspect of an acquisition of a commercial product other than the cost and pricing of noncommercial modifications of such product.

(d) COMMERCIAL PRODUCT OR COMMERCIAL SERVICE DETERMINATION.—(1) For purposes of applying the exception under subsection (a)(2) to the required submission of certified cost or pricing data, the contracting officer may presume that a prior commercial product or commercial service determination made by a military department, a Defense Agency, or another component of the Department of Defense shall serve as a determination for subsequent procurements of such product or service.

(2) If the contracting officer does not make the presumption described in paragraph (1) and instead

chooses to proceed with a procurement of a product or service previously determined to be a commercial product or a commercial service using procedures other than the procedures authorized for the procurement of a commercial product or a commercial service, as the case may be, the contracting officer shall request a review of the commercial product or commercial service determination by the head of the contracting activity.

(3) Not later than 30 days after receiving a request for review of a determination under paragraph (2), the head of a contracting activity shall—

(A) confirm that the prior determination was appropriate and still applicable; or

(B) issue a revised determination with a written explanation of the basis for the revision.

(e) A contracting officer shall consider evidence provided by an offeror of recent purchase prices paid by the Government for the same or similar commercial products or commercial services in establishing price reasonableness on a subsequent purchase if the contracting officer is satisfied that the prices previously paid remain a valid reference for comparison after considering the totality of other relevant factors such as the time elapsed since the prior purchase and any differences in the quantities purchased or applicable terms and conditions.

(f) DETERMINATION BY PRIME CONTRACTOR.—A prime contractor required to submit certified cost or pricing data under section 3702 of this title with respect to a prime contract shall be responsible for determining whether a subcontract under such contract qualifies for an exception under subsection (a)(1) from such requirement.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (d), Jan. 1, 2021, 134 Stat. 4209, 4211; Pub. L. 119–60, div. A, title VIII, §812(a)(7), Dec. 18, 2025, 139 Stat. 952.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(d), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title I, §1202(a), Oct. 13, 1994, 108 Stat. 3274, as amended by Pub. L. 104–106, div. D, title XLIII, §4321(a)(2), Feb. 10, 1996, 110 Stat. 671; Pub. L. 104–106, div. D, title XLII, §4201(a)(1), Feb. 10, 1996, 110 Stat. 649; Pub. L. 108–375, div. A, title VIII, §818(a), Oct. 28, 2004, 118 Stat. 2015; Pub. L. 110–181, div. A, title VIII, §814, Jan. 28, 2008, 122 Stat. 222; Pub. L. 113–291, div. A, title X, §1071(a)(3), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §§812, 851(b), 853, Nov. 25, 2015, 129 Stat. 891, 916, 919; Pub. L. 114–328, div. A, title VIII, §822(2), Dec. 23, 2016, 130 Stat. 2276; Pub. L. 115–232, div. A, title VIII, §836(c)(5)(A), Aug. 13, 2018, 132 Stat. 1865. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2025**—Subsec. (a)(1)(A). Pub. L. 119–60 substituted "price competition" for "competition that results in at least two or more responsive and viable competing bids".

**2021**—Pub. L. 116–283, §1831(d)(1), transferred subsec. (b) of section 2306a of this title to this section, struck out subsec. (b) designation and heading "Exceptions" at beginning, and redesignated pars. (1) to (6) as subsecs. (a) to (f), respectively, and realigned margins.

Subsec. (a). Pub. L. 116–283, §1831(d)(2)(A), (B), (C), (E), after redesignation of section 2306a(b)(1) of this title as subsec. (a) of this section, substituted "under section 3702 of this title" for "under subsection (a)" in introductory provisions, redesignated subpar. (A) and its cls. (i) and (ii) as par. (1) and subpars. (A) and (B), respectively, redesignated subpars. (B) and (C) as pars. (2) and (3), respectively, and redesignated subpar. (D) and its cls. (i) and (ii) as par. (4) and subpars. (A) and (B), respectively.

Subsec. (a)(3). Pub. L. 116–283, §1831(d)(2)(D), substituted "this chapter" for "this section".

Subsec. (b). Pub. L. 116–283, §1831(d)(3)(A), (B), after redesignation of section 2306a(b)(2) of this title as subsec. (b) of this section, in introductory provisions, substituted "paragraph (1) or (2) of subsection (a)" for "paragraph (1)(A) or (1)(B)" and "under section 3702 of this title" for "under subsection (a)" and redesignated

subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1831(d)(3)(C), substituted "paragraph (1) or (2) of subsection (a)" for "paragraph (1)(A) or (1)(B)".

Subsec. (c). Pub. L. 116–283, §1831(d)(4)(A), (D)(i), after redesignation of section 2306a(b)(3) of this title as subsec. (c) of this section, redesignated subpars. (A), (B), and (C) and its cls. (i) and (ii) as pars. (1), (2), and (3) and subpars. (A) and (B), respectively.

Subsec. (c)(1). Pub. L. 116–283, §1831(d)(4)(B), substituted "subsection (a)(2)" for "paragraph (1)(B)", "section 3702(a)(1)(A) of this title" for "subsection (a)(1)(A)(i)", and "section 3702(g) of this title" for "subsection (a)(7)".

Subsec. (c)(2). Pub. L. 116–283, §1831(d)(4)(C), substituted "this subsection" for "this paragraph".

Subsec. (c)(3). Pub. L. 116–283, §1831(d)(4)(D)(ii), (ii) [(iii)], substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions and "paragraph (1) or (3) of subsection (a)" for "subparagraph (A) or (C) of paragraph (1)" in subpar. (A).

Subsec. (d). Pub. L. 116–283, §1831(d)(5)(A), (D)(i), after redesignation of section 2306a(b)(4) of this title as subsec. (d) of this section, redesignated subpars. (A), (B), and (C) and its cls. (i) and (ii) as pars. (1), (2), and (3) and subpars. (A) and (B), respectively.

Subsec. (d)(1). Pub. L. 116–283, §1831(d)(5)(B), substituted "subsection (a)(2)" for "paragraph (1)(B)".

Subsec. (d)(2). Pub. L. 116–283, §1831(d)(5)(C), substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (d)(3). Pub. L. 116–283, §1831(d)(5)(D)(ii), substituted "paragraph (2)" for "subparagraph (B)" in introductory provisions.

Subsec. (f). Pub. L. 116–283, §1831(d)(6), after redesignation of section 2306a(b)(6) of this title as subsec. (f) of this section, substituted "section 3702 of this title" for "subsection (a)" and "subsection (a)(1)" for "paragraph (1)(A)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3704. Cost or pricing data on below-threshold contracts

(a) AUTHORITY TO REQUIRE SUBMISSION.—Subject to subsection (b), when certified cost or pricing data are not required to be submitted by section 3702 of this title for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this section, the head of the procuring activity shall justify in writing the reason for such requirement.

(b) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this subsection for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in paragraph (1) or (2) of section 3703(a) of this title.

(c) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate functions under this subsection.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (e), Jan. 1, 2021, 134 Stat. 4209, 4213.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2306a of this title, which was transferred to this section and amended by

Pub. L. 116–283, §1831(e), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101–510, div. A, title VIII, §803(d), Nov. 5, 1990, 104 Stat. 1590; Pub. L. 103–355, title I, §1203, Oct. 13, 1994, 108 Stat. 3274; Pub. L. 104–106, div. D, title XLII, §4201(a)(1), Feb. 10, 1996, 110 Stat. 650. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1831(e)(1)(A), transferred subsec. (c) of section 2306a of this title to this section and struck out subsec. (c) designation and heading "Cost or Pricing Data on Below-Threshold Contracts" at beginning.

Subsec. (a). Pub. L. 116–283, §1831(e)(1)(B), (2), redesignated par. (1) of section 2306a(c) of this title as subsec. (a) of this section, realigned margin, and substituted "subsection (b)" for "paragraph (2)", "section 3702 of this title" for "subsection (a)", and "under this section" for "under this subsection".

Subsec. (b). Pub. L. 116–283, §1831(e)(1)(B), (3), redesignated par. (2) of section 2306a(c) of this title as subsec. (b) of this section, realigned margin, and substituted "under this subsection" for "under this paragraph" and "paragraph (1) or (2) of section 3703(a) of this title" for "subparagraph (A) or (B) of subsection (b)(1)".

Subsec. (c). Pub. L. 116–283, §1831(e)(1)(B), (4), redesignated par. (3) of section 2306a(c) of this title as subsec. (c) of this section, realigned margin, and substituted "under this subsection" for "under this paragraph".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3705. Submission of other information

(a) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this chapter for a contract, subcontract, or modification of a contract or subcontract, the offeror shall be required to submit to the contracting officer data other than certified cost or pricing data (if requested by the contracting officer), to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in section 3703(a)(1) of this title, the contracting officer shall require that the data submitted include, at a minimum, appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement. If the contracting officer determines that the offeror does not have access to and cannot provide sufficient information on prices for the same or similar items to determine the reasonableness of price, the contracting officer shall require the submission of information on prices for similar levels of work or effort on related products or services, prices for alternative solutions or approaches, and other information that is relevant to the determination of a fair and reasonable price. Contracting officers shall not determine the price of a contract or subcontract to be fair and reasonable based solely on historical prices paid by the Government.

(b) INELIGIBILITY FOR AWARD.—(1) In the event the contracting officer is unable to determine proposed prices are fair and reasonable by any other means, an offeror who fails to make a good faith effort to comply with a reasonable request to submit data in accordance with subsection (a) is ineligible for award unless the head of the contracting activity, or the designee of the head of contracting activity, determines that it is in the best interest of the Government to make the award to that offeror, based on consideration of pertinent factors, including the following:

(A) The effort to obtain the data.

(B) Availability of other sources of supply of the item or service.

(C) The urgency or criticality of the Government's need for the item or service.

(D) Reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract based on information available to the contracting officer.

(E) Rationale or justification made by the offeror for not providing the requested data.

(F) Risk to the Government if award is not made.

(2)(A) Any new determination made by the head of the contracting activity under paragraph (1) shall be reported to the Principal Director, Defense Pricing and Contracting on a quarterly basis.

(B) The Under Secretary of Defense for Acquisition and Sustainment, or a designee, shall produce an annual report identifying offerors that have denied multiple requests for submission of uncertified cost or pricing data over the preceding three-year period, but nevertheless received an award. The report shall identify products or services offered by such offerors that should undergo should-cost analysis. The Secretary of Defense may include a notation on such offerors in the system used by the Federal Government to monitor or record contractor past performance. The Under Secretary shall assess the extent to which these offerors are sole source providers within the defense industrial base and shall develop strategies to incentivize new entrants into the industrial base to increase the availability of other sources of supply for the product or service. The Under Secretary shall make appropriate portions of the report available to the leadership of the offerors named in such report.

(C) The Under Secretary of Defense for Acquisition and Sustainment shall develop a framework for revising what constitutes a denial of uncertified cost or pricing data, including—

(i) identifying situations under which such denials occur to exclude situations outside the control of the offeror or Federal Government;

(ii) identifying whether such denial is from the prime contractor or subcontractor; and

(iii) developing an appropriate timeframe for requiring submission of uncertified cost or pricing data before a request for such data is considered a denial, including a standardized determination of a starting point and conclusion for such requests.

(3) ALTERNATIVE SOURCES REQUIRED.—If the head of contracting activity, or the designee of the head of contracting activity, determines it is in the best interest of the Government to make the award under subsection (b)(1), the head of the agency shall conduct an assessment of alternative offerors as a source of supply using authorities provided by sections 865 and 882 of the National Defense Authorization Act for Fiscal Year 2025 (Public Law 118–159).

(c) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under subsection (a):

(1) Reasonable limitations on requests for sales data relating to commercial products or commercial services.

(2) A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial products or commercial services from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

(3) A statement that any information received relating to commercial products or commercial services that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (f), Jan. 1, 2021, 134 Stat. 4209, 4213; Pub. L. 118–31, div. A, title VIII, §802, Dec. 22, 2023, 137 Stat. 312; Pub. L. 119–60, div. A, title VIII, §812(a)(8), Dec. 18, 2025, 139 Stat. 952.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Sections 865 and 882 of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (b)(3), are sections 865 and 882 of Pub. L. 118–159, which are set out as notes under sections 4811 and 3771

of this title, respectively.

**CODIFICATION**

The text of subsec. (d) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(f), was based on Pub. L. 103–355, title I, §1204, Oct. 13, 1994, 108 Stat. 3275; Pub. L. 104–106, div. D, title XLII, §4201(a)(1) ,Feb. 10, 1996, 110 Stat. 650; Pub. L. 105–261, div. A, title VIII, §808(a), Oct. 17, 1998, 112 Stat. 2085; Pub. L. 114–92, div. A, title VIII, §852(e), 853, Nov. 25, 2015, 129 Stat. 918; Pub. L. 115–91, div. A, title VIII, §811(b), Dec. 12, 2017, 131 Stat. 1459; Pub. L. 115–232, div. A, title VIII, §836(c)(5)(B), Aug. 13, 2018, 132 Stat. 1865, as amended by Pub. L. 116–283, div. A, title X, §1081(d)(4)(B)(i), Jan. 1, 2021, 134 Stat. 3874; Pub. L. 116–92, div. A, title VIII, §803, Dec. 20, 2019, 133 Stat. 1483.

**AMENDMENTS**

**2025**—Subsec. (b)(3). Pub. L. 119–60 added par. (3).

**2023**—Subsec. (b)(2)(B). Pub. L. 118–31, §802(1), inserted at end "The Under Secretary shall make appropriate portions of the report available to the leadership of the offerors named in such report."

Subsec. (b)(2)(C). Pub. L. 118–31, §802(2), added subpar. (C).

**2021**—Pub. L. 116–283, §1831(f)(1), transferred subsec. (d) of section 2306a of this title to this section, struck out subsec. (d) designation and heading "Submission of Other Information" at beginning, and redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively, and realigned margins.

Subsec. (a). Pub. L. 116–283, §1831(f)(2), after redesignation of section 2306a(d)(1) of this title as subsec. (a) of this section, substituted "under this chapter" for "under this section" and "section 3703(a)(1) of this title" for "subsection (b)(1)(A)".

Subsec. (b). Pub. L. 116–283, §1831(f)(3)(A), (B)(i), (C)(i), after redesignation of section 2306a(d)(2) of this title as subsec. (b) of this section, redesignated subpar. (A) and its cls. (i) to (vi) as par. (1) and subpars. (A) to (F), respectively, and redesignated subpar. (B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1831(f)(3)(B)(ii), substituted "subsection (a)" for "paragraph (1)" in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 116–283, §1831(f)(3)(C)(ii), substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (c). Pub. L. 116–283, §1831(f)(4), after redesignation of section 2306a(d)(3) of this title as subsec. (c) of this section, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and substituted "under subsection (a)" for "under paragraph (1)" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3706. Price reductions for defective cost or pricing data

(a) PROVISION REQUIRING ADJUSTMENT.—

(1) IN GENERAL.—A prime contract (or change or modification to a prime contract) under which a certificate under section 3702(b) of this title is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

(2) WHAT CONSTITUTES DEFECTIVE COST OR PRICING DATA.—For the purposes of this chapter, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

(b) VALID DEFENSE.—In determining for purposes of a contract price adjustment under a contract provision required by subsection (a) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

(c) INVALID DEFENSES.—It is not a defense to an adjustment of the price of a contract under a contract provision required by subsection (a) that—

(1) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

(A) was the sole source of the property or services procured; or

(B) otherwise was in a superior bargaining position with respect to the property or services procured;

(2) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

(3) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

(4) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under section 3702(b) of this title.

(d) OFFSETS.—

(1) WHEN ALLOWED.—A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by subsection (a) if—

(A) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

(B) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) or, if applicable consistent with subsection (a)(2), another date agreed upon between the parties, and that the data were not submitted as specified in section 3702(c) of this title before such date.

(2) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under paragraph (1) if—

(A) the certification under section 3702(b) of this title with respect to the cost or pricing data involved was known to be false when signed; or

(B) the United States proves that, had the cost or pricing data referred to in paragraph (1)(B) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable consistent with subsection (a)(2), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (g), Jan. 1, 2021, 134 Stat. 4209, 4214.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(g), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82,

3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title I, §1204(1), Oct. 13, 1994, 108 Stat. 3275; Pub. L. 104–106, div. D, title XLIII, §4321(b)(7)(B), Feb. 10, 1996, 110 Stat. 672. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1831(g)(1), transferred subsec. (e) of section 2306a of this title to this section, struck out subsec. (e) designation and heading "Price Reductions for Defective Cost or Pricing Data" at beginning, and redesignated pars. (1) to (4) as subsecs. (a) to (d), resepectively.

Subsec. (a). Pub. L. 116–283, §1831(g)(2), after redesignation of section 2306a(e)(1) of this title as subsec. (a) of this section, inserted subsec. heading, redesignated subpar. (A) as par. (1), inserted heading, and substituted "section 3702(b) of this title" for "subsection (a)(2)", and redesignated subpar. (B) as par. (2), inserted heading, and substituted "of this chapter" for "of this section".

Subsec. (b). Pub. L. 116–283, §1831(g)(3), after redesignation of section 2306a(e)(2) of this title as subsec. (b) of this section, inserted heading and substituted "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1831(g)(4)(A)–(D), after redesignation of section 2306a(e)(3) of this title as subsec. (c) of this section, inserted heading, redesignated subpar. (A), and its cls. (i) and (ii), and subpars. (B) to (D) as par. (1), subpars. (A) and (B), and pars. (2) to (4), respectively, and substituted "subsection (a)" for "paragraph (1)" in introductory provisions.

Subsec. (c)(4). Pub. L. 116–283, §1831(g)(4)(E), substituted "section 3702(b) of this title" for "subsection (a)(2)".

Subsec. (d). Pub. L. 116–283, §1831(g)(5)(A)–(C), after redesignation of section 2306a(e)(4) of this title as subsec. (d) of this section, inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (d)(1). Pub. L. 116–283, §1831(g)(5)(A), (B), (D), inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated cls. (i) and (ii) of former section 2306a(e)(4)(A) as subpars. (A) and (B), respectively.

Subsec. (d)(1)(B). Pub. L. 116–283, §1831(g)(5)(E), substituted "subsection (a)(2)" for "paragraph (1)(B)" and "section 3702(c) of this title" for "subsection (a)(3)".

Subsec. (d)(2). Pub. L. 116–283, §1831(g)(5)(F)(i), (ii), substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions and redesignated cls. (i) and (ii) of former section 2306a(e)(4)(B) as subpars. (A) and (B), respectively.

Subsec. (d)(2)(A). Pub. L. 116–283, §1831(g)(5)(F)(iii), substituted "section 3702(b) of this title" for "subsection (a)(2)".

Subsec. (d)(2)(B). Pub. L. 116–283, §1831(g)(5)(F)(iv), substituted "in paragraph (1)(B)" for "in subparagraph (A)(ii)" and "with subsection (a)(2)" for "with paragraph (1)(B)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3707. Interest and penalties for certain overpayments

(a) IN GENERAL.—If the United States makes an overpayment to a contractor under a contract subject to this chapter and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

(1) for interest on the amount of such overpayment, to be computed—

(A) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

(B) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

(2) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

(b) LIABILITY NOT AFFECTED BY REFUSAL TO SUBMIT CERTIFICATION.—Any liability under this section of a contractor that submits cost or pricing data but refuses to submit the certification required by section 3702(b) of this title with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (h), Jan. 1, 2021, 134 Stat. 4209, 4216; Pub. L. 117–81, div. A, title XVII, §1701(b)(10)(H), Dec. 27, 2021, 135 Stat. 2134.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 6621 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(B), is classified to section 6621 of Title 26, Internal Revenue Code.

### CODIFICATION

The text of subsec. (f) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(h), was based on Pub. L. 99–500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–166, and Pub. L. 99–591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–166; Pub. L. 99–661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VIII, §804(b)(2), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 102–190, div. A, title X, §1061(a)(9), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 103–355, title I, §§1204(1), 1209, Oct. 13, 1994, 108 Stat. 3275, 3277. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections. Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(h)(1), transferred subsec. (f) of section 2306a of this title to this section, redesignated it as subsec. (a), and redesignated par. (2) as subsec. (b).

Subsec. (a). Pub. L. 116–283, §1831(h)(2), as amended by Pub. L. 117–81, §1701(b)(10)(H), after redesignation of section 2306a(f) of this title as subsec. (a) of this section, in heading, substituted "In General" for "Interest and Penalties for Certain Overpayments", in introductory provisions, struck out par. (1) designation at beginning and substituted "this chapter" for "this section", and redesignated subpar. (A), its cls. (i) and (ii), and subpar. (B) as par. (1), subpars. (A) and (B), and par. (2), respectively.

Subsec. (b). Pub. L. 116–283, §1831(h)(3), as amended by Pub. L. 117–81, §1701(b)(10)(H), after redesignation of section 2306a(f)(2) of this title as subsec. (b) of this section, inserted heading and substituted "this section" for "this subsection" and "section 3702(b) of this title" for "subsection (a)(2)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3708. Right to examine contractor records

For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data

required to be submitted by this chapter, the head of an agency shall have the authority provided by section 3841(b)(2) of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1831(a), (i), Jan. 1, 2021, 134 Stat. 4209, 4216.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1831(i), was based on Pub. L. 103–355, title I, §1205, Oct. 13, 1994, 108 Stat. 3276.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1831(i), transferred subsec. (g) of section 2306a of this title to this section, struck out subsec. (g) designation and heading "Right of United States To Examine Contractor Records" at beginning, and substituted "this chapter" for "this section" and "section 3841(b)(2)" for "section 2313(a)(2)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3709. Program to accelerate contracting and pricing processes

(a) IN GENERAL.—The Secretary of Defense shall establish a program to reform and accelerate the contracting and pricing processes associated with contracts in excess of $50,000,000 by—

(1) basing price reasonableness determinations on actual cost and pricing data for purchases of the same or similar products for the Department of Defense; and

(2) reducing the cost and pricing data to be submitted in accordance with this chapter.

(b) IMPLEMENTATION GUIDANCE.—The Secretary, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall ensure that each senior contracting official (as defined in section 1737 of this title) for a contract described in subsection (a) has the discretion to implement the program under this section efficiently and effectively by ensuring the following:

(1) That the program does not include any preferences for contract type or specific contract requirements.

(2) That each Secretary of a military department has no unique reporting requirements to the Under Secretary of Defense for Acquisition and Sustainment with respect to the program.

(Added and amended Pub. L. 119–60, div. A, title VIII, §812(c), Dec. 18, 2025, 139 Stat. 952.)

### EDITORIAL NOTES

### CODIFICATION

Section is based on Pub. L. 115–232, div. A, title VIII, §890, Aug. 13, 2018, 132 Stat. 1919, as amended by Pub. L. 116–92, div. A, title VIII, §825, Dec. 20, 2019, 133 Stat. 1491; Pub. L. 116–283, div. A, title XVIII, §1831(j)(7), Jan. 1, 2021, 134 Stat. 4217; Pub. L. 117–263, div. A, title VIII, §818, Dec. 23, 2022, 136 Stat. 2708; Pub. L. 118–31, div. A, title VIII, §841, Dec. 22, 2023, 137 Stat. 339, which was formerly set out as a note preceding section 3701 of this title before being transferred to this chapter and renumbered as this section by Pub. L. 119–60, div. A, title VIII, §812(c)(1), Dec. 18, 2025, 139 Stat. 952.

### AMENDMENTS

**2025**—Pub. L. 119–60, §812(c)(2)(A), (B), struck out "Pilot" before "program" in section catchline and "pilot" before "program" wherever appearing in text.

Subsec. (a)(2). Pub. L. 119–60, §812(c)(2)(C), substituted "this chapter" for "chapter 271 of title 10, United States Code".

Subsec. (b). Pub. L. 119–60, §812(c)(2)(D)(i), substituted "section 1737 of this title" for "section 1737 of title 10, United States Code" in introductory provisions.

Subsec. (b)(2). Pub. L. 119–60, §812(c)(2)(D)(ii), substituted "no unique reporting" for "minimal reporting".

Subsecs. (c), (d). Pub. L. 119–60, §812(c)(2)(E), struck out subsecs. (c) and (d), which, respectively, required submission of report on pilot program and provided that pilot program would expire on Jan. 2, 2028.

# CHAPTER 272—[Reserved]

Sec.
3721. [Reserved].
3722. [Reserved].
3723. [Reserved].
3724. [Reserved].

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(6), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116–283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217, which added this analysis, by substituting "[Reserved]" for "OTHER PROVISIONS RELATING TO COST OR PRICING DATA" in chapter heading and "[Reserved]" for "Evaluating the reasonableness of price: guidance and training" in item 3721, for "Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards" in item 3722, for "Streamlining awards for innovative technology projects: pilot program" in item 3723, and for "Risk-based contracting for smaller contract actions under Truth in Negotiations Act: pilot program" in item 3724.

## §3721. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(6)(B), Dec. 27, 2021, 135 Stat. 2141.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3721, act Aug. 10, 1956, ch. 1041, 70A Stat. 214; Pub. L. 85–861, §1(92)(A), Sept. 2, 1958, 72 Stat. 1482, related to hospital benefits for members of Army, other than of Regular Army, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), (g), Nov. 14, 1986, 100 Stat. 3877, 3878, applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(6)(B), amended Pub. L. 116–283, §1831(k), which enacted this section, by adding section 3721 designation and catchline "[Reserved]" and striking out former section 3721 designation and catchline "Evaluating the reasonableness of price: guidance and training".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of

existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3722. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(6)(B), Dec. 27, 2021, 135 Stat. 2141.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3722, acts Aug. 10, 1956, ch. 1041, 70A Stat. 214; Sept. 2, 1958, Pub. L. 85–861, §1(92)(B), (C), 72 Stat. 1482, related to hospital and related benefits for members of a Citizens' Military Training Camp and for members of Army not covered by section 3721 of this title, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), (g), Nov. 14, 1986, 100 Stat. 3877, 3878, applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(6)(B), amended Pub. L. 116–283, §1831(k), which enacted this section, by adding section 3722 designation and catchline "[Reserved]" and striking out former section 3722 designation and catchline "Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3723. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(6)(B), Dec. 27, 2021, 135 Stat. 2141.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3723 was renumbered section 7263 of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(6)(B), amended Pub. L. 116–283, §1831(k), which enacted this section, by adding section 3723 designation and catchline "[Reserved]" and striking out former section 3723 designation and catchline "Streamlining awards for innovative technology projects: pilot program".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable

as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3724. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(6)(B), Dec. 27, 2021, 135 Stat. 2141.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1701(i)(6)(B), amended Pub. L. 116–283, §1831(k), which enacted this section, by adding section 3724 designation and catchline "[Reserved]" and striking out former section 3724 designation and catchline "Risk-based contracting for smaller contract actions under truth in negotiations act: pilot program".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# CHAPTER 273—ALLOWABLE COSTS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **General** | **3741** |
| **II.** | **Other Allowable Cost Provisions** | **3761** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 273 "ALLOWABLE COSTS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3741, was repealed by Pub. L. 116–283, div. A, title XVIII, §1832(a), Jan. 1, 2021, 134 Stat. 4217.

# SUBCHAPTER I—GENERAL


Sec.

3741. Definitions.

3742. Adjustment of threshold amount of covered contract.

3743. Effect of submission of unallowable costs.

3744. Specific costs not allowable.

3745. Required regulations.

3746. Applicability of regulations to subcontractors.
3747. Contractor certification.
3748. Penalties for submission of cost known as not allowable.
3749. Burden of proof on contractor.
3750. Proceeding costs not allowable.

## §3741. Definitions

In this subchapter:

(1) COMPENSATION.—The term "compensation", for a year, means the total amount of wages, salary, bonuses and deferred compensation for the year, whether paid, earned, or otherwise accruing, as recorded in an employer's cost accounting records for the year.

(2) COVERED CONTRACT.—The term "covered contract" means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any firm fixed-price contract for the purchase of commercial products or commercial services.

(3) FISCAL YEAR.—The term "fiscal year" means a fiscal year established by a contractor for accounting purposes.

(4) HEAD OF THE AGENCY.—The term "head of the agency" or "agency head" does not include the Secretary of a military department.

(5) AGENCY.—The term "agency" means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (b)(1)–(3), Jan. 1, 2021, 134 Stat. 4218.)

### EDITORIAL NOTES

### CODIFICATION

The text of pars. (1)(A), (2)–(4), and (6) of subsec. (l) of section 2324 of this title, which were transferred to this section and amended by Pub. L. 116–283, §1832(b)(1)–(3), was based on Pub. L. 103–355, title II, §2101(d), Oct. 13, 1994, 108 Stat. 3308; Pub. L. 105–85, div. A, title VIII, §808(a)(2), Nov. 18, 1997, 111 Stat. 1836; Pub. L. 115–232, div. A, title VIII, §836(c)(9), Aug. 13, 2018, 132 Stat. 1866.

### PRIOR PROVISIONS

A prior section 3741 was renumbered section 7271 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(b)(1)–(3), redesignated pars. (4), (1)(A), (6), (2), and (3) of section 2324(l) of this title as pars. (1) to (5), respectively, of this section and inserted headings.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3742. Adjustment of threshold amount of covered contract

Effective on October 1 of each year that is divisible by five, the amount set forth in section 3741(2) of this title shall be adjusted in accordance with section 1908 of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (b)(4), Jan. 1, 2021, 134 Stat. 4218, 4219.)

### EDITORIAL NOTES

### CODIFICATION

The text of par. (1)(B) of subsec. (l) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(b)(4), was based on Pub. L. 103–355, title II, §2101(d), Oct. 13, 1994, 108 Stat. 3308; Pub. L. 115–91, div. A, title VIII, §811(e), Dec. 12, 2017, 131 Stat. 1460.

### PRIOR PROVISIONS

A prior section 3742 was renumbered section 7272 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(b)(4), transferred subpar. (B) of section 2324(l)(1) of this title to this section, struck out subpar. (B) designation at beginning, and substituted "section 3741(2) of this title" for "subparagraph (A)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3743. Effect of submission of unallowable costs

(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an agency shall require that a covered contract provide that if the contractor submits to the agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or applicable agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—

(1) If the head of the agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the head of the agency shall assess a penalty against the contractor in an amount equal to—

(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

(2) COST DETERMINED TO BE UNALLOWABLE BEFORE PROPOSAL SUBMITTED .—If the head of the agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the head of the agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

(2) the amount of unallowable costs subject to the penalty is insignificant; or

(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of the head of an agency under subsection (a) or (b)—

(1) shall be considered a final decision for the purposes of section 7103 of title 41; and

(2) is appealable in the manner provided in section 7104(a) of title 41.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (c), Jan. 1, 2021, 134 Stat. 4218, 4219.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (a) of section 2324 of this title, which was transferred to this section by Pub. L. 116–283, §1832(c)(1), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 682; Pub. L. 102–484, div. A, title VIII, §818(a)(1)(A), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103–355, title II, §2101(a), Oct. 13, 1994, 108 Stat. 3306.

The text of subsec. (b) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(c), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 682; Pub. L. 102–484, div. A, title VIII, §818(a)(1)(B), (2), Oct. 23, 1992, 106 Stat. 2457, 2458; Pub. L. 103–355, title II, §2101(a)(2), Oct. 13, 1994, 108 Stat. 3306.

The text of subsec. (c) of section 2324 of this title, which was transferred to this section by Pub. L. 116–283, §1832(c)(1), was based on Pub. L. 102–484, div. A, title VIII, §818(a)(5), Oct. 23, 1992, 106 Stat. 2458; Pub. L. 103–355, title II, §2101(a)(3), Oct. 13, 1994, 108 Stat. 3307.

The text of subsec. (d) of section 2324 of this title, which was transferred to this section by Pub. L. 116–283, §1832(c)(1), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 683; Pub. L. 102–484, div. A, title VIII, §818(a)(4), Oct. 23, 1992, 106 Stat. 2458; Pub. L. 103–355, title II, §2101(a)(4), Oct. 13, 1994, 108 Stat. 3307; Pub. L. 111–350, §5(b)(19)(A), (B), Jan. 4, 2011, 124 Stat. 3844.

**PRIOR PROVISIONS**

A prior section 3743 was renumbered section 7273 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1832(c)(1), transferred subsecs. (a) to (d) of section 2324 of this title to this section.

Subsec. (b). Pub. L. 116–283, §1832(c)(2), realigned margins of pars. (1) and (2) and inserted par. (2) heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3744. Specific costs not allowable

(a) SPECIFIC COSTS.—The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs

directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

(11) Costs incurred in making any payment (commonly known as a "golden parachute payment") which is—

(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

(12) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

(13) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

(14) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.

(15) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in section 3750 of this title.

(16) [1] Costs of compensation of any contractor employee for a fiscal year, regardless of the contract funding source, to the extent that such compensation exceeds $625,000 adjusted annually for the U.S. Bureau of Labor Statistics Employment Cost Index for total compensation for private industry workers, by occupational and industry group not seasonally adjusted, except that the Secretary of Defense may establish exceptions for positions in the science, technology, engineering, mathematics, medical, and cybersecurity fields and other fields requiring unique areas of expertise upon a determination that such exceptions are needed to ensure that the Department of Defense has continued access to needed skills and capabilities.

(16) [1] Costs of compensation of contractor and subcontractor employees for a fiscal year, regardless of the contract funding source, to the extent that such compensation exceeds $487,000 per year, adjusted annually to reflect the change in the Employment Cost Index for all workers, as calculated by the Bureau of Labor Statistics, except that the head of an executive agency may

establish one or more narrowly targeted exceptions for scientists, engineers, or other specialists upon a determination that such exceptions are needed to ensure that the executive agency has continued access to needed skills and capabilities.

(17) Costs incurred by a contractor in connection with a congressional investigation or inquiry into an issue that is the subject matter of a proceeding resulting in a disposition as described in section 3750(c) of this title.

(b) WAIVER OF SEVERANCE PAY RESTRICTIONS FOR FOREIGN NATIONALS.—

(1) HEAD OF AN AGENCY DETERMINATION.—Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, the head of an agency awarding a covered contract (other than a contract to which subsection (d) applies) may waive the application of the provisions of subsections (a)(13) and (a)(14) to that contract if the head of the agency determines that—

(A) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

(B) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

(C) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

(2) SOLICITATION TO INCLUDE STATEMENT ABOUT WAIVER.—The head of an agency shall include in the solicitation for a covered contract a statement indicating—

(A) that a waiver has been granted under paragraph (1) for the contract; or

(B) whether the head of the agency will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

(3) DETERMINATION TO BE MADE BEFORE CONTRACT AWARDED.—The head of an agency shall make the final determination regarding whether to grant a waiver under paragraph (1) with respect to a covered contract before award of the contract.

(c) ESTABLISHMENT OF DEFINITIONS, EXCLUSIONS, LIMITATIONS, AND QUALIFICATIONS.—The provisions of the Federal Acquisition Regulation implementing this subchapter may establish appropriate definitions, exclusions, limitations, and qualifications.

(d) SPECIFIC COSTS UNDER MILITARY BANKING CONTRACTS RELATING TO FOREIGN NATIONALS.—

(1) AUTHORITY.—The Secretary of Defense may provide in a military banking contract that the provisions of subsections (a)(13) and (a)(14) shall not apply to costs incurred under the contract by the contractor for payment of mandated foreign national severance pay. The Secretary may include such a provision in a military banking contract only if the Secretary determines, with respect to that contract, that the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals.

(2) DEFINITIONS.—In paragraph (1):

(A) MILITARY BANKING CONTRACT.—The term "military banking contract" means a contract between the Secretary and a financial institution under which the financial institution operates a military banking facility outside the United States for use by members of the armed forces stationed or deployed outside the United States and other authorized personnel.

(B) MANDATED FOREIGN NATIONAL SEVERANCE PAY.—The term "mandated

foreign national severance pay" means severance pay paid by a contractor to a foreign national employee the payment of which by the contractor is required in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract.

(3) EXCEPTION FOR FOREIGN-OWNED FINANCIAL INSTITUTIONS.—Paragraph (1) does not apply to a contract with a financial institution that is owned or controlled by citizens or nationals of a foreign country, as determined by the Secretary of Defense. Such a determination shall be made in accordance with the criteria set out in paragraph (1) of section 4(g) of the Buy American Act (as added by section 7002(2) of the Omnibus Trade and Competitiveness Act of 1988) and the policy guidance referred to in paragraph (2)(A) of that section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (d), Jan. 1, 2021, 134 Stat. 4218, 4219.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4 of the Buy American Act (as added by section 7002(2) of the Omnibus Trade and Competitiveness Act of 1988), referred to in subsec. (d)(3), was section 4 of act Mar. 3, 1933, ch. 212, title III, as added Pub. L. 100–418, title VII, §7002(2), Aug. 23, 1988, 102 Stat. 1545. Section 4, which was classified to section 10b–1 of former Title 41, Public Contracts, was omitted from the Code in view of section 7004 of Pub. L. 100–418 which provided that the amendment by Pub. L. 100–418 which enacted section 4 ceased to be effective on Apr. 30, 1996. Section 4 was subsequently repealed by Pub. L. 111–350, §7(b), Jan. 4, 2011, 124 Stat. 3855, which Act enacted Title 41, Public Contracts.

### CODIFICATION

The text of subsec. (e) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(d), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 683; Pub. L. 99–190, §101(b) [title VIII, §8112(a)(1)], Dec. 19, 1985, 99 Stat. 1185, 1223; Pub. L. 100–180, div. A, title VIII, §805(a), Dec. 4, 1987, 101 Stat. 1126; Pub. L. 100–370, §1(f)(2)(A), July 19, 1988, 102 Stat. 846; Pub. L. 100–456, div. A, title III, §322(a), title VIII, §832(a), Sept. 29, 1988, 102 Stat. 1952, 2023; Pub. L. 100–700, §8(b)(1), Nov. 19, 1988, 102 Stat. 4636; Pub. L. 101–189, div. A, title III, §311(a)(1), Nov. 29, 1989, 103 Stat. 1411; Pub. L. 101–510, div. A, title XIII, §1301(10), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–190, div. A, title III, §346(a), Dec. 5, 1991, 105 Stat. 1346; Pub. L. 102–484, div. A, title XIII, §1352(b), Oct. 23, 1992, 106 Stat. 2559; Pub. L. 103–355, title II, §2101(a)(5), (b), Oct. 13, 1994, 108 Stat. 3307, 3308; Pub. L. 104–106, div. D, title XLIII, §4321(b)(9)(A), Feb. 10, 1996, 110 Stat. 672; Pub. L. 105–85, div. A, title VIII, §808(a)(1), Nov. 18, 1997, 111 Stat. 1836; Pub. L. 111–350, §5(b)(19)(C), (D), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 112–81, div. A, title VIII, §803(a), Dec. 31, 2011, 125 Stat. 1485; Pub. L. 113–66, div. A, title VIII, §811(a), Dec. 26, 2013, 127 Stat. 806; Pub. L. 113–67, div. A, title VII, §702(a)(2), Dec. 26, 2013, 127 Stat. 1189; Pub. L. 113–291, div. A, title VIII, §857, Dec. 19, 2014, 128 Stat. 3460.

### PRIOR PROVISIONS

A prior section 3744 was renumbered section 7274 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(d)(1), transferred subsec. (e) of section 2324 of this title to this section, struck out subsec. (e) designation and heading "Specific Costs Not Allowable" at beginning, and redesignated pars. (1), (3), (4), and (2) as subsecs. (a) to (d), respectively.

Subsec. (a). Pub. L. 116–283, §1832(d)(2)(A), (B), after redesignation of par. (1) of section 2324(e) of this title as subsec. (a) of this section, inserted heading and redesignated subpars. (A) to (Q) as pars. (1) to (17), respectively, including two subpars. (P) both redesignated par. (16).

Subsec. (a)(15). Pub. L. 116–283, §1832(d)(2)(C), substituted "section 3750 of this title" for "subsection (k)".

Subsec. (a)(17). Pub. L. 116–283, §1832(d)(2)(D), substituted "section 3750(c) of this title" for "subsection (k)(2)".

Subsec. (b). Pub. L. 116–283, §1832(d)(3)(A), (B), after redesignation of par. (3) of section 2324(e) of this title as subsec. (b) of this section, inserted heading and redesignated subpars. (A) to (C) as pars. (1) to (3),

respectively.

Subsec. (b)(1). Pub. L. 116–283, §1832(d)(3)(A), (C), inserted heading, substituted "subsection (d)" for "paragraph (2)" and "subsections (a)(13) and (a)(14)" for "paragraphs (1)(M) and (1)(N)" in introductory provisions, and redesignated cls. (i) to (iii) of former section 2324(e)(3)(A) as subpars. (A) to (C), respectively.

Subsec. (b)(2). Pub. L. 116–283, §1832(d)(3)(D), inserted heading, realigned margin, redesignated cls. (i) and (ii) of former section 2324(e)(3)(B) as subpars. (A) and (B), respectively, and, in subpar. (A), substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (b)(3). Pub. L. 116–283, §1832(d)(3)(E), inserted heading, realigned margin, and substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (c). Pub. L. 116–283, §1832(d)(4), after redesignation of par. (4) of section 2324(e)(3) of this title as subsec. (c) of this section, inserted heading and substituted "this subchapter" for "this section".

Subsec. (d). Pub. L. 116–283, §1832(d)(5)(A), (B), after redesignation of par. (2) of section 2324(e)(3) of this title as subsec. (d) of this section, inserted heading, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and realigned margins.

Subsec. (d)(1). Pub. L. 116–283, §1832(d)(5)(A), (C), inserted heading and substituted "subsections (a)(13) and (a)(14)" for "paragraphs (1)(M) and (1)(N)".

Subsec. (d)(2). Pub. L. 116–283, §1832(d)(5)(D), inserted par. heading, substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions, redesignated cls. (i) and (ii) of former section 2324(e)(2)(B) as subpars. (A) and (B), respectively, and inserted subpar. headings.

Subsec. (d)(3). Pub. L. 116–283, §1832(d)(5)(E), inserted heading and substituted "Paragraph (1)" for "Subparagraph (A)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

#### REGULATIONS

Pub. L. 99–145, title IX, §911(b), Nov. 8, 1985, 99 Stat. 685, provided that:

"(1) Not later than 150 days after the date of the enactment of this Act [Nov. 8, 1985], the Secretary of Defense shall prescribe the regulations required by subsections (e) and (f) of [former] section 2324 of title 10, United States Code [see 10 U.S.C. 3744, 3745], as added by subsection (a). Such regulations shall be published in accordance with section 22 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 418b) [now 41 U.S.C. 1707].

"(2) The Secretary shall review such regulations at least once every five years. The results of each such review shall be made public."

[1] *So in original. There are two pars. (16).*

## §3745. Required regulations

(a) IN GENERAL.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

(b) SPECIFIC ITEMS.—The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

(1) Air shows.

(2) Membership in civic, community, and professional organizations.

(3) Recruitment.

(4) Employee morale and welfare.

(5) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or

unsolicited bids).
(6) Community relations.
(7) Dining facilities.
(8) Professional and consulting services, including legal services.
(9) Compensation.
(10) Selling and marketing.
(11) Travel.
(12) Public relations.
(13) Hotel and meal expenses.
(14) Expense of corporate aircraft.
(15) Company-furnished automobiles.
(16) Advertising.
(17) Conventions.

(c) ADDITIONAL REQUIREMENTS.—
(1) WHEN QUESTIONED COSTS MAY BE RESOLVED.—The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until he has obtained—
(A) adequate documentation with respect to such costs; and
(B) the opinion of the contract auditor on the allowability of such costs.

(2) PRESENCE OF CONTRACT AUDITOR.—The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, the contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.
(3) SETTLEMENT TO REFLECT AMOUNT OF INDIVIDUAL QUESTIONED COSTS .—The Federal Acquisition Regulation shall require that all categories of costs designated in the report of the contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (e), Jan. 1, 2021, 134 Stat. 4218, 4221.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(e), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 683; Pub. L. 100–456, div. A, title VIII, §826(a), Sept. 29, 1988, 102 Stat. 1952; Pub. L. 100–463, title VIII, §8105(a), Oct. 1, 1988, 102 Stat. 2270–36; Pub. L. 100–526, title I, §106(a)(2), Oct. 24, 1988, 102 Stat. 2625; Pub. L. 102–484, div. A, title X, §1052(26)(A), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–355, title II, §2101(a)(6), (c), Oct. 13, 1994, 108 Stat. 3307, 3308, as amended by Pub. L. 104–106, div. D, title XLIII, §4321(a)(5), Feb. 10, 1996, 110 Stat. 671.

Another section 1832(e) of Pub. L. 116–283 amended section 3746 of this title.

### PRIOR PROVISIONS

A prior section 3745 was renumbered section 7275 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(e)(1)(A), transferred subsec. (f) of section 2324 of this title to this section and struck out subsec. (f) designation and heading "Required Regulations" at beginning.

Subsec. (a). Pub. L. 116–283, §1832(e)(1)(B), (2), redesignated first two sentences of par. (1) of section 2324(f) of this title as subsec. (a) of this section and inserted heading. Third sentence designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1832(e)(1)(C), (3), designated third sentence of subsec. (a) as subsec. (b), inserted heading, and redesignated subpars. (A) to (Q) as pars. (1) to (17), respectively.

Subsec. (c). Pub. L. 116–283, §1832(e)(1)(D), (E), (4), redesignated pars. (2) to (4) of section 2324(f) of this title collectively as subsec. (c) of this section and individually as pars. (1) to (3), respectively, thereof, inserted subsec. and par. headings, and realigned margins.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### REGULATIONS

For requirement to prescribe and periodically review regulations required by this section (formerly subsec. (f) of section 2324 of this title), see section 911(b) of Pub. L. 99–145, set out as a note under section 3744 of this title.

## §3746. Applicability of regulations to subcontractors

The regulations referred to in sections 3744 and 3745(a) and (b) of this title shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (e), Jan. 1, 2021, 134 Stat. 4218, 4221.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(e), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 684; Pub. L. 103–355, title II, §2101(a)(7), Oct. 13, 1994, 108 Stat. 3308.

Another section 1832(e) of Pub. L. 116–283 amended section 3745 of this title.

### PRIOR PROVISIONS

A prior section 3746 was renumbered section 7276 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(e), transferred subsec. (g) of section 2324 of this title to this section, struck out subsec. (g) designation and heading "Applicability of Regulations to Subcontractors" at beginning, and substituted "sections 3744 and 3745(a) and (b) of this title" for "subsections (e) and (f)(1)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3747. Contractor certification

(a) CONTENT AND FORM.—A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

(b) WAIVER.—The head of the agency or the Secretary of the military department concerned

may, in an exceptional case, waive the requirement for certification under subsection (a) in the case of any contract if the head of the agency or the Secretary—

(1) determines in such case that it would be in the interest of the United States to waive such certification; and

(2) states in writing the reasons for that determination and makes such determination available to the public.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (f), Jan. 1, 2021, 134 Stat. 4218, 4221.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (h) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(f), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 684; Pub. L. 99–190, §101(b) [title VIII, §8112(a)(2)], Dec. 19, 1985, 99 Stat. 1185, 1223; Pub. L. 103–355, title II, §2101(a)(8), Oct. 13, 1994, 108 Stat. 3308; Pub. L. 104–106, div. D, title XLIII, §4321(b)(9)(B), Feb. 10, 1996, 110 Stat. 672.

### PRIOR PROVISIONS

A prior section 3746 was renumbered section 7276 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(f)(1)(A), transferred subsec. (h) of section 2324 of this title to this section and struck out subsec. (h) designation and heading "Contractor Certification Required" at beginning.

Subsec. (a). Pub. L. 116–283, §1832(f)(1)(B), (2), redesignated par. (1) of section 2324(h) of this title as subsec. (a) of this section and inserted heading.

Subsec. (b). Pub. L. 116–283, §1832(f)(1)(B), (3), redesignated par. (2) of section 2324(h) of this title as subsec. (b) of this section, inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3748. Penalties for submission of cost known as not allowable

The submission to an agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18 and section 3729 of title 31.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (g), Jan. 1, 2021, 134 Stat. 4218, 4222.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (i) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(g), was based on Pub. L. 99–145, title IX, §911(a)(1), Nov. 8, 1985, 99 Stat. 684; Pub. L. 103–355, title II, §2101(a)(9), Oct. 13, 1994, 108 Stat. 3308.

### PRIOR PROVISIONS

A prior section 3748 was renumbered section 7278 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1832(g), transferred subsec. (i) of section 2324 of this title to this section and struck out subsec. (i) designation and heading "Penalties for Submission of Cost Known as Not Allowable" at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3749. Burden of proof on contractor

In a proceeding before the Armed Services Board of Contract Appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the Department of Defense is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (h), Jan. 1, 2021, 134 Stat. 4218, 4222.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (j) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(h), was based on Pub. L. 100–370, §1(f)(3)(A), July 19, 1988, 102 Stat. 846; Pub. L. 103–355, title II, §2101(a)(10), Oct. 13, 1994, 108 Stat. 3308.

**PRIOR PROVISIONS**

A prior section 3749 was renumbered section 7279 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1832(h), transferred subsec. (j) of section 2324 of this title to this section and struck out subsec. (j) designation and heading "Contractor To Have Burden of Proof" at beginning.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3750. Proceeding costs not allowable

(a) DEFINITIONS.—In this section:

(1) COSTS.—The term "costs", with respect to a proceeding—

(A) means all costs incurred by a contractor or subcontractor, or personal services contractor, whether before or after the commencement of any such proceeding; and

(B) includes—

(i) administrative and clerical expenses;

(ii) the cost of legal services, including legal services performed by an employee of the contractor or subcontractor, or personal services contractor;

(iii) the cost of the services of accountants and consultants retained by the contractor or subcontractor, or personal services contractor; and

(iv) the pay of directors, officers, and employees of the contractor or subcontractor, or personal services contractor for time devoted by such directors, officers, and employees to such proceeding.

(2) PENALTY.—The term "penalty" does not include restitution, reimbursement, or compensatory damages.

(3) PROCEEDINGS.—The term "proceeding" includes an investigation.

(b) IN GENERAL.—Except as otherwise provided in this section, costs incurred by a contractor or subcontractor, or personal services contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States, by a State, or by a contractor or subcontractor, or personal services contractor employee submitting a complaint under section 4701 of this title are not allowable as reimbursable costs under a covered contract, subcontract, or personal services contract if the proceeding—

(1) relates to a violation of, or failure to comply with, a Federal or State statute or regulation or to any other activity described in section 4701(a)(1) of this title; and

(2) results in a disposition described in subsection (c).

(c) COVERED DISPOSITIONS.—A disposition referred to in subsection (b)(2) is any of the following:

(1) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in subsection (b).

(2) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor or subcontractor, or personal services contractor liability on the basis of the violation or failure referred to in subsection (b).

(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty or an order to take corrective action under section 4701 of this title by reason of the violation or failure referred to in subsection (b).

(4) A final decision—

(A) to debar or suspend the contractor or subcontractor, or personal services contractor;

(B) to rescind or void the contract, subcontract, or personal services contract; or

(C) to terminate the contract, subcontract, or personal services contract for default;

by reason of the violation or failure referred to in subsection (b).

(5) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in paragraphs (1), (2), (3), or (4).

(d) COSTS ALLOWED BY SETTLEMENT AGREEMENT IN PROCEEDING COMMENCED BY UNITED STATES.—In the case of a proceeding referred to in subsection (b) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor or subcontractor, or personal services contractor and the United States, the costs incurred by the contractor or subcontractor, or personal services contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such subsection may be allowed to the extent specifically provided in such agreement.

(e) COSTS SPECIFICALLY AUTHORIZED IN PROCEEDING COMMENCED BY STATE .—In the case of a proceeding referred to in subsection (b) that is commenced by a State, the head of the agency or Secretary of the military department concerned that awarded the covered contract, subcontract, or personal services contract involved in the proceeding may allow the costs incurred by the contractor or subcontractor, or personal services contractor in connection with such proceeding as reimbursable costs if the agency head or Secretary determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (1) a specific term or condition of

the contract, subcontract, or personal services contract, or (2) specific written instructions of the agency or military department.

(f) OTHER ALLOWABLE COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (3), costs incurred by a contractor or subcontractor, or personal services contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract, subcontract, or personal services contract may be allowed as reimbursable costs under the contract, subcontract, or personal services contract if such costs are not disallowable under subsection (b), but only to the extent provided in paragraph (2).

(2) AMOUNT OF ALLOWABLE COSTS.—

(A) MAXIMUM AMOUNT ALLOWED.—The amount of the costs allowable under paragraph (1) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

(B) CONTENT OF REGULATIONS.—Regulations issued for the purpose of subparagraph (A) shall provide for appropriate consideration of—

(i) the complexity of procurement litigation;

(ii) generally accepted principles governing the award of legal fees in civil actions involving the United States as a party; and

(iii) such other factors as may be appropriate.

(3) WHEN OTHERWISE ALLOWABLE COSTS ARE NOT ALLOWABLE.—In the case of a proceeding referred to in paragraph (1), contractor or subcontractor, or personal services contractor costs otherwise allowable as reimbursable costs under this subsection are not allowable if—

(A) such proceeding involves the same contractor or subcontractor, or personal services contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding; and

(B) the costs of such other proceeding are not allowable under subsection (b).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1832(a), (i), Jan. 1, 2021, 134 Stat. 4218, 4222; Pub. L. 117–81, div. A, title XVII, §1701(b)(11), Dec. 27, 2021, 135 Stat. 2134.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (k) of section 2324 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1832(i), was based on Pub. L. 100–700, §8(b), Nov. 19, 1988, 102 Stat. 4636; Pub. L. 101–189, div. A, title VIII, §853(a)(1)(A), (b)(3), Nov. 29, 1989, 103 Stat. 1518; Pub. L. 103–355, title II, §2101(a)(11), Oct. 13, 1994, 108 Stat. 3308; Pub. L. 112–239, div. A, title VIII, §827(g), Jan. 2, 2013, 126 Stat. 1836; Pub. L. 114–261, §1(b)(1), Dec. 14, 2016, 130 Stat. 1362.

### PRIOR PROVISIONS

Prior sections 3750 to 3756 were renumbered sections 7280 to 7286 of this title, respectively.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1832(i)(1)(A), (B), redesignated par. (6) of section 2324(k) of this title as subsec. (a) of this section, inserted heading, substituted "In this section" for "In this subsection" in introductory provisions, and redesignated subpars. (B), (C), and (A) as pars. (1) to (3), respectively.

Subsec. (a)(1). Pub. L. 116–283, §1832(i)(1)(C), inserted heading and redesignated cls. (i) and (ii) and its subcls. (I) to (IV) as subpars. (A) and (B) and cls. (i) to (iv), respectively.

Subsec. (a)(2), (3). Pub. L. 116–283, §1832(i)(1)(D), (E), inserted heading.

Subsec. (b). Pub. L. 116–283, §1832(i)(2), (3), redesignated par. (1) of subsec. (k) of section 2324 of this title as subsec. (b) of this section, inserted heading, substituted "this section" for "this subsection" and "section

4701" for "section 2409", redesignated inline subpars. (A) and (B) as pars. (1) and (2), respectively, and reformatted text, and substituted "in section 4701(a)(1)" for "in subparagraphs (A) through (C) of section 2409(a)(1)" in par. (1) and "subsection (c)" for "paragraph (2)"in par. (2).

Subsec. (c). Pub. L. 116–283, §1832(i)(2), (4)(A)–(D), redesignated par. (2) of section 2324(k) of this title as subsec. (c) of this section, inserted heading, substituted "subsection (b)(2)" for "paragraph (1)(B)" in introductory provisions, and "subsection (b)" for "paragraph (1)" wherever appearing, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (c)(3). Pub. L. 116–283, §1832(i)(4)(E), substituted "section 4701" for "section 2409".

Subsec. (c)(4). Pub. L. 116–283, §1832(i)(4)(F), redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively.

Subsec. (c)(5). Pub. L. 116–283, §1832(i)(4)(G), substituted "paragraphs (1), (2), (3), or (4)" for "subparagraph (A), (B), (C), or (D)".

Subsec. (d). Pub. L. 116–283, §1832(i)(2), (5), redesignated par. (3) of section 2324(k) of this title as subsec. (d) of this section, inserted heading, and substituted "subsection (b)" for "paragraph (1)" and "such subsection" for "such paragraph".

Subsec. (e). Pub. L. 116–283, §1832(i)(2), (6), redesignated par. (4) of section 2324(k) of this title as subsec. (e) of this section, inserted heading, and substituted "subsection (b)" for "paragraph (1)", "(1)" for "(A)", and "(2)" for "(B)".

Subsec. (f). Pub. L. 116–283, §1832(i)(2), (7)(A), (B), redesignated par. (5) of section 2324(k) of this title as subsec. (f) of this section, inserted heading, and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and realigned margins.

Subsec. (f)(1). Pub. L. 116–283, §1832(i)(7)(A), (C), inserted heading and substituted "paragraph (3)" for "subparagraph (C)", "subsection (b)" for "paragraph (1)", and "paragraph (2)" for "subparagraph (B)".

Subsec. (f)(2). Pub. L. 116–283, §1832(i)(7)(D)(i), (ii), inserted heading and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (f)(2)(A). Pub. L. 116–283, §1832(i)(7)(D)(i), (iii), inserted heading and substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (f)(2)(B). Pub. L. 116–283, §1832(i)(7)(D)(iv), (E), inserted heading, substituted "subparagraph (A)" for "clause (i)", inserted dash after "consideration of", and reorganized remainder of existing text into designated cls. (i) to (iii).

Subsec. (f)(3). Pub. L. 116–283, §1832(i)(7)(F), as amended by Pub. L. 117–81, §1701(b)(11), inserted heading, substituted "paragraph (1)" for "subparagraph (A)" and "under this subsection" for "under this paragraph", inserted dash after "not allowable if", redesignated inline cls. (i) and (ii) as subpars. (A) and (B), respectively, and reformatted text, and, in subpar. (B), substituted "subsection (b)" for "paragraph (1)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### REGULATIONS

Pub. L. 100–700, §8(d), Nov. 19, 1988, 102 Stat. 4638, provided that: "The regulations necessary for the implementation of section 306(e) of the Federal Property and Administrative Services Act of 1949 [now 41 U.S.C. 4304] (as added by subsection (a)) and section 2324(k)(5) of title 10, United States Code [see 10 U.S.C. 3750(f)] (as added by subsection (b))—

"(1) shall be prescribed not later than 120 days after the date of the enactment of this Act [Nov. 19, 1988]; and

"(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued."

# SUBCHAPTER II—OTHER ALLOWABLE COST PROVISIONS

Sec.
3761. Restructuring costs.
3762. Independent research and development costs: allowable costs.
3763. Bid and proposal costs: allowable costs.
[3764, 3765. Repealed.]

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(5), (h)(2), Dec. 27, 2021, 135 Stat. 2139, 2140, amended subchapter heading generally and struck out items 3764 "Excessive pass-through charges" and 3765 "Institutions of higher education: reimbursement of indirect costs under Department of Defense contracts". Prior to amendment, subchapter heading read as follows: "SUBCHAPTER II—OTHER ALLOWABLE COST PROVISIONS".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REPORT AND REGULATIONS ON EXCESSIVE PASS-THROUGH CHARGES

Pub. L. 109–364, div. A, title VIII, §852, Oct. 17, 2006, 120 Stat. 2340, as amended by Pub. L. 113–291, div. A, title X, §1071(b)(3)(B), Dec. 19, 2014, 128 Stat. 3506; Pub. L. 115–232, div. A, title VIII, §836(f)(5), Aug. 13, 2018, 132 Stat. 1871, provided that:

"(a) COMPTROLLER GENERAL REPORT ON EXCESSIVE PASS-THROUGH CHARGES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Comptroller General shall issue a report on pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense.

"(2) MATTERS COVERED.—The report issued under this subsection—

"(A) shall assess the extent to which the Department of Defense has paid excessive pass-through charges to contractors who provided little or no value to the performance of the contract;

"(B) shall assess the extent to which the Department has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors (including any category of small business); and

"(C) shall determine the extent to which any prohibition on excessive pass-through charges would be inconsistent with existing commercial practices for any specific category of contracts or have an unjustified adverse effect on any specific category of contractors (including any category of small business).

"(b) REGULATIONS REQUIRED.—

"(1) IN GENERAL.—Not later than May 1, 2007, the Secretary of Defense shall prescribe regulations to ensure that pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor.

"(2) SCOPE OF REGULATIONS.—The regulations prescribed under this subsection—

"(A) shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is—

"(i) awarded on the basis of adequate price competition; or

"(ii) for the acquisition of a commercial product or a commercial service, as defined in sections 103 and 103a, respectively, of title 41, United States Code; and

"(B) may include such additional exceptions as the Secretary determines to be necessary in the interest of the national defense.

"(3) DEFINITION.—In this section, the term 'excessive pass-through charge', with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor (other than charges for the direct costs of managing lower-tier contracts and subcontracts and overhead and profit based on such direct costs).

"(4) REPORT.—Not later than one year after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the steps taken to

implement the requirements of this subsection, including—

"(A) any standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

"(B) any procedures established for preventing excessive pass-through charges; and

"(C) any exceptions determined by the Secretary to be necessary in the interest of the national defense.

"(5) EFFECTIVE DATE.—The regulations prescribed under this subsection shall apply to contracts awarded for or on behalf of the Department of Defense on or after May 1, 2007."

**REIMBURSEMENT OF INDIRECT COSTS OF INSTITUTIONS OF HIGHER EDUCATION UNDER DEPARTMENT OF DEFENSE CONTRACTS**

Pub. L. 103–160, div. A, title VIII, §841, Nov. 30, 1993, 107 Stat. 1719, as amended by Pub. L. 105–244, title I, §102(a)(2)(C), Oct. 7, 1998, 112 Stat. 1617, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not by regulation place a limitation on the amount that the Department of Defense may reimburse an institution of higher education for allowable indirect costs incurred by the institution for work performed for the Department of Defense under a Department of Defense contract unless that same limitation is applied uniformly to all other organizations performing similar work for the Department of Defense under Department of Defense contracts.

"(b) WAIVER.—The Secretary of Defense may waive the application of the prohibition in subsection (a) in the case of a particular institution of higher education if the governing body of the institution requests the waiver in order to simplify the overall management by that institution of cost reimbursements by the Department of Defense for contracts awarded by the Department to the institution.

"(c) DEFINITIONS.—In this section:

"(1) The term 'allowable indirect costs' means costs that are generally considered allowable as indirect costs under regulations that establish the cost reimbursement principles applicable to an institution of higher education for purposes of Department of Defense contracts.

"(2) The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]."

## §3761. Restructuring costs

(a) LIMITATION ON PAYMENT OF RESTRUCTURING COSTS.—The Secretary of Defense may not pay, under subchapter I, a defense contractor for restructuring costs associated with a business combination of the contractor that occurs after November 18, 1997, unless the Secretary determines in writing either—

(1) that the amount of projected savings for the Department of Defense associated with the restructuring will be at least twice the amount of the costs allowed; or

(2) that the amount of projected savings for the Department of Defense associated with the restructuring will exceed the amount of the costs allowed and that the business combination will result in the preservation of a critical capability that otherwise might be lost to the Department.

(b) LIMITATION ON DELEGATION.—The Secretary may not delegate the authority to make a determination under subsection (a), with respect to a business combination, to an official of the Department of Defense—

(1) below the level of an Assistant Secretary of Defense for cases in which the amount of restructuring costs is expected to exceed $25,000,000 over a 5-year period; or

(2) below the level of the Director of the Defense Contract Management Agency for all other cases.

(c) DEFINITION.—In this section, the term "business combination" includes a merger or acquisition.

(Added Pub. L. 105–85, div. A, title VIII, §804(a)(1), Nov. 18, 1997, 111 Stat. 1832, §2325; amended Pub. L. 106–65, div. A, title X, §1066(a)(19), Oct. 5, 1999, 113 Stat. 771; Pub. L. 108–375,

div. A, title VIII, §819, Oct. 28, 2004, 118 Stat. 2016; Pub. L. 112–239, div. A, title X, §1076(g)(2), Jan. 2, 2013, 126 Stat. 1955; renumbered §3761 and amended Pub. L. 116–283, div. A, title XVIII, §1832(j)(2), (3), Jan. 1, 2021, 134 Stat. 4225.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1832(j)(2), renumbered section 2325 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1832(j)(3)(B), (E), in introductory provisions, struck out par. (1) designation before "The Secretary" and substituted "subchapter I" for "section 2324 of this title" and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former par. (2) of subsec. (a) redesignated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1832(j)(3)(C)–(E), redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–283, §1832(j)(3)(A), redesignated subsec. (b) as (c).

**2013**—Subsec. (b). Pub. L. 112–239 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required reports relating to business combinations occurring on or after August 15, 1994.

**2004**—Subsec. (a)(2). Pub. L. 108–375 substituted "paragraph (1), with respect to a business combination, to an official of the Department of Defense—" for "paragraph (1) to an official of the Department of Defense below the level of an Assistant Secretary of Defense." and added subpars. (A) and (B).

**1999**—Subsec. (a)(1). Pub. L. 106–65 inserted "that occurs after November 18, 1997," after "of the contractor" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 105–85, div. A, title VIII, §804(c), Nov. 18, 1997, 111 Stat. 1834, provided that: "Section 2325(a) of title 10, United States Code [now 10 U.S.C. 3761(a)], as added by subsection (a), shall apply with respect to business combinations that occur after the date of the enactment of this Act [Nov. 18, 1997]."

### PILOT PROGRAM FOR FINANCING FOR COVERED ACTIVITIES

Pub. L. 119–60, div. A, title VIII, §803, Dec. 18, 2025, 139 Stat. 940, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense may establish a pilot program to evaluate the feasibility, risks, and benefits of expanding contract cost principles and procedures of the Department of Defense to allow for financing costs incurred for a covered activity under a covered contract to be considered allowable and allocable as a direct or indirect cost for such covered contract.

"(b) PROGRAM AUTHORITIES AND REQUIREMENTS.—Under a pilot program established under subsection (a), the Secretary of Defense—

"(1) may treat financing costs incurred for a covered activity under a covered contract as allowable and allocable as a direct or an indirect cost for such covered contract, provided—

"(A) such costs are—

"(i) reasonable in amount and consistent with prevailing market rates for similar financing; and

"(ii) incurred to pay a financing entity; and

"(B) such covered activity is performed in compliance with the applicable requirements of the Department of Defense for audits of material and inventory management; and

"(2) shall ensure that with respect to a covered contract for which financing costs are allowable and allocable under the pilot program, any obligation of the United States to make a payment under such covered contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for the termination of such covered contract shall be limited to the total amount of funding obligated at the time of termination.

"(c) SUBCONTRACTOR STATUS.—For the purposes of a pilot program established under (a), a

financing entity may not be considered a subcontractor solely because of the participation of such financing entity in a covered activity.

"(d) BRIEFING.—Prior to establishing a pilot program under subsection (a), the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on how the Department of Defense will ensure the compliance of a financing entity who is not treated as a subcontractor with the applicable requirements of the Department of Defense for audits of material and inventory management, including any updates to the policies or regulations of the Department required to ensure such compliance.

"(e) REPORT AND RECOMMENDATIONS.—Not later than February 15, 2028, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot program established under subsection (a), if any, including an assessment of the feasibility, risks, and benefits of authorizing the financing costs incurred by a contractor for a covered activity under a covered contract to be considered allowable and allocable as a direct or indirect cost for such covered contract, and recommendations on whether the pilot program should be extended or the authority under the pilot program should be made permanent.

"(f) SUNSET.—The Secretary of Defense may not authorize the treatment of financing costs incurred for a covered activity under a covered contract as allowable and allocable as a direct or an indirect cost for such covered contract under the pilot program established under subsection (a) if such covered contract is entered into on or after December 31, 2029.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered activity' means an activity taken by a prime contractor or subcontractor—

"(A) to manage an inventory of completed products or components used in production;

"(B) to improve inventory management of products or components necessary for sustainment or maintenance; or

"(C) to materially expand the capacity of production or sustainment and maintenance through capital expenditures.

"(2) The term 'covered contract' means a contract, subcontract, or other agreement entered into by the Secretary of Defense for the performance of a covered activity.

"(3) The term 'financing costs' means interest on borrowings, bond discounts, and costs of financing and refinancing capital.

"(4) The term 'financing entity' means—

"(A) any corporation, limited liability company, partnership, trust, or other entity that—

"(i) is organized under Federal or State law; and

"(ii) as part of its regular business activities, extends credit, loans, or other forms of financing to other persons or entities; and

"(B) provided that such legal entity is not owned by, controlled by, or under common control with the other persons or entities receiving such financing."

## §3762. Independent research and development costs: allowable costs

(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the payment by the Department of Defense of expenses incurred by contractors for independent research and development costs. Such regulations shall provide that expenses incurred for independent research and development shall be reported independently from other allowable indirect costs.

(b) COSTS TREATED AS FAIR AND REASONABLE, AND ALLOWABLE, EXPENSES .—The regulations prescribed under subsection (a) shall provide that independent research and development costs shall be considered a fair and reasonable, and allowable, indirect expense on Department of Defense contracts.

(c) ADDITIONAL CONTROLS.—Subject to subsection (d), the regulations prescribed under subsection (a) may include the following provisions:

(1) Controls on the reimbursement of costs to the contractor for expenses incurred for independent research and development to ensure that such costs were incurred for independent research and development.

(2) Implementation of regular methods for transmission—

(A) from the Department of Defense to contractors, in a reasonable manner, of timely and comprehensive information regarding planned or expected needs of the Department of Defense

for future technology and advanced capability; and

(B) from contractors to the Department of Defense, in a reasonable manner, of information regarding progress by the contractor on the independent research and development programs of the contractor.

(d) LIMITATIONS ON REGULATIONS.—Regulations prescribed under subsection (a) may not include provisions that would infringe on the independence of a contractor to choose which technologies to pursue in its independent research and development program if the chief executive officer of the contractor determines that expenditures will advance the needs of the Department of Defense for future technology and advanced capability as transmitted pursuant to subsection (c)(2)(A).

(e) EFFECTIVE DATE.—The regulations prescribed under subsection (a) shall apply to indirect costs incurred on or after October 1, 2017.

(Added Pub. L. 101–510, div. A, title VIII, §824(a)(1), Nov. 5, 1990, 104 Stat. 1603, §2372; amended Pub. L. 102–25, title VII, §701(c), Apr. 6, 1991, 105 Stat. 113; Pub. L. 102–190, div. A, title VIII, §802(a)(1), Dec. 5, 1991, 105 Stat. 1412; Pub. L. 102–484, div. A, title X, §1052(27), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–35, title II, §201(c)(5), May 31, 1993, 107 Stat. 98; Pub. L. 104–106, div. D, title XLIII, §4321(b)(11), Feb. 10, 1996, 110 Stat. 672; Pub. L. 114–328, div. A, title VIII, §824(a)(1), Dec. 23, 2016, 130 Stat. 2277; Pub. L. 115–91, div. A, title X, §1081(a)(35), Dec. 12, 2017, 131 Stat. 1596; renumbered §3762, Pub. L. 116–283, div. A, title XVIII, §1832(j)(2), Jan. 1, 2021, 134 Stat. 4225.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2372 of this title as this section.

**2017**—Subsec. (d). Pub. L. 115–91 substituted "subsection (c)(2)(A)" for "subsection (c)(3)(A)".

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to payments to contractors for independent research and development and bid and proposal costs.

**1996**—Subsec. (i)(1). Pub. L. 104–106 substituted "2324(l)" for "2324(m)".

**1993**—Subsec. (g)(5). Pub. L. 103–35 substituted "section 2506" for "section 2522".

**1992**—Subsec. (e)(1). Pub. L. 102–484 substituted "on December 4, 1991" for "on the day before the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993".

**1991**—Pub. L. 102–190 substituted section catchline for one which read "Independent research and development" and amended text generally, substituting present provisions for provisions authorizing payment of independent research and development or bid and proposal costs, encouraging contractors to engage in research and development activities, and authorizing advance agreements regarding the manner and extent in which the Department of Defense may pay independent research and development costs or bid and proposal costs.

Subsec. (d)(2)(B). Pub. L. 102–25 substituted "subsection (b), including" for "subsection (b) or".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title VIII, §802(e), Dec. 5, 1991, 105 Stat. 1414, provided that: "The amendments made by this section [amending this section and section 4501 of this title] shall take effect on October 1, 1992,

and shall apply to independent research and development and bid and proposal costs incurred by a contractor during fiscal years of that contractor that begin on or after that date."

**REGULATIONS**

Pub. L. 102–190, div. A, title VIII, §802(b), Dec. 5, 1991, 105 Stat. 1414, provided that: "The Secretary of Defense shall prescribe proposed regulations to implement the amendment made by subsection (a)(1) [amending this section] not later than April 1, 1992, and shall prescribe final regulations for that purpose not later than June 1, 1992."

## §3763. Bid and proposal costs: allowable costs

(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the payment by the Department of Defense of expenses incurred by contractors for bid and proposal costs. Such regulations shall provide that expenses incurred for bid and proposal costs shall be reported independently from other allowable indirect costs.

(b) COSTS ALLOWABLE AS INDIRECT EXPENSES.—The regulations prescribed under subsection (a) shall provide that bid and proposal costs shall be allowable as indirect expenses on covered contracts, as defined in section 3741 of this title, to the extent that those costs are allocable, reasonable, and not otherwise unallowable by law or under the Federal Acquisition Regulation.

(c) GOAL FOR REIMBURSABLE BID AND PROPOSAL COSTS.—The Secretary shall establish a goal each fiscal year limiting the amount of reimbursable bid and proposal costs paid by the Department of Defense to an amount equal to not more than one percent of the total aggregate industry sales to the Department of Defense. To achieve such goal, the Secretary may not limit the payment of allowable bid and proposal costs for the covered year.

(d) PANEL.—(1) If the Department of Defense exceeds the goal established under subsection (c) for a fiscal year, within 180 days after exceeding the goal, the Secretary shall establish an advisory panel. The panel shall be supported by the Defense Acquisition University and the National Defense University, including administrative support.

(2) The panel shall be composed of nine individuals who are recognized experts in acquisition and procurement policy appointed by the Secretary. In making such appointments, the Secretary shall ensure that the members of the panel reflect diverse experiences in the public and private sector.

(3) The panel shall review laws, regulations, and practices that contribute to the expenses incurred by contractors for bids and proposals in the fiscal year concerned and recommend changes to such laws, regulations, and practices that may reduce expenses incurred by contractors for bids and proposals.

(4)(A) Not later than six months after the establishment of the panel, the panel shall submit to the Secretary and the congressional defense committees an interim report on the findings of the panel.

(B) Not later than one year after the establishment of the panel, the panel shall submit to the Secretary and the congressional defense committees a final report on the findings of the panel.

(5) The panel shall terminate on the day the panel submits the final report under paragraph (4)(B).

(6) The Secretary of Defense may use amounts available in the Department of Defense Acquisition Workforce Development Fund established under section 1705 of this title to support the activities of the panel established under this subsection.

(e) EFFECTIVE DATE.—The regulations prescribed under subsection (a) shall apply to indirect costs incurred on or after October 1, 2017.

(Added Pub. L. 114–328, div. A, title VIII, §824(b)(1), Dec. 23, 2016, 130 Stat. 2278, §2372a; renumbered §3763 and amended Pub. L. 116–283, div. A, title XVIII, §1832(j)(2), (4), Jan. 1, 2021, 134 Stat. 4225.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1832(j)(2), renumbered section 2372a of this title as this section.

Subsec. (b). Pub. L. 116–283, §1832(j)(4), substituted "section 3741" for "section 2324(l)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 275—PROPRIETARY CONTRACTOR DATA AND RIGHTS IN TECHNICAL DATA


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Rights in Technical Data** | **3771** |
| **II.** | **Validation of Proprietary Data Restrictions** | **3781** |
| **III.** | **Other Provisions Relating to Proprietary Contractor Data and Rights in Technical Data** | **3791** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 275 "PROPRIETARY CONTRACTOR DATA AND TECHNICAL DATA", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3771, was repealed by Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), Jan. 1, 2021, 134 Stat. 4225.

## SUBCHAPTER I—RIGHTS IN TECHNICAL DATA


Sec.
3771. Rights in technical data: regulations.
3772. Rights in technical data: provisions required in contracts.
3773. Domestic business concerns: programs for replenishment parts.
3774. Major weapon systems and subsystems: long-term technical data needs.
3775. Definitions.


### §3771. Rights in technical data: regulations

(a) REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation.

(2) OTHER RIGHTS NOT IMPAIRED.—Regulations prescribed under paragraph (1) may not impair—

(A) any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law; or

(B) the right of a contractor or subcontractor to receive from a third party a fee or royalty for the use of technical data pertaining to an item or process developed exclusively at private expense by the contractor or subcontractor, except as otherwise specifically provided by law.

(b) REQUIRED PROVISIONS.—Regulations prescribed under subsection (a) shall include the following provisions:

(1) DEVELOPMENT EXCLUSIVELY WITH FEDERAL FUNDS.—In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds (other

than an item or process developed under a contract or subcontract to which regulations under section 9(j)(2) of the Small Business Act (15 U.S.C. 638(j)(2)) apply), the United States shall have the unlimited right to—

(A) use technical data pertaining to the item or process; or

(B) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

(2) DEVELOPMENT EXCLUSIVELY AT PRIVATE EXPENSE.—Except as provided in paragraphs (3), (4), and (7), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the government or permit the use of the technical data by such persons.

(3) EXCEPTION TO PARAGRAPH (2).—Paragraph (2) does not apply to technical data that—

(A) constitutes a correction or change to data furnished by the United States;

(B) relates to form, fit, or function;

(C) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data, including such data pertaining to a major system component); or

(D) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

(4) EXCEPTION TO PARAGRAPH (2).—Notwithstanding paragraph (2), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

(A) such release, disclosure, or use—

(i) is necessary for emergency repair and overhaul;

(ii) is a release, disclosure, or use of technical data pertaining to an interface between an item or process and other items or processes necessary for the segregation of an item or process from, or the reintegration of that item or process (or a physically or functionally equivalent item or process) with, other items or processes; or

(iii) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

(B) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

(C) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

(5) DEVELOPMENT WITH MIXED FUNDING.—

(A) IN GENERAL.—Except as provided in paragraphs (6) and (7), in the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be established as early in the acquisition process as practicable (preferably during contract negotiations) and shall be based on negotiations between the United States and the contractor, except in any case in which the Secretary of Defense determines, on the basis of criteria established in the regulations, that negotiations would not be practicable.

(B) FACTORS TO BE CONSIDERED.—The establishment of such rights shall be based upon consideration of all of the following factors:

(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business

Act (15 U.S.C. 631).

(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

(iv) Such other factors as the Secretary of Defense may prescribe.

(6) INTERFACES DEVELOPED WITH MIXED FUNDING.—Notwithstanding paragraph (5), the United States shall have government purpose rights in technical data pertaining to an interface between an item or process and other items or processes that was developed in part with Federal funds and in part at private expense, except in any case in which the Secretary of Defense determines, on the basis of criteria established in the regulations, that negotiation of different rights in such technical data would be in the best interest of the United States.

(7) MODULAR SYSTEM INTERFACES DEVELOPED EXCLUSIVELY AT PRIVATE EXPENSE OR WITH MIXED FUNDING.—

(A) Notwithstanding paragraphs (2) and (5), the United States shall have government purpose rights in technical data pertaining to a modular system interface developed exclusively at private expense or in part with Federal funds and in part at private expense and used in a modular open system approach pursuant to section 4401 of this title, except in any case in which the Secretary of Defense determines that negotiation of different rights in such technical data would be in the best interest of the United States.

(B) Such modular system interface shall be identified in the contract solicitation and the contract.

(C) For technical data pertaining to a modular system interface developed exclusively at private expense for which the United States asserts government purpose rights, the Secretary of Defense shall negotiate with the contractor the appropriate and reasonable compensation for such technical data.

(8) LIMITATIONS ON REQUIREMENTS RELATED TO CONTRACTOR OR SUBCONTRACTOR RIGHTS IN TECHNICAL DATA.—A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

(A) to sell or otherwise relinquish to the United States any rights in technical data except—

(i) rights in technical data described in paragraph (1) for which a use or release restriction has been erroneously asserted by a contractor or subcontractor;

(ii) rights in technical data described in paragraph (3); or

(iii) under the conditions described in paragraph (4); or

(B) to refrain from offering to use, or from using, an item or process to which the contractor is entitled to restrict rights in data under paragraph (2).

(9) ACTIONS AUTHORIZED IF NECESSARY TO DEVELOP ALTERNATIVE SOURCES OF SUPPLY AND MANUFACTURE.—The Secretary of Defense may—

(A) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data not otherwise provided under paragraph (3) or (4), if necessary to develop alternative sources of supply and manufacture;

(B) agree to restrict rights in technical data otherwise accorded to the United States under this subchapter if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement); or

(C) permit a contractor or subcontractor to license directly to a third party the use of technical data which the contractor is otherwise allowed to restrict, if necessary to develop alternative sources of supply and manufacture.

(c) SECRETARY OF DEFENSE TO DEFINE TERMS.—The Secretary of Defense shall define the terms "developed", "exclusively with Federal funds", and "exclusively at private expense" in regulations prescribed under subsection (a). In defining such terms, the Secretary—

(1) shall specify the manner in which indirect costs shall be treated; and

(2) shall specify that amounts spent for independent research and development and bid and proposal costs shall not be considered to be Federal funds for the purposes of the definitions under this subsection.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), (b), Jan. 1, 2021, 134 Stat. 4226.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2320 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(b), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2595; Pub. L. 98–577, title III, §301(b), Oct. 30, 1984, 98 Stat. 3076; Pub. L. 99–145, title IX, §961(d)(1), Nov. 8, 1985, 99 Stat. 703; Pub. L. 99–500, §101(c) [title X, §953(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–169, and Pub. L. 99–591, §101(c) [title X, §953(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–169; Pub. L. 99–661, div. A, title IX, formerly title IV, §953(a), Nov. 14, 1986, 100 Stat. 3949, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §7(a)(4), Apr. 21, 1987, 101 Stat. 275; Pub. L. 100–180, div. A, title VIII, §808(a), Dec. 4, 1987, 101 Stat. 1128; Pub. L. 101–189, div. A, title VIII, §853(b)(2), Nov. 29, 1989, 103 Stat. 1518; Pub. L. 111–383, div. A, title VIII, §824(b), Jan. 7, 2011, 124 Stat. 4269; Pub. L. 112–81, div. A, title VIII, §815(a)(1), Dec. 31, 2011, 125 Stat. 1491; Pub. L. 114–328, div. A, title VIII, §809(a), (b), (e), Dec. 23, 2016, 130 Stat. 2266, 2267; Pub. L. 116–283, div. A, title VIII, §804(b)(2)(A)(i), Jan. 1, 2021, 134 Stat. 3738. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 generally amended section 2320(a) substantially identically; as executed, text reflected amendment by Pub. L. 99–661.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(b)(1), (2)(A), transferred subsec. (a) of section 2320 of this title to this section, effectively redesignated par. (1) as subsec. (a), and redesignated pars. (2) and (3) as subsecs. (b) and (c), respectively.

Subsec. (a). Pub. L. 116–283, §1833(b)(2)(A), (B)(i), after redesignation of par. (1) of section 2320(a) of this title as subsec. (a) of this section, inserted subsec. heading and, in existing provisions, designated first two sentences as par. (1) and the remainder as par. (2) and inserted par. headings. Amendment designating "the third sentence as paragraph (2)" was executed by including the fourth sentence within par. (2) as well, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 116–283, §1833(b)(2)(B), substituted "Regulations prescribed under paragraph (1) may not" for "Such regulations may not", inserted dash after "impair", reorganized remainder of text into designated subpars. (A) and (B), and, at end of subpar. (A), substituted "by law; or" for "by law. Such regulations also may not impair".

Subsec. (b). Pub. L. 116–283, §1833(b)(3)(A), (B), after redesignation of par. (2) of section 2320(a) of this title as subsec. (b) of this section, inserted heading, substituted "Regulations prescribed under subsection (a)" for "Such regulations" in introductory provisions, and redesignated subpars. (A) to (I) as pars. (1) to (9), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1833(b)(3)(C), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (b)(2). Pub. L. 116–283, §1833(b)(3)(D), substituted "paragraphs (3), (4), and (7)" for "subparagraphs (C), (D), and (G)".

Subsec. (b)(3). Pub. L. 116–283, §1833(b)(3)(E), substituted "paragraph (2)" for "subparagraph (b)" in heading and "Paragraph (2) does not" for "Subparagraph (B) does not" in introductory provisions and redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively.

Subsec. (b)(4). Pub. L. 116–283, §1833(b)(3)(F), substituted "paragraph (2)" for "subparagraph (b)" in heading and "Notwithstanding paragraph (2)" for "Notwithstanding subparagraph (B)" in introductory provisions and redesignated cl. (i), its subcls. (I) to (III), cl. (ii), and cl. (iii) as subpar. (A), cls. (i) to (iii), subpar. (B), and subpar. (C), respectively.

Subsec. (b)(5). Pub. L. 116–283, §1833(b)(3)(G), in existing provisions, designated first sentence as subpar. (A), inserted heading, and substituted "Except as provided in paragraphs (6) and (7)," for "Except as provided

in subparagraphs (F) and (G)," and designated second sentence as subpar. (B), inserted heading, and realigned margin.

Subsec. (b)(6). Pub. L. 116–283, §1833(b)(3)(H), substituted "paragraph (5)" for "subparagraph (E)".

Subsec. (b)(7). Pub. L. 116–283, §1833(b)(3)(I), in existing provisions, designated first sentence as subpar. (A) and substituted "Notwithstanding paragraphs (2) and (5)" for "Notwithstanding subparagraphs (B) and (E)" and "section 4401" for "section 2446a" and designated second and third sentences as subpars. (B) and (C), respectively.

Subsec. (b)(8). Pub. L. 116–283, §1833(b)(3)(J)(i), (ii), inserted heading and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (b)(8)(A). Pub. L. 116–283, §1833(b)(3)(J)(iii)–(vi), redesignated subcl. (I) as cl. (i) and substituted "paragraph (1)" for "subparagraph (A)", redesignated subcl. (II) as cl. (ii) and substituted "paragraph (3)" for "subparagraph (C)", and redesignated subcl. (III) as cl. (iii) and substituted "paragraph (4)" for "subparagraph (D)".

Subsec. (b)(8)(B). Pub. L. 116–283, §1833(b)(3)(J)(vii), substituted "paragraph (2)" for "subparagraph (B)".

Subsec. (b)(9). Pub. L. 116–283, §1833(b)(3)(K), inserted heading, redesignated cl. (i) as subpar. (A) and substituted "paragraph (3) or (4)" for "subparagraph (C) or (D)", redesignated cl. (ii) as subpar. (B) and substituted "this subchapter" for "this section", and redesignated cl. (iii) as subpar. (C).

Subsec. (c). Pub. L. 116–283, §1833(b)(4), inserted heading, substituted "subsection (a)" for "paragraph (1)" and "this subsection" for "this paragraph", inserted dash after "terms, the Secretary", and reorganized remainder of text into designated pars. (1) and (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### ADDRESSING INSUFFICIENCIES IN TECHNICAL DATA

Pub. L. 119–60, div. A, title VIII, §805, Dec. 18, 2025, 139 Stat. 944, provided that:

"(a) ESTABLISHMENT OF TECHNICAL DATA SYSTEM.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall develop and implement a digital system to track, manage, and enable the assessment of covered data related to covered systems, and to verify the compliance of contractors and subcontractors with contract requirements related to technical data for covered systems.

"(b) REVIEW OF REQUIREMENTS FOR COVERED DATA.—The Secretary of Defense shall identify relevant contracts or other agreements for each covered system and conduct a review of the requirements contained in such contracts or other agreements with respect to covered data, including requirements for both data delivered and data otherwise accessible by the Department of Defense on a non-deliverable basis.

"(c) ASSESSMENT OF AVAILABLE COVERED DATA.—

"(1) IN GENERAL.—The Secretary of Defense shall assess the covered data required under the requirements with respect to covered data reviewed under subsection (b) and, for each such requirement—

"(A) describe the physical or electronic storage location of the covered data that is in the possession of the Department of Defense, or the method by which the Department accesses the covered data, as applicable;

"(B) evaluate whether the covered data delivered to the Department under such requirement complies with—

"(i) the marking and rights requirements for such covered data under or pursuant to the contract containing such reviewed requirement; and

"(ii) the applicable provisions of chapter 275 of title 10, United States Code; and

"(C) describe the category of rights in technical data applicable under section 3771 of title 10, United States Code, to the covered data delivered to the Department under such reviewed requirement, including an identification of whether the delivery or access to such covered data under such reviewed requirement is subject to a customized commercial license or a specially negotiated license.

"(2) FINDINGS.—The Secretary of Defense shall record in the digital system implemented under subsection (a) the findings of the review conducted under subsection (b) and the assessment under paragraph (1).

"(d) IDENTIFICATION OF INSUFFICIENCY IN COVERED DATA.—Based on the review of

requirements for covered data required by subsection (b) and the assessment of available covered data required by subsection (c), the Secretary of Defense shall identify any insufficiency in covered data that negatively affects the ability of the Secretary to effectively operate a covered system and maintain such covered system in a cost-effective manner considering factors, including the years remaining in the lifecycle of the covered system, projected inventory numbers of the covered system, or a cost analysis of continuing the current operations or maintenance approach for the covered system.

"(e) ADDRESSING AN INSUFFICIENCY IN COVERED DATA.—

"(1) IN GENERAL.—For each covered system acquired by the Department of Defense, the Secretary of Defense shall—

"(A) distinguish between—

"(i) covered data, the delivery of or access to which was required by the contract or other agreement under the review in subsection (b); and

"(ii) covered data that was not required by the contract or other agreement but that the Department identified as an insufficiency in subsection (d);

"(B) for covered data described in subparagraph (A)(i) that is identified as insufficient under subsection (d), seek to address such insufficiency with the relevant contractor, including by receiving access to such covered data on a non-deliverable basis;

"(C) for covered data described in subparagraph (A)(i) that identified as improperly marked pursuant to subsection (c)(1)(B), seek to address such improper marking with the relevant contractor;

"(D) for covered data described in subparagraph (A)(ii), initiate a streamlined process to—

"(i) request the relevant contractor to provide the Government with options for the covered data required to address the insufficiency in such covered data identified under subsection (d), which may include access agreements, priced contract options, negotiated direct licenses with government authorized repair contractors, or direct licenses for systems or components produced by subcontractors that are covered defense equipment for access to the required covered data;

"(ii) allow the contractor to propose terms for using commercially accepted valuation practices, including income-based, cost-based, and market-based pricing; and

"(E) consider the use of escrow agreements or similar arrangements under a specifically negotiated license for the required covered data with the original contractor or subcontractor of the covered system in the event such contractor or subcontractor decides to exit the business or no longer support maintenance of the covered system.

"(2) INSUFFICIENCY.—With respect to an insufficiency identified under subsection (d) in covered data for a commercial product—

"(A) the Secretary of Defense shall ensure that pricing and terms and conditions offered by the contractor for are commensurate with commercial practices for granting similar access; and

"(B) if the Secretary seeks access to technical data, software, or other information in a manner that differs from the manner in which such contractor customarily provides to a buyer of such commercial product, the Secretary shall seek to negotiate a customized commercial license for such access.

"(f) RECORDS RETENTION.—In carrying out this section, the Secretary of Defense shall ensure that all technical data, computer software, contract files, and related records acquired or generated in connection with a covered system are retained and managed by the Department of Defense until, at a minimum, the Department has totally divested from such covered system.

"(g) QUARTERLY UPDATES TO CONGRESS.—Not later than April 1, 2026, and every 90 days thereafter until the Secretary of Defense completes the assessment required under subsection (c), the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) progress made toward completing the requirements of this section;

"(2) a summary of findings from such assessment, including report of the position of the Government as to whether such data meet marking and rights requirements;

"(3) the efforts of the Department of Defense to address any insufficiencies in covered data identified under subsection (d), including a summary of the actions by the Department to fund such efforts;

"(4) a description of the methods used by the Department in negotiating with any relevant contractor to access covered data identified as an insufficiency in subsection (d); and

"(5) any lessons learned to improve the actions of the Department in planning for and acquiring covered data related to covered systems acquired by the Department.

"(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as modifying any rights, obligations, or limitations of the Government, contractor, or

subcontractor with respect to rights in technical data under subchapter I of chapter 275 of this title;

"(2) as altering the requirements in section 2464 and 2466 of title 10, United States Code; or

"(3) as altering or expanding any license rights the Government has acquired in contracts or agreements.

"(i) DEFINITIONS.—In this section:

"(1) The term 'covered data' means technical data and computer software required—

"(A) to enable the Department of Defense or government authorized repair contractors performing under a support contract, the primary purpose of which is to furnish repair or maintenance services on site at a depot, installation or operating location of the Government in support of the share of depot-level maintenance and repair workload of the Government in accordance with section 2466 of this title; or

"(B) to maintain a core logistics capability in accordance with section 2464 of this title provided for use by third parties without restriction for the maintenance of the covered system.

"(2) The term 'covered system' means—

"(A) a major defense acquisition program, as defined in section 4201 of title 10, United States Code; or

"(B) an acquisition program or project that is carried out using the rapid prototyping or rapid fielding acquisition pathway under section 3602 of such title that is estimated by the Secretary of Defense to require an eventual total expenditure described in section 4201(a)(2) of such title;

"(3) The term 'maintain or repair' excludes the manufacture of new items.

"(4) The term 'digital system' means a secure, electronic platform required by subsection (a) that—

"(A) is connected to authoritative systems for product lifecycle management and contracting data repositories and other systems where contractor data are stored or accessed; and

"(B) identifies technical data owed under contract terms, verify compliance of received data with marking and rights requirements, detect omissions or errors, and track metadata for decision-making.

"(5) The term 'service acquisition executive' has the meaning given in section 101 of title 10, United States Code."

**REVERSE ENGINEERING OR RE-ENGINEERING FOR PRODUCTION OF ITEMS**

Pub. L. 118–159, div. A, title VIII, §882, Dec. 23, 2024, 138 Stat. 2017, provided that:

"(a) REVERSE ENGINEERING OR RE-ENGINEERING PROCESS.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall establish a process to—

"(1) identify items for which—

"(A) technical data is not available; or

"(B) rights in such technical data does not allow for manufacturing of the item; and

"(2) create streamlined procedures for production of a item identified under paragraph (1) through reverse engineering or re-engineering—

"(A) if production of the item may be required for point of use manufacturing or for a contested logistics environment (as defined in section 2926 of title 10, United States Code);

"(B) if the manufacturer of the item will not meet the schedule for delivery required by the contracting officer to maintain weapon system readiness or responsiveness in the event of mobilization; or

"(C) with respect to a [sic] item for which a head of the contracting activity can only acquire by entering into a sole source contract, if such head submits to the service acquisition executive (as defined in section 101 of title 10, United States Code) a written determination that such reverse engineering or re-engineering is beneficial to sustain training or operations of the Department of Defense with respect to such item.

"(b) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and annually thereafter until December 31, 2030, the Under Secretary of Defense for Acquisition and Sustainment, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of reverse engineering or re-engineering carried out pursuant to the process required under subsection (a).

"(2) CONTENTS.—Each report required by paragraph (1) shall include the following:

"(A) A list of items produced through reverse engineering or re-engineering, disaggregated by element of the Department of Defense described in section 111(b) of title 10, United States Code that

used the process established under subsection (a).

"(B) Representative case studies of items listed under subparagraph (A), including a description of the use case of each item, the efforts used to acquire the technical data or technical data rights needed to manufacture the item, and the estimated cost or time savings obtained, the estimated cost or time savings obtained over an estimated time horizon of ten years of acquisition requirements, including the identification of recurring and nonrecurring costs.

"(C) Recommendations and lessons learned that may inform contracting guidance and procedures, especially regarding the creation of technical data packages and technical data rights through reverse engineering or re-engineering."

## §3772. Rights in technical data: provisions required in contracts

(a) CONTRACT PROVISIONS RELATING TO TECHNICAL DATA.—Regulations prescribed under section 3771 of this title shall require that, whenever practicable, a contract for supplies or services entered into by an agency named in section 3063 of this title contain appropriate provisions relating to technical data, including provisions—

(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract and providing that, in the case of a contract for a commercial product, the product shall be presumed to be developed at private expense unless shown otherwise in accordance with section 3784;

(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restrictions on the right of the United States to use such data;

(6) requiring the contractor—

(A) to revise any technical data delivered under the contract to reflect engineering design changes made during the performance of the contract and affecting the form, fit, and function of the items specified in the contract; and

(B) to deliver such revised technical data to an agency within a time specified in the contract;

(7) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found—

(A) to be incomplete or inadequate; or

(B) to not satisfy the requirements of the contract concerning technical data;

(8) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data;

(9) providing that, in addition to technical data that is already subject to a contract delivery requirement, the United States may require, until the date occurring six years after acceptance of the last item (other than technical data) under a contract or the date of contract termination, whichever is later, the delivery of technical data that has been generated in the performance of the contract, and compensate the contractor only for reasonable costs incurred for having converted and delivered the data in the required form, upon a determination that—

(A) the technical data is needed for the purpose of reprocurement, sustainment, modification, or upgrade (including through competitive means) of a major system or subsystem thereof, a weapon system or subsystem thereof, or any noncommercial product or process; and

(B) the technical data—

(i) pertains to an item or process developed in whole or in part with Federal funds; or

(ii) is described in paragraphs (4)(A)(ii), (6), and (7) of section 3771(b) of this title; and

(10) providing that the United States is not foreclosed from requiring the delivery of the technical data by a failure to challenge, in accordance with the requirements of section 3782 of this title, the contractor's assertion of a use or release restriction on the technical data.

(b) Nothing in this subchapter or in section 3208 of this title prohibits the Secretary of Defense from—

(1) prescribing standards for determining whether a contract entered into by the Department of Defense shall provide for a time to be specified in the contract after which the United States shall have the right to use (or have used) for any purpose of the United States all technical data required to be delivered to the United States under the contract or providing for such a period of time (not to exceed 7 years) as a negotiation objective;

(2) notwithstanding any limitation upon the license rights conveyed under section 3771 of this title, allowing a covered Government support contractor access to and use of any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of the program or effort to which such technical data relates; or

(3) prescribing reasonable and flexible guidelines, including negotiation objectives, for the conduct of negotiations regarding the respective rights in technical data of the United States and the contractor.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), (c), Jan. 1, 2021, 134 Stat. 4226, 4228.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2320 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1833(c)(1), (2), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2596; Pub. L. 103–355, title VIII, §8106(a), Oct. 13, 1994, 108 Stat. 3393; Pub. L. 108–136, div. A, title VIII, §844, Nov. 24, 2003, 117 Stat. 1553; Pub. L. 112–81, div. A, title VIII, 815(a), Dec. 31, 2011, 125 Stat. 1492; Pub. L. 114–328, div. A, title VIII, §809(c), Dec. 23, 2016, 130 Stat. 2267; Pub. L. 115–232, div. A, title VIII, §836(c)(7), Aug. 13, 2018, 132 Stat. 1866.

The text of subsec. (c) of section 2320 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1833(c)(1), (3), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2596; Pub. L. 100–180, div. A, title VIII, §808(b), Dec. 4, 1987, 101 Stat. 1130; Pub. L. 111–84, div. A, title VIII, §821(a), Oct. 28, 2009, 123 Stat. 2411; Pub. L. 111–383, div. A, title VIII, §801(a)(1), Jan. 7, 2011, 124 Stat. 4253; Pub. L. 112–81, div. A, title VIII, §802(b)(1), Dec. 31, 2011, 125 Stat. 1485.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1833(c)(1), (2)(A)–(C), redesignated subsec. (b) of section 2320 of this title as subsec. (a) of this section, inserted heading, and substituted "section 3771 of this title" for "subsection (a)" and "section 3063" for "section 2303" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §1833(c)(2)(D), substituted "section 3784" for "section 2321(f)".

Subsec. (a)(6). Pub. L. 116–283, §1833(c)(2)(E), inserted dash after "the contractor" and reorganized remainder of text into designated subpars. (A) and (B).

Subsec. (a)(7). Pub. L. 116–283, §1833(c)(2)(F), inserted dash after "is found" and reorganized remainder of text into designated subpars. (A) and (B).

Subsec. (a)(9)(B)(ii). Pub. L. 116–283, §1833(c)(2)(G), substituted "paragraphs (4)(A)(ii), (6), and (7) of section 3771(b) of this title" for "subparagraphs (D)(i)(II), (F), and (G) of subsection (a)(2)".

Subsec. (a)(10). Pub. L. 116–283, §1833(c)(2)(H), substituted "section 3782" for "section 2321(d)".

Subsec. (b). Pub. L. 116–283, §1833(c)(3)(A), which directed substitution of "in this subchapter or in section 3208" for "in this section or in section 2305(a)", was executed by making the substitution for "in this section or in section 2305(d)" in introductory provisions to reflect the probable intent of Congress.

Pub. L. 116–283, §1833(c)(1) redesignated subsec. (c) of section 2320 of this title as subsec. (b) of this section.

Subsec. (b)(2). Pub. L. 116–283, §1833(c)(3)(B), substituted "section 3771 of this title" for "subsection (a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3773. Domestic business concerns: programs for replenishment parts

The Secretary of Defense shall by regulation establish programs which provide domestic business concerns an opportunity to purchase or borrow replenishment parts from the United States for the purpose of design replication or modification, to be used by such concerns in the submission of subsequent offers to sell the same or like parts to the United States. Nothing in this section limits the authority of the head of an agency to impose restrictions on such a program related to national security considerations, inventory needs of the United States, the improbability of future purchases of the same or like parts, or any additional restriction otherwise required by law.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), (d), Jan. 1, 2021, 134 Stat. 4226, 4229.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2320 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(d), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2597.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(d), transferred subsec. (d) of section 2320 of this title to this section, struck out subsec. (d) designation at beginning, and substituted "this section" for "this subsection".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3774. Major weapon systems and subsystems: long-term technical data needs

(a) ASSESSMENTS AND ACQUISITIONS STRATEGIES.—

(1) The Secretary of Defense shall require program managers for major weapon systems and subsystems of major weapon systems to—

(A) assess the long-term technical data needs of such systems and subsystems; and

(B) establish corresponding acquisition strategies that provide for technical data rights needed to sustain such systems and subsystems over their life cycle.

(2) Such strategies may include—

(A) the development of maintenance capabilities within the Department of Defense; or

(B) competition for contracts for sustainment of such systems or subsystems.

(b) REQUIREMENTS RELATING TO ASSESSMENTS AND ACQUISITION STRATEGIES .—Assessments and corresponding acquisition strategies developed under subsection (a) with respect to a weapon system or subsystem shall—

(1) be developed before issuance of a contract solicitation for the weapon system or subsystem;

(2) address the merits of including a priced contract option for the future delivery of technical data that were not acquired upon initial contract award;

(3) address the potential for changes in the sustainment plan over the life cycle of the weapon system or subsystem; and

(4) apply to weapon systems and subsystems that are to be supported by performance-based logistics arrangements as well as to weapons systems and subsystems that are to be supported by other sustainment approaches.

(c) PREFERENCE FOR SPECIALLY NEGOTIATED LICENSES.—

(1) The Secretary of Defense shall, to the maximum extent practicable, negotiate and enter into a contract with a contractor for a specially negotiated license for technical data to support the product support strategy of a major weapon system or subsystem of a major weapon system.

(2) In performing the assessment and developing the corresponding strategy required under subsection (a) for such a system or subsystem, a program manager shall consider the use of specially negotiated licenses to acquire customized technical data appropriate for the particular elements of the product support strategy.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), (e), Jan. 1, 2021, 134 Stat. 4226, 4229.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2320 of this title, which was transferred to this section, redesignated as subsecs. (a) and (b), and amended by Pub. L. 116–283, §1833(e)(1)–(4), was based on Pub. L. 109–364, div. A, title VIII, §802(a), Oct. 17, 2006, 120 Stat. 2312.

The text of subsec. (f) of section 2320 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1833(e)(1), (5), was based on Pub. L. 115–91, div. A, title VIII, §835(c)(2), Dec. 12, 2017, 131 Stat. 1471.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1833(e)(1), (3)(A), (B), redesignated subsec. (e) of section 2320 of this title as subsec. (a) of this section, inserted heading, and designated first and second sentences of existing provisions as pars. (1) and (2), respectively. Third sentence of subsec. (a) designated subsec. (b).

Subsec. (a)(1). Pub. L. 116–283, §1833(e)(3)(C), inserted dash after "major weapon systems to" and reorganized remainder of text into designated subpars. (A) and (B).

Subsec. (a)(2). Pub. L. 116–283, §1833(e)(3)(D), inserted dash after "may include" and reorganized remainder of text into designated subpars. (A) and (B).

Subsec. (b). Pub. L. 116–283, §1833(e)(2), (4), designated third sentence of subsec. (a) as subsec. (b), inserted heading, and substituted "developed under subsection (a) with respect to" for "developed under this section with respect to" in introductory provisions.

Subsec. (c). Pub. L. 116–283, §1833(e)(1), (5), redesignated subsec. (f) of section 2320 of this title as subsec. (c) of this section, designated first and second sentences of existing provisions as pars. (1) and (2), respectively, and, in par. (2), substituted "subsection (a)" for "subsection (e)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

**REGULATIONS**

Pub. L. 109–364, div. A, title VIII, §802(c), Oct. 17, 2006, 120 Stat. 2313, provided that: "Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall revise regulations under section 2320 of title 10, United States Code [see 10 U.S.C. 3771 et seq.], to implement subsection (e) of such section [see 10 U.S.C. 3774(a), (b)] (as added by this section), including incorporating policy changes developed under such subsection into Department of Defense Directive 5000.1 and Department of Defense Instruction 5000.2."

**GUIDANCE RELATING TO RIGHTS IN TECHNICAL DATA**

Pub. L. 111–383, div. A, title VIII, §824(a), Jan. 7, 2011, 124 Stat. 4269, which required the Secretary of Defense to review certain guidance relating to rights in technical data, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(C), Dec. 18, 2025, 139 Stat. 949.

## §3775. Definitions

(a) COVERED GOVERNMENT SUPPORT CONTRACTOR DEFINED.—In this subchapter, the term "covered Government support contractor" means a contractor under a contract the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), which contractor—

(1) is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and

(2) executes a contract with the Government agreeing to and acknowledging—

(A) that proprietary or nonpublic technical data furnished will be accessed and used only for the purposes stated in that contract;

(B) that the covered Government support contractor will enter into a non-disclosure agreement with the contractor to whom the rights to the technical data belong;

(C) that the covered Government support contractor will take all reasonable steps to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor during the program or effort for the period of time in which the Government is restricted from disclosing the technical data outside of the Government;

(D) that a breach of that contract by the covered Government support contractor with regard to a third party's ownership or rights in such technical data may subject the covered Government support contractor—

(i) to criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and

(ii) to civil actions for damages and other appropriate remedies by the contractor or subcontractor whose technical data is affected by the breach; and

(E) that such technical data provided to the covered Government support contractor under the authority of this section shall not be used by the covered Government support contractor to compete against the third party for Government or non-Government contracts.

(b) ADDITIONAL DEFINITIONS.—In this subchapter, the terms "major system component", "modular system interface", and "modular open system approach" have the meanings provided in section 4401 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(a)(1), (f), Jan. 1, 2021, 134 Stat. 4226, 4230.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (g) of section 2320 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1833(f)(1), (2)(A), was based on Pub. L. 111–84, div. A, title VIII, §821(b), Oct. 28, 2009, 123 Stat. 2411; Pub. L. 114–328, div. A, title VIII, §809(d)(1), Dec. 23, 2016, 130 Stat. 2267; Pub. L. 115–91, div. A, title VIII, §835(c)(1), Dec. 12, 2017, 131 Stat. 1471.

The text of subsec. (h) of section 2320 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1833(f), was based on Pub. L. 114–328, div. A, title VIII, §809(d)(2), Dec. 23, 2016, 130 Stat. 2267; Pub. L. 115–91, div. A, title VIII, §835(c)(1), Dec. 12, 2017, 131 Stat. 1471; Pub. L. 116–283, div. A, title VIII, §804(b)(2)(A)(ii), Jan. 1, 2021, 134 Stat. 3739.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §1833(f)(1), (2)(A), redesignated subsec. (g) of section 2320 of this title as subsec. (a) of this section and substituted "In this subchapter," for "In this section," in introductory provisions.

Subsec. (b). Pub. L. 116–283, §1833(f), redesignated subsec. (h) of section 2320 of this title as subsec. (b) of this section and substituted "In this subchapter," for "In this section," and "section 4401" for "section 2446a".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# SUBCHAPTER II—VALIDATION OF PROPRIETARY DATA RESTRICTIONS

Sec.
3781. Technical data: contractor justification for restrictions; review of restrictions.
3782. Technical data: challenges to contractor restrictions.
3783. Technical data: time for contractors to submit justifications.
3784. Technical data under contracts for commercial items: presumption of development exclusively at private expense.
3785. Technical data: decision by contracting officer; claims; rights and liability upon final disposition.
3786. Use or release restriction: definition.

## §3781. Technical data: contractor justification for restrictions; review of restrictions

(a) CONTRACTS COVERED BY SUBCHAPTER.—This subchapter applies to any contract for supplies or services entered into by the Department of Defense that includes provisions for the delivery of technical data.

(b) CONTRACTOR JUSTIFICATION FOR RESTRICTIONS.—A contract subject to this subchapter shall provide that a contractor under the contract and any subcontractor under the contract at any tier shall be prepared to furnish to the contracting officer a written justification for any use or release restriction (as defined in section 3786 of this title) asserted by the contractor or subcontractor.

(c) REVIEW OF RESTRICTIONS.—

(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any use or release restriction asserted with respect to technical data by a contractor or subcontractor at any tier under a contract subject to this subchapter.

(2) The review of an asserted use or release restriction under paragraph (1) shall be conducted before the end of the three-year period beginning on the later of—

(A) the date on which final payment is made on the contract under which the technical data is required to be delivered; or

(B) the date on which the technical data is delivered under the contract.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (h), Jan. 1, 2021, 134 Stat. 4231.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsecs. (a), (b), and (c) of section 2321 of this title, which were transferred to this section and amended by Pub. L. 116–283, §1833(h), was based on Pub. L. 100–26, §7(a)(5)(A)(ii), Apr. 21, 1987, 101 Stat. 276.

### PRIOR PROVISIONS

A prior section 3781, act Aug. 10, 1956, ch. 1041, 70A Stat. 218; Pub. L. 86–616, §2(a), July 12, 1960, 74 Stat. 386, authorized Secretary of the Army to convene at any time a board of officers to review record of any commissioned officer on active list of Regular Army to determine whether he should be required, because of substandard performance of duty, to show cause for his retention on active list, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 1181(a) of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1833(h)(1), (2), transferred subsec. (a) of section 2321 of this title to this section and substituted "by Subchapter" for "by Section" in heading and "This subchapter" for "This section" in text.

Subsec. (b). Pub. L. 116–283, §1833(h)(1), (3), transferred subsec. (b) of section 2321 of this title to this section and substituted "this subchapter" for "this section" and "(as defined in section 3786 of this title) asserted" for "(as defined in subsection (i)) asserted".

Subsec. (c). Pub. L. 116–283, §1833(h)(1), (4)(A), (C), transferred subsec. (c) of section 2321 of this title to this section and realigned margins of pars. (1) and (2).

Subsec. (c)(1). Pub. L. 116–283, §1833(h)(4)(B), substituted "this subchapter" for "this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3782. Technical data: challenges to contractor restrictions

(a) CHALLENGES BY SECRETARY OF DEFENSE.—The Secretary of Defense may challenge a use or release restriction asserted with respect to technical data by a contractor or subcontractor at any tier under a contract subject to this subchapter if the Secretary finds that—

(1) reasonable grounds exist to question the current validity of the asserted restriction; and

(2) the continued adherence by the United States to the asserted restriction would make it impracticable to procure the item to which the technical data pertain competitively at a later time.

(b) TIME LIMIT FOR CHALLENGES; EXCEPTIONS.—

(1) A challenge to a use or release restriction asserted by the contractor in accordance with applicable regulations may not be made under subsection (a) after the end of the six-year period described in paragraph (2) unless the technical data involved—

(A) are publicly available;

(B) have been furnished to the United States without restriction;

(C) have been otherwise made available without restriction; or

(D) are the subject of a fraudulently asserted use or release restriction.

(2) The six-year period referred to in paragraph (1) is the six-year period beginning on the later of—

(A) the date on which final payment is made on the contract under which the technical data are required to be delivered; or

(B) the date on which the technical data are delivered under the contract.

(c) WRITTEN NOTICE TO CONTRACTOR OR SUBCONTRACTOR.—If the Secretary challenges an asserted use or release restriction under subsection (a), the Secretary shall provide written notice of the challenge to the contractor or subcontractor asserting the restriction. Any such notice shall—

(1) state the specific grounds for challenging the asserted restriction;

(2) require a response within 60 days justifying the current validity of the asserted restriction; and

(3) state that evidence of a justification described in subsection (d) may be submitted.

(d) JUSTIFICATION.—It is a justification of an asserted use or release restriction challenged under subsection (a) that, within the three-year period preceding the challenge to the restriction, the Department of Defense validated a restriction identical to the asserted restriction if—

(1) such validation occurred after a challenge to the validated restriction under this section; and

(2) the validated restriction was asserted by the same contractor or subcontractor (or a licensee of such contractor or subcontractor).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (i), Jan. 1, 2021, 134 Stat. 4231.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2321 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(i), was based on Pub. L. 100–26, §7(a)(5)(A)(ii), Apr. 21, 1987, 101 Stat. 276; Pub. L. 100–180, div. A, title XII, §1231(6)(A), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 103–35, title II, §201(g)(4), May 31, 1993, 107 Stat. 100; Pub. L. 111–383, div. A, title VIII, §824(c), Jan. 7, 2011, 124 Stat. 4269; Pub. L. 112–81, div. A, title VIII, §815(b), Dec. 31, 2011, 125 Stat. 1492.

### PRIOR PROVISIONS

A prior section 3782, act Aug. 10, 1956, ch. 1041, 70A Stat. 218; Pub. L. 86–616, §2(a), July 12, 1960, 74 Stat. 387, provided for boards of inquiry, composed of three or more officers, to be convened at such places as Secretary of the Army prescribes, to receive evidence and make findings and recommendations whether an officer, required to show cause under section 3781 of this title, should be retained on active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 1182 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(i)(1)(A), transferred subsec. (d) of section 2321 of this title to this section and struck out subsec. (d) designation and heading "Challenges to Restrictions" at beginning.

Subsec. (a). Pub. L. 116–283, §1833(i)(1)(B), (2), redesignated par. (1) of section 2321(d) of this title as subsec. (a) of this section, inserted heading, substituted "this subchapter" for "this section" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1833(i)(1)(B), (3)(A), (B), redesignated par. (2) of section 2321(d) of this title as subsec. (b) of this section, inserted heading, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and realigned margins.

Subsec. (b)(1). Pub. L. 116–283, §1833(i)(3)(C), substituted "subsection (a)" for "paragraph (1)" and "paragraph (2)" for "subparagraph (B)" in introductory provisions and redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively.

Subsec. (b)(2). Pub. L. 116–283, §1833(i)(3)(D), substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (c). Pub. L. 116–283, §1833(i)(1)(B), (4)(A)–(C), redesignated par. (3) of section 2321(d) of this title as subsec. (c) of this section, inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

Subsec. (c)(3). Pub. L. 116–283, §1833(i)(4)(D), substituted "subsection (d)" for "paragraph (4)".

Subsec. (d). Pub. L. 116–283, §1833(i)(1)(B), (5)(A)–(C), redesignated par. (4) of section 2321(d) of this title as subsec. (d) of this section, inserted heading, substituted "subsection (a)" for "paragraph (1)" in introductory provisions, and redesignated subparagraphs (A) and (B) as pars. (1) and (2), respectively.

Subsec. (d)(1). Pub. L. 116–283, §1833(i)(5)(D), substituted "this section" for "this subsection".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3783. Technical data: time for contractors to submit justifications

(a) ADDITIONAL TIME TO SUBMIT JUSTIFICATIONS.—If a contractor or subcontractor asserting a use or release restriction submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate.

(b) MULTIPLE CHALLENGES; SCHEDULE OF RESPONSES.—If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (j), Jan. 1, 2021, 134 Stat. 4231, 4232.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2321 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(j), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2597; Pub. L. 100–26, §7(a)(5)(A)(i), (B), Apr. 21, 1987, 101 Stat. 276, 277.

### PRIOR PROVISIONS

A prior section 3783, act Aug. 10, 1956, ch. 1041, 70A Stat. 218; Pub. L. 86–616, §2(a), July 12, 1960, 74 Stat. 387, provided for boards of review, composed of three or more officers, to be convened by Secretary of the Army, at such places as he prescribes, to review records of cases of officers recommended by boards of inquiry for removal from active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(j), transferred subsec. (e) of section 2321 of this title to this section, struck out subsec. (e) designation and heading "Time for Contractors to Submit Justifications" at beginning, and designated first and second sentences of existing provisions as subsecs. (a) and (b), respectively, and inserted headings.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3784. Technical data under contracts for commercial items: presumption of development exclusively at private expense

In the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor under a contract for commercial products, the contracting officer shall presume that the contractor or subcontractor has justified the restriction on the basis that the commercial product was developed exclusively at private expense, whether or not the contractor or subcontractor submits a justification in response to the notice provided pursuant to section 3782(c) of this title. In such a case, the challenge to the use or release restriction may be sustained only if information provided by the Department of Defense demonstrates that the commercial product was not developed exclusively at private expense.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (k), Jan. 1, 2021, 134 Stat. 4231, 4233.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2321 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(k), was based on Pub. L. 103–355, title VIII, §8106(b)(2), Oct. 13, 1994, 108 Stat. 3394; Pub. L. 109–364, div. A, title VIII, §802(b), Oct. 17, 2006, 120 Stat. 2313; Pub. L. 110–181, div. A, title VIII, §815(a)(2), Jan. 28, 2008, 122 Stat. 223; Pub. L. 113–291, div. A, title X, §1071(a)(5), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–92, div. A, title VIII, §813(a), Nov. 25, 2015, 129 Stat. 891; Pub. L. 115–232, div. A, title VIII, §§836(c)(8), 865, Aug. 13, 2018, 132 Stat. 1866, 1901, as amended by Pub. L. 116–283, div. A, title X, §1081(d)(4)(B)(ii), Jan. 1, 2021, 134 Stat. 3874; Pub. L. 117–81, div. A, title X, §1081(a)(28), Dec. 27, 2021, 135 Stat. 1921.

### PRIOR PROVISIONS

A prior section 3784, act Aug. 10, 1956, ch. 1041, 70A Stat. 219; Pub. L. 86–616, §2(a), July 12, 1960, 74 Stat. 387, authorized Secretary of the Army to remove an officer from active list of Regular Army if his removal is recommended by a board of review and provided that decision of Secretary in such a case is final and conclusive, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 1184 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(k), transferred subsec. (f) of section 2321 of this title to this section, struck out subsec. (f) designation and heading "Presumption of Development Exclusively at Private Expense" at beginning, and substituted "section 3782(c) of this title" for "subsection (d)(3)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3785. Technical data: decision by contracting officer; claims; rights and liability

## upon final disposition

(a) DECISION BY CONTRACTING OFFICER.—

(1) Upon failure by the contractor or subcontractor to submit any response under section 3782(c) of this title, the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

(2) After review of any justification submitted in response to the notice provided pursuant to section 3782(c) of this title, the contracting officer shall, within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

(b) CLAIMS.—If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of chapter 71 of title 41.

(c) RIGHTS AND LIABILITY UPON FINAL DISPOSITION.—

(1) If, upon final disposition, the contracting officer's challenge to the use or release restriction is sustained—

(A) the restriction shall be cancelled; and

(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor asserting the restriction shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

(2) If, upon final disposition, the contracting officer's challenge to the use or release restriction is not sustained—

(A) the United States shall continue to be bound by the restriction; and

(B) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (l), Jan. 1, 2021, 134 Stat. 4231, 4233.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (g) of section 2321 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1833(l)(1), (2), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2597; Pub. L. 100–26, §7(a)(5)(A)(i), (C), Apr. 21, 1987, 101 Stat. 276, 277; Pub. L. 103–355, title VIII, §8106(b)(1), Oct. 13, 1994, 108 Stat. 3393.

The text of subsec. (h) of section 2321 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, §1833(l)(1), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2598; Pub. L. 100–26, §7(a)(5)(A)(i), (D), Apr. 21, 1987, 101 Stat. 276, 277; Pub. L. 103–355, title VIII, §8106(b)(1), Oct. 13, 1994, 108 Stat. 3393; Pub. L. 111–350, §5(b)(18), Jan. 4, 2011, 124 Stat. 3844.

The text of subsec. (i) of section 2321 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1833(l)(1), (3), was based on Pub. L. 98–525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2598; Pub. L. 100–26, §7(a)(5)(A)(i), (E), Apr. 21, 1987, 101 Stat. 276, 277; Pub. L. 103–355, title VIII, §8106(b)(1), Oct. 13, 1994, 108 Stat. 3393; Pub. L. 115–232, div. A, title VIII, 866(a), Aug. 13, 2018, 132 Stat. 1901; Pub. L. 116–92, div. A, title VIII, §808(b), Dec. 20, 2019, 133 Stat. 1486.

### PRIOR PROVISIONS

A prior section 3785, act Aug. 10, 1956, ch. 1041, 70A Stat. 219; Pub. L. 86–616, §2(a), July 12, 1960, 74

Stat. 387, provided that each officer under consideration for removal from active list of Regular Army under this chapter be given written notification, at least 30 days prior to a board of inquiry hearing, that he is being required to show cause for retention on active list, be allowed reasonable time to prepare a defense, be allowed to appear in person and by counsel at proceedings before a board of inquiry, and be allowed full access to, and furnished copies of, records relevant to his case at all stages of proceeding, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 1185 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1833(l)(1), (2), redesignated subsec. (g) of section 2321 of this title as subsec. (a) of this section, substituted "section 3782(c) of this title" for "subsection (d)(3)" in two places, and realigned margins of pars. (1) and (2). Amendment directing substitution of "(1) Upon failure" for "(1) Upon failure" as part of margin realignment was executed by substituting "(1) Upon failure" for "(1) Upon a failure" to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 116–283, §1833(l)(1), redesignated subsec. (h) of section 2321 of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 116–283, §1833(l)(3), which directed amendment of subsec. (c) of section 3786 of this title by realigning the margins of pars. (1) and (2), was executed to subsec. (c) of this section to reflect the probable intent of Congress.

Pub. L. 116–283, §1833(l)(1), redesignated subsec. (i) of section 2321 of this title as subsec. (c) of this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3786. Use or release restriction: definition

In this subchapter, the term "use or release restriction", with respect to technical data delivered to the United States under a contract subject to this section, means a restriction by the contractor or subcontractor on the right of the United States—

(1) to use such technical data; or

(2) to release or disclose such technical data to persons outside the Government or permit the use of such technical data by persons outside the Government.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(g), (m), Jan. 1, 2021, 134 Stat. 4231, 4233.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (j) of section 2321 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1833(m), was based on Pub. L. 100–26, §7(a)(5), Apr. 21, 1987, 101 Stat. 277; Pub. L. 100–180, div. A, title XII, §1231(6), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 103–355, title VIII, §8106(b)(1), Oct. 13, 1994, 108 Stat. 3393.

### PRIOR PROVISIONS

Prior sections 3786 and 3787 were repealed by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

Section 3786, acts Aug. 10, 1956, ch. 1041, 70A Stat. 219; July 12, 1960, Pub. L. 86–616, §2(a), 74 Stat. 387, authorized Secretary of the Army, at any time during proceedings under this chapter and before removal of an officer from active list of Regular Army, to grant that officer's request for voluntary retirement, if he is otherwise qualified therefor, or for honorable discharge with severance benefits. See section 1186 of this title.

Section 3787, added Pub. L. 86–616, §2(a), July 12, 1960, 74 Stat. 388, provided that no officer serve on a

board under this chapter unless he holds a regular or temporary grade above lieutenant colonel, and is senior in regular grade to, and outranks, any officer considered by board and that no person be a member of more than one board convened under this chapter for same officer. See section 1187 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(m), transferred subsec. (j) of section 2321 of this title to this section, struck out subsec. (j) designation and heading "Use or Release Restriction Defined" at beginning, and substituted "In this subchapter" for "In this section" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## SUBCHAPTER III—OTHER PROVISIONS RELATING TO PROPRIETARY CONTRACTOR DATA AND RIGHTS IN TECHNICAL DATA

Sec.
3791. Management of intellectual property matters within the Department of Defense.
3792. [Reserved].
3793. Copyrights, patents, designs, etc.; acquisition.
3794. Release of technical data under Freedom of Information Act: recovery of costs.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(b)(12)(A), (f)(6), Dec. 27, 2021, 135 Stat. 2134, 2139, made technical amendment to Pub. L. 116–283, div. A, title XVIII, §1833(n), Jan. 1, 2021, 134 Stat. 4233, which added this analysis, added "[Reserved]" for item 3792, and struck out former item 3792 "Technical data rights: non-FAR agreements".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TECHNICAL DATA RIGHTS UNDER NON-FAR AGREEMENTS

Pub. L. 110–417, [div. A], title VIII, §822, Oct. 14, 2008, 122 Stat. 4532, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(13), Jan. 7, 2011, 124 Stat. 4375, provided that:

"(a) POLICY GUIDANCE.—Not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall issue policy guidance with respect to rights in technical data under a non-FAR agreement. The guidance shall—

"(1) establish criteria for defining the legitimate interests of the United States and the party concerned in technical data pertaining to an item or process to be developed under the agreement;

"(2) require that specific rights in technical data be established during agreement negotiations and be based upon negotiations between the United States and the potential party to the agreement, except in any case in which the Secretary of Defense determines, on the basis of criteria established in such policy guidance, that the establishment of rights during or through agreement negotiations would not be practicable; and

"(3) require the program manager for a major weapon system or an item of personnel protective equipment that is to be developed using a non-FAR agreement to assess the long-term technical data needs of such system or item.

"(b) REQUIREMENT TO INCLUDE PROVISIONS IN NON-FAR AGREEMENTS.—A non-FAR agreement shall contain appropriate provisions relating to rights in technical data consistent with the policy guidance issued pursuant to subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) The term 'non-FAR agreement' means an agreement that is not subject to laws pursuant to which

the Federal Acquisition Regulation is prescribed, including—

"(A) a transaction authorized under section 2371 of title 10, United States Code [now 10 U.S.C. 4021]; and

"(B) a cooperative research and development agreement.

"(2) The term 'party', with respect to a non-FAR agreement, means a non-Federal entity and includes any of the following:

"(A) A contractor and its subcontractors (at any tier).

"(B) A joint venture.

"(C) A consortium.

"(d) REPORT ON LIFE CYCLE PLANNING FOR TECHNICAL DATA NEEDS.—Not later than 270 days after the date of enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirements in section 2320(e) of title 10, United States Code [see 10 U.S.C. 3774(a), (b)], for the assessment of long-term technical data needs to sustain major weapon systems. Such report shall include—

"(1) a description of all relevant guidance or policies issued;

"(2) a description of the extent to which program managers have received training to better assess the long-term technical data needs of major weapon systems and subsystems; and

"(3) a description of one or more examples, if any, where a priced contract option has been used on major weapon systems for the future delivery of technical data and one or more examples, if any, where all relevant technical data were acquired upon contract award."

## §3791. Management of intellectual property matters within the Department of Defense

(a) POLICY REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall develop policy on the acquisition or licensing of intellectual property—

(1) to enable coordination and consistency across the military departments and the Department of Defense in strategies for acquiring or licensing intellectual property and communicating with industry;

(2) to ensure that program managers are aware of the rights afforded the Federal Government and contractors in intellectual property and that program managers fully consider and use all available techniques and best practices for acquiring or licensing intellectual property early in the acquisition process; and

(3) to encourage customized intellectual property strategies for each system based on, at a minimum, the unique characteristics of the system and its components, the product support strategy for the system, the organic industrial base strategy of the military department concerned, and the commercial market.

(b) CADRE OF INTELLECTUAL PROPERTY EXPERTS.—For a provision requiring establishment of a cadre of personnel who are experts in intellectual property matters, see section 1707 of this title.

(c) GUIDELINES AND RESOURCES.—

(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall develop guidelines and resources on the acquisition or licensing of intellectual property, including—

(A) intellectual property strategies and other mechanisms supporting the use of modular open system approaches (as defined in section 4401(b) of this title);

(B) evaluation and negotiation of intellectual property licenses in competitive and non-competitive awards;

(C) models and best practices for specially negotiated licenses, including specially negotiated licenses described in section 3774(c) of this title; and

(D) definitions, key terms, examples, and case studies that clarify differences between—

(i) detailed manufacturing and process data;
(ii) form, fit, and function data;
(iii) data required for operations, maintenance, installation, and training;
(iv) modular system interfaces (as defined in section 4401(b) of this title); and
(v) technical data pertaining to an interface between an item or process and other items or processes necessary for the segregation of an item or process from, or the reintegration of that item or process (or a functionally equivalent item or process) with, other items or processes.

(2) GUIDELINES AND RESOURCES LIMIT.—The guidelines and resources developed under paragraph (1) may not alter or affect any authority or duty under this section or section 1707 of this title.

(3) REVIEW AND CONSULTATION.—In developing the guidelines and resources described in paragraph (1), the Secretary shall—

(A) review the applicable statutory and regulatory history, including among the definitions and key terms in section 3771 of this title, to ensure consistency; and

(B) regularly consult with appropriate government and industry persons and organizations.

(4) TRAINING.—The Secretary of Defense shall ensure that the acquisition workforce receives training on the guidelines and resources developed under paragraph (1).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1833(n), (o)(1), Jan. 1, 2021, 134 Stat. 4234; Pub. L. 117–81, div. A, title XVII, §1701(b)(12)(A), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 117–263, div. A, title VIII, §841, Dec. 23, 2022, 136 Stat. 2716.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2322 of this title, which was transferred to this section by Pub. L. 116–283, §1833(o)(1), was based on Pub. L. 115–91, div. A, title VIII, §802(a)(1), Dec. 12, 2017, 131 Stat. 1450.

### PRIOR PROVISIONS

Prior sections 3791 and 3792 were repealed by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

Section 3791, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 388, authorized Secretary of the Army to convene at any time a board of general officers to review record of any commissioned officer on active list of Regular Army to determine whether he should be required, because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with interests of national security, to show cause for his retention on active list. See section 1181(b) of this title.

Section 3792, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 388, provided for boards of inquiry, composed of three or more general officers, to be convened at such places as Secretary of the Army prescribes, to receive evidence and make findings and recommendations whether an officer, required to show cause under section 3791 of this title, should be retained on active list of Regular Army. See section 1182 of this title.

### AMENDMENTS

**2022**—Pub. L. 117–263, §841(1), substituted "Department of Defense" for "department of defense" in section catchline.

Subsec. (c). Pub. L. 117–263, §841(2), added subsec. (c).

**2021**—Pub. L. 117–81, §1701(b)(12)(A), which directed amendment of section 1833(n) of Pub. L. 116–283, which enacted this section, by substituting "DEPARTMENT OF DEFENSE" for "DEPARTMENT OF DEFENSE" in text of section catchline, could not be executed.

Subsec. (a). Pub. L. 116–283, §1833(o)(1), transferred subsec. (a) of section 2322 of this title to this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

**PILOT PROGRAM FOR THE USE OF INNOVATIVE INTELLECTUAL PROPERTY STRATEGIES**

Pub. L. 118–31, div. A, title VIII, §808, Dec. 22, 2023, 137 Stat. 319, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a pilot program for the use of innovative intellectual property strategies that meet the criteria described in subsection (b) to acquire the necessary technical data rights required for the operation, maintenance, and installation of, and training for, covered programs designated under subsection (c).

"(b) CRITERIA FOR STRATEGIES.—The innovative intellectual property strategies used in a pilot program established under this section may include the following:

"(1) The use of an escrow account to verify and hold intellectual property data.

"(2) The use of royalties or licenses.

"(3) Other strategies, as determined by the Secretary.

"(c) DESIGNATION OF COVERED PROGRAMS.—Not later than May 1, 2024, and with respect to the pilot program established under this section—

"(1) the Secretary of each military department shall designate one covered program within the military department under the jurisdiction of such Secretary; and

"(2) the Under Secretary of Defense for Acquisition and Sustainment shall designate one covered program within the Defense Agencies or Department of Defense Field Activities (as defined, respectively, in section 101 of title 10, United States Code).

"(d) BRIEFING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Secretaries of the military departments, shall provide a briefing to the Committees on Armed Services of the Senate and the House of Representatives with a detailed plan to implement the pilot program required under this section.

"(e) ANNUAL REPORT.—Beginning on the date on which the first program is designated under subsection (c) and until the termination date in subsection (f), the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Secretaries of the military departments, shall provide an annual report to the Committees on Armed Services of the Senate and the House of Representatives on—

"(1) the effectiveness of the pilot program in acquiring the necessary technical data rights necessary to support timely, cost-effective maintenance and sustainment of the acquisition programs designated under subsection (c); and

"(2) any recommendations for the applicability of lessons learned from the pilot program.

"(f) TERMINATION.—The authority to carry out the pilot program established under this section shall terminate on December 31, 2028.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered program' means an acquisition program under which procurements are conducted using a pathway of the adaptive acquisition framework (as described in Department of Defense Instruction 5000.02, 'Operation of the Adaptive Acquisition Framework').

"(2) The term 'technical data rights' has the meaning given in section 3771 of title 10, United States Code."

## §3793. Copyrights, patents, designs, etc.; acquisition

Funds appropriated for a military department available for making or procuring supplies may be used to acquire any of the following if the acquisition relates to supplies or processes produced or used by or for, or useful to, that department:

(1) Copyrights, patents, and applications for patents.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Design and process data, technical data, and computer software.

(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137, §2386; Pub. L. 86–726, §3, Sept. 8, 1960, 74 Stat. 855; Pub. L. 103–355, title III, §3063, Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104–106, div. A, title VIII, §813, Feb. 10, 1996, 110 Stat. 395; renumbered §3793, Pub. L. 116–283, div. A, title XVIII, §1833(o)(2), Jan. 1, 2021, 134 Stat. 4234; Pub. L. 117–81, div. A, title XVII, §1701(b)(12)(B), Dec. 27, 2021, 135 Stat. 2134.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2386 | 31:649b. | Aug. 1, 1953, ch. 305, §609, 67 Stat. 350. |

The words "equipment, and materials" are omitted as covered by the word "supplies". The word "hereafter" is omitted as executed. The words "may be used" are substituted for the words "shall * * * be available". The words "if the acquisition relates to" are substituted for 31:649b (1st 8 words of last sentence). In clauses (1), (2), and (4), the word "patents" is substituted for the words "letters patent".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 3793, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 389, provided for boards of review, composed of three or more general officers, to be convened by Secretary of the Army, at such places as he prescribes, to review records of cases of officers recommended by boards of inquiry for removal from active list of Regular Army, prior to repeal by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1833(o)(2), as amended by Pub. L. 117–81, §1701(b)(12)(B), renumbered section 2386 of this title as this section.

**1996**—Par. (3). Pub. L. 104–106 amended par. (3) generally, substituting "Design and process data, technical data, and computer software" for "Technical data and computer software".

**1994**—Pars. (3), (4). Pub. L. 103–355 added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

"(3) Designs, processes, and manufacturing data.

"(4) Releases, before suit is brought, for past infringement of patents or copyrights."

**1960**—Pub. L. 86–726 inserted "or copyrights" after "patents" in cl. (4).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3794. Release of technical data under Freedom of Information Act: recovery of costs

(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under

section 552 of title 5 (relating to the Freedom of Information Act), release such technical data to the person requesting the release if the person pays all reasonable costs attributable to search, duplication, and review.

(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

(b) CREDITING OF RECEIPTS.—An amount received under this section—

(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

(3) the Secretary determines, in accordance with section 552(a)(4)(A)(iii) of title 5, that such a waiver is in the interests of the United States.

(Added Pub. L. 99–500, §101(c) [title X, §954(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–172, and Pub. L. 99–591, §101(c) [title X, §954(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–172, §2328; Pub. L. 99–661, div. A, title IX, formerly title IV, §954(a)(1), Nov. 14, 1986, 100 Stat. 3952, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–26, §7(a)(7)(A), (B)(i), Apr. 21, 1987, 101 Stat. 278; renumbered §3794, Pub. L. 116–283, div. A, title XVIII, §1833(o)(2), Jan. 1, 2021, 134 Stat. 4234; Pub. L. 117–81, div. A, title XVII, §1701(b)(12)(B), Dec. 27, 2021, 135 Stat. 2134.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### PRIOR PROVISIONS

Prior sections 3794 to 3797 were repealed by Pub. L. 96–513, title II, §213, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981.

Section 3794, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 389, authorized Secretary of the Army to remove an officer from active list of Regular Army if his removal is recommended by a board of review and provided that decision of Secretary in such a case is final and conclusive. See section 1184 of this title.

Section 3795, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 389, provided that each officer under consideration for removal from active list of Regular Army under this chapter be given written notification, at least 30 days prior to a board of inquiry hearing, that he is being required to show cause for retention on active list, be allowed reasonable time to prepare a defense, be allowed to appear in person and by counsel at proceedings before board of inquiry, and be allowed full access to, and furnished copies of, records relevant to his case at all stages of proceedings, except records that Secretary determines be withheld in interests of national security, in which case, a summary, to extent national security permits, be furnished. See section 1185 of this title.

Section 3796, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 389, authorized Secretary of the Army, at any time during proceedings under this chapter and before removal of an officer from active list of Regular Army, to grant that officer's request for voluntary retirement, if he is otherwise qualified therefor, or for honorable discharge with severance benefits. See section 1186 of this title.

Section 3797, added Pub. L. 86–616, §3(a), July 12, 1960, 74 Stat. 390, provided that no officer serve on a board under this chapter unless he holds a regular or temporary grade above lieutenant colonel, and is senior in regular grade to, and outranks, any officer considered by that board and that no person be a member of more than one board convened under this chapter for same officer. See section 1187 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1833(o)(2), as amended by Pub. L. 117–81, §1701(b)(12)(B), renumbered section 2328 of this title as this section.

**1987**—Pub. L. 100–26, §7(a)(7)(B)(i), substituted "Release of technical data under Freedom of Information Act: recovery of costs" for "Release of technical data" in section catchline.

Subsec. (a)(1). Pub. L. 100–26, §7(a)(7)(A)(i)(I), substituted "such technical data to the person requesting the" for "technical data to a person requesting such a".

Pub. L. 100–26, §7(a)(7)(A)(i)(II), substituted "search, duplication, and review" for "search and duplication".

Subsec. (b). Pub. L. 100–26, §7(a)(7)(A)(ii), substituted "Crediting of receipts" for "Disposition of costs" in heading.

Subsec. (c)(3). Pub. L. 100–26, §7(a)(7)(A)(iii), substituted "section 552(a)(4)(A)(iii)" for "section 552(a)(4)(A)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–26, §12(d)(2), Apr. 21, 1987, 101 Stat. 289, provided that: "The amendment to section 2328 of such title [now 10 U.S.C. 3794] made by section 7(a)(7)(A)(i)(II) shall take effect on the same date and in the same manner as provided in section 1804(b) of Public Law 99–570 [set out as an Effective Date of 1986 Amendment note under section 552 of Title 5, Government Organization and Employees] for the amendment made by section 1803 of that Public Law to section 552a of title 5, United States Code [probably means amendment by section 1803 of Pub. L. 99–570 to section 552(a) of Title 5]."

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title X, §954(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, Pub. L. 99–591, §101(c) [title X, §954(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173, and Pub. L. 99–661, div. A, title IX, formerly title IV, §954(b), Nov. 14, 1986, 100 Stat. 3953, renumbered title IX by Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "The amendments made by this section [enacting this section] shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 18, 1986]."

## CHAPTER 277—CONTRACT FINANCING

Sec.
3801. Authority of agency.
3802. Payment.
3803. Security for advance payments.
3804. Conditions for progress payments.
3805. Payments for commercial products and commercial services.

3806. Action in case of fraud.
3807. Vesting of title in the United States.
3808. Certain Navy contracts.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 277 "CONTRACT FINANCING", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3801, was repealed by Pub. L. 116–283, div. A, title XVIII, §1834(a), Jan. 1, 2021, 134 Stat. 4234.

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(n)(1)(A), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, div. A, title XVIII, §1834(a), Jan. 1, 2021, 134 Stat. 4234, which added this analysis, by adding item 3808. Amendment directing "adding at the following new item" was executed as if it had read "adding at the end the following new item" to reflect the probable intent of Congress.

## §3801. Authority of agency

(a) PAYMENT AUTHORITY.—The head of any agency may—

(1) make advance, partial, progress, or other payments under contracts for property or services made by the agency; and

(2) insert in solicitations for procurement of property or services a provision limiting to small business concerns advance or progress payments.

(b) PAYMENT DATES FOR CONTRACTORS THAT ARE SMALL BUSINESS CONCERNS.—

(1) PRIME CONTRACTORS.—For a prime contractor (as defined in section 8701 of title 41) that is a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), the Secretary of Defense shall, to the fullest extent permitted by law, establish an accelerated payment date with a goal of 15 days after receipt of a proper invoice for the amount due.

(2) SUBCONTRACTORS.—For a prime contractor that subcontracts with a small business concern, the Secretary of Defense shall, to the fullest extent permitted by law, establish an accelerated payment date with a goal of 15 days after receipt of a proper invoice for the amount due if the prime contractor agrees to make payments to the subcontractor in accordance with the accelerated payment date, to the maximum extent practicable, without any further consideration from or fees charged to the subcontractor.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (b), Jan. 1, 2021, 134 Stat. 4234.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (a) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(b), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 131; Pub. L. 85–800, §9, Aug. 28, 1958, 72 Stat. 967; Pub. L. 103–355, title II, §2001(a)(2), (c), Oct. 13, 1994, 108 Stat. 3301, 3302; Pub. L. 115–232, div. A, title VIII, §852, Aug. 13, 2018, 132 Stat. 1884; Pub. L. 116–92, div. A, title XVII, §1731(a)(40), Dec. 20, 2019, 133 Stat. 1814; Pub. L. 116–283, div. A, title VIII, §815, Jan. 1, 2021, 134 Stat. 3750; Pub. L. 117–81, div. A, title VIII, §814, Dec. 27, 2021, 135 Stat. 1823.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §1834(b)(1)(A), (2), transferred subsec. (a) of section 2307 of this title to this section, struck out par. (1) designation before "The head of", and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former par. (2) of subsec. (a) redesignated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1834(b)(1)(B), (3)(A)–(C)(i), redesignated par. (2) of subsec. (a) as subsec.

(b), inserted subsec. heading, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and inserted par. headings.

Subsec. (b)(2). Pub. L. 116–283, §1834(b)(3)(C)(ii), which directed amendment of par. (2) by redesignating cls. (i) and (ii) as subpars. (A) and (B), respectively, could not be executed because of the amendment made by section 815(2) of Pub. L. 116–283, which struck out cls. (i) and (ii) in section 2307(a)(2)(B) of this title prior to its transfer and redesignation as subsec. (b)(2) of this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3802. Payment

(a) PREFERENCE FOR PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under section 3801 of this title shall be made using performance-based payments on any of the following bases:

(1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.

(2) Accomplishment of events defined in the program management plan.

(3) Other quantifiable measures of results.

(b) BASIS FOR PERFORMANCE-BASED PAYMENTS.—Performance-based payments shall not be conditioned upon costs incurred in contract performance but on the achievement of performance outcomes listed in subsection (a).

(c) CONTRACTOR ACCOUNTING SYSTEMS.—

(1) In order to receive performance-based payments, a contractor's accounting system shall be in compliance with Generally Accepted Accounting Principles, and there shall be no requirement for a contractor to develop Government-unique accounting systems or practices as a prerequisite for agreeing to receive performance-based payments.

(2) Nothing in this chapter shall be construed to grant the Defense Contract Audit Agency the authority to audit compliance with Generally Accepted Accounting Principles.

(d) PAYMENT AMOUNT.—Payments made under section 3801 of this title may not exceed the unpaid contract price.

(e) ELIGIBILITY OF NONTRADITIONAL DEFENSE CONTRACTORS.—The Secretary of Defense shall ensure that nontraditional defense contractors and other private sector companies are eligible for performance-based payments, consistent with best commercial practices.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (c), Jan. 1, 2021, 134 Stat. 4234, 4235.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2307 of this title, which was transferred to this section, redesignated as subsecs. (a), (b), (c), and (e), and amended by Pub. L. 116–283, §1834(c)(1)–(5), (7), was based on Pub. L. 103–355, title II, §2001(b), Oct. 13, 1994, 108 Stat. 3302; Pub. L. 114–328, div. A, title VIII, §831(a), Dec. 23, 2016, 130 Stat. 2282.

The text of subsec. (c) of section 2307 of this title, which was transferred to this section, redesignated as subsec. (d), and amended by Pub. L. 116–283, §1834(c)(1), (6), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 131; Pub. L. 85–800, §9, Aug. 28, 1958, 72 Stat. 967; Pub. L. 103–355, title II, §2001(a)(3), (7), Oct. 13, 1994, 108 Stat. 3301.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1834(c)(1)–(3), redesignated subsec. (b) of section 2307 of this title as subsec. (a) of this section, struck out par. (1) designation before "Whenever practicable", substituted "section 3801 of this title" for "subsection (a)" in introductory provisions, and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively. Amendment directing striking out par. (1) designation before "Whenever possible" was executed by striking it out before "Whenever practicable" to reflect the probable intent of Congress. Former pars. (2) to (4) of subsec. (a) redesignated subsecs. (b), (e), and (c), respectively.

Subsec. (b). Pub. L. 116–283, §1834(c)(2)(B), (4), after redesignation of section 2307(b) of this title as subsec. (a) of this section, redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, and substituted "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1834(c)(2)(D), (5), after redesignation of section 2307(b) of this title as subsec. (a) of this section, redesignated par. (4) of subsec. (a) as subsec. (c), inserted heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and realigned margins, and, in par. (2), substituted "this chapter" for "this section".

Subsec. (d). Pub. L. 116–283, §1834(c)(1), (6), redesignated subsec. (c) of section 2307 of this title as subsec. (d) of this section and substituted "section 3801 of this title" for "subsection (a)".

Subsec. (e). Pub. L. 116–283, §1834(c)(2)(C), (7), after redesignation of section 2307(b) of this title as subsec. (a) of this section, redesignated par. (3) of subsec. (a) as subsec. (e), moved it to the end of the section, and inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### REGULATIONS

Pub. L. 114–328, div. A, title VIII, §831(b), Dec. 23, 2016, 130 Stat. 2283, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall revise the Department of Defense Federal Acquisition Regulation Supplement to conform with section 2307(b) of title 10, United States Code [see 10 U.S.C. 3802(a)–(c), (e)], as amended by subsection (a)."

## §3803. Security for advance payments

Advance payments made under section 3801 of this title may be made only if the contractor gives adequate security and after a determination by the head of the agency that to do so would be in the public interest. Such security may be in the form of a lien in favor of the United States on the property contracted for, on the balance in an account in which such payments are deposited, and on such of the property acquired for performance of the contract as the parties may agree. This lien is paramount to any other liens and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (d), Jan. 1, 2021, 134 Stat. 4234, 4236.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(d), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 131; Pub. L. 85–800, §9, Aug. 28, 1958, 72 Stat. 967; Pub. L. 103–355, title II, §2001(a)(4), (7), (d), Oct. 13, 1994, 108 Stat. 3301, 3302.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1834(d), transferred subsec. (d) of section 2307 of this title to this section, struck

out subsec. (d) designation and heading "Security for Advance Payments" at beginning, and substituted "section 3801 of this title" for "subsection (a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3804. Conditions for progress payments

(a) PAYMENT COMMENSURATE WITH WORK.—The Secretary of Defense shall ensure that any payment for work in progress (including materials, labor, and other items) under a defense contract that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the Secretary of Defense determines necessary to permit the Secretary to carry out the preceding sentence.

(b) LIMITATION.—The Secretary shall ensure that progress payments referred to in subsection (a) are not made for more than 80 percent of the work accomplished under a defense contract so long as the Secretary has not made the contractual terms, specifications, and price definite.

(c) APPLICABILITY.—This section applies to any contract in an amount greater than $25,000.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (e), Jan. 1, 2021, 134 Stat. 4234, 4236.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(e), was based on Pub. L. 100–370, §1(f)(1)(A), July 19, 1988, 102 Stat. 846; Pub. L. 101–510, div. A, title XIII, §1322(a)(4)(B), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–25, title VII, §701(d)(4), Apr. 6, 1991, 105 Stat. 114; Pub. L. 103–355, title II, §2001(a)(5), (7), (e), Oct. 13, 1994, 108 Stat. 3301, 3302.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1834(e)(1), transferred subsec. (e) of section 2307 of this title to this section and struck out subsec. (e) designation and heading "Conditions for Progress Payments" at beginning.

Subsec. (a). Pub. L. 116–283, §1834(e)(1)(B), (2), after transfer of section 2307(e) of this title to this section, redesignated par. (1) as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 116–283, §1834(e)(1)(B), (3), after transfer of section 2307(e) of this title to this section, redesignated par. (2) as subsec. (b), inserted heading, and substituted "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1834(e)(1)(B), (4), after transfer of section 2307(e) of this title to this section, redesignated par. (3) as subsec. (c), inserted heading, and substituted "This section" for "This subsection".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### PILOT PROGRAM TO INCENTIVIZE PROGRESS PAYMENTS

Pub. L. 118–31, div. A, title VIII, §874, Dec. 22, 2023, 137 Stat. 352, provided that:

"(a) PILOT PROGRAM.—The Under Secretary of Defense for Acquisition and Sustainment shall establish and implement a pilot program to incentivize contractor performance by paying covered contractors a progress payment rate that is up to 10 percent higher than the customary progress payment rate on a contract-by-contract basis.

"(b) INCENTIVE CRITERIA.—The Under Secretary shall develop and establish clear and measurable criteria for the payment to contractors of higher progress payments as described in subsection (a), including criteria for qualifying for such payments and the amount of such payments.

"(c) APPLICABILITY.—The Under Secretary shall apply the criteria established under subsection (b) and any associated incentive on a contract-by-contract basis when determining whether to pay a contractor a higher progress payment under the pilot program established under subsection (a) and the amount of such payment.

"(d) PARTICIPATION VOLUNTARY.—Participation in the pilot program established under subsection (a) shall be on a voluntary basis.

"(e) NOTICE AND COMMENT.—The Under Secretary shall issue the regulations implementing the pilot program established under subsection (a) and establishing the criteria required by subsection (b) after notice and an opportunity for public comment of not more than 30 days.

"(f) REPORT.—Not later than September 30, 2024, and annually thereafter, the Under Secretary for Acquisition and Sustainment shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation and activities of the pilot program established under subsection (a), including a comprehensive list of contractors that received increased progress payments under the pilot program and the contracts with respect to which such increased progress payments were made.

"(g) DEFINITIONS.—In this section:

"(1) COVERED CONTRACTOR.—The term 'covered contractor' means a contractor of the Department of Defense that is eligible for progress payments under section 3804 of title 10, United States Code.

"(2) CUSTOMARY PROGRESS PAYMENT RATE.—The term 'customary progress payment rate' refers to the rate of progress payments provided for under section 3804 of title 10, United States Code, and payable in accordance with the applicable provisions of the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

"(3) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary for Acquisition and Sustainment.

"(h) SUNSET.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the authority to carry out the pilot program established under subsection (a) shall terminate on January 1, 2029.

"(2) EXISTING CONTRACTS.—Notwithstanding paragraph (1), a contractor that the Under Secretary determines under the pilot program established under subsection (a) shall be paid a higher progress payment under such pilot program with respect to a contract in effect as of the date described in paragraph (1) shall receive such higher progress payments until the earlier of—

"(A) the termination or expiration of the contract; or

"(B) the date on which the contractor becomes ineligible for progress payments or higher progress payments under such pilot program."

**WAIVERS OF CERTAIN CONDITIONS FOR PROGRESS PAYMENTS UNDER CERTAIN CONTRACTS DURING THE COVID–19 NATIONAL EMERGENCY**

Pub. L. 116–283, div. A, title VIII, §891, Jan. 1, 2021, 134 Stat. 3793, which related to waivers of certain conditions for progress payments under certain contracts during the COVID–19 national emergency, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(3)(C), Dec. 18, 2025, 139 Stat. 948.

## §3805. Payments for commercial products and commercial services

(a) TERMS AND CONDITIONS FOR PAYMENTS.—Payments under section 3801 of this title for commercial products and commercial services may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the United States.

(b) SECURITY FOR PAYMENTS.—The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing,

notice, or other action by the United States.

(c) LIMITATION ON ADVANCE PAYMENTS.—Advance payments made under section 3801 of this title for commercial products and commercial services may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

(d) NONAPPLICATION OF CERTAIN CONDITIONS.—

(1) The conditions of sections 3803 and 3804 of this title need not be applied if they would be inconsistent, as determined by the head of the agency, with commercial terms and conditions pursuant to this section.

(2) For the purposes of section 3803 of this title, a payment for covered services acquired through a commercially utilized acquisition strategy shall not be considered an advance payment made under section 3801 of this title.

(e) DEFINITIONS.—In this section:

(1) The term "commercially utilized acquisition strategy" means an acquisition of a service by the head of an agency under terms and conditions that—

(A) are similar to the terms and conditions under which such service is available to the public; and

(B) provide such service—

(i) as a consumption-based solution (as defined in section 3605 of this title); or

(ii) under a technology subscription model or other model based on predetermined pricing for access to such service.

(2) The term "covered service" means a commercial service that includes access to or use of any combination of hardware, equipment, software, labor, or services, including access to commercial satellite data and associated services, that is integrated to provide a capability.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (f), Jan. 1, 2021, 134 Stat. 4234, 4236; Pub. L. 119–60, div. A, title XVIII, §1827, Dec. 18, 2025, 139 Stat. 1250.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (f) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(f), was based on Pub. L. 103–355, title II, §2001(f), Oct. 13, 1994, 108 Stat. 3302; Pub. L. 115–232, div. A, title VIII, §836(c)(6), Aug. 13, 2018, 132 Stat. 1866.

### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60, §1827(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 119–60, §1827(2), added subsec. (e).

**2021**—Pub. L. 116–283, §1834(f)(1)(A), transferred subsec. (f) of section 2307 of this title to this section and struck out subsec. (f) designation and heading "Conditions for Payments for Commercial Products and Commercial Services" at beginning.

Subsec. (a). Pub. L. 116–283, §1834(f)(1)(B), (4), after transfer of section 2307(f) of this title to this section, redesignated par. (1) as subsec. (a), inserted heading, and substituted "section 3801 of this title" for "subsection (a)".

Subsec. (b). Pub. L. 116–283, §1834(f)(4), inserted heading.

Pub. L. 116–283, §1834(f)(2), which directed the designation of "the second sentence of subsection (a) as subsection (b)", was executed by designating the second and third sentences of subsec. (a) as (b), to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 116–283, §1834(f)(1)(B), (5), after transfer of section 2307(f) of this title to this section, redesignated par. (2) as subsec. (c), inserted heading, and substituted "section 3801 of this title" for "subsection (a)".

Subsec. (d). Pub. L. 116–283, §1834(f)(1)(B), (6), after transfer of section 2307(f) of this title to this section, redesignated par. (3) as subsec. (d), inserted heading, and substituted "sections 3803 and 3804 of this title" for "subsections (d) and (e)" and "this section" for "paragraphs (1) and (2)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3806. Action in case of fraud

(a) REMEDY COORDINATION OFFICIAL DEFINED.—In this section, the term "remedy coordination official", with respect to an agency, means the person or entity in that agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.

(b) RECOMMENDATION TO REDUCE OR SUSPEND PAYMENTS.—In any case in which the remedy coordination official of an agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that agency is based on fraud, the remedy coordination official shall recommend that the head of the agency reduce or suspend further payments to such contractor.

(c) REDUCTION OR SUSPENSION OF PAYMENTS.—The head of an agency receiving a recommendation under subsection (b) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

(d) EXTENT OF REDUCTION OR SUSPENSION.—The extent of any reduction or suspension of payments by the head of an agency under subsection (c) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

(e) WRITTEN JUSTIFICATION.—A written justification for each decision of the head of an agency whether to reduce or suspend payments under subsection (c) and for each recommendation received by such agency head in connection with such decision shall be prepared and be retained in the files of such agency.

(f) NOTICE.—The head of an agency shall prescribe procedures to ensure that, before such agency head decides to reduce or suspend payments in the case of a contractor under subsection (c), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

(g) REVIEW.—Not later than 180 days after the date on which the head of an agency reduces or suspends payments to a contractor under subsection (c), the remedy coordination official of such agency shall—

(1) review the determination of fraud on which the reduction or suspension is based; and

(2) transmit a recommendation to the head of such agency whether the suspension or reduction should continue.

(h) ANNUAL REPORT.—The head of an agency shall prepare for each year a report containing the recommendations made by the remedy coordination official of that agency to reduce or suspend payments under subsection (c), the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. The Secretary of each military department shall transmit the annual report of such department to the Secretary of Defense. Each such report shall be available to any member of Congress upon request.

(i) RESTRICTION ON DELEGATION.—The head of an agency may not delegate responsibilities under this section to any person in a position below level IV of the Executive Schedule.

(j) INAPPLICABILITY TO COAST GUARD.—This section applies to the agencies named in paragraphs (1), (2), (3), (4), and (6) of section 3063 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (g), Jan. 1, 2021, 134 Stat. 4234, 4237.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (i), is set out in section 5315 of Title 5, Government Organization and Employees.

### CODIFICATION

The text of subsec. (i) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(g), was based on Pub. L. 101–510, div. A, title VIII, §836(a), Nov. 5, 1990, 104 Stat. 1615; Pub. L. 102–25, title VII, §701(j)(2)(A), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. A, title X, §1052(24), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–355, title II, §2001(a)(7), Oct. 13, 1994, 108 Stat. 3301; Pub. L. 105–85, div. A, title VIII, §802(1), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 106–391, title III, §306, Oct. 30, 2000, 114 Stat. 1592.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1834(g)(1), (2), (11), transferred subsec. (i) of section 2307 of this title to this section, struck out subsec. (i) designation and heading "Action in Case of Fraud" at beginning, and redesignated par. (10) as subsec. (a), pars. (1) to (7) as subsecs. (b) to (h), respectively, and pars. (9) and (8) as subsecs. (i) and (j), respectively.

Subsec. (a). Pub. L. 116–283, §1834(g)(3), inserted heading and substituted "this section" for "this subsection".

Subsec. (b). Pub. L. 116–283, §1834(g)(4), inserted heading.

Subsec. (c). Pub. L. 116–283, §1834(g)(5), inserted heading and substituted "subsection (b)" for "paragraph (1)".

Subsec. (d). Pub. L. 116–283, §1834(g)(6), inserted heading and substituted "subsection (c)" for "paragraph (2)".

Subsec. (e). Pub. L. 116–283, §1834(g)(7), inserted heading and substituted "subsection (c)" for "paragraph (2)".

Subsec. (f). Pub. L. 116–283, §1834(g)(8), inserted heading and substituted "subsection (c)" for "paragraph (2)".

Subsec. (g). Pub. L. 116–283, §1834(g)(9), inserted heading, substituted "subsection (c)" for "paragraph (2)" in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (h). Pub. L. 116–283, §1834(g)(10), inserted heading and substituted "subsection (c)" for "paragraph (2)".

Subsec. (i). Pub. L. 116–283, §1834(g)(12), inserted heading and substituted "this section" for "this subsection".

Subsec. (j). Pub. L. 116–283, §1834(g)(13), inserted heading and substituted "section applies" for "subsection applies" and "section 3063" for "section 2303(a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3807. Vesting of title in the United States

If a contract paid by a method authorized under section 3801(a) of this title provides for title to property to vest in the United States, the title to the property shall vest in accordance with the terms of the contract, regardless of any security interest in the property that is asserted before or after the contract is entered into.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (h), Jan. 1, 2021, 134 Stat.

4234, 4239; Pub. L. 117–81, div. A, title XVII, §1701(b)(13), Dec. 27, 2021, 135 Stat. 2134.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (h) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(h), was based on Pub. L. 105–85, div. A, title VIII, §802(2), Nov. 18, 1997, 111 Stat. 1831.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1834(h), as amended by Pub. L. 117–81, §1701(b)(13), transferred subsec. (h) of section 2307 of this title to this section, struck out subsec. (h) designation and heading "Vesting of Title in the United States" at beginning, and substituted "section 3801(a) of this title" for "subsection (a)(1)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3808. Certain Navy contracts

(a) REPAIR, MAINTENANCE, OR OVERHAUL OF NAVAL VESSELS: RATE FOR PROGRESS PAYMENTS.—The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

(1) 95 percent, in the case of a firm considered to be a small business; and

(2) 90 percent, in the case of any other firm.

(b) AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS .—The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this subsection shall be made on terms that the Secretary considers adequate for the protection of the United States.

(c) SECURITY FOR CONSTRUCTION AND CONVERSION OF NAVAL VESSELS.—The Secretary of the Navy shall provide, in each contract for construction or conversion of a naval vessel, that, when partial, progress, or other payments are made under such contract, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (i)(1)–(4), as added and amended Pub. L. 117–81, div. A, title XVII, §1701(n)(1)(B), (2), Dec. 27, 2021, 135 Stat. 2145.)

**EDITORIAL NOTES**

**CODIFICATION**

The text of subsec. (g) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(i)(1)–(4), as added by Pub. L. 117–81, §1701(n)(2), was based on Pub. L. 103–355, title II, §2001(g), Oct. 13, 1994, 108 Stat. 3302.

## PRIOR PROVISIONS

Prior sections 3811 to 3813 were repealed by Pub. L. 90–235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 3811, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for discharge of enlisted members of Army and limitations thereon, and for issuance of discharge certificates. See section 1169 of this title.

Section 3812, act Aug. 1956, ch. 1041, 70A Stat. 220, provided for the discharge of members of the Army enlisted during war or emergency. See section 1172 of this title.

Section 3813, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for dependency discharges for enlisted members of the Army.

A prior section 3814, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, authorized Secretary of the Army to discharge a regular commissioned officer who has less than three years of continuous service as a commissioned officer therein, provided that such officer not be dismissed because of his marriage, unless marriage occurred within one year after date of his original appointment, prior to repeal by Pub. L. 96–513, title II, §214, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 630 of this title.

A prior section 3814a, added Pub. L. 93–558, §1, Dec. 30, 1974, 88 Stat. 1793, related to discharge, during a reduction in force, of regular commissioned officers, second lieutenants, first lieutenants, and captains, expired three years after its effective date, Dec. 30, 1974, in accordance with section 2 of Pub. L. 93–558, and was repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Prior sections 3815 and 3816 were repealed by Pub. L. 90–235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 3815, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for resignation of regular enlisted members of Army enlisted on a career basis and limitations thereon.

Section 3816, act Aug. 10, 1956, ch. 1041, 70A Stat. 221, provided for minority discharges for regular enlisted members of Army. See section 1170 of this title.

A prior section 3818, acts Aug. 10, 1956, ch. 1041, 70A Stat. 221; Oct. 20, 1978, Pub. L. 95–485, title VIII, §820(g), 92 Stat. 1627, authorized the Secretary of the Army to terminate appointment of a female commissioned officer of Regular Army, other than by dismissal, under regulations prescribed by President, or to terminate the appointment of a female warrant officer or enlistment of a female member of Regular Army by discharge from the Army, prior to repeal by Pub. L. 96–513, title II, §236, title VII, §701, Dec. 12, 1980, 94 Stat. 2887, 2955, effective Sept. 15, 1981.

Prior sections 3819 and 3820 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3819, added Pub. L. 85–861, §1(93)(A), Sept. 2, 1958, 72 Stat. 1482; amended Pub. L. 98–525, title V, §528(b), Oct. 19, 1984, 98 Stat. 2526, related to discharge of Army Reserve officers for failure of promotion to first lieutenant. See section 14503 of this title.

Section 3820, acts Aug. 10, 1956, ch. 1041, 70A Stat. 221; Sept. 2, 1958, Pub. L. 85–861, §1(93)(B), 72 Stat. 1482, related to discharge and withdrawal of Federal recognition of officers of Army National Guard of United States absent without leave. See section 14907 of this title.

## AMENDMENTS

**2021**—Pub. L. 116–283, §1834(i)(1), as added by Pub. L. 117–81, §1701(n)(2), transferred subsec. (g) of section 2307 of this title to this section, struck out subsec. (g) designation and heading "Certain Navy Contracts" at beginning, and redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively.

Subsec. (a). Pub. L. 116–283, §1834(i)(2), as added by Pub. L. 117–81, §1701(n)(2), inserted heading and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116–283, §1834(i)(3), as added by Pub. L. 117–81, §1701(n)(2), inserted heading and substituted "this subsection" for "this paragraph" in second sentence.

Subsec. (c). Pub. L. 116–283, §1834(i)(4), as added by Pub. L. 117–81, §1701(n)(2), inserted heading.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

# CHAPTER 279—CONTRACTOR AUDITS AND ACCOUNTING

Sec.
3841. Examination of records of contractor.
3842. Performance of incurred cost audits.
3843. [Reserved].
3844. [Reserved].
3845. Contractor inventory accounting systems: standards.
3846. [Reserved].
3847. Defense Contract Audit Agency: annual report.
3848. Defense audit agencies: Small Business Ombudsmen.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 279 "CONTRACTOR AUDITS AND ACCOUNTING", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3841, was repealed by Pub. L. 116–283, div. A, title XVIII, §1835(a), Jan. 1, 2021, 134 Stat. 4239.

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(7)(A), Dec. 27, 2021, 135 Stat. 2142, amended Pub. L. 116–283, div. A, title XVIII, §1835(a), Jan. 1, 2021, 134 Stat. 4239, which added this analysis, by substituting "[Reserved]" for "Contractor internal audit reports: Department of Defense access to, use of, and safeguards and protections for" in item 3843, for "Contractor business systems" in item 3844, and for "Defense Contract Audit Agency: legal resources and expertise" in item 3846.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONTRACTOR BUSINESS SYSTEMS**

Pub. L. 115–232, div. A, title VIII, §824(b), Aug. 13, 2018, 132 Stat. 1856, provided that: "Not later than 120 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall revise the Defense Federal Acquisition Regulation Supplement to conform with the amendments to section 893 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2302 note [now 10 U.S.C. 3841 note prec.]) made by this section."

Pub. L. 111–383, div. A, title VIII, §893, Jan. 7, 2011, 124 Stat. 4311, as amended by Pub. L. 112–81, div. A, title VIII, §816, Dec. 31, 2011, 125 Stat. 1493; Pub. L. 113–291, div. A, title X, §1071(b)(1)(C), Dec. 19, 2014, 128 Stat. 3505; Pub. L. 114–328, div. A, title VIII, §893, Dec. 23, 2016, 130 Stat. 2324; Pub. L. 115–91, div. A, title X, §1081(d)(8), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 115–232, div. A, title VIII, §824(a), Aug. 13, 2018, 132 Stat. 1856; Pub. L. 116–283, div. A, title VIII, §806, Jan. 1, 2021, 134 Stat. 3742, provided that:

"(a) IMPROVEMENT PROGRAM.—The Secretary of Defense shall develop and initiate a program for the improvement of contractor business systems to ensure that such systems provide timely, reliable information for the management of Department of Defense programs by the contractor and by the Department.

"(b) APPROVAL OR DISAPPROVAL OF BUSINESS SYSTEMS.—The program developed pursuant to subsection (a) shall—

"(1) include clear and specific business system requirements that are identified and made publicly available for each type of contractor business system covered by the program;

"(2) establish a process for reviewing contractor business systems and identifying material weaknesses in such systems;

"(3) identify officials of the Department of Defense who are responsible for the approval or disapproval of contractor business systems;

"(4) provide for the approval of any contractor business system that does not have a material

weakness; and

"(5) provide for—

"(A) the disapproval of any contractor business system that has a material weakness; and

"(B) reduced reliance on, and enhanced scrutiny of, data provided by a contractor business system that has been disapproved.

"(c) REVIEW BY THIRD-PARTY INDEPENDENT AUDITORS.—The review process for contractor business systems pursuant to subsection (b)(2) shall—

"(1) if a registered public accounting firm attests to the internal control assessment of a contractor, pursuant to section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)), allow the contractor, subject to paragraph (3), to submit certified documentation from such registered public accounting firm that the contractor business systems of the contractor meet the business system requirements referred to in subsection (b)(1) and to thereby eliminate the need for further review of the contractor business systems by the Secretary of Defense;

"(2) limit the review, subject to paragraph (3), of the contractor business systems of a contractor that is not a covered contractor to confirming that the contractor uses the same contractor business system for its Government and commercial work and that the outputs of the contractor business system based on statistical sampling are reasonable; and

"(3) allow a milestone decision authority to require a review of a contractor business system of a contractor that submits documentation pursuant to paragraph (1) or that is not a covered contractor after determining in writing that such a review is necessary to appropriately manage contractual risk.

"(d) REMEDIAL ACTIONS.—The program developed pursuant to subsection (a) shall provide the following:

"(1) In the event a contractor business system is disapproved pursuant to subsection (b)(5), appropriate officials of the Department of Defense will be available to work with the contractor to develop a corrective action plan defining specific actions to be taken to address the material weaknesses identified in the system and a schedule for the implementation of such actions.

"(2) An appropriate official of the Department of Defense may withhold up to 10 percent of progress payments, performance-based payments, and interim payments under covered contracts from a covered contractor, as needed to protect the interests of the Department and ensure compliance, if one or more of the contractor business systems of the contractor has been disapproved pursuant to subsection (b)(5) and has not subsequently received approval.

"(3) The amount of funds to be withheld under paragraph (2) shall be reduced if a contractor adopts an effective corrective action plan pursuant to paragraph (1) and is effectively implementing such plan.

"(e) GUIDANCE AND TRAINING.—The program developed pursuant to subsection (a) shall provide guidance and training to appropriate government officials on the data that is produced by contractor business systems and the manner in which such data should be used to effectively manage Department of Defense programs.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit an official of the Department of Defense from reviewing, approving, or disapproving a contractor business system pursuant to any applicable law or regulation in force as of the date of the enactment of this Act during the period between the date of the enactment of this Act and the date on which the Secretary implements the requirements of this section with respect to such system.

"(g) DEFINITIONS.—In this section:

"(1) The term 'contractor business system' means an accounting system, estimating system, purchasing system, earned value management system, material management and accounting system, or property management system of a contractor.

"(2) The term 'covered contractor' means a contractor that has covered contracts with the United States Government accounting for greater than 1 percent of its total gross revenue, except that the term does not include any contractor that is exempt, under section 1502 of title 41, United States Code, or regulations implementing that section, from using full cost accounting standards established in that section.

"(3) The term 'covered contract' means a contract that is subject to the cost accounting standards promulgated pursuant to section 1502 of title 41, United States Code, that could be affected if the data produced by a contractor business system has a material weakness.

"(4) The term 'material weakness' means a deficiency or combination of deficiencies in the internal control over information in contractor business systems, such that there is a reasonable possibility that a material misstatement of such information will not be prevented, or detected and corrected, on a timely basis. For purposes of this paragraph, a reasonable possibility exists when the likelihood of an event occurring—

"(A) is probable; or

"(B) is more than remote but less than likely.

"(5) The term 'approved purchasing system' has the meaning given the term in section 44.101 of the Federal Acquisition Regulation (or any similar regulation).

"(h) DEFENSE CONTRACT AUDIT AGENCY LEGAL RESOURCES AND EXPERTISE.—

"(1) REQUIREMENT.—The Secretary of Defense shall ensure that—

"(A) the Defense Contract Audit Agency has sufficient legal resources and expertise to conduct its work in compliance with applicable Department of Defense policies and procedures; and

"(B) such resources and expertise are provided in a manner that is consistent with the audit independence of the Defense Contract Audit Agency.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the steps taken to comply with the requirements of this subsection.

"(i) CONSENT TO SUBCONTRACT.—If the contractor on a Department of Defense contract requiring a contracting officer's written consent prior to the contractor entering into a subcontract has an approved purchasing system, the contracting officer may not withhold such consent without the written approval of the program manager."

[Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(8) to section 893(c) of Pub. L. 114–328 (which amended section 893 of Pub. L. 111–383, set out above) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.]

## §3841. Examination of records of contractor

(a) RECORDS DEFINED.—In this section, the term "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) AGENCY AUTHORITY.—

(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under a chapter 137 legacy provision; and

(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to chapter 271 of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

(A) the proposal for the contract or subcontract;

(B) the discussions conducted on the proposal;

(C) pricing of the contract or subcontract; or

(D) performance of the contract or subcontract.

(c) DCAA SUBPOENA AUTHORITY.—

(1) AUTHORITY TO REQUIRE THE PRODUCTION OF RECORDS.—The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (b).

(2) ENFORCEMENT OF SUBPOENA.—Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

(3) AUTHORITY NOT DELEGABLE.—The authority provided by paragraph (1) may not be redelegated.

(d) COMPTROLLER GENERAL AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract and to interview any current employee regarding such transactions.

(2) EXCEPTION FOR FOREIGN CONTRACTOR OR SUBCONTRACTOR.—Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

(3) ADDITIONAL RECORDS NOT REQUIRED.—Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

(e) LIMITATION ON AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform an audit of indirect costs under a contract, subcontract, or modification before or after entering into the contract, subcontract, or modification in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

(f) LIMITATION.—The authority of the head of an agency under subsection (b), and the authority of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

(2) A contract or subcontract that is for an amount not greater than the simplified acquisition threshold.

(h) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

(i) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1835(a), (b), Jan. 1, 2021, 134 Stat. 4239.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsecs. (a), (e), (g), (h), and (i) of section 2313 of this title, which were transferred to this section, redesignated as subsecs. (b), (f), (h), (i), and (j), respectively, and amended by Pub. L. 116–283, §1835(b)(1)–(3), (6), was based on Pub. L. 103–355, title II, §2201(a)(1), Oct. 13, 1994, 108 Stat. 3316, which amended section 2313 generally.

The text of subsec. (b) of section 2313 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, §1835(b)(1), (4), was based on Pub. L. 103–355, title II, §2201(a)(1), Oct. 13, 1994, 108 Stat. 3316; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1032(a)(2), Oct. 5, 1999, 113 Stat. 751.

The text of subsec. (c) of section 2313 of this title, which was transferred to this section, redesignated as subsec. (d), and amended by Pub. L. 116–283, §1835(b)(1), (5), was based on Pub. L. 103–355, title II, §2201(a)(1), Oct. 13, 1994, 108 Stat. 3317; Pub. L. 110–417, [div. A], title VIII, §871(b), Oct. 14, 2008, 122 Stat. 4555.

The text of subsec. (d) of section 2313 of this title, which was transferred to this section and redesignated as subsec. (e) by Pub. L. 116–283, §1835(b)(1), was based on Pub. L. 104–201, div. A, title VIII, §808(a), Sept. 23, 1996, 110 Stat. 2607, which amended subsec. (d) generally.

The text of subsec. (f) of section 2313 of this title, which was transferred to this section and redesignated as subsec. (e) by Pub. L. 116–283, §1835(b)(1), was based on Pub. L. 103–355, title II, §2201(a)(1), title IV, §4102(c), Oct. 13, 1994, 108 Stat. 3317, 3340.

### PRIOR PROVISIONS

A prior section 3841, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1483, related to separation or transfer to retired reserve of reserve nurses and medical specialists at age 50 if in a reserve grade below major, prior to repeal by Pub. L. 86–559, §1(22), June 30, 1960, 74 Stat. 271.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1835(b)(2), redesignated subsec. (i) of section 2313 of this title as subsec. (a) of this section.

Subsec. (b). Pub. L. 116–283, §1835(b)(1), (3), redesignated subsec. (a) of section 2313 of this title as subsec. (b) of this section, realigned margins of pars. (1) and (2), and substituted "made by that agency under a chapter 137 legacy provision" for "made by that agency under this chapter" in par. (1)(A) and "chapter 271" for "section 2306a" in par. (2).

Subsec. (c). Pub. L. 116–283, §1835(b)(1), (4), redesignated subsec. (b) of section 2313 of this title as subsec. (c) of this section, inserted heading and substituted "subsection (b)" for "subsection (a)" in par. (1), and inserted headings and realigned margins of pars. (2) and (3).

Subsec. (d). Pub. L. 116–283, §1835(b)(1), (5), redesignated subsec. (c) of section 2313 of this title as subsec. (d) of this section and inserted headings and realigned margins of pars. (1) to (3).

Subsec. (e). Pub. L. 116–283, §1835(b)(1), redesignated subsec. (d) of section 2313 of this title as subsec. (e) of this section.

Subsec. (f). Pub. L. 116–283, §1835(b)(1), (6), redesignated subsec. (e) of section 2313 of this title as subsec. (f) of this section and substituted "subsection (b)" for "subsection (a)" and "subsection (d)" for "subsection (c)".

Subsecs. (g) to (i). Pub. L. 116–283, §1835(b)(1), redesignated subsecs. (f) to (h) of section 2313 of this title as subsecs. (g) to (i), respectively, of this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### EXCEPTION FROM RECORDS EXAMINATION REQUIREMENT

Requirements under subsecs. (b)(2)(A)–(C) and (c) of this section (former subsecs. (a)(2)(A)–(C) and (b) of section 2313 of this title) not applicable to certain contracts valued at less than $7,500,000 awarded to small business or nontraditional defense contractors, with certain exceptions, see section 873(b) of Pub. L. 114–92, set out in a Pilot Program for Streamlining Awards for Innovative Technology Projects note under section 3702 of this title.

**DEPARTMENT OF DEFENSE ACCESS TO, USE OF, AND SAFEGUARDS AND PROTECTIONS FOR CONTRACTOR INTERNAL AUDIT REPORTS**

Pub. L. 112–239, div. A, title VIII, §832, Jan. 2, 2013, 126 Stat. 1844, provided that:

"(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Director of the Defense Contract Audit Agency shall revise guidance on access to defense contractor internal audit reports (including the Contract Audit Manual) to incorporate the requirements of this section.

"(b) DOCUMENTATION REQUIREMENTS.—The revised guidance shall ensure that requests for access to defense contractor internal audit reports are appropriately documented. The required documentation shall include, at a minimum, the following:

"(1) Written determination that access to such reports is necessary to complete required evaluations of contractor business systems.

"(2) A copy of any request from the Defense Contract Audit Agency to a contractor for access to such reports.

"(3) A record of response received from the contractor, including the contractor's rationale or justification if access to requested reports was not granted.

"(b) [sic] SAFEGUARDS AND PROTECTIONS.—The revised guidance shall include appropriate safeguards and protections to ensure that contractor internal audit reports cannot be used by the Defense Contract Audit Agency for any purpose other than evaluating and testing the efficacy of contractor internal controls and the reliability of associated contractor business systems.

"(c) RISK-BASED AUDITING.—A determination by the Defense Contract Audit Agency that a contractor has a sound system of internal controls shall provide the basis for increased reliance on contractor business systems or a reduced level of testing with regard to specific audits, as appropriate. Internal audit reports provided by a contractor pursuant to this section may be considered in determining whether or not a contractor has a sound system of internal controls, but shall not be the sole basis for such a determination.

"(d) COMPTROLLER GENERAL REVIEW.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a review of the documentation required by subsection (a). Not later than 90 days after completion of the review, the Comptroller General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the review, with findings and recommendations for improving the audit processes of the Defense Contract Audit Agency."

**EXECUTIVE DOCUMENTS**

**EXEMPTION OF FUNCTIONS**

Functions with respect to purchases authorized to be made outside limits of United States or District of Columbia under Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

**FOREIGN CONTRACTORS**

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising authority provided in amendment of this section by Pub. L. 89–607 to exempt certain contracts with foreign contractors from requirement of an examination-of-records clause, that all reasonable efforts have been made to include such examination-of-records clause, as required by par. (11) of Part I of Ex. Ord. No. 10789, and that alternate sources of supply are not reasonably available, see par. (11) of Part I of Ex. Ord. No. 10789, Nov. 14, 1958, 23 F.R. 8897, as amended, set out as a note under section 1431 of Title 50, War and National Defense.

## §3842. Performance of incurred cost audits

(a) COMPLIANCE WITH STANDARDS OF RISK AND MATERIALITY.—Not later than

October 1, 2020, the Secretary of Defense shall comply with commercially accepted standards of risk and materiality in the performance of each incurred cost audit of costs associated with a contract of the Department of Defense.

(b) CONDITIONS FOR THE USE OF QUALIFIED AUDITORS TO PERFORM INCURRED COST AUDITS.—(1) To support the need of the Department of Defense for timely and effective incurred cost audits, and to ensure that the Defense Contract Audit Agency is able to allocate resources to higher-risk and more complex audits, the Secretary of Defense shall use qualified private auditors to perform a sufficient number of incurred cost audits of contracts of the Department of Defense to—

(A) eliminate, by October 1, 2020, any backlog of incurred cost audits of the Defense Contract Audit Agency;

(B) ensure that incurred cost audits are completed not later than one year after the date of receipt of a qualified incurred cost submission;

(C) maintain an appropriate mix of Government and private sector capacity to meet the current and future needs of the Department of Defense for the performance of incurred cost audits;

(D) ensure that qualified private auditors perform incurred cost audits on an ongoing basis to improve the efficiency and effectiveness of the performance of incurred cost audits; and

(E) limit multiyear auditing to ensure that multiyear auditing is conducted only—

(i) to address outstanding incurred cost audits for which a qualified incurred cost submission was submitted to the Defense Contract Audit Agency more than 12 months before the date of the enactment of this section; or

(ii) when the contractor being audited submits a written request, including a justification for the use of multiyear auditing, to the Under Secretary of Defense (Comptroller).

(2) The Secretary of Defense shall consult with Federal agencies that have awarded contracts or task orders to qualified private auditors to ensure that the Department of Defense is using, as appropriate, best practices relating to contracting with qualified private auditors.

(3) The Secretary of Defense shall ensure that a qualified private auditor performing an incurred cost audit under this section—

(A) has no conflict of interest in performing such an audit, as defined by generally accepted government auditing standards;

(B) possesses the necessary independence to perform such an audit, as defined by generally accepted government auditing standards;

(C) signs a nondisclosure agreement, as appropriate, to protect proprietary or nonpublic data;

(D) accesses and uses proprietary or nonpublic data furnished to the qualified private auditor only for the purposes stated in the contract;

(E) takes all reasonable steps to protect proprietary and nonpublic data furnished during the audit; and

(F) does not use proprietary or nonpublic data provided to the qualified private auditor under the authority of this section to compete for Government or nongovernment contracts.

(c) PROCEDURES FOR THE USE OF QUALIFIED PRIVATE AUDITORS.—(1) Not later than October 1, 2018, the Secretary of Defense shall submit to the congressional defense committees a plan to implement the requirements of subsection (b). Such plan shall include, at a minimum—

(A) a description of the incurred cost audits that the Secretary determines are appropriate to be conducted by qualified private auditors, including the approximate number and dollar value of such incurred cost audits;

(B) an estimate of the number and dollar value of incurred cost audits to be conducted by qualified private auditors for each of the fiscal years 2019 through 2025 necessary to meet the requirements of subsection (b); and

(C) all other elements of an acquisition plan as required by the Federal Acquisition Regulation.

(2) Not later than April 1, 2019, the Secretary of Defense or a Federal department or agency

authorized by the Secretary shall award a contract or issue a task order under an existing contract to two or more qualified private auditors to perform incurred cost audits of costs associated with contracts of the Department of Defense. The Defense Contract Management Agency or a contract administration office of a military department shall use a contract or a task order awarded or issued pursuant to this paragraph for the performance of an incurred cost audit, if doing so will assist the Secretary in meeting the requirements in subsection (b).

(3) To improve the quality of incurred cost audits and reduce duplication of performance of such audits, the Secretary of Defense may provide a qualified private auditor with information on past or ongoing audit results or other relevant information on the entities the qualified private auditor is auditing.

(4) The Secretary of Defense shall consider the results of an incurred cost audit performed under this section without regard to whether the Defense Contract Audit Agency or a qualified private auditor performed the audit.

(5) The contracting officer for a contract that is the subject of an incurred cost audit shall have the sole discretion to determine what action should be taken based on an audit finding on direct costs of the contract.

(d) QUALIFIED PRIVATE AUDITOR REQUIREMENTS.—(1) A qualified private auditor awarded a contract or issued a task order under subsection (c)(2) shall conduct an incurred cost audit in accordance with the generally accepted government auditing standards.

(2) A qualified private auditor awarded a contract or issued a task order under subsection (c)(2) shall develop and maintain complete and accurate working papers on each incurred cost audit. All working papers and reports on the incurred cost audit prepared by such qualified private auditor shall be the property of the Department of Defense, except that the qualified private auditor may retain a complete copy of all working papers to support such reports made pursuant to this section.

(3) A breach of contract by a qualified private auditor with respect to use of proprietary or nonpublic data may subject the qualified private auditor to—

(A) criminal, civil, administrative, and contractual actions for penalties, damages, and other appropriate remedies by the United States; and

(B) civil actions for damages and other appropriate remedies by the contractor or subcontractor whose data are affected by the breach.

(e) PEER REVIEW.—(1) Effective October 1, 2022, the Defense Contract Audit Agency may issue unqualified audit findings for an incurred cost audit only if the Defense Contract Audit Agency is peer reviewed by a commercial auditor and passes such peer review. Such peer review shall be conducted in accordance with the peer review requirements of generally accepted government auditing standards, including the requirements related to frequency of peer reviews, and shall be deemed to meet the requirements of the Defense Contract Audit Agency for a peer review under such standards.

(2) Not later than October 1, 2019, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives an update on the process of securing a commercial auditor to perform the peer review referred to in paragraph (1).

(f) NUMERIC MATERIALITY STANDARDS FOR INCURRED COST AUDITS.—(1) Not later than October 1, 2020, the Department of Defense shall implement numeric materiality standards for incurred cost audits to be used by auditors that are consistent with commercially accepted standards of risk and materiality.

(2) Not later than October 1, 2019, the Secretary of Defense shall submit to the congressional defense committees a report containing proposed numeric materiality standards required under paragraph (1). In developing such standards, the Secretary shall consult with commercial auditors that conduct incurred cost audits, the advisory panel authorized under section 809 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 889), and other governmental and nongovernmental entities with relevant expertise.

(g) TIMELINESS OF INCURRED COST AUDITS.—(1) The Secretary of Defense shall ensure that all incurred cost audits performed by qualified private auditors or the Defense Contract Audit

Agency are performed in a timely manner.

(2) The Secretary of Defense shall notify a contractor of the Department of Defense within 60 days after receipt of an incurred cost submission from the contractor whether the submission is a qualified incurred cost submission.

(3) With respect to qualified incurred cost submissions received on or after the date of the enactment of this section, audit findings shall be issued for an incurred cost audit not later than one year after the date of receipt of such qualified incurred cost submission.

(4) Not later than October 1, 2020, and subject to paragraph (5), if audit findings are not issued within one year after the date of receipt of a qualified incurred cost submission, the audit shall be considered to be complete and no additional audit work shall be conducted.

(5) The Under Secretary of Defense (Comptroller) may waive the requirements of paragraph (4) on a case-by-case basis if the Director of the Defense Contract Audit Agency submits a written request. The Director of the Defense Contract Audit Agency shall include in the report required under section 3847 of this title the total number of waivers issued and the reasons for issuing each such waiver.

(h) REVIEW OF AUDIT PERFORMANCE.—Not later than April 1, 2025, the Comptroller General of the United States shall submit to the congressional defense committees a report that evaluates for the period beginning on October 1, 2019, and ending on August 31, 2023—

(1) the timeliness, individual cost, and quality of incurred cost audits, set forth separately by incurred cost audits performed by the Defense Contract Audit Agency and by qualified private auditors;

(2) the cost to contractors of the Department of Defense for incurred cost audits, set forth separately by incurred cost audits performed by the Defense Contract Audit Agency and by qualified private auditors;

(3) the effect, if any, on other types of audits conducted by the Defense Contract Audit Agency that results from incurred cost audits conducted by qualified private auditors; and

(4) the capability and capacity of qualified private auditors to conduct incurred cost audits for the Department of Defense.

(i) DEFINITIONS.—In this section:

(1) The term "commercial auditor" means a private entity engaged in the business of performing audits.

(2) The term "incurred cost audit" means an audit of charges to the Government by a contractor under a flexibly priced contract.

(3) The term "flexibly priced contract" has the meaning given the term "flexibly-priced contracts and subcontracts" in part 30 of the Federal Acquisition Regulation (section 30.001 of title 48, Code of Federal Regulations).

(4) The term "generally accepted government auditing standards" means the generally accepted government auditing standards of the Comptroller General of the United States.

(5) The term "numeric materiality standard" means a dollar amount of misstatements, including omissions, contained in an incurred cost audit that would be material if the misstatements, individually or in the aggregate, could reasonably be expected to influence the economic decisions of the Government made on the basis of the incurred cost audit.

(6) The term "qualified incurred cost submission" means a submission by a contractor of costs incurred under a flexibly priced contract that has been qualified by the Department of Defense as sufficient to conduct an incurred cost audit.

(7) The term "qualified private auditor" means a commercial auditor—

(A) that performs audits in accordance with generally accepted government auditing standards; and

(B) that has received a passing peer review rating, as defined by generally accepted government auditing standards.

(Added Pub. L. 115–91, div. A, title VIII, §803(a), Dec. 12, 2017, 131 Stat. 1451, §2313b; amended Pub. L. 115–232, div. A, title X, §1081(a)(19), Aug. 13, 2018, 132 Stat. 1984; Pub. L. 116–92, div.

A, title XVII, §1731(a)(41), Dec. 20, 2019, 133 Stat. 1814; renumbered §3842 and amended Pub. L. 116–283, div. A, title XVIII, §1835(c), (d)(1), Jan. 1, 2021, 134 Stat. 4240.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b)(1)(E)(i) and (g)(3), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

Section 809 of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (f)(2), is section 809 of Pub. L. 114–92, div. A, title VIII, Nov. 25, 2015, 129 Stat. 889, which relates to the establishment of an advisory panel on streamlining acquisition regulations and is not classified to the Code.

### PRIOR PROVISIONS

A prior section 3842, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1483, related to separation or transfer to Retired Reserve of Reserve nurses and medical specialists at age 55 if in a reserve grade above captain, prior to repeal by Pub. L. 86–559, §1(22), June 30, 1960, 74 Stat. 271.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1835(c), renumbered section 2313b of this title as this section.

Subsec. (g)(5). Pub. L. 116–283, §1835(d)(1), substituted "section 3847" for "section 2313a".

**2019**—Subsec. (d)(1), (2). Pub. L. 116–92 substituted "a task order" for "an task order".

**2018**—Subsec. (b)(1)(E). Pub. L. 115–232 redesignated cls. (A) and (B) as (i) and (ii), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3843. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1835(e)(1), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(7)(B)(i), Dec. 27, 2021, 135 Stat. 2142.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3843, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1483; amended Pub. L. 86–559, §1(23), June 30, 1960, 74 Stat. 271; Pub. L. 99–145, title XIII, §1303(a)(20)(A), Nov. 8, 1985, 99 Stat. 739, related to transfer or discharge of reserve commissioned officers below grade of major general, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See sections 14509 and 14510 of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(7)(B)(i), amended Pub. L. 116–283, §1835(e)(1), which enacted this section, by adding section 3843 designation and catchline "[Reserved]" and striking out former section 3843 designation and catchline "Contractor internal audit reports: Department of Defense access to, use of, and safeguards and protections for".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L.

117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3844. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1835(e)(1), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(7)(B)(i), Dec. 27, 2021, 135 Stat. 2142.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 3844, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1484; amended Pub. L. 86–559, §1(24), June 30, 1960, 74 Stat. 271, related to transfer or discharge of certain reserve major generals and brigadier generals who are 62 years old, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14511 of this title.

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1701(i)(7)(B)(i), amended Pub. L. 116–283, §1835(e)(1), which enacted this section, by adding section 3844 designation and catchline "[Reserved]" and striking out former section 3844 designation and catchline "Contractor business systems".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3845. Contractor inventory accounting systems: standards

(a) The Secretary of Defense shall prescribe in regulations—

(1) standards for inventory accounting systems used by contractors under contract with the Department of Defense; and

(2) appropriate enforcement requirements with respect to such standards.

(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not greater than the simplified acquisition threshold.

(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial products.

(Added Pub. L. 100–456, div. A, title VIII, §834(a)(1), Sept. 29, 1988, 102 Stat. 2024, §2410b; amended Pub. L. 103–355, title IV, §4102(h), title VIII, §8105(i), Oct. 13, 1994, 108 Stat. 3341, 3393; Pub. L. 104–106, div. D, title XLIII, §4301(a)(1), Feb. 10, 1996, 110 Stat. 656; Pub. L. 104–201, div. A, title X, §1074(b)(3), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 111–350, §5(b)(28),

Jan. 4, 2011, 124 Stat. 3845; Pub. L. 115–232, div. A, title VIII, §836(e)(6), Aug. 13, 2018, 132 Stat. 1870; renumbered §3845 and amended Pub. L. 116–283, div. A, title XVIII, §1835(c), (d)(2), Jan. 1, 2021, 134 Stat. 4240.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3845, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1484; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of certain officers of Army National Guard of United States who are 64 years of age, prior to repeal Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14512(a) of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1835(c), renumbered section 2410b of this title as this section.

Subsec. (c). Pub. L. 116–283, §1835(d)(2), struck out "(as defined in section 103 of title 41)" after "commercial products".

**2018**—Subsec. (c). Pub. L. 115–232 substituted "commercial products" for "commercial items".

**2011**—Subsec. (c). Pub. L. 111–350 substituted "section 103 of title 41)" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

**1996**—Subsec. (a)(2). Pub. L. 104–106, as amended by Pub. L. 104–201, struck out "certification and" after "appropriate".

**1994**—Subsecs. (a), (b). Pub. L. 103–355, §4102(h), designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (c). Pub. L. 103–355, §8105(i), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### REGULATIONS

Pub. L. 100–456, div. A, title VIII, §834(b), Sept. 29, 1988, 102 Stat. 2025, provided that:

"(1) The Secretary of Defense shall prescribe the regulations required by paragraph (1) of section 2410b of title 10, United States Code [now 10 U.S.C. 3845(a)(1)], as added by subsection (a), not later than 30 days after the date of the enactment of this Act [Sept. 29, 1988].

"(2) The Secretary of Defense shall prescribe the regulations required by paragraph (2) of section 2410b of title 10, United States Code [now 10 U.S.C. 3845(a)(2)], as added by subsection (a), not later than 180 days after the date of the enactment of this Act."

# §3846. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, §1835(e)(2), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117–81, div. A, title XVII, §1701(i)(7)(B)(ii), Dec. 27, 2021, 135 Stat. 2142.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3846, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1484, related to transfer or discharge of reserve first lieutenants, captains, and majors not recommended for promotion by two selection boards, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14501 et seq. of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1701(i)(7)(B)(ii), amended Pub. L. 116–283, §1835(e)(1), which enacted this section, by adding section 3846 designation and catchline "[Reserved]" and striking out former section 3846 designation and catchline "Defense Contract Audit Agency: legal resources and expertise".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116–283 by Pub. L. 117–81, resulting in omission of this section, applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §3847. Defense Contract Audit Agency: annual report

(a) REQUIRED REPORT.—The Director of the Defense Contract Audit Agency shall prepare an annual report of the activities of the Agency during the previous fiscal year. The report shall include, at a minimum—

(1) a description of significant problems, abuses, and deficiencies encountered during the conduct of contractor audits;

(2) statistical tables showing—

(A) the total number and dollar value of audit reports completed and pending, set forth separately by type of audit;

(B) the priority given to each type of audit;

(C) the length of time taken for each type of audit, both from the date of receipt of a qualified incurred cost submission and from the date the audit begins;

(D) the sustained questioned costs, set forth separately by type of audit, both as a total value and as a percentage of the total questioned costs for the audit;

(E) the total number and dollar value of incurred cost audits completed, and the method by which such incurred cost audits were completed;

(F) the aggregate cost of performing audits, set forth separately by type of audit;

(G) the ratio of sustained questioned costs to the aggregate costs of performing audits, set forth separately by type of audit; and

(H) the total number and dollar value of audits that are pending for a period longer than one year as of the end of the fiscal year covered by the report, and the fiscal year in which the qualified submission was received, set forth separately by type of audit;

(3) a summary of any recommendations of actions or resources needed to improve the audit process;

(4) a summary, set forth separately by dollar amount and percentage, of indirect costs for independent research and development incurred by contractors in the previous fiscal year;

(5) a summary, set forth separately by dollar amount and percentage, of indirect costs for bid and proposal costs incurred by contractors in the previous fiscal year;

(6) a description of outreach actions toward industry to promote more effective use of audit resources; and

(7) any other matters the Director considers appropriate.

(b) SUBMISSION OF ANNUAL REPORT.—Not later than March 30 of each year, the Director shall submit to the congressional defense committees the report required by subsection (a).

(c) PUBLIC AVAILABILITY.—Not later than 60 days after the submission of an annual report to the congressional defense committees under subsection (b), the Director shall make the report available on the publicly available website of the Agency or such other publicly available website as the Director considers appropriate.

(d) DEFINITIONS.—

(1) The terms "incurred cost audit" and "qualified incurred cost submission" have the meaning given those terms in section 3842 of this title.

(2) The term "sustained questioned costs" means questioned costs that were recovered by the Federal Government as a result of contract negotiations related to such questioned costs.

(Added Pub. L. 112–81, div. A, title VIII, §805(a), Dec. 31, 2011, 125 Stat. 1486, §2313a; amended Pub. L. 114–92, div. A, title VIII, §893(b), Nov. 25, 2015, 129 Stat. 952; Pub. L. 114–328, div. A, title VIII, §824(d)(1), Dec. 23, 2016, 130 Stat. 2279; Pub. L. 115–91, div. A, title VIII, §811(d)(1), title X, §1081(d)(5), Dec. 12, 2017, 131 Stat. 1460, 1600; renumbered §3847 and amended Pub. L. 116–283, div. A, title XVIII, §1835(c), (d)(3), Jan. 1, 2021, 134 Stat. 4240.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3847, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1484; Pub. L. 86–559, §1(25), June 30, 1960, 74 Stat. 272, provided for transfer to Retired Reserve or discharge from his reserve appointment, after July 1, 1960, of each officer in a reserve grade below lieutenant colonel with 25 years service assigned to Army Nurse Corps, Army Medical Specialist Corps, or Women's Army Corps who had not been recommended for promotion to reserve grade of lieutenant colonel or who has not remained on active duty since such a recommendation, prior to repeal by Pub. L. 90–130, §1(12)(A), Nov. 8, 1967, 81 Stat. 376.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1835(c), renumbered section 2313a of this title as this section.

Subsec. (d)(1). Pub. L. 116–283, §1835(d)(3), substituted "section 3842" for "section 2313b".

**2017**—Subsec. (a)(2)(A). Pub. L. 115–91, §811(d)(1)(A)(i), inserted "and dollar value" after "number" and ", set forth separately by type of audit" after "pending".

Subsec. (a)(2)(C). Pub. L. 115–91, §811(d)(1)(A)(ii), inserted ", both from the date of receipt of a qualified incurred cost submission and from the date the audit begins" after "audit".

Subsec. (a)(2)(D). Pub. L. 115–91, §811(d)(1)(A)(iii), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the total costs of sustained or recovered costs both as a total number and as a percentage of questioned costs; and".

Subsec. (a)(2)(E) to (H). Pub. L. 115–91, §811(d)(1)(A)(iv), (v), added subpars. (E) to (H) and struck out former subpar. (E) which read as follows: "an assessment of the number and types of audits pending for a period longer than allowed pursuant to guidance of the Defense Contract Audit Agency;".

Subsec. (a)(4), (5). Pub. L. 115–91, §1081(d)(5), amended Pub. L. 114–328, §824(d)(1)(B). See 2016 Amendment note below.

Subsec. (d). Pub. L. 115–91, §811(d)(1)(B), added subsec. (d).

**2016**—Subsec. (a)(4), (5). Pub. L. 114–328, §824(d)(1)(B), as amended by Pub. L. 115–91, §1081(d)(5), added pars. (4) and (5). Former pars. (4) and (5) redesignated (6) and (7), respectively.

Subsec. (a)(6), (7). Pub. L. 114–328, §824(d)(1)(A), redesignated pars. (4) and (5) as (6) and (7), respectively.

**2015**—Subsec. (a)(2)(D). Pub. L. 114–92, §893(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs); and".

Subsec. (a)(4), (5). Pub. L. 114–92, §893(b)(2)–(4), added par. (4) and redesignated former par. (4) as (5).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(5) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VIII, §824(d)(2), Dec. 23, 2016, 130 Stat. 2279, provided that: "The amendments made by this subsection [amending this section] shall take effect on October 1, 2018."

## §3848. Defense audit agencies: Small Business Ombudsmen

(a) SMALL BUSINESS OMBUDSMAN.—The Secretary of Defense shall designate within each defense audit agency an official as the Small Business Ombudsman to have the duties described in subsection (b) and such other responsibilities as may be determined by the Secretary.

(b) DUTIES.—The Small Business Ombudsman of a defense audit agency shall—

(1) advise the Director of the defense audit agency on policy issues related to small business concerns;

(2) serve as the defense audit agency's primary point of contact and source of information for small business concerns;

(3) collect and monitor relevant data regarding the defense audit agency's conduct of audits of small business concerns, including—

(A) data regarding the timeliness of audit closeouts for small business concerns; and

(B) data regarding the responsiveness of the defense audit agency to issues or other matters raised by small business concerns; and

(4) make recommendations to the Director regarding policies, processes, and procedures related to the timeliness of audits of small business concerns and the responsiveness of the defense audit agency to issues or other matters raised by small business concerns.

(c) AUDIT INDEPENDENCE.—The Small Business Ombudsman of a defense audit agency shall be segregated from ongoing audits in the field and shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term "defense audit agency" means the Defense Contract Audit Agency and the Defense Contract Management Agency.

(Added Pub. L. 112–239, div. A, title XVI, §1612(a), Jan. 2, 2013, 126 Stat. 2064, §204; renumbered §3848 and amended Pub. L. 116–283, div. A, title XVIII, §1835(c), (d)(4), Jan. 1, 2021, 134 Stat. 4240.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3848, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1485; amended Pub. L. 86–559,

§1(26), June 30, 1960, 74 Stat. 272; Pub. L. 90–130, §1(12)(B), Nov. 8, 1967, 81 Stat. 376; Pub. L. 90–486, §9(1), Aug. 13, 1968, 82 Stat. 760; Pub. L. 95–485, title VIII, §820(h), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 96–513, title V, §512(8), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 99–145, title V, §522(a)(1), title XIII, §1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 631, 739; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve first lieutenants, captains, majors, and lieutenant colonels with 28 years of service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14501 et seq. of this title.

A prior section 3849, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1485, related to separation or transfer to retired reserve of officers in the reserve grade of lieutenant colonel assigned to the Women's Army Corps upon completion of 28 years of service, prior to repeal by Pub. L. 86–559, §1(27), June 30, 1960, 74 Stat. 272.

Prior sections 3850 to 3855 were repealed by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3850, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1485; amended Pub. L. 104–106, div. A, title XV, §1501(c)(25), Feb. 10, 1996, 110 Stat. 499, related to transfer or discharge of excessive reserve commissioned officers in active status with thirty or more years of service. See sections 14514 and 14704 of this title.

Section 3851, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, §1(28), June 30, 1960, 74 Stat. 272; Pub. L. 90–486, §9(1), Aug. 13, 1968, 82 Stat. 760; Pub. L. 96–513, title V, §512(8), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 98–525, title V, §513, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–145, title V, §522(a)(2), title XIII, §1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 631, 739; Pub. L. 99–661, div. A, title XIII, §1342(g), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve colonels and brigadier generals with 30 years of service or five years in grade. See section 14508(a), (e) of this title.

Section 3852, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, §1(29), June 30, 1960, 74 Stat. 272; Pub. L. 99–145, title V, §523, title XIII, §1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 632, 739; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve major generals with 35 years of service or five years in grade. See section 14508(b), (f) of this title.

Section 3853, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, §1(30), June 30, 1960, 74 Stat. 273; Pub. L. 86–651, title I, §115, Sept. 7, 1962, 76 Stat. 513; Pub. L. 96–513, title V, §512(9), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 98–94, title X, §1016(a), Sept. 24, 1983, 97 Stat. 668; Pub. L. 103–337, div. A, title XVI, §1635(a), Oct. 5, 1994, 108 Stat. 2968, related to computation of years of service. See section 14706 of this title.

Section 3854, added Pub. L. 85–861, §1(94), Sept. 2, 1958, 72 Stat. 1486, authorized Secretary of the Army to prescribe regulations to carry out this chapter.

Section 3855, added Pub. L. 86–559, §1(31), June 30, 1960, 74 Stat. 273; amended Pub. L. 96–107, title IV, §403(a), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96–513, title II, §215(a), Dec. 12, 1980, 94 Stat. 2885; Pub. L. 100–180, div. A, title VII, §717(a), (d)(1)(A), Dec. 4, 1987, 101 Stat. 1113, 1114; Pub. L. 101–189, div. A, title VII, §§710(a), 711(a), Nov. 29, 1989, 103 Stat. 1476, 1477, related to retention in active status of certain reserve officers. See section 14703(a)(1), (b) of this title.

## AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 204 of this title as this section and substituted "Defense audit agencies: Small Business Ombudsmen" for "Small Business Ombudsman for defense audit agencies" in section catchline.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 281—CLAIMS AND DISPUTES

Sec.
3861. Research and development contracts: indemnification provisions.
3862. Requests for equitable adjustment or other relief.
3863. Retention of amounts collected from contractor during the pendency of contract dispute.
3864. Assumption of uninsurable risk on certain contracts.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 281 "CLAIMS AND DISPUTES", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3861, was repealed by Pub. L. 116–283, div. A, title XVIII, §1836(a), Jan. 1, 2021, 134 Stat. 4241.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §801(a), Dec. 18, 2025, 139 Stat. 939, added item 3864. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title VIII, §805(b), Dec. 23, 2022, 136 Stat. 2702, added item 3862 and struck out former item 3862 "Requests for equitable adjustment or other relief: certification".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ABILITY TO WITHHOLD CONTRACT PAYMENTS DURING PERIOD OF PENDANCY OF A BID PROTEST

Pub. L. 119–60, div. A, title VIII, §875, Dec. 18, 2025, 139 Stat. 1004, provided that:

"(a) AUTHORITY TO WITHHOLD CERTAIN PAYMENTS.—

"(1) PROCEDURES.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to establish procedures for a contracting officer of the Department of Defense to withhold payment of covered amounts to an incumbent contractor during the period of pendency resulting from a bid protest by such incumbent contractor.

"(2) FORFEIT.—The procedures developed in accordance with this section shall provide that payment amounts withheld under paragraph (1) from an incumbent contractor during a period of pendency resulting from a bid protest by such incumbent contractor shall be forfeited by the incumbent contractor upon the determination by the Comptroller General of the United States to dismiss such bid protest based on a lack of any reasonable legal or factual basis becoming a final determination.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered amounts' means an amount that is not greater than five percent of the total amount to be paid to an incumbent contractor but for the withholding of payment under subsection (a)(1).

"(2) The term 'covered contract' means a contract entered into by the Secretary of Defense with an incumbent contractor for the procurement of goods or services during the period of pendency that are the same or substantially similar to goods or services to be acquired by the Department under the contract previously awarded to the incumbent contractor.

"(3) The term 'final determination', with respect to the dismissal of a bid protest, means such dismissal—

"(A) was not the subject of a request for reconsideration and the time period for requesting reconsideration has expired; or

"(B) was the subject of a request for reconsideration and the reconsideration processes for which is completed.

"(4) The term 'incumbent contractor' means a contractor for a contract with the Department of Defense for the acquisition of goods or services by the Department that are the same or substantially similar to goods or services to be acquired by the Department under a new or follow-on contract that is the subject of a bid protest.

"(5) The term 'period of pendency' means the period of performance under a contract that was awarded or extended because the Secretary of Defense—

"(A) received notice of a bid protest submitted by the incumbent contractor to the Comptroller General of the United States; and

"(B) was prohibited from awarding a new contract during the pendency of such bid protest under

section 3553(c) of title 31, United States Code."

## §3861. Research and development contracts: indemnification provisions

(a) With the approval of the Secretary of the military department concerned, any contract of a military department for research or development, or both, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not compensated by insurance or otherwise:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons, including employees of the contractor, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract, made under subsection (a), that provides for indemnification must also provide for—

(1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(c) No payment may be made under subsection (a) unless the Secretary of the department concerned, or an officer or official of his department designated by him, certifies that the amount is just and reasonable.

(d) Upon approval by the Secretary concerned, payments under subsection (a) may be made from—

(1) funds obligated for the performance of the contract concerned;

(2) funds available for research or development, or both, and not otherwise obligated; or

(3) funds appropriated for those payments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 134, §2354; renumbered §3861 and amended Pub. L. 116–283, div. A, title XVIII, §1836(b), (c), Jan. 1, 2021, 134 Stat. 4241.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2354 of this title as this section and substituted "Research and development contracts: indemnification provisions" for "Contracts: indemnification provisions" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3862. Requests for equitable adjustment or other relief

(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of

the contractor certifies, at the time the request is submitted, that—

(1) the request is made in good faith, and

(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 3063 of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

(1) specifically refers to this subsection; and

(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.

(c) TREATMENT OF CERTAIN CLAUSES IMPLEMENTING EXECUTIVE ORDERS.—The unilateral insertion of a covered clause into an existing Department of Defense contract, order, or other transaction by a contracting officer shall be treated as a change directed by the contracting officer pursuant to, and subject to, the Changes clause of the underlying contract, order, or other transaction.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given that term in section 134 of title 41.

(2) The term "Changes clause" means the clause described in part 52.243–4 of the Federal Acquisition Regulation or any successor regulation.

(3) The term "covered clause" means any clause implementing the requirements of an Executive order issued by the President.

(Added Pub. L. 103–355, title II, §2301(a), Oct. 13, 1994, 108 Stat. 3320, §2410; amended Pub. L. 111–350, §5(b)(27), Jan. 4, 2011, 124 Stat. 3845; renumbered §3862 and amended Pub. L. 116–283, div. A, title XVIII, §§1836(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4241, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(6), Dec. 27, 2021, 135 Stat. 2136; Pub. L. 117–263, div. A, title VIII, §805(a), Dec. 23, 2022, 136 Stat. 2701.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Public Law 85–804, referred to in subsecs. (a) and (b), is Pub. L. 85–804, Aug. 28, 1958, 72 Stat. 972, which is classified generally to chapter 29 (§1431 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

### AMENDMENTS

**2022**—Pub. L. 117–263, §805(a)(1), struck out ": certification" after "relief" in section catchline.

Subsec. (c). Pub. L. 117–263, §805(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 117–263, §805(a)(2), (4), redesignated subsec. (c) as (d), substituted "Definitions" for "Definition" in heading, substituted "In this section:" for "In this section,", designated remainder of existing provisions as par. (1), substituted "The term" for "the term", and added pars. (2) and (3).

**2021**—Pub. L. 116–283, §1836(b), renumbered section 2410 of this title as this section.

Subsec. (b). Pub. L. 117–81 substituted "section 3063" for "section 2303(a)" in introductory provisions.

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2303(a)", which was redesignated as multiple sections.

**2011**—Subsec. (c). Pub. L. 111–350 substituted "section 134 of title 41" for "section 4(11) of the Office of Federal Procurement Policy Act".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

**CONFORMING REGULATIONS**

Pub. L. 117–263, div. A, title VIII, §805(c), Dec. 23, 2022, 136 Stat. 2702, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to implement the requirements of section 3862 of title 10, United States Code, as amended by subsection (a)."

**CONFORMING POLICY GUIDANCE**

Pub. L. 117–263, div. A, title VIII, §805(d), Dec. 23, 2022, 136 Stat. 2702, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise applicable policy guidance on other transactions to implement the requirements of section 3862 of title 10, United States Code, as amended by subsection (a)."

## §3863. Retention of amounts collected from contractor during the pendency of contract dispute

(a) RETENTION OF FUNDS.—Notwithstanding sections 1552(a) and 3302(b) of title 31, any amount, including interest, collected from a contractor as a result of a claim made by a military department or Defense Agency under chapter 71 of title 41, shall remain available in accordance with this section to pay—

(1) any settlement of the claim by the parties;

(2) any judgment rendered in the contractor's favor on an appeal of the decision on that claim to the Armed Services Board of Contract Appeals under section 7104(a) of title 41; or

(3) any judgment rendered in the contractor's favor in an action on that claim in a court of the United States.

(b) PERIOD OF AVAILABILITY.—(1) The period of availability of an amount under subsection (a), in connection with a claim—

(A) expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 7104(b) of title 41 if, within that 180-day period—

(i) no appeal on the claim is commenced at the Armed Services Board of Contract Appeals under section 7104(a) of such title; and

(ii) no action on the claim is commenced in a court of the United States; or

(B) if not expiring under subparagraph (A), expires—

(i) in the case of a settlement of the claim, 180 days after the date of the settlement; or

(ii) in the case of a judgment rendered on the claim in an appeal to the Armed Services Board of Contract Appeals under section 7104(a) of title 41 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the amount shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 105–85, div. A, title VIII, §831(a), Nov. 18, 1997, 111 Stat. 1841, §2410m; amended Pub. L. 108–136, div. A, title X, §1031(a)(21), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 111–350, §5(b)(32), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112–81, div. A, title X, §1061(15), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113–291, div. A, title X, §1071(a)(8), Dec. 19, 2014, 128 Stat. 3504; renumbered §3863, Pub. L. 116–283, div. A, title XVIII, §1836(b), Jan. 1, 2021, 134 Stat. 4241.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2410m of this title as this section.

**2014**—Subsec. (b)(1)(A)(i). Pub. L. 113–291, §1071(a)(8)(A), substituted "section 7104(a) of such title" for "section 7 of such Act".

Subsec. (b)(1)(B)(ii). Pub. L. 113–291, §1071(a)(8)(B), substituted "section 7104(a) of title 41" for "section 7 of the Contract Disputes Act of 1978".

**2011**—Subsec. (a). Pub. L. 111–350, §5(b)(32)(A), substituted "chapter 71 of title 41" for "the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)" in introductory provisions.

Subsec. (a)(2). Pub. L. 111–350, §5(b)(32)(B), substituted "section 7104(a) of title 41" for "section 7 of such Act (41 U.S.C. 606)".

Subsec. (b)(1)(A). Pub. L. 111–350, §5(b)(32)(C), substituted "section 7104(b) of title 41" for "section 10(a) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a))" in introductory provisions.

Subsec. (c). Pub. L. 112–81 struck out subsec. (c), which required submission of annual report on amounts available for obligation.

**2003**—Subsec. (c). Pub. L. 108–136, §1031(a)(21)(A), substituted "Annual Report" for "Reporting Requirement" in heading and "Not later than 60 days after the end of each fiscal year" for "Each year" in introductory provisions.

Subsec. (c)(1). Pub. L. 108–136, §1031(a)(21)(B), inserted "at the end of such fiscal year" before period at end.

Subsec. (c)(2). Pub. L. 108–136, §1031(a)(21)(C), substituted "under this section during that fiscal year" for "during the year preceding the year in which the report is submitted".

Subsec. (c)(3). Pub. L. 108–136, §1031(a)(21)(D), substituted "under this section during that fiscal year" for "in such preceding year".

Subsec. (c)(4). Pub. L. 108–136, §1031(a)(21)(E), substituted "under this section during that fiscal year" for "in such preceding year".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3864. Assumption of uninsurable risk on certain contracts

(a) IN GENERAL.—The Secretary of Defense shall ensure that a contractor is not required to assume the risk of loss for work in process under a covered contract if, due to the classified nature of the performance of such contractor under such covered contract—

(1) such contractor is unable to obtain insurance for such risk of loss from a commercial provider; or

(2) a commercial provider is unable to process a claim of such contractor for loss of work in process under such covered contract.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to a loss of work in process under a covered contract to the extent that such loss—

(1) is the result of willful misconduct or lack of good faith on the part of the managerial personnel of the contractor, including with respect to the oversight of subcontractors by the contractor; or

(2) is the result of workmanship error by the contractor.

(c) DEFINITIONS.—In this section:

(1) The term "classified contract" means a contract the performance of which requires a contractor performing under such contract, or an employee of such contractor, to have access to classified information.

(2) The term "covered contract" means a classified, fixed-price type contract for the acquisition of a product entered into by the Department of Defense after the enactment of this Act.

(3) The term "work in process" means an item at any stage of production or manufacture at any time from the initiation of contract performance until delivery to and acceptance by the Government.

(4) The term "workmanship error" means damage to work in process that is a result of an incorrectly performed skill-based task, operation, or action that was originally planned or intended.

(Added Pub. L. 119–60, div. A, title VIII, §801(a), Dec. 18, 2025, 139 Stat. 939.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The enactment of this Act, referred to in subsec. (c)(2), probably means the date of enactment of Pub. L. 119–60, which added this section and was approved Dec. 18, 2025.

### PRIOR PROVISIONS

Prior sections 3881 and 3882 were repealed by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Section 3881, act Aug. 10, 1956, ch. 1041, 70A Stat. 222, authorized Secretary of the Army to retire regular commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps whose regular grade is below major.

Section 3882, act Aug. 10, 1956, ch. 1041, 70A Stat. 222, authorized Secretary of the Army to retire regular commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps whose regular grade is above captain.

Prior sections 3883 to 3886 were repealed by Pub. L. 96–513, title II, §216, title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

Section 3883, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Aug. 6, 1958, Pub. L. 85–600, §1(6), 72 Stat. 522; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115; Oct. 30, 1978, Pub. L. 95–551, §2, 92 Stat. 2069, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is below major general, other than a professor or the director of admissions of the United States Military Academy, be retired when he becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3884, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under cl. (1) of that section, be retired when he becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3885, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date or unless retained under section 3923(2) of this title, each commissioned officer whose regular grade is major general be retired when he becomes 62 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3886, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Aug. 6, 1958, Pub. L. 85–600, §1(7), 72 Stat. 522; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115; Oct. 30, 1978, Pub. L. 95–551, §2, 92 Stat. 2069,

provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under cl. (2) of that section, and each permanent professor and the director of admissions of the United States Military Academy, be retired when he becomes 64 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

A prior section 3887, act Aug. 10, 1956, ch. 1041, 70A Stat. 223, related to computation of years of service of commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps for purposes of retirement under former sections 3881 or 3882 of this title, or retirement pay under section 3991 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Prior sections 3888 and 3889 were repealed by Pub. L. 96–513, title II, §216, title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

Section 3888, acts Aug. 10, 1956, ch. 1041, 70A Stat. 223; Aug. 21, 1957, Pub. L. 85–155, title I, §101(18), 71 Stat. 379; May 20, 1958, Pub. L. 85–422, §11(a)(3), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(96), 72 Stat. 1487, related to computation of service for determining retired pay of a commissioned officer of Regular Army retired under former section 3883, 3884, 3885, or 3886 of this title.

Section 3889, act Aug. 10, 1956, ch. 1041, 70A Stat. 224, provided that a member of Army retired under this chapter be entitled to retired pay computed under chapter 745 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REGULATIONS

Pub. L. 119–60, div. A, title VIII, §801(b), Dec. 18, 2025, 139 Stat. 940, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall revise the Defense Federal Acquisition Regulation Supplement to carry out section 3864 of title 10, United States Code, as added by subsection (a)."

## CHAPTER 283—[RESERVED]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 283 "FOREIGN ACQUISITIONS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3881, was repealed by Pub. L. 116–283, div. A, title XVIII, §1837, Jan. 1, 2021, 134 Stat. 4241, as amended by Pub. L. 117–81, div. A, title XVII, §1701(i)(8)(B), Dec. 27, 2021, 135 Stat. 2142.

### CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1837, Jan. 1, 2021, 134 Stat. 4241, enacted this chapter "FOREIGN ACQUISITIONS", which consisted of subchapters I "General" and II "Prohibition on Contracting with the Enemy". Subchapter I consisted of section 3881 "Contracts: consideration of national security objectives", as transferred from section 2327 of this title, and subchapter II consisted of reserved sections 3891 to 3893. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(i)(8)(B), Dec. 27, 2021, 135 Stat. 2142, generally amended section 1837 of Pub. L. 116–283, effective as if included therein, so that this chapter would consist only of the chapter 283 designation and "[RESERVED]", thereby omitting the contents of this chapter in their entirety.

## CHAPTER 287—OTHER CONTRACTING PROGRAMS

Sec.
3901. Contracts: prohibition on competition between Department of Defense and small businesses.
3902. Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses.

3903. Subcontracting plans: credit for certain purchases.
3904. [Reserved].
3905. Products of Federal Prison Industries: procedural requirements.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 285 "SMALL BUSINESS PROGRAMS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3901, was repealed by Pub. L. 116–283, div. A, title XVIII, §1871(a)(1), Jan. 1, 2021, 134 Stat. 4287.

A prior chapter 287 "SOCIOECONOMIC PROGRAMS", as added by Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1829, and consisting of reserved section 3961, was repealed by Pub. L. 116–283, div. A, title XVIII, §1838(a), Jan. 1, 2021, 134 Stat. 4242.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(l)(1)(B), (v)(2)(B), Dec. 27, 2021, 135 Stat. 2144, 2154, amended Pub. L. 116–283, div. A, title XVIII, §1838(a), Jan. 1, 2021, 134 Stat. 4242, which added this analysis, by substituting "OTHER CONTRACTING" for "SOCIOECONOMIC" in chapter heading and "[Reserved]" for "Research and educational programs and activities: historically black colleges and universities and minority-serving institutions of higher education" in item 3904.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEMONSTRATION PROJECT FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES

Pub. L. 115–232, div. A, title VIII, §888, Aug. 13, 2018, 132 Stat. 1916, provided that: "Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall update the Defense Federal Acquisition Regulatory Supplement to include an instruction on the pilot program regarding employment of persons with disabilities authorized under section 853 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 2302 note)."

Pub. L. 108–136, div. A, title VIII, §853, Nov. 24, 2003, 117 Stat. 1557, as amended by Pub. L. 108–199, div. H, §110, Jan. 23, 2004, 118 Stat. 438; Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(i), Aug. 13, 2018, 132 Stat. 1846, provided that:

"(a) AUTHORITY.—The Secretary of Defense may carry out a demonstration project by entering into one or more contracts with an eligible contractor for the purpose of providing defense contracting opportunities for severely disabled individuals.

"(b) EVALUATION FACTOR.—In evaluating an offer for a contract under the demonstration program, the percentage of the total workforce of the offeror consisting of severely disabled individuals employed by the offeror shall be one of the evaluation factors.

"(c) CREDIT TOWARD CERTAIN SMALL BUSINESS CONTRACTING GOALS.—Department of Defense contracts entered into with eligible contractors under the demonstration project under this section, and subcontracts entered into with eligible contractors under such contracts, shall be credited toward the attainment of goals established under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) regarding the extent of the participation of disadvantaged small business concerns in contracts of the Department of Defense and subcontracts under such contracts.

"(d) DEFINITIONS.—In this section:

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means a business entity operated on a for-profit or nonprofit basis that—

"(A) employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over a period prescribed by the Secretary;

"(B) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) to the employees who are severely disabled individuals; and

"(C) provides for its employees health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region.

"(2) SEVERELY DISABLED INDIVIDUAL.—The term 'severely disabled individual' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a severe physical or mental impairment that seriously limits one or more functional capacities."

## §3901. Contracts: prohibition on competition between Department of Defense and small businesses

(a) EXCLUSION.—In any case in which the Secretary of Defense plans to use competitive procedures for a procurement, if the procurement is to be conducted as described in subsection (b), then the Secretary shall exclude the Department of Defense from competing in the procurement.

(b) PROCUREMENT DESCRIPTION.—The requirement to exclude the Department of Defense under subsection (a) applies in the case of a procurement to be conducted by excluding from competition entities in the private sector other than small business concerns in furtherance of section 8 or 15 of the Small Business Act (15 U.S.C. 637 or 644).

(Added Pub. L. 103–160, div. A, title VIII, §848(a)(1), Nov. 30, 1993, 107 Stat. 1724, §2304a; renumbered §2304e, Pub. L. 104–106, div. D, title XLIII, §4321(b)(6)(A), Feb. 10, 1996, 110 Stat. 672; amended Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(vi), Aug. 13, 2018, 132 Stat. 1847; Pub. L. 116–92, div. A, title XVII, §1731(a)(39)(A), Dec. 20, 2019, 133 Stat. 1814; renumbered §3901, Pub. L. 116–283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117–81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1838(b), as amended by Pub. L. 117–81, §1701(v)(2)(A), renumbered section 2304e of this title as this section.

**2018**—Subsec. (b). Pub. L. 115–232 substituted "other than" for "other than—", struck out par. (1) designation before "small business", and struck out par. (2) which read as follows: "entities described in subsection (a)(1) of section 2323 of this title in furtherance of the goal specified in that subsection."

**1996**—Pub. L. 104–106 renumbered section 2304a of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 103–160, div. A, title VIII, §848(b), Nov. 30, 1993, 107 Stat. 1725, provided that: "Section 2304a of title 10, United States Code [now 10 U.S.C. 3901], as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 30, 1993]."

## §3902. Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses

(a) REGULATIONS.—Subject to subsections (b) and (c), in any case in which a subcontracting goal is specified in a Department of Defense contract in the implementation of section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for—

(1) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if such work is performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if the performance of such contract or subcontract is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE WORK.—(1) Work performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the work are Indians; or

(B) the contractor or subcontractor has an agreement with the tribal government having jurisdiction over such Indian lands that provides goals for training and development of the Indian workforce and Indian management.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—The amount of the credit given toward the attainment of any subcontracting goal under subsection (a) shall be—

(1) in the case of work performed as described in subsection (a)(1), the value of the work performed; and

(2) in the case of a contract or subcontract undertaken to be performed by a joint venture as described in subsection (a)(2), an amount equal to the amount of the contract or subcontract multiplied by the percentage of the tribe's or tribally owned corporation's ownership interest in the joint venture.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of this section.

(e) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the meaning given that term by section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).

(2) The term "Indian" has the meaning given that term by section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(d)).

(3) The term "Indian tribe" has the meaning given that term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(4) The term "tribally owned corporation" means a corporation owned entirely by an Indian tribe.

(Added Pub. L. 102–484, div. A, title VIII, §801(g)(1), Oct. 23, 1992, 106 Stat. 2445, §2323a; amended Pub. L. 104–201, div. A, title X, §1074(a)(13), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(vii), Aug. 13, 2018, 132 Stat. 1847; Pub. L. 116–92, div. A, title XVII, §1731(a)(39)(B), Dec. 20, 2019, 133 Stat. 1814; renumbered §3902, Pub. L. 116–283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117–81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

## EDITORIAL NOTES

### CODIFICATION

Section, as added by Pub. L. 102–484, consists of text of Pub. L. 101–189, div. A, title VIII, §832, Nov. 29,

1989, 103 Stat. 1508, revised by Pub. L. 102–484 by substituting "section 2323 of this title" for "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" in subsec. (a). Section 832 of Pub. L. 101–189, which was formerly set out as a note under section 2301 of this title, was repealed by Pub. L. 102–484, div. A, title VIII, §801(h)(5), Oct. 23, 1992, 106 Stat. 2445.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1838(b), as amended by Pub. L. 117–81, §1701(v)(2)(A), renumbered section 2323a of this title as this section.

**2019**—Pub. L. 116–92, §1731(a)(39)(B)(i), struck out "and certain institutions of higher education" after "businesses" in section catchline.

Subsec. (e)(1). Pub. L. 116–92, §1731(a)(39)(B)(ii)(I), struck out "102 Stat. 2468;" before "25 U.S.C. 2703(4))."

Subsec. (e)(2). Pub. L. 116–92, §1731(a)(39)(B)(ii)(II), substituted "(25 U.S.C. 5304(d))" for "(25 U.S.C. 450b(d))".

Subsec. (e)(3). Pub. L. 116–92, §1731(a)(39)(B)(ii)(III), substituted "(25 U.S.C. 5304(e))" for "(25 U.S.C. 450b(e))".

**2018**—Subsec. (a). Pub. L. 115–232 struck out "section 2323 of this title and" after "implementation of".

**1996**—Subsec. (a). Pub. L. 104–201, which directed amendment of subsec. (a) by substituting "section 2323 of this title" for "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)", could not be executed because the language "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" did not appear. See Codification note above.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §3903. Subcontracting plans: credit for certain purchases

(a) PURCHASES BENEFITING SEVERELY HANDICAPPED PERSONS.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

(b) DEFINITIONS.—In this section:

(1) The term "small business subcontracting plan" means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

(2) The term "qualified nonprofit agency for the blind or other severely handicapped" means—

(A) a qualified nonprofit agency for the blind, as defined in section 8501(7) of title 41;

(B) a qualified nonprofit agency for other severely disabled, as defined in section 8501(6) of title 41; and

(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 8503(c) of title 41.

(Added Pub. L. 102–484, div. A, title VIII, §808(b)(1), Oct. 23, 1992, 106 Stat. 2449, §2410d; amended Pub. L. 103–337, div. A, title VIII, §804, Oct. 5, 1994, 108 Stat. 2815; Pub. L. 104–106, div. D, title XLIII, §4321(b)(15), Feb. 10, 1996, 110 Stat. 673; Pub. L. 105–85, div. A, title VIII, §835, Nov. 18, 1997, 111 Stat. 1843; Pub. L. 106–65, div. A, title VIII, §807, Oct. 5, 1999, 113 Stat.

705; Pub. L. 111–350, §5(b)(29), Jan. 4, 2011, 124 Stat. 3845; renumbered §3903, Pub. L. 116–283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117–81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1838(b), as amended by Pub. L. 117–81, §1701(v)(2)(A), renumbered section 2410d of this title as this section.

**2011**—Subsec. (b)(2)(A). Pub. L. 111–350, §5(b)(29)(A), substituted "section 8501(7) of title 41" for "section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3))".

Subsec. (b)(2)(B). Pub. L. 111–350, §5(b)(29)(B), substituted "disabled, as defined in section 8501(6) of title 41" for "handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4))".

Subsec. (b)(2)(C). Pub. L. 111–350, §5(b)(29)(C), substituted "section 8503(c) of title 41" for "section 2(c) of such Act (41 U.S.C. 47(c))".

**1999**—Subsec. (c). Pub. L. 106–65 struck out heading and text of subsec. (c). Text read as follows: "Subsection (a) shall cease to be effective at the end of September 30, 1999."

**1997**—Subsec. (c). Pub. L. 105–85 substituted "September 30, 1999" for "September 30, 1997".

**1996**—Subsec. (b)(3). Pub. L. 104–106 struck out par. (3) which read as follows: "The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act."

**1994**—Subsec. (b)(2)(C). Pub. L. 103–337, §804(1)(A), added subpar. (C).

Subsec. (b)(3), (4). Pub. L. 103–337, §804(1)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government."

Subsec. (c). Pub. L. 103–337, §804(2), substituted "September 30, 1997" for "September 30, 1994".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title VIII, §835, Nov. 18, 1997, 111 Stat. 1843, provided that the amendment made by that section is effective as of Sept. 30, 1997.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### EFFECTIVE DATE

Pub. L. 102–484, div. A, title VIII, §808(c), Oct. 23, 1992, 106 Stat. 2450, provided that: "Sections 2301(d) [repealed] and 2410d [now 10 U.S.C. 3903] of title 10, United States Code (as added by subsections (a) and (b), respectively), shall take effect on October 1, 1993."

### CONTRACT PARTICIPATION BY AGENCIES FOR THE BLIND OR OTHER SEVERELY HANDICAPPED

Pub. L. 108–87, title VIII, §8025, Sept. 30, 2003, 117 Stat. 1077, as amended by Pub. L. 113–291, div. A,

title X, §1071(b)(6), Dec. 19, 2014, 128 Stat. 3507, provided that:

"(a) Of the funds for the procurement of supplies or services appropriated by this Act [see Tables for classification] and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

"(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

"(c) For the purpose of this section, the phrase 'qualified nonprofit agency for the blind or other severely handicapped' means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under chapter 85 of title 41, United States Code."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–248, title VIII, §8025, Oct. 23, 2002, 116 Stat. 1542.
Pub. L. 107–117, div. A, title VIII, §8028, Jan. 10, 2002, 115 Stat. 2253.
Pub. L. 106–259, title VIII, §8028, Aug. 9, 2000, 114 Stat. 680.
Pub. L. 106–79, title VIII, §8030, Oct. 25, 1999, 113 Stat. 1237.
Pub. L. 105–262, title VIII, §8030, Oct. 17, 1998, 112 Stat. 2303.
Pub. L. 105–56, title VIII, §8031, Oct. 8, 1997, 111 Stat. 1226.
Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8033], Sept. 30, 1996, 110 Stat. 3009–71, 3009–95.
Pub. L. 104–61, title VIII, §8042, Dec. 1, 1995, 109 Stat. 660.
Pub. L. 103–335, title VIII, §8048, Sept. 30, 1994, 108 Stat. 2628.
Pub. L. 103–139, title VIII, §8055, Nov. 11, 1993, 107 Stat. 1452.
Pub. L. 102–396, title IX, §9077, Oct. 6, 1992, 106 Stat. 1918.
Pub. L. 102–172, title VIII, §8082, Nov. 26, 1991, 105 Stat. 1190.
Pub. L. 101–511, title VIII, §8117, Nov. 5, 1990, 104 Stat. 1905.

## [§3904. Omitted]

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242, initially transferred section 2362 of this title to this section, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154, amended section 1838(b) of Pub. L. 116–283, effective as if included therein, by striking out the directive to make the transfer, thereby omitting this section before it took effect. Another amendment by Pub. L. 117–81 resulted in the transfer of section 2362 to section 4144 of this title.

## §3905. Products of Federal Prison Industries: procedural requirements

(a) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES DOES NOT HAVE SIGNIFICANT MARKET SHARE.—(1) Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18 for which Federal Prison Industries does not have a significant market share, the Secretary of Defense shall conduct market research to determine whether the product is comparable to products available from the private sector that best meet the needs of the Department in terms of price, quality, and time of delivery.

(2) If the Secretary determines that a Federal Prison Industries product described in paragraph (1) is not comparable in price, quality, or time of delivery to products of the private sector that best meets the needs of the Department in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product, or shall make an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such

contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

(b) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—(1) The Secretary of Defense may purchase a product listed in the latest edition of the Federal Prison Industries catalog for which Federal Prison Industries has a significant market share only if the Secretary uses competitive procedures for the procurement of the product or makes an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

(2) For purposes of this subsection, Federal Prison Industries shall be treated as having a significant share of the market for a product if the Secretary, in consultation with the Administrator of Federal Procurement Policy, determines that the Federal Prison Industries share of the Department of Defense market for the category of products including such product is greater than 5 percent.

(c) IMPLEMENTATION BY SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that—

(1) the Department of Defense does not purchase a Federal Prison Industries product or service unless a contracting officer of the Department determines that the product or service is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery; and

(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of the Department of Defense may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a Department of Defense contract by any means, including means such as—

(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

(2) In this subsection, the term "contractor", with respect to a contract, includes a subcontractor at any tier under the contract.

(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Secretary of Defense may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

(1) any data that is classified;

(2) any geographic data regarding the location of—

(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

(C) other utilities; or

(3) any personal or financial information about any individual private citizen, including

information relating to such person's real property however described, without the prior consent of the individual.

(g) DEFINITIONS.—In this section:

(1) The term "competitive procedures" has the meaning given such term in section 3012 of this title.

(2) The term "market research" means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

(A) contacting knowledgeable individuals in government and industry;

(B) interactive communication among industry, acquisition personnel, and customers; and

(C) interchange meetings or pre-solicitation conferences with potential offerors.

(Added Pub. L. 107–107, div. A, title VIII, §811(a)(1), Dec. 28, 2001, 115 Stat. 1180, §2410n; amended Pub. L. 107–314, div. A, title VIII, §819(a)(1), Dec. 2, 2002, 116 Stat. 2612; Pub. L. 109–163, div. A, title X, §1056(c)(4), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 110–181, div. A, title VIII, §827(a)(1), Jan. 28, 2008, 122 Stat. 228; renumbered §3905 and amended Pub. L. 116–283, div. A, title XVIII, §§1838(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4242, 4294; Pub. L. 117–81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 3911 was renumbered section 7311 of this title.

A prior section 3912, act Aug. 10, 1956, ch. 1041, 70A Stat. 225, permitted the Secretary of the Army, upon the officer's request, to retire a commissioned officer of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who has at least 20 years of service computed under former section 3928 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

A prior section 3913, acts Aug. 10, 1956, ch. 1041, 70A Stat. 225; July 12, 1960, Pub. L. 86–616, §4, 74 Stat. 390; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of deferred officers not recommended for promotion after twenty years or more of service, except as provided in section 8301 of title 5, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981. See section 627 et seq. of this title.

A prior section 3914 was renumbered section 7314 of this title.

A prior section 3915, acts Aug. 10, 1956, ch. 1041, 70A Stat. 225; Aug. 21, 1967, Pub. L. 85–155, title I, §101(19), 71 Stat. 379; Sept. 30, 1966, Pub. L. 89–609, §1(5), 80 Stat. 852; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement after 25 years' service of regular majors in Women's Army Corps, Army Nurse Corps, and Army Medical Specialist Corps, prior to repeal by Pub. L. 90–130, §1(13), Nov. 8, 1967, 81 Stat. 376.

A prior section 3916, acts Aug. 10, 1956, ch. 1041, 70A Stat. 226; Aug. 21, 1957, Pub. L. 85–155, title I, §101(21), 71 Stat. 380; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115; Oct. 20, 1978, Pub. L. 95–485, title VIII, §820(i), 92 Stat. 1628, provided for retirement of a promotion-list lieutenant colonel, except as provided by section 8301 of title 5, on 30th day after he completes 28 years of service, with authority for Secretary of the Army to defer retirement in certain cases, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981. See section 633 of this title.

Prior sections 3917 and 3918 were renumbered sections 7317 and 7318 of this title, respectively.

A prior section 3919, act Aug. 10, 1956, ch. 1041, 70A Stat. 226, authorized Secretary of the Army, when he determined that there were too many commissioned officers on active list of Regular Army in any grade who have at least 30 years of service, to convene a board of at least five general officers of Regular Army to make recommendations for retirement and to retire any officer so recommended, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

A prior section 3920 was renumbered section 7320 of this title.

A prior section 3921 was renumbered section 7321 of this title.

Another prior section 3921, acts Aug. 10, 1956, ch. 1041, 70A Stat. 226; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a promotion-list colonel, except as provided by section 8301 of title 5, on the 30th day after he completes 30 years of service or the 5th anniversary of the date of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in

certain cases, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981. See section 634 of this title.

Prior sections 3922 and 3923 were repealed by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

Section 3922, acts Aug. 10, 1956, ch. 1041, 70A Stat. 227; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a regular grade brigadier general, other than a professor of the United States Military Academy, except as provided by section 8301 of title 5, on the 30th day after he completes 30 years of service or the 5th anniversary of the date of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases. See section 635 of this title.

Section 3923, acts Aug. 10, 1956, ch. 1041, 70A Stat. 227; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a regular grade major general, except as provided by section 8301 of title 5, on the 30th day after he completes 35 years of service or the 5th anniversary of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases. See section 636 of this title.

Prior sections 3924 to 3926 were renumbered sections 7324 to 7326 of this title, respectively.

A prior section 3927, acts Aug. 10, 1956, ch. 1041, 70A Stat. 228; Aug. 21, 1957, Pub. L. 85–155, title I, §101(22), 71 Stat. 380; May 20, 1958, Pub. L. 85–422, §11(a)(4), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(98), 72 Stat. 1488, related to computation of years of service for determining whether a regular commissioned officer should be retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title and for determining the retired pay of officers of the Regular Army retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981. See section 1405 of this title.

A prior section 3928, act Aug. 10, 1956, ch. 1041, 70A Stat. 229, related to computation of years of service of commissioned officers of the Army Nurse Corps or Women's Medical Specialist Corps for the purposes of retirement under former section 3912 of this title, or retirement pay under section 3991 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

A prior section 3929 was renumbered section 7329 of this title.

Prior sections 3961 and 3962 were renumbered sections 7341 and 7342 of this title, respectively.

A prior section 3963 was renumbered section 7343 of this title.

Another prior section 3963, acts Aug. 10, 1956, ch. 1041, 70A Stat. 230; Sept. 2, 1958, Pub. L. 85–861, §1(60), (100), 72 Stat. 1462, 1489; Dec. 12, 1980, Pub. L. 96–513, title V, §502(20), 94 Stat. 2910, related to higher grade for service during certain periods for regular and reserve commissioned officers, prior to repeal by Pub. L. 99–145, title XIII, §1301(b)(2)(A), (C), Nov. 8, 1985, 99 Stat. 735, with such repeal not applicable in the case of a member of the Regular Army described in section 3963 of this title, as such section was in effect on the day before Nov. 8, 1985.

Prior sections 3964 to 3966, 3991, and 3992 were renumbered sections 7344 to 7346, 7361, and 7362 of this title, respectively.

## AMENDMENTS

**2021**—Pub. L. 116–283, §1838(b), as amended by Pub. L. 117–81, §1701(v)(2)(A), renumbered section 2410n of this title as this section.

Subsec. (g)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 3012" for "section 2302(2)".

**2008**—Subsecs. (a), (b). Pub. L. 110–181 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) MARKET RESEARCH.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery.

"(b) COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Secretary shall consider a timely offer from Federal Prison Industries."

**2006**—Subsec. (b). Pub. L. 109–163 substituted "competition" for "compeititon" in text.

**2002**—Subsec. (a). Pub. L. 107–314, §819(a)(1)(A), substituted "Market Research" for "Market Research Before Purchase" in heading and "comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery" for "comparable in price, quality, and time

of delivery to products available from the private sector".

Subsec. (b). Pub. L. 107–314, §819(a)(1)(B), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation."

Subsecs. (c) to (g). Pub. L. 107–314, §819(a)(1)(C), added subsecs. (c) to (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VIII, §827(a)(2), Jan. 28, 2008, 122 Stat. 228, as amended by Pub. L. 111–383, div. A, title X, §1075(f)(4), Jan. 7, 2011, 124 Stat. 4376, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect 60 days after the date of the enactment of this Act [Jan. 28, 2008]."

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VIII, §819(a)(2), Dec. 2, 2002, 116 Stat. 2613, provided that: "Paragraph (1) [amending this section] and the amendments made by such paragraph shall take effect as of October 1, 2001."

### EFFECTIVE DATE

Pub. L. 107–107, div. A, title VIII, §811(b), Dec. 28, 2001, 115 Stat. 1181, provided that: "Section 2410n of title 10, United States Code [now 10 U.S.C. 3905] (as added by subsection (a)), shall apply to purchases initiated on or after October 1, 2001."

### REGULATORY IMPLEMENTATION

Pub. L. 107–314, div. A, title VIII, §819(b), Dec. 2, 2002, 116 Stat. 2613, provided that:

"(1) Proposed revisions to the Department of Defense Supplement to the Federal Acquisition Regulation to implement this section shall be published not later than 90 days after the date of the enactment of this Act [Dec. 2, 2002], and not less than 60 days shall be provided for public comment on the proposed revisions.

"(2) Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of the publication."

### LIST OF PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE

Pub. L. 110–181, div. A, title VIII, §827(b), Jan. 28, 2008, 122 Stat. 228, provided that:

"(1) INITIAL LIST.—Not later than 60 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall publish a list of product categories for which Federal Prison Industries' share of the Department of Defense market is greater than 5 percent, based on the most recent fiscal year for which data is available.

"(2) MODIFICATION.—The Secretary may modify the list published under paragraph (1) at any time if the Secretary determines that new data require adding a product category to the list or omitting a product category from the list.

"(3) CONSULTATION.—The Secretary shall carry out this subsection in consultation with the Administrator for Federal Procurement Policy."

# Subpart E—Research and Engineering

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior subpart E "Special Categories of Contracting: Major Defense Acquisition Programs and Major Systems", consisting of chapters 301 to 305, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

# CHAPTER 301—RESEARCH AND ENGINEERING GENERALLY

SUBCHAPTER I—GENERAL

Sec.
4001. Research and development projects.
4002. [Reserved].
4003. [Reserved].
4004. Contract authority for development and demonstration of initial or additional prototype units.
4005. [Reserved].
4006. [Reserved].
4007. Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation.
4008. [Reserved].
4009. [Reserved].
4010. Defense Established Program to Stimulate Competitive Research.
4011. [Reserved].
4012. [Reserved].
4013. [Reserved].
4014. Coordination and communication of defense research activities and technology domain awareness.
[4015. Omitted.]

SUBCHAPTER II—AGREEMENTS

4021. Research projects: transactions other than contracts and grants.
4022. Authority of the Department of Defense to carry out certain prototype projects.
4023. Procurement for experimental purposes.
4024. Merit-based award of grants for research and development.
4025. Prizes for advanced technology achievements.
4026. Cooperative research and development agreements under Stevenson-Wydler Technology.
4027. Disclosure requirements for recipients of research and development funds.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 301 "MAJOR DEFENSE ACQUISITION PROGRAMS", consisting of reserved section 4001, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

A prior chapter 301 was renumbered chapter 701 of this title.

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title II, §214(b), title XVII, §1701(e)(4)(B), Dec. 27, 2021, 135 Stat. 1591, 2139, added items 4010 and 4027.

Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(A), Dec. 27, 2021, 135 Stat. 2150, amended Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(B), Jan. 1, 2021, 134 Stat. 4242, which added this analysis, by adding item for subchapter I, by substituting "[Reserved]" for "Research projects: transactions other than contracts and grants" in item 4002 and for "Authority of the Department of Defense to carry out certain prototype projects" in item 4003, by substituting "Contract authority for development and demonstration of

initial or additional prototype units" for "Procurement for experimental purposes" in item 4004, by substituting "[Reserved]" for "Merit-based award of grants for research and development" in item 4008 and for "Technology protection features activities" in item 4009, by striking out item 4015 "Award of grants and contracts to colleges and universities: requirement of competition", and by adding item for subchapter II and items 4021 to 4026.

# SUBCHAPTER I—GENERAL

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title XVIII, §1841(c)(1), as added by Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151, added subchapter heading. Heading was editorially conformed to the style used in this title.

## §4001. Research and development projects

(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic research, applied research, advanced research, and development projects that—

(1) are necessary to the responsibilities of such Secretary's department in the field of research and development; and

(2) either—

(A) relate to weapon systems and other military needs; or

(B) are of potential interest to the Department of Defense.

(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

(1) by contract, cooperative agreement, or grant, in accordance with chapter 63 of title 31;

(2) through one or more military departments;

(3) by using employees and consultants of the Department of Defense;

(4) by mutual agreement with the head of any other department or agency of the Federal Government;

(5) by transactions (other than contracts, cooperative agreements, and grants) entered into pursuant to section 4021 or 4022 of this title; or

(6) by purchases through procurement for experimental purposes pursuant to section 4023 of this title.

(c) REQUIREMENT OF POTENTIAL DEPARTMENT OF DEFENSE INTEREST.—Funds appropriated to the Department of Defense or to a military department may not be used to finance any research project or study unless the project or study is, in the opinion of the Secretary of Defense or the Secretary of that military department, respectively, of potential interest to the Department of Defense or to such military department, respectively.

(d) ADDITIONAL PROVISIONS APPLICABLE TO COOPERATIVE AGREEMENTS .—Additional authorities, conditions, and requirements relating to certain cooperative agreements authorized by this section are provided in sections 4021 and 4026 of this title.

(Added Pub. L. 87–651, title II, §208(a), Sept. 7, 1962, 76 Stat. 523, §2358; amended Pub. L. 97–86, title IX, §910, Dec. 1, 1981, 95 Stat. 1120; Pub. L. 100–370, §1(g)(3), July 19, 1988, 102 Stat. 846; Pub. L. 103–160, div. A, title VIII, §827(a), Nov. 30, 1993, 107 Stat. 1712; Pub. L. 103–355, title I, §1301(a), Oct. 13, 1994, 108 Stat. 3284; Pub. L. 104–201, div. A, title II, §267(c)(2), Sept. 23, 1996, 110 Stat. 2468; Pub. L. 115–91, div. A, title VIII, §862, Dec. 12, 2017, 131 Stat. 1494; renumbered §4001 and amended Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), (2)(A), Jan. 1, 2021, 134 Stat.

4243; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (C), (F)(i)(I), (II), Dec. 27, 2021, 135 Stat. 2151.)

HISTORICAL AND REVISION NOTES
1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2358 | 5:171c(b)(2), (3). | July 26, 1947, ch. 343, §203(b)(2), (3); added Aug. 6, 1958, Pub. L. 85–599, §9(a) (3d and 4th pars.), 72 Stat. 520. |

5 U.S.C. 171c(b)(3) is omitted as unnecessary since the authorization for appropriations is implied in 5 U.S.C. 171c(b)(2).

**1988 ACT**

In the existing text of 10 U.S.C. 2358, the bill would in two instances strike the phrase "or his designee" appearing after "Secretary of Defense" (section 1(g)(3)). The change is made for consistency in the Code, and no substantive change is intended. The committee notes that the Secretary of Defense has general authority to delegate functions under 10 U.S.C. 113(d).

Subsection (b) is based on Pub. L. 91–441, title II, §204, Oct. 7, 1970, 84 Stat. 908.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2358 of this title as this section.

Subsec. (b)(5). Pub. L. 116–283, §1841(b)(2)(A)(i), as amended by Pub. L. 117–81, §1701(u)(2)(C), substituted "section 4021 or 4022" for "section 2371 or 2371b".

Subsec. (b)(6). Pub. L. 116–283, §1841(b)(2)(A)(ii), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(I), substituted "section 4023" for "section 2373".

Subsec. (d). Pub. L. 116–283, §1841(b)(2)(A)(iii), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(II), substituted "sections 4021 and 4026" for "sections 2371 and 2371a".

**2017**—Subsec. (b)(5), (6). Pub. L. 115–91 added pars. (5) and (6).

**1996**—Subsec. (d). Pub. L. 104–201 substituted "sections 2371 and 2371a" for "section 2371".

**1994**—Pub. L. 103–355 amended section generally, inserting reference to development projects in section catchline, and in text specifying that relevant Secretary may perform research and development projects in accordance with chapter 63 of title 31, and adding subsec. (d) relating to additional provisions applicable to cooperative agreements.

**1993**—Pub. L. 103–160 amended section generally. Prior to amendment, section read as follows:

"(a) IN GENERAL.—Subject to approval by the President, the Secretary of Defense may engage in basic and applied research projects that are necessary to the responsibilities of the Department of Defense in the field of basic and applied research and development and that relate to weapons systems and other military needs. Subject to approval by the President, the Secretary may perform assigned research and development projects—

"(1) by contract with, or by grant to, educational or research institutions, private businesses, or other agencies of the United States;

"(2) through one or more of the military departments; or

"(3) by using employees and consultants of the Department of Defense.

"(b) REQUIREMENT OF POTENTIAL MILITARY RELATIONSHIP.—Funds appropriated to the Department of Defense may not be used to finance any research project or study unless the project or study has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation."

**1988**—Pub. L. 100–370 designated existing provisions as subsec. (a), inserted heading, struck out "or his designee" after "Secretary of Defense" and "President, the Secretary", and added subsec. (b).

**1981**—Par. (1). Pub. L. 97–86 substituted "by contract with, or by grant to," for "by contract with".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## CHANGE OF NAME

Pub. L. 115–91, div. A, title II, §214(a), Dec. 12, 2017, 131 Stat. 1325, provided that: "The joint technology office on hypersonics in the Office of the Secretary of Defense is redesignated as the 'Joint Hypersonics Transition Office'. Any reference in a law (other than this section), map, regulation, document, paper, or other record of the United States to the joint technology office on hypersonics shall be deemed to be a reference to the Joint Hypersonics Transition Office."

## EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

## DEMONSTRATION OF NEAR REAL-TIME MONITORING CAPABILITIES TO ENHANCE WEAPON SYSTEM PLATFORMS

Pub. L. 119–60, div. A, title II, §228, Dec. 18, 2025, 139 Stat. 786, provided that:

"(a) DEMONSTRATION.—Subject to the availability of appropriations, the Secretary of Defense, in coordination with the Under Secretary of Defense for Acquisition and Sustainment and the service acquisition executives, shall carry out a demonstration to equip selected weapon system platforms with onboard, near real-time, end-to-end serial bus and radio frequency monitoring capabilities to detect cyber threats and improve maintenance efficiency.

"(b) PHASES.—The Secretary of Defense shall implement the demonstration under subsection (a) in phases as follows:

"(1) Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary shall—

"(A) select not fewer than three weapon system platforms for initial participation in the demonstration, prioritizing the MH–60R and MQ–9 aircraft fleets and using the priorities identified under section 1559 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 2224 note); and

"(B) complete the initial deployment of monitoring capabilities to such platforms.

"(2) Not later than one year after the date of the enactment of this Act, the Secretary shall extend monitoring capabilities to the complete fleets of selected platforms and complete initial data collection and analysis from all participating platforms.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than January 1, 2027, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the Secretary with respect to the demonstration conducted pursuant to subsection (a).

"(2) CONTENTS.—The report submitted pursuant to paragraph (1) shall include the following:

"(A) The effectiveness of the monitoring capabilities with respect to—

"(i) cyber threat detection;

"(ii) maintenance efficiency; and

"(iii) operational readiness and mission capable rates.

"(B) Specific recommendations regarding—

"(i) whether near real-time monitoring capabilities should be implemented across additional Department weapon system platforms;

"(ii) if additional implementation is recommended, which specific weapon system platforms should receive priority for such implementation, along with the estimated costs and funding requirements;

"(iii) an analysis of the advisability of developing a program for implementing such capabilities, including potential risks, benefits, and trade-offs; and

"(iv) proposed metrics for measuring successful implementation and operational

effectiveness.

"(3) FORM OF REPORT.—The report submitted pursuant to paragraph (1) shall be submitted in unclassified form but may include a classified annex."

## BIOTECHNOLOGY MANAGEMENT OFFICE

Pub. L. 119–60, div. A, title II, §242, Dec. 18, 2025, 139 Stat. 790, provided that:

"(a) DESIGNATION OF SENIOR OFFICIAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall designate a senior official, with relevant biotechnology experience, from a position within the Department of Defense that was in effect on the day before the date of the enactment of this Act, to—

"(1) be the senior official for biotechnology issues;

"(2) be the head of the Biotechnology Management Office established under subsection (b); and

"(3) carry out the responsibilities for the office in subsection (c).

"(b) ESTABLISHMENT OF BIOTECHNOLOGY MANAGEMENT OFFICE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall, with input from the senior official designated under subsection (a), charter and establish, under the authority, direction, and control of the Deputy Secretary of Defense, a Biotechnology Management Office to foster the development, acquisition, and sustainment of broad-based biotechnology capabilities for the Department.

"(c) RESPONSIBILITIES.—The office established under subsection (b) shall be responsible for the following:

"(1) Maintaining and executing the Defense Biotechnology Strategy required by section 246 [139 Stat. 797], including development and execution of a long-term research, development, acquisition, and sustainment roadmap.

"(2) Updating policies and guidance within the Department relating to the acquisition, adoption, and transition of biotechnology-based products into Department use.

"(3) Coordinating with activities across the Department, the Federal Government, industry, academia, and international partners relating to biotechnology.

"(4) Proposing options for streamlining the regulatory or acquisition process of the Department.

"(5) Conducting, as may be needed, global competition analyses, net assessment, or forecasting to support decisionmakers on biotechnology advances.

"(6) Supporting the development of public-private partnerships with academia, industry, and other State and local government partners, including through the development or fostering of regionally focused innovation ecosystems.

"(7) Identifying biotechnology workforce and training gaps across the workforce of the Department.

"(8) Such other responsibilities as the Secretary considers appropriate.

"(d) SUNSET.—This section shall terminate on September 30, 2030.

"(e) BRIEFING.—Not later than 30 days after the designation of the senior official pursuant to subsection (a), the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the proposed scope of the charter for the office to be established pursuant to subsection (b), as well as implementation plans for preliminary activities the office will pursue during the proceeding one-year period."

## BIOTECHNOLOGY SUPPLY CHAIN RESILIENCY PROGRAM

Pub. L. 119–60, div. A, title II, §244, Dec. 18, 2025, 139 Stat. 793, provided that:

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments and the heads of relevant Defense Agencies, may establish and implement a program (referred to in this section as the 'Program') to develop and scale within the laboratories of the military departments, and transition from the laboratories of the military departments, biotechnology-based technologies and capabilities (including products such as chemicals, materials, and fuels) that are relevant to the mission of the Department of Defense and support the resilience, sustainability, and responsiveness of the defense supply chain.

"(2) ACTIVITIES.—Under the Program, the Secretary of Defense may carry out the following activities:

"(A) Conduct an assessment of supply chain vulnerabilities in the Department of Defense.

"(B) Direct the laboratories of the military departments to establish mechanisms to collaboratively—

"(i) conduct applied research, including experimentation, advanced technological development, advanced component development, and rapid prototyping in bioindustrials,

biomanufacturing, and related disciplines to support defense missions;

"(ii) develop, prototype, test, and transition biologically derived materials and products to reduce reliance on foreign supply chains and vulnerable supply chains;

"(iii) upgrade, expand, or construct physical and digital infrastructure, including laboratory facilities, of the Department and its partners to support bioindustrial research, development, testing, prototyping, and production;

"(iv) as needed, enter into contracts, cooperative agreements, grants, or other transactions with relevant Federal entities and non-Federal entities, such as commercial entities, research institutions, and academic organizations, to execute the activities under this subparagraph (B); and

"(v) support education, training, and workforce development initiatives to build and sustain a skilled bioindustrial and biomanufacturing workforce.

"(C) Collaborate across the military departments, Defense Agencies, and other Federal entities to ensure alignment with national bioindustrial and supply chain strategies.

"(D) Promote the development and utilization of next-generation feedstocks and processes in ways that support local economic growth.

"(E) Modernize infrastructure through investment in facilities that enable rapid prototyping and advanced materials testing.

"(F) Establish performance metrics and benchmarks to measure progress toward operational integration and transition to programs of record.

"(3) OTHER CONSIDERATIONS.—In the event the Secretary of Defense carries out the Program, the Secretary shall—

"(A) prioritize technologies and capabilities that address critical defense supply chain vulnerabilities and enhance military readiness, including technologies and capabilities necessary to—

"(i) reduce logistics through field-enabled manufacturing of materials and deployable infrastructure components;

"(ii) enhance performance through development of novel materials; or

"(iii) improve cost efficiency of manufacturing and reduce dependency on foreign supply chains;

"(B) consult with representatives of industry, academia, and other Federal agencies with relevant expertise, to accelerate development and transitions; and

"(C) ensure the Program supports the development and fielding of emerging technologies such as biotechnologies that provide operational and strategic advantages to the Armed Forces, including through—

"(i) cross-service and public-private partnerships; and

"(ii) applied research, pilot-scale production, and technology transition efforts focused on biomanufacturing and materials innovation.

"(b) REPORTS.—

"(1) SUBMISSION.—Not later than one year after commencing the Program, and biennially thereafter until the Program terminates under subsection (c), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing all activities carried out under the program. Each report shall include, to the extent applicable, the following:

"(A) A summary of key research, development, and prototyping efforts initiated or continued during the year or years covered by the report, including technical objectives, anticipated defense applications, and funding.

"(B) A list of significant partnerships or agreements executed with industry, academic institutions, and other Federal agencies, including the purpose, national security nexus, and funding level of each such partnership or agreement.

"(C) An assessment of infrastructure enhancements undertaken to support bioindustrial development and scale-up, including facility modernization and equipment acquisition.

"(D) An evaluation of program performance against established milestones or metrics, including progress toward the transition of technologies to operational use or acquisition programs.

"(E) An identification of major technical, logistical, or policy challenges encountered, and actions taken to mitigate such challenges.

"(2) FORM.—Each report under this subsection shall be submitted in unclassified form but may contain a classified annex.

"(c) SUNSET.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the authority to carry out the Program shall terminate on the date that is 10 years after the date of the enactment of this Act [Dec. 18, 2025].

"(2) EXTENSION.—The Program may be continued after the termination date specified in paragraph (1) if, before such date, the President—

"(A) determines that continuation of the Program is necessary to meet national economic or national security needs; and

"(B) submits notice of such determination to the Committees on Armed Services of the Senate and the House of Representatives."

## ETHICAL AND RESPONSIBLE DEVELOPMENT AND DEPLOYMENT OF BIOTECHNOLOGY WITHIN THE DEPARTMENT OF DEFENSE

Pub. L. 119–60, div. A, title II, §247, Dec. 18, 2025, 139 Stat. 798, provided that:

"(a) REQUIREMENT.—

"(1) POLICIES AND GUIDELINES.—The Secretary of Defense shall issue policies and guidelines on the ethical and responsible development and deployment of biotechnology within the Department of Defense.

"(2) CONSULTATION.—The Secretary of Defense shall ensure that the policies and guidelines under paragraph (1) are developed in consultation with—

"(A) the Under Secretary of Defense for Research and Engineering;

"(B) the Under Secretary of Defense for Policy; and

"(C) individuals representing industry, academia, and civil society.

"(3) PUBLIC AVAILABILITY.—The Secretary of Defense shall make the policies and guidelines under paragraph (1) publicly available.

"(b) MATTERS INCLUDED.—The policies and guidelines under subsection (a)(1) shall include the following:

"(1) Definitions related to the ethical and responsible development and use of biotechnology.

"(2) An assessment of whether, and to what extent, existing statutes, regulations, directives, manuals, or instructions limit the ability of the Department of Defense to provide guidelines for the ethical and responsible development of emerging biotechnology.

"(3) Guidelines encouraging the safe use of biotechnology products under appropriate regulatory and other oversight processes.

"(4) Policies relating to informed consent of members of the Armed Forces participating in the development of biotechnology products that have not received regulatory approval.

"(5) Policies relating to whether, and under which conditions, uses of biotechnology that potentially result in irreversible or heritable characteristics are acceptable.

"(6) Policies relating to the potential effects of biotechnologies on the environment.

"(7) Policies relating to the compliance by and obligations of the Department of Defense with respect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction (commonly referred to as the 'Biological Weapons Convention').

"(8) Policies relating to human performance enhancement or augmentation.

"(9) Such other matters as the Secretary of Defense determines relevant.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the policies and guidelines under subsection (a)(1), including the methodologies used to develop the policies and guidelines.

"(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form but may include a classified annex.

"(3) PUBLIC AVAILABILITY.—The Secretary of Defense shall make report required under paragraph (1) publicly available, except such publicly available version of the report may not include any classified annex provided under paragraph (2).

"(d) BRIEFING.—During the two-year period beginning on the date that is one year after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees an annual briefing on the implementation of the policies and guidelines under subsection (a)(1), including a description of any needed resources for such implementation."

## PROHIBITION ON PAINFUL RESEARCH ON DOMESTIC CATS AND DOGS

Pub. L. 119–60, div. A, title VII, §732, Dec. 18, 2025, 139 Stat. 932, provided that:

"(a) PROHIBITION.—Except as provided by subsection (b) or (c), the Secretary of Defense may not

conduct, or support the conduct of, painful research on a domestic cat (*Felis catus*) or a domestic dog (*Canis familiaris*).

"(b) EXCEPTION.—The prohibition in subsection (a) shall not apply with respect to any physical exam, training program, or study relating to service animals or military animals.

"(c) WAIVER.—The Secretary of Defense may waive the prohibition in subsection (a) on a case-by-case basis if the Secretary—

"(1) determines that the waiver is in the national security interests of the United States; and

"(2) not later than 30 days after the date on which the Secretary makes the waiver, submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a detailed justification for the waiver, including—

"(A) an identification of the Department of Defense account from which funds would be obligated or expended to conduct, or support the conduct of, the proposed research covered by the waiver;

"(B) an identification of the amount of such funds;

"(C) an identification of the intended purpose of such funds;

"(D) an identification of the recipient or prospective recipient of such funds (including any nongovernmental recipient, as applicable);

"(E) an explanation for how the waiver is in the national security interests of the United States; and

"(F) any other information the Secretary determines appropriate.

"(d) DEFINITIONS.—In this section:

"(1) The term 'military animal' has the meaning given the term in section 2583(i)(1) of title 10, United States Code.

"(2) The term 'painful research' includes any research, biomedical training, experimentation, or biological testing, classified in pain category D or E by the Department of Agriculture.

"(3) The term 'service animal' has the meaning given the term in section 37.3 of title 49, Code of Federal Regulations, or such successor regulation."

## SPECIAL OPERATIONS COMMAND URGENT INNOVATIVE TECHNOLOGIES AND CAPABILITIES INITIATIVE

Pub. L. 119–60, div. A, title VIII, §863, Dec. 18, 2025, 139 Stat. 989, provided that:

"(a) ESTABLISHMENT.—The Commander of the United States Special Operations Command shall carry out a pilot program, subject to the authority, direction, and control of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, to be known as the 'USSOCOM Urgent Innovative Technologies and Capabilities Initiative' (in this section referred to as the 'Initiative') to accelerate the research, development, testing, procurement, and initial sustainment of innovative technologies and equipment that enhance the operational capabilities of Special Operations Forces to meet emerging mission requirements.

"(b) REQUIREMENTS.—The Commander shall—

"(1) establish procedures for component special operations units to submit requests to the Commander for the inclusion of innovative technologies and equipment in the Initiative; and

"(2) use authorities under section 167(e)(4) of title 10, United States Code, to carry out the Initiative.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this section [Dec. 18, 2025], and annually thereafter for the duration of the Initiative, the Commander of the United States Special Operations Command and Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation and effectiveness of the Initiative.

"(2) CONTENTS.—Each report shall include the following:

"(A) A summary of activities carried out under the Initiative along with documentation of planned expenditures.

"(B) An assessment of the effect of innovative technologies and equipment included in the Initiative on the operational capabilities of the United States Special Operations Command.

"(C) Recommendations for the continuation, expansion, or modification of the Initiative.

"(D) A description of any challenges encountered and lessons learned.

"(E) A description of any action using established procedures for a reprogramming of funds in an amount greater than the approved amount for such reprogramming, as established by Congress, to carry out the Initiative.

"(d) SUNSET.—The authority to carry out the Initiative under this section shall terminate on the date that is

five years after the date of the enactment of this Act."

**ARTIFICIAL INTELLIGENCE MODEL ASSESSMENT AND OVERSIGHT**

Pub. L. 119–60, div. A, title XV, §1533, Dec. 18, 2025, 139 Stat. 1159, provided that:

"(a) CROSS-FUNCTIONAL TEAM FOR ARTIFICIAL INTELLIGENCE MODEL ASSESSMENT AND OVERSIGHT.—

"(1) ESTABLISHMENT.—The Secretary of Defense shall, in accordance with section 911 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 111 note), establish a cross-functional team for artificial intelligence model assessment and oversight (in this section referred to as the 'Cross-Functional Team').

"(2) PURPOSE.—The Cross-Functional Team shall develop a standardized assessment framework and governance structure to facilitate the evaluation of, collaboration on, and enablement of the rapid development or procurement of artificial intelligence models employed by the Department of Defense.

"(3) COMPOSITION.—

"(A) LEADERSHIP.—The Chief Digital and Artificial Intelligence Officer of the Department of Defense shall be the head of the Cross-Functional Team.

"(B) MEMBERSHIP.—The Secretary of Defense shall ensure that the Cross-Functional Team includes representatives from—

"(i) the Office of the Chief Information Officer of the Department of Defense;

"(ii) the chief artificial intelligence officers of the military departments, or in the absence of such position, the individual responsible for leading artificial intelligence efforts within each military department;

"(iii) the chief information officers of the military departments;

"(iv) the chief artificial intelligence officers of the combatant commands and the Joint Staff, or in the absence of such position, the individuals responsible for leading artificial intelligence efforts within each such command and the Joint Staff;

"(v) the chief information officers of the combatant commands and the Joint Staff, or in the absence of such position, the individuals responsible for leading information technology efforts within each such command and the Joint Staff;

"(vi) the Under Secretary of Defense for Research and Engineering;

"(vii) the service acquisition executive of each of the military departments; and

"(viii) such other components as the Secretary determines appropriate.

"(4) DUTIES.—The Cross-Functional Team shall do the following:

"(A) Develop a standardized assessment framework for artificial intelligence models currently used by the Department of Defense.

"(B) Establish Department of Defense-wide guidelines for evaluating future artificial intelligence models being considered for use by the Department.

"(C) Develop governance structures for the development, assessment, testing, and deployment of artificial intelligence models.

"(D) Identify appropriate assessment levels for the performance of artificial intelligence models based on ultimate use case-based risk.

"(E) Establish mechanisms for collaboration between components of the Department of Defense regarding the development, testing, assessment, and deployment of artificial intelligence models.

"(F) Develop processes for the submission, review, and approval of use cases for artificial intelligence models against military and non-military activities of the Department of Defense.

"(5) FRAMEWORK CONTENT.—The standardized assessment framework required by paragraph (2) shall include—

"(A) standards for the performance of artificial intelligence models;

"(B) requirements for documentation of the development artificial intelligence models;

"(C) procedures for testing artificial intelligence models;

"(D) compliance with ethical principles regarding the use of artificial intelligence models;

"(E) methodologies for assessing artificial intelligence models and time periods for validating artificial intelligence models;

"(F) security requirements and compliance requirements, including the Federal Risk and Authorization Management Program established under section 3608 of title 44, United States Code;

"(G) procedures for the Department of Defense to use assessments of artificial intelligence models conducted by Executive agencies other than the Department to fulfill requirements under the framework; and

"(H) such other elements as the Cross-Functional Team determines appropriate.

"(b) FUNCTIONAL LEADS FOR ARTIFICIAL INTELLIGENCE APPLICATION.—

"(1) DESIGNATION.—The Secretary of Defense shall designate such organizations of the Department of Defense as the Secretary considers appropriate to serve as functional leads for artificial intelligence applications used by the Department.

"(2) SELECTION CRITERIA.—In designating functional leads under paragraph (1), the Secretary of Defense shall consider—

"(A) subject matter expertise;

"(B) equities in the functional area; and

"(C) capability to establish assessment standards.

"(3) CDAO RESPONSIBILITIES.—The Chief Digital and Artificial Intelligence Officer of the Department of Defense shall—

"(A) serve as the functional lead for business systems of the Department of Defense using artificial intelligence models; and

"(B) provide Department-wide guidance on commercial artificial intelligence models.

"(c) ASSESSMENTS OF MAJOR ARTIFICIAL INTELLIGENCE SYSTEMS.—The Secretary of Defense shall assess all major artificial intelligence systems using the standard assessment framework developed under subsection (a)(2).

"(d) ADMINISTRATION.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure the following:

"(A) The Cross-Functional Team is established in accordance with subsection (a) on or before June 1, 2026.

"(B) The functional leads for artificial intelligence application are designated in accordance with subsection (b) on or before January 1, 2027.

"(C) The Cross-Function Team completes development of the standardized assessment framework and governance structure required by subsection (a)(2) on or before June 1, 2027.

"(D) The assessment of major artificial intelligence systems required by subsection (c) is completed on or before January 1, 2028.

"(2) CONGRESSIONAL BRIEFING.—Not later than 30 days after the completion of an activity described in subparagraphs (A) through (D) of paragraph (1), the Secretary of Defense shall provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of the Secretary in carrying out this section.

"(e) SUNSET AND TRANSITION.—

"(1) SUNSET.—The Cross-Functional Team shall terminate on December 31, 2030.

"(2) TRANSITION.—Not later than June 30, 2030, the Secretary of Defense shall designate an element of the Department of Defense to succeed the Cross-Functional Team and develop a plan to transfer the duties of the Cross-Functional Team described in subsection (a)(4) to such successor element.

"(3) REPORT ON ACTIVITIES OF SUCCESSOR ORGANIZATION.—Not later than one year after the date on which the Cross-Functional Team is terminated, and not less frequently than once each year thereafter until the date that is three years after the date on which the Cross-Functional Team is terminated, the Secretary of Defense shall submit to the congressional defense committees a report on the activities of the element of the Department of Defense to which the duties of the Cross-Functional Team were transferred.

"(f) DEFINITIONS.—In this section:

"(1) The term 'artificial intelligence' has the meaning given in section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061).

"(2) The term 'functional area' refers to a specialized functional, operational, or subject-matter area within the Department of Defense.

"(3)(A) The term 'major artificial intelligence system' means an artificial intelligence system of the Department of Defense that—

"(i) is integrated with, or materially affects the operation of, an information system that—

"(I) is categorized as high-impact under section 3554 of title 44, United States Code; or

"(II) if compromised, would have a serious adverse effect on organizational operations, organizational assets, or individuals;

"(ii) is used by not fewer than 500 users of the Department annually; and

"(iii) is employed in support of—

"(I) military operations, training, or planning activities; or

"(II) functions of the Department, including business operations, human resources management, administrative functions, or strategic planning activities.

"(B) The term 'major artificial intelligence system' does not include an artificial intelligence system used solely for research, development, testing, or evaluation that has not been deployed for operational use.

"(4) The terms 'military department' and 'service acquisition executive' have the meanings given such terms, respectively, in section 101(a) of title 10, United States Code."

## NATIONAL DEFENSE ECONOMIC COMPETITION RESEARCH COUNCIL

Pub. L. 118–159, div. A, title II, §228, Dec. 23, 2024, 138 Stat. 1832, provided that:

"(a) ESTABLISHMENT OF COUNCIL.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a council to identify, evaluate, and coordinate existing research efforts, or propose new research topics, relating to economic competition activities, such as economic coercion, manipulation, or other uses of economic power to undermine the national defense strategy of the United States and the partners and allies of the United States.

"(2) DESIGNATION.—The council established pursuant to paragraph (1) shall be known as the 'National Defense Economic Competition Research Council' (referred to in this section as the 'Council').

"(b) CHARTER AND MISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue a charter for the Council with a mission that includes the following:

"(1) Conducting analysis of ongoing or proposed government and academic research relating to economic competition.

"(2) Making proposals for new areas of research to increase understanding of adversarial uses of economic tools in support of military objectives to improve understanding of threats, vulnerabilities, and defensive options to mitigate such threats and vulnerabilities.

"(3) Informing the tools available to the Department of Defense to defend against such economic competition, coercion and manipulation activities, including the use of adversarial capital to acquire technology, real estate, or other infrastructure, or to preemptively deny access by the United States.

"(4) Assessing current data needs or shortfalls impairing understanding of threats and vulnerabilities relating to economic competition.

"(5) Convening groups, which may include academic institutions, nonprofit organizations, commercial entities, other departments and agencies of the Federal Government, and international partners, to better understand regional requirements or inform the understanding of regional partners on the threats and vulnerabilities relating to military objectives as a result of increasing economic competition.

"(6) Carrying out such other activities relating to economic competition as the Secretary deems appropriate.

"(c) PARTICIPANTS.—

"(1) CO-CHAIRS.—The co-chairs of the Council shall be the Under Secretary of Defense for Policy, the Under Secretary of Defense for Research and Engineering, and the Under Secretary of Defense for Acquisition and Sustainment.

"(2) IN GENERAL.—The co-chairs of the Council shall ensure that the Council includes participation from each of the following:

"(A) The Office of Commercial and Economic Assessment of the Air Force.

"(B) The Office of Expanded Competition.

"(C) The Office of Strategic Capital.

"(D) The Defense Innovation Unit.

"(E) The Strategic Capabilities Office.

"(F) The Joint Warfighting Analysis Center (JWAC).

"(G) The Office of Global Economic and Investment Security [probably should be "Office of Global Investment and Economic Security"] under the Assistant Secretary of Defense for Industrial Base Policy.

"(H) The Office of Naval Research, including ONR-Global.

"(I) The Army Research Office.

"(J) The Air Force Office of Scientific Research.

"(K) The Defense Advanced Research Projects Agency.

"(L) The Office of Strategic Intelligence and Analysis under the Under Secretary of Defense for Research and Engineering.

"(M) The program office of the Minerva Research Initiative.

"(N) Other relevant organizations as determined by the Secretary of Defense.

"(d) INPUT FROM THE JOINT STAFF AND COMBATANT COMMANDS.—The Council shall regularly solicit input from the Joint Staff and combatant commands on needs, problem statements, or other topics relating to economic competition activities described in subsection (a)(1) affecting their areas of responsibility.

"(e) TERMINATION.—The Council shall terminate on December 31, 2035."

## QUANTUM BENCHMARKING INITIATIVE

Pub. L. 118–159, div. A, title II, §231(a), (b), Dec. 23, 2024, 138 Stat. 1837, provided that:

"(a) INITIATIVE REQUIRED.—

"(1) IN GENERAL.—The Director of the Defense Advanced Research Projects Agency shall establish and carry out an initiative to rapidly expand and support efforts to evaluate concepts, development plans, and prototypes, components, and subsystems needed to develop a utility-scale quantum computing capability available to the Department of Defense.

"(2) DESIGNATION.—The initiative established pursuant to paragraph (1) shall be known as the 'Quantum Benchmarking Initiative' (referred to in this section as the 'Initiative').

"(b) ELEMENTS.—The Initiative shall include the following:

"(1) Activities to broaden existing efforts of the Department of Defense to verify and validate commercial efforts to design and build utility-scale quantum computers, including through collaboration with key partners in the Air Force Research Laboratory, the Office of Strategic Capital, the Defense Innovation Unit, and such other partners and organizations of the Department of Defense as the Director of the Defense Advanced Research Projects Agency deems appropriate.

"(2) Working with the Office of Strategic Capital to establish regular interactions with the venture capital and finance community to help accelerate commercial efforts to develop concepts, plans, prototypes, components, and subsystems needed to develop viable utility-scale quantum computers.

"(3) Working with the Office of the Assistant Secretary of Defense for Industrial Base Policy to connect key performers in fault-tolerant utility-scale quantum computing with support for industrial bases analysis, manufacturing support, and other analysis support to help foster and grow the broader industrial base supporting fault-tolerant utility-scale quantum computing.

"(4) Working with the military departments and other components of the Department of Defense to refine use cases for militarily relevant applications of utility-scale quantum computers."

## PILOT PROGRAM ON DEVELOPMENT OF NEAR-TERM USE CASES AND DEMONSTRATION OF ARTIFICIAL INTELLIGENCE TOWARD BIOTECHNOLOGY APPLICATIONS FOR NATIONAL SECURITY

## ELECTROMAGNETIC SPECTRUM DEMONSTRATION PROGRAM

Pub. L. 118–159, div. A, title II, §234, Dec. 23, 2024, 138 Stat. 1839, provided that:

"(a) IN GENERAL.—Not later than November 30, 2025, the Chief Information Officer of the Department of Defense, in coordination with the Under Secretary of Defense for Research and Engineering and the Director of Operational Test and Evaluation, shall complete a demonstration program to assess the viability of using wideband adaptive signal processing technology to support simultaneous transmit and receive signals on the same electromagnetic spectrum frequency band that—

"(1) does not produce harmful interference;

"(2) significantly reduces electromagnetic spectrum guard bands;

"(3) maintains signal quality with respect to latency and throughput; and

"(4) increases electromagnetic spectrum access within the frequency band.

"(b) LOCATION.—The demonstration program required by subsection (a) shall be conducted at a test and training range of the Department of Defense.

"(c) CONSULTATION.—In carrying out the demonstration program required by subsection (a), the Chief Information Officer, the Under Secretary, and the Director shall consult with, at a minimum, the following:

"(1) The Joint Staff.

"(2) The military departments and their associated research labs.

"(3) Other Department of Defense organizations and agencies.

"(4) The Federal Communications Commission.

"(5) The National Telecommunications and Information Administration.

"(6) Other Federal agencies.

"(7) Industry and nongovernmental entities.

"(d) AUTHORITY TO ENTER INTO CONTRACTS.—Subject to the availability of appropriations, the Chief Information Officer may enter into such contracts or other agreements as the Chief Information Officer

considers appropriate to conduct studies and demonstration projects under the demonstration program required by subsection (a).

"(e) BRIEFING ON PLANS FOR PROGRAM.—Not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024], the Chief Information Officer, the Under Secretary, and the Director shall jointly provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the plans to carry out the demonstration program required by subsection (a).

"(f) PERIODIC ASSESSMENTS OF PROGRAM.—The Chief Information Officer, the Under Secretary, and the Director shall, periodically, assess the demonstration program required by subsection (a) while the program is being carried out.

"(g) BRIEFING ON COMPLETED PROGRAM.—Upon completion of the demonstration program required by subsection (a), the Chief Information Officer, the Under Secretary, and the Director shall jointly provide the congressional defense committees a briefing on their findings with respect to the demonstration program."

Pub. L. 118–159, div. A, title II, §236, Dec. 23, 2024, 138 Stat. 1840, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to develop near-term use cases and demonstrations of artificial intelligence for national security-related biotechnology applications.

"(b) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary of Defense shall carry out the pilot program required by subsection (a) through one or more public-private partnerships entered into for purposes of the pilot program.

"(c) LABORATORY SUPPORT AND INFRASTRUCTURE.—In support of a public-private partnership entered into under subsection (b), the Secretary of Defense may, on a reimbursable basis, make available—

"(1) the facilities and services of a Department of Defense laboratory to perform experimentation for biotechnology applications to aid in the validation of artificial intelligence models; and

"(2) computing and data storage infrastructure and capabilities of the Department of Defense.

"(d) DURATION.—The pilot program required by subsection (a) shall—

"(1) commence not later than one year after the date of the enactment of this Act [Dec. 23, 2024]; and

"(2) terminate five years after the date of the on which the program commences under paragraph (1).

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and not later than December 1 of every other year thereafter until the termination date specified in subsection (d)(2), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program.

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the period covered by the report, the following:

"(A) An assessment of existing Department of Defense biotechnology-related data resources and how they may be used in the pilot program.

"(B) An assessment of required cybersecurity measures for users under the pilot program.

"(C) A description of any mechanisms developed for collaboration among different parties associated with projects under the pilot program, including intellectual property agreements, funding agreements, and material transfer agreements.

"(D) An assessment of the role that artificial intelligence is playing in developing biotechnology applications for national security purposes, including identification of commercial or academic applications used in the pilot program.

"(E) A description of near-term use cases developed under the pilot program for artificial intelligence-enabled biotechnology applications for national security.

"(F) A description of planned, ongoing, and completed demonstrations or other pilot programs funded under the pilot program required by subsection (a) or otherwise funded by the Department of Defense.

"(G) An assessment of the viability of transitioning technology developed under the pilot program into operational use within the Department, including assessment of—

"(i) the resources needed for further development and scaling of such technology; and

"(ii) the potential benefits of such technology.

"(3) FORM.—Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(f) TRANSITION PLAN.—Not later than one year before the date on which the pilot program terminates under subsection (d)(2), the Secretary of Defense shall submit to the congressional defense committees a plan

that outlines what steps the Department could take to turn the pilot program into an operational program if authorized and funded by Congress to do so. The plan shall include the following:

"(1) A transition timeline.

"(2) Associated projected annual cost of operating the program.

"(3) Additional infrastructure that might be needed, including associated costs.

"(4) A descriptive analysis of the relevant technical, engineering and commercial biotechnology ecosystem, including entities within the Department and external stakeholders.

"(5) Examples of projects from the pilot phase of the program and their outcomes.

"(6) The potential impact to Department capabilities of transitioning the program.

"(7) Any other details deemed necessary to include by the Secretary."

## BIOTECHNOLOGY ROADMAP

Pub. L. 118–159, div. A, title II, §242, Dec. 23, 2024, 138 Stat. 1845, provided that:

"(a) ROADMAP REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, and the Secretaries of the military departments, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a biotechnology roadmap.

"(b) ELEMENTS.—In the roadmap required by subsection (a), the Secretary of Defense shall—

"(1) identify the strategic objectives of the Department of Defense relating to biotechnology;

"(2) for each strategic objective, establish specific goals and milestones for the achievement of such objective, including timelines for meeting such goals and milestones;

"(3) in the case of each updated version of the roadmap following submittal of the initial roadmap under subsection (a), include—

"(A) a review of the goals and milestones established under paragraph (2) to ensure such goals and milestones continue to align with strategic objectives under paragraph (1); and

"(B) a description of any goals and milestones that changed as a result of such review;

"(4) identify the biotechnology development needs and priorities for national security applications based on the strategic objectives identified in paragraph (1);

"(5) assess the technology maturity of each priority identified pursuant to paragraph (4);

"(6) describe funding sources for each priority identified pursuant to paragraph (4), including both current sources and sources covered by the future-years defense program submitted to Congress under section 221 of title 10, United States Code;

"(7) provide a plan, timeline, and metrics for research, development, testing, and evaluation activities for the priorities identified pursuant to paragraph (4);

"(8) assess opportunities for rapid acquisition and fielding of biotechnology in support of the priorities identified pursuant to paragraph (4);

"(9) identify and describe the role of each organization of the Department with responsibilities relating to biotechnology under the strategy, including investment priorities for the Office of Strategic Capital and the Defense Advanced Research Projects Agency;

"(10) assess the overall risk to the security of the United States of the biotechnology efforts covered by the strategy;

"(11) analyze any requirements of the Federal Government that hinder the ability of the Department to advance and use biotechnology;

"(12) provide for the development and support of the biotechnology workforce of the Department, including personnel with responsibilities relating directly to biotechnology and personnel who indirectly support the biotechnology efforts of the Department such as personnel involved program management, acquisition, investment, and legal matters;

"(13) with respect to the biotechnology workforce described in paragraph (12)—

"(A) identify the total number of biotechnology positions required to support the objectives of the roadmap—

"(i) as of the date of the roadmap; and

"(ii) over the periods of five and 10 years following such date;

"(B) indicate the number of such positions that have been filled as of the date of the roadmap;

"(C) describe the positions included in the biotechnology workforce, including a description of—

"(i) the role of each position in supporting the objectives under paragraph (1); and

"(ii) the qualifications required for each position, including any qualifications relating to seniority level, education, training, and security clearances;

"(D) identify any challenges affecting the ability of the Department to develop the biotechnology workforce and propose solutions to those challenges;

"(E) assess whether the codes used to define positions and roles within the workforce of the Department adequately cover the range of positions and personnel that comprise the biotechnology workforce, such as personnel in research, engineering, and testing;

"(F) identify mechanisms to enable the Department to access outside expertise relating to biotechnology, including mechanisms to assemble a pool of outside experts who have been prequalified (including by obtaining any necessary security clearances) to provide advice and assistance to the Department on matters relating to biotechnology on an as-needed basis; and

"(G) assess whether personnel occupying existing positions in the Department could be used to meet biotechnology workforce needs with additional training and, if so, the nature and scope of the training required; and

"(14) address collaboration between the Department and international partners to advance research on biotechnology, which shall include—

"(A) a description of any international partnerships under which the United States is collaborating with partners to conduct biotechnology research and development for defense purposes, including a description of any investment priorities for the Office of Strategic Capital and the Defense Advanced Research Projects Agency relating to such partnerships;

"(B) a description of any new international partnerships that may be entered into, or existing partnerships that may be modified, to provide for such collaboration; and

"(C) identification of any challenges affecting the ability of the Department engage in such collaboration with international partners, including—

"(i) any limitations on co-investments within international partnerships;

"(ii) any United States export controls or other technology protections that hinder information sharing within such partnerships; and

"(iii) any other challenges that may prevent the full utilization of such partnerships for such collaboration.

"(c) BIENNIAL UPDATES.—Not less frequently than once every two years following the submittal of the initial roadmap under subsection (a) until the termination date specified in subsection (h), the Secretary shall—

"(1) review and update the roadmap; and

"(2) submit an updated version of the roadmap to the congressional defense committees.

"(d) FORM.—Each version of the roadmap required to be submitted under this section may be submitted in classified form, but if so submitted, shall include an unclassified executive summary.

"(e) PUBLIC AVAILABILITY.—On annual basis, the Secretary shall make an unclassified version of the most recent roadmap submitted under this section available on a publicly accessible website of the Department of Defense.

"(f) GAO EVALUATION AND REPORT.—Not later than 180 days after the date on which the Secretary of Defense submits the initial roadmap pursuant to subsection (a), the Comptroller General of the United States shall—

"(1) complete an evaluation of the roadmap; and

"(2) submit to the congressional defense committees a report on the findings of the Comptroller General with respect to such evaluation.

"(g) BIOTECHNOLOGY DEFINED.—In this section, the term 'biotechnology' means the application of science and technology to living organisms and to parts, products, and models of such organisms to alter living or non-living materials for the production of knowledge, goods, or services.

"(h) SUNSET.—This section shall terminate on the date that is 10 years after the date of the enactment of this Act [Dec. 23, 2024]."

## ARTIFICIAL INTELLIGENCE HUMAN FACTORS INTEGRATION INITIATIVE

Pub. L. 118–159, div. A, title XV, §1531, Dec. 23, 2024, 138 Stat. 2142, provided that:

"(a) INITIATIVE REQUIRED.—

"(1) IN GENERAL.—The Under Secretary of Defense for Research and Engineering, in coordination with the Under Secretary of Defense for Acquisition and Sustainment and the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall establish an initiative—

"(A) to improve the human usability of artificial intelligence systems and information derived from such systems through the application of cognitive ergonomics techniques; and

"(B) to improve the human usability and cognitive effectiveness of artificial intelligence systems

adopted by the Department of Defense by ensuring that design tools and metrics are available for artificial intelligence and machine learning programs that ensure human factors considerations are included for such systems.

"(2) DESIGNATION.—The initiative established pursuant to paragraph (1) shall be known as the 'Artificial Intelligence Human Factors Integration Initiative' (in this section the 'Initiative').

"(b) BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, and the Chief Digital and Artificial Intelligence Officer of the Department of Defense shall jointly brief the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the following:

"(1) Existing research and development work within the Department of Defense laboratories relating to human-machine teaming, human-centered design, cognitive load, cognitive ergonomics, and similar topics that are currently being used or could be used to inform or enhance Department personnel usability of artificial intelligence systems and artificial intelligence-derived information.

"(2) Identification of gaps in research with respect to interactions of personnel of the Department with artificial intelligence systems in warfighting and nonwarfighting environments that may necessitate additional research within the Federal Government, industry, or academia.

"(3) Identification of relevant tools, methodologies, testing processes or systems, and evaluation metrics that may be of use to the Department in improving the cognitive ergonomic and human usability features of artificial intelligence systems for personnel of the Department.

"(c) PLAN.—Not later than 90 days after the date on which the briefing required by subsection (b) is provided, the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, and the Chief Digital and Artificial Intelligence Officer of the Department of Defense shall jointly develop and implement a plan to—

"(1) work with the military departments (as defined in section 101(a) of title 10, United States Code) and other components of the Department to ensure human factors and human systems integration elements are considered early in the development or evaluation process with respect to the procurement, adoption, or use of artificial intelligence systems or artificial intelligence-derived information;

"(2) convene research meetings or other forums to coordinate cognitive ergonomics research or related research challenges with a broad community of academic, commercial, and international partners;

"(3) work with the Chief Digital and Artificial Intelligence Officer of the Department of Defense to review commercial toolsets to assess the level of human factors integration investment of such commercial toolsets; and

"(4) develop guidance based on the research and development work identified pursuant to subsection (b)(1) regarding how to create a framework or taxonomy for characterizing the exercise of appropriate levels of human judgment within Department of Defense Directive 3000.09 (relating to Autonomy in Weapons Systems), or successor directive, for artificial intelligence programs in the Department.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or otherwise limit the authority of the Secretary of Defense to research, develop, improve, or acquire any weapon system or other capability that is enabled, empowered, enhanced, or improved by artificial intelligence, machine learning, or a large language model."

## ADVANCED COMPUTING INFRASTRUCTURE TO ENABLE ADVANCED ARTIFICIAL INTELLIGENCE CAPABILITIES

Pub. L. 118–159, div. A, title XV, §1532, Dec. 23, 2024, 138 Stat. 2144, as amended by Pub. L. 119–60, div. A, title XV, §1531, Dec. 18, 2025, 139 Stat. 1156, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish a program, or designate an existing program, to meet the testing and processing requirements for next generation advanced artificial intelligence capabilities.

"(b) DEVELOPMENT AND EXPANSION OF HIGH-PERFORMANCE COMPUTING INFRASTRUCTURE.—

"(1) IN GENERAL.—Under the program established or designated under subsection (a), the Secretary of Defense shall expand the infrastructure of the Department of Defense for development and deployment of military applications of high-performance computing and artificial intelligence capabilities that are located at installations of the Department or accessible through commercial cloud or hybrid-cloud environments.

"(2) ARTIFICIAL INTELLIGENCE APPLICATIONS.—(A) The Secretary of Defense shall ensure that a portion of the infrastructure added pursuant to paragraph (1) is—

"(i) dedicated to providing access to modern artificial intelligence accelerators for training, fine-tuning, modifying, and deploying large artificial intelligence systems; and

"(ii) configured in accordance with industry best practices.

"(B) In carrying out subparagraph (A), the Secretary of Defense shall ensure, to the extent practical, that the Department of Defense does not use the portion of the infrastructure described in such subparagraph for the development of new artificial intelligence systems to the extent that such infrastructure is duplicative of readily available commercial or open source products or services that meet or are reasonably capable of meeting the physical and data security standards of the Department.

"(c) HIGH-PERFORMANCE COMPUTING ROADMAP.—

"(1) IN GENERAL.—Under the program established or designated under subsection (a), the Secretary of Defense shall develop a roadmap that describes the high-performance computing infrastructure needed for the Department of Defense to research, test, develop, and evaluate advanced artificial intelligence applications projected over the period covered by the future-years defense program, including dedicated computing assets owned and maintained by the Department of Defense and commercial cloud services and other infrastructure-as-a-service services.

"(2) ASSESSMENT.—The roadmap required by paragraph (1) shall include assessments of the following:

"(A) The anticipated processing for advanced artificial intelligence applications of the Department of Defense during the period covered by the roadmap, including the computing needs associated with the development of such advanced artificial intelligence applications.

"(B) The physical and data security standards required for the infrastructure for the research, development, testing, and evaluation of advanced artificial intelligence applications, including data handling requirements.

"(C) For each data center to be built or expanded on a military installation, an estimate, to the degree that the Secretary determines that providing such an estimate will not delay the submittal of the triennial update required by paragraph (3), of the additional resource usage resulting from building or expanding such data center, including—

"(i) an estimate of the increased footprint for physical space needs;

"(ii) assessments of projected electricity and water usage requirements for such data center;

"(iii) anticipated effects on the installation and the surrounding community resulting from the increased power, water, and other resource needs of such data center, including measures to mitigate any potential adverse effects on military installations; and

"(iv) strategies to prevent disruptions to local public utility services and to ensure resilience of the community in which the military installation resides and in which the data center is being built, including consultation with local, State, and Federal agencies to align infrastructure planning with broader needs of such community.

"(D) The evaluation, milestones, and resourcing needs to maintain and expand the computing infrastructure necessary for the computing needs described in subparagraph (A).

"(3) TRIENNIAL UPDATES.—Not later than March 1, 2027, and not later than March 1 of every third year thereafter until March 1, 2033, the Secretary shall update the roadmap required by paragraph (1) and submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the updated roadmap.

"(d) ARTIFICIAL INTELLIGENCE SYSTEM DEVELOPMENT.—

"(1) IN GENERAL.—Using the infrastructure added under the program established or designated under subsection (a), the Secretary of Defense shall develop advanced artificial intelligence systems that have general-purpose military applications for multiple data formats, including text, audio, and graphical.

"(2) TRAINING OF SYSTEMS.—The Secretary of Defense shall ensure that advanced artificial intelligence systems developed pursuant to paragraph (1) are trained using datasets curated by the Department of Defense using general, openly or commercially available sources of such data, or data owned by the Department, depending on the appropriate use case. Such systems may use openly or commercially available artificial intelligence systems, including those available through infrastructure located at installations of the Department or cloud or hybrid-cloud environments, for development or fine-tuning.

"(e) COORDINATION AND DUPLICATION.—In establishing or designating the program under subsection (a), the Secretary of Defense shall consult with the Secretary of Energy to ensure that none of the activities carried out under this section are duplicative of any activity of a research entity of the Department of Energy, including the following:

"(1) The National Laboratories.

"(2) The Advanced Scientific Computing Research program.

"(3) The Advanced Simulation and Computing program."

## POLICIES FOR MANAGEMENT AND CERTIFICATION OF LINK 16 MILITARY TACTICAL DATA LINK NETWORK

Pub. L. 118–31, div. A, title II, §228, Dec. 22, 2023, 137 Stat. 199, as amended by Pub. L. 119–60, div. A, title II, §216, Dec. 18, 2025, 139 Stat. 775, provided that:

"(a) POLICIES REQUIRED.—The Secretary of Defense shall develop and implement policies to adapt Link 16 system management and certification to align with agile development practices.

"(b) ELEMENTS.—The policies required by subsection (a) shall include the following:

"(1) A standardized process through a Chairman, Joint Chiefs of Staff Manual, to allow Link 16 frequency use within approved special use airspaces for the purpose of testing radio systems and associated software that have not completed electromagnetic compatibility features certification. Such process—

"(A) shall, at a minimum, ensure routine and continued approval for test operations of developmental systems in military special use airspace including all prohibited areas, restricted areas, warning areas, and military operational areas; and

"(B) may incorporate standardized mitigations that enable routine approval including effective radiated power settings and coordination for rapid test termination.

"(2) Processes to streamline approval or denial of temporary frequency assignment for Link 16 operations to not more than 15 days for test, regular training, and large-scale exercises. Under such processes, approval of Link 16 operations shall be presumed and denial of Link 16 operations shall be accompanied with substantiated evidence demonstrating compromise of safety due to electromagnetic interference. In developing such processes, the Secretary of Defense—

"(A) shall ensure that the processes cover operations in excess of uncoordinated operations time slot duty factor limits, inclusion of foreign participants, and participation of non-stage 4 approved terminals or platforms; and

"(B) consider delegating sole authority for temporary frequency assignment to the Department of Defense and the automation of decision-making processes relating to such assignments.

"(3) Delegation of authority to the system manager for Link 16 to determine when new software within Department of Defense Link 16 terminals affects electromagnetic compatibility features and requires recertification.

"(4) The self-certification by the Department of Defense of the compliance of the Department's radios with electromagnetic compatibility features.

"(5) Processes to internally manage Link 16 uncoordinated operations that enable approval for test, regular training, and exercises that does not exceed 15 days for systems holding an active radio frequency authorization or temporary frequency assignment.

"(c) INFORMATION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall provide to the congressional defense committees—

"(1) a briefing on the policies developed under subsection (a), along with a timeline for implementation of such policies; and

"(2) a list of such additional resources or authorities as the Secretary determines may be required to implement such policies.

"(d) TESTING REQUIRED.—

"(1) IN GENERAL.—In conjunction with the development of the policies required under subsection (a), the Secretary of Defense shall conduct, sponsor, or review testing and analysis that determines if any effects on air traffic systems are possible due to Link 16 terminals which have not completed electromagnetic compatibility features certification and quantifies any such effects. Such testing shall evaluate Link 16 transmission within plus or minus 7 megahertz of the 1030 and 1090 megahertz frequency bands to determine if effects on air traffic systems are possible, under what conditions such effects could occur, and the impact of such effects.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the testing conducted under paragraph (1), with an emphasis on procedures that the Secretary intends to implement to negate harmful effects on air traffic from the use of Link 16 terminals or platforms that have not completed electromagnetic compatibility features certification, within special use airspace."

## PILOT PROGRAM ON NEAR-TERM QUANTUM COMPUTING APPLICATIONS

Pub. L. 118–31, div. A, title II, §231, Dec. 22, 2023, 137 Stat. 203, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense may carry out a pilot program under which the Secretary, in partnership with the entities specified in subsection (b), establishes and operates a program that enables organizations of the Department of Defense, including the Armed Forces, to test and evaluate how quantum and quantum-hybrid applications may be used—

"(1) to solve technical problems and research challenges identified under section 234(e) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 4001 note) and such other near-term technical problems and challenges facing the Department and the Armed Forces as the Secretary may identify; and

"(2) to provide capabilities needed by the Department and the Armed Forces in the near-term.

"(b) ENTITIES SPECIFIED.—The Secretary of Defense shall seek to carry out the pilot program under subsection (a) in partnership with—

"(1) a federally funded research and development center, university affiliated research center, center of excellence, or similar entity; and

"(2) one or more private-sector entities with expertise in quantum computing and quantum information science.

"(c) ACTIVITIES.—Under the pilot program, the Secretary of Defense, in partnership with the entities specified in subsection (b), may—

"(1) convene a group of experts and organizations to identify and articulate challenges faced by the Department of Defense, including the Armed Forces, that have the potential to be addressed by quantum and quantum-hybrid applications;

"(2) develop and mature demonstrations, proofs of concept, pilot programs, and other measures to address the challenges identified under paragraph (1) using quantum and quantum-hybrid applications;

"(3) develop pathways through which successful demonstrations, proofs of concept, pilot programs, and other measures developed and matured under paragraph (2) may be transitioned to more advanced stages of research and development or into operational use within the Department;

"(4) ensure that any quantum-based or quantum-hybrid application-based solutions identified under the program are capable of development and deployment within the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code (as of the time of the pilot program);

"(4) [sic] assess the utility of commercial quantum and quantum-hybrid applications for meeting the near-term needs of warfighters; and

"(5) seek to build and strengthen relationships between the Department of Defense, academic institutions, small businesses, and nontraditional defense contractors (as defined in section 3014 of title 10, United States Code) in the technology industry that may have unused or underused solutions to specific operational challenges of the Department relating to quantum and quantum-hybrid applications.

"(d) BRIEFING AND REPORTS.—

"(1) INTERIM BRIEFING.—Not later than 30 days before commencing the pilot program under subsection (a), the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that—

"(A) identifies the entities the Secretary intends to partner with for the purposes of carrying out the pilot program, including—

"(i) any entities specified in subsection (b);

"(ii) any of the Armed Forces; and

"(iii) any other departments and agencies of the Federal Government with pre-existing quantum technology research efforts; and

"(B) describes the plan of the Secretary for developing and operating the program.

"(2) ANNUAL REPORT.—By December 1 of each year in which the pilot program under subsection (a) is carried out, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes—

"(A) a description of the problem sets and capabilities that were evaluated by organizations of the Department of Defense under the program;

"(B) an explanation of whether and to what extent the program resulted in the identification of potential solutions based on quantum and quantum-hybrid applications;

"(C) any potential barriers to the use of quantum and quantum-hybrid applications to solve near-term problems for the Department of Defense, including the Armed Forces; and

"(D) recommendations regarding how the Department of Defense can better leverage and deploy quantum and quantum-hybrid applications to address near-term military applications and operational needs.

"(e) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on September 30, 2026.

"(f) DEFINITION.—In this section, the term 'quantum and quantum-hybrid applications' means algorithms and applications which use quantum mechanics through quantum processing units, including—

"(1) quantum-classical hybrid applications which are applications that use both quantum computing and classical computing hardware systems;

"(2) annealing and gate systems; and

"(3) all qubit modalities (including superconducting, trapped-ion, neutral atom, and photonics)."

## PILOT PROGRAM ON OPTIMIZATION OF AERIAL REFUELING AND FUEL MANAGEMENT IN CONTESTED LOGISTICS ENVIRONMENTS THROUGH USE OF ARTIFICIAL INTELLIGENCE

Pub. L. 118–31, div. A, title III, §346, Dec. 22, 2023, 137 Stat. 226, provided that:

"(a) DESIGN OF PILOT PROGRAM.—

"(1) DESIGN.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Chief Digital and Artificial Intelligence Officer of the Department of Defense, in collaboration with the Under Secretary of Defense for Acquisition and Sustainment and the Chief of Staff of the Air Force, shall design a pilot program to optimize the logistics of aerial refueling and fuel management in the context of contested logistics environments through the use of advanced digital technologies and artificial intelligence (in this section referred to as the 'pilot program').

"(2) COORDINATION AND CONSULTATION.—In designing the pilot program, the Chief Digital and Artificial Intelligence Officer shall—

"(A) coordinate with the Commander of the United States Transportation Command and the Commander of the United States Indo-Pacific Command regarding the activities to be carried out under the pilot program, to ensure the pilot program will align with existing operational requirements; and

"(B) seek to consult with relevant experts in the fields of artificial intelligence, logistics, aviation, and fuel management.

"(b) OBJECTIVES.—The objectives of the pilot program shall include the following:

"(1) Assessing the feasibility and effectiveness of artificial intelligence-driven approaches in enhancing aerial refueling operations and fuel management processes compared to existing mission planning processes executed by members of the Air Force with relevant training.

"(2) Identifying opportunities to reduce fuel consumption, decrease operational costs, and minimize the environmental impact of fuel management while maintaining military readiness.

"(3) Evaluating the interoperability and compatibility of artificial intelligence-enabled systems with the existing logistics infrastructure of the Department of Defense.

"(4) Enhancing situational awareness and decision-making capabilities through real-time data analysis and predictive modeling.

"(5) Addressing potential challenges and risks associated with the integration of artificial intelligence and other advanced digital technologies, including challenges and risks involving cybersecurity concerns.

"(c) COMMENCEMENT.—Not later than one year after the date of the enactment of this Act, the Chief Digital and Artificial Intelligence Officer, in collaboration with the Under Secretary of Defense for Acquisition and Sustainment and the Chief of Staff of the Air Force, shall commence the pilot program.

"(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Chief Digital and Artificial Intelligence Officer shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on—

"(1) the design of the pilot program under subsection (a);

"(2) the status of any efforts underway to commence the pilot program under subsection (c); and

"(3) any planned future activities to be carried out under the pilot program to test expected outcomes regarding improved efficiencies or other benefits that may be derived from artificial intelligence-driven approaches to aerial refueling operations and fuel management.

"(e) TERMINATION.—The authority to conduct the pilot program under this section shall terminate on January 1, 2027."

## CONTROL AND MANAGEMENT OF DEPARTMENT OF DEFENSE DATA

Pub. L. 118–31, div. A, title XV, §1521(a), Dec. 22, 2023, 137 Stat. 551, provided that: "The Chief Digital and Artificial Intelligence Officer of the Department of Defense may access and control, on behalf of the

Secretary of Defense, any data collected, acquired, accessed, or used by a component (as such term is defined in section 1513 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 4001 note)), consistent with such section."

## ARTIFICIAL INTELLIGENCE BUG BOUNTY PROGRAMS

Pub. L. 118–31, div. A, title XV, §1542, Dec. 22, 2023, 137 Stat. 573, provided that:

"(a) PROGRAM FOR FOUNDATIONAL ARTIFICIAL INTELLIGENCE PRODUCTS BEING INTEGRATED WITHIN DEPARTMENT OF DEFENSE.—

"(1) DEVELOPMENT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023] and subject to the availability of appropriations, the Chief Digital and Artificial Intelligence Officer of the Department of Defense shall develop a bug bounty program for foundational artificial intelligence models being integrated into the missions and operations of the Department of Defense.

"(2) COLLABORATION.—In developing the program under paragraph (1), the Chief Digital and Artificial Intelligence Officer may collaborate with the heads of other Federal departments and agencies with expertise in cybersecurity and artificial intelligence.

"(3) IMPLEMENTATION AUTHORIZED.—The Chief Digital and Artificial Intelligence Officer may carry out the program developed under subsection (a).

"(4) CONTRACTS.—The Secretary of Defense shall ensure, as may be appropriate, that whenever the Secretary enters into any contract, such contract allows for participation in the bug bounty program developed under paragraph (1).

"(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require—

"(A) the use of any foundational artificial intelligence model; or

"(B) the implementation of the program developed under paragraph (1) for the purpose of the integration of a foundational artificial intelligence model into the missions or operations of the Department of Defense.

"(b) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Chief Digital and Artificial Intelligence Officer shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) the development and implementation of bug bounty programs the Chief Digital and Artificial Intelligence Officer considers relevant to the matters covered by this section; and

"(2) long-term plans of the Chief Digital and Artificial Intelligence Officer with respect to such bug bounty programs.

"(c) FOUNDATIONAL ARTIFICIAL INTELLIGENCE MODEL DEFINED.—In this section, the term 'foundational artificial intelligence model' means an adaptive generative model that is trained on a broad set of unlabeled data sets that may be used for different tasks with minimal fine-tuning."

## PLANS, STRATEGIES, AND OTHER MATTERS RELATING TO ARTIFICIAL INTELLIGENCE

Pub. L. 118–31, div. A, title XV, §1544, Dec. 22, 2023, 137 Stat. 574, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in consultation with the Deputy Secretary of Defense, shall—

"(1) establish and document procedures, including timelines, for the periodic review of the 2018 Department of Defense Artificial Intelligence Strategy, or any successor strategy, and associated annexes of the military departments to assess the implementation of such strategy and whether any revision is necessary;

"(2) issue Department of Defense-wide guidance that defines outcomes of near-term and long-term strategies and plans relating to—

"(A) the adoption of artificial intelligence;

"(B) the adoption and enforcement of policies on the ethical use of artificial intelligence systems; and

"(C) the identification and mitigation of bias in artificial intelligence algorithms;

"(3) issue Department-wide guidance regarding methods to monitor accountability for artificial intelligence-related activity, including artificial intelligence performance indicators and metrics;

"(4) develop a strategic plan for the development, use, and cybersecurity of generative artificial intelligence, including a policy governing the use of, and the defense against adversarial use of, generative artificial intelligence;

"(5) assess technical workforce needs across the future years defense plan to support the continued development of artificial intelligence capabilities, including recruitment and retention policies and programs;

"(6) assess the availability and adequacy of the basic artificial intelligence training and education curricula, including efforts developed or authorized pursuant to section 256 of the National Defense Authorization Act for Fiscal Year 2020 (133 Stat. 1290; Public Law 116–92), available to the broader civilian workforce of the Department and military personnel to promote artificial intelligence literacy to the nontechnical workforce and senior leadership with responsibilities adjacent to artificial intelligence technical development;

"(7) develop and issue a timeline and guidance for the Chief Digital and Artificial Intelligence Officer of the Department and the Secretaries of the military departments to establish a common lexicon for artificial intelligence-related activities;

"(8) develop and implement a plan to protect and secure the integrity, availability, and privacy of artificial intelligence systems and models, including large language models, data libraries, data repositories, and algorithms, in training, development, and production environments;

"(9) ensure the fulfilment of the statutory requirement to establish data repositories under section 232 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 10 U.S.C. 4001 note), as amended by section 212 of the National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2466);

"(10) develop and implement a plan—

"(A) to identify commercially available and relevant large language models; and

"(B) to make such models available, as appropriate, on classified networks;

"(11) develop a plan to defend the personnel, organizations, and systems of the Department against adversarial artificial intelligence, including an identification of organizations within the Department capable of providing to cyber red teams of the Department capabilities for operational and developmental needs;

"(12) develop and implement a policy for use by contracting officials to protect the intellectual property of commercial entities that provide artificial intelligence algorithms to a data repository specified in paragraph (9), including a policy for how to address data rights in situations in which governmental and commercial intellectual property may be mixed when such artificial intelligence algorithms are deployed in an operational environment;

"(13) issue guidance and directives governing how the Chief Digital and Artificial Intelligence Officer of the Department shall exercise authority to access, control, and maintain, on behalf of the Secretary, data collected, acquired, accessed, or used by components of the Department consistent with section 1513 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 10 U.S.C. 4001 note); and

"(14) clarify guidance on the instances for, and the role of human intervention and oversight in, the exercise of artificial intelligence algorithms for use in the generation of offensive or lethal courses of action for tactical operations.

"(b) ETHICAL AND RESPONSIBLE ARTIFICIAL INTELLIGENCE.—

"(1) PROCESS.—The Secretary of Defense, acting through the Chief Digital and Artificial Intelligence Officer, shall develop and implement a process—

"(A) to assess whether a given artificial intelligence technology used by the Department of Defense is in compliance with a test, evaluation, verification, and validation framework that—

"(i) operationalizes responsible artificial intelligence principles; and

"(ii) is validated and selected by the Chief Digital and Artificial Intelligence Officer for purposes of this subsection;

"(B) to report and remediate any artificial intelligence technology that is determined not to be in compliance with the framework selected pursuant to subparagraph (A); and

"(C) in a case in which efforts to remediate such technology have been unsuccessful, to discontinue the use of the technology until effective remediation is achievable.

"(2) ADDITIONAL REQUIREMENTS.—In developing and implementing the process under paragraph (1), the Secretary of Defense shall—

"(A) develop clear criteria against which the compliance of an artificial intelligence technology with the framework selected pursuant to subparagraph (A) of such paragraph may be assessed under such subparagraph, taking into consideration—

"(i) similar criteria previously developed by the Secretary; and

"(ii) the identification of potential vulnerabilities in systems and infrastructure of the Armed Forces that could be exploited by adversarial artificial intelligence applications used by the People's Republic of China, the Russian Federation, or other foreign adversaries;

"(B) take steps to integrate such process across the elements of the Department of Defense, including the combatant commands; and

"(C) provide information on such process to members of the Armed Forces and civilian personnel of the Department that are—

"(i) responsible for developing and deploying artificial intelligence technologies;

"(ii) end users of such technologies, including members of the Army, Navy, Air Force, Marine Corps, or Space Force who use such technologies in military operations; or

"(iii) otherwise determined relevant by the Secretary.

"(c) DEADLINE; BRIEFING.—

"(1) DEADLINE.—The Secretary shall complete the requirements under this section by not later than 120 days after the date of enactment of this Act [Dec. 22, 2023].

"(2) BRIEFING.—Not later than 150 days after the date of the enactment of this Act, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the implementation of this section."

## PILOT PROGRAM TO FACILITATE THE DEVELOPMENT OF BATTERY TECHNOLOGIES FOR WARFIGHTERS

Pub. L. 117–263, div. A, title II, §225, Dec. 23, 2022, 136 Stat. 2484, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Defense may establish and carry out a pilot program to assess the feasibility and advisability of providing support to battery producers—

"(A) to facilitate the research and development of safe and secure battery technologies for existing and new or novel battery chemistry configurations, including through the research and development of new or updated manufacturing processes and technologies;

"(B) to assess commercial battery offerings within the marketplace for viability and utility for warfighter applications; and

"(C) to transition battery technologies, including technologies developed under other pilot programs, prototype projects, or other research and development programs, from the prototyping phase to manufacturing production.

"(2) DESIGNATION.—The pilot program established under paragraph (1) shall be known as the 'Warfighter Electric Battery Transition Project' (referred to in this section as the 'Project').

"(3) ADMINISTRATION.—The Under Secretary of Defense for Research and Engineering shall administer the Project.

"(b) GRANTS, CONTRACTS, AND OTHER AGREEMENTS.—The Secretary of Defense may carry out the Project through the award of support, as described in subsection (a)(1), in the form of grants to, or contracts or other agreements with, battery producers.

"(c) COORDINATION.—The Secretary of Defense shall ensure that activities under the Project are coordinated with the Strategic Environmental Research and Development Program under section 2901 of title 10, United States Code.

"(d) USE OF GRANT AND CONTRACT AMOUNTS.—A battery producer who receives a grant, contract, or other agreement under the Project may use the amount of the grant, contract, or other agreement to carry out one or more of the following activities:

"(1) Conducting research and development to validate new or novel battery chemistry configurations, including through—

"(A) experimentation;

"(B) prototyping;

"(C) testing;

"(D) adapting battery technology to integrate with other technologies and systems; or

"(E) addressing manufacturing or other production challenges.

"(2) Providing commercially available battery technologies to each Secretary of a military department and the commanders of the combatant commands to support utility assessments or other testing by warfighters.

"(3) Expanding, validating, or assessing battery recycling capabilities that may provide operational utility to the Department of Defense.

"(4) Building and strengthening relationships of the Department of Defense with nontraditional defense contractors in the technology industry that may have unused or underused solutions to specific operational challenges of the Department relating to battery technology.

"(e) PRIORITY OF AWARDS.—In awarding grants, contracts, or other agreements under the Project, the Secretary shall give preference to battery producers that meet one or more of the following criteria:

"(1) The producer manufactures, designs, or develops battery cells, packs, modules, or other related

capabilities in the United States.

"(2) The producer manufactures, designs, or develops battery cells, packs, modules, or other related capabilities in the national technology and industrial base (as defined in section 4801 of title 10, United States Code).

"(3) The technology made available by the producer provides modularity to support diverse applications.

"(4) The technology made available by the producer facilitates safety in tactical and combat applications by using battery chemistries and configurations that reduce thermal runaway and minimize oxygen liberation.

"(5) The producer demonstrates new or novel battery chemistry configurations, safety characteristics, or form-factor configurations.

"(6) The producer facilitates the domestic supply chain for raw materials needed for battery production.

"(7) The producer offers battery-related commercial products or commercial services.

"(f) PLANNING, REPORTING AND DATA COLLECTION.—

"(1) PLAN REQUIRED BEFORE IMPLEMENTATION.—

"(A) IN GENERAL.—The Secretary of Defense may not commence the Project until the Secretary has completed a plan for the implementation of the Project.

"(B) ELEMENTS.—The plan under subparagraph (A) shall provide for—

"(i) collecting, analyzing, and retaining Project data;

"(ii) developing and sharing best practices for achieving the objectives of the Project;

"(iii) identification of any policy or regulatory impediments inhibiting the execution of the Project; and

"(iv) sharing results from the Project across the Department of Defense and with other departments and agencies of the Federal Government and Congress.

"(C) SUBMITTAL TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the implementation plan developed under subparagraph (A).

"(2) FINAL REPORT.—Not later than one year after the date on which the Project terminates under subsection (g), the Secretary of Defense shall submit to the congressional defense committees a final report on the results of the Project. Such report shall include—

"(A) a summary of the objectives achieved by the Project; and

"(B) recommendations regarding the steps that may be taken to promote battery technologies that are not dependent on foreign competitors to meet the needs of the Armed Forces.

"(g) TERMINATION.—The authority to carry out the Project shall terminate on December 31, 2028."

## PLAN FOR INVESTMENTS TO SUPPORT THE DEVELOPMENT OF NOVEL PROCESSING APPROACHES FOR DEFENSE APPLICATIONS

Pub. L. 117–263, div. A, title II, §233, Dec. 23, 2022, 136 Stat. 2486, provided that:

"(a) INVESTMENT PLANS REQUIRED.—Not later than November 1, 2023, and not less frequently than once every three years thereafter until December 31, 2035, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for making investments to support the development of novel processing approaches for defense applications.

"(b) ELEMENTS.—Each investment plan required by subsection (a) shall—

"(1) identify any investments the Secretary has made, and any future investments the Secretary intends to make, in research and technology development to support the use and fielding of novel processing approaches for defense applications;

"(2) identify any investments the Secretary has made, and any future investments the Secretary intends to make, to accelerate the development of novel processing approaches for defense applications, including investments in—

"(A) personnel and workforce capabilities;

"(B) facilities and infrastructure to host systems utilizing novel processing approaches;

"(C) algorithm developments necessary to expand the functionality of each novel processing approach;

"(D) other Federal agencies and federally funded laboratories; and

"(E) appropriate international and commercial sector organizations and activities;

"(3) describe mechanisms to coordinate and leverage investments in novel processing approaches within the Department and with non-Federal partners;

"(4) describe the technical goals to be achieved and capabilities to be developed under the plan; and

"(5) include recommendations for such legislative or administration actions as may support the effective execution of the investment plan.

"(c) FORM.—Each plan submitted under subsection (a) shall be submitted in such form as the Secretary considers appropriate, which may include classified, unclassified, and publicly releasable formats.

"(d) NOVEL PROCESSING APPROACHES DEFINED.—In this section, the term 'novel processing approaches' means—

"(1) emerging techniques in computation, such as biocomputing, exascale computing, utility scale quantum computing; and

"(2) associated algorithm and hardware development needed to implement such techniques."

**STRATEGY AND PLAN FOR FOSTERING AND STRENGTHENING THE DEFENSE INNOVATION ECOSYSTEM**

Pub. L. 117–263, div. A, title II, §236, Dec. 23, 2022, 136 Stat. 2490, as amended by Pub. L. 118–159, div. B, title XXVIII, §2871(c)(3), Dec. 23, 2024, 138 Stat. 2281, provided that:

"(a) STRATEGY AND IMPLEMENTATION PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall develop—

"(1) a strategy fostering and strengthening the defense innovation ecosystem; and

"(2) a plan for implementing such strategy.

"(b) PURPOSES.—

"(1) STRATEGY.—The purpose of the strategy required by subsection (a)(1) is to provide a framework for identifying, assessing, and tracking innovation ecosystems that are beneficial to advancing the defense, national security, and warfighting missions of the Department of Defense.

"(2) IMPLEMENTATION PLAN.—The purpose of the implementation plan required by subsection (a)(2) is to provide—

"(A) concrete steps and measures of effectiveness to gauge the effect of the innovation ecosystems described in paragraph (1) on the Department; and

"(B) a means for assessing the effectiveness of the strategy developed under subsection (a)(1), including the approaches taken by the Department to grow, foster, and sustain such innovation ecosystems.

"(c) ELEMENTS.—The strategy and the implementation plan required by subsection (a) shall include the following elements:

"(1) A process for defining, assessing, and selecting innovation ecosystems with potential to provide benefit to the Department of Defense.

"(2) Metrics for measuring the performance and health of innovation ecosystems being supported by the Department, including identification of criteria to determine when to support or cease supporting identified ecosystems.

"(3) Identification of the authorities and Department of Defense research, development, test, and evaluation assets that can be used to identify, establish, sustain, and expand innovation ecosystems.

"(4) For each innovation ecosystem supported by the Department—

"(A) a description of the core competencies or focus areas of the ecosystem;

"(B) identification of any organizations or elements of the Department that engage with the ecosystem;

"(C) identification of the private sector assets that are being used to support, sustain, and expand the identified innovation ecosystem; and

"(D) a description of any challenges and successes associated with such ecosystem.

"(5) Such other elements as the Secretary considers appropriate.

"(d) INTERIM BRIEFING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the strategy and implementation plan developed under subsection (a).

"(e) SUBMITTAL OF STRATEGY AND PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the strategy and implementation plan developed under subsection (a).

"(f) QUADRENNIAL UPDATES.—Not later than March 1, 2027, and not less frequently than once ever

four years thereafter until December 31, 2039, the Secretary shall—

"(1) update the strategy and plan developed under subsection (a); and

"(2) submit the updated strategy and plan to the congressional defense committees.

"(g) DEFINITIONS.—In this section:

"(1) The term 'Department of Defense research, development, test, and evaluation assets' includes the following:

"(A) The Department of Defense science and technology reinvention laboratories designated under section 4121 of title 10, United States Code.

"(B) The Major Range and Test Facility Base (as defined in section 4173 of such title).

"(C) Department of Defense sponsored manufacturing innovation institutes.

"(D) The organic industrial base.

"(E) Defense Agencies and Department of Defense Field Activities (as defined in section 101(a) of title 10, United States Code) that carry out activities using funds appropriated for research, development, test, and evaluation.

"(F) Any other organization or element of the Department of Defense that carries out activities using funds appropriated for research, development, test, and evaluation.

"(2) The term 'innovation ecosystem' refers to a regionally based network of private sector, academic, and government institutions in a network of formal and informal institutional relationships that contribute to technological and economic development in a defined technology sector or sectors."

## ESTABLISHING PROJECTS FOR DATA MANAGEMENT, ARTIFICIAL INTELLIGENCE, AND DIGITAL SOLUTIONS

Pub. L. 117–263, div. A, title XV, §1513, Dec. 23, 2022, 136 Stat. 2894, provided that:

"(a) ESTABLISHMENT OF PRIORITY PROJECTS.—The Deputy Secretary of Defense shall—

"(1) establish priority enterprise projects for data management, artificial intelligence, and digital solutions for both business efficiency and warfighting capabilities intended to accelerate decision advantage; and

"(2) assign responsibilities for execution and funding of the projects established under paragraph (1).

"(b) ACTIONS REQUIRED.—To ensure implementation of the priority projects of the Deputy Secretary of Defense under subsection (a), and to instill data science and technology as a core discipline in the Department of Defense, the Deputy Secretary shall—

"(1) hold the heads of components accountable for—

"(A) making their component's data available for use pursuant to the memorandum of the Deputy Secretary of Defense dated May 5, 2021, and titled 'Creating Data Advantage', in accordance with plans developed and approved by the head of the component and the Deputy Secretary;

"(B) developing, implementing, and reporting measurable actions to acquire, preserve, and grow the population of government and contractor personnel with expertise in data management, artificial intelligence, and digital solutions;

"(C) making their components use data management practices, analytics processes, enterprise cloud computing environments, and operational test environments that are made available and specifically approved by the head of the component and the Deputy Secretary;

"(D) identifying and reporting on an annual basis for Deputy Secretary approval those ongoing programs and activities and new initiatives within their components to which the component head determines should be applied advanced analytics, digital technology, and artificial intelligence; and

"(E) developing and implementing cybersecurity and artificial intelligence security solutions, including preventative and mitigative technical solutions, red team assessments, to protect artificial intelligence systems, data, development processes, and applications from adversary actions;

"(2) require the Chief Digital and Artificial Intelligence Officer, in coordination with the heads of components, to develop and report on an actionable plan for the Deputy Secretary to reform the technologies, policies, and processes used to support accreditation and authority to operate decisions to enable rapid deployment into operational environments of newly developed government, contractor, and commercial data management, artificial intelligence, and digital solutions software;

"(3) require the Under Secretary of Defense for Personnel and Readiness, in coordination with the Chief Digital and Artificial Intelligence Officer and heads of components to define and establish career paths, work roles, and occupational specialties for civilian and military personnel in the fields of data management, artificial intelligence, and digital solutions for the Deputy Secretary's approval; and

"(4) establish a Departmental management reform goal for adoption and integration artificial intelligence or machine learning into business and warfighting processes, including the tracking of metrics,

milestones, and initiatives to measure the progress of the Department in meeting that goal.

"(c) BRIEFINGS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], and annually thereafter until December 31, 2025, the Deputy Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on directives issued by the Deputy Secretary to implement the requirements of this section and the status of implementation actions.

"(d) COMPONENT DEFINED.—In this section, the term 'component' means a military department, a combatant command, or a Defense Agency of the Department of Defense."

## REVIEW OF ARTIFICIAL INTELLIGENCE APPLICATIONS AND ESTABLISHMENT OF PERFORMANCE METRICS

Pub. L. 117–81, div. A, title II, §226, Dec. 27, 2021, 135 Stat. 1607, as amended by Pub. L. 117–263, div. A, title II, §212(b), Dec. 23, 2022, 136 Stat. 2467, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall—

"(1) review the potential applications of artificial intelligence and digital technology to the platforms, processes, and operations of the Department of Defense; and

"(2) establish performance objectives and accompanying metrics for the incorporation of artificial intelligence and digital readiness into such platforms, processes, and operations.

"(b) PERFORMANCE OBJECTIVES AND ACCOMPANYING METRICS.—

"(1) SKILL GAPS.—In carrying out subsection (a), the Secretary of Defense shall require each Secretary of a military department and the heads of such other organizations and elements of the Department of Defense as the Secretary of Defense determines appropriate to—

"(A) conduct a comprehensive review and assessment of—

"(i) skill gaps in the fields of software development, software engineering, data science, and artificial intelligence;

"(ii) the qualifications of civilian personnel needed for both management and specialist tracks in such fields; and

"(iii) the qualifications of military personnel (officer and enlisted) needed for both management and specialist tracks in such fields; and

"(B) establish recruiting, training, and talent management performance objectives and accompanying metrics for achieving and maintaining staffing levels needed to fill identified gaps and meet the needs of the Department for skilled personnel.

"(2) AI MODERNIZATION ACTIVITIES.—In carrying out subsection (a), the Secretary of Defense shall—

"(A) assess investment by the Department of Defense in artificial intelligence innovation, science and technology, and research and development;

"(B) assess investment by the Department in test and evaluation of artificial intelligence capabilities; and

"(C) establish performance objectives and accompanying metrics for artificial intelligence modernization activities of the Department.

"(3) EXERCISES, WARGAMES, AND EXPERIMENTATION.—In conjunction with the activities of the Secretary of Defense under subsection (a), the Chairman of the Joint Chiefs of Staff, in coordination with the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061), shall—

"(A) assess the integration of artificial intelligence into war-games, exercises, and experimentation; and

"(B) develop performance objectives and accompanying metrics for such integration.

"(4) LOGISTICS AND SUSTAINMENT.—In carrying out subsection (a), the Secretary of Defense shall require the Under Secretary of Defense for Acquisition and Sustainment, with support from the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061), to—

"(A) assess the application of artificial intelligence in logistics and sustainment systems; and

"(B) establish performance objectives and accompanying metrics for integration of artificial intelligence in the Department of Defense logistics and sustainment enterprise.

"(5) BUSINESS APPLICATIONS.—In carrying out subsection (a), the Secretary of Defense shall require the Under Secretary of Defense (Comptroller), in coordination with the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year

2019 (Public Law 115–232; 10 U.S.C. note prec. 4061), to—

"(A) assess the integration of artificial intelligence for administrative functions that can be performed with robotic process automation and artificial intelligence-enabled analysis; and

"(B) establish performance objectives and accompanying metrics for the integration of artificial intelligence in priority business process areas of the Department of Defensee, including the following:

"(i) Human resources.

"(ii) Budget and finance, including audit.

"(iii) Retail.

"(iv) Real estate.

"(v) Health care.

"(vi) Logistics.

"(vii) Such other business processes as the Secretary considers appropriate.

"(c) REPORT TO CONGRESS.—Not later than 120 days after the completion of the review required by subsection (a)(1), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on—

"(1) the findings of the Secretary with respect to the review and any action taken or proposed to be taken by the Secretary to address such findings; and

"(2) the performance objectives and accompanying metrics established under subsections (a)(2) and (b)."

## MODIFICATION OF THE JOINT COMMON FOUNDATION PROGRAM

Pub. L. 117–81, div. A, title II, §227, Dec. 27, 2021, 135 Stat. 1609, as amended by Pub. L. 117–263, div. A, title II, §212(c), Dec. 23, 2022, 136 Stat. 2467, provided that:

"(a) MODIFICATION OF JOINT COMMON FOUNDATION.—The Secretary of Defense shall modify the Joint Common Foundation program conducted by the the [sic] office of the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) to ensure that Department of Defense components can more easily contract with leading commercial artificial intelligence companies to support the rapid and efficient development and deployment of applications and capabilities.

"(b) QUALIFYING COMMERCIAL COMPANIES.—The Secretary of Defense shall take such actions as may be necessary to increase the number of commercial artificial intelligence companies eligible to provide support to Department of Defense components, including with respect to requirements for cybersecurity protections and processes, to achieve automatic authority to operate and provide continuous delivery, security clearances, data portability, and interoperability.

"(c) USE OF FAR PART 12.—The Secretary of Defense shall ensure that, to the maximum extent practicable, commercial artificial intelligence companies are able to offer platforms, services, applications, and tools to Department of Defense components through processes and procedures under part 12 of the Federal Acquisition Regulation.

"(d) OBJECTIVES OF THE JOINT COMMON FOUNDATION PROGRAM.—The objectives of the Joint Common Foundation program shall include the following:

"(1) Relieving Department of Defense components of the need to design or develop or independently contract for the computing and data hosting platforms and associated services on and through which the component at issue would apply its domain expertise to develop specific artificial intelligence applications.

"(2) Providing expert guidance to components in selecting commercial platforms, tools, and services to support the development of component artificial intelligence applications.

"(3) Ensuring that leading commercial artificial intelligence technologies and capabilities are easily and rapidly accessible to components through streamlined contracting processes.

"(4) Assisting components in designing, developing, accessing, or acquiring commercial or non-commercial capabilities that may be needed to support the operational use of artificial intelligence applications.

"(5) Enabling companies to develop software for artificial intelligence applications within secure software development environments that are controlled, sponsored, required, or specified by the Department of Defense, including PlatformOne of the Department of the Air Force[.]

"(e) BRIEFING.—Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on actions taken to carry out this section."

## ACTIVITIES TO ACCELERATE DEVELOPMENT AND DEPLOYMENT OF DUAL-USE

## QUANTUM TECHNOLOGIES

Pub. L. 117–81, div. A, title II, §229, Dec. 27, 2021, 135 Stat. 1610, as amended by Pub. L. 118–159, div. A, title II, §231(c), Dec. 23, 2024, 138 Stat. 1837, provided that:

"(a) ACTIVITIES REQUIRED.—The Secretary of Defense shall establish a set of activities—

"(1) to accelerate the development and deployment of dual-use quantum capabilities;

"(2) to ensure the approach of the United States to investments of the Department of Defense in quantum information science research and development reflects an appropriate balance between scientific progress and the potential economic and security implications of such progress;

"(3) to ensure that the Department of Defense is fully aware and has a technical understanding of the maturity and operational utility of new and emerging quantum technologies; and

"(4) to ensure the Department of Defense consistently has access to the most advanced quantum capabilities available in the commercial sector to support research and modernization activities.

"(b) ASSISTANCE PROGRAM.—

"(1) PROGRAM REQUIRED.—In carrying out subsection (a) and subject to the availability of appropriations for such purpose, the Secretary of Defense shall, acting through the Director of the Defense Advanced Research Projects Agency and in consultation with appropriate public and private sector organizations, establish a program under which the Secretary may award assistance to one or more organizations—

"(A) to identify defense applications for which dual-use quantum technologies provide a clear advantage over competing technologies;

"(B) to accelerate development of such quantum technologies; and

"(C) to accelerate the deployment of dual-use quantum capabilities.

"(2) FORM OF ASSISTANCE.—Assistance awarded under the program required by paragraph (1) may consist of a grant, a contract, a cooperative agreement, other transaction, or such other form of assistance as the Secretary of Defense considers appropriate.

"(3) AUTHORITIES AND ACQUISITION APPROACHES.—The Secretary of Defense may use the following authorities and approaches for the program required by paragraph (1):

"(A) Section 2374a of title 10, United States Code [now 10 U.S.C. 4025], relating to prizes for advanced technology achievements.

"(B) Section 2373 of such title [now 10 U.S.C. 4023], relating to procurement for experimental purposes.

"(C) Sections 2371 [now 10 U.S.C. 4021] and 2371b [now 10 U.S.C. 4022] of such title, relating to transactions other than contracts and grants and authority of the Department of Defense to carry out certain prototype projects, respectively.

"(D) Section 2358 of such title [now 10 U.S.C. 4001], relating to research and development projects.

"(E) Section 879 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; [former] 10 U.S.C. 2302 note), relating to defense pilot program for authority to acquire innovative commercial products, technologies, and services using general solicitation competitive procedures.

"(F) Requirement for milestone payments based on technical achievements.

"(G) Requirement for cost share from private sector participants in the program.

"(H) Commercial procurement authority under part 12 of the Federal Acquisition Regulation.

"(I) Such other authorities or approaches as the Secretary considers appropriate.

"(4) POLICIES AND PROCEDURES.—The Secretary of Defense shall, in consultation with such experts from government and industry as the Secretary considers appropriate, establish policies and procedures to carry out the program required by paragraph (1)."

## DATA REPOSITORIES TO FACILITATE THE DEVELOPMENT OF ARTIFICIAL INTELLIGENCE CAPABILITIES FOR THE DEPARTMENT OF DEFENSE

Pub. L. 117–81, div. A, title II, §232, Dec. 27, 2021, 135 Stat. 1613, as amended by Pub. L. 117–263, div. A, title II, §212(d), Dec. 23, 2022, 136 Stat. 2467, provided that:

"(a) ESTABLISHMENT OF DATA REPOSITORIES.—The Secretary of Defense, acting through the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) (and such other officials as the Secretary determines appropriate), shall—

"(1) establish data repositories containing Department of Defense data sets relevant to the development of artificial intelligence software and technology; and

"(2) allow appropriate public and private sector organizations to access such data repositories for the purpose of developing improved artificial intelligence and machine learning software capabilities that may, as determined appropriate by the Secretary, be procured by the Department to satisfy Department requirements and technology development goals.

"(b) ELEMENTS.—The data repositories established under subsection (a)—

"(1) may include unclassified training quality data sets and associated labels representative of diverse types of information, representing Department of Defense missions, business processes, and activities; and

"(2) shall—

"(A) be categorized and annotated to support development of a common evaluation framework for artificial intelligence models and other technical software solutions;

"(B) be made available to appropriate public and private sector organizations to support rapid development of software and artificial intelligence capabilities;

"(C) include capabilities and tool sets to detect, evaluate, and correct errors in data annotation, identify gaps in training data used in model development that would require additional data labeling, and evaluate model performance across the life cycle of the data repositories; and

"(D) be developed to support other missions and activities as determined by the Secretary.

"(c) BRIEFING.—Not later than July 1, 2023, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) the types of information the Secretary determines are feasible and advisable to include in the data repositories established under subsection (a); and

"(2) the progress of the Secretary in establishing such data repositories."

## AUTHORITY FOR ACTIVITIES TO IMPROVE NEXT GENERATION RADAR SYSTEMS CAPABILITIES

Pub. L. 117–81, div. A, title III, §380, Dec. 27, 2021, 135 Stat. 1670, which provided authority for the Secretary of Defense to undertake activities to enhance future radar systems capabilities, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(2)(B), Dec. 18, 2025, 139 Stat. 948.

## PILOT PROGRAM ON SYSTEMS ENGINEERING DETERMINATIONS

Pub. L. 117–81, div. A, title VIII, §823, Dec. 27, 2021, 135 Stat. 1826, as amended by Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), (C), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) REQUIREMENT.—As soon as practicable but not later than September 30, 2023, the Secretary of Defense shall ensure that each covered entity enters into at least two covered transactions under an authority described in subsection (b), where each such covered transaction includes the system engineering determinations described under subsection (c).

"(b) COVERED AUTHORITIES.—The authorities described under this subsection are as follows:

"(1) Section 2371 of title 10, United States Code [now 10 U.S.C. 4021], with respect to applied and advanced research project transactions relating to weapons systems.

"(2) Section 2371b of such title [now 10 U.S.C. 4022], with respect to transactions relating to weapons systems.

"(3) Section 2373 of such title [now 10 U.S.C. 4023].

"(4) Section 2358 of such title [now 10 U.S.C. 4001], with respect to transactions relating to weapons systems.

"(c) SYSTEMS ENGINEERING DETERMINATIONS.—

"(1) FIRST DETERMINATION.—

"(A) SUCCESS CRITERIA.—The head of a covered entity that enters into a covered transaction under this section shall identify, in writing, not later than 30 days after entering into such covered transaction, measurable success criteria related to potential military applications of such covered transaction, to be demonstrated not later than the last day of the period of performance for such covered transaction.

"(B) TYPES OF DETERMINATIONS.—Not later than 30 days after the end of such period of performance, the head of the covered entity shall make one of the following determinations:

"(i) A 'Discontinue' determination, under which such head discontinues support of the covered transaction and provides a rationale for such determination.

"(ii) A 'Retain and Extend' determination, under which such head ensures continued performance of such covered transaction and extends the period of performance for a specified period of time in order to achieve the success criteria described under subparagraph (A).

"(iii) An 'Endorse and Refer' determination, under which such head endorses the covered

transaction and refers it to the most appropriate Service Systems Engineering Command, based on the technical attributes of the covered transaction and the associated potential military applications, based on meeting or exceeding the success criteria.

"(C) WRITTEN NOTICE.—A determination made pursuant to subparagraph (B) shall be documented in writing and provided to the person performing the covered transaction to which the determination relates.

"(D) FURTHER DETERMINATION.—If the head of a covered entity issued a 'Retain and Extend' determination described in subparagraph (B)(ii), such head shall, at the end of the extension period—

"(i) issue an 'Endorse and Refer' determination described in subparagraph (B)(iii) if the success criteria are met; or

"(ii) issue a 'Discontinue' determination described in subparagraph (B)(i) if the success criteria are not met.

"(2) SECOND DETERMINATION.—

"(A) SYSTEMS ENGINEERING PLAN.—The head of the Service Systems Engineering Command that receives a referral from an 'Endorse and Refer' determination described in paragraph (1)(B)(iii) shall, not later than 30 days after receipt of such referral, formulate a systems engineering plan with the person performing the referred covered transaction, technical experts of the Department of Defense, and any prospective portfolio acquisition executives.

"(B) ELEMENTS.—The systems engineering plan required under subparagraph (A) shall include the following:

"(i) Measurable baseline technical capability, based on meeting the success criteria described in paragraph (1)(A).

"(ii) Measurable transition technical capability, based on the technical needs of the prospective portfolio acquisition executives to support a current or future program of record.

"(iii) Discrete technical development activities necessary to progress from the baseline technical capability to the transition technical capability, including an approximate cost and schedule, including activities that provide resolution to issues relating to—

"(I) interfaces;

"(II) data rights;

"(III) Federal Government technical requirements;

"(IV) specific platform technical integration;

"(V) software development;

"(VI) component, subsystem, or system prototyping;

"(VII) scale models;

"(VIII) technical manuals;

"(IX) lifecycle sustainment needs; and

"(X) other needs identified by the relevant portfolio acquisition executive.

"(iv) Identification and commitment of funding sources to complete the activities under clause (iii).

"(C) TYPES OF DETERMINATIONS.—Not later than 30 days after the end of the schedule required by subparagraph (B)(iii), the head of the Service Systems Engineering Command shall make one of the following determinations:

"(i) A 'Discontinue' determination, under which such head discontinues support of the covered transaction and provides a rationale for such determination.

"(ii) A 'Retain and Extend' determination, under which such head ensures continued performance of such covered transaction within the Service Systems Engineering Command and extends the period of performance for a specified period of time in order to—

"(I) successfully complete the systems engineering plan required under subparagraph (A); and

"(II) issue specific remedial or additional activities to the person performing the covered transaction.

"(iii) An 'Endorse and Refer' determination, under which such head endorses the covered transaction and refers it to a portfolio acquisition executive, based on successful completion of the systems engineering plan required under subparagraph (A).

"(D) WRITTEN NOTICE.—A determination made pursuant to subparagraph (C) shall be documented in writing and provided to the person performing the covered transaction to which the determination relates and any prospective portfolio acquisition executives for such covered transaction.

"(E) FURTHER DETERMINATION.—If the head of the Service Systems Engineering Command issued a 'Retain and Extend' determination described in subparagraph (C)(ii), such head shall,

at the end of the extension period—

"(i) issue an 'Endorse and Refer' determination described in subparagraph (C)(iii) if the transition technical capability criteria are met; or

"(ii) issue a 'Discontinue' determination described in subparagraph (B)(i) if the success criteria are not met.

"(d) PRIORITY FOR COVERED TRANSACTION SELECTION.—In selecting a covered transaction under this section, the Secretary shall prioritize those covered transactions that—

"(1) are being initially demonstrated at a covered entity;

"(2) demonstrate a high potential to be further developed by a Service Systems Engineering Command; and

"(3) demonstrate a high potential to be used in a program of the Department of Defense.

"(e) NOTIFICATIONS.—

"(1) IN GENERAL.—Not later than 30 days after a covered transaction is entered into pursuant to subsection (a), the Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such covered transaction.

"(2) UPDATES.—Not later than 120 days after such a covered transaction is entered into, and every 120 days thereafter until the action specified in subsection (c)(1)(B)(i), (c)(2)(C)(i), or (c)(2)(C)(iii) occurs, the Secretary of Defense shall provide written updates to the congressional defense committees on the actions being taken by the Department to comply with the requirements of this section.

"(f) BRIEFING REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall provide a briefing to the Committees on Armed Services of the Senate and the House of Representatives with a detailed plan to implement the requirements of this section.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered entity' means—

"(A) the Defense Innovation Unit;

"(B) the Strategic Capabilities Office; or

"(C) the Defense Advanced Research Projects Agency.

"(2) The term 'covered transaction' means a transaction, procurement, or project conducted pursuant to an authority listed in subsection (b).

"(3) The term 'Service Systems Engineering Command' means the specific Department of Defense command that reports through a chain of command to the head of a military department that specializes in the systems engineering of a system, subsystem, component, or capability area."

## PILOT PROGRAM ON ACQUISITION PRACTICES FOR EMERGING TECHNOLOGIES

Pub. L. 117–81, div. A, title VIII, §833, Dec. 27, 2021, 135 Stat. 1833, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment or the Under Secretary's designee, shall establish a pilot program (in this section referred to as the 'Pilot Program') to develop and implement unique acquisition mechanisms for emerging technologies in order to increase the speed of transition of emerging technologies into acquisition programs or into operational use.

"(b) ELEMENTS.—In carrying out the Pilot Program, the Under Secretary of Defense for Acquisition and Sustainment shall—

"(1) identify, and award agreements to, not less than four new projects supporting high-priority defense modernization activities, consistent with the National Defense Strategy, with consideration given to—

"(A) offensive missile capabilities;

"(B) space-based assets;

"(C) personnel and quality of life improvement;

"(D) energy generation and storage; and

"(E) any other area activities the Under Secretary determines appropriate;

"(2) develop a unique acquisition plan for each project identified pursuant to paragraph (1) that is significantly novel from standard Department of Defense acquisition practices, including the use of—

"(A) alternative price evaluation models;

"(B) alternative independent cost estimation methodologies;

"(C) alternative market research methods;

"(D) continuous assessment of performance metrics to measure project value for use in program management and oversight;

"(E) alternative intellectual property strategies, including activities to support modular open system approaches (as defined in section 2446a(b) of title 10, United States Code [now 10 U.S.C. 4401(b)]) and reduce life-cycle and sustainment costs; and

"(F) other alternative practices identified by the Under Secretary;

"(3) execute the acquisition plans described in paragraph (2) and award agreements in an expedited manner; and

"(4) determine if existing authorities are sufficient to carry out the activities described in this subsection and, if not, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] recommendations for statutory reforms that will provide sufficient authority.

"(c) REGULATION WAIVER.—The Under Secretary of Defense for Acquisition and Sustainment shall establish mechanisms for the Under Secretary to waive, upon request, regulations, directives, or policies of the Department of Defense, a military service, or a Defense Agency with respect to a project awarded an agreement under the Pilot Program if the Under Secretary determines that such a waiver furthers the purposes of the Pilot Program, unless such waiver would be prohibited by a provision of a Federal statute or common law.

"(d) AGREEMENT TERMINATION.—

"(1) IN GENERAL.—The Secretary of Defense may establish procedures to terminate agreements awarded under the Pilot Program.

"(2) NOTIFICATION REQUIRED.—Any procedure established under paragraph (1) shall require that, not later than 30 days prior to the termination of any agreement under such procedure, notice of such termination shall be provided to the congressional defense committees.

"(e) PILOT PROGRAM ADVISORY GROUP.—

"(1) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment shall establish a Pilot Program advisory group to advise the Under Secretary on—

"(A) the selection, management and elements of projects under the Pilot Program;

"(B) the collection of data regarding the use of the Pilot Program; and

"(C) the termination of agreements under the Pilot Program.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The members of the advisory group established under paragraph (1) shall be appointed as follows:

"(i) One member from each military department (as defined under section 101(a) of title 10, United States Code), appointed by the Secretary of the military department concerned.

"(ii) One member appointed by the Under Secretary of Defense for Research and Engineering.

"(iii) One member appointed by the Under Secretary of Defense for Acquisition and Sustainment.

"(iv) One member appointed by the Director of the Strategic Capabilities Office of the Department of Defense.

"(v) One member appointed by the Director of the Defense Advanced Research Projects Agency.

"(vi) One member appointed by the Director of Cost Assessment and Program Evaluation.

"(vii) One member appointed by the Director of Operational Test and Evaluation.

"(B) DEADLINE FOR APPOINTMENT.—Members of the advisory group shall be appointed not later than 30 days after the date of the establishment of the pilot program under subsection (a).

"(3) FACA NON-APPLICABILITY.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the advisory group established under paragraph (1).

"(f) INFORMATION TO CONGRESS.—

"(1) BRIEFING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, and not less than annually thereafter, the Secretary of Defense shall provide to the congressional defense committees a briefing on activities performed under this section.

"(2) BUDGET JUSTIFICATION MATERIALS.—The Secretary shall establish procedures to clearly identify all projects under the Pilot Program in budget justification materials submitted to Congress.

"(g) DATA REQUIREMENTS.—

"(1) COLLECTION AND ANALYSIS OF DATA.—The Secretary shall establish mechanisms to collect and analyze data on the execution of the Pilot Program for the purpose of—

"(A) developing and sharing best practices for achieving goals established for the Pilot Program;

"(B) providing information to the Secretary and the congressional defense committees on the

execution of the Pilot Program; and

"(C) providing information to the Secretary and the congressional defense committees on related policy issues.

"(2) DATA STRATEGY REQUIRED.—The Secretary may not establish the Pilot Program prior to completion of a plan for—

"(A) meeting the requirements of this subsection;

"(B) collecting the data required to carry out an evaluation of the lessons learned from the Pilot Program; and

"(C) conducting such evaluation.

"(h) TERMINATION.—The Pilot Program shall terminate on the earlier of—

"(1) the date on which each project identified under subsection (b)(1) has either been completed or has had all agreements awarded to such project under the Pilot Program terminated; or

"(2) the date that is five years after the date of the enactment of this Act."

## DESIGNATION OF SENIOR OFFICIALS FOR CRITICAL TECHNOLOGY AREAS SUPPORTIVE OF THE NATIONAL DEFENSE STRATEGY

Pub. L. 116–283, div. A, title II, §217(a)–(d), Jan. 1, 2021, 134 Stat. 3460, 3461, as amended by Pub. L. 119–60, div. A, title II, §252, Dec. 18, 2025, 139 Stat. 800, provided that:

"(a) DESIGNATION OF SENIOR OFFICIALS.—The Under Secretary of Defense for Research and Engineering shall—

"(1) identify technology areas that the Under Secretary considers critical for the support of the National Defense Strategy; and

"(2) for each such technology area, designate a senior official of the Department of Defense to coordinate research and engineering activities in that area.

"(b) DUTIES.—The duties of each senior official designated under subsection (a) shall include, with respect to the technology area overseen by such official—

"(1) developing and continuously updating research and technology development roadmaps, funding strategies, and technology transition strategies to ensure—

"(A) the effective and efficient development of new capabilities in the area; and

"(B) the operational use of appropriate technologies;

"(2) conducting annual assessments of workforce, infrastructure, and industrial base capabilities and capacity to support—

"(A) the roadmaps developed under paragraph (1); and

"(B) the goals of the National Defense Strategy;

"(3) reviewing the relevant research and engineering budgets of appropriate organizations within the Department of Defense, including the Armed Forces, and advising the Under Secretary on—

"(A) the consistency of the budgets with the roadmaps developed under paragraph (1);

"(B) any technical and programmatic risks to the achievement of the research and technology development goals of the National Defense Strategy;

"(C) programs, projects, and activities that demonstrate—

"(i) unwanted or inefficient duplication, including duplication with activities of other government agencies and the commercial sector;

"(ii) lack of appropriate coordination with other organizations; or

"(iii) inappropriate alignment with organizational missions and capabilities;

"(4) coordinating the research and engineering activities of the Department with appropriate international, interagency, and private sector organizations; and

"(5) tasking appropriate intelligence agencies of the Department to develop a direct comparison between the capabilities of the United States in the technology area concerned and the capabilities of adversaries of the United States in that area.

"(c) ANNUAL REPORTS.—

"(1) IN GENERAL.—Not later than December 1, 2021, and not later than December 1 of each year thereafter through December 1, 2030, the Under Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on research and engineering activities and on the status of the technology areas identified under subsection (a)(1), including a description of any programs, projects, or activities in such areas, that have, in the year preceding the date of the report—

"(A) achieved significant technical progress;

"(B) transitioned from the research and development phase to formal acquisition programs;

"(C) transitioned from the research and development phase into operational use; or

"(D) been transferred from the Department of Defense to private sector organizations for further commercial development or commercial sales.

"(2) FORM.—Each report under paragraph (1) shall [sic] submitted in unclassified form that can be made available to the public, but may include a classified annex.

"(d) COORDINATION OF RESEARCH AND ENGINEERING ACTIVITIES.—The Service Acquisition Executive for each military department and the Director of the Defense Advanced Research Projects Agency shall each identify senior officials to ensure coordination of appropriate research and engineering activities with each of the senior officials designated under subsection (a)."

## SOCIAL SCIENCE, MANAGEMENT SCIENCE, AND INFORMATION SCIENCE RESEARCH ACTIVITIES

Pub. L. 116–283, div. A, title II, §220, Jan. 1, 2021, 134 Stat. 3464, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall carry out a program of research and development in social science, management science, and information science.

"(b) PURPOSES.—The purposes of the program under subsection (a) are as follows:

"(1) To ensure that the Department of Defense has access to innovation and expertise in social science, management science, and information science to enable the Department to improve the effectiveness, efficiency, and agility of the Department's operational and management activities.

"(2) To develop and manage a portfolio of research initiatives in fundamental and applied social science, management science, and information science that is stable, consistent, and balanced across relevant disciplines.

"(3) To enhance cooperation and collaboration on research and development in the fields of social science, management science, and information science between the Department of Defense and appropriate private sector and international entities that are involved in research and development in such fields.

"(4) To accelerate the development of a research community and industry to support Department of Defense missions in the fields of social science, management science, and information science, including the development of facilities, a workforce, infrastructure, and partnerships in support of such missions.

"(5) To coordinate all research and development within the Department of Defense in the fields of social science, management science, and information science.

"(6) To collect, synthesize, and disseminate critical information on research and development in the fields of social science, management science, and information science.

"(7) To assess and appropriately share, with other departments and agencies of the Federal Government and appropriate entities in the private sector—

"(A) challenges within the Department of Defense that may be addressed through the application of advances in social science, management science, and information science; and

"(B) datasets related to such challenges.

"(8) To support the identification of organizational and institutional barriers to the implementation of management and organizational enhancements and best practices.

"(9) To accelerate efforts—

"(A) to transition, and deploy within the Department of Defense, technologies and concepts derived from research and development in the fields of social science, management science, and information science; and

"(B) to establish policies, procedures, and standards for measuring the success of such efforts.

"(10) To integrate knowledge from cross-disciplinary research on—

"(A) how factors relating to social science, management science, and information science affect the global security environment; and

"(B) best practices for management in the public and private sectors.

"(11) To apply principles, tools, and methods from social science, management science, and information science—

"(A) to ensure the Department of Defense is more agile, efficient, and effective in organizational management and in deterring and countering current and emerging threats; and

"(B) to support the National Defense Strategy.

"(c) ADMINISTRATION.—The Under Secretary of Defense for Research and Engineering shall supervise the planning, management, and coordination of the program under subsection (a).

"(d) ACTIVITIES.—The Under Secretary of Defense for Research and Engineering, in consultation with the Under Secretary of Defense for Policy, the Secretaries of the military departments, and the heads of

relevant Defense Agencies, shall—

"(1) prescribe a set of long-term challenges and a set of specific technical goals for the program, including—

"(A) optimization of analysis of national security data sets;

"(B) development of innovative defense-related management activities;

"(C) improving the operational use of social science, management science, and information science innovations by military commanders and civilian leaders;

"(D) improving understanding of the fundamental social, cultural, and behavioral forces that shape the strategic interests of the United States; and

"(E) developing a Department of Defense workforce capable of developing and leveraging innovations and best practices in the fields of social science, management science, and information science to support defense missions;

"(2) develop a coordinated and integrated research and investment plan for meeting near-term, mid-term, and long-term national security, defense-related, and Departmental management challenges that—

"(A) includes definitive milestones;

"(B) provides for achieving specific technical goals;

"(C) establishes pathways to address the operational and management missions of the Department through—

"(i) the evaluation of innovations and advances in social science, management science, and information science for potential implementation within the Department; and

"(ii) implementation of such innovations and advances within the Department, as appropriate; and

"(C) [(D)] builds upon the investments of the Department, other departments and agencies of the Federal Government, and the commercial sector in the fields of social science, management science, and information science;

"(3) develop plans for—

"(A) the development of the Department's workforce in social science, management science, and information science; and

"(B) improving awareness of—

"(i) the fields of social science, management science, and information science;

"(ii) advances and innovations in such fields; and

"(iii) and the ability of such advances and innovations to enhance the efficiency and effectiveness of the Department; and

"(4) develop memoranda of agreement, joint funding agreements, and such other cooperative arrangements as the Under Secretary determines necessary—

"(A) to carry out the program under subsection (a); and

"(B) to transition appropriate products, services, and innovations relating social science, management science, and information science into use within the Department.

"(e) GUIDANCE REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Under Secretary of Defense for Research and Engineering shall develop and issue guidance for defense-related social science, management science, and information science activities, including—

"(A) classification and data management plans for such activities;

"(B) policies for control of personnel participating in such activities to protect national security interests; and

"(C) ensuring that research findings and innovations in the fields of social science, management science, and information science are incorporated into the activities and strategic documents of the Department.

"(2) UPDATES.—The Under Secretary of Defense for Research and Engineering shall regularly update the guidance issued under paragraph (1).

"(f) DESIGNATION OF ENTITY.—The Secretary of each military department may establish or designate an entity or activity under the jurisdiction of such Secretary, which may include a Department of Defense Laboratory, an academic institution, or another appropriate organization, to support interdisciplinary research and development activities in the fields of social science, management science, and information science, and engage with appropriate public and private sector organizations, including academic institutions, to enhance and accelerate the research, development, and deployment of social science, management science, and information science within the Department.

"(g) USE OF OTHER AUTHORITY.—The Secretary of Defense shall use the authority provided under section 217 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2358 note [now 10 U.S.C. 4001 note, set out below]) to enhance the ability of the Department of Defense to access technical talent and expertise at academic institutions in support of the purposes of this section.

"(h) REPORT.—

"(1) IN GENERAL.—Not later than December 31, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the program under subsection (a).

"(2) FORM OF REPORT.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex."

## ACTIVITIES TO IMPROVE FIELDING OF AIR FORCE HYPERSONIC CAPABILITIES

Pub. L. 116–283, div. A, title II, §222, Jan. 1, 2021, 134 Stat. 3469, provided that:

"(a) IMPROVEMENT OF GROUND-BASED TEST FACILITIES.—The Secretary of Defense shall take such actions as may be necessary to improve ground-based test facilities used for the research, development, test, and evaluation of hypersonic capabilities.

"(b) INCREASING FLIGHT TEST RATE.—The Secretary of Defense shall increase the rate at which hypersonic capabilities are flight tested to expedite the maturation and fielding of such capabilities.

"(c) STRATEGY AND PLAN.—Not later than 60 days after the date of the enactment of this Act [Jan. 1, 2021], the Chief of Staff of the Air Force, in consultation with the Under Secretary of Defense for Research and Engineering, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a strategy and plan for fielding air-launched and air-breathing hypersonic weapons capabilities within the period of three years following such date of enactment.

"(d) REPORT.—In addition to the strategy and plan required under subsection (c), not later than 60 days after the date of the enactment of this Act, the Under Secretary of Defense for Research and Engineering, in consultation with the Director of Operational Test and Evaluation, shall submit to the congressional defense committees a report on the testing capabilities and infrastructure used for hypersonic weapons development. The report shall include—

"(1) an assessment of the sufficiency of the testing capabilities and infrastructure used for fielding hypersonic weapons; and

"(2) a description of any investments in testing capabilities and infrastructure that may be required to support in-flight and ground-based testing for such weapons."

## RESEARCH, DEVELOPMENT, AND DEPLOYMENT OF TECHNOLOGIES TO SUPPORT WATER SUSTAINMENT

Pub. L. 116–283, div. A, title II, §226, Jan. 1, 2021, 134 Stat. 3476, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall research, develop, and deploy advanced water harvesting technologies to support and improve water sustainment within the Department of Defense and in geographic regions where the Department operates.

"(b) REQUIRED ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

"(1) develop advanced water harvesting systems that reduce weight and logistics support needs compared to conventional water supply systems, including—

"(A) modular water harvesting systems that are easily transportable; and

"(B) trailer mounted water harvesting systems that reduce resupply needs;

"(2) develop and implement storage requirements for water harvesting systems at forward operating bases; and

"(3) establish cross functional teams to identify geographic regions where the deployment of water harvesting systems could reduce conflict and potentially eliminate the need for the presence of the Armed Forces.

"(c) ADDITIONAL ACTIVITIES.—In addition to the activities required under subsection (b), the Secretary shall—

"(1) seek to leverage existing water harvesting techniques and technologies and apply such techniques and technologies to military operations carried out by the United States;

"(2) consider using commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) and near-ready deployment technologies to achieve cost savings and improve the self sufficiency of warfighters; and

"(3) seek to enter into information sharing arrangements with foreign militaries and other organizations that have the proven ability to operate in water constrained areas for the purpose of sharing lessons learned

and best practices relating to water harvesting.

"(d) IMPLEMENTATION.—The Secretary shall deploy technologies developed under subsection (b)(1) for use by expeditionary forces not later than January 1, 2025.

"(e) WATER HARVESTING DEFINED.—In this section, the term 'water harvesting', when used with respect to a system or technology, means a system or technology that is capable of creating useable water by—

"(1) harvesting water from underutilized environmental sources, such as by capturing water from ambient humidity; or

"(2) recycling or otherwise reclaiming water that has previously been used."

## BOARD OF ADVISORS FOR THE OFFICE OF THE SENIOR OFFICIAL WITH PRINCIPAL RESPONSIBILITY FOR ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING

Pub. L. 116–283, div. A, title II, §233, Jan. 1, 2021, 134 Stat. 3483, as amended by Pub. L. 117–263, div. A, title II, §212(f), Dec. 23, 2022, 136 Stat. 2468, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a board of advisors for the office of the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) (referred to in this section as the 'Official').

"(b) DUTIES.—The duties of the board of advisors shall include the following:

"(1) Provide independent strategic advice and technical expertise to the Secretary and the Official on matters relating to the development and use of artificial intelligence by the Department of Defense.

"(2) Evaluate and advise the Secretary and the Official on ethical matters relating to the development and use of artificial intelligence by the Department.

"(3) Conduct long-term and long-range studies on matters relating to artificial intelligence, as required.

"(4) Evaluate and provide recommendations to the Secretary and the Official regarding the Department's development of a robust workforce proficient in artificial intelligence.

"(5) Assist the Secretary and the Official in developing strategic level guidance on artificial intelligence-related hardware procurement, supply-chain matters, and other technical matters relating to artificial intelligence.

"(c) MEMBERSHIP.—The board of advisors shall be composed of appropriate experts from academic or private sector organizations outside the Department of Defense, who shall be appointed by the Secretary.

"(d) CHAIRPERSON.—The chairperson of the board of advisors shall be selected by the Secretary.

"(e) MEETINGS.—The board of advisors shall meet not less than once each fiscal quarter and may meet at other times at the call of the chairperson or a majority of its members.

"(f) REPORTS.—Not later than September 30 of each year through September 30, 2026, the board of advisors shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that summarizes the activities of the board over the preceding year.

"(g) DEFINITIONS.—In this section:

"(1) The term 'artificial intelligence' has the meaning given that term in section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2358 note [now 10 U.S.C. 4061 note prec.]).

"(2) The term 'Secretary' means the Secretary of Defense."

## STEERING COMMITTEE ON EMERGING TECHNOLOGY

Pub. L. 116–283, div. A, title II, §236, Jan. 1, 2021, 134 Stat. 3485, as amended by Pub. L. 117–81, div. A, title II, §216, Dec. 27, 2021, 135 Stat. 1595, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense and the Director of National Intelligence may jointly establish a steering committee on emerging technology and national security threats (referred to in this section as the 'Steering Committee').

"(b) MEMBERSHIP.—The Steering Committee shall be composed of the following:

"(1) The Deputy Secretary of Defense.

"(2) The Vice Chairman of the Joint Chiefs of Staff.

"(3) The Principal Deputy Director of National Intelligence.

"(4) Such other officials of the Department of Defense and intelligence community as the Secretary of Defense and the Director of National Intelligence jointly determine appropriate.

"(c) LEADERSHIP.—The Steering Committee shall be chaired by the Deputy Secretary of Defense, the Vice Chairman of the Joint Chiefs of Staff, and the Principal Deputy Director of National Intelligence jointly.

"(d) RESPONSIBILITIES.—The Steering Committee shall be responsible for—

"(1) developing strategies for the organizational change, concept and capability development, and technology investments in emerging technologies that are needed to maintain the technological superiority of the United States military and intelligence community as outlined in the National Defense Strategy and National Intelligence Strategy, and consistent with the National Security Strategy;

"(2) providing assessments of emerging threats and identifying investments and advances in emerging technology areas undertaken by adversaries of the United States;

"(3) making recommendations to the Secretary of Defense and the Director of National Intelligence on—

"(A) the implementation of the strategies developed under paragraph (1);

"(B) steps that may be taken to address the threats identified under paragraph (2);

"(C) any changes to a program of record that may be required to achieve the strategy under paragraph (1);

"(D) any changes to the Defense Planning Guidance required by section 113(g)(2)(A) of title 10, United States Code, that may be required to achieve the strategy under paragraph (1);

"(E) any changes to the guidance for developing the National Intelligence Program budget required by section 102A(c)(1)(A) of the National Security Act of 1947 (50 U.S.C. 3024(c)(1)(A)), that may be required to implement the strategies under paragraph (1); and

"(F) whether sufficient resources are available for the research activities, workforce, and infrastructure of the Department of Defense and the intelligence community to support the development of capabilities to defeat emerging threats to the United States; and

"(4) carrying out such other activities as are assigned to the Steering Committee by the Secretary of Defense and Director of National Intelligence, jointly.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emerging technology' means technology jointly determined to be in an emerging phase of development by the Secretary of Defense and the Director of National Intelligence, including quantum information science and technology, data analytics, artificial intelligence, autonomous technology, advanced materials, software, high performance computing, robotics, directed energy, hypersonics, biotechnology, medical technologies, and such other technology as may be jointly identified by the Secretary and the Director.

"(2) The term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

"(f) SUNSET.—This section shall terminate on October 1, 2025."

## PART-TIME AND TERM EMPLOYMENT OF UNIVERSITY FACULTY AND STUDENTS IN THE DEFENSE SCIENCE AND TECHNOLOGY ENTERPRISE

Pub. L. 116–283, div. A, title II, §249, Jan. 1, 2021, 134 Stat. 3493, as amended by Pub. L. 117–81, div. A, title II, §§212(c)(3), 215(d)(11), Dec. 27, 2021, 135 Stat. 1588, 1594, provided that:

"(a) PROGRAM REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall establish a program under which opportunities for part-time and term employment are made available in the Defense science and technology enterprise for faculty and students of institutions of higher education for the purpose of enabling such faculty and students to carry out research projects in accordance with subsection (b).

"(b) RESEARCH PROJECTS.—

"(1) FACULTY.—A faculty member who is employed in position made available under subsection (a) shall, in the course of such employment, carry out a research project that—

"(A) relates to a topic in the field of science, technology, engineering, or mathematics; and

"(B) contributes to the objectives of the Department of Defense, as determined by the Secretary of Defense.

"(2) STUDENTS.—A student employed in position made available under subsection (a) shall assist a faculty member with a research project described in paragraph (1).

"(c) SELECTION OF PARTICIPANTS.—The Secretary of Defense, acting through the heads of participating organizations in the Defense science and technology enterprise, shall select individuals for participation in the program under subsection (a) as follows:

"(1) Faculty members shall be selected for participation on the basis of—

"(A) the academic credentials and research experience of the faculty member; and

"(B) the extent to which the research proposed to be carried out by the faculty member will contribute to the objectives of the Department of Defense.

"(2) Students shall be selected to assist with a research project under the program on the basis of—

"(A) the academic credentials and other qualifications of the student; and

"(B) the student's ability to fulfill the responsibilities assigned to the student as part of the project.

"(d) MINIMUM NUMBER OF POSITIONS.—

"(1) IN GENERAL.—During the first year of the program under subsection (a), the Secretary of Defense shall establish not fewer than 10 part-time or term positions for faculty.

"(2) ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING.—Of the positions established under paragraph (1), not fewer than five such positions shall be reserved for faculty who will conduct research in the area of artificial intelligence and machine learning.

"(e) AUTHORITIES.—In carrying out the program under subsection (a), the Secretary of Defense, or the head of an organization in the Defense science and technology enterprise, as applicable, may—

"(1) use any hiring authority available to the Secretary or the head of such organization, including—

"(A) any hiring authority available under a laboratory demonstration program, including the hiring authority provided under section 4121(b) of title 10, United States Code;

"(B) direct hiring authority under section 1599h of title 10, United States Code [now 10 U.S.C. 4092]; and

"(C) expert hiring authority under section 3109 of title 5, United States Code;

"(2) enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to enable the sharing of research and expertise with institutions of higher education and the private sector; and

"(3) pay referral bonuses to faculty or students participating in the program who identify—

"(A) students to assist in a research project under the program; or

"(B) students or recent graduates to participate in other programs in the Defense science and technology enterprise, including internships at Department of Defense laboratories and in the Pathways Program of the Department.

"(f) ANNUAL REPORTS.—

"(1) INITIAL REPORT.—Not later than 30 days after the conclusion of the first year of the program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the status of the program. The report shall include—

"(A) identification of the number of faculty and students employed under the program;

"(B) identification of the organizations in the Defense science and technology enterprise that employed such individuals; and

"(C) a description of the types of research conducted by such individuals.

"(2) SUBSEQUENT REPORTS.—Not later than 30 days after the conclusion of the second and third years of the program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the program. Each report shall include—

"(A) the information described in subparagraphs (A) through (C) of paragraph (1);

"(B) the results of any research projects conducted under the program; and

"(C) the number of students and recent graduates who, pursuant to a reference from a faculty member or student participating in the program as described in subsection (e)(3), were hired by the Department of Defense or selected for participation in another program in the Defense science and technology enterprise.

"(g) DEFINITIONS.—In this section:

"(1) The term 'Defense science and technology enterprise' means—

"(A) the research organizations of the military departments;

"(B) the science and technology reinvention laboratories (as designated under section 4121(b) of title 10, United States Code);

"(C) the facilities of the Major Range and Test Facility Base (as defined in section 2358a(g) of title 10, United States Code [now 10 U.S.C. 4091(f)]); and

"(D) the Defense Advanced Research Projects Agency.

"(2) The term 'faculty' means an individual who serves as a professor, researcher, or instructor at an institution of higher education.

"(3) The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

## ACQUISITION AUTHORITY OF THE SENIOR OFFICIAL WITH PRINCIPAL RESPONSIBILITY FOR ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING

Pub. L. 116–283, div. A, title VIII, §808, Jan. 1, 2021, 134 Stat. 3745, as amended by Pub. L. 117–263, div.

A, title II, §212(i), Dec. 23, 2022, 136 Stat. 2469; Pub. L. 118–31, div. A, title XV, §1541, Dec. 22, 2023, 137 Stat. 572, provided that:

"(a) AUTHORITY.—The Secretary of Defense shall delegate to the official designated under subsection (b) of section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) (referred to in this section as the 'Official') the acquisition authority to exercise the functions of a head of an agency (as defined in section 2302 of title 10, United States Code [see 10 U.S.C. 3004]) with respect to appropriate acquisition activities of the office of such official (referred to in this section as the 'Office').

"(b) ACQUISITION EXECUTIVE.—

"(1) IN GENERAL.—The staff of the Official shall include an acquisition executive who shall be responsible for the supervision of appropriate acquisition activities under subsection (a). Subject to the authority, direction, and control of such Official, the acquisition executive shall have the authority—

"(A) to negotiate memoranda of agreement with any element of the Department of Defense to carry out the acquisition of technologies, services, and capabilities developed or identified by the Office;

"(B) to supervise the acquisition of technologies, services, and capabilities to support the mission of the Office;

"(C) to represent the Office in discussions with the Secretaries concerned regarding acquisition programs relating to such appropriate acquisition activities for which the Office is involved; and

"(D) to work with the Secretaries concerned to ensure that the Office is appropriately represented in any joint working group or integrated product team regarding acquisition programs relating to such appropriate activities for which the Office is involved.

"(2) DELIVERY OF ACQUISITION SOLUTIONS.—The acquisition executive of the Office shall be—

"(A) responsible to the Official for rapidly delivering capabilities to meet validated requirements;

"(B) subordinate to the Under Secretary of Defense for Acquisition and Sustainment in matters of acquisition; and

"(C) included on the distribution list for acquisition directives and instructions of the Department of Defense.

"(c) ACQUISITION PERSONNEL.—

"(1) IN GENERAL.—The Secretary of Defense shall ensure that, at any given time for the duration of the period specified in subsection (d), the Office has at least 10 full-time employees provided by the Secretary to support the Official in carrying out the requirements of this section, including personnel with experience in—

"(A) acquisition practices and processes;

"(B) the Joint Capabilities Integration and Development System process;

"(C) program management;

"(D) software development and systems engineering; and

"(E) cost analysis.

"(2) EXISTING PERSONNEL.—The personnel provided under this subsection shall be provided from among the existing personnel of the Department of Defense.

"(d) FUNDING.—In exercising the acquisition authority granted in subsection (a), the Official may not obligate or expend more than $75,000,000 out of the funds made available in each of fiscal years 2024 through 2029 to enter into new contracts to support appropriate acquisition activities carried out under this section.

"(e) IMPLEMENTATION PLAN AND DEMONSTRATION REQUIRED.—

"(1) IN GENERAL.—

"(A) PLAN REQUIRED.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the delegation and exercise of the acquisition authority described in subsection (a).

"(B) DEMONSTRATION REQUIRED.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, the Secretary of Defense, acting through the Chief Digital and Artificial Intelligence Officer of the Department of Defense, shall provide a demonstration of operational capability delivered under such authority. In addition to the matters specified in paragraph (4), such demonstration shall include a description of—

"(i) how the Chief Digital and Artificial Intelligence Officer may use the acquisition

authorities available to the Chief Digital and Artificial Intelligence Officer to further the data and artificial intelligence objectives of the Department of Defense, including an inventory of requirements and funding associated with the exercise of such acquisition authorities;

"(ii) how the Chief Digital and Artificial Intelligence Officer may use the acquisition authorities of other Federal entities to further such objectives, including an inventory of requirements and funding associated with the exercise of such acquisition authorities; and

"(iii) the challenges and benefits of using the acquisition authorities described in clauses (i) and (ii), respectively, to further such objectives.

"(2) IMPLEMENTATION PLAN.—The plan shall include the following:

"(A) Description of the types of activities to be undertaken using the acquisition authority provided under subsection (a).

"(B) Plan for the negotiation and approval of any such memorandum of agreement with an element of the Department of Defense to support the missions of the Office and transition of artificial intelligence capabilities into appropriate acquisition programs or into operational use.

"(C) Plan for oversight of the position of acquisition executive established in subsection (b).

"(D) Assessment of the acquisition workforce, tools, and infrastructure needs of the Office to support the authority under subsection (a) until September 30, 2025.

"(E) Other matters as appropriate.

"(3) DEMONSTRATION.—The capability demonstration shall include a description of how the acquisition authority enabled the capability, how requirements were established and agreed upon, how testing was conducted, and how the capability was transitioned to the user, as well as any other matters deemed appropriate by the Office.

"(4) RELATIONSHIP TO OTHER AUTHORITIES.—The requirement to submit a plan under this subsection is in addition to the requirements under section 260 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1293).

"(f) SUNSET.—Effective October 1, 2029, the Official may not exercise the authority under subsection (a) and may not enter into any new contracts under this section. The performance on any contract entered into before such date may continue according to the terms of such contract.

"(g) DEFINITIONS.—In this section:

"(1) ELEMENT.—The term 'element' means an element described under section 111(b) of title 10, United States Code.

"(2) SECRETARY CONCERNED.—The term 'Secretary concerned' has the meaning given in section 101[(a)](9) of title 10, United States Code."

## DIRECT AIR CAPTURE AND BLUE CARBON REMOVAL TECHNOLOGY PROGRAM

Pub. L. 116–92, div. A, title II, §223, Dec. 20, 2019, 133 Stat. 1264, as amended by Pub. L. 117–81, div. A, title II, §§212(c)(2), 215(d)(8), Dec. 27, 2021, 135 Stat. 1588, 1594, provided that:

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Homeland Security, the Secretary of Energy, and the heads of such other Federal agencies as the Secretary of Defense considers appropriate, shall carry out a program on research, development, testing, evaluation, study, and demonstration of technologies related to blue carbon capture and direct air capture.

"(2) PROGRAM GOALS.—The goals of the program established under paragraph (1) are as follows:

"(A) To develop technologies that capture carbon dioxide from seawater and the air to turn such carbon dioxide into clean fuels to enhance fuel and energy security.

"(B) To develop and demonstrate technologies that capture carbon dioxide from seawater and the air to reuse such carbon dioxide to create products for military uses.

"(C) To develop direct air capture technologies for use—

"(i) at military installations or facilities of the Department of Defense; or

"(ii) in modes of transportation by the Navy or the Coast Guard.

"(3) PHASES.—The program established under paragraph (1) shall be carried out in two phases as follows:

"(A) The first phase shall consist of research and development and shall be carried out as described in subsection (b).

"(B) The second phase shall consist of testing and evaluation and shall be carried out as described in subsection (c), if the Secretary determines that the results of the research and development phase justify implementing the testing and evaluation phase.

"(4) DESIGNATION.—The program established under paragraph (1) shall be known as the 'Direct Air

Capture and Blue Carbon Removal Technology Program' (in this section referred to as the 'Program').

"(b) RESEARCH AND DEVELOPMENT PHASE.—

"(1) IN GENERAL.—During the research and development phase of the Program, the Secretary of Defense shall conduct research and development in pursuit of the goals set forth in subsection (a)(2).

"(2) DIRECT AIR CAPTURE.—The research and development phase of the Program may include, with respect to direct air capture, a front end engineering and design study that includes an evaluation of direct air capture designs to produce fuel for use—

"(A) at military installations or facilities of the Department of Defense; or

"(B) in modes of transportation by the Navy or the Coast Guard.

"(3) COMMENCEMENT.—The Secretary shall commence carrying out the research and development phase of the Program not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019].

"(4) GRANTS AUTHORIZED.—The Secretary may carry out the research and development phase of the Program through the award of grants to private persons and eligible laboratories.

"(5) REPORT REQUIRED.—Not later than 180 days after the date of the completion of the research and development phase of the Program, the Secretary shall submit to Congress a report on the research and development carried out under the Program.

"(c) TESTING AND EVALUATION PHASE.—

"(1) IN GENERAL.—During the testing and evaluation phase of the Program, the Secretary shall, in pursuit of the goals set forth in subsection (a)(2), conduct tests and evaluations of the technologies researched and developed during the research and development phase of the Program.

"(2) DIRECT AIR CAPTURE.—The testing and evaluation phase of the Program may include demonstration projects for direct air capture to produce fuels for use—

"(A) at military installations or facilities of the Department of Defense; or

"(B) in modes of transportation by the Navy or the Coast Guard.

"(3) COMMENCEMENT.—Subject to subsection (a)(3)(B), the Secretary shall commence carrying out the testing and evaluation phase of the Program on the date of the completion of the research and development phase described in subsection (b), except that the testing and evaluation phase of the Program with respect to direct air capture may commence at such time after a front end engineering and design study demonstrates to the Secretary that commencement of such phase is appropriate.

"(4) GRANTS AUTHORIZED.—The Secretary may carry out the testing and evaluation phase of the Program through the award of grants to private persons and eligible laboratories.

"(5) LOCATIONS.—The Secretary shall carry out the testing and evaluation phase of the Program at military installations or facilities of the Department of Defense.

"(6) REPORT REQUIRED.—Not later than September 30, 2026, the Secretary shall submit to Congress a report on the findings of the Secretary with respect to the effectiveness of the technologies tested and evaluated under the Program.

"(d) DEFINITIONS.—In this section:

"(1) The term 'blue carbon capture' means the removal of dissolved carbon dioxide from seawater through engineered or inorganic processes, including filters, membranes, or phase change systems.

"(2)(A) The term 'direct air capture', with respect to a facility, technology, or system, means that the facility, technology, or system uses carbon capture equipment to capture carbon dioxide directly from the air.

"(B) The term 'direct air capture' does not include any facility, technology, or system that captures carbon dioxide—

"(i) that is deliberately released from a naturally occurring subsurface spring; or

"(ii) using natural photosynthesis.

"(3) The term 'eligible laboratory' means—

"(A) a National Laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801));

"(B) a science and technology reinvention laboratory designated under section 4121(b) of title 10, United States Code;

"(C) the Major Range and Test Facility Base (as defined in section 2358a(g) of title 10, United States Code [now 10 U.S.C. 4091(f)]); or

"(D) any other facility that supports the research, development, test, and evaluation activities of the Department of Defense or the Department of Energy."

## RESEARCH PROGRAM ON FOREIGN MALIGN INFLUENCE OPERATIONS

Pub. L. 116–92, div. A, title II, §228, Dec. 20, 2019, 133 Stat. 1271, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, may carry out a research program on foreign malign influence operations as part of the university research programs of the Department of Defense.

"(b) PROGRAM OBJECTIVES.—The objectives of a research program carried out under subsection (a) should include the following:

"(1) Enhance the understanding of foreign malign influence operations, including activities conducted on social media platforms.

"(2) Facilitate the analysis of publicly available or voluntarily provided indicators of foreign malign influence operations.

"(3) Promote collaborative research and information exchange with relevant entities within the Department of Defense and with other agencies or nongovernmental organizations relating to foreign malign influence operations, as appropriate.

"(c) NOTICE TO CONGRESS.—Not later than 30 days before initiating a research program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of the intent of the Secretary to initiate such a program, which shall include—

"(1) a detailed description of the program and any related research activities;

"(2) the estimated cost and duration of the program; and

"(3) any other matters the Secretary determines to be relevant."

## DIVERSIFICATION OF THE RESEARCH AND ENGINEERING WORKFORCE OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title II, §229, Dec. 20, 2019, 133 Stat. 1271, provided that:

"(a) ASSESSMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and in consultation with the Under Secretary of Defense for Personnel and Readiness, shall conduct an assessment of critical skillsets required across, and the diversity of, the research and engineering workforce of the Department of Defense, including the science and technology reinvention laboratories, to support emerging and future warfighter technologies.

"(2) ELEMENTS.—The assessment required by paragraph (1) shall include analysis of the following:

"(A) The percentage of women and minorities employed in the research and engineering workforce of the Department of Defense as of the date of the assessment.

"(B) Of the individuals hired into the research and engineering workforce of the Department in the five years preceding the date of the assessment, the percentage of such individuals who are women and minorities.

"(C) The effectiveness of existing hiring, recruitment, and retention incentives for women and minorities in the research and engineering workforce of the Department.

"(D) The effectiveness of the Department in recruiting women and minorities into the laboratory workforce after such individuals complete work on Department-funded research, projects, grant projects, fellowships, and STEM programs.

"(E) The geographical diversity of the workforce across various geographic regions.

"(b) PLAN REQUIRED.—

"(1) IN GENERAL.—Based on the results of the assessment conducted under subsection (a), the Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and in consultation with the Secretaries of the military departments, shall develop and implement a plan to diversify and strengthen the research and engineering workforce of the Department of Defense.

"(2) ELEMENTS.—The plan required by paragraph (1) shall—

"(A) align with science and technology strategy priorities of the Department of Defense, including the emerging and future warfighter technology requirements identified by the Department;

"(B) except as provided in subsection (c)(2), set forth steps for the implementation of each recommendation included in the 2013 report of the RAND corporation titled 'First Steps Toward Improving DoD STEM Workforce Diversity';

"(C) harness the full range of the Department's STEM programs and other Department sponsored programs to develop and attract top talent;

"(D) use existing authorities to attract and retain students, academics, and other talent;

"(E) establish and use contracts, agreements, or other arrangements with institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), including historically black colleges and universities and other minority-serving institutions (as described in section

371(a) of such Act (20 U.S.C. 1067q(a)) to enable easy and efficient access to research and researchers for Government sponsored basic and applied research and studies at each institution, including contracts, agreements, and other authorized arrangements such as those authorized under—

"(i) section 217 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2358 note [now 10 U.S.C. 4001 note, set out below]); and

"(ii) such other authorities as the Secretary determines to be appropriate; and

"(F) include recommendations for changes in authorities, regulations, policies, or any other relevant areas that would support the achievement of the goals set forth in the plan.

"(3) SUBMITTAL TO CONGRESS.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(A) the plan developed under paragraph (1); and

"(B) with respect to each recommendation described in paragraph (2)(B) that the Secretary has implemented or expects to implement—

"(i) a summary of actions that have been taken to implement the recommendation; and

"(ii) a schedule, with specific milestones, for completing the implementation of the recommendation.

"(c) DEADLINE FOR IMPLEMENTATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 18 months after the date of the enactment of this Act the Secretary of Defense shall carry out activities to implement the plan developed under subsection (b).

"(2) EXCEPTION FOR IMPLEMENTATION OF CERTAIN RECOMMENDATIONS.—

"(A) DELAYED IMPLEMENTATION.—The Secretary of Defense may commence implementation of a recommendation described in subsection (b)(2)(B) after the date specified in paragraph (1) if the Secretary provides the congressional defense committees with a specific justification for the delay in implementation of such recommendation on or before such date.

"(B) NONIMPLEMENTATION.—The Secretary of Defense may opt not to implement a recommendation described in subsection (b)(2)(B) if the Secretary provides to the congressional defense committees, on or before the date specified in paragraph (1)—

"(i) a specific justification for the decision not to implement the recommendation; and

"(ii) a summary of the alternative actions the Secretary plans to take to address the issues underlying the recommendation.

"(d) STEM DEFINED.—In this section, the term 'STEM' means science, technology, engineering, and mathematics."

## PROCESS TO ALIGN POLICY FORMULATION AND EMERGING TECHNOLOGY DEVELOPMENT

Pub. L. 116–92, div. A, title II, §232, Dec. 20, 2019, 133 Stat. 1277, which required the Secretary of Defense to establish a process to ensure that the policies of the Department of Defense relating to emerging technology were formulated and updated continuously as such technology was developed, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(4)(A), Dec. 18, 2025, 139 Stat. 948.

## DEPARTMENT-WIDE SOFTWARE SCIENCE AND TECHNOLOGY STRATEGY

Pub. L. 116–92, div. A, title II, §255, Dec. 20, 2019, 133 Stat. 1288, as amended by Pub. L. 117–81, div. A, title II, §§212(c)(1), 215(d)(10), Dec. 27, 2021, 135 Stat. 1588, 1594, provided that:

"(a) DESIGNATION OF SENIOR OFFICIAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and in consultation with the Under Secretary of Defense for Acquisition and Sustainment and appropriate public and private sector organizations, shall designate a single official or existing entity within the Department of Defense as the official or entity (as the case may be) with principal responsibility for guiding the development of science and technology activities related to next generation software and software reliant systems for the Department, including—

"(1) research and development activities on new technologies for the creation of highly secure, scalable, reliable, time-sensitive, and mission-critical software;

"(2) research and development activities on new approaches and tools to software development and deployment, testing, integration, and next generation software management tools to support the rapid insertion of such software into defense systems;

"(3) foundational scientific research activities to support advances in software;

"(4) technical workforce and infrastructure to support defense science and technology and software needs and mission requirements;

"(5) providing capabilities, including technologies, systems, and technical expertise to support improved acquisition of software reliant business and warfighting systems; and

"(6) providing capabilities, including technologies, systems, and technical expertise to support defense operational missions which are reliant on software.

"(b) DEVELOPMENT OF STRATEGY.—The official or entity designated under subsection (a) shall develop a Department-wide strategy for the research and development of next generation software and software reliant systems for the Department of Defense, including strategies for—

"(1) types of software-related activities within the science and technology portfolio of the Department;

"(2) investment in new approaches to software development and deployment, and next generation management tools;

"(3) ongoing research and other support of academic, commercial, and development community efforts to innovate the software development, engineering, and testing process, automated testing, assurance and certification for safety and mission critical systems, large scale deployment, and sustainment;

"(4) to the extent practicable, implementing or continuing the implementation of the recommendations set forth in—

"(A) the final report of the Defense Innovation Board submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] under section 872 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat. 1497);

"(B) the final report of the Defense Science Board Task Force on the Design and Acquisition of Software for Defense Systems described in section 868 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2223[a] note [now 10 U.S.C. 3603 note]); and

"(C) other relevant studies on software research, development, and acquisition activities of the Department of Defense.

"(5) supporting the acquisition, technology development, testing, assurance, and certification and operational needs of the Department through the development of capabilities, including personnel and research and production infrastructure, and programs in—

"(A) the science and technology reinvention laboratories (as designated under section 4121(b) of title 10, United States Code);

"(B) the facilities of the Major Range and Test Facility Base (as defined in section 2358a(g) of title 10, United States Code [now 10 U.S.C. 4091(f)]);

"(C) the Defense Advanced Research Projects Agency; and

"(D) universities, federally funded research and development centers, and service organizations with activities in software engineering; and

"(6) the transition of relevant capabilities and technologies to relevant programs of the Department, including software-reliant cyber-physical systems, tactical systems, enterprise systems, and business systems.

"(c) SUBMITTAL TO CONGRESS.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the official or entity designated under subsection (a) shall submit to the congressional defense committees the strategy developed under subsection (b)."

## PROCEDURES FOR RAPID REACTION TO EMERGING TECHNOLOGY

Pub. L. 115–232, div. A, title II, §225, Aug. 13, 2018, 132 Stat. 1684, provided that:

"(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Under Secretary of Defense for Research and Engineering shall prescribe procedures for the designation and development of technologies that are—

"(1) urgently needed—

"(A) to react to a technological development of an adversary of the United States; or

"(B) to respond to a significant and urgent emerging technology; and

"(2) not receiving appropriate research funding or attention from the Department of Defense.

"(b) ELEMENTS.—The procedures prescribed under subsection (a) shall include the following:

"(1) A process for streamlined communications between the Under Secretary, the Joint Chiefs of Staff, the commanders of the combatant commands, the science and technology executives within each military department, and the science and technology community, including—

"(A) a process for the commanders of the combatant commands and the Joint Chiefs of Staff to

communicate their needs to the science and technology community; and

"(B) a process for the science and technology community to propose technologies that meet the needs communicated by the combatant commands and the Joint Chiefs of Staff.

"(2) Procedures for the development of technologies proposed pursuant to paragraph (1)(B), including—

"(A) a process for demonstrating performance of the proposed technologies on a short timeline;

"(B) a process for developing a development strategy for a technology, including integration into future budget years; and

"(C) a process for making investment determinations based on information obtained pursuant to subparagraphs (A) and (B).

"(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the procedures required by subsection (a)."

## HUMAN FACTORS MODELING AND SIMULATION ACTIVITIES

Pub. L. 115–232, div. A, title II, §227, Aug. 13, 2018, 132 Stat. 1687, provided that:

"(a) ACTIVITIES REQUIRED.—The Secretary of Defense shall develop and provide for the carrying out of human factors modeling and simulation activities designed to do the following:

"(1) Provide warfighters and civilians with personalized assessment, education, and training tools.

"(2) Identify and implement effective ways to interface and team warfighters with machines.

"(3) Result in the use of intelligent, adaptive augmentation to enhance decision making.

"(4) Result in the development of techniques, technologies, and practices to mitigate critical stressors that impede warfighter and civilian protection, sustainment, and performance.

"(b) PURPOSE.—The overall purpose of the activities shall be to accelerate research and development that enhances capabilities for human performance, human-systems integration, and training for the warfighter.

"(c) PARTICIPANTS IN ACTIVITIES.—Participants in the activities may include the following:

"(1) Elements of the Department of Defense engaged in science and technology activities.

"(2) Program Executive Offices of the Department.

"(3) Academia.

"(4) The private sector.

"(5) Such other participants as the Secretary considers appropriate."

## DEFENSE QUANTUM INFORMATION SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 115–232, div. A, title II, §234, Aug. 13, 2018, 132 Stat. 1692, as amended by Pub. L. 116–92, div. A, title II, §220, Dec. 20, 2019, 133 Stat. 1260; Pub. L. 116–283, div. A, title II, §214, Jan. 1, 2021, 134 Stat. 3458; Pub. L. 118–31, div. A, title II, §219, Dec. 22, 2023, 137 Stat. 188, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a quantum information science and technology research and development program.

"(b) PURPOSES.—The purposes of the program required by subsection (a) are as follows:

"(1) To ensure global superiority of the United States in quantum information science necessary for meeting national security requirements.

"(2) To coordinate all quantum information science and technology research and development within the Department of Defense and to provide for interagency cooperation and collaboration on quantum information science and technology research and development between the Department of Defense and other departments and agencies of the United States and appropriate private sector and international entities that are involved in quantum information science and technology research and development.

"(3) To develop and manage a portfolio of fundamental and applied quantum information science and technology and engineering research initiatives that is stable, consistent, and balanced across scientific disciplines.

"(4) To accelerate the transition and deployment of technologies and concepts derived from quantum information science and technology research and development into the Armed Forces, and to establish policies, procedures, and standards for measuring the success of such efforts.

"(5) To collect, synthesize, and disseminate critical information on quantum information science and technology research and development.

"(6) To establish and support appropriate research, innovation, and industrial base, including facilities, workforce, and infrastructure, to support the needs of Department of Defense missions and systems related to quantum information science and technology.

"(c) ADMINISTRATION.—In carrying out the program required by subsection (a), the Secretary shall act

through the Under Secretary of Defense for Research and Engineering, who shall supervise the planning, management, and coordination of the program. The Under Secretary, in consultation with the Secretaries of the military departments and the heads of participating Defense Agencies and other departments and agencies of the United States, shall—

"(1) prescribe a set of long-term challenges and a set of specific technical goals for the program, including—

"(A) optimization of analysis of national security data sets;

"(B) development of defense related quantum computing algorithms;

"(C) design of new materials and molecular functions;

"(D) secure communications and cryptography, including development of quantum communications protocols;

"(E) quantum sensing and metrology;

"(F) development of mathematics relating to quantum enhancements to sensing, communications, and computing; and

"(G) processing and manufacturing of low-cost, robust, and reliable quantum information science and technology-enabled devices and systems;

"(2) develop a coordinated and integrated research and investment plan for meeting the near-, mid-, and long-term challenges with definitive milestones while achieving the specific technical goals that builds upon the Department's increased investment in quantum information science and technology research and development, commercial sector and global investments, and other United States Government investments in the quantum information sciences, including through consultation with—

"(A) the National Quantum Coordination Office;

"(B) the subcommittee on Quantum Information Science of the National Science and Technology Council;

"(C) other organizations and elements of the Department of Defense;

"(D) other Federal agencies; and

"(E) appropriate private sector organizations;

"(3) in consultation with the entities listed in paragraph (2), develop plans for—

"(A) the development of the quantum information science and technology workforce;

"(B) enhancing awareness of quantum information science and technology;

"(C) reducing the risk of cybersecurity threats posed by quantum information science technology; and

"(D) development of ethical guidelines for the use of quantum information science technology;

"(4) in consultation with the National Institute of Standards and Technology and other appropriate Federal entities, develop a quantum information science taxonomy and standards and requirements for quantum information technology;

"(5) support efforts to increase the technology readiness level of quantum information science technologies under development in the United States;

"(6) not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], develop and continuously update guidance, including classification and data management plans for defense-related quantum information science and technology activities, and policies for control of personnel participating on such activities to minimize the effects of loss of intellectual property in basic and applied quantum information science and information considered sensitive to the leadership of the United States in the field of quantum information science and technology; and

"(7) develop memoranda of agreement, joint funding agreements, and other cooperative arrangements necessary for carrying out the program under subsection (a).

"(d) QUANTUM INFORMATION SCIENCE RESEARCH CENTERS.—The Secretary of each military department may establish or designate a defense laboratory or establish activities to engage with appropriate public and private sector organizations, including academic organizations, to enhance and accelerate the research, development, and deployment of quantum information sciences and quantum information science-enabled technologies and systems. The Secretary of Defense shall ensure that not less than one such laboratory or center is established or designated.

"(e) USE OF QUANTUM COMPUTING CAPABILITIES.—The Secretary of each military department shall—

"(1) develop and annually update a list of technical problems and research challenges which are likely to be addressable by quantum computers available for use within in the next one to three years, with a

priority for technical problems and challenges where quantum computing systems have performance advantages over traditional computing systems, in order to enhance the capabilities of such quantum computers and support the addressing of relevant technical problems and research challenges; and

"(2) establish programs and enter into agreements with appropriate medium and small businesses with functional quantum computing capabilities to provide such private sector capabilities to government, industry, and academic researchers working on relevant technical problems and research activities.

"(f) FELLOWSHIPS.—

"(1) PROGRAM AUTHORIZED.—In carrying out the program under subsection (a) and subject to the availability of appropriations to carry out this subsection, the Secretary may carry out a program of fellowships in quantum information science and technology research and development for individuals who have a graduate or postgraduate degree.

"(2) EQUAL ACCESS.—In carrying out the program under paragraph (1), the Secretary may establish procedures to ensure that minority, geographically diverse, and economically disadvantaged students have equal access to fellowship opportunities under such program.

"(g) MULTIDISCIPLINARY PARTNERSHIPS WITH UNIVERSITIES.—In carrying out the program under subsection (a), the Secretary of Defense may develop partnerships with universities to enable students to engage in multidisciplinary courses of study.

"(h) REPORT.—

"(1) IN GENERAL.—Not later than December 31, 2020, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the program, in both classified and unclassified format.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

"(A) A description of the knowledge-base of the Department with respect to quantum information sciences, plans to defend against quantum based attacks, and any plans of the Secretary to enhance such knowledge-base.

"(B) A plan that describes how the Secretary intends to use quantum information sciences for military applications and to meet other needs of the Department, including a discussion of likely impacts of quantum information science and technology on military capabilities.

"(C) An assessment of the efforts of foreign powers to use quantum information sciences for military applications and other purposes.

"(D) A description of the activities carried out in accordance with this section, including, for each such activity—

"(i) a roadmap for the activity;

"(ii) a summary of the funding provided for the activity; and

"(iii) an estimated timeline for the development and military deployment of quantum technologies supported through the activity.

"(E) A description of the efforts of the Department of Defense to update classification and cybersecurity practices relating to quantum technology, including—

"(i) security processes and requirements for engagement with allied countries; and

"(ii) a plan for security-cleared government and contractor workforce development.

"(F) Such other matters as the Secretary considers appropriate."

## INITIATIVE TO SUPPORT PROTECTION OF NATIONAL SECURITY ACADEMIC RESEARCHERS FROM UNDUE INFLUENCE AND OTHER SECURITY THREATS

Pub. L. 118–31, div. A, title XII, §1224(b), Dec. 22, 2023, 137 Stat. 455, provided that: "The Secretary of Defense shall develop the policies required by paragraph (7) of section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 [Pub. L. 115–232] (10 U.S.C. 4001 note), as added by subsection (a)(1)(B), by not later than June 1, 2024."

Pub. L. 115–232, div. A, title XII, §1286, Aug. 13, 2018, 132 Stat. 2078, as amended by Pub. L. 116–92, div. A, title XII, §1281, Dec. 20, 2019, 133 Stat. 1704; Pub. L. 116–283, div. A, title X, §1081(d)(6), title XII, §1299C, Jan. 1, 2021, 134 Stat. 3874, 3999; Pub. L. 118–31, div. A, title XII, §§1223(a), 1224(a), Dec. 22, 2023, 137 Stat. 453, 454; Pub. L. 118–159, div. A, title II, §226, Dec. 23, 2024, 138 Stat. 1831, provided that:

"(a) INITIATIVE REQUIRED.—The Secretary of Defense shall, in consultation with other appropriate government organizations, establish an initiative to work with institutions of higher education who perform defense research and engineering activities—

"(1) to support protection of intellectual property, controlled information, key personnel, and information about critical technologies relevant to national security;

"(2) to limit undue influence, including through foreign talent programs, by countries to exploit United

States technology within the Department of Defense research, science and technology, and innovation enterprise;

"(3) to limit academic institutions identified on the list developed under subsection (c)(8)(A) [now (c)(9)(A)] from benefitting from funding provided by the Department of Defense to United States academic institutions; and

"(4) to support efforts toward development of domestic talent in relevant scientific and engineering fields.

"(b) INSTITUTIONS AND ORGANIZATIONS.—The initiative required by subsection (a) shall be developed and executed to the maximum extent practicable with academic research institutions and other educational and research organizations.

"(c) REQUIREMENTS.—The initiative required by subsection (a) shall include development of the following:

"(1) Information exchange forum and information repositories to enable awareness of security threats and influence operations being executed against the United States research, technology, and innovation enterprise.

"(2) Training developed and delivered in consultation with institutions of higher education and appropriate Government agencies, and other support to institutions of higher education, to promote security and limit undue influence on institutions of higher education and personnel, including Department of Defense financial support to carry out such activities, that—

"(A) emphasizes best practices for protection of sensitive national security information;

"(B) includes the dissemination of unclassified materials and resources for identifying and protecting against emerging threats to institutions of higher education, including specific counterintelligence information and advice developed specifically for faculty and academic researchers based on actual identified threats; and

"(C) includes requirements for appropriate senior officials of institutions of higher education to receive from appropriate Government agencies updated and periodic briefings that describe the espionage risks to academic institutions and associated personnel posed by technical intelligence gathering activities of near-peer strategic competitors.

"(3) The capacity of Government agencies and institutions of higher education to assess whether individuals affiliated with Department of Defense programs have participated in or are currently participating in foreign talent programs or expert recruitment programs.

"(4) Opportunities to collaborate with defense researchers and research organizations in secure facilities to promote protection of critical information and strengthen defense against foreign intelligence services.

"(5) Regulations and procedures—

"(A) for Government agencies and academic organizations and personnel to support the goals of the initiative; and

"(B) that are consistent with policies that protect open and scientific exchange in fundamental research.

"(6) Policies to limit or prohibit funding provided by the Department of Defense for institutions or individual researchers who knowingly violate regulations developed under the initiative, including regulations relating to foreign talent programs.

"(7) Policies to limit or prohibit funding provided by the Department of Defense for institutions or individual researchers who knowingly contract or make other financial arrangements with entities identified in the list described in paragraph (9), which policies shall include—

"(A) use of such list as part of a risk assessment decision matrix during proposal evaluations, including the development of a question for proposers or broad area announcements that require proposers to disclose any contractual or financial connections with such entities;

"(B) a requirement that the Department shall notify a proposer of suspected noncompliance with a policy issued under this paragraph and provide not less than 30 days to take actions to remedy such noncompliance;

"(C) the establishment of an appeals procedure under which a proposer may appeal a negative decision on a proposal if the decision is based on a determination informed by such list;

"(D) a requirement that each awardee of funding provided by the Department shall disclose to the Department any contract or financial arrangement made with such an entity during the period of the award; and

"(E) a requirement that each awardee of funding provided by the Department shall provide to the Department an annual certification of compliance with policies promulgated pursuant to this paragraph;

[sic; the semicolon probably should be a period]

"(8) Initiatives to support the transition of the results of institution of higher education research programs into defense capabilities.

"(9)(A) A list of academic institutions of the People's Republic of China, the Russian Federation, and other countries that—

"(i) have a history of improper technology transfer, intellectual property theft, or cyber or human espionage;

"(ii) operate under the direction of the military forces or intelligence agency of the applicable country;

"(iii) are known—

"(I) to recruit foreign individuals for the purpose of transferring knowledge to advance military or intelligence efforts; or

"(II) to provide misleading information or otherwise attempt to conceal the connections of an individual or institution to a defense or an intelligence agency of the applicable country; or

"(iv) pose a serious risk of improper technology transfer of data, technology, or research that is not published or publicly available.

"(B) The list described in subparagraph (A) shall be developed and continuously updated in consultation with the Bureau of Industry and Security of the Department of Commerce, the Director of National Intelligence, United States institutions of higher education that conduct significant Department of Defense research or engineering activities, and other appropriate individuals and organizations.

"(10)(A) A list, developed and continuously updated in consultation with the National Academies of Science, Engineering, and Medicine and the appropriate Government agencies, of foreign talent programs that pose a threat to the national security interests of the United States, as determined by the Secretary.

"(B) In developing and updating such list, the Secretary shall consider—

"(i) the extent to which a foreign talent program—

"(I) poses a threat to research funded by the Department of Defense; and

"(II) engages in, or facilitates, cyber attacks, theft, espionage, attempts to gain ownership of or influence over companies, or otherwise interferes in the affairs of the United States; and

"(ii) any other factor the Secretary considers appropriate.

"(11) Development of measures of effectiveness and performance to assess and track progress of the Department of Defense across the initiative, which measures shall include—

"(A) the evaluation of currently available data to support the assessment of such measures, including the identification of areas in which gaps exist that may require collection of completely new data, or modifications to existing data sets;

"(B) current means and methods for the collection of data in an automated manner, including the identification of areas in which gaps exist that may require new means for data collection or visualization of such data; and

"(C) the development of an analysis and assessment methodology framework to make tradeoffs between the measures developed under this paragraph and other metrics related to assessing undue foreign influence on the Department of Defense research enterprise, such as commercial due diligence, beneficial ownership, and foreign ownership, control, and influence.

"(d) PROCEDURES FOR ENHANCED INFORMATION SHARING.—

"(1) COLLECTION OF INFORMATION.—

"(A) DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.—Not later than October 1, 2020, for the purpose of maintaining appropriate security controls over research activities, technical information, and intellectual property, the Secretary, in conjunction with appropriate public and private entities, shall establish streamlined procedures to collect appropriate information relating to individuals, including United States citizens and foreign nationals, who participate in defense research and development activities.

"(B) FUNDAMENTAL RESEARCH PROGRAMS.—With respect to fundamental research programs, the academic liaison designated under subsection (h) shall establish policies and procedures to collect, consistent with the best practices of Government agencies that fund academic research, appropriate information relating to individuals who participate in fundamental research programs.

"(2) PROTECTION FROM RELEASE.—The procedures required by paragraph (1) shall include procedures to protect such information from release, consistent with applicable regulations.

"(3) REPORTING TO GOVERNMENT INFORMATION SYSTEMS AND REPOSITORIES.—The procedures required by paragraph (1) may include procedures developed, in coordination with appropriate public and private entities, to report such information to existing Government information systems and

repositories.

"(e) ANNUAL REVIEWS REQUIRED.—Not later than March 30, 2025, and not later than March 30 of each year thereafter—

"(1) each head of a Department of Defense component that awards grants for research shall carry out a review of a representative sample of the research grants awarded by the respective component in the previous fiscal year to ensure that the component is awarding grants in compliance with the applicable policies of the Department of Defense; and

"(2) the Under Secretary of Defense for Research and Engineering shall carry out a separate review of a representative sample of the research grants awarded by such components in the previous fiscal year.

"(f) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than April 30, 2020, and annually thereafter, the Secretary, acting through appropriate Government officials (including the Under Secretary for Research and Engineering), shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the activities carried out under the initiative required by subsection (a) and on the periodic reviews conducted pursuant to subsection (e).

"(2) CONTENTS.—The report required by paragraph (1) shall include the following:

"(A) With respect to the activities carried out under the initiative required by subsection (a), the following:

"(i) A description of the activities conducted and the progress made under the initiative.

"(ii) The findings of the Secretary with respect to the initiative.

"(iii) Such recommendations as the Secretary may have for legislative or administrative action relating to the matters described in subsection (a), including actions related to foreign talent programs.

"(iv) Identification and discussion of the gaps in legal authorities that need to be improved to enhance the security of research institutions of higher education performing defense research.

"(v) A description of the actions taken by such institutions to comply with such best practices and guidelines as may be established by under the initiative.

"(vi) Identification of any incident relating to undue influence to security threats to academic research activities funded by the Department of Defense, including theft of property or intellectual property relating to a project funded by the Department at an institution of higher education.

"(vii) A description of the status of the measures of effectiveness and performance described in subsection (c)(11) for the period covered by such report, including an analytical assessment of the impact of such measures on the goals of the initiative.

"(B) With respect to the periodic reviews conducted pursuant to subsection (e), the following:

"(i) The total number of research grants awarded by the Department in the fiscal year covered by the reviews.

"(ii) The number of reviews carried out pursuant to subsection (e)(1).

"(iii) The number of reviews carried out pursuant to subsection (e)(2).

"(iv) A description of the processes by which the heads of the components described in paragraph (1) of subsection (e) and the Under Secretary of Defense for Research and Engineering conducted the reviews under such subsection.

"(v) An assessment of issues identified during the reviews carried out under subsection (e), including a list of grants that were identified as having not been awarded in compliance with applicable policies of the Department of Defense.

"(3) FORM.—The report submitted under paragraph (1) shall be submitted in both unclassified and classified formats, as appropriate.

"(g) PUBLICATION OF UPDATED LISTS.—

"(1) SUBMITTAL TO CONGRESS.—Not later than January 1, 2021, and annually thereafter, the Secretary shall submit to the congressional defense committees the most recently updated lists described in paragraphs (8) and (9) of subsection (c).

"(2) FORM.—Each list submitted under paragraph (1) shall be submitted in unclassified form but may include a classified annex.

"(3) PUBLIC AVAILABILITY.—Each list submitted under paragraph (1) shall be published on a publicly accessible internet website of the Department of Defense in a searchable format.

"(4) INTERVENING SUBMITTAL AND PUBLICATION.—The Secretary may submit and publish an updated list described in paragraph (1) more frequently than required by that paragraph, as the Secretary considers necessary.

"(h) DESIGNATION OF ACADEMIC LIAISON.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283; approved Jan. 1, 2021], the Secretary, acting through the Under Secretary of Defense for Research and Engineering, shall designate an academic liaison with principal responsibility for working with the academic and research communities to protect Department-sponsored academic research of concern from undue foreign influence and threats.

"(2) QUALIFICATION.—The Secretary shall designate an individual under paragraph (1) who is an official of the Office of the Under Secretary of Defense for Research and Engineering.

"(3) DUTIES.—The duties of the academic liaison designated under paragraph (1) shall be as follows:

"(A) To serve as the liaison of the Department with the academic and research communities.

"(B) To execute initiatives of the Department related to the protection of Department-sponsored academic research of concern from undue foreign influence and threats, including the initiative required by subsection (a).

"(C) To conduct outreach and education activities for the academic and research communities on undue foreign influence and threats to Department-sponsored academic research of concern.

"(D) To coordinate and align academic security policies with Department component agencies, the Office of Science and Technology Policy, the intelligence community, and appropriate Federal agencies.

"(E) To the extent practicable, to coordinate with the intelligence community to share, not less frequently than annually, with the academic and research communities unclassified information, including counterintelligence information, on threats from undue foreign influence.

"(F) Any other related responsibility, as determined by the Secretary in consultation with the Under Secretary of Defense for Research and Engineering.

"(i) INSTITUTION OF HIGHER EDUCATION DEFINED.—The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

## MECHANISMS FOR EXPEDITED ACCESS TO TECHNICAL TALENT AND EXPERTISE AT ACADEMIC INSTITUTIONS TO SUPPORT DEPARTMENT OF DEFENSE MISSIONS

Pub. L. 115–91, div. A, title II, §217, Dec. 12, 2017, 131 Stat. 1328, as amended by Pub. L. 115–232, div. A, title II, §§228, 236, Aug. 13, 2018, 132 Stat. 1687, 1694; Pub. L. 116–92, div. A, title II, §218, Dec. 20, 2019, 133 Stat. 1259; Pub. L. 116–283, div. A, title II, §244, Jan. 1, 2021, 134 Stat. 3488; Pub. L. 117–81, div. A, title II, §218, Dec. 27, 2021, 135 Stat. 1597, provided that:

"(a) ARRANGEMENTS AUTHORIZED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283; approved Jan. 1, 2021], the Secretary of Defense shall direct the secretaries of the military departments to establish not fewer than four multi-institution task order contracts, consortia, cooperative agreements, or other arrangements to facilitate expedited access to university technical expertise, including faculty, staff, and students, in support of Department of Defense missions in the areas specified in subsection (e).

"(2) COORDINATION.—In carrying out paragraph (1), the Secretary of Defense may act through the Defense Advanced Research Projects Agency or any other organization or element of the Department of Defense the Secretary considers appropriate.

"(3) USE FOR TECHNICAL ANALYSES AND ENGINEERING SUPPORT.—The Secretary may use an arrangement under paragraph (1) to fund technical analyses and other engineering support as required to address acquisition, management, training, and operational challenges, including support for classified programs and activities.

"(b) LIMITATION.—An arrangement established under subsection (a)(1) may not be used to fund research programs that can be executed through other Department of Defense basic research activities.

"(c) CONSULTATION WITH OTHER ORGANIZATIONS.—For the purposes of providing technical expertise and reducing costs and duplicative efforts, the Secretary of Defense and the Secretaries of the military departments shall work to ensure and support the sharing of information on the research and consulting that is being carried out across the Federal Government in Department-wide shared information systems including the Defense Technical Information Center.

"(d) POLICIES AND PROCEDURES.—If the Secretary of Defense or a secretary of a military department establishes one or more arrangements under subsection (a)(1), the Secretary of Defense shall establish and implement policies and procedures to govern—

"(1) selection of participants in the arrangement or arrangements;

"(2) the awarding of task orders under the arrangement or arrangements;

"(3) maximum award size for tasks under the arrangement or arrangements;

"(4) the appropriate use of competitive awards and sole source awards under the arrangement or arrangements; and

"(5) technical areas under the arrangement or arrangements.

"(e) MISSION AREAS.—The areas specified in this subsection are as follows:

"(1) Cybersecurity.

"(2) Air and ground vehicles.

"(3) Shipbuilding.

"(4) Explosives detection and defeat.

"(5) Undersea warfare.

"(6) Trusted electronics.

"(7) Unmanned systems.

"(8) Directed energy.

"(9) Energy, power, and propulsion.

"(10) Management science and operations research.

"(11) Artificial intelligence.

"(12) Data analytics.

"(13) Business systems.

"(14) Technology transfer and transition.

"(15) Biological engineering and genetic enhancement.

"(16) High performance computing.

"(17) Materials science and engineering.

"(18) Quantum information sciences.

"(19) Special operations activities.

"(20) Modeling and simulation.

"(21) Autonomous systems.

"(22) Model based engineering.

"(23) Space.

"(24) Infrastructure resilience.

"(25) Photonics.

"(26) Autonomy.

"(27) Rapid prototyping.

"(28) Additive manufacturing.

"(29) Hypersonics.

"(30) 3D and virtual technology training platforms.

"(31) Nuclear science, security, and nonproliferation.

"(32) Chemical, biological, radiological, and nuclear defense.

"(33) Spectrum activities.

"(34) Research security and integrity.

"(35) Printed circuit boards.

"(36) Such other areas as the Secretary considers appropriate.

"(f) REQUIREMENT TO ESTABLISH CONSORTIA.—

"(1) IN GENERAL.—In carrying out subsection (a)(1)—

"(A) the Secretary of Defense shall seek to establish at least one multi-institution consortium through the Office of the Secretary of Defense;

"(B) the Secretary of the Army shall seek to establish at least one multi-institution consortium through the Army;

"(C) the Secretary of the Navy shall seek to establish at least one multi-institution consortium through the Navy; and

"(D) the Secretary of the Air Force shall seek to establish at least one multi-institution consortium through the Air Force.

"(2) REPORT REQUIRED.—Not later than September 30, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the status of the efforts to establish consortia under paragraph (1).

"(g) SUNSET.—No new arrangements may be entered into under subsection (a)(1) after September 30, 2028.

"(h) ARRANGEMENTS ESTABLISHED UNDER SUBSECTION (A)(1) DEFINED.—In this section, the

term 'arrangement established under subsection (a)(1)' means a multi-institution task order contract, consortia, cooperative agreement, or other arrangement established under subsection (a)(1)."

## INFORMATION OPERATIONS AND ENGAGEMENT TECHNOLOGY DEMONSTRATIONS

Pub. L. 114–92, div. A, title X, §1056, Nov. 25, 2015, 129 Stat. 984, which authorized the Secretary of Defense to carry out a series of technology demonstrations to assess innovative new technologies for information operations and information engagement to support the operational and strategic requirements of the commanders of the geographic and functional combatant commands, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(D), Dec. 23, 2024, 138 Stat. 1979.

## INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS

Pub. L. 103–160, div. A, title II, §252, Nov. 30, 1993, 107 Stat. 1607, provided that:

"(a) GENERAL RULE.—In conducting or supporting clinical research, the Secretary of Defense shall ensure that—

"(1) women who are members of the Armed Forces are included as subjects in each project of such research; and

"(2) members of minority groups who are members of the Armed Forces are included as subjects of such research.

"(b) WAIVER AUTHORITY.—The requirement in subsection (a) regarding women and members of minority groups who are members of the Armed Forces may be waived by the Secretary of Defense with respect to a project of clinical research if the Secretary determines that the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(1) is inappropriate with respect to the health of the subjects;

"(2) is inappropriate with respect to the purpose of the research; or

"(3) is inappropriate under such other circumstances as the Secretary of Defense may designate.

"(c) REQUIREMENT FOR ANALYSIS OF RESEARCH.—In the case of a project of clinical research in which women or members of minority groups will under subsection (a) be included as subjects of the research, the Secretary of Defense shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research."

## UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM

Pub. L. 103–160, div. A, title VIII, §802, Nov. 30, 1993, 107 Stat. 1701, as amended by Pub. L. 104–106, div. A, title II, §275, Feb. 10, 1996, 110 Stat. 241; Pub. L. 104–201, div. A, title II, §263, Sept. 23, 1996, 110 Stat. 2465; Pub. L. 112–239, div. A, title X, §1076(c)(2)(E), Jan. 2, 2013, 126 Stat. 1950, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, through the Assistant Secretary of Defense for Research and Engineering, may establish a University Research Initiative Support Program.

"(b) PURPOSE.—Under the program, the Assistant Secretary may award grants and contracts to eligible institutions of higher education to support the conduct of research and development relevant to requirements of the Department of Defense.

"(c) ELIGIBILITY.—An institution of higher education is eligible for a grant or contract under the program if the institution has received less than a total of $2,000,000 in grants and contracts from the Department of Defense in the two most recent fiscal years for which complete statistics are available when proposals are requested for such grant or contract.

"(d) COMPETITION REQUIRED.—The Assistant Secretary shall use competitive procedures in awarding grants and contracts under the program.

"(e) SELECTION PROCESS.—In awarding grants and contracts under the program, the Assistant Secretary shall use a merit-based selection process that is consistent with the provisions of section 2361(a) of title 10 [now 10 U.S.C. 4141(a)], United States Code.

"(f) REGULATIONS.—The Assistant Secretary shall prescribe regulations for carrying out the program.

"(g) FUNDING.—Of the amounts authorized to be appropriated under section 201 [107 Stat. 1583], $20,000,000 shall be available for the University Research Initiative Support Program."

## CAMPUSES BARRING MILITARY RECRUITERS; CESSATION OF PAYMENTS; NOTIFICATION OF SECRETARY OF DEFENSE

Pub. L. 92–436, title VI, §606, Sept. 29, 1972, 86 Stat. 740, provided that:

"(a) No part of the funds appropriated pursuant to this or any other Act for the Department of Defense or any of the Armed Forces may be used at any institution of higher learning if the Secretary of Defense or his designee determines that recruiting personnel of any of the Armed Forces of the United States are being

barred by the policy of such institution from the premises of the institution: except in a case where the Secretary of the service concerned certifies to the Congress in writing that a specific course of instruction is not available at any other institution of higher learning and furnishes to the Congress the reasons why such course of instruction is of vital importance to the security of the United States.

"(b) The prohibition made by subsection (a) of this section as it applies to research and development funds shall not apply if the Secretary of Defense or his designee determines that the expenditure is a continuation or a renewal of a previous program with such institution which is likely to make a significant contribution to the defense effort.

"(c) The Secretaries of the military departments shall furnish to the Secretary of Defense or his designee within 60 days after the date of enactment of this Act [Sept. 29, 1972] and each January 31 and June 30 thereafter the names of any institution of higher learning which the Secretaries determine on such dates are affected by the prohibitions contained in this section."

Similar provisions were contained in the following prior authorization acts:

Pub. L. 92–156, title V, §502, Nov. 17, 1971, 85 Stat. 427.

Pub. L. 91–441, title V, §510, Oct. 7, 1970, 84 Stat. 914.

## [§§4002, 4003. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

As enacted, Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), Jan. 1, 2021, 134 Stat. 4243, originally transferred sections 2371 and 2371b of this title to sections 4002 and 4003, respectively, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), Dec. 27, 2021, 135 Stat. 2151, amended section 1841(b)(1) of Pub. L. 116–283, effective as if included therein, so as to eliminate those transfers, thereby omitting these sections before they took effect. As amended by section 1701(u)(2)(B) of Pub. L. 117–81, sections 2371 and 2371b were transferred to sections 4021 and 4022 of this title, respectively.

## §4004. Contract authority for development and demonstration of initial or additional prototype units

(a) AUTHORITY.—A contract initially awarded from the competitive selection of a proposal resulting from a general solicitation referred to in section 3012(2) of this title may contain a contract line item or contract option for—

(1) the development and demonstration or initial production of technology developed under the contract; or

(2) the delivery of initial or additional items if the item or a prototype thereof is created as the result of work performed under the contract.

(b) LIMITATIONS.—

(1) MINIMAL AMOUNT.—A contract line item or contract option described in subsection (a)(2) shall require the delivery of the minimal amount of initial or additional items to allow for the timely competitive solicitation and award of a follow-on development or production contract for those items.

(2) TERM.—A contract line item or contract option described in subsection (a) shall be for a term of not more than 2 years.

(3) DOLLAR VALUE OF WORK.—The dollar value of the work to be performed pursuant to a contract line item or contract option described in subsection (a) may not exceed $100,000,000, in fiscal year 2017 constant dollars.

(4) APPLICABILITY.—The authority provided in subsection (a) applies only to the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.

(c) PROCEDURES.—The Secretary of Defense shall establish procedures to collect and analyze information on the use and benefits of the authority under this section and related impacts on performance, affordability, and capability delivery.

(Added Pub. L. 115–91, div. A, title VIII, §861(a)(1), Dec. 12, 2017, 131 Stat. 1493, §2302e; renumbered §4004 and amended Pub. L. 116–283, div. A, title VIII, §831(a), title XVIII, §§1818(c), 1841(b)(1), Jan. 1, 2021, 134 Stat. 3753, 4243; Pub. L. 116–283, div. A, title XVIII, §1841(b)(2)(D), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(F)(i)(V), Dec. 27, 2021, 135 Stat. 2152; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (v)(1)(A), Dec. 27, 2021, 135 Stat. 2151, 2154.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2302e of this title as this section.

Pub. L. 116–283, §1818(c), which directed the renumbering of section 2302e of this title as section 3345 instead of this section and the substitution of "section 3012(2)" for "section 2302(2)(B)" in subsec. (a), was repealed by Pub. L. 117–81, §1701(v)(1)(A), effective as if included therein, so that such renumbering and substitution were no longer directed.

Pub. L. 116–283, §831(a)(1), substituted "development and demonstration" for "advanced development" in section catchline.

Subsec. (a). Pub. L. 116–283, §1841(b)(2)(D), as added by Pub. L. 117–81, §1701(u)(2)(F)(i)(V), substituted "section 3012(2)" for "section 2302(2)(B)" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §831(a)(2), substituted "development and demonstration" for "provision of advanced component development, prototype,".

Subsec. (c). Pub. L. 116–283, §831(a)(3), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1818(c) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4007. Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation

(a) POLICY.—Each official specified in subsection (b) shall ensure that the management and conduct of the science and technology programs under the authority of that official are carried out in a manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

(b) COVERED OFFICIALS.—Subsection (a) applies to the following officials of the Department of Defense:

(1) The Under Secretary of Defense for Research and Engineering.

(2) The Secretary of each military department.

(3) The Director of the Defense Advanced Research Projects Agency.

(4) The directors and heads of other offices and agencies of the Department of Defense with assigned research, development, test, and evaluation responsibilities.

(Added Pub. L. 106–398, §1 [[div. A], title IX, §904(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–225, §2359; amended Pub. L. 116–92, div. A, title IX, §902(55), Dec. 20, 2019, 133 Stat.

1549; renumbered §4007, Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), (c), Jan. 1, 2021, 134 Stat. 4243; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (D), Dec. 27, 2021, 135 Stat. 2151.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1841(c), which directed the renumbering of section 2359 of this title as this section, was amended generally by Pub. L. 117–81, §1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2359 of this title as this section.

**2019**—Subsec. (b)(1). Pub. L. 116–92 substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### PILOT PROGRAM ON THE USE OF PRIVATE SECTOR PARTNERSHIPS TO PROMOTE TECHNOLOGY TRANSITION

Pub. L. 117–81, div. A, title II, §231, Dec. 27, 2021, 135 Stat. 1612, provided that:

"(a) IN GENERAL.—Consistent with section 2359 of title 10, United States Code [now 10 U.S.C. 4007], the Secretary of Defense shall carry out a pilot program to foster the transition of the science and technology programs, projects, and activities of the Department of Defense from the research, development, pilot, and prototyping phases into acquisition activities and operational use. Under the pilot program, the Secretary shall seek to enter into agreements with qualified private sector organizations to support—

"(1) matching technology developers with programs, projects, and activities of the Department that may have a use for the technology developed by such developers;

"(2) providing technical assistance to appropriate parties on participating in the procurement programs and acquisition processes of the Department, including training and consulting on programming, budgeting, contracting, requirements, and other relevant processes and activities; and

"(3) overcoming barriers and challenges facing technology developers, including challenges posed by restrictions on accessing secure facilities, networks, and information.

"(b) PRIORITY.—In carrying out the activities described in paragraphs (1) through (3) of subsection (a), a qualified private sector organization shall give priority to technology producers that are small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), research institutions (as defined in section 9(e) of such Act [15 U.S.C. 638(e)]), or institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C 1001)).

"(c) TERMS OF AGREEMENTS.—The terms of an agreement under subsection (a) shall be determined by the Secretary of Defense.

"(d) DATA COLLECTION.—

"(1) PLAN REQUIRED BEFORE IMPLEMENTATION.—The Secretary of Defense may not enter into an agreement under subsection (a) until the date on which the Secretary—

"(A) completes a plan to for carrying out the data collection required under paragraph (2); and

"(B) submits the plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(2) DATA COLLECTION REQUIRED.—The Secretary of Defense shall collect and analyze data on the pilot program under this section for the purposes of—

"(A) developing and sharing best practices for facilitating the transition of science and technology from the research, development, pilot, and prototyping phases into acquisition activities and operational use within the Department of Defense;

"(B) providing information to the leadership of the Department on the implementation of the pilot program and related policy issues; and

"(C) providing information to the congressional defense committees as required under subsection (e).

"(e) BRIEFING.—Not later than December 31, 2022, the Secretary of Defense shall provide to the congressional defense committees a briefing on the progress of the Secretary in implementing the pilot program under this section and any related policy issues.

"(f) CONSULTATION.—In carrying out the pilot program under this section, the Secretary of Defense shall consult with—

"(1) service acquisition executives (as defined in section 101 of title 10, United States Code);

"(2) the heads of appropriate Defense Agencies and Department of Defense Field Activities;

"(3) procurement technical assistance centers (as described in chapter 142 [see 10 U.S.C. 4951 et seq.] of title 10, United States Code); and

"(4) such other individuals and organizations as the Secretary determines appropriate.

"(g) TERMINATION.—The pilot program under this section shall terminate on the date that is five years after the date on which Secretary of Defense enters into the first agreement with a qualified private sector organization under subsection (a).

"(h) COMPTROLLER GENERAL ASSESSMENT AND REPORT.—

"(1) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the pilot program under this section. The assessment shall include an evaluation of the effectiveness of the pilot program with respect to—

"(A) facilitating the transition of science and technology from the research, development, pilot, and prototyping phases into acquisition activities and operational use within the Department of Defense; and

"(B) protecting sensitive information in the course of the pilot program.

"(2) REPORT.—Not later than the date specified in paragraph (3), the Comptroller General shall submit to the congressional defense committees a report on the results of the assessment conducted under paragraph (1).

"(3) DATE SPECIFIED.—The date specified in this paragraph is the earlier of—

"(A) four years after the date on which the Secretary of Defense enters into the first agreement with a qualified private sector organization under subsection (a): or

"(B) five years after the date of the enactment of this Act [Dec. 27, 2021]."

**PROOF OF CONCEPT COMMERCIALIZATION OF DUAL-USE TECHNOLOGY PILOT PROGRAM**

Pub. L. 113–66, div. A, title XVI, §1603, Dec. 26, 2013, 127 Stat. 944, as amended by Pub. L. 113–291, div. A, title VIII, §818, Dec. 19, 2014, 128 Stat. 3432; Pub. L. 116–92, div. A, title II, §217, Dec. 20, 2019, 133 Stat. 1258, which authorized the establishment and implementation of the Proof of Concept Commercialization of Dual-Use Technology Pilot Program with the purpose of accelerating commercialization of basic research innovations from certain institutions and provided that the program shall terminate on Sept. 30, 2024, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(10), Dec. 18, 2025, 139 Stat. 949.

## [§§4008, 4009. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

As enacted, Pub. L. 116–283, div. A, title XVIII, §1841(c), Jan. 1, 2021, 134 Stat. 4243, originally transferred sections 2374 and 2357 of this title to sections 4008 and 4009, respectively, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151, amended section 1841(c) of Pub. L. 116–283, effective as if included therein, so as to eliminate those transfers, thereby omitting these sections before they took effect. Other amendments by Pub. L. 117–81 resulted in transfers of sections 2374 and 2357 to sections 4024 and 4067 of this title, respectively.

Pub. L. 117–81, div. A, title XVII, §1701(d)(7), Dec. 27, 2021, 135 Stat. 2136, which directed amendment of section 4008 of this title by substituting "section 3063" for "section 2303(a)" in subsecs. (a) and (d),

effective after the amendments by title XVIII of Pub. L. 116–283 took effect, could not be executed after the amendment by section 1701(u)(2)(D) of Pub. L. 117–81, which eliminated the transfer of section 2374 of this title to section 4008, effective as if included in title XVIII of Pub. L. 116–283.

## §4010. Defense Established Program to Stimulate Competitive Research

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall carry out a Defense Established Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To increase the number of university researchers in eligible States capable of performing science and engineering research responsive to the needs of the Department of Defense.

(2) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is relevant to the mission of the Department of Defense and competitive under the peer-review systems used for awarding Federal research assistance.

(3) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of grants for research and instrumentation to support such research.

(2) Competitive award of financial assistance for graduate students.

(3) To provide assistance to science and engineering researchers at institutions of higher education in eligible States through collaboration between Department of Defense laboratories and such researchers.

(4) Any other activities that are determined necessary to further the achievement of the objectives of the program.

(d) ELIGIBLE STATES.—(1) The Under Secretary of Defense for Research and Engineering shall designate which States are eligible States for the purposes of this section.

(2) The Under Secretary shall designate a State as an eligible State if, as determined by the Under Secretary—

(A) the average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the State for the three fiscal years preceding the fiscal year for which the designation is effective or for the last three fiscal years for which statistics are available is less than the amount determined by multiplying 60 percent times the amount equal to 1/50 of the total average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the United States for such three preceding or last fiscal years, as the case may be; and

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs in areas relevant to the mission of the Department of Defense at institutions of higher education in the State.

(3) The Under Secretary shall not remove a designation of a State under paragraph (2) because the State exceeds the funding levels specified under subparagraph (A) of such paragraph unless the State has exceeded such funding levels for at least two consecutive years.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary may consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and may

coordinate the program with the Established Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Established Program to Stimulate Competitive Research may be made to, and all awards may be made through, the State committees established for purposes of the Established Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Established Program to Stimulate Competitive Research are relevant to the mission of the Department of Defense and coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

(f) STATE DEFINED.—In this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Added Pub. L. 117–81, div. A, title II, §214(a), Dec. 27, 2021, 135 Stat. 1589.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 117–81, div. A, title II, §214(d), Dec. 27, 2021, 135 Stat. 1591, provided that: "This section [enacting this section and repealing provisions set out as notes under section 2358 of this title] and the amendments and repeals made by this section shall take effect immediately after the effective date of the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [Jan. 1, 2022]."

## §4014. Coordination and communication of defense research activities and technology domain awareness

(a) COORDINATION OF DEPARTMENT OF DEFENSE RESEARCH, DEVELOPMENT, AND TECHNOLOGICAL DATA.—The Secretary of Defense shall promote, monitor, and evaluate programs for the communication and exchange of research, development, and technological data—

(1) among the Defense research facilities, combatant commands, and other organizations that are involved in developing for the Department of Defense the technological requirements for new items for use by combat forces;

(2) among Defense research facilities and other offices, agencies, and bureaus in the Department that are engaged in related technological matters;

(3) among other research facilities and other departments or agencies of the Federal Government that are engaged in research, development, and technological matters;

(4) among private commercial, research institution, and university entities engaged in research, development, and technological matters potentially relevant to defense on a voluntary basis;

(5) to the extent practicable, to achieve full awareness of scientific and technological advancement and innovation wherever it may occur, whether funded by the Department of Defense, another element of the Federal Government, or other entities; and

(6) through development and distribution of clear technical communications to the public, military operators, acquisition organizations, and civilian and military decision-makers that convey successes of research and engineering activities supported by the Department and the contributions of such activities to support national needs.

(b) DEFENSE RESEARCH FACILITY DEFINED.—In this section, the term "Defense research facility" has the meaning given that term by section 4125(b) of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1841(d), Jan. 1, 2021, 134 Stat. 4243;

Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(E), Dec. 27, 2021, 135 Stat. 2151; Pub. L. 118–31, div. A, title XVIII, §1801(a)(30), Dec. 22, 2023, 137 Stat. 685.)

### EDITORIAL NOTES

### CODIFICATION

The section catchline and text of subsec. (a) of section 2364 of this title, which were transferred to this section by Pub. L. 116–283, §1841(d)(1), were based on Pub. L. 99–661, div. A, title II, §234(c)(1), Nov. 14, 1986, 100 Stat. 3848; Pub. L. 100–26, §3(1)(A), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title XII, §1231(10)(B), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 114–92, div. A, title II, §214(a)(1), (3), Nov. 25, 2015, 129 Stat. 767, 768; Pub. L. 115–91, div. A, title X, §1081(a)(34), Dec. 12, 2017, 131 Stat. 1596.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31 substituted "section 4125(b) of this title" for "section 4142(b) of this title".

**2021**—Pub. L. 116–283, §1841(d)(1), as amended by Pub. L. 117–81, §1701(u)(2)(E), transferred section catchline and subsec. (a) of section 2364 of this title to this section.

Subsec. (b). Pub. L. 116–283, §1841(d)(2), added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### COLLABORATION BETWEEN DEFENSE LABORATORIES, INDUSTRY, AND ACADEMIA; OPEN CAMPUS PROGRAM

Pub. L. 115–232, div. A, title II, §222, Aug. 13, 2018, 132 Stat. 1682, which authorized activities to prioritize innovative collaboration between Department of Defense science and technology reinvention laboratories, industry, and academia and provided for an open campus program for such laboratories, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(5)(A), Dec. 18, 2025, 139 Stat. 948.

## [§4015. Omitted]

### EDITORIAL NOTES

### CODIFICATION

As enacted, Pub. L. 116–283, div. A, title XVIII, §1841(c), Jan. 1, 2021, 134 Stat. 4243, originally transferred section 2361 of this title to this section, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151, amended section 1841(c) of Pub. L. 116–283, effective as if included therein, so as to eliminate that transfer, thereby omitting this section before it took effect. Another amendment by Pub. L. 117–81 resulted in the transfer of section 2361 to section 4141 of this title.

# SUBCHAPTER II—AGREEMENTS

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XVIII, §1841(c)(2), as added by Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151, added subchapter heading. Heading was editorially conformed to the style used in this title.

## §4021. Research projects: transactions other than contracts and grants

(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic, applied, and advanced research projects. The authority under this subsection is in addition to the authority provided in section 4001 of this title to use contracts, cooperative agreements, and grants in carrying out such projects.

(b) EXERCISE OF AUTHORITY BY SECRETARY OF DEFENSE.—In any exercise of the authority in subsection (a), the Secretary of Defense shall act through the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or any other element of the Department of Defense that the Secretary may designate.

(c) ADVANCE PAYMENTS.—The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

(d) RECOVERY OF FUNDS.—(1) A cooperative agreement for performance of basic, applied, or advanced research authorized by section 4001 of this title and a transaction authorized by subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense or any other department or agency of the Federal Government as a condition for receiving support under the agreement or other transaction.

(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the appropriate account established under subsection (f). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

(e) CONDITIONS.—The Secretary of Defense shall ensure that—

(1) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense; and

(2) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction.

(f) SUPPORT ACCOUNTS.—There is hereby established on the books of the Treasury separate accounts for each of the military departments, the Defense Innovation Unit, and the Defense Advanced Research Projects Agency for support of research projects and development projects provided for in cooperative agreements containing a clause under subsection (d) and research projects provided for in transactions entered into under subsection (a). Funds in those accounts shall be available for the payment of such support.

(g) EDUCATION AND TRAINING.—The Secretary of Defense shall—

(1) ensure that management, technical, and contracting personnel of the Department of Defense involved in the award or administration of transactions under this section or other innovative forms of contracting are afforded opportunities for adequate education and training; and

(2) establish minimum levels and requirements for continuous and experiential learning for such personnel, including levels and requirements for acquisition certification programs.

(h) GUIDANCE.—The Secretary of Defense shall issue guidance to carry out this section.

(i) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—(1) Disclosure of information described in paragraph (2) is not required, and may not be compelled, under section 552 of title 5 for five years after the date on which the information is received by the Department of Defense.

(2)(A) Paragraph (1) applies to information described in subparagraph (B) that is in the records of the Department of Defense if the information was submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award, to the party submitting the information, of a cooperative agreement for performance of basic, applied, or advanced research authorized by section 4001 of this title or another transaction authorized by subsection (a).

(B) The information referred to in subparagraph (A) is the following:

(i) A proposal, proposal abstract, and supporting documents.

(ii) A business plan submitted on a confidential basis.

(iii) Technical information submitted on a confidential basis.

(Added Pub. L. 101–189, div. A, title II, §251(a)(1), Nov. 29, 1989, 103 Stat. 1403, §2371; amended Pub. L. 101–510, div. A, title XIV, §1484(k)(9), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102–190, div. A, title VIII, §826, Dec. 5, 1991, 105 Stat. 1442; Pub. L. 102–484, div. A, title II, §217, Oct. 23, 1992, 106 Stat. 2352; Pub. L. 103–35, title II, §201(c)(4), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title VIII, §827(b), title XI, §1182(a)(6), Nov. 30, 1993, 107 Stat. 1712, 1771; Pub. L. 103–355, title I, §1301(b), Oct. 13, 1994, 108 Stat. 3285; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 104–201, div. A, title II, §267(a)–(c)(1)(A), title X, §1073(e)(1)(B), Sept. 23, 1996, 110 Stat. 2467, 2468, 2658; Pub. L. 105–85, div. A, title VIII, §832, Nov. 18, 1997, 111 Stat. 1842; Pub. L. 105–261, div. A, title VIII, §817, Oct. 17, 1998, 112 Stat. 2089; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(19), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 113–291, div. A, title X, §1071(f)(20), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title VIII, §863, Dec. 12, 2017, 131 Stat. 1494; renumbered §4021 and amended Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), (2)(B), Jan. 1, 2021, 134 Stat. 4243; Pub. L. 117–81, div. A, title VIII, §821(a), title XVII, §1701(u)(2)(B), (F)(i)(III), Dec. 27, 2021, 135 Stat. 1825, 2151; Pub. L. 118–31, div. A, title IX, §913(a)(2), Dec. 22, 2023, 137 Stat. 367.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4021 was renumbered section 7371 of this title.

Another prior section 4021, act Aug. 10, 1956, ch. 1041, 70A Stat. 233, related to appointments in professional and scientific service, prior to repeal by Pub. L. 85–861, §36B(11), Sept. 2, 1958, 72 Stat. 1570.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §913(a)(2)(A), inserted ", the Defense Innovation Unit," after "Defense Advanced Research Projects Agency".

Subsec. (f). Pub. L. 118–31, §913(a)(2)(B), substituted ", the Defense Innovation Unit, and the Defense Advanced Research Projects Agency" for "and the Defense Advanced Research Projects Agency".

**2021**—Pub. L. 116–283, §1841(b)(2)(B), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(III), substituted "section 4001" for "section 2358" wherever appearing.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2371 of this title as this section.

Subsec. (e). Pub. L. 117–81, §821(a)(1), struck out par. (1) designation before "The Secretary of Defense", redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows: "A cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate."

Subsec. (h). Pub. L. 117–81, §821(a)(2), amended subsec. (h) generally. Prior to amendment, text read as follows: "The Secretary of Defense shall prescribe regulations to carry out this section."

**2017**—Subsecs. (g), (h). Pub. L. 115–91 added subsec. (g) and redesignated former subsec. (g) as (h).

**2014**—Subsec. (h). Pub. L. 113–291 struck out subsec. (h) which related to annual report on use of certain cooperative agreements and transactions.

**2003**—Subsec. (h)(3). Pub. L. 108–136 added par. (3).

**1999**—Subsec. (h)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1998**—Subsec. (i)(2)(A). Pub. L. 105–261 substituted "cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title" for "cooperative agreement that includes a clause described in subsection (d)".

**1997**—Subsec. (i). Pub. L. 105–85 added subsec. (i).

**1996**—Subsec. (b). Pub. L. 104–201, §1073(e)(1)(B), inserted "Defense" before "Advanced Research Projects Agency".

Subsec. (e). Pub. L. 104–201, §267(a), inserted "(1)" before "The Secretary of Defense", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, inserted "and" after semicolon at end of subpar. (A), substituted a period for "; and" at end of subpar. (B), added par. (2), and struck out par. (3) which read as follows: "a cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) is used for a research project only when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate."

Subsec. (f). Pub. L. 104–201, §1073(e)(1)(B), inserted "Defense" before "Advanced Research Projects Agency".

Subsec. (h). Pub. L. 104–201, §267(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on all cooperative agreements entered into under section 2358 of this title during such fiscal year that contain a clause authorized by subsection (d) and on all transactions entered into under subsection (a) during such fiscal year. The report shall contain, with respect to each such cooperative agreement and transaction, the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such research.

"(4) The amount of the payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause included in such cooperative agreement or other transaction pursuant to subsection (d).

"(5) The amount of the payments reported under paragraph (4), if any, that were credited to each account established under subsection (f)."

Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

Subsec. (i). Pub. L. 104–201, §1073(e)(1)(B), which directed amendment of subsec. (i) by inserting "Defense" before "Advanced Research Projects Agency", could not be executed because of the renumbering of subsec. (i) as section 2371a of this title by Pub. L. 104–201, §267(c)(1)(A). See below.

Pub. L. 104–201, §267(c)(1)(A), renumbered subsec. (i) of this section as section 2371a of this title.

**1994**—Pub. L. 103–355 amended section generally. Prior to amendment section related to cooperative agreements and other transactions for advanced research projects.

**1993**—Subsec. (a). Pub. L. 103–160, §827(b)(1)(C), substituted "section 2358 of this title" for "subsection (a)" in par. (1) and "subsection (d)" for "subsection (e)" in par. (2).

Pub. L. 103–160, §827(b)(1)(A), (B), redesignated subsec. (b) as (a) and struck out former subsec. (a), as amended by Pub. L. 103–160, §1182(a)(6), (h), which read as follows: "The Secretary of Defense, in carrying out advanced research projects through the Advanced Research Projects Agency, and the Secretary of each military department, in carrying out advanced research projects, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity."

Pub. L. 103–160, §1182(a)(6), substituted "Advanced Research Projects Agency" for "Defense Advanced Research Projects Agency".

Subsec. (b). Pub. L. 103–160, §827(b)(1)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 103–160, §827(b)(1)(B), (2)(A), redesignated subsec. (d) as (c) and inserted "and

development" after "research" in two places in par. (1). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 103–160, §827(b)(1)(B), (D), (2)(B), redesignated subsec. (e), as amended by Pub. L. 103–160, §1182(a)(6), (h), as (d) and substituted "section 2358 of this title" for "subsection (a)" and "research and development" for "advanced research". Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 103–160, §827(b)(1)(B), (E), (2)(B), (C), redesignated subsec. (f) as (e), in par. (1) substituted "research and development are" for "advanced research is", in par. (3) substituted "research and development" for "advanced research", in par. (4) substituted "subsection (a)" for "subsection (b)", and in par. (5) substituted "subsection (d)" for "subsection (e)". Former subsec. (e) redesignated (d).

Pub. L. 103–160, §1182(a)(6), substituted "Advanced Research Projects Agency" for "Defense Advanced Research Projects Agency".

Subsec. (f). Pub. L. 103–160, §827(b)(1)(B), redesignated subsec. (g), as amended by Pub. L. 103–160, §1182(a)(6), (h), as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 103–160, §827(b)(1)(B), redesignated subsec. (g), as amended by Pub. L. 103–160, §1182(a)(6), (h), as (f).

Pub. L. 103–160, §1182(a)(6), substituted "Advanced Research Projects Agency" for "Defense Advanced Research Projects Agency".

Pub. L. 103–35 substituted "granted by section 12" for "granted by section 11" and "provisions of sections 11 and 12" for "provisions of sections 10 and 11".

**1992**—Subsec. (g). Pub. L. 102–484 added subsec. (g).

**1991**—Subsec. (a). Pub. L. 102–190, §826(a), inserted "and the Secretary of each military department, in carrying out advanced research projects,".

Subsec. (b)(1). Pub. L. 102–190, §826(b)(1)(A), struck out "by the Secretary" after "transactions entered into".

Subsec. (b)(2). Pub. L. 102–190, §826(b)(1)(B), substituted "to the appropriate account" for "to the account".

Subsec. (d). Pub. L. 102–190, §826(b)(2), substituted "The Secretary of Defense" for "The Secretary" in introductory provisions.

Subsec. (e). Pub. L. 102–190, §826(b)(3), substituted "separate accounts for each of the military departments and the Defense Advanced Research Projects Agency" for "an account" and "those accounts" for "such account".

Subsec. (f)(5). Pub. L. 102–190, §826(b)(4), substituted "each account" for "the account".

Subsec. (g). Pub. L. 102–190, §826(c), struck out subsec. (g) which read as follows: "The authority of the Secretary to enter into cooperative agreements and other transactions under this section expires at the close of September 30, 1991."

**1990**—Subsec. (f). Pub. L. 101–510 substituted "Committees on" for "Committees of" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 118–31 effective 180 days after Dec. 22, 2023, with additional implementation requirements, see section 913(b)(1), (2) of Pub. L. 118–31, set out as notes under section 1766 of this title.

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(u)(2)(B), (F)(i)(III) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### TRACKING AWARDS MADE THROUGH OTHER TRANSACTION AUTHORITY

Pub. L. 118–159, div. A, title VIII, §888, Dec. 23, 2024, 138 Stat. 2023, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the

Under Secretary of Defense for Acquisition and Sustainment shall establish a process to track the number and value of awards to small businesses and nontraditional defense contractors performing on transactions using other transaction authority, including transactions carried out through consortia.

"(b) DATA COLLECTION.—The Under Secretary of Defense for Acquisition and Sustainment shall, to the extent practicable—

"(1) minimize the reporting requirements imposed on small businesses and nontraditional defense contractors by the process established under subsection (a); and

"(2) maximize the use of existing data collection processes of the Department of Defense or the expertise of a consortia-manager under such process.

"(c) DEFINITIONS.—In this section:

"(1) NONTRADITIONAL DEFENSE CONTRACTOR.—The term 'nontraditional defense contractor' has the meaning given such term in section 3014 of title 10, United States Code.

"(2) OTHER TRANSACTION AUTHORITY.—The term 'other transaction authority' means the authority provided under sections 4021 and 4022 of title 10, United States Code.

"(3) SMALL BUSINESS.—The term 'small business' has the meaning given the term 'small business concern' under section 3(a) of the Small Business Act (15 U.S.C. 632(a))."

## REPORTING REQUIREMENT FOR CERTAIN DEFENSE ACQUISITION ACTIVITIES

Pub. L. 117–81, div. A, title VIII, §825, Dec. 27, 2021, 135 Stat. 1831, provided that:

"(a) PROCEDURES FOR IDENTIFYING CERTAIN ACQUISITION AGREEMENTS AND ACTIVITIES.—The Secretary of Defense shall establish procedures to identify organizations performing on individual projects under the following types of awards:

"(1) Other transaction agreements pursuant to the authorities under section[s] 2371 and 2371b of title 10, United States Code [now 10 U.S.C. 4021 and 4022].

"(2) Individual task orders awarded under a task order contract (as defined in section 2304d of title 10, United States Code [now 10 U.S.C. 3401]), including individual task orders issued to a federally funded research and development center.

"(b) For initial agreements covered under subsection (a), the procedures required under subsection (a) shall include, but not be limited to—

"(1) the participants to the transaction (other than the Federal Government);

"(2) each business selected to perform work under the transaction by a participant to the transaction that is a consortium of private entities;

"(3) the date on which each participant entered into the transaction;

"(4) the amount of the transaction; and

"(5) other related matters the Secretary deems appropriate.

"(c) For follow-on contracts, agreements, or transactions covered under subsection (a), the procedures required under subsection (a) shall include, but not be limited to—

"(1) identification of the initial covered contract or transaction and each subsequent follow-on contract or transaction;

"(2) the awardee;

"(3) the amount;

"(4) the date awarded; and

"(5) other related matters the Secretary deems appropriate.

"(d) The Administrator of the General Services Administration shall update the Federal Procurement Data System (FPDS) within 180 days to collect the data required under this section.

"(e) REPORTING.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], and not less than annually thereafter, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of agreements and activities described in subsection (a) and associated funding.

"(f) PUBLICATION OF INFORMATION.—Not later than one year after the date of enactment of this Act, the Secretary of Defense shall establish procedures to collect information on individual agreements and activities described in this section and associated funding in an online, public, searchable database, unless the Secretary deems such disclosure inappropriate for individual agreements based on national security concerns."

## LISTING OF OTHER TRANSACTION AUTHORITY CONSORTIA

Pub. L. 116–283, div. A, title VIII, §833, Jan. 1, 2021, 134 Stat. 3753, provided that: "Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall maintain on the single Government-wide point of entry described under section 1708 of title 41, United States Code, a list of

the consortia used by the Secretary to announce or otherwise make available opportunities to enter into a transaction under the authority of section 2371 of title 10, United States Code [now 10 U.S.C. 4021], or a transaction for a prototype project under section 2371b of such title [now 10 U.S.C. 4022]."

**DATA, POLICY, AND REPORTING ON THE USE OF OTHER TRANSACTIONS**

Pub. L. 115–232, div. A, title VIII, §873, Aug. 13, 2018, 132 Stat. 1905, as amended by Pub. L. 116–92, div. A, title VIII, §819, Dec. 20, 2019, 133 Stat. 1488, provided that:

"(a) COLLECTION AND STORAGE.—The Service Acquisition Executives of the military departments shall collect data on the use of other transactions by their respective departments, and the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment shall collect data on all other use by the Department of Defense of other transactions, including use by the Defense Agencies. The data shall be stored in a manner that allows the Assistant Secretary of Defense for Acquisition and other appropriate officials access at any time.

"(b) USE OF DATA.—The Assistant Secretary of Defense for Acquisition shall—

"(1) analyze and leverage the data collected under subsection (a) to update policy and guidance related to the use of other transactions; and

"(2) make the data collected under subsection (a) accessible to any official designated by the Secretary of Defense for inclusion by such official in relevant reports made by such official.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than December 31, 2019, and annually thereafter through December 31, 2023, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of other transaction authority to carry out prototype projects during the preceding fiscal year. Each report shall summarize the data collected under subsection (a) on the nature and extent of each such use of the authority, including a description—

"(A) of the participants to an agreement entered into pursuant to the authority of subsection (a) of section 2371b of title 10, United States Code [now 10 U.S.C. 4022], or a follow-on contract or transaction entered into pursuant to the authority of subsection (f) of such section;

"(B) of the quantity of prototype projects to be produced pursuant to such an agreement, follow-on contract, or transaction;

"(C) of the amount of payments made pursuant to each such agreement, follow-on contract, or transaction;

"(D) of the purpose, description, and status of prototype projects carried out pursuant to each such agreement, follow-on contract, or transaction; and

"(E) including case examples, of the successes and challenges with using the authority of such subsection (a) or (f).

"(2) FORM OF REPORT.—A report required under this subsection shall be submitted in unclassified form without any designation relating to dissemination control, but may contain a classified annex."

**PREFERENCE FOR USE OF OTHER TRANSACTIONS AND EXPERIMENTAL AUTHORITY**

Pub. L. 115–91, div. A, title VIII, §867, Dec. 12, 2017, 131 Stat. 1495, provided that: "In the execution of science and technology and prototyping programs, the Secretary of Defense shall establish a preference, to be applied in circumstances determined appropriate by the Secretary, for using transactions other than contracts, cooperative agreements, and grants entered into pursuant to sections 2371 and 2371b of title 10, United States Code [now 10 U.S.C. 4021 and 4022], and authority for procurement for experimental purposes pursuant to section 2373 of title 10, United States Code [now 10 U.S.C. 4023]."

## §4022. Authority of the Department of Defense to carry out certain prototype projects

(a) AUTHORITY.—(1) Subject to paragraph (2), the Director of the Defense Advanced Research Projects Agency, the Director of the Defense Innovation Unit, the Secretary of a military department, or any other official designated by the Secretary of Defense may, under the authority of section 4021 of this title, carry out prototype projects that are directly relevant to enhancing the mission effectiveness of personnel of the Department of Defense or improving platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces.

(2) The authority of this section—

(A) may be exercised for a transaction for a prototype project that is expected to cost the Department of Defense in excess of $100,000,000 but not in excess of $500,000,000 (including all options) only upon a written determination by the head of the contracting activity, or, for the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or the Missile Defense Agency, the director of the agency that—

(i) the requirements of subsection (d) will be met; and

(ii) the use of the authority of this section is essential to promoting the success of the prototype project;

(B) may be exercised for a transaction for a prototype project that is expected to cost the Department of Defense in excess of $500,000,000 (including all options) only if—

(i) the senior procurement executive for the agency as designated for the purpose of section 1702(c) of title 41, or, for the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or the Missile Defense Agency, the director of the agency, determines in writing that—

(I) the requirements of subsection (d) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) the congressional defense committees are notified in writing at least 30 days before such authority is exercised; and

(C) may be exercised for a transaction for a follow-on production contract or transaction that is awarded pursuant to subsection (f) and expected to cost the Department of Defense in excess of $100,000,000 (including all options) only if a covered official—

(i) determines in writing that—

(I) the requirements of subsection (d) were met for the prior transaction for the prototype project that provided for the award of the follow-on production contract or transaction, and the requirements of subsection (f) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) notifies the congressional defense committees in writing of the determinations required under clause (i) at the time such authority is exercised.

(3) The authority of the head of the contracting activity, director of the Defense Advanced Research Projects Agency, director of the Defense Innovation Unit, director of the Missile Defense Agency, or the senior procurement executive, as applicable, under paragraph (2) may not be delegated.

(b) EXERCISE OF AUTHORITY.—

(1) Subsection (e)(2) of such section 4021 shall not apply to projects carried out under subsection (a).

(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out the prototype projects under subsection (a).

(c) COMPTROLLER GENERAL ACCESS TO INFORMATION.—(1) Each agreement entered into by an official referred to in subsection (a) to carry out a project under that subsection that provides for payments in a total amount in excess of $5,000,000 shall include a clause that provides for the Comptroller General, in the discretion of the Comptroller General, to examine the records of any party to the agreement or any entity that participates in the performance of the agreement.

(2) The requirement in paragraph (1) shall not apply with respect to a party or entity, or a subordinate element of a party or entity, that has not entered into any other agreement that provides

for audit access by a Government entity in the year prior to the date of the agreement.

(3)(A) The right provided to the Comptroller General in a clause of an agreement under paragraph (1) is limited as provided in subparagraph (B) in the case of a party to the agreement, an entity that participates in the performance of the agreement, or a subordinate element of that party or entity if the only agreements or other transactions that the party, entity, or subordinate element entered into with Government entities in the year prior to the date of that agreement are cooperative agreements or transactions that were entered into under this section or section 4021 of this title.

(B) The only records of a party, other entity, or subordinate element referred to in subparagraph (A) that the Comptroller General may examine in the exercise of the right referred to in that subparagraph are records of the same type as the records that the Government has had the right to examine under the audit access clauses of the previous agreements or transactions referred to in such subparagraph that were entered into by that particular party, entity, or subordinate element.

(4) The head of the contracting activity that is carrying out the agreement may waive the applicability of the requirement in paragraph (1) to the agreement if the head of the contracting activity determines that it would not be in the public interest to apply the requirement to the agreement. The waiver shall be effective with respect to the agreement only if the head of the contracting activity transmits a notification of the waiver to Congress and the Comptroller General before entering into the agreement. The notification shall include the rationale for the determination.

(5) The Comptroller General may not examine records pursuant to a clause included in an agreement under paragraph (1) more than three years after the final payment is made by the United States under the agreement.

(d) APPROPRIATE USE OF AUTHORITY.—(1) The Secretary of Defense shall ensure that no official of an agency enters into a transaction (other than a contract, grant, or cooperative agreement) for a prototype project under the authority of this section unless one of the following conditions is met:

(A) There is at least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project.

(B) All significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional defense contractors.

(C) At least one third of the total cost of the prototype project is to be paid out of funds provided by sources other than the Federal Government.

(D) The senior procurement executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract, or would provide an opportunity to expand the defense supply base in a manner that would not be practical or feasible under a contract.

(2)(A) Except as provided in subparagraph (B), the amounts counted for the purposes of this subsection as being provided, or to be provided, by a party to a transaction with respect to a prototype project that is entered into under this section other than the Federal Government do not include costs that were incurred before the date on which the transaction becomes effective.

(B) Costs that were incurred for a prototype project by a party after the beginning of negotiations resulting in a transaction (other than a contract, grant, or cooperative agreement) with respect to the project before the date on which the transaction becomes effective may be counted for purposes of this subsection as being provided, or to be provided, by the party to the transaction if and to the extent that the official responsible for entering into the transaction determines in writing that—

(i) the party incurred the costs in anticipation of entering into the transaction; and

(ii) it was appropriate for the party to incur the costs before the transaction became effective in order to ensure the successful implementation of the transaction.

(3) The requirements of this subsection do not apply to follow-on production contracts or transactions under subsection (f).

(e) DEFINITIONS.—In this section:

(1) The term "covered official" means—

(A) a service acquisition executive;

(B) the Director of the Defense Advanced Research Projects Agency;

(C) the Director of the Defense Innovation Unit;

(D) the Director of the Missile Defense Agency;

(E) the Under Secretary of Defense for Acquisition and Sustainment; or

(F) the Under Secretary of Defense for Research and Engineering.

(2) The term "nontraditional defense contractor" has the meaning given the term under section 3014 of this title.

(3) The term "service acquisition executive" has the meaning given that term in section 101(a) of this title.

(4) The term "small business" means a small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(5) The term "prototype project" includes a project that addresses—

(A) a proof of concept, model, or process, including a business process;

(B) reverse engineering to address obsolescence;

(C) a pilot or novel application of commercial technologies for defense purposes;

(D) agile development activity;

(E) the creation, design, development, or demonstration of operational utility; or

(F) any combination of subparagraphs (A) through (E).

(6) The term "follow-on production contract or transaction" means a contract or transaction to produce, sustain, or otherwise implement the results of a successfully completed prototype project for continued or expanded use by the Department of Defense.

(f) FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.—(1) A transaction entered into under this section for a prototype project may provide for the award of a follow-on production contract or transaction to the participants in the transaction. A transaction includes all individual prototype subprojects awarded under the transaction to a consortium of United States industry and academic institutions. A follow-on production award may be provided for in a transaction entered into under this section for a prototype project, awarded with respect to such a transaction as one or more separate awards, or a combination thereof.

(2) A follow-on production contract or transaction provided for in a transaction under paragraph (1), one or more separate awards of follow-on production contracts or transactions with respect to a transaction described in such paragraph, or a combination thereof, may be awarded to the participants in the transaction without the use of competitive procedures, notwithstanding the requirements of chapter 221 of this title and even if explicit notification was not listed within the request for proposal for the transaction if—

(A) competitive procedures were used for the selection of parties for participation in the transaction; and

(B) the participants in the transaction successfully completed the prototype project provided for in the transaction.

(3) A follow-on production contract or transaction may be awarded, pursuant to this subsection, when the Department determines that an individual prototype or prototype subproject as part of a consortium is successfully completed by the participants.

(4) Award of a follow-on production contract or transaction pursuant to the terms under this subsection is not contingent upon the successful completion of all activities within a consortium as a condition for an award for follow-on production of a successfully completed prototype or prototype subproject within that consortium.

(5) Contracts and transactions entered into pursuant to this subsection may be awarded using the

authority in subsection (a), under the authority of chapter 137 [1] of this title, or under such procedures, terms, and conditions as the Secretary of Defense may establish by regulation.

(g) AUTHORITY TO PROVIDE PROTOTYPES AND FOLLOW-ON PRODUCTION ITEMS AS GOVERNMENT-FURNISHED EQUIPMENT.—An agreement entered into pursuant to the authority of subsection (a) or a follow-on contract or transaction entered into pursuant to the authority of subsection (f) may provide for prototypes or follow-on production items to be provided to another contractor as Government-furnished equipment.

(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of chapter 21 of title 41.

(i) PILOT AUTHORITY FOR USE OF OTHER TRANSACTIONS FOR INSTALLATION OR FACILITY PROTOTYPING.—

(1) IN GENERAL.—The Secretary of Defense or the Secretary of a military department may establish a pilot program under which the Secretary may, under the authority of this section, carry out prototype projects that are directly relevant to enhancing the ability of the Department of Defense to prototype the design, development, or demonstration of new construction techniques or technologies to improve military installations or facilities (as such terms are defined in section 2801 of this title).

(2) LIMITS.—(A) In carrying out prototype projects under the pilot program established under paragraph (1)—

(i) not more than two prototype projects may begin to be carried out per fiscal year under such pilot program; and

(ii) the aggregate value of all transactions entered into under such pilot program may not exceed $300,000,000.

(B) The requirements of this paragraph shall not apply to projects carried out for the purpose of repairing a facility.

(3) USE OF AMOUNTS.—The Secretary of Defense or the Secretary of a military department may carry out prototype projects under the pilot program established under paragraph (1) using amounts available to the Secretary of Defense or the Secretary of a military department (as applicable) for military construction, operation and maintenance, or research, development, test, and evaluation, notwithstanding—

(A) subchapters I and III of chapter 169 of this title; and

(B) chapters 221 and 223 of this title.

(4) SUNSET.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the authority to carry out prototype projects under the pilot program established under paragraph (1) shall terminate on September 30, 2030.

(B) ONGOING PROJECT EXCEPTION.—Subparagraph (A) shall not apply with respect to prototype projects being carried out under the pilot program established under paragraph (1) on the date described in subparagraph (A).

(Added Pub. L. 114–92, div. A, title VIII, §815(a)(1), Nov. 25, 2015, 129 Stat. 893, §2371b; amended Pub. L. 115–91, div. A, title II, §216, title VIII, §864, Dec. 12, 2017, 131 Stat. 1328, 1494; Pub. L. 115–232, div. A, title II, §211, Aug. 13, 2018, 132 Stat. 1674; Pub. L. 116–92, div. A, title XVII, §1731(a)(46), Dec. 20, 2019, 133 Stat. 1814; renumbered §4022 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(b)(1), (2)(C), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294; Pub. L. 117–81, div. A, title VIII, §821(b), title XVII, §1701(u)(2)(B), (F)(i)(IV), Dec. 27, 2021, 135 Stat. 1825, 2151; Pub. L. 117–263, div. A, title VIII, §§842, 843, Dec. 23, 2022, 136 Stat. 2717, 2718; Pub. L. 118–31, div. A, title VIII, §§821, 822(a), title IX, §913(a), Dec. 22, 2023, 137 Stat. 326, 327, 367; Pub. L. 118–159, div. A, title VIII, §§816–818(a), Dec. 23, 2024, 138 Stat. 1981, 1982; Pub. L. 119–60, div. A, title XVII, §1701(a)(27), Dec. 18, 2025, 139 Stat. 1209.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (f)(5), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

### PRIOR PROVISIONS

A prior section 4022, act Aug. 10, 1956, ch. 1041, 70A Stat. 233, related to employment of contract surgeons in an emergency, prior to repeal by Pub. L. 98–94, title IX, §932(b)(1), (f) Sept. 24, 1983, 97 Stat. 650, effective Oct. 1, 1983, with continuation provision for existing contracts.

### AMENDMENTS

**2025**—Subsec. (e)(1)(E), (F). Pub. L. 119–60 substituted "Under Secretary of Defense" for "Undersecretary of Defense".

**2024**—Subsec. (a)(2)(A). Pub. L. 118–159, §816(1)(A), substituted "head of the contracting activity" for "senior procurement executive for the agency as designated for the purpose of section 1702(c) of title 41" in introductory provisions.

Subsec. (a)(2)(B)(i). Pub. L. 118–159, §816(1)(B), substituted "senior procurement executive for the agency as designated for the purpose of section 1702(c) of title 41, or, for the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or the Missile Defense Agency, the director of the agency," for "Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment" in introductory provisions.

Subsec. (a)(3). Pub. L. 118–159, §816(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The authority of a senior procurement executive or director of the Defense Advanced Research Projects Agency, Defense Innovation Unit, or Missile Defense Agency under paragraph (2)(A), and the authority of the Under Secretaries of Defense under paragraph (2)(B), may not be delegated."

Subsec. (e)(6). Pub. L. 118–159, §817(1), added par. (6).

Subsec. (f)(1). Pub. L. 118–159, §817(2)(A), inserted at end "A follow-on production award may be provided for in a transaction entered into under this section for a prototype project, awarded with respect to such a transaction as one or more separate awards, or a combination thereof."

Subsec. (f)(2). Pub. L. 118–159, §817(2)(B), inserted ", one or more separate awards of follow-on production contracts or transactions with respect to a transaction described in such paragraph, or a combination thereof," after "paragraph (1)" in introductory provisions.

Subsec. (i)(2). Pub. L. 118–159, §818(a)(1), inserted subpar. (A) designation before "In carrying out", redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), struck out "except for projects carried out for the purpose of repairing a facility," before "not more than two prototype projects" in cl. (i) of subpar. (A) as redesignated, and added subpar. (B).

Subsec. (i)(4)(A). Pub. L. 118–159, §818(a)(2), substituted "September 30, 2030" for "September 30, 2025".

**2023**—Subsec. (a)(1). Pub. L. 118–31, §913(a)(3)(A)(i), inserted "the Director of the Defense Innovation Unit," after "Defense Advanced Research Projects Agency,".

Subsec. (a)(2)(A). Pub. L. 118–31, §913(a)(3)(A)(ii), inserted ", the Defense Innovation Unit," after "Defense Advanced Research Projects Agency" in introductory provisions.

Subsec. (a)(2)(C)(i)(I). Pub. L. 118–31, §821(1), inserted "were met for the prior transaction for the prototype project that provided for the award of the follow-on production contract or transaction, and the requirements of subsection (f)" after "subsection (d)".

Subsec. (a)(3). Pub. L. 118–31, §913(a)(3)(A)(iii), inserted ", Defense Innovation Unit," after "Defense Advanced Research Projects Agency".

Subsec. (d)(3). Pub. L. 118–31, §821(2), added par. (3).

Subsec. (e)(1)(C) to (F). Pub. L. 118–31, §913(a)(3)(B), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (i)(2)(A). Pub. L. 118–31, §822(a)(1)(A), inserted "except for projects carried out for the purpose of repairing a facility," before "not more".

Subsec. (i)(2)(B). Pub. L. 118–31, §822(a)(1)(B), substituted "$300,000,000" for "$200,000,000".

Subsec. (i)(3), (4). Pub. L. 118–31, §822(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

**2022**—Subsec. (a)(1). Pub. L. 117–263, §843(1), substituted "personnel of the Department of Defense or

improving" for "military personnel and the supporting".

Subsec. (a)(2). Pub. L. 117–263, §842(1)(A), struck out ", and any follow-on production contract or transaction that is awarded pursuant to subsection (f)," after "a prototype project" in two places.

Subsec. (a)(2)(C). Pub. L. 117–263, §842(1)(B)–(D), added subpar. (C).

Subsec. (e)(1) to (4). Pub. L. 117–263, §842(2), added pars. (1) and (3) and redesignated former pars. (1) and (2) as (2) and (4), respectively.

Subsec. (e)(5). Pub. L. 117–263, §843(2), added par. (5).

Subsec. (f)(2). Pub. L. 117–263, §842(3), substituted "of chapter 221 of this title and even if explicit notification was not listed within the request for proposal for the transaction" for "of section 2304 of this title,".

Subsec. (i). Pub. L. 117–263, §843(3), added subsec. (i).

**2021**—Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2371b of this title as this section.

Subsec. (a)(1). Pub. L. 116–283, §1841(b)(2)(C), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(IV), substituted "section 4021" for "section 2371".

Subsec. (b)(1). Pub. L. 117–81, §821(b), substituted "Subsection (e)(2)" for "Subsections (e)(1)(B) and (e)(2)".

Pub. L. 116–283, §1841(b)(2)(C), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(IV), substituted "section 4021" for "section 2371".

Subsec. (c)(3)(A). Pub. L. 116–283, §1841(b)(2)(C), as amended by Pub. L. 117–81, §1701(u)(2)(F)(i)(IV), substituted "section 4021" for "section 2371".

Subsec. (e)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 3014" for "section 2302(9)".

Subsec. (f)(2). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2304", which was redesignated as multiple sections.

**2019**—Subsec. (d)(1)(C). Pub. L. 116–92 substituted "sources other than" for "sources other than other than".

**2018**—Subsec. (a)(2)(A). Pub. L. 115–232, §211(1)(A), substituted "for a prototype project, and any follow-on production contract or transaction that is awarded pursuant to subsection (f)," for "(for a prototype project)" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 115–232, §211(1)(B)(i), substituted "for a prototype project, and any follow-on production contract or transaction that is awarded pursuant to subsection (f)," for "(for a prototype project)" in introductory provisions.

Subsec. (a)(2)(B)(i). Pub. L. 115–232, §211(1)(B)(ii), substituted "Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in introductory provisions.

Subsec. (a)(3). Pub. L. 115–232, §211(1)(C), which directed substitution of "Under Secretaries of Defense" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in par. (3) of subsec. (a)(2), was executed by making the substitution in par. (3) of subsec. (a), to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 115–232, §211(2), inserted "the prototype" after "carry out".

Subsec. (f)(3) to (5). Pub. L. 115–232, §211(3), added pars. (3) and (4) and redesignated former par. (3) as (5).

**2017**—Subsec. (a)(2)(A). Pub. L. 115–91, §864(a)(1), (2), in introductory provisions, substituted "for a transaction (for a prototype project)" for "for a prototype project", "$100,000,000" for "$50,000,000", and "$500,000,000" for "$250,000,000".

Subsec. (a)(2)(B). Pub. L. 115–91, §864(a)(1), (3), in introductory provisions, substituted "for a transaction (for a prototype project)" for "for a prototype project" and "$500,000,000" for "$250,000,000".

Subsec. (d)(1)(A). Pub. L. 115–91, §216, inserted "or nonprofit research institution" after "defense contractor".

Subsec. (d)(1)(B). Pub. L. 115–91, §864(b), inserted "(including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638))" after "small businesses".

Subsec. (d)(1)(C). Pub. L. 115–91, §864(c), substituted "provided by sources other than" for "provided by parties to the transaction".

Subsec. (f)(1). Pub. L. 115–91, §864(d), inserted at end "A transaction includes all individual prototype subprojects awarded under the transaction to a consortium of United States industry and academic institutions."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title VIII, §818(b), Dec. 23, 2024, 138 Stat. 1982, provided that: "This section [amending this section] and the amendments made by this section shall apply with respect to a transaction for a prototype project under section 4022(i) of title 10, United States Code, entered into on or after the date of the enactment of this section [Dec. 23, 2024]."

### EFFECTIVE DATE OF 2023 AMENDMENT; IMPLEMENTATION

Pub. L. 118–31, div. A, title VIII, §822(b), Dec. 22, 2023, 137 Stat. 327, provided that: "The amendments made by this section [amending this section] shall apply with respect to transactions entered into on or after the date of the enactment of this Act [Dec. 22, 2023]."

Amendment by section 913(a)(3) of Pub. L. 118–31 effective 180 days after Dec. 22, 2023, with additional implementation requirements, see section 913(b)(1), (2) of Pub. L. 118–31, set out as notes under section 1766 of this title.

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(u)(2)(B), (F)(i)(IV) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### AUTHORITY FOR UNACCOMPANIED HOUSING PROJECT UNDER PILOT AUTHORITY FOR USE OF OTHER TRANSACTIONS FOR INSTALLATION OR FACILITY PROTOTYPING

Pub. L. 119–60, div. B, title XXVIII, §2828, Dec. 18, 2025, 139 Stat. 1312, provided that:

"(a) IN GENERAL.—The Secretary of Defense may conduct an unaccompanied housing project under section 4022(i) of title 10, United States Code, that is not subject to the limits under paragraph (2) of such section.

"(b) USE OF AUTHORITY.—The Secretary may use the authority under subsection (a) for not more than one project.

"(c) LOCATION.—The project conducted under subsection (a) shall be located at a joint base of the Department of Defense for medical training.

"(d) USE OF FUNDS.—The aggregate value of all transactions entered into under the project conducted under subsection (a) may not exceed $500,000,000."

### LIMITATION ON MISSILE DEFENSE AGENCY PRODUCTION OF SATELLITES AND GROUND SYSTEMS ASSOCIATED WITH OPERATION OF SUCH SATELLITES

Pub. L. 117–81, div. A, title XVI, §1662(a), Dec. 27, 2021, 135 Stat. 2103, which provided that the Director of the Missile Defense Agency could not authorize or obligate funding for a program of record for the production of satellites or ground systems associated with the operation of such satellites and could authorize, with the concurrence of the Space Acquisition Council, the production of one or more prototype satellites, consistent with the requirements of the Missile Defense Agency, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(2), Dec. 23, 2024, 138 Stat. 2199. See section 5537 of this title.

### RELAXATION OF DEPARTMENT OF DEFENSE OTHER TRANSACTION AUTHORITY REQUIREMENTS RELATED TO THE NATIONAL EMERGENCY FOR THE CORONAVIRUS DISEASE 2019

Pub. L. 116–136, div. B, title III, §13006, Mar. 27, 2020, 134 Stat. 522, provided that:

"(a) Notwithstanding paragraph (3) of section 2371b(a) of title 10, United States Code [now 10 U.S.C. 4022(a)], the authority of a senior procurement executive or director of the Defense Advanced Research Projects Agency or Missile Defense Agency under paragraph (2)(A) of such section [probably should be "subsection"], and the authority of the Under Secretaries of Defense under paragraph (2)(B) of such section [probably should be "subsection"], for any transaction related to the national emergency for the Coronavirus Disease 2019 (COVID–19) may be delegated to such officials in the Department of Defense as the Secretary of Defense shall specify for purposes of this section.

"(b)(1) Notwithstanding clause (ii) of section 2371b(a)(2)(B) of title 10, United States Code [now 10 U.S.C. 4022(a)(2)(B)], no advance notice to Congress is required under that clause for transitions described in that

section that are related to the national emergency for the Coronavirus Disease 2019 (COVID–19).

"(2) In the event a transaction covered by paragraph (1) is carried out, the Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment, as applicable, shall submit to the congressional defense committees a notice on the carrying out of such transaction as soon as is practicable after the commencement of the carrying out of such transaction.

"(3) In this subsection, the term 'congressional defense committees' has the meaning given such term in section 101(a)(16) of title 10, United States Code."

**REPEAL OF OBSOLETE AUTHORITY; TRANSITION PROVISION**

Pub. L. 114–92, div. A, title VIII, §815(c), Nov. 25, 2015, 129 Stat. 896, provided that: "Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; [former] 10 U.S.C. 2371 note) is hereby repealed. Transactions entered into under the authority of such section 845 shall remain in force and effect and shall be modified as appropriate to reflect the amendments made by this section [enacting this section, amending former section 2302 of this title, and amending provisions set out as a note under section 4001 of this title]."

**UPDATED GUIDANCE**

Pub. L. 114–92, div. A, title VIII, §815(e), Nov. 25, 2015, 129 Stat. 896, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall issue updated guidance to implement the amendments made by this section [enacting this section, amending former section 2302 of this title, amending provisions set out as a note under section 4001 of this title, and repealing provisions formerly set out as a note under section 2371 of this title]."

[1] *See References in Text note below.*

## §4023. Procurement for experimental purposes

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments may each buy demonstrations, prototypes, products, supplies, parts, accessories, auxiliary services, and design for products or services that the Secretary of Defense or the Secretary concerned considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense.

(b) PROCEDURES.—Purchases under this section may be made or modified inside or outside the United States and by contract or otherwise. Chapter 137 [1] of this title applies only when such purchases are made in quantities greater than necessary for prototyping, experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability.

(Added Pub. L. 103–160, div. A, title VIII, §822(c)(1), Nov. 30, 1993, 107 Stat. 1706, §2373; amended Pub. L. 103–337, div. A, title X, §1070(g), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–106, div. A, title VIII, §812, Feb. 10, 1996, 110 Stat. 395; Pub. L. 114–92, div. A, title VIII, §814, Nov. 25, 2015, 129 Stat. 893; Pub. L. 115–232, div. A, title VIII, §886, Aug. 13, 2018, 132 Stat. 1916; renumbered §4023, Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), Jan. 1, 2021, 134 Stat. 4243; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), Dec. 27, 2021, 135 Stat. 2151; Pub. L. 119–60, div. A, title XVIII, §1831, Dec. 18, 2025, 139 Stat. 1252.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Chapter 137 of this title, referred to in subsec. (b), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

**PRIOR PROVISIONS**

A prior section 4023, act Aug. 10, 1956, ch. 1041, 70A Stat. 233, related to employment of civilians in service club and library services, prior to repeal by Pub. L. 87–651, title I, §116(1), Sept. 7, 1962, 76 Stat.

513.

Provisions similar to those in this section were contained in sections 4504 and 9504 of this title, prior to repeal by Pub. L. 103–160, §822(c)(2).

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §1831(1), substituted "demonstrations, prototypes, products, supplies, parts, accessories, auxiliary services, and design for products or services" for "ordnance, signal, chemical activity, transportation, energy, medical, space-flight, telecommunications, and aeronautical supplies, including parts and accessories, and designs thereof,".

Subsec. (b). Pub. L. 119–60, §1831(2), inserted "or modified" after "may be made" and "prototyping," after "greater than necessary for".

**2021**—Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2373 of this title as this section.

**2018**—Subsec. (a). Pub. L. 115–232 inserted "telecommunications," after "space-flight,".

**2015**—Subsec. (a). Pub. L. 114–92, §814(a), inserted "transportation, energy, medical, space-flight," before "and aeronautical supplies".

Subsec. (b). Pub. L. 114–92, §814(b), substituted "only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability" for "only when such purchases are made in quantity".

**1996**—Subsec. (b). Pub. L. 104–106 inserted "only" after "applies" in second sentence.

**1994**—Subsec. (a). Pub. L. 103–337 substituted "chemical activity, and aeronautical supplies," for "and chemical activity supplies,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4024. Merit-based award of grants for research and development

(a) It is the policy of Congress that an agency named in section 3063 of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

(1) specifically refers to this subsection;

(2) specifically identifies the particular non-Federal Government entity involved; and

(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 3063 of this title and to report on such matters to the Congress or any agency of the Federal Government.

(Added Pub. L. 103–355, title VII, §7203(a)(2), Oct. 13, 1994, 108 Stat. 3380, §2374; renumbered §4024 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(b)(1), (c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (D), Dec. 27, 2021, 135 Stat. 2151; Pub. L. 118–31, div. A, title XVIII, §1801(a)(31), Dec. 22, 2023, 137 Stat. 685.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4024 was renumbered section 7374 of this title.

### AMENDMENTS

**2023**—Subsecs. (a), (d). Pub. L. 118–31 substituted "section 3063 of this title" for "section 2303(a) of this title".

**2021**—Pub. L. 116–283, §1841(c), which directed the renumbering of section 2374 of this title as section 4008 instead of this section, was amended generally by Pub. L. 117–81, §1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2374 of this title as this section.

Subsecs. (a), (d). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2303(a)", which was redesignated as multiple sections.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## §4025. Prizes for advanced technology achievements

(a) AUTHORITY.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, the Director of the Defense Innovation Unit, and the service acquisition executive for each military department, may carry out programs to award cash prizes and other types of prizes, including procurement contracts and other agreements, that the Secretary determines are appropriate to recognize outstanding achievements in basic, advanced, and applied research, technology development, and prototype development that—

(1) have the potential for application to the performance of the military missions of the Department of Defense; or

(2) demonstrate management practices that improve the schedule or performance, reduce the costs, or otherwise support the transition of technology into acquisition programs or operational use.

(b) COMPETITION REQUIREMENTS.—Each program under subsection (a) shall use a competitive process for the selection of recipients of cash prizes and for the selection of recipients of procurement contracts and other agreements. The process shall include the widely-advertised

solicitation of submissions.

(c) LIMITATIONS.—(1) No prize competition may result in the award of a prize with a fair market value of more than $20,000,000 without the approval of the Under Secretary of Defense for Research and Engineering.

(2) No prize competition may result in the award of more than $2,000,000 in cash prizes without the approval of the Under Secretary of Defense for Research and Engineering.

(3) No prize competition may result in the award of a solely nonmonetary prize with a fair market value of more than $20,000 without the approval of the Under Secretary of Defense for Research and Engineering.

(d) RELATIONSHIP TO OTHER AUTHORITY.—A program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of an official referred to in that subsection.

(e) ACCEPTANCE OF FUNDS.—In addition to such sums as may be appropriated or otherwise made available to the Secretary to award prizes under this section, the Secretary may accept funds or nonmonetary items from other departments and agencies of the Federal Government, from State and local governments, and from the private sector, to award prizes under this section. The Secretary may not give any special consideration to any private sector entity in return for a donation.

(f) USE OF PRIZE AUTHORITY.—Use of prize authority under this section shall be considered the use of competitive procedures for the purposes of chapter 221 of this title.

(g) CONGRESSIONAL NOTICE.—

(1) IN GENERAL.—Not later than 15 days after a procurement contract or other agreement that exceeds a fair market value of $20,000,000 is awarded under the authority under a program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees written notice of such award.

(2) CONTENTS.—Each notice submitted under paragraph (1) shall include—

(A) the value of the relevant procurement contract or other agreement, as applicable, including all options;

(B) if applicable, a summary of the management practice that contributed to an improvement to schedule or performance or a reduction in cost relating to the transition of technology;

(C) an identification of any portfolio acquisition executive (as defined in section 1737 of this title) responsible for implementation or oversight of research results, technology development, prototype development, or management practices (as applicable) for which an award was made under this section, and a brief summary of lessons learned by such portfolio acquisition executive in carrying out such implementation or oversight;

(D) a brief description of the research result, technology development, or prototype for which such procurement contract or other agreement, as applicable, was awarded; and

(E) an explanation of the benefit to the performance of the military mission of the Department of Defense resulting from the award.

(Added Pub. L. 106–65, div. A, title II, §244(a), Oct. 5, 1999, 113 Stat. 552, §2374a; amended Pub. L. 107–314, div. A, title II, §248(a), Dec. 2, 2002, 116 Stat. 2502; Pub. L. 108–136, div. A, title X, §1031(a)(20), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 109–163, div. A, title II, §257, Jan. 6, 2006, 119 Stat. 3184; Pub. L. 109–364, div. A, title II, §212, Oct. 17, 2006, 120 Stat. 2119; Pub. L. 111–84, div. A, title II, §253, Oct. 28, 2009, 123 Stat. 2243; Pub. L. 111–383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 113–66, div. A, title II, §263, Dec. 26, 2013, 127 Stat. 726; Pub. L. 113–291, div. A, title II, §211, Dec. 19, 2014, 128 Stat. 3324; Pub. L. 114–92, div. A, title X, §1079(a), Nov. 25, 2015, 129 Stat. 999; Pub. L. 114–328, div. A, title X, §1081(c)(6), Dec. 23, 2016, 130 Stat. 2420; Pub. L. 115–91, div. A, title II, §213, Dec. 12, 2017, 131 Stat. 1324; Pub. L. 115–232, div. A, title X, §1081(a)(21), Aug. 13, 2018, 132 Stat. 1984; Pub. L. 116–92, div. A, title II, §215, Dec. 20, 2019, 133 Stat. 1257; renumbered §4025 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(b)(1), 1842(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4244, 4294; Pub. L. 117–81, div. A, title VIII, §822, title XVII, §1701(q)(1), (u)(2)(B), (3)(B), Dec. 27, 2021, 135 Stat.

1825, 2148, 2151, 2152; Pub. L. 117–263, div. A, title VIII, §844, Dec. 23, 2022, 136 Stat. 2719; Pub. L. 119–60, div. A, title II, §211, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 772, 1227.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4025 was renumbered section 7375 of this title.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §211(a), inserted "the Director of the Defense Innovation Unit," after "the Under Secretary of Defense for Acquisition and Sustainment," in introductory provisions.

Subsec. (c)(1). Pub. L. 119–60, §211(b)(1), substituted "$20,000,000" for "$10,000,000".

Subsec. (c)(2). Pub. L. 119–60, §211(b)(2), substituted "$2,000,000" for "$1,000,000".

Subsec. (c)(3). Pub. L. 119–60, §211(b)(3), substituted "$20,000" for "$10,000".

Subsec. (g)(1). Pub. L. 119–60, §211(c), substituted "$20,000,000" for "$10,000,000".

Subsec. (g)(2)(C). Pub. L. 119–60, §1802(b)(1)(A), substituted "portfolio acquisition executive" for "program executive officer" in two places.

**2022**—Subsec. (a). Pub. L. 117–263, §844(1), substituted "development that—" for "development that", inserted par. (1) designation before "have the potential", substituted "Defense; or" for "Defense.", and added par. (2).

Subsec. (b). Pub. L. 117–263, §844(2), struck out "of research results, technology developments, and prototypes" before period at end.

Subsec. (d). Pub. L. 117–263, §844(3), struck out "to acquire, support, or stimulate basic, advanced and applied research, technology development, or prototype projects" before period at end.

Subsec. (f). Pub. L. 117–263, §844(4), substituted "chapter 221" for "section 2304".

Subsec. (g)(2)(B) to (E). Pub. L. 117–263, §844(5), added subpars. (B) and (C) and redesignated former subpars. (B) and (C) as (D) and (E), respectively.

**2021**—Pub. L. 116–283, §1842(b), which directed the renumbering of section 2374a of this title as section 4065 instead of this section, was amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2374a of this title as this section.

Subsec. (a). Pub. L. 117–81, §822(1), inserted ", including procurement contracts and other agreements," after "other types of prizes".

Subsec. (b). Pub. L. 117–81, §822(2), inserted "and for the selection of recipients of procurement contracts and other agreements" after "cash prizes".

Subsec. (c)(1). Pub. L. 117–81, §822(3), inserted "without the approval of the Under Secretary of Defense for Research and Engineering" before period at end.

Subsec. (f). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2304", which was redesignated as multiple sections.

Subsec. (g). Pub. L. 117–81, §822(4), added subsec. (g).

**2019**—Subsec. (a). Pub. L. 116–92 substituted "Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment," for "Assistant Secretary of Defense for Research and Engineering".

**2018**—Subsec. (e). Pub. L. 115–232 substituted "Federal Government," for "Federal Government,,".

**2017**—Subsec. (a). Pub. L. 115–91, §213(1), substituted "and other types of prizes that the Secretary determines are appropriate to recognize" for "in recognition of".

Subsec. (c)(1). Pub. L. 115–91, §213(2)(A), substituted "prize with a fair market value of" for "cash prize of".

Subsec. (c)(2). Pub. L. 115–91, §213(2)(B), substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (c)(3). Pub. L. 115–91, §213(2)(C), added par. (3).

Subsec. (e). Pub. L. 115–91, §213(3), inserted "or nonmonetary items" after "accept funds", substituted ", from State and local governments, and from the private sector" for "and from State and local governments",

and inserted at end "The Secretary may not give any special consideration to any private sector entity in return for a donation."

Subsec. (f). Pub. L. 115–91, §213(4), amended subsec. (f) generally. Prior to amendment, text read as follows: "The authority to award prizes under subsection (a) shall terminate at the end of September 30, 2018."

**2016**—Subsecs. (f), (g). Pub. L. 114–328, §1081(c)(6), made technical amendment to directory language of Pub. L. 114–92, §1079(a). See 2015 Amendment note below.

**2015**—Subsecs. (f), (g). Pub. L. 114–92, §1079(a), as amended by Pub. L. 114–328, §1081(c)(6), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to biennial reports.

**2014**—Subsec. (c)(1). Pub. L. 113–291, §211(a), substituted "No prize competition may result in the award of a cash prize of more than $10,000,000." for "The total amount made available for award of cash prizes in a fiscal year may not exceed $10,000,000."

Subsec. (e). Pub. L. 113–291, §211(b)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 113–291, §211(c)(3), substituted "BIENNIAL" for "ANNUAL" in heading.

Pub. L. 113–291, §211(b)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 113–291, §211(c)(1), substituted "every other year" for "each year" and "two fiscal years" for "fiscal year".

Subsec. (f)(2). Pub. L. 113–291, §211(c)(2), substituted "a period of two fiscal years" for "a fiscal year" in introductory provisions.

Subsec. (g). Pub. L. 113–291, §211(b)(1), redesignated subsec. (f) as (g).

**2013**—Subsec. (f). Pub. L. 113–66 substituted "September 30, 2018" for "September 30, 2013".

**2011**—Subsec. (a). Pub. L. 111–383 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

**2009**—Subsec. (f). Pub. L. 111–84 substituted "2013" for "2010".

**2006**—Subsec. (a). Pub. L. 109–364, §212(a)(1), substituted "Director of Defense Research and Engineering and the service acquisition executive for each military department" for "Director of the Defense Advanced Research Projects Agency" and "programs" for "a program".

Subsec. (b). Pub. L. 109–364, §212(a)(2)(A), substituted "Each program" for "The program".

Subsec. (d). Pub. L. 109–364, §212(a)(2)(B), substituted "A program" for "The program" and "an official referred to in that subsection" for "the Director".

Subsec. (e). Pub. L. 109–364, §212(c), reenacted heading without change and amended text generally. Prior to amendment, subsec. (e) required an annual report, which included the results of consultations between the Director and officials of the military departments, a description of goals, cash prizes, methods used for submissions, a description of resources, and a description of transition plans.

Pub. L. 109–163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Promptly after the end of each fiscal year during which one or more prizes are awarded under the program under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the program for that fiscal year. The report shall include the following:

"(1) The military applications of the research, technology, or prototypes for which prizes were awarded.

"(2) The total amount of the prizes awarded.

"(3) The methods used for solicitation and evaluation of submissions, together with an assessment of the effectiveness of those methods."

Subsec. (f). Pub. L. 109–364, §212(b), substituted "2010" for "2007".

**2003**—Subsec. (e). Pub. L. 108–136 inserted "during which one or more prizes are awarded under the program under subsection (a)" after "each fiscal year" in introductory provisions.

**2002**—Subsec. (f). Pub. L. 107–314 substituted "September 30, 2007" for "September 30, 2003".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(q)(1), (u)(2)(B), (3)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note

preceding section 3001 of this title.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114–328, div. A, title X, §1081(c), Dec. 23, 2016, 130 Stat. 2419, provided that the amendment made by section 1081(c)(6) is effective as of Nov. 25, 2015, and as if included in Pub. L. 114–92 as enacted.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

**PRIZE COMPETITION FOR TECHNOLOGY THAT DETECTS AND WATERMARKS USE OF GENERATIVE ARTIFICIAL INTELLIGENCE**

Pub. L. 118–31, div. A, title XV, §1543, Dec. 22, 2023, 137 Stat. 573, provided that:

"(a) ESTABLISHMENT.—Not later than 270 days after the date of the enactment of this Act [Dec. 22, 2023], under the authority of section 4025 of title 10, United States Code, the Secretary of Defense shall establish a prize competition designed to evaluate technology (including applications, tools, and models) for generative artificial intelligence detection and generative artificial intelligence watermarking, for the purposes of—

"(1) facilitating the research, development, testing, evaluation, and competition of such technologies to support the Secretaries of the military departments and the commanders of combatant commands in warfighting requirements; and

"(2) transitioning such technologies, including technologies developed pursuant to pilot programs, prototype projects, or other research and development programs, from the prototyping phase to production.

"(b) PARTICIPATION.—The participants in the prize competition under subsection (a) may include federally funded research and development centers, entities within the private sector, entities within the defense industrial base, institutions of higher education, Federal departments and agencies, and such other categories of participants as the Secretary of Defense considers appropriate.

"(c) DESIGNATION.—The prize competition under subsection (a) shall be known as the 'Generative AI Detection and Watermark Competition'.

"(d) ADMINISTRATION.—The Under Secretary of Defense for Research and Engineering shall administer the prize competition under subsection (a).

"(e) FRAMEWORK.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the framework to be used in carrying out the prize competition under subsection (a).

"(f) ANNUAL BRIEFINGS.—Not later than October 1 of each year until the date of termination under subsection (g), the Secretary of Defense shall provide to the congressional defense committees a briefing on the results of the prize competition under subsection (a).

"(g) TERMINATION.—The authority to carry out the prize competition under subsection (a) shall terminate on December 31, 2025.

"(h) DEFINITIONS.—In this section:

"(1) The term 'generative artificial intelligence detection' means, with respect to digital content, the positive identification of the use of generative artificial intelligence in the generation of such content.

"(2) The term 'generative artificial intelligence watermarking' means, with respect to digital content, embedding within such content data conveying attribution of the generation of such content to generative artificial intelligence."

**PRIZE COMPETITION TO IDENTIFY ROOT CAUSE OF PHYSIOLOGICAL EPISODES ON NAVY, MARINE CORPS, AND AIR FORCE TRAINING AND OPERATIONAL AIRCRAFT**

Pub. L. 115–91, div. A, title X, §1089, Dec. 12, 2017, 131 Stat. 1605, as amended by Pub. L. 116–283, div. A, title XVIII, §1842(c)(1), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(C), Dec. 27, 2021, 135 Stat. 2152, which provided for the establishment of a prize competition designed to accelerate identification of the root cause of, or to find solutions to, physiological episodes experienced in Navy, Marine Corps, and Air Force training and operational aircraft, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(6)(C), Dec. 18, 2025, 139 Stat. 948.

## §4026. Cooperative research and development agreements under

## Stevenson-Wydler Technology Innovation Act of 1980

The Secretary of Defense, in carrying out research projects through the Defense Advanced Research Projects Agency, and the Secretary of each military department, in carrying out research projects, may permit the director of any federally funded research and development center to enter into cooperative research and development agreements with any person, any agency or instrumentality of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).

(Added and amended Pub. L. 104–201, div. A, title II, §267(c)(1)(A), (B), Sept. 23, 1996, 110 Stat. 2468, §2371a; Pub. L. 105–85, div. A, title X, §1073(a)(50), Nov. 18, 1997, 111 Stat. 1903; renumbered §4026 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(b)(1), 1844(b)(1), Jan. 1, 2021, 134 Stat. 4243, 4245; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (5)(B), Dec. 27, 2021, 135 Stat. 2151, 2154.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2371(i) of this title, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 104–201, §267(c)(1)(A), (B), was based on Pub. L. 103–355, title I, §1301(b), Oct. 13, 1994, 108 Stat. 3286.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1844(b)(1), which directed the renumbering of section 2371a of this title as section 4143 instead of this section, was repealed, and a new section 1844(b) was enacted, by Pub. L. 117–81, §1701(u)(5)(D), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2371a of this title as this section.

**1997**—Pub. L. 105–85 inserted "Defense" before "Advanced Research Projects Agency".

**1996**—Pub. L. 104–201 transferred section 2371(i) of this title to this section, added section catchline, and struck out subsec. (i) designation and heading which read as follows: "Cooperative Research and Development Agreements Under Stevenson-Wydler Technology Innovation Act of 1980". See Codification note above.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4027. Disclosure requirements for recipients of research and development funds

(a) IN GENERAL.—Except as provided in subsections (b) and (c), an individual or entity (including a State or local government) that uses funds received from the Department of Defense to carry out research or development activities shall include, in any public document pertaining to such activities, a clear statement indicating the dollar amount of the funds received from the Department for such activities.

(b) EXCEPTION.—The disclosure requirement under subsection (a) shall not apply to a public document consisting of fewer than 280 characters.

(c) WAIVER.—The Secretary of Defense may waive the disclosure requirement under subsection

(a) on a case-by-case basis.

(d) PUBLIC DOCUMENT DEFINED.—In this section, the term "public document" means any document or other written statement made available for public reference or use, regardless of whether such document or statement is made available in hard copy or electronic format.

(Added Pub. L. 116–283, div. A, title II, §212(a)(1), Jan. 1, 2021, 134 Stat. 3456, §2374b; renumbered §4027, Pub. L. 117–81, div. A, title XVII, §1701(e)(4)(A), Dec. 27, 2021, 135 Stat. 2139.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4027 was renumbered section 7377 of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 2374b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–263, div. A, title VIII, §881(a), Dec. 23, 2022, 136 Stat. 2744, provided that: "The amendments made by section 1701(e) and paragraphs (1) and (2) of section 802(b) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) [renumbering this section and sections 4094, 4873, 4875, and 8755 of this title] shall be deemed to have taken effect immediately before the amendments made by section 1881 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 134 Stat. 4293) [see Tables for classification]."

[Subsec. (a) of section 1881 of Pub. L. 116–283, referred to in section 881(a) of Pub. L. 117–263, set out above, provided in part that chapter 139 of this title, in which chapter section 2374b of this title had been located, was repealed.]

### EFFECTIVE DATE

Pub. L. 116–283, div. A, title II, §212(b), Jan. 1, 2021, 134 Stat. 3456, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 2021, and shall apply with respect to funds for research and development that are awarded by the Department of Defense on or after that date."

### TREATMENT OF SECTION 4027 REQUIREMENTS

Pub. L. 117–263, div. A, title VIII, §881(b), Dec. 23, 2022, 136 Stat. 2744, provided that: "An individual or entity to which the requirements under section 4027 of title 10, United States Code, were applicable during the period beginning on January 1, 2022, and ending on the date of the enactment of this Act [Dec. 23, 2022] pursuant to subsection (a) [set out as an Effective Date of 2021 Amendment note above] shall be deemed to have complied with such requirements during such period."

# CHAPTER 303—RESEARCH AND ENGINEERING ACTIVITIES

## SUBCHAPTER I—GENERAL

Sec.
4061. Defense Research and Development Rapid Innovation Program.
4062. Defense Acquisition Challenge Program.
4063. [Reserved].
4064. [Reserved].
4065. [Reserved].
4066. Global Research Watch Program.
4067. Technology protection features activities.

## SUBCHAPTER II—PERSONNEL

4091. Authorities for certain positions at science and technology reinvention laboratories.
4092. Personnel management authority to attract experts in science, engineering, and certain other disciplines.
4093. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.
4094. Enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories.

**SUBCHAPTER III—RESEARCH AND DEVELOPMENT CENTERS AND FACILITIES**

4121. Science and technology reinvention laboratories: authority and designation.
4122. [Reserved].
4123. Mechanisms to provide funds for defense laboratories and test organizations for research and development of technologies for military missions.
4124. Centers for Science, Technology, and Engineering Partnership.
4125. Functions of Defense research facilities.
4126. Use of federally funded research and development centers.
4127. Defense Innovation Unit.
4128. Laboratory Quality Enhancement Program.
4129. Joint Federated Assurance Center.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 303 "WEAPON SYSTEMS DEVELOPMENT AND RELATED MATTERS", consisting of reserved section 4071, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

A prior chapter 303 was renumbered chapter 703 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title II, §212(1), title XVII, §1701(a)(28), Dec. 18, 2025, 139 Stat. 772, 1209, inserted "and test organizations" after "defense laboratories" in item 4123 and redesignated item 4128 "Joint Federated Assurance Center" as 4129. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title II, §§216(1), 217(a), title IX, §922(a), title XVII, §1701(a)(43), Dec. 23, 2024, 138 Stat. 1825, 2037, 2206, substituted "science, engineering, and certain other disciplines" for "science and engineering" in item 4092 and "Defense Innovation Unit" for "Defense innovation unit" in item 4127 and added two items 4128. Amendments were made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title IX, §913(a)(1), title XVIII, §1801(a)(32), Dec. 22, 2023, 137 Stat. 365, 685, struck out identical second item 4094 "Enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories" and added item 4127. Amendments were made pursuant to section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title XI, §1106(b), Dec. 23, 2022, 136 Stat. 2818, added identical second item 4094 "Enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories" after item 4093.

**2021**—Pub. L. 117–81, div. A, title II, §215(b), title XVII, §1701(e)(3)(B), Dec. 27, 2021, 135 Stat. 1593, 2138, added items 4094 "Enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories" and 4121 and struck out former item 4121 "[Reserved]", effective after the amendment made by Pub. L. 116–283, as amended by Pub. L. 117–81, see note below.

Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(A), Dec. 27, 2021, 135 Stat. 2152, amended Pub. L. 116–283, div. A, title XVIII, §1842(a), Jan. 1, 2021, 134 Stat. 4244, which added this analysis, by substituting chapter heading, items for subchapters I to III, and items 4061 to 4067, 4091 to 4093, and 4121 to 4126 for former chapter heading "INNOVATION" and items 4061 to 4066.

## SUBCHAPTER I—GENERAL

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(A), Dec. 27, 2021, 135 Stat. 2152, amended Pub. L. 116–283, div. A, title XVIII, §1842(a), Jan. 1, 2021, 134 Stat. 4244, which added this chapter, by adding subchapter heading. Heading was editorially conformed to the style used in this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF INNOVATORS INFORMATION REPOSITORY IN THE DEPARTMENT OF DEFENSE

Pub. L. 115–232, div. A, title II, §220, Aug. 13, 2018, 132 Stat. 1681, as amended by Pub. L. 118–159, div. A, title II, §224, Dec. 23, 2024, 138 Stat. 1830, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall, acting through the Chief Digital and Artificial Intelligence Office, the Defense Innovation Unit, and the Defense Technical Information Center, establish an innovators information repository within the Department of Defense in accordance with this section.

"(b) MAINTENANCE OF INFORMATION REPOSITORY.—The Under Secretary of Defense for Research and Engineering shall maintain the information repository and ensure that it is periodically updated in accordance with subsection (e).

"(c) ELEMENTS OF INFORMATION REPOSITORY.—The information repository established under subsection (a) shall—

"(1) be coordinated across the Department of Defense to focus on small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)[)], including—

"(A) participants in the Small Business Innovation Research Program or the Small Business Technology Transfer Program established under section 9 of the Small Business Act (15 U.S.C. 638);

"(B) participants in the pilot program established under section 834 of the National Defense Authorization Act for Fiscal Year 2022 [Pub. L. 117–81, 10 U.S.C. 4061 note] or the Rapid Defense Experimentation Reserve of the Department of Defense; and

"(C) small business concerns that are nontraditional defense contractors (as defined in section 3014 of title 10, United States Code) that work with research, innovation, and advanced project entities;

"(2) include appropriate information about each participant, including a description of—

"(A) the need or requirement applicable to the participant;

"(B) the participant's technology with appropriate technical detail and appropriate protections of proprietary information or data;

"(C) any prior business of the participant with the Department;

"(D) whether the participant's technology was incorporated into a program of record;

"(E) the date of the initial award to the participant from the Department of Defense; and

"(F) the dates of any additional awards made to the participant by the Department of Defense, including the dates of any contracts or other agreements entered into between the participant the Department of Defense [sic]; and

"(3) incorporate the appropriate classification due to compilation of information.

"(d) USE OF INFORMATION REPOSITORY.—After the information repository is established under subsection (a), the Secretary shall encourage use of the information repository by Department organizations involved in technology development and protection, including program offices, before initiating a Request for Information or a Request for Proposal to determine whether an organic technology exists or is being developed currently by a an [sic] entity supported by the Department (which may include a company, academic consortium, or other entity).

"(e) UPDATES REQUIRED.—Not less frequently than once each fiscal quarter and subject to the availability of appropriations, the head of the Defense Technical Information Center, in coordination with the Under Secretary of Defense for Research and Engineering, shall update the innovators information repository established under this section."

### NATIONAL SECURITY INNOVATION ACTIVITIES

Pub. L. 115–232, div. A, title II, §230, Aug. 13, 2018, 132 Stat. 1689, as amended by Pub. L. 116–283, div. A, title II, §213(a), Jan. 1, 2021, 134 Stat. 3456, which required the establishment of activities to develop

interaction between the Department of Defense and the commercial technology industry and academia with regard to emerging hardware products and technologies with national security applications, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(5)(B), Dec. 18, 2025, 139 Stat. 948.

## JOINT ARTIFICIAL INTELLIGENCE RESEARCH, DEVELOPMENT, AND TRANSITION ACTIVITIES

Pub. L. 115–232, div. A, title II, §238, Aug. 13, 2018, 132 Stat. 1695, as amended by Pub. L. 116–92, div. A, title II, §221, Dec. 20, 2019, 133 Stat. 1261; Pub. L. 116–283, div. A, title II, §232, Jan. 1, 2021, 134 Stat. 3480; Pub. L. 117–263, div. A, title II, §212(l), Dec. 23, 2022, 136 Stat. 2470; Pub. L. 118–31, div. A, title XV, §1521(b), Dec. 22, 2023, 137 Stat. 551; Pub. L. 118–159, div. A, title II, §225, Dec. 23, 2024, 138 Stat. 1831, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a set of activities within the Department of Defense to coordinate the efforts of the Department to acquire, develop, mature, and transition artificial intelligence technologies into operational use.

"(2) EMPHASIS.—The set of activities established under paragraph (1) shall include—

"(A) acquisition and development of mature artificial intelligence technologies in support of defense missions;

"(B) applying artificial intelligence and machine learning solutions to operational problems by directly delivering artificial intelligence capabilities to the Armed Forces and other organizations and elements of the Department of Defense;

"(C) accelerating the development, testing, and fielding of new artificial intelligence and artificial intelligence-enabling capabilities; and

"(D) coordinating and deconflicting activities involving artificial intelligence and artificial intelligence-enabled capabilities within the Department.

"(b) DESIGNATION.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall designate a senior official of the Department with principal responsibility for the coordination of activities relating to the development and demonstration of artificial intelligence and machine learning for the Department.

"(c) ORGANIZATION AND ROLES.—

"(1) IN GENERAL.—In addition to designating an official under subsection (b), the Secretary of Defense shall assign to appropriate officials within the Department of Defense roles and responsibilities relating to the research, development, prototyping, testing, procurement of, requirements for, and operational use of artificial intelligence technologies.

"(2) APPROPRIATE OFFICIALS.—The officials assigned roles and responsibilities under paragraph (1) shall include—

"(A) the Under Secretary of Defense for Research and Engineering;

"(B) the Under Secretary of Defense for Acquisition and Sustainment;

"(C) one or more officials in each military department;

"(D) officials of appropriate Defense Agencies; and

"(E) such other officials as the Secretary of Defense determines appropriate.

"(d) DUTIES.—The duties of the official designated under subsection (b) shall include the following:

"(1) STRATEGIC PLAN.—Developing a detailed strategic plan to acquire, develop, mature, adopt, and transition artificial intelligence technologies into operational use. Such plan shall include the following:

"(A) A strategic roadmap for the identification and coordination of the development and fielding of artificial intelligence technologies and key enabling capabilities.

"(B) The continuous evaluation and adaptation of relevant artificial intelligence capabilities developed both inside the Department and in other organizations for military missions and business operations.

"(2) ACCELERATION OF ACQUISITION, DEVELOPMENT AND FIELDING OF ARTIFICIAL INTELLIGENCE.—The official designated under subsection (b) shall—

"(A) use the flexibility of regulations, personnel, acquisition, partnerships with industry and academia, or other relevant policies of the Department to accelerate the acquisition and fielding of artificial intelligence capabilities;

"(B) ensure engagement with defense and private industries, research universities, and unaffiliated, nonprofit research institutions;

"(C) provide technical advice and support to entities in the Department and the military departments to optimize the use of artificial intelligence and machine learning technologies to meet

Department missions;

"(D) support the development of requirements for artificial intelligence capabilities that address the highest priority capability gaps of the Department and technical feasibility;

"(E) develop and support capabilities for technical analysis and assessment of threat capabilities based on artificial intelligence;

"(F) ensure that the Department has appropriate workforce and capabilities at laboratories, test ranges, and within the organic defense industrial base to support the artificial intelligence capabilities and requirements of the Department;

"(G) develop classification guidance for all artificial intelligence related activities of the Department;

"(H) develop standard data formats for the Department that—

"(i) aid in defining the relative maturity of datasets; and

"(ii) inform best practices for cost and schedule computation, data collection strategies aligned to mission outcomes, and dataset maintenance practices;

"(I) establish data and model usage agreements and collaborative partnership agreements for artificial intelligence product development with each organization and element of the Department, including each of the Armed Forces;

"(J) work with appropriate officials to develop appropriate ethical, legal, and other policies for the Department governing the development and use of artificial intelligence enabled systems and technologies in operational situations; and

"(K) ensure—

"(i) that artificial intelligence programs of each military department and of the Defense Agencies are consistent with the priorities identified under this section;

"(ii) appropriate coordination of artificial intelligence activities of the Department with interagency, industry, and international efforts relating to artificial intelligence, including relevant participation in standards setting bodies; and

"(iii) that appropriate entities in the Department are reviewing all open source publications from both the United States and outside the United States that contribute to, affect, or advance—

"(I) artificial intelligence research and development; or

"(II) the understanding of the Secretary concerning the investments by adversaries of the United States in artificial intelligence and the development by such adversaries of capabilities relating to artificial intelligence.

"(3) CHIEF DIGITAL AND ARTIFICIAL INTELLIGENCE OFFICER GOVERNING COUNCIL.—

"(A) ESTABLISHMENT.—The Secretary shall establish a council to provide policy oversight to ensure the responsible, coordinated, and ethical employment of data and artificial intelligence capabilities across Department of Defense missions and operations. Such council shall be known as the 'Chief Digital and Artificial Intelligence Officer Governing Council' (in this paragraph referred to as the 'Council').

"(B) MEMBERSHIP.—The Council shall be composed of the following:

"(i) Joint Staff J–6.

"(ii) The Under Secretary of Defense for Acquisition and Sustainment.

"(iii) The Under Secretary of Defense for Research and Evaluation.

"(iv) The Under Secretary of Defense for Intelligence and Security.

"(v) The Under Secretary of Defense for Policy.

"(vi) The Director of Cost Analysis and Program Evaluation.

"(vii) The Chief Information Officer of the Department.

"(viii) The Director of Administration and Management.

"(ix) The service acquisition executives of each of the military departments.

"(C) HEAD OF COUNCIL.—The Council shall be headed by the Chief Digital and Artificial Intelligence Officer of the Department.

"(D) MEETINGS.—The Council shall meet not less frequently than twice each fiscal year.

"(E) DUTIES OF COUNCIL.—The duties of the Council are as follows:

"(i) To streamline the organizational structure of the Department as such structure relates to the development, implementation, and oversight of artificial intelligence.

"(ii) To improve coordination on artificial intelligence governance with the defense industry sector.

"(iii) To issue and oversee guidance on ethical requirements and protections for the use of artificial intelligence supported by Department funding and the reduction or mitigation of instances of unintended bias in artificial intelligence algorithms.

"(iv) To identify, monitor, and periodically update appropriate recommendations for the operational use of artificial intelligence.

"(v) To review, to the extent the head of the Council considers necessary, artificial intelligence program funding, to ensure that any investment by the Department in an artificial intelligence tool, system, or algorithm adheres to each applicable policy of the Department relating to artificial intelligence.

"(vi) To provide periodic status updates on the efforts of the Department to develop and implement artificial intelligence into existing Department programs and processes.

"(vii) To issue guidance on access and distribution restrictions relating to data, models, tool sets, or testing or validation infrastructure.

"(viii) To implement and oversee an educational program on data and artificial intelligence, for the purpose of familiarizing personnel Department-wide on the applications of artificial intelligence within the respective operations of such personnel.

"(ix) To implement and oversee a scorecard to assess data decrees of the Department.

"(x) With respect to artificial intelligence models and advanced artificial intelligence technologies—

"(I) to identify and assess artificial intelligence models and advanced artificial intelligence technologies that could pose a national security risk if accessed by an adversary of the United States;

"(II) to develop strategies to prevent unauthorized access and usage of potent artificial intelligence models by countries that are adversaries of the United States; and

"(III) to make recommendations to Congress and relevant Federal agencies for legislative or administrative action in the field of artificial intelligence.

"(xi) Such other duties as the Council determines appropriate.

"(F) PERIODIC REPORTS.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023], and not less frequently than once every 18 months thereafter, the Council shall submit to the Secretary and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the activities of the Council during the period covered by the report.

"(e) ACCESS TO INFORMATION.—Not later than 180 days after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283; approved Jan. 1, 2021], the Secretary of Defense shall issue regulations to ensure that the official designated under subsection (b) has access to such information on programs and activities of the military departments and other Defense Agencies as the Secretary considers appropriate to carry out the duties set forth in subsection (d). At a minimum, such access shall ensure that the official designated under subsection (b) has the ability to discover, access, share, and appropriately reuse data and models of the Armed Forces and other organizations and elements of the Department of Defense, build and maintain artificial intelligence capabilities for the Department, and execute the duties assigned to the Director by the Secretary.

"(f) DELINEATION OF DEFINITION OF ARTIFICIAL INTELLIGENCE.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall delineate a definition of the term 'artificial intelligence' for use within the Department.

"(g) ARTIFICIAL INTELLIGENCE DEFINED.—In this section, the term 'artificial intelligence' includes the following:

"(1) Any artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight, or that can learn from experience and improve performance when exposed to data sets.

"(2) An artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action.

"(3) An artificial system designed to think or act like a human, including cognitive architectures and neural networks.

"(4) A set of techniques, including machine learning, that is designed to approximate a cognitive task.

"(5) An artificial system designed to act rationally, including an intelligent software agent or embodied robot that achieves goals using perception, planning, reasoning, learning, communicating, decision making, and acting."

[Pub. L. 117–263, div. A, title II, §212(m), Dec. 23, 2022, 136 Stat. 2471, provided that: "Any reference in any law, regulation, guidance, instruction, or other document of the Federal Government to the Director of the Joint Artificial Intelligence Center of the Department of Defense or to the Joint Artificial Intelligence Center shall be deemed to refer to the official designated under section 238(b) of the John S. McCain National

Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061) [set out above] or the office of such official, as the case may be."]

**SUPPORT FOR NATIONAL SECURITY INNOVATION AND ENTREPRENEURIAL EDUCATION**

Pub. L. 115–91, div. A, title II, §225, Dec. 12, 2017, 131 Stat. 1334, as amended by Pub. L. 115–232, div. A, title II, §233, Aug. 13, 2018, 132 Stat. 1692; Pub. L. 116–92, div. A, title II, §219, Dec. 20, 2019, 133 Stat. 1260, provided that:

"(a) SUPPORT AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Defense may, acting through the Under Secretary of Defense for Research and Engineering, support national security innovation and entrepreneurial education programs.

"(2) ELEMENTS.—Support under paragraph (1) may include the following:

"(A) Materials to recruit participants, including veterans, for programs described in paragraph (1).

"(B) Model curriculum for such programs.

"(C) Training materials for such programs.

"(D) Best practices for the conduct of such programs.

"(E) Experimental learning opportunities for program participants to interact with operational forces and better understand national security challenges.

"(F) Exchanges and partnerships with Department of Defense science and technology activities.

"(G) Activities consistent with the Proof of Concept Commercialization Pilot Program established under [former] section 1603 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 2359 note [now 10 U.S.C. 4007 note]).

"(b) CONSULTATION.—In carrying out subsection (a), the Secretary may consult with the heads of such Federal agencies, universities, and public and private entities engaged in the development of advanced technologies as the Secretary determines to be appropriate.

"(c) AUTHORITIES.—The Secretary may—

"(1) develop and maintain metrics to assess national security innovation and entrepreneurial education activities to ensure standards for programs supported under subsection (b) are consistent and being met; and

"(2) ensure that any recipient of an award under the Small Business Technology Transfer program, the Small Business Innovation Research program, and science and technology programs of the Department of Defense has the option to participate in training under a national security innovation and entrepreneurial education program supported under subsection (b).

"(d) PARTICIPATION BY FEDERAL EMPLOYEES AND MEMBERS OF THE ARMED FORCES .—The Secretary may encourage Federal employees and members of the Armed Forces to participate in a national security innovation and entrepreneurial education program supported under subsection (a) in order to gain exposure to modern innovation and entrepreneurial methodologies.

"(e) COORDINATION.—In carrying out this section, the Secretary shall consider coordinating and partnering with activities and organizations involved in the following:

"(1) Hack the Army.

"(2) Hack the Air Force.

"(3) Hack the Pentagon.

"(4) The Army Digital Service.

"(5) The Defense Digital Service.

"(6) The Air Force Digital Service.

"(7) Challenge and prize competitions of the Defense Advanced Research Projects Agency (DARPA).

"(8) The Defense Science Study Group.

"(9) The Small Business Innovation Research Program (SBIR).

"(10) The Small Business Technology Transfer Program (STTR).

"(11) War colleges of the military departments.

"(12) Hacking for Defense.

"(13) The National Security Science and Engineering Faculty Fellowship (NSSEFF) program.

"(14) The Science, Mathematics and Research for Transformation (SMART) scholarship program.

"(15) The young faculty award program of the Defense Advanced Research Projects Agency.

"(16) The National Security Technology Accelerator.

"(17) The I-Corps Program.

"(18) The Lab-Embedded Entrepreneurship Programs of the Department of Energy."

**HYPERSONICS DEVELOPMENT**

Pub. L. 109–364, div. A, title II, §218, Oct. 17, 2006, 120 Stat. 2126, as amended by Pub. L. 112–81, div. A, title II, §241, Dec. 31, 2011, 125 Stat. 1343; Pub. L. 114–92, div. A, title X, §1079(f), Nov. 25, 2015, 129

Stat. 999; Pub. L. 115–91, div. A, title II, §214(b), Dec. 12, 2017, 131 Stat. 1325; Pub. L. 116–92, div. A, title II, §216, Dec. 20, 2019, 133 Stat. 1257; Pub. L. 116–283, div. A, title II, §217(e), Jan. 1, 2021, 134 Stat. 3462, provided that:

"(a) ESTABLISHMENT OF JOINT HYPERSONICS TRANSITION OFFICE.—The Secretary of Defense shall establish within the Office of the Secretary of Defense a Joint Hypersonics Transition Office (in this section referred to as the 'Office'). The Office shall carry out the program and activities described in subsections (b) and (c) and shall have such other responsibilities relating to hypersonics as the Secretary shall specify[.]

"(b) UNIVERSITY EXPERTISE.—

"(1) ARRANGEMENT WITH INSTITUTIONS OF HIGHER EDUCATION.—Using the authority specified in section 217 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2358 note [now 10 U.S.C. 4001 note]) or another similar authority, the Office shall seek to enter into an arrangement with one or more institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) under which such institutions may provide the Office with foundational and applied hypersonic research, development, and workforce support in areas that the Office determines to be relevant for the Department of Defense.

"(2) AVAILABILITY OF INFORMATION.—The Office shall ensure that the results of any research and reports produced pursuant to an arrangement under paragraph (1) are made available to the Federal Government, the private sector, academia, and international partners consistent with appropriate security classification guidance.

"(c) RESPONSIBILITIES.—The Office shall do the following:

"(1) Expedite testing, evaluation, and acquisition of hypersonic technologies to meet the stated needs of the warfighter, including flight testing, ground-based-testing, and underwater launch testing.

"(2) Ensure prototyping demonstration programs on hypersonic systems integrate advanced technologies to speed the maturation and deployment of future hypersonic systems.

"(3) Ensure that any demonstration program on hypersonic systems is carried out only if determined to be consistent with the roadmap for the relevant critical technology area supportive of the National Defense Strategy, as developed by the senior official with responsibility for such area under section 217 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283; 10 U.S.C. 4001 note].

"(4) Develop strategies and roadmaps for hypersonic technologies to enable the transition of such technologies to future operational capabilities for the warfighter.

"(5) Develop and implement a strategy for enhancing the current and future hypersonics workforce.

"(6) Coordinate with relevant stakeholders and agencies to support the technological advantage of the United States in developing hypersonic systems."

## RESEARCH AND DEVELOPMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES

Pub. L. 108–136, div. A, title XVI, §1601, Nov. 24, 2003, 117 Stat. 1680, as amended by Pub. L. 112–81, div. A, title X, §1062(g)(3), Dec. 31, 2011, 125 Stat. 1585; Pub. L. 113–291, div. A, title X, §1071(b)(5)(B), Dec. 19, 2014, 128 Stat. 3507; Pub. L. 114–92, div. A, title VIII, §815(d), Nov. 25, 2015, 129 Stat. 896; Pub. L. 117–81, div. A, title II, §215(d)(1), Dec. 27, 2021, 135 Stat. 1593, provided that:

"(a) IN GENERAL.—The Secretary of Defense (in this section referred to as the 'Secretary') shall carry out a program to accelerate the research, development and procurement of biomedical countermeasures, including but not limited to therapeutics and vaccines, for the protection of the Armed Forces from attack by one or more biological, chemical, radiological, or nuclear agents.

"(b) INTERAGENCY COOPERATION.—(1) In carrying out the program under subsection (a), the Secretary may enter into interagency agreements and other collaborative undertakings with other Federal agencies.

"(2) The Secretary, through regular, structured, and close consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall ensure that the activities of the Department of Defense in carrying out the program are coordinated with, complement, and do not unnecessarily duplicate activities of the Department of Health and Human Services or the Department of Homeland Security.

"(c) EXPEDITED PROCUREMENT AUTHORITY.—(1) For any procurement of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research and development, the Secretary may, when appropriate, use streamlined acquisition procedures and other expedited procurement procedures authorized in—

"(A) section 1903 of title 41, United States Code; and

"(B) sections 2371 and 2371b of title 10, United States Code [now 10 U.S.C. 4021 and 4022].

"(2) Notwithstanding paragraph (1) and the provisions of law referred to in such paragraph, each of the following provisions shall apply to the procurements described in this subsection to the same extent that such provisions would apply to such procurements in the absence of paragraph (1):

"(A) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

"(B) Section 8703(a) of title 41, United States Code.

"(C) Section 2313 of title 10, United States Code [see 10 U.S.C. 3841] (relating to the examination of contractor records).

"(3) The Secretary shall institute appropriate internal controls for use of the authority under paragraph (1), including requirements for documenting the justification for each use of such authority.

"(d) DEPARTMENT OF DEFENSE FACILITIES AUTHORITY.—(1) If the Secretary determines that it is necessary to acquire, lease, construct, or improve laboratories, research facilities, and other real property of the Department of Defense in order to carry out the program under this section, the Secretary may do so using the procedures set forth in paragraphs (2), (3), (4), and (5).

"(2) The Secretary shall use existing construction authorities provided by subchapter I of chapter 169 of title 10, United States Code, to the maximum extent possible.

"(3)(A) If the Secretary determines that use of authorities in paragraph (2) would prevent the Department from meeting a specific facility requirement for the program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] advance notification, which shall include the following:

"(i) Certification by the Secretary that use of existing construction authorities would prevent the Department from meeting the specific facility requirement.

"(ii) A detailed explanation of the reasons why existing authorities cannot be used.

"(iii) A justification of the facility requirement.

"(iv) Construction project data and estimated cost.

"(v) Identification of the source or sources of the funds proposed to be expended.

"(B) The facility project may be carried out only after the end of the 21-day period beginning on the date the notification is received by the congressional defense committees.

"(4) If the Secretary determines: (A) that the facility is vital to national security or to the protection of health, safety, or the quality of the environment; and (B) the requirement for the facility is so urgent that the advance notification in paragraph (3) and the subsequent 21-day deferral of the facility project would threaten the life, health, or safety of personnel, or would otherwise jeopardize national security, the Secretary may obligate funds for the facility and notify the congressional defense committees within seven days after the date on which appropriated funds are obligated with the information required in paragraph (3).

"(5) Nothing in this section shall be construed to authorize the Secretary to acquire, construct, lease, or improve a facility having general utility beyond the specific purposes of the program.

"(6) In this subsection, the term 'facility' has the meaning given the term in section 2801(c) of title 10, United States Code.

"(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) Subject to paragraph (2), the authority provided by section 1091 of title 10, United States Code, for personal services contracts to carry out health care responsibilities in medical treatment facilities of the Department of Defense shall also be available, subject to the same terms and conditions, for personal services contracts to carry out research and development activities under this section. The number of individuals whose personal services are obtained under this subsection may not exceed 30 at any time.

"(2) The authority provided by such section 1091 may not be used for a personal services contract unless the contracting officer for the contract ensures that—

"(A) the services to be procured are urgent or unique; and

"(B) it would not be practicable for the Department of Defense to obtain such services by other measures.

"(f) STREAMLINED PERSONNEL AUTHORITY.—(1) The Secretary may appoint highly qualified experts, including scientific and technical personnel, to carry out research and development under this section in accordance with the authorities provided in section 4121(a) of title 10, United States Code, [former] section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261 [5 U.S.C. 3104 note]), and section 1101 of this Act [enacting chapter 99 of Title 5, Government Organization and Employees, and provisions set out as a note under section 9901 of Title 5].

"(2) The Secretary may use the authority under paragraph (1) only upon a determination by the Secretary that use of such authority is necessary to accelerate the research and development under the program.

"(3) The Secretary shall institute appropriate internal controls for each use of the authority under paragraph (1)."

**DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM**

Pub. L. 107–314, div. A, title II, §246, Dec. 2, 2002, 116 Stat. 2500, as amended by Pub. L. 110–181, div. A, title II, §240, Jan. 28, 2008, 122 Stat. 48; Pub. L. 111–84, div. A, title II, §242, Oct. 28, 2009, 123 Stat. 2237; Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(iv), Jan. 2, 2013, 126 Stat. 1950, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a defense nanotechnology research and development program.

"(b) PURPOSES.—The purposes of the program are as follows:

"(1) To ensure United States global superiority in nanotechnology necessary for meeting national security requirements.

"(2) To coordinate all nanoscale research and development within the Department of Defense, and to provide for interagency cooperation and collaboration on nanoscale research and development between the Department of Defense and other departments and agencies of the United States that are involved in the National Nanotechnology Initiative and with the National Nanotechnology Coordination Office under section 3 of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7502).

"(3) To develop and manage a portfolio of nanotechnology research and development initiatives that is stable, consistent, and balanced across scientific disciplines.

"(4) To accelerate the transition and deployment of technologies and concepts derived from nanoscale research and development into the Armed Forces, and to establish policies, procedures, and standards for measuring the success of such efforts.

"(5) To collect, synthesize, and disseminate critical information on nanoscale research and development.

"(c) ADMINISTRATION.—In carrying out the program, the Secretary shall act through the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall supervise the planning, management, and coordination of the program. The Under Secretary, in consultation with the Secretaries of the military departments and the heads of participating Defense Agencies and other departments and agencies of the United States, shall—

"(1) prescribe a set of long-term challenges and a set of specific technical goals for the program;

"(2) develop a coordinated and integrated research and investment plan for meeting the long-term challenges and achieving the specific technical goals that builds upon investments by the Department and other departments and agencies participating in the National Nanotechnology Initiative in nanotechnology research and development;

"(3) develop memoranda of agreement, joint funding agreements, and other cooperative arrangements necessary for meeting the long-term challenges and achieving the specific technical goals; and

"(4) oversee Department of Defense participation in interagency coordination of the program with other departments and agencies participating in the National Nanotechnology Initiative.

"(d) STRATEGIC PLAN.—The Under Secretary shall develop and maintain a strategic plan for defense nanotechnology research and development that—

"(1) is integrated with the strategic plan for the National Nanotechnology Initiative and the strategic plans of the Assistant Secretary of Defense for Research and Engineering, the military departments, and the Defense Agencies; and

"(2) includes a clear strategy for transitioning the research into products needed by the Department.

"(e) REPORTS.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the National Science and Technology Council information on the program that covers the information described in paragraphs (1) through (5) of section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)) to be included in the annual report submitted by the Council under that section."

**PROGRAM TO INCREASE BUSINESS INNOVATION IN DEFENSE ACQUISITION PROGRAMS**

Pub. L. 106–65, div. A, title VIII, §812(a)–(c), (e), Oct. 5, 1999, 113 Stat. 709, 710, which related to a plan to provide for increased innovative technology for acquisition programs of the Department of Defense from commercial private sector entities, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(22), Dec. 18, 2025, 139 Stat. 950.

## §4061. Defense Research and Development Rapid Innovation Program

(a) PROGRAM ESTABLISHED.—(1) The Secretary of Defense shall establish a competitive, merit-based program to enable and assist small businesses to accelerate the commercialization of

various technologies, including critical technologies developed pursuant to phase II Small Business Innovation Research Program projects, phase II Small Business Technology Transfer Program projects, technologies developed by the defense laboratories, capabilities developed through competitively awarded prototype agreements and other innovative technologies (including dual use technologies).

(2) The purpose of this program is to stimulate innovative technologies and reduce acquisition or lifecycle costs, address technical risks, improve the timeliness and thoroughness of test and evaluation outcomes, support the integration of such products, and rapidly insert such products directly in support of primarily major defense acquisition programs, but also other defense acquisition programs that meet critical national security needs.

(b) GUIDELINES.—The Secretary shall issue guidelines for the operation of the program. At a minimum such guidance shall provide for the following:

(1) The issuance of one or more broad agency announcements or the use of any other competitive or merit-based processes by the Department of Defense for candidate proposals in support of primarily major defense acquisition programs, but also other defense acquisition programs as described in subsection (a).

(2) The review of candidate proposals by the Department of Defense and by each Office of Small Business Programs of each military department and the merit-based selection of the most promising cost-effective proposals for funding through contracts, cooperative agreements, and other transactions for the purposes of carrying out the program.

(3) The total amount of funding provided to any project under the program from funding provided under subsection (d) shall not exceed $6,000,000.

(4) No project shall receive more than a total of two years of funding under the program from funding provided under subsection (d), unless the Secretary, or the Secretary's designee, approves funding for any additional year.

(5) Mechanisms to facilitate transition of follow-on or current projects carried out under the program into defense acquisition programs, through the use of the authorities of section 4004 of this title or such other authorities as may be appropriate to conduct further testing, low rate production, or full rate production of technologies developed under the program.

(6) Projects are selected using merit-based selection procedures and the selection of projects is not subject to undue influence by Congress or other Federal agencies.

(7) A preference under the program for funding small business concerns.

(c) TREATMENT PURSUANT TO CERTAIN CONGRESSIONAL RULES.—Nothing in this section shall be interpreted to require or enable any official of the Department of Defense to provide funding under this section to any earmark as defined pursuant to House Rule XXI, clause 9, or any congressionally directed spending item as defined pursuant to Senate Rule XLIV, paragraph 5.

(d) FUNDING.—(1) Subject to the availability of appropriations for such purpose and to the limitation under paragraph (2), the amounts authorized to be appropriated for research, development, test, and evaluation for a fiscal year may be used for such fiscal year for the program established under subsection (a).

(2) During any fiscal year, the total amount of awards in an amount greater than $6,000,000 made under the program established under subsection (a) may not exceed 25 percent of the amount made available to carry out such program during such fiscal year.

(e) TRANSFER AUTHORITY.—(1) The Secretary may transfer funds available for the program to the research, development, test, and evaluation accounts of a military department, defense agency, or the unified combatant command for special operations forces pursuant to a proposal, or any part of a proposal, that the Secretary determines would directly support the purposes of the program.

(2) The transfer authority provided in this subsection is in addition to any other transfer authority available to the Department of Defense.

(Added Pub. L. 115–232, div. A, title II, §224(a)(1), Aug. 13, 2018, 132 Stat. 1683, §2359a; amended Pub. L. 116–92, div. A, title VIII, §878(a), Dec. 20, 2019, 133 Stat. 1530; renumbered §4061 and amended Pub. L. 116–283, div. A, title XVIII, §§1842(b), 1883(b)(2), Jan. 1, 2021, 134

Stat. 4244, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(8), (q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 2136, 2148, 2152; Pub. L. 118–31, div. A, title VIII, §860, Dec. 22, 2023, 137 Stat. 346.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4061 was renumbered section 7381 of this title.

### AMENDMENTS

**2023**—Subsec. (a)(1). Pub. L. 118–31, §860(1)(A), inserted "to enable and assist small businesses" after "merit-based program" and "capabilities developed through competitively awarded prototype agreements" after "defense laboratories," and substituted "commercialization of various technologies, including critical technologies" for "fielding of technologies".

Subsec. (a)(2). Pub. L. 118–31, §860(1)(B), inserted "support the integration of such products," after "evaluation outcomes,".

Subsec. (b)(1). Pub. L. 118–31, §860(2)(A), inserted "primarily major defense acquisition programs, but also other" after "candidate proposals in support of".

Subsec. (b)(2). Pub. L. 118–31, §860(2)(B), substituted "by each Office of Small Business Programs of each military department" for "by each military department".

Subsec. (d)(2). Pub. L. 118–31, §860(3), substituted "$6,000,000" for "$3,000,000".

**2021**—Pub. L. 116–283, §1842(b), as amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), renumbered section 2359a of this title as this section.

Subsec. (b)(5). Pub. L. 117–81, §1701(d)(8), which directed the substitution of "section 4004" for "section 2302e", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4004" for "section 2302e".

**2019**—Subsec. (a)(1). Pub. L. 116–92, §878(a)(1), inserted "phase II Small Business Technology Transfer Program projects," after "projects,".

Subsec. (b)(3). Pub. L. 116–92, §878(a)(2)(A), substituted "$6,000,000." for "$3,000,000, unless the Secretary, or the Secretary's designee, approves a larger amount of funding for the project."

Subsec. (b)(7). Pub. L. 116–92, §878(a)(2)(B), added par. (7).

Subsec. (d). Pub. L. 116–92, §878(a)(3), designated existing provisions as par. (1), inserted "and to the limitation under paragraph (2)" after "for such purpose", and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(d)(8) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(q)(1), (u)(3)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### REGIONAL ACTIVITIES

Pub. L. 117–81, div. A, title II, §213(b), Dec. 27, 2021, 135 Stat. 1589, provided that: "Subject to the availability of appropriations for such purpose, the Secretary of Defense may expand the efforts of the Defense Innovation Unit to engage and collaborate with private-sector industry and communities in various regions of the United States—

"(1) to accelerate the adoption of commercially developed advanced technology in modernization priority areas and such other key technology areas as may be identified by the Secretary; and

"(2) to expand outreach to communities that do not otherwise have a Defense Innovation Unit presence, including economically disadvantaged communities."

**PILOT PROGRAM TO ACCELERATE THE PROCUREMENT AND FIELDING OF INNOVATIVE TECHNOLOGIES**

Pub. L. 117–81, div. A, title VIII, §834, Dec. 27, 2021, 135 Stat. 1835, as amended by Pub. L. 117–263, div. A, title VIII, §845, Dec. 23, 2022, 136 Stat. 2720, which authorized the Secretary of Defense to establish a competitive, merit-based pilot program to accelerate the procurement and fielding of innovative technologies and required the Secretary to issue guidelines for the operation of such pilot program, was repealed by Pub. L. 118–159, div. A, title VIII, §861(b), Dec. 23, 2024, 138 Stat. 2000. See section 3604 of this title.

## §4062. Defense Acquisition Challenge Program

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall carry out a program to provide opportunities for the increased introduction of innovative and cost-saving technology in acquisition programs of the Department of Defense.

(2) The program, to be known as the Defense Acquisition Challenge Program (hereinafter in this section referred to as the "Challenge Program"), shall provide any person or activity within or outside the Department of Defense with the opportunity to propose alternatives, to be known as challenge proposals, at the component, subsystem, system, or system-of-systems level of an existing Department of Defense acquisition program, or to address any broader functional challenge to Department of Defense missions that may not fall within an acquisition program, that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program or function.

(b) PANELS.—The Under Secretary shall establish one or more panels of highly qualified scientists and engineers (hereinafter in this section referred to as "Panels") to provide preliminary evaluations of challenge proposals under subsection (c).

(c) PRELIMINARY EVALUATION BY PANELS.—(1) Under procedures prescribed by the Under Secretary, a person or activity within or outside the Department of Defense may submit challenge proposals to a Panel, through the unsolicited proposal process or in response to a broad agency announcement.

(2) The Under Secretary shall establish procedures pursuant to which appropriate officials of the Department of Defense may identify proposals submitted through the unsolicited proposal process as challenge proposals. The procedures shall provide for the expeditious referral of such proposals to a Panel for preliminary evaluation under this subsection.

(3) The Under Secretary shall issue on an annual basis not less than one such broad agency announcement inviting interested parties to submit challenge proposals. Such announcements may also identify particular technology areas and acquisition programs or functions that will be given priority in the evaluation of challenge proposals.

(4)(A) The Under Secretary shall establish procedures for the prompt issuance of a solicitation for challenge proposals addressing—

(i) any acquisition program for which, since the last such announcement, the Secretary concerned has determined under section 4374 of this title that the program's acquisition unit cost or procurement unit cost has increased by a percentage equal to or greater than the critical cost growth threshold for the program (in this section referred to as a "critical cost growth threshold breach");

(ii) any design, engineering, manufacturing, or technology integration issues, in accordance with the assessment required by section 4375(b) of this title, that have contributed significantly to the cost growth of such program; and

(iii) any functional challenges of importance to Department of Defense missions.

(B) A solicitation under this paragraph may be included in a broad agency announcement issued pursuant to paragraph (3) as long as the broad agency announcement is released in an expeditious manner following the determination of the Secretary concerned that a critical cost growth threshold breach has occurred with respect to a major defense acquisition program.

(5) Under procedures established by the Under Secretary, a Panel shall carry out a preliminary evaluation of each challenge proposal submitted in response to a broad agency announcement, or submitted through the unsolicited proposal process and identified as a challenge proposal in accordance with paragraph (2), to determine each of the following:

(A) Whether the challenge proposal has merit.

(B) Whether the challenge proposal is likely to result in improvements in performance, affordability, manufacturability, or operational capability at the component, subsystem, system, or system-of-systems level of an acquisition program.

(C) Whether the challenge proposal could be implemented in the acquisition program rapidly, at an acceptable cost, and without unacceptable disruption to the acquisition program.

(D) Whether the challenge proposal is likely to result in improvements to any functional challenges of importance to Department of Defense missions, and whether the proposal could be implemented rapidly, at an acceptable cost, and without unacceptable disruption to such missions.

(6) The Under Secretary—

(A) may establish procedures to ensure that the Challenge Program does not become an avenue for the repetitive submission of proposals that have been previously reviewed and found not to have merit; and

(B) may establish procedures to ensure that the Challenge Program establishes appropriate priorities for proposals from businesses that are not major contractors with the Department of Defense.

(7) If a Panel determines that a challenge proposal satisfies each of the criteria specified in paragraph (5), the person or activity submitting that challenge proposal shall be provided an opportunity to submit such challenge proposal for a full review and evaluation under subsection (d).

(d) FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Under Secretary, for each challenge proposal submitted for a full review and evaluation as provided in subsection (c)(7), the office carrying out the acquisition program to which the proposal relates shall, in consultation with the prime system contractor carrying out such program, conduct a full review and evaluation of the proposal.

(2) The full review and evaluation shall, independent of the determination of a Panel under subsection (c)(5), determine each of the matters specified in subparagraphs (A), (B), and (C) of such subsection. The full review and evaluation shall also include—

(A) an assessment of the cost of adopting the challenge proposal and implementing it in the acquisition program; and

(B) consideration of any intellectual property issues associated with the challenge proposal.

(e) ACTION UPON FAVORABLE FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Under Secretary, each challenge proposal determined under a full review and evaluation to satisfy each of the criteria specified in subsection (c)(5) with respect to an acquisition program shall be considered by the office carrying out the applicable acquisition program and the prime system contractor for incorporation into the acquisition program as a new technology insertion at the component, subsystem, system, or system-of-systems level.

(2) The Under Secretary shall encourage the adoption of each challenge proposal referred to in paragraph (1) by providing suitable incentives to the office carrying out the acquisition program and the prime system contractor carrying out such program.

(3) In the case of a challenge proposal submitted in response to a solicitation issued as a result of a critical cost growth threshold breach that is determined under full review and evaluation to satisfy each of the criteria specified in subsection (c)(5), the Under Secretary shall establish guidelines for covering the costs of the challenge proposal. If appropriate, such guidelines shall not be restricted to funding provided by the Defense Acquisition Challenge Program, but shall also consider alternative funding sources, such as the acquisition program with respect to which the breach occurred.

(f) ACTION UPON UNFAVORABLE FULL REVIEW AND EVALUATION.—Under

procedures prescribed by the Under Secretary, if a challenge proposal is determined by a Panel to satisfy each of the criteria specified in subsection (c)(5), but is not determined under a full review and evaluation to satisfy such criteria, the following provisions apply:

(1) The office carrying out the full review and evaluation shall provide to the Panel that conducted the preliminary evaluation a statement containing a summary of the rationale for the unfavorable evaluation.

(2) If the Panel disagrees with the rationale provided under paragraph (1), the Panel may return the challenge proposal to the office for further consideration.

(g) ACCESS TO TECHNICAL RESOURCES.—(1) Under procedures established by the Under Secretary, the technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department may be called upon to support the activities of the Challenge Program.

(2) Funds available to carry out this program may be used to compensate such laboratories, centers, activities, and elements for technical assistance provided to a Panel pursuant to paragraph (1).

(h) CONFLICTS OF INTEREST AND CONFIDENTIALITY.—In carrying out each preliminary evaluation under subsection (c) and full review under subsection (d), the Under Secretary shall ensure the elimination of conflicts of interest and that the identity of any person or activity submitting a challenge proposal is not disclosed outside the Federal Government, prior to contract award, without the consent of the person or activity. For purposes of the proceeding sentence, the term "Federal Government" includes both employees of the Federal Government and employees of Federal Government contractors providing advisory and assistance services as described in part 37 of the Federal Acquisition Regulation.

(i) LIMITATION ON USE OF FUNDS.—Funds made available for the Challenge Program may be used only for activities authorized by this section, and not for implementation of challenge proposals.

(j) TREATMENT OF USE OF CERTAIN PROCEDURES AS USE OF COMPETITIVE PROCEDURES.—The use of general solicitation competitive procedures established under subsection (c) shall be considered to be the use of competitive procedures for purposes of sections 3201 through 3205 of this title.

(k) SYSTEM DEFINED.—In this section, the term "system"—

(1) means—

(A) the organization of hardware, software, material, facilities, personnel, data, and services needed to perform a designated function with specified results (such as the gathering of specified data, its processing, and its delivery to users); or

(B) a combination of two or more interrelated pieces (or sets) of equipment arranged in a functional package to perform an operational function or to satisfy a requirement; and

(2) includes a major system.

(l) PILOT PROGRAM FOR PROGRAMS OTHER THAN MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) IN GENERAL.—The Under Secretary of Defense for Research and Engineering shall carry out a pilot program to expand the use of the authority provided in this section to provide opportunities for the introduction of innovative and cost-saving approaches to programs other than major defense acquisition programs through the submission, review, and implementation, where appropriate, of qualifying proposals.

(2) QUALIFYING PROPOSALS.—For purposes of this subsection, a qualifying proposal is an offer to supply a nondevelopmental item that—

(A) is evaluated as achieving a level of performance that is at least equal to the level of performance of an item being procured under a covered acquisition program and as providing savings in excess of 15 percent after considering all costs to the Government of implementing

such proposal; or

(B) is evaluated as achieving a level of performance that is significantly better than the level of performance of an item being procured under a covered acquisition program without any increase in cost to the Government.

(3) REVIEW PROCEDURES.—The Under Secretary shall adopt modifications as may be needed to the procedures applicable to the Challenge Program to provide for Department of Defense review of, and action on, qualifying proposals. Such procedures shall include, at a minimum, the issuance of a broad agency announcement inviting interested parties to submit qualifying proposals in areas of interest to the Department.

(4) DEFINITIONS.—In this subsection:

(A) NONDEVELOPMENTAL ITEM.—The term "nondevelopmental item" has the meaning given that term in section 110 of title 41.

(B) COVERED ACQUISITION PROGRAM.—The term "covered acquisition program" means any acquisition program of the Department of Defense other than a major defense acquisition program, but does not include any contract awarded under an exception to competitive acquisition authorized by the Small Business Act (15 U.S.C. 631 et seq.).

(C) LEVEL OF PERFORMANCE.—The term "level of performance", with respect to a nondevelopmental item, means the extent to which the item demonstrates required item functional characteristics.

(5) SUNSET.—The authority to carry out the pilot program under this subsection shall terminate on January 7, 2021.

(Added Pub. L. 107–314, div. A, title II, §243(a), Dec. 2, 2002, 116 Stat. 2495, §2359b; amended Pub. L. 109–364, div. A, title II, §213(b), (d)–(g), Oct. 17, 2006, 120 Stat. 2121–2123; Pub. L. 110–417, [div. A], title VIII, §821, Oct. 14, 2008, 122 Stat. 4531; Pub. L. 111–383, div. A, title VIII, §827, Jan. 7, 2011, 124 Stat. 4270; Pub. L. 112–239, div. A, title X, §1076(e)(3), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–66, div. A, title X, §1091(a)(10), Dec. 26, 2013, 127 Stat. 876; Pub. L. 113–291, div. A, title X, §1071(a)(6), Dec. 19, 2014, 128 Stat. 3504; Pub. L. 114–328, div. A, title VIII, §828, Dec. 23, 2016, 130 Stat. 2281; Pub. L. 116–92, div. A, title IX, §902(56), Dec. 20, 2019, 133 Stat. 1549; renumbered §4062 and amended Pub. L. 116–283, div. A, title XVIII, §§1842(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4244, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(9), (q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 2137, 2148, 2152.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (l)(4)(B), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1842(b), as amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), renumbered section 2359b of this title as this section.

Subsec. (c)(4)(A)(i). Pub. L. 117–81, §1701(d)(9)(A)(i), which directed the substitution of "section 4374" for "section 2433(d)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4374" for "section 2433(d)".

Subsec. (c)(4)(A)(ii). Pub. L. 117–81, §1701(d)(9)(A)(ii), substituted "section 4375(b)" for "section 2433(e)(2)(A)".

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, could not

be executed for "section 2433(e)(2)(A)" as there were no subparagraphs in subsec. (e)(2) of former section 2433 of this title after general amendment by Pub. L. 111–23, title II, §206(a)(3), May 22, 2009, 123 Stat. 1728. Section 2433(e)(2) was transferred to section 4375(b) of this title by Pub. L. 116–283.

Subsec. (j). Pub. L. 117–81, §1701(d)(9)(B), substituted "sections 3201 through 3205" for "chapter 137".

Subsec. (k)(2). Pub. L. 117–81, §1701(d)(9)(C), which directed that "(as defined in section 2302(5) of this title)" be struck out, was executed by striking out "(as defined in section 3041 of this title)" before period at end to reflect the probable intent of Congress and the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 3041" for "section 2302(5)".

**2019**—Subsecs. (a)(1), (l)(1). Pub. L. 116–92 substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2016**—Subsec. (a)(2). Pub. L. 114–328, §828(a), substituted "system, or system-of-systems level of an existing Department of Defense acquisition program, or to address any broader functional challenge to Department of Defense missions that may not fall within an acquisition program, that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program or function." for "or system level of an existing Department of Defense acquisition program that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program."

Subsec. (c)(3). Pub. L. 114–328, §828(d)(1), inserted "or functions" after "acquisition programs".

Subsec. (c)(4)(A)(iii). Pub. L. 114–328, §828(d)(2), added cl. (iii).

Subsec. (c)(5)(B). Pub. L. 114–328, §828(d)(4), substituted "system, or system-of-systems" for "or system".

Subsec. (c)(5)(D). Pub. L. 114–328, §828(d)(3), added subpar. (D).

Subsec. (e)(1). Pub. L. 114–328, §828(d)(4), substituted "system, or system-of-systems" for "or system".

Subsec. (j). Pub. L. 114–328, §828(b)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 114–328, §828(b)(1), redesignated subsecs. (j) and (k) as (k) and (l), respectively.

Subsec. (l)(5). Pub. L. 114–328, §828(c), substituted "2021" for "2016".

**2014**—Subsec. (k)(4)(A). Pub. L. 113–291 substituted "section 110 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)".

**2013**—Subsec. (k)(4)(B). Pub. L. 113–66 inserted period at end.

Subsec. (k)(5). Pub. L. 112–239 substituted "January 7, 2016" for "the date that is five years after the date of the enactment of this Act".

**2011**—Subsecs. (j) to (l). Pub. L. 111–383 redesignated subsec. (l) as (j), added subsec. (k), and struck out former subsecs. (j) and (k) which related to annual report and termination of authority, respectively.

**2008**—Subsec. (l). Pub. L. 110–417 added subsec. (l).

**2006**—Subsec. (c)(4), (5). Pub. L. 109–364, §213(b)(1), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 109–364, §213(b)(1)(A), (d), redesignated par. (5) as (6) and amended it generally. Prior to amendment, par. (6) read as follows: "The Under Secretary may establish procedures to ensure that the Challenge Program does not become an avenue for the repetitive submission of proposals that have been previously reviewed and found not to have merit." Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 109–364, §213(b)(1)(A), (g)(1), redesignated par. (6) as (7) and substituted "paragraph (5)" for "paragraph (4)".

Subsec. (d)(1). Pub. L. 109–364, §213(g)(2), substituted "subsection (c)(7)" for "subsection (c)(6)".

Subsec. (d)(2). Pub. L. 109–364, §213(g)(3), substituted "subsection (c)(5)" for "subsection (c)(4)" in introductory provisions.

Subsec. (e)(1). Pub. L. 109–364, §213(g)(4), substituted "subsection (c)(5)" for "subsection (c)(4)".

Subsec. (e)(3). Pub. L. 109–364, §213(b)(2), added par. (3).

Subsecs. (f), (g). Pub. L. 109–364, §213(b)(3), added subsec. (f) and redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 109–364, §213(b)(3)(A), (e), redesignated subsec. (g) as (h), substituted "Conflicts of Interest and Confidentiality" for "Elimination of Conflicts of Interest" in heading, substituted "conflicts of interest and that the identity of any person or activity submitting a challenge proposal is not disclosed outside the Federal Government, prior to contract award, without the consent of the person or activity" for "conflicts of interest", and inserted at end "For purposes of the proceeding sentence, the term 'Federal Government' includes both employees of the Federal Government and employees of Federal Government contractors providing advisory and assistance services as described in part 37 of the Federal Acquisition Regulation." Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 109–364, §213(b)(3)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated

(j).

Subsec. (j). Pub. L. 109–364, §213(b)(3)(A), (4), redesignated subsec. (i) as (j) and substituted "The report shall also include a list of each challenge proposal that was determined by a Panel to satisfy each of the criteria specified in subsection (c)(5), but was not determined under a full review and evaluation to satisfy such criteria, together with a detailed rationale for the Department's determination that such criteria were not satisfied" for "No report is required for a fiscal year in which the Challenge Program is not carried out". Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 109–364, §213(b)(3)(A), (f), redesignated subsec. (j) as (k) and substituted "2012" for "2007".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(d)(9) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(q)(1), (u)(3)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## [§§4063 to 4065. Omitted]

### EDITORIAL NOTES

### CODIFICATION

As enacted, Pub. L. 116–283, div. A, title XVIII, §1842(b), Jan. 1, 2021, 134 Stat. 4244, originally transferred sections 2361a, 2358b, and 2374a of this title to sections 4063 to 4065, respectively, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 2148, 2152, amended section 1842(b) of Pub. L. 116–283, effective as if included therein, so as to eliminate those transfers, thereby omitting these sections before they took effect. Other amendments by Pub. L. 117–81 resulted in transfers of sections 2361a, 2358b, and 2374a to sections 4142, 1766, and 4025 of this title, respectively.

## §4066. Global Research Watch Program

(a) PROGRAM.—The Under Secretary of Defense for Research and Engineering shall carry out a Global Research Watch program in accordance with this section.

(b) PROGRAM GOALS.—The goals of the program are as follows:

(1) To monitor and analyze the basic and applied research activities and capabilities of foreign nations and private sector persons in areas of military interest, including allies and competitors.

(2) To provide standards for comparison and comparative analysis of research capabilities of foreign nations and private sector persons in relation to the research capabilities of the United States.

(3) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

(4) To identify areas where significant opportunities for cooperative research may exist.

(5) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

(6) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing

cooperative programs.

(c) FOCUS OF PROGRAM.—The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.

(d) COORDINATION.—(1) The Under Secretary shall coordinate the program with the international cooperation and analysis activities of the military departments and Defense Agencies.

(2) The Secretaries of the military departments and the directors of the Defense Agencies shall provide the Under Secretary of Defense for Research and Engineering such assistance as the Under Secretary may require for purposes of the program.

(3)(A) Funds available to a military department for a fiscal year for monitoring or analyzing the research activities and capabilities of foreign nations may not be obligated or expended until the Under Secretary of Defense for Research and Engineering certifies to the Under Secretary of Defense for Acquisition, Technology, and Logistics that the Secretary of such military department has provided the assistance required under paragraph (2).

(B) The limitation in subparagraph (A) shall not be construed to alter or effect the availability to a military department of funds for intelligence activities.

(e) CLASSIFICATION OF DATABASE INFORMATION.—Information in electronic databases of the Global Research Watch program shall be maintained in unclassified form and, as determined necessary by the Under Secretary of Defense for Research and Engineering, in classified form in such databases.

(f) TERMINATION.—The requirement to carry out the program under this section shall terminate on September 30, 2035.

(Added Pub. L. 108–136, div. A, title II, §231(a), Nov. 24, 2003, 117 Stat. 1421, §2365; amended Pub. L. 109–364, div. A, title II, §232, Oct. 17, 2006, 120 Stat. 2134; Pub. L. 111–84, div. A, title II, §211, Oct. 28, 2009, 123 Stat. 2225; Pub. L. 111–383, div. A, title IX, §901(j)(3), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112–239, div. A, title X, §1076(c)(2)(B), Jan. 2, 2013, 126 Stat. 1950; Pub. L. 114–92, div. A, title II, §215, Nov. 25, 2015, 129 Stat. 769; Pub. L. 116–92, div. A, title II, §266, Dec. 20, 2019, 133 Stat. 1301; renumbered §4066, Pub. L. 116–283, div. A, title XVIII, §1842(b), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 117–81, div. A, title XVII, §1701(q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 2148, 2152; Pub. L. 118–159, div. A, title II, §214, Dec. 23, 2024, 138 Stat. 1824.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (f). Pub. L. 118–159 substituted "September 30, 2035" for "September 30, 2025".

**2021**—Pub. L. 116–283, §1842(b), as amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), renumbered section 2365 of this title as this section.

**2019**—Subsec. (a). Pub. L. 116–92, §266(1), substituted "Under Secretary of Defense for Research and Engineering" for "Assistant Secretary of Defense for Research and Engineering".

Subsec. (d)(1). Pub. L. 116–92, §266(3), substituted "Under Secretary" for "Assistant Secretary".

Subsec. (d)(2). Pub. L. 116–92, §266(1), (3), substituted "Under Secretary of Defense for Research and Engineering" for "Assistant Secretary of Defense for Research and Engineering" and "Under Secretary" for "Assistant Secretary".

Subsec. (d)(3)(A). Pub. L. 116–92, §266(2), substituted "Under Secretary of Defense for Research and Engineering" for "Assistant Secretary".

Subsec. (e). Pub. L. 116–92, §266(2), substituted "Under Secretary of Defense for Research and Engineering" for "Assistant Secretary".

**2015**—Subsec. (b)(1), (2). Pub. L. 114–92, §215(1), inserted "and private sector persons" after "foreign nations".

Subsec. (f). Pub. L. 114–92, §215(2), substituted "September 30, 2025" for "September 30, 2015".

**2013**—Subsec. (a). Pub. L. 112–239, §1076(c)(2)(B)(i), inserted "of Defense for Research and Engineering" after "The Assistant Secretary".

Subsec. (d)(3)(A). Pub. L. 112–239, §1076(c)(2)(B)(ii), substituted "Assistant Secretary" for "Director".

**2011**—Subsec. (a). Pub. L. 111–383, §901(j)(3)(A), substituted "Assistant Secretary" for "Director of

Defense Research and Engineering".

Subsec. (d)(1). Pub. L. 111–383, §901(j)(3)(B), substituted "Assistant Secretary" for "Director".

Subsec. (d)(2). Pub. L. 111–383, §901(j)(3)(C), substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering" and "Assistant Secretary may" for "Director may".

Subsec. (e). Pub. L. 111–383, §901(j)(3)(D), substituted "Assistant Secretary" for "Director".

**2009**—Subsec. (d)(3). Pub. L. 111–84, §211(a), added par. (3).

Subsec. (f). Pub. L. 111–84, §211(b), substituted "2015" for "2011".

**2006**—Subsec. (f). Pub. L. 109–364 substituted "2011" for "2006".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

## §4067. Technology protection features activities

(a) ACTIVITIES.—The Secretary of Defense shall carry out activities to develop and incorporate technology protection features in a designated system to increase ally and partner military capability or improve coalition interoperability.

(b) COST-SHARING.—(1) Any contract for the design or development of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system, either for the development of program protection strategies for the system or the design and incorporation of exportability features into the system, shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

(2) Any contract for the design or development of an exportability feature of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

(3) The Secretary may deem the portion of the costs of the contractor described in paragraph (1) or (2) with respect to a designated system or exportability feature as allowable independent research and development costs under the regulations issued under section 3762 of this title if—

(A) in the case of a designated system, the designated system receives Milestone B approval; and

(B) the Secretary determines that doing so would further the purposes of this section.

(c) DEFINITIONS.—In this section:

(1) The term "designated system" means any system (including a major system, as defined in section 3041 of title 10, United States Code) that the Under Secretary of Defense for Acquisition and Sustainment designates for purposes of this section.

(2) The term "independent research and development costs" has the meaning given the term in section 31.205-18 of title 48, Code of Federal Regulations.

(3) The term "Milestone B approval" has the meaning given the term in section 4172(e)(7) of

this title.

(4) The term "technology protection features" means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.

(Added Pub. L. 115–232, div. A, title II, §223(a), Aug. 13, 2018, 132 Stat. 1682, §2357; renumbered §4067 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(c), 1842(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4244, 4294; Pub. L. 117–81, div. A, title VIII, §831(a), title XVII, §1701(u)(2)(D), (3)(B), Dec. 27, 2021, 135 Stat. 1832, 2151, 2152; Pub. L. 118–159, div. A, title II, §215, Dec. 23, 2024, 138 Stat. 1824.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §215(a), substituted "to increase ally and partner military capability or improve coalition interoperability" for "during the research and development phase of such system".

Subsec. (b)(2). Pub. L. 118–159, §215(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 118–159, §215(b)(1), (3)(A), (B), redesignated par. (2) as (3) and inserted "or (2)" after "paragraph (1)" and "or exportability feature" after "with respect to a designated system" in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 118–159, §215(b)(3)(C), inserted "in the case of a designated system," before "the".

**2021**—Pub. L. 116–283, §1842(b), as amended by Pub. L. 117–81, §1701(u)(3)(B), renumbered section 2357 of this title as this section.

Pub. L. 116–283, §1841(c), which directed the renumbering of section 2357 of this title as section 4009 instead of this section, was amended generally by Pub. L. 117–81, §1701(u)(2)(D), effective as if included therein, so that such transfer was no longer directed.

Subsec. (b). Pub. L. 117–81, §831(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 116–283, §1883(b)(2), substituted "section 3762" for "section 2372" in introductory provisions.

Subsec. (c)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 3041" for "section 2302(5)".

Subsec. (c)(2). Pub. L. 117–81, §831(a)(2)(B), added par. (2). Former par. (2) redesignated (4).

Subsec. (c)(3). Pub. L. 116–283, §1883(b)(2), substituted "section 4172(e)(7)" for "section 2366(e)(7)".

Pub. L. 117–81, §831(a)(2)(B), added par. (3).

Subsec. (c)(4). Pub. L. 117–81, §831(a)(2)(A), redesignated par. (2) as (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### CONFORMING REGULATIONS

Pub. L. 117–81, div. A, title VIII, §831(b), Dec. 27, 2021, 135 Stat. 1832, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to conform with section 2357 of title 10, United States Code [now 10 U.S.C. 4067], as amended by subsection (a)."

### UPDATED GUIDANCE ON PLANNING FOR EXPORTABILITY FEATURES FOR FUTURE PROGRAMS

Pub. L. 118–31, div. A, title VIII, §810, Dec. 22, 2023, 137 Stat. 321, as amended by Pub. L. 118–159, div. A, title VIII, §804(c)(5), Dec. 23, 2024, 138 Stat. 1969, provided that:

"(a) PROGRAM GUIDANCE ON PLANNING FOR EXPORTABILITY FEATURES.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment shall ensure that the program guidance for major defense acquisition programs (as defined in section 4201 of title 10, United States Code) and for acquisition programs and projects that are carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of title 10, United States Code[,] is revised to integrate planning for exportability features under section 4067 of title 10, United States Code, including—

"(1) for major defense acquisition programs, an assessment of such programs to identify potential exportability needs; and

"(2) for technologies under an acquisition program or project carried out using the rapid fielding or rapid prototyping acquisition pathway that are transitioned to a major capability acquisition program, an assessment of potential exportability needs of such technologies not later than one year after the date of such transition.

"(b) REVISION OF GUIDANCE FOR PROGRAM PROTECTION PLANS.—Not later than three years after the date of the enactment of this Act, the Under Secretary shall revise guidance for program protection plans to integrate a requirement to determine exportability for the programs covered by such plans."

# SUBCHAPTER II—PERSONNEL

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(A), Dec. 27, 2021, 135 Stat. 2152, amended Pub. L. 116–283, div. A, title XVIII, §1842(a), Jan. 1, 2021, 134 Stat. 4244, which added this chapter, by adding subchapter heading. Heading was editorially conformed to the style used in this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON DYNAMIC SHAPING OF THE WORKFORCE TO IMPROVE THE TECHNICAL SKILLS AND EXPERTISE AT CERTAIN DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 114–92, div. A, title XI, §1109, Nov. 25, 2015, 129 Stat. 1028, as amended by Pub. L. 115–232, div. A, title XI, §1112(b), Aug. 13, 2018, 132 Stat. 2012; Pub. L. 117–81, div. A, title II, §215(d)(3), Dec. 27, 2021, 135 Stat. 1593; Pub. L. 117–263, div. A, title XI, §1110, Dec. 23, 2022, 136 Stat. 2820; Pub. L. 118–159, div. A, title XI, §1113, Dec. 23, 2024, 138 Stat. 2090, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to utilize the authorities specified in subsection (b) at the Department of Defense laboratories specified in subsection (c) to provide the directors of such laboratories the authority to dynamically shape the mix of technical skills and expertise in the workforces of such laboratories in order to achieve one or more of the following:

"(1) To meet organizational and Department-designated missions in the most cost-effective and efficient manner.

"(2) To upgrade and enhance the scientific quality of the workforces of such laboratories.

"(3) To shape such workforces to better respond to such missions.

"(4) To reduce the average unit cost of such workforces.

"(b) WORKFORCE SHAPING AUTHORITIES.—The authorities that shall be available for use by the director of a Department of Defense laboratory under the pilot program are the following:

"(1) FLEXIBLE LENGTH AND RENEWABLE TERM TECHNICAL APPOINTMENTS.—

"(A) IN GENERAL.—Subject to the provisions of this paragraph, authority otherwise available to the director by law (and within the available budgetary resources of the laboratory) to make appointments as follows:

"(i) Appointment of qualified scientific and technical personnel who are not current Department of Defense civilian employees into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

"(ii) Appointment of qualified scientific and technical personnel who are Department civilian

employees in term appointments into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

"(B) BENEFITS.—Personnel appointed under this paragraph shall be provided with benefits comparable to those provided to similar employees at the laboratory concerned, including professional development opportunities, eligibility for all laboratory awards programs, and designation as 'status applicants' for the purposes of eligibility for positions in the Federal service.

"(C) EXTENSION OF APPOINTMENTS.—The appointment of any individual under this paragraph may be extended without limit in up to six year increments at any time during any term of service under such conditions as the director concerned shall establish for purposes of this paragraph.

"(2) REEMPLOYMENT OF ANNUITANTS.—Authorities to authorize the director of any science and technology reinvention laboratory (in this section referred to as 'STRL') to reemploy annuitants in accordance with section 9902(g) of title 5, United States Code, except that as a condition for reemployment the director may authorize the deduction from the pay of any annuitant so reemployed of an amount up to the amount of the annuity otherwise payable to such annuitant allocable to the period of actual employment of such annuitant, which amount shall be determined in a manner specified by the director for purposes of this paragraph to ensure the most cost effective execution of designated missions by the laboratory while retaining critical technical skills.

"(3) EARLY RETIREMENT INCENTIVES.—Authorities to authorize the director of any STRL to authorize voluntary early retirement of employees in accordance with section 8336 or 8414 of title 5, United States Code, without regard to section 8336(d)(2)(D) or 8414(b)(1)(B) of such title, and with employees so separated voluntarily from service.

"(4) SEPARATION INCENTIVE PAY.—Authorities to authorize the director of any STRL to pay voluntary separation pay to employees in accordance with section 3522 of title 5, United States Code, and with—

"(A) employees so separated voluntarily from service under regulations prescribed by the Secretary of Defense for purposes of the pilot program; and

"(B) payments to employees so separated authorized under section 3523 of such title without regard to—

"(i) the plan otherwise required by section 3522 of such title; and

"(ii) paragraph (1) or (3) of section 3523(b) of such title.

"(c) LABORATORIES.—The Department of Defense laboratories specified in this subsection are the laboratories designated under subsections (a) and (b) of section 4121 of title 10, United States Code.

"(d) EXPIRATION.—

"(1) IN GENERAL.—The authority in this section shall expire on December 31, 2027.

"(2) CONTINUATION OF AUTHORITIES EXERCISED BEFORE TERMINATION.—The expiration in paragraph (1) shall not be construed to effect the continuation after the date specified in paragraph (1) of any term of employment or other benefit authorized under this section before that date in accordance with the terms of such authorization."

## PILOT PROGRAM ON ASSIGNMENT TO DEFENSE ADVANCED RESEARCH PROJECTS AGENCY OF PRIVATE SECTOR PERSONNEL WITH CRITICAL RESEARCH AND DEVELOPMENT EXPERTISE

Pub. L. 113–291, div. A, title II, §232, Dec. 19, 2014, 128 Stat. 3332, as amended by Pub. L. 115–91, div. A, title X, §1051(t)(1), Dec. 12, 2017, 131 Stat. 1566; Pub. L. 117–286, §4(c)(20), Dec. 27, 2022, 136 Stat. 4356; Pub. L. 119–60, div. A, title II, §217, Dec. 18, 2025, 139 Stat. 775, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—In accordance with the provisions of this section, the Director of the Defense Advanced Research Projects Agency may carry out a pilot program to assess the feasibility and advisability of temporarily assigning covered individuals with significant technical expertise in research and development areas of critical importance to defense missions to the Defense Advanced Research Projects Agency to lead research or development projects of the Agency.

"(b) ASSIGNMENT OF COVERED INDIVIDUALS.—

"(1) NUMBER OF INDIVIDUALS ASSIGNED.—Under the pilot program, the Director may assign covered individuals to the Agency as described in subsection (a), but may not have more than five covered individuals so assigned at any given time.

"(2) PERIOD OF ASSIGNMENT.—

"(A) Except as provided in subparagraph (B), the Director may, under the pilot program, assign a covered individual described in subsection (a) to lead research and development projects of the Agency for a period of not more than two years.

"(B) The Director may extend the assignment of a covered individual for one additional period of not more than two years as the Director considers appropriate.

"(3) APPLICATION OF CERTAIN PROVISIONS OF LAW.—

"(A) Except as otherwise provided in this section, the Director shall carry out the pilot program in accordance with the provisions of subchapter VI of chapter 33 of title 5, United States Code, except that, for purposes of the pilot program, the term 'other organization', as used in such subchapter, shall be deemed to include a covered entity.

"(B) A covered individual employed by a covered entity who is assigned to the Agency under the pilot program is deemed to be an employee of the Department of Defense for purposes of the following provisions of law:

"(i) Chapter 73 of title 5, United States Code.

"(ii) Sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, United States Code.

"(iii) Sections 1343, 1344, and 1349(b) of title 31, United States Code.

"(iv) Chapter 171 of title 28, United States Code (commonly known as the 'Federal Tort Claims Act'), and any other Federal tort liability statute.

"(v) Chapter 131 of title 5, United States Code.

"(vi) Section 1043 of the Internal Revenue Code of 1986 [26 U.S.C. 1043].

"(vii) Chapter 21 of title 41, United States Code.

"(4) PAY AND SUPERVISION.—A covered individual employed by a covered entity who is assigned to the Agency under the pilot program—

"(A) may continue to receive pay and benefits from such covered entity with or without reimbursement by the Agency;

"(B) is not entitled to pay from the Agency; and

"(C) shall be subject to supervision by the Director in all duties performed for the Agency under the pilot program.

"(c) CONFLICTS OF INTEREST.—

"(1) PRACTICES AND PROCEDURES REQUIRED.—The Director shall develop practices and procedures to manage conflicts of interest and the appearance of conflicts of interest that could arise through assignments under the pilot program.

"(2) ELEMENTS.—The practices and procedures required by paragraph (1) shall include, at a minimum, the requirement that each covered individual assigned to the Agency under the pilot program shall sign an agreement that provides for the following:

"(A) The nondisclosure of any trade secrets or other nonpublic or proprietary information which is of commercial value to the covered entity from which such covered individual is assigned.

"(B) The assignment of rights to intellectual property developed in the course of any research or development project under the pilot program—

"(i) to the Agency and its contracting partners in accordance with applicable provisions of law regarding intellectual property rights; and

"(ii) not to the covered individual or the covered entity from which such covered individual is assigned.

"(C) Such additional measures as the Director considers necessary to carry out the program in accordance with Federal law.

"(d) PROHIBITION ON CHARGES BY COVERED ENTITIES.—A covered entity may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the covered entity to a covered individual assigned to the Agency under the pilot program.

"(e) TERMINATION OF AUTHORITY.—The authority provided in this section shall expire on September 30, 2030, except that any covered individual assigned to the Agency under the pilot program shall continue in such assignment until the terms of such assignment have been satisfied.

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means any individual who is employed by a covered entity.

"(2) The term 'covered entity' means any non-Federal, nongovernmental entity that, as of the date on which a covered individual employed by the entity is assigned to the Agency under the pilot program, is a nontraditional defense contractor (as defined in section 3014 of title 10, United States Code)."

## §4091. Authorities for certain positions at science and technology reinvention

**laboratories**

(a) AUTHORITY TO MAKE DIRECT APPOINTMENTS.—

(1) CANDIDATES FOR SCIENTIFIC AND ENGINEERING POSITIONS AT SCIENCE AND TECHNOLOGY REINVENTION LABORATORIES.—The director of any Science and Technology Reinvention Laboratory (hereinafter in this section referred to as an "STRL") may appoint qualified candidates possessing a bachelor's or advanced degree to positions described in paragraph (1) of subsection (b) as an employee in a laboratory described in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

(2) VETERAN CANDIDATES FOR SIMILAR POSITIONS AT RESEARCH AND ENGINEERING FACILITIES.—The director of any STRL may appoint qualified veteran candidates to positions described in paragraph (2) of subsection (b) as an employee at a laboratory, agency, or organization specified in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5.

(3) STUDENTS ENROLLED IN SCIENTIFIC AND ENGINEERING PROGRAMS.—The director of any STRL may appoint qualified candidates enrolled in a program of undergraduate or graduate instruction leading to a bachelor's or an advanced degree in a scientific, technical, engineering or mathematical course of study at an institution of higher education (as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002)) to positions described in paragraph (3) of subsection (b) as an employee in a laboratory described in that paragraph without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

(4) NONCOMPETITIVE CONVERSION OF APPOINTMENTS.—With respect to any student appointed by the director of an STRL under paragraph (3) to a temporary or term appointment, upon graduation from the applicable institution of higher education (as defined in such paragraph), the director may noncompetitively convert such student to another temporary appointment or to a term or permanent appointment within the STRL without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title), provided the student meets all eligibility and Office of Personnel Management qualification requirements for the position.

(b) COVERED POSITIONS.—

(1) CANDIDATES FOR SCIENTIFIC AND ENGINEERING POSITIONS.—The positions described in this paragraph are scientific and engineering positions that may be temporary, term, or permanent in any laboratory designated by section 4121(b) of this title as a Department of Defense science and technology reinvention laboratory.

(2) QUALIFIED VETERAN CANDIDATES.—The positions described in this paragraph are scientific, technical, engineering, and mathematics positions, including technicians, in the following:

(A) Any laboratory referred to in paragraph (1).

(B) Any other Department of Defense research and engineering agency or organization designated by the Secretary for purposes of subsection (a)(2).

(3) CANDIDATES ENROLLED IN SCIENTIFIC AND ENGINEERING PROGRAMS.—The positions described in this paragraph are scientific and engineering positions that may be temporary or term in any laboratory designated by section 4121(b) of this title as a Department of Defense science and technology reinvention laboratory.

(c) LIMITATION ON NUMBER OF APPOINTMENTS ALLOWABLE IN A FISCAL YEAR .—The authority under subsection (a) may not, in any fiscal year and with respect to any laboratory, agency, or organization described in subsection (b), be exercised with respect to a number of candidates greater than the following:

(1) In the case of a laboratory described in subsection (b)(1), with respect to appointment

authority under subsection (a)(1), the number equal to 11 percent of the total number of scientific and engineering positions in such laboratory that are filled as of the close of the preceding fiscal year.

(2) In the case of a laboratory, agency, or organization described in subsection (b)(2), with respect to appointment authority under subsection (a)(2), the number equal to 3 percent of the total number of scientific, technical, engineering, mathematics, and technician positions in such laboratory, agency, or organization that are filled as of the close of the preceding fiscal year.

(3) In the case of a laboratory described in subsection (b)(3), with respect to appointment authority under subsection (a)(3), the number equal to 10 percent of the total number of scientific and engineering positions in such laboratory that are filled as of the close of the preceding fiscal year.

(d) SENIOR SCIENTIFIC TECHNICAL MANAGERS.—

(1) ESTABLISHMENT.—There is hereby established in each STRL, each facility of the Major Range and Test Facility Base, and the Defense Test Resource Management Center a category of senior professional scientific and technical positions, the incumbents of which shall be designated as "senior scientific technical managers" and which shall be positions classified above GS–15 of the General Schedule, notwithstanding section 5108(a) of title 5. The primary functions of such positions shall be—

(A) to engage in research and development in the physical, biological, medical, or engineering sciences, or another field closely related to the mission of such STRL, of such facility of the Major Range and Test Facility Base, or the Defense Test Resource Management Center; and

(B) to carry out technical supervisory responsibilities.

(2) APPOINTMENTS.—(A) The laboratory positions described in paragraph (1) may be filled, and shall be managed, by the director of the STRL involved, under criteria established pursuant to section 4121(a) of this title, relating to personnel demonstration projects at laboratories of the Department of Defense, except that the director of the laboratory involved shall determine the number of such positions at such laboratory, not to exceed 2 percent of the number of scientists and engineers employed at such laboratory as of the close of the last fiscal year before the fiscal year in which any appointments subject to that numerical limitation are made.

(B) The test and evaluation positions described in paragraph (1) may be filled, and shall be managed, by the director of the Major Range and Test Facility Base, in the case of a position at a facility of the Major Range and Test Facility Base, and the director of the Defense Test Resource Management Center, in the case of a position at such center, under criteria established pursuant to section 4121(a) of this title, relating to personnel demonstration projects at laboratories of the Department of Defense, except that the director involved shall determine the number of such positions at each facility of the Major Range and Test Facility Base and the Defense Test Resource Management Center, not to exceed two percent of the number of scientists and engineers, but at least one position, employed at the Major Range and Test Facility Base or the Defense Test Resource Management Center, as the case may be, as of the close of the last fiscal year before the fiscal year in which any appointments subject to those numerical limitations are made.

(e) EXCLUSION FROM PERSONNEL LIMITATIONS.—

(1) IN GENERAL.—The director of an STRL shall manage the workforce strength, structure, positions, and compensation of such STRL—

(A) without regard to any limitation on appointments, positions, or funding with respect to such STRL, subject to subparagraph (B); and

(B) in a manner consistent with the budget available with respect to such STRL.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to Senior Executive Service positions (as

defined in section 3132(a) of title 5) or scientific and professional positions authorized under section 3104 of such title.

(f) DEFINITIONS.—In this section:

(1) The term "Defense Test Resource Management Center" means the Department of Defense Test Resource Management Center established under section 4173 of this title.

(2) The term "employee" has the meaning given that term in section 2105 of title 5.

(3) The term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(4) The term "veteran" has the meaning given that term in section 101 of title 38.

(Added Pub. L. 114–328, div. A, title XI, §1122(a)(1), Dec. 23, 2016, 130 Stat. 2453, §2358a; amended Pub. L. 115–91, div. A, title XI, §1111, Dec. 12, 2017, 131 Stat. 1636; Pub. L. 115–232, div. A, title XI, §1112(a), Aug. 13, 2018, 132 Stat. 2012; renumbered §4091, Pub. L. 116–283, div. A, title XVIII, §1843(a), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 116–283, div. A, title XVIII, §§1843(b)(2), 1845(c)(5), Jan. 1, 2021, 134 Stat. 4245, 4247; Pub. L. 117–81, div. A, title II, §§212(a), 215(d)(13), Dec. 27, 2021, 135 Stat. 1588, 1595; Pub. L. 118–31, div. A, title XI, §1103, Dec. 22, 2023, 137 Stat. 427.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a)(1). Pub. L. 118–31, §1103(1), substituted "bachelor's or advanced degree" for "bachelor's degree".

Subsec. (c). Pub. L. 118–31, §1103(2)(A), (B), (D), substituted "Fiscal Year" for "Calendar Year" in heading, "fiscal year" for "calendar year" in introductory provisions, and "the preceding fiscal year" for "the fiscal year last ending before the start of such calendar year" in pars. (1) to (3).

Subsec. (c)(1). Pub. L. 118–31, §1103(2)(C), substituted "11 percent" for "6 percent".

Subsecs. (f), (g). Pub. L. 118–31, §1103(3), (4), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to direct hire authority at personnel demonstration laboratories for advanced degree holders.

**2021**—Pub. L. 116–283, §1843(a), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 2358a of this title as this section.

Pub. L. 116–283, §1843(b)(2), which directed the renumbering of section 2358a of this title as section 4111 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(4)(A), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (b)(1), (3). Pub. L. 117–81, §215(d)(13)(A), substituted "designated by section 4121(b) of this title" for "designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 10 U.S.C. 2358 note)".

Subsec. (d)(2)(A), (B). Pub. L. 117–81, §215(d)(13)(B), substituted "pursuant to section 4121(a) of this title" for "pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 2358 note)".

Subsec. (f). Pub. L. 117–81, §212(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 117–81, §212(a)(1), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 116–283, §1845(c)(5), which directed amendment of subsec. (f)(1) of this section, as transferred and redesignated by section 503(b)(2) of Pub. L. 116–283, by substituting "section 4173" for "section 196", was executed to subsec. (g)(1) of this section, as transferred and redesignated by section 1843(a) of Pub. L. 116–283, to reflect the probable intent of Congress and the amendments by Pub. L. 117–81, §§212(a)(1), 1701(u)(4)(A). See notes above.

**2018**—Subsec. (a)(4). Pub. L. 115–232 substituted "of appointments" for "to permanent appointment" in heading and "to another temporary appointment or to a term or permanent appointment" for "to a permanent appointment" in text.

**2017**—Subsec. (d)(1). Pub. L. 115–91, §1111(1)(A)(i), inserted ", each facility of the Major Range and Test Facility Base, and the Defense Test Resource Management Center" after "each STRL" in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 115–91, §1111(1)(A)(ii), which directed insertion of ", of such facility of the

Major Range and Test Facility Base, or the Defense Test Resource Management Center", was executed by making the insertion after "such STRL", to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 115–91, §1111(1)(B), designated existing provisions as subpar. (A), substituted "The laboratory positions" for "The positions", and added subpar. (B).

Subsec. (f). Pub. L. 115–91, §1111(2), added pars. (1) and (3) and redesignated former pars. (1) and (2) as (2) and (4), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 117–81, div. A, title II, §215(e), Dec. 27, 2021, 135 Stat. 1595, provided that: "This section [enacting section 4121 of this title, amending this section and sections 4094 and 4124 of this title, amending provisions set out as notes preceding section 1580 of this title and under sections 2223a, 2358, 4001, and 4121 of this title, and repealing provisions set out as notes under section 2358 of this title] and the amendments and repeals made by this section shall take effect immediately after the effective date of the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [Jan. 1, 2022]."

Amendment by section 1701(u)(4)(A) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4092. Personnel management authority to attract experts in science, engineering, and certain other disciplines

(a) PROGRAMS AUTHORIZED.—

(1) LABORATORIES OF THE MILITARY DEPARTMENTS.—The Secretary of Defense may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for such laboratories of the military departments as the Secretary shall designate for purposes of the program for research and development projects of such laboratories.

(2) DARPA.—The Director of the Defense Advanced Research Projects Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(3) DOTE.—The Director of the Office of Operational Test and Evaluation may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support operational test and evaluation missions of the Office.

(4) STRATEGIC CAPABILITIES OFFICE.—The Director of the Strategic Capabilities Office may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Office.

(5) DIU.—The Director of the Defense Innovation Unit may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Unit.

(6) JOINT ARTIFICIAL INTELLIGENCE.—The official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support the activities of such official under section 238 of such Act. The authority to carry out the program under this paragraph shall terminate on December 31, 2024.

(7) NGA.—The Director of the National Geospatial-Intelligence Agency may carry out a

program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(8) SDA.—The Director of the Space Development Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency. The authority to carry out the program under this paragraph shall terminate on December 31, 2030.

(9) UNITED STATES CYBER COMMAND.—The Commander of United States Cyber Command may carry out a program of personnel management authority provided in subsection (b) in order to facilitate the recruitment of eminent experts in computer science, data science, engineering, mathematics, and computer network exploitation within the headquarters of United States Cyber Command and the Cyber National Mission Force.

(10) OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING.—The Under Secretary of Defense for Research and Engineering may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Office of the Under Secretary.

(11) OFFICE OF STRATEGIC CAPITAL.—The Director of the Office of Strategic Capital may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in finance and investment for the Office.

(b) PERSONNEL MANAGEMENT AUTHORITY.—Under a program under subsection (a), the official responsible for administration of the program may—

(1) without regard to any provision of title 5 governing the appointment of employees in the civil service—

(A) in the case of the laboratories of the military departments designated pursuant to subsection (a)(1), appoint scientists and engineers to a total of not more than 40 scientific and engineering positions in such laboratories;

(B) in the case of the Defense Advanced Research Projects Agency, appoint individuals to a total of not more than 140 positions in the Agency;

(C) in the case of the Office of Operational Test and Evaluation, appoint scientists and engineers to a total of not more than 10 scientific and engineering positions in the Office;

(D) in the case of the Strategic Capabilities Office, appoint scientists and engineers to a total of not more than 20 scientific and engineering positions in the Office, of which not more than 5 such positions may be positions of administration or management of the Office;

(E) in the case of the Defense Innovation Unit, appoint scientists and engineers to a total of not more than 35 scientific and engineering positions in the Unit, of which not more than 5 such positions may be positions of administration or management of the Unit;

(F) in the case of the office of the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), appoint scientists and engineers to a total of not more than 5 scientific and engineering positions in support of the activities of such official under section 238 of such Act;

(G) in the case of the National Geospatial-Intelligence Agency, appoint individuals to a total of not more than 7 positions in the Agency, of which not more than 2 such positions may be positions of administration or management in the Agency;

(H) in the case of the Space Development Agency, appoint individuals to a total of not more than 25 positions in the Agency, of which not more than 5 such positions may be positions of administration or management of the Agency;

(I) in the case of United States Cyber Command, appoint computer scientists, data scientists, engineers, mathematicians, and computer network exploitation specialists to a total of not more than 10 scientific and engineering positions in the Command;

(J) in the case of the Office of the Under Secretary of Defense for Research and Engineering, appoint scientists and engineers to a total of not more than 10 scientific and engineering

positions in the Office; and

(K) in the case of the Office of Strategic Capital, appoint individuals to a total of not more than 30 positions in the Office;

(2) notwithstanding any provision of title 5 governing the rates of pay or classification of employees in the executive branch, prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1)—

(A) in the case of employees appointed pursuant to subparagraphs (B), (D), (E), (H), and (K) of paragraph (1), at a rate to be determined by the head of the organization concerned up to 150 percent of the total annual compensation payable to the Vice President under section 104 of title 3;

(B) in the case of employees appointed pursuant to paragraph (1)(G), to any of 2 positions of administration or management designated by the Director of the National Geospatial-Intelligence Agency for purposes of this subparagraph; and

(C) in the case of any other employee appointed pursuant to paragraph (1), at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5;

(3) pay any employee appointed under paragraph (1), other than an employee appointed to a position designated as described in paragraph (2)(A), payments in addition to basic pay within the limit applicable to the employee under subsection (d); and

(4) during any fiscal year—

(A) pay up to 15 individuals newly appointed pursuant to paragraph (1)(B) the travel, transportation, and relocation expenses and services described under sections 5724, 5724a, and 5724c of title 5; and

(B) pay up to 15 individuals previously appointed pursuant to such paragraph, upon separation, the travel, transportation, and relocation expenses and services described under such sections (as applicable).

(c) LIMITATION ON TERM OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed four years.

(2) EXTENSION.—The official responsible for the administration of a program under subsection (a) may, in the case of a particular employee under the program, extend the period to which service is limited under paragraph (1) by up to two years if the official determines that such action is necessary to promote the efficiency of a laboratory of a military department, the Defense Advanced Research Projects Agency, the Office of Operational Test and Evaluation, the Strategic Capabilities Office, the Defense Innovation Unit, the activities under section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), the Space Development Agency, or the National Geospatial-Intelligence Agency, as applicable.

(d) MAXIMUM AMOUNT OF ADDITIONAL PAYMENTS PAYABLE.—Notwithstanding any other provision of this section or section 5307 of title 5, no additional payments may be paid to an employee under subsection (b)(3) in any calendar year if, or to the extent that, the employee's total annual compensation in such calendar year will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

(Added Pub. L. 114–328, div. A, title XI, §1121(a)(1), Dec. 23, 2016, 130 Stat. 2451, §1599h; amended Pub. L. 115–232, div. A, title XI, §1111, Aug. 13, 2018, 132 Stat. 2011; Pub. L. 116–92, div. A, title II, §212, title XI, §1101, Dec. 20, 2019, 133 Stat. 1255, 1595; Pub. L. 116–260, div. W, title IV, §402, Dec. 27, 2020, 134 Stat. 2377; Pub. L. 116–283, div. A, title XVI, §1602, title XVII, §1708(a), Jan. 1, 2021, 134 Stat. 4042, 4085; renumbered §4092, Pub. L. 116–283, div. A, title XVIII, §1843(a), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 117–81, div. A, title X, §1081(a)(21), title XI, §1107, Dec. 27, 2021, 135 Stat.

1920, 1951; Pub. L. 117–103, div. X, title IV, §412, Mar. 15, 2022, 136 Stat. 976; Pub. L. 117–263, div. A, title II, §§212(a), 213, title XI, §1109, Dec. 23, 2022, 136 Stat. 2466, 2471, 2819; Pub. L. 118–31, div. A, title II, §213, title XVIII, §1801(a)(33), Dec. 22, 2023, 137 Stat. 183, 685; Pub. L. 118–159, div. A, title II, §216, Dec. 23, 2024, 138 Stat. 1825.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsecs. (a)(6), (b)(1)(F), and (c)(2), is section 238 of Pub. L. 115–232, which is set out as a note preceding section 4061 of this title.

### AMENDMENTS

**2024**—Pub. L. 118–159, §216(1), substituted "science, engineering, and certain other disciplines" for "science and engineering" in section catchline.

Subsec. (a)(11). Pub. L. 118–159, §216(2), added par. (11).

Subsec. (b)(1)(D). Pub. L. 118–159, §216(3)(A)(i), substituted "20 scientific and engineering positions in the Office, of which not more than 5 such positions may be positions of administration or management of the Office" for "5 scientific and engineering positions in the Office".

Subsec. (b)(1)(E). Pub. L. 118–159, §216(3)(A)(ii), substituted "35 scientific and engineering positions in the Unit, of which not more than 5 such positions may be positions of administration or management of the Unit" for "5 scientific and engineering positions in the Unit".

Subsec. (b)(1)(H). Pub. L. 118–159, §216(3)(A)(iii), substituted "25" for "15".

Subsec. (b)(1)(K). Pub. L. 118–159, §216(3)(A)(iv)–(vi), added subpar. (K).

Subsec. (b)(2)(A). Pub. L. 118–159, §216(3)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "in the case of employees appointed pursuant to subparagraphs (B) and (H) of paragraph (1)—

"(i) to any of the 5 positions designated by the Director of the Defense Advanced Research Projects Agency and any of the 5 positions designated by the Director of the Space Development Agency for purposes of this clause, at rates not in excess of a rate equal to 150 percent of the maximum rate of basic pay authorized for positions at Level I of the Executive Schedule under section 5312 of title 5; and

"(ii) to any other position designated by the Director of the Defense Advanced Research Projects Agency or the Director of the Space Development Agency for purposes of this clause, at rates not in excess of the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3;".

**2023**—Subsec. (b)(1)(B). Pub. L. 118–31, §213(1), struck out ", of which not more than 5 such positions may be positions of administration or management of the Agency" before semicolon at end.

Subsec. (b)(4). Pub. L. 118–31, §213(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "during any fiscal year, pay up to 15 individuals newly appointed pursuant to paragraph (1)(B) the travel, transportation, and relocation expenses and services described under sections 5724, 5724a, and 5724c of title 5."

Subsec. (c)(2). Pub. L. 118–31, §1801(a)(33), substituted "the activities" for "the the activities".

**2022**—Subsec. (a)(6). Pub. L. 117–263, §212(a)(1), in heading, struck out "center" after "intelligence", and in text, substituted "official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232)" for "Director of the Joint Artificial Intelligence Center" and "to support the activities of such official under section 238 of such Act" for "for the Center".

Subsec. (a)(8). Pub. L. 117–263, §1109(1), substituted "December 31, 2030" for "December 31, 2025".

Subsec. (a)(10). Pub. L. 117–263, §213(1), added par. (10).

Subsec. (b)(1)(F). Pub. L. 117–263, §212(a)(2), substituted "office of the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232)" for "Joint Artificial Intelligence Center" and "in support of the activities of such official under section 238 of such Act" for "in the Center".

Subsec. (b)(1)(H). Pub. L. 117–263, §1109(2)(A), substituted "15 positions" for "10 positions" and "5 such positions" for "3 such positions".

Subsec. (b)(1)(J). Pub. L. 117–263, §213(2), added subpar. (J).

Subsec. (b)(2)(A). Pub. L. 117–263, §1109(2)(B)(i), substituted "subparagraphs (B) and (H) of paragraph

(1)" for "paragraph (1)(B)" in introductory provisions.

Subsec. (b)(2)(A)(i). Pub. L. 117–263, §1109(2)(B)(ii), substituted "to any of the" for "to any of" and inserted "and any of the 5 positions designated by the Director of the Space Development Agency" after "Projects Agency".

Subsec. (b)(2)(A)(ii). Pub. L. 117–263, §1109(2)(B)(iii), substituted "the Director of the Defense Advanced Research Projects Agency or the Director of the Space Development Agency" for "the Director".

Subsec. (b)(2)(B), (C). Pub. L. 117–103 added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(2). Pub. L. 117–263, §1109(3), which directed amendment of par. (2) by inserting "the Space Development Agency," after "Intelligence Center,", was executed by making the insertion after "the activities under section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232)," to reflect the probable intent of Congress and the intervening amendment by Pub. L. 117–263, §212(a)(3). See below.

Pub. L. 117–263, §212(a)(3), substituted "the activities under section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232)" for "Joint Artificial Intelligence Center".

**2021**—Pub. L. 116–283, §1843(a), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 1599h of this title as this section.

Subsec. (a)(7). Pub. L. 117–81, §1081(a)(21)(A), redesignated second par. (7), relating to the Space Development Agency, as (8). Former par. (8) redesignated (9).

Pub. L. 116–283, §1602(a), added par. (7) relating to the Space Development Agency.

Subsec. (a)(8). Pub. L. 116–283, §1708(a)(1), added par. (8).

Subsec. (a)(9). Pub. L. 117–81, §1081(a)(21)(A), redesignated par. (8) as (9).

Subsec. (b)(1)(G). Pub. L. 117–81, §1081(a)(21)(B), redesignated second subpar. (G), relating to the Space Development Agency, as (H). Former subpar. (H) redesignated (I).

Pub. L. 116–283, §1602(b), added subpar. (G) relating to the Space Development Agency. Similar conforming amendments to subsec. (b)(1)(E) and (F) were made by Pub. L. 116–260 and Pub. L. 116–283. Text of subsec. (b)(1)(E) reflects amendment made by Pub. L. 116–283.

Subsec. (b)(1)(H). Pub. L. 116–283, §1708(a)(2), added subpar. (H). Conforming amendment inserting "and" at end of subpar. (G) was executed to the second subpar. (G) to reflect the probable intent of Congress.

Subsec. (b)(1)(I). Pub. L. 117–81, §1081(a)(21)(B), redesignated subpar. (H) as (I).

Subsec. (b)(2)(A). Pub. L. 117–81, §1107(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "in the case of employees appointed pursuant to paragraph (1)(B) to any of 5 positions designated by the Director of the Defense Advanced Research Projects Agency for purposes of this subparagraph, at rates not in excess of a rate equal to 150 percent of the maximum rate of basic pay authorized for positions at Level I of the Executive Schedule under section 5312 of title 5; and".

Subsec. (b)(4). Pub. L. 117–81, §1107(1)(B)–(3), added par. (4).

**2020**—Subsec. (a)(7). Pub. L. 116–260, §402(1), added par. (7) relating to the National Geospatial-Intelligence Agency.

Subsec. (b)(1)(G). Pub. L. 116–260, §402(2), added subpar. (G) relating to the National Geospatial-Intelligence Agency.

Subsec. (c)(2). Pub. L. 116–260, §402(3), substituted "the Joint Artificial Intelligence Center, or the National Geospatial-Intelligence Agency" for "or the Joint Artificial Intelligence Center".

**2019**—Subsec. (a)(5). Pub. L. 116–92, §212(d)(1), substituted "DIU" for "DIUX" in heading and struck out "Experimental" after "Innovation Unit".

Subsec. (a)(6). Pub. L. 116–92, §212(a), added par. (6).

Subsec. (b)(1)(B). Pub. L. 116–92, §1101, substituted "140 positions" for "100 positions".

Subsec. (b)(1)(E). Pub. L. 116–92, §212(d)(2), struck out "Experimental" after "Innovation Unit".

Subsec. (b)(1)(F). Pub. L. 116–92, §212(b), added subpar. (F).

Subsec. (c)(2). Pub. L. 116–92, §212(c), substituted "the Defense Innovation Unit, or the Joint Artificial Intelligence Center" for "or the Defense Innovation Unit Experimental".

**2018**—Subsec. (a)(4), (5). Pub. L. 115–232, §1111(a), added pars. (4) and (5).

Subsec. (b)(1)(D), (E). Pub. L. 115–232, §1111(b), added subpars. (D) and (E).

Subsec. (c)(2). Pub. L. 115–232, §1111(c), substituted "the Office of Operational Test and Evaluation, the Strategic Capabilities Office, or the Defense Innovation Unit Experimental" for "or the Office of Operational Test and Evaluation".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1843(a) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## PROGRAM TO DEVELOP ACCESSES, DISCOVER VULNERABILITIES, AND ENGINEER CYBER TOOLS AND DEVELOP TACTICS, TECHNIQUES, AND PROCEDURES FOR OFFENSIVE CYBER OPERATIONS

Pub. L. 116–283, div. A, title XVII, §1708(b), Jan. 1, 2021, 134 Stat. 4085, provided that:

"(1) IN GENERAL.—Pursuant to the authority provided under section 1599h(a)(8) of title 10, United States Code, as added by subsection (a), [now 10 U.S.C. 4092(a)(9)] the Commander of United States Cyber Command shall establish a program or augment an existing program within the Command to develop accesses, discover vulnerabilities, and engineer cyber tools and develop tactics, techniques, and procedures for the use of these assets and capabilities in offensive cyber operations.

"(2) ELEMENTS.—The program or augmented program required by paragraph (1) shall—

"(A) develop accesses, discover vulnerabilities, and engineer cyber tools and develop tactics, techniques, and procedures fit for Department of Defense military operations in cyberspace, such as reliability, meeting short development and operational timelines, low cost, and expendability;

"(B) aim to decrease the reliance of Cyber Command on accesses, tools, and expertise provided by the intelligence community;

"(C) be designed to provide technical and operational expertise on par with that of programs of the intelligence community;

"(D) enable the Commander to attract and retain expertise resident in the private sector and other technologically elite government organizations; and

"(E) coordinate development activities with, and, as appropriate, facilitate transition of capabilities from, the Defense Advanced Research Projects Agency, the Strategic Capabilities Office, and components within the intelligence community.

"(3) INTELLIGENCE COMMUNITY DEFINED.—In this subsection, the term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## GUIDANCE AND DIRECTION ON USE OF DIRECT HIRING PROCESSES FOR ARTIFICIAL INTELLIGENCE PROFESSIONALS AND OTHER DATA SCIENCE AND SOFTWARE DEVELOPMENT PERSONNEL

Pub. L. 116–283, div. A, title XVII, §1751, Jan. 1, 2021, 134 Stat. 4143, provided that:

"(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall review applicable Department of Defense guidance and where beneficial issue new guidance to the secretaries of the military departments and the heads of the defense components on improved use of the direct hiring processes for artificial intelligence professionals and other data science and software development personnel.

"(b) OBJECTIVE.—The objective of the guidance issued under subsection (a) shall be to ensure that organizational leaders assume greater responsibility for the results of civilian hiring of artificial intelligence professionals and other data science and software development personnel.

"(c) CONTENTS OF GUIDANCE.—At a minimum, the guidance required by subsection (a) shall—

"(1) instruct human resources professionals and hiring authorities to utilize available direct hiring authorities (including excepted service authorities) for the hiring of artificial intelligence professionals and other data science and software development personnel, to the maximum extent practicable;

"(2) instruct hiring authorities, when using direct hiring authorities, to prioritize utilization of panels of subject matter experts over human resources professionals to assess applicant qualifications and determine which applicants are best qualified for a position;

"(3) authorize and encourage the use of ePortfolio reviews to provide insight into the previous work of applicants as a tangible demonstration of capabilities and contribute to the assessment of applicant qualifications by subject matter experts; and

"(4) encourage the use of referral bonuses for recruitment and hiring of highly qualified artificial intelligence professionals and other data science and software development personnel in accordance with volume 451 of Department of Defense Instruction 1400.25.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date on which the guidance is issued under subsection (a), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the guidance issued pursuant to subsection (a).

"(2) CONTENTS.—At a minimum, the report submitted under paragraph (1) shall address the following:

"(A) The objectives of the guidance and the manner in which the guidance seeks to achieve those objectives.

"(B) The effect of the guidance on the hiring process for artificial intelligence professionals and other data science and software development personnel, including the effect on—

"(i) hiring time;

"(ii) the use of direct hiring authority;

"(iii) the use of subject matter experts; and

"(iv) the quality of new hires, as assessed by hiring managers and organizational leaders."

**APPLICABILITY OF PERSONNEL MANAGEMENT AUTHORITY TO PERSONNEL CURRENTLY EMPLOYED UNDER SUPERSEDED AUTHORITY**

Pub. L. 114–328, div. A, title XI, §1121(c), Dec. 23, 2016, 130 Stat. 2452, provided that:

"(1) IN GENERAL.—Any individual employed as of the date of the enactment of this Act [Dec. 23, 2016] under section 1101(b)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note) (as in effect on the day before such date) shall remain employed under section 1599h of title 10, United States Code [now 10 U.S.C. 4092] (as added by subsection (a)), after such date in accordance with such section 1599h [now 4092] and the applicable program carried out under such section 1599h [now 4092].

"(2) DATE OF APPOINTMENT.—For purposes of subsection (c) of section 1599h of title 10, United States Code [now 10 U.S.C. 4092(c)] (as so added), the date of the appointment of any employee who remains employed as described in paragraph (1) shall be the date of the appointment of such employee under section 1101(b)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note) (as so in effect)."

## §4093. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program

(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall carry out a program to provide financial assistance for education in science, mathematics, engineering, and technology skills and disciplines that, as determined by the Secretary, are critical to the national security functions of the Department of Defense and are needed in the Department of Defense workforce.

(b) FINANCIAL ASSISTANCE.—(1) Under the program under this section, the Secretary of Defense may award a scholarship or fellowship in accordance with this section to a person who—

(A) is a citizen of the United States or, subject to subsection (g), a country the government of which is a party to The Technical Cooperation Program (TTCP) memorandum of understanding of October 24, 1995;

(B) is pursuing an associates degree, undergraduate degree, or advanced degree in a critical skill or discipline described in subsection (a) at an accredited institution of higher education; and

(C) enters into a service agreement with the Secretary of Defense as described in subsection (c).

(2) The amount of the financial assistance provided under a scholarship or fellowship awarded to a person under this subsection shall be an amount determined by the Secretary of Defense.

(3) Financial assistance provided under a scholarship or fellowship awarded under this section may be paid directly to the recipient of such scholarship or fellowship or to an administering entity for disbursement of the funds.

(c) SERVICE AGREEMENT FOR RECIPIENTS OF FINANCIAL ASSISTANCE.—(1) To receive financial assistance under this section—

(A) in the case of an employee of the Department of Defense, the employee shall enter into a

written agreement to continue in the employment of the department for the period of obligated service determined under paragraph (2); and

(B) in the case of a person not an employee of the Department of Defense, the person shall enter into a written agreement to accept and continue employment for the period of obligated service determined under paragraph (2)—

(i) with the Department, including by serving on active duty in the Armed Forces; or

(ii) with a public or private entity or organization outside of the Department if the Secretary—

(I) is unable to find an appropriate position for the person within the Department; and

(II) determines that employment of the person with such entity or organization for the purpose of such obligated service would provide a benefit to the Department.

(2) For the purposes of this subsection, the period of obligated service for a recipient of financial assistance under this section shall be the period determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for such financial assistance. The period of service required of a recipient may not be less than the total period of pursuit of a degree that is covered by such financial assistance. The period of obligated service is in addition to any other period for which the recipient is obligated to serve in the civil service of the United States.

(3) An agreement entered into under this subsection by a person pursuing an academic degree shall include any terms and conditions that the Secretary of Defense determines necessary to protect the interests of the United States or otherwise appropriate for carrying out this section.

(d) EMPLOYMENT OF PROGRAM PARTICIPANTS.—The Secretary of Defense—

(1) may, without regard to any provision of title 5 governing appointment of employees to competitive service positions within the Department of Defense, appoint to a position in the Department of Defense in the excepted service an individual who has successfully completed an academic program for which a scholarship or fellowship under this section was awarded and who, under the terms of the agreement for such scholarship or fellowship, at the time of such appointment, owes a service commitment to the Department;

(2) may, upon satisfactory completion of 2 years of substantially continuous service by an incumbent who was appointed to an excepted service position under the authority of paragraph (1), convert the appointment of such individual, without competition, to a career or career conditional appointment; and

(3) may establish arrangements so that participants may participate in a paid internship for an appropriate period with an industry sponsor.

(e) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1)(A) A participant in the program under this section who is not an employee of the Department of Defense and who voluntarily fails to complete the educational program for which financial assistance has been provided under this section, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary of Defense, shall refund to the United States an appropriate amount, as determined by the Secretary.

(B) A participant in the program under this section who is an employee of the Department of Defense and who—

(i) voluntarily fails to complete the educational program for which financial assistance has been provided, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary; or

(ii) before completion of the period of obligated service required of such participant—

(I) voluntarily terminates such participant's employment with the Department; or

(II) is removed from such participant's employment with the Department on the basis of misconduct,

shall refund the United States an appropriate amount, as determined by the Secretary.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a

debt owed to the United States.

(3) The Secretary of Defense may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under this subsection.

(f) RELATIONSHIP TO OTHER PROGRAMS.—(1) The Secretary of Defense shall coordinate the provision of financial assistance under the authority of this section with the provision of financial assistance under the other authorities provided in this chapter in order to maximize the benefits derived by the Department of Defense from the exercise of all such authorities.

(2) The Secretary of Defense shall seek to enter into partnerships with minority institutions of higher education and appropriate public and private sector organizations to diversify the participants in the program under subsection (a).

(3) In coordination with the efforts under paragraph (2), the Secretary of Defense shall additionally establish a program, which shall be known as the "Ronald V. Dellums Memorial Fellowship in STEM", to provide financial assistance under this section to at least 30 students from communities that are underrepresented in the Department of Defense STEM workforce, not fewer of 50 percent of whom shall attend historically Black colleges and universities and minority-serving institutions. As part of such program, the Secretary shall establish an internship program that provides each student who is awarded a fellowship under this paragraph with an internship in an organization or element of the Department of Defense, and to the extent practicable, each such student shall be paired with a mid-level or a senior-level official of the relevant organization or element of the Department of Defense who shall serve as a mentor during the internship.

(g) LIMITATION ON PARTICIPATION.—(1) The Secretary may not award scholarships or fellowships under this section to more than five individuals described in paragraph (2) per year.

(2) An individual described in this paragraph is an individual who—

(A) has not previously been awarded a scholarship or fellowship under the program under this section;

(B) is not a citizen of the United States; and

(C) is a citizen of a country the government of which is a party to The Technical Cooperation Program (TTCP) memorandum of understanding of October 24, 1995.

(h) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 109–163, div. A, title XI, §1104(d)(1), Jan. 6, 2006, 119 Stat. 3449, §2192a; amended Pub. L. 110–417, [div. A], title X, §1061(a)(5), Oct. 14, 2008, 122 Stat. 4612; Pub. L. 111–84, div. A, title XI, §1102(a)–(d)(1), Oct. 28, 2009, 123 Stat. 2484, 2485; Pub. L. 113–66, div. A, title XI, §1105(a)(1), Dec. 26, 2013, 127 Stat. 886; Pub. L. 113–291, div. A, title II, §215, Dec. 19, 2014, 128 Stat. 3327; Pub. L. 114–92, div. A, title II, §212, Nov. 25, 2015, 129 Stat. 767; Pub. L. 116–283, div. A, title II, §242, Jan. 1, 2021, 134 Stat. 3488; renumbered §4093, Pub. L. 116–283, div. A, title XVIII, §1843(a), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 117–263, div. A, title X, §1083, Dec. 23, 2022, 136 Stat. 2800.)

## EDITORIAL NOTES

### CODIFICATION

Section, as added by Pub. L. 109–163, consists of text of Pub. L. 108–375, div. A, title XI, §1105, Oct. 28, 2004, 118 Stat. 2074; Pub. L. 109–163, div. A, title X, §1056(d), title XI, §1104(a)–(c), Jan. 6, 2006, 119 Stat. 3440, 3448, 3449; Pub. L. 111–383, div. A, title X, §1075(h)(5), Jan. 7, 2011, 124 Stat. 4377, which was formerly set out as a note under section 2192 of this title, and was repealed by Pub. L. 109–163, div. A, title XI, §1104(e)(1), Jan. 6, 2006, 119 Stat. 3450.

## AMENDMENTS

**2022**—Subsec. (f)(3). Pub. L. 117–263 added par. (3).

**2021**—Pub. L. 116–283, §1843(a), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 2192a of this title as this section.

Subsec. (c)(1)(B)(i). Pub. L. 116–283, §242(1), inserted ", including by serving on active duty in the Armed Forces" after "Department".

Subsec. (d)(3). Pub. L. 116–283, §242(2), added par. (3).

Subsec. (f). Pub. L. 116–283, §242(3), designated existing provisions as par. (1) and added par. (2).

**2015**—Subsec. (b)(1)(A). Pub. L. 114–92, §212(1), inserted "or, subject to subsection (g), a country the government of which is a party to The Technical Cooperation Program (TTCP) memorandum of understanding of October 24, 1995" after "United States".

Subsecs. (g), (h). Pub. L. 114–92, §212(2), (3), added subsec. (g) and redesignated former subsec. (g) as (h).

**2014**—Subsec. (c)(1)(B). Pub. L. 113–291 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "in the case of a person not an employee of the Department of Defense, the person shall enter into a written agreement to accept and continue employment in the Department of Defense for the period of obligated service determined under paragraph (2)."

**2013**—Subsec. (b)(2). Pub. L. 113–66 substituted "an amount determined by the Secretary of Defense" for "the amount determined by the Secretary of Defense as being necessary to pay all educational expenses incurred by that person, including tuition, fees, cost of books, laboratory expenses, equipment expenses, and expenses of room and board".

**2009**—Subsec. (c)(2). Pub. L. 111–84, §1102(b), substituted "The" for "Except as provided in subsection (d), the" in second sentence.

Subsec. (d). Pub. L. 111–84, §1102(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) provided that, under certain circumstances, the Secretary of Defense could appoint or retain a SMART program participant as an interim employee and separate such participant from employment if no appropriate permanent position was available at the end of the interim period and that the period of interim service would count towards the participant's obligated service requirements.

Subsec. (f). Pub. L. 111–84, §1102(c), struck out "The program under this section is in addition to the authorities provided in chapter 111 of this title." before "The Secretary" and substituted "the other authorities provided in this chapter" for "the authorities provided in such chapter".

Subsecs. (g), (h). Pub. L. 111–84, §1102(d)(1), redesignated subsec. (h) as (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "Not later than February 1, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives a plan for expanding and improving the national defense science and engineering workforce educational assistance program carried out under this section as appropriate to improve recruitment and retention to meet the requirements of the Department of Defense for its science and engineering workforce on a short-term basis and on a long-term basis."

**2008**—Subsec. (e)(4). Pub. L. 110–417, §1061(a)(5)(A), substituted "title 11" for "title 11, United States Code,".

Subsec. (f). Pub. L. 110–417, §1061(a)(5)(B), substituted "this title" for "title 10, United States Code".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1843(a) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### NATIONAL SECURITY WORKFORCE AND EDUCATIONAL DIVERSITY ACTIVITIES

Pub. L. 116–283, div. A, title II, §250, Jan. 1, 2021, 134 Stat. 3495, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall seek to diversify participation in the Science, Mathematics, and Research for Transformation (SMART) Defense Education Program under section 2192a of title 10, United States Code [now 10 U.S.C. 4093].

"(b) ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

"(1) subject to the availability of appropriations for this purpose, set aside funds for financial assistance, scholarships, and fellowships for students at historically Black colleges or universities or at minority institutions of higher education and such other institutions as the Secretary considers appropriate;

"(2) partner with institutions of higher education, and such other public and private sector organizations as the Secretary considers appropriate, to increase diversity of participants in the program described in subsection (a);

"(3) establish individual and organizational incentives, and such other activities as the Secretary considers appropriate, to increase diversity of student participation in the program described in subsection (a);

"(4) increase awareness of opportunities to participate in the program described in subsection (a);

"(5) evaluate the potential for new programs, fellowships, and other activities at historically Black colleges or universities and minority institutions of higher education to increase diversity in educational and workforce development programs;

"(6) identify potential changes to the program described in subsection (a) that would improve diversity of participants in such program; and

"(7) establish metrics to evaluate success of activities under this section.

"(c) REPORT.—Not later than September 30, 2024, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that evaluates the success of activities conducted by the Secretary in increasing diversity in appropriate programs of the Department of Defense and hiring and retaining diverse individuals in the science, mathematics, and research workforce of the public sector."

**EFFECT ON CURRENT PARTICIPANTS IN SMART PILOT PROGRAM**

Pub. L. 109–163, div. A, title XI, §1104(f), Jan. 6, 2006, 119 Stat. 3450, provided that: "Participation in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1105 of Public Law 108–375 [see Codification note above] by an individual who has entered into an agreement under that pilot program before the date of the enactment of this Act [Jan. 6, 2006] shall be governed by the terms of such agreement without regard to the amendments made by this section [enacting this section, amending section 3304 of Title 5, Government Organization and Employees, and amending and repealing provisions set out as a note under section 2192 of this title]."

## §4094. Enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories

(a) IN GENERAL.—The Secretary of Defense may carry out a program using the pay authority specified in subsection (d) to fix the rate of basic pay for positions described in subsection (c) in order to assist the military departments in attracting and retaining high quality acquisition and technology experts in positions responsible for managing and performing complex, high-cost research and technology development efforts in the science and technology reinvention laboratories of the Department of Defense.

(b) APPROVAL REQUIRED.—The program may be carried out in a military department only with the approval of the service acquisition executive of the military department concerned.

(c) POSITIONS.—The positions described in this subsection are positions in the science and technology reinvention laboratories of the Department of Defense that—

(1) require expertise of an extremely high level in a scientific, technical, professional, or acquisition management field; and

(2) are critical to the successful accomplishment of an important research or technology development mission.

(d) RATE OF BASIC PAY.—The pay authority specified in this subsection is authority as follows:

(1) Authority to fix the rate of basic pay for a position at a rate not to exceed 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the service acquisition executive concerned.

(2) Authority to fix the rate of basic pay for a position at a rate in excess of 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Secretary of the military department concerned.

(e) LIMITATIONS.—

(1) IN GENERAL.—The authority in subsection (a) may be used only to the extent necessary to competitively recruit or retain individuals exceptionally well qualified for positions described in subsection (c).

(2) NUMBER OF POSITIONS.—The authority in subsection (a) may not be used with respect to more than five positions in each military department at any one time, unless the Under Secretary of Defense for Research and Engineering, in concurrence with the Secretaries of the military departments concerned, authorizes the transfer of positions from one military department to another.

(3) TERM OF POSITIONS.—The authority in subsection (a) may be used only for positions having a term of less than five years.

(f) SCIENCE AND TECHNOLOGY REINVENTION LABORATORIES OF THE DEPARTMENT OF DEFENSE DEFINED.—In this section, the term "science and technology reinvention laboratories of the Department of Defense" means the laboratories designated as science and technology reinvention laboratories by section 4121(b) of this title.

(Added Pub. L. 117–263, div. A, title XI, §1106(a), Dec. 23, 2022, 136 Stat. 2817.)

### EDITORIAL NOTES

### CODIFICATION

Another section 4094, added Pub. L. 116–283, div. A, title XI, §1115(a), Jan. 1, 2021, 134 Stat. 3895, §2358c; renumbered §4094 and amended Pub. L. 117–81, div. A, title II, §215(d)(14), title XVII, §1701(e)(3)(A), Dec. 27, 2021, 135 Stat. 1595, 2138, which related to enhanced pay authority for certain research and technology positions in science and technology reinvention laboratories and was substantially identical to this section, was repealed by Pub. L. 118–31, div. A, title XVIII, §1801(a)(32), Dec. 22, 2023, 137 Stat. 685.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 117–263, div. A, title XI, §1106(c), Dec. 23, 2022, 136 Stat. 2818, provided that: "This section [enacting this section] shall take effect immediately after section 881 of this Act [section 881(a) and (b) of Pub. L. 117–263, set out as notes under section 4027 of this title]."

## SUBCHAPTER III—RESEARCH AND DEVELOPMENT CENTERS AND FACILITIES

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(A), Dec. 27, 2021, 135 Stat. 2152, amended Pub. L. 116–283, div. A, title XVIII, §1842(a), Jan. 1, 2021, 134 Stat. 4244, which added this chapter, by adding subchapter heading. Heading was editorially conformed to the style used in this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**LABORATORY QUALITY ENHANCEMENT PROGRAM**

Pub. L. 114–328, div. A, title II, §211, Dec. 23, 2016, 130 Stat. 2046, as amended by Pub. L. 115–91, div. A, title II, §218(a), (b)(1), Dec. 12, 2017, 131 Stat. 1329, 1330; Pub. L. 117–81, div. A, title II, §215(d)(6), Dec. 27, 2021, 135 Stat. 1594, which authorized the Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, to carry out Laboratory Quality Enhancement Program establishing panels, was repealed by Pub. L. 118–159, div. A, title II, §217(b), Dec. 23, 2024, 138 Stat. 1827. See section 4128 of this title.

**DEFENSE LABORATORY MODERNIZATION PILOT PROGRAM**

Pub. L. 114–92, div. B, title XXVIII, §2803, Nov. 25, 2015, 129 Stat. 1169, as amended by Pub. L. 114–328, div. B, title XXVIII, §2806, Dec. 23, 2016, 130 Stat. 2715; Pub. L. 115–232, div. B, title XXVIII, §2808(a)–(c), Aug. 13, 2018, 132 Stat. 2265, 2266; Pub. L. 117–81, div. A, title II, §215(d)(4), Dec. 27, 2021, 135 Stat. 1594, which authorized using amounts appropriated or otherwise made available to the Department of Defense for research, development, test, and evaluation, to fund certain military construction projects, was repealed by Pub. L. 117–263, div. B, title XXVIII, §2803(c), Dec. 23, 2022, 136 Stat. 2994. See section 2810(f) of this title.

## §4121. Science and technology reinvention laboratories: authority and designation

(a) IN GENERAL.—(1) The Secretary of Defense may carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2)(A) Each personnel demonstration project carried out under the authority of paragraph (1) shall be generally similar in nature to the China Lake demonstration project.

(B) For purposes of subparagraph (A), the China Lake demonstration project is the demonstration project that is authorized by section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98–224) to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 of title 5 shall apply to the demonstration project, except that—

(A) subsection (d) of such section 4703 shall not apply to the demonstration project;

(B) the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority which is provided in such section 4703; and

(C) the Secretary shall exercise the authorities granted to the Office of Personnel Management under such section 4703 through the Under Secretary of Defense for Research and Engineering (who shall place an emphasis in the exercise of such authorities on enhancing efficient operations of the laboratory and who may, in exercising such authorities, request administrative support from science and technology reinvention laboratories to review, research, and adjudicate personnel demonstration project proposals).

(4) The employees of a laboratory covered by a personnel demonstration project carried out under this section shall be exempt from, and may not be counted for the purposes of, any constraint or limitation in a statute or regulation in terms of supervisory ratios or maximum number of employees in any specific category or categories of employment that may otherwise be applicable to the employees. The employees shall be managed by the director of the laboratory subject to the supervision of the Under Secretary of Defense for Research and Engineering.

(5) The limitations in section 5373 of title 5 do not apply to the authority of the Secretary under this subsection to prescribe salary schedules and other related benefits.

(b) DESIGNATION OF LABORATORIES.—Each of the following is hereby designated as a Department of Defense science and technology reinvention laboratory as described in subsection (a):

(1) The Air Force Research Laboratory.

(2) The Joint Warfare Analysis Center.

(3) The Army Research Institute for the Behavioral and Social Sciences.

(4) The Combat Capabilities Development Command Armaments Center.
(5) The Combat Capabilities Development Command Army Research Laboratory.
(6) The Combat Capabilities Development Command Aviation and Missile Center.
(7) The Combat Capabilities Development Command Chemical Biological Center.
(8) The Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center.
(9) The Combat Capabilities Development Command Ground Vehicle Systems Center.
(10) The Combat Capabilities Development Command Soldier Center.
(11) The Engineer Research and Development Center.
(12) The Medical Research and Development Command.
(13) The Technical Center, US Army Space and Missile Defense Command.
(14) The Naval Air Systems Command Warfare Centers.
(15) The Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center.
(16) The Naval Information Warfare Centers, Atlantic and Pacific.
(17) The Naval Medical Research Center.
(18) The Naval Research Laboratory.
(19) The Naval Sea Systems Command Warfare Centers.
(20) The Office of Naval Research.

(c) CONVERSION PROCEDURES.—The Secretary of Defense shall implement procedures to convert the civilian personnel of each Department of Defense science and technology reinvention laboratory, as so designated by subsection (b), to the personnel system under an appropriate demonstration project (as referred to in subsection (a)). Any conversion under this subsection—
(1) shall not adversely affect any employee with respect to pay or any other term or condition of employment;
(2) shall be consistent with section 4703(f) of title 5;
(3) shall be completed within 18 months after designation; and
(4) shall not apply to prevailing rate employees (as defined by section 5342(a)(2) of title 5) or senior executives (as defined by section 3132(a)(3) of such title).

(d) LIMITATION.—The science and technology reinvention laboratories, as so designated by subsection (a), may not implement any personnel system, other than a personnel system under an appropriate demonstration project (as referred to subsection (a)), without prior congressional authorization.

(Added Pub. L. 117–81, div. A, title II, §215(a), Dec. 27, 2021, 135 Stat. 1591.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 6 of the Civil Service Miscellaneous Amendments Act of 1983, referred to in subsec. (a)(2)(B), is section 6 of Pub. L. 98–224, Mar. 2, 1984, 98 Stat. 49, which is not classified to the Code.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective immediately after the effective date of the amendments made by title XVIII of Pub. L. 116–283 (Jan. 1, 2022), see section 215(e) of Pub. L. 117–81, set out as an Effective Date of 2021 Amendment note under section 4091 of this title.

### DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS

Pub. L. 110–181, div. A, title XI, §1107, Jan. 28, 2008, 122 Stat. 357, as amended by Pub. L. 110–417, [div. A], title XI, §1109, Oct. 14, 2008, 122 Stat. 4618; Pub. L. 111–84, div. A, title X, §1073(d), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 111–383, div. A, title XI, §1101(b), Jan. 7, 2011, 124 Stat. 4382; Pub. L.

112–81, div. A, title X, §1066(b)(2), Dec. 31, 2011, 125 Stat. 1588; Pub. L. 117–81, div. A, title II, §215(d)(2), Dec. 27, 2021, 135 Stat. 1593, provided that:

"(e) [sic] REQUIREMENT.—The Secretary of Defense shall take all necessary actions to fully implement and use the authorities provided to the Secretary under subsection (a) of section 4121 of title 10, United States Code, to carry out personnel management demonstration projects at Department of Defense laboratories designated by subsection (b) of such section as Department of Defense science and technology reinvention laboratories.

"(b) PROCESS FOR FULL IMPLEMENTATION.—The Secretary of Defense shall also implement a process and implementation plan to fully utilize the authorities described in subsection (a) to enhance the performance of the missions of the laboratories.

"(c) OTHER LABORATORIES.—Any flexibility available to any demonstration laboratory shall be available for use at any other laboratory designated by section 4121(b) of title 10, United States Code[,] as a Department of Defense science and technology reinvention laboratory.

"(d) SUBMISSION OF LIST AND DESCRIPTION.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report containing a list and description of the demonstration project notices, amendments, and changes requested by the laboratories during the preceding calendar year. The list shall include all approved and disapproved notices, amendments, and changes, and the reasons for disapproval or delay in approval.

"(e) STATUS REPORTS.—

"(1) IN GENERAL.—The Secretary shall include in each report under subsection (d) the information described in paragraph (2).

"(2) INFORMATION REQUIRED.—Each report under subsection (d) shall describe the following:

"(A) The actions taken by the Secretary of Defense under subsection (a) during the year covered by the report.

"(B) The progress made by the Secretary of Defense during such year in developing and implementing the plan required by subsection (b), including the anticipated date for completion of such plan and a list and description of any issues relating to the development or implementation of such plan.

"(C) With respect to any applications by any Department of Defense laboratories seeking to be designated as a demonstration laboratory or to otherwise obtain any of the personnel flexibilities available to a demonstration laboratory—

"(i) the number of applications that were received, pending, or acted on during such year;

"(ii) the status or disposition of any applications under clause (i), including, in the case of any application on which a final decision was rendered, the laboratory involved, what the laboratory had requested, the decision reached, and the reasons for the decision; and

"(iii) in the case of any applications under clause (i) on which a final decision was not rendered, the date by which a final decision is anticipated.

"(3) DEFINITION.—For purposes of this subsection, the term 'demonstration laboratory' means a laboratory designated by the Secretary of Defense under the provisions of section 4121(a) of title 10, United States Code."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1107(d) of Pub. L. 110–181, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## §4123. Mechanisms to provide funds for defense laboratories and test organizations for research and development of technologies for military missions

(a) MECHANISMS TO PROVIDE FUNDS.—(1) The Secretary of Defense, in consultation with the Secretaries of the military departments, shall establish mechanisms under which the director of a defense laboratory or test organization may use an amount of funds equal to not less than two percent and not more than four percent of all funds available to the defense laboratory or test organization for the following purposes:

(A) To fund innovative basic and applied research that is conducted at the defense laboratory or test organization and supports military missions.

(B) To fund development programs that support the transition of technologies developed by the defense laboratory or test organization into operational use.

(C) To fund workforce development activities that improve the capacity of the defense

laboratory or test organization to recruit and retain personnel with necessary scientific and engineering expertise that support military missions.

(D) To fund the repair or minor military construction of the laboratory or test organization infrastructure and equipment, in accordance with subsection (b).

(2) The mechanisms established under paragraph (1) shall provide that funding shall be used under paragraph (1) at the discretion of the director of a defense laboratory or test organization in consultation with the science and technology executive of the military department concerned.

(3) The science and technology executive of a military department may develop policies and guidance to leverage funding and promote cross-laboratory collaboration, including with laboratories or test organizations of other military departments.

(4) After consultation with the science and technology executive of the military department concerned, the director of a defense laboratory or test organization may charge customer activities a fixed percentage fee, in addition to normal costs of performance, in order to obtain funds to carry out activities authorized by this subsection. The fixed fee may not exceed four percent of costs.

(b) AVAILABILITY OF FUNDS FOR INFRASTRUCTURE PROJECTS.—Funds shall be available in accordance with subsection (a)(1)(D) only if—

(1) the Secretary notifies the congressional defense committees of the total cost of the project before the date on which the Secretary uses the mechanism under such subsection for such project; and

(2) the Secretary ensures that the project complies with the applicable cost limitations in—

(A) section 2805(d) of this title, with respect to revitalization and recapitalization projects; and

(B) section 2811 of this title, with respect to repair projects.

(c) RELEASE AND DISSEMINATION OF INFORMATION ON CONTRIBUTIONS FROM USE OF AUTHORITY TO MILITARY MISSIONS.—

(1) COLLECTION OF INFORMATION.—The Secretary shall establish and maintain mechanisms for the continuous collection of information on achievements, best practices identified, lessons learned, and challenges arising in the exercise of the authority in this section.

(2) RELEASE OF INFORMATION.—The Secretary shall establish and maintain mechanisms as follows:

(A) Mechanisms for the release to the public of information on achievements and best practices described in paragraph (1) in unclassified form.

(B) Mechanisms for dissemination to appropriate civilian and military officials of information on achievements and best practices described in paragraph (1) in classified form.

(d) TEST ORGANIZATION DEFINED.—In this section, the term "test organization" means a test organization of the Major Range and Test Facility Base specified in Department of Defense Directive 3200.11 or any successor directive.

(Added Pub. L. 115–91, div. A, title II, §220(a), Dec. 12, 2017, 131 Stat. 1332, §2363; amended Pub. L. 115–232, div. A, title II, §250, Aug. 13, 2018, 132 Stat. 1702; renumbered §4123, Pub. L. 116–283, div. A, title XVIII, §1843(b)(1), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 119–60, div. A, title II, §212, Dec. 18, 2025, 139 Stat. 772.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §212(1), inserted "and test organizations" after "defense laboratories" in section catchline.

Subsec. (a). Pub. L. 119–60, §212(2), inserted "or test organization" after "laboratory" wherever appearing.

Subsec. (a)(3). Pub. L. 119–60, §212(3), inserted "or test organizations" after "laboratories".

Subsec. (d). Pub. L. 119–60, §212(4), added subsec. (d).

**2021**—Pub. L. 116–283, §1843(b)(1), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 2363 of this title as this section. A former section 1843(b)(1) of Pub. L. 116–283, which directed the renumbering of section 2363 of this title as section 4103 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(4)(A), effective as if included therein, so that such renumbering was no longer directed.

**2018**—Subsec. (c). Pub. L. 115–232 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to annual reports on the use of the authority under subsec. (a).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4124. Centers for Science, Technology, and Engineering Partnership

(a) DESIGNATION.—(1) The Secretary of Defense, in coordination with the Secretaries of the military departments, shall designate each science and technology reinvention laboratory as a Center for Science, Technology, and Engineering Partnership (in this section referred to as "Centers") in the recognized core competencies of the designee.

(2) The Secretary of Defense shall establish a policy to encourage the Secretary of each military department to reengineer management and business processes and adopt best-business and personnel practices at the Centers of the Secretary concerned in connection with the capability requirements of the Centers, so as to serve as recognized leaders in such capabilities throughout the Department of Defense and in the national technology and industrial base.

(3) The Secretary of Defense, acting through the directors of the Centers, may conduct one or more pilot programs, consistent with applicable requirements of law, to test any practices referred to in paragraph (2) that the Directors determine could—

(A) improve the efficiency and effectiveness of operations at Centers;

(B) improve the support provided by the Centers for the elements of the Department of Defense who use the services of the Centers; and

(C) enhance capabilities by reducing the cost and improving the performance and efficiency of executing laboratory missions.

(b) PUBLIC-PRIVATE PARTNERSHIPS.—(1) To achieve one or more objectives set forth in paragraph (2), the Secretary may authorize and establish incentives for the Director of a Center to enter into public-private cooperative arrangements (in this section referred to as a "public-private partnership") to provide for any of the following:

(A) For employees of the Center, academia, private industry, State and local governments, or other entities outside the Department of Defense to perform (under contract, subcontract, or otherwise) work related to the capabilities of the Center, including any work that—

(i) involves one or more capabilities of the Center; and

(ii) may be applicable to both the Department and commercial entities.

(B) For private industry or other entities outside the Department of Defense to use for either Government or commercial purposes any capabilities of the Center that are not fully used for Department of Defense activities for any period determined to be consistent with the needs of the Department of Defense.

(2) The objectives for exercising the authority provided in paragraph (1) are as follows:

(A) To maximize the use of the capacity of a Center.

(B) To reduce or eliminate the cost of ownership of a Center by the Department of Defense.

(C) To reduce the cost of science, technology, and engineering activities of the Department of Defense.

(D) To leverage private sector investment in—

(i) such efforts as research and equipment recapitalization for a Center; and

(ii) the promotion of the undertaking of commercial business ventures based on the capabilities of a Center, as determined by the director of the Center.

(E) To foster cooperation and technology transfer between the armed forces, academia, private industry, and State and local governments.

(F) To increase access by a Center to a skilled technical workforce that can contribute to the effective and efficient execution of the missions of the Department of Defense.

(G) To increase the ability of a Center to access and use non-Department of Defense methods to develop and innovate and access capabilities that contribute to the effective and efficient execution of the missions of the Department of Defense.

(3)(A) Public-private partnerships entered into under paragraph (1) may be used for purposes relating to technology transfer and other authorities described in subparagraph (B).

(B) The authorities described in this subparagraph are provisions of law that provide for cooperation and partnership by the Department of Defense with academia, private industry, and State and local governments, including the following:

(i) Sections 3371 through 3375 of title 5.

(ii) Sections 2194, 2563, 4001, 4021, 4831, and 4062 of this title.

(iii) Section 209 of title 35.

(iv) Sections 8, 12, and 23 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3706, 3710a, and 3715).

(c) PRIVATE SECTOR USE OF EXCESS CAPACITY.—Any capability of a Center made available to the private sector may be used to perform research and testing activities in order to make more efficient and economical use of Government-owned capabilities and encourage the creation and preservation of jobs to ensure the availability of a workforce with the necessary research and technical skills to meet the needs of the armed forces.

(d) CREDITING OF AMOUNTS FOR PERFORMANCE.—Amounts received by a Center for work performed under a public-private partnership may—

(1) be credited to the appropriation or fund, including a working-capital or revolving fund, that incurs the cost of performing the work; or

(2) be used by the Director of the Center as the Director considers appropriate and consistent with section 219 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note).[1]

(e) AVAILABILITY OF EXCESS CAPACITIES TO PRIVATE-SECTOR PARTNERS .—Capacities of a Center may be made available for use by a private-sector entity under this section only if—

(1) the use of the capacities will not have a significant adverse effect on the performance of the Center or the ability of the Center to achieve the mission of the Center, as determined by the Director of the Center; and

(2) the private-sector entity agrees—

(A) to reimburse the Department of Defense when required in accordance with the guidance of the Department for the direct and indirect costs (including any rental costs) that are attributable to the use of the capabilities by the private-sector entity, as determined by the Secretary of the military departments; and

(B) to hold harmless and indemnify the United States from—

(i) any claim for damages or injury to any person or property arising out of the use of the capabilities, except under the circumstances described in section 2563(c)(3) of this title; and

(ii) any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary to suspend or terminate that use of capabilities during a war or national emergency.

(f) USE OF PARTNERSHIP INTERMEDIARIES TO PROMOTE DEFENSE RESEARCH AND EDUCATION.—(1) Subject to the approval of the Secretary or the head of the another department or agency of the Federal Government concerned, the Director of a Center may enter into a contract, memorandum of understanding or other transaction with a partnership intermediary that provides for the partnership intermediary to perform services for the Department of Defense that increase the likelihood of success in the conduct of cooperative or joint activities of the Center with industry or academic institutions.

(2) In this subsection, the term "partnership intermediary" means an agency of a State or local government, or a nonprofit entity owned in whole or in part by, chartered by, funded in whole or in part by, or operated in whole or in part by or on behalf of a State or local government, that—

(A) assists, counsels, advises, evaluates, or otherwise cooperates with industry or academic institutions that need or can make demonstrably productive use of technology-related assistance from a Center;

(B) facilitates technology transfer from industry or academic institutions to a Center; or

(C) assists and facilitates workforce development in critical technology areas for technology transition activities to fulfill unmet needs of a Center.

(g) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center by personnel of the Department of Defense to performance by a contractor.

(h) DEFINITIONS.—In this section:

(1) The term "capabilities", with respect to a Center for Science, Technology, and Engineering Partnership, means the facilities, equipment, personnel, intellectual property, and other assets that support the core competencies of the Center.

(2) The term "national technology and industrial base" has the meaning given that term in section 4801 of this title.

(3) The term "science and technology reinvention laboratory" means a science and technology reinvention laboratory designated under section 4121(b) of this title.

(Added Pub. L. 114–92, div. A, title II, §211(a), Nov. 25, 2015, 129 Stat. 764, §2368; amended Pub. L. 115–232, div. A, title II, §231, Aug. 13, 2018, 132 Stat. 1690; Pub. L. 116–92, div. A, title XVII, §1731(a)(45), Dec. 20, 2019, 133 Stat. 1814; renumbered §4124 and amended Pub. L. 116–283, div. A, title XVIII, §1843(b)(1), (d), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), (C), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 116–283, div. A, title XVIII, §§1844(b)(1), (c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4245, 4246, 4294; Pub. L. 117–81, div. A, title II, §215(d)(12), title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 1594, 2154; Pub. L. 118–31, div. A, title II, §214, Dec. 22, 2023, 137 Stat. 184.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 219 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, referred to in subsec. (d)(2), is section 219 of Pub. L. 110–417, [div. A], title II, Oct. 14, 2008, 122 Stat. 4389, which was set out as a note under section 2358 of this title, prior to repeal by Pub. L. 115–91, div. A, title II, §220(c)(1), Dec. 12, 2017, 131 Stat. 1333. Provisions similar to those in former section 219 of Pub. L. 110–417 are now contained in section 4123 of this title.

### AMENDMENTS

**2023**—Subsec. (f)(2). Pub. L. 118–31 inserted dash after "local government, that" and subpar. (A)

designation before "assists" and added subpars. (B) and (C).

**2021**—Pub. L. 116–283, §1844(b)(1), which directed the renumbering of section 2368 of this title as section 4146 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(5)(B), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1843(b)(1), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 2368 of this title as this section.

Subsec. (b)(3)(B)(ii). Pub. L. 116–283, §1843(d), as added by Pub. L. 117–81, §1701(u)(4)(C), substituted "2563, 4001, 4021, 4831, and 4062" for "2358, 2371, 2511, 2539b, and 2563". Former section 1844(c)(1) of Pub. L. 116–283, which directed substitution of "4001, 4002, 4831, 4892," for "2358, 2371, 2511, 2539b,", was repealed by Pub. L. 117–81, §1701(u)(5)(B), effective as if included in title XVIII of Pub. L. 116–283.

Subsec. (d)(2). Pub. L. 116–283, §1844(c)(2), which directed substitution of "section 4103 of this title." for "section 219 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note).", was repealed by Pub. L. 117–81, §1701(u)(5)(B), effective as if included in title XVIII of Pub. L. 116–283.

Subsec. (h)(3). Pub. L. 117–81, §215(d)(12), which directed amendment of section "2124(h)(3)" of this title by substituting "designated under section 4121(b) of this title" for "designated under section 1105 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 10 U.S.C. 2358 note)", was executed by making the substitution in subsec. (h)(3) of this section to reflect the probable intent of Congress.

**2019**—Subsec. (f)(1). Pub. L. 116–92 substituted "transaction" for "transition".

**2018**—Subsecs. (f) to (h). Pub. L. 115–232 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 215 of Pub. L. 117–81 effective immediately after the effective date of the amendments made by title XVIII of Pub. L. 116–283 (Jan. 1, 2022), see section 215(e) of Pub. L. 117–81, set out as a note under section 4091 of this title.

Amendment by section 1701(u)(4)(A), (C), (5)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4125. Functions of Defense research facilities

(a) FUNCTIONS OF DEFENSE RESEARCH FACILITIES.—The Secretary of Defense shall ensure, to the maximum extent practicable—

(1) that Defense research facilities are assigned broad mission requirements rather than specific hardware needs;

(2) that appropriate personnel of such facilities are assigned to serve as consultants on component and support system standardization;

(3) that the managers of such facilities have broad latitude to choose research and development projects based on awareness of activities throughout the technology domain, including within the Federal Government, the Department of Defense, public and private research institutions and universities, and the global commercial marketplace;

(4) that technology position and issue papers prepared by Defense research facilities are readily available to all components of the Department of Defense and to contractors who submit bids or proposals for Department of Defense contracts;

(5) that, in order to promote increased consideration of technological issues early in the development process, any technological assessment made by a Defense research facility shall be provided to the Defense Technical Information Center repository to support acquisition decisions;

and

(6) that, in light of Defense research facilities being funded by the public, Defense research facilities are broadly authorized and encouraged to support national technological development goals and support technological missions of other departments and agencies of the Federal Government, when such support is determined by the Secretary of Defense to be in the best interests of the Federal Government.

(b) DEFINITIONS.—In this section, the term "Defense research facility" means a Department of Defense facility which performs or contracts for the performance of—

(1) basic research; or

(2) applied research known as exploratory development.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1843(b)(2), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153.)

## CODIFICATION

The text of subsecs. (b) and (c) of section 2364 of this title, which were transferred to this section and redesignated as subsecs. (a) and (b), respectively, by Pub. L. 116–283, §1843(b)(2), was based on Pub. L. 99–661, div. A, title II, §234(c)(1), Nov. 14, 1986, 100 Stat. 3848; Pub. L. 100–26, §§3(1)(A), 7(a)(9), Apr. 21, 1987, 101 Stat. 273, 278; Pub. L. 100–180, div. A, title XII, §1231(10)(A), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 104–106, div. A, title VIII, §805, Feb. 10, 1996, 110 Stat. 390; Pub. L. 113–291, div. A, title II, §213, Dec. 19, 2014, 128 Stat. 3325; Pub. L. 114–92, div. A, title II, §214(a)(2), Nov. 25, 2015, 129 Stat. 768; Pub. L. 116–283, div. A, title XVIII, §1844(d), Jan. 1, 2021, 134 Stat. 4246; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154.

## AMENDMENTS

**2021**—Subsecs. (a), (b). Pub. L. 116–283, §1843(b)(2), as added by Pub. L. 117–81, §1701(u)(4)(A), transferred subsecs. (b) and (c) of section 2364 of this title to this section and redesignated them as subsecs. (a) and (b), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### SPECIFICATION OF CERTAIN DUTIES OF THE DEFENSE TECHNICAL INFORMATION CENTER

Pub. L. 115–232, div. A, title IX, §905, Aug. 13, 2018, 132 Stat. 1922, as amended by Pub. L. 116–283, div. A, title XVIII, §1842(c)(2), Jan. 1, 2021, 134 Stat. 4244, provided that:

"(a) IN GENERAL.—In addition to any other duties specified for the Defense Technical Information Center by law, regulation, or Department of Defense directive or instruction, the duties of the Center shall include the following:

"(1) To execute the Global Research Watch Program under section 4066 of title 10, United States Code.

"(2) To develop and maintain datasets and other data repositories on research and engineering activities being conducted within the Department.

"(b) ACTION PLAN.—Not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan of action for the commencement by the Defense Technical Information Center of the duties specified in subsection (a)."

**COORDINATION OF HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT**

Pub. L. 100–180, div. A, title II, §218(b)(2), Dec. 4, 1987, 101 Stat. 1053, as amended by Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: "The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

"(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

"(B) ensure that such research and development—

"(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Institute of Standards and Technology, and the National Aeronautics and Space Administration; and

"(ii) complements rather than duplicates such activities."

## §4126. Use of federally funded research and development centers

(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

(2) In this subsection, the term "head of an agency" has the meaning given such term in section 3004 of this title.

(d) IDENTIFICATION TO CONGRESS OF FFRDC WORKLOAD EFFORT.—After the close of a fiscal year, and not later than January 1 of the next year, the Secretary shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report setting forth the actual obligations and the actual man-years of effort expended at each federally funded research and development center during that fiscal year.

(Added Pub. L. 99–500, §101(c) [title X, §912(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–146, and Pub. L. 99–591, §101(c) [title X, §912(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–146, §2367; Pub. L. 99–661, div. A, title IX, formerly title IV, §912(a)(1), Nov. 14, 1986, 100 Stat. 3925, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 102–190, div. A, title II, §256(a)(1), Dec. 5, 1991, 105 Stat. 1330; Pub. L. 104–106, div. A, title XV, §1502(a)(9), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–314, div. A, title X, §1041(a)(12), Dec. 2, 2002, 116 Stat. 2645; renumbered §4126, Pub. L. 116–283, div. A, title XVIII, §1843(b)(1), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 116–283, div. A, title XVIII, §§1844(b)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4245, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154.)

**EDITORIAL NOTES**

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1844(b)(1), which directed the renumbering of section 2367 of this title as section 4147 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(5)(B), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1843(b)(1), as added by Pub. L. 117–81, §1701(u)(4)(A), renumbered section 2367 of this title as this section.

Subsec. (c)(2). Pub. L. 116–283, §1883(b)(2), substituted "section 3004" for "section 2302(1)".

**2002**—Subsec. (d). Pub. L. 107–314, §1041(a)(12), struck out designations for pars. (1) and (2) and text of par. (1). Prior to amendment par. (1) read as follows: "In the documents provided to Congress by the Secretary of Defense in support of the budget submitted by the President under section 1105 of title 31 for any fiscal year, the Secretary shall set forth the proposed amount of the man-years of effort to be funded by the Department of Defense for each federally funded research and development center for the fiscal year covered by that budget."

**1999**—Subsec. (d)(2). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (d)(2). Pub. L. 104–106 substituted "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the" for "the Committees on Armed Services and the Committees on Appropriations of the Senate and".

**1991**—Subsec. (d). Pub. L. 102–190 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. A, title II, §256(a)(2), Dec. 5, 1991, 105 Stat. 1330, provided that:

"(A) Paragraph (1) of subsection (d) of section 2367 of title 10, United States Code [now 10 U.S.C. 4126], as added by paragraph (1), shall take effect with respect to the budget submitted for fiscal year 1994.

"(B) Paragraph (2) of such subsection shall take effect with respect to fiscal year 1992."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### PILOT PROGRAM ON DISCLOSURE OF CERTAIN SENSITIVE INFORMATION TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

Pub. L. 114–328, div. A, title II, §235, Dec. 23, 2016, 130 Stat. 2064, which authorized the Secretary of Defense to carry out a pilot program on disclosure of certain sensitive information to federally funded research and development centers of the Department of Defense, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(E), Dec. 23, 2024, 138 Stat. 1979.

## §4127. Defense Innovation Unit

(a) ESTABLISHMENT.—There is established in the Department of Defense a Defense Innovation Unit (referred to in this section as the "Unit").

(b) DIRECTOR AND DEPUTY DIRECTOR.—There is a Director of the Unit who shall be appointed by the Secretary of Defense from among persons with substantial experience in innovation and commercial technology, as determined by the Secretary.

(c) AUTHORITY OF DIRECTOR.—The Director is the head of the Unit. The Director—

(1) shall serve as a principal staff assistant to the Secretary of Defense on matters within the responsibility of the Unit;

(2) shall report directly to the Secretary without intervening authority; and

(3) may communicate views on matters within the responsibility of the Unit directly to the Secretary without obtaining the approval or concurrence of any other official within the Department of Defense.

(d) RESPONSIBILITIES.—The Unit shall have the following responsibilities:

(1) Seek out, identify, and support development of and experimentation with commercial technologies that have the potential to be implemented within the Department of Defense.

(2) Accelerate the adoption or integration of commercial technologies within the Department of Defense to transform military capacity and capabilities.

(3) Serve as the principal liaison between the Department of Defense and individuals and entities in the national security innovation base, including entrepreneurs, startups, commercial technology companies, and venture capital sources.

(4) Carry out programs, projects, and other activities to strengthen the national security innovation base.

(5) Coordinate and harmonize the activities of other organizations and elements of the Department of Defense on matters relating to commercial technologies, dual use technologies, and the innovation of such technologies.

(6) Coordinate and advise efforts among elements of the Department of Defense on matters relating to the development, procurement, and fielding of nontraditional capabilities.

(7) Coordinate with the Joint Staff and the commanders of the combatant commands to identify operational challenges that have the potential to be addressed through the use of nontraditional capabilities, including dual-use technologies, that are being developed and financed in the commercial sector.

(8) Using funds made available to the Unit—

(A) select projects to be carried out by one or more of the service-level innovation organizations;

(B) allocate funds to service-level innovation organizations to carry out such projects; and

(C) monitor the execution of such projects by the service-level innovation organizations.

(9) Serve as the principal liaison between the Department of Defense, nontraditional defense contractors, investors in nontraditional defense companies, and departments and agencies of the Federal Government pursuing nontraditional capabilities similar to those pursued by the Department.

(10) Lead engagement with industry, academia, and other nongovernment entities to develop—

(A) domestic capacity with respect to innovative, commercial, and dual-use technologies and the use of nontraditional defense contractors; and

(B) the capacity of international allies and partners of the United States with respect to such technologies and the use of such contractors.

(11) Carry out such other activities as the Secretary of Defense determines appropriate.

(e) SUPPORT FOR MULTI-STAKEHOLDER PARTNERSHIPS.—

(1) The Director shall identify and support multi-stakeholder research and innovation partnerships that—

(A) have the potential to generate technologies, processes, products, or other solutions that address national defense or security needs; and

(B) have as an objective the technology transfer or commercialization of the work product generated by the partnership, which may include work product that incorporates Government-developed intellectual property licensed to the partnership in accordance with paragraph (3).

(2) Support provided by the Director to a multi-stakeholder research and innovation partnership under this subsection may include—

(A) providing funding or other resources to the partnership;

(B) participating in the partnership;

(C) providing technical and technological advice and guidance to the partnership;

(D) suggesting and introducing other participants for inclusion in the partnership;

(E) providing the partnership with insight into desired solutions for defense and security needs; and

(F) such other forms of support as the Director determines appropriate.

(3) To the extent the Director determines appropriate, the Director shall seek to actively inform potential participants in multi-stakeholder research and innovation partnerships of the availability of Government-developed intellectual property that may be licensed to the partnership.

(4) On an annual basis, the Director shall submit to the Secretary of Defense and the congressional defense committees a report on the activities, advances, outcomes, and work product of the multi-stakeholder research and innovation partnerships supported under this subsection.

(f) REGIONAL OUTREACH CENTERS.—

(1) IN GENERAL.—The Director may establish and maintain regional offices of the Unit at locations within and outside the United States for purposes of conducting outreach to and streamlining interactions between the Unit and the private sector, academia, and other mission partners.

(2) SELECTION CRITERIA AND OTHER GUIDANCE.—In the event the Director exercises the authority to establish and maintain regional offices under paragraph (1), the Director shall—

(A) develop a strategy and criteria for the selection of locations for such offices;

(B) issue any rules, regulations, policies, or guidance necessary for the operation of such offices; and

(C) make the information described in subparagraphs (A) and (B) available on a publicly accessible website of the Department of Defense.

(g) DEFINITIONS.—In this section:

(1) The term "multi-stakeholder research and innovation partnership" means a partnership composed of any combination of two or more of the following:

(A) Universities, colleges, or other institutions of higher education with research and innovation capability.

(B) Non-profit organizations that provide policy, research, outreach, operations, organizational, management, testing, evaluation, technology transfer, legal, financial, or advocacy expertise.

(C) For-profit commercial enterprises that may be publicly or privately owned, early stage or mature, and incorporated or operating by another ownership structure.

(D) Departments or agencies of the Federal Government with expertise, operations, or resources related to the objectives of the multi-stakeholder research and innovation partnership.

(2) The term "nontraditional capability" means a solution to an operational challenge that can significantly leverage commercial innovation or external capital with minimal dependencies on fielded systems.

(3) The term "nontraditional defense contractor" has the meaning given that term in section

3014 of this title.

(Added Pub. L. 118–31, div. A, title IX, §913(a)(1), Dec. 22, 2023, 137 Stat. 365; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(43), Dec. 23, 2024, 138 Stat. 2206; Pub. L. 119–60, div. A, title IX, §913, title XVII, §1701(a)(26), Dec. 18, 2025, 139 Stat. 1018, 1209.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (d)(9). Pub. L. 119–60, §1701(a)(26), substituted "pursuing" for "pursing".

Subsecs. (f), (g). Pub. L. 119–60, §913, added subsec. (f) and redesignated former subsec. (f) as (g).

**2024**—Pub. L. 118–159 substituted "Defense Innovation Unit" for "Defense innovation unit" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE; IMPLEMENTATION**

Section effective 180 days after Dec. 22, 2023, with additional implementation requirements, see section 913(b)(1), (2) of Pub. L. 118–31, set out as notes under section 1766 of this title.

## §4128. Laboratory Quality Enhancement Program

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall carry out a program under which the Secretary shall establish the panels described in subsection (b) and direct such panels—

(A) to review and make recommendations to the Secretary with respect to—

(i) existing policies and practices affecting the science and technology reinvention laboratories to improve the mission effectiveness of such laboratories;

(ii) new initiatives proposed by the science and technology reinvention laboratories; and

(iii) new interpretations of existing provisions of law that would enhance the ability of a director of a science and technology reinvention laboratory to manage the laboratory and discharge the mission of the laboratory;

(B) to support implementation of current and future initiatives affecting the science and technology reinvention laboratories; and

(C) to conduct assessments or data analysis on the effectiveness of the authorities granted to the science and technology reinvention laboratories and such other issues as the Secretary determines to be appropriate.

(2) The program carried out pursuant to paragraph (1) shall be known as the "Laboratory Quality Enhancement Program".

(b) PANELS.—The panels described in this subsection are the following:

(1) A panel on personnel, workforce development, and talent management.

(2) A panel on facilities, equipment, and infrastructure.

(3) A panel on research strategy, technology transfer, and industry and university partnerships.

(4) A panel on governance and oversight processes.

(c) COMPOSITION OF PANELS.—(1) Each panel described in paragraphs (1) through (3) of subsection (b) may be composed of subject matter and technical management experts from—

(A) laboratories and research centers of the Army, Navy, and Air Force;

(B) appropriate Defense Agencies;

(C) the Office of the Under Secretary of Defense for Research and Engineering; and

(D) such other entities as the Secretary determines to be appropriate.

(2) The panel described in subsection (b)(4) shall be composed of—

(A) at least one member from each of the science and technology reinvention laboratories; and

(B) such other members as the Secretary determines to be appropriate.

(d) GOVERNANCE OF PANELS.—(1) The chairperson of each panel established pursuant to subsection (a) shall be selected by the members of the respective panel.

(2) Each panel, in coordination with the Under Secretary of Defense for Research and Engineering, shall transmit to the Science and Technology Executive Committee of the Department of Defense such information or findings on topics requiring decision or approval as the panel considers appropriate.

(e) INTERPRETATION OF PROVISIONS OF LAW.—(1) The Under Secretary of Defense for Research and Engineering, acting under the guidance of the Secretary, shall issue regulations regarding the meaning, scope, implementation, and applicability of any provision of a statute relating to a science and technology reinvention laboratory.

(2) In interpreting or defining under paragraph (1), the Under Secretary shall, to the degree practicable, emphasize providing the maximum operational flexibility to the directors of the science and technology reinvention laboratories to discharge the missions of their laboratories.

(3) In interpreting or defining under paragraph (1), the Under Secretary shall, to the extent practicable, consult and coordinate with the secretaries of the military departments and such other agencies or entities as the Under Secretary considers relevant on any proposed revision to regulations under paragraph (1).

(4) In interpreting or defining under paragraph (1), the Under Secretary shall seek recommendations from the panel described in subsection (b)(4).

(f) SCIENCE AND TECHNOLOGY REINVENTION LABORATORY DEFINED.—In this section, the term "science and technology reinvention laboratory" means a Department of Defense laboratory designated as a Department of Defense science and technology reinvention laboratory under section 4121 of this title.

(Added Pub. L. 118–159, div. A, title II, §217(a), Dec. 23, 2024, 138 Stat. 1825.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 4128 was renumbered section 4129 of this title.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title II, §211, Dec. 23, 2016, 130 Stat. 2046, as amended by Pub. L. 115–91, div. A, title II, §218(a), (b)(1), Dec. 12, 2017, 131 Stat. 1329, 1330; Pub. L. 117–81, div. A, title II, §215(d)(6), Dec. 27, 2021, 135 Stat. 1594, which was set out in a note preceding section 4121 of this title, prior to repeal by Pub. L. 118–159, div. A, title II, §217(b), Dec. 23, 2024, 138 Stat. 1827.

## §4129. Joint Federated Assurance Center

(a) ESTABLISHMENT.—There is in the Office of the Under Secretary of Defense for Research and Engineering a Joint Federated Assurance Center (referred to in this section as the "Center").

(b) PURPOSE.—The purpose of the Center shall be to serve as a joint, Department-wide federation of organizations and capabilities to support the assurance needs of the Department of Defense by ensuring, pursuant to policies related to hardware and software assurance and supply chain risk management, that the software and hardware developed, acquired, maintained, and used by the Department are free from intentional and unintentional vulnerability during the life-cycle of development and deployment of assured, trustworthy defense systems.

(c) GOVERNANCE.—

(1) The Center shall be governed by an Executive Steering Group. The Executive Steering

Group shall continually evaluate the Center's capabilities to support the hardware and software assurance needs of the Department.

(2) The Executive Steering Group shall be composed of one or more representatives from each of the organizations that comprise the Center.

(3) The Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment shall serve as co-Chairpersons of the Executive Steering Group.

(d) DUTIES.—The duties of the Center are as follows:

(1) Providing knowledge management capabilities for hardware and software assurance for the Department.

(2) Providing Department-wide visibility on strategy, use cases, procurement, investment, and other relevant activities to aggregate, to the extent practicable, assurance tool purchases by the Department.

(3) Developing and standardizing policies, procedures, competencies, risk assessment methodologies, and independent validation and verification test capabilities—

(A) to support timely and cost-effective fielding of current and future technologies to the Department;

(B) to ensure sustainment of enduring capability needs across the life-cycle of Department of Defense programs and determine the sustainment factors related to the assurance of future hardware and software systems;

(C) to increase efficiencies across Department of Defense programs through the use of emerging assurance technologies; and

(D) to leverage economies of scale through coordinated acquisition and use of hardware and software assurance technologies.

(4) Promoting assurance capabilities for hardware and software assurance—

(A) to mature assessment criteria and enable scalable deployment of commercial best practices, such as through the fostering and maturation of evidence-based assurance of trusted defense microelectronics system needs, with emphasis on commercial security protocols that are transferable to defense applications;

(B) to scale the Center for Department-wide access, through the resourcing of adequate personnel to address standardization and automation of data collection and analysis;

(C) to utilize data from commercial assurance processes to support the development of Department hardware and software that meet standards, applications, and requirements, including through comparative analysis and data modeling;

(D) to seek and apply commercial best practices, where practicable, through industry collaboration; and

(E) to develop and align Department policy, investments, and activities with commercial best practices, to the extent practicable.

(5) For contracts for application-specific integrated circuits designed by defense industrial base contractors, develop guidance for—

(A) the consideration of evidence-based assurance processes and techniques that are included in the contract data requirements list, to the extent practicable;

(B) the use of commercial best practices, as applicable, for confidentiality, integrity and availability; and

(C) the development of a library of certified third-party intellectual property for reuse, including streamlining legal mechanisms for data collection and sharing, and enhanced use of automation technology to achieve efficiency.

(6) The assessment, creation, prototyping, maturation, and maintenance of relevant assurance practices, including the validation and maturation of evidence based assurance methods, for the

development, procurement, and deployment of hardware and software assurance tools and processes, including—

(A) development and assessment of validation methods for such processes and techniques, in coordination with the developmental and operational test and evaluation community, as the Executive Steering Group determines necessary;

(B) development and assessment of threat models that comprehensively characterize the threat to microelectronics confidentiality, integrity, and availability across the entire supply chain, and the design, production, packaging, and deployment cycle to support risk management and risk mitigation; and

(C) support development of guides to inform use and decision-making by program evaluators, program offices, and industry to meet software and hardware assurance requirements.

(e) REVISED CHARTER.—Not later than 180 days after the date of the enactment of this section, the Secretary of Defense shall issue a revised charter for the Center. The charter shall set forth—

(1) the role and authorities of the Center and the Executive Steering Group;

(2) the requirement of the Center to establish guidelines for the development of improved software code vulnerability analysis and testing tools;

(3) the requirement of the Center to establish guidelines for the development of improved hardware vulnerability testing and protection tools; and

(4) the manner in which the Center will connect to the Department's major governance and resourcing processes to ensure the continuation of Center duties.

(Added Pub. L. 118–159, div. A, title IX, §922(a), Dec. 23, 2024, 138 Stat. 2037, §4128; renumbered §4129, Pub. L. 119–60, div. A, title XVII, §1701(a)(28), Dec. 18, 2025, 139 Stat. 1209.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

#### PRIOR PROVISIONS

Provisions requiring the establishment of a joint federation of capabilities to support the trusted defense system needs of the Department were contained in Pub. L. 113–66, div. A, title IX, §937, Dec. 26, 2013, 127 Stat. 834, as amended by Pub. L. 114–92, div. A, title II, §231, Nov. 25, 2015, 129 Stat. 778, which was set out in a note under section 2224 of this title, prior to repeal by Pub. L. 118–159, div. A, title IX, §922(c), Dec. 23, 2024, 138 Stat. 2039.

#### AMENDMENTS

**2025**—Pub. L. 119–60 renumbered section 4128 of this title, relating to the Joint Federated Assurance Center, as this section.

## CHAPTER 305—UNIVERSITIES

Sec.
4141. Award of grants and contracts to colleges and universities: requirement of competition.
4142. Extramural acquisition innovation and research activities.
4143. Research and development laboratories: contracts for services of university students.
4144. Research and educational programs and activities: historically black colleges and universities and minority-serving institutions of higher education.
4145. Program for the enhancement of the research, development, test, and evaluation centers of the Department of Defense.

### EDITORIAL NOTES

## CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1843(a), Jan. 1, 2021, 134 Stat. 4244, initially enacted chapter 305 of this title, consisting of sections 4103, 4111, and 4112, which was to become effective Jan. 1, 2022. However, Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), (5)(A), Dec. 27, 2021, 135 Stat. 2153, repealed section 1843(a), and enacted a new section 1844(a), of Pub. L. 116–283, effective as if included therein, which eliminated the initial chapter 305 and enacted the current one.

## AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title II, §213(a), Dec. 18, 2025, 139 Stat. 773, added item 4145. Amendment was made pursuant to operation of section 102 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SUPPORT FOR PROTECTION OF SENSITIVE RESEARCH PERFORMED ON BEHALF OF THE DEPARTMENT OF DEFENSE

Pub. L. 118–31, div. A, title II, §221, Dec. 22, 2023, 137 Stat. 188, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, may enter into contracts or other agreements with one or more eligible entities to assist institutions of higher education in protecting sensitive research performed on behalf of the Department of Defense.

"(b) ACTIVITIES.—An eligible entity that enters into a contract or other agreement with the Secretary of Defense under subsection (a) shall carry out activities to assist institutions of higher education in protecting sensitive research performed on behalf of the Department of Defense. Such activities may include—

"(1) conducting effective due diligence in vetting visiting scholars;

"(2) assisting institutions in meeting applicable research security requirements, including through the use of common procedures and practices and shared infrastructure, as appropriate;

"(3) providing training to employees and offices of the institution that have responsibilities relating to research security; and

"(4) providing advice and assistance to institutions in establishing and maintaining research security programs.

"(c) CONSIDERATIONS.—In selecting an entity to receive a contract or other agreement under subsection (a), the Secretary of Defense shall consider the following:

"(1) Geographic diversity and the extent to which the entity is able to maximize coverage of different regions of the United States.

"(2) Any ratings of the entity made by the Defense Counterintelligence and Security Agency as part of the Agency's annual security vulnerability assessment ratings.

"(3) Whether and to what extent the entity uses best practices for research security as outlined by the National Institute of Standards and Technology.

"(4) The entity's demonstrated excellence in security programs, including receipt of awards for excellence in counterintelligence and outstanding achievement in industrial security.

"(d) PERFORMANCE METRICS.—The Secretary of Defense shall establish metrics to measure the performance of each entity with which the Secretary enters into a contract or other agreement under subsection (a).

"(e) NOTIFICATION AND REPORT.—For any year in which the Secretary of Defense exercises the authority provided under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that—

"(1) identifies each eligible entity with which the Secretary entered into a contract or other agreement under such subsection; and

"(2) evaluates the performance of the entity.

"(f) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

"(1) an entity the Secretary of Defense determines to be eligible to participate in the activities authorized under this section; or

"(2) a consortium composed of two or more such entities."

### SUPPORT TO COVERED EDUCATIONAL INSTITUTIONS

Pub. L. 118–31, div. A, title II, §227(f), (g), Dec. 22, 2023, 137 Stat. 198, provided that:

"(f) SUPPORT TO COVERED EDUCATIONAL INSTITUTIONS.—

"(1) IN GENERAL.—The Under Secretary of Defense for Research and Engineering may establish a program to award contracts, grants, or other agreements on a competitive basis to a covered educational institution, and to perform other appropriate activities, for the purposes described in paragraph (2).

"(2) PURPOSES.—The purposes described in this paragraph are the following:

"(A) Developing the capability, including workforce and research infrastructure capabilities, for covered educational institutions to more effectively compete for Federal engineering, applied research, commercialization, and workforce development funding opportunities.

"(B) Improving the capability of covered educational institutions to—

"(i) recruit and retain research faculty;

"(ii) participate in appropriate personnel exchange programs; and

"(iii) participate in appropriate educational and career development activities.

"(C) Any other purposes the Under Secretary determines appropriate for enhancing the engineering, applied research, commercialization, and development capabilities of covered educational institutions.

"(g) DEFINITIONS.—In this section:

"(1) COVERED EDUCATIONAL INSTITUTION.—The term 'covered educational institution' means—

"(A) a mining, metallurgical, geological, or mineral engineering program—

"(i) accredited by a non-governmental organization that accredits post-secondary education programs in applied and natural science, engineering technology, and computing; and

"(ii) located at an institution of higher education; or

"(B) any other post-secondary educational institution with a geology or engineering program or department that has experience in mining research or work with the mining industry.

"(2) CRITICAL MATERIALS.—The term 'critical materials' means materials designated as strategic and critical under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

"(3) INSTITUTION OF HIGHER EDUCATION.—For purposes of paragraph (1), the term 'institution of higher education' has the meaning given in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

## INFRASTRUCTURE TO SUPPORT RESEARCH, DEVELOPMENT, TEST, AND EVALUATION MISSIONS

Pub. L. 116–92, div. A, title II, §252, Dec. 20, 2019, 133 Stat. 1285, as amended by Pub. L. 117–81, div. A, title II, §215(d)(9), Dec. 27, 2021, 135 Stat. 1594, provided that:

"(a) MASTER PLAN REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and in coordination with the Secretaries of the military departments, shall develop and implement a master plan that addresses the research, development, test, and evaluation infrastructure and modernization requirements of the Department of Defense, including the science and technology reinvention laboratories and the facilities of the Major Range and Test Facility Base.

"(b) ELEMENTS.—The master plan required under subsection (a) shall include, with respect to the research, development, test, and evaluation infrastructure of the Department of Defense, the following:

"(1) A summary of deficiencies in the infrastructure, by location, and the effect of the deficiencies on the ability of the Department—

"(A) to meet current and future military requirements identified in the National Defense Strategy;

"(B) to support science and technology development and acquisition programs; and

"(C) to recruit and train qualified personnel.

"(2) A summary of existing and emerging military research, development, test, and evaluation mission areas, by location, that require modernization investments in the infrastructure—

"(A) to improve operations in a manner that may benefit all users;

"(B) to enhance the overall capabilities of the research, development, test, and evaluation infrastructure, including facilities and resources;

"(C) to improve safety for personnel and facilities; and

"(D) to reduce the long-term cost of operation and maintenance.

"(3) Identification of specific infrastructure projects that are required to address the infrastructure deficiencies identified under paragraph (1) or to support the existing and emerging mission areas identified under paragraph (2).

"(4) For each project identified under paragraph (3)—

"(A) a description of the scope of work;

"(B) a cost estimate;

"(C) a summary of the plan for the project;

"(D) an explanation of the level of priority that will be given to the project; and

"(E) a schedule of required infrastructure investments.

"(5) A description of how the Department, including each military department concerned, will carry out the infrastructure projects identified in paragraph (3) using the range of authorities and methods available to the Department, including—

"(A) military construction authority under section 2802 of title 10, United States Code;

"(B) unspecified minor military construction authority under section 2805(a) of such title;

"(C) laboratory revitalization authority under section 2805(d) of such title;

"(D) the authority to carry out facility repair projects, including the conversion of existing facilities, under section 2811 of such title;

"(E) the authority provided under the Defense Laboratory Modernization Pilot Program under section 2803 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2358 note [now 10 U.S.C. 4121 note prec.]);

"(F) methods that leverage funding from entities outside the Department, including public-private partnerships, enhanced use leases and real property exchanges;

"(G) the authority to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation, under section 2681 of title 10, United States Code [now 10 U.S.C. 4175]; and

"(H) any other authorities and methods determined to be appropriate by the Secretary of Defense.

"(6) Identification of any regulatory or policy barriers to the effective and efficient implementation of the master plan.

"(c) CONSULTATION AND COORDINATION.—In developing and implementing the plan required under subsection (a), the Secretary of Defense shall—

"(1) consult with existing and anticipated customers and users of the capabilities of the Major Range and Test Facility Base and science and technology reinvention laboratories;

"(2) ensure consistency with the science and technology roadmaps and strategies of the Department of Defense and the Armed Forces; and

"(3) ensure consistency with the strategic plan for test and evaluation resources required by section 196(d) of title 10, United States Code [now 10 U.S.C. 4173(d)].

"(d) SUBMITTAL TO CONGRESS.—Not later than January 1, 2021, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the master plan developed under subsection (a).

"(e) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION INFRASTRUCTURE DEFINED.—In this section, the term 'research, development, test, and evaluation infrastructure' means the infrastructure of—

"(1) the science and technology reinvention laboratories (as designated under section 4121(b) of title 10, United States Code);

"(2) the Major Range and Test Facility Base (as defined in section 2358a(f)(3) of title 10, United States Code [now 10 U.S.C. 4091(f)(3)]); and

"(3) other facilities that support the research development, test, and evaluation activities of the Department."

**PILOT PROGRAM FOR THE ENHANCEMENT OF THE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE**

Pub. L. 114–328, div. A, title II, §233, Dec. 23, 2016, 130 Stat. 2061, as amended by Pub. L. 115–91, div. A, title II, §235, title X, §1081(d)(2), Dec. 12, 2017, 131 Stat. 1341, 1600; Pub. L. 116–92, div. A, title XVII, §1731(d), Dec. 20, 2019, 133 Stat. 1816; Pub. L. 116–283, div. A, title II, §216(a), (b), Jan. 1, 2021, 134 Stat. 3460; Pub. L. 117–81, div. A, title II, §§215(d)(7), 219, Dec. 27, 2021, 135 Stat. 1594, 1597, which established a pilot program to demonstrate methods for the more effective development of technology and management of functions at science and technology reinvention laboratories, test and evaluation centers, and the Defense Advanced Research Projects Agency, was repealed by Pub. L. 119–60, div. A, title II, §213(b), Dec. 18, 2025, 139 Stat. 774. See 10 U.S.C. 4145.

## §4141. Award of grants and contracts to colleges and universities: requirement of competition

(a) The Secretary of Defense may not make a grant or award a contract to a college or university

for the performance of research and development, or for the construction of any research or other facility, unless—

(1) in the case of a grant, the grant is made using competitive procedures; and

(2) in the case of a contract, the contract is awarded in accordance with section 3204 of this title (other than pursuant to subsection (a)(5) of that section).

(b)(1) A provision of law may not be construed as modifying or superseding the provisions of subsection (a), or as requiring funds to be made available by the Secretary of Defense to a particular college or university by grant or contract, unless that provision of law—

(A) specifically refers to this section;

(B) specifically states that such provision of law modifies or supersedes the provisions of this section; and

(C) specifically identifies the particular college or university involved and states that the grant to be made or the contract to be awarded, as the case may be, pursuant to such provision of law is being made or awarded in contravention of subsection (a).

(2) A grant may not be made, or a contract awarded, pursuant to a provision of law that authorizes or requires the making of the grant, or the awarding of the contract, in a manner that is inconsistent with subsection (a) until—

(A) the Secretary of Defense submits to Congress a notice in writing of the intent to make the grant or award the contract; and

(B) a period of 180 days has elapsed after the date on which the notice is received by Congress.

(Added Pub. L. 100–456, div. A, title II, §220(a), Sept. 29, 1988, 102 Stat. 1940, §2361; amended Pub. L. 101–189, div. A, title II, §252(a), (b)(1), (c)(1), Nov. 29, 1989, 103 Stat. 1404, 1405; Pub. L. 101–510, div. A, title XIII, §1311(4), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 103–35, title II, §201(g)(5), May 31, 1993, 107 Stat. 100; Pub. L. 103–160, div. A, title VIII, §821(b), Nov. 30, 1993, 107 Stat. 1704; Pub. L. 103–337, div. A, title VIII, §813, Oct. 5, 1994, 108 Stat. 2816; Pub. L. 104–106, div. A, title II, §264, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 237, 502; Pub. L. 104–201, div. A, title II, §265, Sept. 23, 1996, 110 Stat. 2466; renumbered §4141, Pub. L. 116–283, div. A, title XVIII, §1844(b), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 116–283, div. A, title XVIII, §§1841(c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151; Pub. L. 118–159, div. A, title XVII, §1701(a)(38), Dec. 23, 2024, 138 Stat. 2205.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(2). Pub. L. 118–159 substituted "section 3204" for "section 2304" and "subsection (a)(5)" for "subsection (c)(5)".

**2021**—Pub. L. 116–283, §1844(b), as added by Pub. L. 117–81, §1701(u)(5)(B), renumbered section 2361 of this title as this section.

Pub. L. 116–283, §1841(c), which directed the renumbering of section 2361 of this title as section 4015 instead of this section, was amended generally by Pub. L. 117–81, §1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (a)(2). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2304", which was redesignated as multiple sections.

**1996**—Subsec. (c). Pub. L. 104–201 struck out subsec. (c) which read as follows:

"(1) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more

than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) Each report under paragraph (1) shall cover the preceding fiscal year and shall be submitted not later than February 1 of the fiscal year after the fiscal year covered by the report."

Subsec. (c)(1). Pub. L. 104–106, §1502(a)(1), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

Subsec. (c)(2). Pub. L. 104–106, §264, substituted "preceding fiscal year" for "preceding calendar year" and "the fiscal year after the fiscal year" for "the year after the year".

**1994**—Subsec. (c). Pub. L. 103–337 added subsec. (c).

**1993**—Subsec. (b)(2). Pub. L. 103–35 substituted "inconsistent" for "inconsisent".

Subsec. (c). Pub. L. 103–160 struck out subsec. (c) which read as follows:

"(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) The reports under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.

"(3) A report is not required under paragraph (1) for any period beginning after December 31, 1993."

**1990**—Subsec. (c)(1). Pub. L. 101–510, §1311(4)(A), substituted "an annual report" for "a semiannual report" in introductory provisions.

Subsec. (c)(2). Pub. L. 101–510, §1311(4)(B), substituted "the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report" for "the six-month periods ending on June 30 and December 31 of each year. Each such report shall be submitted within 30 days after the end of the period covered by the report".

**1989**—Subsec. (a). Pub. L. 101–189, §252(a), substituted "unless—" for "unless" and pars. (1) and (2) for "the grant or contract is made or awarded using competitive procedures."

Subsec. (b). Pub. L. 101–189, §252(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section."

Subsec. (c). Pub. L. 101–189, §252(c)(1), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title VIII, §821(b), Nov. 30, 1993, 107 Stat. 1704, provided that the amendment made by that section is effective Feb. 1, 1994.

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title II, §252(b)(2), Nov. 29, 1989, 103 Stat. 1405, provided that: "Subsection (b) of section 2361 of title 10, United States Code [now 10 U.S.C. 4141(b)], as amended by paragraph (1), applies with respect to any provision of law enacted after September 30, 1989."

## EFFECTIVE DATE

Pub. L. 100–456, div. A, title II, §220(c), Sept. 29, 1988, 102 Stat. 1941, provided that: "The limitation specified in section 2361(a) of title 10, United States Code [now 10 U.S.C. 4141(a)] (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989."

## NATIONAL SECURITY AND DEFENSE ARTIFICIAL INTELLIGENCE INSTITUTE

Pub. L. 119–60, div. A, title II, §224, Dec. 18, 2025, 139 Stat. 782, provided that:

"(a) IN GENERAL.—The Secretary of Defense may establish one or more National Security and Defense Artificial Intelligence Institutes (referred to in this section as 'Institutes') at eligible host institutions.

"(b) INSTITUTE DESCRIBED.—A National Security and Defense Artificial Intelligence Institute referred to in subsection (a) is an artificial intelligence research institute that—

"(1) is focused on a cross-cutting challenge or foundational science for artificial intelligence systems in the national security and defense sector;

"(2) establishes partnerships among public and private organizations, including, as appropriate, Federal agencies, institutions of higher education, including community colleges, nonprofit research organizations, Federal laboratories, State, local, and Tribal governments, and industry, including the Defense Industrial Base and startup companies;

"(3) has the potential to create an innovation ecosystem, or enhance existing ecosystems, to translate Institute research into applications and products used to enhance national security and defense capabilities;

"(4) supports interdisciplinary research and development across multiple institutions of higher education and organizations; and

"(5) supports workforce development in artificial intelligence related disciplines in the United States.

"(c) FINANCIAL ASSISTANCE AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Defense may award financial assistance to an eligible host institution, or consortia thereof, to establish and support one or more Institutes.

"(2) USE OF FUNDS.—Financial assistance awarded under paragraph (1) may be used by an Institute for—

"(A) managing and making available to researchers accessible, curated, standardized, secure, and privacy protected data sets from the public and private sectors for the purposes of training and testing artificial intelligence systems and for research using artificial intelligence systems with regard to national security and defense;

"(B) developing and managing testbeds for artificial intelligence systems, including sector-specific test beds, designed to enable users to evaluate artificial intelligence systems prior to deployment;

"(C) conducting research and education activities involving artificial intelligence systems to solve challenges with national security implications;

"(D) providing or brokering access to computing resources, networking, and data facilities for artificial intelligence research and development relevant to the Institute's research goals;

"(E) providing technical assistance to users, including software engineering support, for artificial intelligence research and development relevant to the Institute's research goals;

"(F) engaging in outreach and engagement to broaden participation in artificial intelligence research and the artificial intelligence workforce; and

"(G) such other activities as may determined by the Secretary of Defense.

"(3) DURATION.—Financial assistance under paragraph (1) shall be awarded for a five-year period, and may be renewed for not more than one additional five-year period.

"(4) APPLICATION FOR FINANCIAL ASSISTANCE.—An eligible host institution or consortia thereof seeking financial assistance under paragraph (1) shall submit to the Secretary of Defense an application at such time, in such manner, and containing such information as the Secretary may require.

"(5) COMPETITIVE, MERIT REVIEW.—In awarding financial assistance under paragraph (1), the Secretary of Defense shall use a competitive, merit-based review process.

"(6) COLLABORATION.—In awarding financial assistance under paragraph (1), the Secretary of Defense may collaborate with other departments and agencies of the Federal Government with missions that relate to or have the potential to be affected by the national security implications of artificial intelligence systems.

"(7) LIMITATION.—No financial assistance authorized in this section shall be awarded to an entity outside of the United States. All recipients of financial assistance under this section, including subgrantees, shall be based in the United States and shall meet such other eligibility criteria as may be established by the

Secretary of Defense.

"(d) DEFINITION.—In this section, the term 'eligible host institution' means—

"(1) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) in the United States that conducts research sponsored by the Department of Defense; or

"(2) a senior military college (as defined in section 2111a(f) of title 10, United States Code)."

## §4142. Extramural acquisition innovation and research activities

(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and in coordination with the Under Secretary of Defense for Research and Engineering, shall establish and maintain extramural acquisition innovation and research activities as described in subsection (c), which shall include an acquisition research organization within a civilian college or university that is not owned or operated by the Federal Government that is established to provide and maintain essential research and development capabilities through a long-term strategic relationship with the Department of Defense.

(b) GOALS.—The goal of any activity conducted pursuant to this section shall be to provide academic analyses and policy alternatives for innovation in defense acquisition policies and practices to policymakers in the Federal Government by using a variety of means intended to widely disseminate research findings from such an activity, in addition to executing demonstration and pilot programs of innovative acquisition policies and practices.

(c) ACTIVITIES.—The activities described in this subsection are as follows:

(1) Research on past and current defense acquisition policies and practices, commercial and international best practices, and the application of new technologies and analytical capabilities to improve acquisition policies and practices.

(2) Pilot programs to prototype and demonstrate new acquisition practices for potential transition to wider use in the Department of Defense.

(3) Establishment of data repositories and development of analytical capabilities, in coordination with the Chief Data Officer of the Department of Defense, to enable researchers and acquisition professionals to access and analyze historical data sets to support research and new policy and practice development.

(4) Executive education to—

(A) support acquisition workforce development, including for early career, mid-career, and senior leaders; and

(B) provide appropriate education on acquisition issues to non-acquisition professionals.

(5) On an ongoing basis, a review of the implementation of recommendations contained in relevant Department of Defense and private sector studies on acquisition policies and practices, including—

(A) for recommendations for the enactment of legislation, identify the extent to which the recommendations have been enacted into law by Congress;

(B) for recommendations for the issuance of regulations, identify the extent to which the recommendations have been adopted through the issuance or revision of regulations;

(C) for recommendations for revisions to policies and procedures in the executive branch, identify the extent to which the recommendations have been adopted through issuance of an appropriate implementing directive or other form of guidance; and

(D) for recommendations for the resources required to implement recommendations contained in relevant Department of Defense and private sector studies on acquisition policies and practices.

(6) Engagement with researchers and acquisition professionals in the Department of Defense, as appropriate.

(d) FUNDING.—Subject to the availability of appropriations, the Secretary may use amounts

available in the Defense Acquisition Workforce and Development Account to carry out the requirements of this section.

(e) ANNUAL REPORT.—Not later than September 30, 2021, and annually thereafter, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Secretary of Defense and the congressional defense committees a report describing the activities conducted under this section during the previous year.

(Added Pub. L. 116–92, div. A, title VIII, §835(a)(1), Dec. 20, 2019, 133 Stat. 1494, §2361a; renumbered §4142, Pub. L. 116–283, div. A, title XVIII, §1844(b), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 116–283, div. A, title XVIII, §1842(b), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 117–81, div. A, title XVII, §1701(q)(1), (u)(3)(B), Dec. 27, 2021, 135 Stat. 2148, 2152; Pub. L. 118–159, div. A, title VIII, §835, Dec. 23, 2024, 138 Stat. 1986.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §835(3), substituted "subsection (c)" for "subsection (d)".

Subsecs. (c), (d). Pub. L. 118–159, §835(1), (2), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which authorized the Secretary of Defense to appoint an individual from civilian life to serve as the director for the extramural acquisition innovation and research to serve a term of five years.

Subsec. (e). Pub. L. 118–159, §835(2), (4), redesignated subsec. (f) as (e) and substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Director". Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 118–159, §835(2), redesignated subsec. (f) as (e).

**2021**—Pub. L. 116–283, §1844(b), as added by Pub. L. 117–81, §1701(u)(5)(B), renumbered section 2361a of this title as this section.

Pub. L. 116–283, §1842(b), which directed the renumbering of section 2361a of this title as section 4063 instead of this section, was amended by Pub. L. 117–81, §1701(q)(1), (u)(3)(B), effective as if included therein, so that such renumbering was no longer directed.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### CATALYST PATHFINDER PROGRAM

Pub. L. 119–60, div. A, title II, §222, Dec. 18, 2025, 139 Stat. 781, provided that:

"(a) ESTABLISHMENT.—Not later than January 1, 2027, the Secretary of the Army shall establish a program that—

"(1) creates partnerships between operational units of the Army and research universities to provide a platform for university-based researchers and small businesses to collaborate directly with soldiers on innovative applied research and development; and

"(2) integrates soldiers into the problem identification process and early-stage development efforts to ensure technical solutions are meeting soldier needs and enhancing lethality.

"(b) ACTIVITIES.—In carrying out the program, the Secretary shall—

"(1) establish activities at select divisions of the Army to accelerate the incorporation of soldier insights into capability development;

"(2) establish policies that streamline collaboration between soldiers, Army Transformation and Training Command, research universities, and small businesses;

"(3) establish a governance board that includes representatives from the research, development, test, and evaluation, acquisition, requirements, and research university communities; and

"(4) promote transition of successful program projects to Army programs.

"(c) INCLUSION IN FUTURE-YEARS DEFENSE PROGRAM.—The program shall be treated as a research, development, test, and evaluation activity in the Army's input to the future-years defense program submitted to Congress under section 221 of title 10, United States Code."

**PROHIBITION ON MODIFICATION OF INDIRECT COST RATES FOR INSTITUTIONS OF HIGHER EDUCATION AND NONPROFIT ORGANIZATIONS**

Pub. L. 119–60, div. A, title II, §230, Dec. 18, 2025, 139 Stat. 788, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not change or modify indirect cost rates (otherwise known as facilities and administration cost rates) for Department of Defense grants and contracts awarded to institutions of higher education and nonprofit organizations (as those terms are defined in part 200 of title 2, Code of Federal Regulations) until the Secretary makes the certification described under subsection (b).

"(b) CERTIFICATION.—A certification under this subsection is a certification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the Department of Defense—

"(1) working with the extramural research community, including representatives from universities, university associations, independent research institutes, and private foundations, has developed an alternative indirect cost model that has—

"(A) reduced the indirect cost rate for all applicable institutions of higher education and nonprofit organizations (compared to indirect rates for fiscal year 2025); and

"(B) optimized payment of legitimate and essential indirect costs involved in conducting Department of Defense research to ensure transparency and efficiency for Department of Defense-funded grants and contracts; and

"(2) established an implementation plan with adequate transition time to change budgeting and accounting processes for affected institutions of higher education and nonprofit organizations."

**IMPLEMENTATION OF SECTION**

Pub. L. 116–92, div. A, title VIII, §835(a)(3), Dec. 20, 2019, 133 Stat. 1496, provided that:

"(A) DEADLINE.—Not later than March 1, 2020, the Secretary of Defense shall establish the extramural acquisition innovation and research activities required by section 2361a of title 10, United States Code [now 10 U.S.C. 4142] (as added by this subsection).

"(B) REPORT.—

"(i) IN GENERAL.—Not later than January 1, 2021, the Director of the extramural acquisition innovation and research activities appointed under such section shall submit to the Secretary of Defense a report setting forth a plan, proposed budget, and schedule for execution of such activities.

"(ii) TRANSMITTAL.—Not later than February 1, 2021, the Secretary of Defense shall transmit the report required under clause (i), together with whatever comments the Secretary considers appropriate, to the Committees on Armed Services of the Senate and the House of Representatives."

**RECORDS OF THE SECTION 809 PANEL**

Pub. L. 116–92, div. A, title VIII, §835(b), Dec. 20, 2019, 133 Stat. 1496, provided that:

"(1) TRANSFER AND MAINTENANCE OF RECORDS.—Not later than March 1, 2020, the records of the Section 809 Panel shall be transferred to, and shall be maintained by, the Defense Technical Information Center.

"(2) STATUS OF RECORDS.—Working papers, records of interview, and any other draft work products generated for any purpose by the Section 809 Panel shall be covered by the deliberative process privilege exemption under paragraph (5) of section 552(b) of title 5, United States Code.

"(3) AVAILABILITY.—To the maximum extent practicable, the Secretary shall make the records available to support activities conducted by the research organization described under section 2361a of title 10, United States Code [now 10 U.S.C. 4142] (as added by subsection (a)).

"(4) SECTION 809 PANEL DEFINED.—In this subsection, the term 'Section 809 Panel' means the panel established by the Secretary of Defense pursuant to section 809 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) [129 Stat. 889]."

## §4143. Research and development laboratories: contracts for services of university students

(a) Subject to the availability of appropriations for such purpose, the Secretary of Defense may procure by contract under the authority of this section the temporary or intermittent services of students at institutions of higher learning for the purpose of providing technical support at defense research and development laboratories. Such contracts may be made directly with such students or with nonprofit organizations employing such students.

(b) Students providing services pursuant to a contract made under subsection (a) shall be considered to be employees for the purposes of chapter 81 of title 5, relating to compensation for work injuries, and to be employees of the government for the purposes of chapter 171 of title 28, relating to tort claims. Such students who are not otherwise employed by the Federal Government shall not be considered to be Federal employees for any other purpose.

(c) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall include definitions for the purposes of this section of the terms "student", "institution of higher learning", and "nonprofit organization".

(Added Pub. L. 97–86, title VI, §603(a), Dec. 1, 1981, 95 Stat. 1110, §2360; renumbered §4143, Pub. L. 116–283, div. A, title XVIII, §1844(b), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 116–283, div. A, title XVIII, §1843(b)(2), Jan. 1, 2021, 134 Stat. 4245; Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(A), Dec. 27, 2021, 135 Stat. 2153.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1844(b), as added by Pub. L. 117–81, §1701(u)(5)(B), renumbered section 2360 of this title as this section.

Pub. L. 116–283, §1843(b)(2), which directed the renumbering of section 2360 of this title as section 4112 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(4)(A), effective as if included therein, so that such renumbering was no longer directed.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4144. Research and educational programs and activities: historically black colleges and universities and minority-serving institutions of higher education

(a) PROGRAM ESTABLISHED.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and the Secretary of each military department, shall carry out a program to provide assistance to covered educational institutions to assist the Department in defense-related research, development, testing, and evaluation activities.

(2) The Secretary of Defense may not delegate or transfer to an individual outside the Office of the Secretary of Defense the authority regarding the programming or budgeting of the program established by this section that is carried out by the Under Secretary of Defense for Research and Engineering.

(b) PROGRAM OBJECTIVE.—The objective of the program established by subsection (a)(1) is to enhance defense-related research and education at covered educational institutions. Such objective shall be accomplished through initiatives designed to—

(1) enhance the research and educational capabilities of such institutions in areas of importance to national defense, as determined by the Secretary;

(2) encourage the participation of such institutions in the research, development, testing, and evaluation programs and activities of the Department of Defense;

(3) increase the number of graduates from such institutions engaged in disciplines important to the national security functions of the Department of Defense, as determined by the Secretary; and

(4) encourage research and educational collaborations between such institutions and other institutions of higher education, Government defense organizations, and the defense industry.

(c) ASSISTANCE PROVIDED.—Under the program established by subsection (a)(1), the Secretary of Defense may provide covered educational institutions with funding or technical assistance, including any of the following:

(1) Support for research, development, testing, evaluation, or educational enhancements in areas important to national defense through the competitive awarding of grants, cooperative agreements, contracts, scholarships, fellowships, or the acquisition of research equipment or instrumentation.

(2) Support to assist in the attraction and retention of faculty in scientific disciplines important to the national security functions of the Department of Defense.

(3) Establishing partnerships between such institutions and defense laboratories, Government defense organizations, the defense industry, and other institutions of higher education in research, development, testing, and evaluation in areas important to the national security functions of the Department of Defense.

(4) Other such non-monetary assistance as the Secretary finds appropriate to enhance defense-related research, development, testing, and evaluation activities at such institutions.

(d) INCENTIVES.—(1) The Secretary of Defense may develop incentives to encourage research and educational collaborations between covered educational institutions and other institutions of higher education.

(2) The Secretary of Defense shall establish goals and incentives to encourage federally funded research and development centers, science and technology reinvention laboratories, and University Affiliated Research Centers funded by the Department of Defense—

(A) to assess the capacity of covered educational institutions to address the research and development needs of the Department through partnerships and collaborations; and

(B) if appropriate, to enter into partnerships and collaborations with such institutions.

(e) CRITERIA FOR FUNDING.—The Secretary of Defense may establish procedures under which the Secretary may limit funding under this section to institutions that have not otherwise received a significant amount of funding from the Department of Defense for research, development, testing, and evaluation programs supporting the national security functions of the Department.

(f) DEFINITION OF COVERED EDUCATIONAL INSTITUTION.—In this section the term "covered educational institution" means—

(1) an institution of higher education eligible for assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.); or

(2) an accredited postsecondary minority institution.

(Added Pub. L. 111–84, div. A, title II, §252(a), Oct. 28, 2009, 123 Stat. 2242, §2362; amended Pub. L. 111–383, div. A, title X, §1075(b)(32), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 112–81, div. A, title II, §219, Dec. 31, 2011, 125 Stat. 1335; Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(i), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 115–232, div. A, title II, §245, Aug. 13, 2018, 132 Stat. 1700; Pub. L. 116–92, div. A, title II, §214, Dec. 20, 2019, 133 Stat. 1257; renumbered §4144, Pub. L. 116–283, div. A, title XVIII, §1844(b), as added Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 116–283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117–81, div. A, title II, §220(c), title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 1599, 2154.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (f)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Titles III and V of the Act are classified generally to subchapters III (§1051 et seq.) and V (§1101 et seq.), respectively, of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1844(b), as added by Pub. L. 117–81, §1701(u)(5)(B), renumbered section 2362 of this title as this section.

Pub. L. 116–283, §1838(b), which directed renumbering section 2362 of this title as section 3904 instead of this section, was amended by Pub. L. 117–81, §1701(v)(2)(A), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (a). Pub. L. 117–81, §220(c)(1), substituted "Under Secretary" for "Assistant Secretary" in pars. (1) and (2).

Subsec. (d). Pub. L. 117–81, §220(c)(2), designated existing provisions as par. (1) and added par. (2).

**2019**—Subsecs. (d) to (f). Pub. L. 116–92 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**2018**—Subsec. (d). Pub. L. 115–232 substituted "Criteria" for "Priority" in heading and "limit" for "give priority in providing" in text.

**2013**—Subsec. (a)(1). Pub L. 112–239 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

**2011**—Subsec. (a). Pub. L. 112–81, §219(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 112–81, §219(b)(1), substituted "established by subsection (a)(1)" for "established under subsection (a)" in introductory provisions.

Subsec. (c). Pub. L. 112–81, §219(b)(2), substituted "subsection (a)(1)" for "subsection (a)" in introductory provisions.

Subsec. (e)(1). Pub. L. 111–383 substituted "title III or V" for "title III or IV".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### MODIFICATIONS TO DEFENSE RESEARCH CAPACITY BUILDING PROGRAM

Pub. L. 119–60, div. A, title II, §223, Dec. 18, 2025, 139 Stat. 782, provided that:

"(a) IN GENERAL.—For fiscal year 2026 and each fiscal year thereafter, the Secretary of Defense shall ensure that all funding opportunities executed in Program Element 0601228D8Z, or successor program element, shall include separate funding solicitations each focused toward—

"(1) Historically Black Colleges and Universities and Tribal Colleges and Universities; and

"(2) Minority-Serving Institutions that are not described in paragraph (1).

"(b) DEFINITIONS.—In this section:

"(1) The term 'Historically Black College or University' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(2) The term 'Minority-Serving Institution' means an eligible institution described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)).

"(3) The term 'Tribal College or University' has the meaning given the term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))."

### OUTREACH TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS REGARDING NATIONAL SECURITY INNOVATION NETWORK PROGRAMS THAT PROMOTE ENTREPRENEURSHIP AND INNOVATION AT

## INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 117–263, div. A, title II, §222, Dec. 23, 2022, 136 Stat. 2479, provided that:

"(a) PILOT PROGRAM.—The Under Secretary of Defense for Research and Engineering, acting through the National Security Innovation Network, may carry out a pilot program under which the Under Secretary conducts activities, including outreach and technical assistance, to better connect historically Black colleges and universities and other minority-serving institutions to the commercialization, innovation, and entrepreneurial activities of the Department of Defense.

"(b) BRIEFING.—Not later than one year after commencing a pilot program under subsection (a), the Under Secretary of Defense for Research and Engineering shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the program, including—

"(1) an explanation of—

"(A) the results of any outreach efforts conducted under the pilot program;

"(B) the success of the pilot program in expanding National Security Innovation Network programs to historically Black colleges and universities and other minority-serving institutions; and

"(C) any potential barriers to the expansion of the pilot program; and

"(2) recommendations for how the Department of Defense can support historically Black colleges and universities and other minority-serving institutions to enable such institutions to successfully participate in Department of Defense commercialization, innovation, and entrepreneurship programs.

"(c) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 23, 2022].

"(d) DEFINITIONS.—In this section:

"(1) The term 'historically Black college or university' means a part B institution (as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)).

"(2) The term 'other minority-serving institution' means an institution of higher education specified in paragraphs (2) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))."

## REPORT AND PILOT PROGRAM BASED ON RECOMMENDATIONS REGARDING DEFENSE RESEARCH CAPACITY AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

Pub. L. 117–263, div. A, title II, §223, Dec. 23, 2022, 136 Stat. 2480, provided that:

"(a) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the recommendations set forth in the publication of the National Academies of Sciences, Engineering, and Medicine titled 'Defense Research Capacity at Historically Black Colleges and Universities and Other Minority Institutions: Transitioning from Good Intentions to Measurable Outcomes' and dated April 28, 2022.

"(2) CONTENTS.—The report required under paragraph (1) shall include the following:

"(A) With respect to the recommendations and subrecommendations set forth in the publication described in paragraph (1)—

"(i) a description of each recommendation and subrecommendation the Secretary has implemented as of the date of the report;

"(ii) a description of each recommendation and subrecommendation the Secretary has commenced implementing as of the date of the report, including a justification for determining to commence implementing the recommendation; and

"(iii) a description of each recommendation and subrecommendation the Secretary has not implemented or commenced implementing as of the date of the report and a determination as to whether or not to implement the recommendation.

"(B) For each recommendation or subrecommendation the Secretary determines to implement under subparagraph (A)(iii)—

"(i) a timeline for implementation;

"(ii) a description of any additional resources or authorities required for implementation; and

"(iii) the plan for implementation.

"(C) For each recommendation or subrecommendation the Secretary determines not to implement under subparagraph (A)(iii), a justification for the determination not to implement the recommendation.

"(3) FORMAT.—The report required under paragraph (1) shall be submitted in unclassified form, but

may include a classified annex.

"(b) PROGRAM TO IMPLEMENT REPORT RECOMMENDATIONS AND SUBRECOMMENDATIONS.—

"(1) PROGRAM REQUIRED.—The Secretary of Defense shall establish and carry out a program (referred to in this subsection as the 'Program') under which the Secretary carries out activities to increase the capacity of eligible institutions to achieve very high research activity status.

"(2) CONSIDERATIONS.—In establishing the Program the Secretary shall consider—

"(A) the recommendations and subrecommendations to be implemented under subsection (a);

"(B) the extent of nascent research capabilities and planned research capabilities at eligible institutions and the relevance of those capabilities to research areas of interest to the Department of Defense;

"(C) recommendations from previous studies for increasing the level of research activity at eligible institutions to very high research activity status, including measurable milestones such as growth in very high research activity status indicators and other relevant factors;

"(D) how institutions participating in the Program will evaluate and assess progress toward achieving very high research activity status;

"(E) how such institutions will sustain an increased level of research activity after the Program terminates; and

"(F) reporting requirements for institutions participating in the Program.

"(3) CONSULTATION.—In designing the Program, the Secretary may consult with the President's Board of Advisors on historically Black colleges and universities.

"(4) PROGRAM ACTIVITIES.—

"(A) ACTIVITIES.—Under the Program, the Secretary shall carry out activities to build the capacity of eligible institutions to achieve very high research activity status, which may include—

"(i) activities to support—

"(I) faculty professional development;

"(II) stipends for undergraduate and graduate students and post-doctoral scholars;

"(III) recruitment and retention of faculty and graduate students;

"(IV) the provision of laboratory equipment and instrumentation;

"(V) communication and dissemination of research products produced during the Program;

"(VI) construction, modernization, rehabilitation, or retrofitting of facilities for research purposes; and

"(ii) such other activities as the Secretary determines appropriate.

"(B) IDENTIFICATION OF PRIORITY AREAS.—The Secretary shall establish and update, on an annual basis, a list of research priorities for STEM and critical technologies appropriate for the Program to assist eligible institutions in identifying appropriate areas for research and related activities.

"(5) TERMINATION.—The Program shall terminate 10 years after the date on which the Secretary commences the Program.

"(6) EVALUATION.—Not later than two years after the date of the enactment of this Act and every two years thereafter until the date on which the Program terminates under paragraph (5), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report providing an update on the Program, including—

"(A) a description of the activities carried out under the Program;

"(B) an analysis of any growth in very high research activity status indicators of eligible institutions that participated in the Program; and

"(C) emerging research areas of interest to the Department of Defense that are being pursued by such institutions.

"(7) REPORT TO CONGRESS.—Not later than 180 days after the date on which the program terminates under paragraph (5), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Program that includes the following:

"(A) An analysis of the growth in very high research activity status indicators of eligible institutions that participated in the Program.

"(B) An evaluation on the effectiveness of the Program in increasing the research capacity of such institutions.

"(C) An explanation of how institutions that achieved very high research activity status plan to sustain that status after the termination of the Program.

"(D) An evaluation of the maintenance of very high research status by eligible institutions that participated in the Program.

"(E) An evaluation of the effectiveness of the Program in increasing the diversity of students

conducting high quality research in unique areas.

"(F) Recommendations with respect to further activities and investments necessary to elevate the research status of historically Black colleges and universities and other minority-serving institutions.

"(G) Recommendations as to whether the Program should be renewed or expanded.

"(c) DEFINITIONS.—In this section:

"(1) The term 'eligible institution' means a historically Black college or university or other minority-serving institution that is classified as a high research activity status institution at the time of participation in the program under subsection (b).

"(2) The term 'high research activity status' means R2 status, as classified by the Carnegie Classification of Institutions of Higher Education.

"(3) The term 'historically Black college or university' has the meaning given the term 'part B institution' under section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(4) The term 'other minority-serving institution' means an institution of higher education specified in paragraphs (2) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)).

"(5) The term 'Secretary' means the Secretary of Defense.

"(6) The term 'very high research activity status' means R1 status, as classified by the Carnegie Classification of Institutions of Higher Education.

"(7) The term 'very high research activity status indicators' means the categories used by the Carnegie Classification of Institutions of Higher Education to delineate which institutions have very high activity status, including—

"(A) annual expenditures in science and engineering;

"(B) per-capita (faculty member) expenditures in science and engineering;

"(C) annual expenditures in non-science and engineering fields;

"(D) per-capita (faculty member) expenditures in non-science and engineering fields;

"(E) doctorates awarded in science, technology, engineering, and mathematics fields;

"(F) doctorates awarded in social science fields;

"(G) doctorates awarded in the humanities;

"(H) doctorates awarded in other fields with a research emphasis;

"(I) total number of research staff including postdoctoral researchers;

"(J) other doctorate-holding non-faculty researchers in science and engineering and per-capita (faculty) number of doctorate-level research staff including post-doctoral researchers; and

"(K) other categories utilized to determine classification."

## DEFENSE RESEARCH AND ENGINEERING ACTIVITIES AT MINORITY INSTITUTIONS

Pub. L. 117–81, div. A, title II, §220(b), (d), Dec. 27, 2021, 135 Stat. 1598, 1599, provided that:

"(b) ACTIVITIES TO SUPPORT THE RESEARCH AND ENGINEERING CAPACITY OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary [of Defense] may establish a program to award contracts, grants, or other agreements on a competitive basis, and to perform other appropriate activities for the purposes described in paragraph (2).

"(2) PURPOSES.—The purposes described in this paragraph are the following:

"(A) Developing the capability, including workforce and research infrastructure, for minority institutions to more effectively compete for Federal engineering, research, and development funding opportunities.

"(B) Improving the capability of such institutions to recruit and retain research faculty, and to participate in appropriate personnel exchange programs and educational and career development activities.

"(C) Any other purposes the Secretary determines appropriate for enhancing the defense-related engineering, research, and development capabilities of minority institutions.

"(d) MINORITY INSTITUTION DEFINED.—In this section, the term 'minority institution' means a covered educational institution (as defined in section 2362 of title 10, United States Code [now 10 U.S.C. 4144])."

## NATIONAL STUDY ON DEFENSE RESEARCH AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY INSTITUTIONS

Pub. L. 116–92, div. A, title II, §262, Dec. 20, 2019, 133 Stat. 1295, provided that:

"(a) STUDY REQUIRED.—The Secretary of Defense shall seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the 'National

Academies') under which the National Academies will conduct a study on the status of defense research at covered institutions and the methods and means necessary to advance research capacity at covered institutions to comprehensively address the national security and defense needs of the United States.

"(b) DESIGNATION.—The study conducted under subsection (a) shall be known as the 'National Study on Defense Research At Historically Black Colleges and Universities and Other Minority Institutions'.

"(c) ELEMENTS.—The study conducted under subsection (a) shall include an examination of each of the following:

"(1) The degree to which covered institutions are successful in competing for and executing Department of Defense contracts and grants for defense research.

"(2) Best practices for advancing the capacity of covered institutions to compete for and conduct research programs related to national security and defense.

"(3) The advancements and investments necessary to elevate covered institutions to R2 status or R1 status on the Carnegie Classification of Institutions of Higher Education, consistent with the criteria of the classification system.

"(4) The facilities and infrastructure for defense-related research at covered institutions as compared to the facilities and infrastructure at institutions classified as R1 status on the Carnegie Classification of Institutions of Higher Education.

"(5) Incentives to attract, recruit, and retain leading research faculty to covered institutions.

"(6) Best practices of institutions classified as R1 status on the Carnegie Classification of Institutions of Higher Education, including best practices with respect to—

"(A) the establishment of a distinct legal entity to—

"(i) enter into contracts or receive grants from the Department;

"(ii) lay the groundwork for future research opportunities;

"(iii) develop research proposals;

"(iv) engage with defense research funding organizations; and

"(v) execute the administration of grants; and

"(B) determining the type of legal entity, if any, to establish for the purposes described in subparagraph (A).

"(7) The ability of covered institutions to develop, protect, and commercialize intellectual property created through defense-related research.

"(8) The total amount of defense research funding awarded to all institutions of higher education, including covered institutions, through contracts and grants for each of fiscal years 2010 through 2019 and, with respect to each such institution—

"(A) whether the institution established a distinct legal entity to enter into contracts or receive grants from the Department and, if so, the type of legal entity that was established;

"(B) the total value of contracts and grants awarded to the institution of higher education for each of fiscal years 2010 through 2019;

"(C) the overhead rate of the institution of higher education for fiscal year 2019;

"(D) the institution's classification on the Carnegie Classification of Institutions of Higher Education; and

"(E) whether the institution qualifies as a covered institution.

"(9) Recommendations for strengthening and enhancing the programs executed under section 2362 of title 10, United States Code [now 10 U.S.C. 4144].

"(10) Recommendations to enhance the capacity of covered institutions to transition research products into defense acquisition programs or commercialization.

"(11) Previous executive or legislative actions by the Federal Government to address imbalances in Federal research funding, including such programs as the Defense Established Program to Stimulate Competitive Research (commonly known as 'DEPSCoR').

"(12) The effectiveness of the Department in attracting and retaining students specializing in science, technology, engineering, and mathematics fields from covered institutions for the Department's programs on emerging capabilities and technologies.

"(13) Recommendations for the development of incentives to encourage research and educational collaborations between covered institutions and other institutions of higher education.

"(14) Any other matters the Secretary of Defense determines to be relevant to advancing the defense research capacity of covered institutions.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the President and the appropriate congressional committees

an initial report that includes—

"(A) the findings of the study conducted under subsection (a); and

"(B) any recommendations that the National Academies may have for action by the executive branch and Congress to improve the participation of covered institutions in Department of Defense research and any actions that may be carried out to expand the research capacity of such institutions.

"(2) FINAL REPORT.—Not later than December 31, 2021, the Secretary of Defense shall submit to the President and the appropriate congressional committees a comprehensive report on the results of the study required under subsection (a).

"(3) FORM OF REPORTS.—Each report submitted under this subsection shall be made publicly available.

"(e) IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than March 1, 2022, the Secretary of Defense shall commence implementation of each recommendation included in the final report submitted under subsection (d)(2).

"(2) EXCEPTIONS.—

"(A) DELAYED IMPLEMENTATION.—The Secretary of Defense may commence implementation of a recommendation described paragraph (1) later than March 1, 2022, if—

"(i) the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written notice of the intent of the Secretary to delay implementation of the recommendation; and

"(ii) includes, as part of such notice, a specific justification for the delay in implementing the recommendation.

"(B) NONIMPLEMENTATION.—The Secretary of Defense may elect not to implement a recommendation described in paragraph (1), if—

"(i) the Secretary submits to the congressional defense committees written notice of the intent of the Secretary not to implement the recommendation; and

"(ii) includes, as part of such notice—

"(I) the reasons for the Secretary's decision not to implement the recommendation; and

"(II) a summary of alternative actions the Secretary will carry out to address the purposes underlying the recommendation.

"(3) IMPLEMENTATION PLAN.—For each recommendation that the Secretary implements under this subsection, the Secretary shall submit to the congressional defense committees an implementation plan that includes—

"(A) a summary of actions that have been, or will be, carried out to implement the recommendation; and

"(B) a schedule, with specific milestones, for completing the implementation of the recommendation.

"(f) LIST OF COVERED INSTITUTIONS.—The Secretary of Defense, in consultation with the Secretary of Education and the Presidents of the National Academies, shall make available a list identifying each covered institution examined as part of the study under subsection (a). The list shall be made available on a publicly accessible website and shall be updated not less frequently than once annually until the date on which the final report is submitted under subsection (d)(2).

"(g) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Committee on Health, Education, Labor, and Pensions of the Senate; and

"(C) the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives.

"(2) The term 'covered institution' means—

"(A) a part B institution (as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2))[)]; or

"(B) any other institution of higher education (as that term is defined in section 101 of such Act (20 U.S.C. 1001)) at which not less than 50 percent of the total student enrollment consists of students from ethnic groups that are underrepresented in the fields of science and engineering."

## STRATEGIES FOR ENGAGEMENT WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY-SERVING INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 114–92, div. A, title II, §233, Nov. 25, 2015, 129 Stat. 779, provided that:

"(a) BASIC RESEARCH ENTITIES.—

"(1) STRATEGY.—The heads of each basic research entity shall each develop a strategy for how to engage with and support the development of scientific, technical, engineering, and mathematics capabilities of covered educational institutions in carrying out section 2362 of title 10, United States Code [now 10 U.S.C. 4144].

"(2) ELEMENTS.—Each strategy under paragraph (1) shall include the following:

"(A) Goals and vision for maintaining a credible and sustainable program relating to the engagement and support under the strategy.

"(B) Metrics to enhance scientific, technical, engineering, and mathematics capabilities at covered educational institutions, including with respect to measuring progress toward increasing the success of such institutions to compete for broader research funding sources other than set-aside funds.

"(C) Promotion of mentoring opportunities between covered educational institutions and other research institutions.

"(D) Regular assessment of activities that are used to develop, maintain, and grow scientific, technical, engineering, and mathematics capabilities.

"(E) Inclusion of faculty of covered educational institutions into program reviews, peer reviews, and other similar activities.

"(F) Targeting of undergraduate, graduate, and postgraduate students at covered educational institutions for inclusion into research or internship opportunities within the military department.

"(b) OFFICE OF THE SECRETARY.—The Secretary of Defense shall develop and implement a strategy for how to engage with and support the development of scientific, technical, engineering, and mathematics capabilities of covered educational institutions pursuant to the strategies developed under subsection (a).

"(c) Submission.—

"(1) BASIC RESEARCH ENTITIES.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the heads of each basic research entity shall each submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the strategy developed by the head under subsection (a)(1).

"(2) OFFICE OF THE SECRETARY.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the strategy developed under subsection (b).

"(d) COVERED INSTITUTION DEFINED.—In this section:

"(1) The term 'basic research entity' means an entity of the Department of Defense that executes research, development, test, and evaluation budget activity 1 funding, as described in the Department of Defense Financial Management Regulation.

"(2) The term 'covered educational institution' has the meaning given that term in section 2362(e) of title 10, United States Code [now 10 U.S.C. 4144(f)]."

## §4145. Program for the enhancement of the research, development, test, and evaluation centers of the Department of Defense

(a) IN GENERAL.—The Secretary of Defense and the Secretaries of the military departments shall jointly carry out a program to demonstrate methods for the more effective development of technology and management of functions at eligible centers.

(b) ELIGIBLE CENTERS.—For purposes of the program, the eligible centers are—

(1) the science and technology reinvention laboratories, as designated by section 4121(b) of this title;

(2) the test and evaluation centers which are activities specified as part of the Major Range and Test Facility Base in Department of Defense Directive 3200.11 (or any successor document);

(3) the Defense Advanced Research Projects Agency;

(4) the Defense Innovation Unit; and

(5) the Strategic Capabilities Office.

(c) DEFINITION OF RESPONSIBLE OFFICIALS CONCERNED.—For purposes of this section, the term "responsible official concerned" means—

(1) the Assistant Secretary of the Army for Acquisition, Technology, and Logistics, with respect

to matters concerning the Army;

(2) the Assistant Secretary of the Navy for Research, Development, and Acquisition, with respect to matters concerning the Navy and the Marine Corps; or

(3) the Assistant Secretary of the Air Force for Acquisition, with respect to matters concerning the Air Force and the Space Force;

(4) the Deputy Secretary of Defense, with respect to matters concerning the Defense Advanced Research Projects Agency, the Defense Innovation Unit, and the Strategic Capabilities Office, and any other matters not covered by paragraphs (1), (2), and (3).

(d) PARTICIPATION IN PROGRAM.—

(1) IN GENERAL.—Subject to paragraph (2), the head of each eligible center shall submit to the responsible official concerned a proposal on, and implement, alternative and innovative methods of effective management and operations of eligible centers, rapid project delivery, support, experimentation, prototyping, and partnership with universities and private sector entities—

(A) to generate greater value and efficiencies in research and development activities;

(B) to enable more efficient and effective operations of supporting activities, such as—

(i) facility management, construction, and repair;

(ii) business operations;

(iii) personnel management policies and practices; and

(iv) intramural and public outreach; and

(C) to enable more rapid deployment of warfighter capabilities.

(2) IMPLEMENTATION.—The head of an eligible center shall implement each method proposed under paragraph (1) unless such method is disapproved in writing by the responsible official concerned within 60 days of receiving the proposal from the eligible center.

(e) WAIVER AUTHORITY FOR DEMONSTRATION AND IMPLEMENTATION.—The head of an eligible center may waive any regulation, restriction, requirement, guidance, policy, procedure, or departmental instruction that would affect the implementation of a method proposed under subsection (d)(1), unless such implementation would be prohibited by a provision of a Federal statute or common law.

(Added Pub. L. 119–60, div. A, title II, §213(a), Dec. 18, 2025, 139 Stat. 773.)

**EDITORIAL NOTES**

**CODIFICATION**

Section was initially transferred from section 2350l of this title by Pub. L. 116–283, div. A, title XVIII, §1844(b), Jan. 1, 2021, 134 Stat. 4246, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154, struck out and added a new section 1844(b) of Pub. L. 116–283, effective as if included therein. The new section 1844(b) did not direct any transfers to section 4145 thereby omitting that section before it took effect. After other amendments by Pub. L. 117–81, section 2350l was not transferred.

## [§§4146, 4147. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

Sections 4146 and 4147 were initially transferred from sections 2368 and 2367 of this title, respectively, by Pub. L. 116–283, div. A, title XVIII, §1844(b), Jan. 1, 2021, 134 Stat. 4246, to become effective Jan. 1, 2022.

Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154, struck out and added a new section 1844(b) of Pub. L. 116–283, effective as if included therein. The new section 1844(b) did not direct any transfers to sections 4146 and 4147, thereby omitting these sections before they took effect. After other amendments by Pub. L. 117–81, sections 2368 and 2367 were transferred to sections 4124 and 4126 of this title, respectively.

# CHAPTER 307—TEST AND EVALUATION

Sec.
4171. Operational test and evaluation of defense acquisition programs.
4172. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production.
4173. Department of Defense Test Resource Management Center.
4174. Contracts: acquisition, construction, or furnishing of test facilities and equipment.
4175. Use of test and evaluation installations by commercial entities.

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1844(a), Jan. 1, 2021, 134 Stat. 4245, initially enacted chapter 307 of this title, consisting of sections 4141 to 4147, which was to become effective Jan. 1, 2022. However, Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(A), Dec. 27, 2021, 135 Stat. 2153, amended section 1844(a) of Pub. L. 116–283, effective as if included therein, so that instead of enacting chapter 307, it enacted chapter 305 of this title consisting of sections 4141 to 4144.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(u)(6)(A), (C), Dec. 27, 2021, 135 Stat. 2154, amended Pub. L. 116–283, div. A, title XVIII, §1845(a), Jan. 1, 2021, 134 Stat. 4247, which added this analysis, by redesignating chapter 309 as this chapter and by adding items 4174 and 4175.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### WESTERN REGIONAL RANGE COMPLEX DEMONSTRATION

Pub. L. 119–60, div. A, title II, §227, Dec. 18, 2025, 139 Stat. 785, provided that:

"(a) DEMONSTRATION REQUIRED.—The Secretary of Defense shall carry out a demonstration project under which the Secretary—

"(1) interconnects ranges or training sites in the western States; and

"(2) uses such interconnected ranges and sites as a joint multi-domain kinetic and non-kinetic testing and training environment for the military departments.

"(b) USE OF EXISTING RANGES AND CAPABILITIES.— In carrying out the project under subsection (a), the Secretary of Defense shall use ranges, testing sites, and related capabilities that are in existence as of the date of the enactment of this Act [Dec. 18, 2025].

"(c) ACTIVITIES.—The range complex established under subsection (a) shall be capable of facilitating testing and training in the following:

"(1) Electromagnetic spectrum operations.

"(2) Electromagnetic warfare.

"(3) Operations that blend kinetic and non-kinetic effects.

"(4) Joint All Domain Command and Control (commonly known as 'JADC2').

"(5) Information warfare, including—

"(A) intelligence, surveillance, and reconnaissance;

"(B) offensive and defensive cyber operations;

"(C) space operations;

"(D) psychological operations;

"(E) public affairs; and

"(F) weather operations.

"(d) TIMELINE FOR COMPLETION OF INITIAL DEMONSTRATION.—In carrying out subsection (a), the Secretary of Defense shall seek to complete an initial demonstration, interconnecting two or more ranges

or testing sites of two or more military departments in the western States, not later than one year after the date of the enactment of this Act.

"(e) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

"(1) a phased implementation plan and design for connecting ranges and testing sites in the western States as required under subsection (a), including the initial demonstration required by subsection (d);

"(2) how the design architecture of the plan is in alignment with recommendations of the most recent Electromagnetic Spectrum Superiority Strategy of the Department of Defense; and

"(3) how the design architecture is expected to support high-periodicity training, testing, research, and development.

"(f) WESTERN STATE DEFINED.—In this section, the term 'western State' means a State located west of the Mississippi River.

"(g) TERMINATION.—This section shall terminate on September 30, 2028."

## AUTHORIZATION OF EASTERN REGIONAL RANGE COMPLEX FOR MULTI-DOMAIN OPERATIONS AND ROBOTIC AUTONOMOUS SYSTEMS TRAINING, TESTING, AND EXPERIMENTATION

Pub. L. 119–60, div. A, title X, §1048, Dec. 18, 2025, 139 Stat. 1040, provided that:

"(a) AUTHORIZATION.—The Secretary of Defense, acting through the Secretaries of the military departments, may designate and develop an Eastern Regional Range Complex to serve as a joint training, testing, and experimentation hub for multi-domain operations and robotic autonomous systems, including unmanned aircraft systems and counter-unmanned aircraft systems capabilities, to address growing threats from potential adversaries.

"(b) LOCATION.—If the Secretary designates and develops the Eastern Regional Range Complex under subsection (a), such complex shall encompass the territories of the States of Maine, Vermont, New Hampshire, Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Louisiana, Kentucky, Tennessee, Arkansas, Mississippi, Indiana, and Alabama.

"(c) ACTIVITIES.—If the Secretary designates and develops the Eastern Regional Range Complex under subsection (a), such complex shall be used—

"(1) to conduct joint, multi-domain, non-kinetic electromagnetic warfare, cyber and information operations training within live, virtual, and constructive environments, leveraging common networks with access to available spectrum;

"(2) support [sic] integrated multi-domain operations training involving air, land, sea, cyber, and space components;

"(3) conduct [sic] joint service and interagency robotic autonomous system training, experimentation and testing, including the development of tactics, techniques and procedures for unmanned aircraft systems and counter-unmanned aircraft systems;

"(4) evaluate [sic] emerging technologies and prototypes and tactics, techniques and procedures for the operation, detection, defeat, and attribution of robotic autonomous systems in contested cyber and electromagnetic spectrum environments; and

"(5) facilitate [sic] the integration of mature prototype experimentation and live-fire exercises for rapid fielding of capabilities aligned with the Joint Warfighting Concept.

"(d) COORDINATION AND INTEGRATION.—If the Secretary of Defense designates and develops the Eastern Regional Range Complex under subsection (a), the Secretary shall ensure that activities conducted at such complex are coordinated with—

"(1) the Joint Counter-small Unmanned Aircraft Systems Office.

"(2) the Joint Staff (J–7);

"(3) the Office of the Under Secretary of Defense for Research and Engineering; and

"(4) other entities with functions or missions relevant to the activities carried out at the Complex, which may include—

"(A) relevant combatant commands and service components:

"(B) allies and partners of the United States participating in multi-domain operations;

"(C) the Defense Innovation Unit;

"(D) State National Guard commands;

"(E) the Office of Naval Research; and

"(F) such other key stakeholders as the Secretary determines appropriate.

"(e) CONSULTATION AUTHORITY.—The Secretary of Defense may consult with the Federal Communications Commission and the National Telecommunications and Information Administration to recommend spectrum access requirements in support of joint and service training, testing, and experimentation within the Eastern Regional Range Complex, if such complex is designated and developed under subsection (a), and the Western Regional Range Complex, including access to appropriate live environments capable of supporting electromagnetic attack training, experimentation, and testing."

**PILOT PROGRAM TO TEST MACHINE-VISION TECHNOLOGIES TO DETERMINE THE AUTHENTICITY AND SECURITY OF MICROELECTRONIC PARTS IN WEAPON SYSTEMS**

Pub. L. 115–232, div. A, title VIII, §843, Aug. 13, 2018, 132 Stat. 1878, as amended by Pub. L. 116–283, div. A, title XVIII, §§1806(e)(3)(C), 1866(d)(1), Jan. 1, 2021, 134 Stat. 4156, 4280, which required the establishment of a pilot program to test the feasibility and reliability of using machine-vision technologies to determine the authenticity and security of microelectronic parts in weapon systems, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(5)(C), Dec. 18, 2025, 139 Stat. 948.

## §4171. Operational test and evaluation of defense acquisition programs

(a) CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.—(1) The Secretary of Defense shall provide that a covered major defense acquisition program, a covered designated major subprogram, or an element of the ballistic missile defense system may not proceed beyond low-rate initial production until initial operational test and evaluation of the program, subprogram, or element is completed.

(2) In this subsection:

(A) The term "covered major defense acquisition program" means a major defense acquisition program that involves the acquisition of a weapon system that is a major system.

(B) The term "covered designated major subprogram" means a major subprogram designated under section 4203(a)(1) of this title that is a major subprogram of a covered major defense acquisition program.

(b) OPERATIONAL TEST AND EVALUATION.—(1) Operational testing of a major defense acquisition program may not be conducted until the Director of Operational Test and Evaluation of the Department of Defense approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating—

(A) the opinion of the Director as to—

(i) whether the test and evaluation performed were adequate; and

(ii) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat; and

(B) additional information on the operational capabilities of the items or components that the Director considers appropriate based on the testing conducted.

(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

(4) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program under paragraph (2) and the

congressional defense committees have received that report.

(5) If, before a final decision described in paragraph (4) is made for a major defense acquisition program, a decision is made within the Department of Defense to proceed to operational use of that program or to make procurement funds available for that program, the Director shall submit to the Secretary of Defense and the congressional defense committees the report with respect to that program under paragraph (2) as soon as practicable after the decision described in this paragraph is made.

(6) In this subsection, the term "major defense acquisition program" has the meaning given that term in section 139(a)(2)(B) of this title.

(c) DETERMINATION OF QUANTITY OF ARTICLES REQUIRED FOR OPERATIONAL TESTING.—The quantity of articles of a new system that are to be procured for operational testing shall be determined by—

(1) the Director of Operational Test and Evaluation of the Department of Defense, in the case of a new system that is a major defense acquisition program (as defined in section 139(a)(2)(B) of this title); or

(2) the operational test and evaluation agency of the military department concerned, in the case of a new system that is not a major defense acquisition program.

(d) IMPARTIALITY OF CONTRACTOR TESTING PERSONNEL.—In the case of a major defense acquisition program (as defined in subsection (a)(2)), no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a). The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat.

(e) IMPARTIAL CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—(1) The Director may not contract with any person for advisory and assistance services with regard to the test and evaluation of a system if that person participated in (or is participating in) the development, production, or testing of such system for a military department or Defense Agency (or for another contractor of the Department of Defense).

(2) The Director may waive the limitation under paragraph (1) in any case if the Director determines in writing that sufficient steps have been taken to ensure the impartiality of the contractor in providing the services. The Inspector General of the Department of Defense shall review each such waiver and shall include in the Inspector General's semi-annual report an assessment of those waivers made since the last such report.

(3)(A) A contractor that has participated in (or is participating in) the development, production, or testing of a system for a military department or Defense Agency (or for another contractor of the Department of Defense) may not be involved (in any way) in the establishment of criteria for data collection, performance assessment, or evaluation activities for the operational test and evaluation.

(B) The limitation in subparagraph (A) does not apply to a contractor that has participated in such development, production, or testing solely in testing for the Federal Government.

(f) SOURCE OF FUNDS FOR TESTING.—The costs for all tests required under subsection (a) shall be paid from funds available for the system being tested.

(g) DIRECTOR'S ANNUAL REPORT.—As part of the annual report of the Director under section 139 of this title, the Director shall describe for each program covered in the report the status of test and evaluation activities in comparison with the test and evaluation master plan for that program, as approved by the Director. The Director shall include in such annual report a description of each waiver granted under subsection (e)(2) since the last such report.

(h) OPERATIONAL TEST AND EVALUATION DEFINED.—In this section, the term "operational test and evaluation" has the meaning given that term in section 139(a)(2)(A) of this title. For purposes of subsection (a), that term does not include an operational assessment based exclusively on—

(1) computer modeling;

(2) simulation; or

(3) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.

(Added Pub. L. 101–189, div. A, title VIII, §802(a)(1), Nov. 29, 1989, 103 Stat. 1484, §2399; amended Pub. L. 102–484, div. A, title VIII, §819, Oct. 23, 1992, 106 Stat. 2458; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title X, §1070(a)(11), (f), Oct. 5, 1994, 108 Stat. 2856, 2859; Pub. L. 104–106, div. A, title XV, §1502(a)(19), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title X, §1062(a)(9), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–136, div. A, title X, §1043(b)(14), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 109–364, div. A, title II, §231(a), Oct. 17, 2006, 120 Stat. 2131; Pub. L. 111–383, div. A, title VIII, §814(d), Jan. 7, 2011, 124 Stat. 4267; Pub. L. 115–91, div. A, title XVI, §1677(a), Dec. 12, 2017, 131 Stat. 1774; Pub. L. 116–92, div. A, title IX, §902(62), Dec. 20, 2019, 133 Stat. 1550; renumbered §4171 and amended Pub. L. 116–283, div. A, title XVIII, §§1845(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4247, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(10), (u)(6)(B), Dec. 27, 2021, 135 Stat. 2137, 2154.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1845(b), as amended by Pub. L. 117–81, §1701(u)(6)(B), renumbered section 2399 of this title as this section.

Subsec. (a)(2)(A). Pub. L. 117–81, §1701(d)(10)(A), struck out "within the meaning of that term in section 3041 of this title" before period at end.

Pub. L. 116–283, §1883(b)(2), substituted "section 3041" for "section 2302(5)".

Subsec. (a)(2)(B). Pub. L. 117–81, §1701(d)(10)(B), which directed the substitution of "under section 4203(a)(1) of this title" for "under" and all that followed through "this title", was not executed in light of the prior amendment by section 1883(b)(2) of Pub. L. 116—283, to reflect the probable intent of Congress. See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4203(a)(1)" for "section 2430a(a)(1)".

**2019**—Subsec. (b)(3). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering," for "Under Secretary of Defense for Acquisition, Technology, and Logistics,".

**2017**—Subsec. (a)(1). Pub. L. 115–91 substituted ", a covered designated major subprogram, or an element of the ballistic missile defense system" for "or a covered designated major subprogram" and "program, subprogram, or element" for "program or subprogram".

**2011**—Subsec. (a). Pub. L. 111–383 amended subsec. (a) generally. Prior to amendment, text read as follows:

"(1) The Secretary of Defense shall provide that a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed.

"(2) In this subsection, the term 'major defense acquisition program' means a conventional weapons system that—

"(A) is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat."

**2006**—Subsec. (b)(2). Pub. L. 109–364, §231(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating the opinion of the Director as to—

"(A) whether the test and evaluation performed were adequate; and

"(B) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat."

Subsec. (b)(5), (6). Pub. L. 109–364, §231(a)(2), (3), added par. (5) and redesignated former par. (5) as (6).

**2003**—Subsec. (h). Pub. L. 108–136 substituted "Operational Test and Evaluation Defined" for "Definitions" in heading, struck out introductory provisions which read "In this section:", substituted "In this section, the term" for "(1) The term", redesignated subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, realigned margins, and struck out former par. (2) which defined "congressional defense

committees" to mean the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

**2002**—Subsec. (a)(2). Pub. L. 107–314 substituted "means a conventional weapons system that" for "means" in introductory provisions and struck out "a conventional weapons system that" before "is a major system" in subpar. (A).

**2001**—Subsec. (b)(3). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1999**—Subsec. (h)(2)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (h)(2). Pub. L. 104–106 substituted "means—" and subpars. (A) and (B) for "means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives."

**1994**—Subsecs. (b)(5), (c)(1). Pub. L. 103–337, §1070(a)(11)(A), substituted "139(a)(2)(B)" for "138(a)(2)(B)".

Subsec. (e)(3)(B). Pub. L. 103–337, §1070(f), substituted "solely in testing for" for "solely as a representative of".

Subsec. (g). Pub. L. 103–337, §1070(a)(11)(B), substituted "139" for "138".

Subsec. (h)(1). Pub. L. 103–337, §1070(a)(11)(C), substituted "139(a)(2)(A)" for "138(a)(2)(A)".

**1993**—Subsec. (b)(3). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1992**—Subsec. (e)(3). Pub. L. 102–484 designated existing provisions as subpar. (A) and added subpar. (B).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(d)(10) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(u)(6)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (g) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### ALTERNATIVE TEST AND EVALUATION PATHWAY FOR DESIGNATED DEFENSE ACQUISITION PROGRAMS

Pub. L. 119–60, div. A, title II, §218, Dec. 18, 2025, 139 Stat. 776, provided that:

"(a) AUTHORITY.—The Secretary of Defense shall establish an alternative test and evaluation pathway as described in subsection (b) for covered programs to enhance agility, accelerate delivery of capabilities, and ensure data-driven decisionmaking, while maintaining independent oversight of evaluation outcomes.

"(b) ELEMENTS.—The pathway required by subsection (a) shall include the following elements:

"(1) For each covered program, the Secretary of the military department concerned, through its service test activities, shall—

"(A) develop and implement a unified test and evaluation strategy that aligns developmental testing and operational testing to a single set of test objectives that build system understanding throughout the test program to more effectively support capability delivery within rapid prototyping and iterative updates with early and continuous operational feedback;

"(B) develop and implement a test data strategy that includes—

"(i) collection of raw data from system components during test events and operational activities, including submission of industry-derived data from their development and testing evolutions;

"(ii) evaluation criteria to assess the mission effects and suitability of the system based on the data to be collected, including from live-fire test events, if applicable;

"(iii) a process for independently validating industry-derived data, if needed;

"(iv) provision of resources for automated data collection, storage, and access; and

"(v) automated analytics tools to assess performance trends, reliability, and maintenance needs;

"(C) incorporate, to the maximum extent practicable, best practices such as—

"(i) hardware-in-the-loop testing to validate system integration;

"(ii) continuous data collection from prototypes and fielded systems to refine designs and update lifecycle costs;

"(iii) testing subsystem prototypes throughout system development to assess their contribution to the mission effect of the fielded system; and

"(iv) integration of supporting or complementary data from digital twins or other model-based systems engineering tools;

"(D) define general test and evaluation objectives and data needs while allowing detailed execution plans to evolve based on test results and emerging requirements, avoiding rigid milestone-driven schedules; and

"(E) ensure all raw test data and associated analytics are owned by the Federal Government, stored in accessible repositories, and available to authorized Department entities, including the Director of Operational Test and Evaluation, throughout the program lifecycle.

"(2) Each such covered program shall be exempt from—

"(A) any requirement in law, regulation, or policy, including Department of Defense Instruction 5000.02 or other policies, to develop and submit a test and evaluation master plan, as long as a unified test and evaluation strategy and test data strategy are implemented, as required by subparagraphs (A) and (B) of paragraph (1);

"(B) any requirement in law, regulation, or policy to conduct any milestone-specific operational test event, such as the requirement in section 4171 of title 10, United States Code, to conduct initial operational test and evaluation; and

"(C) any other test and evaluation documentation or approval process that the Secretary determines is inconsistent with the agile and iterative nature of this pathway.

"(c) ROLE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—For each covered program designated for oversight by the Director of Operational Test and Evaluation, the Director of Operational Test and Evaluation shall—

"(1) provide independent evaluation of test data across all phases of the program lifecycle, including—

"(A) assessing the sufficiency of the program's test and evaluation strategy and data strategy to demonstrate military effectiveness;

"(B) evaluating whether the program collects and analyzes sufficient raw data, learns from test results at a pace relevant to operational needs, and converges on military effectiveness based on data trends;

"(C) identifying deficiencies in test and evaluation strategies that risk system performance, suitability, or survivability; and

"(D) providing continuous oversight through ongoing analysis of test data;

"(2) have unrestricted access to all raw test data, data repositories, and analytics maintained by the military departments for the covered program;

"(3) not require of the covered program—

"(A) any specific test plan, execution method, or documentation format, or any pre-approval of test and evaluation activities, as a condition of testing, data collection, or evaluation; or

"(B) any Director of Operational Test and Evaluation-approved test and evaluation master plan or other pre-execution documentation under existing policies; and

"(4) include in the annual report required under section 139(h) of title 10, United States Code, a summary of the adequacy of data strategies, rates of learning, and risks that aligns with the evaluation processes established in this section.

"(d) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense, in consultation with the Secretaries of the military departments and the Director of Operational Test and Evaluation, shall issue guidance to implement the alternative test and evaluation pathway under this section, including standards for data strategies and modern testing practices and procedures to support evaluation by the Director of Operational Test and Evaluation under subsection (c).

"(e) REPORT.—Not later than three years after the date of the enactment of this Act, the Secretary of

Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of this section, including an assessment of the effectiveness of the pathway in accelerating capability delivery and improving system performance and any recommendations for expanding or modifying the pathway.

"(f) COVERED PROGRAM DEFINED.—In this section, the term 'covered program' means the following:

"(1) A defense acquisition program that the Secretary of Defense designates, on or after the date on which guidance is issued under subsection (d), for use of the alternative test and evaluation pathway under this section.

"(2) A defense acquisition program relating to software and covered hardware initiated on or after the date of the enactment of this Act."

**APPLICATION OF SOFTWARE INNOVATION TO MODERNIZE TEST AND EVALUATION INFRASTRUCTURE**

Pub. L. 119–60, div. A, title II, §220, Dec. 18, 2025, 139 Stat. 778, provided that:

"(a) ESTABLISHMENT OF DIGITAL TEST AND EVALUATION ENVIRONMENT.—

"(1) PROGRAM.—The Director of the Test Resource Management Center, in coordination with the officials specified in paragraph (4), shall establish and maintain a digital test and evaluation environment for developmental and operational testing of warfighting capabilities.

"(2) REQUIREMENTS.—The digital test and evaluation environment required under paragraph (1) shall—

"(A) incorporate commercially-derived data management, analysis, and operations software tools to enable rapid test and evaluation;

"(B) enable real-time and iterative data collection, management, analysis, and feedback loops across the life cycle of tested systems;

"(C) provide secure environments for testing systems with operational security sensitivities; and

"(D) use a modular open system approach (as defined in section 4401 of title 10, United States Code) to ensure the environment can be accessed by multiple vendors and is interoperable with multiple data sources, data formats, and digital tools.

"(3) USE OF SOFTWARE ACQUISITION PATHWAY.—In procuring software and covered hardware (as defined in section 3603 of title 10, United States Code) for the digital test and evaluation environment required under paragraph (1), the Director of the Test Resource Management center shall use a software acquisition pathway described in section 3603 of title 10, United States Code.

"(4) OFFICIALS SPECIFIED.—The officials specified in this paragraph are—

"(A) the Director of the Defense Innovation Unit;

"(B) the Director of Operational Test and Evaluation; and

"(C) each chief of a covered Armed Force.

"(b) PILOT PROGRAM TO ACCELERATE TEST.—

"(1) IN GENERAL.—The Director of the Defense Innovation Unit and the Director of the Test Resource Management Center, in coordination with the Director of Operational Test and Evaluation, shall jointly carry out a pilot program to determine how commercial software can be used to accelerate and improve testing efforts—

"(A) to accelerate continuous integration and continuous testing of warfighting capabilities by applying industry best practices and tooling for scalability, advanced analysis, and data sharing; and

"(B) to enable continuous and iterative testing throughout capability design, development, engineering, and fielding.

"(2) REPORTS REQUIRED.—The Director of the Defense Innovation Unit and the Director of the Test Resource Management Center, in coordination with the Director of Operational Test and Evaluation, shall—

"(A) not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an interim report that includes an implementation plan for the pilot program under paragraph (1); and

"(B) following submittal of the report under subparagraph (A), but not later than 270 days after the date of the enactment of this Act, submit to the committees a report on the progress of the pilot program, which shall include a description of—

"(i) the metrics used to measure the performance of commercial software under the program;

"(ii) the initial findings of the program; and

"(iii) based on such findings, any identified roadblocks or limitations to using commercial

software and digital tools for accelerated testing.

"(3) TERMINATION.—The authority to carry out the pilot program under this subsection shall terminate five years after the date of the enactment of this Act.

"(c) COVERED ARMED FORCE DEFINED.—In this section, the term 'covered Armed Force' means the Army, Navy, Air Force, Marine Corps, and Space Force."

**DIGITAL ENGINEERING CAPABILITY TO AUTOMATE TESTING AND EVALUATION**

Pub. L. 116–92, div. A, title II, §231, Dec. 20, 2019, 133 Stat. 1274, provided that:

"(a) DIGITAL ENGINEERING CAPABILITY.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a digital engineering capability to be used—

"(A) for the development and deployment of digital engineering models for use in the defense acquisition process; and

"(B) to provide testing infrastructure and software to support automated approaches for testing, evaluation, and deployment throughout the defense acquisition process.

"(2) REQUIREMENTS.—The capability developed under subsection (a) shall meet the following requirements:

"(A) The capability will be accessible to, and useable by, individuals throughout the Department of Defense who have responsibilities relating to capability design, development, testing, evaluation, and operation.

"(B) The capability will provide for the development, validation, use, curation, and maintenance of technically accurate digital systems, models of systems, subsystems, and their components, at the appropriate level of fidelity to ensure that test activities adequately simulate the environment in which a system will be deployed.

"(C) The capability will include software to automate testing throughout the program life cycle, including to satisfy developmental test requirements and operational test requirements. Such software may be developed in accordance with the authorities provided under section 800 [of Pub. L. 116–92, formerly set out as a note under section 4571 of this title], and shall support—

"(i) security testing that includes vulnerability scanning and penetration testing performed by individuals, including threat-based red team exploitations and assessments with zero-trust assumptions; and

"(ii) high-confidence distribution of software to the field on a time-bound, repeatable, frequent, and iterative basis.

"(b) DEMONSTRATION ACTIVITIES.—

"(1) IN GENERAL.—In developing the capability required under subsection (a), the Secretary of Defense shall carry out activities to demonstrate digital engineering approaches to automated testing that—

"(A) enable continuous software development and delivery;

"(B) satisfy developmental test requirements for the software-intensive programs of the Department of Defense; and

"(C) satisfy operational test and evaluation requirements for such programs.

"(2) PROGRAM SELECTION.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall assess and select not fewer than four and not more than ten programs of the Department of Defense to participate in the demonstration activities under paragraph (1), including—

"(A) at least one program participating in the pilot program authorized under section 873 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 2223a note [now former 10 U.S.C. 4571 note]);

"(B) at least one program participating in the pilot program authorized under section 874 of such Act (Public Law 115–91; 10 U.S.C. 2302 note);

"(C) at least one major defense acquisition program (as defined in section 2430 of title 10, United States Code [now 10 U.S.C. 4201]);

"(D) at least one command and control program;

"(E) at least one defense business system (as defined in section 2222(i) of title 10, United States Code); and

"(F) at least one program from each military service.

"(3) ADDITIONAL REQUIREMENTS.—As part of the demonstration activities under paragraph (1), the Secretary shall—

"(A) conduct a comparative analysis that assesses the risks and benefits of the digital engineering

supported automated testing approaches of the programs participating in the demonstration activities relative to traditional testing approaches that are not supported by digital engineering;

"(B) ensure that the intellectual property strategy for each of the programs participating in the demonstration activities is best aligned to meet the goals of the program; and

"(C) develop a workforce and infrastructure plan to support any new policies and guidance implemented in connection with the demonstration activities, including any policies and guidance implemented after the completion of such activities.

"(c) POLICIES AND GUIDANCE REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], based on the results of the demonstration activities carried out under subsection (b), the Secretary of Defense shall issue or modify policies and guidance to—

"(1) promote the use of digital engineering capabilities for development and for automated testing; and

"(2) address roles, responsibilities, and procedures relating to such capabilities.

"(d) STEERING COMMITTEE.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a steering committee to assist the Secretary in carrying out subsections (a) through (c).

"(2) MEMBERSHIP.—The steering committee shall be composed of the following members or their designees:

"(A) The Under Secretary of Defense for Research and Engineering.

"(B) The Under Secretary of Defense for Acquisition and Sustainment.

"(C) The Chief Information Officer.

"(D) The Director of Operational Test and Evaluation.

"(E) The Director of Cost Assessment and Program Evaluation.

"(F) The Service Acquisition Executives.

"(G) The Service testing commands.

"(H) The Director of the Defense Digital Service.

"(e) REPORTS REQUIRED.—

"(1) IMPLEMENTATION.—Not later than March 15, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the progress of the Secretary in implementing subsections (a) through (c). The report shall include an explanation of how the results of the demonstration activities carried out under subsection (b) will be incorporated into the policy and guidance required under subsection (c), particularly the policy and guidance of the members of the steering committee established under subsection (d).

"(2) LEGISLATIVE RECOMMENDATIONS.—Not later than October 15, 2020, the Secretary of Defense shall provide to the congressional defense committees a briefing that identifies any changes to existing law that may be necessary to facilitate the implementation of subsections (a) through (c).

"(f) INDEPENDENT ASSESSMENT.—

"(1) IN GENERAL.—Not later than March 15, 2021, the Defense Innovation Board and the Defense Science Board shall jointly complete an independent assessment of the progress of the Secretary in implementing subsections (a) through (c). The Secretary of Defense shall ensure that the Defense Innovation Board and the Defense Science Board have access to the resources, data, and information necessary to complete the assessment.

"(2) INFORMATION TO CONGRESS.—Not later than 30 days after the date on which the assessment under paragraph (1) is completed, the Defense Innovation Board and the Defense Science Board shall jointly provide to the congressional defense committees—

"(A) a report summarizing the assessment; and

"(B) a briefing on the findings of the assessment."

**ENHANCEMENTS TO TRANSPARENCY IN TEST AND EVALUATION PROCESSES AND DATA**

Pub. L. 115–91, div. A, title VIII, §839, Dec. 12, 2017, 131 Stat. 1475, provided that:

"(a) ADDITIONAL TEST AND EVALUATION DUTIES OF MILITARY SECRETARIES AND DEFENSE AGENCY HEADS.—

"(1) REPORT ON COMPARISON OF OPERATIONAL TEST AND EVALUATION RESULTS TO LEGACY ITEMS OR COMPONENTS.—Concurrent with the submission of a report required under section 2399(b)(2) of title 10, United States Code [now 10 U.S.C. 4171(b)(2)], the Secretary of a military department or the head of a Defense Agency may provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Secretary of Defense a report describing of the performance of the items or components evaluated as

part of the operational test and evaluation for each major defense acquisition program conducted under such section by the Director of Operational Test and Evaluation in relation to comparable legacy items or components, if such items or components exist and relevant data are available without requiring additional testing.

"(2) ADDITIONAL REPORT ON OPERATIONAL TEST AND EVALUATION ACTIVITIES .—Within 45 days after the submission of an annual report required by section 139(h) of title 10, United States Code, the Secretaries of the military departments may each submit to the congressional defense committees a report addressing any concerns related to information included in the annual report, or providing updated or additional information, as appropriate.

"(b) REQUIREMENTS FOR COLLECTION OF COST DATA ON TEST AND EVALUATION.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017] and subject to paragraph (2), the Director of Operational Test and Evaluation, the senior official of the Department of Defense with responsibility for developmental testing, and the Director of the Test Resource Management Center shall jointly develop policies, procedures, guidance, and a method to collect data that ensures that consistent and high quality data are collected on the full range of estimated and actual developmental, live fire, and operational testing costs for major defense acquisition programs.

"(2) CONCURRENCE AND COORDINATION REQUIRED.—Before implementing the policies, procedures, guidance, and method developed under paragraph (1), the Director of Operational Test and Evaluation, the senior official of the Department of Defense with responsibility for developmental testing, and the Director of the Test Resource Management Center shall—

"(A) obtain the concurrence of the Director for Cost Assessment and Program Evaluation; and

"(B) coordinate with the Secretaries of the military departments.

"(3) DATA REQUIREMENTS.—

"(A) ELECTRONIC DATABASE.—Data on estimated and actual developmental, live fire, and operational testing costs shall be maintained in an electronic database maintained by the Director for Cost Assessment and Program Evaluation or another appropriate official of the Department of Defense, and shall be made available for analysis by testing, acquisition, and other appropriate officials of the Department of Defense, as determined by the Director of Operational Test and Evaluation, the senior official of the Department of Defense with responsibility for developmental testing, or the Director of the Test Resource Management Center.

"(B) DIAGGREGATION [sic] BY COSTS.—To the maximum extent practicable, data collected under this subsection shall be set forth separately by costs for developmental testing, operational testing, and training.

"(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term 'major defense acquisition program' has the meaning provided in section 2430 of title 10, United States Code [now 10 U.S.C. 4201]."

## §4172. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production

(a) REQUIREMENTS.—(1) The Secretary of Defense shall provide that—

(A) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection; and

(B) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection.

(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until—

(A) in the case of a product improvement to a covered system, realistic survivability testing is completed in accordance with this section; and

(B) in the case of a product improvement to a major munitions program or a missile program, realistic lethality testing is completed in accordance with this section.

(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program (including a covered product improvement program) to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile (or in the product modification or upgrade to the system, munition, or missile) before proceeding beyond low-rate initial production.

(2) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

(c) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary determines that live-fire testing of such system or program would be unreasonably expensive and impractical and submits a certification of that determination to Congress—

(A) before Milestone B approval for the system or program; or

(B) in the case of a system or program initiated at—

(i) Milestone B, as soon as is practicable after the Milestone B approval; or

(ii) Milestone C, as soon as is practicable after the Milestone C approval.

(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters system development and demonstration, that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.

(3) The Secretary shall include with any certification under paragraph (1) or (2) a report explaining how the Secretary plans to evaluate the survivability or the lethality of the system or program and assessing possible alternatives to realistic survivability testing of the system or program.

(4) In time of war or mobilization, the President may suspend the operation of any provision of this section.

(d) REPORTING TO CONGRESS.—(1) At the conclusion of survivability or lethality testing under subsection (a), the Secretary of Defense shall submit a report on the testing to the congressional defense committees. Each such report shall describe the results of the survivability or lethality testing and shall give the Secretary's overall assessment of the testing.

(2) If a decision is made within the Department of Defense to proceed to operational use of a system, or to make procurement funds available for a system, before Milestone C approval of that system, the Secretary of Defense shall submit to the congressional defense committees, as soon as practicable after such decision, the following:

(A) A report describing the status of survivability and live fire testing of that system.

(B) The report required under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "covered system" means—

(A) a vehicle, weapon platform, or conventional weapon system that—

(i) includes features designed to provide some degree of protection to users in combat; and

(ii) is a major system as defined in section 3041 of this title; or

(B) any other system or program designated by the Secretary of Defense for purposes of this section.

(2) The term "major munitions program" means—

(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

(B) a conventional munitions program that is a major system within the meaning of that term in section 3041 of this title.

(3) The term "realistic survivability testing" means, in the case of a covered system (or a covered product improvement program for a covered system), testing for vulnerability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the susceptibility to attack and combat performance of the system.

(4) The term "realistic lethality testing" means, in the case of a major munitions program or a missile program (or a covered product improvement program for such a program), testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

(5) The term "configured for combat", with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

(6) The term "covered product improvement program" means a program under which—

(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the survivability of such system; or

(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.

(7) The term "Milestone B approval" means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(8) The term "Milestone C approval" means a decision to enter into production and deployment pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(Added Pub. L. 99–500, §101(c) [title X, §910(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–143, and Pub. L. 99–591, §101(c) [title X, §910(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–143, §2366; Pub. L. 99–661, div. A, title IX, formerly title IV, §910(a)(1), Nov. 14, 1986, 100 Stat. 3923, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–180, div. A, title VIII, §802, title XII, §1231(11), Dec. 4, 1987, 101 Stat. 1123, 1160; Pub. L. 100–456, div. A, title XII, §1233(l)(3), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–189, div. A, title VIII, §§802(c)(1)–(4)(A), 804, Nov. 29, 1989, 103 Stat. 1486, 1488; Pub. L. 101–510, div. A, title XIV, §1484(h)(7), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 103–160, div. A, title VIII, §828(d)(2), Nov. 30, 1993, 107 Stat. 1715; Pub. L. 103–355, title III, §3014, Oct. 13, 1994, 108 Stat. 3332; Pub. L. 104–106, div. A, title XV, §1502(a)(18), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title VIII, §821(a), Dec. 28, 2001, 115 Stat. 1181; Pub. L. 107–314, div. A, title VIII, §818, Dec. 2, 2002, 116 Stat. 2611; Pub. L. 108–136, div. A, title X, §1043(b)(13), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 110–417, [div. A], title II, §251(a), (b), Oct. 14, 2008, 122 Stat. 4400; renumbered §4172 and amended Pub. L. 116–283, div. A, title XVIII, §§1845(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4247, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(6)(B), Dec. 27, 2021, 135 Stat. 2154.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

## AMENDMENTS

**2021**—Pub. L. 116–283, §1845(b), as amended by Pub. L. 117–81, §1701(u)(6)(B), renumbered section 2366 of this title as this section.

Subsec. (e)(1)(A)(ii), (2)(B). Pub. L. 116–283, §1883(b)(2), substituted "section 3041" for "section 2302(5)".

**2008**—Subsec. (d). Pub. L. 110–417, §251(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (e)(1). Pub. L. 110–417, §251(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2302(5) of this title."

**2003**—Subsec. (e)(7) to (9). Pub. L. 108–136 redesignated pars. (8) and (9) as (7) and (8), respectively, and struck out former par. (7) which read as follows: "The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

**2002**—Subsec. (c)(1). Pub. L. 107–314, §818(a), amended par. (1) generally. Prior to amendment par. (1) read as follows: "The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary, before the system or program enters system development and demonstration, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical."

Subsec. (e)(8), (9). Pub. L. 107–314, §818(b), added pars. (8) and (9).

**2001**—Subsec. (c)(1), (2). Pub. L. 107–107 substituted "system development and demonstration" for "engineering and manufacturing development".

**1999**—Subsec. (e)(7)(B). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (d). Pub. L. 104–106, §1502(a)(18)(A), substituted "the congressional defense committees" for "the Committees on Armed Services and on Appropriations of the Senate and House of Representatives".

Subsec. (e)(7). Pub. L. 104–106, §1502(a)(18)(B), added par. (7).

**1994**—Subsec. (c)(1). Pub. L. 103–355, §3014(a)(2), (b), substituted "engineering and manufacturing development" for "full-scale engineering development" in first sentence and redesignated second sentence as par. (3).

Subsec. (c)(2). Pub. L. 103–355, §3014(a)(1), (3), added par. (2) and redesignated former par. (2) as (4).

Subsec. (c)(3). Pub. L. 103–355, §3014(a)(2), redesignated second sentence of par. (1) as par. (3) and substituted "certification under paragraph (1) or (2)" for "such certification".

Subsec. (c)(4). Pub. L. 103–355, §3014(a)(1), redesignated par. (2) as (4).

**1993**—Subsec. (d). Pub. L. 103–160 substituted "to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives" for "to the defense committees of Congress (as defined in section 2362(e)(3) of this title)".

**1990**—Subsec. (a)(1)(A), (B). Pub. L. 101–510 made technical correction to directory language of Pub. L. 101–189, §804(a), see 1989 Amendment note below.

**1989**—Pub. L. 101–189, §802(c)(4)(A), substituted "testing and lethality testing required before full-scale production" for "and lethality testing; operational testing" in section catchline.

Subsec. (a)(1)(A). Pub. L. 101–189, §§802(c)(1)(A), 804(a), as amended by Pub. L. 101–510, substituted "this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection; and" for "this section;".

Subsec. (a)(1)(B). Pub. L. 101–189, §§802(c)(1)(B), 804(a), as amended by Pub. L. 101–510, substituted "this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection." for "this section; and".

Subsec. (a)(1)(C). Pub. L. 101–189, §802(c)(1)(C), struck out subpar. (C) which read as follows: "a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section."

Subsec. (b)(2), (3). Pub. L. 101–189, §802(c)(2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a). The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat."

Subsec. (d). Pub. L. 101–189, §804(b), inserted at end "Each such report shall describe the results of the survivability or lethality testing and shall give the Secretary's overall assessment of the testing."

Subsec. (e)(3) to (8). Pub. L. 101–189, §802(c)(3), redesignated pars. (4), (5), (6), and (8) as (3), (4), (5), and (6), respectively, and struck out former par. (3) which defined "major defense acquisition program" and former par. (7) which defined "operational test and evaluation".

**1988**—Subsec. (a)(2). Pub. L. 100–456 made technical correction to directory language of Pub. L. 100–180, §802(a)(1)(C). See 1987 Amendment note below.

**1987**—Subsec. (a). Pub. L. 100–180, §802(a)(1), as amended by Pub. L. 100–456, designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), and added par. (2).

Subsec. (b)(1). Pub. L. 100–180, §802(a)(2), inserted "(including a covered product improvement program)" after "system or program" and "(or in the product modification or upgrade to the system, munition, or missile)" after "or missile".

Subsec. (b)(2). Pub. L. 100–180, §802(b), inserted at end "The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat."

Subsec. (c). Pub. L. 100–180, §802(a)(3), (c), (d)(1), designated existing provisions as par. (1), substituted "missile program, or covered product improvement program" for "or missile program", and inserted at end "The Secretary shall include with any such certification a report explaining how the Secretary plans to evaluate the survivability or the lethality of the system or program and assessing possible alternatives to realistic survivability testing of the system or program."

Pub. L. 100–180, §802(d)(2), designated existing provisions of former subsec. (d) as par. (2) of subsec. (c) and struck out heading of former subsec. (d) "Waiver in time of war or mobilization".

Subsec. (d). Pub. L. 100–180, §802(d)(3), added subsec. (d). Former subsec. (d) redesignated subsec. (c)(2).

Subsec. (e)(1)(B). Pub. L. 100–180, §1231(11), substituted "section 2302(5)" for "section 2303(5)".

Subsec. (e)(4). Pub. L. 100–180, §802(a)(4)(A), (e), inserted "(or a covered product improvement program for a covered system)" after "covered system", struck out "and survivability" after "for vulnerability", and substituted "susceptibility to attack" for "operational requirements".

Subsec. (e)(5). Pub. L. 100–180, §802(a)(4)(B), inserted "(or a covered product improvement program for such a program)" after "missile program".

Subsec. (e)(8). Pub. L. 100–180, §802(a)(4)(C), added par. (8).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title XII, §1233(l)(5), Sept. 29, 1988, 102 Stat. 2058, provided that: "The amendments made by this subsection [amending this section and sections 4214 and 8855 of this title and section 301c of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in the enactment of Public Law 100–180."

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title X, §910(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–145, Pub. L. 99–591, §101(c) [title X, §910(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–145, and Pub. L. 99–661, div. A, title IX, formerly title IV, §910(b), Nov. 14, 1986, 100 Stat. 3924, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2366 of title 10, United States Code [now 10 U.S.C. 4172] (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

"(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

"(2) after the date of the enactment of this Act [Oct. 18, 1986], in the case of a decision referred to in subsection (a)(3) of such section."

## PROHIBITION ON USE OF LIVE ANIMALS IN DEPARTMENT OF DEFENSE LIVE FIRE TRAUMA TRAINING

Pub. L. 119–60, div. A, title X, §1050, Dec. 18, 2025, 139 Stat. 1042, provided that: "Beginning on the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall—

"(1) ensure that live animals, including dogs, cats, nonhuman primates, and marine mammals, are not used in any live fire trauma training conducted by the Department of Defense; and

"(2) in conducting such training, replace such live animals, to the extent determined necessary by the Secretary, with advanced simulators, mannequins, cadavers, or actors."

## CONSIDERATION OF LETHALITY IN THE ANALYSIS OF ALTERNATIVES FOR MUNITIONS

Pub. L. 118–31, div. A, title II, §242, Dec. 22, 2023, 137 Stat. 208, provided that:

"(a) ANALYSIS OF ALTERNATIVES REVIEW.—The Secretary of Defense shall ensure that lethality is considered in any analysis of alternatives conducted prior to issuing a capability development document for purposes of procuring any new munition or modifying an existing munition.

"(b) CONSIDERATION OF ENERGETIC MATERIALS.—In assessing the lethality of a munition for purposes of the analysis of alternatives described under subsection (a), the Secretary of Defense shall include the margin of effectiveness, increased system capacities, and cost implications afforded by the potential use of novel or alternative energetic materials in the munition to achieve increased explosive effects.

"(c) ENERGETIC MATERIALS DEFINED.—In this section, the term 'energetic materials' means critical chemicals that—

"(1) release large amounts of energy in a short amount of time; and

"(2) are capable of being used in explosives that create lethal effects in warheads."

## PILOT PROGRAM ON INCORPORATION OF THE CL20 COMPOUND IN CERTAIN WEAPON SYSTEMS

Pub. L. 118–31, div. A, title II, §243, Dec. 22, 2023, 137 Stat. 209, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program under which the Secretary incorporates the CL20 compound as the energetic material for the main fill in the warheads or propellants of three weapon systems under development by the Department of Defense for the purpose of determining cost, schedule, and lethality performance parameters for such systems.

"(b) SELECTION OF WEAPON SYSTEMS.—Each of the three weapon systems selected under subsection (a) shall be a weapon system that does not, as of the date of the enactment of this Act [Dec. 22, 2023], already incorporate the CL20 compound as the energetic material for the main fill in the warhead or propellant of the system.

"(c) TIMELINE FOR INTEGRATION.—The Secretary of Defense shall ensure that the CL20 energetic compound is integrated into each weapon system selected under subsection (a) by not later than three years after the date of the enactment of this Act.

"(d) BRIEFING.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on progress of the Secretary in carrying out the pilot program under this section, including—

"(1) identification of the weapon systems selected by the Secretary under subsection (a);

"(2) with respect to each such weapon system, identification of—

"(A) a timeline for incorporating the CL20 energetic compound into such weapon system;

"(B) the organization within the Department of Defense responsible for carrying out activities under the pilot program for such weapon system; and

"(C) any locations at which testing associated with such weapon system under the program is expected to be carried out; and

"(3) the baseline cost, schedule, and lethality objectives that will be used to evaluate the performance of weapon systems under the program.

"(e) DEFINITIONS.—In this section, the term 'energetic material' means critical chemicals and formulations that—

"(1) release large amounts of stored chemical energy; and

"(2) are capable of being used as explosives, propellants, pyrotechnics, and reactive materials that—

"(A) create lethal effects in warheads in kinetic weapons components and systems; or

"(B) increase propellant performance in a weapon propulsion system as related to lethal effects, range, or speed."

## DEVELOPMENT AND IMPLEMENTATION OF DIGITAL TECHNOLOGIES FOR SURVIVABILITY AND LETHALITY TESTING

Pub. L. 117–81, div. A, title II, §223, Dec. 27, 2021, 135 Stat. 1601, provided that:

"(a) EXPANSION OF SURVIVABILITY AND LETHALITY TESTING.—

"(1) IN GENERAL.—The Secretary, in coordination with covered officials, shall—

"(A) expand the survivability and lethality testing of covered systems to include testing against non-kinetic threats; and

"(B) develop digital technologies to test such systems against such threats throughout the life cycle of each such system.

"(2) DEVELOPMENT OF DIGITAL TECHNOLOGIES FOR LIVE FIRE TESTING.—

"(A) IN GENERAL.—The Secretary, in coordination with covered officials, shall develop—

"(i) digital technologies to enable the modeling and simulation of the live fire testing required under section 2366 of title 10, United States Code [now 10 U.S.C. 4172]; and

"(ii) a process to use data from physical live fire testing to inform and refine the digital technologies described in clause (i).

"(B) OBJECTIVES.—In carrying out subparagraph (A), the Secretary shall seek to achieve the following objectives:

"(i) Enable assessments of full spectrum survivability and lethality of each covered system with respect to kinetic and non-kinetic threats.

"(ii) Inform the development and refinement of digital technology to test and improve covered systems.

"(iii) Enable survivability and lethality assessments of the warfighting capabilities of a covered system with respect to—

"(I) communications;

"(II) firepower;

"(III) mobility;

"(IV) catastrophic survivability; and

"(V) lethality.

"(C) DEMONSTRATION ACTIVITIES.—

"(i) IN GENERAL.—The Secretary, acting through the Director, shall carry out activities to demonstrate the digital technologies for full spectrum survivability testing developed under subparagraph (A).

"(ii) PROGRAM SELECTION.—The Secretary shall assess and select not fewer than three and not more than ten programs of the Department to participate in the demonstration activities required under clause (i).

"(iii) ARMED FORCES PROGRAMS.—Of the programs selected pursuant to clause (ii), the Director shall select—

"(I) at least one such program from the Army;

"(II) at least one such program from the Navy or the Marine Corps; and

"(III) at least one such program from the Air Force or the Space Force.

"(3) REGULAR SURVIVABILITY AND LETHALITY TESTING THROUGHOUT LIFE CYCLE.—

"(A) IN GENERAL.—The Secretary, in coordination with covered officials, shall—

"(i) develop a process to regularly test through the use of digital technologies the survivability and lethality of each covered system against kinetic and non-kinetic threats throughout the life cycle of such system as threats evolve; and

"(ii) establish guidance for such testing.

"(B) ELEMENTS.—In carrying out subparagraph (A), the Secretary shall determine the following:

"(i) When to deploy digital technologies to provide timely and up-to-date insights with respect to covered systems without unduly delaying fielding of capabilities.

"(ii) The situations in which it may be necessary to develop and use digital technologies to assess legacy fleet vulnerabilities.

"(b) REPORTS AND BRIEFING.—

"(1) ASSESSMENT AND SELECTION OF PROGRAMS.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary shall submit to the congressional defense

committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that identifies the programs selected to participate in the demonstration activities under subsection (a)(2)(C).

"(2) MODERNIZATION AND DIGITIZATION REPORT.—

"(A) IN GENERAL.—Not later than March 15, 2023, the Director shall submit to the congressional defense committees a report that includes—

"(i) an assessment of the progress of the Secretary in carrying out subsection (a);

"(ii) an assessment of each of the demonstration activities carried out under subsection (a)(2)(C), including a comparison of—

"(I) the risks, benefits, and costs of using digital technologies for live fire testing and evaluation; and

"(II) the risks, benefits, and costs of traditional physical live fire testing approaches that—

"(aa) are not supported by digital technologies;

"(bb) do not include testing against non-kinetic threats; and

"(cc) do not include full spectrum survivability;

"(iii) an explanation of—

"(I) how real-world operational and digital survivability and lethality testing data will be used to inform and enhance digital technology;

"(II) the contribution of such data to the digital modernization efforts required under section 836 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [10 U.S.C. 3101 note]; and

"(III) the contribution of such data to the decision-support processes for managing and overseeing acquisition programs of the Department;

"(iv) an assessment of the ability of the Department to perform full spectrum survivability and lethality testing of each covered system with respect to kinetic and non-kinetic threats;

"(v) an assessment of the processes implemented by the Department to manage digital technologies developed pursuant to subsection (a); and

"(vi) an assessment of the processes implemented by the Department to develop digital technology that can perform full spectrum survivability and lethality testing with respect to kinetic and non-kinetic threats.

"(B) BRIEFING.—Not later than April 14, 2023, the Director shall provide to the congressional defense committees a briefing that identifies any changes to existing law that may be necessary to implement subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered officials' means—

"(A) the Under Secretary of Defense for Research and Engineering;

"(B) the Under Secretary of Defense for Acquisition and Sustainment;

"(C) the Chief Information Officer;

"(D) the Director;

"(E) the Director of Cost Assessment and Program Evaluation;

"(F) the Service Acquisition Executives;

"(G) the Service testing commands;

"(H) the Director of the Defense Digital Service; and

"(I) representatives from—

"(i) the Department of Defense Test Resource Management Center;

"(ii) the High Performance Computing Modernization Program Office; and

"(iii) the Joint Technical Coordination Group for Munitions Effectiveness.

"(2) The term 'covered system' means any warfighting capability that can degrade, disable, deceive, or destroy forces or missions.

"(3) The term 'Department' means the Department of Defense.

"(4) The term 'digital technologies' includes digital models, digital simulations, and digital twin capabilities that may be used to test the survivability and lethality of a covered system.

"(5) The term 'Director' means the Director of Operational Test and Evaluation.

"(6) The term 'full spectrum survivability and lethality testing' means a series of assessments of the effects of kinetic and non-kinetic threats on the communications, firepower, mobility, catastrophic survivability, and lethality of a covered system.

"(7) The term 'non-kinetic threats' means unconventional threats, including—

"(A) cyber attacks;

"(B) electromagnetic spectrum operations;

"(C) chemical, biological, radiological, nuclear effects and high yield explosives; and

"(D) directed energy weapons.

"(8) The term 'Secretary' means the Secretary of Defense."

## §4173. Department of Defense Test Resource Management Center

(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the "Center"). The Secretary shall designate the Center as a Department of Defense Field Activity.

(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.

(2) There shall be a Deputy Director of the Center, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

(c) DUTIES OF DIRECTOR.—(1) The Director shall have the following duties:

(A) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

(i) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

(ii) all other test and evaluation facilities and resources within and outside of the Department of Defense, other than budgets and expenditures for activities described in section 139(j) of this title.

(B) To review proposed significant changes to the test and evaluation facilities and resources of the Major Range and Test Facility Base, including with respect to the expansion, divestment, consolidation, or curtailment of activities, before they are implemented by the Secretaries of the military departments or the heads of the Defense Agencies with test and evaluation responsibilities and advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering of the impact of such changes on the adequacy of such test and evaluation facilities and resources to meet the test and evaluation requirements of the Department.

(C) To complete and maintain the quadrennial strategic plan required by subsection (d).

(D) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

(E) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

(F) To the extent practicable, to consult with the Secretary of the Army on installation infrastructure, workforce requirements, information technology, and other resources that support the activities of the Major Range and Test Facility Base.

(2) The Director shall have access to such records and data of the Department of Defense (including the appropriate records and data of each military department and Defense Agency) that are necessary in order to carry out the duties of the Director under this section.

(d) QUADRENNIAL STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every four fiscal years, and within one year after release of the National Defense Strategy, the Under Secretary of Defense for Research and Engineering, in coordination with the Director of the Department of Defense Test Resource Management Center, the Director of Operational Test and Evaluation, the Director of the Defense Intelligence Agency, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a quadrennial strategic plan reflecting the future needs of the Department of Defense with respect to test and evaluation facilities and

resources. Each quadrennial strategic plan shall cover the period of thirty fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The quadrennial strategic plan shall be based on a comprehensive review of both funded and unfunded test and evaluation requirements of the Department, future threats to national security, and the adequacy of the test and evaluation facilities and resources of the Department to meet those future requirements and threats.

(2) The quadrennial strategic plan shall include the following:

(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

(C) An assessment of the test and evaluation facilities and resources that will be needed to meet current and future requirements for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats.

(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

(E) An assessment of plans and business case analyses supporting any significant modification of the test and evaluation facilities and resources of the Department projected, proposed, or recommended by the Secretary of a military department or the head of a Defense Agency for such period, including with respect to the expansion, divestment, consolidation, or curtailment of activities.

(F) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

(G) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

(3) Upon completing a quadrennial strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

(5)(A) In addition to the quadrennial strategic plan completed under paragraph (1), the Director of the Department of Defense Test Resource Management Center shall also complete an annual update to the quadrennial strategic plan.

(B) Each annual update completed under subparagraph (A) shall include the following:

(i) A summary of changes to the assessment provided in the most recent quadrennial strategic plan.

(ii) Comments and recommendations the Director considers appropriate.

(iii) Test and evaluation challenges raised since the completion of the most recent quadrennial strategic plan.

(iv) Actions taken or planned to address such challenges.

(e) CERTIFICATION OF BUDGETS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's or Defense Agency head's proposed budget for test and evaluation activities, including modeling and simulation activities, for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such quadrennial strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) APPROVAL OF CERTAIN MODIFICATIONS.—(1) The Secretary of a military department or the head of a Defense Agency with test and evaluation responsibilities may not implement a projected, proposed, or recommended significant modification of the test and evaluation facilities and resources of the Department, including with respect to the expansion, divestment, consolidation, or curtailment of activities, until—

(A) the Secretary or the head, as the case may be, submits to the Director a business case analysis for such modification; and

(B) the Director reviews such analysis and approves such modification.

(2) The Director shall submit to the Secretary of Defense an annual report containing the comments of the Director with respect to each business case analysis reviewed under paragraph (1)(B) during the year covered by the report.

(g) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Research and Engineering. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(h) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(i) INFRASTRUCTURE ON KWAJALEIN ATOLL.—Beginning on the date of the enactment of this subsection and ending on October 1, 2030, for purposes of this section, any infrastructure located on Kwajalein Atoll that supports the operations of test and evaluation facilities of the Department of Defense shall be considered to be part of the Army Kwajalein Major Range and Test Facility Base and subject to the requirements of subsections (e) and (f).

(j) DEFINITION.—In this section, the term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107–314, div. A, title II, §231(a)(1), Dec. 2, 2002, 116 Stat. 2487, §196; amended Pub. L. 108–136, div. A, title II, §212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109–163, div. A, title II, §258(a), title IX, §902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111–84, div. A, title II, §251, Oct. 28, 2009, 123 Stat. 2241; Pub. L. 113–291, div. A, title II, §214, Dec. 19, 2014, 128 Stat. 3326; Pub. L. 114–328, div. A, title V, §502(c), title X, §1081(a)(3), Dec. 23, 2016, 130 Stat. 2102, 2417; Pub. L. 115–91, div. A, title II, §222, Dec. 12, 2017, 131 Stat. 1333; Pub. L. 115–232, div. A, title II, §221, title IX, §904, Aug. 13, 2018, 132 Stat. 1681, 1922; renumbered §4173 and amended Pub. L.

116–283, div. A, title II, §272, title XVIII, §1845(b), Jan. 1, 2021, 134 Stat. 3502, 4247; Pub. L. 117–81, div. A, title X, §1081(a)(5), title XVII, §1701(u)(6)(B), Dec. 27, 2021, 135 Stat. 1919, 2154; Pub. L. 118–159, div. B, title XXVIII, §2871(a), (b), Dec. 23, 2024, 138 Stat. 2281.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

### AMENDMENTS

**2024**—Subsec. (c)(1)(F). Pub. L. 118–159, §2871(a), added subpar. (F).

Subsecs. (i), (j). Pub. L. 118–159, §2871(b), added subsec. (i) and redesignated former subsec. (i) as (j).

**2021**—Pub. L. 116–283, §1845(b), as amended by Pub. L. 117–81, §1701(u)(6)(B), renumbered section 196 of this title as this section.

Subsec. (c)(1)(C). Pub. L. 116–283, §272(a)(1), inserted "quadrennial" before "strategic plan".

Subsec. (d). Pub. L. 117–81, §1081(a)(5), substituted "National Defense Strategy," for "National Defense Strategy,,".

Pub. L. 116–283, §272(a)(2), inserted "Quadrennial" before "Strategic Plan" in heading and "quadrennial" before "strategic plan" wherever appearing in text.

Subsec. (d)(1). Pub. L. 116–283, §272(e), which directed substitution of "Test Resource Management Center" for "Test Resources Management Center" in subsec. (d)(1) "of such", was executed by making substitution to "such section", meaning subsec. (d)(1) of this section, to reflect the probable intent of Congress.

Pub. L. 116–283, §272(b), substituted "four fiscal years, and within one year after release of the National Defense Strategy," for "two fiscal years" in first sentence.

Subsec. (d)(2)(C). Pub. L. 116–283, §272(c), substituted "for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats." for "based on current and emerging threats and satisfy such performance measures."

Subsec. (d)(5). Pub. L. 116–283, §272(d), added par. (5).

Subsec. (e)(2)(B). Pub. L. 116–283, §272(a)(1), inserted "quadrennial" before "strategic plan".

**2018**—Subsec. (c)(1)(B). Pub. L. 115–232, §904, which directed substitution of "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics", was executed by making the substitution for "Under Secretary of Acquisition, Technology, and Logistics" to reflect the probable intent of Congress.

Subsec. (d)(1). Pub. L. 115–232, §221(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources, including modeling and simulation capabilities. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements."

Subsec. (d)(2)(C). Pub. L. 115–232, §221(2), substituted "needed to meet current and future requirements based on current and emerging threats" for "needed to meet such requirements".

Subsec. (g). Pub. L. 115–232, §904, substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2017**—Subsec. (d)(1). Pub. L. 115–91, §222(1), inserted ", including modeling and simulation capabilities" after "and resources" in the first sentence.

Subsec. (e)(1). Pub. L. 115–91, §222(2), inserted ", including modeling and simulation activities," after "evaluation activities".

**2016**—Subsec. (b)(1). Pub. L. 114–328, §502(c), struck out second and third sentences which read as follows: "A commissioned officer serving as the Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral. A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general."

Subsec. (c)(1)(A)(ii). Pub. L. 114–328, §1081(a)(3), substituted "section 139(j)" for "section 139(i)".

**2014**—Subsec. (c)(1)(B). Pub. L. 113–291, §214(a), inserted ", including with respect to the expansion, divestment, consolidation, or curtailment of activities," after "Base".

Subsec. (d)(2)(E) to (G). Pub. L. 113–291, §214(b), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 113–291, §214(c), inserted "and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year" after "activities for a fiscal year".

Subsecs. (f) to (i). Pub. L. 113–291, §214(d), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

**2009**—Subsec. (c). Pub. L. 111–84 inserted par. (1) designation before "The Director", redesignated former par. (1) as subpar. (A) and former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), added subpar. (B), redesignated former pars. (2) to (4) as subpars. (C) to (E), respectively, and added par. (2).

**2006**—Subsec. (b)(1). Pub. L. 109–163, §902(a), substituted "individuals who have substantial experience in the field of test and evaluation." for "commissioned officers of the armed forces on active duty or from among senior civilian officers and employees of the Department of Defense."

Subsec. (b)(2). Pub. L. 109–163, §902(b), substituted "individuals" for "senior civilian officers and employees of the Department of Defense".

Subsec. (h). Pub. L. 109–163, §258(a), substituted "Secretary of Defense" for "Director of Operational Test and Evaluation".

**2003**—Subsec. (b)(1). Pub. L. 108–136, §212(a), substituted "on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director" for "on active duty. The Director" and inserted at end "A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general."

Subsec. (c)(1)(B). Pub. L. 108–136, §212(b)(1), inserted ", other than budgets and expenditures for activities described in section 139(i) of this title" after "Department of Defense".

Subsec. (e)(1). Pub. L. 108–136, §212(b)(2), struck out ", the Director of Operational Test and Evaluation," after "each military department" and substituted "or Defense Agency head's" for ", Director's, or head's".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1845(b) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (d)(1), (4) and (e)(3) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### PROTECTION OF MAJOR RANGE AND TEST FACILITY BASE

Pub. L. 117–81, div. A, title XVI, §1686, Dec. 27, 2021, 135 Stat. 2126, provided that: "The Secretary of Defense may authorize, consistent with the authorities of the Secretary, such actions as are necessary to mitigate threats posed by space-based assets to the security or operation of the Major Range and Test Facility Base (as defined in section 196(i) of title 10, United States Code) [now 10 U.S.C. 4173(j)]."

## §4174. Contracts: acquisition, construction, or furnishing of test facilities and equipment

(a) A covered contract for research or development, or both, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, or test facilities and equipment that the Secretary of the military department concerned determines to be necessary for the performance of the contract. The acquisition or construction of these research, developmental, or test

facilities shall be subject to the cost principles applicable to allowable contract expenses. The facilities and equipment, and specialized housing for them, may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to him at fair value. This subsection does not authorize new construction or improvements having general utility. The Secretary of Defense and the Secretaries of the military departments shall promulgate regulations necessary to give full force and effect to this section.

(b) Facilities that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract contains—

(1) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(2) an option in the United States to acquire the underlying land; or

(3) an alternative provision that the Secretary concerned considers to be adequate to protect the interests of the United States in the facilities.

(c) Proceeds of sales or reimbursements under this section shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

(d)(1) In a case in which research, developmental, or test facilities and equipment described in this section are used to support multiple contracts or programs across different military departments, other elements of the Department of Defense, other Federal agencies outside the Department of Defense, or eligible non-Federal entities, a jointly funded project may be established.

(2) Under a jointly funded project, the Secretary of Defense (or the Secretary's designee) shall enter into a written agreement with each entity participating in the project. Each such agreement shall, at a minimum, address the following:

(A) Cost sharing arrangements, including the proportion of total project costs to be borne by each entity.

(B) Allocation of access to the facilities and equipment, including prioritization procedures in cases of competing demands.

(C) Management and oversight responsibilities, including the designation of a lead agency.

(D) Ownership and intellectual property rights related to the facilities, equipment, and any resulting data or inventions.

(E) Dispute resolution mechanisms.

(3) A non-Federal entity, including a private company, academic institution, or non-profit organization, may participate in a jointly funded project under this subsection only if the Secretary of Defense determines such participation is in the national security interest and consistent with applicable laws and regulations.

(4) The Secretary of Defense shall issue regulations to implement this subsection. Such regulations shall include specific criteria for evaluating proposed jointly funded projects, standardized agreement templates, and procedures for ensuring the transparency and accountability of such projects.

(e) This section applies to contracts funded using funds appropriated or otherwise made available for—

(1) research, development, test, and evaluation, including science and technology funds designated as budget activity 1 (basic research), budget activity 2 (applied research), and budget activity 3 (advanced technology development) (as those budget activity classifications are set forth in volume 2B, chapter 5 of the Department of Defense Financial Management Regulation (DOD 7000.14–R)); and

(2) operation and maintenance, to the extent that such funds are used to support activities authorized under this section.

(f) In this section, the term "covered contract" means—

(1) a contract of a military department; or

(2) a contract for a jointly funded project as described subsection (d).

(Aug. 10, 1956, ch. 1041, 70A Stat. 134, §2353; Pub. L. 115–232, div. B, title XXVIII, §2801, Aug. 13, 2018, 132 Stat. 2260; renumbered §4174 and amended Pub. L. 116–283, div. A, title XVIII, §§1844(b)(1), 1845(b), Jan. 1, 2021, 134 Stat. 4245, 4247; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), (6)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 119–60, div. A, title II, §214(a), Dec. 18, 2025, 139 Stat. 774.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2353(a) | 5:235e (1st sentence; and 2d sentence, less 2d and last provisos).<br>5:475j (1st sentence; and 2d sentence, less 2d and last provisos).<br>5:628e (1st sentence; and 2d sentence, less 2d and last provisos). | July 16, 1952, ch. 882, §4 (less 3d and last sentences), 66 Stat. 725. |
| 2353(b) | 5:235e (2d proviso of 2d sentence).<br>5:475j (2d proviso of 2d sentence).<br>5:628e (2d proviso of 2d sentence). | |
| 2353(c) | 5:235e (last proviso of 2d sentence).<br>5:475j (last proviso of 2d sentence).<br>5:628e (last proviso of 2d sentence). | |

In subsection (a), the words "furnished to" and "for the use thereof" are omitted as surplusage.

In subsections (a) and (b), the words "United States" are substituted for the word "Government".

In subsection (b), the introductory clause is substituted for 5:235e (words of 2d proviso before clause (1)), 475j, and 628e. The words "that * * * considers" are substituted for the words "as will in the opinion". The words "an alternative" are substituted for the words "such other".

In subsection (c), the words "Proceeds of" are substituted for the words "That all moneys arising from".

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §214(a)(1), substituted "A covered contract" for "A contract of a military department".

Subsecs. (d) to (f). Pub. L. 119–60, §214(a)(2), added subsecs. (d) to (f).

**2021**—Pub. L. 116–283, §1845(b), as amended by Pub. L. 117–81, §1701(u)(6)(B), renumbered section 2353 of this title as this section.

Pub. L. 116–283, §1844(b)(1), which directed the renumbering of section 2353 of this title as section 4141 instead of this section, was repealed by Pub. L. 117–81, §1701(u)(5)(B).

**2018**—Subsec. (a). Pub. L. 115–232 inserted after first sentence "The acquisition or construction of these research, developmental, or test facilities shall be subject to the cost principles applicable to allowable contract expenses." and at end "The Secretary of Defense and the Secretaries of the military departments shall

promulgate regulations necessary to give full force and effect to this section."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**REGULATIONS**

Pub. L. 119–60, div. A, title II, §214(b), Dec. 18, 2025, 139 Stat. 775, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall issue or revise regulations (as necessary) to implement the amendments made by subsection (a) [amending this section]."

**LIMITATIONS ON MODIFICATIONS OF CERTAIN GOVERNMENT-FURNISHED EQUIPMENT; ONE-TIME AUTHORITY TO TRANSFER A CERTAIN MILITARY PROTOTYPE**

Pub. L. 111–84, div. A, title X, §1043, Oct. 28, 2009, 123 Stat. 2456, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(12), Jan. 7, 2011, 124 Stat. 4373, which prohibited the transfer of an article of military equipment that was an end item of a major weapon system to a private entity for research, development, test and evaluation if significant modification of the equipment would be needed unless certain written certification was provided to Congress and allowed the Secretary of the Navy to make a certain one-time transfer, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(13)(B), Dec. 18, 2025, 139 Stat. 949.

## §4175. Use of test and evaluation installations by commercial entities

(a) CONTRACT AUTHORITY.—The Secretary of Defense may enter into contracts with commercial entities that desire to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation.

(b) TERMINATION OR LIMITATION OF CONTRACT UNDER CERTAIN CIRCUMSTANCES.—A contract entered into under subsection (a) shall contain a provision that the Secretary of Defense may terminate, prohibit, or suspend immediately any commercial test or evaluation activity to be conducted at the Major Range and Test Facility Installation under the contract if the Secretary of Defense certifies in writing that the test or evaluation activity is or would be detrimental—

(1) to the public health and safety;

(2) to property (either public or private); or

(3) to any national security interest or foreign policy interest of the United States.

(c) CONTRACT PRICE.—A contract entered into under subsection (a) shall include a provision that requires a commercial entity using a Major Range and Test Facility Installation under the contract to reimburse the Department of Defense for all direct costs to the United States that are associated with the test and evaluation activities conducted by the commercial entity under the contract. In addition, the contract may include a provision that requires the commercial entity to reimburse the Department of Defense for such indirect costs related to the use of the installation as the Secretary of Defense considers to be appropriate. The Secretary may delegate to the commander of the Major Range and Test Facility Installation the authority to determine the appropriateness of the amount of indirect costs included in such a contract provision.

(d) RETENTION OF FUNDS COLLECTED FROM COMMERCIAL USERS.—Amounts collected under subsection (c) from a commercial entity conducting test and evaluation activities at a

Major Range and Test Facility Installation shall be credited to the appropriation accounts under which the costs associated with the test and evaluation activities of the commercial entity were incurred.

(e) REGULATIONS AND LIMITATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(f) DEFINITIONS.—In this section:

(1) The term "Major Range and Test Facility Installation" means a test and evaluation installation under the jurisdiction of the Department of Defense and designated as a Major Range and Test Facility Installation by the Secretary.

(2) The term "direct costs" includes the cost of—

(A) labor, material, facilities, utilities, equipment, supplies, and any other resources damaged or consumed during test or evaluation activities or maintained for a particular commercial entity; and

(B) construction specifically performed for a commercial entity to conduct test and evaluation activities.

(Added Pub. L. 103–160, div. A, title VIII, §846(a), Nov. 30, 1993, 107 Stat. 1722, §2681; amended Pub. L. 105–85, div. A, title VIII, §842, Nov. 18, 1997, 111 Stat. 1844; Pub. L. 105–261, div. A, title VIII, §820, Oct. 17, 1998, 112 Stat. 2090; renumbered §4175 and amended Pub. L. 116–283, div. A, title XVIII, §§1844(b)(1), 1845(b), Jan. 1, 2021, 134 Stat. 4245, 4247; Pub. L. 117–81, div. A, title XVII, §1701(u)(5)(B), (6)(B), Dec. 27, 2021, 135 Stat. 2154.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1845(b), as amended by Pub. L. 117–81, §1701(u)(6)(B), renumbered section 2681 of this title as this section.

Pub. L. 116–283, §1844(b)(1), which directed the renumbering of section 2681 of this title as section 4144 of this title instead of this section, was repealed by Pub. L. 117–81, §1701(u)(5)(B).

**1998**—Subsec. (g). Pub. L. 105–261, §820(a), struck out heading and text of subsec. (g). Text read as follows: "The authority provided to the Secretary of Defense by subsection (a) shall terminate on September 30, 2002."

Subsec. (h). Pub. L. 105–261, §820(b), struck out heading and text of subsec. (h). Text read as follows: "Not later than March 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report identifying existing and proposed procedures to ensure that the use of Major Range and Test Facility Installations by commercial entities does not compete with private sector test and evaluation services."

**1997**—Subsec. (g). Pub. L. 105–85, §842(a), substituted "2002" for "1998".

Subsec. (h). Pub. L. 105–85, §842(b), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows:

"(h) REPORT.—Not later than January 1, 1998, the Secretary of Defense shall submit to Congress a report describing the number and purposes of contracts entered into under subsection (a) and evaluating the extent to which the authority under this section is exercised to open Major Range and Test Facility Installations to commercial test and evaluation activities."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# Subpart F—Major Systems, Major Defense Acquisition Programs, and Weapon Systems Development

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior subpart F "Special Categories of Contracting: Research, Development, Test, and Evaluation", consisting of chapters 321 to 329, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

## CHAPTER 321—GENERAL MATTERS

Sec.
4201. Major defense acquisition programs: definition; exceptions.
4202. Authority to increase definitional threshold amounts: major defense acquisition programs; major systems.
4203. Major subprograms.
4204. Milestone decision authority.
4205. Weapon systems for which procurement funding requested in budget: development and procurement schedules.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 321 "RESEARCH AND DEVELOPMENT GENERALLY", consisting of reserved section 4201, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ENHANCED DOMESTIC CONTENT REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 118–31, div. A, title VIII, §835, Dec. 22, 2023, 137 Stat. 338, provided that:

"(a) ASSESSMENT REQUIRED.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report assessing the domestic source content of procurements carried out in connection with a major defense acquisition program.

"(2) INFORMATION REPOSITORY.—The Secretary of Defense shall establish an information repository for the collection and analysis of information related to domestic source content for products the Secretary deems critical, where such information can be used for continuous data analysis and program management activities.

"(b) ENHANCED DOMESTIC CONTENT REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of chapter 83 of title 41, United States Code, manufactured articles, materials, or supplies procured in connection with a major defense acquisition program are manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States if the cost of such component articles, materials, or supplies—

"(A) supplied not later than the date of the enactment of this Act, exceeds 60 percent of cost of the manufactured articles, materials, or supplies procured;

"(B) supplied during the period beginning January 1, 2024, and ending December 31, 2028, exceeds 65 percent of the cost of the manufactured articles, materials, or supplies; and

"(C) supplied on or after January 1, 2029, exceeds 75 percent of the cost of the manufactured articles, materials, or supplies.

"(2) EXCLUSION FOR CERTAIN MANUFACTURED ARTICLES.—Paragraph (1) shall not apply

to manufactured articles that consist wholly or predominantly of iron, steel, or a combination of iron and steel.

"(3) RULEMAKING TO CREATE A FALLBACK THRESHOLD.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue rules to determine the treatment of the lowest price offered for a foreign end product for which 55 percent or more of the component articles, materials, or supplies of such foreign end product are manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States if—

"(i) the application of paragraph (1) results in an unreasonable cost; or

"(ii) no offers are submitted to supply manufactured articles, materials, or supplies manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

"(B) TERMINATION.—Rules issued under this paragraph shall cease to have force or effect on January 1, 2031.

"(4) APPLICABILITY.—The requirements of this subsection—

"(A) shall apply to contracts entered into on or after the date of the enactment of this Act [Dec. 22, 2023];

"(B) shall not apply to articles manufactured in countries that have executed a reciprocal defense procurement memorandum of understanding with the United States entered into pursuant to section 4851 of title 10, United States Code; and

"(C) shall not apply to a country that is a member of the national technology and industrial base (as defined by section 4801 of title 10, United States Code).

"(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—The term 'major defense acquisition program' has the meaning given in section 4201 of title 10, United States Code."

**PENALTY FOR COST OVERRUNS**

Pub. L. 114–92, div. A, title VIII, §828, Nov. 25, 2015, 129 Stat. 910, as amended by Pub. L. 115–91, div. A, title VIII, §825, Dec. 12, 2017, 131 Stat. 1466; Pub. L. 115–232, div. A, title X, §1081(d), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116–92, div. A, title VIII, §805(a), (b)(2), Dec. 20, 2019, 133 Stat. 1485, which required the Secretary of each military department to pay a penalty for cost overruns on the covered major defense acquisition programs of the military department for fiscal years 2018 and 2019, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(D), Dec. 23, 2024, 138 Stat. 1979.

[Pub. L. 115–91, div. A, title VIII, §825(b), Dec. 12, 2017, 131 Stat. 1466, which provided that the requirements of section 828 of Pub. L. 114–92, as in effect on the day before Dec. 12, 2017, would continue to apply with respect to fiscal years beginning on or before Oct. 1, 2016, was repealed by Pub. L. 116–92, div. A, title VIII, §805(b)(1), Dec. 20, 2019, 133 Stat. 1485.]

## §4201. Major defense acquisition programs: definition; exceptions

(a) DEFINITION.—Except as provided under subsection (b), in this part, the term "major defense acquisition program" means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

(1) that is designated by the Secretary of Defense as a major defense acquisition program; or

(2) in the case of a program that is not a program for the acquisition of an automated information system (either a product or a service), that is estimated by the Secretary of Defense to require—

(A) an eventual total expenditure for research, development, test, and evaluation of more than $1,000,000,000 (based on fiscal year 2024 constant dollars); or

(B) an eventual total expenditure for procurement, including all planned increments or spirals, of more than $4,500,000,000 (based on fiscal year 2024 constant dollars).

(b) EXCEPTIONS.—In this part, the term "major defense acquisition program" does not include the following:

(1) An acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of this title.

(2) An acquisition program for a defense business system (as defined in section 2222(i)(1) of

this title) carried out using the acquisition guidance issued pursuant to section 883(e) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2223a note).[1]

(3) An acquisition program for software and covered hardware as described by section 3603 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1846(b), (c), Jan. 1, 2021, 134 Stat. 4248; Pub. L. 118–159, div. A, title VIII, §804(c)(2), Dec. 23, 2024, 138 Stat. 1968; Pub. L. 119–60, div. A, title VIII, §812(a)(9), title XVIII, §1804(d), Dec. 18, 2025, 139 Stat. 952, 1235.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 883(e) of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (b)(2), is section 883(e) of Pub. L. 114–92, which is set out as a note preceding section 4571 of this title.

### CODIFICATION

The text of subsec. (a) of section 2430 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1846(c)(1), was based on Pub. L. 100–26, §7(b)(2)(A), Apr. 21, 1987, 101 Stat. 279; Pub. L. 102–484, div. A, title VIII, §817(b)(1), (2), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 111–23, title II, §206(b)(1), May 22, 2009, 123 Stat. 1728; Pub. L. 114–328, div. A, title VIII, §847(a), Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115–91, div. A, title VIII, §831, Dec. 12, 2017, 131 Stat. 1467.

### AMENDMENTS

**2025**—Subsec. (a)(2)(A). Pub. L. 119–60, §1804(d)(1), substituted "$1,000,000,000 (based on fiscal year 2024 constant dollars)" for "$300,000,000 (based on fiscal year 1990 constant dollars)".

Subsec. (a)(2)(B). Pub. L. 119–60, §1804(d)(2), substituted "$4,500,000,000 (based on fiscal year 2024 constant dollars)" for "$1,800,000,000 (based on fiscal year 1990 constant dollars)".

Subsec. (b)(3). Pub. L. 119–60, §812(a)(9), added par. (3).

**2024**—Subsec. (b)(1). Pub. L. 118–159, which directed substitution of "section 3602 of this title" for "section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 3201 note prec.)", was executed by making the substitution for "section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note)" to reflect the probable intent of Congress.

**2021**—Pub. L. 116–283, §1846(c)(1), transferred subsec. (a) of section 2430 of this title to this section, struck out par. (1) designation, inserted subsec. (a) heading, substituted "under subsection (b), in this part" for "under paragraph (2), in this chapter", redesignated par. (2) as subsec. (b) and subpars. (A) and (B) of subsecs. (a) and (b) as pars. (1) and (2) of subsecs. (a) and (b), respectively, inserted subsec. (b) heading, and substituted "In this part" for "In this chapter" in introductory provisions of subsec. (b).

Subsec. (a)(2). Pub. L. 116–283, §1846(c)(2), substituted "to require—" for "to require", inserted subpar. (A) designation before "an eventual total expenditure for research" and subpar. (B) designation before "an eventual total expenditure for procurement" and substituted "dollars); or" for "dollars) or".

Subsec. (b). Pub. L. 116–283, §1846(c)(3), in introductory provisions, substituted "include the following:" for "include—", in par. (1), substituted "An" for "an" and period at end for "; or" and in par. (2), substituted "An" for "an".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4202. Authority to increase definitional threshold amounts: major defense acquisition programs; major systems

(a) ADJUSTMENTS TO THRESHOLDS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) AUTHORITY.—The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in section 4201(a)(2) of this title on the basis of Department of Defense escalation rates.

(2) MATTERS TO BE CONSIDERED.—For purposes of section 4201(a)(2) of this title, the Secretary shall consider, as applicable, the following:

(A) The estimated level of resources required to fulfill the relevant joint military requirement, as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

(B) The cost estimate referred to in section 4251(a)(6) of this title.

(C) The cost estimate referred to in section 4252(a)(1)(C) of this title.

(D) The cost estimate within a baseline description as required by section 4214 of this title.

(b) ADJUSTMENT AUTHORITY FOR MAJOR SYSTEMS.—

(1) AUTHORITY.—The Secretary of Defense may adjust the amounts and the base fiscal year provided in section 3041(c)(1) of this title on the basis of Department of Defense escalation rates.

(2) ROUNDING.—An amount, as adjusted under paragraph (1), that is not evenly divisible by $5,000,000 shall be rounded to the nearest multiple of $5,000,000. In the case of an amount that is evenly divisible by $2,500,000 but not evenly divisible by $5,000,000, the amount shall be rounded to the next higher multiple of $5,000,000.

(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—An adjustment under subsection (a) or (b) shall be effective after the Secretary transmits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the adjustment.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1846(b), (d), (e), Jan. 1, 2021, 134 Stat. 4248, 4249.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsecs. (b) and (c) of section 2430 of this title, which was transferred to this section, redesignated as pars. (1) and (2) of subsec. (a), respectively, and amended by Pub. L. 116–283, §1846(d)(1), (2)(A), was based on Pub. L. 102–484, div. A, title VIII, §817(b)(3), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 111–23, title II, §206(b)(2), May 22, 2009, 123 Stat. 1728; Pub. L. 113–291, div. A, title X, §1071(f)(18), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1081(a)(38), Dec. 12, 2017, 131 Stat. 1596.

The text of subsec. (c) of section 2302d of this title, which was transferred to this section and redesignated as subsecs. (b) and (c) by Pub. L. 116–283, §1846(e)(1), was based on Pub. L. 104–201, div. A, title VIII, §805(a)(2), Sept. 23, 1996, 110 Stat. 2605; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1846(d)(2)(A), (B), inserted subsec. heading and par. (1) designation and heading before "The Secretary" and substituted "in section 4201(a)(2) of this title" for "in subsection (a)(1)(B)".

Pub. L. 116–283, §1846(d)(1), transferred subsecs. (b) and (c) of section 2430 of this title to this section, redesignated subsec. (b) and subsec. (c) and its pars. (1) to (4) as subsec. (a) and subsec. (a)(2) and its subpars. (A) to (D), respectively, realigned margin of subsec. (a)(2), and struck out second sentence of subsec. (a)(1) as

redesignated which read as follows: "An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives."

Subsec. (a)(2). Pub. L. 116–283, §1846(d)(2)(C)(i), (ii), inserted par. heading before "For purposes of" and substituted "section 4201(a)(2) of this title" for "subsection (a)(1)(B)".

Subsec. (a)(2)(B). Pub. L. 116–283, §1846(d)(2)(C)(iii), substituted "section 4251(a)(6)" for "section 2366a(a)(6)".

Subsec. (a)(2)(C). Pub. L. 116–283, §1846(d)(2)(C)(iv), substituted "section 4252(a)(1)(C)" for "section 2366b(a)(1)(C)".

Subsec. (a)(2)(D). Pub. L. 116–283, §1846(d)(2)(C)(v), substituted "section 4214" for "section 2435".

Subsec. (b). Pub. L. 116–283, §1846(e)(2), substituted "Adjustment Authority for Major Systems" for "Adjustment Authority" in subsec. heading, inserted par. headings, substituted "section 3041(c)(1) of this title" for "subsection (a)" in par. (1), and realigned margins of par. (2).

Pub. L. 116–283, §1846(e)(1), transferred subsec. (c) of section 2302d of this title to subsec. (b) of this section and redesignated par. (3) as subsec. (c).

Subsec. (c). Pub. L. 116–283, §1846(e)(3), inserted heading and substituted "under subsection (a) or (b)" for "under this subsection" in text.

Pub. L. 116–283, §1846(e)(1)(B), redesignated par. (3) of subsec. (b) as subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4203. Major subprograms

(a) AUTHORITY TO DESIGNATE MAJOR SUBPROGRAMS AS SUBJECT TO ACQUISITION REPORTING REQUIREMENTS.—(1)(A) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more categories of end items which differ significantly from each other in form and function, the Secretary may designate each such category of end items as a major subprogram for the purposes of acquisition reporting under this subpart.

(B) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more increments or blocks, the Secretary may designate each such increment or block as a major subprogram for the purposes of acquisition reporting under this subpart.

(2) The Secretary shall notify the congressional defense committees in writing of any proposed designation pursuant to paragraph (1) not less than 30 days before the date such designation takes effect.

(b) REPORTING REQUIREMENTS.—(1) If the Secretary designates a major subprogram of a major defense acquisition program in accordance with subsection (a), Selected Acquisition Reports, unit cost reports, and program baselines under this subpart shall reflect cost, schedule, and performance information—

(A) for the major defense acquisition program as a whole (other than as provided in paragraph (2)); and

(B) for each major subprogram of the major defense acquisition program so designated.

(2) For a major defense acquisition program for which a designation of a major subprogram has been made under subsection (a), unit costs under this subpart shall be submitted in accordance with the definitions in subsection (d).

(c) REQUIREMENT TO COVER ENTIRE MAJOR DEFENSE ACQUISITION PROGRAM .—If a subprogram of a major defense acquisition program is designated as a major subprogram under subsection (a), all other elements of the major defense acquisition program shall be

appropriately organized into one or more subprograms under the major defense acquisition program, each of which subprograms, as so organized, shall be treated as a major subprogram under subsection (a).

(d) DEFINITIONS.—Notwithstanding paragraphs (1) and (2) of section 4351(a) of this title, in the case of a major defense acquisition program for which the Secretary has designated one or more major subprograms under this section for the purposes of this subpart—

(1) the term "program acquisition unit cost" applies at the level of the subprogram and means the total cost for the development and procurement of, and specific military construction for, the major defense acquisition program that is reasonably allocable to each such major subprogram, divided by the relevant number of fully-configured end items to be produced under such major subprogram;

(2) the term "procurement unit cost" applies at the level of the subprogram and means the total of all funds programmed to be available for obligation for procurement for each such major subprogram, divided by the number of fully-configured end items to be procured under such major subprogram;

(3) the term "major contract", with respect to a designated major subprogram, means each of the six largest prime, associate, or Government furnished equipment contracts under the subprogram that is in excess of $40,000,000 and that is not a firm-fixed price contract; and

(4) the term "life cycle cost", with respect to a designated major subprogram, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(Added Pub. L. 110–417, [div. A], title VIII, §811(a)(1), Oct. 14, 2008, 122 Stat. 4520, §2430a; amended Pub. L. 111–383, div. A, title VIII, §814(a), Jan. 7, 2011, 124 Stat. 4266; Pub. L. 112–81, div. A, title IX, §912, Dec. 31, 2011, 125 Stat. 1536; Pub. L. 114–328, div. A, title VIII, §850, Dec. 23, 2016, 130 Stat. 2295; renumbered §4203 and amended Pub. L. 116–283, div. A, title XVIII, §1846(g), Jan. 1, 2021, 134 Stat. 4251; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(B)(ii), Dec. 27, 2021, 135 Stat. 2147.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1846(g)(2), substituted "this subpart" for "this chapter" wherever appearing.

Pub. L. 116–283, §1846(g), renumbered section 2430a of this title as this section.

Subsec. (d). Pub. L. 116–283, §1846(g)(1), as amended by Pub. L. 117–81, §1701(o)(6)(B)(ii), substituted "section 4351(a)" for "section 2432(a)" in introductory provisions.

**2016**—Subsec. (a)(1)(B). Pub. L. 114–328, which directed substitution of "major defense acquisition program requires the delivery of two or more increments or blocks" for "major defense acquisition program to purchase satellites requires the delivery of satellites in two or more increments or blocks" in par. (1)(B), was executed by making the substitution in par. (1)(B) of subsec. (a), to reflect the probable intent of Congress.

**2011**—Subsec. (a)(1). Pub. L. 112–81 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 111–383 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted "(other than as provided in paragraph (2))" before semicolon in subpar. (A), and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4204. Milestone decision authority

(a) SERVICE ACQUISITION EXECUTIVE.—The milestone decision authority for a major defense acquisition program reaching Milestone A after October 1, 2016, shall be the service acquisition executive of the military department that is managing the program, unless the Secretary of Defense designates, under subsection (b), another official to serve as the milestone decision authority.

(b) DESIGNATION OF ALTERNATE MILESTONE DECISION AUTHORITY.—The Secretary of Defense may designate an alternate milestone decision authority for a program with respect to which any of the following applies:

(1) Subject to subsection (f), the Secretary determines that the program is addressing a joint requirement.

(2) The Secretary determines that the program is best managed by a Defense Agency.

(3) The program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under sections 4371 through 4375 of this title.

(4) The program is critical to a major interagency requirement or technology development effort, or has significant international partner involvement.

(5) The Secretary determines that an alternate official serving as the milestone decision authority will best provide for the program to achieve desired cost, schedule, and performance outcomes.

(c) REVERSION TO SERVICE ACQUISITION EXECUTIVE.—

(1) After designating an alternate milestone decision authority under subsection (b) for a program, the Secretary of Defense may revert the position of milestone decision authority for the program back to the service acquisition executive upon request of the Secretary of the military department concerned. A decision on the request shall be made within 180 days after receipt of the request from the Secretary of the military department concerned.

(2) If the Secretary of Defense denies the request for reversion of the milestone decision authority back to the service acquisition executive, the Secretary shall report to the congressional defense committees on the basis of the Secretary's decision that an alternate official serving as milestone decision authority will best provide for the program to achieve desired cost, schedule, and performance outcomes. No such reversion is authorized after a program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under sections 4371 through 4375 of this title, except in exceptional circumstances.

(d) CERTIFICATIONS RELATING TO PROGRAM REQUIREMENTS AND FUNDING.—For each major defense acquisition program, the Secretary of the military department concerned and the Chief of the armed force concerned shall, in each Selected Acquisition Report required under section 4351 of this title—

(1) certify that program requirements are stable and funding is adequate to meet cost, schedule, and performance objectives for the program; and

(2) identify and report to the congressional defense committees on any increased risk to the program since the last report.

(e) DOCUMENTATION AND OVERSIGHT.—The Secretary of Defense shall review the acquisition oversight process for major defense acquisition programs and shall—

(1) limit outside requirements for documentation to an absolute minimum on those programs where the service acquisition executive of the military department that is managing the program is the milestone decision authority; and

(2) ensure that any policies, procedures, and activities related to oversight efforts conducted outside of the military departments with regard to major defense acquisition programs shall be implemented in a manner that does not unnecessarily increase program costs or impede program schedules.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1846(b), (f)(1)–(7), Jan. 1, 2021, 134 Stat. 4248, 4250, 4251; Pub. L. 117–81, div. A, title XVII, §1701(b)(15)(A), (o)(6)(B)(i), Dec. 27, 2021, 135 Stat. 2134, 2147; Pub. L. 118–159, div. A, title VIII, §811(c), Dec. 23, 2024, 138 Stat. 1979.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2430 of this title, which was transferred to this section, redesignated as subsecs. (a) to (f) and amended by Pub. L. 116–283, §1846(f)(1), (5)(B), was based on Pub. L. 114–92, div. A, title VIII, §825(a), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114–328, div. A, title VIII, §807(b), Dec. 23, 2016, 130 Stat. 2261.

### AMENDMENTS

**2024**—Subsec. (f). Pub. L. 118–159 struck out subsec. (f). Text read as follows: "The authority of the Secretary of Defense to designate an alternative milestone decision authority for a program with respect to which the Secretary determines that the program is addressing a joint requirement, as set forth in subsection (b)(1), shall apply only for a major defense acquisition program that reaches Milestone A after October 1, 2016, and before October 1, 2019."

**2021**—Pub. L. 116–283, §1846(f)(1), transferred subsec. (d) of section 2430 of this title to this section, struck out subsec. designation, and redesignated pars. (1) to (5) as subsecs. (a) to (d), and (f), respectively.

Subsec. (a). Pub. L. 116–283, §1846(f)(2), inserted subsec. heading and substituted "under subsection (b)" for "under paragraph (2)".

Subsec. (b). Pub. L. 116–283, §1846(f)(3)(A)–(C), inserted subsec. heading, substituted "to which any of the following applies:" for "to which—" in introductory provisions, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1846(f)(3)(D), (G), substituted "Subject to subsection (f)" for "subject to paragraph (5)" and period for semimcolon at end.

Subsec. (b)(2). Pub. L. 116–283, §1846(f)(3)(F), (G), substituted "The Secretary" for "the Secretary" and period for semicolon at end.

Subsec. (b)(3). Pub. L. 116–283, §1846(f)(3)(E)–(G), substituted "The program" for "the program", "sections 4371 through 4375" for "section 2433" and period for semicolon at end.

Subsec. (b)(4). Pub. L. 116–283, §1846(f)(3)(F), (H), substituted "The program" for "the program" and period at end for "; or".

Subsec. (b)(5). Pub. L. 116–283, §1846(f)(3)(F), substituted "The Secretary" for "the Secretary".

Subsec. (c). Pub. L. 116–283, §1846(f)(4), inserted subsec. heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, realigned margins, and substituted "under subsection (b)" for "under paragraph (2)" in par. (1) and "sections 4371 through 4375" for "section 2433" in par. (2).

Subsec. (d). Pub. L. 116–283, §1846(f)(5), as amended by Pub. L. 117–81, §1701(o)(6)(B)(i), inserted subsec. heading, struck out subpar. (A) designation before "For each", substituted "under section 4351 of this title—" for "under section 2432 of this title,", inserted par. (1) designation before "certify that", substituted "the program; and" for "the program and", inserted par. (2) designation before "identify and report", and redesignated subpar. (B) as subsec. (e).

Subsec. (e). Pub. L. 116–283, §1846(f)(6), as amended by Pub. L. 117–81, §1701(b)(15)(A), inserted subsec. heading, substituted "programs and shall—" for "programs and shall", inserted par. (1) designation before "limit outside requirements", substituted "decision authority; and" for "decision authority and", and inserted par. (2) designation before "ensure that".

Pub. L. 116–283, §1846(f)(5)(B), redesignated subpar. (B) of subsec. (d) as subsec. (e).

Subsec. (f). Pub. L. 116–283, §1846(f)(7), inserted subsec. heading and substituted "in subsection (b)(1)" for "in paragraph (2)(A)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 note preceding section 3001 of this title.

## §4205. Weapon systems for which procurement funding requested in budget: development and procurement schedules

(a) The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, budget justification documents regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of this title, and for which any funds for procurement are requested in that budget. The documents shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual documents required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) Any documents required to be submitted under subsection (a) shall include detailed and summarized information with respect to each weapon system covered and shall specifically include each of the following:

(1) The development schedule, including estimated annual costs until development is completed.

(2) The planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed.

(3) To the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the documents, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

(B) In this paragraph:

(i) The term "most efficient production rate" means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

(ii) The term "minimum sustaining rate" means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

(c) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for that fiscal year has been submitted to Congress, the same documentation requirements shall be applicable to that system in the same manner and to the same extent as if funds had been requested for that system in that budget.

(Added Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 614, §139, §2431; amended Pub. L. 94–106, title VIII, §805, Oct. 7, 1975, 89 Stat. 538; Pub. L. 96–513, title V, §511(5), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–86, title IX, §909(c), Dec. 1, 1981, 95 Stat. 1120; Pub. L. 97–258, §3(b)(1), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98–525, title XIV, §1405(3), Oct. 19, 1984, 98 Stat. 2621; renumbered §2431 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(d)(12), (g)(6), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987,

101 Stat. 1175; Pub. L. 101–510, div. A, title XIII, §1301(13), title XIV, §1484(f)(3), Nov. 5, 1990, 104 Stat. 1668, 1717; Pub. L. 103–355, title III, §3001, Oct. 13, 1994, 108 Stat. 3327; Pub. L. 104–106, div. D, title XLIII, §4321(b)(18), Feb. 10, 1996, 110 Stat. 673; renumbered §4205 and amended Pub. L. 116–283, div. A, title XVIII, §1846(h), Jan. 1, 2021, 134 Stat. 4251.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 92–156, title V, §506, Nov. 17, 1971, 85 Stat. 429, prior to repeal by Pub. L. 93–155, §803(b)(2).

### AMENDMENTS

**2021**—Pub. L. 116–283, §1846(h)(2), amended section catchline generally. Prior to amendment, section catchline read as follows: "Weapons development and procurement schedules".

Pub. L. 116–283, §1846(h)(1), renumbered section 2431 of this title as this section.

**1996**—Subsec. (b). Pub. L. 104–106, §4321(b)(18)(A)(i), substituted "Any documents" for "Any report" in first sentence.

Subsec. (b)(3). Pub. L. 104–106, §4321(b)(18)(A)(ii), substituted "the documents" for "the report".

Subsec. (c). Pub. L. 104–106, §4321(b)(18)(B), substituted "documentation" for "reporting".

**1994**—Subsec. (a). Pub. L. 103–355, §3001(a), substituted "not later than 45 days after" for "at the same time" and "budget justification documents" for "a written report" in first sentence and "documents" for "report" in second and third sentences.

Subsec. (b). Pub. L. 103–355, §3001(b)(1), substituted "include each of the following:" for "include—" in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 103–355, §3001(b)(2)–(4), capitalized first letter of first word in pars. (1) to (3) and substituted period for semicolon at end of pars. (1) and (2) and period for "; and" at end of par. (3).

Subsec. (b)(4). Pub. L. 103–355, §3001(b)(5) amended par. (4) generally. Prior to amendment, par. (4) read as follows: "the most efficient production rate and the most efficient acquisition rate consistent with the program priority established for such weapon system by the Secretary concerned."

**1990**—Subsec. (b). Pub. L. 101–510, §1484(f)(3), substituted "covered and shall specifically include" for "covered, and specifically include, but not be limited to" in introductory provisions.

Pub. L. 101–510, §1301(13), redesignated subsec. (c) as (b), struck out "or (b)" after "under subsection (a)", and struck out former subsec. (b) which read as follows: "The Secretary of Defense shall submit a supplemental report to Congress not less than 30, or more than 90, days before the award of any contract, or the exercise of any option in a contract, for the procurement of any such weapon system (other than procurement of units for operational testing and evaluation, or long lead-time items, or both), unless—

"(1) the contractor or contractors for that system have not yet been selected and the Secretary of Defense determines that the submission of that report would adversely affect the source selection process and notifies Congress in writing, prior to such award, of that determination, stating his reasons therefor; or

"(2) the Secretary of Defense determines that the submission of that report would otherwise adversely affect the vital security interests of the United States and notifies Congress in writing of that determination at least 30 days prior to the award, stating his reasons therefor."

Subsecs. (c), (d). Pub. L. 101–510, §1301(13)(C), redesignated subsecs. (c) and (d) as (b) and (c), respectively.

**1987**—Pub. L. 100–180 made technical amendment to directory language of Pub. L. 99–433, §101(a)(5). See 1986 Amendment note below.

**1986**—Pub. L. 99–433, §101(a)(5), as amended by Pub. L. 100–180, §1314(a)(1), renumbered section 139 of this title as section 2431.

Pub. L. 99–433, §110(d)(12), substituted "Weapons development and procurement schedules" for "Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports" in section catchline.

Subsec. (a). Pub. L. 99–433, §110(g)(6), substituted "section 114(a)" for "section 138(a)".

**1984**—Subsec. (b). Pub. L. 98–525, §1405(3)(B), substituted "30" for "thirty" and "90" for "ninety" in introductory text.

Subsec. (b)(2). Pub. L. 98–525, §1405(3)(A), substituted "30" for "thirty".

**1982**—Subsec. (a). Pub. L. 97–258 substituted "section 1105 of title 31" for "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)".

**1981**—Subsec. (c)(4). Pub. L. 97–86 added par. (4).

**1980**—Subsec. (a). Pub. L. 96–513 substituted "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" for "section 11 of title 31".

**1975**—Subsec. (b). Pub. L. 94–106 substituted "or more than ninety, days before" for "or more than sixty, days before".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–180 applicable as if included in enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99–433, see section 1314(e) of Pub. L. 100–180, set out as a note under section 743 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### TRANSITION OF BALLISTIC MISSILE DEFENSE PROGRAMS TO MILITARY DEPARTMENTS

Pub. L. 115–91, div. A, title XVI, §1676(b), Dec. 12, 2017, 131 Stat. 1772, as amended by Pub. L. 115–232, div. A, title XVI, §1679, Aug. 13, 2018, 132 Stat. 2161; Pub. L. 116–283, div. A, title XVI, §1643, Jan. 1, 2021, 134 Stat. 4062; Pub. L. 117–81, div. A, title XVI, §1663, Dec. 27, 2021, 135 Stat. 2104; Pub. L. 117–263, div. A, title XVI, §1655, Dec. 23, 2022, 136 Stat. 2950, directed the Secretary of Defense to transfer, not later than Oct. 1, 2023—except that such requirement to transfer would terminate 60 days after the Secretary submits the report under section 1675(b) of Pub. L. 117–81 (135 Stat. 2113)—the acquisition authority and the total obligational authority for each missile defense program that has received Milestone C approval or equivalent approval as of such date from the Missile Defense Agency to a military department, and directed the Secretary to submit to the congressional defense committees, not later than one year after Dec. 12, 2017, a report on the plans for such transition of missile defense programs.

### DEVELOPMENT OF PERSISTENT SPACE-BASED SENSOR ARCHITECTURE

Pub. L. 115–91, div. A, title XVI, §1683, Dec. 12, 2017, 131 Stat. 1777, as amended by Pub. L. 115–232, div. A, title XVI, §1675(a)–(c), (d)(2), Aug. 13, 2018, 132 Stat. 2159, 2160; Pub. L. 116–92, div. A, title XVI, §1683, Dec. 20, 2019, 133 Stat. 1782; Pub. L. 116–283, div. A, title XVI, §1645(h), formerly §1645(g), Jan. 1, 2021, 134 Stat. 4064, renumbered §1645(h), Pub. L. 117–81, div. A, title XVI, §1662(b)(1), Dec. 27, 2021, 135 Stat. 2103, directed the Director of the Missile Defense Agency, in coordination with the Commander of the Air Force Space Command and the Commander of the United States Strategic Command, beginning fiscal year 2019, to develop and rigorously test a highly reliable and cost-effective persistent space-based sensor architecture capable of supporting the ballistic missile defense system, to ensure that the sensor architecture developed is compatible with efforts of the Defense Advanced Research Projects Agency relating to space-based sensors for missile defense, to submit to Congress a report on the available options not later than January 31, 2019, to submit to Congress a plan not later than one year after December 12, 2017, and to submit to Congress an update to the plan not later than 90 days after December 20, 2019.

### BOOST PHASE BALLISTIC MISSILE DEFENSE

Pub. L. 115–91, div. A, title XVI, §1685, Dec. 12, 2017, 131 Stat. 1781, as amended by Pub. L. 115–232, div. A, title XVI, §1676, Aug. 13, 2018, 132 Stat. 2160, directed the Secretary of Defense to ensure that an effective interim kinetic or directed energy boost phase ballistic missile defense capability would be available for initial operational deployment as soon as practicable, directed the Secretary to submit to the congressional defense committees, together with the budget submitted to Congress for fiscal year 2019, a plan to achieve such capability, directed the Director of the Missile Defense Agency, beginning fiscal year 2019, to carry out

a program to develop kinetic boost phase intercept capabilities, required an independent study on the feasibility of providing an initial or demonstrated boost phase capability using unmanned aerial vehicles and kinetic interceptors, and directed the Secretary of Defense to submit to the congressional defense committees a report on such study not later than July 31, 2019.

## GROUND-BASED INTERCEPTOR CAPABILITY, CAPACITY, AND RELIABILITY

Pub. L. 115–91, div. A, title XVI, §1686, Dec. 12, 2017, 131 Stat. 1781, authorized the Secretary of Defense to increase the number of the ground-based interceptors of the United States and to advance missile defense technologies to improve the capability and reliability of those elements of the ballistic missile defense system, and directed the Director of the Missile Defense Agency to submit to the congressional defense committees, not later than 90 days after the date on which the Ballistic Missile Defense Review commenced in 2017 is published, a report on those efforts.

## PLAN FOR DEVELOPMENT OF SPACE-BASED BALLISTIC MISSILE INTERCEPT LAYER

Pub. L. 115–91, div. A, title XVI, §1688, Dec. 12, 2017, 131 Stat. 1783, as amended by Pub. L. 115–232, div. A, title XVI, §1680, Aug. 13, 2018, 132 Stat. 2161; Pub. L. 116–92, div. A, title XVI, §1682, Dec. 20, 2019, 133 Stat. 1782, provided that:

"(a) DEVELOPMENT.—Subject to the availability of appropriations, the Director of the Missile Defense Agency shall develop a space-based ballistic missile intercept layer to the ballistic missile defense system that is—

"(1) regionally focused;

"(2) capable of providing boost-phase defense; and

"(3) achieves an operational capability at the earliest practicable date.

"(b) SPACE-BASED BALLISTIC MISSILE INTERCEPT LAYER PLAN.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Director shall submit to the appropriate congressional committees a plan to carry out subsection (a) during the 10-year period following the date of the plan. Such plan shall include the following:

"(1) A concept definition phase consisting of multiple awarded contracts to identify feasible solutions consistent with architectural principles, performance goals, and price points established by the Director, such as contracts relating to—

"(A) refined requirements;

"(B) conceptual designs;

"(C) technology readiness assessments;

"(D) critical technical and operational issues;

"(E) cost, schedule, performance estimates; and

"(F) risk reduction plans.

"(2) A technology risk reduction phase consisting of up to three competitively awarded contracts focused on maturing, integrating, and characterizing key technologies, algorithms, components, and subsystems, such as contracts relating to—

"(A) refined concepts and designs;

"(B) engineering trade studies;

"(C) medium-to-high fidelity digital representations of the space-based ballistic missile intercept weapon system; and

"(D) a proposed integration and test sequence that could potentially lead to a live-fire boost phase intercept during fiscal year 2022, if the technology has reached sufficient maturity and is economically viable.

"(3) During the technology risk reduction phase, contractors will define proposed demonstrations to a preliminary design review level prior to a technology development phase down-select.

"(4) A technology development phase consisting of two competitively awarded contracts to mature the preferred space-based ballistic missile intercept weapon system concepts and to potentially conduct a live-fire boost phase intercept fly-off during fiscal year 2022, if the technology has reached sufficient maturity and is economically viable, with brassboard hardware and prototype software on a path to the operational goal.

"(5) A concurrent space-based ballistic missile intercept weapon system fire control test bed activity that incrementally incorporates modeling and simulation elements, real-world data, hardware, algorithms, and systems to evaluate with increasing confidence the performance of evolving designs and concepts of such weapon system from target detection to intercept.

"(6) Any other matters the Director determines appropriate.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term

'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives."

## DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL WITH PRINCIPAL RESPONSIBILITY FOR DIRECTED ENERGY WEAPONS

Pub. L. 114–328, div. A, title II, §219, Dec. 23, 2016, 130 Stat. 2053, as amended by Pub. L. 115–91, div. A, title II, §215, Dec. 12, 2017, 131 Stat. 1326; Pub. L. 115–232, div. A, title II, §§212, 237, Aug. 13, 2018, 132 Stat. 1675, 1695; Pub. L. 116–283, div. A, title II, §215, Jan. 1, 2021, 134 Stat. 3458; Pub. L. 118–159, div. A, title II, §227, Dec. 23, 2024, 138 Stat. 1832, provided that:

"(a) DESIGNATION OF SENIOR OFFICIAL.—

"(1) IN GENERAL.—The Under Secretary of Defense for Research and Engineering shall serve as the official with principal responsibility for the development and demonstration of directed energy weapons for the Department.

"(2) DEVELOPMENT OF STRATEGIC PLAN.—

"(A) IN GENERAL.—The senior official designated under paragraph (1) shall develop a detailed strategic plan to develop, mature, and transition directed energy technologies to acquisition programs of record.

"(B) ROADMAP.—Such strategic plan shall include a strategic roadmap for the development and fielding of directed energy weapons and key enabling capabilities for the Department, identifying and coordinating efforts across military departments to achieve overall joint mission effectiveness.

"(3) ACCELERATION OF DEVELOPMENT AND FIELDING OF DIRECTED ENERGY WEAPONS CAPABILITIES.—

"(A) IN GENERAL.—To the degree practicable, the senior official designated under paragraph (1) shall use the flexibility of the policies of the Department in effect on the day before the date of the enactment of this Act [Dec. 23, 2016], or any successor policies, to accelerate the development and fielding of directed energy capabilities.

"(B) ENGAGEMENT.—The Secretary shall use the flexibility of the policies of the Department in effect on the day before the date of the enactment of this Act [Dec. 23, 2016], or any successor policies, to ensure engagement with defense and private industries, research universities, and unaffiliated, nonprofit research institutions.

"(4) ADVICE FOR EXERCISES AND DEMONSTRATIONS.—The senior official designated under paragraph (1) shall, to the degree practicable, provide technical advice and support to entities in the Department of Defense and the military departments conducting exercises or demonstrations with the purpose of improving the capabilities of or operational viability of technical capabilities supporting directed energy weapons, including supporting military utility assessments of the relevant cost and benefits of directed energy weapon systems.

"(5) SUPPORT FOR DEVELOPMENT OF REQUIREMENTS.—The senior official designated under paragraph (1) shall coordinate with the military departments, Defense Agencies, and the Joint Directed Energy Transition Office to define requirements for directed energy capabilities that address the highest priority warfighting capability gaps of the Department.

"(6) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall ensure that the senior official designated under paragraph (1) has access to such information on programs and activities of the military departments and other defense agencies as the Secretary considers appropriate to coordinate departmental directed energy efforts.

"(b) JOINT DIRECTED ENERGY TRANSITION OFFICE.—

"(1) REDESIGNATION.—The High Energy Laser Joint Technology Office of the Department of Defense is hereby redesignated as the 'Joint Directed Energy Transition Office' (in this subsection referred to as the 'Office'), and shall report to the official designated under subsection (a)(1).

"(2) ADDITIONAL FUNCTIONS.—In addition to the functions and duties of the Office in effect on the day before the date of the enactment of this Act [Dec. 23, 2016], the Office shall assist the senior official designated under paragraph (1) of subsection (a) in carrying out paragraphs (2) through (5) of such subsection.

"(3) FUNDING.—The Secretary may make available such funds to the Office for basic research, applied research, advanced technology development, prototyping, studies and analyses, and organizational support as the Secretary considers appropriate to support the efficient and effective development of directed

energy systems and technologies, including high-powered microwaves, and transition of those systems and technologies into acquisition programs or operational use.

"(c) PROTOTYPING AND DEMONSTRATION PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary, shall establish a program on the prototyping and demonstration of directed energy weapon systems to build and maintain the military superiority of the United States by—

"(A) accelerating, when feasible, the fielding of directed energy weapon prototypes that would help counter technological advantages of potential adversaries of the United States; and

"(B) supporting the military departments, the combatant commanders, and other relevant defense agencies and entities in developing prototypes and demonstrating operational utility of high energy lasers and high powered microwave weapon systems.

"(2) GUIDELINES.—(A) Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018 [Dec. 12, 2017], the Under Secretary shall issue guidelines for the operation of the program established under paragraph (1), including the following:

"(i) Criteria required for an application for funding by a military department, defense agency or entity, or a combatant command.

"(ii) The priorities, based on validated requirements or capability gaps, for fielding prototype directed energy weapon system technologies developed by research funding of the Department or industry.

"(iii) Criteria for evaluation of an application for funding or changes to policies or acquisition and business practices by such a department, agency, or command for purposes of improving the effectiveness and efficiency of the program.

"(B) Funding for a military department, defense agency, or combatant command under the program established under paragraph (1) may only be available for advanced technology development, prototyping, and demonstrations in which the Department of Defense maintains management of the technical baseline and a primary emphasis on technology transition and evaluating military utility to enhance the likelihood that the particular directed energy weapon system will meet the Department end user's need.

"(3) APPLICATIONS FOR FUNDING.—(A) Not less frequently than once each year, the Under Secretary shall solicit from the heads of the military departments, the defense agencies, and the combatant commands applications for funding under the program established under paragraph (1) to be used to enter into contracts, cooperative agreements, or other transaction agreements entered into pursuant to section 2371b of title 10, United States Code [now 10 U.S.C. 4022], with appropriate entities for the prototyping or commercialization of technologies.

"(B) Nothing in this section shall be construed to require any official of the Department of Defense to provide funding under the program to any congressional earmark as defined pursuant to clause 9 of rule XXI of the Rules of the House of Representatives or any congressionally directed spending item as defined pursuant to paragraph 5 of rule XLIV of the Standing Rules of the Senate.

"(4) UNDER SECRETARY DEFINED.—In this subsection, the term 'Under Secretary' means the Under Secretary of Defense for Research and Engineering in the Under Secretary's capacity as the official with principal responsibility for the development and demonstration of directed energy weapons pursuant to subsection (a)(1).

"(d) DIRECTED ENERGY WORKING GROUP.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of the [William M. (Mac) Thornberry] National Defense Authorization Act for fiscal year [sic] 2021 [Jan. 1, 2021], the Secretary of Defense shall establish a working group to be known as the 'Directed Energy Working Group'.

"(2) RESPONSIBILITIES.—The Directed Energy Working Group shall—

"(A) analyze and evaluate the current and planned directed energy programs of each of the military departments;

"(B) make recommendations to the Secretary of Defense—

"(i) describing how memoranda of understanding may be used to coordinate the directed energy activities conducted by the Department of Defense using amounts authorized to be appropriated for research, development, test, and evaluation; and

"(ii) proposing the establishment of specific memoranda of understanding between individual organizations and elements of the Department of Defense to facilitate such coordination;

"(C) identify methods of quickly fielding directed energy capabilities and programs; and

"(D) develop a compendium on the effectiveness of directed energy weapon systems and integrate the compendium into an overall Joint Effectiveness Manual under the guidance from the Joint Technical Coordination Group for Munitions Effectiveness.

"(3) HEAD OF WORKING GROUP.—The head of the Directed Energy Working Group shall be the Under Secretary of Defense for Research and Engineering or the designee of the Under Secretary.

"(4) MEMBERSHIP.—The members of the Directed Energy Working Group shall be appointed as follows:

"(A) One member from each military department, appointed by the Secretary of the military department concerned.

"(B) One member appointed by the Under Secretary of Defense for Research and Engineering.

"(C) One member appointed by the Under Secretary of Defense for Acquisition and Sustainment.

"(D) One member appointed by the Director of the Strategic Capabilities Office of the Department of Defense.

"(E) One member appointed by the Director of the Defense Advanced Research Projects Agency.

"(F) One member appointed by the Director of Operational Test and Evaluation.

"(G) One member appointed by the Director of the Missile Defense Agency.

"(H) Such other members as may be appointed by the Secretary of Defense from among individuals serving in the Department of Defense.

"(5) DEADLINE FOR APPOINTMENT.—Members of the Directed Energy Working Group shall be appointed not later than 30 days after the date of the establishment of the working group under paragraph (1).

"(6) BRIEFINGS TO CONGRESS.—Not later than 180 days after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Jan. 1, 2021], and not less frequently than once every 180 days thereafter, the Directed Energy Working Group shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the progress of each directed energy program that is being adopted or fielded by the Department of Defense. Each such briefing shall include—

"(A) for each organization and element of the Department carrying out work related to directed energy capabilities, cost data and associated program elements for each fiscal year across the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code (as of the time of the briefing); and

"(B) information on any enabling work that supports such capabilities, including—

"(i) vehicle or software integration and testing;

"(ii) command, control and targeting architectures;

"(iii) supporting infrastructure requirements; and

"(iv) workforce training.

"(7) TERMINATION.—The Directed Energy Working Group established under this subsection shall terminate 9 years after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Jan. 1, 2021]."

## NATIONAL MISSILE DEFENSE POLICY

Pub. L. 116–92, div. A, title XVI, §1681(b), Dec. 20, 2019, 133 Stat. 1781, provided that: "Not later than the date on which the President submits to Congress the annual budget request of the President for fiscal year 2021 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall, as the Secretary considers appropriate, redesignate all strategies, policies, programs, and systems under the jurisdiction of the Secretary to reflect that missile defense programs of the United States defend against ballistic, cruise, and hypersonic missiles in all phases of flight."

Pub. L. 114–328, div. A, title XVI, §1681(a), Dec. 23, 2016, 130 Stat. 2623, as amended by Pub. L. 116–92, div. A, title XVI, §1681(a), Dec. 20, 2019, 133 Stat. 1781; Pub. L. 118–31, div. A, title XVI, §1663, Dec. 22, 2023, 137 Stat. 603, which related to the national missile defense policy of the United States, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(3), Dec. 23, 2024, 138 Stat. 2199. See section 5501 of this title.

## DESIGNATION OF CERTAIN ACQUISITION AUTHORITY

Pub. L. 114–328, div. A, title XVI, §1684(e), (f), Dec. 23, 2016, 130 Stat. 2627, provided that:

"(e) DESIGNATION REQUIRED.—

"(1) AUTHORITY.—Not later than March 31, 2018, the Secretary of Defense shall designate a military department or Defense Agency with acquisition authority with respect to—

"(A) the capability to defend the homeland from cruise missiles; and

"(B) left-of-launch ballistic missile defeat capability.

"(2) DISCRETION.—The Secretary may designate a single military department or Defense Agency with the acquisition authority described in paragraph (1) or designate a separate military department or

Defense Agency for each function specified in such paragraph.

"(3) VALIDATION.—In making a designation under paragraph (1), the Secretary shall include a description of the manner in which the military requirements for such capabilities will be validated.

"(f) DEFINITIONS.—In this section:

"(1) The term 'Defense Agency' has the meaning given that term in section 101(a)(11) of title 10, United States Code.

"(2) The term 'intelligence community' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)."

## TECHNICAL AUTHORITY FOR INTEGRATED AIR AND MISSILE DEFENSE ACTIVITIES AND PROGRAMS

Pub. L. 114–328, div. A, title XVI, §1686(a), Dec. 23, 2016, 130 Stat. 2628, which provided that the Director of the Missile Defense Agency was the technical authority of the Department of Defense for integrated air and missile defense activities and programs and the Director could seek to have staff detailed to the Missile Defense Agency from the Joint Functional Component Command for Integrated Missile Defense and the Joint Integrated Air and Missile Defense Organization, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(4), Dec. 23, 2024, 138 Stat. 2199. See section 5531 of this title.

## HYPERSONIC DEFENSE CAPABILITY DEVELOPMENT

Pub. L. 114–328, div. A, title XVI, §1687, Dec. 23, 2016, 130 Stat. 2629, which designated the Director of the Missile Defense Agency as the executive agent for the Department of Defense for the development of a capability by the United States to counter hypersonic boost-glide vehicle capabilities and conventional prompt strike capabilities that may be employed against the United States or its allies and directed the Director to establish a program to develop such hypersonic defense capability by not later than Mar. 31, 2017, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(5), Dec. 23, 2024, 138 Stat. 2199. See section 5532 of this title.

## REQUIRED TESTING BY MISSILE DEFENSE AGENCY OF GROUND-BASED MIDCOURSE DEFENSE ELEMENT OF BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 114–328, div. A, title XVI, §1689, Dec. 23, 2016, 130 Stat. 2631, as amended by Pub. L. 116–92, div. A, title IX, §902(97), title XVI, §1684, Dec. 20, 2019, 133 Stat. 1555, 1783; Pub. L. 117–81, div. A, title XVI, §1668(d), Dec. 27, 2021, 135 Stat. 2107, which authorized the Director of the Missile Defense Agency to administer a required flight test of the ground-based midcourse defense element of the ballistic missile defense system and provided exceptions for such required testing, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(6), Dec. 23, 2024, 138 Stat. 2199. See section 5533 of this title.

## PILOT PROGRAM ON LOSS OF UNCLASSIFIED, CONTROLLED TECHNICAL INFORMATION

Pub. L. 114–328, div. A, title XVI, §1692, Dec. 23, 2016, 130 Stat. 2636, which authorized the Director of the Missile Defense Agency to carry out a pilot program to implement improvements to the data protection options in the programs of the Missile Defense Agency with unclassified, controlled technical information and controlled unclassified information, was repealed by Pub. L. 118–159, div. A, title VIII, §811(a)(1)(E), Dec. 23, 2024, 138 Stat. 1979.

## PLAN ON FULL INTEGRATION AND EXPLOITATION OF OVERHEAD PERSISTENT INFRARED CAPABILITY

Pub. L. 114–92, div. A, title XVI, §1618, Nov. 25, 2015, 129 Stat. 1108, as amended by Pub. L. 116–92, div. A, title XVI, §1604, Dec. 20, 2019, 133 Stat. 1723, provided that:

"(a) PLAN.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Commander of the United States Strategic Command and the Director of Cost Assessment and Program Evaluation, in coordination with the Director of National Intelligence, shall jointly submit to the appropriate congressional committees a plan for the integration of overhead persistent infrared capabilities to support the missions specified in subsection (b)(1).

"(b) ELEMENTS.—The plan under subsection (a) shall—

"(1) ensure that all overhead persistent infrared capabilities of the United States, including such capabilities that are planned to be developed, are integrated to allow for such capabilities to be exploited to support the requirements of the missions of the Department of Defense relating to—

"(A) strategic and theater missile warning;

"(B) ballistic and cruise missile defense, including with respect to missile tracking, fire control, and kill assessment;

"(C) technical intelligence supporting missile warning;

"(D) battlespace awareness;

"(E) other technical intelligence;

"(F) civil and environmental missions, including with respect to the collection of weather data; and

"(G) battle damage assessments; and

"(2) establish clear benchmarks by which to establish acquisition plans, manning, and budget requirements.

"(c) ANNUAL DETERMINATION.—The Secretary of Defense shall include, together with, or not later than 30 days after, the budget justification materials submitted to Congress in support of the budget of the Department of Defense for each of fiscal years 2021 through 2028 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), a written determination of how the plan under subsection (a) is being implemented.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

## INTEGRATION AND INTEROPERABILITY OF AIR AND MISSILE DEFENSE CAPABILITIES OF THE UNITED STATES

Pub. L. 114–92, div. A, title XVI, §1675, Nov. 25, 2015, 129 Stat. 1131, as amended by Pub. L. 116–92, div. A, title IX, §902(69), Dec. 20, 2019, 133 Stat. 1551; Pub. L. 116–283, div. A, title X, §1081(f)(3), Jan. 1, 2021, 134 Stat. 3875, which authorized the Vice Chairman of the Joint Chiefs of Staff and the chairman of the Missile Defense Executive Board, acting through the Missile Defense Executive Board, to ensure the interoperability and integration of the covered air and missile defense capabilities of the United States, including by carrying out operational testing, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(7), Dec. 23, 2024, 138 Stat. 2199. See section 5534 of this title.

## BOOST PHASE DEFENSE SYSTEM

Pub. L. 114–92, div. A, title XVI, §1680, Nov. 25, 2015, 129 Stat. 1137, as amended by Pub. L. 118–159, div. A, title XVI, §1649(c)(2), Dec. 23, 2024, 138 Stat. 2200, directed the Secretary of Defense to develop and field an airborne boost phase defense system by not later than fiscal year 2025, and to submit a report on its efforts to the congressional defense committees not later than 120 days after Nov. 25, 2015.

## DEVELOPMENT AND DEPLOYMENT OF MULTIPLE-OBJECT KILL VEHICLE FOR MISSILE DEFENSE OF THE UNITED STATES HOMELAND

Pub. L. 114–92, div. A, title XVI, §1681, Nov. 25, 2015, 129 Stat. 1138, which directed the Director of the Missile Defense Agency to develop a highly reliable multiple-object kill vehicle for the ground-based midcourse defense system using sound acquisition practices, and to include in the budget justification materials submitted to Congress for fiscal year 2017 a report on the funding profile necessary for the program, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(c)(3), Dec. 23, 2024, 138 Stat. 2200.

## REQUIREMENT TO REPLACE CAPABILITY ENHANCEMENT I EXOATMOSPHERIC KILL VEHICLES

Pub. L. 114–92, div. A, title XVI, §1682, Nov. 25, 2015, 129 Stat. 1139, directed the Director of the Missile Defense Agency to ensure, to the maximum extent practicable, that all remaining ground-based interceptors of the ground-based midcourse defense system that are armed with the capability enhancement I exoatmospheric kill vehicle were replaced with the redesigned exoatmospheric kill vehicle before Sept. 30, 2022.

## ADDITIONAL MISSILE DEFENSE SENSOR COVERAGE FOR PROTECTION OF UNITED STATES HOMELAND

Pub. L. 114–92, div. A, title XVI, §1684, Nov. 25, 2015, 129 Stat. 1140, directed the Director of the Missile Defense Agency to deploy, not later than Dec. 31, 2020, a long-range discrimination radar or other sensor capability to defend the United States from long-range ballistic missile threats from Iran, and to include in the budget justification materials submitted to Congress for fiscal years 2017 to 2020 the plan to carry out such deployment.

## CONCEPT DEVELOPMENT OF SPACE-BASED MISSILE DEFENSE LAYER

Pub. L. 114–92, div. A, title XVI, §1685, Nov. 25, 2015, 129 Stat. 1142, as amended by Pub. L. 114–328, div. A, title XVI, §1683, Dec. 23, 2016, 130 Stat. 2624, directed the Director of the Missile Defense Agency, in coordination with the Secretary of the Air Force and the Director of the Defense Advanced Research Projects Agency, to commence, not later than 30 days after Nov. 25, 2015, the concept definition of a space-based ballistic missile intercept layer to the ballistic missile defense system, and directed the Director of the Missile Defense Agency to submit to the congressional defense committees, not later than 1 year after Nov. 25, 2015, a plan for developing one or more programs for a space-based ballistic missile intercept layer, and to commence research and development of such programs not later than 60 days after the submittal of the plan.

## DEVELOPMENT OF REQUIREMENTS TO SUPPORT INTEGRATED AIR AND MISSILE DEFENSE CAPABILITIES

Pub. L. 114–92, div. A, title XVI, §1687, Nov. 25, 2015, 129 Stat. 1143, which authorized the Vice Chairman of the Joint Chiefs of Staff to oversee the development of warfighter requirements to support integrated air and missile defense capabilities, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(8), Dec. 23, 2024, 138 Stat. 2199. See section 5535 of this title.

## TESTING AND ASSESSMENT OF MISSILE DEFENSE SYSTEMS PRIOR TO PRODUCTION AND DEPLOYMENT

Pub. L. 113–291, div. A, title XVI, §1662, Dec. 19, 2014, 128 Stat. 3657, as amended by Pub. L. 115–91, div. A, title XVI, §1677(b), Dec. 12, 2017, 131 Stat. 1774, which prohibited the Secretary of Defense from making a final production decision for, or from operationally deploying, certain components of the ballistic missile defense system without sufficient and operationally realistic testing, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(9), Dec. 23, 2024, 138 Stat. 2199. See section 5536 of this title.

[For termination, effective Dec. 31, 2021, of reporting provisions in subsecs. (c)(2) and (d)(2) of section 1662 of Pub. L. 113–291, formerly set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## ACQUISITION PLAN FOR RE-DESIGNED EXO-ATMOSPHERIC KILL VEHICLE

Pub. L. 113–291, div. A, title XVI, §1663, Dec. 19, 2014, 128 Stat. 3658, directed the Secretary of Defense to develop an acquisition plan for the re-design of the exo-atmospheric kill vehicle of the ground-based midcourse defense system, and required the Director of the Missile Defense Agency to submit a report to the congressional defense committees on such plan.

## ADDITIONAL MISSILE DEFENSE RADAR FOR THE PROTECTION OF THE UNITED STATES HOMELAND

Pub. L. 113–66, div. A, title II, §235, Dec. 26, 2013, 127 Stat. 714, directed the Director of the Missile Defense Agency to deploy a long-range discriminating radar against long-range ballistic missile threats from the Democratic People's Republic of Korea, directed the Secretary of Defense to ensure that the Secretary was able to deploy additional tracking and discrimination sensor capabilities to defend the United States from future long-range ballistic missile threats from Iran, and required submission to the congressional defense committees of a report on the sensor capabilities of the United States not later than 180 days after Dec. 26, 2013.

## PLANS TO IMPROVE THE GROUND-BASED MIDCOURSE DEFENSE SYSTEM

Pub. L. 113–66, div. A, title II, §237, Dec. 26, 2013, 127 Stat. 717, directed the Director of the Missile Defense Agency to develop options to achieve an improved kill assessment capability for the ground-based midcourse defense system by not later than Dec. 31, 2019, to develop an interim capability for improved hit assessment for the ground-based midcourse defense system that could be integrated into near-term exo-atmospheric kill vehicle upgrades and refurbishment, and to submit a report on such development not later than Apr. 1, 2014, and directed the Director of the Missile Defense Agency to submit a plan to develop and deploy an upgraded enhanced exo-atmospheric kill vehicle not later than 120 days after Dec. 26, 2013.

## LIMITATION ON AVAILABILITY OF FUNDS FOR MISSILE DEFENSE INTERCEPTORS IN EUROPE

Pub. L. 111–383, div. A, title II, §223(a)–(d), Jan. 7, 2011, 124 Stat. 4168, 4169, which prohibited the expenditure of Department of Defense funds for the construction or deployment of missile defense interceptors in Europe until the host nation ratified a missile defense basing agreement and a status of forces

agreement authorizing such interceptors and the Secretary of Defense submitted to the congressional defense committees the report on the independent assessment of alternative missile defense systems in Europe required by section 235(c)(2) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84, 123 Stat. 2235), was repealed by Pub. L. 118–159, div. A, title XVI, §1649(c)(4), Dec. 23, 2024, 138 Stat. 2200.

**LIMITATION ON AVAILABILITY OF FUNDS FOR PROCUREMENT, CONSTRUCTION, AND DEPLOYMENT OF MISSILE DEFENSES IN EUROPE**

Pub. L. 110–417, [div. A], title II, §233, Oct. 14, 2008, 122 Stat. 4393, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(3), Jan. 7, 2011, 124 Stat. 4374, prohibited the expenditure of Department of Defense funds for a long-range missile defense system in Europe unless the host nation ratified a missile defense basing agreement, and required a further certification to Congress by the Secretary of Defense.

**POLICY OF THE UNITED STATES ON PROTECTION OF THE UNITED STATES AND ITS ALLIES AGAINST IRANIAN BALLISTIC MISSILES**

Pub. L. 110–181, div. A, title II, §229, Jan. 28, 2008, 122 Stat. 45, set forth as the policy of the United States to develop, along with its allies, a defense against Iranian ballistic missiles and to encourage the NATO alliance to accelerate its efforts to protect NATO territory against the threat of Iranian ballistic missiles.

**POLICY OF THE UNITED STATES ON PRIORITIES IN THE DEVELOPMENT, TESTING, AND FIELDING OF MISSILE DEFENSE CAPABILITIES**

Pub. L. 109–364, div. A, title II, §223, Oct. 17, 2006, 120 Stat. 2130, which set forth as the policy of the United States that the Department of Defense prioritize the development, testing, fielding, and improvement of effective near-term missile defense capabilities, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(c)(5), Dec. 23, 2024, 138 Stat. 2200.

**PLANS FOR TEST AND EVALUATION OF OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM**

Pub. L. 109–163, div. A, title II, §234, Jan. 6, 2006, 119 Stat. 3174, as amended by Pub. L. 109–364, div. A, title II, §225, Oct. 17, 2006, 120 Stat. 2130, directed the operational and test components of the Department of Defense to prepare a plan to test the operational capability of each block of the Ballistic Missile Defense System, and directed the Director of Operational Test and Evaluation to submit a report to the congressional defense committees.

**INTEGRATION OF PATRIOT ADVANCED CAPABILITY-3 AND MEDIUM EXTENDED AIR DEFENSE SYSTEM INTO BALLISTIC MISSILE DEFENSE SYSTEM**

Pub. L. 108–375, div. A, title II, §232, Oct. 28, 2004, 118 Stat. 1835, designated the Patriot Advanced Capability-3/Medium Extended Air Defense System air and missile defense program as an element of the Ballistic Missile Defense System, prohibited the Secretary of the Army from making any significant change to the baseline technical specifications or the baseline schedule for the PAC–3/MEADS program without the concurrence of the Director of the Missile Defense Agency, and directed the Secretary of Defense to establish procedures for determining the effect of a proposed change to the procurement quantity for the PAC–3/MEADS program and to submit to Congress a report describing such procedures not later than Feb. 1, 2005.

**BASELINES AND OPERATIONAL TEST AND EVALUATION FOR BALLISTIC MISSILE DEFENSE SYSTEM**

Pub. L. 108–375, div. A, title II, §234, Oct. 28, 2004, 118 Stat. 1837, directed the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, to prescribe, not later than Feb. 1, 2005, criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program, and to ensure that, not later than Oct. 1, 2005, any test of the ballistic missile defense system was conducted consistent with such criteria.

**PROVISION OF INFORMATION ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM**

Pub. L. 107–314, div. A, title II, §224, Dec. 2, 2002, 116 Stat. 2485, which directed the Director of the Missile Defense Agency to provide to the congressional defense committees information on the results of each flight test of the Ground-based Midcourse national missile defense system, was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(10), Dec. 23, 2024, 138 Stat. 2200. See section 5553 of this title.

## MISSILE DEFENSE AGENCY TEST PROGRAM

Pub. L. 107–107, div. A, title II, §232(c)–(h), Dec. 28, 2001, 115 Stat. 1037–1039, as amended by Pub. L. 107–314, div. A, title II, §225(b)(2)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, §221(b)(2), (c)(2), Nov. 24, 2003, 117 Stat. 1419; Pub. L. 108–375, div. A, title II, §233, Oct. 28, 2004, 118 Stat. 1836; Pub. L. 109–163, div. A, title II, §232, Jan. 6, 2006, 119 Stat. 3174; Pub. L. 109–364, div. A, title II, §224, Oct. 17, 2006, 120 Stat. 2130; Pub. L. 110–181, div. A, title II, §225, Jan. 28, 2008, 122 Stat. 41; Pub. L. 110–417, [div. A], title II, §231(a), (b), Oct. 14, 2008, 122 Stat. 4390, 4391; Pub. L. 111–383, div. A, title X, §1075(e)(2), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 112–81, div. A, title II, §232(c), title X, §1062(h), Dec. 31, 2011, 125 Stat. 1340, 1585, directed the Director of the Missile Defense Agency to ensure that critical technology for a missile defense program was successfully demonstrated before it entered into operational service, and directed the Director of Operational Test and Evaluation to conduct annual assessments of, and to report on, the program and the ballistic missile defense system.

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 232(h) of Pub. L. 107–107, formerly set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

## MISSILE DEFENSE TESTING INITIATIVE

Pub. L. 107–107, div. A, title II, §234, Dec. 28, 2001, 115 Stat. 1039, set out requirements for the testing infrastructure of the ballistic missile defense program, including specific requirements for ground-based mid-course interceptor systems for fiscal year 2002.

## NATIONAL MISSILE DEFENSE PROGRAM

Pub. L. 105–85, div. A, title II, §231, Nov. 18, 1997, 111 Stat. 1661, provided that the Secretary of Defense was to ensure that the National Missile Defense Program was structured and programmed for funding so as to support a test, in fiscal year 1999, of an integrated national missile defense system that was representative of the national missile defense system architecture that could achieve initial operational capability in fiscal year 2003, and that not later than Feb. 15, 1998, the Secretary was to submit to the congressional defense committees a plan for the development and deployment of a national missile defense system that could achieve initial operational capability in fiscal year 2003.

## ENHANCED COOPERATION BETWEEN NATIONAL NUCLEAR SECURITY ADMINISTRATION AND MISSILE DEFENSE AGENCY

Pub. L. 106–398, §1 [div. C, title XXXI, §3132], Oct. 30, 2000, 114 Stat. 1654, 1654A–455, as amended by Pub. L. 107–314, div. A, title II, §225(b)(3), Dec. 2, 2002, 116 Stat. 2486, directed the Secretary of Energy and the Secretary of Defense to modify the memorandum of understanding entered into under section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85, formerly set out as a note below) to provide for jointly funded projects.

Pub. L. 105–85, div. C, title XXXI, §3131, Nov. 18, 1997, 111 Stat. 2034, directed the Secretary of Energy and the Secretary of Defense to enter into a memorandum of understanding to improve and facilitate the use of the expertise of the national laboratories for the ballistic missile defense programs of the Department of Defense.

## BALLISTIC MISSILE DEFENSE PROGRAM

Pub. L. 104–106, div. A, title II, subtitle C, Feb. 10, 1996, 110 Stat. 228–233, as amended by Pub. L. 105–85, div. A, title II, §236, Nov. 18, 1997, 111 Stat. 1665; Pub. L. 106–65, div. A, title X, §1067(6), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–314, div. A, title X, §1041(c), Dec. 2, 2002, 116 Stat. 2646, known as the Ballistic Missile Defense Act of 1995, restructured the core theater missile defense program, directed the Secretary of Defense to prepare a plan to develop theater missile defense systems, prohibited the use of Department of Defense funds to implement an agreement between the United States and any independent state of the former Soviet Union that would establish a demarcation between theater missile defense systems and anti-ballistic missile systems or restrict United States theater missile defense systems, and repealed the Missile Defense Act of 1991 (Pub. L. 102–190, div. A, title II, part C).

## COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY

Pub. L. 103–337, div. A, title II, §231, Oct. 5, 1994, 108 Stat. 2699, prohibited the use of funds appropriated to the Department of Defense for the development or testing of anti-ballistic missile systems or components except as consistent with the ABM Treaty, limited the use of funds appropriated for the Brilliant Eyes program until the Secretary of Defense submitted a report to Congress on the compliance of that

program with the ABM Treaty, and directed the Secretary of Defense to review the Navy Upper Tier program to determine its compliance with the ABM Treaty.

## THEATER MISSILE DEFENSE MASTER PLAN

Pub. L. 103–160, div. A, title II, §235, Nov. 30, 1993, 107 Stat. 1598, directed the Secretary of Defense to maximize the use of existing systems and technologies and promote joint use by the military departments of ballistic missile defense equipment in carrying out the Theater Missile Defense Initiative, to submit to Congress a TMD Master Plan, and to conduct a review of opportunities to streamline the weapon systems acquisition process applicable to the development, testing, and deployment of theater ballistic missile defenses.

## TRANSFER OF FOLLOW-ON TECHNOLOGY PROGRAMS

Pub. L. 103–160, div. A, title II, §243, Nov. 30, 1993, 107 Stat. 1605, as amended by Pub. L. 104–201, div. A, title X, §1073(e)(1)(E), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 107–314, div. A, title II, §225(b)(4)(B), Dec. 2, 2002, 116 Stat. 2486, provided that management and budget responsibility for research and development of any program to develop far-term follow-on technology relating to ballistic missile defense was to be provided through the Defense Advanced Research Projects Agency or the appropriate military department, and directed the Secretary of Defense to submit to the congressional defense committees a report identifying each program the Secretary had transferred from the Missile Defense Agency and the agency or military department to which each such transfer was made.

## THEATER MISSILE DEFENSE INITIATIVE

Pub. L. 102–484, div. A, title II, §231, Oct. 23, 1992, 106 Stat. 2354, established the Theater Missile Defense Initiative to carry out all theater and tactical missile defense activities of the Department of Defense, effective 90 days after Oct. 23, 1992.

## LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF FORMER SOVIET UNION

Pub. L. 100–180, div. A, title II, §223, Dec. 4, 1987, 101 Stat. 1056, as amended by Pub. L. 103–199, title II, §203(a)(1), Dec. 17, 1993, 107 Stat. 2321, prohibited the transfer of technology developed with funds appropriated for the Ballistic Missile Defense Program to Russia or any other independent state of the former Soviet Union unless the President certified to Congress that such transfer was in the national interest and was to be made for the purpose of maintaining peace.

## SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

Pub. L. 100–180, div. A, title II, §224, Dec. 4, 1987, 101 Stat. 1056, prohibited the Federal Government from funding or otherwise supporting the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

## ESTABLISHMENT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT SDI PROGRAM

Pub. L. 100–180, div. A, title II, §227, Dec. 4, 1987, 101 Stat. 1057, authorized the Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, to enter into a contract not to be awarded before Oct. 1, 1989, to provide for the establishment and operation of a federally funded research and development center (FFRDC) to provide independent and objective technical support to the Strategic Defense Initiative program, and provided that no Federal funds could be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded.

## LIMITATION ON ESTABLISHMENT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR STRATEGIC DEFENSE INITIATIVE PROGRAM

Pub. L. 99–661, div. A, title II, §213, Nov. 14, 1986, 100 Stat. 3841, prohibited the Secretary of Defense from obligating or expending any funds for the purpose of operating a Federally funded research and development center that was established for the support of the Strategic Defense Initiative Program after Nov. 14, 1986, unless the Secretary submitted to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center and funds were specifically authorized to be appropriated for such purpose in an Act other than an appropriations Act or a continuing resolution.

## ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE PROGRAM

Pub. L. 100–180, div. A, title II, §231(a), Dec. 4, 1987, 101 Stat. 1059, provided that not later than Mar. 15, 1988 and Mar. 15, 1989, the Secretary of Defense was to transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles.

## PLANS FOR MANAGEMENT OF TECHNICAL DATA AND COMPUTER CAPABILITY IMPROVEMENTS

Pub. L. 98–525, title XII, §1252, Oct. 19, 1984, 98 Stat. 2610, which related to a plan for an improved system for the management of technical data relating to any major system of the Department of Defense and a plan to improve substantially the computer capability of each of the military departments and of the Defense Logistics Agency to store and access rapidly data that is needed for the efficient procurement of supplies, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(24), Dec. 18, 2025, 139 Stat. 950.

## CONSULTATION WITH ALLIES ON STRATEGIC DEFENSE INITIATIVE PROGRAM

Pub. L. 98–473, title I, §101(h) [title VIII, §8104], Oct. 12, 1984, 98 Stat. 1904, 1942, conveyed the sense of Congress that the President should consult with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning the research being conducted in the Strategic Defense Initiative program and that the Secretary of Defense should report the status of such consultations at the time of the submission of annual budget presentation materials for each fiscal year beginning after Sept. 30, 1984.

## ANTISATELLITE WEAPONS TEST

Pub. L. 100–180, div. A, title II, §208, Dec. 4, 1986, 101 Stat. 1048, prohibited the Secretary of Defense, until Oct. 1, 1988, from carrying out a test of the Space Defense System (antisatellite weapon) involving the F–15 launched miniature homing vehicle against an object in space until the President certified to Congress that the Soviet Union had conducted, after Dec. 4, 1987, a test against an object in space of a dedicated antisatellite weapon.

Pub. L. 99–661, div. A, title II, §231, Nov. 14, 1986, 100 Stat. 3847, prohibited the Secretary of Defense, until Oct. 1, 1987, from carrying out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certified to Congress that the Soviet Union had conducted, after Nov. 14, 1986, a test against an object in space of a dedicated anti-satellite weapon.

Similar provisions were contained in the following prior acts:

Pub. L. 99–500, §101(c) [title XI, §1101], Oct. 18, 1986, 100 Stat. 1783–82, 1783–177, and Pub. L. 99–591, §101(c) [title XI, §1101], Oct. 30, 1986, 100 Stat. 3341–82, 3341–177.

Pub. L. 99–190, §101(b) [title VIII, §8097], Dec. 19, 1985, 99 Stat. 1185, 1219.

Pub. L. 99–145, title II, §208(a), (b), Nov. 8, 1985, 99 Stat. 610, prohibited the use of funds to test the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President made a certification to Congress as provided in section 8100 of the Department of Defense Appropriations Act, 1985 (Pub. L. 98–473, title I, §101(h) [title VIII, §8100], formerly set out as a note below), and provided that no more than three such tests could be conducted before Oct. 1, 1986.

Pub. L. 98–473, title I, §101(h) [title VIII, §8100], Oct. 12, 1984, 98 Stat. 1904, 1941, prohibited the use of funds to test the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President made a certification to Congress that certain conditions had been satisfied, and provided that no more than three such tests could be conducted during fiscal year 1985.

Similar provisions were contained in the following prior authorization act:

Pub. L. 98–94, title XI, §1235, Sept. 24, 1983, 97 Stat. 695; as amended by Pub. L. 98–525, title II, §205, Oct. 19, 1984, 98 Stat. 2509.

## EAST COAST TRIDENT BASE AND MX MISSILE SYSTEM SITES; USE OF FUNDS APPROPRIATED TO DEPARTMENT OF DEFENSE; ASSISTANCE TO NEARBY COMMUNITIES TO HELP MEET COSTS OF INCREASED MUNICIPAL SERVICES

Pub. L. 96–418, title VIII, §802, Oct. 10, 1980, 94 Stat. 1775, as amended by Pub. L. 97–99, title IX, §904(b), Dec. 23, 1981, 95 Stat. 1382; Pub. L. 98–115, title VIII, §805, Oct. 11, 1983, 97 Stat. 785; Pub. L. 101–510, div. A, title XIII, §1322(f), Nov. 5, 1990, 104 Stat. 1672, authorized the Secretary of Defense to

assist communities located near MX Missile System sites and the East Coast Trident Base, and the States in which such communities were located, in meeting the increased costs of municipal services and facilities resulting from the construction and operation of the MX Missile System or the East Coast Trident Base.

**MX MISSILE AND BASING MODE**

Pub. L. 96–342, title II, §202, Sept. 8, 1980, 94 Stat. 1079, directed the Secretary of Defense to proceed with the development of the MX missile and a Multiple Protective Structure (MPS) basing mode in order to achieve an Initial Operational Capability not later than Dec. 31, 1986.

**DEVELOPMENT OF MX MISSILE SYSTEM**

Pub. L. 96–29, title II, §202, June 27, 1979, 93 Stat. 79, directed the Secretary of Defense to proceed with the development of the Multiple Protective Structure (MPS) system concurrently with the development of the MX missile, unless and until the Secretary of Defense certified to the Congress that an alternative basing mode was militarily or technologically superior to, and was more cost effective than, the MPS system or the President informed the Congress that in his view the MPS system was not consistent with United States national security interests.

**TRIDENT SUPPORT SITE, BANGOR, WASHINGTON; FINANCIAL AID TO LOCAL COMMUNITIES; REPORTS**

Pub. L. 93–552, title VI, §608, Dec. 27, 1974, 88 Stat. 1763, authorized the Secretary of Defense to assist communities located near the TRIDENT Support Site in Bangor, Washington, in meeting the increased costs of municipal services and facilities resulting from the construction and operation of the TRIDENT Weapon System, and directed the Secretary to transmit to the Committees on Armed Services of the Senate and the House of Representatives semiannual reports on such assistance provided during the preceding six-month period.

# CHAPTER 322—MAJOR SYSTEMS AND MAJOR DEFENSE ACQUISITION PROGRAMS GENERALLY


| Subchapter | | Sec. |
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| **I.** | **Management** | **4211** |
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**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 117–81, div. A, title XVII, §1701(b)(16)(A), Dec. 27, 2021, 135 Stat. 2134, amended Pub. L. 116–283, div. A, title XVIII, §1847(a), Jan. 1, 2021, 134 Stat. 4252, which added this analysis, by adding item for subchapter V and striking out a second item for subchapter III "Contractors".

## SUBCHAPTER I—MANAGEMENT


Sec.

4211. Acquisition strategy.

4212. Risk management and mitigation in major defense acquisition programs and major systems.

4213. [Reserved].

4214. Baseline description.

4215. [Reserved].

4216. [Reserved].

4217. [Reserved].

4218. [Reserved].

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(7), Dec. 27, 2021, 135 Stat. 2139, added item 4212 and struck out former item 4212 "Risk management and mitigation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SHOULD-COST MANAGEMENT**

Pub. L. 115–91, div. A, title VIII, §837, Dec. 12, 2017, 131 Stat. 1474, provided that:

"(a) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall amend the Defense Supplement to the Federal Acquisition Regulation to provide for the appropriate use of the should-cost review process of a major weapon system in a manner that is transparent, objective, and provides for the efficiency of the systems acquisition process in the Department of the Defense.

"(b) REQUIRED ELEMENTS.—The regulations required under subsection (a) shall incorporate, at a minimum, the following elements:

"(1) A description of the features of the should-cost review process.

"(2) Establishment of a process for communicating with the prime contractor on the program the elements of a proposed should-cost review.

"(3) A method for ensuring that identified should-cost savings opportunities are based on accurate, complete, and current information and can be quantified and tracked.

"(4) A description of the training, skills, and experience that Department of Defense and contractor officials carrying out a should-cost review in subsection (a) should possess.

"(5) A method for ensuring appropriate collaboration with the contractor throughout the review process.

"(6) Establishment of review process requirements that provide for sufficient analysis and minimize any impact on program schedule."

**MANAGEMENT OF MANUFACTURING RISK IN MAJOR DEFENSE ACQUISITION PROGRAMS**

Pub. L. 111–383, div. A, title VIII, §812, Jan. 7, 2011, 124 Stat. 4264, as amended by Pub. L. 112–81, div. A, title VIII, §834, Dec. 31, 2011, 125 Stat. 1506, which related to comprehensive guidance on the management of manufacturing risk in major defense acquisition programs, the inclusion of an assessment of the critical manufacturing readiness knowledge and skills needed in the acquisition workforce in the acquisition workforce chapter of the annual strategic workforce plan required by former section 115b of this title, and a plan of action for addressing any gaps in such knowledge and skills, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(B), Dec. 18, 2025, 139 Stat. 949.

**CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS**

Pub. L. 109–163, div. A, title VIII, §806, Jan. 6, 2006, 119 Stat. 3373, which required notification to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives prior to cancellation of a major automated information system program that had been fielded or approved to be fielded or making a change that would significantly reduce the scope of such a program, was repealed by Pub. L. 118–159, div. A, title XVII, §1701(g), Dec. 23, 2024, 138 Stat. 2207.

## §4211. Acquisition strategy

(a) ACQUISITION STRATEGY REQUIRED.—There shall be an acquisition strategy for each major defense acquisition program and each major system approved by a decision authority.

(b) RESPONSIBLE OFFICIAL.—For each acquisition strategy required by subsection (a), the Under Secretary of Defense for Acquisition and Sustainment, or the decision authority, when the decision authority is the service acquisition executive of the military department that is managing the program, is responsible for issuing and maintaining the requirements for—

(1) the content of the strategy; and
(2) the review and approval process for the strategy.

(c) CONSIDERATIONS.—(1) In issuing requirements for the content of an acquisition strategy for a major defense acquisition program or major system, the Under Secretary, or the decision authority, when the decision authority is the service acquisition executive of the military department that is managing the program, shall ensure that—

(A) the strategy clearly describes the proposed business case and capability management approach for the program or system, and to the maximum extent practicable, describes how capability requirements will be met through delivery of such program or system;

(B) the strategy contains a clear explanation of the resources, such as time, funding, and management capacity, necessary to meet capability requirements;

(C) the strategy is tailored to address program requirements and constraints; and

(D) the strategy considers the items listed in paragraph (2).

(2) Each strategy shall, where appropriate, consider the following:

(A) An approach that delivers required capabilities in increments, each depending on available mature technology, and that recognizes up front the need for future capability improvements or transitions to alternative end items through use of continuous competition.

(B) Requirements related to logistics, maintenance, and sustainment in accordance with sections 2464 and 2466 of this title, and the acquisition of technical data, computer software, and associated licenses, to enable such requirements in accordance with sections 3771 through 3775 of this title.

(C) A process for collaborative interaction and market research with the science and technology community, including Department of Defense science and technology reinvention laboratories, government innovation cells, academia, small businesses, nontraditional defense contractors, and other contractors.

(D) Identification of enterprise-wide designs and standards in support of an architecture that provides for an integrated suite of capabilities that focuses on simplicity of implementation and speed of delivery.

(E) Overarching roadmaps that create integrated strategic schedules of legacy systems and new capabilities.

(F) A contracting strategy that develops long-term partnerships with multiple companies to actively contribute to architectures, development, production, and sustainment across the capabilities to be developed by decomposing large systems into smaller sets of projects across time and technical component.

(G) An assignment of roles and responsibilities of key personnel of the acquisition workforce, identification of external stakeholder dependencies, and the need for subject matter expert inputs at critical points in the program, including the need for special hiring authority or advisory and assistance services, in order to deliver the desired capabilities.

(H) A process of testing and experimentation with the test community and end users to ensure continuous user feedback, acceptance, and development of concepts of operations.

(d) REVIEW.—The decision authority shall review and approve, as appropriate, the acquisition strategy for a major defense acquisition program or major system prior to the acquisition decision memorandum and ensure that the strategy is updated at regular intervals to incorporate significant changes to program requirements, resourcing, or acquisition decisions.

(e) DECISION AUTHORITY DEFINED.—In this section, the term "decision authority", with respect to a major defense acquisition program or major system, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program or system, including authority to approve entry of the program or system into the next phase of the acquisition process.

(Added Pub. L. 114–92, div. A, title VIII, §821(a)(1), Nov. 25, 2015, 129 Stat. 897, §2431a;

amended Pub. L. 114–328, div. A, title VIII, §848, Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115–91, div. A, title X, §1081(a)(39), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, §902(70), Dec. 20, 2019, 133 Stat. 1551; renumbered §4211 and amended Pub. L. 116–283, div. A, title XVIII, §1847(b)(1), (2), Jan. 1, 2021, 134 Stat. 4253; Pub. L. 117–81, div. A, title XVII, §1701(s)(1), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 118–159, div. A, title XVII, §1701(a)(39), Dec. 23, 2024, 138 Stat. 2205; Pub. L. 119–60, div. A, title XVIII, §1805(a), Dec. 18, 2025, 139 Stat. 1235.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1805(a)(1), struck out "milestone" before "decision authority".

Subsec. (b). Pub. L. 119–60, §1805(a)(2), in introductory provisions, struck out "milestone" before "decision authority" in two places.

Subsec. (c)(1). Pub. L. 119–60, §1805(a)(3)(A)(i), in introductory provisions, struck out "milestone" before "decision authority" in two places.

Subsec. (c)(1)(A). Pub. L. 119–60, §1805(a)(3)(A)(ii), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the strategy clearly describes the proposed top-level business and technical management approach for the program or system, in sufficient detail to allow the milestone decision authority to assess the viability of the proposed approach, the method of implementing laws and policies, and program objectives;".

Subsec. (c)(1)(B). Pub. L. 119–60, §1805(a)(3)(A)(iii), substituted "the resources, such as time, funding, and management capacity, necessary to meet capability requirements" for "how the strategy is designed to be implemented with available resources, such as time, funding, and management capacity".

Subsec. (c)(2). Pub. L. 119–60, §1805(a)(3)(B), amended par. (2) generally. Prior to amendment, par. (2) related to considerations for each acquisition strategy for a major defense acquisition program or major system.

Subsecs. (d), (e). Pub. L. 119–60, §1805(a)(4), added subsecs. (d) and (e) and struck out former subsecs. (d) and (e) which related to times for review and approval of the acquisition strategy and provided definitions for the section, respectively.

**2024**—Subsec. (a). Pub. L. 118–159, §1701(a)(39)(B), struck out ", each major automated information system," after "defense acquisition program".

Subsec. (c)(1). Pub. L. 118–159, §1701(a)(39)(A), struck out ", major automated information system," after "defense acquisition program" in introductory provisions.

Subsec. (c)(2)(H). Pub. L. 118–159, §1701(a)(39)(C), substituted "section 3501 of this title" for "sections 3501 through 3511 of this title".

Subsecs. (d), (e). Pub. L. 118–159, §1701(a)(39)(A), struck out ", major automated information system," after "defense acquisition program" wherever appearing.

**2021**—Pub. L. 116–283, §1847(b)(1)(A), renumbered section 2431a of this title as this section.

Subsec. (c)(2)(B). Pub. L. 116–283, §1847(b)(2), formerly §1847(b)(2)(B), as redesignated and amended by Pub. L. 117–81, §1701(s)(1), substituted "section 4820 of this title" for "section 2440 of this title".

Subsec. (c)(2)(D). Pub. L. 116–283, §1847(b)(1)(B)(i)(I), substituted "section 4324" for "section 2337".

Subsec. (c)(2)(F). Pub. L. 116–283, §1847(b)(1)(B)(i)(II), substituted "sections 3771 through 3775" for "section 2320".

Subsec. (c)(2)(H). Pub. L. 116–283, §1847(b)(1)(B)(i)(III), substituted "sections 3501 through 3511" for "section 2306b".

Subsec. (c)(3). Pub. L. 116–283, §1847(b)(2)(A), which directed the transfer of section 2440 of this title to subsec. (c)(3) of this section and substitution of "section 4811" for "section 2501" in text, was repealed by Pub. L. 117–81, §1701(s)(1)(A).

Subsec. (e). Pub. L. 116–283, §1847(b)(1)(C), which directed amendment of subsec. (e) by striking pars. (1) and (2) and redesignating pars. (3) to (10) as (1) to (8), respectively, was executed by striking pars. (1) and (2) and redesignating former pars. (3) to (9) as (1) to (7), respectively, to reflect the probable intent of Congress, as no par. (10) had been enacted. Prior to amendment, pars. (1) and (2) defined "major defense acquisition program" and "major system", respectively.

Subsec. (e)(4). Pub. L. 116–283, §1847(b)(1)(B)(ii)(I), substituted "section 4172(e)(7)" for "section 2366(e)(7)".

Subsec. (e)(7). Pub. L. 116–283, §1847(b)(1)(B)(ii)(II), substituted "section 4371(a)(2)" for "section

2433(a)(4)".

Subsec. (e)(8). Pub. L. 116–283, §1847(b)(1)(B)(ii)(III), substituted "section 4371(a)(3)" for "section 2433(a)(5)".

**2019**—Subsec. (b). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics" in introductory provisions.

**2017**—Subsec. (d)(1). Pub. L. 115–91 inserted "(1)" before "The milestone".

**2016**—Subsec. (b). Pub. L. 114–328, §848(1), in introductory provisions, inserted ", or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program," after "the Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (c)(1). Pub. L. 114–328, §848(2)(A), in introductory provisions, inserted ", or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program," after "the Under Secretary".

Subsec. (c)(2)(C). Pub. L. 114–328, §848(2)(B), struck out ", in accordance with section 2431b of this title" before period at end.

Subsec. (d). Pub. L. 114–328, §848(3), substituted "The" for "(1) Subject to the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the" and, in par. (2), inserted "because of a change described in paragraph (1)(F)" after "for a program or system".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4212. Risk management and mitigation in major defense acquisition programs and major systems

(a) REQUIREMENT.—The Secretary of Defense shall ensure that the initial acquisition strategy (required under section 4211 of this title) approved by the milestone decision authority and any subsequent revisions include the following:

(1) A comprehensive approach for managing and mitigating risk (including technical, cost, and schedule risk) during each of the following periods or when determined appropriate by the milestone decision authority:

(A) The period preceding engineering manufacturing development, or its equivalent.

(B) The period preceding initial production.

(C) The period preceding full-rate production.

(2) An identification of the major sources of risk in each of the periods listed in paragraph (1) to improve programmatic decisionmaking and appropriately minimize and manage program concurrency.

(b) APPROACH TO MANAGE AND MITIGATE RISKS.—The comprehensive approach to manage and mitigate risk included in the acquisition strategy for purposes of subsection (a)(1) shall, at a minimum, include consideration of risk mitigation techniques such as the following:

(1) Prototyping (including prototyping at the system, subsystem, or component level and competitive prototyping, where appropriate) and, if prototyping at either the system, subsystem, or component level is not used, an explanation of why it is not appropriate.

(2) Modeling and simulation, the areas that modeling and simulation will assess, and

identification of the need for development of any new modeling and simulation tools in order to support the comprehensive strategy.

(3) Technology demonstrations and decision points for disciplined transition of planned technologies into programs or the selection of alternative technologies.

(4) Multiple design approaches.

(5) Alternative designs, including any designs that meet requirements but do so with reduced performance.

(6) Phasing of program activities or related technology development efforts in order to address high-risk areas as early as feasible.

(7) Manufacturability and industrial base availability.

(8) Independent risk element assessments by outside subject matter experts.

(9) Schedule and funding margins for identified risks.

(c) PREFERENCE FOR PROTOTYPING.—To the maximum extent practicable and consistent with the economical use of available financial resources, the milestone decision authority for each major defense acquisition program shall ensure that the acquisition strategy for the program provides for—

(1) the production of competitive prototypes at the system or subsystem level before Milestone B approval; or

(2) if the production of competitive prototypes is not practicable, the production of single prototypes at the system or subsystem level.

(d) CONCURRENCY DEFINED.—In this section, the term "concurrency" means, with respect to an acquisition strategy, the combination or overlap of program phases or activities.

(Added Pub. L. 114–92, div. A, title VIII, §822(a)(1), Nov. 25, 2015, 129 Stat. 900, §2431b; amended Pub. L. 114–328, div. A, title X, §1081(a)(7), Dec. 23, 2016, 130 Stat. 2417; renumbered §4212 and amended Pub. L. 116–283, div. A, title XVIII, §1847(b)(3), Jan. 1, 2021, 134 Stat. 4254.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1847(b)(3), renumbered section 2431b of this title as this section.

Subsec. (a). Pub. L. 116–283, §1847(b)(3)(A), substituted "section 4211" for "section 2431a".

Subsec. (d). Pub. L. 116–283, §1847(b)(3)(B), substituted "Concurrency Defined" for "Definitions" in subsec. heading, struck out par. (1) designation and heading, substituted "In this section, the term" for "The term", and struck out par. (2) which defined "major defense acquisition program" and "major system".

**2016**—Subsec. (d). Pub. L. 114–328 amended subsec. (d) generally. Prior to amendment, subsec. (d) defined terms "major defense acquisition program" and "major system".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4214. Baseline description

(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program and for each designated major subprogram under the program under the jurisdiction of such Secretary.

(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the "Baseline Estimate" in sections 4371 through 4375 of this title), schedule, performance,

supportability, and any other factor of such major defense acquisition program or designated major subprogram.

(b) FUNDING LIMIT.—No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program or any designated major subprogram under the program may be obligated after the program or subprogram enters system development and demonstration without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Sustainment.

(c) SCHEDULE.—A baseline description for a major defense acquisition program or any designated major subprogram under the program shall be prepared under this section—

(1) before the program or subprogram enters system development and demonstration;

(2) before the program or subprogram enters production and deployment; and

(3) before the program or subprogram enters full rate production.

(d) ORIGINAL BASELINE ESTIMATE.—(1) In this subpart, the term "original Baseline Estimate", with respect to a major defense acquisition program or any designated major subprogram under the program, means the baseline description established with respect to the program or subprogram under subsection (a) prepared before the program or subprogram enters system development and demonstration, or at program or subprogram initiation, whichever occurs later, without adjustment or revision (except as provided in paragraph (2)).

(2) An adjustment or revision of the original baseline description of a major defense acquisition program or any designated major subprogram under the program may be treated as the original Baseline Estimate for the program or subprogram for purposes of this chapter only if the percentage increase in the program acquisition unit cost or procurement unit cost under such adjustment or revision exceeds the critical cost growth threshold for the program or subprogram under sections 4371 through 4375 of this title, as determined by the Secretary of the military department concerned under section 4374 of this title.

(3) In the event of an adjustment or revision of the original baseline description of a major defense acquisition program or any designated major subprogram under the program, the Secretary of Defense shall include in the next Selected Acquisition Report to be submitted under section 4351 of this title after such adjustment or revision a notification to the congressional defense committees of such adjustment or revision, together with the reasons for such adjustment or revision.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the following:

(1) The content of baseline descriptions under this section.

(2) The submission to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Sustainment by the program manager for a program for which there is an approved baseline description (or in the case of a major defense acquisition program with one or more designated major subprograms, approved baseline descriptions for such subprograms) under this section of reports of deviations from any such baseline description of the cost, schedule, performance, supportability, or any other factor of the program or subprogram.

(3) Procedures for review of such deviation reports within the Department of Defense.

(4) Procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.

(Added Pub. L. 99–500, §101(c) [title X, §904(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–133, and Pub. L. 99–591, §101(c) [title X, §904(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–133, §2435; Pub. L. 99–661, div. A, title IX, formerly title IV, §904(a)(1), Nov. 14, 1986, 100 Stat. 3912, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–26, §7(b)(6), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title VIII, §803(a), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 100–370, §1(i)(1), July 19, 1988, 102 Stat. 848; Pub. L. 100–456, div. A, title XII, §1233(l)(4), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–189, div. A, title VIII, §811(b), Nov. 29, 1989, 103 Stat. 1493; Pub. L. 101–510, div. A, title XII, §1207(b), title XIV, §1484(k)(11), Nov. 5, 1990, 104 Stat. 1665, 1719; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–355, title III, §3005(a), Oct. 13, 1994, 108 Stat. 3330; Pub. L. 107–107, div. A,

title VIII, §821(d), title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1182, 1225; Pub. L. 109–163, div. A, title VIII, §802(d)(1), Jan. 6, 2006, 119 Stat. 3369; Pub. L. 109–364, div. A, title VIII, §806, Oct. 17, 2006, 120 Stat. 2315; Pub. L. 110–417, [div. A], title VIII, §811(d), Oct. 14, 2008, 122 Stat. 4524; Pub. L. 116–92, div. A, title IX, §902(71), Dec. 20, 2019, 133 Stat. 1551; renumbered §4214 and amended Pub. L. 116–283, div. A, title XVIII, §1847(b)(4), Jan. 1, 2021, 134 Stat. 4254; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(C)(i), Dec. 27, 2021, 135 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

### 1988 ACT

Subsection (c) is based on Pub. L. 98–525, title XII, §1243, Oct. 19, 1984, 98 Stat. 2609, as amended by Pub. L. 100–26, §110(a)(1), Apr. 21, 1987, 101 Stat. 288.

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 110–417, §811(d)(2)(B), (3)(B), (4)(B)(i), which directed amendment of this section by inserting "or subprogram" after "the program" in subsec. (b) and after "the program" each place it appeared in subsecs. (c) and (d), was executed by making the insertions after "the program" each place it appeared in those subsecs. except after "designated major subprogram under the program", to reflect the probable intent of Congress.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1847(b)(4), renumbered section 2435 of this title as this section.

Subsec. (a)(2). Pub. L. 116–283, §1847(b)(4)(A), substituted "sections 4371 through 4375" for "section 2433".

Subsec. (d)(1). Pub. L. 116–283, §1847(b)(4)(B)(i), substituted "In this subpart" for "In this chapter".

Subsec. (d)(2). Pub. L. 116–283, §1847(b)(4)(A), (B)(ii), substituted "sections 4371 through 4375" for "section 2433" and "section 4374 of this title" for "subsection (d) of such section".

Subsec. (d)(3). Pub. L. 116–283, §1847(b)(4)(B)(iii), as amended by Pub. L. 117–81, §1701(o)(6)(C)(i), substituted "section 4351" for "section 2432".

**2019**—Subsecs. (b), (e)(2). Pub. L. 116–92 substituted "the Under Secretary of Defense for Acquisition and Sustainment" for "the Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2008**—Subsec. (a). Pub. L. 110–417, §811(d)(1), inserted "and for each designated major subprogram under the program" after "major defense acquisition program" in par. (1) and "or designated major subprogram" after "major defense acquisition program" in par. (2).

Subsec. (b). Pub. L. 110–417, §811(d)(2), inserted "or any designated major subprogram under the program" after "major defense acquisition program" and "or subprogram" after "after the program". See Codification note above.

Subsec. (c). Pub. L. 110–417, §811(d)(3), inserted "or any designated major subprogram under the program" after "major defense acquisition program" in introductory provisions and "or subprogram" after "the program" in pars. (1) to (3). See Codification note above.

Subsec. (d). Pub. L. 110–417, §811(d)(4), inserted "or any designated major subprogram under the program" after "major defense acquisition program" wherever appearing, in par. (1), inserted "or subprogram" after "to the program", "before the program", and "at program", and, in par. (2), inserted "or subprogram" after "for the program" in two places. See Codification note above.

Subsec. (e)(2). Pub. L. 110–417, §811(d)(5), inserted "(or in the case of a major defense acquisition program with one or more designated major subprograms, approved baseline descriptions for such subprograms)" after "baseline description" and "or subprogram" before period at end and substituted "any such baseline description" for "the baseline".

**2006**—Subsec. (d). Pub. L. 109–163 added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 109–364 inserted "prepared before the program enters system development and demonstration, or at program initiation, whichever occurs later" after "program under subsection (a)".

Subsec. (e). Pub. L. 109–163 redesignated subsec. (d) as (e).

**2001**—Subsec. (b). Pub. L. 107–107, §§821(d)(1), 1048(b)(2), substituted "system development and demonstration" for "engineering and manufacturing development" and "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (c)(1). Pub. L. 107–107, §821(d)(2)(A), substituted "system development and demonstration" for "demonstration and validation".

Subsec. (c)(2). Pub. L. 107–107, §821(d)(2)(B), substituted "production and deployment" for "engineering and manufacturing development".

Subsec. (c)(3). Pub. L. 107–107, §821(d)(2)(C), substituted "full rate production" for "production and deployment".

Subsec. (d)(2). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**1994**—Pub. L. 103–355 amended section generally. Prior to amendment, section related to enhanced program stability.

**1993**—Subsec. (b)(2)(B). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1990**—Subsec. (b)(1). Pub. L. 101–510, §1484(k)(11), struck out closing parenthesis after "such Secretary" in introductory provisions.

Subsec. (c). Pub. L. 101–510, §1207(b), struck out subsec. (c) which read as follows: "STABILITY OF PROGRAM MANAGERS.—(1) The tour of duty of an officer of the armed forces as a program manager of a major defense acquisition program shall be (A) not less than four years, or (B) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

"(2) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in paragraph (1). The authority under the preceding sentence may not be delegated."

**1989**—Subsec. (a)(2)(B)(iv). Pub. L. 101–189, §811(b)(1), substituted "production" for "development".

Subsec. (b)(1). Pub. L. 101–189, §811(b)(2)(A), substituted "service acquisition executive designated by such Secretary" for "senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))".

Subsec. (b)(2). Pub. L. 101–189, §811(b)(2)(B), substituted "180 days" for "90 days" in introductory provisions.

**1988**—Subsec. (b)(2). Pub. L. 100–456 clarified amendment by Pub. L. 100–180, §803(a). See 1987 Amendment note below.

Subsec. (c). Pub. L. 100–370 added subsec. (c).

**1987**—Subsec. (b)(2). Pub. L. 100–180, as amended by Pub. L. 100–456, substituted "under paragraph (1), and for which the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage; or any milestone specified in such baseline description will be missed by more than 90 days" for first reference to "under paragraph (1)".

Subsec. (c). Pub. L. 100–26, §7(b)(6), struck out subsec. (c) which defined "major defense acquisition program".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VIII, §802(e), Jan. 6, 2006, 119 Stat. 3370, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section and former section 2433 of this title] shall take effect on the date of the enactment of this Act [Jan. 6, 2006], and shall apply with respect to any major defense acquisition program for which an original Baseline Estimate is first established before, on, or after that date.

"(2) APPLICABILITY TO CURRENT MAJOR DEFENSE ACQUISITION PROGRAMS.—In the case of a major defense acquisition program for which the program acquisition unit cost or procurement unit cost, as applicable, exceeds the original Baseline Estimate for the program by more than 50 percent on the date of the enactment of this Act—

"(A) the current Baseline Estimate for the program as of such date of enactment is deemed to be the

original Baseline Estimate for the program for purposes of [former] section 2433 of title 10, United States Code [see 10 U.S.C. 4371 to 4375] (as amended by this section); and

"(B) each Selected Acquisition Report submitted on the program after the date of the enactment of this Act shall reflect each of the following:

"(i) The original Baseline Estimate, as first established for the program, without adjustment or revision.

"(ii) The Baseline Estimate for the program that is deemed to be the original Baseline Estimate for the program under subparagraph (A).

"(iii) The current original Baseline Estimate for the program as adjusted or revised, if at all, in accordance with subsection (d)(2) of section 2435 of title 10, United States Code [now 10 U.S.C. 4214(d)(2)] (as added by subsection (d) of this section)."

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title XII, §1207(b), Nov. 5, 1990, 104 Stat. 1665, provided that the amendment made by that section is effective Oct. 1, 1991.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–456 applicable as if included in the enactment of Pub. L. 100–180, see section 1233(l)(5) of Pub. L. 100–456 set out as a note under section 4172 of this title.

**EFFECTIVE DATE**

Pub. L. 99–500, §101(c) [title X, §904(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–134, and Pub. L. 99–591, §101(c) [title X, §904(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–134, and Pub. L. 99–661, div. A, title IX, formerly title IV, §904(b), Nov. 14, 1986, 100 Stat. 3914, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2435 of title 10, United States Code [now 10 U.S.C. 4214] (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act [Oct. 18, 1986]."

## SUBCHAPTER II—CONTRACTING

Sec.
4231. Major systems: determination of quantity for low-rate initial production.
4232. Prohibition on use of lowest price technically acceptable source selection process.
4233. [Reserved].
4234. [Reserved].
4235. [Reserved].
4236. Negotiation of price for technical data before development, production, or sustainment of major weapon systems.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(8), Dec. 27, 2021, 135 Stat. 2139, added item 4232 and struck out former item 4232 "Use of lowest price technically acceptable source selection process: prohibition".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**LIMITATION ON USE OF COST-TYPE CONTRACTS**

Pub. L. 112–239, div. A, title VIII, §811, Jan. 2, 2013, 126 Stat. 1828, as amended by Pub. L. 116–92, div. A, title IX, §902(66), Dec. 20, 2019, 133 Stat. 1550, provided that:

"(a) PROHIBITION WITH RESPECT TO PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall modify the acquisition regulations of the Department of Defense to prohibit the Department from entering into cost-type contracts for the production of major defense acquisition programs.

"(b) EXCEPTION.—

"(1) IN GENERAL.—The prohibition under subsection (a) shall not apply in the case of a particular cost-type contract if the service acquisition executive, in the case of a major defense acquisition program of

the military department, or the Under Secretary of Defense for Acquisition and Sustainment, in the case of a Defense-wide or Defense Agency major defense acquisition program, provides written certification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that a cost-type contract is needed to provide a required capability in a timely and cost-effective manner.

"(2) SCOPE OF EXCEPTION.—In any case for which the Under Secretary grants an exception under paragraph (1), the Under Secretary shall take affirmative steps to make sure that the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purposes of the exception. A written certification under paragraph (1) shall be accompanied by an explanation of the steps taken under this paragraph.

"(c) DEFINITIONS.—In this section:

"(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning given the term in section 2430(a) of title 10, United States Code [now 10 U.S.C. 4201].

"(2) PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'production of a major defense acquisition program' means the production and deployment of a major system that is intended to achieve an operational capability that satisfies mission needs, or any activity otherwise defined as Milestone C under Department of Defense Instruction 5000.02 or related authorities.

"(3) CONTRACT FOR THE PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM .—The term 'contract for the production of a major defense acquisition program'—

"(A) means a prime contract for the production of a major defense acquisition program; and

"(B) does not include individual line items for segregable efforts or contracts for the incremental improvement of systems that are already in production (other than contracts for major upgrades that are themselves major defense acquisition programs).

"(d) APPLICABILITY.—The requirements of this section shall apply to contracts for the production of major defense acquisition programs entered into on or after October 1, 2014."

## ESTIMATES OF POTENTIAL TERMINATION LIABILITY OF CONTRACTS FOR THE DEVELOPMENT OR PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 112–239, div. A, title VIII, §812, Jan. 2, 2013, 126 Stat. 1829, directed the Under Secretary of Defense for Acquisition, Technology, and Logistics to review, not later than 180 days after Jan. 2, 2013, relevant acquisition guidance and ensure that program managers for major defense acquisition programs are preparing estimates of potential termination liability for certain covered contracts and directed the Comptroller General of the United States to submit to the congressional defense committees, not later than 270 days after Jan. 2, 2013, a report on the extent to which the Department of Defense is considering potential termination liability as a factor in entering into and in terminating covered contracts.

## DETERMINATION OF CONTRACT TYPE FOR DEVELOPMENT PROGRAMS

Pub. L. 109–364, div. A, title VIII, §818(b)–(g), Oct. 17, 2006, 120 Stat. 2329, 2330, as amended by Pub. L. 117–263, div. A, title VIII, §808(a), Dec. 23, 2022, 136 Stat. 2705; Pub. L. 118–159, div. A, title VIII, §823, Dec. 23, 2024, 138 Stat. 1983; Pub. L. 119–60, div. A, title XVIII, §1805(b)(4), Dec. 18, 2025, 139 Stat. 1237, provided that:

"(b) MODIFICATION OF REGULATIONS.—Not later than 120 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall modify the regulations of the Department of Defense regarding the determination of contract type for development programs.

"(c) ELEMENTS.—As modified under subsection (b), the regulations shall require the Milestone Decision Authority for a major defense acquisition program to select the contract type for a development program at the time of a decision on Milestone B approval (or Key Decision Point B approval in the case of a space program) that is consistent with the level of program risk for the program. The Milestone Decision Authority may select—

"(1) a fixed-price type contract (including a fixed price incentive contract); or

"(2) a cost type contract.

"(d) CONDITIONS WITH RESPECT TO AUTHORIZATION OF COST TYPE CONTRACT.—As modified under subsection (b), the regulations shall provide that the Milestone Decision Authority may authorize the use of a cost type contract under subsection (c) for a development program only upon a written determination that—

"(1) the program is so complex and technically challenging that it would not be practicable to reduce program risk to a level that would permit the use of a fixed-price type contract; and

"(2) the complexity and technical challenge of the program is not the result of a failure to meet the requirements established in section 2366a of title 10, United States Code [now 10 U.S.C. 4251].

"(e) JUSTIFICATION FOR SELECTION OF CONTRACT TYPE.—As modified under subsection (b), the regulations shall require the Milestone Decision Authority to document the basis for the contract type selected for a program. The documentation shall include an explanation of the level of program risk for the program and, if the Milestone Decision Authority determines that the level of program risk is high, the steps that have been taken to reduce program risk and reasons for proceeding with Milestone B approval despite the high level of program risk.

"(f) CONDITIONS WITH RESPECT TO CERTAIN LOW-RATE INITIAL PRODUCTION.—

"(1) IN GENERAL.—The number of low-rate initial production lots associated with a major defense acquisition program may not be more than one if—

"(A) the milestone decision authority authorizes the use of a fixed-price type contract at the time of a decision on Milestone B approval; and

"(B) the scope of the work of the fixed-price type contract includes both the development and low-rate initial production of items for such major defense acquisition program.

"(2) WAIVER.—The limitation in paragraph (1) may be waived by the applicable service acquisition executive or a designee of such executive if—

"(A) such waiver authority is not delegated to the level of the contracting officer; and

"(B) written notification of a granted waiver, including the associated rationale, is provided to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 30 days after issuance of the waiver.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'low-rate initial production' has the meaning given under section 4231 of title 10, United States Code.

"(B) The term 'milestone decision authority' has the meaning given the term 'decision authority' in section 4211 of title 10, United States Code.

"(C) The term 'major defense acquisition program' has the meaning given in section 4201 of title 10, United States Code.

"(D) The term 'Milestone B approval' has the meaning given in section 4172(e) of title 10, United States Code.

"(g) CONDITIONS WITH RESPECT TO CERTAIN SHIPBUILDING CONTRACTS.—

"(1) LIMITATION.—With respect to a fixed-price type contract for the procurement of shipbuilding associated with a major defense acquisition program, the number of ships to be procured under such contract, including all options, may not be more than two if the scope of the work of such contract includes the detail design and the construction of items for such a major defense acquisition program.

"(2) WAIVER.—The Secretary concerned may waive the limitation in paragraph (1) if such Secretary submits to the congressional defense committees, not later than 30 days after issuance of such waiver, a written notification of such waiver that includes a certification that the basic and functional design of any ship to be procured under a contract described in paragraph (1) are [sic] complete.

"(3) DEFINITIONS.—In this subsection:

"(A) The term 'basic and functional design' has the meaning given in section 8669c of title 10, United States Code.

"(B) The term 'construction' means steel cutting and module fabrication, assembly, and outfitting, keel laying, and module erection supporting the launch and eventual delivery of a completed ship.

"(C) The term 'detail design' means design using computer-aided modeling to enable the generation of work instructions for construction of the ship, where such work instructions show detailed system information and support construction, including guidance for subcontractors and suppliers, installation drawings, schedules, material lists, and lists of prefabricated materials and parts."

[Pub. L. 117–263, div. A, title VIII, §808(b), Dec. 23, 2022, 136 Stat. 2705, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation and any applicable regulations regarding the use of fixed-price type contracts for a major defense acquisition program (as defined in section 4201 of title 10, United States Code) to carry out this section [enacting section 818(f) of Pub. L. 109–364, set out above] and the amendments made by this section."]

## §4231. Major systems: determination of quantity for low-rate initial production

(a) DETERMINATION OF QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.—(1) In the course of the development of a major system, the determination of what

quantity of articles of that system should be procured for low-rate initial production (including the quantity to be procured for preproduction verification articles) shall be made—

(A) when the milestone B decision with respect to that system is made; and

(B) by the official of the Department of Defense who makes that decision.

(2) In this section, the term "milestone B decision" means the decision to approve the system development and demonstration of a major system by the official of the Department of Defense designated to have the authority to make that decision.

(3) Any increase from a quantity determined under paragraph (1) may only be made with the approval of the official making the determination.

(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone B decision.

(5) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone B decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity. For purposes of this paragraph, the term "SAR" means a Selected Acquisition Report submitted under section 4351 of this title.

(b) LOW-RATE INITIAL PRODUCTION OF WEAPON SYSTEMS.—Except as provided in subsection (c), low-rate initial production with respect to a new system is production of the system in the minimum quantity necessary—

(1) to provide production-configured or representative articles for operational tests pursuant to section 4171 of this title;

(2) to establish an initial production base for the system; and

(3) to permit an orderly increase in the production rate for the system sufficient to lead to full-rate production upon the successful completion of operational testing.

(c) LOW-RATE INITIAL PRODUCTION OF NAVAL VESSEL AND SATELLITE PROGRAMS.—With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (1) preserves the mobilization production base for that system, and (2) is feasible, as determined pursuant to regulations prescribed by the Secretary of Defense.

(Added Pub. L. 101–189, div. A, title VIII, §803(a), Nov. 29, 1989, 103 Stat. 1487, §2400; amended Pub. L. 103–355, title III, §3015, Oct. 13, 1994, 108 Stat. 3332; Pub. L. 104–106, div. A, title X, §1062(d), div. D, title XLIII, §4321(b)(13), Feb. 10, 1996, 110 Stat. 444, 673; Pub. L. 107–107, div. A, title VIII, §821(c), Dec. 28, 2001, 115 Stat. 1182; renumbered §4231 and amended Pub. L. 116–283, div. A, title XVIII, §1847(c)(1), Jan. 1, 2021, 134 Stat. 4254; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(C)(ii), Dec. 27, 2021, 135 Stat. 2147.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1847(c)(1)(B), amended section catchline generally. Prior to amendment, section catchline read as follows: "Low-rate initial production of new systems".

Pub. L. 116–283, §1847(c)(1)(A), renumbered section 2400 of this title as this section.

Subsec. (a)(5). Pub. L. 116–283, §1847(c)(1)(A)(i), as amended by Pub. L. 117–81, §1701(o)(6)(C)(ii), substituted "section 4351" for "section 2432".

Subsec. (b)(1). Pub. L. 116–283, §1847(c)(1)(A)(ii), substituted "section 4171" for "section 2399".

**2001**—Subsec. (a)(1)(A). Pub. L. 107–107, §821(c)(1), substituted "milestone B" for "milestone II".

Subsec. (a)(2). Pub. L. 107–107 substituted "milestone B" for "milestone II" and "system development and demonstration" for "engineering and manufacturing development".

Subsec. (a)(4), (5). Pub. L. 107–107, §821(c)(1), substituted "milestone B" for "milestone II".

**1996**—Subsec. (a)(5). Pub. L. 104–106, §4321(b)(13), substituted "this paragraph" for "the preceding

sentence".

Subsec. (c). Pub. L. 104–106, §1062(d), struck out "(1)" before "With respect to", redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows: "For each naval vessel program and military satellite program, the Secretary of Defense shall submit to Congress a report providing—

"(A) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity;

"(B) a test and evaluation master plan for that program; and

"(C) an acquisition strategy for that program that has been approved by the Secretary, to include the procurement objectives in terms of total quantity of articles to be procured and annual production rates."

**1994**—Subsec. (a)(2). Pub. L. 103–355, §3015(1), substituted "this section" for "paragraph (1)" and "engineering and manufacturing development" for "full-scale engineering development".

Subsec. (a)(4). Pub. L. 103–355, §3015(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (a)(5). Pub. L. 103–355, §3015(2), redesignated par. (4) as (5) and inserted after first sentence "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(13) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

## §4232. Prohibition on use of lowest price technically acceptable source selection process

(a) IN GENERAL.—The Department of Defense shall not use a lowest price technically acceptable source selection process for the engineering and manufacturing development contract of a major defense acquisition program.

(b) DEFINITIONS.—In this section:

(1) LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION PROCESS .—The term "lowest price technically acceptable source selection process" has the meaning given that term in part 15 of the Federal Acquisition Regulation.

(2) ENGINEERING AND MANUFACTURING DEVELOPMENT CONTRACT.—The term "engineering and manufacturing development contract" means a prime contract for the engineering and manufacturing development of a major defense acquisition program.

(Added Pub. L. 115–91, div. A, title VIII, §832(a)(1), Dec. 12, 2017, 131 Stat. 1468, §2442; renumbered §4232 and amended Pub. L. 116–283, div. A, title XVIII, §1847(c)(2), Jan. 1, 2021, 134 Stat. 4254.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2442 of this title as this section and, in subsec. (b), redesignated par. (3) as (2) and struck out former par. (2) which defined "major defense acquisition program".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 115–91, div. A, title VIII, §832(b), Dec. 12, 2017, 131 Stat. 1468, provided that: "The requirements of section 2442 of title 10, United States Code [now 10 U.S.C. 4232], as added by subsection (a), shall apply to major defense acquisition programs for which budgetary authority is requested for fiscal year 2019 or a subsequent fiscal year."

## §4236. Negotiation of price for technical data before development, production, or sustainment of major weapon systems

The Secretary of Defense shall ensure, to the maximum extent practicable, that the Department of Defense, before selecting a contractor for the engineering and manufacturing development of a major weapon system, production of a major weapon system, or sustainment of a major weapon system, negotiates a price for technical data to be delivered under a contract for such development, production, or sustainment.

(Added Pub. L. 115–91, div. A, title VIII, §835(a)(1), Dec. 12, 2017, 131 Stat. 1471, §2439; amended Pub. L. 115–232, div. A, title VIII, §867, Aug. 13, 2018, 132 Stat. 1901; renumbered §4236, Pub. L. 116–283, div. A, title XVIII, §1847(c)(3), Jan. 1, 2021, 134 Stat. 4254.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2439 of this title as this section.

**2018**—Pub. L. 115–232, §867(4), substituted ", production, or sustainment" for "or production" in section catchline.

Pub. L. 115–232, §867(1)–(3), inserted ", to the maximum extent practicable," after "shall ensure" and substituted "production of a major weapon system, or sustainment of a major weapon system" for "or for the production of a major weapon system" and ", production, or sustainment" for "or production".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 115–91, div. A, title VIII, §835(a)(3), Dec. 12, 2017, 131 Stat. 1471, provided that: "Section 2439 of title 10, United States Code [now 10 U.S.C. 4236], as added by paragraph (1), shall apply with respect to any contract for engineering and manufacturing development of a major weapon system, or for the production of a major weapon system, for which the contract solicitation is issued on or after the date occurring one year after the date of the enactment of this Act [Dec. 12, 2017]."

# SUBCHAPTER III—MILESTONES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Sec.
4251. Major defense acquisition programs: factors to be considered before Milestone A approval.
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4254. [Reserved].

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title VIII, §§806(a)(2), 807(1), Dec. 23, 2024, 138 Stat. 1974, substituted "factors to be considered" for "determination required" in item 4251 and "factors to be considered before" for "certification required before" in item 4252. Amendment to item 4252 was made pursuant to operation of section 102 of this title.

## §4251. Major defense acquisition programs: factors to be considered before Milestone A approval

(a) RESPONSIBILITIES.—Before granting Milestone A approval for a major defense acquisition program or a major subprogram, the milestone decision authority for the program or subprogram shall ensure that—

(1) information about the program or subprogram is sufficient to warrant entry of the program or subprogram into the risk reduction phase;

(2) the cost, schedule, technical feasibility, and performance trade-offs that have been made with regard to the program do not overly constrain future trade space; and

(3) there are sound plans for progression of the program or subprogram to the development phase.

(b) FACTORS TO BE CONSIDERED FOR MILESTONE A APPROVAL.—A major defense acquisition program or subprogram may not receive Milestone A approval or otherwise be initiated prior to Milestone B approval until the milestone decision authority confirms that the following factors were considered in the decision to grant Milestone A approval:

(1) The program or subprogram fulfills an approved requirements document.

(2) The program or subprogram has conducted appropriate market research.

(3) With respect to any identified areas of risk, there is a plan to reduce the risk.

(4) Planning for sustainment has been addressed.

(5) An analysis of alternatives has been performed consistent with study guidance developed by the Director of Cost Assessment and Program Evaluation, or in lieu of an analysis of alternatives, early experimentation with a combatant commander has been conducted.

(6) A life cycle cost estimate for the program or subprogram has been submitted by the component and that the level of resources required to complete the technology maturation and risk reduction phase of the program is sufficient for successful program execution.

(7) The program or subprogram meets any other considerations the milestone decision authority considers relevant.

(c) WRITTEN RECORD OF A MILESTONE DECISION.—The milestone decision authority shall issue a written record of a milestone decision at the time that Milestone A approval is granted. The record shall confirm compliance with subsection (b) and specifically state that the milestone decision authority considered the factors described in such subsection prior to the decision to grant milestone approval. The milestone decision authority shall retain records of the basis for the milestone decision.

(d) SUBMISSIONS TO CONGRESS ON MILESTONE A.—

(1) NOTIFICATION.—Not later than 15 days after granting Milestone A approval for a major

defense acquisition program, the milestone decision authority for the program shall provide to the congressional defense committees and, in the case of intelligence or intelligence-related activities, the congressional intelligence committees a written record of the milestone decision.

(2) ADDITIONAL INFORMATION.—At the request of any of the congressional defense committees or, in the case of intelligence or intelligence-related activities, the congressional intelligence committees, the milestone decision authority shall submit to the committee an explanation of the basis for the decision to grant Milestone A approval with respect to a major defense acquisition program or major subprogram, and make available all underlying documentation.

(e) DEFINITIONS.—In this section:

(1) The term "requirements document" means any capabilities requirement document that establishes the need for a materiel approach to resolve a capability gap.

(2) The term "Milestone A approval" means a decision to enter into technology maturation and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(3) The term "Milestone B approval" has the meaning provided that term in section 4172(e)(7) of this title.

(4) The term "milestone decision authority", with respect to a major defense acquisition program or a major subprogram, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program or subprogram, including authority to approve entry of the program or subprogram into the next phase of the acquisition process.

(5) The term "congressional intelligence committees" has the meaning given that term in section 437(c) of this title.

(Added Pub. L. 110–181, div. A, title IX, §943(a)(1), Jan. 28, 2008, 122 Stat. 288, §2366b; renumbered §2366a and amended Pub. L. 110–417, [div. A], title VIII, §813(b), (e)(1), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–23, title I, §101(d)(3), title II, §§201(e), 204(a), (b), May 22, 2009, 123 Stat. 1710, 1720, 1723; Pub. L. 111–383, div. A, title VIII, §814(b), title X, §1075(b)(33), Jan. 7, 2011, 124 Stat. 4266, 4370; Pub. L. 112–81, div. A, title VIII, §801(a), (e)(1), Dec. 31, 2011, 125 Stat. 1482, 1483; Pub. L. 112–239, div. A, title III, §322(e)(1), title X, §1076(a)(10), Jan. 2, 2013, 126 Stat. 1695, 1948; Pub. L. 114–92, div. A, title VIII, §823(a), Nov. 25, 2015, 129 Stat. 902; Pub. L. 114–328, div. A, title VIII, §§806(b), 807(d), 808(a), Dec. 23, 2016, 130 Stat. 2259, 2262; Pub. L. 115–232, div. A, title VIII, §831(b)(2), Aug. 13, 2018, 132 Stat. 1857; Pub. L. 116–92, div. A, title XVII, §1731(a)(44), Dec. 20, 2019, 133 Stat. 1814; renumbered §4251 and amended Pub. L. 116–283, div. A, title XVIII, §1847(d)(1), Jan. 1, 2021, 134 Stat. 4254; Pub. L. 118–159, div. A, title VIII, §806(a)(1), Dec. 23, 2024, 138 Stat. 1972; Pub. L. 119–60, div. A, title XVIII, §1811(g)(2), Dec. 18, 2025, 139 Stat. 1243.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (e)(1). Pub. L. 119–60 struck out "approved by the Joint Requirements Oversight Council" after "capabilities requirement document".

**2024**—Pub. L. 118–159, §806(a)(1)(A), substituted "factors to be considered" for "determination required" in section catchline.

Subsec. (a)(2). Pub. L. 118–159, §806(a)(1)(B)(ii), inserted "do not overly constrain future trade space" after "with regard to the program".

Pub. L. 118–159, §806(a)(1)(B)(i), which directed striking out "the Secretary of the military department concerned and the Chief of the armed forces concerned concur in", was executed by striking out "the Secretary of the military department concerned and the Chief of the armed force concerned concur in" before "the cost", to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 118–159, §806(a)(1)(C), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to written determination requirements for approval.

Subsec. (c). Pub. L. 118–159, §806(a)(1)(E), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 118–159, §806(a)(1)(D), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 118–159, §806(a)(1)(F)(i)(II), substituted "a written record of the milestone decision." for "a brief summary report that contains the following elements:" and struck out subpars. (A) to (G) which listed elements to be included in the brief summary report required for Milestone A approval.

Pub. L. 118–159, §806(a)(1)(F)(i)(I), which directed substitution of "NOTIFICATION" for "BRIEF SUMMARY REPORT" in heading, was executed by substituting "NOTIFICATION" for "BRIEF SUMMARY REPORT", to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 118–159, §806(a)(1)(F)(ii), amended par. (2) generally. Prior to amendment, par. (2) related to requests for additional explanation of the basis for a determination.

Subsec. (e). Pub. L. 118–159, §806(a)(1)(D), (G), redesignated subsec. (d) as (e) and substituted "requirements document" for "initial capabilities document" in par. (1), redesignated pars. (5) and (8) as (4) and (5), respectively, and struck out former pars. (4), (6), and (7) which defined core logistics capabilities, fielding target, and major system component, respectively.

**2021**—Pub. L. 116–283, §1847(d)(1)(A), renumbered section 2366a of this title as this section.

Subsec. (b)(4). Pub. L. 116–283, §1847(d)(1)(B)(i), substituted "section 4272(a)(1)" for "section 2448b(a)(1)".

Subsec. (b)(8). Pub. L. 116–283, §1847(d)(1)(B)(ii), substituted "subchapter II of chapter 327" for "subchapter II of chapter 144B".

Subsec. (c)(1)(A). Pub. L. 116–283, §1847(d)(1)(C)(i), substituted "section 4271(a)" for "section 2448a(a)".

Subsec. (c)(1)(C). Pub. L. 116–283, §1847(d)(1)(C)(ii), substituted "section 3221(b)(6)" for "section 2334(a)(6)".

Subsec. (c)(1)(E). Pub. L. 116–283, §1847(d)(1)(C)(iii), substituted "section 4272" for "section 2448b".

Subsec. (d)(1), (2). Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which defined "major defense acquisition program".

Subsec. (d)(3). Pub. L. 116–283, §1847(d)(1)(D)(ii), substituted "section 4172(e)(7)" for "section 2366(e)(7)".

Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (d)(4), (5). Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated pars. (5) and (7) as (4) and (5), respectively. Former par. (4) redesignated (3).

Subsec. (d)(6). Pub. L. 116–283, §1847(d)(1)(D)(iii), substituted "section 4271(a)" for "section 2448a(a)".

Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated par. (8) as (6) and struck out former par. (6) which defined "major subprogram".

Subsec. (d)(7). Pub. L. 116–283, §1847(d)(1)(D)(iv), substituted "section 4401(b)(3)" for "section 2446a(b)(3)".

Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated par. (9) as (7). Former par. (7) redesignated (5).

Subsec. (d)(8) to (10). Pub. L. 116–283, §1847(d)(1)(D)(i), redesignated pars. (8) to (10) as (6) to (8), respectively.

**2019**—Subsec. (c)(1)(F). Pub. L. 116–92 substituted "subsection (b)(6)" for "section 2366a(b)(6) of this title".

**2018**—Subsec. (c)(1)(A). Pub. L. 115–232 struck out "by the Secretary of Defense" after "established".

**2016**—Subsec. (b)(4). Pub. L. 114–328, §807(d), inserted ", including risks determined by the identification of critical technologies required under section 2448b(a)(1) of this title or any other risk assessment" after "areas of risk".

Subsec. (b)(8), (9). Pub. L. 114–328, §806(b), added par. (8) and redesignated former par. (8) as (9).

Subsec. (c). Pub. L. 114–328, §808(a)(1), amended subsec. (c) generally. Prior to amendment, text of subsec. (c) read as follows: "At the request of any of the congressional defense committees, the Secretary of Defense shall submit to the committee an explanation of the basis for a determination made under subsection (b) with respect to a major defense acquisition program, together with a copy of the written determination. The explanation shall be submitted in unclassified form, but may include a classified annex."

Subsec. (d)(8) to (10). Pub. L. 114–328, §808(a)(2), added pars. (8) to (10).

**2015**—Pub. L. 114–92 amended section generally. Prior to amendment, section related to certification required before Milestone A approval of major defense acquisition programs.

**2013**—Pub. L. 112–239, §1076(a)(10)(C), made technical amendment to directory language of Pub. L. 112–81, §801(e)(1)(A). See 2011 Amendment note below.

Subsec. (a)(4). Pub. L. 112–239, §322(e)(1), substituted "core logistics capabilities" for "core depot-level maintenance and repair capabilities".

Subsec. (a)(5), (6). Pub. L. 112–239, §1076(a)(10)(A), made technical amendment to directory language of Pub. L. 112–81, §801(a)(1)(B). See 2011 Amendment notes below.

Subsec. (c)(7). Pub. L. 112–239, §1076(a)(10)(B), made technical amendment to directory language of Pub. L. 112–81, §801(a)(2). See 2011 Amendment note below.

Pub. L. 112–239, §322(e)(1), substituted "core logistics capabilities" for "core depot-level maintenance and repair capabilities" in two places.

**2011**—Pub. L. 112–81, §801(e)(1)(A), as amended by Pub. L. 112–239, §1076(a)(10)(C), struck out "or Key Decision Point A" after "Milestone A" in section catchline.

Subsec. (a). Pub. L. 112–81, §801(e)(1)(B), struck out ", or Key Decision Point A approval in the case of a space program," after "Milestone A approval" and ", or Key Decision Point B approval in the case of a space program," after "Milestone B approval" in introductory provisions.

Subsec. (a)(2). Pub. L. 112–81, §801(a)(1)(A), substituted "function" for "core competency".

Subsec. (a)(4). Pub. L. 112–81, §801(a)(1)(C), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 112–81, §801(a)(1)(B), as amended by Pub. L. 112–239, §1076(a)(10)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 112–81, §801(a)(1)(D), substituted "develop, procure, and sustain" for "develop and procure".

Pub. L. 112–81, §801(a)(1)(B), as amended by Pub. L. 112–239, §1076(a)(10)(A), redesignated par. (5) as (6).

Subsec. (b)(1). Pub. L. 112–81, §801(e)(1)(C)(i), struck out "(or Key Decision Point A approval in the case of a space program)" after "Milestone A approval".

Pub. L. 111–383, §814(b)(1)(A), substituted "a major defense acquisition program certified by the Milestone Decision Authority under subsection (a) or a designated major subprogram of such program, if the projected cost of the program or subprogram" for "a major defense acquisition program certified by the Milestone Decision Authority under subsection (a), if the projected cost of the program".

Subsec. (b)(2). Pub. L. 111–383, §814(b)(1)(B), inserted "or designated major subprogram" after "major defense acquisition program".

Subsec. (b)(2)(C)(ii). Pub. L. 112–81, §801(e)(1)(C)(ii), struck out ", or Key Decision Point A approval in the case of a space program," after "Milestone A approval".

Subsec. (c). Pub. L. 111–383, §1075(b)(33)(A), inserted a space after "(c)".

Subsec. (c)(2) to (5). Pub. L. 111–383, §814(b)(2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively. Former par. (5) redesignated (6).

Pub. L. 111–383, §1075(b)(33)(B), which directed substitution of "section 118b(c)(3) of this title" for "section 125a(a) of this title" in par. (4), was executed by making the substitution in par. (5) to reflect the probable intent of Congress and the amendment by Pub. L. 111–383, §814(b)(2)(A). See above.

Subsec. (c)(6). Pub. L. 111–383, §814(b)(2)(A), redesignated par. (5) as (6).

Subsec. (c)(7). Pub. L. 112–81, §801(a)(2), as amended by Pub. L. 112–239, §1076(a)(10)(B), added par. (7).

**2009**—Subsec. (a). Pub. L. 111–23, §204(a), substituted "may not receive Milestone A approval, or Key Decision Point A approval in the case of a space program, or otherwise be initiated prior to Milestone B approval, or Key Decision Point B approval in the case of a space program," for "may not receive Milestone A approval, or Key Decision Point A approval in the case of a space program," in introductory provisions.

Subsec. (a)(3). Pub. L. 111–23, §201(e)(1), struck out "and" at end.

Subsec. (a)(4). Pub. L. 111–23, §201(e)(3), added par. (4). Former par. (4) redesignated (5).

Pub. L. 111–23, §101(d)(3), inserted ", with the concurrence of the Director of Cost Assessment and Program Evaluation," after "has been submitted".

Subsec. (a)(5). Pub. L. 111–23, §201(e)(2), redesignated par. (4) as (5).

Subsec. (b). Pub. L. 111–23, §204(b), designated existing provisions as par. (1), substituted "by at least 25 percent, or the program manager determines that the period of time required for the delivery of an initial operational capability is likely to exceed the schedule objective established pursuant to section 181(b)(5) of this title by more than 25 percent," for "by at least 25 percent,", and added par. (2).

**2008**—Pub. L. 110–417, §813(b), renumbered section 2366b of this title as this section.

Subsec. (a)(1), (2). Pub. L. 110–417, §813(e)(1)(A), substituted "program" for "system".

Subsec. (a)(3). Pub. L. 110–417, §813(e)(1)(B), substituted "if the program" for "if the system" and "such program" for "such system".

Subsec. (a)(4). Pub. L. 110–417, §813(e)(1)(A), substituted "program" for "system" in two places.

Subsec. (b). Pub. L. 110–417, §813(e)(1)(C), substituted "major defense acquisition program" for "major system", "cost of the program" for "cost of the system", "estimate for the program" for "estimate for the

system", "the program concerned" for "the system concerned", and "procure the program" for "procure the system".

Subsec. (c)(1). Pub. L. 110–417, §813(e)(1)(D), substituted " 'major defense acquisition program' " for " 'major system' " and "2430" for "2302(5)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title III, §322(f), Jan. 2, 2013, 126 Stat. 1695, provided that: "This section [enacting sections 2460 and 2464 of this title, amending this section and sections 2366b, 2460, and 2464 of this title, repealing sections 2460 and 2464 of this title, and amending provisions set out as a note under this section] and the amendments made by this section shall take effect on December 31, 2011, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012 [Pub. L. 112–81], immediately after the enactment of that Act."

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(10) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE

Pub. L. 110–181, div. A, title IX, §943(c), Jan. 28, 2008, 122 Stat. 289, as amended by Pub. L. 110–417, [div. A], title VIII, §813(e)(2)(B), Oct. 14, 2008, 122 Stat. 4528, provided that: "Section 2366b of title 10, United States Code [now 10 U.S.C. 4251], as added by subsection (a), shall apply to major defense acquisition programs on and after March 1, 2008. In the case of the certification required by [former] paragraph (2) of subsection (a) of such section, during the period prior to the completion of the first quadrennial roles and missions review required by [former] section 118b of title 10, United States Code, the certification required by that paragraph shall be that the system is being executed by an entity with a relevant core competency as identified by the Secretary of Defense."

### ANALYSIS OF ALTERNATIVES PURSUANT TO MATERIEL DEVELOPMENT DECISIONS

Pub. L. 116–92, div. A, title VIII, §832, Dec. 20, 2019, 133 Stat. 1493, provided that:

"(a) TIMELINE.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall update existing guidance for analyses of alternatives conducted pursuant to a materiel development decision for a major defense acquisition program to incorporate the following:

"(1) Study completion within nine months.

"(2) Study guidance issued by the Director, Cost Assessment and Program Evaluation of a scope designed to provide for reasonable completion of the study within the nine-month period.

"(3) Procedures for waiver of the timeline requirements of this subsection on a case-by-case basis if—

"(A) the subject of the analysis is of extreme technical complexity;

"(B) collection of additional intelligence is required to inform the analysis;

"(C) insufficient technical expertise is available to complete the analysis; or

"(D) the Secretary determines that there [are] other sufficient reasons for delay of the analysis.

"(b) REPORTING.—If an analysis of alternatives cannot be completed within the allotted time, or a waiver is used, the Secretary shall report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the following information:

"(1) For a waiver, the basis for use of the waivers, including the reasons why the study cannot be completed within the allotted time.

"(2) For a study estimated to take more than nine months—

"(A) an estimate of when the analysis will be completed;

"(B) an estimate of any additional costs to complete the analysis; and

"(C) other relevant information pertaining to the analysis and its completion.

"(c) REPORT ON ANALYSES OF ALTERNATIVES.—

"(1) ASSESSMENT.—

"(A) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment shall engage with an independent entity, including under the Program for Acquisition Innovation Research, to

assess the conduct of analyses of alternatives.

"(B) ELEMENTS.—The assessment required under subparagraph (A) shall—

"(i) assess the time required to complete analyses of alternatives within the Department of Defense completed over the last five fiscal years, as compared with best practices;

"(ii) provide recommendations and policy options to improve analyses of alternatives; and

"(iii) discuss any other matters as identified by the Under Secretary.

"(C) ACCESS TO DATA.—The Under Secretary shall ensure that the independent entity is provided access to the data, information, and resources necessary to complete the required analyses and assessment.

"(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Under Secretary shall submit to the congressional defense committees a report including the assessment required under paragraph (1) and a review and assessment by the Under Secretary of the findings made in the assessment."

**MILESTONE A DECISIONS**

Pub. L. 114–92, div. A, title VIII, §802(d)(2), Nov. 25, 2015, 129 Stat. 880, which required the Chief of the Armed Force concerned to provide the Chief's views on cost, schedule, technical feasibility, and performance trade-offs to the milestone decision authority for a major defense acquisition program prior to a Milestone A decision, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(8)(A), Dec. 18, 2025, 139 Stat. 948.

**GUIDANCE**

Pub. L. 112–81, div. A, title VIII, §801(d), Dec. 31, 2011, 125 Stat. 1483, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall issue guidance implementing the amendments made by subsections (a) and (b) [amending this section and section 2366b of this title], and subsection (c) [set out as a note preceding section 4321 of this title], in a manner that is consistent across the Department of Defense."

## §4252. Major defense acquisition programs: factors to be considered before Milestone B approval

(a) RESPONSIBILITIES.—Before granting Milestone B approval for a major defense acquisition program or major subprogram, the milestone decision authority for the program or subprogram shall ensure that—

(1) information about the program or subprogram is sufficient to warrant entry of the program or subprogram into the engineering and manufacturing development phase;

(2) appropriate trade-offs among cost, schedule, technical feasibility, and performance objectives have been made to ensure that the program or subprogram is affordable when considering the per-unit cost and the total life-cycle cost, and the Secretary of the military department concerned and the Chief of the armed force concerned concur with these trade-offs; and

(3) there are sound plans for progression of the program or subprogram to the production phase.

(b) FACTORS TO BE CONSIDERED FOR MILESTONE B APPROVAL.—A major defense acquisition program or major subprogram may not receive Milestone B approval until the milestone decision authority confirms the following factors were considered in the decision to grant Milestone B approval:

(1) The program or subprogram has received a preliminary design review and a formal post-preliminary design review or an equivalent assessment was conducted.

(2) The technology in the program or subprogram has been demonstrated in a relevant environment.

(3) The program or subprogram is affordable when considering the ability of the Department of Defense to accomplish the program's or subprogram's general mission using alternative systems.

(4) Reasonable lifecycle cost and schedule estimates have been developed to execute, with the concurrence of the Director of Cost Assessment and Program Evaluation, the plan under the program or subprogram.

(5) The estimated procurement unit cost for the program or subprogram and the estimated date for initial operational capability for the baseline description for the program or subprogram (under section 4214 of this title) have been established.

(6) Funding is expected to be available to execute the product development and production plan for the program or subprogram, consistent with the estimates described in paragraph (4) for the program or subprogram.

(7) Appropriate market research has been conducted prior to technology development, including market research of commercial products, commercial services, and nondevelopmental items (as defined in section 110 of title 41).

(8) The Department of Defense has completed an analysis of alternatives with respect to the program or subprogram, or in lieu of an analysis of alternatives, early experimentation with a combatant commander has been conducted.

(9) Life-cycle sustainment planning has identified and evaluated relevant sustainment cost elements, factors, risks, and gaps that are likely to drive readiness of the system as well as operating and supporting costs.

(10) An estimate has been made of the requirements for core logistics capabilities and the associated sustaining workloads required to support such requirements.

(11) The program or subprogram complies with all relevant policies, regulations, and directives of the Department of Defense.

(12) Appropriate actions are planned for the acquisition of technical data required to support the program or subprogram.

(13) The program or subprogram has an approved life cycle sustainment plan required under section 4324(b) of this title.

(14) In the case of a naval vessel program or subprogram, such program or subprogram is in compliance with the requirements of section 8669b of this title.

(c) WRITTEN RECORD OF MILESTONE DECISION.—The milestone decision authority shall issue a written record of decision at the time that Milestone B approval is granted. The record shall confirm compliance with subsection (b) and specifically state that the milestone decision authority considered the factors described in subsection (b) prior to the decision to grant milestone approval. The milestone decision authority shall retain records of the basis for the milestone decision.

(d) CHANGES TO BASIS FOR MILESTONE APPROVAL.—(1) The program manager for a major defense acquisition program that has received a written record of the milestone decision under subsection (c) shall immediately notify the milestone decision authority of any changes to the program or a designated major subprogram of such program that—

(A) alter the substantive basis for the decision of the milestone decision authority relating to any component of such decision specified in subsection (b); or

(B) otherwise cause the program or subprogram to deviate significantly from the material provided to the milestone decision authority in support of such decision.

(2) Upon receipt of information under paragraph (1), the milestone decision authority may rescind Milestone B approval if the milestone decision authority determines that such approval is no longer valid.

(e) SUBMISSIONS TO CONGRESS ON MILESTONE B.—

(1) NOTIFICATION.—Not later than 15 days after granting Milestone B approval for a major defense acquisition program or major subprogram, the milestone decision authority for the program or subprogram shall provide to the congressional defense committees and, in the case of intelligence or intelligence-related activities, the congressional intelligence committees a written record of the milestone decision.

(2) ADDITIONAL INFORMATION.—(A) At the request of any of the congressional defense committees or, in the case of intelligence or intelligence-related activities, the congressional intelligence committees, the milestone decision authority shall submit to the committee an explanation of the basis for the decision to grant Milestone B approval with respect to a major

defense acquisition program or major subprogram, or further information or underlying documentation.

(B) The explanation or additional information shall be submitted in unclassified form, but may include a classified annex.

(f) DEFINITIONS.—In this section:

(1) The term "milestone decision authority", with respect to a major defense acquisition program, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program, including authority to approve entry of the program into the next phase of the acquisition process.

(2) The term "Milestone B approval" has the meaning provided that term in section 4172(e)(7) of this title.

(3) The term "core logistics capabilities" means the core logistics capabilities identified under section 2464(a) of this title.

(4) The term "congressional intelligence committees" has the meaning given that term in section 437(c) of this title.

(5) The term "written record of milestone decision", with respect to a major defense acquisition program or a major subprogram, means a document signed by the milestone decision authority that formalizes approved entry of the program or subprogram into the next phase of the acquisition process.

(Added Pub. L. 109–163, div. A, title VIII, §801(a), Jan. 6, 2006, 119 Stat. 3366, §2366a; amended Pub. L. 109–364, div. A, title VIII, §805, Oct. 17, 2006, 120 Stat. 2314; Pub. L. 110–181, div. A, title VIII, §812, Jan. 28, 2008, 122 Stat. 219; renumbered §2366b, Pub. L. 110–417, [div. A], title VIII, §813(a), (b), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–23, title I, §101(d)(4), title II, §§201(f), 205(a), May 22, 2009, 123 Stat. 1710, 1720, 1724; Pub. L. 111–383, div. A, title VIII, §§813(d)(1), 814(c), title IX, §901(j)(4), title X, §1075(k)(1), Jan. 7, 2011, 124 Stat. 4265, 4266, 4324, 4378; Pub. L. 112–81, div. A, title VIII, §§801(b), (e)(2), 819(b), Dec. 31, 2011, 125 Stat. 1483, 1484, 1501; Pub. L. 112–239, div. A, title III, §322(e)(2), title IX, §904(e)(2), Jan. 2, 2013, 126 Stat. 1695, 1867; Pub. L. 113–66, div. A, title VIII, §§821(a), 822(a), title X, §1091(b)(1), Dec. 26, 2013, 127 Stat. 809, 876; Pub. L. 114–92, div. A, title VIII, §824(a), Nov. 25, 2015, 129 Stat. 903; Pub. L. 114–328, div. A, title VIII, §§805(a)(3), 807(e), 808(b), 843, Dec. 23, 2016, 130 Stat. 2255, 2262, 2263, 2290; Pub. L. 115–91, div. A, title VIII, §§835(b)(1), 838(a)(1), Dec. 12, 2017, 131 Stat. 1471, 1474; Pub. L. 115–232, div. A, title VIII, §831(b)(3), Aug. 13, 2018, 132 Stat. 1857; Pub. L. 116–92, div. A, title VIII, §833, Dec. 20, 2019, 133 Stat. 1494; renumbered §4252 and amended Pub. L. 116–283, div. A, title VIII, §802(b), title XVIII, §§1847(d)(2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3732, 4255, 4294; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(C)(iii), Dec. 27, 2021, 135 Stat. 2147; Pub. L. 118–159, div. A, title VIII, §807, Dec. 23, 2024, 138 Stat. 1974; Pub. L. 119–60, div. A, title XVIII, §1811(g)(3), Dec. 18, 2025, 139 Stat. 1243.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(9) to (15). Pub. L. 119–60 redesignated pars. (10) to (15) as (9) to (14), respectively, and struck out former par. (9) which read as follows: "The Joint Requirements Oversight Council has accomplished its duties with respect to the program or subprogram pursuant to section 181(b) of this title, including an analysis of the operational requirements for the program or subprogram."

**2024**—Pub. L. 118–159, §807(1), substituted "factors to be considered before" for "certification required before" in section catchline.

Subsec. (a). Pub. L. 118–159, §807(4), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 118–159, §807(3), (5), redesignated subsec. (a) as (b) and amended it generally. Prior to amendment, subsec. related to certifications and determinations required for Milestone B approval.

Subsec. (c). Pub. L. 118–159, §807(6), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 118–159, §807(7)(A), substituted "Basis for Milestone Approval" for "Certifications or Determination" in heading.

Pub. L. 118–159, §807(2), (3), redesignated subsec. (b) as (d) and struck out former subsec. (d) which related to waiver of the certification and determination requirements to a major defense acquisition program in order to meet critical national security objectives.

Subsec. (d)(1). Pub. L. 118–159, §807(7)(B)(i), in introductory provisions, substituted "a written record of the milestone decision under subsection (c)" for "certifications or a determination under subsection (a)".

Subsec. (d)(1)(A). Pub. L. 118–159, §807(7)(B)(ii), substituted "decision of the milestone decision authority" for "certifications or determination of the milestone decision authority" and "decision specified in subsection (b)" for "certifications or determination specified in paragraph (1), (2), or (3) of subsection (a)".

Subsec. (d)(1)(B). Pub. L. 118–159, §807(7)(B)(iii), substituted "such decision" for "such certifications or determination".

Subsec. (d)(2). Pub. L. 118–159, §807(7)(C), struck out "withdraw the certifications or determination concerned or" after "milestone decision authority may" and substituted "approval is" for "certifications, determination, or approval are".

Subsec. (e). Pub. L. 118–159, §807(3), (8), redesignated subsec. (c) as (e) and amended it generally. Prior to amendment, subsec. related to submission to Congress of brief summary reports on Milestone B. Former subsec. (e) struck out.

Pub. L. 118–159, §807(2), struck out subsec. (e). Text read as follows: "Any budget request, budget justification material, budget display, reprogramming request, Selected Acquisition Report, or other budget documentation or performance report submitted by the Secretary of Defense to the President regarding a major defense acquisition program receiving a waiver pursuant to subsection (d) shall prominently and clearly indicate that such program has not fully satisfied the certification requirements of this section until such time as the milestone decision authority makes the determination that such program has satisfied all such certification requirements."

Subsec. (f). Pub. L. 118–159, §807(2), (3), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "The milestone decision authority may not delegate the certification requirement under subsection (a) or the authority to waive any component of such requirement under subsection (d)."

Subsec. (f)(4) to (6). Pub. L. 118–159, §807(9), added par. (5), redesignated par. (6) as (4), and struck out former pars. (4) and (5) which defined the terms fielding target and major system component, respectively.

**2021**—Pub. L. 116–283, §1847(d)(2)(A), renumbered section 2366b of this title as this section.

Subsec. (a)(2). Pub. L. 116–283, §1847(d)(2)(B)(i), substituted "section 4272" for "section 2448b".

Subsec. (a)(3)(D). Pub. L. 116–283, §1847(d)(2)(B)(ii)(I), substituted "section 4214 of this title" for "section 2435" and "section 4271(a)" for "section 2448a(a)".

Subsec. (a)(3)(N). Pub. L. 116–283, §1847(d)(2)(B)(ii)(II), substituted "section 4402(e)" for "section 2446b(e)".

Pub. L. 116–283, §802(b)(1)(A), struck out "and" after "met;".

Subsec. (a)(3)(O). Pub. L. 116–283, §802(b)(1)(B), which directed amendment of subpar. (O) by substituting "; and" for period at the end, was executed by making the substitution for semicolon at end to reflect the probable intent of Congress.

Subsec. (a)(3)(P). Pub. L. 116–283, §1883(b)(2), substituted "section 4324(b)" for "section 2337(b)".

Pub. L. 116–283, §802(b)(1)(C), added subpar. (P).

Subsec. (c)(1)(A). Pub. L. 116–283, §1847(d)(2)(C)(i)(I), substituted "section 4271(a)" for "section 2448a(a)".

Subsec. (c)(1)(C). Pub. L. 116–283, §1847(d)(2)(C)(i)(II), substituted "section 3221(b)(6)" for "section 2334(a)(6)" in introductory provisions.

Subsec. (c)(1)(E). Pub. L. 116–283, §1847(d)(2)(C)(i)(III), substituted "section 4272" for "section 2448b".

Subsec. (c)(1)(H). Pub. L. 116–283, §1883(b)(2), substituted "section 4324" for "section 2337".

Pub. L. 116–283, §802(b)(2)(B), added subpar. (H). Former subpar. (H) redesignated (I).

Subsec. (c)(1)(I). Pub. L. 116–283, §802(b)(2)(A), redesignated subpar. (H) as (I).

Subsec. (c)(2)(A). Pub. L. 116–283, §1847(d)(2)(C)(ii), as amended by Pub. L. 117–81, §1701(o)(6)(C)(iii), substituted "section 4351" for "section 2432".

Subsec. (d)(3). Pub. L. 116–283, §1847(d)(2)(D), substituted "section 4377" for "section 2433a(c)" in introductory provisions.

Subsec. (g)(1). Pub. L. 116–283, §1847(d)(2)(E)(i), redesignated par. (3) as (1) and struck out former par. (1) which defined "major defense acquisition program".

Subsec. (g)(2). Pub. L. 116–283, §1847(d)(2)(E)(i), (ii), redesignated par. (4) as (2), substituted "section 4172(e)(7)" for "section 2366(e)(7)", and struck out former par. (2) which defined "designated major subprogram".

Subsec. (g)(3). Pub. L. 116–283, §1847(d)(2)(E)(i), redesignated par. (5) as (3). Former par. (3) redesignated (1).

Subsec. (g)(4). Pub. L. 116–283, §1847(d)(2)(E)(i), (iii), redesignated par. (6) as (4) and substituted "section 4271(a)" for "section 2448a(a)". Former par. (4) redesignated (2).

Subsec. (g)(5). Pub. L. 116–283, §1847(d)(2)(E)(i), (iv), redesignated par. (7) as (5) and substituted "section 4401(b)(3)" for "section 2446a(b)(3)". Former par. (5) redesignated (3).

Subsec. (g)(6) to (8). Pub. L. 116–283, §1847(d)(2)(E)(i), redesignated pars. (6) to (8) as (4) to (6), respectively.

**2019**—Subsec. (a)(5). Pub. L. 116–92 added par. (5).

**2018**—Subsec. (a)(3)(D). Pub. L. 115–232, §831(b)(3)(A), struck out "Secretary of Defense after a request for such increase or delay by the" before "milestone decision authority".

Subsec. (c)(1)(A). Pub. L. 115–232, §831(b)(3)(B), struck out "by the Secretary of Defense" after "established".

**2017**—Subsec. (a)(3)(O). Pub. L. 115–91, §835(b)(1), added subpar. (O).

Subsec. (c)(1)(G), (H). Pub. L. 115–91, §838(a)(1), added subpar. (G) and redesignated former subpar. (G) as (H).

**2016**—Subsec. (a)(2). Pub. L. 114–328, §807(e)(1), substituted "technical risk assessment conducted under section 2448b of this title" for "assessment by the Assistant Secretary of Defense for Research and Engineering, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation".

Subsec. (a)(3)(B). Pub. L. 114–328, §843(1), substituted "life-cycle cost;" for "acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;".

Subsec. (a)(3)(C). Pub. L. 114–328, §807(e)(2)(A), struck out "and" at end.

Subsec. (a)(3)(D). Pub. L. 114–328, §807(e)(2)(C), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (a)(3)(E). Pub. L. 114–328, §843(2), which directed amendment of subpar. (D) by substituting "funding is expected to be available to execute the product development and production plan for the program," for "funding is" and all that followed through "made,", was executed by making the substitution for "funding is available to execute the product development and production plan under the program, through the period covered by the future-years defense program submitted during the fiscal year in which the certification is made," in subpar. (E), to reflect the probable intent of Congress and the amendment by Pub. L. 114–328, §807(e)(2)(B). See below.

Pub. L. 114–328, §807(e)(2)(B), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Subsec. (a)(3)(F) to (L). Pub. L. 114–328, §807(e)(2)(B), redesignated subpars. (E) to (K) as (F) to (L), respectively. Former subpar. (L) redesignated (M).

Subsec. (a)(3)(M). Pub. L. 114–328, §807(e)(2)(B), redesignated subpar. (L) as (M). Former subpar. (M) redesignated (N).

Pub. L. 114–328, §805(a)(3), added subpar. (M).

Subsec. (a)(3)(N). Pub. L. 114–328, §807(e)(2)(B), redesignated subpar. (M) as (N).

Subsec. (c). Pub. L. 114–328, §808(b)(1), amended subsec. (c) generally. Prior to amendment, text read as follows:

"(1) The certifications and determination under subsection (a) with respect to a major defense acquisition program shall be submitted to the congressional defense committees with the first Selected Acquisition Report submitted under section 2432 of this title after completion of the certification.

"(2) The milestone decision authority shall retain records of the basis for the certifications and determination under paragraphs (1), (2), and (3) of subsection (a).

"(3) At the request of any of the congressional defense committees, the Secretary of Defense shall submit to the committee an explanation of the basis for the certifications and determination under paragraphs (1), (2), and (3) of subsection (a) with respect to a major defense acquisition program. The explanation shall be submitted in unclassified form, but may include a classified annex."

Subsec. (g)(6) to (8). Pub. L. 114–328, §808(b)(2), added pars. (6) to (8).

**2015**—Pub. L. 114–92 amended section generally. Prior to amendment, section related to certification required before Milestone B approval of major defense acquisition programs.

**2013**—Subsec. (a)(3)(D). Pub. L. 112–239, §904(e)(2), substituted "the Assistant Secretary of Defense for Research and Engineering, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation" for "the Assistant Secretary of Defense for Research and Engineering".

Subsec. (a)(3)(F). Pub. L. 112–239, §322(e)(2), as amended by Pub. L. 113–66, §1091(b)(1), substituted "core logistics capabilities" for "core depot-level maintenance and repair capabilities, as well as the associated

logistics capabilities".

Subsec. (a)(3)(G), (H). Pub. L. 113–66, §821(a), added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (a)(4). Pub. L. 113–66, §822(a), added par. (4).

**2011**—Pub. L. 112–81, §801(e)(2)(A), struck out "or Key Decision Point B" after "Milestone B" in section catchline.

Subsec. (a). Pub. L. 112–81, §801(e)(2)(B), struck out ", or Key Decision Point B approval in the case of a space program," after "Milestone B approval" in introductory provisions.

Subsec. (a)(3)(D). Pub. L. 111–383, §901(j)(4), substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

Subsec. (a)(3)(E) to (G). Pub. L. 112–81, §801(b)(1), added subpars. (E) and (F) and redesignated former subpar. (E) as (G).

Subsec. (b)(1). Pub. L. 111–383, §814(c)(1)(A), substituted "any changes to the program or a designated major subprogram of such program" for "any changes to the program" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 111–383, §814(c)(1)(B), substituted "otherwise cause the program or subprogram" for "otherwise cause the program".

Subsec. (b)(2). Pub. L. 112–81, §801(e)(2)(C), struck out "(or Key Decision Point B approval in the case of a space program)" after "Milestone B approval".

Subsec. (d)(1). Pub. L. 112–81, §801(e)(2)(C), struck out "(or Key Decision Point B approval in the case of a space program)" after "Milestone B approval" in two places.

Pub. L. 111–383, §813(d)(1)(A), substituted "(as specified in paragraph (1), (2), or (3) of subsection (a))" for "(as specified in paragraph (1) or (2) of subsection (a))".

Subsec. (d)(2)(B). Pub. L. 111–383, §1075(k)(1), which directed amendment of directory language of Pub. L. 111–23, §205(a)(1)(B), resulting in substitution of "paragraphs (1), (2), and (3)" for "paragraphs (1) and (2)" in text, was not executed because of the prior identical amendment by Pub. L. 111–383, §813(d)(1)(B). See below.

Pub. L. 111–383, §813(d)(1)(B), substituted "specified in paragraphs (1), (2), and (3) of subsection (a)" for "specified in paragraphs (1) and (2) of subsection (a)".

Subsec. (d)(3). Pub. L. 112–81, §819(b), added par. (3).

Subsec. (g)(2) to (4). Pub. L. 111–383, §814(c)(2), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (g)(5). Pub. L. 112–81, §801(b)(2), added par. (5) and struck out former par. (5) which read as follows: "The term 'Key Decision Point B' means the official program initiation of a National Security Space program of the Department of Defense, which triggers a formal review to determine maturity of technology and the program's readiness to begin the preliminary system design."

Pub. L. 111–383, §814(c)(2)(A), redesignated par. (4) as (5).

**2009**—Subsec. (a)(1)(B). Pub. L. 111–23, §201(f), inserted "appropriate trade-offs among cost, schedule, and performance objectives have been made to ensure that" before "the program is affordable".

Subsec. (a)(1)(C). Pub. L. 111–23, §101(d)(4), inserted ", with the concurrence of the Director of Cost Assessment and Program Evaluation," before "the product".

Subsec. (a)(1)(D). Pub. L. 111–23, §205(a)(3)(A), struck out "and" at end.

Subsec. (a)(2), (3). Pub. L. 111–23, §205(a)(3)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (a)(3)(D). Pub. L. 111–23, §205(a)(3)(D)(i), substituted ", as determined by the Milestone Decision Authority on the basis of an independent review and assessment by the Director of Defense Research and Engineering; and" for semicolon.

Subsec. (a)(3)(E), (F). Pub. L. 111–23, §205(a)(3)(D)(ii), (iii), redesignated subpar. (F) as (E) and struck out former subpar. (E) which read as follows: "the program demonstrates a high likelihood of accomplishing its intended mission; and".

Subsec. (d). Pub. L. 111–23, §205(a)(1), designated existing provisions as par. (1) and substituted par. (2) for "Whenever the milestone decision authority makes such a determination and authorizes such a waiver, the waiver, the determination, and the reasons for the determination shall be submitted in writing to the congressional defense committees within 30 days after the waiver is authorized."

Subsecs. (e) to (g). Pub. L. 111–23, §205(a)(2), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**2008**—Pub. L. 110–417, §813(a), (b), renumbered section 2366a of this title as this section.

Subsec. (a). Pub. L. 110–181, §812(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) consisted of pars. (1) to (10) relating to required certifications by milestone decision authority for major

defense acquisition program to receive Milestone B approval, or Key Decision Point B approval in the case of a space program.

Subsec. (b). Pub. L. 110–181, §812(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 110–181, §812(4), designated existing provisions as par. (1) and added par. (2).

Pub. L. 110–181, §812(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–181, §812(5), substituted "authority may, at the time of Milestone B approval (or Key Decision Point B approval in the case of a space program) or at the time that such milestone decision authority withdraws a certification or rescinds Milestone B approval (or Key Decision Point B approval in the case of a space program) pursuant to subsection (b)(2), waive" for "authority may waive" and "paragraph (1) or (2)" for "paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9)".

Pub. L. 110–181, §812(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–181, §812(6), substituted "subsection (d)" for "subsection (c)".

Pub. L. 110–181, §812(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 110–181, §812(2), redesignated subsec. (e) as (f).

**2006**—Subsec. (a)(1) to (7). Pub. L. 109–364, §805(a)(1)–(3), added par. (1) and redesignated former pars. (1) to (6) as (2) to (7), respectively. Former par. (7) redesignated (10).

Subsec. (a)(8), (9). Pub. L. 109–364, §805(a)(4), (5), added pars. (8) and (9).

Subsec. (a)(10). Pub. L. 109–364, §805(a)(1), redesignated par. (7) as (10).

Subsec. (c). Pub. L. 109–364, §805(b), substituted "(5), (6), (7), (8), or (9)" for "(5), or (6)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by sections 1847(d)(2) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title VIII, §835(b)(2), Dec. 12, 2017, 131 Stat. 1471, provided that: "Section 2366b(a)(3)(O) of title 10, United States Code [now 10 U.S.C. 4252(a)(3)(O)], as added by paragraph (1), shall apply with respect to any major defense acquisition program receiving Milestone B approval on or after the date occurring one year after the date of the enactment of this Act [Dec. 12, 2017]."

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title VIII, §821(b), Dec. 26, 2013, 127 Stat. 809, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 26, 2013], and shall apply with respect to major defense acquisition programs which are subject to Milestone B approval on or after the date occurring six months after the date of the enactment of this Act."

Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(1) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.

Amendment by section 322(e)(2) of Pub. L. 112–239 effective Dec. 31, 2011, immediately after enactment of Pub. L. 112–81, see section 322(f) of Pub. L. 112–239, set out as an note under section 4251 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title VIII, §813(d)(1), Jan. 7, 2011, 124 Stat. 4265, provided that the amendment made by section 813(d)(1) is effective as of May 22, 2009.

Amendment by section 901(j)(4) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

Pub. L. 111–383, div. A, title X, §1075(k), Jan. 7, 2011, 124 Stat. 4378, provided that the amendment made by section 1075(k)(1) is effective as of May 22, 2009, and as if included in Pub. L. 111–23 as enacted.

### RESPONSIBILITY FOR CONDUCTING ASSESSMENTS

Pub. L. 115–91, div. A, title VIII, §838(a)(3), Dec. 12, 2017, 131 Stat. 1474, provided that: "For purposes of the sufficiency assessments required by section 2366b(c)(1) [now 10 U.S.C. 4252(c)(1)] and section 2366c(a)(4) [now 10 U.S.C. 4253(a)(4)] of such title [meaning title 10, United States Code], as added by

paragraphs (1) and (2), with respect to a major defense acquisition program—

"(A) if the milestone decision authority for the program is the service acquisition executive of the military department that is managing the program, the sufficiency assessment shall be conducted by the senior official within the military department with responsibility for developmental testing; and

"(B) if the milestone decision authority for the program is the Under Secretary of Defense for Acquisition and Sustainment, the sufficiency assessment shall be conducted by the senior Department of Defense official with responsibility for developmental testing."

**GUIDANCE**

Pub. L. 115–91, div. A, title VIII, §838(a)(4), Dec. 12, 2017, 131 Stat. 1475, provided that: "Within one year after the date of the enactment of this Act [Dec. 12, 2017], the senior Department of Defense official with responsibility for developmental testing shall develop guidance for the sufficiency assessments required by section 2366b(c)(1) and section 2366c(a)(4) of title 10, United States Code [now 10 U.S.C. 4252(c)(1) and 4253(a)(4)], as added by paragraphs (1) and (2). At a minimum, the guidance shall require—

"(A) for the sufficiency assessment required by section 2366b(c)(1) of such title [now 10 U.S.C. 4252(c)(1)], that the assessment address the sufficiency of—

"(i) the developmental test and evaluation plan;

"(ii) the developmental test and evaluation schedule, including a comparison to historic analogous systems;

"(iii) the developmental test and evaluation resources (facilities, personnel, test assets, data analytics tools, and modeling and simulation capabilities);

"(iv) the risks of developmental test and production concurrency; and

"(v) the developmental test criteria for entering the production phase; and

"(B) for the sufficiency assessment required by section 2366c(a)(4) of such title [now 10 U.S.C. 4253(a)(4)], that the assessment address—

"(i) the sufficiency of the developmental test and evaluation completed;

"(ii) the sufficiency of the plans and resources available for remaining developmental test and evaluation;

"(iii) the risks identified during developmental testing to the production and deployment phase;

"(iv) the sufficiency of the plans and resources for remaining developmental test and evaluation; and

"(v) the readiness of the system to perform scheduled initial operational test and evaluation."

**MILESTONE B DECISIONS**

Pub. L. 114–92, div. A, title VIII, §802(d)(3), Nov. 25, 2015, 129 Stat. 880, provided that: "The Chief of the Armed Force concerned shall advise the milestone decision authority for a major defense acquisition program of the Chief's views on cost, schedule, technical feasibility, and performance trade-offs that have been made with regard to the program, as provided in section 2366b(b)(3) of title 10, United States Code [now 10 U.S.C. 4252(b)(3)], as amended by section 824 of this Act, prior to a Milestone B decision on the program."

**FORMAL REVIEW PROCESS FOR BANDWIDTH REQUIREMENTS**

Pub. L. 110–417, [div. A], title X, §1047(d), Oct. 14, 2008, 122 Stat. 4603, as amended by Pub. L. 111–84, div. A, title X, §1033, Oct. 28, 2009, 123 Stat. 2449; Pub. L. 115–232, div. A, title VIII, §813(c), Aug. 13, 2018, 132 Stat. 1851, provided that: "The Secretary of Defense and the Director of National Intelligence shall, as part of the Milestone B or Key Decision Point B approval process for any major defense acquisition program or major system acquisition program, establish a formal review process to ensure that—

"(A) the bandwidth requirements needed to support such program are or will be met; and

"(B) a determination will be made with respect to how to meet the bandwidth requirements for such program."

## §4253. Major defense acquisition programs: submissions to Congress on Milestone C

(a) BRIEF SUMMARY REPORT.—Not later than 15 days after granting Milestone C approval for a major defense acquisition program, the milestone decision authority for the program shall provide to the congressional defense committees and, in the case of intelligence or

intelligence-related activities, the congressional intelligence committees a brief summary report that contains the following:

(1) The estimated cost and schedule for the program established by the military department concerned, including—

(A) the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and

(B) the planned dates for initial operational test and evaluation and initial operational capability.

(2) The independent estimated cost for the program established pursuant to section 3221(b)(6) of this title, and any independent estimated schedule for the program, including—

(A) the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and

(B) the planned dates for initial operational test and evaluation and initial operational capability.

(3) A summary of any production, manufacturing, and fielding risks associated with the program.

(4) An assessment of the sufficiency of the developmental test and evaluation completed, including the use of automated data analytics or modeling and simulation tools and methodologies.

(b) ADDITIONAL INFORMATION.—At the request of any of the congressional defense committees or, in the case of intelligence or intelligence-related activities, the congressional intelligence committees, the milestone decision authority shall submit to the committee further information or underlying documentation for the information in a brief summary report submitted under subsection (a), including the independent cost and schedule estimates and the independent technical risk assessments referred to in that subsection.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" has the meaning given that term in section 437(c) of this title.

(Added Pub. L. 114–328, div. A, title VIII, §808(c)(1), Dec. 23, 2016, 130 Stat. 2265, §2366c; amended Pub. L. 115–91, div. A, title VIII, §838(a)(2), Dec. 12, 2017, 131 Stat. 1474; renumbered §4253 and amended Pub. L. 116–283, div. A, title XVIII, §1847(d)(3), Jan. 1, 2021, 134 Stat. 4256.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2366c of this title as this section and, in subsec. (a)(2), substituted "section 3221(b)(6)" for "section 2334(a)(6)" in introductory provisions. Section was inserted after section 4252 of this title, as renumbered by par. (2) of section 1847(d) of Pub. L. 116–283, to reflect the probable intent of Congress, notwithstanding language directing this section be inserted after section 4252 of this title "as transferred and redesignated by paragraph (3)" of section 1847(d).

**2017**—Subsec. (a)(4). Pub. L. 115–91 added par. (4).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### RESPONSIBILITY FOR CONDUCTING ASSESSMENTS; GUIDANCE

For provisions designating officials responsible for conducting assessments and provisions requiring

guidance for assessments under subsec. (a)(4) of this section, see section 838(a)(3), (4) of Pub. L. 115–91, set out as notes under section 4252 of this title.

## SUBCHAPTER IV—ADDITIONAL PROVISIONS APPLICABLE SPECIFICALLY TO MAJOR DEFENSE ACQUISITION PROGRAMS

Sec.
4271. Program cost, fielding, and performance goals in planning major defense acquisition programs.
4272. Independent technical risk assessments.
4273. Performance assessments and root cause analyses.
4274. [Reserved].
4275. [Reserved].
4276. [Reserved].

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(A), Dec. 27, 2021, 135 Stat. 2149, amended Pub. L. 116–283, div. A, title XVIII. §1847(a), Jan. 1, 2021, 134 Stat. 4253, which added this analysis, by substituting "[Reserved]" for "Acquisition-related functions of chiefs: adherence to requirements in major defense acquisition programs" in item 4274.

## §4271. Program cost, fielding, and performance goals in planning major defense acquisition programs

(a) PROGRAM COST AND FIELDING TARGETS.—(1) Before funds are obligated for technology development, systems development, or production of a major defense acquisition program, the designated milestone decision authority for the program shall ensure, by establishing the goals described in paragraph (2), that the program will—

(A) be affordable;

(B) incorporate program planning that anticipates the evolution of capabilities to meet changing threats, technology insertion, and interoperability; and

(C) be fielded when needed.

(2) The goals described in this paragraph are goals for—

(A) the procurement unit cost and sustainment cost (referred to in this section as the "program cost targets");

(B) the date for initial operational capability (referred to in this section as the "fielding target"); and

(C) technology maturation, prototyping, and a modular open system approach to evolve system capabilities and improve interoperability.

(b) DEFINITIONS.—In this section:

(1) The term "procurement unit cost" has the meaning provided in section 4351(a)(2) of this title.

(2) The term "initial capabilities document" has the meaning provided in section 4251(d)(1) of this title.

(Added Pub. L. 114–328, div. A, title VIII, §807(a)(1), Dec. 23, 2016, 130 Stat. 2260, §2448a; amended Pub. L. 115–232, div. A, title VIII, §831(a), Aug. 13, 2018, 132 Stat. 1857; renumbered §4271 and amended Pub. L. 116–283, div. A, title XVIII, §1847(e)(1), Jan. 1, 2021, 134 Stat. 4256; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(C)(iv), Dec. 27, 2021, 135 Stat. 2147.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1847(e)(1), renumbered section 2448a of this title as the section.

Subsec. (b)(1). Pub. L. 116–283, §1847(e)(1)(A), as amended by Pub. L. 117–81, §1701(o)(6)(C)(iv), substituted "section 4351(a)(2)" for "section 2432(a)(2)".

Subsec. (b)(2). Pub. L. 116–283, §1847(e)(1)(B), substituted "section 4251(d)(1)" for "section 2366a(d)(2)".

**2018**—Subsec. (a)(1). Pub. L. 115–232, §831(a)(1), (2), in introductory provisions, substituted "designated milestone decision authority for the program shall ensure, by establishing the goals described in paragraph (2), that the program" for "Secretary of Defense shall ensure, by establishing the goals described in paragraph (2), that the milestone decision authority for the major defense acquisition program approves a program that".

Subsecs. (b), (c). Pub. L. 115–232, §831(a)(3), (4), redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "The responsibilities of the Secretary of Defense in subsection (a) may be delegated only to the Deputy Secretary of Defense."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title VIII, §807(a)(2), Dec. 23, 2016, 130 Stat. 2261, provided that: "[Former] Subchapter III of chapter 144B of title 10, United States Code [see 10 U.S.C. 4271, 4272], as added by paragraph (1), shall apply with respect to major defense acquisition programs that reach Milestone A after October 1, 2017."

### PROGRAM COST AND FIELD TARGETS

Pub. L. 114–328, div. A, title IX, §925(b), Dec. 23, 2016, 130 Stat. 2361, as amended by Pub. L. 115–232, div. A, title VIII, §831(b)(4), Aug. 13, 2018, 132 Stat. 1857, which required the establishment of a process to develop program cost and fielding targets pursuant to section 4271 of this title, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(7), Dec. 18, 2025, 139 Stat. 948.

### CONFIGURATION STEERING BOARDS FOR COST CONTROL UNDER MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 110–417, [div. A], title VIII, §814, Oct. 14, 2008, 122 Stat. 4528, as amended by Pub. L. 114–92, div. A, title VIII, §830, Nov. 25, 2015, 129 Stat. 912; Pub. L. 115–91, div. A, title VIII, §826, Dec. 12, 2017, 131 Stat. 1467; Pub. L. 116–92, div. A, title IX, §902(67), Dec. 20, 2019, 133 Stat. 1550, which required each Secretary of a military department to establish one or more Configuration Steering Boards for the major defense acquisition programs of such department, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(14)(D), Dec. 18, 2025, 139 Stat. 949.

## §4272. Independent technical risk assessments

(a) IN GENERAL.—With respect to a major defense acquisition program, the Secretary of Defense shall conduct or approve independent technical risk assessments before any decision to grant Milestone B approval for the program pursuant to section 4252 of this title, any decision to enter into low-rate initial production or full-rate production, or at any other time considered appropriate by the Secretary, that includes the identification of any critical technologies or manufacturing processes that have not been successfully demonstrated in a relevant environment.

(b) GUIDANCE.—The Secretary shall issue guidance and a framework for the conduct, execution, and approval of independent technical risk assessments.

(Added Pub. L. 114–328, div. A, title VIII, §807(a)(1), Dec. 23, 2016, 130 Stat. 2261, §2448b; amended Pub. L. 116–92, div. A, title IX, §902(73), Dec. 20, 2019, 133 Stat. 1552; renumbered §4272 and amended Pub. L. 116–283, div. A, title XVIII, §1847(e)(2), Jan. 1, 2021, 134 Stat. 4256; Pub. L. 118–159, div. A, title VIII, §806(b)(1), Dec. 23, 2024, 138 Stat. 1974.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159 struck out dash after "risk assessments" and par. (2) designation before "before any decision" and struck out par. (1) which read as follows: "before any decision to grant Milestone A approval for the program pursuant to section 4251 of this title, that identifies critical technologies and manufacturing processes that need to be matured; and".

**2021**—Pub. L. 116–283, §1847(e)(2), renumbered section 2448b of this title as this section.

Subsec. (a)(1). Pub. L. 116–283, §1847(e)(2)(A), substituted "section 4251" for "section 2366a".

Subsec. (a)(2). Pub. L. 116–283, §1847(e)(2)(B), substituted "section 4252" for "section 2366b".

**2019**—Pub. L. 116–92 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) IN GENERAL.—With respect to a major defense acquisition program, the Secretary of Defense shall ensure that an independent technical risk assessment is conducted—

"(1) before any decision to grant Milestone A approval for the program pursuant to section 2366a of this title, that identifies critical technologies and manufacturing processes that need to be matured; and

"(2) before any decision to grant Milestone B approval for the program pursuant to section 2366b of this title, any decision to enter into low-rate initial production or full-rate production, or at any other time considered appropriate by the Secretary, that includes the identification of any critical technologies or manufacturing processes that have not been successfully demonstrated in a relevant environment.

"(b) CATEGORIZATION OF TECHNICAL RISK LEVELS.—The Secretary shall issue guidance and a framework for categorizing the degree of technical and manufacturing risk in a major defense acquisition program."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable with respect to major defense acquisition programs that reach Milestone A after Oct. 1, 2017, see section 807(a)(2) of Pub. L. 114–328, set out as a note under section 4271 of this title.

## §4273. Performance assessments and root cause analyses

(a) DESIGNATION OF SENIOR OFFICIAL RESPONSIBILITY FOR PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES.—

(1) IN GENERAL.—The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense as the principal official of the Department of Defense responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(2) NO PROGRAM EXECUTION RESPONSIBILITY.—The Secretary shall ensure that the senior official designated under paragraph (1) is not responsible for program execution.

(3) STAFF AND RESOURCES.—The Secretary shall assign to the senior official designated under paragraph (1) appropriate staff and resources necessary to carry out the senior official's function under this section.

(b) RESPONSIBILITIES.—The senior official designated under subsection (a) shall be

responsible for the following:

(1) Carrying out performance assessments of major defense acquisition programs in accordance with the requirements of subsection (c) periodically or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Secretary of a military department, or the head of a Defense Agency.

(2) Conducting root cause analyses for major defense acquisition programs in accordance with the requirements of subsection (d) when required by section 4376(a)(1) of this title, or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Secretary of a military department, or the head of a Defense Agency.

(3) Issuing policies, procedures, and guidance governing the conduct of performance assessments and root cause analyses by the military departments and the Defense Agencies.

(4) Evaluating the utility of performance metrics used to measure the cost, schedule, and performance of major defense acquisition programs, and making such recommendations to the Secretary of Defense as the official considers appropriate to improve such metrics.

(5) Advising acquisition officials on performance issues regarding a major defense acquisition program that may arise—

(A) before certification under sections 4376 and 4377 of this title;

(B) before entry into full-rate production; or

(C) in the course of consideration of any decision to request authorization of a multiyear procurement contract for the program.

(c) PERFORMANCE ASSESSMENTS.—For purposes of this section, a performance assessment with respect to a major defense acquisition program is an evaluation of the following:

(1) The cost, schedule, and performance of the program, relative to current metrics, including performance requirements and baseline descriptions.

(2) The extent to which the level of program cost, schedule, and performance predicted relative to such metrics is likely to result in the timely delivery of a level of capability to the warfighter that is consistent with the level of resources to be expended and provides superior value to alternative approaches that may be available to meet the same military requirement.

(d) ROOT CAUSE ANALYSES.—For purposes of this section and sections 4376 and 4377 of this title, a root cause analysis with respect to a major defense acquisition program is an assessment of the underlying cause or causes of shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

(1) unrealistic performance expectations;

(2) unrealistic baseline estimates for cost or schedule;

(3) immature technologies or excessive manufacturing or integration risk;

(4) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;

(5) changes in procurement quantities;

(6) inadequate program funding or funding instability;

(7) poor performance by government or contractor personnel responsible for program management; or

(8) any other matters.

(e) SUPPORT OF APPLICABLE CAPABILITIES AND EXPERTISE.—The Secretary of Defense shall ensure that the senior official designated under subsection (a) has the support of other Department of Defense officials with relevant capabilities and expertise needed to carry out the requirements of this section.

(Added and amended Pub. L. 111–383, div. A, title IX, §901(d), (k)(1)(F), Jan. 7, 2011, 124 Stat. 4321, 4325, §2438; Pub. L. 112–239, div. A, title X, §1076(f)(27), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 114–92, div. A, title X, §1077(b), Nov. 25, 2015, 129 Stat. 998; Pub. L. 116–92, div. A, title IX, §902(72), Dec. 20, 2019, 133 Stat. 1551; renumbered §4273 and amended Pub. L. 116–283, div. A,

title XVIII, §1847(e)(3), Jan. 1, 2021, 134 Stat. 4256; Pub. L. 117–81, div. A, title XVII, §1701(b)(16)(B), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 118–31, div. A, title XVIII, §1801(a)(34), Dec. 22, 2023, 137 Stat. 685; Pub. L. 118–159, div. A, title XVII, §1701(a)(44), Dec. 23, 2024, 138 Stat. 2206.)

## EDITORIAL NOTES

### CODIFICATION

Section 103 of Pub. L. 111–23, formerly set out as a note under section 2430 of this title, which was transferred to chapter 144 of this title, renumbered as section 2438, and amended by Pub. L. 111–383, §901(d), (k)(1)(F), and subsequently renumbered as this section and amended by Pub. L. 116–283, §1847(e)(3), was based on Pub. L. 111–23, title I, §103, May 22, 2009, 123 Stat. 1715.

### AMENDMENTS

**2024**—Subsec. (d). Pub. L. 118–159 substituted "4376" for "4736".

**2023**—Subsec. (b)(5)(A). Pub. L. 118–31 substituted "sections 4376" for "sections 4736".

**2021**—Pub. L. 116–283, §1847(e)(3), renumbered section 2438 of this title as this section.

Subsec. (b)(2). Pub. L. 116–283, §1847(e)(3)(A), as amended by Pub. L. 117–81, §1701(b)(16)(B), substituted "section 4376(a)(1)" for "section 2433a(a)(1)".

Subsec. (b)(5)(A). Pub. L. 116–283, §1847(e)(3)(B), substituted "sections 4736 and 4377" for "section 2433a".

Subsec. (d). Pub. L. 116–283, §1847(e)(3)(B), substituted "sections 4736 and 4377" for "section 2433a" in introductory provisions.

**2019**—Subsec. (b)(1), (2). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology and Logistics".

**2015**—Subsec. (f). Pub. L. 114–92 struck out subsec. (f) which related to annual report.

**2013**—Subsec. (a)(3). Pub. L. 112–239 inserted "the senior" before "official's".

**2011**—Pub. L. 111–383, §901(k)(1)(F), substituted "Performance assessments and root cause analyses" for "PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES FOR MAJOR DEFENSE ACQUISITION PROGRAMS" in section catchline.

Pub. L. 111–383, §901(d), transferred section 103 of Pub. L. 111–23 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (b)(2). Pub. L. 111–383, §901(d)(1), substituted "section 2433a(a)(1) of this title" for "section 2433a(a)(1) of title 10, United States Code (as added by section 206(a) of this Act)".

Subsec. (b)(5)(A). Pub. L. 111–383, §901(d)(2), substituted "before" for "prior to" and "section 2433a of this title" for "section 2433a of title 10, United States Code (as so added)".

Subsec. (b)(5)(B). Pub. L. 111–383, §901(d)(2)(B), substituted "before" for "prior to".

Subsec. (d). Pub. L. 111–383, §901(d)(3), substituted "section 2433a of this title" for "section 2433a of title 10, United States Code (as so added)" in introductory provisions.

Subsec. (f). Pub. L. 111–383, §901(d)(4), struck out "beginning in 2010," after "each year,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

## [§4274. Omitted]

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, div. A, title XVIII, §1847(e)(4), (5), Jan. 1, 2021, 134 Stat. 4256, 4257, enacted this section, transferred subsec. (b) of section 2547 of this title to this section, and made additional amendments, which were all to become effective Jan. 1, 2022. Subsequently, Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149, repealed section 1847(e)(4), (5) of Pub. L. 116–283, effective as if included therein, thereby omitting this section and eliminating the amendments before they took effect.

# SUBCHAPTER V—CONTRACTORS

Sec.
4291. [Reserved].
4292. Contracts: limitations on lead system integrators.
4293. Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROGRAM FOR DISTRIBUTION SUPPORT AND SERVICES FOR CONTRACTORS

Pub. L. 114–328, div. A, title VIII, §883, Dec. 23, 2016, 130 Stat. 2316, as amended by Pub. L. 117–263, div. A, title VIII, §819, Dec. 23, 2022, 136 Stat. 2709; Pub. L. 118–31, div. A, title VIII, §855, Dec. 22, 2023, 137 Stat. 345; Pub. L. 118–159, div. A, title VIII, §862, Dec. 23, 2024, 138 Stat. 2000, provided that:

"(a) AUTHORITY.—The Secretary of Defense may carry out a program under which the Secretary may make available storage and distribution services support to a contractor in support of the performance by the contractor of a contract entered into by the Department of Defense.

"(b) SUPPORT CONTRACTS.—Any storage and distribution services to be provided under the program under this section to a contractor in support of the performance of a contract described in subsection (a) shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor. The requirements of section 2208(h) of title 10, United States Code, and the regulations prescribed pursuant to such section shall apply to any such separate support contract between the Director of the Defense Logistics Agency and the contractor.

"(c) SCOPE OF SUPPORT AND SERVICES.—The storage and distribution support services that may be provided under this section in support of the performance of a contract entered into by the Department include storage and distribution of materiel and repair parts necessary for the performance of that contract.

"(d) REGULATIONS.—Before exercising the authority under the program under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that storage and distribution services are provided under the program only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

"(1) A requirement to notify a contractor or potential contractor for which storage and distribution services are to be made available under the program, including—

"(A) a statement that the storage and distribution services are to be made available under the authority of the program under this section on a basis that does not require acceptance of the support and services; and

"(B) a description of the range of the storage and distribution services that are available to the contractor.

"(2) A requirement for the rates charged a contractor for storage and distribution services provided to a contractor under the program to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of resources used, but not paid for, by the Department of Defense.

"(3) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of

Defense personnel or the contractor to correct deficiencies in the performance of such contract.

"(4) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of storage and distribution services provided to the contractor under this section.

"(5) A requirement that storage and distribution services provided under the program may not interfere with the mission of the Defense Logistics Agency or of any military department involved with the program.

"(6) A requirement that any support contract for storage and distribution services entered into under the program shall include a requirement that any failure by the contractor to perform the primary contract is not excusable based on use of the support contract, and the contractor is to remain responsible for performance of the primary contract.

"(e) RELATIONSHIP TO TREATY OBLIGATIONS.—The Secretary shall ensure that the exercise of authority under the program under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

"(f) BRIEFINGS.—Not later than April 1, 2025, and annually thereafter for five years, the Director of the Defense Logistics Agency, in consultation with the Comptroller General, shall submit to the Committees on Armed Services of the Senate and House of Representatives a briefing and report describing—

"(1) the cost effectiveness for both the Government and industry of the program;

"(2) how support contracts under the program affected meeting the requirements of primary contracts; and

"(3) the number of and location of existing contracts."

## NONTRADITIONAL AND SMALL CONTRACTOR INNOVATION PROTOTYPING PROGRAM

Pub. L. 114–328, div. A, title VIII, §884, Dec. 23, 2016, 130 Stat. 2318, as amended by Pub. L. 115–91, div. A, title VIII, §865, Dec. 12, 2017, 131 Stat. 1495; Pub. L. 116–283, div. A, title XVIII, §1806(e)(3)(D), Jan. 1, 2021, 134 Stat. 4156; Pub. L. 118–159, div. A, title VIII, §804(c)(8), Dec. 23, 2024, 138 Stat. 1969, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall conduct a pilot program for nontraditional defense contractors and small business concerns to design, develop, and demonstrate innovative prototype military platforms of significant scope for the purpose of demonstrating new capabilities that could provide alternatives to existing acquisition programs and assets. The Secretary shall establish the pilot program within the Departments of the Army, Navy, and Air Force, the Missile Defense Agency, and the United States Special Operations Command.

"(b) FUNDING.—There is authorized to be made available $250,000,000 from the Rapid Prototyping Fund established under [former] section 804(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note [former 10 U.S.C. 3201 note prec.]) to carry out the pilot program.

"(c) PLAN.—

"(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], concurrent with the budget for the Department of Defense for fiscal year 2018, as submitted to Congress pursuant to section 1105 of title 31, United States Code, a plan to fund and carry out the pilot program in future years.

"(2) ELEMENTS.—The plan submitted under paragraph (1) shall consider maximizing use of—

"(A) broad agency announcements or other merit-based selection procedures;

"(B) the Department of Defense Acquisition Challenge Program authorized under section 2359b of title 10, United States Code [now 10 U.S.C. 4062];

"(C) the foreign comparative test program;

"(D) projects carried out under the Rapid Innovation Program of the Department of Defense or pursuant to a Phase III agreement (as defined in section 9(r)(2) of the Small Business Act (15 U.S.C. 638(r)(2))); and

"(E) streamlined procedures for acquisition provided under section 3602 of title 10, United States Code[,] and procedures for alternative acquisition pathways established under section 805 of such Act (10 U.S.C. 2302 note [now 10 U.S.C. 3201 note prec.]).

"(d) PROGRAMS TO BE INCLUDED.—As part of the pilot program, the Secretary of Defense shall allocate up to $50,000,000 on a fixed price contractual basis for fiscal year 2017 or pursuant to the plan submitted under subsection (c) for demonstrations of the following capabilities:

"(1) Swarming of multiple unmanned air vehicles.

"(2) Unmanned, modular fixed-wing aircraft that can be rapidly adapted to multiple missions and serve as a fifth generation weapons augmentation platform.

"(3) Vertical takeoff and landing tiltrotor aircraft.

"(4) Integration of a directed energy weapon on an air, sea, or ground platform.

"(5) Swarming of multiple unmanned underwater vehicles.

"(6) Commercial small synthetic aperture radar (SAR) satellites with on-board machine learning for automated, real-time feature extraction and predictive analytics.

"(7) Active protection system to defend against rocket-propelled grenades and anti-tank missiles.

"(8) Defense against hypersonic weapons, including sensors.

"(9) Unmanned ground logistics and unmanned air logistics capabilities enhancement.

"(10) Other systems as designated by the Secretary.

"(e) DEFINITIONS.—In this section:

"(1) NONTRADITIONAL DEFENSE CONTRACTOR.—The term 'nontraditional defense contractor' has the meaning given the term in section 3014 of title 10, United States Code.

"(2) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

"(f) SUNSET.—The authority under this section expires at the close of September 30, 2026."

**ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS**

Pub. L. 111–23, title II, §207(a)–(c), May 22, 2009, 123 Stat. 1728, 1729, directed the Secretary of Defense to revise, not later than 270 days after May 22, 2009, the Defense Supplement to the Federal Acquisition Regulation to provide uniform guidance and tighten existing requirements for organizational conflicts of interest by contractors in major defense acquisition programs and directed the Panel on Contracting Integrity established pursuant to former section 813 of Pub. L. 109–364 (former 10 U.S.C. 2304 note) to present recommendations on measures to eliminate or mitigate organizational conflicts of interest in major defense acquisition programs.

## §4292. Contracts: limitations on lead system integrators

(a) IN GENERAL.—Except as provided in subsection (b), no entity performing lead system integrator functions in the acquisition of a major system by the Department of Defense may have any direct financial interest in the development or construction of any individual system or element of any system of systems.

(b) EXCEPTION.—An entity described in subsection (a) may have a direct financial interest in the development or construction of an individual system or element of a system of systems if—

(1) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that—

(A) the entity was selected by the Department of Defense as a contractor to develop or construct the system or element concerned through the use of competitive procedures; and

(B) the Department took appropriate steps to prevent any organizational conflict of interest in the selection process; or

(2) the entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.

(c) CONSTRUCTION.—Nothing in this section shall be construed to preclude an entity described in subsection (a) from performing work necessary to integrate two or more individual systems or elements of a system of systems with each other.

(Added Pub. L. 109–364, div. A, title VIII, §807(a)(1), Oct. 17, 2006, 120 Stat. 2315, §2410p; renumbered §4292, Pub. L. 116–283, div. A, title XVIII, §1847(f)(1), Jan. 1, 2021, 134 Stat. 4258.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2410p of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 109–364, div. A, title VIII, §807(a)(3), Oct. 17, 2006, 120 Stat. 2316, provided that: "Section 2410p of title 10, United States Code [now 10 U.S.C. 4292], as added by paragraph (1), shall apply with respect to contracts entered into after December 31, 2006."

### PROHIBITION ON NEW LEAD SYSTEMS INTEGRATORS

Pub. L. 110–181, div. A, title VIII, §802, Jan. 28, 2008, 122 Stat. 206, as amended by Pub. L. 110–417, [div. A], title I, §112, Oct. 14, 2008, 122 Stat. 4374; Pub. L. 116–92, div. A, title IX, §902(100), Dec. 20, 2019, 133 Stat. 1555, provided that:

"(a) PROHIBITIONS ON THE USE OF LEAD SYSTEMS INTEGRATORS.—

"(1) PROHIBITION ON NEW LEAD SYSTEMS INTEGRATORS.—Effective October 1, 2010, the Department of Defense may not award a new contract for lead systems integrator functions in the acquisition of a major system to any entity that was not performing lead systems integrator functions in the acquisition of the major system prior to the date of the enactment of this Act [Jan. 28, 2008].

"(2) PROHIBITION ON LEAD SYSTEMS INTEGRATORS BEYOND LOW-RATE INITIAL PRODUCTION.—Effective on the date of the enactment of this Act, the Department of Defense may award a new contract for lead systems integrator functions in the acquisition of a major system only if—

"(A) the major system has not yet proceeded beyond low-rate initial production; or

"(B) the Secretary of Defense determines in writing that it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead systems integrator functions and that doing so is in the best interest of the Department.

"(3) REQUIREMENTS RELATING TO DETERMINATIONS.—A determination under paragraph (2)(B)—

"(A) shall specify the reasons why it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead systems integrator functions (including a discussion of alternatives, such as the use of the Department of Defense workforce, or a system engineering and technical assistance contractor);

"(B) shall include a plan for phasing out the use of contracted lead systems integrator functions over the shortest period of time consistent with the interest of the national defense;

"(C) may not be delegated below the level of the Under Secretary of Defense for Acquisition and Sustainment; and

"(D) shall be provided to the Committees on Armed Services of the Senate and the House of Representatives at least 45 days before the award of a contract pursuant to the determination.

"(b) ACQUISITION WORKFORCE.—

"(1) REQUIREMENT.—The Secretary of Defense shall ensure that the acquisition workforce is of the appropriate size and skill level necessary—

"(A) to accomplish inherently governmental functions related to acquisition of major systems; and

"(B) to effectuate the purpose of subsection (a) to minimize and eventually eliminate the use of contractors to perform lead systems integrator functions.

"(2) REPORT.—The Secretary shall include an update on the progress made in complying with paragraph (1) in the annual report required by section 820 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2330) [former 10 U.S.C. 1701 note].

"(c) EXCEPTION FOR CONTRACTS FOR OTHER MANAGEMENT SERVICES.—The Department of Defense may continue to award contracts for the procurement of services the primary purpose of which is to perform acquisition support functions with respect to the development or production of a major system, if the following conditions are met with respect to each such contract:

"(1) The contract prohibits the contractor from performing inherently governmental functions.

"(2) The Department of Defense organization responsible for the development or production of the major system ensures that Federal employees are responsible for—

"(A) determining courses of action to be taken in the best interest of the government; and

"(B) determining best technical performance for the warfighter.

"(3) The contract requires that the prime contractor for the contract may not advise or recommend the award of a contract or subcontract for the development or production of the major system to an entity owned in whole or in part by the prime contractor.

"(d) DEFINITIONS.—In this section:

"(1) LEAD SYSTEMS INTEGRATOR.—The term 'lead systems integrator' means—

"(A) a prime contractor for the development or production of a major system, if the prime contractor is not expected at the time of award to perform a substantial portion of the work on the system and the major subsystems; or

"(B) a prime contractor under a contract for the procurement of services the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions with respect to the development or production of a major system.

"(2) MAJOR SYSTEM.—The term 'major system' has the meaning given such term in section 2302d of title 10, United States Code [now 10 U.S.C. 3041].

"(3) LOW-RATE INITIAL PRODUCTION.—The term 'low-rate initial production' has the meaning given such term in section 2400 of title 10, United States Code [now 10 U.S.C. 4231].

"(e) STATUS OF FUTURE COMBAT SYSTEMS PROGRAM LEAD SYSTEM INTEGRATOR.—

"(1) LEAD SYSTEMS INTEGRATOR.—In the case of the Future Combat Systems program, the prime contractor of the program shall be considered to be a lead systems integrator until 45 days after the Secretary of the Army certifies in writing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that such contractor is no longer serving as the lead systems integrator.

"(2) NEW CONTRACTS.—In applying subsection (a)(1) or (a)(2), any modification to the existing contract for the Future Combat Systems program, for the purpose of entering into full-rate production of major systems or subsystems, shall be considered a new contract."

## §4293. Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States

(a) ESTABLISHMENT OF INCENTIVE PROGRAM.—The Secretary of Defense shall plan and establish an incentive program in accordance with this section for contractors to purchase capital assets manufactured in the United States in part with funds available to the Department of Defense.

(b) DEFENSE INDUSTRIAL CAPABILITIES FUND MAY BE USED.—The Secretary of Defense may use the Defense Industrial Capabilities Fund, established under section 814 of the National Defense Authorization Act for Fiscal Year 2004, for incentive payments under the program established under this section.

(c) APPLICABILITY TO MAJOR DEFENSE ACQUISITION PROGRAM CONTRACTS.—The incentive program shall apply to contracts for the procurement of a major defense acquisition program.

(d) CONSIDERATION.—The Secretary of Defense shall provide consideration in source selection in any request for proposals for a major defense acquisition program for offerors with eligible capital assets.

(Added Pub. L. 108–136, div. A, title VIII, §822(a)(1), Nov. 24, 2003, 117 Stat. 1546, §2436; renumbered §4293, Pub. L. 116–283, div. A, title XVIII, §1847(f)(2), Jan. 1, 2021, 134 Stat. 4258.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 814 of the National Defense Authorization Act for Fiscal Year 2004, referred to in subsec. (b), is section 814 of Pub. L. 108–136, which is set out in a note under section 4811 of this title.

### PRIOR PROVISIONS

Prior sections 4301 to 4303 and 4306 were renumbered sections 7401 to 7403 and 7406 of this title, respectively.

Prior sections 4307 and 4308 were repealed by Pub. L. 104–106, div. A, title XVI, §1624(a)(1), (c) Feb. 10, 1996, 110 Stat. 522, effective on the earlier of the date on which the Secretary of the Army submits a certification in accordance with section 5523 of former Title 36, Patriotic Societies and Observances, or Oct. 1, 1996.

Section 4307, act Aug. 10, 1956, ch. 1041, 70A Stat. 235, permitted President to detail commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship.

Section 4308, acts Aug. 10, 1956, ch. 1041, 70A Stat. 236; Nov. 14, 1986, Pub. L. 99–661, div. A, title III, §318(a), 100 Stat. 3855; Nov. 5, 1990, Pub. L. 101–510, div. A, title III, §328(b)–(d), (g)(1), 104 Stat. 1533, 1534; Oct. 23, 1992, Pub. L. 102–484, div. A, title III, §380(a)(1), 106 Stat. 2389; Nov. 30, 1993, Pub. L. 103–160, div. A, title III, §372, 107 Stat. 1635, related to authority of Secretary of the Army to promote civilian marksmanship. See section 40701 et seq. of Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

A prior section 4309 was renumbered section 7409 of this title.

Prior sections 4310 and 4311 were repealed by Pub. L. 104–106, div. A, title XVI, §1624(a)(1), (c), Feb. 10, 1996, 110 Stat. 522, effective on the earlier of the date on which the Secretary of the Army submits a certification in accordance with section 5523 of former Title 36, Patriotic Societies and Observances, or Oct. 1, 1996.

Section 4310, act Aug. 10, 1956, ch. 1041, 70A Stat. 236, permitted President and Secretary of the Army to detail members of Army as rifle instructors for civilians.

Section 4311, acts Aug. 10, 1956, ch. 1041, 70A Stat. 237; Nov. 5, 1990, Pub. L. 101–510, div. A, title III, §328(f), 104 Stat. 1534, permitted Secretary of the Army to provide for issue of military rifles and sale of ammunition for use in rifle instruction for civilians.

Prior sections 4312 and 4313 were repealed by Pub. L. 105–225, §6(b), Aug. 12, 1998, 112 Stat. 1499.

Section 4312, act Aug. 10, 1956, ch. 1041, 70A Stat. 237, related to National rifle and pistol matches and small-arms firing school.

Section 4313, act Aug. 10, 1956, ch. 1041, 70A Stat. 237; Pub. L. 99–145, title XIII, §1301(b)(3)(B), Nov. 8, 1985, 99 Stat. 735; Pub. L. 99–661, div. A, title III, §318(b), Nov. 14, 1986, 100 Stat. 3855; Pub. L. 101–510, div. A, title III, §328(a), Nov. 5, 1990, 104 Stat. 1533; Pub. L. 102–484, div. A, title III, §380(c)(1), Oct. 23, 1992, 106 Stat. 2391; Pub. L. 103–35, title II, §201(g)(10)(A), May 31, 1993, 107 Stat. 100; Pub. L. 104–106, div. A, title XVI, §1624(b)(1), Feb. 10, 1996, 110 Stat. 522, related to expenses of National Matches and small-arms school.

Prior sections 4314 and 4315 were renumbered sections 7414 and 7415 of this title, respectively.

A prior section 4316, added Pub. L. 102–484, div. A, title III, §380(d)(1), Oct. 23, 1992, 106 Stat. 2391; amended Pub. L. 104–106, div. A, title XVI, §1624(b)(2), Feb. 10, 1996, 110 Stat. 522, related to reporting requirements of the Secretary of the Army, prior to repeal by Pub. L. 115–91, div. A, title X, §1051(a)(27)(A), Dec. 12, 2017, 131 Stat. 1562.

Prior sections 4317 to 4320 were renumbered sections 7417 to 7420 of this title, respectively.

## AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2436 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 108–136, div. A, title VIII, §822(c), Nov. 24, 2003, 117 Stat. 1547, provided that: "Section 2436 of title 10, United States Code [now 10 U.S.C. 4293], as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 18-month period beginning on the date of the enactment of this Act [Nov. 24, 2003]."

### REGULATIONS

Pub. L. 108–136, div. A, title VIII, §822(b), Nov. 24, 2003, 117 Stat. 1547, provided that:

"(1) The Secretary of Defense shall prescribe regulations as necessary to carry out section 2436 of title 10, United States Code [now 10 U.S.C. 4293], as added by this section.

"(2) The Secretary may prescribe interim regulations as necessary to carry out such section. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this paragraph that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of section 2436 of title 10, United States Code [now 10 U.S.C. 4293] [see Effective Date note above], as added by this section."

# CHAPTER 323—LIFE-CYCLE AND SUSTAINMENT

Sec.
4321. Development of major defense acquisition programs: sustainment of system to be replaced.
4322. [Reserved].
4323. Sustainment reviews.
4324. Life-cycle management and product support.
4325. Major weapon systems: assessment, management, and control of operating and support costs.
4326. [Reserved].
4327. [Reserved].
4328. Weapon system design: sustainment factors.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 323 "INNOVATION", consisting of reserved section 4301, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(9), Dec. 27, 2021, 135 Stat. 2140, added item 4324 and struck out former item 4324 "Major systems: life-cycle management and product support".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### STANDARDIZED POLICY GUIDANCE FOR CALCULATING AIRCRAFT OPERATION AND SUSTAINMENT COSTS

Pub. L. 116–92, div. A, title XVII, §1747, Dec. 20, 2019, 133 Stat. 1847, provided that: "Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Director of Cost Analysis and Program Evaluation and in consultation with the Secretary of each of the military services, shall develop and implement standardized policy guidance for calculating aircraft operation and sustainment costs for the Department of Defense. Such guidance shall provide for a standardized calculation of—

"(1) aircraft cost per flying hour;

"(2) aircraft cost per aircraft tail per year;

"(3) total cost of ownership per flying hour for aircraft systems;

"(4) average annual operation and sustainment cost per aircraft; and

"(5) any other cost metrics the Under Secretary of Defense determines appropriate."

### REQUIREMENTS PRIOR TO LOW-RATE INITIAL PRODUCTION

Pub. L. 112–81, div. A, title VIII, §801(c), Dec. 31, 2011, 125 Stat. 1483, as amended by Pub. L. 112–239, div. A, title III, §322(e)(3), Jan. 2, 2013, 126 Stat. 1695, provided that: "Prior to entering into a contract for low-rate initial production of a major defense acquisition program, the Secretary of Defense shall ensure that the detailed requirements for core logistics capabilities and the associated sustaining workloads required to support such requirements, have been defined."

### ACQUISITION STRATEGIES TO ENSURE COMPETITION THROUGHOUT THE LIFECYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title II, §202, May 22, 2009, 123 Stat. 1720, as amended by Pub. L. 112–81, div. A, title VIII, §837, Dec. 31, 2011, 125 Stat. 1509; Pub. L. 112–239, div. A, title VIII, §825, Jan. 2, 2013, 126 Stat.

1833, provided that:

"(a) ACQUISITION STRATEGIES TO ENSURE COMPETITION.—The Secretary of Defense shall ensure that the acquisition strategy for each major defense acquisition program includes—

"(1) measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level (at such tier or tiers as are appropriate) of such program throughout the life-cycle of such program as a means to improve contractor performance; and

"(2) adequate documentation of the rationale for the selection of the subcontract tier or tiers under paragraph (1).

"(b) MEASURES TO ENSURE COMPETITION.—The measures to ensure competition, or the option of competition, for purposes of subsection (a)(1) may include measures to achieve the following, in appropriate cases if such measures are cost-effective:

"(1) Competitive prototyping.

"(2) Dual-sourcing.

"(3) Unbundling of contracts.

"(4) Funding of next-generation prototype systems or subsystems.

"(5) Use of modular, open architectures to enable competition for upgrades.

"(6) Use of build-to-print approaches to enable production through multiple sources.

"(7) Acquisition of complete technical data packages.

"(8) Periodic competitions for subsystem upgrades.

"(9) Licensing of additional suppliers.

"(10) Periodic system or program reviews to address long-term competitive effects of program decisions.

"(c) ADDITIONAL MEASURES TO ENSURE COMPETITION AT SUBCONTRACT LEVEL.—The Secretary shall take actions to ensure competition or the option of competition at the subcontract level on major defense acquisition programs by—

"(1) where appropriate, breaking out a major subsystem, conducting a separate competition for the subsystem, and providing the subsystem to the prime contractor as Government-furnished equipment;

"(2) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems;

"(3) providing for government surveillance of the process by which prime contractors consider such sources and determine whether to conduct such development or construction in-house or through a subcontract; and

"(4) providing for the assessment of the extent to which a contractor has given full and fair consideration to qualified sources other than the contractor in sourcing decisions as a part of past performance evaluations.

"(d) CONSIDERATION OF COMPETITION THROUGHOUT MAINTENANCE AND SUSTAINMENT OF MAJOR WEAPON SYSTEMS AND SUBSYSTEMS.—Whenever a decision regarding source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system or subsystem of a major weapon system, the Secretary shall take actions to ensure that, to the maximum extent practicable and consistent with statutory requirements, contracts for such maintenance and sustainment, or for components needed for such maintenance and sustainment, are awarded on a competitive basis and give full consideration to all sources (including sources that partner or subcontract with public or private sector repair activities).

"(e) APPLICABILITY.—

"(1) STRATEGY AND MEASURES TO ENSURE COMPETITION.—The requirements of subsections (a) and (b) shall apply to any acquisition plan for a major defense acquisition program that is developed or revised on or after the date that is 60 days after the date of the enactment of this Act [May 22, 2009].

"(2) ADDITIONAL ACTIONS.—The actions required by subsections (c) and (d) shall be taken within 180 days after the date of the enactment of this Act."

## PRESERVATION OF TOOLING FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 110–417, [div. A], title VIII, §815, Oct. 14, 2008, 122 Stat. 4530, directed the Secretary of Defense to issue, not later than 270 days after Oct. 14, 2008, guidance requiring the preservation and storage of unique tooling associated with the production of hardware for a major defense acquisition program through the end of the service life of the end item associated with such a program.

## DEFINITIONS

Pub. L. 111–23, §2, May 22, 2009, 123 Stat. 1704, as amended by Pub. L. 119–60, div. A, title VIII, §811(c)(3)(A), Dec. 18, 2025, 139 Stat. 950, provided that: "In this Act [see Short Title of 2009 Amendment note set out under section 101 of this title]:

"(1) The term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

"(2) The term 'major defense acquisition program' has the meaning given that term in section 2430 of title 10, United States Code [now 10 U.S.C. 4201].

"(3) The term 'major weapon system' has the meaning given that term in section 101(a) of title 10, United States Code."

## §4321. Development of major defense acquisition programs: sustainment of system to be replaced

(a) REQUIREMENT FOR SUSTAINING EXISTING FORCES.—(1) The Secretary of Defense shall require that, whenever a new major defense acquisition program begins development, the defense acquisition authority responsible for that program shall develop a plan (to be known as a "sustainment plan") for the existing system that the system under development is intended to replace. Any such sustainment plan shall provide for an appropriate level of budgeting for sustaining the existing system until the replacement system to be developed under the major defense acquisition program is fielded and assumes the majority of responsibility for the mission of the existing system. This section does not apply to a major defense acquisition that reaches initial operational capability before October 1, 2008.

(2) In this section, the term "defense acquisition authority" means the Secretary of a military department or the commander of the United States Special Operations Command.

(b) SUSTAINMENT PLAN.—The Secretary of Defense shall require that each sustainment plan under this section include, at a minimum, the following:

(1) The milestone schedule for the development of the major defense acquisition program, including the scheduled dates for low-rate initial production, initial operational capability, full-rate production, and full operational capability and the date as of when the replacement system is scheduled to assume the majority of responsibility for the mission of the existing system.

(2) An analysis of the existing system to assess the following:

(A) Anticipated funding levels necessary to—

(i) ensure acceptable reliability and availability rates for the existing system; and

(ii) maintain mission capability of the existing system against the relevant threats.

(B) The extent to which it is necessary and appropriate to—

(i) transfer mature technologies from the new system or other systems to enhance the mission capability of the existing system against relevant threats; and

(ii) provide interoperability with the new system during the period from initial fielding until the new system assumes the majority of responsibility for the mission of the existing system.

(c) EXCEPTIONS.—Subsection (a) shall not apply to a major defense acquisition program if the Secretary of Defense determines that—

(1) the existing system is no longer relevant to the mission;

(2) the mission has been eliminated;

(3) the mission has been consolidated with another mission in such a manner that another existing system can adequately meet the mission requirements; or

(4) the duration of time until the new system assumes the majority of responsibility for the existing system's mission is sufficiently short so that mission availability, capability, interoperability, and force protection requirements are maintained.

(d) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) to a major

defense acquisition program if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.

(Added Pub. L. 108–375, div. A, title VIII, §805(a)(1), Oct. 28, 2004, 118 Stat. 2008, §2437; renumbered §4321, Pub. L. 116–283, div. A, title XVIII, §1848(b), Jan. 1, 2021, 134 Stat. 4258.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 4321 was renumbered section 7421 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2437 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 108–375, div. A, title VIII, §805(b), Oct. 28, 2004, 118 Stat. 2009, provided that: "Section 2437 of title 10, United States Code [now 10 U.S.C. 4321], as added by subsection (a), shall apply with respect to a major defense acquisition program for a system that is under development as of the date of the enactment of this Act [Oct. 28, 2004] and is not expected to reach initial operational capability before October 1, 2008. The Secretary of Defense shall require that a sustainment plan under that section be developed not later than one year after the date of the enactment of this Act for the existing system that the system under development is intended to replace."

## §4323. Sustainment reviews

(a) REVIEW REQUIRED.—The Secretary of Defense shall require each Secretary of a military department, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, to conduct an assessment of the actual performance of each major weapon system against the operational readiness requirements and materiel readiness objectives (established under section 118(c) of this title). Each Secretary of a military department shall use such assessment to—

(1) identify any factors contributing to the failure of a major weapon system to meet such requirements and objectives;

(2) develop and implement a corrective action plan to address such factors in an expeditious manner; and

(3) inform the submission of materials to Congress required by section 118(c)(2) of this title and the development of the future-years defense program required by section 221 of this title.

(b) SUBMISSION TO CONGRESS.—Not later than five days after the date on which the budget of the President is submitted to Congress pursuant to section 1105 of title 31, each Secretary of a military department, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees a report that includes the following:

(1) Findings from a review of the effectiveness of the life-cycle sustainment plan required under section 4324 of this title for a major weapon system.

(2) A description of how such assessments informed the submission of materials to Congress

required by section 118(c)(2) of this title and the development of the future-years defense program required by section 221 of this title.

(3) For a covered system which has been declared to meet initial operational capability, and that for two consecutive calendar years has failed to meet established materiel readiness objectives for materiel availability or operational availability (as such terms are defined, respectively, in section 118 of this title), such report shall include—

(A) an identification of factors contributing to such failure;

(B) a mitigation plan to address supply, maintenance, or other issues contributing to such failure; and

(C) a description of any corrective action plan required by subsection (a)(2) and an update on progress made in implementing such a plan.

(4) A summary of actions taken by the Secretary to ensure that each covered system of the military department under the jurisdiction of the Secretary meets the applicable operational readiness requirements and materiel readiness objectives in the most cost-effective manner practicable.

(c) Covered System Defined.—In this section, the term "covered system" has the meaning given in section 4324 of this title.

(Added Pub. L. 114–328, div. A, title VIII, §849(c)(1), Dec. 23, 2016, 130 Stat. 2293, §2441; amended Pub. L. 115–91, div. A, title VIII, §§816, 836(b)(2), Dec. 12, 2017, 131 Stat. 1462, 1473; renumbered §4323 and amended Pub. L. 116–283, div. A, title VIII, §802(c), title XVIII, §§1848(c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3732, 4258, 4294; Pub. L. 119–60, div. A, title XVIII, §1803(b), Dec. 18, 2025, 139 Stat. 1229.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60 amended section generally. Prior to amendment, section required a sustainment review of each covered system not later than five years after declaration of initial operational capability of a major defense acquisition program, and every five years thereafter throughout the life cycle of the covered system.

**2021**—Pub. L. 116–283, §1848(c), renumbered section 2441 of this title as this section.

Subsec. (a). Pub. L. 116–283, §802(c)(1), in first sentence, substituted "covered system" for "major weapon system", ", and every five years thereafter throughout the life cycle of the covered system," for "and throughout the life cycle of the weapon system", and "costs of the covered system" for "costs of the weapon system" and struck out second sentence which read as follows: "For any review after the first one, the Secretary concerned shall use availability and reliability thresholds and cost estimates as the basis for the circumstances that prompt such a review."

Subsec. (b). Pub. L. 116–283, §802(c)(2)(A), inserted "assess execution of the life cycle sustainment plan of the covered system and" before "include the following elements:" in introductory provisions.

Subsec. (b)(10). Pub. L. 116–283, §802(c)(2)(B), added par. (10).

Subsec. (c). Pub. L. 116–283, §1848(c), substituted "sections 4324 and 4325" for "sections 2337 and 2337a".

Subsec. (d). Pub. L. 116–283, §802(c)(3), added subsec. (d).

Subsec. (e). Pub. L. 116–283, §802(c)(3), added subsec. (e).

Subsec. (e)(1). Pub. L. 116–283, §1883(b)(2), substituted "section 4324" for "section 2337".

Subsec. (e)(2)(B). Pub. L. 116–283, §1883(b)(2), substituted "section 4214(d)" for "section 2435(d)".

**2017**—Subsec. (a). Pub. L. 115–91, §816, inserted at end "The Secretary concerned shall make the memorandum and supporting documentation for each sustainment review available to the Under Secretary of Defense for Acquisition and Sustainment within 30 days after the review is completed."

Subsec. (c). Pub. L. 115–91, §836(b)(2), substituted "sections 2337 and 2337a of this title" for "section 2337 of this title and section 832 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 10 U.S.C. 2430 note)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by sections 1848(c) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4324. Life-cycle management and product support

(a) IN GENERAL.—The Secretary of Defense shall ensure that each covered system is supported by a performance-based life-cycle sustainment plan—

(1) that is approved by the service acquisition executive responsible for such covered system; and

(2) that meets applicable operational readiness requirements and materiel readiness objectives (established under section 118(c) of this title) in the most cost-effective manner practicable.

(b) LIFE-CYCLE SUSTAINMENT PLAN.—(1) A product support manager shall develop, update, and implement a life-cycle sustainment plan for each covered system for which the product support manager is responsible. Such plan shall include the following:

(A) A comprehensive product support strategy that addresses each Integrated Product Support Element in a manner—

(i) to best achieve operational readiness requirements and materiel readiness objectives throughout the planned life cycle of such system; and

(ii) that allows evaluation and selection of product support integrators and product support providers appropriate to execute the product support strategy.

(B) A life-cycle cost estimate for the covered system that—

(i) is based on the product support strategy described in subparagraph (A); and

(ii) if the covered system is a major defense acquisition program or major subprogram, is developed in accordance with the requirements to support a Milestone A approval, Milestone B approval, or Milestone C approval.

(C) Recommended engineering and design considerations that support cost-effective sustainment of the covered system and best value solutions in life cycle planning and management.

(D) An intellectual property management plan for product support developed in accordance with section 3774 of this title, including requirements for technical data, software, and modular open system approaches (as defined in section 4401 of this title).

(E) A strategy to maximize use of public and private sector capabilities including public-private partnerships, when appropriate.

(F) After consideration of the views received by the milestone decision authority from appropriate materiel, logistics, or fleet representatives, a plan to transition the covered system from production to initial fielding that addresses specific products or services required for successful initial fielding of the covered system, including—

(i) a description of the necessary tooling or other unique support equipment, requirements for initial spare parts and components, technical handbooks and maintenance manuals, maintenance training, and facilities;

(ii) an identification of the funding required to provide such products and services for any initial fielding location of the covered system; and

(iii) an assessment of the required number of training simulators, including the initial operational capability and overall fielding of such simulators.

(2) In developing each life-cycle sustainment plan required by this section, the product support

manager shall—

(A) consider affordability constraints and key cost factors that could affect operating and support costs during the life cycle of the covered system;

(B) consider sustainment risks or challenges to sustaining the covered system in operational environments, including contested logistics environments (as defined in section 2926 of this title);

(C) seek to comply with—

(i) requirements to maintain a core logistics capability under section 2464 of this title; and

(ii) limitations on the performance of depot-level maintenance of materiel under section 2466 of this title;

(D) seek to integrate commercial best practices, use commercial standards, and use advanced technologies to enhance the product support of each covered system; and

(E) seek to maintain a robust, resilient, and innovative defense industrial base to support requirements throughout the life cycle of the covered system.

(d) [1] DEFINITIONS.—In this chapter:

(1) The terms "milestone decision authority" and "Milestone A approval" have the meanings given, respectively, in section 4251 of this title.

(2) The term "Milestone B approval" and "Milestone C approval" has the meaning given in section 4172 of this title.

(3) The term "covered system" means—

(A) a major defense acquisition program as defined in section 4201 of this title;

(B) a major subprogram as described in section 4203 of this title; or

(C) an acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of this title that is estimated by the Secretary of Defense to require an eventual total expenditure described in section 4201(a)(2) of this title.

(4) The term "critical readiness items of supply" means—

(A) parts and systems designated as Mission Impaired Capability Awaiting Parts, Not Mission Capable Supply, or Casualty Report Category 3 or 4 status (as defined by the Secretary of Defense or a Secretary of a military department); or

(B) parts or systems designated by the Secretary of Defense as negatively impacting the materiel readiness objectives of a covered system.

(5) The term "Integrated Product Support Elements" means, with respect to a covered system—

(A) product support management;

(B) design interface;

(C) sustaining engineering;

(D) maintenance planning and management;

(E) supply support;

(F) support equipment;

(G) technical data;

(H) training and training support;

(I) information technology systems continuous support;

(J) facilities and infrastructure;

(K) packaging, handling, storage, and transportation; and

(L) manpower and personnel.

(6) The term "product support" means the package of support functions required to field and sustain the readiness and operational capability of covered systems (including subsystems and components of such covered systems).

(7) The term "product support arrangement"—

(A) means a contract, task order, or another contractual arrangement, or any type of agreement or non-contractual arrangement entered into by the Federal Government, for the performance of sustainment or logistics support required for covered systems (including subsystems and components of such covered systems); and

(B) includes arrangements for any of the following:

(i) Performance-based logistics.

(ii) Sustainment support.

(iii) Contractor logistics support.

(iv) Life-cycle product support.

(8) The term "product support integrator" means an entity responsible for integrating private and public sources of product support within the scope of a product support arrangement.

(9) The term "product support provider" means an entity that provides product support functions.

(Added Pub. L. 112–239, div. A, title VIII, §823(a)(1), Jan. 2, 2013, 126 Stat. 1830, §2337; amended Pub. L. 113–66, div. A, title VIII, §823, Dec. 26, 2013, 127 Stat. 809; renumbered §4324 and amended Pub. L. 116–283, div. A, title VIII, §802(a), title XVIII, §§1848(d)(1), (2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3731, 4258, 4294; Pub. L. 117–81, div. A, title XVII, §1701(b)(17), (d)(11), Dec. 27, 2021, 135 Stat. 2135, 2137; Pub. L. 117–263, div. A, title VIII, §806, Dec. 23, 2022, 136 Stat. 2702; Pub. L. 118–159, div. A, title VIII, §804(c)(3), Dec. 23, 2024, 138 Stat. 1968; Pub. L. 119–60, div. A, title XVIII, §§1803(c), 1805(b)(1), Dec. 18, 2025, 139 Stat. 1230, 1236.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §1803(c), amended section generally. Prior to amendment, section related to guidance on life-cycle management, life cycle sustainment plans, and product support managers for covered systems.

Subsec. (d)(8). Pub. L. 119–60, §1805(b)(1), which directed the insertion of "the term 'decision authority' " after "meaning given", could not be executed following the general amendment of the section by Pub. L. 119–60, §1803(c). See above.

**2024**—Subsec. (d)(5)(B). Pub. L. 118–159 substituted "section 3602 of this title" for "section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note)".

**2022**—Subsec. (b). Pub. L. 117–263, §806(a), designated existing provisions as par. (1) and inserted heading; inserted "for which the milestone decision authority has received views from appropriate materiel, logistics, or fleet representatives" after "approved life cycle sustainment plan"; designated former pars. (1) to (8) as subpars. (A) to (G) and (J), respectively, of par. (1); amended subpar. (G) generally, prior to which text read "a technical data and intellectual property management plan for product support; and"; added subpars. (H) and (I) of par. (1); and added par. (2). Amendment adding par. (2) "at the end of" par. (1) was executed by adding par. (2) after par. (1) to reflect the probable intent of Congress.

Subsec. (d)(7), (8). Pub. L. 117–263, §806(b), added par. (7) and redesignated former par. (7) as (8).

**2021**—Pub. L. 116–283, §1848(d)(1), renumbered section 2337 of this title as this section.

Pub. L. 116–283, §802(a)(1)–(3), substituted "covered system" for "major weapon system" and "weapon system" and "covered systems" for "major weapon systems" wherever appearing.

Subsec. (b). Pub. L. 116–283, §802(a)(5), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–283, §802(a)(4), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2)(A). Pub. L. 116–283, §802(a)(6)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "develop and implement a comprehensive product support strategy for the weapon system;".

Subsec. (c)(2)(B). Pub. L. 116–283, §802(a)(6)(B), substituted "ensure the life cycle sustainment plan is informed by" for "use".

Subsec. (c)(2)(C). Pub. L. 116–283, §802(a)(6)(C), inserted "and life cycle sustainment plan" after "product support strategy".

Subsec. (c)(5). Pub. L. 116–283, §1848(d)(2), which directed amendment of subsec. (c)(5) by substituting

"section 3041(c)(1)" for "section 2302d(a)" and could not be executed, was repealed by Pub. L. 117–81, §1701(b)(17).

Subsec. (d). Pub. L. 116–283, §802(a)(4), redesignated subsec. (c) as (d).

Subsec. (d)(5). Pub. L. 116–283, §802(a)(7)(A), amended par. (5) generally. Prior to amendment, par. (5) defined "major weapon system".

Subsec. (d)(5)(A). Pub. L. 117–81, §1701(d)(11)(A), substituted "section 4201" for "section 2430".

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2430", which was redesignated as multiple sections.

Subsec. (d)(5)(B). Pub. L. 117–81, §1701(d)(11)(A), which directed the substitution of "section 4201(a)(2) of this title" for "section 2430(a)(1)(B)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4201(a)(2)" for "section 2430(a)(1)(B)".

Subsec. (d)(6). Pub. L. 117–81, §1701(d)(11)(B), which directed the substitution of "section 4172(e)(7)" for "section 2366(e)(7)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4172(e)(7)" for "section 2366(e)(7)".

Pub. L. 116–283, §802(a)(7)(B), added par. (6).

Subsec. (d)(7). Pub. L. 117–81, §1701(d)(11)(C), which directed the substitution of "section 4211(e)(3)" for "section 2431a(e)(5)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4211(e)(3)" for "section 2431a(e)(5)".

Pub. L. 116–283, §802(a)(7)(B), added par. (7).

**2013**—Subsec. (b)(2)(I). Pub. L. 113–66 added subpar. (I).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(d)(11) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by sections 1848(d)(1), (2) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### SIMILAR PROVISIONS

Provisions similar to those in this section were contained in section 805 of Pub. L. 111–84, which was set out as a note under section 2302 of this title prior to repeal by Pub. L. 112–239, div. A, title VIII, §823(b), Jan. 2, 2013, 126 Stat. 1832.

[1] *So in original. No subsec. (c) has been enacted.*

## §4325. Major weapon systems: assessment, management, and control of operating and support costs

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall issue and maintain guidance on actions to be taken to assess, manage, and control Department of Defense costs for the operation and support of major weapon systems.

(b) ELEMENTS.—The guidance required by subsection (a) shall, at a minimum—

(1) be issued in accordance with the requirements of section 118 of this title and in conjunction with the comprehensive guidance on life-cycle management and the development and implementation of product support strategies for major weapon systems required by section 4324 of this title;

(2) require the military departments to retain each estimate of operating and support costs that is

developed at any time during the life cycle of a major weapon system, together with supporting documentation used to develop the estimate;

(3) require each Secretary of a military department to update estimates of operating and support costs periodically throughout the life cycle of a major weapon system, and make necessary adjustments to the life-cycle sustainment plan required by section 4324 of this title to ensure such major weapon system meets applicable operational readiness requirements and materiel readiness objectives (established in accordance with section 118(c) of this title) in the most cost-effective manner practicable;

(4) establish policies and procedures for the collection, organization, maintenance, and availability of standardized data on operating and support costs for major weapon systems in accordance with section 2222 of this title;

(5) establish standard requirements for the collection and reporting of data on operating and support costs for major weapon systems by contractors performing weapon system sustainment functions in an appropriate format, and develop contract clauses to ensure that contractors comply with such requirements;

(6) require the military departments—

(A) to collect and retain data from operational and developmental testing and evaluation on the reliability and maintainability of major weapon systems; and

(B) to use such data to inform system design decisions, provide insight into sustainment costs, and inform estimates of operating and support costs for such systems;

(7) require the military departments to ensure that sustainment factors are fully considered at key life-cycle management decision points and that appropriate measures are taken to reduce operating and support costs by influencing system design early in development, developing sound sustainment strategies, and addressing key drivers of costs;

(8) require the military departments to conduct an independent logistics assessment of each major weapon system prior to key acquisition decision points (including milestone decisions) to identify features that are likely to drive future operating and support costs, changes to system design that could reduce such costs, and effective strategies for managing such costs;

(9) prior to the Milestone B approval (or equivalent approval) for a major weapon system, require the Secretary concerned to ensure the completion of an intellectual property management plan for product support required under section 4324(b)(1)(D) of this title; and

(10) require each Secretary of a military department to create and retain an independent cost estimate for the remainder of the life cycle of the covered weapon system every five years.

(c) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term "major weapon system" has the meaning given that term in section 101(a) of this title.

(Added Pub. L. 115–91, div. A, title VIII, §836(a)(1), Dec. 12, 2017, 131 Stat. 1472, §2337a; amended Pub. L. 115–232, div. A, title X, §1081(a)(20), Aug. 13, 2018, 132 Stat. 1984; renumbered §4325 and amended Pub. L. 116–283, div. A, title XVIII, §1848(d)(1), (3), Jan. 1, 2021, 134 Stat. 4258; Pub. L. 119–60, div. A, title VIII, §811(c)(2)(C), title XVIII, §1803(e), Dec. 18, 2025, 139 Stat. 950, 1233.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(1). Pub. L. 119–60, §1803(e)(1)(A), inserted "in accordance with the requirements of section 118 of this title and" after "be issued".

Subsec. (b)(3). Pub. L. 119–60, §1803(e)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "require the military departments to update estimates of operating and support costs periodically throughout the life cycle of a major weapon system, to determine whether preliminary information and assumptions remain relevant and accurate, and identify and record reasons for variances;".

Subsec. (b)(9). Pub. L. 119–60, §1803(e)(1)(C), amended par. (9) generally. Prior to amendment, par. (9)

read as follows: "include—

"(A) reliability metrics for major weapon systems; and

"(B) requirements on the use of metrics under subparagraph (A) as triggers—

"(i) to conduct further investigation and analysis into drivers of those metrics; and

"(ii) to develop strategies for improving reliability, availability, and maintainability of such systems at an affordable cost; and".

Subsec. (b)(10). Pub. L. 119–60, §1803(e)(1)(D), amended par. (10) generally. Prior to amendment, par. (10) read as follows: "require the military departments to conduct periodic reviews of operating and support costs of major weapon systems after such systems achieve initial operational capability to identify and address factors resulting in growth in operating and support costs and adapt support strategies to reduce such costs."

Subsec. (c). Pub. L. 119–60, §1803(e)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to retention of data on operating and support costs.

Subsec. (d). Pub. L. 119–60, §1803(e)(3), redesignated subsec. (d) as (c).

Pub. L. 119–60, §811(c)(2)(C), substituted "section 101(a)" for "section 3455(f)".

**2021**—Pub. L. 116–283, §1848(d)(3)(B), amended section catchline generally. Prior to amendment, section catchline read as follows: "Assessment, management, and control of operating and support costs for major weapon systems".

Pub. L. 116–283, §1848(d)(1), renumbered section 2337a of this title as this section.

Subsec. (b)(1). Pub. L. 116–283, §1848(d)(3)(A)(i), substituted "section 4324" for "section 2337".

Subsec. (d). Pub. L. 116–283, §1848(d)(3)(A)(ii), substituted "section 3455(f)" for "section 2379(f)".

**2018**—Subsec. (d). Pub. L. 115–232 substituted "this title" for "title 10, United States Code".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### RETENTION OF DATA ON OPERATING AND SUPPORT COSTS

Pub. L. 119–60, div. A, title XVIII, §1803(f), Dec. 18, 2025, 139 Stat. 1233, provided that:

"(1) IN GENERAL.—The Director of Cost Assessment and Program Evaluation shall develop and maintain a database on operating and support estimates, supporting documentation, and actual operating and support costs for major weapon systems (as defined in section 101 of title 10, United States Code, as added by section 811 of this Act).

"(2) SUPPORT.—The Secretary of Defense shall ensure that the Director, in carrying out the requirements of paragraph (1)—

"(A) promptly receives the results of all cost estimates and cost analyses conducted by each Secretary of a military department with regard to operating and support costs of major weapon systems acquired pursuant to a major defense acquisition program (as defined in section 4201 of title 10, United States Code); and

"(B) has timely access to any records and data of military departments (including classified and proprietary information) that the Director considers necessary to carry out such requirements.

"(3) COORDINATION.—The Secretary of Defense may direct each Secretary of a military department, with concurrence of the Under Secretary of Defense for Acquisition and Sustainment, to collect and retain information necessary to support the database required in (1)."

### PILOT PROGRAM ON TIME-CERTAIN DEVELOPMENT IN ACQUISITION OF MAJOR WEAPON SYSTEMS

Pub. L. 109–364, div. A, title VIII, §812, Oct. 17, 2006, 120 Stat. 2317, as amended by Pub. L. 110–417, [div. A], title VIII, §813(d)(3), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–84, div. A, title X, §1073(c)(5), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 116–283, div. A, title XVIII, §1806(e)(2)(D), Jan. 1, 2021, 134 Stat. 4155, which authorized a pilot program on the use of time-certain development in the acquisition of major weapon systems in order to deliver new capabilities to warfighters more rapidly, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(16)(A), Dec. 18, 2025, 139 Stat. 949.

## §4328. Weapon system design: sustainment factors

(a) IN GENERAL.—The Secretary of Defense shall ensure that the defense acquisition system gives ample emphasis to sustainment factors, particularly those factors that are affected principally by the design of a weapon system, in the development of a weapon system.

(b) REQUIREMENTS PROCESS.—The Secretary shall ensure that reliability and maintainability are included in the performance attributes of the key performance parameter on sustainment during the development of capabilities requirements.

(c) SOLICITATION AND AWARD OF CONTRACTS.—

(1) REQUIREMENT.—The program manager of a weapon system shall include in the solicitation for and terms of a covered contract for the weapon system clearly defined and measurable requirements for engineering activities and design specifications for reliability and maintainability.

(2) EXCEPTION.—If the program manager determines that engineering activities and design specifications for reliability or maintainability should not be a requirement in a covered contract or a solicitation for such a contract, the program manager shall document in writing the justification for the decision.

(3) SOURCE SELECTION CRITERIA.—The Secretary shall ensure that sustainment factors, including reliability and maintainability, are given ample emphasis in the process for source selection. The Secretary shall encourage the use of objective reliability and maintainability criteria in the evaluation of competitive proposals.

(d) CONTRACT PERFORMANCE.—

(1) IN GENERAL.—The Secretary shall ensure that the Department of Defense uses best practices for responding to the positive or negative performance of a contractor in meeting the sustainment requirements of a covered contract for a weapon system. The Secretary shall encourage the use of incentive fees and penalties as appropriate and authorized in paragraph (2) in all covered contracts for weapons systems.

(2) AUTHORITY FOR INCENTIVE FEES AND PENALTIES.—The Secretary of Defense is authorized to include in any covered contract provisions for the payment of incentive fees to the contractor based on achievement of design specification requirements for reliability and maintainability of weapons systems under the contract, or the imposition of penalties to be paid by the contractor to the Government for failure to achieve such design specification requirements. Information about such fees or penalties shall be included in the solicitation for any covered contract that includes such fees or penalties.

(3) MEASUREMENT OF RELIABILITY AND MAINTAINABILITY.—In carrying out paragraph (2), the program manager shall base determinations of a contractor's performance on reliability and maintainability data collected during the program. Such data collection and associated evaluation metrics shall be described in detail in the covered contract. To the maximum extent practicable, such data shall be shared with appropriate contractor and government organizations.

(4) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees upon entering into a covered contract that includes incentive fees or penalties authorized in paragraph (2).

(e) COVERED CONTRACT DEFINED.—In this section, the term "covered contract", with respect to a weapon system, means a contract—

(1) for the engineering and manufacturing development of a weapon system, including embedded software; or

(2) for the production of a weapon system, including embedded software.

(Added Pub. L. 115–91, div. A, title VIII, §834(a)(1), Dec. 12, 2017, 131 Stat. 1469, §2443; renumbered §4328 and amended Pub. L. 116–283, div. A, title XVIII, §1848(e), Jan. 1, 2021, 134 Stat. 4259.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 4331 to 4338 were renumbered sections 7431 to 7438 of this title, respectively.

A prior section 4339, act Aug. 10, 1956, ch. 1041, 70A Stat. 240, authorized public quarters and fuel and light therefor for the organist and choirmaster of the Academy and for civilian instructors in the departments of foreign languages and tactics, prior to repeal by Pub. L. 89–716, §1, Nov. 2, 1966, 80 Stat. 1114.

Prior sections 4340 to 4343 were renumbered sections 7440 to 7443 of this title, respectively.

Prior sections 4344 to 4345a were repealed by Pub. L. 114–328, div. A, title XII, §1248(b)(1), Dec. 23, 2016, 130 Stat. 2525.

Section 4344, act Aug. 10, 1956, ch. 1041, 70A Stat. 242; Pub. L. 98–94, title X, §1004(a)(1), Sept. 24, 1983, 97 Stat. 657; Pub. L. 105–85, div. A, title V, §543(a), Nov. 18, 1997, 111 Stat. 1743; Pub. L. 106–65, div. A, title V, §534(a), Oct. 5, 1999, 113 Stat. 605; Pub. L. 106–398, §1 [[div. A], title V, §532(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-110; Pub. L. 107–107, div. A, title V, §533(a)(1), (2), Dec. 28, 2001, 115 Stat. 1105, related to selection of persons from foreign countries to receive instruction at the United States Military Academy. See section 347 of this title.

Section 4345, added Pub. L. 105–85, div. A, title V, §542(a)(1), Nov. 18, 1997, 111 Stat. 1740; amended Pub. L. 106–65, div. A, title V, §535(a), Oct. 5, 1999, 113 Stat. 605; Pub. L. 109–364, div. A, title V, §531(a), Oct. 17, 2006, 120 Stat. 2198, related to an exchange program with foreign military academies.

A prior section 4345, act Aug. 10, 1956, ch. 1041, 70A Stat. 242, related to selection of Filipinos for instruction at the Military Academy, prior to repeal by Pub. L. 98–94, title X, §1004(a)(2), (d), Sept. 24, 1983, 97 Stat. 658, 660, effective one year after Sept. 24, 1983.

Section 4345a, added Pub. L. 110–417, [div. A], title V, §541(a)(1), Oct. 14, 2008, 122 Stat. 4454; amended Pub. L. 113–291, div. A, title V, §553(a), Dec. 19, 2014, 128 Stat. 3377, related to foreign and cultural exchange activities.

Prior sections 4346 to 4349 were renumbered sections 7446 to 7449 of this title, respectively.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1848(e)(2), amended section catchline generally. Prior to amendment, section catchline read as follows: "Sustainment factors in weapon system design".

Pub. L. 116–283, §1848(e)(1), renumbered section 2443 of this title as this section. Section was inserted after section 4325 of this title to reflect the probable intent of Congress, notwithstanding directory language inserting it after section "4235".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 115–91, div. A, title VIII, §834(b), Dec. 12, 2017, 131 Stat. 1470, provided that: "Subsections (c) and (d) of section 2443 of title 10, United States Code [now 10 U.S.C. 4328], as added by subsection (a), shall apply with respect to any covered contract (as defined in that section) for which the contract solicitation is issued on or after the date occurring one year after the date of the enactment of this Act [Dec. 12, 2017]."

### IMPLEMENTATION OF RECOMMENDATIONS OF THE INDEPENDENT STUDY ON CONSIDERATION OF SUSTAINMENT IN WEAPONS SYSTEMS LIFE CYCLE

Pub. L. 115–232, div. A, title VIII, §832, Aug. 13, 2018, 132 Stat. 1857, provided that:

"(a) IMPLEMENTATION REQUIRED.—Not later than 18 months after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall, except as provided under subsection (b), commence implementation of each recommendation submitted as part of the independent assessment produced under section 844 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2290).

"(b) EXCEPTIONS.—

"(1) DELAYED IMPLEMENTATION.—The Secretary of Defense may commence implementation of a recommendation described under subsection (a) later than the date required under such subsection if the

Secretary provides the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with a specific justification for the delay in implementation of such recommendation.

"(2) NONIMPLEMENTATION.—The Secretary of Defense may opt not to implement a recommendation described under subsection (a) if the Secretary provides to the congressional defense committees—

"(A) the reasons for the decision not to implement the recommendation; and

"(B) a summary of the alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

"(c) IMPLEMENTATION PLANS.—For each recommendation that the Secretary is implementing, or that the Secretary plans to implement, the Secretary shall submit to the congressional defense committees—

"(1) a summary of actions that have been taken to implement the recommendation; and

"(2) a schedule, with specific milestones, for completing the implementation of the recommendation."

**ENGINEERING CHANGE AUTHORIZED**

Pub. L. 115–91, div. A, title VIII, §834(c), Dec. 12, 2017, 131 Stat. 1470, provided that: "Subject to the availability of appropriations, the Secretary of Defense may fund engineering changes to the design of a weapon system in the engineering and manufacturing development phase or in the production phase of an acquisition program to improve reliability or maintainability of the weapon system and reduce projected operating and support costs."

# CHAPTER 324—SELECTED ACQUISITION REPORTS

Sec.
4351. Selected Acquisition Reports.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(o)(1)(A), (2)(B), Dec. 27, 2021, 135 Stat. 2146, amended Pub. L. 116–283, div. A, title XVIII, §1849(a), Jan. 1, 2021, 134 Stat. 4259, which added this analysis, by substituting "SELECTED ACQUISITION REPORTS" for "PROGRAM STATUS–SELECTED ACQUISITION REPORTS" in chapter heading, adding item 4351, and striking out what would have been items 4350 to 4358. Amendment by section 1701(o)(2)(B) of Pub. L. 117–81, which directed amendment of the text inserted by section 1849 of Pub. L. 116–283, was executed as if it had referred to the text inserted by section 1849(a) of that Act to reflect the probable intent of Congress.

## [§4350. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

See Codification note set out under section 4351 of this title.

## §4351. Selected Acquisition Reports

(a) In this section:

(1) The term "program acquisition unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

(2) The term "procurement unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total of all funds programmed to be available for obligation for procurement for the program, divided by (B) the number of fully-configured end items to be

procured.

(3) The term "major contract", with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000 and that is not a firm, fixed price contract.

(4) The term "full life-cycle cost", with respect to a major defense acquisition program, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs and any program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than $1,800,000,000 (based on fiscal year 1990 constant dollars). Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and during the period since that report there has been—

(A) less than a 15 percent increase in program acquisition unit cost and current procurement unit cost for the program (or for each designated subprogram under the program); and

(B) less than a six-month delay in any program schedule milestone shown in the Selected Acquisition Report.

(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

(i) the program has not entered system development and demonstration;

(ii) a reasonable cost estimate has not been established for such program; and

(iii) the system configuration for such program is not well defined.

(B) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.

(c)(1) Each Selected Acquisition Report for the first quarter for a fiscal year shall include—

(A) the same information, in detailed and summarized form, as is provided in reports submitted under section 4205 of this title;

(B) for each major defense acquisition program or designated major subprogram included in the report—

(i) the Baseline Estimate (as that term is defined in section 4371(a)(4) of this title), along with the associated risk and sensitivity analysis of that estimate;

(ii) the original Baseline Estimate (as that term is defined in section 4214(d)(1) of this title), along with the associated risk and sensitivity analysis of that estimate;

(iii) if the original Baseline Estimate was adjusted or revised pursuant to section 4214(d)(2) of this title, such adjusted or revised estimate, along with the associated risk and sensitivity analysis of that estimate; and

(iv) the primary risk parameters associated with the current procurement cost for the program (as that term is used in subsection (e)(4));

(C) a summary of the history of significant developments from the date each major defense acquisition program or designated major subprogram included in the report was first included in a

Selected Acquisition Report and program highlights since the last Selected Acquisition Report;

(D) the significant schedule and technical risks for each such program or subprogram, identified at each major milestone and as of the quarter for which the current report is submitted;

(E) the current program acquisition cost and program acquisition unit cost for each such program or subprogram included in the report and the history of those costs from the December 2001 reporting period to the end of the quarter for which the current report is submitted;

(F) the current procurement unit cost for each such program or subprogram included in the report and the history of that cost from the December 2001 reporting period to the end of the quarter for which the current report is submitted;

(G) for each major defense acquisition program that receives Milestone B approval after January 1, 2019, a brief summary description of the key elements of the modular open system approach as defined in section 4401 of this title or, if a modular open system approach was not used, the rationale for not using such an approach; and

(H) such other information as the Secretary of Defense considers appropriate.

(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the information such Committees need to perform their oversight functions. Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.

(3) In addition to the material required by paragraphs (1) and (2), each Selected Acquisition Report for the first quarter of a fiscal year shall include the following:

(A) A full life-cycle cost analysis for each major defense acquisition program and each designated major subprogram included in the report that is in the system development and demonstration stage or has completed that stage. The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.

(B) If the system that is included in that major defense acquisition program has an antecedent system, a full life-cycle cost analysis for that system.

(4) Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (e); and

(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

(1) The quantity of items to be purchased under the program.

(2) The program acquisition cost.

(3) The program acquisition unit cost for the program (or for each designated major subprogram under the program).

(4) The current procurement cost for the program.

(5) The current procurement unit cost for the program (or for each designated major subprogram under the program).

(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

(7) The reasons for any significant changes (from the previous Selected Acquisition Report) in the total program cost for development and procurement of the software component of the program or subprogram, schedule milestones for the software component of the program or subprogram, or expected performance for the software component of the program or subprogram that are known, expected, or anticipated by the program manager.

(8) The major contracts under the program and designated major subprograms under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

(9) Program highlights since the last Selected Acquisition Report.

(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 45 days after the end of the fiscal-year quarter.

(g) The requirements of this section with respect to a major defense acquisition program or designated major subprogram shall cease to apply after 90 percent of the items to be delivered to the United States under the program or subprogram (shown as the total quantity of items to be purchased under the program or subprogram in the most recent Selected Acquisition Report) have been delivered or 90 percent of planned expenditures under the program or subprogram have been made.

(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such program and the Secretary of Defense has decided to proceed to system development and demonstration of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to system development and demonstration if the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

(2) A limited report under this subsection shall include the following:

(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (b)(1) and (b)(3) of section 4205 of this title.

(B) Reasons for any change in the development cost and schedule.

(C) The major contracts under the development program and designated major subprograms under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

(D) Program highlights since the last Selected Acquisition Report.

(E) Other information as the Secretary of Defense considers appropriate.

(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.

(i) FORM OF REPORT.—A Selected Acquisition Report required under this section shall be submitted in unclassified form without any designation relating to dissemination control, but may contain a classified annex.

(j) TERMINATION.—The requirements under this section shall terminate after the final submission covering fiscal year 2023.

(Added Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 739, §139a; amended Pub. L. 98–525, title XII, §1242(a), Oct. 19, 1984, 98 Stat. 2606; Pub. L. 99–145, title XII, §1201, Nov. 8, 1985, 99 Stat. 715; renumbered §2432 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(d)(13), (g)(7), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99–500, §101(c) [title X, §961(a)], Oct. 18,

1986, 100 Stat. 1783–82, 1783–175, and Pub. L. 99–591, §101(c) [title X, §961(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–175; Pub. L. 99–661, div. A, title IX, formerly title IV, §961(a), Nov. 14, 1986, 100 Stat. 3955, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §7(b)(3), (k)(2), Apr. 21, 1987, 101 Stat. 279, 284; Pub. L. 100–180, div. A, title XII, §1233(a)(1), title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1161, 1175; Pub. L. 101–189, div. A, title VIII, §811(c), Nov. 29, 1989, 103 Stat. 1493; Pub. L. 101–510, div. A, title XIV, §§1407(a)–(c), 1484(f)(4), Nov. 5, 1990, 104 Stat. 1681, 1717; Pub. L. 102–25, title VII, §701(f)(3), Apr. 6, 1991, 105 Stat. 115; Pub. L. 102–190, div. A, title VIII, §801(b)(2), title X, §1061(a)(14), Dec. 5, 1991, 105 Stat. 1412, 1473; Pub. L. 102–484, div. A, title VIII, §817(c), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 103–355, title III, §3002(a)(1), (b)–(h), Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 104–201, div. A, title VIII, §806, Sept. 23, 1996, 110 Stat. 2606; Pub. L. 105–85, div. A, title VIII, §841(c), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title VIII, §821(a), Dec. 28, 2001, 115 Stat. 1181; Pub. L. 108–136, div. A, title X, §1045(a)(6), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 108–375, div. A, title VIII, §801(b)(2), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 109–364, div. A, title X, §1071(g)(10), Oct. 17, 2006, 120 Stat. 2402; Pub. L. 110–417, [div. A], title VIII, §811(b), Oct. 14, 2008, 122 Stat. 4521; Pub. L. 112–81, div. A, title VIII, §812, Dec. 31, 2011, 125 Stat. 1491; Pub. L. 113–66, div. A, title VIII, §812(a), Dec. 26, 2013, 127 Stat. 807; Pub. L. 113–291, div. A, title X, §1071(g)(2), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–328, div. A, title VIII, §§805(b), 841, Dec. 23, 2016, 130 Stat. 2255, 2288; Pub. L. 116–92, div. A, title VIII, §830(a), Dec. 20, 2019, 133 Stat. 1492; renumbered §4351 and amended Pub. L. 116–283, div. A, title XVIII, §1849(a)–(d), Jan. 1, 2021, 134 Stat. 4259, 4260; Pub. L. 117–81, div. A, title VIII, §805(a), title XVII, §1701(o)(1), (3), (4), Dec. 27, 2021, 135 Stat. 1816, 2146, 2147; Pub. L. 118–31, div. A, title XVIII, §1801(a)(35), Dec. 22, 2023, 137 Stat. 685.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, §1849(a)–(l), which had initially directed the enactment of sections 4350 to 4358 of this title, the transfers of various subsections of section 2432 of this title to those new sections, and the subsequent repeal of section 2432, was amended by Pub. L. 117–81, §1701(o)(1)–(5), by revising subsecs. (a) to (d), striking out subsecs. (e) to (k), and redesignating subsec. (l) as (e). After that amendment, those enactments and transfers were no longer directed. Instead, Pub. L. 116–283, §1849(b), as amended by Pub. L. 117–81, directed the transfer of section 2432 of this title in its entirety to this section, thereby omitting what would have been sections 4350 and 4352 to 4358 of this title.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2023**—Subsec. (c)(1)(B)(iv). Pub. L. 118–31 substituted "subsection (e)(4)" for "section 4355(4) of this title".

**2021**—Pub. L. 116–283, §1849(b), as amended by Pub. L. 117–81, §1701(o)(1)(B), renumbered section 2432 of this title as this section. See Codification note above.

Subsec. (c)(1)(A). Pub. L. 116–283, §1849(c)(1), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4205" for "section 2431".

Subsec. (c)(1)(B)(i). Pub. L. 116–283, §1849(c)(2), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4371(a)(4)" for "section 2433(a)(2)".

Subsec. (c)(1)(B)(ii). Pub. L. 116–283, §1849(c)(3), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4214(d)(1)" for "section 2435(d)(1)".

Subsec. (c)(1)(B)(iii). Pub. L. 116–283, §1849(c)(4), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4214(d)(2)" for "section 2435(d)(2)".

Subsec. (c)(1)(B)(iv). Pub. L. 116–283, §1849(c)(5), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4355(4)" for "section 2432(e)(4)".

Subsec. (c)(1)(G). Pub. L. 116–283, §1849(c)(6), as amended by Pub. L. 117–81, §1701(o)(3), substituted "section 4401" for "section 2446a".

Subsec. (h)(2)(A). Pub. L. 116–283, §1849(d), as amended by Pub. L. 117–81, §1701(o)(4), substituted "section 4205" for "section 2431".

Subsec. (j). Pub. L. 117–81, §805(a), substituted "fiscal year 2023" for "fiscal year 2021".

**2019**—Subsec. (b)(1). Pub. L. 116–92, §830(a)(1), inserted "and any program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than $1,800,000,000 (based on fiscal year 1990 constant dollars)" after "major defense acquisition programs".

Subsecs. (i), (j). Pub. L. 116–92, §830(a)(2), added subsecs. (i) and (j).

**2016**—Subsec. (c)(1)(G), (H). Pub. L. 114–328, §805(b), added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (f). Pub. L. 114–328, §841, substituted "30" for "45" before "days after the date".

**2014**—Subsec. (c)(1)(E). Pub. L. 113–291, §1071(g)(2), amended Pub. L. 113–66, §812(a)(3)(B). See 2013 Amendment note below.

**2013**—Subsec. (c)(1)(B) to (D). Pub. L. 113–66, §812(a)(2), added subpars. (B) to (D). Former subpars. (B) to (D) redesignated (E) to (G), respectively.

Subsec. (c)(1)(E). Pub. L. 113–66, §812(a)(3)(B), as amended by Pub. L. 113–291, §1071(g)(2), inserted "program acquisition cost and" after "current" the first place appearing.

Pub. L. 113–66, §812(a)(1), (3)(A), (C), (D), redesignated subpar. (B) as (E) and substituted "such program or subprogram" for "major defense acquisition program or designated major subprogram", "those costs" for "that cost", and "December 2001 reporting period" for "date the program or subprogram was first included in a Selected Acquisition Report".

Subsec. (c)(1)(F). Pub. L. 113–66, §812(a)(1), (4), redesignated subpar. (C) as (F) and substituted "such program or subprogram" for "major defense acquisition program or designated major subprogram" and "December 2001 reporting period" for "date the program or subprogram was first included in a Selected Acquisition Report".

Subsec. (c)(1)(G). Pub. L. 113–66, §812(a)(1), redesignated subpar. (D) as (G).

**2011**—Subsec. (f). Pub. L. 112–81 substituted "45 days after the date" for "60 days after the date".

**2008**—Subsec. (b)(2)(A). Pub. L. 110–417, §811(b)(1), inserted "for the program (or for each designated subprogram under the program)" after "procurement unit cost".

Subsec. (c)(1)(B). Pub. L. 110–417, §811(b)(2)(A), inserted "or designated major subprogram" after "for each major defense acquisition program" and "or subprogram" after "the program".

Subsec. (c)(1)(C). Pub. L. 110–417, §811(b)(2)(B), inserted "or designated major subprogram" after "major defense acquisition program" and "or subprogram" after "the program".

Subsec. (c)(3)(A). Pub. L. 110–417, §811(b)(2)(C), inserted "and each designated major subprogram" after "for each major defense acquisition program".

Subsec. (e)(3). Pub. L. 110–417, §811(b)(3)(A), inserted "for the program (or for each designated major subprogram under the program)" before period at end.

Subsec. (e)(5). Pub. L. 110–417, §811(b)(3)(B), inserted "(or for each designated major subprogram under the program)" before period at end.

Subsec. (e)(7). Pub. L. 110–417, §811(b)(3)(C), inserted "or subprogram" after "of the program" wherever appearing.

Subsec. (e)(8). Pub. L. 110–417, §811(b)(3)(D), inserted "and designated major subprograms under the program" after "the program".

Subsec. (g). Pub. L. 110–417, §811(b)(4), inserted "or designated major subprogram" after "major defense acquisition program" and "or subprogram" after "the program" wherever appearing.

Subsec. (h)(2)(C). Pub. L. 110–417, §811(b)(5), inserted "and designated major subprograms under the program" after "the development program".

**2006**—Subsec. (e)(7) to (9). Pub. L. 109–364 made technical correction to directory language of Pub. L. 108–375, §801(b)(2). See 2004 Amendment note below.

**2004**—Subsec. (e)(7) to (9). Pub. L. 108–375, §801(b)(2), as amended by Pub. L. 109–364, added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

**2003**—Subsec. (h)(1). Pub. L. 108–136 inserted "program" after "for such" in first sentence.

**2001**—Subsecs. (b)(3)(A)(i), (c)(3)(A), (h)(1). Pub. L. 107–107 substituted "system development and demonstration" for "engineering and manufacturing development" wherever appearing.

**1999**—Subsecs. (b)(3)(B), (c)(2), (h)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1997**—Subsec. (h)(2)(D) to (F). Pub. L. 105–85 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program."

**1996**—Subsec. (b)(3)(B). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

Subsec. (c)(1). Pub. L. 104–201, §806(1), struck out "and" at end of subpar. (B), added subpar. (C), and redesignated former subpar. (C) as (D).

Subsec. (c)(2). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

Subsec. (e)(8), (9). Pub. L. 104–201, §806(2), redesignated par. (9) as (8) and struck out former par. (8) which read as follows: "The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program."

Subsec. (h)(1). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1994**—Subsec. (a)(2). Pub. L. 103–355, §3002(a)(1), struck out "for a fiscal year, reduced by the amount of funds programmed to be available for obligation for such fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year" after "procurement for the program" in cl. (A), "with such funds during such fiscal year" after "procured" in cl. (B), and last sentence which read as follows: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities."

Subsec. (a)(3). Pub. L. 103–355, §3002(b), inserted before period at end "and that is not a firm, fixed price contract".

Subsec. (a)(4). Pub. L. 103–355, §3002(c), substituted "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control." for "has the meaning given the term 'cost of the program' in section 2434(b)(2) of this title."

Subsec. (b)(3)(A)(i). Pub. L. 103–355, §3002(h)(1), struck out "full scale development or" before "engineering".

Subsec. (c)(2). Pub. L. 103–355, §3002(d), substituted second sentence for former second sentence which read as follows: "The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes."

Subsec. (c)(3)(A). Pub. L. 103–355, §3002(f)(2), (h)(2), substituted "engineering and manufacturing" for "full-scale engineering" and inserted at end "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense."

Subsec. (c)(3)(C). Pub. L. 103–355, §3002(e), struck out subpar. (C) which required production information for each major defense acquisition program included in report that is produced at rate of six units or more per year.

Subsec. (c)(5). Pub. L. 103–355, §3002(f)(1), struck out par. (5) which read as follows: "The Secretary of Defense shall ensure that paragraph (4) of subsection (a) is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense."

Subsec. (f). Pub. L. 103–355, §3002(g), struck out last sentence which read as follows: "A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress."

Subsec. (h)(1). Pub. L. 103–355, §3002(h)(3), substituted "engineering and manufacturing" for "full-scale engineering" in two places.

**1992**—Subsec. (a)(3). Pub. L. 102–484, §817(c)(1), added par. (3) and struck out former par. (3) which read as follows: "The term 'major contract', with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract

under the program that is one of the six largest contracts under the program in dollar amount and that is in excess of $40,000,000."

Subsec. (b)(3). Pub. L. 102–484, §817(c)(2), added par. (3) and struck out former par. (3) which read as follows: "A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives."

Subsec. (c)(2). Pub. L. 102–484, §817(c)(3), added sentence at end and struck out former last sentence which read as follows: "A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes."

Subsec. (c)(3)(C)(i) to (vii). Pub. L. 102–484, §817(c)(4), added cls. (i) to (vii) and struck out former cls. (i) to (vii) which contained similar specification and estimation requirements.

**1991**—Subsec. (a)(4). Pub. L. 102–190, §801(b)(2), substituted "2434(b)(2)" for "2434(c)(2)".

Subsec. (c)(5). Pub. L. 102–25 substituted "subsection (a)" for "section 2432(a) of title 10, United States Code, as added by subsection (a)(2),".

Subsec. (h)(2)(A). Pub. L. 102–190, §1061(a)(14), substituted "(b)(1) and (b)(3)" for "(c)(1) and (c)(3)".

**1990**—Subsec. (a)(4). Pub. L. 101–510, §1407(b), added par. (4).

Subsec. (c)(3). Pub. L. 101–510, §1484(f)(4)(A), substituted "include the following:" for "include—" in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 101–510, §1407(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a full life-cycle cost analysis for each major defense acquisition program included in the report that—

"(i) is in the full-scale engineering development stage or has completed that stage; and

"(ii) was first included in a Selected Acquisition Report for a quarter after the first quarter of fiscal year 1985;".

Subsec. (c)(3)(B). Pub. L. 101–510, §1484(f)(4)(B), (C), substituted "If" for "if" and a period for "; and".

Subsec. (c)(3)(C). Pub. L. 101–510, §1484(f)(4)(B), (D), substituted "Production" for "production" and "program) the following:" for "program)—" in introductory provisions, "Specification" for "specification" in cls. (i) to (iv), "Estimation" for "estimation" in cls. (v) to (vii), a period for a semicolon in cls. (i) to (v), and a period for "; and" in cl. (vi).

Subsec. (c)(5). Pub. L. 101–510, §1407(c), added par. (5).

**1989**—Subsec. (b)(2)(A). Pub. L. 101–189 substituted "15 percent increase in program acquisition unit cost and current procurement unit cost" for "5 percent change in total program cost".

**1987**—Pub. L. 100–180, §1314(a)(1), made technical amendment to directory language of Pub. L. 99–433, §101(a)(5). See 1986 Amendment note below.

Subsec. (a). Pub. L. 100–26, §7(b)(3)(A), as amended by Pub. L. 100–180, §1233(a)(1), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which defined "major defense acquisition program".

Pub. L. 100–26, §7(k)(2)(A), inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

Subsec. (a)(2). Pub. L. 100–26, §7(b)(3)(B), substituted "programmed" for "programed" wherever appearing.

**1986**—Pub. L. 99–433, §101(a)(5), as amended by Pub. L. 100–180, §1314(a)(1), renumbered section 139a of this title as section 2432.

Pub. L. 99–433, §110(d)(13), struck out "Oversight of cost growth in major programs:" before "Selected Acquisition Reports" in section catchline.

Subsec. (a)(3). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(1)], Pub. L. 99–661, §961(a)(1), amended par. (3) identically, inserting provision that if for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.

Subsec. (a)(4). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(2)], Pub. L. 99–661, §961(a)(2), amended par. (4) identically, substituting "$40,000,000" for "$2,000,000".

Subsec. (b)(2)(B). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(3)], Pub. L. 99–661, §961(a)(3), amended subpar. (B) identically, substituting "six-month" for "three-month".

Subsec. (c)(1). Pub. L. 99–433, §110(g)(7), substituted "section 2431" for "section 139".

Subsec. (c)(2). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(4)], Pub. L. 99–661, §961(a)(4), amended subsec. (c) identically, enacting a new par. (2) and striking out former par. (2) which read as follows:

"Each Selected Acquisition Report for the first quarter of a fiscal year shall be prepared and submitted with the same content as was used for the Selected Acquisition Report for the first quarter of fiscal year 1984."

Subsec. (c)(3)(C). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(5)], Pub. L. 99–661, §961(a)(5), amended subpar. (C) identically, inserting in provision preceding cl. (i) "that is produced at a rate of six units or more per year" after "report".

Subsec. (h). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§961(a)(6)], Pub. L. 99–661, §961(a)(6), amended section identically, adding subsec. (h).

**1985**—Subsec. (c). Pub. L. 99–145 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Each Selected Acquisition Report for the first quarter of a fiscal year shall include (1) the same information, in detailed and summarized form, as is provided in reports submitted under section 139 of this title, (2) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (3) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports."

**1984**—Subsec. (a)(3). Pub. L. 98–525, §1242(a)(1), substituted "funds programed to be available for obligation for procurement" for "procurement funds appropriated" and "of funds programed to be available for obligation" for "of funds appropriated".

Subsec. (a)(4). Pub. L. 98–525, §1242(a)(2), inserted "and that is in excess of $2,000,000".

Subsec. (b)(2). Pub. L. 98–525, §1242(a)(3), substituted "during the period since that report there has been— (A) less than a 5 percent change in total program cost; and (B) less than a three-month delay in any program schedule milestone shown in the Selected Acquisition Report" for "there has been no change in program cost, performance, or schedule since the most recent such report".

Subsec. (f). Pub. L. 98–525, §1242(a)(4), substituted: "60" for "30", "45" for "30, and "A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress" for "If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report".

Subsec. (g). Pub. L. 98–525, §1242(a)(5), added subsec. (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(2) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113–66 as enacted.

### EFFECTIVE DATE OF 2013 AMENDMENT; PHASE-IN OF ADDITIONAL INFORMATION REQUIREMENTS

Pub. L. 113–66, div. A, title VIII, §812(b), Dec. 26, 2013, 127 Stat. 807, provided that: "Section 2432(c)(1) of title 10, United States Code [now 10 U.S.C. 4351(c)(1)], as amended by subsection (a), shall apply to Selected Acquisition Reports after the date of the enactment of this Act [Dec. 26, 2013] as follows:

"(1) For the December 2014 reporting period, to Selected Acquisition Reports for five major defense acquisition programs or designated major subprograms, as determined by the Secretary.

"(2) For the December 2019 reporting period and each reporting period thereafter, to Selected Acquisition Reports for all major defense acquisition programs or designated major subprograms."

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(10) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VIII, §801(c), Oct. 28, 2004, 118 Stat. 2004, provided that: "The amendments made by this section [amending this section and former section 2433 of this title] shall take effect on the date occurring 60 days after the date of the enactment of this Act [Oct. 28, 2004], and shall apply with respect to reports due to be submitted to Congress on or after such date."

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title XIV, §1407(d), Nov. 5, 1990, 104 Stat. 1681, as amended by Pub. L. 102–25, title VII, §704(a)(8), Apr. 6, 1991, 105 Stat. 119, provided that: "The amendments made by subsection (a) [amending this section] shall take effect with respect to Selected Acquisition Reports submitted under section 2432 of title 10, United States Code [now 10 U.S.C. 4351], after December 31, 1991."

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 1233(a)(1) of Pub. L. 100–180 applicable as if included in enactment of the Defense Technical Corrections Act of 1987, Pub. L. 100–26, see section 1233(c) of Pub. L. 100–180, set out as a note under section 101 of this title.

Amendment by section 1314(a)(1) of Pub. L. 100–180 applicable as if included in enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99–433, see section 1314(e) of Pub. L. 100–180, set out as a note under section 743 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–500, §101(c) [title X, §961(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–176, Pub. L. 99–591, §101(c) [title X, §961(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–176, and Pub. L. 99–661, div. A, title IX, formerly title IV, §961(c), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "The amendments made by subsections (a) and (b) [amending this section and former section 2433 of this title] shall take effect on January 1, 1987."

## EFFECTIVE DATE

Pub. L. 97–252, title XI, §1107(c), Sept. 8, 1982, 96 Stat. 746, provided that: "Sections 139a [now 10 U.S.C. 4351] and 139b [see 10 U.S.C. 4371 to 4375] of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) [repealing section 811 of Pub. L. 94–106, formerly set out as a Reports to Congress of Acquisitions for Major Defense Systems note under section 2431 of this title] shall take effect on January 1, 1983."

## ACQUISITION REPORTING SYSTEM

Pub. L. 117–263, div. A, title VIII, §809(a), (b), Dec. 23, 2022, 136 Stat. 2705, as amended by Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(A), Dec. 18, 2025, 139 Stat. 1460, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall institute a defense acquisition reporting system to replace the requirements of section 4351 of title 10, United States Code, as soon as practicable but not later than June 30, 2023.

"(b) ELEMENTS.—The reporting system required under subsection (a) shall—

"(1) produce the information necessary to carry out the actions specified in chapter 325 of title 10, United States Code;

"(2) produce the information necessary to carry out the actions specified in sections 6125 and 6161 of title 10, United States Code;

"(3) incorporate—

"(A) the lessons learned from the demonstration carried out under subsection (b) of section 805 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1816); and

"(B) the plans required under subsection (c) of such section (Public Law 117–81; 135 Stat. 1817);

"(4) provide the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and other designated Government entities with access to acquisition reporting that is updated on a not less than quarterly basis; and

"(5) include such other information and functions as the Secretary of Defense determines appropriate to support the acquisition reporting needs of the Department of Defense."

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in this section requiring submittal of reports to Congress, see section 1051(x) of Pub. L. 115–91, set out as a note under section 111 of this title.

**ANNUAL REPORTING**

Pub. L. 114–328, div. A, title VIII, §847(b), Dec. 23, 2016, 130 Stat. 2292, provided that: "The Secretary of Defense shall include in each comprehensive annual Selected Acquisition Report submitted under section 2432 of title 10, United States Code [now 10 U.S.C. 4351], a listing of all programs or projects being developed or procured under the exceptions to the definition of major defense acquisition program set forth in paragraph (2) of section 2430(a) of [title 10,] United States Code [now 10 U.S.C. 4201(b)], as added by subsection (a)(1)(C) of this section."

**SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS**

Pub. L. 100–180, div. A, title I, §127, Dec. 4, 1987, 101 Stat. 1044, as amended by Pub. L. 102–484, div. A, title VIII, §817(a), Oct. 23, 1992, 106 Stat. 2454, provided that:

"(a) SAR COVERAGE FOR ATB, ACM, AND ATA PROGRAMS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code [now 10 U.S.C. 4351(b)], a Selected Acquisition Report with respect to each program referred to in subsection (b), notwithstanding that such a report would not otherwise be required under section 2432 of title 10, United States Code [now 10 U.S.C. 4351].

"(b) COVERED PROGRAMS.—Subsection (a) applies to the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program.

"(c) SELECTED ACQUISITION REPORT DEFINED.—As used in subsection (a), the term 'Selected Acquisition Report' means a report containing the information referred to in section 2432 of title 10, United States Code [now 10 U.S.C. 4351]."

## [§§4352 to 4358. Omitted]

**EDITORIAL NOTES**

**CODIFICATION**

See Codification note set out under section 4351 of this title.

# CHAPTER 325—COST GROWTH—UNIT COST REPORTS (NUNN-MCCURDY)

Sec.
4371. Cost growth definitions; applicability of reporting requirements; constant base year dollars.
4372. Unit cost reports: quarterly report from program manager to service acquisition executive.
4373. Unit cost reports: immediate report from program manager to service acquisition executive upon breach of significant cost growth threshold.
4374. Unit cost reports: determinations by service acquisition executive and secretary concerned of breach of significant cost growth threshold or critical cost growth threshold; reports to Congress.
4375. Breach of significant cost growth threshold or critical cost growth threshold: required action.
4376. Breach of critical cost growth threshold: reassessment of program; presumption of program termination.
4377. Breach of critical cost growth threshold: actions if program not terminated.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 325 "DEPARTMENT OF DEFENSE LABORATORIES", consisting of reserved section 4351, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

## §4371. Cost growth definitions; applicability of reporting requirements; constant base year dollars

(a) DEFINITIONS.—In this chapter:

(1) PROGRAM ACQUISITION UNIT COST; PROCUREMENT UNIT COST; MAJOR CONTRACT.—Except as provided in section 4203(d) of this title, the terms "program acquisition unit cost", "procurement unit cost", and "major contract" have the same meanings as provided in section 4351(a) of this title.

(2) SIGNIFICANT COST GROWTH THRESHOLD.—The term "significant cost growth threshold" means the following:

(A) In the case of a major defense acquisition program or designated major defense subprogram, a percentage increase in the program acquisition unit cost for the program or subprogram of—

(i) at least 15 percent over the program acquisition unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 30 percent over the program acquisition unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(B) In the case of a major defense acquisition program or designated major defense subprogram that is a procurement program, a percentage increase in the procurement unit cost for the program or subprogram of—

(i) at least 15 percent over the procurement unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 30 percent over the procurement unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(3) CRITICAL COST GROWTH THRESHOLD.—The term "critical cost growth threshold" means the following:

(A) In the case of a major defense acquisition program or designated major defense subprogram, a percentage increase in the program acquisition unit cost for the program or subprogram of—

(i) at least 25 percent over the program acquisition unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 50 percent over the program acquisition unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(B) In the case of a major defense acquisition program or designated major defense subprogram that is a procurement program, a percentage increase in the procurement unit cost for the program or subprogram of—

(i) at least 25 percent over the procurement unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 50 percent over the procurement unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(4) BASELINE ESTIMATE.—The term "Baseline Estimate", with respect to a unit cost report that is submitted under this chapter to the service acquisition executive designated by the Secretary concerned on a major defense acquisition program or designated major subprogram, means the cost estimate included in the baseline description for the program or subprogram under section 4214 of this title.

(5) ORIGINAL BASELINE ESTIMATE.—The term "original Baseline Estimate" has the same meaning as provided in section 4214(d) of this title.

(6) PROCUREMENT PROGRAM.—The term "procurement program" means a program for

which funds for procurement are authorized to be appropriated in a fiscal year.

(b) Reporting under this chapter shall not apply if a program has received a limited reporting waiver under section 4351(h) of this title.

(c) Any determination of a percentage increase under this chapter shall be stated in terms of constant base year dollars (as described in section 4202 of this title).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a)–(d), Jan. 1, 2021, 134 Stat. 4265, 4266; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(E)(i), (ii), Dec. 27, 2021, 135 Stat. 2147, 2148.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (a) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1850(b)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(1), Oct. 19, 1984, 98 Stat. 2607; renumbered §2433 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(g)(8)(A), Oct. 1, 1986, 100 Stat. 995, 1004; Pub. L. 100–26, §7(b)(4), (k)(7), Apr. 21, 1987, 101 Stat. 279, 284; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(1), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 102–484, div. A, title VIII, §817(d)(1), Oct. 23, 1992, 106 Stat. 2456; Pub. L. 103–355, title III, §3003(a)(1), Oct. 13, 1994, 108 Stat. 3329; Pub. L. 109–163, div. A, title VIII, §802(a), (d)(2), Jan. 6, 2006, 119 Stat. 3367, 3370; Pub. L. 110–417, [div. A], title VIII, §811(c)(1), Oct. 14, 2008, 122 Stat. 4522; Pub. L. 111–383, div. A, title X, §1075(b)(34), Jan. 7, 2011, 124 Stat. 4371.

The text of subsec. (f) of section 2433 of this title, which was transferred to this section, redesignated subsec. (c) and amended by Pub. L. 116–283, §1850(d), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 103–355, title III, §3003(d), Oct. 13, 1994, 108 Stat. 3329.

The text of subsec. (h) of section 2433 of this title, which was transferred to this section, redesignated subsec. (b) and amended by Pub. L. 116–283, §1850(c), was based on Pub. L. 99–500, §101(c) [title X, §961(b)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–176, and Pub. L. 99–591, §101(c) [title X, §961(b)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–176; Pub. L. 99–661, div. A, title IX, formerly title IV, §961(b)(2), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1850(b)(2), inserted subsec. heading and headings in pars. (1) to (6).

Pub. L. 116–283, §1850(b)(1), transferred subsec. (a) of section 2433 of this title to this section and substituted "this chapter" for "this section" in introductory provisions and par. (2).

Subsec. (a)(1). Pub. L. 116–283, §1850(b)(3)(A), as amended by Pub. L. 117–81, §1701(o)(6)(E)(i), substituted "section 4203(d)" for "section 2430a(d)" and "section 4351(a)" for "section 2432(a)".

Subsec. (a)(2). Pub. L. 116–283, §1850(b)(4), redesignated par. (4) as (2) and transferred it to appear in numerical order. Former par. (2) redesignated (4).

Pub. L. 116–283, §1850(b)(3)(B), substituted "section 4214" for "section 2435".

Subsec. (a)(3) to (5). Pub. L. 116–283, §1850(b)(4), redesignated pars. (5), (2), and (6) as (3) to (5), respectively, and transferred them to appear in numerical order. Former pars. (3) and (4) redesignated pars. (6) and (2), respectively.

Subsec. (a)(6). Pub. L. 116–283, §1850(b)(4), redesignated par. (3) as (6) and transferred it to appear in numerical order. Former par. (6) redesignated (5).

Pub. L. 116–283, §1850(b)(3)(C), substituted "section 4214(d)" for "section 2435(d)".

Subsec. (b). Pub. L. 116–283, §1850(c), as amended by Pub. L. 117–81, §1701(o)(6)(E)(ii), transferred subsec. (h) of section 2433 of this title to this section, redesignated it as subsec. (b), and substituted "under this chapter" for "under this section" and "section 4351(h)" for "section 2432(h)".

Subsec. (c). Pub. L. 116–283, §1850(d), transferred subsec. (f) of section 2433 of this title to this section, redesignated it as subsec. (c), and substituted "under this chapter" for "under this section" and "section 4202" for "section 2430".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### COST GROWTH REPORTS FOR MAJOR ACQUISITION PROGRAMS THAT ARE HIGHLY SENSITIVE CLASSIFIED PROGRAMS

Pub. L. 118–159, div. A, title VIII, §809, Dec. 23, 2024, 138 Stat. 1978, provided that:

"(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment, in consultation [sic] each Secretary of a military department, shall establish guidance requiring that each service acquisition executive (as defined in section 101 of title 10, United States Code) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a cost growth report for a covered program each time the estimated unit cost for such covered program has increased by a percentage equal to or greater than any of the significant cost growth thresholds or critical cost growth thresholds under section 4371 of title 10, United States Code.

"(b) ELEMENTS OF REPORT.—A cost growth report required under this section shall include, with respect to a covered program, the following:

"(1) The name of the covered program.

"(2) The date of the preparation of the report.

"(3) The program phase of the covered program.

"(4) The unit cost estimates for the covered program in constant base-year dollars and in current dollars.

"(5) A statement of the reasons for cost increases that resulted in the submission of a report under this section.

"(6) A list of major program milestones, including the dates for each program milestone according to the original baseline, current baseline, and current estimate.

"(7) Annualized funding for the program by appropriation account from the date on which the program commenced to the current estimated year of completion.

"(8) Any actions taken or proposed to be taken to control future cost growth of the covered program.

"(9) Any changes made in the performance or milestones of the covered program and the extent to which such changes have contributed to the cost increase.

"(c) CRITICAL BREACH.—With respect to a covered program for which the cost growth meets the threshold for a critical cost growth threshold (as defined in section 4371 of title 10, United States Code), the applicable service acquisition executive shall—

"(1) treat such covered program as if the unit cost of such a covered program has increased by a percentage equal to or greater than any of the critical cost growth thresholds for the covered program; and

"(2) follow applicable procedures in sections 4376 and 4377 of title 10, United States Code.

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered program' means a Department of Defense program—

"(A) that is a highly sensitive classified program (as determined by the Secretary of Defense);

"(B) that would be a major defense acquisition program under section 4201 of title 10, United States Code, except for the exclusion from the applicability of that section of such a highly sensitive classified program; and

"(C) that has entered the engineering and manufacturing design phase, or equivalent phase.

"(2) The term 'unit cost' means, with respect to a covered program, as applicable—

"(A) the program acquisition unit cost (as defined in section 4351 of title 10, United States Code); or

"(B) the procurement unit cost (as defined in such section)."

## §4372. Unit cost reports: quarterly report from program manager to service

**acquisition executive**

(a) REQUIRED REPORTS.—

(1) REQUIREMENT.—The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 4351(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program (or of each designated major subprogram under the program).

(2) TIME FOR SUBMITTAL.—Each report shall be submitted not more than 30 calendar days after the end of that quarter.

(b) MATTER TO BE INCLUDED IN UNIT COST REPORTS.—The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

(1) The program acquisition unit cost for the program (or for each designated major subprogram under the program).

(2) In the case of a procurement program, the procurement unit cost for the program (or for each designated major subprogram under the program).

(3) Any cost variance or schedule variance in a major contract under the program since the contract was entered into.

(4) Any changes from program schedule milestones or program performances reflected in the baseline description established under section 4214 of this title that are known, expected, or anticipated by the program manager.

(5) Any significant changes in the total program cost for development and procurement of the software component of the program or subprogram, schedule milestones for the software component of the program or subprogram, or expected performance for the software component of the program or subprogram that are known, expected, or anticipated by the program manager.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (e), Jan. 1, 2021, 134 Stat. 4265, 4266; Pub. L. 117–81, div. A, title XVII, §1701(b)(18), (o)(6)(E)(iii), Dec. 27, 2021, 135 Stat. 2135, 2148.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (b) of section 2433 of this title, which was transferred to this section and redesignated as subsec. (a) by Pub. L. 116–283, §1850(e)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(2), Oct. 19, 1984, 98 Stat. 2607; renumbered §2433 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(g)(8)(B), Oct. 1, 1986, 100 Stat. 995, 1004; Pub. L. 99–500, §101(c) [title X, §961(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–176, and Pub. L. 99–591, §101(c) [title X, §961(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–176; Pub. L. 99–661, div. A, title IX, formerly title IV, §961(b)(1), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(2), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 102–484, div. A, title VIII, §817(d)(2), Oct. 23, 1992, 106 Stat. 2456; Pub. L. 103–355, title III, §3003(b), Oct. 13, 1994, 108 Stat. 3329; Pub. L. 108–375, div. A, title VIII, §801(a), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 110–417, [div. A], title VIII, §811(c)(2), Oct. 14, 2008, 122 Stat. 4522.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §1850(e)(3), designated first and second sentences as pars. (1) and (2), respectively, and inserted subsec. and par. headings.

Pub. L. 116–283, §1850(e)(2), as amended by Pub. L. 117–81, §1701(b)(18), designated third sentence of subsec. (a) as (b).

Pub. L. 116–283, §1850(e)(1), transferred subsec. (b) of section 2433 of this title to this section and redesignated it as subsec. (a).

Subsec. (a)(1). Pub. L. 116–283, §1850(e)(4)(A), as amended by Pub. L. 117–81, §1701(o)(6)(E)(iii),

substituted "section 4351(b)(3)" for "section 2432(b)(3)".

Subsec. (b). Pub. L. 116–283, §1850(e)(2), as amended by Pub. L. 117–81, §1701(b)(18), designated third sentence of subsec. (a) as (b) and inserted heading.

Subsec. (b)(4). Pub. L. 116–283, §1850(e)(4)(B), substituted "section 4214" for "section 2435".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4373. Unit cost reports: immediate report from program manager to service acquisition executive upon breach of significant cost growth threshold

If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under section 4372 of this title determines at any time during a quarter that there is reasonable cause to believe that the program acquisition unit cost for the program (or for a designated major subprogram under the program) or the procurement unit cost for the program (or for such a subprogram), as applicable, has increased by a percentage equal to or greater than the significant cost growth threshold; and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the service acquisition executive designated by the Secretary concerned, then the program manager shall immediately submit to such service acquisition executive a unit cost report containing the information, determined as of the date of the report, required under section 4372 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (f), Jan. 1, 2021, 134 Stat. 4265, 4266.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (c) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1850(f), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(3), Oct. 19, 1984, 98 Stat. 2608; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(3), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 101–510, div. A, title XIV, §1484(k)(10), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102–484, div. A, title VIII, §817(d)(3), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103–355, title III, §§3002(a)(2)(A), 3003(a)(2)(A), (c), Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 105–85, div. A, title VIII, §833(a), (b), Nov. 18, 1997, 111 Stat. 1842, 1843; Pub. L. 109–163, div. A, title VIII, §802(b)(1), Jan. 6, 2006, 119 Stat. 3368; Pub. L. 110–417, [div. A], title VIII, §811(c)(3), Oct. 14, 2008, 122 Stat. 4522.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1850(f), transferred subsec. (c) of section 2433 of this title to this section, struck out subsec. designation, and substituted "section 4372 of this title" for "subsection (b)" in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4374. Unit cost reports: determinations by service acquisition executive and secretary concerned of breach of significant cost growth threshold or critical cost growth threshold; reports to Congress

(a) DETERMINATION OF BREACH BY SERVICE ACQUISITION EXECUTIVE.—When a unit cost report is submitted to the service acquisition executive designated by the Secretary concerned under this chapter with respect to a major defense acquisition program or any designated major subprogram under the program, the service acquisition executive shall determine whether the current program acquisition unit cost for the program or subprogram has increased by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program or subprogram.

(b) ADDITIONAL DETERMINATION BY SERVICE ACQUISITION EXECUTIVE WHEN PROGRAM OR SUBPROGRAM IS A PROCUREMENT PROGRAM.—When a unit cost report is submitted to the service acquisition executive designated by the Secretary concerned under this chapter with respect to a major defense acquisition program or any designated major subprogram under the program that is a procurement program, the service acquisition executive, in addition to the determination under subsection (a), shall determine whether the procurement unit cost for the program or subprogram has increased by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program or subprogram.

(c) DETERMINATION OF BREACH BY SECRETARY CONCERNED; NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—If, based upon the service acquisition executive's determination, the Secretary concerned determines that the current program acquisition unit cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold or that the procurement unit cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Secretary shall notify Congress in writing of such determination and of the increase with respect to the program or subprogram concerned.

(2) TIME FOR SUBMISSION OF NOTIFICATION TO CONGRESS.—In the case of a determination based on a quarterly report submitted in accordance with section 4372 of this title, the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with section 4373 of this title, the Secretary shall submit the notification to Congress within 45 days after the date of that report.

(3) INCLUSION OF DATE OF DETERMINATION.—The Secretary shall include in the notification the date on which the determination was made.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (g), Jan. 1, 2021, 134 Stat. 4265, 4267.)

### EDITORIAL NOTES

### CODIFICATION

The text of subsec. (d) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1850(g)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(4), Oct. 19, 1984, 98 Stat. 2608; Pub. L. 99–145, title XIII, §1303(a)(2), Nov. 8, 1985, 99 Stat. 738; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(4), Nov. 29, 1989, 103 Stat. 1491; Pub. L. 102–484, div. A, title VIII, §817(d)(4), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103–355, title III, §§3002(a)(2)(B), 3003(a)(2)(B), Oct. 13, 1994, 108

Stat. 3328, 3329; Pub. L. 105–85, div. A, title VIII, §833(c), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 109–163, div. A, title VIII, §802(b)(2), Jan. 6, 2006, 119 Stat. 3368; Pub. L. 110–417, [div. A], title VIII, §811(c)(4), Oct. 14, 2008, 122 Stat. 4523.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1850(g)(1), transferred subsec. (d) of section 2433 of this title to this section, struck out subsec. designation, and redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively.

Subsec. (a). Pub. L. 116–283, §1850(g)(2), inserted heading and substituted "under this chapter" for "under this section".

Subsec. (b). Pub. L. 116–283, §1850(g)(3), inserted heading and substituted "under this chapter" for "under this section" and "subsection (a)" for "paragraph (1)".

Subsec. (c). Pub. L. 116–283, §1850(g)(4)(B), which directed amendment of subsec. (c) by designating second sentence as par. (2) and fourth sentence as par. (3), was executed by designating second and third sentences as par. (2) and fourth sentence as par. (3) to reflect the probable intent of Congress.

Pub. L. 116–283, §1850(g)(4)(A), inserted subsec. heading, designated first sentence as par. (1) and inserted par. heading.

Subsec. (c)(2). Pub. L. 116–283, §1850(g)(4)(C), inserted heading and substituted "section 4372 of this title" for "subsection (b)" and "section 4373 of this title" for "subsection (c)".

Subsec. (c)(3). Pub. L. 116–283, §1850(g)(4)(D), inserted heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4375. Breach of significant cost growth threshold or critical cost growth threshold: required action

(a) BREACH OF SIGNIFICANT COST GROWTH THRESHOLD; SUBMISSION OF A SELECTED ACQUISITION REPORT.—

(1) GENERAL RULE.—Except as provided in paragraph (2), whenever the Secretary concerned determines under section 4374 of this title that the program acquisition unit cost or the procurement unit cost of a major defense acquisition program or designated major subprogram has increased by a percentage equal to or greater than the significant cost growth threshold for the program or subprogram, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 4351(e) of this title and shall be submitted in accordance with section 4351(f) of this title.

(2) Whenever the Secretary makes a determination referred to in paragraph (1) in the case of a major defense acquisition program or designated major subprogram during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under paragraph (1) but shall include the information described in subsection (d) regarding that program or subprogram in the comprehensive annual Selected Acquisition Report submitted in that quarter.

(b) BREACH OF CRITICAL COST GROWTH THRESHOLD.—If the program acquisition unit cost or procurement unit cost of a major defense acquisition program or designated major subprogram (as determined by the Secretary under section 4374 of this title) increases by a

percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Secretary of Defense shall take actions consistent with the requirements of sections 4376 and 4377 of this title.

(c) PROHIBITION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES WHEN REQUIRED ACTION NOT TAKEN.—

(1) PROHIBITION.—If a determination of an increase by a percentage equal to or greater than the significant cost growth threshold is made by the Secretary under section 4374 of this title and a Selected Acquisition Report containing the information described in subsection (d) is not submitted to Congress under subsection (a), or if a determination of an increase by a percentage equal to or greater than the critical cost growth threshold is made by the Secretary under section 4374 of this title and the certification of the Secretary of Defense is not submitted to Congress under subsection (b), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.

(2) TERMINATION OF PROHIBITION.—The prohibition under paragraph (1) on the obligation of funds for a major defense acquisition program shall cease to apply at the end of a period of 30 days of continuous session of Congress (as determined under section 8677(b)(2) of this title) beginning on the date—

(A) on which Congress receives the Selected Acquisition Report under subsection (a) with respect to that program, in the case of a determination of an increase by a percentage equal to or greater than the significant cost growth threshold (as determined in section 4374 of this title); or

(B) on which Congress has received both the Selected Acquisition Report under subsection (a) and the certification of the Secretary of Defense under section 4376 with respect to that program, in the case of an increase by a percentage equal to or greater than the critical cost growth threshold (as determined under section 4374 of this title).

(d) MATTER TO BE INCLUDED IN REPORTS.—Except as provided in subsection (e), each report under this section with respect to a major defense acquisition program shall include the following:

(1) The name of the major defense acquisition program.

(2) The date of the preparation of the report.

(3) The program phase as of the date of the preparation of the report.

(4) The estimate of the program acquisition cost for the program (and for each designated major subprogram under the program) as shown in the Selected Acquisition Report in which the program or subprogram was first included, expressed in constant base-year dollars and in current dollars.

(5) The current program acquisition cost for the program (and for each designated major subprogram under the program) in constant base-year dollars and in current dollars.

(6) A statement of the reasons for any increase in program acquisition unit cost or procurement unit cost for the program (or for any designated major subprogram under the program).

(7) The completion status of the program and each designated major subprogram under the program—

(A) expressed as the percentage that the number of years for which funds have been appropriated for the program or subprogram is of the number of years for which it is planned that funds will be appropriated for the program or subprogram; and

(B) expressed as the percentage that the amount of funds that have been appropriated for the program or subprogram is of the total amount of funds which it is planned will be appropriated for the program or subprogram.

(8) The fiscal year in which information on the program and each designated major subprogram under the program was first included in a Selected Acquisition Report (referred to in this paragraph as the "base year") and the date of that Selected Acquisition Report in which information on the program or subprogram was first included.

(9) The type of the Baseline Estimate that was included in the baseline description under section 4214 of this title and the date of the Baseline Estimate.

(10) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost for the program (or for each designated major subprogram under the program), stated both in constant base-year dollars and in current dollars.

(11) The current change and the total change, in dollars and expressed as a percentage, in the procurement unit cost for the program (or for each designated major subprogram under the program), stated both in constant base-year dollars and in current dollars and the procurement unit cost for the program (or for each designated major subprogram under the program) for the succeeding fiscal year expressed in constant base-year dollars and in current year dollars.

(12) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

(13) The identities of the military and civilian officers responsible for program management and cost control of the program.

(14) The action taken and proposed to be taken to control future cost growth of the program.

(15) Any changes made in the performance or schedule milestones of the program and the extent to which such changes have contributed to the increase in program acquisition unit cost or procurement unit cost for the program (or for any designated major subprogram under the program).

(16) The following contract performance assessment information with respect to each major contract under the program or subprogram:

(A) The name of the contractor.

(B) The phase that the contract is in at the time of the preparation of the report.

(C) The percentage of work under the contract that has been completed.

(D) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

(E) The percentage by which the contract is currently ahead of or behind schedule.

(F) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program and any designated major subprogram under the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.

(17) In any case in which one or more problems with the software component of the program or any designated major subprogram under the program significantly contributed to the increase in program unit costs, the action taken and proposed to be taken to solve such problems.

(e) BREACH DUE TO TERMINATION OR CANCELLATION OF PROGRAM OR SUBPROGRAM.—

(1) LIMITED REPORTING.—If a program acquisition unit cost increase or a procurement unit cost increase for a major defense acquisition program or designated major subprogram that results in a report under this subsection is due to termination or cancellation of the entire program or subprogram, only the information specified in paragraphs (1) through (6) of subsection (d) and the percentage change in program acquisition unit cost or procurement unit cost that resulted in the report need be included in the report.

(2) CERTIFICATION NOT REQUIRED.—The certification of the Secretary of Defense under subsection (b) is not required to be submitted for termination or cancellation of a program or subprogram.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (h), (i), Jan. 1, 2021, 134 Stat. 4265, 4267, 4269; Pub. L. 117–81, div. A, title XVII, §1701(c)(4), (d)(12), (o)(6)(E)(iv), Dec. 27, 2021, 135 Stat. 2136, 2137, 2148.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e) of section 2433 of this title, which was transferred to this section, redesignated

subsecs. (a) to (c), and amended by Pub. L. 116–283, §1850(h)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(5), Oct. 19, 1984, 98 Stat. 2608; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(5), Nov. 29, 1989, 103 Stat. 1491; Pub. L. 102–484, div. A, title VIII, §817(d)(5), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103–35, title II, §201(i)(2), May 31, 1993, 107 Stat. 100; Pub. L. 103–355, title III, §3002(a)(2)(C), Oct. 13, 1994, 108 Stat. 3328; Pub. L. 109–163, div. A, title VIII, §802(b)(3), (c), Jan. 6, 2006, 119 Stat. 3369; Pub. L. 109–364, div. A, title II, §213(a), Oct. 17, 2006, 120 Stat. 2121; Pub. L. 110–181, div. A, title IX, §942(e), Jan. 28, 2008, 122 Stat. 288; Pub. L. 110–417, [div. A], title VIII, §811(c)(5), Oct. 14, 2008, 122 Stat. 4523; Pub. L. 111–23, title II, §206(a)(3), May 22, 2009, 123 Stat. 1728; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.

The text of subsec. (g) of section 2433 of this title, which was transferred to this section, redesignated subsecs. (d) and (e), and amended by Pub. L. 116–283, §1850(i)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–94, title XII, §1268(1), Sept. 24, 1983, 97 Stat. 705; Pub. L. 98–525, title XII, §1242(b)(6), Oct. 19, 1984, 98 Stat. 2608; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(6), Nov. 29, 1989, 103 Stat. 1493; Pub. L. 103–355, title III, §3003(e), Oct. 13, 1994, 108 Stat. 3329; Pub. L. 108–375, div. A, title VIII, §801(b)(1), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 110–417, [div. A], title VIII, §811(c)(6), Oct. 14, 2008, 122 Stat. 4523; Pub. L. 111–84, div. A, title X, §1073(c)(4), Oct. 28, 2009, 123 Stat. 2474.

## AMENDMENTS

**2021**—Pub. L. 116–283, §1850(i)(1), transferred subsec. (g) of section 2433 of this title to this section, struck out subsec. designation, and redesignated pars. (1) and (2) as subsecs. (d) and (e), respectively.

Pub. L. 116–283, §1850(h)(1), transferred subsec. (e) of section 2433 of this title to this section, struck out subsec. designation, and redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively.

Subsec. (a). Pub. L. 116–283, §1850(h)(2)(A), (B), inserted subsec. heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, inserted par. (1) heading, and substituted "Except as provided in paragraph (2)," for "Except as provided in subparagraph (B)," in par. (1).

Subsec. (a)(1). Pub. L. 116–283, §1850(h)(2)(C), as amended by Pub. L. 117–81, §1701(o)(6)(E)(iv), substituted "under section 4374 of this title" for "under subsection (d)", "section 4351(e)" for "section 2432(e)", and "section 4351(f)" for "section 2432(f)".

Subsec. (a)(2). Pub. L. 116–283, §1850(h)(2)(D), substituted "paragraph (1)" for "subparagraph (A)" in two places and "subsection (d)" for "subsection (g)".

Subsec. (b). Pub. L. 116–283, §1850(h)(3), inserted heading and substituted "section 4374 of this title" for "subsection (d)" and "sections 4376 and 4377" for "section 2433a".

Subsec. (c). Pub. L. 116–283, §1850(h)(4)(A), (B), inserted subsec. heading, designated first and second sentences as pars. (1) and (2), respectively, and inserted par. (1) heading.

Subsec. (c)(1). Pub. L. 116–283, §1850(h)(4)(C), substituted "section 4374 of this title" for "subsection (d)" in two places, "subsection (d)" for "subsection (g)", "subsection (a)" for "paragraph (1)", and "subsection (b)" for "paragraph (2)".

Subsec. (c)(2). Pub. L. 116–283, §1850(h)(4)(D)(i), inserted heading and substituted "The prohibition under paragraph (1)" for "The prohibition" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 117–81, §1701(d)(12)(A), struck out "or (b)(2)" after "subsection (a)".

Pub. L. 116–283, §1850(h)(4)(D)(ii), substituted "subsection (a) or (b)(2)" for "paragraph (1) or (2)(B)" and "section 4374 of this title" for "subsection (d)".

Subsec. (c)(2)(B). Pub. L. 117–81, §1701(d)(12)(B), struck out "or (b)(2)" after "subsection (a)" and substituted "section 4376" for "subsection (b)(1)".

Pub. L. 116–283, §1850(h)(4)(D)(iii), substituted "subsection (a) or (b)(2)" for "paragraph (1) or (2)(B)", "subsection (b)(1)" for "paragraph (2)(A)", and "section 4374 of this title" for "subsection (d)".

Subsec. (d). Pub. L. 116–283, §1850(i)(2)(A), (B), inserted heading, substituted "Except as provided in subsection (e), each report under this section" for "Except as provided in paragraph (2), each report under subsection (e)" in introductory provisions, and redesignated subpars. (A) to (Q) as pars. (1) to (17), respectively.

Subsec. (d)(7). Pub. L. 117–81, §1701(c)(4), substituted "under the program—

"(A) expressed as"

for "under the program (i) expressed as" and "or subprogram; and

"(B) expressed as"

for "or subprogram, and (ii) expressed as".

Subsec. (d)(9). Pub. L. 116–283, §1850(i)(2)(C), substituted "section 4214" for "section 2435".

Subsec. (d)(16). Pub. L. 116–283, §1850(i)(2)(D), redesignated cls. (i) to (vi) as subpars. (A) to (F), respectively.

Subsec. (e). Pub. L. 116–283, §1850(i)(3)(A)–(C), inserted subsec. heading, designated first and second sentences as pars. (1) and (2), respectively, inserted par. (1) heading, and, in par. (1), substituted "paragraphs (1) through (6) of subsection (d)" for "clauses (A) through (F) of paragraph (1)".

Subsec. (e)(2). Pub. L. 116–283, §1850(i)(3)(D), inserted heading and substituted "subsection (b)" for "subsection (e)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1701(c)(4), (d)(12) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(o)(6)(E)(iv) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4376. Breach of critical cost growth threshold: reassessment of program; presumption of program termination

(a) REASSESSMENT OF PROGRAM.—If the program acquisition unit cost or procurement unit cost of a major defense acquisition program or designated subprogram (as determined by the Secretary under section 4374 of this title) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Secretary of Defense shall—

(1) determine the root cause or causes of the critical cost growth in accordance with applicable statutory requirements and Department of Defense policies, procedures, and guidance; and

(2) in consultation with the Director of Cost Assessment and Program Evaluation, carry out an assessment of—

(A) the projected cost of completing the program if current requirements are not modified;

(B) the projected cost of completing the program based on reasonable modification of such requirements;

(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

(D) the need to reduce funding for other programs due to the growth in cost of the program.

(b) PRESUMPTION OF TERMINATION.—

(1) TERMINATION UNLESS SECRETARY SUBMITS CERTIFICATION AND REPORT .—After conducting the reassessment required by subsection (a) with respect to a major defense acquisition program, the Secretary shall terminate the program unless the Secretary submits to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in section 4375(d) and (e) of this title is required to be submitted under section 4351(f) of this title, a written certification in accordance with paragraph (2).

(2) CERTIFICATION.—A certification described by this paragraph with respect to a major defense acquisition program is a written certification that—

(A) the continuation of the program is essential to the national security;

(B) there are no alternatives to the program which will provide acceptable capability at less cost;

(C) the new estimates of the program acquisition unit cost or procurement unit cost have been determined by the Director of Cost Assessment and Program Evaluation to be reasonable;

(D) the program is a higher priority than programs whose funding must be reduced to accommodate the growth in cost of the program; and

(E) the management structure for the program is adequate to manage and control program acquisition unit cost or procurement unit cost.

(3) REPORT.—A written certification under paragraph (2) shall be accompanied by a report presenting the root cause analysis and assessment carried out pursuant to subsection (a) and the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), together with supporting documentation.

(c) ACTIONS IF PROGRAM TERMINATED.—If a major defense acquisition program is terminated pursuant to subsection (b), the Secretary shall submit to Congress a written report setting forth—

(1) an explanation of the reasons for terminating the program;

(2) the alternatives considered to address any problems in the program; and

(3) the course the Department plans to pursue to meet any continuing military requirements otherwise intended to be met by the program.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (j), Jan. 1, 2021, 134 Stat. 4265, 4269; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(E)(v), Dec. 27, 2021, 135 Stat. 2148; Pub. L. 119–60, div. A, title XVIII, §1811(g)(4), Dec. 18, 2025, 139 Stat. 1243.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsecs. (a) and (b) of section 2433a of this title, which was transferred to this section by Pub. L. 116–283, §1850(j)(1), was based on Pub. L. 111–23, title II, §206(a)(1), May 22, 2009, 123 Stat. 1726; Pub. L. 111–383, div. A, title X, §1075(b)(35), Jan. 7, 2011, 124 Stat. 4371.

The text of subsec. (d) of section 2433a of this title, which was transferred to this section and redesignated subsec. (c) by Pub. L. 116–283, §1850(j)(2), was based on Pub. L. 111–23, title II, §206(a)(1), May 22, 2009, 123 Stat. 1726.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1811(g)(4)(A), struck out ", after consultation with the Joint Requirements Oversight Council regarding program requirements," after "Secretary of Defense" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 119–60, §1811(g)(4)(B), struck out "to meet the joint military requirement (as defined in section 181(g)(1) of this title)" after "capability".

Subsec. (c)(3). Pub. L. 119–60, §1811(g)(4)(C), struck out "joint" before "military requirements".

**2021**—Pub. L. 116–283, §1850(j)(1), (2), transferred subsecs. (a), (b), and (d) of section 2433a of this title to this section and redesignated subsec. (d) as (c).

Subsec. (a). Pub. L. 116–283, §1850(j)(3)(A), substituted "section 4374" for "section 2433(d)" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–283, §1850(j)(4)(A), inserted heading.

Pub. L. 116–283, §1850(j)(3)(B), as amended by Pub. L. 117–81, §1701(o)(6)(E)(v), substituted "section 4375(d) and (e)" for "section 2433(g)" and "section 4351(f)" for "section 2432(f)".

Subsec. (b)(2), (3). Pub. L. 116–283, §1850(j)(4)(B)–(D), realigned margins and inserted headings.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283

as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4377. Breach of critical cost growth threshold: actions if program not terminated

(a) ACTIONS IF PROGRAM NOT TERMINATED.—If the Secretary elects not to terminate a major defense acquisition program pursuant to subsection (b) of section 4376 of this title, the Secretary shall—

(1) restructure the program in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to subsection (a) of that section, and ensures that the program has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E) of that section;

(2) rescind the most recent Milestone approval for the program and withdraw any associated certification under section 4251 or 4252 of this title;

(3) require a new Milestone approval for the program before taking any contract action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the program, except to the extent determined necessary by the Milestone Decision Authority, on a non-delegable basis, to ensure that the program can be restructured as intended by the Secretary without unnecessarily wasting resources;

(4) include in the report specified in subsection (b) a description of all funding changes made as a result of the growth in cost of the program, including reductions made in funding for other programs to accommodate such cost growth; and

(5) conduct regular reviews of the program in accordance with the requirements of section 205 of the Weapon Systems Acquisition Reform Act of 2009.

(b) IDENTIFICATION OF REPORT FOR DESCRIPTION OF FUNDING CHANGES.—For purposes of subsection (a)(4), the report specified in this subsection is the first Selected Acquisition Report for the program submitted pursuant to section 4351 of this title after the President submits a budget pursuant to section 1105 of title 31, in the calendar year following the year in which the program was restructured.

(c) INAPPLICABILITY OF CERTAIN SUBSECTION (A) REQUIREMENTS.—

(1) CONDITIONS FOR INAPPLICABILITY.—The requirements of paragraphs (2), (3), and (5) of subsection (a) shall not apply to a program or subprogram if—

(A) the Milestone Decision Authority determines in writing, on the basis of a cost assessment and root cause analysis conducted pursuant to section 4376(a) of this title, that—

(i) but for a change in the quantity of items to be purchased under the program or subprogram, the program acquisition unit cost or procurement unit cost for the program or subprogram would not have increased by a percentage equal to or greater than the cost growth thresholds for the program or subprogram set forth in paragraph (2); and

(ii) the change in quantity of items described in clause (i) was not made as a result of an increase in program cost, a delay in the program, or a problem meeting program requirements;

(B) the Secretary determines in writing that the cost to the Department of Defense of complying with such requirements is likely to exceed the benefits to the Department of complying with such requirements; and

(C) the Secretary submits to Congress, before the end of the 60-day period beginning on the

day the Selected Acquisition Report containing the information described in subsections (d) and (e) of section 4375 of this title is required to be submitted under section 4351(f) of this title—

(i) a copy of the written determination under subparagraph (A) and an explanation of the basis for the determination; and

(ii) a copy of the written determination under subparagraph (B) and an explanation of the basis for the determination.

(2) COST GROWTH THRESHOLDS.—The cost growth thresholds specified in this paragraph are as follows:

(A) In the case of a major defense acquisition program or designated major defense subprogram, a percentage increase in the program acquisition unit cost for the program or subprogram of—

(i) 5 percent over the program acquisition unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; and

(ii) 10 percent over the program acquisition unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(B) In the case of a major defense acquisition program or designated major defense subprogram that is a procurement program, a percentage increase in the procurement unit cost for the program or subprogram of—

(i) 5 percent over the procurement unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; and

(ii) 10 percent over the procurement unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a), (k), Jan. 1, 2021, 134 Stat. 4265, 4270; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(E)(vi), (vii), Dec. 27, 2021, 135 Stat. 2148.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 205 of the Weapon Systems Acquisition Reform Act of 2009, referred to in subsec. (a)(5), is section 205 of Pub. L. 111–23, which amended section 4252 of this title and enacted provisions set out as notes under this section and former section 2366b of this title.

### CODIFICATION

The text of subsec. (c) of section 2433a of this title, which was transferred to this section and redesignated as subsec. (a) by Pub. L. 116–283, §1850(k)(1), was based on Pub. L. 111–23, title II, §206(a)(1), May 22, 2009, 123 Stat. 1726; Pub. L. 112–81, div. A, title VIII, §§801(e)(4), 831, Dec. 31, 2011, 125 Stat. 1484, 1503; Pub. L. 112–239, div. A, title VIII, §813, Jan. 2, 2013, 126 Stat. 1829.

### PRIOR PROVISIONS

Prior sections 4381 to 4387 were repealed by Pub. L. 88–647, title III, §301(10), Oct. 13, 1964, 78 Stat. 1072.

Section 4381, act Aug. 10, 1956, ch. 1041, 70A Stat. 246, defined "advanced training" for purposes of chapter 405.

Section 4382, act Aug. 10, 1956, ch. 1041, 70A Stat. 246, provided for the establishment and composition of the Reserve Officers' Training Corps.

Section 4383, act Aug. 10, 1956, ch. 1041, 70A Stat. 247, related to admission and training of medical, dental, pharmacy, and veterinary students.

Section 4384, act Aug. 10, 1956, ch. 1041, 70A Stat. 247; Pub. L. 85–861, §1(104), Sept. 2, 1958, 72 Stat. 1489, set out courses of training.

Section 4385, act Aug. 10, 1956, ch. 1041, 70A Stat. 247, authorized the operation and maintenance of training camps.

Section 4386, act Aug. 10, 1956, ch. 1041, 70A Stat. 248, provided for supplies and uniforms.

Section 4387, act Aug. 10, 1956, ch. 1041, 70A Stat. 248, provided for advanced training and compensation.

## AMENDMENTS

**2021**—Pub. L. 116–283, §1850(k)(2), redesignated pars. (2) and (3) of subsec. (a) as subsecs. (b) and (c), respectively.

Pub. L. 116–283, §1850(k)(1), transferred subsec. (c) of section 2433a of this title to this section and redesignated it as subsec. (a).

Subsec. (a). Pub. L. 116–283, §1850(k)(3)(A)–(C), struck out par. (1) designation before "If the Secretary", inserted "of section 4376 of this title" after "subsection (b)" in introductory provisions, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (a)(1). Pub. L. 116–283, §1850(k)(3)(D), inserted "of that section" after "subsection (a)" and "subsection (b)(2)(E)".

Subsec. (a)(2). Pub. L. 116–283, §1850(k)(3)(E), substituted "section 4251 or 4252" for "section 2366a or 2366b".

Subsec. (a)(4). Pub. L. 116–283, §1850(k)(3)(F), substituted "subsection (b)" for "paragraph (2)".

Subsec. (b). Pub. L. 116–283, §1850(k)(4), as amended by Pub. L. 117–81, §1701(o)(6)(E)(vi), inserted heading and substituted "subsection (a)(4)" for "paragraph (1)(D)", "in this subsection" for "in this paragraph", and "section 4351" for "section 2432".

Subsec. (c). Pub. L. 116–283, §1850(k)(5), inserted subsec. heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, inserted par. headings, and substituted "The requirements of paragraphs (2), (3), and (5) of subsection (a)" for "The requirements of subparagraphs (B), (C), and (E) of paragraph (1)" in introductory provisions of par. (1).

Subsec. (c)(1). Pub. L. 116–283, §1850(k)(6)(A), redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively.

Subsec. (c)(1)(A). Pub. L. 116–283, §1850(k)(6)(C)(i), substituted "pursuant to section 4376(a) of this title" for "pursuant to subsection (a)" in introductory provisions.

Pub. L. 116–283, §1850(k)(6)(B), redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively.

Subsec. (c)(1)(A)(i). Pub. L. 116–283, §1850(k)(6)(C)(ii), substituted "paragraph (2)" for "subparagraph (B)".

Subsec. (c)(1)(A)(ii). Pub. L. 116–283, §1850(k)(6)(C)(iii), substituted "clause (i)" for "subclause (I)".

Subsec. (c)(1)(C). Pub. L. 116–283, §1850(k)(6)(D)(i), as amended by Pub. L. 117–81, §1701(o)(6)(E)(vii), substituted "subsections (d) and (e) of section 4375" for "section 2433(g)" and "section 4351(f)" for "section 2432(f)" in introductory provisions.

Pub. L. 116–283, §1850(k)(6)(B), redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively.

Subsec. (c)(1)(C)(i). Pub. L. 116–283, §1850(k)(6)(D)(ii), substituted "subparagraph (A)" for "clause (i)".

Subsec. (c)(1)(C)(ii). Pub. L. 116–283, §1850(k)(6)(D)(iii), substituted "subparagraph (B)" for "clause (ii)".

Subsec. (c)(2). Pub. L. 116–283, §1850(k)(7)(A), (B), substituted "this paragraph" for "this subparagraph" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (c)(2)(A), (B). Pub. L. 116–283, §1850(k)(7)(C), redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

### REVIEWS OF PROGRAMS RESTRUCTURED AFTER EXPERIENCING CRITICAL COST GROWTH

Pub. L. 111–23, title II, §205(c), May 22, 2009, 123 Stat. 1725, as amended by Pub. L. 111–383, div. A, title VIII, §813(e), title X, §1075(k)(2), Jan. 7, 2011, 124 Stat. 4266, 4378, provided that: "The official

designated to perform oversight of performance assessment pursuant to section 103 of this Act [formerly set out as a note under section 2430 of this title, see 10 U.S.C. 4273], shall assess the performance of each major defense acquisition program that has exceeded critical cost growth thresholds established pursuant to [former] section 2433(e) of title 10, United States Code [see 10 U.S.C. 4375(a) to (c)], but has not been terminated in accordance with [former] section 2433a of such title [see 10 U.S.C. 4376, 4377] (as added by section 206(a) of this Act) not less often than semi-annually until one year after the date on which such program receives a new milestone approval, in accordance with [former] section 2433a(c)(1)(C) of such title [see 10 U.S.C. 4377(a)(3)] (as so added). The results of reviews performed under this subsection shall be reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics and summarized in the next annual report of such designated official."

[Pub. L. 111–383, div. A, title VIII, §813(e), Jan. 7, 2011, 124 Stat. 4266, provided that the amendment made by section 813(e) to section 205(c) of Pub. L. 111–23, set out above, is effective as of May 22, 2009, and as if included in Pub. L. 111–23, as enacted.]

[For definition of "major defense acquisition program" as used in section 205(c) of Pub. L. 111–23, set out above, see section 2(2) of Pub. L. 111–23, set out as a note preceding section 4321 of this title.]

# CHAPTER 327—WEAPON SYSTEMS DEVELOPMENT AND RELATED MATTERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Modular Open System Approach in Development of Weapon Systems** | **4401** |
| **II.** | **Development, Prototyping, and Deployment of Weapon System Components or Technology** | **4421** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 327 "RESEARCH AND DEVELOPMENT CENTERS AND FACILITIES", consisting of reserved section 4401, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

A prior chapter 329 "OPERATIONAL TEST AND EVALUATION; DEVELOPMENTAL TEST AND EVALUATION", consisting of reserved section 4451, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

## SUBCHAPTER I—MODULAR OPEN SYSTEM APPROACH IN DEVELOPMENT OF WEAPON SYSTEMS


Sec.

4401. Requirement for modular open system approach in major defense acquisition programs; definitions.

4402. Requirement to address modular open system approach in program capabilities development and acquisition weapon system design.

4403. Requirements relating to availability of major system interfaces and support for modular open system approach.


### §4401. Requirement for modular open system approach in major defense acquisition programs; definitions

(a) MODULAR OPEN SYSTEM APPROACH REQUIREMENT.—A major defense acquisition program that receives Milestone A or Milestone B approval after January 1, 2019, shall be designed and developed, to the maximum extent practicable, with a modular open system approach to enable incremental development and enhance competition, innovation, and interoperability. Other defense

acquisition programs shall also be designed and developed, to the maximum extent practicable, with a modular open system approach to enable incremental development and enhance competition, innovation, and interoperability.

(b) DISCLOSURE REQUIRED.—Not later than one year after the date of the enactment of this subsection, the Secretary of Defense shall make publicly available any standards for implementation of the modular open system approaches for contracts, unless the service acquisition executive with respect to a specific contract submits to the Secretary a request to not disclose such standards and the Secretary approves such request.

(c) DEFINITIONS.—In this chapter:

(1) The term "modular open system approach" means, with respect to a major defense acquisition program, an integrated business and technical strategy that—

(A) employs a modular design that uses modular system interfaces between major systems, major system components and modular systems;

(B) is subjected to verification to ensure that relevant modular system interfaces—

(i) comply with, if available and suitable, widely supported and consensus-based standards; or

(ii) are delivered pursuant to the requirements established in subsection (a)(2)(B) of section 804 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, including the delivery of—

(I) software-defined interface syntax and properties, specifically governing how values are validly passed and received between major subsystems and components, in machine-readable format;

(II) a machine-readable definition of the relationship between the delivered interface and existing common standards or interfaces available in Department interface repositories; and

(III) documentation with functional descriptions of software-defined interfaces, conveying semantic meaning of interface elements, such as the function of a given interface field;

(C) uses a system architecture that allows severable major system components and modular systems at the appropriate level to be incrementally added, removed, or replaced throughout the life cycle of a major system platform to afford opportunities for enhanced competition and innovation while yielding—

(i) significant cost savings or avoidance;

(ii) schedule reduction;

(iii) opportunities for technical upgrades;

(iv) increased interoperability, including system of systems interoperability and mission integration; or

(v) other benefits during the sustainment phase of a major weapon system; and

(D) complies with the technical data rights set forth in sections 3771 through 3775 of this title.

(2) The term "major system platform" means the highest level structure of a major weapon system that is not physically mounted or installed onto a higher level structure and on which a major system component can be physically mounted or installed.

(3) The term "major system component"—

(A) means a high level subsystem or assembly, including hardware, software, or an integrated assembly of both, that can be mounted or installed on a major system platform through modular system interfaces; and

(B) includes a subsystem or assembly that is likely to have additional capability requirements, is likely to change because of evolving technology or threat, is needed for interoperability, facilitates incremental deployment of capabilities, or is expected to be replaced

by another major system component.

(4) The term "modular system interface" means a shared boundary between major systems, major system components, or modular systems, defined by various physical, logical, and functional characteristics, such as electrical, mechanical, fluidic, optical, radio frequency, data, networking, or software elements.

(5) The term "modular system" refers to a weapon system or weapon system component that—

(A) is able to execute without requiring coincident execution of other specific weapon systems or components;

(B) can communicate across component boundaries and through interfaces; and

(C) functions as a module that can be separated, recombined, and connected with other weapon systems or weapon system components in order to achieve various effects, missions, or capabilities.

(6) The term "program capability document" means, with respect to a major defense acquisition program, a document that specifies capability requirements for the program, such as a capability development document or a capability production document.

(7) The terms "program cost targets" and "fielding target" have the meanings provided in section 4271(a) of this title.

(8) The term "major defense acquisition program" has the meaning provided in section 4201 of this title.

(9) The term "major weapon system" has the meaning provided in section 101(a) of this title.

(Added Pub. L. 114–328, div. A, title VIII, §805(a)(1), Dec. 23, 2016, 130 Stat. 2252, §2446a; renumbered §4401 and amended Pub. L. 116–283, div. A, title VIII, §804(b)(1), title XVIII, §1851(b)(1), (2), Jan. 1, 2021, 134 Stat. 3737, 4272; Pub. L. 118–159, div. A, title VIII, §819, Dec. 23, 2024, 138 Stat. 1982; Pub. L. 119–60, div. A, title VIII, §811(c)(2)(D), Dec. 18, 2025, 139 Stat. 950.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (b), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

Section 804 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (c)(1)(B)(ii), is section 804 of Pub. L. 116–283, which is set out as a note below.

### AMENDMENTS

**2025**—Subsec. (c)(9). Pub. L. 119–60 substituted "section 101(a)" for "section 3455(f)".

**2024**—Subsecs. (b), (c). Pub. L. 118–159 added subsec. (b) and redesignated former subsec. (b) as (c).

**2021**—Pub. L. 116–283, §1851(b)(1), renumbered section 2446a of this title as this section.

Subsec. (a). Pub. L. 116–283, §804(b)(1)(A), inserted at end "Other defense acquisition programs shall also be designed and developed, to the maximum extent practicable, with a modular open system approach to enable incremental development and enhance competition, innovation, and interoperability."

Subsec. (b)(1)(A). Pub. L. 116–283, §804(b)(1)(B)(i)(I), substituted "modular system interfaces between major systems, major system components and modular systems;" for "major system interfaces between a major system platform and a major system component, between major system components, or between major system platforms;".

Subsec. (b)(1)(B). Pub. L. 116–283, §804(b)(1)(B)(i)(II), substituted "that relevant modular system interfaces—" for "major system interfaces comply with, if available and suitable, widely supported and consensus-based standards;" and added cls. (i) and (ii).

Subsec. (b)(1)(C). Pub. L. 116–283, §804(b)(1)(B)(i)(III), inserted "and modular systems" after "severable major system components" in introductory provisions.

Subsec. (b)(1)(D). Pub. L. 116–283, §1851(b)(2)(A), substituted "sections 3771 through 3775" for "section 2320".

Subsec. (b)(3)(A). Pub. L. 116–283, §804(b)(1)(B)(ii), substituted "modular system interfaces" for

"well-defined major system interfaces".

Subsec. (b)(4). Pub. L. 116–283, §804(b)(1)(B)(iii), amended par. (4) generally. Prior to amendment, par. (4) defined major system interface.

Subsec. (b)(5), (6). Pub. L. 116–283, §804(b)(1)(B)(iv), (v), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (b)(7). Pub. L. 116–283, §1851(b)(2)(B), which directed amendment of par. (6) of subsec. (b) by substituting "section 4271(a)" for "section 2448a(a)", was executed by making the substitution in par. (7) to reflect the probable intent of Congress and the intervening amendment by section 804(b)(1)(B)(iv) of Pub. L. 116–283 which redesignated par. (6) as (7). See below.

Pub. L. 116–283, §804(b)(1)(B)(iv), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 116–283, §1851(b)(2)(C), which directed amendment of par. (7) of subsec. (b) by substituting "section 4201" for "section 2430", was executed by making the substitution in par. (8) to reflect the probable intent of Congress and the intervening amendment by section 804(b)(1)(B)(iv) of Pub. L. 116–283 which redesignated par. (7) as (8). See below.

Pub. L. 116–283, §804(b)(1)(B)(iv), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 116–283, §1851(b)(2)(D), which directed amendment of par. (8) of subsec. (b) by substituting "section 3455(f)" for "section 2379(f)", was executed by making the substitution in par. (9) to reflect the probable intent of Congress and the intervening amendment by section 804(b)(1)(B)(iv) of Pub. L. 116–283 which redesignated par. (8) as (9). See below.

Pub. L. 116–283, §804(b)(1)(B)(iv), redesignated par. (8) as (9).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1851(b)(1), (2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title VIII, §805(a)(4), Dec. 23, 2016, 130 Stat. 2255, provided that: "Subchapter I of chapter 144B of title 10, United States Code [see, now, this subchapter], as added by paragraph (1), shall take effect on January 1, 2017."

### IMPLEMENTATION OF MODULAR OPEN SYSTEMS APPROACHES

Pub. L. 116–283, div. A, title VIII, §804, Jan. 1, 2021, 134 Stat. 3735, provided that:

"(a) REQUIREMENTS FOR INTERFACE DELIVERY.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Joint All-Domain Command and Control cross-functional team and the Director for Command, Control, Communications, and Computers/Cyber, shall issue regulations and guidance applicable to the military departments, Defense Agencies, Department of Defense Field Activities (as such terms are defined, respectively, in section 101 of title 10, United States Code), and combatant commands, as appropriate, to—

"(A) facilitate the Department of Defense's access to and utilization of modular system interfaces;

"(B) fully realize the intent of [former] chapter 144B of title 10, United States Code [see this chapter and sections 4271 and 4272 of this title], by facilitating the implementation of modular open system approaches across major defense acquisition programs (as defined in section 2430 of title 10, United States Code [now 10 U.S.C. 4201]) and other relevant acquisition programs, including in the acquisition and sustainment of weapon systems, platforms, and components for which no common interface standard has been established, to enable communication between such weapon systems, platforms, and components; and

"(C) advance the efforts of the Department to generate diverse and recomposable kill chains.

"(2) ELEMENTS.—The regulations and guidance required under paragraph (1) shall include requirements that—

"(A) the program officer for each weapon system characterizes, in the acquisition strategy required under section 2431a of title 10, United States Code [now 10 U.S.C. 4211] or in other documentation, the desired modularity of the weapon system for which the program officer is responsible, including—

"(i) identification of—

"(I) the modular systems that comprise the weapon system;

"(II) the information that should be communicated between individual modular systems (such as tracking and targeting data or command and control instructions); and

"(III) the desired function of the communication between modular systems (such as fire control functions); and

"(ii) a default configuration specifying which modular systems should communicate with other modular systems, including modular systems of other weapon systems;

"(B) each relevant Department of Defense contract entered into after the date on which the regulations and guidance required under paragraph (1) are implemented includes requirements for the delivery of modular system interfaces for modular systems deemed relevant in the acquisition strategy or documentation referred to in subparagraph (A), including—

"(i) software-defined interface syntax and properties, specifically governing how values are validly passed and received between major subsystems and components, in machine-readable format;

"(ii) a machine-readable definition of the relationship between the delivered interface and existing common standards or interfaces available in the interface repositories established pursuant to subsection (c); and

"(iii) documentation with functional descriptions of software-defined interfaces, conveying semantic meaning of interface elements, such as the function of a given interface field;

"(C) the relevant program offices, including those responsible for maintaining and upgrading legacy systems—

"(i) that have not characterized the desired modularity of the systems nevertheless meet the requirements of paragraph (2)(A), if the program officers make an effort, to the extent practicable, to update the acquisition strategies required under section 2431a of title 10, United States Code [now 10 U.S.C. 4211], or to develop or update other relevant documentation; and

"(ii) that have awarded contracts that do not include the requirements specified in subparagraph (B) of paragraph (2) nevertheless acquire, to the extent practicable, the items specified in clauses (i) through (iii) of such subparagraph, either through contractual updates, separate negotiations or contracts, or program management mechanisms; and

"(D) the relevant program officers deliver modular system interfaces and the associated documentation to at least one of the repositories established pursuant to subsection (c).

"(3) APPLICABILITY OF REGULATIONS AND GUIDANCE.—

"(A) APPLICABILITY.—The regulations and guidance required under paragraph (1) shall apply to any program office responsible for the prototyping, acquisition, or sustainment of a new or existing weapon system.

"(B) EXTENSION OF SCOPE.—Not earlier than 1 year before, and not later than 2 years after the regulations and guidance required under paragraph (1) are issued for weapon systems, the Under Secretary of Defense for Acquisition and Sustainment may extend such regulations and guidance to apply to software-based non-weapon systems, including business systems and cybersecurity systems.

"(4) INCLUSION OF COMPONENTS.—For the purposes of paragraph (2)(A), each component that meets the following requirements shall be treated as a modular system:

"(A) A component that is able to execute without requiring coincident execution of other weapon systems or components and can communicate across component boundaries and through interfaces.

"(B) A component that can be separated from and recombined with other weapon systems or components to achieve various effects, missions, or capabilities.

"(C) A component that is covered by a unique contract line item.

"(5) MACHINE-READABLE DEFINITION.—Where appropriate and available, the requirement in paragraph (2)(B)(ii) for a machine-readable definition may be satisfied by using a covered technology.

"(b) EXTENSION OF MODULAR OPEN SYSTEMS APPROACH AND RIGHTS IN INTERFACE SOFTWARE.—

"(1) REQUIREMENT FOR MODULAR OPEN SYSTEM APPROACH.—[Amended section 4401 of this title.]

"(2) RIGHTS IN TECHNICAL DATA.—

"(A) IN GENERAL.—[Amended former section 2320 of this title.]

"(B) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall update the regulations required by section 2320(a)(1) of title 10, United States Code [see 10 U.S.C. 3771(a)], to reflect the amendments made by this paragraph.

"(c) INTERFACE REPOSITORIES.—

"(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Jan. 1,

2021], the Under Secretary of Defense for Acquisition and Sustainment shall—

"(A) direct the Secretaries concerned and the heads of other appropriate Department of Defense components to establish and maintain repositories for interfaces, syntax and properties, documentation, and communication implementations delivered pursuant to the requirements established under subsection (a)(2)(B);

"(B) establish and maintain a comprehensive index of interfaces, syntax and properties, documentation, and communication implementations delivered pursuant to the requirements established under subsection (a)(2)(B) and maintained in the repositories required under subparagraph (A); and

"(C) if practicable, establish and maintain an alternate reference repository of interfaces, syntax and properties, documentation, and communication implementations delivered pursuant to the requirements established under subsection (a)(2)(B).

"(2) DISTRIBUTION OF INTERFACES.—

"(A) IN GENERAL.—Consistent with the requirements of section 2320 of title 10, United States Code [see 10 U.S.C. 3771 et seq.], the Under Secretary of Defense for Acquisition and Sustainment shall, in coordination with the Director of the Defense Standardization Program Office, use the index and repositories established pursuant to paragraph (1) to provide access to interfaces and relevant documentation to authorized Federal Government and non-Governmental entities.

"(B) NON-GOVERNMENT RECIPIENT USE LIMITS.—A non-Governmental entity that receives access under subparagraph (A) may not further release, disclose, or use such data except as authorized.

"(d) SYSTEM OF SYSTEMS INTEGRATION TECHNOLOGY AND EXPERIMENTATION.—

"(1) DEMONSTRATION AND ASSESSMENT.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Director for Command, Control, Communications, and Computers/Cyber and the Chief Information Officer of the Department of Defense, acting through the Joint All-Domain Command and Control cross-functional team, shall conduct demonstrations and complete an assessment of the technologies developed under the System of Systems Integration Technology and Experimentation program of the Defense Advanced Research Projects Agency, including a covered technology, and the applicability of any such technologies to the Joint All-Domain Command and Control architecture.

"(B) COVERAGE.—The demonstrations and assessment required under subparagraph (A) shall include—

"(i) at least three demonstrations of the use of a covered technology to create, under constrained schedules and budgets, novel kill chains involving previously incompatible weapon systems, sensors, and command, control, and communication systems from multiple military services in cooperation with United States Indo-Pacific Command or United States European Command;

"(ii) an evaluation as to whether the communications enabled via a covered technology are sufficient for military missions and whether such technology results in any substantial performance loss in communication between systems, major subsystems, and major components;

"(iii) an evaluation as to whether a covered technology obviates the need to develop, impose, and maintain strict adherence to common communication and interface standards for weapon systems;

"(iv) the appropriate roles and responsibilities of the Chief Information Officer of the Department of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the heads of the combatant commands, the Secretaries concerned, the Defense Advanced Research Projects Agency, and the defense industrial base in using and maintaining a covered technology to generate diverse and recomposable kill chains as part of the Joint All-Domain Command and Control architecture;

"(v) for at least one of the demonstrations conducted under clause (i), demonstration of the use of technology developed under the High-Assurance Cyber Military Systems program of the Defense Advanced Research Projects Agency to secure legacy weapon systems and command and control capabilities while facilitating interoperability;

"(vi) an evaluation of how the technology referred to in clause (v) and covered technology should be used to improve cybersecurity and interoperability across critical weapon systems and command and control capabilities across the joint forces; and

"(vii) coordination with the program manager for the Time Sensitive Targeting Defeat program under the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Intelligence and Security.

"(2) CHIEF INFORMATION OFFICER ASSESSMENT.—

"(A) IN GENERAL.—The Chief Information Officer for the Department of Defense, in

coordination with the Principal Cyber Advisor to the Secretary of Defense and the Director of the Cybersecurity Directorate of the National Security Agency, shall assess the technologies developed under the System of Systems Integration Technology and Experimentation program of the Defense Advanced Research Projects Agency, including the covered technology, and applicability of such technology to the business systems and cybersecurity tools of the Department.

"(B) COVERAGE.—The assessment required under subparagraph (A) shall include—

"(i) an evaluation as to how the technologies referred to in such subparagraph could be used in conjunction with or instead of existing cybersecurity standards, frameworks, and technologies designed to enable communication between, and coordination of, cybersecurity tools;

"(ii) as appropriate, demonstrations by the Chief Information Office of the use of such technologies in enabling communication between, and coordination of, previously incompatible cybersecurity tools; and

"(iii) as appropriate, demonstrations of the use of such technologies in enabling communication between previously incompatible business systems.

"(3) SUSTAINMENT OF CERTAIN ENGINEERING RESOURCES AND CAPABILITIES .—During the period the demonstrations and assessments required under this subsection are conducted, and thereafter to the extent required to execute the activities directed by the Joint All-Domain Command and Control cross-functional team, the Joint All-Domain Command and Control cross-functional team shall sustain the System of Systems Technology Integration Tool Chain for Heterogeneous Electronic Systems engineering resources and capabilities developed by the Defense Advanced Research Projects Agency.

"(4) TRANSFER OF RESPONSIBILITY.—Not earlier than 1 year before, and not later than 2 years after the date of the enactment of this Act, the Secretary of Defense may transfer responsibility for maintaining the engineering resources and capabilities described in paragraph (3) to a different organization within the Department.

"(e) OPEN STANDARDS.—Nothing in this section shall be construed as requiring, preventing, or interfering with the use or application of any given communication standard or interface. The communication described in subsection (a)(2)(A) may be accomplished by using existing open standards, by the creation and use of new open standards, or through other approaches, provided that such standards meet the requirements of subsection (a)(2)(B).

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered technology' means the domain-specific programming language for interface field transformations and its associated compilation toolchain (commonly known as the 'System of Systems Technology Integration ToolChain for Heterogeneous Electronic Systems') developed under the Defense Advanced Research Projects Agency System of Systems Integration Technology and Experimentation program, or any other technology that is functionally equivalent.

"(2) The term 'desired modularity' means the desired degree to which weapon systems, components within a weapon system, and components across weapon systems can function as modules that can communicate across component boundaries and through interfaces and can be separated and recombined to achieve various effects, missions, or capabilities, as determined by the program officer for such weapon system.

"(3) The term 'machine-readable format' means a format that can be easily processed by a computer without human intervention.

"(4) The terms 'major system', 'major system component', 'modular open system approach', 'modular system', 'modular system interface', and 'weapon system' have the meanings given such terms, respectively, in section 2446a of title 10, United States Code [now 10 U.S.C. 4401]."

## §4402. Requirement to address modular open system approach in program capabilities development and acquisition weapon system design

(a) PROGRAM CAPABILITY DOCUMENT.—A program capability document for a major defense acquisition program shall identify and characterize—

(1) the extent to which requirements for system performance are likely to evolve during the life cycle of the system because of evolving technology, threat, or interoperability needs; and

(2) for requirements that are expected to evolve, the minimum acceptable capability that is necessary for initial operating capability of the major defense acquisition program.

(b) ANALYSIS OF ALTERNATIVES.—The Director of Cost Assessment and Performance Evaluation, in formulating study guidance for analyses of alternatives for major defense acquisition programs and performing such analyses under section 139a(d)(4) of this title, shall ensure that any such analysis for a major defense acquisition program includes consideration of evolutionary acquisition, prototyping, and a modular open system approach.

(c) ACQUISITION STRATEGY.—In the case of a major defense acquisition program that uses a modular open system approach, the acquisition strategy required under section 4211 of this title shall—

(1) clearly describe the modular open system approach to be used for the program;

(2) differentiate between the major system platform and major system components being developed under the program, as well as major system components developed outside the program that will be integrated into the major defense acquisition program;

(3) clearly describe the evolution of major system components that are anticipated to be added, removed, or replaced in subsequent increments;

(4) identify additional major system components that may be added later in the life cycle of the major system platform;

(5) clearly describe how intellectual property and related issues, such as technical data deliverables, that are necessary to support a modular open system approach, will be addressed; and

(6) clearly describe the approach to systems integration and systems-level configuration management to ensure mission and information assurance.

(d) REQUEST FOR PROPOSALS.—The milestone decision authority for a major defense acquisition program that uses a modular open system approach shall ensure that a request for proposals for the development or production phases of the program shall describe the modular open system approach and the minimum set of major system components that must be included in the design of the major defense acquisition program.

(e) MILESTONE B.—A major defense acquisition program may not receive Milestone B approval under section 4252 of this title until the milestone decision authority determines in writing—

(1) in the case of a program that uses a modular open system approach, that—

(A) the program incorporates clearly defined major system interfaces between the major system platform and major system components, between major system components, and between major system platforms;

(B) such major system interfaces are consistent with the the [1] requirements of section 4401(a) of this title; and

(C) the Government has arranged to obtain appropriate and necessary intellectual property rights with respect to such major system interfaces upon completion of the development of the major system platform; or

(2) in the case of a program that does not use a modular open system approach, that the use of a modular open system approach is not practicable.

(f) IMPLEMENTATION GUIDANCE.—The Secretaries of the military departments shall issue guidance to implement the requirements of this section.

(Added Pub. L. 114–328, div. A, title VIII, §805(a)(1), Dec. 23, 2016, 130 Stat. 2253, §2446b; amended Pub. L. 115–91, div. A, title X, §1081(a)(40), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title VIII, §840(a), Dec. 20, 2019, 133 Stat. 1499; renumbered §4402 and amended Pub. L. 116–283, div. A, title XVIII, §1851(b)(1), (3), Jan. 1, 2021, 134 Stat. 4272; Pub. L. 119–60, div. A, title XVIII, §1832(a), Dec. 18, 2025, 139 Stat. 1253.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (e)(1)(B). Pub. L. 119–60 substituted "the requirements of section 4401(a) of this title" for "widely supported and consensus-based standards that exist at the time of the milestone decision, unless such standards are unavailable or unsuitable for particular major system interfaces".

**2021**—Pub. L. 116–283, §1851(b)(1), renumbered section 2446b of this title as this section.

Subsec. (c). Pub. L. 116–283, §1851(b)(3)(A), substituted "section 4211" for "section 2431a" in introductory provisions.

Subsec. (e). Pub. L. 116–283, §1851(b)(3)(B), substituted "section 4252" for "section 2366b" in introductory provisions.

**2019**—Subsec. (f). Pub. L. 116–92 added subsec. (f).

**2017**—Subsec. (e). Pub. L. 115–91 substituted "in writing—" for "in writing that—" in introductory provisions and inserted ", that" after "open system approach" in introductory provisions of par. (1).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Jan. 1, 2017, see section 805(a)(4) of Pub. L. 114–328, set out as a note under section 4401 of this title.

[1] *So in original.*

## §4403. Requirements relating to availability of major system interfaces and support for modular open system approach

The Secretary of each military department shall—

(1) coordinate with the other military departments, the defense agencies, defense and other private sector entities, national standards-setting organizations, and, when appropriate, with elements of the intelligence community with respect to the specification, identification, development, and maintenance of major system interfaces and standards for use in major system platforms, where practicable;

(2) ensure major system interfaces are adequately designated and defined to achieve a modular open system approach and are delivered with supporting documentation necessary to enable the integration of components or modules provided by a third party into the modular system;

(3) ensure that sufficient systems engineering and development expertise and resources are available to support the use of a modular open system approach in requirements development and acquisition program planning;

(4) ensure that necessary planning, programming, and budgeting resources are provided to specify, identify, develop, and sustain the modular open system approach, associated major system interfaces, systems integration, and any additional program activities necessary to sustain innovation and interoperability;

(5) ensure that adequate training in the use of a modular open system approach is provided to members of the requirements and acquisition workforce; and

(6) issue guidance to implement the requirements of this section.

(Added Pub. L. 114–328, div. A, title VIII, §805(a)(1), Dec. 23, 2016, 130 Stat. 2255, §2446c; amended Pub. L. 116–92, div. A, title VIII, §840(b), Dec. 20, 2019, 133 Stat. 1499; renumbered §4403, Pub. L. 116–283, div. A, title XVIII, §1851(b)(1), Jan. 1, 2021, 134 Stat. 4272; Pub. L. 119–60, div. A, title XVIII, §1832(b), Dec. 18, 2025, 139 Stat. 1253.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 4411 to 4414 were renumbered sections 7481 to 7484 of this title, respectively.

A prior section 4415, added Pub. L. 100–180, div. A, title III, §319(a)(1), Dec. 4, 1987, 101 Stat. 1077; amended Pub. L. 100–526, title I, §106(c), Oct. 24, 1988, 102 Stat. 2625, related to United States Army School of the Americas, prior to repeal by Pub. L. 106–398, §1 [[div. A], title IX, §911(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-228.

Prior sections 4416 and 4417 were renumbered sections 7486 and 7487 of this title, respectively.

### AMENDMENTS

**2025**—Par. (2). Pub. L. 119–60 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "ensure that major system interfaces incorporate commercial standards and other widely supported consensus-based standards that are validated, published, and maintained by recognized standards organizations to the maximum extent practicable;".

**2021**—Pub. L. 116–283 renumbered section 2446c of this title as this section.

**2019**—Par. (6). Pub. L. 116–92 added par. (6).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Jan. 1, 2017, see section 805(a)(4) of Pub. L. 114–328, set out as a note under section 4401 of this title.

## SUBCHAPTER II—DEVELOPMENT, PROTOTYPING, AND DEPLOYMENT OF WEAPON SYSTEM COMPONENTS OR TECHNOLOGY

Sec.
4421. Weapon system component or technology prototype projects: display of budget information.
4422. Weapon system component or technology prototype projects: oversight.
[4423. Repealed.]
4424. Mechanisms to speed deployment of successful weapon system component or technology prototypes.
4425. Definition of weapon system component.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §811(a)(7), Dec. 18, 2025, 139 Stat. 948, struck out item 4423 "Requirements and limitations for weapon system component or technology prototype projects". Amendment was made pursuant to operation of section 102 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON DEVELOPMENT OF REENTRY VEHICLES AND RELATED SYSTEMS

Pub. L. 118–31, div. A, title XVI, §1645, Dec. 22, 2023, 137 Stat. 598, as amended by Pub. L. 118–159, div. A, title XVI, §1625, Dec. 23, 2024, 138 Stat. 2173, provided that:

"(a) IN GENERAL.—The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, acting jointly or separately, may carry out a pilot program, to be known as the 'Reentry Vehicle Flight Test Bed Program', to assess the feasibility of providing regular flight test opportunities that support the development of reentry vehicles and reentry systems to—

"(1) facilitate technology upgrades tested in a realistic flight environment;

"(2) expand the availability of operationally qualifiable vendors within the defense industrial base;

"(3) provide an enduring, high-cadence test bed to mature technologies for planned reentry vehicles and reentry systems; and

"(4) transition technologies developed under other programs and projects relating to long-range ballistic or hypersonic strike missiles from the research and development or prototyping phases into operational use.

"(b) GRANTS, CONTRACTS, AND OTHER AGREEMENTS.—

"(1) AUTHORITY.—In carrying out a pilot program under this section, each Secretary may, subject to paragraph (2), award grants and enter into contracts or other agreements with appropriate entities for the conduct of relevant flight tests of reentry vehicles and reentry systems.

"(2) GRANT AND CONTRACT REQUIREMENTS.—

"(A) MERIT-BASED GRANTS.—Any grant under paragraph (1) shall be awarded through merit-based selection procedures.

"(B) COMPETITIVE CONTRACT PROCEDURES.—Any contract or other agreement under paragraph (1) shall be awarded using competitive procedures (as defined in section 3012 of title 10, United States Code).

"(3) USE OF FUNDS.—An entity that receives a grant, or enters into a contract or other agreement, as part of a pilot program carried out under this section shall use the grant, or any amount received under the contract or other agreement, to carry out one or more of the following activities:

"(A) Conducting flight tests to develop or validate—

"(i) aeroshell design;

"(ii) thermal protective systems;

"(iii) guidance and control systems;

"(iv) sensors;

"(v) communications;

"(vi) environmental sensors; or

"(vii) other relevant technologies.

"(B) Expanding flight test opportunities through low-cost, high-cadence platforms.

"(c) COORDINATION.—If the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, acting jointly or separately, carries out a pilot program under this section, such Secretary or Secretaries shall ensure that the activities under the pilot program are carried out in coordination with the Under Secretary of Defense for Research and Engineering and the Director of the Missile Defense Agency.

"(d) SEMIANNUAL BRIEFINGS.—Not later than March 1 and September 1 of each year in which the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, acting jointly or separately, carries out a pilot program under this section, such Secretary or Secretaries shall provide to the congressional defense committees a briefing on the activities of the pilot program.

"(e) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on December 31, 2029."

## §4421. Weapon system component or technology prototype projects: display of budget information

(a) REQUIREMENTS FOR BUDGET DISPLAY.—In the defense budget materials for any fiscal year, the Secretary of Defense shall, with respect to advanced component development and prototype activities (within the research, development, test, and evaluation budget), set forth the amounts requested for each of the following:

(1) Acquisition programs of record.

(2) Development, prototyping, and experimentation of weapon system components or other technologies, including those based on commercial products and technologies, separate from acquisition programs of record.

(3) Other budget line items as determined by the Secretary of Defense.

(b) ADDITIONAL REQUIREMENTS.—For purposes of subsection (a)(2), the amounts requested for development, prototyping, and experimentation of weapon system components or other technologies shall be—

(1) structured into either capability, weapon system component, or technology portfolios that reflect the priority areas for prototype projects; and

(2) justified with general descriptions of the types of capability areas and technologies being funded or expected to be funded during the fiscal year concerned.

(c) DEFINITIONS.—In this section, the terms "budget" and "defense budget materials" have the meaning given those terms in section 234 of this title and the term "commercial product" has the meaning given that term in section 103 of title 41.

(Added Pub. L. 114–328, div. A, title VIII, §806(a)(1), Dec. 23, 2016, 130 Stat. 2256, §2447a; amended Pub. L. 115–232, div. A, title VIII, §836(e)(8), Aug. 13, 2018, 132 Stat. 1870; Pub. L. 116–92, div. A, title XVII, §1731(a)(51), Dec. 20, 2019, 133 Stat. 1815; renumbered §4421, Pub. L. 116–283, div. A, title XVIII, §1851(c)(1), Jan. 1, 2021, 134 Stat. 4272.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2447a of this title as this section.

**2019**—Subsec. (a). Pub. L. 116–92 struck out "after fiscal year 2017" after "any fiscal year" in introductory provisions.

**2018**—Subsec. (a)(2). Pub. L. 115–232, §836(e)(8)(A), substituted "commercial products and technologies" for "commercial items and technologies".

Subsec. (c). Pub. L. 115–232, §836(e)(8)(B), inserted before period at end "and the term 'commercial product' has the meaning given that term in section 103 of title 41".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE

Pub. L. 114–328, div. A, title VIII, §806(a)(2), Dec. 23, 2016, 130 Stat. 2259, provided that: "Subchapter II of chapter 144B of title 10, United States Code [see, now, this subchapter], as added by paragraph (1), shall take effect on January 1, 2017."

## §4422. Weapon system component or technology prototype projects: oversight

(a) ESTABLISHMENT.—The Secretary of each military department shall establish an oversight board or identify a similar existing group of senior advisors for managing prototype projects for weapon system components and other technologies and subsystems, including the use of funds for such projects, within the military department concerned.

(b) MEMBERSHIP.—Each oversight board shall be comprised of senior officials with—

(1) expertise in requirements; research, development, test, and evaluation; acquisition; sustainment; or other relevant areas within the military department concerned;

(2) awareness of technology development activities and opportunities in the Department of Defense, industry, and other sources; and

(3) awareness of the component capability requirements of major weapon systems, including scheduling and fielding goals for such component capabilities.

(c) FUNCTIONS.—The functions of each oversight board are as follows:

(1) To issue a strategic plan every three years that prioritizes the capability and weapon system component portfolio areas for conducting prototype projects, based on assessments of—

(A) high priority warfighter needs;

(B) capability gaps or readiness issues with major weapon systems;

(C) opportunities to incrementally integrate new components into major weapon systems based on commercial technology or science and technology efforts that are expected to be sufficiently mature to prototype within three years; and

(D) opportunities to reduce operation and support costs of major weapon systems.

(2) To annually recommend funding levels for weapon system component or technology development and prototype projects across capability or weapon system component portfolios.

(3) To annually recommend to the service acquisition executive of the military department concerned specific weapon system component or technology development and prototype projects.

(4) To ensure projects are managed by experts within the Department of Defense who are knowledgeable in research, development, test, and evaluation and who are aware of opportunities for incremental deployment of component capabilities and other technologies to major weapon systems or directly to support warfighting capabilities.

(5) To ensure projects are conducted in a manner that allows for appropriate experimentation and technology risk.

(6) To ensure projects have a plan for technology transition of the prototype into a fielded system, program of record, or operational use, as appropriate, upon successful achievement of technical and project goals.

(7) To ensure necessary technical, contracting, and financial management resources are available to support each project.

(8) To submit to the congressional defense committees a semiannual notification that includes the following:

(A) each weapon system component or technology prototype project initiated during the preceding six months, including an explanation of each project and its required funding.

(B) the results achieved from weapon system component prototype and technology projects completed and tested during the preceding six months.

(Added Pub. L. 114–328, div. A, title VIII, §806(a)(1), Dec. 23, 2016, 130 Stat. 2257, §2447b; renumbered §4422 and amended Pub. L. 116–283, div. A, title XVIII, §1851(c)(1), (2), Jan. 1, 2021, 134 Stat. 4272; Pub. L. 119–60, div. A, title VIII, §811(d)(3), Dec. 18, 2025, 139 Stat. 951.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c)(3). Pub. L. 119–60 struck out ", subject to the requirements and limitations in section 4423 of this title" after "projects".

**2021**—Pub. L. 116–283, §1851(c)(1), renumbered section 2447b of this title as this section.

Subsec. (c)(3). Pub. L. 116–283, §1851(c)(2), substituted "section 4423" for "section 2447c".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Jan. 1, 2017, see section 806(a)(2) of Pub. L. 114–328, set out as a note under section 4421 of this title.

## [§4423. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(7), Dec. 18, 2025, 139 Stat. 948]

Section, added Pub. L. 114–328, div. A, title VIII, §806(a)(1), Dec. 23, 2016, 130 Stat. 2258, §2447c; renumbered §4423 and amended Pub. L. 116–283, div. A, title XVIII, §1851(c)(1), (3), Jan. 1, 2021, 134 Stat. 4272, 4273; Pub. L. 117–263, div. A, title X, §1081(a)(5), Dec. 23, 2022, 136 Stat. 2797; Pub. L. 118–159, div. A, title VIII, §804(c)(4), Dec. 23, 2024, 138 Stat. 1968, related to duration, selection and funding requirements and limitations for weapon system component or technology prototype projects.

## §4424. Mechanisms to speed deployment of successful weapon system component or technology prototypes

(a) SELECTION OF PROTOTYPE PROJECT FOR PRODUCTION AND RAPID FIELDING .—A weapon system component or technology prototype project may be selected by the service acquisition executive of the military department concerned for a follow-on production contract or other transaction without the use of competitive procedures, notwithstanding the requirements of sections 3201 through 3205 of this title, if—

(1) the follow-on production project addresses a high priority warfighter need or reduces the costs of a weapon system;

(2) competitive procedures were used for the selection of parties for participation in the original prototype project;

(3) the participants in the original prototype project successfully completed the requirements of the project; and

(4) a prototype of the system to be procured was demonstrated in a relevant environment.

(b) SPECIAL TRANSFER AUTHORITY.—(1) The Secretary of a military department may, as specified in advance by appropriations Acts, transfer funds that remain available for obligation in procurement appropriation accounts of the military department to fund the low-rate initial production of the rapid fielding project until required funding for full-rate production can be submitted and approved through the regular budget process of the Department of Defense.

(2) The funds transferred under this subsection to fund the low-rate initial production of a rapid fielding project shall be for a period not to exceed two years, the amount for such period may not exceed $50,000,000, and the special transfer authority provided in this subsection may not be used more than once to fund procurement of a particular new or upgraded system.

(3) The special transfer authority provided in this subsection is in addition to any other transfer authority available to the Department of Defense.

(c) NOTIFICATION TO CONGRESS.—Within 30 days after the service acquisition executive of a military department selects a weapon system component or technology project for a follow-on production contract or other transaction, the service acquisition executive shall notify the congressional defense committees of the selection and provide a brief description of the rapid fielding project.

(Added Pub. L. 114–328, div. A, title VIII, §806(a)(1), Dec. 23, 2016, 130 Stat. 2259, §2447d; renumbered §4424 and amended Pub. L. 116–283, div. A, title XVIII, §1851(c)(1), (4), Jan. 1, 2021, 134 Stat. 4272, 4273.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1851(c)(1), renumbered section 2447d of this title as this section.

Subsec. (a). Pub. L. 116–283, §1851(c)(4), substituted "sections 3201 through 3205" for "section 2304" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Jan. 1, 2017, see section 806(a)(2) of Pub. L. 114–328, set out as a note under section 4421 of this title.

## §4425. Definition of weapon system component

In this subchapter, the term "weapon system component" has the meaning given the term "major system component" in section 4401 of this title.

(Added Pub. L. 114–328, div. A, title VIII, §806(a)(1), Dec. 23, 2016, 130 Stat. 2259, §2447e; renumbered §4425 and amended Pub. L. 116–283, div. A, title XVIII, §1851(c)(1), (5), Jan. 1, 2021, 134 Stat. 4272, 4273.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1851(c)(5), substituted "section 4401" for "section 2446a".

Pub. L. 116–283, §1851(c)(1), renumbered section 2447e of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Jan. 1, 2017, see section 806(a)(2) of Pub. L. 114–328, set out as a note under section 4421 of this title.

# Subpart G—Other Special Categories Of Contracting

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1830, added subpart heading.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**REQUIRING DEFENSE MICROELECTRONICS PRODUCTS AND SERVICES MEET TRUSTED SUPPLY CHAIN AND OPERATIONAL SECURITY STANDARDS**

Pub. L. 116–92, div. A, title II, §224, Dec. 20, 2019, 133 Stat. 1266, provided that:

"(a) PURCHASES.—To protect the United States from intellectual property theft and to ensure national security and public safety in the application of new generations of wireless network technology and microelectronics, beginning no later than January 1, 2023, the Secretary of Defense shall ensure that each microelectronics product or service that the Department of Defense purchases on or after such date meets the

applicable trusted supply chain and operational security standards established pursuant to subsection (b), except in a case in which the Department seeks to purchase a microelectronics product or service but—

"(1) no such product or service is available for purchase that meets such standards; or

"(2) no such product or service is available for purchase that—

"(A) meets such standards; and

"(B) is available at a price that the Secretary does not consider prohibitively expensive.

"(b) TRUSTED SUPPLY CHAIN AND OPERATIONAL SECURITY STANDARDS.—

"(1) STANDARDS REQUIRED.—(A) Not later than January 1, 2021, the Secretary shall establish trusted supply chain and operational security standards for the purchase of microelectronics products and services by the Department.

"(B) For purposes of this section, a trusted supply chain and operational security standard—

"(i) is a standard that systematizes best practices relevant to—

"(I) manufacturing location;

"(II) company ownership;

"(III) workforce composition;

"(IV) access during manufacturing, suppliers' design, sourcing, manufacturing, packaging, and distribution processes;

"(V) reliability of the supply chain; and

"(VI) other matters germane to supply chain and operational security; and

"(ii) is not a military standard (also known as 'MIL-STD') or a military specification (also known as 'MIL-SPEC') for microelectronics that—

"(I) specifies individual features for Department of Defense microelectronics; or

"(II) otherwise inhibits the acquisition by the Department of securely manufactured, commercially-available products.

"(2) CONSULTATION REQUIRED.—In developing standards under paragraph (1), the Secretary shall consult with the following:

"(A) The Secretary of Homeland Security, the Secretary of State, the Secretary of Commerce, and the Director of the National Institute of Standards and Technology.

"(B) Suppliers of microelectronics products and services from the United States and allies and partners of the United States.

"(C) Representatives of major United States industry sectors that rely on a trusted supply chain and the operational security of microelectronics products and services.

"(D) Representatives of the United States insurance industry.

"(3) TIERS OF TRUST AND LEVELS OF SECURITY AUTHORIZED.—In carrying out paragraph (1), the Secretary may establish tiers and levels of trust and security within the supply chain and operational security standards for microelectronics products and services.

"(4) GENERAL APPLICABILITY.—The standards established pursuant to paragraph (1) shall be, to the greatest extent practicable, generally applicable to the trusted supply chain and operational security needs and use cases of the United States Government and commercial industry, such that the standards could be widely adopted by government agencies, commercial industry, and allies and partners of the United States as the basis for procuring microelectronics products and services.

"(5) ANNUAL REVIEW.—Not later than October 1 of each year, the Secretary shall, in consultation with persons and entities set forth under paragraph (2), review the standards established pursuant to paragraph (1) and issue updates or modifications as the Secretary considers necessary or appropriate.

"(c) ENSURING ABILITY TO SELL COMMERCIALLY.—

"(1) IN GENERAL.—The Secretary shall, to the greatest extent practicable, ensure that suppliers of microelectronics products and services for the Department of Defense subject to subsection (a) are able and incentivized to sell products commercially and to governments of allies and partners of the United States that are produced on the same production lines as the microelectronics products supplied to the Department of Defense.

"(2) EFFECT OF REQUIREMENTS AND ACQUISITIONS.—The Secretary shall, to the greatest extent practicable, ensure that the requirements of the Department and the acquisition by the Department of microelectronics enable the success of a dual-use microelectronics industry.

"(d) MAINTAINING COMPETITION AND INNOVATION.—The Secretary shall take such actions as the Secretary considers necessary and appropriate, within the Secretary's authorized activities to maintain the health of the defense industrial base, to ensure that—

"(1) providers of microelectronics products and services that meet the standards established under subsection (b) are exposed to competitive market pressures to achieve competitive pricing and sustained

innovation; and

"(2) the industrial base of microelectronics products and services that meet the standards established under subsection (b) includes providers manufacturing in the United States or in countries that are allies or partners of the United States."

**STANDARDS AND CERTIFICATION FOR PRIVATE SECURITY CONTRACTORS**

Pub. L. 111–383, div. A, title VIII, §833, Jan. 7, 2011, 124 Stat. 4276, provided that:

"(a) REVIEW OF THIRD-PARTY STANDARDS AND CERTIFICATION PROCESSES.—Not later than 90 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall—

"(1) determine whether the private sector has developed—

"(A) operational and business practice standards applicable to private security contractors; and

"(B) third-party certification processes for determining whether private security contractors adhere to standards described in subparagraph (A); and

"(2) review any standards and processes identified pursuant to paragraph (1) to determine whether the application of such standards and processes will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations.

"(b) REVISED REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations promulgated under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2302 note [now 10 U.S.C. 4501 note prec., set out below]) to ensure that such regulations—

"(1) establish criteria for defining standard practices for the performance of private security functions, which shall reflect input from industry representatives as well as the Inspector General of the Department of Defense; and

"(2) establish criteria for weapons training programs for contractors performing private security functions, including minimum requirements for weapons training programs of instruction and minimum qualifications for instructors for such programs.

"(c) INCLUSION OF THIRD-PARTY STANDARDS AND CERTIFICATIONS IN REVISED REGULATIONS.—

"(1) STANDARDS.—If the Secretary determines that the application of operational and business practice standards identified pursuant to subsection (a)(1)(A) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) shall incorporate a requirement to comply with such standards, subject to such exceptions as the Secretary may determine to be necessary.

"(2) CERTIFICATIONS.—If the Secretary determines that the application of a third-party certification process identified pursuant to subsection (a)(1)(B) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) may provide for the consideration of such certifications as a factor in the evaluation of proposals for award of a covered contract for the provision of private security functions, subject to such exceptions as the Secretary may determine to be necessary.

"(d) DEFINITIONS.—In this section:

"(1) COVERED CONTRACT.—The term 'covered contract' means—

"(A) a contract of the Department of Defense for the performance of services;

"(B) a subcontract at any tier under such a contract; or

"(C) a task order or delivery order issued under such a contract or subcontract.

"(2) CONTRACTOR.—The term 'contractor' means, with respect to a covered contract, the contractor or subcontractor carrying out the covered contract.

"(3) PRIVATE SECURITY FUNCTIONS.—The term 'private security functions' means activities engaged in by a contractor under a covered contract as follows:

"(A) Guarding of personnel, facilities, or property of a Federal agency, the contractor or subcontractor, or a third party.

"(B) Any other activity for which personnel are required to carry weapons in the performance of their duties.

"(e) EXCEPTION.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities."

**CONTRACTS IN IRAQ AND AFGHANISTAN AND PRIVATE SECURITY CONTRACTS IN**

## AREAS OF OTHER SIGNIFICANT MILITARY OPERATIONS

Pub. L. 111–383, div. A, title VIII, §831(b), Jan. 7, 2011, 124 Stat. 4274, which directed the Secretary of Defense to revise regulations prescribed pursuant to section 862 of Pub. L. 110–181, set out in a note below, on contractors performing private security functions in areas of combat operations or other significant military operations, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(D), Dec. 18, 2025, 139 Stat. 949.

Pub. L. 111–383, div. A, title VIII, §832(b), Jan. 7, 2011, 124 Stat. 4275, provided that:

"(1) DETERMINATION REQUIRED FOR CERTAIN AREAS.—Not later than 150 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall make a written determination for each of the following areas regarding whether or not the area constitutes an area of combat operations or an area of other significant military operations for purposes of designation as such an area under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2302 note [now 10 U.S.C. 4501 note prec., set out below]), as amended by this section:

"(A) The Horn of Africa region.

"(B) Yemen.

"(C) The Philippines.

"(2) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a copy of each written determination under paragraph (1), together with an explanation of the basis for such determination."

Pub. L. 110–417, [div. A], title VIII, §854(b), Oct. 14, 2008, 122 Stat. 4545, provided that:

"(1) THROUGH MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding required by section 861(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 253; 10 U.S.C. 2302 note [now 10 U.S.C. 4501 note prec., set out below]) shall be modified to address the requirements under the amendment made by subsection (a) [amending Pub. L. 110–181, §861(b), set out below] not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008].

"(2) AS CONDITION OF CURRENT AND FUTURE CONTRACTS.—The requirements under the amendment made by subsection (a) shall be included in each contract in Iraq or Afghanistan (as defined in section 864(a)(2) of Public Law 110–181; [10 U.S.C.] 2302 note [now 10 U.S.C. 4501 note prec., set out below]) awarded on or after the date that is 180 days after the date of the enactment of this Act [Oct. 14, 2008]. Federal agencies shall make best efforts to provide for the inclusion of such requirements in covered contracts awarded before such date."

Pub. L. 110–417, [div. A], title VIII, §854(c), Oct. 14, 2008, 122 Stat. 4545, provided that: "Beginning not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall make publicly available a numerical accounting of alleged offenses described in section 861(b)(6) of Public Law 110–181 [set out below] that have been reported under that section that occurred after the date of the enactment of this Act. The information shall be updated no less frequently than semi-annually."

Pub. L. 110–181, div. A, title VIII, subtitle F, Jan. 28, 2008, 122 Stat. 253, as amended by Pub. L. 110–417, [div. A], title VIII, §§853, 854(a), (d), Oct. 14, 2008, 122 Stat. 4544, 4545; Pub. L. 111–84, div. A, title VIII, §813(a)–(c), Oct. 28, 2009, 123 Stat. 2406, 2407; Pub. L. 111–383, div. A, title VIII, §§831(a), 832(a), (c), 835, title X, §1075(d)(9), Jan. 7, 2011, 124 Stat. 4273, 4275, 4276, 4279, 4373; Pub. L. 112–81, div. A, title VIII, §844, formerly §844(c), Dec. 31, 2011, 125 Stat. 1515, renumbered Pub. L. 118–159, div. A, title VIII, §811(a)(2)(B), Dec. 23, 2024, 138 Stat. 1979; Pub. L. 112–239, div. A, title VIII, §847, Jan. 2, 2013, 126 Stat. 1850; Pub. L. 113–291, div. A, title X, §1071(b)(2)(D), Dec. 19, 2014, 128 Stat. 3506, provided that:

"SEC. 861. MEMORANDUM OF UNDERSTANDING ON MATTERS RELATING TO CONTRACTING.

"(a) MEMORANDUM OF UNDERSTANDING REQUIRED.—The Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall, not later than July 1, 2008, enter into a memorandum of understanding regarding matters relating to contracting for contracts in Iraq or Afghanistan.

"(b) MATTERS COVERED.—The memorandum of understanding required by subsection (a) shall address, at a minimum, the following:

"(1) Identification of the major categories of contracts in Iraq or Afghanistan being awarded by the Department of Defense, the Department of State, or the United States Agency for International Development.

"(2) Identification of the roles and responsibilities of each department or agency for matters relating to contracting for contracts in Iraq or Afghanistan.

"(3) Responsibility for establishing procedures for, and the coordination of, movement of contractor

personnel in Iraq or Afghanistan.

"(4) Identification of common databases that will serve as repositories of information on contracts in Iraq or Afghanistan and contractor personnel in Iraq or Afghanistan, including agreement on the elements to be included in the databases, including, at a minimum—

"(A) with respect to each contract—

"(i) a brief description of the contract (to the extent consistent with security considerations);

"(ii) the total value of the contract; and

"(iii) whether the contract was awarded competitively; and

"(B) with respect to contractor personnel—

"(i) the total number of personnel employed on contracts in Iraq or Afghanistan;

"(ii) the total number of personnel performing security functions under contracts in Iraq or Afghanistan; and

"(iii) the total number of personnel working under contracts in Iraq or Afghanistan who have been killed or wounded.

"(5) Responsibility for maintaining and updating information in the common databases identified under paragraph (4).

"(6) Responsibility for the collection and referral to the appropriate Government agency of any information relating to offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or chapter 212 of title 18, United States Code (commonly referred to as the Military Extraterritorial Jurisdiction Act), including a clarification of responsibilities under section 802(a)(10) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), as amended by section 552 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364).

"(7) Mechanisms for ensuring that contractors are required to report offenses described in paragraph (6) that are alleged to have been committed by or against contractor personnel to appropriate investigative authorities.

"(8) Responsibility for providing victim and witness protection and assistance to contractor personnel in connection with alleged offenses described in paragraph (6).

"(9) Development of a requirement that a contractor shall provide to all contractor personnel who will perform work on a contract in Iraq or Afghanistan, before beginning such work, information on the following:

"(A) How and where to report an alleged offense described in paragraph (6).

"(B) Where to seek the assistance required by paragraph (8).

"(c) IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall issue such policies or guidance and prescribe such regulations as are necessary to implement the memorandum of understanding for the relevant matters pertaining to their respective agencies.

"(d) COPIES PROVIDED TO CONGRESS.—

"(1) MEMORANDUM OF UNDERSTANDING.—Copies of the memorandum of understanding required by subsection (a) shall be provided to the relevant committees of Congress within 30 days after the memorandum is signed.

"(2) REPORT ON IMPLEMENTATION.—Not later than 180 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each provide a report to the relevant committees of Congress on the implementation of the memorandum of understanding.

"(3) DATABASES.—The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development shall provide access to the common databases identified under subsection (b)(4) to the relevant committees of Congress.

"(4) CONTRACTS.—Effective on the date of the enactment of this Act [Jan. 28, 2008], copies of any contracts in Iraq or Afghanistan awarded after December 1, 2007, shall be provided to any of the relevant committees of Congress within 15 days after the submission of a request for such contract or contracts from such committee to the department or agency managing the contract.

"SEC. 862. CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS OR OTHER SIGNIFICANT MILITARY OPERATIONS.

"(a) REGULATIONS ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—

"(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense, in coordination with the Secretary of State, shall prescribe regulations on the selection, training, equipping, and conduct of personnel performing private security functions under a

covered contract in an area of combat operations or other significant military operations.

"(2) ELEMENTS.—The regulations prescribed under subsection (a) shall, at a minimum, establish—

"(A) a process for registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations or other significant military operations;

"(B) a process for authorizing and accounting for weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations or other significant military operations;

"(C) a process for the registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors performing private security functions in an area of combat operations or other significant military operations;

"(D) a process under which contractors are required to report all incidents, and persons other than contractors are permitted to report incidents, in which—

"(i) a weapon is discharged by personnel performing private security functions in an area of combat operations or other significant military operations;

"(ii) personnel performing private security functions in an area of combat operations or other significant military operations are killed or injured;

"(iii) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

"(iv) a weapon is discharged against personnel performing private security functions in an area of combat operations or other significant military operations or personnel performing such functions believe a weapon was so discharged; or

"(v) active, non-lethal countermeasures (other than the discharge of a weapon) are employed by the personnel performing private security functions in an area of combat operations or other significant military operations in response to a perceived immediate threat to such personnel;

"(E) a process for the independent review and, if practicable, investigation of—

"(i) incidents reported pursuant to subparagraph (D); and

"(ii) incidents of alleged misconduct by personnel performing private security functions in an area of combat operations or other significant military operations;

"(F) requirements for qualification, training, screening (including, if practicable, through background checks), and security for personnel performing private security functions in an area of combat operations or other significant military operations;

"(G) guidance to the commanders of the combatant commands on the issuance of—

"(i) orders, directives, and instructions to contractors performing private security functions relating to equipment, force protection, security, health, safety, or relations and interaction with locals;

"(ii) predeployment training requirements for personnel performing private security functions in an area of combat operations or other significant military operations, addressing the requirements of this section, resources and assistance available to contractor personnel, country information and cultural training, and guidance on working with host country nationals and military; and

"(iii) rules on the use of force for personnel performing private security functions in an area of combat operations or other significant military operations;

"(H) a process by which a commander of a combatant command may request an action described in subsection (b)(3); and

"(I) a process by which the training requirements referred to in subparagraph (G)(ii) shall be implemented.

"(3) AVAILABILITY OF ORDERS, DIRECTIVES, AND INSTRUCTIONS.—The regulations prescribed under subsection (a) shall include mechanisms to ensure the provision and availability of the orders, directives, and instructions referred to in paragraph (2)(G)(i) to contractors referred to in that paragraph, including through the maintenance of a single location (including an Internet website, to the extent consistent with security considerations) at or through which such contractors may access such orders, directives, and instructions.

"(b) CONTRACT CLAUSE ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—

"(1) REQUIREMENT UNDER FAR.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Federal Acquisition Regulation issued in accordance with section 1303 of title 41,

United States Code[,] shall be revised to require the insertion into each covered contract (or, in the case of a task order, the contract under which the task order is issued) of a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions under such contract.

"(2) CLAUSE REQUIREMENT.—The contract clause required by paragraph (1) shall require, at a minimum, that the contractor concerned shall—

"(A) ensure that the contractor and all employees of the contractor or any subcontractor who are responsible for performing private security functions under such contract comply with regulations prescribed under subsection (a), including any revisions or updates to such regulations, and follow the procedures established in such regulations for—

"(i) registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations or other significant military operations;

"(ii) authorizing and accounting of weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations or other significant military operations;

"(iii) registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors and subcontractors performing private security functions in an area of combat operations or other significant military operations; and

"(iv) the reporting of incidents in which—

"(I) a weapon is discharged by personnel performing private security functions in an area of combat operations or other significant military operations;

"(II) personnel performing private security functions in an area of combat operations or other significant military operations are killed or injured; or

"(III) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

"(B) ensure that the contractor and all employees of the contractor or any subcontractor who are responsible for performing private security functions under such contract comply with—

"(i) qualification, training, screening (including, if practicable, through background checks), and security requirements established by the Secretary of Defense for personnel performing private security functions in an area of combat operations or other significant military operations;

"(ii) applicable laws and regulations of the United States and the host country, and applicable treaties and international agreements, regarding the performance of the functions of the contractor;

"(iii) orders, directives, and instructions issued by the applicable commander of a combatant command relating to equipment, force protection, security, health, safety, or relations and interaction with locals; and

"(iv) rules on the use of force issued by the applicable commander of a combatant command for personnel performing private security functions in an area of combat operations or other significant military operations;

"(C) cooperate with any investigation conducted by the Department of Defense pursuant to subsection (a)(2)(E) by providing access to employees of the contractor and relevant information in the possession of the contractor regarding the incident concerned; and

"(D) ensure that the contract clause is included in subcontracts awarded to any subcontractor at any tier who is responsible for performing private security functions under the contract.

"(3) NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—The contracting officer for a covered contract may direct the contractor, at its own expense, to remove or replace any personnel performing private security functions in an area of combat operations or other significant military operations who violate or fail to comply with applicable requirements of the clause required by this subsection. If the violation or failure to comply is a gross violation or failure or is repeated, the contract may be terminated for default.

"(4) APPLICABILITY.—The contract clause required by this subsection shall be included in all covered contracts awarded on or after the date that is 180 days after the date of the enactment of this Act [Jan. 28, 2008]. Federal agencies shall make best efforts to provide for the inclusion of the contract clause required by this subsection in covered contracts awarded before such date.

"(5) INSPECTOR GENERAL REPORT ON PILOT PROGRAM ON IMPOSITION OF FINES FOR NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—Not later than March 30, 2008, the Inspector General of the Department of Defense shall submit to Congress a report assessing the feasibility and advisability of carrying out a pilot program for the imposition of fines on contractors for personnel who violate or fail to comply with applicable requirements of the clause required by this section as a mechanism for enhancing the compliance of such personnel with the clause. The report shall include—

"(A) an assessment of the feasibility and advisability of carrying out the pilot program; and

"(B) if the Inspector General determines that carrying out the pilot program is feasible and advisable—

"(i) recommendations on the range of contracts and subcontracts to which the pilot program should apply; and

"(ii) a schedule of fines to be imposed under the pilot program for various types of personnel actions or failures.

"(c) OVERSIGHT.—It shall be the responsibility of the head of the contracting activity responsible for each covered contract to ensure that the contracting activity takes appropriate steps to assign sufficient oversight personnel to the contract to—

"(1) ensure that the contractor responsible for performing private security functions under such contract comply with the regulatory requirements prescribed pursuant to subsection (a) and the contract requirements established pursuant to subsection (b); and

"(2) make the determinations required by subsection (d).

"(d) REMEDIES.—The failure of a contractor under a covered contract to comply with the requirements of the regulations prescribed under subsection (a) or the contract clause inserted in a covered contract pursuant to subsection (b), as determined by the contracting officer for the covered contract—

"(1) shall be included in appropriate databases of past performance and considered in any responsibility determination or evaluation of the past performance of the contractor for the purpose of a contract award decision, as provided in section 1126 of title 41, United States Code;

"(2) in the case of an award fee contract—

"(A) shall be considered in any evaluation of contract performance by the contractor for the relevant award fee period; and

"(B) may be a basis for reducing or denying award fees for such period, or for recovering all or part of award fees previously paid for such period; and

"(3) in the case of a failure to comply that is severe, prolonged, or repeated—

"(A) shall be referred to the suspension or debarment official for the appropriate agency; and

"(B) may be a basis for suspension or debarment of the contractor.

"(e) RULE OF CONSTRUCTION.—The duty of a contractor under a covered contract to comply with the requirements of the regulations prescribed under subsection (a) and the contract clause inserted into a covered contract pursuant to subsection (b), and the availability of the remedies provided in subsection (d), shall not be reduced or diminished by the failure of a higher or lower tier contractor under such contract to comply with such requirements, or by a failure of the contracting activity to provide the oversight required by subsection (c).

"(f) AREAS OF COMBAT OPERATIONS OR OTHER SIGNIFICANT MILITARY OPERATIONS.—

"(1) DESIGNATION.—The Secretary of Defense shall designate the areas constituting either an area of combat operations or other significant military operations for purposes of this section by not later than 120 days after the date of the enactment of this Act [Jan. 28, 2008]. In making designations under this paragraph, the Secretary shall ensure that an area is not designated in whole or part as both an area of combat operations and an area of other significant military operations.

"(2) OTHER SIGNIFICANT MILITARY OPERATIONS.—For purposes of this section, the term 'other significant military operations' means activities, other than combat operations, as part of an overseas contingency operation that are carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force.

"(3) PARTICULAR AREAS.—Iraq and Afghanistan shall be included in the areas designated as an area of combat operations or other significant military operations under paragraph (1).

"(4) ADDITIONAL AREAS.—The Secretary may designate any additional area as an area constituting an area of combat operations or other significant military operations for purposes of this section if the Secretary determines that the presence or potential of combat operations or other significant military operations in such area warrants designation of such area as an area of combat operations or other significant military operations for purposes of this section.

"(5) MODIFICATION OR ELIMINATION OF DESIGNATION.—The Secretary may modify or cease the designation of an area under this subsection as an area of combat operations or other significant military operations if the Secretary determines that combat operations or other significant military operations are no longer ongoing in such area.

"(g) LIMITATION.—With respect to an area of other significant military operations, the requirements of this section shall apply only upon agreement of the Secretary of Defense and the Secretary of State. An

agreement of the Secretaries under this subsection may be made only on an area-by-area basis. With respect to an area of combat operations, the requirements of this section shall always apply.

"(h) EXCEPTIONS.—

"(1) INTELLIGENCE ACTIVITIES.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

"(2) NONGOVERNMENTAL ORGANIZATIONS.—The requirements of this section shall not apply to a nonprofit nongovernmental organization receiving grants or cooperative agreements for activities conducted within an area of other significant military operations if the Secretary of Defense and the Secretary of State agree that such organization may be exempted. An exemption may be granted by the agreement of the Secretaries under this paragraph on an organization-by-organization or area-by-area basis. Such an exemption may not be granted with respect to an area of combat operations.

"SEC. 863. ANNUAL JOINT REPORT ON CONTRACTING IN IRAQ AND AFGHANISTAN.

"(a) IN GENERAL.—Except as provided in subsection (f), every 12 months, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall submit to the relevant committees of Congress a joint report on contracts in Iraq or Afghanistan.

"(b) PRIMARY MATTERS COVERED.—A report under this section shall, at a minimum, cover the following with respect to contracts in Iraq and Afghanistan during the reporting period:

"(1) Total number of contracts awarded.

"(2) Total number of active contracts.

"(3) Total value of all contracts awarded.

"(4) Total value of active contracts.

"(5) The extent to which such contracts have used competitive procedures.

"(6) Percentage of contracts awarded on a competitive basis as compared to established goals for competition in contingency contracting actions.

"(7) Total number of contractor personnel working on contracts at the end of each quarter of the reporting period.

"(8) Total number of contractor personnel who are performing security functions at the end of each quarter of the reporting period.

"(9) Total number of contractor personnel killed or wounded.

"(c) ADDITIONAL MATTERS COVERED.—A report under this section shall also cover the following:

"(1) The sources of information and data used to compile the information required under subsection (b).

"(2) A description of any known limitations of the data reported under subsection (b), including known limitations of the methodology and data sources used to compile the report.

"(3) Any plans for strengthening collection, coordination, and sharing of information on contracts in Iraq and Afghanistan through improvements to the common databases identified under section 861(b)(4).

"(d) REPORTING PERIOD.—A report under this section shall cover a period of not less than 12 months.

"(e) SUBMISSION OF REPORTS.—The Secretaries and the Administrator shall submit an initial report under this section not later than February 1, 2011, and shall submit an updated report by February 1 of every year thereafter until February 1, 2015.

"(f) EXCEPTION.—If the total annual amount of obligations for contracts in Iraq and Afghanistan combined is less than $250,000,000 for the reporting period, for all three agencies combined, the Secretaries and the Administrator may submit, in lieu of a report, a letter stating the applicability of this subsection, with such documentation as the Secretaries and the Administrator consider appropriate.

"(g) ESTIMATES.—In determining the total number of contractor personnel working on contracts under subsection (b)(6), the Secretaries and the Administrator may use estimates for any category of contractor personnel for which they determine it is not feasible to provide an actual count. The report shall fully disclose the extent to which estimates are used in lieu of an actual count.

"SEC. 864. DEFINITIONS AND OTHER GENERAL PROVISIONS.

"(a) DEFINITIONS.—In this subtitle:

"(1) MATTERS RELATING TO CONTRACTING.—The term 'matters relating to contracting', with respect to contracts in Iraq and Afghanistan, means all matters relating to awarding, funding, managing, tracking, monitoring, and providing oversight to contracts and contractor personnel.

"(2) CONTRACT IN IRAQ OR AFGHANISTAN.—The term 'contract in Iraq or Afghanistan' means a contract with the Department of Defense, the Department of State, or the United States Agency for International Development, a subcontract at any tier issued under such a contract, a task order or delivery order at any tier issued under such a contract, a grant, or a cooperative agreement (including a contract,

subcontract, task order, delivery order, grant, or cooperative agreement issued by another Government agency for the Department of Defense, the Department of State, or the United States Agency for International Development), if the contract, subcontract, task order, delivery order, grant, or cooperative agreement involves worked [sic] performed in Iraq or Afghanistan for a period longer than 30 days.

"(3) COVERED CONTRACT.—The term 'covered contract' means—

"(A) a contract of a Federal agency for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862;

"(B) a subcontract at any tier under such a contract;

"(C) a task order or delivery order issued under such a contract or subcontract;

"(D) a grant for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; or

"(E) a cooperative agreement for the performance of services in such an area of combat operations.

"(4) CONTRACTOR.—The term 'contractor', with respect to a covered contract, means—

"(A) in the case of a covered contract that is a contract, subcontract, task order, or delivery order, the contractor or subcontractor carrying out the covered contract;

"(B) in the case of a covered contract that is a grant, the grantee; and

"(C) in the case of a covered contract that is a cooperative agreement, the recipient.

"(5) CONTRACTOR PERSONNEL.—The term 'contractor personnel' means any person performing work under contract for the Department of Defense, the Department of State, or the United States Agency for International Development, in Iraq or Afghanistan, including individuals and subcontractors at any tier.

"(6) PRIVATE SECURITY FUNCTIONS.—The term 'private security functions' means activities engaged in by a contractor under a covered contract as follows:

"(A) Guarding of personnel, facilities, or property of a Federal agency, the contractor or subcontractor, or a third party.

"(B) Any other activity for which personnel are required to carry weapons in the performance of their duties.

"(7) RELEVANT COMMITTEES OF CONGRESS.—The term 'relevant committees of Congress' means each of the following committees:

"(A) The Committees on Armed Services of the Senate and the House of Representatives.

"(B) The Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives.

"(C) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(D) For purposes of contracts relating to the National Foreign Intelligence Program, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

"(b) CLASSIFIED INFORMATION.—Nothing in this subtitle shall be interpreted to require the handling of classified information or information relating to intelligence sources and methods in a manner inconsistent with any law, regulation, executive order, or rule of the House of Representatives or of the Senate relating to the handling or protection of such information."

## CHAPTER 341—ACQUISITION OF SERVICES GENERALLY

Sec.
4501. Procurement of contract services: management structure.
4502. Procurement of contract services: senior officials responsible for management of acquisition of contract services.
4503. [Reserved].
4504. [Reserved].
4505. Procurement of services: tracking of purchases.
4506. Procurement of services: data analysis and requirements validation.
4507. Procurement of services: contracts for professional and technical services.
4508. Contractor performance of acquisition functions closely associated with inherently governmental functions.

4509. Contracts for advisory and assistance services: cost comparison studies.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 341 "CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS", consisting of reserved section 4501, was repealed by Pub. L. 116–283, div. A, title XVIII, §1856(b), Jan. 1, 2021, 134 Stat. 4273.

Another prior chapter 341 was renumbered chapter 721 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PREVENTING CONFLICTS OF INTEREST FOR ENTITIES THAT PROVIDE CERTAIN CONSULTING SERVICES TO THE DEPARTMENT OF DEFENSE**

Pub. L. 118–31, div. A, title VIII, §812, Dec. 22, 2023, 137 Stat. 323, provided that:

"(a) IN GENERAL.—

"(1) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall amend the Department of Defense Supplement to the Federal Acquisition Regulation to require any entity that provides consulting services and is assigned a North American Industry Classification System code beginning with 5416, after the effective date of such amendment and before entering into a covered contract, to certify that—

"(A) neither the entity nor any subsidiaries or affiliates of the entity (as that term is defined in section 2.101 of the Federal Acquisition Regulation) hold a contract for consulting services with one or more covered foreign entities; or

"(B) the entity maintains a Conflict of Interest Mitigation plan described under subsection (b) that is auditable by a contract oversight entity.

"(2) PROHIBITION.—The Secretary of Defense may not enter into a covered contract with an entity described in paragraph (1) that is unable to make the certification required under such paragraph.

"(b) CONFLICT OF INTEREST MITIGATION PLAN.—A Conflict of Interest Mitigation plan described under this subsection shall include—

"(1) an identification, where such identification is not otherwise prohibited by law or regulation, of any covered contracts of an entity described in subsection (a) with a covered foreign entity;

"(2) a written analysis, including a course of action for avoiding, neutralizing, or mitigating the actual or potential conflict of interest of such a covered contract with the Department of Defense;

"(3) a description of the procedures adopted by an entity to ensure that individuals who will be performing a covered contract will not, for the duration of such contract, also provide any consulting services to any covered foreign entity; and

"(4) a description of the procedures by which an entity will submit to the contract oversight entities a notice of an unmitigated conflict of interest with respect to a covered contract within 15 days of determining that such a conflict has arisen.

"(c) ALTERNATIVE IDENTIFICATION OF COVERED FOREIGN ENTITIES.—If an entity is unable to identify covered foreign entities under subsection (b)(1) due to confidentiality obligations, the entity shall identify any such covered foreign entity as an entity described in subparagraphs (A) through (F) of subsection (f)(4) in the Conflict of Interest Mitigation plan.

"(d) NOTIFICATION.—Before determining to withhold an award of a covered contract based on a conflict of interest under this section that cannot be avoided or mitigated, the contracting officer for the contract shall notify the offeror of the reasons for such withholding and allow the offeror a reasonable opportunity to respond. If the contracting officer for the contract finds that it is in the best interests of the United States to award the contract notwithstanding such a conflict of interest, a request for waiver shall be submitted in accordance with section 9.503 of title 48, Code of Federal Regulations. The waiver request and decision shall be included in the contract file.

"(e) WAIVER.—

"(1) AUTHORITY.—The Secretary of Defense may issue a waiver with respect to the requirements of this section for the award of a covered contract on a case-by-case basis as may be necessary in the interest of national security. The Secretary of Defense may not delegate the authority under this subsection to an official who has not been Presidentially appointed and confirmed by the Senate.

"(2) WAIVER NOTIFICATION.—Not later than 30 days after issuing a waiver under this subsection, the Secretary of Defense shall provide a written notification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives regarding the use of such

waiver authority. The notification shall include—

"(A) the specific justification for providing the waiver;

"(B) an identification of the covered foreign entity that is the subject of the waiver request;

"(C) the number of bidders for the covered contract for which the waiver was granted;

"(D) the number of bidders for the covered contract that did not request a waiver; and

"(E) the total dollar value of the covered contract.

"(f) DEFINITIONS.—In this section:

"(1) The term 'consulting services' has the meaning given the term 'advisory and assistance services' in section 2.101 of the Federal Acquisition Regulation, except that the term does not include the provision of products or services related to—

"(A) compliance with legal, audit, accounting, tax, reporting, or other requirements of the laws and standards of countries; or

"(B) participation in a judicial, legal, or equitable dispute resolution proceeding.

"(2) The term 'contract oversight entity' means any of the following:

"(A) The contracting officer.

"(B) The contracting officer representative.

"(C) The Defense Contract Management Agency.

"(D) The Defense Contract Audit Agency.

"(E) The Office of Inspector General of the Department of Defense or any subcomponent of such office.

"(F) The Government Accountability Office.

"(3) The term 'covered contract' means a contract of the Department of Defense for consulting services.

"(4) The term 'covered foreign entity' means any of the following:

"(A) The Government of the People's Republic of China, the Chinese Communist Party, the People's Liberation Army, the Ministry of State Security, or other security service or intelligence agency of the People's Republic of China.

"(B) The Government of the Russian Federation or any entity sanctioned by the Secretary of the Treasury under Executive Order 13662 titled 'Blocking Property of Additional Persons Contributing to the Situation in Ukraine' (79 Fed. Reg. 16169) [listed in a table under section 1701 of Title 50, War and National Defense].

"(C) The government of any country if the Secretary of State determines that such government has repeatedly provided support for acts of international terrorism pursuant to any of the following:

"(i) Section 1754(c)(1)(A) of the Export Control Reform Act of 2018 (50 U.S.C. 4318(c)(1)(A)) [sic; probably should be "(50 U.S.C. 4813(c)(1)(A))"].

"(ii) Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(iii) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

"(iv) Any other provision of law.

"(D) Any entity included on any of the following lists maintained by the Department of Commerce:

"(i) The Entity List set forth in Supplement No. 4 to part 744 of the Export Administration Regulations.

"(ii) The Denied Persons List as described in section 764.3(a)(2) of the Export Administration Regulations.

"(iii) The Unverified List set forth in Supplement No. 6 to part 744 of the Export Administration Regulations.

"(iv) The Military End User List set forth in Supplement No. 7 to part 744 of the Export Administration Regulations.

"(E) Any entity identified by the Secretary of Defense pursuant to section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).

"(F) Any entity on the Non-SDN Chinese Military-Industrial Complex Companies List (NS–CMIC List) maintained by the Office of Foreign Assets Control of the Department of the Treasury under Executive Order 14032 (86 Fed. Reg. 30145; relating to addressing the threat from securities investments that finance certain companies of the People's Republic of China), or any successor order."

## CONTRACTS FOR STUDIES, ANALYSIS, OR CONSULTING SERVICES ENTERED INTO WITHOUT COMPETITION ON THE BASIS OF AN UNSOLICITED PROPOSAL

Pub. L. 114–113, div. C, title VIII, §8039, Dec. 18, 2015, 129 Stat. 2359, provided that:

"None of the funds appropriated by this Act [div. C of Pub. L. 114–113, see Tables for classification] and hereafter shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

"(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

"(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

"(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense."

## COMPETITION FOR RELIGIOUS SERVICES CONTRACTS

Pub. L. 114–92, div. A, title VIII, §898, Nov. 25, 2015, 129 Stat. 955, provided that: "The Department of Defense may not preclude a non-profit organization from competing for a contract for religious related services on a United States military installation."

## REQUIREMENTS FOR RISK ASSESSMENTS RELATED TO CONTRACTOR PERFORMANCE

Pub. L. 112–239, div. A, title VIII, §846, Jan. 2, 2013, 126 Stat. 1848, provided that:

"(a) RISK ASSESSMENTS FOR CONTRACTOR PERFORMANCE IN OPERATIONAL OR CONTINGENCY PLANS.—The Secretary of Defense shall require that a risk assessment on reliance on contractors be included in operational or contingency plans developed by a commander of a combatant command in executing the responsibilities prescribed in section 164 of title 10, United States Code. Such risk assessments shall address, at a minimum, the potential risks listed in subsection (c).

"(b) COMPREHENSIVE RISK ASSESSMENTS AND MITIGATION PLANS FOR CONTRACTOR PERFORMANCE IN SUPPORT OF OVERSEAS CONTINGENCY OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than six months after the commencement or designation of a contingency operation outside the United States that includes or is expected to include combat operations, the head of each covered agency shall perform a comprehensive risk assessment and develop a risk mitigation plan for operational and political risks associated with contractor performance of critical functions in support of the operation for such covered agency.

"(2) EXCEPTIONS.—Except as provided in paragraph (3), a risk assessment and risk mitigation plan shall not be required under paragraph (1) for an overseas contingency operation if—

"(A) the operation is not expected to continue for more than one year; and

"(B) the total amount of obligations for contracts for support of the operation for the covered agency is not expected to exceed $250,000,000.

"(3) TERMINATION OF EXCEPTIONS.—Notwithstanding paragraph (2), the head of a covered agency shall perform a risk assessment and develop a risk mitigation plan under paragraph (1) for an overseas contingency operation with regard to which a risk assessment and risk mitigation plan has not previously been performed under paragraph (1) not later than 60 days after the date on which—

"(A) the operation has continued for more than one year; or

"(B) the total amount of obligations for contracts for support of the operation for the covered agency exceeds $250,000,000.

"(c) COMPREHENSIVE RISK ASSESSMENTS.—A comprehensive risk assessment under subsection (b) shall consider, at a minimum, risks relating to the following:

"(1) The goals and objectives of the operation (such as risks from contractor behavior or performance that may injure innocent members of the local population or offend their sensibilities).

"(2) The continuity of the operation (such as risks from contractors refusing to perform or being unable to perform when there may be no timely replacements available).

"(3) The safety of military and civilian personnel of the United States if the presence or performance of contractor personnel creates unsafe conditions or invites attack.

"(4) The safety of contractor personnel employed by the covered agency.

"(5) The managerial control of the Government over the operation (such as risks from over-reliance on contractors to monitor other contractors or inadequate means for Government personnel to monitor

contractor performance).

"(6) The critical organic or core capabilities of the Government, including critical knowledge or institutional memory of key operations areas and subject-matter expertise.

"(7) The ability of the Government to control costs, avoid organizational or personal conflicts of interest, and minimize waste, fraud, and abuse.

"(d) RISK MITIGATION PLANS.—A risk mitigation plan under subsection (b) shall include, at a minimum, the following:

"(1) For each high-risk area identified in the comprehensive risk assessment for the operation performed under subsection (b)—

"(A) specific actions to mitigate or reduce such risk, including the development of alternative capabilities to reduce reliance on contractor performance of critical functions;

"(B) measurable milestones for the implementation of planned risk mitigation or risk reduction measures; and

"(C) a process for monitoring, measuring, and documenting progress in mitigating or reducing risk.

"(2) A continuing process for identifying and addressing new and changed risks arising in the course of the operation, including the periodic reassessment of risks and the development of appropriate risk mitigation or reduction plans for any new or changed high-risk area identified.

"(e) CRITICAL FUNCTIONS.—For purposes of this section, critical functions include, at a minimum, the following:

"(1) Private security functions, as that term is defined in section 864(a)(6) of the National Defense Authorization Act for Fiscal Year 2008 [Pub. L. 110–181] (10 U.S.C. 2302 note) [former 10 U.S.C. 4571 note prec.].

"(2) Training and advising Government personnel, including military and security personnel, of a host nation.

"(3) Conducting intelligence or information operations.

"(4) Any other functions that are closely associated with inherently governmental functions, including the functions set forth in section 7.503(d) of the Federal Acquisition Regulation.

"(5) Any other functions that are deemed critical to the success of the operation.

"(f) COVERED AGENCY.—In this section, the term 'covered agency' means the Department of Defense, the Department of State, and the United States Agency for International Development."

## REQUIREMENTS FOR THE ACQUISITION OF SERVICES

Pub. L. 111–383, div. A, title VIII, §863(a)–(h), Jan. 7, 2011, 124 Stat. 4293, 4294, as amended by Pub. L. 112–81, div. A, title IX, §933(c), Dec. 31, 2011, 125 Stat. 1544; Pub. L. 112–239, div. A, title X, §1076(a)(18), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 118–159, div. A, title XVII, §1701(f), Dec. 23, 2024, 138 Stat. 2207, which directed the Secretary of Defense to ensure that military departments and Defense Agencies establish a process for identifying, assessing, reviewing, and validating requirements for the acquisition of services, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(12)(E), Dec. 18, 2025, 139 Stat. 949.

## INDEPENDENT MANAGEMENT REVIEWS OF CONTRACTS FOR SERVICES

Pub. L. 110–181, div. A, title VIII, §808, Jan. 28, 2008, 122 Stat. 215, as amended by Pub. L. 111–383, div. A, title X, §1075(f)(3), Jan. 7, 2011, 124 Stat. 4376; Pub. L. 115–232, div. A, title VIII, §812(b)(23), Aug. 13, 2018, 132 Stat. 1849, provided that:

"(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent management reviews of contracts for services. The independent management review guidance and instructions issued pursuant to this subsection shall be designed to evaluate, at a minimum—

"(1) contract performance in terms of cost, schedule, and requirements;

"(2) the use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms;

"(3) the contractor's use, management, and oversight of subcontractors;

"(4) the staffing of contract management and oversight functions; and

"(5) the extent of any pass-throughs, and excessive pass-through charges (as defined in section 852 of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Pub. L. 109–364, 10 U.S.C. 3761 note prec.]), by the contractor.

"(b) ADDITIONAL SUBJECT OF REVIEW.—In addition to the matters required by subsection (a), the

guidance and instructions issued pursuant to subsection (a) shall provide for procedures for the periodic review of contracts under which one contractor provides oversight for services performed by other contractors. In particular, the procedures shall be designed to evaluate, at a minimum—

"(1) the extent of the agency's reliance on the contractor to perform acquisition functions closely associated with inherently governmental functions as defined in section 2383(b)(3) of title 10, United States Code [now 10 U.S.C. 4508(b)(3)]; and

"(2) the financial interest of any prime contractor performing acquisition functions described in paragraph (1) in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency.

"(c) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

"(1) the contracts subject to independent management reviews, including any applicable thresholds and exceptions;

"(2) the frequency with which independent management reviews shall be conducted;

"(3) the composition of teams designated to perform independent management reviews;

"(4) any phase-in requirements needed to ensure that qualified staff are available to perform independent management reviews;

"(5) procedures for tracking the implementation of recommendations made by independent management review teams; and

"(6) procedures for developing and disseminating lessons learned from independent management reviews."

[(d) Repealed. Pub. L. 115–232, div. A, title VIII, §812(b)(23), Aug. 13, 2018, 132 Stat. 1849.]

## LIMITATION ON CONTRACTS FOR THE ACQUISITION OF CERTAIN SERVICES

Pub. L. 109–364, div. A, title VIII, §832, Oct. 17, 2006, 120 Stat. 2331, as amended by Pub. L. 110–181, div. A, title VIII, §883, Jan. 28, 2008, 122 Stat. 264; Pub. L. 110–417, [div. A], title X, §1061(b)(5), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 113–291, div. A, title X, §1071(b)(3)(A), Dec. 19, 2014, 128 Stat. 3506, which prohibited the Secretary of Defense from entering into certain service contracts to acquire a military flight simulator, unless the Secretary determined it was in the national interest and submitted an economic analysis to the congressional defense committees, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(16)(B), Dec. 18, 2025, 139 Stat. 949.

## IMPROVEMENTS IN PROCUREMENTS OF SERVICES

Pub. L. 106–398, §1 [[div. A], title VIII, §821], Oct. 30, 2000, 114 Stat. 1654, 1654A–217, as amended by Pub. L. 108–136, div. A, title XIV, §1431(c), Nov. 24, 2003, 117 Stat. 1672; Pub. L. 115–232, div. A, title VIII, §836(f)(2), Aug. 13, 2018, 132 Stat. 1871, provided that:

"(a) PREFERENCE FOR PERFORMANCE-BASED SERVICE CONTRACTING.—Not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000], the Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405 and 421) [see 41 U.S.C. 1121 and 1303] shall be revised to establish a preference for use of contracts and task orders for the purchase of services in the following order of precedence:

"(1) A performance-based contract or performance-based task order that contains firm fixed prices for the specific tasks to be performed.

"(2) Any other performance-based contract or performance-based task order.

"(3) Any contract or task order that is not a performance-based contract or a performance-based task order.

"[(b) Repealed. Pub. L. 108–136, div. A, title XIV, §1431(c), Nov. 24, 2003, 117 Stat. 1672.]

"(c) CENTERS OF EXCELLENCE IN SERVICE CONTRACTING.—Not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000], the Secretary of each military department shall establish at least one center of excellence in contracting for services. Each center of excellence shall assist the acquisition community by identifying, and serving as a clearinghouse for, best practices in contracting for services in the public and private sectors.

"(d) ENHANCED TRAINING IN SERVICE CONTRACTING.—(1) The Secretary of Defense shall ensure that classes focusing specifically on contracting for services are offered by the Defense Acquisition University and the Defense Systems Management College and are otherwise available to contracting personnel throughout the Department of Defense.

"(2) The Secretary of each military department and the head of each Defense Agency shall ensure that the personnel of the department or agency, as the case may be, who are responsible for the awarding and management of contracts for services receive appropriate training that is focused specifically on contracting

for services.

"(e) DEFINITIONS.—In this section:

"(1) The term 'performance-based', with respect to a contract, a task order, or contracting, means that the contract, task order, or contracting, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

"(2) The term 'Defense Agency' has the meaning given the term in section 101(a)(11) of title 10, United States Code."

## §4501. Procurement of contract services: management structure

(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—The Secretary of Defense shall establish and implement a management structure for the procurement of contract services for the Department of Defense. The management structure shall provide, at a minimum, for the matters specified in subsections (b), (c), (d), and (e).

(b) POLICIES, PROCEDURES, AND BEST PRACTICES GUIDELINES.—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary of Defense for Acquisition and Sustainment shall develop and maintain (in consultation with the service acquisition executives) policies, procedures, and best practices guidelines addressing the procurement of contract services, including policies, procedures, and best practices guidelines for—

(1) acquisition planning;

(2) solicitation and contract award;

(3) requirements development and management;

(4) contract tracking and oversight;

(5) performance evaluation; and

(6) risk management.

(c) PERSONNEL AND SUPPORT.—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall work with the service acquisition executives and other appropriate officials of the Department of Defense—

(1) to identify the critical skills and competencies needed to carry out the procurement of contract services on behalf of the Department of Defense;

(2) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for such skills and competencies; and

(3) to ensure that the military departments and Defense Agencies have staff and administrative support that are adequate to effectively perform their duties under this section and section 4502 of this title.

(d) CONTRACT SERVICES ACQUISITION CATEGORIES.—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall establish contract services acquisition categories, based on dollar thresholds, for the purpose of establishing the level of review, decision authority, and applicable procedures in such categories.

(e) OVERSIGHT OF IMPLEMENTATION.—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall oversee the implementation of the requirements of this section and section 4502 of this title and the policies, procedures, and best practices guidelines established pursuant to subsection (b).

(f) CONTRACT SERVICES.—In this section, the term "contract services" has the meaning given that term in section 4502(d)(2) of this title.

(Added Pub. L. 107–107, div. A, title VIII, §801(b)(1), Dec. 28, 2001, 115 Stat. 1174, §2330; amended Pub. L. 107–314, div. A, title X, §1062(a)(8), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–163, div. A, title VIII, §812(a)(1), Jan. 6, 2006, 119 Stat. 3376; Pub. L. 112–239, div. A, title VIII, §845(d), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 116–92, div. A, title IX, §902(51), Dec. 20, 2019, 133 Stat. 1548; renumbered §4501 and amended Pub. L. 116–283, div. A, title XVIII, §1856(c)–(e), Jan. 1, 2021, 134 Stat. 4274.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4501, act Aug. 10, 1956, ch. 1041, 70A Stat. 251, which related to industrial mobilization by the President in time of war, was repealed by Pub. L. 103–160, div. A, title VIII, §822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See section 4882 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1856(e)(2), redesignated par. (1) of subsec. (a) as subsec. (b) and subpars. (B) to (D) of former par. (1) as subsecs. (c) to (e), respectively.

Pub. L. 116–283, §1856(d), transferred subsecs. (a)(2), (3), (b), and (c) to section 4502 of this title. Amendment notes below prior to 2021 relate to section as it read before such provisions were transferred.

Pub. L. 116–283, §1856(c), renumbered section 2330 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1856(e)(1), substituted "for the matters specified in subsections (b), (c), (d), and (e)." for "for the following:".

Subsec. (b). Pub. L. 116–283, §1856(e)(3), inserted heading, substituted "The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary of Defense for Acquisition and Sustainment shall develop and maintain" for "The Under Secretary of Defense for Acquisition and Sustainment shall—(A) develop and maintain", redesignated cls. (i) to (vi) as pars. (1) to (6), respectively, substituted period for semicolon at end of par. (6), and realigned margins.

Subsec. (c). Pub. L. 116–283, §1856(e)(4)(A)–(C), inserted heading, substituted "The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall work with" for "work with" in introductory provisions, redesignated cls. (i) to (iii) as pars. (1) to (3), respectively, and realigned margins.

Subsec. (c)(3). Pub. L. 116–283, §1856(e)(4)(D), (E), substituted "under this section and section 4502 of this title." for "under this section;".

Subsec. (d). Pub. L. 116–283, §1856(e)(5), inserted heading, substituted "The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall establish contract" for "establish contract" and period for "; and", and realigned margins.

Subsec. (e). Pub. L. 116–283, §1856(e)(6), inserted heading, substituted "The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall oversee the" for "oversee the" and "subsection (b)" for "subparagraph (A)", inserted "and section 4502 of this title" after "of this section", and realigned margins.

Subsec. (f). Pub. L. 116–283, §1856(e)(7), added subsec. (f).

**2019**—Subsecs. (a)(1), (3), (b)(2), (3)(A). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2013**—Subsec. (c)(2). Pub. L. 112–239 substituted "including services in support of contingency operations. The term does not include services relating to research and development or military construction." for "other than services relating to research and development or military construction."

**2006**—Pub. L. 109–163 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to requirement for management structure, contracting responsibilities of designated officials, and definitions.

**2002**—Subsec. (c). Pub. L. 107–314 inserted comma after "a task order".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# §4502. Procurement of contract services: senior officials responsible for management of acquisition of contract services

(a) SENIOR OFFICIALS.—The management structure implemented pursuant to section 4501 of

this title shall provide for the following:

(1) The service acquisition executive of each military department shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the military department.

(2) The Under Secretary of Defense for Acquisition and Sustainment shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the Defense Agencies and other components of the Department of Defense outside the military departments.

(b) DUTIES AND RESPONSIBILITIES OF SENIOR OFFICIALS RESPONSIBLE FOR THE MANAGEMENT OF ACQUISITION OF CONTRACT SERVICES.—(1) Except as provided in paragraph (2), the senior officials responsible for the management of acquisition of contract services shall assign responsibility for the review and approval of procurements in each contract services acquisition category established under section 4501(d) of this title to specific Department of Defense officials, subject to the direction, supervision, and oversight of such senior officials.

(2) With respect to the acquisition of contract services by a component or command of the Department of Defense the primary mission of which is the acquisition of products and services, such acquisition shall be conducted in accordance with policies, procedures, and best practices guidelines developed and maintained by the Under Secretary of Defense for Acquisition and Sustainment pursuant to section 4501 of this title, subject to oversight by the senior officials referred to in paragraph (1).

(c) DUTIES AND RESPONSIBILITIES.—In carrying out subsection (b)(1), each senior official responsible for the management of acquisition of contract services shall—

(1) implement the requirements of this section and section 4501 of this title and the policies, procedures, and best practices guidelines developed by the Under Secretary of Defense for Acquisition and Sustainment pursuant to section 4501(b) of this title;

(2) authorize the procurement of contract services through contracts entered into by agencies outside the Department of Defense in appropriate circumstances, in accordance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 2304 note), section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (31 U.S.C. 1535 note), and the regulations implementing such sections;

(3) dedicate full-time commodity managers to coordinate the procurement of key categories of services;

(4) ensure that contract services are procured by means of procurement actions that are in the best interests of the Department of Defense and are entered into and managed in compliance with applicable laws, regulations, directives, and requirements;

(5) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the procurement of contract services; and

(6) monitor data collection under section 4505 of this title, and periodically conduct spending analyses, to ensure that funds expended for the procurement of contract services are being expended in the most rational and economical manner practicable.

(d) DEFINITIONS.—In this section:

(1) The term "procurement action" includes the following actions:

(A) Entry into a contract or any other form of agreement.

(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

(2) The term "contract services" includes all services acquired from private sector entities by or for the Department of Defense, including services in support of contingency operations. The term does not include services relating to research and development or military construction.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1856(d), (f), Jan. 1, 2021, 134 Stat. 4274, 4275; Pub. L. 117–81, div. A, title XVII, §1701(b)(19)(A), Dec. 27, 2021, 135 Stat. 2135.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, referred to in subsec. (c)(2), is section 854 of div. A of Pub. L. 108–375, which is set out as a note under section 2304 of this title.

Section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, referred to in subsec. (c)(2), is section 814 of div. A of Pub. L. 105–261, which was formerly set out as a note under section 1535 of Title 31, Money and Finance.

### CODIFICATION

The text of subsecs. (a)(2), (3), (b), and (c) of section 4501 of this title, which was transferred to this section by Pub. L. 116–283, §1856(d), was based on Pub. L. 107–107, div. A, title VIII, §801(b)(1), Dec. 28, 2001, 115 Stat. 1174, §2330; Pub. L. 107–314, div. A, title X, §1062(a)(8), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–163, div. A, title VIII, §812(a)(1), Jan. 6, 2006, 119 Stat. 3376; Pub. L. 112–239, div. A, title VIII, §845(d), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 116–92, div. A, title IX, §902(51)(B)–(D), Dec. 20, 2019, 133 Stat. 1549; renumbered §4501, Pub. L. 116–283, div. A, title XVIII, §1856(c), Jan. 1, 2021, 134 Stat. 4274. Amendment notes prior to 2021 relevant to this section can be found under section 4501 of this title.

### PRIOR PROVISIONS

A prior section 4502, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, which related to maintenance by Secretary of the Army of lists of plants equipped to manufacture arms or ammunition and of plants convertible into ammunition factories and provided for a Board on Mobilization of Industries Essential for Military Preparedness, was repealed by Pub. L. 103–160, div. A, title VIII, §822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See sections 4883 and 4884 of this title.

Prior sections 4503 and 4504 were repealed by Pub. L. 103–160, div. A, title VIII, §§822(c)(2), 827(c), Nov. 30, 1993, 107 Stat. 1707, 1713.

Section 4503, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, related to research and development programs of the Army.

Section 4504, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, related to procurement of ordnance, signal, and chemical warfare supplies for experimental purposes by Secretary of the Army. See section 4004 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1856(d), transferred subsecs. (a)(2), (3), (b), and (c) of section 4501 of this title to this section and inserted subsec. (a) designation, heading, and introductory provisions.

Subsec. (a). Pub. L. 116–283, §1856(f)(1), redesignated pars. (2) and (3) as (1) and (2), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1856(f)(2)(A), substituted "section 4501(d) of this title" for "subsection (a)(1)(C)".

Subsec. (b)(2). Pub. L. 116–283, §1856(f)(2)(B), substituted "section 4501 of this title" for "subsection (a)(1)".

Subsec. (b)(3). Pub. L. 116–283, §1856(f)(4), redesignated par. (3) as subsec. (c).

Subsec. (c). Pub. L. 116–283, §1856(f)(5)(A), as amended by Pub. L. 117–81, §1701(b)(19)(A), inserted heading and substituted "In carrying out subsection (b)(1)" for "In carrying out paragraph (1)" in introductory provisions.

Pub. L. 116–283, §1856(f)(4), redesignated par. (3) of subsec. (b) as subsec. (c) and subpars. (A) to (F) as pars. (1) to (6), respectively.

Pub. L. 116–283, §1856(f)(3), redesignated subsec. (c) as (d).

Subsec. (c)(1). Pub. L. 116–283, §1856(f)(5)(B), inserted "and section 4501 of this title" after "of this section" and substituted "section 4501(b) of this title" for "subsection (a)(1)(A)".

Subsec. (c)(6). Pub. L. 116–283, §1856(f)(5)(C), substituted "section 4505" for "section 2330a".

Subsec. (d). Pub. L. 116–283, §1856(f)(3), redesignated subsec. (c) as (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 note preceding section 3001 of this title.

## §4505. Procurement of services: tracking of purchases

(a) DATA COLLECTION REQUIRED.—The Secretary of Defense shall establish a data collection system to provide management information with regard to each purchase of services by a military department or Defense Agency in excess of $3,000,000, regardless of whether such a purchase is made in the form of a contract, task order, delivery order, military interdepartmental purchase request, or any other form of interagency agreement, for services in the following service acquisition portfolio groups:

(1) Logistics management services.

(2) Equipment related services.

(3) Knowledge-based services.

(4) Electronics and communications services.

(b) DATA TO BE COLLECTED.—The data required to be collected under subsection (a) includes the following:

(1) The services purchased.

(2) The total dollar amount of the purchase.

(3) The form of contracting action used to make the purchase.

(4) Whether the purchase was made through—

(A) a performance-based contract, performance-based task order, or other performance-based arrangement that contains firm fixed prices for the specific tasks to be performed;

(B) any other performance-based contract, performance-based task order, or performance-based arrangement; or

(C) any contract, task order, or other arrangement that is not performance based.

(5) In the case of a purchase made through an agency other than the Department of Defense, the agency through which the purchase is made.

(6) The extent of competition provided in making the purchase and whether there was more than one offer.

(7) Whether the purchase was made from—

(A) a small business concern;

(B) a small business concern owned and controlled by socially and economically disadvantaged individuals; or

(C) a small business concern owned and controlled by women.

(c) INVENTORY SUMMARY.—(1) Not later than the end of the third quarter of each fiscal year, the Secretary of Defense shall prepare an annual inventory, and submit to Congress a summary of the inventory, of activities performed during the preceding fiscal year pursuant to staff augmentation contracts and contracts closely associated with inherently governmental functions on behalf of the Department of Defense. The guidance for compiling the inventory shall be issued by the Under Secretary of Defense for Personnel and Readiness, the Under Secretary of Defense (Comptroller), and the Under Secretary of Defense for Acquisition and Sustainment, as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, as supported by the Under Secretary of Defense (Comptroller), shall be responsible for developing guidance for—

(i) the collection of data regarding functions and missions performed by contractors in a manner that is comparable to the manpower data elements used in inventories of functions performed by Department of Defense employees;

(ii) the calculation of contractor full-time equivalents for direct labor, using direct labor hours

in a manner that is comparable to the calculation of Department of Defense civilian full-time employees; and

(iii) the conduct and completion of the annual review required under subsection (e)(1).

(B) The Under Secretary of Defense for Acquisition and Sustainment shall be responsible for developing guidance on other data elements and implementing procedures for requirements relating to acquisition.

(2) The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following:

(A) The functions and missions performed by the contractor.

(B) The contracting organization, the component of the Department of Defense administering the contract, and the organization whose requirements are being met through contractor performance of the function.

(C) The funding source for the contract under which the function is performed by appropriation and operating agency.

(D) The fiscal year for which the activity first appeared on an inventory under this section.

(E) The number of contractor employees, expressed as full-time equivalents for direct labor, using direct labor hours and associated cost data collected from contractors (except that estimates may be used where such data is not available and cannot reasonably be made available in a timely manner for the purpose of the inventory).

(F) A determination whether the contract pursuant to which the activity is performed is a personal services contract.

(G) A summary of the data required to be collected for the activity under subsection (a).

(3) The inventory required under this subsection shall be submitted in unclassified form, but may include a classified annex.

(d) REVIEW AND PLANNING REQUIREMENTS.—Within 90 days after the date on which an inventory is submitted under subsection (c), the Secretary of the military department or head of the Defense Agency responsible for activities in the inventory shall—

(1) review the contracts and activities in the inventory for which such Secretary or agency head is responsible, with particular focus and attention on the following categories of high-risk product service codes (also referred to as Federal supply codes):

(A) Special studies or analysis that is not research and development.

(B) Information technology and telecommunications.

(C) Support, including professional, administrative, and management;

(2) ensure that—

(A) each contract on the list that is a personal services contract has been entered into, and is being performed, in accordance with applicable statutory and regulatory requirements;

(B) the activities on the list do not include any inherently governmental functions; and

(C) to the maximum extent practicable, the activities on the list do not include any functions closely associated with inherently governmental functions; and

(3) identify activities that should be considered for conversion—

(A) to performance by civilian employees of the Department of Defense pursuant to section 2463 of this title; or

(B) to an acquisition approach that would be more advantageous to the Department of Defense.

(e) DEVELOPMENT OF PLAN AND ENFORCEMENT AND APPROVAL MECHANISMS .—The Secretary of the military department or head of the Defense Agency responsible for activities in the inventory shall develop a plan, including an enforcement mechanism and approval process,

to—

(1) provide for the use of the inventory by the military department or Defense Agency to implement the requirements of section 129a of this title;

(2) ensure the inventory is used to inform strategic workforce planning;

(3) facilitate use of the inventory for compliance with section 235 [1] of this title; and

(4) provide for appropriate consideration of the conversion of activities identified under subsection (e)(3) within a reasonable period of time.

(f) COMPTROLLER GENERAL REPORT.—Not later than March 31, 2018, the Comptroller General of the United States shall submit to the congressional defense committees a report on the status of the data collection required in subsection (a) and an assessment of the efforts by the Department of Defense to implement subsection (e).

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the performance of personal services by a contractor except where expressly authorized by a provision of law other than this section.

(h) DEFINITIONS.—In this section:

(1) PERFORMANCE-BASED.—The term "performance-based", with respect to a contract, task order, or arrangement, means that the contract, task order, or arrangement, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

(2) FUNCTION CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS.—The term "function closely associated with inherently governmental functions" has the meaning given that term in section 4508(b)(3) of this title.

(3) INHERENTLY GOVERNMENTAL FUNCTIONS.—The term "inherently governmental functions" has the meaning given that term in section 4508(b)(2) of this title.

(4) PERSONAL SERVICES CONTRACT.—The term "personal services contract" means a contract under which, as a result of its terms or conditions or the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of one or more Government officers or employees, except that the giving of an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that makes a contract a personal services contract.

(5) SERVICE ACQUISITION PORTFOLIO GROUPS.—The term "service acquisition portfolio groups" means the groups identified in Department of Defense Instruction 5000.74, Defense Acquisition of Services (January 5, 2016) or successor guidance.

(6) STAFF AUGMENTATION CONTRACTS.—The term "staff augmentation contracts" means services contracts for personnel who are physically present in a Government work space on a full-time or permanent part-time basis, for the purpose of advising on, providing support to, or assisting a Government agency in the performance of the agency's missions, including authorized personal services contracts.

(7) SIMPLIFIED ACQUISITION THRESHOLD.—The term "simplified acquisition threshold" has the meaning given the term in section 134 of title 41.

(8) SMALL BUSINESS ACT DEFINITIONS.—

(A) The term "small business concern" has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) The terms "small business concern owned and controlled by socially and economically disadvantaged individuals" and "small business concern owned and controlled by women" have the meanings given such terms, respectively, in section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)).

(Added Pub. L. 107–107, div. A, title VIII, §801(c), Dec. 28, 2001, 115 Stat. 1176, §2330a; amended Pub. L. 110–181, div. A, title VIII, §807(a), Jan. 28, 2008, 122 Stat. 213; Pub. L. 111–84, div. A, title VIII, §803(b), Oct. 28, 2009, 123 Stat. 2402; Pub. L. 111–383, div. A, title III, §321, Jan. 7, 2011, 124 Stat. 4183; Pub. L. 112–81, div. A, title IX, §936, Dec. 31, 2011, 125 Stat. 1545; Pub. L. 113–66, div. A, title IX, §951(a), Dec. 26, 2013, 127 Stat. 839; Pub. L. 114–328, div. A, title VIII,

§§812, 833(b)(2)(C)(ii), Dec. 23, 2016, 130 Stat. 2269, 2284; Pub. L. 115–91, div. A, title X, §1081(a)(30), (d)(6)(A), Dec. 12, 2017, 131 Stat. 1595, 1600; Pub. L. 115–232, div. A, title VIII, §819, Aug. 13, 2018, 132 Stat. 1853; renumbered §4505 and amended Pub. L. 116–283, div. A, title XVIII, §§1856(g), (h), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4275, 4294; Pub. L. 117–81, div. A, title XVII, §1701(b)(19)(B), (d)(13), Dec. 27, 2021, 135 Stat. 2135, 2137; Pub. L. 118–159, div. A, title XVII, §1701(a)(40), Dec. 23, 2024, 138 Stat. 2206.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 235 of this title, referred to in subsec. (e)(3), was repealed by Pub. L. 117–81, div. A, title VIII, §815(b)(1), Dec. 27, 2021, 135 Stat 1825.

### PRIOR PROVISIONS

A prior section 4505, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, which related to procurement by Secretary of the Army of production equipment, was repealed by Pub. L. 103–160, div. A, title VIII, §823(1), Nov. 30, 1993, 107 Stat. 1707.

### AMENDMENTS

**2024**—Subsec. (h)(6). Pub. L. 118–159 struck out "(as that term is defined in section 4505(g)(5) of this title)" after "personal services contracts".

**2021**—Pub. L. 116–283, §1856(g), renumbered section 2330a of this title as this section.

Subsec. (h)(2). Pub. L. 117–81, §1701(d)(13), which directed the substitution of "section 4508(b)(3)" for "section 2383(b)(3)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4508(b)(3)" for "section 2383(b)(3)".

Subsec. (h)(3). Pub. L. 116–283, §1856(h), as amended by Pub. L. 117–81, §1701(b)(19)(B), substituted "section 4508(b)(2)" for "section 2383(b)(2)".

Subsec. (h)(6). Pub. L. 116–283, §1883(b)(2), substituted "section 4505(g)(5)" for "section 2330a(g)(5)".

**2018**—Subsec. (c)(1). Pub. L. 115–232, in introductory provisions, inserted "and contracts closely associated with inherently governmental functions" after "staff augmentation contracts" and substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (c)(1)(B). Pub. L. 115–232, §819(2), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2017**—Subsec. (d)(1)(C). Pub. L. 115–91, §1081(a)(30)(A), struck out period before semicolon at end.

Subsec. (h)(1). Pub. L. 115–91, §1081(a)(30)(B)(i), inserted heading.

Subsec. (h)(2) to (4). Pub. L. 115–91, §1081(d)(6)(A), amended directory language of Pub. L. 114–328, §833(b)(2)(C)(ii). See 2016 Amendment notes below.

Subsec. (h)(5). Pub. L. 115–91, §1081(a)(30)(B)(iii), inserted heading.

Pub. L. 115–91, §1081(a)(30)(B)(ii), redesignated par. (6) defining "service acquisition portfolio groups" as (5). Former par. (5) redesignated (7).

Pub. L. 115–91, §1081(d)(6)(A), amended directory language of Pub. L. 114–328, §833(b)(2)(C)(ii). See 2016 Amendment note below.

Subsec. (h)(6). Pub. L. 115–91, §1081(a)(30)(B)(iv), inserted heading.

Pub. L. 115–91, §1081(a)(30)(B)(ii), redesignated par. (7) as (6). Former par. (6) defining "service acquisition portfolio groups" redesignated (5) and former par. (6) relating to Small Business Act definitions redesignated (8).

Pub. L. 115–91, §1081(d)(6)(A), amended directory language of Pub. L. 114–328, §833(b)(2)(C)(ii). See 2016 Amendment note below.

Subsec. (h)(7). Pub. L. 115–91, §1081(a)(30)(B)(ii), redesignated par. (5) as (7). Former par. (7) redesignated (6).

Subsec. (h)(8). Pub. L. 115–91, §1081(a)(30)(B)(ii), redesignated par. (6) relating to Small Business Act definitions as (8).

**2016**—Subsec. (a). Pub. L. 114–328, §812(a), (b), substituted "in excess of $3,000,000" for "in excess of the simplified acquisition threshold" and ", for services in the following service acquisition portfolio groups:" for period at end and added pars. (1) to (4).

Subsec. (c). Pub. L. 114–328, §812(c)(1), substituted "Inventory Summary" for "Inventory" in heading.

Subsec. (c)(1). Pub. L. 114–328, §812(c)(2), substituted "prepare an annual inventory, and submit to Congress a summary of the inventory, of activities performed during the preceding fiscal year pursuant to staff augmentation contracts on behalf" for "submit to Congress an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for services (and pursuant to contracts for goods to the extent services are a significant component of performance as identified in a separate line item of a contract) for or on behalf".

Subsec. (d). Pub. L. 114–328, §812(d), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "Not later than 30 days after the date on which an inventory under subsection (c) is required to be submitted to Congress, the Secretary shall—

"(1) make the inventory available to the public; and

"(2) publish in the Federal Register a notice that the inventory is available to the public."

Subsec. (d)(1). Pub. L. 114–328, §812(e), inserted ", with particular focus and attention on the following categories of high-risk product service codes (also referred to as Federal supply codes):" after "responsible" and added subpars. (A) to (C).

Subsec. (e). Pub. L. 114–328, §812(d)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 114–328, §812(f), added subsec. (f). Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 114–328, §812(d), redesignated subsecs. (i) and (j) as (g) and (h), respectively, and struck out former subsecs. (g) and (h) which related to Inspector General reports and Comptroller General reports, respectively.

Subsec. (h)(2). Pub. L. 114–328, §833(b)(2)(C)(ii)(I), (II), as amended by Pub. L. 115–91, §1081(d)(6)(A), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, par. (2) read as follows: "The definitions set forth in section 2225(f) of this title for the terms 'simplified acquisition threshold', 'small business concern', 'small business concern owned and controlled by socially and economically disadvantaged individuals', and 'small business concern owned and controlled by women' shall apply."

Subsec. (h)(3), (4). Pub. L. 114–328, §833(b)(2)(C)(ii)(II), as amended by Pub. L. 115–91, §1081(d)(6)(A), redesignated pars. (4) and (5) as (3) and (4), respectively. Former par. (3) redesignated (2).

Subsec. (h)(5). Pub. L. 114–328, §833(b)(2)(C)(ii)(III), as amended by Pub. L. 115–91, §1081(d)(6)(A), added par. (5). Former par. (5) redesignated (4).

Subsec. (h)(6). Pub. L. 114–328, §833(b)(2)(C)(ii)(III), as amended by Pub. L. 115–91, §1081(d)(6)(A), added par. (6) relating to Small Business Act definitions.

Pub. L. 114–328, §812(g), added par. (6) defining "service acquisition portfolio groups".

Subsec. (h)(7). Pub. L. 114–328, §812(g), added par. (7).

Subsecs. (i), (j). Pub. L. 114–328, §812(d)(2), redesignated subsecs. (i) and (j) as (g) and (h), respectively.

**2013**—Subsecs. (g) to (j). Pub. L. 113–66 added subsecs. (g) and (h) and redesignated former subsecs. (g) and (h) as (i) and (j), respectively.

**2011**—Subsec. (c). Pub. L. 111–383, §321(2) to (4), substituted "The guidance for compiling the inventory shall be issued by the Under Secretary of Defense for Personnel and Readiness, the Under Secretary of Defense (Comptroller), and the Under Secretary of Defense for Acquisition, Technology, and Logistics, as follows:" for "The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following:" in par. (1), added new subpars. (A) and (B) to par. (1), inserted par. (2) designation and introductory provisions before former subpars. (A) to (G) of par. (1) thereby making them part of par. (2), added subpar. (E), and struck out former subpar. (E) which read as follows: "The number of full-time contractor employees (or its equivalent) paid for the performance of the activity."

Subsec. (c)(1). Pub. L. 112–81, §936(a)(1), inserted "(and pursuant to contracts for goods to the extent services are a significant component of performance as identified in a separate line item of a contract)" after "pursuant to contracts for services" in introductory provisions.

Subsec. (c)(1)(A)(ii), (iii). Pub. L. 112–81, §936(a)(2), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: "the calculation of contractor manpower equivalents in a manner that is comparable to the calculation of full-time equivalents for use in inventories of functions performed by Department of Defense employees."

Subsec. (c)(1)(B). Pub. L. 112–81, §936(a)(3), inserted "for requirements relating to acquisition" before period at end.

Subsec. (c)(2), (3). Pub. L. 111–383, §321(1), redesignated par. (2) as (3).

Subsec. (e)(2) to (4). Pub. L. 112–81, §936(b), inserted "and" at end of par. (2), substituted period for "; and" at end of par. (3), and struck out par. (4) which read as follows: "develop a plan, including an enforcement mechanism and approval process, to provide for appropriate consideration of the conversion of

activities identified under paragraph (3) within a reasonable period of time."

Subsec. (f) to (h). Pub. L. 112–81, §936(c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

**2009**—Subsec. (e)(4). Pub. L. 111–84 inserted ", including an enforcement mechanism and approval process," after "plan".

**2008**—Subsecs. (c) to (g). Pub. L. 110–181, §807(a)(1), (2), added subsecs. (c) to (f), redesignated former subsec. (d) as (g), and struck out heading and text of former subsec. (c). Former text read as follows: "To the maximum extent practicable, a single data collection system shall be used to collect data under this section and information under section 2225 of this title."

Subsec. (g)(3) to (5). Pub. L. 110–181, §807(a)(3), added pars. (3) to (5).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(19)(B) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(d)(13) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(6)(A) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VIII, §807(b), Jan. 28, 2008, 122 Stat. 215, provided that:

"(1) The amendments made by subsection (a) [amending this section] shall be effective upon the date of the enactment of this Act [Jan. 28, 2008].

"(2) The first inventory required by section 2330a(c) of title 10, United States Code [now 10 U.S.C. 4505(c)], as added by subsection (a), shall be submitted not later than the end of the third quarter of fiscal year 2008."

[1] *See References in Text note below.*

## §4506. Procurement of services: data analysis and requirements validation

(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall ensure that—

(1) appropriate and sufficiently detailed data are collected and analyzed to support the validation of requirements for services contracts and inform the planning, programming, budgeting, and execution process of the Department of Defense;

(2) requirements for services contracts are evaluated appropriately and in a timely manner to inform decisions regarding the procurement of services; and

(3) decisions regarding the procurement of services consider available resources and total force management policies and procedures.

(b) SPECIFICATION OF AMOUNTS REQUESTED IN BUDGET.—Effective February 1, 2023, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall annually submit to Congress information on services contracts that clearly and separately identifies the amount requested for each category of

services to be procured for each Defense Agency, Department of Defense Field Activity, command, or military installation. Such information shall—

(1) be submitted at or before the time of the budget submission by the President under section 1105(a) of title 31 or on the date on which the future-years defense program is submitted to Congress under section 221 of this title;

(2) cover the fiscal year covered by such budget submission by the President;

(3) be consistent with total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included in such budget submission by the President for that fiscal year;

(4) be informed by the review of the inventory required by section 4505(c) using standard guidelines developed under subsection (d); and

(5) clearly and separately identify the amount requested and projected for the procurement of contract services for each Defense Agency, Department of Defense Field Activity, command, or military installation for the budget year and the subsequent four fiscal years in the future-years defense program submitted to Congress under section 221.

(c) DATA ANALYSIS.—(1) Each Secretary of a military department shall regularly analyze past spending patterns and anticipated future requirements with respect to the procurement of services within such military department.

(2)(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall regularly analyze past spending patterns and anticipated future requirements with respect to the procurement of services—

(i) within each Defense Agency and Department of Defense Field Activity; and

(ii) across military departments, Defense Agencies, and Department of Defense Field Activities.

(B) The Secretaries of the military departments shall make data on services contracts available to the Secretary of Defense for purposes of conducting the analysis required under subparagraph (A).

(3) The analyses conducted under this subsection shall—

(A) identify contracts for similar services that are procured for three or more consecutive years at each Defense Agency, Department of Defense Field Activity, command, or military installation;

(B) evaluate patterns in the procurement of services, to the extent practicable, at each Defense Agency, Department of Defense Field Activity, command, or military installation and by category of services procured;

(C) be used to validate requirements for services contracts entered into after the date of the enactment of this subsection; and

(D) be used to inform decisions on the award of and funding for such services contracts.

(d) REQUIREMENTS EVALUATION.—(1) Each Services Requirements Review Board shall evaluate each requirement for a services contract, taking into consideration total force management policies and procedures, available resources, the analyses conducted under subsection (c), and contracting efficacy and efficiency. An evaluation of a services contract for compliance with contracting policies and procedures may not be considered to be an evaluation of a requirement for such services contract.

(2) The Secretary of Defense shall establish and issue standard guidelines within the Department of Defense for the evaluation of requirements for services contracts. Any such guidelines issued—

(A) shall be consistent with the "Handbook of Contract Function Checklists for Services Acquisition" issued by the Department of Defense in May 2018, or a successor or other appropriate policy; and

(B) shall be updated as necessary to incorporate applicable statutory changes to total force management policies and procedures and any other guidelines or procedures relating to the use of Department of Defense civilian employees to perform new functions and functions that are performed by contractors.

(3) The acquisition decision authority for each services contract shall certify—

(A) that a task order or statement of work being submitted to a contracting office is in compliance with the standard guidelines;

(B) that all appropriate statutory risk mitigation efforts have been made; and

(C) that such task order or statement of work does not include requirements formerly performed by Department of Defense civilian employees.

(4) The Inspector General of the Department of Defense may conduct annual audits to ensure compliance with this subsection.

[(e) Repealed. Pub. L. 119–60, div. A, title VIII, §815(1), Dec. 18, 2025, 139 Stat. 953.]

(f) DEFINITIONS.—In this section:

(1) The term "Services Requirements Review Board" has the meaning given in Department of Defense Instruction 5000.74, titled "Defense Acquisition of Services" and dated January 10, 2020, or a successor instruction.

(2) The term "acquisition decision authority" means the designated decision authority for each designated special interest services acquisition category, described in such Department of Defense Instruction.

(Added Pub. L. 115–91, div. A, title VIII, §851(a)(1), Dec. 12, 2017, 131 Stat. 1489, §2329; amended Pub. L. 115–232, div. A, title VIII, §818(a), Aug. 13, 2018, 132 Stat. 1852; Pub. L. 116–92, div. A, title VIII, §817(a), title XVII, §1731(a)(42), Dec. 20, 2019, 133 Stat. 1488, 1814; renumbered §4506 and amended Pub. L. 116–283, div. A, title XVIII, §§1856(g), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4275, 4294; Pub. L. 117–81, div. A, title VIII, §815(a), Dec. 27, 2021, 135 Stat. 1824; Pub. L. 119–60, div. A, title VIII, §815, Dec. 18, 2025, 139 Stat. 953.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(3)(C), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

### PRIOR PROVISIONS

A prior section 4506, act Aug. 10, 1956, ch. 1041, 70A Stat. 253, which related to sale, loan, or gift of samples, drawings, and information to contractors, was repealed by Pub. L. 103–160, div. A, title VIII, §822(b)(3), Nov. 30, 1993, 107 Stat. 1706.

### AMENDMENTS

**2025**—Subsec. (e). Pub. L. 119–60, §815(1), struck out subsec. (e) which related to timely planning to avoid bridge contracts.

Subsec. (f). Pub. L. 119–60, §815(2), redesignated pars. (3) and (4) as (1) and (2), respectively, and struck out former pars. (1) and (2) which defined the terms "bridge contract" and "requirements owner", respectively, for purposes of this section.

**2021**—Pub. L. 116–283, §1856(g), renumbered section 2329 of this title as this section.

Subsec. (b). Pub. L. 117–81, §815(a)(1)(A), substituted "February 1, 2023" for "October 1, 2021" in introductory provisions.

Subsec. (b)(4). Pub. L. 116–283, §1883(b)(2), substituted "section 4505(c)" for "section 2330a(c)".

Pub. L. 117–81, §815(a)(1)(B), added par. (4) and struck out former par. (4) which read as follows: "be organized using a common enterprise data structure developed under section 2222 of this title; and".

Subsec. (b)(5). Pub. L. 117–81, §815(a)(1)(B), added par. (5) and struck out former par. (5) which read as follows: "be included in the future-years defense program submitted to Congress under section 221 of this title."

Subsec. (d). Pub. L. 117–81, §815(a)(2), amended subsec. (d) generally. Prior to amendment, text read as follows: "Each Services Requirements Review Board shall evaluate each requirement for a services contract, taking into consideration total force management policies and procedures, available resources, the analyses conducted under subsection (c), and contracting efficacy and efficiency. An evaluation of a services contract for compliance with contracting policies and procedures may not be considered to be an evaluation of a requirement for such services contract."

Subsec. (f). Pub. L. 117–81, §815(a)(3), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "Except with respect to the analyses required under subsection (c), this section shall not apply to—

"(1) services contracts in support of contingency operations, humanitarian assistance, or disaster relief;

"(2) services contracts in support of a national security emergency declared with respect to a named operation; or

"(3) services contracts entered into pursuant to an international agreement."

Subsec. (f)(3). Pub. L. 117–81, §815(a)(4)(A), substituted "January 10, 2020" for "January 5, 2016".

Subsec. (f)(4). Pub. L. 117–81, §815(a)(4)(B), added par. (4).

Subsec. (g). Pub. L. 117–81, §815(a)(3), redesignated subsec. (g) as (f).

**2019**—Subsec. (a). Pub. L. 116–92, §817(a)(1), inserted ", acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation," after "Secretary of Defense" in introductory provisions.

Subsec. (b). Pub. L. 116–92, §817(a)(2), inserted ", acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation," after "Secretary of Defense" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 116–92, §817(a)(3), inserted ", acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation," after "Secretary of Defense" in introductory provisions.

Subsec. (g)(1). Pub. L. 116–92, §1731(a)(42), substituted "term 'bridge contract' " for "term 'bridge contact' " in introductory provisions.

**2018**—Subsec. (b). Pub. L. 115–232, §818(a)(1), substituted "October 1, 2021" for "October 1, 2022" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–232, §818(a)(2), substituted "at or before" for "at or about" and inserted "or on the date on which the future-years defense program is submitted to Congress under section 221 of this title" after "title 31".

Subsec. (b)(5). Pub. L. 115–232, §818(a)(3)–(5), added par. (5).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4507. Procurement of services: contracts for professional and technical services

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure, to the maximum extent practicable, that professional and technical services are acquired on the basis of the task to be performed rather than on the basis of the number of hours of services provided.

(b) CONTENT OF REGULATIONS.—With respect to contracts to acquire services on the basis of the number of hours of services provided, the regulations described in subsection (a) shall—

(1) include standards and approval procedures to minimize the use of such contracts;

(2) establish criteria to ensure that proposals for contracts for technical and professional services are evaluated on a basis which does not encourage contractors to propose uncompensated overtime;

(3) ensure appropriate emphasis on technical and quality factors in the source selection process;

(4) require identification of any hours in excess of 40-hour weeks included in a proposal;

(5) ensure that offerors are notified that proposals which include unrealistically low labor rates or which do not otherwise demonstrate cost realism will be considered in a risk assessment and evaluated appropriately; and

(6) provide guidance to contracting officers to ensure that any use of uncompensated overtime will not degrade the level of technical expertise required to perform the contract.

(Added Pub. L. 101–510, div. A, title VIII, §834(a)(1), Nov. 5, 1990, 104 Stat. 1613, §2331; amended Pub. L. 102–25, title VII, §701(a), Apr. 6, 1991, 105 Stat. 113; Pub. L. 103–355, title I,

§1004(c), Oct. 13, 1994, 108 Stat. 3253; Pub. L. 107–107, div. A, title VIII, §801(g)(1), Dec. 28, 2001, 115 Stat. 1177; renumbered §4507, Pub. L. 116–283, div. A, title XVIII, §1856(g), Jan. 1, 2021, 134 Stat. 4275.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4507, act Aug. 10, 1956, ch. 1041, 70A Stat. 253, which related to sale of ordnance and ordnance stores to designers, was repealed by Pub. L. 103–160, div. A, title VIII, §822(b)(3), Nov. 30, 1993, 107 Stat. 1706.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2331 of this title as this section.

**2001**—Pub. L. 107–107 substituted "Procurement of services: contracts" for "Contracts" in section catchline.

**1994**—Subsec. (c). Pub. L. 103–355 struck out text and heading of subsec. (c). Text read as follows:

"(1) The Secretary of Defense may waive the limitation in section 2304(j)(4) of this title on the total value of task orders for specific contracting activities to the extent the Secretary considers the use of master agreements necessary in order to further the policy set forth in subsection (a).

"(2) During any fiscal year, such a waiver may not increase the total value of task orders under master agreements of a contracting activity by more than 20 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

"(3) Such a waiver shall not become effective until 60 days after the Secretary of Defense has published notice thereof in the Federal Register."

**1991**—Subsec. (c)(1). Pub. L. 102–25 struck out "on a case-by-case basis" after "value of task orders", substituted "considers the use of master agreements necessary" for "considers necessary the use of master agreements", and struck out "of this section" before period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### REGULATIONS

Pub. L. 101–510, div. A, title VIII, §834(b), Nov. 5, 1990, 104 Stat. 1614, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Defense shall publish for public comment new regulations to carry out the requirements in this section [enacting this section]. The Secretary shall promulgate final regulations to carry out such requirements not later than 270 days after the date of the enactment of this Act."

### PROVISIONS NOT AFFECTED BY PUB. L. 103–355

Repeal of subsec. (c) of this section by Pub. L. 103–355 not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding section 3401 of this title.

## §4508. Contractor performance of acquisition functions closely associated with inherently governmental functions

(a) LIMITATION.—The head of an agency may enter into a contract for the performance of

acquisition functions closely associated with inherently governmental functions only if the contracting officer for the contract ensures that—

(1) appropriate military or civilian personnel of the Department of Defense cannot reasonably be made available to perform the functions;

(2) appropriate military or civilian personnel of the Department of Defense are—

(A) to supervise contractor performance of the contract; and

(B) to perform all inherently governmental functions associated with the functions to be performed under the contract; and

(3) the agency addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract, consistent with subpart 9.5 of part 9 of the Federal Acquisition Regulation and the best interests of the Department of Defense.

(b) DEFINITIONS.—In this section:

(1) The term "head of an agency" does not include the Secretary of Homeland Security or the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "inherently governmental functions" has the meaning given such term in subpart 7.5 of part 7 of the Federal Acquisition Regulation.

(3) The term "functions closely associated with inherently governmental functions" means the functions described in section 7.503(d) of the Federal Acquisition Regulation.

(4) The term "organizational conflict of interest" has the meaning given such term in subpart 9.5 of part 9 of the Federal Acquisition Regulation.

(Added Pub. L. 108–375, div. A, title VIII, §804(a)(1), Oct. 28, 2004, 118 Stat. 2007, §2383; renumbered §4508 and amended Pub. L. 116–283, div. A, title XVIII, §1856(g), (i), Jan. 1, 2021, 134 Stat. 4275.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior section 4508, acts Aug. 10, 1956, ch. 1041, 70A Stat. 253; Nov. 2, 1966, Pub. L. 89–718, §27, 80 Stat. 1119, which related tests of iron, steel, and other materials, was repealed by Pub. L. 103–160, div. A, title VIII, §822(b)(3), Nov. 30, 1993, 107 Stat. 1706.

#### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2383 of this title as this section.

Subsec. (b)(1). Pub. L. 116–283, §1856(i), which directed striking out "has the meaning given in section 2302(1) of this title, except that such term", was executed by striking out "has the meaning given such term in section 2302(1) of this title, except that such term" before "does not include", to reflect the probable intent of Congress.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE

Pub. L. 108–375, div. A, title VIII, §804(b), Oct. 28, 2004, 118 Stat. 2008, provided that: "Section 2383 of title 10, United States Code [now 10 U.S.C. 4508] (as added by subsection (a)), shall apply to contracts entered into on or after the date of the enactment of this Act [Oct. 28, 2004]."

## §4509. Contracts for advisory and assistance services: cost comparison studies

(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services that is expected to have a value in excess of $100,000.

(2) If the Secretary determines that Department of Defense personnel have the capability to perform the services to be covered by the contract, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement to perform a cost comparison study under subsection (a)(2) based on factors that are not related to cost.

(Added Pub. L. 103–337, div. A, title III, §363(a)(1), Oct. 5, 1994, 108 Stat. 2733, §2410l; renumbered §4509, Pub. L. 116–283, div. A, title XVIII, §1856(g), Jan. 1, 2021, 134 Stat. 4275.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4531, act Aug. 10, 1956, ch. 1041, 70A Stat. 253, authorized Secretary of the Army to procure materials and facilities necessary to maintain and support the Army, prior to repeal by Pub. L. 103–160, div. A, title VIII, §823(2), Nov. 30, 1993, 107 Stat. 1707.

A prior section 4532 was renumbered section 7532 of this title.

Prior sections 4533 to 4535 were repealed by Pub. L. 103–160, div. A, title VIII, §823(3)–(5), Nov. 30, 1993, 107 Stat. 1707.

Section 4533, act Aug. 10, 1956, ch. 1041, 70A Stat. 254, related to purchases of army rations.

Section 4534, act Aug. 10, 1956, ch. 1041, 70A Stat. 254, related to subsistence supplies, contract stipulations, and place of delivery on inspection.

Section 4535, act Aug. 10, 1956, ch. 1041, 70A Stat. 254, provided that exceptional subsistence supplies could be purchased without advertising.

A prior section 4536 was renumbered section 7536 of this title.

Prior sections 4537 and 4538 were repealed by Pub. L. 103–160, div. A, title VIII, §823(6), (7), Nov. 30, 1993, 107 Stat. 1707.

Section 4537, acts Aug. 10, 1956, ch. 1041, 70A Stat. 254; Nov. 2, 1966, Pub. L. 89–718, §8(a), 80 Stat. 1117; Dec. 12, 1980, Pub. L. 96–513, title V, §512(14), 94 Stat. 2930, authorized Secretary of the Army to obtain assistance of United States mapping agencies in making and developing military surveys and maps.

Section 4538, acts Aug. 10, 1956, ch. 1041, 70A Stat. 255; Dec. 12, 1980, Pub. L. 96–513, title V, §512(15), 94 Stat. 2930, related to exchange and reclamation of unserviceable ammunition.

A prior section 4539, act Aug. 10, 1956, ch. 1041, 70A Stat. 255, provided for purchase of horses and mules in open market at Army posts, within maximum prices prescribed by Secretary of the Army, prior to repeal by Pub. L. 91–482, §1(a), Oct. 21, 1970, 84 Stat. 1082.

A prior section 4540 was renumbered section 7540 of this title.

Another prior section 4541 was renumbered section 7541 of this title.

Prior sections 4542 to 4544, 4551 to 4555, and 4561 to 4565 were renumbered sections 7542 to 7544, 7551 to 7555, and 7561 to 7565 of this title, respectively.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410l of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title III, §363(c), Oct. 5, 1994, 108 Stat. 2734, provided that: "Section 2410l of title 10, United States Code [now 10 U.S.C. 4509], as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act [Oct. 5, 1994]."

**PROCEDURES FOR CONDUCT OF STUDIES**

Pub. L. 103–337, div. A, title III, §363(b), Oct. 5, 1994, 108 Stat. 2734, provided that: "The Secretary of Defense shall prescribe the following procedures:

"(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code [now 10 U.S.C. 4509(a)(2)], as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

"(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented."

# CHAPTER 343—[RESERVED]


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **[Reserved]** | **4541** |
| **II.** | **[Reserved]** | **4551** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 343 "ACQUISITION OF SERVICES", consisting of reserved section 4541, was repealed by Pub. L. 116–283, div. A, title XVIII, §1856(b), Jan. 1, 2021, 134 Stat. 4273.

Another prior chapter 343 was renumbered chapter 723 of this title.

**AMENDMENTS**

Pub. L. 117–81, div. A, title XVII, §1701(i)(9)(B), Dec. 27, 2021, 135 Stat. 2142, generally amended the text inserted by Pub. L. 116–283, div. A, title XVIII, §1856(j), Jan. 1, 2021, 134 Stat. 4276, which added this chapter, resulting in substitution of "[RESERVED]" for "ACQUISITION OF SERVICES OF CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS" in chapter heading and "[Reserved]" for "Contractors Performing Private Security Functions in Areas of Combat Operations or Other Significant Military Operations" in item for subchapter I and for "Standards and Certification for Private Security" in item for subchapter II.

## SUBCHAPTER I—[RESERVED]


Sec.

4541. [Reserved].


**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 117–81, div. A, title XVII, §1701(i)(9)(B), Dec. 27, 2021, 135 Stat. 2142, generally amended the text inserted by Pub. L. 116–283, div. A, title XVIII, §1856(j), Jan. 1, 2021, 134 Stat. 4276, which added this subchapter, resulting in substitution of "[RESERVED]" for "CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS OR OTHER SIGNIFICANT MILITARY OPERATIONS" in subchapter heading and no change in item 4541.

## SUBCHAPTER II—[RESERVED]


Sec.

4551. [Reserved].

### EDITORIAL NOTES

### AMENDMENTS

Pub. L. 117–81, div. A, title XVII, §1701(i)(9)(B), Dec. 27, 2021, 135 Stat. 2142, generally amended the text inserted by Pub. L. 116–283, div. A, title XVIII, §1856(j), Jan. 1, 2021, 134 Stat. 4276, which added this subchapter, resulting in substitution of "[RESERVED]" for "STANDARDS AND CERTIFICATION FOR PRIVATE SECURITY CONTRACTORS" in subchapter heading and no change in item 4551.

## [CHAPTER 345—REPEALED]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 345, "ACQUISITION OF INFORMATION TECHNOLOGY", as added by Pub. L. 116–283, div. A, title XVIII, §1857(a), Jan. 1, 2021, 134 Stat. 4276, consisting of sections 4571 "Information technology acquisition: planning and oversight processes", 4576 "Requirement for consideration of certain matters during acquisition of noncommercial computer software", and reserved sections 4572 to 4575, was repealed by Pub. L. 119–60, div. A, title VIII, §811(a)(1), Dec. 18, 2025, 139 Stat. 948.

Another prior chapter 345 "ACQUISITION OF INFORMATION TECHNOLOGY", consisting of reserved section 4571, was repealed by Pub. L. 116–283, div. A, title XVIII, §1857(a), Jan. 1, 2021, 134 Stat. 4276.

Another prior chapter 345 was renumbered chapter 725 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### GUIDANCE ON ACQUISITION OF BUSINESS SYSTEMS

Pub. L. 114–92, div. A, title VIII, §883(e), Nov. 25, 2015, 129 Stat. 947, which directed the Secretary of Defense to issue guidance for major automated information systems acquisition programs to promote the use of best acquisition, contracting, requirement development, systems engineering, program management, and sustainment practices, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(8)(E), Dec. 18, 2025, 139 Stat. 949.

### DESIGNATION OF MILITARY DEPARTMENT ENTITY RESPONSIBLE FOR ACQUISITION OF CRITICAL CYBER CAPABILITIES

Pub. L. 114–92, div. A, title XVI, §1645, Nov. 25, 2015, 129 Stat. 1117, which required the Secretary of Defense to designate an entity within a military department to be responsible for the acquisition of certain critical cyber capabilities, was repealed by Pub. L. 117–263, div. A, title XV, §1509(j), Dec. 23, 2022, 136 Stat. 2890.

### SUPERVISION OF THE ACQUISITION OF CLOUD COMPUTING CAPABILITIES

Pub. L. 113–66, div. A, title IX, §938, Dec. 26, 2013, 127 Stat. 835, provided that:

"(a) SUPERVISION.—

"(1) IN GENERAL.—The Secretary of Defense shall, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security], the Chief Information Officer of the Department of Defense, and the Chairman of the Joint Requirements Oversight Council, supervise the following:

"(A) Review, development, modification, and approval of requirements for cloud computing solutions for data analysis and storage by the Armed Forces and the Defense Agencies, including requirements for cross-domain, enterprise-wide discovery and correlation of data stored in cloud and non-cloud computing databases, relational and non-relational databases, and hybrid databases.

"(B) Review, development, modification, approval, and implementation of plans for the competitive acquisition of cloud computing systems or services to meet requirements described in subparagraph (A), including plans for the transition from current computing systems to systems or services acquired.

"(C) Development and implementation of plans to ensure that the cloud systems or services acquired pursuant to subparagraph (B) are interoperable and universally accessible and usable through

attribute-based access controls.

"(D) Integration of plans under subparagraphs (B) and (C) with enterprise-wide plans of the Armed Forces and the Department of Defense for the Joint Information Environment and the Defense Intelligence Information Environment.

"(2) DIRECTION.—The Secretary shall provide direction to the Armed Forces and the Defense Agencies on the matters covered by paragraph (1) by not later than March 15, 2014.

"(b) INTEGRATION WITH INTELLIGENCE COMMUNITY EFFORTS.—The Secretary shall coordinate with the Director of National Intelligence to ensure that activities under this section are integrated with the Intelligence Community Information Technology Enterprise in order to achieve interoperability, information sharing, and other efficiencies.

"(c) LIMITATION.—The requirements of subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply to a contract for the acquisition of cloud computing capabilities in an amount less than $1,000,000.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or affect the authorities or responsibilities of the Director of National Intelligence under section 102A of the National Security Act of 1947 (50 U.S.C. 3024)."

## [§4571. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(1), Dec. 18, 2025, 139 Stat. 948]

Section, added Pub. L. 111–383, div. A, title VIII, §805(a)(1), Jan. 7, 2011, 124 Stat. 4259, §2223a; renumbered §4571 and amended Pub. L. 116–283, div. A, title XVIII, §1857(b), Jan. 1, 2021, 134 Stat. 4276, related to information technology acquisition: planning and oversight processes.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ELECTROMAGNETIC SPECTRUM DEMONSTRATION PROGRAM

Pub. L. 118–159, div. A, title II, §234, Dec. 23, 2024, 138 Stat. 1839, which authorized a demonstration program to assess the viability of using wideband adaptive signal processing technology to support simultaneous transmit and receive signals on the same electromagnetic spectrum frequency band, was transferred and is set out as a note under section 4001 of this title.

### POLICIES FOR MANAGEMENT AND CERTIFICATION OF LINK 16 MILITARY TACTICAL DATA LINK NETWORK

Pub. L. 118–31, div. A, title II, §228, Dec. 22, 2023, 137 Stat. 199, as amended by Pub. L. 119–60, div. A, title II, §216, Dec. 18, 2025, 139 Stat. 775, which directed the Secretary of Defense shall develop and implement policies to adapt Link 16 system management and certification to align with agile development practices, was transferred and is set out as a note under section 4001 of this title.

### REQUIREMENTS FOR DEPLOYMENT OF FIFTH GENERATION INFORMATION AND COMMUNICATIONS CAPABILITIES TO MILITARY INSTALLATIONS AND OTHER DEPARTMENT FACILITIES

Pub. L. 118–31, div. A, title XV, §1526, Dec. 22, 2023, 137 Stat. 557, which required the Secretary of Defense shall develop and implement a strategy for deploying to military installations and other facilities of the Department of Defense private wireless networks, was transferred and is set out as a note under section 2661 of this title.

### TARGET DATE FOR DEPLOYMENT OF 5G WIRELESS BROADBAND INFRASTRUCTURE AT ALL MILITARY INSTALLATIONS

Pub. L. 117–263, div. A, title II, §221, Dec. 23, 2022, 136 Stat. 2478, which required the Secretary of Defense to establish a target date by which the Secretary plans to deploy 5G wireless broadband infrastructure at all military installations and establish metrics, was transferred and is set out as a note under section 2661 of this title.

### PILOT PROGRAMS FOR DEPLOYMENT OF TELECOMMUNICATIONS INFRASTRUCTURE TO FACILITATE 5G DEPLOYMENT ON MILITARY INSTALLATIONS

Pub. L. 117–81, div. A, title II, §233, Dec. 27, 2021, 135 Stat. 1614, which required each Secretary of a military department to submit a plan for a pilot program for the deployment of telecommunications

infrastructure to facilitate the availability of fifth-generation wireless telecommunications services on military installations and to establish a pilot program in accordance with the plan, was transferred and is set out as a note under section 2661 of this title.

**LEGACY INFORMATION TECHNOLOGIES AND SYSTEMS ACCOUNTABILITY**

Pub. L. 117–81, div. A, title XV, §1522, Dec. 27, 2021, 135 Stat. 2041, which required the Secretaries of the Army, Navy, and Air Force to initiate efforts to identify legacy applications, software, and information technology within their respective Departments and eliminate any such application, software, or information technology that was no longer required, was transferred and is set out as a note under section 2223 of this title.

**GOVERNANCE OF FIFTH-GENERATION WIRELESS NETWORKING IN THE DEPARTMENT OF DEFENSE**

Pub. L. 116–283, div. A, title II, §224, Jan. 1, 2021, 134 Stat. 3472, which required development of a plan to transition fifth-generation ("5G") wireless technology to operational use within the Department of Defense, designation of the Chief Information Officer as the senior official within Department of Defense with primary responsibility for 5G wireless networking, and the establishment of a cross-functional team for 5G wireless networking, was transferred and is set out as a note under section 2223 of this title.

**DEMONSTRATION PROJECT ON USE OF CERTAIN TECHNOLOGIES FOR FIFTH-GENERATION WIRELESS NETWORKING SERVICES**

Pub. L. 116–283, div. A, title II, §225, Jan. 1, 2021, 134 Stat. 3475, which authorized the Secretary of Defense to carry out a demonstration project to evaluate the maturity, performance, and cost of covered technologies to provide additional options for providers of fifth-generation wireless network services, was transferred and is set out as a note under section 2223 of this title.

**PILOT PROGRAM ON THE USE OF CONSUMPTION-BASED SOLUTIONS TO ADDRESS SOFTWARE-INTENSIVE WARFIGHTING CAPABILITY**

Pub. L. 116–283, div. A, title VIII, §834, Jan. 1, 2021, 134 Stat. 3754, which authorized the Secretary of Defense to establish a pilot program to explore the use of consumption-based solutions to address software-intensive warfighting capability, was transferred and is set out as a note under section 3605 of this title.

**BALANCING SECURITY AND INNOVATION IN SOFTWARE DEVELOPMENT AND ACQUISITION**

Pub. L. 116–283, div. A, title VIII, §835, Jan. 1, 2021, 134 Stat. 3755, which provided for the development of requirements for appropriate software security criteria to be included in solicitations for commercial and developmental solutions and the evaluation of bids submitted in response to such solicitations, was transferred and is set out as a note under section 3206 of this title.

**ESTABLISHMENT OF SECURE NEXT-GENERATION WIRELESS NETWORK (5G) INFRASTRUCTURE FOR THE NEVADA TEST AND TRAINING RANGE AND BASE INFRASTRUCTURE**

Pub. L. 116–92, div. A, title II, §226, Dec. 20, 2019, 133 Stat. 1269, which required the Secretary of Defense to establish secure fifth-generation wireless network components and capabilities at no fewer than two Department of Defense installations, specifically including the Nevada Test and Training Range, was transferred and is set out as a note under section 2661 of this title.

**DIGITAL ENGINEERING CAPABILITY TO AUTOMATE TESTING AND EVALUATION**

Pub. L. 116–92, div. A, title II, §231, Dec. 20, 2019, 133 Stat. 1274, which required the Secretary of Defense to establish a digital engineering capability to be used for the development and deployment of digital engineering models for use in the defense acquisition process and to provide testing infrastructure and software to support automated approaches for testing, evaluation, and deployment throughout the defense acquisition process, was transferred and is set out as a note under section 4171 of this title.

**STRATEGY AND IMPLEMENTATION PLAN FOR FIFTH GENERATION INFORMATION AND COMMUNICATIONS TECHNOLOGIES**

Pub. L. 116–92, div. A, title II, §254, Dec. 20, 2019, 133 Stat. 1287, as amended by Pub. L. 117–263, div. A, title II, §232, Dec. 23, 2022, 136 Stat. 2486, which required the Secretary of Defense to develop a strategy for harnessing fifth generation ("5G") information and communications technologies to enhance military

capabilities, maintain a technological advantage on the battlefield, and accelerate the deployment of new commercial products and services enabled by 5G networks throughout the Department of Defense and a plan to implement such strategy, was transferred and is set out as a note under section 2223 of this title.

**DEPARTMENT-WIDE SOFTWARE SCIENCE AND TECHNOLOGY STRATEGY**

Pub. L. 116–92, div. A, title II, §255, Dec. 20, 2019, 133 Stat. 1288, as amended by Pub. L. 117–81, div. A, title II, §§212(c)(1), 215(d)(10), Dec. 27, 2021, 135 Stat. 1588, 1594, which required the designation of a single official or existing entity within the Department of Defense as the official or entity with principal responsibility for guiding the development of science and technology activities related to next generation software and software reliant systems for the Department, was transferred and is set out as a note under section 4001 of this title.

**AUTHORITY FOR CONTINUOUS INTEGRATION AND DELIVERY OF SOFTWARE APPLICATIONS AND UPGRADES TO EMBEDDED SYSTEMS**

Pub. L. 116–92, div. A, title VIII, §800, Dec. 20, 2019, 133 Stat. 1478, which authorized establishment of pathways to provide for the efficient and effective acquisition, development, integration, and timely delivery of secure software, was repealed by Pub. L. 118–159, div. A, title VIII, §805(c)(1), Dec. 23, 2024, 138 Stat. 1972. See section 3603 of this title.

**REORIENTATION OF BIG DATA PLATFORM PROGRAM**

Pub. L. 116–92, div. A, title XVI, §1651, Dec. 20, 2019, 133 Stat. 1759, as amended by Pub. L. 116–283, div. A, title XVII, §1709(a), Jan. 1, 2021, 134 Stat. 4086, which directed the Secretary of Defense to reorient the Big Data Platform program and align the reorientation effort under an existing line of effort of the Cyber Strategy of the Department of Defense, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(4)(C), Dec. 18, 2025, 139 Stat. 948.

**POLICY REGARDING THE TRANSITION OF DATA AND APPLICATIONS TO THE CLOUD**

Pub. L. 116–92, div. A, title XVII, §1755, Dec. 20, 2019, 133 Stat. 1854, which required the development and issuance of enterprise-wide policy and implementing instructions regarding the transition of data and applications to the cloud under the Department of Defense cloud strategy, was transferred and is set out as a note under section 2223 of this title.

**IMPLEMENTATION OF RECOMMENDATIONS OF THE FINAL REPORT OF THE DEFENSE SCIENCE BOARD TASK FORCE ON THE DESIGN AND ACQUISITION OF SOFTWARE FOR DEFENSE SYSTEMS**

Pub. L. 115–232, div. A, title VIII, §868, Aug. 13, 2018, 132 Stat. 1902, which required the Secretary of Defense, with certain exceptions, to commence implementation of each recommendation submitted as part of the final report of the Defense Science Board Task Force on the Design and Acquisition of Software for Defense Systems, was transferred and is set out as a note under section 3603 of this title.

**ACTIVITIES AND REPORTING RELATING TO DEPARTMENT OF DEFENSE'S CLOUD INITIATIVE**

Pub. L. 115–232, div. A, title X, §1064, Aug. 13, 2018, 132 Stat. 1971, which required the Chief Information Officer of the Department of Defense to conduct certain key enabling activities relating to the Department of Defense's cloud initiative and submit to the congressional defense committees a report on the initiative, was transferred and is set out as a note under section 2223 of this title.

Pub. L. 115–232, div. A, title VIII, §869(a)–(d), Aug. 13, 2018, 132 Stat. 1902, 1903, provided that the Secretary of Defense was to include certain systems in the pilot program to use agile or iterative development methods pursuant to section 873 of Pub. L. 115–91, formerly set out below.

Pub. L. 115–91, div. A, title VIII, §873, Dec. 12, 2017, 131 Stat. 1498, as amended by Pub. L. 115–232, div. A, title VIII, §869(e), Aug. 13, 2018, 132 Stat. 1903, provided that the Secretary of Defense was to establish a pilot program to tailor and simplify software development requirements and methods for major software-intensive warfighting systems and defense business systems, and that such pilot program would terminate on Sept. 30, 2023.

**GLOBAL THEATER SECURITY COOPERATION MANAGEMENT INFORMATION SYSTEM**

Pub. L. 115–91, div. A, title XII, §1272, Dec. 12, 2017, 131 Stat. 1695, which directed the Secretary of Defense, not later than 180 days after Dec. 12, 2017, to update relevant security cooperation guidance for the Global Theater Security Cooperation Management Information System and submit a report to the

congressional defense committees, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(6)(D), Dec. 18, 2025, 139 Stat. 948.

**OPERATIONAL METRICS FOR JOINT INFORMATION ENVIRONMENT AND SUPPORTING ACTIVITIES**

Pub. L. 113–291, div. A, title VIII, §854, Dec. 19, 2014, 128 Stat. 3459, which directed the Secretary of Defense, acting through the Chief Information Officer of the Department of Defense, not later than 180 days after Dec. 19, 2014, to issue guidance for measuring the operational effectiveness and efficiency of the Joint Information Environment within the military departments, Defense Agencies, and combatant commands, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(9), Dec. 18, 2025, 139 Stat. 949.

**DATA SERVERS AND CENTERS**

Pub. L. 112–81, div. B, title XXVIII, §2867, Dec. 31, 2011, 125 Stat. 1704, as amended by Pub. L. 112–239, div. B, title XXVIII, §2853, Jan. 2, 2013, 126 Stat. 2161; Pub. L. 115–91, div. A, title X, §1051(q)(3), Dec. 12, 2017, 131 Stat. 1565, which prohibited a department, agency, or component of the Department of Defense from obligating funds for a data server farm or data center from Dec. 31, 2011, to May 1, 2012, unless approved by the Chief Information Officer of the Department of Defense or the Chief Information Officer of a component of the Department to whom the Chief Information Officer had delegated such approval authority, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(11), Dec. 18, 2025, 139 Stat. 949.

**DEMONSTRATION AND PILOT PROJECTS ON CYBERSECURITY**

Pub. L. 111–383, div. A, title II, §215, Jan. 7, 2011, 124 Stat. 4165, which directed the Secretary of Defense and Secretaries of the military departments to jointly carry out demonstration projects on processes for application of commercial technologies to cybersecurity requirements and for the Secretary of Defense to support or conduct pilot programs on cybersecurity, was repealed Pub. L. 119–60, div. A, title VIII, §811(b)(12)(A), Dec. 18, 2025, 139 Stat. 949.

**IMPLEMENTATION OF NEW ACQUISITION PROCESS FOR INFORMATION TECHNOLOGY SYSTEMS**

Pub. L. 111–84, div. A, title VIII, §804, Oct. 28, 2009, 123 Stat. 2402, which provided for development and implementation of a new acquisition process for information technology systems, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(2), Aug. 13, 2018, 132 Stat. 1848, and Pub. L. 119–60, div. A, title VIII, §811(b)(13)(A), Dec. 18, 2025, 139 Stat. 949.

**CLEARINGHOUSE FOR RAPID IDENTIFICATION AND DISSEMINATION OF COMMERCIAL INFORMATION TECHNOLOGIES**

Pub. L. 110–181, div. A, title VIII, §881, Jan. 28, 2008, 122 Stat. 262, which directed the Secretary of Defense, acting through the Assistant Secretary of Defense for Networks and Information Integration, not later than 180 days after Jan. 28, 2008, to establish a clearinghouse for rapidly identifying, assessing, and disseminating knowledge about readily available information technologies, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(15)(D), Dec. 18, 2025, 139 Stat. 949.

**IMPROVEMENT OF SOFTWARE ACQUISITION PROCESSES**

Pub. L. 107–314, div. A, title VIII, §804, Dec. 2, 2002, 116 Stat. 2604, which directed the Secretary of each military department to establish a program to improve the software acquisition processes of that military department, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(19)(B), Dec. 18, 2025, 139 Stat. 949.

## [§4576. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(1), Dec. 18, 2025, 139 Stat. 948]

Section, added Pub. L. 115–91, div. A, title VIII, §871(a)(1), Dec. 12, 2017, 131 Stat. 1496, §2322a; renumbered §4576, Pub. L. 116–283, div. A, title XVIII, §1857(c), Jan. 1, 2021, 134 Stat. 4276, related to requirement for consideration of certain matters during acquisition of noncommercial computer software.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 4591 to 4595 were renumbered sections 7591 to 7595 of this title, respectively.

# Subpart H—Contract Management

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1830, added subpart heading.

## CHAPTER 361—CONTRACT ADMINISTRATION

Sec.
4601. Electronic submission and processing of claims for contract payments.
4602. Contracted property and services: prompt payment of vouchers.
4603. Advance notification of contract performance outside the United States.
4604. Changes to certain documents.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 361 "CONTRACT ADMINISTRATION", consisting of reserved section 4601, was repealed by Pub. L. 116–283, div. A, title XVIII, §1861(a), Jan. 1, 2021, 134 Stat. 4277.

Another prior chapter 361, consisting of sections 3811 to 3820 relating to separation for various reasons, some of which had previously been repealed, was repealed in its entirety by Pub. L. 103–337, div. A, title XVI, §§1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §802(a), Dec. 18, 2025, 139 Stat. 940, added item 4604. Amendment was made pursuant to operation of section 102 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PROMULGATE GUIDANCE RELATING TO CERTAIN DEPARTMENT OF DEFENSE CONTRACTS

Pub. L. 118–159, div. A, title VIII, §867, Dec. 23, 2024, 138 Stat. 2006, provided that: "Not later than January 31, 2025, the Secretary of Defense shall issue guidance on the governance and oversight of the contracts of the Department of Defense that support or enable sensitive activities."

### MODIFICATION OF CONTRACTS AND OPTIONS TO PROVIDE ECONOMIC PRICE ADJUSTMENTS

Pub. L. 118–31, div. A, title VIII, §826, Dec. 22, 2023, 137 Stat. 335, provided that:

"(a) AUTHORITY.—Amounts authorized to be appropriated by this Act [see Tables for classification] for the Department of Defense may be used to modify the terms and conditions of a contract or option to provide an economic price adjustment consistent with sections 16.203–1 and 16.203–2 of the Federal Acquisition Regulation during the relevant period of performance for that contract or option and as specified in section 16.203–3 of the Federal Acquisition Regulation, to the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes of this section.

"(b) GUIDANCE.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment shall issue guidance implementing the authority under this section."

### MODIFICATIONS TO EARNED VALUE MANAGEMENT SYSTEM REQUIREMENTS

Pub. L. 118–31, div. A, title VIII, §827, Dec. 22, 2023, 137 Stat. 335, as amended by Pub. L. 118–159, div. A, title VIII, §820, Dec. 23, 2024, 138 Stat. 1982, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 [Dec. 23, 2024], the Department of Defense Supplement to the

Federal Acquisition Regulation shall be revised to—

"(1) exempt all software contracts and subcontracts of the Department of Defense from earned value management system requirements;

"(2) increase the contract value threshold associated with earned value management system requirements for cost contracts or incentive contracts from $20,000,000 to $50,000,000; and

"(3) increase the contract value threshold associated requiring a defense contractor to use an approved earned value management system from $50,000,000 to $100,000,000.

"(b) IMPLEMENTATION.—If the Department of Defense Supplement to the Federal Acquisition Regulation is not revised as described in subsection (a) before the deadline specified in such subsection, the Under Secretary of Defense for Acquisition and Sustainment shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the timeline for such revisions."

## CONTRACT CLOSEOUT AUTHORITY

Pub. L. 114–328, div. A, title VIII, §836, Dec. 23, 2016, 130 Stat. 2285, as amended by Pub. L. 115–91, div. A, title VIII, §824, Dec. 12, 2017, 131 Stat. 1465; Pub. L. 116–283, div. A, title VIII, §820, Jan. 1, 2021, 134 Stat. 3752, provided that:

"(a) AUTHORITY.—The Secretary of Defense may close out a contract or group of contracts as described in subsection (b) through the issuance of one or more modifications to such contracts without completing a reconciliation audit or other corrective action. To accomplish closeout of such contracts—

"(1) remaining contract balances may be offset with balances in other contract line items within a contract regardless of the year or type of appropriation obligated to fund each contract line item and regardless of whether the appropriation for such contract line item has closed; and

"(2) remaining contract balances may be offset with balances on other contracts regardless of the year or type of appropriation obligated to fund each contract and regardless of whether the appropriation has closed.

"(b) COVERED CONTRACTS.—This section covers any contract or group of contracts between the Department of Defense and a defense contractor, each one of which—

"(1) was entered into—

"(A) with respect to a contract or group of contracts not described in subparagraph (B), at least 7 fiscal years before the current fiscal year; and

"(B) with respect to a contract or group of contracts for military construction (as defined in section 2801 of title 10, United States Code) or shipbuilding, at least 10 fiscal years before the current fiscal year;

"(2) the performance or delivery has been completed at least 4 years before the current fiscal year; and

"(3) is determined by the Secretary of Defense to be not otherwise reconcilable because—

"(A) the records have been destroyed or lost; or

"(B) the records are available but the Secretary of Defense has determined that the time or effort required to determine the exact amount owed to the United States Government or amount owed to the contractor is disproportionate to the amount at issue.

"(c) NEGOTIATED SETTLEMENT AUTHORITY.—Any contract or group of contracts covered by this section may be closed out through a negotiated settlement with the contractor.

"(d) WAIVER AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Defense is authorized to waive any provision of acquisition law or regulation to carry out the authority under subsection (a).

"(2) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 10 days after exercising the authority under subsection (d). The notice shall include an identification of each provision of law or regulation waived.

"(e) ADJUSTMENT AND CLOSURE OF RECORDS.—After closeout of any contract described in subsection (b) using the authority under this section, the payment or accounting offices concerned may adjust and close any open finance and accounting records relating to the contract.

"(f) NO LIABILITY.—No liability shall attach to any accounting, certifying, or payment official, or any contracting officer, for any adjustments or closeout made pursuant to the authority under this section.

"(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of the authority under this section."

## CONSIDERATION OF POTENTIAL PROGRAM COST INCREASES AND SCHEDULE DELAYS RESULTING FROM OVERSIGHT OF DEFENSE ACQUISITION PROGRAMS

Pub. L. 114–92, div. A, title VIII, §881, Nov. 25, 2015, 129 Stat. 942, as amended by Pub. L. 115–232, div.

A, title X, §1081(f)(1)(A)(iv), Aug. 13, 2018, 132 Stat. 1986, which required the Director of Operational Test and Evaluation, and the heads of other defense audit, testing, acquisition, and management agencies to ensure that policies, procedures, and activities implemented by their offices and agencies in connection with defense acquisition program oversight did not result in unnecessary increases in program costs or delays in schedule, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(8)(D), Dec. 18, 2025, 139 Stat. 949.

## MOTOR CARRIER FUEL SURCHARGES

Pub. L. 110–417, [div. A], title VIII, §884, Oct. 14, 2008, 122 Stat. 4560, provided that:

"(a) PASS THROUGH TO COST BEARER.—The Secretary of Defense shall take appropriate actions to ensure that, to the maximum extent practicable, in all carriage contracts in which a fuel-related adjustment is provided for, any fuel-related adjustment is passed through to the person who bears the cost of the fuel that the adjustment relates to.

"(b) USE OF CONTRACT CLAUSE.—The actions taken by the Secretary under subsection (a) shall include the insertion of a contract clause, with appropriate flow-down requirements, into all contracts with motor carriers, brokers, or freight forwarders providing or arranging truck transportation or services in which a fuel-related adjustment is provided for.

"(c) DISCLOSURE.—The Secretary shall publicly disclose any decision by the Department of Defense to pay fuel-related adjustments under contracts (or a category of contracts) covered by this section.

"(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the committees on Armed Services of the Senate and the House of Representatives a report on the actions taken in accordance with the requirements of subsection (a)."

[Position of Chief Management Officer of the Department of Defense effectively abolished upon the repeal of section 132a of this title by Pub. L. 116–283, div. A, title IX, §901(a)(1), Jan. 1, 2021, 134 Stat. 3794. Duties, personnel, and functions of the Chief Management Officer transferred to other Department of Defense officers, employees, and organizations, and any reference to the Chief Management Officer of the Department of Defense to be deemed to refer to the applicable Department of Defense officer or employee as so designated, see section 901(b), (c) of Pub. L. 116–283, set out in a note under former section 132a of this title.]

## LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES

Pub. L. 111–84, div. A, title VIII, §823, Oct. 28, 2009, 123 Stat. 2412, as amended by Pub. L. 111–383, div. A, title VIII, §834(a)–(c), Jan. 7, 2011, 124 Stat. 4278, 4279, provided that:

"(a) AUTHORITY TO REDUCE OR DENY AWARD FEES.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall revise the guidance issued pursuant to section 814 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 129 [120] Stat. 2321) [set out below] to ensure that all covered contracts using award fees—

"(1) provide for the consideration of any incident described in subsection (b) in evaluations of contractor performance for the relevant award fee period; and

"(2) authorize the Secretary to reduce or deny award fees for the relevant award fee period, or to recover all or part of award fees previously paid for such period, on the basis of the negative impact of such incident on contractor performance.

"(b) COVERED INCIDENTS.—An incident referred to in subsection (a) is any incident in which the contractor—

"(1) has been determined, through a criminal, civil, or administrative proceeding that results in a disposition listed in subsection (c), in the performance of a covered contract to have caused serious bodily injury or death to any civilian or military personnel of the Government through gross negligence or with reckless disregard for the safety of such personnel; or

"(2) has been determined, through a criminal, civil, or administrative proceeding that results in a disposition listed in subsection (c), to be liable for actions of a subcontractor of the contractor that caused serious bodily injury or death to any civilian or military personnel of the Government, through gross negligence or with reckless disregard for the safety of such personnel.

"(c) LIST OF DISPOSITIONS IN CRIMINAL, CIVIL, OR ADMINISTRATIVE PROCEEDINGS.—For purposes of subsection (b), the dispositions listed in this subsection are as follows:

"(1) In a criminal proceeding, a conviction.

"(2) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more.

"(3) In an administrative proceeding, a finding of fault and liability that results in—

"(A) the payment of a monetary fine or penalty of $5,000 or more; or

"(B) the payment of a reimbursement, restitution, or damages in excess of $100,000.

"(4) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in paragraph (1), (2), or (3).

"(5) In an administrative proceeding, a final determination of contractor fault by the Secretary of Defense pursuant to subsection (d).

"(d) DETERMINATIONS OF CONTRACTOR FAULT BY SECRETARY OF DEFENSE.—

"(1) IN GENERAL.—In any case described by paragraph (2), the Secretary of Defense shall—

"(A) provide for an expeditious independent investigation of the causes of the serious bodily injury or death alleged to have been caused by the contractor as described in that paragraph; and

"(B) make a final determination, pursuant to procedures established by the Secretary for purposes of this subsection, whether the contractor, in the performance of a covered contract, caused such serious bodily injury or death through gross negligence or with reckless disregard for the safety of civilian or military personnel of the Government.

"(2) COVERED CASES.—A case described in this paragraph is any case in which the Secretary has reason to believe that—

"(A) a contractor, in the performance of a covered contract, may have caused the serious bodily injury or death of any civilian or military personnel of the Government; and

"(B) such contractor is not subject to the jurisdiction of United States courts.

"(3) CONSTRUCTION OF DETERMINATION.—A final determination under this subsection may be used only for the purpose of evaluating contractor performance, and shall not be determinative of fault for any other purpose.

"(e) DEFINITIONS.—In this section:

"(1) The term 'contractor' means a company awarded a covered contract and a subcontractor at any tier under such contract.

"(2) The term 'covered contract' means a contract awarded by the Department of Defense for the procurement of goods or services.

"(3) The term 'serious bodily injury' means a grievous physical harm that results in a permanent disability.

"(f) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into after the date occurring 180 days after the date of the enactment of this Act [Oct. 28, 2009]."

[Pub. L. 111–383, div. A, title VIII, §834(e), Jan. 7, 2011, 124 Stat. 4279, provided that: "The requirements of section 823 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84, set out above], as amended by subsections (a) through (c), shall apply with respect to the following:

["(1) Any contract entered into on or after the date of the enactment of this Act [Jan. 7, 2011].

["(2) Any task order or delivery order issued on or after the date of the enactment of this Act under a contract entered into before, on, or after that date."]

Pub. L. 110–329, div. C, title VIII, §8105, Sept. 30, 2008, 122 Stat. 3644, provided that: "During the current fiscal year and hereafter, none of the funds appropriated or otherwise available to the Department of Defense may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364) [set out below]."

Pub. L. 109–364, div. A, title VIII, §814, Oct. 17, 2006, 120 Stat. 2321, provided that:

"(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES .—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall issue guidance, with detailed implementation instructions (including definitions), for the Department of Defense on the appropriate use of award and incentive fees in Department of Defense acquisition programs.

"(b) ELEMENTS.—The guidance under subsection (a) shall—

"(1) ensure that all new contracts using award fees link such fees to acquisition outcomes (which shall be defined in terms of program cost, schedule, and performance);

"(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

"(3) provide guidance on the circumstances in which contractor performance may be judged to be 'excellent' or 'superior' and the percentage of the available award fee which contractors should be paid for such performance;

"(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be 'acceptable', 'average', 'expected', 'good', or 'satisfactory';

"(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

"(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

"(7) ensure consistent use of guidelines and definitions relating to award and incentive fees across the military departments and Defense Agencies;

"(8) ensure that the Department of Defense—

"(A) collects relevant data on award and incentive fees paid to contractors; and

"(B) has mechanisms in place to evaluate such data on a regular basis;

"(9) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes; and

"(10) provide mechanisms for sharing proven incentive strategies for the acquisition of different types of products and services among contracting and program management officials.

"(c) ASSESSMENT OF INDEPENDENT EVALUATION MECHANISMS.—

"(1) IN GENERAL.—The Secretary of Defense shall select a federally funded research and development center to assess various mechanisms that could be used to ensure an independent evaluation of contractor performance for the purpose of making determinations applicable to the judging and payment of award fees.

"(2) CONSIDERATIONS.—The assessment conducted pursuant to paragraph (1) shall include consideration of the advantages and disadvantages of a system in which award fees are—

"(A) held in a separate fund or funds of the Department of Defense; and

"(B) allocated to a specific program only upon a determination by an independent board, charged with comparing contractor performance across programs, that such fees have been earned by the contractor for such program.

"(3) REPORT.—The Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the assessment conducted pursuant to paragraph (1) not later than one year after the date of the enactment of this Act [Oct. 17, 2006]."

## PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS

Pub. L. 102–190, div. A, title VIII, §806, Dec. 5, 1991, 105 Stat. 1417, as amended by Pub. L. 102–484, div. A, title X, §1053(5), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 103–355, title II, §2091, title VIII, §8105(k), Oct. 13, 1994, 108 Stat. 3306, 3393; Pub. L. 113–291, div. A, title X, §1071(b)(15), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 115–232, div. A, title VIII, §836(f)(1), Aug. 13, 2018, 132 Stat. 1870, provided that:

"(a) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the following requirements:

"(1) INFORMATION PROVIDED BY DEPARTMENT OF DEFENSE RELATING TO PAYMENT .—(A) Subject to section 552(b)(1) of title 5, United States Code, upon the request of a subcontractor or supplier of a contractor performing a Department of Defense contract, the Department of Defense shall promptly make available to such subcontractor or supplier the following information:

"(i) Whether requests for progress payments or other payments have been submitted by the contractor to the Department of Defense in connection with that contract.

"(ii) Whether final payment to the contractor has been made by the Department of Defense in connection with that contract.

"(B) This paragraph shall apply with respect to any Department of Defense contract that is in effect on the date which is 270 days after the date of enactment of this Act [Dec. 5, 1991] or that is awarded after such date.

"(2) INFORMATION PROVIDED BY DEPARTMENT OF DEFENSE RELATING TO PAYMENT BONDS.—(A) Upon the request of a subcontractor or supplier described in subparagraph (B), the Department of Defense shall promptly make available to such subcontractor or supplier any of the following:

"(i) The name and address of the surety or sureties on the payment bond.

"(ii) The penal amount of the payment bond.

"(iii) A copy of the payment bond.

"(B) Subparagraph (A) applies to—

"(i) a subcontractor or supplier having a subcontract, purchase order, or other agreement to furnish labor or material for the performance of a Department of Defense contract with respect to which a payment bond has been furnished to the United States pursuant to the Miller Act; and

"(ii) a prospective subcontractor or supplier offering to furnish labor or material for the

performance of such a Department of Defense contract.

"(C) With respect to the information referred to in subparagraphs (A)(i) and (A)(ii), the regulations shall include authority for such information to be provided verbally to the subcontractor or supplier.

"(D) With respect to the information referred to in subparagraph (A)(iii), the regulations may impose reasonable fees to cover the cost of copying and providing requested bonds.

"(E) This paragraph shall apply with respect to any Department of Defense contract covered by the Miller Act that is in effect on the date which is 270 days after the date of enactment of this Act [Dec. 5, 1991] or that is awarded after such date.

"(3) INFORMATION PROVIDED BY CONTRACTORS RELATING TO PAYMENT BONDS .—(A) Upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a Department of Defense contract with respect to which a payment bond has been furnished to the United States pursuant to the Miller Act, the contractor shall promptly make available to such prospective subcontractor or supplier a copy of the payment bond.

"(B) This paragraph shall apply with respect to any Department of Defense contract covered by the Miller Act for which a solicitation is issued after the expiration of the 60-day period beginning on the effective date of the regulations promulgated under this subsection.

"(4) PROCEDURES RELATING TO COMPLIANCE WITH PAYMENT TERMS.—(A) Under procedures established in the regulations, upon the assertion by a subcontractor or supplier of a contractor performing a Department of Defense contract that the subcontractor or supplier has not been paid by the prime contractor in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine the following:

"(i) With respect to a construction contract, whether the contractor has made progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code.

"(ii) With respect to a contract other than a construction contract, whether the contractor has made progress or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

"(iii) With respect to either a construction contract or a contract other than a construction contract, whether the contractor has made final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

"(iv) With respect to either a construction contract or a contract other than a construction contract, whether any certification of payment of the subcontractor or supplier accompanying the contractor's payment request to the Government is accurate.

"(B) If the contracting officer determines that the prime contractor is not in compliance with any matter referred to in clause (i), (ii), or (iii) of subparagraph (A), the contracting officer may, under procedures established in the regulations—

"(i) encourage the prime contractor to make timely payment to the subcontractor or supplier; or

"(ii) reduce or suspend progress payments with respect to amounts due to the prime contractor.

"(C) If the contracting officer determines that a certification referred to in clause (iv) of subparagraph (A) is inaccurate in any material respect, the contracting officer shall, under procedures established in the regulations, initiate appropriate administrative or other remedial action.

"(D) This paragraph shall apply with respect to any Department of Defense contract that is in effect on the date of promulgation of the regulations under this subsection or that is awarded after such date.

"(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to a contract for the acquisition of commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41, United States Code).

"(c) GOVERNMENT-WIDE APPLICABILITY.—The Federal Acquisition Regulatory Council (established by section 1302(a) of title 41, United States Code) shall modify the Federal Acquisition Regulation (issued pursuant to section 1303(a)(1) of such title 41[)] to apply Government-wide the requirements that the Secretary is required under subsection (a) to prescribe in regulations applicable with respect to the Department of Defense contracts.

"(d) ASSISTANCE TO SMALL BUSINESS CONCERNS.—[Amended section 15(k)(5) of the Small Business Act (15 U.S.C. 644(k)(5)).]

"(e) GAO REPORT.—(1) The Comptroller General of the United States shall conduct an assessment of the matters described in paragraph (2) and submit a report pursuant to paragraph (3).

"(2) In addition to such other related matters as the Comptroller General considers appropriate, the matters to be assessed pursuant to paragraph (1) are the following:

"(A) Timely payment of progress or other periodic payments to subcontractors and suppliers by prime contractors on Federal contracts by—

"(i) identifying all existing statutory and regulatory provisions, categorized by types of contracts covered by such provisions;

"(ii) evaluating the feasibility and desirability of requiring that a prime contractor (other than a construction prime contractor subject to the provisions of sections 3903(b) and 3905 of title 31, United States Code) be required to—

"(I) include in its subcontracts a payment term requiring payment within 7 days (or some other fixed term) after receiving payment from the Government; and

"(II) submit with its payment request to the Government a certification that it has timely paid its subcontractors in accordance with their subcontracts from funds previously received as progress payments and will timely make required payments to such subcontractors from the proceeds of the progress payment covered by the certification;

"(iii) evaluating the feasibility and desirability of requiring that all prime contractors (other than a construction prime contractor subject to the provisions of sections 3903(b) and 3905 of title 31, United States Code) furnish with its payment request to the Government proof of payment of the amounts included in such payment request for payments made to subcontractors and suppliers;

"(iv) evaluating the feasibility and desirability of requiring a prime contractor to establish an escrow account at a federally insured financial institution and requiring direct disbursements to subcontractors and suppliers of amounts certified by the prime contractor in its payment request to the Government as being payable to such subcontractors and suppliers in accordance with their subcontracts; and

"(v) evaluating the feasibility and desirability of requiring direct disbursement of amounts certified by a prime contractor as being payable to its subcontractors and suppliers in accordance with their subcontracts (using techniques such as joint payee checks, escrow accounts, or direct payment by the Government), if the contracting officer has determined that the prime contractor is failing to make timely payments to its subcontractors and suppliers.

"(B) Payment protection of subcontractors and suppliers through the use of payment bonds or alternatives methods by—

"(i) evaluating the effectiveness of the modifications to part 28.2 of the Federal Acquisition Regulation Part 28.2 (48 C.F.R. 28.200) relating to the use of individual sureties, which became effective February 26, 1990;

"(ii) evaluating the effectiveness of requiring payment bonds pursuant to the Miller Act as a means of affording protection to construction subcontractors and suppliers relating to receiving—

"(I) timely payment of progress payments due in accordance with their subcontracts; and

"(II) ultimate payment of such amounts due;

"(iii) evaluating the feasibility and desirability of increasing the payment bond amounts required under the Miller Act from the current maximum amounts to an amount equal to 100 percent of the amount of the contract;

"(iv) evaluating the feasibility and desirability of requiring payment bonds for supply and services contracts (other than construction), and, if feasible and desirable, the amounts of such bonds; and

"(v) evaluating the feasibility and desirability of using letters of credit issued by federally insured financial institutions (or other alternatives) as substitutes for payment bonds in providing payment protection to subcontractors and suppliers on construction contracts (and other contracts).

"(C) Any evaluation of feasibility and desirability carried out pursuant to subparagraph (A) or (B) shall include the appropriateness of—

"(i) any differential treatment of, or impact on, small business concerns as opposed to concerns other than small business concerns;

"(ii) any differential treatment of subcontracts relating to commercial products entered into by the contractor in furtherance of its non-Government business, especially those subcontracts entered into prior to the award of a contract by the Government; and

"(iii) extending the protections regarding payment to all tiers of subcontractors or restricting them to first-tier subcontractors and direct suppliers.

"(3) The report required by paragraph (1) shall include a description of the results of the assessment carried out pursuant to paragraph (2) and may include recommendations pertaining to any of the following:

"(A) Statutory and regulatory changes providing payment protections for subcontractors and suppliers (other than a construction prime contractor subject to the provisions of sections 3903(b) and 3905 of title 31, United States Code) that the Comptroller General believes to be desirable and feasible.

"(B) Proposals to assess the desirability and utility of a specific payment protection on a test basis.

"(C) Such other recommendations as the Comptroller General considers appropriate in light of the

matters assessed pursuant to paragraph (2).

"(4) The report required by paragraph (1) shall be submitted not later than by February 1, 1993, to the Committees on Armed Services and on Small Business [now the Committee on Small Business and Entrepreneurship of the Senate] of the Senate and House of Representatives.

"(f) INSPECTOR GENERAL REPORT.—(1) The Inspector General of the Department of Defense shall submit to the Secretary of Defense a report on payment protections for subcontractors and suppliers under contracts entered into with the Department of Defense. The report shall include an assessment of the extent to which available judicial and administrative remedies, as well as suspension and debarment procedures, have been used (or recommended for use) by officials of the Department to deter false statements relating to (A) payment bonds provided by individuals pursuant to the Miller Act, and (B) certifications pertaining to payment requests by construction contractors pursuant to section 3903(b) of title 31, United States Code. The assessment shall cover actions taken during the period beginning on October 1, 1989, and ending on September 30, 1992.

"(2) The report required by paragraph (1) shall be submitted to the Secretary of Defense not later than March 1, 1993. The report may include recommendations by the Inspector General on ways to improve the effectiveness of existing methods of preventing false statements.

"(g) MILLER ACT DEFINED.—For purposes of this section, the term 'Miller Act' means the Act of August 24, 1935 (40 U.S.C. 270a–270d) [now 40 U.S.C. 3131, 3133]."

## §4601. Electronic submission and processing of claims for contract payments

(a) SUBMISSION OF CLAIMS.—The Secretary of Defense shall require that any claim for payment under a Department of Defense contract shall be submitted to the Department of Defense in electronic form.

(b) PROCESSING.—A contracting officer, contract administrator, certifying official, or other officer or employee of the Department of Defense who receives a claim for payment in electronic form in accordance with subsection (a) and is required to transmit the claim to any other officer or employee of the Department of Defense for processing under procedures of the department shall transmit the claim and any additional documentation necessary to support the determination and payment of the claim to such other officer or employee electronically.

(c) WAIVER AUTHORITY.—If the Secretary of Defense determines that the requirement for using electronic means for submitting claims under subsection (a), or for transmitting claims and supporting documentation under subsection (b), is unduly burdensome in any category of cases, the Secretary may exempt the cases in that category from the application of the requirement.

(d) IMPLEMENTATION OF REQUIREMENTS.—In implementing subsections (a) and (b), the Secretary of Defense shall provide for the following:

(1) Policies, requirements, and procedures for using electronic means for the submission of claims for payment to the Department of Defense and for the transmission, between Department of Defense officials, of claims for payment received in electronic form, together with supporting documentation (such as receiving reports, contracts and contract modifications, and required certifications).

(2) The format in which information can be accepted by the corporate database of the Defense Finance and Accounting Service.

(3) The requirements to be included in contracts regarding the electronic submission of claims for payment by contractors.

(e) CLAIM FOR PAYMENT DEFINED.—In this section, the term "claim for payment" means an invoice or any other demand or request for payment.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1008(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–249, §2227; renumbered §4601, Pub. L. 116–283, div. A, title XVIII, §1861(b), Jan. 1, 2021, 134 Stat. 4277.)

**EDITORIAL NOTES**

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2227 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title X, §1008(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–250, provided that:

"(1) Subject to paragraph (2), the Secretary of Defense shall apply section 2227 of title 10, United States Code [now 10 U.S.C. 4601] (as added by subsection (a)), with respect to contracts for which solicitations of offers are issued after June 30, 2001.

"(2)(A) The Secretary may delay the implementation of section 2227 [now 4601] to a date after June 30, 2001, upon a finding that it is impracticable to implement that section until that later date. In no event, however, may the implementation be delayed to a date after October 1, 2002.

"(B) Upon determining to delay the implementation of such section 2227 [now 4601] to a later date under subparagraph (A), the Secretary shall promptly publish a notice of the delay in the Federal Register. The notice shall include a specification of the later date on which the implementation of that section is to begin. Not later than 30 days before the later implementation date, the Secretary shall publish in the Federal Register another notice that such section is being implemented beginning on that date."

[Notice by Department of Defense of delay in the implementation of this section from June 30, 2001, until Oct. 1, 2002, was published on Aug. 21, 2001, at 66 F.R. 43841.]

## §4602. Contracted property and services: prompt payment of vouchers

(a) REQUIREMENT.—Of the contract vouchers that are received by the Defense Finance and Accounting Service by means of the mechanization of contract administration services system, the number of such vouchers that remain unpaid for more than 30 days as of the last day of each month may not exceed 5 percent of the total number of the contract vouchers so received that remain unpaid on that day.

(b) CONTRACT VOUCHER DEFINED.—In this section, the term "contract voucher" means a voucher or invoice for the payment to a contractor for services or deliverable items provided by the contractor under a contract funded by the Department of Defense.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1006(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–247, §2226; amended Pub. L. 111–350, §5(b)(7), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 115–232, div. A, title VIII, §836(e)(1), Aug. 13, 2018, 132 Stat. 1869; renumbered §4602, Pub. L. 116–283, div. A, title XVIII, §1861(b), Jan. 1, 2021, 134 Stat. 4277.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2226 of this title as this section.

**2018**—Subsec. (b). Pub. L. 115–232 substituted "for services or deliverable items" for "for services, commercial items (as defined in section 103 of title 41), or other deliverable items".

**2011**—Subsec. (b). Pub. L. 111–350 substituted "section 103 of title 41" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

**EFFECTIVE DATE**

Pub. L. 106–398, §1 [[div. A], title X, §1006(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–248, provided that: "Section 2226 of title 10, United States Code [now 10 U.S.C. 4602] (as added by subsection (a)), shall take effect on December 1, 2000."

## §4603. Advance notification of contract performance outside the United States

(a) NOTIFICATION.—(1) A firm that is performing a Department of Defense contract for an amount exceeding $10,000,000, or is submitting a bid or proposal for such a contract, shall notify the Department of Defense in advance of any intention of the firm or any first-tier subcontractor of the firm to perform outside the United States and Canada any part of the contract that exceeds $500,000 in value and could be performed inside the United States or Canada.

(2) If a firm submitting a bid or proposal for a Department of Defense contract is required to submit a notification under this subsection, and the firm is aware, at the time it submits its bid or proposal, that the firm intends to perform outside the United States and Canada any part of the contract that exceeds $500,000 in value and could be performed inside the United States or Canada, the firm shall include the notification in its bid or proposal.

(3) The notification by a firm under paragraph (1) with respect to a first-tier subcontractor shall be made, to the maximum extent practicable, at least 30 days before award of the subcontract.

(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years after the date of submission and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 4816 of this title.

(d) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section shall not apply to contracts for any of the following:

(1) Commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41).

(2) Military construction.

(3) Ores.

(4) Natural gas.

(5) Utilities.

(6) Petroleum products and crudes.

(7) Timber.

(8) Subsistence.

(Added Pub. L. 102–484, div. A, title VIII, §840(a)(1), Oct. 23, 1992, 106 Stat. 2466, §2410g; amended Pub. L. 104–106, div. D, title XLIII, §4321(b)(16), Feb. 10, 1996, 110 Stat. 673; Pub. L. 111–350, §5(b)(30), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 115–232, div. A, title VIII, §836(e)(7), Aug. 13, 2018, 132 Stat. 1870; renumbered §4603 and amended Pub. L. 116–283, div. A, title XVIII, §§1861(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4277, 4294.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1861(b), renumbered section 2410g of this title as this section.

Subsec. (c). Pub. L. 116–283, §1883(b)(2), substituted "section 4816" for "section 2505".

**2018**—Subsec. (d)(1). Pub. L. 115–232 substituted "Commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41)" for "Commercial items (as defined in section 103 of title 41)".

**2011**—Subsec. (d)(1). Pub. L. 111–350 substituted "section 103 of title 41)" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

**1996**—Subsec. (d)(1). Pub. L. 104–106 inserted "(as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))" before period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

### EFFECTIVE DATE

Pub. L. 102–484, div. A, title VIII, §840(b), Oct. 23, 1992, 106 Stat. 2467, provided that: "Section 2410g of title 10, United States Code [now 10 U.S.C. 4603] (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Oct. 23, 1992]."

## §4604. Changes to certain documents

(a) IN GENERAL.—Each document referred to in a contract or other agreement for procurement entered into by the Secretary of Defense shall include a notation that—

(1) provides the version of such document that is applicable to such contract or other agreement; and

(2) indicates whether any changes have been made to such document after the issuance of the solicitation pursuant to which such contract or other agreement was entered into.

(b) UNNOTATED DOCUMENTS.—With respect to a document referred to in a contract or other agreement described in subsection (a) that does not include the notation required under such subsection, the version of the document that shall apply with respect to such contract or other agreement is the version in effect at the time of the issuance of the solicitation pursuant to which such contract or other agreement was entered into.

(Added Pub. L. 119–60, div. A, title VIII, §802(a), Dec. 18, 2025, 139 Stat. 940.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 4621 and 4622 were renumbered sections 7621 and 7622 of this title, respectively.

A prior section 4623, act Aug. 10, 1956, ch. 1041, 70A Stat. 258, provided that the Quartermaster Corps

sell not more than 16 ounces of tobacco a month to an enlisted member of the Army on active duty who requests it, prior to repeal by Pub. L. 91–482, §1(a), Oct. 21, 1970, 84 Stat. 1082.

Prior sections 4624 to 4629 were renumbered sections 7624 to 7629 of this title, respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 119–60, div. A, title VIII, §802(b), Dec. 18, 2025, 139 Stat. 940, provided that: "The amendment made by subsection (a) [enacting this section] shall apply with respect to a contract or other agreement entered into after the date of the enactment of this Act [Dec. 18, 2025]."

## CHAPTER 363—PROHIBITION AND PENALTIES

Sec.
4651. Expenditure of appropriations: limitation.
4652. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.
4653. Prohibition on use of funds to relieve economic dislocations.
4654. Prohibition on doing business with certain offerors or contractors.
4655. Prohibition of contractors limiting subcontractor sales directly to the United States.
4656. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.
4657. Prohibition on criminal history inquiries by contractors prior to conditional offer.
4658. Debarment of persons convicted of fraudulent use of "Made in America" labels.
4659. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel.
4660. Prohibition on collection of political information.
4661. Prohibition on certain procurements from the Xinjiang Uyghur Autonomous Region.
4662. Prohibition on the transfer of certain data on employees of the Department of Defense to third parties.
4663. Prohibition on contracting with covered entities that contract with lobbyists for Chinese military companies.
4664. Requirements relating to long-term concessions agreements with certain retailers.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 363 "PROHIBITIONS AND PENALTIES", consisting of reserved section 4651, was repealed by Pub. L. 116–283, div. A, title XVIII, §1862(a), Jan. 1, 2021, 134 Stat. 4277.

Another prior chapter 363, consisting of sections 3841 to 3855 relating to separation or transfer to the Retired Reserve, some of which had previously been repealed, was repealed in its entirety by Pub. L. 103–337, div. A, title XVI, §§1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title VIII, §841(b), Dec. 18, 2025, 139 Stat. 972, added item 4664. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title VIII, §851(a), Dec. 23, 2024, 138 Stat. 1995, added item 4663. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title VIII, §803, Dec. 22, 2023, 137 Stat. 312, added item 4662. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title VIII, §855(c), Dec. 23, 2022, 136 Stat. 2723, added item 4661.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

## STRATEGY TO ELIMINATE ACQUISITION OF OPTICAL GLASS FROM CERTAIN NATIONS

Pub. L. 119–60, div. A, title VIII, §834, Dec. 18, 2025, 139 Stat. 964, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall develop and implement a strategy to eliminate the reliance of the Department of Defense on any covered nation to acquire optical glass or optical systems by January 1, 2030.

"(b) STRATEGY REQUIREMENTS.—The strategy required by subsection (a) shall—

"(1) identify the current requirements of the Department of Defense for optical glass and optical systems and estimate the projected requirements of the Department for optical glass and optical systems through the year 2040;

"(2) identify the sources of optical glass or optical systems used to meet the requirements described in paragraph (1), including any sources of optical glass or optical systems produced in a covered nation; and

"(3) identify actions to be taken by the Secretary of Defense to ensure the defense industrial base is able to meet the needs of the Department for optical glass and optical systems.

"(c) IMPLEMENTATION.—Not later than 270 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall implement the strategy required by subsection (a).

"(d) BRIEFING AND REPORT.—

"(1) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the strategy required by subsection (a), including an identification of any changes to funding or policy required to fully implement the strategy.

"(2) INTERIM REPORT ON IMPLEMENTATION.—Not later than March 15, 2027, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the implementation of the strategy required by subsection (a), including an identification of any risk to the ability of the Secretary to eliminate the reliance of the Department of Defense on any covered nation to acquire optical glass or optical systems by January 1, 2030.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered nation' means—

"(A) the Democratic People's Republic of North Korea;

"(B) the People's Republic of China;

"(C) the Russian Federation;

"(D) the Republic of Belarus; and

"(E) the Islamic Republic of Iran.

"(2) The term 'optical glass' means glass used in optical lenses, prisms, or mirrors.

"(3) The term 'optical system' means an arrangement of optical components, including optical glass, that manipulates light to produce a specific outcome."

## STRATEGY TO ELIMINATE SOURCING OF COMPUTER DISPLAYS FROM CERTAIN NATIONS

Pub. L. 119–60, div. A, title VIII, §835, Dec. 18, 2025, 139 Stat. 965, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall develop and implement a strategy to eliminate the reliance of the Department of Defense on any covered nation for the acquisition of computer displays by January 1, 2030.

"(b) STRATEGY REQUIREMENTS.—The strategy required by subsection (a) shall—

"(1) identify the current requirements of the Department of Defense for computer displays and estimate the projected requirements of the Department for computer displays through the year 2040;

"(2) identify the sources of computer displays used to meet the current requirements of the Department described in paragraph (1), including any sources of computer displays produced in a covered nation; and

"(3) identify actions to be taken by the Secretary of Defense to ensure the defense industrial base is able to meet the needs of the Department for computer displays without any reliance on a covered nation not later January 1, 2030.

"(c) IMPLEMENTATION.—Not later than 270 days after the date of enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall begin implementing the strategy required by subsection (a).

"(d) BRIEFING AND REPORT.—

"(1) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the strategy required by subsection (a), including an identification of any changes to funding or policy required to eliminate the

reliance of the Department of Defense on any covered nation to acquire computer displays by January 1, 2030.

"(2) INTERIM REPORT ON IMPLEMENTATION.—Not later than March 15, 2027, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the implementation of the strategy required by subsection (a), including an identification of any risk to the ability of the Secretary to eliminate the reliance of the Department of Defense on any covered nation to acquire computer displays by January 1, 2030.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered nation' has the meaning given such term in section 4872(f) of title 10, United States Code.

"(2) The term 'computer display' means a device—

"(A) that receives a digital output from a computer and visually displays that output as an electronic image; and

"(B) is an end item (as defined in section 4863(m) of title 10, United States Code)."

## PROHIBITION ON PROCUREMENT RELATED TO CERTAIN ADDITIVE MANUFACTURING MACHINES

Pub. L. 119–60, div. A, title VIII, §849, Dec. 18, 2025, 139 Stat. 979, provided that:

"(a) PROHIBITION ON AGENCY PROCUREMENT.—Beginning on the date that is one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense may not enter into a contract for the procurement of a covered additive manufacturing machine.

"(b) EXCEPTION.—The prohibition under subsection (a) does not apply to the procurement of additive manufacturing systems or machines for the purposes of intelligence, electronic warfare, or information warfare operations, testing, analysis, or training.

"(c) DEFINITIONS.—In this section:

"(1) The term 'additive manufacturing machine' means a system of integrated hardware and software used to carry out an additive manufacturing process, including the deposition of material and the associated post-processing steps as applicable.

"(2) The term 'covered additive manufacturing company' means any of the following:

"(A) Any entity that produces or provides additive manufacturing machines and is included on—

"(i) the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce; or

"(ii) the civil-military fusion list maintained under section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note).

"(B) Any entity that produces or provides additive manufacturing machines and—

"(i) is domiciled in a covered nation; or

"(ii) is subject to unmitigated foreign ownership, control, or influence by a covered nation, as determined by the Secretary of Defense in accordance with the National Industrial Security Program (or any successor to such program).

"(3) The term 'covered additive manufacturing machine' means an additive manufacturing machine manufactured by a covered additive manufacturing company, and any related service or equipment provided or manufactured, respectively, by such covered additive manufacturing company.

"(4) The term 'covered nation' has the meaning given such term in section 4872 of title 10, United States Code."

## PROHIBITION ON OPERATION, PROCUREMENT, AND CONTRACTING RELATED TO FOREIGN-MADE LIGHT DETECTION AND RANGING TECHNOLOGY

Pub. L. 118–159, div. A, title I, §164, Dec. 23, 2024, 138 Stat. 1818, as amended by Pub. L. 119–60, div. A, title I, §162, Dec. 18, 2025, 139 Stat. 768, provided that:

"(a) PROHIBITION ON AGENCY OPERATION OR PROCUREMENT.—The Secretary of Defense may not operate, or enter into or renew a contract for the procurement of—

"(1) covered LiDAR technology; or

"(2) a system or systems that incorporates, interfaces with, or otherwise uses covered LiDAR technology as described in paragraph (1).

"(b) EXEMPTION.—The prohibition under subsection (a) shall not apply if the operation, procurement, or contracting action is for the purposes of intelligence, electronic warfare, and information warfare operations, testing, analysis, and training.

"(c) WAIVER.—The Secretary of Defense may waive the prohibition under subsection (a) on a case-by-case basis if the Secretary certifies, in writing, to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the operation, procurement, or contracting action is required in the national interest of the United States.

"(d) EFFECTIVE DATE.—The prohibition under section (a) shall take effect on June 30, 2026.

"(e) MITIGATION OF RISK OF USE OF COVERED LIDAR TECHNOLOGY.—

"(1) STRATEGY REQUIRED.—The Secretary of Defense shall develop a strategy to mitigate the risk to the Department of Defense of the use of covered LiDAR technology by defense contractors and subcontractors (at any tier).

"(2) ELEMENTS.—In developing the strategy required by paragraph (1), the Secretary shall—

"(A) publish a list of covered LiDAR companies in the Federal Register;

"(B) conduct an assessment of the potential risks to the Department associated with the use of covered LiDAR technology by defense contractors, including an assessment of the severity and likelihood of occurrence of each such risk and a prioritization of such risks; and

"(C) solicit input from defense contractors and subcontractors (at any tier) to identify effective approaches to reducing or eliminating use of covered LiDAR technology by such contractors and subcontractors.

"(3) IMPLEMENTATION.—Not later than June 1, 2027, the Secretary shall implement the strategy required by paragraph (1). Such strategy shall actively monitor risk mitigation measures related to the use of covered LiDAR technology by defense contractors based on the assessment conducted and the input received under paragraph (2).

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered foreign country' means any of the following:

"(A) The People's Republic of China.

"(B) The Islamic Republic of Iran.

"(C) The Democratic People's Republic of North Korea.

"(D) The Russian Federation.

"(2) The term 'covered LiDAR company' means any of the following:

"(A) Hesai Technology (or any subsidiary or affiliate of Hesai Technology).

"(B) Any entity that produces or provides LiDAR and that is included on—

"(i) the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce; or

"(ii) the civil-military fusion list maintained under section 1260h [1260H] of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note).

"(C) Any entity that produces or provides LiDAR and that—

"(i) is domiciled in a covered foreign country; or

"(ii) is subject to unmitigated foreign ownership, control or influence by a covered foreign country, as determined by the Secretary of Defense in accordance with the National Industrial Security Program or any successor to such program.

"(3) The term 'covered LiDAR technology' means LiDAR technology and any related services and equipment—

"(A) manufactured by a covered LiDAR company;

"(B) uses operating software developed in a covered foreign country or by an entity domiciled in a covered foreign country; or

"(C) uses network connectivity or data storage located in a covered foreign country or administered by an entity domiciled in a covered foreign country.

"(4) The terms 'light detection and ranging' and 'LiDAR' mean a sensor that emits light, often in the form of a pulsed or modulated laser, and scans or flashes the environment to detect and measure the range of its surroundings."

## PROHIBITION ON PROCUREMENT OF COVERED SEMICONDUCTOR PRODUCTS AND SERVICES FROM COMPANIES PROVIDING COVERED SEMICONDUCTOR PRODUCTS AND SERVICES TO HUAWEI

Pub. L. 118–159, div. A, title VIII, §853, Dec. 23, 2024, 138 Stat. 1996, provided that:

"(a) PROHIBITION.—Beginning on the date that is 270 days after the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall not enter into or renew a contract for the procurement of any covered semiconductor products and services for the Department of Defense with any entity that knowingly provides

covered semiconductor products and services to Huawei.

"(b) CERTIFICATION PROCESS.—The Secretary of Defense shall, not later than the date on which the prohibition in subsection (a) takes effect, develop and implement a process requiring each entity seeking to provide covered semiconductor products and services to the Department of Defense to certify to the Department that such entity is not an entity covered by such prohibition.

"(c) WAIVER.—The Secretary of Defense may waive the prohibition under subsection (a) on a case-by-case basis as may be necessary in the interest of national security, if the Secretary determines that the covered semiconductor products and services to be acquired are—

"(1) only available from an entity otherwise covered by such prohibition; and

"(2) are required for national security systems or priority missions of the Department of Defense.

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered semiconductor products and services' means—

"(A) semiconductors;

"(B) equipment for manufacturing semiconductors; and

"(C) tools for designing semiconductors.

"(2) The term 'Huawei' means—

"(A) Huawei Technologies Company;

"(B) any entity that is a subsidiary, owner, beneficial owner, affiliate, or successor of Huawei Technologies Company; and

"(C) any entity that is directly or indirectly controlled by Huawei Technologies Company."

## PROHIBITION ON CONTRACTS FOR ONLINE TUTORING SERVICES

Pub. L. 118–159, div. A, title VIII, §854, Dec. 23, 2024, 138 Stat. 1997, provided that: "The Secretary of Defense may not enter into a contract for online tutoring services which could result in personal data of citizens of the United States being transferred to the control of the People's Republic of China."

## STUDY AND REPORT ON DEPARTMENT OF DEFENSE USE OF UNMANNED GROUND VEHICLE SYSTEMS MANUFACTURED BY CERTAIN FOREIGN ENTITIES

Pub. L. 118–159, div. A, title X, §1078, Dec. 23, 2024, 138 Stat. 2075, provided that:

"(a) STUDY ON DEPARTMENT OF DEFENSE USE OF CERTAIN UNMANNED GROUND VEHICLE SYSTEMS.—

"(1) STUDY.—The Secretary of Defense shall conduct a study on the use by the Department of Defense of covered unmanned ground vehicle systems manufactured by covered foreign entities.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the study required under paragraph (1). Such report shall include each of the following:

"(A) An assessment of the extent to which covered unmanned ground vehicle systems manufactured by covered foreign entities are used by the Department, including a list of all such covered unmanned ground vehicle systems.

"(B) An assessment of the national security threats associated with using covered unmanned ground vehicle systems in applications of the Department, including with respect to—

"(i) cybersecurity;

"(ii) technological maturity of the systems; and

"(iii) technological vulnerabilities in the systems that may be exploited by foreign adversaries of the United States.

"(C) A description of any actions taken by the Department to identify covered foreign entities that—

"(i) develop or manufacture covered unmanned ground vehicle systems; and

"(ii) have a military-civil nexus on the list maintained by the Department under section 1260H(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note).

"(D) An assessment of the feasibility and advisability of directing the Defense Innovation Unit, or another entity in the Department of Defense, to develop a list of United States manufacturers of covered unmanned ground vehicle systems.

"(E) A recommendation on whether a prohibition on the procurement and operation of covered unmanned ground vehicle systems is in the best interest of the national security of the United States.

"(F) The findings and recommendations of the Secretary with respect to the matters covered by the study and report.

"(b) PROHIBITION ON PROCUREMENT AND OPERATION BY DEPARTMENT OF DEFENSE.—

"(1) IN GENERAL.—Subject to paragraph (3), and except as provided in paragraph (2), beginning on the date that is one year after the date of the submission of the report required under subsection (a)(2), the Secretary of Defense may not procure or operate any covered unmanned ground vehicle system that is manufactured by a covered foreign entity.

"(2) EXCEPTION FOR NATIONAL SECURITY.—Paragraph (1) shall not apply with respect to the procurement or operation of a covered unmanned ground vehicle system that is manufactured by a covered foreign entity if the Secretary of Defense or the Secretary of a military department determines that the procurement or operation of such system is in the national interest of the United States.

"(3) APPLICABILITY.—Paragraph (1) shall not apply unless the Secretary of Defense includes in the report required under paragraph (2) of subsection (a) a recommendation pursuant to subparagraph (E) of that paragraph that a prohibition on the procurement and operation of covered unmanned ground vehicle systems is in the best interest of the national security of the United States.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered foreign country' means any of the following:

"(A) The People's Republic of China.

"(B) The Russian Federation.

"(C) The Islamic Republic of Iran.

"(D) The Democratic People's Republic of Korea.

"(2) The term 'covered foreign entity' means an entity that is domiciled in a covered foreign country or subject to influence or control by the government of a covered foreign country, as determined by the Secretary of Defense.

"(3) The term 'covered unmanned ground vehicle system'—

"(A) means a mechanical device that—

"(i) is capable of locomotion, navigation, or movement on the ground; and

"(ii) operates at a distance from one or more operators or supervisors based on commands or in response to sensor data, or through any combination thereof; and

"(B) includes—

"(i) remote surveillance vehicles, autonomous patrol technologies, mobile robotics, and humanoid robots; and

"(ii) the vehicle, its payload, and any external device used to control the vehicle."

## PROHIBITION ON AVAILABILITY OF FUNDS FOR PROCUREMENT OF CERTAIN BATTERIES

Pub. L. 118–31, div. A, title I, §154, Dec. 22, 2023, 137 Stat. 180, provided that:

"(a) LIMITATION.—Beginning on October 1, 2027, none of the funds authorized to be appropriated or otherwise made available for the Department of Defense may be obligated or expended to procure a battery produced by an entity specified in subsection (b).

"(b) ENTITIES SPECIFIED.—The entities specified in this subsection are the following:

"(1) Contemporary Amperex Technology Company, Limited (also known as 'CATL').

"(2) BYD Company, Limited.

"(3) Envision Energy, Limited.

"(4) EVE Energy Company, Limited.

"(5) Gotion High tech Company, Limited.

"(6) Hithium Energy Storage Technology company, Limited.

"(7) Any successor to an entity specified in paragraphs (1) through (6).

"(c) TREATMENT OF PRODUCTION.—For purposes of this section, a battery shall be treated as produced by an entity specified in subsection (b) if that entity—

"(1) assembles or manufactures the final product; or

"(2) creates or otherwise provides a majority of the components used in the battery.

"(d) WAIVER.—The Secretary of Defense may waive the limitation under subsection (a)."

## LIMITATION ON SOURCING CHEMICAL MATERIALS FOR MUNITIONS FROM CERTAIN COUNTRIES

Pub. L. 118–31, div. A, title II, §244, Dec. 22, 2023, 137 Stat. 209, provided that:

"(a) LIMITATION.—The Secretary of Defense may not procure a chemical material for munitions specified in subsection (b) from any country specified in subsection (c).

"(b) CHEMICAL MATERIALS SPECIFIED.—The chemical materials for munitions specified in this

subsection are the chemicals listed under the heading 'Task 1: Domestic Production of Critical Chemicals' in section 3.0E of the document of the Department of Defense titled 'Statement of Objectives (SOO) for Critical Chemicals Production' (FOA: FA8650-19-S-5010, Appendix VI, Call: 012) and dated December 5, 2022.

"(c) COUNTRIES SPECIFIED.—The countries specified in this subsection are the following:

"(1) The People's Republic of China.

"(2) The Russian Federation.

"(3) The Islamic Republic of Iran.

"(4) The Democratic People's Republic of North Korea.

"(d) EFFECTIVE DATE.—The requirements of this section shall take effect on a date determined by the Secretary of Defense that is not later than September 30, 2028."

## PROHIBITION ON REQUIRED DISCLOSURE BY DEPARTMENT OF DEFENSE CONTRACTORS OF INFORMATION RELATING TO GREENHOUSE GAS EMISSIONS

Pub. L. 118–31, div. A, title III, §318, Dec. 22, 2023, 137 Stat. 218, as amended by Pub. L. 118–159, div. A, title III, §316, Dec. 23, 2024, 138 Stat. 1852, provided that:

"(a) PROHIBITION ON DISCLOSURE REQUIREMENTS.—

"(1) NONTRADITIONAL DEFENSE CONTRACTORS.—The Secretary of Defense may not require that any nontraditional defense contractor, as a condition of being awarded a contract with the Secretary, disclose a greenhouse gas inventory or any other report on greenhouse gas emissions, unless the Secretary determines that requiring such disclosure is necessary to verify a voluntary disclosure of such inventory or other report by the nontraditional defense contractor.

"(2) OTHER THAN NONTRADITIONAL DEFENSE CONTRACTORS.—During the three-year period beginning on the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense may not require that any individual or entity other than a nontraditional defense contractor, as a condition of being awarded a contract with the Secretary, disclose a greenhouse gas inventory or any other report on greenhouse gas emissions, unless the Secretary determines that requiring such disclosure is necessary to verify a voluntary disclosure of such inventory or other report by the individual or entity.

"(b) WAIVER.—The Secretary of Defense may issue a waiver on a contract-by-contract basis provided that the information provided is directly related to the performance of the contract. In issuing such a waiver, the Secretary of Defense shall ensure that any information that is required is clearly identifiable.

"(c) DEFINITIONS.—In this section:

"(1) The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) nitrogen trifluoride;

"(E) hydrofluorocarbons;

"(F) perfluorocarbons; or

"(G) sulfur hexafluoride.

"(2) The term 'greenhouse gas inventory' means, with respect to a person, a quantified list of the annual greenhouse gas emissions of the person.

"(3) The term 'nontraditional defense contractor' has the meaning given the term in section 3014 of title 10, United States Code."

## PROHIBITION ON CONTRACTING WITH ENTITIES OR INDIVIDUALS THAT HAVE FOSSIL FUEL OPERATIONS WITH THE GOVERNMENT OF THE RUSSIAN FEDERATION OR THE RUSSIAN ENERGY SECTOR

Pub. L. 118–31, div. A, title VIII, §804, Dec. 22, 2023, 137 Stat. 313, as amended by Pub. L. 119–60, div. A, title VIII, §846, Dec. 18, 2025, 139 Stat. 977, provided that:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except as provided under subsections (b), (c), and (d), the Secretary of Defense may not enter into a contract for the procurement of goods or services with any entity or individual that is or that knowingly has fossil fuel business operations with an entity or individual that is majority owned, individually or collectively, by—

"(A) an authority of the Government of the Russian Federation; or

"(B) a fossil fuel company that has fossil fuel business operations in the Russian Federation, except if the fossil fuel company transports oil or gas—

"(i) through the Russian Federation for sale outside of the Russian Federation; and

"(ii) that was extracted from a country other than the Russian Federation with respect to the energy sector of which the President has not imposed sanctions as of the date on which the contract is awarded.

"(2) OIL AND GAS ORIGIN.—For the purposes of applying the exception under paragraph (1)(B), oil and gas transported by a fossil fuel company shall be deemed to have been extracted from the location of extraction specified in the certificate of origin or other documentation confirming the origin of such oil or gas unless the entity or individual with respect to which such exception would apply knew or had reason to know that such location in such documentation was false or incorrect.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—The prohibition under subsection (a) does not apply to a contract that the Secretary of Defense and the Secretary of State jointly determine—

"(A) is necessary—

"(i) for purposes of providing humanitarian assistance to the people of Russia; or

"(ii) for purposes of providing disaster relief and other urgent life-saving measures;

"(B) is vital to the military readiness, basing, or operations of the United States or the North Atlantic Treaty Organization;

"(C) is vital to the national security interests of the United States; or

"(D) was a business operation with a fossil fuel company in a country other than the Russian Federation that was entered into prior to the date of the enactment of this section [Dec. 22, 2023].

"(2) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify the appropriate congressional committees of any contract entered into on the basis of an exception provided for under paragraph (1).

"(3) OFFICE OF FOREIGN ASSETS CONTROL LICENSES.—The prohibition in subsection (a) shall not apply to an entity or individual that has a valid license to operate in Russia issued by the Office of Foreign Assets Control of the Department of the Treasury, including by general license, or is otherwise authorized to operate in Russia by the Federal Government notwithstanding the imposition of sanctions.

"(4) AMERICAN DIPLOMATIC MISSION IN RUSSIA.—The prohibition in subsection (a) shall not apply to contracts related to the operation and maintenance of the United States Government's consular offices and diplomatic posts in Russia.

"(c) APPLICABILITY.—This section shall take effect on the date of the enactment of this Act [Dec. 22, 2023] and apply with respect to any contract entered into on or after such effective date.

"(d) SUNSET.—This section shall terminate on December 31, 2029.

"(e) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Oversight and Accountability, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

"(B) the Committee on Homeland Security and Governmental Affairs, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

"(2) BUSINESS OPERATIONS.—

"(A) IN GENERAL.—The term 'business operations' means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"(B) EXCEPTIONS.—The term 'business operations' does not include—

"(i) any shipment subject to price caps as specified in the 'Statement of the G7 and Australia on a Price Cap for Seaborne Russian-Origin Crude Oil', issued on December 2, 2022, between member countries of that coalition, or the price caps as specified in the 'Statement of the G7 and Australia on price caps for seaborne Russian-origin petroleum products Berlin, Brussels, Canberra, London, Ottawa, Paris, Rome, Tokyo, Washington', issued on February 4, 2023, between such members, if such shipment complies with the applicable price caps;

"(ii) activities related to fulfilling contracts with a fossil fuel company that has fossil fuel business operations in the Russian Federation that were entered into prior to the date of the enactment of this section, provided that such contracts are not—

"(I) extended beyond the established period of performance for such contract, including through the execution of any available option, task order, or modification; or

"(II) renewed;

"(iii) actions taken for the benefit of the country of Ukraine, as determined by the Secretary

of Defense; or

"(iv) actions taken to support the suspension or termination of business operations for commercial activities during the period beginning on the date of the enactment of this Act and ending on the date described in subsection (d), including—

"(I) any action to secure or divest from facilities, property, or equipment;

"(II) the provision of products or services provided to reduce or eliminate operations in territory internationally recognized as the Russian Federation or to comply with sanctions relating to the Russian Federation; and

"(III) activities that are incident to liquidating, dissolving, or winding down a subsidiary or legal entity in Russia.

"(3) FOSSIL FUEL COMPANY.—The term 'fossil fuel company' means an entity or individual that—

"(A) carries out oil, gas, or coal exploration, development, or production activities;

"(B) processes or refines oil, gas, or coal; or

"(C) transports, or constructs facilities for the transportation of, Russian oil, gas, or coal.

"(4) ENTITY OR INDIVIDUAL.—The term 'entity or individual' means—

"(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

"(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

"(C) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph (A) or (B)."

## PROHIBITION OF THE DEPARTMENT OF DEFENSE PROCUREMENT RELATED TO ENTITIES IDENTIFIED AS CHINESE MILITARY COMPANIES OPERATING IN THE UNITED STATES

Pub. L. 118–31, div. A, title VIII, §805, Dec. 22, 2023, 137 Stat. 315, as amended by Pub. L. 119–60, div. A, title VIII, §845, Dec. 18, 2025, 139 Stat. 977, provided that:

"(a) PROHIBITION ON USE OR PROCUREMENT.—

"(1) IN GENERAL.—Except as provided under subsection (d), the Secretary may not—

"(A) enter into, renew, or extend a contract for the procurement of goods, services, or technology with an entity described in paragraph (2);

"(B) enter into, renew, or extend a contract for the procurement of goods or services that include goods or services produced or developed by an entity described in paragraph (2); or

"(C) provide a grant, loan, or loan guarantee to an entity described in paragraph (2).

"(2) ENTITIES DESCRIBED.—An entity described in this paragraph is—

"(A) an entity that is identified in the annual list published in the Federal Register by the Department of Defense of Chinese military companies operating in the United States pursuant to section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] (10 U.S.C. 113 note); or

"(B) any entity subject to the control of an entity described in subparagraph (A).

"(3) LIMITATION ON APPLICABILITY.—

"(A) IN GENERAL.—Nothing in paragraph (1) shall prohibit the Secretary from entering into, renewing, or extending a contract for the procurement of goods, services, or technology to provide a service that connects to the facilities of a third party, including backhaul, roaming, or interconnection arrangements.

"(B) EXISTING CONTRACTS.—Nothing in this section shall permit the Secretary to apply the prohibitions in paragraph (1) to existing contracts for goods, services, or technology, including when such contracts are modified, extended, or renewed, entered into prior to the relevant date described in subsection (b).

"(C) COMPONENTS.—Paragraph (1) shall not apply with respect to components (as defined in section 105 of title 41, United States Code).

"(4) RULEMAKING.—

"(A) ENTITY PROHIBITION.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary shall amend the Defense Federal Acquisition Regulation Supplement to implement the prohibitions in paragraph (1)(A) for the Department of Defense.

"(B) GOODS AND SERVICES PROHIBITION.—Not later than 545 days after the date of the enactment of this Act, the Secretary shall amend the Defense Federal Acquisition Regulation Supplement

to implement the prohibitions in paragraph (1)(B) for the Department of Defense, including—

"(i) best practices to avoid being subject to the prohibitions described in paragraph (1)(B); and

"(ii) technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to comply with this section.

"(b) EFFECTIVE DATES.—The prohibition under subsection (a)(1)(A) shall take effect on June 30, 2026, and the prohibitions under subparagraphs (B) and (C) of subsection (a)(1) shall take effect on June 30, 2027.

"(c) WAIVER AUTHORITY.—

"(1) IN GENERAL.—The Secretary may waive the requirements under subsection (a) with respect to an entity that requests such a waiver if the entity seeking the waiver—

"(A) provides to the Secretary a compelling justification for the additional time to implement the requirements under such subsection, as determined by the Secretary of Defense; and

"(B) provides to the Secretary a phase-out plan to eliminate goods, services, or technology produced or developed by an entity described in subsection (a)(2) from the systems of the entity.

"(2) DURATION.—A waiver granted under paragraph (1) may remain in effect until the date on which the Secretary determines that commercially viable providers exist outside of the People's Republic of China that can and are willing to provide the Department of Defense with quality goods and services in the quantity demanded.

"(3) DELEGATION.—The Secretary may designate the authority under this section only to—

"(A) the service acquisition executive of the military department (as such terms are defined in section 101(a) of title 10, United States Code) concerned; or

"(B) the official responsible for all acquisition functions of such other element or organization of the Department of Defense concerned.

"(d) EXCEPTION.—The President shall not be required to apply or maintain the prohibition under subsection (a) for activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.), or to any authorized intelligence activities of the United States.

"(e) DEFINITIONS.—In this section:

"(1) CONTROL.—The term 'control' has the meaning given that term in part 800.208 of title 31, Code of Federal Regulations, or any successor regulations.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Defense."

## PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION

Pub. L. 117–81, div. A, title VIII, §848, Dec. 27, 2021, 135 Stat. 1843, which related to procurement of products mined, produced, or manufactured wholly or in part by forced labor from Xinjiang Uyghur Autonomous Region of the People's Republic of China, was repealed by Pub. L. 117–263, div. A, title VIII, §855(a), Dec. 23, 2022, 136 Stat. 2723. See section 4661 of this title.

## EMPLOYMENT TRANSPARENCY REGARDING INDIVIDUALS WHO PERFORM WORK IN THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 117–81, div. A, title VIII, §855, Dec. 27, 2021, 135 Stat. 1850, as amended by Pub. L. 118–159, div. A, title VIII, §839, Dec. 23, 2024, 138 Stat. 1988, provided that:

"(a) DISCLOSURE REQUIREMENTS.—

"(1) INITIAL DISCLOSURES.—The Secretary of Defense shall require each covered entity to disclose to the Secretary of Defense if the entity employs one or more individuals who will perform work in, for, or are subject to the laws or control of the People's Republic of China on a covered contract when the entity submits a bid or proposal for such covered contract, except that such disclosure shall not be required to the extent that the Secretary determines that such disclosure would not be in the interest of national security.

"(2) RECURRING DISCLOSURES.—For each of fiscal years 2023 and 2024, the Secretary of Defense shall require each covered entity that is a party to one or more covered contracts in the fiscal year to disclose to the Secretary if the entity employs one or more individuals who perform work in the People's Republic of China on any such contract.

"(3) MATTERS TO BE INCLUDED.—

"(A) IN GENERAL.—If a covered company required to make a disclosure under paragraph (1) or (2) employs any individual who will perform work in, for, or are subject to the laws or control of the People's Republic of China on a covered contract, such disclosure shall include—

"(i) the total number of such individuals who will perform such work on the covered

contracts funded by the Department of Defense; and

"(ii) a description of the physical presence in the People's Republic of China and each other location where work on the covered contract will be performed; and

"(iii) whether an agency or instrumentality of the People's Republic of China or any other covered entity has requested access to data or otherwise acquired data from the covered entity required to make a disclosure under paragraph (1) or (2) pursuant to any law or regulation of the People's Republic of China.

"(B) ADDITIONAL DISCLOSURE OF INFORMATION AND ADDITIONAL MEASURES REGARDING CERTAIN ENTITIES.—

"(i) IN GENERAL.—If a covered entity performing a covered contract for services dealing with commercial computer software or noncommercial computer software and is required to make a disclosure under paragraph (1) or (2), such covered entity shall—

"(I) describe the process for disclosing a cybersecurity vulnerability, if such covered entity is also required to disclose any cybersecurity vulnerability to the Ministry of Industry and Information Technology or any other agency or instrumentality of the People's Republic of China; and

"(II) provide any information related to how a United States affiliate is notified of a vulnerability described in subclause (I).

"(ii) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subparagraph [Dec. 23, 2024], the Secretary shall revise the Defense Federal Acquisition Regulation Supplement to require—

"(I) a covered entity to require that an individual or entity performing work on a covered contract in the People's Republic of China on behalf of the covered entity to notify the covered entity within 48 hours of such individual or entity reporting any software vulnerability related to such covered contract to the Ministry of Industry and Information Technology or any other agency or instrumentality of the People's Republic of China; and

"(II) the covered entity to retain and furnish to the Department of Defense information regarding any cybersecurity vulnerability reported to the Ministry of Industry and Information Technology or any other agency or instrumentality of the People's Republic of China with respect to which the covered entity received a notice pursuant to subclause (I).

"(b) FUNDING FOR COVERED ENTITIES.—The Secretary of Defense may not award a covered contract to, or renew a covered contract with, a covered entity unless such covered entity has submitted each disclosure such covered entity is required to submit under subsection (a).

"(c) SEMI-ANNUAL BRIEFING.—Beginning on January 1, 2023, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] semi-annual briefings that summarize the disclosures received by the Department over the previous 180 days pursuant to this section, and such briefings may be classified.

"(d) DEFINITIONS.—In this section:

"(1) COVERED CONTRACT.—The term 'covered contract' means any Department of Defense contract or subcontract for, or including, any information and communications technology, including contracts for commercial products or services.

"(2) COVERED ENTITY.—The term 'covered entity' means any corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity, including any subsidiary thereof, performing work on a covered contract in, for, or subject to the laws or control of the People's Republic of China, including by leasing or owning real property used in the performance of the covered contract in the People's Republic of China.

"(e) EFFECTIVE DATE.—This section shall take effect on July 1, 2022."

## PROHIBITION ON PROCUREMENTS FROM CHINESE MILITARY COMPANIES

Pub. L. 109–163, div. A, title XII, §1211, Jan. 6, 2006, 119 Stat. 3461, as amended by Pub. L. 112–81, div. A, title XII, §1243(a), (b), Dec. 31, 2011, 125 Stat. 1645; Pub. L. 114–328, div. A, title XII, §1296, Dec. 23, 2016, 130 Stat. 2562; Pub. L. 117–263, div. A, title VIII, §857(b), Dec. 23, 2022, 136 Stat. 2729, provided that:

"(a) PROHIBITION.—The Secretary of Defense may not procure goods or services described in subsection (b), through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company, any Chinese military company, any Non-SDN Chinese military-industrial complex company, or any other covered company.

"(b) GOODS AND SERVICES COVERED.—

"(1) IN GENERAL.—For purposes of subsection (a), and except as provided in paragraph (2), the

goods and services described in this subsection are goods and services—

"(A) on the munitions list of the International Traffic in Arms Regulations; or

"(B) on the Commerce Control List that—

"(i) are classified in the 600 series; or

"(ii) contain strategic and critical materials, rare earth elements, or energetic materials used to manufacture missiles or munitions.

"(2) EXCEPTIONS.—Goods and services described in this subsection do not include goods or services procured—

"(A) in connection with a visit by a vessel or an aircraft of the United States Armed Forces to the People's Republic of China;

"(B) for testing purposes; or

"(C) for purposes of gathering intelligence.

"(c) WAIVER AUTHORIZED.—The Secretary of Defense may waive the prohibition in subsection (a) if the Secretary determines that such a waiver is necessary for national security purposes and the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report described in subsection (d) not less than 15 days before issuing the waiver under this subsection.

"(d) REPORT.—The report referred to in subsection (c) is a report that identifies the specific reasons for the waiver issued under subsection (c) and includes recommendations as to what actions may be taken to develop alternative sourcing capabilities in the future.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Chinese military company' has the meaning given that term by section 1260H(d)(1) [now 1260H(g)(1)] of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note).

"(2) The term 'Commerce Control List' means the list maintained by the Bureau of Industry and Security and set forth in Supplement No. 1 to part 774 of the Export Administration Regulations.

"(3) The term 'Communist Chinese military company' has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (50 U.S.C. 1701 note).

"(4) The term 'Export Administration Regulations' has the meaning given that term in section 1742 of the Export Control Reform Act of 2018 (50 U.S.C. 4801).

"(5) The term 'munitions list of the International Traffic in Arms Regulations' means the United States Munitions List contained in part 121 of subchapter M of title 22 of the Code of Federal Regulations.

"(6) The term 'Non-SDN Chinese military-industrial complex company' means any entity on the Non-SDN Chinese Military-Industrial Complex Companies List—

"(A) established pursuant to Executive Order 13959 (50 U.S.C. 1701 note; relating to addressing the threat from securities investments that finance Communist Chinese military companies), as amended before, on, or after the date of the enactment of the [James M. Inhofe] National Defense Authorization Act for Fiscal Year 2023 [Dec. 23, 2022]; and

"(B) maintained by the Office of Foreign Assets Control of the Department of the Treasury.

"(7) The term 'other covered company' means a company that—

"(A) is owned or controlled by the government of the People's Republic of China; and

"(B) is certified by the Secretary of Defense to the congressional defense committees to be a company that must be covered by this section for national security reasons.

"(8) The term 'strategic and critical materials' means materials designated as strategic and critical under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

"(f) EFFECTIVE DATE.—With respect to goods and services described in clause (ii) of subparagraph (b)(1)(B), the prohibition shall take effect 180 days after the date on which the Secretary of Defense certifies to the congressional defense committees that a sufficient number of commercially viable providers exist outside of the People's Republic of China that collectively can provide the Department of Defense with satisfactory quality and sufficient quantity of such goods or services as and when needed at United States market prices."

[Pub. L. 112–81, div. A, title XII, §1243(c), Dec. 31, 2011, 125 Stat. 1646, provided that: "The amendments made by this section [amending section 1211 of Pub. L. 109–163, set out above] take effect on the date of the enactment of this Act [Dec. 31, 2011] and apply with respect to contracts and subcontracts of the Department of Defense entered into on or after the date of the enactment of this Act."]

## §4651. Expenditure of appropriations: limitation

(a) Money appropriated to the Department of Defense may not be spent under a contract other than a contract for personal services unless that contract provides that—

(1) the United States may, by written notice to the contractor, terminate the right of the contractor to proceed under the contract if the Secretary concerned or his designee finds, after notice and hearing, that the contractor, or his agent or other representative, offered or gave any gratuity, such as entertainment or a gift, to an officer, official, or employee of the United States to obtain a contract or favorable treatment in the awarding, amending, or making of determinations concerning the performance, of a contract; and

(2) if a contract is terminated under clause (1), the United States has the same remedies against the contractor that it would have had if the contractor had breached the contract and, in addition to other damages, is entitled to exemplary damages in an amount at least three, but not more than 10, as determined by the Secretary or his designee, times the cost incurred by the contractor in giving gratuities to the officer, official, or employee concerned.

The existence of facts upon which the Secretary makes findings under clause (1) may be reviewed by any competent court.

(b) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(Added Pub. L. 87–651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520, §2207; amended Pub. L. 104–106, div. A, title VIII, §801, Feb. 10, 1996, 110 Stat. 389; Pub. L. 111–350, §5(b)(5), Jan. 4, 2011, 124 Stat. 3842; renumbered §4651, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2207 | 5:174d. | June 30, 1954, ch. 432, §719, 68 Stat. 353. |

The following substitutions are made: "spent" for "expended"; "United States" for "Government"; "if a contract is terminated under clause (1)" for "that in the event any such contract is so terminated"; and "has . . . that it would have had if" for "shall be entitled . . . to pursue . . . as it could pursue in the event of". The word "official" is inserted for clarity. The words "entered into after June 30, 1954" are omitted as executed.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4651, Aug. 10, 1956, ch. 1041, 70A Stat. 260; Pub. L. 99–145, title XIII, §1301(b(3)(C), Nov. 8, 1985, 99 Stat. 736, related to issuance of arms, tentage, and equipment necessary for proper military training to institutions not maintaining units of the Reserve Officers' Training Corps, prior to repeal by Pub. L. 112–239, div. A, title V, §552(b), Jan. 2, 2013, 126 Stat. 1741.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2207 of this title as this section.

**2011**—Subsec. (b). Pub. L. 111–350 substituted "section 134 of title 41" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))".

**1996**—Pub. L. 104–106 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4652. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.

(Added Pub. L. 103–355, title VII, §7202(a)(1), Oct. 13, 1994, 108 Stat. 3379, §2247; renumbered §2249, Pub. L. 104–106, div. D, title XLIII, §4321(b)(2)(A), Feb. 10, 1996, 110 Stat. 672; renumbered §4652, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior section 4652 was renumbered section 7652 of this title.

#### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2249 of this title as this section.
**1996**—Pub. L. 104–106 renumbered section 2247 of this title as section 2249.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355 set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

## §4653. Prohibition on use of funds to relieve economic dislocations

(a) In order to help avoid the uneconomic use of Department of Defense funds in the procurement of goods and services, the Congress finds that it is necessary to prohibit the use of such funds for certain purposes.

(b) No funds appropriated to or for the use of the Department of Defense may be used to pay, in connection with any contract awarded by the Department of Defense, a price differential for the purpose of relieving economic dislocations.

(Added Pub. L. 97–86, title IX, §913(a)(1), Dec. 1, 1981, 95 Stat. 1123, §2392; renumbered §4653, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior section 4653 was renumbered section 7653 of this title.

#### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2392 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4654. Prohibition against doing business with certain offerors or contractors

(a)(1) Except as provided in paragraph (2), the Secretary of a military department may not solicit an offer from, award a contract to, extend an existing contract with, or, when approval by the Secretary of the award of a subcontract is required, approve the award of a subcontract to, an offeror or contractor which to the Secretary's knowledge has been debarred or suspended by another Federal agency unless—

(A) in the case of debarment, the debarment of the offeror or contractor by all other agencies has been terminated or the period of time specified for such debarment has expired; and

(B) in the case of a suspension, the period of time specified by all other agencies for the suspension of the offeror or contractor has expired.

(2) Paragraph (1) does not apply in any case in which the Secretary concerned determines that there is a compelling reason to solicit an offer from, award a contract to, extend a contract with, or approve a subcontract with such offeror or contractor.

(b) Whenever the Secretary concerned makes a determination described in subsection (a)(2), he shall, at the time of the determination, transmit a notice to the Administrator of General Services describing the determination. The Administrator of General Services shall maintain each such notice on a publicly accessible website to the maximum extent practicable.

(c) In this section:

(1) The term "debar" means to exclude, pursuant to established administrative procedures, from Government contracting and subcontracting for a specified period of time commensurate with the seriousness of the failure or offense or the inadequacy of performance.

(2) The term "suspend" means to disqualify, pursuant to established administrative procedures, from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected of engaging in criminal, fraudulent, or seriously improper conduct.

(d) The Secretary of Defense shall prescribe in regulations a requirement that each contractor under contract with the Department of Defense shall require each contractor to whom it awards a contract (in this section referred to as a subcontractor) to disclose to the contractor whether the subcontractor is or is not, as of the time of the award of the subcontract, debarred or suspended by the Federal Government from Government contracting or subcontracting. The requirement shall apply to any subcontractor whose subcontract is in an amount greater than the simplified acquisition threshold (as defined in section 134 of title 41). The requirement shall not apply in the case of a subcontract for the acquisition of commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41).

(Added Pub. L. 97–86, title IX, §914(a), Dec. 1, 1981, 95 Stat. 1124, §2393; amended Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–510, div. A, title VIII, §813, Nov. 5, 1990, 104 Stat. 1596; Pub. L. 102–190, div. A, title X, §1061(a)(11), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103–355, title IV, §4102(e), title VIII, §8105(c), Oct. 13, 1994, 108 Stat. 3340, 3392; Pub. L. 111–350, §5(b)(24), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 113–66, div. A, title VIII, §813, Dec. 26, 2013, 127 Stat. 808; Pub. L. 115–232, div. A, title VIII, §836(e)(3), Aug. 13, 2018, 132 Stat. 1869; renumbered §4654, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4654 was renumbered section 7654 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2393 of this title as this section.

**2018**—Subsec. (d). Pub. L. 115–232 substituted "commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41)" for "commercial items (as defined in section 103 of title 41)".

**2013**—Subsec. (b). Pub. L. 113–66 substituted "on a publicly accessible website to the maximum extent practicable" for "in a file available for public inspection".

**2011**—Subsec. (d). Pub. L. 111–350 substituted "section 134 of title 41)" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))" and "section 103 of title 41)" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

**1994**—Subsec. (d). Pub. L. 103–355 substituted "greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))." for "above the small purchase amount established in section 2304(g) of this title." in second sentence and inserted at end "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))."

**1991**—Subsec. (d). Pub. L. 102–190 substituted "Federal Government" for "Federal government".

**1990**—Subsec. (d). Pub. L. 101–510 added subsec. (d).

**1987**—Subsec. (c). Pub. L. 100–180 inserted "The term" after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

## §4655. Prohibition of contractors limiting subcontractor sales directly to the United States

(a) Each contract for the purchase of supplies or services made by the Department of Defense shall provide that the contractor will not—

(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.

(c) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(d)(1) An agreement between the contractor in a contract for the acquisition of commercial products or commercial services and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial products or commercial services from that subcontractor.

(2) In paragraph (1), the terms "commercial product" and "commercial service" have the meanings given those terms in sections 103 and 103a, respectively, of title 41.

(Added Pub. L. 98–525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2601, §2402; amended Pub. L. 103–355, title IV, §4102(f), title VIII, §8105(g), Oct. 13, 1994, 108 Stat. 3340, 3392; Pub. L. 111–350, §5(b)(25), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 115–232, div. A, title VIII, §836(e)(4), Aug. 13, 2018, 132 Stat. 1869; renumbered §4655, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4655 was renumbered section 7655 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2402 of this title as this section.

**2018**—Subsec. (d)(1). Pub. L. 115–232, §836(e)(4)(A), substituted "commercial products or commercial services" for "commercial items" in two places.

Subsec. (d)(2). Pub. L. 115–232, §836(e)(4)(B), substituted "the terms 'commercial product' and 'commercial service' have the meanings given those terms in sections 103 and 103a, respectively, of title 41." for "the term 'commercial item' has the meaning given such term in section 103 of title 41."

**2011**—Subsec. (c). Pub. L. 111–350, §5(b)(25)(A), substituted "section 134 of title 41)" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

Subsec. (d)(2). Pub. L. 111–350, §5(b)(25)(B), substituted "section 103 of title 41" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))".

**1994**—Subsecs. (c), (d). Pub. L. 103–355 added subsecs. (c) and (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### EFFECTIVE DATE

Pub. L. 98–525, title XII, §1234(c), Oct. 19, 1984, 98 Stat. 2604, provided that: "Section 2402 of title 10, United States Code [now 10 U.S.C. 4655] (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1984]."

## §4656. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

(a) PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following:

(A) Working in a management or supervisory capacity on any defense contract or any first tier subcontract of a defense contract.

(B) Serving on the board of directors of any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(C) Serving as a consultant to any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract or first tier subcontract of a defense contract.

(2) Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction.

(3) The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that the five-year period should be waived in the interests of national security.

(4) The prohibition in paragraph (1) does not apply with respect to the following:

(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(B) A contract referred to in such subparagraph that is for the acquisition of commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41).

(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A) or (B).

(b) CRIMINAL PENALTY.—A defense contractor or subcontractor shall be subject to a criminal penalty of not more than $500,000 if such contractor or subcontractor is convicted of knowingly—

(1) employing a person under a prohibition under subsection (a); or

(2) allowing such a person to serve on the board of directors of such contractor or subcontractor.

(c) SINGLE POINT OF CONTACT FOR INFORMATION.—(1) The Attorney General shall ensure that a single point of contact is established to enable a defense contractor or subcontractor to promptly obtain information regarding whether a person that the contractor or subcontractor proposes to use for an activity covered by paragraph (1) of subsection (a) is under a prohibition under that subsection.

(2) The procedure for obtaining such information shall be specified in regulations prescribed by the Secretary of Defense under subsection (a).

(Added Pub. L. 99–500, §101(c) [title X, §941(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–161, and Pub. L. 99–591, §101(c) [title X, §941(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–161, §2408; Pub. L. 99–661, div. A, title IX, formerly title IV, §941(a)(1), Nov. 14, 1986, 100 Stat. 3941, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–456, div. A, title VIII, §831(a), Sept. 29, 1988, 102 Stat. 2023; Pub. L. 101–510, div. A, title VIII, §812, Nov. 5, 1990, 104 Stat. 1596; Pub. L. 102–484, div. A, title VIII, §815(a), Oct. 23, 1992, 106 Stat. 2454; Pub. L. 103–355, title IV, §4102(g), title VIII, §8105(h), Oct. 13, 1994, 108 Stat. 3340, 3393; Pub. L. 104–106, div. A, title X, §1062(e), Feb. 10, 1996, 110 Stat. 444; Pub. L. 111–350, §5(b)(26), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 115–232, div. A, title VIII, §836(e)(5), Aug. 13, 2018, 132 Stat. 1870; renumbered §4656, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

**EDITORIAL NOTES**

## CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

## PRIOR PROVISIONS

A prior section 4656 was renumbered section 7656 of this title.

## AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2408 of this title as this section.

**2018**—Subsec. (a)(4)(B). Pub. L. 115–232 substituted "commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41)" for "commercial items (as defined in section 103 of title 41)".

**2011**—Subsec. (a)(4)(A). Pub. L. 111–350, §5(b)(26)(A), substituted "section 134 of title 41)" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

Subsec. (a)(4)(B). Pub. L. 111–350, §5(b)(26)(B), substituted "section 103 of title 41)" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

**1996**—Subsec. (a)(3). Pub. L. 104–106 struck out at end "If the five-year period is waived, the Secretary shall submit to Congress a report stating the reasons for the waiver."

**1994**—Subsec. (a)(4). Pub. L. 103–355, §4102(g), added introductory provisions and subpar. (A).

Subsec. (a)(4)(B). Pub. L. 103–355, §8105(h)(1), added subpar. (B).

Subsec. (a)(4)(C). Pub. L. 103–355, §8105(h)(2), inserted "or (B)" before period at end.

Pub. L. 103–355, §4102(g), added subpar. (C).

**1992**—Subsec. (c). Pub. L. 102–484 added subsec. (c).

**1990**—Subsec. (a)(1)(A). Pub. L. 101–510, §812(a)(1), inserted before period at end "or any first tier subcontract of a defense contract".

Subsec. (a)(1)(B). Pub. L. 101–510, §812(a)(2), inserted before period at end "or any subcontractor awarded a contract directly by a defense contractor".

Subsec. (a)(1)(C). Pub. L. 101–510, §812(a)(3), inserted before period at end "or any subcontractor awarded a contract directly by a defense contractor".

Subsec. (a)(1)(D). Pub. L. 101–510, §812(a)(4), inserted before period at end "or first tier subcontract of a defense contract".

Subsec. (b). Pub. L. 101–510, §812(b), inserted "or subcontractor" after "contractor" wherever appearing.

**1988**—Subsec. (a). Pub. L. 100–456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VIII, §831(b), Sept. 29, 1988, 102 Stat. 2023, provided that: "Section 2408(a) of title 10, United States Code [now 10 U.S.C. 4656(a)], as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act [Sept. 29, 1988]."

**EFFECTIVE DATE**

Pub. L. 99–500, §101(c) [title X, §941(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–162, Pub. L. 99–591, §101(c) [title X, §941(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–162, and Pub. L. 99–661, div. A, title IX, formerly title IV, §941(c), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2408 of title 10, United States Code [now 10 U.S.C. 4656] (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act [Oct. 18, 1986]."

## §4657. Prohibition on criminal history inquiries by contractors prior to conditional offer

(a) LIMITATION ON CRIMINAL HISTORY INQUIRIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the head of an agency—

(A) may not require that an individual or sole proprietor who submits a bid for a contract to disclose criminal history record information regarding that individual or sole proprietor before determining the apparent awardee; and

(B) shall require as a condition of receiving a Federal contract and receiving payments under such contract that the contractor may not verbally or through written form request the disclosure of criminal history record information regarding an applicant for a position related to work under such contract before such contractor extends a conditional offer to the applicant.

(2) OTHERWISE REQUIRED BY LAW.—The prohibition under paragraph (1) does not apply with respect to a contract if consideration of criminal history record information prior to a conditional offer with respect to the position is otherwise required by law.

(3) EXCEPTION FOR CERTAIN POSITIONS.—

(A) IN GENERAL.—The prohibition under paragraph (1) does not apply with respect to—

(i) a contract that requires an individual hired under the contract to access classified information or to have sensitive law enforcement or national security duties; or

(ii) a position that the Secretary of Defense identifies under the regulations issued under subparagraph (B).

(B) REGULATIONS.—

(i) ISSUANCE.—Not later than 16 months after the date of enactment of the Fair Chance to Compete for Jobs Act of 2019, the Secretary of Defense, in consultation with the Administrator of General Services, shall issue regulations identifying additional positions with respect to which the prohibition under paragraph (1) shall not apply, giving due consideration to positions that involve interaction with minors, access to sensitive information, or managing financial transactions.

(ii) COMPLIANCE WITH CIVIL RIGHTS LAWS.—The regulations issued under clause (i) shall—

(I) be consistent with, and in no way supersede, restrict, or limit the application of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or other relevant Federal civil rights laws; and

(II) ensure that all hiring activities conducted pursuant to the regulations are conducted in a manner consistent with relevant Federal civil rights laws.

(b) COMPLAINT PROCEDURES.—The Secretary of Defense shall establish and publish procedures under which an applicant for a position with a Department of Defense contractor may submit a complaint, or any other information, relating to compliance by the contractor with subsection (a)(1)(B).

(c) ACTION FOR VIOLATIONS OF PROHIBITION ON CRIMINAL HISTORY INQUIRIES.—

(1) FIRST VIOLATION.—If the Secretary of Defense determines that a contractor has violated

subsection (a)(1)(B), the Secretary shall—

(A) notify the contractor;

(B) provide 30 days after such notification for the contractor to appeal the determination; and

(C) issue a written warning to the contractor that includes a description of the violation and the additional remedies that may apply for subsequent violations.

(2) SUBSEQUENT VIOLATIONS.—If the Secretary of Defense determines that a contractor that was subject to paragraph (1) has committed a subsequent violation of subsection (a)(1)(B), the Secretary shall notify the contractor, shall provide 30 days after such notification for the contractor to appeal the determination, and, in consultation with the relevant Federal agencies, may take actions, depending on the severity of the infraction and the contractor's history of violations, including—

(A) providing written guidance to the contractor that the contractor's eligibility for contracts requires compliance with this section;

(B) requiring that the contractor respond within 30 days affirming that the contractor is taking steps to comply with this section; and

(C) suspending payment under the contract for which the applicant was being considered until the contractor demonstrates compliance with this section.

(d) DEFINITIONS.—In this section:

(1) CONDITIONAL OFFER.—The term "conditional offer" means an offer of employment for a position related to work under a contract that is conditioned upon the results of a criminal history inquiry.

(2) CRIMINAL HISTORY RECORD INFORMATION.—The term "criminal history record information" has the meaning given that term in section 9201 of title 5.

(Added Pub. L. 116–92, div. A, title XI, §1123(b)(1), Dec. 20, 2019, 133 Stat. 1612, §2339; renumbered §4657, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of enactment of the Fair Chance to Compete for Jobs Act of 2019, referred to in subsec. (a)(3)(B)(i), is the date of enactment of subtitle B of title XI of div. A of Pub. L. 116–92, which was approved Dec. 20, 2019.

The Civil Rights Act of 1964, referred to in subsec. (a)(3)(B)(ii)(I), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 4657 was renumbered section 7657 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2339 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 116–92, div. A, title XI, §1123(b)(2), Dec. 20, 2019, 133 Stat. 1614, as amended by Pub. L. 116–283, div. A, title XVIII, §1862(c)(3)(A), Jan. 1, 2021, 134 Stat. 4278, provided that: "Section 4657(a) of

title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts awarded pursuant to solicitations issued after the effective date described in section 1122(b)(2) of this subtitle [2 years after Dec. 20, 2019, see Effective Date note set out under section 9202 of Title 5, Government Organization and Employees]."

**REVISIONS TO FEDERAL ACQUISITION REGULATION**

Pub. L. 116–92, div. A, title XI, §1123(c), Dec. 20, 2019, 133 Stat. 1614, as amended by Pub. L. 116–283, div. A, title XVIII, §1862(c)(3)(B), Jan. 1, 2021, 134 Stat. 4278, provided that:

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subtitle [Dec. 20, 2019], the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation to implement section 4714 of title 41, United States Code, and section 4657 of title 10, United States Code, as added by this section.

"(2) CONSISTENCY WITH OFFICE OF PERSONNEL MANAGEMENT REGULATIONS.—The Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation under paragraph (1) to be consistent with the regulations issued by the Director of the Office of Personnel Management under section 1122(b)(1) [5 U.S.C. 9201 note] to the maximum extent practicable. The Council shall include together with such revision an explanation of any substantive modification of the Office of Personnel Management regulations, including an explanation of how such modification will more effectively implement the rights and protections under this section."

## §4658. Debarment of persons convicted of fraudulent use of "Made in America" labels

(a) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription, or another inscription with the same meaning, to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with the Department of Defense.

(b) In this section, the term "debar" has the meaning given that term by section 4654(c) of this title.

(Added Pub. L. 102–484, div. A, title VIII, §834(a)(1), Oct. 23, 1992, 106 Stat. 2461, §2410f; amended Pub. L. 104–106, div. A, title X, §1062(f), title XV, §1503(a)(22), Feb. 10, 1996, 110 Stat. 444, 512; Pub. L. 107–107, div. A, title X, §1048(a)(20), Dec. 28, 2001, 115 Stat. 1223; renumbered §4658 and amended Pub. L. 116–283, div. A, title XVIII, §1862(b), (c)(2), Jan. 1, 2021, 134 Stat. 4277, 4278; Pub. L. 117–81, div. A, title XVII, §1701(b)(20), Dec. 27, 2021, 135 Stat. 2135.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1862(b), renumbered section 2410f of this title as this section.

Subsec. (b). Pub. L. 116–283, §1862(c)(2), as amended by Pub. L. 117–81, §1701(b)(20), substituted "section 4654(c)" for "section 2393(c)".

**2001**—Subsec. (a). Pub. L. 107–107 inserted ", or another inscription with the same meaning," after "inscription".

**1996**—Subsec. (a). Pub. L. 104–106, §1062(f), struck out at end "If the Secretary determines that the person should not be debarred, the Secretary shall submit to Congress a report on such determination not later than 30 days after the determination is made."

Subsec. (b). Pub. L. 104–106, §1503(a)(22), substituted "In" for "For purposes of".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 102–484, div. A, title VIII, §834(b), Oct. 23, 1992, 106 Stat. 2461, provided that: "Section 2410f of title 10, United States Code [now 10 U.S.C. 4658], as added by subsection (a), shall take effect 90 days after the date of the enactment of this Act [Oct. 23, 1992]."

**PROHIBITION OF CONTRACTS**

Pub. L. 106–398, §1 [[div. A], title VIII, §825(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–220, provided that: "If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a 'Made in America' inscription, or another inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code [now 10 U.S.C. 4658], whether the person should be debarred from contracting with the Department of Defense."

Similar provisions were contained in the following prior authorization acts:

Pub. L. 106–65, div. A, title VIII, §816(b), Oct. 5, 1999, 113 Stat. 712.

Pub. L. 103–160, div. A, title VIII, §849(b), Nov. 30, 1993, 107 Stat. 1725.

## §4659. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

(a) POLICY.—Under section 3(5)(A) [1] of the Export Administration Act of 1979 (50 U.S.C. 4602(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) PROHIBITION.—(1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the simplified acquisition threshold (as defined in section 134 of title 41) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) In paragraph (1), the term "foreign entity" means a foreign person, a foreign company, or any other foreign entity.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States.

(d) EXCEPTIONS.—Subsection (b) does not apply—

(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.

(Added Pub. L. 102–484, div. A, title XIII, §1332(a), Oct. 23, 1992, 106 Stat. 2555, §2410i; amended Pub. L. 111–350, §§4, 5(b)(31), Jan. 4, 2011, 124 Stat. 3841, 3845; Pub. L. 114–328, div. A, title X, §1081(b)(3)(D), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115–91, div. A, title X, §1051(a)(16), Dec. 12, 2017, 131 Stat. 1561; renumbered §4659, Pub. L. 116–283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. 4602(5)(A)), referred to in subsec. (a), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2410i of this title as this section.

**2017**—Subsec. (c). Pub. L. 115–91 struck out at end "Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year."

**2016**—Subsec. (a). Pub. L. 114–328 substituted "(50 U.S.C. 4602(5)(A))" for "(50 U.S.C. App. 2402(5)(A))".

**2011**—Subsec. (b)(1). Pub. L. 111–350 substituted "simplified acquisition threshold (as defined in section 134 of title 41)" for "small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4660. Prohibition on collection of political information

(a) PROHIBITION ON REQUIRING SUBMISSION OF POLITICAL INFORMATION.—The head of an agency may not require a contractor to submit political information related to the contractor or a subcontractor at any tier, or any partner, officer, director, or employee of the contractor or subcontractor—

(1) as part of a solicitation, request for bid, request for proposal, or any other form of communication designed to solicit offers in connection with the award of a contract for procurement of property or services; or

(2) during the course of contract performance as part of the process associated with modifying a contract or exercising a contract option.

(b) SCOPE.—The prohibition under this section applies to the procurement of commercial products and commercial services, the procurement of commercial-off-the-shelf-items, and the non-commercial procurement of supplies, property, services, and manufactured items, irrespective of contract vehicle, including contracts, purchase orders, task or deliver orders under indefinite delivery/indefinite quantity contracts, blanket purchase agreements, and basic ordering agreements.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as—

(1) waiving, superseding, restricting, or limiting the application of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) or preventing Federal regulatory or law enforcement agencies from collecting or receiving information authorized by law; or

(2) precluding the Defense Contract Audit Agency from accessing and reviewing certain information, including political information, for the purpose of identifying unallowable costs and administering cost principles established pursuant to subchapter I of chapter 273 of this title.

(d) DEFINITIONS.—In this section:

(1) CONTRACTOR.—The term "contractor" includes contractors, bidders, and offerors, and individuals and legal entities who would reasonably be expected to submit offers or bids for Federal Government contracts.

(2) POLITICAL INFORMATION.—The term "political information" means information relating to political spending, including any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the contractor, any of its partners, officers, directors or employees, or any of its affiliates or

subsidiaries to a candidate or on behalf of a candidate for election for Federal office, to a political committee, to a political party, to a third party entity with the intention or reasonable expectation that it would use the payment to make independent expenditures or electioneering communications, or that is otherwise made with respect to any election for Federal office, party affiliation, and voting history.

(3) OTHER TERMS.—Each of the terms "contribution", "expenditure", "independent expenditure", "candidate", "election", "electioneering communication", and "Federal office" has the meaning given that term in the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.).

(Added Pub. L. 112–81, div. A, title VIII, §823(a), Dec. 31, 2011, 125 Stat. 1502, §2335; amended Pub. L. 113–291, div. A, title X, §1071(f)(17), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1081(a)(32), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 115–232, div. A, title VIII, §836(c)(10), Aug. 13, 2018, 132 Stat. 1866; renumbered §4660 and amended Pub. L. 116–283, div. A, title XVIII, §§1862(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4277, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(14), Dec. 27, 2021, 135 Stat. 2137.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, referred to in subsecs. (c)(1) and (d)(3), is Pub. L. 92–225, Feb. 7, 1972, 86 Stat. 3, which is classified principally to chapter 301 (§30101 et seq.) of Title 52, Voting and Elections. For complete classification of this Act to the Code, see Tables.

### PRIOR PROVISIONS

A prior section 4681, act Aug. 10, 1956, ch. 1041, 70A Stat. 262; Pub. L. 96–513, title V, §512(19), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 107–217, §3(b)(24), Aug. 21, 2002, 116 Stat. 1297, related to sale to States and certain foreign governments of surplus war material, prior to repeal by Pub. L. 114–328, div. A, title XII, §1253(a)(1)(D), Dec. 23, 2016, 130 Stat. 2532.

Prior sections 4682 to 4690 were renumbered sections 7682 to 7690 of this title, respectively.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1862(b), renumbered section 2335 of this title as this section.

Subsec. (c)(2). Pub. L. 117–81 substituted "subchapter I of chapter 273" for "section 2324".

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2324", which was redesignated as multiple sections.

**2018**—Subsec. (b). Pub. L. 115–232 substituted "commercial products and commercial services" for "commercial items".

**2017**—Subsecs. (c)(1), (d)(3). Pub. L. 115–91 substituted "(52 U.S.C. 30101 et seq.)" for "(2 U.S.C. 431 et seq.)".

**2014**—Subsec. (d)(2). Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence as par. (3).

Subsec. (d)(3). Pub. L. 113–291, §1071(f)(17)(B)(ii), (iii), substituted "that term" for "the term" and "Federal Election Campaign" for "Federal Campaign".

Pub. L. 113–291, §1071(f)(17)(B)(i), which directed amendment of par. (3) by inserting "OTHER TERMS .—" before "each of", was executed by making the insertion before "Each of" to reflect the probable intent of Congress.

Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence of par. (2) as (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

## §4661. Prohibition on certain procurements from the Xinjiang Uyghur Autonomous Region

(a) PROHIBITION ON THE AVAILABILITY OF FUNDS FOR CERTAIN PROCUREMENTS FROM XUAR.—None of the funds authorized to be appropriated by a national defense authorization Act or any other Act, or otherwise made available for any fiscal year for the Department of Defense, may be obligated or expended to knowingly procure any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR as part of a "poverty alleviation" or "pairing assistance" program.

(b) DEFINITIONS.—In this section, the terms "forced labor" and "XUAR" have the meanings given, respectively, in section 2496 of this title.

(Added Pub. L. 117–263, div. A, title VIII, §855(b), Dec. 23, 2022, 136 Stat. 2723.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**POLICY REQUIRED**

Pub. L. 117–263, div. A, title VIII, §855(d), Dec. 23, 2022, 136 Stat. 2723, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue a policy to require that an offeror or awardee of a Department of Defense contract shall make a good faith effort to determine that forced labor from XUAR, as described in section 4661 of title 10, United States Code (as amended by subsection (b)), will not be used in the performance of such contract."

## §4662. Prohibition on the transfer of certain data on employees of the Department of Defense to third parties

(a) IN GENERAL.—Each contract entered into by the Department of Defense on or after the date of the enactment of this section shall include a provision prohibiting the contractor and each subcontractor under such contract from selling, licensing, or otherwise transferring covered individually identifiable Department employee data to any individual or entity other than the Federal Government, except to the extent required to perform such contract or a subcontract under such contract. This provision does not apply in circumstances where the transfer of such data would otherwise be authorized by law.

(b) WAIVER.—The Secretary of Defense may waive the requirements of subsection (a) with respect to the sale, licensing, or other transfer of covered individually identifiable Department employee data if the Secretary determines that such waiver—

(1) appropriately considers the privacy risks to the employee of the Department of Defense to which such data relates; and

(2) is necessary in the interest of national security.

(c) REPORT.—Not later than January 15, 2026, and annually thereafter for four years, the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees a report on the use of the waiver authority under subsection (b) for the fiscal year preceding the date of submission of the report. The report shall include, for each use of the waiver—

(1) the specific justification for providing the waiver;

(2) an identification of the contractor or subcontractor that is the subject of the waiver request; and

(3) an identification of the purpose of the sale, licensing, or transfer of covered individually identifiable Department employee data that is the subject of the waiver request.

(d) DEFINITIONS.—In this section:

(1) The term "covered individually identifiable Department employee data" means individually identifiable Department employee data obtained by a contractor or subcontractor described in subsection (a).

(2) The term "individually identifiable Department employee data" means information related to an employee of the Department of Defense, including a member of the Armed Forces, that—

(A) identifies such employee; or

(B) which may be used to infer, by either direct or indirect means, the identity of such an employee to whom the information applies.

(Added Pub. L. 118–31, div. A, title VIII, §803, Dec. 22, 2023, 137 Stat. 312; amended Pub. L. 118–159, div. A, title VIII, §836, Dec. 23, 2024, 138 Stat. 1987.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159, §836(1), struck out "and that would be permissible pursuant to statute or guidance from the Director of the Office of Management and Budget" after "or a subcontract under such contract" and inserted at end "This provision does not apply in circumstances where the transfer of such data would otherwise be authorized by law."

Subsec. (b). Pub. L. 118–159, §836(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of Defense may waive the requirements of subsection (a) with respect to a sale, licensing, or other transfer of covered individually identifiable Department employee data if the Secretary determines that such waiver is appropriate."

Subsecs. (c), (d). Pub. L. 118–159, §836(3), (5), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(1). Pub. L. 118–159, §836(4), amended par. (1) generally. Prior to amendment, par. (1) defined covered individually identifiable Department employee data.

## §4663. Prohibition on contracting with covered entities that contract with lobbyists for Chinese military companies

(a) PROHIBITION ON ENTERING INTO CONTRACTS WITH COVERED ENTITIES .—Except as provided in subsection (c), the Secretary of Defense may not enter into a contract with an entity, a parent company of such entity, or a subsidiary of such entity if such entity is a party to a contract with a covered lobbyist.

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply with respect to an entity that made reasonable inquires regarding the lobbying activities of another entity and determined such entity was not a covered lobbyist.

(c) WAIVER.—Upon notification to Congress, the Secretary of Defense may waive the requirements of this section.

(d) DEFINITIONS.—In this section:

(1) The term "covered lobbyist" means an entity that engages in lobbying activities for any entity determined to be a Chinese military company listed in accordance with section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note).

(2) The term "lobbying activities" has the meaning given in section 1045(c) of the National Defense Authorization Act for Fiscal Year 2018 (10 U.S.C. 971 note prec.).

(Added Pub. L. 118–159, div. A, title VIII, §851(a), Dec. 23, 2024, 138 Stat. 1995; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(29), Dec. 18, 2025, 139 Stat. 1209.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (d)(1), is section 1260H of Pub. L. 116–283, which is set out as a note under section 113 of this title.

Section 1045(c) of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (d)(2), is section 1045(c) of Pub. L. 115–91, which is set out in a note preceding section 971 of this title.

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60 inserted "if such entity" before "is a party".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 118–159, div. A, title VIII, §851(b), Dec. 23, 2024, 138 Stat. 1995, provided that: "This section [enacting this section] and the amendments made by this section shall take effect on June 30, 2026."

## §4664. Requirements relating to long-term concessions agreements with certain retailers

(a) PROHIBITION ON CONTRACTING WITH CERTAIN RETAILERS.—Except as provided by subsections (b) and (c), the Secretary of Defense may not renew, extend, or enter into a long-term concessions agreement with a retailer that is controlled by a covered nation to permit such retailer to operate or conduct business through a physical location on a covered military installation.

(b) WAIVER.—(1) The Secretary may waive the requirements of subsection (a) with respect to a long-term concessions agreement with a retailer if the Secretary determines that—

(A) the goods or services to be provided by the retailer under such long-term concessions agreement are vital for the welfare and morale of members of the Armed Forces and no reasonable alternatives exist; and

(B) the Secretary has implemented adequate measures to mitigate any potential national security risks of the retailer.

(2) Not later than 30 days after each use of the waiver authority under paragraph (1), the Secretary shall provide to the Committees on Armed Services of the House of Representatives and Senate a justification for such waiver and a description of any risk mitigation strategies described in paragraph (1)(B).

(c) EXCEPTIONS.—Subsection (a) does not apply with respect to a long-term concessions agreement with a retailer if—

(1) such retailer has received a determination from the Committee on Foreign Investment in the United States (in this section referred to as the "Committee") that there are no unresolved national security concerns with respect to the retailer in connection to a matter submitted to the Committee and which the Committee concluded all action pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565); or

(2) such retailer is organized under the laws of the United States or any jurisdiction of the United States and is operated by citizens of the United States and the products offered for sale by such retailer on the covered military installation under such long-term concessions agreement are not produced in a covered nation.

(d) DEFINITIONS.—In this section:

(1) The term "controlled by a covered nation" means, with respect to a retailer—

(A) that the retailer is organized under the laws of a covered nation or any jurisdiction within a covered nation;

(B) that the government of a covered nation—

(i) owns 50 percent or more of the shares of the retailer; or

(ii) otherwise owns the controlling interest in such retailer; or

(C) that the retailer is subject to the direct control of the government of a covered nation.

(2) The term "covered military installation" means a military installation (as defined in section 2801 of this title) located in the United States.

(3) The term "covered nation" has the meaning given in section 4872 of this title.

(4) The term "long-term concessions agreement" means a contract, subcontract, or other agreement, including a lease agreement or licensing agreement, to operate a business through a physical location on a covered military installation entered into by—

(A) the Secretary of Defense or a Secretary of a military department and a person; or

(B) a person and a nonappropriated fund instrumentality.

(5) The term "retailer" means a person that operates or seeks to operate a business providing goods or services on a covered military installation under a contract, subcontract, or other agreement, including a lease agreement or licensing agreement, with—

(A) a nonappropriated fund instrumentality;

(B) the Secretary of Defense; or

(C) a Secretary of a military department.

(Added Pub. L. 119–60, div. A, title VIII, §841(b), Dec. 18, 2025, 139 Stat. 972.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REQUIREMENTS RELATING TO LONG-TERM CONCESSIONS AGREEMENTS WITH CERTAIN RETAILERS

Pub. L. 119–60, div. A, title VIII, §841(a), Dec. 18, 2025, 139 Stat. 971, provided that:

"(a) ASSESSMENT OF ESTABLISHED AGREEMENTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section [Dec. 18, 2025], the Secretary of Defense shall review each long-term concessions agreement to identify any such agreements with a retailer that is controlled by a covered nation that permit such retailer to operate or conduct business through a physical location on a covered military installation.

"(2) TERMINATION OF CERTAIN CONCESSIONS AGREEMENTS.—

"(A) IN GENERAL.—Not later than 30 days after making the determinations described in subparagraph (B) with respect to a long-term concessions agreement with a retailer, the Secretary of Defense shall terminate such long-term concessions agreement unless the Secretary waives this paragraph with respect to such retailer in accordance with section 4664(b) of title 10, United States Code, as added by this section.

"(B) DETERMINATIONS DESCRIBED.—The determinations described in this subparagraph are, with respect to a long-term concessions agreement—

"(i) a determination that the retailer that is a party to such long-term concessions agreement is controlled by a covered nation based on an assessment required by paragraph (1); and

"(ii) a determination that an exception under section 4664(c) of title 10, United States Code, as added by this section, would not apply with respect to such long-term concessions agreement with such retailer if such retailer entered into such long-term concessions agreement on or after the date of the enactment of this section.

"(3) BRIEFING.—Upon completing the review required by paragraph (1), the Secretary of Defense shall provide the Committees on Armed Services of the House of Representatives and Senate a briefing on the findings of such review and a summary of the actions taken to implement the requirements of section

4664 of title 10, United States Code, as added by this section.

"(4) CONTROLLED BY A COVERED NATION; COVERED MILITARY INSTALLATION; LONG-TERM CONCESSIONS AGREEMENT; RETAILER DEFINED.—The terms 'controlled by a covered nation', 'covered military installation', 'long-term concessions agreement', and 'retailer' have the meanings given such terms, respectively, in section 4664 of title 10, United States Code, as added by this section."

# CHAPTER 365—CONTRACTOR WORKFORCE

Sec.
4701. Contractor employees: protection from reprisal for disclosure of certain information.
4702. Incentives and consideration for qualified training programs.
4703. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides.
4704. Defense contractors: listing of suitable employment openings with local employment service office.
4705. Notice of contract cancellation or termination relating to remote or isolated installations.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 365 "CONTRACTOR WORKFORCE", consisting of reserved section 4701, was repealed by Pub. L. 116–283, div. A, title XVIII, §1863(a), Jan. 1, 2021, 134 Stat. 4278.

Another prior chapter 365, consisting of sections 3881 to 3889 relating to retirement for age of certain commissioned officers, some of which had previously been repealed, was repealed in its entirety by Pub. L. 96–513, title II, §216, title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title VIII, §808, Dec. 23, 2024, 138 Stat. 1977, added item 4705. Amendment was made pursuant to operation of section 102 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### POLICIES AND PROCEDURES FOR CONTRACTORS TO REPORT GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

Pub. L. 116–92, div. A, title VIII, §888, Dec. 20, 2019, 133 Stat. 1536, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall update Department of Defense policy and guidance and the Department of Defense Supplement to the Federal Acquisition Regulation to provide specific guidance to Department of Defense employees and contractors performing a Department of Defense contract that supports United States Armed Forces deployed outside of the United States on monitoring and reporting allegations of gross violations of internationally recognized human rights.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

"(1) the policies and procedures in place to obtain information about possible cases of gross violations of internationally recognized human rights from Department of Defense contractors described in subsection (a), including the methods for tracking cases; and

"(2) the resources needed to investigate reports made pursuant to subsection (a).

"(c) FORM OF REPORT.—The report required by subsection (b) shall be submitted in unclassified form, but may include a classified annex.

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—the term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(2) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term 'gross violations of internationally recognized human rights' has the meaning given such term in subsection (d)(1) of section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304)."

**PROHIBITION ON CONTRACTING WITH PERSONS THAT HAVE BUSINESS OPERATIONS WITH THE MADURO REGIME**

Pub. L. 116–92, div. A, title VIII, §890, Dec. 20, 2019, 133 Stat. 1538, provided that:

"(a) PROHIBITION.—Except as provided under subsections (c), (d), and (e), the Department of Defense may not enter into a contract for the procurement of goods or services with any person that has business operations with an authority of the Government of Venezuela that is not recognized as the legitimate Government of Venezuela by the United States Government.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—The prohibition under subsection (a) does not apply to a contract that the Secretary of Defense and the Secretary of State jointly determine—

"(A) is necessary—

"(i) for purposes of providing humanitarian assistance to the people of Venezuela;

"(ii) for purposes of providing disaster relief and other urgent life-saving measures; or

"(iii) to carry out noncombatant evacuations; or

"(B) is vital to the national security interests of the United States.

"(2) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate of any contract entered into on the basis of an exception provided for under paragraph (1).

"(c) OFFICE OF FOREIGN ASSETS CONTROL LICENSES.—The prohibition in subsection (a) shall not apply to a person that has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

"(d) AMERICAN DIPLOMATIC MISSION IN VENEZUELA.—The prohibition in subsection (a) shall not apply to contracts related to the operation and maintenance of the United States Government's consular offices and diplomatic posts in Venezuela.

"(e) DEFINITIONS.—In this section:

"(1) BUSINESS OPERATIONS.—The term 'business operations' means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"(2) GOVERNMENT OF VENEZUELA.—The term 'Government of Venezuela' includes the government of any political subdivision of Venezuela, and any agency or instrumentality of the Government of Venezuela. For purposes of this paragraph, the term 'agency or instrumentality of the Government of Venezuela' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to 'a foreign state' deemed to be a reference to 'Venezuela'.

"(3) PERSON.—The term 'person' means—

"(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

"(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

"(C) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph (A) or (B).

"(f) APPLICABILITY.—This section shall apply with respect to any contract entered into on or after the date of the enactment of this section [Dec. 20, 2019]."

## §4701. Contractor employees: protection from reprisal for disclosure of certain information

(a) PROHIBITION OF REPRISALS.—(1) An employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of the following:

(A) Gross mismanagement of a Department of Defense contract or grant, a gross waste of Department funds, an abuse of authority relating to a Department contract or grant, or a violation of law, rule, or regulation related to a Department contract (including the competition for or negotiation of a contract) or grant.

(B) Gross mismanagement of a National Aeronautics and Space Administration contract or grant, a gross waste of Administration funds, an abuse of authority relating to an Administration contract or grant, or a violation of law, rule, or regulation related to an Administration contract (including the competition for or negotiation of a contract) or grant.

(C) A substantial and specific danger to public health or safety.

(2) The persons and bodies described in this paragraph are the persons and bodies as follows:

(A) A Member of Congress or a representative of a committee of Congress.

(B) An Inspector General.

(C) The Government Accountability Office.

(D) An employee of the Department of Defense or the National Aeronautics and Space Administration, as applicable, responsible for contract oversight or management.

(E) An authorized official of the Department of Justice or other law enforcement agency.

(F) A court or grand jury.

(G) A management official or other employee of the contractor, subcontractor, grantee, subgrantee, or personal services contractor who has the responsibility to investigate, discover, or address misconduct.

(3) For the purposes of paragraph (1)—

(A) an employee who initiates or provides evidence of contractor, subcontractor, grantee, subgrantee, or personal services contractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Department of Defense or National Aeronautics and Space Administration contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of a Department or Administration official, unless the request takes the form of a nondiscretionary directive and is within the authority of the Department or Administration official making the request.

(b) INVESTIGATION OF COMPLAINTS.—(1) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned, and the head of the agency.

(2)(A) Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) If the Inspector General is unable to complete an investigation in time to submit a report

within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

(3) The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is—

(A) made with the consent of the person alleging the reprisal;

(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

(C) necessary to conduct an investigation of the alleged reprisal.

(4) A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

(A) Order the contractor, subcontractor, grantee, subgrantee, or personal services contractor to take affirmative action to abate the reprisal.

(B) Order the contractor, subcontractor, grantee, subgrantee, or personal services contractor to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the contractor, subcontractor, grantee, subgrantee, or personal services contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(D) Consider disciplinary or corrective action against any official of the Department of Defense.

(2) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of either the actions ordered or the decision to deny relief. After such notification, if the head of the agency concerned changes the actions ordered or the decision to deny relief, the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of the change not later than 30 days after the change occurs.

(3) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (2)(B) of such subsection, not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor, subcontractor, grantee, subgrantee, or personal services contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

(4) An Inspector General determination and an agency head order denying relief under paragraph (3) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this

subsection.

(5) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.

(6) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an agency, unless a stay is specifically entered by the court.

(7) The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

(8) The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment.

(d) NOTIFICATION OF EMPLOYEES.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall ensure that contractors, subcontractors, grantees, subgrantees, or personal services contractors of the Department of Defense and the National Aeronautics and Space Administration, as applicable, inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

(e) EXCEPTIONS.—(1) This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor of an element of the intelligence community if such disclosure—

(A) relates to an activity of an element of the intelligence community; or

(B) was discovered during contract, subcontract, grantee, or subgrantee services provided to an element of the intelligence community.

(f) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(g) DEFINITIONS.—In this section:

(1) The term "agency" means an agency named in section 3063 of this title.

[(2) Repealed. Pub. L. 116–283, div. A, title XVIII, §1863(c)(2), Jan. 1, 2021, 134 Stat. 4278.]

(3) The term "contract" means a contract awarded by the head of an agency.

(4) The term "contractor" means a person awarded a contract with an agency.

(5) The term "Inspector General" means an Inspector General appointed under chapter 4 of title 5 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the Secretary of Defense.

(6) The term "abuse of authority" means the following:

(A) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the Department of Defense or the successful performance of a Department contract or grant.

(B) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the National Aeronautics and Space Administration or the successful performance of an Administration contract or grant.

(7) The term "grantee" means a person awarded a grant with an agency.

(Added Pub. L. 99–500, §101(c) [title X, §942(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–162, and Pub. L. 99–591, §101(c) [title X, §942(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–162, §2409; Pub. L. 99–661, div. A, title IX, formerly title IV, §942(a)(1), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 102–25, title VII, §701(k)(1), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. A, title X, §1052(30)(A), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–355, title VI, §6005(a), Oct. 13, 1994, 108 Stat. 3364; Pub. L. 104–106, div. D, title XLIII, §4321(a)(10), Feb. 10, 1996, 110 Stat. 671; Pub. L. 110–181, div. A, title VIII, §846, Jan. 28, 2008, 122 Stat. 241; Pub. L. 112–239, div. A, title VIII, §827(a)–(f), Jan. 2, 2013, 126 Stat. 1833–1836; Pub. L. 113–291, div. A, title VIII, §856, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3460, 3509; Pub. L. 114–261, §1(a)(1), Dec. 14, 2016, 130 Stat. 1362; renumbered §4701 and amended Pub. L. 116–283, div. A, title XVIII, §1863(b), (c), Jan. 1, 2021, 134 Stat. 4278; Pub. L. 117–263, div. A, title VIII, §807(a), Dec. 23, 2022, 136 Stat. 2703; Pub. L. 117–286, §4(b)(28), Dec. 27, 2022, 136 Stat. 4346; Pub. L. 118–159, div. A, title VIII, §837, Dec. 23, 2024, 138 Stat. 1987.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### AMENDMENTS

**2024**—Subsec. (c)(2). Pub. L. 118–159, §837(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 118–159, §837(1), (3), redesignated par. (2) as (3) and substituted "paragraph (2)(B) of such subsection" for "paragraph (b)(2)(B)". Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 118–159, §837(1), (4), redesignated par. (3) as (4) and substituted "paragraph (3)" for "paragraph (2)". Former par. (4) redesignated (5).

Subsec. (c)(5) to (8). Pub. L. 118–159, §837(1), redesignated pars. (4) to (7) as (5) to (8), respectively.

**2022**—Subsec. (a)(2)(G), (3)(A). Pub. L. 117–263, §807(a)(1)(A), (B), substituted ", subcontractor, grantee, subgrantee, or personal services contractor" for "or subcontractor".

Subsec. (b)(1). Pub. L. 117–263, §807(a)(2), substituted "contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned" for "contractor concerned".

Subsec. (c)(1). Pub. L. 117–263, §807(a)(3)(A)(i), substituted "contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned" for "contractor concerned" in introductory provisions.

Subsec. (c)(1)(A) to (C). Pub. L. 117–263, §807(a)(3)(A)(ii)–(iv), inserted ", subcontractor, grantee, subgrantee, or personal services contractor" after "contractor".

Subsec. (c)(1)(D). Pub. L. 117–263, §807(a)(3)(A)(v), added subpar. (D).

Subsec. (c)(2). Pub. L. 117–263, §807(a)(3)(B), inserted ", subcontractor, grantee, subgrantee, or personal services contractor" after "contractor".

Subsec. (d). Pub. L. 117–263, §807(a)(4), substituted ", subcontractors, grantees, subgrantees, or personal services contractors" for "and subcontractors".

Subsec. (e)(2). Pub. L. 117–263, §807(a)(5)(A), substituted "grantee, subgrantee, or personal services contractor of" for "or grantee of" in introductory provisions.

Subsec. (e)(2)(B). Pub. L. 117–263, §807(a)(5)(B), substituted "grantee, or subgrantee" for "or grantee".

Subsec. (g)(5). Pub. L. 117–286, which directed amendment of section 2409(g)(5) of this title by substituting "chapter 4 of title 5" for "the Inspector General Act of 1978", was executed to subsec. (g)(5) of this section, to reflect the probable intent of Congress and the amendment by Pub. L. 116–283, §1863(b), which had renumbered section 2409 of this title as this section. See 2021 Amendment note below.

Pub. L. 117–263, §807(a)(6), inserted "or grants" after "contracts".

**2021**—Pub. L. 116–283, §1863(b), renumbered section 2409 of this title as this section.

Subsec. (g)(1). Pub. L. 116–283, §1863(c)(1), substituted "section 3063" for "section 2303".

Subsec. (g)(2). Pub. L. 116–283, §1863(c)(2), struck out par. (2) which defined "head of an agency".

**2016**—Subsec. (a)(1). Pub. L. 114–261 inserted "or personal services contractor" after "subgrantee" in introductory provisions.

**2014**—Subsec. (a)(1). Pub. L. 113–291, §856(a), substituted ", subcontractor, grantee, or subgrantee" for "or subcontractor" in introductory provisions.

Subsec. (e)(1). Pub. L. 113–291, §1071(c)(10), substituted "(50 U.S.C. 3003(4))" for "(50 U.S.C. 401a(4))".

Subsec. (g)(4). Pub. L. 113–291, §856(b)(1), struck out "or a grant" after "contract".

Subsec. (g)(7). Pub. L. 113–291, §856(b)(2), added par. (7).

**2013**—Subsec. (a). Pub. L. 112–239, §827(a)(1), designated existing provisions as par. (1).

Subsec. (a)(1). Pub. L. 112–239, §827(a)(2), inserted "or subcontractor" after "employee of a contractor", substituted "a person or body described in paragraph (2)" for "a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, a Department of Defense employee responsible for contract oversight or management, or an authorized official of an agency or the Department of Justice" and "evidence of the following:" for "evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant.", and added subpars. (A) to (C).

Subsec. (a)(2), (3). Pub. L. 112–239, §827(a)(3), added pars. (2) and (3).

Subsec. (b)(1). Pub. L. 112–239, §827(b)(1), inserted "fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant," after "is frivolous,".

Subsec. (b)(2)(A). Pub. L. 112–239, §827(b)(2)(A), inserted ", fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant" after "is frivolous".

Subsec. (b)(2)(B). Pub. L. 112–239, §827(b)(2)(B), inserted ", up to 180 days," after "such additional period of time".

Subsec. (b)(3), (4). Pub. L. 112–239, §827(b)(3), added pars. (3) and (4).

Subsec. (c)(1)(B). Pub. L. 112–239, §827(c)(1), substituted "compensatory damages (including back pay)" for "the compensation (including back pay)".

Subsec. (c)(2). Pub. L. 112–239, §827(c)(2), inserted at end "An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted."

Subsec. (c)(4). Pub. L. 112–239, §827(c)(3), substituted ", compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency." for "and compensatory and exemplary damages."

Subsec. (c)(5). Pub. L. 112–239, §827(c)(4), inserted at end "Filing such an appeal shall not act to stay the enforcement of the order of the head of an agency, unless a stay is specifically entered by the court."

Subsec. (c)(6), (7). Pub. L. 112–239, §827(c)(5), added pars. (6) and (7).

Subsec. (d). Pub. L. 112–239, §827(d)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 112–239, §827(e), added subsec. (e). Former subsec. (e) redesignated (g).

Subsecs. (f), (g). Pub. L. 112–239, §827(d)(1), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

Subsec. (g)(6). Pub. L. 112–239, §827(f), added par. (6).

**2008**—Subsec. (a). Pub. L. 110–181, §846(a), substituted "disclosing to a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, a Department of Defense employee responsible for contract oversight or management," for "disclosing to a Member of Congress" and "information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant" for "information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)".

Subsec. (b). Pub. L. 110–181, §846(b), designated existing provisions as par. (1), substituted "the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration" for "an agency", and added par. (2).

Subsec. (c)(1). Pub. L. 110–181, §846(c)(1), in introductory provisions, substituted "Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall" for "If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may".

Subsec. (c)(2) to (5). Pub. L. 110–181, §846(c)(2), (3), added pars. (2) and (3) and redesignated former

pars. (2) and (3) as (4) and (5), respectively.

Subsec. (e)(4). Pub. L. 110–181, §846(d)(1), inserted "or a grant" after "a contract".

Subsec. (e)(5). Pub. L. 110–181, §846(d)(2), inserted "and any Inspector General that receives funding from, or has oversight over contracts awarded for or on behalf of, the Secretary of Defense" before period at end.

**1996**—Pub. L. 104–106 made technical correction to Pub. L. 103–355, §6005(a). See 1994 Amendment note below.

**1994**—Pub. L. 103–355, §6005(a), as amended by Pub. L. 104–106, amended section generally. Prior to amendment, subsec. (a) related to prohibition of reprisals, subsec. (b) to investigation of complaints, subsec. (c) to construction of section, and subsec. (d) to coordination of section with former section 2409a of this title.

**1992**—Subsec. (d). Pub. L. 102–484 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "EFFECTIVE DATE.—This section shall not be in effect during the period when section 2409a of this title is in effect."

**1991**—Subsec. (d). Pub. L. 102–25 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VIII, §827(i), Jan. 2, 2013, 126 Stat. 1836, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section and former section 2324 of this title] shall take effect on the date that is 180 days after the date of the enactment of this Act [Jan. 2, 2013], and shall apply to—

"(A) all contracts awarded on or after such date;

"(B) all task orders entered on or after such date pursuant to contracts awarded before, on, or after such date; and

"(C) all contracts awarded before such date that are modified to include a contract clause providing for the applicability of such amendments.

"(2) REVISION OF SUPPLEMENTS TO THE FAR.—Not later than 180 days after the date of the enactment of this Act, the Department of Defense Supplement to the Federal Acquisition Regulation and the National Aeronautics and Space Administration Supplement to the Federal Acquisition Regulation shall each be revised to implement the requirements arising under the amendments made by this section.

"(3) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a contract that was awarded before the date that is 180 days after the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section to the contract."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. D, title XLIII, §4321(a), Feb. 10, 1996, 110 Stat. 671, provided that the amendment made by that section is effective as of Oct. 13, 1994, and as if included in Pub. L. 103–355 as enacted.

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title X, §1052(30)(B), Oct. 23, 1992, 106 Stat. 2501, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect as if enacted immediately following the enactment of Public Law 102–25 (105 Stat. 75)."

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title X, §942(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–162, Pub. L. 99–591, §101(c) [title X, §942(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–162, and Pub. L. 99–661, div. A, title IX,

formerly title IV, §942(b), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2409 of title 10, United States Code [now 10 U.S.C. 4701] (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act [Oct. 18, 1986]."

**CONSTRUCTION**

Pub. L. 112–239, div. A, title VIII, §827(h), Jan. 2, 2013, 126 Stat. 1836, provided that: "Nothing in this section, or the amendments made by this section [amending this section and section 2324 of this title and enacting provisions set out as a note under this section], shall be construed to provide any rights to disclose classified information not otherwise provided by law."

**PROHIBITION ON AWARDING OF CONTRACTS TO CONTRACTORS THAT REQUIRE NONDISCLOSURE AGREEMENTS RELATING TO WASTE, FRAUD, OR ABUSE**

Pub. L. 116–283, div. A, title VIII, §883, Jan. 1, 2021, 134 Stat. 3790, provided that:

"(a) IN GENERAL.—The Secretary of Defense may not award a contract for the procurement of goods or services to a contractor unless the contractor represents that—

"(1) it does not require its employees to sign internal confidentiality agreements or statements that would prohibit or otherwise restrict such employees from lawfully reporting waste, fraud, or abuse related to the performance of a Department of Defense contract to a designated investigative or law enforcement representative of the Department of Defense authorized to receive such information; and

"(2) it will inform its employees of the limitations on confidentiality agreements and other statements described in paragraph (1).

"(b) RELIANCE ON REPRESENTATION.—A contracting officer of the Department of Defense may rely on the representation of a contractor as to the requirements described under subsection (a) in awarding a contract unless the officer has reason to question the accuracy of the representation."

**INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE**

Pub. L. 114–261, §1(c), Dec. 14, 2016, 130 Stat. 1363, provided that: "At the time of any major modification to a contract that was awarded before the date of the enactment of this Act [Dec. 14, 2016], the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section [amending this section, section 2324 of this title, and sections 4304, 4310, and 4712 of Title 41, Public Contracts] and section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 1833) [amending this section and section 2324 of this title]."

**INFORMATION FOR DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES ON THEIR WHISTLEBLOWER RIGHTS**

Pub. L. 110–417, [div. A], title VIII, §842, Oct. 14, 2008, 122 Stat. 4539, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that contractors of the Department of Defense inform their employees in writing of employee whistleblower rights and protections under section 2409 of title 10, United States Code [now 10 U.S.C. 4701], as implemented by subpart 3.9 of part I of title 48, Code of Federal Regulations.

"(b) CONTRACTOR DEFINED.—In this section, the term 'contractor' has the meaning given that term in section 2409(e)(4) of title 10, United States Code [now 10 U.S.C. 4701(g)(4)]."

## §4702. Incentives and consideration for qualified training programs

(a) INCENTIVES.—The Secretary of Defense shall develop workforce development investment incentives for a contractor that implements a qualified training program to develop the workforce of the contractor in a manner consistent with the needs of the Department of Defense.

(b) CONSIDERATION OF QUALIFIED TRAINING PROGRAMS.—The Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to require that the system used by the Federal Government to monitor or record contractor past performance includes an analysis of the availability, quality, and effectiveness of a qualified training program of an offeror as part of the past performance rating of such offeror.

(c) QUALIFIED TRAINING PROGRAM DEFINED.—The term "qualified training program"

means any of the following:

(1) A program eligible to receive funds under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.).

(2) A program eligible to receive funds under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(3) A program registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664; chapter 663; 29 U.S.C. 50 et seq.).

(4) Any other program determined to be a qualified training program for purposes of this section, and that meets the workforce needs of the Department of Defense, as determined by the Secretary of Defense.

(Added Pub. L. 116–92, div. A, title VIII, §864(a), Dec. 20, 2019, 133 Stat. 1522, §2409a; renumbered §4702 and amended Pub. L. 116–283, div. A, title X, §1081(a)(40), title XVIII, §1863(b), Jan. 1, 2021, 134 Stat. 3873, 4278.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (c)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Act of August 16, 1937, referred to in subsec. (c)(3), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, popularly known as the National Apprenticeship Act, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2409a of this title as this section.

Subsec. (c)(3). Pub. L. 116–283, §1081(a)(40), substituted "50 Stat. 664;" for "Stat. 664,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1863(b) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4703. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides

(a) ASSISTANCE PROGRAM.—The Secretary of Defense may enter into a cooperative agreement with a defense contractor in order—

(1) to assist an eligible scientist or engineer employed by the contractor whose employment is terminated to obtain—

(A) certification or licensure as an elementary or secondary school teacher; or

(B) the credentials necessary to serve as a teacher's aide; and

(2) to facilitate the employment of the scientist or engineer by a local educational agency that—

(A) is receiving a grant under title I of the Elementary and Secondary Education Act of 1965

(20 U.S.C. 6301 et seq.) as a result of having within its jurisdiction concentrations of children from low-income families; and

(B) is also experiencing a shortage of teachers or teachers' aides.

(b) ELIGIBLE DEFENSE CONTRACTORS.—(1) The Secretary of Defense shall establish an application and selection process for the participation of defense contractors in a cooperative agreement authorized under subsection (a).

(2) The Secretary shall determine which defense contractors are eligible to participate in the placement program on the basis of applications submitted under subsection (c). The Secretary shall limit participation to those defense contractors or subcontractors that—

(A) produce goods or services for the Department of Defense pursuant to a defense contract or operate nuclear weapons manufacturing facilities for the Department of Energy; and

(B) have recently reduced operations, or are likely to reduce operations, due to the completion or termination of a defense contract or program or by reductions in defense spending.

(3) The Secretary shall give special consideration to defense contractors who are located in areas that have been hit particularly hard by reductions in defense spending.

(c) DEFENSE CONTRACTOR APPLICATIONS.—(1) A defense contractor desiring to enter into a cooperative agreement with the Secretary of Defense under subsection (a) shall submit an application to the Secretary containing the following:

(A) Evidence that the contractor has been, or is expected to be, adversely affected by the completion or termination of a defense contract or program or by reductions in defense spending.

(B) An explanation that scientists and engineers employed by the contractor have been terminated, laid off, or retired, or are likely to be terminated, laid off, or retired, as a result of the completion or termination of a defense contract or program or reductions in defense spending.

(C) A description of programs implemented or proposed by the contractor to assist these scientists and engineers.

(D) A commitment to help fund the costs associated with the placement program by paying 50 percent of the stipend provided under subsection (g) to an employee or former employee of the contractor selected to receive assistance under this section.

(2) Once a cooperative agreement is entered into under subsection (a) between the Secretary and the defense contractor, the contractor shall publicize the program and distribute applications to prospective participants, and assist the prospective participants with the State screening process.

(d) ELIGIBLE SCIENTISTS AND ENGINEERS.—An individual shall be eligible for selection by the Secretary of Defense to receive assistance under this section if the individual—

(1) is employed or has been employed for not less than five years as a scientist or engineer with a private defense contractor that has entered into an agreement under subsection (a);

(2) has received—

(A) in the case of an individual applying for assistance for placement as an elementary or secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

(B) in the case of an individual applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(3) has been terminated or laid off (or received notice of termination or lay off) as a result of the completion or termination of a defense contract or program or reductions in defense spending; and

(4) satisfies such other criteria for selection as the Secretary may prescribe.

(e) SELECTION OF PARTICIPANTS.—(1) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary shall give priority to individuals who—

(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

(2) The Secretary may not select an individual under this section unless the Secretary has sufficient appropriations to carry out this section available at the time of the selection to satisfy the obligations to be incurred by the United States under this section with respect to that individual.

(f) AGREEMENT.—An individual selected under this section shall be required to enter into an agreement with the Secretary in which the participant agrees—

(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

(2) to accept—

(A) in the case of an individual selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2) of this title, as in effect on October 4, 1999, to begin the school year after obtaining that certification or licensure; or

(B) in the case of an individual selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3) of this title, as in effect on October 4, 1999, to begin the school year after obtaining the necessary credentials.

(g) STIPEND FOR PARTICIPANTS.—(1) The Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

(A) $5,000; or

(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) [1] of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

(2) A stipend provided under this section shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(h) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES .—Subsections (h) through (k) of section 1151 of this title, as in effect on October 4, 1999, shall apply with respect to the placement as teachers and teachers' aides of individuals selected under this section.

(Added Pub. L. 102–484, div. D, title XLIV, §4443(a), Oct. 23, 1992, 106 Stat. 2732, §2410c; renumbered §2410j and amended Pub. L. 103–35, title II, §201(b)(1)(A), (g)(6), May 31, 1993, 107 Stat. 97, 100; Pub. L. 103–160, div. A, title XIII, §1331(c)(3), Nov. 30, 1993, 107 Stat. 1792; Pub. L. 103–382, title III, §391(b)(5), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title XV, §1503(a)(23), Feb. 10, 1996, 110 Stat. 512; Pub. L. 104–201, div. A, title V, §576(c), Sept. 23, 1996, 110 Stat. 2535; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(14)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; renumbered §4703, Pub. L. 116–283, div. A, title XVIII, §1863(b), Jan. 1, 2021, 134 Stat. 4278.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

Section 1151 of this title, referred to in subsecs. (f)(2)(A), (B) and (h), was repealed by Pub. L. 106–65, div. A, title XVII, §1707(a)(1), Oct. 5, 1999, 113 Stat. 823, and a new section 1151 of this title was subsequently added by Pub. L. 109–364, §561(a).

Section 472 of the Higher Education Act of 1965, referred to in subsec. (g)(1)(B), which is classified to section 1087ll of Title 20, Education, was generally amended by Pub. L. 116–260, div. FF, title VII, §702(b), Dec. 27, 2020, 134 Stat. 3138. For provisions similar to former pars. (1), (2), (3), (8), and (9), see subsec. (a)(1), (2), (5), (9), and (10), respectively, of section 1087ll of Title 20.

The Higher Education Act of 1965, referred to in subsec. (g)(2), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410j of this title as this section.

**2000**—Subsec. (f)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(14)(A)], inserted "as in effect on October 4, 1999," after "of this title," in subpars. (A) and (B).

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(14)(B)], inserted ", as in effect on October 4, 1999," after "of this title".

**1996**—Subsec. (a)(2)(A). Pub. L. 104–106 substituted "6301" for "2701".

Subsec. (f)(2)(A), (B). Pub. L. 104–201 substituted "two school years" for "five school years".

**1994**—Subsec. (a)(2)(A). Pub. L. 103–382 struck out "chapter 1 of" after "grant under".

**1993**—Pub. L. 103–35, §201(b)(1)(A), renumbered section 2410c of this title as section 2410j.

Subsec. (f)(2)(A), (B). Pub. L. 103–160 substituted "five school years" for "two school years".

Subsec. (f)(2)(B). Pub. L. 103–35, §201(g)(6), substituted "aide" for "aid" after "for placement as a teacher's".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–160 not applicable with respect to persons selected by Secretary of Defense before Nov. 30, 1993, to participate in teacher and teacher's aide placement programs established pursuant to sections 1598 and 4703 of this title and former section 1151 of this title or agreements entered into by Secretary before such date with local educational agencies under such sections, see section 1331(h) of Pub. L. 103–160, set out as a note under section 1598 of this title.

### SAVINGS PROVISION

Amendments by section 576 of Pub. L. 104–201 not to affect obligations under agreements entered into in accordance with section 1598 or 4703 of this title or former section 1151 of this title before Sept. 23, 1996, see section 576(d) of Pub. L. 104–201, set out as a note under section 1598 of this title.

[1] *See References in Text note below.*

# §4704. Defense contractors: listing of suitable employment openings with local employment service office

(a) REGULATIONS.—The Secretary of Defense shall promulgate regulations containing the requirement described in subsection (b) and such other provisions as the Secretary considers necessary to administer such requirement. Such regulations shall require that each contract described in subsection (c) shall contain a clause requiring the contractor to comply with such regulations.

(b) REQUIREMENT.—The regulations promulgated under this section shall require each contractor carrying out a contract described in subsection (c) to list immediately with the appropriate local employment service office, and where appropriate the Interstate Job Bank (established by the United States Employment Service), all of its suitable employment openings under such contract.

(c) COVERED CONTRACTS.—The regulations promulgated under this section shall apply to any contract entered into with the Department of Defense in an amount of $500,000 or more.

(Added Pub. L. 102–484, div. D, title XLIV, §4470(a)(1), Oct. 23, 1992, 106 Stat. 2753, §2410d; renumbered §2410k and amended Pub. L. 103–35, title II, §§201(b)(1)(A), 202(a)(18)(A), May 31, 1993, 107 Stat. 97, 102; renumbered §4704, Pub. L. 116–283, div. A, title XVIII, §1863(b), Jan. 1, 2021, 134 Stat. 4278.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4711, act Aug. 10, 1956, ch. 1041, 70A Stat. 263, related to inquests, prior to repeal by Pub. L. 106–65, div. A, title VII, §721(b), Oct. 5, 1999, 113 Stat. 694.

A prior section 4712 was renumbered section 7712 of this title.

A prior section 4713, acts Aug. 10, 1956, ch. 1041, 70A Stat. 265; Dec. 12, 1980, Pub. L. 96–513, title V, §512(21)(A), (B), 94 Stat. 2930; Nov. 8, 1985, Pub. L. 99–145, title XIII, §1301(b)(4)(B), 99 Stat. 736; Nov. 29, 1989, Pub. L. 101–189, div. A, title XVI, §1621(a)(1), 103 Stat. 1602, related to disposition of effects of deceased persons by Soldiers' and Airmen's Home, prior to repeal by Pub. L. 101–510, div. A, title XV, §§1533(a)(7)(A), 1541, Nov. 5, 1990, 104 Stat. 1734, 1736, effective one year after Nov. 5, 1990.

Prior sections 4714 and 4721 to 4727 were renumbered sections 7714 and 7721 to 7727 of this title, respectively.

A prior section 4741, act Aug. 10, 1956, ch. 1041, 70A Stat. 266, related to control and supervision of transportation of members, munitions of war, equipment, military property, and stores of the Army throughout the United States, prior to repeal by Pub. L. 108–375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058.

A prior section 4742 was renumbered section 2644 of this title.

A prior section 4743, act Aug. 10, 1956, ch. 1041, 70A Stat. 266, related to use of transportation by officers of the Army, prior to repeal by Pub. L. 108–375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058.

Prior sections 4744 to 4747 were renumbered sections 2648 to 2651 of this title, respectively.

A prior section 4748, act Aug. 10, 1956, ch. 1041, 70A Stat. 268, related to transportation of motor vehicles for members on permanent change of station, prior to repeal by Pub. L. 87–651, title I, §119(1), Sept. 7, 1962, 76 Stat. 513.

A prior section 4749 was renumbered section 7749 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2410k of this title as this section.

**1993**—Pub. L. 103–35, §201(b)(1)(A), renumbered section 2410d of this title as section 2410k.

Pub. L. 103–35, §202(a)(18)(A), made technical amendment to directory language of Pub. L. 102–484, which enacted this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 202(a)(18)(A) of Pub. L. 103–35 applicable as if included in the enactment of Pub. L. 102–484, see section 202(b) of Pub. L. 103–35, set out as a note under section 155 of this title.

**EFFECTIVE DATE**

Pub. L. 102–484, div. D, title XLIV, §4470(b), Oct. 23, 1992, 106 Stat. 2753, provided that: "Section 2410d of title 10, United States Code [now 10 U.S.C. 4704], as added by subsection (a), shall apply with respect to contracts entered into beginning 120 days after the date of the enactment of this Act [Oct. 23, 1992]."

## §4705. Notice of contract cancellation or termination relating to remote or isolated installations

(a) IN GENERAL.—Except as provided by subsection (c), not later than 30 days before the date on which the Secretary of Defense or any other official of an element of the Department of Defense cancels or terminates a contract, the Secretary shall submit to Congress a notice of such cancellation or termination if such cancellation or termination involves a reduction in employment of not fewer than—

(1) 50 remote or isolated installation contractor employees; or

(2) 100 employees of contractors, including remote or isolated installation contractor employees.

(b) REQUIREMENTS.—A notice described in subsection (a) shall include an assessment of the effect of such cancellation or termination on members of the armed forces.

(c) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) with respect to the cancellation or termination of a contract if the Secretary determines that such waiver is in the interest of national security.

(2) If the Secretary waives the requirements of subsection (a) with respect to the cancellation or termination of a contract, the Secretary shall submit the notice required by such subsection with respect to such cancellation or termination not later than one week after such cancellation or termination.

(d) DEFINITIONS.—In this section:

(1) The term "remote or isolated installation" means a military installation (as defined in section 2801 of this title) that is a remote military installation, as determined by the Secretary pursuant to the policy required by section 565 of the National Defense Authorization Act for Fiscal Year 2022 (10 U.S.C. 1781b note).

(2) The term "remote or isolated installation contractor employee" means an individual who—

(A) is an employee of a contractor;

(B) as such an employee, provides goods or services to a remote or isolated installation; and

(C) resides in the same geographic area as such remote or isolated installation.

(Added Pub. L. 118–159, div. A, title VIII, §808, Dec. 23, 2024, 138 Stat. 1977.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 565 of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (d)(1), is section 565 of Pub. L. 117–81, which is set out as a note under section 1781b of this title.

# CHAPTER 367—OTHER ADMINISTRATIVE MATTERS

Sec.
4751. Determinations and decisions.
4752. Remission of liquidated damages.
4753. Supplies: identification of supplier and sources.
4754. Management of purchase cards.

**EDITORIAL NOTES**

## PRIOR PROVISIONS

A prior chapter 367 "OTHER ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS", consisting of reserved section 4751, was repealed by Pub. L. 116–283, div. A, title XVIII, §1864(a), Jan. 1, 2021, 134 Stat. 4279.

Another prior chapter 367 was renumbered chapter 741 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON ENHANCING INFORMATION SHARING FOR SECURITY OF SUPPLY CHAIN

Pub. L. 115–91, div. A, title XVI, §1696, Dec. 12, 2017, 131 Stat. 1793, provided that:

"(a) ESTABLISHMENT.—Not later than June 1, 2019, the Secretary of Defense shall establish a pilot program to enhance information sharing with cleared defense contractors to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs.

"(b) SELECTION.—The Secretary shall select not more than 10 acquisition or sustainment programs of the Department of Defense to participate in the pilot program under subsection (a), of which—

"(1) not fewer than one program shall be related to nuclear weapons;

"(2) not fewer than one program shall be related to nuclear command, control, and communications;

"(3) not fewer than one program shall be related to continuity of government;

"(4) not fewer than one program shall be related to ballistic missile defense;

"(5) not fewer than one program shall be related to other command and control systems; and

"(6) not fewer than one program shall be related to space systems.

"(c) REPORT.—Not later than March 1, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) details on how the Secretary will establish the pilot program under subsection (a) to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs;

"(2) details of any personnel, funding, or statutory constraints in carrying out the pilot program; and

"(3) the identification of any legislative action or administrative action required to provide the Secretary with specific additional authorities required to fully implement the pilot program.

"(d) CLEARED DEFENSE CONTRACTORS DEFINED.—In this section, the term 'cleared defense contractors' means contractors of the Department of Defense who have a security clearance, including contractor facilities that have a security clearance."

### ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITYONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY; DEFENSE ACQUISITION UNIVERSITY TRAINING

Pub. L. 114–328, div. A, title VIII, §898, Dec. 23, 2016, 130 Stat. 2327, as amended by Pub. L. 116–92, div. A, title IX, §902(32), Dec. 20, 2019, 133 Stat. 1546, provided that:

"(a) ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITYONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a panel to be known as the 'Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity' (hereafter in this section referred to as the 'Panel'). The Panel shall be supported by the Defense Acquisition University, established under section 1746 of title 10, United States Code, and the National Defense University, including administrative support.

"(2) COMPOSITION.—The Panel shall be composed of the following:

"(A) A representative of the Under Secretary of Defense for Acquisition and Sustainment, who shall be the chairman of the Panel.

"(B) A representative from the AbilityOne Commission.

"(C) A representative of the service acquisition executive of each military department and Defense Agency (as such terms are defined, respectively, in section 101 of title 10, United States Code).

"(D) A representative of the Under Secretary of Defense (Comptroller).

"(E) A representative of the Inspector General of the Department of Defense and the AbilityOne Commission.

"(F) A representative from each of the Army Audit Agency, the Navy Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency.

"(G) The President of the Defense Acquisition University, or a designated representative.

"(H) One or more subject matter experts on veterans employment from a veterans service organization.

"(I) A representative of the Commission Directorate of Veteran Employment of the AbilityOne Commission whose duties include maximizing opportunities to employ significantly disabled veterans in accordance with the regulations of the AbilityOne Commission.

"(J) One or more representatives from the Department of Justice who are subject matter experts on compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission.

"(K) One or more representatives from the Department of Justice who are subject matter experts on Department of Defense contracts, Federal Prison Industries, and the requirements of the Javits-Wagner-O'Day Act [see 41 U.S.C. 8501 et seq.].

"(L) Such other representatives as may be determined appropriate by the Under Secretary of Defense for Acquisition and Sustainment.

"(b) MEETINGS.—The Panel shall meet as determined necessary by the chairman of the Panel, but not less often than once every three months.

"(c) DUTIES.—The Panel shall—

"(1) review the status of and progress relating to the implementation of the recommendations of report number DODIG–2016–097 of the Inspector General of the Department of Defense titled 'DoD Generally Provided Effective Oversight of AbilityOne Contracts', published on June 17, 2016;

"(2) recommend actions the Department of Defense and the AbilityOne Commission may take to eliminate waste, fraud, and abuse with respect to contracts of the Department of Defense and the AbilityOne Commission;

"(3) recommend actions the Department of Defense and the AbilityOne Commission may take to ensure opportunities for the employment of significantly disabled veterans and the blind and other severely disabled individuals;

"(4) recommend changes to law, regulations, and policy that the Panel determines necessary to eliminate vulnerability to waste, fraud, and abuse with respect to the performance of contracts of the Department of Defense;

"(5) recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the AbilityOne Commission that considers the definitions of disability used by the Secretary of Veterans Affairs and the AbilityOne Commission;

"(6) recommend ways the Department of Defense and the AbilityOne Commission may explore opportunities for competition among qualified nonprofit agencies or central nonprofit agencies and ensure an equitable selection and allocation of work to qualified nonprofit agencies;

"(7) recommend changes to business practices, information systems, and training necessary to ensure that—

"(A) the AbilityOne Commission complies with regulatory requirements related to the establishment and maintenence of the procurement list established pursuant to section 8503 of title 41, United States Code; and

"(B) the Department of Defense complies with the statutory and regulatory requirements for use of such procurement list; and

"(8) any other duties determined necessary by the Secretary of Defense.

"(d) CONSULTATION.—To carry out the duties described in subsection (c), the Panel may consult or contract with other executive agencies and with experts from qualified nonprofit agencies or central nonprofit agencies on—

"(1) compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission;

"(2) employment of significantly disabled veterans; and

"(3) vocational rehabilitation.

"(e) AUTHORITY.—To carry out the duties described in subsection (c), the Panel may request documentation or other information needed from the AbilityOne Commission, central nonprofit agencies, and qualified nonprofit agencies.

"(f) PANEL RECOMMENDATIONS AND MILESTONE DATES.—

"(1) MILESTONE DATES FOR IMPLEMENTING RECOMMENDATIONS.—After consulting with central nonprofit agencies and qualified nonprofit agencies, the Panel shall suggest milestone dates for the

implementation of the recommendations made under subsection (c) and shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, qualified nonprofit agencies, and central nonprofit agencies of such dates.

"(2) NOTIFICATION OF IMPLEMENTATION OF RECOMMENDATIONS.—After the establishment of milestone dates under paragraph (1), the Panel may review the activities, including contracts, of the AbilityOne Commission, the central nonprofit agencies, and the relevant qualified nonprofit agencies to determine if the recommendations made under subsection (c) are being substantially implemented in good faith by the AbilityOne Commission or such agencies. If the Panel determines that the AbilityOne Commission or any such agency is not implementing the recommendations, the Panel shall notify the Secretary of Defense, the congressional defense committees, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(g) REMEDIES.—

"(1) IN GENERAL.—Upon receiving notification under subsection (f)(2) and subject to the limitation in paragraph (2), the Secretary of Defense may take one of the following actions:

"(A) With respect to a notification relating to the AbilityOne Commission, the Secretary may suspend compliance with the requirement to procure a product or service in section 8504 of title 41, United States Code, until the date on which the Secretary notifies Congress, in writing, that the AbilityOne Commission is substantially implementing the recommendations made under subsection (c).

"(B) With respect to a notification relating to a qualified nonprofit agency, the Secretary may terminate a contract with such agency that is in existence on the date of receipt of such notification, or elect to not enter into a contract with such agency after such date, until the date on which the AbilityOne Commission certifies to the Secretary that such agency is substantially implementing the recommendations made under subsection (c).

"(C) With respect to a notification relating to a central nonprofit agency, the Secretary may include a term in a contract entered into after the date of receipt of such notification with a qualified nonprofit agency that is under such central nonprofit agency that states that such qualified nonprofit agency shall not pay a fee to such central nonprofit agency until the date on which the AbilityOne Commission certifies to the Secretary that such central nonprofit agency is substantially implementing the recommendations made under subsection (c).

"(2) LIMITATION.—If the Secretary of Defense takes any of the actions described in paragraph (1), the Secretary shall coordinate with the AbilityOne Commission or the relevant central nonprofit agency, as appropriate, to fully implement the recommendations made under subsection (c). On the date on which such recommendations are fully implemented, the Secretary shall notify Congress, in writing, and the Secretary's authority under paragraph (1) shall terminate.

"(h) PROGRESS REPORTS.—

"(1) CONSULTATION ON RECOMMENDATIONS.—Before submitting the progress report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on draft recommendations made pursuant to subsection (c). The Panel shall include any recommendations of the AbilityOne Commission in the progress report submitted under paragraph (2).

"(2) PROGRESS REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a progress report on the activities of the Panel.

"(i) ANNUAL REPORT.—

"(1) CONSULTATION ON REPORT.—Before submitting the annual report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on the contents of the report. The Panel shall include any recommendations of the AbilityOne Commission in the report submitted under paragraph (2).

"(2) REPORT.—Not later than September 30, 2017, and annually thereafter for the next three years, the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

"(A) a summary of findings and recommendations for the year covered by the report;

"(B) a summary of the progress of the relevant qualified nonprofit agencies or central nonprofit agencies in implementing recommendations of the previous year's report, if applicable;

"(C) an examination of the current structure of the AbilityOne Commission to eliminate waste, fraud, and abuse and to ensure contracting integrity and accountability for any violations of law or regulations;

"(D) recommendations for any changes to the acquisition and contracting practices of the Department of Defense and the AbilityOne Commission to improve the delivery of goods and services to the Department of Defense; and

"(E) recommendations for administrative safeguards to ensure the Department of Defense and the AbilityOne Commission are in compliance with the requirements of the Javits-Wagner-O'Day Act [see 41 U.S.C. 8501 et seq.], Federal civil rights law, and regulations and policy related to the performance of contracts of the Department of Defense with qualified nonprofit agencies and the contracts of the AbilityOne Commission with central nonprofit agencies.

"(j) SUNSET.—The Panel shall terminate on the date of submission of the last annual report required under subsection (i).

"(k) INAPPLICABILITY OF FACA.—The requirements of the Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the Panel established pursuant to subsection (a).

"(l) DEFENSE ACQUISITION UNIVERSITY TRAINING.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a training program at the Defense Acquisition University established under section 1746 of title 10, United States Code. Such training shall include—

"(A) information about—

"(i) the mission of the AbilityOne Commission;

"(ii) the employment of significantly disabled veterans through contracts from the procurement list maintained by the AbilityOne Commission;

"(iii) reasonable accommodations and accessibility requirements for the blind and other severely disabled individuals; and

"(iv) Executive orders and other subjects related to the blind and other severely disabled individuals, as determined by the Secretary of Defense; and

"(B) procurement, acquisition, program management, and other training specific to procuring goods and services for the Department of Defense pursuant to the Javits-Wagner-O'Day Act.

"(2) ACQUISITION WORKFORCE ASSIGNMENT.—Members of the acquisition workforce (as defined in section 101 of title 10, United States Code) who have participated in the training described in paragraph (1) are eligible for a detail to the AbilityOne Commission.

"(3) ABILITYONE COMMISSION ASSIGNMENT.—Career employees of the AbilityOne Commission may participate in the training program described in paragraph (1) on a non-reimbursable basis for up to three years and on a non-reimbursable or reimbursable basis thereafter.

"(4) FUNDING.—Amounts from the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, are authorized for use for the detail of members of the acquisition workforce to the AbilityOne Commission.

"(m) DEFINITIONS.—In this section:

"(1) The term 'AbilityOne Commission' means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of title 41, United States Code.

"(2) The terms 'blind', 'qualified nonprofit agency for the blind', 'qualified nonprofit agency for other severely disabled', and 'severely disabled individual' have the meanings given such terms under section 8501 of such title.

"(3) The term 'central nonprofit agency' means a central nonprofit agency designated under section 8503(c) of such title.

"(4) The term 'executive agency' has the meaning given such term in section 133 of such title.

"(5) The term 'Javits-Wagner-O'Day Act' means chapter 85 of such title.

"(6) The term 'qualified nonprofit agency' means—

"(A) a qualified nonprofit agency for the blind; or

"(B) a qualified nonprofit agency for other severely disabled.

"(7) The term 'significantly disabled veteran' means a veteran (as defined in section 101 of title 38, United States Code) who is a severely disabled individual."

## MITIGATING POTENTIAL UNFAIR COMPETITIVE ADVANTAGE OF TECHNICAL ADVISORS TO ACQUISITION PROGRAMS

Pub. L. 114–92, div. A, title VIII, §895, Nov. 25, 2015, 129 Stat. 954, provided that: "Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review, and as necessary revise or issue, policy guidance pertaining to the identification, mitigation, and prevention of potential unfair competitive advantage conferred to technical advisors to acquisition programs."

## §4751. Determinations and decisions

(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED .—Determinations and decisions required to be made under any chapter 137 legacy provision by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 3531(a), 3803, or 3841(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2310; Pub. L. 85–800, §10, Aug. 28, 1958, 72 Stat. 967; Pub. L. 87–653, §1(f), Sept. 10, 1962, 76 Stat. 529; Pub. L. 89–607, §1(1), Sept. 27, 1966, 80 Stat. 850; Pub. L. 90–378, §2, July 5, 1968, 82 Stat. 290; Pub. L. 98–369, div. B, title VII, §2725, July 18, 1984, 98 Stat. 1193; Pub. L. 99–145, title XIII, §1303(a)(16), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103–355, title I, §1504, Oct. 13, 1994, 108 Stat. 3297; renumbered §4751 and amended Pub. L. 116–283, div. A, title XVIII, §1864(b), (c), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2310(a) | 41:156(a) (1st sentence). | Feb. 19, 1948, ch. 65, §7(a) (1st sentence), (c), 62 Stat. 24. |
| 2310(b) | 41:156(c). | |

In subsection (a), the words "required * * * under" are substituted for the words "provided in".

In subsection (b), the word "person" is substituted for the word "official". The words "to which it applies" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1864(b), renumbered section 2310 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1864(c)(1), substituted "made under any chapter 137 legacy provision" for "made under this chapter".

Subsec. (b). Pub. L. 116–283, §1864(c)(2), substituted "section 3531(a), 3803, or 3841(c)(2)(B)" for "section 2306(g)(1), 2307(d), or 2313(c)(2)(B)".

**1994**—Pub. L. 103–355 amended section generally. Prior to amendment, section read as follows:

"(a) Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except for determinations and decisions under section 2304 or 2305 of this title, for a class of purchases or contracts. Such a determination or decision, including a determination or decision under section 2304 or 2305 of this title, is final.

"(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

"(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality

required except under such a contract;

"(2) support the findings required by section 2306(g)(1) of this title;

"(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

"(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest.

Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies."

**1985**—Subsec. (a). Pub. L. 99–145 inserted "this" after "2305 of".

**1984**—Subsec. (a). Pub. L. 98–369, §2725(1), inserted ", except for determinations and decisions under section 2304 or 2305 of title," and ", including a determination or decision under section 2304 or 2305 of this title,".

Subsec. (b). Pub. L. 98–369, §2725(2), amended subsec. (b) generally, striking out requirement that determinations to negotiate contracts be based on written findings by the contracting officers making the determinations.

**1968**—Subsec. (b). Pub. L. 90–378 inserted "section 2306 (g)(1)," after "clauses (11)–(16) of section 2304(a), section 2306(c),", and "(3) support the findings required by section 2306(g)(1)," after "kind or quality required except under such a contract,", and redesignated former cls. (3) to (5) as (4) to (6), respectively.

**1966**—Subsec. (b). Pub. L. 89–607 inserted reference to section 2313(c), added cl. (4), and redesignated former cl. (4) as (5).

**1962**—Subsec. (b). Pub. L. 87–653 substituted "section 2306(c)" for "section 2306", required decisions to negotiate contracts under section 2304(a)(2), (7), (8), (10) to (12) of this title to be based on a written finding by the person making the decision, which findings shall set out facts and circumstances illustrative of conditions described in section 2304(a)(11) to (16), indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other or that its impracticable to obtain the required property or services except under such contract, indicate why advance payments under section 2307(c) would be in the public interest, or establish with respect to section 2304(a), (2), (7), (8), (10) to (12) that formal advertising would not have been feasible and practicable.

**1958**—Subsec. (b). Pub. L. 85–800 substituted "2307(c)" for "2307(a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–369, div. B, title VII, §2751, July 18, 1984, 98 Stat. 1203, provided that:

"(a) Except as provided in subsection (b), the amendments made by this title [see Tables for classification] shall apply with respect to any solicitation for bids or proposals issued after March 31, 1985.

"(b) The amendments made by section 2713 [amending section 759 of former Title 40, Public Buildings, Property, and Works, and enacting provisions set out as a note under section 759 of former Title 40] and subtitle D [enacting sections 3551 to 3556 of Title 31, Money and Finance] shall apply with respect to any protest filed after January 14, 1985."

#### EFFECTIVE DATE OF 1962 AMENDMENT

For effective date of amendment by Pub. L. 87–653, see section 1(h) of Pub. L. 87–653, set out as a note under section 3065 of this title.

## §4752. Remission of liquidated damages

Upon the recommendation of the head of an agency, the Secretary of the Treasury may remit all or part, as he considers just and equitable, of any liquidated damages assessed for delay in performing a contract, made by that agency, that provides for such damages.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2312; Pub. L. 104–316, title II, §202(c), Oct. 19, 1996, 110 Stat. 3842; renumbered §4752, Pub. L. 116–283, div. A, title XVIII, §1864(b), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2312 | 41:155. | Feb. 19, 1948, ch. 65, §6, 62 Stat. 24. |

The words "a contract, made by that agency, that provides for" are substituted for the words "any contract made on behalf of the Government by the agency head or by officers authorized by him so to do includes a provision".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2312 of this title as this section.
**1996**—Pub. L. 104–316 substituted "Secretary of the Treasury" for "Comptroller General".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4753. Supplies: identification of supplier and sources

(a) The Secretary of Defense shall require that the contractor under a contract with the Department of Defense for the furnishing of supplies to the United States shall mark or otherwise identify supplies furnished under the contract with the identity of the contractor, the national stock number for the supplies furnished (if there is such a number), and the contractor's identification number for the supplies.

(b)(1) The Secretary of Defense shall prescribe regulations requiring that, whenever practicable, each contract requiring the delivery of supplies (other than a contract described in paragraph (2)) shall require that the contractor identify—

(A) the actual manufacturer or producer of the item or of all sources of supply of the contractor for that item;

(B) the national stock number of the item (if there is such a number) and the identification number of the actual manufacturer or producer of the item or of each source of supply of the contractor for the item; and

(C) the source of any technical data delivered under the contract.

(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial products (as defined in section 103 of title 41).

(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(c) Identification of supplies and technical data under this section shall be made in the manner and with respect to the supplies prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137, §2384; Pub. L. 98–525, title XII, §1231(a), Oct. 19, 1984,

98 Stat. 2599; Pub. L. 99–500, §101(c) [title X, §928(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–156, and Pub. L. 99–591, §101(c) [title X, §928(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–156; Pub. L. 99–661, div. A, title IX, formerly title IV, §928(a), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title IV, §4102(d), title VIII, §8105(b), Oct. 13, 1994, 108 Stat. 3340, 3392; Pub. L. 104–106, div. D, title XLIII, §4321(b)(12), Feb. 10, 1996, 110 Stat. 672; Pub. L. 111–350, §5(b)(23), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 115–232, div. A, title VIII, §836(e)(2), Aug. 13, 2018, 132 Stat. 1869; renumbered §4753, Pub. L. 116–283, div. A, title XVIII, §1864(b), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2384 | 10:1207.<br>34:583. | R.S. 3731. |

The words "Each contractor" are substituted for the words "Every person". The word "his" is substituted for the words "the name of the contractor furnishing such supplies". The words "of any kind" and "and distinguish [distinguished]" are omitted as surplusage. The word "may" is substituted for the word "shall".

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2384 of this title as this section.

**2018**—Subsec. (b)(2). Pub. L. 115–232 substituted "commercial products" for "commercial items".

**2011**—Subsec. (b)(2). Pub. L. 111–350, §5(b)(23)(A), substituted "section 103 of title 41)" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

Subsec. (b)(3). Pub. L. 111–350, §5(b)(23)(B), substituted "section 134 of title 41)" for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

**1996**—Subsec. (b)(2). Pub. L. 104–106, §4321(b)(12)(A), substituted "items (as" for "items, as" and inserted a closing parenthesis after "403(12))".

Subsec. (b)(3). Pub. L. 104–106, §4321(b)(12)(B), inserted a closing parenthesis after "403(11))".

**1994**—Subsec. (b)(2). Pub. L. 103–355, §8105(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures."

Subsec. (b)(3). Pub. L. 103–355, §4102(d), added par. (3).

**1986**—Subsec. (b). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended subsec. (b) identically, designating existing provision as par. (1), redesignating former pars. (1) to (3) as subpars. (A) to (C), respectively, and inserting in provision preceding subpar. (A) "(other than a contract described in paragraph (2))", and adding par. (2).

**1984**—Pub. L. 98–525 amended section generally, substituting "identification of supplier and sources" for "marking with name of contractor" in section catchline, and, in text, substituting provisions designated subsec. (a) and relating to the marking of supplies, providing the national stock number for the supplies furnished, and the contractor's identification number for requirement that each contractor furnishing supplies to a military department mark the supplies with his name in the manner directed by the Secretary of the Department and prohibition of receipt of supplies unless so marked and adding subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

**EFFECTIVE DATE OF 1996 AMENDMENT**

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–500, §101(c) [title X, §928(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–156, Pub. L. 99–591, §101(c) [title X, §928(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–156, and Pub. L. 99–661, Pub. L. 99–661, div. A, title IX, formerly title IV, §928(b), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 18, 1986]."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title XII, §1231(b), Oct. 19, 1984, 98 Stat. 2600, provided that: "The amendment made by subsection (a) [amending this section] shall take effect at the end of the one-year period beginning on the date of the enactment of this Act [Oct. 19, 1984]."

## §4754. Management of purchase cards

(a) MANAGEMENT OF PURCHASE CARDS.—The Secretary of Defense shall prescribe regulations governing the use and control of all purchase cards and convenience checks that are issued to Department of Defense personnel for official use. Those regulations shall be consistent with regulations that apply Government-wide regarding use of purchase cards by Government personnel for official purposes.

(b) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—Regulations under subsection (a) shall include safeguards and internal controls to ensure the following:

(1) That there is a record in the Department of Defense of each holder of a purchase card issued by the Department of Defense for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that purchase card holder.

(2) That each purchase card holder and individual issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.

(3) That the holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

(B) forwarding that statement after being so reconciled to the designated disbursing office in a timely manner.

(4) That any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

(5) That payments on purchase card accounts are made promptly within prescribed deadlines to

avoid interest penalties.

(6) That rebates and refunds based on prompt payment on purchase card accounts are properly recorded.

(7) That records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

(8) That periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

(9) That appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the Department of Defense.

(10) That the Department of Defense has specific policies regarding the number of purchase cards issued by various organizations and categories of organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

(11) That the Department of Defense uses effective systems, techniques, and technologies to prevent or identify potential fraudulent purchases.

(12) That the Department of Defense takes appropriate steps to invalidate the purchase card of each card holder who—

(A) in the case of an employee of the Department—

(i) ceases to be employed by the Department, immediately upon termination of the employment of the employee; or

(ii) transfers to another unit of the Department, immediately upon the transfer of the employee unless the Secretary of Defense determines that the units are covered by the same purchase card authority; and

(B) in the case of a member of the armed forces, is separated or released from active duty or full-time National Guard duty.

(13) That the Department of Defense takes steps to recover the cost of any illegal, improper, or erroneous purchase made with a purchase card or convenience check by an employee or member of the armed forces, including, as necessary, through salary offsets.

(14) That the Inspector General of the Department of Defense, the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force perform periodic audits to identify—

(A) potentially fraudulent, improper, and abusive uses of purchase cards;

(B) any patterns of improper card holder transactions, such as purchases of prohibited items; and

(C) categories of purchases that should be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices.

(15) That the Inspector General of the Department of Defense conducts periodic audits or reviews of purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and that the findings of such audits or reviews, along with recommendations to prevent abuse of purchase cards or convenience checks, are reported to the Director of the Office of Management and Budget and Congress.

(c) PENALTIES FOR VIOLATIONS.—The regulations prescribed under subsection (a) shall—

(1) provide—

(A) for the reimbursement of charges for unauthorized or erroneous purchases, in appropriate cases; and

(B) for appropriate adverse personnel actions or other punishment to be imposed in cases in

which employees of the Department of Defense violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a purchase card, including removal in appropriate cases; and

(2) provide that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).

(Added Pub. L. 106–65, div. A, title IX, §933(a)(1), Oct. 5, 1999, 113 Stat. 728, §2784; amended Pub. L. 107–314, div. A, title X, §1007(a), (b)(1), Dec. 2, 2002, 116 Stat. 2633, 2634; Pub. L. 110–417, [div. A], title X, §1003(a), Oct. 14, 2008, 122 Stat. 4582; Pub. L. 112–194, §2(b), Oct. 5, 2012, 126 Stat. 1447; renumbered §4754, Pub. L. 116–283, div. A, title XVIII, §1864(b), Jan. 1, 2021, 134 Stat. 4279.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 4771 and 4772 were renumbered sections 7771 and 7772 of this title, respectively.

A prior section 4774, acts Aug. 10, 1956, ch. 1041, 70A Stat. 269; Aug. 30, 1957, Pub. L. 85–241, title IV, §404(a), 71 Stat. 555; Aug. 10, 1959, Pub. L. 86–149, title IV, §410(a), 73 Stat. 321; July 27, 1962, Pub. L. 87–554, title V, §504(a), (c), 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, §503, 77 Stat. 325; Dec. 5, 1969, Pub. L. 91–142, title V, §510(b), 83 Stat. 312; Oct. 27, 1971, Pub. L. 92–145, title V, §508(a), (c), 85 Stat. 408; Nov. 29, 1973, Pub. L. 93–166, title V, §509(c), 87 Stat. 677, related to limitations on construction, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982.

A prior section 4775, act Aug. 10, 1956, ch. 1041, 70A Stat. 269, authorized assignment of quarters belonging to United States at a post or station by post quartermaster to officers, grade lieutenant general down to second lieutenant, 10 to 2 rooms, respectively, and prohibited other assignment where quarters existed, prior to repeal by Pub. L. 92–145, title V, §509(a), Oct. 27, 1971, 85 Stat. 408.

Prior sections 4776 to 4780 were renumbered sections 7776 to 7780 of this title, respectively.

A prior section 4781 was renumbered section 7781 of this title.

Another section 4781, added Pub. L. 115–31, div. N, title VI, §602(a), May 5, 2017, 131 Stat. 828, was substantially identical to the prior section 4781, and related to Cyber Center for Education and Innovation-Home of the National Cryptologic Museum, prior to repeal by Pub. L. 115–91, div. A, title X, §1081(a)(49)(A), Dec. 12, 2017, 131 Stat. 1597.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2784 of this title as this section.

**2012**—Subsec. (b)(2) to (15). Pub. L. 112–194 added pars. (2), (11) to (13), and (15) and redesignated former pars. (2) to (7) and (8) as (3) to (8) and (14), respectively.

**2008**—Subsec. (c)(1). Pub. L. 110–417 substituted "provide—" for "provide", added subpar. (A), and substituted "(B) for" for "for".

**2002**—Pub. L. 107–314, §1007(b)(1)(A), substituted "purchase" for "credit" in section catchline.

Subsec. (a). Pub. L. 107–314, §1007(a)(1), (b)(1)(B), (C), substituted "Purchase" for "Credit" in heading and "purchase" for "credit" in two places in text and struck out ", acting through the Under Secretary of Defense (Comptroller)," after "Secretary of Defense".

Subsec. (b)(1) to (6). Pub. L. 107–314, §1007(b)(1)(C), substituted "purchase" for "credit" wherever appearing.

Subsec. (b)(7) to (10). Pub. L. 107–314, §1007(a)(2), added pars. (7) to (10).

Subsec. (c). Pub. L. 107–314, §1007(a)(2), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### REGULATIONS

Pub. L. 106–65, div. A, title IX, §933(b)(1), Oct. 5, 1999, 113 Stat. 730, provided that: "Regulations under section 2784 of title 10, United States Code [now 10 U.S.C. 4754], as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999]."

### COMPLIANCE WITH TRAVEL CHARGE CARD DEACTIVATION REQUIREMENTS

Pub. L. 119–60, div. A, title V, §593(a), Dec. 18, 2025, 139 Stat. 900, provided that:

"(a) POLICY COMPLIANCE.—Not later than 60 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall ensure that Department of Defense policies and procedures are consistent with section 2(h)(1)(H) of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note) and related implementing guidance, regarding the prompt deactivation and closure of government-issued travel charge card accounts upon the separation, retirement, or termination of military or civilian personnel."

### CREDITING OF REFUNDS

Pub. L. 110–116, div. A, title VIII, §8067, Nov. 13, 2007, 121 Stat. 1329, provided that: "Beginning in the current fiscal year and hereafter, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received."

### GOVERNMENT CHARGE CARD ACCOUNTS: LIMITATION ON NUMBER; REQUIREMENTS FOR ISSUANCE; DISCIPLINARY ACTION FOR MISUSE; REPORT

Pub. L. 107–248, title VIII, §8149, Oct. 23, 2002, 116 Stat. 1572, as amended by Pub. L. 108–87, title VIII, §8144, Sept. 30, 2003, 117 Stat. 1108, provided that:

"(a) LIMITATION ON NUMBER OF GOVERNMENT CHARGE CARD ACCOUNTS DURING FISCAL YEAR 2003.—The total number of accounts for government purchase charge cards and government travel charge cards for Department of Defense personnel during fiscal year 2003 may not exceed 1,500,000 accounts.

"(b) REQUIREMENT FOR CREDITWORTHINESS FOR ISSUANCE OF GOVERNMENT CHARGE CARD.—(1) The Secretary of Defense shall evaluate the creditworthiness of an individual before issuing the individual a government purchase charge card or government travel charge card.

"(2) An individual may not be issued a government purchase charge card or government travel charge card if the individual is found not credit worthy as a result of the evaluation under paragraph (1).

"(3) This subsection shall remain in effect for fiscal year 2004.

"(c) DISCIPLINARY ACTION FOR MISUSE OF GOVERNMENT CHARGE CARD.—(1) The Secretary shall establish guidelines and procedures for disciplinary actions to be taken against Department personnel for improper, fraudulent, or abusive use of government purchase charge cards and government travel charge cards.

"(2) The guidelines and procedures under this subsection shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or with applicable standards of conduct.

"(3) The disciplinary actions under this subsection may include—

"(A) the review of the security clearance of the individual involved; and

"(B) the modification or revocation of such security clearance in light of the review.

"(4) The guidelines and procedures under this subsection shall apply uniformly among the Armed Forces and among the elements of the Department.

"(d) REPORT.—Not later than June 30, 2003, the Secretary shall submit to the congressional defense committees [Committees on Armed Services of the Senate and the House of Representatives and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] a report on the implementation of the requirements and limitations in this section, including the guidelines and procedures established under subsection (c)."

# Subpart I—Defense Industrial Base

### EDITORIAL NOTES

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1831, added subpart heading.

# CHAPTER 381—DEFENSE INDUSTRIAL BASE GENERALLY

Sec.
4801. Definitions.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 381 "DEFENSE INDUSTRIAL BASE GENERALLY", consisting of reserved section 4801, was repealed by Pub. L. 116–283, div. A, title XVIII, §1866(b), Jan. 1, 2021, 134 Stat. 4279.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**NOTICE TO CONTRACTORS AND EMPLOYEES UPON PROPOSED AND ACTUAL TERMINATION OR SUBSTANTIAL REDUCTION IN MAJOR DEFENSE PROGRAMS**

Pub. L. 102–484, div. D, title XLIV, §4471, Oct. 23, 1992, 106 Stat. 2753, as amended by Pub. L. 103–160, div. A, title XIII, §1372, Nov. 20, 1993, 107 Stat. 1817; Pub. L. 103–337, div. A, title XI, §1142, Oct. 5, 1994, 108 Stat. 2881; Pub. L. 104–201, div. A, title VIII, §824, Sept. 23, 1996, 110 Stat. 2610; Pub. L. 105–85, div. A, title X, §1073(d)(2)(C), Nov. 18, 1997, 111 Stat. 1905; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(7)(C), (f)(6)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–419, 2681–430, as amended by Pub. L. 116–283, div. A, title XVIII, §1806(e)(2)(E), Jan. 1, 2021, 134 Stat. 4156, provided that:

"(a) NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Each year, not later than 60 days after the date of the enactment of an Act appropriating funds for the military functions of the Department of Defense, the Secretary of Defense, in accordance with regulations prescribed by the Secretary—

"(1) shall identify each contract (if any) under major defense programs of the Department of Defense that will be terminated or substantially reduced as a result of the funding levels provided in that Act; and

"(2) shall ensure that notice of the termination of, or substantial reduction in, the funding of the contract is provided—

"(A) directly to the prime contractor under the contract; and

"(B) directly to the Secretary of Labor.

"(b) NOTICE TO SUBCONTRACTORS.—Not later than 60 days after the date on which the prime contractor for a contract under a major defense program receives notice under subsection (a), the prime contractor shall—

"(1) provide notice of that termination or substantial reduction to each person that is a first-tier subcontractor under that prime contract for subcontracts in an amount not less than $500,000; and

"(2) require that each such subcontractor—

"(A) provide such notice to each of its subcontractors for subcontracts in an amount in excess of $100,000; and

"(B) impose a similar notice and pass through requirement to subcontractors in an amount in excess of $100,000 at all tiers.

"(c) CONTRACTOR NOTICE TO EMPLOYEES AND STATE DISLOCATED WORKER UNIT.—Not later than two weeks after a defense contractor receives notice under subsection (a), the contractor shall provide notice of such termination or substantial reduction to—

"(1)(A) each representative of employees whose work is directly related to the defense contract under such program and who are employed by the defense contractor; or

"(B) if there is no such representative at that time, each such employee; and

"(2) the State or entity designated by the State to carry out rapid response activities under [former] section 134(a)(2)(A) of the Workforce Investment Act of 1998 [former 29 U.S.C. 2864(a)(2)(A)], and the chief elected official of the unit of general local government within which the adverse effect may occur.

"(d) CONSTRUCTIVE NOTICE.—The notice of termination of, or substantial reduction in, a defense contract provided under subsection (c)(1) to an employee of a contractor shall have the same effect as a notice of termination to such employee for the purposes of determining whether such employee is eligible to participate in employment and training activities carried out under title I of the Workforce Investment Act of

1998 [29 U.S.C. 2801 et seq.], except in a case in which the employer has specified that the termination of, or substantial reduction in, the contract is not likely to result in plant closure or mass layoff.

"(e) LOSS OF ELIGIBILITY.—An employee who receives a notice of withdrawal or cancellation of the termination of, or substantial reduction in, contract funding shall not be eligible, on the basis of any related reduction in funding under the contract, to participate in employment and training activities under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], beginning on the date on which the employee receives the notice.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'major defense program' means a program that is carried out to produce or acquire a major system (as defined in section 3041 of title 10, United States Code).

"(2) The terms 'substantial reduction' and 'substantially reduced', with respect to a defense contract under a major defense program, mean a reduction of 25 percent or more in the total dollar value of the funds obligated by the contract."

## §4801. Definitions

In this subpart:

(1) The term "national technology and industrial base" means the persons and organizations that are engaged in research, development, production, integration, services, or information technology activities conducted within the United States, the United Kingdom of Great Britain and Northern Ireland, Australia, New Zealand, and Canada.

(2) The term "dual-use" with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for military and nonmilitary applications.

(3) The term "dual-use critical technology" means a critical technology that has military applications and nonmilitary applications.

(4) The term "technology and industrial base sector" means a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, production, integration, services, or information technology activities.

(5) The terms "Federal laboratory" and "laboratory" have the meaning given the term "laboratory" in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)), except that such terms include a federally funded research and development center sponsored by a Federal agency.

(6) The term "critical technology" means a technology that is—

(A) a national critical technology; or

(B) a defense critical technology.

(7) The term "national critical technology" means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) [1] of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

(8) The term "defense critical technology" means a technology that is identified under section 4816 of this title as critical for attaining the national security objectives set forth in section 4811(a) of this title.

(9) The term "eligible firm" means a company or other business entity that, as determined by the Secretary of Commerce—

(A) conducts a significant level of its research, development, engineering, manufacturing, integration, services, and information technology activities in the United States; and

(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

(10) The term "manufacturing technology" means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

(11) The term "Small Business Innovation Research Program" means the program established under the following provisions of section 9 of the Small Business Act (15 U.S.C. 638):

(A) Paragraphs (4) through (7) of subsection (b).

(B) Subsections (e) through (l).

(12) The term "Small Business Technology Transfer Program" means the program established under the following provisions of such section:

(A) Paragraphs (4) through (7) of subsection (b).

(B) Subsections (e) and (n) through (p).

(13) The term "significant equity percentage" means—

(A) a level of contribution and participation sufficient, when compared to the other non-Federal participants in the partnership or other cooperative arrangement involved, to demonstrate a comparable long-term financial commitment to the product or process development involved; and

(B) any other criteria the Secretary may consider necessary to ensure an appropriate equity mix among the participants.

(14) The term "person of a foreign country" has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).

(15) The term "integration" means the process of providing systems engineering and technical direction for a system for the purpose of achieving capabilities that satisfy program requirements.

(Added Pub. L. 102–484, div. D, title XLII, §4203(a), Oct. 23, 1992, 106 Stat. 2661, §2491; amended Pub. L. 103–160, div. A, title XI, §1182(a)(9), title XIII, §1315(f), Nov. 30, 1993, 107 Stat. 1771, 1788; Pub. L. 103–337, div. A, title XI, §§1113(d), 1115(e), Oct. 5, 1994, 108 Stat. 2866, 2869; Pub. L. 104–106, div. A, title X, §1081(h), Feb. 10, 1996, 110 Stat. 455; renumbered §2500 and amended Pub. L. 105–85, div. A, title III, §371(b)(3), title X, §1073(a)(53), Nov. 18, 1997, 111 Stat. 1705, 1903; Pub. L. 111–383, div. A, title VIII, §895(a), Jan. 7, 2011, 124 Stat. 4313; Pub. L. 114–328, div. A, title VIII, §881(b), Dec. 23, 2016, 130 Stat. 2316; renumbered §4801 and amended Pub. L. 116–283, div. A, title XVIII, §1866(c), Jan. 1, 2021, 134 Stat. 4279; Pub. L. 117–81, div. A, title XVII, §1701(b)(21)(A), Dec. 27, 2021, 135 Stat. 2135; Pub. L. 117–263, div. A, title VIII, §851, Dec. 23, 2022, 136 Stat. 2721.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, referred to in par. (7), was classified to section 6683 of Title 42, The Public Health and Welfare, and was omitted from the Code.

### PRIOR PROVISIONS

A prior section 4801 was renumbered section 7801 of this title.

Provisions similar to those in this section were contained in former sections 2511 and 2521 of this title prior to repeal by Pub. L. 102–484, §4202(a).

Prior sections 4802 to 4804 were renumbered sections 7802 to 7804 of this title, respectively.

A prior section 4805, act Aug. 10, 1956, ch. 1041, 70A Stat. 271, related to reports to Congress with respect to claims under sections 4802, 4803, and 4804 of this title, prior to repeal by Pub. L. 86–533, §1(8)(A), June 29, 1960, 74 Stat. 247.

A prior section 4806 was renumbered section 7806 of this title.

## AMENDMENTS

**2022**—Par. (1). Pub. L. 117–263 inserted "New Zealand," after "Australia,".

**2021**—Pub. L. 116–283, §1866(c)(1), as amended by Pub. L. 117–81, §1701(b)(21)(A)(i), substituted "In this subpart" for "In this chapter" in introductory provisions.

Pub. L. 116–283, §1866(c), renumbered section 2500 of this title as this section.

Par. (8). Pub. L. 116–283, §1866(c)(2), as amended by Pub. L. 117–81, §1701(b)(21)(A)(ii), substituted "section 4816" for "section 2505" and "section 4811(a)" for "section 2501(a)".

Par. (16). Pub. L. 116–283, §1866(c)(3), which added par. (16) defining "chapter 148 legacy provision", was repealed by Pub. L. 117–81, §1701(b)(21)(A)(iii).

**2016**—Par. (1). Pub. L. 114–328 inserted ", the United Kingdom of Great Britain and Northern Ireland, Australia," after "United States".

**2011**—Par. (1). Pub. L. 111–383, §895(a)(1), substituted "integration, services, or information technology" for "or maintenance".

Par. (4). Pub. L. 111–383, §895(a)(2), substituted "production, integration, services, or information technology" for "or production".

Par. (9)(A). Pub. L. 111–383, §895(a)(3), substituted "manufacturing, integration, services, and information technology" for "and manufacturing".

Par. (15). Pub. L. 111–383, §895(a)(4), added par. (15).

**1997**—Pub. L. 105–85, §371(b)(3), renumbered section 2491 of this title as section 2500.

Par. (8). Pub. L. 105–85, §1073(a)(53), substituted "that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title." for "that appears on the list of critical technologies contained, pursuant to subsection (b)(4) of section 2505 of this title, in the most recent national technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of this title."

**1996**—Pars. (11) to (16). Pub. L. 104–106 redesignated pars. (13) to (16) as (11) to (14), respectively, and struck out former pars. (11) and (12) which read as follows:

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm."

**1994**—Par. (5). Pub. L. 103–337, §1113(d), inserted before period at end ", except that such terms include a federally funded research and development center sponsored by a Federal agency".

Par. (16). Pub. L. 103–337, §1115(e), added par. (16).

**1993**—Par. (2). Pub. L. 103–160, §1182(a)(9)(A), substituted "nonmilitary applications" for "nonmilitary application".

Par. (8). Pub. L. 103–160, §1182(a)(9)(B), substituted "subsection (b)(4)" for "subsection (f)".

Pars. (13) to (15). Pub. L. 103–160, §1315(f), added pars. (13) to (15).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title XI, §1101, Oct. 5, 1994, 108 Stat. 2862, provided that: "This title [enacting sections 2519 and 2520 of this title, amending this section, sections 1151, 1152, 2391, 2511 to 2513, and 2524 of this title, and sections 1662d and 1662d–1 of Title 29, Labor, and enacting and amending provisions set out as notes under section 2501 of this title] may be cited as the 'Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994'."

**SHORT TITLE OF 1993 AMENDMENT**

Pub. L. 103–160, div. A, title XIII, §1301, Nov. 30, 1993, 107 Stat. 1783, provided that: "This title [enacting sections 1152 and 1153 of this title and sections 1279d, 1279e, and 1280a of the Appendix to Title 46, Shipping, amending this section, sections 1142, 1151, 1598, 2410j, 2501, 2502, 2511 to 2513, 2523, and 2524 of this title, sections 1551 and 1662d–1 of Title 29, Labor, section 31326 of Title 46, and sections 1271, 1273, 1274, and 1274a of the Appendix to Title 46, repealing section 2504 of this title, enacting provisions set out as notes under sections 1143, 1151, 2501, 2511, 2701, and 5013 of this title, section 1662d–1 of Title 29, and sections 1279b and 1279d of the Appendix to Title 46, amending provisions set out as notes under sections 1143, 2391, and 2501 of this title, and repealing provisions set out as a note under section 2701 of this title] may be cited as the 'Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993'."

**SHORT TITLE**

Pub. L. 102–484, div. D, §4001, Oct. 23, 1992, 106 Stat. 2658, provided that: "This division [div. D (§§4001–4501) of Pub. L. 102–484, see Tables for classification] may be cited as the 'Defense Conversion, Reinvestment, and Transition Assistance Act of 1992'."

**TREATMENT OF INTERAGENCY AND STATE AND LOCAL PURCHASES WHEN THE DEPARTMENT OF DEFENSE ACTS AS CONTRACT INTERMEDIARY FOR THE GENERAL SERVICES ADMINISTRATION**

Pub. L. 114–92, div. A, title VIII, §897, Nov. 25, 2015, 129 Stat. 954, provided that: "Contracts executed by the Department of Defense as a result of the transfer of contracts from the General Services Administration or for which the Department serves as an item manager for products on behalf of the General Services Administration shall not be subject to requirements under chapter 148 of title 10, United States Code [see chapters 381 to 385, and chapter 389, of this title], to the extent such contracts are for purchases of products by other Federal agencies or State or local governments."

**PURPOSES OF TITLE XLII OF PUB. L. 102–484**

Pub. L. 102–484, div. D, title XLII, §4201, Oct. 23, 1992, 106 Stat. 2659, provided that: "The purposes of this title [see Tables for classification] are to consolidate, revise, clarify, and reenact policies and requirements, and to enact additional policies and requirements, relating to the national technology and industrial base, defense reinvestment, and defense conversion programs that further national security objectives."

[1] *See References in Text note below.*

# CHAPTER 382—POLICIES AND PLANNING

Sec.
4811. National security strategy for national technology and industrial base.
4812. National Defense Technology and Industrial Base Council.
4813. National defense program for analysis of the technology and industrial base.
4814. National technology and industrial base: biennial report.
4815. Unfunded priorities of the national technology and industrial base: annual report.
4816. National technology and industrial base: periodic defense capability assessments.
4817. Industrial Base Fund.
4818. Data collection authority of President.
4819. Modernization of acquisition processes to ensure integrity of industrial base.
4820. National technology and industrial base plans, policy, and guidance.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title X, §1061(c)(2), Dec. 22, 2023, 137 Stat. 399, added item 4814 and struck out former item 4814 "National technology and industrial base: annual report and quarterly briefings".

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(f)(10), (s)(2)(B), Dec. 27, 2021, 135 Stat. 2140, 2149, added items 4814 and 4820 and struck out former item 4814 "Annual report to Congress".

## §4811. National security strategy for national technology and industrial base

(a) NATIONAL SECURITY STRATEGY FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. The Secretary shall submit such strategy to Congress as an integrated part of the report submitted under section 4814 of this title. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:

(1) Supplying, equipping, and supporting the force structure of the armed forces that is necessary to achieve—

(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title; and

(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of this title.

(2) Sustaining production, maintenance, repair, logistics, and other activities in support of military operations of various durations and intensity.

(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

(4) Reconstituting within a reasonable period the capability to develop, produce, and support supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency, or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

(5) Providing for the development, manufacture, and supply of items and technologies critical to the production and sustainment of advanced military weapon systems within the national technology and industrial base.

(6) Providing for the generation of services capabilities that are not core functions of the armed forces and that are critical to military operations within the national technology and industrial base.

(7) Providing for the development, production, and integration of information technology within the national technology and industrial base.

(8) Maintaining critical design skills to ensure that the armed forces are provided with systems capable of ensuring technological superiority over potential adversaries.

(9) Ensuring reliable sources of services, supplies, and materials that are critical to national security, such as specialty metals, essential minerals, armor plate, and rare earth elements, including by reducing reliance on potential adversaries for such services, supplies, and materials to the maximum extent practicable.

(10) Reducing, to the maximum extent practicable, the presence of counterfeit parts in the supply chain and the risk associated with such parts.

(11) Providing for the provision of drugs, biological products, vaccines, and critical medical supplies required to enable combat readiness and protect the health of the armed forces.

(b) CIVIL-MILITARY INTEGRATION POLICY.—The Secretary of Defense shall ensure that the United States attains the national technology and industrial base objectives set forth in subsection

(a) through acquisition policy reforms that have the following objectives:

(1) Relying, to the maximum extent practicable, upon the commercial national technology and industrial base that is required to meet the national security needs of the United States.

(2) Reducing the reliance of the Department of Defense on technology and industrial base sectors that are economically dependent on Department of Defense business.

(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

(c) DEPARTMENT OF DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICY GUIDANCE.—

(1) DEPARTMENTAL GUIDANCE.—The Secretary of Defense shall prescribe departmental guidance for the attainment of each of the national security objectives set forth in subsection (a).

(2) PURPOSE OF GUIDANCE.—The guidance prescribed pursuant to paragraph (1) shall provide for technological and industrial capability considerations to be integrated into the strategy, management, budget allocation, acquisition, and logistics support decision processes.

(Added Pub. L. 102–484, div. D, title XLII, §4211, Oct. 23, 1992, 106 Stat. 2662, §2501; amended Pub. L. 103–35, title II, §201(c)(7), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title XI, §1182(a)(10), title XIII, §1313, Nov. 30, 1993, 107 Stat. 1771, 1786; Pub. L. 104–106, div. A, title X, §1081(a), Feb. 10, 1996, 110 Stat. 452; Pub. L. 104–201, div. A, title VIII, §829(a), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111–23, title III, §303(a), May 22, 2009, 123 Stat. 1731; Pub. L. 111–383, div. A, title VIII, §895(b), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 112–239, div. A, title XVI, §1603(a)(1), Jan. 2, 2013, 126 Stat. 2062; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title VIII, §882, Dec. 23, 2016, 130 Stat. 2316; Pub. L. 116–92, div. A, title VIII, §846(a), Dec. 20, 2019, 133 Stat. 1503; renumbered §4811 and amended Pub. L. 116–283, div. A, title VII, §713(a), title XVIII, §1867(b), (c)(1), Jan. 1, 2021, 134 Stat. 3692, 4281; Pub. L. 118–31, div. A, title VIII, §851, title X, §1061(b), Dec. 22, 2023, 137 Stat. 343, 398.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsecs. (a) and (b) of section 2506 of this title, which were transferred to this section and redesignated as pars. (1) and (2), respectively, of subsec. (c), by Pub. L. 116–283, §1867(c)(1)(B), was based on Pub. L. 102–484, div. D, title XLII, §4216(a), Oct. 23, 1992, 106 Stat. 2668; Pub. L. 104–201, div. A, title VIII, §829(d), Sept. 23, 1996, 110 Stat. 2613; Pub. L. 111–383, div. A, title VIII, §895(d), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 115–91, div. A, title X, §1051(a)(18), Dec. 12, 2017, 131 Stat. 1561; Pub. L. 116–283, div. A, title XVIII, §1867(c)(1)(B), Jan. 1, 2021, 134 Stat. 4281.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31, §1061(b), in introductory provisions, substituted "The Secretary shall submit such strategy to Congress as an integrated part of the report submitted under section 4814 of this title." for "The Secretary shall submit such strategy to Congress not later than 180 days after the date of submission of the national security strategy report required under section 108 of the National Security Act of 1947 (50 U.S.C. 3043)."

Subsec. (a)(9). Pub. L. 118–31, §851, inserted "services, supplies, and" before "materials" and ", including by reducing reliance on potential adversaries for such services, supplies, and materials to the maximum extent practicable" before period at end.

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2501 of this title as this section.

Subsec. (a)(11). Pub. L. 116–283, §713(a), added par. (11).

Subsec. (c). Pub. L. 116–283, §1867(c)(1)(B), transferred subsecs. (a) and (b) of section 2506 of this title to subsec. (c), redesignated such provisions as pars. (1) and (2), respectively, and realigned margins.

Pub. L. 116–283, §1867(c)(1)(A), added subsec. (c).

Subsec. (c)(1). Pub. L. 116–283, §1867(c)(1)(B)(i), substituted "subsection (a)" for "section 2501(a) of this title".

Subsec. (c)(2). Pub. L. 116–283, §1867(c)(1)(B)(ii), substituted "paragraph (1)" for "subsection (a)".

**2019**—Subsec. (a). Pub. L. 116–92 inserted "The Secretary shall submit such strategy to Congress not later than 180 days after the date of submission of the national security strategy report required under section 108 of the National Security Act of 1947 (50 U.S.C. 3043)." after first sentence.

**2016**—Subsec. (b). Pub. L. 114–328, in introductory provisions, substituted "The Secretary of Defense shall ensure that the United States attains" for "It is the policy of Congress that the United States attain".

**2014**—Subsec. (a)(1)(A). Pub. L. 113–291 substituted "(50 U.S.C. 3043)" for "(50 U.S.C. 404a)".

**2013**—Pub. L. 112–239, §1603(a)(1)(A), substituted "strategy for" for "objectives concerning" in section catchline.

Subsec. (a). Pub. L. 112–239, §1603(a)(1)(B)(i), (ii), substituted "Strategy" for "Objectives" in heading and "The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:" for "It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:" in introductory provisions.

Subsec. (a)(9), (10). Pub. L. 112–239, §1603(a)(1)(B)(iii), added pars. (9) and (10).

**2011**—Subsec. (a)(1). Pub. L. 111–383, §895(b)(1), substituted "Supplying, equipping, and supporting" for "Supplying and equipping" in introductory provisions.

Subsec. (a)(2). Pub. L. 111–383, §895(b)(2), substituted "logistics, and other activities in support of" for "and logistics for".

Subsec. (a)(4). Pub. L. 111–383, §895(b)(3), substituted ", produce, and support" for "and produce".

Subsec. (a)(6) to (8). Pub. L. 111–383, §895(b)(4), added pars. (6) and (7) and redesignated former par. (6) as (8).

**2009**—Subsec. (a)(6). Pub. L. 111–23 added par. (6).

**1996**—Pub. L. 104–106, §1081(a)(2), substituted "National security objectives concerning national technology and industrial base" for "Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion" as section catchline.

Subsec. (a). Pub. L. 104–106, §1081(a)(1)(A)(i), substituted "National Security" for "Defense Policy" in heading.

Subsec. (a)(5). Pub. L. 104–201 added par. (5).

Pub. L. 104–106, §1081(a)(1)(A)(ii), struck out par. (5) which read as follows: "Furthering the missions of the Department of Defense through the support of policy objectives and programs relating to the defense reinvestment, diversification, and conversion objectives specified in subsection (b)."

Subsecs. (b), (c). Pub. L. 104–106, §1081(a)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which stated policy objectives of Congress relating to defense reinvestment, diversification, and conversion.

**1993**—Subsec. (a)(1)(A). Pub. L. 103–35 substituted "section 108" for "section 104".

Subsec. (a)(5). Pub. L. 103–160, §1313, added par. (5).

Subsec. (b)(2). Pub. L. 103–160, §1182(a)(10), substituted "that, by reducing the public sector demand for capital, increases the amount of capital available" for "and thereby free up capital".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1867(b), (c)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### ACCEPTANCE OF CIVIL AVIATION AUTHORITY CERTIFICATION

Pub. L. 119–60, div. A, title VIII, §832(b), Dec. 18, 2025, 139 Stat. 962, provided that:

"(1) IN GENERAL.—The Secretary of Defense may not conduct a separate review and approval process for aircraft parts and components and repair processes that have been approved by a civil aviation authority under a Parts Manufacturer Approval or Designated Engineering Representative spare or repair certification and approval processes unless—

"(A) a written justification for such additional review and approval process is approved by the commander of a systems command of a military service; and

"(B) the Secretary submits such justification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(2) UPDATE TO SOURCE APPROVAL REQUEST PROCESS.—Not later than June 1, 2026, the

Secretary of Defense shall update the Defense Logistics Agency Source Approval Request process to establish a uniform evaluation and acceptance methodology, applicable across all military services, pursuant to which spares or repairs with civil aviation authority approval, as described in paragraph (1), shall be qualified for use on military aircraft that have a civil equivalent without requiring an additional, separate certification from the Department of Defense, regardless of whether such spares or repairs are determined to be safety critical items or mission critical items (as defined in section 865(l) of the National Defense Authorization Act for Fiscal Year 2025 [section 865(1) of Pub. L. 119–60, set out in a note below] (as added by subsection (a))."

## ACCELERATION OF QUALIFICATION OF COMPLIANT SOURCES

Pub. L. 119–60, div. A, title VIII, §837, Dec. 18, 2025, 139 Stat. 968, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025]—

"(A) the Secretary of Defense shall establish in the collaborative forum described in section 1844(a) of this Act [section 1844(a) of div. A of Pub. L. 119–60, set out in a note below] a working group; and

"(B) such working group shall develop recommendations for—

"(i) enhancing the exchange of information between the Department of Defense and contractors of the defense industrial base about compliant materials; and

"(ii) accelerating the qualification of such materials for use by the Department of Defense and the integration of such materials into the supply chains of contractors of the Department of Defense.

"(2) RESPONSIBILITIES.—The working group established under paragraph (1) shall—

"(A) identify processes for exchanging information about compliant materials between the Department of Defense and contractors of the defense industrial base while maintaining appropriate safeguards of commercially proprietary information;

"(B) identify processes and procedures to streamline the identification, testing, and qualification of compliant sources and compliant materials;

"(C) seek to reduce the unnecessary application of requirements that are specific to a single Armed Force for identification, testing, and qualification of compliant sources and compliant material;

"(D) provide a forum for the Army, Navy, Air Force, Marine Corps, and Space Force and other elements of the Department of Defense to share technical and supply chain data related to requirements for covered materials;

"(E) identify compliant sources at each step of the supply chain, to the extent that such supply chains are subject to subchapter III of chapter 385 of title 10, United States Code;

"(F) at least once a quarter, publish for the members of the working group and for the Under Secretary of Defense for Acquisition and Sustainment, a list of compliant sources for each critical material, including a general description of what step of the supply chain in which each compliant source is participating, if any;

"(G) develop and recommend processes to enable the Department of Defense to rapidly identify, qualify, and integrate compliant materials into programs of the Department at scale;

"(H) seek to reduce future requirements for critical materials in defense systems by encouraging contractors of the Department of Defense to design and develop systems that use commercially available critical materials, when such materials are capable of meeting mission needs;

"(I) seek input from small and nontraditional contractors and ensure the working group considers the unique attributes of such businesses in carrying out the responsibilities of the working group under this subsection;

"(J) develop and provide recommendations to reduce impediments or disincentives for a supplier of an end item to the Department of Defense to revise a supply chain agreement or other arrangement to eliminate the reliance of the supplier on noncompliant sources;

"(K) any other matters assigned to the working group by the Secretary; and

"(L) provide the Secretary with timely recommendations developed pursuant to this section.

"(b) DEFINITIONS.—In this section:

"(1) The term 'compliant source' means an entity engaged in the production, manufacture, or distribution of a critical material that is compliant with the requirements of subchapter III of chapter 385 of title 10, United States Code.

"(2) The term 'compliant material' means critical material that is sourced from a compliant source.

"(3) The term 'critical material' means a material subject to sourcing restrictions under subchapter III

of chapter 385 of title 10, United States Code.

"(4) The term 'end item' has the meaning given such term in section 4863 of title 10, United States Code."

**IMPROVING THE DOMESTIC TEXTILE AND INDUSTRIAL BASE**

Pub. L. 119–60, div. A, title VIII, §865, Dec. 18, 2025, 139 Stat. 991, provided that:

"(a) INDUSTRIAL BASE ANALYSIS AND SUSTAINMENT AUTOMATED TEXTILE MANUFACTURING.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Defense, acting through the Director of the Industrial Base Analysis and Sustainment Office of the Department of Defense, shall ensure that the Textile Automation to Enhance Domestic Military Production program continues public-private partnerships and investments into technological advancement of the domestic textile and footwear industrial base.

"(2) ALLOWABLE INVESTMENTS.—The investments pursuant to paragraph (1) may include—

"(A) recapitalization of facilities related to domestic textile and footwear development or production;

"(B) efficient vertical integration of such existing facilities;

"(C) expanding domestic production capacity of textiles or footwear;

"(D) implementing technological advancements to improve efficiency and quality assurance of domestic textiles or footwear; and

"(E) any other investment that would encourage the maturation and qualification of domestic sources of textiles or footwear—

"(i) to ensure competition and reduce the reliance of the Department of Defense on textiles and footwear from foreign manufacturers for which an exception granted under section 4862(c) of title 10, United States Code, applies; or

"(ii) that the Assistant Secretary of Defense for Industrial Base Policy determines necessary for the health of the industrial base.

"(b) DEFENSE CONTRACT MANAGEMENT AGENCY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Defense shall prioritize ensuring that the Defense Contract Management Agency has the necessary resources, including personnel, to carry out the duties of the Defense Contract Management Agency with respect to the oversight of contracts of the Department of Defense.

"(2) BRIEFING.—

"(A) Not later than April 1, 2026, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the plan of the Department of Defense to ensure that the Defense Contract Management Agency has the necessary resources, including personnel, to carry out the duties of the Defense Contract Management Agency with respect to oversight travel of existing contracts of the Department and prioritize oversight over the compliance with section 4862 of title 10, United States Code.

"(B) The plan described in subparagraph (A) shall include—

"(i) to the extent available, an analysis from a federally funded research and development center on the resources, including personnel, required for the Defense Contract Management Agency to enable the Defense Contract Management Agency to carry out the duties of the Defense Contract Management Agency with respect to the oversight of contracts of the Department of Defense; and

"(ii) a plan to ensure that, not later than September 30, 2030, the Defense Contract Management Agency has the required resources, including personnel, to effectively oversee the compliance of the Department of Defense with section 4862 of title 10, United States Code.

"(c) DEFENSE LOGISTICS AGENCY AND MILITARY SERVICES CONTRACTING REQUIREMENTS.—

"(1) The Director of the Defense Logistics Agency in coordination with the Secretary concerned for each covered Armed Force, shall develop a strategy to maximize the use of annual or, where applicable, multi-year contracts by the Department of Defense for acquisitions involving the domestic textile or footwear industries to ensure the long-term stability and predictability of the requirements of the Department with respect to the goods or services acquired from such industries.

"(2) The Secretary concerned for each covered Armed Force shall, on an annual basis, submit to the Director of the Defense Logistics Agency the requirements of such covered Armed Force for textiles and footwear for the year and the funding necessary to meet such requirements, subject to the availability of funds authorized for such purpose.

"(3)(A) The Secretary concerned for each covered Armed Force shall aggregate data on the annual requirement of each covered Armed Force for common items, to ensure the Director of the Defense Logistics Agency can maximize efficiency and cost effectiveness in the acquisition of such common items.

"(B) The data the Secretary concerned for a covered Armed Force is required to aggregate under subparagraph (A) shall include the requirements of the covered Armed Force concerned for the upcoming fiscal year for common items.

"(C) The Secretary concerned for each covered Armed Force shall aggregate the annual requirement of each covered Armed Force common items and incorporate such aggregate requirement into the next fiscal years program objective memorandum process of such Armed Force.

"(4)(A) The Director of the Defense Logistics Agency shall, to the maximum extent practicable, use the aggregate data described in paragraph (3)(A) to execute annual contracts for common items and textiles and footwear required by only one of the covered Armed Forces to support the long-term stability of the domestic textile and footwear industries.

"(B)(i) If the Director of the Defense Logistics Agency does not receive the requirements and funding described in paragraph (2) for a covered Armed Force for a year, or such other information required for the Director to acquire textiles and footwear meeting such requirements for such year, the Director may waive subparagraph (A) of this paragraph with respect to such requirements.

"(ii) Not later than 30 days after the date on which the Director of the Defense Logistics Agencies issues a waiver under clause (i), the Director shall submit to the Committees on Armed Services of the Senate and House of Representatives a notice of such waiver, including an explanation of the rational for granting such waiver.

"(5) In this section—

"(A) the term 'covered Armed Force' means the Army, Navy, Air Force, Marine Corps, or Space Force;

"(B) the term 'common item' mean a textile or footwear required by more by than one of the covered Armed Forces; and

"(C) the term 'Secretary concerned' has the meaning given such term in section 101(a) of title 10, United States Code.

"(d) EXPANDING COMPETITION AND SOURCING IN THE DOMESTIC TEXTILE AND FOOTWEAR INDUSTRIAL BASE.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Director of the Defense Logistics Agency shall conduct an assessment of the textile and footwear industrial base producing textiles and footwear described in subsection (b) of section 4862 of title 10, United States Code, that are not subject to the prohibition under subsection (a) of such section to assess the resilience of the supply chain of the domestic textile and footwear industries.

"(2) CONTENTS.—The assessment required under paragraph (1) shall include the following:

"(A) An identification of the textile and footwear goods supplied to the Department of Defense by a single source.

"(B) Data pertaining to past delays in the delivery of textiles and footwear resulting from rigidity in the supply chains of the domestic textile and footwear industrial base, including an assessment of any challenges related to the capacity of the domestic textile and footwear industrial base to meet any surge or contingency requirements of the Department of Defense for textiles or footwear.

"(C) An analysis of the capability of the domestic textile and footwear industrial base to mitigate the risk posed by rigidity in the supply chains of the domestic textile and footwear industrial base and the challenges to the domestic textile and footwear industrial base meeting the surge and contingency requirements of the Department of Defense for textiles or footwear, including—

"(i) opportunities for public-private partnerships to enable recapitalization of manufacturing lines or vertical integration;

"(ii) opportunities for increased flexibility in production, including adjustments to accommodate both increases in requirements for textiles or footwear and manufacturing of new or different textiles or footwear; and

"(iii) an assessment of any ongoing research and development initiatives by either the Department of Defense or domestic industry to meet any requirements for textiles or footwear that are currently covered by a waiver under section 4862(c) of title 10, United States Code.

"(D) An identification of any regulations or processes of the Department of Defense impeding the supply chain resilience of the domestic textile and footwear industries.

"(E) An identification of opportunities for the Department of Defense to make additional investments into the domestic textile and footwear industries to increase production capacity such

industries, facilitate greater competition, and reduce the reliance of the Department on textiles and footwear from foreign manufacturers for which an exception granted under section 4862(c) of title 10, United States Code, applies.

"(e) BRIEFING REQUIRED.—

"(1) IN GENERAL.—Not later than September 30, 2026, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on the implementation of subsections (a), (b), and (c) of this section and in carrying out subsection (d).

"(2) CONTENTS.—The briefing required by paragraph (1) shall include—

"(A) an explanation of the progress made in carrying out the requirements under subsections (a) through (d);

"(B) a timeline for completion of each such requirement; and

"(C) an identification of any barriers, including any legislative authorities, policies, and resource deficiencies, to carrying out such requirements.

"(f) COMBAT BOOT QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 2027, the Secretary concerned for each covered Armed Force that does not operate a program for certifying combat boots as meeting uniform regulations regarding durability, quality, and uniform standards shall establish in such covered Armed Force a process to certify that combat boots used by members of such covered Armed Force meet uniform regulations regarding durability, quality, and uniform standards.

"(2) STUDY REQUIRED.—

"(A) The Secretary concerned for each covered Armed Force shall conduct a study assessing the service requirements for combat boots for such covered Armed Force to determine the requirements for certifying combat boots under the program established in such covered Armed Force under paragraph (1) as meeting uniform regulations regarding durability, quality, and uniform standards.

"(B) The study required under subparagraph (A) shall include an identification of—

"(i) general requirements for wear, durability and quality;

"(ii) specialty-specific requirements based on the duties and operating environments of members of Armed Forces; and

"(iii) minimum requirements for biomechanics for the health and readiness of such members.

"(3) BRIEFING REQUIRED.—Not later than 180 days after the date of the enactment of this section [Dec. 18, 2025], and not less frequently than every three months thereafter until the Secretary concerned for a covered Armed Force establishes the program required under paragraph (1) in such covered Armed Force and completes the study required under paragraph (2), such Secretary concerned shall provide to the Committees on Armed Services for the Senate and House of Representatives a briefing on the progress towards establishing such program and completing such study."

## SMALL-UAS INDUSTRIAL BASE WORKING GROUP

Pub. L. 119–60, div. A, title IX, §914, Dec. 18, 2025, 139 Stat. 1019, provided that:

"(a) ESTABLISHMENT.—Not later than January 15, 2026, the Deputy Secretary of Defense shall establish a working group to be known as the 'Small-UAS Industrial Base Working Group' (referred to in this section as the 'Working Group') to analyze the supplier base for small-UAS systems and recommend investments or other actions to improve such supplier base.

"(b) MEMBERS.—The Working Group shall be composed of the following members:

"(1) The Deputy Secretary of Defense.

"(2) The Assistant Secretary of Defense for Industrial Base Policy.

"(3) The Director of the Defense Autonomous Warfare Group.

"(4) One or more representatives of the Defense Innovation Unit.

"(5) The service acquisition executive of each military department.

"(6) One or more representatives from the Army Materiel Command.

"(7) One or more representatives from the United States Special Operations Command.

"(8) Such other members as the Deputy Secretary of Defense determines appropriate.

"(c) DIRECTOR OF WORKING GROUP.—The Director of the Defense Autonomous Warfare Group shall serve as the Director of the Working Group.

"(d) RESPONSIBILITIES.—The Working Group shall have the following responsibilities:

"(1) Analyzing the current capacity of the sUAS industrial base, including manufacturers of complete sUAS systems and suppliers of components for such systems.

"(2) Identifying likely investments by entities in the sUAS industrial base to remediate fragile supply chains and supply chains for systems or components for which there are limited or no domestic suppliers,

taking into account reasonable estimates of Federal Government and commercial demand and ensuring that private investment is leveraged to the greatest extent practicable.

"(3) Developing plans for investments and other actions to remediate fragile or non-U.S. suppliers, including the following:

"(A) Continued Federal Government purchases of significant numbers of sUAS systems.

"(B) Partnerships between entities in the sUAS industrial base and the Federal Government, including—

"(i) the SkyFoundry initiative of the Army Materiel Command;

"(ii) arrangements for companies in the sUAS industrial base to operate commercially-owned, commercially-operated production facilities on sites within the United States organic industrial base;

"(iii) arrangements for the establishment of Government-owned, contractor-operated sUAS component production facilities on such sites; and

"(iv) arrangements for the establishment of Government-owned, Government-operated sUAS component production facilities on such sites.

"(C) Identifying sUAS capabilities that are required by the Army, Navy, Air Force, Marine Corps, and Space Force, but which commercial industry cannot or is not expected to fulfill.

"(D) Identifying opportunities for public-private partnerships to support the incubation and innovation of sUAS technology.

"(4) Identifying potential changes in qualification processes for sUAS components that could enable greater commercial production of such components and sUAS systems.

"(e) REPORTS.—

"(1) INITIAL REPORT.—Not later than April 1, 2026, the Working Group shall submit to the Deputy Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(A) an initial assessment of the sUAS industrial base;

"(B) a summary of the aggregate demand signal made by the Federal Government for sUAS production as of the date of the report;

"(C) a summary of the future projected demand signal by the Federal Government for sUAS production;

"(D) a description of the likely investments in the sUAS component supplier base by commercial industry over the period of 18 months following the date of the report;

"(E) recommendations for investments or other actions to strengthen the sUAS industrial base to optimally meet aggregate Federal Government and commercial demand; and

"(F) an assessment of the Sky Foundry initiative of the Army to determine how that initiative is expected to—

"(i) assist the Army in meeting its sUAS requirements at a competitive cost; and

"(ii) materially impact the health of the sUAS industrial base.

"(2) BIANNUAL REPORTS.—Not less frequently than once every 180 days following the submittal of the initial report under paragraph (1), the Working Group shall submit to the Deputy Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an updated version of the report.

"(f) AUTHORIZATION OF SKYFOUNDRY PROGRAM.—The Secretary of the Army may establish a SkyFoundry program if—

"(1) the Working Group has submitted the initial report required under subsection (e)(1) to the congressional defense committees; and

"(2) the Deputy Secretary of Defense certifies to such committees that the SkyFoundry program—

"(A) will improve the ability of the Army to rapidly field sUAS systems at a competitive cost; and

"(B) will not negatively impact the commercial sUAS industrial base.

"(g) DEFINITIONS.—In this section:

"(1) The term 'small-UAS' or 'sUAS' means an unmanned aircraft system designated as Group 1, Group 2, or Group 3 in the Unmanned Aircraft Systems Categorization Chart set forth in chapter III of the Department of Defense Joint Publication 3-30 (relating to 'Joint Air Operations'), or any successor to such categorization system.

"(2) The term 'sUAS component' means any of following components for sUAS systems:

"(A) Brushless motors.

"(B) Batteries.

"(C) Antennae.

"(D) Flight controllers, including printed circuit boards.
"(E) Wiring harnesses.
"(F) Rotors.
"(G) Blades and propellers.
"(H) Chassis, bodies, and frames.
"(I) Sensors, including electro-optical and infra-red sensors, GPS, and other such sensors."

## PARTNERSHIP FOR INDO-PACIFIC INDUSTRIAL RESILIENCE

Pub. L. 119–60, div. A, title XII, §1253, Dec. 18, 2025, 139 Stat. 1113, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense, in coordination with the Secretary of State, shall establish and maintain an initiative, to be known as the 'Partnership for Indo-Pacific Industrial Resilience' (referred to in this section as the 'Initiative'), to strengthen cooperation among the defense industrial bases of the United States and allied and partner countries in the Indo-Pacific region and other countries supporting Indo-Pacific defense industrial resilience.

"(b) OBJECTIVES.—The objectives of the Initiative shall be the following:

"(1) To enable the production and supply of the material necessary for equipping the Armed Forces of the United States and the military forces of allied and partner countries to achieve—

"(A) the objectives set forth in the most recent national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

"(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of title 10, United States Code; and

"(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of title 10, United States Code.

"(2) To strengthen the collective defense industrial base by expanding industrial base capability, capacity, and workforce, including with respect to enhanced supply chain security, interoperability, and resilience among participating countries.

"(3) To identify and mitigate industrial base vulnerabilities across partner countries.

"(4) To advance research and development activities to provide the Armed Forces of the United States and the military forces of allied and partner countries with systems capable of ensuring technological superiority over potential adversaries.

"(5) To promote co-development, co-production, and procurement collaboration in key defense sectors.

"(6) To promote defense innovation, improve information sharing, encourage standardization, reduce barriers to cooperation, and otherwise mitigate potential vulnerabilities and facilitate collaboration.

"(7) Any other matter the Secretary of Defense considers appropriate.

"(c) DESIGNATION OF SENIOR OFFICIAL.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall designate a senior civilian official of the Department of Defense at the Assistant Secretary level or above to lead relevant efforts of the Initiative, as determined by the Secretary.

"(2) NOTIFICATION.—Not later than 30 days after the date on which the Secretary of Defense makes or changes a designation under paragraph (1), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification of such designation or change.

"(d) PARTICIPATION.—The Secretary of Defense, in coordination with the Secretary of State, shall establish a process to determine which allies and partners of the United States (including Australia, Japan, the Republic of Korea, India, the Philippines, and New Zealand) shall be invited to participate as member countries of the Initiative.

"(e) AUTHORITIES.—To carry out this section, the Secretary of Defense may do the following:

"(1) Enter into agreements and memoranda of understanding with appropriate counterparts from participating countries.

"(2) Establish working groups and technical exchanges.

"(3) Provide technical assistance and capacity-building support to partner countries using authorities available to the Secretary under title 10, United States Code.

"(4) Engage with industry, capital providers, academia, and any other stakeholders necessary to advance the objectives described in subsection (b).

"(f) REPORT AND BRIEFING.—

"(1) REPORT.—

"(A) IN GENERAL.—Not later than March 1, 2027, and annually thereafter through 2031, the

Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report on the status and progress of the Initiative.

"(B) ELEMENTS.—Each report required by subparagraph (A) shall include the following:

"(i) An assessment of shared industrial base vulnerabilities.

"(ii) An overview of efforts among participating countries to enhance supply chain integrity and resilience.

"(iii) A description of any joint defense production or co-development initiative, including any such initiative involving sensitive or classified technologies.

"(iv) An articulation of priority initiatives for the upcoming fiscal year.

"(v) Recommendations for legislative, regulatory, policy, or resourcing changes to achieve the objectives described in subsection (b).

"(vi) Any other matter the Secretary of Defense considers appropriate.

"(2) BRIEFING.—Not later than December 1, 2026, and annually thereafter through 2030, the Secretary of Defense shall provide the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate with a briefing on the progress made toward achieving the objectives described in subsection (b).

"(g) TERMINATION.—The authority under this section shall terminate on December 31, 2030."

## CIVIL RESERVE MANUFACTURING NETWORK

Pub. L. 119–60, div. A, title XVIII, §1841(a)–(e), Dec. 18, 2025, 139 Stat. 1254, provided that:

"(a) CIVIL RESERVE MANUFACTURING NETWORK SUPPORT.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall direct the collaborative forum described in section 1844(a) of this Act [section 1844(a) of div. A of Pub. L. 119–60, set out in a note below] to, in collaboration with relevant government, industry, and academic entities, support the establishment of the Civil Reserve Manufacturing Network (in this section referred to as the 'CRMN') to preserve the military advantage of the United States and broaden domestic manufacturing capability and capacity in the defense industrial base.

"(2) RESPONSIBILITIES.—In carrying out paragraph (1), the collaborative forum shall—

"(A) identify laws, regulations, and policies impeding the establishment of the CRMN;

"(B) develop recommendations for the establishment and the operation of the CRMN, including—

"(i) incentives for manufacturers to participate in the CRMN;

"(ii) incentives or other considerations to address the risk of loss of manufacturing to the commercial customers of manufacturers participating in the CRMN if the Secretary of Defense activates the CRMN;

"(iii) producing a registry, to be known as the 'National Manufacturing Registry', to inventory the manufacturing capabilities of the United States to inform and support the development of the CRMN; and

"(iv) creating an index, to be known as the 'Materiel Compatibility Index', to identify where existing equipment, capabilities, and skill sets of commercial manufacturing could be converted to support requirements of the Department of Defense; and

"(C) submit to the Secretary a list of the laws, regulations, and policies identified under subparagraph (A) and the recommendations developed under subparagraph (B).

"(b) PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for establishing the CRMN, including—

"(A) a strategy to leverage government-owned manufacturing capabilities in partnership with the CRMN to support the requirements of the Department of Defense;

"(B) a plan, informed by the Material Compatibility Index, to develop a network of commercial manufacturing capabilities or facilities that can rapidly convert from commercial manufacturing or production to Department of Defense-directed manufacturing or production upon activation of the CRMN;

"(C) an identification of laws, regulations, and policies impeding the establishment of the CRMN, with recommendations to streamline such establishment;

"(D) an identification and assessment of existing public-private partnership authorities suitable for

use by manufacturers participating in the CRMN to broaden domestic manufacturing capability and capacity in the defense industrial base, along with recommendations to expand such authorities to enable the integration of commercial advanced manufacturing systems, materials, and practices with organic industrial base requirements;

"(E) a list of existing Centers of Industrial and Technical Excellence designated pursuant to section 2474 of title 10, United States Code, and compatible maintenance and repair capability for potential CRMN integration; and

"(F) recommendations for the official or officials of the Department who should be authorized to activate the CRMN and criteria for activating the CRMN, including recommendations related to a phased activation of the CRMN reflecting stages of competition and conflict.

"(2) CONSIDERATIONS.—The plan required under paragraph (1) shall incorporate, to the extent practicable, recommendations of the collaborative forum.

"(c) CIVIL RESERVE MANUFACTURING NETWORK PROGRAM.—

"(1) Upon the submission of the plan required under subsection (b)(1), the Secretary shall—

"(A) establish a program under which the Secretary shall manage and operate the CRMN; and

"(B) initiate the establishment of the CRMN.

"(2) Each participant shall enter into an agreement with the Secretary to rapidly convert, on such terms as agreed to by the Secretary and the participant, production facilities to Department of Defense-directed manufacturing or production upon the activation of the CRMN.

"(3) Not later than 540 days after the date of enactment of this Act, the Secretary shall seek to enter into agreements with not fewer than two manufacturers, including advanced manufacturers, to participate in the CRMN.

"(4) Each participant shall be eligible for—

"(A) the use of the expedited procedures for qualification, certification, and testing of the products and services of such participant under section 865 of the Servicemember Quality of Life National Defense Authorization Act for Fiscal Year 2025 (Public Law 118–159; 10 U.S.C. 4811 note) [set out below]; and

"(B) subject to the availability of appropriations, awards under the program established under paragraph (1) for—

"(i) costs associated with expedited qualification and testing of goods manufactured by participants using an advanced manufacturing crisis qualification framework established under section 3243(e) of title 10, United States Code; and

"(ii) costs associated with non-recurring engineering activities required to convert traditional product specifications for use in advanced manufacturing.

"(5) In carrying out the program established under paragraph (1), the Secretary shall encourage participants to prioritize converting existing commercial or dual-use manufacturing capabilities or facilities to Department of Defense-directed manufacturing or production pursuant to the activation of the CRMN.

"(6) None of the funds made available to a participant under the program established under paragraph (1) may be used for planning, design, or construction of a new advanced manufacturing facility.

"(7) The Secretary shall require each participant that receives an award under the program established under paragraph (1) to certify to the Secretary, at the time such award is made and annually thereafter, that none of the amounts of such award have been used for the planning, design, or construction of a new advanced manufacturing facility.

"(8) For the purposes of this section, the Secretary, or such other person authorized to activate the CRMN, activates the CRMN when the Secretary or such other person issues a notice to the participants that the Secretary or such other person that the CRMN is being activated.

"(d) INTERIM REPORT.—Not later than 540 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees—

"(1) a report on progress of establishing the CRMN, including—

"(A) an assessment of a factory-as-a-service model to enable CRMN establishment, reduce the Government costs, minimize obsolescence of participating manufacturing capabilities, and enable rapid scaling;

"(B) an analysis of opportunities for improved efficiency and reductions in costs through the use of advanced manufacturing and value engineering, without sacrificing performance, reliability, quality, or safety;

"(C) any additional findings by the Secretary related to laws, regulations, or policies constraining participation in, or the operations or effectiveness of, the CRMN, and recommendations to streamline the management, oversight, and execution of the CRMN; and

"(D) an assessment of the effectiveness of any incentive structure implemented to mitigate the risk described in section (a)(2)(B)(ii); and

"(2) a strategy to transition castings or forgings capabilities used to meet the needs of the Department of Defense that are experiencing delays or cost overruns to advanced manufacturing under the CRMN.

"(e) DEFINITIONS.—In this section:

"(1) The term 'advanced manufacturer' means a manufacturer that uses advanced or adaptive manufacturing.

"(2) The term 'advanced manufacturing' has the meaning given such term in section 4841(f) of title 10, United States Code, as added by this section.

"(3) The term 'Civil Reserve Manufacturing Network' means a network of manufacturers partnering with the Secretary to rapidly convert commercial manufacturing capabilities or facilities from commercial manufacturing or production to Department of Defense-directed manufacturing or production.

"(4) The term 'collaborative forum' means the collaborative forum described in section 1844(a) of this Act.

"(5) The term 'factory-as-a-service' means a scalable, flexible manufacturing framework providing rapid reconfiguration of production and real-time collaboration across dispersed facilities.

"(6) The term 'participant' means a manufacturer, including an advanced manufacturer, participating in the CRMN.

"(7) The term 'Secretary' means the Secretary of Defense."

## WORKING GROUP ON THE ADVANCED MANUFACTURING WORKFORCE

Pub. L. 119–60, div. A, title XVIII, §1843, Dec. 18, 2025, 139 Stat. 1258, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall establish a working group to identify opportunities to address workforce shortages in advanced manufacturing career fields in the defense industrial base.

"(b) MEMBERSHIP.—The working group shall consist of members of the Joint Additive Manufacturing Working Group of the Department of Defense and members of the collaborative forum described in section 1844(a) of this Act [section 1844(a) of div. A of Pub. L. 119–60, set out in a note below] with an interest in addressing workforce shortages in advanced manufacturing career fields in the defense industrial base.

"(c) RESPONSIBILITIES.—The working group shall—

"(1) identify estimated workforce shortages in advanced manufacturing career fields in the defense industrial base, including such workforce shortages in the Department of Defense organic industrial base;

"(2) identify career fields in advanced manufacturing and the associated skills and abilities that are required for such fields; and

"(3) develop recommendations for—

"(A) training, education, and career development programs, including mid-career programs, apprenticeships, internships, and summer camps, to prepare individuals for careers in advanced manufacturing;

"(B) the establishment of public-private partnerships to provide workforce development activities, including identifying incentives for such partnerships for success in recruiting, training, and retaining individuals in careers in advanced manufacturing; and

"(C) any policy changes needed to further the participation of individuals in the advanced manufacturing workforce of the defense industrial base.

"(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing—

"(1) a summary of recommendations developed by the working group under subsection (c)(3); and

"(2) actions taken by the Secretary to implement recommendations provided by such working group; and

"(3) actions taken by the Secretary to provide training to enhance the knowledge and experience of the workforce of the Department of Defense, including—

"(A) the benefits, limitations, and commercial best practices and business models for designing, developing, and using products manufactured using advanced manufacturing; and

"(B) recommended approaches for qualifying advanced manufacturing processes and test and evaluation procedures using processes established in section 865 of the National Defense Authorization Act for Fiscal Year 2025 [section 865 of Pub. L. 119–60, set out as a note below]; and

"(4) a recommendation whether to continue or terminate the working group.

"(e) ADVANCED MANUFACTURING DEFINED.—In this section, the term 'advanced manufacturing' has the meaning provided in section 4841(f) of title 10, United States Code, as added by section 1841 of this

Act."

## COLLABORATIVE FORUM TO ADDRESS CHALLENGES TO AND LIMITATIONS OF THE DEFENSE INDUSTRIAL BASE

Pub. L. 119–60, div. A, title XVIII, §1844, Dec. 18, 2025, 139 Stat. 1260, provided that:

"(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall identify one or more consortia or other entity to serve as a collaborative forum for government, private sector, academia, and nonprofit entities with expertise in advanced manufacturing to address the challenges to and limitations of the defense industrial base.

"(b) AREAS OF FOCUS.—In addressing the challenges to and limitations of the defense industrial base, a consortia or entity identified under subsection (a) shall establish a working group (or other appropriate organization) focused on each of the following areas:

"(1) Eliminating barriers to a resilient and robust defense industrial base, including—

"(A) policies and procedures that impede businesses of all types and sizes from doing business with the Department of Defense;

"(B) policies, procedures, guidance, or workforce training that result in the application of contract requirements or clauses that should not apply to the acquisition of a commercial product or commercial service; and

"(C) impediments to transitioning technology from research, development, testing, and evaluation activities to acquisition programs that are approved and funded.

"(2) Assessing supply chain fragility, including—

"(A) assessing vulnerabilities from reliance on sole source dependencies and overreliance on countries that are not allies or partners of the United States; and

"(B) proposing mitigation measures to diversify sources of supply and to develop alternative sources supply to enhance resilience in the supply chains of the Department.

"(3) Expanding domestic manufacturing and industrial capacity, including—

"(A) public-private partnerships with the organic industrial base, commercial manufacturers, and other industrial entities;

"(B) modernization of the defense industrial base and supply chains by fostering the adoption of advanced manufacturing, automation, and other emerging capabilities;

"(C) integrate commercial approaches to information technology, software, cloud-based services, data management, and artificial intelligence; and

"(D) recommend financial incentives and business models to encourage private-sector investment efforts to expand domestic manufacturing and industrial capacity.

"(4) Developing and training a skilled workforce, including—

"(A) adopting industry-leading programs or other approaches to develop workforce skills in advanced manufacturing, tailored for defense capabilities; and

"(B) creating opportunities for public-private talent exchanges and skill-building initiatives in advanced manufacturing, supply chain management, and risk management.

"(c) WORK PRODUCTS AND RECOMMENDATIONS.—The Secretary of Defense shall consider relevant work products and recommendations developed through activities of the working group established under subsection (b) in developing and updating Department of Defense policies, regulations, instructions, and manuals in order to meet the requirements of the defense acquisition system as defined in section 3001 of title 10, United States Code.

"(d) ANNUAL BRIEFING.—Not later than March 1, 2026, and annually there after until March 1, 2029, the Secretary shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing that includes—

"(1) a summary of the implementation of this section;

"(2) a summary of any work products and recommendations provided to the Secretary under subsection (c); and

"(3) any recommendations for actions by Congress to address the challenges to and limitations of the defense industrial base.

"(e) DEFINITIONS.—In this section:

"(1) The term 'advanced manufacturing' has the meaning given in section 4841(f) of title 10, United States Code, as added by section 1841 of this Act.

"(2) The term 'organic industrial base' has the meaning given in section 2476(f) of title 10, United States Code."

## QUALIFICATION OF INDUSTRIAL CAPABILITIES

Pub. L. 118–159, div. A, title VIII, §865, Dec. 23, 2024, 138 Stat. 2003, as amended by Pub. L. 119–60, div. A, title VIII, §832(a), Dec. 18, 2025, 139 Stat. 961, provided that:

"(a) ESTABLISHMENT OF PROCESS.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall establish a process to rapidly qualify and approve alternate or additional sources of supply for industrial capabilities identified in subsection (b) for use in combat.

"(b) IDENTIFICATION.—With respect to the process required by subsection (a), the Secretary of Defense shall seek to expand industrial capability and capacity to—

"(1) produce energetic materials, solid rocket motors, unmanned systems, space systems, or electrical components;

"(2) supply castings and forgings;

"(3) produce all critical readiness items of supply, including those identified as having sole-source dependencies, excessive lead times, unreasonable pricing, or other supply chain deficiencies; and

"(4) use additive or other advanced manufacturing techniques.

"(c) APPLICATION.—The Secretary of Defense shall ensure that process required by subsection (a) is applied in a manner in which one or more documented supply chain deficiencies in the acquisition or sustainment of a weapon system of the Department of Defense is addressed.

"(d) ELEMENTS.—In developing the process required by subsection (a), the Secretary of Defense shall ensure that—

"(1) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], policies implementing such process are established to encourage and support the delegation of material review board authorities, processes, and approvals to the contractor or subcontractor (at any tier) with respect to non-safety critical items for industrial capabilities covered in subsection (b);

"(2) commercial processes and procedures for the evaluation and qualification of vendors, including manufacturers and distributors, that are part of the process required by subsection (a) are examined and implemented where feasible and advisable, including forms and templates such as Sources Approval Requests and Alternative Offers;

"(3) the process required by subsection (a) includes processes that are implemented and, if necessary, military specifications or other similar requirements documents are developed to pre-qualify vendors to supply safety critical items or mission critical items for industrial capabilities based on—

"(A) an assessment of the vendor's material and process controls to assure conformance to specification and contractual requirements; and

"(B) audit and inspection requirements of the Department of Defense;

"(4) test reports are reviewed and notice of an approval decision is provided to requesting member of the acquisition workforce (as defined in section 101 of title 10, United States Code) not later than 45 days after the date on which a test is completed;

"(5) processes for qualification of safety critical or flight critical end items produced through advanced processes and technologies, such as additive manufacturing, are established;

"(6) alternative material types that could be a viable replacement or an interchangeable source of material are considered for evaluation and qualification using streamlined requirements to streamline qualification requirements;

"(7) processes are developed, where appropriate, for qualification of a system or subsystem by a designated approval authority within a military department to avoid the need for qualification of individual parts while ensuring the performance of parts and the interactions of the parts in the system or subsystem; and

"(8) pathways are developed to streamline and consolidate the approval authority of the process established in subsection (a).

"(e) EXPEDITED PROCESSES FOR MILITARY-UNIQUE SPECIFICATIONS AND TEST PROCEDURES.—To support successful implementation of the process required by subsection (a), the Secretary shall—

"(1) to the maximum extent practicable, reduce the need for military-unique specification and test procedures;

"(2) develop a process to streamline and expedite the drafting and approval of military specifications (including military performance specifications) and technical publications that—

"(A) details the performance or functions required by the industrial capabilities described in subsection (b) or the weapon system described in subsection (c) and do not constrain implementation of such process;

"(B) is completed, upon request by a member of the acquisition workforce—

"(i) not later than 30 days after the date of such request, for unmanned items, non-safety critical items, or non-mission critical items; and

"(ii) not later than 180 days after the date of such request, for safety critical items or mission critical items; and

"(C) accounts for resource constraints by prioritizing requests for inclusion in the process established in subsection (a); and

"(3) develop a process to develop, produce, and test parts described in subsection (b), and may test through failure, to create data to support the drafting of specifications and test procedures.

"(f) EXPEDITED QUALIFICATION PANELS.—

"(1) Each Secretary of a military department shall establish an Expedited Qualification Panel within the military department under the jurisdiction of that Secretary. Each Expedited Qualification Panel shall—

"(A) develop standardized templates for expedited Source Approval Requests; and

"(B) not later than 14 days after receiving an expedited Source Approval Request—

"(i) review the request; and

"(ii) based on tiered risk criteria, make a determination with respect to the request which shall consist of—

"(I) conditional approval, which may be valid for up to 12 months;

"(II) full approval; or

"(III) disapproval of the request.

"(2) In reviewing and making determinations with respect to Source Approval Requests under paragraph (1), an Expedited Qualification Panel may use the services of designated engineering representatives or equivalent third-party certified engineers when appropriate.

"(g) EXEMPTIONS.—Industrial capabilities approved under the process required by subsection (a) that do not present a safety risk to human life—

"(1) shall be exempt from Class A and Class B mishap investigations, as defined by the Secretary of Defense; and

"(2) shall be subject to streamlined investigation procedures, as determined by the Secretary of Defense, with respect to a mishap.

"(h) PROTECTIONS.—Approval authorities responsible for the process required by subsection (a) shall not be held liable by the Department of Defense for mishaps with respect to industrial capabilities approved pursuant to the process required by subsection (a) without evidence of willful misconduct, gross negligence, or intentional fraud.

"(i) INTERIM BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing with a detailed plan to implement the process required by subsection (a), including definitions and processes related to time limitations for drafting and approval of military specifications and technical publications in subsection (d)(1)(B).

"(j) INVESTMENT ROADMAP.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the resourcing and investment required to modernize the infrastructure and personnel for materials and process development, certification, and qualification.

"(k) REPORT.—Not later than September 30, 2027, the Secretary of Defense, in coordination with each Secretary of a military department and the Director of the Defense Logistics Agency, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress, challenges, and lessons learned in carrying out the requirements of this section, including the viability of applying the process required by subsection (a) more broadly across additional industrial capabilities.

"(l) DEFINITIONS.—In this section:

"(1) The term 'critical readiness items of supply' has the meaning given the term in section 1733 of title 10, United States Code.

"(2) The term 'non-safety critical items, or non-mission critical items' includes the following items:

"(A) Major risk parts or systems the failure of which is likely to cause structural damage or significant mission degradation and requires finite element modeling, fracture analysis, comparison to similar parts, or similar methods.

"(B) Minor risk parts and systems that only have form, fit, and function requirements verified by

dimensional coordinate measuring machines, go/no-go gauges, or similar methods.

"(C) Low risk parts and systems that are consumable or non-critical, requiring material certification, visual inspections, or similar methods.

"(3) The term 'safety critical items or mission critical items' means parts or systems the failure of which is likely to cause loss of control, catastrophic failure, or loss of life, and require full qualification, simulation, and physical testing with Engineering Support Activity witnessing."

## DEFENSE INDUSTRIAL BASE WORKFORCE DEVELOPMENT STRATEGY

Pub. L. 118–159, div. A, title XVI, §1635, Dec. 23, 2024, 138 Stat. 2179, as amended by Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(B), Dec. 18, 2025, 139 Stat. 1460, provided that:

"(a) STRATEGY.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, in consultation with the Administrator for Nuclear Security and other individuals as the Secretary determines appropriate, shall commence the implementation of a strategy for promoting the development of a skilled manufacturing and high-demand vocational trade workforce to support the expansion of the national technology and industrial base and nuclear security enterprise.

"(b) REPORT; BRIEFINGS.—

"(1) REPORT.—Not later than 60 days after the development of the strategy under subsection (a), the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report that outlines the strategy and includes a detailed description of measures to implement the strategy, including planned schedules and progress milestones.

"(2) BRIEFINGS.—Beginning in 2026, and on a biennial basis until 2032, the Assistant Secretary of Defense for Industrial Base Policy shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on progress made in implementing the strategy under subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) The term 'national technology and industrial base' has the meaning given that term in section 4801 of title 10, United States Code.

"(2) The term 'nuclear security enterprise' has the meaning given that term in section 6101 of title 10, United States Code."

## RECOVERY OF RARE EARTH ELEMENTS AND OTHER STRATEGIC AND CRITICAL MATERIALS THROUGH END-OF-LIFE EQUIPMENT RECYCLING

Pub. L. 118–31, div. A, title III, §367, Dec. 22, 2023, 137 Stat. 235, provided that: "The Secretary of Defense shall issue policies and establish procedures to—

"(1) identify end-of-life equipment of the Department of Defense that contains rare earth elements and other materials determined pursuant to section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)) to be strategic and critical materials; and

"(2) recover such materials from such equipment for the purposes of reuse by the Department of Defense."

## PILOT PROGRAM ON CAPITAL ASSISTANCE TO SUPPORT DEFENSE INVESTMENT IN THE INDUSTRIAL BASE

Pub. L. 118–31, div. A, title IX, §903(b), Dec. 22, 2023, 137 Stat. 360, which established a pilot program to provide capital assistance to eligible entities for eligible investments to develop technologies that support the duties and elements of the Office of Strategic Capital and meet the needs of the Department of Defense, was repealed by Pub. L. 118–159, div. A, title IX, §905(b), Dec. 23, 2024, 138 Stat. 2031. See section 149(e) of this title.

## CRITICAL MINERAL INDEPENDENCE

Pub. L. 118–31, div. A, title XIV, §1414, Dec. 22, 2023, 137 Stat. 528, provided that:

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services of the Senate; and

"(B) the Committee on Armed Services of the House of Representatives.

"(2) COVERED COUNTRY.—The term 'covered country' means—

"(A) a covered nation (as defined in section 4872(d) of title 10, United States Code); and

"(B) any other country determined by the Secretary of Defense to be a strategic competitor or adversary of the United States for purposes of this section.

"(3) CRITICAL MINERAL.—The term 'critical mineral' means a critical mineral (as defined in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a))) that the Secretary of Defense determines to be important to the national security of the United States for purposes of this section.

"(4) SHORTFALL MATERIAL.—The term 'shortfall material' means materials determined to be in shortfall in the most recent report on stockpile requirements submitted to Congress under subsection (a) of section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5) and included in the most recent briefing required by subsection (f) of such section.

"(b) STATEMENT OF POLICY.—It is the policy of the United States—

"(1) to expand secure sources of supply of critical minerals, including rare earth elements, in the United States and in countries that are allies or partners of the United States to meet the needs of the United States defense sector so that the Department of Defense will achieve critical mineral supply chain independence from covered countries, including the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, and the Democratic People's Republic of North Korea; and

"(2) that the Department of Defense will procure critical minerals and products made using supply chains involving critical minerals that are not mined or processed in or by covered countries.

"(c) STRATEGY TO ACHIEVE CRITICAL MINERAL SUPPLY CHAIN INDEPENDENCE FOR THE DEPARTMENT OF DEFENSE.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment shall submit to the appropriate committees of Congress a strategy to develop supply chains for the Department of Defense that are not dependent on mining or processing of critical minerals in or by covered countries, in order to achieve critical mineral supply chain independence from covered countries for the Department by 2035.

"(2) ELEMENTS.—The strategy required by paragraph (1) shall—

"(A) identify and assess significant vulnerabilities in the supply chains of contractors and subcontractors of the Department of Defense involving critical minerals that are mined or processed in or by covered countries;

"(B) identify and recommend changes to the acquisition laws, regulations, and policies of the Department of Defense to ensure contractors and subcontractors of the Department use supply chains involving critical minerals that are not mined or processed in or by covered countries to the greatest extent practicable;

"(C) evaluate the utility and desirability of leveraging the process for acquiring shortfall materials for the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) to strengthen mining and processing capacity for critical minerals in the United States and in countries that are allies or partners of the United States;

"(D) identify areas of potential engagement and partnership with the governments of countries that are allies or partners of the United States to jointly reduce dependence on critical minerals mined or processed in or by covered countries;

"(E) identify and recommend other policy changes that may be needed to achieve critical mineral supply chain independence from covered countries for the Department;

"(F) identify and recommend measures to streamline authorities and policies with respect to critical minerals and supply chains for critical minerals; and

"(G) prioritize the recommendations made in the strategy to achieve critical mineral supply chain independence from covered countries for the Department, taking into consideration economic costs and varying degrees of vulnerability posed to the national security of the United States by reliance on different types of critical minerals.

"(3) FORM OF STRATEGY.—The strategy required by paragraph (1) shall be submitted in classified form but shall include an unclassified summary."

**DEPARTMENT OF DEFENSE NATIONAL IMPERATIVE FOR INDUSTRIAL SKILLS PROGRAM**

Pub. L. 117–263, div. A, title VIII, §836, Dec. 23, 2022, 136 Stat. 2716, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Industrial Base Analysis and Sustainment program of the Department of Defense, shall evaluate and further develop workforce development training programs (as defined by the Secretary of Defense) for training the skilled industrial workers (as defined by the Secretary of Defense) that are needed in the defense industrial base through the National Imperative for Industrial Skills program of the Department of Defense (or a successor program).

"(b) PRIORITIES.—In carrying out this section, the Secretary shall prioritize workforce development training programs that—

"(1) are innovative, lab-based, or experientially-based;

"(2) rapidly train skilled industrial workers for employment with entities in the defense industrial base faster than traditional workforce development training programs and at the scale needed to measurably reduce, as rapidly as possible, the shortages of skilled industrial workers in the defense industrial base, including modernization of required equipment and training curricula;

"(3) recruit skilled industrial workers who are manufacturing workers from underrepresented communities;

"(4) provide students and skilled industrial workers with the support needed to successfully participate in the defense industrial base;

"(5) address the specific manufacturing requirements and skills that are unique to critical industrial sectors of the defense industrial base as defined by the Secretary of Defense, such as naval shipbuilding; and

"(6) with respect to Federal workforce development training programs in existence on or before the date of the enactment of this Act [Dec. 23, 2022]—

"(A) maximize the use of such Federal workforce development training programs; or

"(B) expand on the activities of such Federal workforce development training programs."

## PROCUREMENT REQUIREMENTS RELATING TO RARE EARTH ELEMENTS AND STRATEGIC AND CRITICAL MATERIALS

Pub. L. 117–263, div. A, title VIII, §857(a), (d), Dec. 23, 2022, 136 Stat. 2727, 2731, provided that:

"(a) DISCLOSURES CONCERNING RARE EARTH ELEMENTS AND STRATEGIC AND CRITICAL MATERIALS BY CONTRACTORS OF DEPARTMENT OF DEFENSE.—

"(1) REQUIREMENT.—Beginning on the effective date of this subsection, the Secretary of Defense shall—

"(A) require that any contractor that provides to the Department of Defense a system with a permanent magnet that contains rare earth elements or strategic and critical materials disclose, after undertaking a commercially reasonable inquiry and along with delivery of the system, the provenance of the magnet; and

"(B) safeguard such disclosures in accordance with applicable classification level required by the associated programs.

"(2) ELEMENTS.—A disclosure under paragraph (1) shall include an identification of the country or countries in which—

"(A) any rare earth elements and strategic and critical materials used in the magnet were mined;

"(B) such elements and minerals were refined into oxides;

"(C) such elements and minerals were made into metals and alloys; and

"(D) the magnet was sintered or bonded and magnetized.

"(3) IMPLEMENTATION OF SUPPLY CHAIN TRACKING SYSTEM.—If a contractor cannot make the disclosure required by paragraph (1) with respect to a system described in that paragraph, the Secretary shall require the contractor to establish and implement a supply chain tracking system in order to make the disclosure to the fullest extent possible not later than 180 days after the contractor provides the system to the Department of Defense. The tracking system shall—

"(A) include a description of the efforts taken by the contractor to date to make the disclosure required by paragraph (1);

"(B) take into account the possible refusal of certain foreign entities to provide the contractor the information necessary to make the disclosure required by paragraph (1); and

"(C) require the contractor to report to the Secretary the name, location, and other identifying information of any entities which refuse to provide the contractor with the information necessary to make the disclosure required by paragraph (1).

"(4) WAIVERS.—

"(A) IN GENERAL.—The Secretary may waive a requirement under paragraph (1) or (3) with respect to a system described in paragraph (1) for a period of not more than 180 days if the Secretary certifies to the Committees on Armed Services of the Senate and the House of Representatives that—

"(i) the continued procurement of the system is necessary to meet the demands of a national emergency declared under section 201 of the National Emergencies Act (50 U.S.C. 1621); or

"(ii) a contractor that cannot currently make the disclosure required by paragraph (1) is making significant efforts to comply with the requirements of that paragraph.

"(B) WAIVER RENEWALS.—The Secretary may renew a waiver as many times as the Secretary considers appropriate, provided that the Secretary submits an updated certification to the committees.

"(C) LIMITATION.—The Secretary may not delegate this waiver authority below the level of Assistant Secretary of Defense, a senior [sic; probably should be "service"] acquisition executive (as defined in section 101(a) of title 10, United States Code), or a command acquisition executive (as described in section 167(e)(4)(C) of title 10, United States Code) or equivalent.

"(5) BRIEFING REQUIRED.—

"(A) IN GENERAL.—Not later than 30 days after the submission of each report required by subsection (c)(3) [136 Stat. 2731], the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that includes—

"(i) a summary of the disclosures made under this subsection;

"(ii) an assessment of the extent of reliance by the United States on foreign countries, and especially countries that are not allies of the United States, for rare earth elements and strategic and critical materials;

"(iii) a determination with respect to which systems described in paragraph (1) are of the greatest concern for interruptions of supply chains with respect to rare earth elements and strategic and critical materials; and

"(iv) any suggestions for legislation or funding that would mitigate security gaps in such supply chains.

"(B) FORM.—To the extent practicable, each briefing required under subparagraph (A) shall be in an unclassified form, but may contain a classified annex.

"(6) EFFECTIVE DATE.—The requirements described in this subsection shall take effect—

"(A) not earlier than 30 months after the date of enactment of this Act [Dec. 23, 2022]; and

"(B) after the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that the Department has established a process to ensure that the information collection requirements of this subsection present no national security risks, or that any such risks have been fully mitigated.

"(d) STRATEGIC AND CRITICAL MATERIALS DEFINED.—In this section, the term 'strategic and critical materials' means materials designated as strategic and critical under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a))."

## ANALYSES OF CERTAIN ACTIVITIES FOR ACTION TO ADDRESS SOURCING AND INDUSTRIAL CAPACITY

Pub. L. 117–263, div. A, title VIII, §858, Dec. 23, 2022, 136 Stat. 2731, as amended by Pub. L. 118–31, div. A, title X, §1061(c)(3), Dec. 22, 2023, 137 Stat. 399, provided that:

"(a) ANALYSIS REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and other appropriate officials, shall review the items under subsection (c) to determine and develop appropriate actions, consistent with the policies, programs, and activities required under subpart I of part V of subtitle A of title 10, United States Code, chapter 83 of title 41, United States Code, and the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.), including—

"(A) restricting procurement, with appropriate waivers for cost, emergency requirements, and non-availability of suppliers, including restricting procurement to—

"(i) suppliers in the United States;

"(ii) suppliers in the national technology and industrial base (as defined in section 4801 of title 10, United States Code);

"(iii) suppliers in other allied nations; or

"(iv) other suppliers;

"(B) increasing investment through use of research and development or procurement activities and acquisition authorities to—

"(i) expand production capacity;

"(ii) diversify sources of supply; or

"(iii) promote alternative approaches for addressing military requirements;

"(C) prohibiting procurement from selected sources or nations;

"(D) taking a combination of actions described under subparagraphs (A), (B), and (C); or

"(E) taking no action.

"(2) CONSIDERATIONS.—The analyses conducted pursuant to paragraph (1) shall consider national security, economic, and treaty implications, as well as impacts on current and potential suppliers of goods and services.

"(b) REPORTING ON ANALYSES, RECOMMENDATIONS, AND ACTIONS.—

"(1) BRIEFING REQUIRED.—Not later than January 15, 2024, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], in writing—

"(A) a summary of the findings of the analyses undertaken for each item pursuant to subsection (a);

"(B) relevant recommendations resulting from the analyses; and

"(C) descriptions of specific activities undertaken as a result of the analyses, including schedule and resources allocated for any planned actions.

"(2) REPORTING.—The Secretary of Defense shall include the analyses conducted under subsection (a), and any relevant recommendations and descriptions of activities resulting from such analyses, as appropriate, in each of the following during the 2024 calendar year:

"(A) The annual report on unfunded priorities of the national technology and industrial base required under section 4815 of such title.

"(B) Department of Defense technology and industrial base policy guidance prescribed under section 4811(c) of such title.

"(C) Activities to modernize acquisition processes to ensure the integrity of the industrial base pursuant to section 4819 of such title.

"(D) Defense memoranda of understanding and related agreements considered in accordance with section 4851 of such title.

"(E) Industrial base or acquisition policy changes.

"(F) Legislative proposals for changes to relevant statutes which the Department shall consider, develop, and submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not less frequently than once per fiscal year.

"(G) Other actions as the Secretary of Defense determines appropriate.

"(c) LIST OF GOODS AND SERVICES FOR ANALYSES, RECOMMENDATIONS, AND ACTIONS .—The items described in this subsection are the following:

"(1) Solar components for satellites.

"(2) Satellite ground station service contracts.

"(3) Naval vessel shafts and propulsion system components (including reduction gears and propellers).

"(4) Infrastructure or equipment for a passenger boarding bridge at a military airport designated by the Secretary of Transportation under section 47118(a) of title 49, United States Code.

"(5) Flags of the United States.

"(6) Natural rubber from herbaceous plants for military applications.

"(7) Alternative proteins as sustainable and secure food sources.

"(8) Carbon fiber."

## DEMONSTRATION EXERCISE OF ENHANCED PLANNING FOR INDUSTRIAL MOBILIZATION AND SUPPLY CHAIN MANAGEMENT

Pub. L. 117–263, div. A, title VIII, §859, Dec. 23, 2022, 136 Stat. 2733, provided that:

"(a) DEMONSTRATION EXERCISE REQUIRED.—Not later than December 31, 2024, the Secretary of Defense shall conduct a demonstration exercise of industrial mobilization and supply chain management planning capabilities in support of one or more operational or contingency plan use cases, as selected in consultation with the Chairman of the Joint Chiefs of Staff and the Under Secretary of Defense for Acquisition and Sustainment.

"(b) ELEMENTS.—The demonstration exercise required under subsection (a) shall include the following elements:

"(1) Use of a current program that is both fielded and still in production from each military department, Defense Agency, and Department of Defense Field Activity in order to model a notional plan for mobilization or supply chain management, as associated with the selected operational or contingency plans.

"(2) The exercise of processes and authorities that support the Department of Defense for industrial mobilization in support of declared hostilities or other contingency operations.

"(3) The identification of process improvements or gaps in resources, capabilities, or authorities that require remediation, including those related to government or contractor production facilities, tooling, or workforce development.

"(4) The implementation of analytical tools and processes to monitor and assess the health of the industrial base and to use near real-time data and visualization capabilities in making production and distribution decisions, with an emphasis on identifying, assessing, and demonstrating commercially

available tools.

"(5) The establishment and tracking of goals and metrics to support institutionalization of defense industrial base health assessment and planning.

"(c) BRIEFING REQUIRED.—Not later than November 1, 2023, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an interim briefing on the demonstration exercise required under subsection (a), including—

"(1) an identification of the programs and use cases to be demonstrated;

"(2) a description of methodology for executing the demonstration exercise, including analytical tools or metrics identified to support the process; and

"(3) any preliminary findings.

"(d) ASSESSMENT.—Not later than March 1, 2025, the Secretary shall submit to the congressional defense committees a report assessing the demonstration exercise required under subsection (a), including a description of—

"(1) the programs and use cases considered in this demonstration exercise;

"(2) the outcomes of the activities required under subsection (b);

"(3) outcomes and conclusions;

"(4) lessons learned; and

"(5) any recommendations for legislative action that may be required as a result.

"(e) DEFINITIONS.—In this section, the terms 'military department', 'Defense Agency', and 'Defense Field Activity' have the meanings given those terms in section 101 of title 10, United States Code."

## KEY ADVANCED SYSTEM DEVELOPMENT INDUSTRY DAYS

Pub. L. 117–263, div. A, title VIII, §862, Dec. 23, 2022, 136 Stat. 2736, as amended by Pub. L. 118–159, div. A, title XVII, §1701(c), Dec. 23, 2024, 138 Stat. 2206, provided that:

"(a) IN GENERAL.—Not later than March 1, 2023, and every 180 days thereafter, the each Secretary of a military department shall ensure that such military department conducts an outreach event to—

"(1) collaborate with the private sector on present current and future opportunities with respect to key advanced system development areas;

"(2) raise awareness within the private sector of—

"(A) key advanced system development areas; and

"(B) capability needs and existing and potential requirements related to the key advanced system development areas; and

"(3) raise awareness within such military department of potential material solutions for capability needs and existing and potential requirements related to key advanced system development areas.

"(b) Responsibilities.—

"(1) SERVICE CHIEFS.—For each event a military department conducts under subsection (a), the Service Chief concerned shall, for each key advanced system development area, perform the following:

"(A) Identify related and potentially related existing, planned, or potential military requirements, including urgent and emergent operational needs.

"(B) Identify and describe related and potentially related needs or gaps in the capabilities of the military department to carry out the missions of the military department, including warfighting and combat support capabilities.

"(C) Identify and describe related and potentially related exercise, demonstration, or experimentation opportunities.

"(2) ACQUISITION EXECUTIVES.—For each event a military department conducts under subsection (a), the service acquisition executive of the military department conducting the event shall, for each key advanced system development area, perform the following:

"(A) Identify and describe related and potentially related existing, planned, or potential acquisition plans and strategies.

"(B) Identify and describe related and potentially related existing, planned, or potential funding opportunities, including—

"(i) broad agency announcements;

"(ii) requests for information;

"(iii) funding opportunity announcements;

"(iv) special program announcements;

"(v) requests for proposals;

"(vi) requests for quotes;

"(vii) special notices;

"(viii) transactions pursuant to sections 4004, 4021, and 4022 of title 10, United States Code;

"(ix) unsolicited proposals; and

"(x) other funding opportunities as determined appropriate by the service acquisition executive.

"(3) DELEGATION.—Each Service Chief concerned and each service acquisition executive may delegate the authority to carry out the tasks for which such individuals are responsible under this subsection.

"(4) REVIEWS AND COORDINATION.—

"(A) INDUSTRY DAY REVIEWS.—Promptly after an event conducted by a military department under subsection (a), the service acquisition executive of such military department shall—

"(i) disseminate a written review of such event as broadly as practicable within the Department of Defense; and

"(ii) make such review publicly available on a website of the military department.

"(B) CONSOLIDATION.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall, periodically, jointly review and consolidate the reviews required by subparagraph (A) to identify trends, eliminate redundancy, and enhance efficiency with respect to events conducted under subsection (a).

"(c) FORM.—With respect to each event conducted under subsection (a), the Secretary concerned shall seek to maximize industry and government participation, while minimizing cost to the maximum extent practicable, by—

"(1) holding the event at an unclassified security level to the extent practicable;

"(2) making the event publicly accessible through teleconference or other virtual means; and

"(3) making supporting materials for the event publicly available on a website.

"(d) DEFINITIONS.—In this section:

"(1) MILITARY DEPARTMENTS; SECRETARY CONCERNED; SERVICE ACQUISITION EXECUTIVE.—The terms 'military departments', 'Secretary concerned', and 'service acquisition executive' have the meanings given such terms in section 101(a) of title 10, United States Code.

"(2) KEY ADVANCED SYSTEM DEVELOPMENT AREA.—The term 'key advanced system development area' means the following:

"(A) For the Department of the Navy—

"(i) unmanned surface vessels;

"(ii) unmanned underwater vessels;

"(iii) unmanned deployable mobile ocean systems;

"(iv) unmanned deployable fixed ocean systems; and

"(v) autonomous unmanned aircraft systems.

"(B) For the Department of the Air Force, autonomous unmanned aircraft systems.

"(C) For the Department of the Army, autonomous unmanned aircraft systems.

"(3) SERVICE CHIEF.—The term 'Service Chief concerned' means—

"(A) the Chief of Staff of the Army, with respect to matters concerning the Department of the Army;

"(B) the Chief of Naval Operations and the Commandant of the Marine Corps, with respect to matters concerning the Department of the Navy;

"(C) the Chief of Staff of the Air Force, with respect to matters concerning the Department of the Air Force; and

"(D) the Chief of Space Operations, with respect to matters concerning the Space Force."

## DEMONSTRATION PROGRAM ON DOMESTIC PRODUCTION OF RARE EARTH ELEMENTS FROM COAL BYPRODUCTS

Pub. L. 117–81, div. A, title III, §320, Dec. 27, 2021, 135 Stat. 1634, provided that:

"(a) DEMONSTRATION PROGRAM REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall commence carrying out a demonstration program on recovering rare earth elements and critical minerals from acid mine drainage and other coal byproducts.

"(b) PARTNERSHIP.—In carrying out the demonstration program required by subsection (a), the Secretary shall seek to enter into a partnership with one or more institutions of higher education that can demonstrate techniques for recovering rare earth elements and critical minerals from acid mine drainage and other coal byproducts, as the Secretary considers applicable.

"(c) ELEMENTS.—The demonstration program required by subsection (a) shall address the following:

"(1) The efficacy of separating rare earth elements and critical minerals from acid mine drainage.

"(2) The feasibility of bringing such technology to commercialized scale.

"(3) Domestic locations that are appropriate for the deployment of such technology.

"(4) The ability of such technology to meet the requirements of the defense industrial base to supplement the rare earth element and critical mineral needs of the Department of Defense.

"(d) DURATION.—The demonstration program required by subsection (a) shall be carried out during the one-year period beginning on the date of the commencement of the demonstration program.

"(e) BRIEFING.—Not later than 120 days after the date of the completion of the demonstration program required by subsection (a), the Secretary and the program manager of the institute of higher education with whom the Secretary partners pursuant to subsection (b) shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the elements of the demonstration program set forth under subsection (c)."

## ASSESSMENT OF REQUIREMENTS FOR CERTAIN ITEMS TO ADDRESS SUPPLY CHAIN VULNERABILITIES

Pub. L. 117–81, div. A, title VIII, §844, Dec. 27, 2021, 135 Stat. 1841, provided that:

"(a) DEFINITIONS.—In this section, the term 'dual-use' has the meaning given in section 2500 of title 10, United States Code [now 10 U.S.C. 4801].

"(b) ASSESSMENT.—The Secretary of Defense shall assess the requirements of the Department of Defense for dual-use items covered by section 2533a of title 10, United States Code [now 10 U.S.C. 4862].

"(c) POLICIES.—The Secretary of Defense shall develop or revise and implement relevant policies to track and reduce fluctuations in supply chain forecasting and encourage predictable demand requirements for annual procurements of such dual-use items by the Office the Secretary of Defense, each military department, and the Defense Logistics Agency.

"(d) REPORT AND BRIEFINGS.—

"(1) ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than December 31, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the assessment conducted under subsection (b).

"(B) FORM.—The report required by subparagraph (A) shall be submitted in an unclassified form, but may include a classified annex to the extent required to protect the national security of the United States.

"(2) QUARTERLY BRIEFINGS.—

"(A) IN GENERAL.—Not later than March 1, 2023, and quarterly thereafter until March 1, 2026, each Secretary of a military department and the Director of the Defense Logistics Agency shall brief the Under Secretary of Defense for Acquisition and Sustainment on the fluctuations in supply chain forecasting and demand requirements for each dual-use item covered by section 2533a of title 10, United States Code [now 10 U.S.C. 4862].

"(B) DOCUMENTATION.—Each briefing under subparagraph (A) shall be accompanied by documentation regarding the particular points of discussion for that briefing, including the fluctuations described in such subparagraph, expressed as a percentage."

## PLAN AND REPORT ON REDUCTION OF RELIANCE ON SERVICES, SUPPLIES, OR MATERIALS FROM COVERED COUNTRIES

Pub. L. 117–81, div. A, title VIII, §847, Dec. 27, 2021, 135 Stat. 1843, provided that:

"(a) PLAN.—The Secretary of Defense, in consultation with the Secretary of State, shall develop and implement a plan to—

"(1) reduce the reliance of the United States on services, supplies, or materials obtained from sources located in geographic areas controlled by covered countries; and

"(2) mitigate the risks to national security and the defense supply chain arising from the reliance of the United States on such sources for services, supplies, or materials to meet critical defense requirements.

"(b) REPORT.—Not later than two years after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the plan required under subsection (a).

"(c) COVERED COUNTRY DEFINED.—In this section, the term 'covered country' means North Korea,

China, Russia, and Iran."

## REQUIREMENT FOR INDUSTRY DAYS AND REQUESTS FOR INFORMATION TO BE OPEN TO ALLIED DEFENSE CONTRACTORS

Pub. L. 117–81, div. A, title VIII, §854, Dec. 27, 2021, 135 Stat. 1849, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], each service acquisition executive shall implement a requirement that industry days and requests for information regarding acquisition programs and research and development efforts of the Department of Defense shall, to the maximum extent practicable, be open to defense contractors of the national technology and industrial base, including when such contractors are acting as subcontractors in partnership with a United States contractor, provided such access is granted only if the Secretary of Defense or the relevant Secretary concerned determines that there is reciprocal access for United States companies to equivalent information related to contracting opportunities in the associated country that is part of the national technology and industrial base.

"(b) DEFINITIONS.—In this section:

"(1) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The term 'national technology and industrial base' has the meaning given the term in section 2500 of title 10, United States Code [now 10 U.S.C. 4801].

"(2) SECRETARY CONCERNED; SERVICE ACQUISITION EXECUTIVE.—The terms 'Secretary concerned' and 'service acquisition executive' have the meanings given such terms in section 101(a) of title 10, United States Code."

## NATIONAL SECURITY INNOVATION PARTNERSHIPS

Pub. L. 116–283, div. A, title II, §219, Jan. 1, 2021, 134 Stat. 3463, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish an activity—

"(1) to support partnerships between the Department of Defense and academic institutions, private sector firms in defense and commercial sectors, commercial accelerators and incubators, commercial innovation hubs, public sector organizations, and nonprofit entities with missions relating to national security innovation;

"(2) to expand the national security innovation base, including through engagement with academia, defense industry, commercial industry, government organizations, and the venture capital community;

"(3) to accelerate the transition of technologies and services into acquisition programs and operational use;

"(4) to work in coordination with the Under Secretary of Defense for Personnel and Readiness, other organizations within the Office of the Secretary, and the Armed Forces to create new pathways and models of national security service that facilitate employment within the Department;

"(5) to facilitate engagement with entities described in paragraph (1) for the purpose of developing solutions to national security and defense problems articulated by entities within the Department, including through programs such as the Hacking for Defense program;

"(6) to establish physical locations throughout the United States to support partnerships with academic, government, and private sector industry partners; and

"(7) to enhance the capabilities of the Department in market research, industrial and technology base awareness, source selection, partnerships with private sector capital, and access to commercial technologies.

"(b) AUTHORITIES.—In addition to the authorities provided under this section, in carrying out this section, the Secretary of Defense may use the following authorities:

"(1) Section 1599g of title 10, United States Code, relating to public-private talent exchanges.

"(2) Section 2368 of title 10, United States Code [now 10 U.S.C. 4124], relating to Centers for Science, Technology, and Engineering Partnerships.

"(3) Section 2374a of title 10, United States Code [now 10 U.S.C. 4025], relating to prizes for advanced technology achievements.

"(4) Section 2474 of title 10, United States Code, relating to Centers of Industrial and Technical Excellence.

"(5) Section 2521 of title 10, United States Code [now 10 U.S.C. 4841, 4842], relating to the Manufacturing Technology Program.

"(6) Subchapter VI of chapter 33 of title 5, United States Code, relating to assignments to and from States.

"(7) Chapter 47 of title 5, United States Code, relating to personnel research programs and demonstration projects.

"(8) Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and

section 6305 of title 31, United States Code, relating to cooperative research and development agreements.

"(9) Such other authorities as the Secretary considers appropriate.

"(c) IMPLEMENTATION.—

"(1) SUPPORT FROM OTHER DEPARTMENT OF DEFENSE ORGANIZATIONS.—The Secretary of Defense may direct other organizations and elements of the Department of Defense to provide personnel, resources, and other support to the activity established under this section, as the Secretary determines appropriate.

"(2) IMPLEMENTATION PLAN.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementing the activity established under this section.

"(B) ELEMENTS.—The plan required under subparagraph (A) shall include the following:

"(i) Plans that describe any support that will be provided for the activity by other organizations and elements of the Department of Defense under paragraph (1).

"(ii) Plans for the implementation of the activity, including plans for—

"(I) future funding and administrative support of the activity;

"(II) integration of the activity into the programming, planning, budgeting, and execution process of the Department of Defense;

"(III) integration of the activity with the other programs and initiatives within the Department that have missions relating to innovation and outreach to the academic and the private sector ; and

"(IV) performance indicators by which the activity will be assessed and evaluated.

"(iii) A description of any additional authorities the Secretary may require to effectively carry out the responsibilities under this section."

## ASSESSMENT OF RESEARCH AND DEVELOPMENT, MANUFACTURING, AND PRODUCTION CAPABILITIES

Pub. L. 116–283, div. A, title VIII, §846(a), Jan. 1, 2021, 134 Stat. 3767, which required the Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Research and Engineering, to assess the research and development, manufacturing, and production capabilities of the national technology and industrial base and other allies and partner countries, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(3)(B), Dec. 18, 2025, 139 Stat. 948.

## RECOMMENDATIONS FOR ADDITIONAL MEMBERS OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Pub. L. 116–283, div. A, title VIII, §846(d), Jan. 1, 2021, 134 Stat. 3768, provided that:

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the heads of any relevant Federal agencies, shall establish a process to consider the inclusion of additional member countries in the national technology and industrial base.

"(2) ELEMENTS.—The process developed under paragraph (1) shall include an analysis of—

"(A) the national security and foreign policy impacts, costs, and benefits to the United States and allied countries of the inclusion of any such additional member countries in the national technology and industrial base;

"(B) the economic impacts, costs, and benefits to entities within the United States and allied countries of the inclusion of any such additional member countries into the national technology and industrial base, including an assessment of—

"(i) specific shortfalls in the technological and industrial capacities of current member countries of the national technology and industrial base that would be addressed by inclusion of such additional member countries;

"(ii) specific areas in the industrial bases of current member countries of the national technology and industrial base that would likely be impacted by additional competition if such additional member countries were included in the national technology and industrial base; and

"(iii) costs to reconstitute capability should such capability be lost to competition; and

"(C) other factors as determined relevant by the Secretary.

"(3) CONCURRENCE.—For the purposes of the process developed under paragraph (1), the Secretary of Defense may recommend the inclusion of an additional member country in the national technology and industrial base only with the concurrence of the Secretary of State."

## SUPPLY OF STRATEGIC AND CRITICAL MATERIALS FOR THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title VIII, §848, Jan. 1, 2021, 134 Stat. 3769, as amended by Pub. L. 118–159, div. A, title VIII, §847, Dec. 23, 2024, 138 Stat. 1993, provided that:

"(a) PREFERENCE FOR SOURCING FROM THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall, to the maximum extent practicable, acquire strategic and critical materials required to meet the defense, industrial, and essential civilian needs of the United States in the following order of preference:

"(1) From sources located within the United States.

"(2) From sources located within the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]).

"(3) From other sources as appropriate.

"(b) STATEMENT OF POLICY.—

"(1) IN GENERAL.—The Secretary of Defense shall pursue the following goals:

"(A) Not later than January 1, 2035, ensuring access to secure sources of supply for strategic and critical materials that will—

"(i) fully meet the demands of the domestic defense industrial base;

"(ii) eliminate the dependence of the United States on potentially vulnerable sources of supply for strategic and critical materials; and

"(iii) ensure that the Department of Defense is not reliant upon potentially vulnerable sources of supply for the processing or manufacturing of any strategic and critical materials deemed essential to national security by the Secretary of Defense.

"(B) Provide incentives for the defense industrial base to develop robust processing and manufacturing capabilities in the United States, including processing of strategic and critical materials derived from recycled or reused minerals or metals, to refine strategic and critical materials for Department of Defense purposes.

"(C) Maintain secure sources of supply for strategic and critical materials, including such materials derived from recycled or reused minerals or metals, required to maintain current military requirements in the event that international supply chains are disrupted.

"(2) METHODS.—The Secretary of Defense shall achieve the goals described in paragraph (1) through—

"(A) the development of guidance in consultation with appropriate officials of the Department of State, the Joint Staff, and the Secretaries of the military departments;

"(B) the continued and expanded use of existing programs, such as the National Defense Stockpile;

"(C) the continued use of authorities under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.);

"(D) the development of cost-effective sources of supply of strategic and critical materials derived from recycled or reused minerals or metals; and

"(E) other methods, as the Secretary of Defense deems appropriate."

## ANALYSES OF CERTAIN ACTIVITIES FOR ACTION TO ADDRESS SOURCING AND INDUSTRIAL CAPACITY

Pub. L. 116–283, div. A, title VIII, §849, Jan. 1, 2021, 134 Stat. 3770, as amended by Pub. L. 117–81, div. A, title VIII, §842, Dec. 27, 2021, 135 Stat. 1840, provided that:

"(a) ANALYSIS REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, acting through the Undersecretary of Defense for Acquisition and Sustainment and other appropriate officials, shall review the items under subsection (c) to determine and develop appropriate actions, consistent with the policies, programs, and activities required under chapter 148 of title 10, United States Code [see chapters 381 to 385, and chapter 389, of this title], chapter 83 of title 41, United States Code, and the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.), including—

"(A) restricting procurement, with appropriate waivers for cost, emergency requirements, and non-availability of suppliers, including restricting procurement to—

"(i) suppliers in the United States;

"(ii) suppliers in the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]);

"(iii) suppliers in other allied nations; or

"(iv) other suppliers;

"(B) increasing investment through use of research and development or procurement activities

and acquisition authorities to—

"(i) expand production capacity;

"(ii) diversify sources of supply; or

"(iii) promote alternative approaches for addressing military requirements;

"(C) prohibiting procurement from selected sources or nations;

"(D) taking a combination of actions described under subparagraphs (A),(B), and (C); or

"(E) taking no action.

"(2) CONSIDERATIONS.—The analyses conducted pursuant to paragraph (1) shall consider national security, economic, and treaty implications, as well as impacts on current and potential suppliers of goods and services.

"(b) REPORTING ON ANALYSES, RECOMMENDATIONS, AND ACTIONS.—

"(1) INTERIM BRIEF.—With respect to items listed in paragraphs (1) through (13) of subsection (c), not later than January 15, 2022, and with respect to items listed in paragraphs (14) through (19) of such subsection, not later than January 15, 2023, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

"(A) a summary of the findings of the analyses undertaken for each item pursuant to subsection (a);

"(B) relevant recommendations resulting from the analyses; and

"(C) descriptions of specific activities undertaken as a result of the analyses, including schedule and resources allocated for any planned actions.

"(2) REPORTING.—With respect to items listed in paragraphs (1) through (13) of subsection (c), during the 2022 calendar year, and with respect to items listed in paragraphs (14) through (19) of such subsection, during the 2023 calendar year shall include the analyses conducted under subsection (a), and any relevant recommendations and descriptions of activities resulting from such analyses, as appropriate, in each of the following:

"(A) The annual report to Congress required under section 2504 of title 10 [now 10 U.S.C. 4814], United States Code.

"(B) The annual report on unfunded priorities of the national technology and industrial base required under section 2504a of such title [now 10 U.S.C. 4815].

"(C) Department of Defense technology and industrial base policy guidance prescribed under section 2506 of such title [now 10 U.S.C. 4811(c)].

"(D) Activities to modernize acquisition processes to ensure integrity of industrial base pursuant to section 2509 of such title [now 10 U.S.C. 4819].

"(E) Defense memoranda of understanding and related agreements considered in accordance with section 2531 of such title [now 10 U.S.C. 4851].

"(F) Industrial base or acquisition policy changes.

"(G) Legislative proposals for changes to relevant statutes which the Department shall consider, develop, and submit to the Committees on Armed Services of the Senate and House of Representatives not less frequently than once per fiscal year.

"(H) Quarterly briefings on the national technology and industrial base required under section 2504 of such title [now 10 U.S.C. 4814], as amended by section 842 of this Act.

"(I) Other actions as the Secretary of Defense determines appropriate.

"(c) LIST OF HIGH PRIORITY GOODS AND SERVICES FOR ANALYSES, RECOMMENDATIONS, AND ACTIONS.—The items described in this subsection are the following:

"(1) Goods and services covered under existing restrictions, where a waiver, exception, or domestic non-availability determination has been applied.

"(2) Printed circuit boards and other electronics components, consistent with the requirements of other provisions of this Act.

"(3) Pharmaceuticals, including active pharmaceutical ingredients.

"(4) Medical devices.

"(5) Therapeutics.

"(6) Vaccines.

"(7) Diagnostic medical equipment and consumables, including reagents and swabs.

"(8) Ventilators and related products.

"(9) Personal protective equipment.

"(10) Strategic and critical materials, including rare earth materials.

"(11) Natural or synthetic graphite.

"(12) Coal-based rayon carbon fibers.
"(13) Aluminum and aluminum alloys.
"(14) Beef products.
"(15) Molybdenum and molybdenum alloys.
"(16) Optical transmission equipment, including optical fiber and cable equipment.
"(17) Armor on tactical ground vehicles.
"(18) Graphite processing.
"(19) Advanced AC–DC power converters."

**SUPPORT FOR DEFENSE MANUFACTURING COMMUNITIES TO SUPPORT THE DEFENSE INDUSTRIAL BASE**

Pub. L. 115–232, div. A, title VIII, §846, Aug. 13, 2018, 132 Stat. 1881, provided that:

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Defense may, in coordination with the Secretary of Commerce and working in coordination with the defense manufacturing institutes, establish within the Department of Defense a program to make long-term investments in critical skills, facilities, research and development, and small business support in order to strengthen the national security innovation base by designating and supporting consortiums as defense manufacturing communities.

"(2) DESIGNATION.—The program authorized by this section shall be known as the 'Defense Manufacturing Community Support Program' (in this section referred to as the 'Program').

"(b) DESIGNATION OF DEFENSE MANUFACTURING COMMUNITIES COMPLEMENTARY TO DEFENSE MANUFACTURING INSTITUTES.—

"(1) IN GENERAL.—The Secretary of Defense may designate eligible consortiums as defense manufacturing communities through a competitive process, and in coordination with the defense manufacturing institutes.

"(2) ELIGIBLE CONSORTIUMS.—The Secretary may establish eligibility criteria for a consortium to participate in the Program. In developing such criteria, the Secretary may consider the merits of—

"(A) including members from academia, defense industry, commercial industry, and State and local government organizations;

"(B) supporting efforts in geographical regions that have capabilities in key technologies or industrial base supply chains that are determined critical to national security;

"(C) optimal consortium composition and size to promote effectiveness, collaboration, and efficiency; and

"(D) complementarity with defense manufacturing institutes.

"(3) DURATION.—Each designation under paragraph (1) shall be for a period of five years.

"(4) RENEWAL.—

"(A) IN GENERAL.—The Secretary may renew a designation made under paragraph (1) for up to two additional two-year periods. Any designation as a defense manufacturing community or renewal of such designation that is in effect before the date of the enactment of this Act [Aug. 13, 2018] shall count toward the limit set forth in this subparagraph.

"(B) EVALUATION FOR RENEWAL.—The Secretary shall establish criteria for the renewal of a consortium. In establishing such criteria, the Secretary may consider—

"(i) the performance of the consortium in meeting the established goals of the Program;

"(ii) the progress the consortium has made with respect to project-specific metrics, particularly with respect to those metrics that were designed to help communities track their own progress;

"(iii) whether any changes to the composition of the eligible consortium or revisions of the plan for the consortium would improve the capabilities of the defense industrial base;

"(iv) the effectiveness of coordination with defense manufacturing institutes; and

"(v) such other criteria as the Secretary considers appropriate.

"(5) APPLICATION FOR DESIGNATION.—An eligible consortium seeking a designation under paragraph (1) shall submit an application to the Secretary at such time and in such manner as the Secretary may require. In developing such procedures, the Secretary may consider the inclusion of—

"(A) a description of the regional boundaries of the consortium, and the defense manufacturing capacity of the region;

"(B) an evidence-based plan for enhancing the defense industrial base through the efforts of the consortium;

"(C) the investments the consortium proposes and the strategy of the consortium to address gaps

in the defense industrial base;

"(D) a description of the outcome-based metrics, benchmarks, and milestones that will track and the evaluation methods that will be used to gauge performance of the consortium;

"(E) how the initiatives will complement defense manufacturing institutes; and

"(F) such other matters as the Secretary considers appropriate.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Under the Program, the Secretary of Defense may award financial or technical assistance to a member of a consortium designated as a defense manufacturing community under the Program as appropriate for purposes of the Program.

"(2) USE OF FUNDS.—A recipient of financial or technical assistance under the Program may use such financial or technical assistance to support an investment that will improve the defense industrial base.

"(3) INVESTMENTS SUPPORTED.—Investments supported under this subsection may include activities not already provided for by defense manufacturing institutes on—

"(A) equipment or facility upgrades;

"(B) workforce training, retraining, or recruitment and retention, including that of women and underrepresented minorities;

"(C) business incubators;

"(D) advanced research and commercialization, including with Federal laboratories and depots;

"(E) supply chain development; and

"(F) small business assistance.

"(d) RECEIPT OF TRANSFERRED FUNDS.—The Secretary of Defense may accept amounts transferred to the Secretary from the head of another agency or a State or local governmental organization to carry out this section."

## ENHANCED ANALYTICAL AND MONITORING CAPABILITY OF THE DEFENSE INDUSTRIAL BASE

Pub. L. 115–91, div. A, title X, §1071, Dec. 12, 2017, 131 Stat. 1582, provided that:

"(a) PROCESS.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a process, or designate an existing process, for enhancing the ability of the Department of Defense to analyze, assess, and monitor the vulnerabilities of, and concentration of purchases in, the defense industrial base.

"(2) ELEMENTS.—The process required by subsection (a) shall include the following elements:

"(A) Designation of a senior official responsible for overseeing the development and implementation of the process.

"(B) Development or integration of tools to support commercial due diligence and business intelligence or to otherwise analyze and monitor commercial activity to understand business relationships affecting the defense industrial base.

"(C) Development of risk profiles of products, services, or entities based on business intelligence, commercial due diligence tools and data services.

"(D) As the Secretary determines necessary, integration with intelligence sources to develop threat profiles of entities attempting transactions with a defense industrial base companies [sic].

"(E) Other matters as the Secretary deems necessary.

"(3) NOTIFICATION.—Not later than 90 days after establishing or designating the process required by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives notice in writing that such process has been established or otherwise designated. Such notification shall include the following:

"(A) Identification of the official required to be designated under paragraph (2)(A).

"(B) Identification of the tools described in paragraph (2)(B) that are currently available to [the] Department of Defense and any other tools available commercially or otherwise that might contribute to enhancing the analytic capability of the process.

"(C) Identification of, or recommendations for, any statutory changes needed to improve the effectiveness of the process.

"(D) Projected resources necessary to purchase any commercially available tools identified under subparagraph (B) and to carry out any statutory changes identified under subparagraph (C).

"(b) REPORTING.—

"(1) CONSOLIDATED REPORT ON VULNERABILITIES OF, AND CONCENTRATION OF PURCHASES IN, THE DEFENSE INDUSTRIAL BASE.—

"(A) REPORT REQUIRED.—For each of fiscal years 2018 through 2023, the Secretary of Defense shall submit to the appropriate congressional committees a consolidated report that combines all of the reports required to be provided to Congress for that fiscal year on the adequacy of, vulnerabilities of, and concentration of purchases in the defense industrial sector. Such consolidated report shall include each of the following:

"(i) The report required under section 721(m) of the Defense Production Act of 1950 (50 U.S.C. 4565(m)) (relating to concentrations of purchases of the defense industrial base).

"(ii) The report required under section 723(a) of the Defense Production Act of 1950 (50 U.S.C. 4568(a)) (relating to offsets in defense production).

"(iii) The report required under section 2504 of title 10, United States Code [now 10 U.S.C. 4814] (relating to annual industrial capabilities).

"(iv) Any other reports the Secretary determines appropriate.

"(B) DEADLINE.—A consolidated report under subparagraph (A) shall be submitted by not later than March 31 of the fiscal year following the fiscal year for which the report is submitted.

"(2) REVIEW OF TECHNOLOGY PROTECTION POLICY.—Not later than 270 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the appropriate congressional committees a report describing any need for reforms of policies governing the export of technology or related intellectual property, along with any proposed legislative changes the Secretary believes are necessary.

"(3) FORM OF REPORTS.—Each report submitted under this subsection shall be in unclassified form, but may contain a classified annex.

"(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate."

[For termination, effective Dec. 30, 2021, of reporting requirements in section 1071(b)(1) of Pub. L. 115–91, set out above, see section 1702(a), (b), of Pub. L. 116–92, set out as a Termination of Reporting Requirements note under section 111 of this title.]

**GREATER INTEGRATION OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE**

Pub. L. 114–328, div. A, title VIII, §881, Dec. 23, 2016, 130 Stat. 2315, as amended by Pub. L. 116–283, div. A, title XVIII, §1866(d)(3), Jan. 1, 2021, 134 Stat. 4280, provided that:

"(a) PLAN REQUIRED.—Not later than January 1, 2018, the Secretary of Defense shall develop a plan to reduce the barriers to the seamless integration between the persons and organizations that comprise the national technology and industrial base (as defined in section 4801 of title 10, United States Code). The plan shall include at a minimum the following elements:

"(1) A description of the various components of the national technology and industrial base, including government entities, universities, nonprofit research entities, nontraditional and commercial item contractors, and private contractors that conduct commercial and military research, produce commercial items that could be used by the Department of Defense, and produce items designated and controlled under section 38 of the Arms Export Control Act [22 U.S.C. 2778] (also known as the 'United States Munitions List').

"(2) Identification of the barriers to the seamless integration of the transfer of knowledge, goods, and services among the persons and organizations of the national technology and industrial base.

"(3) Identification of current authorities that could contribute to further integration of the persons and organizations of the national technology and industrial base, and a plan to maximize the use of those authorities.

"(4) Identification of changes in export control rules, procedures, and laws that would enhance the civil-military integration policy objectives set forth in section 4811(b) of title 10, United States Code, for the national technology and industrial base to increase the access of the Armed Forces to commercial products, services, and research and create incentives necessary for nontraditional and commercial item contractors, universities, and nonprofit research entities to modify commercial products or services to meet Department of Defense requirements.

"(5) Recommendations for increasing integration of the national technology and industrial base that supplies defense articles to the Armed Forces and enhancing allied interoperability of forces through

changes to the text or the implementation of—

"(A) section 126.5 of title 22, Code of Federal Regulations (relating to exemptions that are applicable to Canada under the International Traffic in Arms Regulations);

"(B) the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney on September 5, 2007;

"(C) the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007; and

"(D) any other agreements among the countries comprising the national technology and industrial base.

"(b) AMENDMENT TO DEFINITION OF NATIONAL TECHNOLOGY AND INDUSTRIAL BASE .—[Amended section 4801 of this title.]

"(c) REPORTING REQUIREMENT.—The Secretary of Defense shall report on the progress of implementing the plan in subsection (a) in the report required under section 4814 of title 10, United States Code."

## DEPARTMENT OF DEFENSE TECHNOLOGY OFFSET PROGRAM TO BUILD AND MAINTAIN THE MILITARY TECHNOLOGICAL SUPERIORITY OF THE UNITED STATES

Pub. L. 114–92, div. A, title II, §218, Nov. 25, 2015, 129 Stat. 772, as amended by Pub. L. 116–283, div. A, title XVIII, §1841(e)(2), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(F)(ii), Dec. 27, 2021, 135 Stat. 2152, provided that:

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a technology offset program to build and maintain the military technological superiority of the United States by—

"(A) accelerating the fielding of offset technologies that would help counter technological advantages of potential adversaries of the United States, including directed energy, low-cost, high-speed munitions, autonomous systems, undersea warfare, cyber technology, and intelligence data analytics, developed using research funding of the Department of Defense and accelerating the commercialization of such technologies; and

"(B) developing and implementing new policies and acquisition and business practices.

"(2) GUIDELINES.—Not later than one year after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall issue guidelines for the operation of the program established under paragraph (1), including—

"(A) criteria for an application for funding by a military department, Defense Agency, or a combatant command;

"(B) the purposes for which such a department, agency, or command may apply for funds and appropriate requirements for technology development or commercialization to be supported using program funds;

"(C) the priorities, if any, to be provided to field or commercialize offset technologies developed by certain types of research funding of the Department; and

"(D) criteria for evaluation of an application for funding or changes to policies or acquisition and business practices by such a department, agency, or command for purposes of the program.

"(b) APPLICATIONS FOR FUNDING.—

"(1) IN GENERAL.—Under the program established under subsection (a)(1), not less frequently than annually, the Secretary shall solicit from the heads of the military departments, the Defense Agencies, and the combatant commands applications for funding to be used to enter into contracts, cooperative agreements, or other transaction agreements entered into pursuant to section 4022 of title 10, United States Code, as added by section 815, with appropriate entities for the fielding or commercialization of technologies.

"(2) TREATMENT PURSUANT TO CERTAIN CONGRESSIONAL RULES.—Nothing in this section shall be interpreted to require any official of the Department of Defense to provide funding under this section to any Congressional earmark as defined pursuant to clause 9 of rule XXI of the Rules of the House of Representatives or any congressionally directed spending item as defined pursuant to paragraph 5 of rule XLIV of the Standing Rules of the Senate.

"(c) FUNDING.—

"(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2016 for research, development, test, and evaluation, Defense-wide, not more than $300,000,000

may be used for each such fiscal year for the program established under subsection (a)(1).

"(2) AMOUNT FOR DIRECTED ENERGY.—Of the funds specified in paragraph (1) for any of fiscal years 2016 through 2020, not more than $150,000,000 may be used for each such fiscal year for activities in the field of directed energy.

"(d) TRANSFER AUTHORITY.—

"(1) IN GENERAL.—The Secretary may transfer funds available for the program established under subsection (a)(1) to the research, development, test, and evaluation accounts of a military department, Defense Agency, or a combatant command pursuant to an application, or any part of an application, that the Secretary determines would support the purposes of the program.

"(2) SUPPLEMENT NOT SUPPLANT.—The transfer authority provided in paragraph (1) is in addition to any other transfer authority available to the Secretary of Defense.

"(e) TERMINATION.—

"(1) IN GENERAL.—The authority to carry out the program under subsection (a)(1) shall terminate on September 30, 2020.

"(2) TRANSFER AFTER TERMINATION.—Any amounts made available for the program that remain available for obligation on the date on which the program terminates may be transferred under subsection (d) during the 180-day period beginning on the date of the termination of the program."

## EXPANSION OF THE INDUSTRIAL BASE

Pub. L. 111–383, div. A, title VIII, §891, Jan. 7, 2011, 124 Stat. 4310, provided that:

"(a) PROGRAM TO EXPAND INDUSTRIAL BASE REQUIRED.—The Secretary of Defense shall establish a program to expand the industrial base of the Department of Defense to increase the Department's access to innovation and the benefits of competition.

"(b) IDENTIFYING AND COMMUNICATING WITH FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.—The program established under subsection (a) shall use tools and resources available within the Federal Government and available from the private sector to provide a capability for identifying and communicating with firms that are not traditional suppliers, including commercial firms and firms of all business sizes, that are engaged in markets of importance to the Department of Defense in which such firms can make a significant contribution.

"(c) OUTREACH TO LOCAL FIRMS NEAR DEFENSE INSTALLATIONS.—The program established under subsection (a) shall include outreach, using procurement technical assistance centers, to firms of all business sizes in the vicinity of Department of Defense installations regarding opportunities to obtain contracts and subcontracts to perform work at such installations.

"(d) INDUSTRIAL BASE REVIEW.—The program established under subsection (a) shall include a continuous effort to review the industrial base supporting the Department of Defense, including the identification of markets of importance to the Department of Defense in which firms that are not traditional suppliers can make a significant contribution.

"(e) FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.—For purposes of this section, a firm is not a traditional supplier of the Department of Defense if it does not currently have contracts and subcontracts to perform work for the Department of Defense with a total combined value in excess of $500,000.

"(f) PROCUREMENT TECHNICAL ASSISTANCE CENTER.—In this section, the term 'procurement technical assistance center' means a center operating under a cooperative agreement with the Defense Logistics Agency to provide procurement technical assistance pursuant to the authority provided in [former] chapter 142 of title 10, United States Code [see chapter 388 of this title]."

## EXECUTIVE AGENT FOR PRINTED CIRCUIT BOARD TECHNOLOGY

Pub. L. 110–417, [div. A], title II, §256, Oct. 14, 2008, 122 Stat. 4404, provided that:

"(a) EXECUTIVE AGENT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall designate a senior official of the Department of Defense to act as the executive agent for printed circuit board technology.

"(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

"(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and in accordance with Directive 5101.1, the Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

"(2) SPECIFICATION.—The roles and responsibilities of the executive agent designated under subsection (a) shall include each of the following:

"(A) Development and maintenance of a printed circuit board and interconnect technology roadmap that ensures that the Department of Defense has access to the manufacturing capabilities and technical expertise necessary to meet future military requirements regarding such technology.

"(B) Development of recommended funding strategies necessary to meet the requirements of the roadmap developed under subparagraph (A).

"(C) Assessment of the vulnerabilities, trustworthiness, and diversity of the printed circuit board supply chain, including the development of trustworthiness requirements for printed circuit boards used in defense systems, and to develop strategies to address matters that are identified as a result of such assessment.

"(D) Such other roles and responsibilities as the Secretary of Defense considers appropriate.

"(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Directive 5101.1' means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

"(2) The term 'executive agent' has the meaning given the term 'DoD Executive Agent' in Directive 5101.1."

## ESSENTIAL ITEMS IDENTIFICATION AND DOMESTIC PRODUCTION CAPABILITIES IMPROVEMENT PROGRAM

Pub. L. 108–136, div. A, title VIII, subtitle B, part I, Nov. 24, 2003, 117 Stat. 1542, as amended by Pub. L. 109–364, div. A, title VIII, §841, Oct. 17, 2006, 120 Stat. 2335; Pub. L. 111–84, div. A, title VIII, §846, Oct. 28, 2009, 123 Stat. 2420; Pub. L. 112–81, div. A, title X, §1062(g)(2), Dec. 31, 2011, 125 Stat. 1585; Pub. L. 113–291, div. A, title X, §1071(b)(5)(A), (d)(1)(C), Dec. 19, 2014, 128 Stat. 3506, 3509; Pub. L. 116–283, div. A, title XVIII, §1866(d)(4), Jan. 1, 2021, 134 Stat. 4280; Pub. L. 117–81, div. A, title XVII, §1701(b)(21)(B), Dec. 27, 2021, 135 Stat. 2135, provided that:

"SEC. 811. CONSISTENCY WITH UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

"No provision of this subtitle [subtitle B (§§811–828) of title VIII of div. A of Pub. L. 108–136, see Tables for classification] or any amendment made by this subtitle shall apply to the extent the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under an international agreement.

"SEC. 812. ASSESSMENT AND ANNUAL REPORT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES AND ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

"(a) ASSESSMENT PROGRAM.—(1) The Secretary of Defense shall establish a program to assess—

"(A) the degree to which the United States is dependent on foreign sources of supply; and

"(B) the capabilities of the United States defense industrial base to produce military systems necessary to support the national security objectives set forth in section 4811 of title 10, United States Code.

"(2) For purposes of the assessment program, the Secretary shall use existing data, as required under subsection (b), and submit an annual report, as required under subsection (c).

"(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than $25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

"(A) Whether the contractor is a United States or foreign contractor.

"(B) The principal place of business of the contractor and the principal place of performance of the contract.

"(C) Whether the contract was awarded on a sole source basis or after receipt of competitive offers.

"(D) The dollar value of the contract.

"(2) The Federal Procurement Data System described in section 1122(a)(4)(A) of title 41, United States Code, or any successor system, shall collect from contracts described in paragraph (1) the information specified in that paragraph.

"(3) Information obtained in the implementation of this section is subject to the same limitations on disclosure, and penalties for violation of such limitations, as is provided under section 4818 of title 10, United States Code. Such information also shall be exempt from release under section 552 of title 5, United States Code.

"(4) For purposes of meeting the requirements set forth in this section, the Secretary of Defense may not require the provision of information beyond the information that is currently provided to the Department of

Defense through existing data collection systems by non-Federal entities with respect to contracts and subcontracts with the Department of Defense or any military department.

"[(c) Repealed. Pub. L. 112–81, div. A, title X, §1062(g)(2), Dec. 31, 2011, 125 Stat. 1585.]

"(d) PUBLIC AVAILABILITY.—The Secretary of Defense shall make the report submitted under subsection (c) publicly available to the maximum extent practicable.

"(e) APPLICABILITY.—This section shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

"[SEC. 813. REPEALED. PUB. L. 111–84, DIV. A, TITLE VIII, §846, OCT. 28, 2009, 123 STAT. 2420.]

"SEC. 814. PRODUCTION CAPABILITIES IMPROVEMENT FOR CERTAIN ESSENTIAL ITEMS USING DEFENSE INDUSTRIAL BASE CAPABILITIES FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Industrial Base Capabilities Fund (hereafter in this section referred to as the 'Fund').

"(b) MONEYS IN FUND.—There shall be credited to the Fund amounts appropriated to it.

"(c) USE OF FUND.—The Secretary of Defense is authorized to use all amounts in the Fund, subject to appropriation, for the purposes of enhancing or reconstituting United States industrial capability to produce items on the military system essential item breakout list (as described in section 812(b)) or items subject to section 4864 of title 10, United States Code, in the quantity and of the quality necessary to achieve national security objectives.

"(d) LIMITATION ON USE OF FUND.—Before the obligation of any amounts in the Fund, the Secretary of Defense shall submit to Congress a report describing the Secretary's plans for implementing the Fund established in subsection (a), including the priorities for the obligation of amounts in the Fund, the criteria for determining the recipients of such amounts, and the mechanisms through which such amounts may be provided to the recipients.

"(e) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until expended.

"(f) FUND MANAGER.—The Secretary of Defense shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) ensuring the visibility and accountability of transactions engaged in through the Fund; and

"(2) reporting to Congress each year regarding activities of the Fund during the previous fiscal year."

## DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS

Pub. L. 103–337, div. A, title XI, §1118, Oct. 5, 1994, 108 Stat. 2870, provided that: "At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code [see chapters 381 to 385, and chapter 389, of this title], the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title [now 10 U.S.C. 4811(a)] or a particular policy objective set forth in [former] section 2501(b) of such title."

## NATIONAL SHIPBUILDING INITIATIVE

Pub. L. 103–160, div. A, title XIII, §§1351–1354, Nov. 30, 1993, 107 Stat. 1809, 1810, as amended by Pub. L. 104–201, div. A, title X, §1073(e)(1)(F), (2)(B), (3), Sept. 23, 1996, 110 Stat. 2658, provided that:

"SEC. 1351. SHORT TITLE.

"This subtitle [subtitle D, §§1351–1363 of title XIII of div. A of Pub. L. 103–160, see Tables for classification] may be cited as the 'National Shipbuilding and Shipyard Conversion Act of 1993'.

"SEC. 1352. NATIONAL SHIPBUILDING INITIATIVE.

"(a) ESTABLISHMENT OF PROGRAM.—There shall be a National Shipbuilding Initiative program, to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient, internationally competitive industry.

"(b) ADMINISTERING DEPARTMENTS.—The program shall be carried out—

"(1) by the Secretary of Defense, with respect to programs under the jurisdiction of the Secretary of Defense; and

"(2) by the Secretary of Transportation, with respect to programs under the jurisdiction of the Secretary of Transportation.

"(c) PROGRAM ELEMENTS.—The National Shipbuilding Initiative shall consist of the following program elements:

"(1) FINANCIAL INCENTIVES PROGRAM.—A financial incentives program to provide loan guarantees to initiate commercial ship construction for domestic and export sales, encourage shipyard modernization, and support increased productivity.

"(2) TECHNOLOGY DEVELOPMENT PROGRAM.—A technology development program, to be carried out within the Department of Defense by the Defense Advanced Research Projects Agency, to improve the technology base for advanced shipbuilding technologies and related dual-use technologies through activities including a development program for innovative commercial ship design and production processes and technologies.

"(3) NAVY'S AFFORDABILITY THROUGH COMMONALITY PROGRAM.—Enhanced support by the Secretary of Defense for the shipbuilding program of the Department of the Navy known as the Affordability Through Commonality (ATC) program, to include enhanced support (A) for the development of common modules for military and commercial ships, and (B) to foster civil-military integration into the next generation of Naval surface combatants.

"(4) NAVY'S MANUFACTURING TECHNOLOGY AND TECHNOLOGY BASE PROGRAMS .—Enhanced support by the Secretary of Defense for, and strengthened funding for, that portion of the Manufacturing Technology program of the Navy, and that portion of the Technology Base program of the Navy, that are in the areas of shipbuilding technologies and ship repair technologies.

"SEC. 1353. DEPARTMENT OF DEFENSE PROGRAM MANAGEMENT THROUGH DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

"The Secretary of Defense shall designate the Defense Advanced Research Projects Agency of the Department of Defense as the lead agency of the Department of Defense for activities of the Department of Defense which are part of the National Shipbuilding Initiative program. Those activities shall be carried out as part of defense conversion activities of the Department of Defense.

"SEC. 1354. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY FUNCTIONS AND MINIMUM FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.

"(a) DARPA FUNCTIONS.—The Secretary of Defense, acting through the Director of the Defense Advanced Research Projects Agency, shall carry out the following functions with respect to the National Shipbuilding Initiative program:

"(1) Consultation with the Maritime Administration, the Office of Economic Adjustment, the National Economic Council, the National Shipbuilding Research Project, the Coast Guard, the National Oceanic and Atmospheric Administration, appropriate naval commands and activities, and other appropriate Federal agencies on—

"(A) development and transfer to the private sector of dual-use shipbuilding technologies, ship repair technologies, and shipbuilding management technologies;

"(B) assessments of potential markets for maritime products; and

"(C) recommendation of industrial entities, partnerships, joint ventures, or consortia for short- and long-term manufacturing technology investment strategies.

"(2) Funding and program management activities to develop innovative design and production processes and the technologies required to implement those processes.

"(3) Facilitation of industry and Government technology development and technology transfer activities (including education and training, market assessments, simulations, hardware models and prototypes, and national and regional industrial base studies).

"(4) Integration of promising technology advances made in the Technology Reinvestment Program of the Defense Advanced Research Projects Agency into the National Shipbuilding Initiative to effect full defense conversion potential.

"(b) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—

"(1) MAXIMUM DEPARTMENT OF DEFENSE SHARE.—The Secretary of Defense shall ensure that the amount of funds provided by the Secretary to a non-Federal government participant does not exceed 50 percent of the total cost of technology development and technology transfer activities.

"(2) REGULATIONS.—The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of calculating the share of the partnership costs that has been or is being undertaken by such participants. In prescribing the regulations, the Secretary may determine that a participant that is a small business concern may use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of partnership activities. Any such funds so used may

be included in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity contribution in the program from non-Federal sources."

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

**INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS**

Pub. L. 102–484, div. D, title XLII, §4239, Oct. 23, 1992, 106 Stat. 2694, provided that: "Not later than 120 days after the date of enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning."

## §4812. National Defense Technology and Industrial Base Council

(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

(b) COMPOSITION.—The Council is composed of the following members:

(1) The Secretary of Defense, who shall serve as chairman.

(2) The Secretary of Energy.

(3) The Secretary of Commerce.

(4) The Secretary of Labor.

(5) Such other officials as may be determined by the President.

(c) RESPONSIBILITIES.—The Council shall have the responsibility to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor, concerning—

(1) the capabilities of the national technology and industrial base to meet the national security objectives set forth in section 4811(a) of this title;

(2) programs for achieving such national security objectives;

(3) changes in acquisition policy that strengthen the national technology and industrial base; and

(4) collaboration with government officials of member countries of the national technology and industrial base in order to strengthen the national technology and industrial base.

(d) ALTERNATIVE PERFORMANCE OF RESPONSIBILITIES.—Notwithstanding subsection (c), the President may assign the responsibilities of the Council to another interagency organization of the executive branch that includes among its members the officials specified in paragraphs (1) through (4) of subsection (b).

(Added Pub. L. 102–484, div. D, title XLII, §4212(a), Oct. 23, 1992, 106 Stat. 2664, §2502; amended Pub. L. 103–160, div. A, title XIII, §1312(b), Nov. 30, 1993, 107 Stat. 1786; Pub. L. 103–337, div. A, title X, §1070(a)(12), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title X, §1081(b), Feb. 10, 1996, 110 Stat. 452; Pub. L. 104–201, div. A, title VIII, §829(c)(2), formerly §829(c)(2), (3), Sept. 23, 1996, 110 Stat. 2613, renumbered Pub. L. 105–85, div. A, title X, §1073(c)(7)(B), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 105–85, div. A, title X, §1073(c)(7)(A), Nov. 18, 1997, 111 Stat. 1904; renumbered §4812 and amended Pub. L. 116–283, div. A, title VIII, §846(c), title XVIII, §1867(b), (d)(1), Jan. 1, 2021, 134 Stat. 3768, 4281.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2502 of this title as this section.

Subsec. (c)(1). Pub. L. 116–283, §1867(d)(1), substituted "section 4811(a)" for "section 2501(a)".

Subsec. (c)(4). Pub. L. 116–283, §846(c), added par. (4).

**1997**—Subsec. (c). Pub. L. 105–85, §1073(c)(7)(A), made technical correction to directory language of Pub. L. 104–201, §829(c)(2). See 1996 Amendment note below.

**1996**—Subsec. (c). Pub. L. 104–201, §829(c)(2), formerly §829(c)(2), (3), as renumbered and amended by Pub. L. 105–85, substituted "the responsibility to ensure effective cooperation" for "the following responsibilities:", struck out "(1) To ensure the effective cooperation" before "among departments", struck out par. (2), redesignated subpars. (A), (B), and (C) as pars. (1), (2), and (3), respectively, and adjusted margins of such pars. Prior to repeal, par. (2) read as follows: "To prepare the periodic assessment and the periodic plan required by sections 2505 and 2506 of this title, respectively."

Subsec. (c)(1)(B). Pub. L. 104–106, §1081(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "programs for achieving, during a period of reduction in defense expenditures, the defense reinvestment, diversification, and conversion objectives set forth in section 2501(b) of this title; and".

Subsec. (c)(2), (3). Pub. L. 104–106, §1081(b)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "To provide overall policy guidance to ensure effective implementation by agencies of the Federal Government of defense reinvestment and conversion activities during a period of reduction in defense expenditures."

**1994**—Subsec. (d). Pub. L. 103–337 substituted "executive" for "Executive".

**1993**—Subsec. (d). Pub. L. 103–160 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1867(b), (d)(1) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

## §4813. National defense program for analysis of the technology and industrial base

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program for analysis of the national technology and industrial base.

(b) SUPERVISION OF PROGRAM.—The Secretary of Defense shall carry out the program through the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment. In carrying out the program, the Under Secretaries shall consult with the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor.

(c) FUNCTIONS.—The functions of the program shall include, with respect to the national technology and industrial base, the following:

(1) The assembly of timely and authoritative information.

(2) Initiation of studies and analyses.

(3) Provision of technical support and assistance to—

(A) the Secretary of Defense for the preparation of the periodic assessments required by section 4816 of this title;

(B) the defense acquisition university structure and its elements; and

(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.

(Added Pub. L. 102–484, div. D, title XLII, §4213(a), Oct. 23, 1992, 106 Stat. 2665, §2503;

amended Pub. L. 104–201, div. A, title VIII, §829(b), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 107–107, div. A, title X, §1048(b)(4), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(74), Dec. 20, 2019, 133 Stat. 1552; renumbered §4813 and amended Pub. L. 116–283, div. A, title XVIII, §1867(b), (d)(2), Jan. 1, 2021, 134 Stat. 4281.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2503 of this title as this section.

Subsec. (c)(3)(A). Pub. L. 116–283, §1867(d)(2), substituted "section 4816" for "section 2505".

**2019**—Subsec. (b). Pub. L. 116–92 substituted "the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment" for "the Under Secretary of Defense for Acquisition, Technology, and Logistics" and "the Under Secretaries shall" for "the Under Secretary shall".

**2001**—Subsec. (b). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition".

**1996**—Subsec. (a). Pub. L. 104–201, §829(b)(1), substituted "The Secretary of Defense" for "(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council," and struck out pars. (2) to (4) which read as follows:

"(2) As determined by the Secretary of Defense, the program shall be administered by one of the following:

"(A) An existing federally funded research and development center.

"(B) A consortium of existing federally funded research and development centers and other nonprofit entities.

"(C) A private sector entity (other than a federally funded research and development center).

"(D) The National Defense University.

"(3) A contract may be awarded under subparagraph (A), (B), or (C) of paragraph (2) only through the use of competitive procedures.

"(4) The Secretary of Defense shall ensure that there is appropriate coordination between the program and the Critical Technologies Institute."

Subsec. (c)(3)(A). Pub. L. 104–201, §829(b)(2), substituted "the Secretary of Defense for" for "the National Defense Technology and Industrial Base Council in" and struck out "and the periodic plans required by section 2506 of this title" after "section 2505 of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4814. National technology and industrial base: biennial report

The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives by March 1 of each odd-numbered year a report which shall include the following information:

(1) A description of the departmental guidance prepared pursuant to section 4811(c) of this title.

(2) A description of the assessments prepared pursuant to section 4816 of this title and other analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

(3) Based on the strategy required by section 4811 of this title and on the assessments prepared pursuant to Executive order or section 4816 of this title—

(A) a map of the industrial base;

(B) a prioritized list of gaps or vulnerabilities in the national technology and industrial base (including vulnerabilities related to the current and projected impacts of extreme weather and to cyber attacks or disruptions), including—

(i) a description of mitigation strategies necessary to address such gaps or vulnerabilities;

(ii) the identification of the Secretary concerned or the head of the Defense Agency responsible for addressing such gaps or vulnerabilities; and

(iii) a proposed timeline for action to address such gaps or vulnerabilities; and

(C) any other steps necessary to foster and safeguard the national technology and industrial base.

(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.

(5) A detailed description of any use by the Secretary of Defense or a Secretary concerned, as applicable, during the prior 12 months of a waiver or exception to the sourcing requirements or prohibitions established by chapter 83 of title 41 or chapter 385 of this title, including—

(A) the type of waiver or exception used; and

(B) the reasoning for the use of each such waiver or exception.

(Added Pub. L. 104–201, div. A, title VIII, §829(e), Sept. 23, 1996, 110 Stat. 2614, §2504; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112–239, div. A, title XVI, §1603(b), Jan. 2, 2013, 126 Stat. 2063; Pub. L. 116–92, div. A, title VIII, §846(b), Dec. 20, 2019, 133 Stat. 1503; renumbered §4814 and amended Pub. L. 116–283, div. A, title VIII, §842(a), (b)(1), title XVIII, §1867(b), (d)(3), Jan. 1, 2021, 134 Stat. 3764, 3765, 4281; Pub. L. 117–81, div. A, title III, §333, title XVII, §1701(b)(22)(A), (d)(15), Dec. 27, 2021, 135 Stat. 1638, 2135, 2137; Pub. L. 118–31, div. A, title X, §1061(c)(1), Dec. 22, 2023, 137 Stat. 399.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, in section catchline, substituted "National technology and industrial base: biennial report" for "National technology and industrial base: annual report and quarterly briefings"; in subsec. (a), struck out designation and heading "Annual Report" before "The Secretary of Defense shall transmit" and substituted "March 1 of each odd-numbered year" for "March 1 of each year" in introductory provisions; and struck out subsec. (b) which required quarterly briefings from the Secretary of Defense to the congressional defense committees.

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2504 of this title as this section.

Pub. L. 116–283, §842(b)(1), amended section catchline generally, substituting "National technology and industrial base: annual report and quarterly briefings" for "Annual report to Congress".

Subsec. (a). Pub. L. 116–283, §842(a)(1), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (a)(1). Pub. L. 116–283, §1867(d)(3)(A), as amended by Pub. L. 117–81, §1701(b)(22)(A), substituted "section 4811(c)" for "section 2506".

Subsec. (a)(2). Pub. L. 116–283, §1867(d)(3)(B), as amended by Pub. L. 117–81, §1701(b)(22)(A), substituted "section 4816" for "section 2505".

Subsec. (a)(3). Pub. L. 116–283, §1867(d)(3)(C), as amended by Pub. L. 117–81, §1701(b)(22)(A), substituted "section 4811" for "section 2501" and "section 4816" for "section 2505".

Subsec. (a)(3)(B). Pub. L. 117–81, §333, which directed the amendment of par. (3)(B) by inserting "(including vulnerabilities related to the current and projected impacts of extreme weather and to cyber attacks or disruptions)" after "industrial base", was executed by making the insertion in subsec. (a)(3)(B) to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 117–81, §1701(d)(15), substituted "chapter 385" for "subchapter V of chapter 148" in introductory provisions.

Pub. L. 116–283, §842(a)(2), added par. (5).

Subsec. (b). Pub. L. 116–283, §842(a)(3), added subsec. (b).

**2019**—Par. (3). Pub. L. 116–92, §846(b)(1), inserted "Executive order or" after "pursuant to".

Par. (3)(A). Pub. L. 116–92, §846(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a description of any mitigation strategies necessary to address any gaps or vulnerabilities in the national technology and industrial base; and".

Par. (3)(B), (C). Pub. L. 116–92, §846(b)(3), (4), added subpar. (B) and redesignated former subpar. (B) as (C).

**2013**—Pars. (2), (3). Pub. L. 112–239 added par. (3), redesignated former par. (3) as (2) and struck out former par. (2) which read as follows: "A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base."

**1999**—Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1701(b)(22)(A) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(d)(15) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1867(b), (d)(3) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4815. Unfunded priorities of the national technology and industrial base: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on the unfunded priorities to address gaps or vulnerabilities in the national technology and industrial base.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement of the national technology and industrial base that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(2) is necessary to address gaps or vulnerabilities in the national technology and industrial base; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement had emerged before the budget was formulated.

(Added Pub. L. 116–92, div. A, title VIII, §846(c)(1), Dec. 20, 2019, 133 Stat. 1504, §2504a; renumbered §4815, Pub. L. 116–283, div. A, title XVIII, §1867(b), Jan. 1, 2021, 134 Stat. 4281.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2504a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4816. National technology and industrial base: periodic defense capability assessments

(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability of the national technology and industrial base to attain the national security objectives set forth in section 4811(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

(1) describe sectors or capabilities, their underlying infrastructure and processes;

(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment;

(3) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries supporting the sectors or capabilities in the assessment, evaluate the reasons for any variance from applicable preceding determinations, and identify the extent to which those industries are comprised of only one potential source in the national technology and industrial base or have multiple potential sources;

(4) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries that do not actively support Department of Defense acquisition programs and identify the barriers to the participation of those industries;

(5) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives; and

(6) consider the effects of the termination of major defense acquisition programs (as the term is defined in section 4201 of this title) in the previous fiscal year on the sectors and capabilities in the assessment.

(c) ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.—Each assessment under subsection (a) shall include a separate discussion and presentation regarding the

extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

(d) ASSESSMENT OF EXTENT OF EFFECTS OF FOREIGN BOYCOTTS.—Each assessment under subsection (a) shall include an examination of the extent to which the national technology and industrial base is affected by foreign boycotts. If it is determined that a foreign boycott (other than a boycott addressed in a previous assessment) is subjecting the national technology and industrial base to significant harm, the assessment shall include a separate discussion and presentation regarding that foreign boycott that shall, at a minimum—

(1) identify the sectors that are subject to such harm;

(2) describe the harm resulting from such boycott; and

(3) identify actions necessary to minimize the effects of such boycott on the national technology and industrial base.

(e) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.

(Added Pub. L. 102–484, div. D, title XLII, §4215, Oct. 23, 1992, 106 Stat. 2667, §2505; amended Pub. L. 103–35, title II, §201(g)(7), May 31, 1993, 107 Stat. 100; Pub. L. 104–201, div. A, title VIII, §829(c)(1), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111–23, title III, §303(b), May 22, 2009, 123 Stat. 1731; Pub. L. 111–383, div. A, title VIII, §895(c), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 112–239, div. A, title XVI, §1602, Jan. 2, 2013, 126 Stat. 2062; Pub. L. 114–92, div. A, title VIII, §876, Nov. 25, 2015, 129 Stat. 941; renumbered §4816 and amended Pub. L. 116–283, div. A, title XVIII, §§1867(b), (d)(4), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4281, 4282, 4294; Pub. L. 118–159, div. A, title XVII, §1701(a)(41), Dec. 23, 2024, 138 Stat. 2206; Pub. L. 119–60, div. A, title XVII, §1701(a)(30), Dec. 18, 2025, 139 Stat. 1209.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(6). Pub. L. 119–60 inserted closing parenthesis after "this title".

**2024**—Subsec. (b)(6). Pub. L. 118–159, which directed substitution of "section 4201 of this title" for "section 2430 of this title) or major automated information systems (as defined in section 2445a of this title)", was executed by making the substitution for "section 2430 of this title) or major automated information system programs (as defined in section 2445a of this title)" to reflect the probable intent of Congress.

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2505 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1867(d)(4), substituted "section 4811(a)" for "section 2501(a)".

Subsec. (b)(6). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to "section 2430", which was redesignated as multiple sections.

**2015**—Subsec. (b)(3) to (6). Pub. L. 114–92 added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

**2013**—Subsecs. (d), (e). Pub. L. 112–239 added subsec. (d) and redesignated former subsec. (d) as (e).

**2011**—Subsec. (b)(4). Pub. L. 111–383 inserted "or major automated information system programs (as defined in section 2445a of this title)" after "section 2430 of this title)".

**2009**—Subsec. (b)(4). Pub. L. 111–23 added par. (4).

**1996**—Pub. L. 104–201 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing for National Defense Technology and Industrial Base Council to prepare, at least annually through fiscal year 1997 and biennially thereafter, a comprehensive assessment of capability of the national technology and industrial base to attain national security objectives.

**1993**—Pub. L. 103–35 substituted "capability" for "capabilty" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### PILOT PROGRAM ON STRENGTHENING THE DEFENSE INDUSTRIAL AND INNOVATION BASE

Pub. L. 115–91, div. A, title XVII, §1711, Dec. 12, 2017, 131 Stat. 1811, as amended by Pub. L. 116–283, div. A, title II, §213(c), Jan. 1, 2021, 134 Stat. 3457, provided that:

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of increasing the capability of the defense industrial base and the defense innovation base to support—

"(1) development, prototyping, and manufacturing production needs to meet military requirements; and

"(2) development, prototyping, and manufacturing of emerging defense and commercial technologies.

"(b) AUTHORITIES.—The Secretary shall carry out the pilot program under the following:

"(1) [Former] Chapters 137 and 139 and sections 2371, 2371b, and 2373 of title 10, United States Code [now 10 U.S.C. 4021, 4022, 4023].

"(2) [Former] Section 230 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2358 note [now 10 U.S.C. 4061 note prec.]).

"(3) Such other legal authorities as the Secretary considers applicable to carrying out the pilot program.

"(c) ACTIVITIES.—Activities under the pilot program may include the following:

"(1) Use of contracts, grants, or other transaction authorities to support development, prototyping, and manufacturing capabilities in small- and medium-sized manufacturers.

"(2) Purchases of goods or equipment for testing and certification purposes.

"(3) Incentives, including purchase commitments and cost sharing with nongovernmental sources, for the private sector to develop capabilities in areas of national security interest.

"(4) Issuing loans or providing loan guarantees to small- and medium-sized companies to support manufacturing and production capabilities in areas of national security interest.

"(5) Giving awards to third party entities to support investments in small- and medium-sized companies working in areas of national security interest, including debt and equity investments that would benefit missions of the Department of Defense.

"(6) Such other activities as the Secretary determines necessary.

"(d) TERMINATION.—The pilot program shall terminate on December 31, 2026.

"(e) BRIEFING REQUIRED.—No later than January 31, 2027, the Secretary of Defense shall provide a briefing to the Committees on Armed Services in the Senate and the House of Representatives on the results of the pilot program."

## §4817. Industrial Base Fund

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the "Fund").

(b) CONTROL OF FUND.—The Fund shall be under the control of the Under Secretary of Defense for Acquisition and Sustainment, acting through the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

(c) AMOUNTS IN FUND.—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

(d) USE OF FUND.—Subject to subsection (e), the Fund shall be used—

(1) to support the monitoring and assessment of the industrial base required by chapters 381 through 385 and chapter 389;

(2) to address critical issues in the industrial base relating to urgent operational needs;

(3) to support efforts to expand the industrial base; and

(4) to address supply chain vulnerabilities.

(e) USE OF FUND SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

(f) EXPENDITURES.—The Secretary shall establish procedures for expending monies in the Fund in support of the uses identified in subsection (d), including the following:

(1) Direct obligations from the Fund.

(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.

(g) ELIGIBLE USES OF AUTHORITIES.—(1) In General.—The Secretary of Defense may use the authorities provided by this section with respect to defense supply chains, including for material, material production, components, subassemblies, and finished products, testing and qualification, infrastructure, facility construction and improvement, and equipment needed directly for the following:

(A) Castings and forgings.

(B) Kinetic capabilities, including sensors, targeting systems, and delivery platforms.

(C) Microelectronics.

(D) Machine tools, including subtractive, additive, convergent, stamping, forging, abrasives, metrology, and other production equipment.

(E) Critical minerals, materials, and chemicals.

(F) The workforce of the defense industrial base.

(G) Advanced manufacturing (as defined in section 4841(f)) capability and capacity of the defense industrial base, including manufacturing at or near the point of need in the area of responsibility of the United States Indo-Pacific Command.

(H) Unmanned vehicles, including subsurface, surface, land, air, single use, and attritable unmanned vehicles and associated launch and recovery platforms.

(I) Manned aircraft.

(J) Ground systems.

(K) Power sources.

(L) Ships or submarines, including technologies and capabilities for the assembly or automation of ships or submarines, new or modernized infrastructure for the construction of new ships or submarines or the maintenance and sustainment or repair of battle damage to ships or submarines.

(M) Other materiel solutions required to support the operational plans of the United States Indo-Pacific Command.

(N) Defense space systems.

(O) Batteries.

(2) PROHIBITION ON USE IN COVERED COUNTRIES.—The Secretary may not use the authorities provided by this section for any activity in a covered country.

(3) USE OF AUTHORITIES FOR OTHER PURPOSES.—The Secretary may not use the authorities provided by subsections (h) through (j) for a purpose other than a purpose described in paragraph (1) unless the Secretary—

(A) determines that—

(i) the use of the authority for such other purpose is essential to the defense interests of the United States; and

(ii) without the use of the authority for such other purpose, the defense industrial base cannot reasonably be expected to provide a capability needed by the Department of Defense in a timely

manner; and

(B) not less than 30 days prior to the Secretary using such authorities for such other purpose, submits to the congressional defense committees a report on such determination that includes appropriate explanatory material for such use.

(h) GRANTS AND OTHER INCENTIVES FOR DOMESTIC INDUSTRIAL BASE CAPABILITIES.—For the purposes of creating, maintaining, protecting, expanding, or restoring the capabilities of the domestic industrial base that are essential for the defense interests of the United States, the Secretary may—

(1) use contracts, grants, or other transaction authorities, including cooperative agreements;

(2) establish incentives for the private sector to develop capabilities in areas of defense interest;

(3) during the five-year period beginning on the date of the enactment of this subsection, make awards to third party entities to support investments in small- and medium-sized entities working in areas of defense interest that would benefit missions of the Department of Defense; and

(4) provide subsidies to offset market manipulation.

(i) DEFENSE INDUSTRIAL BASE PURCHASE COMMITMENT PROGRAM.—

(1) IN GENERAL.—For the purposes of creating, maintaining, protecting, expanding, or restoring capabilities of the industrial base that are essential for the defense interests of the United States, the Secretary may make purchase commitments—

(A) for the use or resale of an industrial resource or a critical technology item by the Federal Government;

(B) to encourage the exploration, development, and mining of strategic and critical materials;

(C) to support the development of other materials and components;

(D) for the development of production capabilities; and

(E) to increase the use of emerging technologies in defense program applications and the rapid transition of emerging technologies—

(i) from research and development sponsored by the Federal Government to commercial applications; and

(ii) from commercial research and development to national defense applications.

(2) EXEMPTION FOR CERTAIN LIMITATIONS.—

(A) PURCHASES.—Except as provided by subparagraph (B), purchase commitments under paragraph (1) may be made for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond a date that is not more than 10 years from the date on which such purchase was initially made, as the Secretary deems necessary.

(B) LIMITATION.—Purchase commitments under paragraph (1) involving higher than established ceiling prices (or if no such established ceiling prices exist, currently prevailing market prices) or that result in an anticipated loss on resale shall not be made, unless it is determined that supply of the materials to be purchased under such purchase commitments could not be effectively increased or provisioned at lower prices or on terms more favorable to the Federal Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.

(3) FINDINGS OF SECRETARY.—

(A) IN GENERAL.—The Secretary may take the actions described in subparagraph (B), if the Secretary finds with respect to a specific material that—

(i) under generally fair and equitable ceiling prices, for any raw or nonprocessed material or component, there will result a decrease in supplies from high-cost sources of such material and that the continuation of such supplies from such sources is necessary to carry out the objectives of this section; or

(ii) an increase in cost of transportation of such material is temporary and threatens to impair maximum production or supply in any area at stable prices of such material.

(B) SUBSIDY PAYMENTS AUTHORIZED.—Upon a finding under subparagraph (A) with respect to a material, the Secretary may, for the purposes described in paragraph (1), make provision for subsidy payments for such material from sources other than sources that are or that are in covered countries, in such amounts and in such manner, including purchase commitments of such material or component thereof and the resale of such material or component thereof at a loss, and on such terms and conditions, as the Secretary determines necessary to ensure that—

(i) in the case of a finding described in clause (i) of such subparagraph, supplies from high-cost sources of such material do not decrease; or

(ii) in the case of a finding described in clause (ii) of such subparagraph with respect to one or more areas, that maximum production or supply of such material at stable prices in each such area is maintained, as applicable.

(4) INSTALLATION OF EQUIPMENT IN INDUSTRIAL FACILITIES.—

(A) IN GENERAL.—The Secretary is authorized to take an action described in subparagraph (B) if the Secretary determines that such action will aid the defense interests of the United States.

(B) ACTIONS DESCRIBED.—The actions described in this section are—

(i) procuring and installing additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the Federal Government;

(ii) procuring and installing equipment, including equipment owned by the Federal Government, in privately owned plants, factories, and other industrial facilities;

(iii) providing for the modification, expansion, or construction of new privately owned facilities, including modifications or improvements to production processes, when taking actions under this subsection or subsection (h);

(iv) selling or otherwise transferring equipment owned by the Federal Government and installed under this subsection to the owners of such plants, factories, or other industrial facilities;

(v) constructing facilities for the purposes described in section subsection (g)(1); and

(vi) applying contracts, grants, or other transactions authorities.

(5) EXCESS METALS, MINERALS, MATERIALS, AND COMPONENTS.—

(A) IN GENERAL.—Metals, minerals, materials, and components acquired pursuant to this subsection which are excess to the needs of programs under this section, as determined by the Secretary, shall be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), or other national reserves if available, if the Secretary deems such transfer to be in the public interest.

(B) TRANSFERS AT NO CHARGE.—Transfers made pursuant to this paragraph shall be made without charge against or reimbursement from funds appropriated for the purposes of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), or other national reserves if available, except that costs incident to such transfer, other than acquisition costs, shall be paid or reimbursed from such funds.

(C) TREATMENT OF MATERIALS.—For the purposes of section 5(a)(3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(a)(3)), with respect to amounts paid under subparagraph (B) for any metal, mineral, material, or component transferred pursuant to this paragraph—

(i) such metal, mineral, material, or component is deemed to have been determined to be strategic and critical under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)); and

(ii) the Stockpile Manager of the National Defense Stockpile is deemed to have determines

there is a shortfall of such materials in the National Defense Stockpile.

(6) SUBSTITUTES.—The Secretary may make provision for the development and qualification of substitutes for strategic and critical materials, components, critical technology items, and other industrial resources if and to the extent the Secretary determines that such development and qualification is in the interest of national security.

(j) STRENGTHENING DOMESTIC PRODUCTIVE CAPACITY.—

(1) IN GENERAL.—The Secretary may provide appropriate incentives to develop, maintain, modernize, restore, and expand the productive capacities of sources for strategic and critical materials, components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

(2) STRATEGIC AND CRITICAL MATERIALS, COMPONENTS, AND CRITICAL TECHNOLOGY ITEMS.—

(A) MAINTENANCE OF RELIABLE SOURCES OF SUPPLY.—The Secretary shall take appropriate actions to ensure that strategic and critical materials, components, critical technology items, and industrial resources are available from reliable sources when and as needed to meet the requirements of the Department of Defense during peacetime, mobilization, and national emergency (as defined in section 12 of the Strategic and Critical Materials Act (50 USC 98h-3)).

(B) APPROPRIATE ACTION.—For purposes of this paragraph, appropriate actions include—

(i) restricting contract solicitations to reliable sources;

(ii) stockpiling or placing into reserve strategic and critical materials, components, and critical technology items;

(iii) planning for necessary long lead times for acquiring such materials, components, and items; and

(iv) developing and qualifying substitutes for such materials, components, and items.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than October 15, 2026, and annually thereafter, the Secretary shall submit to the congressional defense committee a report evaluating investments made and any other activities carried out using amounts in the Fund during the previous fiscal year.

(2) ELEMENTS.—Each report required by paragraph (1) shall include—

(A) measures of the effectiveness of the investments and activities described in such paragraph in meeting the needs of the Department of Defense and the defense industrial base;

(B) an evaluation of the return on investment of all ongoing investments from the Fund; and

(C) a description of efforts to coordinate activities carried out using amounts in the Fund with activities to support the defense industrial base carried out under other authorities.

(3) ADVICE.—In preparing a report required by paragraph (1), the Secretary shall take into account the advice of the defense industry and such other individuals as the Secretary considers relevant.

(l) Coordination With Other Defense Industrial Base Activities.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, the Secretary shall submit to the congressional defense committees, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report detailing how activities carried out under this section will be coordinated with—

(1) activities carried out using amounts in the Defense Production Act Fund under section 304 of the Defense Production Act of 1950 (50 U.S.C.4534);

(2) activities of the Office of Strategic Capital; and

(3) any other efforts designed to enhance the defense industrial base.

(m) DEFINITIONS.—In this section:

(1) The term "covered country" means—

(A) the Russian Federation;

(B) the Republic of Cuba;

(C) the Bolivarian Republic of Venezuela;

(D) the Democratic People's Republic of Korea;

(E) the Islamic Republic of Iran; and

(F) the People's Republic of China.

(2) The term "reliable source" means a citizen of, or business entity organized under the laws of—

(A) the United States or any territory or possession of the United States;

(B) a country of the national technology and industrial base, as defined in section 4801; or

(C) a qualifying country, as defined in section 225.003 of the Department of Defense Supplement to the Federal Acquisition Regulation or any successor regulation.

(3) The term "Secretary" means the Secretary of Defense.

(4) The term "strategic and critical materials" has the meaning given that term in section 12(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–3(1)).

(Added Pub. L. 111–383, div. A, title VIII, §896(b)(1), Jan. 7, 2011, 124 Stat. 4315, §2508; amended Pub. L. 115–91, div. A, title X, §1081(g)(1), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116–92, div. A, title IX, §902(75), Dec. 20, 2019, 133 Stat. 1552; renumbered §4817, Pub. L. 116–283, div. A, title XVIII, §1867(b), Jan. 1, 2021, 134 Stat. 4281; Pub. L. 116–283, div. A, title XVIII, §1867(d)(7), as added Pub. L. 117–81, div. A, title XVII, §1701(b)(22)(C), Dec. 27, 2021, 135 Stat. 2135; Pub. L. 119–60, div. A, title VIII, §867(a), (d)(1), Dec. 18, 2025, 139 Stat. 996, 1002.)

## AMENDMENT OF SECTION

*Pub. L. 119–60, div. A, title VIII, §867(d)(1), Dec. 18, 2025, 139 Stat. 996, 1002, provided that effective Dec. 31, 2035, subsections (g) to (m) of this section, as added by section 867(a) of Pub. L. 119–60, are repealed. See 2025 Amendment notes below.*

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (h)(3), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (i)(5), is act June 7, 1939, ch. 190, as added Pub. L. 96–41, §2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (l), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

### AMENDMENTS

**2025**—Subsecs. (g) to (m). Pub. L. 119–60, §867(d)(1), struck out subsecs. (g) to (m), which related to eligible uses of authorities, grants and other incentives for domestic industrial base capabilities, Defense Industrial Base Purchase Commitment Program, strengthening domestic productive capacity, annual report, coordination with other defense industrial base activities, and definitions, respectively. See Termination Date of 2025 Amendment note below.

Pub. L. 119–60, §867(a), added subsecs. (g) to (m).

**2021**—Pub. L. 116–283 renumbered section 2508 of this title as this section.

Subsec. (d)(1). Pub. L. 116–283, §1867(d)(7), as added by Pub. L. 117–81, §1701(b)(22)(C), substituted "chapters 381 through 385 and chapter 389" for "this chapter".

**2019**—Subsec. (b). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2017**—Pub. L. 115–91, §1081(g)(1), made technical amendment to directory language of Pub. L. 111–383, §896(b)(1), which added this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION DATE OF 2025 AMENDMENT

Pub. L. 119–60, div. A, title VIII, §867(d)(1), Dec. 18, 2025, 139 Stat. 1002, provided that effective Dec. 31, 2035, section 4817 of this title is amended by striking out subsecs. (g) to (m).

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(g), Dec. 12, 2017, 131 Stat. 1601, provided that the amendment made by section 1081(g)(1) is effective as of Jan. 7, 2011, and as if included in Pub. L. 111–383 as enacted.

## §4818. Data collection authority of President

(a) AUTHORITY.—The President shall be entitled, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in the President's discretion, to the enforcement or the administration of chapters 381 through 385 and chapter 389 and the regulations issued under such chapters.

(b) CONDITION FOR USE OF AUTHORITY.—The President shall issue regulations insuring that the authority of this section will be used only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency.

(c) PENALTY FOR NONCOMPLIANCE.—Any person who willfully performs any act prohibited or willfully fails to perform any act required by the provisions of subsection (a), or any rule, regulation, or order thereunder, shall be fined under title 18 or imprisoned not more than one year, or both.

(d) LIMITATIONS ON DISCLOSURE OF INFORMATION.—Information obtained under subsection (a) which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense. Any person who willfully violates this subsection shall be fined under title 18 or imprisoned not more than one year, or both.

(e) REGULATIONS.—The President may make such rules, regulations, and orders as he considers necessary or appropriate to carry out the provisions of this section. Any regulation or order under this section may be established in such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this section, or to prevent circumvention or evasion, or to facilitate enforcement of this section, or any rule, regulation, or order issued under this section.

(f) DEFINITIONS.—In this section:

(1) The term "person" includes an individual, corporation, partnership, association, or any other

organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing, except that no punishment provided by this section shall apply to the United States, or to any such government, political subdivision, or government agency.

(2) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(Added Pub. L. 102–484, div. D, title XLII, §4217, Oct. 23, 1992, 106 Stat. 2670, §2507; amended Pub. L. 103–160, div. A, title XI, §1182(b)(1), Nov. 30, 1993, 107 Stat. 1772; Pub. L. 109–163, div. A, title X, §1056(c)(5), Jan. 6, 2006, 119 Stat. 3439; renumbered §4818 and amended Pub. L. 116–283, div. A, title XVIII, §1867(b), (d)(5), Jan. 1, 2021, 134 Stat. 4281, 4282; Pub. L. 117–81, div. A, title XVII, §1701(b)(22)(B), Dec. 27, 2021, 135 Stat. 2135.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2507 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1867(d)(5), as amended by Pub. L. 117–81, §1701(b)(22)(B), substituted "of chapters 381 through 385 and chapter 389" for "of this chapter" and "under such chapters" for "under this chapter".

**2006**—Subsec. (d). Pub. L. 109–163 substituted "subsection (a)" for "section (a)".

**1993**—Pub. L. 103–160 inserted headings in subsecs. (a) to (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4819. Modernization of acquisition processes to ensure integrity of industrial base

(a) DIGITIZATION AND MODERNIZATION.—The Secretary of Defense shall streamline and digitize the Department of Defense approach for identifying and mitigating risks to the defense industrial base.

(b) OBJECTIVE.—The objective of subsection (a) shall be to employ digital tools, technologies, and approaches to ensure the accessibility of relevant defense industrial base data to key decision-makers in the Department.

(c) ANALYTICAL FRAMEWORK.—(1) The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Director of the Defense Counterintelligence and Security Agency and the heads of other elements of the Department of Defense as appropriate, shall develop an analytical framework for risk mitigation across the acquisition process in implementing subsections (a) and (b).

(2) The analytical framework required under paragraph (1) shall include the following elements:

(A) Characterization and monitoring of supply chain risks, such as those identified through the supply chain risk management process of the Department and by the Federal Acquisition Security Council, and including—

(i) material sources and fragility, including the extent to which sources, items, materials, and

articles are mined, produced, or manufactured within or outside the United States;
(ii) telecommunications services or equipment;
(iii) counterfeit parts;
(iv) cybersecurity of contractors;
(v) video surveillance services or equipment;
(vi) vendor vetting in contingency or operational environments;
(vii) other electronic or information technology products and services; and
(viii) other risk areas as determined appropriate by the Secretary of Defense.

(B) Characterization and monitoring of risks posed by contractor behavior that constitutes or may constitute violations of laws or regulations, including those relating to—
(i) fraud;
(ii) ownership structures;
(iii) trafficking in persons;
(iv) workers' health and safety;
(v) affiliation with the enemy;
(vi) foreign influence; and
(vii) other risk areas as deemed appropriate by the Secretary of Defense.

(C) Characterization and assessment of the acquisition processes and procedures of the Department of Defense, including—
(i) market research;
(ii) responsibility determinations, including consideration of the need for special standards of responsibility to address the risks described in subparagraphs (A) and (B);
(iii) facilities clearances;
(iv) the development of contract requirements;
(v) the technical evaluation of offers and contract awards;
(vi) contractor mobilization, including hiring, training, and establishing facilities;
(vii) contract administration, contract management, and oversight;
(viii) contract audit for closeout;
(ix) suspension and debarment activities and administrative appeals activities;
(x) contractor business system reviews;
(xi) processes and procedures related to supply chain risk management and processes and procedures implemented pursuant to section 3252 of this title; and
(xii) other relevant processes and procedures.

(D) Characterization and monitoring of the health and activities of the defense industrial base, including those relating to—
(i) balance sheets, revenues, profitability, and debt;
(ii) investment, innovation, and technological and manufacturing sophistication;
(iii) finances, access to capital markets, and cost of raising capital within those markets;
(iv) corporate governance, leadership, and culture of performance; and
(v) history of performance on past Department of Defense and government contracts.

(E) Characterization and assessment of industrial base support policies, programs, and procedures, including—
(i) limitations and acquisition guidance relevant to the national technology and industrial base;
(ii) limitations and acquisition guidance relevant to section 4862 of this title;
(iii) the Industrial Base Analysis and Sustainment program of the Department, including direct support and common design activities;
(iv) the Small Business Innovation Research Program (as defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e));

(v) the Manufacturing Technology Program established under sections 4841 and 4842 of this title;

(vi) programs relating to the Defense Production Act of 1950 (50 U.S.C. 4511 [1] et seq.); and

(vii) programs operating in each military department.

(d) ROLES AND RESPONSIBILITIES.—The Secretary of Defense shall designate the roles and responsibilities of organizations and individuals to execute activities under this section, including—

(1) the Under Secretary of Defense for Acquisition and Sustainment, including the Office of Defense Pricing and Contracting and the Office of Industrial Policy;

(2) service acquisition executives;

(3) program offices and procuring contracting officers;

(4) administrative contracting officers within the Defense Contract Management Agency and the Supervisor of Shipbuilding;

(5) the Defense Counterintelligence and Security Agency;

(6) the Defense Contract Audit Agency;

(7) each element of the Department of Defense which own or operate systems containing data relevant to contractors of the Department;

(8) the Under Secretary of Defense for Research and Engineering;

(9) the suspension and debarment official of the Department;

(10) the Chief Information Officer; and

(11) other relevant organizations and individuals as deemed appropriate by the Secretary.

(e) ENABLING DATA, TOOLS, AND SYSTEMS.—(1)(A) The Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Chief Data Officer of the Department of Defense and the Director of the Defense Counterintelligence and Security Agency, shall assess the extent to which existing systems of record relevant to risk assessments and contracting are producing, exposing, and maintaining valid and reliable data for the purposes of the Department's continuous assessment and mitigation of risks in the defense industrial base.

(B) The assessment required under subparagraph (A) shall include the following elements:

(i) Identification of the necessary source data, to include data from contractors, intelligence and security activities, program offices, and commercial research entities.

(ii) A description of modern data infrastructure, tools, and applications and an assessment of the extent to which new capabilities would improve the effectiveness and efficiency of mitigating the risks described in subsection (c)(2).

(iii) An assessment of the following systems owned or operated outside of the Department of Defense that the Department depends upon or to which it provides data, including the following:

(I) The Federal Awardee Performance and Integrity Information System (FAPIIS).

(II) The System for Award Management (SAM).

(III) The Federal Procurement Data System–Next Generation (FPDS–NG).

(IV) The Electronic Data Management Information System.

(V) Other systems the Secretary of Defense determines appropriate.

(iv) An assessment of systems owned or operated by the Department of Defense, including the Defense Counterintelligence and Security Agency and other defense agencies and field activities used to capture and analyze the status and performance (including past performance) of vendors and contractors.

(2)(A) Based on the findings pursuant to paragraph (1), the Secretary of Defense shall develop a unified set of activities to modernize the systems of record, data sources and collection methods, and data exposure mechanisms. The unified set of activities should include—

(i) the ability to continuously collect data on, assess, and mitigate risks;

(ii) data analytics and business intelligence tools and methods; and

(iii) continuous development and continuous delivery of secure software to implement the

activities.

(B) In connection with the assessments described in this section, the Secretary shall develop capabilities to map supply chains and to assess risks to the supply chain for major end items by business sector, vendor, program, part, and other metrics as determined by the Secretary.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or modify any other procurement policy, procedure, requirement, or restriction provided by law.

(Added Pub. L. 116–92, div. A, title VIII, §845(a), Dec. 20, 2019, 133 Stat. 1500, §2509; renumbered §4819 and amended Pub. L. 116–283, div. A, title VIII, §843(a), title XVIII, §§1867(b), (d)(6), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3765, 4281, 4282, 4294; Pub. L. 117–81, div. A, title VIII, §841, title XVII, §1701(d)(16), Dec. 27, 2021, 135 Stat. 1839, 2137.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Defense Production Act of 1950 (50 U.S.C. 4511 et seq.), referred to in subsec. (c)(2)(E)(vi), probably means act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified principally to chapter 55 (§4501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 4501 of Title 50 and Tables.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1867(b), renumbered section 2509 of this title as this section.

Subsec. (a). Pub. L. 117–81, §841(1), struck out "existing" before "Department of Defense approach" and "across the acquisition process, creating a continuous model that uses digital tools, technologies, and approaches designed to ensure the accessibility of data to key decision-makers in the Department" before period at end.

Subsec. (b). Pub. L. 117–81, §841(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(2)(A). Pub. L. 116–283, §843(a)(1)(A)(i), inserted "such as those identified through the supply chain risk management process of the Department and by the Federal Acquisition Security Council, and" after "supply chain risks," in introductory provisions.

Subsec. (b)(2)(A)(ii). Pub. L. 116–283, §843(a)(1)(A)(ii), struck out "(other than optical transmission components)" after "equipment".

Subsec. (b)(2)(C)(xi). Pub. L. 117–81, §1701(d)(16)(A), which directed the substitution of "section 3252" for "section 2339a", could not be executed as directed because "section 2339a" did not appear in subsec. (b)(2)(C)(xi) after the intervening redesignation of subsec. (b) of this section as subsec. (c) by Pub. L. 117–81, §841(3), and could not be executed in subsec. (c)(2)(C)(xi) as redesignated to reflect the probable intent of Congress, because of the intervening amendment by Pub. L. 116–283, §1883(b)(2), which had already made that substitution. See notes below.

Pub. L. 116–283, §843(a)(1)(B), added cl. (xi). Former cl. (xi) redesignated (xii).

Subsec. (b)(2)(C)(xii). Pub. L. 116–283, §843(a)(1)(B)(ii), redesignated cl. (xi) as (xii).

Subsec. (b)(2)(E). Pub. L. 116–283, §843(a)(1)(C), added subpar. (E).

Subsec. (b)(2)(E)(ii). Pub. L. 117–81, §1701(d)(16)(B)(ii), which directed the substitution of "section 4862" for "section 2533a", could not be executed as directed because "section 2533a" did not appear in subsec. (b)(2)(E)(ii) after the intervening redesignation of subsec. (b) of this section as subsec. (c) by Pub. L. 117–81, §841(3), and could not be executed in subsec. (c)(2)(E)(ii) as redesignated because of the intervening amendment by Pub. L. 116–283, §1883(b)(2), which had already made that substitution. See notes below.

Subsec. (c). Pub. L. 117–81, §841(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 117–81, §841(5)(A), inserted "in implementing subsections (a) and (b)" before period at end.

Subsec. (c)(2)(A)(viii). Pub. L. 117–81, §841(5)(B)(i), inserted "by the Secretary of Defense" before period at end.

Subsec. (c)(2)(B). Pub. L. 117–81, §841(5)(B)(ii)(I), substituted "constitutes or may constitute" for "constitute" in introductory provisions.

Subsec. (c)(2)(B)(vii). Pub. L. 117–81, §841(5)(B)(ii)(II), inserted "by the Secretary of Defense" before period at end.

Subsec. (c)(2)(C)(xi). Pub. L. 116–283, §1883(b)(2), substituted "section 3252" for "section 2339a".

Subsec. (c)(2)(E)(i). Pub. L. 117–81, §1701(d)(16)(B)(i), which directed amendment of subsec. (b)(2)(E)(i) by striking out "(as defined in section 2500(1) of this title)", was executed by striking out "(as defined in section 4801(1) of this title)" before semicolon at end of subsec. (c)(2)(E)(i) to reflect the probable intent of Congress and the intervening amendments by Pub. L. 116–283, §1883(b)(2), and Pub. L. 117–81, §841(3). See notes above and below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4801(1)" for "section 2500(1)".

Subsec. (c)(2)(E)(ii). Pub. L. 116–283, §1883(b)(2), substituted "section 4862" for "section 2533a".

Subsec. (c)(2)(E)(v). Pub. L. 117–81, §1701(d)(16)(B)(iii), which directed the amendment of subsec. (b)(2)(E)(v) of this section by substituting "sections 4841 and 4842" for "section 2521", was executed to subsec. (c)(2)(E)(v) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 117–81, §841(3). See note above.

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed by substituting "section 4841" for "section 2521", to reflect the probable intent of Congress and execution of the subsequent amendment by section 1701(d)(16)(B)(iii) of Pub. L. 117–81 specifically directing the substitution of "sections 4841 and 4842" for "section 2521". See note above. Although section 2521 of this title was redesignated as section 4841, subsec. (e) of section 4841 was transferred to become the text of section 4842 immediately thereafter.

Subsec. (d). Pub. L. 117–81, §841(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(11). Pub. L. 117–81, §841(6), inserted "as deemed appropriate by the Secretary" before period at end.

Subsec. (e). Pub. L. 117–81, §841(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1)(A). Pub. L. 117–81, §841(7)(A)(i), struck out "timely" before "maintaining valid and reliable data".

Subsec. (e)(1)(B)(ii). Pub. L. 117–81, §841(7)(A)(ii)(I), added cl. (ii) and struck out former cl. (ii) which read as follows: "A description of the modern data infrastructure, tools, and applications and what changes would improve the effectiveness and efficiency of mitigating the risks described in subsection (b)(2)."

Subsec. (e)(1)(B)(iii). Pub. L. 117–81, §841(7)(A)(ii)(II), inserted ", including the following" before colon at end of introductory provisions.

Subsec. (e)(2). Pub. L. 117–81, §841(7)(B), added par. (2) and struck out former par. (2) which related to Secretary of Defense's development of unified set of activities to modernize systems of record, data sources and collection methods, and data exposure mechanisms.

Subsec. (f). Pub. L. 117–81, §841(2), (3), redesignated subsec. (e) as (f) and struck out former subsec. (f) which related to implementation and reporting requirements.

Subsec. (f)(1)(A). Pub. L. 116–283, §1867(d)(6), which directed the substitution of "section 3252(c)" for "section 2339a(e)", could not be executed because of the prior repeal of subsec. (f) by Pub. L. 117–81, §841(2). See note above.

Subsec. (f)(2). Pub. L. 116–283, §843(a)(2), inserted ", and supporting policies, procedures, and guidance relating to such actions" after "subsection (b)".

Subsec. (g). Pub. L. 117–81, §841(2), struck out subsec. (g) which related to briefing and periodic assessments of reviews by Comptroller General.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(d)(16) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by sections 1867(b), (d)(6) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### CYBERSECURITY REGULATORY HARMONIZATION

Pub. L. 119–60, div. A, title VIII, §866(a), (b), Dec. 18, 2025, 139 Stat. 995, provided that:

"(a) IN GENERAL.—Not later than June 1, 2026, the Secretary of Defense, in coordination with the Chief Information Officer of the Department of Defense, the Chief Information Officer of each military department, and representatives from the service acquisition executives of each military department, shall—

"(1) harmonize the cybersecurity requirements applicable to the defense industrial base across the Department of Defense;

"(2) reduce the number of such requirements that are unique to a specific contract or other agreement of the Department; and

"(3) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken to carry out the harmonization described in paragraph (1) and the reduction described in paragraph (2).

"(b) REQUIREMENTS.—The harmonization required by subsection (a)(1) shall ensure that processes and governance structures exist and are sufficient to identify and eliminate duplicative and inconsistent cybersecurity requirements and cybersecurity requirements unique to single contracts, including—

"(1) a process and governance structure for assessing whether future proposed cybersecurity contractual requirements for contracts or other agreements of the Department of Defense are duplicative of other applicable requirements of the Department of Defense that are published in the Federal Register;

"(2) a process for coordinating, centralizing, approving, and publishing any proposed cybersecurity requirement not published in the Federal Register; and

"(3) a mechanism included in the process described in paragraph (2) for ensuring the visibility to and input from internal and external stakeholders."

## MITIGATING RISKS RELATED TO FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OF DEPARTMENT OF DEFENSE CONTRACTORS OR SUBCONTRACTORS

Pub. L. 116–283, div. A, title VIII, §819(c), Jan. 1, 2021, 134 Stat. 3752, provided that:

"(1) IMPLEMENTATION PLAN.—Not later than March 1, 2021, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan and schedule for implementation of the requirements of section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505; 10 U.S.C. 2509 note [now 10 U.S.C. 4819 note]) [set out below], as amended by this section, including—

"(A) a timeline for issuance of regulations, development of training for appropriate officials, and development of systems for reporting of beneficial ownership and FOCI by covered contractors or subcontractors;

"(B) the designation of officials and organizations responsible for such implementation; and

"(C) interim milestones to be met in implementing the plan and schedule.

"(2) REVISION OF REGULATIONS, DIRECTIVES, GUIDANCE, TRAINING, AND POLICIES.—Not later than July 1, 2021, the Secretary of Defense shall revise relevant directives, guidance, training, and policies, including revising the Department of Defense Supplement to the Federal Acquisition Regulation, to fully implement the requirements of such section 847.

"(3) DEFINITIONS.—In this subsection, the term 'beneficial ownership', 'FOCI', and 'covered contractors or subcontractors' have the meanings given, respectively, in section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505; 10 U.S.C. 2509 note [now 10 U.S.C. 4819 note])."

Pub. L. 116–92, div. A, title VIII, §847, Dec. 20, 2019, 133 Stat. 1505, as amended by Pub. L. 116–283, div. A, title VIII, §819(a), (b), (d), Jan. 1, 2021, 134 Stat. 3751, 3752, provided that:

"(a) DEFINITIONS.—In this section:

"(1) BENEFICIAL OWNER; BENEFICIAL OWNERSHIP.—The terms 'beneficial owner' and 'beneficial ownership' shall be determined in a manner that is not less stringent than the manner set forth in section 240.13d–3 of title 17, Code of Federal Regulations (as in effect on the date of the enactment of this Act [Dec. 20, 2019]).

"(2) COMPANY.—The term 'company' means any corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity.

"(3) COVERED CONTRACTOR OR SUBCONTRACTOR.—The term 'covered contractor or subcontractor' means a company that is an existing or prospective contractor or subcontractor of the Department of Defense on a contract or subcontract with a value in excess of $5,000,000, except as provided in subsection (c).

"(4) FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE; FOCI.—The terms 'foreign ownership, control, or influence' and 'FOCI' have the meanings given those terms in the National Industrial Security Program Operating Manual (DOD 5220.22–M), or a successor document.

"(b) IMPROVED ASSESSMENT AND MITIGATION OF RISKS RELATED TO FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE.—

"(1) IN GENERAL.—In developing and implementing the analytical framework for mitigating risk

relating to ownership structures, as required by section 2509 of title 10, United States Code [now 10 U.S.C. 4819], as added by section 845 of this Act, the Secretary of Defense shall improve the process and procedures for the assessment and mitigation of risks related to foreign ownership, control, or influence (FOCI) of covered contractors or subcontractors doing business with the Department of Defense.

"(2) ELEMENTS.—The process and procedures for the assessment and mitigation of risk relating to ownership structures referred to in paragraph (1) shall include the following elements:

"(A) ASSESSMENT OF FOCI.—(i) A requirement for covered contractors or subcontractors to disclose to the Defense Counterintelligence and Security Agency, or its successor organization, their beneficial ownership and whether they are under FOCI.

"(ii) A requirement to update such disclosures when changes occur to information previously provided, consistent with or similar to the procedures for updating FOCI information under the National Industrial Security Program Operating Manual (DOD 5220.22–M), or a successor document.

"(iii) A requirement for covered contractors or subcontractors determined to be under FOCI to disclose contact information for each of its foreign owners that is a beneficial owner.

"(iv) A requirement that, at a minimum, the disclosures required by this paragraph be provided at the time the contract or subcontract is awarded, amended, or renewed, but in no case later than one year after the Secretary prescribes regulations to carry out this subsection.

"(v) A requirement for the Secretary to require reports and conduct examinations on a periodic basis of covered contractors or subcontractors in order to assess compliance with the requirements of this section.

"(B) RESPONSIBILITY DETERMINATION.—Consistent with section 2509 of title 10, United States Code [now 10 U.S.C. 4819], as added by section 845 of this Act, consideration of FOCI risks as part of responsibility determinations, including—

"(i) whether to establish a special standard of responsibility relating to FOCI risks for covered contractors or subcontractors, and the extent to which the policies and procedures consistent with or similar to those relating to FOCI under the National Industrial Security Program shall be applied to covered contractors or subcontractors;

"(ii) procedures for contracting officers making responsibility determinations regarding whether covered contractors or subcontractors may be under foreign ownership, control, or influence and for determining whether there is reason to believe that such foreign ownership, control, or influence would pose a risk or potential risk to national security or potential compromise because of sensitive data, systems, or processes, such as personally identifiable information, cybersecurity, or national security systems involved with the contract or subcontract; and

"(iii) modification of policies, directives, and practices to provide that an assessment that a covered contractor or subcontractor is under FOCI may be a sufficient basis for a contracting officer to determine that such a covered contractor or subcontractor is not responsible.

"(C) CONTRACT REQUIREMENTS, ADMINISTRATION, AND OVERSIGHT RELATING TO FOCI.—

"(i) Requirements for contract clauses providing for and enforcing disclosures related to changes in FOCI or beneficial ownership during performance of the contract or subcontract, consistent with subparagraph (A), and necessitating the effective mitigation of risks related to FOCI throughout the duration of the contract or subcontract.

"(ii) Pursuant to section 2509(c) of title 10, United States Code [now 10 U.S.C. 4819(c)], designation of the appropriate Department of Defense official responsible to approve and to take actions relating to award, modification, termination of a contract, or direction to modify or terminate a subcontract due to an assessment by the Defense Counterintelligence and Security Agency, or its successor organization, that a covered contractor or subcontractor under FOCI poses a risk to national security or potential risk of compromise.

"(iii) A requirement for the provision of additional information regarding beneficial ownership and control of any covered contractor or subcontractor on the contract or subcontract.

"(iv) Procedures for appropriately responding to changes in covered contractor or subcontractor beneficial ownership status based on changes in disclosures of their beneficial ownership and whether they are under FOCI and the reports and examinations required by subparagraph (A)(v).

"(v) Other measures as necessary to be consistent with other relevant practices, policies, regulations, and actions, including those under the National Industrial Security Program.

"(c) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND SERVICES AND OTHER FORMS OF ACQUISITION AGREEMENTS.—

"(1) COMMERCIAL PRODUCTS AND SERVICES.—The requirements under subsections (b)(2)(A)

and (b)(2)(C) shall not apply to a contract or subcontract for commercial products or services, unless a designated senior Department of Defense official specifically requires the applicability of subsections (b)(2)(A) and (b)(2)(C) based on a determination by the designated senior official that the contract or subcontract involves a risk or potential risk to national security or potential compromise because of sensitive data, systems, or processes, such as personally identifiable information, cybersecurity, or national security systems.

"(2) RESEARCH AND DEVELOPMENT AND PROCUREMENT ACTIVITIES.—The Secretary of Defense shall ensure that the requirements of this section are applied to research and development and procurement activities, including for the delivery of services, established through any means including those under section 2358(b) of title 10, United States Code [now 10 U.S.C. 4001(b)].

"(d) AVAILABILITY OF RESOURCES.—The Secretary shall ensure that sufficient resources, including subject matter expertise, are allocated to execute the functions necessary to carry out this section, including the assessment, mitigation, contract administration, and oversight functions.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or modify any other procurement policy, procedure, requirement, or restriction provided by law, including section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565), as amended by the Foreign Interference Risk Review Modernization Act of 2018 (subtitle A of title XVII of Public Law 115–232).

"(f) AVAILABILITY OF BENEFICIAL OWNERSHIP DATA.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a process to update systems of record to improve the assessment and mitigation of risks associated with FOCI through the inclusion and updating of all appropriate associated uniquely identifying information about the contracts and contractors and subcontracts and subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS), administered by the General Services Administration, and the Commercial and Government Entity (CAGE) database, administered by the Defense Logistics Agency.

"(2) LIMITED AVAILABILITY OF INFORMATION.—The Secretary of Defense shall ensure that the information required to be disclosed pursuant to this section is—

"(A) not made public;

"(B) made available via the FAPIIS and CAGE databases; and

"(C) made available to appropriate government departments or agencies."

[1] *See References in Text note below.*

## §4820. National technology and industrial base plans, policy, and guidance

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations requiring consideration of the national technology and industrial base, in accordance with the strategy required by section 4811 of this title, in the development and implementation of acquisition plans for each major defense acquisition program.

(b) ACQUISITION POLICY AND GUIDANCE.—The Secretary of Defense shall develop and promulgate acquisition policy and guidance to the service acquisition executives, the heads of the appropriate Defense Agencies and Department of Defense Field Activities, and relevant program managers. Such policy and guidance shall be germane to the use of the research and development, manufacturing, and production capabilities identified pursuant to chapters 381 through 385 and chapter 389 of this title and the technologies, companies, laboratories, and factories in specific Department of Defense research and development, international cooperative research, procurement, and sustainment activities.

(Added Pub. L. 102–484, div. D, title XLII, §4216(b)(1), Oct. 23, 1992, 106 Stat. 2669, §2440; amended Pub. L. 109–364, div. A, title X, §1071(a)(17), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 112–239, div. A, title XVI, §1603(c), Jan. 2, 2013, 126 Stat. 2063; Pub. L. 116–283, div. A, title VIII, §846(b)(1), title XVIII, §1847(b)(2)(A), Jan. 1, 2021, 134 Stat. 3768, 4253; renumbered §4820 and amended Pub. L. 117–81, div. A, title XVII, §1701(s)(1)(A), (2)(A), (C), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 118–31, div. A, title XVIII, §1801(a)(36), Dec. 22, 2023, 137 Stat. 685.)

### EDITORIAL NOTES

### CODIFICATION

Amendments made by section 1701(s)(2)(A), (C) of Pub. L. 117–81 were directed to the Code directly, but probably should have been directed to title XVIII of Pub. L. 116–283 in line with other amendments made by section 1701 of Pub. L. 117–81 that were effective as if included in that title.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31 substituted "chapters 381 through 385 and chapter 389 of this title" for "subchapters 381 through 385 and subchapter 389 of this title".

**2021**—Pub. L. 117–81, §1701(s)(2)(A), renumbered section 2440 of this title as this section. See Codification note above.

Pub. L. 116–283, §1847(b)(2)(A), which directed transfer of the text of section 2440 of this title to section 4211(c)(3) of this title instead of this section, was repealed by Pub. L. 117–81, §1701(s)(1)(A).

Pub. L. 116–283, §846(b)(1)(B), (C), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 116–283, §846(b)(1)(A), amended section catchline generally. Prior to amendment, section catchline read as follows: "Technology and industrial base plans".

Subsec. (a). Pub. L. 117–81, §1701(s)(2)(C)(i), substituted "section 4811" for "section 2501". See Codification note above.

Subsec. (b). Pub. L. 117–81, §1701(s)(2)(C)(ii), substituted "subchapters 381 through 385 and subchapter 389" for "chapter 148". See Codification note above.

**2013**—Pub. L. 112–239 inserted ", in accordance with the strategy required by section 2501 of this title," after "base".

**2006**—Pub. L. 109–364 substituted "industrial base plans" for "Industrial Base Plans" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1847(b)(2)(A) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 383—DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

Sec.
4831. Defense dual-use critical technology program.
4832. Encouragement of technology transfer.
4833. Federal Defense Laboratory Diversification Program.
4834. Overseas foreign critical technology monitoring and assessment financial assistance program.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 383 "LOAN GUARANTEE PROGRAMS", consisting of reserved section 4861, was repealed by Pub. L. 116–283, div. A, title XVIII, §1873(a)(1), Jan. 1, 2021, 134 Stat. 4289.

## §4831. Defense dual-use critical technology program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 4811(a) of this title by encouraging and

providing for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 4021 of this title in furtherance of the program. The Secretary shall identify projects to be conducted as part of the program.

(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS .—(1) The total amount of funds provided by the Federal Government for a project conducted under the program may not exceed 50 percent of the total cost of the project. However, the Secretary of Defense may agree to a project in which the total amount of funds provided by the Federal Government exceeds 50 percent if the Secretary determines the project is particularly meritorious, but the project would not otherwise have sufficient non-Federal funding or in-kind contributions.

(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a project conducted under the program for the purpose of calculating the share of the project costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of project activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the project from non-Federal sources.

(3) The Secretary shall consider a project proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated project costs. Upon the selection of a project proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the project from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated project costs, the Secretary shall revoke the selection of the project proposal submitted by the small business concern.

(d) SELECTION PROCESS.—Competitive procedures shall be used in the conduct of the program.

(e) SELECTION CRITERIA.—The criteria for the selection of projects under the program shall include the following:

(1) The extent to which the proposed project advances and enhances the national security objectives set forth in section 4811(a) of this title.

(2) The technical excellence of the proposed project.

(3) The qualifications of the personnel proposed to participate in the research activities of the proposed project.

(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed project other than through the project.

(5) The potential effectiveness of the project in the further development and application of each technology proposed to be developed by the project for the national technology and industrial base.

(6) The extent of the financial commitment of eligible firms to the proposed project.

(7) The extent to which the project does not unnecessarily duplicate projects undertaken by other agencies.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.

(Added Pub. L. 102–484, div. D, title XLII, §4221(a), Oct. 23, 1992, 106 Stat. 2677, §2511;

amended Pub. L. 103–160, div. A, title XIII, §§1315(a), 1317(c), Nov. 30, 1993, 107 Stat. 1787, 1789; Pub. L. 103–337, div. A, title XI, §1115(a), Oct. 5, 1994, 108 Stat. 2868; Pub. L. 104–106, div. A, title X, §1081(c), Feb. 10, 1996, 110 Stat. 452; renumbered §4831 and amended Pub. L. 116–283, div. A, title XVIII, §1868(b), (c)(1), Jan. 1, 2021, 134 Stat. 4282, 4283; Pub. L. 117–263, div. A, title X, §1081(a)(6), Dec. 23, 2022, 136 Stat. 2797.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4831 was renumbered section 7831 of this title.

Provisions similar to those in this section were contained in section 2523 of this title, prior to repeal by Pub. L. 102–484, §4202(a).

### AMENDMENTS

**2022**—Subsec. (a). Pub. L. 117–263 substituted "section 4021" for "section 4002".

**2021**—Pub. L. 116–283, §1868(b), renumbered section 2511 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1868(c)(1)(A), substituted "section 4811(a)" for "section 2501(a)" and "section 4002" for "section 2371".

Subsec. (e)(1). Pub. L. 116–283, §1868(c)(1)(B), substituted "section 4811(a)" for "section 2501(a)".

**1996**—Pub. L. 104–106 substituted "program" for "partnerships" in section catchline and amended text generally. Prior to amendment, text related to program for establishment of cooperative arrangements between Department of Defense and eligible entities.

**1994**—Subsec. (c)(3). Pub. L. 103–337 added par. (3).

**1993**—Subsec. (c). Pub. L. 103–160, §1315(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary of Defense shall ensure that, to the maximum extent he determines to be practicable, the amount of the funds provided by the Federal Government under a partnership does not exceed the total amount provided by non-Federal Government participants in that partnership."

Subsec. (e). Pub. L. 103–160, §1317(c), struck out ", except that procedures other than competitive procedures may be used in any case in which an exception set out in section 2304(c) of this title applies" after "partnerships".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### DUAL-USE SCIENCE AND TECHNOLOGY PROGRAM

Pub. L. 105–85, div. A, title II, §203, Nov. 18, 1997, 111 Stat. 1655, as amended by Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717; Pub. L. 115–232, div. A, title VIII, §811(h), Aug. 13, 2018, 132 Stat. 1846, provided that:

"(a) FUNDING 1998.—Of the amounts authorized to be appropriated by section 201 [111 Stat. 1655], $75,000,000 is authorized for dual-use projects.

"(b) GOALS.—(1) Subject to paragraph (3), it shall be the objective of the Secretary of each military department to obligate for dual-use projects in each fiscal year referred to in paragraph (2), out of the total amount authorized to be appropriated for such fiscal year for the applied research programs of the military department, the percent of such amount that is specified for that fiscal year in paragraph (2).

"(2) The objectives for fiscal years under paragraph (1) are as follows:

"(A) For fiscal year 1998, 5 percent.

"(B) For fiscal year 1999, 7 percent.

"(C) For fiscal year 2000, 10 percent.

"(D) For fiscal year 2001, 15 percent.

"(3) The Secretary of Defense may establish for a military department for a fiscal year an objective different from the objective set forth in paragraph (2) if the Secretary—

"(A) determines that compelling national security considerations require the establishment of the different objective; and

"(B) notifies Congress of the determination and the reasons for the determination.

"[(c) Repealed. Pub. L. 115–232, div. A, title VIII, §811(h), Aug. 13, 2018, 132 Stat. 1846.]

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—The total amount of funds provided by a military department for a dual-use project entered into by the Secretary of that department shall not exceed 50 percent of the total cost of the project. In the case of a dual-use project initiated after the date of the enactment of this Act [Nov. 18, 1997], the Secretary may consider in-kind contributions by non-Federal participants only to the extent such contributions constitute 50 percent or less of the share of the project costs by such participants.

"(e) USE OF COMPETITIVE PROCEDURES.—Funds obligated for a dual-use project may be counted toward meeting an objective under subsection (a) only if the funds are obligated for a contract, grant, cooperative agreement, or other transaction that was entered into through the use of competitive procedures.

"(f) REPORT.—(1) Not later than March 1 of each of 1998, 1999, and 2000, the Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] on the progress made by the Department of Defense in meeting the objectives set forth in subsection (b) during the preceding fiscal year.

"(2) The report for a fiscal year shall contain, at a minimum, the following:

"(A) The aggregate value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount appropriated for the applied research programs in the Department of Defense for that fiscal year.

"(B) For each military department, the value of all contracts, grants, cooperative agreements, or other transactions entered into during the fiscal year for which funding is counted toward meeting an objective under this section, expressed in relationship to the total amount appropriated for the applied research program of the military department for that fiscal year.

"(C) A summary of the cost-sharing arrangements in dual-use projects that were initiated during the fiscal year and are counted toward reaching an objective under this section.

"(D) A description of the regulations, directives, or other procedures that have been issued by the Secretary of Defense or the Secretary of a military department to increase the percentage of the total value of the dual-use projects undertaken to meet or exceed an objective under this section.

"(E) Any recommended legislation to facilitate achievement of objectives under this section.

"(g) COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE.—(1) The Secretary of Defense shall establish a Commercial Operations and Support Savings Initiative (in this subsection referred to as the 'Initiative') to develop commercial products and processes that the military departments can incorporate into operational military systems to reduce costs of operations and support.

"(2) Of the amounts authorized to be appropriated by section 201, $50,000,000 is authorized for the Initiative.

"(3) Projects and participants in the Initiative shall be selected through the use of competitive procedures.

"(4) The budget submitted to Congress by the President for fiscal year 1999 and each fiscal year thereafter pursuant to section 1105(a) of title 31, United States Code, shall set forth separately the funding request for the Initiative.

"(h) REPEAL OF SUPERSEDED AUTHORITY.—[Repealed section 203 of Pub. L. 104–201, 110 Stat. 2451.]

"(i) DEFINITIONS.—In this section:

"(1) The term 'applied research program' means a program of a military department which is funded under the 6.2 Research, Development, Test and Evaluation account of that department.

"(2) The term 'dual-use project' means a project under a program of a military department or a defense agency under which research or development of a dual-use technology is carried out and the costs of which are shared by the Department of Defense and non-Government entities."

## §4832. Encouragement of technology transfer

(a) ENCOURAGEMENT OF TRANSFER REQUIRED.—The Secretary of Defense shall encourage, to the extent consistent with national security objectives, the transfer of technology between laboratories and research centers of the Department of Defense and other Federal agencies, State and local governments, colleges and universities, and private persons in cases that are likely to result in accomplishing the objectives set forth in section 4811(a) of this title.

(b) EXAMINATION AND IMPLEMENTATION OF METHODS TO ENCOURAGE

TRANSFER.—The Secretary shall examine and implement methods, in addition to the encouragement referred to in subsection (a) and the program described in subsection (c), that are consistent with national security objectives and will enable Department of Defense personnel to promote technology transfer.

(c) PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.—(1) The Secretary of Defense shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereinafter in this subsection referred to as the "Program"). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

(2) Under the Program, the defense laboratories, in coordination with the Office of Technology Transfer in the Office of the Secretary of Defense, shall carry out cooperative activities with private industry in order to promote (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) the transfer of defense or dual-use technologies from the defense laboratories to private industry, and the development and application of such technologies by the defense laboratories and private industry, for the purpose of the commercial utilization of such technologies by private industry.

(3) The Secretary of Defense shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(4) In this subsection, the term "defense laboratory" means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $50,000,000.

(Added Pub. L. 102–484, div. D, title XLII, §4224(a), Oct. 23, 1992, 106 Stat. 2682, §2514; amended Pub. L. 104–201, div. A, title VIII, §829(f), Sept. 23, 1996, 110 Stat. 2614; renumbered §4832 and amended Pub. L. 116–283, div. A, title XVIII, §1868(b), (c)(2), Jan. 1, 2021, 134 Stat. 4282, 4283.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4832, act Aug. 10, 1956, ch. 1041, 70A Stat. 272, authorized Secretary of the Army to prescribe regulations for the accounting for Army property, prior to repeal by Pub. L. 110–181, div. A, title III, §375(c)(1)(A), Jan. 28, 2008, 122 Stat. 83.

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 2363 of this title prior to repeal by Pub. L. 102–484, §§4224(c), 4271(a)(2).

### AMENDMENTS

**2021**—Pub. L. 116–283, §1868(b), renumbered section 2514 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1868(c)(2), substituted "section 4811(a)" for "section 2501(a)".

**1996**—Subsec. (c)(5). Pub. L. 104–201 struck out par. (5) which read as follows: "The Secretary shall coordinate the Program with the National Defense Technology and Industrial Base Council."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### NATIONAL ACTION PLAN ON ADVANCED SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT

Superconductivity research and development activities by Secretary of Defense and by Defense Advanced

Research Projects Agency, see section 5207 of Title 15, Commerce and Trade.

**PILOT PROGRAM TO IMPROVE INCENTIVES FOR TECHNOLOGY TRANSFER FROM DEPARTMENT OF DEFENSE LABORATORIES**

Pub. L. 115–91, div. A, title II, §233, Dec. 12, 2017, 131 Stat. 1339, as amended by Pub. L. 116–283, div. A, title II, §216(c), Jan. 1, 2021, 134 Stat. 3460, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish a pilot program to assess the feasibility and advisability of distributing royalties and other payments as described in this section. Under the pilot program, except as provided in subsections (b) and (d), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Department of Defense laboratories, and from the licensing of inventions of Department of Defense laboratories, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

"(1)(A) The laboratory director shall pay each year the first $2,000, and thereafter at least 20 percent, of the royalties or other payments, other than payments of patent costs as delineated by a license or assignment agreement, to the inventor or coinventors, if the inventor's or coinventor's rights are directly assigned to the United States.

"(B) A laboratory director may provide appropriate incentives, from royalties or other payments, to laboratory employees who are not an inventor of such inventions but who substantially increased the technical value of the inventions.

"(C) The laboratory shall retain the royalties and other payments received from an invention until the laboratory makes payments to employees of a laboratory under subparagraph (A) or (B).

"(2) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the 2 succeeding fiscal years—

"(A) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(B) to further scientific exchange among the laboratories of the agency;

"(C) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

"(D) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

"(E) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

"(3) All royalties or other payments retained by the laboratory after payments have been made pursuant to paragraphs (1) and (2) that are unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury of the United States.

"(b) TREATMENT OF PAYMENTS TO EMPLOYEES.—

"(1) IN GENERAL.—Any payment made to an employee under the pilot program shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory.

"(2) CUMULATIVE PAYMENTS.—(A) Cumulative payments made under the pilot program while the inventor is still employed at the laboratory shall not exceed $500,000 per year to any one person, unless the Secretary concerned (as defined in section 101(a) of title 10, United States Code) approves a larger award.

"(B) Cumulative payments made under the pilot program after the inventor leaves the laboratory shall not exceed $150,000 per year to any one person, unless the head of the agency approves a larger award (with the excess over $150,000 being treated as an agency award to a former employee under section 4505 of title 5, United States Code).

"(c) INVENTION MANAGEMENT SERVICES.—Under the pilot program, a laboratory receiving

royalties or other payments as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such royalties or payments to the extent required to offset payments to inventors under subparagraph (A) of subsection (a)(1), costs and expenses incurred under subparagraph (D) of subsection (a)(2), and the cost of foreign patenting and maintenance for any invention of the other agency. All royalties and other payments remaining after offsetting the payments to inventors, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with subsection (a)(2).

"(d) CERTAIN ASSIGNMENTS.—Under the pilot program, if the invention involved was one assigned to the laboratory—

"(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency; or

"(2) by an employee of the agency who was not working in the laboratory at the time the invention was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(e) SUNSET.—The pilot program under this section shall terminate on September 30, 2025."

## ENHANCED TRANSFER OF TECHNOLOGY DEVELOPED AT DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 113–66, div. A, title VIII, §801, Dec. 26, 2013, 127 Stat. 802, as amended by Pub. L. 114–328, div. A, title VIII, §818, Dec. 23, 2016, 130 Stat. 2273; Pub. L. 117–81, div. A, title VIII, §832, Dec. 27, 2021, 135 Stat. 1832, provided that:

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'military department' has the meaning provided in section 101 of title 10, United States Code.

"(2) The term 'DOD laboratory' or 'laboratory' means any facility or group of facilities that—

"(A) is owned, leased, operated, or otherwise used by the Department of Defense; and

"(B) meets the definition of 'laboratory' as provided in subsection (d)(2) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(b) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of a military department each may authorize the heads of DOD laboratories to grant nonexclusive, exclusive, or partially exclusive licenses, royalty free or for royalties or for rights to other intellectual property, for computer software and its related documentation developed at a DOD laboratory, but only if—

"(A) the computer software and related documentation would be a trade secret under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party;

"(B) the public is notified of the availability of the software and related documentation for licensing and interested parties have a fair opportunity to submit applications for licensing;

"(C) such licensing activities and licenses comply with the requirements under section 209 of title 35, United States Code; and

"(D) the software originally was developed to meet the military needs of the Department of Defense.

"(2) PROTECTIONS AGAINST UNAUTHORIZED DISCLOSURE.—The Secretary of Defense and the Secretary of a military department each shall provide appropriate precautions against the unauthorized disclosure of any computer software or documentation covered by paragraph (1)(A), including exemption from section 552 of title 5, United States Code, for a period of up to 5 years after the development of the computer software by the DOD laboratory.

"(c) ROYALTIES.—

"(1) USE OF ROYALTIES.—Except as provided in paragraph (2), any royalties or other payments received by the Department of Defense or a military department from licensing computer software or documentation under paragraph (b)(1) shall be retained by the Department of Defense or the military department and shall be disposed of as follows:

"(A)(i) The Department of Defense or the military department shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments, to be divided among the employees who developed the computer software.

"(ii) The Department of Defense or the military department may provide appropriate lesser incentives, from the royalties or other payments, to laboratory employees who are not developers of such

computer software but who substantially increased the technical value of the software.

"(iii) The Department of Defense or the military department shall retain the royalties and other payments received until it makes payments to employees of a DOD laboratory under clause (i) or (ii).

"(iv) The Department of Defense or the military department may retain an amount reasonably necessary to pay expenses incidental to the administration and distribution of royalties or other payments under this section by an organizational unit of the Department of Defense or military department other than its laboratories.

"(B) The balance of the royalties or other payments shall be transferred by the Department of Defense or the military department to its laboratories, with the majority share of the royalties or other payments going to the laboratory where the development occurred. The royalties or other payments so transferred to any DOD laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the 2 succeeding fiscal years—

"(i) to reward scientific, engineering, and technical employees of the DOD laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(ii) to further scientific exchange among the laboratories of the agency;

"(iii) for education and training of employees consistent with the research and development missions and objectives of the Department of Defense, military department, or DOD laboratory, and for other activities that increase the potential for transfer of the technology of the DOD laboratory;

"(iv) for payment of expenses incidental to the administration and licensing of computer software or other intellectual property made at the DOD laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

"(v) for scientific research and development consistent with the research and development missions and objectives of the DOD laboratory.

"(C) All royalties or other payments retained by the Department of Defense, military department, or DOD laboratory after payments have been made pursuant to subparagraphs (A) and (B) that are unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury of the United States.

"(2) EXCEPTION.—If, after payments under paragraph (1)(A), the balance of the royalties or other payments received by the Department of Defense or the military department in any fiscal year exceed 5 percent of the funds received for use by the DOD laboratory for research, development, engineering, testing, and evaluation or other related administrative, processing, or value-added activities for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated under paragraph (1)(B). Any funds not so used or obligated shall be paid into the Treasury of the United States.

"(3) STATUS OF PAYMENTS TO EMPLOYEES.—Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible or limit the amount thereof except that the monetary value of an award for the same project or effort shall be deducted from the amount otherwise available under this paragraph. Payments, determined under the terms of this paragraph and made to an employee developer as such, may continue after the developer leaves the DOD laboratory or the Department of Defense or military department. Payments made under this section shall not exceed $75,000 per year to any one person, unless the President approves a larger award (with the excess over $75,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

"(d) DATA COLLECTION.—The Secretary of Defense shall develop and implement a plan to collect and analyze data on the use of authority under this section for the purposes of—

"(1) developing and sharing best practices; and

"(2) providing information to the Secretary of Defense and Congress on the use of authority under this section and related policy issues.

"(e) REPORT.—The Secretary of Defense shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the activities carried out under this section not later than December 31, 2025.

"(f) EXPIRATION.—The authority provided in this section shall expire on December 31, 2026."

## TECHNOLOGY TRANSFER TO PRIVATE SECTOR

Pub. L. 100–180, div. A, title II, §218(c), Dec. 4, 1987, 101 Stat. 1053, as amended by Pub. L. 103–160,

div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that:

"(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall take appropriate action to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector. Such transfer shall be made in accordance with section 10(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), other applicable provisions of law, and Executive Order Number 12591, dated April 10, 1987 [set out as a note under 15 U.S.C. 3710].

"(2) The Secretary of Energy, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer to the private sector of technology developed under the Department of Defense superconductivity program in the national laboratories."

## §4833. Federal Defense Laboratory Diversification Program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 4811(a) of this title.

(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as "partnerships") between a Department of Defense laboratory and eligible firms and nonprofit research corporations. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 4021 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

(2) Subject to subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS .—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

(2) The regulations prescribed pursuant to section 4831(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 4831(e) of this title.

(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.

(Added Pub. L. 103–337, div. A, title XI, §1113(a), Oct. 5, 1994, 108 Stat. 2864, §2519; amended Pub. L. 104–106, div. A, title X, §1081(d), Feb. 10, 1996, 110 Stat. 454; renumbered §4833 and amended Pub. L. 116–283, div. A, title XVIII, §1868(b), (c)(3), Jan. 1, 2021, 134 Stat. 4282, 4283; Pub. L. 117–263, div. A, title X, §1081(a)(7), Dec. 23, 2022, 136 Stat. 2797.)

**EDITORIAL NOTES**

### PRIOR PROVISIONS

A prior section 4833, act Aug. 10, 1956, ch. 1041, 70A Stat. 272, related to accountability of Army officers for public money, prior to repeal by Pub. L. 87–480, §1(2), June 8, 1962, 76 Stat. 94. See section 2773 of this title.

### AMENDMENTS

**2022**—Subsec. (c)(1). Pub. L. 117–263 substituted "section 4021" for "section 4002".

**2021**—Pub. L. 116–283, §1868(b), renumbered section 2519 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1868(c)(3)(A), substituted "section 4811(a)" for "section 2501(a)".

Subsec. (c)(1). Pub. L. 116–283, §1868(c)(3)(B), substituted "section 4002" for "section 2371".

Subsec. (d)(2). Pub. L. 116–283, §1868(c)(3)(C), substituted "section 4831(c)(2)" for "section 2511(c)(2)".

Subsec. (f). Pub. L. 116–283, §1868(c)(3)(D), substituted "section 4831(e)" for "section 2511(e)".

**1996**—Subsec. (b). Pub. L. 104–106, §1081(d)(1), struck out "referred to in section 2511(b) of this title" after "corporations".

Subsec. (f). Pub. L. 104–106, §1081(d)(2), substituted "section 2511(e)" for "section 2511(f)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4834. Overseas foreign critical technology monitoring and assessment financial assistance program

(a) ESTABLISHMENT AND PURPOSE OF PROGRAM.—The Secretary of Defense may establish a foreign critical technology monitoring and assessment program. Under the program, the Secretary may enter into cooperative arrangements with one or more eligible not-for-profit organizations in order to provide financial assistance for the establishment of foreign critical technology monitoring and assessment offices in Europe, Pacific Rim countries, and such other countries as the Secretary considers appropriate.

(b) ELIGIBLE ORGANIZATIONS.—Any not-for-profit industrial or professional organization that has economic and scientific interests in research, development, and applications of dual-use critical technologies is eligible to enter into a cooperative arrangement referred to in subsection (a).

(Added Pub. L. 102–190, div. A, title VIII, §821(a), Dec. 5, 1991, 105 Stat. 1431, §2526; renumbered §2518, Pub. L. 102–484, div. D, title XLII, §4228, Oct. 23, 1992, 106 Stat. 2685; renumbered §4834, Pub. L. 116–283, div. A, title XVIII, §1868(b), Jan. 1, 2021, 134 Stat. 4282.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 4834, acts Aug. 10, 1956, ch. 1041, 70A Stat. 272; Nov. 2, 1966, Pub. L. 89–718, §31, 80 Stat. 1119, required commissioned officers of the Quartermaster Corps to give fidelity bonds, prior to repeal by Pub. L. 92–310, title II, §204(a), June 6, 1972, 86 Stat. 202.

A prior section 4835, act Aug. 10, 1956, ch. 1041, 70A Stat. 273; Pub. L. 103–160, div. A, title III, §362, Nov. 30, 1993, 107 Stat. 1628, related to actions taken upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of or damage to property of the United States under the control of the Department of the Army, prior to repeal by Pub. L. 107–314, div. A, title X, §1006(c)(1), (d), Dec. 2, 2002, 116 Stat. 2633, applicable with respect to property affected after the effective date of regulations prescribed pursuant to section 2787 of this title.

A prior section 4836, act Aug. 10, 1956, ch. 1041, 70A Stat. 273, prohibited unauthorized disposition of individual equipment by enlisted members of the Army, prior to repeal by Pub. L. 110–181, div. A, title III, §375(c)(1)(B), Jan. 28, 2008, 122 Stat. 83.

Prior sections 4837 to 4840 were renumbered sections 7837 to 7840 of this title, respectively.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2518 of this title as this section.
**1992**—Pub. L. 102–484 renumbered section 2526 of this title as section 2518.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# CHAPTER 384—MANUFACTURING TECHNOLOGY

Sec.
4841. Manufacturing Technology Program.
4842. Joint Defense Manufacturing Technology Panel.
4843. Manufacturing engineering education program.
4844. Manufacturing experts in the classroom.
4845. Armament retooling and manufacturing.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(p)(2)(A), Dec. 27, 2021, 135 Stat. 2148, amended Pub. L. 116–283, div. A, title XVIII, §1869(a), Jan. 1, 2021, 134 Stat. 4283, which added this analysis, by adding items 4843 to 4845 and striking out former item 4843 "Armament retooling and manufacturing".

## §4841. Manufacturing Technology Program

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Technology Program to further the national security objectives of section 4811(a) of this title through the development and application of advanced manufacturing technologies and processes that will reduce the acquisition and supportability costs of defense weapon systems and reduce manufacturing and repair cycle times across the life cycles of such systems. The Secretary shall use the joint planning process of the directors of the Department of Defense laboratories in establishing the program. The Under Secretary of Defense for Research and Engineering shall administer the program.

(b) PURPOSE OF PROGRAM.—The Secretary of Defense shall use the program—

(1) to provide centralized guidance and direction (including goals, milestones, and priorities) to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

(2) to direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

(3) to improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

(4) to focus Department of Defense support for the development and application of advanced manufacturing technologies and processes for use to meet manufacturing requirements that are essential to the national defense, as well as for repair and remanufacturing in support of the operations of systems commands, depots, air logistics centers, and shipyards;

(5) to disseminate information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of

manufactured parts;

(6) to sustain and enhance the skills and capabilities of the manufacturing work force;

(7) to promote high-performance work systems (with development and dissemination of production technologies that build upon the skills and capabilities of the work force), high levels of worker education and training; and

(8) to ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

(c) EXECUTION.—(1) The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of the Defense Agencies.

(2) In the establishment and review of requirements for an advanced manufacturing technology or process, the Secretary shall ensure the participation of those prospective technology users that are expected to be the users of that technology or process.

(3) The Secretary shall ensure that each project under the program for the development of an advanced manufacturing technology or process includes an implementation plan for the transition of that technology or process to the prospective technology users that will be the users of that technology or process.

(4) In the periodic review of a project under the program, the Secretary shall ensure participation by those prospective technology users that are the expected users for the technology or process being developed under the project.

(5) In order to promote increased dissemination and use of manufacturing technology throughout the national defense technology and industrial base, the Secretary shall seek, to the maximum extent practicable, the participation of manufacturers of manufacturing equipment in the projects under the program.

(6) In this subsection, the term "prospective technology users" means the following officials and elements of the Department of Defense:

(A) Program and project managers for defense weapon systems.

(B) Systems commands.

(C) Depots.

(D) Air logistics centers.

(E) Shipyards.

(d) COMPETITION AND COST SHARING.—(1) In accordance with the policy stated in section 4008 of this title, competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

(2) Under the competitive procedures used, the factors to be considered in the evaluation of each proposed grant, contract, cooperative agreement, or other transaction for a project under the program shall include the extent to which that proposed transaction provides for the proposed recipient to share in the cost of the project. For a project for which the Government receives an offer from only one offeror, the contracting officer shall negotiate the ratio of contract recipient cost to Government cost that represents the best value to the Government.

(e) FIVE-YEAR STRATEGIC PLAN.—(1) The Secretary shall develop a plan for the program that includes the following:

(A) The overall manufacturing technology goals, milestones, priorities, and investment strategy for the program.

(B) The objectives of, and funding for, the program for each military department and each Defense Agency that shall participate in the program during the period of the plan.

(2) The Secretary shall include in the plan mechanisms for assessing the effectiveness of the program under the plan.

(3) The Secretary shall update the plan not less frequently than once every four years.

(4) Each plan, and each update to the plan, shall cover a period of five fiscal years.

(f) ADVANCED MANUFACTURING DEFINED.—In this section, the term "advanced manufacturing" means manufacturing through the use of interconnected, advanced technologies throughout the design and manufacturing process that enables modular, adaptable, and efficient manufacturing, including software-controlled subtractive manufacturing, additive manufacturing, powder bed fusion manufacturing, and other similar manufacturing techniques.

(Added Pub. L. 103–160, div. A, title VIII, §801(a)(1), Nov. 30, 1993, 107 Stat. 1700, §2525; amended Pub. L. 103–337, div. A, title II, §256(a)(1), Oct. 5, 1994, 108 Stat. 2704; Pub. L. 104–106, div. A, title II, §276(a), title X, §1081(e), title XV, §1503(a)(28), Feb. 10, 1996, 110 Stat. 241, 454, 512; Pub. L. 105–85, div. A, title II, §211(a), (b), Nov. 18, 1997, 111 Stat. 1657; Pub. L. 105–261, div. A, title II, §213, Oct. 17, 1998, 112 Stat. 1947; Pub. L. 106–65, div. A, title II, §216, Oct. 5, 1999, 113 Stat. 543; renumbered §2521, Pub. L. 106–398, §1 [[div. A], title III, §344(c)(1)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A–71; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title II, §213, Dec. 2, 2002, 116 Stat. 2481; Pub. L. 108–136, div. A, title X, §1031(a)(24), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 110–181, div. A, title II, §238(a), Jan. 28, 2008, 122 Stat. 48; Pub. L. 111–84, div. A, title II, §212, Oct. 28, 2009, 123 Stat. 2225; Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(i), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 113–291, div. A, title II, §212, Dec. 19, 2014, 128 Stat. 3325; Pub. L. 116–92, div. A, title IX, §902(76), Dec. 20, 2019, 133 Stat. 1552; renumbered §4841 and amended Pub. L. 116–283, div. A, title XVIII, §1869(b), (c)(1), Jan. 1, 2021, 134 Stat. 4283; Pub. L. 119–60, div. A, title XVIII, §1841(f)(1), Dec. 18, 2025, 139 Stat. 1257.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4008 of this title, referred to in subsec. (d)(1), probably should be a reference to section 4024 of this title. Section 4008 was originally enacted by transferring section 2374 of this title to that section by Pub. L. 116–283, div. A, title XVIII, §1841(c), Jan. 1, 2021, 134 Stat. 4243, effective Jan. 1, 2022. However, Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (D), Dec. 27, 2021, 135 Stat. 2151, amended Pub. L. 116–283, effective as if included therein, so as to eliminate that transfer, thereby omitting section 4008 before it took effect, and instead transferred section 2374 of this title to section 4024 of this title. See Codification note set out under section 4008 of this title.

### PRIOR PROVISIONS

A prior section 4841 was renumbered section 7841 of this title.

### AMENDMENTS

2025–Subsec. (f). Pub. L. 119–60 added subsec. (f).

**2021**—Pub. L. 116–283, §1869(b)(1), renumbered section 2521 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1869(b)(2)(A), substituted "section 4811(a)" for "section 2501(a)".

Subsec. (d)(1). Pub. L. 116–283, §1869(b)(2)(B), substituted "section 4008" for "section 2374".

Subsecs. (e), (f). Pub. L. 116–283, §1869(c)(1), redesignated subsec. (f) as (e), transferred it to appear after subsec. (d) and transferred subsec. (e), related to Joint Defense Manufacturing Technology Panel, to section 4842 of this title.

**2019**—Subsec. (a). Pub. L. 116–92, §902(76)(A), substituted "The Under Secretary of Defense for Research and Engineering" for "The Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (e)(4)(D). Pub. L. 116–92, §902(76)(B), substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (e)(5). Pub. L. 116–92, §902(76)(C), substituted "Under Secretary of Defense for Research and Engineering" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2014**—Subsec. (e)(5). Pub. L. 113–291, §212(a), substituted "one or more individuals designated by the Under Secretary of Defense for Acquisition, Technology, and Logistics for purposes of this paragraph" for "the Assistant Secretary of Defense for Research and Engineering".

Subsec. (f)(3). Pub. L. 113–291, §212(b), substituted "not less frequently than once every four years" for "on a biennial basis".

**2013**—Subsec. (e)(5). Pub. L. 112–239 substituted "Assistant Secretary of Defense for Research and Engineering" for "Director of Defense Research and Engineering".

**2009**—Subsecs. (e), (f). Pub. L. 111–84 added subsec. (e) and redesignated former subsec. (e) as (f).

**2008**—Subsec. (e). Pub. L. 110–181 added subsec. (e).

**2003**—Subsec. (e). Pub. L. 108–136 struck out heading and text of subsec. (e) which related to preparation and maintenance of a five-year plan for the Manufacturing Technology Program by the Secretary of Defense.

**2002**—Subsec. (e)(1). Pub. L. 107–314, §213(a), substituted "prepare and maintain a five-year plan for the program." for "prepare a five-year plan for the program which establishes—

"(A) the overall manufacturing technology goals, milestones, priorities, and investment strategy for the program; and

"(B) for each of the five fiscal years covered by the plan, the objectives of, and funding for the program by, each military department and each Defense Agency participating in the program."

Subsec. (e)(2). Pub. L. 107–314, §213(a), substituted "establish" for "include" in introductory provisions and amended subpars. (A) and (B) generally. Prior to amendment, text read as follows:

"(A) An assessment of the effectiveness of the program, including a description of all completed projects and status of implementation.

"(B) An assessment of the extent to which the costs of projects are being shared by the following:

"(i) Commercial enterprises in the private sector.

"(ii) Department of Defense program offices, including weapon system program offices.

"(iii) Departments and agencies of the Federal Government outside the Department of Defense.

"(iv) Institutions of higher education.

"(v) Other institutions not operated for profit.

"(vi) Other sources."

Subsec. (e)(3). Pub. L. 107–314, §213(b), substituted "biennially" for "annually" and "for each even-numbered fiscal year" for "for a fiscal year".

**2001**—Subsec. (a). Pub. L. 107–107 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

**2000**—Pub. L. 106–398 renumbered section 2525 of this title as section 2521.

**1999**—Subsec. (a). Pub. L. 106–65, §216(a), in first sentence, inserted "through the development and application of advanced manufacturing technologies and processes that will reduce the acquisition and supportability costs of defense weapon systems and reduce manufacturing and repair cycle times across the life cycles of such systems" after "title".

Subsec. (b)(4). Pub. L. 106–65, §216(b), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "to promote dual-use manufacturing processes;".

Subsec. (c)(2) to (6). Pub. L. 106–65, §216(c), added pars. (2) to (4), redesignated former par. (2) as (5), and added par. (6).

Subsec. (d). Pub. L. 106–65, §216(d), struck out "(A)" before "In accordance with" in par. (1), redesignated par. (1)(B) as par. (2), substituted "Under the competitive procedures used, the factors to be considered in the evaluation of each proposed grant, contract, cooperative agreement, or other transaction for a project under the program shall include the extent to which that proposed transaction provides for the proposed recipient to share in the cost of the project." for "For each grant awarded and each contract, cooperative agreement, or other transaction entered into on a cost-share basis under the program, the ratio of contract recipient cost to Government cost shall be determined by competitive procedures.", and struck out former pars. (2) and (3) which required grants, contracts, cooperative agreements, and other transactions to be awarded or entered into on a cost-sharing basis unless the Secretary of Defense made certain determinations and specified as a goal that at least 25 percent of the funds available for the program for each fiscal year be used for grants, contracts, cooperative agreements, and other transactions on a cost-share basis under which the ratio of recipient cost to Government cost was two to one.

Subsec. (e)(2)(A). Pub. L. 106–65, §216(e)(1), inserted ", including a description of all completed projects and status of implementation" before period at end.

Subsec. (e)(2)(C). Pub. L. 106–65, §216(e)(2), added subpar. (C).

**1998**—Subsec. (d)(1). Pub. L. 105–261, §213(a), designated existing provisions as subpar. (A), substituted "In accordance with the policy stated in section 2374 of this title, competitive" for "Competitive", and added subpar. (B).

Subsec. (d)(2). Pub. L. 105–261, §213(b), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, and added subpars. (B) and (C).

Subsec. (d)(3). Pub. L. 105–261, §213(c)(2), substituted "As a goal, at least" for "At least" and "should" for "shall" and inserted at end "The Secretary of Defense, in coordination with the Secretaries of the military departments and upon recommendation of the Under Secretary of Defense for Acquisition and Technology, shall establish annual objectives to meet such goal."

Subsec. (d)(4). Pub. L. 105–261, §213(c)(1), struck out par. (4) which read as follows: "If the requirement of paragraph (3) cannot be met by July 15 of a fiscal year, the Under Secretary of Defense for Acquisition and Technology may waive the requirement and obligate the balance of the funds available for the program for that fiscal year on a cost-share basis under which the ratio of recipient cost to Government cost is less than two to one. Before implementing any such waiver, the Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the reasons for the waiver."

Subsec. (e)(2). Pub. L. 105–261, §213(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The plan shall include an assessment of the effectiveness of the program."

**1997**—Subsec. (c)(2). Pub. L. 105–85, §211(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall seek, to the extent practicable, the participation of manufacturers of manufacturing equipment in the projects under the program."

Subsec. (e). Pub. L. 105–85, §211(b), added subsec. (e).

**1996**—Pub. L. 104–106, §276(a)(1), amended section catchline, as amended by Pub. L. 104–106, §§1503(a)(28), 1506, by striking out "Science and" after "Manufacturing".

Pub. L. 104–106, §1503(a)(28), substituted "Science and Technology Program" for "science and technology program" in section catchline.

Subsec. (a). Pub. L. 104–106, §276(a)(2), struck out "Science and" after "Manufacturing" and inserted after first sentence "The Secretary shall use the joint planning process of the directors of the Department of Defense laboratories in establishing the program."

Subsec. (b). Pub. L. 104–106, §1081(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "PURPOSE.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense."

Subsec. (c). Pub. L. 104–106, §276(a)(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(2)(C). Pub. L. 104–106, §276(a)(4)(A), added subpar. (C).

Subsec. (d)(3), (4). Pub. L. 104–106, §276(a)(4)(B), added pars. (3) and (4).

**1994**—Pub. L. 103–337 substituted "Manufacturing science and technology program" for "Industrial Preparedness Manufacturing Technology Program" as section catchline and amended text generally. Prior to amendment, text read as follows: "The Secretary of Defense shall establish an Industrial Preparedness Manufacturing Technology program to enhance the capability of industry to meet the manufacturing needs of the Department of Defense."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### ADVANCED ROBOTIC AUTOMATION FOR MUNITIONS MANUFACTURING

Pub. L. 119–60, div. A, title II, §225, Dec. 18, 2025, 139 Stat. 784, provided that:

"(a) PROGRAM REQUIRED.—The Secretary of the Army shall carry out a program to support the maturation and expansion of robotic automation capabilities for munitions manufacturing at government-owned, contractor-operated production facilities.

"(b) OBJECTIVES.—The objectives of the program under subsection (a) shall include the following:

"(1) The design and integration of inherently safe, scalable robotic load, assemble, and pack (LAP) systems for munitions production.

"(2) The demonstration of increased throughput and production capacity, while reducing manual handling of energetic materials.

"(3) The development of cyber-hardened data infrastructure for secure integration of factory-floor operations with enterprise systems.

"(4) Support for workforce upskilling and training in robotics, automation, and advanced manufacturing technologies.

"(5) The evaluation of applicability across multiple munition types and organic industrial base sites.

"(c) COORDINATION.—In carrying out the program under subsection (a), the Secretary of the Army shall coordinate with the Joint Program Executive Office Armaments and Ammunition and other relevant components of the Department of the Army.

"(d) BRIEFING.—Not later than March 1, 2026, the Secretary of the Army shall provide the congressional

defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the program carried out under subsection (a). Such briefing shall cover—

"(1) the progress made under the program;

"(2) lessons learned; and

"(3) recommendations for the wider adoption of robotic automation technologies within the defense industrial base."

## BIOINDUSTRIAL COMMERCIALIZATION PROGRAM

Pub. L. 119–60, div. A, title II, §243, Dec. 18, 2025, 139 Stat. 791, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense may establish a program to support the expansion of the domestic capacity for bioindustrial manufacturing of critical biomanufactured products at a commercial level through awards to entities for establishing, upgrading, and retooling of bioindustrial manufacturing facilities.

"(b) AWARDS.—

"(1) IN GENERAL.—An entity seeking an award under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines appropriate.

"(2) COMPETITIVE AWARDS.—The Secretary shall make each award under the program to an entity in a competitive manner.

"(3) AWARD CRITERIA.—In selecting entities to receive awards under the program, the Secretary shall consider the following criteria:

"(A) The potential of the technology of such entity to improve domestic resilience and protect critical supply chains with biomanufactured products.

"(B) How the technology of such entity could help meet the demand for the capabilities required by the next generation of warfighters.

"(C) The ability of the bioindustrial manufacturing facility with respect to which such entity is seeking such award to be repurposed and the range of products that such bioindustrial manufacturing facility is capable of producing.

"(D) Whether the bioindustrial manufacturing facility with respect to which such entity is seeking such award supports the goal of wide geographic distribution of bioindustrial manufacturing facilities across the United States.

"(E) Whether the bioindustrial manufacturing facility with respect to which such entity is seeking such award is located in geographic proximity to sources of input materials for the production of critical biomanufactured products or areas with established biomanfuacturing capabilities.

"(F) Such additional considerations that the Secretary deems appropriate.

"(4) USE OF AWARD FUNDS.—A recipient of an award under the program may use funds received under such award for the establishment, upgrading, or retooling of one or more bioindustrial manufacturing facilities to produce critical biomanufactured products, including the development of business or technical plans related to such establishment, upgrading, or retooling.

"(c) OVERSIGHT.—If the Secretary establishes the program, the Secretary shall establish reporting requirements for recipients of awards under the program which shall include requirements for periodic reports on the following:

"(1) The progress of the recipient in establishing, upgrading, or retooling the bioindustrial manufacturing facility with respect to which such recipient received such award.

"(2) The estimated timeline and funding requirements for the recipient to begin biomanufacturing at the bioindustrial manufacturing facility described in paragraph (1).

"(3) The products, including the critical biomanufactured products, that are or will be produced at the bioindustrial manufacturing facility described in paragraph (1).

"(4) The progress of the recipient in entering into an agreement with the Department of Defense or an element thereof to provide critical biomanufactured products that are or will be produced at the bioindustrial manufacturing facility described in paragraph (1) once such bioindustrial manufacturing facility begins biomanufacturing.

"(d) REPORTS TO CONGRESS.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan of the Secretary for allocating amounts appropriated to the Department of Defense to fund the program.

"(2) ANNUAL REPORTS.—Not later than one year after the date of the enactment of this Act, and

annually thereafter, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities under the program, including the following:

"(A) A list of the awards made under the program as of the date on which the report is submitted, including, for each such award—

"(i) the name of the entity that received the award;

"(ii) the location of the bioindustrial manufacturing facility with respect to which such entity received the award;

"(iii) the amount of the award, disaggregated by the initial amount of the award and any additional amounts provided under the award;

"(iv) an explanation of the criteria supporting making the award to such entity, including a description of any notable technologies of such entity relevant to the award;

"(v) if applicable, an explanation of the rationale for providing additional amounts under the award; and

"(vi) to the extent practicable, an explanation of the effects of the award.

"(B) An identification of amounts available to the Department of Defense for making awards under the program as of the date on which the report is submitted and an explanation of any plans for the use of such amounts.

"(C) An explanation of the communication between the Secretary and entities seeking an award under the program regarding requirements and timelines for such awards.

"(D) An explanation of how the establishment, upgrading, or retooling of the bioindustrial manufacturing facilities for which awards were made under the program aligns with priorities and needs of the Department of Defense and national security.

"(e) SUNSET.—

"(1) IN GENERAL.—Except as provided by paragraph (2), this section shall terminate on the date that is 10 years after the date of the enactment of this Act.

"(2) EXTENSION.—The Secretary may change the date on which this section terminates to a date that is later than the date on which this section would terminate under paragraph (1) if the President determines that the continuation of the program is necessary to meet national economic and national security needs and transmits that determination, and that later date, to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(f) DEFINITION OF BIOMANUFACTURING.—In this section, the term 'biomanufacturing' means the utilization of biological systems to develop new and advance existing products, tools, and processes at commercial scale."

## TRANSITION TO ADVANCED MANUFACTURING FOR CERTAIN CRITICAL READINESS ITEMS OF SUPPLY

Pub. L. 119–60, div. A, title XVIII, §1842, Dec. 18, 2025, 139 Stat. 1258, provided that:

"(a) PLAN REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Dec. 18, 2025], the product support manager for each covered system shall—

"(1) conduct an assessment of critical readiness items of supply that could be produced by advanced manufacturing within the 24-month period following the date of the enactment of this Act for the purposes of—

"(A) increasing the amount of such items of supply to meet readiness rates;

"(B) reducing manufacturing time or costs of such items of supply; and

"(C) increasing the ability to scale production of such items of supply rapidly;

"(2) identify any research, development, engineering, or testing conducted by the original equipment manufacturer, a contractor, or the Federal Government required to transition production of such items of supply to production by advanced manufacturing; and

"(3) submit to the appropriate program manager and portfolio acquisition executive a plan to transition production described in paragraph (1) to the maximum extent practicable, along with an estimate of non-recurring costs to complete such transition and a recommendation whether such costs should be paid by the appropriate contractor or the Federal Government.

"(b) USE OF EXISTING AUTHORITIES.—The product support manager described in subsection (a) shall initiate and coordinate qualification and acceptance of parts produced using advanced manufacturing to address critical readiness items of supply using the expedited qualification process established in section 865 of the National Defense Authorization Act for Fiscal Year 2025 [Pub. L. 119–60] (10 U.S.C. 4811 note).

"(e)[sic] DEFINITIONS.—In this section:

"(1) The term 'critical readiness items of supply' has the meaning given in section 1733 of title 10,

United States Code, as added by section 1803 of this Act.

"(2) The term 'advanced manufacturing' has the meaning given in section 4841(f) of title 10, United States Code, as added by section 1841 of this Act."

**IMPROVEMENTS RELATING TO ADVANCED MANUFACTURING**

Pub. L. 119–60, div. A, title XVIII, §1846, Dec. 18, 2025, 139 Stat. 1261, provided that:

"(a) LEADERSHIP CHANGES.—

"(1) JOINT DEFENSE MANUFACTURING TECHNOLOGY PANEL.—[Amended section 4842(b)(1) of this title.]

"(2) JOINT ADDITIVE MANUFACTURING WORKING GROUP.—The Secretary of Defense shall ensure that the Joint Additive Manufacturing Working Group shall be cochaired by the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering.

"(3) CONSORTIUM ON ADDITIVE MANUFACTURING FOR DEFENSE CAPABILITY DEVELOPMENT.—[Amended section 223 of Pub. L. 118–31, set out as a note below.]

"(b) ADVANCED MANUFACTURING POLICY REVIEW AND GUIDANCE.—

"(1) POLICY REVIEW.—Not later than September 30, 2026, the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering, in consultation with each Secretary of a military department, shall—

"(A) review the policies and procedures of the Department of Defense to identify policies and procedures for the qualification, acceptance, and management of the supply chains of products that are insufficient for or not applicable to products manufactured using advanced manufacturing;

"(B) identify any changes to the policies and procedures of the Department required for the Department to benefit fully from access to and use of products manufactured using advanced manufacturing; and

"(C) updated such policies as required.

"(2) GUIDANCE.—Not later than September 30, 2027, the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering, in consultation with each Secretary of a military department, shall issue guidance on the use of advanced manufacturing capabilities to improve the ability of the Department of Defense to execute missions. Such guidance shall include, at a minimum—

"(A) a methodology for qualifying advanced manufacturing processes of the Department of Defense, including on a machine-by-machine basis, rather than qualifying individual parts produced using advanced manufacturing;

"(B) a methodology for standardizing technical production specifications, testing processes, and data reciprocity to share and accept test results of the same parts produced using advanced manufacturing across military departments;

"(C) test and evaluation procedures which utilize expedited qualification and testing procedures established in section 865 of the National Defense Authorization Act for Fiscal Year 2025 [Pub. L. 119–60] (10 U.S.C. 4811 note);

"(D) a methodology for streamlined qualification and acceptance of contractor-provided parts where the contractor uses advanced manufacturing processes to produce such parts;

"(E) processes for management of the supply chains of the Department of Defense that are comprised of similar or identical parts that were manufactured using different manufacturing techniques;

"(F) processes to allow for streamlined incremental qualification of an advanced manufacturing process, rather than complete requalification of such process if changes are made to the design process or the manufacturing process; and

"(G) processes to explore the option for third-party, external certification of entities using advanced manufacturing processes that—

"(i) can supply technology that meets the requirements of the Department of Defense; and

"(ii) cannot afford, or do not have in-house expertise, to provide such certification.

"(3) ADVANCED MANUFACTURING DEFINED.—In this subsection, the term 'advanced manufacturing' has the meaning given in section 4841(f) of title 10, United States Code, as added by section 1841 of this Act."

**PROGRAM FOR ADVANCED MANUFACTURING IN THE INDO-PACIFIC REGION**

Pub. L. 118–159, div. A, title III, §356, Dec. 23, 2024, 138 Stat. 1860, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, acting through the Secretary of the Navy and in consultation with the

Commander of the United States Indo-Pacific Command, shall carry out a program under which the Secretary shall establish an advanced manufacturing facility on or near a military installation within the area of responsibility of the United States Indo-Pacific Command for the purpose of—

"(1) meeting flexible manufacturing requirements to support the submarine, shipbuilding, and other defense activity industrial bases;

"(2) fostering partnerships between industry, local universities, and workforce training programs to develop a local workforce in the vicinity of such facility capable of meeting advanced manufacturing demands;

"(3) coordinating responses to requirements of the Submarine Industrial Base Task Force, the United States Indo-Pacific Command, the Innovation Capability and Modernization Office of the Department of Defense, the Industrial Base Analysis and Sustainment program of the Department, and other relevant defense organizations;

"(4) providing for the manufacturing of unmanned vehicles, including surface and underwater vehicles, and develops ship maintenance capabilities; and

"(5) responding to needs across the uniformed services and the defense industrial base.

"(b) ELEMENTS.—In carrying out subsection (a), the Secretary shall—

"(1) ensure that the advanced manufacturing facility under such subsection is capable of—

"(A) applying advanced manufacturing to small and large metal and composite structures;

"(B) manufacturing systems and components that—

"(i) use appropriate advanced manufacturing methods including hybrid and additive (for example, additive manufacturing, powder bed fusion manufacturing, cold spray manufacturing, or other similar manufacturing capabilities); and

"(ii) maintain a set of modern local machining systems with at least five-axis capability sufficient to support requirements;

"(C) maintaining a production capability across critical materials of the Navy in order to respond to emerging repair and production requirements during conflict; and

"(2) ensure broad workforce participation by establishing the facility either outside of a military installation (but very close to a military installation) or onboard a military installation with readily available access to a civilian trainee workforce.

"(c) REPORT.—Not later than December 1 of the year after the year during which a facility is established under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report summarizing the actions taken under the program established under such subsection, including information on how the program is supporting initiatives of the United States Indo-Pacific Command.

"(d) ADVANCED MANUFACTURING DEFINED.—In this section, the term 'advanced manufacturing' means a manufacturing process using the following techniques:

"(1) Additive manufacturing.

"(2) Wire-arc additive manufacturing.

"(3) Powder bed fusion manufacturing.

"(4) Other similar manufacturing capabilities."

## CONSORTIUM ON USE OF ADDITIVE MANUFACTURING FOR DEFENSE CAPABILITY DEVELOPMENT

Pub. L. 118–31, div. A, title II, §223, Dec. 22, 2023, 137 Stat. 191, as amended by Pub. L. 118–159, div. A, title II, §218, Dec. 23, 2024, 138 Stat. 1827, as amended by Pub. L. 119–60, div. A, title XVIII, §1846(a)(3), Dec. 18, 2025, 139 Stat. 1262, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall establish a consortium to facilitate the use of additive manufacturing for the development of capabilities for the Department of Defense. The consortium shall be known as the 'Consortium on Additive Manufacturing for Defense Capability Development' (referred to in this section as the 'Consortium').

"(b) COMPOSITION.—The Consortium shall be composed of qualified organizations, selected by the Secretary of Defense, that have functions and expertise relevant to additive manufacturing. At a minimum, the Consortium shall include the following:

"(1) Representation from one or more science and technology reinvention laboratories (as designated under section 4121 of title 10, United States Code) from each of the military departments, which may include—

"(A) from the Department of the Army—

"(i) the Combat Capabilities Development Command, Army Research Laboratory;
"(ii) the Combat Capabilities Development Command, Aviation and Missile Center;
"(iii) the Combat Capabilities Development Command, Armaments Center;
"(iv) the Combat Capabilities Development Command, Ground Vehicle Systems Center;
"(v) the Combat Capabilities Development Command, Soldier Center;
"(vi) the Combat Capabilities Development Command, Chemical Biological Center;
"(vii) the Combat Capabilities Development Command, Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center; and [sic]
"(viii) the Space and Missile Defense Command, Technical Center;
"(ix) the Engineer Research and Development Center;
"(x) the Medical Research and Development Command; and
"(xi) the Army Research Institute for the Behavioral and Social Sciences;
"(B) from the Department of the Navy—
"(i) the Naval Research Laboratory;
"(ii) the Office of Naval Research;
"(iii) the Naval Air Systems Command Warfare Centers;
"(iv) the Naval Sea Systems Command Warfare Centers;
"(v) the Naval Facilities Engineering Command, Engineering and Expeditionary Warfare Center;
"(vi) the Naval Medical Research Center; and
"(vii) the Naval Information Warfare Centers, Atlantic and Pacific; and
"(C) from the Department of the Air Force—
"(i) the Air Force Research Laboratory; and
"(ii) the Joint Warfighting Analysis Center.
"(2) Representation from one or more maintenance, logistics, or sustainment organizations from each of the military departments.
"(3) One or more organizations from private sector industry.
"(4) One or more institutions of higher education or other research institutions.
"(c) COCHAIRS.—The Consortium shall be cochaired by the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering.
"(d) ACTIVITIES.—The Consortium shall—
"(1) facilitate the use of additive manufacturing—
"(A) to significantly reduce logistic footprints, material costs, and delivery lead-times; and
"(B) to extended [sic] logistical supply chain dependencies that often challenge weapon system readiness for forward deployed warfighters;
"(2) develop standards and a certification process for the use of additive manufacturing in safety-critical applications, including additive material and part certification requirements for additive manufactured items intended for use in military vehicles;
"(3) evaluate, adapt, or apply the standards developed in the commercial sector, or new process approaches for additive manufacturing that may be of use to the Department of Defense;
"(4) as directed by an organization of the Department of Defense included in the Consortium, conduct reverse engineering (including testing and certification) for critical parts which may have limited sources of supply;
"(5) use data standards, common repositories, and information security to track, store, and secure technical data relating to additive manufacturing and ensure the interoperability of such data;
"(6) conduct comparative cost analyses for new and emerging additive manufacturing approaches, including assessments of life-cycle costs for tooling, training, and intellectual property needed to sustain such approaches; and
"(7) develop a process to certify new materials and processes for fabricating flight critical parts and initiate planning for a rapidly deployable additive manufacturing system that is capable of fabricating replacement safety-critical parts for military aircraft and unmanned aerial vehicles in environments where access to traditionally manufactured replacement parts is severely restricted."

## SUPPORT FOR RESEARCH AND DEVELOPMENT OF BIOINDUSTRIAL MANUFACTURING PROCESSES

Pub. L. 117–263, div. A, title II, §215, Dec. 23, 2022, 136 Stat. 2472, as amended by Pub. L. 118–31, div. A, title II, §216, Dec. 22, 2023, 137 Stat. 185; Pub. L. 119–60, div. A, title II, §241, Dec. 18, 2025, 139 Stat. 790, provided that:

"(a) AUTHORIZATION.—Subject to the availability of appropriations, the Secretary of Defense shall provide support for the development of a network of bioindustrial manufacturing facilities to conduct research and development to improve the ability of the industrial base to assess, validate, and scale new, innovative bioindustrial manufacturing processes for the production of chemicals, materials, and other products necessary to support national security or secure fragile supply chains.

"(b) FORM OF SUPPORT.—The support provided under subsection (a) may consist of—

"(1) providing funding to one or more existing facilities or the establishment of new facilities—

"(A) to support the research and development of bioindustrial manufacturing processes; or

"(B) to otherwise expand the bioindustrial manufacturing capabilities of such facilities;

"(2) the establishment of dedicated facilities within one or more bioindustrial manufacturing facilities to serve as regional hubs for the research, development, and the scaling of bioindustrial manufacturing processes and products to higher levels of production; or

"(3) designating a bioindustrial manufacturing facility to serve as the lead entity responsible for integrating a network of pilot and intermediate scale bioindustrial manufacturing facilities.

"(c) ACTIVITIES.—A facility that receives support under subsection (a) shall carry out activities relating to the research, development, test, and evaluation of innovative bioindustrial manufacturing processes and the scaling of bioindustrial manufacturing products to higher levels of production, which may include—

"(1) research on the use of bioindustrial manufacturing to create materials such as polymers, coatings, resins, commodity chemicals, pharmaceutical biologics and associated precursor materials, and other materials with fragile supply chains;

"(2) demonstration projects to evaluate bioindustrial manufacturing processes and technologies;

"(3) activities to scale bioindustrial manufacuring [sic] processes and products to higher levels of production;

"(4) strategic planning for infrastructure and equipment investments for bioindustrial manufacturing of defense-related materials;

"(5) analyses of bioindustrial manufactured products and validation of the application of biological material used as input to new and existing processes to aid in future investment strategies and the security of critical supply chains;

"(6) the selection, construction, and operation of pilot and intermediate scale bioindustrial manufacturing facilities;

"(7) development and management of a network of facilities to scale production of bioindustrial products;

"(8) activities to address workforce needs in bioindustrial manufacturing;

"(9) establishing an interoperable, secure, digital infrastructure for collaborative data exchange across entities in the bioindustrial manufacturing community, including government agencies, industry, and academia;

"(10) developing and implementing digital tools, process security and assurance capabilities, cybersecurity protocols, and best practices for data storage, sharing and analysis; and

"(11) such other activities as the Secretary of Defense determines appropriate.

"(d) FUNDING.—Funds authorized to be appropriated or otherwise made available to the Department of Defense for research, development, test, and evaluation may be used to carry out the activities described in subsection (c), including the design and construction activities described in subsection (c).

"(e) CONSIDERATIONS.—In determining the number, type, and location of facilities to support under subsection (a), the Secretary of Defense shall consider—

"(1) how the facilities may complement each other or increase production levels by functioning together as a network;

"(2) how to geographically distribute support to such facilities—

"(A) to maximize access to biological material needed as an input to bioindustrial manufacturing processes;

"(B) to leverage available industrial and academic expertise, including workforce and human capital;

"(C) to leverage relevant domestic infrastructure required to secure supply chains for chemicals and other materials;

"(D) to leverage access to venture capital and private sector finance expertise and funding instruments; and

"(E) to complement the capabilities of similar facilities; and

"(3) how the activities supported under this section can be coordinated with relevant activities of other departments and agencies of the Federal Government.

"(f) INITIAL CONCEPT PLAN REQUIRED.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the National Security Commission on Emerging Biotechnology an initial concept plan for the implementation of this section that includes—

"(A) an assessment of capacity scaling needs to determine if, and what type of, additional bioindustrial manufacturing facilities may be needed to meet the needs of the Department of Defense;

"(B) a description of types, relative sizes, and locations of the facilities the Secretary intends to establish or support under this section;

"(C) a general description of the focus of each facility, including the types of bioindustrial manufacturing equipment, if any, that are expected to be procured for each such facility;

"(D) a general description of how the facilities will work as a network to maximize the diversity of bioindustrial products available to be produced by the network;

"(E) an explanation of how the network will support the establishment and maintenance of the bioindustrial manufacturing industrial base; and

"(F) an explanation of how the Secretary intends to ensure that bioindustrial manufacturing activities conducted under this section are modernized digitally, including through—

"(i) the use of data automation to represent processes and products as models and simulations; and

"(ii) the implementation of measures to address cybersecurity and process assurance concerns.

"(2) BRIEFINGS.—Not later than 180 days after the date of the submittal of the plan under paragraph (1), and annually thereafter for five years, the Secretary of Defense shall provide to the congressional defense committees a briefing on the Secretary's progress in implementing the plan.

"(g) BIOINDUSTRIAL MANUFACTURING DEFINED.—In this section, the term 'bioindustrial manufacturing' means the use of living organisms, cells, tissues, enzymes, or cell-free systems to produce materials and products for non-pharmaceutical applications."

## ADMINISTRATION OF MANUFACTURING INNOVATION INSTITUTES FUNDED BY THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title II, §227, Dec. 20, 2019, 133 Stat. 1270, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall make such changes to the administration of covered institutes so as—

"(1) to encourage covered institutes to leverage existing workforce development programs across the Federal Government and State governments in order to build successful workforce development programs;

"(2) to develop metrics to evaluate the workforce development performed by the covered institutes, including metrics on job quality, career pathways, wages and benefits, and efforts to support veterans, and progress in aligning workforce skillsets with the current and long-term needs of the Department of Defense and the defense industrial base;

"(3) to allow metrics to vary between covered institutes and be updated and evaluated continuously in order to more accurately evaluate covered institutes with different goals and missions;

"(4) to encourage covered institutes to consider developing technologies that were previously funded by Federal Government investment for early-stage research and development and expand cross-government coordination and collaboration to achieve this goal;

"(5) to provide an opportunity for increased Department of Defense input and oversight from senior-level military and civilian personnel on future technology roadmaps produced by covered institutes;

"(6) to reduce the barriers to collaboration between and among multiple covered institutes;

"(7) to use contracting vehicles that can increase flexibility, reduce barriers for contracting with subject-matter experts and small and medium enterprises, enhance partnerships between covered institutes, and reduce the time to award contracts at covered institutes; and

"(8) to overcome barriers to the adoption of manufacturing processes and technologies developed by the covered institutes by the defense and commercial industrial base, particularly small and medium enterprises, by engaging with public and private sector partnerships and appropriate government programs and activities, including the Hollings Manufacturing Extension Partnership.

"(b) COORDINATION WITH OTHER ACTIVITIES.—The Secretary shall carry out this section in coordination with activities undertaken under—

"(1) the Manufacturing Technology Program established under section 2521 of title 10, United States

Code [now 10 U.S.C. 4841, 4842];

"(2) the Manufacturing Engineering Education Program established under section 2196 of such title [now 10 U.S.C. 4843];

"(3) the Defense Manufacturing Community Support Program established under section 846 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) [10 U.S.C. 4811 note];

"(4) manufacturing initiatives of the Secretary of Commerce, the head of the National Office of the Manufacturing USA Network, the Secretary of Energy, and such other government and private sector organizations as the Secretary of Defense considers appropriate; and

"(5) such other activities as the Secretary considers appropriate.

"(c) DEFINITION OF COVERED INSTITUTE.—In this section, the term 'covered institute' means a manufacturing innovation institute that is funded by the Department of Defense."

## ADVANCED MANUFACTURING ACTIVITIES

Pub. L. 115–232, div. A, title II, §229, Aug. 13, 2018, 132 Stat. 1688, provided that:

"(a) DESIGNATION.—The Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering shall jointly, in coordination with Secretaries of the military departments, establish at least one activity per military service to demonstrate advanced manufacturing techniques and capabilities at depot-level activities or military arsenal facilities of the military departments.

"(b) PURPOSES.—The activities established pursuant to subsection (a) shall—

"(1) support efforts to implement advanced manufacturing techniques and capabilities;

"(2) identify improvements to sustainment methods for component parts and other logistics needs;

"(3) identify and implement appropriate information security protections to ensure security of advanced manufacturing;

"(4) aid in the procurement of advanced manufacturing equipment and support services;

"(5) enhance partnerships between the defense industrial base and Department of Defense laboratories, academic institutions, and industry; and

"(6) to the degree practicable, include an educational or training component to build an advanced manufacturing workforce.

"(c) COOPERATIVE AGREEMENTS AND PARTNERSHIPS.—

"(1) IN GENERAL.—The Under Secretaries may enter into a cooperative agreement and use public-private and public-public partnerships to facilitate development of advanced manufacturing techniques in support of the defense industrial base.

"(2) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) and a partnership used under such paragraph shall facilitate—

"(A) development and implementation of advanced manufacturing techniques and capabilities;

"(B) appropriate sharing of information in the adaptation of advanced manufacturing, including technical data rights;

"(C) implementation of appropriate information security protections into advanced manufacturing tools and techniques; and

"(D) support of necessary workforce development.

"(d) AUTHORITIES.—In carrying out this section, the Under Secretaries may use the following authorities:

"(1) Section 2196 of title 10, United States Code [now 10 U.S.C. 4843], relating to the Manufacturing Engineering Education Program.

"(2) Section 2368 of such title [now 10 U.S.C. 4124], relating to centers for science, technology, and engineering partnership.

"(3) Section 2374a of such title [now 10 U.S.C. 4025], relating to prizes for advanced technology achievements.

"(4) Section 2474 of such title, relating to centers of industrial and technical excellence.

"(5) Section 2521 of such title [now 10 U.S.C. 4841, 4842], relating to the Manufacturing Technology Program.

"(6) Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and section 6305 of title 31, United States Code, relating to cooperative research and development agreements.

"(7) Such other authorities as the Under Secretaries considers appropriate."

## LIMITATION ON USE OF FUNDS FOR DEFENSE-WIDE MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM

Pub. L. 110–181, div. A, title II, §214, Jan. 28, 2008, 122 Stat. 36, as amended by Pub. L. 111–383, div. A, title IX, §901(l)(2), Jan. 7, 2011, 124 Stat. 4326; Pub. L. 112–239, div. A, title X, §1076(c)(2)(F), Jan. 2, 2013, 126 Stat. 1950, which limited funds available to the Office of the Secretary of Defense for the defense-wide manufacturing science and technology program, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(15)(A), Dec. 18, 2025, 139 Stat. 949.

**INITIAL DEVELOPMENT AND SUBMISSION OF PLAN**

Pub. L. 110–181, div. A, title II, §238(b), Jan. 28, 2008, 122 Stat. 48, which directed the Secretary of Defense to develop the strategic plan required by 10 U.S.C. 4841(e) to go into effect at the beginning of fiscal year 2009 and submit the plan to the Committees on Armed Services of the Senate and the House of Representatives, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(15)(B), Dec. 18, 2025, 139 Stat. 949.

**HIGH-PERFORMANCE DEFENSE MANUFACTURING TECHNOLOGY RESEARCH AND DEVELOPMENT**

Pub. L. 109–163, div. A, title II, subtitle D, Jan. 6, 2006, 119 Stat. 3175, as amended by Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(ii), Jan. 2, 2013, 126 Stat. 1949, which directed the Under Secretary of Defense for Acquisition, Technology, and Logistics to conduct a pilot program under the authority of 10 U.S.C. 4841 to identify and transition advanced manufacturing processes and technologies to improve productivity and efficiency in the defense manufacturing base and submit a report to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(17)(A), Dec. 18, 2025, 139 Stat. 949.

**PARTICIPATION IN MANUFACTURING EXTENSION PROGRAM**

Pub. L. 108–87, title VIII, §8062, Sept. 30, 2003, 117 Stat. 1086, provided that: "Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act or hereafter in any other Act."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–248, title VIII, §8063, Oct. 23, 2002, 116 Stat. 1550.

Pub. L. 107–117, div. A, title VIII, §8068, Jan. 10, 2002, 115 Stat. 2262.

Pub. L. 106–259, title VIII, §8067, Aug. 9, 2000, 114 Stat. 689.

Pub. L. 106–79, title VIII, §8070, Oct. 25, 1999, 113 Stat. 1245.

Pub. L. 105–262, title VIII, §8070, Oct. 17, 1998, 112 Stat. 2312.

Pub. L. 105–56, title VIII, §8076, Oct. 8, 1997, 111 Stat. 1236.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8085], Sept. 30, 1996, 110 Stat. 3009–71, 3009–105.

Pub. L. 104–61, title VIII, §8064, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103–335, title VIII, §8071, Sept. 30, 1994, 108 Stat. 2635.

Pub. L. 103–139, title VIII, §8083A, Nov. 11, 1993, 107 Stat. 1459.

Pub. L. 102–396, title IX, §9112, Oct. 6, 1992, 106 Stat. 1929.

## §4842. Joint Defense Manufacturing Technology Panel

(a) There is in the Department of Defense the Joint Defense Manufacturing Technology Panel.

(b)(1) The Panel shall be cochaired by the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering.

(2) The Panel shall be composed of at least one individual from among appropriate personnel of each military department and Defense Agency with manufacturing technology programs. The Panel may include as ex-officio members such individuals from other government organizations, academia, and industry as the Chair considers appropriate.

(c) The purposes of the Panel shall be as follows:

(1) To identify and integrate requirements for the program.

(2) To conduct joint planning for the program.

(3) To develop joint strategies for the program.

(d) In carrying out the purposes specified in subsection (c), the Panel shall perform the functions as follows:

(1) Conduct comprehensive reviews and assessments of defense-related manufacturing issues being addressed by the manufacturing technology programs and related activities of the Department of Defense.

(2) Execute strategic planning to identify joint planning opportunities for increased cooperation in the development and implementation of technological products and the leveraging of funding for such purposes with the private sector and other government agencies.

(3) Ensure the integration and coordination of requirements and programs under the program with the Office of the Secretary of Defense and other national-level initiatives, including the establishment of information exchange processes with other government agencies, private industry, academia, and professional associations.

(4) Conduct such other functions as the Under Secretary of Defense for Research and Engineering shall specify.

(e) The Panel shall report to and receive direction from one or more individuals designated by the Under Secretary of Defense for Research and Engineering for purposes of this subsection on manufacturing technology issues of multi-service concern and application.

(f) The administrative expenses of the Panel shall be borne by each military department and Defense Agency with manufacturing technology programs in such manner as the Panel shall provide.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1869(c)(1)(B), (2), Jan. 1, 2021, 134 Stat. 4283, 4284; Pub. L. 119–60, div. A, title XVIII, §1846(a)(1), Dec. 18, 2025, 139 Stat. 1261.)

## EDITORIAL NOTES

### CODIFICATION

The text of subsec. (e), related to Joint Defense Manufacturing Technology Panel, of section 4841 of this title, which was transferred to this section by Pub. L. 116–283, §1869(c)(1)(B), was based on Pub. L. 111–84, div. A, title II, §212(2), Oct. 28, 2009, 123 Stat. 2225; Pub. L. 112–239, div. A, title X, §1076(c)(2)(A)(i), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 113–291, div. A, title II, §212(a), Dec. 19, 2014, 128 Stat. 3325; Pub. L. 116–92, div. A, title IX, §902(76)(B), (C), Dec. 20, 2019, 133 Stat. 1552.

### PRIOR PROVISIONS

A prior section 4842 was renumbered section 7842 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(1). Pub. L. 119–60 substituted "The Panel shall be cochaired by the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering." for "The Chair of the Joint Defense Manufacturing Technology Panel shall be the head of the Panel. The Chair shall be appointed, on a rotating basis, from among the appropriate personnel of the military departments and Defense Agencies with manufacturing technology programs."

**2021**—Pub. L. 116–283, §1869(c)(2)(A), (B), struck out subsec. (e) designation and heading and redesignated pars. (1) to (6) as subsecs. (a) to (f), respectively.

Pub. L. 116–283, §1869(c)(1)(B), transferred subsec. (e), related to Joint Defense Manufacturing Technology Panel, of section 4841 of this title to this section and added section catchline.

Subsec. (b). Pub. L. 116–283, §1869(c)(2)(C), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (c). Pub. L. 116–283, §1869(c)(2)(D), redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

Subsec. (d). Pub. L. 116–283, §1869(c)(2)(E), substituted "subsection (c)" for "paragraph (3)" in introductory provisions and redesignated subpars. (A) to (D) as pars. (1) to (4), respectively.

Subsec. (e). Pub. L. 116–283, §1869(c)(2)(F), substituted "this subsection" for "this paragraph".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed

implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4843. Manufacturing engineering education program

(a) ESTABLISHMENT OF MANUFACTURING ENGINEERING EDUCATION PROGRAM .—(1) The Secretary of Defense shall establish a program under which the Secretary makes grants or other awards to support—

(A) the enhancement of existing programs in manufacturing engineering education to further a mission of the department; or

(B) the establishment of new programs in manufacturing engineering education that meet such requirements.

(2) Grants and awards under this section may be made to industry, not-for-profit institutions, institutions of higher education, or to consortia of such institutions or industry.

(3) The Secretary shall establish the program in consultation with the Secretary of Education, the Director of the National Science Foundation, the Director of the Office of Science and Technology Policy, and the secretaries of such other relevant Federal agencies as the Secretary considers appropriate.

(4) The Secretary shall ensure that the program is coordinated with Department programs associated with advanced manufacturing.

(5) The program shall be known as the "Manufacturing Engineering Education Program".

(b) Geographical Distribution of Grants and Awards.—In awarding grants and other awards under this subsection, the Secretary shall, to the maximum extent practicable, avoid geographical concentration of awards.

(c) COVERED PROGRAMS.—A program of engineering education supported pursuant to this section shall meet the requirements of this section.

(d) COMPONENTS OF PROGRAM.—The program of education for which such a grant is made shall be a consolidated and integrated multidisciplinary program of education with an emphasis on the following components:

(1) Multidisciplinary instruction that encompasses the total manufacturing engineering enterprise and that may include—

(A) manufacturing engineering education and training through classroom activities, laboratory activities, thesis projects, individual or team projects, internships, cooperative work-study programs, and interactions with industrial facilities, consortia, or such other activities and organizations in the United States and foreign countries as the Secretary considers appropriate;

(B) faculty development programs;

(C) recruitment of educators highly qualified in manufacturing engineering to teach or develop manufacturing engineering courses;

(D) presentation of seminars, workshops, and training for the development of specific manufacturing engineering skills;

(E) activities involving interaction between students and industry, including programs for visiting scholars, personnel exchange, or industry executives;

(F) development of new, or updating and modification of existing, manufacturing curriculum, course offerings, and education programs;

(G) establishment of programs in manufacturing workforce training;

(H) establishment of joint manufacturing engineering programs with defense laboratories and depots; and

(I) expansion of manufacturing training and education programs and outreach for members of the armed forces, dependents and children of such members, veterans, and employees of the Department of Defense.

(2) Opportunities for students to obtain work experience in manufacturing through such activities as internships, summer job placements, or cooperative work-study programs.

(3) Faculty and student engagement with industry that is directly related to, and supportive of, the education of students in manufacturing engineering because of—

(A) the increased understanding of manufacturing engineering challenges and potential solutions; and

(B) the enhanced quality and effectiveness of the instruction that result from that increased understanding.

(e) PROPOSALS.—The Secretary of Defense shall solicit proposals for grants and other awards to be made pursuant to this section for the support of programs of manufacturing engineering education that are consistent with the purposes of this section.

(f) MERIT COMPETITION.—Applications for awards shall be evaluated on the basis of merit pursuant to competitive procedures prescribed by the Secretary.

(g) SELECTION CRITERIA.—The Secretary may select a proposal for an award pursuant to this section if the proposal, at a minimum, does each of the following:

(1) Contains innovative approaches for improving engineering education in manufacturing technology.

(2) Demonstrates a strong commitment by the proponents to apply the resources necessary to achieve the objectives for which the award is to be made.

(3) Provides for effective engagement with industry or government organizations that supports the instruction to be provided in the proposed program and is likely to improve manufacturing engineering and technology.

(4) Demonstrates a significant level of involvement of United States industry in the proposed instructional and research activities.

(5) Is likely to attract superior students and promote careers in manufacturing engineering.

(6) Proposes to involve fully qualified personnel who are experienced in manufacturing engineering education and technology.

(7) Proposes a program that, within three years after the award is made, is likely to attract from sources other than the Federal Government the financial and other support necessary to sustain such program.

(8) Proposes to achieve a significant level of participation by women, members of minority groups, and individuals with disabilities through active recruitment of students from among such persons.

(9) Trains students in advanced manufacturing and in relevant emerging technologies and production processes.

(h) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term "institution of higher education" has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(Added Pub. L. 102–190, div. A, title VIII, §825(a)(1), Dec. 5, 1991, 105 Stat. 1438, §2196; amended Pub. L. 114–328, div. A, title II, §215, Dec. 23, 2016, 130 Stat. 2048; renumbered §4843, Pub. L. 116–283, div. A, title XVIII, §1869(d)(1), as added Pub. L. 117–81, div. A, title XVII, §1701(p)(1)(A), (B), Dec. 27, 2021, 135 Stat. 2148.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 116–283, §1869(d), which had initially directed the transfer of section 2522 of this title to this section, was amended by Pub. L. 117–81, §1701(p)(1)(A), (B), and, after that amendment, such transfer was no longer directed. Instead, Pub. L. 116–283, as amended by Pub. L. 117–81, transferred section 2196 of this title to this section and section 2522 of this title to section 4845.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1869(d)(1), as added by Pub. L. 117–81, §1701(p)(1)(A), (B), renumbered section 2196 of this title as this section.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to grants for manufacturing engineering education.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### IMPLEMENTATION OF GRANT PROGRAM; PRIORITY IN FUNDING

Pub. L. 102–190, div. A, title VIII, §825(b), Dec. 5, 1991, 105 Stat. 1442, provided that: "Within one year after the date of the enactment of this Act [Dec. 5, 1991], the Secretary of Defense, in consultation with the Director of the National Science Foundation, shall award grants under section 2196 of title 10, United States Code [now 10 U.S.C. 4843] (as added by subsection (a)), to institutions of higher education throughout the United States."

## §4844. Manufacturing experts in the classroom

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation with the Secretary of Education and the Secretary of Commerce, shall conduct a program to support the following activities of one or more manufacturing experts at institutions of higher education:

(1) Identifying the education and training requirements of United States manufacturing firms located in the same geographic region as an institution participating in the program.

(2) Assisting in the development of teaching curricula for classroom and in-factory education and training classes at such an institution.

(3) Teaching such classes and overseeing the teaching of such classes by others.

(4) Improving the knowledge and expertise of permanent faculty and staff of such an institution.

(5) Marketing the programs and facilities of such an institution to firms referred to in paragraph (1).

(6) Coordinating the activities described in the other provisions of this subsection with other programs conducted by the Federal Government, any State, any local government, or any private, nonprofit organization to modernize United States manufacturing firms, especially the regional centers for the transfer of manufacturing technology and programs receiving financial assistance under section 4843 of this title.

(b) MERIT COMPETITION.—Applications for assistance under this section shall be evaluated on the basis of merit pursuant to competitive procedures prescribed by the Secretary.

(c) SELECTION CRITERIA.—The Secretary shall select institutions for the award of financial assistance under this section from among institutions submitting applications for such assistance that—

(1) demonstrate that the proposed activities are of an appropriate scale and a sufficient quality to ensure long term improvement in the applicant's capability to serve the education and training needs of United States manufacturing firms in the same region as the applicant;

(2) demonstrate a significant level of industry involvement and support;

(3) demonstrate attention to the needs of any United States industries that supply manufactured products to the Department of Defense or to a contractor of the Department of Defense; and

(4) meet such other criteria as the Secretary may prescribe.

(d) FEDERAL SUPPORT.—The amount of financial assistance furnished to an institution under this section may not exceed 50 percent of the estimated cost of carrying out the activities proposed to be supported in part with such financial assistance for the period for which the assistance is to be provided. In no event may the amount of the financial assistance provided to an institution exceed $250,000 per year. The period for which financial assistance is provided an institution under this section shall be at least two years unless such assistance is earlier terminated for cause determined by the Secretary.

(e) MANUFACTURING EXPERT DEFINED.—In this section, the term "manufacturing expert" means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.

(Added Pub. L. 102–190, div. A, title VIII, §825(a)(1), Dec. 5, 1991, 105 Stat. 1440, §2197; amended Pub. L. 102–484, div. D, title XLII, §4238(a), (b)(1), Oct. 23, 1992, 106 Stat. 2694; renumbered §4844 and amended Pub. L. 116–283, div. A, title XVIII, §1869(d), as added Pub. L. 117–81, div. A, title XVII, §1701(p)(1), Dec. 27, 2021, 135 Stat. 2148.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1869(d)(1), as added by Pub. L. 117–81, §1701(p)(1)(A), (B), renumbered section 2197 of this title as this section.

Subsec. (a)(6). Pub. L. 116–283, §1869(d)(2), as added by Pub. L. 117–81, §1701(p)(1)(C), substituted "section 4843" for "section 2196".

**1992**—Pub. L. 102–484, §4238(b)(1), substituted "experts" for "managers" in section catchline.

Subsec. (a). Pub. L. 102–484, §4238(a)(1), struck out "managers and" after "manufacturing" in introductory provisions.

Subsec. (e). Pub. L. 102–484, §4238(a)(2), added subsec. (e).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4845. Armament retooling and manufacturing

The Secretary of the Army is authorized by chapter 764 of this title to carry out programs for the support of armaments retooling and manufacturing in the national defense industrial and technology base.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(c)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–71, §2522; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; renumbered §4845, Pub. L. 116–283, div. A, title XVIII, §1869(d)(1), as added Pub. L. 117–81, div. A, title XVII, §1701(p)(1)(A), (B), Dec. 27, 2021, 135 Stat. 2148.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1869(d)(1), as added by Pub. L. 117–81, §1701(p)(1)(A), (B), renumbered section 2522 of this title as this section.

**2018**—Pub. L. 115–232 substituted "chapter 764" for "chapter 434".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 385—OTHER TECHNOLOGY BASE POLICIES AND PROGRAMS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Defense Trade Reciprocity and Offset Policy** | **4851** |
| **II.** | **Limitations on Procurement of Certain Items from Foreign Sources** | **4861** |
| **III.** | **Limitations on Procurement from Certain Foreign Sources** | **4871** |
| **IV.** | **Defense Industrial Reserve and Industrial Mobilization** | **4881** |
| **V.** | **Other Matters** | **4891** |


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 385 "PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM", consisting of reserved section 4881, was repealed by Pub. L. 116–283, div. A, title XVIII, §1872(a)(1)(A), Jan. 1, 2021, 134 Stat. 4287.

## SUBCHAPTER I—DEFENSE TRADE RECIPROCITY AND OFFSET POLICY


Sec.

4851. Defense memoranda of understanding and related agreements.

4852. Offset policy; notification.


### §4851. Defense memoranda of understanding and related agreements

(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUS AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, or to the reciprocal procurement of defense items, the Secretary of Defense shall—

(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense technology and industrial base of the United States; and

(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or

related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

(c) LIMITATION ON ENTERING INTO MOUS AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.

(Added Pub. L. 100–456, div. A, title VIII, §824, Sept. 29, 1988, 102 Stat. 2019, §2504; amended Pub. L. 101–189, div. A, title VIII, §815(a), Nov. 29, 1989, 103 Stat. 1500; Pub. L. 101–510, div. A, title XIV, §1453, Nov. 5, 1990, 104 Stat. 1694; renumbered §2531 and amended Pub. L. 102–484, div. D, title XLII, §§4202(a), 4271(c), Oct. 23, 1992, 106 Stat. 2659, 2696; renumbered §4851, Pub. L. 116–283, div. A, title XVIII, §1870(b), Jan. 1, 2021, 134 Stat. 4284.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2531 of this title as this section.

**1992**—Pub. L. 102–484, §4202(a), renumbered section 2504 of this title as section 2531.

Subsec. (a)(1). Pub. L. 102–484, §4271(c), substituted "defense technology and industrial base" for "defense industrial base".

**1990**—Subsec. (a). Pub. L. 101–510 inserted "or to the reciprocal procurement of defense items," after "defense equipment," in introductory provisions.

**1989**—Pub. L. 101–189 inserted "and related agreements" after "understanding" in section catchline and amended text generally. Prior to amendment, text read as follows: "In the negotiation and renegotiation of each memorandum of understanding between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

"(1) consider the effect of such proposed memorandum of understanding on the defense industrial base of the United States; and

"(2) regularly solicit and consider information or recommendations from the Secretary of Commerce with respect to the effect on the United States industrial base of such memorandum of understanding."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### DEFENSE TRADE RECIPROCITY

Pub. L. 108–375, div. A, title VIII, §831, Oct. 28, 2004, 118 Stat. 2017, provided that:

"(a) POLICY.—It is the policy of Congress that procurement regulations used in the conduct of trade in

defense articles and defense services should be based on the principle of fair trade and reciprocity consistent with United States national security, including the need to ensure comprehensive manufacturing capability in the United States defense industrial base.

"(b) REQUIREMENT.—The Secretary of Defense shall make every effort to ensure that the policies and practices of the Department of Defense reflect the goal of establishing an equitable trading relationship between the United States and its foreign defense trade partners, including ensuring that United States firms and United States employment in the defense sector are not disadvantaged by unilateral procurement practices by foreign governments, such as the imposition of offset agreements in a manner that undermines the United States defense industrial base. In pursuing this goal, the Secretary shall—

"(1) develop a comprehensive defense acquisition trade policy that provides the necessary guidance and incentives for the elimination of any adverse effects of offset agreements in defense trade; and

"(2) review and make necessary modifications to existing acquisition policies and strategies, and review and seek to make necessary modifications to existing memoranda of understanding, cooperative project agreements, or related agreements with foreign defense trade partners, to reflect this goal.

"(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section in the Department of Defense supplement to the Federal Acquisition Regulation.

"(d) DEFINITIONS.—In this section:

"(1) The term 'foreign defense trade partner' means a foreign country with respect to which there is—

"(A) a memorandum of understanding or related agreement described in section 2531(a) of title 10, United States Code [now 10 U.S.C. 4851(a)]; or

"(B) a cooperative project agreement described in section 27 of the Arms Export Control Act (22 U.S.C. 2767).

"(2) The term 'offset agreement' has the meaning provided that term by section 36(e) of the Arms Export Control Act (22 U.S.C. 2776(e)).

"(3) The terms 'defense article' and 'defense service' have the meanings provided those terms by section 47(7) of the Arms Export Control Act (22 U.S.C. 2794(7))."

## §4852. Offset policy; notification

(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

(1) Transfer of technology in connection with offset arrangements.

(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base

of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

(d) DEFINITIONS.—In this section:

(1) The term "United States firm" means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

(2) The term "foreign firm" means a business entity other than a United States firm.

(Added Pub. L. 100–456, div. A, title VIII, §825(b), Sept. 29, 1988, 102 Stat. 2020, §2505; renumbered §2532, Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659; renumbered §4852, Pub. L. 116–283, div. A, title XVIII, §1870(b), Jan. 1, 2021, 134 Stat. 4284.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2532 of this title as this section.

**1992**—Pub. L. 102–484 renumbered section 2505 of this title as section 2532.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### CONTRACTUAL OFFSET ARRANGEMENTS; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 100–456, div. A, title VIII, §825(a), Sept. 29, 1988, 102 Stat. 2019, provided that: "Congress makes the following findings:

"(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

"(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

"(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

"(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as 'offsets', are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

"(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

"(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

"(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

"(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

"(6) The exporting of defense equipment produced in the United States is important to maintain the

defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States."

**NEGOTIATIONS WITH COUNTRIES REQUIRING OFFSET ARRANGEMENTS**

Pub. L. 100–456, div. A, title VIII, §825(c), Sept. 29, 1988, 102 Stat. 2021, as amended by Pub. L. 101–189, div. A, title VIII, §816, Nov. 29, 1989, 103 Stat. 1501, provided that:

"(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country. Every effort shall be made to achieve such agreements within two years after September 29, 1988.

"(2) In the negotiation or renegotiation of any memorandum of understanding between the United States and one or more foreign countries relating to the reciprocal procurement of defense equipment and supplies or research and development, the President shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States."

[For delegation of functions of President under section 825(c) of Pub. L. 100–456 to Secretary of Defense and United States Trade Representative, see section 5–201 of Ex. Ord. No. 12661, 54 F.R. 779, set out as a note under section 2901 of Title 19, Customs Duties.]

## SUBCHAPTER II—LIMITATIONS ON PROCUREMENT OF CERTAIN ITEMS FROM FOREIGN SOURCES

Sec.
4861. Determinations of public interest under chapter 83 of title 41.
4862. Requirement to buy certain articles from American sources; exceptions.
4863. Requirement to buy strategic materials critical to national security from American sources; exceptions.
4864. Miscellaneous limitations on the procurement of goods other than United States goods.
4865. Prohibition on acquisition of advanced batteries composed of materials from certain foreign sources.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title VIII, §842(a), Dec. 18, 2025, 139 Stat. 973, added item 4865. Amendment was made pursuant to operation of section 102 of this title.

**VOLUNTARY REGISTRATION OF COMPLIANCE WITH COVERED SOURCING REQUIREMENTS FOR COVERED PRODUCTS**

Pub. L. 119–60, div. A, title VIII, §836, Dec. 18, 2025, 139 Stat. 966, provided that:

"(a) IN GENERAL.—Not later than January 1, 2027, the Secretary of Defense shall establish and maintain a publicly available online repository of information provided by an offeror related to the compliance of a covered product with covered sourcing requirements.

"(b) REGISTRATION AND ATTESTATION PROCESS.—In carrying out subsection (a), the Secretary of Defense shall establish a process under which an offeror may voluntarily submit to the Secretary an attestation relating to the compliance of a covered product with a covered sourcing requirement. Such attestation shall—

"(1) require an offeror to acknowledge liability for making a false attestation in accordance with section 3729 of title 31, United States Code; and

"(2) enable an offeror to register a covered product with the Secretary of Defense by providing—

"(A) a unique product identifier sufficient to distinguish the covered product to be registered from a similar covered product;

"(B) a national stock number (if available), a description of the covered product, or other information related to the form, fit, or function of the covered product; and

"(C) an attestation, including relevant documentation, of the compliance of a covered product with one or more covered sourcing requirements.

"(c) PROOF OF REGISTRATION.—The Secretary of Defense shall issue to an offeror that registers a covered product in accordance with the process established under subsection (b) a proof of registration associated with a unique product identifier of the covered product.

"(d) AVAILABILITY OF INFORMATION.—

"(1) COMPLIANCE INFORMATION.—The Secretary of Defense shall make available the information necessary to enable offerors to assess the compliance of a covered product with a covered sourcing requirement.

"(2) RESOURCES.—The Secretary shall ensure that an eligible entity has adequate resources to train offerors about the requirements of this section and to assist an offeror with the registration and attestation process established under subsection (b).

"(e) ENCOURAGING REGISTRATION OF PRODUCTS.—The Secretary of Defense shall establish policies and procedures to encourage offerors to register covered products. These policies and procedures shall ensure that—

"(1) offerors are incentivized to disclose any noncompliance with the requirements of this section, with the goal of expanding the number of vendors with products qualified for use by the Department of Defense;

"(2) with respect to any disclosure made under paragraph (1), that such offeror is provided with information and assistance to determine the actions required to remedy such noncompliance in order to meet the criteria to register the product concerned; and

"(3) an offeror making such a disclosure will receive a referral to the appropriate programs or offices of the Department of Defense that are responsible for strengthening the defense industrial base, promoting domestic industry, and accelerating private investment in supply chain technologies that are critical for national security.

"(f) BRIEFINGS.—

"(1) INITIAL BRIEFING.—Not later than May 1, 2026, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on—

"(A) the process established under subsection (b) to allow an offeror to voluntarily submit an attestation of compliance of a covered product in the repository; and

"(B) the progress made in establishing the repository required by subsection (a).

"(2) INTERIM BRIEFING.—

"(A) IN GENERAL.—Not later than May 1, 2027, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives an interim briefing on the establishment of the repository required by subsection (a), the number and types of the contractors seeking to register covered products in such repository and volunteering to submit attestations for compliance with sourcing requirements under the process established under subsection (b).

"(B) CONTENTS.—The briefing required by subparagraph (A) shall include an assessment of the feasibility of using the repository required by subsection (a) to also serve as a common platform for information routinely required for supplier onboarding, qualification, or due diligence review by the Department of Defense or a prime contractor of the Department, including—

"(i) business registration, Data Universal Numbering System number, Commercial and Government Entity code and federal tax identification number;

"(ii) ownership and corporate structure, including any parent company or subsidiaries;

"(iii) country of ownership;

"(iv) small business size classification and North American Industry Classification System code, if applicable; and

"(v) compliance certifications, including certifications for cybersecurity, trade and export controls, anti-corruption policy, and traceability practices.

"(3) FINAL BRIEFING.—Not later than April 1, 2029, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a final briefing on the success of the repository required under subsection (a) and the process established under subsection (b), including participation statistics and whether or not the Secretary will continue to maintain the repository.

"(g) DEFINITIONS.—In this section:

"(1) The term 'covered product' means a good offered for purchase to the Secretary of Defense or as an item of supply for a contractor performing on a contract with the Department of Defense—

"(A) by—

"(i) a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)); or

"(ii) a manufacturer of critical readiness items of supply (as defined in section 1733 of title 10, United States Code); and

"(B) that is subject to a covered sourcing requirement.

"(2) The term 'covered sourcing requirement' means a requirement under any of the following:

"(A) Section 4863 of title 10, United States Code.

"(B) Section 4862 of title 10, United States Code.

"(C) Section 4864 of title 10, United States Code.

"(D) Chapter 83 of title 41, United States Code.

"(3) The term 'eligible entity' means an eligible entity carrying out activities pursuant to a procurement technical assistance program funded under chapter 388 of title 10, United States Code.

"(4) The term 'item of supply' has the meaning given such term in section 108 of title 41, United States Code."

## §4861. Determinations of public interest under chapter 83 of title 41

(a) In determining under section 8302 of title 41 whether application of chapter 83 of such title is inconsistent with the public interest, the Secretary of Defense shall consider the following:

(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

(3) The United States balance of payments.

(4) The cost of shipping goods which are other than American goods.

(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

(6) A need to ensure that the Department of Defense has access to advanced, state-of-the-art commercial technology.

(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

(8) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

(9) Any need—

(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

(10) The national security interests of the United States.

(b) In this section, the term "goods which are other than American goods" means—

(1) an end product that is not mined, produced, or manufactured in the United States; or

(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.

(Added Pub. L. 100–370, §3(a)(1), July 19, 1988, 102 Stat. 855, §2501; renumbered §2506, Pub. L. 100–456, div. A, title VIII, §821(b)(1)(A), Sept. 29, 1988, 102 Stat. 2014; renumbered §2533, Pub. L. 102–484, div. D, title XLII, §4202(a), Oct. 23, 1992, 106 Stat. 2659; amended Pub. L. 103–337, div. A, title VIII, §812(a), (b)(1), Oct. 5, 1994, 108 Stat. 2815, 2816; Pub. L. 104–106, div. D, title XLIII, §4321(b)(20), Feb. 10, 1996, 110 Stat. 673; Pub. L. 105–85, div. A, title X, §1073(a)(54), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 111–350, §5(b)(37), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 113–291, div. A, title X, §1071(a)(9), Dec. 19, 2014, 128 Stat. 3505; renumbered §4861, Pub. L. 116–283, div. A, title XVIII, §1870(c)(2), Jan. 1, 2021, 134 Stat. 4285.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 93–365, title VII, §707, Aug. 5, 1974, 88 Stat. 406.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2533 of this title as this section.

**2014**—Subsec. (a). Pub. L. 113–291 substituted "chapter 83 of such title" for "such Act" in introductory provisions.

**2011**—Pub. L. 111–350, §5(b)(37)(A), substituted "chapter 83 of title 41" for "the Buy American Act" in section catchline.

Subsec. (a). Pub. L. 111–350, §5(b)(37)(B), substituted "section 8302 of title 41" for "section 2 of the Buy American Act (41 U.S.C. 10a)" in introductory provisions.

**1997**—Subsec. (a). Pub. L. 105–85 substituted "(41 U.S.C. 10a)" for "(41 U.S.C. 10a))".

**1996**—Subsec. (a). Pub. L. 104–106 substituted "the Buy American Act (41 U.S.C. 10a)) whether application of such Act" for "title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act".

**1994**—Pub. L. 103–337, §812(b)(1), substituted "Determinations of public interest under the Buy American Act" for "Limitation on use of funds: procurement of goods which are other than American goods" as section catchline.

Subsec. (a). Pub. L. 103–337, §812(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "Funds appropriated to the Department of Defense may not be obligated under a contract for procurement of goods which are other than American goods (as defined in subsection (c)) unless adequate consideration is given to the following:

"(1) The bids or proposals of firms located in labor surplus areas in the United States (as designated by the Department of Labor) which have offered to furnish American goods.

"(2) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(3) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(4) The United States balance of payments.

"(5) The cost of shipping goods which are other than American goods.

"(6) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods."

Subsecs. (b), (c). Pub. L. 103–337, §812(a), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a) shall be given under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933 (41 U.S.C. 10a, 10b), popularly known as the 'Buy American Act'."

**1992**—Pub. L. 102–484 renumbered section 2506 of this title as section 2533.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

## §4862. Requirement to buy certain articles from American sources; exceptions

(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United

States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

(C) tents (and the structural components thereof), tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Hand or measuring tools.

(3) Stainless steel flatware.

(4) Dinnerware.

(5) A flag of the United States.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations or procurements of any item listed in subsection (b)(1)(A) or (b)(2) in support of contingency operations.

(2) Procurements by, or for, vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by, or for, an establishment located outside the United States for the personnel attached to such establishment.

(4) Procurements of any item listed in subsection (b)(1)(A) or (b)(2) for which the use of procedures other than competitive procedures has been approved on the basis of section 3204(a)(2) of this title, relating to unusual and compelling urgency of need.

(e) EXCEPTION FOR CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a)

does not preclude the procurement of the following:

(1) Foods manufactured or processed in the United States.

(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.

(g) EXCEPTION FOR COMMISSARIES, EXCHANGES, AND OTHER NONAPPROPRIATED FUND INSTRUMENTALITIES.—(1) Except as provided in paragraph (2), subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, or nonappropriated fund instrumentalities operated by the Department of Defense.

(2)(A) Paragraph (1) shall not apply with respect to the procurement of seafood originating in a covered foreign country, including procurement for use in military dining facilities, galleys aboard United States naval vessels, and procurement for resale in commissary stores, notwithstanding the source of funds used for such procurement.

(B) The Secretary of Defense may waive the requirements of subparagraph (A) if such procurement would cause undue burden to a naval vessel while at sea or in port at a foreign port, a dining facility in a foreign country, a commissary, an exchange, or a nonappropriated fund instrumentality located on a military installation located outside the United States.

(C) In this paragraph, the term "covered foreign country" means The People's Republic of China, the Russian Federation, the Islamic Republic of Iran, or the Democratic People's Republic of Korea.

(h) EXCEPTION FOR SMALL PURCHASES.—(1) Except with respect to purchases of flags of the United States, subsection (a) does not apply to purchases for amounts not greater than $150,000. A proposed procurement of an item in an amount greater than $150,000 may not be divided into several purchases or contracts for lesser amounts in order to qualify for this exception.

(2)(A)(i) Except as provided by subparagraph (B), subsection (a) does not apply to purchases of flags of the United States for amounts not greater than $10,000.

(ii) A proposed procurement in an amount greater than $10,000 may not be divided into several purchases or contracts for lesser amounts in order to qualify for the exception under clause (i).

(B) The Secretary of Defense may waive subsection (a) with respect to a purchase of flags of the United States in an amount greater than $10,000 if the Secretary of Defense determines such waiver appropriate.

(C) This section is applicable to contracts and subcontracts for the procurement of flags of the United States.

(3) On October 1 of each year that is evenly divisible by five, the Secretary of Defense may adjust the dollar threshold in this subsection based on changes in the Consumer Price Index. Any such adjustment shall take effect on the date on which the Secretary publishes notice of such adjustment in the Federal Register.

(i) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL PRODUCTS.—This section is applicable to contracts and subcontracts for the procurement of commercial products notwithstanding section 1906 of title 41.

(j) GEOGRAPHIC COVERAGE.—In this section, the term "United States" includes the possessions of the United States.

(k) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subparagraph (B), (C), (D), or (E) of subsection (b)(1), if the Secretary of Defense or of the military department concerned applies an exception set forth in subsection (c) or (e) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration known as FedBizOpps.gov (or any successor site).

(Added Pub. L. 107–107, div. A, title VIII, §832(a)(1), Dec. 28, 2001, 115 Stat. 1189, §2533a; amended Pub. L. 108–136, div. A, title VIII, §§826, 827, Nov. 24, 2003, 117 Stat. 1548; Pub. L. 109–163, div. A, title VIII, §§831, 833, Jan. 6, 2006, 119 Stat. 3388; Pub. L. 109–364, div. A, title VIII, §842(a)(3), Oct. 17, 2006, 120 Stat. 2337; Pub. L. 111–350, §5(b)(38), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 111–383, div. A, title VIII, §847, title X, §1075(b)(38), Jan. 7, 2011, 124 Stat. 4286,

4371; Pub. L. 112–81, div. A, title VIII, §821, Dec. 31, 2011, 125 Stat. 1502; Pub. L. 112–239, div. A, title X, §1076(f)(29), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 115–232, div. A, title VIII, §837(b), Aug. 13, 2018, 132 Stat. 1875; Pub. L. 116–92, div. A, title VIII, §854(a)(1), (3), Dec. 20, 2019, 133 Stat. 1512; renumbered §4862 and amended Pub. L. 116–283, div. A, title VIII, §817, title XVIII, §§1870(c)(2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 3751, 4285, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(17), Dec. 27, 2021, 135 Stat. 2138; Pub. L. 118–31, div. A, title VIII, §832(a), Dec. 22, 2023, 137 Stat. 336; Pub. L. 118–159, div. A, title VIII, §§842(a), (c), 843, Dec. 23, 2024, 138 Stat. 1990, 1991; Pub. L. 119–60, div. A, title VIII, §831(a), Dec. 18, 2025, 139 Stat. 960.)

## AMENDMENT OF SUBSECTION (B)

*Pub. L. 118–159, div. A, title VIII, §842(c), Dec. 23, 2024, 138 Stat. 1991, provided that, effective Jan. 1, 2029, subsection (b) of this section is amended by repealing paragraphs (3) and (4).*

*See 2024 Amendment note below.*

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (g). Pub. L. 119–60 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), subsection (a)" for "Subsection (a)", and added par. (2).

**2024**—Subsec. (b)(3), (4). Pub. L. 118–159, §842(c), struck out pars. (3) and (4) which read as follows:

"(3) Stainless steel flatware.

"(4) Dinnerware."

Pub. L. 118–159, §842(a), added pars. (3) and (4).

Subsec. (d)(2). Pub. L. 118–159, §843, inserted ", or for," after "Procurements by".

**2023**—Subsec. (b)(5). Pub. L. 118–31, §832(a)(1), added par. (5).

Subsec. (h)(1). Pub. L. 118–31, §832(a)(2)(A), substituted "Except with respect to purchases of flags of the United States, subsection (a)" for "Subsection (a)".

Subsec. (h)(2), (3). Pub. L. 118–31, §832(a)(2)(B), (C), added par. (2) and redesignated former par. (2) as (3).

**2021**—Pub. L. 116–283, §1870(c)(2), renumbered section 2533a of this title as this section.

Subsec. (d)(4). Pub. L. 117–81, which directed substitution of "section 3204(a)(2)" for "section 2304(c)(2)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 3204(a)(2)" for "section 2304(c)(2)".

Subsec. (h). Pub. L. 116–283, §817, amended subsec. (h) generally. Prior to amendment, text read as follows: "Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title."

**2019**—Subsec. (b)(3), (4). Pub. L. 116–92, §854(a)(3), struck out pars. (3) and (4) which added stainless steel flatware and dinnerware to the list of covered items.

Pub. L. 116–92, §854(a)(1), added pars. (3) and (4).

**2018**—Subsec. (i). Pub. L. 115–232 substituted "Products" for "Items" in heading and "commercial products" for "commercial items" in text.

**2013**—Subsec. (k). Pub. L. 112–239 substituted "FedBizOpps.gov" for "FedBizOps.gov".

**2011**—Subsec. (b)(1)(C). Pub. L. 112–81 inserted "(and the structural components thereof)" after "tents".

Subsec. (c). Pub. L. 111–383, §847, substituted "subsection (b)" for "subsection (b)(1)".

Subsec. (d)(1), (4). Pub. L. 111–383, §1075(b)(38), substituted "(b)(1)(A) or (b)(2)" for "(b)(1)(A), (b)(2), or (b)(3)".

Subsec. (i). Pub. L. 111–350 substituted "section 1906 of title 41" for "section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)".

**2006**—Subsec. (b)(1)(B). Pub. L. 109–163, §833(b), inserted before semicolon "and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)".

Subsec. (b)(2), (3). Pub. L. 109–364, §842(a)(3)(A), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "Specialty metals, including stainless steel flatware."

Subsec. (c). Pub. L. 109–364, §842(a)(3)(B), struck out "or specialty metals (including stainless steel flatware)" after "subsection (b)(1)".

Subsec. (d)(3). Pub. L. 109–163, §831, inserted ", or for," after "perishable foods by".

Subsec. (e). Pub. L. 109–364, §842(a)(3)(C), struck out "Specialty Metals and" after "Exception for" in heading and "specialty metals or" after "procurement of" in introductory provisions.

Subsec. (k). Pub. L. 109–163, §833(a), added subsec. (k).

**2003**—Subsec. (d). Pub. L. 108–136, §826(1), struck out "Outside the United States" after "Procurements" in heading.

Subsec. (d)(1). Pub. L. 108–136, §826(2), inserted "or procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) in support of contingency operations" after "combat operations".

Subsec. (d)(4). Pub. L. 108–136, §826(3), added par. (4).

Subsec. (f). Pub. L. 108–136, §827, substituted "EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:

"(1) Foods"

for "EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods", and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–60, div. A, title VIII, §831(c), Dec. 18, 2025, 139 Stat. 960, provided that: "This section and the amendments made by this section [amending this section] shall apply with respect to contracts entered into on or after the date of the enactment of this Act [Dec. 18, 2025]."

### EFFECTIVE AND TERMINATION DATES OF 2024 AMENDMENT

Pub. L. 118–159, div. A, title VIII, §842(b), Dec. 23, 2024, 138 Stat. 1990, provided that: "Paragraphs (3) and (4) of section 4862(b) of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 2026."

Pub. L. 118–159, div. A, title VIII, §842(c), Dec. 23, 2024, 138 Stat. 1991, provided that the amendment made by section 842(c) is effective Jan. 1, 2029.

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title VIII, §832(b), Dec. 22, 2023, 137 Stat. 337, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to agreements entered into on or after the date of the enactment of this Act [Dec. 22, 2023]."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by sections 1870(c)(2) and 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VIII, §854(a)(2), Dec. 20, 2019, 133 Stat. 1512, as amended by Pub. L. 116–283, div. A, title XVIII, §1870(c)(5), Jan. 1, 2021, 134 Stat. 4285, provided that: "Paragraphs (3) and (4) of section 4862(b) of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts entered into on or after the date occurring 1 year after the date of the enactment of this Act [Dec. 20, 2019]."

Pub. L. 116–92, div. A, title VIII, §854(a)(3), Dec. 20, 2019, 133 Stat. 1512, provided that the amendment made by section 854(a)(3) is effective Sept. 30, 2023.

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VIII, §842(a)(4)(B), Oct. 17, 2006, 120 Stat. 2337, provided that: "The amendments made by paragraph (3) [amending this section] shall take effect on the date occurring 30 days after the date of the enactment of this Act [Oct. 17, 2006]."

### SHORT TITLE

This section is popularly known as the "Berry Amendment".

## RULEMAKING

Pub. L. 119–60, div. A, title VIII, §831(b), Dec. 18, 2025, 139 Stat. 960, provided that: "The Secretary of Defense shall issue such rules necessary [sic] to carry out this section and the amendments made by this section [amending this section]."

## APPROPRIATIONS FOR UNITED STATES FLAGS

Pub. L. 119–75, div. A, title VIII, §8037, Feb. 3, 2026, 140 Stat. 207, provided that: "None of the funds made available in this Act [div. A of Pub. L. 119–75, see Tables for classification], or any subsequent Act making appropriations for the Department of Defense, may be used for the purchase or manufacture of a flag of the United States unless such flags are treated as covered items under section 4862(b) of title 10, United States Code."

Similar provisions were contained in the following appropriation acts:

Pub. L. 118–47, div. A, title VIII, §8037, Mar. 23, 2024, 138 Stat. 491.

Pub. L. 117–328, div. C, title VIII, §8037, Dec. 29, 2022, 136 Stat. 4595.

Pub. L. 117–103, div. C, title VIII, §8038, Dec. 29, 2022, 136 Stat. 183.

## DOMESTIC NONAVAILABILITY DETERMINATIONS LIST

Pub. L. 118–159, div. A, title VIII, §848, Dec. 23, 2024, 138 Stat. 1993, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment shall develop and maintain a list of all domestic nonavailability determinations.

"(b) SUBMISSION TO CONGRESS.—Not later than 30 days after the Under Secretary for Acquisition and Sustainment develops the list required under subsection (a), and annually thereafter, the Under Secretary for Acquisition and Sustainment shall submit to Congress a list of all domestic nonavailability determinations made during the one year period ending on the date on which the Under Secretary for Acquisition and Sustainment submits such list.

"(c) PLAN FOR INFORMING INDUSTRY.—Not later than 30 days after the Under Secretary of Defense for Acquisition and Sustainment develops the list required under subsection (a), the Under Secretary for Acquisition and Sustainment shall develop a plan for sharing such list with industry partners.

"(d) DOMESTIC NONAVAILABILITY DETERMINATION DEFINED.—In this section, the term 'domestic nonavailability determination' means a determination made for purposes of providing an availability exception pursuant to section 4862(c) of title 10, United States Code."

## PERIODIC AUDITS OF CONTRACTING COMPLIANCE BY INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE

Pub. L. 113–66, div. A, title XVI, §1601, Dec. 26, 2013, 127 Stat. 941, as amended by Pub. L. 117–286, §4(b)(29), Dec. 27, 2022, 136 Stat. 4346, provided that:

"(a) REQUIREMENT FOR PERIODIC AUDITS OF CONTRACTING COMPLIANCE.—The Inspector General of the Department of Defense shall conduct periodic audits of contracting practices and policies related to procurement under section 2533a of title 10, United States Code [now 10 U.S.C. 4862].

"(b) REQUIREMENT FOR ADDITIONAL INFORMATION IN SEMIANNUAL REPORTS.—The Inspector General of the Department of Defense shall ensure that findings and other information resulting from audits conducted pursuant to subsection (a) are included in the semiannual report transmitted to congressional committees under section 408(f)(1) of title 5, United States Code."

## FIRE RESISTANT RAYON FIBER

Pub. L. 110–181, div. A, title VIII, §829, Jan. 28, 2008, 122 Stat. 229, as amended by Pub. L. 111–383, div. A, title VIII, §821(a), Jan. 7, 2011, 124 Stat. 4267; Pub. L. 112–81, div. A, title VIII, §822, Dec. 31, 2011, 125 Stat. 1502, provided that:

"(a) AUTHORITY TO PROCURE.—The Secretary of Defense may procure fire resistant rayon fiber for the production of uniforms that is manufactured in a foreign country referred to in subsection (d) if the Secretary determines either of the following:

"(1) That fire resistant rayon fiber for the production of uniforms is not available from sources within the national technology and industrial base.

"(2) That—

"(A) procuring fire resistant rayon fiber manufactured from suppliers within the national technology and industrial base would result in sole-source contracts or subcontracts for the supply of fire resistant rayon fiber; and

"(B) such sole-source contracts or subcontracts would not be in the best interests of the

Government or consistent with the objectives of section 2304 of title 10, United States Code [see 10 U.S.C. 3201 et seq.].

"(b) SUBMISSION TO CONGRESS.—Not later than 30 days after making a determination under subsection (a), the Secretary shall submit to Congress a copy of the determination.

"(c) APPLICABILITY TO SUBCONTRACTS.—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

"(d) FOREIGN COUNTRIES COVERED.—The authority under subsection (a) applies with respect to a foreign country that—

"(1) is a party to a defense memorandum of understanding entered into under section 2531 of title 10, United States Code [now 10 U.S.C. 4851]; and

"(2) does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(e) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE DEFINED.—In this section, the term 'national technology and industrial base' has the meaning given that term in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]."

**TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT**

Pub. L. 109–163, div. A, title VIII, §832, Jan. 6, 2006, 119 Stat. 3388, provided that:

"(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code [now 10 U.S.C. 4862] (commonly referred to as the 'Berry Amendment'), and the regulations implementing that section.

"(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program developed or implemented after the date of the enactment of this Act [Jan. 6, 2006] for members of the defense acquisition workforce who participate personally and substantially in the acquisition of textiles on a regular basis includes comprehensive information on the requirements described in subsection (a)."

**APPLICATION OF EXCEPTION TO SEAFOOD PRODUCTS**

Pub. L. 108–287, title VIII, §8118, Aug. 5, 2004, 118 Stat. 998, as amended by Pub. L. 113–291, div. A, title X, §1071(b)(4), Dec. 19, 2014, 128 Stat. 3506; Pub. L. 116–283, div. A, title XVIII, §1870(c)(6)(B), Jan. 1, 2021, 134 Stat. 4285, provided that: "Notwithstanding any other provision of law, section 4862(f) of title 10, United States Code, shall hereafter not apply to any fish, shellfish, or seafood product. This section applies to contracts and subcontracts for the procurement of commercial items notwithstanding section 1906 of title 41, United States Code."

## §4863. Requirement to buy strategic materials critical to national security from American sources; exceptions

(a) REQUIREMENT.—Except as provided in subsections (b) through (m), the acquisition by the Department of Defense of the following items is prohibited:

(1) The following types of end items, or components thereof, containing a specialty metal not melted or produced in the United States: aircraft, missile and space systems, ships, tank and automotive items, weapon systems, or ammunition.

(2) A specialty metal that is not melted or produced in the United States and that is to be purchased directly by the Department of Defense or a prime contractor of the Department.

(b) AVAILABILITY EXCEPTION.—(1) Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that compliant specialty metal of satisfactory quality and sufficient quantity, and in the required form, cannot be procured as and when needed at a reasonable price. For purposes of the preceding sentence, the term "compliant specialty metal" means specialty metal melted or produced in the United States.

(2) This subsection applies to prime contracts and subcontracts at any tier under such contracts.

(3) The authority in subsection (b)(1)—

(A) may be delegated to the head of contracting activity for the relevant component for an exception for a single acquisition program;

(B) may be delegated to the senior acquisition executive of a military department for an exception for multiple programs within such military department; and

(C) may be delegated to the Undersecretary of Defense for Acquisition and Sustainment for an exception for more than one military department.

(c) EXCEPTION FOR CERTAIN ACQUISITIONS.—Subsection (a) does not apply to the following:

(1) Acquisitions outside the United States in support of contingency operations or for use outside of the United States.

(2) Acquisitions for which the use of procedures other than competitive procedures has been approved on the basis of section 3204(a)(2) of this title, relating to unusual and compelling urgency of need.

(d) EXCEPTION RELATING TO AGREEMENTS WITH FOREIGN GOVERNMENTS .—Subsection (a)(1) does not preclude the acquisition of a specialty metal if—

(1) the acquisition is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with qualifying foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country;

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title; and

(3) any specialty metal procured as mill product or incorporated into a component other than an end item pursuant to this subsection shall be melted or produced—

(A) in the United States;

(B) in the country from which the mill product or component is procured; or

(C) in another country covered under subparagraph (1)(B).

(e) EXCEPTION FOR COMMISSARIES, EXCHANGES, AND OTHER NONAPPROPRIATED FUND INSTRUMENTALITIES.—Subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, and nonappropriated fund instrumentalities operated by the Department of Defense.

(f) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to acquisitions in amounts not greater than the simplified acquisition threshold referred to in section 3205 of this title.

(g) EXCEPTION FOR PURCHASES OF ELECTRONIC COMPONENTS.—Subsection (a) does not apply to acquisitions of electronic components, unless the Secretary of Defense, upon the recommendation of the Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1), determines that the domestic availability of a particular electronic component is critical to national security.

(h) APPLICABILITY TO ACQUISITIONS OF COMMERCIAL PRODUCTS.—(1) Except as provided in paragraphs (2) and (3), this section applies to acquisitions of commercial products, notwithstanding sections 1906 and 1907 of title 41.

(2) This section does not apply to contracts or subcontracts for the acquisition of commercially available off-the-shelf items, as defined in section 104 of title 41, other than—

(A) contracts or subcontracts for the acquisition of specialty metals, including mill products,

such as bar, billet, slab, wire, plate and sheet, that have not been incorporated into end items, subsystems, assemblies, or components;

(B) contracts or subcontracts for the acquisition of forgings or castings of specialty metals, unless such forgings or castings are incorporated into commercially available off-the-shelf end items, subsystems, or assemblies;

(C) contracts or subcontracts for commercially available high performance magnets unless such high performance magnets are incorporated into commercially available off-the-shelf-end items or subsystems; and

(D) contracts or subcontracts for commercially available off-the-shelf fasteners, unless such fasteners are—

(i) incorporated into commercially available off-the-shelf end items, subsystems, assemblies, or components; or

(ii) purchased as provided in paragraph (3).

(3) This section does not apply to fasteners that are commercial products that are purchased under a contract or subcontract with a manufacturer of such fasteners, if the manufacturer has certified that it will purchase, during the relevant calendar year, an amount of domestically melted specialty metal, in the required form, for use in the production of such fasteners for sale to the Department of Defense and other customers, that is not less than 50 percent of the total amount of the specialty metal that it will purchase to carry out the production of such fasteners.

(i) EXCEPTIONS FOR PURCHASES OF SPECIALTY METALS BELOW MINIMUM THRESHOLD.—(1) Notwithstanding subsection (a), the Secretary of Defense or the Secretary of a military department may accept delivery of an item containing specialty metals that were not melted in the United States if the total amount of noncompliant specialty metals in the item does not exceed 2 percent of the total weight of specialty metals in the item.

(2) This subsection does not apply to high performance magnets.

(j) STREAMLINED COMPLIANCE FOR COMMERCIAL DERIVATIVE MILITARY ARTICLES.—(1) Subsection (a) shall not apply to an item acquired under a prime contract if the Secretary of Defense or the Secretary of a military department determines that—

(A) the item is a commercial derivative military article; and

(B) the contractor certifies that the contractor and its subcontractors have entered into a contractual agreement, or agreements, to purchase an amount of domestically melted specialty metal in the required form, for use during the period of contract performance in the production of the commercial derivative military article and the related commercial article, that is not less than the greater of—

(i) an amount equivalent to 120 percent of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

(ii) an amount equivalent to 50 percent of the amount of specialty metal that is purchased by the contractor and its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article.

(2) For the purposes of this subsection, the amount of specialty metal that is required to carry out the production of the commercial derivative military article includes specialty metal contained in any item, including commercially available off-the-shelf items, incorporated into such commercial derivative military article.

(k) NATIONAL SECURITY WAIVER.—(1) Notwithstanding subsection (a), the Secretary of Defense or the Secretary of the military department concerned may accept the delivery of an end item containing noncompliant materials if the Secretary determines in writing that acceptance of such end item is necessary to the national security interests of the United States.

(2) A written determination under paragraph (1)—

(A) may be delegated—

(i) to the senior acquisition executive of the military department concerned for a waiver for

one or more acquisition programs within the such military department; and

(ii) to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Sustainment for a waiver applicable to more than one military department;

(B) shall specify the quantity of end items to which the waiver applies and the time period over which the waiver applies; and

(C) shall be provided to the congressional defense committees prior to making such a determination (except that in the case of an urgent national security requirement, such certification may be provided to the defense committees up to 7 days after it is made).

(3)(A) In any case in which the Secretary makes a determination under paragraph (1), the Secretary shall determine whether or not the noncompliance was knowing and willful.

(B) If the Secretary determines that the noncompliance was not knowing or willful, the Secretary shall ensure that the contractor or subcontractor responsible for the noncompliance develops and implements an effective plan to ensure future compliance.

(C) If the Secretary determines that the noncompliance was knowing or willful, the Secretary shall—

(i) require the development and implementation of a plan to ensure future compliance; and

(ii) consider suspending or debarring the contractor or subcontractor until such time as the contractor or subcontractor has effectively addressed the issues that lead to such noncompliance.

(l) PROVENANCE OF AEROSPACE-GRADE METALS.—(1) The Secretary of Defense shall require that, for any system or component for which the provenance of materials must be tracked to comply with safety regulations concerning flight, the supplier of such system or component shall inform the government if any of the materials were known to be manufactured or processed in—

(A) China;

(B) Iran;

(C) North Korea; or

(D) Russia.

(2) Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report indicating how much specialty metal has been acquired and placed into systems of the Department of Defense from the countries described in paragraph (1).

(m) SPECIALTY METAL DEFINED.—In this section, the term "specialty metal" means any of the following:

(1) Steel—

(A) with a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

(B) containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium.

(2) Metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 percent.

(3) Titanium and titanium alloys.

(4) Zirconium and zirconium base alloys.

(n) ADDITIONAL DEFINITIONS.—In this section:

(1) The term "United States" includes possessions of the United States.

(2) The term "component" has the meaning provided in section 105 of title 41.

(3) The term "acquisition" has the meaning provided in section 131 of title 41.

(4) The term "required form" shall not apply to end items or to their components at any tier. The term "required form" means in the form of mill product, such as bar, billet, wire, slab, plate or sheet, and in the grade appropriate for the production of—

(A) a finished end item delivered to the Department of Defense; or

(B) a finished component assembled into an end item delivered to the Department of Defense.

(5) The term "commercially available off-the-shelf", has the meaning provided in section 104 of title 41.

(6) The term "assemblies" means items forming a portion of a system or subsystem that can be provisioned and replaced as an entity and which incorporates multiple, replaceable parts.

(7) The term "commercial derivative military article" means an item procured by the Department of Defense that is or will be produced using the same production facilities, a common supply chain, and the same or similar production processes that are used for the production of articles predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.

(8) The term "subsystem" means a functional grouping of items that combine to perform a major function within an end item, such as electrical power, attitude control, and propulsion.

(9) The term "end item" means the final production product when assembled or completed, and ready for issue, delivery, or deployment.

(10) The term "subcontract" includes a subcontract at any tier.

(11) The term "qualifying foreign government" means the government of a country with which the United States has in effect a reciprocal defense procurement agreement or memorandum of understanding entered into pursuant to section 4851 of this title.

(Added Pub. L. 109–364, div. A, title VIII, §842(a)(1), Oct. 17, 2006, 120 Stat. 2335, §2533b; amended Pub. L. 110–181, div. A, title VIII, §804(a)–(f), Jan. 28, 2008, 122 Stat. 208–211; Pub. L. 111–350, §5(b)(39), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 111–383, div. A, title X, §1075(f)(2), Jan. 7, 2011, 124 Stat. 4376; Pub. L. 113–291, div. A, title X, §1071(a)(10), Dec. 19, 2014, 128 Stat. 3505; Pub. L. 115–232, div. A, title VIII, §837(c), Aug. 13, 2018, 132 Stat. 1875; Pub. L. 116–92, div. A, title IX, §902(77), Dec. 20, 2019, 133 Stat. 1552; renumbered §4863 and amended Pub. L. 116–283, div. A, title XVIII, §§1870(c)(2), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4285, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(18), Dec. 27, 2021, 135 Stat. 2138; Pub. L. 117–263, div. A, title XIV, §1411(d)(2)(A), Dec. 23, 2022, 136 Stat. 2871; Pub. L. 118–31, div. A, title VIII, §833(a), Dec. 22, 2023, 137 Stat. 337; Pub. L. 118–159, div. A, title VIII, §§844(a), 845, Dec. 23, 2024, 138 Stat. 1991, 1992.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (b)(1). Pub. L. 118–159, §844(a)(1)(A), inserted "at a reasonable price" after "when needed".

Subsec. (b)(3). Pub. L. 118–159, §844(a)(1)(B), added par. (3).

Subsec. (c)(1). Pub. L. 118–159, §844(a)(2), struck out "in support of combat operations or" after "United States" and inserted "or for use outside of the United States" after "contingency operations".

Subsec. (d)(1)(B). Pub. L. 118–159, §845(1), inserted "qualifying" before "foreign".

Subsec. (k)(1). Pub. L. 118–159, §844(a)(3)(A), inserted "or the Secretary of the military department concerned" after "Secretary of Defense".

Subsec. (k)(2)(A). Pub. L. 118–159, §844(a)(3)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "may not be delegated below the level of the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Sustainment;".

Subsec. (m)(11). Pub. L. 118–159, §845(2), added par. (11).

**2023**—Subsec. (d)(3). Pub. L. 118–31, §833(a)(1), added par. (3).

Subsecs. (l) to (n). Pub. L. 118–31, §833(a)(2), (3), added subsec. (l) and redesignated former subsecs. (l) and (m) as (m) and (n), respectively.

**2022**—Subsec. (g). Pub. L. 117–263 substituted "Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1)" for "Strategic Materials Protection Board pursuant to section 187 of this title".

**2021**—Pub. L. 116–283, §1870(c)(2), renumbered section 2533b of this title as this section.

Subsec. (c)(2). Pub. L. 117–81, §1701(d)(18)(A), which directed the substitution of "section 3204(a)(2)" for "section 2304(c)(2)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 3204(a)(2)" for "section 2304(c)(2)".

Subsec. (f). Pub. L. 117–81, §1701(d)(18)(B), which directed the substitution of "section 3205" for "section 2304(g)", could not be executed because of the intervening amendment by Pub. L. 116–283, §1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 3205" for "section 2304(g)".

**2019**—Subsec. (k)(2)(A). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**2018**—Subsec. (h). Pub. L. 115–232, §837(c)(1), substituted "Products" for "Items" in heading.

Subsec. (h)(1), (3). Pub. L. 115–232, §837(c)(2), substituted "commercial products" for "commercial items".

**2014**—Subsec. (h)(1). Pub. L. 113–291, §1071(a)(10)(A)(i), substituted "sections 1906 and 1907 of title 41" for "sections 34 and 35 of the Office of Federal Procurement Policy Act (41 U.S.C. 430 and 431)".

Subsec. (h)(2). Pub. L. 113–291, §1071(a)(10)(A)(ii), substituted "section 104 of title 41" for "section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))" in introductory provisions.

Subsec. (m)(2). Pub. L. 113–291, §1071(a)(10)(B)(i), substituted "section 105 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)".

Subsec. (m)(3). Pub. L. 113–291, §1071(a)(10)(B)(ii), substituted "section 131 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)".

Subsec. (m)(5). Pub. L. 113–291, §1071(a)(10)(B)(iii), substituted "section 104 of title 41" for "section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))".

**2011**—Subsec. (a)(2). Pub. L. 111–383, §1075(f)(2)(A), made technical amendment to directory language of Pub. L. 110–181, §804(a)(3). See 2008 Amendment note below.

Subsec. (h). Pub. L. 111–350, §5(b)(39)(A), which directed substitution of "section 1906 of title 41" for "section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)", could not be executed because the words "section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)" did not appear in text.

Subsec. (j). Pub. L. 111–350, §5(b)(39)(B), which directed substitution of "section 105 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)" in subsec. (j), could not be executed because the words "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)" did not appear in subsec. (j) after the amendment by Pub. L. 110–181, §804(d).

Subsec. (m)(3) to (10). Pub. L. 111–383, §1075(f)(2)(B), made technical amendment to directory language of Pub. L. 110–181, §804(e). See 2008 Amendment note below.

**2008**—Subsec. (a). Pub. L. 110–181, §804(a)(1), substituted "Except as provided in subsections (b) through (m), the acquisition by the Department of Defense of the following items is prohibited:" for "Except as provided in subsections (b) through (j), funds appropriated or otherwise available to the Department of Defense may not be used for procurement of—" in introductory provisions.

Subsec. (a)(1). Pub. L. 110–181, §804(a)(2), substituted "The following" for "the following" and substituted period for "; or" at end.

Subsec. (a)(2). Pub. L. 110–181, §804(a)(3), as amended by Pub. L. 111–383, §1075(f)(2)(A), substituted "A specialty" for "a specialty".

Subsec. (c). Pub. L. 110–181, §804(f)(1), substituted "Acquisitions" for "Procurements" in heading and pars. (1) and (2).

Subsec. (d). Pub. L. 110–181, §804(f)(2), substituted "acquisition" for "procurement" in introductory provisions and par. (1).

Subsec. (f). Pub. L. 110–181, §804(f)(3), substituted "acquisitions" for "procurements".

Subsec. (g). Pub. L. 110–181, §804(c), (f)(3), substituted "acquisitions" for "procurements" and "electronic components, unless the Secretary of Defense, upon the recommendation of the Strategic Materials Protection Board pursuant to section 187 of this title, determines that the domestic availability of a particular electronic component is critical to national security." for "commercially available electronic components whose specialty metal content is de minimis in value compared to the overall value of the lowest level electronic component produced that contains such specialty metal."

Subsec. (h). Pub. L. 110–181, §804(b), amended heading and text generally. Prior to amendment, text read as follows: "This section applies to procurements of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)."

Subsecs. (i) to (m). Pub. L. 110–181, §804(d), added subsecs. (i) to (k) and redesignated former subsecs. (i)

and (j) as (l) and (m), respectively.

Subsec. (m)(3) to (10). Pub. L. 110–181, §804(e), as amended by Pub. L. 111—383, §1075(f)(2)(B), added pars. (3) to (10).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title VIII, §833(b), Dec. 22, 2023, 137 Stat. 337, provided that: "Subsection (a) [amending this section] shall take effect on the date that is 24 months after the date of the enactment of this Act [Dec. 22, 2023]."

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(f)(2), Jan. 7, 2011, 124 Stat. 4376, provided that the amendment made by section 1075(f)(2) is effective as of January 28, 2008, and as if included in Public Law 110–181 as enacted.

### EFFECTIVE DATE

Pub. L. 109–364, div. A, title VIII, §842(a)(4)(A), Oct. 17, 2006, 120 Stat. 2337, provided that: "Section 2533b of title 10, United States Code [now 10 U.S.C. 4863], as added by paragraph (1), shall apply with respect to contracts entered into after the date occurring 30 days after the date of the enactment of this Act [Oct. 17, 2006]."

### REGULATIONS

Pub. L. 110–181, div. A, title VIII, §804(g), Jan. 28, 2008, 122 Stat. 211, provided that: "Not later than 120 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall prescribe regulations on the implementation of this section [amending this section and enacting provisions formerly set out as a note under section 2533b] and the amendments made by this section, including specific guidance on how thresholds established in subsections (h)(3), (i) and (j) of section 2533b of title 10, United States Code [now 10 U.S.C. 4863], as amended by this section, should be implemented."

### REQUIREMENTS RELATING TO WAIVERS OF CERTAIN DOMESTIC SOURCE LIMITATIONS RELATING TO SPECIALTY METALS

Pub. L. 110–181, div. A, title VIII, §884, Jan. 28, 2008, 122 Stat. 264, provided that:

"(a) NOTICE REQUIREMENT.—At least 30 days prior to making a domestic nonavailability determination pursuant to section 2533b(b) of title 10, United States Code [now 10 U.S.C. 4863(b)], that would apply to more than one contract of the Department of Defense, the Secretary of Defense shall, to the maximum extent practicable and in a manner consistent with the protection of national security information and confidential business information—

"(1) publish a notice on the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site) of the Secretary's intent to make the domestic nonavailability determination; and

"(2) solicit information relevant to such notice from interested parties, including producers of specialty metal mill products.

"(b) DETERMINATION.—(1) The Secretary shall take into consideration all information submitted pursuant to subsection (a) in making a domestic nonavailability determination pursuant to section 2533b(b) of title 10, United States Code [now 10 U.S.C. 4863(b)], that would apply to more than one contract of the Department of Defense, and may also consider other relevant information that cannot be made part of the public record consistent with the protection of national security information and confidential business information.

"(2) The Secretary shall ensure that any such determination and the rationale for such determination is made

publicly available to the maximum extent consistent with the protection of national security information and confidential business information."

## §4864. Miscellaneous limitations on the procurement of goods other than United States goods

(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure any of the following items only if the manufacturer of the item satisfies the requirements of subsection (b):

(1) BUSES.—Multipassenger motor vehicles (buses).

(2) COMPONENTS FOR NAVAL VESSELS.—The following components of vessels, to the extent they are unique to marine applications:

(A) Gyrocompasses.

(B) Electronic navigation chart systems.

(C) Steering controls.

(D) Propulsion and machinery control systems.

(E) Totally enclosed lifeboats.

(F) Welded shipboard anchor and mooring chain.

(3) COMPONENTS FOR AUXILIARY SHIPS.—Subject to subsection (k), large medium-speed diesel engines.

(4) COMPONENTS FOR T–AO 205 AND T–ARC CLASS VESSELS.—The following components of T–AO 205 and T–ARC class vessels:

(A) Auxiliary equipment, including pumps, for all shipboard services.

(B) Propulsion system components, including engines, reduction gears, and propellers.

(C) Shipboard cranes.

(D) Spreaders for shipboard cranes.

(5) STAR TRACKER.—A star tracker used in a satellite weighing more than 400 pounds whose principal purpose is to support the national security, defense, or intelligence needs of the United States Government.

(b) MANUFACTURER IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—(1) Except as provided in paragraph (2), a manufacturer meets the requirements of this subsection if the manufacturer is part of the national technology and industrial base.

(2) A manufacturer of welded shipboard anchor and mooring chain for naval vessels meets the requirements of this subsection if the manufacturer is part of the national technology and industrial base.

(c) APPLICABILITY TO CERTAIN ITEMS.—Subsection (a) does not apply to a procurement of spare or repair parts needed to support components for naval vessels produced or manufactured outside the United States.

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in that subsection if the Secretary determines that any of the following apply:

(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items that is entered into under section 4851 of this title, and that country does not

discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 4801(1) of this title) are not available.

(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 4801(1) of this title).

(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

(7) Application of the limitation is not in the national security interests of the United States.

(8) Application of the limitation would adversely affect a United States company.

(e) SONOBUOYS.—

(1) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

(2) WAIVER AUTHORITY.—The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

(3) DEFINITION.—In this subsection, the term "United States firm" has the meaning given such term in section 4852(d)(1) of this title.

(f) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

(1) specifically refers to this section;

(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.

(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract or subcontract for an amount that does not exceed the simplified acquisition threshold.

(h) IMPLEMENTATION OF NAVAL VESSEL COMPONENT LIMITATION.—In implementing subsection (a)(2), the Secretary of Defense—

(1) may not use contract clauses or certifications; and

(2) shall use management and oversight techniques that achieve the objective of the subsection without imposing a significant management burden on the Government or the contractor involved.

(i) IMPLEMENTATION OF CERTAIN WAIVER AUTHORITY.—(1) The Secretary of Defense may exercise the waiver authority described in paragraph (2) only if the waiver is made for a particular item listed in subsection (a) and for a particular foreign country.

(2) This subsection applies to the waiver authority provided by subsection (d) on the basis of the applicability of paragraph (2) or (3) of that subsection.

(3) The waiver authority described in paragraph (2) may not be delegated below the Under Secretary of Defense for Acquisition and Sustainment.

(4) At least 15 days before the effective date of any waiver made under the waiver authority described in paragraph (2), the Secretary shall publish in the Federal Register and submit to the congressional defense committees a notice of the determination to exercise the waiver authority.

(5) Any waiver made by the Secretary under the waiver authority described in paragraph (2) shall be in effect for a period not greater than one year, as determined by the Secretary.

(j) LIMITATION ON CERTAIN PROCUREMENTS APPLICATION PROCESS.—

(1) IN GENERAL.—The Secretary of Defense shall administer a process to analyze and assess potential items for consideration to be required to be procured from a manufacturer that is part of the national technology and industrial base.

(2) ELEMENTS.—The application process required under paragraph (1) shall include the following elements:

(A) The Secretary shall designate an official within the Office of the Secretary of Defense responsible for administration of the limitation on certain procurements application process and associated policy.

(B) A person or organization that meets the definition of national technology and industrial base under section 4801(1) of this title shall have the opportunity to apply for status as an item required to be procured from a manufacturer that is part of the national technology and industrial base. The application shall include, at a minimum, the following information:

(i) Information demonstrating the applicant meets the criteria of a manufacturer in the national technology and industrial base under section 4801(1) of this title.

(ii) For each item the applicant seeks to be required to be procured from a manufacturer that is part of the national technology and industrial base, the applicant shall include the following information:

(I) The extent to which such item has commercial applications.

(II) The number of such items to be procured by current programs of record.

(III) The criticality of such item to a military unit's mission accomplishment.

(IV) The estimated cost and other considerations of reconstituting the manufacturing capability of such item, if not maintained in the national technology and industrial base.

(V) National security regulations or restrictions imposed on such item that may not be imposed on a non-national technology and industrial base competitor.

(VI) Non-national security-related Federal, State, and local government regulations imposed on such item that may not be imposed on a non-national technology and industrial base competitor.

(VII) The extent to which such item is fielded in current programs of record.

(VIII) The extent to which cost and pricing data for such item has been deemed fair and reasonable.

(3) CONSIDERATION OF APPLICATIONS.—

(A) RESPONSIBILITY OF DESIGNATED OFFICIAL.—The official designated pursuant to paragraph (2)(A) shall be responsible for providing complete applications submitted pursuant to this subsection to the appropriate component acquisition executive for consideration not later than 15 days after receipt of such application.

(B) REVIEW.—Not later than 120 days after receiving a complete application, the component acquisition executive shall review such application, make a determination, and return the application to the official designated pursuant to paragraph (2)(A).

(C) ELEMENTS OF DETERMINATION.—The determination required under subparagraph (B) shall, for each item proposed pursuant to paragraph (2)(B)(ii)—

(i) recommend inclusion under this section;

(ii) recommend inclusion under this section with further modifications; or

(iii) not recommend inclusion under this section.

(D) JUSTIFICATION.—The determination required under subparagraph (B) shall also include the rationale and justification for the determination.

(4) RECOMMENDATIONS FOR LEGISLATION.—For applications recommended under subsection (3), the official designated pursuant to paragraph (2)(A) shall be responsible for preparing a legislative proposal for consideration by the Secretary.

(k) IMPLEMENTATION OF AUXILIARY SHIP COMPONENT LIMITATION.—(1) Subsection (a)(3) applies only with respect to contracts awarded by the Secretary of a military department for new construction of an auxiliary ship after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 using funds available for National Defense Sealift Fund programs or Shipbuilding and Conversion, Navy.

(2) For purposes of this subsection, the term "auxiliary ship"—

(A) with respect to a contract entered into after December 20, 2019, does not include an icebreaker or a special mission ship; and

(B) with respect to a contract entered into on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, includes an icebreaker or a special mission ship, unless the Secretary of the Navy certifies to Congress that the forecasted sales over a four-year period of large medium-speed diesel engines manufactured in the national technology and industrial base will not fall below the minimum sustaining rate for plant operations of a diminishing manufacturing source.

(l) PERIODIC REVIEW.—

(1) RECOMMENDATION.—Not later than November 1, 2024, and every five years thereafter, the Under Secretary of Defense for Acquisition and Sustainment shall review each item described in subsections (a) and (e) of this section and submit to the congressional defense committees, in writing, one of the following recommendations:

(A) Recommend continued inclusion of the item under this section.

(B) Recommend continued inclusion of the item under this section with modifications.

(C) Recommend discontinuing inclusion of the item under this section.

(2) ELEMENTS.—Each review required under paragraph (1) shall include, with respect to the five-year period preceding the date of submission of the written determination related to such a review, the following elements:

(A) The criticality of the item reviewed to a military unit's mission accomplishment or other national security objectives.

(B) The extent to which such item is fielded in current programs of record.

(C) The number of such items to be procured by current programs of record.

(D) The extent to which cost and pricing data for such item has been deemed fair and reasonable.

(3) JUSTIFICATION.—The written determination required under paragraph (1) shall also include the findings of the applicable review conducted under such paragraph and any key justifications for the recommendation.

(Added Pub. L. 97–295, §1(29)(A), Oct. 12, 1982, 96 Stat. 1294, §2400; amended Pub. L. 100–180, div. A, title I, §124(a), (b)(1), title VIII, §824(a), Dec. 4, 1987, 101 Stat. 1042, 1043, 1134; renumbered §2502 and amended Pub. L. 100–370, §3(b)(1), July 19, 1988, 102 Stat. 855; renumbered §2507 and amended Pub. L. 100–456, div. A, title VIII, §§821(b)(1)(A), 822, Sept. 29, 1988, 102 Stat. 2014, 2017; Pub. L. 101–510, div. A, title VIII, §835(a), title XIV, §1421, Nov. 5, 1990, 104 Stat. 1614, 1682; Pub. L. 102–190, div. A, title VIII, §§834, 835, Dec. 5, 1991, 105 Stat. 1447, 1448; renumbered §2534 and amended Pub. L. 102–484, div. A, title VIII, §§831, 833(a), title X, §1052(33), div. D, title XLII, §§4202(a), 4271(b)(4), Oct. 23, 1992, 106 Stat. 2460, 2461, 2501, 2659, 2696; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title VIII, §814, Oct. 5, 1994, 108 Stat. 2817; Pub. L. 103–355, title IV, §4102(i), Oct. 13, 1994, 108 Stat. 3341; Pub. L. 104–106, div. A, title VIII, §806(a)(1)–(4), (b)–(d), title XV, §1503(a)(30), Feb. 10, 1996, 110 Stat. 390, 391, 512; Pub. L. 104–201, div. A, title VIII, §810, title X, §1074(a)(14), Sept. 23, 1996, 110 Stat. 2608, 2659; Pub. L. 105–85, div. A, title III, §371(d)(1), title VIII, §811(a), title X, §1073(a)(55), Nov. 18, 1997, 111 Stat. 1706, 1839, 1903; Pub. L. 106–398, §1 [[div. A], title VIII, §805], Oct. 30, 2000, 114 Stat. 1654, 1654A–207; Pub. L. 107–107, div. A, title VIII, §835(a), title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1191, 1225; Pub. L.

108–136, div. A, title VIII, §828, Nov. 24, 2003, 117 Stat. 1548; Pub. L. 111–350, §5(b)(40), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. A, title VIII, §813(a), Dec. 12, 2017, 131 Stat. 1461; Pub. L. 115–232, div. A, title VIII, §844(a), Aug. 13, 2018, 132 Stat. 1879; Pub. L. 116–92, div. A, title VIII, §853, Dec. 20, 2019, 133 Stat. 1511; renumbered §4864 and amended Pub. L. 116–283, div. A, title VIII, §845(a), title XVI, §1603(a), title XVIII, §1870(c)(2)–(4), Jan. 1, 2021, 134 Stat. 3766, 4043, 4285; Pub. L. 117–81, div. A, title VIII, §816, title X, §1081(a)(30), title XVII, §1701(b)(23), Dec. 27, 2021, 135 Stat. 1825, 1921, 2135; Pub. L. 117–263, div. A, title VIII, §§852, 853(a), Dec. 23, 2022, 136 Stat. 2721, 2722; Pub. L. 118–159, div. A, title VIII, §846, Dec. 23, 2024, 138 Stat. 1992.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2400 | 10:2303 (note). | Sept. 20, 1968, Pub. L. 90–500, §404, 82 Stat. 851. |

The words "of the United States under the provisions of this Act or the provisions of any other law" are omitted as surplus. The word "acquisition" is substituted for "purchase, lease, rental, or other acquisition" because it is inclusive. The words "this section" are substituted for "this prohibition" because of the restatement.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (k)(2)(B), is the date of enactment of Pub. L. 118–159, also known as the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, which was approved Dec. 23, 2024.

### AMENDMENTS

Subsec. (k). Pub. L. 118–159 designated existing provisions as par. (1), struck out "For purposes of this subsection, the term 'auxiliary ship' does not include an icebreaker or a special mission ship." after "Shipbuilding and Conversion, Navy.", and added par. (2).

**2022**—Subsec. (a)(4). Pub. L. 117–263, §853(a)(2), inserted "and T–ARC" after "T–AO 205" in heading and introductory provisions in text.

Subsecs. (k), (l). Pub. L. 117–263, §§852, 853(a)(1) added subsec. (l) and redesignated former subsec. (l) as (k).

**2021**—Pub. L. 116–283, §1870(c)(2), renumbered section 2534 of this title as this section.

Subsec. (a)(2). Pub. L. 116–283, §845(a)(1)(A),(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "Chemical weapons antidote contained in automatic injectors (and components for such injectors)."

Subsec. (a)(2)(F). Pub. L. 117–81, §816(1), added subpar. (F).

Subsec. (a)(3). Pub. L. 117–81, §1081(a)(30)(A), substituted "subsection (k)" for "subsection (j)".

Pub. L. 116–283, §845(a)(1)(A), (C), redesignated par. (6) as (3), substituted "subsection (j)" for "subsection (k)", and struck out former par. (3) which related to components for naval vessels.

Subsec. (a)(4). Pub. L. 116–283, §845(a)(1)(A), (D), added par. (4) and struck out former par. (4) which related to valves and machine tools.

Subsec. (a)(5). Pub. L. 117–81, §1081(a)(30)(B), substituted "principal" for "principle".

Pub. L. 116–283, §1603(a), added par. (5).

Pub. L. 116–283, §845(a)(1)(A), struck out par. (5). Text read as follows: "Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992, except ball bearings and roller bearings being procured for use in an end product manufactured by a manufacturer that does not satisfy the requirements of subsection (b) or in a component part manufactured by such a manufacturer."

Subsec. (a)(6). Pub. L. 116–283, §845(a)(1)(A), redesignated par. (6) as (3).

Subsec. (b). Pub. L. 117–81, §816(2), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), a manufacturer" for "A manufacturer", and added par. (2).

Pub. L. 116–283, §845(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to manufacturer in the national technology and industrial base.

Subsec. (c). Pub. L. 116–283, §845(a)(3), struck out par. (1) designation and heading and struck out pars. (2) to (5), which related to valves and machine tools, ball bearings and roller bearings, vessel propellers, and chemical weapons antidote, respectively.

Subsec. (d)(3). Pub. L. 116–283, §1870(c)(3)(A), substituted "section 4851" for "section 2531".

Subsec. (d)(4), (5). Pub. L. 116–283, §1870(c)(3)(B), as added by Pub. L. 117–81, §1701(b)(23)(A), substituted "section 4801(1)" for "section 2500(1)".

Subsec. (e)(3). Pub. L. 116–283, §1870(c)(3)(C), formerly §1870(c)(3)(B), as redesignated by Pub. L. 117–81, §1701(b)(23)(B), substituted "section 4852(d)(1)" for "section 2532(d)(1)".

Subsec. (g). Pub. L. 116–283, §845(a)(4), struck out par. (1) designation and par. (2) which read as follows: "Paragraph (1) does not apply to contracts for items described in subsection (a)(5) (relating to ball bearings and roller bearings), notwithstanding section 1905 of title 41."

Subsec. (h). Pub. L. 116–283, §845(a)(5), substituted "subsection (a)(2)" for "subsection (a)(3)(B)" in introductory provisions.

Subsec. (i)(3). Pub. L. 116–283, §845(a)(6), substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

Subsec. (j). Pub. L. 116–283, §845(a)(7), (8), redesignated subsec. (k) related to limitation on certain procurements application process as (j) and struck out former subsec. (j) which related to inapplicability to certain contracts to purchase ball bearings or roller bearings.

Subsec. (j)(2)(B). Pub. L. 116–283, §1870(c)(3)(D), formerly §1870(c)(3)(C), as redesignated and amended by Pub. L. 117–81, §1701(b)(23)(B), (C), substituted "section 4801(1)" for "section 2500(1)" in two places.

Subsec. (k). Pub. L. 116–283, §1870(c)(4), redesignated subsec. (k) relating to implementation of auxiliary ship component limitation as (l).

Pub. L. 116–283, §845(a)(9), substituted "Subsection (a)(3)" for "Subsection (a)(6)" in subsec. (k) relating to implementation of auxiliary ship component limitation.

Pub. L. 116–283, §845(a)(8), redesignated subsec. (k) related to limitation on certain procurements application process as (j).

Subsec. (l). Pub. L. 116–283, §1870(c)(4), redesignated subsec. (k) relating to implementation of auxiliary ship component limitation as (l).

**2019**—Subsec. (a)(6). Pub. L. 116–92, §853(a), added par. (6).

Subsec. (k). Pub. L. 116–92, §853(b), added subsec. (k) related to implementation of auxiliary ship component limitation.

**2018**—Subsec. (k). Pub. L. 115–232 added subsec. (k) related to limitation on certain procurements application process.

**2017**—Subsec. (c)(5). Pub. L. 115–91 added par. (5).

**2011**—Subsec. (g)(2). Pub. L. 111–350 substituted "section 1905 of title 41" for "section 33 of the Office of Federal Procurement Policy Act (41 U.S.C. 429)".

**2003**—Subsec. (a)(5). Pub. L. 108–136 inserted before period at end ", except ball bearings and roller bearings being procured for use in an end product manufactured by a manufacturer that does not satisfy the requirements of subsection (b) or in a component part manufactured by such a manufacturer".

**2001**—Subsec. (i)(3). Pub. L. 107–107, §1048(b)(2), substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

Subsec. (j). Pub. L. 107–107, §835(a), added subsec. (j).

**2000**—Subsec. (c)(3). Pub. L. 106–398 substituted "October 1, 2005" for "October 1, 2000".

**1997**—Subsec. (b)(3). Pub. L. 105–85, §1073(a)(55), substituted "(a)(3)(A)(iii)" for "(a)(3)(A)(ii)".

Subsec. (d)(4), (5). Pub. L. 105–85, §371(d)(1), substituted "section 2500(1)" for "section 2491(1)".

Subsec. (i). Pub. L. 105–85, §811(a), added subsec. (i).

**1996**—Subsec. (a)(3). Pub. L. 104–106, §806(a)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels."

Subsec. (b)(3). Pub. L. 104–106, §806(a)(2), added par. (3).

Subsec. (c). Pub. L. 104–106, §1503(a)(30), substituted "CERTAIN ITEMS" for "CERTAIN ITEMS" in heading.

Subsec. (c)(1). Pub. L. 104–106, §806(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "AIR CIRCUIT BREAKERS.—Subsection (a) does not apply to a procurement of spares or repair parts needed to support air circuit breakers produced or manufactured outside the United States."

Subsec. (c)(3). Pub. L. 104–106, §806(b), substituted "October 1, 2000" for "October 1, 1995".

Subsec. (c)(4). Pub. L. 104–201, §1074(a)(14), substituted "February 10, 1998" for "the date occurring two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996".

Pub. L. 104–106, §806(c), added par. (4).

Subsec. (d)(3). Pub. L. 104–201, §810, inserted "or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items that is entered into under section 2531 of this title," after "a foreign country,".

Subsec. (g). Pub. L. 104–106, §806(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 104–106, §806(a)(4), added subsec. (h).

**1994**—Pub. L. 103–337 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to acquisition of multipassenger motor vehicles, chemical weapons antidote, valves and machine tools, carbonyl iron powders, air circuit breakers, and sonobuoys.

Subsec. (g). Pub. L. 103–355 added subsec. (g).

**1993**—Subsec. (b)(2). Pub. L. 103–160 substituted "Under Secretary of Defense for Acquisition and Technology" for "Under Secretary of Defense for Acquisition".

**1992**—Pub. L. 102–484, §§4202(a), 4271(b)(4), renumbered section 2507 of this title as section 2534 and substituted "Miscellaneous limitations on the procurement of goods other than United States goods" for "Miscellaneous procurement limitations" in section catchline.

Subsec. (c). Pub. L. 102–484, §831, redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "MANUAL TYPEWRITERS FROM WARSAW PACT COUNTRIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless the products of that country are accorded nondiscriminatory treatment (most-favored-nation treatment)."

Subsec. (d). Pub. L. 102–484, §831(b), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(3)(A). Pub. L. 102–484, §1052(33), substituted "Government-owned" for "government-owned".

Subsec. (e). Pub. L. 102–484, §831(b), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 102–484, §833(a), added subsec. (f). Former subsec. (f) redesignated (e).

**1991**—Subsec. (d)(1). Pub. L. 102–190, §834(a), substituted "Effective through fiscal year 1996" for "During fiscal years 1989, 1990, and 1991".

Subsec. (d)(3) to (5). Pub. L. 102–190, §834(b), added pars. (3) and (4), redesignated former par. (3) as (5), and struck out former par. (4) which read as follows: "The provisions of this section may be renewed with respect to any item by the Secretary of Defense at the end of fiscal year 1991 for an additional two fiscal years if the Secretary determines that a continued restriction on that item is in the national security interest."

Subsec. (e)(1). Pub. L. 102–190, §835(1), substituted "Until January 1, 1993, the Secretary" for "The Secretary".

Subsec. (e)(3). Pub. L. 102–190, §835(2), (4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "After September 30, 1994, the Secretary may terminate the restriction required under paragraph (1) if the Secretary determines that continuing the restriction is not in the national interest."

Subsec. (e)(3)(A). Pub. L. 102–190, §835(3), struck out before period "by an entity more than 50 percent of which is owned or controlled by citizens of the United States or Canada".

Subsec. (e)(4). Pub. L. 102–190, §835(4), redesignated par. (4) as (3).

**1990**—Subsec. (e). Pub. L. 101–510, §835(a), added subsec. (e).

Subsec. (f). Pub. L. 101–510, §1421, added subsec. (f).

**1988**—Pub. L. 100–370, and Pub. L. 100–456, §821(b)(1)(A), successively renumbered section 2400 of this title as section 2502 of this title and then as this section.

Subsec. (a). Pub. L. 100–370 substituted "this subsection" for "this section".

Subsec. (d). Pub. L. 100–456, §822, added subsec. (d).

**1987**—Pub. L. 100–180 substituted "Miscellaneous procurement limitations" for "Limitation on procurement of buses" in section catchline, designated existing provisions as subsec. (a) and added heading, and added subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and

note below.

Amendment by section 1870(c)(2)–(4) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title VIII, §844(b), Aug. 13, 2018, 132 Stat. 1881, as amended by Pub. L. 116–92, div. A, title XVII, §1731(b)(2), Dec. 20, 2019, 133 Stat. 1816, provided that: "The amendment made by subsection (a) [amending this section] shall take effect one year after the date of the enactment of this Act [Aug. 13, 2018]."

[Pub. L. 116–92, div. A, title XVII, §1731(b), Dec. 20, 2019, 133 Stat. 1816, provided that the amendment made by section 1731(b)(2) to section 844(b) of Pub. L. 115–232, set out above, is effective Aug. 13, 2018, and as if included in Pub. L. 115–232 as enacted.]

## EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title VIII, §811(b), Nov. 18, 1997, 111 Stat. 1840, provided that: "Subsection (i) of section 2534 of such title [now 10 U.S.C. 4864(i)], as added by subsection (a), shall apply with respect to—

"(1) contracts and subcontracts entered into on or after the date of the enactment of this Act [Nov. 18, 1997]; and

"(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (d) of such section 2534 [now 10 U.S.C. 4864(d)], on the basis of the applicability of paragraph (2) or (3) of that subsection."

## EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

## EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title VIII, §833(b), Oct. 23, 1992, 106 Stat. 2461, provided that: "Subsection (f) of section 2534 of title 10, United States Code, as added by subsection (a) [see, now, 10 U.S.C. 4864(e)], shall apply with respect to solicitations for contracts issued after the expiration of the 120-day period beginning on the date of the enactment of this Act [Oct. 23, 1992]."

## REGULATIONS

Pub. L. 117–263, div. A, title VIII, §853(b), Dec. 23, 2022, 136 Stat. 2722, provided that: "Not later than June 1, 2023, the Secretary of Defense shall issue regulations for carrying out section 4864(j) of title 10, United States Code."

## REVIEW OF SELECT COMPONENTS

Pub. L. 116–283, div. A, title VIII, §845(b), Jan. 1, 2021, 134 Stat. 3767, provided that:

"The Secretary of the Defense shall expedite the review period under paragraph (3)(B) of section 2534(j) of title 10, United States Code [now 10 U.S.C. 4864(j)], as redesignated by subsection (a), to not more than 60 days for applications submitted pursuant to such section 2534(j) [now 4864(j)] for the following components for auxiliary ships:

"(1) Auxiliary equipment, including pumps, for all shipboard services.

"(2) Propulsion system components, including engines, reduction gears, and propellers.

"(3) Shipboard cranes.

"(4) Spreaders for shipboard cranes."

## CERTAIN EXEMPTION

Pub. L. 116–283, div. A, title XVI, §1603(b), Jan. 1, 2021, 134 Stat. 4043, provided that: "Paragraph (5) of section 2534(a) of title 10, United States Code [now 10 U.S.C. 4864(a)(5)], as added by subsection (a) of this section, shall not apply with respect to programs that have received Milestone A approval (as defined in section 2431a of such title [now 10 U.S.C. 4211]) before October 1, 2021."

## CLARIFICATION OF DELEGATION AUTHORITY

Pub. L. 116–283, div. A, title XVI, §1603(c), Jan. 1, 2021, 134 Stat. 4043, provided that: "Subject to subsection (i) of section 2534 of title 10, United States Code [now 10 U.S.C. 4864(i)], the Secretary of Defense may delegate to a service acquisition executive the authority to make a waiver under subsection (d) of

such section with respect to the limitation under subsection (a)(5) of such section, as added by subsection (a) of this section."

**PROCUREMENT OF PHOTOVOLTAIC DEVICES**

Pub. L. 111–383, div. A, title VIII, §846, Jan. 7, 2011, 124 Stat. 4285, as amended by Pub. L. 113–291, div. A, title X, §1071(b)(1)(A), Dec. 19, 2014, 128 Stat. 3505, provided that:

"(a) CONTRACT REQUIREMENT.—The Secretary of Defense shall ensure that each contract described in subsection (b) awarded by the Department of Defense includes a provision requiring the photovoltaic devices provided under the contract to comply with chapter 83 of title 41, United States Code, subject to the exceptions to that chapter provided in the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) or otherwise provided by law.

"(b) CONTRACTS DESCRIBED.—The contracts described in this subsection include energy savings performance contracts, utility service contracts, land leases, and private housing contracts, to the extent that such contracts result in ownership of photovoltaic devices by the Department of Defense. For the purposes of this section, the Department of Defense is deemed to own a photovoltaic device if the device is—

"(1) installed on Department of Defense property or in a facility owned by the Department of Defense; and

"(2) reserved for the exclusive use of the Department of Defense for the full economic life of the device.

"(c) DEFINITION OF PHOTOVOLTAIC DEVICES.—In this section, the term 'photovoltaic devices' means devices that convert light directly into electricity through a solid-state, semiconductor process."

## §4865. Prohibition on acquisition of advanced batteries composed of materials from certain foreign sources

(a) IN GENERAL.—The Secretary of Defense shall procure advanced batteries and cells whose functional cell components and technology, whether as end items or embedded within warfighting and support systems, are not owned, sourced, refined, or produced from a foreign entity of concern.

(b) APPLICABILITY.—This section applies to all new acquisition programs on January 1, 2028, standard batteries on January 1, 2029, and for existing acquisition programs on January 30, 2031.

(c) EXCEPTIONS.—

(1) SOURCING AND PRODUCTION COMPLIANCE.—

(A) IN GENERAL.—Subsection (a) does not apply to an advanced battery or cell of an advanced battery if—

(i) the final assembly of such advanced battery or cell is carried out by an entity other than a foreign entity of concern;

(ii) functional cell components comprising more than 95 percent of the costs of the functional cell components of such advanced battery or cell are from sources other than foreign entities of concern; and

(iii) such advanced battery or cell is produced without technology licensed from a foreign entity of concern.

(B) RECYCLED SOURCE DETERMINATION.—For the purposes of subparagraph (A)(ii), any material or component from an entity that has been recycled and reprocessed domestically is considered to originate from that entity regardless of origin.

(2) EXCLUDED BATTERIES.—Subsection (a) does not apply to a battery or cell of a battery that is—

(A) acquired for use in a cell phone, laptop, personal electronic device, or medical equipment intended for use in an office, administrative, hospital, or non-combat environment;

(B) commercially available off-the-shelf item for use only in the maintenance of equipment; or

(C) acquired for research, development, testing, and evaluation by the Department of Defense.

(3) WAIVER.—

(A) IN GENERAL.—The Secretary of Defense may waive the limitations specified in subsection (a) for a specific system or battery for one year if—

(i) the Secretary determines that a satisfactory quality and sufficient quantity such advanced battery or cell that are not subject to such prohibition cannot be acquired as and when needed by the Department of Defense at reasonable costs; or

(ii) in the case of an advanced battery or cell that is a component of a warfighting or support system, sufficient documentation exists to show that such advanced battery or cell is not a functional enabler of operational capability for such system and such advanced battery or cell poses no risk to the security of or sourcing for such system.

(B) DELEGATION.—The Secretary of Defense may delegate the authority under subparagraph (A) only to the Under Secretary of Defense for Acquisition and Sustainment.

(d) REPORT.—Not later than December 1, 2028, and not less frequently than once every three years thereafter until the date that is twelve years after the date of the enactment of this Act, the Secretary of Defense shall provide to the congressional defense committees a briefing on the status of meeting the requirements under subsection (a).

(e) DEFINITIONS.—In this section:

(1) The term "new acquisition program" means a defense acquisition program that has not reached the initiation of the engineering and manufacturing development phase, or an equivalent phase of development, including a defense acquisition program that has not undergone a formal Milestone B approval or equivalent decision point, before the date of the enactment of this Act.

(2) The term "existing acquisition program" means a defense acquisition program that has reached the initiation of the engineering and manufacturing development phase, or an equivalent phase of development, including a defense acquisition program that has undergone a formal Milestone B approval or equivalent decision point, before the date of the enactment of this Act.

(3) The term "functional cell component" means the cathode materials, anode materials, separators, anode foils, and other functional materials of an advanced battery that contribute to the chemical processes necessary for energy storage, including solvents, additives, electrolyte salts, and internal safety devices.

(4) The "foreign entity of concern" has the meaning given such term under section 40207(a) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)), and includes entities specified in section 154 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 4651 note prec.).

(5) The term "standard battery" means a battery that used in more than one weapons system and are not managed by one portfolio acquisition executive.

(Added Pub. L. 119–60, div. A, title VIII, §842(a), Dec. 18, 2025, 139 Stat. 973.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (d), (e)(1), (2), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–60, div. A, title VIII, §842(b), Dec. 18, 2025, 139 Stat. 975, provided that: "Section 4865 of title 10, United States Code, as added by subsection (a), shall apply only with respect to contracts or other agreements entered into after the date of the enactment of this Act [Dec. 18, 2025]."

### IMPLEMENTATION

Pub. L. 119–60, div. A, title VIII, §842(c), Dec. 18, 2025, 139 Stat. 975, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to incorporate the requirements of this section 4865 of title 10, United States Code, as added by subsection (a)."

## SUBCHAPTER III—LIMITATIONS ON PROCUREMENT FROM CERTAIN FOREIGN SOURCES

Sec.
4871. Contracts: consideration of national security objectives.
4872. Acquisition of sensitive materials from non-allied foreign nations: prohibition.
4873. Additional requirements pertaining to printed circuit boards.
4874. Award of certain contracts to entities controlled by a foreign government: prohibition.
4875. Prohibition on acquisition of personal protective equipment and certain other items from non-allied foreign nations.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(t)(1), Dec. 27, 2021, 135 Stat. 2150, amended Pub. L. 116–283, div. A, title XVIII, §1870(d)(1), Jan. 1, 2021, 135 Stat. 4286, which added this analysis, by substituting "Contracts: consideration of national security objectives" for "Acquisition of sensitive materials from non-allied foreign nations: prohibition" in item 4871 and "Acquisition of sensitive materials from non-allied foreign nations: prohibition" for "Award of certain contracts to entities controlled by a foreign government: prohibition" in item 4872 and by adding item 4874.

Pub. L. 117–81, div. A, title VIII, §802(b)(2)(A), title XVII, §1701(e)(2)(B), Dec. 27, 2021, 135 Stat. 1813, 2138, added items 4873 and 4875. Amendment by section 1701(e)(2)(B), which directed adding item 4873 to the analysis for this chapter, was executed by adding item 4873 to analysis for this subchapter to reflect the probable intent of Congress.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ENHANCED AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN AFRICA IN SUPPORT OF CERTAIN ACTIVITIES

Pub. L. 114–328, div. A, title VIII, §899A(a)–(e), Dec. 23, 2016, 130 Stat. 2336, 2337, provided that:

"(a) IN GENERAL.—Except as provided in subsection (c), in the case of a product or service to be acquired in support of covered activities in a covered African country for which the Secretary of Defense makes a determination described in subsection (b), the Secretary may conduct a procurement in which—

"(1) competition is limited to products or services from the host nation;

"(2) a preference is provided for products or services from the host nation; or

"(3) a preference is provided for products or services from a covered African country, other than the host nation.

"(b) DETERMINATION.—

"(1) IN GENERAL.—A determination described in this subsection is a determination by the Secretary of any of the following:

"(A) That the product or service concerned is to be used only in support of covered activities.

"(B) That it is in the national security interests of the United States to limit competition or provide a preference as described in subsection (a) because such limitation or preference is necessary—

"(i) to reduce overall United States transportation costs and risks in shipping products in support of operations, exercises, theater security cooperation activities, and other missions in the African region;

"(ii) to reduce delivery times in support of covered activities; or

"(iii) to promote regional security and stability in Africa.

"(C) That the product or service is of equivalent quality to a product or service that would have otherwise been acquired without such limitation or preference.

"(2) REQUIREMENT FOR EFFECTIVENESS OF ANY PARTICULAR DETERMINATION.—A

determination under paragraph (1) shall not be effective for purposes of a limitation or preference under subsection (a) unless the Secretary also determines that—

"(A) the limitation or preference will not adversely affect—

"(i) United States military operations or stability operations in the African region; or

"(ii) the United States industrial base; and

"(B) in the case of air transportation, an air carrier holding a certificate under section 41102 of title 49, United States Code, is not reasonably available to provide the air transportation.

"(c) INAPPLICABILITY OF AUTHORITY TO PROCUREMENT OF ITEMS ON ABILITYONE PROCUREMENT CATALOG.—The authority under subsection (a) may not be used for the procurement of any good that is contained in the procurement list described in section 8503(a) of title 41, United States Code, if such good can be produced and delivered by a qualified non profit agency for the blind or a nonprofit agency for other severely disabled in a timely fashion to support mission requirements.

"(d) REPORT ON USE OF AUTHORITY.—Not later than December 31, 2017, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of the authority in subsection (a). The report shall include, but not be limited to, the following:

"(1) The number of determinations made by the Secretary pursuant to subsection (b).

"(2) A list of the countries providing products or services as a result of determinations made pursuant to subsection (b).

"(3) A description of the products and services acquired using the authority.

"(4) The extent to which the use of the authority has met the one or more of the objectives specified in clause (i), (ii), or (iii) of subsection (b)(1)(B).

"(5) Such recommendations for improvements to the authority as the Secretary considers appropriate.

"(6) Such other matters as the Secretary considers appropriate.

"(e) DEFINITIONS.—In this section:

"(1) COVERED ACTIVITIES.—The term 'covered activities' means Department of Defense activities in the African region or a regional neighbor.

"(2) COVERED AFRICAN COUNTRY.—The term 'covered African country' means a country in Africa that has signed a long-term agreement with the United States related to the basing or operational needs of the United States Armed Forces.

"(3) HOST NATION.—The term 'host nation' means a nation that allows the Armed Forces and supplies of the United States to be located on, to operate in, or to be transported through its territory.

"(4) PRODUCT OR SERVICE OF A COVERED AFRICAN COUNTRY.—The term 'product or service of a covered African country' means the following:

"(A) A product from a covered African country that is wholly grown, mined, manufactured, or produced in the covered African country.

"(B) A service from a covered African country that is performed by a person or entity that—

"(i) is properly licensed or registered by appropriate authorities of the covered African country; and

"(ii) as determined by the Chief of Mission concerned—

"(I) is operating primarily in the covered African country; or

"(II) is making a significant contribution to the economy of the covered African country through payment of taxes or use of products, materials, or labor that are primarily grown, mined, manufactured, produced, or sourced from the covered African country."

## PROHIBITION ON CONTRACTING WITH THE ENEMY

Pub. L. 113–291, div. A, title VIII, subtitle E, Dec. 19, 2014, 128 Stat. 3450, as amended by Pub. L. 115–232, div. A, title VIII, §872, title XII, §1251(b)(2), Aug. 13, 2018, 132 Stat. 1905, 2053; Pub. L. 116–92, div. A, title VIII, §822, Dec. 20, 2019, 133 Stat. 1490, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(3), Jan. 1, 2021, 134 Stat. 3873; Pub. L. 117–263, div. A, title VIII, §820, Dec. 23, 2022, 136 Stat. 2709; Pub. L. 118–31, div. A, title VIII, §823(a)–(c), Dec. 22, 2023, 137 Stat. 327–331; Pub. L. 118–159, div. A, title XVII, §1701(e), Dec. 23, 2024, 138 Stat. 2207, provided that:

"SEC. 841. THREAT MITIGATION IN COMMERCIAL SUPPORT TO OPERATIONS.

"(a) PROGRAM ESTABLISHED.—The Secretary of Defense shall, in conjunction with the Director of National Intelligence and the Secretary of State, establish a program to enable commanders of combatant commands to identify and manage risks resulting from covered persons and entities engaging in covered activities. The Secretary of Defense shall issue guidance establishing such program, including identifying who shall be responsible for carrying out and overseeing the program, procedures for using information available

from intelligence, security, and law enforcement sources to identify such risks, and strategies for managing the risks posed by covered persons and entities engaging in covered activities.

"(b) AUTHORITY.—

"(1) IDENTIFICATION.—

"(A) IN GENERAL.—Under the program established under subsection (a), the commander of the combatant command concerned shall evaluate covered persons and entities within the area of responsibility of such command to identify such covered persons and entities that are engaging in covered activities.

"(B) NOTIFICATION.—Upon identification of a covered person or entity who is engaging in covered activities pursuant to an evaluation under subparagraph (A), the commander of the combatant command concerned, or the designated deputies of such commander, shall submit to the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Intelligence and Security, and the Under Secretary of Defense for Policy a notice of such identification and the rationale for such identification.

"(2) COVERED PROCUREMENT ACTIONS.—The head of a contracting activity may take a covered procurement action with respect to a person or entity identified as engaging in a covered activity under the program established under subsection (a) if such head receives a notification from the Under Secretary of Defense for Acquisition and Sustainment stating that, based on a risk assessment conducted by the commander of a combatant command who made such identification—

"(A) such person or entity is a covered person or entity;

"(B) such person or entity is or was engaging in one or more covered activities; and

"(C) less intrusive measures are not reasonably available to manage the risk posed by such person or entity.

"(c) NOTIFICATION TO COVERED PERSON OR ENTITY.—

"(1) ADVANCE NOTICE.—The head of a contracting activity, or other appropriate official, shall notify covered persons and entities of the following:

"(A) The program established under subsection (a).

"(B) The authorities provided by subsection (b).

"(C) The responsibilities of covered persons or entities to exercise due diligence to mitigate their engagement in covered activities.

"(2) NOTICE OF COVERED PROCUREMENT ACTIONS.—

"(A) IN GENERAL.—Not later than 30 days prior to taking a covered procurement action, the head of a contracting activity shall notify the covered person or entity of the covered procurement action. The covered person or entity shall be permitted the opportunity to challenge the covered procurement action by requesting an administrative review of the action under the procedures of the Department of Defense not later than 30 days after receipt of notice of the action.

"(B) LIMITATION ON DISCLOSURE OF INFORMATION.—The rationale of the commander of a combatant command that identified the covered person or entity receiving a notice under subparagraph (A) as a covered person or entity engaging in a covered activity under subsection (b)(1) shall not be disclosed to such covered person or entity, or their representatives, to the extent that such disclosure would compromise national security or pose an unacceptable threat to personnel of the United States or its partners or allies.

"(C) PROTECTION OF CLASSIFIED INFORMATION.—Classified information relied upon to take a covered procurement action may not be disclosed to a covered person or entity, or to their representatives, unless a protective order issued by a court of competent jurisdiction established under article I or article III of the Constitution of the United States specifically addresses the conditions under which such classified information may be disclosed.

"(d) COVERED PROCUREMENT ACTION REPORTING.—Not later than 15 days after the head of a contracting activity takes a covered procurement action, such head of a contracting activity shall report such covered procurement action to the Under Secretary of Defense for Acquisition and Sustainment and include such covered procurement action in the Federal Awardee Performance and Integrity Information System or other formal systems of record and, in the case that such cover procurement action is for the exclusion a person or commercial entity from an award, the System for Award Management.

"(e) ANNUAL REVIEW.—The Secretary of Defense, in coordination with the Director of National Intelligence and the Secretary of State, shall, on an annual basis, review the lists of persons and entities previously subject to a covered procurement action under subsection (b)(2) to determine whether or not such persons and entities continue to warrant use of the covered procurement action.

"(f) WAIVER.—The Secretary of Defense, in conjunction with the Secretary of State, may grant a waiver

for actions taken under subsection (b) if it is in the best interest of national security.

"(g) DELEGATION OF AUTHORITY.—The authority provided by subsection (b) to make a determination to use a covered procurement action, in whole or in part, may not be delegated below the level of head of contracting activity, or equivalent official, for purposes of grants or cooperative agreements.

"(h) UPDATING REGULATIONS.—The Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement shall be revised to implement the provisions of this subtitle.

"(i) REPORTS.—

"(1) IN GENERAL.—Not later than March 1 of 2023, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees (as defined in section 101(a) of title 10, United States Code) a report on the use of the authorities in this section in the preceding calendar year, including the following:

"(A) For each instance in which a head of contracting activity took a covered procurement action, the following:

"(i) The head of contracting activity taking such action.

"(ii) An explanation of the basis for taking the covered procurement action.

"(iii) The value of the contract, grant, or cooperative agreement subject to the covered procurement action.

"(iv) The value of all contracts, grants, or cooperative agreements the Department of Defense has with the person or entity concerned at the time of taking the covered procurement action.

"(B) For each instance in which a head of contracting activity did not take a covered procurement action following an identification from a combatant commander under subsection (b), the following:

"(i) The head of contracting activity concerned.

"(ii) An explanation of the basis for not taking the covered procurement action.

"(C) Specific examples where the authorities under this section can not be used to mitigate national security threats posed by vendors supporting Department operations because of the restriction on using such authorities only with respect to contingency operations.

"(D) A description of the policies ensuring that oversight of the use of the authorities in this section is effectively carried out by a single office in the Office of the Under Secretary of Defense for Acquisition and Sustainment.

"(2) FORM.—Any report under this subsection may, at the election of the Secretary of Defense—

"(A) be submitted in unclassified form, but with a classified annex; or

"(B) be submitted in classified form.

"(j) NATIONAL SECURITY EXCEPTION.—Nothing in this section shall apply to the authorized intelligence or law enforcement activities of the United States Government.

"(k) CONSTRUCTION WITH OTHER AUTHORITIES.—The authorities in this section shall be in addition to, and not to the exclusion of, any other authorities available to executive agencies to implement policies and purposes similar to those set forth in this section.

"(l) SUNSET.—The provisions of this section shall cease to be effective on December 31, 2033.

"SEC. 842. ADDITIONAL ACCESS TO RECORDS.

"(a) ADDITIONAL ACCESS TO RECORDS.—The Secretary of Defense may examine any records of persons or entities that have existing contracts with, or are active recipients of a grant or cooperative agreement from, the Department of Defense, including any subcontractors or subgrantees, to the extent necessary to support the program established under section 841 of this Act.

"(b) LIMITATION.—The examination authorized under subsection (a) may only take place after a written determination is made by the contracting officer, based on a finding from the combatant commander, stating that this examination will support the program established under such section 841 and that less intrusive measures are not reasonably available to manage the risk.

"SEC. 843. DEFINITIONS.

"In this subtitle:

"(1) COVERED ACTIVITIES.—The term 'covered activities' means activities where a covered person or entity is—

"(A) engaging in acts of violence against personnel of the United States or its partners and allies;

"(B) providing financing, logistics, training, or intelligence to a person described in subparagraph (A);

"(C) engaging in foreign intelligence activities against the United States or its partners and allies;

"(D) engaging in transnational organized crime or criminal activities; or

"(E) engaging in other activities that present a direct or indirect risk to United States or partner

and allied missions and forces.

"(2) COVERED CONTRACT, GRANT, OR COOPERATIVE AGREEMENT DEFINED.—The term 'covered contract, grant, or cooperative agreement' means a contract, grant, or cooperative agreement that is performed outside the United States, including its possessions and territories.

"(3) COVERED PERSON OR ENTITY.—The term 'covered person or entity' means any person, corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity outside of the United States or any foreign reporting company in accordance with section 5336(a)(11)(A)(ii) of title 31, United States Code, that is responding to a covered solicitation or performing work on a covered contract, grant, or cooperative agreement.

"[(4) Repealed. Pub. L. 118–159, div. A, title XVII, §1701(e), Dec. 23, 2024, 138 Stat. 2207.]

"(5) COVERED PROCUREMENT ACTION.—The term 'covered procurement action' means an action taken by a head of contracting activity to—

"(A) exclude a person or commercial entity from an award with or without an existing contract, grant, or cooperative agreement;

"(B) terminate a contract, grant, or cooperative agreement for default; or

"(C) void, in whole or in part, a contract, grant, or cooperative agreement.

"(6) COVERED SOLICITATION.—The term 'covered solicitation' means any solicitation by the Department of Defense for work for which the place of performance is outside of the United States.

"(7) HEAD OF CONTRACTING ACTIVITY.—The term 'head of contracting activity' has the meaning described in section 1.601 of the Federal Acquisition Regulation."

[Pub. L. 118–31, div. A, title VIII, §823(a)(2)(B), Dec. 22, 2023, 137 Stat. 327, which directed amendment of "matter preceding paragraph (1)" of section 841(a) of Pub. L. 113–291, set out above, by substituting "and the Secretary of State, establish a program to enable commanders of combatant commands to identify and manage risks resulting from covered persons and entities engaging in covered activities. The Secretary of Defense shall issue guidance establishing such program, including identifying who shall be responsible for carrying out and overseeing the program, procedures for using information available from intelligence, security, and law enforcement sources to identify such risks, and strategies for managing the risks posed by covered persons and entities engaging in covered activities." for " 'and in consultation with the Secretary of State' and all that follows through the period at the end", was executed, to reflect the probable intent of Congress, by making the substitution for introductory provisions and pars. (1) and (2) which read as follows: "and in consultation with the Secretary of State, establish in each covered combatant command a program to identify persons and entities within the area of responsibility of such command that—

["(1) provide funds, including goods and services, received under a covered contract, grant, or cooperative agreement of an executive agency directly or indirectly to a covered person or entity; or

["(2) fail to exercise due diligence to ensure that none of the funds, including goods and services, received under a covered contract, grant, or cooperative agreement of an executive agency are provided directly or indirectly to a covered person or entity."]

[Pub. L. 118–31, div. A, title VIII, §823(d), Dec. 22, 2023, 137 Stat. 331, provided that: "The amendments made by this section [amending subtitle E of title VIII of div. A of Pub. L. 113–291, set out above] shall take effect 180 days after the date of the enactment of this Act [Dec. 22, 2023], and shall apply to covered solicitations issued and covered contracts, grants, or cooperative agreements (as that term is defined in section 843 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Pub. L. 113–291], as amended by subsection (c)), awarded on or after such date, and to task and delivery orders that have been issued on or after such date pursuant to covered contracts, grants, or cooperative agreements that are awarded before, on, or after such date."]

[Pub. L. 116–283, div. A, title X, §1081(c)(3), Jan. 1, 2021, 134 Stat. 3873, which directed technical amendment of section 821 of Pub. L. 116–92 by inserting "Carl Levin and Howard P. 'Buck' McKeon" before "National Defense Authorization Act for Fiscal Year 2015", was executed to section 822 of Pub. L. 116–92, which amended the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), set out above, to reflect the probable intent of Congress.]

[Pub. L. 116–283, div. A, title X, §1081(c), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(c)(3) of Pub. L. 116–283 to section 821 (probably should be 822) of Pub. L. 116–92, which amended section 841 of Pub. L. 113–291, set out above, is effective as of Dec. 20, 2020 (probably should be Dec. 20, 2019), and as if included in Pub. L. 116–92.]

## §4871. Contracts: consideration of national security objectives

(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) [1] of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) [1] of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary if in the best interests of the Government.

(B) The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records shall include the following:

(i) The identity of the foreign government concerned.

(ii) The nature of the contract.

(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

(iv) The reasons for entering into the contract.

(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

(A) The relationship of the United States with the foreign government concerned.

(B) The obligations of the United States under international agreements.

(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

(d) LIST OF FIRMS SUBJECT TO PROHIBITION.—(1) The Secretary of Defense shall develop and maintain a list of all firms and subsidiaries of firms that the Secretary has identified as being subject to the prohibition in subsection (b).

(2)(A) A person may request the Secretary to include on the list maintained under paragraph (1) any firm or subsidiary of a firm that the person believes to be owned or controlled by a foreign government described in subsection (b)(2). Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do exist, the Secretary shall include the firm or subsidiary on the list.

(B) A firm or subsidiary of a firm included on the list may request the Secretary to remove such

firm or subsidiary from the list on the basis that it has been erroneously included on the list or its ownership circumstances have significantly changed. Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do not exist, the Secretary shall remove the firm or subsidiary from the list.

(C) The Secretary shall establish procedures to carry out this paragraph.

(3) The head of an agency shall prohibit each firm or subsidiary of a firm awarded a contract by the agency from entering into a subcontract under that contract in an amount in excess of $25,000 with a firm or subsidiary included on the list maintained under paragraph (1) unless there is a compelling reason to do so. In the case of any subcontract requiring consent by the head of an agency, the head of the agency shall not consent to the award of the subcontract to a firm or subsidiary included on such list unless there is a compelling reason for such approval.

(e) DISTRIBUTION OF LIST.—The Administrator of General Services shall ensure that the list developed and maintained under subsection (d) is made available to Federal agencies and the public in the same manner and to the same extent as the list of suspended and debarred contractors compiled pursuant to subpart 9.4 of the Federal Acquisition Regulation.

(f) APPLICABILITY.—(1) This section does not apply to a contract for an amount less than $100,000.

(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(g) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term "significant interest".

(Added Pub. L. 99–500, §101(c) [title X, §951(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–164, and Pub. L. 99–591, §101(c) [title X, §951(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–164, §2327; Pub. L. 99–661, div. A, title IX, formerly title IV, §951(a)(1), Nov. 14, 1986, 100 Stat. 3944, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–180, div. A, title XII, §1231(8), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 100–224, §5(b)(2), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 105–85, div. A, title VIII, §843, Nov. 18, 1997, 111 Stat. 1844; Pub. L. 108–136, div. A, title X, §1031(a)(16), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 114–328, div. A, title X, §1081(b)(3)(C), Dec. 23, 2016, 130 Stat. 2418; renumbered §4871, Pub. L. 116–283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286; Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)), referred to in subsecs. (a) and (b)(2), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. For similar provisions, see section 4813(c)(1)(A)(i) of Title 50, War and National Defense, as enacted by Pub. L. 115–232.

### CODIFICATION

Pub. L. 116–283, §1870(d)(2), which had initially directed the transfer of section 2533c of this title to this section, was amended by Pub. L. 117–81, §1701(t)(2)(B), (C), and, after that amendment, such transfer was no longer directed. Instead, Pub. L. 116–283, as amended by Pub. L. 117–81, transferred section 2327 of this title to this section and section 2533c of this title to section 4872.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1870(d)(2), as amended by Pub. L. 117–81, §1701(t)(2)(B), (C), renumbered section 2327 of this title as this section.

**2016**—Subsecs. (a), (b)(2). Pub. L. 114–328 substituted "(50 U.S.C. 4605(j)(1)(A))" for "(50 U.S.C. App. 2405(j)(1)(A))".

**2003**—Subsec. (c)(1)(A). Pub. L. 108–136, §1031(a)(16)(A), substituted "if in the best interests of the Government" for "after the date on which such head of an agency submits to Congress a report on the contract".

Subsec. (c)(1)(B). Pub. L. 108–136, §1031(a)(16)(B), substituted "The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records" for "A report under subparagraph (A)".

Subsec. (c)(1)(C). Pub. L. 108–136, §1031(a)(16)(C), struck out subpar. (C) which read as follows: "After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report."

**1997**—Subsecs. (d) to (g). Pub. L. 105–85 added subsecs. (d) and (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

**1987**—Subsecs. (a), (b)(2). Pub. L. 100–224 substituted "50 U.S.C. App." for "50 U.S.C." in parenthetical after "Export Administration Act of 1979".

Subsec. (d)(1). Pub. L. 100–180 inserted par. (1) designation.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title X, §951(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–165, Pub. L. 99–591, §101(c) [title X, §951(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–165, and Pub. L. 99–661, div. A, title IX, formerly title IV, §951(c), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2327 of title 10, United States Code [now 10 U.S.C. 4871] (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 18, 1986]."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### PHASE-OUT OF COMPUTER AND PRINTER ACQUISITIONS INVOLVING ENTITIES OWNED OR CONTROLLED BY CHINA

Pub. L. 119–60, div. A, title VIII, §850, Dec. 18, 2025, 139 Stat. 980, provided that:

"(a) IN GENERAL.—In accordance with the phased implementation in subsection (d) and except as provided by subsection (e), the Secretary of Defense may not acquire any computer or printer if the manufacturer, bidder, or offeror is a covered Chinese entity.

"(b) PROHIBITION ON INDIRECT SALES.—The Secretary of Defense shall ensure that the prohibition under subsection (a) applies to indirect sales of computers and printers through subsidiaries of a covered Chinese entity.

"(c) APPLICABILITY.—This section shall apply only with respect to contracts and other agreements entered into, renewed, or extended after the date of the enactment of this Act [Dec. 18, 2025].

"(d) PHASED IMPLEMENTATION.—The Secretary may implement the prohibition in subsection (a) with respect to the acquisition of a computer or printer to the extent that—

"(1) in fiscal year 2026, not less than 10 percent of the total number of computers acquired by the Department of Defense and not less than 10 percent of the total number printers acquired by the Department comply with such prohibition;

"(2) in fiscal year 2027, not less than 25 percent of the total number of computers acquired by the Department and not less than 25 percent of the total number printers acquired by the Department comply with such prohibition;

"(3) in fiscal year 2028, not less than 50 percent of the total number of computers acquired by the Department and not less than 50 percent of the total number printers acquired by the Department comply with such prohibition; and

"(4) in fiscal year 2029 and each fiscal year thereafter, not less than 100 percent of the total number of computers acquired by the Department and not less than 100 percent of the printers acquired by the Department comply with such prohibition.

"(e) EXCEPTION.—Notwithstanding subsections (a) and (b), the Secretary of Defense may acquire a computer or printer described in subsection (a) to conduct testing, evaluation, exfiltration, or reverse engineering missions on products or capabilities of adversaries of the United States if such computer or printer is not for operational use.

"(f) DEFINITIONS.—In this section:

"(1) COMPUTER.—The term 'computer'—

"(A) means—

"(i) an end user electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, such as laptops, desktops, and any physical computing equipment; and

"(ii) includes any data storage facility or communications facility directly related to or operating in conjunction with such device; and

"(B) does not include—

"(i) an automated typewriter or typesetter, a portable handheld calculator, or other similar device; or

"(ii) cloud-based services, including virtual desktops and cellular telephones.

"(2) COVERED CHINESE ENTITY.—The term 'covered Chinese entity' means—

"(A) an entity or a parent company of an entity that is—

"(i) identified by the Secretary of Defense under section 1260H(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] (10 U.S.C. 113 note) as a Chinese military company;

"(ii) included in the Non-SDN Chinese Military-Industrial Complex Companies List published by the Department of the Treasury; or

"(iii) both—

"(I) included on—

"(aa) the Entity List set forth in Supplement No. 4 to part 744 of the Export Administration Regulations;

"(bb) the Denied Persons List as described in section 764.3(a)(2) of the Export Administration Regulations; or

"(cc) the Military End User List set forth in Supplement No. 7 to part 744 of the Export Administration Regulations; and

"(II) is either—

"(aa) an agency or instrumentality of the People's Republic of China;

"(bb) an entity headquartered in the People's Republic of China; or

"(cc) directly or indirectly owned or controlled by an agency, instrumentality, or entity described in subparagraph (i) or (ii); or

"(B) an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, determines to be an entity owned, controlled, directed, or subcontracted by, affiliated with, or otherwise connected to, the Government of the People's Republic of China.

"(3) PRINTER.—The term 'printer'—

"(A) means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service that may or may not be designed to reside on a work surface, and include various print technologies, including laser and light-emitting diode (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and 'multi-function' or 'all-in-one' devices that perform different tasks, including copying, scanning, faxing, and printing;

"(B) includes floor-standing printers, printers with optional floor stand, or household printers; and

"(C) does not include point of sale receipt printers, calculators with printing capabilities, label makers, or non-standalone printers that are embedded into products not described in subparagraph (A) or

(B)."

**MEASURES TO INCREASE SUPPLY CHAIN RESILIENCY FOR SMALL UNMANNED AERIAL SYSTEMS**

Pub. L. 118–159, div. A, title I, §162, Dec. 23, 2024, 138 Stat. 1815, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish and carry out an integrated set of measures—

"(1) to identify risks in the supply chain for small unmanned aerial systems (referred to in this section as 'sUAS'); and

"(2) to increase the resiliency of such sUAS supply chain using parts supplied by domestic sources and from allies and partners of the United States.

"(b) ELEMENTS.—The measures carried out under subsection (a) shall include the following:

"(1) DISASSEMBLY AND ANALYSIS OF COMMERCIALLY AVAILABLE FOREIGN DRONE AIRCRAFT.—Not later than 90 days after the date of the enactment of this Act and not less frequently than once every three years thereafter until 2034, the Secretary of Defense shall fully disassemble a drone aircraft made by Da Jiang Innovations or a similar commercially available sUAS manufactured in a covered foreign country in order to—

"(A) create a taxonomy for each component that categorizes the component by function, level of risk, and such other criteria as the Secretary determines appropriate; and

"(B) help assess the risk of such components for the purposes of supply chain monitoring and visibility.

"(2) SUPPLY CHAIN RISK FRAMEWORK.—Not later than 150 days after the date of the enactment of this Act and using the taxonomy developed under paragraph (1)(A), the Secretary of Defense shall develop a supply chain risk framework in order to—

"(A) assess the risk of each sUAS component to Department of Defense networks or operations;

"(B) for components that present a risk as determined under subparagraph (A), identify any manufacturers of such components are based in covered foreign countries and evaluate whether measures to mitigate the risk posed by such foreign-produced components are feasible or practical; and

"(C) determine if any of the foreign companies in the sUAS supply chain should be included on the list maintained by the Department of Defense in accordance with section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 113 note).

"(3) RESILIENT SUPPLY CHAIN STRATEGY.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024] and based on the analyses conducted under paragraphs (1) and (2), the Secretary of Defense shall develop a strategy to develop a secure and resilient domestic and allied supply chain of critical components for sUASs, which shall include—

"(A) identification of sources of supply for sUAS components outside of a covered foreign country assessed to present a risk under paragraph (2)(A) and the total manufacturing capacity of such suppliers;

"(B) an assessment of the total requirement for sUASs of the Department of Defense;

"(C) a plan to increase the manufacturing capacity of alternative sources of supply that can meet the requirement specified in subparagraph (B), including estimated funding needs; and

"(D) a description of how existing initiatives and programs of the Department of Defense may be used to create alternative sUAS sources of supply outside of a covered foreign country, including recommendations for—

"(i) using authorities available to the Department of Defense, such as Defense Production Act authorities, the Industrial Base Analysis and Sustainment program, loan guarantees, or other programs; and

"(ii) incentivizing private sector investment to grow or foster domestic or allied sourcing for components for sUASs.

"(c) REPORT.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes—

"(1) a list of each component identified under subsection (b)(1), including a description of any security vulnerabilities associated with such component;

"(2) a description of the supply chain risk framework developed under subsection (b)(2);

"(3) any recommendations for the inclusion of companies on the list described in subsection (b)(2)(C); and

"(4) the full strategy developed under subsection (b)(3).

"(d) FORM.—The report required under subsection (c) shall be submitted in unclassified form, but may include a classified annex.

"(e) COVERED FOREIGN COUNTRY DEFINED.—In this section, the term 'covered foreign country' has the meaning given that term in section 848(e) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 4871 note)."

## PROHIBITION ON OPERATION OR PROCUREMENT OF FOREIGN-MADE UNMANNED AIRCRAFT SYSTEMS

Pub. L. 116–92, div. A, title VIII, §848, Dec. 20, 2019, 133 Stat. 1508, as amended by Pub. L. 117–263, div. A, title VIII, §817(a), Dec. 23, 2022, 136 Stat. 2707, provided that:

"(a) PROHIBITION ON AGENCY OPERATION OR PROCUREMENT.—The Secretary of Defense may not operate or enter into or renew a contract for the procurement of—

"(1) a covered unmanned aircraft system that—

"(A) is manufactured in a covered foreign country or by an entity domiciled in a covered foreign country;

"(B) uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in a covered foreign country or by an entity domiciled in a covered foreign country;

"(C) uses a ground control system or operating software developed in a covered foreign country or by an entity domiciled in a covered foreign country; or

"(D) uses network connectivity or data storage located in or administered by an entity domiciled in a covered foreign country; or

"(2) a system manufactured in a covered foreign country or by an entity domiciled in a covered foreign country for the detection or identification of covered unmanned aircraft systems.

"(b) PROHIBITION ON CERTAIN CONTRACTS.—The Secretary of Defense may not enter into a contract (or extend or renew a contract) on or after October 1, 2024, with an entity that operates (as determined by the Secretary or the Secretary's designee) equipment from a covered unmanned aircraft system company in the performance of a Department of Defense contract.

"(c) EXEMPTION.—The Secretary of Defense is exempt from any restrictions under subsection (a) or (b) if the operation, procurement, or contracting action is for the purposes of—

"(1) Counter-UAS surrogate testing and training; or

"(2) intelligence, electronic warfare, and information warfare operations, testing, analysis, and training.

"(d) WAIVER.—The Secretary of Defense (or the Secretary's designee) may waive any restrictions under subsections (a) or (b) by certifying in writing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the operation, procurement, or contracting action is required in the national interest of the United States.

"(e) DEFINITIONS.—In this section:

"(1) COVERED FOREIGN COUNTRY.—The term 'covered foreign country' means any of the following:

"(A) the People's Republic of China.

"(B) The Russian Federation.

"(C) The Islamic Republic of Iran.

"(D) The Democratic People's Republic of Korea.

"(2) COVERED UNMANNED AIRCRAFT SYSTEM.—The term 'covered unmanned aircraft system' means an unmanned aircraft system and any related services and equipment.

"(3) COVERED UNMANNED AIRCRAFT SYSTEM COMPANY.—The term 'covered unmanned aircraft system company' means any of the following:

"(A) Da-Jiang Innovations (or any subsidiary or affiliate of Da-Jiang Innovations).

"(B) Any entity that produces or provides unmanned aircraft systems and is included on Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce.

"(C) Any entity that produces or provides unmanned aircraft systems and—

"(i) is domiciled in a covered foreign country; or

"(ii) is subject to unmitigated foreign ownership, control or influence by a covered foreign country, as determined by the Secretary of Defense unmitigated foreign ownership, control or influence in accordance with the National Industrial Security Program (or any successor to such program)."

[Pub. L. 117–263, div. A, title VIII, §817(b), Dec. 23, 2022, 136 Stat. 2708, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue

policy to—

["(1) implement the requirements of section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 4871 note), as amended by this section, including by establishing a due diligence process for the Department of Defense to make determinations required by subsection (b) of such section 848 (as amended by this section); and

["(2) establish an appeal process for any offerors or awardees with which the Secretary has not entered into a contract or has not extended or renewed a contract pursuant to subsection (b) of such section 848 (as amended by this section)."]

**ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE ITEMS AND COMPONENTS**

Pub. L. 108–136, div. A, title VIII, §821, Nov. 24, 2003, 117 Stat. 1546, provided that:

"(a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Secretary of Defense, in coordination with the Secretary of State, shall identify and list foreign countries that restrict the provision or sale of military goods or services to the United States because of United States counterterrorism or military operations after the date of the enactment of this Act [Nov. 24, 2003]. The Secretary shall review and update the list as appropriate. The Secretary may remove a country from the list, if the Secretary determines that doing so would be in the interest of national defense.

"(b) PROHIBITION ON PROCUREMENT OF ITEMS FROM IDENTIFIED COUNTRIES.—The Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country identified under subsection (a).

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (b) if the Secretary determines in writing and notifies Congress that the Department of Defense's need for the item is of such an unusual and compelling urgency that the Department would be unable to meet national security objectives.

"(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), subsection (b) applies to contracts in existence on the date of the enactment of this Act [Nov. 24, 2003] or entered into after such date.

"(2) With respect to contracts in existence on the date of the enactment of this Act, the Secretary of Defense shall take such action as is necessary to ensure that such contracts are in compliance with subsection (b) not later than 24 months after such date."

[1] *See References in Text note below.*

## §4872. Acquisition of sensitive materials from non-allied foreign nations: prohibition

(a) IN GENERAL.—Except as provided in subsections (c) and (e), the Secretary of Defense may not—

(1) procure any covered material melted or produced in any covered nation, or any end item that contains a covered material manufactured in any covered nation, except as provided by subsections (c) and (e); or

(2) sell any material from the National Defense Stockpile, if the National Defense Stockpile Manager determines that such a sale is not in the national interests of the United States, to—

(A) any covered nation; or

(B) any third party that the Secretary reasonably believes is acting as a broker or agent for a covered nation or an entity in a covered nation.

(b) APPLICABILITY.—Subsection (a) shall apply to prime contracts and subcontracts at any tier.

(c) EXCEPTIONS.—Subsection (a)(1) does not apply under the following circumstances:

(1) If the Secretary of Defense or the Secretary of the military department concerned—

(A) identifies a specific end item for which a specific covered material of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price; and

(B) waives subsection (a)(1) for such specific end item and such specific covered material for a period not exceeding 36 months.

(2) To the procurement of an end item described in subsection (a)(1) or the sale of any covered material described under subsection (a)(1) by the Secretary outside of the United States in support of contingency operations or for use outside of the United States.

(3) To the purchase by the Secretary of an end item containing a covered material that is—

(A) a commercially available off-the-shelf item (as defined in section 104 of title 41), other than—

(i) a commercially available off-the-shelf item that is 50 percent or more tungsten by weight; or

(ii) a mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(B) an electronic device, unless the Secretary of Defense, upon the recommendation of the Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1), determines that the domestic availability of a particular electronic device is critical to national security;

(C) a neodymium-iron-boron magnet or samarium-cobalt magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States; or

(D) tantalum, tungsten, or molybdenum produced from recycled material if the contractor demonstrates to the Secretary that the recycled material was produced outside of a covered nation and the melting of the recycled material and any further processing and manufacturing of the recycled material takes place in the United States or in the country of a qualifying foreign government, as defined in section 4863(m)(11) of this title.

(d) DELEGATION.—The authorities in subsection (c)—

(1) may be delegated to the head of contracting activity for the relevant component for an exception for a single acquisition program;

(2) may be delegated to the senior acquisition executive of a military department for an exception for multiple programs within such military department; and

(3) may be delegated to the Undersecretary of Defense for Acquisition and Sustainment for an exception for more than one military department.

(e) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary of Defense or the Secretary of the military department concerned, may accept the delivery of an end item containing covered material manufactured in a covered nation if the Secretary determines in writing that acceptance of such end item is necessary to the national security interests of the United States.

(2) DELEGATION.—A written determination under paragraph (1)—

(A) may be delegated—

(i) to the senior acquisition executive of the military department concerned for a waiver for one or more acquisition programs within such military department; and

(ii) to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Sustainment for a waiver applicable to more than one military department;

(B) shall specify the quantity of end items to which the waiver applies and the time period over which the waiver applies; and

(C) shall be provided to the congressional defense committees prior to making such a determination (except that in the case of an urgent national security requirement, such certification may be provided to the defense committees up to 7 days after it is made).

(3) APPLICATION OF NATIONAL SECURITY WAIVER FOR STRATEGIC MATERIALS .—If the Secretary of Defense or the authorized delegate has made a determination under subsection (k) of section 4863 of this title for a national security waiver of the restrictions under

subsection (a) of that section for a specific end item, the Secretary or authorized delegate may apply that waiver to the restrictions under subsection (a) of this section for the same covered material or end item.

(f) DEFINITIONS.—In this section:

(1) COVERED MATERIAL.—The term "covered material" means—

(A) samarium-cobalt magnets;

(B) neodymium-iron-boron magnets;

(C) tungsten metal powder;

(D) tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy;

(E) tantalum metals and alloys; and

(F) molybdenum.

(2) COVERED NATION.—The term "covered nation" means—

(A) the Democratic People's Republic of North Korea;

(B) the People's Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(3) END ITEM.—The term "end item" has the meaning given in section 4863(m) of this title.

(Added Pub. L. 115–232, div. A, title VIII, §871(a), Aug. 13, 2018, 132 Stat. 1904, §2533c; amended Pub. L. 116–92, div. A, title VIII, §849, Dec. 20, 2019, 133 Stat. 1508; renumbered §4872 and amended Pub. L. 116–283, div. A, title VIII, §844(a), title XVIII, §1870(d)(2), (3), Jan. 1, 2021, 134 Stat. 3766, 4286; Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), (3), Dec. 27, 2021, 135 Stat. 2150; Pub. L. 117–263, div. A, title XIV, §1411(d)(2)(B), Dec. 23, 2022, 136 Stat. 2872; Pub. L. 118–31, div. A, title VIII, §834, Dec. 22, 2023, 137 Stat. 337; Pub. L. 118–159, div. A, title VIII, §844(b), Dec. 23, 2024, 138 Stat. 1991; Pub. L. 119–60, div. A, title VIII, §§843–844(b)(2), 848, title XVII, §1701(a)(31), Dec. 18, 2025, 139 Stat. 975, 976, 978, 1209.)

## AMENDMENT OF SECTION

*Pub. L. 116–283, div. A, title VIII, §844, Jan. 1, 2021, 134 Stat. 3766, as amended by Pub. L. 119–60, div. A, title VIII, §848, Dec. 18, 2025, 139 Stat. 978, provided that, effective 6 years after Jan. 1, 2021, this section is amended as follows:*

*(1) in subsection (a), by striking "; or" in paragraph (1) and inserting a semicolon, by striking the period at the end of paragraph (2)(B) and inserting "; or", and by adding at the end the following new paragraph:*

*"(3) enter into a contract for any covered material mined, refined, or separated in any covered nation."; and*

*(2) in subsection (c)(3)(A)(i), by striking "tungsten" and inserting "covered material".*

*See 2021 Amendment notes below.*

*Pub. L. 119–60, div. A, title VIII, §844(b), Dec. 18, 2025, 139 Stat. 976, provided that, effective two years after Dec. 18, 2025, this section is amended as follows:*

*(1) in subsection (c)(3)(D), by striking "or molybdenum" and inserting "molybdenum, gallium, or germanium"; and*

*(2) in subsection (f)(1), by adding at the end the following new subparagraphs:*

*"(G) germanium; and*

*"(H) gallium."*

*See 2025 Amendment notes below.*

## EDITORIAL NOTES

## CODIFICATION

Pub. L. 116–283, §1870(d)(2), which had initially directed the transfer of section 2536 of this title to this section, was amended by Pub. L. 117–81, §1701(t)(2)(B), (C), and, after that amendment, such transfer was no longer directed. Instead, Pub. L. 116–283, as amended by Pub. L. 117–81, transferred section 2533c of this title to this section and section 2536 of this title to section 4874.

## AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §843(1)(A), which directed substitution of "subsections (c) and (e)" for "subsection (c) or subsection (e)" was executed by making the substitution for "subsection (c) or (e)" in introductory provisions, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 119–60, §843(1)(B), substituted "subsections (c) and (e)" for "subsection (c)".

Subsec. (c)(3)(C). Pub. L. 119–60, §844(a)(2)(B)(i), inserted "or samarium-cobalt magnet" after "neodymium-iron-boron magnet".

Subsec. (c)(3)(D). Pub. L. 119–60, §844(b)(2), substituted "molybdenum, gallium, or germanium" for "or molybdenum".

Pub. L. 119–60, §844(a)(2)(A), (B)(ii), (C), added subpar. (D).

Subsec. (e)(1). Pub. L. 119–60, §1701(a)(31), which directed substitution of "the Secretary of Defense or the Secretary of the military department concerned" for "the Secretary of Defense of the Secretary or the Secretary of the military department concerned", could not be executed because of the intervening amendment by Pub. L. 119–60, §843(2)(A). See note below.

Pub. L. 119–60, §843(2)(A), struck out "of the Secretary" after "the Secretary of Defense".

Subsec. (e)(3). Pub. L. 119–60, §843(2)(B), added par. (3).

Subsec. (f)(1)(F). Pub. L. 119–60, §844(a)(1), added subpar. (F).

Subsec. (f)(1)(G), (H). Pub. L. 119–60, §844(b)(1), added subpars. (G) and (H).

**2024**—Subsec. (a). Pub. L. 118–159, §844(b)(1), inserted "or (e)" after "subsection (c)" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–159, §844(b)(2)(A), inserted "or the Secretary of the military department concerned" after "Secretary of Defense" in introductory provisions.

Subsec. (c)(2). Pub. L. 118–159, §844(b)(2)(B), inserted "in support of contingency operations or" before "for use outside".

Subsecs. (d) to (f). Pub. L. 118–159, §844(b)(3), (4), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

**2023**—Subsec. (c). Pub. L. 118–31, §834(1), substituted "Subsection (a)(1)" for "Subsection (a)" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–31, §834(2), substituted "Defense—" for "Defense determines that covered materials", inserted subpar. (A) designation and "identifies a specific end item for which a specific covered material" before "of satisfactory quality", and added subpar. (B).

**2022**—Subsec. (c)(3)(B). Pub. L. 117–263 substituted "Strategic and Critical Materials Board of Directors pursuant to section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1)" for "Strategic Materials Protection Board pursuant to section 187 of this title".

**2021**—Pub. L. 116–283, §1870(d)(3)(B), as amended by Pub. L. 117–81, §1701(t)(3), amended section catchline generally. Prior to amendment, section catchline read as follows: "Prohibition on acquisition of sensitive materials from non-allied foreign nations".

Pub. L. 116–283, §1870(d)(2), as amended by Pub. L. 117–81, §1701(t)(2)(B), (C), renumbered section 2533c of this title as this section.

Subsec. (a)(3). Pub. L. 116–283, §844(a)(1), as amended by Pub. L. 119–60, §848, added par. (3).

Subsec. (c)(3)(A)(i). Pub. L. 116–283, §844(a)(2), as amended by Pub. L. 119–60, §848(1), substituted "covered material" for "tungsten".

Subsec. (d)(3). Pub. L. 116–283, §1870(d)(3)(A), as amended by Pub. L. 117–81, §1701(t)(3), substituted "section 4863(m)" for "section 2533b(m)".

**2019**—Subsec. (a)(2). Pub. L. 116–92, §849(a), substituted "material" for "covered material" in introductory provisions.

Subsec. (d)(1)(E). Pub. L. 116–92, §849(b), added subpar. (E).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–60, div. A, title VIII, §844(b)(3), Dec. 18, 2025, 139 Stat. 977, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on the date that is two years after the date of the enactment of this Act [Dec. 18, 2025]."

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below for section 1870(d)(2), (3) of Pub. L. 116–283.

Pub. L. 116–283, div. A, title VIII, §844(b), Jan. 1, 2021, 134 Stat. 3766, as amended by Pub. L. 118–31, div. A, title VIII, §854, Dec. 22, 2023, 137 Stat. 345, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date that is 6 years after the date of the enactment of this Act [Jan. 1, 2021]."

Amendment by section 1870(d)(2), (3) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4873. Additional requirements pertaining to printed circuit boards

(a) IN GENERAL.—

(1) Beginning on the date determined under paragraph (3), the Secretary of Defense may not acquire a covered printed circuit board from a covered nation.

(2) Paragraph (1) shall not apply with respect to any acquisition of supplies or services below the micro-purchase threshold under section 3573 of this title.

(3) Paragraph (1) shall take effect on January 1, 2027.

(b) WAIVER.—

(1) The Secretary may waive the prohibition under subsection (a) if the Secretary determines in writing that—

(A) there are no significant national security concerns regarding counterfeiting, quality, or unauthorized access created by such waiver;

(B) the waiver is required to support national security; and

(C) a covered printed circuit board of satisfactory quality and sufficient quantity, in the required form, cannot be procured as and when needed from nations other than a covered nation at reasonable cost, excluding comparisons with non-market economies.

(2) Not later than 10 days after the Secretary provides a waiver under paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notice setting forth the reasoning for the waiver, together with a copy of the waiver itself.

(c) DEFINITIONS.—In this section:

(1) COVERED NATION.—The term "covered nation" means—

(A) the Democratic People's Republic of North Korea;

(B) the People's Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(2) COVERED PRINTED CIRCUIT BOARD.—The term "covered printed circuit board" means any specified type of partially manufactured or complete bare printed circuit board or fully or partially assembled printed circuit board that—

(A) performs a mission critical function in any product or service that is not a commercial product or commercial service; or

(B) is a component of—

(i) a defense security system; or

(ii) a system, other than a defense security system, that transmits or stores information and which the Secretary identifies as national security sensitive in the contract under which such printed circuit board is acquired.

(3) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(4) COMMERCIAL PRODUCT; COMMERCIAL SERVICE; COMMERCIALLY AVAILABLE OFF-THE SHELF ITEM.—The terms "commercial product", "commercial service", and "commercially available off-the-shelf item" have the meanings given such terms in sections 103, 103a, and 104 of title 41, respectively.

(5) DEFENSE SECURITY SYSTEM.—

(A) The term "defense security system" means an information system (including a telecommunications system) used or operated by the Department of Defense, by a contractor of the Department, or by another organization on behalf of the Department, the function, operation, or use of which—

(i) involves command and control of an armed force;

(ii) involves equipment that is an integral part of a weapon or weapon system; or

(iii) subject to subparagraph (B), is critical to the direct fulfillment of military missions.

(B) Subparagraph (A)(iii) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(6) SPECIFIED TYPE.—The term "specified type" means a printed circuit board that is—

(A) a component of an electronic device that facilitates the routing, connecting, transmitting or securing of data and is commonly connected to a network, and

(B) any other end item, good, or product specified by the Secretary in accordance with subsection (d)(2).

(d) RULEMAKING.—

(1) The Secretary may issue rules providing that subsection (a) may not apply with respect to an acquisition of commercial products, commercial services, and commercially available off-the-shelf items if—

(A) the contractor is capable of meeting minimum requirements that the Secretary deems necessary to provide for the security of national security networks and weapon systems; including, at a minimum, compliance with section 224 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2302 note); and

(B) either—

(i) the Government and the contractor have agreed to a contract requiring the contractor to take certain actions to ensure the integrity and security of the item, including protecting the item from unauthorized access, use, disclosure, disruption, modification, or destruction; or

(ii) the Secretary has determined that the contractor has adopted such procedures, tools, and methods for identifying the sources of components of such item, based on commercial best practices, that meet or exceed the applicable trusted supply chain and operational security standards of the Department of Defense.

(2) The Secretary may issue rules specifying end items, goods, and products for which a printed circuit board that is a component thereof shall be a specified type if the Secretary has promulgated final regulations, after an opportunity for notice and comment that is not less than 12 months, implementing this section.

(3) In carrying out this section, the Secretary shall, to the maximum extent practicable, avoid imposing contractual certification requirements with respect to the acquisition of commercial products, commercial services, or commercially available off-the-shelf items.

(e) APPLICABILITY.—This section shall apply only with respect to contracts entered into after the issuance of a final rule implementing this section.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Department of Defense from entering into a contract with an entity that connects to the facilities of a third party, for the purposes of backhaul, roaming, or interconnection arrangements, on the basis of the noncompliance by the third party with the provisions of this section or use of equipment or services that do not route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(Added Pub. L. 116–283, div. A, title VIII, §841(a), Jan. 1, 2021, 134 Stat. 3762, §2533d; amended Pub. L. 117–81, div. A, title VIII, §851(a), Dec. 27, 2021, 135 Stat. 1844; renumbered §4873 and amended Pub. L. 117–81, div. A, title XVII, §1701(e)(2)(A), Dec. 27, 2021, 135 Stat. 2138.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 2533d of this title as this section.

Subsec. (a)(1). Pub. L. 117–81, §851(a)(1)(A), substituted "the date determined under paragraph (3)" for "January 1, 2023".

Subsec. (a)(2). Pub. L. 117–81 substituted "section 3573" for "section 2338".

Subsec. (a)(3). Pub. L. 117–81, §851(a)(1)(B), added par. (3).

Subsec. (c)(2). Pub. L. 117–81, §851(a)(2)(A)(i), inserted "specified type of" after "means any" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 117–81, §851(a)(2)(A)(ii), struck out "(as such terms are defined under sections 103 and 103a of title 41, respectively)" after "commercial service".

Subsec. (c)(2)(B). Pub. L. 117–81, §851(a)(2)(A)(iii), amended subpar. (b) generally. Prior to amendment, subpar. (B) read as follows: "the Secretary designates as a covered printed circuit board, after reasonable notice, based on a determination that the designation is required to support national security."

Subsec. (c)(4) to (6). Pub. L. 117–81, §851(a)(2)(B), added pars. (4) to (6).

Subsec. (d). Pub. L. 117–81, §851(a)(3), amended subsec. (d) generally. Prior to amendment, text read as follows: "Not later than May 1, 2022, the Secretary shall promulgate regulations, after an opportunity for notice and comment, implementing this section."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(e)(1)(A) of Pub. L. 117–81, renumbering section 2358d of this title as this section, deemed to have taken effect immediately before section 1881 of Pub. L. 116–283, subsec. (a) of which had repealed chapter 148 of this title, where section 2358d was located. See section 881(a) of Pub. L. 117–263, set out as a note under section 4027 of this title.

### TRUSTED SUPPLY

Pub. L. 116–283, div. A, title VIII, §841(c), Jan. 1, 2021, 134 Stat. 3764, provided that: "The Secretary of Defense shall apply the requirements of section 224 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2302 note [now 10 U.S.C. 4501 note prec.]) to the acquisition of covered printed circuit boards (as such term is defined under [former] section 2533d(c) of title 10, United States Code, [now 10 U.S.C. 4873(c)] as added by this section)."

## §4874. Award of certain contracts to entities controlled by a foreign government: prohibition

(a) IN GENERAL.—A Department of Defense contract or Department of Energy contract under a national security program may not be awarded to an entity controlled by a foreign government if it is necessary for that entity to be given access to information in a proscribed category of information in order to perform the contract.

(b) WAIVER AUTHORITY.—(1) The Secretary concerned may waive the application of subsection (a) to a contract award if—

(A) the Secretary concerned determines that the waiver is essential to the national security interests of the United States; or

(B) in the case of a contract awarded for environmental restoration, remediation, or waste management at a Department of Defense or Department of Energy facility—

(i) the Secretary concerned determines that the waiver will advance the environmental restoration, remediation, or waste management objectives of the department concerned and will not harm the national security interests of the United States; and

(ii) the entity to which the contract is awarded is controlled by a foreign government with which the Secretary concerned is authorized to exchange Restricted Data under section 144 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)).

(2) The Secretary concerned shall notify Congress of any decision to grant a waiver under paragraph (1)(B) with respect to a contract. The contract may be awarded only after the end of the 45-day period beginning on the date the notification is received by the committees.

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary concerned. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

(3) The term "Secretary concerned" means—

(A) the Secretary of Defense, with respect to Department of Defense contracts; and

(B) the Secretary of Energy, with respect to Department of Energy contracts.

(Added Pub. L. 102–484, div. A, title VIII, §836(a)(1), Oct. 23, 1992, 106 Stat. 2462, §2536; amended Pub. L. 103–35, title II, §201(d)(4), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. A, title VIII, §842(a)–(c)(1), Nov. 30, 1993, 107 Stat. 1719; Pub. L. 104–201, div. A, title VIII, §828, Sept. 23, 1996, 110 Stat. 2611; renumbered §4874, Pub. L. 116–283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286; Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.)

**EDITORIAL NOTES**

## AMENDMENTS

**2021**—Pub. L. 116–283, §1870(d)(2), as amended by Pub. L. 117–81, §1701(t)(2)(B), (C), renumbered section 2536 of this title as this section.

**1996**—Subsec. (b). Pub. L. 104–201 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "WAIVER AUTHORITY.—The Secretary concerned may waive the application of subsection (a) to a contract award if the Secretary concerned determines that the waiver is essential to the national security interests of the United States."

**1993**—Pub. L. 103–160, §842(c)(1), substituted "Award of certain contracts to entities controlled by a foreign government: prohibition" for "Prohibition on award of certain Department of Defense and Department of Energy contracts to companies owned by an entity controlled by a foreign government." as section catchline.

Pub. L. 103–35 struck out period at end of section catchline.

Subsec. (a). Pub. L. 103–160, §842(a), struck out "a company owned by" after "awarded to" and substituted "that entity" for "that company".

Subsec. (c)(1). Pub. L. 103–160, §842(b), inserted at end "Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 102–484, div. A, title VIII, §836(b), Oct. 23, 1992, 106 Stat. 2463, provided that: "Section 2536 of title 10, United States Code [now 10 U.S.C. 4874], as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 23, 1992]."

### REMOVAL OF NATIONAL INTEREST DETERMINATION REQUIREMENTS FOR CERTAIN ENTITIES

Pub. L. 115–232, div. A, title VIII, §842, Aug. 13, 2018, 132 Stat. 1878, provided that:

"(a) IN GENERAL.—Effective October 1, 2020, a covered NTIB entity operating under a special security agreement pursuant to the National Industrial Security Program shall not be required to obtain a national interest determination as a condition for access to proscribed information.

"(b) ACCELERATION AUTHORIZED.—Notwithstanding the effective date of this section, the Secretary of Defense, in consultation with the Director of the Information Security Oversight Office, may waive the requirement to obtain a national interest determination for a covered NTIB entity operating under such a special security agreement that has—

"(1) a demonstrated successful record of compliance with the National Industrial Security Program; and

"(2) previously been approved for access to proscribed information.

"(c) DEFINITIONS.—In this section:

"(1) COVERED NTIB ENTITY.—The term 'covered NTIB entity' means a person that is a subsidiary located in the United States—

"(A) for which the ultimate parent company and any intermediate parent companies of such subsidiary are located in a country that is part of the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]); and

"(B) that is subject to the foreign ownership, control, or influence requirements of the National Industrial Security Program.

"(2) PROSCRIBED INFORMATION.—The term 'proscribed information' means information that is—

"(A) classified at the level of top secret;

"(B) communications security information (excluding controlled cryptographic items when un-keyed or utilized with unclassified keys);

"(C) restricted data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

"(D) special access program information under section 4.3 of Executive Order No. 13526 (75 Fed. Reg. 707; 50 U.S.C. 3161 note) or successor order; or

"(E) designated as sensitive compartmented information."

**REVIEW REGARDING APPLICABILITY OF FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE REQUIREMENTS OF NATIONAL INDUSTRIAL SECURITY PROGRAM TO NATIONAL TECHNOLOGY AND INDUSTRIAL BASE COMPANIES**

Pub. L. 115–91, div. A, title XVII, §1712, Dec. 12, 2017, 131 Stat. 1811, as amended by Pub. L. 116–283, div. A, title XVIII, §1866(d)(5), Jan. 1, 2021, 134 Stat. 4280, provided that:

"(a) REVIEW.—The Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall review whether organizations whose ownership or majority control is based in a country that is part of the national technology and industrial base should be exempted from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program.

"(b) AUTHORITY.—The Secretary of Defense may establish a program to exempt organizations described under subsection (a) from one or more of the foreign ownership, control, or influence requirements of the National Industrial Security Program. Any such program shall comply with the requirements of this subsection.

"(1) IN GENERAL.—Under a program established under this subsection, the Secretary, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, shall maintain a list of organizations owned or controlled by a country that is part of the national technology and industrial base that are eligible for exemption from the requirements described under such subsection.

"(2) DETERMINATIONS OF ELIGIBILITY.—Under a program established under this subsection, the Secretary of Defense, with the concurrence of the Secretary of State and after consultation with the Director of the Information Security Oversight Office, may (on a case-by-case basis and for the purpose of supporting specific needs of the Department of Defense) designate an organization whose ownership or majority control is based in a country that is part of the national technology and industrial base as exempt from the requirements described under subsection (a) upon a determination that such exemption—

"(A) is beneficial to improving collaboration within countries that are a part of the national technology and industrial base;

"(B) is in the national security interest of the United States; and

"(C) will not result in a greater risk of the disclosure of classified or sensitive information consistent with the National Industrial Security Program.

"(3) EXERCISE OF AUTHORITY.—The authority under this subsection may be exercised beginning on the date that is the later of—

"(A) the date that is 60 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a report summarizing the review conducted under subsection (a); and

"(B) the date that is 30 days after the Secretary of Defense, in consultation with the Secretary of State and the Director of the Information Security Oversight Office, submits to the appropriate congressional committees a written notification of a determination made under paragraph (2), including a discussion of the issues related to the foreign ownership or control of the organization that were considered as part of the determination.

"(c) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' has the meaning given the term in section 301 of title 10, United States Code.

"(2) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—the [sic] term 'national technology and industrial base' has the meaning given the term in section 4801 of title 10, United States Code."

## §4875. Prohibition on acquisition of personal protective equipment and certain

## other items from non-allied foreign nations

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense may not procure any covered item from any covered nation.

(b) APPLICABILITY.—Subsection (a) shall apply to prime contracts and subcontracts at any tier.

(c) EXCEPTIONS.—

(1) IN GENERAL.—Subsection (a) does not apply under the following circumstances:

(A) If the Secretary of Defense determines that covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed from nations other than covered nations to meet requirements at a reasonable price.

(B) The procurement of a covered item for use outside of the United States.

(C) Purchases for amounts not greater than $150,000.

(2) LIMITATION.—A proposed procurement in an amount greater than $150,000 may not be divided into several purchases or contracts for lesser amounts in order to qualify for this exception.

(d) DEFINITIONS.—In this section:

(1) COVERED ITEM.—The term "covered item" means an article or item of—

(A) personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material (including nitrile and vinyl gloves, surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, surgical and isolation gowns, and head and foot coverings) or clothing, and the materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or

(B) sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

(2) COVERED NATION.—The term "covered nation" means—

(A) the Democratic People's Republic of North Korea;

(B) the People's Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(Added Pub. L. 117–81, div. A, title VIII, §802(a)(1), Dec. 27, 2021, 135 Stat. 1812, §2533e; renumbered §4875, Pub. L. 117–81, div. A, title VIII, §802(b)(1), Dec. 27, 2021, 135 Stat. 1813.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 2533e of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81, which renumbered section 2533e of this title as this section, deemed to have taken effect immediately before section 1881 of Pub. L. 116–283, subsec. (a) of which had repealed chapter 148 of this title, where section 2533c was located. See section 881(a) of Pub. L. 117–263, set out as a note under section 4027 of this title.

Pub. L. 117–81, div. A, title VIII, §802(b)(3), Dec. 27, 2021, 135 Stat. 1814, provided that: "The transfer, redesignation, and amendments made by this subsection [renumbering section 2533e of this title as this section] shall take effect immediately after the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] take effect [Jan. 1, 2022]." See note above.

### REFERENCES; SAVINGS PROVISION; RULE OF CONSTRUCTION

Pub. L. 117–81, div. A, title VIII, §802(b)(4), Dec. 27, 2021, 135 Stat. 1814, provided that: "Sections 1883 through 1885 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [set out as notes preceding section 3001 of this title] shall apply with respect to the transfers, redesignations, and amendments made under this subsection [see Effective Date of 2021 Amendment note above] as if such transfers, redesignations, and amendments were made under title XVIII of such Act."

## SUBCHAPTER IV—DEFENSE INDUSTRIAL RESERVE AND INDUSTRIAL MOBILIZATION

Sec.
4881. Defense Industrial Reserve.
4882. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.
4883. Industrial mobilization: plants; lists.
4884. Industrial mobilization: Board on Mobilization of Industries Essential for Military Preparedness.

### §4881. Defense Industrial Reserve

(a) DECLARATION OF PURPOSE AND POLICY.—It is the intent of Congress—

(1) to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and an industrial reserve of machine tools and other industrial manufacturing equipment may be assured for immediate use to supply the needs of the armed forces in time of national emergency or in anticipation thereof;

(2) that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements for immediate use in time of national emergency, and that any such items which shall become excess to such requirements shall be disposed of as expeditiously as possible;

(3) that to the maximum extent practicable, reliance will be placed upon private industry for support of defense production; and

(4) that machine tools and other industrial manufacturing equipment may be held in plant equipment packages or in a general reserve to maintain a high state of readiness for production of critical items of defense materiel, to provide production capacity not available in private industry for defense materiel, or to assist private industry in time of national disaster.

(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in subsection (a), the Secretary of Defense shall—

(A) determine which industrial plants and installations (including machine tools and other industrial manufacturing equipment) should become a part of the Defense Industrial Reserve;

(B) designate what excess industrial property shall be disposed of;

(C) establish general policies and provide for the transportation, handling, care, storage, protection, maintenance, repair, rebuilding, utilization, recording, leasing and security of such property;

(D) direct the transfer without reimbursement of such property to other Government agencies with the consent of such agencies;

(E) direct the leasing of any of such property to designated lessees;

(F) authorize the disposition in accordance with existing law of any of such property when in the opinion of the Secretary such property is no longer needed by the Department of Defense; and

(G) notwithstanding chapter 5 of title 40 and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property is in the public interest.

(2)(A) The Secretary of a military department to which equipment or other property is transferred from the Defense Industrial Reserve shall reimburse appropriations available for the purposes of the Defense Industrial Reserve for the full cost (including direct and indirect costs) of—

(i) storage of such property;

(ii) repair and maintenance of such property; and

(iii) overhead allocated to such property.

(B) The Secretary of Defense shall prescribe regulations establishing general policies and fee schedules for reimbursements under subparagraph (A).

(c) DEFINITIONS.—In this section:

(1) The term "Defense Industrial Reserve" means—

(A) a general reserve of industrial manufacturing equipment, including machine tools, selected by the Secretary of Defense for retention for national defense or for other emergency use;

(B) those industrial plants and installations held by and under the control of the Department of Defense in active or inactive status, including Government-owned/Government-operated plants and installations and Government-owned/contractor-operated plants and installations which are retained for use in their entirety, or in part, for production of military weapons systems, munitions, components, or supplies; and

(C) those industrial plants and installations under the control of the Secretary which are not required for the immediate need of any department or agency of the Government and which should be sold, leased, or otherwise disposed of.

(2) The term "plant equipment package" means a complement of active and idle machine tools and other industrial manufacturing equipment held by and under the control of the Department of Defense and approved by the Secretary for retention to produce particular defense materiel or defense supporting items at a specific level of output in the event of emergency.

(Added and amended Pub. L. 102–484, div. D, title XLII, §4235, Oct. 23, 1992, 106 Stat. 2690, §2535; Pub. L. 103–35, title II, §201(c)(8), May 31, 1993, 107 Stat. 98; Pub. L. 103–337, div. A, title III, §379(a), Oct. 5, 1994, 108 Stat. 2737; Pub. L. 107–107, div. A, title X, §1048(a)(23), Dec. 28, 2001, 115 Stat. 1224; Pub. L. 107–217, §3(b)(7), Aug. 21, 2002, 116 Stat. 1295; renumbered §4881, Pub. L. 116–283, div. A, title XVIII, §1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4286.)

## EDITORIAL NOTES

### CODIFICATION

The text of section 451 of Title 50, War and National Defense, which was transferred to this section, designated subsec. (a), and amended by Pub. L. 102–484, §4235(a)(2), was based on acts July 2, 1948, ch. 811, §2, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617.

The text of section 453 of Title 50 which was transferred to this section, designated subsec. (b), and amended by Pub. L. 102–484, §4235(a)(3), was based on acts July 2, 1948, ch. 811, §4, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, §1359(a), 100 Stat. 3999. For effective date of 1986 amendment, see section 1359(b) of Pub. L. 99–661.

The text of section 452 of Title 50 which was transferred to this section, designated subsec. (c), and amended by Pub. L. 102–484, §4235(b), was based on acts July 2, 1948, ch. 811, §3, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, §809, 87 Stat. 617.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2535 of this title as this section.

**2002**—Subsec. (b)(1)(G). Pub. L. 107–217 substituted "chapter 5 of title 40" for "title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)".

**2001**—Subsec. (a). Pub. L. 107–107, §1048(a)(23)(A)(i), substituted "intent of Congress—" for "intent of Congress" in introductory provisions.

Subsec. (a)(1). Pub. L. 107–107, §1048(a)(23)(A)(ii), (iii), substituted "armed forces" for "Armed Forces" and realigned margins.

Subsec. (a)(2) to (4). Pub. L. 107–107, §1048(a)(23)(A)(ii), realigned margins.

Subsec. (b)(1). Pub. L. 107–107, §1048(a)(23)(B)(i), substituted "in subsection (a), the Secretary of Defense shall—" for "in this section, the Secretary is authorized and directed to—" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 107–107, §1048(a)(23)(B)(ii), substituted "Defense Industrial Reserve" for "defense industrial reserve".

Subsec. (c). Pub. L. 107–107, §1048(a)(23)(C), redesignated par. (2) as (1), substituted "means—" for "means" in introductory provisions, realigned margins of subpars. (A) to (C) of par. (1) and inserted "and" after semicolon in subpar. (B), redesignated par. (3) as (2), and struck out former par. (1) which read as follows: "The term 'Secretary' means Secretary of Defense."

**1994**—Subsec. (b)(1)(G). Pub. L. 103–337 amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution or school shall by agreement make such provision as the Secretary shall deem satisfactory for the proper maintenance and care of such property and for its return, without expense to the Government, upon request of the Secretary."

**1993**—Subsec. (b)(2)(B). Pub. L. 103–35 substituted "subparagraph (A)" for "paragraph (1)".

**1992**—Pub. L. 102–484, §4235(a), added section number and catchline.

Subsec. (a). Pub. L. 102–484, §4235(a)(2), transferred the text of section 451 of Title 50, War and National Defense, to this section, designated it subsec. (a), inserted heading, and substituted "It" for "In enacting this chapter it" in introductory provisions. See Codification note above.

Subsec. (b). Pub. L. 102–484, §4235(a)(3), transferred the text of section 453 of Title 50, War and National Defense, to the end of this section and designated it subsec. (b), inserted heading, redesignated former subsec. (a) of section 453 as par. (1), substituted "in this section" for "in this chapter" in introductory provisions, redesignated former pars. (1) to (7) as subpars. (A) to (G), respectively, in subpar. (G) redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, redesignated former subsec. (b) of section 453 as par. (2), and in par. (2) redesignated former par. (1) as subpar. (A), former subpars. (A) to (C) as cls. (i) to (iii), and former par. (2) as subpar. (B). See Codification note above.

Subsec. (c). Pub. L. 102–484, §4235(b), transferred the text of section 452 of Title 50, War and National Defense, to the end of this section, designated it subsec. (c), inserted heading, and substituted "In this section:" for "As used in this chapter—" in introductory provisions. See Codification note above.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993 TO EDUCATIONAL INSTITUTIONS OR TRAINING SCHOOLS

Pub. L. 103–337, div. A, title III, §379(b), Oct. 5, 1994, 108 Stat. 2737, provided that: "Except for property determined by the Secretary of Defense to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code [now 10 U.S.C. 4881(b)], or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992 [former section 453(a)(7) of Title 50, War and National Defense, see Codification and 1992 Amendment notes above]) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States."

## §4882. Industrial mobilization: orders; priorities; possession of manufacturing

## plants; violations

(a) ORDERING AUTHORITY.—In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) COMPLIANCE WITH ORDER REQUIRED.—A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) SEIZURE OF MANUFACTURING PLANTS UPON NONCOMPLIANCE.—In time of war or when war is imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the head of that department is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the armed forces if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the head of such department; or

(3) to furnish them at a reasonable price as determined by the head of such department.

(d) USE OF SEIZED PLANT.—The President, through the head of any department, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) COMPENSATION REQUIRED.—Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) CRIMINAL PENALTY.—Whoever fails to comply with this section shall be imprisoned for not more than three years and fined under title 18.

(Added Pub. L. 103–160, div. A, title VIII, §822(a)(1), Nov. 30, 1993, 107 Stat. 1704, §2538; amended Pub. L. 103–337, div. A, title VIII, §811, Oct. 5, 1994, 108 Stat. 2815; renumbered §4882, Pub. L. 116–283, div. A, title XVIII, §1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4286.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4501 and 9501 of this title, prior to repeal by Pub. L. 103–160, §822(a)(2).

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2538 of this title as this section.

**1994**—Subsec. (a). Pub. L. 103–337, §811(1), substituted "head of any department" for "Secretary of Defense".

Subsec. (c). Pub. L. 103–337, §811, substituted "through the head of any department" for "through the Secretary of Defense" and "opinion of the head of that department" for "opinion of the Secretary of Defense" in introductory provisions and "head of such department" for "Secretary" in pars. (2) and (3).

Subsec. (d). Pub. L. 103–337, §811(1), substituted "head of any department" for "Secretary of Defense".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4883. Industrial mobilization: plants; lists

(a) LIST OF PLANTS EQUIPPED TO MANUFACTURE ARMS OR AMMUNITION.—The Secretary of Defense may maintain a list of all privately owned plants in the United States, and the territories, Commonwealths, and possessions of the United States, that are equipped to manufacture for the armed forces arms or ammunition, or parts thereof, and may obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) LIST OF PLANTS CONVERTIBLE INTO AMMUNITION FACTORIES.—The Secretary of Defense may maintain a list of privately owned plants in the United States, and the territories, Commonwealths, and possessions of the United States, that are capable of being readily transformed into factories for the manufacture of ammunition for the armed forces and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and may obtain complete information as to the equipment of each of those plants.

(c) CONVERSION PLANS.—The Secretary of Defense may prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(Added Pub. L. 103–160, div. A, title VIII, §822(a)(1), Nov. 30, 1993, 107 Stat. 1705, §2539; renumbered §4883, Pub. L. 116–283, div. A, title XVIII, §1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4286.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4502(a)–(c) and 9502(a)–(c) of this title, prior to repeal by Pub. L. 103–160, §822(a)(2).

#### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2539 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4884. Industrial mobilization: Board on Mobilization of Industries Essential for Military Preparedness

The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance, to organize and coordinate operations under sections 4882 and 4883 of this title.

(Added Pub. L. 103–160, div. A, title VIII, §822(a)(1), Nov. 30, 1993, 107 Stat. 1705, §2540; renumbered §2539a, Pub. L. 103–337, div. A, title X, §1070(a)(13)(A), Oct. 5, 1994, 108 Stat. 2856; renumbered §4884 and amended Pub. L. 116–283, div. A, title XVIII, §1870(e)(2), Jan. 1, 2021, 134 Stat. 4286.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4502(d) and 9502(d) of this title, prior to repeal by Pub. L. 103–160, §822(a)(2).

### AMENDMENTS

**2021**—Pub. L. 116–283, §1870(e)(2)(B), substituted "sections 4882 and 4883" for "sections 2538 and 2539".

Pub. L. 116–283, §1870(e)(2)(A), renumbered section 2539a of this title as this section.

**1994**—Pub. L. 103–337 renumbered section 2540 of this title as section 2539a.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## SUBCHAPTER V—OTHER MATTERS

Sec.
4891. Improved national defense control of technology diversions overseas.
4892. Availability of samples, drawings, information, equipment, materials, and certain services.

## §4891. Improved national defense control of technology diversions overseas

(a) COLLECTION OF INFORMATION ON FOREIGN-CONTROLLED CONTRACTORS .—The Secretary of Defense and the Secretary of Energy shall each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with the Department of Defense and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $10,000,000 in any single year by the Department of Defense or the Department of Energy.

(b) TECHNOLOGY RISK ASSESSMENT REQUIREMENT.—(1) If the Secretary of Defense is acting as a designee of the President under section 721(a) [1] of the Defense Production Act of 1950 (50 U.S.C. 4565(a)) and if the Secretary determines that a proposed or pending merger, acquisition, or takeover may involve a firm engaged in the development of a defense critical technology or is otherwise important to the defense industrial and technology base, then the Secretary shall require the appropriate entity or entities from the list set forth in paragraph (2) to conduct an assessment of the risk of diversion of defense critical technology posed by such proposed or pending action.

(2) The entities referred to in paragraph (1) are the following:

(A) The Defense Intelligence Agency.

(B) The Army Foreign Technology Science Center.

(C) The Naval Maritime Intelligence Center.

(D) The Air Force Foreign Aerospace Science and Technology Center.

(Added Pub. L. 102–484, div. A, title VIII, §838(a), Oct. 23, 1992, 106 Stat. 2465, §2537; amended Pub. L. 103–35, title II, §201(d)(5), (h)(2), May 31, 1993, 107 Stat. 99, 100; Pub. L. 107–314, div. A, title X, §1041(a)(16), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 114–328, div. A, title X, §1081(b)(4)(B), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115–91, div. A, title X, §1051(a)(19), Dec. 12, 2017, 131 Stat. 1561; renumbered §4891, Pub. L. 116–283, div. A, title XVIII, §1870(f)(2), Jan. 1, 2021, 134 Stat. 4287.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 721(a) of the Defense Production Act of 1950, referred to in subsec. (b), is section 721(a) of act

Sept. 8, 1950, ch. 932, as added by Pub. L. 100–418, title V, §5021, Aug. 23, 1988, 102 Stat. 1425, which is classified to section 4565(a) of Title 50, War and National Defense. Section 721(a) of the Act was struck out, and a new section 721(a) was added, by Pub. L. 110–49, §2, July 26, 2007, 121 Stat. 246. As so added, section 721(a) does not refer to investigations by the President or the President's designee.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2537 of this title as this section.

**2017**—Subsecs. (b), (c). Pub. L. 115–91 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required annual reports to Congress regarding the information collected under subsec. (a).

**2016**—Subsec. (c). Pub. L. 114–328 substituted "(50 U.S.C. 4565(a))" for "(50 U.S.C. App. 2170(a))".

**2002**—Subsec. (a). Pub. L. 107–314 substituted "$10,000,000" for "$100,000".

**1993**—Subsec. (a). Pub. L. 103–35, §201(d)(5), substituted "respectively, that" for "respectively, which".

Subsec. (d). Pub. L. 103–35, §201(h)(2), struck out subsec. (d) which read as follows: "In this section, the term 'defense critical technology' has the meaning provided that term by section 2491(8) of this title."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4892. Availability of samples, drawings, information, equipment, materials, and certain services

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments, under regulations prescribed by the Secretary of Defense and when determined by the Secretary of Defense or the Secretary concerned to be in the interest of national defense, may each—

(1) sell, rent, lend, or give samples, drawings, and manufacturing or other information (subject to the rights of third parties) to any person or entity;

(2) sell, rent, or lend government equipment or materials to any person or entity—

(A) for use in independent research and development programs, subject to the condition that the equipment or material be used exclusively for such research and development; or

(B) for use in demonstrations to a friendly foreign government;

(3) make available to any person or entity, at an appropriate fee, the services of any government laboratory, center, range, or other testing facility for the testing of materials, equipment, models, computer software, and other items; and

(4) make available to any person or entity, through leases, contracts, or other appropriate arrangements, facilities, services, and equipment of any government laboratory, research center, or range, if the facilities, services, and equipment provided will not be in direct competition with the domestic private sector.

(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a)(3) are confidential and may not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

(c) FEES.—Fees made available under subsections (a)(3) and (a)(4) shall be established in the regulations prescribed pursuant to subsection (a). Such fees may not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

(d) USE OF FEES.—Fees received under subsections (a)(3) and (a)(4) may be credited to the

appropriations or other funds of the activity making such services available.

(Added Pub. L. 103–160, div. A, title VIII, §822(b)(1), Nov. 30, 1993, 107 Stat. 1705, §2541; renumbered §2539b, Pub. L. 103–337, div. A, title X, §1070(a)(13)(A), Oct. 5, 1994, 108 Stat. 2856; amended Pub. L. 103–355, title III, §3022, Oct. 13, 1994, 108 Stat. 3333; Pub. L. 104–106, div. A, title VIII, §804, div. D, title XLIII, §4321(a)(8), Feb. 10, 1996, 110 Stat. 390, 671; Pub. L. 106–65, div. A, title X, §1066(a)(23), Oct. 5, 1999, 113 Stat. 771; Pub. L. 110–181, div. A, title II, §232, Jan. 28, 2008, 122 Stat. 46; renumbered §4892, Pub. L. 116–283, div. A, title XVIII, §1870(f)(2), Jan. 1, 2021, 134 Stat. 4287.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2539b of this title as this section.

**2008**—Subsec. (a)(4). Pub. L. 110–181, §232(1), added par. (4).

Subsec. (c). Pub. L. 110–181, §232(2), struck out "for services" before "made available" and substituted "subsections (a)(3) and (a)(4)" for "subsection (a)(3)".

Subsec. (d). Pub. L. 110–181, §232(3), struck out "for services made available" after "Fees received" and substituted "subsections (a)(3) and (a)(4)" for "subsection (a)(3)".

**1999**—Subsec. (a). Pub. L. 106–65 substituted "Secretaries of the military departments" for "secretaries of the military departments".

**1996**—Subsec. (a). Pub. L. 104–106, §4321(a)(8), made technical correction to Pub. L. 103–355, §3022. See 1994 Amendment note below.

Subsec. (c). Pub. L. 104–106, §804, inserted "and indirect" after "recoup the direct".

**1994**—Pub. L. 103–337 renumbered section 2541 of this title as section 2539b.

Subsec. (a). Pub. L. 103–355, §3022, as amended by Pub. L. 104–106, §4321(a)(8), inserted "rent," after "sell," in par. (1) and ", rent," after "sell" in par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. D, title XLIII, §4321(a), Feb. 10, 1996, 110 Stat. 671, provided that the amendment made by that section is effective as of Oct. 13, 1994, and as if included in Pub. L. 103–355 as enacted.

## CHAPTER 387—SMALL BUSINESS PROGRAMS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **General** | **4901** |
| **II.** | **[Reserved]** | **4991** |


### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(10)(A), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116–283, div. A, title XVIII, §1871(a)(2), Jan. 1, 2021, 134 Stat. 4287, which added this analysis, by adding item for subchapter II.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM FOR STREAMLINED TECHNOLOGY TRANSITION FROM THE SBIR AND STTR PROGRAMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. A, title XVII, §1710, Dec. 12, 2017, 131 Stat. 1810, authorized the Secretary of Defense to establish a pilot program under which the Department was to award multiple award contracts to certain small business concerns for the purchase of technologies, supplies, or services that the small business concern had developed through the SBIR or STTR program, and provided that such pilot program would terminate on Sept. 30, 2023.

**MENTOR-PROTEGE PILOT PROGRAM**

Pub. L. 101–510, div. A, title VIII, §831, Nov. 5, 1990, 104 Stat. 1607, as amended by Pub. L. 102–25, title VII, §704(c), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102–172, title VIII, §8064A, Nov. 26, 1991, 105 Stat. 1186; Pub. L. 102–190, div. A, title VIII, §814(b), Dec. 5, 1991, 105 Stat. 1425; Pub. L. 102–484, div. A, title VIII, §§801(h)(4), 807(b)(1), title X, §1054(d), Oct. 23, 1992, 106 Stat. 2445, 2448, 2503; Pub. L. 103–160, div. A, title VIII, §813(b)(1), (c), Nov. 30, 1993, 107 Stat. 1703; Pub. L. 104–106, div. A, title VIII, §824, Feb. 10, 1996, 110 Stat. 399; Pub. L. 104–201, div. A, title VIII, §802, Sept. 23, 1996, 110 Stat. 2604; Pub. L. 105–85, div. A, title VIII, §821(a), title X, §1073(c)(6), Nov. 18, 1997, 111 Stat. 1840, 1904; Pub. L. 106–65, div. A, title VIII, §811(a)–(d)(1), (e), Oct. 5, 1999, 113 Stat. 706, 707, 709; Pub. L. 106–398, §1 [[div. A], title VIII, §807], Oct. 30, 2000, 114 Stat. 1654, 1654A–208; Pub. L. 107–107, div. A, title VIII, §812, Dec. 28, 2001, 115 Stat. 1181; Pub. L. 108–375, div. A, title VIII, §§841(a), (b), 842, Oct. 28, 2004, 118 Stat. 2018, 2019; Pub. L. 112–10, div. A, title VIII, §8016, Apr. 15, 2011, 125 Stat. 60; Pub. L. 112–81, div. A, title VIII, §867, title X, §1062(n), Dec. 31, 2011, 125 Stat. 1526, 1586; Pub. L. 112–239, div. A, title X, §1076(a)(17), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–291, div. A, title X, §1071(b)(16), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–92, div. A, title VIII, §861(a), Nov. 25, 2015, 129 Stat. 921; Pub. L. 114–328, div. A, title XVIII, §§1813(b), 1823, Dec. 23, 2016, 130 Stat. 2652, 2656; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(A), Dec. 12, 2017, 131 Stat. 1796, as amended by Pub. L. 116–283, div. A, title X, §1081(e)(1), Jan. 1, 2021, 134 Stat. 3874; Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(ii), Aug. 13, 2018, 132 Stat. 1846; Pub. L. 116–92, div. A, title VIII, §872(a)(1), (2), (b), (c), Dec. 20, 2019, 133 Stat. 1526; Pub. L. 116–283, div. A, title XVIII, §1806(e)(3)(F), Jan. 1, 2021, 134 Stat. 4156, which established the Mentor-Protege Program, was transferred to subchapter I of this chapter and redesignated as section 4902 of this title by Pub. L. 117–263, div. A, title VIII, §856(a), Dec. 23, 2022, 136 Stat. 2723.

## SUBCHAPTER I—GENERAL

Sec.
4901. Department of Defense small business strategy.
4902. Department of Defense Mentor–Protege Program.

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–263, div. A, title VIII, §856(c), Dec. 23, 2022, 136 Stat. 2726, added item 4902.

## §4901. Department of Defense small business strategy

(a) IN GENERAL.—The Secretary of Defense shall implement a small business strategy for the Department of Defense that meets the requirements of this section.

(b) UNIFIED MANAGEMENT STRUCTURE.—As part of the small business strategy described in subsection (a), the Secretary shall ensure that there is a unified management structure within the Department for the functions of the Department relating to—

(1) programs and activities related to small business concerns (as defined in section 3 of the Small Business Act);

(2) manufacturing and industrial base policy; and

(3) any procurement technical assistance program established under chapter 388 of this title.

(c) PURPOSE OF SMALL BUSINESS PROGRAMS.—The Secretary shall ensure that programs and activities of the Department of Defense related to small business concerns are carried out so as to

further national defense programs and priorities and the statements of purpose for Department of Defense acquisition set forth in section 801 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat. 1449).

(d) POINTS OF ENTRY INTO DEFENSE MARKET.—The Secretary shall ensure—

(1) that opportunities for small business concerns to contract with the Department of Defense are identified clearly; and

(2) that small business concerns are able to have access to program managers, contracting officers, and other persons using the products or services of such concern to the extent necessary to inform such persons of emerging and existing capabilities of such concerns.

(e) ENHANCED OUTREACH UNDER PROCUREMENT TECHNICAL ASSISTANCE PROGRAM MARKET.—The Secretary shall enable and promote activities to provide coordinated outreach to small business concerns through any procurement technical assistance program established under chapter 388 of this title to facilitate small business contracting with the Department of Defense.

(Added Pub. L. 115–232, div. A, title VIII, §851(a), Aug. 13, 2018, 132 Stat. 1883, §2283; renumbered §4901 and amended Pub. L. 116–283, div. A, title XVIII, §1871(b), Jan. 1, 2021, 134 Stat. 4287.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3 of the Small Business Act, referred to in subsec. (b)(1), is classified to section 632 of Title 15, Commerce and Trade.

Section 801 of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (c), is section 801 of Pub. L. 115–91, which is set out as a note under section 2302 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2283 of this title as this section and substituted "chapter 388" for "chapter 142" in subsecs. (b)(3) and (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### ACCESSIBILITY AND CLARITY IN COVERED NOTICES FOR SMALL BUSINESS CONCERNS

Pub. L. 118–159, div. A, title VIII, §875, Dec. 23, 2024, 138 Stat. 2014, provided that:

"(a) IN GENERAL.—Each covered notice shall be written in a manner—

"(1) such that a small business concern can easily understand the intent of the covered notice; and

"(2) that—

"(A) is clear, concise, and well-organized; and

"(B) to the maximum extent practicable, follows other best practices appropriate to the subject or field of the covered notice and the intended audience of the covered notice.

"(b) INCLUSION OF KEY WORDS IN COVERED NOTICES.—Each covered notice shall, to the maximum extent practicable, include key words in the description of the covered notice such that a small business concern seeking contract opportunities using the single Government-wide point of entry described under section 1708 of title 41, United States Code, can easily identify and understand such covered notice.

"(c) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue rules to carry out this section.

"(d) DEFINITIONS.—In this section:

"(1) COVERED NOTICE.—The term 'covered notice' means a notice that—

"(A) the Secretary of Defense or a Secretary of a military department publishes on SAM.gov (or

any successor website) marketing Federal contract opportunities; and

"(B) pertains to small business concerns, such as a sources sought notice or a solicitation restricted to competition among small business concerns.

"(2) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632)."

## SMALL BUSINESS BILL OF RIGHTS

Pub. L. 118–159, div. A, title VIII, §876, Dec. 23, 2024, 138 Stat. 2015, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, acting through the Small Business Integration Group in the Department of Defense led by the Under Secretary of Defense for Acquisition and Sustainment, shall develop a Small Business Bill of Rights for the Department of Defense and its components.

"(b) PURPOSE.—The Small Business Integration Group in the Department of Defense shall design the Small Business Bill of Rights required under subsection (a) to ensure a healthy partnership between the Department of Defense and the defense industrial base and to encourage small businesses to contract with the Department by ensuring customer service issues and conflicts between the Department and small businesses related to acquisitions by the Department are resolved in an expeditious manner and that small businesses are aware of their rights to assistance under Federal law in resolving such issues.

"(c) CONTENT.—The Bill of Rights required under subsection (a) shall do the following:

"(1) Authorize the Director of Small Business Programs of the Department to establish a resolution process to which all Department of Defense components, members of the small business professional workforce of the Department, and other relevant officials and organizations of the Department, must adhere.

"(2) Authorize the Director of Small Business Programs of the Department, each Director of Small Business Programs of a military department, and members of the small business professional workforce of the Department of Defense to—

"(A) request assistance from members of the acquisition workforce in their component of the Department with the customer service issues and conflicts described in subsection (b);

"(B) require a [sic] timely responses from such members; and

"(C) establish a framework for implementation by the components of the Department, members of the small business professional workforce, and other relevant officials and organizations of the Department providing for fair and reasonable resolution of complaints by small business for issues between small businesses and the Department.

"(3) Ensure that small businesses are informed of—

"(A) the rights of small businesses to assistance under the Small Business Regulatory Enforcement Fairness Act [title II of Pub. L. 104–121] (5 U.S.C. 601 note), the Small Business Act (15 U.S.C. 631 et seq.), chapter 388 of title 10, United States Code, and any other applicable law;

"(B) how to contact each task and delivery ombudsman designated under section 3406(g) of title 10, United States Code;

"(C) how to contact the Office of Small Business Programs of the Department of Defense and the Office of Small Business Programs of each military department; and

"(D) how to contact each advocate for competition in the Department of Defense designated pursuant to section 1705(a) of title 41, United States Code.

"(4) Establish guidance—

"(A) for the acquisition workforce of the Department of Defense on the rights of small businesses under Federal law and the regulations issued thereunder, including the Federal Acquisition Regulation and FAR and the Defense Federal Acquisition Regulation Supplement;

"(B) on the duties and authorities of the task and delivery ombudsmans designated under section 3406(g) of title 10, United States Code, and the advocates for competition in the Department of Defense designated pursuant to section 1705(a) of title 41, United States Code; and

"(C) on a reasonable and practical timeline, as determined by the Undersecretary of Defense for Acquisition and Sustainment, for contracting officers of the Department to response to an inquiry from the Office of Small Business Programs of the Department of Defense or the Office of Small Business Programs of each military department.

"(5) Coordinate assistance under the Bill of Rights with other regulatory compliance assistance to small business concerns, current and desired sets of authorities, roles, and responsibilities across the Offices

of Small Business Programs of the Department of Defense, APEX Accelerators, members of the small business professional workforce of the Department of Defense, and other relevant officials or organizations of the Department.

"(d) ANNUAL BRIEFINGS.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], and annually thereafter, the Director of Small Business Programs of the Department shall provide to the Secretary of Defense and the Committees on Armed Services of the House of Representatives and the Senate a briefing on the annual metrics collected under paragraph (2) for the year covered by the report.

"(2) COLLECTION OF ANNUAL METRICS.—

"(A) The Office of Small Business Programs of the Department of Defense shall—

"(i) develop annual metrics on the submission of complaints by contractors of the Department of Defense pursuant to the Small Business Bill of Rights required under subsection (a);

"(ii) provide each component of the Department such annual metrics; and

"(iii) collect and consolidate such annual metrics submitted to the Office under subparagraph (B).

"(B) Each component of the Department of Defense shall collect and submit to the Office of Small Business Programs of the Department of Defense the annual metrics.

"(e) IMPLEMENTATION BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing detailing the Small Business Bill of Rights required under subsection (a) and the plan to implement such Small Business Bill of Rights.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Director of Small Business Programs of the Department' means the Director of Small Business Programs in the Department of Defense appointed under section 144 of title 10, United States Code;

"(2) the term 'Director of Small Business Programs of a military department' means—

"(A) the Director of Small Business Programs in the Department of the Army appointed under section 7024 of title 10, United States Code;

"(B) the Director of Small Business Programs in the Department of the Navy appointed under section 8028 of such title; or

"(C) the Director of Small Business Programs in the Department of the Air Force appointed under section 9024 of such title; and

"(3) the term 'military department' has the meaning given such term in section 101(a) of title 10, United States Code."

## SMALL BUSINESS INTEGRATION WORKING GROUP

Pub. L. 117–263, div. A, title VIII, §874, Dec. 23, 2022, 136 Stat. 2741, provided that:

"(a) IN GENERAL.—Not later than 60 days after the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue a charter to establish a small business integration working group that—

"(1) ensures the integration and synchronization of the activities of the military departments and other components of the Department of Defense with respect to small business concerns; and

"(2) convenes not fewer than four times per year.

"(b) MEMBERSHIP.—The small business integration working group chartered under subsection (a) shall be comprised of representatives from each of the following organizations:

"(1) The small business office of each military department.

"(2) The Small Business Innovation Research Program and the Small Business Technology Transfer Program (as such terms are defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e))) of each military department.

"(3) The office of the Under Secretary of Defense for Acquisition and Sustainment.

"(4) The office of the Under Secretary of Defense for Research and Engineering.

"(5) Any other office the Secretary of Defense determines appropriate.

"(c) BRIEFING REQUIRED.—Not later than March 1, 2023, the Secretary of Defense shall brief the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the establishment and activities of the small business integration working group chartered under subsection (a), the policies enacted by the small business integration working group to allow for the sharing of best practices for maximizing the contributions of small business concerns in the defense industrial base and in acquisitions by the Department of Defense, and practices for conducting oversight of the activities

of the military departments and other components of the Department of Defense with respect to small business concerns.

"(d) DEFINITIONS.—In this section:

"(1) MILITARY DEPARTMENT.—The term 'military department' has the meaning given such term in section 101(a) of title 10, United States Code.

"(2) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632)."

**DEMONSTRATION OF COMMERCIAL DUE DILIGENCE FOR SMALL BUSINESS PROGRAMS**

Pub. L. 117–263, div. A, title VIII, §875, Dec. 23, 2022, 136 Stat. 2742, provided that:

"(a) DEMONSTRATION REQUIRED.—Not later than December 31, 2027, the Secretary of Defense shall establish a program to carry out a demonstration of commercial due diligence tools, techniques, and processes in order to support small businesses in identifying attempts by malicious foreign actors to gain undue access to, or foreign ownership, control, or influence over—

"(1) the small business; or

"(2) any technology a small business is developing pursuant to a contract or other agreement with the Department of Defense.

"(b) ELEMENTS.—The program required under subsection (a) shall include the following:

"(1) The identification of one or more entities to be responsible for the commercial due diligence tools, techniques, and processes that are part of a demonstration under the program and a description of the interactions required between such entity, small businesses, and the government agencies that enforce such tools, techniques, and processes.

"(2) An assessment of commercial due diligence tools, techniques, and processes already in use by each Office of Small Business Programs.

"(3) The development of methods to analyze the commercial due diligence tools, techniques, and processes that are part of a demonstration under the program to—

"(A) monitor and assess attempts described in subsection (a);

"(B) provide information on such attempts to applicable small businesses; and

"(C) allow small businesses that are subject to such attempts to provide information about such attempts to the Secretary of Defense.

"(4) The development of training and resources for small businesses that can be shared directly with such businesses or through a procurement technical assistance program established under chapter 388 of title 10, United States Code.

"(5) The implementation of performance measures to assess the effectiveness of such program.

"(c) BRIEFING REQUIRED.—Not later than April 1, 2023, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an interim briefing on the program required under subsection (a) that includes the following:

"(1) An identification of any entity described in subsection (b)(1).

"(2) A description of the methodology for executing any demonstrations under the program, including any analytical tools or metrics identified to support such a demonstration.

"(3) A description of any identified instances of attempts described in subsection (a).

"(4) An identification of improvements or gaps in resources, capabilities, or authorities, and other lessons learned from any demonstrations under the program.

"(d) ASSESSMENT.—Not later than March 1, 2028, the Secretary shall submit to the congressional defense committees a report on the program required under subsection (a), including any identified instances of attempts described in such subsection, any lessons learned, and any recommendations for legislative action related to such program.

"(e) DEFINITIONS.—In this section:

"(1) The term 'foreign ownership, control, or influence' has the meaning given in section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505; 10 U.S.C. 4819 note).

"(2) The term 'Office of Small Business Programs' means—

"(A) the Office of Small Business Programs of the Department of Defense established under section 144 of title 10, United States Code;

"(B) the Office of Small Business Programs of the Department of the Army established under section 7024 of such title;

"(C) the Office of Small Business Programs of the Department of the Navy established under

section 8028 of such title; and

"(D) the Office of Small Business Programs of the Department of the Air Force established under section 9024 of such title."

## REPORT ON UNFUNDED PRIORITIES OF THE SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM

Pub. L. 117–81, div. A, title VIII, §865, Dec. 27, 2021, 135 Stat. 1853, provided that:

"(a) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for fiscal years 2022 through 2032 is submitted to Congress pursuant to section 1105 of title 31, United States Code, each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on unfunded priorities of the Department of Defense related to high-priority Small Business Innovation Research and Small Business Technology Transfer projects.

"(b) ELEMENTS.—

"(1) IN GENERAL.—Each report under subsection (a) shall include identification of not more than five unfunded priority projects and the following information for each such unfunded priority project:

"(A) A summary description of the unfunded priority project, including the objectives to be achieved if such project were to be funded (either in whole or in part).

"(B) The additional amount of funds recommended to achieve the objectives identified under subparagraph (A).

"(C) Account information with respect to such unfunded priority project, including, as applicable, the following:

"(i) Line item number, in the case of applicable procurement accounts.

"(ii) Program element number, in the case of applicable research, development, test, and evaluation accounts.

"(iii) Subactivity group, in the case of applicable operation and maintenance accounts.

"(2) PRIORITY.—Each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall ensure that the unfunded priorities covered by a report submitted under subsection (a) are listed in the order of urgency of priority.

"(c) DEFINITIONS.—In this section:

"(1) UNFUNDED PRIORITY.—The term 'unfunded priority', with respect to a fiscal year, means a specific project related to a project successfully funded under Phase II of the Small Business Innovation Research or Small Business Technology Transfer program that—

"(A) is not funded in the budget of the President for that fiscal year, as submitted to Congress pursuant to section 1105 of title 31, United States Code;

"(B) has the potential to—

"(i) advance the national security capabilities of the United States;

"(ii) provide new technologies or processes, or new applications of existing technologies or processes, that will enable new alternatives to existing programs; and

"(iii) provide future cost savings; and

"(C) would have been recommended for funding through the budget referred to in subparagraph (A) if—

"(i) additional resources had been available to fund the program, activity, or mission requirement to which the specific project relates; or

"(ii) the program, activity, or mission requirement for such specific project had emerged before the budget was formulated.

"(2) PHASE II; SMALL BUSINESS INNOVATION RESEARCH; SMALL BUSINESS TECHNOLOGY TRANSFER.—The terms 'Phase II', 'Small Business Innovation Research', and 'Small Business Technology Transfer' have the meanings given such terms, respectively, in section 9(e) of the Small Business Act (15 U.S.C. 638(e))."

## INITIATIVES TO SUPPORT SMALL BUSINESSES IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Pub. L. 116–283, div. A, title VIII, §861, Jan. 1, 2021, 134 Stat. 3775, provided that:

"(a) IN GENERAL.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Industrial Base Policy (established under section 903 of this Act [amending section 138 of this title]) and other appropriate officials, in carrying out the activities described under [former] subchapter II of chapter 148 of

title 10, United States Code [see chapter 382 of this title], shall establish initiatives to increase the effectiveness of the Department of Defense in specifically leveraging small businesses to eliminate gaps and vulnerabilities in the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]) and expand the number of small businesses in the national technology and industrial base.

"(b) INITIATIVES.—

"(1) UPDATES FOR SMALL BUSINESS STRATEGY.—Not later than October 1, 2022, and biennially thereafter, [sic] shall update the small business strategy required under section 2283 of title 10, United States Code [now 10 U.S.C. 4901], and provide such updated strategy to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(2) IMPLEMENTATION PLAN.—

"(A) IN GENERAL.—Not later than March 1, 2023, and biennially thereafter, the Secretary of Defense shall develop an implementation plan consistent with the most recent small business strategy developed under such section 2283 [now 4901], and provide such plan to the congressional defense committees.

"(B) ELEMENTS.—The implementation plan described in subparagraph (A) shall include an identification of the following:

"(i) Organizations responsible for implementation activities.

"(ii) Metrics to evaluate progress of implementation activities.

"(iii) Resources to support implementation activities.

"(iv) Outcomes achieved as a result of executing the previous small business strategy developed under such section 2283 [now 4901].

"(3) MECHANISMS TO ASSESS AND SUPPORT SMALL BUSINESSES IN NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall—

"(A) establish policies, procedures, and information repositories to identify small businesses in the defense supply chain, including—

"(i) small businesses participating in an acquisition program of a military department or Defense Agency (as defined in section 101(11) of title 10, United States Code [now 10 U.S.C. 101(a)(11)]);

"(ii) small businesses contracting with the Defense Logistics Agency; and

"(iii) other small businesses in the national technology and industrial base;

"(B) establish policies and procedures to assess the financial status of critical small businesses; and

"(C) enter into an agreement with the acquisition research organization within a civilian college or university that is described under section 2361a(a) of title 10, United States Code [now 10 U.S.C. 4142(a)] (commonly referred to as the 'Acquisition Innovation Research Center'), to analyze mechanisms that could be established to allow the Secretary of Defense to provide direct financial support to critical small businesses that require additional financial assistance, including critical small businesses that are—

"(i) contracting with the Defense Logistics Agency;

"(ii) subcontractors (at any tier); or

"(iii) in critical technology sectors.

"(c) REPORTS.—

"(1) REPORT ON ACTIVITIES.—Not later than October 1, 2021, the Assistant Secretary of Defense for Industrial Base Policy shall submit to the appropriate committees a report on activities undertaken pursuant to this section.

"(2) IMPLEMENTATION PLAN FOR 2019 SMALL BUSINESS STRATEGY.—Not later than June 1, 2021, the Secretary of Defense shall submit an implementation plan for the small business strategy required under section 2283 of title 10, United States Code [now 10 U.S.C. 4901], and dated October 1, 2019, including an identification of specific responsible individuals and organizations, milestones and metrics, and resources to support activities identified in the implementation plan.

"(d) SMALL BUSINESS DEFINED.—In this section, the term 'small business' has the meaning given by the Secretary of Defense, except that such term shall include prime contractors and subcontractors (at any tier)."

## PILOT PROGRAM FOR DEVELOPMENT OF TECHNOLOGY-ENHANCED CAPABILITIES WITH PARTNERSHIP INTERMEDIARIES

Pub. L. 116–92, div. A, title VIII, §851, Dec. 20, 2019, 133 Stat. 1510, as amended by Pub. L. 117–81, div.

A, title VIII, §852, Dec. 27, 2021, 135 Stat. 1846; Pub. L. 119–83, §10(k), Apr. 13, 2026, 140 Stat. 768, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense may authorize the Commander of the United States Special Operations Command to use funds described in subsection (b) for a pilot program under which the Commander shall make, through the use of a partnership intermediary, covered awards to small business concerns to develop technology-enhanced capabilities for special operations forces.

"(b) FUNDS.—

"(1) IN GENERAL.—The funds described in this subsection are funds transferred to the Commander of the United States Special Operations Command to carry out the pilot program established under this section from funds available to be expended by each covered entity pursuant to section 9(f) of the Small Business Act (15 U.S.C. 638(f)).

"(2) LIMITATIONS.—

"(A) FISCAL YEAR.—A covered entity may not transfer to the Commander an amount greater than 10 percent of the funds available to be expended by such covered entity pursuant to such section 9(f) for a fiscal year.

"(B) AGGREGATE AMOUNT.—The aggregate amount of funds to be transferred to the Commander may not exceed $20,000,000.

"(c) PARTNERSHIP INTERMEDIARIES.—

"(1) AUTHORIZATION.—The Commander may modify an existing agreement with a partnership intermediary to assist the Commander in carrying out the pilot program under this section, including with respect to the award of contracts and agreements to small business concerns.

"(2) LIMITATION.—None of the funds described in subsection (b) may be used to pay a partnership intermediary for any costs associated with the pilot program.

"(3) DATA.—With respect to a covered award made under this section, the Commander shall gather data on the role of the partnership intermediary to include the—

"(A) staffing structure;

"(B) funding sources; and

"(C) methods for identifying and evaluating small business concerns eligible for a covered award.

"(d) REPORT.—

"(1) ANNUAL REPORT.—Not later than October 1 of each year until October 1, 2026, the Commander of the United States Special Operations Command, in coordination with the Under Secretary of Defense for Research and Engineering, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report including—

"(A) a description of each agreement with a partnership intermediary entered into pursuant to this section;

"(B) for each covered award made under this section—

"(i) a description of the role served by the partnership intermediary;

"(ii) the amount of funds obligated;

"(iii) an identification of the small business concern that received such covered award;

"(iv) a description of the use of such covered award;

"(v) a description of the role served by the program manager (as defined in section 1737 of title 10, United States Code) of the covered entity with respect to the small business concern that received such covered award, including a description of interactions and the process of the program manager in producing a past performance evaluation of such concern; and

"(vi) the benefits achieved as a result of the use of a partnership intermediary for the pilot program established under this section as compared to previous efforts of the Commander to increase participation by small business concerns in the development of technology-enhanced capabilities for special operations forces; and

"(C) a plan detailing how each covered entity will apply lessons learned from the pilot program to improve processes for directly working with and supporting small business concerns to develop technology-enhanced capabilities for special operations forces.

"(2) FINAL REPORT.—The final report required under this subsection shall include, along with the requirements of paragraph (1), a recommendation regarding—

"(A) whether and for how long the pilot program established under this section should be extended; and

"(B) whether to increase funding for the pilot program, including a justification for such an

increase.

"(e) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on September 30, 2031.

"(f) DEFINITIONS.—In this section:

"(1) The term 'covered award' means an award made under the Small Business Innovation Research Program.

"(2) The term 'covered entity' means—

"(A) the Army;

"(B) the Navy;

"(C) the Air Force;

"(D) the Marine Corps;

"(E) the Space Force; and

"(F) any element of the Department of Defense that makes awards under the Small Business Innovation Research Program.

"(3) The term 'partnership intermediary' has the meaning given the term in section 23(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3715(c)).

"(4) The term 'small business concern' has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

"(5) The term 'Small Business Innovation Research Program' has the meaning given the term in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

"(6) The term 'technology-enhanced capability' means a product, concept, or process that improves the ability of a member of the Armed Forces to achieve an assigned mission."

**IMPLEMENTATION**

Pub. L. 115–232, div. A, title VIII, §851(b), Aug. 13, 2018, 132 Stat. 1884, provided that:

"(1) DEADLINE.—The Secretary of Defense shall develop the small business strategy required by section 2283 of title 10, United States Code [now 10 U.S.C. 4901], as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018].

"(2) NOTICE TO CONGRESS AND PUBLICATION.—Upon completion of the development of the small business strategy pursuant to paragraph (1), the Secretary shall—

"(A) transmit the strategy to Congress; and

"(B) publish the strategy on a public website of the Department of Defense."

## §4902. Department of Defense Mentor-Protege Program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a program to be known as the "Mentor-Protege Program".

(b) PURPOSE.—The purpose of the program is to provide incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to—

(1) enhance the capabilities of disadvantaged small business concerns to perform as subcontractors and suppliers under Department of Defense contracts and other contracts and subcontracts; and

(2) increase the participation of such business concerns as subcontractors and suppliers under Department of Defense contracts, other Federal Government contracts, and commercial contracts.

(c) PROGRAM PARTICIPANTS.—(1) A business concern meeting the eligibility requirements set out in subsection (d) may enter into agreements under subsection (e) and furnish assistance to disadvantaged small business concerns upon making application to the Secretary of Defense and being approved for participation in the program by the Secretary. A business concern participating in the program pursuant to such an approval shall be known, for the purposes of the program, as a "mentor firm".

(2) A disadvantaged small business concern eligible for the award of Federal contracts may obtain assistance from a mentor firm upon entering into an agreement with the mentor firm as provided in subsection (e). A disadvantaged small business concern may not be a party to more than one agreement concurrently, and the authority to enter into agreements under subsection (e) shall only be available to such concern during the 5-year period beginning on the date such concern enters into the

first such agreement. A disadvantaged small business concern receiving such assistance shall be known, for the purposes of the program, as a "protege firm".

(3) In entering into an agreement pursuant to subsection (e), a mentor firm may rely in good faith on a written representation of a business concern that such business concern is a disadvantaged small business concern. The Small Business Administration shall determine the status of such business concern as a disadvantaged small business concern in the event of a protest regarding the status of such business concern. If at any time the business concern is determined by the Small Business Administration not to be a disadvantaged small business concern, assistance furnished such business concern by the mentor firm after the date of the determination may not be considered assistance furnished under the program.

(d) MENTOR FIRM ELIGIBILITY.—

(1) Subject to subsection (c)(1), a mentor firm may enter into an agreement with one or more protege firms under subsection (e) and provide assistance under the program pursuant to that agreement if the mentor firm—

(A) is eligible for award of Federal contracts; and

(B) demonstrates that it—

(i) is qualified to provide assistance that will contribute to the purpose of the program;

(ii) is of good financial health and character and does not appear on a Federal list of debarred or suspended contractors; and

(iii) can impart value to a protege firm because of experience gained as a Department of Defense contractor or through knowledge of general business operations and government contracting, as demonstrated by evidence that—

(I) during the fiscal year preceding the fiscal year in which the mentor firm enters into the agreement, the total amount of the Department of Defense contracts awarded such mentor firm and the subcontracts awarded such mentor firm under Department of Defense contracts was equal to or greater than $25,000,000; or

(II) the mentor firm demonstrates the capability to assist in the development of protege firms, and is approved by the Secretary of Defense pursuant to criteria specified in the regulations prescribed pursuant to subsection (j).

(2) A mentor firm may not enter into an agreement with a protege firm if the Administrator of the Small Business Administration has made a determination finding affiliation between the mentor firm and the protege firm.

(3) If the Administrator of the Small Business Administration has not made such a determination and if the Secretary has reason to believe (based on the regulations promulgated by the Administrator regarding affiliation) that the mentor firm is affiliated with the protege firm, the Secretary shall request a determination regarding affiliation from the Administrator of the Small Business Administration.

(e) MENTOR-PROTEGE AGREEMENT.—(1) Before providing assistance to a protege firm under the program, a mentor firm shall enter into a mentor-protege agreement with the protege firm regarding the assistance to be provided by the mentor firm. The agreement shall include the following:

(A) A developmental program for the protege firm, in such detail as may be reasonable, including—

(i) factors to assess the protege firm's developmental progress under the program;

(ii) a description of the quantitative and qualitative benefits to the Department of Defense from the agreement, if applicable;

(iii) goals for additional awards that the protege firm can compete for outside the Mentor-Protege Program; and

(iv) the assistance the mentor firm will provide to the protege firm in understanding contract regulations of the Federal Government and the Department of Defense (including the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement) after

award of a subcontract under this section, if applicable.

(B) A program participation term for any period of not more than three years, except that the term may be a period of up to five years if the Secretary of Defense determines in writing that unusual circumstances justify a program participation term in excess of three years.

(C) Procedures for the protege firm to terminate the agreement voluntarily and for the mentor firm to terminate the agreement for cause.

(2) An agreement under this subsection may be a contract, cooperative agreement, or a partnership intermediary agreement.

(f) FORMS OF ASSISTANCE.—A mentor firm may provide a protege firm the following:

(1) Assistance, by using mentor firm personnel, in—

(A) general business management, including organizational management, financial management, and personnel management, marketing, and overall business planning;

(B) engineering and technical matters such as production, inventory control, manufacturing, test and evaluation, and quality assurance; and

(C) any other assistance designed to develop the capabilities of the protege firm under the developmental program referred to in subsection (e).

(2) Award of subcontracts on a noncompetitive basis to the protege firm under the Department of Defense or other contracts.

(3) Payment of progress payments for performance of the protege firm under such a subcontract in amounts as provided for in the subcontract, but in no event may any such progress payment exceed 100 percent of the costs incurred by the protege firm for the performance.

(4) Advance payments under such subcontracts.

(5) Loans.

(6) Assistance obtained by the mentor firm for the protege firm from one or more of the following—

(A) small business development centers established pursuant to section 21 of the Small Business Act (15 U.S.C. 648);

(B) entities providing procurement technical assistance pursuant to chapter 388 of this title;

(C) a historically Black college or university or a minority institution of higher education; or

(D) women's business centers described in section 29 of the Small Business Act (15 U.S.C. 656).

(g) INCENTIVES FOR MENTOR FIRMS.—(1) The Secretary of Defense may provide to a mentor firm reimbursement for the total amount of any progress payment or advance payment made under the program by the mentor firm to a protege firm in connection with a Department of Defense contract awarded the mentor firm.

(2)(A) The Secretary of Defense may provide to a mentor firm reimbursement for the costs of the assistance furnished to a protege firm pursuant to paragraphs (1) and (6) of subsection (f) (except as provided in subparagraph (D)) as provided for in a line item in a Department of Defense contract under which the mentor firm is furnishing products or services to the Department, subject to a maximum amount of reimbursement specified in such contract, except that this sentence does not apply in a case in which the Secretary of Defense determines in writing that unusual circumstances justify reimbursement using a separate contract.

(B) The determinations made in annual performance reviews of a mentor firm's mentor-protege agreement shall be a major factor in the determinations of amounts of reimbursement, if any, that the mentor firm is eligible to receive in the remaining years of the program participation term under the agreement.

(C) The total amount reimbursed under this paragraph to a mentor firm for costs of assistance furnished in a fiscal year to a protege firm may not exceed $1,000,000, except in a case in which the Secretary of Defense determines in writing that unusual circumstances justify a reimbursement of a

higher amount.

(D) The Secretary may not reimburse any fee assessed by the mentor firm for services provided to the protege firm pursuant to subsection (f)(6) or for business development expenses incurred by the mentor firm under a contract awarded to the mentor firm while participating in a joint venture with the protege firm.

(3)(A) Costs incurred by a mentor firm in providing assistance to a protege firm that are not reimbursed pursuant to paragraph (2) shall be recognized as credit in lieu of subcontract awards for purposes of determining whether the mentor firm attains a subcontracting participation goal applicable to such mentor firm under a Department of Defense contract, under a contract with another executive agency, or under a divisional or company-wide subcontracting plan negotiated with the Department of Defense or another executive agency.

(B) The amount of the credit given a mentor firm for any such unreimbursed costs shall be equal to—

(i) four times the total amount of such costs attributable to assistance provided by entities described in subsection (f)(6);

(ii) three times the total amount of such costs attributable to assistance furnished by the mentor firm's employees; and

(iii) two times the total amount of any other such costs.

(C) Under regulations prescribed pursuant to subsection (j), the Secretary of Defense shall adjust the amount of credit given a mentor firm pursuant to subparagraphs (A) and (B) if the Secretary determines that the firm's performance regarding the award of subcontracts to disadvantaged small business concerns has declined without justifiable cause.

(4) A mentor firm shall receive credit toward the attainment of a subcontracting participation goal applicable to such mentor firm for each subcontract for a product or service awarded under such contract by a mentor firm to a business concern that, except for its size, would be a small business concern owned and controlled by socially and economically disadvantaged individuals, but only if—

(A) the size of such business concern is not more than two times the maximum size specified by the Administrator of the Small Business Administration for purposes of determining whether a business concern furnishing such product or service is a small business concern; and

(B) the business concern formerly had a mentor-protege agreement with such mentor firm that was not terminated for cause.

(h) RELATIONSHIP TO SMALL BUSINESS ACT.—(1) For purposes of the Small Business Act (15 U.S.C. 631 et seq.), no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f).

(2) Notwithstanding section 8 of the Small Business Act (15 U.S.C. 637), the Small Business Administration may not determine a disadvantaged small business concern to be ineligible to receive any assistance authorized under the Small Business Act on the basis that such business concern has participated in the Mentor-Protege Program or has received assistance pursuant to any developmental assistance agreement authorized under such program.

(3) The Small Business Administration may not require a firm that is entering into, or has entered into, an agreement under subsection (e) as a protege firm to submit the agreement, or any other document required by the Secretary of Defense in the administration of the Mentor-Protege Program, to the Small Business Administration for review, approval, or any other purpose.

(i) PARTICIPATION IN MENTOR-PROTEGE PROGRAM NOT TO BE A CONDITION FOR AWARD OF A CONTRACT OR SUBCONTRACT.—A mentor firm may not require a business concern to enter into an agreement with the mentor firm pursuant to subsection (e) as a condition for being awarded a contract by the mentor firm, including a subcontract under a contract awarded to the mentor firm.

(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the

Mentor-Protege Program. Such regulations shall include the requirements set forth in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and shall prescribe procedures by which the parties may terminate participation in the program. The Department of Defense policy regarding the Mentor-Protege Program shall be published and maintained as an appendix to the Department of Defense Supplement to the Federal Acquisition Regulation.

(k) REPORT BY MENTOR FIRMS.—To comply with section 8(d)(7) of the Small Business Act (15 U.S.C. 637(d)(7)), each mentor firm shall submit a report to the Secretary not less than once each fiscal year that includes, for the preceding fiscal year—

(1) all technical or management assistance provided by mentor firm personnel for the purposes described in subsection (f)(1);

(2) any new awards of subcontracts on a competitive or noncompetitive basis to the protege firm under Department of Defense contracts or other contracts, including the value of such subcontracts;

(3) any extensions, increases in the scope of work, or additional payments not previously reported for prior awards of subcontracts on a competitive or noncompetitive basis to the protege firm under Department of Defense contracts or other contracts, including the value of such subcontracts;

(4) the amount of any payment of progress payments or advance payments made to the protege firm for performance under any subcontract made under the Mentor-Protege Program;

(5) any loans made by the mentor firm to the protege firm;

(6) all Federal contracts awarded to the mentor firm and the protege firm as a joint venture, designating whether the award was a restricted competition or a full and open competition;

(7) any assistance obtained by the mentor firm for the protege firm from one or more—

(A) small business development centers established pursuant to section 21 of the Small Business Act (15 U.S.C. 648);

(B) entities providing procurement technical assistance pursuant to chapter 388 of this title; or

(C) historically Black colleges or universities or minority institutions of higher education;

(8) whether there have been any changes to the terms of the mentor-protege agreement; and

(9) a narrative describing the success assistance provided under subsection (f) has had in addressing the developmental needs of the protege firm, the impact on Department of Defense contracts, and addressing any problems encountered.

(l) REVIEW OF REPORT BY THE OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense shall review the report required by subsection (k) and, if the Office finds that the mentor-protege agreement is not furthering the purpose of the Mentor-Protege Program, decide not to approve any continuation of the agreement.

(m) ANNUAL COLLECTION OF PERFORMANCE DATA.—The Director of the Office of Small Business Programs shall—

(1) maintain outcome-based performance goals and annually collect data through an automated information system (if practicable) assessing such goals; and

(2) conduct an independent review of the Mentor-Protege Program established under this section at least once every three years.

(n) DEFINITIONS.—In this section:

(1) The term "affiliation", with respect to a relationship between a mentor firm and a protege firm, means a relationship described under section 121.103 of title 13, Code of Federal Regulations (or any successor regulation).

(2) The term "disadvantaged small business concern" means a firm that is not more than the size standard corresponding to its primary North American Industry Classification System code, is not owned or managed by individuals or entities that directly or indirectly have stock options or convertible securities in the mentor firm, and is—

(A) a small business concern owned and controlled by socially and economically disadvantaged individuals;

(B) a business entity owned and controlled by an Indian tribe as defined by section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13));

(C) a business entity owned and controlled by a Native Hawaiian Organization as defined by section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15));

(D) a qualified organization employing severely disabled individuals;

(E) a small business concern owned and controlled by women, as defined in section 8(d)(3)(D) of the Small Business Act (15 U.S.C. 637(d)(3)(D));

(F) a small business concern owned and controlled by service–disabled veterans (as defined in section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)));

(G) a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act (15 U.S.C. 657a(b))); or

(H) a small business concern that—

(i) is a nontraditional defense contractor, as such term is defined in section 3014 of this title; or

(ii) currently provides goods or services in the private sector that are critical to enhancing the capabilities of the defense supplier base and fulfilling key Department of Defense needs.

(3) The term "historically Black college and university" means any of the historically Black colleges and universities referred to in section 2323 of this title, as in effect on March 1, 2018.

(4) The term "minority institution of higher education" means an institution of higher education with a student body that reflects the composition specified in section 312(b)(3), (4), and (5) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(3), (4), and (5)).[1]

(5) The term "qualified organization employing the severely disabled" means a business entity operated on a for-profit or nonprofit basis that—

(A) uses rehabilitative engineering to provide employment opportunities for severely disabled individuals and integrates severely disabled individuals into its workforce;

(B) employs severely disabled individuals at a rate that averages not less than 20 percent of its total workforce;

(C) employs each severely disabled individual in its workforce generally on the basis of 40 hours per week; and

(D) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) to those employees who are severely disabled individuals.

(6) The term "severely disabled individual" means an individual who is blind (as defined in section 8501 of title 41) or a severely disabled individual (as defined in such section).

(7) The term "small business concern" has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).

(8) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the meaning given such term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

(9) The term "subcontracting participation goal", with respect to a Department of Defense contract, means a goal for the extent of the participation by disadvantaged small business concerns in the subcontracts awarded under such contract, as established pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

(Added and amended Pub. L. 117–263, div. A, title VIII, §856(a), (b), Dec. 23, 2022, 136 Stat. 2723, 2724; Pub. L. 118–31, div. A, title VIII, §852, title XVIII, §1801(a)(37), Dec. 22, 2023, 137 Stat. 344, 685; Pub. L. 118–159, div. A, title XVII, §1701(a)(42), Dec. 23, 2024, 138 Stat. 2206.)

**EDITORIAL NOTES**

## REFERENCES IN TEXT

Section 312 of the Higher Education Act of 1965, referred to in subsec. (n)(4), is section 312 of Pub. L. 89–329, title III, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1292, which is classified to section 1058 of Title 20, Education. Pars. (3) to (5) of subsec. (b) of such section were repealed by Pub. L. 102–325, title III, §302(a)(3), July 23, 1992, 106 Stat. 472. See 1992 Amendment notes under section 1058 of Title 20.

## CODIFICATION

Section 831 of Pub. L. 101–510, formerly set out as a note preceding section 4901 of this title, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 117–263, §856(b), was based on Pub. L. 101–510, div. A, title VIII, §831, Nov. 5, 1990, 104 Stat. 1607, as amended by Pub. L. 102–25, title VII, §704(c), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102–172, title VIII, §8064A, Nov. 26, 1991, 105 Stat. 1186; Pub. L. 102–190, div. A, title VIII, §814(b), Dec. 5, 1991, 105 Stat. 1425; Pub. L. 102–484, div. A, title VIII, §§801(h)(4), 807(b)(1), title X, §1054(d), Oct. 23, 1992, 106 Stat. 2445, 2448, 2503; Pub. L. 103–160, div. A, title VIII, §813(b)(1), (c), Nov. 30, 1993, 107 Stat. 1703; Pub. L. 104–106, div. A, title VIII, §824, Feb. 10, 1996, 110 Stat. 399; Pub. L. 104–201, div. A, title VIII, §802, Sept. 23, 1996, 110 Stat. 2604; Pub. L. 105–85, div. A, title VIII, §821(a), title X, §1073(c)(6), Nov. 18, 1997, 111 Stat. 1840, 1904; Pub. L. 106–65, div. A, title VIII, §811(a)–(d)(1), (e), Oct. 5, 1999, 113 Stat. 706, 707, 709; Pub. L. 106–398, §1 [[div. A], title VIII, §807], Oct. 30, 2000, 114 Stat. 1654, 1654A–208; Pub. L. 107–107, div. A, title VIII, §812, Dec. 28, 2001, 115 Stat. 1181; Pub. L. 108–375, div. A, title VIII, §§841(a), (b), 842, Oct. 28, 2004, 118 Stat. 2018, 2019; Pub. L. 112–10, div. A, title VIII, §8016, Apr. 15, 2011, 125 Stat. 60; Pub. L. 112–81, div. A, title VIII, §867, title X, §1062(n), Dec. 31, 2011, 125 Stat. 1526, 1586; Pub. L. 112–239, div. A, title X, §1076(a)(17), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113–291, div. A, title X, §1071(b)(16), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–92, div. A, title VIII, §861(a), Nov. 25, 2015, 129 Stat. 921; Pub. L. 114–328, div. A, title XVIII, §§1813(b), 1823, Dec. 23, 2016, 130 Stat. 2652, 2656; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(A), Dec. 12, 2017, 131 Stat. 1796, as amended by Pub. L. 116–283, div. A, title X, §1081(e)(1), Jan. 1, 2021, 134 Stat. 3874; Pub. L. 115–232, div. A, title VIII, §812(a)(2)(C)(ii), Aug. 13, 2018, 132 Stat. 1846; Pub. L. 116–92, div. A, title VIII, §872(a)(1), (2), (b), (c), Dec. 20, 2019, 133 Stat. 1526; Pub. L. 116–283, div. A, title XVIII, §1806(e)(3)(F), Jan. 1, 2021, 134 Stat. 4156.

## AMENDMENTS

**2024**—Subsec. (e)(1)(A)(iii). Pub. L. 118–159, §1701(a)(42)(A)(i), inserted "the" before "protege firm".

Subsec. (e)(1)(C), (3). Pub. L. 118–159, §1701(a)(42)(A)(ii), redesignated par. (3) as subpar. (C) of par. (1) and realigned margins.

Subsec. (n)(5)(D). Pub. L. 118–159, §1701(a)(42)(B), inserted "of 1938" after "Fair Labor Standards Act".

**2023**—Subsec. (e). Pub. L. 118–31, §852, inserted par. (1) designation before "Before providing assistance", redesignated former par. (1) and its subpars. (A) to (D) as subpar. (A) and cls. (i) to (iv), redesignated former par. (2) as subpar. (B) of par. (1), and added par. (2). Par. (2) was added after par. (1) to reflect the probable intent of Congress, notwithstanding directory language adding it at the end of subsec. (e).

Subsec. (k)(5). Pub. L. 118–31, §1801(a)(37), inserted "the" before "mentor firm".

**2022**—Pub. L. 117–263, §856(b)(1), substituted "Department of Defense Mentor-Protege" for "Mentor-Protege Pilot" in section catchline.

Pub. L. 117–263, §856(a), transferred section 831 of Pub. L. 101–510 to this subchapter and renumbered it as this section. See Codification note above.

Subsec. (a). Pub. L. 117–263, §856(b)(3), struck out "pilot" before "program to".

Pub. L. 117–263, §856(b)(2), struck out "Pilot" before "Program" in heading.

Subsec. (c)(1). Pub. L. 117–263, §856(b)(3), struck out "pilot" after "in the" in two places.

Subsec. (d)(1)(B)(iii)(I). Pub. L. 117–263, §856(b)(4)(A), substituted "$25,000,000" for "$100,000,000".

Subsec. (d)(1)(B)(iii)(II). Pub. L. 117–263, §856(b)(4)(B), substituted "subsection (j)" for "subsection (k)".

Subsec. (e)(2). Pub. L. 117–263, §856(b)(5), substituted "three years" for "two years" in two places.

Subsec. (f)(1)(B). Pub. L. 117–263, §856(b)(6)(A), inserted "manufacturing, test and evaluation," after "inventory control,".

Subsec. (f)(6)(B). Pub. L. 117–263, §856(b)(6)(B), substituted "pursuant to chapter 388 of this title;" for "pursuant to chapter 142 of title 10, United States Code;".

Subsec. (g)(3)(C). Pub. L. 117–263, §856(b)(7), substituted "subsection (j)" for "subsection (k)".

Subsec. (j). Pub. L. 117–263, §856(b)(11), struck out "pilot" before "Mentor-Protege" in two places and "The Secretary shall publish the proposed regulations not later than the date 180 days after the date of the enactment of this Act. The Secretary shall promulgate the final regulations not later than the date 270 days

after the date of the enactment of this Act." after "participation in the program.", and substituted "by which the parties" for "by which mentor firms".

Pub. L. 117–263, §856(b)(8), (9), redesignated subsec. (k) as (j) and struck out former subsec. (j). Prior to amendment, text of subsec. (j) read as follows:

"(1) No mentor-protege agreement may be entered into under subsection (e) after September 30, 2024.

"(2) No reimbursement may be paid, and no credit toward the attainment of a subcontracting goal may be granted, under subsection (g) for any cost incurred after September 30, 2026."

Subsec. (k). Pub. L. 117–263, §856(b)(9), redesignated subsec. (l) as (k). Former subsec. (k) redesignated (j).

Subsec. (k)(7)(B). Pub. L. 117–263, §856(b)(12), substituted "pursuant to chapter 388 of this title; or" for "pursuant to chapter 142 of title 10, United States Code; or".

Subsec. (l). Pub. L. 117–263, §856(b)(13), substituted "subsection (k)" for "subsection (l)".

Pub. L. 117–263, §856(b)(9), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 117–263, §856(b)(14), added subsec. (m). Former subsec. (m) redesignated (l).

Subsec. (n). Pub. L. 117–263, §856(b)(15), amended subsec. (n) generally. Prior to amendment, subsec. (n) defined terms for this section.

Pub. L. 117–263, §856(b)(8), (10), redesignated subsec. (o) as (n) and struck out former subsec. (n). Prior to amendment, text of subsec. (o) read as follows: "The Office of Small Business Programs of the Department of Defense shall—

"(1) establish performance goals consistent with the stated purpose of the Mentor-Protege Program and outcome-based metrics to measure progress in meeting those goals; and

"(2) submit to the congressional defense committees, not later than February 1, 2020, a report on progress made toward implementing these performance goals and metrics, based on periodic reviews of the procedures used to approve mentor-protege agreements."

Subsec. (o). Pub. L. 117–263, §856(b)(10), redesignated subsec. (o) as (n).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title VIII, §856(g), Dec. 23, 2022, 136 Stat. 2727, provided that: "The amendments made by this section [enacting and amending this section] shall not apply with respect to any agreement entered into under the program as established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1607) before the date of the enactment of this Act [Dec. 23, 2022]."

### REGULATIONS

Pub. L. 117–263, div. A, title VIII, §856(f), Dec. 23, 2022, 136 Stat. 2727, provided that: "Not later than December 31, 2023, the Secretary of Defense shall issue regulations for carrying out section 4902 of title 10, United States Code, as amended by this section."

### PROTEGE TECHNICAL REIMBURSEMENT PILOT PROGRAM

Pub. L. 117–263, div. A, title VIII, §856(d), Dec. 23, 2022, 136 Stat. 2726, provided that:

"(1) IN GENERAL.—Not later than July 1, 2023, the Director of the Office of Small Business Programs of the Department of Defense (as appointed pursuant to section 144 of title 10, United States Code) shall establish a pilot program under which a protege firm may receive up to 25 percent of the reimbursement for which the mentor firm of such protege firm is eligible under the Mentor-Protege Program for a covered activity described in paragraph (2).

"(2) ACTIVITY DESCRIBED.—A covered activity under this paragraph is an engineering, software development, or manufacturing customization that the protege firm implements in order to ensure that a technology developed by the protege firm will be ready for integration with a program or system of the Department of Defense.

"(3) DEFINITIONS.—In this subsection:

"(A) The terms 'mentor firm', 'protege firm' have the meanings given under section 4902 of title 10, United States Code, as amended by this section.

"(B) The term 'Mentor-Protege Program' means the Mentor-Protege Program established under section 4902 of title 10, United States Code, as amended by this section.

"(4) TERMINATION.—The pilot program established under paragraph (1) shall terminate on the date that is five years after the date on which the pilot program is established."

[1] *See References in Text note below.*

## SUBCHAPTER II—[RESERVED]

Sec.
4911. [Reserved].

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(i)(10)(B), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116–283, div. A, title XVIII, §1871(a)(2), Jan. 1, 2021, 134 Stat. 4287, by adding this subchapter.

## CHAPTER 388—PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

Sec.[1]
4951. Definitions.
4952. Purposes.
4953. Regulations.
4954. Cooperative agreements.
4955. Funding.
4956. Distribution.
4957. Subcontractor information.
4958. Authority to provide certain types of technical assistance.
4959. Advancing small business growth.
4960. [Reserved].
4961. Administrative and other costs.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(m)(3), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(1)(B), Jan. 1, 2021, 134 Stat. 4287, which added this analysis, by generally revising the items to be inserted. Directory language amending section "1872(a)(B)" of Pub. L. 116–283 was executed as if it had referred to section "1872(a)(1)(B)" to reflect the probable intent of Congress.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### NOTICE OF COST-FREE FEDERAL PROCUREMENT TECHNICAL ASSISTANCE IN CONNECTION WITH REGISTRATION OF SMALL BUSINESS CONCERNS ON PROCUREMENT WEBSITES OF THE DEPARTMENT OF DEFENSE

Pub. L. 115–91, div. A, title XVII, §1707, Dec. 12, 2017, 131 Stat. 1809, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall establish procedures to ensure that any notice or direct communication regarding the registration of a small business concern on a website maintained by the Department of Defense relating to contracting opportunities contains information about cost-free Federal procurement technical assistance services that are available through a procurement technical assistance program established under [former] chapter 142 of title 10, United States Code [see chapter 388 of this title].

"(b) SMALL BUSINESS CONCERN DEFINED.—The term 'small business concern' has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632)."

[1] *Editorially supplied.*

## §4951. Definitions

In this chapter:

(1) The term "eligible entity" means any of the following:

(A) A State.

(B) A local government.

(C) A nonprofit organization.

(D) A tribal organization, as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(l)), or an economic enterprise, as defined in section 3(e) of the Indian Financing Act of 1974 (Public Law 93–262; 25 U.S.C. 1452(e)), whether or not such economic enterprise is organized for profit purposes or nonprofit purposes.

(2) The term "distressed area" means—

(A) the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

(i) has a per capita income of 80 percent or less of the State average; or

(ii) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available; or

(B) a reservation, as defined in section 3(d) of the Indian Financing Act of 1974 (Public Law 93–262; 25 U.S.C. 1452(d)).

(3) The term "Secretary" means the Secretary of Defense acting through the Under Secretary of Defense for Acquisition and Sustainment.

(4) The terms "State" and "local government" have the meaning given those terms in section 6302 of title 31.

(5) The term "business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, consortia, not-for-profit, or other legal entity.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(1)(B), (2), Jan. 1, 2021, 134 Stat. 4287; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(A), (3), Dec. 27, 2021, 135 Stat. 2144, 2145; Pub. L. 118–31, div. A, title VIII, §853(a), Dec. 22, 2023, 137 Stat. 344.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2411 of this title, which was transferred to this section by Pub. L. 116–283, §1872(a)(2), was based on Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2605; Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 691; Pub. L. 99–500, §101(c) [title X, §956(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §956(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174; Pub. L. 99–661, div. A, title IX, formerly title IV, §956(a), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–180, div. A, title VIII, §807(b), Dec. 4, 1987, 101 Stat. 1128; Pub. L. 100–456, div. A, title VIII, §841(b)(2), Sept. 29, 1988, 102 Stat. 2025; Pub. L. 101–189, div. A, title VIII, §853(e), Nov. 29, 1989, 103 Stat. 1519; Pub. L. 102–25, title VII, §701(j)(5), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. A, title X, §1052(31), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 115–91, div. A, title X, §1081(a)(36), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title VIII, §852(a), Dec. 20, 2019, 133 Stat. 1511.

Pub. L. 117–81, div. A, title XVII, §1701(m)(1), (3), Dec. 27, 2021, 135 Stat. 2144, 2145, amended Pub. L. 116–283, §1872(a)(1)(B), (2)–(4), which had originally added this section and transferred to subsecs. (a) to (c) thereof the text of sections 2412, 2411, and 2420 of this title, respectively. After amendment by Pub. L. 117–81, section 1872(a)(1)(B) of Pub. L. 116–283 reenacted this section, and section 1872(a)(2)–(4) of Pub. L. 116–283 instead transferred sections 2411, 2412, and 2420 to this section, section 4952, and section 4953 of this title, respectively.

### AMENDMENTS

**2023**—Par. (1)(C). Pub. L. 118–31, §853(a)(1), substituted "nonprofit organization" for "private, nonprofit organization".

Par. (5). Pub. L. 118–31, §853(a)(2), added par. (5).

**2021**—Pub. L. 117–81, §1701(m)(3), which directed amendment of section "1872(a)(B)" of Pub. L. 116–283, was executed as if it had referred to section "1872(a)(1)(B)" of Pub. L. 116–283, which enacted this section, to reflect the probable intent of Congress.

Pub. L. 116–283, §1872(a)(2), as amended by Pub. L. 117–81, §1701(m)(1)(A), transferred the text of section 2411 of this title to this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4952. Purposes

The purposes of the program authorized by this chapter are—

(1) to increase assistance by the Department of Defense to eligible entities furnishing procurement technical assistance to business entities;

(2) to assist eligible entities in the payment of the costs of establishing and carrying out new procurement technical assistance programs and maintaining existing procurement technical assistance programs; and

(3) to foster innovation for the defense industrial base and to diversify and expand the defense industrial base.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(1)(B), (3), Jan. 1, 2021, 134 Stat. 4287, 4288; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(B), (3), Dec. 27, 2021, 135 Stat. 2144, 2145; Pub. L. 119–60, div. A, title VIII, §861(a), Dec. 18, 2025, 139 Stat. 988.)

### EDITORIAL NOTES

### CODIFICATION

The text of section 2412 of this title, which was transferred to this section by Pub. L. 116–283, §1872(a)(3), was based on Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2605; Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 692.

Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(A), Dec. 27, 2021, 135 Stat. 2135, 2144, amended Pub. L. 116–283, §1872(a)(5), which had originally transferred section 2413 of this title to this section and made an amendment in the text. After amendment by Pub. L. 117–81, section 1872(a)(5) of Pub. L. 116–283 instead transferred section 2413 to section 4954 of this title and consequently amended the text of that section.

### AMENDMENTS

**2025**—Par. (3). Pub. L. 119–60 added par. (3).

**2021**—Pub. L. 117–81, §1701(m)(3), which directed amendment of section "1872(a)(B)" of Pub. L. 116–283, was executed as if it had referred to section "1872(a)(1)(B)" of Pub. L. 116–283, which enacted this section, to reflect the probable intent of Congress.

Pub. L. 116–283, §1872(a)(3), as amended by Pub. L. 117–81, §1701(m)(1)(B), transferred the text of section 2412 of this title to this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

### EFFECTIVE DATE

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

## §4953. Regulations

The Secretary of Defense shall prescribe regulations to carry out this chapter, and shall consult with an association recognized under section 4954(f) [1] regarding any revisions to such regulations.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(1)(B), (4), Jan. 1, 2021, 134 Stat. 4287, 4288; Pub. L. 117–81, div. A, title XVII, §1701(m)(1)(C), (3), Dec. 27, 2021, 135 Stat. 2144, 2145; Pub. L. 117–263, div. A, title VIII, §854(c), Dec. 23, 2022, 136 Stat. 2723.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4954(f), referred to in text, was redesignated as section 4954(e) of this title, and a new subsec. (f) of section 4954 of this title was added, by Pub. L. 118–31, div. A, title VIII, §853(b)(2), (3), Dec. 22, 2023, 137 Stat. 344.

### CODIFICATION

The text of section 2420 of this title, which was transferred to this section by Pub. L. 116–283, §1872(a)(4), was based on Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2606, §2416; renumbered §2417, Pub. L. 99–500, §101(c) [title X, §957(a)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §957(a)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174, and Pub. L. 99–661, div. A, title IX, formerly title IV, §957(a)(1)(A), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §2418, Pub. L. 101–510, div. A, title VIII, §814(a)(1)(A), Nov. 5, 1990, 104 Stat. 1596; renumbered §2419, Pub. L. 102–484, div. D, title XLII, §4236(a)(1)(A), Oct. 23, 1992, 106 Stat. 2691; renumbered §2420, Pub. L. 113–66, div. A, title XVI, §1611(a)(1)(A), Dec. 26, 2013, 127 Stat. 946.

Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(B), Dec. 27, 2021, 135 Stat. 2135, 2144, amended Pub. L. 116–283, §1872(a)(6), which had originally transferred section 2414 of this title to this section and made amendments in the text. After amendment by Pub. L. 117–81, section 1872(a)(6) of Pub. L. 116–283 instead transferred section 2414 to section 4955 of this title and consequently amended the text of that section.

### AMENDMENTS

**2022**—Pub. L. 117–263 inserted before period at end: ", and shall consult with an association recognized under section 4954(f) regarding any revisions to such regulations".

**2021**—Pub. L. 117–81, §1701(m)(3), which directed amendment of section "1872(a)(B)" of Pub. L. 116–283, was executed as if it had referred to section "1872(a)(1)(B)" of Pub. L. 116–283, which enacted this section, to reflect the probable intent of Congress.

Pub. L. 116–283, §1872(a)(4), as amended by Pub. L. 117–81, §1701(m)(1)(C), transferred the text of section 2420 of this title to this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and

Effective Date note below.

**EFFECTIVE DATE**

Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §4954. Cooperative agreements

(a) AUTHORITY.—The Secretary, in accordance with the provisions of this chapter, may enter into cooperative agreements with eligible entities to carry out the purposes of this chapter.

(b) AGREEMENTS.—(1) Under any such cooperative agreement, the eligible entity shall agree to sponsor programs to furnish procurement technical assistance to business entities and the Secretary shall agree to defray not more than 75 percent of the eligible entity's cost of furnishing such assistance under such programs, except that—

(A) in the case of a program sponsored by such an entity that provides services solely in a distressed area, the Secretary may agree to furnish more than 75 percent, but not more than 85 percent, of such cost with respect to such program; and

(B) in the case of a program sponsored by such an entity that provides assistance for covered small businesses pursuant to section 4959(b) of this title, the Secretary may agree to furnish the full cost of such assistance.

(2) The Secretary shall have the ability to waive or modify the percentages specified in paragraph (1), on a case-by-case basis, if the Secretary determines that it would be in the best interest of the program.

(c) WEIGHT TO BE GIVEN SUCCESSFUL PAST PERFORMANCE.—In conducting a competition for the award of a cooperative agreement under subsection (a), the Secretary shall give significant weight to successful past performance of eligible entities under a cooperative agreement under this section.

(d) DETERMINATION OF LEVEL OF FUNDING.—In determining the level of funding to provide under an agreement under subsection (b), the Secretary shall consider the forecast by the eligible entity of demand for procurement technical assistance, and, in the case of an established program under this chapter, the outlays and receipts of such program during prior years of operation.

(e) ASSOCIATION RECOGNITION AND DUTIES.—Eligible entities that provide procurement technical assistance pursuant to this chapter may form an association to pursue matters of common concern. If more than a majority of such eligible entities are members of such an association, the Secretary shall—

(1) recognize the existence and activities of such an association; and

(2) jointly develop with such association a model cooperative agreement that may be used at the option of the Secretary and an eligible entity.

(f) WAIVER OF GOVERNMENT COST SHARE RESTRICTION.—If the Secretary of Defense determines it to be in the best interests of the Federal Government, the Secretary may waive the restrictions on the percentage of eligible costs covered by the program under section (b). The Secretary shall submit to the congressional defense committees a written justification for such determination.

(Added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2605, §2413; amended Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 692; Pub. L. 99–500, §101(c) [title X, §956(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §956(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174; Pub. L. 99–661, div. A, title IX, formerly title IV, §956(b), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273,

and amended Pub. L. 100–180, div. A, title XII, §1233(b), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 105–261, div. A, title VIII, §802(a)(1), Oct. 17, 1998, 112 Stat. 2081; Pub. L. 107–314, div. A, title VIII, §814, Dec. 2, 2002, 116 Stat. 2610; Pub. L. 113–66, div. A, title XVI, §§1611(c), 1612(a), Dec. 26, 2013, 127 Stat. 947, 948; Pub. L. 115–232, div. A, title VIII, §858(a), Aug. 13, 2018, 132 Stat. 1892; renumbered §4954 and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(5), Jan. 1, 2021, 134 Stat. 4288; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(A), Dec. 27, 2021, 135 Stat. 2135, 2144; Pub. L. 117–263, div. A, title VIII, §854(b), Dec. 23, 2022, 136 Stat. 2722; Pub. L. 118–31, div. A, title VIII, §853(b), Dec. 22, 2023, 137 Stat. 344.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(C), Dec. 27, 2021, 135 Stat. 2144, amended Pub. L. 116–283, §1872(a)(7), which had originally transferred section 2415 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(7) of Pub. L. 116–283 instead transferred section 2415 to section 4956 of this title.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §853(b)(1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsecs. (c) to (e). Pub. L. 118–31, §853(b)(2), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "In entering into cooperative agreements under subsection (a), the Secretary shall assure that at least one procurement technical assistance program is carried out in each Department of Defense contract administration services district during each fiscal year."

Subsec. (f). Pub. L. 118–31, §853(b)(3), added subsec. (f). Former subsec. (f) redesignated (e).

**2022**—Subsec. (f). Pub. L. 117–263 added subsec. (f).

**2021**—Pub. L. 116–283, §1872(a)(5), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(A)(i), renumbered section 2413 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1872(a)(5)(A), inserted heading.

Subsec. (b). Pub. L. 116–283, §1872(a)(5)(B), as amended by Pub. L. 117–81, §1701(m)(2)(A)(ii), inserted heading and, in par. (2), substituted "section 4959(b)" for "section 2419(b)".

Subsecs. (c) to (e). Pub. L. 116–283, §1872(a)(5)(C)–(E), inserted heading.

**2018**—Subsec. (b). Pub. L. 115–232, §858(a)(1), substituted "not more than 75 percent" for "not more than 65 percent" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–232, §858(a)(2), substituted "more than 75 percent, but not more than 85 percent" for "more than 65 percent, but not more than 75 percent".

**2013**—Subsec. (b). Pub. L. 113–66, §1612(a)(1), substituted "65 percent" for "one-half" in introductory provisions.

Pub. L. 113–66, §1611(c)(1)(A), (B), substituted "except that—

"(1) in the case"

for "except that in the case" and "; and" for period at end.

Subsec. (b)(1). Pub. L. 113–66, §1612(a), substituted "65 percent" for "one-half" and "75 percent" for "three-fourths".

Subsec. (b)(2). Pub. L. 113–66, §1611(c)(1)(C), added par. (2).

Subsec. (d). Pub. L. 113–66, §1611(c)(3), struck out "and in determining the level of funding to provide under an agreement under subsection (b)," after "subsection (a),".

Subsec. (e). Pub. L. 113–66, §1611(c)(2), added subsec. (e).

**2002**—Subsec. (d). Pub. L. 107–314 added subsec. (d).

**1998**—Subsec. (c). Pub. L. 105–261 substituted "district" for "region".

**1987**—Subsec. (b). Pub. L. 100–180 made technical amendment to directory language of Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661. See 1986 Amendment note below.

**1986**—Subsec. (b). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, as amended by Pub. L. 100–180, amended subsec. (b) identically, inserting "sponsor programs to" after first reference to "agree to", "under

such programs" after "such assistance", and "with respect to such program" after "such cost" and substituting "a program sponsored by such an entity that provides services solely in a distressed area" for "an eligible entity that is a distressed entity".

**1985**—Pub. L. 99–145 amended section generally, substituting ", in accordance with the provisions of this chapter, may enter" for "may, in accordance with the provisions of this chapter, enter" in subsec. (a), adding subsec. (b), and redesignating former subsec. (b) as (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. A, title XII, §1233(c)(2), Dec. 4, 1987, 101 Stat. 1161, provided that: "The amendment made by subsection (b) [amending Public Laws 99–500, 99–591, and 99–661 which amended this section] shall apply as if included in the enactment of Public Laws 99–500, 99–591, and 99–661."

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–145, title IX, §919(d), Nov. 8, 1985, 99 Stat. 693, provided that: "The amendments made by subsections (a) and (b) [amending this section, sections 4955 and 4956 of this title, and former sections 2411 and 2412 of this title] shall take effect on October 1, 1985."

## §4955. Funding

(a) IN GENERAL.—Except as provided in subsection (c), the value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

(1) in the case of a program operating on a Statewide basis, other than a program referred to in paragraph (3) or (4), $1,500,000;

(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in paragraph (3) or (4), $750,000;

(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 4951(1)(D) of this title, $450,000; or

(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 4951(1)(D) of this title, $1,500,000.

(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a Statewide basis or on less than a Statewide basis or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 4951(1)(D) of this title shall be made in accordance with regulations prescribed by the Secretary of Defense.

(c) EXCEPTION.—The value of the assistance provided in accordance with section 4959(b) of this title is not subject to the limitations in subsection (a).

(d) USE OF PROGRAM INCOME.—

(1) An eligible entity that earned income in a specified fiscal year from activities carried out pursuant to a procurement technical assistance program funded under this chapter may expend an amount of such income, not to exceed 25 percent of the cost of furnishing procurement technical assistance in such specified fiscal year, during the fiscal year following such specified fiscal year, to carry out a procurement technical assistance program funded under this chapter.

(2) An eligible entity that does not enter into a cooperative agreement with the Secretary for a

fiscal year—

(A) shall notify the Secretary of the amount of any income the eligible entity carried over from the previous fiscal year; and

(B) may retain an amount of such income equal to 10 percent of the value of assistance furnished by the Secretary under this section during the previous fiscal year.

(3) In determining the value of assistance furnished by the Secretary under this section for any fiscal year, the Secretary shall account for the amount of any income the eligible entity carried over from the previous fiscal year.

(e) FUNDING FROM OTHER FEDERAL AGENCIES.—The Secretary may accept and use funds from other Federal agencies and departments for execution and administration of the program authorized by this chapter.

(Added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2606, §2414; amended Pub. L. 99–145, title IX, §919(a), Nov. 8, 1985, 99 Stat. 692; Pub. L. 100–456, div. A, title VIII, §841(a), Sept. 29, 1988, 102 Stat. 2025; Pub. L. 101–189, div. A, title VIII, §819(c), Nov. 29, 1989, 103 Stat. 1503; Pub. L. 102–25, title VII, §701(f)(7), Apr. 6, 1991, 105 Stat. 115; Pub. L. 107–107, div. A, title VIII, §813, Dec. 28, 2001, 115 Stat. 1181; Pub. L. 107–314, div. A, title VIII, §815, Dec. 2, 2002, 116 Stat. 2610; Pub. L. 109–163, div. A, title VIII, §824, Jan. 6, 2006, 119 Stat. 3387; Pub. L. 113–66, div. A, title XVI, §§1611(b), §1612(b), Dec. 26, 2013, 127 Stat. 947, 948; Pub. L. 115–91, div. A, title VIII, §817, Dec. 12, 2017, 131 Stat. 1462; Pub. L. 115–232, div. A, title VIII, §858(b), title X, §1081(a)(24)(A), Aug. 13, 2018, 132 Stat. 1892, 1984; renumbered §4955 and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(6), Jan. 1, 2021, 134 Stat. 4288; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(B), Dec. 27, 2021, 135 Stat. 2135, 2144; Pub. L. 117–263, div. A, title VIII, §854(d), Dec. 23, 2022, 136 Stat. 2723; Pub. L. 119–60, div. A, title VIII, §861(b), (c), Dec. 18, 2025, 139 Stat. 988.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(D), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(8), which had originally transferred section 2416 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(8) of Pub. L. 116–283 instead transferred section 2416 to section 4957 of this title.

### AMENDMENTS

**2025**—Subsec. (a)(4). Pub. L. 119–60, §861(c), substituted "$1,500,000" for "$1,000,000".

Subsec. (e). Pub. L. 119–60, §861(b), added subsec. (e).

**2022**—Subsec. (a)(1). Pub. L. 117–263 substituted "$1,500,000" for "$1,000,000".

**2021**—Pub. L. 116–283, §1872(a)(6), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(B)(i), (ii), renumbered section 2414 of this title as this section.

Subsec. (a)(1), (2). Pub. L. 116–283, §1872(a)(6)(A), substituted "paragraph" for "clause".

Subsecs. (a)(3), (4), (b). Pub. L. 116–283, §1872(a)(6)(B), as amended by Pub. L. 117–81, §1701(m)(2)(B)(iii), substituted "section 4951(1)(D)" for "section 2411(1)(D)".

Subsec. (c). Pub. L. 116–283, §1872(a)(6)(C), as amended by Pub. L. 117–81, §1701(m)(2)(B)(iv), substituted "section 4959(b)" for "section 2419(b)".

**2018**—Pub. L. 115–232, §1081(a)(24)(A), substituted "Funding" for "FUNDING" in section catchline.

Subsec. (a)(1). Pub. L. 115–232, §858(b)(1), substituted "$1,000,000" for "$750,000".

Subsec. (a)(2). Pub. L. 115–232, §858(b)(2), substituted "$750,000" for "$450,000".

Subsec. (a)(3). Pub. L. 115–232, §858(b)(3), substituted "$450,000" for "$300,000".

Subsec. (a)(4). Pub. L. 115–232, §858(b)(4), substituted "$1,000,000" for "$750,000".

**2017**—Pub. L. 115–91, §817(1), which directed substitution of "FUNDING" for "LIMITATION" in section catchline, was executed by making the substitution for "Limitation" in section catchline, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 115–91, §817(2), added subsec. (d).

**2013**—Subsec. (a). Pub. L. 113–66, §1611(b)(1), substituted "Except as provided in subsection (c), the value" for "The value" in introductory provisions.

Subsec. (a)(1). Pub. L. 113–66, §1612(b)(1), substituted "$750,000" for "$600,000".

Subsec. (a)(2). Pub. L. 113–66, §1612(b)(2), substituted "$450,000" for "$300,000".

Subsec. (a)(3). Pub. L. 113–66, §1612(b)(3), substituted "$300,000" for "$150,000".

Subsec. (a)(4). Pub. L. 113–66, §1612(b)(1), substituted "$750,000" for "$600,000".

Subsec. (c). Pub. L. 113–66, §1611(b)(2), added subsec. (c).

**2006**—Subsec. (a)(2). Pub. L. 109–163 substituted "$300,000" for "$150,000".

**2002**—Subsec. (a)(4). Pub. L. 107–314 substituted "$600,000" for "$300,000".

**2001**—Subsec. (a)(1). Pub. L. 107–107 substituted "$600,000" for "$300,000".

**1991**—Subsec. (b). Pub. L. 102–25 substituted "section 2411(1)(D)" for "section 2411(a)(1)(D)".

**1989**—Subsec. (a). Pub. L. 101–189, §819(c)(1), added pars. (1) to (4) and struck out former pars. (1) and (2) which read as follows:

"(1) in the case of a program operating on a Statewide basis, $300,000; or

"(2) in the case of a program operating on less than a Statewide basis, $150,000."

Subsec. (b). Pub. L. 101–189, §819(c)(2), inserted "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

**1988**—Pub. L. 100–456 amended section generally. Prior to amendment, section read as follows: "The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed $150,000."

**1985**—Pub. L. 99–145 amended section generally, substituting "Secretary" for "Department of Defense" and "program under" for "program pursuant to".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 919(d) of Pub. L. 99–145, set out as a note under section 4954 of this title.

## §4956. Distribution

The Secretary shall allocate funds available for assistance under this chapter equally to each Department of Defense contract administrative services district. If in any such fiscal year there is an insufficient number of satisfactory proposals in a district for cooperative agreements to allow effective use of the funds allocated to that district, the funds remaining with respect to that district shall be reallocated among the remaining districts.

(Added Pub. L. 98–525, title XII, §1241(a)(1), Oct. 19, 1984, 98 Stat. 2606, §2415; amended Pub. L. 99–145, title IX, §919(b), Nov. 8, 1985, 99 Stat. 692; Pub. L. 100–180, div. A, title VIII, §807(c), Dec. 4, 1987, 101 Stat. 1128; Pub. L. 105–261, div. A, title VIII, §802(a)(2), (b), Oct. 17, 1998, 112 Stat. 2081; Pub. L. 106–398, §1 [[div. A], title X, §1087(d)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293; renumbered §4956, Pub. L. 116–283, div. A, title XVIII, §1872(a)(7), Jan. 1, 2021, 134 Stat. 4288; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(C), Dec. 27, 2021, 135 Stat. 2135, 2144.)

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(E), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(9), which had originally transferred section 2418 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(9) of Pub. L. 116–283 instead transferred section 2418 to section 4958 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1872(a)(7), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(C), renumbered section 2415 of this title as this section.

**2000**—Pub. L. 106–398 made technical amendment to directory language of Pub. L. 105–261, §802(b). See 1998 Amendment note below.

**1998**—Pub. L. 105–261, §802(a)(2), substituted "district" for "region" wherever appearing and "districts" for "regions".

Pub. L. 105–261, §802(b), as amended by Pub. L. 106–398, substituted "Department of Defense contract administrative services" for "Defense Contract Administration Services".

**1987**—Pub. L. 100–180, §807(c), struck out subsecs. (a) and (b) relating to requirement by Secretary of Defense to reserve 75% of first $3,000,000 appropriated to carry out this chapter for purpose of assisting cooperative agreements entered into under section 2413 of this title for fiscal years 1986 and 1987, and for fiscal years after 1987 the authority of Secretary to allocate funds in accordance with such cooperative agreements, and substituted "The" for "(c) For any amount appropriated to carry out this chapter for fiscal year 1986 or 1987 in excess of $3,000,000, the".

**1985**—Subsec. (a)(2). Pub. L. 99–145, §919(b)(1)(A), substituted "fiscal years 1986 and 1987" for "fiscal year 1985 is 50 percent and during fiscal year 1986".

Subsec. (a)(3). Pub. L. 99–145, §919(b)(1)(B), added par. (3).

Subsec. (b). Pub. L. 99–145, §919(b)(2), substituted "1987" for "1986".

Subsec. (c). Pub. L. 99–145, §919(b)(3), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1087(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that the amendment made by section 1 [[div. A], title X, §1087(d)(5)] is effective Oct. 17, 1998, and as if included in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105–261, as enacted.

### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 919(d) of Pub. L. 99–145, set out as a note under section 4954 of this title.

## §4957. Subcontractor information

(a) CONTRACTORS TO PROVIDE INFORMATION.—The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

(b) INFORMATION TO BE PROVIDED.—Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts

being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

(c) FREQUENCY.—A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

(d) DEFINITION.—In this section, the term "defense contractor", for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $1,000,000.

(Added Pub. L. 99–500, §101(c) [title X, §957(a)(1)(B)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–174, and Pub. L. 99–591, §101(c) [title X, §957(a)(1)(B)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–174, §2416; Pub. L. 99–661, div. A, title IX, formerly title IV, §957(a)(1)(B), Nov. 14, 1986, 100 Stat. 3954, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 108–375, div. A, title VIII, §816, Oct. 28, 2004, 118 Stat. 2015; renumbered §4957 and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(8), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(D), Dec. 27, 2021, 135 Stat. 2135, 2145.)

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(F), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(10), which had originally transferred section 2419 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(10) of Pub. L. 116–283 instead transferred section 2419 to section 4959 of this title.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### AMENDMENTS

**2021**—Pub. L. 116–283, §1872(a)(8), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(D), renumbered section 2416 of this title as this section and inserted headings in subsecs. (a) to (d).

**2004**—Subsec. (d). Pub. L. 108–375 substituted "$1,000,000" for "$500,000".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 99–500, §101(c) [title X, §957(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–175, Pub. L. 99–591, §101(c) [title X, §957(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–175, and Pub. L. 99–661, div. A, title IX, formerly title IV, §957(b), Nov. 14, 1986, 100 Stat. 3955, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: "Section 2416 of title 10, United States Code [now 10 U.S.C. 4957], as added by subsection (a), shall take effect on January 1, 1987."

## §4958. Authority to provide certain types of technical assistance

(a) ASSISTANCE RELATING TO CERTAIN NON-DEFENSE CONTRACTS.—The procurement technical assistance furnished by eligible entities assisted by the Department of Defense under this chapter may include technical assistance relating to contracts entered into with (1) Federal departments and agencies other than the Department of Defense, and (2) State and local governments.

(b) INFORMATION RELATING TO ASSISTANCE AND OTHER PROGRAMS AVAILABLE .—An eligible entity assisted by the Department of Defense under this chapter also may furnish information relating to assistance and other programs available pursuant to the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.

(c) EDUCATION ON REQUIREMENTS APPLICABLE TO SMALL BUSINESSES UNDER CERTAIN REGULATIONS.—An eligible entity assisted by the Department of Defense under this chapter also may furnish education on the requirements applicable to small businesses under the regulations issued—

(1) under section 38 of the Arms Export Control Act (22 U.S.C. 2778), and on compliance with those requirements;

(2) under section 9 of the Small Business Act (15 U.S.C. 638), and on compliance with those requirements;

(3) under clause 252.204–7012 of the Defense Acquisition Regulation Supplement, or any successor regulation, and on compliance with those requirements (and any successor requirements);

(4) under section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505), and on compliance with those requirements (and any such successor requirements); and

(5) under the AUKUS partnership (as defined in section 1321 of the National Defense Authorization Act for Fiscal Year 2024 (22 U.S.C. 10401).

(d) The Under Secretary of Defense for Acquisition and Sustainment may—

(1) provide assistance to an eligible entity that is a center of excellence for the APEX Accelerator Program of the Department of Defense (or a successor program) to provide specialized expertise to business entities outside of the geographic area served by the center of excellence; and

(2) may waive the government cost share restriction in accordance with section 4954(f) of this chapter.

(Added Pub. L. 102–484, div. D, title XLII, §4236(a)(1)(B), Oct. 23, 1992, 106 Stat. 2691, §2418; amended Pub. L. 113–291, div. A, title VIII, §823(b), Dec. 19, 2014, 128 Stat. 3436; Pub. L. 115–91, div. A, title XVII, §1708, Dec. 12, 2017, 131 Stat. 1809; renumbered §4958 and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(9), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(E), Dec. 27, 2021, 135 Stat. 2135, 2145; Pub. L. 118–31, div. A, title VIII, §853(c), Dec. 22, 2023, 137 Stat. 344; Pub. L. 119–60, div. A, title VIII, §861(d), Dec. 18, 2025, 139 Stat. 989.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (b), is div. D of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2658. For complete classification of div. D to the Code, see Short Title note set out under section 4801 of this title and Tables.

Section 847 of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (c)(4), is section 847 of Pub. L. 116–92, which is set out as a note under section 4819 of this title.

### AMENDMENTS

**2025**—Subsec. (c)(5). Pub. L. 119–60, §861(d)(1), added par. (5).

Subsec. (d). Pub. L. 119–60, §861(d)(2), added subsec. (d).

**2023**—Subsec. (c)(3), (4). Pub. L. 118–31 added pars. (3) and (4).

**2021**—Pub. L. 116–283, §1872(a)(9), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(E), renumbered section 2418 of this title as this section and inserted headings in subsecs. (a) to (c).

**2017**—Subsec. (c). Pub. L. 115–91 substituted "issued—" for "issued", inserted par. (1) designation before "under" and comma before "and on compliance", and added par. (2).

**2014**—Subsec. (c). Pub. L. 113–291 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4959. Advancing small business growth

(a) CONTRACT CLAUSE REQUIRED.—(1) The Under Secretary of Defense for Acquisition and Sustainment shall require the clause described in paragraph (2) to be included in each covered contract awarded by the Department of Defense.

(2) The clause described in this paragraph is a clause that—

(A) requires the contractor to acknowledge that acceptance of the contract may cause the business to exceed the applicable small business size standards (established pursuant to section 3(a) of the Small Business Act) for the industry concerned and that the contractor may no longer qualify as a small business concern for that industry; and

(B) encourages the contractor to develop capabilities and characteristics typically desired in contractors that are competitive as an other-than-small business in that industry.

(b) AVAILABILITY OF ASSISTANCE.—Covered small businesses may be provided assistance as part of any procurement technical assistance furnished pursuant to this chapter.

(c) DEFINITIONS.—In this section:

(1) The term "covered contract" means a contract—

(A) awarded to a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act; and

(B) with an estimated annual value—

(i) that will exceed the applicable receipt-based small business size standard; or

(ii) if the contract is in an industry with an employee-based size standard, that will exceed $70,000,000.

(2) The term "covered small business" means a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act that has entered into a contract with the Department of Defense that includes a contract clause described in subsection (a)(2).

(Added Pub. L. 113–66, div. A, title XVI, §1611(a)(1)(B), Dec. 26, 2013, 127 Stat. 946, §2419; amended Pub. L. 116–92, div. A, title IX, §902(63), Dec. 20, 2019, 133 Stat. 1550; renumbered §4959, Pub. L. 116–283, div. A, title XVIII, §1872(a)(10), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(F), Dec. 27, 2021, 135 Stat. 2135, 2145.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3(a) of the Small Business Act, referred to in subsecs. (a)(2)(A) and (c)(1)(A), (2), is classified to section 632(a) of Title 15, Commerce and Trade.

**CODIFICATION**

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(G), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(11), which had originally transferred section 2417 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(11) of Pub. L. 116–283 instead transferred section 2417 to

section 4961 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, §1872(a)(10), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(F), renumbered section 2419 of this title as this section.

**2019**—Subsec. (a)(1). Pub. L. 116–92 substituted "Under Secretary of Defense for Acquisition and Sustainment" for "Under Secretary of Defense for Acquisition, Technology, and Logistics".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4961. Administrative and other costs

The Secretary may use, out of the amount appropriated for a fiscal year for operation and maintenance for the procurement technical assistance program authorized by this chapter—

(1) an amount not exceeding four percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year; and

(2) an amount determined appropriate by the Secretary to assist eligible entities in payment of costs of eligible entities—

(A) for meetings, including meetings of an association recognized under section 4954(f),[1] to discuss best practices for the improvement of the operations of procurement technical assistance centers; and

(B) for membership dues for any association of such centers created by eligible entities, training fees and associated travel for training to carry out the purposes of this chapter, and voluntary participation on any committees or board of such an association.

(Added Pub. L. 101–510, div. A, title VIII, §814(a)(1)(B), Nov. 5, 1990, 104 Stat. 1596, §2417; amended Pub. L. 115–232, div. A, title VIII, §859(a), Aug. 13, 2018, 132 Stat. 1892; renumbered §4961 and amended Pub. L. 116–283, div. A, title X, §1081(a)(41), title XVIII, §1872(a)(11), Jan. 1, 2021, 134 Stat. 3873, 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(G), Dec. 27, 2021, 135 Stat. 2135, 2145; Pub. L. 117–263, div. A, title VIII, §854(a), Dec. 23, 2022, 136 Stat. 2722.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 4954(f), referred to in par. (2)(A), was redesignated as section 4954(e) of this title, and a new subsec. (f) of section 4954 of this title was added, by Pub. L. 118–31, div. A, title VIII, §853(b)(2), (3), Dec. 22, 2023, 137 Stat. 344.

**AMENDMENTS**

**2022**—Pub. L. 117–263, §854(a)(1), substituted "Secretary" for "Director of the Defense Logistics Agency" in introductory provisions.

Par. (1). Pub. L. 117–263, §854(a)(2), substituted "four" for "three".

Par. (2). Pub. L. 117–263, §854(a)(3)(A), substituted "Secretary" for "Director" in introductory provisions.

Par. (2)(A). Pub. L. 117–263, §854(a)(3)(B), inserted ", including meetings of an association recognized under section 4954(f)," after "meetings".

**2021**—Pub. L. 116–283, §1872(a)(11), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(G),

renumbered section 2417 of this title as this section.

Par. (2). Pub. L. 116–283, §1081(a)(41), which directed amendment of par. (2) by substituting "entities—" for "entities -", was executed by making the substitution for "entities —" to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232, §859(a)(2)–(4), substituted "chapter—" for "chapter,", inserted par. (1) designation before "an amount", and added par. (2).

Pub. L. 115–232, §859(a)(1), inserted "and other" after "Administrative" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1872(a)(11) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 101–510, div. A, title VIII, §814(b), Nov. 5, 1990, 104 Stat. 1597, provided that: "Section 2417 of title 10, United States Code [now 10 U.S.C. 4961], as added by subsection (a), shall apply with respect to fiscal year 1991 and each fiscal year thereafter."

[1] *See References in Text note below.*

# CHAPTER 389—LOAN GUARANTEE PROGRAMS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Defense Export Loan Guarantees** | **4971** |
| **II.** | **Critical Infrastructure Protection Loan Guarantees** | **4981** |


## SUBCHAPTER I—DEFENSE EXPORT LOAN GUARANTEES


Sec.
4971. Establishment of loan guarantee program.
4972. Transferability.
4973. Limitations.
4974. Fees charged and collected.
4975. Definitions.


## §4971. Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 4811(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

(1) A member nation of the North Atlantic Treaty Organization (NATO).

(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title, as in effect on that date.

(3) A country in Central Europe that, as determined by the Secretary of State—

(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 104–106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 475, §2540; amended Pub. L. 108–375, div. A, title X, §1084(d)(21), Oct. 28, 2004, 118 Stat. 2062; renumbered §4971 and amended Pub. L. 116–283, div. A, title XVIII, §§1873(b), (c)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4290, 4294.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1873(b), (c)(1), renumbered section 2540 of this title as this section.
Subsec. (a). Pub. L. 116–283, §1883(b)(2), substituted "section 4811(a)" for "section 2501(a)".
**2004**—Subsec. (b)(2). Pub. L. 108–375 inserted ", as in effect on that date" before period at end.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### AUTHORITY TO ISSUE LOAN GUARANTEES

Pub. L. 108–287, title VIII, §8065, Aug. 5, 2004, 118 Stat. 985, as amended by Pub. L. 116–283, div. A, title XVIII, §1873(d), Jan. 1, 2021, 134 Stat. 4290; Pub. L. 117–81, div. A, title XVII, §1702(b)(3), Dec. 27, 2021, 135 Stat. 2155, provided that: "To the extent authorized by subchapter I of chapter 389 of title 10, United States Code, for the current fiscal year and hereafter the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations [now Committee on Foreign Affairs] in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 4974(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter I of chapter 389 of title 10, United States Code."

[Pub. L. 116–283, §1873(d), and Pub. L. 117–81, §1702(b)(3), made identical amendments to section 8065 of Pub. L. 108–287, set out above, substituting "subchapter I of chapter 389" for "subchapter VI of chapter 148" in two places and "section 4974(d)" for "section 2540c(d)". The amendment by Pub. L. 117–81 was effective as if included in title XVIII of Pub. L. 116–283, thus making the amendments effective simultaneously.]

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 108–87, title VIII, §8066, Sept. 30, 2003, 117 Stat. 1087.
Pub. L. 107–248, title VIII, §8067, Oct. 23, 2002, 116 Stat. 1551.
Pub. L. 107–117, div. A, title VIII, §8073, Jan. 10, 2002, 115 Stat. 2264.
Pub. L. 106–259, title VIII, §8071, Aug. 9, 2000, 114 Stat. 690.
Pub. L. 106–79, title VIII, §8075, Oct. 25, 1999, 113 Stat. 1246.
Pub. L. 105–262, title VIII, §8075, Oct. 17, 1998, 112 Stat. 2314.

Pub. L. 105–56, title VIII, §8081, Oct. 8, 1997, 111 Stat. 1237.
Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8093], Sept. 30, 1996, 110 Stat. 3009–71, 3009–107.
Pub. L. 104–61, title VIII, §8075, Dec. 1, 1995, 109 Stat. 665.

## §4972. Transferability

A guarantee issued under this subchapter shall be fully and freely transferable.

(Added Pub. L. 104–106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 476, §2540a; renumbered §4972, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2540a of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4973. Limitations

(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

(Added Pub. L. 104–106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 476, §2540b; renumbered §4973, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2540b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4974. Fees charged and collected

(a) EXPOSURE FEES.—The Secretary of Defense shall charge a fee (known as "exposure fee") for each guarantee issued under this subchapter.

(b) AMOUNT OF EXPOSURE FEE.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

(c) PAYMENT TERMS.—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

(d) ADMINISTRATIVE FEES.—(1) The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(2)(A) If for any fiscal year amounts in the special account established under paragraph (1) are not available (or are not anticipated to be available) in a sufficient amount for administrative expenses of the Department of Defense for that fiscal year that are directly attributable to the administration of the program under this subchapter, the Secretary may use amounts currently available for operations and maintenance for Defense-wide activities, not to exceed $500,000 in any fiscal year, for those expenses.

(B) The Secretary shall, from funds in the special account established under paragraph (1), replenish operations and maintenance accounts for amounts expended under subparagraph (A) as soon as the Secretary determines practicable.

(Added Pub. L. 104–106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 476, §2540c; amended Pub. L. 106–398, §1 [[div. A], title X, §1081(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–284; renumbered §4974, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2540c of this title as this section.

**2000**—Subsec. (d). Pub. L. 106–398 designated existing provisions as par. (1) and added par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1081(b), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–284, provided that:

"(b) EFFECTIVE DATE.—Paragraph (2) of section 2540c(d) of title 10, United States Code [now 10 U.S.C. 4974(d)(2)], as added by subsection (a), shall take effect on October 1, 2000.

"(c) LIMITATION PENDING SUBMISSION OF REPORT.—The Secretary of Defense may not exercise the authority provided by paragraph (2) of section 2540c(d) of title 10, United States Code [now 10 U.S.C. 4974(d)(2)], as added by subsection (a), until the Secretary submits to Congress a report on the operation of

the Defense Export Loan Guarantee Program under [former] subchapter V of chapter 148 of title 10, United States Code [see chapter 385 of this title]. The report shall include the following:

"(1) A discussion of the effectiveness of the loan guarantee program in furthering the sale of United States defense articles, defense services, and design and construction services to nations that are specified in section 2540(b) of such title [now 10 U.S.C. 4971(b)], to include a comparison of the loan guarantee program with other United States Government programs that are intended to contribute to the sale of United States defense articles, defense services, and design and construction services and other comparisons the Secretary determines to be appropriate.

"(2) A discussion of the requirements and resources (including personnel and funds) for continued administration of the loan guarantee program by the Defense Department, to include—

"(A) an itemization of the requirements necessary and resources available (or that could be made available) to administer the loan guarantee program for each of the following entities: the Defense Security Cooperation Agency, the Department of Defense International Cooperation Office, and other Defense Department agencies, offices, or activities as the Secretary may specify; and

"(B) for each such activity, agency, or office, a comparison of the use of Defense Department personnel exclusively to administer, manage, and oversee the program with the use of contracted commercial entities to administer and manage the program.

"(3) Any legislative recommendations that the Secretary believes could improve the effectiveness of the program.

"(4) A determination made by the Secretary of Defense indicating which Defense Department agency, office, or other activity should administer, manage, and oversee the loan guarantee program to increase sales of United States defense articles, defense services, and design and construction services, such determination to be made based on the information and analysis provided in the report."

## §4975. Definitions

In this subchapter:

(1) The terms "defense article", "defense services", and "design and construction services" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(2) The term "cost", with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).

(Added Pub. L. 104–106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 477, §2540d; renumbered §4975, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2540d of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# SUBCHAPTER II—CRITICAL INFRASTRUCTURE PROTECTION LOAN GUARANTEES

Sec.
4981. Establishment of loan guarantee program.
4982. Fees charged and collected.

4983. Administration.
4984. Transferability, additional limitations, and definition.
4985. Reports.

## §4981. Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 4811(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring lenders against losses of principal or interest, or both principal and interest, for loans made to qualified commercial firms to fund, in whole or in part, any of the following activities:

(1) The improvement of the protection of the critical infrastructure of the commercial firms.

(2) The refinancing of improvements previously made to the protection of the critical infrastructure of the commercial firms.

(b) QUALIFIED COMMERCIAL FIRMS.—For purposes of this section, a qualified commercial firm is a company or other business entity (including a consortium of such companies or other business entities, as determined by the Secretary) that the Secretary determines—

(1) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States;

(2) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

(A) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

(B) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States;

(3) provides technology products or services critical to the operations of the Department of Defense;

(4) meets standards of prevention of cyberterrorism applicable to the Department of Defense; and

(5) agrees to submit the report required under section 4985 of this title.

(c) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under this section may not exceed $10,000,000, with respect to all borrowers.

(d) GOALS AND STANDARDS.—The Secretary shall prescribe regulations setting forth goals for the use of the loan guarantees provided under this section and standards for evaluating whether those goals are met by each entity receiving such loan guarantees.

(e) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–258, §2541; renumbered §4981 and amended Pub. L. 116–283, div. A, title XVIII, §§1873(b), (c)(2), (e)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4290, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(19), Dec. 27, 2021, 135 Stat. 2138.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1873(b), (c)(2), renumbered section 2541 of this title as this section.

Subsec. (a). Pub. L. 117–81, which directed the substitution of "section 4811(a)" for "section 2501(a)", could not be executed in introductory provisions because of the intervening amendment by Pub. L. 116–283,

§1883(b)(2). See note below.

Pub. L. 116–283, §1883(b)(2), substituted "section 4811(a)" for "section 2501(a)" in introductory provisions.

Subsec. (b)(5). Pub. L. 116–283, §1873(e)(1), substituted "section 4985" for "section 2541d".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4982. Fees charged and collected

(a) FEE REQUIRED.—The Secretary of Defense shall assess a fee for providing a loan guarantee under this subchapter.

(b) AMOUNT OF FEE.—The amount of the fee shall be not less than 75 percent of the amount incurred by the Secretary to provide the loan guarantee.

(c) SPECIAL ACCOUNT.—(1) Such fees shall be credited to a special account in the Treasury.

(2) Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(3)(A) If for any fiscal year amounts in the special account established under paragraph (1) are not available (or are not anticipated to be available) in a sufficient amount for administrative expenses of the Department of Defense for that fiscal year that are directly attributable to the administration of the program under this subchapter, the Secretary may use amounts currently available for operations and maintenance for Defense-wide activities, not to exceed $500,000 in any fiscal year, for those expenses.

(B) The Secretary shall, from funds in the special account established under paragraph (1), replenish operations and maintenance accounts for amounts expended under subparagraph (A).

(Added Pub. L. 106–398, §1 [[div. A], title X, §1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–259, §2541a; renumbered §4982, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(2), Jan. 1, 2021, 134 Stat. 4290.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2541a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4983. Administration

(a) AGREEMENTS REQUIRED.—The Secretary of Defense may enter into one or more agreements, each with an appropriate Federal or private entity, under which such entity may, under

this subchapter—

(1) process applications for loan guarantees;

(2) administer repayment of loans; and

(3) provide any other services to the Secretary to administer this subchapter.

(b) TREATMENT OF COSTS.—The costs of such agreements shall be considered, for purposes of the special account established under section 4982(c), to be costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–259, §2541b; renumbered §4983 and amended Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(2), (e)(2), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1873(b), (c)(2), renumbered section 2541b of this title as this section.

Subsec. (b). Pub. L. 116–283, §1873(e)(2), substituted "section 4982(c)" for "section 2541a(c)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §4984. Transferability, additional limitations, and definition

The following provisions of subchapter I of this chapter apply to guarantees issued under this subchapter:

(1) Section 4972, relating to transferability of guarantees.

(2) Subsections (b) and (c) of section 4973, providing limitations.

(3) Section 4975(2), providing a definition of the term "cost".

(Added Pub. L. 106–398, §1 [[div. A], title X, §1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260, §2541c; amended Pub. L. 107–107, div. A, title X, §1048(a)(24), Dec. 28, 2001, 115 Stat. 1224; renumbered §4984 and amended Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(2), (e)(3), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §1873(e)(3)(A), substituted "subchapter I" for "subchapter VI" in introductory provisions.

Pub. L. 116–283, §1873(b), (c)(2), renumbered section 2541c of this title as this section.

Par. (1). Pub. L. 116–283, §1873(e)(3)(B), substituted "Section 4972" for "Section 2540a".

Par. (2). Pub. L. 116–283, §1873(e)(3)(C), substituted "section 4973" for "section 2540b".

Par. (3). Pub. L. 116–283, §1873(e)(3)(D), substituted "Section 4975(2)" for "Section 2540d(2)".

**2001**—Pub. L. 107–107 substituted "subchapter" for "subtitle" in two places in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note

preceding section 3001 of this title.

## §4985. Reports

The Secretary of Defense shall require each qualified commercial firm for which a loan is guaranteed under this subchapter to submit to the Secretary a report on the improvements financed or refinanced with the loan. The report shall include an assessment of the value of the improvements for the protection of the critical infrastructure of that commercial firm. The Secretary shall prescribe the time for submitting the report.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–260, §2541d; amended Pub. L. 108–136, div. A, title X, §1031(a)(25), Nov. 24, 2003, 117 Stat. 1598; renumbered §4985, Pub. L. 116–283, div. A, title XVIII, §1873(b), (c)(2), Jan. 1, 2021, 134 Stat. 4290.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 5001 was renumbered section 8001 of this title.

A prior section 5011 was renumbered section 8011 of this title.

Prior sections 5012 and 5013 were renumbered sections 8012 and 8013 of this title, respectively.

Other prior sections 5012 and 5013 were renumbered sections 8062 and 8063 of this title, respectively.

A prior section 5013a was renumbered section 8013a of this title.

A prior section 5014 was renumbered section 8014 of this title.

Another prior section 5014, added Pub. L. 85–861, §1(106)(A), Sept. 2, 1958, 72 Stat. 1490, prescribed compensation of General Counsel of Department of the Navy, prior to repeal by Pub. L. 88–426, title III, §305(40)(A), Aug. 14, 1964, 78 Stat. 427, eff. first day of first pay period beginning on or after July 1, 1964. See section 5316 of Title 5, Government Organization and Employees.

Prior sections 5015 to 5020 were renumbered sections 8015 to 8020 of this title, respectively.

A prior section 5021, acts Aug. 10, 1956, ch. 1041, 70A Stat. 290, §5150; Sept. 7, 1962, Pub. L. 87–649, §14(c)(22), (23), 76 Stat. 501; Dec. 12, 1980, Pub. L. 96–513, title V, §503(12), 94 Stat. 2912; renumbered §5021, Oct. 1, 1986, Pub. L. 99–433, title V, §511(d), 100 Stat. 1048, related to Office of Naval Research in Office of Secretary of the Navy headed by Chief of Naval Research, appointment to, term, and emoluments of such office, prerequisite for designation as Assistant Chief of Naval Research, and succession of duties of such office, prior to repeal by Pub. L. 101–510, div. A, title IX, §910(a), Nov. 5, 1990, 104 Stat. 1625.

Prior sections 5022 to 5028 were renumbered sections 8022 to 8028 of this title, respectively.

A prior section 5031 was renumbered section 8031 of this title.

Another prior section 5031, acts Aug. 10, 1956, ch. 1041, 70A Stat. 278; Sept. 2, 1958, Pub. L. 85–861, §1(107), 72 Stat. 1490; Sept. 7, 1962, Pub. L. 87–651, title II, §211, 76 Stat. 524; Aug. 14, 1964, Pub. L. 88–426, title III, §§305(4), 306(j)(3), 78 Stat. 422, 431; Oct. 14, 1981, Pub. L. 97–60, title II, §204(a)(1), 95 Stat. 1007, related to Secretary of the Navy and responsibilities of Secretary, prior to repeal by Pub. L. 99–433, title V, §511(e), Oct. 1, 1986, 100 Stat. 1048. See section 8013 of this title.

A prior section 5032 was renumbered section 8032 of this title.

Another prior section 5032 was renumbered section 8013a of this title.

A prior section 5033 was renumbered section 8033 of this title.

Another prior section 5033, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Sept. 2, 1958, Pub. L. 85–861, §1(108), 72 Stat. 1490; Aug. 14, 1964, Pub. L. 88–426, title III, §§305(5), 306(j)(5), 78 Stat. 422, 432, related to appointment and duties of Under Secretary of the Navy, prior to repeal by Pub. L. 99–433, title V, §511(e), Oct. 1, 1986, 100 Stat. 1048. See section 8015 of this title.

A prior section 5034, added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1050; amended Pub. L. 102–190, div. A, title V, §505(a), Dec. 5, 1991, 105 Stat. 1358, related to retirement of Chief of Naval Operations, prior to repeal by Pub. L. 104–106, div. A, title V, §502(c), Feb. 10, 1996, 110 Stat. 293.

Another prior section 5034, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Aug. 6, 1958, Pub. L. 85–599, §8(b)(1), 72 Stat. 519; Dec. 1, 1967, Pub. L. 90–168, §2(13), (14), 81 Stat. 523; Nov. 9, 1979, Pub. L. 96–107, title VIII, §820(c), 93 Stat. 819; Sept. 24, 1983, Pub. L. 98–94, title XII, §1212(c)(2), 97 Stat. 687, related to appointment and duties of Assistant Secretaries of the Navy, prior to repeal by Pub. L. 99–433, title V, §511(e), Oct. 1, 1986, 100 Stat. 1048. See section 8016 of this title.

A prior section 5035 was renumbered section 8035 of this title.

Another prior section 5035, act Aug. 10, 1956, ch. 1041, 70A Stat. 279, authorized an Assistant Secretary of the Navy for Air, provided for his appointment and duties, and prescribed his compensation, prior to repeal by Pub. L. 85–599, §8(b)(2), Aug. 6, 1958, 72 Stat. 519, eff. six months after Aug. 6, 1958. Subsec. (c) was also repealed by Pub. L. 85–861, §36B(12), Sept. 2, 1958, 72 Stat. 1571.

A prior section 5036 was renumbered section 8036 of this title.

Another prior section 5036, acts Aug. 10, 1956, ch. 1041, 70A Stat. 280; Nov. 2, 1966, Pub. L. 89–718, §32, 80 Stat. 1119; Jan. 2, 1968, Pub. L. 90–235, §4(a)(8), 81 Stat. 759; Dec. 12, 1980, Pub. L. 96–513, title V, §513(4), 94 Stat. 2931, related to succession to duties of Secretary of the Navy, prior to repeal by Pub. L. 99–433, title V, §511(e), Oct. 1, 1986, 100 Stat. 1048. See section 8017 of this title.

Prior sections 5037 and 5038 were renumbered sections 8037 and 8038 of this title, respectively.

Prior sections 5041 to 5047 were renumbered sections 8041 to 8047 of this title, respectively.

A prior section 5061 was renumbered section 8061 of this title.

Another prior section 5061, act Aug. 10, 1956, ch. 1041, 70A Stat. 280, related to appointment and functions of Comptroller of the Navy, prior to repeal by Pub. L. 99–433, title V, §511(a), Oct. 1, 1986, 100 Stat. 1042.

A prior section 5062 was renumbered section 8062 of this title.

Another prior section 5062, act Aug. 10, 1956, ch. 1041, 70A Stat. 281, prescribed the pay and allowances of the Deputy Comptroller, prior to repeal by Pub. L. 87–649, §14c(11), Sept. 7, 1962, 76 Stat. 501, eff. Nov. 1, 1962.

A prior section 5063 was renumbered section 8063 of this title.

Another prior section 5063 and a prior section 5064 were repealed by Pub. L. 99–433, title V, §511(a), Oct. 1, 1986, 100 Stat. 1042.

Section 5063, act Aug. 10, 1956, ch. 1041, 70A Stat. 281, related to establishment and duties of Office of Budget and Reports.

Section 5064, acts Aug. 10, 1956, ch. 1041, 70A Stat. 281; Sept. 7, 1962, Pub. L. 87–649, §14(c)(12), (13), 76 Stat. 501; Dec. 12, 1980, Pub. L. 96–513, title III, §341, title V, §503(3), 94 Stat. 2901, 2911, related to Director and Assistant of Office of Budget and Reports.

Prior sections 5081 to 5087 were repealed by Pub. L. 99–433, title V, §512(a), Oct. 1, 1986, 100 Stat. 1048.

Section 5081, acts Aug. 10, 1956, ch. 1041, 70A Stat. 281; Aug. 6, 1958, Pub. L. 85–599, §4(b), 72 Stat. 516; Sept. 7, 1962, Pub. L. 87–651, title I, §§114, 120, 76 Stat. 513; June 5, 1967, Pub. L. 90–22, title IV, §402, 81 Stat. 53; Dec. 12, 1980, Pub. L. 96–513, title V, §503(3), 94 Stat. 2911, related to appointment, term of office, rank, and functions of Chief of Naval Operations. See section 8033 of this title.

Section 5082, acts Aug. 10, 1956, ch. 1041, 70A Stat. 282; Sept. 7, 1962, Pub. L. 87–651, title I, §121, 76 Stat. 513; Nov. 2, 1966, Pub. L. 89–718, §33, 80 Stat. 1119, related to coordinating duties of Chief of Naval Operations. See section 8032 of this title.

Section 5083, acts Aug. 10, 1956, ch. 1041, 70A Stat. 282; May 20, 1958, Pub. L. 85–422, §6(2), 72 Stat. 129; July 1, 1986, Pub. L. 99–348, title I, §104(c)(1), 100 Stat. 691, related to retirement of Chief of Naval Operations.

Section 5084, act Aug. 10, 1956, ch. 1041, 70A Stat. 282, related to quarters for Chief of Naval Operations.

Section 5085, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Aug. 6, 1958, Pub. L. 85–599, §6(b), 72 Stat. 519; Dec. 12, 1980, Pub. L. 96–513, title V, §503(4), 94 Stat. 2911, related to appointment, powers, and duties of Vice Chief of Naval Operations. See section 8035 of this title.

Section 5086, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Dec. 12, 1980, Pub. L. 96–513, title V, §503(5), 94 Stat. 2911, related to detail and duties of Deputy Chiefs of Naval Operations. See section 8036 of this title.

Section 5087, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Dec. 12, 1980, Pub. L. 96–513, title V, §503(6), 94 Stat. 2911, related to detail and duties of Assistant Chiefs of Naval Operations. See section 8037 of this title.

A prior section 5088 was renumbered section 8020 of this title.

Prior sections 5111 and 5112 were repealed by Pub. L. 89–718, §34(a), Nov. 2, 1966, 80 Stat. 1119.

Section 5111, acts Aug. 10, 1956, ch. 1041, 70A Stat. 284; Sept. 7, 1962, Pub. L. 87–649, §14(c)(14), 76 Stat. 501, created an Office of Naval Material, established position of Chief of Naval Material, and set out powers and duties of Chief of Naval Materials.

Section 5112, act Aug. 10, 1956, ch. 1041, 70A Stat. 284, provided for detailing of an officer as Vice Chief of Naval Material to serve in event of absence or disability of Chief of Naval Material.

Prior sections 5131 and 5132 were renumbered sections 8071 and 8072 of this title, respectively.

A prior section 5133, act Aug. 10, 1956, ch. 1041, 70A Stat. 285; Pub. L. 86–174, §2(2), Aug. 18, 1959, 73 Stat. 396; Pub. L. 87–649, §14c(15), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89–288, §3, Oct. 22, 1965, 79 Stat.

1050; Pub. L. 89–718, §35(2)–(4), Nov. 2, 1966, 80 Stat. 1120; Pub. L. 96–513, title V, §503(9), Dec. 12, 1980, 94 Stat. 2911; Pub. L. 103–337, div. A, title V, §504(b)(3), (5), Oct. 5, 1994, 108 Stat. 2751, related to rank of, pay and allowances for, and retirement of Bureau Chiefs, prior to repeal by Pub. L. 114–328, div. A, title V, §502(z)(1), Dec. 23, 2016, 130 Stat. 2104.

A prior section 5134, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, prescribed pay of deputy chiefs of bureaus, prior to repeal by Pub. L. 87–649, §§14c(16), 15, Sept. 7, 1962, 76 Stat. 501, 502, effective Nov. 1, 1962.

A prior section 5135 was renumbered section 8075 of this title.

A prior section 5136, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, related to appointment, qualifications and term of Chief of Bureau of Aeronautics, and authorized detail of an officer as Deputy Chief of Bureau, prior to repeal by Pub. L. 86–174, §2(3), Aug. 18, 1959, 73 Stat. 396, conditionally effective July 1, 1960.

Prior sections 5137 and 5138 were renumbered sections 8077 and 8088 of this title, respectively.

A prior section 5139 was renumbered section 8079 of this title.

Another prior section 5139, acts Aug. 10, 1956, ch. 1041, 70A Stat. 287; Sept. 7, 1962, Pub. L. 87–649, §6(c)(1), 76 Stat. 494, established position of Chief of Medical Service Corps within Bureau of Medicine and Surgery, prior to repeal by Pub. L. 96–513, title III, §352(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2902, 2955, eff. Sept. 15, 1981.

A prior section 5140, acts Aug. 10 1956, ch. 1041, 70A Stat. 287; Aug. 21, 1957, Pub. L. 85–155, title II, §201(23), 71 Stat. 385; Sept. 7, 1962, Pub. L. 87–649, §6(c)(2), 76 Stat. 494; Sept. 30, 1966, Pub. L. 89–609, §1(6), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, §1(14)(A), 81 Stat. 376, established position of Director of Nurse Corps within Bureau of Medicine and Surgery, prior to repeal by Pub. L. 96–513, title III, §352(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2902, 2955, effective Sept. 15, 1981.

Prior sections 5141 and 5142 were renumbered sections 8081 and 8082 of this title, respectively.

Another prior section 5142, acts Aug. 10, 1956, ch. 1041, 70A Stat. 288; Sept. 7, 1962, Pub. L. 87–649, §14c(18), 76 Stat. 501, provided for a Chief of Chaplains in Bureau of Naval Personnel, detailed by Chief of Naval Personnel from officers on active list of the Navy in Chaplains Corps not below grade of rear admiral, prior to repeal by Pub. L. 96–343, §11(a), Sept. 8, 1980, 94 Stat. 1130.

Prior sections 5142a and 5143 were renumbered sections 8082a and 8083 of this title, respectively.

Another prior section 5143, acts Aug. 10, 1956, ch. 1041, 70A Stat. 288; Sept. 7, 1962, Pub. L. 87–649, §6(c)(3), 76 Stat. 494; Nov. 8, 1967, Pub. L. 90–130, §14(B), (C), 81 Stat. 376, established in Bureau of Naval Personnel the position of Assistant Chief of Naval Personnel for Women, prior to repeal by Pub. L. 96–513, title III, §344(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2901, 2955, effective Sept. 15, 1981.

A prior section 5144 was renumbered section 8084 of this title.

Another prior section 5144, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, related to appointment and term of Chief of Bureau of Ordnance, and authorized detail of an officer as Deputy Chief of Bureau, prior to repeal by Pub. L. 86–174, §2(3), Aug. 18, 1959, 73 Stat. 396, conditionally effective July 1, 1960.

Prior sections 5145 to 5147 were repealed by Pub. L. 89–718, §35(5), Nov. 2, 1966, 80 Stat. 1120.

Section 5145, acts Aug. 10, 1956, ch. 1041, 70A Stat. 289; May 13, 1960, Pub. L. 86–454, 74 Stat. 103; Sept. 7, 1962, Pub. L. 87–649, §14(c)(19), 76 Stat. 501, provided for appointment of Chief of Bureau of Ships, detailing and rank of Deputy Chief, and detailing of heads of major divisions of Bureau of Ships.

Section 5146, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Supplies and Accounts and detailing of Deputy Chief.

Section 5147, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Yards and Docks and detailing of Deputy Chief.

Prior sections 5148 to 5150 were renumbered sections 8088 to 8090 of this title, respectively.

Another prior section 5150 was renumbered section 5021 of this title and subsequently repealed.

Prior sections 5151 to 5153 were renumbered sections 8022 to 8024 of this title, respectively.

A prior section 5154, added Pub. L. 86–174, §1(2), Aug. 18, 1959, 73 Stat. 395, provided for appointment of Chief of the Bureau of Naval Weapons and detailing of Deputy Chief, prior to repeal by Pub. L. 89–718, §35(5), Nov. 2, 1966, 80 Stat. 1120.

A prior section 5155 was renumbered section 8090 of this title.

Prior sections 5201 to 5204 were repealed by Pub. L. 99–433, title V, §513(a), Oct. 1, 1986, 100 Stat. 1051.

Section 5201, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; May 20, 1958, Pub. L. 85–422, §6(3), 72 Stat. 129; Aug. 6, 1958, Pub. L. 85–599, §4(c), 72 Stat. 517; Sept. 7, 1962, Pub. L. 87–651, title I, §114, 76 Stat. 513; June 5, 1967, Pub. L. 90–22, title IV, §404, 81 Stat. 53; Dec. 12, 1980, Pub. L. 96–513, title V, §503(15), 94 Stat. 2912; July 1, 1986, Pub. L. 99–348, title I, §104(c)(1), 100 Stat. 691, related to appointment, term, etc., of the Commandant of the Marine Corps. See section 8043 of this title.

Section 5202, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; Aug. 6, 1958, Pub. L. 85–599, §6(c), 72 Stat.

519; Sept. 7, 1962, Pub. L. 87–649, §14c(24), 76 Stat. 501; May 2, 1969, Pub. L. 91–11, 83 Stat. 8; Mar. 4, 1976, Pub. L. 94–225, §1, 90 Stat. 202; Dec. 12, 1980, Pub. L. 96–513, title V, §§503(15), 513(7)(B), 94 Stat. 2912, 2931, related to detail and duties of the Assistant Commandant of the Marine Corps. See section 8044 of this title.

Section 5203, act Aug. 10, 1956, ch. 1041, 70A Stat. 292, related to detail of the Director of Personnel of the Marine Corps.

Section 5204, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; Aug. 3, 1961, Pub. L. 87–123, §5(2), 75 Stat. 264, related to detail of the Quartermaster General of the Marine Corps.

A prior section 5205, act Aug. 10, 1956, ch. 1041, 70A Stat. 293, related to retirement of heads of Marine Corps staff departments, their retired grade and pay, prior to repeal by Pub. L. 87–123, §5(3), Aug. 3, 1961, 75 Stat. 264.

A prior section 5206, acts Aug. 10, 1956, ch. 1041, 70A Stat. 293; Sept. 7, 1962, Pub. L. 87–649, §6(c)(4), 76 Stat. 494; Nov. 8, 1967, Pub. L. 90–130, §1(15), 81 Stat. 376, established in Office of Commandant of Marine Corps the position of Director of Women Marines, prior to repeal by Pub. L. 96–513, title III, §344(b), title VII, §701, Dec. 12, 1980, 94 Stat. 2901, 2955, effective Sept. 15, 1981.

Prior sections 5221 and 5222 were repealed by Pub. L. 95–82, title VI, §611(a), Aug. 1, 1977, 91 Stat. 378.

Section 5221, added Pub. L. 90–110, title X, §1001(1), Oct. 21, 1967, 81 Stat. 310, provided for inclusion of naval districts within organization of Department of the Navy.

Section 5222, added Pub. L. 90–110, title X, §1001(1), Oct. 21, 1967, 81 Stat. 310, provided for detailing of officers of the Navy not below the grade of rear admiral as commandants of each of naval districts.

Prior sections 5231 to 5234 were repealed by Pub. L. 96–513, title III, §331, title VII, §701, Dec. 12, 1980, 94 Stat. 2896, 2955, effective Sept. 15, 1981.

Section 5231, acts Aug. 10, 1956, ch. 1041, 70A Stat. 294; July 30, 1977, Pub. L. 95–79, title VIII, §811(b)(1), (2), 91 Stat. 336; Oct. 20, 1978, Pub. L. 95–485, title VIII, §818(a), 92 Stat. 1626, related to designation by President of officers on active list of Navy above the grade of captain and, in time of war or national emergency, above the grade of commander for fleet commands and other high positions. See section 601 of this title.

Section 5232, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; July 30, 1977, Pub. L. 95–79, title VIII, §811(b)(3), (4), 91 Stat. 336; Oct. 20, 1978, Pub. L. 95–485, title VIII, §818(b), 92 Stat. 1626, related to designation by President of officers on active list of Marine Corps above the grade of colonel and, in time of war or national emergency, above the grade of lieutenant colonel for appropriate higher commands or performance of duty of great importance and responsibility. See section 601 of this title.

Section 5233, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; May 20, 1958, Pub. L. 85–422, §6(4), 72 Stat. 129; related to retirement of an officer serving or having served in a grade to which appointed under former sections 5231 or 5232 of this title. See section 601 of this title.

Section 5234, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; Apr. 21, 1976, Pub. L. 94–273, §2(3), 90 Stat. 375, authorized President during time of war or national emergency to suspend any provision of former sections 5231 or 5232 of this title relating to distribution in grade.

Prior sections 5251 and 5252 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994.

Section 5251, act Aug. 10, 1956, ch. 1041, 70A Stat. 295, related to administration of Naval Reserve by Chief of Naval Operations and Naval Reserve Policy Board. See sections 10108 and 10303 of this title.

Section 5252, act Aug. 10, 1956, ch. 1041, 70A Stat. 296, related to administration of Marine Corps Reserve by Commandant of Marine Corps and Marine Corps Reserve Policy Board. See sections 10109 and 10304 of this title.

Prior sections 5401 to 5409 were repealed by Pub. L. 96–513, title III, §311(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2889, 2955, effective Sept. 15, 1981. See section 521 et seq. of this title.

Section 5401, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of Regular Navy in enlisted members.

Section 5402, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of Regular Marine Corps.

Section 5403, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of active list of the Navy in line officers.

Section 5404, acts Aug. 10, 1956, ch. 1041, 70A Stat. 297; Oct. 13, 1964, Pub. L. 88–647, title III, §301(12), 78 Stat. 1072; Dec. 8, 1967, Pub. L. 90–179, §3, 81 Stat. 547, prescribed authorized strength of active list of Navy in officers in Supply Corps and Civil Engineer Corps, directed Secretary of Navy to

compute annually the authorized strength of active list of Navy in officers in Medical Corps, Dental Corps, Chaplain Corps, Medical Service Corps, and Nurse Corps, and to establish annually the authorized strength of active list of Navy in officers in Judge Advocate General's Corps.

Section 5405, act Aug. 10, 1956, ch. 1041, 70A Stat. 298, prescribed authorized strength of active list of Marine Corps.

Section 5406, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(1), 82 Stat. 293, limited actual number of officers on active list in line of Navy that could be designated for engineering duty.

Section 5407, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(2), 82 Stat. 293, limited actual number of officers on active list in line of Navy that could be designated for aeronautical engineering duty.

Section 5408, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(3), 82 Stat. 293, limited actual number of officers on the active list in line of Navy that could be designated for special duty.

Section 5409, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; Aug. 3, 1961, Pub. L. 87–123, §5(5), 75 Stat. 264, prescribed number of officers of actual number of officers on active lists in the line of Navy and of Marine Corps, that could be designated for limited duty.

Prior sections 5410 and 5411 were repealed by Pub. L. 90–130, §1(16), Nov. 8, 1967, 81 Stat. 376.

Section 5410, act Aug. 10, 1956, ch. 1041, 70A Stat. 928, placed upper limits, stated in terms of percentages of the authorized strength of the Regular Navy and Regular Marine Corps in enlisted members, on the authorized strength of enlisted women in each.

Section 5411, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, placed upper limits, stated in terms of percentages of the authorized strength in enlisted women of the Regular Navy and Regular Marine Corps, on the authorized strength of the Regular Navy and Regular Marine Corps in women officers.

A prior section 5412, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, prescribed authorized strength of Regular Navy in enlisted members in Hospital Corps, prior to repeal by Pub. L. 96–513, title III, §311(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2889, 2955, effective Sept. 15, 1981. See section 521 et seq. of this title.

Prior sections 5413 and 5414 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994.

Section 5413, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, related to authorized strengths of Naval Reserve and Marine Corps Reserve. See section 12001(a) of this title.

Section 5414, added Pub. L. 85–861, §1(110)(A), Sept. 2, 1958, 72 Stat. 1490; amended Pub. L. 86–559, §1(33), (34), June 30, 1960, 74 Stat. 273; Pub. L. 96–513, title V, §513(8)(B), Dec. 12, 1980, 94 Stat. 2931; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506, related to authorized strength of Naval Reserve and Marine Corps Reserve in officers in active status in grades above chief warrant officer, W–5. See section 12003 of this title.

Prior sections 5415 to 5417 were repealed by Pub. L. 96–513, title III, §§311(a), 312, Dec. 12, 1980, 94 Stat. 2889, 2955, effective Sept. 15, 1981. See section 521 et seq. of this title.

Section 5415, added Pub. L. 85–861, §1(110)(A), Sept. 2, 1958, 72 Stat. 1490, excluded enlisted members of the Navy or Marine Corps serving as midshipmen or cadets in any of the military academies from computations of authorized strengths.

Section 5416, added Pub. L. 85–861, §1(110)(A), Sept. 2, 1958, 72 Stat. 1490, excluded members of the Navy or the Marine Corps, or of the Coast Guard when it is operating as a service in the Navy, detailed for duty with United States agencies outside the Department of Defense on a reimbursable basis, from computations of authorized strengths or numbers in grade.

Section 5417, added Pub. L. 85–861, §1(110)(A), Sept. 2, 1958, 72 Stat. 1490, directed Secretary of Defense, with approval of President, to estimate annually, for each of five years following such estimate, the strengths of the Navy and the Marine Corps in officers on active lists exclusive of officers specifically authorized as additional numbers.

A prior section 5441 was renumbered section 8101 of this title.

Prior sections 5442 to 5444 were repealed by Pub. L. 101–510, div. A, title IV, §403(b)(2)(A), Nov. 5, 1990, 104 Stat. 1545.

Section 5442, acts Aug. 10, 1956, ch. 1041, 70A Stat. 300; Pub. L. 90–386, §1(4), July 5, 1968, 82 Stat. 293; Dec. 12, 1980, Pub. L. 96–513, title III, §313(b), 94 Stat. 2889; Dec. 1, 1981, Pub. L. 97–86, title IV, §405(b)(1), (3), (6)(A), 95 Stat. 1105, 1106; Nov. 8, 1985, Pub. L. 99–145, title V, §514(b)(1), (3), (6)(A), 99 Stat. 628; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, §1343(a)(24), 100 Stat. 3994, set forth number of officers serving on active duty in Navy who may serve in grades of rear admiral (lower half) and rear admiral.

Section 5443, acts Aug. 10, 1956, ch. 1041, 70A Stat. 302; Aug. 3, 1961, Pub. L. 87–123, §5(6), 75 Stat.

265; Nov. 2, 1966, Pub. L. 89–731, §1, 80 Stat. 1160; Dec. 12, 1980, Pub. L. 96–513, title III, §313(c), 94 Stat. 2891, related to number of officers in Marine Corps on active duty who may serve in grades of brigadier general and major general.

Section 5444, acts Aug. 10, 1956, ch. 1041, 70A Stat. 304; Aug. 21, 1957, Pub. L. 85–155, title II, §201(1)–(3), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, §1(17)(A), (B), 81 Stat. 376; Dec. 12, 1980, Pub. L. 96–513, title III, §302, title V, §503(19), 94 Stat. 2888, 2912; July 10, 1981, Pub. L. 97–22, §§6(b), 10(a)(3), 95 Stat. 130, 136; Dec. 1, 1981, Pub. L. 97–86, title IV, §405(b)(1)–(3), (7)(A), 95 Stat. 1105, 1106; Nov. 8, 1985, Pub. L. 99–145, title V, §514(b)(1)–(3), (7)(A), 99 Stat. 628, 629, related to total number of officers who may serve on active duty in Navy in grades of rear admiral (lower half) and rear admiral in staff corps.

A prior section 5445, act Aug. 10, 1956, ch. 1041, 70A Stat. 306, related to suspension of sections 5442, 5443, and 5444 of this title, prior to repeal by Pub. L. 96–513, title III, §313(d)(1), title VII, §701, Dec. 12, 1980, 94 Stat. 2892, 2955, effective Sept. 15, 1981. See section 526 of this title.

A prior section 5446, acts Aug. 10, 1956, ch. 1041, 70A Stat. 306; Dec. 12, 1980, Pub. L. 96–513, title III, §373(a), title V, §503(20), 94 Stat. 2903, 2912, related to applicability of sections 5442, 5443, and 5444 of this title, prior to repeal by Pub. L. 101–510, div. A, title IV, §403(b)(2)(A), Nov. 5, 1990, 104 Stat. 1545.

Prior sections 5447 to 5449 were repealed by Pub. L. 96–513, title III, §313(d)(2)–(4), title VII, §701, Dec. 12, 1980, 94 Stat. 2892, 2955, effective Sept. 15, 1981.

Section 5447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 307; July 5, 1968, Pub. L. 90–386, §1(4), 82 Stat. 293, related to permanent grade distribution of Navy line officers on active list. See section 521 et seq. of this title.

Section 5448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 309; Aug. 3, 1961, Pub. L. 87–123, §5(7), 75 Stat. 265, related to permanent grade distribution of Marine Corps officers on active list. See section 521 et seq. of this title.

Section 5449, acts Aug. 10, 1956, ch. 1041, 70A Stat. 311; Aug. 21, 1957, Pub. L. 85–155, title II, §201(4), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, §1(17)(C), (D), 81 Stat. 376, related to number of Navy staff corps officers on active list in permanent grade of rear admiral. See section 525 of this title.

Prior sections 5450 and 5451 were renumbered sections 8102 and 8103 of this title, respectively.

A prior section 5452, acts Aug. 10, 1956, ch. 1041, 70A Stat. 312; Sept. 2, 1958, Pub. L. 85–861, §1(111), 72 Stat. 1491; Nov. 8, 1967, Pub. L. 90–130, §1(17)(E), 81 Stat. 376, authorized Secretary of the Navy to prescribe number of women officers in line of Navy eligible to hold appointments in each grade above lieutenant (junior grade) and a similar number in Marine Corps eligible to hold appointments in each grade above first lieutenant, prior to repeal by Pub. L. 96–513, title III, §373(b), title VII, §701, Dec. 12, 1980, 94 Stat. 2903, 2955, effective Sept. 15, 1981.

A prior section 5453, acts Aug. 10, 1956, ch. 1041, 70A Stat. 313; Sept. 2, 1958, Pub. L. 85–861, §1(112), 72 Stat. 1491, placed upper limits on number of women officers on active list of Marine Corps holding permanent appointments in grades of lieutenant colonel and major and required the Secretary to make computations at least once annually of numbers of women officers authorized under this section to hold permanent appointments in such grades, with authority to make prescribed temporary increases, prior to repeal by Pub. L. 90–130, §1(17)(F), Nov. 8, 1967, 81 Stat. 377.

A prior section 5454, act Aug. 10, 1956, ch. 1041, 70A Stat. 313, related to rule for computations under this chapter when fraction occurs in final result, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12010 of this title.

A prior section 5455, acts Aug. 10, 1956, ch. 1041, 70A Stat. 313; Nov. 8, 1967, Pub. L. 90–130, §1(17)(G), 81 Stat. 377; Dec. 12, 1980, Pub. L. 96–513, title V, §503(23), (24), 94 Stat. 2913 as amended July 10, 1981, Pub. L. 97–22, §10(a)(3), 95 Stat. 136, provided that no computation or determination under section 5447, 5448, 5449, or 5452 of this title could reduce the grade or pay of any officer or remove any officer from the active list, prior to repeal by Pub. L. 97–22, §10(b)(6)(A), July 10, 1981, 95 Stat. 137, effective Sept. 15, 1981.

Prior sections 5456 to 5458 were repealed by Pub. L. 103–337, div. A, title XVI, §§1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994.

Section 5456, act Aug. 10, 1956, ch. 1041, 70A Stat. 313, related to authorized strengths of Naval Reserve and Marine Corps Reserve. See section 12001(b) of this title.

Section 5457, added Pub. L. 85–861, §1(113)(A), Sept. 2, 1958, 72 Stat. 1491; amended Pub. L. 86–559, §1(35), (36), June 30, 1960, 74 Stat. 273; Pub. L. 92–559, Oct. 25, 1972, 86 Stat. 1173; Pub. L. 96–107, title III, §302(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title III, §313(e), title V, §513(9)(B), Dec. 12, 1980, 94 Stat. 2892, 2931; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 101–189, div. A, title VII, §712, Nov. 29, 1989, 103 Stat. 1477; Pub. L. 102–190, div. A, title X, §1061(a)(22)(B), title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1473,

1506, related to authorized strength of Naval Reserve in officers in active status in grades above chief warrant officer, W–5. See sections 12004(a), (c), and (e)(2) and 12005(b) and (d)(2) of this title.

Section 5458, added Pub. L. 85–861, §1(113)(A), Sept. 2, 1958, 72 Stat. 1492; amended Pub. L. 86–559, §1(37)–(39), June 30, 1960, 74 Stat. 273; Pub. L. 96–107, title III, §302(c), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title V, §513(9)(C), Dec. 12, 1980, 94 Stat. 2931; Pub. L. 102–190, div. A, title X, §1061(a)(22)(C), title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1473, 1506, related to authorized strength of Marine Corps Reserve in officers in active status in grades above chief warrant officer, W–5. See sections 12004(a), (d), (e)(2) and 12005(c), (d)(2) of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283 renumbered section 2541d of this title as this section.

**2003**—Pub. L. 108–136 struck out subsec. (a) designation and heading and struck out subsec. (b) which directed that the Secretary of Defense annually submit to Congress a report on the loan guarantee program under this subchapter.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

# PART VI—ELEMENTS OF DEPARTMENT OF DEFENSE AND OTHER MATTERS


Chap. Sec.

SUBPART A—ELEMENTS

**551. Missile Defense 5501**

SUBPART B—ATOMIC ENERGY DEFENSE

**601. Organizational Matters 6101**
**602. Nuclear Weapons Stockpile Matters 6111**
**603. Proliferation Matters 6151**
**604. Defense Environmental Cleanup Matters 6171**
**605. Safeguards and Security Matters 6221**
**606. Personnel Matters 6241**
**607. Budget and Financial Management Matters 6271**
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**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–159, div. A, title XVII, §1649(a), Dec. 23, 2024, 138 Stat. 2187, which enacted this part, set out, in order, the headings for this part and subpart A and the heading and analysis for chapter 551. The items for subpart A and chapter 551 were executed to the analysis for this part pursuant to operation of section 102 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1336, which enacted subpart B of this part, set out the heading for subpart B and analyses for chapters 601 to 608. Items for subpart B and chapters 601 to 608 were added to the analysis for this part pursuant to operation of section 102 of this title.

# Subpart A—Elements

# CHAPTER 551—MISSILE DEFENSE

SUBCHAPTER I—ORGANIZATION

Sec.[1]
5501. National missile defense policy.
5502. Missile defense agency.

SUBCHAPTER II—BUDGET AND ACQUISITION MATTERS

5511. Ballistic missile defense programs: program elements.
5512. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation.
5513. Unfunded priorities of the missile defense agency: annual report.
5514. Acquisition accountability on the missile defense system.
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SUBCHAPTER III—MISSILE DEFENSE CAPABILITIES

5531. Technical authority for integrated air and missile defense activities and programs.
5532. Hypersonic defense capability development.
5533. Required testing of ground-based midcourse defense element of ballistic missile defense system.
5534. Integration and interoperability of air and missile defense capabilities.
5535. Development of requirements to support integrated air and missile defense capabilities.
5536. Testing and assessment of missile defense systems prior to production and deployment.
5537. Limitation on Missile Defense Agency production of satellites and ground systems associated with operation of such satellites.

SUBCHAPTER IV—MISSILE DEFENSE INFORMATION

5551. Prohibitions relating to missile defense information and systems.
5552. Biannual briefing on missile defense and related activities.
5553. Provision of information on flight testing of ground-based midcourse national missile defense system.

**EDITORIAL NOTES**

**CODIFICATION**

Analysis for subpart A is set out above as enacted by Pub. L. 118–159, §1649(a). Analyses for chapter 551 and subchapters I to IV have been added to conform to the style of this title pursuant to operation of section 102 of this title.

[1] *Editorially supplied.*

# CHAPTER 551—MISSILE DEFENSE

| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Organization** | **5501** |
| **II.** | **Budget and Acquisition Matters** | **5511** |
| **III.** | **Missile Defense Capabilities** | **5531** |
| **IV.** | **Missile Defense Information** | **5551** |

**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

# SUBCHAPTER I—ORGANIZATION

Sec.
5501. National missile defense policy.
5502. Missile Defense Agency.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVII, §1701(a)(32), Dec. 18, 2025, 139 Stat. 1209, substituted "Defense Agency" for "defense agency" in item 5502. Amendment was made pursuant to operation of section 102 of this title.

## §5501. National missile defense policy

It is the policy of the United States—

(1) to provide for the common defense of the United States and its citizens by deploying and maintaining a next-generation missile defense shield;

(2) to deter and defend the United States, citizens of the United States, and critical infrastructure of the United States, against the threat of foreign attack by increasingly complex ballistic, hypersonic glide, and cruise missiles, and other advanced aerial threats; and

(3) to guarantee the viability of an effective nuclear response capability of the United States and to support the continued deterrence of strategic attacks against the homeland of the United States.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2187; amended Pub. L. 119–60, div. A, title XVI, §1651, Dec. 18, 2025, 139 Stat. 1193.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5501 was renumbered section 8111 of this title.

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, §1681(a), Dec. 23, 2016, 130 Stat. 2623, as amended by Pub. L. 116–92, div. A, title XVI, §1681(a), Dec. 20, 2019, 133 Stat. 1781; Pub. L. 118–31, div. A, title XVI, §1663, Dec. 22, 2023, 137 Stat. 603, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(3), Dec. 23, 2024, 138 Stat. 2199.

**AMENDMENTS**

**2025**—Pub. L. 119–60 added section text and struck out former text which read as follows: "It is the policy of the United States—

"(1) to research, develop, test, procure, deploy, and sustain, with funding subject to the annual authorization of appropriations for National Missile Defense, systems that provide effective, layered missile defense capabilities to defeat increasingly complex missile threats in all phases of flight; and

"(2) to rely on nuclear deterrence to address more sophisticated and larger quantity near-peer intercontinental missile threats to the homeland of the United States."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONGRESSIONAL NOTIFICATION REQUIREMENT WITH RESPECT TO INCIDENTS THAT AFFECT AVAILABILITY OF UNITED STATES HOMELAND MISSILE DEFENSES**

Pub. L. 118–159, div. A, title XVI, §1646, Dec. 23, 2024, 138 Stat. 2185, provided that:

"(a) REQUIREMENT.—If the Secretary of Defense determines that an incident has affected the availability of the ground-based midcourse defense system, or has impeded the function of such system, in a manner that inhibits the capability of such system to adequately respond to the operational mission of such system as

required by the Commander of the United States Northern Command, the Secretary shall submit to the appropriate Members of Congress a notification of such incident by not later than 24 hours after the Secretary makes such determination.

"(b) APPROPRIATE MEMBERS OF CONGRESS DEFINED.—In this section, the term 'appropriate Members of Congress' means each chair and ranking member of the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]."

**DESIGNATION OF A SENIOR DEFENSE OFFICIAL RESPONSIBLE FOR ESTABLISHMENT OF NATIONAL INTEGRATED AIR AND MISSILE DEFENSE ARCHITECTURE FOR THE UNITED STATES**

Pub. L. 118–159, div. A, title XVI, §1655, Dec. 23, 2024, 138 Stat. 2202, provided that:

"(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate a senior official of the Department of Defense who shall be responsible, subject to appropriations, for the establishment of a national integrated air and missile defense architecture for the United States.

"(b) DUTIES.—The duties of the official designated under subsection (a) shall include the following:

"(1) Designing the national integrated air and missile defense architecture for the United States.

"(2) Overseeing development of an integrated missile defense acquisition strategy for the United States.

"(3) Evaluating the budget requests of each military department and Defense Agency to ensure such budget requests are sufficient to enable the development of such defense architecture.

"(4) Siting the integrated missile defense systems comprising such defense architecture.

"(5) Overseeing long-term acquisition and sustainment of such defense architecture.

"(6) Such other duties as the Secretary determines appropriate.

"(c) TERMINATION.—The authority of this section shall terminate on the date that is 90 days after the date on which the official designated under subsection (a) determines that the national integrated air and missile defense architecture for the United States has achieved initial operational capability."

## §5502. Missile Defense Agency

(a) APPOINTMENT OF DIRECTOR.—The Director of the Missile Defense Agency shall be a general or flag officer appointed for a six-year term.

(b) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the Missile Defense Agency, who shall be appointed by the Secretary of Defense from among the general officers on active duty in the Army, Air Force, Marine Corps, or Space Force, or from among the flag officers on active duty in the Navy. In selecting an individual to serve as the Deputy Director, the Secretary of Defense shall select an individual who serves in a different armed force than the armed force in which the Director serves.

(2) The Deputy Director shall be appointed for a term of not fewer than two, and not more than four years.

(3) The Deputy Director shall be under the authority, direction, and control of the Director of the Missile Defense Agency.

(4) The Deputy Director shall—

(A) carry out such responsibilities as may be assigned by the Director; and

(B) serve as acting director during periods of absence by the Director, or at such times as the office of the Director is vacant.

(c) NOTIFICATION OF CHANGES TO NON-STANDARD ACQUISITION AND REQUIREMENTS PROCESSES AND RESPONSIBILITIES.—(1) The Secretary of Defense may not make any changes to the missile defense non-standard acquisition and requirements processes and responsibilities unless, with respect to those proposed changes—

(A) the Secretary, without delegation, has taken each of the actions specified in paragraph (2); and

(B) a period of 120 days has elapsed following the date on which the Secretary submits the report under subparagraph (C) of such paragraph.

(2) If the Secretary proposes to make changes to the missile defense non-standard acquisition and requirements processes and responsibilities, the Secretary shall—

(A) consult with the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Policy, the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, the Commander of the United States Strategic Command, the Commander of the United States Northern Command, and the Director of the Missile Defense Agency, regarding the changes;

(B) certify to the congressional defense committees that the Secretary has coordinated the changes with, and received the views of, the individuals referred to in subparagraph (A);

(C) submit to the congressional defense committees a report that contains—

(i) a description of the changes, the rationale for the changes, and the views of the individuals referred to in subparagraph (A) with respect to the changes;

(ii) a certification that the changes will not impair the missile defense capabilities of the United States nor degrade the unique special acquisition authorities of the Missile Defense Agency; and

(iii) with respect to any such changes to Department of Defense Directive 5134.09, or successor directive issued in accordance with this subsection, a final draft of the proposed modified directive, both in an electronic format and in a hard copy format; and

(D) with respect to any such changes to Department of Defense Directive 5134.09, or successor directive issued in accordance with this subsection, provide to such committees a briefing on the proposed modified directive described in subparagraph (C)(iii).

(3) In this subsection, the term "non-standard acquisition and requirements processes and responsibilities" means the processes and responsibilities described in—

(A) the memorandum of the Secretary of Defense titled "Missile Defense Program Direction" signed on January 2, 2002, as in effect on the date of the enactment of this subsection or as modified in accordance with this subsection, or any successor memorandum issued in accordance with this subsection;

(B) Department of Defense Directive 5134.09, as in effect on the date of the enactment of this subsection (without regard to any modifications described in Directive-type Memorandum 20–002 of the Deputy Secretary of Defense, or any amendments or extensions thereto made before the date of such enactment), or as modified in accordance with this subsection, or any successor directive issued in accordance with this subsection; and

(C) United States Strategic Command Instruction 538–3 titled "MD Warfighter Involvement Process", as in effect on the date of the enactment of this subsection or as modified in accordance with this subsection, or any successor instruction issued in accordance with this subsection.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2187; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(32), Dec. 18, 2025, 139 Stat. 1209.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(3), is the date of enactment of Pub. L. 118–159, which was approved Dec. 23, 2024.

### PRIOR PROVISIONS

A prior section 5502 was renumbered section 8112 of this title.

Provisions similar to those in this section were contained in section 205 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

A prior section 5503 was renumbered section 8113 of this title.

Prior sections 5504 and 5505 were repealed by Pub. L. 96–513, title III, §314, Dec. 12, 1980, 94 Stat. 2892, effective Sept. 15, 1981.

Section 5504, acts Aug. 10, 1956, ch. 1041, 70A Stat. 314; Oct. 13, 1964, Pub. L. 88–647, title III, §301(13), 78 Stat. 1072; Sept. 19, 1978, Pub. L. 95–377, §5, 92 Stat. 721, related to maintenance of lineal lists of officers in line of Navy.

Section 5505, acts Aug. 10, 1956, ch. 1041, 70A Stat. 316; June 30, 1960, Pub. L. 86–559, §1(40), 74 Stat. 273; Sept. 7, 1962, Pub. L. 87–649, §14c(25), 76 Stat. 501, related to changes of position on lineal list of reserve officers of Naval Reserve and Marine Corps Reserve.

A prior section 5506, added Pub. L. 85–861, §1(114)(A), Sept. 2, 1958, 72 Stat. 1492, and amended Pub. L. 96–513, title V, §503(26), Dec. 12, 1980, 94 Stat. 2913, related to ranking of officers in active status in Naval Reserve and Marine Corps Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1673(d)(1), Oct. 5, 1994, 108 Stat. 3016, effective Dec. 1, 1994.

A prior section 5507, act Aug. 10, 1956, ch. 1041, 70A Stat. 316, related to pay and allowances of rear admirals. See section 202 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(26), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

A prior section 5508 was renumbered section 8118 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60 substituted "Defense Agency" for "defense agency" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### RESCISSION OF MEMORANDUM ON MISSILE DEFENSE GOVERNANCE

Pub. L. 118–31, div. A, title XVI, §1667, Dec. 22, 2023, 137 Stat. 607, provided that: "Not later than May 31, 2024, the Secretary of Defense shall—

"(1) rescind Directive-type Memorandum 20-002 relating to 'Missile Defense System Policies and Governance'; and

"(2) in accordance with [former] section 205(b) of title 10, United States Code, replace such memorandum with governance documents, policies, and procedures, that balance—

"(A) providing the Missile Defense Agency with greater flexibility and agility, particularly with regards to milestone a [probably should be "Milestone A"] (or equivalent) acquisition decisions to rapidly meet warfighter needs; and

"(B) the need for continued oversight to ensure integration into joint-force air and missile defense capabilities."

### DIRECTED ENERGY PROGRAMS FOR BALLISTIC AND HYPERSONIC MISSILE DEFENSE

Pub. L. 117–81, div. A, title XVI, §1664, Dec. 27, 2021, 135 Stat. 2104, provided that:

"(a) AUTHORITY OF THE MISSILE DEFENSE AGENCY.—The Secretary of Defense shall delegate to the Director of the Missile Defense Agency the authority to budget for, direct, and manage directed energy programs applicable for ballistic and hypersonic missile defense missions, in coordination with other directed energy efforts of the Department of Defense.

"(b) PRIORITIZATION.—In budgeting for and directing directed energy programs applicable for ballistic and hypersonic defensive missions pursuant to subsection (a), the Director of the Missile Defense Agency shall—

"(1) prioritize the early research and development of technologies; and

"(2) address the transition of such technologies to industry to support future operationally relevant capabilities."

## SUBCHAPTER II—BUDGET AND ACQUISITION MATTERS

Sec.
5511. Ballistic missile defense programs: program elements.
5512. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation.
5513. Unfunded priorities of the Missile Defense Agency: annual report.
5514. Acquisition accountability on the missile defense system.
5515. Missile defense and defeat programs: major force program and budget assessment.
5516. Prohibition on privatized or subscription-based missile defense intercept capabilities.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVI, §1654, title XVII, §1701(a)(33), Dec. 18, 2025, 139 Stat. 1195, 1209, substituted "Missile Defense Agency" for "missile defense agency" in item 5513 and added item 5516. Amendments were made pursuant to operation of section 102 of this title.

## §5511. Ballistic missile defense programs: program elements

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency shall be set forth in accordance with such program elements as the President may specify.

(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term "engineering and manufacturing development" means the period in the course of an acquisition program during which the primary objectives are to—

(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2189.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 223 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**BUDGET AND ACQUISITION REQUIREMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES**

Pub. L. 110–181, div. A, title II, §223, Jan. 28, 2008, 122 Stat. 39, as amended by Pub. L. 112–81, div. A, title II, §231(b)(2), Dec. 31, 2011, 125 Stat. 1339, provided that:

"(a) REVISED BUDGET STRUCTURE.—The budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall set forth separately amounts requested for the Missile Defense Agency for each of the following:

"(1) Research, development, test, and evaluation.

"(2) Procurement.

"(3) Operation and maintenance.

"(4) Military construction.

"(b) REVISED BUDGET STRUCTURE FOR FISCAL YEAR 2009.—The budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall—

"(1) identify all known and estimated operation and support costs; and

"(2) set forth separately amounts requested for the Missile Defense Agency for each of the following:

"(A) Research, development, test, and evaluation.

"(B) Procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

"(C) Military construction.

"(c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL YEAR 2009.—Upon approval by the Secretary of Defense, and consistent with the plan submitted under subsection (f), funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2009 for research, development, test, and evaluation for the Missile Defense Agency—

"(1) may be used for the fielding of ballistic missile defense capabilities approved previously by Congress; and

"(2) may not be used for—

"(A) military construction activities; or

"(B) procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

"(d) FULL FUNDING REQUIREMENT NOT APPLICABLE TO USE OF PROCUREMENT FUNDS FOR FISCAL YEARS 2009 AND 2010.—In any case in which funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement for the Missile Defense Agency for fiscal years 2009 and 2010 are used for the fielding of ballistic missile defense capabilities, the funds may be used for the fielding of those capabilities on an 'incremental' basis, notwithstanding any law or policy of the Department of Defense that would otherwise require a 'full funding' basis.

"(e) RELATIONSHIP TO OTHER LAW.—Nothing in this provision shall be construed to alter or otherwise affect in any way the applicability of the requirements and other provisions of section 234(a) through (d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1837; [former] 10 U.S.C. 2431 note).

"(f) PLAN REQUIRED.—Not later than March 1, 2008, the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for transitioning the Missile Defense Agency from using exclusively research, development, test, and evaluation funds to using procurement, military construction, operations and maintenance, and research, development, test, and evaluation funds for the appropriate budget activities, and for transitioning from incremental funding to full funding for fiscal years after fiscal year 2010."

**REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION**

Pub. L. 107–314, div. A, title II, §225(a), Dec. 2, 2002, 116 Stat. 2486, provided that: "Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency."

## §5512. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the integration of a ballistic missile defense element into the overall ballistic missile defense architecture shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation and, within that account, under the subaccount (or other budget activity level) for the Missile Defense Agency.

(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

(A) The technical maturity of the program.

(B) The availability of facilities for production.

(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Missile Defense Agency to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly delineated.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2190.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 224 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

## §5513. Unfunded priorities of the Missile Defense Agency: annual report

(a) REPORTS.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Director of the Missile Defense Agency shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the Missile Defense Agency.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report under subsection (a) shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement of the Missile Defense Agency that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31, United States Code;

(2) is necessary to fulfill a requirement associated with an operational or contingency plan of a combatant command or other validated requirement; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the Director of the Missile Defense Agency in connection with the budget if additional resources had been available for the budget to fund the program, activity, or mission requirement.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2190; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(33), Dec. 18, 2025, 139 Stat. 1209.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 222b of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

**AMENDMENTS**

**2025**—Pub. L. 119–60 substituted "Missile Defense Agency" for "missile defense agency" in section catchline.

## §5514. Acquisition accountability on the missile defense system

(a) BASELINES REQUIRED.—(1) In accordance with paragraph (2), the Director of the Missile Defense Agency shall establish and maintain an acquisition baseline for—

(A) each program element of the missile defense system, as specified in section 223 [1] of this title; and

(B) each designated major subprogram of such program elements.

(2) The Director shall establish an acquisition baseline required by paragraph (1) before the date on which the program element or major subprogram enters—

(A) engineering and manufacturing development (or its equivalent); and

(B) production and deployment.

(3) Except as provided by subsection (c), the Director may not adjust or revise an acquisition baseline established under this section.

(b) ELEMENTS OF BASELINES.—Each acquisition baseline required by subsection (a) for a program element or major subprogram shall include the following:

(1) A comprehensive schedule, including—

(A) research and development milestones;

(B) acquisition milestones, including design reviews and key decision points;

(C) key test events, including ground, flight, and cybersecurity tests and ballistic missile defense system tests;

(D) delivery and fielding schedules;

(E) quantities of assets planned for acquisition and delivery in total and by fiscal year; and

(F) planned contract award dates.

(2) A detailed technical description of—

(A) the capability to be developed, including hardware and software;

(B) system requirements, including performance requirements;

(C) how the proposed capability satisfies a capability requirement or performance attribute identified through—

(i) the missile defense warfighter involvement process, as governed by United States Strategic Command Instruction 538–03, or such successor document; or

(ii) processes and products reviewed by the Joint Chiefs of Staff or Joint Requirements Oversight Council;

(D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and

(E) how the Director plans to improve the capability over time.

(3) A cost estimate, including—

(A) a life-cycle cost estimate that separately identifies the costs regarding research and development, procurement, military construction, operations and sustainment, and disposal;

(B) program acquisition unit costs for the program element;

(C) average procurement unit costs and program acquisition costs for the program element;

(D) an identification of when the document regarding the program joint cost analysis requirements description is scheduled to be approved; and

(E) an explanation for why a program joint cost analysis requirements description has not been prepared and approved, and, if a program joint cost analysis requirements description is not applicable, the rationale for such inapplicability.

(4) A test baseline summarizing the comprehensive test program for the program element or major subprogram outlined in the integrated master test plan.

(c) EXCEPTION TO LIMITATION ON REVISION.—The Director may adjust or revise an acquisition baseline established under this section if the Director submits to the congressional defense committees notification of—

(1) a justification for such adjustment or revision;

(2) the specific adjustments or revisions made to the acquisition baseline, including to the elements described in subsection (b); and

(3) the effective date of the adjusted or revised acquisition baseline.

(d) OPERATIONS AND SUSTAINMENT COST ESTIMATES.—The Director shall ensure that each life-cycle cost estimate included in an acquisition baseline pursuant to subsection (b)(3)(A) includes—

(1) all of the operations and sustainment costs for which the Director is responsible;

(2) a description of the operations and sustainment functions and costs for which a military department is responsible;

(3) the amount of operations and sustainment costs (dollar value and base year) for which the military department or other element of the Department of Defense is responsible; and

(4)(A) a citation to the source (such as a joint cost estimate or one or more military department estimates) that captures the operations and sustainment costs for which a military department or other element of the Department of Defense is responsible;

(B) the date the source was prepared; and

(C) if and when the source was independently verified by the Office for Cost Assessment and Program Evaluation.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2191; amended Pub. L. 119–60, div. A, title XVIII, §1811(g)(5), Dec. 18, 2025, 139 Stat. 1243.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 223 of this title, referred to in subsec. (a)(1)(A), was repealed by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199. See section 5511 of this title.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 225 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

**AMENDMENTS**

**2025**—Subsec. (b)(2)(C)(ii). Pub. L. 119–60 substituted "reviewed" for "approved".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**IMPROVEMENT TO OPERATIONS AND SUSTAINMENT COST ESTIMATES**

Pub. L. 113–66, div. A, title II, §231(a), Dec. 26, 2013, 127 Stat. 710, provided that: "In preparing the acquisition accountability reports on the ballistic missile defense system required by [former] section 225 of title 10, United States Code, the Director of the Missile Defense Agency shall improve the quality of cost estimates relating to operations and sustainment that are included in such reports under subsection (b)(3)(A) of such section, including with respect to the confidence levels of such cost estimates."

[1] *See References in Text note below.*

## §5515. Missile defense and defeat programs: major force program and budget assessment

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for missile defense and defeat programs pursuant to section 222(b) of this title to prioritize missile defense and defeat programs in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2019 through 2030 a report on the budget for missile defense and defeat programs of the Department of Defense.

(2) Each report on the budget for missile defense and defeat programs of the Department under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title (such comparison shall exclude the responsibility for research and development of the continuing improvement of such missile defense and defeat program), and the amounts appropriated for such missile defense and defeat programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term "missile defense and defeat programs" means active and passive ballistic missile defense programs, cruise missile defense programs for the homeland, and missile defeat programs.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2193.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 239a of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

## §5516. Prohibition on privatized or subscription-based missile defense intercept capabilities

(a) PROHIBITION.—The Secretary of Defense may only develop, deploy, test, or operate a missile defense system with kinetic missile defense capabilities if—

(1) the missile defense system is owned and operated by the armed forces; and

(2) such capabilities do not use a subscription-based service, a pay-for-service model, or a recurring-fee model to engage or intercept a target.

(b) INHERENTLY GOVERNMENTAL FUNCTION.—The decision to engage in kinetic missile defense activities, including targeting, launch authorization, and engagement of airborne or spaceborne threats, is an inherently governmental function that only officers or employees of the Federal Government or members of the Army, Navy, Air Force, Marine Corps, or Space Force may perform.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary of Defense from—

(1) entering into contracts with private entities for the research, development, manufacture, maintenance, or testing of missile defense systems;

(2) entering into or carrying out co-production or co-development arrangements, or other cooperative agreements, with allies and partners of the United States with respect to missile defense capabilities; or

(3) procuring commercial services for remote sensing, telemetry, threat tracking, data analysis, data transport, or early warning, if such services do not directly involve the execution or command of kinetic missile defense activities.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "kinetic missile defense activities" means any action intended to physically intercept, neutralize, or destroy a missile, projectile, aircraft, or other airborne threat, including those using kinetic interceptors or directed energy.

(2) The term "kinetic missile defense capabilities" means any system or platform that is designed to be able to carry out kinetic missile defense activities.

(3) The term "subscription-based service" means any arrangement in which a private entity provides ongoing or recurring operational access to missile defense capabilities in exchange for periodic payment.

(Added Pub. L. 119–60, div. A, title XVI, §1654, Dec. 18, 2025, 139 Stat. 1195.)

# SUBCHAPTER III—MISSILE DEFENSE CAPABILITIES

Sec.
5531. Technical authority for integrated air and missile defense activities and programs.
5532. Hypersonic defense capability development.

5533. Required testing of ground-based midcourse defense element of ballistic missile defense system.
5534. Integration and interoperability of air and missile defense capabilities.
5535. Development of requirements to support integrated air and missile defense capabilities.
5536. Testing and assessment of missile defense systems prior to production and deployment.
5537. Limitation on Missile Defense Agency production of satellites and ground systems associated with operation of such satellites.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §5531. Technical authority for integrated air and missile defense activities and programs

(a) IN GENERAL.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of the Missile Defense Agency is the technical authority of the Department of Defense for integrated air and missile defense activities and programs, including joint engineering and integration efforts for such activities and programs, including with respect to defining and controlling the system level architectures, interfaces of such activities and programs, and the allocation of technical requirements for such activities and programs.

(b) DETAILEES.—(1) In carrying out the technical authority under subsection (a), the Director may seek to have staff detailed to the Missile Defense Agency from the Joint Functional Component Command for Integrated Missile Defense and the Joint Integrated Air and Missile Defense Organization in a number the Director determines necessary in accordance with paragraph (2).

(2) In detailing staff under paragraph (1) to carry out the technical authority under subsection (a), the total number of staff, including detailees, of the Missile Defense Agency who carry out such authority may not exceed the number that is twice the number of such staff carrying out such authority as of January 1, 2016.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2194; amended Pub. L. 119–60, div. A, title XVI, §1653, title XVII, §1701(a)(34), Dec. 18, 2025, 139 Stat. 1194, 1209.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5531, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, provided for recruiting campaigns to obtain enlistments in the Regular Navy and the Regular Marine Corps, prior to repeal by Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, §1686(a), Dec. 23, 2016, 130 Stat. 2628, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(4), Dec. 23, 2024, 138 Stat. 2199.

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60, §1653(a), substituted "Subject to the authority, direction, and control of the Secretary of Defense, the Director" for "The Director" and inserted "system level architectures," before "interfaces" and comma after "of such activities and programs".

Subsec. (b)(1). Pub. L. 119–60, §1701(a)(34)(A), (B), which directed the substitution of "subsection (a)" for "paragraph (1)" and "paragraph (2)" for "subparagraph (B)", could not be executed because of the prior similar amendment by Pub. L. 119–60, §1653(b)(1). See below.

Pub. L. 119–60, §1653(b)(1), substituted "under subsection (a)" for "under paragraph (1)" and "with paragraph (2)" for "with subparagraph (B)".

Subsec. (b)(2). Pub. L. 119–60, §1701(a)(34)(A), (C), which directed the substitution of "subsection (a)" for "paragraph (1)" and "paragraph (1)" for "subparagraph (A)", could not be executed because of the prior similar amendment by Pub. L. 119–60, §1653(b)(2). See below.

Pub. L. 119–60, §1653(b)(2), substituted "under paragraph (1)" for "under subparagraph (A)" and "under subsection (a)" for "under paragraph (1)".

## §5532. Hypersonic defense capability development

(a) EXECUTIVE AGENT.—The Director of the Missile Defense Agency shall serve as the executive agent for the Department of Defense for the development of a capability by the United States to counter hypersonic boost-glide vehicle capabilities and conventional prompt strike capabilities that may be employed against the United States, the allies of the United States, and the deployed forces of the United States.

(b) DUTIES.—In carrying out subsection (a), the Director shall—

(1) develop architectures for a hypersonic defense capability, from detecting threats to intercepting such threats, that—

(A) involves systems of the military departments and the Defense Agencies; and

(B) includes both kinetic and nonkinetic options for such interception; and

(2) not later than September 30, 2017, establish a program of record to develop a hypersonic defense capability.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2194.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5532, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, set forth classes of persons prohibited from enlisting in the naval service, prior to repeal by Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, §1687, Dec. 23, 2016, 130 Stat. 2629, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(5), Dec. 23, 2024, 138 Stat. 2199.

## §5533. Required testing of ground-based midcourse defense element of ballistic missile defense system

(a) TESTING REQUIRED.—Except as provided in subsection (c), not less frequently than once each fiscal year, the Director of the Missile Defense Agency shall administer a flight test of the ground-based midcourse defense element of the ballistic missile defense system. Beginning not later than five years after the date on which the next generation interceptor achieves initial operational capability, the Director shall ensure that such flight tests include the next generation interceptor.

(b) REQUIREMENTS.—The Director shall ensure that each test carried out under subsection (a) provides for one or more of the following:

(1) The validation of technical improvements made to increase system performance and reliability.

(2) The evaluation of the operational effectiveness of the ground-based midcourse defense element of the ballistic missile defense system.

(3) The use of threat-representative targets and critical engagement conditions, including the use of threat-representative countermeasures.

(4) The evaluation of new configurations of interceptors before they are fielded.

(5) The satisfaction of the "fly before buy" acquisition approach for new interceptor components or software.

(6) The evaluation of the interoperability of the ground-based midcourse defense element with other elements of the ballistic missile defense systems.

(c) EXCEPTIONS.—The Director may forgo a test under subsection (a) in a fiscal year under one

or more of the following conditions:

(1) Such a test would jeopardize national security.

(2) Insufficient time considerations between post-test analysis and subsequent pre-test design.

(3) Insufficient funding.

(4) An interceptor is unavailable.

(5) A target is unavailable or is insufficiently representative of threats.

(6) The test range or necessary test assets are unavailable.

(7) Inclement weather.

(8) Any other condition the Director considers appropriate.

(d) CERTIFICATION.—Not later than 45 days after forgoing a test for a condition or conditions under subsection (c)(8), the Under Secretary of Defense for Research and Engineering shall submit to the congressional defense committees a certification setting forth the condition or conditions that caused the test to be forgone under such subsection.

(e) REPORT.—Not later than 45 days after forgoing a test for any condition specified in subsection (c), the Director shall submit to the congressional defense committees a report setting forth the rationale for forgoing the test and a plan to restore an intercept flight test in the Integrated Master Test Plan of the Missile Defense Agency. In the case of a test forgone for a condition or conditions under subsection (c)(8), the report required by this subsection is in addition to the certification required by subsection (d).

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2195.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5533, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, provided for enlistment of minors in naval service, prior to repeal by Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, §1689, Dec. 23, 2016, 130 Stat. 2631, as amended by Pub. L. 116–92, div. A, title IX, §902(97), title XVI, §1684, Dec. 20, 2019, 133 Stat. 1555, 1783; Pub. L. 117–81, div. A, title XVI, §1668(d), Dec. 27, 2021, 135 Stat. 2107, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(6), Dec. 23, 2024, 138 Stat. 2199.

## §5534. Integration and interoperability of air and missile defense capabilities

(a) INTEROPERABILITY OF MISSILE DEFENSE SYSTEMS.—The Vice Chairman of the Joint Chiefs of Staff and the chairman of the Missile Defense Executive Board (pursuant to section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), acting through the Missile Defense Executive Board, shall ensure the interoperability and integration of the covered air and missile defense capabilities of the United States, including by carrying out operational testing.

(b) ANNUAL DEMONSTRATION.—(1) Except as provided by paragraph (2), the Director of the Missile Defense Agency and the Secretary of the Army shall jointly ensure that not less than one intercept or flight test is carried out each year that demonstrates interoperability and integration among the covered air and missile defense capabilities of the United States.

(2) The Director and the Secretary may waive the requirement in paragraph (1) with respect to an intercept or flight test carried out during the year covered by the waiver if the chairman of the Missile Defense Executive Board—

(A) determines that such waiver is necessary for such year; and

(B) submits to the congressional defense committees notification of such waiver, including an explanation for how such waiver will not negatively affect demonstrating the interoperability and integration among the covered air and missile defense capabilities of the United States.

(c) DEFINITION OF COVERED AIR AND MISSILE DEFENSE CAPABILITIES.—In this section, the term "covered air and missile defense capabilities" means Patriot air and missile defense batteries and associated interceptors and systems, Aegis ships and associated ballistic missile interceptors (including Aegis Ashore capability), AN/TPY–2 radars, or terminal high altitude area defense batteries and interceptors.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2196.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsec. (a), is section 1681(c) of Pub. L. 115–232, div. A, title XVI, Aug. 13, 2018, 132 Stat. 2161, which is not classified to the Code.

**PRIOR PROVISIONS**

A prior section 5534, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, set forth term of enlistments in Regular Navy or Regular Marine Corps and provided that Secretary of Navy could prescribe grades or ratings in which such enlistments could be made, prior to repeal by Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 114–92, div. A, title XVI, §1675, Nov. 25, 2015, 129 Stat. 1131, as amended by Pub. L. 116–92, div. A, title IX, §902(69), Dec. 20, 2019, 133 Stat. 1551; Pub. L. 116–283, div. A, title X, §1081(f)(3), Jan. 1, 2021, 134 Stat. 3875, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(7), Dec. 23, 2024, 138 Stat. 2199.

## §5535. Development of requirements to support integrated air and missile defense capabilities

(a) IN GENERAL.—Consistent with the memorandum of the Chairman of the Joint Chiefs of Staff of January 27, 2014, regarding joint integrated air and missile defense, the Vice Chairman of the Joint Chiefs of Staff shall oversee the development of warfighter requirements for persistent and survivable capabilities to detect, identify, determine the status, track, and support engagement of strategically important mobile or relocatable assets in all phases of conflict in order to achieve the objective of preventing the effective employment of such assets, including through offensive actions against such assets prior to their use.

(b) PURPOSE OF REQUIREMENTS.—The requirements developed pursuant to subsection (a) shall be used and updated, as appropriate, for the purpose of informing applicable acquisition programs and systems-of-systems architecture planning that are funded through the Military Intelligence Program, the National Intelligence Program, and non-intelligence programs.

(c) SUPPORTING ACTIVITIES.—The Vice Chairman shall also oversee the development of the enabling framework for intelligence support for integrated air and missile defense, including concepts for the integrated operation of multiple systems, and, as appropriate, the development of requirements for capabilities to be acquired to achieve such integrated operations.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2196.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5535, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, required evidence of age for enlistment of minors in Regular Navy as seamen, seamen apprentices or seamen recruits, prior to repeal by Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 114–92, div. A, title XVI, §1687, Nov. 25, 2015, 129 Stat. 1143, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(8), Dec. 23, 2024, 138 Stat. 2199.

## §5536. Testing and assessment of missile defense systems prior to production and deployment

(a) SUCCESSFUL TESTING REQUIRED PRIOR TO FINAL PRODUCTION OR OPERATIONAL DEPLOYMENT.—The Secretary of Defense may not make a final production decision for, or operationally deploy, a covered system unless—

(1) the Secretary ensures that—

(A) sufficient and operationally realistic testing of the covered system is conducted to assess the performance of the covered system in order to inform a final production decision or an operational deployment decision; and

(B) the results of such testing have demonstrated a high probability that the covered system—

(i) will work in an operationally effective manner; and

(ii) has the ability to accomplish the intended mission of the covered system; and

(2) the Director of Operational Test and Evaluation has carried out subsection (b) with respect to such covered system.

(b) ASSESSMENT BY DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—The Director of Operational Test and Evaluation shall—

(1) provide to the Secretary the assessment of the Director, based on the available test data, of the sufficiency, adequacy, and results of the testing of each covered system, including an assessment of whether the covered system will be sufficiently effective, suitable, and survivable when needed; and

(2) submit to the congressional defense committees a written summary of such assessment.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, modify, or otherwise affect a determination of the Secretary with respect to the participation of the Missile Defense Agency in the Joint Capabilities Integration Development System or the acquisition reporting process under the Department of Defense Directive 5000 series, or to diminish the authority of the Secretary of Defense to deploy a missile defense system at the date on which the Secretary determines appropriate.

(d) COVERED SYSTEM.—In this section, the term "covered system" means a new or substantially upgraded interceptor or weapon system of the ballistic missile defense system.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2197.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 5536, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, related to extension of service by reason of time lost through misconduct or unauthorized absence, prior to repeal by Pub. L. 85–861, §36B(13), Sept. 2, 1958, 72 Stat. 1571. See section 972(a) of this title.

Provisions similar to those in this section were contained in Pub. L. 113–291, div. A, title XVI, §1662, Dec. 19, 2014, 128 Stat. 3657, as amended by Pub. L. 115–91, div. A, title XVI, §1677(b), Dec. 12, 2017, 131 Stat. 1774, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(9), Dec. 23, 2024, 138 Stat. 2199.

## §5537. Limitation on Missile Defense Agency production of satellites and ground systems associated with operation of such satellites

(a) PRODUCTION OF SATELLITES AND GROUND SYSTEMS.—The Director of the Missile Defense Agency may not authorize or obligate funding for a program of record for the production of satellites or ground systems associated with the operation of such satellites.

(b) PROTOTYPE SATELLITES.—(1) The Director, with the concurrence of the Space Acquisition Council established by section 9021 of this title, may authorize the production of one or more prototype satellites, consistent with the requirements of the Missile Defense Agency.

(2) Not later than 30 days after the date on which the Space Acquisition Council concurs with the Director with respect to authorizing the production of a prototype satellite under paragraph (1), the chair of the Council shall submit to the congressional defense committees a report explaining the reasons for such concurrence.

(3) The Director may not obligate funds for the production of a prototype satellite under paragraph (1) before the date on which the Space Acquisition Council submits the report for such prototype satellite under paragraph (2).

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2197.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 5537, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, provided for extension of naval service during disability incident to service, prior to repeal by Pub. L. 90–235, §2(a)(3), Jan. 2, 1968, 81 Stat. 756.

Provisions similar to those in this section were contained in Pub. L. 117–81, div. A, title XVI, §1662(a), Dec. 27, 2021, 135 Stat. 2103, which was set out in a note under section 4022 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(2), Dec. 23, 2024, 138 Stat. 2199.

Prior sections 5538 and 5539 were repealed by Pub. L. 90–235, §2(a)(3), Jan. 2, 1968, 81 Stat. 756.

Section 5538, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, provided for extension of enlistments in Regular Navy or Regular Marine Corps during war or national emergency.

Section 5539, acts Aug. 10, 1956, ch. 1041, 70A Stat. 320; Sept. 2, 1958, Pub. L. 85–861, §1(116), 72 Stat. 1493; Sept. 7, 1962, Pub. L. 87–649, §14c(27), 76 Stat. 501, provided for voluntary extension or re-extension of enlistments in Regular Navy or Regular Marine Corps.

A prior section 5540 was renumbered section 8120 of this title.

## SUBCHAPTER IV—MISSILE DEFENSE INFORMATION

Sec.
5551. Prohibitions relating to missile defense information and systems.
5552. Biannual briefing on missile defense and related activities.
5553. Provision of information on flight testing of ground-based midcourse national missile defense system.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §5551. Prohibitions relating to missile defense information and systems

(a) CERTAIN "HIT-TO-KILL" TECHNOLOGY AND TELEMETRY DATA.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation or the People's Republic of China with "hit-to-kill" technology and telemetry data for missile defense interceptors or target vehicles.

(b) OTHER SENSITIVE MISSILE DEFENSE INFORMATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation or the People's Republic of China with—

(1) information relating to velocity at burnout of missile defense interceptors or targets of the United States; or

(2) classified or otherwise controlled missile defense information.

(c) EXCEPTION.—The prohibitions in subsections (a) and (b) shall not apply to the United States providing to the Russian Federation or the People's Republic of China information regarding ballistic missile early warning.

(d) INTEGRATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be obligated or expended to integrate a missile defense system of the Russian Federation or a missile defense system of the People's Republic of China into any missile defense system of the United States.

(Added and amended Pub. L. 118–159, div. A, title XVI, §§1641, 1649(a), Dec. 23, 2024, 138 Stat. 2182, 2198.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 130h of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §1641(1), inserted "or the People's Republic of China" after "the Russian Federation".

Subsec. (b). Pub. L. 118–159, §1641(2), inserted "or the People's Republic of China" after "the Russian Federation" in introductory provisions.

Subsec. (c). Pub. L. 118–159, §1641(3), inserted "or the People's Republic of China" after "the Russian Federation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CERTIFICATION REQUIRED FOR RUSSIA AND CHINA TO TOUR CERTAIN MISSILE DEFENSE SITES

Pub. L. 117–81, div. A, title XVI, §1667, Dec. 27, 2021, 135 Stat. 2106, provided that:

"(a) CERTIFICATION.—Before the Secretary of Defense makes a determination with respect to allowing a foreign national of Russia or China to tour a covered site, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a certification that—

"(1) the Secretary has determined that such tour is in the national security interest of the United States, including the justifications for such determination; and

"(2) the Secretary will not share any technical data relating to the covered site with the foreign nationals.

"(b) TIMING.—The Secretary may not conduct a tour described in subsection (a) until a period of 45 days has elapsed following the date on which the Secretary submits the certification for that tour under such subsection.

"(c) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this section shall be construed to supersede or otherwise affect [former] section 130h of title 10, United States Code [see 10 U.S.C. 5551].

"(d) COVERED SITE.—In this section, the term 'covered site' means any of the following:

"(1) The combat information center of a naval ship equipped with the Aegis ballistic missile defense system.

"(2) An Aegis Ashore site.

"(3) A terminal high altitude area defense battery.

"(4) A ground-based midcourse defense interceptor silo."

## §5552. Biannual briefing on missile defense and related activities

(a) IN GENERAL.—On or about June 1 and December 1 of each year, the officials specified in subsection (b) shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on matters relating to missile defense policies, operations, technology

development, and other similar topics as requested by such committees.

(b) OFFICIALS SPECIFIED.—The officials specified in this subsection are the following:

(1) The Assistant Secretary of Defense for Acquisition.

(2) The Assistant Secretary of Defense for Space Policy.

(3) The Director of the Missile Defense Agency.

(4) The Director for Strategy, Plans, and Policy of the Joint Staff.

(c) DELEGATION.—An official specified in subsection (b) may delegate the authority to provide a briefing required by subsection (a) to a member of the Senior Executive Service who reports to the official.

(d) TERMINATION.—The requirement to provide a briefing under subsection (a) shall terminate on January 1, 2028.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2198.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 487 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

## §5553. Provision of information on flight testing of ground-based midcourse national missile defense system

(a) INFORMATION TO BE FURNISHED TO CONGRESSIONAL COMMITTEES.—The Director of the Missile Defense Agency shall provide to the congressional defense committees information on the results of each flight test of the ground-based midcourse national missile defense system.

(b) CONTENT.—Information provided under subsection (a) on the results of a flight test shall include the following matters:

(1) A thorough discussion of the content and objectives of the test.

(2) For each such test objective, a statement regarding whether or not the objective was achieved.

(3) For any such test objective not achieved—

(A) a thorough discussion describing the reasons that the objective was not achieved; and

(B) a discussion of any plans for future tests to achieve that objective.

(Added Pub. L. 118–159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2199.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 107–314, div. A, title II, §224, Dec. 2, 2002, 116 Stat. 2485, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, §1649(b)(10), Dec. 23, 2024, 138 Stat. 2200.

Prior sections 5571 to 5580 were repealed by Pub. L. 96–513, title III, §§321, 322, Dec. 12, 1980, 94 Stat. 2892, effective Sept. 15, 1981.

Section 5571, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, prescribed a citizenship requirement for appointment as an officer in the Regular Navy or the Regular Marine Corps. See section 532 of this title.

Section 5572, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85–861, §1(117), 72 Stat. 1493, required that each appointment to the active list of the Navy or to the active list of the Marine Corps be made by the President, by and with the advice and consent of the Senate. See section 531 of this title.

Section 5573, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, authorized appointment of graduates of the Naval Academy to the Regular Navy and the Regular Marine Corps.

Section 5573a, added Pub. L. 85–861, §1(118)(A), Sept. 2, 1958, 72 Stat. 1493, authorized appointments to

the active list of the Navy in permanent grades not above lieutenant and to the active list of the Marine Corps in permanent grades not above captain from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps not holding permanent commissioned appointments therein.

Section 5574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85–861, §1(119), 72 Stat. 1493, prescribed requirements for original appointments to the active list of the Navy in the Medical Corps. See section 532 of this title.

Section 5575, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Supply Corps. See section 532 of this title.

Section 5576, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Chaplain Corps. See section 532 of this title.

Section 5577, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Civil Engineer Corps. See section 532 of this title.

Section 5578, acts Aug. 10, 1956, ch. 1041, 70A Stat 322; Sept. 2, 1958, Pub. L. 85–861, §1(120), 72 Stat. 1494, prescribed requirements for original appointments to the active list of the Navy in the Dental Corps. See section 532 of this title.

Section 5578a, added Pub. L. 90–179, §5(1), Dec. 8, 1967, 81 Stat. 547, prescribed requirements for original appointments to the active list of the Navy in the Judge Advocate General's Corps. See section 532 of this title.

Section 5579, act Aug. 10, 1956, ch. 1041, 70A Stat. 323, prescribed requirements for original appointments to the active list of the Navy in the Medical Service Corps. See section 532 of this title.

Section 5580, acts Aug. 10, 1956, ch 1041, 70A Stat. 323; Sept. 30, 1966, Pub. L. 89–609, §1(7)–(9), 80 Stat. 853, prescribed requirements for original appointments to the active list of the Navy in the Nurse Corps. See section 532 of this title.

A prior section 5581, acts Aug. 10, 1956, ch. 1041, 70A Stat. 323; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to the appointment of women in the Naval Reserve to the Medical Corps, the Dental Corps, and the Medical Services Corps, prior to repeal by Pub. L. 96–513, title III, §373(c), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

A prior section 5582 was renumbered section 8132 of this title.

Prior sections 5583 and 5584 were repealed by Pub. L. 96–513, title III, §321, Dec. 12, 1980, 94 Stat. 2892, effective Sept. 15, 1981.

Section 5583, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Marine Corps from noncommissioned officers of the Regular Marine Corps. See section 532 of this title.

Section 5584, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Marine Corps from former officers of the Marine Corps. See section 532 of this title.

A prior section 5585 was renumbered section 8135 of this title.

A prior section 5586, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Navy in the line or in any staff corps, except the Medical Service Corps and the Nurse Corps, in grades not above lieutenant and to the active list of the Marine Corps in grades not above captain from warrant officers and enlisted members of the Regular Navy and Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §321, Dec. 12, 1980, 94 Stat. 2892, effective Sept. 15, 1981. See section 532 of this title.

Prior sections 5587 and 5587a were renumbered sections 8137 and 8138 of this title, respectively.

A prior section 5888, act Aug. 10, 1956, ch. 1041, 70A Stat. 326, related to designation of Marine Corps officers for supply duty, prior to repeal by Pub. L. 87–123, §5(8), Aug. 3, 1961, 75 Stat. 265.

A prior section 5589 was renumbered section 8139 of this title.

A prior section 5590, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, authorized appointments of women to the Regular Navy and Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §373(e), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

Prior sections 5591 to 5595 were repealed by Pub. L. 96–513, title III, §323, Dec. 12, 1980, 94 Stat. 2893, effective Sept. 15, 1981.

Section 5591, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, prescribed maximum number of appointments that could be made annually to active list of Navy in Supply Corps in grade of ensign.

Section 5592, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, prescribed maximum number of appointments that could be made annually to active list of Navy in Civil Engineer Corps in grade of ensign.

Section 5593, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, prescribed maximum number of appointments

that could be made annually to active list of Navy in Medical Service Corps in grade of ensign.

Section 5594, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, prescribed maximum number of appointments that could be made annually to active list of Navy in Nurse Corps in grade of ensign.

Section 5595, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, restricted appointment of a former midshipman at Naval Academy or a former cadet at Military Academy to a commissioned grade in Regular Marine Corps until after graduation of class of which he was a member.

A prior section 5596 was renumbered section 8146 of this title.

Prior sections 5597 to 5599 were repealed by Pub. L. 96–513, title III, §327, Dec. 12, 1980, 94 Stat. 2894, effective Sept. 15, 1981.

Section 5597, acts Aug. 10, 1956, ch. 1041, 70A Stat. 330; Sept. 7, 1962, Pub. L. 87–649, §§5(a), 14c(28), 76 Stat. 493, 501; Sept. 28, 1971, Pub. L. 92–129, title VI, §603(a), 85 Stat. 362, authorized temporary appointments in Navy and Marine Corps in times of war or national emergency. See section 603 of this title.

Section 5598, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, authorized temporary appointments in Naval Reserve and Marine Corps Reserve in times of war or national emergency. See section 603 of this title.

Section 5599, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, provided that the President alone could make appointments for temporary service in Medical Corps in grade of lieutenant (junior grade). See section 603 of this title.

A prior section 5600, added Pub. L. 85–861, §1(121)(A), Sept. 2, 1958, 72 Stat. 1494; amended Pub. L. 86–559, §1(41), June 30, 1960, 74 Stat. 273; Pub. L. 90–179, §5(4), Dec. 8, 1967, 81 Stat. 548; Pub. L. 96–513, title III, §328, Dec. 12, 1980, 94 Stat. 2895; Pub. L. 97–22, §6(c), July 10, 1981, 95 Stat. 130; Pub. L. 98–94, title X, §1007(c)(4), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100–180, div. A, title VII, §714(c), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–160, div. A, title V, §509(c), Nov. 30, 1993, 107 Stat. 1648, related to service credit upon original appointment as commissioned officer in Naval Reserve or Marine Corps Reserve, prior to repeal by Pub. L. 104–106, div. A, title XV, §1501(c)(26), Feb. 10, 1996, 110 Stat. 499. See section 12207 of this title.

A prior section 5601, added Pub. L. 85–861, §1(121)(A), Sept. 2, 1958, 72 Stat. 1495, authorized appointment of men in the Naval Reserve in the Nurse Corps, prior to repeal by Pub. L. 89–609, §1(10), Sept. 30, 1966, 80 Stat. 853.

Prior sections 5651 to 5664 were repealed by Pub. L. 96–513, title III, §332, Dec. 12, 1980, 94 Stat. 2897 effective Sept. 15, 1981.

Section 5651, act Aug. 10, 1956, ch. 1041, 70A Stat. 332, related to eligibility of officers to be running mates.

Section 5652, acts Aug. 10, 1956, ch. 1041, 70A Stat. 332; Sept. 2, 1958, Pub. L. 85–861, §1(122), 72 Stat. 1495, related, except as provided in former sections 5652a, 5652b, 5652c, 5653, and 5654 of this title, to assignment of running mates from among eligible line officers to staff corps officers serving in grade of lieutenant (junior grade) on active list of Navy.

Section 5652a, added Pub. L. 85–861, §1(123)(A), Sept. 2, 1958, 72 Stat. 1495, and amended Pub. L. 90–179, §12, Dec. 8, 1967, 81 Stat. 549, related to assignment of running mates to officers appointed to active list of Navy in grade of lieutenant (junior grade) in Medical Corps, Judge Advocate General's Corps, or Dental Corps.

Section 5652b, added Pub. L. 85–861, §1(123)(A), Sept. 2, 1958, 72 Stat. 1495, and amended Pub. L. 88–647, title III, §301(14)(B), Oct. 13, 1964, 78 Stat. 1072, related to assignment of running mates to certain officers originally appointed as ensigns to active list of Navy and serving as staff corps officers at time of promotion to grade of lieutenant (junior grade).

Section 5652c, added Pub. L. 85–861, §1(123)(A), Sept. 2, 1958, 72 Stat. 1496, related to assignment of running mates to officers appointed to active list of Navy in a staff corps under former section 5573a of this title.

Section 5653, acts Aug. 10, 1056, ch. 1041, 70A Stat. 333; Sept. 2, 1958, Pub. L. 85–861, §1(124), 72 Stat. 1496, related to assignment of running mates to officers originally appointed to active list of Navy in a staff corps in a grade of lieutenant or above.

Section 5654, act Aug. 10, 1956, ch. 1041, 70A Stat. 333, related to assignment of running mates to officers on active list in line of Navy transferred to a staff corps in grade of lieutenant (junior grade) or above.

Section 5655, act Aug. 10, 1956, ch. 1041, 70A Stat. 333, related to assignment of running mates to officers of Naval Reserve in a staff corps ordered to active duty and placed on a lineal list.

Section 5656, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer on active duty where originally assigned running mate was separated from active list, was released from active duty, or lost numbers.

Section 5657, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a

staff corps officer on active duty where such staff corps officer was promoted after selection.

Section 5658, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer on active duty where running mate of staff corps officer was promoted to a higher grade without staff corps officer being so promoted.

Section 5659, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer where such staff corps officer was not restricted in performance of duty and was serving on active duty in grade of lieutenant (junior grade) or above and lost numbers in grade.

Section 5660, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, related to reassignment of a running mate to a staff corps officer on active duty where running mate originally assigned to such staff corps officer was advanced in numbers or in grade.

Section 5661, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, related to reassignment of a running mate to a staff corps officer where staff corps officer was not restricted in performance of duty, was serving on active duty in grade of lieutenant (junior grade) or above, and was advanced in numbers in his grade.

Section 5662, acts Aug. 10, 1956, ch. 1041, 70A Stat. 335; Apr. 21, 1976, Pub. L. 94–273, §2(3), 90 Stat. 375, authorized President to suspend any provisions of former sections 5651 to 5661 of this title during times of war or national emergency or during certain other times when specified conditions were found to exist.

Section 5663, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, excluded from application of former sections 5651 to 5662 of this title certain women officers, women reserve officers, retired officers, and officers of Naval Reserve.

Section 5664, act Aug. 10, 1956, ch. 1041, 70A Stat. 336, related to assignment of running mates to women officers on active list of Navy appointed under former section 5590 of this title in any staff corps.

A prior section 5665, added Pub. L. 85–861, §1(125)(A), Sept. 2, 1958, 72 Stat. 1496; amended Pub. L. 96–513, title III, §332, Dec. 12, 1980, 94 Stat. 2897; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506, related to running mates for Naval Reserve and Marine Corps Reserve active status officers in permanent grades above chief warrant officer, W–5, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(b)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14306 of this title.

A prior section 5666, act Aug. 10, 1956, ch. 1041, 70A Stat. 336, provided that appointments for limited duration would not be considered for purposes of the chapter, prior to repeal by Pub. L. 96–513, title III, §332, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Prior sections 5701 to 5711 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5701, acts Aug. 10, 1956, ch. 1041, 70A Stat. 336; Feb. 26, 1970, Pub. L. 91–199, §1, 84 Stat. 16, related to convening by Secretary of Navy at least annually of selection boards to recommend male officers in line of Navy for promotion and continuation on active list. See section 611 of this title.

Section 5702, acts Aug. 10, 1956, ch. 1041, 70A Stat. 337; Aug. 21, 1957, Pub. L. 85–155, title II, §201(5), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, §1(18)(A)–(H), 81 Stat. 377; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to convening of selection boards to recommend staff corps officers, other than women officers appointed under former section 5590 of this title, for promotion and continuation on active list. See section 611 of this title.

Section 5703, acts Aug. 10, 1956, ch. 1041, 70A Stat. 338; Aug. 3, 1961, Pub. L. 87–123, §5(11), 75 Stat. 265; Sept. 19, 1978, Pub. L. 95–377, §10(a), 92 Stat. 721; Sept. 8, 1980, Pub. L. 96–343, §10(d), 94 Stat. 1130, related to convening at least annually by Secretary of Navy of selection boards to recommend male officers of Marine Corps for promotion and for continuation on active list. See section 611 of this title.

Section 5704, acts Aug. 10, 1956, ch. 1041, 70A Stat. 339; Nov. 8, 1967, Pub. L. 90–130, §1(18)(I)–(K), 81 Stat. 377, relating to convening by Secretary of Navy at least annually of selection boards to recommend women officers in line of Navy for promotion to grades of captain, commander, lieutenant commander, and lieutenant. See section 611 of this title.

Section 5705, act Aug. 10, 1956, ch. 1041, 70A Stat. 340, related to oath of selection board members. See section 613 of this title.

Section 5706, acts Aug. 10, 1956, ch. 1041, 70A Stat. 340; Aug. 3, 1961, Pub. L. 87–123, §5(12), 75 Stat. 265, related to information furnished selection boards by Secretary of Navy. See section 615 of this title.

Section 5707, acts Aug. 10, 1956, ch. 1041, 70A Stat. 341; Aug. 21, 1957, Pub. L. 85–155, title II, §201(6), 71 Stat. 382; Aug. 3, 1961, Pub. L. 87–123, §5(13), 75 Stat. 265; Nov. 8, 1967, Pub. L. 90–130, §1(18)(L), 81 Stat. 377, related to officers to be recommended for promotion or continuation by selection boards. See section 616 of this title.

Section 5708, acts Aug. 10, 1956, ch. 1041, 70A Stat. 342; Aug. 21, 1957, Pub. L. 85–155, title II, §201(7), 71 Stat. 382; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to required certification of selection board reports. See section 617 of this title.

Section 5709, acts Aug. 10, 1956, ch. 1041, 70A Stat. 344; Aug. 3, 1961, Pub. L. 87–123, §5(14), 75 Stat. 265, related to retention of rear admirals in Navy and major generals in Marine Corps on active list. See section 611 of this title.

Section 5710, act Aug. 10, 1956, ch. 1041, 70A Stat. 344, directed submission of selection board reports to either Secretary of Navy or President. See section 617 of this title.

Section 5711, acts Aug. 10, 1956, ch. 1041, 70A Stat. 345; Nov. 8, 1967, Pub. L. 90–130, §1(18)(M), 81 Stat. 377; Apr. 21, 1976, Pub. L. 94–273, §2(3), 90 Stat. 375, authorized suspension of specific provisions of former sections 5701 to 5710 of this title under certain circumstances by President and excluded specific categories of officers from consideration by selection boards. See section 123(a), (b) of this title.

A prior section 5721, added Pub. L. 96–513, title III, §334, Dec. 12, 1980, 94 Stat. 2897; amended Pub. L. 98–94, title IV, §403, Sept. 24, 1983, 97 Stat. 629; Pub. L. 98–525, title V, §514, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–661, div. A, title V, §503, Nov. 14, 1986, 100 Stat. 3864; Pub. L. 100–180, div. A, title V, §501(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §512(a), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 102–484, div. A, title V, §507, Oct. 23, 1992, 106 Stat. 2405; Pub. L. 103–160, div. A, title V, §508(a), Nov. 30, 1993, 107 Stat. 1647; Pub. L. 104–106, div. A, title V, §508(a), (b), (d), Feb. 10, 1996, 110 Stat. 296, 297; Pub. L. 104–201, div. A, title V, §503, Sept. 23, 1996, 110 Stat. 2511; Pub. L. 107–314, div. A, title X, §1041(a)(20), Dec. 2, 2002, 116 Stat. 2645, related to temporary promotions of certain Navy lieutenants with critical skills, prior to repeal by Pub. L. 115–232, div. A, title V, §503(b)(1), Aug. 13, 2018, 132 Stat. 1742.

Prior sections 5751 to 5758 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5751, acts Aug. 10, 1956, ch. 1041, 70A Stat. 346; Aug. 3, 1961, Pub. L. 87–123, §5(16), 75 Stat. 266, related to eligibility for consideration by a selection board for promotion of male officers in line of Navy and male officers in Marine Corps. See section 619 of this title.

Section 5752, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Sept. 2, 1958, Pub. L. 85–861, §1(126), 72 Stat. 1497; Nov. 8, 1967, Pub. L. 90–130, §1(19)(A)–(C), 81 Stat. 378, related to eligibility for consideration by a selection board for promotion of women officers in line of Navy and women officers in Marine Corps. See section 619 of this title.

Section 5753, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Aug. 21, 1957, Pub. L. 85–155, title II, §201(8), 71 Stat. 382; Nov. 7, 1967, Pub. L. 90–130, §1(19)(D), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to eligibility of Navy staff corps officers for consideration for promotion by a selection board. See section 619 of this title.

Section 5754, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, prescribed general conditions for eligibility for consideration by a selection board for promotion. See section 619 of this title.

Section 5755, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, related to communications between a selection board and an officer eligible for consideration for promotion by such board. See section 614 of this title.

Section 5756, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5757, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps designated for limited duty that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5758, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, directed Secretary of Navy to furnish appropriate selection board with numbers of officers designated for engineering, aeronautical engineering, and special duty that could be recommended for promotion to grade of rear admiral and numbers of male officers designated for such duty that could be recommended for promotion to a grade below rear admiral and prescribed formulas for arriving at such numbers. See section 622 of this title.

A prior section 5759, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, required Secretary to furnish selection boards with number of Marine Corps officers designated for supply duty that could be recommended for promotion, prior to repeal by Pub. L. 87–123, §5(17), Aug. 3, 1961, 75 Stat. 266.

Prior sections 5760 to 5773 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5760, acts Aug. 10, 1056, ch. 1041, 70A Stat. 350; Nov. 8, 1967, Pub. L. 90–130, §1(19)(E), (F), 81 Stat. 378, directed Secretary of Navy to furnish appropriate selection board with number of women officers in the line of Navy that could be recommended for promotion to grade of lieutenant, captain, commander, or lieutenant commander and number of women officers of Marine Corps that could be recommended for promotion to grade of captain, colonel, lieutenant colonel, or major. See section 622 of this title.

Section 5761, act Aug. 10, 1956, ch. 1041, 70A Stat. 350, directed Secretary of Navy to furnish appropriate selection board with number of officers in any staff corps that could be recommended for promotion to grade of rear admiral. See section 622 of this title.

Section 5762, acts Aug. 10, 1956, ch. 1041, 70A Stat. 351; Aug. 21, 1957, Pub. L. 85–155, title II, §201(9), 71 Stat. 383; Nov. 8, 1967, Pub. L. 90–130, §1(19)(G), (H), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90–179, §6, 81 Stat. 548, directed Secretary of Navy to furnish appropriate selection boards with number of staff corps officers that could be recommended for promotion to grades below rear admiral. See section 622 of this title.

Section 5763, acts Aug. 10, 1956, ch. 1041, 70A Stat. 352; Sept. 2, 1958, Pub. L. 85–861, §1(127), 72 Stat. 1497; Nov. 8, 1967, Pub. L. 90–130, §1(19)(I), 81 Stat. 378, directed Secretary of Navy to furnish appropriate selection boards with number of certain women officers in a staff corps of Navy that could be recommended for promotion to grade of captain, commander, or lieutenant commander. See section 622 of this title.

Section 5764, acts Aug. 10, 1956, ch. 1041, 70A Stat. 353; Nov. 8, 1967, Pub. L. 90–130, §1(19)(J), (K), 81 Stat. 378, related to establishment of promotion zones in each grade in line of Navy. See section 623 of this title.

Section 5765, acts Aug. 10, 1956, ch. 1041, 70A Stat. 354; Aug. 3, 1961, Pub. L. 87–123, §5(19), 75 Stat. 266; Nov. 8, 1967, Pub. L. 90–130, §1(19)(J), (L), 81 Stat. 378, related to establishment of promotion zones in each grade of Marine Corps. See section 623 of this title.

Section 5766, acts Aug. 10, 1956, ch. 1041, 70A Stat. 355; Nov. 8, 1967, Pub. L. 90–130, §1(19)(M), 81 Stat. 378, specified Navy staff corps officers considered to be in promotion zones for purposes of boards of selection.

Section 5767, acts Aug. 10, 1956, ch. 1041, 70A Stat. 355; Nov. 8, 1967, Pub. L. 90–130, §1(19)(N), 81 Stat. 379, related to promotion to flag or general officer grade of officers in Navy or Marine Corps qualified for specific duties. See section 619 et seq. of this title.

Section 5768, act Aug. 10, 1956, ch. 1041, 70A Stat. 356, prescribed normal terms of service for male officers in line of Navy and of Marine Corps.

Section 5769, acts Aug. 10, 1956, ch. 1041, 70A Stat. 356; Aug. 3, 1961, Pub. L. 87–123, §5(20), 75 Stat. 266; Oct. 22, 1970, Pub. L. 91–491, §1, 84 Stat. 1089, related to eligibility for promotion of male line officers in Navy and male officers in Marine Corps. See section 619 of this title.

Section 5770, act Aug. 10, 1956, ch. 1041, 70A Stat. 357, prescribed a sea or foreign service requirement for promotion of male officers on the active list in line of Navy.

Section 5771, acts Aug. 10, 1956, ch. 1041, 70A Stat. 358; Nov. 8, 1967, Pub. L. 90–130, §1(19)(O), (P), 81 Stat. 379, related to eligibility for promotion of women officers on active list in line of Navy and women officers on active list of Marine Corps. See section 619 of this title.

Section 5772, act Aug. 10, 1956, ch. 1041, 70A Stat. 358, related to eligibility of Navy staff corps officers for promotion to grade of rear admiral. See section 619 of this title.

Section 5773, acts Aug. 10, 1956, ch. 1041, 70A Stat. 359; Aug. 21, 1957, Pub. L. 85–155, title II, §201(10), 71 Stat. 383; Sept. 30, 1966, Pub. L. 89–609, §1(11), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, §1(19)(Q)–(S), 81 Stat. 379, related to eligibility of Navy staff corps officers for promotion to grades below rear admiral. See section 619 of this title.

A prior section 5774, act Aug. 10, 1956, ch. 1041, 70A Stat. 359, made women officers on active list of Navy in staff corps, appointed under former section 5590 of this title, who were recommended for promotion to a grade above lieutenant (junior grade) in approved report of a selection board convened under chapter 543 of this title eligible for promotion when line officer who was to be her running mate in higher grade became eligible for promotion to that grade, prior to repeal by Pub. L. 90–130, §1(19)(T), Nov. 8, 1967, 81 Stat. 379.

A prior section 5775, acts Aug. 10, 1956, ch. 1041, 70A Stat. 359; Aug. 21, 1957, Pub. L. 85–155, title II, §201(11), 71 Stat. 383; Aug. 3, 1961, Pub. L. 87–123, §5(21), 75 Stat. 266, related to date of entitlement to pay and allowances of grade to which an officer is promoted. See section 904 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(293), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

Prior sections 5776 to 5793 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5776, acts Aug. 10, 1956, ch. 1041, 70A Stat. 361; Aug. 21, 1957, Pub. L. 85–155, title II, §201(12), 71 Stat. 383; Aug. 3, 1961, Pub. L. 87–123, §5(22), 75 Stat. 266; Sept. 30, 1966, Pub. L. 89–609, §1(12), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, §1(19)(U)–(W), 81 Stat. 379, related to failure of selection. See section 627 of this title.

Section 5777, act Aug. 10, 1956, ch. 1041, 70A Stat. 361, related to removal of an officer's name from a promotion list. See section 629 of this title.

Section 5778, acts Aug. 10, 1956, ch. 1041, 70A Stat. 362; Nov. 8, 1967, Pub. L. 90–130, §1(19)(X), 81

Stat. 379, related to temporary and permanent natures of appointments under certain of the provisions of former sections 5751 to 5777 of this title.

Section 5779, act Aug. 10, 1956, ch. 1041, 70A Stat. 362, authorized President to terminate temporary promotions at any time.

Section 5780, act Aug. 10, 1956, ch. 1041, 70A Stat. 362, related to permanent promotions of male line officers in Regular Navy and male officers in Regular Marine Corps. See section 619 et seq. of this title.

Section 5781, act Aug. 10, 1956, ch. 1041, 70A Stat. 363, related to permanent promotions of Regular Navy staff corps officers to grade of rear admiral. See section 619 et seq. of this title.

Section 5782, acts Aug. 10, 1956, ch. 1041, 70A Stat. 363; Aug. 21, 1957, Pub. L. 85–155, title II, §201(13), 71 Stat. 383; Sept. 30, 1966, Pub. L. 89–609, §1(13), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, §1(19)(Y), 81 Stat. 379, related to permanent promotions of Regular Navy staff corps officers to grades below rear admiral. See section 619 et seq. of this title.

Section 5783, act Aug. 10, 1956, ch. 1041, 70A Stat. 364, related to permanent promotions of Naval Reserve and Marine Corps Reserve officers. See section 619 et seq. of this title.

Section 5784, act Aug. 10, 1956, ch. 1041, 70A Stat. 365, related to temporary promotions of ensigns in Navy to grade of lieutenant (junior grade) and second lieutenants in Marine Corps to grade of first lieutenant. See section 603 of this title.

Section 5785, acts Aug. 10, 1956, ch. 1041, 70A Stat. 365; Sept. 2, 1958, Pub. L. 85–861, §33(a)(29), 72 Stat. 1566; Apr. 21, 1976, Pub. L. 94–273, §2(3), 90 Stat. 375, authorized President to suspend any of the provisions of former sections 5751 to 5784 of this title relating to officers in Navy or Marine Corps except women officers appointed under former section 5590 of this title. See section 123(a), (b) of this title.

Section 5786, acts Aug. 10, 1956, ch. 1041, 70A Stat. 366; Nov. 8, 1967, Pub. L. 90–130, §1(19)(Z), 81 Stat. 379; Sept. 19, 1978, Pub. L. 95–377, §6(a), 92 Stat. 721, specified certain categories of officers as ineligible for promotion and provided that officers serving in grades to which they were appointed for periods of limited duration or to which they were temporarily appointed were to be considered for purposes of former sections 5751 to 5785 of this title as serving in the grade they would have held were it not for such temporary appointments. See section 641 of this title.

Section 5787, acts Aug. 10, 1956, ch. 1041, 70A Stat. 366; Sept. 7, 1962, Pub. L. 87–649, §§5(b), 14c(30), 76 Stat. 493, 501; Sept. 28, 1971, Pub. L. 92–129, title VI, §603(b), 85 Stat. 362, related to temporary promotions in times of war or national emergency. See sections 602 and 603 of this title.

Section 5787a, added Pub. L. 85–861, §1(128)(A), Sept. 2, 1958, 72 Stat. 1497, authorized temporary promotion of an officer in Medical or Dental Corps to grade of lieutenant at any time after first anniversary of date upon which he graduated from medical, dental, or osteopathic school. See section 603 of this title.

Section 5787b, added Pub. L. 85–861, §1(128)(A), Sept. 2, 1958, 72 Stat. 1497; amended Pub. L. 87–649, §14c(31), Sept. 7, 1962, 76 Stat. 501, authorized temporary promotion of women officers serving on active duty in grade of ensign in Navy or second lieutenant in Marine Corps. See section 603 of this title.

Section 5787c, added Pub. L. 85–861, §33(a)(30)(A), Sept. 2, 1958, 72 Stat. 1566; amended Pub. L. 95–377, §11(a), Sept. 19, 1978, 92 Stat. 721; Pub. L. 96–343, §10(e), Sept. 8, 1980, 94 Stat. 1130, related to temporary promotion of warrant officers and officers designated for limited duty in Navy and Marine Corps. See section 602 of this title.

Section 5787d, added Pub. L. 95–377, §4(a), Sept. 19, 1978, 92 Stat. 720; amended Pub. L. 96–343, §10(e), Sept. 8, 1980, 94 Stat. 1130, authorized temporary promotion under certain circumstances of Navy lieutenants as lieutenant commanders. See section 603 of this title.

Section 5788, acts Aug. 10, 1956, ch. 1041, 70A Stat. 367; Sept. 7, 1962, Pub. L. 87–649, §14c(32), 76 Stat. 501, related to eligibility for promotion of Navy ensigns and Marine Corps second lieutenants. See section 619 of this title.

Section 5789, act Aug. 10, 1956, ch. 1041, 70A Stat. 367, authorized promotion of officers in the line of the Navy or of the Marine Corps upon receipt of the thanks of Congress. See section 619 et seq. of this title.

Section 5790, act Aug. 10, 1956, ch. 1041, 70A Stat. 368, authorized advancement in rank of officers of Navy or of Marine Corps by not more than 30 numbers on lineal list for conduct in battle or extraordinary heroism. See section 619 et seq. of this title.

Section 5791, acts Aug. 10, 1956, ch. 1041, 70A Stat. 368; Sept. 28, 1971, Pub. L. 92–129, title VI, §603(c), 85 Stat. 362; Sept. 19, 1978, Pub. L. 95–377, §6(b), 92 Stat. 721, vested power to make appointments under former sections 5751 to 5793, except for former sections 5787 and 5787d, of this title in President, by and with advice and consent of Senate. See section 624 of this title.

Section 5792, acts Aug. 10 1956, ch. 1041, 70A Stat. 368; Nov. 2, 1966, Pub. L. 89–718, §4, 80 Stat. 1115, dispensed with need for an oath of office upon promotion to a higher grade in the case of an officer of the naval service who had served continuously since subscribing to the oath of office prescribed in section 3331

of Title 5, Government Organization and Employees. See section 626 of this title.

Section 5793, added Pub. L. 90–228, §1(3)(A), Dec. 28, 1967, 81 Stat. 745, related to authorized strengths in grade and promotions of Medical Corps and Dental Corps officers. See section 521 et seq. of this title.

Prior sections 5861 and 5862 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5861, acts Aug. 10, 1956, ch. 1041, 70A Stat. 368; Sept. 2, 1958, Pub. L. 85–861, §1(129), 72 Stat. 1497, required an officer of Regular Navy or of Regular Marine Corps to pass a physical examination as prescribed by Secretary of Navy in order to qualify for promotion to a grade above ensign in Navy or second lieutenant in Marine Corps. See section 624 of this title.

Section 5862, acts Aug. 10, 1956, ch. 1041, 70A Stat. 369; Sept. 2, 1958, Pub. L. 85–861, §1(131), 72 Stat. 1498, related to mental, moral, and professional qualifications required to be demonstrated by officers on active list of Navy or Marine Corps in order to be promoted to grades of lieutenant (junior grade) or above in Navy or first lieutenant or above in Marine Corps. See section 624 of this title.

A prior section 5863, act Aug. 10, 1956, ch. 1041, 70A Stat. 369, related to procedure before examining boards, prior to repeal by Pub. L. 85–861, §36B(14), Sept. 2, 1958, 72 Stat. 1571.

Prior sections 5864 and 5865 were repealed by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981.

Section 5864, act Aug. 10, 1956, ch. 1041, 70A Stat. 370, related to discharge of officers not morally qualified. See section 630 of this title.

Section 5865, act Aug. 10, 1956, ch. 1041, 70A Stat. 370, related to effect of a failure to qualify professionally. See section 624 of this title.

A prior section 5866, act Aug. 10, 1956, ch. 1041, 70A Stat. 371, related to delegation of power by President to Secretary of Navy, prior to repeal by Pub. L. 85–861, §36B(15), Sept. 2, 1958, 72 Stat. 1571.

A prior section 5867, added Pub. L. 85–861, §1(132)(A), Sept. 2, 1958, 72 Stat. 1498, required moral, professional, and physical examinations before officers of the Naval or Marine Corps Reserves could be promoted to the next higher grades, prior to repeal by Pub. L. 96–513, title III, §333, Dec. 12, 1980, 94 Stat. 2897, effective Sept. 15, 1981. See section 624 of this title.

Prior sections 5891 to 5906 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(b)(2), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 5891, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1499; amended Pub. L. 90–130, §1(20)(A), Nov. 8, 1967, 81 Stat. 379; Pub. L. 96–513, title V, §503(32), Dec. 12, 1980, 94 Stat. 2913; Pub. L. 98–525, title V, §533(e), Oct. 19, 1984, 98 Stat. 2528, related to officers in active status in Naval Reserve and Marine Corps Reserve who could be promoted under this chapter. See section 14301 et seq. of this title.

Section 5892, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1500; amended Pub. L. 96–513, title V, §503(33), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 104–106, div. A, title XV, §1501(c)(27), Feb. 10, 1996, 110 Stat. 500, related to numbers of officers in each grade in Naval Reserve and Marine Corps Reserve that could be promoted. See section 14001 et seq. of this title.

Section 5893, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1500; amended Pub. L. 91–199, §2, Feb. 26, 1970, 84 Stat. 16, related to composition and procedures of selection boards. See sections 14102 and 14108(b) of this title.

Section 5894, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1501, required members of selection boards to take oaths. See section 14103 of this title.

Section 5895, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1501, related to information to be furnished to selection boards. See section 14107 of this title.

Section 5896, added Pub. L. 99–661, div. A, title V, §507(a), Nov. 14, 1986, 100 Stat. 3865, related to recommendations for promotion by selection boards. See section 14108 of this title.

Another prior section 5896, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1501; amended Pub. L. 90–130, §1(20)(B), Nov. 8, 1967, 81 Stat. 379; Pub. L. 90–179, §12, Dec. 8, 1967, 81 Stat. 549; Pub. L. 96–513, title V, §503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, §10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to officers recommended for promotion by selection boards, prior to repeal by Pub. L. 99–661, §507(a).

Section 5897, added Pub. L. 99–661, div. A, title V, §507(a), Nov. 14, 1986, 100 Stat. 3865, related to reports by selection boards listing officers recommended for promotion. See section 14109(a), (b) of this title.

Another prior section 5897, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1502; amended Pub. L. 90–179, §12, Dec. 8, 1967, 81 Stat. 549; Pub. L. 96–513, title V, §503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, §10(b)(10)(B), July 10, 1981, 95 Stat. 137; Pub. L. 98–525, title XIV, §1405(47), Oct. 19, 1984, 98 Stat. 2625, related to reports and certifications by selection boards, prior to repeal by Pub. L. 99–661, §507(a).

Section 5898, added Pub. L. 99–661, div. A, title V, §507(a), Nov. 14, 1986, 100 Stat. 3865, related to

action on reports of selection boards. See sections 14104, 14110(b), 14111(a), (b), and 14112 of this title.

Another prior section 5898, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1503; amended Pub. L. 96–513, title V, §503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, §10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to submission of reports of selection boards to the President, prior to repeal by Pub. L. 99–661, §507(a).

Section 5899, added Pub. L. 99–661, div. A, title V, §507(a), Nov. 14, 1986, 100 Stat. 3866, related to eligibility of running mates for consideration for promotion. See section 14306(b) of this title.

Another prior section 5899, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1503; amended Pub. L. 86–559, §1(42), June 30, 1960, 74 Stat. 274; Pub. L. 89–275, §§1, 2, Oct. 20, 1965, 79 Stat. 1010; Pub. L. 89–609, §1(14), Sept. 30, 1966, 80 Stat. 853; Pub. L. 90–130, §1(20)(C), Nov. 8, 1967, 81 Stat. 379; Pub. L. 96–513, title V, §503(35), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, §10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to eligibility of officers in promotion zones for consideration by selection boards, prior to repeal by Pub. L. 99–661, §507(a).

Section 5900, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1504, related to right of officer eligible for consideration for promotion to send communication to selection board. See section 14106 of this title.

Section 5901, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1504; amended Pub. L. 96–513, title V, §503(36), Dec. 12, 1980, 94 Stat. 2914, related to numbers of officers that a selection board may recommend for promotion. See section 14307 of this title.

Section 5902, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1504; amended Pub. L. 86–559, §1(43), June 30, 1960, 74 Stat. 274; Pub. L. 89–731, §§3–5, Nov. 2, 1966, 80 Stat. 1160; Pub. L. 96–513, title V, §503(37), Dec. 12, 1980, 94 Stat. 2914, related to promotion lists, eligibility of officers of Naval Reserve and Marine Corps Reserve for promotion, and date of rank. See sections 14308(a), (d) and 14311(a) of this title.

Section 5903, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1505; amended Pub. L. 90–130, §1(20)(D), Nov. 8, 1967, 81 Stat. 380; Pub. L. 99–661, div. A, title V, §507(b)(2), Nov. 14, 1986, 100 Stat. 3866, related to failure of officers of Naval Reserve and Marine Corps Reserve of selection for promotion. See section 14501 et seq. of this title.

Section 5904, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1505, related to effect of erroneous omission of name from list furnished to selection board. See section 14502 of this title.

Section 5905, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1505; amended Pub. L. 96–513, title V, §503(38), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 99–661, div. A, title V, §507(b)(3), Nov. 14, 1986, 100 Stat. 3866; Pub. L. 100–456, div. A, title V, §502(a), Sept. 29, 1988, 102 Stat. 1966, related to removal of reserve officers from promotion list. See section 14310 of this title.

Section 5906, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 96–513, title V, §503(39), Dec. 12, 1980, 94 Stat. 2914, related to promotion of reserve officers transferred to inactive status list. See section 14317(a) of this title.

A prior section 5907, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1506; Pub. L. 86–559, §1(44), June 30, 1960, 74 Stat. 274, related to pay and allowances of reserve officers promoted to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve, and is covered by section 905 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(33), Sept. 7, 1962, 76 Stat. 501, repealed effective Nov. 1, 1962.

Prior sections 5908 to 5912 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(b)(2), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 5908, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 87–649, §14c(34), Sept. 7, 1962, 76 Stat. 501, related to eligibility of ensigns in Naval Reserve and second lieutenants in Marine Corps Reserve for promotion. See section 14001 et seq. of this title.

Section 5909, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1506, provided that sea or foreign service not be required for promotion of reserve officers under this chapter.

Section 5910, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 96–513, title V, §503(40), Dec. 12, 1980, 94 Stat. 2914, provided that officers in Naval Reserve and Marine Corps Reserve could be promoted under regulations prescribed by Secretary of the Navy. See section 14301 et seq. of this title.

Section 5911, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1507; amended Pub. L. 86–559, §1(45), June 30, 1960, 74 Stat. 274, related to promotions of reserve officers by temporary and permanent appointments. See section 14301 et seq. of this title.

Section 5912, added Pub. L. 85–861, §1(133), Sept. 2, 1958, 72 Stat. 1507; amended Pub. L. 92–129, title VI, §603(d), Sept. 28, 1971, 85 Stat. 362, related to President's power to make appointments under this

chapter of officers in Naval Reserve and Marine Corps Reserve. See section 14301 et seq. of this title.

A prior section 5941, act Aug. 10, 1956, ch. 1041, 70A Stat. 371, authorized President to prescribe regulations governing the assignment of officers to command fleets, subdivisions of fleets, and vessels, prior to repeal by Pub. L. 90–235, §5(b)(1), Jan. 2, 1968, 81 Stat. 761.

Prior sections 5942 to 5949 were renumbered sections 8162 to 8169 of this title, respectively.

A prior section 5950, act Aug. 10, 1956, ch. 1041, 70A Stat. 372, provided that the commanding officer of a vessel could not be required to perform the duties of an officer in the Supply Corps, prior to repeal by Pub. L. 90–235, §5(b)(1), Jan. 2, 1968, 81 Stat. 761.

Prior sections 5951 and 5952 were renumbered sections 8171 and 8172 of this title, respectively.

Prior sections 5953 and 5954 were repealed by Pub. L. 90–235, §5(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 761.

Section 5953, act Aug. 10, 1956, ch. 1041, 70A Stat. 372, provided for the assignment and authority of executive officers of vessels or naval stations.

Section 5954, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, provided for command when different commands of the Marine Corps and the Army or the Marine Corps and the Air Force joined or served together. See section 747 of this title.

A prior section 5955, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, directed that retired officers of the Navy be withdrawn from command, prior to repeal by Pub. L. 96–513, title III, §361(a), Dec. 12, 1980, 94 Stat. 2902, effective Sept. 15, 1981. See section 750 of this title.

A prior section 5981, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, provided that the President could select any officer on the active list of the Navy not below the grade of commander and assign him to the command of a squadron, with the rank and title of a flag officer, prior to repeal by Pub. L. 91–482, §1(a), Oct. 21, 1970, 84 Stat. 1082.

A prior section 5982, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, authorized a detail of retired officers to command ships and squadrons in time of war, prior to repeal by Pub. L. 96–513, title III, §361(b), Dec. 12, 1980, 94 Stat. 2902, effective Sept. 15, 1981. See section 688 of this title.

A prior section 5983 was renumbered section 8183 of this title.

A prior section 5984, act Aug. 10, 1956, ch. 1041, 70A Stat. 374, provided for detail to military institutions and colleges that gave instruction and drill in military tactics of officers of the Navy as superintendents or professors and retired officers and petty officers of the Navy, with their consent, as instructors in military drill and tactics, prior to repeal by Pub. L. 90–235, §4(b)(1), Jan. 2, 1968, 81 Stat. 760.

Prior sections 5985 and 5986 were renumbered sections 8185 and 8186 of this title, respectively.

A prior section 5987, act Aug. 10, 1956, ch. 1041, 70A Stat. 374, provided for the detail of officers in the Medical Corps of the Navy for duty with the Services to the Armed Forces Division of the American National Red Cross, prior to repeal by Pub. L. 90–235, §4(a)(2), Jan. 2, 1968, 81 Stat. 759. See section 711a of this title.

Prior sections 6011 to 6014 were renumbered sections 8211 to 8214 of this title, respectively.

A prior section 6015, acts Aug. 10, 1956, ch. 1041, 70A Stat. 375; Oct. 20, 1978, Pub. L. 95–485, title VIII, §808, 92 Stat. 1623; Dec. 12, 1980, Pub. L. 96–513, title V, §503(44), 94 Stat. 2914; Dec. 5, 1991, Pub. L. 102–190, div. A, title V, §531(b), 105 Stat. 1365, related to women members, duties, qualifications, and restrictions, prior to repeal by Pub. L. 103–160, div. A, title V, §541(a), Nov. 30, 1993, 107 Stat. 1659.

A prior section 6016, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, required names of retired officers to be carried on Navy Register, prior to repeal by Pub. L. 85–861, §36B(16), Sept. 2, 1958, 72 Stat. 1571.

A prior section 6017, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, related to Naval Reserve Retired List for Reserve members entitled to retired pay. See section 12774(b) of this title, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(k)(2), Oct. 5, 1994, 108 Stat. 3006, effective Dec. 1, 1994, except as otherwise provided.

A prior section 6018, acts Aug. 10, 1956, ch. 1041, 70A Stat. 376; Aug. 1, 1958, Pub. L. 85–588, 72 Stat. 488, related to assignment of Regular Navy officers to shore duty, prior to repeal by Pub. L. 96–513, title III, §372, Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

A prior section 6019 was renumbered section 8215 of this title.

A prior section 6020, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, provided for detail of Marine Corps officers for duty in supply department for a period of four years, prior to repeal by Pub. L. 87–123, §5(23), Aug. 3, 1961, 75 Stat. 266.

Prior sections 6021 and 6022 were renumbered sections 8216 and 8217 of this title, respectively.

A prior section 6023, acts Aug. 10, 1956, ch. 1041, 70A Stat. 376; Oct. 13, 1964, Pub. L. 88–647, title III, §301(15), 78 Stat. 1072, provided qualifications to receive aviation designation of naval aviator, prior to repeal by Pub. L. 92–168, §2(1), Nov. 24, 1971, 85 Stat. 489. See section 2003 of this title.

A prior section 6024 was renumbered section 8218 of this title.

A prior section 6025, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, provided qualifications to receive aviation designation of aviation pilot, prior to repeal by Pub. L. 92–168, §2(2), Nov. 24, 1971, 85 Stat. 489. See section 2003 of this title.

A prior section 6026, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, required officers in Supply Corps to give good and sufficient bonds to account for all public money and property that they receive, prior to repeal by Pub. L. 92–310, title II, §204(a), June 6, 1972, 86 Stat. 202.

A prior section 6027 was renumbered section 8219 of this title.

A prior section 6028, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, related to the composition of the Medical Service Corps, prior to repeal by Pub. L. 96–513, title III, §352(b), Dec. 12, 1980, 94 Stat. 2902.

A prior section 6029 was renumbered section 8220 of this title.

A prior section 6030, act Aug. 10, 1956, ch. 1040, 70A Stat. 378, gave officers in the Nurse Corps authority in medical and sanitary matters and other work within the line of their professional duties in activities of the Medical Department after officers in the Medical Corps, Dental Corps, and Medical Service Corps and authorized officers in the Nurse Corps to exercise such military authority, other than command, as the Secretary of the Navy prescribed, prior to repeal by Pub. L. 90–130, §1(22), Nov. 8, 1967, 81 Stat. 380.

Prior sections 6031 and 6032 were renumbered sections 8221 and 8222 of this title, respectively.

A prior section 6033, acts Aug. 10, 1956, ch. 1041, 70A Stat. 378; Sept. 7, 1962, Pub. L. 87–649, §6(f)(5), 76 Stat. 494; Sept. 7, 1962, Pub. L. 87–651, title I, §122, 76 Stat. 513, set forth restrictions on the consideration of a husband or child as the dependent of a female member of the Regular Navy, Regular Marine Corps, Fleet Reserve, Fleet Marine Corps Reserve, Naval Reserve or Marine Corps Reserve, prior to repeal by Pub. L. 90–235, §7(a)(3), Jan. 2, 1968, 81 Stat. 763.

A prior section 6034, act Aug. 10, 1956, ch. 1041, 70A Stat. 379, authorized Secretary of Navy to prescribe regulations for Navy and Marine Corps relating to retired pay based on service in the Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(j)(8), Oct. 5, 1994, 108 Stat. 3005, effective Dec. 1, 1994. See section 12731 et seq. of this title.

Prior sections 6035 and 6036 were renumbered sections 8225 and 8226 of this title, respectively.

Prior sections 6081 to 6087 were renumbered sections 8241 to 8247 of this title, respectively.

# Subpart B—Atomic Energy Defense

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## EDITORIAL NOTES

### CODIFICATION

Analysis for subpart B is set out above as enacted by Pub. L. 119–60, §3111(a). Analyses for chapters 601 to 608 and their subchapters have been added to conform to the style of this title pursuant to operation of section 102 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SHORT TITLE

Pub. L. 107–314, div. D, as added Pub. L. 108–136, div. C, title XXXI, §3141(b), Nov. 24, 2003, 117 Stat. 1753, which was known as the "Atomic Energy Defense Act" and formerly classified generally to chapter 42 (§2501 et seq.) of Title 50, War and National Defense, was repealed and substantially restated as this subpart by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1336, 1458.

### SAVINGS PROVISION

Pub. L. 119–60, div. C, title XXXI, §3111(e), Dec. 18, 2025, 139 Stat. 1462, provided that: "All orders, determinations, rules, regulations, permits, contracts, or other exercise of the authority of the Secretary of Energy or the Administrator for Nuclear Security under the Atomic Energy Defense Act ([former] 50 U.S.C. 2501 et seq.) made before the date of the enactment of this Act [Dec. 18, 2025] and effective as of such date shall continue in effect as if such authority was exercised under subpart B of part VI of subtitle A of title 10, United States Code [10 U.S.C. 6101 et seq.], as added by subsection (a), until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Administrator, any other authorized official, a court of competent jurisdiction, or operation of law."

[1] *Editorially supplied.*

# CHAPTER 601—ORGANIZATIONAL MATTERS

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6101. Definitions.
6102. Naval Nuclear Propulsion Program.
6103. Management structure for nuclear security enterprise.
6104. Monitoring of industrial base for nuclear weapons components, subsystems, and materials.
6105. Common financial reporting system for the nuclear security enterprise.
6106. Restriction on licensing requirement for certain defense activities and facilities.
6107. Establishment of Center for Security Technology, Analysis, Response, and Testing.

**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## §6101. Definitions

Except as otherwise provided, in this subpart:

(1) The term "Administration" means the National Nuclear Security Administration.

(2) The term "Administrator" means the Administrator for Nuclear Security.

(3) The term "classified information" means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 3001 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 3161 note),[1] Executive Order No. 13526 of December 29, 2009 (50 U.S.C. 3161 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

(4) The terms "defense nuclear facility" and "Department of Energy defense nuclear facility" have the meaning given the term "Department of Energy defense nuclear facility" in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(5) The term "nuclear security enterprise" means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.

(6) The term "national security laboratory" means any of the following:

(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

(C) Lawrence Livermore National Laboratory, Livermore, California.

(7) The term "Nuclear Weapons Council" means the Nuclear Weapons Council established by section 179.

(8) The term "nuclear weapons production facility" means any of the following:

(A) The Kansas City National Security Campus, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

(C) The Y–12 National Security Complex, Oak Ridge, Tennessee.

(D) The Savannah River Site, Aiken, South Carolina.

(E) The Nevada National Security Site, Nevada.

(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

(9) The term "Restricted Data" has the meaning given such term in section 11 y. of the Atomic

Energy Act of 1954 (42 U.S.C. 2014(y)).

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1339.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order No. 12958, referred to in par. (3), is Ex. Ord. No. 12958, Apr. 17, 1995, 60 F.R. 19825, which was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731, and was formerly set out as a note under section 3161 of Title 50, War and National Defense.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2501 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

[1] *See References in Text note below.*

## §6102. Naval Nuclear Propulsion Program

The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1340.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order Numbered 12344, referred to in text, is set out as a note below.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2511 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**EXECUTIVE DOCUMENTS**

**TRANSFER OF FUNCTIONS**

All national security functions and activities performed immediately before Oct. 5, 1999, by the Office of Naval Reactors transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, and the Deputy Administrator for Naval Reactors of the Administration to be assigned the responsibilities, authorities, and accountability for all functions of the Office of Naval Reactors under Executive Order No. 12344, set out below, see sections 2406 and 2481 of Title 50, War and National Defense.

**EXECUTIVE ORDER NO. 12344 TO REMAIN IN FORCE**

Except as otherwise specified in section 2406 of Title 50, War and National Defense, and notwithstanding any other provision of title XXXII of Pub. L. 106–65 (see Short Title note set out under section 2401 of Title 50), the provisions of Executive Order No. 12344 (set out below) to remain in full force and effect until changed by law, see section 2406 of Title 50.

**EX. ORD. NO. 12344. NAVAL NUCLEAR PROPULSION PROGRAM**

Ex. Ord. No. 12344, Feb. 1, 1982, 47 F.R. 4979, provided:

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States of America, with recognition of the crucial importance to national security of the Naval Nuclear Propulsion Program, and for the purpose of preserving the basic structure, policies, and practices developed for this Program in the past and assuring that the Program will continue to function with excellence, it is hereby ordered as follows:

SECTION 1. The Naval Nuclear Propulsion Program is an integrated program carried out by two

organizational units, one in the Department of Energy and the other in the Department of the Navy.

SEC. 2. Both organizational units shall be headed by the same individual so that the activities of each may continue in practice under common management. This individual shall direct the Naval Nuclear Propulsion Program in both departments. The director shall be qualified by reason of technical background and experience in naval nuclear propulsion. The director may be either a civilian or an officer of the United States Navy, active or retired.

SEC. 3. The Secretary of the Navy (through the Secretary of Defense) and the Secretary of Energy shall obtain the approval of the President to appoint the director of the Naval Nuclear Propulsion Program for their respective Departments. The director shall be appointed to serve a term of eight years, except that the Secretary of Energy and the Secretary of the Navy may, with mutual concurrence, terminate or extend the term of the respective appointments.

SEC. 4. An officer of the United States Navy appointed as director shall be nominated for the grade of Admiral. A civilian serving as director shall be compensated at a rate to be specified at the time of appointment.

SEC. 5. Within the Department of Energy, the Secretary of Energy shall assign to the director the responsibility of performing the functions of the Division of Naval Reactors transferred to the Department of Energy by Section 309(a) of the Department of Energy Organization Act (42 U.S.C. 7158), including assigned civilian power reactor programs, and any naval nuclear propulsion functions of the Department of Energy, including:

(a) direct supervision over the Bettis and Knolls Atomic Power Laboratories, the Expended Core Facility and naval reactor prototype plants;

(b) research, development, design, acquisition, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto;

(c) the safety of reactors and associated navel [naval] nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the environment and the safety and health of workers, operators, and the general public;

(d) training, including training conducted at the naval prototype reactors of the Department of Energy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director and of personnel who supervise, operate, or maintain naval nuclear propulsion plants; and

(e) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics and fiscal management.

SEC. 6. Within the Department of Energy, the director shall report to the Secretary of Energy, through the Assistant Secretary assigned nuclear energy functions and shall serve as a Deputy Assistant Secretary. The director shall have direct access to the Secretary of Energy and other senior officials in the Department of Energy concerning naval nuclear propulsion matters, and to all other personnel who supervise, operate or maintain naval nuclear propulsion plants and support facilities for the Department of Energy.

SEC. 7. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility to supervise all technical aspects of the Navy's nuclear propulsion work, including:

(a) research, development, design, procurement, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto; and

(b) training programs, including Nuclear Power Schools of the Navy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director and of Government personnel who supervise, operate, or maintain naval nuclear propulsion plants.

SEC. 8. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility within the Navy for:

(a) the safety of reactors and associated naval nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the environment and the safety and health of workers, operators, and the general public.

(b) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics, and fiscal management.

SEC. 9. In addition to any other organizational assignments within the Department of the Navy, the director shall report directly to the Chief of Naval Operations. The director shall have direct access to the Secretary of the Navy and other senior officials in the Department of the Navy concerning naval nuclear propulsion matters, and to all other Government personnel who supervise, operate, or maintain naval nuclear propulsion plants and support facilities.

SEC. 10. This Order is effective on February 1, 1982.

RONALD REAGAN.

## §6103. Management structure for nuclear security enterprise

(a) IN GENERAL.—The Administrator shall establish a management structure for the nuclear security enterprise in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.).

(b) NATIONAL NUCLEAR SECURITY ADMINISTRATION COUNCIL.—(1) The Administrator shall establish a council to be known as the "National Nuclear Security Administration Council". The Council may advise the Administrator on—

(A) scientific and technical issues relating to policy matters;

(B) operational concerns;

(C) strategic planning;

(D) the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and

(E) such other matters as the Administrator determines appropriate.

(2) The Council shall be composed of the directors of the national security laboratories and the nuclear weapons production facilities.

(3) The Council may provide the Administrator or the Secretary of Energy recommendations—

(A) for improving the governance, management, effectiveness, and efficiency of the Administration; and

(B) relating to any other matter in accordance with paragraph (1).

(4) Not later than 60 days after the date on which any recommendation under paragraph (3) is received, the Administrator or the Secretary, as the case may be, shall respond to the Council with respect to whether such recommendation will be implemented and the reasoning for implementing or not implementing such recommendation.

(c) RULE OF CONSTRUCTION.—This section may not be construed as affecting the authority of the Secretary of Energy, in carrying out national security programs, with respect to the management, planning, and oversight of the Administration or as affecting the delegation by the Secretary of authority to carry out such activities, as set forth under subsection (a) of section 4102 of the Atomic Energy Defense Act (50 U.S.C. 2512) as it existed before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2169).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1340, 1462.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The National Nuclear Security Administration Act, referred to in subsec. (a), is title XXXII of Pub. L. 106–65, div. C, Oct. 5, 1999, 113 Stat. 953, which is classified principally to chapter 41 (§2401 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50 and Tables.

Section 4102 of the Atomic Energy Defense Act (50 U.S.C. 2512) as it existed before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2169), referred to in subsec. (c), means section 4102 of Pub. L. 107–314, which was classified to section 2512

of Title 50, War and National Defense, as it existed before the date of enactment of Pub. L. 112–239, which amended that section generally and was approved Jan. 2, 2013. Section 2512 of Title 50 was repealed and restated as this section by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1340, 1458.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2512 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## GOVERNANCE AND MANAGEMENT OF NUCLEAR SECURITY ENTERPRISE

Pub. L. 114–92, div. C, title XXXI, §3137, Nov. 25, 2015, 129 Stat. 1213, as amended by Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(F), Dec. 18, 2025, 139 Stat. 1460, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) correcting the longstanding problems with the governance and management of the nuclear security enterprise will require robust, personal, and long-term engagement by the President, the Secretary of Energy, the Administrator for Nuclear Security, and leaders from the appropriate congressional committees;

"(2) recent and past studies of the governance and management of the nuclear security enterprise have provided a list of reasonable, practical, and actionable steps that the Secretary and the Administrator should take to make the nuclear security enterprise more efficient and more effective; and

"(3) lasting and effective change to the nuclear security enterprise will require personal engagement by senior leaders, a clear plan, and mechanisms for ensuring follow-through and accountability.

"(b) IMPLEMENTATION PLAN.—

"(1) IMPLEMENTATION ACTION TEAM.—(A) The Secretary and the Administrator shall jointly establish a team of senior officials from the Department of Energy and the National Nuclear Security Administration to develop and carry out an implementation plan to reform the governance and management of the nuclear security enterprise to improve the effectiveness and efficiency of the nuclear security enterprise. Such plan shall be developed and implemented in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.), the Atomic Energy Defense Act ([former] 50 U.S.C. 2501 et seq. [see 10 U.S.C. 6101 et seq.]), and any other provision of law.

"(B) The team established under paragraph (1) shall be co-chaired by the Deputy Secretary of Energy and the Administrator.

"(C) In developing and carrying out the implementation plan, the team shall consult with the implementation assessment panel established under subsection (c)(1).

"(2) ELEMENTS.—The implementation plan developed under paragraph (1)(A) shall address all recommendations contained in the covered study (except such recommendations that require legislative action to carry out) by identifying specific actions, milestones, timelines, and responsible personnel to implement such plan.

"(3) SUBMISSION.—Not later than March 31, 2016, the Secretary and the Administrator shall jointly submit to the appropriate congressional committees the implementation plan developed under paragraph (1)(A).

"(c) IMPLEMENTATION ASSESSMENT PANEL.—

"(1) AGREEMENT.—Not later than 60 days after the date of the enactment of this Act [Nov. 25, 2015], the Administrator shall seek to enter into a joint agreement with the National Academy of Sciences and the National Academy of Public Administration to establish a panel of external, independent experts to evaluate the implementation plan developed under subsection (b)(1)(A) and the implementation of such plan.

"(2) DUTIES.—The panel established under paragraph (1) shall—

"(A) provide guidance to the Secretary and the Administrator with respect to the implementation plan developed under subsection (b)(1)(A), including how such plan compares or contrasts with the covered study;

"(B) track the implementation of such plan; and

"(C) assess the effectiveness of such plan.

"(3) REPORTS.—(A) Not later than July 1, 2016, the panel established under paragraph (1) shall

submit to the appropriate congressional committees, the Secretary, and the Administrator an initial assessment of the implementation plan developed under subsection (b)(1)(A), including with respect to the completeness of the plan, how the plan aligns with the intent and recommendations made by the covered study, and the prospects for success for the plan.

"(B) Beginning February 28, 2017, and semiannually thereafter through 2020, the panel established under paragraph (1) shall brief the appropriate congressional committees, the Secretary, and the Administrator on the efforts of the Secretary and the Administrator to implement the implementation plan developed under subsection (b)(1)(A).

"(C) Not later than September 30, 2020, the panel established under paragraph (1) shall submit to the appropriate congressional committees, the Secretary, and the Administrator a final report on the efforts of the Secretary and the Administrator to implement the implementation plan developed under subsection (b)(1)(A), including an assessment of the effectiveness of the reform efforts under such plan and whether further action is needed.

"(4) COOPERATION.—The Secretary and the Administrator shall provide to the panel established under paragraph (1) full and timely access to all information, personnel, and systems of the Department of Energy and the National Nuclear Security Administration that the panel determines necessary to carry out this subsection.

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Energy and Commerce of the House of Representatives.

"(2) COVERED STUDY.—The term 'covered study' means the following:

"(A) The final report of the Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise established by section 3166 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2208).

"(B) Any other study not conducted by the Secretary or the Administrator that the Secretary determines appropriate for purposes of this section.

"(3) NUCLEAR SECURITY ENTERPRISE.—The term 'nuclear security enterprise' has the meaning given that term in section 6101 of title 10, United States Code.

"(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to authorize any action—

"(1) in contravention of section 3220 of the National Nuclear Security Administration Act (50 U.S.C. 2410); or

"(2) that would undermine or weaken health, safety, or security."

## §6104. Monitoring of industrial base for nuclear weapons components, subsystems, and materials

(a) DESIGNATION OF OFFICIAL.—Not later than March 1, 2021, the Administrator shall designate a senior official within the Administration to be responsible for monitoring the industrial base that supports the nuclear weapons components, subsystems, and materials of the Administration, including—

(1) the consistent monitoring of the current status of the industrial base;

(2) tracking of industrial base issues over time; and

(3) proactively identifying gaps or risks in specific areas relating to the industrial base.

(b) PROVISION OF RESOURCES.—The Administrator shall ensure that the official designated under subsection (a) is provided with resources sufficient to conduct the monitoring required by that subsection.

(c) CONSULTATIONS.—The Administrator, acting through the official designated under subsection (a), shall, to the extent practicable and beneficial, in conducting the monitoring required by that subsection, consult with—

(1) officials of the Department of Defense who are members of the Nuclear Weapons Council established under section 179;

(2) officials of the Department of Defense responsible for the defense industrial base; and

(3) other components of the Department of Energy that rely on similar components, subsystems, or materials.

(d) BRIEFINGS.—(1) Not later than April 1, 2021, the Administrator shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the designation of the official required by subsection (a), including on—

(A) the responsibilities assigned to that official; and

(B) the plan for providing that official with resources sufficient to conduct the monitoring required by subsection (a).

(2) Not later than April 1, 2022, and annually thereafter through 2024, the Administrator shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on activities carried out under this section that includes an assessment of the progress made by the official designated under subsection (a) in conducting the monitoring required by that subsection.

(e) REPORTS.—The Administrator, acting through the official designated under subsection (a), shall submit to the Committees on Armed Services of the Senate and the House of Representatives, contemporaneously with each briefing required by subsection (d)(2), a report—

(1) identifying actual or potential risks to or specific gaps in any element of the industrial base that supports the nuclear weapons components, subsystems, or materials of the Administration;

(2) describing the actions the Administration is taking to further assess, characterize, and prioritize such risks and gaps;

(3) describing mitigating actions, if any, the Administration has underway or planned to mitigate any such risks or gaps;

(4) setting forth the anticipated timelines and resources needed for such mitigating actions; and

(5) describing the nature of any coordination with or burden sharing by other departments or agencies of the Federal Government or the private sector to address such risks and gaps.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1341, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3113 of Pub. L. 116–283, which was set out as a note under section 2512 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(8).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (d). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " INITIAL BRIEFING" and "SUBSEQUENT BRIEFINGS", respectively.

## §6105. Common financial reporting system for the nuclear security enterprise

(a) IN GENERAL.—By not later than four years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328), the Administrator shall, in consultation with the National Nuclear Security Administration Council established by section 6103, complete, to the extent practicable, the implementation of a common financial reporting system for the nuclear security enterprise.

(b) ELEMENTS.—The common financial reporting system implemented pursuant to subsection (a) shall include the following:

(1) Common data reporting requirements for work performed using funds of the Administration,

including reporting of financial data by standardized labor categories, labor hours, functional elements, and cost elements.

(2) A common work breakdown structure for the Administration that aligns contractor work breakdown structures with the budget structure of the Administration.

(3) Definitions and methodologies for identifying and reporting costs for programs of records and base capabilities within the Administration.

(4) A capability to leverage, where appropriate, the Defense Cost Analysis Resource Center of the Office of Cost Assessment and Program Evaluation of the Department of Defense using historical costing data by the Administration.

(c) REPORTS.—(1) Not later than March 1, 2017, and annually thereafter, the Administrator shall, in consultation with the National Nuclear Security Administration Council, submit to the congressional defense committees a report on progress of the Administration toward implementing a common financial reporting system for the nuclear security enterprise as required by subsection (a).

(2) Each report under this subsection shall include the following:

(A) A summary of activities, accomplishments, challenges, benefits, and costs related to the implementation of a common financial reporting system for the nuclear security enterprise during the year preceding the year in which such report is submitted.

(B) A summary of planned activities in connection with the implementation of a common financial reporting system for the nuclear security enterprise in the year in which such report is submitted.

(C) A description of any anticipated modifications to the schedule for implementing a common financial reporting system for the nuclear security enterprise, including an update on possible risks, challenges, and costs related to such implementation.

(3) No report is required under this subsection after the completion of the implementation of a common financial reporting system for the nuclear security enterprise.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1342, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (a), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3113 of Pub. L. 114–328, which was set out as a note under section 2512 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(9).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: "IN GENERAL", "REPORT", and "TERMINATION", respectively.

## §6106. Restriction on licensing requirement for certain defense activities and facilities

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1343.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, which enacted former sections 2513 and 2762 of Title 50, War and National Defense, and other provisions not classified to the Code. Section 2513 of Title 50 was repealed and restated as this section by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1343, 1458. Section 2762 of Title 50 was repealed and restated as section 6302 of this title by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1437, 1458. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2513 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6107. Establishment of Center for Security Technology, Analysis, Response, and Testing

(a) ESTABLISHMENT.—The Administrator for Nuclear Security shall establish within the nuclear security enterprise a Center for Security Technology, Analysis, Response, and Testing.

(b) DUTIES.—The center established under subsection (a) shall carry out the following:

(1) Provide to the Administrator, the Chief of Defense Nuclear Security, and the management and operating contractors of the nuclear security enterprise a wide range of objective expertise on security technologies, systems, analysis, testing, and response forces.

(2) Assist the Administrator in developing standards, requirements, analysis methods, and testing criteria with respect to security.

(3) Collect, analyze, and distribute lessons learned with respect to security.

(4) Support inspections and oversight activities with respect to security.

(5) Promote professional development and training for security professionals.

(6) Provide for advance and bulk procurement for security-related acquisitions that affect multiple facilities of the nuclear security enterprise.

(7) Advocate for continual improvement and security excellence throughout the nuclear security enterprise.

(8) Such other duties as the Administrator may assign.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1343.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2515 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(2).

# CHAPTER 602—NUCLEAR WEAPONS STOCKPILE MATTERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Stockpile Stewardship and Weapons Production** | **6111** |
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**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## SUBCHAPTER I—STOCKPILE STEWARDSHIP AND WEAPONS PRODUCTION

Sec.
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### EDITORIAL NOTES

### CODIFICATION

Subchapter analysis added pursuant to operation of section 102 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(D), 3113(a)(2), Dec. 18, 2025, 139 Stat. 1462, 1463, added item 6137. Amendment was made pursuant to operation of section 102 of this title. See Codification note set out under section 6137 of this title.

## §6111. Stockpile stewardship program

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator, shall establish a stewardship program to ensure—

(1) the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification; and

(2) that the nuclear weapons stockpile is safe, secure, and reliable without the use of underground nuclear weapons testing.

(b) PROGRAM ELEMENTS.—The program shall include the following:

(1) An increased level of effort for the construction of new facilities and the modernization of existing facilities with production and manufacturing capabilities that are necessary to support the deterrence of strategic attacks against the United States by maintaining and enhancing the performance, reliability, and security of the United States nuclear weapons stockpile, including—

(A) the nuclear weapons production facilities; and

(B) production and manufacturing capabilities resident in the national security laboratories.

(2) Support for advanced computational capabilities to enhance the simulation and modeling capabilities of the United States with respect to the performance over time of nuclear weapons.

(3) Support for above-ground experimental programs, such as hydrotesting, high-energy lasers, inertial confinement fusion, plasma physics, and materials research.

(4) Support for the modernization of facilities and projects that contribute to the experimental capabilities of the United States that support the sustainment and modernization of the United States nuclear weapons stockpile and the capabilities required to assess nuclear weapons effects.

(5) Support for the use of, and experiments facilitated by, the advanced experimental facilities of the United States, including—

(A) the National Ignition Facility at Lawrence Livermore National Laboratory;

(B) the Dual Axis Radiographic Hydrodynamic Test Facility at Los Alamos National Laboratory;

(C) the Z Machine at Sandia National Laboratories; and

(D) the experimental facilities at the Nevada National Security Site.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1344.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6111, act Aug. 10, 1956, ch. 1041, 70A Stat. 381, related to withholding of pay during absence due to use of alcohol or drugs, and is covered by section 802 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(35), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

Provisions similar to those in this section were contained in section 2521 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CONSULTATION REQUIREMENT WITH RESPECT TO TRANSFER TO PRIVATE ENTITIES OF PLUTONIUM OR PLUTONIUM MATERIALS; REPORT

Pub. L. 119–60, div. C, title XXXI, §3128, Dec. 18, 2025, 139 Stat. 1470, provided that:

"(a) CONSULTATION REQUIRED.—

"(1) IN GENERAL.—The Secretary of Energy shall, on an ongoing basis, consult with the Secretary of Defense with respect to any plans of the Secretary of Energy relating to the transfer to a private entity from Federal stockpiles or storage of any plutonium or plutonium materials.

"(2) CONSULTATION PRIOR TO TRANSFER.—The Secretary of Energy may not carry out any such transfer before the date on which such Secretary consults, pursuant to paragraph (1), with the Secretary of Defense with respect to the transfer.

"(b) CONGRESSIONAL NOTIFICATION; REPORT.—Not later than 30 days before any date on which the Secretary of Energy carries out a transfer to a private entity of plutonium or plutonium materials, such Secretary shall submit to the appropriate congressional committees the following:

"(1) A notification of the transfer.

"(2) A report that includes—

"(A) a description of—

"(i) the plutonium and plutonium materials to be transferred that includes the—

"(I) amount;

"(II) type;

"(III) age;

"(IV) relative condition; and

"(V) current location;

"(ii) the private entity to which such plutonium and plutonium materials will be transferred; and

"(iii) the destination location to which such plutonium and plutonium materials will be transferred.

"(B) A summary of the purpose of the transfer.

"(C) An identification of any direct costs to the United States Government associated with the transfer.

"(3) Except as provided in subsection (c), a written certification, prepared in coordination with the Under Secretary of Energy for Nuclear Security and the Secretary of Defense, that such transfer does not negatively impact the needs of the nuclear weapons stockpile, including such needs related to stockpile stewardship.

"(c) EXCEPTION.—A written certification under subsection (b)(3) shall not be required for the transfer of materials from the 34 metric tons of defense plutonium or defense plutonium materials at the Savannah River Site previously declared excess to defense needs and designated for disposal.

"(d) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committees on Armed Services of the House of Representatives and the Senate;

"(B) the Committee on Energy and Commerce of the House of Representatives; and

"(C) the Committee on [Energy and] Natural Resources of the Senate.

"(2) The term 'private entity' means any individual or organization other than—

"(A) a department or agency of the Federal Government; or

"(B) a contractor or subcontractor for management and operations, site cleanup, or site management activities at facilities owned by the Department of Energy."

## PLAN FOR DEVELOPING EXASCALE COMPUTING AND INCORPORATING SUCH COMPUTING INTO THE STOCKPILE STEWARDSHIP PROGRAM

Pub. L. 113–66, div. C, title XXXI, §3129, Dec. 26, 2013, 127 Stat. 1066, as amended by Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(H), Dec. 18, 2025, 139 Stat. 1460, provided that:

"(a) PLAN REQUIRED.—The Administrator for Nuclear Security shall develop and carry out a plan to develop exascale computing and incorporate such computing into the stockpile stewardship program under section 6111 of title 10, United States Code, during the 10-year period beginning on the date of the enactment of this Act [Dec. 26, 2013].

"(b) MILESTONES.—The plan required by subsection (a) shall include major programmatic milestones in—

"(1) the development of a prototype exascale computer for the stockpile stewardship program; and

"(2) mitigating disruptions resulting from the transition to exascale computing.

"(c) COORDINATION WITH OTHER AGENCIES.—In developing the plan required by subsection (a), the Administrator shall coordinate, as appropriate, with the Under Secretary of Energy for Science, the Secretary of Defense, and elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))).

"(d) INCLUSION OF COSTS IN FUTURE-YEARS NUCLEAR SECURITY PROGRAM.—The Administrator shall—

"(1) address, in the estimated expenditures and proposed appropriations reflected in each future-years nuclear security program submitted under section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453) during the 10-year period beginning on the date of the enactment of this Act, the costs of—

"(A) developing exascale computing and incorporating such computing into the stockpile stewardship program; and

"(B) mitigating potential disruptions resulting from the transition to exascale computing; and

"(2) include in each such future-years nuclear security program a description of the costs of efforts to develop exascale computing borne by the National Nuclear Security Administration, the Office of Science of the Department of Energy, other Federal agencies, and private industry.

"(e) SUBMISSION TO CONGRESS.—The Administrator shall submit the plan required by subsection (a) to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with each summary of the plan required by subsection (a) of section 6114 of title 10, United States Code, submitted under subsection (b)(1) of that section during the 10-year period beginning on the date of the enactment of this Act.

"(f) EXASCALE COMPUTING DEFINED.—In this section, the term 'exascale computing' means computing through the use of a computing machine that performs near or above 10 to the 18th power floating point operations per second."

## §6112. Portfolio management framework for National Nuclear Security Administration

(a) IN GENERAL.—Not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81), the Administrator shall—

(1) in consultation with the Nuclear Weapons Council established under section 179, develop and implement a portfolio management framework for the nuclear security enterprise that—

(A) defines the Administration's portfolio of nuclear weapons stockpile and infrastructure maintenance and modernization programs;

(B) establishes a portfolio governance structure, including portfolio-level selection criteria, prioritization criteria, and performance metrics;

(C) outlines the approach of the Administration to managing that portfolio; and

(D) incorporates the leading practices identified by the Comptroller General of the United States in the report titled "Nuclear Security Enterprise: NNSA Should Use Portfolio Management Leading Practices to Support Modernization Efforts" (GAO-21-398) and dated June 2021; and

(2) complete an integrated, comprehensive assessment of the portfolio management capabilities required to execute the weapons activities portfolio of the Administration.

(b) BRIEFING REQUIREMENT.—Not later than June 1, 2022, the Administrator shall provide to the congressional defense committees a briefing on—

(1) the progress of the Administrator in developing the framework described in paragraph (1) of subsection (a) and completing the assessment required by paragraph (2) of that subsection; and

(2) the plans of the Administrator for implementing the recommendations of the Comptroller General in the report referred to in paragraph (1)(D) of that subsection.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1345.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (a), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

### PRIOR PROVISIONS

A prior section 6112, acts Aug. 10, 1956, ch. 1041, 70A Stat. 381; Oct. 9, 1962, Pub. L. 87–777, §1, 76 Stat. 777, prohibited employment of officers of the Regular Navy and Regular Marine Corps, other than a retired officer, from being employed by any person furnishing naval supplies or war materials to the United States under pain of loss of payment from the United States during that employment, prior to repeal by Pub. L.

87–649, §14c(36), Sept. 7, 1962, 76 Stat. 501, and by Pub. L. 89–718, §75(6), (7), Nov. 2, 1966, 80 Stat. 1124.

Provisions similar to those in this section were contained in section 3121 of Pub. L. 117–81, which was set out as a note under section 2521 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(10).

## §6113. Stockpile stewardship criteria

(a) REQUIREMENT FOR CRITERIA.—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1345.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6113 was renumbered section 8253 of this title.

Provisions similar to those in this section were contained in section 2522 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6114. Nuclear weapons stockpile stewardship, management, and responsiveness plan

(a) PLAN REQUIREMENT.—The Administrator, in consultation with the Secretary of Defense and other appropriate officials of the departments and agencies of the Federal Government, shall develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan shall cover, at a minimum, stockpile stewardship, stockpile management, stockpile responsiveness, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. The plan shall be consistent with the programmatic and technical requirements of the most recent annual Nuclear Weapons Stockpile Memorandum.

(b) SUBMISSIONS TO CONGRESS.—(1) In accordance with subsection (c), not later than 45 days after each date on which a budget for an odd-numbered fiscal year is submitted to Congress, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

(2) The report required by this subsection shall be submitted in unclassified form, but may include a classified annex.

(c) ELEMENTS OF BIENNIAL DETAILED REPORT.—Each detailed report on the plan submitted under subsection (b)(1) shall include, at a minimum, the following:

(1) With respect to stockpile stewardship, stockpile management, and stockpile responsiveness—

(A) the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type;

(B) for each five-year period occurring during the period beginning on the date of the report and ending on the date that is 20 years after the date of the report—

(i) the planned number of nuclear warheads (including active and inactive) for each warhead type in the nuclear weapons stockpile; and

(ii) the past and projected future total lifecycle cost of each type of nuclear weapon;

(C) the status, plans, budgets, and schedules for warhead life extension programs and any

other programs to modify, update, or replace warhead types;

(D) a description of the process by which the Administrator assesses the lifetimes, and requirements for life extension or replacement, of the nuclear and non-nuclear components of the warheads (including active and inactive warheads) in the nuclear weapons stockpile;

(E) a description of the process used in recertifying the safety, security, and reliability of each warhead type in the nuclear weapons stockpile;

(F) any concerns of the Administrator that would affect the ability of the Administrator to recertify the safety, security, or reliability of warheads in the nuclear weapons stockpile (including active and inactive warheads);

(G) mechanisms to provide for the manufacture, maintenance, and modernization of each warhead type in the nuclear weapons stockpile, as needed;

(H) mechanisms to expedite the collection of information necessary for carrying out the stockpile management program required by section 6116, including information relating to the aging of materials and components, new manufacturing techniques, and the replacement or substitution of materials;

(I) mechanisms to ensure the appropriate assignment of roles and missions for each national security laboratory and nuclear weapons production facility, including mechanisms for allocation of workload, mechanisms to ensure the carrying out of appropriate modernization activities, and mechanisms to ensure the retention of skilled personnel;

(J) mechanisms to ensure that each national security laboratory has full and complete access to all weapons data to enable a rigorous peer-review process to support the annual assessment of the condition of the nuclear weapons stockpile required under section 6117;

(K) mechanisms for allocating funds for activities under the stockpile management program required by section 6116, including allocations of funds by weapon type and facility;

(L) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 6116;

(M) the status, plans, activities, budgets, and schedules for carrying out the stockpile responsiveness program under section 6131;

(N) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 6131; and

(O) as required, when assessing and developing prototype nuclear weapons of foreign countries, a report from the directors of the national security laboratories on the need and plan for such assessment and development that includes separate comments on the plan from the Secretary of Energy and the Director of National Intelligence.

(2) With respect to science-based tools—

(A) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable;

(B) for each science-based tool used to collect information described in subparagraph (A), the relationship between such tool and such information and the effectiveness of such tool in providing such information based on the criteria developed pursuant to section 6113(a); and

(C) the criteria developed under section 6113(a) (including any updates to such criteria).

(3) An assessment of the stockpile stewardship program under section 6111(a) by the Administrator, in consultation with the directors of the national security laboratories, which shall set forth—

(A) an identification and description of—

(i) any key technical challenges to the stockpile stewardship program; and

(ii) the strategies to address such challenges without the use of nuclear testing;

(B) a strategy for using the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory to ensure that the nuclear weapons stockpile is safe, secure, and reliable without the use of nuclear testing;

(C) an assessment of the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory that exist at the time of the assessment compared with the science-based tools expected to exist during the period covered by the future-years nuclear security program; and

(D) an assessment of the core scientific and technical competencies required to achieve the objectives of the stockpile stewardship program and other weapons activities and weapons-related activities of the Administration, including—

(i) the number of scientists, engineers, and technicians, by discipline, required to maintain such competencies; and

(ii) a description of any shortage of such individuals that exists at the time of the assessment compared with any shortage expected to exist during the period covered by the future-years nuclear security program.

(4) With respect to the nuclear security infrastructure—

(A) a description of the construction, modernization, and refurbishment measures the Administrator determines necessary to meet the requirements prescribed in—

(i) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043) if such strategy has been submitted as of the date of the plan;

(ii) the most recent national defense strategy as of the date of the plan; and

(iii) the most recent Nuclear Posture Review as of the date of the plan;

(B) an explanation of the targeted needs addressed by the measures described under subparagraph (A);

(C) a schedule for implementing the measures described under subparagraph (A) during the 10-year period following the date of the plan;

(D) a summary of identified long-term infrastructure investments needed beyond such 10-year period;

(E) a statement of changes to, and progress toward achieving, the measures described under subparagraph (A) during the period covered by the report, compared to such changes and progress during the period covered by the preceding report;

(F) the estimated levels of annual funds the Administrator determines necessary to carry out the measures described under subparagraph (A), including a discussion of the criteria, evidence, and strategies on which such estimated levels of annual funds are based; and

(G)(i) a description of—

(I) the metrics (based on industry best practices) used by the Administrator to determine the infrastructure deferred maintenance and repair needs of the nuclear security enterprise; and

(II) the percentage of replacement plant value being spent on maintenance and repair needs of the nuclear security enterprise; and

(ii) an explanation of whether the annual spending on such needs complies with the recommendation of the National Research Council of the National Academies of Sciences, Engineering, and Medicine that such spending be in an amount equal to four percent of the replacement plant value, and, if not, the reasons for such noncompliance and a plan for how the Administrator will ensure facilities of the nuclear security enterprise are being properly sustained.

(5) With respect to the nuclear test readiness of the United States—

(A) an estimate of the period of time that would be necessary for the Administrator to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test;

(B) a description of the level of test readiness that the Administrator, in consultation with the

Secretary of Defense, determines to be appropriate;

(C) a list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada National Security Site;

(D) a list and description of the infrastructure and physical plants that are essential to carrying out an underground nuclear test at the Nevada National Security Site; and

(E) an assessment of the readiness status of the skills and capabilities described in subparagraph (C) and the infrastructure and physical plants described in subparagraph (D).

(6) A strategy for the integrated management of plutonium for stockpile and stockpile stewardship needs over a 20-year period that includes the following:

(A) An assessment of the baseline science issues necessary to understand plutonium aging under static and dynamic conditions under manufactured and nonmanufactured plutonium geometries.

(B) An assessment of scientific and testing instrumentation for plutonium at elemental and bulk conditions.

(C) An assessment of manufacturing and handling technology for plutonium and plutonium components.

(D) An assessment of computational models of plutonium performance under static and dynamic loading, including manufactured and nonmanufactured conditions.

(E) An identification of any capability gaps with respect to the assessments described in subparagraphs (A) through (D).

(F) An estimate of costs relating to the issues, instrumentation, technology, and models described in subparagraphs (A) through (D) over the period covered by the future-years nuclear security program under section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

(G) An estimate of the cost of eliminating the capability gaps identified under subparagraph (E) over the period covered by the future-years nuclear security program.

(H) Such other items as the Administrator considers important for the integrated management of plutonium for stockpile and stockpile stewardship needs.

(7) A plan for the research and development, deployment, and lifecycle sustainment of the technologies employed within the nuclear security enterprise to address physical and cyber security threats during the five fiscal years following the date of the report, together with—

(A) for each site in the nuclear security enterprise, a description of the technologies deployed to address the physical and cybersecurity threats posed to that site;

(B) for each site and for the nuclear security enterprise, the methods used by the Administration to establish priorities among investments in physical and cybersecurity technologies; and

(C) a detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal-year period will help carry out that plan.

(8) An assessment of whether the programs described by the report can be executed with current and projected budgets and any associated risks.

(9) Identification of any modifications or updates to the plan since the previous summary or [1] detailed report was submitted under subsection (b).

(d) NUCLEAR WEAPONS COUNCIL ASSESSMENT.—(1) For each detailed report on the plan submitted under subsection (b)(1), the Nuclear Weapons Council shall conduct an assessment that includes the following:

(A) An analysis of the plan, including—

(i) whether the plan supports the requirements of the national security strategy of the United States referred to in subsection (d)(4)(A)(i),[2] the most recent the national defense

strategy, and the most recent Nuclear Posture Review;

(ii) whether the modernization and refurbishment measures described under subparagraph (A) of subsection (d)(4) [2] and the schedule described under subparagraph (B) of such subsection [2] are adequate to support such requirements; and

(iii) whether the plan supports the stockpile responsiveness program under section 6131 in a manner that meets the objectives of such program and an identification of any improvements that may be made to the plan to better carry out such program.

(B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security enterprise.

(C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security enterprise facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to—

(i) supporting the annual certification of the nuclear weapons stockpile; and

(ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.

(2) Not later than 180 days after the date on which the Administrator submits the plan under subsection (b)(1), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term "future-years nuclear security program" means the program required by section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

(3) The term "national defense strategy" means the review of the defense programs and policies of the United States that is carried out every four years under section 113(g).

(4) The term "nuclear security budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Administrator in support of the budget for that fiscal year.

(5) The term "weapons activities" means each activity within the budget category of weapons activities in the budget of the Administration.

(6) The term "weapons-related activities" means each activity under the Department of Energy that involves nuclear weapons, nuclear weapons technology, or fissile or radioactive materials, including activities related to—

(A) nuclear nonproliferation;

(B) nuclear forensics;

(C) nuclear intelligence;

(D) nuclear safety; and

(E) nuclear incident response.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(1)(A), (2)(B), 3121, Dec. 18, 2025, 139 Stat. 1346, 1461, 1462, 1466.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Subsection (d)(4)(A), referred to in subsec. (d)(1)(A)(i), (ii), was resdesignated subsec. (c)(4)(A) of this section by Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(A), 3121(3), Dec. 18, 2025, 139 Stat. 1461, 1466.

Subsection (d)(4)(B), referred to in subsec. (d)(1)(A)(ii), was redesignated subpar. (C) of subsec. (c)(4) of this section by Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(A), 3121(3), (4)(B)(ii), Dec. 18, 2025, 139 Stat. 1461, 1466.

## CODIFICATION

Amendment by section 3121 of Pub. L. 119–60 directed to section 4203 of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(A) of Pub. L. 119–60. See Further Technical Amendments note set out below.

## PRIOR PROVISIONS

A prior section 6114, act Aug. 10, 1956, ch. 1041, 70A Stat. 381, set forth restrictions on civilian employment for enlisted members of the naval service on active duty, prior to repeal by Pub. L. 90–235, §6(a)(7), Jan. 2, 1968, 81 Stat. 762.

Provisions similar to those in this section were contained in section 2523 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b)(1). Pub. L. 119–60, §§3111(d)(1)(A), 3121(1)(C)(i), (ii), substituted "subsection (c)" for "subsection (d)" and "45 days after each date on which a budget for an odd-numbered fiscal year is submitted to Congress" for "March 15 of each odd-numbered year". See Codification note above.

Pub. L. 119–60, §§3111(d)(1)(A), 3121(1)(A), (B), redesignated par. (2) as (1) and realigned margins, and struck out par. (1) which read as follows: "In accordance with subsection (c), not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a)." See Codification note above.

Subsec. (b)(2). Pub. L. 119–60, §§3111(d)(1)(A), 3121(1)(B), (C)(iii), redesignated par. (3) as (2) and realigned margins and substituted "report" for "summaries and reports". Former par. (2) redesignated (1). See Codification note above.

Subsec. (b)(3). Pub. L. 119–60, §§3111(d)(1)(A), 3121(1)(B), redesignated par. (3) as (2). See Codification note above.

Subsec. (c). Pub. L. 119–60, §§3111(d)(1)(A), 3121(2)–(4)(A), redesignated subsec. (d) as (c), substituted "subsection (b)(1)" for "subsection (b)(2)" in introductory provisions, and struck out former subsec. (c) which listed the minimum elements required in the biennial plan summary. See Codification note above.

Subsec. (c)(4)(A). Pub. L. 119–60, §§3111(d)(1)(A), 3121(4)(B)(i), substituted "construction, modernization, and refurbishment" for "modernization and refurbishment" in introductory provisions. See Codification note above.

Subsec. (c)(4)(B) to (G). Pub. L. 119–60, §§3111(d)(1)(A), 3121(4)(B)(ii)–(iv), added subpars. (B), (D), and (E) and redesignated former subpars. (B), (C), and (D) as (C), (F), and (G), respectively. See Codification note above.

Subsec. (d). Pub. L. 119–60, §§3111(d)(1)(A), 3121(3), (5), redesignated subsec. (d) as (c) and substituted "subsection (b)(1)" for "subsection (b)(2)" in introductory provisions of pars. (1) and (2). See Codification note above.

Subsecs. (e), (f). Pub. L. 119–60, §§3111(d)(1)(A), 3121(3), redesignated subsecs. (e) and (f) as (d) and (e), respectively. See Codification note above.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### FURTHER TECHNICAL AMENDMENTS

Pub. L. 119–60, div. C, title XXXI, §3111(d)(1), Dec. 18, 2025, 139 Stat. 1461, provided that:

"(1) COORDINATION WITH OTHER AMENDMENTS MADE BY THIS ACT.—The amendments made by sections 3112 [amending section 6128 of this title], 3113 [enacting section 6137 of this title and amending section 6131 of this title], 3114 [amending section 6227 of this title], 3115 [amending section 6241 of this title], 3116 [amending section 6284 of this title], 3117 [enacting section 6340 of this title], and 3122 [probably should be "3121", amending section 6114 of this title] of this Act shall take effect immediately after the amendment made by subsection (a) [enacting this subpart] and shall be executed in subpart B of part VI of subtitle A of title 10, United States Code [10 U.S.C. 6101 et seq.], as added by subsection (a), as follows:

"(A) The amendment to section 4203 of the Atomic Energy Defense Act ([former] 50 U.S.C. 2523) made by section 3122 [probably should be "3121"] shall be executed with respect to section 6114 of title 10, United States Code, as added by subsection (a).

"(B) The amendment to section 4219 of the Atomic Energy Defense Act ([former] 50 U.S.C. 2358a [probably should be "2538a"]) made by section 3112 shall be executed with respect to section 6128 of title 10, United States Code, as added by subsection (a).

"(C) The amendment to section 4220(c) of the Atomic Energy Defense Act ([former] 50 U.S.C. 2538b) made by section 3113 shall be executed with respect to section 6131 of title 10, United States Code, as added by subsection (a).

"(D) The amendment to subtitle A of title XLII of the Atomic Energy Defense Act ([former] 50 U.S.C. 2521 et seq.) made by section 3113 shall be executed with respect to subchapter I of chapter 602 of title 10, United States Code, as added by subsection (a).

"(E) The amendment to section 4510 of the Atomic Energy Defense Act ([former] 50 U.S.C. 2661) made by section 3114 shall be executed with respect to section 6227 of title 10, United States Code, as added by subsection (a).

"(F) The amendment to section 4601 of the Atomic Energy Defense Act ([former] 50 U.S.C. 2701) made by section 3115 shall be executed with respect to section 6241 of title 10, United States Code, as added by subsection (a).

"(G) The amendment to section 4713 of the Atomic Energy Defense Act ([former] 50 U.S.C. 2753) made by section 3116 shall be executed with respect to section 6284 of title 10, United States Code, as added by subsection (a).

"(H) The amendment to subtitle B of title XLVIII of the Atomic Energy Defense Act ([former] 50 U.S.C. 2791 et seq.) made by section 3117 shall be executed with respect to subchapter II of chapter 608 of [title] 10, United States Code, as added by subsection (a)."

## REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS AND SENSE OF CONGRESS ON FOLLOW-ON NEGOTIATIONS TO START TREATY

Pub. L. 111–84, div. A, title XII, §1251, Oct. 28, 2009, 123 Stat. 2549, provided that:

"(a) REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS.—

"(1) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act [Oct. 28, 2009] or at the time a follow-on treaty to the Strategic Arms Reduction Treaty (START Treaty) is submitted by the President to the Senate for its advice and consent, whichever is later, the President shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report on the plan to—

"(A) enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States;

"(B) modernize the nuclear weapons complex; and

"(C) maintain the delivery platforms for nuclear weapons.

"(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

"(A) A description of the plan to enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States.

"(B) A description of the plan to modernize the nuclear weapons complex, including improving the safety of facilities, modernizing the infrastructure, and maintaining the key capabilities and competencies of the nuclear weapons workforce, including designers and technicians.

"(C) A description of the plan to maintain delivery platforms for nuclear weapons.

"(D) An estimate of budget requirements, including the costs associated with the plans outlined under subparagraphs (A) through (C), over a 10-year period.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the President should maintain the stated position of the United States that the follow-on treaty to the START Treaty not include any limitations on the ballistic missile defense systems, space capabilities, or advanced conventional weapons systems of the United States;

"(2) the enhanced safety, security, and reliability of the nuclear weapons stockpile, modernization of the nuclear weapons complex, and maintenance of the nuclear delivery systems are key to enabling further reductions in the nuclear forces of the United States; and

"(3) the President should submit budget requests for fiscal year 2011 and subsequent fiscal years for the programs of the National Nuclear Security Administration of the Department of Energy that are adequate to sustain the needed capabilities to support the long-term maintenance of the nuclear stockpile of the United States."

## EXECUTIVE DOCUMENTS

**ANNUAL UPDATE TO THE REPORT SPECIFIED IN SECTION 1251 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010 (PUBLIC LAW 111–84)**

Memorandum of President of the United States, Feb. 7, 2011, 76 F.R. 7477, provided:

Memorandum for the Secretary of Defense [and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the Secretaries of Defense and Energy to jointly provide annual updates to the report specified in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) (the "1251 Report") [set out as a note above]. I further authorize and direct the Secretaries of Defense and Energy to jointly submit this annual update to the 1251 Report concurrently with the President's budget each year, beginning in calendar year 2011.

The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. The words "summary or" probably should not appear.*

[2] *See References in Text note below.*

## §6115. Major warhead refurbishment program

In fiscal year 2015 and subsequent fiscal years, the Secretary of Energy shall submit to the congressional defense committees a report, on each major warhead refurbishment program that reaches the Phase 6.3 milestone, that provides an analysis of alternatives. Such report shall include—

(1) a full description of alternatives considered prior to the award of Phase 6.3;

(2) a comparison of the costs and benefits of each of those alternatives, to include an analysis of trade-offs among cost, schedule, and performance objectives against each alternative considered;

(3) identification of the cost and risk of critical technology elements associated with each alternative, including technology maturity, integration risk, manufacturing feasibility, and demonstration needs;

(4) identification of the cost and risk of additional capital asset and infrastructure capabilities required to support production and certification of each alternative;

(5) a comparative analysis of the risks, costs, and scheduling needs for any military requirement intended to enhance warhead safety, security, or maintainability, including any requirement to consolidate and/or integrate warhead systems or mods as compared to at least one other feasible refurbishment alternative the Nuclear Weapons Council considers appropriate; and

(6) a life-cycle cost estimate for the alternative selected that details the overall cost, scope, and schedule planning assumptions.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1352.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6115, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, prescribed a time limit for filing claims for drill pay and for the uniform gratuity. Section was also amended by Pub. L. 85–861, §33(a)(31), which amended catchline by substituting "uniform gratuity" for "unform gratuity", prior to repeal by Pub. L. 85–861, §36B(17), Sept. 2, 1958, 72 Stat. 1571.

Provisions similar to those in this section were contained in section 2523c of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(3).

## §6116. Stockpile management program

(a) PROGRAM REQUIRED.—The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a program, in support of the stockpile stewardship program, to provide for the effective management, modernization, and replacement, as

required, of the weapons in the nuclear weapons stockpile. The program shall have the following objectives:

(1) To enhance the performance and reliability of the nuclear weapons stockpile of the United States.

(2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.

(3) To maintain the safety and security of the nuclear weapons stockpile.

(4) To optimize the future size of the nuclear weapons stockpile.

(5) To reduce the risk of an accidental detonation of an element of the stockpile.

(6) To reduce the risk of an element of the stockpile being used by a person or entity hostile to the United States, its vital interests, or its allies.

(b) PROGRAM LIMITATIONS.—In carrying out the stockpile management program under subsection (a), the Secretary of Energy shall ensure that—

(1) any changes made to the stockpile shall be consistent with the objectives identified in subsection (a);

(2) any changes made to the stockpile consistent with the objectives identified in subsection (a) are carried out in a cost effective manner; and

(3) any such changes made to the stockpile shall—

(A) be well understood and certifiable without the need to resume underground nuclear weapons testing;

(B) use the design, certification, and production expertise resident in the nuclear security enterprise to fulfill current mission requirements of the existing stockpile; and

(C) develop future generations of design, certification, and production expertise in the nuclear security enterprise to support the fulfillment of mission requirements of the future stockpile.

(c) PROGRAM BUDGET.—In accordance with the requirements under section 6120, for each budget submitted by the President to Congress under section 1105 of title 31, the amounts requested for the program under this section shall be clearly identified in the budget justification materials submitted to Congress in support of that budget.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1352.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6116, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, provided that in computing length of service, no officer of the Navy or Marine Corps could be credited with service as a midshipman at the Naval Academy or as a cadet at the Military Academy, if he was appointed as a midshipman or cadet after Mar. 4, 1913. See section 971 of this title, prior to repeal by Pub. L. 90–235, §6(a)(2), Jan. 2, 1968, 81 Stat. 761.

Provisions similar to those in this section were contained in section 2524 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6117. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile

(a) ANNUAL ASSESSMENTS REQUIRED.—For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance, or military effectiveness of that nuclear weapon type, complete an assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.

(b) COVERED OFFICIALS.—The officials referred to in subsection (a) are the following:

(1) The head of each national security laboratory.

(2) The Commander of the United States Strategic Command.

(c) DUAL VALIDATION TEAMS IN SUPPORT OF ASSESSMENTS.—In support of the assessments required by subsection (a), the Administrator may establish teams, known as "dual validation teams", to provide each national security laboratory responsible for weapons design with independent evaluations of the condition of each warhead for which such laboratory has lead responsibility. A dual validation team established by the Administrator shall—

(1) be comprised of weapons experts from the laboratory that does not have lead responsibility for fielding the warhead being evaluated;

(2) have access to all surveillance and underground test data for all stockpile systems for use in the independent evaluations;

(3) use all relevant available data to conduct independent calculations; and

(4) pursue independent experiments to support the independent evaluations.

(d) USE OF TEAMS OF EXPERTS FOR ASSESSMENTS.—The head of each national security laboratory shall establish and use one or more teams of experts, known as "red teams", to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall—

(1) review both the matters covered by the assessments under subsection (a) performed by the head of that laboratory and any independent evaluations conducted by a dual validation team under subsection (c);

(2) subject such matters to challenge; and

(3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.

(e) REPORT ON ASSESSMENTS.—Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following:

(1) The results of each such assessment.

(2)(A) Such official's determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so—

(i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and

(ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.

(B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.

(C) Such official's determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.

(3) In the case of a report submitted by the head of a national security laboratory—

(A) a concise statement regarding the adequacy of the science-based tools and methods, including with respect to cyber assurance, being used to determine the matters covered by the assessments;

(B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 6122 to identify and fix any inadequacy with respect to the matters covered by the assessments, and the confidence of the head in such tools and methods;

(C) a concise summary of the findings and recommendations of any teams under subsection (d) that relate to the assessments, together with a discussion of those findings and

recommendations;

(D) a concise summary of the results of any independent evaluation conducted by a dual validation team under subsection (c); and

(E) a concise summary of any significant finding investigations initiated or active during the previous year for which the head of the national security laboratory has full or partial responsibility.

(4) In the case of a report submitted by the Commander of the United States Strategic Command—

(A) a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types;

(B) a summary of all major assembly releases in place as of the date of the report for the active and inactive nuclear weapon stockpiles; and

(C) the views of the Commander on the stockpile responsiveness program under section 6131, the activities conducted under such program, and any suggestions to improve such program.

(5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.

(f) SUBMITTALS TO THE PRESIDENT AND CONGRESS.—(1) Not later than February 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President—

(A) each report, without change, submitted to either Secretary under subsection (e) during the preceding year;

(B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;

(C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and

(D) any other information that the Secretaries individually or jointly consider appropriate.

(2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.

(3) If the President does not forward to Congress the matters required under paragraph (2) by the date required by such paragraph, the officials specified in subsection (b) shall provide a briefing to the congressional defense committees not later than March 30 on the report such officials submitted to the Secretary concerned under subsection (e).

(g) CLASSIFIED FORM.—Each submittal under subsection (f) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.

(h) DEFINITION.—In this section, the term "Secretary concerned" means—

(1) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(2) the Secretary of Defense, with respect to matters concerning the Department of Defense.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1353, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2525 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6118. Form of certifications regarding the safety or reliability of the nuclear weapons stockpile

Any certification submitted to the President by the Secretary of Defense or the Secretary of Energy regarding confidence in the safety or reliability of a nuclear weapon type in the United States nuclear weapons stockpile shall be submitted in classified form only.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1356.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2526 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6119. Nuclear test ban readiness program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Russian Federation.

(b) PURPOSES OF PROGRAM.—The purposes of the program under subsection (a) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(c) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (a). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national security laboratories.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1356.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2527 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6120. Requirements for specific request for new or modified nuclear weapons

(a) REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT.—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon beyond phase 2 or phase 6.2 (as the case may be) of the nuclear weapon acquisition process, the Secretary—

(A) shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31; and

(B) may carry out such activities only if amounts are authorized to be appropriated for such activities by an Act of Congress consistent with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270).

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development for the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development for the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) BUDGET REQUEST FORMAT.—In a request for funds under subsection (a), the Secretary shall include a dedicated line item for each activity described in subsection (a)(2) for a new nuclear weapon or modified nuclear weapon that is in phase 2 or higher or phase 6.2 or higher (as the case may be) of the nuclear weapon acquisition process.

(c) NOTIFICATION AND BRIEFING OF NONCOVERED ACTIVITIES.—In any fiscal year after fiscal year 2022, the Secretary of Energy, acting through the Administrator, in conjunction with the annual submission of the budget of the President to Congress pursuant to section 1105 of title 31, shall notify the congressional defense committees of—

(1) any activities described in subsection (a)(2) relating to the development of a new nuclear weapon or modified nuclear weapon that, during the calendar year prior to the budget submission, were carried out prior to phase 2 or phase 6.2 (as the case may be) of the nuclear weapon acquisition process; and

(2) any plans to carry out, prior to phase 2 or phase 6.2 (as the case may be) of the nuclear weapon acquisition process, activities described in subsection (a)(2) relating to the development of a new nuclear weapon or modified nuclear weapon during the fiscal year covered by that budget.

(d) DEFINITIONS.—In this section:

(1) The term "modified nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of December 2, 2002; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(2) The term "new nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on December 2, 2002; nor

(B) in production as of that date.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139

Stat. 1357, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2529 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS; AUTHORIZATION AND LIMITATION**

Pub. L. 115–232, div. C, title XXXI, §3111(a), Aug. 13, 2018, 132 Stat. 2289, provided that: "The Secretary of Energy, acting through the Administrator for Nuclear Security, may carry out the engineering development phase, and any subsequent phase, to modify or develop a low-yield nuclear warhead for submarine-launched ballistic missiles."

Pub. L. 108–136, div. C, title XXXI, §3116(c), Nov. 24, 2003, 117 Stat. 1746, as amended by Pub. L. 115–232, div. C, title XXXI, §3111(b), Aug. 13, 2018, 132 Stat. 2289; Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(I), Dec. 18, 2025, 139 Stat. 1461, provided that: "The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless the Secretary specifically requests funding for the development of that weapon pursuant to section 6120 of title 10, United States Code."

## §6121. Testing of nuclear weapons

(a) UNDERGROUND TESTING.—No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(b) ATMOSPHERIC TESTING.—None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1547) or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1358.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The National Defense Authorization Act for Fiscal Year 1994, referred to in subsec. (b), is Pub. L. 103–160, Nov. 30, 1993, 107 Stat. 1547. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2530 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6122. Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile

(a) MANUFACTURING PROGRAM.—(1) The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives:

(A) To provide a stockpile surveillance engineering base.

(B) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(C) To fabricate and certify new nuclear warheads, as necessary.

(D) To support nuclear weapons.

(E) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Memorandum.

(b) REQUIRED CAPABILITIES.—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly and high explosives manufacturing capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y–12 National Security Complex, Oak Ridge, Tennessee.

(3) The capabilities of the Savannah River Site relating to tritium recycling and processing.

(4) The fissile material component processing and fabrication capabilities of the Savannah River Plutonium Processing Facility and the Los Alamos National Laboratory.

(5) The non-nuclear component capabilities of the Kansas City National Security Campus, Kansas City, Missouri.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1358, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2532 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6123. Acceleration of depleted uranium manufacturing processes

(a) ACCELERATION OF MANUFACTURING.—The Administrator shall require the nuclear security enterprise to accelerate the modernization of manufacturing processes for depleted uranium by 2030 so that the nuclear security enterprise—

(1) demonstrates bulk cold hearth melting of depleted uranium alloys to augment existing capabilities on an operational basis for war reserve components;

(2) manufactures, on a repeatable and ongoing basis, war reserve depleted uranium alloy components using net shape casting;

(3) demonstrates, if possible, a production facility to conduct routine operations for manufacturing depleted uranium alloy components outside of the current perimeter security fencing of the Y-12 National Security Complex, Oak Ridge, Tennessee; and

(4) has available high purity depleted uranium for the production of war reserve components.

(b) ANNUAL BRIEFING.—Not later than March 31, 2023, and annually thereafter through 2030, the Administrator shall provide to the congressional defense committees a briefing on—

(1) progress made in carrying out subsection (a);

(2) the cost of activities conducted under such subsection during the preceding fiscal year; and

(3) the ability of the nuclear security enterprise to convert depleted uranium fluoride

hexafluoride to depleted uranium tetrafluoride.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1359.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3121 of Pub. L. 117–263, which was set out as a note under section 2532 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(11).

## §6124. Reports on critical difficulties at national security laboratories and nuclear weapons production facilities

(a) REPORTS BY HEADS OF LABORATORIES AND FACILITIES.—In the event of a difficulty at a national security laboratory or a nuclear weapons production facility that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or facility, as the case may be, shall submit to the Administrator a report on the difficulty. The head of the laboratory or facility shall submit the report as soon as practicable after discovery of the difficulty.

(b) TRANSMITTAL BY ADMINISTRATOR.—Not later than 10 days after receipt of a report under subsection (a), the Administrator shall transmit the report (together with the comments of the Administrator) to the congressional defense committees, to the Secretary of Energy and the Secretary of Defense, and to the President.

(c) INCLUSION OF REPORTS IN ANNUAL STOCKPILE ASSESSMENT.—Any report submitted pursuant to subsection (a) shall also be submitted to the President and Congress with the matters required to be submitted under section 6117(f) for the year in which such report is submitted.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1359.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2533 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production facilities defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

## §6125. Selected acquisition reports [1] and independent cost estimates and reviews of certain programs and facilities

(a) SELECTED ACQUISITION REPORTS.—(1) At the end of the first quarter of each fiscal year, the Secretary of Energy, acting through the Administrator, shall submit to the congressional

defense committees a report on each nuclear weapon system undergoing life extension and each major alteration project (as defined in section 6284(a)(2)) during the preceding fiscal year. The reports shall be known as Selected Acquisition Reports for the weapon system concerned.

(2) The information contained in the Selected Acquisition Report for a fiscal year for a nuclear weapon system shall be the information contained in the Selected Acquisition Report for each fiscal-year quarter in that fiscal year for a major defense acquisition program under section 4351 or any successor system, expressed in terms of the nuclear weapon system.

(b) INDEPENDENT COST ESTIMATES AND REVIEWS.—(1) The Secretary, acting through the Administrator, shall submit to the congressional defense committees and the Nuclear Weapons Council the following:

(A) An independent cost estimate of the following:

(i) Each nuclear weapon system undergoing life extension at the completion of phase 6.2A or new weapon system at the completion of phase 2A, relating to design definition and cost study.

(ii) Each nuclear weapon system undergoing life extension at the completion of phase 6.3 or new weapon system at the completion of phase 3, relating to development engineering.

(iii) Each nuclear weapon system undergoing life extension at the completion of phase 6.4, relating to production engineering, and before the initiation of phase 6.5, relating to first production.

(iv) Each new weapon system at the completion of phase 4, relating to production engineering, and before the initiation of phase 5, relating to first production.

(v) Each new nuclear facility within the nuclear security enterprise that is estimated to cost more than $500,000,000 before such facility achieves critical decision 1 and before such facility achieves critical decision 2 in the acquisition process.

(vi) Each nuclear weapons system undergoing a major alteration project (as defined in section 6284(a)(2)).

(B) An independent cost review of each nuclear weapon system undergoing life extension at the completion of phase 6.2 or new weapon system at the completion of phase 2, relating to study of feasibility and down-select.

(2) Each independent cost estimate and independent cost review under paragraph (1) shall include—

(A) whether the cost baseline or the budget estimate for the period covered by the future-years nuclear security program has changed, and the rationale for any such change; and

(B) any views of the Secretary or the Administrator regarding such estimate or review.

(3) The Administrator shall review and consider the results of any independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility, as the case may be, under this subsection before entering the next phase of the development process of such system or the acquisition process of such facility.

(4) Except as otherwise specified in paragraph (1), each independent cost estimate or independent cost review of a nuclear weapon system or a nuclear facility under this subsection shall be submitted not later than 30 days after the date on which—

(A) in the case of a nuclear weapons system, such system completes a phase specified in such paragraph; or

(B) in the case of a nuclear facility, such facility achieves critical decision 1 as specified in subparagraph (A)(v) of such paragraph.

(5) Each independent cost estimate or independent cost review submitted under this subsection shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) AUTHORITY FOR FURTHER ASSESSMENTS.—Upon the request of the Administrator, the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Administrator, may conduct an independent cost assessment of any

initiative or program of the Administration that is estimated to cost more than $500,000,000.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1360, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2537 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

[1] *So in original. Probably should be "Selected Acquisition Reports".*

## §6126. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile

(a) POLICY.—(1) It is the policy of the United States—

(A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

(B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the national security laboratories and nuclear weapons production facilities.

(3) It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(b) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE.—In addition to a director of a national security laboratory or a nuclear weapons production facility under section 6124, any member of the Nuclear Weapons Council may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(c) EXPRESSION OF INDIVIDUAL VIEWS.—(1) No individual, including a representative of the President, may take any action against, or otherwise constrain, a director of a national security laboratory or a nuclear weapons production facility or a member of the Nuclear Weapons Council from presenting the professional views of the director or member, as the case may be, to the President, the National Security Council, or Congress regarding—

(A) the safety, security, reliability, or credibility of the nuclear weapons stockpile and nuclear forces; or

(B) the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces.

(2) Nothing in paragraph (1)(B) may be construed to affect the interagency budget process.

(d) REPRESENTATIVE OF THE PRESIDENT DEFINED.—In this section, the term "representative of the President" means the following:

(1) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(2) Any member or official of the National Security Council.

(3) Any member or official of the Joint Chiefs of Staff.

(4) Any official of the Office of Management and Budget.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1361, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2538 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: "IN GENERAL", "NUCLEAR WEAPONS STOCKPILE", and "SENSE OF CONGRESS", respectively.

Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " IN GENERAL" and "CONSTRUCTION", respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER OF FUNCTIONS**

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production plants defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

## §6127. Notification of certain regulations that impact the National Nuclear Security Administration

(a) IN GENERAL.—If a director of a national security laboratory of the Administration determines that a Federal regulation could inhibit the ability of the Administrator to maintain the safety, security, or effectiveness of the nuclear weapons stockpile without engaging in explosive nuclear testing, such director, not later than 15 days after making such determination, shall submit to Congress a notification of such determination.

(b) FORM.—Each notification required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1362.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3125 of Pub. L. 118–159, which was set out as a note under section 2538 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60,

§3111(b)(12).

## §6128. Plutonium pit production capacity

(a) REQUIREMENT.—Consistent with the requirements of the Secretary of Defense, the Secretary of Energy shall ensure that the nuclear security enterprise—

(1) during 2021, begins production of qualification plutonium pits;
(2) during 2024, produces not less than 10 war reserve plutonium pits;
(3) during 2025, produces not less than 20 war reserve plutonium pits;
(4) during 2026, produces not less than 30 war reserve plutonium pits; and
(5) during 2030, produces not less than 80 war reserve plutonium pits.

(b) ANNUAL CERTIFICATION.—Not later than March 1, 2015, and each year thereafter through 2030, the Secretary of Energy shall certify to the congressional defense committees and the Secretary of Defense that the programs and budget of the Secretary of Energy will enable the nuclear security enterprise to meet the requirements under subsection (a).

(c) PLAN.—If the Secretary of Energy does not make a certification under subsection (b) by March 1 of any year in which a certification is required under that subsection, by not later than May 1 of such year, the Chairman of the Nuclear Weapons Council shall submit to the congressional defense committees a plan to enable the nuclear security enterprise to meet the requirements under subsection (a). Such plan shall include identification of the resources of the Department of Energy that the Chairman determines should be redirected to support the plan to meet such requirements.

(d) CERTIFICATIONS ON PLUTONIUM ENTERPRISE.—(1) Not later than 30 days after the date on which a covered project achieves a critical decision milestone, the Assistant Secretary for Environmental Management and the Deputy Administrator for Defense Programs shall jointly certify to the congressional defense committees that the operations, infrastructure, and workforce of such project are adequate to carry out the delivery and disposal of planned waste shipments relating to the plutonium enterprise, as outlined in the critical decision memoranda of the Department of Energy with respect to such project.

(2) If the Assistant Secretary for Environmental Management and the Deputy Administrator for Defense Programs fail to make a certification under paragraph (1) by the date specified in such paragraph with respect to a covered project achieving a critical decision milestone, the Assistant Secretary and the Deputy Administrator shall jointly submit to the congressional defense committees, by not later than 30 days after such date, a plan to ensure that the operations, infrastructure, and workforce of such project will be adequate to carry out the delivery and disposal of planned waste shipments described in such paragraph.

(e) REPORTS.—(1) Not later than March 1 of each year during the period beginning on the date on which the first covered project achieves critical decision 2 in the acquisition process and ending on the date on which the second project achieves critical decision 4 and begins operations, the Administrator for Nuclear Security shall submit to the congressional defense committees a report on the planned production goals of both covered projects during the first 10 years of the operation of the projects.

(2) Each report under paragraph (1) shall include—

(A) the number of war reserve plutonium pits planned to be produced during each year, including the associated warhead type;

(B) a description of risks and challenges to meeting the performance baseline for the covered projects, as approved in critical decision 2 in the acquisition process;

(C) options available to the Administrator to balance scope, costs, and production requirements at the projects to decrease overall risk to the plutonium enterprise and enduring plutonium pit requirements; and

(D) an explanation of any changes to the production goals or requirements as compared to the report submitted during the previous year.

(f) CAPACITY.—In carrying out subsection (a), the Secretary of Energy shall—

(1) ensure that Los Alamos National Laboratory, Los Alamos, New Mexico, has the capability to reliably produce no fewer than 30 war reserve plutonium pits annually; and

(2) ensure that the Savannah River Plutonium Processing Facility at the Savannah River Site, Aiken, South Carolina, has the capability to reliably produce no fewer than 50 war reserve plutonium pits annually.

(g) PROHIBITION ON ARIES EXPANSION BEFORE ACHIEVEMENT OF 30 PIT-PER-YEAR BASE CAPABILITY.—(1) Until the date on which the Administrator certifies to the congressional defense committees that the base capability to produce not less than 30 war reserve plutonium pits per year has been established at Los Alamos National Laboratory, the Administrator may not—

(A) carry out a project to expand the pit disassembly and processing capability of the spaces at PF–4 occupied by ARIES as of December 22, 2023; or

(B) otherwise expand such spaces.

(2) Paragraph (1) shall not apply with respect to—

(A) ongoing or planned small projects to sustain or improve the efficiency of plutonium oxide production, provided that such projects do not expand the spaces at PF–4 occupied by ARIES as of December 22, 2023;

(B) the planning and design of an additional ARIES capability at a location other than PF–4; or

(C) the transfer of the ARIES capability to a location other than PF–4.

(3) In this subsection:

(A) The term "ARIES" means the Advanced Recovery and Integrated Extraction System method, developed and piloted at Los Alamos National Laboratory, Los Alamos, New Mexico, for disassembling surplus defense plutonium pits and converting the plutonium from such pits into plutonium oxide.

(B) The term "PF–4" means the Plutonium Facility at Technical Area 55 located at Los Alamos National Laboratory, Los Alamos, New Mexico.

(h) MANAGEMENT OF PLUTONIUM MODERNIZATION PROGRAM.—Not later than 570 days after December 22, 2023, the Administrator for Nuclear Security shall ensure that the plutonium modernization program established by the Office of Defense Programs of the National Nuclear Security Administration, or any subsequently developed program designed to meet the requirements under subsection (a), is managed in accordance with the best practices for schedule development and cost estimating of the Government Accountability Office.

(i) COVERED PROJECT DEFINED.—In this section, the term "covered project" means—

(1) the Savannah River Plutonium Processing Facility, Savannah River Site, Aiken, South Carolina (Project 21–D–511); or

(2) the Plutonium Pit Production Project, Los Alamos National Laboratory, Los Alamos, New Mexico (Project 21–D–512).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(1)(B), (2), 3112, Dec. 18, 2025, 139 Stat. 1363, 1461, 1462.)

## EDITORIAL NOTES

### CODIFICATION

Amendment by section 3112 of Pub. L. 119–60 directed to section 4219 of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(B) of Pub. L. 119–60. See Further Technical Amendments note set out under section 6114 of this title.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2538a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (d). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " REQUIREMENT" and "FAILURE TO CERTIFY", respectively.

Subsec. (e). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " REQUIREMENT" and "ELEMENTS", respectively.

Subsec. (f). Pub. L. 119–60, §§3111(d)(1)(B), 3112(4), added subsec. (f). Former subsec. (f) redesignated (g). See Codification note above.

Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: "IN GENERAL ", "EXCEPTIONS", and "DEFINITIONS", respectively.

Subsec. (g). Pub. L. 119–60, §§3111(d)(1)(B), 3112(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (i). See Codification note above.

Subsec. (i). Pub. L. 119–60, §§3111(d)(1)(B), 3112(1)–(3), redesignated subsec. (g) as (i) and moved subsec. (i) so as to appear after subsec. (h) and substituted "this section" for "this subsection" in introductory provisions. See Codification note above.

## §6129. Certification of completion of milestones with respect to plutonium pit aging

(a) REQUIREMENT.—The Administrator shall complete the milestones on plutonium pit aging identified in the report entitled "Research Program Plan for Plutonium and Pit Aging", published by the Administration in September 2021.

(b) ASSESSMENTS.—The Administrator shall—

(1) acting through the Defense Programs Advisory Committee, conduct biennial reviews during the period beginning not later than one year after the date of the enactment of this Act and ending December 31, 2030, regarding the progress achieved toward completing the milestones described in subsection (a); and

(2) seek to enter into an arrangement with the private scientific advisory group known as JASON to conduct, not later than 2030, an assessment of plutonium pit aging.

(c) BRIEFINGS.—During the period beginning not later than one year after the date of the enactment of this Act and ending December 31, 2030, the Administrator shall provide to the congressional defense committees biennial briefings on—

(1) the progress achieved toward completing the milestones described in subsection (a); and

(2) the results of the assessments described in subsection (b).

(d) CERTIFICATION OF COMPLETION OF MILESTONES.—Not later than October 1, 2031, the Administrator shall—

(1) certify to the congressional defense committees whether the milestones described in subsection (a) have been achieved; and

(2) if the milestones have not been achieved, submit to such committees a report—

(A) describing the reasons such milestones have not been achieved;

(B) including, if the Administrator determines the Administration will not be able to meet one of such milestones, an explanation for that determination; and

(C) specifying new dates for the completion of the milestones the Administrator anticipates the Administration will meet.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1365.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this Act, referred to in subsecs. (b)(1) and (c), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3124 of Pub. L. 117–263, which was set out as a note under section 2538a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(11).

## §6130. Authorization of workforce development and training partnership programs within National Nuclear Security Administration

(a) AUTHORITY.—The Administrator for Nuclear Security may authorize management and operating contractors at covered facilities to develop and implement workforce development and training partnership programs to further the education and training of employees or prospective employees of such management and operating contractors to meet the requirements of section 6128.

(b) CAPACITY.—To carry out subsection (a), a management and operating contractor at a covered facility may provide funding through grants or other means to cover the costs of the development and implementation of a workforce development and training partnership program authorized under such subsection, including costs relating to curriculum development, hiring of teachers, procurement of equipment and machinery, use of facilities or other properties, and provision of scholarships and fellowships.

(c) DEFINITIONS.—In this section:

(1) The term "covered facility" means—

(A) Los Alamos National Laboratory, Los Alamos, New Mexico; or

(B) the Savannah River Site, Aiken, South Carolina.

(2) The term "prospective employee" means an individual who has applied (or who, based on their field of study and experience, is likely to apply) for a position of employment with a management and operating contractor to support plutonium pit production at a covered facility.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1366.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3126 of Pub. L. 117–263, which was set out as a note under section 2538a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(11).

## §6131. Stockpile responsiveness program

(a) STATEMENT OF POLICY.—It is the policy of the United States to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons to ensure the nuclear deterrent of the United States remains safe, secure, reliable, credible, and responsive.

(b) PROGRAM REQUIRED.—The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a stockpile responsiveness program, along with the stockpile stewardship program under section 6111 and the stockpile management program under section 6116, to identify, sustain, enhance, integrate, and continually exercise all capabilities required to conceptualize, study, design, develop, engineer, certify, produce, and deploy nuclear weapons.

(c) OBJECTIVES.—The program under subsection (b) shall have the following objectives:

(1) Identify, sustain, enhance, integrate, and continually exercise all of the capabilities, infrastructure, tools, and technologies across the science, engineering, design, certification, and

manufacturing cycle required to carry out all phases of the joint nuclear weapons life cycle process, with respect to both the nuclear security enterprise and relevant elements of the Department of Defense.

(2) Identify, enhance, and transfer knowledge, skills, and direct experience with respect to all phases of the joint nuclear weapons life cycle process from one generation of nuclear weapon designers and engineers to the following generation.

(3) Continually demonstrate stockpile responsiveness throughout the range of capabilities as required, such as through the use of prototypes, flight testing, integrated system demonstrations, and development of plans for certification without the need for nuclear explosive testing.

(4) Develop technologies for transition to a nuclear stockpile life extension program or new nuclear weapon program project that have the potential to reduce design, certification, and manufacturing cycles cost and schedule.

(5) Continually exercise processes for the integration and coordination of all relevant elements and processes of the Administration and the Department of Defense required to ensure stockpile responsiveness.

(6) The retention of the ability, in coordination with the Director of National Intelligence, to assess and develop prototype nuclear weapons of foreign countries if needed to meet intelligence requirements and, if necessary, to conduct no-yield testing of those prototypes.

(d) JOINT NUCLEAR WEAPONS LIFE CYCLE PROCESS DEFINED.—In this section, the term "joint nuclear weapons life cycle process" means the process developed and maintained by the Secretary of Defense and the Secretary of Energy for the development, production, maintenance, and retirement of nuclear weapons.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(1)(C), 3113(a), Dec. 18, 2025, 139 Stat. 1366, 1461, 1463.)

**EDITORIAL NOTES**

**CODIFICATION**

Amendment by section 3113 of Pub. L. 119–60 directed to section 4220(c) of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(C) of Pub. L. 119–60. See Further Technical Amendments note set out under section 6114 of this title.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2538b of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Subsec. (c)(3). Pub. L. 119–60, §§3111(d)(1)(C), 3113(a)(1)(A), substituted "Continually" for "Periodically" and inserted "integrated system demonstrations," after "flight testing,". See Codification note above.

Subsec. (c)(4). Pub. L. 119–60, §§3111(d)(1)(C), 3113(a)(1)(B), substituted "Develop technologies for transition to a nuclear stockpile life extension program or new nuclear weapon program project that have the potential to reduce" for "Shorten" and "cost and schedule" for "and timelines to minimize the amount of time and costs leading to an engineering prototype and production". See Codification note above.

## §6132. Long-term plan for meeting national security requirements for unencumbered uranium

(a) IN GENERAL.—Not later than December 31 of each odd-numbered year through 2031, the Secretary of Energy shall submit to the congressional defense committees a plan for meeting national security requirements for unencumbered uranium through 2070.

(b) PLAN REQUIREMENTS.—The plan required by subsection (a) shall include the following:

(1) An inventory of unencumbered uranium (other than depleted uranium), by program source

and enrichment level, that, as of the date of the plan, is allocated to national security requirements.

(2) An inventory of unencumbered uranium (other than depleted uranium), by program source and enrichment level, that, as of the date of the plan, is not allocated to national security requirements but could be allocated to such requirements.

(3) An identification of national security requirements for unencumbered uranium through 2070, by program source and enrichment level.

(4) An assessment of current and projected unencumbered uranium production by private industry in the United States that could support future defense requirements.

(5) A description of any shortfall in obtaining unencumbered uranium to meet national security requirements and an assessment of whether that shortfall could be mitigated through the blending down of uranium that is of a higher enrichment level.

(6) An inventory of unencumbered depleted uranium, an assessment of the portion of that uranium that could be allocated to national security requirements through re-enrichment, and an estimate of the costs of re-enriching that uranium.

(7) A description of the swap and barter agreements involving unencumbered uranium needed to meet national security requirements that are in effect on the date of the plan.

(8) An assessment of—

(A) when additional enrichment of uranium will be required to meet national security requirements; and

(B) the options the Secretary is considering to meet such requirements, including an estimated cost and timeline for each option and a description of any changes to policy or law that the Secretary determines would be required for each option.

(9) An assessment of how options to provide additional enriched uranium to meet national security requirements could, as an additional benefit, contribute to the establishment of a sustained domestic enrichment capacity and allow the commercial sector of the United States to reduce reliance on importing uranium from adversary countries.

(c) FORM OF PLAN.—The plan required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) COMPTROLLER GENERAL BRIEFING.—Not later than 180 days after the date on which the congressional defense committees receive each plan under subsection (a), the Comptroller General of the United States shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing that includes an assessment of the plan.

(e) DEFINITIONS.—In this section:

(1) The term "depleted", with respect to uranium, means that the uranium is depleted in uranium-235 compared with natural uranium.

(2) The term "unencumbered", with respect to uranium, means that the United States has no obligation to foreign governments to use the uranium for only peaceful purposes.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1367.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2538c of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6133. Plan for domestic enrichment capability to satisfy Department of Defense uranium requirements

(a) REPORT.—Not later than 120 days after the date of the enactment of National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31), the Administrator shall submit to the

Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report that contains a plan to establish a domestic enrichment capability sufficient to meet defense requirements for enriched uranium. Such plan shall include—

(1) a description of defense requirements for enriched uranium expected to be necessary between the date of the enactment of this Act and 2060 to meet the requirements of the Department of Defense, including quantities, material assay, and the dates by which new enrichment is required;

(2) key milestones, steps, and policy decisions required to achieve the domestic uranium enrichment capability;

(3) the dates by which such key milestones are to be achieved;

(4) a funding profile, broken down by project and sub-project, for obtaining such capability;

(5) a description of any changes in the requirement of the Department of Defense for highly enriched uranium due to AUKUS; and

(6) any other elements or information the Administrator determines appropriate.

(b) ANNUAL CERTIFICATION REQUIREMENT.—(1) Not later than February 1 of each year after the year during which the report required by subsection (a) is submitted until the date specified in paragraph (2), the Administrator shall submit to the congressional defense committees a certification that—

(A) the Administration is in compliance with the plan and milestones contained in the report; or

(B) the Administration is not in compliance with such plan or milestones, together with—

(i) a description of the nature of the non-compliance;

(ii) the reasons for the non-compliance; and

(iii) a plan to achieve compliance.

(2) No report shall be required under paragraph (1) after the date on which the Administrator certifies to the congressional defense committees that the final key milestone under the plan has been met.

(c) FORM OF REPORTS.—The report under subsection (a) and each annual certification under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1368, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (a), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

The date of the enactment of this Act, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3133 of Pub. L. 118–31, which was set out as a note under section 2538c of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(13).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " IN GENERAL" and "TERMINATION DATE", respectively.

## §6134. Incorporation of integrated surety architecture

(a) SHIPMENTS.—(1) The Administrator shall ensure that shipments described in paragraph (2)

incorporate surety technologies relating to transportation and shipping developed by the Integrated Surety Architecture program of the Administration.

(2) A shipment described in this paragraph is an over-the-road shipment of the Administration that involves any nuclear weapon planned to be in the active stockpile after 2025.

(b) CERTAIN PROGRAMS.—(1) The Administrator, in coordination with the Chairman of the Nuclear Weapons Council, shall ensure that each program described in paragraph (2) incorporates integrated designs compatible with the Integrated Surety Architecture program.

(2) A program described in this subsection is a program of the Administration that is a warhead development program, a life extension program, or a warhead major alteration program.

(c) DETERMINATION.—(1) If, on a case-by-case basis, the Administrator determines that a shipment under subsection (a) will not incorporate some or all of the surety technologies described in such subsection, or that a program under subsection (b) will not incorporate some or all of the integrated designs described in such subsection, the Administrator shall submit such determination to the congressional defense committees, including the results of an analysis conducted pursuant to paragraph (2).

(2) Each determination made under paragraph (1) shall be based on a documented, system risk analysis that considers security risk reduction, operational impacts, and technical risk.

(d) TERMINATION.—The requirements of subsections (a) and (b) shall terminate on December 31, 2029.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1369, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2538d of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6135. W93 nuclear warhead acquisition process

(a) REPORTING REQUIREMENTS.—(1) Upon receiving a concept definition study under phase 1 of the joint nuclear weapons life cycle for the W93 nuclear weapon, the Nuclear Weapons Council shall submit to the congressional defense committees a report that includes the following:

(A) A description of the potential military characteristics of the weapon.

(B) A description of the stockpile-to-target sequence requirements of the weapon.

(C) An initial assessment of the requirements a W93 nuclear weapon program is likely to generate for the nuclear security enterprise, including—

(i) adjustments to the size and composition of the workforce;

(ii) additions to existing weapon design and production capabilities; or

(iii) additional facility recapitalization or new construction.

(D) A preliminary description of other significant requirements for a W93 nuclear weapon program, including—

(i) first production unit date;

(ii) initial operational capability date;

(iii) full operational capability date; and

(iv) any unique safety and surety requirements that could increase design complexity or cost estimate uncertainty.

(2)(A) Not later than 15 days after the date on which the Nuclear Weapons Council approves

phase 2 of the joint nuclear weapons life cycle for the W93 nuclear weapon, the Administrator shall provide to the congressional defense committees a briefing on a plan to implement a process of independent peer review or review by a board of experts, or both, with respect to—

(i) the nonnuclear components of the weapon;

(ii) subsystem design; and

(iii) engineering aspects of the weapon.

(B) The Administrator shall ensure that the process required by subparagraph (A)—

(i) uses—

(I) all relevant capabilities of the Federal Government, the defense industrial base, and institutions of higher education; and

(II) other capabilities that the Administrator determines necessary; and

(ii) informs the entire development life cycle of the W93 nuclear weapon.

(b) CERTIFICATIONS AND REPORTS AT PHASE 3.—Not later than 15 days after the date on which the Nuclear Weapons Council approves phase 3 of the joint nuclear weapons life cycle for the W93 nuclear weapon—

(1) the administrator shall provide to the congressional defense committees a briefing that includes certifications that—

(A) phases 1 through 5 of the joint nuclear weapons life cycle for the weapon will employ, at a minimum, the same best practices and will provide Congress with the same level of programmatic insight as exists under the phase 6.X process for life extension programs; and

(B) the proposed design for the weapon can be carried out within estimated schedule and cost objectives; and

(2) the Commander of the United States Strategic Command shall submit to the congressional defense committees a report containing, or provide to such committees a briefing on, the requirements for weapon quantity and composition by type for the sub-surface ballistic nuclear (SSBN) force, including such requirements planned for the 15-year period following the date of the report or briefing, as the case may be, including any planned life extensions, retirements, or alterations.

(c) WAIVERS.—Subsections (a) and (b) may be waived during a period of war declared by Congress after January 1, 2021.

(d) JOINT NUCLEAR WEAPONS LIFE CYCLE DEFINED.—In this section, the term "joint nuclear weapons life cycle" has the meaning given that term in section 6131.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1370, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2538e of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a)(1). Pub. L. 119–60, §3111(d)(2)(A), struck out par. (1) heading which read as follows: "PHASE 1".

Subsec. (a)(2). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (2) "PHASE 2" and subpars. (A) and (B) "IN GENERAL" and "REQUIREMENTS FOR PROCESS", respectively.

## §6136. Earned value management and technology readiness levels for life extension programs

(a) REVIEW OF CONTRACTOR EARNED VALUE MANAGEMENT SYSTEMS.—The Administrator shall enter into an arrangement with an independent entity under which that entity shall—

(1) review and validate whether the earned value management systems of contractors of the Administration for life extension programs meet the earned value management national standard; and

(2) conduct periodic surveillance reviews of such systems to ensure that such systems maintain compliance with that standard through program completion.

(b) BENCHMARKS FOR TECHNOLOGY READINESS LEVELS.—The Administrator shall—

(1) establish specific benchmarks for technology readiness levels of critical technologies for life extension programs at key decision points; and

(2) ensure that critical technologies meet such benchmarks at such decision points.

(c) APPLICABILITY.—This section shall apply to programs that, as of January 1, 2021, have not entered phase 3 of the nuclear weapons acquisition process or phase 6.3 of a nuclear weapons life extension program.

(d) DEFINITION.—In this section, the term "earned value management national standard" means the most recent version of the EIA-748 Earned Value Management System Standard published by the National Defense Industrial Association.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1371.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2538f of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6137. Rapid capabilities program

(a) IN GENERAL.—The Secretary of Energy, acting through the Administrator and in coordination with the Secretary of Defense, shall carry out a program (to be known as the "rapid capabilities program") to develop new nuclear weapons or modified nuclear weapons that meet military requirements.

(b) OBJECTIVES.—The program under subsection (a) shall have the following objectives:

(1) Identify and assess potential design concepts for rapid development feasability.

(2) Carry out projects with the goal of achieving first production unit within 5 years of project initiation.

(3) Utilize non-traditional approaches, system-specific requirements, and tailored risk-acceptance processes to favorably balance cost, schedule, and capability.

(4) Maximize reuse of existing components, non-serial manufacturing, and limited production quantities.

(5) Minimize disruption to other major nuclear weapons stockpile modernization programs.

(6) Develop institutional expertise within the nuclear security enterprise for rapid execution of all phases for the joint nuclear weapons life cycle process.

(c) REQUIREMENTS ADVISORY BOARD.—In carrying out the objectives of the program under subsection (b), the Administrator shall establish an advisory board, which shall be responsible for advising the Administrator with respect to military and deterrence policy requirements related to the activities of the program. Such advisory board shall be composed of the following members:

(1) The Principal Deputy Assistant Secretary of Defense for Nuclear Deterrence, Chemical and Biological Defense Policy and Programs.
(2) The Director for Strategy, Plans, and Policy of the Joint Staff.
(3) The Director of Navy Strategic Systems Programs.
(4) The Deputy Commander of Air Force Global Strike Command.

(d) PROGRAM BUDGET.—In accordance with the requirements under section 4209, for each budget submitted by the President to Congress under section 1105 of title 31, United States Code, the amounts requested for the program under this section shall be clearly identified in the budget justification materials submitted to Congress in support of that budget.

(e) JOINT NUCLEAR WEAPONS LIFE CYCLE PROCESS DEFINED.—In this section, the term "joint nuclear weapons life cycle process" means the process developed and maintained by the Secretary of Defense and the Secretary of Energy for the development, production, maintenance, and retirement of nuclear weapons.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(D), 3113(a)(2), Dec. 18, 2025, 139 Stat. 1462, 1463.)

**EDITORIAL NOTES**

**CODIFICATION**

Amendment by section 3113 of Pub. L. 119–60, which was directed to subtitle A of title XLII of Pub. L. 107–314 (50 U.S.C. 2521 et seq.) by adding section 4225 of that Act, was executed by adding this section to this subchapter pursuant to section 3111(d)(1)(D) of Pub. L. 119–60 and by numbering it as section 6137 to reflect the probable intent of Congress. See Further Technical Amendments note set out under section 6114 of this title.

## SUBCHAPTER II—TRITIUM

Sec.
6141. Tritium production program.
6142. Tritium recycling.
6143. Modernization and consolidation of tritium recycling facilities.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6141. Tritium production program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons.

(b) LOCATION OF TRITIUM PRODUCTION FACILITY.—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(c) IN-REACTOR TESTS.—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1372.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6141 was renumbered section 8261 of this title.

Provisions similar to those in this section were contained in section 2541 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6142. Tritium recycling

(a) IN GENERAL.—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) EXCEPTION.—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1372.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6142, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, provided for assignments of pay due to enlisted members. See section 705 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(38–43), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

Provisions similar to those in this section were contained in section 2542 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6143. Modernization and consolidation of tritium recycling facilities

The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

(1) modernize and consolidate the facilities for recycling tritium from weapons; and

(2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1372.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6143, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to discouragement of sale of pay. See section 805 of Title 37, Pay and Allowances of the Uniformed Services, prior to repeal by Pub. L. 87–649, §14c(38–43), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

Provisions similar to those in this section were contained in section 2544 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

Prior sections 6144 to 6147 were repealed by Pub. L. 87–649, §14c(38–43), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962.

Section 6144, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, provided for settlement of pay accounts when lost with vessel. See section 902 of Title 37, Pay and Allowances of the Uniformed Services.

Section 6145, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to fixing date of loss of a vessel for purpose of settling accounts of persons aboard other than officers. See section 902 of Title 37, Pay and Allowances of the Uniformed Services.

Section 6146, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, provided for allotments by officers. See section 702 of Title 37, Pay and Allowances of the Uniformed Services.

Section 6147, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to allowances for prisoners. See section 426 of Title 37, Pay and Allowances of the Uniformed Services.

A prior section 6148, acts Aug. 10, 1956, ch. 1041, 70A Stat. 383; Sept. 2, 1958, Pub. L. 85–861, §§1(137), 36B(18), 72 Stat. 1507, 1571; Sept. 7, 1962, Pub. L. 87–649, §6(e), 76 Stat. 494; Sept. 7, 1962, Pub. L. 87–651, title I, §123(a), 76 Stat. 514; Oct. 19, 1984, Pub. L. 98–525, title VI, §631(b), 98 Stat. 2543; Nov. 8, 1985, Pub. L. 99–145, title XIII, §1303(a)(22), 99 Stat. 739, related to disability and death benefits for members of Naval Reserve and Marine Corps Reserve, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), Nov. 14, 1986, 100 Stat. 3877.

A prior section 6149, act Aug. 10, 1956, ch. 1041, 70A Stat. 385, related to computation of retired pay on basis of rates of pay for officers on the active list, prior to repeal by Pub. L. 88–132, §5(h)(3), Oct. 2, 1963, 77 Stat. 214, effective Oct. 1, 1963.

A prior section 6150, acts Aug. 10, 1956, ch. 1041, 70A Stat. 385; Sept. 2, 1958, Pub. L. 85–861, §33(a)(32), 72 Stat. 1566, authorized advancement to a higher retired grade for officers specially commended, prior to repeal by Pub. L. 86–155, §9(a)(1), Aug. 11, 1959, 73 Stat. 337, effective Nov. 1, 1959.

# CHAPTER 603—PROLIFERATION MATTERS

Sec.
6151. Authority to conduct program relating to fissile materials.
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6161. Annual Selected Acquisition Reports on certain hardware relating to defense nuclear nonproliferation.

**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## §6151. Authority to conduct program relating to fissile materials

The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1372.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6151 was renumbered section 8262 of this title.

Provisions similar to those in this section were contained in section 2565 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6152. Completion of material protection, control, and accounting activities in

### the Russian Federation

(a) IN GENERAL.—Except as provided in subsection (b) or specifically authorized by Congress, international material protection, control, and accounting activities in the Russian Federation shall be completed not later than fiscal year 2018.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to international material protection, control, and accounting activities in the Russian Federation associated with the Agreement Concerning the Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation, signed at Moscow and Washington August 29 and September 1, 2000, and entered into force July 13, 2011 (TIAS 11–713.1), between the United States and the Russian Federation.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1372.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6152 was renumbered section 8263 of this title.

Provisions similar to those in this section were contained in section 3122(b) of Pub. L. 113–291, which was set out as a note under section 2565 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(14).

## §6153. Disposition of weapons-usable plutonium at Savannah River Site

(a) PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY.—(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2012, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2012; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing through 2024, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2012.

(C) Each report under subparagraph (A) for years after 2014 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) Each report under subparagraph (A) for years after 2019 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State

of South Carolina.

(b) CORRECTIVE ACTIONS.—(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (g) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2012, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2012 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2012.

(5) If, after January 1, 2014, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under subparagraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If the MOX production objective is not achieved as of January 1, 2014, the Secretary shall, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

(1) not later than January 1, 2016, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2022, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the MOX production objective is not achieved as of January 1, 2016, the Secretary shall, subject to the availability of appropriations, pay to the State of South Carolina each year beginning on or after that date through 2021 for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the later of—

(A) the date on which the MOX production objective is achieved in such year; or

(B) the date on which the Secretary has removed from the State of South Carolina in such year

at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If, as of January 1, 2022, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than—

(i) one metric ton, in each of any two consecutive calendar years; and

(ii) three metric tons total,

the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) If the State of South Carolina obtains an injunction that prohibits the Department of Energy from taking any action necessary for the Department to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM.—If less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility by October 1, 2026, the Secretary shall, not later than December 1, 2026, and on a biennial basis thereafter, submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY.—If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) BASELINE.—Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.

(h) DEFINITIONS.—In this section:

(1) The term "MOX production objective" means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) The term "MOX facility" means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) The terms "defense plutonium" and "defense plutonium materials" mean weapons-usable plutonium.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1373, 1462.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(6)(B), (C) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 6153 was enumbered section 8264 of this title.

Provisions similar to those in this section were contained in section 2566 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (h). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which corresponded to the defined term in each par.

## §6154. Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina

(a) CONSULTATION REQUIRED.—The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) NOTICE REQUIRED.—For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) PLAN FOR DISPOSITION.—The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

(1) A review of each option considered for such disposal.

(2) An identification of the preferred option for such disposal.

(3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—

(A) a statement of the cost of construction and operation of such facilities;

(B) a schedule for the expeditious construction of such facilities, including milestones; and

(C) a firm schedule for funding the cost of such facilities.

(4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) PLAN FOR ALTERNATIVE DISPOSITION.—If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) SUBMISSION OF PLANS.—Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) LIMITATION ON PLUTONIUM SHIPMENTS.—If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) ANNUAL REPORT ON FUNDING FOR FISSILE MATERIALS DISPOSITION ACTIVITIES.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report setting forth the extent to which amounts requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1376.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6154 was renumbered section 8265 of this title.

Provisions similar to those in this section were contained in section 2567 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6155. Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and

disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert (including through the use of alternative technologies) sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(e) PARTICIPATION BY OTHER GOVERNMENTS AND ORGANIZATIONS.—(1) The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).

(2) The programs described in this paragraph are any programs within the Office of Defense Nuclear Nonproliferation of the National Nuclear Security Administration.

(3) Notwithstanding section 3302 of title 31, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in

paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(4) If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

(5) Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;

(B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and

(C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in the isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in the isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

(7) The term "alternative technologies" means technologies, such as accelerator-based equipment, that do not use radiological materials.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1377, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6155 was renumbered section 8266 of this title.

Provisions similar to those in this section were contained in section 2569 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (e). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (5) headings which read as follows: "IN GENERAL", "PROGRAMS COVERED", "RETENTION AND USE OF AMOUNTS", "RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS", and "ANNUAL REPORT", respectively.

## §6156. Acceleration of replacement of cesium blood irradiation sources

(a) GOAL.—The Administrator shall ensure that the goal of the covered programs is eliminating the use of blood irradiation devices in the United States that rely on cesium chloride by December 31, 2027.

(b) IMPLEMENTATION.—To meet the goal specified by subsection (a), the Administrator shall carry out the covered programs in a manner that—

(1) is voluntary for owners of blood irradiation devices;

(2) allows for the United States, subject to the review of the Administrator, to pay up to 50 percent of the per-device cost of replacing blood irradiation devices covered by the programs;

(3) allows for the United States to pay up to 100 percent of the cost of removing and disposing of cesium sources retired from service by the programs; and

(4) replaces such devices with x-ray irradiation devices or other devices approved by the Food and Drug Administration that provide significant threat reduction as compared to cesium chloride irradiators.

(c) DURATION.—The Administrator shall carry out the covered programs until December 31, 2027.

(d) REPORT.—Not later than 180 days after the date of the enactment of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), the Administrator shall submit to the appropriate congressional committees a report on the covered programs, including—

(1) identification of each cesium chloride blood irradiation device in the United States, including the number, general location, and user type;

(2) a plan for achieving the goal established by subsection (a);

(3) a methodology for prioritizing replacement of such devices that takes into account irradiator age and prior material security initiatives;

(4) in consultation with the Nuclear Regulatory Commission and the Food and Drug Administration, a strategy identifying any legislative, regulatory, or other measures necessary to constrain the introduction of new cesium chloride blood irradiation devices;

(5) identification of the annual funds required to meet the goal established by subsection (a); and

(6) a description of the disposal path for cesium chloride sources under the covered programs.

(e) ASSESSMENT.—The Administrator shall submit an assessment to the appropriate congressional committees by September 20, 2023, of the results of the actions on the covered programs under this section, including—

(1) the number of replacement irradiators under the covered programs;

(2) the life-cycle costs of the programs, including personnel training, maintenance, and replacement costs for new irradiation devices;

(3) the cost-effectiveness of the covered programs;

(4) an analysis of the effectiveness of the new irradiation devices' technology; and

(5) a forecast of whether the Administrator will meet the goal established in subsection (a).

(f) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Energy and Commerce of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(2) The term "covered programs" means the following programs of the Office of Radiological

Security of the National Nuclear Security Administration:

(A) The Cesium Irradiator Replacement Program.

(B) The Off-Site Source Recovery Program.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(A), Dec. 18, 2025, 139 Stat. 1380, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsec. (d), is the date of enactment of Pub. L. 115–232, which was approved Aug. 13, 2018.

**PRIOR PROVISIONS**

A prior section 6156 was renumbered section 8267 of this title.

Provisions similar to those in this section were contained in section 3141 of Pub. L. 115–232, which was set out as a note under section 2569 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(15).

**AMENDMENTS**

**2025**—Subsec. (f). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which corresponded to the defined term in each par.

## §6157. International agreements on nuclear weapons data

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1382.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6157, act Aug. 10, 1956, ch. 1041, 70A Stat. 387, related to transportation of motor vehicles on permanent change of station, prior to repeal by Pub. L. 87–651, title I, §123(b), Sept. 7, 1962, 76 Stat. 514.

Provisions similar to those in this section were contained in section 2572 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6158. International agreements on information on radioactive materials

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations—

(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

(2) to obtain access to information described in paragraph (1) in the event of—

(A) a nuclear detonation; or

(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1382.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6158, act Aug. 10, 1956, ch. 1041, 70A Stat. 387, exempted enlisted members of the Marine Corps, while on active duty, from personal arrest for debt or contract, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

Provisions similar to those in this section were contained in section 2573 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6159. Defense nuclear nonproliferation management plan

(a) PLAN REQUIRED.—The Administrator shall develop and annually update a five-year management plan for activities associated with the defense nuclear nonproliferation programs of the Administration to prevent and counter the proliferation of materials, technology, equipment, and expertise related to nuclear and radiological weapons in order to minimize and address the risk of nuclear terrorism and the proliferation of such weapons.

(b) SUBMISSION TO CONGRESS.—(1) Not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

(2) Not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

(3) Each summary submitted under paragraph (1) and each report submitted under paragraph (2) shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) ELEMENTS.—The plan required by subsection (a) shall include, with respect to each defense nuclear nonproliferation program of the Administration, the following:

(1) A description of the policy context in which the program operates, including—

(A) a list of relevant laws, policy directives issued by the President, and international agreements; and

(B) nuclear nonproliferation activities carried out by other Federal agencies.

(2) A description of the objectives and priorities of the program during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be.

(3) A description of the activities carried out under the program during that year.

(4) A description of the accomplishments and challenges of the program during that year, based on an assessment of metrics and objectives previously established to determine the effectiveness of the program.

(5) A description of any gaps that remain that were not or could not be addressed by the program during that year.

(6) An identification and explanation of uncommitted or uncosted balances for the program, as of the date of the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, that are greater than the acceptable carryover thresholds, as determined by the Secretary of Energy.

(7) An identification of funds for the program received through contributions from or cost-sharing agreements with foreign governments consistent with section 6155(e) during the year preceding the submission of the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, and an explanation of such contributions and agreements.

(8) A description and assessment of activities carried out under the program during that year that were coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.

(9) Plans for activities of the program during the five-year period beginning on the date on

which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, is submitted, including activities with respect to the following:

(A) Preventing nuclear and radiological proliferation and terrorism, including through—

(i) material management and minimization, particularly with respect to removing or minimizing the use of highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), efforts to dispose of surplus material, converting reactors from highly enriched uranium to low-enriched uranium (and identifying the countries in which such reactors are located);

(ii) global nuclear material security, including securing highly enriched uranium, plutonium, and radiological materials worldwide (and identifying the countries in which such materials are located), and providing radiation detection capabilities at foreign ports and borders;

(iii) nonproliferation and arms control, including nuclear verification and safeguards;

(iv) defense nuclear research and development, including a description of activities related to developing and improving technology to detect the proliferation and detonation of nuclear weapons, verifying compliance of foreign countries with commitments under treaties and agreements relating to nuclear weapons, and detecting the diversion of nuclear materials (including safeguards technology); and

(v) nonproliferation construction programs, including activities associated with Department of Energy Order 413.1 (relating to program management controls).

(B) Countering nuclear and radiological proliferation and terrorism.

(C) Responding to nuclear and radiological proliferation and terrorism, including through—

(i) crisis operations;

(ii) consequences management; and

(iii) emergency management, including international capacity building.

(10) A threat assessment, carried out by the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), with respect to the risk of nuclear and radiological proliferation and terrorism and a description of how each activity carried out under the program will counter the threat during the five-year period beginning on the date on which the summary required by paragraph (1) of subsection (b) or the report required by paragraph (2) of that subsection, as the case may be, is submitted and, as appropriate, in the longer term.

(11) A plan for funding the program during that five-year period.

(12) An identification of metrics and objectives for determining the effectiveness of each activity carried out under the program during that five-year period.

(13) A description of the activities to be carried out under the program during that five-year period and a description of how the program will be prioritized relative to other defense nuclear nonproliferation programs of the Administration during that five-year period to address the highest priority risks and requirements, as informed by the threat assessment carried out under paragraph (10).

(14) A description and assessment of activities to be carried out under the program during that five-year period that will be coordinated with other elements of the Department of Energy, with the Department of Defense, and with other Federal agencies, to maximize efficiency and avoid redundancies.

(15) A summary of the technologies and capabilities documented under section 6160(a).

(16) A summary of the assessments conducted under section 6160(b)(1).

(17) Such other matters as the Administrator considers appropriate.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1382, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6159, added Pub. L. 85–56, title XXII, §2201(31)(C), June 17, 1957, 71 Stat. 161, provided for a pension to disabled naval enlisted personnel serving 20 years or more, equal to one-half the pay of enlisted man's rating at the time of his discharge, prior to repeal by Pub. L. 91–482, §1(a), Oct. 21, 1970, 84 Stat. 1082.

Provisions similar to those in this section were contained in section 2575 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6160. Information relating to certain defense nuclear nonproliferation programs

(a) TECHNOLOGIES AND CAPABILITIES.—The Administrator shall document, for efforts that are not focused on basic research, the technologies and capabilities of the defense nuclear nonproliferation research and development program that—

(1) are transitioned to end users for further development or deployment; and

(2) are deployed.

(b) ASSESSMENTS OF STATUS.—(1) In assessing projects under the defense nuclear nonproliferation research and development program or the defense nuclear nonproliferation and arms control program, the Administrator shall compare the status of each such project, including with respect to the final results of such project, to the baseline targets and goals established in the initial project plan of such project.

(2) The Administrator may carry out paragraph (1) using a common template or such other means as the Administrator determines appropriate.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1385, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6160 was renumbered section 8270 of this title.

Provisions similar to those in this section were contained in section 2576 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6161. Annual Selected Acquisition Reports on certain hardware relating to defense nuclear nonproliferation

(a) ANNUAL SELECTED ACQUISITION REPORTS.—(1) At the end of each fiscal year, the Administrator shall submit to the congressional defense committees a report on each covered hardware project. The reports shall be known as Selected Acquisition Reports for the covered hardware project concerned.

(2) The information contained in the Selected Acquisition Report for a fiscal year for a covered hardware project shall be the information contained in the Selected Acquisition Report for such fiscal year for a major defense acquisition program under section 4351 or any successor system, expressed in terms of the covered hardware project.

(b) COVERED HARDWARE PROJECT DEFINED.—In this section, the term "covered hardware project" means a project carried out under the defense nuclear nonproliferation research and development program that—

(1) is focused on the production and deployment of hardware, including with respect to the development and deployment of satellites or satellite payloads; and

(2) exceeds $500,000,000 in total program cost over the course of five years.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1385, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6161 was renumbered section 8271 of this title.

Provisions similar to those in this section were contained in section 2577 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " IN GENERAL" and "MATTERS INCLUDED", respectively.

# CHAPTER 604—DEFENSE ENVIRONMENTAL CLEANUP MATTERS


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**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## SUBCHAPTER I—DEFENSE ENVIRONMENTAL CLEANUP


Sec.

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**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6171. Defense environmental cleanup account [1]

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States for the Department of Energy an account to be known as the "Defense Environmental Cleanup Account" (hereafter in this section referred to as the "Account").

(b) AMOUNTS IN ACCOUNT.—All sums appropriated to the Department of Energy for defense environmental cleanup at defense nuclear facilities shall be credited to the Account. Such appropriations shall be authorized annually by law. To the extent provided in appropriations Acts, amounts in the Account shall remain available until expended.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1386.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2581 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**OFFICE OF ENVIRONMENTAL MANAGEMENT PROGRAM-WIDE PERFORMANCE METRICS FOR REDUCING RISK**

Pub. L. 119–60, div. C, title XXXI, §3124, Dec. 18, 2025, 139 Stat. 1467, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Energy shall—

"(1) develop and implement program performance metrics for the Office of Environmental Management (referred to in this section as the 'Office'), in addition to the program performance metrics identified in the plan published by the Office of Environmental Management entitled 'EM Program Plan 2022'; and

"(2) revise the program performance metrics identified in the 'EM Program Plan 2022' in accordance with the requirements of subsection (b).

"(b) REQUIRED ELEMENTS.—The program performance metrics described in subsection (a) shall incorporate the following elements:

"(1) LINKAGE.—Each metric shall—

"(A) align with the goals and mission of the Department of Energy (referred to in this section as the 'Department') and the Office;

"(B) link to the other metrics developed or revised under subsection (a) and any other existing performance metrics of the Department and the Office; and

"(C) be clearly communicated throughout the Department and the Office.

"(2) CLARITY.—Each metric shall be clear and the name and definition of such metric shall be consistent with the methodology used to calculate the metric.

"(3) MEASURABLE.—Each metric shall have a numerical goal.

"(4) OBJECTIVE.—Each metric shall be reasonably free from significant bias or manipulation.

"(5) RELIABLE.—Each metric shall produce the same result under similar conditions.

"(6) CORE PROGRAM ACTIVITIES.—The metrics shall cover the activities that the Office is expected to perform to support its mission.

"(7) LIMITED OVERLAP.—Each metric shall provide new information beyond any information provided by other metrics.

"(8) BALANCE.—The metrics shall ensure that various priorities of the Office are covered.

"(9) EFFECTIVENESS.—Each metric shall incorporate an effectiveness measure, such as quality, timeliness, and cost of service.

"(c) RISK REDUCTION PRIORITIZATION.—The program performance metrics described in subsection (a) shall—

"(1) give first priority to addressing any issues posing an immediate risk to human health or the environment;

"(2) give second priority, as appropriate, to addressing issues based on achieving the highest risk reduction benefit per radioactive or hazardous content removed; and

"(3) measure the amount of radioactivity or hazardous content removed, as determined by—

"(A) curies, rads, or rems;

"(B) pounds of hazardous content removed; or

"(C) such other appropriate measure.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and every two years thereafter until 2036, the Secretary of Energy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the outcomes achieved under the program performance metrics described in subsection (a) for each fiscal year covered by such report.

"(2) CONTENTS.—Each report shall identify the cost per curie, rad, or rem of radioactivity and cost per pound of hazardous content removed program-wide, by site, and by mission area."

**OFFICE OF ENVIRONMENTAL MANAGEMENT INTEGRATED RADIOACTIVE WASTE DISPOSAL PLANNING AND OPTIMIZATION**

Pub. L. 119–60, div. C, title XXXI, §3125, Dec. 18, 2025, 139 Stat. 1469, provided that:

"(a) RADIOACTIVE WASTE DISPOSAL OPTIMIZATION ANALYSES.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Energy shall develop a complex-wide analysis to identify optimal disposal pathways and schedules for defense radioactive waste produced by the Department of Energy (and the predecessor agencies to the Department) and managed by the Office of Environmental Management of the Department.

"(2) CONTENTS.—The analysis required by paragraph (1) shall—

"(A) incorporate modeling to identify optimal disposal pathways and schedules that could be achieved, in consideration of—

"(i) regulatory constraints; and

"(ii) legal binding agreements; and

"(B) identify strategic alternatives to radioactive waste disposal plans and schedules.

"(b) NATIONWIDE RADIOACTIVE WASTE DISPOSAL PLAN.—

"(1) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary of Energy shall develop an integrated, nationwide radioactive waste disposal plan.

"(2) CONTENTS.—The plan required by paragraph (1) shall—

"(A) include, to the maximum extent practicable, optimal radioactive waste disposal pathways and schedules identified through the analysis conducted pursuant to subsection (a);

"(B) identify specific opportunities for further optimization of radioactive waste disposal pathways and schedules that might be achieved through changes in regulatory constraints;

"(C) address complex-wide disposal issues, such as waste with no disposal pathway; and

"(D) incorporate feedback from key stakeholders, including Federal and State regulators and operators of radioactive waste disposal facilities.

"(c) RADIOACTIVE WASTE DISPOSAL FORUM.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Energy shall establish a forum for Federal and State agencies that regulate radioactive waste cleanup and disposal activities by the Office of Environmental Management.

"(2) PURPOSE.—The forum established pursuant to paragraph (1) shall holistically negotiate regulatory and other changes that could allow the Department of Energy to implement opportunities for optimal radioactive waste disposal identified pursuant to subsection (b).

"(d) REPORT REQUIRED.—Not later than two years after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) the results of the optimization analysis required by subsection (a);

"(2) the nationwide disposal plan required by subsection (b); and

"(3) the initial activities of the forum established pursuant to subsection (c).

"(e) CONGRESSIONAL NOTIFICATION AND BRIEFING.—If the Secretary of Energy determines to significantly modify operations at sites managed by the Office of Environmental Management of the Department of Energy, the Secretary shall, not later than 30 days before the date on which the Secretary

carries out the modification of such operations provide to the congressional defense committees notice of, and a briefing with respect to, such modification.

"(f) DEFINITIONS.—In this section:

"(1) The term 'complex' means the set of sites across the United States where radioactive waste cleanup and disposal activities are managed by the Office of Environmental Management.

"(2) The term 'integrated' means inclusive of all radioactive waste across the complex.

"(3) The term 'optimal' means the best possible outcome, such as the lowest cost or highest profit, while following specific rules and limitations.

"(4) The term 'regulatory constraints' means requirements included in regulations or agreements with regulators that affect decisions regarding radioactive waste disposal pathways and schedules by the Office of Environmental Management."

*[1] So in original. Probably should be "Defense Environmental Cleanup Account".*

## §6172. Classification of defense environmental cleanup as capital asset projects or operations activities

The Assistant Secretary of Energy for Environmental Management, in consultation with other appropriate officials of the Department of Energy, shall establish requirements for the classification of defense environmental cleanup projects as capital asset projects or operations activities.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1386.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3123(a) of Pub. L. 116–283, which was set out in a note under section 2581 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(8).

## §6173. Requirement to develop future use plans for defense environmental cleanup

(a) AUTHORITY TO DEVELOP FUTURE USE PLANS.—The Secretary of Energy may develop future use plans for any defense nuclear facility at which defense environmental cleanup activities are occurring.

(b) REQUIREMENT TO DEVELOP FUTURE USE PLANS.—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

(1) Hanford Site, Richland, Washington.

(2) Savannah River Site, Aiken, South Carolina.

(3) Idaho National Engineering Laboratory, Idaho.

(c) CITIZEN ADVISORY BOARD.—(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.

(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for defense environmental cleanup activities necessary for national security programs.

(d) REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD.—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy

shall consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of September 23, 1996, for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

(e) 50-YEAR PLANNING PERIOD.—A future use plan developed under this section shall cover a period of at least 50 years.

(f) REPORT.—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

(g) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before September 23, 1996.

(2) Nothing in this section may be construed to affect statutory requirements for a defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1386, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2582 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6174. Future-years defense environmental cleanup plan

(a) IN GENERAL.—The Secretary of Energy shall submit to Congress each year, at or about the same time that the President's budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, a future-years defense environmental cleanup plan that—

(1) reflects the estimated expenditures and proposed appropriations included in that budget for the Department of Energy for defense environmental cleanup; and

(2) covers a period that includes the fiscal year for which that budget is submitted and not less than the four succeeding fiscal years.

(b) ELEMENTS.—Each future-years defense environmental cleanup plan required by subsection (a) shall contain the following:

(1) A detailed description of the projects and activities relating to defense environmental cleanup to be carried out during the period covered by the plan at the sites specified in subsection (c) and with respect to the activities specified in subsection (d).

(2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support such projects and activities.

(3) With respect to each site specified in subsection (c), the following:

(A) A statement of each milestone included in an enforceable agreement governing cleanup and waste remediation for that site for each fiscal year covered by the plan.

(B) For each such milestone, a statement with respect to whether each such milestone will be met in each such fiscal year.

(C) For any milestone that will not be met, an explanation of why the milestone will not be met and the date by which the milestone is expected to be met.

(D) For any milestone that has been missed, renegotiated, or postponed, a statement of the current milestone, the original milestone, and any interim milestones.

(c) SITES SPECIFIED.—The sites specified in this subsection are the following:

(1) The Idaho National Laboratory, Idaho.

(2) The Waste Isolation Pilot Plant, Carlsbad, New Mexico.

(3) The Savannah River Site, Aiken, South Carolina.

(4) The Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) The Hanford Site, Richland, Washington.

(6) Any defense closure site of the Department of Energy.

(7) Any site of the National Nuclear Security Administration.

(d) ACTIVITIES SPECIFIED.—The activities specified in this subsection are the following:

(1) Program support.

(2) Program direction.

(3) Safeguards and security.

(4) Technology development and deployment.

(5) Federal contributions to the Uranium Enrichment Decontamination and Decommissioning Fund established under section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g).

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1387.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2582a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6175. Accelerated schedule for defense environmental cleanup activities

(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for defense environmental cleanup activities and disposition projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will accelerate the recapitalization, modernization, or replacement of National Nuclear Security Administration facilities supporting the nuclear weapons stockpile, achieve meaningful, long-term cost savings to the Federal Government, or could substantially accelerate the release of land for local reuse without undermining national security objectives.

(b) CONSIDERATION OF FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

(1) The extent to which accelerated cleanup schedules can contribute to a more rapid modernization of National Nuclear Security Administration facilities.

(2) The cost savings achievable by the Federal Government.

(3) The potential for reuse of the site.

(4) The risks that the site poses to local health and safety.

(5) The proximity of the site to populated areas.

(c) SAVINGS PROVISION.—Nothing in this section may be construed to affect a specific statutory requirement for a specific defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1388.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2585 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6176. Defense environmental cleanup technology program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for—

(1) the reduction of environmental hazards and contamination resulting from defense waste; and

(2) environmental restoration of inactive defense waste disposal sites.

(b) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1389.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2586 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6177. Other programs relating to technology development

(a) INCREMENTAL TECHNOLOGY DEVELOPMENT PROGRAM.—(1) The Secretary may establish a program, to be known as the "Incremental Technology Development Program", to improve the efficiency and effectiveness of the defense environmental cleanup processes of the Office.

(2)(A) In carrying out the Incremental Technology Development Program, the Secretary shall focus on the continuous improvement of new or available technologies, including—

(i) decontamination chemicals and techniques;

(ii) remote sensing and wireless communication to reduce manpower and laboratory efforts;

(iii) detection, assay, and certification instrumentation; and

(iv) packaging materials, methods, and shipping systems.

(B) The Secretary may include in the Incremental Technology Development Program mission-relevant development, demonstration, and deployment activities unrelated to the focus areas described in subparagraph (A).

(3)(A) In carrying out the Incremental Technology Development Program, the Secretary shall ensure that site offices of the Office conduct technology development, demonstration, testing, permitting, and deployment of new and emerging technologies to establish a sound technical basis for the selection of technologies for defense environmental cleanup or infrastructure operations.

(B) The Secretary shall collaborate, to the extent practicable, with the heads of other departments and agencies of the Federal Government, the National Laboratories, other Federal laboratories, appropriate State regulators and agencies, and the Department of Labor in the development,

demonstration, testing, permitting, and deployment of new technologies under the Incremental Technology Development Program.

(4)(A) In carrying out the Incremental Technology Development Program, the Secretary may enter into agreements with nongovernmental entities for technology development, demonstration, testing, permitting, and deployment projects to improve technologies in accordance with paragraph (2).

(B) The Secretary shall select projects under subparagraph (A) through a rigorous process that involves—

(i) transparent and open competition; and

(ii) a review process that, if practicable, is conducted in an independent manner consistent with Department guidance on selecting and funding public-private partnerships.

(C) The Federal share of the costs of the development, demonstration, testing, permitting, and deployment of new technologies carried out under this paragraph shall be not more than 70 percent.

(D) Not later than 120 days before the date on which the Secretary enters into the first agreement under subparagraph (A), the Secretary shall provide to the congressional defense committees a briefing on the process of selecting and funding efforts within the Incremental Technology Development Program, including with respect to the plans of the Secretary to ensure a scientifically rigorous process that minimizes potential conflicts of interest.

(b) HIGH-IMPACT TECHNOLOGY DEVELOPMENT PROGRAM.—(1) The Secretary shall establish a program, to be known as the "High-Impact Technology Development Program", under which the Secretary shall enter into agreements with nongovernmental entities for projects that pursue technologies that, with respect to the mission—

(A) holistically address difficult challenges;

(B) hold the promise of breakthrough improvements; or

(C) align existing or in-use technologies with difficult challenges.

(2) The Secretary may include as areas of focus for a project carried out under the High-Impact Technology Development Program the following:

(A) Developing and demonstrating improved methods for source and plume characterization and monitoring, with an emphasis on—

(i) real-time field acquisition; and

(ii) the use of indicator species analyses with advanced contaminant transport models to enable better understanding of contaminant migration.

(B) Developing and determining the limits of performance for remediation technologies and integrated remedial systems that prevent migration of contaminants, including by producing associated guidance and design manuals for technologies that could be widely used across the complex.

(C) Demonstrating advanced monitoring approaches that use multiple lines of evidence for monitoring long-term performance of—

(i) remediation systems; and

(ii) noninvasive near-field monitoring techniques.

(D) Developing and demonstrating methods to characterize the physical and chemical attributes of waste that control behavior, with an emphasis on—

(i) rapid and nondestructive examination and assay techniques; and

(ii) methods to determine radio-nuclide, heavy metals, and organic constituents.

(E) Demonstrating the technical basis for determining when enhanced or natural attenuation is an appropriate approach for remediation of complex sites.

(F) Developing and demonstrating innovative methods to achieve real-time and, if practicable, in situ characterization data for tank waste and process streams that could be useful for all phases of the waste management program, including improving the accuracy and representativeness of

characterization data for residual waste in tanks and ancillary equipment.

(G) Adapting existing waste treatment technologies or demonstrating new waste treatment technologies at the pilot plant scale using real wastes or realistic surrogates—

(i) to address engineering adaptations;

(ii) to ensure compliance with waste treatment standards and other applicable requirements under Federal and State law and any existing agreements or consent decrees to which the Department is a party; and

(iii) to enable successful deployment at full-scale and in support of operations.

(H) Developing and demonstrating rapid testing protocols that—

(i) are accepted by the Environmental Protection Agency, the Nuclear Regulatory Commission, the Department, and the scientific community;

(ii) can be used to measure long-term waste form performance under realistic disposal environments;

(iii) can determine whether a stabilized waste is suitable for disposal; and

(iv) reduce the need for extensive, time-consuming, and costly analyses on every batch of waste prior to disposal.

(I) Developing and demonstrating direct stabilization technologies to provide waste forms for disposing of elemental mercury.

(J) Developing and demonstrating innovative and effective retrieval methods for removal of waste residual materials from tanks and ancillary equipment, including mobile retrieval equipment or methods capable of immediately removing waste from leaking tanks, and connecting pipelines.

(3)(A) The Secretary shall select projects to be carried out under the High-Impact Technology Development Program through a rigorous process that involves—

(i) transparent and open competition; and

(ii) a review process that, if practicable, is conducted in an independent manner consistent with Department guidance on selecting and funding public-private partnerships.

(B) Not later than 120 days before the date on which the Secretary enters into the first agreement under paragraph (1), the Secretary shall provide to the congressional defense committees a briefing on the process of selecting and funding efforts within the High-Impact Technology Development Program, including with respect to the plans of the Secretary to ensure a scientifically rigorous process that minimizes potential conflicts of interest.

(c) ENVIRONMENTAL MANAGEMENT UNIVERSITY PROGRAM.—(1) The Secretary shall establish a program, to be known as the "Environmental Management University Program", to—

(A) engage faculty, post-doctoral fellows or researchers, and graduate students of institutions of higher education on subjects relating to the mission to show a clear path for students for employment within the environmental management enterprise;

(B) provide institutions of higher education and the Department access to advances in engineering and science;

(C) clearly identify to institutions of higher education the tools necessary to enter into the environmental management field professionally; and

(D) encourage current employees of the Department to pursue advanced degrees.

(2) The Secretary may include as areas of focus for a grant made under the Environmental Management University Program the following:

(A) The atomic- and molecular-scale chemistries of waste processing.

(B) Contaminant immobilization in engineered and natural systems.

(C) Developing innovative materials, with an emphasis on nanomaterials or biomaterials, that could enable sequestration of challenging hazardous or radioactive constituents such as technetium and iodine.

(D) Elucidating and exploiting complex speciation and reactivity far from equilibrium.
(E) Understanding and controlling chemical and physical processes at interfaces.
(F) Harnessing physical and chemical processes to revolutionize separations.
(G) Tailoring waste forms for contaminants in harsh chemical environments.
(H) Predicting and understanding subsurface system behavior and response to perturbations.

(3) In carrying out the Environmental Management University Program, the Secretary may make individual research grants to faculty, post-doctoral fellows or researchers, and graduate students of institutions of higher education for three-year research projects, with an option for an extension of one additional two-year period.

(4) In carrying out the Environmental Management University Program, the Secretary may make research grants for strategic partnerships among scientists, faculty, post-doctoral fellows or researchers, and graduate students of institutions of higher education for three-year research projects.

(5) In carrying out the Environmental Management University Program, the Secretary may establish a summer internship program for undergraduates of institutions of higher education to work on projects relating to environmental management.

(6) In carrying out the Environmental Management University Program, the Secretary may hold workshops with the Office of Environmental Management, the Office of Science, and members of academia and industry concerning environmental management challenges and solutions.

(d) DEFINITIONS.—In this section:

(1) The term "complex" means all sites managed in whole or in part by the Office.

(2) The term "Department" means the Department of Energy.

(3) The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) The term "mission" means the mission of the Office.

(5) The term "National Laboratory" has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(6) The term "Office" means the Office of Environmental Management of the Department.

(7) The term "Secretary" means the Secretary of Energy, acting through the Assistant Secretary for Environmental Management.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1389, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2586a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a)(1). Pub. L. 119–60, §3111(d)(2)(A), struck out par. (1) heading which read as follows: " ESTABLISHMENT".

Subsec. (a)(2). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (2) "FOCUS" and subpars. (A) and (B) "IMPROVEMENTS" and "OTHER AREAS", respectively.

Subsec. (a)(3). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (3) "USE OF NEW AND EMERGING TECHNOLOGIES" and subpars. (A) and (B) "DEVELOPMENT AND DEMONSTRATION" and "COLLABORATION REQUIRED", respectively.

Subsec. (a)(4). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (4) "AGREEMENTS TO CARRY OUT PROJECTS" and subpars. (A) to (D) "AUTHORITY", "SELECTION", "COST-SHARING", and "BRIEFING", respectively.

Subsec. (b)(1), (2). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "ESTABLISHMENT" and "AREAS OF FOCUS", respectively.

Subsec. (b)(3). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (3) "PROJECT SELECTION" and subpars. (A) and (B) "SELECTION" and "BRIEFING", respectively.

Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (6) headings which read as follows: " ESTABLISHMENT", "AREAS OF FOCUS", "INDIVIDUAL RESEARCH GRANTS", "GRANTS FOR INTERDISCIPLINARY COLLABORATIONS", "HIRING OF UNDERGRADUATES", and " WORKSHOPS", respectively.

## §6178. Report on defense environmental cleanup expenditures

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Energy shall submit to Congress a report on how the defense environmental cleanup funds of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1393.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2587 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6179. Public participation in planning for defense environmental cleanup

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and attorneys general of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for defense environmental cleanup activities at Department of Energy defense nuclear facilities.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1393.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2588 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6180. Policy of Department of Energy regarding future defense environmental management matters

(a) POLICY REQUIRED.—(1) Commencing not later than October 1, 2005, the Secretary of Energy shall have in effect a policy for carrying out future defense environmental management matters of the Department of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.

(2) In paragraph (1), the term "future defense environmental management matter" means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after November 24, 2003. However, such term does not include any such project or activity the responsibility for which has been assigned, as of November 24, 2003, to the Environmental Management program of the Department.

(b) REFLECTION IN BUDGET.—For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) reflect the policy required by subsection (a).

(c) CONSULTATION.—The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.[1]

(d) REPORT.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1394, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2589 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(4).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

[1] *So in original.*

## §6181. Estimation of costs of meeting defense environmental cleanup milestones required by consent orders

The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report on the cost, for that fiscal year and the four fiscal years following that fiscal year, of meeting milestones required by a consent order at each defense nuclear facility at which defense environmental cleanup activities are occurring. The report shall include, for each such facility—

(1) a specification of the cost of meeting such milestones during that fiscal year; and

(2) an estimate of the cost of meeting such milestones during the four fiscal years following that fiscal year.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1394.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2590 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6182. Public statement of environmental liabilities

Each year, at the same time that the Department of Energy submits its annual financial report under section 3516 of title 31, the Secretary of Energy shall make available to the public a statement of environmental liabilities, as calculated for the most recent audited financial statement of the

Department under section 3515 of that title, for each defense nuclear facility at which defense environmental cleanup activities are occurring.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1395.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2591 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## SUBCHAPTER II—CLOSURE OF FACILITIES

Sec.
6191. Reports in connection with permanent closures of Department of Energy defense nuclear facilities.
6192. Defense site acceleration completion.
6193. Sandia National Laboratories.
6194. Plan for deactivation and decommissioning of nonoperational defense nuclear facilities.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

### §6191. Reports in connection with permanent closures of Department of Energy defense nuclear facilities

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility permanently ceases all production and processing operations, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the defense environmental cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of defense environmental cleanup activities at the facility; and

(3) a discussion of the proposed cleanup schedule.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1395.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2602 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### §6192. Defense site acceleration completion

(a) IN GENERAL.—Notwithstanding the provisions of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), the requirements of section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), and other laws that define classes of radioactive waste, with respect to material stored at a Department of Energy site at which activities are regulated by a covered State pursuant to approved closure plans or permits issued by the State, the term "high-level radioactive waste" does not include radioactive waste resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy (in this section referred to as the "Secretary"), in consultation with the Nuclear Regulatory Commission (in this section referred to as the "Commission"), determines—

(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste;

(2) has had highly radioactive radionuclides removed to the maximum extent practical; and

(3)(A) does not exceed concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, and will be disposed of—

(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations; and

(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; or

(B) exceeds concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, but will be disposed of—

(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations;

(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; and

(iii) pursuant to plans developed by the Secretary in consultation with the Commission.

(b) MONITORING BY NUCLEAR REGULATORY COMMISSION.—(1) The Commission shall, in coordination with the covered State, monitor disposal actions taken by the Department of Energy pursuant to subparagraphs (A) and (B) of subsection (a)(3) for the purpose of assessing compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations.

(2) If the Commission considers any disposal actions taken by the Department of Energy pursuant to those subparagraphs to be not in compliance with those performance objectives, the Commission shall, as soon as practicable after discovery of the noncompliant conditions, inform the Department of Energy, the covered State, and the following congressional committees:

(A) The Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate.

(3) For fiscal year 2005, the Secretary shall, from amounts available for defense site acceleration completion, reimburse the Commission for all expenses, including salaries, that the Commission incurs as a result of performance under subsection (a) and this subsection for fiscal year 2005. The Department of Energy and the Commission may enter into an interagency agreement that specifies the method of reimbursement. Amounts received by the Commission for performance under subsection (a) and this subsection may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, and shall remain available until expended.

(4) For fiscal years after 2005, the Commission shall include in the budget justification materials submitted to Congress in support of the Commission budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) the amounts required, not offset by revenues, for performance under subsection (a) and this subsection.

(c) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any

material otherwise covered by that subsection that is transported from the covered State.

(d) COVERED STATES.—For purposes of this section, the following States are covered States:

(1) The State of South Carolina.

(2) The State of Idaho.

(e) CONSTRUCTION.—(1) Nothing in this section shall impair, alter, or modify the full implementation of any Federal Facility Agreement and Consent Order or other applicable consent decree for a Department of Energy site.

(2) Nothing in this section establishes any precedent or is binding on the State of Washington, the State of Oregon, or any other State not covered by subsection (d) for the management, storage, treatment, and disposition of radioactive and hazardous materials.

(3) Nothing in this section amends the definition of "transuranic waste" or regulations for repository disposal of transuranic waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579; 106 Stat. 4777) or part 191 of title 40, Code of Federal Regulations.

(4) Nothing in this section shall be construed to affect in any way the obligations of the Department of Energy to comply with section 6154.

(5) Nothing in this section amends the West Valley Demonstration Act [1] (Public Law 96–368; 42 U.S.C. 2021a note).

(f) JUDICIAL REVIEW.—Judicial review shall be available in accordance with chapter 7 of title 5, for the following:

(1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.

(2) Any failure of the Commission to carry out its responsibilities under subsection (b).

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1395.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Nuclear Waste Policy Act of 1982, referred to in subsec. (a), is Pub. L. 97–425, Jan. 7, 1983, 96 Stat. 2201, which is classified generally to chapter 108 (§10101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10101 of Title 42 and Tables.

The Waste Isolation Pilot Plant Land Withdrawal Act, referred to in subsec. (e)(3), is Pub. L. 102–579, Oct. 30, 1992, 106 Stat. 4777, which is not classified to the Code.

The West Valley Demonstration Act, referred to in subsec. (e)(5), probably means the West Valley Demonstration Project Act, Pub. L. 96–368, Oct. 1, 1980, 94 Stat. 1347, which is set out as a note under section 2021a of Title 42, The Public Health and Welfare.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3116 of Pub. L. 108–375, which was set out as a note under section 2602 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(16).

[1] *See References in Text note below.*

## §6193. Sandia National Laboratories

Funds appropriated by the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 3), or any other Act thereafter, may not be obligated to pay, on behalf of the United States or a contractor or subcontractor of the United States, to post a bond or fulfill any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories and properties held or managed by Sandia National Laboratories prior to implementation of closure or post-closure monitoring. The State of New Mexico or any other entity

may not enforce against the United States or a contractor or subcontractor of the United States, in this year or any other fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or postclosure care and monitoring of Sandia National Laboratories in New Mexico and properties held or managed by Sandia National Laboratories in New Mexico.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1397.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Consolidated Appropriations Act, 2004, referred to in text, is Pub. L. 108–199, Jan. 23, 2004, 118 Stat. 3. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 127 of Pub. L. 108–199, which was set out as a note under section 2602 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(17).

## §6194. Plan for deactivation and decommissioning of nonoperational defense nuclear facilities

(a) IN GENERAL.—The Secretary of Energy shall, every four years beginning in 2025, develop and subsequently carry out a plan for the activities of the Department of Energy relating to the deactivation and decommissioning of nonoperational defense nuclear facilities.

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) A list of nonoperational defense nuclear facilities, prioritized for deactivation and decommissioning based on the potential to reduce risks to human health, property, or the environment and to maximize cost savings.

(2) An assessment of the life cycle costs of each nonoperational defense nuclear facility during the period beginning on the date on which the plan is submitted under subsection (d) and ending on the earlier of—

(A) the date that is 25 years after the date on which the plan is submitted; or

(B) the estimated date for deactivation and decommissioning of the facility.

(3) An estimate of the cost and time needed to deactivate and decommission each nonoperational defense nuclear facility.

(4) A schedule for when the Office of Environmental Management will accept each nonoperational defense nuclear facility for deactivation and decommissioning.

(5) An estimate of costs that could be avoided by—

(A) accelerating the cleanup of nonoperational defense nuclear facilities; or

(B) other means, such as reusing such facilities for another purpose.

(c) PLAN FOR TRANSFER OF RESPONSIBILITY FOR CERTAIN FACILITIES.—The Secretary shall, during 2025, develop and subsequently carry out a plan under which the Administrator shall transfer, by March 31, 2029, to the Assistant Secretary for Environmental Management the responsibility for decontaminating and decommissioning facilities of the Administration that the Secretary determines are nonoperational as of September 30, 2024.

(d) SUBMISSION TO CONGRESS.—Not later than March 31, 2025, and every four years thereafter, the Secretary shall submit to the appropriate congressional committees a report that includes—

(1) the plan required by subsection (a);

(2) a description of the deactivation and decommissioning actions expected to be taken during the following fiscal year pursuant to the plan;

(3) in the case of the report submitted during 2025, the plan required by subsection (c); and

(4) a description of the deactivation and decommissioning actions taken at each nonoperational defense nuclear facility during the period following the date on which the previous report required by this section was submitted.

(e) TERMINATION.—The requirements of this section shall terminate after the submission to the appropriate congressional committees of the report required by subsection (d) to be submitted not later than March 31, 2033.

(f) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(2) The term "life cycle costs", with respect to a facility, means—

(A) the present and future costs of all resources and associated cost elements required to develop, produce, deploy, or sustain the facility; and

(B) the present and future costs to deactivate, decommission, and deconstruct the facility.

(3) The term "nonoperational defense nuclear facility" means a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) under the control or jurisdiction of the Secretary of Energy and operated for national security purposes that is no longer needed for the mission of the Department of Energy, including the National Nuclear Security Administration.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1397.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2603 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## SUBCHAPTER III—HANFORD RESERVATION, WASHINGTON

Sec.

6201. Safety measures for waste tanks at Hanford Nuclear Reservation.
6202. Hanford waste tank cleanup program reforms.
6203. River protection project.
6204. Notification regarding air release of radioactive or hazardous material.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6201. Safety measures for waste tanks at Hanford Nuclear Reservation

(a) IDENTIFICATION AND MONITORING OF TANKS.—Not later than February 3, 1991, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether continuous monitoring is being

carried out to detect a release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.

(b) ACTION PLANS.—Not later than March 5, 1991, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).

(c) PROHIBITION.—Beginning March 5, 1991, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under subsection (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1399.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6201 was renumbered section 8281 of this title.

Provisions similar to those in this section were contained in section 2621 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6202. Hanford waste tank cleanup program reforms

(a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION.—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the "Office of River Protection" (in this section referred to as the "Office").

(b) MANAGEMENT AND RESPONSIBILITIES OF OFFICE.—(1) The Office shall be headed by a senior official of the Department of Energy, who shall report to the Assistant Secretary of Energy for Environmental Management.

(2) The head of the Office shall be responsible for managing all aspects of the River Protection Project, Richland, Washington, including Hanford Tank Farm operations and the Waste Treatment Plant.

(3)(A) The Assistant Secretary of Energy for Environmental Management shall delegate in writing responsibility for the management of the River Protection Project, Richland, Washington, to the head of the Office.

(B) Such delegation shall include, at a minimum, authorities for contracting, financial management, safety, and general program management that are equivalent to the authorities of managers of other operations offices of the Department of Energy.

(C) The head of the Office shall, to the maximum extent possible, coordinate all activities of the Office with the manager of the Richland Operations Office of the Department of Energy.

(c) DEPARTMENT RESPONSIBILITIES.—The Secretary shall provide the head of the Office with the resources and personnel necessary to carry out the responsibilities specified in subsection (b)(2).

(d) NOTIFICATION.—The Assistant Secretary of Energy for Environmental Management shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notification detailing any changes in the roles, responsibilities, and reporting relationships that involve the Office.

(e) TERMINATION.—The Office shall terminate on September 30, 2024. The Office may be extended beyond that date if the Assistant Secretary of Energy for Environmental Management determines in writing that termination would disrupt effective management of the Hanford Tank Farm operations.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1399, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6202 was renumbered section 8282 of this title.

Provisions similar to those in this section were contained in section 2622 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6203. River protection project

The tank waste remediation system environmental project, Richland, Washington, including all programs relating to the retrieval and treatment of tank waste at the site at Hanford, Washington, under the management of the Office of River Protection, shall be known and designated as the "River Protection Project". Any reference to that project in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the River Protection Project.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1400.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6203 was renumbered section 8283 of this title.

Provisions similar to those in this section were contained in section 2623 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6204. Notification regarding air release of radioactive or hazardous material

If the Secretary of Energy (or a designee of the Secretary) is notified of an improper release into the air of radioactive or hazardous material above applicable statutory or regulatory limits that resulted from waste generated by atomic energy defense activities at the Hanford Nuclear Reservation, Richland, Washington, the Secretary (or designee of the Secretary) shall—

(1) not later than two business days after being notified of the release, notify the congressional defense committees of the release; and

(2) not later than seven business days after being notified of the release, provide the congressional defense committees a briefing on the status of the release, including—

(A) the cause of the release, if known; and

(B) preliminary plans to address and remediate the release, including associated costs and timelines.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1400.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2627 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

# SUBCHAPTER IV—SAVANNAH RIVER SITE, SOUTH CAROLINA

Sec.
6211. Accelerated schedule for isolating high-level nuclear waste at the Defense Waste Processing Facility, Savannah River Site.
6212. Multi-year plan for clean-up.
6213. Continuation of processing, treatment, and disposal of legacy nuclear materials.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6211. Accelerated schedule for isolating high-level nuclear waste at the Defense Waste Processing Facility, Savannah River Site

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule—

(1) will achieve long-term cost savings to the Federal Government; and

(2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1401.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2631 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6212. Multi-year plan for clean-up

The Secretary of Energy shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

(1) Nuclear weapons activities carried out at the site.

(2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1401.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2632 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6213. Continuation of processing, treatment, and disposal of legacy nuclear materials

The Secretary of Energy shall continue operations and maintain a high state of readiness at the H–canyon facility at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facility.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1401.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2633 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

# CHAPTER 605—SAFEGUARDS AND SECURITY MATTERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Safeguards and Security** | **6221** |
| **II.** | **Classified Information** | **6231** |


**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## SUBCHAPTER I—SAFEGUARDS AND SECURITY


Sec.

6221. Prohibition on international inspections of Department of Energy facilities unless protection of restricted data is certified.

6222. Restrictions on access to national security laboratories by foreign visitors from sensitive countries.

6223. Background investigations of certain personnel at Department of Energy facilities.

6224. Department of Energy counterintelligence polygraph program.

6225. Notice to congressional committees of certain security and counterintelligence failures within atomic energy defense programs.

6226. Annual report and certification on status of security of atomic energy defense facilities.

6227. Protection of certain nuclear facilities and assets from unmanned aircraft.

6228. Reporting on penetrations of networks of contractors and subcontractors.


**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

### §6221. Prohibition on international inspections of Department of Energy facilities unless protection of restricted data is certified

The Secretary of Energy may not allow an inspection of a national security laboratory or nuclear weapons production facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no Restricted Data will be revealed during such inspection.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1401.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6221 was renumbered section 8286 of this title.

Provisions similar to those in this section were contained in section 2651 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### §6222. Restrictions on access to national security laboratories by foreign visitors

## from sensitive countries

(a) BACKGROUND REVIEW REQUIRED.—The Secretary of Energy and the Administrator may not admit to any facility described in paragraph (3) of subsection (c) other than areas accessible to the general public any individual who is a citizen or agent of a covered foreign nation or a nation on the current sensitive countries list unless the Secretary or Administrator first completes a background review with respect to that individual.

(b) SENSE OF CONGRESS REGARDING BACKGROUND REVIEWS.—It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence should ensure that background reviews carried out under this section are completed in not more than 15 days.

(c) PROHIBITION ON ADMITTANCE.—(1) With respect to an individual who is a citizen or agent of a covered foreign nation, the Secretary and the Administrator may not, except as provided in paragraph (2), admit such individual to any areas not accessible to the general public within a facility described in paragraph (3).

(2) The Secretary, acting through the Administrator, may waive the prohibition under paragraph (1) with respect to an individual who is a citizen or agent of a covered foreign nation if, not later than 30 days prior to admitting such individual to a facility described in such paragraph, the Secretary certifies to Congress that—

(A) the admittance of such individual to the facility is in the national security interests of the United States;

(B) no classified or restricted data will be revealed to such individual in connection with the admittance of such individual to the facility;

(C) the Secretary or Administrator has consulted with the heads of other relevant departments or agencies of the United States Government to mitigate risks associated with the admittance of such individual; and

(D) the background review completed to [1] subsection (a) with respect to such individual did not uncover any previously unreported affiliation with military or intelligence organizations associated with a covered foreign nation.

(3) A facility described in this paragraph is a facility, or any portion thereof, that directly supports the mission, functions, and operations of the Administration (as described in this subpart) and is located on—

(A) a national security laboratory;

(B) a nuclear weapons production facility; or

(C) a site that directly supports the protection, development, sustainment, or disposal of technologies or materials related to the provision of nuclear propulsion for United States naval vessels.

(4) The prohibition under paragraph (1) shall take effect on April 15, 2025.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or otherwise affect the authority of the Secretary or the Administrator to—

(1) admit to a facility described in paragraph (3) of subsection (c)—

(A) a citizen or lawful permanent resident of the United States;

(B) an individual involved in an International Atomic Energy Agency (IAEA) inspection (as defined in the "Agreement between the United States and the IAEA for the Application of Safeguards in the U.S."); or

(C) an individual involved in information exchanges in support of activities of the United States with respect to nonproliferation, counterproliferation, and counterterrorism, in accordance with international treaties or other legally-binding agreements or instruments to which the United States is a party; or

(2) admit any individual to a facility, or any portion thereof, that is not directly associated with or directly funded to perform the mission, functions, and operations of the Administration (as

described in this subpart).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "background review", commonly known as an indices check, means a review of information provided by the Director of National Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.

(2) The term "covered foreign nation" means—

(A) the People's Republic of China;

(B) the Russian Federation;

(C) the Democratic People's Republic of Korea; and

(D) the Islamic Republic of Iran.

(3) The term "sensitive countries list" means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1401, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6222 was renumbered section 8287 of this title.

Provisions similar to those in this section were contained in section 2652 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (4) headings which read as follows: "IN GENERAL", "WAIVER", "FACILITIES DESCRIBED", and "EFFECTIVE DATE", respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON CONDUCT BY DEPARTMENT OF ENERGY OF BACKGROUND REVIEWS FOR ACCESS BY CERTAIN INDIVIDUALS TO NATIONAL SECURITY LABORATORIES

Pub. L. 115–232, div. C, title XXXI, §3121, Aug. 13, 2018, 132 Stat. 2295, as amended by Pub. L. 119–60, div. C, title XXXI, §3111(c)(2)(M), Dec. 18, 2025, 139 Stat. 1461, provided that:

"(a) IN GENERAL.—The Secretary of Energy shall establish a pilot program to assess the feasibility and advisability of conducting background reviews required by section 6222(a) of title 10, United States Code[,] within the Department of Energy.

"(b) REQUIREMENTS.—Under the pilot program established under subsection (a), the Secretary may admit an individual described in section 6222(a) of title 10, United States Code[,] to a facility of a national security laboratory described in that section if, in addition to the conduct of a background review under subsection (a) with respect to that individual—

"(1) the Secretary determines that the admission of that individual to that facility is in the national interest and will further science, technology, and engineering capabilities in support of the mission of the Department of Energy; and

"(2) a security plan is developed and implemented to mitigate the risks associated with the admission of that individual to that facility.

"(c) ROLES OF SECRETARY AND DIRECTOR OF NATIONAL INTELLIGENCE AND DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION.—

"(1) ROLE OF SECRETARY.—Under the pilot program under subsection (a), the Secretary shall conduct background reviews for all individuals described in section 6222(a) of title 10, United States Code[,] seeking admission to facilities of national security laboratories described in that section. Such reviews by the Secretary shall be conducted independent of and in addition to background reviews

conducted by the Director of National Intelligence and the Director of the Federal Bureau of Investigation under that section.

"(2) ROLES OF DIRECTOR OF NATIONAL INTELLIGENCE AND DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION.—Notwithstanding paragraph (1), during the period during which the pilot program established under subsection (a) is being carried out, the Director of National Intelligence and the Director of the Federal Bureau of Investigation shall retain primary responsibility for the conduct of all background reviews required by section 6222(a) of title 10, United States Code.

"(d) TERMINATION.—The pilot program established under subsection (a) shall terminate on the date that is two years after the date of the enactment of this Act [Aug. 13, 2018].

"(e) REPORT REQUIRED.—Not later than 90 days after the date on which the pilot program established under subsection (a) terminates under subsection (d), the Secretary of Energy, in consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, shall submit to the appropriate congressional committees a report on the conduct of background reviews under the pilot program that includes—

"(1) a comparison of the effectiveness of and timelines required for background reviews conducted by the Secretary under the pilot program and background reviews conducted by the Director of National Intelligence and the Director of the Federal Bureau of Investigation under section 6222(a) of title 10, United States Code; and

"(2) the number of such reviews conducted for individuals who are citizens or agents of each country on the sensitive countries list referred to in that section.

"(f) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) NATIONAL SECURITY LABORATORY.—The term 'national security laboratory' has the meaning given that term in section 6101 of title 10, United States Code."

[1] *So in original.*

## §6223. Background investigations of certain personnel at Department of Energy facilities

The Secretary of Energy shall ensure that an investigation meeting the requirements of section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is made for each Department of Energy employee, or contractor employee, at a national security laboratory or nuclear weapons production facility who—

(1) carries out duties or responsibilities in or around a location where Restricted Data is present; or

(2) has or may have regular access to a location where Restricted Data is present.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1403.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6223, act Aug. 10, 1956, ch. 1041, 70A Stat. 388; Pub. L. 101–510, div. A, title III, §327(b), Nov. 5, 1990, 104 Stat. 1532; Pub. L. 102–25, title VII, §701(j)(7), Apr. 6, 1991, 105 Stat. 116, generally prohibited any Navy band or Marine Corps band from competing with civilian musicians, prior to repeal by Pub. L. 110–181, div. A, title V, §590(b)(1), Jan. 28, 2008, 122 Stat. 138. See section 974 of this title.

Provisions similar to those in this section were contained in section 2653 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6224. Department of Energy counterintelligence polygraph program

(a) NEW COUNTERINTELLIGENCE POLYGRAPH PROGRAM REQUIRED.—The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) AUTHORITIES AND LIMITATIONS.—(1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of title 5 (commonly referred to as the Administrative Procedures Act).

(2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

(3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rulemaking for the new program.

(4) In the event of a counterintelligence investigation, the regulations prescribed under paragraph (1) may ensure that the persons subject to the counterintelligence polygraph program required by subsection (a) include any person who is—

(A) a national of the United States (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) and also a national of a foreign state; and

(B) an employee or contractor who requires access to classified information.

(c) POLYGRAPH REVIEW DEFINED.—In this section, the term "Polygraph Review" means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1403, 1462.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6224, act Aug. 10, 1956, ch. 1041, 70A Stat. 388, provided that members of the United States Navy Band and the United States Marine Corps Band shall lose no allowances while on concert tours approved by the President, prior to repeal by Pub. L. 87–649, §14c(46), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962. See section 425 of Title 37, Pay and Allowances of the Uniformed Services.

Provisions similar to those in this section were contained in section 2654 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6225. Notice to congressional committees of certain security and counterintelligence failures within atomic energy defense programs

(a) REQUIRED NOTIFICATION.—The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each significant atomic energy defense intelligence loss. Any such notification shall be provided only after consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate.

(b) SIGNIFICANT ATOMIC ENERGY DEFENSE INTELLIGENCE LOSSES.—In this section, the term "significant atomic energy defense intelligence loss" means any national security or counterintelligence failure or compromise of classified information at a facility of the Department of Energy or operated by a contractor of the Department that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States.

(c) MANNER OF NOTIFICATION.—Notification of a significant atomic energy defense

intelligence loss under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (d), not later than 30 days after the date on which the Department of Energy determines that the loss has taken place.

(d) PROCEDURES.—The Secretary of Energy and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(e) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 3091) for the President to ensure that the congressional intelligence committees are kept fully informed of the intelligence activities of the United States and for those committees to notify promptly other congressional committees of any matter relating to intelligence activities requiring the attention of those committees.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1404, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2656 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6226. Annual [1] report and certification on status of security of atomic energy defense facilities

(a) REPORT AND CERTIFICATION ON NUCLEAR SECURITY ENTERPRISE.—(1) Not later than September 30 of each even-numbered year, the Administrator shall submit to the Secretary of Energy—

(A) a report detailing the status of security at facilities holding Category I and II quantities of special nuclear material that are administered by the Administration; and

(B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Administration and the Department of Energy.

(2) If the Administrator is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Administrator shall submit to the Secretary with the matters required by paragraph (1) a corrective action plan for the facility describing—

(A) the deficiency that resulted in the Administrator being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

(3) Not later than December 1 of each even-numbered year, the Secretary shall submit to the

congressional defense committees the unaltered report, certification, and any corrective action plans submitted by the Administrator under paragraphs (1) and (2) together with any comments of the Secretary.

(b) REPORT AND CERTIFICATION ON ATOMIC ENERGY DEFENSE FACILITIES NOT ADMINISTERED BY THE ADMINISTRATION.—(1) Not later than December 1 of each even-numbered year, the Secretary shall submit to the congressional defense committees—

(A) a report detailing the status of the security of atomic energy defense facilities holding Category I and II quantities of special nuclear material that are not administered by the Administration; and

(B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Department of Energy.

(2) If the Secretary is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Secretary shall submit to the congressional defense committees, together with the matters required by paragraph (1), a corrective action plan describing—

(A) the deficiency that resulted in the Secretary being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1405, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2657 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

[1] *So in original. Probably should be "Biennial".*

## §6227. Protection of certain nuclear facilities and assets from unmanned aircraft

(a) AUTHORITY.—Notwithstanding any provision of title 18, the Secretary of Energy may take such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Energy, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire, oral, or electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Energy shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Energy is subject to forfeiture to the United States.

(d) REGULATIONS.—The Secretary of Energy and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(e) DEFINITIONS.—In this section:

(1) The term "covered facility or asset" means any facility or asset that is—

(A) identified by the Secretary of Energy for purposes of this section;

(B) located in the United States (including the territories and possessions of the United States); and

(C)(i) owned by or contracted to the National Nuclear Security Administration, including any facility that stores or uses special nuclear material; or

(ii) a national security laboratory or nuclear weapons production facility.

(2) The terms "unmanned aircraft" and "unmanned aircraft system" have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 [1] note).

(Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(1)(E), (2)(B), 3114, Dec. 18, 2025, 139 Stat. 1406, 1462, 1464.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 331 of the FAA Modernization and Reform Act of 2012, referred to in subsec. (e)(2), which was formerly set out in a note under section 40101 of Title 49, Transportation, was transferred and is now set out in a note under section 44802 of Title 49.

**CODIFICATION**

Amendment by section 3114 of Pub. L. 119–60 directed to section 4510 of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(E) of Pub. L. 119–60. See Further Technical Amendments note set out under section 6114 of this title.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2661 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (e)(1)(C). Pub. L. 119–60, §§3111(d)(1)(E), 3114, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "owned by the United States or contracted to the United States, to store or use special nuclear material." See Codification note above.

[1] *See References in Text note below.*

## §6228. Reporting on penetrations of networks of contractors and subcontractors

(a) PROCEDURES FOR REPORTING PENETRATIONS.—The Administrator shall establish procedures that require each contractor and subcontractor to report to the Chief Information Officer when a covered network of the contractor or subcontractor that meets the criteria established pursuant to subsection (b) is successfully penetrated.

(b) ESTABLISHMENT OF CRITERIA FOR COVERED NETWORKS.—(1) The Administrator shall, in consultation with the officials specified in paragraph (2), establish criteria for covered

networks to be subject to the procedures for reporting penetrations under subsection (a).

(2) The officials specified in this paragraph are the following officials of the Administration:

(A) The Deputy Administrator for Defense Programs.

(B) The Associate Administrator for Acquisition and Project Management.

(C) The Chief Information Officer.

(D) Any other official of the Administration the Administrator considers necessary.

(c) PROCEDURE REQUIREMENTS.—(1)(A) The procedures established pursuant to subsection (a) shall require each contractor or subcontractor to submit to the Chief Information Officer a report on each successful penetration of a covered network of the contractor or subcontractor that meets the criteria established pursuant to subsection (b) not later than 60 days after the discovery of the successful penetration.

(B) Subject to subparagraph (C), each report required by subparagraph (A) with respect to a successful penetration of a covered network of a contractor or subcontractor shall include the following:

(i) A description of the technique or method used in such penetration.

(ii) A sample of the malicious software, if discovered and isolated by the contractor or subcontractor, involved in such penetration.

(iii) A summary of information created by or for the Administration in connection with any program of the Administration that has been potentially compromised as a result of such penetration.

(C) If a contractor or subcontractor is not able to obtain all of the information required by subparagraph (B) to be included in a report required by subparagraph (A) by the date that is 60 days after the discovery of a successful penetration of a covered network of the contractor or subcontractor, the contractor or subcontractor shall—

(i) include in the report all information available as of that date; and

(ii) provide to the Chief Information Officer the additional information required by subparagraph (B) as the information becomes available.

(2) Concurrent with the establishment of the procedures pursuant to subsection (a), the Administrator shall establish procedures to be used if information owned by the Administration was in use during or at risk as a result of the successful penetration of a covered network—

(A) in order to—

(i) in the case of a penetration of a covered network of a management and operating contractor, enhance the access of personnel of the Administration to Government-owned equipment and information; and

(ii) in the case of a penetration of a covered network of a contractor or subcontractor that is not a management and operating contractor, facilitate the access of personnel of the Administration to the equipment and information of the contractor or subcontractor; and

(B) which shall—

(i) include mechanisms for personnel of the Administration to, upon request, obtain access to equipment or information of a contractor or subcontractor necessary to conduct forensic analysis in addition to any analysis conducted by the contractor or subcontractor;

(ii) provide that a contractor or subcontractor is only required to provide access to equipment or information as described in clause (i) to determine whether information created by or for the Administration in connection with any program of the Administration was successfully exfiltrated from a network of the contractor or subcontractor and, if so, what information was exfiltrated; and

(iii) provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(3) The procedures established pursuant to subsection (a) shall allow for limiting the dissemination of information obtained or derived through such procedures so that such information may be disseminated only to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) DEFINITIONS.—In this section:

(1) The term "Chief Information Officer" means the Associate Administrator for Information Management and Chief Information Officer of the Administration.

(2) The term "contractor" means a private entity that has entered into a contract or contractual action of any kind with the Administration to furnish supplies, equipment, materials, or services of any kind.

(3) The term "covered network" includes any network or information system that accesses, receives, or stores—

(A) classified information; or

(B) sensitive unclassified information germane to any program of the Administration, as determined by the Administrator.

(4) The term "subcontractor" means a private entity that has entered into a contract or contractual action with a contractor or another subcontractor to furnish supplies, equipment, materials, or services of any kind in connection with another contract in support of any program of the Administration.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1407, 1462.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2662 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " IN GENERAL" and "OFFICIALS SPECIFIED", respectively.

Subsec. (c)(1). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (1) "RAPID REPORTING" and subpars. (A) to (C) "IN GENERAL", "ELEMENTS", and "AVOIDANCE OF DELAYS IN REPORTING ", respectively.

Subsec. (c)(2), (3). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (2) and (3) headings which read as follows: "ACCESS TO EQUIPMENT AND INFORMATION BY ADMINISTRATION PERSONNEL" and " DISSEMINATION OF INFORMATION", respectively.

Subsec. (d). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (4) headings which corresponded to the defined term in each par.

## SUBCHAPTER II—CLASSIFIED INFORMATION

Sec.
6231. Review of certain documents before declassification and release.
6232. Protection against inadvertent release of restricted data and formerly restricted data.
6233. Supplement to plan for declassification of restricted data and formerly restricted data.

6234. Protection of classified information during laboratory-to-laboratory exchanges.
6235. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6231. Review of certain documents before declassification and release

(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains Restricted Data.

(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order No. 13526 (50 U.S.C. 3161 note) if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing Restricted Data.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1409.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2671 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6232. Protection against inadvertent release of restricted data and formerly restricted data

(a) PLAN FOR PROTECTION AGAINST RELEASE.—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 13526 (50 U.S.C. 3161 note).

(b) PLAN ELEMENTS.—The plan under subsection (a) shall include the following:

(1) The actions to be taken in order to ensure that records subject to Executive Order No. 13526 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.

(4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.

(5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.

(6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.

(7) The funding, personnel, and other resources required to carry out the plan.

(8) A timetable for implementation of the plan.

(c) LIMITATION ON DECLASSIFICATION OF CERTAIN RECORDS.—(1) Effective on October 17, 1998, and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.

(2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.

(3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

(d) SUBMISSION OF PLAN.—The Secretary of Energy shall submit the plan required under subsection (a) to the following:

(1) The Committee on Armed Services of the Senate.

(2) The Committee on Armed Services of the House of Representatives.

(3) The Assistant to the President for National Security Affairs.

(e) REPORT AND NOTIFICATION REGARDING INADVERTENT RELEASES.—(1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before October 17, 1998.

(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 13526 discovered in the two-year period preceding the submittal of the report.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1409, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order No. 12958, referred to in subsec. (e)(1), is Ex. Ord. No. 12958, Apr. 17, 1995, 60 F.R. 19825, which was formerly set out as a note under section 3161 of Title 50, War and National Defense, and was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2672 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6233. Supplement to plan for declassification of restricted data and formerly restricted data

(a) SUPPLEMENT TO PLAN.—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement

to the plan required under subsection (a) of section 6232.

(b) CONTENTS OF SUPPLEMENT.—The supplement shall provide for the application of that plan (including in particular the element of the plan required by section 6232(b)(1)) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.

(c) LIMITATION ON DECLASSIFICATION OF RECORDS.—All records referred to in subsection (b) shall be treated, for purposes of subsection (c) of section 6232, in the same manner as records referred to in subsection (a) of such section.

(d) SUBMISSION OF SUPPLEMENT.—The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 6232.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1411.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order No. 12958, referred to in subsec. (b), is Ex. Ord. No. 12958, Apr. 17, 1995, 60 F.R. 19825, which was formerly set out as a note under section 3161 of Title 50, War and National Defense, and was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2673 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6234. Protection of classified information during laboratory-to-laboratory exchanges

(a) PROVISION OF TRAINING.—The Secretary of Energy shall ensure that all Department of Energy employees and Department of Energy contractor employees participating in laboratory-to-laboratory cooperative exchange activities are fully trained in matters relating to the protection of classified information and to potential espionage and counterintelligence threats.

(b) COUNTERING OF ESPIONAGE AND INTELLIGENCE-GATHERING ABROAD.—(1) The Secretary shall establish a pool of Department employees and Department contractor employees who are specially trained to counter threats of espionage and intelligence-gathering by foreign nationals against Department employees and Department contractor employees who travel abroad for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(2) The Director of Intelligence and Counterintelligence of the Department of Energy may assign at least one employee from the pool established under paragraph (1) to accompany a group of Department employees or Department contractor employees who travel to any nation designated to be a sensitive country for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1411, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2674 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6235. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities

(a) AMOUNTS FOR DECLASSIFICATION OF RECORDS.—The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order No. 13526 (50 U.S.C. 3161 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.

(b) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS.—No records of the Department of Energy that have not as of October 5, 1999, been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1411.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2675 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

# CHAPTER 606—PERSONNEL MATTERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Personnel Management** | **6241** |
| **II.** | **Education and Training** | **6251** |
| **III.** | **Worker Safety** | **6261** |


### EDITORIAL NOTES

### CODIFICATION

Chapter analysis added pursuant to operation of section 102 of this title.

# SUBCHAPTER I—PERSONNEL MANAGEMENT


Sec.

6241. Authority for appointment of certain scientific, engineering, and technical personnel.

6242. Whistleblower protection program.

6243. Department of Energy defense nuclear facilities workforce restructuring plan.

6244. Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security.


### EDITORIAL NOTES

### CODIFICATION

Subchapter analysis added pursuant to operation of section 102 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### NATIONAL SECURITY POSITIONS WITHIN THE DEPARTMENT OF ENERGY

Pub. L. 119–60, div. C, title XXXI, §3127, Dec. 18, 2025, 139 Stat. 1470, provided that: "The Secretary of Energy shall treat any position in the Department of Energy which requires the performance of duties funded

with amounts from subfunctional category 053, atomic energy defense activities, as a position necessary to fulfill the national security responsibilities of the Department of Energy."

## §6241. Authority for appointment of certain scientific, engineering, and technical personnel

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5 governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5 or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2036.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(1)(F), (2)(B), 3115, Dec. 18, 2025, 139 Stat. 1412, 1462, 1464.)

### EDITORIAL NOTES

### CODIFICATION

Amendment by section 3115 of Pub. L. 119–60 directed to section 4601 of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(F) of Pub. L. 119–60. See Further Technical Amendments note set under section 6114 of this title.

### PRIOR PROVISIONS

A prior section 6241 was renumbered section 8291 of this title.

Provisions similar to those in this section were contained in section 2701 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (c)(1). Pub. L. 119–60, §§3111(d)(1)(F), 3115, substituted "September 30, 2036" for "September 30, 2026". See Codification note above.

## §6242. Whistleblower protection program

(a) PROGRAM REQUIRED.—The Secretary of Energy shall establish a program to ensure that covered individuals may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures.

(b) COVERED INDIVIDUALS.—For purposes of this section, a covered individual is an individual who is an employee of the Department of Energy, or of a contractor of the Department, who is engaged in the defense activities of the Department.

(c) PROTECTED DISCLOSURES.—For purposes of this section, a protected disclosure is a disclosure—

(1) made by a covered individual who takes appropriate steps to protect the security of the information in accordance with guidance provided under this section;

(2) made to a person or entity specified in subsection (d); and

(3) of classified or other information that the covered individual reasonably believes to provide direct and specific evidence of any of the following:

(A) A violation of law or Federal regulation.

(B) Gross mismanagement, a gross waste of funds, or abuse of authority.

(C) A false statement to Congress on an issue of material fact.

(d) PERSONS AND ENTITIES TO WHICH DISCLOSURES MAY BE MADE.—A person or entity specified in this subsection is any of the following:

(1) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates.

(2) An employee of Congress who is a staff member of such a committee and has an appropriate security clearance for access to information of the type disclosed.

(3) The Inspector General of the Department of Energy.

(4) The Federal Bureau of Investigation.

(5) Any other element of the Government designated by the Secretary as authorized to receive information of the type disclosed.

(e) OFFICIAL CAPACITY OF PERSONS TO WHOM INFORMATION IS DISCLOSED.—A member of, or an employee of Congress who is a staff member of, a committee of Congress specified in subsection (d) who receives a protected disclosure under this section does so in that member or employee's official capacity as such a member or employee.

(f) ASSISTANCE AND GUIDANCE.—The Secretary, acting through the Inspector General of the Department of Energy, shall provide assistance and guidance to each covered individual who seeks to make a protected disclosure under this section. Such assistance and guidance shall include the following:

(1) Identifying the persons or entities under subsection (d) to which that disclosure may be made.

(2) Advising that individual regarding the steps to be taken to protect the security of the information to be disclosed.

(3) Taking appropriate actions to protect the identity of that individual throughout that disclosure.

(4) Taking appropriate actions to coordinate that disclosure with any other Federal agency or agencies that originated the information.

(g) REGULATIONS.—The Secretary shall prescribe regulations to ensure the security of any

information disclosed under this section.

(h) NOTIFICATION TO COVERED INDIVIDUALS.—The Secretary shall notify each covered individual of the following:

(1) The rights of that individual under this section.

(2) The assistance and guidance provided under this section.

(3) That the individual has a responsibility to obtain that assistance and guidance before seeking to make a protected disclosure.

(i) COMPLAINT BY COVERED INDIVIDUALS.—If a covered individual believes that that individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the individual may submit a complaint relating to such matter to the Director of the Office of Hearings and Appeals of the Department of Energy.

(j) INVESTIGATION BY OFFICE OF HEARINGS AND APPEALS.—(1) For each complaint submitted under subsection (i), the Director of the Office of Hearings and Appeals shall—

(A) determine whether or not the complaint is frivolous; and

(B) if the Director determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Director shall submit a report on each investigation undertaken under paragraph (1)(B) to—

(A) the individual who submitted the complaint on which the investigation is based;

(B) the contractor concerned, if any; and

(C) the Secretary of Energy.

(k) REMEDIAL ACTION.—(1) Whenever the Secretary determines that a covered individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the Secretary shall—

(A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(l) RELATIONSHIP TO OTHER LAWS.—The protections provided by this section are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 16) or any other law that may provide protection for disclosures of information by employees of the Department of Energy or of a contractor of the Department.

(m) ANNUAL REPORT.—(1) Not later than 30 days after the commencement of each fiscal year, the Director shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the investigations undertaken under subsection (j)(1)(B) during the preceding fiscal year, including a summary of the results of each such investigation.

(2) A report under paragraph (1) may not identify or otherwise provide any information about an individual submitting a complaint under this section without the consent of the individual.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1413, 1462.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Whistleblower Protection Act of 1989, referred to in subsec. (l), is Pub. L. 101–12, Apr. 10, 1989, 103 Stat. 16, which enacted subchapters II (§1211 et seq.) and III (§1221 et seq.) of chapter 12 and section 3352 of Title 5, Government Organization and Employees, amended sections 1201 to 1206, 1209, 1211, 2302, 2303, 3393, 7502, 7512, 7521, 7542, 7701, and 7703 of Title 5 and section 4139 of Title 22, Foreign Relations and Intercourse, repealed sections 1207 and 1208 of Title 5, and enacted provisions set out as notes under sections 1201, 1211, and 5509 of Title 5. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1201 of Title 5 and Tables.

**PRIOR PROVISIONS**

A prior section 6242 was renumbered section 8292 of this title.

Provisions similar to those in this section were contained in section 2702 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6243. Department of Energy defense nuclear facilities workforce restructuring plan

(a) IN GENERAL.—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy shall develop a plan for restructuring the workforce for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—(1) In developing a plan referred to in subsection (a), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the workforce at a Department of Energy defense nuclear facility—

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Secretary of Labor under title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, workforce bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act,[1] whichever is later.

(2) In addition to the plans submitted under paragraph (1), the Secretary shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under subsection (c)(6).

(f) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term "Department of Energy defense nuclear facility" means—

(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, and the 236 H facility at Savannah River, South Carolina), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada National Security Site, Nevada, and the Pantex facility, Texas);

(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(5) any facility described in paragraphs (1) through (4) that—

(A) is no longer in operation;

(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(C) was operated for national security purposes.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1415, 1462.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to in subsec. (c)(2), is section 3152 of Pub. L. 101–189, div. C, title XXXI, Nov. 29, 1989, 103 Stat. 1682, which is not classified to the Code.

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(6)(A), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (c)(6)(C), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552. Title II of the Act is classified generally to subchapter II (§3141 et seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

The date of the enactment of this Act, referred to in subsec. (e)(1), originally meant the date of enactment of Pub. L. 102–484, which enacted the predecessor to this section and was approved Oct. 23, 1992. Such section was subsequently transferred to Pub. L. 107–314, which was approved Dec. 2, 2002, and later repealed and restated as this section by Pub. L. 119–60, which was approved Dec. 18, 2025.

Executive Order Number 12344, referred to in subsec. (f)(1), is set out as a note under section 2511 of Title 50, War and National Defense.

**PRIOR PROVISIONS**

A prior section 6243 was renumbered section 8293 of this title.

Provisions similar to those in this section were contained in section 2704 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

[1] *See References in Text note below.*

## §6244. Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security

(a) AUTHORITY TO PRESENT CERTIFICATE OF COMMENDATION.—The Secretary of Energy may present a certificate of commendation to any current or former employee of the Department of Energy, and any current or former employee of a Department contractor, whose service to the Department in matters relating to stockpile stewardship and security assisted the Department in furthering the national security interests of the United States.

(b) CERTIFICATE.—The certificate of commendation presented to a current or former employee under subsection (a) shall include an appropriate citation of the service of the current or former employee described in that subsection, including a citation for dedication, intellect, and sacrifice in furthering the national security interests of the United States by maintaining a strong, safe, and viable United States nuclear deterrent during the cold war or thereafter.

(c) DEPARTMENT OF ENERGY DEFINED.—For purposes of this section, the term "Department of Energy" includes any predecessor agency of the Department of Energy.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1417.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6244 was renumbered section 8294 of this title.

Provisions similar to those in this section were contained in section 2705 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

Prior sections 6245 to 6250 were renumbered sections 8295 to 8300 of this title, respectively.

# SUBCHAPTER II—EDUCATION AND TRAINING

Sec.
6251. Executive management training in Department of Energy.
6252. Stockpile stewardship recruitment and training program.
6253. Fellowship program for development of skills critical to the nuclear security enterprise.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6251. Executive management training in Department of Energy

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall at a minimum include instruction in the following areas:

(1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to defense environmental cleanup.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1417.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6251 was renumbered section 8301 of this title.

Provisions similar to those in this section were contained in section 2721 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6252. Stockpile stewardship recruitment and training program

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 6111, the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the national security laboratories.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—As part of the recruitment and training program, the directors of the national security laboratories may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the national security laboratories, shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1418, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6252 was renumbered section 8302 of this title.

Provisions similar to those in this section were contained in section 2722 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6253. Fellowship program for development of skills critical to the nuclear security enterprise

(a) IN GENERAL.—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the nuclear security enterprise. Under the fellowship program, the Secretary shall provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the nuclear security enterprise.

(b) ELIGIBLE INDIVIDUALS.—Individuals eligible for participation in the fellowship program are United States citizens who are either of the following:

(1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.

(2) Individuals engaged in postdoctoral studies in such fields.

(c) COVERED FACILITIES.—The Secretary shall carry out the fellowship program at or in connection with the national security laboratories and nuclear weapons production facilities.

(d) ADMINISTRATION.—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) ALLOCATION OF FUNDS.—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) AGREEMENT.—(1) The Secretary may allow an individual to participate in the program only if the individual signs an agreement described in paragraph (2).

(2) An agreement referred to in paragraph (1) shall be in writing, shall be signed by the participant, and shall include the participant's agreement to serve, after completion of the course of study for which the assistance was provided, as a full-time employee in a position in the nuclear security enterprise for a period of time to be established by the Secretary of Energy of not less than one year, if such a position is offered to the participant.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1418, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6253 was renumbered section 8303 of this title.

Prior sections 6254 to 6256 were renumbered sections 8304 to 8306 of this title, respectively.

A prior section 6257 was renumbered section 8307 of this title.

Another prior section 6257 was renumbered section 8308 of this title.

A prior section 6258 was renumbered section 8308 of this title.

Provisions similar to those in this section were contained in section 2723 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## SUBCHAPTER III—WORKER SAFETY

Sec.
6261. Worker protection at nuclear weapons facilities.
6262. Safety oversight and enforcement at defense nuclear facilities.
6263. Program to monitor department of energy workers exposed to hazardous and radioactive substances.
6264. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation.
6265. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management.
6266. Notification of nuclear criticality and non-nuclear incidents.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

### §6261. Worker protection at nuclear weapons facilities

(a) TRAINING GRANT PROGRAM.—(1) The Secretary of Energy is authorized to award grants to organizations referred to in paragraph (2) in order for such organizations—

(A) to provide training and education to persons who are or may be engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) to develop curricula for such training and education.

(2)(A) Subject to subparagraph (B), the Secretary is authorized to award grants under paragraph (1) to non-profit organizations that have demonstrated (as determined by the Secretary) capabilities in—

(i) implementing and conducting effective training and education programs relating to the general health and safety of workers; and

(ii) identifying, and involving in training, groups of workers whose duties include hazardous substance response or emergency response.

(B) The Secretary shall give preference in the award of grants under this section to employee organizations and joint labor-management training programs that are grant recipients under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a).

(3) An organization awarded a grant under paragraph (1) shall carry out training, education, or curricula development pursuant to Department of Energy orders relating to employee safety training, including orders numbered 5480.4 and 5480.11.

(b) ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS.—(1) Subject to paragraph (2), the Secretary shall assess civil penalties against any contractor of the Department of Energy who (as determined by the Secretary)—

(A) employs individuals who are engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) fails (i) to provide for the training of such individuals to carry out such hazardous substance response or emergency response, or (ii) to certify to the Department of Energy that such employees are adequately trained for such response pursuant to orders issued by the Department of Energy relating to employee safety training (including orders numbered 5480.4 and 5480.11).

(2) Civil penalties assessed under this subsection may not exceed $5,000 for each day in which a failure referred to in paragraph (1)(B) occurs.

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(d) DEFINITIONS.—For the purposes of this section, the term "hazardous substance" includes radioactive waste and mixed radioactive and hazardous waste.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1419, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2731 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6262. Safety oversight and enforcement at defense nuclear facilities

The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1420.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2732 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6263. Program to monitor department of energy workers exposed to hazardous and radioactive substances

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) IMPLEMENTATION OF PROGRAM.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;

(E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

(F) ensure that employee participation in the program is voluntary.

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and Prevention and the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health risks under Federal and State occupational, health, and safety standards.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection and Measurements.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall provide for each employee identified under paragraph (1)(B) and provided with any medical examination or test under paragraph (1) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1).

(6) The Secretary shall commence carrying out the program described in this subsection not later than October 23, 1993.

(c) AGREEMENT WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than April 23, 1993, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.

(d) DEFINITIONS.—In this section:

(1) The term "Department of Energy defense nuclear facility" has the meaning given that term in section 6243(f).

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1421, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2733 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6264. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), the Secretary of Energy shall make available $3,000,000 to the State of Washington, $1,000,000 to the State of Oregon, and $1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.

(b) PROGRAMS.—The programs to be developed by the States may include only the following activities:

(1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.

(2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.

(3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(c) PLAN AND REPORTS.—(1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.

(2) Not later than May 5, 1991, such States shall submit to the Secretary of Energy and Congress a copy of the plan developed under paragraph (1).

(3) Not later than May 5, 1992, such States shall submit to the Secretary of Energy and Congress a single report on the implementation of the plan developed under paragraph (1).

(4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid Disease Study of the Centers for Disease Control and Prevention and the Hanford Environmental Dose Reconstruction Project of the Department of Energy), and may not cause substantial damage to such research programs.

(d) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—(1) Except as

provided in paragraph (2), a person may not disclose to the public the following:

(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

(A) The disclosure of information under paragraph (2).

(B) The use of the Hanford Health Information Network database.

(C) The future disposition of the database.

(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1422, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Title XXXI of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (a), is title XXXI of div. C of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1824. For complete classification of title XXXI to the Code, see Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2734 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6265. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management

(a) NUCLEAR SAFETY AT NNSA AND DOE FACILITIES.—The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear

industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.

(b) ADEQUATE PROTECTION.—The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 182 of the Atomic Energy Act of 1954 (42 U.S.C. 2232) that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

(c) FACILITIES SPECIFIED.—Subsection (a) shall apply—

(1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and

(2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1424.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2735 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6266. Notification of nuclear criticality and non-nuclear incidents

(a) NOTIFICATION.—The Secretary of Energy or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

(b) ELEMENTS OF NOTIFICATION.—Each notification submitted under subsection (a) shall include the following:

(1) A description of the incident, including the cause of the incident.

(2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.

(3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.

(4) Any corrective action taken in response to the incident.

(c) DATABASE.—(1) The Secretary shall maintain a record of incidents described in paragraph (2).

(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

(A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.

(B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

(d) COOPERATION.—In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

(e) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term "covered facility" means—

(A) a facility of the nuclear security enterprise; and

(B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.

(3) The term "covered program" means—

(A) programs of the Administration; and

(B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1424, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2736 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

# CHAPTER 607—BUDGET AND FINANCIAL MANAGEMENT MATTERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Recurring National Security Authorization Provisions** | **6271** |
| **II.** | **Penalties** | **6301** |
| **III.** | **Other Matters** | **6311** |


**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## SUBCHAPTER I—RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS


Sec.

6271. Definitions.
6272. Reprogramming.
6273. Minor construction projects.
6274. General plant projects.
6275. Limits on construction projects.
6276. Fund transfer authority.
6277. Conceptual and construction design.
6278. Authority for emergency planning, design, and construction activities.
6279. Scope of authority to carry out plant projects.
6280. Availability of funds.
6281. Transfer of defense environmental cleanup funds.
6282. Transfer of weapons activities funds.
6283. Funds available for all national security programs of the Department of Energy.
6284. Notification of cost overruns for certain Department of Energy projects.
6285. Life-cycle cost estimates of certain atomic energy defense capital assets.
6286. Use of best practices for capital asset projects and nuclear weapon life extension programs.

6287. Matters relating to critical decisions.
6288. Unfunded priorities of the Administration.
6289. Review of adequacy of nuclear weapons budget.
6290. Improvements to cost estimates informing analyses of alternatives.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6271. Definitions

In this subchapter:

(1) The term "DOE national security authorization" means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2)(A) Except as provided by subparagraph (B), the term "minor construction threshold" means $30,000,000.

(B) The Administrator may calculate the amount specified in subparagraph (A) based on fiscal year 2022 constant dollars if the Administrator—

(i) submits to the congressional defense committees a report on the method used by the Administrator to calculate the adjustment;

(ii) a period of 30 days elapses following the date of such submission; and

(iii) publishes the adjusted amount in the Federal Register.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1425.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2741 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6272. Reprogramming

(a) IN GENERAL.—Except as provided in subsection (b) and in sections 5791 and 5792 [1] of this title, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) $5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) REPORT.—The report referred to in this subsection is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support

of the proposed action.

(d) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1426, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Sections 5791 and 5792, referred to in subsec. (a), were, prior to repeal and restatement as this section, references to sections 4710 and 4711, respectively, of Pub. L. 107–314, which were repealed and restated as sections 6281 and 6282, respectively, of this title by Pub. L. 119–60, §3111(a), (b)(1).

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2742 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (e). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " TOTAL AMOUNT OBLIGATED" and "PROHIBITED ITEMS", respectively.

*[1] So in original. Probably should be "sections 6281 and 6282". See References in Text note below.*

## §6273. Minor construction projects

(a) AUTHORITY.—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report. The report shall include with respect to each project the following:

(1) The estimated original total project cost and the estimated original date of completion.

(2) The percentage of the project that is complete.

(3) The current estimated total project cost and estimated date of completion.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) NOTIFICATION REQUIRED FOR CERTAIN PROJECTS.—Notwithstanding subsection (a), the Secretary may not start a minor construction project with a total estimated cost of more than $5,000,000 until—

(1) the Secretary notifies the congressional defense committees of such project and total

estimated cost; and

(2) a period of 15 days has elapsed after the date on which such notification is received.

(e) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term "minor construction project" means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1426.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2743 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6274. General plant projects

Plant or construction projects for which amounts are made available under this and subsequent appropriation Acts [1] with a current estimated cost of less than $10,000,000 are considered for purposes of section 6273 as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 6275 as a construction project with a current estimated cost of less than a minor construction threshold.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1427.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in text, was, prior to repeal and restatement as this section, a reference to div. B of Pub. L. 112–74, Dec. 23, 2011, 125 Stat. 852, known as the Energy and Water Development and Related Agencies Appropriations Act, 2012. For complete classification of div. B of Pub. L. 112–74 to the Code, see Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2743a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(5).

[1] *See References in Text note below.*

## §6275. Limits on construction projects

(a) CONSTRUCTION COST CEILING.—Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary of Energy has submitted to the congressional defense committees a report on

the actions and the circumstances making such action necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) EXCEPTION FOR MINOR PROJECTS.—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1427.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2744 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6276. Fund transfer authority

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than 5 percent of any such authorization may be transferred to another authorization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1428, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2745 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " TRANSFERS PERMITTED" and "MAXIMUM AMOUNTS", respectively.

## §6277. Conceptual and construction design

(a) CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $5,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 6278.

(b) CONSTRUCTION DESIGN.—(1) Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $5,000,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $5,000,000, funds for that design must be specifically authorized by law.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1428, 1462.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2746 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: " REQUIREMENT", "REQUESTS FOR CONCEPTUAL DESIGN FUNDS", and "EXCEPTIONS", respectively.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " AUTHORITY" and "LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PROJECTS", respectively.

## §6278. Authority for emergency planning, design, and construction activities

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 6277(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1429.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2747 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6279. Scope of authority to carry out plant projects

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1429.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2748 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6280. Availability of funds

(a) IN GENERAL.—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to a DOE national security authorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1429.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2749 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6281. Transfer of defense environmental cleanup funds

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL CLEANUP FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental cleanup funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—(1) Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the

manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental cleanup funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 6272 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for defense environmental cleanup activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental cleanup funds have been authorized and appropriated.

(2) The term "defense environmental cleanup funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out defense environmental cleanup activities necessary for national security programs.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1430, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2750 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (4) headings which read as follows: " NUMBER OF TRANSFERS", "AMOUNTS TRANSFERRED", "DETERMINATION REQUIRED", and " IMPERMISSIBLE USES", respectively.

## §6282. Transfer of weapons activities funds

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—(1) Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress

has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 6272 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.

(2) The term "weapons activities funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1430, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2751 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (5) headings which read as follows: " NUMBER OF TRANSFERS", "AMOUNTS TRANSFERRED", "DETERMINATION REQUIRED", " LIMITATION", and "IMPERMISSIBLE USES", respectively.

## §6283. Funds available for all national security programs of the Department of Energy

Subject to the provisions of appropriation Acts and section 6272, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1431.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2752 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6284. Notification of cost overruns for certain Department of Energy projects

(a) ESTABLISHMENT OF COST AND SCHEDULE BASELINES.—(1)(A) The Administrator shall establish a cost and schedule baseline for each nuclear stockpile life extension or new nuclear weapon program project of the Administration prior to entry into Phase 6.4 or Phase 4, as appropriate. In addition to the requirement under subparagraph (B), the cost and schedule baseline of

a nuclear stockpile life extension or new nuclear weapon program project established under this subparagraph shall be the cost and schedule as described in the first Selected Acquisition Report submitted under section 6125(a) for the project.

(B) The cost baseline developed under subparagraph (A) shall include, with respect to each stockpile life extension or new nuclear weapon program project, an estimated cost for each warhead in the project.

(C) Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

(2)(A) The Administrator shall establish a cost and schedule baseline for each major alteration project prior to entry into Phase 6.4.

(B) The cost baseline developed under subparagraph (A) shall include, with respect to each major alteration project, an estimated cost for each warhead in the project.

(C) Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

(D) In this paragraph, the term "major alteration project" means a nuclear weapon system alteration project of the Administration the cost of which exceeds $800,000,000.

(3)(A) The Secretary of Energy shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each construction project that is—

(i) in excess of $65,000,000; and

(ii) carried out by the Department using funds authorized to be appropriated for a fiscal year pursuant to a DOE national security authorization.

(B) Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(4)(A) The Secretary shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each defense environmental cleanup project that is—

(i) in excess of $65,000,000; and

(ii) carried out by the Department pursuant to such protocols.

(B) Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(b) NOTIFICATION OF COSTS EXCEEDING BASELINE.—The Administrator or the Secretary, as applicable, shall notify the congressional defense committees not later than 30 days after determining that—

(1) the total cost for a project referred to in paragraph (1), (2), (3), or (4) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and

(2) in the case of a stockpile life extension or new nuclear weapon program project referred to in subsection (a)(1) or a major alteration project referred to in subsection (a)(2), the cost for any warhead in the project will exceed an amount that is equal to 150 percent of the cost baseline established under subsection (a)(1)(B) or (a)(2)(B), as applicable, for each warhead in that project.

(c) NOTIFICATION OF DETERMINATION WITH RESPECT TO TERMINATION OR CONTINUATION OF PROJECTS AND ROOT CAUSE ANALYSES.—Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—

(1) notify the congressional defense committees with respect to whether the project will be terminated or continued;

(2) if the project will be continued, certify to the congressional defense committees that—

(A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension or new nuclear weapon program project referred to in subparagraph

(A) or (B) of subsection (a)(1) or a major alteration project referred to in subsection (a)(2), a revised estimate of the cost for each warhead in the project has been made;

(B) a review of the revised baseline has been conducted by the Director of Cost Estimating and Program Evaluation of the National Nuclear Security Administration, consistent with section 3221(d)(1)(F) of the National Nuclear Security Administration Act (50 U.S.C. 2411(d)(1)(F)).

(C) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and

(D) a management structure is in place adequate to manage and control the cost and schedule of the project; and

(3) submit to the congressional defense committees an assessment of the root cause or causes of the growth in the total cost of the project, including the contribution of any shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

(A) unrealistic performance expectations;

(B) unrealistic baseline estimates for cost or schedule;

(C) immature technologies or excessive manufacturing or integration risk;

(D) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;

(E) changes in procurement quantities;

(F) inadequate program funding or funding instability;

(G) poor performance by personnel of the Federal Government or contractor personnel responsible for program management; or

(H) any other matters.

(d) APPLICABILITY OF REQUIREMENTS TO REVISED COST AND SCHEDULE BASELINES.—A revised cost and schedule baseline established under subsection (c) shall—

(1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2) and the results of the review conducted by the Director of Cost Estimating and Program Evaluation under subsection (c)(2)(B); and

(2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(1)(G), (2), 3116, Dec. 18, 2025, 139 Stat. 1431, 1462, 1464.)

## EDITORIAL NOTES

### CODIFICATION

Amendment by section 3116 of Pub. L. 119–60 directed to section 4713 of Pub. L. 107–314 executed to this section pursuant to section 3111(d)(1)(G) of Pub. L. 119–60. See Further Technical Amendments note set under section 6114 of this title.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2753 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a)(1). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (1) "ESTABLISHMENT OF COST AND SCHEDULE BASELINES" and subpars. (A) to (C) "IN GENERAL", "PER UNIT COST", and " NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES", respectively.

Subsec. (a)(1)(A). Pub. L. 119–60, §§3111(d)(1)(G), 3116(1)(A), inserted "prior to entry into Phase 6.4 or Phase 4, as appropriate" after "Administration" in first sentence. See Codification note above.

Subsec. (a)(2). Pub. L. 119–60, §3111(d)(2)(A), struck out headings for par. (2) "MAJOR ALTERATION PROJECTS" and subpars. (A) to (D) "IN GENERAL", "PER UNIT COST", "NOTIFICATION TO

CONGRESSIONAL DEFENSE COMMITTEES", and "MAJOR ALTERATION PROJECT DEFINED", respectively.

Subsec. (a)(2)(A). Pub. L. 119–60, §§3111(d)(1)(G), 3116(1)(B), inserted "prior to entry into Phase 6.4" after "project". See Codification note above.

Subsec. (a)(3), (4). Pub. L. 119–60, §3111(d)(2)(A), struck out subpars. (A) and (B) headings which read as follows: "IN GENERAL" and "NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES", respectively.

Subsec. (c)(2)(B) to (D). Pub. L. 119–60, §§3111(d)(1)(G), 3116(2), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively. See Codification note above.

Subsec. (d)(1). Pub. L. 119–60, §§3111(d)(1)(G), 3116(3), inserted "and the results of the review conducted by the Director of Cost Estimating and Program Evaluation under subsection (c)(2)(B)" after "subsection (c)(2)". See Codification note above.

## §6285. Life-cycle cost estimates of certain atomic energy defense capital assets

(a) IN GENERAL.—The Secretary of Energy shall ensure that an independent life-cycle cost estimate under Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets), or a successor order, of each capital asset described in subsection (b) is conducted before the asset achieves critical decision 2 in the acquisition process.

(b) CAPITAL ASSETS DESCRIBED.—A capital asset described in this subsection is an atomic energy defense capital asset—

(1) the total project cost of which exceeds $100,000,000; and

(2) the purpose of which is to perform a limited-life, single-purpose mission.

(c) INDEPENDENT DEFINED.—For purposes of subsection (a), the term "independent", with respect to a life-cycle cost estimate of a capital asset, means that the life-cycle cost estimate is prepared by an organization independent of the project sponsor, using the same detailed technical and procurement information as the sponsor, to determine if the life-cycle cost estimate of the sponsor is accurate and reasonable.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1434.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2754 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6286. Use of best practices for capital asset projects and nuclear weapon life extension programs

(a) ANALYSES OF ALTERNATIVES.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 726), the Secretary of Energy, in coordination with the Administrator, shall ensure that analyses of alternatives are conducted (including through contractors, as appropriate) in accordance with best practices for capital asset projects and life extension programs of the Administration and capital asset projects relating to defense environmental management.

(b) COST ESTIMATES.—Not later than 30 days after the date of the enactment of such Act, the Secretary, in coordination with the Administrator, shall develop cost estimates in accordance with cost estimating best practices for capital asset projects and life extension programs of the Administration and capital asset projects relating to defense environmental management.

(c) REVISIONS TO DEPARTMENTAL PROJECT MANAGEMENT ORDER AND NUCLEAR WEAPON LIFE EXTENSION REQUIREMENTS.—As soon as practicable after the date of the

enactment of such Act, but not later than two years after such date of enactment, the Secretary shall revise—

(1) the capital asset project management order of the Department of Energy to require the use of best practices for preparing cost estimates and for conducting analyses of alternatives for Administration and defense environmental management capital asset projects; and

(2) the nuclear weapon life extension program procedures of the Department to require the use of best practices for preparing cost estimates and conducting analyses of alternatives for Administration life extension programs.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1434.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 and the date of the enactment of such Act, referred to in text, is the date of enactment of Pub. L. 114–92, which was approved Nov. 15, 2015.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3117 of Pub. L. 114–92, which was set out as a note under section 2754 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(18).

## §6287. Matters relating to critical decisions

(a) POST-CRITICAL DECISION 2 CHANGES.—After the date on which a plant project specifically authorized by law and carried out under Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets), or a successor order, achieves critical decision 2, the Administrator may not change the requirements for such project if such change increases the cost of such project by more than the lesser of $5,000,000 or 15 percent, unless—

(1) the Administrator submits to the congressional defense committees—

(A) a certification that the Administrator, without delegation, authorizes such proposed change; and

(B) a cost-benefit and risk analysis of such proposed change, including with respect to—

(i) the effects of such proposed change on the project cost and schedule; and

(ii) any mission risks and operational risks from making such change or not making such change; and

(2) a period of 15 days elapses following the date of such submission.

(b) REVIEW AND APPROVAL.—The Administrator shall ensure that critical decision packages are timely reviewed and either approved or disapproved.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1435.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2755 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6288. Unfunded priorities of the Administration

(a) ANNUAL REPORT OR CERTIFICATION.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, the Administrator shall submit to the Secretary of Energy and the congressional defense committees either—

(1) a report on the unfunded priorities of the Administration; or

(2) if the Administrator determines that there are no unfunded priorities to include in such a report, a certification and explanation by the Administrator, without delegation, of the determination.

(b) ELEMENTS.—(1) Each report under subsection (a)(1) shall specify, for each unfunded priority covered by the report, the following:

(A) A summary description of that priority, including the objectives to be achieved or the risk to be mitigated if that priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives or risk mitigation under subparagraph (A).

(C) Account information with respect to that priority.

(2) Each report under subsection (a)(1) shall present the unfunded priorities covered by the report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term "unfunded priority", in the case of a fiscal year, means a program, activity, or mission requirement that—

(1) is not funded in the budget of the President for that fiscal year as submitted to Congress pursuant to section 1105(a) of title 31;

(2) is necessary to address a requirement associated with the mission of the Administration; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the Administrator—

(A) if additional resources were available for the budget to fund the program, activity, or mission requirement; or

(B) in the case of a program, activity, or mission requirement that emerged after the budget was formulated, if the program, activity, or mission requirement had emerged before the budget was formulated.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §§3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1435, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2756 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: " IN GENERAL" and "PRIORITIZATION OF PRIORITIES", respectively.

## §6289. Review of adequacy of nuclear weapons budget

(a) REVIEW OF ADEQUACY OF ADMINISTRATION BUDGET BY NUCLEAR WEAPONS COUNCIL.—(1) The Secretary of Energy shall transmit to the Nuclear Weapons Council (in this section referred to as the "Council") a copy of the proposed budget request of the Administration for each fiscal year before that budget request is submitted to the Director of the Office of Management and Budget in relation to the preparation of the budget of the President to be submitted to Congress under section 1105(a) of title 31.

(2) The Council shall review each budget request transmitted to the Council under paragraph (1) in accordance with section 179(f).

(3)(A) If the Council submits to the Secretary of Energy a written description under section 179(f)(2)(B)(i) with respect to the budget request of the Administration for a fiscal year, the Secretary shall include as an appendix to the budget request submitted to the Director of the Office of Management and Budget—

(i) the funding levels and initiatives identified in that description; and

(ii) any additional comments the Secretary considers appropriate.

(B) The Secretary of Energy shall transmit to Congress, with the budget justification materials submitted in support of the Department of Energy budget for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), a copy of the appendix described in subparagraph (A).

(b) REVIEW AND CERTIFICATION OF DEPARTMENT OF ENERGY BUDGET BY NUCLEAR WEAPONS COUNCIL.—At the time the Secretary of Energy submits the budget request of the Department of Energy for that fiscal year to the Director of the Office of Management and Budget in relation to the preparation of the budget of the President, the Secretary shall transmit a copy of the budget request of the Department to the Council.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1436, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2757 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (a). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: " TRANSMISSION TO COUNCIL", "REVIEW", and "DEPARTMENT OF ENERGY RESPONSE", respectively.

Subsec. (a)(3). Pub. L. 119–60, §3111(d)(2)(A), struck out subpars. (A) and (B) headings which read as follows: "IN GENERAL" and "TRANSMISSION TO CONGRESS", respectively.

## §6290. Improvements to cost estimates informing analyses of alternatives

(a) REQUIREMENT FOR ANALYSES OF ALTERNATIVES.—The Administrator shall ensure that any cost estimate used in an analysis of alternatives for a project carried out using funds authorized by a DOE national security authorization is designed to fully satisfy the requirements outlined in the mission needs statement approved at critical decision 0 in the acquisition process, as set forth in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets) or a successor order.

(b) USE OF PROJECT ENGINEERING AND DESIGN FUNDS.—In the case of a project the total estimated cost of which exceeds $500,000,000 and that has not reached critical decision 1 in the acquisition process, the Administrator may use funds authorized by a DOE national security authorization for project engineering and design to begin the development of a conceptual design to facilitate the development of a cost estimate for the project during the analysis of alternatives for the project if—

(1) the Administrator—

(A) determines that such use of funds would improve the quality of the cost estimate for the project; and

(B) notifies the congressional defense committees of that determination; and

(2) a period of 15 days has elapsed after the date on which such committees receive the notification.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1437.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2758 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

A prior section 6291, act Aug. 10, 1956, ch. 1041, 70A Stat. 391, provided for honorable discharges for enlisted members of the naval service, prior to repeal by Pub. L. 90–235, §3(b)(1), Jan. 2, 1968, 81 Stat. 758.

A prior section 6292 was renumbered section 8317 of this title.

A prior section 6293, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for discharges for minors enlisted in the naval service or in the Regular Navy as seamen, seamen apprentices or seamen recruits. See section 1170 of this title, prior to repeal by Pub. L. 90–235, §3(a)(2), Jan. 2, 1968, 81 Stat. 757.

A prior section 6294, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, authorized Secretary of Navy to terminate enlistment of and discharge any enlisted woman in Regular Navy or Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §373(g), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

Prior sections 6295 to 6298 were repealed by Pub. L. 90–235, §§3(a)(2), (b)(1), 8(3), Jan. 2, 1968, 81 Stat. 757, 758, 764.

Section 6295, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for early discharges from the Regular Navy. See section 1171 of this title.

Section 6296, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for furlough without pay for any enlisted member of the Regular Navy for the unexpired term of his enlistment.

Section 6297, act Aug. 10, 1956, ch. 1041, 70A Stat. 393, provided for disposition of uniforms of enlisted members of the naval service who were discharged and for disposition of uniforms of and clothing allowance and emergency funds for enlisted members of the naval service who were discharged other than honorably.

Section 6298, act Aug. 10, 1956, ch. 1041, 70A Stat. 393, authorized Secretary of Navy to permit any person honorably discharged from the naval service to live at any naval receiving station while he was eligible for a reenlistment bonus.

## SUBCHAPTER II—PENALTIES

Sec.
6301. Restriction on use of funds to pay penalties under environmental laws.
6302. Restriction on use of funds to pay penalties under Clean Air Act.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6301. Restriction on use of funds to pay penalties under environmental laws

(a) RESTRICTION.—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such

purpose.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1437.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2761 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6302. Restriction on use of funds to pay penalties under Clean Air Act

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if—

(1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance; or

(2) the President has specifically requested appropriations for compliance and Congress has failed to appropriate funds for such purpose.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, which enacted sections 2513 and 2762 of Title 50, War and National Defense, and other provisions not classified to the Code. Section 2513 of Title 50 was repealed and restated as section 6106 of this title by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1343, 1458. Section 2762 of Title 50 was repealed and restated as this section by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1437, 1458. For complete classification of this Act to the Code, see Tables.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2762 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

# SUBCHAPTER III—OTHER MATTERS

Sec.
6311. Reports on financial balances for atomic energy defense activities.
6312. Independent acquisition project reviews of capital assets acquisition projects.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6311. Reports on financial balances for atomic energy defense activities

(a) REPORTS REQUIRED.—(1) Concurrent with the submission of the budget justification materials submitted to Congress in support of the budget of the President for a fiscal year (submitted

to Congress pursuant to section 1105(a) of title 31), the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program.

(2) In each report required by paragraph (1), the Secretary shall—

(A) present information on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development; and

(B) present financial balances in connection with funding under recurring DOE national security authorizations (as defined in section 6271) separately from balances in connection with funding under any other provision of law.

(b) ELEMENTS.—(1) Each report required by subsection (a) shall—

(A) be divided into two parts, as specified in paragraphs (2) and (3); and

(B) set forth the information required by those paragraphs in summary form and by fiscal year.

(2) The first part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information, as of the end of the most recently completed fiscal year:

(A) The balance of any unobligated funds and an explanation for why those funds are unobligated.

(B) The total funds available to cost.

(C) The total balance of costed funds.

(D) The total balance of uncosted funds.

(E) The threshold for the balance of uncosted funds, stated in dollars.

(F) The amount of any balance of uncosted funds that is over or under that threshold and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(G) The total balance of encumbered, uncosted funds.

(H) The total balance of unencumbered, uncosted funds.

(I) The amount of any balance of unencumbered, uncosted funds that is over or under the threshold described in subparagraph (E) and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(3) The second part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information:

(A) The balance of any unobligated funds, as of the end of the first quarter of the current fiscal year.

(B) The total balance of uncosted funds, as of the end of the first quarter of the current fiscal year.

(C) Unalloted budget authority.

(c) DEFINITIONS.—In this section:

(1) The term "costed", with respect to funds, means the funds have been obligated to a contract and goods or services have been received from the contractor in exchange for the funds.

(2) The term "encumbered", with respect to funds, means the funds have been obligated to a contract and are being held for a specific known purpose by the contractor.

(3) The term "uncosted", with respect to funds, means the funds have been obligated to a contract and goods or services have not been received from the contractor in exchange for the funds.

(4) The term "unencumbered", with respect to funds, means the funds have been obligated to a contract and are not being held for a specific known purpose by the contractor.

(5) The term "threshold" means a benchmark over which a balance carried over at the end of a fiscal year should be given greater scrutiny by Congress.

(6) The term "total funds available to cost" means the sum of—

(A) total uncosted obligations from prior fiscal years;

(B) current fiscal year obligations; and
(C) current fiscal year deobligations.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1438, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2772 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.
Subsec. (a). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "IN GENERAL" and "PRESENTATION OF INFORMATION", respectively.
Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: "FORMAT", "PART 1", and "PART 2", respectively.
Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (6) headings which corresponded to the defined term in each par.

## §6312. Independent acquisition project reviews of capital assets acquisition projects

(a) REVIEWS.—The appropriate head shall ensure that an independent entity conducts reviews of each capital assets acquisition project as the project moves toward the approval of each of critical decision 0, critical decision 1, and critical decision 2 in the acquisition process.

(b) PRE-CRITICAL DECISION 1 REVIEWS.—In addition to any other matters, with respect to each review of a capital assets acquisition project under subsection (a) that has not reached critical decision 1 approval in the acquisition process, such review shall include—

(1) a review using best practices of the analysis of alternatives for the project; and

(2) identification of any deficiencies in such analysis of alternatives for the appropriate head to address.

(c) INDEPENDENT ENTITIES.—The appropriate head shall ensure that each review of a capital assets acquisition project under subsection (a) is conducted by an independent entity with the appropriate expertise with respect to the project and the stage in the acquisition process of the project.

(d) DEFINITIONS.—In this section:

(1) The term "acquisition process" means the acquisition process for a project, as defined in Department of Energy Order 413.3B (relating to project management and project management for the acquisition of capital assets), or a successor order.

(2) The term "appropriate head" means—

(A) the Administrator, with respect to capital assets acquisition projects of the Administration; and

(B) the Assistant Secretary of Energy for Environmental Management, with respect to capital assets acquisition projects of the Office of Environmental Management.

(3) The term "capital assets acquisition project" means a project—

(A) the total project cost of which is more than $500,000,000; and

(B) that is covered by Department of Energy Order 413.3B, or a successor order, for the acquisition of capital assets for atomic energy defense activities.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1439.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2773 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

# CHAPTER 608—ADMINISTRATIVE MATTERS


| Subchapter | | Sec. |
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| **I.** | **Contracts** | **6321** |
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**EDITORIAL NOTES**

**CODIFICATION**

Chapter analysis added pursuant to operation of section 102 of this title.

## SUBCHAPTER I—CONTRACTS


Sec.

6321. Costs not allowed under covered contracts.
6322. Prohibition and report on bonuses to contractors operating defense nuclear facilities.
6323. Assessments of emergency preparedness of defense nuclear facilities.
6324. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.
6325. Notice-and-wait requirement applicable to certain third-party financing arrangements.
6326. Publication of contractor performance evaluations leading to award fees.
6327. Enhanced procurement authority to manage supply chain risk.
6328. Cost-benefit analyses for competition of management and operating contracts.


**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

### §6321. Costs not allowed under covered contracts

(a) IN GENERAL.—The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from

the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b) REGULATIONS; COSTS OF INFORMATION PROVIDED TO CONGRESS OR STATE LEGISLATURES AND RELATED COSTS.—(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(c) COVERED CONTRACT DEFINED.—In this section, the term "covered contract" means a contract for an amount more than $100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

(d) EFFECTIVE DATE.—Subsection (a) shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) are issued.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1440, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6321 was renumbered section 8321 of this title.

Provisions similar to those in this section were contained in section 2781 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6322. Prohibition and report [1] on bonuses to contractors operating defense nuclear facilities

(a) PROHIBITION.—The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.

(b) REGULATIONS.—The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than March 1, 1990.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1441.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6322 was renumbered section 8322 of this title.

Provisions similar to those in this section were contained in section 2782 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

*[1] So in original. Requirement to submit report was repealed by Pub. L. 112–239 without corresponding amendment to section catchline.*

## §6323. Assessments of emergency preparedness of defense nuclear facilities

The Secretary of Energy shall include, in each award-fee evaluation conducted under section 16.401 of title 48, Code of Federal Regulations, of a management and operating contract for a Department of Energy defense nuclear facility in 2016 or any even-numbered year thereafter, an assessment of the adequacy of the emergency preparedness of that facility, including an assessment of the seniority level of management and operating contractor employees that participate in emergency preparedness exercises at that facility.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1441.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6323 was renumbered section 8323 of this title.

Provisions similar to those in this section were contained in section 2782a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6324. Contractor liability for injury or loss of property arising out of atomic weapons testing programs

(a) SHORT TITLE.—This section may be cited as the "Atomic Energy Testing Liability Act".

(b) FEDERAL REMEDIES APPLICABLE; EXCLUSIVENESS OF REMEDIES.—(1) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by chapter 309 or 311 of title 46, as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) PROCEDURE.—A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the

Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) ACTIONS COVERED.—The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on November 5, 1990, or commenced on or after such date. Notwithstanding section 2401(b) of title 28, if a civil action or proceeding to which this section applies is pending on November 5, 1990, and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28.

(e) CONTRACTOR DEFINED.—For purposes of this section, the term "contractor" includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1442, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6324 was renumbered section 8324 of this title.

Provisions similar to those in this section were contained in section 2783 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B) realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "REMEDY" and "EXCLUSIVITY", respectively.

## §6325. Notice-and-wait requirement applicable to certain third-party financing arrangements

(a) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of Energy may not enter into an arrangement described in subsection (b) until 30 days after the date on which the Secretary notifies the congressional defense committees in writing of the proposed arrangement.

(b) COVERED ARRANGEMENTS.—(1) Except as provided in paragraph (2), an arrangement referred to in subsection (a) is any alternative financing arrangement, third-party financing arrangement, public-private partnership, privatization arrangement, private capital arrangement, or other financing arrangement that—

(A) is entered into in connection with a project conducted using funds authorized to be appropriated to the Department of Energy to carry out programs necessary for national security; and

(B) involves a contractor or Federal agency obtaining and charging to the Department of Energy

as an allowable cost under a contract the use of office space, facilities, or other real property assets with a value of at least $5,000,000.

(2) An arrangement referred to in subsection (a) does not include an arrangement that—

(A) involves the Department of Energy or a contractor acquiring or entering into a capital lease for office space, facilities, or other real property assets; or

(B) is entered into in connection with a capital improvement project undertaken as part of an energy savings performance contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1443, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6325 was renumbered section 8325 of this title.

Provisions similar to those in this section were contained in section 2784 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "IN GENERAL" and "EXCEPTION", respectively.

## §6326. Publication of contractor performance evaluations leading to award fees

(a) IN GENERAL.—The Administrator shall take appropriate actions to make available to the public, to the maximum extent practicable, contractor performance evaluations conducted by the Administration of management and operating contractors of the nuclear security enterprise that results in the award of an award fee to the contractor concerned.

(b) FORMAT.—Performance evaluations shall be made public under this section in a common format that facilitates comparisons of performance evaluations between and among similar management and operating contracts.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1443.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6326 was renumbered section 8326 of this title.

Provisions similar to those in this section were contained in section 2785 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6327. Enhanced procurement authority to manage supply chain risk

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Energy may—

(1) carry out a covered procurement action or special exclusion action; and

(2) notwithstanding any other provision of law, limit, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action or special exclusion action.

(b) REQUIREMENTS.—The Secretary may exercise the authority under subsection (a) only after—

(1) obtaining a risk assessment that demonstrates that there is a significant supply chain risk to a covered system;

(2) making a determination in writing, in unclassified or classified form, that—

(A) the use of the authority under subsection (a) is necessary to protect national security by reducing supply chain risk;

(B) less restrictive measures are not reasonably available to reduce the supply chain risk; and

(C) in a case in which the Secretary plans to limit disclosure of information under subsection (a)(2), the risk to national security of the disclosure of the information outweighs the risk of not disclosing the information; and

(3) submitting to the appropriate congressional committees, not later than seven days after the date on which the Secretary makes the determination under paragraph (2), a notice of such determination, in classified or unclassified form, that includes—

(A) the information required by section 3304(e)(2)(A) of title 41;

(B) a summary of the risk assessment required under paragraph (1); and

(C) a summary of the basis for the determination, including a discussion of less restrictive measures that were considered and why such measures were not reasonably available to reduce supply chain risk.

(c) NOTIFICATIONS.—If the Secretary has exercised the authority under subsection (a), the Secretary shall—

(1) notify appropriate parties of the covered procurement action or special exclusion action and the basis for the action only to the extent necessary to carry out the covered procurement action or special exclusion action;

(2) notify other Federal agencies responsible for procurement that may be subject to the same or similar supply chain risk, in a manner and to the extent consistent with the requirements of national security; and

(3) ensure the confidentiality of any notifications under paragraph (1) or (2).

(d) LIMITATION OF REVIEW.—No action taken by the Secretary under the authority under subsection (a) shall be subject to review in any Federal court.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority under this section to—

(1) in the case of the Administration, the Administrator; and

(2) in the case of any other component of the Department of Energy, the Senior Procurement Executive of the Department.

(f) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(2) The term "covered item of supply" means an item—

(A) that is purchased for inclusion in a covered system; and

(B) the loss of integrity of which could result in a supply chain risk for a covered system.

(3) The term "covered procurement" means the following:

(A) A source selection for a covered system or a covered item of supply involving either a performance specification, as described in subsection (a)(3)(B) of section 3306 of title 41, or an evaluation factor, as described in subsection (b)(1) of such section, relating to supply chain risk.

(B) The consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of title 41, where the task

or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk.

(C) Any contract action involving a contract for a covered system or a covered item of supply if the contract includes a clause establishing requirements relating to supply chain risk.

(4) The term "covered procurement action" means, with respect to an action that occurs in the course of conducting a covered procurement, any of the following:

(A) The exclusion of a source that fails to meet qualification requirements established pursuant to section 3311 of title 41 for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The withholding of consent for a contractor to subcontract with a particular source or the direction to a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(5) The term "covered system" means the following:

(A) National security systems (as defined in section 3552(b) of title 44) and components of such systems.

(B) Nuclear weapons and components of nuclear weapons.

(C) Items associated with the design, development, production, and maintenance of nuclear weapons or components of nuclear weapons.

(D) Items associated with the surveillance of the nuclear weapon stockpile.

(E) Items associated with the design and development of nonproliferation and counterproliferation programs and systems.

(6) The term "special exclusion action" means an action to prohibit, for a period not to exceed two years, the award of any contracts or subcontracts by the Administration or any other component of the Department of Energy related to any covered system to a source the Secretary determines to represent a supply chain risk.

(7) The term "supply chain risk" means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system or covered item of supply so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of the system or item of supply.

(g) TERMINATION.—The authority under this section shall terminate on December 31, 2028.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(A), Dec. 18, 2025, 139 Stat. 1444, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6327 was renumbered section 8327 of this title.

Provisions similar to those in this section were contained in section 2786 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (7) headings which corresponded to the defined term in each par.

## §6328. Cost-benefit analyses for competition of management and operating contracts

(a) BRIEFINGS ON REQUESTS FOR PROPOSALS.—Not later than 7 days after issuing a request for proposals for a contract to manage and operate a facility of the Administration, the Administrator shall brief the congressional defense committees on the preliminary assessment of the Administrator of the costs and benefits of the competition for the contract, including a preliminary assessment of the matters described in subsection (c) with respect to the contract.

(b) REPORTS AFTER TRANSITION TO NEW CONTRACTS.—If the Administrator awards a new contract to manage and operate a facility of the Administration, the Administrator shall submit to the congressional defense committees a report that includes the matters described in subsection (c) with respect to the contract by not later than 30 days after the completion of the period required to transition to the contract.

(c) MATTERS DESCRIBED.—The matters described in this subsection, with respect to a contract, are the following:

(1) A clear and complete description of the cost savings the Administrator expects to result from the competition for the contract over the life of the contract, including associated analyses, assumptions, and information sources used to determine such expected cost savings.

(2) A description of any key limitations or uncertainties that could affect such costs savings, including costs savings that are anticipated but not fully known.

(3) The costs of the competition for the contract, including the immediate costs of conducting the competition, the costs of the transition to the contract from the previous contract, and any increased costs over the life of the contract.

(4) A description of any disruptions or delays in mission activities or deliverables resulting from the competition for the contract.

(5) A clear and complete description of the benefits expected by the Administrator with respect to mission performance or operations resulting from the competition.

(6) How the competition for the contract complied with the Federal Acquisition Regulation regarding Federally funded research and development centers, if applicable.

(7) The factors considered and processes used by the Administrator to determine—

(A) whether to compete or extend the previous contract; and

(B) which activities at the facility should be covered under the contract rather than under a different contract.

(8) With respect to the matters included under paragraphs (1) through (7), a detailed description of the analyses conducted by the Administrator to reach the conclusions presented in the report, including any assumptions, limitations, and uncertainties relating to such conclusions.

(9) Any other matters the Administrator considers appropriate.

(d) INFORMATION QUALITY.—Each briefing required by subsection (a) and report required by subsection (b) shall be prepared in accordance with—

(1) the information quality guidelines of the Department of Energy that are relevant to the clear and complete presentation of the matters described in subsection (c); and

(2) best practices of the Government Accountability Office and relevant industries for cost estimating, if appropriate.

(e) REVIEW OF REPORTS BY COMPTROLLER GENERAL OF THE UNITED STATES.—(1) The Comptroller General of the United States shall determine, in consultation with the congressional defense committees, whether to conduct an initial review, a comprehensive review, or both, of a report required by subsection (b).

(2) The Comptroller General shall provide any initial review of a report required by subsection (b) as a briefing to the congressional defense committees not later than 180 days after that report is submitted to the congressional defense committees.

(3)(A) The Comptroller General shall submit any comprehensive review of a report required by

subsection (b) to the congressional defense committees not later than 3 years after that report is submitted to the congressional defense committees.

(B) A comprehensive review of a report required by subsection (b) shall include an assessment, based on the most current information available, of the following:

(i) The actual cost savings achieved compared to cost savings estimated under subsection (c)(1), and any increased costs incurred under the contract that were unexpected or uncertain at the time the contract was awarded.

(ii) Any disruptions or delays in mission activities or deliverables resulting from the competition for the contract compared to the disruptions and delays estimated under subsection (c)(4).

(iii) Whether expected benefits of the competition with respect to mission performance or operations have been achieved.

(iv) Such other matters as the Comptroller General considers appropriate.

(f) APPLICABILITY.—(1) The requirements for briefings under subsection (a) and reports under subsection (b) shall apply with respect to requests for proposals issued or contracts awarded, as applicable, by the Administrator during fiscal years 2019 through 2032.

(2) The requirements for briefings under subsection (a) and reports under subsection (b) shall not apply with respect to a management and operations contract for a Naval Reactor facility.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1446, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6328 was renumbered section 8328 of this title.

Another prior section 6328, acts Aug. 10, 1956, ch. 1041, 70A Stat. 396; Sept. 24, 1983, Pub. L. 98–94, title IX, §923(c)(2), 97 Stat. 643, related to treatment of fractions of years of service in computing retired pay, prior to repeal by Pub. L. 99–348, title II, §203(b)(5), July 1, 1986, 100 Stat. 696.

Provisions similar to those in this section were contained in section 2787 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

Prior sections 6329 and 6330 were renumbered sections 8329 and 8330 of this title, respectively.

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (e). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) to (3) headings which read as follows: "DETERMINATION", "INITIAL REVIEW", and "Comprehensive review" and struck out subpars. (A) and (B) headings in par. (3) which read as follows: "SUBMISSION" and "ELEMENTS", respectively.

Subsec. (f). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "IN GENERAL" and "NAVAL REACTORS", respectively.

## SUBCHAPTER II—RESEARCH AND DEVELOPMENT

Sec.
6331. Laboratory-directed research and development programs.
6332. Laboratory-directed research and development.
6333. Funding for laboratory directed research and development.
6334. Charges to individual program, project, or activity.
6335. Limitations on use of funds for laboratory directed research and development purposes.
6336. Report on use of funds for certain research and development purposes.
6337. Critical technology partnerships and cooperative research and development centers.
6338. University-based research collaboration program.
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**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(H), 3117(a), Dec. 18, 2025, 139 Stat. 1462, 1465, added item 6340. Amendment was made pursuant to operation of section 102 of this title. See Codification note set out under section 6137 of this title.

## §6331. Laboratory-directed research and development programs

(a) AUTHORITY.—Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) REGULATIONS.—The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) FUNDING.—Of the funds provided by the Department of Energy to a national security laboratory for national security activities, the Secretary shall provide a specific amount, of not less than 5 percent and not more than 7 percent of such funds, to be used by the laboratory for laboratory-directed research and development.

(d) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT DEFINED.—For purposes of this section, the term "laboratory-directed research and development" means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1448.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6331 was renumbered section 8331 of this title.

Provisions similar to those in this section were contained in section 2791 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6332. Laboratory-directed research and development

Of the funds made available by the Department of Energy for activities at government-owned, contractor-operated laboratories funded in this Act [1] or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development: *Provided further*, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1448.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in text, means div. C of Pub. L. 111–8, Mar. 11, 2009, 123 Stat. 601, known as the Energy and Water Development and Related Agencies Appropriations Act, 2009. Prior to repeal and restatement as this section, this section was section 308 of div. C of Pub. L. 111–8. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

A prior section 6332 was renumbered section 8332 of this title.

Provisions similar to those in this section were contained in section 2791a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(6).

[1] *See References in Text note below.*

## §6333. Funding for laboratory directed research and development

Notwithstanding section 307 of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85; 123 Stat. 2845), of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in the Energy and Water Development and Related Agencies Appropriations Act, 2014 (div. D of Pub. L. 113–76) or any subsequent Energy and Water Development Appropriations Act for any fiscal year, the Secretary may authorize a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory directed research and development.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1449.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 307 of the Energy and Water Development and Related Agencies Appropriations Act, 2010, referred to in text, is section 307 of Pub. L. 111–85, title III, Oct. 28, 2009, 123 Stat. 2872, which is listed in a table of similar provisions under former section 2791a of Title 50, War and National Defense.

The Energy and Water Development and Related Agencies Appropriations Act, 2014, referred to in text, is div. D of Pub. L. 113–76, Jan. 17, 2024, 128 Stat. 152. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

A prior section 6333 was renumbered section 8333 of this title.

Provisions similar to those in this section were contained in section 309 of Pub. L. 113–76, which was set out as a note under section 2791a of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(19).

## §6334. Charges to individual program, project, or activity

Of the funds authorized by the Secretary of Energy for laboratory directed research and development, no individual program, project, or activity funded by this or any subsequent Act [1] making appropriations for Energy and Water Development for any fiscal year may be charged more than the statutory maximum authorized for such activities: *Provided*, That this section shall take effect not earlier than October 1, 2015.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1449.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in text, means div. D of Pub. L. 113–235, Dec. 16, 2014, 128 Stat. 2303, known as the Energy and Water Development and Related Agencies Appropriations Act, 2015. Prior to repeal and

restatement as this section, this section was section 311 of div. D of Pub. L. 113–235. For complete classification of this Act to the Code, see Tables.

**PRIOR PROVISIONS**

A prior section 6334 was renumbered section 8334 of this title.

Provisions similar to those in this section were contained in section 2791b of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(3).

[1] *See References in Text note below.*

## §6335. Limitations on use of funds for laboratory directed research and development purposes

(a) LIMITATION ON USE OF WEAPONS ACTIVITIES FUNDS.—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for weapons activities may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) LIMITATION ON USE OF CERTAIN OTHER FUNDS.—No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for defense environmental cleanup may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the defense environmental cleanup mission of the Department of Energy.

(c) LIMITATION ON USE OF FUNDS FOR OVERHEAD.—A national security laboratory may not use funds made available under section 6331(c) to cover the costs of general and administrative overhead for the laboratory.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1449.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6335 was renumbered section 8335 of this title.

Provisions similar to those in this section were contained in section 2792 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6336. Report on use of funds for certain research and development purposes

(a) REPORT REQUIRED.—Not later than February 1 each year, the Secretary of Energy shall submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.

(b) PLANT-DIRECTED RESEARCH AND DEVELOPMENT.—(1) The report required by subsection (a) shall include, with respect to plant-directed research and development, the following:

(A) A financial accounting of expenditures for such research and development, disaggregated by nuclear weapons production facility.

(B) A breakdown of the percentage of research and development conducted by each such facility that is plant-directed research and development.

(C) An explanation of how each such facility plans to increase the availability and utilization of

funds for plant-directed research and development.

(2) In this subsection, the term "plant-directed research and development" means research and development selected by the director of a nuclear weapons production facility.

(c) PREPARATION OF REPORT.—Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(d) CRITERIA USED IN PREPARATION OF REPORT.—Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1449, 1462.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6336 was renumbered section 8336 of this title.

Provisions similar to those in this section were contained in section 2793 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (b). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "IN GENERAL" and "PLANT-DIRECTED RESEARCH AND DEVELOPMENT DEFINED", respectively.

## §6337. Critical technology partnerships and cooperative research and development centers

(a) PARTNERSHIPS.—For the purpose of facilitating the transfer of technology, the Secretary of Energy shall ensure, to the maximum extent practicable, that research on and development of dual-use critical technology carried out through atomic energy defense activities is conducted through cooperative research and development agreements, or other arrangements, that involve laboratories of the Department of Energy and other entities.

(b) COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.—(1) Subject to the availability of appropriations provided for such purpose, the Administrator shall establish a cooperative research and development center described in paragraph (2) at each national security laboratory.

(2) A cooperative research and development center described in this paragraph is a center to foster collaborative scientific research, technology development, and the appropriate transfer of research and technology to users in addition to the national security laboratories.

(3) In establishing a cooperative research and development center under this subsection, the Administrator—

(A) shall enter into cooperative research and development agreements with governmental, public, academic, or private entities; and

(B) may enter into a contract with respect to constructing, purchasing, managing, or leasing buildings or other facilities.

(c) DEFINITIONS.—In this section:

(1) The term "dual-use critical technology" means a technology—

(A) that is critical to atomic energy defense activities, as determined by the Secretary of Energy;

(B) that has military applications and nonmilitary applications; and

(C) that is a defense critical technology (as defined in section 4801).

(2) The term "cooperative research and development agreement" has the meaning given that term by section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

(3) The term "other entities" means—

(A) firms, or a consortium of firms, that are eligible to participate in a partnership or other arrangement with a laboratory of the Department of Energy, as determined in accordance with applicable law and regulations; or

(B) firms, or a consortium of firms, described in subparagraph (A) in combination with one or more of the following:

(i) Institutions of higher education in the United States.

(ii) Departments and agencies of the Federal Government other than the Department of Energy.

(iii) Agencies of State governments.

(iv) Any other persons or entities that may be eligible and appropriate, as determined in accordance with applicable laws and regulations.

(4) The term "atomic energy defense activities" does not include activities covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1450, 1462.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Executive Order No. 12344, referred to in subsec. (c)(4), is set out as a note under section 6102 of this title.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2794 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6338. University-based research collaboration program

(a) FINDINGS.—Congress makes the following findings:

(1) The maintenance of scientific and engineering competence in the United States is vital to long-term national security and the defense and national security missions of the Department of Energy.

(2) Engaging the universities and colleges of the Nation in research on long-range problems of vital national security interest will be critical to solving the technology challenges faced within the defense and national security programs of the Department of Energy in the next century.

(3) Enhancing collaboration among the national laboratories, universities and colleges, and industry will contribute significantly to the performance of these Department of Energy missions.

(b) PROGRAM.—The Secretary of Energy shall establish a university program at a location that can develop the most effective collaboration among national laboratories, universities and colleges, and industry in support of scientific and engineering advancement in key Department of Energy defense and national security program areas.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1451.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2795 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6339. Limitation on establishing an enduring bioassurance program within the administration

(a) IN GENERAL.—The Administrator may not establish, administer, manage, or facilitate a program within the Administration for the purposes of executing an enduring national security research and development effort to broaden the role of the Department of Energy in national biodefense.

(b) RULE OF CONSTRUCTION.—The limitation described in subsection (a) shall not be interpreted—

(1) to prohibit the establishment of a bioassurance program for the purpose of executing enduring national security research and development in any component of the Department of Energy other than the Administration or in any other Federal agency; or

(2) to impede the use of resources of the Administration, including resources provided by a national security laboratory or a nuclear weapons production facility site, to support the execution of a bioassurance program, if such support is provided—

(A) on a cost-reimbursable basis to an entity that is not a component of the Department of Energy; and

(B) in a manner that does not interfere with mission of such laboratory or facility.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1452.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2796 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6340. Appropriate scoping of artificial intelligence research within the administration

(a) IN GENERAL.—Funds authorized to be appropriated by this Act [1] or otherwise made available for fiscal year 2026, or any subsequent fiscal year, for the Administration for the purposes of conducting research and development of artificial intelligence technologies, executing a program to develop or manage the application of such technologies, or developing, acquiring, or sustaining any associated computing hardware or supporting infrastructure may only be used to support the nuclear security missions of the Administration.

(b) RULE OF CONSTRUCTION.—The limitation described in subsection (a) may not be interpreted—

(1) to prohibit the establishment of an enduring national security artificial intelligence research and development program in any component of the Department of Energy other than the Administration or in any other Federal agency; or

(2) to impede the use of resources of the Administration, including resources provided by a national security laboratory or a nuclear weapons production facility site, to support the execution of an enduring national security artificial intelligence research and development program or activity, if such support is provided—

(A) on a full cost recovery basis, including any associated infrastructure or utility costs, to an entity that is not a component of the Department of Energy; and

(B) in a manner that does not interfere with the nuclear security mission of such laboratory or

facility.

(Added Pub. L. 119–60, div. C, title XXXI, §§3111(d)(1)(H), 3117(a), Dec. 18, 2025, 139 Stat. 1462, 1465.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in text, means the Atomic Energy Defense Act, div. D of Pub. L. 107–314, which was classified generally to chapter 42 (§2501 et seq.) of Title 50, War and National Defense, and was repealed and substantially restated as this subpart. As enacted by Pub. L. 119–60, this section was originally part of that Act. See Codification note below.

**CODIFICATION**

Amendment by section 3117 of Pub. L. 119–60, which was directed to subtitle B of title XLVIII of Pub. L. 107–314 (50 U.S.C. 2791 et seq.) by adding section 4816 at the end, was executed by adding this section at the end of this subchapter pursuant to section 3111(d)(1)(H) of Pub. L. 119–60 and by numbering it as section 6340 to reflect the probable intent of Congress. See Further Technical Amendments note set out under section 6114 of this title.

[1] *See References in Text note below.*

## SUBCHAPTER III—FACILITIES MANAGEMENT

Sec.
6351. Transfers of real property at certain Department of Energy facilities.
6352. Engineering and manufacturing research, development, and demonstration by managers of certain nuclear weapons production facilities.
6353. Activities at covered nuclear weapons facilities.
6354. Pilot program relating to use of proceeds of disposal or utilization of certain department of energy assets.
6355. Department of Energy energy parks program.
6356. Authority to use passenger carriers for contractor commuting.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6351. Transfers of real property at certain Department of Energy facilities

(a) TRANSFER REGULATIONS.—(1) The Secretary of Energy shall prescribe regulations for the transfer by sale or lease of real property at Department of Energy defense nuclear facilities for the purpose of permitting the economic development of the property.

(2) The Secretary may not transfer real property under the regulations prescribed under paragraph (1) until—

(A) the Secretary submits a notification of the proposed transfer to the congressional defense committees; and

(B) a period of 30 days has elapsed following the date on which the notification is submitted.

(b) INDEMNIFICATION.—(1) Except as provided in paragraph (3) and subject to subsection (c), in the sale or lease of real property pursuant to the regulations prescribed under subsection (a), the Secretary may hold harmless and indemnify a person or entity described in paragraph (2) against any claim for injury to person or property that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Energy activities at the

defense nuclear facility on which the real property is located. Before entering into any agreement for such a sale or lease, the Secretary shall notify the person or entity that the Secretary has authority to provide indemnification to the person or entity under this subsection. The Secretary shall include in any agreement for such a sale or lease a provision stating whether indemnification is or is not provided.

(2) Paragraph (1) applies to the following persons and entities:

(A) Any State that acquires ownership or control of real property of a defense nuclear facility.

(B) Any political subdivision of a State that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(c) CONDITIONS.—(1) No indemnification on a claim for injury may be provided under this section unless the person or entity making a request for the indemnification—

(A) notifies the Secretary in writing within two years after such claim accrues;

(B) furnishes to the Secretary copies of pertinent papers received by the person or entity;

(C) furnishes evidence or proof of the claim;

(D) provides, upon request by the Secretary, access to the records and personnel of the person or entity for purposes of defending or settling the claim; and

(E) begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2) For purposes of paragraph (1)(A), the date on which a claim accrues is the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property referred to in subsection (b)(1) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located.

(d) AUTHORITY OF SECRETARY.—(1) In any case in which the Secretary determines that the Secretary may be required to indemnify a person or entity under this section for any claim for injury to person or property referred to in subsection (b)(1), the Secretary may settle or defend the claim on behalf of that person or entity.

(2) In any case described in paragraph (1), if the person or entity that the Secretary may be required to indemnify does not allow the Secretary to settle or defend the claim, the person or entity may not be indemnified with respect to that claim under this section.

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(f) DEFINITIONS.—In this section, the terms "hazardous substance", "release", and "pollutant or contaminant" have the meanings provided by section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1452, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2811 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6352. Engineering and manufacturing research, development, and demonstration by managers of certain nuclear weapons production facilities

(a) AUTHORITY FOR PROGRAMS AT NUCLEAR WEAPONS PRODUCTIONS FACILITIES .—The Administrator shall authorize the head of each nuclear weapons production facility to establish an Engineering and Manufacturing Research, Development, and Demonstration Program under this section.

(b) PROJECTS AND ACTIVITIES.—The projects and activities carried out through the program at a nuclear weapons production facility under this section shall support innovative or high-risk design and manufacturing concepts and technologies with potentially high payoff for the nuclear security enterprise. Those projects and activities may include—

(1) replacement of obsolete or aging design and manufacturing technologies;

(2) development of innovative agile manufacturing techniques and processes; and

(3) training, recruitment, or retention of essential personnel in critical engineering and manufacturing disciplines.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1454.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2812 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6353. Activities at covered nuclear weapons facilities

The Administrator may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: *Provided*, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Y–12 Plant, Oak Ridge, Tennessee.

(3) The Pantex Plant, Amarillo, Texas.

(4) The Savannah River Plant, South Carolina.

(5) The Nevada Test Site.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1454.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 308 of Pub. L. 108–447, which was set out as a note under section 2812 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(20).

Similar provisions were also contained in the following prior appropriation acts:

Pub. L. 108–137, title III, §308, Dec. 1, 2003, 117 Stat. 1861.

Pub. L. 108–7, div. D, title III, §308, Feb. 20, 2003, 117 Stat. 154.

Pub. L. 107–66, title III, §309, Nov. 12, 2001, 115 Stat. 509.

Pub. L. 106–377, §1(a)(2) [title III, §310], Oct. 27, 2000, 114 Stat. 1441, 1441A–80.

## §6354. Pilot program relating to use of proceeds of disposal or utilization of certain department of energy assets

(a) PURPOSE.—The purpose of this section is to encourage the Secretary of Energy to dispose of or otherwise utilize certain assets of the Department of Energy by making available to the Secretary the proceeds of such disposal or utilization for purposes of defraying the costs of such disposal or utilization.

(b) USE OF PROCEEDS TO DEFRAY COSTS.—(1) Notwithstanding section 3302 of title 31, the Secretary may retain from the proceeds of the sale, lease, or disposal of an asset under subsection (c) an amount equal to the cost of the sale, lease, or disposal of the asset. The Secretary shall utilize amounts retained under this paragraph to defray the cost of the sale, lease, or disposal.

(2) For purposes of paragraph (1), the cost of a sale, lease, or disposal shall include—

(A) the cost of administering the sale, lease, or disposal;

(B) the cost of recovering or preparing the asset concerned for the sale, lease, or disposal; and

(C) any other cost associated with the sale, lease, or disposal.

(c) COVERED TRANSACTIONS.—Subsection (b) applies to the following transactions:

(1) The sale of heavy water at the Savannah River Site, South Carolina, that is under the jurisdiction of the Defense Environmental Management Program.

(2) The sale of precious metals that are under the jurisdiction of the Defense Environmental Management Program.

(3) The lease of buildings and other facilities located at the Hanford Reservation, Washington, that are under the jurisdiction of the Defense Environmental Management Program.

(4) The lease of buildings and other facilities located at the Savannah River Site that are under the jurisdiction of the Defense Environmental Management Program.

(5) The disposal of equipment and other personal property located at the Rocky Flats Defense Environmental Technology Site, Colorado, that is under the jurisdiction of the Defense Environmental Management Program.

(6) The disposal of materials at the National Electronics Recycling Center, Oak Ridge, Tennessee that are under the jurisdiction of the Defense Environmental Management Program.

(d) APPLICABILITY OF DISPOSAL AUTHORITY.—Nothing in this section shall be construed to limit the application of subchapter II of chapter 5 and section 549 of title 40 to the disposal of equipment and other personal property covered by this section.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1454, 1462.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2813 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## §6355. Department of Energy energy parks program

(a) IN GENERAL.—The Secretary of Energy may establish a program to permit the establishment of energy parks on former defense nuclear facilities.

(b) OBJECTIVES.—The objectives for establishing energy parks pursuant to subsection (a) are the following:

(1) To provide locations to carry out a broad range of projects relating to the development and deployment of energy technologies and related advanced manufacturing technologies.

(2) To provide locations for the implementation of pilot programs and demonstration projects for new and developing energy technologies and related advanced manufacturing technologies.

(3) To set a national example for the development and deployment of energy technologies and related advanced manufacturing technologies in a manner that will promote energy security, energy sector employment, and energy independence.

(4) To create a business environment that encourages collaboration and interaction between the public and private sectors.

(c) CONSULTATION.—In establishing an energy park pursuant to subsection (a), the Secretary shall consult with—

(1) the local government with jurisdiction over the land on which the energy park will be located;

(2) the local governments of adjacent areas; and

(3) any community reuse organization recognized by the Secretary at the former defense nuclear facility on which the energy park will be located.

(d) REPORT REQUIRED.—Not later than 120 days after January 7, 2011, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the program under subsection (a). The report shall include such recommendations for additional legislative actions as the Secretary considers appropriate to facilitate the development of energy parks on former defense nuclear facilities.

(e) DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term "defense nuclear facility" has the meaning given the term "Department of Energy defense nuclear facility" in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1455.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2814 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(7).

## §6356. Authority to use passenger carriers for contractor commuting

(a) AUTHORITY.—If and to the extent that the Administrator deems it appropriate to further mission activities under section 3211 of the National Nuclear Security Administration Act (50 U.S.C. 2401), a passenger carrier may be used to provide transportation services to contractor employees between the covered facility of the contractor employee and a mass transit facility in accordance with any applicable transportation plan adopted by the Administrator pursuant to this section.

(b) PLAN REQUESTS AND APPROVAL.—(1) The Administrator—

(A) shall—

(i) provide Management and Operating contractors at covered facilities the opportunity to, on a voluntary basis, submit, through the cognizant contracting officer of the applicable covered facility, a plan to provide transportation services described in subsection (a) for contractor employees at the covered facility; and

(ii) review each such plan submitted in accordance with clause (i); and

(B) may approve each such plan if the requirements described in clauses (i) through (iv) of

paragraph (2)(B) are satisfied.

(2) Each plan submitted pursuant to paragraph (1)(A)—

(A) may include proposals for parking facilities, road improvements, real property acquisition, passenger carrier services, and commuting cost deferment payments to contractor employees; and

(B) shall include—

(i) a description of how the use of passenger carriers will facilitate the mission of the covered facility;

(ii) a description of how the plan will be economical and advantageous to the Federal Government;

(iii) a summary of the benefits that will be provided under the plan and how costs will be monitored; and

(iv) a description of how the plan will alleviate traffic congestion, reduce commuting times, and improve recruitment and retention of contractor employees.

(3) The Administrator may delegate to the Senior Procurement Executive of the Administration the approval of any plan submitted under this subsection.

(c) REIMBURSEMENT.—The Administration may reimburse a contractor for the costs of transportation services incurred pursuant to a plan approved under subsection (b) using funds appropriated to the Administration.

(d) IMPLEMENTATION.—In carrying out a plan approved under subsection (b), the Administrator, to the maximum extent practicable and consistent with sound budget policy, shall—

(1) require the use of alternative fuel vehicles to provide transportation services;

(2) ensure funds spent for this plan further the mission activities of the Administration under section 3211 of the National Nuclear Security Administration Act (50 U.S.C. 2401); and

(3) ensure that the time during which a contractor employee uses transportation services shall not be included for purposes of calculating the hours of work for such contractor employee.

(e) DEFINITIONS.—In this section:

(1) The term "contractor employee" means an employee of a Management and Operating contractor or subcontractor employee at any tier.

(2) The term "covered facility" means any facility of the Administration that directly supports the mission of the Administration under section 3211 of the National Nuclear Security Administration Act (50 U.S.C. 2401).

(3) The term "Management and Operating contractor" means a management and operating contractor that manages a covered facility.

(4) The term "passenger carrier" means a passenger motor vehicle, aircraft, boat, ship, train, or other similar means of transportation that is owned, leased, or provided pursuant to contract or subcontract by the Federal Government or through a contractor of the Administration.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2)(B), Dec. 18, 2025, 139 Stat. 1456, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2815 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

### AMENDMENTS

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

## SUBCHAPTER IV—OTHER MATTERS

Sec.
6361. Payment of costs of operation and maintenance of infrastructure at Nevada National Security Site.
6362. University-based defense nuclear policy collaboration program.

**EDITORIAL NOTES**

**CODIFICATION**

Subchapter analysis added pursuant to operation of section 102 of this title.

## §6361. Payment of costs of operation and maintenance of infrastructure at Nevada National Security Site

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada National Security Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada National Security Site.

(Added Pub. L. 119–60, div. C, title XXXI, §3111(a), Dec. 18, 2025, 139 Stat. 1457.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2822 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

## §6362. University-based defense nuclear policy collaboration program

(a) PROGRAM.—The Administrator shall carry out a program under which the Administrator establishes a policy research consortium of institutions of higher education and nonprofit entities in support of implementing and innovating the defense nuclear policy programs of the Administration. The Administrator shall establish and carry out such program in a manner similar to the program established under section 6338.

(b) PURPOSES.—The purposes of the consortium under subsection (a) are as follows:

(1) To shape the formulation and application of policy through the conduct of research and analysis regarding defense nuclear policy programs.

(2) To maintain open-source databases on issues relevant to understanding defense nuclear nonproliferation, arms control, nuclear deterrence, foreign nuclear programs, and nuclear security.

(3) To facilitate the collaboration of research centers of excellence relating to defense nuclear policy to better distribute expertise to specific issues and scenarios regarding such threats.

(c) DUTIES.—(1) The Administrator shall ensure that the consortium established under subsection (a) provides support to individuals described in paragraph (2) through the use of nongovernmental fellowships, scholarships, research internships, workshops, short courses, summer schools, and research grants.

(2) The individuals described in this paragraph are graduate students, academics, and policy specialists, who are focused on policy innovation related to—

(A) defense nuclear nonproliferation;

(B) arms control;

(C) nuclear deterrence;

(D) the study of foreign nuclear programs;

(E) nuclear security; or

(F) educating and training the next generation of defense nuclear policy experts.

(Added and amended Pub. L. 119–60, div. C, title XXXI, §3111(a), (d)(2), Dec. 18, 2025, 139 Stat. 1458, 1462.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2823 of Title 50, War and National Defense, prior to repeal by Pub. L. 119–60, §3111(b)(1).

A prior section 6371 was renumbered section 8371 of this title.

Another prior section 6371, act Aug. 10, 1956, ch. 1041, 70A Stat. 399, related to consideration for continuation on active list of Regular Navy line rear admirals not restricted in performance of duty, prior to repeal by Pub. L. 96–513, title III, §335, title VII, §701, Dec. 12, 1980, 94 Stat. 2898, 2955, effective Sept. 15, 1981.

Prior sections 6372 to 6374 were repealed by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981.

Section 6372, act Aug. 10, 1956, ch. 1041, 70A Stat. 400, related to retirement and possible retention on active list of line rear admirals restricted in performance of duty and staff corps rear admirals in Regular Navy. See section 637 of this title.

Section 6373, act Aug. 10, 1956, ch. 1041, 70A Stat. 400, related to retirement and possible retention on active list of major generals in Regular Marine Corps. See section 637 of this title.

Section 6374, acts Aug. 10, 1956, ch. 1041, 70A Stat. 401; Aug. 3, 1961, Pub. L. 87–123, §5(25), 75 Stat. 266, related to retirement for failures of selection for promotion of brigadier generals in Regular Marine Corps.

A prior section 6375, act Aug. 10, 1956, ch. 1041, 70A Stat. 401, provided for retirement of Marine Corps brigadier generals designated for supply duty after specified years of service, their retention on active list with board approval and computation of their years of service in grade, prior to repeal by Pub. L. 87–123, §5(26), Aug. 3, 1961, 75 Stat. 266.

Prior sections 6376 to 6382 were repealed by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981.

Section 6376, acts Aug. 10, 1956, ch. 1041, 70A Stat. 402; Aug. 3, 1961, Pub. L. 87–123, §5(27), 75 Stat. 266; Nov. 8, 1967, Pub. L. 90–130, §1(24)(A), 81 Stat. 380, related to retirement for length of service of Regular Navy line captains not restricted in performance duty and Regular Marine Corps colonels. See section 634 of this title.

Section 6377, acts Aug. 10, 1956, ch. 1041, 70A Stat. 402; Aug. 21, 1957, Pub. L. 85–155, title II, §201(15), 71 Stat. 384; Aug. 3, 1961, Pub. L. 87–123, §5(28), 75 Stat. 266; Sept. 30, 1966, Pub. L. 89–609, §1(16), (17), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, §1(24)(B), (C), 81 Stat. 380, related to retirement for length of service of Regular Navy line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders. See sections 633 and 634 of this title.

Section 6378, acts Aug. 10, 1956, ch. 1041, 70A Stat. 403; Aug. 21, 1957, Pub. L. 85–155, title II, §201(16), 71 Stat. 384; Aug. 3, 1961, Pub. L. 87–123, §5(29), 75 Stat. 267; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to consideration for continuation on active list of Regular Navy line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders. See section 637 of this title.

Section 6379, acts Aug. 10, 1956, ch. 1041, 70A Stat. 404; Aug. 21, 1957, Pub. L. 85–155, title II, §201(17), 71 Stat. 384; Nov. 8, 1967, Pub. L. 90–130, §1(24)(D), 81 Stat. 380, related to retirement for length of service and for failures of selection for promotion of Regular Navy commanders and Regular Marine Corps lieutenant colonels. See section 633 of this title.

Section 6380, act Aug. 10, 1956, ch. 1041, 70A Stat. 404, related to retirement for length of service and for failures of selection for promotion of Regular Navy lieutenant commanders and Regular Marine Corps majors. See section 632 of this title.

Section 6381, acts Aug. 10, 1956, ch. 1041, 70A Stat. 404; Aug. 21, 1957, Pub. L. 85–155, title II, §201(18), 71 Stat. 384; May 20, 1958, Pub. L. 85–422, §11(a)(6)(C), 71 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(6), 94 Stat. 1106, related to retirement grade and pay of officers retired under former sections 6371 to 6380 of this title. See section 642 of this title.

Section 6382, acts Aug. 10, 1956, ch. 1041, 70A Stat. 405; Aug. 21, 1957, Pub. L. 85–155, title II, §201(19), 71 Stat. 384; July 12, 1960, Pub. L. 86–616, §5(1), 74 Stat. 390; June 28, 1962, Pub. L. 87–509; §4(b), 76 Stat. 121, related to discharge for failures of selection for promotion of Regular Navy lieutenant and lieutenants (junior grade) and Regular Marine Corps captains and first lieutenants. See sections 631 and 632 of this title.

A prior section 6383 was renumbered section 8372 of this title.

Prior sections 6384 to 6388 were repealed by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981.

Section 6384, acts Aug. 10, 1956, ch. 1041, 70A Stat. 407; July 12, 1960, Pub. L. 86–616, §5(3), 74 Stat. 390; June 28, 1962, Pub. L. 87–509, §4(b), 76 Stat. 121; Sept. 30, 1966, Pub. L. 89–609, §1(18), (19), 80 Stat. 853; Sept. 19, 1978, Pub. L. 95–377, §8(a), 92 Stat. 721, related to discharge of Regular Navy and Regular Marine Corps officers having less than 20 years service for unsatisfactory performance of duty. See section 1181 et seq. of this title.

Section 6385, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Sept. 19, 1978, Pub. L. 95–377, §8(b), (c), 92 Stat. 721, provided that for purposes of involuntary retirement, separation, or furlough, an officer serving in a grade to which he was appointed under former section 5231, 5232, 5787 or 5787d of this title was to be considered as serving in a grade he would have held had it not been for such appointment. See section 627 et seq. of this title.

Section 6386, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Apr. 21, 1976, Pub. L. 94–273, §2(3), 90 Stat. 375, authorized President to suspend certain provisions relating to officers serving in grades of lieutenant and lieutenant (junior grade) in Navy or in grades of captain and first lieutenant in Marine Corps. See section 123(a), (b) of this title.

Section 6387, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Aug. 11, 1959, Pub. L. 86–155, §6, 73 Stat. 337; June 30, 1960, Pub. L. 86–558, 74 Stat. 263; Oct. 13, 1964, Pub. L. 88–647, title III, §301(16), 78 Stat. 1072, related to computation of total commissioned service for regular Navy male line officers and regular Marine Corps male officers.

Section 6388, acts Aug. 10, 1956, ch. 1041, 70A Stat. 409; Aug. 21, 1957, Pub. L. 85–155, title II, §201(20), 71 Stat. 385; Sept. 30, 1966, Pub. L. 89–609, §1(20), (21), 80 Stat. 853; Sept. 20, 1968, Pub. L. 90–502, §1, 82 Stat. 852; Dec. 24, 1970, Pub. L. 91–582, §1, 84 Stat. 1574, related to computation of total commissioned service for certain Regular Navy staff corps officers.

A prior section 6389 was renumbered section 8373 of this title.

A prior section 6390, acts Aug. 10, 1956, ch. 1041, 70A Stat. 410; May 20, 1958, Pub. L. 85–422, §11(a)(6)(E), 71 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(8), 94 Stat. 1107, related to the retirement at age 62 of officers on the active list of the Navy and officers of the Marine Corps, prior to repeal by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981. See section 1251 of this title.

Prior sections 6391 and 6392 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(b)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 6391, added Pub. L. 85–861, §1(144)(B), Sept. 2, 1958, 72 Stat. 1510; amended Pub. L. 86–559, §1(47), June 30, 1960, 74 Stat. 275; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 104–106, div. A, title XV, §1501(c)(25), Feb. 10, 1996, 110 Stat. 499, related to transfer to Retired Reserve of officers in Naval Reserve or Marine Corps Reserve above chief warrant officer, W–5, on becoming 62 years of age with provisions for deferral of retirement until age 64. See section 14512(b) of this title.

Section 6392, added Pub. L. 100–180, div. A, title VII, §717(b)(1), Dec. 4, 1987, 101 Stat. 1114; amended Pub. L. 101–189, div. A, title VII, §§710(b), 711(b), Nov. 29, 1989, 103 Stat. 1476, 1477, related to retention in active status of certain reserve officers. See section 14703(a)(2), (b) of this title.

Another prior section 6392, act Aug. 10, 1956, ch. 1041, 70A Stat. 410, related to revocation of appointments of Regular Navy and Marine Corps officers with less than three years service, prior to repeal effective Sept. 15, 1981, by Pub. L. 96–513, title III, §335, title VII, §701, Dec. 12, 1980, 94 Stat. 2898, 2955.

A prior section 6393, act Aug. 10, 1956, ch. 1041, 70A Stat. 410, authorized Secretary of Navy to terminate appointment of any woman officer in Regular Navy or Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §373(h), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

Prior sections 6394 to 6396 were repealed by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981.

Section 6394, acts Aug. 10, 1956, ch. 1041, 70A Stat. 410; May 20, 1958, Pub. L. 85–422, §11(a)(6)(F), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(144)(C), 72 Stat. 1511; Oct. 2, 1963, Pub. L. 88–132, §5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(9), 94 Stat. 1107, related to the retirement upon

board recommendation of Regular Navy rear admirals and commodores and Regular Marine Corps major generals and brigadier generals.

Section 6395, acts Aug. 10, 1956, ch. 1041, 70A Stat. 411; Aug. 21, 1957, Pub. L. 85–155, title II, §201(21), 71 Stat. 385; Sept. 30, 1966, Pub. L. 89–609, §1(22), 80 Stat. 853, related to discharge during time of war and national emergency of Regular Navy and Regular Marine Corps officers with less than 20 years of service for unsatisfactory performance of duty. See section 1181 et seq. of this title.

Section 6396, acts Aug. 10, 1956, ch. 1041, 70A Stat. 413; Aug. 21, 1957, Pub. L. 85–155, title II, §201(22), 71 Stat. 385; May 20, 1958, Pub. L. 85–422, §11(a)(6)(G), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(6), 77 Stat. 214; Sept. 30, 1966, Pub. L. 89–609 §1(23)–(26), 80 Stat. 853, 854; Nov. 8, 1967, Pub. L. 90–130, §1(24)(E), 81 Stat. 380; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(10), 94 Stat. 1107, related to retirement or discharge of Regular Navy officers in Nurse Corps in grades below commander.

A prior section 6397, added Pub. L. 85–861, §1(144)(D), Sept. 2, 1958, 72 Stat. 1511; amended Pub. L. 89–609, §1(27), Sept. 30, 1966, 80 Stat. 854; Pub. L. 96–513, title III, §338, Dec. 12, 1980, 94 Stat. 2901, related to elimination from active status of officers of Naval Reserve in Nurse Corps, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(b)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

A prior section 6398, acts Aug. 10, 1956, ch. 1041, 70A Stat. 413; May 20, 1958, Pub. L. 85–422, §11(a)(6)(H), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(6), 77 Stat. 214; Nov. 8, 1967, Pub. L. 90–130, §1(24)(F), 81 Stat. 381; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(11), 94 Stat. 1108, related to retirement for length of service of Regular Navy women captains and commanders and Regular Marine Corps women colonels and lieutenant colonels and their respective grades and pay, prior to repeal by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981. See sections 633 and 634 of this title.

A prior section 6399, acts Aug. 10, 1956, ch. 1041, 70A Stat. 414; May 20, 1958, Pub. L. 85–422, §11(a)(6)(I), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(6), 77 Stat. 214, provided for retirement of women lieutenant commanders and below of Regular Navy and women majors and below of Regular Marine Corps at age 50 and their retired grade and pay, prior to repeal by Pub. L. 90–130, §1(24)(G), Nov. 8, 1967, 81 Stat. 382.

Prior sections 6400 to 6402 were repealed by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981.

Section 6400, acts Aug. 10, 1956, ch. 1041, 70A Stat. 414; May 20, 1958, Pub. L. 85–422, §11(a)(6)(J), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(6), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(12), 94 Stat. 1108, related to retirement for length of service of Regular Navy women lieutenant commanders and Regular Marine Corps women majors.

Section 6401, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; July 12, 1960, Pub. L. 86–616, §5(4), 74 Stat. 390; June 28, 1962, Pub. L. 87–509, §4(b), 76 Stat. 121, related to discharge for length of service of Regular Navy women lieutenants and Regular Marine Corps women captains.

Section 6402, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; July 12, 1960, Pub. L. 86–616, §5(5), 74 Stat. 390, related to discharge for length of service of Regular Navy women lieutenants (junior grade) and Regular Marine Corps women first lieutenants.

A prior section 6403, added Pub. L. 85–861, §1(144)(E), Sept. 2, 1958, 72 Stat. 1511; amended Pub. L. 96–513, title V, §503(49), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 97–22, §10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to elimination from active status of women officers in Naval Reserve and Marine Corps Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(b)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

A prior section 6404 was renumbered section 8374 of this title.

A prior section 6405, act Aug. 10, 1956, ch. 1041, 70A Stat. 415, provided that an officer of Regular Navy, other than a retired officer, who accepted an appointment in the Foreign Service was considered as having resigned from the Navy, prior to repeal by Pub. L. 90–235, §4(a)(12), Jan. 2, 1968, 81 Stat. 760. See section 973 of this title.

A prior section 6406, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; Pub. L. 87–649, §14c(47), Sept. 6, 1962, 76 Stat. 501, authorized Secretary of Navy to furlough any officer of Regular Navy or Regular Marine Corps, other than a retired officer, prior to repeal by Pub. L. 91–482, §1(a), Oct. 21, 1970, 84 Stat. 1082.

A prior section 6407, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, related to communication with selection boards by officers eligible for consideration for continuation on active list, prior to repeal by Pub. L. 96–513, title III, §335, Dec. 12, 1980, 94 Stat. 2898, effective Sept. 15, 1981. See section 614 of this title.

A prior section 6408 was renumbered section 8375 of this title.

A prior section 6409, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, provided for suspension of laws for mandatory retirement or separation during war or emergency of temporary warrant officers of Navy and

Marine Corps, prior to repeal by Pub. L. 90–235, §3(b)(1), Jan. 2, 1968, 81 Stat. 758.

A prior section 6410, added Pub. L. 85–861, §1(144)(F), Sept. 2, 1958, 72 Stat. 1512; amended Pub. L. 104–106, div. A, title XV, §1501(c)(28), Feb. 10, 1996, 110 Stat. 500, related to elimination from active status of officers in Naval Reserve and Marine Corps Reserve to provide a flow of promotion, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(b)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

A prior section 6481, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, related to authority to recall retired officers of Regular Navy and Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §362(a), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981. See section 688 of this title.

A prior section 6482, act Aug. 10, 1956, ch. 1041, 70A Stat. 417, provided that in time of war or national emergency Secretary of Navy could order to active duty any retired enlisted member of Regular Navy or Regular Marine Corps, prior to repeal by Pub. L. 98–525, title V, §533(f)(1), Oct. 19, 1984, 98 Stat. 2528.

Prior sections 6483 to 6486 were renumbered sections 8383 to 8386 of this title, respectively.

Prior sections 6487 and 6488 were repealed by Pub. L. 96–513, title III, §362(b), (c), Dec. 12, 1980, 94 Stat. 2903, effective Sept. 15, 1981.

Section 6487, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to retirement pay of certain rear admirals who retire after serving two years on active duty in time of war or national emergency.

Section 6488, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to retention of certain wartime appointments or promotions upon release from active duty. See section 1370 of this title.

A prior section 6521, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to allowances to dependents, and to designation of beneficiary, prior to repeal by Pub. L. 85–861, §36B(21), Sept. 2, 1958, 72 Stat. 1571. See section 1475 et seq. of this title.

A prior section 6522 was renumbered section 8392 of this title.

Prior sections 6901 to 6906 were repealed by Pub. L. 88–647, title III, §301(17), Oct. 13, 1964, 78 Stat. 1072.

Section 6901, acts Aug. 10, 1956, ch. 1041, 70A Stat. 420; Sept. 2, 1958, Pub. L. 85–861, §1(146), 72 Stat. 1512, related to administration of Naval Reserve Officers' Training Corps.

Sections 6902 and 6903, act Aug. 10, 1956, ch. 1041, 70A Stat. 420, 421, related to transfer of graduates of Naval Reserve Officers' Training Corps to Regular Navy, administration of officer candidate training program, and to qualifications for enrollment. See sections 2104 and 2106 of this title.

Sections 6904 to 6906, acts Aug. 10, 1956, ch. 1041, 70A Stat. 421, 422, 423; Sept. 7, 1962, Pub. L. 87–649, §14c(48)–(50), 76 Stat. 501, related to officer candidate training program and qualifications and training of members. See chapters 102 and 103 of this title.

A prior section 6907, act Aug. 10, 1956, ch. 1041, 70A Stat. 424, related to retention or transfer to Reserve of officers other than naval aviators under officer candidate training program, prior to repeal by Pub. L. 87–100, §1(1), July 21, 1961, 75 Stat. 218.

A prior section 6908, act Aug. 10, 1956, 1041, 70A Stat. 424, related to selection of naval aviators for retention of transfer to the Reserve, prior to repeal by Pub. L. 88–647, title III, §301(17), Oct. 13, 1964, 78 Stat. 1072.

A prior section 6909, act Aug. 10, 1956, ch. 1041, 70A Stat. 425, related to direct procurement of ensigns and second lieutenants, prior to repeal by Pub. L. 96–513, title III, §329, Dec. 12, 1980, 94 Stat. 2896, effective Sept. 15, 1981.

A prior section 6910, act Aug. 10, 1956, ch. 1041, 70A Stat. 426, authorized payment of expenses of officer procurement program, prior to repeal by Pub. L. 88–647, title III, §301(17), Oct. 13, 1964, 78 Stat. 1072.

Prior sections 6911 to 6913 were renumbered sections 8411 to 8413 of this title, respectively.

A prior section 6914, act Aug. 10, 1956, ch. 1041, 70A Stat. 427, authorized President to appoint Naval Reserve aviators to Regular Navy and Regular Marine Corps, prior to repeal by Pub. L. 96–513, title III, §374, Dec. 12, 1980, 94 Stat. 2904, effective Sept. 15, 1981.

A prior section 6915 was renumbered section 8415 of this title.

Prior sections 6931 and 6932 were renumbered sections 8431 and 8432 of this title, respectively.

Prior sections 6951 to 6956 were renumbered sections 8451 to 8456 of this title, respectively.

Prior sections 6957 to 6957b were repealed by Pub. L. 114–328, div. A, title XII, §1248(b)(1), Dec. 23, 2016, 130 Stat. 2525.

Section 6957, act Aug. 10, 1956, ch. 1041, 70A Stat. 431; Pub. L. 98–94, title X, §1004(b)(1), Sept. 24, 1983, 97 Stat. 658; Pub. L. 105–85, div. A, title V, §§541(b), 543(b), Nov. 18, 1997, 111 Stat. 1740, 1743; Pub. L. 106–65, div. A, title V, §534(b), Oct. 5, 1999, 113 Stat. 605; Pub. L. 106–398, §1 [[div. A], title V, §532(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–110; Pub. L. 107–107, div. A, title V, §533(b)(1), (2), Dec. 28, 2001, 115 Stat. 1106, related to the selection of persons from foreign countries to receive instruction at the United States Naval Academy. See section 347 of this title.

Section 6957a, added Pub. L. 105–85, div. A, title V, §542(b)(1), Nov. 18, 1997, 111 Stat. 1741; amended Pub. L. 106–65, div. A, title V, §535(b), Oct. 5, 1999, 113 Stat. 605; Pub. L. 109–364, div. A, title V, §531(b), Oct. 17, 2006, 120 Stat. 2199, related to an exchange program with foreign military academies.

Section 6957b, added Pub. L. 110–417, [div. A], title V, §541(b)(1), Oct. 14, 2008, 122 Stat. 4455; amended Pub. L. 113–291, div. A, title V, §553(b), Dec. 19, 2014, 128 Stat. 3377, related to foreign and cultural exchange activities.

Prior sections 6958 to 6969 were renumbered sections 8458 to 8469 of this title, respectively.

A prior section 6970 was renumbered section 8470 of this title.

Another prior section 6970 was renumbered section 8470a of this title.

Another prior section 6970, acts Aug. 10, 1956, ch. 1041, 70A Stat. 435; Nov. 2, 1966, Pub. L. 89–718, §37, 80 Stat. 1120, related to detailing and duties of storekeeper at the Naval Academy, prior to repeal by Pub. L. 104–201, div. A, title III, §370(c), (e), Sept. 23, 1996, 110 Stat. 2499, effective Oct. 1, 1996.

Prior sections 6970a to 6974 were renumbered sections 8470a to 8474 of this title, respectively.

A prior section 6975 was renumbered section 8475 of this title.

Another prior section 6975, added Pub. L. 103–337, div. A, title V, §556(b)(1), Oct. 5, 1994, 108 Stat. 2774, related to position of athletic director of Naval Academy and to administration of nonappropriated fund account for athletics program of Naval Academy, prior to repeal by Pub. L. 104–106, div. A, title V, §533(b), Feb. 10, 1996, 110 Stat. 315; Pub. L. 105–85, div. A, title X, §1073(d)(1)(C), Nov. 18, 1997, 111 Stat. 1905, effective Oct. 5, 1994.

Prior sections 6976 to 6981 were renumbered sections 8476 to 8481 of this title, respectively.

**AMENDMENTS**

**2025**—Pub. L. 119–60, §3111(d)(2)(B), realigned margins.

Subsec. (c). Pub. L. 119–60, §3111(d)(2)(A), struck out pars. (1) and (2) headings which read as follows: "SUPPORT" and "INDIVIDUALS DESCRIBED", respectively.

# Subtitle B—Army

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| **703.** | **Department of the Army** | **7011** |
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## PART II—PERSONNEL


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### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(f)(2), Aug. 13, 2018, 132 Stat. 1839, redesignated items for chapters 301 to 453 as 701 to 783 and redesignated section numbers 3001 to 4831 as 7001 to 7831. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2011**—Pub. L. 112–81, div. A, title V, §591(a)(2), Dec. 31, 2011, 125 Stat. 1441, added item for chapter 446.

**2003**—Pub. L. 108–136, div. A, title V, §576(a)(2), Nov. 24, 2003, 117 Stat. 1487, added item for chapter 375.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §344(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–71, added item for chapter 434.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(7), Oct. 5, 1999, 113 Stat. 695, substituted "Disposition" for "Inquests; Disposition" and "4712" for "4711" in item for chapter 445.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(a), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 337 "Appointments as Reserve Officers", 361 "Separation for Various Reasons", and 363 "Separation or Transfer to Retired Reserve".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(2), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 431 "Industrial Mobilization, Research, and Development".

**1987**—Pub. L. 100–26, §7(j)(10)(A), Apr. 21, 1987, 101 Stat. 283, substituted "3011" for "3010" as section number in item for chapter 303.

**1980**—Pub. L. 96–513, title V, §§502(1), 512(1), Dec. 12, 1980, 94 Stat. 2909, 2929, substituted "3010" for "3011" as section number in item for chapter 303, and struck out item for chapter 359 "Separation from Regular Army for Substandard Performance of Duty", item for chapter 360 "Separation from Regular Army for Moral or Professional Dereliction or in Interests of National Security", and item for chapter 365 "Retirement for Age".

**1968**—Pub. L. 90–377, §3, July 5, 1968, 82 Stat. 288, struck out item for chapter 351 "United States Disciplinary Barracks".

Pub. L. 90–235, §8(5), Jan. 2, 1968, 81 Stat. 764, struck out item for chapter 347 "The Uniform".

**1964**—Pub. L. 88–647, title III, §301(11), Oct. 13, 1964, 78 Stat. 1072, struck out item for chapter 405 "Reserve Officers' Training Corps".

**1960**—Pub. L. 86–616, §§2(b), 3(b), July 12, 1960, 74 Stat. 388, 390, substituted "Substandard Performance of Duty" for "Failure to Meet Standards" in item for of chapter 359 and added item for chapter 360.

**1958**—Pub. L. 85–861, §1(95), Sept. 2, 1958, 72 Stat. 1487, substituted "3841" for "[No present sections]" in item for chapter 363.

# PART I—ORGANIZATION


| Chap. | | Sec. |
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| **701.** | **Definitions** | **7001** |
| **703.** | **Department of the Army** | **7011** |
| **705.** | **The Army Staff** | **7031** |
| **707.** | **The Army** | **7061** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(f)(2), Aug. 13, 2018, 132 Stat. 1839, redesignated items for chapters 301 to 307 as 701 to 707 and redesignated section numbers 3001 to 3061 as 7001 to 7061.

**1987**—Pub. L. 100–26, §7(j)(10)(A), Apr. 21, 1987, 101 Stat. 283, substituted "3011" for "3010" as section number in item for chapter 303.

**1980**—Pub. L. 96–513, title V, §512(1), Dec. 12, 1980, 94 Stat. 2929, substituted "3010" for "3011" as section number in item for chapter 303.

## CHAPTER 701—DEFINITIONS


Sec.
7001. Definitions.


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 301 of this title as this chapter and item 3001 as 7001.

## §7001. Definitions

In this title, the term "Army" means the Army or Armies referred to in the Constitution of the United States, less that part established by law as the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 157, §3001; Pub. L. 100–26, §7(k)(8), Apr. 21, 1987, 101 Stat. 284; renumbered §7001, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3001 | 5:181–3(a).<br>10:1a(a). | June 28, 1950, ch. 383, §2(a), 64 Stat. 263. |

The words "Army of the United States" and "are synonymous and" are omitted as surplusage, since the term "Army" is used throughout the revised title. 5:181–3(a) (last sentence) and 10:1a(a) (last sentence) are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3001 of this title as this section.

**1987**—Pub. L. 100–26 inserted "the term" after "In this title,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**DEEMING RULE FOR REFERENCES TO PROVISIONS OF TITLE 10 REDESIGNATED BY PUB. L. 115–232**

Pub. L. 115–232, div. A, title VIII, §809(t), Aug. 13, 2018, 132 Stat. 1844, provided that: "Any reference in a provision of law (other than a provision amended by this section [see Tables for classification]) to a section or chapter redesignated by this part [part II (§§806–809) of subtitle A of title VIII of div. A of Pub. L. 115–232, see Tables for classification] shall be deemed to refer to the section or chapter as so redesignated."

# CHAPTER 703—DEPARTMENT OF THE ARMY

Sec.
7011. Organization.
7012. Department of the Army: seal.
7013. Secretary of the Army.
7014. Office of the Secretary of the Army.
7015. Under Secretary of the Army.
7016. Assistant Secretaries of the Army.
7017. Secretary of the Army: successors to duties.
7018. Administrative Assistant.
7019. General Counsel.
7020. Inspector General.
7021. Army Reserve Forces Policy Committee.
7022. Financial management.
7023. Chief of Legislative Liaison.
7024. Director of Small Business Programs.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 303 of this title as this chapter and items 3011 to 3024 as 7011 to 7024, respectively.

**2006**—Pub. L. 109–163, div. A, title IX, §904(c)(2), Jan. 6, 2006, 119 Stat. 3401, added item 3024.

**2002**—Pub. L. 107–314, div. A, title V, §504(c)(1)(B), Dec. 2, 2002, 116 Stat. 2532, added item 3023.

**1988**—Pub. L. 100–456, div. A, title VII, §702(a)(3), Sept. 29, 1988, 102 Stat. 1994, added item 3022.

**1986**—Pub. L. 99–433, title V, §501(b), Oct. 1, 1986, 100 Stat. 1039, amended analysis generally, substituting items 3011 to 3021 for former items 3010 to 3019.

**1967**—Pub. L. 90–168, §2(17), Dec. 1, 1967, 81 Stat. 524, added item 3019.

**1964**—Pub. L. 88–426, title III, §§305(40)(B), 306(j)(2), Aug. 14, 1964, 78 Stat. 427, 431, struck out "; compensation" from item 3012, and struck out item 3018 "Compensation of General Counsel".

**1962**—Pub. L. 87–651, title II, §210(b), Sept. 7, 1962, 76 Stat. 524, added item 3010.

**1958**—Pub. L. 85–861, §1(59)(B), Sept. 2, 1958, 72 Stat. 1462, added item 3018.

## §7011. Organization

The Department of the Army is separately organized under the Secretary of the Army. It operates under the authority, direction, and control of the Secretary of Defense.

(Added Pub. L. 87–651, title II, §210(a), Sept. 7, 1962, 76 Stat. 524, §3010; renumbered §3011, Pub. L. 99–433, title V, §501(a)(2), Oct. 1, 1986, 100 Stat. 1034; renumbered §7011, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 3010 | 5:171a(c)(7) (1st sentence, as applicable to Department of Army). | July 26, 1947, ch. 343, §202(c)(7) (1st sentence, as applicable, to Department of Army); added Aug. 6, 1958, Pub. L. 85–599, §3(a) (1st sentence of 8th par., as applicable to Department of Army), 72 Stat. 516. |

The word "operates" is substituted for the words "shall function".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3011 of this title as this section.
**1986**—Pub. L. 99–433 renumbered section 3010 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7012. Department of the Army: seal

The Secretary of the Army shall have a seal for the Department of the Army. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 157, §3011; renumbered §3012, Pub. L. 99–433, title V, §501(a)(2), Oct. 1, 1986, 100 Stat. 1034; renumbered §7012, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3011 | 5:181–1(d). | July 26, 1947, ch. 343, §205(d), 61 Stat. 501. |

The words "of office" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3012 of this title as this section.
**1986**—Pub. L. 99–433 renumbered section 3011 of this title as this section.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7013. Secretary of the Army

(a)(1) There is a Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and

experience, including persons with appropriate management or leadership experience. The Secretary is the head of the Department of the Army.

(2) A person may not be appointed as Secretary of the Army within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Army is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Army, including the following functions:

(1) Recruiting.

(2) Organizing.

(3) Supplying.

(4) Equipping (including research and development).

(5) Training.

(6) Servicing.

(7) Mobilizing.

(8) Demobilizing.

(9) Administering (including the morale and welfare of personnel).

(10) Maintaining.

(11) The construction, outfitting, and repair of military equipment.

(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Army;

(2) the formulation of policies and programs by the Department of the Army that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Army;

(4) carrying out the functions of the Department of the Army so as to fulfill the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Army and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Army.

(d) The Secretary of the Army is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(f) The Secretary of the Army may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

(g) The Secretary of the Army may—

(1) assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army;

(2) change the title of any officer or activity of the Department of the Army not prescribed by law; and

(3) prescribe regulations to carry out his functions, powers, and duties under this title.

(Added Pub. L. 99–433, title V, §501(a)(5), Oct. 1, 1986, 100 Stat. 1035, §3013; amended Pub. L. 99–661, div. A, title V, §534, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 108–136, div. A, title IX, §901, Nov. 24, 2003, 117 Stat. 1558; Pub. L. 114–328, div. A, title IX, §931(a), Dec. 23, 2016, 130 Stat. 2362; renumbered §7013, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 117–81, div. A, title IX, §901(c), Dec. 27, 2021, 135 Stat. 1868.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 117–81 substituted "seven" for "five".

**2018**—Pub. L. 115–232 renumbered section 3013 of this title as this section.

**2016**—Subsec. (a)(1). Pub. L. 114–328 inserted "The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience." after first sentence.

**2003**—Subsec. (c)(4). Pub. L. 108–136 struck out "(to the maximum extent practicable)" after "fulfill".

**1986**—Subsec. (a)(2). Pub. L. 99–661 substituted "five years" for "10 years".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable with respect to appointments made on or after Dec. 27, 2021, see section 901(g) of Pub. L. 117–81, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### CENTRALIZED SECURITY MONITORING PROGRAM FOR FACILITIES OF THE ARMY

Pub. L. 118–159, div. A, title I, §111, Dec. 23, 2024, 138 Stat. 1801, provided that:

"(a) IN GENERAL.—The Secretary of the Army, in coordination with the heads of relevant organizations of the Department of Defense and other departments and agencies of the Federal Government, shall develop a plan for the implementation of a Centralized Security Monitoring Program (referred to in this section as the 'Program') for installations and facilities of the Department of the Army within the United States.

"(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

"(1) PROPOSED SECURITY SOLUTION.—A proposal for the development and implementation of a cost-effective, scalable solution to modernize and centralize security operations across Army facilities in the United States with full consideration given to minimizing operational impacts while maximizing technological advantages for enhanced security.

"(2) LOCATIONS.—Identification of at least three military installations selected to host the Program. These locations shall—

"(A) serve as the primary hubs for the continuous monitoring of installation security across all installations of the Department of the Army in the United States;

"(B) represent a mix of large and extra-large facilities, as defined by the 2016 business case analysis conducted by the Provost Marshal General of the Army; and

"(C) be chosen based on geographical diversity and their strategic importance to the Army's overall security infrastructure.

"(3) COST.—A comprehensive breakdown of the full costs of the Program, including—

"(A) initial capital expenditure for system implementation;

"(B) the cost of networking all installations and facilities across the Department of the Army within the United States;

"(C) estimated operation and maintenance costs;

"(D) a detailed funding schedule with expenditures projected across the period covered by the

most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code (as of the date of the plan); and

"(E) identification of potential cost-saving opportunities from the consolidation of current security monitoring systems.

"(4) ANALYSIS OF VIABILITY.—An assessment of the viability of funding and sustaining the Program across the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code (as of the date of the plan), considering—

"(A) the financial impact relative to existing Army security infrastructure budgets;

"(B) cost-benefit analysis of upgrading existing systems versus implementing new technologies at each selected location; and

"(C) identification of technological challenges or barriers to implementing modern monitoring solutions.

"(5) AUTHORITIES.—A list of any additional authorities, appropriations, or other resources necessary to ensure the success of the Program.

"(c) SUBMITTAL TO CONGRESS.—Not later than September 1, 2025, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a completed version of the plan developed under subsection (a).

"(d) LIMITATION ON COMMENCEMENT.—The Secretary of the Army may not commence implementation of the Program until the date on which the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that sufficient appropriations for military construction and operational costs have been programmed to fund the Program.

"(e) DEADLINE FOR IMPLEMENTATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Army shall implement the Program by not later than January 1, 2027.

"(2) ALTERNATIVE IMPLEMENTATION DATE.—In the event the certification described in subsection (d) is not submitted on or before January 1, 2027, the Secretary of the Army shall implement the Program as soon as practicable after the date on which such certification is so submitted."

## STRATEGY FOR ARMY TACTICAL WHEELED VEHICLE PROGRAM

Pub. L. 118–31, div. A, title I, §112, Dec. 22, 2023, 137 Stat. 166, as amended by Pub. L. 119–60, div. A, title I, §111, Dec. 18, 2025, 139 Stat. 750, provided that:

"(a) STRATEGY REQUIRED.—In the budget justification materials submitted in support of the budget of the Department of Defense (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) for each of fiscal years 2025, 2027, 2030, and 2035, the Secretary of the Army shall include a report on the strategy of the Army for tactical wheeled vehicles.

"(b) REQUIREMENTS FOR STRATEGY.—Each strategy required by subsection (a) shall—

"(1) align with the applicable national defense strategy under section 113(g) of title 10, United States Code, and applicable policies;

"(2) be designed so that the force of tactical wheeled vehicles provided under the strategy supports the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043); and

"(3) define capabilities and capacity requirements across the entire fleet of tactical wheeled vehicles, including—

"(A) light, medium, and heavy tactical wheeled vehicles; and

"(B) associated trailer and support equipment.

"(c) STRATEGY ELEMENTS.—Each strategy required by subsection (a) shall include the following:

"(1) A detailed program for the construction of light, medium, and heavy tactical wheeled vehicles for the Army over the period of five fiscal years following the date of the strategy.

"(2) A description of the necessary force structure and capabilities of tactical wheeled vehicles to meet the requirements of the national security strategy described in subsection (b)(2).

"(3) The estimated levels of annual funding, by vehicle class, in both graphical and tabular form, necessary to carry out the program described in paragraph (1), together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

"(4) The estimated total cost of construction for each vehicle class used to determine the estimated levels of annual funding described in paragraph (3).

"(d) CONSIDERATIONS.—In developing each strategy required by subsection (a), the Secretary of the Army shall consider the following objectives and factors:

"(1) Objectives relating to protection, fleet operations, mission command, mobility, and the industrial base.

"(2) Technological advances that are expected to increase efficiency of and reduce demand for tactical wheeled vehicles.

"(3) Technological advances that allow for the operation of tactical wheeled vehicles in a variety of climate and geographic conditions.

"(4) Existing commercial technologies such as vehicle electrification, autonomous capabilities, and predictive maintenance, among others.

"(5) The capabilities of autonomous equivalents to tactical wheeled vehicles.

"(e) BRIEFING REQUIREMENTS.—Not later than 15 days after each budget submission described in subsection (a), in conjunction with the submission of each strategy required by such subsection, the Secretary of the Army shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing that addresses the investment needed for each platform of tactical wheeled vehicle of the Army across the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code (as of the date of the briefing)."

## INCREASED FITNESS STANDARDS FOR ARMY CLOSE COMBAT FORCE MILITARY OCCUPATIONAL SPECIALTIES

Pub. L. 118–31, div. A, title V, §577, Dec. 22, 2023, 137 Stat. 278, provided that:

"(a) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of the Army shall implement increased minimum fitness standards as part of the Army Combat Fitness Test for all soldiers of the following military occupational specialties or areas of concentration:

"(1) 11A.

"(2) 11B.

"(3) 11C.

"(4) 11Z.

"(5) 12A.

"(6) 12B.

"(7) 13A.

"(8) 13F.

"(9) 18A.

"(10) 18B.

"(11) 18C.

"(12) 18D.

"(13) 18E.

"(14) 18F.

"(15) 18Z.

"(16) 19A.

"(17) 19C.

"(18) 19D.

"(19) 19K.

"(20) 19Z.

"(b) BRIEFING.—Not later than 365 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of the Army provide [sic] a briefing to the Committees on Armed Services of the Senate and House of Representatives describing the methodology used to establish standards under subsection (a)."

## PILOT PROGRAMS FOR TACTICAL VEHICLE SAFETY DATA COLLECTION

Pub. L. 117–263, div. A, title III, §389, Dec. 23, 2022, 136 Stat. 2547, provided that:

"(a) IN GENERAL.—Not later than October 1, 2023, the Secretary of the Army and the Secretary of the Navy shall each initiate a pilot program to evaluate the utility of using data recorders to monitor, assess, and improve readiness and the safe operation of military tactical vehicles in the Army and the Marine Corps, respectively.

"(b) DURATION.—Each pilot program initiated under subsection (a) shall be carried out for a period of not less than two years.

"(c) REQUIREMENTS.—In carrying out a pilot program under this section, the Secretary of the Army and the Secretary of the Navy each shall—

"(1) select not fewer than one military installation in the United States under the jurisdiction of the

Secretary that contains the necessary forces, equipment, and maneuver training ranges to collect data on drivers and military tactical vehicles during training and routine operation at which to carry out the pilot program;

"(2) install data recorders on a sufficient number of each type of military tactical vehicle specified in subsection (d) to gain statistically significant results;

"(3) select a data recorder capable of collecting and exporting telemetry data, event data, and driver identification data during operation and accidents;

"(4) establish and maintain a data repository for operation and event data captured by the data recorder; and

"(5) establish processes to leverage operation and event data to improve individual vehicle operator performance, identify installation hazards that threaten safe vehicle operation, and identify vehicle-type specific operating conditions that increase the risk of accidents or mishaps.

"(d) MILITARY TACTICAL VEHICLES SPECIFIED.—Military tactical vehicles specified in this subsection are the following:

"(1) High Mobility Multipurpose Wheeled Vehicles.

"(2) Family of Medium Tactical Vehicles.

"(3) Medium Tactical Vehicle Replacements.

"(4) Heavy Expanded Mobility Tactical Trucks.

"(5) Light Armored Vehicles.

"(6) Stryker armored combat vehicles.

"(7) Such other military tactical vehicles as the Secretary of the Army or the Secretary of the Navy considers appropriate.

"(e) CYBER RISK EXEMPTION.—The Secretary of the Army or the Secretary of the Navy, as the case may be, may exempt from a pilot program under this section a military tactical vehicle specified under subsection (d) if that Secretary submits to the Committees on Armed Services of the House of Representatives and the Senate a certification that, with respect to inclusion of the military tactical vehicle, there is a high potential of cyber risk as a result of the absence of a cross-domain solution capable of segregating classified and unclassified data.

"(f) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of the Army and the Secretary of the Navy shall each—

"(1) develop plans for implementing the pilot programs under this section; and

"(2) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on those plans and the estimated cost of implementing those plans.

"(g) REPORT REQUIRED.—Not later than December 15, 2024, the Secretary of the Army and the Secretary of the Navy shall each submit to the congressional defense committees a report on the respective pilot programs carried out under this section by the Secretaries, including—

"(1) insights and findings regarding the utility of using data recorders to monitor, assess, and improve readiness and the safe operation of military tactical vehicles;

"(2) adjustments made, or to be made, to the implementation plans developed under subsection (f); and

"(3) any other matters determined appropriate by the Secretaries.

"(h) ASSESSMENT REQUIRED.—Not later than December 15, 2025, the Secretary of the Army and the Secretary of the Navy shall jointly submit to the congressional defense committees an assessment of the pilot programs carried out under this section, including—

"(1) insights and findings regarding the utility of using data recorders to monitor, assess, and improve readiness and the safe operation of military tactical vehicles;

"(2) an assessment of the utility of establishing an enduring program to use data recorders to monitor, assess, and improve readiness and the safe operation of military tactical vehicles;

"(3) an assessment of the scope, size, and estimated cost of such an enduring program; and

"(4) such other matters as the Secretary of the Army and the Secretary of the Navy determine appropriate."

## GENDER-NEUTRAL FITNESS PHYSICAL READINESS STANDARDS FOR MILITARY OCCUPATIONAL SPECIALTIES OF THE ARMY

Pub. L. 117–263, div. A, title V, §528, Dec. 23, 2022, 136 Stat. 2572, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of the Army shall—

"(1) establish gender-neutral physical readiness standards that ensure soldiers can perform the duties of their respective military occupational specialties; and

"(2) provide to the Committees on Armed Services of the Senate and House of Representatives a briefing describing the methodology used to determine the standards established under paragraph (1)."

## ACCESS TO TOUR OF DUTY SYSTEM

Pub. L. 117–81, div. A, title V, §513, Dec. 27, 2021, 135 Stat. 1683, provided that:

"(a) ACCESS.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of the Army shall ensure, subject to paragraph (2), that a member of the reserve components of the Army may access the Tour of Duty system using a personal internet-enabled device.

"(2) EXCEPTION.—The Secretary of the Army may restrict access to the Tour of Duty system on personal internet-enabled devices if the Secretary determines such restriction is necessary to ensure the security and integrity of information systems and data of the United States.

"(b) TOUR OF DUTY SYSTEM DEFINED.—In this Act [Pub. L. 117–81, see Tables for classification], the term 'Tour of Duty system' means the online system of listings for opportunities to serve on active duty for members of the reserve components of the Army and through which such a member may apply for such an opportunity, known as 'Tour of Duty', or any successor to such system."

## PILOT PROGRAM ON USE OF RETIRED SENIOR ENLISTED MEMBERS OF THE ARMY NATIONAL GUARD AS ARMY NATIONAL GUARD RECRUITERS

Pub. L. 115–91, div. A, title V, §514, Dec. 12, 2017, 131 Stat. 1378, as amended by Pub. L. 115–232, div. A, title V, §520, Aug. 13, 2018, 132 Stat. 1754, provided for a pilot program for the Army National Guard under which retired senior enlisted members of the Army National Guard would serve as contract recruiters for the Army National Guard, with all activities under such a pilot program to terminate no later than Dec. 31, 2021.

## RESTRUCTURING OF THE DISTRIBUTED COMMON GROUND SYSTEM OF THE ARMY

Pub. L. 114–328, div. A, title II, §220(a), (b), Dec. 23, 2016, 130 Stat. 2055, provided that:

"(a) IN GENERAL.—Not later that [sic] April 1, 2017, the Secretary of the Army shall restructure versions of the distributed common ground system of the Army after Increment 1—

"(1) by discontinuing development of new software code, excluding the configuration and testing of system interfaces to commercial, open source, and existing Government off the shelf (GOTS) software, of any component of the system for which there is commercial, open source, or Government off the shelf software that is capable of fulfilling at least 80 percent of the system requirements applicable to such component; and

"(2) by conducting a review of the acquisition strategy of the program to ensure that procurement of commercial software is the preferred method of meeting program requirements for major system components.

"(b) LIMITATION.—The Secretary of the Army shall not award any contract for the development of new component software capability for the distributed common ground system of the Army if such a capability is already a commercial item or open source, except for configuration of capabilities that are incidental to and necessary for the proper functioning of the system."

## CONSOLIDATION OF ARMY MARKETING AND PILOT PROGRAM ON CONSOLIDATED ARMY RECRUITING

Pub. L. 114–328, div. A, title V, §527, Dec. 23, 2016, 130 Stat. 2117, provided that:

"(a) CONSOLIDATION OF ARMY MARKETING.—Not later than October 1, 2017, the Secretary of the Army shall consolidate into a single organization within the Department of the Army all functions relating to the marketing of the Army and each of the components of the Army in order to assure unity of effort and cost effectiveness in the marketing of the Army and each of the components of the Army.

"(b) PILOT PROGRAM ON CONSOLIDATED ARMY RECRUITING.—

"(1) PILOT PROGRAM REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of the Army shall carry out a pilot program to consolidate the recruiting efforts of the Regular Army, Army Reserve, and Army National Guard under which a recruiter in one of the components participating in the pilot program may recruit individuals to enlist in any of the components regardless of the funding source of the recruiting activity.

"(2) CREDIT TOWARD ENLISTMENT GOALS.—Under the pilot program, a recruiter shall receive credit toward periodic enlistment goals for each enlistment regardless of the component in which the individual enlists.

"(3) DURATION.—The Secretary shall carry out the pilot program for a period of not less than three

years.

"(c) BRIEFING AND REPORTS.—

"(1) BRIEFING ON CONSOLIDATION PLAN.—Not later than March 1, 2017, the Secretary of the Army shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the Secretary's plan to carry out the Army marketing consolidation required by subsection (a).

"(2) INTERIM REPORT ON PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than one year after the date on which the pilot program under subsection (b) commences, the Secretary shall submit to the congressional committees specified in paragraph (1) a report on the pilot program.

"(B) ELEMENTS.—The report under subparagraph (A) shall include each of the following:

"(i) An analysis of the effects that consolidated recruiting efforts has [sic] on the overall ability of recruiters to attract and place qualified candidates.

"(ii) A determination of the extent to which consolidating recruiting efforts affects efficiency and recruiting costs.

"(iii) An analysis of any challenges associated with a recruiter working to recruit individuals to enlist in a component in which the recruiter has not served.

"(iv) An analysis of the satisfaction of recruiters and the component recruiting commands with the pilot program.

"(3) FINAL REPORT ON PILOT PROGRAM.—Not later than 180 days after the date on which the pilot program is completed, the Secretary shall submit to the congressional committees specified in paragraph (1) a final report on the pilot program. The final report shall include any recommendations of the Secretary with respect to extending or making permanent the pilot program and a description of any related legislative actions that the Secretary considers appropriate."

## GLOBAL CULTURAL KNOWLEDGE NETWORK

Pub. L. 114–328, div. A, title X, §1087, Dec. 23, 2016, 130 Stat. 2425, provided that:

"(a) PROGRAM AUTHORIZED.—The Secretary of the Army shall carry out a program to support the socio-cultural understanding needs of the Department of the Army, to be known as the Global Cultural Knowledge Network.

"(b) GOALS.—The Global Cultural Knowledge Network shall support the following goals:

"(1) Provide socio-cultural analysis support to any unit deployed, or preparing to deploy, to an exercise or operation in the assigned region of responsibility of the unit being supported.

"(2) Make recommendations or support policy or doctrine development to increase the social science expertise of military and civilian personnel of the Department of the Army.

"(3) Provide reimbursable support to other military departments or Federal agencies if requested through an operational needs request process.

"(c) ELEMENTS OF THE PROGRAM.—The Global Cultural Knowledge Network shall include the following elements:

"(1) A center in the continental United States (referred to in this section as a 'reach-back center') to support requests for information, research, and analysis.

"(2) Outreach to academic institutions and other Federal agencies involved in social science research to increase the network of resources for the reach-back center.

"(3) Training with operational units during annual training exercises or during pre-deployment training.

"(4) The training, contracting, and human resources capacity to rapidly respond to contingencies in which social science expertise is requested by operational commanders through an operational needs request process.

"(d) DIRECTIVE REQUIRED.—The Secretary of the Army shall issue a directive within one year after the date of the enactment of this Act [Dec. 23, 2016] for the governance of the Global Cultural Knowledge Network, including oversight and process controls for auditing the activities of personnel of the Network, the employment of the Global Cultural Knowledge Network by operational forces, and processes for requesting support by operational Army units and other Department of Defense and Federal entities.

"(e) PROHIBITION ON DEPLOYMENTS UNDER GLOBAL CULTURAL KNOWLEDGE NETWORK.—

"(1) PROHIBITION.—The Secretary of the Army may not deploy social scientists of the Global Cultural Knowledge Network in a conflict zone.

"(2) WAIVER.—The Secretary of the Army may waive the prohibition in paragraph (1) if the Secretary submits, at least 10 days before the deployment, to the Committees on Armed Services of the

House of Representatives and the Senate—

"(A) notice of the waiver; and

"(B) a certification that there is a compelling national security interest for the deployment or there will be a benefit to the safety and welfare of members of the Armed Forces from the deployment.

"(3) ELEMENTS OF WAIVER NOTICE.—A waiver notice under this subsection also shall include the following:

"(A) The operational unit, or units, requesting support, including the location or locations where the social scientists are to be deployed.

"(B) The number of Global Cultural Knowledge Network personnel to be deployed and the anticipated duration of such deployments.

"(C) The anticipated resource needs for such deployment."

## PILOT PROGRAM FOR THE HUMAN TERRAIN SYSTEM

Pub. L. 113–291, div. A, title X, §1075, Dec. 19, 2014, 128 Stat. 3519, authorized the Secretary of the Army to carry out a pilot program under which the Secretary utilized Human Terrain System assets in the United States Pacific Command (now United States Indo-Pacific Command) area of responsibility to support phase 0 shaping operations and the theater security cooperation plans of the Commander of the United States Pacific Command and required initial and final reports to the congressional defense committees, with such authority terminating on Sept. 30, 2016.

## EXPANSION OF FIRST SERGEANTS BARRACKS INITIATIVE

Pub. L. 111–84, div. B, title XXVIII, §2807, Oct. 28, 2009, 123 Stat. 2663, provided that:

"(a) EXPANSION OF INITIATIVE.—Not later than September 30, 2011, the Secretary of the Army shall expand the First Sergeants Barracks Initiative (FSBI) to include all Army installations in order to improve the quality of life and living environments for single soldiers.

"(b) PROGRESS REPORTS.—Not later than February 15, 2010, and February 15, 2011, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the progress made in expanding the First Sergeants Barracks Initiative to all Army installations."

## SELECTION OF MILITARY INSTALLATIONS TO SERVE AS LOCATIONS OF BRIGADE COMBAT TEAMS

Pub. L. 111–84, div. B, title XXVIII, §2825, Oct. 28, 2009, 123 Stat. 2668, provided that: "In selecting the military installations at which brigade combat teams will be stationed, the Secretary of the Army shall take into consideration the availability and proximity of training spaces for the units and the capacity of the installations to support the units."

## ARMY TRAINING STRATEGY FOR BRIGADE-BASED COMBAT TEAMS AND FUNCTIONAL SUPPORTING BRIGADES

Pub. L. 109–163, div. A, title III, §353, Jan. 6, 2006, 119 Stat. 3203, provided that:

"(a) TRAINING STRATEGY.—

"(1) STRATEGY REQUIRED.—The Secretary of the Army shall develop and implement a strategy for the training of brigade-based combat teams and functional supporting brigades in order to ensure the readiness of such teams and brigades.

"(2) ELEMENTS.—The training strategy under paragraph (1) shall include the following:

"(A) A statement of the purpose of training for brigade-based combat teams and functional supporting brigades.

"(B) Performance goals for both active-component and reserve-component brigade-based combat teams and functional supporting brigades, including goals for live, virtual, and constructive training.

"(C) Metrics to quantify training performance against the performance goals specified under subparagraph (B).

"(D) A process to report the status of collective training to Army leadership for monitoring the training performance of brigade-based combat teams and functional supporting brigades.

"(E) A model to quantify, and to forecast, operation and maintenance funding required for each fiscal year to attain the performance goals specified under subparagraph (B).

"(3) TIMING OF IMPLEMENTATION.—The Secretary of the Army shall develop and implement the training strategy under paragraph (1) as soon as practicable.

"(b) REPORT.—

"(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan.

6, 2006], the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the training strategy developed under subsection (a).

"(2) ELEMENTS.—The report under paragraph (1) shall include the following:

"(A) A discussion of the training strategy developed under subsection (a), including a description of the performance goals and metrics developed under that subsection.

"(B) A discussion and description of the training ranges and other essential elements required to support the training strategy.

"(C) A list of the funding requirements, shown by fiscal year and set forth in a format consistent with the future-years defense program to accompany the budget of the President under section 221 of title 10, United States Code, necessary to meet the requirements of the training ranges and other essential elements described under subparagraph (B).

"(D) A schedule for the implementation of the training strategy.

"(c) COMPTROLLER GENERAL REVIEW OF IMPLEMENTATION.—

"(1) IN GENERAL.—The Comptroller General shall monitor the implementation of the training strategy developed under subsection (a).

"(2) REPORT.—Not later than 180 days after the date on which the Secretary of the Army submits the report under subsection (b), the Comptroller General shall submit to the congressional defense committees a report containing the assessment of the Comptroller General of the current progress of the Army in implementing the training strategy."

## ARMY TRANSFORMATION TO BRIGADE STRUCTURE

Pub. L. 108–375, div. A, title V, §595(c), Oct. 28, 2004, 118 Stat. 1937, provided that: "The Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an annual report on the status of the internal transformation of the Army from a division-orientated force to a brigade-orientated force. Such report shall be submitted not later than March 31 of each year, except that the requirement to submit such annual report shall terminate when the Secretary of the Army submits to those committees the Secretary's certification that the transformation of the Army to a brigade-orientated force has been completed. Upon the submission of such certification, the Secretary shall publish in the Federal Register notice of that certification and that the statutory requirement to submit an annual report under this subsection has terminated."

## DEMONSTRATION PROJECT FOR USE OF ARMY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS

Pub. L. 103–337, div. A, title X, §1065, Oct. 5, 1994, 108 Stat. 2849, provided that:

"(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system before their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

"(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

"(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

"(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

"(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the

demonstration project; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

"(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

"(f) REPORT.—Not later than two years after the date of the enactment of this Act [Oct. 5, 1994], the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate."

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Army, see Ex. Ord. No. 12908, Apr. 22, 1994, 59 F.R. 21907, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §7014. Office of the Secretary of the Army

(a) There is in the Department of the Army an Office of the Secretary of the Army. The function of the Office is to assist the Secretary of the Army in carrying out his responsibilities.

(b) The Office of the Secretary of the Army is composed of the following:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries of the Army.

(3) The Administrative Assistant to the Secretary of the Army.

(4) The General Counsel of the Department of the Army.

(5) The Inspector General of the Army.

(6) The Chief of Legislative Liaison.

(7) The Army Reserve Forces Policy Committee.

(8) Such other offices and officials as may be established by law or as the Secretary of the Army may establish or designate.

(c)(1) The Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the following functions:

(A) Acquisition.

(B) Auditing.

(C) Comptroller (including financial management).

(D) Information management.

(E) Inspector General.

(F) Legislative affairs.

(G) Public affairs.

(2) The Secretary of the Army shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Army Staff to conduct any of the functions

specified in paragraph (1).

(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

(4) The vesting in the Office of the Secretary of the Army of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Army (including the Army Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Army.

(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

(d)(1) Subject to paragraph (2), the Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the function of research and development.

(2) The Secretary of the Army may assign to the Army Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct the function specified in paragraph (1).

(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Army and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

(e) The Secretary of the Army shall ensure that the Office of the Secretary of the Army and the Army Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Army assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed 3,250.

(2) Not more than 1,900 officers of the Army on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff.

(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed 67.

(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war.

(5) Each limitation in paragraphs (1) and (2) may be exceeded by a number equal to 15 percent of such limitation in time of national emergency.

(Added Pub. L. 99–433, title V, §501(a)(5), Oct. 1, 1986, 100 Stat. 1036, §3014; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(7), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title III, §325(a), Sept. 29, 1988, 102 Stat. 1955; Pub. L. 101–189, div. A, title VI, §652(a)(4), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 107–107, div. A, title X, §1048(a)(27), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title V, §504(c)(2), Dec. 2, 2002, 116 Stat. 2532; Pub. L. 114–328, div. A, title IX, §903(c), Dec. 23, 2016, 130 Stat. 2344; renumbered §7014, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 116–92, div. A, title IX, §901(a)(3), Dec. 20, 2019, 133 Stat. 1541.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (f)(1). Pub. L. 116–92, §901(a)(3)(A), substituted "3,250" for "3,105".

Subsec. (f)(2). Pub. L. 116–92, §901(a)(3)(B), substituted "1,900" for "1,865".

**2018**—Pub. L. 115–232 renumbered section 3014 of this title as this section.

**2016**—Subsec. (f)(4). Pub. L. 114–328, §903(c)(1), substituted "time of war." for "time of war or during a national emergency declared by the President or Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Army or on the Army Staff."

Subsec. (f)(5). Pub. L. 114–328, §903(c)(2), added par. (5).

**2002**—Subsec. (b)(6) to (8). Pub. L. 107–314 added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

**2001**—Subsec. (f)(3). Pub. L. 107–107 substituted "67" for "the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection".

**1989**—Subsec. (f)(5). Pub. L. 101–189 struck out par. (5) which read as follows: "The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988."

**1988**—Subsec. (c)(5). Pub. L. 100–456 added par. (5).

**1987**—Subsec. (f)(4). Pub. L. 100–180 inserted "the President or" after "declared by".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Requirements of subsec. (c)(5) of this section applicable with respect to any person appointed on or after Sept. 29, 1988, as head of office or other entity designated for conducting auditing function in a military department, see section 325(d)(1) of Pub. L. 100–456, set out as a note under section 8014 of this title.

### EFFECTIVE DATE

Pub. L. 99–433, title V, §532(a), Oct. 1, 1986, 100 Stat. 1063, provided that: "The provisions of subsections (c) and (d) of each of sections 3014, 5014, and 8014 [now 7014, 8014, and 9014] of title 10, United States Code, as added by sections 501, 511, and 521, respectively, shall be implemented not later than 180 days after the date of the enactment of this Act [Oct. 1, 1986]."

### EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009 and fiscal years thereafter, see section 1111 of Pub. L. 110–417, set out as a note under section 143 of this title.

## §7015. Under Secretary of the Army

(a) There is an Under Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

(Added Pub. L. 99–433, title V, §501(a)(5), Oct. 1, 1986, 100 Stat. 1037, §3015; renumbered §7015, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3013 of this title prior to enactment of Pub. L. 99–433.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3015 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Army, see Ex. Ord. No. 12908, Apr. 22, 1994, 59 F.R. 21907, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §7016. Assistant Secretaries of the Army

(a) There are five Assistant Secretaries of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources, including flood control, navigation, shore protection, and related purposes.

(4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Financial Management.

(B) The Assistant Secretary shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations.

(C) The principal responsibility of the Assistant Secretary shall be the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.

(5)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Acquisition, Logistics, and Technology. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition, technology, and logistics matters of the Department of the Army.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be an officer of the Army on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1731 of this title. In the event of a vacancy in the position of Assistant Secretary of the Army for Acquisition, Logistics, and Technology, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year.

(6)(A) One of the Assistant Secretaries shall be the Assistant Secretary for Energy, Installations, and Environment.

(B) The principal duty of the Assistant Secretary for Energy, Installations, and Environment shall be the overall supervision of energy, installation, and environment matters for the Department of the Army.

(Added Pub. L. 99–433, title V, §501(a)(5), Oct. 1, 1986, 100 Stat. 1038, §3016; amended Pub. L.

100–456, div. A, title VII, §702(a)(1), Sept. 29, 1988, 102 Stat. 1992; Pub. L. 110–181, div. A, title IX, §908(a), Jan. 28, 2008, 122 Stat. 278; Pub. L. 114–328, div. A, title VIII, §802(a), Dec. 23, 2016, 130 Stat. 2249; Pub. L. 115–91, div. A, title V, §505, title IX, §921(a), Dec. 12, 2017, 131 Stat. 1374, 1524; renumbered §7016, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 116–92, div. A, title VIII, §861(j)(14), title IX, §911(a), title XVII, §1731(a)(64), Dec. 20, 2019, 133 Stat. 1520, 1559, 1816.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3013 of this title prior to enactment of Pub. L. 99–433.

### AMENDMENTS

**2019**—Subsec. (b)(5)(A). Pub. L. 116–92, §1731(a)(64), substituted "Assistant Secretary of the Army for Acquisition, Logistics, and Technology" for "Assistant Secretary of the Army for Acquisition, Technology, and Logistics".

Subsec. (b)(5)(B). Pub. L. 116–92, §861(j)(14), substituted "under section 1731 of this title" for "under section 1733 of this title".

Subsec. (b)(6). Pub. L. 116–92, §911(a), added par. (6).

**2018**—Pub. L. 115–232 renumbered section 3016 of this title as this section.

**2017**—Subsec. (b)(4). Pub. L. 115–91, §921(a), designated first sentence as subpar. (A), designated second and third sentences as subpar. (C) and, in subpar. (C), substituted "The principal responsibility of the Assistant Secretary shall be" for "The Assistant Secretary shall have as his principal responsibility", and added subpar. (B).

Subsec. (b)(5)(B). Pub. L. 115–91, §505, substituted "an officer" for "a lieutenant general".

**2016**—Subsec. (b)(5)(B). Pub. L. 114–328 inserted at end "In the event of a vacancy in the position of Assistant Secretary of the Army for Acquisition, Logistics, and Technology, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year."

**2008**—Subsec. (b)(5). Pub. L. 110–181 added par. (5).

**1988**—Subsec. (b)(4). Pub. L. 100–456 added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §921(d), Dec. 12, 2017, 131 Stat. 1524, provided that: "The appointment qualifications imposed by the amendments made by this section [amending this section and sections 5016 and 8016 of this title] shall apply with respect to an appointment as an Assistant Secretary of a military department for financial management that is made on or after the date of the enactment of this Act [Dec. 12, 2017]."

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VII, §702(e)(1), Sept. 29, 1988, 102 Stat. 1996, provided that: "The amendments made by subsections (a) and (b) [enacting sections 3022 and 5025 of this title and amending this section and section 5016 of this title] shall take effect on January 20, 1989."

## §7017. Secretary of the Army: successors to duties

If the Secretary of the Army dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 [1] of title 5, directs another person to

perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries of the Army, in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense.

(3) The General Counsel of the Department of the Army.

(4) The Chief of Staff.

(Aug. 10, 1956, ch. 1041, 70A Stat. 159, §3017; Pub. L. 89–718, §23, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 90–235, §4(a)(7), Jan. 2, 1968, 81 Stat. 759; Pub. L. 99–433, title V, §501(a)(6), Oct. 1, 1986, 100 Stat. 1038; Pub. L. 103–337, div. A, title IX, §902(a), Oct. 5, 1994, 108 Stat. 2823; renumbered §7017, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3017(a) | 5:181–5(b). | June 28, 1950, ch. 383, §102 (less (a)), 64 Stat. 265. |
| 3017(b) | 5:181–5(c). | |

In subsection (a), the word "person" is substituted for the words "officer of the United States". The words "until a successor is appointed" are omitted as surplusage.

Subsection (b) is substituted for 5:181–5(c) and states the effect of section 3544(b) of this title.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3347 of title 5, referred to in text, was repealed and a new section 3347 was enacted by Pub. L. 105–277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681–611, and, as so enacted, no longer contains provisions authorizing the President to direct temporary successors to duties. See section 3345 of Title 5, Government Organization and Employees.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3017 of this title as this section.

**1994**—Pars. (3), (4). Pub. L. 103–337 added par. (3) and redesignated former par. (3) as (4).

**1986**—Pub. L. 99–433 struck out subsec. (a) designation, substituted ", in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense" for "in order of their length of service as such" in par. (2), and struck out subsec. (b) which read as follows: "Performance of the duties of the Secretary by the Chief of Staff or any officer of the Army designated under section 3347 of title 5 shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title."

**1968**—Subsec. (b). Pub. L. 90–235 substituted "section 973(b) of this title" for "section 3544(b) of this title".

**1966**—Pub. L. 89–718 substituted "section 3347 of title 5" for "section 6 of title 5" wherever appearing.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## EXECUTIVE DOCUMENTS

### ORDER OF SUCCESSION

For order of succession in event of death, permanent disability, or resignation of Secretary of the Army, see Ex. Ord. No. 12908, Apr. 22, 1994, 59 F.R. 21907, listed in a table under section 3345 of Title 5, Government Organization and Employees.

[1] See References in Text note below.

## §7018. Administrative Assistant

(a) There is an Administrative Assistant in the Department of the Army. The Administrative Assistant shall be appointed by the Secretary of the Army and shall perform duties that the Secretary considers appropriate.

(b) During a vacancy in the office of Secretary, the Administrative Assistant has charge and custody of all records, books, and papers of the Department of the Army.

(c) The Secretary may authorize the Administrative Assistant to sign, during the temporary absence of the Secretary, any paper requiring his signature. In such a case, the Administrative Assistant's signature has the same effect as the Secretary's signature.

(Aug. 10, 1956, ch. 1041, 70A Stat. 159, §3016; renumbered §3018, Pub. L. 99–433, title V, §501(a)(3), Oct. 1, 1986, 100 Stat. 1034; renumbered §7018, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3016(a) | 5:185. | R.S. 215; Feb. 27, 1877, ch. 69 (2d par.), 19 Stat. 241. |
| 3016(b) | 5:186. | |
| 3016(c) | 5:187. | Mar. 4, 1874, ch. 44, 18 Stat. 19. |

Although 5:185, 186, and 187 are omitted from the United States Code as covered by 5:181–5, they are not so superseded and are restated in this revised section.

In subsections (a), (b), and (c), the title "Administrative Assistant" is substituted for the title "Assistant and Chief Clerk", to accord with present usage. R.S. 215 (less last sentence) is not contained in 5:185 and 186. It is also omitted from the revised section as obsolete.

In subsection (a), the words "an inferior officer" are omitted, since the Secretary's authority to appoint the Administrative Assistant makes the office an inferior office within the meaning of the Constitution. The words "perform duties that the Secretary considers appropriate" are substituted for the words "to be employed therein as he shall deem proper".

In subsection (b), the words "During a vacancy in the office of Secretary * * * has" are substituted for the words "whenever the Secretary of the Army shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy have the". The word "of" is substituted for the words "appertaining to".

In subsection (c), the words "during the temporary absence of the Secretary" are substituted for the words "When, from illness or other cause, the Secretary of War is temporarily absent from the War Department". The words "requisitions upon the Treasury Department" are omitted as surplusage. The last sentence is substituted for 5:187 (words after semicolon).

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3018 of this title as this section.

**1986**—Pub. L. 99–433 renumbered section 3016 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7019. General Counsel

(a) There is a General Counsel of the Department of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel shall perform such functions as the Secretary of the Army may prescribe.

(Added Pub. L. 99–433, title V, §501(a)(7), Oct. 1, 1986, 100 Stat. 1038, §3019; amended Pub. L. 100–456, div. A, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1996; renumbered §7019, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3019 of this title as this section.

**1988**—Subsec. (a). Pub. L. 100–456 inserted ", by and with the advice and consent of the Senate" before period at end.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VII, §703(c), Sept. 29, 1988, 102 Stat. 1996, provided that: "The amendments made by this section [amending this section and sections 5019 and 8019 of this title] shall apply to appointments made under sections 3019, 5019, and 8019 [now 7019, 8019, and 9019], respectively, of title 10, United States Code, on and after the date of the enactment of this Act [Sept. 29, 1988]."

## §7020. Inspector General

(a) There is an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from the general officers of the Army. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

(1) inquire into and report upon the discipline, efficiency, and economy of the Army; and

(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Army and shall recommend additional inspections and investigations as may appear appropriate.

(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under chapter 4 of title 5 regarding the Department of the Army.

(e) The Inspector General shall have such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.

(Added Pub. L. 99–433, title V, §501(a)(7), Oct. 1, 1986, 100 Stat. 1038, §3020; renumbered §7020, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; amended Pub. L. 117–286, §4(b)(30), Dec. 27, 2022, 136 Stat. 4346.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3039 of this title prior to enactment of Pub. L. 99–433.

**AMENDMENTS**

**2022**—Subsec. (d). Pub. L. 117–286 substituted "chapter 4 of title 5" for "the Inspector General Act of 1978 (5 U.S.C. App. 3)".

**2018**—Pub. L. 115–232 renumbered section 3020 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7021. Army Reserve Forces Policy Committee

There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(b)(4)(A), Oct. 5, 1994, 108 Stat. 2982, §3021; renumbered §7021, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3021 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §7022. Financial management

(a) The Secretary of the Army shall provide that the Assistant Secretary of the Army for Financial Management shall direct and manage financial management activities and operations of the Department of the Army, including ensuring that financial management systems of the Department of the Army comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Army and otherwise carry out, with respect to the Department of the Army, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title;

(2) approve and supervise any project to design or enhance a financial management system for

the Department of the Army; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Army, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b)(1) Financial management systems of the Department of the Army (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

(2) Such systems shall provide for—

(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

(B) the development and reporting of cost information;

(C) the integration of accounting and budgeting information; and

(D) the systematic measurement of performance.

(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Army proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

(d) The Assistant Secretary of the Army for Financial Management shall transmit to the Secretary of the Army a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Army financial management.

(Added Pub. L. 100–456, div. A, title VII, §702(a)(2), Sept. 29, 1988, 102 Stat. 1993, §3022; amended Pub. L. 103–337, div. A, title X, §1070(a)(15), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, §1503(b)(1), Feb. 10, 1996, 110 Stat. 512; renumbered §7022, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3022 of this title as this section.

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller of the Department of Defense".

**1994**—Subsec. (a)(1). Pub. L. 103–337 substituted "section 135(c)" for "section 137(c)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Jan. 20, 1989, see section 702(e)(1) of Pub. L. 100–456, set out as an Effective Date of 1988 Amendment note under section 7016 of this title.

## §7023. Chief of Legislative Liaison

(a) There is a Chief of Legislative Liaison in the Department of the Army.

(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Army by section 7014(c)(1)(F) of this title.

(Added Pub. L. 107–314, div. A, title V, §504(c)(1)(A), Dec. 2, 2002, 116 Stat. 2531, §3023; amended Pub. L. 114–328, div. A, title V, §502(j), Dec. 23, 2016, 130 Stat. 2103; renumbered §7023 and amended Pub. L. 115–232, div. A, title VIII, §§808(a), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(a), renumbered section 3023 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 7014(c)(1)(F)" for "section 3014(c)(1)(F)".

**2016**—Subsec. (a). Pub. L. 114–328 struck out second sentence which read as follows: "An officer assigned to that position shall be an officer in the grade of major general."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7024. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Army. The Director is appointed by the Secretary of the Army.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Army is the office that is established within the Department of the Army under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Army, and shall exercise such powers regarding those programs, as the Secretary of the Army may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, §904(c)(1), Jan. 6, 2006, 119 Stat. 3400, §3024; renumbered §7024, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3024 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

The Director of Small and Disadvantaged Business Utilization of the Department of the Army and the Office of Small and Disadvantaged Business Utilization of the Department of the Army were redesignated the Director of Small Business Programs of the Department of the Army and the Office of Small Business

Programs of the Department of the Army, respectively, by Pub. L. 109–163, which also provided that references to the former were deemed to refer to the latter. See section 904(a) of Pub. L. 109–163, set out as a note under section 144 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 705—THE ARMY STAFF

Sec.
7031. The Army Staff: function; composition.
7032. The Army Staff: general duties.
7033. Chief of Staff.
7034. Vice Chief of Staff.
7035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
7036. Chiefs of branches: appointment; duties.
7037. Judge Advocate General, Deputy Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
7038. Office of Army Reserve: appointment of Chief.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 305 of this title as this chapter and items 3031 to 3038 as 7031 to 7038, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §502(n)(2), Dec. 23, 2016, 130 Stat. 2103, struck out item 3039 "Deputy and assistant chiefs of branches".

**2008**—Pub. L. 110–181, div. A, title V, §543(a)(3)(B), Jan. 28, 2008, 122 Stat. 115, substituted "Deputy" for "Assistant" in item 3037.

**1994**—Pub. L. 103–337, div. A, title IX, §904(b)(2), Oct. 5, 1994, 108 Stat. 2827, struck out item 3040 "Chief of National Guard Bureau: appointment; acting chief".

**1986**—Pub. L. 99–433, title V, §502(g)(2), Oct. 1, 1986, 100 Stat. 1042, amended analysis generally, substituting items 3031 to 3040 for former items 3031 to 3040.

**1980**—Pub. L. 96–513, title V, §512(2), Dec. 12, 1980, 94 Stat. 2929, substituted "Deputy Chiefs" for "Deputy Chief" in item 2035, and substituted "appointment" for "appointments" in item 3036.

**1966**—Pub. L. 89–718, §25(b), Nov. 2, 1966, 80 Stat. 1119, struck out item 3038 "Chief of Engineers: additional duties".

## §7031. The Army Staff: function; composition

(a) There is in the executive part of the Department of the Army an Army Staff. The function of the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities.

(b) The Army Staff is composed of the following:

(1) The Chief of Staff.
(2) The Vice Chief of Staff.
(3) The Deputy Chiefs of Staff.
(4) The Assistant Chiefs of Staff.
(5) The Chief of Engineers.
(6) The Surgeon General of the Army.
(7) The Judge Advocate General of the Army.
(8) The Chief of Chaplains of the Army.
(9) The Chief of Army Reserve.
(10) Other members of the Army assigned or detailed to the Army Staff.

(11) Civilian employees of the Department of the Army assigned or detailed to the Army Staff.

(c) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Aug. 10, 1956, ch. 1041, 70A Stat. 150, §3031; Pub. L. 93–547, Dec. 26, 1974, 88 Stat. 1742; Pub. L. 93–608, §1(6), Jan. 2, 1975, 88 Stat. 1968; Pub. L. 98–525, title V, §515, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–433, title V, §502(a), Oct. 1, 1986, 100 Stat. 1039; renumbered §7031, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3031(a) | 10:21a(a). | June 28, 1950, ch. 383, §201, 64 Stat. 265. |
| 3031(b) | 10:21a(b). | |
| 3031(c) | 10:21a(c). | |
| 3031(d) | 10:21a(d). | |

In subsection (a), the words "an Army Staff consisting of—" are substituted for the words "a staff, which shall be known as the Army Staff, and which shall consist of—". The words "under regulations prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

In subsection (c), the third sentence is substituted for 10:21a(c) (1st 13 words and 1st proviso). The words "officers and employees * * * or under the jurisdiction of" are omitted as surplusage.

In subsections (c) and (d), the word "hereafter" is omitted, since all wars and emergencies declared by Congress before June 24, 1950, have been terminated.

In subsection (d), the second sentence is substituted for 10:21a(d) (last 31 words of 1st sentence). The third sentence is substituted for 10:21a(d) (2d sentence). 10:21a(d) (1st 13 words of last sentence) is omitted as executed. The words "This subsection does not apply" are substituted for the words "and shall be in applicable".

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3031 of this title as this section.

**1986**—Pub. L. 99–433 amended section generally, substituting "The Army Staff: function; composition" for "Composition: assignment and detail of members of Army and civilians" in section catchline and substituting in text provisions relating to establishment and composition of the Army Staff and authorizing the Secretary to prescribe the organization, duties, and titles of the Army Staff for provisions relating to establishment and composition of the Army Staff, authorizing the Secretary to prescribe the organization, duties, and titles of the Army Staff and authorizing part of the Army Staff to be designated as the Army General Staff, and limiting the number of officers who may be assigned or detailed to permanent duty in the executive part of the Department of the Army and on or with the Army General Staff.

**1984**—Subsec. (d). Pub. L. 98–525 struck out subsec. (d) which provided that no commissioned officer who was assigned or detailed to duty in the executive part of the Department of the Army could serve for a tour of duty of more than four years, but that the Secretary could extend such a tour of duty if he made a special finding that the extension was necessary in the public interest, that no officer could be assigned or detailed to duty in the executive part of the Department of the Army within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail was necessary in the public interest, and that the subsection did not apply in time of war, or of national emergency declared by Congress.

**1975**—Subsec. (c). Pub. L. 93–608 struck out requirement of quarterly report to Congress on the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff and the justification therefor.

**1974**—Subsec. (a)(3). Pub. L. 93–547 increased the number of Deputy Chiefs of Staff from three to four.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98–525, title V, §515, Oct. 19, 1984, 98 Stat. 2522, provided that the amendment made by that section is effective Oct. 1, 1984.

## §7032. The Army Staff: general duties

(a) The Army Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Army and to the Chief of Staff of the Army.

(b) Under the authority, direction, and control of the Secretary of the Army, the Army Staff shall—

(1) subject to subsections (c) and (d) of section 7014 of this title, prepare for such employment of the Army, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Army, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Army and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Army; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 161, §3032; Pub. L. 85–599, §4(g), Aug. 6, 1958, 72 Stat. 517; Pub. L. 99–433, title V, §502(b), Oct. 1, 1986, 100 Stat. 1040; renumbered §7032 and amended Pub. L. 115–232, div. A, title VIII, §§808(a), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3032(a) | 10:21e(a). | June 28, 1950, ch. 383, §205, 64 Stat. 266. |
| 3032(b) | 10:21e(b). | |

In subsection (a), the word "furnish" is substituted for the word "render".

In subsection (b)(1), the words "power, duty, or function of" are substituted for the words "power vested in, duty imposed upon, or function assigned to".

In subsection (b)(2), the words "all questions affecting" and "state of" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(a), renumbered section 3032 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 7014" for "section 3014".

**1986**—Pub. L. 99–433, §502(b)(3), substituted "The Army Staff: general duties" for "General duties" in section catchline.

Subsec. (a). Pub. L. 99–433, §502(b)(1), inserted "and to the Chief of Staff of the Army".

Subsec. (b). Pub. L. 99–433, §502(b)(2), substituted "authority, direction, and control of the Secretary of the Army" for "direction and control of the Secretary" in introductory provisions, inserted "subject to subsections

(c) and (d) of section 3014 of this title," and substituted "(including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining" for ", training, serving, mobilizing, and demobilizing" in cl. (1), substituted "to support military operations by combatant commands" for "for military operations" in cl. (2), and amended cl. (4) generally. Prior to amendment, cl. (4) read as follows: "act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Army; and".

**1958**—Subsec. (b)(1). Pub. L. 85–599 substituted "prepare for such employment of the Army" for "prepare such plans for the national security, for employment of the Army for that purpose, both separately and in conjunction with the naval and air forces".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7033. Chief of Staff

(a)(1) There is a Chief of Staff of the Army, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Chief of Staff only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) [1] of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

(c) Except as otherwise prescribed by law and subject to section 7013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Army, the Chief of Staff shall—

(1) preside over the Army Staff;

(2) transmit the plans and recommendations of the Army Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Army as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 3104 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Army.

(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Staff in the

performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Army.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Army fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 162, §3034; Pub. L. 85–599, §4(a), Aug. 6, 1958, 72 Stat. 516; Pub. L. 87–651, title I, §114, Sept. 7, 1962, 76 Stat. 513; Pub. L. 90–22, title IV, §401, June 5, 1967, 81 Stat. 53; Pub. L. 96–513, title V, §502(2), Dec. 12, 1980, 94 Stat. 2909; Pub. L. 97–22, §10(b)(4), July 10, 1981, 95 Stat. 137; renumbered §3033 and amended Pub. L. 99–433, title V, §502(c), Oct. 1, 1986, 100 Stat. 1040; Pub. L. 100–456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 114–92, div. A, title VIII, §802(d)(4)(A), Nov. 25, 2015, 129 Stat. 880; renumbered §7033 and amended Pub. L. 115–232, div. A, title VIII, §§808(a), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840; Pub. L. 116–283, div. A, title XVIII, §1808(d)(3), as added Pub. L. 117–81, div. A, title XVII, §1701(r)(2), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 116–283, div. A, title XVIII, §1847(e)(6)(B), Jan. 1, 2021, 134 Stat. 4257; Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3034(a) | 10:21b (1st sentence). | June 28, 1950, ch. 383, §§202, 204, 64 Stat. 266. |
| 3034(b) | 10:21b (less 1st sentence). | |
| 3034(c) | 10:21d(a) (1st 9 words).<br>10:21d(b) (2d sentence).<br>10:21d(c). | June 3, 1916, ch. 134, §5 (last par.), added June 15, 1933, ch. 87, §2 (last par.), 48 Stat. 154. |
| 3034(d) | 10:21d(a) (less 1st 9 words).<br>10:21d(b) (less 2d sentence).<br>10:38 (last par.). | |

In subsection (a), the words "not for" are substituted for the words "no person shall serve as Chief of Staff for a term of".

In subsection (b), the words "so serving" are substituted for the words "holding office as such". The words "regular or reserve" are substituted for the word "permanent", since there are no other "permanent" grades. The words "in the Army" are omitted as surplusage. The words "and shall take rank as prescribed by law" are omitted as covered by section 743 of this title. The words "He shall receive the compensation prescribed by law" are omitted as covered by the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.).

In subsection (c), the provisions of 10:21d relating to the direction of the Secretary of the Army over the Chief of Staff are combined. The words "and of subsection (c) of this section" and "state of" are omitted as surplusage.

In subsection (d), 10:38 (last par.) is omitted as covered by 10:21d(a). The words "by sections 1a–1g, 19, 21a–21h, 61–1, 81–1, 231a and 316–1 of this title and section 181–3 to 181–5 of Title 5" are omitted as covered by the words "other provisions of law".

### 1962 ACT

The changes correct references to section 202(j) of the National Security Act of 1947, which is now set out as section 124 of title 10.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title by Pub. L. 114–328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

### AMENDMENTS

**2021**—Subsec. (d)(5). Pub. L. 116–283, §1847(e)(6)(B), which directed substitution of ", 3103, and 4274" for "and 2547", was repealed by Pub. L. 117–81, §1701(r)(1)(B).

Pub. L. 116–283, §1808(d)(3), as added by Pub. L. 117–81, §1701(r)(2), substituted "and 3104" for "and 2547".

**2018**—Pub. L. 115–232, §808(a), renumbered section 3033 of this title as this section.

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 7013(f)" for "section 3013(f)".

**2015**—Subsec. (d)(5). Pub. L. 114–92 substituted "sections 171 and 2547" for "section 171".

**1988**—Subsec. (a)(2)(B). Pub. L. 100–456 substituted "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "joint duty assignment".

**1986**—Pub. L. 99–433 renumbered section 3034 of this title as this section, substituted "Chief of Staff" for "Chief of Staff: appointment; duties" in section catchline, and amended text generally. Prior to amendment, text read as follows:

"(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, from the general officers of the Army. He serves during the pleasure of the President. In time of war or national emergency, declared by the Congress after December 31, 1968, he may be reappointed for a term of not more than four years.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.

"(c) Except as otherwise prescribed by law and subject to section 3012(c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Army, and is directly responsible to the Secretary for the efficiency of the Army, its preparedness for military operations, and plans therefor.

"(d) The Chief of Staff shall—

"(1) preside over the Army Staff;

"(2) send the plans and recommendations of the Army Staff to the Secretary, and advise him with regard thereto;

"(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision over such of the members and organizations of the Army as the Secretary of the Army determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title;

"(5) perform the duties described for him by sections 141 and 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President."

**1981**—Subsec. (b). Pub. L. 97–22 struck out a comma after "regular or reserve grade".

**1980**—Subsec. (b). Pub. L. 96–513 struck out provision under which the Chief of Staff is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title.

**1967**—Subsec. (a). Pub. L. 90–22 changed requirement that Chief of Staff be reappointed only with advice and consent of Senate by providing for his reappointment for a term of not more than four years by President without such advice and consent in a time of war or national emergency as declared by Congress.

**1962**—Subsec. (d)(4). Pub. L. 87–651 substituted "under section 124 of this title" for "pursuant to section 202(j) of the National Security Act of 1947, as amended".

**1958**—Subsec. (d)(4). Pub. L. 85–599 required Chief of Staff to exercise supervision only as Secretary of the Army determines and in a manner consistent with full operational command vested in unified or specified combatant commanders.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by section 10(b)(4) is effective Sept. 15, 1981.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1967 AMENDMENT**

Pub. L. 90–22, title IV, §405, June 5, 1967, 81 Stat. 53, provided that: "The amendments made by this title [amending sections 3034, 5081, 5201, and 8034 of this title] shall take effect as of January 1, 1969."

[1] *See References in Text note below.*

## §7034. Vice Chief of Staff

(a) There is a Vice Chief of Staff of the Army, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his permanent grade.

(c) The Vice Chief of Staff has such authority and duties with respect to the Department of the Army as the Chief of Staff, with the approval of the Secretary of the Army, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff.

(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first.

(Aug. 10, 1956, ch. 1041, 70A Stat. 162, §3035; Pub. L. 85–599, §6(a), Aug. 6, 1958, 72 Stat. 519; renumbered §3034 and amended Pub. L. 99–433, title V, §502(d), Oct. 1, 1986, 100 Stat. 1041; renumbered §7034, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3035(a) | 10:21c (1st sentence). | June 28, 1950, ch. 383, §203, 64 Stat. 266. |
| 3035(b) | 10:21c (less 1st sentence). | |

In subsection (a), the words "of the Army" are omitted as surplusage.

In subsection (b), the words "If the Chief of Staff is absent or disabled or if that office is vacant" are substituted for 10:21c (1st 18 words of last sentence). The words "the officer who is highest on the following list and" are inserted for clarity. The words "until his successor is appointed" are omitted as surplusage.

**EDITORIAL NOTES**

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3034 of this title as this section.

**1986**—Pub. L. 99–433, §502(d), renumbered section 3035 of this title as this section.

Pub. L. 99–433, §502(d)(3), substituted "Vice Chief of Staff" for "Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff" in section catchline.

Subsecs. (a), (b). Pub. L. 99–433, §502(d)(1), amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

"(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

"(1) The Vice Chief of Staff.

"(2) The Deputy Chiefs of Staff in order of seniority."

Subsec. (d). Pub. L. 99–433, §502(d)(2), added subsec. (d).

**1958**—Subsec. (c). Pub. L. 85–599 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) The Secretary of the Army shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.

(Added Pub. L. 99–433, title V, §502(e), Oct. 1, 1986, 100 Stat. 1042, §3035; amended Pub. L. 110–181, div. A, title IX, §902(a), Jan. 28, 2008, 122 Stat. 272; renumbered §7035, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3035 of this title as this section.

**2008**—Subsec. (b). Pub. L. 110–181, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7036. Chiefs of branches: appointment; duties

(a) There are in the Army the following officers:
(1) Chief of Engineers.
(2) Surgeon General.
(3) Judge Advocate General.
(4) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who—
(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and
(2) have been recommended by a board under subsection (e).

The Surgeon General may be appointed from officers in any corps of the Army Medical Department. The Judge Advocate General shall be appointed as prescribed in section 7037 of this title.
(c) An officer appointed under subsection (b) normally holds office for four years. However, the President may terminate or extend the appointment at any time.
(d) Each officer named in subsection (a) shall perform duties prescribed by the Secretary of the Army and by law.
(e)(1) Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—
(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and
(B) the services are provided on a reimbursable basis.

(2) In this subsection, the term "State" includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.
(f)(1) The Surgeon General serves as the principal advisor to the Secretary of the Army and the Chief of Staff of the Army on all health and medical matters of the Army, including strategic planning and policy development relating to such matters.
(2) The Surgeon General serves as the chief medical advisor of the Army to the Director of the Defense Health Agency on matters pertaining to military health readiness requirements and safety of members of the Army.
(3) The Surgeon General, acting under the authority, direction, and control of the Secretary of the Army, shall recruit, organize, train, and equip, medical personnel of the Army.
(g) For each office to be filled under subsection (b), the Secretary shall select a board of five general officers, including the incumbent, if any, of the office, and at least two officers, if available, in a grade above major general who have had extensive service in the branch concerned. The Secretary shall give the board a list of the officers to be considered and shall specify the number of officers, not less than three, to be recommended. The list shall include—
(1) the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is colonel;
(2) the name of each officer whose regular grade is above colonel, who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment;
(3) to the extent that the Secretary determines advisable, the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is lieutenant colonel, in the order in which their names appear on the applicable promotion lists; and
(4) to the extent that the Secretary considers advisable, the name of each regular or reserve

officer on active duty in a grade above lieutenant colonel who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment.

From these officers, the board shall recommend by name the number prescribed by the Secretary, and the President may appoint any officer so recommended. If the President declines to appoint any of the recommended officers, or if the officer nominated cannot be appointed because of advice by the Senate, the Secretary shall convene a board to recommend additional officers. An officer who is recommended but not appointed shall be considered not to have been recommended. This does not affect his eligibility for selection and recommendation for the grade of brigadier general or major general under section 3306 or 3307 [1] of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 163, §3036; Pub. L. 89–288, §1, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89–718, §24, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 97–295, §1(38), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 99–662, title IX, §922, Nov. 17, 1986, 100 Stat. 4194; Pub. L. 100–26, §7(a)(10), Apr. 21, 1987, 101 Stat. 278; Pub. L. 102–580, title II, §211, Oct. 31, 1992, 106 Stat. 4831; Pub. L. 104–106, div. A, title V, §506(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 104–201, div. A, title X, §1074(a)(18), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 114–328, div. A, title V, §502(k), title VII, §702(b)(1), Dec. 23, 2016, 130 Stat. 2103, 2195; renumbered §7036 and amended Pub. L. 115–232, div. A, title VIII, §§808(a), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3036(a) | 10:21f(a). | June 28, 1950, ch. 383, §206, 64 Stat. 267. |
| 3036(b) | 10:21f(b). | |
| | 10:181 (1st 17 words). | June 3, 1916, ch. 134, §11 (1st 17 words); restated June 4, 1920, ch. 227, subch. I, §11 (1st 17 words), 41 Stat. 768. |
| | 10:559g(a) (less 3d and 5th sentences). | |
| 3036(c) | 10:559g(a) (3d sentence). | |
| 3036(d) | 10:21f(c). | |
| 3036(e) | 10:559g(b). | Aug. 7, 1947, ch. 512, §513(a) (less 5th sentence), (b), 61 Stat. 901. |

In subsection (b), all references to the appointment of assistant chiefs are omitted as covered by sections 3037 and 3040 of this title. All references to the grade of brigadier general are omitted, since 10:21f(b) specifies the grade of major general for the offices. 10:559g(a) (4th sentence) is omitted as surplusage, since the appointment is to a permanent grade. 10:559g(a) (6th and 7th sentences) is omitted as executed. 10:559g(a) (last sentence) is omitted, since the revised section applies only to the officers named in subsection (a). The words "except the Judge Advocate General" are inserted for clarity. The eight words before clause (1), and clauses (1) and (2), are substituted for the words "as prescribed in section 559g of this title", in 10:21f(b), and 10:559g(a) (1st sentence). The second sentence is substituted for 10:559g(a) (2d sentence) and 10:21f(b) (1st 15 words). The words "selected and", in 10:21f(b), are omitted as surplusage. The words "arms, or services", in 10:559g(a) are omitted as obsolete, since sections 3063 and 3064 of this title designate the former arms and services as "branches".

In subsection (c), the words "normally holds office" are substituted for the words "shall normally continue in that assignment for a tour of duty". The words "appointment" and "office" are substituted for the words "assignment" and "tour of duty" whenever they are used in that sense.

In subsection (e), the introductory clause is substituted for 10:559g(b) (words before colon of 1st sentence). The words "in a grade above major general" are substituted for the words "of a rank above that of the position for which selections are to be made", since all the positions are in the grade of major general. The word "select" is substituted for the word "appoint", since the filling of the offices is not appointment to an office in the constitutional sense. The word "extensive" is substituted for the word "extended", except where it refers to "extended" active duty, in which case the word "extended" is omitted as surplusage. The words "the name of" are inserted for clarity. The words "appointed in, or assigned to" are substituted for the words "of the", and "in the", before the words "that branch", to conform to sections 3063 and 3064 of this title. The word "regular" is

substituted for the word "permanent". The words "each regular or reserve officer" are substituted for the words "of officers of any component of the Army of the United States". The words "these officers" are substituted for the words "among those recommended by such board". The words "This does not affect" are substituted for the words "but this shall in no way prejudice". The words "to be filled", "by it", "other", "which number shall", "to be considered", "and may in addition thereto and", and "in the position concerned" are omitted as surplusage.

1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3036(d) (1st sentence) | 10:3036(d). | |
| 3036(d) (last sentence) | 10:3036 (note). | Oct. 27, 1965, Pub. L. 89–298, §219, 79 Stat. 1089. |

The first sentence is restated to clarify that the Secretary concerned is the Secretary of the Army. The word "services" is substituted for "work or services" because it is inclusive. The word "instrumentality" is added for clarity.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Sections 3306 and 3307 of this title, referred to in subsec. (g), were repealed by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981.

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(a), renumbered section 3036 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 7037" for "section 3037" in concluding provisions.

**2016**—Subsec. (b). Pub. L. 114–328, §502(k)(2), which directed amendment of second sentence of concluding provisions by striking ", and while so serving, has the grade of lieutenant general", was executed by striking out "and, while so serving, has the grade of lieutenant general" after "Army Medical Department" to reflect the probable intent of Congress.

Pub. L. 114–328, §502(k)(1), struck out first sentence of concluding provisions which read as follows: "Each officer covered by the preceding sentence, except the Surgeon General, shall be appointed in the regular grade of major general."

Subsecs. (d) to (g). Pub. L. 114–328, §702(b)(1), struck out par. (1) designation before "Each officer" in subsec. (d), redesignated subsec. (e) as (g), added subsec. (e) designation, redesignated pars. (2) and (3) of subsec. (d) as pars. (1) and (2), respectively, of subsec. (e), and added subsec. (f).

**1996**—Subsec. (b). Pub. L. 104–106 inserted "may be appointed from officers in any corps of the Army Medical Department and" after "The Surgeon General" in concluding provisions.

Subsec. (d)(3). Pub. L. 104–201 substituted "In this subsection" for "For purposes of this subsection".

**1992**—Subsec. (d)(3). Pub. L. 102–580 added par. (3).

**1987**—Subsec. (d). Pub. L. 100–26 designated existing first sentence requiring each officer named in subsec. (a) to perform prescribed duties as par. (1), designated existing second sentence permitting the Chief of Engineers to accept orders to provide services to another department, agency, or governmental instrumentality as par. (2), and substituted "United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis." for "United States and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

"(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers.[,]

any part of those services by contract."

**1986**—Subsec. (d). Pub. L. 99–662 substituted "and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

"(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers."

for "and may provide", which resulted in the creation of an incomplete sentence.

**1982**—Subsec. (d). Pub. L. 97–295 substituted "Secretary of the Army" for "Secretary" and inserted provision that, under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States and may provide any part of those services by contract.

**1966**—Subsec. (a). Pub. L. 89–718 struck out cls. (2) to (8) naming the Chief Signal Officer, Adjutant General, Quartermaster General, Chief of Finance, Chief of Ordnance, Chief Chemical Officer, and Chief of Transportation respectively, and redesignated cls. (9) to (11) as (2) to (4), respectively.

**1965**—Subsec. (b). Pub. L. 89–288 provided Surgeon General, while so serving, with grade of lieutenant general.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### WORKFORCE PLANNING

Pub. L. 117–263, div. H, title LXXXI, §8116, Dec. 23, 2022, 136 Stat. 3709, provided that:

"(a) AUTHORIZATION.—The Secretary [of the Army] is authorized to carry out activities, at Federal expense—

"(1) to foster, enhance, and support science, technology, engineering, and math education and awareness; and

"(2) to recruit individuals for careers at the Corps of Engineers.

"(b) PARTNERING ENTITIES.—In carrying out activities under this section, the Secretary may enter into partnerships with—

"(1) public elementary and secondary schools, including charter schools;

"(2) community colleges;

"(3) technical schools; and

"(4) colleges and universities, including historically Black colleges and universities.

"(c) PRIORITIZATION.—The Secretary shall, to the maximum extent practicable, prioritize the recruitment of individuals under this section that are from economically disadvantaged communities (as defined by the Secretary under section 160 of the Water Resources Development Act of 2020 [div. AA of Pub. L. 116–260] (33 U.S.C. 2201 note)), including economically disadvantaged communities located in urban and rural areas.

"(d) DEFINITION OF HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—In this section, the term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2023 through 2027."

### VETERANS' CURATION PROGRAM

Pub. L. 114–189, July 6, 2016, 130 Stat. 613, provided that:

"SECTION 1. FINDINGS.

"Congress finds the following:

"(1) The Corps of Engineers and other Federal agencies are required to preserve and catalogue artifacts and other items of national historical significance that are uncovered during the course of their work (notably under part 79 of title 36, Code of Federal Regulations).

"(2) Uncatalogued artifacts within the care of Federal agencies are stored in hundreds of repositories

and museums across the Nation.

"(3) In October 2009, the Corps of Engineers, Center of Expertise for the Curation and Management of Archaeological Collections, initiated the Veterans' Curation Program to employ and train Iraq and Afghanistan veterans in archaeological processing.

"(4) The Veterans' Curation Program employs veterans and members of the Armed Forces in the sorting, cleaning, and cataloguing of artifacts managed by the Corps of Engineers.

"(5) Employees of the Veterans' Curation Program gain valuable work skills, including computer database management, records management, photographic and scanning techniques, computer software proficiency, vocabulary and writing skills, and interpersonal communication skills, as well as knowledge and training in archaeology and history.

"(6) Since 2009, a total of 241 veterans have participated in the Veterans' Curation Program, including the current class of 38 participants. Of the 203 graduates of the program, 87 percent have received permanent employment in a field related to training received under the program or chosen to continue their education.

"(7) Experience in archaeological curation gained through the Veterans' Curation Program is valuable training and experience for the museum, forensics, administrative, records management, and other fields.

"(8) Veterans' Curation Program participants may assist the Corps of Engineers in developing a more efficient and comprehensive collections management program and also may provide the workforce to meet the records management needs at other agencies and departments, including the Department of Veterans Affairs.

"SEC. 2. TRAINING AND EMPLOYMENT FOR VETERANS AND MEMBERS OF ARMED FORCES IN CURATION AND HISTORIC PRESERVATION.

"Using available funds, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a Veterans' Curation Program to hire veterans and members of the Armed Forces to assist the Secretary in carrying out curation and historic preservation activities."

## CORPS OF ENGINEERS; ANNUAL BUDGET SUBMISSION

Pub. L. 110–161, div. C, title I, §114, Dec. 26, 2007, 121 Stat. 1944, provided that: "All budget documents and justification materials for the Corps of Engineers annual budget submission to Congress shall be assembled and presented based on the most recent annual appropriations Act: *Provided*, That new budget proposals for fiscal year 2008 and thereafter, shall not be integrated into the budget justifications submitted to Congress but shall be submitted separately from the budget justifications documents."

## CHIEF OF ENGINEERS; FISCAL TRANSPARENCY REPORT

Pub. L. 110–114, title II, §2027, Nov. 8, 2007, 121 Stat. 1079, provided that:

"(a) IN GENERAL.—On the third Tuesday of January of each year beginning January 2008, the Chief of Engineers shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

"(1) the expenditures by the Corps for the preceding fiscal year and estimated expenditures by the Corps for the current fiscal year; and

"(2) for projects and activities that are not scheduled for completion in the current fiscal year, the estimated expenditures by the Corps necessary in the following fiscal year for each project or activity to maintain the same level of effort being achieved in the current fiscal year.

"(b) CONTENTS.—In addition to the information described in subsection (a), the report shall contain a detailed accounting of the following information:

"(1) With respect to activities carried out with funding provided under the Construction appropriations account for the Secretary [of the Army], information on—

"(A) projects currently under construction, including—

"(i) allocations to date;

"(ii) the number of years remaining to complete construction;

"(iii) the estimated annual Federal cost to maintain that construction schedule; and

"(iv) a list of projects the Corps of Engineers expects to complete during the current fiscal year; and

"(B) projects for which there is a signed partnership agreement and completed planning, engineering, and design, including—

"(i) the number of years the project is expected to require for completion; and

"(ii) estimated annual Federal cost to maintain that construction schedule.

"(2) With respect to operation and maintenance of the inland and intracoastal waterways identified by

section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804)—

"(A) the estimated annual cost to maintain each waterway for the authorized reach and at the authorized depth;

"(B) the estimated annual cost of operation and maintenance of locks and dams to ensure navigation without interruption; and

"(C) the actual expenditures to maintain each waterway.

"(3) With respect to activities carried out with funding provided under the Investigations appropriations account for the Secretary—

"(A) the number of active studies;

"(B) the number of completed studies not yet authorized for construction;

"(C) the number of initiated studies; and

"(D) the number of studies expected to be completed during the fiscal year.

"(4) Funding received and estimates of funds to be received for interagency and international support activities under section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a).

"(5) Recreation fees and lease payments.

"(6) Hydropower and water storage receipts.

"(7) Deposits into the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund.

"(8) Other revenues and fees collected by the Corps of Engineers.

"(9) With respect to permit applications and notifications, a list of individual permit applications and nationwide permit notifications, including—

"(A) the date on which each permit application is filed;

"(B) the date on which each permit application is determined to be complete;

"(C) the date on which any permit application is withdrawn; and

"(D) the date on which the Corps of Engineers grants or denies each permit.

"(10) With respect to projects that are authorized but for which construction is not complete, a list of such projects for which no funds have been allocated for the 5 preceding fiscal years, including, for each project—

"(A) the authorization date;

"(B) the last allocation date;

"(C) the percentage of construction completed;

"(D) the estimated cost remaining until completion of the project; and

"(E) a brief explanation of the reasons for the delay."

[Reference to "partnership agreement" deemed to be reference to "cooperation agreement", see section 2003(f)(3) of Pub. L. 110–114, set out as a note under section 1962d–5b of Title 42, The Public Health and Welfare.]

## DEPARTMENT OF DEFENSE REORGANIZATION ORDER

JANUARY 10, 1962

## REORGANIZATION OF THE DEPARTMENT OF THE ARMY

By virtue of the authority vested in me by section 202(c) of the National Security Act of 1947, as amended (72 Stat. 514; 5 U.S.C. 171a(c)), and as Secretary of Defense, it is hereby ordered as follows:

SECTION 1. *Abolition of officers and transfer of functions*. The following officers named in section 3036, Title 10, United States Code [now 10 U.S.C. 7036], are hereby abolished and their functions transferred to the Secretary of the Army:

(a) Chief Signal Officer;

(b) Adjutant General;

(c) Quartermaster General;

(d) Chief of Finance;

(e) Chief of Ordnance;

(f) Chief Chemical Officer, and

(g) Chief of Transportation.

SEC. 2. *Transfer of functions from Chief of Engineers*. The functions vested in the Chief of Engineers by sections 3038 and 3533, Title 10, United States Code [now 10 U.S.C. 7038, 10 U.S.C. 7213], are hereby transferred to the Secretary of the Army.

SEC. 3. *Performance of transferred functions*. The Secretary of the Army may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any office, agency, or employee of the Department of the Army of any function transferred to the Secretary by the

provisions of this order.

SEC. 4. *Transitional provisions*. In order to assist in the orderly transfer of functions and to promote continuity of operation, the Secretary of the Army may, if he considers it necessary, delay beyond the effective date of this order the abolition of any office or transfer of any function.

SEC. 5. *Effective date*. The provisions of this order shall take effect on the date determined under section 202(c) of the National Security Act of 1947, as amended (72 Stat. 514; 5 U.S.C. 171a(c)), or the 16th day of February 1962, whichever is later.

J. C. LAMBERT,

*MAJOR GENERAL, U.S. ARMY,*

THE ADJUTANT GENERAL.

[1] *See References in Text note below.*

## §7037. Judge Advocate General, Deputy Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

(a) The President, by and with the advice and consent of the Senate, shall appoint the Judge Advocate General, the Deputy Judge Advocate General, and general officers of the Judge Advocate General's Corps, from officers of the Judge Advocate General's Corps, who are recommended by the Secretary of the Army. The term of office of the Judge Advocate General and the Deputy Judge Advocate General is four years.

(b) The Judge Advocate General shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Army and of all officers and agencies of the Department of the Army;

(2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(e) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Army or the Chief of Staff of the Army; or

(2) the ability of judge advocates of the Army assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(f) If the Judge Advocate General is removed from office before the end of the term of the Judge Advocate General as specified in subsection (a), the Secretary of Defense shall, not later than five days after the removal takes effect, submit to the Committees on Armed Services of the Senate and the House of Representatives notice that the Judge Advocate General is being removed and a statement of the reason for the removal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 164, §3037; Pub. L. 85–861, §33(a)(18), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 103–337, div. A, title V, §504(a), Oct. 5, 1994, 108 Stat. 2750; Pub. L. 108–375, div. A, title V, §574(a), Oct. 28, 2004, 118 Stat. 1921; Pub. L. 109–163, div. A, title V, §508(a), title X,

§1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110–181, div. A, title V, §543(a)(1)–(3)(A), Jan. 28, 2008, 122 Stat. 114; Pub. L. 114–328, div. A, title V, §502(l), Dec. 23, 2016, 130 Stat. 2103; renumbered §7037, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 119–60, div. A, title V, §506(a), Dec. 18, 2025, 139 Stat. 858.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3037(a) | 10:21h(c).<br>10:61a. | June 28, 1950, ch. 383, §208(c), 64 Stat. 267. |
| 3037(b) | 50:741. | June 24, 1948, ch. 625, §§248, 249, 62 Stat. 643. |
| 3037(c) | 10:62.<br>10:62a.<br>10:63. | May 5, 1950, ch. 169, §13, 64 Stat. 147.<br>R.S. 1199.<br>June 23, 1874, ch. 458, §2, 18 Stat. 244.<br>R.S. 1201. |

In subsection (a), the words "Notwithstanding any other provision of law" and "for such positions" are omitted as surplusage. The last sentence is substituted for 10:61a (last sentence). 10:21h(c) is omitted as covered by 10:61a.

In subsection (b), the words "Hereafter" and "exclusive of the present incumbents" are omitted as surplusage.

In subsection (c), the words "In addition to duties elsewhere prescribed for him by law", in 10:62, are omitted as surplusage. The words "and perform such other duties as may be prescribed by the Secretary of the Army", in 10:62, are omitted as superseded by sections 3012(e) and 3036(d) of this title. Clause (2) is substituted for 10:62a (words after semicolon) and 63. The Act of June 23, 1874, ch. 458, §2 (words before semicolon of 1st sentence, and last sentence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section as superseded by sections 3037(a) and 3211 of this title.

**1958 ACT**

The change corrects an inadvertence. The source statute for section 3036(c) of title 10 (the third sentence of sec. 513(a) of the Officer Personnel Act of 1947, 61 Stat. 901), providing for a 4-year term of office, applied also to the Judge Advocate General and the Assistant Judge Advocate General. As restated in section 3036(c), it now applies only to the officers named in section 3036(b), which excludes the two officers named. For this reason, the effect of the source statute with respect to those officers is added to section 3037(a), relating to their appointment.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60 added subsec. (f).

**2018**—Pub. L. 115–232 renumbered section 3037 of this title as this section.

**2016**—Subsec. (a). Pub. L. 114–328 struck out last two sentences which read as follows: "The Judge Advocate General, while so serving, has the grade of lieutenant general. An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general."

**2008**—Pub. L. 110–181, §543(a)(3)(A), amended section catchline generally, substituting "Deputy" for "Assistant".

Subsec. (a). Pub. L. 110–181, §543(a)(1), (2)(A), substituted "Deputy Judge Advocate General" for "Assistant Judge Advocate General" wherever appearing and substituted "The Judge Advocate General, while so serving, has the grade of lieutenant general." for "The Judge Advocate General, while so serving, shall hold a grade not lower than major general."

Subsec. (d). Pub. L. 110–181, §543(a)(2)(B), substituted "Deputy Judge Advocate General" for "Assistant Judge Advocate General".

**2006**—Subsec. (a). Pub. L. 109–163, §508(a), substituted "The Judge Advocate General, while so serving, shall hold a grade not lower than major general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general." for "If an officer who is so appointed holds a lower regular grade, he shall be appointed in the regular grade of major general."

Subsec. (b). Pub. L. 109–163, §1057(a)(2), struck out "or Territory" after "a State".

**2004**—Subsec. (a). Pub. L. 108–375, §574(a)(1), substituted "The term of office of the Judge Advocate General and the Assistant Judge Advocate General is four years." for "An officer appointed as the Judge Advocate General or Assistant Judge Advocate General normally holds office for four years. However, the President may terminate or extend the appointment at any time."

Subsec. (e). Pub. L. 108–375, §574(a)(2), added subsec. (e).

**1994**—Subsec. (d). Pub. L. 103–337 added subsec. (d).

**1958**—Subsec. (a). Pub. L. 85–861 provided that the Judge Advocate General or Assistant Judge Advocate General shall normally hold office for four years, and empowered the President to terminate or extend the appointment at any time.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1958 AMENDMENT

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

## §7038. Office of Army Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Army an Office of the Army Reserve which is headed by a chief who is the adviser to the Chief of Staff on Army Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from general officers of the Army Reserve who have had at least 10 years of commissioned service in the Army Reserve.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Army Reserve unless the officer—

(A) is recommended by the Secretary of the Army; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Army Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Army Reserve if the Secretary of the Army requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT.—The Chief of Army Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Army Reserve may be reappointed for one additional four-year period.

(d) BUDGET.—The Chief of Army Reserve is the official within the executive part of the Department of the Army who, subject to the authority, direction, and control of the Secretary of the Army and the Chief of Staff, is responsible for justification and execution of the personnel, operation

and maintenance, and construction budgets for the Army Reserve. As such, the Chief of Army Reserve is the director and functional manager of appropriations made for the Army Reserve in those areas.

(e) FULL TIME SUPPORT PROGRAM.—The Chief of Army Reserve manages, with respect to the Army Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

(f) ANNUAL REPORT.—The Chief of Army Reserve shall submit to the Secretary of Defense, through the Secretary of the Army, an annual report on the state of the Army Reserve and the ability of the Army Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Army and may be submitted in classified and unclassified versions.

(Added Pub. L. 90–168, §2(16), Dec. 1, 1967, 81 Stat. 523, §3019; renumbered §3038 and amended Pub. L. 99–433, title V, §§501(a)(4), 502(g)(1), Oct. 1, 1986, 100 Stat. 1034, 1042; Pub. L. 103–337, div. A, title XVI, §1672(c)(1), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 104–201, div. A, title XII, §1212(a), Sept. 23, 1996, 110 Stat. 2691; Pub. L. 106–65, div. A, title V, §554(b), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, §1 [[div. A], title V, §507(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–102; Pub. L. 107–314, div. A, title V, §501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, §536(a), Oct. 28, 2004, 118 Stat. 1901; Pub. L. 114–328, div. A, title V, §502(m), Dec. 23, 2016, 130 Stat. 2103; Pub. L. 115–91, div. A, title X, §1051(a)(28), Dec. 12, 2017, 131 Stat. 1562; renumbered §7038, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7041 to 7046 were renumbered sections 8541 to 8546 of this title.

A prior section 7047 was renumbered section 8547 of this title.

Another prior section 7047 was renumbered section 8548 of this title.

Prior sections 7048 to 7050 were renumbered sections 8548 to 8550 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3038 of this title as this section.

**2017**—Subsec. (f). Pub. L. 115–91 struck out par. (1) designation before "The Chief of Army Reserve" and struck out par. (2) which read as follows: "The Secretary of Defense shall transmit the annual report of the Chief of Army Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress."

**2016**—Subsec. (c). Pub. L. 114–328 struck out "; Grade" after "Reappointment" in heading, and in text struck out par. (1) designation before "The Chief of Army Reserve" and struck out par. (2) which read as follows: "The Chief of Army Reserve, while so serving, holds the grade of lieutenant general."

**2004**—Subsec. (b)(4). Pub. L. 108–375 substituted "December 31, 2006" for "December 31, 2004" in introductory provisions.

**2002**—Subsec. (b)(4). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003" in introductory provisions.

**2000**—Subsec. (b). Pub. L. 106–398 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from officers of the Army Reserve not on active duty, or on active duty under section 10211 of this title, who—

"(1) have had at least 10 years of commissioned service in the Army Reserve;

"(2) are in grade of brigadier general and above; and

"(3) have been recommended by the Secretary of the Army."

Subsec. (c). Pub. L. 106–398 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Chief of Army Reserve holds office for four years but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for service in the Army Reserve. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

**1999**—Subsec. (c). Pub. L. 106–65 inserted at end "However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

**1996**—Subsecs. (d) to (f). Pub. L. 104–201 added subsecs. (d) to (f).

**1994**—Subsec. (b). Pub. L. 103–337 substituted "10211" for "265".

**1986**—Pub. L. 99–433, §501(a)(4), renumbered section 3019 of this title as this section.

Subsec. (c). Pub. L. 99–433, §502(g)(1), substituted "service" for "services".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Pub. L. 106–65, div. A, title V, §554(g), (h), Oct. 5, 1999, 113 Stat. 617, provided that:

"(g) EFFECTIVE DATE.—The amendments made by this section [enacting section 12505 of this title and amending this section and sections 5143, 5144, 8038, and 10506 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 5, 1999].

"(h) APPLICABILITY TO INCUMBENTS.—(1) If an officer who is a covered position incumbent is appointed under the amendments made by this section to the grade of lieutenant general or vice admiral, the term of service of that officer in that covered position shall not be extended by reason of such appointment.

"(2) For purposes of this subsection:

"(A) The term 'covered position incumbent' means a reserve component officer who on the effective date specified in subsection (g) is serving in a covered position.

"(B) The term 'covered position' means a position specified in section 12505 of title 10, United States Code, as added by subsection (a)."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Section effective on first day of first calendar month following date of enactment of Pub. L. 90–168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as an Effective Date of 1967 Amendment note under section 138 of this title.

# CHAPTER 707—THE ARMY

Sec.
7061. Regulations.
7062. Policy; composition; organized peace establishment.
7063. Basic branches.
7064. Special branches.
7065. Assignment and detail: officers assigned or detailed to basic and special branches.
7067. Army Medical Department.
7068. Medical Service Corps: organization; Chief and assistant chiefs.
7069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.
7070. Army Medical Specialist Corps: organization; Chief.
7072. Judge Advocate General's Corps.
7073. Chaplains.
7074. Commands: territorial organization; engineer tactical units.
7075. Regular Army: composition.
7081. Dental Corps: Chief, functions.
[7082. Renumbered.]

7083. Public Affairs Specialty.
7084. Chief of Veterinary Corps.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 307 of this title as this chapter and items 3061 to 3084 as 7061 to 7084, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §502(p)(3), (r)(3), Dec. 23, 2016, 130 Stat. 2104, substituted "Army Medical Specialist Corps: organization; Chief" for "Army Medical Specialist Corps: organization; Chief and assistant chiefs" in item 3070 and "Chief of Veterinary Corps" for "Chief of Veterinary Corps: grade" in item 3084.

**2002**—Pub. L. 107–314, div. A, title V, §504(b)(2), Dec. 2, 2002, 116 Stat. 2531, added item 3084.

**1997**—Pub. L. 105–85, div. A, title V, §596(b), Nov. 18, 1997, 111 Stat. 1766, added item 3083.

**1996**—Pub. L. 104–201, div. A, title V, §502(c)(1), Sept. 23, 1996, 110 Stat. 2511, substituted "Chief and assistant chief; appointment; grade" for "chief and assistant chief; appointment" in item 3069.

**1994**—Pub. L. 103–337, div. A, title X, §1070(a)(16), title XVI, §1672(b)(1), Oct. 5, 1994, 108 Stat. 2856, 3015, struck out items 3076 "Army Reserve: composition", 3077 "Army National Guard of United States: composition", 3078 "Army National Guard: when a component of Army", 3079 "Army National Guard of United States: status when not in Federal service", and 3080 "Army National Guard of the United States: authority of officers with respect to Federal status", struck out "3082." before "Army" in item 3082, and then struck out item 3082 "Army National Guard combat readiness reform: annual report".

**1993**—Pub. L. 103–160, div. A, title V, §521(b), Nov. 30, 1993, 107 Stat. 1655, added item 3082.

**1980**—Pub. L. 96–513, title V, §502(3), Dec. 12, 1980, 94 Stat. 2909, struck out item 3066 "Generals and lieutenant generals".

**1978**—Pub. L. 95–485, title VIII, §§805(b)(2), 820(b), Oct. 20, 1978, 92 Stat. 1622, 1627, struck out item 3071 "Women's Army Corps: Director; Deputy Director; other positions" and added item 3081.

**1968**—Pub. L. 90–329, June 4, 1968, 82 Stat. 170, substituted "Army Medical Department" for "Army Medical Service" in item 3067.

**1967**—Pub. L. 90–130, §1(8)(D), Nov. 8, 1967, 81 Stat. 375, substituted "composition; chief and assistant chief" for "Chief" in item 3069.

**1960**—Pub. L. 86–603, §1(2)(B), July 7, 1960, 74 Stat. 357, added item 3080.

**1957**—Pub. L. 85–155, title I, §101(3), Aug. 21, 1957, 71 Stat. 376, substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" in item 3070.

## §7061. Regulations

The President may prescribe regulations for the government of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 165, §3061; renumbered §7061, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3061 | 10:16. | July 15, 1870, ch. 294, §20, 16 Stat. 319; Mar. 1, 1875, ch. 115, 18 Stat. 337. |

The word "prescribe" is substituted for the words "make and publish". 10:16 (last 35 words) is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3061 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7062. Policy; composition; organized peace establishment

(a) It is the intent of Congress to provide an Army that is capable, in conjunction with the other armed forces, of—

(1) preserving the peace and security, and providing for the defense, of the United States, the Commonwealths and possessions, and any areas occupied by the United States;

(2) supporting the national policies;

(3) implementing the national objectives; and

(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) In general, the Army, within the Department of the Army, includes land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.

(c) The Army consists of—

(1) the Regular Army, the Army National Guard of the United States, the Army National Guard while in the service of the United States and the Army Reserve; and

(2) all persons appointed or enlisted in, or conscripted into, the Army without component.

(d) The organized peace establishment of the Army consists of all—

(1) military organizations of the Army with their installations and supporting and auxiliary elements, including combat, training, administrative, and logistic elements; and

(2) members of the Army, including those not assigned to units;

necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 166, §3062; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441; renumbered §7062, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3062(a) | 10:20. | July 10, 1950, ch. 454, §2, §101, 64 Stat. 321. |
| 3062(b) | 5:181–1(e). | July 26, 1947, ch. 343, §205(e), 61 Stat. 501. |
| 3062(c) | 10:1b. | June 28, 1950, ch. 383, §301, 64 Stat. 268; July 9, 1952, ch. 608, §807(b), 66 Stat. 508. |
| 3062(d) | 10:20i. | July 9, 1952, ch. 608, §301, 66 Stat. 498. |
| | 50:1021. | |

In subsection (a), 10:20 (1st 19 words) is omitted as surplusage. The word "Commonwealth" is inserted to

reflect the present status of Puerto Rico. The words "any areas occupied by the United States" are substituted for the words "occupied areas wherever located".

In subsection (c), the words "consists of" are substituted for the word "includes".

In subsection (c)(1), the words "the Army National Guard while in the service of the United States" are substituted for the words "all persons serving in the Army under call * * * under any provision of law, including members of the National Guard of the several States, Territories, and the District of Columbia when in the service of the United States pursuant to call as provided by law". 10:1b (words between 1st and 3d semicolons) and 50:1021 (last sentence) are omitted, since the components listed include their members.

In subsection (c)(2), the words "or inducted" are omitted as covered by the word "conscripted".

In subsection (d), 10:20i (8th through 38th words) is omitted as surplusage. The words "consists of all" are substituted for the words "shall include all of". The words "members of the Army" are substituted for the word "personnel".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3062 of this title as this section.

**2006**—Subsec. (a)(1). Pub. L. 109–163 substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7063. Basic branches

(a) The Secretary of the Army may assign members of the Army to its basic branches. The basic branches are—

(1) Infantry;
(2) Armor;
(3) Artillery;
(4) Corps of Engineers;
(5) Signal Corps;
(6) Adjutant General's Corps;
(7) Quartermaster Corps;
(8) Finance Corps;
(9) Ordnance Corps;
(10) Chemical Corps;
(11) Transportation Corps;
(12) Military Police Corps; and
(13) such other basic branches as the Secretary considers necessary.

(b) The Secretary may discontinue or consolidate basic branches of the Army for the duration of any war, or of any national emergency declared by Congress.

(c) The Secretary may not assign to a basic branch any commissioned officer appointed in a special branch.

(Aug. 10, 1956, ch. 1041, 70A Stat. 166, §3063; Pub. L. 115–91, div. A, title V, §582(a), Dec. 12, 2017, 131 Stat. 1415; renumbered §7063, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3063(a) | 10:1g(a) (less words of 1st sentence after semicolon, and less last sentence). | June 28, 1950, ch. 383, §306(a), 64 Stat. 269. |
| 3063(b) | 10:1g(a) (last sentence). | |
| 3063(c) | 10:1g(a) (words of 1st sentence after semicolon). | |

In subsection (a), the words "The basic branches are" are substituted for the words "There shall be in the Army certain branches, which shall be known as basic branches of the Army" and "The basic branches of the Army shall be".

In subsection (b), the words "enumerated in this subsection" are omitted as surplusage. The word "hereafter" is omitted, since all wars and emergencies declared by Congress before June 29, 1950, have been terminated.

In subsection (c), the words "and commissioned" are omitted as covered by the word "appointed". The words "specified in subsection (b) of this section" are omitted as surplusage. The word "commissioned" is inserted before the word "officer", for clarity.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3063 of this title as this section.

**2017**—Subsec. (a)(13), (14). Pub. L. 115–91, which directed the redesignation of par. (13) as (14) and the addition of a new par. (13) "Explosive Ordnance Disposal Corps; and", was not executed pursuant to section 582(b) of Pub. L. 115–91, set out as an Effective Date and Condition on Execution of 2017 Amendment note below.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE AND CONDITION ON EXECUTION OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title V, §582(b), Dec. 12, 2017, 131 Stat. 1415, as amended by Pub. L. 116–283, div. A, title V, §593, Jan. 1, 2021, 134 Stat. 3666, provided that:

"(1) EFFECTIVE DATE.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2025, but only if the report required by paragraph (2) is not submitted before that date as required by such paragraph.

"(2) REPORTING REQUIREMENT.—Not later than September 30, 2025, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing certifications that the following actions have occurred as of that date:

"(A) The defense budget materials display funding requirements for explosive ordnance disposal separately and a program of record is established and maintained for explosive ordnance disposal.

"(B) A process has been established to ensure that, by not later than five years after the date of the enactment of this Act [Dec. 12, 2017], there is, and will continue to be, at least one general officer in the Army, the explosive ordnance disposal commandant (chief of explosive ordnance disposal), qualified regarding issues involving explosive ordnance disposal to ensure officer professional development and upward mobility.

"(C) The Ordnance Personnel Proponency Office is, and will continue to be, manned with an explosive ordnance disposal officer to oversee explosive ordnance disposal officer and enlisted personnel proponency.

"(D) Explosive ordnance disposal officer education has been included in a basic officer leadership course, a captains career course, and a policy and planning course specific to explosive ordnance disposal as part of intermediate level education and pre-command courses.

"(E) The office of the Army Deputy Chief of Staff, G8, and the office of the Army Deputy Chief of

Staff, G3, have, and will continue to be, manned with explosive ordnance disposal officers responsible for the decision management decision packages, ammunition organizational integration, and force modernization related to explosive ordnance disposal.

"(F) The Army has established and maintained explosive ordnance disposal cells at the Army Forces Command, Army Service Component Commands, Army Special Operations Command, Army Training and Doctrine Command, and the Army Capability and Integration Center.

"(G) The explosive ordnance disposal commandant (chief of explosive ordnance disposal) has determined whether explosive ordnance disposal soldiers have the appropriate skills necessary to support missions of special operations forces (as identified in section 167(j) of title 10, United States Code). Such skills may include airborne, air assault, combat diver, fast roping insertion and extraction, helocasting, military free-fall, and off-road driving.

"(3) NOTICE OF REPORT.—The Secretary of the Army shall notify the Law Revision Counsel of the House of Representatives of the submission of the report under paragraph (2) so that the Law Revision Counsel does not execute the amendments made by subsection (a)."

[The report required by section 582(b)(2) of Pub. L. 115–91, set out above, was submitted to Congress on Sept. 17, 2020.]

**PHILIPPINE SCOUTS**

Act Aug. 10, 1956, ch. 1041, §42, 70A Stat. 636, provided that: "The President is authorized to form the Philippine Scouts into such branches and tactical units as he may deem expedient, within the limit of strength prescribed by law, organized similarly to those of the Regular Army."

## §7064. Special branches

(a) The special branches of the Army consist of commissioned officers of the Regular Army appointed therein, other members of the Army assigned thereto by the Secretary of the Army, and the sections prescribed in this chapter. The special branches are—

(1) each corps of the Army Medical Department;

(2) the Judge Advocate General's Corps;

(3) the Chaplains; and

(4) such other special branches as may be established by the Secretary of the Army under subsection (b).

(b) The Secretary of the Army may establish special branches for the Army and may assign commissioned officers (other than officers of the Regular Army) and members to such branches.

(c) Commissioned officers of the Regular Army may be appointed in a special branch, but the Secretary may not assign any officer of the Regular Army to a special branch.

(Aug. 10, 1956, ch. 1041, 70A Stat. 167, §3064; Pub. L. 90–329, June 4, 1968, 82 Stat. 170; Pub. L. 96–513, title II, §231, Dec. 12, 1980, 94 Stat. 2886; Pub. L. 97–22, §5(a), July 10, 1981, 95 Stat. 128; renumbered §7064, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3064(a) | 10:1g(b) (less words of 1st sentence after semicolon). | June 28, 1950, ch. 383, §306(b), 64 Stat. 269. |
| 3064(b) | 10:1g(b) (words of 1st sentence after semicolon). | |

In subsection (a), the words "The special branches of the Army" are substituted for the words "There shall be in the Army certain branches, which shall be known as special branches, and which shall". The words "authorized by sections 61–1, 81–1, and 231a of this title" are omitted as surplusage. The words "and the sections prescribed in this chapter" are inserted, since some of the corps of the Army Medical Service consist of members and sections. Clauses (1), (2), and (3) are substituted for 10:1g(b) (last sentence).

In subsection (b), the words "who has been appointed and commissioned in some other special branch, or * * * without specification of branch" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3064 of this title as this section.

**1981**—Subsec. (b). Pub. L. 97–22, §5(a)(1), substituted "may assign commissioned officers (other than officers of the Regular Army) and members to such branches" for "may appoint commissioned officers in, and may assign members to, such branches".

Subsec. (c). Pub. L. 97–22, §5(a)(2), substituted "Commissioned officers of the Regular Army may be appointed in a special branch, but the Secretary" for "The Secretary".

**1980**—Subsec. (a)(4). Pub. L. 96–513, §231(1), added cl. (4).

Subsecs. (b), (c). Pub. L. 96–513, §231(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

**1968**—Subsec. (a)(1). Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

# §7065. Assignment and detail: officers assigned or detailed to basic and special branches

(a) Commissioned officers of the Army may be detailed as general staff officers and as inspectors general.

(b) Members of the Army may be detailed to duty in particular fields specified by the Secretary, including intelligence, counter-intelligence, and military government.

(c) Members of the Army appointed in or assigned to one branch may be detailed for duty with any other branch.

(d) Members of the Army while not on active duty may be assigned to any basic or special branch, or to such other branches or groups, and to such organizations, as the Secretary considers appropriate.

(e) No officer of the Army may be assigned to perform technical, scientific, or other professional duties unless he is qualified to perform those duties and meets professional qualifications at least as strict as those in effect on June 28, 1950. If the duties to which an officer is assigned involve professional work that is the same as or is similar to that usually performed in civil life by a member of a learned profession, such as engineering, law, medicine, or theology, the officer must have the qualifications, by education, training, or experience, equal to or similar to those usually required of members of that profession, unless the exigencies of the situation prevent.

(Aug. 10, 1956, ch. 1041, 70A Stat. 167, §3065; renumbered §7065, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3065(a) | 10:1g(c) (1st 27 words). | June 28, 1950, ch. 383, §306 (less (a) and (b)), §404(e), 64 Stat. 269, 274. |
| 3065(b) | 10:1g(c) (less 1st 27 words). | |

| | | |
|---|---|---|
| | 10:1g(d). | |
| 3065(c) | | |
| 3065(d) | 10:1g(e). | |
| 3065(e) | 10:1g(f). | |
| | [Uncodified: June 28, 1950, ch. 383, §404(e), 64 Stat. 274]. | |

In subsections (a) and (c)–(e), the words "Under such regulations as the Secretary of the Army may prescribe" and "under [Under] regulations prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

In subsection (b), the word "specified" is substituted for the words "designated from time to time", in 10:1g(c). The words "but not limited to", in 10:1g(c), are omitted as surplusage.

In subsection (d), the words "basic or special branch" are substituted for the words "branches of the Army provided for in this section". The word "considers" is substituted for the words "may deem to be".

In subsection (e), the words "No officer * * * may be * * * unless he is" are substituted for the words "officers of the Army * * * shall * * * possess". The last 16 words of the first sentence are substituted for the Act of June 28, 1950, ch. 383, Title IV, §404(e), 64 Stat. 274. The last sentence is substituted for 10:1g(f) (1st 9 words).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3065 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7067. Army Medical Department

There is an Army Medical Department in the Army. The Army Medical Department consists of—

(1) the Surgeon General;
(2) the Assistant Surgeons General;
(3) the Medical Corps;
(4) the Dental Corps;
(5) the Veterinary Corps;
(6) the Medical Service Corps;
(7) the Army Nurse Corps; and
(8) the Army Medical Specialist Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 168, §3067; Pub. L. 85–861, §1(60), Sept. 2, 1958, 72 Stat. 1462; Pub. L. 90–329, June 4, 1968, 82 Stat. 170; renumbered §7067, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3067 | 10:81–1 (less last sentence). | June 28, 1950, ch. 383, §307 (less last sentence), 64 Stat. 270. |

The words "authorized by sections 21f and 21h, respectively, of this title" are omitted as surplusage.

10:81–1 (2d sentence) is omitted as covered by section 3064 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3067(8) | 10 App.:81–1. | Aug. 9, 1955, ch. 654, §3(a), 69 Stat. 579. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3067 of this title as this section.

**1968**—Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service".

**1958**—Pub. L. 85–861 substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" in cl. (8).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**AUGMENTATION OF ARMY MEDICAL DEPARTMENT BY DETAILING RESERVE OFFICERS OF PUBLIC HEALTH SERVICE**

Pub. L. 106–398, §1 [[div. A], title VII, §755(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–197, provided that:

"(a) AUTHORITY.—The Secretary of the Army and the Secretary of Health and Human Services may jointly conduct a program to augment the Army Medical Department by exercising any authorities provided to those officials in law for the detailing of reserve commissioned officers of the Public Health Service not in an active status to the Army Medical Department for that purpose.

"(b) AGREEMENT.—The Secretary of the Army and the Secretary of Health and Human Services shall enter into an agreement governing any program conducted under subsection (a)."

## §7068. Medical Service Corps: organization; Chief and assistant chiefs

There is a Medical Service Corps in the Army. The Medical Service Corps consists of—

(1) the Chief of the Medical Service Corps, who shall be appointed by the Secretary of the Army from among the officers of the Medical Service Corps whose regular grade is above captain;

(2) the assistant chiefs of the Medical Service Corps, who shall be designated by the Surgeon General from officers in that Corps and who shall be his consultants on activities relating to their sections;

(3) commissioned officers of the Regular Army appointed therein;

(4) other members of the Army assigned thereto by the Secretary of the Army; and

(5) the following sections—

(A) the Administrative Health Services Section;

(B) the Medical Allied Sciences Section;

(C) the Preventive Medicine Sciences Section;

(D) the Clinical Health Sciences Section; and

(E) other sections considered necessary by the Secretary of the Army.

(Added Pub. L. 89–603, §1(1), Sept. 24, 1966, 80 Stat. 846, §3068; amended Pub. L. 97–295, §1(37), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 111–383, div. A, title V, §594, Jan. 7, 2011, 124 Stat. 4234; renumbered §7068, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3068(a) | 10:81–1 (last sentence, less 5th through 14th words).<br>10:156a (less 2d sentence). | June 28, 1950, ch. 383, §307 (last sentence, less 5th through 14th words), 64 Stat. 270. |
| 3068(b) | 10:156b. | Aug. 4, 1947, ch. 459, §§101 (less 2d sentence), 102(a), (b), 61 Stat. 734, 735; Mar. 23, 1954, ch. 103, 68 Stat. 30. |
| 3068(c) | 10:156d. | |

In subsection (a), 10:156a (1st 20 words) is omitted as superseded by section 3067 of this title, which establishes the Medical Service Corps in the Army Medical Service. 10:156a (last 16 words of 1st sentence) is omitted as superseded by section 3012(e) of this title, which authorizes the Secretary of the Army to prescribe the duties of members of the Army. 10:81–1 (last sentence, less 5th through 14th words) is omitted as surplusage.

In subsection (b), the words "of the Regular Army in that corps whose regular grade is above captain" are substituted for the words "commissioned in the Medical Service Corps, Regular Army, in the permanent grade of major or above". The words "If he holds a lower regular grade" are substituted for the words "if commissioned in permanent grade below colonel". The words "is entitled" are substituted for the words "shall * * * have". The words "ranks above" are substituted for the words "shall be superior in rank".

In subsection (c), the words "is the Surgeon General's consultant" are substituted for the words "who shall be consultants to him".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3068 of this title as this section.

**2011**—Par. (5)(A). Pub. L. 111–383, §594(1), substituted "Administrative Health Services" for "Pharmacy, Supply, and Administration".

Par. (5)(C). Pub. L. 111–383, §594(2), substituted "Preventive Medicine Sciences" for "Sanitary Engineering".

Par. (5)(D). Pub. L. 111–383, §594(3), substituted "Clinical Health Sciences" for "Optometry".

**1982**—Par. (5). Pub. L. 97–295 redesignated cls. (a), (b), (c), (d), and (e) as subpars. (A), (B), (C), (D), and (E), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade

(a) The Army Nurse Corps consists of the Chief and assistant chief of that corps and other officers in grades prescribed by the Secretary of the Army.

(b) The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. The Chief serves during the pleasure of the Secretary, but not for more than four years, and may not be reappointed to the same position.

(c) The Surgeon General shall appoint the assistant chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel. The assistant chief serves during the

pleasure of the Surgeon General, but not for more than four years and may not be reappointed to the same position.

(Aug. 10, 1956, ch. 1041, 70A Stat. 168, §3069; Pub. L. 85–155, title I, §101(1), Aug. 21, 1957, 71 Stat. 375; Pub. L. 87–649, §6(b)(1), Sept. 7, 1962, 76 Stat. 494; Pub. L. 89–609, §1(1), Sept. 30, 1966, 80 Stat. 852; Pub. L. 90–130, §1(8)(A), Nov. 8, 1967, 81 Stat. 374; Pub. L. 104–201, div. A, title V, §502(a), Sept. 23, 1996, 110 Stat. 2511; Pub. L. 107–314, div. A, title V, §504(a)(1), Dec. 2, 2002, 116 Stat. 2531; Pub. L. 114–328, div. A, title V, §502(o), Dec. 23, 2016, 130 Stat. 2103; renumbered §7069, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3069 | 10:81–1 (5th through 8th words of last sentence).<br>10:166(a) (words of last sentence before proviso).<br>10:166(b). | June 28, 1950, ch. 383, §307 (5th through 8th words of last sentence), 64 Stat. 270.<br>Apr. 16, 1947, ch. 38 §§101(a) (words of last sentence before proviso), 101(b), 61 Stat. 41. |

The words "officers of the Regular Army in that corps" are substituted for the words "officers permanently commissioned in such Army Nurse Corps". The words "but not for more than" are substituted for the words "for a term not to exceed", in 10:166(a). The words "vacating her regular grade" are substituted for the words "vacation of her permanent grade".

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3069 of this title as this section.

**2016**—Subsec. (b). Pub. L. 114–328 struck out second sentence which read as follows: "An appointee who holds a lower regular grade shall be appointed in the regular grade of major general."

**2002**—Subsec. (b). Pub. L. 107–314 substituted "major general" for "brigadier general".

**1996**—Pub. L. 104–201, §502(a)(3), inserted "; grade" at end of section catchline.

Subsec. (b). Pub. L. 104–201, §502(a)(1), substituted "lieutenant colonel" for "major" in first sentence, inserted "An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general." after first sentence, and inserted "to the same position" before period at end of last sentence.

Subsec. (c). Pub. L. 104–201, §502(a)(2), substituted "lieutenant colonel" for "major".

**1967**—Pub. L. 90–130 divided existing provisions into subsecs. (a), (b), and (c), made minor changes in phraseology, inserted provision for the appointment and service of an assistant chief, struck out limitation restricting membership in the Corps to grades of second lieutenant through colonel, and struck out provision entitling the Chief to the temporary grade of colonel while serving as Chief.

**1966**—Pub. L. 89–609 combined third and fourth sentences, substituting ", and" for period at end of third sentence and introductory word "She" to fourth sentence, and substituted "the regular grade held, the Chief" for "her regular grade, she" in fifth sentence.

**1962**—Pub. L. 87–649 struck out provisions which authorized the pay and allowances of a colonel for Chief of the Army Nurse Corps.

**1957**—Pub. L. 85–155 substituted "second lieutenant through colonel" for "second lieutenant through lieutenant colonel", "major" for "captain", and "entitled to the temporary grade and the pay and allowances of a colonel while so serving and ranks above all other colonels in that corps" for "entitled to the rank, pay and allowances of a colonel so serving".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**SHORT TITLE**

Pub. L. 85–155, title I, §105, Aug. 21, 1957, 71 Stat. 381, provided that: "This title [amending this section and sections 3070, 3206, 3207, 3288, 3291, 3296 to 3299, 3304, 3305, 3888, 3915, 3916, 3927, and 3991 of this title] may be cited as the 'Army Nurse and Medical Specialist Act of 1957'."

**SAVINGS PROVISION**

Pub. L. 85–155, title I, §104, Aug. 21, 1957, 71 Stat. 380, provided that:

"(a) This Act [amending this section and sections 3070, 3206, 3207, 3288, 3291, 3296 to 3299, 3304, 3305, 3888, 3915, 3916, 3927, 3991, 5140, 5444, 5449, 5702, 5707, 5708, 5753, 5762, 5773, 5775, 5776, 5782, 6377 to 6379, 6381, 6388, 6395, 6396, 8206, 8207, 8212, 8285 to 8288, 8297, 8298 to 8301, 8303, 8305, 8888, 8915, 8927 and 8991 of this title, and repealing sections 3881, 3882, 3887, 3912, 3928, 8291, 8304, 8881, 8882, 8887, 8912 and 8928 of this title] does not affect the appointment of an officer of the Army Nurse Corps, Regular Army, or the Army Medical Specialist Corps, Regular Army, on the active list on the effective date of this Act [Aug. 21, 1957].

"(b) This Act does not affect the retired status or retired pay of a person retired under section 108, Army-Navy Nurses Act of 1947, as amended, or any other law.

"(c) An officer of the Army Nurse Corps, Regular Army, or the Army Medical Specialist Corps, Regular Army, on the active list on the effective date of this Act [Aug. 21, 1957] does not lose any years of service creditable to her on that date for promotion, computation of basic pay, or other purposes, by the enactment of this Act.

"(d) Notwithstanding any other provision of law, an officer of the Army Nurse Corps, Regular Army, or the Army Medical Specialist Corps, Regular Army, who is on a recommended list for promotion to a higher regular grade on the effective date of this Act [Aug. 21, 1957] may, if nominated by the President and confirmed by the Senate, be promoted to that grade.

"(e) Notwithstanding any other provision of law, an officer of the Army Nurse Corps, Regular Army, or the Army Medical Specialist Corps, Regular Army, who, on the effective date of this Act [Aug. 21, 1957], has been nominated by the President and confirmed by the Senate for appointment to any regular grade, may be appointed in that grade."

## §7070. Army Medical Specialist Corps: organization; Chief

(a) The Army Medical Specialist Corps consists of the Chief of that corps, other officers in grades prescribed by the Secretary of the Army, and the following sections:

(1) The Dietitian Section.
(2) The Physical Therapist Section.
(3) The Occupational Therapist Section.
(4) The Physician Assistant Section.
(5) The Chiropractic Section.

(b) The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above captain and who are recommended by the Surgeon General. The Chief serves during the pleasure of the Secretary, but not for more than four years, and may not be reappointed.

(c) Chiropractors who are qualified under regulations prescribed by the Secretary of the Army may be appointed as commissioned officers in the Chiropractic Section of the Army Medical Specialist Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 169, §3070; Pub. L. 85–155, title I, §101(2), Aug. 21, 1957, 71 Stat. 375; Pub. L. 87–649, §6(b)(2), (3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 89–609, §1(2), (3), Sept. 30, 1966, 80 Stat. 852; Pub. L. 90–130, §1(8)(B), Nov. 8, 1967, 81 Stat. 374; Pub. L. 102–190, div. A, title V, §551(a), Dec. 5, 1991, 105 Stat. 1370; Pub. L. 102–484, div. A, title V, §505(a), Oct. 23, 1992, 106 Stat. 2404; Pub. L. 114–328, div. A, title V, §502(p)(1), (2), Dec. 23, 2016, 130 Stat.

2103; renumbered §7070, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3070(a) | 10:81–1 (9th through 14th words of last sentence).<br>10:166a(a) (less 2d sentence; and less last sentence, as applicable to strength). | June 28, 1950, ch. 383, §307 (9th through 14th words of last sentence), 64 Stat. 270.<br>Apr. 16, 1947, ch. 38, §§102(a) (less 2d sentence; and less last sentence, as applicable to strength), 102(b), 61 Stat. 42. |
| 3070(b) | 10:166a(b). | |

In subsection (a), 10:166a(a) (1st 20 words of 1st sentence) is omitted as superseded by section 3067 of this title, which establishes the Women's Medical Specialist Corps in the Army Medical Service. 10:166a(a) (last 16 words of 1st sentence) is omitted as superseded by section 3012(e) of this title, which authorizes the Secretary of the Army to prescribe the duties of members of the Army.

In subsection (b), the words "officers of the Regular Army in that corps" are substituted for the words "officers permanently commissioned in such Women's Medical Specialist Corps". The words "vacating her regular grade" are substituted for the words "vacation of her permanent grade".

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3070 of this title as this section.

**2016**—Pub. L. 114–328, §502(p)(2), amended section catchline generally, substituting "Army Medical Specialist Corps: organization; Chief" for "Army Medical Specialist Corps: organization; Chief and assistant chiefs".

Subsec. (a). Pub. L. 114–328, §502(p)(1)(A), struck out "and assistant chiefs" after "consists of the Chief" in introductory provisions.

Subsecs. (c), (d). Pub. L. 114–328, §502(p)(1)(B), (C), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "The Surgeon General shall appoint up to five assistant chiefs from officers of the Regular Army in that corps whose regular grade is above captain. Each assistant chief is the chief of a section of that corps. An assistant chief serves during the pleasure of the Surgeon General, but not for more than four years, and may not be reappointed to the same position."

**1992**—Subsec. (a)(5). Pub. L. 102–484, §505(a)(1), added par. (5).

Subsec. (c). Pub. L. 102–484, §505(a)(2), substituted "up to five assistant chiefs" for "four assistant chiefs".

Subsec. (d). Pub. L. 102–484, §505(a)(3), added subsec. (d).

**1991**—Subsec. (a). Pub. L. 102–190, §551(a)(1), (2), substituted "sections:" for "sections—", substituted "The" for "the" and a period for the concluding semicolon in par. (1), substituted "The" for "the" and a period for "; and" in par. (2), substituted "The" for "the" in par. (3), and added par. (4).

Subsec. (c). Pub. L. 102–190, §551(a)(3), substituted "four assistant chiefs" for "three assistant chiefs" in first sentence.

**1967**—Subsec. (a). Pub. L. 90–130 removed limitation restricting membership in the Corps to officers in grades of second lieutenant through colonel and inserted provisions authorizing the Secretary of the Army to prescribe the grades of officers comprising the Corps.

Subsec. (b). Pub. L. 90–130 struck out provision entitling the Chief to the temporary grade of colonel while serving, ranking above all other colonels in the Corps.

Subsec. (c). Pub. L. 90–130 struck out provisions entitling each assistant chief to the temporary grade of lieutenant colonel while so serving, ranking above all other lieutenant colonels in the section.

**1966**—Subsec. (b). Pub. L. 89–609, §1(2), combined second and third sentences, substituting ", and" for period at end of second sentence and introductory word "She" to third sentence, and substituted "the regular grade held, the Chief" for "her regular grade, she" in fourth sentence.

Subsec. (c). Pub. L. 89–609, §1(3), combined second and third sentences, substituting ", and" for period at end of second sentence and introductory word "She" to third sentence, substituted "An assistant chief" for

"She" in fourth sentence, and in fifth sentence substituted "the regular grade held" and "in the section" for "her regular grade" and "in her section", respectively, and struck out "and the pay and allowances" before "of a lieutenant colonel".

**1962**—Subsec. (b). Pub. L. 87–649, §6(b)(2), struck out provisions which authorized the pay and allowances of a colonel for Chief of the Army Medical Specialist Corps.

Subsec. (c). Pub. L. 87–649, §6(b)(3), struck out provisions which authorized the pay and allowances of a lieutenant colonel for each assistant chief of the Army Medical Specialist Corps.

**1957**—Pub. L. 85–155 substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" in section catchline.

Subsec. (a). Pub. L. 85–155 substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" and "colonel" for "major".

Subsec. (b). Pub. L. 85–155 struck out provisions which related to assistant chiefs which are now covered by subsec. (c) of this section, substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps", required the chief to be above the regular grade of captain, prohibited service for more than four years and reappointment, and provided that the chief shall rank above all other colonels in the corps.

Subsec. (c). Pub. L. 85–155 added subsec. (c). Former provisions which related to assistant chiefs were contained in subsec. (b) of this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### REGULATIONS

Pub. L. 102–484, div. A, title V, §505(d), Oct. 23, 1992, 106 Stat. 2404, provided that: "The regulations required to be prescribed by the amendments made by this section [enacting section 5139 of this title and amending this section and section 8067 of this title] shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 23, 1992]."

### RETIREMENT OF OFFICERS SERVING IN PHYSICIAN ASSISTANT SECTION

Pub. L. 102–190, div. A, title V, §551(c), Dec. 5, 1991, 105 Stat. 1370, provided that: "A member of the Army who on the date of the enactment of this Act [Dec. 5, 1991] is a warrant officer serving on active duty (other than for training) as a physician assistant and who is subsequently appointed as a commissioned officer in, or is assigned to, the Physician Assistant Section of the Army Medical Specialist Corps may elect at the time of the officer's retirement after 20 years or more of active service that could be credited to the officer under section 511 of the Career Compensation Act of 1949, as amended [act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, as amended, formerly set out as a note under section 580 of this title]—

"(1) to revert to the highest warrant officer grade in which the officer served on active duty (other than for training) satisfactorily (as determined by the Secretary of the Army) for a period of more than 30 days; and

"(2) to be retired under chapter 65 of title 10, United States Code."

### CONSTRUCTIVE CREDIT FOR DETERMINATION OF GRADE AND RANK OF OFFICERS IN ARMY MEDICAL SPECIALIST CORPS

Pub. L. 102–190, div. A, title V, §551(d), Dec. 5, 1991, 105 Stat. 1371, provided that:

"(1) For the purpose of determining the grade and rank within grade of a person who is appointed as a commissioned officer in the Army Medical Specialist Corps for service in the Physician Assistant Section, or who is assigned to the Army Medical Specialist Corps for service as a physician assistant, and who on the date of the enactment of this Act [Dec. 5, 1991] is a warrant officer and a physician assistant on active duty or in an active reserve status, the Secretary of the Army shall credit that person at the time of such appointment with any service on active duty, or in an active reserve status, as a physician assistant performed as a member of the Armed Forces before that appointment.

"(2) The Secretary of Defense shall prescribe regulations to carry out this subsection."

## §7072. Judge Advocate General's Corps

There is a Judge Advocate General's Corps in the Army. The Judge Advocate General's Corps consists of—

(1) the Judge Advocate General;
(2) the Assistant Judge Advocate General;
(3) commissioned officers of the Regular Army appointed therein; and
(4) other members of the Army assigned thereto by the Secretary of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 169, §3072; Pub. L. 114–328, div. A, title V, §502(q), Dec. 23, 2016, 130 Stat. 2104; renumbered §7072, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3072 | 10:61–1 (1st sentence, less applicability to strength). | June 28, 1950, ch. 383, §308 (1st sentence, less applicability to strength), 64 Stat. 270. |

The words "authorized by sections 21f and 21h, respectively, of this title" are omitted as surplusage. The word "grade" is substituted for the word "rank". The words "but the Secretary shall not assign to the Judge Advocate General's Corps any officer who has been appointed and commissioned in some other special branch or in the Regular Army without specification of branch" are omitted as covered by section 3064 of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3072 of this title as this section.

**2016**—Pars. (3) to (5). Pub. L. 114–328 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "three officers in the grade of brigadier general;".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7073. Chaplains

(a) There are chaplains in the Army. The Chaplains include—

(1) the Chief of Chaplains;
(2) commissioned officers of the Regular Army appointed as chaplains; and
(3) other officers of the Army appointed as chaplains in the Army.

(b) The Chief of Chaplains, while so serving, holds the grade of major general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 170, §3073; renumbered §7073 and amended Pub. L. 115–232, div. A, title V, §510(a), title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1751, 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3073 | 10:231a. | June 28, 1950, ch. 383, §309, 64 Stat. 270. |

The words "authorized by section 21f of this title", "as now or hereafter provided by law", and "and commissioned * * * or in any component thereof" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(a), renumbered section 3073 of this title as this section.
Pub. L. 115–232, §510(a), designated existing provisions as subsec. (a) and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7074. Commands: territorial organization; engineer tactical units

(a) Except as otherwise prescribed by law or by the Secretary of Defense, the Army shall be divided into such commands, forces, and organizations as may be prescribed by the Secretary of the Army.

(b) For Army purposes, the United States, the Commonwealths and possessions, and other places in which the Army is stationed or is operating may be divided into such areas as may be directed by the Secretary. Officers of the Army may be assigned to command Army activities, installations, and personnel in those areas. In the discharge of the Army's functions or other functions authorized by law, officers so assigned have the duties and powers prescribed by the Secretary.

(c) Such part of the Corps of Engineers as the President directs shall be formed into tactical units organized as he prescribes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 170, §3074; Pub. L. 99–433, title V, §503, Oct. 1, 1986, 100 Stat. 1042; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441; renumbered §7074, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3074(a) | 10:1d. | June 28, 1950, ch. 383, §§303, 304, 64 Stat. 268. |
| 3074(b) | 10:1e. | |
| 3074(c) | 10:181 (less 1st 39 words). | June 3, 1916, ch. 134, §11 (less 1st 41 words); restated June 4, 1920, ch. 227, subch. I, §11 (less 1st 41 words), 41 Stat. 768. |

In subsection (b), the words "have the duties and powers" are substituted for the words "shall perform such duties and exercise such powers". The words "of America", "other provisions", and "so assigned" are omitted as surplusage. The word "Commonwealths" is inserted to reflect the present status of Puerto Rico.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3074 of this title as this section.

**2006**—Subsec. (b). Pub. L. 109–163 substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".
**1986**—Subsec. (a). Pub. L. 99–433 inserted reference to Secretary of Defense.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7075. Regular Army: composition

(a) The Regular Army is the component of the Army that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Army.

(b) The Regular Army includes—

(1) the officers and enlisted members of the Regular Army;

(2) the professors, director of admissions, and cadets of the United States Military Academy; and

(3) the retired officers and enlisted members of the Regular Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 170, §3075; Pub. L. 85–600, §1(1), Aug. 6, 1958, 72 Stat. 522; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069; Pub. L. 97–295, §1(39), Oct. 12, 1982, 96 Stat. 1297; renumbered §7075, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3075(a) | 10:1c(a). | June 28, 1950, ch. 383, §302, 64 Stat. 268. |
| 3075(b) | 10:1c (less (a)). | |

In subsection (b), the words "holding appointments or enlisted in the Regular Army as now or hereafter provided by law", "and such other persons as are now or may hereafter be specified by law", and "commissioned * * * warrant officers" are omitted as surplusage, since the revised section lists all persons in the Regular Army. 10:1c (last sentence) is omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3075 of this title as this section.
**1982**—Subsec. (b)(2). Pub. L. 97–295 inserted a comma after "professors".
**1978**—Subsec. (b)(2). Pub. L. 95–551 substituted "director of admissions" for "registrar".
**1958**—Subsec. (b)(2). Pub. L. 85–600 included the registrar of the Military Academy.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7081. Dental Corps: Chief, functions

(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3039 [1] of this title.

(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

(c) The Chief of the Dental Corps shall—

(1) establish professional standards and policies for dental practice;

(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignments, and transfer of dental personnel; and

(3) serve as the adviser to the Office of the Surgeon General on all matters relating directly to dentistry.

(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated commissioned officer of the Army Medical Department. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.

(Added Pub. L. 95–485, title VIII, §805(b)(1), Oct. 20, 1978, 92 Stat. 1621, §3081; amended Pub. L. 99–433, title V, §502(f)(3), Oct. 1, 1986, 100 Stat. 1042; renumbered §7081, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 116–92, div. A, title VII, §714, Dec. 20, 2019, 133 Stat. 1446.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3039 of this title, referred to in subsec. (a), was repealed by Pub. L. 114–328, div. A, title V, §502(n)(1), Dec. 23, 2016, 130 Stat. 2103.

**PRIOR PROVISIONS**

A prior section 7081 was renumbered section 8581 of this title.

**AMENDMENTS**

**2019**—Subsec. (d). Pub. L. 116–92 substituted "commissioned officer of the Army Medical Department" for "Dental Corps Officer".

**2018**—Pub. L. 115–232 renumbered section 3081 of this title as this section.

**1986**—Subsec. (a). Pub. L. 99–433 substituted "section 3039" for "section 3040".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## [§7082. Renumbered §8582]

## §7083. Public Affairs Specialty

There is a career field in the Army known as the Public Affairs Specialty. Members of the Army

with the Public Affairs Specialty are—

(1) the Chief of Public Affairs;

(2) commissioned officers of the Army in the grade of major or above who are selected and specifically educated, trained, and experienced to perform as professional public affairs officers for the remainder of their careers; and

(3) other members of the Army assigned to public affairs positions by the Secretary of the Army.

(Added Pub. L. 105–85, div. A, title V, §596(a), Nov. 18, 1997, 111 Stat. 1765, §3083; renumbered §7083, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7083 was renumbered section 8583 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3083 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7084. Chief of Veterinary Corps

The Chief of the Veterinary Corps of the Army shall be appointed from among officers of the Veterinary Corps.

(Added Pub. L. 107–314, div. A, title V, §504(b)(1), Dec. 2, 2002, 116 Stat. 2531, §3084; amended Pub. L. 108–136, div. A, title V, §502(a), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 109–163, div. A, title X, §1056(c)(11), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 114–328, div. A, title V, §502(r)(1), (2), Dec. 23, 2016, 130 Stat. 2104; Pub. L. 115–91, div. A, title V, §506(b), Dec. 12, 2017, 131 Stat. 1374; renumbered §7084, Pub. L. 115–232, div. A, title VIII, §808(a), Aug. 13, 2018, 132 Stat. 1838.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7084 to 7088 were renumbered sections 8584 to 8588 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3084 of this title as this section.

**2017**—Pub. L. 115–91 struck out at end "An officer appointed to that position who holds a lower grade shall be appointed in the grade of brigadier general."

**2016**—Pub. L. 114–328 amended section catchline generally, substituting "Chief of Veterinary Corps" for "Chief of Veterinary Corps: grade", and struck out second sentence of text which read as follows: "The Chief of the Veterinary Corps serves in the grade of brigadier general."

**2006**—Pub. L. 109–163 substituted colon for semicolon in section catchline.

**2003**—Pub. L. 108–136 inserted "shall be appointed from among officers of the Veterinary Corps. The Chief of the Veterinary Corps" after "Army".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §502(b), Nov. 24, 2003, 117 Stat. 1456, provided that: "The amendment made by subsection (a) [amending this section] shall apply to appointments of the Chief of the Veterinary Corps of the Army that are made on or after the date of the enactment of this Act [Nov. 24, 2003]."

# PART II—PERSONNEL


| Chap. | | Sec. |
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| **719.** | **Temporary Appointments** | **7176** |
| **721.** | **Active Duty** | **7191** |
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| **749.** | **Miscellaneous Investigation Requirements and Other Duties** | **7381** |


### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(f)(2), Aug. 13, 2018, 132 Stat. 1839, redesignated items for chapters 331 to 375 as 711 to 749 and redesignated section numbers 3201 to 4061 as 7101 to 7381. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2003**—Pub. L. 108–136, div. A, title V, §576(a)(2), Nov. 24, 2003, 117 Stat. 1487, added item for chapter 375.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(a), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 337 "Appointments as Reserve Officers", 361 "Separation for Various Reasons", and 363 "Separation or Transfer to Retired Reserve".

**1980**—Pub. L. 96–513, title V, §502(1), Dec. 12, 1980, 94 Stat. 2909, struck out item for chapter 359 "Separation from Regular Army for Substandard Performance of Duty", item for chapter 360 "Separation from Regular Army for Moral or Professional Dereliction or in Interests of National Security", and item for chapter 365 "Retirement for Age".

**1968**—Pub. L. 90–377, §3, July 5, 1968, 82 Stat. 288, struck out item for chapter 351 "United States Disciplinary Barracks".

Pub. L. 90–235, §8(5), Jan. 2, 1968, 81 Stat. 764, struck out item for chapter 347 "The Uniform".

**1960**—Pub. L. 86–616, §§2(b), 3(b), July 12, 1960, 74 Stat. 388, 390, substituted "Substandard Performance of Duty" for "Failure to Meet Standards" in item for chapter 359 and added item for chapter 360.

**1958**—Pub. L. 85–861, §1(95), Sept. 2, 1958, 72 Stat. 1487, substituted "3841" for "[No present sections]" in item for chapter 363.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON REMOTE PERSONNEL PROCESSING IN THE ARMY

Pub. L. 117–263, div. A, title V, §562, Dec. 23, 2022, 136 Stat. 2598, provided that:

"(a) ESTABLISHMENT.—Not later than January 1, 2024, the Secretary of the Army shall implement a pilot program to expedite in-processing and out-processing at one or more military installations—

"(1) under the jurisdiction of such Secretary; and

"(2) located within the continental United States.

"(b) FUNCTIONS.—The pilot program shall perform the following functions:

"(1) Enable the remote in-processing and out-processing of covered personnel, including by permitting covered personnel to sign forms electronically.

"(2) Reduce the number of hours required of covered personnel for in-processing and out-processing.

"(3) Provide, to covered personnel and the commander of a military installation concerned, electronic copies of records related to in-processing and out-processing.

"(c) TERMINATION.—The pilot program shall terminate on January 1st, 2027.

"(d) REPORT.—Not later than January 1, 2026, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding the pilot program, including the recommendation of the Secretary whether to make the pilot program permanent.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered personnel' includes members of the Army and civilian employees of the Department of the Army.

"(2) The term 'in-processing' means the administrative activities that covered personnel undertake pursuant to a permanent change of station.

"(3) The term 'out-processing' means the administrative activities that covered personnel undertake pursuant to a permanent change of station, separation from the Army, or end of employment with the Department of the Army."

# CHAPTER 711—STRENGTH

Sec.
7101. Officers on active duty: minimum strength based on requirements.
7102. Congressional notification of significant Army force structure changes.
7110. Regular Army: strength in grade; general officers.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title X, §1044(a)(2), Dec. 27, 2021, 135 Stat. 1904, added item 7102.

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 331 of this title as this chapter and items 3201 and 3210 as 7101 and 7110, respectively.

**1996**—Pub. L. 104–106, div. A, title V, §505(a)(2), Feb. 10, 1996, 110 Stat. 296, added item 3201.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(b)(2), Oct. 5, 1994, 108 Stat. 3015, struck out items 3212 "Army Reserve; Army National Guard of the United States: strength in grade; temporary increases", 3217 "Reserves: commissioned officers in active status", 3218 "Reserves: strength in grade; general officers in active status", 3219 "Reserves: strength in grade; commissioned officers in grades below brigadier general in active status", 3220 "Reserve officers: distribution", 3221 "Army Reserve", 3222 "Army Reserve, exclusive of members on active duty", 3223 "Army Reserve: warrant officers", 3224 "Army National Guard of United States", and 3225 "Army National Guard and Army National Guard of United States, exclusive of members on active duty".

**1990**—Pub. L. 101–510, div. A, title IV, §403(b)(1)(B), Nov. 5, 1990, 104 Stat. 1545, struck out item 3202 "Army: strength in grade; general officers".

**1980**—Pub. L. 96–513, title V, §502(4), Dec. 12, 1980, 94 Stat. 2909, struck out item 3201 "Army: members on active duty", substituted "strength in grade; general officers" for "officers in certain commissioned grades" in item 3202, struck out items 3203 "Regular Army: members on active duty", 3204 "Regular Army: commissioned officers on active list", 3205 "Regular Army: commissioned officers on active list, exclusive of certain categories", 3206 "Regular Army: commissioned officers on active list; Army Nurse Corps", 3207 "Regular Army: commissioned officers on active list; Army Medical Specialist Corps", 3209 "Regular Army: commissioned officers on active list; other branches", and 3211 "Regular Army: strength in grade; promotion-list officers", substituted "Army Reserve; Army National Guard of the United States: strength in grade; temporary increases" for "Regular Army; Army Reserve; Army National Guard of United

States: strength in grade; temporary increases" in item 3212, and struck out items 3213 "Regular Army: warrant officers on active list", 3214 "Regular Army: enlisted members on active duty", 3216 "Corps of Engineers: enlisted members on active duty", and 3230 "Personnel detailed outside Department of Defense".

**1978**—Pub. L. 95–485, title VIII, §820(c)(5), Oct. 20, 1978, 92 Stat. 1627, substituted "other branches" for "other branches; Women's Army Corps" in item 3209 and struck out item 3215 "Regular Army: Women's Army Corps; warrant officers on active list; enlisted members on active duty".

**1958**—Pub. L. 85–861, §1(70), Sept. 2, 1958, 72 Stat. 1464, inserted "; Army Reserve; Army National Guard of United States" in item 3212, and added items 3217 to 3220 and 3230.

**1957**—Pub. L. 85–155, title I, §101(6), Aug. 21, 1957, 71 Stat. 376, substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" in item 3207.

## §7101. Officers on active duty: minimum strength based on requirements

(a) The Secretary of the Army shall ensure that the strength at the end of each fiscal year of officers on active duty is sufficient to enable the Army to meet at least that percentage of the programmed manpower structure for officers for the active component of the Army that is provided for in the most recent Defense Planning Guidance issued by the Secretary of Defense.

(b) The number of officers on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

(c) In this section:

(1) The term "programmed manpower structure" means the aggregation of billets describing the full manpower requirements for units and organizations in the programmed force structure.

(2) The term "programmed force structure" means the set of units and organizations that exist in the current year and that is planned to exist in each future year under the then-current Future-Years Defense Program.

(Added Pub. L. 104–106, div. A, title V, §505(a)(1), Feb. 10, 1996, 110 Stat. 295, §3201; amended Pub. L. 112–239, div. A, title X, §1076(f)(37), Jan. 2, 2013, 126 Stat. 1954; renumbered §7101, Pub. L. 115–232, div. A, title VIII, §808(b)(1), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7101 was renumbered section 8591 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3201 of this title as this section.

**2013**—Subsec. (a). Pub. L. 112–239 struck out "(beginning with fiscal year 1999)" after "shall ensure that".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### ASSISTANCE IN ACCOMPLISHING REQUIREMENT

Pub. L. 104–106, div. A, title V, §505(b), Feb. 10, 1996, 110 Stat. 296, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(5), Aug. 13, 2018, 132 Stat. 1840, provided that: "The Secretary of Defense shall provide to the Army sufficient personnel and financial resources to enable the Army to meet the requirement specified in section 7101 of title 10, United States Code, as added by subsection (a)."

## §7102. Congressional notification of significant Army force structure changes

(a) NOTIFICATION REQUIRED.—Except as provided in subsection (c), the Secretary of the

Army shall submit to the congressional defense committees written notification of any decision to make a significant change to Army force structure prior to implementing or announcing such change.

(b) CONTENTS.—A notification required under subsection (a) shall include each of the following:

(1) The justification for the planned change.

(2) A description of the details of the planned change and timing for implementation.

(3) A description of the operational implications of the planned change.

(4) The estimated costs of such change.

(c) EXCEPTION.—The notification requirement under subsection (a) shall not apply if the Secretary of Defense certifies to the congressional defense committees in advance that the planned Army force structure change must be implemented immediately for reasons of military urgency.

(d) DEFINITION OF SIGNIFICANT CHANGE TO ARMY FORCE STRUCTURE.—In this section, the term "significant change to Army force structure" means—

(1) a change in the number, type, or component of brigade-level organizations or higher-echelon headquarters;

(2) a change in the number or component of theater-level capabilities, such as a multi-domain task force, Terminal High Altitude Area Defense, long range fires unit, or headquarters; or

(3) a permanent or temporary activation or inactivation of an experimental unit or brigade-size or higher task force.

(Added Pub. L. 117–81, div. A, title X, §1044(a)(1), Dec. 27, 2021, 135 Stat. 1904.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7102 to 7104 were renumbered sections 8592 to 8594 of this title, respectively.

## §7110. Regular Army: strength in grade; general officers

(a) Subject to section 526 of this title, the authorized strength of the Regular Army in general officers on the active-duty list is 75/10,000 of the authorized strength of the Regular Army in commissioned officers on the active-duty list.

(b) The authorized strength of each of the following branches—

(1) each corps of the Army Medical Department; and

(2) the Chaplains;

in general officers on the active-duty list of the Regular Army is 5/1,000 of the authorized strength of the branch concerned in commissioned officers on the active-duty list of the Regular Army. Not more than one-half of the authorized strength in general officers in such a branch may be in a regular grade above brigadier general.

(c) When the application of the percentages and ratios specified in this section results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 174, §3210; Pub. L. 85–861, §1(66), Sept. 2, 1958, 72 Stat. 1463; Pub. L. 89–603, §1(2), Sept. 24, 1966, 80 Stat. 846; Pub. L. 90–329, June 4, 1968, 82 Stat. 170; Pub. L. 96–513, title V, §502(5), Dec. 12, 1980, 94 Stat. 2909; Pub. L. 97–22, §5(b), July 10, 1981, 95 Stat. 128; Pub. L. 102–190, div. A, title X, §1061(a)(20)(A), Dec. 5, 1991, 105 Stat. 1473; renumbered §7110, Pub. L. 115–232, div. A, title VIII, §808(b)(1), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3210(a) | 10:506a(a) (words before 1st | Aug. 7, 1947, ch. 512, §503(a), 61 Stat. |

| | | |
|---|---|---|
| | semicolon). | 885. |
| 3210(b) | 10:506a(a) (less words before 1st semicolon, and less provisos). | June 28, 1950, ch. 383, §308 (1st sentence, as applicable to strength), 64 Stat. 270. |
| 3210(c) | 10:61–1 (1st sentence, as applicable to strength). | |
| | 10:506a(a) (1st, 2d, and 3d provisos). | |
| 3210(d) | 10:506a(a) (4th proviso). | |
| 3210(e) | 10:506a(a) (last proviso). | |

As enacted, section 503(a) of the Officer Personnel Act of 1947 (10:506a(a)), provided, subject to certain percentage limitations, for the following authorized strength of the Regular Army in general officers on the active list:

| | |
|---|---|
| Medical Corps | 16 |
| Dental Corps | 4 |
| Veterinary Corps | 1 |
| The Chaplains | 2 |
| Army, exclusive of the above | 334 |
| Total | 357 |

Under section 208(e) of the National Security Act of 1947 (5 U.S.C. 626c(e)), allocations of those authorized strengths were made between the Army and the Air Force as follows:

| | *Army* | *Air Force* |
|---|---|---|
| Medical Corps | 12 | 4 |
| Dental Corps | 3 | 1 |
| Veterinary Corps | 1 | 0 |
| The Chaplains | 1 | 1 |
| Army and Air Force, exclusive of the above | 184 | 150 |
| Total | 201 | 156 |

After the enactment of the Officer Personnel Act of 1947, section 308 of the Army Organization Act of 1950 (10:61–1) provided for an Assistant Judge Advocate General and three brigadier generals in the Judge Advocate General's Corps of the Army. The creation of these four general officer spaces served to increase the mentioned authorized strength figure from 357 to 361, and the figure 201 to 205. The opinion of the Judge Advocate General of the Army (JAGA 1948/5806, 2 Sept. 1948) is in accord with that conclusion.

The revised section reflects the authorized strength of the Regular Army in general officers on the active list resulting from the mentioned allocation to the Air Force and the addition of four general officer spaces in the Judge Advocate General's Corps.

That allocation, and those mentioned in the explanation of [former] subsection (c), below, have had the force of law since July 26, 1950, when the period for transfers, including the administrative authority to change these allocations, expired.

The word "regular" is substituted for the word "permanent" throughout the revised section.

In subsection (c), 10:506a(a) (1st proviso) is omitted, since there is no authority to appoint to a Regular grade above major general. 10:506a(a) (last 65 words of 2d proviso) is omitted as executed by the declaration of a national emergency on December 16, 1950.

In subsection (c)(1), the figures "12" and "6" result from the allocation of the original figures "16" and "8".

In subsection (c)(2), the figures "3" and "2" result from the allocation of the original figures "4" and "2".

In subsection (c)(3), the figure "1" results from the allocation of the original figure "1". None was allocated to the Air Force.

In subsection (c)(4), the figure "1" results from the allocation of the original figures "2" and "1". (The major general was allocated to the Army, the brigadier general to the Air Force.)

In subsection (c)(5), the figures "188" and "94" result from the allocation of the original figures "334" and "167". The allocation of 188 corresponds to the allotment made by the Secretary of War between the Air Corps and the Army exclusive of the Air Corps, the Medical Department, and the Chaplains, under 10:506a(a) (3d proviso). That proviso is omitted as executed.

In subsection (e), the words "by law to hold any civil office under the United States" are substituted for the words "by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3210(a) | 10 App.:506a(a)(1) (less 3d, 4th, 5th, and last sentences). | July 20, 1956, ch. 646, §302 (1st par.), 70 Stat. 587. |
| 3210(b) | 10 App.:506a(a)(1) (3d and 4th sentences). | |
| 3210(c) | 10 App.:506a(a)(1) (5th sentence). | |
| 3210(d) | 10 App.:506a(a)(1) (last sentence). | |

In subsection (a), the words "Subject to section 3202(a) of this title" are inserted for clarity.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3210 of this title as this section.

**1991**—Subsec. (a). Pub. L. 102–190 substituted "section 526" for "section 3202(a)".

**1981**—Subsec. (a). Pub. L. 97–22 struck out ", exclusive of the number authorized for the Army Medical Department and the Chaplains," before "is 75/10,000".

Pub. L. 97–22, which directed amendment of subsec. (a) by striking out ", exclusive of the number of commissioned officers on the active-duty list authorized for the Army Medical Department and the Chaplains", was executed by striking out ", exclusive of the number of commissioned officers on the active list authorized for the Army Medical Department and the Chaplains" before period at end of first sentence, to reflect the probable intent of Congress. See 1980 Amendment note and Effective Date of 1980 Amendment note below.

**1980**—Subsec. (a). Pub. L. 96–513, §502(5)(A), (B), substituted "active-duty list" for "active list" wherever appearing and struck out provisions that, of the authorized strength, not more than one-half could be in a regular grade above brigadier general.

Subsec. (b). Pub. L. 96–513, §502(5)(A), (C), substituted "active-duty list" for "active list" wherever appearing and substituted paragraphed references to "(1) each corps of the Army Medical Department" and "(2) the Chaplains" for former paragraphed references to "(1) The Medical Corps", "(2) the Dental Corps", "(3) the Veterinary Corps", and "(4) the Chaplains".

Subsecs. (d), (e). Pub. L. 96–513, §502(5)(D), struck out subsec. (d) which provided that general officers on the active list of the Regular Army who were specifically authorized by law to hold a civil office under the United States or any instrumentality thereof were not counted in determining authorized strength under this section and subsec. (e) which had provided that the authorized strength of the Medical Service Corps in general officers on the active list of the Regular Army was one commissioned officer in the regular grade of brigadier general.

**1968**—Subsec. (a). Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service" in two places.

**1966**—Subsec. (e). Pub. L. 89–603 added subsec. (e).

**1958**—Subsec. (a). Pub. L. 85–861, §1(66)(A), substituted "Subject to section 3202(a) of this title, the" for "The".

Subsecs. (c) to (e). Pub. L. 85–861, §1(66)(B), struck out subsec. (c) which prescribed the number of general officers authorized for the active list of the Regular Army, and redesignated subsecs. (d) and (e) as (c) and (d), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

# CHAPTER 713—ENLISTMENTS

Sec.
7131. Definition.
7138. Regular Army: reenlistment after service as an officer.
7142. Army: percentage of high-school graduates.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 333 of this title as this chapter and items 3251, 3258, and 3262 as 7131, 7138, and 7142, respectively.

**2015**—Pub. L. 114–92, div. A, title VI, §618(b), Nov. 25, 2015, 129 Stat. 841, struck out item 3252 "Bonus to encourage Army personnel to refer persons for enlistment in the Army".

**2008**—Pub. L. 110–181, div. A, title VI, §671(a)(2), Jan. 28, 2008, 122 Stat. 182, added item 3252.

**2006**—Pub. L. 109–163, div. A, title V, §542(b)(2), Jan. 6, 2006, 119 Stat. 3253, struck out item 3253 "Army: persons not qualified".

**2002**—Pub. L. 107–314, div. A, title V, §531(c), Dec. 2, 2002, 116 Stat. 2544, struck out item 3264 "18-month enlistment pilot program".

**2001**—Pub. L. 107–107, div. A, title V, §541(a)(2), Dec. 28, 2001, 115 Stat. 1110, added item 3264.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(b)(3), Oct. 5, 1994, 108 Stat. 3015, struck out items 3259 "Army Reserve: transfer from Army National Guard of United States", 3260 "Army Reserve: transfer to upon withdrawal as member of Army National Guard", and 3261 "Army National Guard of United States".

**1986**—Pub. L. 99–661, div. A, title IV, §402(b), Nov. 14, 1986, 100 Stat. 3859, added item 3262.

**1968**—Pub. L. 90–235, §2(a)(2)(C), Jan. 2, 1968, 81 Stat. 756, struck out item 3252 "Temporary enlistments", item 3254 "Army: during war or emergency", item 3255 "Regular Army: recruiting campaigns", item 3256 "Regular Army: qualifications, term, grade", item 3262 "Extension of enlistment for members needing medical care or hospitalization", and item 3263 "Voluntary extension of enlistment".

**1958**—Pub. L. 85–861, §1(71)(C), Sept. 2, 1958, 72 Stat. 1465, added item 3263.

## §7131. Definition

In this chapter, the term "enlistment" means original enlistment or reenlistment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 177, §3251; Pub. L. 100–180, div. A, title XII, §1231(19)(A), Dec. 4, 1987, 101 Stat. 1161; renumbered §7131, Pub. L. 115–232, div. A, title VIII, §808(b)(2), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 3251 | [No source]. | [No source]. |

The revised section is inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3251 of this title as this section.
**1987**—Pub. L. 100–180 inserted ", the term" after "In this chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7138. Regular Army: reenlistment after service as an officer

(a) Any former enlisted member of the Regular Army who has served on active duty as an officer of the Army, or who was discharged as an enlisted member to accept an appointment as an officer of the Army, is entitled to be reenlisted in the Regular Army in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty, if (1) his service as an officer is terminated by an honorable discharge or he is relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and (2) he applies for reenlistment within six months (or such other period as the Secretary of the Army prescribes for exceptional circumstances) after termination of that service.

(b) A person is not entitled to be reenlisted under this section if—

(1) the person was discharged or released from active duty as an officer on the basis of a determination of—

(A) misconduct;
(B) moral or professional dereliction;
(C) duty performance below prescribed standards for the grade held; or
(D) retention being inconsistent with the interests of national security; or

(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the commission held by that person during the active duty from which the person was released or discharged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 179, §3258; Pub. L. 85–603, §1(1), Aug. 8, 1958, 72 Stat. 526; Pub. L. 102–484, div. A, title V, §520(a), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 110–181, div. A, title V, §506(a), Jan. 28, 2008, 122 Stat. 96; renumbered §7138, Pub. L. 115–232, div. A, title VIII, §808(b)(2), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3258 | 10:631a (less last proviso). | July 14, 1939, ch. 267, §1 (less last proviso); restated May 29, 1954, ch. 249, §19(b) (less last proviso), 68 Stat. 166. |

The words "former" and "as an enlisted member" are inserted for clarity. The words "credit for service" are

substituted for the words "of service". The words "in his grade" are substituted for the words "in the appropriate enlisted grade". The words "he applies" are substituted for the words "application * * * shall be made". The words "Hereafter" and "while on active duty" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3258 of this title as this section.

**2008**—Subsec. (a). Pub. L. 110–181, §506(a)(1), substituted "an officer" for "a Reserve officer" and "an appointment" for "a temporary appointment".

Subsec. (b)(1). Pub. L. 110–181, §506(a)(2)(A), substituted "an officer" for "a Reserve officer" in introductory provisions.

Subsec. (b)(2). Pub. L. 110–181, §506(a)(2)(B), substituted "the commission" for "the Reserve commission".

**1992**—Pub. L. 102–484 designated existing provisions as subsec. (a), added subsec. (b), and struck out at end of subsec. (a) "However, if his service as an officer terminated by a general discharge, he may, under regulations to be prescribed by the Secretary of the Army, be so reenlisted."

**1958**—Pub. L. 85–603 limited entitlement to be reenlisted in enlisted grade to those officers whose service terminated by an honorable discharge and those relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and provided that persons whose service terminated by a general discharge, may, under regulations to be prescribed by the Secretary of the Army, be so reenlisted.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title V, §520(c), Oct. 23, 1992, 106 Stat. 2409, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 8258 of this title] shall apply to persons discharged or released from active duty as commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act [Oct. 23, 1992]."

## §7142. Army: percentage of high-school graduates

Notwithstanding section 520(b) of this title, of the males with no prior military service who are enlisted or inducted into the Army during any fiscal year, the number who are not high-school graduates may not exceed, as of the end of the fiscal year, 35 percent of all such persons.

(Added Pub. L. 99–661, div. A, title IV, §402(a), Nov. 14, 1986, 100 Stat. 3859, §3262; amended Pub. L. 100–370, §1(a)(2), July 19, 1988, 102 Stat. 840; renumbered §7142, Pub. L. 115–232, div. A, title VIII, §808(b)(2), Aug. 13, 2018, 132 Stat. 1838.)

### HISTORICAL AND REVISION NOTES

### 1988 ACT

Amendment of section is based on Pub. L. 93–307, title IV, §401, June 8, 1974, 88 Stat. 234, as amended by Pub. L. 93–365, title VII, §705, Aug. 5, 1974, 88 Stat. 406.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3262 of this title as this section.

**1988**—Pub. L. 100–370 substituted "Notwithstanding section 520(b) of this title, of" for "Of".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 715—APPOINTMENTS IN THE REGULAR ARMY

Sec.
7151. Commissioned officer grades.
7152. General officers: title of office.
7153. Commissioned officers: appointment without specification of branch; transfer between branches.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 335 of this title as this chapter and items 3281 to 3283 as 7151 to 7153, respectively.

Pub. L. 115–232, div. A, title V, §511(b), Aug. 13, 2018, 132 Stat. 1751, struck out item 3310 "Warrant officers: original appointment; qualifications".

**1980**—Pub. L. 96–513, title V, §502(8), Dec. 12, 1980, 94 Stat. 2909, struck out items 3284 "Commissioned officers: appointment, how made", 3285 "Commissioned officers: original appointment; qualifications", 3286 "Commissioned officers: original appointment; age limitations", 3287 "Commissioned officers: original appointment; service credit", 3288 "Commissioned officers: original appointment; determination of grade", 3289 "Commissioned officers; Medical Corps: original appointment; professional examination", 3290 "Commissioned officers; Medical Service Corps: original appointment; additional qualifications, grade", 3291 "Commissioned officers: Army Nurse Corps and Army Medical Specialist Corps: original appointment; additional qualifications, grade", 3292 "Commissioned officers; Judge Advocate General's Corps: original appointment; additional qualifications, grade", 3293 "Commissioned officers; Chaplains: original appointment; examination", 3294 "Commissioned officers; Medical and Dental Corps: original appointment", 3295 "Commissioned officers: original appointment; determination of place on promotion list", 3296 "Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion", 3297 "Selection boards", 3298 "Commissioned officers: promotion to first lieutenant; effect of failure of promotion", 3299 "Commissioned officers: promotion to captain, major, or lieutenant colonel", 3300 "Commissioned officers: promotion to captain, major, or lieutenant colonel; selection board procedure", 3302 "Commissioned officers: Medical, Dental, and Veterinary Corps: promotion to captain, major, or lieutenant colonel; professional examination", 3303 "Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel", 3305 "Commissioned officers: promotion to colonel", 3306 "Commissioned officers: promotion to brigadier general", 3307 "Commissioned officers: promotion to major general", 3308 "Commissioned officers: effect of removal from recommended list by President or failure of confirmation by Senate", 3309 "Commissioned officers: physical examination for promotion", 3312 "Officers: acceptance of promotion", 3313 "Suspension of laws for promotion or mandatory retirement or separation during war or emergency", and 3314 "Commissioned officers: promotion not to be delayed by another appointment".

**1978**—Pub. L. 95–485, title VIII, §820(d)(5), Oct. 20, 1978, 92 Stat. 1627, struck out item 3311 "Officers: female; limitations on appointment".

**1967**—Pub. L. 90–130, §1(10)(C), (E), Nov. 8, 1967, 81 Stat. 375, struck out item 3304 "Commissioned officers; Army Nurse Corps and Army Medical Specialist: promotion to lieutenant colonel or colonel", and struck out "other than officers in Army Nurse Corps and Army Medical Specialist Corps" after "Commissioned officers" in item 3305.

**1958**—Pub. L. 85–861, §1(79)(B), Sept. 2, 1958, 72 Stat. 1468, added item 3314.

**1957**—Pub. L. 85–155, title I, §101(9), (15), (17), Aug. 21, 1957, 71 Stat. 377, 379, substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" in item 3291, "Army Medical Specialist" for "Women's Medical Specialist Corps" and "promotion to lieutenant colonel or colonel" for "promotion to

first lieutenant, captain, major, or lieutenant colonel" in item 3304, and "Commissioned officers other than officers in Army Nurse Corps and Army Medical Specialist Corps" for "Commissioned officers" in item 3305.

## §7151. Commissioned officer grades

The commissioned grades in the Regular Army are:

(1) Major general.
(2) Brigadier general.
(3) Colonel.
(4) Lieutenant colonel.
(5) Major.
(6) Captain.
(7) First lieutenant.
(8) Second lieutenant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 181, §3281; renumbered §7151, Pub. L. 115–232, div. A, title VIII, §808(b)(3), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3281 | 10:506(a) (last 24 words). | Aug. 7, 1947, ch. 512, §502(a) (last 24 words), 61 Stat. 884. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3281 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7152. General officers: title of office

An officer holding an appointment as a general officer in the Regular Army may be called a general officer in the Regular Army. In addition, a general officer of the Regular Army in the Medical Corps, Dental Corps, Veterinary Corps, Judge Advocate General's Corps, or the Chaplains, may be called a general officer of that branch.

(Aug. 10, 1956, ch. 1041, 70A Stat. 181, §3282; renumbered §7152, Pub. L. 115–232, div. A, title VIII, §808(b)(3), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3282 | 10:506(b) (less 2d sentence). | Aug. 7, 1947, ch. 512, §502(b) (less 2d sentence), 61 Stat. 884. |

The words "may be called" are substituted for the words "shall be known as" and "may be specifically referred to". The words "of that branch" are substituted for the enumeration of branches.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3282 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7153. Commissioned officers: appointment without specification of branch; transfer between branches

(a) Appointments in commissioned grades in the Regular Army shall be made without specification of branch except in each of the special branches and as professors or director of admissions of the United States Military Academy.

(b) Commissioned officers appointed in the Regular Army without specification of branch shall be assigned, and may be transferred and reassigned, by the Secretary of the Army to branches other than the special branches, according to their professional qualifications and the needs of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 181, §3283; Pub. L. 85–600, §1(4), Aug. 6, 1958, 72 Stat. 522; Pub. L. 95–485, title VIII, §820(d)(1), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069; renumbered §7153, Pub. L. 115–232, div. A, title VIII, §808(b)(3), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3283(a) | 10:506(b) (2d sentence).<br>10:506(c) (1st sentence). | Aug. 7, 1947, ch. 512, §502(b) (2d sentence), (c) (less proviso), 61 Stat. 884; June 12, 1948, ch. 449, §104(d)(1), 62 Stat. 358. |
| 3283(b) | 10:506(c) (less 1st sentence and less proviso). | |

Subsection (a) is substituted for 10:506(b) (2d sentence) and 506(c) (1st sentence). The words "in each of the special branches" are substituted for the enumeration of branches in 10:506(b) (2d sentence) and for the words "each of the several corps of the Army Medical Service, as chaplains", in 10:506(c).

In subsection (b), the words "other than the special branches and the Women's Army Corps" are substituted for 10:506(c) (words between 3d and 4th parentheses). The word "their" is substituted for the words "of the officers concerned". The words "of the Army" are substituted for the words "of the branches, arms, and services". The words "from time to time" and "arms, and services" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3283 of this title as this section.

**1978**—Subsec. (a). Pub. L. 95–551 substituted "director of admissions" for "registrar".

Pub. L. 95–485 struck out ", in the Women's Army Corps," after "special branches".

Subsec. (b). Pub. L. 95–485 struck out "and the Women's Army Corps" after "special branches".

**1958**—Subsec. (a). Pub. L. 85–600 inserted reference to registrar of the Military Academy.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 719—TEMPORARY APPOINTMENTS

Sec.
7176. Retention on active duty.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 339 of this title as this chapter and item 3446 as 7176.

**1980**—Pub. L. 96–513, title V, §502(11), Dec. 12, 1980, 94 Stat. 2910, struck out items 3441 "General rule", 3442 "Commissioned officers; regular and reserve components: appointment in higher grade", 3444 "Commissioned officers: during war or emergency", 3445 "Officers: additional appointments during war or emergency", 3447 "Appointments in commissioned grade: how made; how terminated", 3448 "Warrant officers: grades, appointment", 3449 "Warrant officers: promotion", 3451 "Officers: acceptance of appointment in higher grade", and 3452 "Officers; Medical and Dental Corps: temporary promotion to captain".

**1968**—Pub. L. 90–235, §3(b)(2), Jan. 2, 1968, 81 Stat. 758, struck out item 3450 "Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency".

**1958**—Pub. L. 85–861, §1(81)(F), (G), Sept. 2, 1958, 72 Stat. 1480, struck out item 3443 "Commissioned officers; Reserves; appointment in higher or lower grade" and added item 3452.

## §7176. Retention on active duty

The President may retain on active duty a disabled officer until—

(1) the physical condition of the officer is such that the officer will not be further benefited by retention in a military hospital or a medical facility of the Department of Veterans Affairs; or

(2) the officer is processed for physical disability benefits provided by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 196, §3446; Pub. L. 85–861, §1(81)(C), Sept. 2, 1958, 72 Stat. 1480; Pub. L. 101–189, div. A, title XVI, §1621(a)(10), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 102–25, title VII, §701(j)(6), Apr. 6, 1991, 105 Stat. 116; renumbered §7176, Pub. L. 115–232, div. A, title VIII, §808(b)(4), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3446 | 10:499. | June 19, 1948, ch. 511, 62 Stat. 489. |

The word "shall" is substituted for the words "authorized and directed". The words "on active duty" are substituted for the words "in service". The words "warrant officers, and flight officers" are omitted, since the definition of "officer" in section 101(14) of this title covers commissioned, warrant, and flight officers. The words "who has only a temporary appointment" are substituted for the words "of the Army * * * of the United States". The words "his physical condition is such that he" are substituted for the words "their treatment for physical reconstruction has reached a point where they". The words "in the Army" are substituted for the words "in the military service".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3446 | 10 App.:499. | June 15, 1956, ch. 388, 70 Stat. 282. |

The words "commissioned officers and warrant" are omitted as covered by the definition of the word "officer" in section 101(14) of this title. The words "condition is such that" are substituted for the words "reconstruction has reached a point where".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3446 of this title as this section.

**1991**—Par. (2). Pub. L. 102–25 struck out "as" before "provided by law".

**1989**—Pub. L. 101–189 amended section generally. Prior to amendment, section read as follows: "Notwithstanding any other provision of law, the President may retain on active duty a disabled officer until his physical condition is such that he will not be further benefited by retention in a military or Veterans' Administration hospital or until he is processed for physical disability benefits provided by law."

**1958**—Pub. L. 85–861 substituted "may retain on active duty a disabled officer" for "shall retain on active duty any disabled officer who has only a temporary appointment", and "military or Veterans' Administration hospital or until he is processed for physical disability benefits provided by law" for "military hospital or in the Army".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 721—ACTIVE DUTY

Sec.
7191. Non-regular officers: status.
7203. Retired commissioned officers: status.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 341 of this title as this chapter and items 3491 and 3503 as 7191 and 7203, respectively.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(b)(4), Oct. 5, 1994, 108 Stat. 3015, struck out items 3495 "Army National Guard of United States: status", 3496 "Army National Guard of United States: commissioned officers; duty in National Guard Bureau", 3497 "Army National Guard of United States: members; status in which ordered into Federal service", 3498 "Army National Guard of United States: mobilization; maintenance of organization", 3499 "Army National Guard in Federal service: status", 3500 "Army National Guard in Federal service: call", 3501 "Army National Guard in Federal service: period of service; apportionment", and 3502 "Army National Guard in Federal service: physical examination".

**1980**—Pub. L. 96–513, title V, §502(12), Dec. 12, 1980, 94 Stat. 2910, struck out item 3494 "Commissioned officers: grade in which ordered to active duty" and item 3504 "Retired members: limitations; grade".

**1968**—Pub. L. 90–235, §1(a)(3), (b), Jan. 2, 1968, 81 Stat. 753, struck out item 3492 "Members: service extension during war", and item 3493 "Army Reserve: commissioned officers with Corps of Engineers".

**1958**—Pub. L. 85–861, §1(82)(B), Sept. 2, 1958, 72 Stat. 1481, added item 3494.

## §7191. Non-regular officers: status

A commissioned officer of the Army, other than of the Regular Army, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Army Reserve—

(1) whose reserve grade is that in which the officer not of the Regular Army is serving;
(2) who has the same length of service as the officer not of the Regular Army; and
(3) who is on active duty in his reserve grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 198, §3491; renumbered §7191, Pub. L. 115–232, div. A, title VIII, §808(b)(5), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3491 | 10:506d(h). | Aug. 7, 1947, ch. 512, §515(h), 61 Stat. 908. |

The first 12 words are substituted for 10:506d(h) (1st 11 words). The words "has the rights and privileges, and is entitled to the benefits" are substituted for the words "shall be entitled * * * to the same rights, privileges, and benefits". Clause (1) is substituted for the words "in a grade the same as such 'active-duty grade' ". The words "as the officer not of the Regular Army" are substituted for the words "holding appointment in the Army Reserve". The words "his reserve grade" are substituted for the words "the grade held in the Army Reserve".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior section 7201, act Aug. 10, 1956, ch. 1041, 70A Stat. 442, authorized Secretary of the Navy to conduct research and development relating to guided missiles and to procure and construct guided missiles, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(1), Nov. 30, 1993, 107 Stat. 1707.

Prior section 7202, act Aug. 10, 1956, ch. 1041, 70A Stat. 442, related to authority of Secretary of the Navy to provide for emergency and extraordinary expenses and to delegation of such authority to other persons in the Department of the Navy, prior to repeal by Pub. L. 94–106, title VIII, §804(b), Oct. 7, 1975, 89 Stat. 538. See section 127 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3491 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7203. Retired commissioned officers: status

A retired commissioned officer of the Army who is on active duty is considered, for all purposes except promotion, to be an officer of the branch or organization to which he is assigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 200, §3503; renumbered §7203, Pub. L. 115–232, div. A, title VIII, §808(b)(5), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3503 | 10:999. | July 9, 1918, ch. 143, subch. XX (2d par.), 40 Stat. 893. |

The words "and shall be an extra number therein" are omitted, since, in the opinion of the Judge Advocate General of the Army (JAG 210.85, Feb. 21, 1923), they were repealed by the Act of July 31, 1935, ch. 422, 49

Stat. 505. The words "in the discretion of the President, employed * * * assigned to duty" are omitted as surplusage. The word "branch" is substituted for the words "arms, corps, department" to conform to sections 3063 and 3064 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7203, acts Aug. 10, 1956, ch. 1041, 70A Stat. 442; Sept. 2, 1958, Pub. L. 85–861, §33(a)(34), 72 Stat. 1566, authorized Secretary of the Navy to make expenditures for scientific investigations and research from any naval appropriation available for those purposes and to delegate this authority within Navy, prior to repeal by Pub. L. 103–355, title III, §3025(a), Oct. 13, 1994, 108 Stat. 3334.

Prior sections 7204 and 7205 were renumbered sections 8604 and 8605 of this title, respectively.

A prior section 7206, act Aug. 10, 1956, ch. 1041, 70A Stat. 443, related to minor construction and extension of structures, prior to repeal by Pub. L. 85–861, §36B(22), Sept. 2, 1958, 72 Stat. 1571.

A prior section 7207 was renumbered section 8607 of this title.

A prior section 7208, act Aug. 10, 1956, ch. 1041, 70A Stat. 443, authorized the Secretary of the Navy to pay the travel, subsistence, special compensation, and other expenses of officers and students of Latin American countries that the Secretary considers necessary for Latin American cooperation, prior to repeal by Pub. L. 98–525, title XIV, §§1401(d)(3)(A), 1404, Oct. 19, 1984, 98 Stat. 2616, 2621, effective Oct. 1, 1985.

A prior section 7209, act Aug. 10, 1956, ch. 1041, 70A Stat. 444, related to rewards for recovery of missing naval property, prior to repeal by Pub. L. 100–370, §1(e)(3)(A), July 19, 1988, 102 Stat. 845. See section 2252 of this title.

A prior section 7210, act Aug. 10, 1956, ch. 1041, 70A Stat. 444, authorized Secretary of the Navy to purchase patents, patent applications, and licenses, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(2), Nov. 30, 1993, 107 Stat. 1707.

Prior sections 7211 and 7212 were renumbered sections 8611 and 8612 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3503 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 723—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.
7213. Corps of Engineers: assignment or transfer of officers to duties involving civil functions.
7214. Corps of Engineers: detail of officers to assist Mayor of District of Columbia.
7216. Leader of Army Band: appointment.
7217. Duties: chaplains; assistance required of commanding officers.
7218. Duties: warrant officers; limitations.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 343 of this title as this chapter and items 3533, 3534, 3536, 3547, and 3548 as 7213, 7214, 7216, 7217, and 7218, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §502(s)(2), Dec. 23, 2016, 130 Stat. 2104, struck out item 3543 "Aides: detail; number authorized".

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(b)(5), Oct. 5, 1994, 108 Stat. 3015, struck out items 3541 "National Guard Bureau: assignment of officers of regular or reserve components" and 3542 "Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail".

**1980**—Pub. L. 96–513, title V, §§502(13), 512(5)(C), Dec. 12, 1980, 94 Stat. 2910, 2929, struck out items 3531 "Chief of Staff to President: appointment", 3532 "Assistant to Comptroller of Department of Defense: detail, grade", and 3535 "Assistant to Chief of Engineers", and in item 3534 substituted "Mayor" for "Commissioner".

**1968**—Pub. L. 90–623, §2(6), Oct. 22, 1968, 82 Stat. 1314, substituted "Corps of Engineers: detail of officers to assist Commissioner of District of Columbia" for "Engineer Commissioner of the District of Columbia; assistants; detail" in item 3534.

Pub. L. 90–235, §4(a)(3), (10), (b)(2), Jan. 2, 1968, 81 Stat. 759, 760, struck out item 3538 "Geological Survey: detail of officers of Ordinance Corps", item 3539 "American National Red Cross: detail of officers of Army Medical Service", item 3544 "Duties: regular officers; performance of civil functions restricted", and item 3545 "Duties: officers; superintendence of cooking for enlisted members".

**1964**—Pub. L. 88–647, title III, §301(8), Oct. 13, 1964, 78 Stat. 1071, struck out item 3540 "Educational institutions: detail of members of regular or reserve components as professors and instructors in military science and tactics".

**1958**—Pub. L. 85–861, §1(84), Sept. 2, 1958, 72 Stat. 1481, struck out item 3546 "Duties: officers of Medical Corps, contract surgeons; attendance on families of members".

## §7213. Corps of Engineers: assignment or transfer of officers to duties involving civil functions

Officers of the Corps of Engineers may be assigned or transferred to and from duties involving the civil functions of the Corps of Engineers only with the approval of the Secretary of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 201, §3533; Pub. L. 89–718, §26, Nov. 2, 1966, 80 Stat. 1119; renumbered §7213, Pub. L. 115–232, div. A, title VIII, §808(b)(6), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3533 | 10:506(c) (proviso). | Aug. 7, 1947, ch. 512, §502(c) (proviso), 61 Stat. 883. |

The words "and reassignments" are omitted as surplusage.

**PRIOR PROVISIONS**

A prior section 7213, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, related to relief of contractors and their employees from losses by enemy action, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(3), Nov. 30, 1993, 107 Stat. 1707.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3533 of this title as this section.

**1966**—Pub. L. 89–718 struck out provisions requiring the recommendation of the Chief of Engineers in order to transfer officers of the Corps of Engineers to or from the civil functions of the Corps of Engineers.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7214. Corps of Engineers: detail of officers to assist Mayor of District of Columbia

The President may detail not more than three officers assigned to the Corps of Engineers to assist the Mayor of the District of Columbia in discharging his duties.

(Aug. 10, 1956, ch. 1041, 70A Stat. 201, §3534; Pub. L. 90–623, §2(5), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, §512(5)(A), (B), Dec. 12, 1980, 94 Stat. 2929; renumbered §7214, Pub. L. 115–232, div. A, title VIII, §808(b)(6), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3534(a) | 10:189 (less 1st sentence). | June 11, 1878, ch. 180, §2 (48th through 56th words of 1st sentence, and 2d sentence), 20 Stat. 103. |
| 3534(b) | 10:190. | June 11, 1878, ch. 180, §5 (last sentence); restated Aug. 7, 1894, ch. 232 (proviso under "For Engineer's Office"), 28 Stat. 246.<br>Mar. 3, 1881, ch. 134 (words after last semicolon of 1st par. under "General Expenses"), 21 Stat. 460.<br>Dec. 24, 1890, J. Res. 7 (last sentence), 26 Stat. 1113. |

In subsection (a), the words "whose grade is above first lieutenant" are substituted for the words "from among the captains or officers of higher grade". The words "in the discretion of" and "from time to time, from the Corps of Engineers, by the President, for this duty" are omitted as surplusage. 10:189 (last sentence) is omitted as obsolete.

In subsections (a) and (b), the words "assigned to" are substituted for the word "of", since, under section 3063 of this title, officers are assigned to, rather than commissioned in, the Corps of Engineers.

In subsection (b), the words "assist that officer" are substituted for the words "act as assistants to said engineer commissioner". The words "his duties" are substituted for the words "the special duties imposed upon him".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7214 was renumbered section 8614 of this title.

A prior section 7215, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, authorized Secretary of the Navy to maintain and operate naval prisons and prison farms and to provide for subsistence, welfare, recreation, and education of naval prisoners, prior to repeal by Pub. L. 90–377, §6(2), July 5, 1968, 82 Stat. 288.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3534 of this title as this section.

**1980**—Pub. L. 96–513 substituted "Mayor" for "Commissioner" in section catchline and text.

**1968**—Pub. L. 90–623 substituted "Corps of Engineers: detail of officers to assist Commissioner of District of Columbia" for "Engineer Commissioner of the District of Columbia; assistants: detail" as section catchline and struck out provisions for the appointment of an Engineer Commissioner of the District of Columbia.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## §7216. Leader of Army Band: appointment

(a) The Secretary of the Army may appoint the leader of the Army band from the warrant officers of the Regular Army. The leader serves during the pleasure of the Secretary and may be returned to his former status in the discretion of the Secretary.

[(b) Repealed. Pub. L. 87–649, §14c(5), Sept. 7, 1962, 76 Stat. 501.]

(c) Upon retirement, the leader of the Army band has the grade of warrant officer, with the retired pay to which he would have been entitled had he not been appointed leader.

(Aug. 10, 1956, ch. 1041, 70A Stat. 201, §3536; Pub. L. 87–649, §14c(5), Sept. 7, 1962, 76 Stat. 501; renumbered §7216, Pub. L. 115–232, div. A, title VIII, §808(b)(6), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3536(a) | 10:11 (1st sentence, less last 85 words; and 2d sentence). | Mar. 3, 1925, ch. 412, 43 Stat. 1100. |
| 3536(b) | 10:11 (last 85 words of 1st sentence). | |
| 3536(c) | 10:11 (less 1st and 2d sentences). | |

In subsection (a), the word "may" is substituted for the words "is authorized". The first nine words of the second sentence are substituted for 10:11 (1st 15 words of 2d sentence).

In subsection (b), the word "basic" is substituted for the word "base" to conform to the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "pay and allowances of a captain, and is entitled to be credited for pay purposes with all service which may be credited under section 233 of title 37" are substituted for 10:11 (last 64 words of 1st sentence). The words "in lieu of any and all pay and allowances as a warrant officer" are omitted as surplusage.

In subsection (c), 10:11 (1st proviso of last sentence) is omitted as executed. 10:11 (last proviso of last sentence) and the words "and received the pay and allowances of" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7216 was renumbered section 8616 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3536 of this title as this section.

**1962**—Subsec. (b). Pub. L. 87–649 repealed subsec. (b) which related to the basic pay and allowances of the leader of the Army band, and is now covered by sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §7217. Duties: chaplains; assistance required of commanding officers

(a) Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Army who die while in that command.

(b) Each commanding officer shall furnish facilities, including necessary transportation, to any chaplain assigned to his command, to assist the chaplain in performing his duties.

(Aug. 10, 1956, ch. 1041, 70A Stat. 203, §3547; renumbered §7217, Pub. L. 115–232, div. A, title VIII, §808(b)(6), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3547(a) | 10:238. | R.S. 1125. |
| 3547(b) | 10:239. | R.S. 1127. |
| | [Uncodified: Feb. 2, 1901, ch. 192, §12 (last sentence), 31 Stat. 750]. | Feb. 2, 1901, ch. 192, §12 (last sentence), 31 Stat. 750. |

In subsection (a), the words "members of the Army" are substituted for the words "officers and soldiers".

In subsection (b), the words "regiments, hospitals, and posts", in 10:239, are omitted, since at the time of the enactment of section 1127 of the Revised Statutes, chaplains were authorized only for regiments, hospitals, and posts. The revised section preserves the broad coverage of the original statute. The words "Each commanding officer shall" are substituted for the words "It shall be the duty of commanders", in 10:239. The word "furnish" is substituted for the words "to afford", in 10:239. The words "including necessary transportation" are substituted for the last sentence of section 12 of the Act of February 2, 1901, ch. 192, 31 Stat. 750. The words "his command" are substituted for the words "the same", in 10:239. The words "to assist" are substituted for the words "as may aid them", in 10:239.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7217, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, related to reports to Congress concerning appropriations for Department of the Navy, prior to repeal by Pub. L. 101–510, div. A, title XIII, §1322(a)(15), Nov. 5, 1990, 104 Stat. 1672.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3547 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7218. Duties: warrant officers; limitations

Under regulations prescribed by the President, a warrant officer may be assigned to perform duties that necessarily include those normally performed by a commissioned officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 203, §3548; renumbered §7218, Pub. L. 115–232, div. A, title VIII, §808(b)(6), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3548 | 10:593 (1st sentence). | Aug. 21, 1941, ch. 384, §4 (1st sentence), 55 Stat. 653. |

10:593 (1st sentence, less provisos) is omitted as superseded by section 3012(e) of this title. 10:593 (last proviso) is omitted as covered by section 936(a)(4) of this title (article 136(a)(4) of the Uniform Code of Military Justice). The words "may be assigned" are substituted for the words "shall be vested with power to".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7218, act Aug. 10, 1956, ch. 1041, 70A Stat. 445; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314, authorized Secretary of Navy to give special recognition to members of naval service for excellence, special service and good conduct in naval service, prior to repeal by Pub. L. 89–529, §1(3), Aug. 11, 1966, 80 Stat. 339; Pub. L. 97–295, §1(46), Oct. 12, 1982, 96 Stat. 1298.

Prior sections 7219 to 7221 were renumbered sections 8619 to 8621 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3548 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 725—RANK AND COMMAND

Sec.
7222. Rank: commissioned officers serving under temporary appointments.
7225. Rank: warrant officers.
7229. Command: commissioned officers of Army Medical Department.
7231. Command: chaplains.
7233. Requirement of exemplary conduct.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 345 of this title as this chapter and items 3572, 3575, 3579, 3581, and 3583 as 7222, 7225, 7229, 7231, and 7233, respectively.

**1997**—Pub. L. 105–85, div. A, title V, §507(a)(2), Nov. 18, 1997, 111 Stat. 1727, added item 3583.

**1980**—Pub. L. 96–513, title V, §502(14), Dec. 12, 1980, 94 Stat. 2910, struck out items 3571 "Rank: commissioned officers on active duty", 3573 "Rank: commissioned officers in regular grades of brigadier general and major general; seniority list", 3574 "Rank; commissioned officers in regular grades below brigadier general", and 3582 "Command: retired officers".

**1978**—Pub. L. 95–485, title VIII, §820(f), Oct. 20, 1978, 92 Stat. 1627, struck out item 3580 "Command: commissioned officers of Women's Army Corps".

**1968**—Pub. L. 90–329, June 4, 1968, 82 Stat. 170, substituted "Army Medical Department" for "Army

Medical Service" in item 3579.

Pub. L. 90–235, §5(a)(3), Jan. 2, 1968, 81 Stat. 761, struck out item 3576 "Command: when different commands of Army and Marine Corps join", and item 3578 "Command: commissioned officers of Army in same grade on duty at same place".

## §7222. Rank: commissioned officers serving under temporary appointments

The President may, in accordance with the needs of the Army, adjust dates of rank of commissioned officers of the Army serving in temporary grades.

(Aug. 10, 1956, ch. 1041, 70A Stat. 204, §3572; renumbered §7222, Pub. L. 115–232, div. A, title VIII, §808(b)(7), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3572 | 10:506d(c) (last sentence). | Aug. 7, 1947, ch. 512, §515(c) (last sentence), 61 Stat. 907. |

The word "commissioned" is inserted for clarity, since the source statute related only to commissioned officers. The words "in his discretion, from time to time" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7222 to 7224 were renumbered sections 8622 to 8624 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3572 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7225. Rank: warrant officers

Warrant officers rank next below second lieutenants and rank among themselves within each warrant officer grade under regulations to be prescribed by the Secretary of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 205, §3575; renumbered §7225, Pub. L. 115–232, div. A, title VIII, §808(b)(7), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3575 | 10:593 (less 1st sentence). | Aug. 21, 1941, ch. 384, §4 (less 1st sentence), 55 Stat. 653; May 29, 1954, ch. 249, §19(e), 68 Stat. 167. |

10:593 (2d sentence) is omitted as executed. The words "within each warrant officer grade" are inserted for clarity, since section 745 of this title covers rank between warrant officers in different warrant officer grades.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7225 to 7228 were renumbered sections 8625 to 8628 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3575 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7229. Command: commissioned officers of Army Medical Department

(a) Except as provided in subsection (b), a commissioned officer of the Army Medical Department is not entitled to exercise command because of his rank, except within the Army Medical Department.

(b) An officer of the Medical Service Corps may exercise command of troops that are not part of the Army Medical Department whenever authorized by the Secretary of the Army. The Secretary of the Army may delegate such authority to appropriate commanders as the interest of the Army may require.

(Aug. 10, 1956, ch. 1041, 70A Stat. 206, §3579; Pub. L. 85–861, §1(60), (87), Sept. 2, 1958, 72 Stat. 1462, 1482; Pub. L. 87–142, Aug. 17, 1961, 75 Stat. 364; Pub. L. 90–329, June 4, 1968, 82 Stat. 170; Pub. L. 96–513, title II, §212(a), Dec. 12, 1980, 94 Stat. 2885; Pub. L. 98–525, title XIV, §1405(46), Oct. 19, 1984, 98 Stat. 2625; renumbered §7229, Pub. L. 115–232, div. A, title VIII, §808(b)(7), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3579(a) | 10:82. | R.S. 1169. |
| 3579(b) | 10:166e (less 1st sentence). | Apr. 16, 1947, ch. 38, §106 (less 1st sentence), 61 Stat. 44. |

In subsection (a), the word "commissioned" is inserted for clarity. The words "Except as provided in section 94 of this title", not contained in section 1169 of the Revised Statutes, but contained in 10:94, are omitted as surplusage, since 10:94 deals exclusively with assignments. The words "except within the Army Medical Service" are substituted for the words "in the line or in other staff corps". Officers of the Army Nurse Corps and Women's Medical Specialist Corps are not covered by subsection (a), since their command authority is specifically stated in subsection (b).

In subsection (b), 10:166e (last 22 words of 1st sentence) is omitted as superseded by sections 3012(e) and 3065 of this title. The words "may exercise command only" are substituted for the words "shall not be entitled * * * to command except". The words "by virtue of their rank" and "by competent authority" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3579(a) | 10 App.:376(b). | Aug. 9, 1955, ch. 654, §2, 69 Stat. 579. |

The amendment of subsec. (b) also reflects the authority contained in section 3357 of this title to appoint males as reserve officers of the Corps concerned.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7229 was renumbered section 8629 of this title.

A prior section 7230, added Pub. L. 85–43, §1(1), May 31, 1957, 71 Stat. 44; amended Pub. L. 87–651, title I, §125, Sept. 7, 1962, 76 Stat. 514, related to sale of degaussing equipment, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(4), Nov. 30, 1993, 107 Stat. 1707.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3579 of this title as this section.

**1984**—Subsec. (a). Pub. L. 98–525 substituted "subsection (b)" for "subsection (c)".

**1980**—Subsec. (a). Pub. L. 96–513, §212(a)(1), struck out ", other than an officer of the Army Nurse Corps or Army Medical Specialist Corps," after "officer of the Army Medical Department".

Subsecs. (b), (c). Pub. L. 96–513, §212(a)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which provided that an officer of the Army Nurse Corps or the Army Medical Specialist Corps exercise command only within his branch, or over persons placed under his charge.

**1968**—Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service" in section catchline and in subsecs. (a) and (c).

**1961**—Subsec. (a). Pub. L. 87–142, §1(1), substituted "Except as provided in subsection (c), a" for "A".

Subsec. (c). Pub. L. 87–142, §1(2), added subsec. (c).

**1958**—Subsec. (a). Pub. L. 85–861, §1(60), substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps".

Subsec. (b). Pub. L. 85–861, §1(60), (87), substituted "Army Medical Specialist Corps" for "Women's Medical Specialist Corps" and "his" for "her own" and "her".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §7231. Command: chaplains

A chaplain has rank without command.

(Aug. 10, 1956, ch. 1041, 70A Stat. 206, §3581; renumbered §7231, Pub. L. 115–232, div. A, title VIII, §808(b)(7), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3581 | 10:235. | R.S. 1122. |

The words "and shall be on the same footing with other officers of the Army, as to tenure of office, retirement, and pensions" are omitted as obsolete, since there is no distinction between the status of a chaplain as an officer and the status of other officers of the Army.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7231 was renumbered section 8631 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3581 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7233. Requirement of exemplary conduct

All commanding officers and others in authority in the Army are required—

(1) to show in themselves a good example of virtue, honor, patriotism, and subordination;

(2) to be vigilant in inspecting the conduct of all persons who are placed under their command;

(3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them; and

(4) to take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

(Added Pub. L. 105–85, div. A, title V, §507(a)(1), Nov. 18, 1997, 111 Stat. 1726, §3583; renumbered §7233, Pub. L. 115–232, div. A, title VIII, §808(b)(7), Aug. 13, 2018, 132 Stat. 1838.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7233 to 7235 were renumbered sections 8633 to 8635 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3583 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 729—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
7239. Enlisted members: officers not to use as servants.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 349 of this title as this chapter and item 3639 as 7239.

**2008**—Pub. L. 110–181, div. A, title V, §590(b)(2)(A), Jan. 28, 2008, 122 Stat. 138, struck out item 3634 "Army band: may not be paid for performance outside Army post".

**1980**—Pub. L. 96–513, title V, §512(6), Dec. 12, 1980, 94 Stat. 2929, struck out item 3632 "Members of Army: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs", item 3633 "Commissioned officers: forfeiture of pay when dropped from rolls", and item 3636 "Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge".

**1968**—Pub. L. 90–235, §§6(a)(8), 7(b)(2), Jan. 2, 1968, 81 Stat. 762, 763, struck out item 3631 "Dealing in quartermaster supplies prohibited", item 3635 "Enlisted members: restriction on civilian employment", and item 3637 "Enlisted members: forfeiture of right to pension by deserters".

**1958**—Pub. L. 85–861, §1(88), Sept. 2, 1958, 72 Stat. 1482, struck out item 3638.

## §7239. Enlisted members: officers not to use as servants

No officer of the Army may use an enlisted member of the Army as a servant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 208, §3639; renumbered §7239, Pub. L. 115–232, div. A, title VIII, §808(b)(8), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3639 | 10:608. | R.S. 1232. |

The words "in any case whatever" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3639 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 733—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
7251. Presentation of United States flag upon retirement.
7252. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
7253. Flying officer rating: qualifications.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 353 of this title as this chapter and items 3681, 3684, and 3691 as 7251, 7252, and 7253, respectively.

**1998**—Pub. L. 105–261, div. A, title VI, §644(a)(2), Oct. 17, 1998, 112 Stat. 2048, added item 3681.

**1994**—Pub. L. 103–337, div. A, title XVI, §1672(b)(6), Oct. 5, 1994, 108 Stat. 3015, struck out item 3686 "Members of Army National Guard of United States: credit for service as members of Army National Guard".

**1986**—Pub. L. 99–661, div. A, title VI, §604(f)(1)(B)(i), Nov. 14, 1986, 100 Stat. 3877, struck out item 3687 "Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army".

**1985**—Pub. L. 99–145, title XIII, §1301(b)(1)(B), Nov. 8, 1985, 99 Stat. 735, struck out item 3683 "Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted".

**1980**—Pub. L. 96–513, title V, §512(7), Dec. 12, 1980, 94 Stat. 2929, struck out item 3689 "Assignments and allotments of pay".

**1971**—Pub. L. 92–168, §1(2), Nov. 24, 1971, 85 Stat. 489, struck out item 3692 "Pilot rating in time of peace: qualifications".

**1968**—Pub. L. 90–235, §§6(a)(3), 7(a)(4), (b)(3), Jan. 2, 1968, 81 Stat. 762, 763, struck out item 3682 "Service credit: officers; service as cadet not counted", item 3685 "Regular Army; Army Reserve: female members; definition of 'dependents' ", item 3690 "Exemption from arrest for debt: enlisted members", and item 3693 "Replacement of certificate of discharge".

**1958**—Pub. L. 85–861, §1(91), Sept. 2, 1958, 72 Stat. 1482, struck out items 3681 "Army Register: regular officers; service to be listed" and 3688 "Death Gratuity".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ESTABLISHMENT OF BREASTFEEDING POLICY FOR THE DEPARTMENT OF THE ARMY

Pub. L. 114–92, div. A, title V, §527, Nov. 25, 2015, 129 Stat. 813, provided that: "The Secretary of the Army shall develop a comprehensive policy regarding breastfeeding by female members of the Army who are breastfeeding. At a minimum, the policy shall address the following:

"(1) The provision of a designated room or area that will provide the member with adequate privacy and cleanliness and that includes an electrical outlet to facilitate the use of a breast pump. Restrooms should not be considered an appropriate location.

"(2) An allowance for appropriate breaks, when practicable, to permit the member to breastfeed or utilize a breast pump."

## §7251. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Army from active duty for retirement, the Secretary of the Army shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 105–261, div. A, title VI, §644(a)(1), Oct. 17, 1998, 112 Stat. 2048, §3681; amended Pub. L. 106–65, div. A, title VI, §652(e), Oct. 5, 1999, 113 Stat. 666; renumbered §7251, Pub. L. 115–232, div. A, title VIII, §808(b)(9), Aug. 13, 2018, 132 Stat. 1838.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3681 of this title as this section.

**1999**—Subsec. (b). Pub. L. 106–65 substituted "under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement." for "under this section or section 6141 or 8681 of this title or section 516 of title 14."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 105–261, div. A, title VI, §644(e), Oct. 17, 1998, 112 Stat. 2049, provided that: "Sections 3681, 6141, and 8681 [now 7251, 8261, and 9251] of title 10, United States Code (as added by this section), and section 516 [now 2748] of title 14, United States Code (as added by subsection (d)), shall apply with respect

to releases from active duty described in those sections on or after October 1, 1998."

## §7252. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Army is entitled to count active service as an officer in the Army as enlisted service for all purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 211, §3684; renumbered §7252, Pub. L. 115–232, div. A, title VIII, §808(b)(9), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3684 | 10:631a (last proviso). | July 14, 1939, ch. 267, §1 (last proviso); restated May 29, 1954, ch. 249, §19(b) (last proviso), 68 Stat. 166. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3684 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7253. Flying officer rating: qualifications

Only officers of the Army in the following categories may be rated as flying officers:

(1) Officers who have aeronautical ratings as pilots of service types of aircraft or as aircraft observers.

(2) Flight surgeons.

(3) Officers undergoing flight training.

(4) Officers who are members of combat crews, other than pilots of service types of aircraft, aircraft observers, and observers.

(5) In time of war, officers who have aeronautical ratings as observers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 213, §3691; renumbered §7253, Pub. L. 115–232, div. A, title VIII, §808(b)(9), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3691 | 10:291c.<br>10:291c-1.<br>10:291e. | June 3, 1916, ch. 134, §13a (8th, 9th, and 11th provisos); added July 2, 1926, ch. 721, §2 (4th sentence, less 2d proviso), 44 Stat. 781; June 16, |

| | | |
|---|---|---|
| | | 1936, ch. 587, §3, 49 Stat. 1524; Oct. 4, 1940, ch. 742 (last proviso), 54 Stat. 963.<br>June 24, 1948, ch. 632 (2d proviso under "Finance Department"), 62 Stat. 650. |

10:291c (proviso) and the words "after June 30, 1948", in 10:291c–1, are omitted as executed. The definition of the term "flying officer", in 10:291c, originally was a definition of the term "flying officer in time of peace" as provided by section 2 of the Act of July 2, 1926, ch. 721, 44 Stat. 781. Section 1 of the Act of October 4, 1940, ch. 742, 54 Stat. 963, eliminated the words "in time of peace". As a consequence of that amendment, 10:291e (1st 26 words) is omitted as surplusage. Clause (2) is substituted for 10:291c–1 (less last 10 words). The words "commissioned officers or warrant", in 10:291c–1, are omitted as surplusage. In clause (4), the last 12 words are substituted for the words "any other".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3691 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 735—HOSPITALIZATION

Sec.
7263. When Secretary may require.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 355 of this title as this chapter and item 3723 as 7263.

**1986**—Pub. L. 99–661, div. A, title VI, §604(f)(1)(B)(ii), Nov. 14, 1986, 100 Stat. 3877, struck out item 3721 "Members of Army, other than of Regular Army" and item 3722 "Members of C.M.T.C.; members of Army not covered by section 3721 of this title."

**1958**—Pub. L. 85–861, §1(92)(D), Sept. 2, 1958, 72 Stat. 1482, substituted "Members of C.M.T.C." for "Members of R.O.T.C. and C.M.T.C." in item 3722.

## §7263. When Secretary may require

The Secretary of the Army may order the hospitalization, medical and surgical treatment, and domiciliary care, for as long as necessary, of any member of the Army on active duty, and may incur obligations with respect thereto, whether or not the member incurred an injury, illness, or disease in line of duty, except in the case of a member treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

(Aug. 10, 1956, ch. 1041, 70A Stat. 215, §3723; Pub. L. 99–661, div. A, title VI, §604(f)(1)(D), Nov. 14, 1986, 100 Stat. 3878; Pub. L. 100–180, div. A, title XII, §1231(16), Dec. 4, 1987, 101 Stat. 1161; renumbered §7263, Pub. L. 115–232, div. A, title VIII, §808(b)(10), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3723 | 10:455e.<br>32:164d. | July 15, 1939, ch. 282; restated Oct. 14, 1940, ch. 875, §5, 54 Stat. 1137. |

The words "under such regulations as he may prescribe", in 10:455e and 32:164d, are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The reference to 10:455a–455d and 32:164a–164c, and the words "nor any other law of the United States shall be construed as limiting the power and authority", are omitted, since the revised section makes explicit the authority of the Secretary to require the prescribed hospitalization and care. The words "or in training, under the provisions of section 62—" are omitted as covered by the words "active duty". The words "in the active military service" are omitted as surplusage. With the exception of 32:62 (4th proviso of last sentence), the references to 32:62–65, 144–146, 183, and 186, in 10:455e and 32:164d, do not refer to members of the Army National Guard of the United States and are therefore omitted from the revised section. 10:455e (1st proviso) and 32:164d (1st proviso) are omitted since they apply only to the National Guard and are covered by section 320 of title 32.

### EDITORIAL NOTES

### CODIFICATION

Pub. L. 100–26, §7(j)(11), Apr. 21, 1987, 101 Stat. 283, which directed that section 4723 of this title, as amended by section 604(f)(1)(D) of Pub. L. 99–661, be amended by striking out the comma after "disease", could not be executed because no section 4723 of this title had yet been enacted. The probable intent of Congress was to amend section 3723 of this title. Pub. L. 100–180, §1231(16), cited as a credit above, made an identical amendment to section 3723 prior to its renumbering as this section.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3723 of this title as this section.

**1987**—Pub. L. 100–180 struck out the comma after "disease".

**1986**—Pub. L. 99–661, substituted "incurred an injury, illness, or disease" for "was injured, or contracted a disease".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

## CHAPTER 737—DECORATIONS AND AWARDS

Sec.
7271. Medal of honor: award.
7272. Distinguished-service cross: award.
7273. Distinguished-service medal: award.
7274. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award.
7275. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award.
7276. Silver star: award.

7277. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement.
7278. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations.
7279. Distinguished flying cross: award; limitations.
7280. Soldier's Medal: award; limitations.
7281. Service medals: issue; replacement; availability of appropriations.
7282. Medals: posthumous award and presentation.
7283. Civil War battle streamers.
7284. Medal of honor: duplicate medal.
7285. Medal of honor: presentation of Medal of Honor Flag.
7286. Korea Defense Service Medal.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 357 of this title as this chapter and items 3741 to 3756 as 7271 to 7286, respectively.

**2004**—Pub. L. 108–375, div. A, title X, §1084(d)(28), Oct. 28, 2004, 118 Stat. 2063, renumbered item 3755 "Korea Defense Service Medal" as 3756.

**2002**—Pub. L. 107–314, div. A, title V, §543(b)(2), Dec. 2, 2002, 116 Stat. 2549, added item 3755 "Korea Defense Service Medal".

Pub. L. 107–248, title VIII, §8143(c)(1)(B), Oct. 23, 2002, 116 Stat. 1570, added item 3755 "Medal of honor: presentation of Medal of Honor Flag".

**2001**—Pub. L. 107–107, div. A, title V, §553(a)(1)(B), Dec. 28, 2001, 115 Stat. 1116, added item 3754.

## §7271. Medal of honor: award

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who while a member of the Army, distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 215, §3741; Pub. L. 88–77, §1(1), July 25, 1963, 77 Stat. 93; renumbered §7271, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3741 | 10:1403. | July 9, 1918, ch. 143 (8th par. under "Ordnance Department"), 40 Stat. 870. |

The words "That the provisions of existing law relating to the award of medals of honor to officers, noncommissioned officers, and privates of the Army be, and they hereby are, amended so that", in the Act of July 9, 1918, ch. 143 (8th par. under "Ordnance Department"), 40 Stat. 870, are not contained in 10:1403. They are also omitted from the revised section as surplusage. The word "member" is substituted for the words "officer or enlisted man". The word "only" is omitted as surplusage. The word "award" is inserted for clarity, since the President determines the recipient of the medal in addition to presenting it.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3741 of this title as this section.

**1963**—Pub. L. 88–77 enlarged authority to award medal of honor, which was limited to those cases in which persons distinguished themselves in action involving actual conflict with an enemy, to permit its award for distinguished service while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### REVIEW OF WORLD WAR I VALOR MEDALS

Pub. L. 116–92, div. A, title V, §584, Dec. 20, 2019, 133 Stat. 1412, as amended by Pub. L. 116–283, div. A, title V, §561(a), Jan. 1, 2021, 134 Stat. 3639; Pub. L. 118–31, div. A, title V, §593, Dec. 22, 2023, 137 Stat. 286, provided that:

"(a) REVIEW REQUIRED.—Each Secretary concerned shall review the service records of World War I veterans described in subsection (b) under the jurisdiction of such Secretary in order to determine whether any such veteran should be awarded the Medal of Honor for valor during World War I.

"(b) COVERED WORLD WAR I VETERANS.—The World War I veterans whose service records may be reviewed under subsection (a) are the following:

"(1) African American war veterans, Asian American war veterans, Hispanic American war veterans, Jewish American war veterans, and Native American war veterans who were awarded the Distinguished Service Cross or the Navy Cross for an action that occurred between April 6, 1917, and November 11, 1918.

"(2) African American war veterans, Asian American war veterans, Hispanic American war veterans, Jewish American war veterans, and Native American war veterans who were awarded the Croix de Guerre with Palm (that is, awarded at the Army level or above) by the Government of France for an action that occurred between April 6, 1917, and November 11, 1918.

"(3) African American war veterans, Asian American war veterans, Hispanic American war veterans, Jewish American war veterans, and Native American war veterans who were recommended for a Medal of Honor for actions that occurred from April 6, 1917, to November 11, 1918, if the Department of Defense possesses or receives records relating to such recommendation.

"(c) RECOMMENDATION BASED ON REVIEW.—If a Secretary concerned determines, based upon the review under subsection (a), that the award of the Medal of Honor to a covered World War I veteran is warranted, such Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that veteran.

"(d) AUTHORITY TO AWARD MEDAL OF HONOR.—The Medal of Honor may be awarded to a World War I veteran in accordance with a recommendation of a Secretary concerned under subsection (c).

"(e) WAIVER OF TIME LIMITATIONS.—An award of the Medal of Honor may be made under subsection (d) without regard to—

"(1) section 7274 or 8298 of title 10, United States Code, as applicable; and

"(2) any regulation or other administrative restriction on—

"(A) the time for awarding the Medal of Honor; or

"(B) the awarding of the Medal of Honor for service for which a Distinguished Service Cross or Navy Cross has been awarded.

"(f) DEADLINE.—The review under subsection (a) shall terminate not later than December 31, 2028.

"(g) DEFINITIONS.—

"(1) IN GENERAL.—In this section:

"(A) AFRICAN AMERICAN WAR VETERAN.—The term 'African American war veteran' means any person who served in the United States Armed Forces between April 6, 1917, and November 11, 1918, and who identified himself as of African descent on his military personnel records.

"(B) ASIAN AMERICAN WAR VETERAN.—The term 'Asian American war veteran' means any person who served in the United States Armed Forces between April 6, 1917, and November 11, 1918, and who identified himself racially, nationally, or ethnically as originating from a country in Asia

on his military personnel records.

"(C) HISPANIC AMERICAN WAR VETERAN.—The term 'Hispanic American war veteran' means any person who served in the United States Armed Forces between April 6, 1917, and November 11, 1918, and who identified himself racially, nationally, or ethnically as originating from a country where Spanish is an official language on his military personnel records.

"(D) JEWISH AMERICAN WAR VETERAN.—The term 'Jewish American war veteran' mean any person who served in the United States Armed Forces between April 6, 1917, and November 11, 1918, and who identified himself as Jewish on his military personnel records.

"(E) NATIVE AMERICAN WAR VETERAN.—The term 'Native American war veteran' means any person who served in the United States Armed Forces between April 6, 1917, and November 11, 1918, and who identified himself as a member of a federally recognized tribe within the modern territory of the United States on his military personnel records.

"(F) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(i) the Secretary of the Army, in the case of members of the Armed Forces who served in the Army between April 6, 1917, and November 11, 1918; and

"(ii) the Secretary of the Navy, in the case of members of the Armed Forces who served in the Navy or the Marine Corps between April 6, 1917, and November 11, 1918.

"(2) APPLICATION OF DEFINITIONS OF ORIGIN.—If the military personnel records of a person do not reflect the person's membership in one of the groups identified in subparagraphs (B) through (F) of paragraph (1) but historical evidence exists that demonstrates the person's Jewish faith held at the time of service, or that the person identified himself as of African, Asian, Hispanic, or Native American descent, the person may be treated as being a member of the applicable group by the Secretary concerned for purposes of this section."

[Pub. L. 116–283, div. A, title V, §561(b), Jan. 1, 2021, 134 Stat. 3639, provided that: "The amendment made by subsection (a) [amending section 584 of Pub. L. 116–92, set out above] shall take effect as if enacted on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019] (Public Law 116–92; 133 Stat. 1281 [1198])."]

## REVIEW REGARDING AWARD OF MEDAL OF HONOR TO CERTAIN ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER WAR VETERANS

Pub. L. 114–328, div. A, title V, §586, Dec. 23, 2016, 130 Stat. 2151, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(6), Aug. 13, 2018, 132 Stat. 1840, provided that:

"(a) REVIEW REQUIRED.—The Secretary of each military department shall review the service records of each Asian American and Native American Pacific Islander war veteran described in subsection (b) to determine whether that veteran should be awarded the Medal of Honor.

"(b) COVERED VETERANS.—The Asian American and Native American Pacific Islander war veterans whose service records are to be reviewed under subsection (a) are any former members of the Armed Forces whose service records identify them as an Asian American or Native American Pacific Islander war veteran who was awarded the Distinguished-Service Cross, the Navy Cross, or the Air Force Cross during the Korean War or the Vietnam War.

"(c) CONSULTATIONS.—In carrying out the review under subsection (a), the Secretary of each military department shall consult with such veterans service organizations as the Secretary considers appropriate.

"(d) RECOMMENDATIONS BASED ON REVIEW.—If the Secretary concerned determines, based upon the review under subsection (a) of the service records of any Asian American or Native American Pacific Islander war veteran, that the award of the Medal of Honor to that veteran is warranted, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that veteran.

"(e) AUTHORITY TO AWARD MEDAL OF HONOR.—A Medal of Honor may be awarded to an Asian American or Native American Pacific Islander war veteran in accordance with a recommendation of the Secretary concerned under subsection (d).

"(f) CONGRESSIONAL NOTIFICATION.—No Medal of Honor may be awarded pursuant to subsection (e) until the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives notice of the recommendations under subsection (d), including the name of each Asian American or Native American Pacific Islander war veteran recommended to be awarded a Medal of Honor and the rationale for such recommendation.

"(g) WAIVER OF TIME LIMITATIONS.—An award of the Medal of Honor may be made under subsection (e) without regard to—

"(1) section 7274, 8296, or 9274 of title 10, United States Code, as applicable; and

"(2) any regulation or other administrative restriction on—

"(A) the time for awarding the Medal of Honor; or

"(B) the awarding of the Medal of Honor for service for which a Distinguished-Service Cross, Navy Cross, or Air Force Cross has been awarded.

"(h) DEFINITION.—In this section, the term 'Native American Pacific Islander' means a Native Hawaiian or Native American Pacific Islander, as those terms are defined in section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c)."

## REVIEW REGARDING AWARD OF MEDAL OF HONOR TO JEWISH AMERICAN WORLD WAR I VETERANS

Pub. L. 112–81, div. A, title V, §595, Dec. 31, 2011, 125 Stat. 1444, provided that:

"(a) REVIEW REQUIRED.—The Secretary of the Army and the Secretary of the Navy shall review the service of each Jewish American World War I veteran described in subsection (b) to determine whether such veteran should be posthumously awarded the Medal of Honor.

"(b) COVERED JEWISH AMERICAN WAR VETERANS.—The Jewish American World War I veterans whose service is to be reviewed under subsection (a) are any Jewish American World War I veterans awarded the Distinguished Service Cross or the Navy Cross for heroism during World War I and whose name and supporting material for upgrade of the award are submitted to the Secretary concerned for such purpose before the end of the one-year period beginning on the date of the enactment of this Act [Dec. 31, 2011].

"(c) RECOMMENDATION BASED ON REVIEW.—If the Secretary concerned determines, based upon the review under subsection (a) that the award of the Medal of Honor to a veteran is warranted, the Secretary shall submit to the Secretary of Defense a recommendation that the Medal of Honor be awarded posthumously to the veteran.

"(d) WORLD WAR I DEFINED.—In this section, the term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918."

## REVIEW REGARDING AWARD OF MEDAL OF HONOR TO CERTAIN JEWISH AMERICAN AND HISPANIC AMERICAN WAR VETERANS

Pub. L. 107–107, div. A, title V, §552, Dec. 28, 2001, 115 Stat. 1115, as amended by Pub. L. 113–66, div. A, title V, §566, Dec. 26, 2013, 127 Stat. 769, provided that:

"(a) REVIEW REQUIRED.—The Secretary of each military department shall review the service records of each Jewish American war veteran or Hispanic American war veteran described in subsection (b) to determine whether that veteran should be awarded the Medal of Honor.

"(b) COVERED JEWISH AMERICAN WAR VETERANS AND HISPANIC AMERICAN WAR VETERANS.—The Jewish American war veterans and Hispanic American war veterans whose service records are to be reviewed under subsection (a) are the following:

"(1) Any Jewish American war veteran or Hispanic American war veteran who was awarded the Distinguished Service Cross, the Navy Cross, or the Air Force Cross before the date of the enactment of this Act [Dec. 28, 2001].

"(2) Any other Jewish American war veteran or Hispanic American war veteran whose name is submitted to the Secretary concerned for such purpose before the end of the one-year period beginning on the date of the enactment of this Act.

"(c) CONSULTATIONS.—In carrying out the review under subsection (a), the Secretary of each military department shall consult with the Jewish War Veterans of the United States of America and with such other veterans service organizations as the Secretary considers appropriate.

"(d) RECOMMENDATION BASED ON REVIEW.—If the Secretary concerned determines, based upon the review under subsection (a) of the service records of any Jewish American war veteran or Hispanic American war veteran, that the award of the Medal of Honor to that veteran is warranted, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that veteran.

"(e) AUTHORITY TO AWARD MEDAL OF HONOR.—(1) A Medal of Honor may be awarded to a Jewish American war veteran or Hispanic American war veteran in accordance with a recommendation of the Secretary concerned under subsection (d).

"(2) In addition to the authority provided by paragraph (1), a Medal of Honor may be awarded to a veteran of the Armed Forces who, although not a Jewish-American war veteran or Hispanic-American war veteran described in subsection (b), was identified during the review of service records conducted under subsection (a) and regarding whom the Secretary of Defense submitted, before January 1, 2014, a recommendation to the President that the President award the Medal of Honor to that veteran.

"(f) WAIVER OF TIME LIMITATIONS.—An award of the Medal of Honor may be made under subsection (e) without regard to—

"(1) section 3744, 6248, or 8744 [now 7274, 8298, or 9274] of title 10, United States Code, as applicable; and

"(2) any regulation or other administrative restriction on—

"(A) the time for awarding the Medal of Honor; or

"(B) the awarding of the Medal of Honor for service for which a Distinguished Service Cross, Navy Cross, or Air Force Cross has been awarded.

"(g) DEFINITION.—For purposes of this section, the term 'Jewish American war veteran' means any person who served in the Armed Forces during World War II or a later period of war and who identified himself or herself as Jewish on his or her military personnel records."

**REVIEW REGARDING UPGRADING OF DISTINGUISHED-SERVICE CROSSES AND NAVY CROSSES AWARDED TO ASIAN-AMERICANS AND NATIVE AMERICAN PACIFIC ISLANDERS FOR WORLD WAR II SERVICE**

Pub. L. 104–106, div. A, title V, §524, Feb. 10, 1996, 110 Stat. 312, provided that:

"(a) REVIEW REQUIRED.—(1) The Secretary of the Army shall review the records relating to each award of the Distinguished-Service Cross, and the Secretary of the Navy shall review the records relating to each award of the Navy Cross, that was awarded to an Asian-American or a Native American Pacific Islander with respect to service as a member of the Armed Forces during World War II. The purpose of the review shall be to determine whether any such award should be upgraded to the Medal of Honor.

"(2) If the Secretary concerned determines, based upon the review under paragraph (1), that such an upgrade is appropriate in the case of any person, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that person.

"(b) WAIVER OF TIME LIMITATIONS.—A Medal of Honor may be awarded to a person referred to in subsection (a) in accordance with a recommendation of the Secretary concerned under that subsection without regard to—

"(1) section 3744, 6248, or 8744 [now 7274, 8298, or 9274] of title 10, United States Code, as applicable; and

"(2) any regulation or other administrative restriction on—

"(A) the time for awarding the Medal of Honor; or

"(B) the awarding of the Medal of Honor for service for which a Distinguished-Service Cross or Navy Cross has been awarded.

"(c) DEFINITION.—For purposes of this section, the term 'Native American Pacific Islander' means a Native Hawaiian and any other Native American Pacific Islander within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.)."

## §7272. Distinguished-service cross: award

The President may award a distinguished-service cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Army, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 215, §3742; Pub. L. 88–77, §1(2), July 25, 1963, 77 Stat. 93; renumbered §7272, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3742 | 10:1406. | July 9, 1918, ch. 143 (9th par. under "Ordnance Department"), 40 Stat. 870. |

The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The words "since the 6th day of April, 1917" are omitted as

executed. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal, and to conform to other sections of this chapter. The words "or herself" are omitted, since, under section 1 of title 1, words importing the masculine gender include the feminine. The words "or who shall hereafter distinguish" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3742 of this title as this section.

**1963**—Pub. L. 88–77 enlarged authority to award the distinguished-service cross, which was limited to those cases in which persons distinguished themselves in connection with military operations against an armed enemy, to permit its award for extraordinary heroism not justifying award of a medal of honor, while engaged in an action against an enemy of United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which United States is not a belligerent party.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7273. Distinguished-service medal: award

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Army, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

(Aug. 10, 1956, ch. 1041, 70A Stat. 216, §3743; renumbered §7273, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3743 | 10:1407. | July 9, 1918, ch. 143 (10th par., less words after 1st semicolon, under "Ordnance Department"), 40 Stat. 870. |

The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The words "since the 6th day of April, 1917" are omitted as executed. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal, and to conform to other sections of this chapter. The words "or herself" are omitted, since, under section 1 of title 1, words importing the masculine gender include the feminine. The words "or who shall distinguish" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3743 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7274. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award

(a) No more than one distinguished-service cross or distinguished-service medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal or cross, the President may award a suitable bar or other device to be worn as he directs.

(b) Except as provided in subsection (c), no medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded to a person unless—

(1) the award is made within five years after the date of the act justifying the award;

(2) a statement setting forth the distinguished service and recommending official recognition of it was made within three years after the distinguished service; and

(3) it appears from records of the Department of the Army that the person is entitled to the award.

(c) If the Secretary of the Army determines that—

(1) a statement setting forth the distinguished service and recommending official recognition of it was made and supported by sufficient evidence within three years after the distinguished service; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted on;

a medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, as the case may be, may be awarded to the person concerned within two years after the date of that determination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 216, §3744; Pub. L. 86–582, §1(1), July 5, 1960, 74 Stat. 320; Pub. L. 113–66, div. A, title V, §§561(a), 562(a), Dec. 26, 2013, 127 Stat. 766; renumbered §7274, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 116–92, div. A, title V, §582(b)(1), Dec. 20, 2019, 133 Stat. 1412.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3744(a) | 10:1411. | July 9, 1918, ch. 143 (12th par., less words after 2d semicolon, under "Ordnance Department"); restated Jan. 24, 1920, ch. 55, §1 (less last sentence), 41 Stat. 398. |
| 3744(b) | 10:1409 (words before 1st semicolon). | July 9, 1918, ch. 143 (less words between 1st and 2d semicolons of 15th par. under "Ordnance Department"), 40 Stat. 871. |
| 3744(c) | 10:1409 (words after 2d semicolon). | |

In subsection (a), the words "may be awarded to a person" are substituted for the words "shall be issued to any one person" to conform to the other subsections of the revised section.

In subsection (b), the word "thereof" is substituted for the words "of either of said medal or of said cross". The words "Except as otherwise prescribed in this section", "at the time of", "specific", "official", and "has so distinguished himself as" are omitted as surplusage.

In subsection (c), 10:1409 (words after 3d semicolon) is omitted as executed. The words "hereinbefore authorized" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (b). Pub. L. 116–92, §582(b)(1)(A), substituted "subsection (c)" for "subsection (d)" in introductory provisions.

Subsecs. (c), (d). Pub. L. 116–92, §582(b)(1)(B), (C), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable."

**2018**—Pub. L. 115–232 renumbered section 3744 of this title as this section.

**2013**—Subsec. (a). Pub. L. 113–66, §561(a), substituted "distinguished-service cross" for "medal of honor, distinguished-service cross,".

Subsec. (b)(1). Pub. L. 113–66, §562(a)(1)(A), substituted "five years" for "three years".

Subsec. (b)(2). Pub. L. 113–66, §562(a)(1)(B), substituted "three years" for "two years".

Subsec. (d)(1). Pub. L. 113–66, §562(a)(2), substituted "three years" for "two years".

**1960**—Subsec. (b). Pub. L. 86–582, §1(1)(A), substituted "Except as provided in subsection (d), no" for "No."

Subsec. (d). Pub. L. 86–582, §1(1)(B), added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7275. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award

The President may delegate his authority to award the medal of honor, distinguished-service cross, and distinguished-service medal, to a commanding general of a separate army or higher unit in the field.

(Aug. 10, 1956, ch. 1041, 70A Stat. 216, §3745; renumbered §7275, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3745 | 10:1410. | July 9, 1918, ch. 143 (16th par., less words after semicolon, under "Ordnance Department"), 40 Stat. 872. |

The words "under such conditions, regulations, and limitations as he shall prescribe" are omitted as surplusage. The words "his authority" are substituted for the words "the power conferred upon him by sections 1403, 1406–1408, 1409–1412, 1416, 1420, 1422, 1423, and 1424 of this title".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3745 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7276. Silver star: award

The President may award a silver star of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Army, is cited for gallantry in action that does not warrant a medal of honor or distinguished-service cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 216, §3746; Pub. L. 88–77, §1(3), July 25, 1963, 77 Stat. 93; renumbered §7276, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3746 | 10:1412. | July 9, 1918, ch. 143 (words after 2d semicolon of 12th par. under "Ordnance Department"); restated Jan. 24, 1920, ch. 55, §1 (last sentence); restated Dec. 15, 1942, ch. 736, 56 Stat. 1052. |

The words "may award" are inserted to conform to other sections of this chapter. The words "if the person earned" are inserted for clarity. The words "commanded by" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3746 of this title as this section.

**1963**—Pub. L. 88–77 substituted provisions permitting the issuance of a silver star for gallantry while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and requiring it to be of appropriate design, for provisions which authorized the issuance of the silver star for gallantry in action and which required that the silver star be three-sixteenths of an inch in diameter, the citation thereof be published in orders issued from the headquarters of a force that is the appropriate command of a general officer, and that it be worn as directed by the President.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**EXECUTIVE ORDER NO. 9419**

Ex. Ord. No. 9419, Feb. 4, 1944, 9 F.R. 1495, which authorized award of Bronze Star Medal, was

superseded by Ex. Ord. No. 11046, Aug. 24, 1962, 27 F.R. 8575, as amended, set out below.

**EX. ORD. NO. 11046. BRONZE STAR MEDAL**

Ex. Ord. No. 11046, Aug. 24, 1962, 27 F.R. 8575, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 13286, §70, Feb. 28, 2003, 68 F.R. 10630; Ex. Ord. No. 14085, §4, Oct. 3, 2022, 87 F.R. 60542, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

1. The Bronze Star Medal, with accompanying ribbons and appurtenances, which was first established by Executive Order No. 9419 of February 4, 1944, may be awarded by the Secretary of a military department or the Secretary of Homeland Security with regard to the Coast Guard when not operating as a service in the Navy, or by such military commanders, or other appropriate officers as the Secretary concerned may designate, to those individuals who, while serving in any capacity in or with the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard of the United States, after December 6, 1941, distinguish, or have distinguished, themselves by heroic or meritorious achievement or service not involving participation in aerial flight—

(a) while engaged in an action against an enemy of the United States;

(b) while engaged in military operations involving conflict with an opposing foreign force; or

(c) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

2. The Bronze Star Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense, and shall be awarded under such regulations as the Secretary concerned may prescribe. Such regulations shall, so far as practicable, be uniform, and those of the military departments shall be subject to the approval of the Secretary of Defense.

3. No more than one Bronze Star Medal shall be awarded to any one person, but for each succeeding heroic or meritorious achievement or service justifying such an award a suitable device may be awarded to be worn with the medal as prescribed by appropriate regulations.

4. The Bronze Star Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of the department concerned.

5. This order shall supersede Executive Order No. 9419 of February 4, 1944, entitled "Bronze Star Medal". However, existing regulations prescribed under that order shall, so far as they are not inconsistent with this order, remain in effect until modified or revoked by regulations prescribed under this order by the Secretary of the department concerned.

[Section 4(a) of Ex. Ord. No. 14085, which directed substitution of "Homeland Security" for "Transportation" in par. 1 of Ex. Ord. No. 11046, set out above, could not be executed due to the prior identical amendment by Ex. Ord. No. 13286.]

## §7277. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement

Any medal of honor, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is stolen, lost, or destroyed, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 216, §3747; Pub. L. 107–107, div. A, title V, §553(a)(2), Dec. 28, 2001, 115 Stat. 1116; renumbered §7277, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3747 | 10:1416. | July 9, 1918, ch. 143 (14th par. under "Ordnance Department"), 40 Stat. 871. |

The words "issued for wear with or in place of any of them" are inserted for clarity. The words "presented under the provisions of this title" and "such medal, cross, bar, ribbon, rosette, or device" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3747 of this title as this section.
**2001**—Pub. L. 107–107 substituted "stolen, lost, or destroyed" for "lost or destroyed".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7278. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations

The Secretary of the Army may spend, from any appropriation for contingent expenses of the Department of the Army, amounts necessary to provide medals and devices under sections 7271, 7272, 7273, 7274, 7276, 7277, and 7282 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 217, §3748; renumbered §7278 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3748 | 10:1424. | July 9, 1918, ch. 143 (13th par. under "Ordnance Department"), 40 Stat. 871. |

The word "amounts" is substituted for the words "so much as may be". The word "provide" is substituted for the words "defray the cost of". The words "medals and devices under" are substituted for the words "medals of honor, distinguished-service crosses, distinguished-service medals, bars, rosettes, and other devices provided for in". The words "from time to time" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "sections 7271, 7272, 7273, 7274, 7276, 7277, and 7282" for "sections 3741, 3742, 3743, 3744, 3746, 3747, and 3752".
Pub. L. 115–232, §808(b)(11), renumbered section 3748 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7279. Distinguished flying cross: award; limitations

(a) The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Army, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

(c) No distinguished flying cross, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 217, §3749; renumbered §7279, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3749(a) | 10:1429 (less 2d and last sentences). | July 2, 1926, ch. 721, §12 (less 1st 49 words of last sentence), 44 Stat. 789; July 30, 1937, §4, 50 Stat. 549. |
| 3749(b) | 10:1429 (2d sentence). | |
| 3749(c) | 10:1429 (last sentence, less 1st 49 words). | |

Although 10:1429 refers to persons serving "with the Air Corps of the Army", and the functions of the Army Air Corps have been transferred to the Air Force under section 208(b) of the National Security Act of 1947 (5 U.S.C. 626c(b)), members of the Army continue to participate in aerial flights and are eligible for the award of the distinguished flying cross.

In subsection (a), the words "Under such rules and regulations as he may prescribe" are omitted, since the President has inherent authority to issue regulations appropriate to exercising his functions. The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal. The words "since the 6th day of April, 1917, has distinguished, or who, after July 2, 1926" and 10:1429 (proviso of 1st sentence) are omitted as executed.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3749 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7280. Soldier's Medal: award; limitations

(a)(1) The President may award a decoration called the "Soldier's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Army, distinguishes himself by heroism not involving actual conflict with an enemy.

(2) The authority in paragraph (1) includes authority to award the medal to a member of the Ready Reserve who was not in a duty status defined in section 101(d) of this title when the member distinguished himself by heroism.

(b) Not more than one Soldier's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or

other device to be worn as he directs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 217, §3750; Pub. L. 105–85, div. A, title V, §574(a), Nov. 18, 1997, 111 Stat. 1758; renumbered §7280, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3750(a) | 10:1428 (less last sentence). | July 2, 1926, ch. 721, §11, 44 Stat. 789. |
| 3750(b) | 10:1428 (last sentence). | |

In subsection (a), the words "Under such rules and regulations as he may prescribe" are omitted, since the President has inherent authority to issue regulations appropriate to exercising his functions. The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal. The words "a decoration called" are substituted for the words "a medal to be known as". The words "including the National Guard and the Organized Reserves" are omitted as surplusage. The words "or herself" are omitted, since under section 1 of title 1, words importing the masculine gender include the feminine. The words "after July 2, 1926" are omitted as executed.

In subsection (b), the words "that would otherwise justify" are substituted for the words "sufficient to".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3750 of this title as this section.

**1997**—Subsec. (a). Pub. L. 105–85 designated existing provisions as par. (1) and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7281. Service medals: issue; replacement; availability of appropriations

(a) The Secretary of the Army shall procure, and issue without charge to any person entitled thereto, any service medal authorized for members of the Army after May 12, 1928, and any ribbon, clasp, star, or similar device prescribed as a part of that medal.

(b) Under such regulations as the Secretary may prescribe, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use, without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Army or the Air Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Army, amounts necessary to provide medals and devices under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 217, §3751; renumbered §7281, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3751(a) | 10:1415a (less 21st through 30th words, and less clauses (a) through (n)). | May 12, 1928, ch. 528, §§1 (less 25th through 34th words, and less clauses (a) through (n)), 2 (less applicability |

| | | |
|---|---|---|
| 3751(b) | 10:1415b (less applicability to 10:1415a (clauses (a) through (n)). | to §1 clauses (a) through (n)), 3 (less applicability to §1 (clauses (a) through (n)), 45 Stat. 500. |
| 3751(c) | 10:1415c (less applicability to 10:1415a (clauses (a) through (n)). | |

In subsection (a), 10:1415a (proviso) is omitted as surplusage, since the revised section is not limited to persons who are members of the Army at the time of the issue.

In subsection (b), the words "member of the Army or the Air Force" are substituted for the words "persons in the military service of the United States".

In subsection (c), the last 16 words are substituted for 10:1415c (last 16 words).

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3751 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### ISSUANCE OF CERTAIN OTHER MEDALS AND DEVICES

Act Aug. 10, 1956, ch. 1041, §33, 70A Stat. 633, provided that:

"(a) The Secretary of the Army shall procure, and issue without charge to any person entitled thereto, the following service medals, and any ribbon, clasp, star, or similar device prescribed as a part of that medal:

"(1) Civil War campaign medal;
"(2) Indian campaign medal;
"(3) Spanish campaign medal;
"(4) Spanish War service medal;
"(5) Cuban occupation medal;
"(6) Puerto Rico occupation medal;
"(7) Philippine campaign medal;
"(8) Philippine Congressional medal;
"(9) China campaign medal;
"(10) Cuban pacification medal;
"(11) Mexican service medal;
"(12) Mexican border service medal;
"(13) Victory medal and clasps; and
"(14) fourragere as an individual decoration.

"(b) Under regulations prescribed by the Secretary, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use, without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Army or the Air Force, the medal or device may be replaced without charge.

"(c) The Secretary may spend, from any appropriation for the support of the Army, amounts necessary to provide medals and devices under this section.

"(d) If a person dies before a medal or device is presented to him under subsection (a), it may be presented to his family."

## §7282. Medals: posthumous award and presentation

(a) If a person dies before the award of a medal of honor, distinguished-service cross, distinguished-service medal, distinguished flying cross, or device in place thereof, to which he is

entitled, the award may be made and the medal or device presented to his representative, as designated by the President.

(b) If a person dies before an authorized service medal or device prescribed as a part thereof is presented to him under section 7281 of this title, it shall be presented to his family.

(Aug. 10, 1956, ch. 1041, 70A Stat. 217, §3752; Pub. L. 85–861, §33(a)(23), Sept. 2, 1958, 72 Stat. 1565; renumbered §7282 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3752(a) | 10:1409 (words between 1st and 2d semicolons).<br>10:1429 (1st 49 words of last sentence). | July 9, 1918, ch. 143 (words between 1st and 2d semicolons of 15th par. under "Ordnance Department"), 40 Stat. 871. |
| 3752(b) | 10:1415a (21st through 30th words, less applicability to clauses (a) through (n)). | July 2, 1926, ch. 721, §12 (1st 49 words of last sentence), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549.<br>May 12, 1928, ch. 528, §1 (25th through 34th words, less applicability to clauses (a) through (n)), 45 Stat. 500. |

In subsection (a), the words "If a person" are substituted for the words "In case an individual * * * dies", in 10:1409, and "In case an individual * * * shall have died", in 10:1429. The words "within three years from the date", in 10:1409, are omitted as covered by section 3744 of this title. The words "who shall distinguish himself", in 10:1409, and "who distinguishes himself", in 10:1429, are omitted as covered by the words "the award * * * to which he is entitled".

**1958 ACT**

The change reflects the fact that the source statute for these sections (sec. 1 of the Act of May 12, 1928, ch. 528, 45 Stat. 500) was mandatory and not merely permissive.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(b)(11), renumbered section 3752 of this title as this section.
Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 7281" for "section 3751".
**1958**—Subsec. (b). Pub. L. 85–861 substituted "it shall be presented" for "it may be presented".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §7283. Civil War battle streamers

If, under regulations prescribed by the Secretary of the Army, it is determined that a regiment or other unit of the Army is entitled to that honor, the regiment or unit may carry any appropriate Civil War battle streamer with its colors or standards.

(Aug. 10, 1956, ch. 1041, 70A Stat. 218, §3753; renumbered §7283, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3753 | [Uncodified]. | Mar. 9, 1948, ch. 104, 62 Stat. 71. |

The words "it is determined" are substituted for the words "upon verification in the War Department that it is entitled to such honors".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3753 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7284. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Army may determine, as a duplicate or for display purposes only.

(Added Pub. L. 107–107, div. A, title V, §553(a)(1)(A), Dec. 28, 2001, 115 Stat. 1115, §3754; renumbered §7284, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3754 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7285. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 7271 of

this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 7271 or 7282(a) of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.

(Added Pub. L. 107–248, title VIII, §8143(c)(1)(A), Oct. 23, 2002, 116 Stat. 1570, §3755; amended Pub. L. 107–314, div. A, title X, §1062(a)(16), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–364, div. A, title V, §555(a), Oct. 17, 2006, 120 Stat. 2217; renumbered §7285 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "section 7271" for "section 3741" and "section 7271 or 7282(a)" for "section 3741 or 3752(a)".

Pub. L. 115–232, §808(b)(11), renumbered section 3755 of this title as this section.

**2006**—Pub. L. 109–364 struck out "after October 23, 2002" after "section 3741 of this title" and inserted at end "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented."

**2002**—Pub. L. 107–314 substituted "October 23, 2002" for "the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR

Pub. L. 109–364, div. A, title V, §555(b), Oct. 17, 2006, 120 Stat. 2217, provided that:

"(1) LIVING RECIPIENTS.—The President shall provide for the presentation of the Medal of Honor Flag as expeditiously as possible after the date of the enactment of this Act [Oct. 17, 2006] to each living recipient of the Medal of Honor who has not already received a Medal of Honor Flag.

"(2) SURVIVORS OF DECEASED RECIPIENTS.—In the case of presentation of the Medal of Honor Flag for a recipient of the Medal of Honor who was awarded the Medal of Honor before the date of the enactment of this Act [Oct. 17, 2006] and who is deceased as of such date (or who dies after such date and before the presentation required by paragraph (1)), the President shall provide for posthumous presentation of the Medal of Honor Flag, upon written application therefor, to the primary living next of kin, as determined under regulations or procedures prescribed by the Secretary of Defense for the purposes of this paragraph (and notwithstanding the amendments made by paragraph (2) of subsection (a) [amending this section]).

"(3) MEDAL OF HONOR FLAG.—In this subsection, the term 'Medal of Honor Flag' means the flag designated under section 903 of title 36, United States Code."

## §7286. Korea Defense Service Medal

(a) The Secretary of the Army shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Army served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

(b) In this section, the term "KDSM eligibility period" means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

(c) The Secretary of the Army shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award

of that medal is authorized.

(Added Pub. L. 107–314, div. A, title V, §543(b)(1), Dec. 2, 2002, 116 Stat. 2549, §3755; renumbered §3756, Pub. L. 108–375, div. A, title X, §1084(d)(28), Oct. 28, 2004, 118 Stat. 2063; renumbered §7286, Pub. L. 115–232, div. A, title VIII, §808(b)(11), Aug. 13, 2018, 132 Stat. 1838.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 107–314, which was approved Dec. 2, 2002.

### PRIOR PROVISIONS

Prior sections 7291 to 7294 were renumbered sections 8661 to 8664 of this title, respectively.

A prior section 7295, act Aug. 10, 1956, ch. 1041, 70A Stat. 449, listed types of vessels considered underage for specified periods after completion, prior to repeal by Pub. L. 115–232, div. A, title X, §1015(b)(1), Aug. 13, 2018, 132 Stat. 1949.

A prior section 7296, added Pub. L. 107–314, div. A, title X, §1021(b)(1), Dec. 2, 2002, 116 Stat. 2638; amended Pub. L. 108–136, div. A, title X, §1011, Nov. 24, 2003, 117 Stat. 1589, required notice before reduction in number of combatant surface vessels, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(27)(A), Dec. 31, 2011, 125 Stat. 1584.

Another prior section 7296, act Aug. 10, 1956, ch. 1041, 70A Stat. 449, related to availability for other purposes of appropriations for construction or conversion of vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(5), Nov. 30, 1993, 107 Stat. 1707.

A prior section 7297 was renumbered section 8667 of this title.

A prior section 7298, act Aug. 10, 1956, ch. 1041, 70A Stat. 449, related to conversion of combatant and auxiliary naval vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(6), Nov. 30, 1993, 107 Stat. 1707.

A prior section 7299 was renumbered section 8669 of this title.

Another prior section 7299, acts Aug. 10, 1956, ch. 1041, 70A Stat. 449; Aug. 25, 1958, Pub. L. 85–747, 72 Stat. 839; Dec. 12, 1980, Pub. L. 96–513, title V, §513(26), 94 Stat. 2932; Oct. 12, 1982, Pub. L. 97–295, §1(47), 96 Stat. 1298, directed that each contract for construction, alteration, furnishing, or equipping of naval vessel was subject to the Walsh-Healey Act, unless President determined that such requirement was not in interest of national defense, prior to repeal by Pub. L. 103–355, title III, §3023(a), Oct. 13, 1994, 108 Stat. 3333.

A prior section 7299a was renumbered section 8669a of this title.

A prior section 7300 was renumbered section 8670 of this title.

Another prior section 7300, act Aug. 10, 1956, ch. 1041, 70A, Stat. 450, related to profit limitations on contracts for construction of naval vessels, prior to repeal by Pub. L. 97–86, title IX, §911(b)(1), Dec. 1, 1981, 95 Stat. 1122.

A prior section 7301 was renumbered section 8671 of this title.

Another prior section 7301, act Aug. 10, 1956, ch. 1041, 70A Stat. 450, related to estimates required for bids on construction of naval vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(7), Nov. 30, 1993, 107 Stat. 1707.

A prior section 7302, act Aug. 10, 1956, ch. 1041, 70A Stat. 451, directed Department of the Navy to construct on U.S. Pacific Coast such vessels as President determined necessary to maintain shipyard facilities there adequate to meet requirements of national defense, prior to repeal by Pub. L. 103–355, title III, §3024(a), Oct. 13, 1994, 108 Stat. 3334.

A prior section 7303 was renumbered section 8673 of this title.

A prior section 7304 was renumbered section 8674 of this title.

Another prior section 7304, act Aug. 10, 1956, ch. 1041, 70A Stat. 451, related to examination of vessels by board and striking of unfit vessels from Naval Vessel Register, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7305 was renumbered section 8675 of this title.

Another prior section 7305, acts Aug. 10, 1956, ch. 1041, 70A Stat. 451; Dec. 12, 1980, Pub. L. 96–513, title V, §513(27), 94 Stat. 2933, related to sale of vessels stricken from Naval Vessel Register, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7305a was renumbered section 8675a of this title.

A prior section 7306 was renumbered section 8676 of this title.

Another prior section 7306, acts Aug. 10, 1956, ch. 1041, 70A Stat. 452; Nov. 8, 1965, Pub. L. 89–348, §1(10), 79 Stat. 1311; Nov. 2, 1966, Pub. L. 89–718, §42, 80 Stat. 1120; Nov. 29, 1989, Pub. L. 101–189, div. A, title XVI, §1616, 103 Stat. 1602, related to use of vessels stricken from the Naval Vessel Register for experimental purposes, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708. See section 8676a of this title.

Prior sections 7306a and 7306b were renumbered sections 8676a and 8676b of this title, respectively.

A prior section 7307 was renumbered section 8677 of this title.

Another prior section 7307, acts Aug. 10, 1956, ch. 1041, 70A Stat. 452; Aug. 5, 1974, Pub. L. 93–365, title VII, §702, 88 Stat. 405; Oct. 5, 1976, Pub. L. 94–457, §2, 90 Stat. 1938; Dec. 12, 1980, Pub. L. 96–513, title V, §513(28), 94 Stat. 2933; Aug. 8, 1985, Pub. L. 99–83, title I, §122, 99 Stat. 204; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIV, §1484(b)(4), 104 Stat. 1716, related to restrictions on disposal of certain Navy ships, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7308 was renumbered section 8678 of this title.

Another prior section 7308, acts Aug. 10, 1956, ch. 1041, 70A Stat. 453; Dec. 12, 1980, Pub. L. 96–513, title V, §513(29), 94 Stat. 2933; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(6), 102 Stat. 2059; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIV, §1427, 104 Stat. 1685, related to transfer or gift of obsolete, condemned, and captured vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7309 was renumbered section 8679 of this title.

Another prior section 7309, added Pub. L. 97–252, title XI, §1127(a), Sept. 8, 1982, 96 Stat. 758; amended Pub. L. 98–473, title I, §101(h) [title VIII, §8095], Oct. 12, 1984, 98 Stat. 1904, 1941; Pub. L. 99–145, title XIII, §1303(a)(24)(A), Nov. 8, 1985, 99 Stat. 740; Pub. L. 100–180, div. A, title XI, §1103, Dec. 4, 1987, 101 Stat. 1146; Pub. L. 100–456, div. A, title XII, §1224(a), (b)(1), Sept. 29, 1988, 102 Stat. 2054; Pub. L. 101–189, div. A, title XVI, §1622(c)(8), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 102–190, div. A, title X, §1017, Dec. 5, 1991, 105 Stat. 1459; Pub. L. 102–484, div. A, title X, §1012, Oct. 23, 1992, 106 Stat. 2483, related to restrictions on construction and repair of vessels in foreign shipyards, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7310 was renumbered section 8680 of this title.

Another prior section 7310, added Pub. L. 97–295, §1(49)(A), Oct. 12, 1982, 96 Stat. 1298, related to policy for constructing combatant vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(8), Nov. 30, 1993, 107 Stat. 1707.

## AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3756 of this title as this section.

**2004**—Pub. L. 108–375 renumbered section 3755 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### FINDINGS

Pub. L. 107–314, div. A, title V, §543(a), Dec. 2, 2002, 116 Stat. 2549, provided that: "Congress makes the following findings:

"(1) More than 40,000 members of the United States Armed Forces have served in the Republic of Korea or the waters adjacent thereto each year since the signing of the cease-fire agreement in July 1953 ending the Korean War.

"(2) An estimated 1,200 members of the United States Armed Forces have died as a direct result of their service in Korea since the cease-fire agreement in July 1953."

### AWARD FOR SERVICE BEFORE DATE OF ENACTMENT

Pub. L. 107–314, div. A, title V, §543(e), Dec. 2, 2002, 116 Stat. 2550, provided that: "The Secretary of the military department concerned shall take appropriate steps to provide in a timely manner for the issuance of

the Korea Defense Service Medal, upon application therefor, to persons whose eligibility for that medal is by reason of service in the Republic of Korea or the waters adjacent thereto before the date of the enactment of this Act [Dec. 2, 2002]."

# CHAPTER 741—RETIREMENT FOR LENGTH OF SERVICE

Sec.
7311. Twenty years or more: regular or reserve commissioned officers.
7314. Twenty to thirty years: enlisted members.
7317. Thirty years or more: regular enlisted members.
7318. Thirty years or more: regular commissioned officers.
7320. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy.
7321. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority.
7324. Forty years or more: Army officers.
7325. Computation of years of service: voluntary retirement; enlisted members.
7326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers.
7329. Computation of retired pay: law applicable.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 367 of this title as this chapter and items 3911, 3914, 3917, 3918, 3920, 3921, 3924 to 3926, and 3929 as 7311, 7314, 7317, 7318, 7320, 7321, 7324 to 7326, and 7329, respectively.

**2004**—Pub. L. 108–375, div. A, title V, §541(c)(1)(B), Oct. 28, 2004, 118 Stat. 1904, inserted "; waiver authority" after "Academy" in item 3921.

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(A), Oct. 5, 1999, 113 Stat. 603, added item 3921.

**1996**—Pub. L. 104–106, div. A, title V, §509(a)(2), Feb. 10, 1996, 110 Stat. 298, substituted "permanent professors and the Director of Admissions of the United States Military Academy" for "permanent professors of United States Military Academy" in item 3920.

**1981**—Pub. L. 97–22, §10(b)(5), July 10, 1981, 95 Stat. 137, struck out item 3922 "Thirty years or five years in grade: regular brigadier generals".

**1980**—Pub. L. 96–513, title V, §502(16), Dec. 12, 1980, 94 Stat. 2910, struck out item 3913 "Twenty years or more: deferred officers not recommended for promotion", item 3916 "Twenty-eight years: promotion-list lieutenant colonels", item 3919 "Thirty years or more: regular commissioned officers; excessive number", item 3921 "Thirty years or five years in grade: promotion-list colonels", item 3923 "Thirty-five years or five years in grade: regular major generals", and item 3927 "Computation of years of service: mandatory retirement; regular commissioned officers".

Pub. L. 96–343, §9(a)(3), Sept. 8, 1980, 94 Stat. 1128, struck out "regular" before "enlisted members" in items 3914 and 3925.

**1967**—Pub. L. 90–130, §1(13), Nov. 8, 1967, 81 Stat. 376, struck out item 3915 "Twenty-five years: regular majors; Women's Army Corps, Army Nurse Corps and Army Medical Specialist Corps".

**1957**—Pub. L. 85–155, title I, §101(20), title IV, §401(3), Aug. 21, 1957, 71 Stat. 380, 390, included the Army Nurse Corps and the Army Medical Specialist Corps within item 3915, and struck out item 3912 "Twenty years or more: regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps" and item 3928 "Computation of years of service: voluntary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps".

## §7311. Twenty years or more: regular or reserve commissioned officers

(a) The Secretary of the Army may, upon the officer's request, retire a regular or reserve commissioned officer of the Army who has at least 20 years of service computed under section 7326

of this title, at least 10 years of which have been active service as a commissioned officer.

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

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 224, §3911; Pub. L. 101–510, div. A, title V, §523(a), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103–160, div. A, title V, §561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–163, div. A, title V, §502(a), Jan. 6, 2006, 119 Stat. 3225; Pub. L. 109–364, div. A, title X, §1071(a)(27), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 111–383, div. A, title V, §506(a), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 112–239, div. A, title V, §505(a), title X, §1076(e)(6), Jan. 2, 2013, 126 Stat. 1715, 1951; renumbered §7311 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3911 | 10:943a.<br>10:971b (1st 100 words). | July 31, 1935, ch. 422, §5 (1st 101 words); restated June 13, 1940, ch. 344, §3 (1st 45 words), 54 Stat. 380; June 29, 1948, ch. 708, §202 (1st 105 words), 62 Stat. 1084; July 16, 1953, ch. 203, 67 Stat. 175. |

The words "a regular or reserve commissioned officer of the Army" are substituted for the words "any officer on the active list of the Regular Army * * * or any officer of the reserve components of the Army of the United States". The words "Philippine Scouts" are omitted as obsolete. The words "has at least 20" are substituted for the words "shall have completed not less than twenty". The words "upon the officer's request" are substituted for the words "upon his own application". The words "service computed under section 3926 of this title" are substituted for the words "active Federal service in the armed forces of the United States", since that revised section makes explicit the service covered.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7311 was renumbered section 8681 of this title.

A prior section 7312 was renumbered section 8682 of this title.

Another prior section 7312, added Pub. L. 100–180, div. A, title XI, §1102(a)(1), Dec. 4, 1987, 101 Stat. 1145; amended Pub. L. 100–456, div. A, title XII, §1223, Sept. 29, 1988, 102 Stat. 2054; Pub. L. 101–189, div. A, title XVI, §1612, Nov. 29, 1989, 103 Stat. 1601, related to progress payments under certain contracts for repair or maintenance of naval vessels, prior to repeal by Pub. L. 103–355, title II, §2001(j)(1), title X, §10001, Oct. 13, 1994, 108 Stat. 3303, 3404, effective Oct. 13, 1994, except as otherwise provided. See section 3808 of this title.

A prior section 7313 was renumbered section 8683 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(b)(12), renumbered section 3911 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7326" for "section 3926".

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

Pub. L. 112–239, §505(a), substituted "September 30, 2018" for "September 30, 2013".

**2011**—Subsec. (b)(2). Pub. L. 111–383 substituted "the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and ending on September 30, 2013" for "January 6, 2006, and

ending on December 31, 2008".

**2006**—Subsec. (b). Pub. L. 109–364 struck out second comma after "paragraph (2)" in par. (1) and substituted "January 6, 2006," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006" in par. (2).

Pub. L. 109–163 designated existing provisions as par. (1), substituted "during the period specified in paragraph (2)," for "during the period beginning on October 1, 1990, and ending on December 31, 2001", and added par. (2).

**2000**—Subsec. (b). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

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

**1993**—Subsec. (b). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

**1990**—Pub. L. 101–510 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### TEMPORARY EARLY RETIREMENT AUTHORITY

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

## §7314. Twenty to thirty years: enlisted members

Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 7325 of this title may, upon his request, be retired.

(Aug. 10, 1956, ch. 1041, 70A Stat. 225, §3914; Pub. L. 85–861, §33(a)(25), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 96–343, §9(a)(1), Sept. 8, 1980, 94 Stat. 1128; Pub. L. 103–337, div. A, title V, §515(a), Oct. 5, 1994, 108 Stat. 2753; renumbered §7314 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3914 | 10:948 (1st sentence).<br>10:948a. | Oct. 6, 1945, ch. 393, §4 (1st sentence); restated Aug. 10, 1946, ch. 952, §6(a) (1st sentence), 60 Stat. 996.<br>Aug. 10, 1946, ch. 952, §7, 60 Stat. 996. |

The words "now or hereafter", in 10:948a, are omitted as surplusage. The words "computed under section 3925 of this title" are substituted for the words "active Federal service", in 10:948, and "active Federal military service", in 10:948a, since that revised section makes explicit the service covered. The words "be retired" are substituted for the words "will be placed on the retired list of", in 10:948. The words "completed a minimum", in 10:948; and "the period of", "be subject to", "periods of", and "now or after August 10, 1946", in 10:948a; are omitted as surplusage.

#### 1958 ACT

The change makes clear that the Secretary of the Army is required to prescribe regulations in this case, and conforms this section to section 8914, its Air Force counterpart.

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7314 to 7316 were renumbered sections 8684 to 8686 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "section 7325" for "section 3925".

Pub. L. 115–232, §808(b)(12), renumbered section 3914 of this title as this section.

**1994**—Pub. L. 103–337 struck out at end "A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years."

**1980**—Pub. L. 96–343 struck out "regular" before "enlisted members" in section catchline and substituted in section "an enlisted member" for "a regular enlisted member", "A regular enlisted member" for "He", and "Army Reserve. A member retired under this section" for "Army Reserve, and".

**1958**—Pub. L. 85–861 substituted "regulations to be prescribed" for "regulations prescribed".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–343, §9(c), Sept. 8, 1980, 94 Stat. 1129, provided that: "The amendments made by this section [amending this section and sections 3925, 8914, and 8925 of this title] shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act [Sept. 8, 1980]."

### EFFECTIVE DATE OF 1958 AMENDMENT

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

### TEMPORARY EARLY RETIREMENT AUTHORITY

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

## §7317. Thirty years or more: regular enlisted members

A regular enlisted member of the Army who has at least 30 years of service computed under section 7325 of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3917; renumbered §7317 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3917 | 10:947 (less proviso).<br>10:947a (less last 11 words). | Mar. 2, 1907, ch. 2515, §1 (1st 35 words), 34 Stat. 1217.<br>Feb. 14, 1885, ch. 67 (less 43d through 53d words); restated Sept. 30, 1890, ch. 1125 (less 43d through 53d words), 26 Stat. 504. |

The word "regular" is inserted to conform to an opinion of the Judge Advocate General of the Army (JAGA, 1953/2301, 23 Mar. 1953). The words "upon his request" are substituted for the words "upon making application to the President", in 10:947, and "by application to the President", in 10:947a. The words "either as a private or noncommissioned officer, or both", in 10:947a, are omitted as surplusage. The words "shall be retired" are substituted for the words "be placed upon the retired list", in 10:947, and "be placed on the retired list heretofore created", in 10:947a. The words "computed under section 3925 of this title" are inserted for clarity. The 21 words before the proviso and the proviso of the Act of February 14, 1885, as restated, are not contained in 10:947a. They are also omitted from the revised section, since the proviso is executed and the 21 words before the proviso are omitted as covered by formula E of section 3991 of this title.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7317 was renumbered section 8687 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 7325" for "section 3925".
Pub. L. 115–232, §808(b)(12), renumbered section 3917 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7318. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Army who has at least 30 years of service computed under section 7326 of this title may be retired upon his request, in the discretion of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3918; renumbered §7318 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3918 | 10:943. | R.S. 1243; Dec. 16, 1930, ch. 14, §1 (as applicable to R.S. 1243), 46 Stat. 1028. |

The word "commissioned" is inserted, since the retirement of warrant officers for length of service is covered by section 1293 of this title. The word "regular" is inserted, since 10:943 is applicable historically only to officers of the Regular Army. The words "and placed on the retired list" are omitted as surplusage. The words "computed under section 3926 of this title" are inserted for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7318 and 7319 were renumbered sections 8688 and 8689 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 7326" for "section 3926".
Pub. L. 115–232, §808(b)(12), renumbered section 3918 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of the President under this section to approve the request of a regular commissioned officer of the Army to retire after at least 30 years of service delegated to the Secretary of Defense to perform, without approval, ratification, or other action of the President, and with authority for the Secretary to redelegate, see Ex. Ord. No. 12396, §§1(f), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

## §7320. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy

(a) The Secretary of the Army may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

(b) Subsection (a) applies in the case of the following officers:

(1) Any permanent professor of the United States Military Academy.

(2) The Director of Admissions of the United States Military Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3920; Pub. L. 104–106, div. A, title V, §509(a)(1), Feb. 10, 1996, 110 Stat. 297; renumbered §7320, Pub. L. 115–232, div. A, title VIII, §808(b)(12), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3920 | 10:1079a(c) (proviso). | Aug. 7, 1947, ch. 512, §520(c) (proviso), 61 Stat. 912. |

The word "retire" is substituted for the words "direct the retirement of". The words "as a commissioned officer" are substituted for the word "commissioned".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7320 was renumbered section 8690 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3920 of this title as this section.

**1996**—Pub. L. 104–106 substituted "permanent professors and the Director of Admissions of the United States Military Academy" for "permanent professors of United States Military Academy" in section catchline and amended text generally. Prior to amendment, text read as follows: "The Secretary of the Army may retire any permanent professor of the United States Military Academy who has more than 30 years of service as a commissioned officer."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §7321. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Military Academy, the Secretary of the Army shall retire the officer under any provision of this chapter under which that officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment. In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate.

(Added Pub. L. 106–65, div. A, title V, §532(a)(1)(A), Oct. 5, 1999, 113 Stat. 602, §3921; amended Pub. L. 108–375, div. A, title V, §541(a)(1), (c)(1)(A), Oct. 28, 2004, 118 Stat. 1902, 1903; renumbered §7321, Pub. L. 115–232, div. A, title VIII, §808(b)(12), Aug. 13, 2018, 132 Stat. 1838; Pub. L. 117–263, div. A, title V, §509(a), Dec. 23, 2022, 136 Stat. 2560.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7321 was renumbered section 8691 of this title.

### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263 inserted at end: "In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate."

**2018**—Pub. L. 115–232 renumbered section 3921 of this title as this section.

**2004**—Pub. L. 108–375 inserted "; waiver authority" at end of section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Pub. L. 106–65, div. A, title V, §532(a)(5), Oct. 5, 1999, 113 Stat. 604, provided that: "The amendments made by this subsection [enacting this section and sections 4333a, 6371, 6951a, 8921, and 9333a of this title] shall not apply to an officer serving on the date of the enactment of this Act [Oct. 5, 1999] in the position of Superintendent of the United States Military Academy, Superintendent of the United States Naval Academy, or Superintendent of the United States Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service."

## §7324. Forty years or more: Army officers

(a) Except as provided in section 1186 of this title, a commissioned officer of the Army who has at least 40 years of service computed under section 7326 of this title shall be retired upon his request.

(b) Any warrant officer of the Army who has at least 40 years of service computed under section 7326(a) of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 227, §3924; Pub. L. 96–513, title V, §502(17), Dec. 12, 1980, 94 Stat. 2910; renumbered §7324 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3924(a) | 10:942 (as applicable to commissioned officers). | June 30, 1882, ch. 254 (last 21 words of 3d proviso under "Pay Department"), 22 Stat. 118. |
| 3924(b) | 10:942 (less applicability to commissioned officers). | |

In subsection (a), the words "except as provided in section 3786 of this title" are inserted, since, under that revised section, when board proceedings are pending against a commissioned officer, his right to retire under this revised section, which is otherwise absolute, is discretionary with the Secretary under that revised section.

In subsections (a) and (b), the words "or volunteer service, or both" are omitted as obsolete in accordance with an opinion of the Attorney General, 22 Ops. Atty. Gen. 199, August 30, 1898, holding that such words refer to volunteer service in the Civil War. The words "upon his request" are substituted for the words "if he make application therefor to the President".

In subsection (b), the applicability of 10:942 to warrant officers is based on an opinion of the Judge Advocate General of the Army (JAGA 1950/6951, 4 Jan. 1951), which holds that 10:594 (less provisos) makes 10:942 applicable to warrant officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(b)(12), renumbered section 3924 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7326" for "section 3926".

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 7326(a)" for "section 3926(a)".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "1186" for "3786".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513, effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §7325. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Army may be retired under section 7314 or 7317 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 3683 [1] of this title.

(b) Time required to be made up under section 972(a) of this title may not be counted in determining years of service under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 228, §3925; Pub. L. 85–861, §1(97), Sept. 2, 1958, 72 Stat. 1488; Pub. L. 96–343, §9(a)(2), Sept. 8, 1980, 94 Stat. 1128; Pub. L. 99–348, title II, §202(c), July 1, 1986, 100 Stat. 695; Pub. L. 103–337, div. A, title VI, §635(a)(1), Oct. 5, 1994, 108 Stat. 2788; Pub.

L. 104–106, div. A, title V, §561(d)(2)(A), Feb. 10, 1996, 110 Stat. 322; renumbered §7325 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3925(a) | 10:947 (proviso).<br>10:958. | Mar. 2, 1907, ch. 2515, §1 (proviso), 34 Stat. 1218. |
| 3925(b) | [No source]. | Aug. 10, 1946, ch. 952, §6(b), 60 Stat. 996. |

In subsection (a), the words "active service" are substituted for the word "service", in 10:947, and "active Federal service performed", in 10:958, for uniformity. The words "service computed under section 3683 of this title" are inserted, since a person entitled to count service under that revised section might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

Subsection (b) is inserted because of section 3638 of this title and in accordance with long-standing interpretation of the effect of 10:629 upon the computation of years of service for retirement.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3925 | [No source]. | [No source]. |

The amendment reflects the repeal of section 3638 of this title and the enactment of a similar provision in section 972 of this title.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3683 of this title, referred to in subsec. (a), was repealed (subject to a savings clause) by Pub. L. 99–145, title XIII, §1301(b)(1)(A), (C), Nov. 8, 1985, 99 Stat. 735.

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(b)(12), renumbered section 3925 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7314 or 7317" for "section 3914 or 3917".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "section 972(a)" for "section 972".

**1994**—Subsec. (a). Pub. L. 103–337, §635(a)(1)(A), struck out "and of computing his retired pay under section 3991 of this title," after "3917 of this title,".

Subsec. (c). Pub. L. 103–337, §635(a)(1)(B), struck out subsec. (c) which read as follows: "In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

**1986**—Subsec. (c). Pub. L. 99–348 added subsec. (c).

**1980**—Pub. L. 96–343, §9(a)(2)(A), struck out "regular" before "enlisted members" in section catchline.

Subsec. (a). Pub. L. 96–343, §9(a)(2)(B), substituted "an enlisted" for "a regular enlisted".

**1958**—Subsec. (b). Pub. L. 85–861 substituted "section 972 of this title" for "section 3638 of this title".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as a note under section 972 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–343 effective with respect to retired pay payable for months beginning after Sept. 8, 1980, see section 9(c) of Pub. L. 96–343, set out as a note under section 7314 of this title.

[1] *See References in Text note below.*

## §7326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Army may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding—

(1) all active service performed as a member of the Army, the Air Force, or the Space Force;

(2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement;

(3) all service computed under section 3683 [1] of this title; and

(4) if an officer of the Regular Army, all active service performed as an officer of the Philippine Constabulary.

(b) For the purpose of determining whether a commissioned officer of the Regular Army in the Medical Corps may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding to his service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a commissioned officer of the Regular Army in the Dental Corps may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding to his service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

(d) For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Army Medical Specialist Corps may be retired under section 7311 of this title, all service computed under section 3683 [1] of this title shall be treated as if it were service as a commissioned officer.

(e) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 228, §3926; Pub. L. 86–197, §1(5), Aug. 25, 1959, 73 Stat. 426; Pub. L. 104–106, div. A, title V, §561(d)(2)(B), Feb. 10, 1996, 110 Stat. 322; renumbered §7326 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840; Pub. L. 116–283, div. A, title IX, §924(c)(2), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3926(a) | 10:951 (less applicability to 10:166g(a)).<br>10:951a.<br>10:951b (less applicability to 10:166g(a)).<br>[Uncodified: June 18, 1878, ch. 263, §7 (less applicability to 10:166g(a)), 20 Stat. 150].<br>10:953a (1st sentence).<br>10:953a (less 1st sentence). | June 3, 1916, ch. 134, §127a (6th par., less 1st 13 words, and less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended); added June 4, 1920, ch. 227, subch. I, §51 (6th par., less 1st 13 words, and less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 41 Stat. 785. |
| 3926(b) | | |
| 3926(c) | | May 23, 1928, ch. 716, 45 Stat. 720.<br>June 15, 1935, ch. 257 (less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 49 Stat. 377.<br>June 18, 1878, ch. 263, §7 (less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 20 Stat. 150.<br>May 29, 1928, ch. 902, 45 Stat. 996; Jan. 29, 1938, ch. 12, §2, 52 Stat. 8. |

Subsection (a) consolidates the various service computation provisions applicable to voluntary retirement of commissioned officers. Clause (1) is substituted for 10:951. Clause (2) is substituted for 10:951b. The words "pay period and", in 10:951a, are omitted as superseded by section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233). The words "longevity pay and", in section 7 of the act of June 18, 1878, ch. 263, 20 Stat. 150, are omitted for the same reason. The last sentence of section 7 of that act is omitted, since the distinction between limited and unlimited retired lists was abolished by section 201 of the act of June 29, 1948, ch. 708, 62 Stat. 1084. Clause (3) is inserted, since a person entitled to count service under section 3683 of this title might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

In subsection (b), the words "as a member of the Medical Reserve Corps", in 10:953a, are omitted as covered by subsection (a)(1). The words "are computed by adding to his service under subsection (a)" are substituted for the words "shall be credited to the same extent as service under a Regular Army commission".

Subsection (c) is substituted for 10:953a (less 1st sentence).

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 3683 of this title, referred to in subsecs. (a)(3) and (d), was repealed (subject to a savings clause) by Pub. L. 99–145, title XIII, §1301(b)(1)(A), (C), Nov. 8, 1985, 99 Stat. 735.

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283 substituted ", the Air Force, or the Space Force" for "or the Air Force".

**2018**—Pub. L. 115–232, §808(b)(12), renumbered section 3926 of this title as this section.

Subsecs. (a) to (c). Pub. L. 115–232, §809(a), substituted "section 7311, 7318, or 7324" for "section 3911, 3918, or 3924" in introductory provisions in subsec. (a) and in subsecs. (b) and (c).

Subsec. (d). Pub. L. 115–232, §809(a), substituted "section 7311" for "section 3911".

**1996**—Subsec. (e). Pub. L. 104–106 added subsec. (e).

**1959**—Subsec. (d). Pub. L. 86–197 added subsec. (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as a note under section 972 of this title.

[1] *See References in Text note below.*

## §7329. Computation of retired pay: law applicable

A member of the Army retired under this chapter is entitled to retired pay computed under chapter 745 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 230, §3929; renumbered §7329 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3929 | [No source]. | [No source]. |

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "chapter 745" for "chapter 371".
Pub. L. 115–232, §808(b)(12), renumbered section 3929 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 743—RETIRED GRADE

Sec.

7341. General rule.
7342. Higher grade for service in special positions.
7343. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.
7344. Higher grade after 30 years of service: warrant officers and enlisted members.
7345. Restoration to former grade: retired warrant officers and enlisted members.
7346. Retired lists.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 369 of this title as this chapter and items 3961 to 3966 as 7341 to 7346, respectively.

**1996**—Pub. L. 104–201, div. A, title V, §532(a)(2), Sept. 23, 1996, 110 Stat. 2518, added item 3963.

**1988**—Pub. L. 100–456, div. A, title XII, §1233(i)(1)(B), Sept. 29, 1988, 102 Stat. 2058, substituted "retired" for "regular" in item 3965.

**1987**—Pub. L. 100–180, div. A, title V, §512(e)(1), Dec. 4, 1987, 101 Stat. 1091, substituted "warrant officers and enlisted members" for "Army warrant officers; regular enlisted members" in item 3964.

**1985**—Pub. L. 99–145, title XIII, §1301(b)(2)(B), Nov. 8, 1985, 99 Stat. 735, struck out item 3963 "Higher grade for service during certain periods: regular and reserve commissioned officers".

**1980**—Pub. L. 96–343, §13(a)(4), Sept. 8, 1980, 94 Stat. 1131, substituted "positions" for "positions: regular commissioned officers" in item 3962.

## §7341. General rule

(a)(1) The retired grade of a regular commissioned officer of the Army who retires other than for physical disability is determined under section 1370 of this title.

(2) The retired grade of a reserve commissioned officer of the Army who retires other than for physical disability is determined under section 1370a of this title.

(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that the member holds on the date of the member's retirement.

(Aug. 10, 1956, ch. 1041, 70A Stat. 230, §3961; Pub. L. 96–513, title V, §502(18), Dec. 12, 1980, 94 Stat. 2910; Pub. L. 103–337, div. A, title XVI, §1672(c)(2), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 106–398, §1 [[div. A], title V, §506(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–102; renumbered §7341, Pub. L. 115–232, div. A, title VIII, §808(b)(13), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 116–283, div. A, title V, §508(b)(2), Jan. 1, 2021, 134 Stat. 3585.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3961 | 10:941a(a)(3) (31st through 42d words; and proviso, as applicable to retired grade).<br>10:941a(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade).<br>10:947a (last 11 words).<br>10:1025. | Aug. 7, 1947, ch. 512, §§514(a)(3) (31st through 42d words; and proviso, as applicable to retired grade), 514(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade), 61 Stat. 893, 902. |
| | 10:1026 (proviso). | Feb. 14, 1885, ch. 67 (43d through 53d words); restated Sept. 30, 1890, ch. 1125 (43d through 53d words), 26 Stat. 504.<br>R.S. 1254.<br>June 3, 1916, ch. 134, §4c (proviso); added June 29, 1945, ch. 197 (proviso); restated Aug. 7, 1947, ch. 512, §513(c) (proviso), 61 Stat. 902. |

The applicability of the rule stated in the revised section to situations not expressly covered by the laws named in the source credits above is necessarily implied from laws providing for retirement in higher grade in those situations.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7341, act Aug. 10, 1956, ch. 1041, 70A Stat. 453, related to authorized number of naval airplanes and lighter-than-air crafts, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(9), Nov. 30, 1993, 107 Stat. 1708.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §508(b)(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: "The retired grade of a regular commissioned officer of the Army who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Army who retires other than for physical disability, is determined under section 1370 of this title."

Subsec. (b). Pub. L. 116–283, §508(b)(2)(B), substituted "the member" for "he" and "the member's" for "his".

**2018**—Pub. L. 115–232 renumbered section 3961 of this title as this section.

**2000**—Subsec. (a). Pub. L. 106–398 struck out "or for nonregular service under chapter 1223 of this title" before ", is determined".

**1994**—Subsec. (a). Pub. L. 103–337 substituted "chapter 1223" for "chapter 67".

**1980**—Pub. L. 96–513 added subsec. (a), designated existing provisions as subsec. (b), and inserted "not covered by subsection (a)" after "Regular or Reserve of the Army".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §506(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–102, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 8961 of this title] shall apply to Reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion by a board convened under chapter 36 or 1403 of title 10, United States Code, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after October 1, 1996."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §7342. Higher grade for service in special positions

Upon retirement, any permanent professor of the United States Military Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 230, §3962; Pub. L. 85–861, §1(99), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 89–288, §2, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96–343, §13(a)(1)–(3), Sept. 8, 1980, 94 Stat. 1131; Pub. L. 96–513, title V, §502(19), Dec. 12, 1980, 94 Stat. 2910; Pub. L. 97–22, §10(a)(2)(B), July 10, 1981, 95 Stat. 136; Pub. L. 104–106, div. A, title V, §502(c), (d)(1), Feb. 10, 1996, 110 Stat. 293; renumbered §7342, Pub. L. 115–232, div. A, title VIII, §808(b)(13), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3962(a) | 10:506b(d) (less 1st and last provisos). | Aug. 4, 1947, ch. 459, §102(c) (1st 6, and 9th through 43d, words), 61 Stat. 735. |
| 3962(b) | 10:156c (1st 6, and 9th through 43d, words).<br>10:1026 (less 24 words before proviso, and less proviso). | June 3, 1916, ch. 134, §4c (less 24 words before proviso, and less proviso); added June 4, 1920, ch. 227, §4 (less last 18 words of 4th sentence of 7th par.); June 6, 1924, ch. 275, §2; July 2, 1926, ch. 721, §7; Apr. 22, 1938, ch. 167; May 12, 1939, ch. 127 (less 75th through 91st words); Oct. 14, 1940, ch. 858, §1 (less last 26 words); restated June 29, 1945, ch. 197 (less 24 words before proviso, and less proviso); restated Aug. 7, 1947, ch. 512, §513(c) (less 24 words before proviso, and less proviso), 61 Stat. 902. |
| 3962(c) | 10:166g(b) (1st 5, and 8th through 76th, words; and proviso).<br>10:316b(b) (1st 6, and 9th through 54th, words).<br>10:1079a(b) (less proviso). | Aug. 7, 1947, ch. 512, §§504(d) (less 1st and last provisos), 520(b) (less proviso), 61 Stat. 888, 912.<br>Apr. 16, 1947, ch. 38, §108(b) (1st 5, and 8th through 76th, words; and proviso); restated May 16, 1950, ch. 186, §3(d)(b) (1st 5, and 8th through 76th, words; and proviso), 64 Stat. 161. |
| 3962(d) | | June 12, 1948, ch. 449, §103(b) (1st 6, and 9th through 54th, words), 62 Stat. 357. |

In subsection (a), the words "who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 3066 of this title" are substituted for the words "while serving in accordance with the provisions of subsection (b) or (c) of this section".

In subsection (b), or 10:156c (1st 6, and 9th through 43d, words) is omitted as covered by 10:1026 (less 24 words before proviso, and less proviso), since the Medical Service Corps is a branch of the Army. The references to the Commanding General of the General Headquarters Air Force are omitted as executed.

In subsection (c), 10:166g(b) (proviso) is omitted as executed.

In subsection (d), the words "Upon retirement" are substituted for the words "When * * * is retired". The word "allowances" is omitted, since retired officers are not entitled to allowances. The words "grade is below brigadier general" are inserted, since any permanent professor who has the grade of brigadier general retires in that grade under section 4335 of this title.

## 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3962 | [No source]. | [No source]. |

The amendment reflects section 1 of the Act of May 31, 1956, ch. 348 (70 Stat. 222), which in effect amended section 3963 of this title to cover regular officers covered by section 3962(c).

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7342, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to percentage of naval aircraft required to be constructed or manufactured in United States plants, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(9), Nov. 30, 1993, 107 Stat. 1708.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 3962 of this title as this section.

**1996**—Pub. L. 104–106 designated subsec. (b) as entire section and struck out subsec. (a) which read as follows: "Upon retirement, a commissioned officer of the Army who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) as Surgeon General of the Army in the grade of lieutenant general may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade in which he served on active duty."

**1980**—Pub. L. 96–343, §13(a)(3), substituted "positions" for "positions: regular commissioned officers" in section catchline.

Subsec. (a). Pub. L. 96–513, §502(19)(A), as amended by Pub. L. 97–22, struck out cl. (4) which had referred to service in a position of importance and responsibility designated by the President to carry out the grade of general or lieutenant general under section 3066 of this title, and redesignated cl. (5) as (4).

Pub. L. 96–343, §13(a)(1), substituted "Army who has" for "Regular Army who has" and "in which he served on active duty" for "held by him at any time on the active list".

Subsec. (b). Pub. L. 96–513, §502(19)(B), (C), redesignated subsec. (c) as (b). Former subsec. (b), which provided that, upon retirement, a commissioned officer of the Army who had served at least four years as chief or assistant chief of a branch was entitled to retire in the highest grade, prescribed for such an office, that he had held while so serving, was struck out.

Pub. L. 96–343, §13(a)(2), struck out "Regular" before "Army".

Subsec. (c). Pub. L. 96–513, §502(19)(C), redesignated subsec. (c) as (b).

**1965**—Subsec. (a). Pub. L. 89–288 added the Surgeon General of the Army to the list of commissioned officers who may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him at any time on the active list.

**1958**—Subsecs. (c), (d). Pub. L. 85–861 redesignated former subsec. (d) as (c) and repealed former subsec. (c) which related to retirement of commissioned officers who served as Director or Deputy Director of the Women's Army Corps, Chief of the Army Nurse Corps, or Chief or assistant chief of the Women's Medical Specialist Corps.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### APPOINTMENT BY PRESIDENT OF RETIRED COMMISSIONED OFFICER OF RESERVE COMPONENT TO HIGHER RETIRED GRADE; RECALCULATION OF PAY

Pub. L. 96–343, §13(c), Sept. 8, 1980, 94 Stat. 1132, provided that:

"(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of the enactment of this Act [Sept. 8, 1980].

"(2) The retired pay of any retired officer who is appointed to a higher retired grade under paragraph (1) shall be recalculated as if such officer had retired in the grade to which appointed, but any increase in such

retired pay by virtue of such appointment or this subsection shall be effective only with respect to periods beginning on or after the date on which such appointment is made."

## §7343. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

(a) A Reserve enlisted member of the Army described in subsection (b) who is retired under section 7314 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Army.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Army.

(c) This section applies with respect to Reserve enlisted members who are retired under section 7314 of this title after September 30, 1996.

(Added Pub. L. 104–201, div. A, title V, §532(a)(1), Sept. 23, 1996, 110 Stat. 2518, §3963; renumbered §7343 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7343, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to manufacture of naval aircraft at plants owned by United States under certain circumstances, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(9), Nov. 30, 1993, 107 Stat. 1708.

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(b)(13), renumbered section 3963 of this title as this section.

Subsecs. (a), (c). Pub. L. 115–232, §809(a), substituted "section 7314" for "section 3914".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7344. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each retired member of the Army covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily (or, in the case of a member of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Army.

(b) This section applies to—

(1) warrant officers of the Army;

(2) enlisted members of the Regular Army; and

(3) reserve enlisted members of the Army who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time National Guard duty).

(Aug. 10, 1956, ch. 1041, 70A Stat. 231, §3964; Pub. L. 85–861, §1(100), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 98–525, title V, §533(c), Oct. 19, 1984, 98 Stat. 2528; Pub. L. 100–180, div. A, title V, §512(a), Dec. 4, 1987, 101 Stat. 1089; renumbered §7344, Pub. L. 115–232, div. A, title VIII, §808(b)(13), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3964 | 10:594 (1st proviso, less last 39 words; and last proviso).<br>10:1004 (less 30 words before proviso). | Aug. 21, 1941, ch. 384, §5 (1st proviso, less last 39 words; and last proviso); restated June 29, 1948, ch. 708, §203(c) (1st proviso, less last 39 words; and last proviso), 62 Stat. 1085; May 29, 1954, ch. 249, §19(f), 68 Stat. 167.<br>June 29, 1948, ch. 708, §203(e) (less 30 words before proviso), 62 Stat. 1086. |

The words "when his active service plus his service on the retired list totals 30 years" are substituted for the words "upon the completion of thirty years' [years of] service, to include the sum of his active service and his service on the retired list", in 10:594 and 1004. The words "under any provision of law", in 10:594 and 1004; "officer, flight officer, or warrant officer", in 10:594; and "commissioned, warrant, or enlisted", in 10:1004; are omitted as surplusage. 10:594 (last proviso) and 1004 (proviso) are omitted as superseded by section 1372 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3964 | 10 App.:1004. | May 31, 1956, ch. 348, §1, 70 Stat. 222. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7344, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to suspension of naval aircraft construction in case of treaty for limitation of naval armament, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(9), Nov. 30, 1993, 107 Stat. 1708.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3964 of this title as this section.

**1987**—Pub. L. 100–180 substituted "warrant officers and enlisted members" for "Army warrant officers; regular enlisted members" in section catchline and amended text generally. Prior to amendment, text read as follows: "Each warrant officer of the Army, and each enlisted member of the Regular Army, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Army."

**1984**—Pub. L. 98–525 substituted "highest grade" for "highest temporary grade".

**1958**—Pub. L. 85–861 struck out ", after September 8, 1940 and before July 1, 1946" after "Secretary of the Army".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. A, title V, §512(f), Dec. 4, 1987, 101 Stat. 1091, provided that: "The amendments made by subsections (a) and (c) [amending this section and section 8964 of this title] shall apply to any reserve enlisted member who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act [Dec. 4, 1987]. No person may be paid retired pay at a higher rate by reason of the enactment of this Act [Pub. L. 100–180, see Tables for classification] for any period before the date of the enactment of this Act."

## §7345. Restoration to former grade: retired warrant officers and enlisted members

Each retired warrant officer or enlisted member of the Army who has been advanced on the retired list to a higher commissioned grade under section 7344 of this title, and who applies to the Secretary of the Army within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted status, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 231, §3965; Pub. L. 100–180, div. A, title V, §512(d)(1), Dec. 4, 1987, 101 Stat. 1090; Pub. L. 100–456, div. A, title XII, §1233(i)(1)(A), Sept. 29, 1988, 102 Stat. 2058; renumbered §7345 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3965 | 10:1006. | June 29, 1948, ch. 708, §204, 62 Stat. 1086. |

The words "hereafter", "rank or", and "shall thereafter be deemed to be enlisted or warrant officer personnel, as appropriate, for all purposes" are omitted as surplusage. The words "three months from June 29, 1948" and "whichever is later" are omitted as executed.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7345, added Pub. L. 101–189, div. A, title I, §153(a)(1), Nov. 29, 1989, 103 Stat. 1387, related to submission of annual reports to Armed Services and Appropriations Committees of Senate and House of Representatives addressing aircraft requirements of the Navy, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(9), Nov. 30, 1993, 107 Stat. 1708.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 7344" for "section 3964".
Pub. L. 115–232, §808(b)(13), renumbered section 3965 of this title as this section.
**1988**—Pub. L. 100–456 substituted "retired" for "regular" in section catchline.
**1987**—Pub. L. 100–180 struck out "Regular" before "Army who".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7346. Retired lists

(a) The Secretary of the Army shall maintain a retired list containing the name of each retired commissioned officer of the Regular Army.

(b) The Secretary shall maintain a retired list containing the name of—

(1) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Army, other than of the Regular Army; and

(2) each retired warrant officer or enlisted member of the Army who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Army.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 231, §3966; Pub. L. 85–861, §1(101), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 100–180, div. A, title V, §512(d)(1), Dec. 4, 1987, 101 Stat. 1090; renumbered §7346, Pub. L. 115–232, div. A, title VIII, §808(b)(13), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3966(a) | 10:1001. | June 29, 1948, ch. 708, §§201, 301(a), 62 Stat. 1084, 1087. |
| 3966(b) | 10:1036. | |
| 3966(c) | [No source]. | |
| 3966(d) | [No source]. | |

In subsections (a), (b), (c) and (d), the word "maintain" is substituted for the word "establish", since the lists have been established and are published annually.

In subsection (a), the words "Effective upon June 29, 1948" are omitted as executed. 10:1001 (last 12 words of 1st sentence, and last sentence) is omitted as no longer required, since, upon enactment of this title laws referring to the limited or unlimited retired list will be expressly repealed.

Subsection (b)(1) is substituted for the words "all commissioned officers and former commissioned officers of the Army of the United States * * * other than those of the Regular Army * * * heretofore or hereafter granted retirement pay under sections 456, 456a, and 1036a of this title, or any law hereafter enacted to provide retirement pay for commissioned officers other than those of the Regular Army".

In subsection (b)(2), the words "who is advanced to a commissioned grade" are substituted for the words "heretofore or hereafter retired under any provision of law who, by reason of service in temporary commissioned grades in the Army of the United States * * * or in any of the respective components thereof, are entitled to be retired with commissioned rank or grade".

Subsections (c) and (d) are inserted, since sections 3964 and 3965 of this title refer to service on the retired list as a warrant officer or enlisted member.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3966(a) | 10 App.:1001. | July 24, 1956, ch. 677, §2(f), (g), 70 Stat. 623. |
| 3966(b) | 10 App.:1036. | |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 3966 of this title as this section.

**1987**—Subsec. (b)(2). Pub. L. 100–180 struck out "Regular" before "Army".

**1958**—Pub. L. 85–861 struck out provisions in subsecs. (a) and (b) which required annual publication in the official Army Register of the retired list.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 745—COMPUTATION OF RETIRED PAY

Sec.
7361. Computation of retired pay.
7362. Recomputation of retired pay to reflect advancement on retired list.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 371 of this title as this chapter and items 3991 and 3992 as 7361 and 7362, respectively.

## §7361. Computation of retired pay

(a) COMPUTATION.—

(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

(A) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 7314 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based (except in the case of a member who served during the Vietnam era, as that term is defined in section 12731 of this title)). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

(b) GENERAL RULES.—

(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 7343.—In the case of a Reserve enlisted member retired under section 7314 of this title whose retired grade is determined under section 7343 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member's retired grade (determined based upon the rates of basic pay applicable on the date of the member's retirement), and

that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(c) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 232, §3991; Pub. L. 85–155, title I, §101(23), Aug. 21, 1957, 71 Stat. 380; Pub. L. 85–422, §§6(1), (8), 11(a)(5), May 20, 1958, 72 Stat. 129, 131; Pub. L. 85–861, §1(101A), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 88–132, §5(h)(2), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90–207, §3(2), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, §813(c), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §§502(21), (22), 512(10), Dec. 12, 1980, 94 Stat. 2910, 2929; Pub. L. 98–94, title IX, §§922(a)(7), 923(a)(1), (2)(F), Sept. 24, 1983, 97 Stat. 641, 642; Pub. L. 99–348, title II, §202(a), July 1, 1986, 100 Stat. 694; Pub. L. 103–337, div. A, title VI, §635(a)(2), Oct. 5, 1994, 108 Stat. 2788; Pub. L. 104–201, div. A, title V, §532(d)(1), Sept. 23, 1996, 110 Stat. 2520; renumbered §7361 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(14), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840; Pub. L. 118–159, div. A, title VI, §604(2), Dec. 23, 2024, 138 Stat. 1931; Pub. L. 119–60, div. A, title XVII, §1701(a)(35), Dec. 18, 2025, 139 Stat. 1209.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3991 Introductory paragraph | 10:156c (7th and 8th words).<br>10:166g(b) (7th word).<br>10:316b(b) (7th and 8th words). | R.S. 1274.<br>Mar. 2, 1907, ch. 2515, §1 (less 1st 35 words, and less proviso), 34 Stat. 1217. |
| 3991(A) | 10:941a(a)(3) (proviso, less applicability to retired grade).<br>10:941a(e) (1st proviso of clause (1), less applicability to retired grade).<br>10:166g(a) (less 1st 49 words; less 1st proviso; and less 1st 84 words of last proviso).<br>10:941a(a)(3) (less 31st through 42d words, and less proviso). | June 3, 1916, ch. 134, §4c (24 words before proviso); added June 4, 1920, ch. 227, §4 (last 18 words of 4th sentence of 7th par.); May 12, 1939, ch. 127 (75th through 91st words); Oct. 14, 1940, ch. 858, §1 (last 26 words); restated June 29, 1945, ch. 197 (21 words before proviso); restated Aug. 7, 1947, ch. 512, §513(c) (24 words before proviso), 61 Stat. 902. |
| 3991(B) | 10:941a(e) (clause (1), less 1st 25, and 59th through 113th, words; and less 1st proviso). | |
| 3991(C) | 10:971.<br>10:971b (less 1st 100 words, and less 1st and 3d provisos). | July 31, 1935, ch. 422, §5 (less 1st 101 words, and less 3d proviso); restated June 13, 1940, ch. 344, §3 (less 1st 45 words, and less 2d proviso), 54 Stat. 380; Aug. 7, 1947, ch. 512, §§514(g), 521(a), 61 Stat. 906, 912; June 29, 1948, ch. 708, §202 (less 1st 105 words), 62 Stat. 1084. |
| 3991(D) | 10:948 (less 1st sentence, and less 1st and last provisos of last sentence).<br>10:980.<br>10:506b(d) (1st proviso). | |
| 3991(E) | 10:1079a(b) (proviso). | |
| 3991 Footnote 1 | | |
| 3991 Footnote 2 | 10:156c (less 1st 43, and last 13, words).<br>10:166g(b) (less 1st 76 words, | Oct. 6, 1945, ch. 393, §4 (less 1st sentence); restated Aug. 10, 1946, ch. 952, §6(a) (less 1st sentence), 60 |

| | | |
|---|---|---|
| | less 20 words before proviso, and less proviso).<br>10:316b(b) (less 1st 54, and last 13, words).<br>10:1002 (34 words before proviso, and proviso).<br>10:1003 (last 40 words).<br>10:1026 (24 words before proviso). | Stat. 996.<br>Aug. 10, 1946, ch. 952, §6(c), 60 Stat. 996.<br>Apr. 16, 1947, ch. 38, §108(a) (less 1st 49 words, and less 1st 84 words of last proviso), 61 Stat. 44. |
| 3991 Footnote 3 | [No source]. | Apr. 16, 1947, ch. 38, §108(b) (less 1st 5, and 8th through 76th, words; less 20 words before proviso; and less proviso); restated May 16, 1950, ch. 186, §3(d)(b) (less 1st 5, and 8th through 76th, words; less 20 words before proviso; and less proviso), 64 Stat. 161. |
| 3991 Footnote 4 | 10:166g(a) (1st proviso).<br>10:941a(e) (94th through 113th words of clause (1).<br>10:948 (last proviso of last sentence).<br>10:971b (1st proviso). | |
| 3991 Footnote 5 | 37:272(d) (1st proviso).<br>10:948 (1st proviso of last sentence). | |
| | | Aug. 4, 1947, ch. 459, §102(c) (less 1st 6, 9th through 43d, and last 13, words), 61 Stat. 735.<br>Aug. 7, 1947, ch. 512, §§504(d) (1st proviso), 514(a)(3) (less 31st through 42d words; and less proviso, less applicability to retired grade), 514(e) (clause (1), less 1st 25, and 59th through 93d, words; and less 1st proviso, as applicable to retired grade), 520(b) (proviso), 61 Stat. 888, 902, 905, 912.<br>June 12, 1948, ch. 449, §103(b) (less 1st 6, 9th through 54th, and last 13, words), 62 Stat. 357.<br>June 29, 1948, ch. 708, §§203(a) (34 words before proviso, and proviso), 203(d) (last 40 words), 62 Stat. 1085. |

In the introductory paragraph, the applicability of the rule stated in the third sentence to situations not expressly covered by the laws named in the source statutes above is a practical construction that the rule must be reciprocally applied in all cases.

In formula B, the words "basic pay" are substituted for the words "base and longevity pay" to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "his retired grade" are substituted for the words "permanent grade held at time of retirement" to reflect the right to higher retired grade when qualified under other provisions of law. 10:941a(e) (last proviso of clause (1)) is omitted, since, under section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233), the active duty pay of all members of the Army is based upon years of service.

In formula C, the computation is based on monthly pay instead of annual pay to conform to the other formulas of the revised section. The words "basic pay" are substituted for the words "active duty base and longevity pay", and the words "in determining his basic pay" are substituted for the words "for longevity pay purposes", to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "Monthly basic pay of member's retired grade" are substituted for the words "the rank upon which they are retired", in 10:971, and "rank with which retired", in 10:971b, to reflect their right to

advancement on the retired list. 10:971 now applies only when the retiring officer has 30 or more years of service which may be credited in computing his retired pay. 10:971b (2d proviso) is omitted, since, under section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233), the pay of all members is based upon cumulative years of service. 10:971b (4th proviso) is omitted as executed. 10:971b (last proviso) is omitted, since the distinction between limited and unlimited retired lists was abolished by section 201 of the act of June 29, 1948, ch. 708, 62 Stat. 1084. Sections 3918, 3920, and 3924 are included under this formula, since it achieves the same result as is reached on a basis of 30 years multiplied by 2½ percent, and simplifies the table.

In formulas D and E, the words "credited under section 3925" are substituted for the words "active Federal service", since that revised section makes explicit the service covered. The act of August 10, 1946, ch. 952, §6(c), 60 Stat. 996, is not contained in 10:948. It is also omitted from the revised section as executed. 10:980 now applies only when the retiring enlisted member has at least 30 years of service which may be credited in computing his retired pay. However, as noted above, 10:980 is the only provision of law applicable to cases in which the retiring member has at least 30 years of service. The act of June 16, 1942, ch. 413, §19 (63d through 75th words of 2d par.), 56 Stat. 369, repealed so much of the act of March 2, 1907, ch. 2513, 34 Stat. 1217, as provided allowances for enlisted men on the retired list. The repeal of section 19 of the act of June 16, 1942, by section 531(b)(34) of the Career Compensation Act of 1949, 63 Stat. 839, did not revive that portion of the act of March 2, 1907, which had been repealed by the act of June 16, 1942. Accordingly, the act of March 2, 1907, as thus modified by the act of June 16, 1942, is used as the basis for formula E.

Footnote 2 reflects the long-standing construction of those provisions dealing with computation of retired pay which do not specifically provide that the member is entitled to compute his retired pay on the basis of the monthly basic pay to which he would be entitled if he were on active duty in his retired grade. Except in cases covered by formula C the pertinent basic computation provisions for such retirement either provide for computation of retired pay on the same basis as the provisions dealing with higher retired grade, or the basic retirement provisions were themselves enacted after the provisions authorizing higher retired grade. The provisos of 10:1002 and 1005 are omitted as surplusage, since no formula for the computation of retired pay includes inactive service on the retired list as a credit.

The words "at rates applicable on date of retirement and adjust to reflect later changes in permanent rates", in footnote 2; and all of footnote 4; are based on the source statutes incorporated in the formulas to which footnotes 2 and 4 apply.

In footnote 4, the words "and disregard a part of a year that is less than six months" are made applicable to formulas A—E although this part of the rule is expressed only as to formula B, in 10:941a(e)(1). The legislative history of the Career Compensation Act of 1949 (Hearings before the Committee on Armed Services of the Senate on H.R. 5007, 81st Congress, first session, p. 313, July 6, 1949) indicates that the provisions, upon which formulas A and C—E are based, should be construed to require that a part of a year that is less than six months be disregarded.

## 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3991 | [No source]. | [No source]. |

The amendment reflects section 1(99) of the bill [amending section 3962 of Title 10].

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7361 was renumbered section 8701 of this title.

Another prior section 7361, acts Aug. 10, 1956, ch. 1041, 70A Stat. 455; Aug. 6, 1981, Pub. L. 97–31, §12(3)(D), 95 Stat. 154, authorized Secretary of the Navy to provide for necessary salvage facilities for public and private vessels, prior to the general amendment of this chapter by Pub. L. 104–106.

### AMENDMENTS

**2025**—Subsec. (a)(2). Pub. L. 119–60 substituted "Vietnam era" for "Vietnam Era".

**2024**—Subsec. (a)(2). Pub. L. 118–159 inserted "(except in the case of a member who served during the Vietnam Era, as that term is defined in section 12731 of this title)" after "based".

**2018**—Pub. L. 115–232, §808(b)(14), renumbered section 3991 of this title as this section.

Subsec. (a)(2). Pub. L. 115–232, §809(a), substituted "section 7314" for "section 3914".

Subsec. (c). Pub. L. 115–232, §809(a), substituted "Section 7343" for "Section 3963" in heading and "section 7314" for "section 3914" and "section 7343" for "section 3963" in text.

**1996**—Subsec. (c). Pub. L. 104–201 added subsec. (c).

**1994**—Subsec. (a)(1). Pub. L. 103–337, §635(a)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) contained table which provided two formulas for computing retired pay for cases covered under sections 3911, 3914, 3917, 3918, 3920, and 3924 of this title.

Subsec. (b)(1). Pub. L. 103–337, §635(a)(2)(B)(i), struck out "of the table" after "than one formula".

Subsec. (b)(3). Pub. L. 103–337, §635(a)(2)(B)(ii), struck out heading and text of par. (3). Text read as follows: "Section references in the table in subsection (a) are to sections of this title."

**1986**—Pub. L. 99–348 amended section generally by completely revising the formula for computation of retired pay to provide that the retired pay base as computed under section 1406(c) or 1407 be multiplied by the retired pay multiplier prescribed in section 1409 for years of service credited under section 1405 for sections 3911, 3918, 3920, and 3924 and for the years of service credited under section 3925 for sections 3914 and 3917, eliminated monthly basic pay of a member's retired grade or to which a member was entitled on the day before he retired multiplied by 2½ percent of the years of service credited, subject to footnotes 1 to 4, as the basis for computing retired pay, incorporated provisions of column 3 and footnote 5 into subsec. (a)(2), struck out column 4, which provided that the excess over 75% of pay upon which the computation is based be subtracted, struck out footnotes 1 to 4, and added subsec. (b).

**1983**—Pub. L. 98–94, §922(a)(7), inserted "The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

Pub. L. 98–94, §923(a)(1), (2)(F), in footnote 4 to table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

**1980**—Pub. L. 96–513, §512(10), in heading for column 1 of the table substituted "after September 7, 1980" for "on or after the date of the enactment of the Department of Defense Authorization Act, 1981".

Pub. L. 96–342 in heading for column 1 of the table inserted provisions respecting applicability to persons becoming members after the date of the enactment of the Department of Defense Authorization Act, 1981.

Pub. L. 96–513, §502(21), in table struck out Formula A and redesignated Formulas B, C, and D as A, B, and C, respectively.

Pub. L. 96–513, §502(22), in footnote numbered 1 to the table substituted "3962(b)" for "3962(c)".

**1967**—Pub. L. 90–207 inserted ", or if the member has served as sergeant major of the Army, compute at the highest basic pay applicable to him while he so served, if such basic pay is greater" after "retirement" in footnote 3 of the table.

**1963**—Pub. L. 88–132 substituted in column 1 of Formula A in table "Monthly basic pay of member's retired grade" for "Monthly basic pay to which member would be entitled if he were on active duty in his retired grade" and eliminated from footnote 2 to such table "and adjust to reflect later changes in applicable permanent rates. However, if member's retired grade is determined under section 3963(a) or 3963(b), or if member has served 4 years as Chief of the Medical Service Corps, use pay to which member would be entitled if he were on active duty in his retired grade" after "date of retirement."

**1958**—Pub. L. 85–861 substituted "section 3962(c)" for "section 3962(d)" in footnote 1, and "3963(a)" for "3962(c), 3963(a)" in footnote 2.

Formula B. Pub. L. 85–422, §11(a)(5), substituted "credited to him under section 1405 of this title" for "credited to him in determining basic pay" in Column 2.

Formula C. Pub. L. 85–422, §6(8), substituted "Monthly basic pay to which member was entitled on day before he retired" for "Monthly basic pay to which member was entitled on date when he applied for retirement" in Column 1.

Formula D. Pub. L. 85–422, §6(8), substituted "monthly basic pay to which member was entitled on day before he retired" for "Monthly basic pay of member's retired grade" in Column 1.

Footnote 1. Pub. L. 85–422, §6(1), struck out provisions which related to inapplicability of section 3962(a), and inserted provisions permitting computation at the highest rates of basic pay applicable to an officer who has served as Chief of Staff while he served in that office.

**1957**—Pub. L. 85–155 redesignated formulas "B" to "E" of the table as formulas "A" to "D". Former formula "A", which related to computation of retirement pay for persons retired under former sections 3881, 3882, and 3912 of this title, was repealed by Pub. L. 85–155.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by section 502(21), (22) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 512(10) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1967 AMENDMENT**

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**EFFECTIVE DATE OF 1958 AMENDMENT**

Pub. L. 85–422, §6, May 20, 1958, 72 Stat. 129, provided in part that: "The amendments made by clauses (1)–(3), (6), (7), (8), and (9) of this section [to Formulas 1 and 2 and footnote 4 of section 1401, Formulas C and D and footnote 1 of this section, sections 5083, 5201, and 6326, and Formulas C and D and footnote 1 of section 8991 of this title] do not apply to any person who is retired, or to whom retired pay (including temporary disability retired pay) is granted, before the effective date of this Act [June 1, 1958]."

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

## §7362. Recomputation of retired pay to reflect advancement on retired list

(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 7344 of this title is entitled to recompute his retired pay in accordance with this section.

(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

(1) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 233, §3992; Pub. L. 96–342, title VIII, §813(c), Sept. 8, 1980,

94 Stat. 1104; Pub. L. 96–513, title V, §512(10), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 97–295, §1(40), Oct. 12, 1982, 96 Stat. 1297; Pub. L. 98–94, title IX, §§922(a)(8), 923(a)(1), (2)(G), Sept. 24, 1983, 97 Stat. 641–643; Pub. L. 99–348, title II, §202(b), July 1, 1986, 100 Stat. 695; Pub. L. 103–337, div. A, title VI, §635(a)(3), Oct. 5, 1994, 108 Stat. 2788; renumbered §7362 and amended Pub. L. 115–232, div. A, title VIII, §§808(b)(14), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3992 | 10:594 (last 39 words of 1st proviso).<br>10:1004 (30 words before proviso). | Aug. 21, 1941, ch. 384, §5 (last 39 words of 1st proviso); restated June 29, 1948, ch. 708, §203(c) (last 39 words of 1st proviso), 62 Stat. 1085; May 29, 1954, ch. 249, §19(f), 68 Stat. 167.<br>June 29, 1948, ch. 708, §203(e) (30 words before proviso), 62 Stat. 1086. |

The words "basic pay * * * as the case may be" are inserted to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "at the rate prescribed by law for his length of service", in 10:1004, are omitted as covered by the words "base and longevity pay". The words "base and longevity pay" are retained to cover the cases of members retired before the enactment of the Career Compensation Act of 1949, and advanced on the retired list after the enactment of that act. The words "and disregard a part of a year that is less than six months" are inserted to conform to footnote 4 of section 3991 of this title.

**1982 ACT**

This amends 10:3992 to correct an inadvertent error in the codification of title 10 in 1956 relating to retirement pay of warrant officers advanced on the retired list. For further details, see the explanation for amendment of 10:1405 made by section 1(17).

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7362 was renumbered section 8702 of this title.

Another prior section 7362, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to commercial use of naval facilities, prior to the general amendment of this chapter by Pub. L. 104–106.

A prior section 7363 was renumbered section 8703 of this title.

Another prior section 7363, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to contract provisions for transfer of Navy equipment to private parties, prior to the general amendment of this chapter by Pub. L. 104–106.

A prior section 7364 was renumbered section 8704 of this title.

Another prior section 7364, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to advancement of funds by the Secretary of the Navy to private companies for salvage operations, prior to repeal by Pub. L. 103–355, title II, §2001(j)(1), Oct. 13, 1994, 108 Stat. 3303. See section 3808 of this title.

A prior section 7365, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; Aug. 29, 1972, Pub. L. 92–417, §1(4), 86 Stat. 654, related to settlement of claims, prior to the general amendment of this chapter by Pub. L. 104–106. See section 8703 of this title.

A prior section 7366, act Aug. 10, 1956, ch. 1041, 70A Stat. 456, related to limitation on appropriations for naval salvage facilities, prior to repeal by Pub. L. 103–160, div. A, title VIII, §824(a)(10), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7367, act Aug. 10, 1956, ch. 1041, 70A Stat. 456, related to disposition of receipts, prior to the general amendment of this chapter by Pub. L. 104–106. See section 8704 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(b)(14), renumbered section 3992 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7344" for "section 3964".

**1994**—Pub. L. 103–337 amended section generally. Prior to amendment, section contained table with two formulas for recomputing retired pay of enlisted members and warrant officers of Army to reflect advancement on retired list.

**1986**—Pub. L. 99–348 revised table generally by striking out provision in column 1 that for a person who first became a member of a uniformed service, as defined in section 1407(a)(2), after Sept. 7, 1980, one multiplier is the monthly retired pay base as computed under section 1407(c), substituting in formulas A and B provision that the retired pay base as computed under section 1406(c) or 1407 of this title be multiplied by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited for provisions that the monthly basic pay or base and longevity pay, as the case may be, subject to footnote 1, of the grade to which the member is advanced on the retired list be multiplied by 2½% of years of service credited, subject to footnote 2, and have subtracted from it the excess over 75% of pay upon which the computation is based, struck out footnote 1, which provided that the computation be at the rate applicable on the date of retirement, and redesignated footnote 2 as 1 and substituted "In determining retired pay multiplier" for "Before applying percentage factor" and "1/12" for "one-twelfth".

**1983**—Pub. L. 98–94, §922(a)(8), inserted "The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

Pub. L. 98–94, §923(a)(1), (2)(G), in footnote 2 of table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

**1982**—Pub. L. 97–295 added formula B, applicable to warrant officers.

**1980**—Pub. L. 96–513 in heading for column 1 of table substituted "after September 7, 1980" for "on or after the date of the enactment of the Department of Defense Authorization Act, 1981".

Pub. L. 96–342 in heading for column 1 of table inserted provisions respecting applicability to persons becoming members after the date of the enactment of the Department of Defense Authorization Act, 1981.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, and (2) the recomputation of retired pay under this section, of any individual who after Sept. 30, 1983, becomes entitled to recompute retired pay under this section, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

# CHAPTER 747—CIVILIAN EMPLOYEES

Sec.
7371. Army War College and United States Army Command and General Staff College: civilian faculty members.
7374. Expert accountant for Inspector General.
7375. Production of supplies and munitions: hours and pay of laborers and mechanics.
7377. Certain civilian special agents: authority to execute warrants and make arrests.

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title XVI, §1613(a)(1), Dec. 23, 2024, 138 Stat. 2168, substituted "Certain civilian special agents:" for "Civilian special agents of the Criminal Investigation Command:" in item 7377. Amendment was made pursuant to operation of section 102 of this title.

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 373 of this title as this chapter and items 4021, 4024, 4025, and 4027 as 7371, 7374, 7375, and 7377, respectively.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §554(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–126, added item 4027.

**1989**—Pub. L. 101–189, div. A, title XI, §1124(b)(2), Nov. 29, 1989, 103 Stat. 1559, added item 4021.

**1983**—Pub. L. 98–94, title IX, §932(b)(2), Sept. 24, 1983, 97 Stat. 650, struck out item 4022 "Contract surgeons".

**1962**—Pub. L. 87–651, title I, §116(2), Sept. 7, 1962, 76 Stat. 513, struck out item 4023 "Service club and library services".

**1958**—Pub. L. 85–861, §1(102), Sept. 2, 1958, 72 Stat. 1489, struck out item 4021 "Appointment: professional and scientific services".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### AUTHORITY TO CONDUCT PILOT PROGRAM ON CIVILIAN CYBERSECURITY RESERVE

Pub. L. 118–31, div. A, title XV, §1536, Dec. 22, 2023, 137 Stat. 567, provided that:

"(a) AUTHORITY.—The Secretary of the Army may conduct a pilot program to establish a Civilian Cybersecurity Reserve to provide to the United States Cyber Command manpower to effectively—

"(1) preempt, defeat, deter, or respond to malicious cyber activity;

"(2) conduct cyberspace operations;

"(3) secure information and systems of the Department of Defense against malicious cyber activity; and

"(4) assist in solving cyber workforce-related challenges.

"(b) CONDITIONS PRIOR TO CONDUCT OF PILOT PROGRAM.—

"(1) IMPLEMENTATION PLAN.—The Secretary of the Army may not take any action to commence a pilot program pursuant to the authority under subsection (a) until the Secretary—

"(A) submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an implementation plan for the pilot program; and

"(B) provides to the congressional defense committees a briefing on such implementation plan.

"(2) PROGRAM GUIDANCE.—If the Secretary of the Army intends to conduct a pilot program pursuant to the authority under subsection (a), prior to commencing such pilot program, the Secretary, in consultation with the Director of the Office of Personnel Management and the Director of the Office of Government Ethics, shall issue guidance for the establishment and implementation of the pilot program.

"(c) CONDITIONS ON CONDUCT OF PILOT PROGRAM.—Any pilot program conducted by the Secretary of the Army pursuant to the authority under subsection (a) shall be subject to the following:

"(1) HIRING AUTHORITY; STATUS IN RESERVE.—

"(A) HIRING AUTHORITY.—In conducting the pilot program, the Secretary of the Army may use any authority otherwise available to the Secretary for the recruitment, employment, and retention of civilian personnel within the Department, including the authority under section 1599f of title 10, United States Code.

"(B) STATUS IN RESERVE.—During the period beginning on the date on which an individual is recruited to serve in the Civilian Cybersecurity Reserve and ending on the date on which the individual is appointed to the Civilian Cybersecurity Reserve, and during any period elapsing between any such

appointments, the individual may not be considered a Federal employee.

"(2) ELIGIBILITY; APPLICATION AND SELECTION.—

"(A) CRITERIA REQUIRED.—The Secretary of the Army shall establish criteria for—

"(i) individuals to be eligible to serve in the Civilian Cybersecurity Reserve; and

"(ii) the application and selection processes for service in the Civilian Cybersecurity Reserve.

"(B) REQUIREMENTS FOR INDIVIDUALS.—The criteria under subparagraph (A) shall include, with respect to an individual—

"(i) if the individual has previously served as a member of the Civilian Cybersecurity Reserve, that the previous appointment ended not fewer than 60 days before the individual may be appointed for a subsequent temporary position in the Civilian Cybersecurity Reserve; and

"(ii) cybersecurity expertise.

"(C) PRESCREENING.—The Secretary of the Army shall—

"(i) prior to the appointment of an individual to the Civilian Cybersecurity Reserve, conduct a prescreening of the individual for any topic or product that would create a conflict of interest; and

"(ii) require each individual so appointed to notify the Secretary if a potential conflict of interest arises during such appointment.

"(D) AGREEMENT REQUIRED.—The Secretary of the Army may only appoint an individual to the Civilian Cybersecurity Reserve if the individual enters into an agreement with the Secretary to serve in the Civilian Cybersecurity Reserve. Such agreement shall set forth the rights and obligations of the individual and the Army.

"(E) EXCEPTION FOR CONTINUING MILITARY SERVICE COMMITMENTS.—A member of the Selected Reserve under section 10143 of title 10, United States Code, may not serve as a member of the Civilian Cybersecurity Reserve.

"(F) PROHIBITION.—No individual who is an officer or employee of the United States Government, including any member of the uniformed services, may be recruited or appointed to serve in the Civilian Cybersecurity Reserve.

"(3) SECURITY CLEARANCES.—

"(A) IN GENERAL.—The Secretary of the Army shall ensure that each member of the Civilian Cybersecurity Reserve is subject to appropriate personnel vetting and adjudication commensurate with the duties of the position, including, with respect to positions for which a security clearance is necessary, a favorable determination of eligibility for access to classified information, consistent with applicable provisions of law and policy.

"(B) COST OF SPONSORING CLEARANCES.—If a member of the Civilian Cybersecurity Reserve requires a security clearance in order to carry out the duties of the member, the Army shall be responsible for the cost of sponsoring the security clearance of the member.

"(4) BRIEFINGS.—Not later than one year after the date on which the guidance under subsection (b)(2) is issued with respect to the pilot program, and annually thereafter until the date on which the pilot program terminates pursuant to paragraph (7), the Secretary of the Army shall provide to the congressional defense committees a briefing on activities carried out under the pilot program, including—

"(A) participation in the Civilian Cybersecurity Reserve, including the number of members of the Civilian Cybersecurity Reserve, the diversity of such members, and any barriers to recruitment or retention of such members;

"(B) an evaluation of the ethical requirements of the pilot program;

"(C) whether the Civilian Cybersecurity Reserve has been effective in providing additional capacity to the Army; and

"(D) an evaluation of the eligibility requirements for the pilot program.

"(5) FINAL REPORT AND BRIEFING REQUIRED.—Not earlier than 180 days and not later than 90 days prior to the date on which the pilot program terminates pursuant to paragraph (7), the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report, and provide to the congressional defense committees a briefing, on recommendations relating to the pilot program, including recommendations for—

"(A) whether the pilot program should be modified, extended in duration, or established as a permanent program, and if so, an appropriate scope for the program;

"(B) how to attract prospective members of the Civilian Cybersecurity Reserve, ensure a diversity of such members, and address any barriers to recruitment or retention of such members;

"(C) the ethical requirements of the pilot program and the effectiveness of mitigation efforts to

address any conflict of interest concerns; and

"(D) an evaluation of the eligibility requirements for the pilot program.

"(6) EVALUATION REQUIRED.—Not later than three years after the date on which the pilot program commences, the Comptroller General of the United States shall—

"(A) conduct a study evaluating the pilot program; and

"(B) submit to the congressional defense committees—

"(i) a report on the results of the study; and

"(ii) a recommendation with respect to whether the pilot program should be modified.

"(7) SUNSET.—The authority to conduct the pilot program shall terminate on the date that is four years after the date on which the pilot program commences."

## §7371. Army War College and United States Army Command and General Staff College: civilian faculty members

(a) AUTHORITY OF SECRETARY.—The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College after the end of the 90-day period beginning on November 29, 1989.

(2) This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the college involved is less than 10 months.

(Added Pub. L. 101–189, div. A, title XI, §1124(b)(1), Nov. 29, 1989, 103 Stat. 1558, §4021; amended Pub. L. 107–107, div. A, title X, §1048(c)(12), Dec. 28, 2001, 115 Stat. 1226; renumbered §7371, Pub. L. 115–232, div. A, title VIII, §808(b)(15), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4021 of this title as this section.

**2001**—Subsec. (c)(1). Pub. L. 107–107 substituted "November 29, 1989" for "the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7374. Expert accountant for Inspector General

The Secretary of the Army shall appoint an expert accountant to perform duties under the Inspector General.

(Aug. 10, 1956, ch. 1041, 70A Stat. 234, §4024; renumbered §7374, Pub. L. 115–232, div. A, title VIII, §808(b)(15), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4024 | 10:52. | Feb. 24, 1891, ch. 284 (7th clause under "Miscellaneous"), 26 Stat. 773. |

The words "in case of vacancy" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4024 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7375. Production of supplies and munitions: hours and pay of laborers and mechanics

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Army producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Army these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.

(Aug. 10, 1956, ch. 1041, 70A Stat. 234, §4025; renumbered §7375, Pub. L. 115–232, div. A, title VIII, §808(b)(15), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4025 | 5:189a. | July 2, 1940, ch. 508, §4(b), 54 Stat. 714. |

The words "Notwithstanding the provisions of any other law" are omitted as surplusage. The word "producing" is substituted for the words "who are engaged in the manufacture or production". The last sentence is substituted for 5:189a (last 34 words).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4025 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7377. Certain civilian special agents: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of the Army may authorize any Department of the Army civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) AGENTS TO HAVE AUTHORITY.—(1) Subsection (a) applies to any employee of the Department of the Army who is a special agent of the Army Criminal Investigation Command (or a successor to that command) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Army.

(2) In addition to paragraph (1), during the four-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, subsection (a) applies to any employee of the Department of the Army who is a special agent of the Army Counterintelligence Command (or a successor to that command) whose duties include conducting, supervising, or coordinating counterintelligence investigations in programs and operations of the Department of the Army.

(c) GUIDELINES FOR EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Army and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Army, the Secretary of Defense, or the Attorney General.

(Added Pub. L. 106–398, §1 [[div. A], title V, §554(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–126, §4027; renumbered §7377, Pub. L. 115–232, div. A, title VIII, §808(b)(15), Aug. 13, 2018, 132 Stat. 1839; amended Pub. L. 118–159, div. A, title XVI, §1613(a), Dec. 23, 2024, 138 Stat. 2168.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 118–159, also known as the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, which was approved Dec. 23, 2024.

#### AMENDMENTS

**2024**—Pub. L. 118–159, §1613(a)(1), substituted "Certain civilian special agents:" for "Civilian special agents of the Criminal Investigation Command:" in section catchline.

Subsec. (b). Pub. L. 118–159, §1613(a)(2), designated existing provisions as par. (1) and added par. (2).

**2018**—Pub. L. 115–232 renumbered section 4027 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 749—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

Sec.
7381. Fatality reviews.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 375 of this title as this chapter and item 4061 as 7381.

## §7381. Fatality reviews

(a) REVIEW OF FATALITIES.—The Secretary of the Army shall conduct a multidisciplinary, impartial review (referred to as a "fatality review") in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following:

(1) A member of the Army on active duty.

(2) A current or former dependent of a member of the Army on active duty.

(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the Army on active duty.

(b) MATTERS TO BE INCLUDED.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

(1) An executive summary.

(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

(3) Legal disposition.

(4) System intervention and failures, if any, within the Department of Defense.

(5) A discussion of significant findings.

(6) Recommendations for systemic changes, if any, within the Department of the Army and the Department of Defense.

(c) OSD GUIDANCE.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).

(Added Pub. L. 108–136, div. A, title V, §576(a)(1), Nov. 24, 2003, 117 Stat. 1486, §4061; renumbered §7381, Pub. L. 115–232, div. A, title VIII, §808(b)(16), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7391 to 7394 were repealed by Pub. L. 97–295, §1(50)(A), Oct. 12, 1982, 96 Stat. 1299.

Section 7391, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, §1(a)(2), 76 Stat. 154, provided for a United States Naval Oceanographic Office attached to the Office of the Chief of Naval Operations which would provide navigational aids, charts, books, and manuals, and was reenacted as former section 2791 of this title.

Section 7392, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, §1(a)(3), 76 Stat. 154, provided that the Secretary of the Navy may have the United States Naval Oceanographic Office prepare navigational aids, charts, and books, and that he may publish and distribute such materials and buy copyrights of existing navigational aids, charts, and books, and was reenacted as section 451 of this title.

Section 7393, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, §1(a)(4), 76 Stat. 154, directed that certain identifying information be printed on United States Naval Oceanographic pilot charts, and that the Department of Commerce's Weather Bureau provide the Naval Oceanographic Office with data necessary for their preparation, and was reenacted as section 452 of this title.

Section 7394, acts Aug. 10, 1956, ch. 1041, 70A Stat. 457; July 10, 1962, Pub. L. 87–533, §1(a)(5), 76 Stat. 154; Aug. 14, 1964, Pub. L. 88–436, §1(a), 78 Stat. 443, directed that publications by the Naval Oceanographic Office be sold under regulations of the Secretary of the Navy, and that proceeds be covered into the Treasury, and was reenacted as section 453 of this title.

Prior sections 7395 and 7396 were renumbered sections 8715 and 8716 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4061 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 108–136, div. A, title V, §576(d), Nov. 24, 2003, 117 Stat. 1488, provided that: "Sections 4061, 6036, and 9061 [now 7381, 8226, and 9381] of title 10, United States Code, as added by this section, apply with respect to fatalities that occur on or after the date of the enactment of this Act [Nov. 24, 2003]."

# PART III—TRAINING


| Chap. | | Sec. |
|---|---|---|
| **751.** | **Training Generally** | **7401** |
| **753.** | **United States Military Academy** | **7431** |
| **757.** | **Schools and Camps** | **7481** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(f)(2), Aug. 13, 2018, 132 Stat. 1839, redesignated items for chapters 401, 403, and 407 as 751, 753, and 757, respectively, and redesignated section numbers 4301, 4331, and 4411 as 7401, 7431, and 7481, respectively.

**1964**—Pub. L. 88–647, title III, §301(11), Oct. 13, 1964, 78 Stat. 1072, struck out item for chapter 405 "Reserve Officers' Training Corps".

## CHAPTER 751—TRAINING GENERALLY


Sec.

7401. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.
7402. Enlisted members of Army: schools.
7403. Army Ranger training: instructor staffing; safety.
7406. Service schools: leaves of absence for instructors.
7409. Rifle ranges: availability for use by members and civilians.
7414. Degree granting authority for United States Army Command and General Staff College.
7415. The Judge Advocate General's School: master of laws in military law.
7417. Military history fellowships.
7418. Drill sergeant trainees: human relations training.
7419. Recruit basic training: separate housing for male and female recruits.
7420. Recruit basic training: privacy.
7421. Degree granting authority for United States Army War College.
7422. Degree granting authority for United States Army Armament Graduate School.


**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92, div. A, title V, §553(a)(2), Dec. 20, 2019, 133 Stat. 1387, added item 7422.

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 401 of this title as this chapter and items 4301 to 4321 as 7401 to 7421, respectively.

**2017**—Pub. L. 115–91, div. A, title X, §1051(a)(27)(B), Dec. 12, 2017, 131 Stat. 1562, struck out item 4316 "Reporting requirements".

**2008**—Pub. L. 110–417, [div. A], title V, §543(c)(2), (d)(2), Oct. 14, 2008, 122 Stat. 4459, 4460, added items 4314 and 4321 and struck out former items 4314 "United States Army Command and General Staff College degree" and 4321 "United States Army War College: master of strategic studies degree".

**1999**—Pub. L. 106–65, div. A, title V, §542(b), Oct. 5, 1999, 113 Stat. 607, added item 4321.

**1998**—Pub. L. 105–261, div. A, title V, §§521(a)(2), 522(a)(2), Oct. 17, 1998, 112 Stat. 2010, 2012, added items 4319 and 4320.

Pub. L. 105–225, §6(b), Aug. 12, 1998, 112 Stat. 1499, repealed items 4312 "National rifle and pistol matches: small-arms firing school" and 4313 "National Matches and small-arms school: expenses".

**1997**—Pub. L. 105–85, div. A, title V, §557(a)(2), Nov. 18, 1997, 111 Stat. 1750, added item 4318.

**1996**—Pub. L. 104–106, div. A, title V, §562(a)(2), title XVI, §1624(a)(2), Feb. 10, 1996, 110 Stat. 324, 522, added item 4303 and struck out items 4307 "Director of civilian marksmanship: detail", 4308 "Promotion of civilian marksmanship: authority of the Secretary of the Army", 4310 "Rifle instruction: detail of members of Army", and 4311 "Rifle instruction: issue of rifles and ammunition".

**1993**—Pub. L. 103–35, title II, §201(b)(2)(B), (g)(10)(B), May 31, 1993, 107 Stat. 98, 100, substituted "National Matches and small-arms school" for "Promotion of civilian marksmanship" in item 4313, struck out item 4316 "Military history fellowships", and added item 4317.

**1992**—Pub. L. 102–484, div. A, title III, §380(a)(2), (b)(2), (d)(2), title X, §1076(b), Oct. 23, 1992, 106 Stat. 2390, 2391, 2512, added items 4308 and 4309 and struck out former items 4308 and 4309, resulting in no change in item 4308 and in substituting "availability" for "available" in item 4309, and added two items 4316.

Pub. L. 102–484, div. A, title III, §380(c)(2), Oct. 23, 1992, 106 Stat. 2391, which directed amendment of item 4313 by striking out "rifle", could not be executed because the word did not appear subsequent to amendment by Pub. L. 101–510. See 1990 Amendment note below.

**1990**—Pub. L. 101–510, div. A, title III, §328(g)(2), Nov. 5, 1990, 104 Stat. 1534, added items 4308, 4309, and 4313 and struck out former items 4308 "Civilian rifle ranges: establishment; instruction", 4309 "Rifle ranges: recommendations to Congress; regulations", and 4313 "National rifle matches and small-arms school: expenses".

**1987**—Pub. L. 100–180, div. A, title V, §504(b), Dec. 4, 1987, 101 Stat. 1086, added item 4315.

**1974**—Pub. L. 93–365, title VII, §708(a)(2), Aug. 5, 1974, 88 Stat. 407, added item 4314.

## §7401. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Army may detail members of the Army as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Army on the active-duty list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Army may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without his consent and, if a member of the Army National Guard of the United States, without the approval of the governor or other appropriate authority of the State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands of whose Army National Guard he is a member.

(d) The Secretary may require, as a condition of a detail under subsection (a), that an enlisted member accept a discharge and be reenlisted in his component for at least three years.

(e) The total length of details of an enlisted member of the Army under subsection (a) during one enlistment may not exceed 50 percent of that enlistment.

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in

enlisted members, of the Regular Army, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Army, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) Expenses incident to the detail of members under this section shall be paid from any funds appropriated for the Department of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 234, §4301; Pub. L. 93–169, Nov. 29, 1973, 87 Stat. 689; Pub. L. 96–513, title V, §502(23), Dec. 12, 1980, 94 Stat. 2910; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(a)(9), Jan. 6, 2006, 119 Stat. 3441; renumbered §7401, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4301(a) | 10:535 (1st 75 words). | June 3, 1916, ch. 134, §127a (13th par.); added June 4, 1920, ch. 227, subch. I, §51 (13th par.); restated June 8, 1926, ch. 495; May 13, 1941, ch. 113; June 30, 1941, ch. 262 (4th proviso under "Finance Department"); restated June 19, 1948, ch. 501, §1, 62 Stat. 477. |
| 4301(b) | 10:535 (less 1st 75 words, and less provisos). | |
| 4301(c) | 10:535 (1st proviso). | |
| 4301(d) | 10:535 (words of 2d proviso before semicolon). | |
| 4301(e) | 10:535 (words of 2d proviso after semicolon). | |
| 4301(f) | 10:535 (last proviso). | |
| 4301(g) | 10:535a. | June 19, 1948, ch. 501, §2, 62 Stat. 478. |

In subsection (a), the words "members of the Army" are substituted for the words "personnel of the Army of the United States, without regard to component".

In subsection (b), the words "is detailed under subsection (a)" are substituted for the words "receives such instruction". The words "as long as the detail" are substituted for the words "equal to the duration of his period of instruction". The words "However, if the detail is for" are substituted for the words "except that where the duration of such training is". The words "other than one of the Regular Army on the active list" are inserted, since members of the Regular Army on the active list are on continuous active duty. The word "additional" is inserted, since the detail under this section is active duty. The words "the officer may be ordered to that additional duty" are substituted for the words "such subsequent active duty may * * * the officer concerned".

In subsection (c), the words "of whose Army National Guard he is a member" are substituted for the words "whichever is concerned".

In subsection (d), the words "as a condition of a detail under subsection (a)" are substituted for the words "prior to his detail pursuant to the provisions of this paragraph". The words "accept a discharge" are substituted for the words "be discharged".

In subsection (e), the words "during one enlistment" are inserted for clarity.

In subsection (f), the last sentence is substituted for 10:535 (words within parentheses of last proviso).

In subsection (g), the words "under this section" are substituted for 10:535a (9th through 41st words).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4301 of this title as this section.

**2006**—Subsec. (c). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

**1988**—Subsec. (c). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

**1980**—Subsec. (b). Pub. L. 96–513 substituted "active-duty list" for "active list" in first sentence.

**1973**—Subsec. (b). Pub. L. 93–169 struck out provisions which limited to four years the maximum period for which an officer detailed for additional active duty upon termination of detail is required to serve.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §7402. Enlisted members of Army: schools

(a) So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Army with the approval of the President, enlisted members of the Army shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial, and business occupations. Part of this instruction may be vocational education in agriculture or the mechanic arts. Civilian teachers may be employed to aid Army officers in this instruction.

(b) Schools for the instruction of enlisted members of the Army in the common branches of education, including United States history shall be maintained at all posts at which members of the Army are stationed. The Secretary may detail members of the Army to carry out this subsection. The commander of each post where schools are maintained under this subsection shall provide a suitable room or building for school and religious purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 235, §4302; renumbered §7402, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4302(a) | 10:1176. | June 3, 1916, ch. 134, §27 (last par.), 39 Stat. 186. |
| 4302(b) | 10:1172. | R.S. 1231. |

In subsection (a), the first 12 words are substituted for 10:1176 (1st 5, and last 18, words). The words "and the Secretary of the Army shall have the power at all times to suspend, increase, or decrease the amount of such instruction offered" are omitted as surplusage.

In subsection (b), the words "garrisons, and permanent camps" are omitted as covered by the word "posts". The word "including" is substituted for the words "and especially in". The word "members" is substituted for the words "officers and enlisted men". The words "as may be necessary", "It * * * be the duty", and "or garrison" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4302 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Function of the President under subsec. (a) of this section delegated to the Secretary of Defense, see section 1(6) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §7403. Army Ranger training: instructor staffing; safety

(a) LEVELS OF PERSONNEL ASSIGNED.—(1) The Secretary of the Army shall ensure that at all times the number of officers, and the number of enlisted members, permanently assigned to the Ranger Training Brigade (or other organizational element of the Army primarily responsible for Ranger student training) are not less than 90 percent of the required manning spaces for officers, and for enlisted members, respectively, for that brigade.

(2) In this subsection, the term "required manning spaces" means the number of personnel spaces for officers, and the number of personnel spaces for enlisted members, that are designated in Army authorization documents as the number required to accomplish the missions of a particular unit or organization.

(b) TRAINING SAFETY CELLS.—(1) The Secretary of the Army shall establish and maintain an organizational entity known as a "safety cell" as part of the organizational elements of the Army responsible for conducting each of the three major phases of the Ranger Course. The safety cell in each different geographic area of Ranger Course training shall be comprised of personnel who have sufficient continuity and experience in that geographic area of such training to be knowledgeable of the local conditions year-round, including conditions of terrain, weather, water, and climate and other conditions and the potential effect on those conditions on Ranger student training and safety.

(2) Members of each safety cell shall be assigned in sufficient numbers to serve as advisers to the officers in charge of the major phase of Ranger training and shall assist those officers in making informed daily "go" and "no-go" decisions regarding training in light of all relevant conditions, including conditions of terrain, weather, water, and climate and other conditions.

(Added Pub. L. 104–106, div. A, title V, §562(a)(1), Feb. 10, 1996, 110 Stat. 323, §4303; renumbered §7403, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4303 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### ACCOMPLISHMENT OF REQUIRED MANNING LEVELS; GAO ASSESSMENT

Pub. L. 104–106, div. A, title V, §562(b), (c), Feb. 10, 1996, 110 Stat. 324, provided that if on Feb. 10, 1996, the number of officers, and the number of enlisted members, permanently assigned to the Army Ranger Training Brigade were not each at (or above) the requirement specified in this section, the Secretary of the Army was to take such steps as necessary to accomplish that requirement within 12 months and submit to Congress within 90 days a plan to achieve and maintain that requirement, and the Comptroller General was to

submit to Congress by one year after Feb. 10, 1996, a preliminary assessment of the implementation and effectiveness of all corrective actions taken by the Army as a result of the February 1995 accident at the Florida Ranger Training Camp, including an evaluation of the implementation of the required manning levels established by this section, with a final assessment due 2 years after the required manning levels referred to in paragraph (1) are first attained.

## §7406. Service schools: leaves of absence for instructors

The officer in charge of an Army service school may grant a leave of absence for the period of the suspension of the ordinary academic studies, without reduction of pay or allowances, to any officer on duty exclusively as an instructor at the school.

(Aug. 10, 1956, ch. 1041, 70A Stat. 235, §4306; renumbered §7406, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4306 | 10:843. | Mar. 23, 1910, ch. 115 (proviso under "United States Service Schools"), 36 Stat. 244. |

The words "The provisions of section 1144 of this title, authorizing leaves of absence to certain officers of the Military Academy * * * are hereby, extended to include" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4306 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7409. Rifle ranges: availability for use by members and civilians

(a) RANGES AVAILABLE.—All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by persons capable of bearing arms.

(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) that is located on a military installation, the Secretary concerned may establish reasonable fees for the use by civilians of that rifle range to cover the material and supply costs incurred by the armed forces to make that rifle range available to civilians.

(2) Fees collected pursuant to paragraph (1) in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

(3) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of the range by members of the armed forces.

(c) REGULATIONS.—Regulations to carry out this section with respect to a rifle range shall be prescribed, subject to the approval of the Secretary concerned, by the authorities controlling the rifle range.

(Aug. 10, 1956, ch. 1041, 70A Stat. 236, §4309; Pub. L. 99–145, title XIII, §1301(b)(3)(A), Nov. 8, 1985, 99 Stat. 735; Pub. L. 101–510, div. A, title III, §328(e), Nov. 5, 1990, 104 Stat. 1533; Pub. L. 102–484, div. A, title III, §380(b)(1), Oct. 23, 1992, 106 Stat. 2390; renumbered §7409, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4309(a) | 32:186 (1st sentence). | June 3, 1916, ch. 134, §113 (1st 2 sentences), 39 Stat. 211. |
| 4309(b) | 32:186 (less 1st sentence). | |

In subsection (a), the words "such a comprehensive * * * as will ultimately result in" are omitted as surplusage.

In subsection (b), the words "United States" are substituted for the word "Congress". The words "members of the armed forces" are substituted for the words "those in any branch of the military or naval service". The words "of the United States" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4309 of this title as this section.

**1992**—Pub. L. 102–484 amended section generally. Prior to amendment section read as follows:

"(a) RANGES AVAILABLE.—(1) All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by able-bodied persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) located on a military installation, the Secretary of the Army shall establish reasonable fees for the use by civilians of that rifle range to cover any costs incurred by the Army to make that rifle range available to civilians.

"(2) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of those ranges by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section shall be prescribed by the authorities controlling the rifle range, subject to the approval of the Secretary of the Army."

**1990**—Pub. L. 101–510 substituted "Rifle ranges: available for use by members and civilians" for "Rifle ranges: recommendations to Congress; regulations" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) The Secretary of the Army shall submit annually to Congress recommendations and estimates for the establishment and maintenance of indoor and outdoor rifle ranges under a plan to provide facilities for rifle practice in all sections of the country.

"(b) All rifle ranges established under subsection (a) and all rifle ranges already constructed, in whole or in part with funds provided by the United States, may be used by members of the armed forces and by all able-bodied persons capable of bearing arms, under regulations prescribed by the authorities controlling those ranges and approved by the Secretary."

**1985**—Subsec. (b). Pub. L. 99–145 substituted "persons" for "males".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title III, §380(e), Oct. 23, 1992, 106 Stat. 2391, provided that:

"(1) This section [enacting section 4316 of this title and amending this section and sections 4308 and 4313 of this title] and the amendments made by this section shall take effect on the earlier of—

"(A) the date of the enactment of this Act [Oct. 23, 1992]; or

"(B) October 1, 1992.

"(2) If under paragraph (1) the amendments made by this section take effect before October 1, 1992, the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1533) shall not take effect.

"(3) If under paragraph (1) the amendments made by this section take effect on October 1, 1992, the amendments made by this section shall be considered executed immediately following the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1533)."

**EFFECTIVE DATE OF 1990 AMENDMENT**

Pub. L. 101–510, div. A, title III, §328(h), Nov. 5, 1990, 104 Stat. 1534, provided that: "The amendments made by this section [amending this section and sections 4308, 4311, and 4313 of this title] shall take effect on October 1, 1992."

## §7414. Degree granting authority for United States Army Command and General Staff College

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Army, the Commandant of the United States Army Command and General Staff College may, upon the recommendation of the faculty and dean of the college, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the United States Army Command and General Staff College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army Command and General Staff College to award any new or existing degree.

(Added Pub. L. 93–365, title VII, §708(a)(1), Aug. 5, 1974, 88 Stat. 407, §4314; amended Pub. L. 96–513, title V, §512(11), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 101–510, div. A, title XIII, §1322(a)(13), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 110–417, [div. A], title V, §543(c)(1), Oct. 14, 2008, 122 Stat. 4458; renumbered §7414, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4314 of this title as this section.

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, text read as follows: "Under regulations prescribed by the Secretary of the Army, and with the approval of a nationally recognized civilian accrediting association approved by the Secretary of Education, the Commandant of the United States Army Command and General Staff College may upon recommendation by the faculty confer the degree of master of military art and science upon graduates of the college who have fulfilled the following degree requirements: a minimum of thirty semester hours of graduate credit, including a masters thesis of six to eight semester hours, and a demonstration of competence in the discipline of military art and science as evidenced by satisfactory performance on a general comprehensive examination. These requirements may be altered only with the approval of such association."

**1990**—Pub. L. 101–510 struck out at end "The Secretary of the Army shall report annually to the Committees on Armed Services of the Senate and House of Representatives the following information: (1) the criteria which must be met to entitle a student to award of the degree, (2) whether such criteria have changed in any respect during the reporting year, (3) the number of students in the most recent resident course graduating class, (4) the number of such students who were enrolled in the master of military art and science program, and (5) the number of students successfully completing the master of military art and science program."

**1980**—Pub. L. 96–513 substituted "Secretary of Education" for "Commissioner of Education, Department of Health, Education, and Welfare".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### RETROACTIVE DEGREE CONFERRAL; MAXIMUM AMOUNT

Pub. L. 93–365, title VII, §708(b), Aug. 5, 1974, 88 Stat. 407, provided that: "The Commandant of the United States Army Command and General Staff College may confer the degree of master of military art and science upon graduates of the college who have completed the requirements for that degree since 1964 but prior to the enactment of this Act [Aug. 5, 1974]; but the number of such degrees awarded for such period may not exceed two hundred."

## §7415. The Judge Advocate General's School: master of laws in military law

Under regulations prescribed by the Secretary of the Army, the Commandant of the Judge Advocate General's School of the Army may, upon recommendation by the faculty of such school, confer the degree of master of laws (LL.M.) in military law upon graduates of the school who have fulfilled the requirements for that degree.

(Added Pub. L. 100–180, div. A, title V, §504(a), Dec. 4, 1987, 101 Stat. 1086, §4315; renumbered §7415, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4315 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7417. Military history fellowships

(a) FELLOWSHIPS.—The Secretary of the Army shall prescribe regulations under which the Secretary may award fellowships in military history of the Army to the persons described in subsection (b).

(b) ELIGIBLE PERSONS.—The persons eligible for awards of fellowships under this section are citizens and nationals of the United States who—

(1) are graduate students in United States military history;

(2) have completed all requirements for a doctoral degree other than preparation of a dissertation; and

(3) agree to prepare a dissertation in a subject area of military history determined by the Secretary.

(c) REGULATIONS.—The regulations prescribed under this section shall include—

(1) the criteria for award of fellowships;

(2) the procedures for selecting recipients;

(3) the basis for determining the amount of a fellowship; and

(4) the total amount that may be awarded as fellowships during an academic year.

(Added Pub. L. 102–484, div. A, title X, §1076(a), Oct. 23, 1992, 106 Stat. 2511, §4316; renumbered §4317, Pub. L. 103–35, title II, §201(b)(2)(A), May 31, 1993, 107 Stat. 98; renumbered §7417, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4317 of this title as this section.

**1993**—Pub. L. 103–35 renumbered section 4316 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7418. Drill sergeant trainees: human relations training

(a) HUMAN RELATIONS TRAINING REQUIRED.—The Secretary of the Army shall include as part of the training program for drill sergeants a course in human relations. The course shall be a minimum of two days in duration.

(b) RESOURCES.—In developing a human relations course under this section, the Secretary shall use the capabilities and expertise of the Defense Equal Opportunity Management Institute (DEOMI).

(Added Pub. L. 105–85, div. A, title V, §557(a)(1), Nov. 18, 1997, 111 Stat. 1750, §4318;

renumbered §7418, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4318 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 105–85, div. A, title V, §557(b), Nov. 18, 1997, 111 Stat. 1750, as amended by Pub. L. 106–65, div. A, title X, §1066(c)(1), Oct. 5, 1999, 113 Stat. 773, provided that: "Section 4318 [now 7418] of title 10, United States Code, as added by subsection (a), shall apply with respect to drill sergeant trainee classes that begin after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 18, 1997]."

### REFORM OF ARMY DRILL SERGEANT SELECTION AND TRAINING PROCESS

Pub. L. 105–85, div. A, title V, §556, Nov. 18, 1997, 111 Stat. 1749, provided that:

"(a) IN GENERAL.—The Secretary of the Army shall reform the process for selection and training of drill sergeants for the Army.

"(b) MEASURES TO BE TAKEN.—As part of such reform, the Secretary shall undertake the following measures (unless, in the case of any such measure, the Secretary determines that that measure would not result in improved effectiveness and efficiency in the drill sergeant selection and training process):

"(1) Review the overall process used by the Department of the Army for selection of drill sergeants to determine—

"(A) whether that process is providing drill sergeant candidates in sufficient quantity and quality to meet the needs of the training system; and

"(B) whether duty as a drill sergeant is a career-enhancing assignment (or is seen by potential drill sergeant candidates as a career-enhancing assignment) and what steps could be taken to ensure that such duty is in fact a career-enhancing assignment.

"(2) Incorporate into the selection process for all drill sergeants the views and recommendations of the officers and senior noncommissioned officers in the chain of command of each candidate for selection (particularly those of senior noncommissioned officers) regarding the candidate's suitability and qualifications to be a drill sergeant.

"(3) Establish a requirement for psychological screening for each drill sergeant candidate.

"(4) Reform the psychological screening process for drill sergeant candidates to improve the quality, depth, and rigor of that screening process.

"(5) Revise the evaluation system for drill sergeants in training to provide for a so-called 'whole person' assessment that gives insight into the qualifications and suitability of a drill sergeant candidate beyond the candidate's ability to accomplish required performance tasks.

"(6) Revise the Army military personnel records system so that, under conditions and circumstances to be specified in regulations prescribed by the Secretary, a drill sergeant trainee who fails to complete the training to be a drill sergeant and is denied graduation will not have the fact of that failure recorded in those personnel records.

"(7) Provide each drill sergeant in training with the opportunity, before or during that training, to work with new recruits in initial entry training and to be evaluated on that opportunity.

"(c) REPORT.—Not later than March 31, 1998, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report of the reforms adopted pursuant to this section or, in the case of any measure specified in any of paragraphs (1) through (7) of subsection (b) that was not adopted, the rationale why that measure was not adopted."

## §7419. Recruit basic training: separate housing for male and female recruits

(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Army shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Army shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Army shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.

(Added Pub. L. 105–261, div. A, title V, §521(a)(1), Oct. 17, 1998, 112 Stat. 2009, §4319; renumbered §7419, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4319 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title V, §521(a)(3), Oct. 17, 1998, 112 Stat. 2010, provided that: "The Secretary of the Army shall implement section 4319 [now 7419] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## §7420. Recruit basic training: privacy

The Secretary of the Army shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.

(Added Pub. L. 105–261, div. A, title V, §522(a)(1), Oct. 17, 1998, 112 Stat. 2012, §4320; renumbered §7420, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7420 was renumbered section 8720 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4320 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title V, §522(a)(3), Oct. 17, 1998, 112 Stat. 2012, provided that: "The Secretary of the Army shall implement section 4320 [now 7420] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## §7421. Degree granting authority for United States Army War College

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Army, the Commandant of the United States Army War College may, upon the recommendation of the faculty and dean of the college, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the United States Army War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army War College to award any new or existing degree.

(Added Pub. L. 106–65, div. A, title V, §542(a), Oct. 5, 1999, 113 Stat. 607, §4321; amended Pub.

L. 110–417, [div. A], title V, §543(d)(1), Oct. 14, 2008, 122 Stat. 4459; renumbered §7421, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7421 was renumbered section 8721 of this title.

A prior section 7426, acts Aug. 10, 1956, ch. 1041, 70A Stat. 459; Pub. L. 94–258, title II, §201(7), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, §513(32)(A), (B), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 98–525, title XIV, §1405(52), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774, related to cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1, prior to repeal by Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484. Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, provided that the repeal of section 7426 would not affect the validity of contracts in effect under that section on the day before Oct. 30, 2000, and that no such contracts could be extended or renewed on or after Oct. 30, 2000.

Prior sections 7427 to 7430 were renumbered sections 8727 to 8730 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4321 of this title as this section.

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, text read as follows: "Under regulations prescribed by the Secretary of the Army, the Commandant of the United States Army War College, upon the recommendation of the faculty and dean of the college, may confer the degree of master of strategic studies upon graduates of the college who have fulfilled the requirements for that degree."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

### ORGANIZATION OF ARMY WAR COLLEGE

Pub. L. 119–60, div. A, title V, §559B, Dec. 18, 2025, 139 Stat. 881, provided that: "The Secretary of the Army shall—

"(1) incorporate the Army War College into the Army University; and

"(2) direct the head of the Army War College to report to the head of the Army University."

## §7422. Degree granting authority for United States Army Armament Graduate School

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Army, the Chancellor of the United States Army Armament Graduate School may, upon the recommendation of the faculty and provost of the school, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the United States Army Armament Graduate School is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary

of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives—

(A) a copy of the self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army Armament Graduate School to award any new or existing degree.

(Added Pub. L. 116–92, div. A, title V, §553(a)(1), Dec. 20, 2019, 133 Stat. 1386.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7422 to 7425 were renumbered sections 8722 to 8725 of this title, respectively.

A prior section 7426, acts Aug. 10, 1956, ch. 1041, 70A Stat. 459; Pub. L. 94–258, title II, §201(7), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, §513(32)(A), (B), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 98–525, title XIV, §1405(52), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774, related to cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1, prior to repeal by Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484. Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, provided that the repeal of section 7426 would not affect the validity of contracts in effect under that section on the day before Oct. 30, 2000, and that no such contracts could be extended or renewed on or after Oct. 30, 2000.

Prior sections 7427 to 7430 were renumbered sections 8727 to 8730 of this title, respectively.

## CHAPTER 753—UNITED STATES MILITARY ACADEMY

Sec.
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## EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title V, §557(a)(1), Dec. 23, 2024, 138 Stat. 1896, substituted "service obligation" for "agreement to serve as officer" in item 7448. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §553(a)(2), Dec. 27, 2021, 135 Stat. 1736, added item 7442a.

2018–Pub. L. 115–232, div. A, title VIII, §808(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 403 of this title as this chapter and items 4331 to 4362 as 7431 to 7462, respectively.

**2016**—Pub. L. 114–328, div. A, title XII, §1248(b)(2)(A), Dec. 23, 2016, 130 Stat. 2525, struck out items 4344 "Selection of persons from foreign countries", 4345 "Exchange program with foreign military academies", and 4345a "Foreign and cultural exchange activities".

**2015**—Pub. L. 114–92, div. A, title V, §557(b), Nov. 25, 2015, 129 Stat. 827, added item 4362.

**2008**—Pub. L. 110–417, [div. A], title V, §541(a)(2), Oct. 14, 2008, 122 Stat. 4455, added item 4345a.

**2006**—Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, made technical correction to directory language of Pub. L. 108–375, §544(a)(2). See 2004 Amendment note below.

Pub. L. 109–364, div. A, title V, §532(d)(1), Oct. 17, 2006, 120 Stat. 2205, added item 4361.

**2004**—Pub. L. 108–375, div. A, title V, §545(a)(2), Oct. 28, 2004, 118 Stat. 1908, added item 4360.

Pub. L. 108–375, div. A, title V, §544(a)(2), Oct. 28, 2004, 118 Stat. 1906, as amended by Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, added item 4359.

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(B), div. B, title XXVIII, §2871(a)(2), Oct. 5, 1999, 113 Stat. 603, 873, added items 4333a and 4357.

**1998**—Pub. L. 105–261, div. A, title X, §1063(a)(2), Oct. 17, 1998, 112 Stat. 2130, added item 4358.

**1997**—Pub. L. 105–85, div. A, title V, §542(a)(2), Nov. 18, 1997, 111 Stat. 1741, added item 4345.

**1996**—Pub. L. 104–106, div. A, title V, §533(a)(2), Feb. 10, 1996, 110 Stat. 315, struck out item 4357 "Athletics program: athletic director; nonappropriated fund account".

**1994**—Pub. L. 103–337, div. A, title V, §556(a)(2), Oct. 5, 1994, 108 Stat. 2774, added item 4357.

**1993**—Pub. L. 103–160, div. A, title V, §533(a)(2), Nov. 30, 1993, 107 Stat. 1658, added item 4338.

**1983**—Pub. L. 98–94, title X, §1004(a)(3), Sept. 24, 1983, 97 Stat. 658, substituted "from foreign countries" for "from Canada and American Republics" in item 4344, and struck out item 4345 "Selection of Filipinos".

**1982**—Pub. L. 97–295, §1(41)(B), Oct. 12, 1982, 96 Stat. 1298, added item 4356.

**1981**—Pub. L. 97–60, title II, §203(a)(2)(B), Oct. 14, 1981, 95 Stat. 1006, added item 4341a.

**1978**—Pub. L. 95–551, §4(b), Oct. 30, 1978, 92 Stat. 2069, substituted "Establishment; Superintendent; faculty" for "Superintendent; faculty; adjutant; chaplain" in item 4331, "director of admissions" for "registrar" in item 4336, and struck out item 4338 "Director of music".

**1968**—Pub. L. 90–623, §2(7), Oct. 22, 1968, 82 Stat. 1314, struck out item 4339 "Organist and choirmaster; civilian instructors in departments of foreign languages and tactics: quarters, fuel, and light".

**1958**—Pub. L. 85–600, §1(12), Aug. 6, 1958, 72 Stat. 523, inserted ", registrar" in item 4336.

## §7431. Establishment; Superintendent; faculty

(a) There is in the Department of the Army a United States Military Academy, at West Point, New York (hereinafter in this chapter referred to as the "Academy"), for the instruction and preparation for military service of selected persons called "cadets". The organization of the Academy shall be prescribed by the Secretary of the Army.

(b) There shall be at the Academy the following:

(1) A Superintendent.

(2) A Dean of the Academic Board, who is a permanent professor.

(3) A Commandant of Cadets.

(4) Twenty-eight permanent professors.

(5) A chaplain.

(6) A director of admissions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 238, §4331; Pub. L. 85–600, §1(8), Aug. 6, 1958, 72 Stat. 522; Pub. L. 85–723, Aug. 21, 1958, 72 Stat. 711; Pub. L. 95–551, §1, Oct. 30, 1978, 92 Stat. 2069; Pub. L. 96–513, title V, §512(12), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 102–484, div. A, title V, §523(a), Oct. 23, 1992, 106 Stat. 2409; Pub. L. 103–160, div. A, title V, §533(a)(3), Nov. 30, 1993, 107 Stat. 1658; Pub. L. 110–181, div. A, title V, §507, Jan. 28, 2008, 122 Stat. 96; renumbered §7431, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4331(a) | 10:1061.<br>10:1071.<br>10:1077.<br>10:1077a.<br>10:1078a.<br>10:1087 (less proviso).<br>10:1088.<br>10:1089 (1st 20 words). | R.S. 1309; Feb. 18, 1896, ch. 22 (less proviso), 29 Stat. 8.<br>June 23, 1879, ch. 35, §4 (less last 30 words), 21 Stat. 34.<br>June 8, 1926, ch. 492 (1st par., less 1st proviso), 44 Stat. 703. |
| 4331(b) | 10:1073. | Apr. 19, 1910, ch. 174 (1st and 2d provisos under "Permanent Establishment"), 36 Stat. 312; June 8, 1926, ch. 492 (1st proviso of 1st par.), 44 Stat. 703.<br>Apr. 19, 1910, ch. 174 (8th par. under "Permanent Establishment"), 36 Stat. 312.<br>May 26, 1934, ch. 353, 48 Stat. 806.<br>June 26, 1946, ch. 495, §§1 (less proviso), 2, 3 (1st 20 words), 60 Stat. 312. |

In subsection (a), reference to the senior instructors of artillery, cavalry, and infantry, and the master of the

sword, in 10:1061, are omitted as obsolete. The duties of the former master of the sword are presently performed by the director of physical education, detailed to that duty by the superintendent of the Academy from officers assigned to duty at that installation by the Secretary under section 3012(e) of this title. The words "and one assistant professor", in 10:1061, are omitted as superseded by section 4333 of this title. The words "shall be constituted" are omitted as surplusage. The Act of June 8, 1926, ch. 492 (last proviso of 1st par.), 44 Stat. 703, is not contained in 10:1077a. It is also omitted from the revised section as executed.

The word "permanent" is inserted in subsection (a)(4), pursuant to 10:1087, which, by adding one permanent professor for each of the subjects of instruction named in clauses (A)–(I), inclusive, implies that there already was a permanent professor for each of those subjects. The subjects of instruction set forth in clauses (A)–(I), inclusive, are those for which a professor was authorized before the enactment of the source statute for 10:1087. The names of the subjects to be taught at the Academy are changed, where necessary, to conform to the names of those presently taught, pursuant to regulations and orders issued under the general authority for the change of titles of departments of instruction, contained in section 4332 of this title. These changes, published in general orders by authority of the Secretary of War and the Secretary of the Army, are as follows:

In clause (4)(A), the word "Electricity" is substituted for the words "chemistry, mineralogy, and geology", in 10:1061, pursuant to General Orders 38, Hq USMA, 29 June 1946.

In clause (4)(C), the word "Foreign" is substituted for the word "modern", in 10:1071, pursuant to General Orders No. 6, Hq USMA, 14 February 1949. The Act of June 23, 1879, ch. 35, §4 (1st 47 words) is not contained in 10:1071. It is also omitted from the revised section as executed.

In clause (4)(E), the word "Mechanics" is substituted for the words "natural and experimental philosophy", in 10:1061, pursuant to General Orders No. 3, Hq USMA, 11 February 1943.

In clause (4)(F), the words "Military Art and Engineering" are substituted for the words "civil and military engineering", in 10:1061, pursuant to General Orders No. 3, Hq USMA, 11 February 1943.

In clause (4)(G), the words "Military Topography and Graphics" are substituted for the word "drawing", in 10:1061, pursuant to General Orders No. 3, Hq USMA, 11 February 1943.

In clause (4)(H), the words "Physics and Chemistry" are substituted for the word "physics", in 10:1078a, pursuant to General Orders No. 38, Hq USMA, 29 June 1946.

In clause (4)(I), the words "Social Sciences" are substituted for the words "economics, government, and history", in 10:1077a, pursuant to General Orders No. 13, Hq USMA, 22 April 1947.

In clause (4)(B) and (I), the provisions of 10:1077 and 1077a relating to the appointment of a civilian in the department of English, and a professor of economics, government, and history, by the President, by and with the advice and consent of the Senate, are omitted as executed. The provisions of 10:1077a relating to the establishment of a Department of Economics, Government, and History are omitted as executed.

Subsection (a)(8) is inserted to complete the listing of the appointed officials of the Academy.

In subsection (a)(9), the word "director" is substituted for the word "teacher" to conform to section 4338 of this title.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7431 was renumbered section 8731 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4331 of this title as this section.

**2008**—Subsec. (b)(4). Pub. L. 110–181 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Twenty-two permanent professors."

**1993**—Subsec. (c). Pub. L. 103–160 struck out subsec. (c) which read as follows:

"(1) The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) The Secretary may delegate the authority conferred by this subsection to any person in the Department of the Army to the extent the Secretary considers proper. Such delegation may be made with or without the authority to make successive redelegations."

**1992**—Subsec. (c). Pub. L. 102–484 added subsec. (c).

**1980**—Pub. L. 96–513 substituted "New York (hereinafter in this chapter referred to as the 'Academy')" for "New York, in this chapter called the 'Academy' ".

**1978**—Pub. L. 95–551 substituted "Establishment; Superintendent; faculty" for "Superintendent; faculty;

adjutant; chaplain" in section catchline.

Subsec. (a). Pub. L. 95–551 substituted provision establishing in the Department of the Army a Military Academy located at West Point, New York, for instruction and preparation of cadets for military service and providing that the organization of the Academy be prescribed by the Secretary of the Army for provision describing the faculty of the Academy as consisting of a Superintendent, a Dean of the Academic Board, a Commandant of Cadets, two permanent professors in each of nine enumerated academic fields, one permanent professor in each of the fields of Law, Ordnance, and Physical education, a professor of Military Hygiene, an adjutant, a registrar, a chaplain, and a director of music.

Subsec. (b). Pub. L. 95–551 substituted provision describing the faculty of the Academy as consisting of a Superintendent, a Dean of the Academic Board, a Commandant of Cadets, twenty-two permanent professors, a chaplain, and a director of admissions for provision making an officer, upon becoming the senior commissioned officer of the Medical Corps on active duty at the Academy, the professor of Military Hygiene.

**1958**—Subsec. (a)(5). Pub. L. 85–723 authorized a permanent professor of physical education.

Subsec. (a)(8) to (10). Pub. L. 85–600 added par. (8) and redesignated existing pars. (8) and (9) as (9) and (10), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### PROHIBITION ON PARTICIPATION OF MALES IN ATHLETIC PROGRAMS OR ACTIVITIES AT THE MILITARY SERVICE ACADEMIES THAT ARE DESIGNATED FOR WOMEN OR GIRLS

Pub. L. 119–60, div. A, title V, §559A, Dec. 18, 2025, 139 Stat. 880, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy do not permit a person enrolled at such an Academy whose sex is male to participate in an athletic program or activity that is designated for women or girls.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy from permitting males to train or practice with an athletic program or activity that is designated for women or girls so long as no female is deprived of a roster spot on a team or sport, opportunity to participate in a practice or competition, scholarship, admission to an educational institution, or any other benefit that accompanies participating in the athletic program or activity.

"(c) DEFINITIONS.—In this section—

"(1) the term 'athletic programs and activities' includes all programs or activities that are provided conditional upon participation with any athletic team; and

"(2) the term 'sex' means a person's reproductive biology and genetics at birth."

### REGULATIONS ON CERTAIN PARENTAL GUARDIANSHIP RIGHTS OF CADETS AND MIDSHIPMEN

Pub. L. 117–81, div. A, title V, §559A, Dec. 27, 2021, 135 Stat. 1742, provided that:

"(a) REGULATIONS REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense, after consultation with the Secretaries of the military departments and the Superintendent of each military service academy, shall prescribe regulations that include the option to preserve parental guardianship rights of a cadet or midshipman who becomes pregnant or fathers a child while attending a military service academy, consistent with the individual and academic responsibilities of such cadet or midshipman.

"(b) BRIEFINGS; REPORT.—

"(1) INTERIM BRIEFING.—Not later than May 1, 2022, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives an interim briefing on the

development of the regulations prescribed under subsection (a).

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on any legislation the Secretary determines necessary to implement the regulations prescribed under subsection (a).

"(3) FINAL BRIEFING.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a final briefing on the regulations prescribed under subsection (a).

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to change, or require a change to, any admission requirement at a military service academy.

"(d) MILITARY SERVICE ACADEMY DEFINED.—In this section, the term 'military service academy' means the following:

"(1) The United States Military Academy.

"(2) The United States Naval Academy.

"(3) The United States Air Force Academy."

## SERVICE ACADEMIES: REFERRAL OF APPLICANTS TO THE SENIOR MILITARY COLLEGES AND UNITS OF THE SENIOR RESERVE OFFICER TRAINING CORPS

Pub. L. 118–159, div. A, title V, §559C, Dec. 23, 2024, 138 Stat. 1900, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a system whereby a covered individual may elect to have the Secretary share information regarding such covered individual with a senior military college or a unit of the Senior Reserve Officer Training Corps.

"(b) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means an individual who applied for an appointment as a cadet or midshipman at a Service Academy.

"(2) The term 'senior military college' means a school specified in section 2111a of title 10, United States Code.

"(3) The term 'Service Academy' has the meaning given such term in section 347 of title 10, United States Code."

## PILOT PROGRAM ON CARDIAC SCREENING AT CERTAIN MILITARY SERVICE ACADEMIES

Pub. L. 117–81, div. A, title VII, §733, Dec. 27, 2021, 135 Stat. 1798, provided that:

"(a) PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program to furnish mandatory electrocardiograms to individuals who have been admitted to a covered military service academy in connection with the military accession screening process, at no cost to such candidates.

"(b) SCOPE.—The scope of the pilot program under subsection (a) shall include at least 25 percent of the incoming class of individuals who have been admitted to a covered military service academy during the first fall semester that follows the date of the enactment of this Act [Dec. 27, 2021], and the pilot program shall terminate on the date on which the Secretary determines the military accession screening process for such class has concluded.

"(c) FURNISHING OF ELECTROCARDIOGRAMS.—In carrying out the pilot program under subsection (a), the Secretary shall furnish each mandatory electrocardiogram under the pilot program in a facility of the Department of Defense or by medical personnel within the military health system.

"(d) BRIEFING.—Not later than 180 days after the date on which the pilot program under subsection (a) terminates, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the pilot program. Such briefing shall include the following:

"(1) The results of all electrocardiograms furnished to individuals under the pilot program, disaggregated by military service academy, race, and gender.

"(2) The rate of significant cardiac issues detected pursuant to electrocardiograms furnished under the pilot program, disaggregated by military service academy, race, and gender.

"(3) The cost of carrying out the pilot program.

"(4) The number of individuals, if any, who were disqualified from admission based solely on the result of an electrocardiogram furnished under the pilot program.

"(e) COVERED MILITARY SERVICE ACADEMY DEFINED.—In this section, the term 'covered military service academy' does not include the United States Coast Guard Academy or the United States Merchant Marine Academy."

## SPEECH DISORDERS OF CADETS AND MIDSHIPMEN

Pub. L. 116–92, div. A, title V, §558, Dec. 20, 2019, 133 Stat. 1392, provided that:

"(a) TESTING.—The Superintendent of a military service academy shall provide testing for speech disorders to incoming cadets or midshipmen under the jurisdiction of that Superintendent.

"(b) NO EFFECT ON ADMISSION.—The testing under subsection (a) may not have any effect on admission to a military service academy.

"(c) RESULTS.—The Superintendent shall provide each cadet or midshipman under the jurisdiction of that Superintendent the result of the testing under subsection (a) and a list of warfare unrestricted line officer positions and occupation specialities that require successful performance on the speech test.

"(d) THERAPY.—The Superintendent shall furnish speech therapy to a cadet or midshipman under the jurisdiction of that Superintendent at the election of the cadet or midshipman.

"(e) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretaries of the military departments shall submit to the Committees on Armed Services of the Senate and the House of Representatives a joint report that includes the following:

"(1) The number of cadets or midshipmen with an identified speech disorder in each military service academy.

"(2) A list of the health care and administrative resources related to speech disorders available to cadets and midshipmen described in paragraph (1).

"(3) A list of positions and specialties described in subsection (c) pursued by the cadets and midshipmen described in paragraph (1) at the time of graduation."

## PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES

Pub. L. 109–163, div. A, title V, §598, Jan. 6, 2006, 119 Stat. 3283, provided that:

"(a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to the United States Constitution and such limitations as the Secretary of Defense may prescribe.

"(b) SERVICE ACADEMIES.—For purposes of this section, the term 'service academy' means any of the following:

"(1) The United States Military Academy.

"(2) The United States Naval Academy.

"(3) The United States Air Force Academy."

## SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES

Pub. L. 108–375, div. A, title V, §576, Oct. 28, 2004, 118 Stat. 1924, as amended by Pub. L. 111–84, div. A, title V, §566, Oct. 28, 2009, 123 Stat. 2313, provided that:

"(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) [set out below] to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

"(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

"(3) Before the task force extended under this subsection begins to carry out the functions specified in this section, the Secretary of Defense may, consistent with the qualifications required by section 526(f) of Public Law 108–136, change the composition of the task force as the Secretary considers appropriate for the effective performance of such functions, except that—

"(A) any change initiated by the Secretary in the membership of the task force under this paragraph may not take effect before the task force has completed its functions under section 526 of Public Law 108–136; and

"(B) the total number of members of the task force may not exceed 14.

"(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES .—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

"(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

"(1) Victim care and advocacy programs.

"(2) Effective prevention.

"(3) Collaboration among military investigative organizations with responsibility or jurisdiction.

"(4) Coordination and resource sharing between military and civilian communities, including local support organizations.

"(5) Reporting procedures, data collection, tracking of cases, and use of data on sexual assault by senior military and civilian leaders.

"(6) Oversight of sexual assault programs, including development of measures of the effectiveness of those programs in responding to victim needs.

"(7) Military justice issues.

"(8) Progress in developing means to investigate and prosecute assailants who are foreign nationals.

"(9) Adequacy of resources supporting sexual assault prevention and victim advocacy programs, particularly for deployed units and personnel.

"(10) Training of military and civilian personnel responsible for implementation of sexual assault policies.

"(11) Programs and policies, including those related to confidentiality, designed to encourage victims to seek services and report offenses.

"(12) Other issues identified by the task force relating to sexual assault.

"(d) METHODOLOGY.—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

"(e) REPORT.—(1) Not later than December 1, 2009, the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

"(2) The report shall include the following:

"(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

"(B) Other areas of concern not previously addressed in prior reports.

"(C) The findings and conclusions of the task force.

"(D) Any recommendations for changes to policy and law that the task force considers appropriate.

"(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

"(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3)."

Pub. L. 108–136, div. A, title V, §526, Nov. 24, 2003, 117 Stat. 1466, provided that:

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Department of Defense task force to examine matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy.

"(b) RECOMMENDATIONS.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary of Defense a report recommending ways by which the Department of Defense and the Department of the Army and the Department of the Navy may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy, respectively. The report shall include an assessment of, and recommendations (including any recommended changes in law) for measures to improve, with respect to sexual harassment and violence at those academies, the following:

"(1) Victims' safety programs.

"(2) Offender accountability.

"(3) Effective prevention of sexual harassment and violence.

"(4) Collaboration among military organizations with responsibility or jurisdiction with respect to sexual harassment and violence.

"(5) Coordination between military and civilian communities, including local support organizations, with respect to sexual harassment and violence.

"(6) Coordination between military and civilian communities, including civilian law enforcement relating to acts of sexual harassment and violence.

"(7) Data collection and case management and tracking.

"(8) Curricula and training, including standard training programs for cadets at the United States Military Academy and midshipmen at the United States Naval Academy and for permanent personnel assigned to those academies.

"(9) Responses to sexual harassment and violence at those academies, including standard guidelines.

"(10) Other issues identified by the task force relating to sexual harassment and violence at those academies.

"(c) METHODOLOGY.—The task force shall consider the findings and recommendations of previous reviews and investigations of sexual harassment and violence conducted for those academies as one of the bases for its assessment.

"(d) REPORT.—(1) The task force shall submit to the Secretary of Defense and the Secretaries of the Army and the Navy a report on the activities of the task force and on the activities of the United States Military Academy and the United States Naval Academy to respond to sexual harassment and violence at those academies.

"(2) The report shall include the following:

"(A) Any barriers to implementation of improvements as a result of those efforts.

"(B) Other areas of concern not previously addressed in prior reports.

"(C) The findings and conclusions of the task force.

"(D) Any recommendations for changes to policy and law as the task force considers appropriate, including whether cases of sexual assault at those academies should be included in the Department of Defense database known as the Defense Incident-Based Reporting System.

"(3) Within 90 days after receipt of the report under paragraph (1) the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

"(e) REPORT ON AIR FORCE ACADEMY.—Simultaneously with the submission of the report under subsection (d)(3), the Secretary of Defense, in coordination with the Secretary of the Air Force, shall submit to the committees specified in that subsection the Secretary's assessment of the effectiveness of corrective actions being taken at the United States Air Force Academy as a result of various investigations conducted at that Academy into matters involving sexual assault and harassment.

"(f) COMPOSITION.—(1) The task force shall consist of not more than 14 members, to be appointed by the Secretary of Defense. Members shall be appointed from each of the Army, Navy, Air Force, and Marine Corps, and shall include an equal number of personnel of the Department of Defense (military and civilian) and persons from outside the Department of Defense. Members appointed from outside the Department of Defense may be appointed from other Federal departments and agencies, from State and local agencies, or from the private sector.

"(2) The Secretary shall ensure that the membership of the task force appointed from the Department of Defense includes at least one judge advocate.

"(3) In appointing members to the task force, the Secretary may—

"(A) consult with the Attorney General regarding a representative from the Office of Violence Against Women of the Department of Justice; and

"(B) consult with the Secretary of Health and Human Services regarding a representative from the Women's Health office of the Department of Health and Human Services.

"(4) Each member of the task force appointed from outside the Department of Defense shall be an individual who has demonstrated expertise in the area of sexual harassment and violence or shall be appointed from one of the following:

"(A) A representative from the Office of Civil Rights of the Department of Education.

"(B) A representative from the Centers for Disease Control and Prevention of the Department of Health and Human Services.

"(C) A sexual assault policy and advocacy organization.

"(D) A civilian law enforcement agency.

"(E) A judicial policy organization.

"(F) A national crime victim policy organization.

"(5) The members of the task force shall be appointed not later than 120 days after the date of the enactment of this Act [Nov. 24, 2003].

"(g) CO-CHAIRS OF THE TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel on the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by those members.

"(h) ADMINISTRATIVE SUPPORT.—(1) Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.

"(2) The Deputy Under Secretary of Defense for Personnel and Readiness, under the direction of the Under Secretary of Defense for Personnel and Readiness, shall provide oversight of the task force. The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the task force's duties.

"(3) The Deputy Under Secretary shall coordinate with the Secretary of the Army to provide visits of the task force to the United States Military Academy and with the Secretary of the Navy to provide visits of the task force to the United States Naval Academy.

"(i) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (d)(3)."

**COLONEL THOMAS HAWKINS JOHNSON VISITING SCHOLAR PROGRAM AND LECTURE SERIES**

Pub. L. 101–510, div. A, title XIV, §1466, Nov. 5, 1990, 104 Stat. 1700, provided that:

"(a) VISITING SCHOLAR PROGRAM.—(1) The Secretary of the Army shall establish a visiting scholar program at the United States Military Academy to be known as the 'Thomas Hawkins Johnson Visiting Scholar Program'. The Secretary shall select not more than two scholars to participate in the program for an academic year. A person selected to participate in the program shall serve as an instructor at the Academy for two weeks during the academic year and perform such duties as the Secretary may assign.

"(2) There is authorized to be appropriated to the Secretary of the Army $25,000 for each fiscal year to carry out this subsection.

"(b) LECTURE SERIES.—(1) The Secretary of Defense shall establish a lecture series at the National Defense University to be known as the 'Thomas Hawkins Johnson Lecture Series'. The Secretary shall use the lecture series to bring prominent persons to the National Defense University to deliver lectures on topics relating to public policy, national security, and science.

"(2) There is authorized to be appropriated to the Secretary of Defense $25,000 for each fiscal year to carry out this subsection."

## §7432. Departments and professors: titles

(a) The Secretary of the Army may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 238, §4332; renumbered §7432, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4332(a) | 10:1061a. | Dec. 14, 1942, ch. 729, 56 Stat. 1049. |
| 4332(b) | 10:1087 (proviso). | June 26, 1946, ch. 495, §1 (proviso), 60 Stat. 312. |

In subsection (a), the words "now or after December 14, 1942, established at" are omitted as surplusage. The word "precedence" is omitted as covered by the word "rank". The words "pay, allowances" are omitted,

since they are determined by the grade held. The words "from time to time", "shall be known", and "operate in any case or on any account" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7432 was renumbered section 8732 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4332 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7433. Superintendent; faculty: appointment and detail

(a) The Superintendent and the Commandant of Cadets of the Academy shall be detailed to those positions by the President from any branch of the Army. Other officers on duty at the Academy, except the permanent professors, may be detailed from any branch of the Army.

(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The director of admissions of the Academy shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Army.

(d) Any officer of the Regular Army in a grade above captain may be detailed to perform the duties of director of admissions without being appointed as director of admissions. Such a detail does not affect his position on the active-duty list.

(e) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 238, §4333; Pub. L. 85–600, §1(9), Aug. 6, 1958, 72 Stat. 522; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069; Pub. L. 96–513, title V, §502(24), Dec. 12, 1980, 94 Stat. 2910; renumbered §7433, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4333(a) | 10:1062. | R.S. 1313. |
| | 10:1063 (1st sentence, and 1st 26 words of last sentence). | R.S. 1314 (words before semicolon). |
| | 10:1063 (last sentence, less 1st 26 words). | July 26, 1894, ch. 167 (words after semicolon in 7th clause), 28 Stat. 151. |
| 4333(b) | 10:1064. | |
| 4333(c) | | |

In subsection (a), the word "detailed" is substituted for the word "selected", in 10:1062, and for the word "appointed", in 10:1063, since historically the offices of superintendent and commandant of cadets have been

filled by detail. The words "assistant professors, acting assistant professors, and the adjutant", in 10:1063, are omitted as covered by the word "officers", in 10:1062. The words "except the permanent professors" are inserted to conform to 10:1062.

In subsection (b), the words "by and with the advice and consent of the Senate" are inserted, since many of the statutes establishing particular permanent professorships from time to time have so provided, and historically it has been the uniform practice to make these appointments in this manner. 10:1063 (last 14 words) is omitted as obsolete and as covered by section 4349(b) of this title.

In subsection (c), the word "appointed" is substituted for the word "assigned".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7433 was renumbered section 8733 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4333 of this title as this section.

**1980**—Subsec. (d). Pub. L. 96–513 struck out "regular or temporary" in first sentence, and substituted "active-duty list" for "applicable promotion list" in second sentence.

**1978**—Subsecs. (c), (d). Pub. L. 95–551 substituted "director of admissions" for "registrar" wherever appearing.

**1958**—Subsecs. (c) to (e). Pub. L. 85–600 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### DETAIL OF RETIRED OFFICER AS LIBRARIAN

Provisions authorizing the performance of the duties of the librarian at the United States Military Academy by a retired officer detailed on active duty, which were contained in Pub. L. 85–724, title III, Aug. 22, 1958, 72 Stat. 714, the Department of Defense Appropriation Act, 1959, were not contained in subsequent appropriation acts. Similar provisions were contained in the following prior acts:

Aug. 2, 1957, Pub. L. 85–117, title III, 71 Stat. 313.
July 2, 1956, ch. 488, title III, 70 Stat. 456.
July 13, 1955, ch. 358, title III, 69 Stat. 303.
June 30, 1954, ch. 432, title IV, 68 Stat. 339.
Aug. 1, 1953, ch. 305, title III, 67 Stat. 338.
July 10, 1952, ch. 630, title III, 66 Stat. 520.
Oct. 18, 1951, ch. 512, title III, 65 Stat. 427.
Sept. 6, 1950, ch. 896, Ch. X, title III, 64 Stat. 733.
Oct. 29, 1949, ch. 787, title III, 63 Stat. 998.
June 24, 1948, ch. 632, 62 Stat. 660.
July 30, 1947, ch. 357, title I, 61 Stat. 563.
July 16, 1946, ch. 583, 60 Stat. 555.
July 3, 1945, ch. 265, 59 Stat. 398.
June 28, 1944, ch. 303, 58 Stat. 588.
July 1, 1943, ch. 185, 57 Stat. 361.
July 2, 1942, ch. 477, 56 Stat. 624.
June 30, 1941, ch. 262, 55 Stat. 384.
June 13, 1940, ch. 343, 54 Stat. 370.

Apr. 26, 1939, ch. 88, 53 Stat. 610.
June 11, 1938, ch. 347, 52 Stat. 659.
July 1, 1937, ch. 423, 50 Stat. 460.
May 15, 1936, ch. 404, 49 Stat. 1297.
Apr. 9, 1935, ch. 54, title I, 49 Stat. 138.
Apr. 26, 1934, ch. 165, title I, 48 Stat. 631.

## §7433a. Superintendent: condition for detail to position

(a) RETIREMENT.—As a condition for detail to the position of Superintendent of the Academy, an officer shall acknowledge that upon termination of that detail the officer shall be retired pursuant to section 7321(a) of this title, unless such retirement is waived under section 7321(b) of this title.

(b) MINIMUM TOUR OF DUTY.—An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Army shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.

(Added Pub. L. 106–65, div. A, title V, §532(a)(1)(B), Oct. 5, 1999, 113 Stat. 603, §4333a; amended Pub. L. 108–375, div. A, title V, §541(b)(1), Oct. 28, 2004, 118 Stat. 1902; renumbered §7433a and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §808(c)(1), renumbered section 4333a of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7321(a)" for "section 3921(a)" and "section 7321(b)" for "section 3921(b)".

**2004**—Pub. L. 108–375 designated existing provisions as subsec. (a), inserted heading, inserted "pursuant to section 3921(a) of this title, unless such retirement is waived under section 3921(b) of this title" before period at end, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 7321 of this title.

## §7434. Command and supervision

(a) The supervision and charge of the Academy is in the Department of the Army, under officers of the Army detailed to that duty by the Secretary of the Army.

(b) The immediate government of the Academy is under the Superintendent, who is also the

commanding officer of the Academy and of the military post at West Point.

(c) The Commandant of Cadets is the immediate commander of the Corps of Cadets, and is in charge of the instruction of the Corps in tactics.

(d) The permanent professors and the director of admissions exercise command only in the academic department of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 239, §4334; Pub. L. 85–600, §1(10), Aug. 6, 1958, 72 Stat. 523; Pub. L. 95–551, §2, Oct. 30, 1978, 92 Stat. 2069; renumbered §7434, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4334(a) | 10:1041. | R.S. 1331. |
| 4334(b) | 10:1042. | R.S. 1311. |
| 4334(c) | 10:1065. | R.S. 1312. |
| 4334(d) | 10:1079. | June 28, 1902, ch. 1300 (1st proviso under "Permanent Establishment"), 32 Stat. 409. |

In subsection (a), the word "detailed" is substituted for the word "assign" to conform to section 4333 of this title.

In subsection (b), the words "and, in his absence, the next in rank" are omitted as surplusage.

In subsection (c), the words "Corps of Cadets" are substituted for the words "battalion of cadets" to conform to section 4349 of this title and present terminology. The words "of artillery, cavalry, and infantry" are omitted as surplusage.

In subsection (d), reference to assimilated rank is omitted as superseded by section 4336 of this title. The words "and the associate professor" are omitted as obsolete.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7434, acts Aug. 10, 1956, ch. 1041, 70A Stat. 461; Sept. 2, 1958, Pub. L. 85–861, §33(a)(35), 72 Stat. 1566; Oct. 11, 1962, Pub. L. 87–796, §1(10), 76 Stat. 906; Apr. 5, 1976, Pub. L. 94–258, title II, §201(16), 90 Stat. 313; Dec. 12, 1980, Pub. L. 96–513, title V, §513(36), 94 Stat. 2934; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIII, §1311(7), 104 Stat. 1670, directed Secretary to submit annual report to Congress on production from naval petroleum reserves during the preceding year, prior to repeal by Pub. L. 104–66, title I, §1051(g), Dec. 21, 1995, 109 Stat. 716. Pub. L. 104–106, div. A, title XV, §1502(a)(28)(A), Feb. 10, 1996, 110 Stat. 506, which directed the general amendment of this section, could not be executed because of the prior repeal by Pub. L. 104–66.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4334 of this title as this section.

**1978**—Subsec. (d). Pub. L. 95–551 substituted "director of admissions" for "registrar".

**1958**—Subsec. (d). Pub. L. 85–600 inserted "and the registrar" after "professors".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7435. Dean of Academic Board

(a) The Dean of the Academic Board shall be appointed as an additional permanent professor from

the permanent professors who have served as heads of departments of instruction at the Academy.

(b) The Dean of the Academic Board shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Army.

(c) The retirement age of an officer appointed as Dean of the Academic Board is that of a permanent professor of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 239, §4335; Pub. L. 85–861, §33(a)(46)(A), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 99–661, div. A, title V, §508(a), Nov. 14, 1986, 100 Stat. 3866; Pub. L. 102–484, div. A, title V, §521(a), Oct. 23, 1992, 106 Stat. 2409; Pub. L. 106–65, div. A, title V, §533(a), Oct. 5, 1999, 113 Stat. 604; Pub. L. 115–91, div. A, title V, §507(a), Dec. 12, 2017, 131 Stat. 1374; renumbered §7435, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4335(a) | 10:1089 (2d sentence). | June 26, 1946, ch. 495, §3 (less 1st 20 words), 60 Stat. 312. |
| 4335(b) | 10:1089 (less 1st 20 words, and less 2d sentence). | |

In subsection (b), the word "grade" is substituted for the word "rank". The words "pay, allowances" are omitted, since they are determined by the grade held. The words "retirement rights" are omitted as covered by the word "benefits". The words "There is authorized", "from time to time", and "statutory" are omitted as surplusage.

**1958 ACT**

The word "regular" is deleted [in sections 4335 and 4336] to make clear that a Dean or professor of the United States Military Academy holds only the office of "Dean" or "professor" and not the office of "brigadier general" or "colonel", as the case may be, even though he is entitled to the pay and allowances of that grade.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7435 was renumbered section 8735 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4335 of this title as this section.

**2017**—Subsec. (c). Pub. L. 115–91 struck out first sentence which read as follows: "While serving as Dean of the Academic Board, an officer of the Army who holds a grade lower than brigadier general shall hold the grade of brigadier general, if appointed to that grade by the President, by and with the advice and consent of the Senate."; substituted "appointed as Dean of the Academic Board" for "so appointed" in second sentence; and struck out third sentence which read as follows: "An officer so appointed is counted for purposes of the limitation in section 526(a) of this title on general officers of the Army on active duty."

**1999**—Subsec. (c). Pub. L. 106–65 added subsec. (c).

**1992**—Subsec. (c). Pub. L. 102–484 struck out subsec. (c) which read as follows: "The Dean of the Academic Board has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Army, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy."

**1986**—Subsec. (b). Pub. L. 99–661, §508(a)(1), struck out "The Dean has the grade of brigadier general while serving as such, with the benefits authorized for regular brigadier generals of the Army, except that his retirement age is that of a permanent professor of the Academy." See subsec. (c).

Subsec. (c). Pub. L. 99–661, §508(a)(2), added subsec. (c).

**1958**—Subsec. (b). Pub. L. 85–861 substituted "the grade of brigadier general" for "the regular grade of brigadier general".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99–661 applicable with respect to appointments or details made on or after Nov. 14, 1986, see section 508(f) of Pub. L. 99–661, set out as an Effective Date note under section 12210 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §7436. Permanent professors; director of admissions

(a) A permanent professor of the Academy, other than the Dean of the Academic Board, who is the head of a department of instruction, or who has served as such a professor for more than six years, has the grade of colonel. However, a permanent professor appointed from the Regular Army has the grade of colonel after the date when he completes six years of service as a professor, or after the date on which he would have been promoted had he been selected for promotion from among officers in the promotion zone, whichever is earlier. All other permanent professors have the grade of lieutenant colonel.

(b) A person appointed as director of admissions of the Academy has the regular grade of lieutenant colonel, and, after he has served six years as director of admissions, has the regular grade of colonel. However, a person appointed from the Regular Army has the regular grade of colonel after the date when he completes six years of service as director of admissions, or after the date on which he would have been promoted had he been selected for promotion from among officers in the promotion zone, whichever is earlier.

(Aug. 10, 1956, ch. 1041, 70A Stat. 239, §4336; Pub. L. 85–600, §1(11), Aug. 6, 1958, 72 Stat. 523; Pub. L. 85–861, §33(a)(46)(B), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 95–551, §§2, 4(a), Oct. 30, 1978, 92 Stat. 2069; Pub. L. 96–513, title II, §218(a), title V, §502(25), Dec. 12, 1980, 94 Stat. 2886, 2911; Pub. L. 98–525, title V, §533(d)(1), Oct. 19, 1984, 98 Stat. 2528; renumbered §7436, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4336 | 10:1079a(a). | Aug. 7, 1947, ch. 512, §520(a), 61 Stat. 912. |

The word "grade" is substituted for the word "rank". The words "pay, and allowances" are omitted, since they are determined by the grade held. 10:1079a (a) (last proviso), and the words "Hereafter each of", "who have been or may hereafter be", and "and appointed in" are omitted as surplusage.

**1958 ACT**

The word "regular" is deleted [in sections 4335 and 4336] to make clear that a Dean or professor of the United States Military Academy holds only the office of "Dean" or "professor" and not the office of "brigadier general" or "colonel", as the case may be, even though he is entitled to the pay and allowances of that grade.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7436 was renumbered section 8736 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4336 of this title as this section.

**1984**—Subsecs. (a), (b). Pub. L. 98–525 substituted "on which he would have been promoted had he been selected for promotion from among officers in the promotion zone," for "when a regular officer, junior to him on the promotion list or active-duty list on which his name was carried before his appointment as a professor, is promoted to the regular grade of colonel,".

**1980**—Subsecs. (a), (b). Pub. L. 96–513, §502(25), substituted "a regular officer" for "a promotion-list officer", and inserted "or active-duty list" after "on the promotion list".

Subsec. (c). Pub. L. 96–513, §218(a), struck out subsec. (c) which provided that, unless he is serving in a higher grade, an officer detailed to perform the duties of director of admissions has, while performing those duties, the temporary grade of lieutenant colonel and, after performing those duties for a period of six years, has the temporary grade of colonel.

**1978**—Pub. L. 95–551, §4(a), substituted "director of admissions" for "registrar" in section catchline.

Subsecs. (b), (c). Pub. L. 95–551, §2, substituted "director of admissions" for "registrar" wherever appearing.

**1958**—Pub. L. 85–600, §1(11)(C), inserted "; registrar" in section catchline.

Subsec. (a). Pub. L. 85–861 substituted "has the grade of colonel" for "has the regular grade of colonel" in two places, and "have the grade of lieutenant colonel" for "have the regular grade of lieutenant colonel".

Pub. L. 85–600 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 218(a) of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, and amendment by section 502(25) of Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

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

#### SERVICE PERFORMED AS REGISTRAR PRIOR TO AUG. 6, 1958

Pub. L. 85–600, §2, Aug. 6, 1958, 72 Stat. 524, provided that: "No increase in pay or allowances accrues by reason of the enactment of this Act [amending this section and sections 3075, 3204, 3205, 3283, 3296, 3883, 3886, 4331, 4333, 4334, 8075, 8204, 8205, 8296, 8883, 8886, 9331, 9333, 9334, and 9336 of this title] for service performed before this Act takes effect [Aug. 6, 1958]."

## §7437. Chaplain

There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to a monthly housing allowance in the same amount as the basic allowance for housing allowed to a lieutenant colonel, and to fuel and light for quarters in kind. The chaplain may be reappointed.

(Aug. 10, 1956, ch. 1041, 70A Stat. 239, §4337; Pub. L. 87–651, title I, §117, Sept. 7, 1962, 76 Stat. 513; Pub. L. 107–107, div. A, title V, §540(a), Dec. 28, 2001, 115 Stat. 1109; renumbered §7437, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4337 | 10:1083.<br>10:1137. | Feb. 18, 1896, ch. 22 (proviso), 29 Stat. 8; May 16, 1928, ch. 579, 45 Stat. 573; June 2, 1945, ch. 172, 59 Stat. 230. |

The words "The chaplain may be reappointed" are substituted for the words "and said chaplain shall be eligible for reappointment for an additional term or terms". The figures "$5,482.80" and "$6,714" are substituted for the figures "$4,000" and "$5,000" to reflect increases in the rates of salary of that office effected by the Federal Employees Pay Act of 1945, 59 Stat. 295, the Federal Employees Pay Act of 1946, 60 Stat. 216, the Postal Rate Revision and Federal Employees Salary Act of 1948, 62 Stat. 1260, and the Classification Act of 1949, 63 Stat. 954.

**1962 ACT**

The change reflects the opinion of the Assistant General Counsel, Civil Service Commission (GC: JHF:fz, May 4, 1959), that those parts of section 4337 and 9337 of title 10 that relate to the salaries of the chaplains at the United States Military Academy and the United States Air Force Academy were superseded by the Classification Act of 1949 (5 U.S.C. 1071 et seq.). While the positions of chaplain at those Academies are not specifically covered by the Act, the Act has been determined to apply to those positions in accordance with section 203 thereof (5 U.S.C. 1083).

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7437 was renumbered section 8737 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4337 of this title as this section.

**2001**—Pub. L. 107–107 substituted "a monthly housing allowance in the same amount as the basic allowance for housing allowed to a lieutenant colonel" for "the same allowances for public quarters as are allowed to a captain".

**1962**—Pub. L. 87–651 struck out provisions which prescribed the salary of chaplain on appointment and reappointment.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title V, §540(b), Dec. 28, 2001, 115 Stat. 1109, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Dec. 28, 2001]."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under this section delegated to Secretary of Defense, see section 1(5) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §7438. Civilian faculty: number; compensation

(a) The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary of the Army may, notwithstanding the provisions of subchapter V of chapter 55 of title 5 or section 6101 of such title, prescribe for persons employed under this section the following:

(1) The work schedule, including hours of work and tours of duty, set forth with such specificity and other characteristics as the Secretary determines appropriate.

(2) Any premium pay or compensatory time off for hours of work or tours of duty in excess of the regularly scheduled hours or tours of duty.

(Added Pub. L. 103–160, div. A, title V, §533(a)(1), Nov. 30, 1993, 107 Stat. 1658, §4338; amended Pub. L. 106–65, div. A, title XI, §1107(a), Oct. 5, 1999, 113 Stat. 778; renumbered §7438, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7438 and 7439 were renumbered sections 8738 and 8739 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4338 of this title as this section.

**1999**—Subsec. (c). Pub. L. 106–65 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7440. Quartermaster

The Secretary of the Army shall detail a commissioned officer of the Army as quartermaster for the Corps of Cadets. The quartermaster shall—

(1) buy and issue all supplies for the cadets;

(2) buy and issue all provisions for the mess; and

(3) supervise the mess.

(Aug. 10, 1956, ch. 1041, 70A Stat. 240, §4340; renumbered §7440, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4340 | 10:1067. | Aug. 7, 1876, ch. 255 (last par.), 19 Stat. 126. |

The words "buy and issue all provisions for the mess" and "supervise the mess" are substituted for the words "all the duties of purveying and supervision for the mess". The word "commissary" is omitted as obsolete. The words "and all supplies of all kinds and descriptions shall be furnished to the cadets at actual cost, without any commission or advance over said cost" are omitted to reflect Title IV of the National Security Act of 1947, as amended (61 Stat. 495), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4340 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7441. Faculty and other officers: leaves of absence

The Superintendent of the Academy may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to a professor, assistant professor, instructor, or other officer of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 240, §4341; renumbered §7441, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4341 | 10:1144. | R.S. 1330. |

The words "under regulations prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4341 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7441a. Cadets: appointment by the President

Cadets at the Academy shall be appointed by the President alone. An appointment is conditional until the cadet is admitted.

(Added Pub. L. 97–60, title II, §203(a)(2)(A), Oct. 14, 1981, 95 Stat. 1006, §4341a; renumbered §7441a, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4341a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 97–60, title II, §203(d), Oct. 14, 1981, 95 Stat. 1007, provided that: "The amendments made by this section [enacting this section and section 9341a of this title and amending sections 4342, 6953, 6954, and 9342 of this title] shall take effect with respect to nominations for appointment to the first class admitted to each Academy after the date of the enactment of this Act [Oct. 14, 1981]."

## §7442. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,400 or such lower number as may be prescribed by the Secretary of the Army under subsection (j). Subject to that limitation, cadets are selected as follows:

(1) 65 cadets selected in order of merit as established by competitive examinations from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated, is binding upon the Secretary of the Army.

(2) Five cadets nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten cadets from each State, five of whom are nominated by each Senator from that State.

(4) Five cadets from each congressional district, nominated by the Representative from the district.

(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Four cadets from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six cadets from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Five cadets from Guam, nominated by the Delegate in Congress from Guam.

(9) Three cadets from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) Three cadets from the Commonwealth of the Northern Mariana Islands, nominated by the Delegate in Congress from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 15 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and up to 14 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter. When a nominee of a Senator, Representative, or Delegate is selected for appointment as a cadet, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made.

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force

who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under chapter 1223 of this title except for not having attained 60 years of age;

however, a person who is eligible for selection under paragraph (1) of subsection (a) may not be selected under this paragraph.

(2) 85 nominated by the Secretary of the Army from enlisted members of the Regular Army.

(3) 85 nominated by the Secretary of the Army from enlisted members of reserve components of the Army.

(4) 20 nominated by the Secretary of the Army, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Reserve Officers' Training Corps.

(5) 200 [1] selected by the Secretary of the Army in order of merit (prescribed pursuant to section 7443 of this title) from qualified alternates nominated by persons named in paragraphs (3) through (10) of subsection (a).

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

(d) The Superintendent may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under paragraphs (2) through (9) of subsection (a) and may not cause the total strength of the Corps of Cadets to exceed the authorized number.

(e) If the annual quota of cadets under subsection (b)(1), (2), (3) is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(f) Each candidate for admission nominated under paragraphs (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(g) The Secretary of the Army may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy, as determined by the Secretary after consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, subject to the following:

(1) Cadets chargeable to each nominating authority named in subsection (a)(3) or (4) may not be limited to less than four.

(2) If the Secretary limits the number of appointments under subsection (a)(3) or (4), appointments under subsection (b)(1)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(1);

(B) 27 appointments under subsection (b)(2);

(C) 27 appointments under subsection (b)(3); and

(D) 13 appointments under subsection (b)(4).

(3) If the Secretary limits the number of appointments under subsection (b)(5), appointments under subsection (b)(2)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(2);

(B) 27 appointments under subsection (b)(3); and

(C) 13 appointments under subsection (b)(4).

(4) The limitations provided for in this subsection do not affect the operation of subsection (e).

(h) The Superintendent shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(i) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of the Corps of Cadets, the Secretary of the Army may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Army may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400.

(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Army Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Army Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

(4) In this subsection, the term "cadet strength limit" means the authorized maximum strength of the Corps of Cadets of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 240, §4342; Pub. L. 85–861, §33(a)(26), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 87–663, §1(1), (2), Sept. 14, 1962, 76 Stat. 547; Pub. L. 88–276, §1(1), Mar. 3, 1964, 78 Stat. 148; Pub. L. 89–650, §1(1)–(4), Oct. 13, 1966, 80 Stat. 896; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 90–623, §2(8), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91–405, title II, §204(c), Sept. 22, 1970, 84 Stat. 852; Pub. L. 92–365, §1(1), Aug. 7, 1972, 86 Stat. 505; Pub. L. 93–171, §1(1)–(4), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, §803(b)(1), Oct. 7, 1975, 89 Stat. 538; Pub. L. 96–513, title V, §512(13), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 96–600, §2(a), Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97–60, title II, §203(a)(1), Oct. 14, 1981, 95 Stat. 1006; Pub. L. 98–94, title X, §1005(a)(1), (b)(1), Sept. 24, 1983, 97 Stat. 660; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 101–510, div. A, title V, §532(a)(1), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 103–160, div. A, title V, §531, Nov. 30, 1993, 107 Stat. 1657; Pub. L. 103–337, div. A, title XVI, §1672(c)(3), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 104–106, div. A, title V, §532(a), title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 314, 502; Pub. L. 105–85, div. A, title X, §1073(a)(62), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. A, title V, §531(b)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 602, 774; Pub. L. 106–398, §1 [[div. A], title V, §531(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–109; Pub. L. 107–314, div. A, title V, §532(a), (f), Dec. 2, 2002, 116 Stat. 2545, 2547; Pub. L. 108–136, div. A, title V, §524(a), title X, §1031(a)(53), Nov. 24, 2003, 117 Stat. 1464, 1603; Pub. L. 109–364, div. A, title X, §1071(a)(28), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 110–181, div. A, title V, §525, Jan. 28, 2008, 122 Stat. 104; Pub. L. 110–229, title VII, §718(a), May 8, 2008, 122 Stat. 869; Pub. L. 110–417, [div. A], title V, §540(a), Oct. 14, 2008, 122 Stat. 4454; Pub. L. 111–84, div. A, title V, §527(a), Oct. 28, 2009, 123 Stat. 2288; Pub. L. 112–239, div. A, title X, §1076(f)(38), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 114–92, div. A, title V, §556(a), Nov. 25, 2015, 129 Stat. 824; Pub. L. 114–328, div. A, title V, §566(a), Dec. 23, 2016, 130 Stat. 2138; renumbered §7442 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840; Pub. L. 117–263, div. A, title V, §552(a), Dec. 23, 2022, 136 Stat. 2592;

Pub. L. 118–31, div. A, title V, §§561(a), 562(a), Dec. 22, 2023, 137 Stat. 273, 274; Pub. L. 119–60, div. A, title V, §555(a), Dec. 18, 2025, 139 Stat. 878.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4342(a) | 10:1092a (1st par., less clauses (a) through (e)).<br>10:1092a (clause (a), less 14th through 52d words after 4th semicolon; and less last 32 words).<br>10:1092a (1st 13 words of clause (b)).<br>10:1092a (1st 26 words of clause (c)).<br>10:1092a (clause (d)).<br>10:1092a (clause (e), less last 53 words). | R.S. 1317.<br>June 30, 1950, ch. 421, §§1, 2 (last proviso), 64 Stat. 303, 304; June 3, 1954, ch. 251, §2, 68 Stat. 169. |
| 4342(b) | 10:1092a (last par.).<br>10:1098. | |
| 4342(c) | 10:1092a (14th through 52d words after 4th semicolon of clause (a)).<br>10:1092b (last proviso). | |
| 4342(d) | 10:1092a (last 32 words of clause (a)). | |
| 4342(e) | 10:1092a (clause (b), less 1st 13 words, and less 1st proviso). | |
| 4342(f) | 10:1092a (1st proviso of clause (b)). | |
| 4342(g) | 10:1092a (clause (c), less 1st 26 words). | |
| 4342(h) | 10:1092a (last 53 words of clause (e)). | |

In subsection (a), the words "the authorized strength * * * is as follows—" are substituted for the words "shall be authorized and consist of the following". The words "at large" and "which totals two thousand four hundred and ninety-six", and 10:1092a (clause (d)) are omitted as surplusage.

In subsection (b), the words "from whatever source of admission", in 10:1092a, are omitted as surplusage. 10:1098 (words before last semicolon) is omitted as obsolete.

In subsection (c), the first 15 words are substituted for the words "all of which cadets shall be". The words "domiciled in" are substituted for the words "actual residents of" to conform to opinions of the Judge Advocate General of the Army (R. 29, 83; J.A.G. 351.11, Feb. 10, 1925).

In subsection (e)(4), the words "armed forces" are substituted for the description of the land or naval forces. The date February 1, 1955, fixed by Proclamation No. 3080 (Jan. 7, 1955; 20 F.R. 173), is substituted for the words "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress under section 745 of title 38". The words "including male and female members of * * * and all components thereof" are omitted as surplusage.

In subsection (f), the words "whether a death is service-connected" are substituted for the words "as to the service connection of the cause of death".

In subsection (g), the words "(National Guard of the United States, the Air National Guard of the United States, the Army Reserve, and the Air Force Reserve)", "Regular components", "by members of the National Guard of the United States and the Air National Guard of the United States" and "established at the

competitive entrance examination" are omitted as surplusage. The word "grades" is substituted for the words "proficiency averages".

In subsection (h), the words "or shall hereafter be" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 substituted "up to 14 ranked or unranked alternates" for "9 ranked or unranked alternates" in concluding provisions.

**2023**—Subsec. (a). Pub. L. 118–31, §561(a)(1), substituted "15 persons" for "10 persons" in concluding provisions.

Subsec. (a)(8). Pub. L. 118–31, §562(a), substituted "Five" for "Four".

Subsec. (b)(5). Pub. L. 118–31, §561(a)(2), substituted "200" for "150".

**2022**—Subsec. (b)(5). Pub. L. 117–263 substituted "paragraphs (3) through (10)" for "paragraphs (3) and (4)".

**2018**—Pub. L. 115–232, §808(c)(1), renumbered section 4342 of this title as this section.

Subsec. (b)(5). Pub. L. 115–232, §809(a), substituted "section 7443" for "section 4343".

**2016**—Subsec. (a). Pub. L. 114–328 inserted at end of concluding provisions "When a nominee of a Senator, Representative, or Delegate is selected for appointment as a cadet, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made."

**2015**—Subsec. (a)(6). Pub. L. 114–92, §556(a)(1), substituted "Four" for "Three".

Subsec. (a)(8). Pub. L. 114–92, §556(a)(2), substituted "Four" for "Three".

Subsec. (a)(9). Pub. L. 114–92, §556(a)(3), substituted "Three" for "Two".

Subsec. (a)(10). Pub. L. 114–92, §556(a)(4), substituted "Three" for "Two".

**2013**—Subsec. (b)(1). Pub. L. 112–239, §1076(f)(38)(A)(i), substituted "paragraph" for "clause" in two places in concluding provisions.

Subsecs. (b)(5), (d), (f). Pub. L. 112–239, §1076(f)(38)(A)(ii)–(C), substituted "paragraphs" for "clauses".

**2009**—Subsec. (a)(10). Pub. L. 111–84 substituted "Two cadets" for "One cadet".

**2008**—Subsec. (a). Pub. L. 110–417 substituted "4,400 or such lower number" for "4,000 or such higher number" in introductory provisions.

Subsec. (a)(10). Pub. L. 110–229 substituted "Delegate in Congress" for "resident representative".

Subsec. (j)(1). Pub. L. 110–181 struck out last sentence which read as follows: "However, no increase may be prescribed for any academic year after the 2007–2008 academic year."

**2006**—Subsec. (a)(9). Pub. L. 109–364 substituted "cadets" for "cadet".

**2003**—Subsec. (a)(6), (8). Pub. L. 108–136, §524(a)(1), substituted "Three" for "Two".

Subsec. (a)(9). Pub. L. 108–136, §524(a)(2), substituted "Two" for "One".

Subsec. (h). Pub. L. 108–136, §1031(a)(53), substituted "Superintendent" for "Secretary of the Army".

**2002**—Subsec. (a). Pub. L. 107–314, §532(a)(1), inserted before period at end of first sentence "or such higher number as may be prescribed by the Secretary of the Army under subsection (j)".

Subsec. (i). Pub. L. 107–314, §532(f), struck out "(beginning with the 2001–2002 academic year)" after "any year".

Subsec. (j). Pub. L. 107–314, §532(a)(2), added subsec. (j).

**2000**—Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title V, §531(a)(1)], struck out ", other than those granted retired pay under section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" after "retired or retainer pay".

Subsec. (b)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title V, §531(a)(2)], added subpars. (C) and (D).

**1999**—Subsec. (a). Pub. L. 106–65, §531(b)(1)(A), substituted "(determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, cadets are selected as follows:" for "is as follows:" in introductory provisions.

Subsec. (g). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

Subsec. (i). Pub. L. 106–65, §531(b)(1)(B), added subsec. (i).

**1997**—Subsec. (a)(10). Pub. L. 105–85 substituted "Mariana" for "Marianas".

**1996**—Subsec. (a)(10). Pub. L. 104–106, §532(a), added par. (10).

Subsec. (g). Pub. L. 104–106, §1502(a)(1), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of

the Senate and House of Representatives".

**1994**—Subsec. (b)(1)(B). Pub. L. 103–337 substituted "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" for "section 1331 of this title".

**1993**—Subsec. (a). Pub. L. 103–160 in concluding provisions substituted "10 persons" for "a principal candidate and nine alternates" and inserted at end "Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter."

**1990**—Subsec. (a)(8) to (10). Pub. L. 101–510, §532(a)(1)(A), redesignated cls. (9) and (10) as (8) and (9), respectively, and struck out former cl. (8) which read as follows: "One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States."

Subsec. (d). Pub. L. 101–510, §532(a)(1)(B), substituted "clauses (2) through (9)" for "clauses (2)–(7), (9), or (10)".

Subsec. (f). Pub. L. 101–510, §532(a)(1)(C), substituted "clauses (3) through (9)" for "clauses (3)–(7), (9) and (10)".

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1983**—Subsec. (a)(8). Pub. L. 98–94, §1005(b)(1), substituted "One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States" for "One cadet nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama".

Subsec. (a)(10). Pub. L. 98–94, §1005(a)(1), substituted ", nominated by the Delegate in Congress from American Samoa" for "nominated by the Secretary of the Army upon recommendation of the Governor of Samoa".

**1981**—Subsec. (d). Pub. L. 97–60 substituted provisions authorizing the Superintendent to nominate for appointment each year 50 persons from the country at large for provisions that all cadets were to be appointed by the President and that all such appointments were conditional until the cadet was admitted. See section 4341a of this title.

**1980**—Subsec. (a)(6), (9). Pub. L. 96–600 substituted "Two cadets" for "One cadet".

Subsec. (h). Pub. L. 96–513 substituted "The" for "Effective beginning with nominations for appointment to the Academy in the calendar year 1964, the".

**1975**—Subsecs. (a)(1), (8), (b)(1), (c). Pub. L. 94–106 substituted "children" for "sons" wherever appearing.

**1973**—Subsec. (a)(6). Pub. L. 93–171, §1(1), substituted "One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five cadets from each Territory, nominated by the Delegate in Congress from the Territory".

Subsec. (a)(9). Pub. L. 93–171, §1(2), struck out reference to Guam and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, §1(3), added cl. (10).

Subsec. (f). Pub. L. 93–171, §1(4), substituted ", (9) and (10) of subsection (a)" for "and (9) of subsection (a)" and struck out reference to Territory.

**1972**—Subsec. (a)(1). Pub. L. 92–365 increased the number of cadets from 40 to 65 and added sons of members who are in a missing status and sons of civilian employees who are in missing status as eligible for the competitive examination.

**1970**—Subsec. (a)(5). Pub. L. 91–405 substituted "Delegate to the House of Representatives from the District of Columbia" for "Commissioner of that District".

**1968**—Subsec. (a). Pub. L. 90–374 increased from five to nine the number of alternates for each vacancy each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate.

Subsec. (a)(5). Pub. L. 90–623 substituted "Commissioner" for "Commissioners".

**1966**—Subsec. (a)(1). Pub. L. 89–650, §1(1), provided for selection of cadets to the Military Academy from sons of members of the armed forces who have a 100 per centum service-connected disability and removed the limitation to active service during World War I or World War II or after June 26, 1950, and before Feb. 1, 1955.

Subsec. (a)(2). Pub. L. 89–650, §1(2), provided for nominations to the Military Academy by the President

pro tempore of the Senate if there is no Vice President.

Subsec. (b)(1). Pub. L. 89–650, §1(3), increased the number of Presidential appointments to the Military Academy from 75 to 100, provided for selection of eligible persons as stated in items (A) and (B), previously chosen from sons of members of regular components, and declared persons eligible under subsec. (a)(1) ineligible under subsec. (b)(1) of this section.

Subsec. (b)(3). Pub. L. 89–650, §1(4), substituted "reserve components of the Army" for "the Army Reserve".

**1964**—Pub. L. 88–276 amended section generally, and among other changes, in the noncompetitive appointments, increased the number of cadets nominated by the Vice President from three to five, each Senator, Representative, and Delegate from 4 to 5, and the Commissioner of Puerto Rico from 4 to 5, authorized the Governor of Puerto Rico to appoint one cadet, each Senator, Representative and Delegate to nominate a principal and five alternates for each vacancy, and, in the competitive appointments, permitted the President to appoint 75 cadets annually from the sons of members of the Regular components, instead of a cumulative total of 89, the Secretary of the Army to appoint 85 cadets annually from enlisted members of the Regular Army, instead of a cumulative total of 90, 85 annually from enlisted members of the Army Reserve, instead of a cumulative total of 90, 20 annually from honor graduates of designated honor schools and the R.O.T.C., instead of a cumulative total of 40 from honor schools only, 150 annually, in order of merit, from among the qualified alternates nominated by members of Congress, and when the quota of cadets selected under subsecs. (b)(1), (2), (3) is not filled, to fill the vacancies by appointing those best qualified from any of the three sources, decreased the number of cadets nominated by the Commissioners of the District of Columbia from 6 to 5, and by the Governor of the Panama Canal from 2 to 1, limited appointments to the number that can be adequately accommodated at the Academy, within the limitation that congressional appointments cannot be limited to less than four, and if limited, a priority of selection is established for the other categories, and, beginning in 1964, the Secretary may upon request of a Member of Congress, furnish him the name of any nominating authority responsible for the nomination of any identified person to the Academy.

**1962**—Subsec. (a)(10). Pub. L. 87–663, §1(1), added cl. (10).

Subsec. (c). Pub. L. 87–633, §1(2), inserted references to American Samoa, Guam, and the Virgin Islands, and substituted "clauses (1)–(5) and (10)" for "clauses (1)–(5)."

**1958**—Subsec. (c). Pub. L. 85–861 inserted a comma after "district".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title V, §561(d), Dec. 22, 2023, 137 Stat. 274, provided that: "The amendments made by this section [amending this section and sections 8454 and 9442 of this title] shall apply to nominations of candidates and appointments to the Service Academies (as such term is defined in section 347 of title 10, United States Code) for classes entering such Service Academies beginning with the 2025-2026 academic year."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §566(e), Dec. 23, 2016, 130 Stat. 2139, provided that: "The amendments made by this section [amending this section, sections 6954 and 9342 of this title, and section 51302 of Title 46, Shipping] shall apply with respect to the appointment of cadets and midshipmen to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Merchant Marine Academy for classes entering these service academies after January 1, 2018."

### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title V, §556(d), Nov. 25, 2015, 129 Stat. 825, provided that: "The amendments made by this section [amending this section and sections 6954 and 9342 of this title] shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering these military service academies after the date of the enactment of this Act [Nov. 25, 2015]."

**EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title V, §527(d), Oct. 28, 2009, 123 Stat. 2288, provided that: "The amendments made by this section [amending this section and sections 6954 and 9342 of this title] shall apply with respect to appointments to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy beginning with the first class of candidates nominated for appointment to these military service academies after the date of the enactment of this Act [Oct. 28, 2009]."

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–417, [div. A], title V, §540(d), Oct. 14, 2008, 122 Stat. 4454, provided that: "The amendments made by this section [amending this section and sections 6954 and 9342 of this title] shall apply with respect to academic years at the United States Military Academy, the United States Naval Academy, and the Air Force Academy after the 2007-2008 academic year."

**EFFECTIVE DATE OF 2003 AMENDMENT**

Pub. L. 108–136, div. A, title V, §524(d), Nov. 24, 2003, 117 Stat. 1465, provided that: "The amendments made by this section [amending this section and sections 6954 and 9342 of this title] shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering those academies after the date of the enactment of this Act [Nov. 24, 2003]."

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 7441a of this title.

**EFFECTIVE DATE OF 1980 AMENDMENTS**

Pub. L. 96–600, §2(d), Dec. 24, 1980, 94 Stat. 3493, provided that: "The amendments made by this section [amending this section and sections 6954 and 9342 of this title] shall be effective beginning with the nominations for appointment to the service academies for academic years beginning more than one year after the date of enactment of this Act [Dec. 24, 1980]."

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

**EFFECTIVE DATE OF 1973 AMENDMENT**

Pub. L. 93–171, §4, Nov. 29, 1973, 87 Stat. 691, provided that: "The amendments made by this Act [amending this section and sections 4343, 6954, 6956, 6958, 9342, and 9343 of this title] shall be effective beginning with the nominations for appointments to the service academies in the calendar year 1974."

**EFFECTIVE DATE OF 1970 AMENDMENT**

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

**INFORMATION ON NOMINATIONS AND APPLICATIONS FOR MILITARY SERVICE ACADEMIES**

Pub. L. 116–283, div. A, title V, §575, Jan. 1, 2021, 134 Stat. 3645, as amended by Pub. L. 117–263, div. A, title V, §556, Dec. 23, 2022, 136 Stat. 2595; Pub. L. 118–159, div. A, title V, §559A, Dec. 23, 2024, 138 Stat. 1900, provided that:

"(a) Nominations Portal.—

"(1) IN GENERAL.—Not later than December 31, 2026, the Secretary of Defense, in consultation with the Superintendents of the military service academies, shall ensure that there is a uniform online portal for all military service academies that enables Members of Congress and other nominating sources to nominate individuals for appointment to each academy through a secure website.

"(2) INFORMATION COLLECTION AND REPORTING.—The online portal established under paragraph (1) shall have the ability to—

"(A) collect, from each nominating source, the demographic information described in subsection (b) for each individual nominated to attend a military service academy; and

"(B) collect the information required to be included in each annual report of the Secretary under subsection (c) in a manner that enables the Secretary to automatically compile such information when preparing the report.

"(3) AVAILABILITY OF INFORMATION.—The portal shall allow Members of Congress, other nominating sources, and their designees to view their past nomination records for all application cycles.

"(b) STANDARD CLASSIFICATIONS FOR COLLECTION OF DEMOGRAPHIC DATA.—

"(1) STANDARDS REQUIRED.—The Secretary, in consultation with the Superintendents of the military service academies, shall establish standard classifications that cadets, midshipmen, and applicants to the academies may use to report gender, race, and ethnicity and to provide other demographic information in connection with admission to or enrollment in an academy.

"(2) CONSISTENCY WITH OMB GUIDANCE.—The standard classifications established under paragraph (1) shall be consistent with the standard classifications specified in Office of Management and Budget Directive No. 15 (pertaining to race and ethnic standards for Federal statistics and administrative reporting) or any successor directive.

"(3) INCORPORATION INTO APPLICATIONS AND RECORDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall incorporate the standard classifications established under paragraph (1) into—

"(A) applications for admission to the military service academies; and

"(B) the military personnel records of cadets and midshipmen enrolled in such academies.

"(c) ANNUAL REPORT ON THE DEMOGRAPHICS MILITARY SERVICE ACADEMY APPLICANTS.—

"(1) REPORT REQUIRED.—Not later than September 30 of each year beginning after the establishment of the online portal, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demographics of applicants to military service academies for the most recently concluded application year.

"(2) ELEMENTS.—Each report under paragraph (1) shall include, with respect to each military service academy, the following:

"(A) The number of individuals who submitted an application for admission to the academy in the application year covered by the report.

"(B) Of the individuals who submitted an application for admission to the academy in such year—

"(i) the overall demographics of applicant pool, disaggregated by the classifications established under subsection (b);

"(ii) the number and percentage who received a nomination, disaggregated by the classifications established under subsection (b);

"(iii) the number and percentage who received an offer for appointment to the academy, disaggregated by the classifications established under subsection (b); and

"(iv) the number and percentage who accepted an appointment to the academy, disaggregated by the classifications established under subsection (b).

"(C) Anything the Secretary determines to be significant regarding gender, race, ethnicity, or other demographic information, described in subsection (b), of such individuals.

"(3) CONSULTATION.—In preparing each report under paragraph (1), the Secretary shall consult with the Superintendents of the military service academies.

"(4) AVAILABILITY OF REPORTS AND DATA.—The Secretary shall—

"(A) make the results of each report under paragraph (1) available on a publicly accessible website of the Department of Defense; and

"(B) ensure that any data included with the report is made available in a machine-readable format that is downloadable, searchable, and sortable.

"(d) DEFINITIONS.—In this section:

"(1) The term 'application year' means the period beginning on January 1 of one year and ending on June 1 of the following year.

"(2) The term 'machine-readable' has the meaning given that term in section 3502(18) of title 44, United States Code.

"(3) The term 'military service academy' means—

"(A) the United States Military Academy;

"(B) the United States Naval Academy; and

"(C) the United States Air Force Academy."

**ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS**

Pub. L. 94–106, title VIII, §803(a), Oct. 7, 1975, 89 Stat. 537, provided that: "Notwithstanding any other provision of law, in the administration of chapter 403 [now 753] of title 10, United States Code [this chapter] (relating to the United States Military Academy), chapter 603 [now 853] of such title (relating to the United States Naval Academy), and chapter 903 [now 953] of such title (relating to the United States Air Force Academy), the Secretary of the military department concerned shall take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the service academy concerned, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals."

**SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY**

Pub. L. 94–106, title VIII, §803(c), Oct. 7, 1975, 89 Stat. 538, provided that: "It is the sense of Congress that, subject to the provisions of subsection (a) [note set out above], the Secretaries of the military departments shall, under the direction of the Secretary of Defense, continue to exercise the authority granted them in chapters 403, 603 and 903 [now 753, 853, and 953] of title 10, United States Code, but such authority must be exercised within a program providing for the orderly and expeditious admission of women to the academies, consistent with the needs of the services, with the implementation of such program upon enactment of this Act [Oct. 7, 1975]."

## §7442a. Cadets: nomination in event of death, resignation, or expulsion from office of Member of Congress otherwise authorized to nominate

(a) SENATORS.—In the event a Senator does not submit all nominations for cadets allocated to such Senator for an academic year in accordance with section 7442(a)(3) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Senator's successor as Senator occurs after the date of the deadline for submittal of nominations for cadets for the academic year, the nominations for cadets for such academic year, otherwise authorized to be made by the Senator pursuant to such section, may be made instead by the other Senator from the State of such Representative.

(b) REPRESENTATIVES.—In the event a Representative does not submit all nominations for cadets allocated to such Representative for an academic year in accordance with section 7442(a)(4) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Representative's successor as Representative occurs after the date of the deadline for submittal of nominations for cadets for the academic year, the nominations for cadets for such academic year, otherwise authorized to be made by the Representative pursuant to such section, may be made instead by the Senators from the State of such Representative, with such nominations divided equally among such Senators and any remainder going to the senior Senator from the State.

(c) RULE OF CONSTRUCTION.—The nomination of a cadet by a Member of Congress pursuant to this section shall not be construed to permanently reallocate nominations under section 7442 of this title.

(Added Pub. L. 117–81, div. A, title V, §553(a)(1), Dec. 27, 2021, 135 Stat. 1736.)

## §7443. Cadets: appointment; to bring Corps to full strength

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Army may fill the vacancies by nominating additional cadets from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this section shall be selected from qualified alternates nominated by the persons named in paragraphs (2) through (8) of section 7442(a) of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 242, §4343; Pub. L. 88–276, §1(2), Mar. 3, 1964, 78 Stat. 150; Pub. L. 93–171, §1(5), Nov. 29, 1973, 87 Stat. 690; Pub. L. 102–25, title VII, §701(f)(5), Apr. 6, 1991, 105 Stat. 115; Pub. L. 112–239, div. A, title X, §1076(f)(39), Jan. 2, 2013, 126 Stat. 1954; renumbered §7443 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4343 | 10:1092d. | June 30, 1950, ch. 421, §4, 64 Stat. 305. |

The words "If it is determined" are substituted for the words "When upon determination". The words "within his discretion" are omitted as covered by the word "may". The words "within the capacity of the Academy", "from the remaining sources of admission authorized by law", and "to be admitted in such class" are omitted as surplusage. The words "by the persons named in clauses (1)–(6) of section 4342(a), and clause (2) of section 4342(e), of this title" are substituted for the words "by the Vice President, Members of the Senate and House of Representatives of the United States, Delegates and Resident Commissioners, the Commissioners of the District of Columbia, and the Governor of the Canal Zone". The words "under any other provision of law" are substituted for the words "from sources authorized by law other than those holding such alternate appointments".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "paragraphs (2) through (8) of section 7442(a)" for "paragraphs (2) through (8) of section 4342(a)".

Pub. L. 115–232, §808(c)(1), renumbered section 4343 of this title as this section.

**2013**—Pub. L. 112–239 substituted "paragraphs" for "clauses".

**1991**—Pub. L. 102–25 substituted "clauses (2) through (8)" for "clauses (2)–(9)".

**1973**—Pub. L. 93–171 substituted "clauses (2)–(9) of section 4342(a)" for "clauses (2)–(8) of section 4342(a)".

**1964**—Pub. L. 88–276, among other changes, increased the percentage of nominees to be selected from two-thirds to three-fourths, and struck out "as are necessary to meet the needs of the Army and Air Force, but not more than the authorized strength of the Corps of Cadets" after "Academic Board".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1973 AMENDMENT**

Effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

**NUMBER OF ALTERNATE-APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS**

Pub. L. 89–650, §2, Oct. 13, 1966, 80 Stat. 896, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(7), Aug. 13, 2018, 132 Stat. 1840, provided that: "Notwithstanding any other provision of law, none of the additional appointments authorized in sections 7442(b)(1), 8454(b), and 9442(b)(1) of title 10, United States Code, as provided by this Act shall serve to reduce or diminish the number of qualified alternates from congressional sources who would otherwise be appointed by the appropriate service Secretary under the authority contained in sections 7443, 8456, and 9443 of such title."

## §7446. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-third birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Army, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

"I, _____, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice."

If a candidate for admission refuses to take this oath, his appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 242, §4346; Pub. L. 104–201, div. A, title V, §555(b), Sept. 23, 1996, 110 Stat. 2527; renumbered §7446, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4346(a) | 10:1092b (less provisos). | June 30, 1950, ch. 421, §2 (less provisos), 64 Stat. 304. |
| 4346(b) | 10:1096. | |
| 4346(c) | 10:1095. | |
| 4346(d) | 10:1099. | R.S. 1319; restated Mar. 2, 1901, ch. 804 (1st proviso under "Permanent Establishment"), 31 Stat. 911.<br>Aug. 9, 1912, ch. 275 (2d proviso under "Permanent Establishment"), 37 Stat. 252.<br>R.S. 1320. |

In subsection (a), the words "Effective January 1, 1951" are omitted as executed. The word "Calendar" is omitted as surplusage. The words "must not have passed his twenty-second birthday" are substituted for the words "not more than twenty-two years of age", to make it clear that a person whose twenty-second birthday falls on July 1 of the year of admission is eligible (see opinion of the Judge Advocate General of the Army (JAGA 1952/7083, 2 Sept. 1952)).

In subsection (b), the words "To be" are substituted for the words "before they shall be". The words "must

show * * * that he is qualified" are substituted for the words "shall be required to be well versed". The words "from time to time" are omitted as surplusage.

In subsection (c), the word "shall" is substituted for the word "may", since the nominee is required to appear for the examination. The word "appear" is substituted for the words "present himself". The words "at a place" are substituted for the words "at West Point, New York, or other prescribed places".

In subsection (d), the word "county" is omitted as surplusage. The words "Uniform Code of Military Justice" are substituted for the words "rules and articles governing the armies of the United States", since the Articles of War have been superseded by the Uniform Code of Military Justice. The words "his appointment is terminated" are substituted for the words "shall be dismissed from the service", since a cadet who has not taken the oath is not yet a member.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4346 of this title as this section.

**1996**—Subsec. (a). Pub. L. 104–201 substituted "twenty-third birthday" for "twenty-second birthday".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### CONSIDERATION OF STANDARDIZED TEST SCORES IN MILITARY SERVICE ACADEMY APPLICATION PROCESS

Pub. L. 118–31, div. A, title V, §563, Dec. 22, 2023, 137 Stat. 274, provided that: "The Secretary of Defense shall ensure that the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy require the submission and consideration of standardized test scores as part of the application process."

### TEMPORARY AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO THE MILITARY SERVICE ACADEMIES

Pub. L. 112–81, div. A, title V, §553, Dec. 31, 2011, 125 Stat. 1413, as amended by Pub. L. 114–92, div. A, title X, §1072(b), Nov. 25, 2015, 129 Stat. 995, provided that:

"(a) WAIVER FOR CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may waive the maximum age limitation specified in section 4346(a), 6958(a)(1), or 9346(a) [now 7446(a), 8458(a)(1), or 9446(a)] of title 10, United States Code, for the admission of an enlisted member of the Armed Forces to the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy if the member—

"(1) satisfies the eligibility requirements for admission to that academy (other than the maximum age limitation); and

"(2) was or is prevented from being admitted to a military service academy before the member reached the maximum age specified in such sections as a result of service on active duty in a theater of operations for Operation Iraqi Freedom, Operation Enduring Freedom, or Operation New Dawn.

"(b) MAXIMUM AGE FOR RECEIPT OF WAIVER.—A waiver may not be granted under this section if the candidate would pass the candidate's twenty-sixth birthday by July 1 of the year in which the candidate would enter the military service academy pursuant to the waiver.

"(c) LIMITATION ON NUMBER ADMITTED USING WAIVER.—Not more than five candidates may be admitted to each of the military service academies for an academic year pursuant to a waiver granted under this section.

"(d) RECORD KEEPING REQUIREMENT.—The Secretary of each military department shall maintain records on the number of graduates of the military service academy under the jurisdiction of the Secretary who are admitted pursuant to a waiver granted under this section and who remain in the Armed Forces beyond the active duty service obligation assumed upon graduation. The Secretary shall compare their retention rate to the retention rate of graduates of that academy generally.

"(e) DURATION OF WAIVER AUTHORITY.—The authority to grant a waiver under this section expires

on September 30, 2016."

**AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR**

Pub. L. 102–190, div. A, title V, §514, Dec. 5, 1991, 105 Stat. 1361, provided that:

"(a) WAIVER AUTHORITY.—The Secretary of the military department concerned may waive the maximum age limitation in section 4346(a), 6958(a)(1), or 9346(a) [now 7446(a), 8458(a)(1), or 9446(a)] of title 10, United States Code, in the case of any enlisted member of the Armed Forces who—

"(1) becomes 22 years of age while serving on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm during the Persian Gulf War; or

"(2) was a candidate for admission to the service academy under the jurisdiction of such Secretary in 1990, was prevented from being admitted to the academy during that year by reason of the service of such person on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm, and became 22 years of age after July 1, 1990, and before the end of such service in that area of operations.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The term 'Operation Desert Storm' has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 77; 10 U.S.C. 101 note).

"(2) The term 'Persian Gulf War' has the meaning given such term in section 101(33) of title 38, United States Code."

**PERSONS FROM COUNTRIES ASSISTING U.S. IN VIETNAM; SERVICE ACADEMY INSTRUCTION: OATH OF TRAINEES**

Exemption from oath requirement of subsec. (d) of this section of appointees to the Military Academy, the Naval Academy, and the Air Force Academy from countries assisting U.S. in Vietnam, see Pub. L. 89–802, §1(g), Nov. 9, 1966, 80 Stat. 1519, formerly set out as a note under section 4344 of this title.

## §7447. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of cadets otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a cadet or when he is finally separated from the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243, §4347; renumbered §7447, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4347 | 10:1091–1. | July 7, 1943, ch. 193, 57 Stat. 383. |

The word "domicile" is substituted for the words "place of residence" to conform to opinions of the Judge Advocate General of the Army (R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words "a * * * other than that from which he was nominated" are substituted for the word "another". The words "were appointed with respect to", "of the former district", "as additional numbers", "at such academy for the Representative", "temporarily", and "in attendance at such academy under an appointment from such former district" are omitted as surplusage. The words "the district in which his domicile so falls" are substituted for the words "of the latter district". The words "to include him" are substituted for 10:1091–1 (18 words before proviso). The words "However, the number as so increased" are substituted for 10:1091–1 (1st 13 words of proviso). The words "if he fails to become a cadet" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4347 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7448. Cadets: service obligation

(a) Each cadet shall sign an agreement with respect to the cadet's length of service in the armed forces. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Academy.

(2) That upon graduation from the Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Army or the Regular Air Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

(4) That if an appointment described in paragraph (2) or (3) is tendered and the cadet participates in a program under section 2121 of this title, the cadet will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.

(5) That the cadet may not obtain employment as a professional athlete until two years after the cadet graduates from the Academy.

(b)(1) Subject to paragraph (4), the Secretary of the Army may transfer to the Army Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (a). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A cadet who is transferred to the Army Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (a) if the cadet is separated from the Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Academy and accept an appointment as a commissioned officer upon graduation from the Academy.

(4) Each academic year, the Secretary of the Army may transfer not more than five cadets, who obtain employment in violation of paragraph (5) of subsection (a), to the Selected Reserve of the Army. Each cadet so transferred shall—

(A) serve as a commissioned officer—

(i) in an appropriate grade or rating, determined by the Secretary of the Army; and

(ii) for a period, determined by the Secretary of the Army, not longer than 10 years; and

(B) while so serving, participate in efforts to recruit and retain members of the armed forces.

(c) The Secretary of the Army shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) that a cadet who obtains employment as a professional athlete—

(A) in violation of paragraph (5) of subsection (a) has breached an agreement under such subsection unless such cadet receives a transfer under paragraph (4) of subsection (b); and

(B) at least two years after the cadet graduates from the Academy has not breached an agreement under subsection (a);

(3) procedures for determining whether such a breach has occurred; and

(4) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, the term "commissioned service obligation", with respect to a cadet, means the period beginning on the date of the cadet's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A cadet or former cadet who does not fulfill each term of the agreement as specified under subsection (a), or an alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243, §4348; Pub. L. 88–276, §5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88–647, title III, §301(9), Oct. 13, 1964, 78 Stat. 1072; Pub. L. 98–525, title V, §§541(a), 542(b), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99–145, title V, §512(a), Nov. 8, 1985, 99 Stat. 623; Pub. L. 101–189, div. A, title V, §511(b), title XVI, §1622(e)(5), Nov. 29, 1989, 103 Stat. 1439, 1605; Pub. L. 104–106, div. A, title V, §531(a), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109–163, div. A, title VI, §687(c)(9), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 111–84, div. A, title X, §1073(a)(29), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title V, §554(a), Jan. 7, 2011, 124 Stat. 4221; Pub. L. 115–91, div. A, title V, §543(a), title VI, §618(a)(1)(K), Dec. 12, 2017, 131 Stat. 1395, 1426; renumbered §7448, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 116–92, div. A, title V, §554(a), Dec. 20, 2019, 133 Stat. 1388; Pub. L. 117–263, div. A, title V, §553(a), Dec. 23, 2022, 136 Stat. 2592; Pub. L. 118–159, div. A, title V, §557(a), Dec. 23, 2024, 138 Stat. 1896; Pub. L. 119–60, div. A, title V, §556(a), Dec. 18, 2025, 139 Stat. 878.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4348 | 10:1092c. | June 30, 1950, ch. 421, §3, 64 Stat. 304. |

The word "agreement" is substituted for the word "articles". The words "Hereafter", "appointed to the United States Military Academy", "engage", and 10:1092c (1st 25 words of clause (2)) are omitted as surplusage. The word "separated" is substituted for the words "discharged by competent authority". The words "if he is permitted to resign" are substituted for the words "in the event of the acceptance of his resignation", since a resignation is effective only when accepted. The first 31 words of clause (3) are substituted for 10:1092c (last 29 words of clause (3)). The last sentence is substituted for the words "with the consent of his parents or guardian if he be a minor, and if any he have".

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60 substituted "five" for "three".

**2024**—Pub. L. 118–159, §557(a)(1), substituted "service obligation" for "agreement to serve as officer" in section catchline.

Subsec. (b)(1). Pub. L. 118–159, §557(a)(2)(A), substituted "Subject to paragraph (4), the Secretary of the Army" for "The Secretary of the Army".

Subsec. (b)(4). Pub. L. 118–159, §557(a)(2)(B), added par. (4) and struck out former par. (4) which read as follows: "A cadet who violates paragraph (5) of subsection (a) is not eligible for the alternative obligation under paragraph (1)."

Subsec. (c)(2)(A). Pub. L. 118–159, §557(a)(3), inserted "unless such cadet receives a transfer under paragraph (4) of subsection (b)" before "; and".

Subsec. (f). Pub. L. 118–159, §557(a)(4), substituted "an alternative obligation" for "the alternative obligation".

**2022**—Subsec. (a)(5). Pub. L. 117–263, §553(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "That the cadet—

"(A) will not seek release from the cadet's commissioned service obligation or seek or accept approval for off-duty employment while completing the cadet's commissioned service obligation to obtain employment as a professional athlete following graduation until the cadet completes a period of at least two consecutive years of commissioned service; and

"(B) understands that the appointment alternative described in paragraph (3) will not be used to allow the cadet to obtain such employment until at least the end of that two-year period."

Subsec. (b)(4). Pub. L. 117–263, §553(a)(2), added par. (4).

Subsec. (c)(2) to (4). Pub. L. 117–263, §553(a)(3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 117–263, §553(a)(4), substituted "with respect to a cadet" for "with respect to an officer who is a graduate of the Academy" and "cadet's" for "officer's".

Subsec. (f). Pub. L. 117–263, §553(a)(5), substituted "each term" for "the terms".

**2019**—Subsec. (a)(5)(A). Pub. L. 116–92 inserted "or seek or accept approval for off-duty employment while completing the cadet's commissioned service obligation" before "to obtain employment".

**2018**—Pub. L. 115–232 renumbered section 4348 of this title as this section.

**2017**—Subsec. (a)(5). Pub. L. 115–91, §543(a), added par. (5).

Subsec. (f). Pub. L. 115–91, §618(a)(1)(K), inserted "or 373" before "of title 37".

**2011**—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

**2009**—Subsec. (f). Pub. L. 111–84 substituted "subsection (a)" for "section (a)".

**2006**—Subsec. (f). Pub. L. 109–163 added subsec. (f).

**1996**—Subsec. (a)(2)(B). Pub. L. 104–106 substituted "five years" for "six years".

**1989**—Subsec. (a)(2)(B). Pub. L. 101–189, §511(b), substituted "six years" for "five years".

Subsec. (d). Pub. L. 101–189, §1622(e)(5), inserted "the term" after "In this section,".

**1985**—Pub. L. 99–145 amended section generally. Prior to amendment, section read as follows:

"(a) Each cadet who is a citizen or national of the United States shall sign an agreement that he will—

"(1) unless sooner separated from the Academy, complete the course of instruction at the Academy;

"(2) accept an appointment and, unless sooner separated from the service, serve as a commissioned officer of the Regular Army or the Regular Air Force for at least the five years immediately after graduation; and

"(3) accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve and, unless sooner separated from the service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

"(b) A cadet who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Army to the Army Reserve in an appropriate enlisted grade and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade for such period of time as the Secretary prescribes but not

for more than four years."

**1984**—Subsec. (a). Pub. L. 98–525, §541(a), struck out ", unless sooner separated," in introductory text before "he will"; inserted in cl. (1) "unless sooner separated from the Academy,"; and inserted ", unless sooner separated from the service," in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98–525, §524(b), substituted "at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary" for "the sixth anniversary".

**1964**—Pub. L. 88–647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88–276 substituted "five" for "three".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title V, §553(d), as added by Pub. L. 117–328, div. O, title II, §202(a), Dec. 29, 2022, 136 Stat. 5227, provided that: "The amendments made by this section [amending this section and sections 8459 and 9448 of this title] shall only apply with respect to a cadet or midshipman who first enrolls in the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on or after June 1, 2021."

[Pub. L. 117–328, div. O, title II, §202(b), Dec. 29, 2022, 136 Stat. 5227, provided that: "The amendment made by subsection (a) [enacting section 553(d) of Pub. L. 117–263, set out above] shall take effect on the date of the enactment of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 [Pub. L. 117–263, approved Dec. 23, 2022] and apply as if originally included in the enactment of such Act."]

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title V, §543(d), Dec. 12, 2017, 131 Stat. 1396, provided that: "The Secretaries of the military departments shall promptly revise the cadet and midshipman service agreements under sections 4348, 6959, and 9348 [now 7448, 8459, and 9448] of title 10, United States Code, to reflect the amendments made by this section [amending this section and sections 6959 and 9348 of this title]. The revised agreement shall apply to cadets and midshipmen who are attending the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on the date of the enactment of this Act [Dec. 12, 2017] and to persons who begin attendance at such military service academies on or after that date."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title V, §531(e), Feb. 10, 1996, 110 Stat. 314, provided that: "The amendments made by this section [amending this section and sections 6959 and 9348 of this title] apply to persons first admitted to the United States Military Academy, United States Naval Academy, and United States Air Force Academy after December 31, 1991."

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 511(b) of Pub. L. 101–189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101–189, as amended, set out as a note under section 2114 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title V, §512(e), Nov. 8, 1985, 99 Stat. 626, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and sections 6959 and 9348 of this title] (other than with respect to the authority of the Secretary of a military department to prescribe regulations)—

"(1) shall take effect with respect to each military department on the date on which regulations prescribed by the Secretary of that military department in accordance with subsection (d) [set out below] take effect; and

"(2) shall apply with respect to each agreement entered into under sections 4348, 6959, and 9348 [now 7448, 8459, and 9448], respectively, of title 10, United States Code, that is entered into on or after the effective date of such regulations and shall apply with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a cadet or midshipman on such date."

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title V, §541(d), Oct. 19, 1984, 98 Stat. 2529, provided that: "The amendments made by this section [amending this section and sections 6959 and 9348 of this title] shall apply with respect to agreements entered into under section 4348, 6959, or 9348 [now 7448, 8459, or 9448] of title 10, United States Code, before, on, or after the date of the enactment of this Act [Oct. 19, 1984]."

## EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

Pub. L. 88–276, §5(c), Mar. 3, 1964, 78 Stat. 153, provided that: "The amendments made by this section [amending this section, sections 6959 and 9348 of this title, and section 182 of Title 14, Coast Guard] shall apply only with respect to cadets and midshipmen appointed to the service academies and the Coast Guard Academy after the date of enactment of this Act [Mar. 3, 1964], and shall not affect the obligated period of service of any cadet or midshipman appointed to one of the service academies or the Coast Guard Academy on or before the date of enactment of this Act."

## REGULATIONS IMPLEMENTING 1985 AMENDMENT

Pub. L. 99–145, title V, §512(d), Nov. 8, 1985, 99 Stat. 626, provided that: "The Secretary of each military department shall prescribe the regulations required by section 4348(c), 6959(c), or 9348(c) [now 7448(c), 8459(c), or 9448(c)], as appropriate, of title 10, United States Code (as added by the amendments made by subsections (a), (b), and (c)) not later than the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 8, 1985]."

## SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## REPORT ON SERVICE ACADEMY PROFESSIONAL SPORTS PATHWAY

Pub. L. 118–31, div. A, title V, §564(b), (c), Dec. 22, 2023, 137 Stat. 274, 275, provided that:

"(b) REPORT REQUIRED.—Not later than March 1, 2024, and annually thereafter, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report that includes the following information:

"(1) The name, covered Armed Force, and sport of each Service Academy graduate released or deferred from active service in order to participate in professional sports.

"(2) A description of the sports career progress of each participant, such as drafted, signed, released, or returned to service in a covered Armed Force.

"(3) A summary by participant of marketing strategy and recruiting related activities conducted.

"(4) A description by participant of the assessments conducted by the military services to determine the recruiting value associated with approved releases from active duty.

"(5) The current status of each participant, including, as appropriate, affiliated franchise.

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered Armed Force' means the Army, Navy, Air Force, Marine Corps, or Space Force.

"(2) The term 'Service Academy' has the meaning given such term in section 347 of title 10, United States Code."

## DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS

Pub. L. 109–364, div. A, title V, §533, Oct. 17, 2006, 120 Stat. 2206, provided that:

"(a) POLICY REQUIRED.—

"(1) IN GENERAL.—Not later than July 1, 2007, the Secretary of Defense shall prescribe the policy of the Department of Defense on—

"(A) whether to authorize graduates of the service academies and the Reserve Officers' Training Corps to participate in professional sports before the completion of their obligations for service on active duty as commissioned officers; and

"(B) if so, the obligations for service on active duty as commissioned officers of such graduates who participate in professional sports before the satisfaction of the obligations referred to in subparagraph (A).

"(2) REVIEW OF CURRENT POLICIES.—In prescribing the policy, the Secretary shall review

current policies, practices, and regulations of the military departments on the obligations for service on active duty as commissioned officers of graduates of the service academies and the Reserve Officers' Training Corps, including policies on authorized leaves of absence and policies under excess leave programs.

"(3) CONSIDERATIONS.—In prescribing the policy, the Secretary shall take into account the following:

"(A) The compatibility of participation in professional sports (including training for professional sports) with service on active duty in the Armed Forces or as a member of a reserve component of the Armed Forces.

"(B) The benefits for the Armed Forces of waiving obligations for service on active duty for cadets, midshipmen, and commissioned officers in order to permit such individuals to participate in professional sports.

"(C) The manner in which the military departments have resolved issues relating to the participation of personnel in professional sports, including the extent of and any reasons for, differences in the resolution of such issues by such departments.

"(D) The recoupment of the costs of education provided by the service academies or under the Reserve Officers' Training Corps program if graduates of the service academies or the Reserve Officers' Training Corps, as the case may be, do not complete the period of obligated service to which they have agreed by reason of participation in professional sports.

"(E) Any other matters that the Secretary considers appropriate.

"(b) ELEMENTS OF POLICY.—The policy prescribed under subsection (a) shall address the following matters:

"(1) The eligibility of graduates of the service academies and the Reserve Officers' Training Corps for a reduction in the obligated length of service on active duty as a commissioned officer otherwise required of such graduates on the basis of their participation in professional sports.

"(2) Criteria for the treatment of an individual as a participant or potential participant in professional sports.

"(3) The effect on obligations for service on active duty as a commissioned officer of any unsatisfied obligations under prior enlistment contracts or other forms of advanced education assistance.

"(4) Any authorized variations in the policy that are warranted by the distinctive requirements of a particular Armed Force.

"(5) The eligibility of individuals for medical discharge or disability benefits as a result of injuries incurred while participating in professional sports.

"(6) A prospective effective date for the policy and for the application of the policy to individuals serving on such effective date as a commissioned officer, cadet, or midshipman.

"(c) APPLICATION OF POLICY TO ARMED FORCES.—Not later than December 1, 2007, the Secretary of each military department shall prescribe regulations, or modify current regulations, in order to implement the policy prescribed by the Secretary of Defense under subsection (a) with respect to the Armed Forces under the jurisdiction of such Secretary."

## §7449. Cadets: organization of Corps; service; instruction

(a) The Corps of Cadets shall be divided into companies, as directed by the Superintendent, for the purpose of military instruction. Each company shall be commanded by a commissioned officer of the Army.

(b) A cadet shall perform duties at such places and of such type as the President may direct.

(c) The course of instruction at the Academy is four years.

(d) The Secretary of the Army shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(e) The Corps of Cadets shall be trained in the duties of members of the Army, shall be encamped at least three months in each year, and shall be trained in all duties incident to a camp.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243, §4349; renumbered §7449, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4349(a) | 10:1105 (less last sentence). | R.S. 1322.<br>R.S. 1323. |
| 4349(b)<br>4349(c)<br>4349(d)<br>4349(e) | 10:1102.<br>10:1043.<br>10:1044.<br>10:1105 (last sentence). | Mar. 30, 1920, ch. 112 (1st par., less provisos, under "Miscellaneous"), 41 Stat. 548.<br>R.S. 1324. |

In subsection (a), the word "commissioned" is inserted for clarity; 10:1105 (2d sentence) is omitted as obsolete.

In subsection (b), the word "perform" is substituted for the words "be subject at all times to do". The words "of such type" are substituted for the words "on such service".

In subsection (e), the words "members of the Army" are substituted for the words "private soldier, noncommissioned officer, and officer". The words "taught and" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4349 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7450. Cadets: clothing and equipment

(a) The Secretary of the Army may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 244, §4350; renumbered §7450, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4350(a)<br>4350(b) | 10:1149a.<br>10:1106. | Aug. 31, 1918, ch. 166, §9 (17th through 22d words), 40 Stat. 957.<br>Aug. 22, 1951, ch. 340, §1, 65 Stat. 196. |

In subsection (a), the words "while owing the United States for pay advanced for the purchase of" are substituted for the words "who is indebted to the United States on account of advances of pay to purchase". The words "as is necessary to repay the amount advanced" are substituted for the words "to the extent required to discharge such indebtedness".

In subsection (b), the word "accouterments" is omitted as surplusage. The words "by the Government" and

"such restrictions and" are omitted as surplusage. The words "at cost" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4350 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7451. Cadets: deficiencies in conduct or studies; effect of failure on successor

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academic Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Academic Board within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 244, §4351; renumbered §7451, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4351(a) | 10:1104. | Aug. 11, 1916, ch. 314 (3d, 4th, and 5th provisos under "Permanent Establishment"), 39 Stat. 493. |
| 4351(b) | 10:1103. | R.S. 1325. |
| 4351(c) | 10:1092b (1st proviso). | June 30, 1950, ch. 421, §2 (1st proviso), 64 Stat. 304. |

In subsection (a), 10:1104 (last 20 words) is omitted as superseded by section 3287(d) of this title.

In subsection (b), the words "is entitled to" are substituted for the words "shall have the right to apply". The words "of equal scope and difficulty in that subject" are substituted for the words "by compliance with the requirements existing at the time of the first examination".

In subsection (c), the words "by reason of sickness, or deficiency in his studies, or other cause" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4351 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### READMISSION TO SERVICE ACADEMIES OF CERTAIN FORMER CADETS AND MIDSHIPMEN

Pub. L. 108–136, div. A, title V, §525, Nov. 24, 2003, 117 Stat. 1465, provided that:

"(a) INSPECTOR GENERAL REPORT AS BASIS FOR READMISSION.—(1) When a formal report by an Inspector General within the Department of Defense concerning the circumstances of the separation of a cadet or midshipman from one of the service academies contains a specific finding specified in paragraph (2), the Secretary of the military department concerned may use that report as the sole basis for readmission of the former cadet or midshipman to the respective service academy.

"(2) A finding specified in this paragraph is a finding that substantiates that a former service academy cadet or midshipman, while attending the service academy—

"(A) received administrative or punitive action or nonjudicial punishment as a result of reprisal;

"(B) resigned in lieu of disciplinary, administrative, or other action that the formal report concludes constituted a threat of reprisal; or

"(C) otherwise suffered an injustice that contributed to the resignation of the cadet or midshipman.

"(b) READMISSION.—In the case of a formal report by an Inspector General described in subsection (a), the Secretary concerned shall offer the former cadet or midshipman an opportunity for readmission to the service academy from which the former cadet or midshipman resigned, if the former cadet or midshipman is otherwise eligible for such readmission.

"(c) APPLICATIONS FOR READMISSION.—A former cadet or midshipman described in a report referred to in subsection (a) may apply for readmission to the service academy on the basis of that report and shall not be required to submit the request for readmission through a board for the correction of military records.

"(d) REGULATIONS TO MINIMIZE ADVERSE IMPACT UPON READMISSION.—The Secretary of each military department shall prescribe regulations for the readmission of a former cadet or midshipman described in subsection (a), with the goal, to the maximum extent practicable, of readmitting the former cadet or midshipman at no loss of the academic or military status held by the former cadet at the time of resignation.

"(e) CONSTRUCTION WITH OTHER REMEDIES.—This section does not preempt or supersede any other remedy that may be available to a former cadet or midshipman.

"(f) SERVICE ACADEMIES.—In this section, the term 'service academy' means the following:

"(1) The United States Military Academy.

"(2) The United States Naval Academy.

"(3) The United States Air Force Academy."

## §7452. Cadets: hazing

(a) Subject to the approval of the Secretary of the Army, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed to the Corps of Cadets, and is ineligible for appointment as a commissioned officer in a regular component of the Army, Navy, Air Force, Marine Corps, or Space Force, until two years after the graduation of his

class.

(Aug. 10, 1956, ch. 1041, 70A Stat. 244, §4352; renumbered §7452, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839; amended Pub. L. 116–283, div. A, title IX, §924(c)(1)(A), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4352(a) | 10:1163 (1st par.). | Mar. 2, 1901, ch. 804 (2d proviso under "Permanent Establishment"); restated Apr. 19, 1910, ch. 174 (38th par. under "Buildings and Grounds"), 36 Stat. 323. |
| 4352(b) | 10:1163 (1st 32 words of last par.). | |
| 4352(c) | 10:1163 (last par., less 1st 32 words). | |

In subsection (a), the word "violations" is substituted for the words "infractions of the same". The words "to embody a clear" are omitted as surplusage.

In subsection (b), the words "the penalty for which is or may be" are substituted for the words "which would involve". The words "may not be dismissed for that offense except under sentence of such a court" are substituted for the words "shall be granted".

In subsection (c), the words "a regular component" are inserted, since the source statute historically applied only to the regular components.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (c). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2018**—Pub. L. 115–232 renumbered section 4352 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7453. Cadets: degree and commission on graduation

(a) Under such conditions as the Secretary of the Army may prescribe, the Superintendent of the Academy may confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Army under section 531 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 245, §4353; Pub. L. 85–861, §1(103), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 96–513, title V, §502(26), Dec. 12, 1980, 94 Stat. 2911; renumbered §7453, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4353(a) | 10:486a (less last sentence). | May 25, 1933, ch. 37 (less last sentence); restated Aug. 9, 1946, ch. 932 (less last sentence); restated Aug. 4, 1949, ch. 393, §13; restated |
| 4353(b) | 10:506c(f) (1st sentence, less last 43 words). | |

| | | |
|---|---|---|
| | | Aug. 18, 1949, ch. 476 (less last sentence), 63 Stat. 615.<br>Aug. 7, 1947, ch. 512, §506(f) (1st sentence, less last 43 words), 61 Stat. 892. |

In subsection (a), the last 27 words are substituted for 10:486a (last sentence). The words "rules and" and "from and after the date of the accrediting of said Academy" are omitted as surplusage. The word "conditions" is substituted for the words "rules and regulations".

In subsection (b), the words "except section 541 of this title" are inserted to reflect the authority to appoint graduates of one service academy as officers of another service.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4353(b) | 10 App.:506c–4(c) (1st sentence). | July 20, 1956, ch. 646, §103(c) (1st sentence), 70 Stat. 583. |

It is unnecessary to include a reference to section 541, since that section does not derogate from the authority granted in this section.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4353 of this title as this section.

**1980**—Subsec. (b). Pub. L. 96–513 inserted "under section 531 of this title" after "Regular Army".

**1958**—Subsec. (b). Pub. L. 85–861 struck out "except section 541 of this title" after "provision of law".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**DEGREES FOR PERSONS WHO GRADUATED BEFORE ACCREDITING OF MILITARY ACADEMY**

Act Aug. 10, 1956, ch. 1041, §35, 70A Stat. 634, provided in part that, under conditions prescribed by the Secretary of the Army, the Superintendent of the United States Military Academy may confer the degree of bachelor of science upon living graduates of the Academy who were graduated before the date of accrediting of the Academy and who have met the requirements of the Academy for that degree.

## §7454. Buildings and grounds: memorial hall; buildings for religious worship

(a) The memorial hall at the Academy is a repository for statues, busts, mural tablets, portraits of distinguished and deceased officers and graduates of the Academy, paintings of battle scenes, trophies of war, and other objects that may tend to elevate the military profession. No object may be placed in this hall without the approval of two-thirds of the members of the Academic Board of the Academy by a recorded vote taken by ayes and nays.

(b) The Secretary of the Army may authorize any denomination, sect, or religious body to erect a building for religious worship on the West Point Military Reservation, if its erection will not interfere with the use of the reservation for military purposes and will be without expense to the

United States. Such a building shall be removed, or its location changed, without compensation for it and without other expense to the United States, by the denomination, sect, or religious body that erected it, whenever in the opinion of the Secretary public or military necessity so requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 245, §4354; renumbered §7454, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4354(a) | 10:1125. | July 23, 1892, ch. 237, §6, 27 Stat. 263. |
| 4354(b) | 10:1126. | July 8, 1898, ch. 636, 30 Stat. 722. |

In subsection (a), the words "and to prevent the introduction of unworthy subjects into this hall" and "entire" are omitted as surplusage.

In subsection (b), the words "in his discretion" and "Government of" are omitted as surplusage. The words "United States" are substituted for the word "Government".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4354 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7455. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chair of the Committee on Armed Services of the Senate, or the designee of such chair;

(2) the ranking member of the Committee on Armed Services of the Senate, or the designee of the ranking member;

(3) two other members of the Senate designated by the Majority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(4) two other members of the Senate designated by the Minority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(5) the chair of the Committee on Armed Services of the House of Representatives, or the designee of such chair;

(6) the ranking member of the Committee on Armed Services of the House of Representatives, or the designee of the ranking member;

(7) two other members of the House of Representatives designated by the Speaker of the House of Representatives, one of whom is a member of the Committee on Appropriations of the House of Representatives;

(8) two other members of the House of Representatives designated by the Minority Leader of the House of Representatives; and

(9) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed by the

President. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Army, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President and the Committees on Armed Services of the Senate and House of Representatives of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President and the Committees on Armed Services of the Senate and House of Representatives within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses.

(i)(1) A majority of the members of the Board may call an official meeting of the Board once per year.

(2) A member may attend such meeting—

(A) in person, at the Academy; or

(B) remotely, at the election of such member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 245, §4355; Pub. L. 96–579, §13(a), Dec. 23, 1980, 94 Stat. 3369; Pub. L. 104–106, div. A, title X, §1061(e)(2), title XV, §1502(a)(12), Feb. 10, 1996, 110 Stat. 443, 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §7455, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 117–81, div. A, title V, §§554(a), 555(a), Dec. 27, 2021, 135 Stat. 1738; Pub. L. 118–159, div. A, title V, §558(a), Dec. 23, 2024, 138 Stat. 1898; Pub. L. 119–60, div. A, title V, §557(a), Dec. 18, 2025, 139 Stat. 879.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4355(a) | 10:1055.<br>10:1056 (1st sentence). | June 29, 1948, ch. 714, §§1–6, 62 Stat. 1094; June 30, 1954, ch. 432, §732, 68 Stat. 356. |
| 4355(b) | 10:1056 (less 1st sentence). | |
| 4355(c) | 10:1057. | |
| 4355(d) | 10:1058. | |
| 4355(e) | 10:1059(a). | |
| 4355(f) | 10:1059(b). | |
| 4355(g) | 10:1059(c). | |
| 4355(h) | 10:1060. | |

In subsections (a) and (b), the word "designated" is substituted for the word "appointed" to make it clear that the positions described are not constitutional offices.

Subsection (b) is substituted for 10:1056(e) (2d sentence).

In subsection (c), the words "during the term for which such member was appointed" and "Such successor shall be appointed * * * who died or resigned" are omitted as surplusage.

In subsection (g), the words "as it may deem necessary or advisable effectuate the duties imposed upon it by the provisions of sections 1055–1060 of this title" are omitted as surplusage.

In subsection (h), the words "called for consultation by the Board in connection with the business of the Board" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Subsec. (a)(8). Pub. L. 119–60 substituted "two other members" for "one other member".

**2024**—Subsec. (a). Pub. L. 118–159, §558(a)(1), added subsec. (a) and struck out former subsec. (a) which related to membership of Board of Visitors.

Subsec. (f). Pub. L. 118–159, §558(a)(2), inserted "and the Committees on Armed Services of the Senate and House of Representatives" after "the President" in two places.

**2021**—Subsec. (b). Pub. L. 117–81, §554(a), substituted "is appointed by the President" for "is appointed".

Subsec. (i). Pub. L. 117–81, §555(a), added subsec. (i).

**2018**—Pub. L. 115–232 renumbered section 4355 of this title as this section.

**1999**—Subsec. (a)(3). Pub. L. 106–65, substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (a)(3). Pub. L. 104–106, §1502(a)(12), substituted "National Security" for "Armed Services".

Subsec. (h). Pub. L. 104–106, §1061(e)(2), struck out "is entitled to not more than $5 a day and" after "each adviser".

**1980**—Subsec. (b). Pub. L. 96–579 required member whose term of office had expired to continue service until appointment of a successor.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7456. Use of certain gifts

Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may (without regard to section 2601 of this title) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the Academy or any entity thereof. The Secretary may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.

(Added Pub. L. 97–295, §1(41)(A), Oct. 12, 1982, 96 Stat. 1297, §4356; renumbered §7456, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4356 | 10:4334 (note). | Sept. 8, 1982, Pub. L. 97–252, §1133(a), 96 Stat. 761. |

The word "Academy" is substituted for "United States Military Academy" for consistency in title 10.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4356 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**APPLICABILITY OF SECTION**

Pub. L. 97–252, title XI, §1133, Sept. 8, 1982, 96 Stat. 761, provided that:

"(a) [Repealed and reenacted as section 4356 (now 7456) of this title by Pub. L. 97–295, §§1(41)(A), 6(b), Oct. 12, 1982, 96 Stat. 1297, 1315.]

"(b) This section applies with respect to any gift, devise, or bequest made on or after the date of the enactment of this Act [Sept. 8, 1982] for the purpose described in subsection (a) [see text of section 7456 of this title] and applies to any such gift, devise, or bequest, or devise made before the date of the enactment of this Act with respect to which the Secretary of the Army has approved application of this section rather than section 2601 of title 10, United States Code."

## §7457. Acceptance of guarantees with gifts for major projects

(a) ACCEPTANCE AUTHORITY.—Subject to subsection (c), the Secretary of the Army may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Academy.

(b) OBLIGATION AUTHORITY.—The amount of a qualified guarantee accepted under this section shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of the funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

(c) NOTICE OF PROPOSED ACCEPTANCE.—The Secretary of the Army may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(d) PROHIBITION ON COMMINGLING OF FUNDS.—The Secretary of the Army may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

(e) DEFINITIONS.—In this section:

(1) MAJOR PROJECT.—The term "major project" means a project for the purchase or other procurement of real or personal property, or for the construction, renovation, or repair of real or personal property, the total cost of which is, or is estimated to be, at least $1,000,000.

(2) QUALIFIED GUARANTEE.—The term "qualified guarantee", with respect to a major project, means a guarantee that—

(A) is made by one or more persons in connection with a donation, specifically for the project, of a total amount in cash or securities that, as determined by the Secretary of the Army, is sufficient to defray a substantial portion of the total cost of the project;

(B) is made to facilitate or expedite the completion of the project in reasonable anticipation that other donors will contribute sufficient funds or other resources in amounts sufficient to pay for completion of the project;

(C) is set forth as a written agreement that provides for the donor to furnish in cash or securities, in addition to the donor's other gift or gifts for the project, any additional amount that may become necessary for paying the cost of completing the project by reason of a failure to obtain from other donors or sources funds or other resources in amounts sufficient to pay the cost of completing the project; and

(D) is accompanied by—

(i) an irrevocable and unconditional standby letter of credit for the benefit of the Academy that is in the amount of the guarantee and is issued by a major United States commercial

bank; or

(ii) a qualified account control agreement.

(3) QUALIFIED ACCOUNT CONTROL AGREEMENT.—The term "qualified account control agreement", with respect to a guarantee of a donor, means an agreement among the donor, the Secretary of the Army, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, at any time that the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(4) MAJOR UNITED STATES COMMERCIAL BANK.—The term "major United States commercial bank" means a commercial bank that—

(A) is an insured bank (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(B) is headquartered in the United States; and

(C) has net assets in a total amount considered by the Secretary of the Army to qualify the bank as a major bank.

(5) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term "major United States investment management firm" means any broker, dealer, investment adviser, or provider of investment supervisory services (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) or section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2)) or a major United States commercial bank that—

(A) is headquartered in the United States; and

(B) holds for the account of others investment assets in a total amount considered by the Secretary of the Army to qualify the firm as a major investment management firm.

(Added Pub. L. 106–65, div. B, title XXVIII, §2871(a)(1), Oct. 5, 1999, 113 Stat. 871, §4357; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(17)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 108–136, div. A, title X, §1031(a)(54), Nov. 24, 2003, 117 Stat. 1603; renumbered §7457, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4357 of this title as this section.

**2003**—Subsec. (c). Pub. L. 108–136 inserted before period at end "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**2000**—Subsec. (e)(5). Pub. L. 106–398 inserted a closing parenthesis after "80b–2)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §7458. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Army may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

(f) REGULATIONS.—The Secretary of the Army shall prescribe regulations for the administration of this section.

(Added Pub. L. 105–261, div. A, title X, §1063(a)(1), Oct. 17, 1998, 112 Stat. 2130, §4358; renumbered §7458, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4358 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7459. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds

(a) AUTHORITY.—In the case of an Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Army may designate funds appropriated to the Department of the Army and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) COVERED PROGRAMS.—In this section, the term "Academy mixed-funded athletic or recreational extracurricular program" means an athletic or recreational extracurricular program of the

Academy to which each of the following applies:

(1) The program is not considered a morale, welfare, or recreation program.

(2) The program is supported through appropriated funds.

(3) The program is supported by a nonappropriated fund instrumentality.

(4) The program is not a private organization and is not operated by a private organization.

(Added Pub. L. 108–375, div. A, title V, §544(a)(1), Oct. 28, 2004, 118 Stat. 1906, §4359; renumbered §7459, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4359 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 108–375, div. A, title V, §544(d), Oct. 28, 2004, 118 Stat. 1907, provided that: "Sections 4359, 6978, and 9359 [now 7459, 8478, and 9459] of title 10, United States Code, shall apply only with respect to funds appropriated for fiscal years after fiscal year 2004."

## §7460. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, §545(a)(1), Oct. 28, 2004, 118 Stat. 1908, §4360; renumbered §7460, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4360 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7461. Policy on sexual harassment and sexual violence

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary

of the Army shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Army, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Army shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(3)(A) The Secretary of Defense may postpone the conduct of an assessment under this subsection if the Secretary determines that conducting such assessment is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary of Defense shall ensure that an assessment postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary of Defense shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(d) ANNUAL REPORT.—(1) The Secretary of the Army shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the Army and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Secretary of the Army shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(e) CONSIDERATION OF REQUEST FOR TRANSFER OF A CADET WHO IS THE VICTIM OF A SEXUAL ASSAULT OR RELATED OFFENSE.—(1) The Secretary of the Army shall provide for timely consideration of and action on a request submitted by a cadet appointed to the United States Military Academy who is the victim of an alleged sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) for transfer to another military service academy or to enroll in a Senior Reserve Officers' Training Corps program affiliated with another institution of higher education.

(2) The Secretary of the Army shall prescribe regulations to carry out this subsection, within guidelines provided by the Secretary of Defense that—

(A) provide that the Superintendent of the United States Military Academy shall ensure that any cadet who has been appointed to the United States Military Academy and who is a victim of an alleged sexual assault or other offense referred to in paragraph (1), is informed of the right to request a transfer pursuant to this section, and that any formal request submitted by a cadet is processed as expeditiously as practicable through the chain of command for review and action by the Superintendent;

(B) direct the Superintendent of the United States Military Academy, in coordination with the Superintendent of the military service academy to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) to approve such request for transfer unless there are exceptional circumstances that require denial of the request; and

(iii) upon approval of such request, to take all necessary and appropriate action to effectuate the transfer of the cadet to the military service academy concerned as expeditiously as possible; and

(C) direct the Superintendent of the United States Military Academy, in coordination with the Secretary of the military department that sponsors the Senior Reserve Officers' Training Corps

program at the institution of higher education to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) subject to the cadet's acceptance for admission to the institution of higher education to which the cadet wishes to transfer, to approve such request for transfer unless there are exceptional circumstances that require denial of the application; and

(iii) to take all necessary and appropriate action to effectuate the cadet's enrollment in the institution of higher education to which the cadet wishes to transfer and to process the cadet for participation in the relevant Senior Reserve Officers' Training Corps program as expeditiously as possible.

(3) If the Superintendent of the United States Military Academy denies a request for transfer under this subsection, the cadet may request review of the denial by the Secretary of the Army, who shall take action on such request not later than 72 hours after receipt of the formal request for review.

(4) The Secretary concerned shall ensure that all records of any request, determination, transfer, or other action under this subsection remain confidential, consistent with applicable law and regulation.

(5) A cadet who transfers under this subsection may retain the cadet's appointment to the United States Military Academy or may be appointed to the military service academy to which the cadet transfers without regard to the limitations and requirements set forth in sections 7442, 8454, and 9442 of this title.

(Added Pub. L. 109–364, div. A, title V, §532(a)(1), Oct. 17, 2006, 120 Stat. 2200, §4361; renumbered §7461, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839; amended Pub. L. 116–92, div. A, title V, §555(a), Dec. 20, 2019, 133 Stat. 1388; Pub. L. 116–283, div. A, title V, §552(b)(1), Jan. 1, 2021, 134 Stat. 3632.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(3). Pub. L. 116–283 added par. (3).

**2019**—Subsec. (e). Pub. L. 116–92 added subsec. (e).

**2018**—Pub. L. 115–232 renumbered section 4361 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d)(4)(B) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### POLICY FOR MILITARY SERVICE ACADEMIES ON SEPARATION OF ALLEGED VICTIMS AND ALLEGED PERPETRATORS IN INCIDENTS OF SEXUAL ASSAULT

Pub. L. 116–283, div. A, title V, §539, Jan. 1, 2021, 134 Stat. 3606, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretaries of the military departments and the Superintendent of each military service academy, prescribe in regulations a policy under which a cadet or midshipman of a military service academy who is the alleged victim of a sexual assault and a cadet or midshipman who is the alleged perpetrator of such assault shall, to the extent practicable, each be given the opportunity to complete their course of study at the academy without—

"(1) taking classes together; or

"(2) otherwise being in close proximity to each other during mandatory activities.

"(b) ELEMENTS.—The Secretary of Defense shall ensure that the policy developed under subsection (a)—

"(1) permits an alleged victim to elect not to be covered by the policy with respect to a particular incident of sexual assault;

"(2) protects the alleged victim as necessary, including by prohibiting retaliatory harassment;

"(3) minimizes the prejudicial impact of the policy, to the extent practicable, on both the alleged victim and the alleged perpetrator, and allows the alleged victim and the alleged perpetrator to complete their course of study at the institution with minimal disruption;

"(4) protects the privacy of both the alleged victim and the alleged perpetrator by ensuring that information about the alleged sexual assault and the individuals involved is not revealed to third parties who are not specifically authorized to receive such information in the course of performing their regular duties, except that such policy shall not preclude the alleged victim or the alleged perpetrator from making such disclosures to third parties; and

"(5) minimizes the burden on the alleged victim when taking steps to separate the alleged victim and alleged perpetrator.

"(c) SPECIAL RULE.—The policy developed under subsection (a) shall not preclude a military service academy from taking other administrative or disciplinary action when appropriate.

"(d) MILITARY SERVICE ACADEMY DEFINED.—In this section, the term 'military service academy' means the following:

"(1) The United States Military Academy.

"(2) The United States Naval Academy.

"(3) The United States Air Force Academy.

"(4) The United States Coast Guard Academy."

## DEVELOPMENT OF RESOURCE GUIDES REGARDING SEXUAL ASSAULT FOR THE MILITARY SERVICE ACADEMIES

Pub. L. 115–232, div. A, title V, §545, Aug. 13, 2018, 132 Stat. 1764, provided that:

"(a) DEVELOPMENT.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], each Superintendent of a military service academy shall develop and maintain a resource guide for students at the respective military service academies regarding sexual assault.

"(b) ELEMENTS.—Each guide developed under this section shall include the following information with regards to the relevant military service academy:

"(1) PROCESS OVERVIEW AND DEFINITIONS.—

"(A) An explanation of prohibited conduct, including examples.

"(B) An explanation of consent.

"(C) Victims' rights.

"(D) Clearly described complaint process, including to whom a complaint may be filed.

"(E) Explanations of restricted and unrestricted reporting.

"(F) List of mandatory reporters.

"(G) Protections from retaliation.

"(H) Assurance that leadership will take appropriate corrective action.

"(I) References to specific policies.

"(J) Resources for survivors.

"(2) EMERGENCY SERVICES.—

"(A) Contact information.

"(B) Location.

"(3) SUPPORT AND COUNSELING.—Contact information for the following support and counseling resources:

"(A) The Sexual Assault Prevention and Response Victim Advocate or other equivalent advocate or counselor available to students in cases of sexual assault.

"(B) The Sexual Harassment/Assault Response and Prevention Resource Program Center.

"(C) Peer counseling.

"(D) Medical care.

"(E) Legal counsel.

"(F) Hotlines.

"(G) Chaplain or other spiritual representatives.

"(c) DISTRIBUTION.—Each Superintendent shall provide the current guide developed by that Superintendent under this section—

"(1) not later than 30 days after completing development under subsection (a) to each student who is enrolled at the military service academy of that Superintendent on the date of the enactment of this Act;

"(2) at the beginning of each academic year after the date of the enactment of this Act to each student who enrolls at the military service academy of that Superintendent; and

"(3) as soon as practicable to a student at the military service academy of that Superintendent who reports that such student is a victim of sexual assault."

**APPLICABILITY OF SEXUAL ASSAULT PREVENTION AND RESPONSE AND RELATED MILITARY JUSTICE ENHANCEMENTS TO MILITARY SERVICE ACADEMIES**

Pub. L. 113–291, div. A, title V, §552(a), Dec. 19, 2014, 128 Stat. 3377, provided that: "The Secretary of the military department concerned shall ensure that the provisions of title XVII of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 950) [see Tables for classification], including amendments made by that title, and the provisions of subtitle D [subtitle D (§§531–547) of title V of div. A of Pub. L. 113–291, see Tables for classification], including amendments made by such subtitle, apply to the United States Military Academy, the Naval Academy, and the Air Force Academy, as applicable."

**PREVENTION OF SEXUAL ASSAULT AT MILITARY SERVICE ACADEMIES**

Pub. L. 113–66, div. A, title XVII, §1746, Dec. 26, 2013, 127 Stat. 983, provided that: "The Secretary of Defense shall ensure that the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy include a section in the curricula of that military service academy that outlines honor, respect, and character development as such pertain to the issue of preventing sexual assault in the Armed Forces. Such curricula section shall include a brief history of the problem of sexual assault in the Armed Forces, a definition of sexual assault, information relating to reporting a sexual assault, victims' rights, and dismissal and dishonorable discharge for offenders. Training in such section in the curricula shall be provided within 14 days after the initial arrival of a new cadet or midshipman at that military service academy and repeated annually thereafter."

**FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES**

Pub. L. 109–364, div. A, title V, §532(b), Oct. 17, 2006, 120 Stat. 2205, provided that:

"(1) USE OF FOCUS GROUPS FOR YEARS WHEN SURVEY NOT REQUIRED.—In any year in which the Secretary of a military department is not required by law to conduct a survey at the service academy under the Secretary's jurisdiction on matters relating to sexual assault and sexual harassment issues at that Academy, the Secretary shall provide for focus groups to be conducted at that Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at that Academy.

"(2) INCLUSION IN REPORT.—Information ascertained from a focus group conducted pursuant to paragraph (1) shall be included in the Secretary's annual report to Congress on sexual harassment and sexual violence at the service academies.

"(3) SERVICE ACADEMIES.—For purposes of this subsection, the term 'service academy' means the following:

"(A) The United States Military Academy.

"(B) The United States Naval Academy.

"(C) The United States Air Force Academy."

## §7462. Support of athletic programs

(a) AUTHORITY.—

(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary of the Army may enter into contracts and cooperative agreements with the Army West Point Athletic Association for the purpose of supporting the athletic programs of the Academy. Notwithstanding section 3201(e) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 3204(a)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the Academy.

(2) FINANCIAL CONTROLS.—(A) Before entering into a contract or cooperative agreement under paragraph (1), the Secretary shall ensure that such contract or agreement includes appropriate financial controls to account for Academy and Association resources in accordance with accepted accounting principles.

(B) Any such contract or cooperative agreement shall contain a provision that allows the

Secretary, at the Secretary's discretion, to review the financial accounts of the Association to determine whether the operations of the Association—

(i) are consistent with the terms of the contract or cooperative agreement; and

(ii) will not compromise the integrity or appearance of integrity of any program of the Department of the Army.

(3) LEASES.—Section 2667(h) of this title shall not apply to any leases the Secretary may enter into with the Association for the purpose of supporting the athletic programs of the Academy.

(b) SUPPORT SERVICES.—

(1) AUTHORITY.—To the extent required by a contract or cooperative agreement under subsection (a), the Secretary may provide support services to the Association while the Association conducts its support activities at the Academy. The Secretary may provide support services described in paragraph (2) only if the Secretary determines that the provision of such services is essential for the support of the athletic programs of the Academy.

(2) SUPPORT SERVICES DEFINED.—(A) In this subsection, the term "support services" includes utilities, office furnishings and equipment, communications services, records staging and archiving, audio and video support, and security systems in conjunction with the leasing or licensing of property.

(B) Such term includes—

(i) housing for Association personnel on United States Army Garrison, West Point, New York; and

(ii) enrollment of dependents of Association personnel in elementary and secondary schools under the same criteria applied to dependents of Federal employees under section 2164(a) of this title, except that educational services provided pursuant to this clause shall be provided on a reimbursable basis.

(3) NO LIABILITY OF THE UNITED STATES.—Any such support services may only be provided without any liability of the United States to the Association.

(c) ACCEPTANCE OF SUPPORT.—

(1) SUPPORT RECEIVED FROM THE ASSOCIATION.—Notwithstanding section 1342 of title 31, the Secretary may accept from the Association funds, supplies, and services for the support of the athletic programs of the Academy. For the purposes of this section, employees or personnel of the Association may not be considered to be employees of the United States.

(2) FUNDS RECEIVED FROM NCAA.—The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic programs of the Academy.

(3) LIMITATION.—The Secretary shall ensure that contributions under this subsection and expenditure of funds pursuant to subsection (e) do not reflect unfavorably on the ability of the Department of the Army, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or compromise the integrity or appearance of integrity of any program of the Department of the Army, or any individual involved in such a program.

(d) TRADEMARKS AND SERVICE MARKS.—

(1) LICENSING, MARKETING, AND SPONSORSHIP AGREEMENTS.—An agreement under subsection (a) may, consistent with section 2260 of this title (other than subsection (d) of such section), authorize the Association to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying the Academy, subject to the approval of the Secretary of the Army.

(2) LIMITATIONS.—No licensing, marketing, or sponsorship agreement may be entered into under paragraph (1) if—

(A) such agreement would reflect unfavorably on the ability of the Department of the Army,

any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

(B) the Secretary determines that the use of the trademark or service mark would compromise the integrity or appearance of integrity of any program of the Department of the Army, or any individual involved in such a program.

(e) RETENTION AND USE OF FUNDS.—Any funds received by the Secretary under this section may be retained for use in support of the athletic programs of the Academy and shall remain available until expended.

(f) SERVICE ON ASSOCIATION BOARD OF DIRECTORS.—The Association is a designated entity for which authorization under sections 1033(a) and 1589(a) of this title may be provided.

(g) CONDITIONS.—The authority provided in this section with respect to the Association is available only so long as the Association continues—

(1) to qualify as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 and operates in accordance with this section, the law of the State of New York, and the constitution and bylaws of the Association; and

(2) to operate exclusively to support the athletic programs of the Academy.

(h) ASSOCIATION DEFINED.—In this section, the term "Association" means the Army West Point Athletic Association.

(Added Pub. L. 114–92, div. A, title V, §557(a), Nov. 25, 2015, 129 Stat. 825, §4362; renumbered §7462, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839; amended Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (g)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

### PRIOR PROVISIONS

A prior section 7471, act Aug. 10, 1956, ch. 1041, 70A Stat. 462, related to appointments in professional and scientific service, prior to repeal by Pub. L. 85–861, §36B(23), Sept. 2, 1958, 72 Stat. 1571.

Prior sections 7472 and 7473 were renumbered sections 8742 and 8743 of this title, respectively.

A prior section 7474, act Aug. 10, 1956, ch. 1041, 70A Stat. 463, related to establishment of wage rates for employees by Secretary of Navy, prior to repeal by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 663.

A prior section 7475, act Aug. 10, 1956, ch. 1041, 70A Stat. 463, restricted increasing of forces at naval activities prior to national elections, prior to repeal by Pub. L. 86–148, §1(1), Aug. 7, 1959, 73 Stat. 302.

Prior sections 7476 to 7480 were renumbered sections 8746 to 8750 of this title, respectively.

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283 substituted "section 3201(e)" for "section 2304(k)" and "section 3204(a)(5)" for "section 2304(c)(5)".

**2018**—Pub. L. 115–232 renumbered section 4362 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

# CHAPTER 757—SCHOOLS AND CAMPS

Sec.
7481. Establishment: purpose.
7482. Operation.
7483. Transportation and subsistence during travel.
7484. Quartermaster and ordnance property: sales.
7486. Academy of Health Sciences: admission of civilians in physician assistant training program.
7487. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 407 of this title as this chapter and items 4411 to 4417 as 7481 to 7487, respectively.

**2006**—Pub. L. 109–163, div. A, title V, §522(b)(2), Jan. 6, 2006, 119 Stat. 3241, added item 4417.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §911(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–228, struck out item 4415 "United States Army School of the Americas".

**1997**—Pub. L. 105–85, div. A, title VII, §741(a)(2), Nov. 18, 1997, 111 Stat. 1817, added item 4416.

**1987**—Pub. L. 100–180, div. A, title III, §319(a)(2), Dec. 4, 1987, 101 Stat. 1077, added item 4415.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**PLAN FOR ADDITIONAL SKILL IDENTIFIERS FOR ARMY MOUNTAIN WARFARE SCHOOL**

Pub. L. 118–159, div. A, title X, §1086, Dec. 23, 2024, 138 Stat. 2079, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Army shall develop and implement a plan to establish. [sic] with regards to courses at the Army Mountain Warfare School, each of the following:

"(1) Additional skill identifiers for—

"(A) enlisted members who complete the—

"(i) Advanced Military Mountaineer Course (Summer);

"(ii) Advanced Military Mountaineer Course (Winter);

"(iii) Rough Terrain Evacuation Course; or

"(iv) Mountain Rifleman Course;

"(B) warrant officers who complete the Basic Military Mountaineer Course; and

"(C) enlisted members and warrant officers who complete the Mountain Planner Course.

"(2) New skill identifiers for commissioned officers who complete the Basic Military Mountaineer Course or the Mountain Planner Course.

"(b) BRIEFING ON PLAN.—Not later than 30 days after the date on which the Secretary completes the plan under subsection (a), the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the plan and the implementation of the plan."

## §7481. Establishment: purpose

The Secretary of the Army may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Army and civilians, to qualify them for appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Army Reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 249, §4411; renumbered §7481, Pub. L. 115–232, div. A, title VIII, §808(c)(2), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4411 | 10:442 (words before 1st semicolon of 1st sentence). | June 3, 1916, ch. 134, §47d (words before 1st semicolon of 1st sentence); added June 4, 1920, ch. 227, subch. I, §34 (words before 1st semicolon of 1st sentence of last par.), 41 Stat. 779. |

The words "upon military reservations or elsewhere" are omitted as surplusage. The words "or enlistment as" are inserted for clarity. The words "of the Army" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4411 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7482. Operation

In maintaining schools and camps established under section 7481 of this title, the Secretary of the Army may—

(1) prescribe the periods during which they will be operated;

(2) prescribe regulations for their administration;

(3) prescribe the courses to be taught;

(4) detail members of the Regular Army to designated duties relating to the camps;

(5) use necessary supplies and transportation;

(6) furnish uniforms, subsistence, and medical attendance and supplies to persons attending the camps; and

(7) authorize necessary expenditures from proper Army funds for—

(A) water;

(B) fuel;

(C) light;

(D) temporary structures, except barracks and officers' quarters;

(E) screening;

(F) damages resulting from field exercises;

(G) expenses incident to theoretical winter instruction of trainees; and

(H) other expenses incident to maintaining the camps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 249, §4412; renumbered §7482 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(2), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4412 | 10:442 (47 words after 1st semicolon, and 72 words | June 3, 1916, ch. 134, §47d (47 words after 1st semicolon, and 72 words |

| | | |
|---|---|---|
| | before 3d semicolon, of 1st sentence; and last sentence). | before 3d semicolon, of 1st sentence; and last sentence); added June 4, 1920, ch. 227, subch. I, §34 (47 words after 1st semicolon, and 72 words before 3d semicolon, of 1st sentence; and last sentence of last par.), 41 Stat. 779. |

The word "supplies" is substituted for the words "such arms, ammunition, accoutrements, equipments, tentage, field equipage", since, under the definition of the word "supplies", in section 101(26) of this title, those words are covered by the word "supplies". The words "belonging to the United States", "and imparting military instruction and training thereat", "during the period of their attendance", "theoretical and practical instruction", "persons attending the camps authorized by this section", and "as he may deem" are omitted as surplusage. The word "detail" is substituted for the word "employ". The word "members" is substituted for the words "officers, warrant officers, and enlisted men".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 7481" for "section 4411" in introductory provisions.
Pub. L. 115–232, §808(c)(2), renumbered section 4412 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7483. Transportation and subsistence during travel

(a) There may be furnished to a person attending a school or camp established under section 7481 of this title, for travel to and from that school or camp—

(1) transportation and subsistence;
(2) transportation in kind and a subsistence allowance of one cent a mile; or
(3) a travel allowance of five cents a mile.

(b) The travel allowance for the return trip may be paid in advance.

(c) For the purposes of this section, distance is computed by the shortest usually traveled route, within such territorial limits as the Secretary of the Army may prescribe, from the authorized starting point to the school or camp and return.

(Aug. 10, 1956, ch. 1041, 70A Stat. 250, §4413; renumbered §7483 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(2), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4413 | 10:442 (words between 1st and 3d semicolons, less 47 words after 1st semicolon and less 72 words before 3d semicolon, of 1st sentence). | June 3, 1916, ch. 134, §47d (words between 1st and 3d semicolons, less 47 words after 1st semicolon, and less 72 words before 3d semicolon, of 1st sentence); added June 4, 1920, ch. 227, §34 (words between 1st and 3d semicolons, less 47 words after |

| | | |
|---|---|---|
| | | 1st semicolon, and less 72 words before 3d semicolon, of 1st sentence of last par.), 41 Stat. 779; Mar. 9, 1928, ch. 161, 45 Stat. 251. |

In subsection (a), the introductory clause is inserted for clarity. The words "at the option of the Secretary of the Army" are omitted as surplusage.

In subsection (b), the words "of the actual performance of the same" are omitted as surplusage.

Subsection (c) is substituted for the words "the most usual and direct route within such limits as to territory as the Secretary of the Army may prescribe * * * for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp, and for the return travel thereto".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(c)(2), renumbered section 4413 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 7481" for "section 4411" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7484. Quartermaster and ordnance property: sales

The Secretary of the Army may sell to a person attending a school or camp established under section 7481 of this title quartermaster and ordnance property necessary for his proper equipment. Sales under this section shall be for cash.

(Aug. 10, 1956, ch. 1041, 70A Stat. 250, §4414; renumbered §7484 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(2), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4414 | 10:442 (words after 3d semicolon of 1st sentence; and 2d sentence). | June 3, 1916, ch. 134, §47d (words after 3d semicolon of 1st sentence; and 2d sentence); added June 4, 1920, ch. 227, §34 (words after 3d semicolon of 1st sentence; and 2d sentence of last par.), 41 Stat. 779. |

10:442 (2d sentence) is omitted, as superseded by section 10 of the Act of June 26, 1934, ch. 756, 48 Stat. 1229 (31 U.S.C. 725i), which limits credits to the replacing account to the actual cost of the items sold. The words "necessary for his proper equipment" are substituted for 10:442 (last 22 words of 1st sentence). The words "and at cost price, plus 10 per centum" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 7481" for "section 4411".
Pub. L. 115–232, §808(c)(2), renumbered section 4414 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7486. Academy of Health Sciences: admission of civilians in physician assistant training program

(a) IN GENERAL.—The Secretary of the Army may, pursuant to an agreement entered into with an accredited institution of higher education—

(1) permit students of the institution to attend the didactic portion of the physician assistant training program conducted by the Army Medical Department at the Academy of Health Sciences at Fort Sam Houston, Texas; and

(2) accept from the institution academic services to support the physician assistant training program at the Academy.

(b) AGREEMENT FOR EXCHANGE OF SERVICES.—An agreement entered into with an institution of higher education under this section shall require the institution, in exchange for services provided under paragraph (1) of subsection (a), to provide academic services described in paragraph (2) of such subsection that the Secretary and authorized representatives of the institution consider appropriate.

(c) SELECTION OF STUDENTS.—In consultation with the authorized representatives of the institution of higher education concerned, the Secretary shall prescribe the qualifications and methods of selection for students of the institution to receive instruction at the Academy under this section. The qualifications shall be comparable to those generally required for admission to the physician assistant training program at the Academy.

(d) RULES OF ATTENDANCE.—Except as the Secretary determines necessary, a student who receives instruction at the Academy under this section shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to other persons attending the Academy.

(e) LIMITATIONS.—The Secretary shall ensure the following:

(1) That the Army Medical Department, in carrying out an agreement under this section, does not incur costs in excess of the costs that the department would incur to obtain, by means other than the agreement, academic services that are comparable to those provided by the institution pursuant to the agreement.

(2) That attendance of civilian students at the Academy under this section does not cause a decrease in the number of members of the armed forces enrolled in the physician assistant training program at the Academy.

(Added Pub. L. 105–85, div. A, title VII, §741(a)(1), Nov. 18, 1997, 111 Stat. 1816, §4416; amended Pub. L. 107–314, div. A, title X, §1041(a)(19), Dec. 2, 2002, 116 Stat. 2645; renumbered §7486, Pub. L. 115–232, div. A, title VIII, §808(c)(2), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4416 of this title as this section.

**2002**—Subsec. (f). Pub. L. 107–314 struck out heading and text of subsec. (f). Text read as follows:

"(1) Each year, the Secretary shall submit to Congress a report on the exchange of services under this section during the year. The report shall contain the following:

"(A) The number of civilian students who receive instruction at the Academy under this section.

"(B) An assessment of the benefits derived by the United States.

"(2) Reports are required under paragraph (1) only for years during which an agreement is in effect under this section."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7487. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Army may authorize the Commandant of the United States Army War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Army War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(b)(1), Jan. 6, 2006, 119 Stat. 3240, §4417; renumbered §7487, Pub. L. 115–232, div. A, title VIII, §808(c)(2), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7521, act Aug. 10, 1956, ch. 1041, 70A Stat. 464, authorized Secretary of the Navy to make partial payments during progress of work done under contract, and directed that paramount lien on thing contracted for accrues to United States on account of payments so made, prior to repeal by Pub. L. 103–355, title II, §2001(j)(1), title X, §10001, Oct. 13, 1994, 108 Stat. 3303, 3404, subject to effective date and applicability provisions set out as a note under section 2302 of this title. See section 3808 of this title.

Prior sections 7522 to 7524 were renumbered sections 8752 to 8754 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4417 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# PART IV—SERVICE, SUPPLY, AND PROCUREMENT


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| **763.** | **Procurement** | **7532** |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(f)(2), Aug. 13, 2018, 132 Stat. 1839, redesignated items for chapters 433 to 453 as 763 to 783 and redesignated section numbers 4531 to 4831 as 7532 to 7831. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2011**—Pub. L. 112–81, div. A, title V, §591(a)(2), Dec. 31, 2011, 125 Stat. 1441, added item for chapter 446.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §344(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–71, added item for chapter 434.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(7), Oct. 5, 1999, 113 Stat. 695, substituted "Disposition" for "Inquests; Disposition" and "4712" for "4711" in item for chapter 445.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(2), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 431 "Industrial Mobilization, Research, and Development".

## CHAPTER 763—PROCUREMENT


Sec.

7532. Factories and arsenals: manufacture at.

7536. Equipment: post bakeries, schools, kitchens, and mess halls.

7540. Architectural and engineering services.

7541. Army arsenals: treatment of unutilized or underutilized plant-capacity costs.

7542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.

7543. Army industrial facilities: sales of manufactured articles or services outside Department of Defense.

7544. Army industrial facilities: cooperative activities with non-Army entities.


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated

chapter 433 of this title as this chapter and items 4532 to 4544 as 7532 to 7544, respectively.

**2014**—Pub. L. 113–291, div. A, title III, §323(b), Dec. 19, 2014, 128 Stat. 3343, added item 4532 and struck out former item 4532 "Factories and arsenals: manufacture at; abolition of".

**2004**—Pub. L. 108–375, div. A, title III, §353(b), Oct. 28, 2004, 118 Stat. 1861, added item 4544.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §342(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–65, added item 4541.

**1993**—Pub. L. 103–160, div. A, title I, §158(a)(2), title VIII, §828(a)(5), Nov. 30, 1993, 107 Stat. 1582, 1713, struck out items 4531 "Authorization", 4533 "Army ration", 4534 "Subsistence supplies: contract stipulations; place of delivery on inspection", 4535 "Exceptional subsistence supplies: purchase without advertising", 4537 "Military surveys and maps: assistance of United States mapping agencies", 4538 "Unserviceable ammunition: exchange and reclamation", and 4541 "Gratuitous services of officers of the Army Reserve" and added item 4543.

**1986**—Pub. L. 99–500, §101(c) [title IX, §9036(b)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–108, and Pub. L. 99–591, §101(c) [title IX, §9036(b)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–108; Pub. L. 99–661, div. A, title XII, §1203(a)(2), Nov. 14, 1986, 100 Stat. 3969, amended analysis identically adding item 4542.

**1982**—Pub. L. 97–258, §2(b)(9)(A), Sept. 13, 1982, 96 Stat. 1056, added item 4541.

**1970**—Pub. L. 91–482, §2A, Oct. 21, 1970, 84 Stat. 1082, struck out item 4539 "Horses and mules".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### AUTHORITY FOR GOVERNMENT-OWNED, GOVERNMENT-OPERATED FACILITIES TO ACCESS PRODUCTION BASE SUPPORT FUNDS

Pub. L. 118–159, div. A, title III, §335, Dec. 23, 2024, 138 Stat. 1856, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall prescribe regulations providing that Government-owned, Government-operated facilities are eligible to receive production base support funding from the Army."

### ANTI-LOCK BRAKE SYSTEM AND ELECTRONIC STABILITY CONTROL KIT FOR CERTAIN ARMY VEHICLES

Pub. L. 118–159, div. A, title III, §355, Dec. 23, 2024, 138 Stat. 1859, provided that:

"(a) REQUIREMENT.—By not later than September 30, 2033, the Secretary of the Army shall ensure that all high-mobility multipurpose wheeled vehicles of the Army are equipped with an anti-lock brake system and electronic stability control kit.

"(b) PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Army shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a plan to carry out subsection (a). Such plan shall include each of the following:

"(1) A description of the steps required to increase production of anti-lock brake systems and electronic stability control kits and retrofit high-mobility multipurpose wheeled vehicles at Red River Army Depot, Texas, and its associated flyaway teams.

"(2) An identification of any challenges to meeting the requirement under subsection (a) and a list of steps required to address those challenges.

"(3) An estimated monthly rate of retrofits needed to meet the requirement under subsection (a).

"(4) A funding plan for carrying out the steps referred to in paragraphs (1) and (2).

"(5) An identification of any authorities or funding required for any secondary destination transportation necessary to carry out the plan.

"(c) ANNUAL CERTIFICATION.—Not later than each of March 1, 2025, March 1, 2026, and March 1, 2027, the Secretary of the Army shall certify to the congressional defense committees that the budget of the Army will enable the Army to meet the requirement under subsection (a)."

### DESIGNATION OF PROGRAM EXECUTIVE OFFICE FOR ACQUISITION OF OPEN-SOURCE INTELLIGENCE TOOLS FOR ARMY

Pub. L. 118–159, div. A, title VIII, §840, Dec. 23, 2024, 138 Stat. 1990, provided that:

"(a) IN GENERAL.—The Secretary of the Army may designate an existing program executive office within the Army to be responsible for the acquisition of open-source intelligence tools for the Army.

"(b) RESPONSIBILITIES.—If the Secretary of the Army designates an existing program office under subsection (a), that office shall be responsible for the selection, procurement, and evaluation of open-source intelligence tools for the Army.

"(c) OPEN-SOURCE INTELLIGENCE TOOLS DEFINED.—In this section, the term 'open-source intelligence tools' has the meaning given that term in section 430b(d) of title 10, United States Code."

**PILOT PROGRAM TO FACILITATE ACCESS TO ADVANCED TECHNOLOGY DEVELOPED BY SMALL BUSINESSES FOR GROUND VEHICLE SYSTEMS OF THE ARMY**

Pub. L. 118–31, div. A, title II, §232, Dec. 22, 2023, 137 Stat. 205, provided that:

"(a) PROGRAM REQUIRED.—Beginning not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of the Army shall carry out a pilot program under which the Secretary seeks to facilitate a contract between the Ground Vehicle Systems Center of the Army and a non-profit research institute for the purposes of improving the ability of the Center to access advanced technology developed by a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)). Any such contract shall be a commercial solutions opening contract entered into pursuant to section 3458 of title 10, United States Code.

"(b) TERMINATION.—The authority to carry out the pilot program under this section shall terminate five years after the date of the enactment of this Act."

**CONTINUATION OF SOLDIER ENHANCEMENT PROGRAM**

Pub. L. 117–81, div. A, title I, §114, Dec. 27, 2021, 135 Stat. 1567, provided that:

"(a) REQUIREMENT TO CONTINUE PROGRAM.—The Secretary of the Army, acting through the Assistant Secretary of the Army for Acquisition, Logistics, and Technology in accordance with subsection (b), shall continue to carry out the Soldier Enhancement Program established pursuant to section 203 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Sat. 1394 [probably should be "103 Stat. 1394"]).

"(b) RESPONSIBLE OFFICIAL.—The Secretary of the Army shall designate the Assistant Secretary of the Army for Acquisition, Logistics, and Technology as the official in the Department of the Army with principal responsibility for the management of the Soldier Enhancement Program under subsection (a).

"(c) DUTIES.—The duties of the Soldier Enhancement Program shall include the identification, research, development, test, and evaluation of commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) and software applications to accelerate the efforts of the Army to integrate, modernize, and enhance weapons and equipment for use by Army soldiers, including—

"(1) lighter, more lethal weapons; and

"(2) support equipment, including lighter, more comfortable load-bearing equipment, field gear, combat clothing, survivability items, communications equipment, navigational aids, night vision devices, tactical power, sensors, and lasers."

**MILITARY STANDARDS FOR ARMOR MATERIALS IN VEHICLE SPECIFICATIONS**

Pub. L. 117–81, div. A, title VIII, §878, Dec. 27, 2021, 135 Stat. 1867, provided that:

"(a) IN GENERAL.—Not later than June 30, 2022, the Secretary of the Army shall establish technical specification standards for all metal and non-metal armor for incorporation into specifications for current and future armored vehicles developed or procured by the Department of the Army.

"(b) REPORT REQUIRED.—

"(1) IN GENERAL.—On the date on which the standards described in subsection (a) are established under such subsection, the Secretary of the Army shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report describing—

"(A) the establishment of such standards; and

"(B) the strategy for incorporating such standards as requirements for armored vehicles developed and procured by the Department of the Army.

"(2) FORM.—The report required by paragraph (1) shall be in an unclassified form, but may include a classified annex.

"(c) ARMORED VEHICLE DEFINED.—For purposes of this section, the term 'armored vehicle' means a tracked or wheeled tactical vehicle incorporating armor in its manufacture."

## §7532. Factories and arsenals: manufacture at

The Secretary of the Army shall have supplies needed for the Department of the Army made in factories or arsenals owned by the United States, so far as those factories or arsenals can make those supplies on an economical basis.

(Aug. 10, 1956, ch. 1041, 70A Stat. 254, §4532; Pub. L. 113–291, div. A, title III, §323(a), Dec. 19, 2014, 128 Stat. 3343; renumbered §7532, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4532(a) | 5:181–4(e). | June 28, 1950, ch. 383, §101(e), 64 Stat. 264. |
| 4532(b) | 50:55. | R.S. 1666. |

The words "Except as otherwise provided by law", in 5:181–4(e), are omitted, since there is no law within the scope of the exception. The word "made" is substituted for the words "manufactured or produced". The words "United States" are substituted for the word "Government", in 5:181–4(e). The words "which he considers" are substituted for the words "as, in his judgment", in 50:55. The words "useless or", in 50:55, are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4532 of this title as this section.

**2014**—Pub. L. 113–291 struck out "; abolition of" after "manufacture at" in section catchline, struck out subsec. (a) designation before "The Secretary", and struck out subsec. (b) which read as follows: "The Secretary may abolish any United States arsenal that he considers unnecessary".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7536. Equipment: post bakeries, schools, kitchens, and mess halls

Money necessary for the following items for the use of enlisted members of the Army may be spent from appropriations for regular supplies:

(1) Equipment for post bakeries.

(2) Furniture, textbooks, paper, and equipment for post schools.

(3) Tableware and mess furniture for kitchens and mess halls.

(Aug. 10, 1956, ch. 1041, 70A Stat. 254, §4536; renumbered §7536, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4536 | 10:1334. | June 13, 1890, ch. 423 (1st proviso under "Quartermaster's Department"), 26 Stat. 152. |

The words "Money necessary * * * may be spent" are substituted for the words "There may be expended * * * the amounts required". The word "bakeries" is substituted for the words "bake house to carry on post bakeries". The words "each and all" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4536 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7540. Architectural and engineering services

(a) Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Army are inadequate, the Secretary of the Army may, by contract or otherwise, employ the architectural or engineering services of any person outside that Department for producing and delivering designs, plans, drawings, and specifications needed for any public works or utilities project of the Department.

(b) The fee for any service under this section may not be more than 10 percent of the estimated cost, as determined by the Secretary, of the project to which it applies.

(c) Sections 305, 3324, and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5 do not apply to employment under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 255, §4540; Pub. L. 89–718, §28, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 95–454, title VII, §703(c)(3), title VIII, §801(a)(3)(I), Oct. 13, 1978, 92 Stat. 1217, 1222; Pub. L. 96–513, title V, §512(16), Dec. 12, 1980, 94 Stat. 2930; renumbered §7540, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 118–31, div. B, title XXVIII, §2881(a), Dec. 22, 2023, 137 Stat. 780.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4540(a) | 5:221 (1st sentence, less last 15 words). | Aug. 7, 1939, ch. 511, §2, 53 Stat. 1240. |
| 4540(b) | 5:221 (less 1st sentence). | |
| 4540(c) | 5:221 (last 15 words of 1st sentence). | |

In subsection (a), the words "and providing that in the opinion" are omitted as covered by the words "whenever he considers". The words "needed for" are substituted for the words "required for the accomplishment of".

In subsection (c), reference is made in substance to the Classification Act of 1949, instead of the Classification Act of 1923 referred to in the source statute, since section 1106(a) of the Classification Act of 1949, 63 Stat. 972, provides that all references in other acts to the Classification Act of 1923 should be considered to refer to the Classification Act of 1949.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31 substituted "10 percent" for "6 percent".

**2018**—Pub. L. 115–232 renumbered section 4540 of this title as this section.

**1980**—Subsec. (c). Pub. L. 96–513 substituted "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5" for "5101–5115, 5331–5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of title 5".

**1978**—Subsec. (c). Pub. L. 95–454, §801(a)(3)(I), inserted reference to subchapter VI of chapter 53 of title 5.

Pub. L. 95–454, §703(c)(3), substituted "7204" for "7154".

**1966**—Subsec. (c). Pub. L. 89–718 substituted "Sections 305, 3324, 5101–5115, 5331–5338, 5341, 5342, and 7154 of title 5" for "Sections 1071–1153 of title 5".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

Amendment by section 801(a)(3)(I) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of Title 5.

## §7541. Army arsenals: treatment of unutilized or underutilized plant-capacity costs

(a) ESTIMATE OF COSTS.—The Secretary of the Army shall include in the budget justification documents submitted to Congress in support of the President's budget for a fiscal year submitted under section 1105 of title 31 an estimate of the funds to be required in that fiscal year to cover unutilized and underutilized plant-capacity costs at Army arsenals.

(b) USE OF FUNDS.—Funds appropriated to the Secretary of the Army for a fiscal year to cover unutilized and underutilized plant-capacity costs at Army arsenals shall be used in such fiscal year only for such costs.

(c) TREATMENT OF COSTS.—(1) The Secretary of the Army shall not include unutilized and underutilized plant-capacity costs when evaluating the bid of an Army arsenal for purposes of the arsenal's contracting to provide a good or service to a Government agency.

(2) When an Army arsenal is serving as a subcontractor to a private-sector entity with respect to a good or service to be provided to a Government agency, the cost charged by the arsenal shall not include unutilized and underutilized plant-capacity costs that are funded by a direct appropriation.

(d) DEFINITIONS.—In this section:

(1) The term "Army arsenal" means a Government-owned, Government-operated defense plant of the Department of the Army that manufactures weapons, weapon components, or both.

(2) The term "unutilized and underutilized plant-capacity costs" means the costs associated with operating and maintaining the facilities and equipment of an Army arsenal that the Secretary of the Army determines are required to be kept for mobilization needs, in those months in which the facilities and equipment are not used or are used only 20 percent or less of available work days.

(Added Pub. L. 106–398, §1 [[div. A], title III, §342(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–64, §4541; renumbered §7541, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7541 to 7541b were renumbered sections 8761 to 8761b of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4541 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

(2) to assist a foreign country in producing such a defense item.

(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

(2) the Secretary of the Army determines that such action—

(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned, except as provided in subsection (e); and

(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c) or (d).

(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

(3) subject to such exceptions as may be approved under subsection (f), prohibit transfer by the participating foreign country to a third party or country of—

(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

(B) any defense article produced by the participating foreign country under the agreement; and

(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

(d) COOPERATIVE PROJECT AGREEMENTS.—An agreement under this subsection is a cooperative project agreement under section 27 of the Arms Export Control Act (22 U.S.C. 2767) which includes provisions that—

(1) for development phases describe the technical data to be transferred and for the production

phase prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

(2) require that at least the United States production of the defense item to which the technical data package or assistance relates be carried out by the arsenal concerned; and

(3) require the Secretary of Defense to monitor compliance with the agreement.

(e) LICENSING FEES AND ROYALTIES.—The limitation in subsection (b)(2)(B) shall not apply if the technology (or production technique) transferred is subject to nonexclusive license and payment of any negotiated licensing fee or royalty that reflects the cost of development, implementation, and prove-out of the technology or production technique. Any negotiated license fee or royalty shall be placed in the operating fund of the arsenal concerned for the purpose of capital investment and technology development at that arsenal.

(f) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (c)(3) may be made if—

(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program or a cooperative project in which the United States and the participating foreign country were partners; or

(2) the President—

(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

(g) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

(2) The Secretary shall submit to Congress a semi-annual report on the operation of this section and of agreements entered into under this section.

(h) ARSENAL DEFINED.—In this section, the term "arsenal" means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.

(Added Pub. L. 99–500, §101(c) [title IX, §9036(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–107, and Pub. L. 99–591, §101(c) [title IX, §9036(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–107, §4542; Pub. L. 99–661, div. A, title XII, §1203(a)(1), Nov. 14, 1986, 100 Stat. 3968; amended Pub. L. 101–189, div. A, title VIII, §806, Nov. 29, 1989, 103 Stat. 1489; Pub. L. 102–190, div. A, title X, §§1061(a)(24), 1086, Dec. 5, 1991, 105 Stat. 1473, 1483; renumbered §7542, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

### PRIOR PROVISIONS

A prior section 7542 was renumbered section 8762 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4542 of this title as this section.

**1991**—Subsec. (b)(1). Pub. L. 102–190, §1086(a), substituted "friendly foreign country" for "member nation of the North Atlantic Treaty Organization or a country designated as a major non-NATO ally".

Subsec. (c)(3). Pub. L. 102–190, §§1061(a)(24)(A), 1086(b)(1), amended par. (3) identically, substituting "subsection (f)" for "subsection (d)" in introductory provisions.

Subsec. (f). Pub. L. 102–190, §§1061(a)(24)(B), 1086(b)(2), amended subsec. identically, substituting "subsection (c)(3)" for "subsection (b)(3)" in introductory provisions.

**1989**—Subsec. (b)(1). Pub. L. 101–189, §806(a)(1), substituted "a member nation of the North Atlantic

Treaty Organization or a country designated as a major non-NATO ally" for "a friendly foreign country".

Subsec. (b)(2)(B). Pub. L. 101–189, §806(a)(2), inserted ", except as provided in subsection (e)" after "arsenal concerned".

Subsec. (b)(3). Pub. L. 101–189, §806(a)(3), inserted "or (d)" after "subsection (c)".

Subsecs. (d), (e). Pub. L. 101–189, §806(b)(2), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 101–189, §806(b)(1), redesignated subsec. (d) as (f). Former subsec. (f) redesignated (h).

Subsec. (f)(1). Pub. L. 101–189, §806(c), inserted "or a cooperative project" after "cooperative research and development program".

Subsecs. (g), (h). Pub. L. 101–189, §806(b)(1), redesignated subsecs. (e) and (f) as (g) and (h), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 99–500, §101(c) [title IX, §9036(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–108, Pub. L. 99–591, §101(c) [title IX, §9036(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–108, and Pub. L. 99–661, div. A, title XII, §1203(b), Nov. 14, 1986, 100 Stat. 3969, provided that: "Section 4542 [now 7542] of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986."

**RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661**

For rule of construction for certain duplicate provisions of Public Laws 99–500, 99–591, and 99–661, see Pub. L. 100–26, §6, Apr. 21, 1987, 101 Stat. 274, set out as a note under section 101 of this title.

## §7543. Army industrial facilities: sales of manufactured articles or services outside Department of Defense

(a) AUTHORITY TO SELL OUTSIDE DOD.—Regulations under section 2208(h) of this title shall authorize a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to sell manufactured articles or services to a person outside the Department of Defense if—

(1) in the case of an article, the article is sold to a United States manufacturer, assembler, developer, or other concern—

(A) for use in developing new products;

(B) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States;

(C) for incorporation into items to be sold to, or to be used in a contract with, or to be used for purposes of soliciting a contract with, a friendly foreign government; or

(D) for use in commercial products;

(2) in the case of an article, the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

(3) the sale is to be made on a basis that does not interfere with performance of work by the facility for the Department of Defense or for a contractor of the Department of Defense;

(4) in the case of services, the services are related to an article authorized to be sold under this section and are to be performed in the United States for the purchaser;

(5) the Secretary of the Army determines that the articles or services are not available from a

commercial source located in the United States;

(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

(8) it is in the public interest to manufacture such article or perform such service; and

(9) the sale will not interfere with performance of the military mission of the industrial facility.

(b) ADDITIONAL REQUIREMENTS.—The regulations shall also—

(1) require that the authority to sell articles or services under the regulations be exercised at the level of the commander of the major subordinate command of the Army with responsibility over the facility concerned;

(2) authorize a purchaser of articles or services to use advance incremental funding to pay for the articles or services; and

(3) in the case of a sale of commercial articles or commercial services in accordance with subsection (a) by a facility that manufactures large caliber cannons, gun mounts, or recoil mechanisms, or components thereof, authorize such facility—

(A) to charge the buyer, at a minimum, the variable costs that are associated with the commercial articles or commercial services sold;

(B) to enter into a firm, fixed-price contract or, if agreed by the buyer, a cost reimbursement contract for the sale; and

(C) to develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the commercial articles or commercial services sold.

(c) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(d) DEFINITIONS.—In this section:

(1) The term "commercial article" means an article that is usable for a nondefense purpose.

(2) The term "commercial service" means a service that is usable for a nondefense purpose.

(3) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(4) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

(Added Pub. L. 103–160, div. A, title I, §158(a)(1), Nov. 30, 1993, 107 Stat. 1581, §4543; amended Pub. L. 103–337, div. A, title I, §141, Oct. 5, 1994, 108 Stat. 2688; renumbered §7543, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7543 was renumbered section 8763 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4543 of this title as this section.

**1994**—Subsec. (a). Pub. L. 103–337 struck out "nondefense-related commercial" after "sell manufactured" in introductory provisions and added pars. (5) to (9).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### REGULATIONS

Pub. L. 103–160, div. A, title I, §158(c), Nov. 30, 1993, 107 Stat. 1582, provided that: "Regulations under subsection (b) of section 4543 [now 7543] of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 30 days after the date of the enactment of this Act [Nov. 30, 1993]."

### PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES

Pub. L. 107–314, div. A, title I, §111(c), Dec. 2, 2002, 116 Stat. 2473, directed the Inspector General of the Department of Defense to review the experience under the pilot program carried out under section 141 of Pub. L. 105–85 (formerly set out below) and, not later than July 1, 2003, submit to Congress a report on the results of the review.

Pub. L. 105–85, div. A, title I, §141, Nov. 18, 1997, 111 Stat. 1652, as amended by Pub. L. 106–65, div. A, title I, §115, Oct. 5, 1999, 113 Stat. 533; Pub. L. 107–107, div. A, title I, §112, Dec. 28, 2001, 115 Stat. 1029; Pub. L. 107–314, div. A, title I, §111(a), (b), Dec. 2, 2002, 116 Stat. 2473; Pub. L. 108–375, div. A, title VIII, §844, Oct. 28, 2004, 118 Stat. 2019, provided that during fiscal years 1998 through 2009, the Secretary of the Army was to carry out a pilot program to test the efficacy and appropriateness of selling manufactured articles and services of Army industrial facilities under this section without regard to the availability of the articles and services from United States commercial sources, with a report due to Congress by the Inspector General by July 1, 1999.

## §7544. Army industrial facilities: cooperative activities with non-Army entities

(a) COOPERATIVE ARRANGEMENTS AUTHORIZED.—A working-capital funded Army industrial facility may enter into a contract or other cooperative arrangement with a non-Army entity to carry out with the non-Army entity a military or commercial project described in subsection (b), subject to the conditions prescribed in subsection (c).

(b) AUTHORIZED ACTIVITIES.—A cooperative arrangement entered into by an Army industrial facility under subsection (a) may provide for any of the following activities:

(1) The sale of articles manufactured by the facility or services performed by the facility to persons outside the Department of the Army.

(2) The performance of work by a non-Army entity at the facility.

(3) The performance of work by the facility for a non-Army entity.

(4) The sharing of work by the facility and a non-Army entity.

(5) The leasing, or use under a facilities use contract or otherwise, of the facility (including excess capacity) or equipment (including excess equipment) of the facility by a non-Army entity.

(6) The preparation and submission of joint offers by the facility and a non-Army entity for competitive procurements entered into with Federal agency.

(c) CONDITIONS.—An activity authorized by subsection (b) may be carried out at an Army industrial facility under a cooperative arrangement entered into under subsection (a) only under the following conditions:

(1) In the case of an article to be manufactured or services to be performed by the facility, the

articles can be substantially manufactured, or the services can be substantially performed, by the facility without subcontracting for more than incidental performance.

(2) The activity does not interfere with performance of—

(A) work by the facility for the Department of Defense; or

(B) a military mission of the facility.

(3) The activity meets one of the following objectives:

(A) Maximized utilization of the capacity of the facility.

(B) Reduction or elimination of the cost of ownership of the facility.

(C) Reduction in the cost of manufacturing or maintaining Department of Defense products at the facility.

(D) Preservation of skills or equipment related to a core competency of the facility.

(4) The non-Army entity agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of the activity, including any damages or injury arising out of a decision by the Secretary of the Army or the Secretary of Defense to suspend or terminate an activity, or any portion thereof, during a war or national emergency or to require the facility to perform other work or provide other services on a priority basis, except—

(A) in any case of willful misconduct or gross negligence; and

(B) in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the United States to comply with quality, schedule, or cost performance requirements in the contract to carry out the activity.

(d) ARRANGEMENT METHODS AND AUTHORITIES.—To establish a cooperative arrangement under subsection (a) with a non-Army entity, the approval authority described in subsection (f) for an Army industrial facility may—

(1) enter into a firm, fixed-price contract (or, if agreed to by the non-Army entity, a cost reimbursement contract) for a sale of articles or services or use of equipment or facilities;

(2) enter into a multiyear contract for a period not to exceed five years, unless a longer period is specifically authorized by law;

(3) charge the non-Army entity the amounts necessary to recover the full costs of the articles or services provided, including capital improvement costs, and equipment depreciation costs associated with providing the articles, services, equipment, or facilities;

(4) authorize the non-Army entity to use incremental funding to pay for the articles, services, or use of equipment or facilities; and

(5) accept payment-in-kind.

(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds received from the sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service.

(f) APPROVAL AUTHORITY.—The authority of an Army industrial facility to enter into a cooperative arrangement under subsection (a) shall be exercised at the level of the commander of the major subordinate command of the Army that has responsibility for the facility. The commander may approve such an arrangement on a case-by-case basis or a class basis.

(g) COMMERCIAL SALES.—Except in the case of work performed for the Department of Defense, for a contract of the Department of Defense, for foreign military sales, or for authorized foreign direct commercial sales (defense articles or defense services sold to a foreign government or international organization under export controls), a sale of articles or services may be made under this section only if the approval authority described in subsection (f) determines that the articles or services are not available from a commercial source located in the United States in the required quantity or quality, or within the time required.

(h) EXCLUSION FROM DEPOT-LEVEL MAINTENANCE AND REPAIR PERCENTAGE LIMITATION.—Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at an Army industrial facility shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by a non-Army entity pursuant to a cooperative arrangement entered into under subsection (a).

(i) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to affect the application of—

(1) foreign military sales and the export controls provided for in sections 30 and 38 of the Arms Export Control Act (22 U.S.C. 2770 and 2778) to activities of a cooperative arrangement entered into under subsection (a); and

(2) section 2667 of this title to leases of non-excess property in the administration of such an arrangement.

(j) DEFINITIONS.—In this section:

(1) The term "Army industrial facility" includes an ammunition plant, an arsenal, a depot, and a manufacturing plant.

(2) The term "non-Army entity" includes the following:

(A) A Federal agency (other than the Department of the Army).

(B) An entity in industry or commercial sales.

(C) A State or political subdivision of a State.

(D) An institution of higher education or vocational training institution.

(3) The term "incremental funding" means a series of partial payments that—

(A) are made as the work on manufacture or articles is being performed or services are being performed or equipment or facilities are used, as the case may be; and

(B) result in full payment being completed as the required work is being completed.

(4) The term "full costs", with respect to articles or services provided under a cooperative arrangement entered into under subsection (a), means the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services.

(5) The term "variable costs" means the costs that are expected to fluctuate directly with the volume of sales or services provided or the use of equipment or facilities.

(Added Pub. L. 108–375, div. A, title III, §353(a), Oct. 28, 2004, 118 Stat. 1859, §4544; amended Pub. L. 109–163, div. A, title III, §321, Jan. 6, 2006, 119 Stat. 3191; Pub. L. 109–364, div. A, title X, §1071(a)(29), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 110–181, div. A, title III, §328(a), Jan. 28, 2008, 122 Stat. 66; Pub. L. 111–84, div. A, title III, §324(a), Oct. 28, 2009, 123 Stat. 2253; Pub. L. 112–81, div. A, title III, §323(a), Dec. 31, 2011, 125 Stat. 1362; renumbered §7544, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7544 to 7547 were renumbered sections 8764 to 8767 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4544 of this title as this section.

**2011**—Subsec. (a). Pub. L. 112–81, §323(a)(1), struck out second sentence which read as follows: "This authority may be used to enter into not more than eight contracts or cooperative agreements in addition to the contracts and cooperative agreements in place as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181)."

Subsec. (k). Pub. L. 112–81, §323(a)(2), struck out subsec. (k). Prior to amendment, text read as follows: "The authority to enter into a cooperative arrangement under subsection (a) expires September 30, 2014."

**2009**—Subsec. (a). Pub. L. 111–84 inserted "in addition to the contracts and cooperative agreements in

place as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181)" after "not more than eight contracts or cooperative agreements".

**2008**—Subsec. (a). Pub. L. 110–181, §328(a)(1), inserted at end "This authority may be used to enter into not more than eight contracts or cooperative agreements."

Subsec. (k). Pub. L. 110–181, §328(a)(2), substituted "2014" for "2009".

**2006**—Subsec. (d). Pub. L. 109–364 substituted "Arrangement" for "Arangement" in heading.

Pub. L. 109–163, §321(b)(1), substituted "subsection (f)" for "subsection (e)" in introductory provisions.

Subsecs. (e), (f). Pub. L. 109–163, §321(b)(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–163, §321(b)(4), substituted "subsection (f)" for "subsection (e)".

Pub. L. 109–163, §321(b)(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h), (i). Pub. L. 109–163, §321(b)(2), redesignated subsecs. (g) and (h) as (h) and (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 109–163, §321(b)(2), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 109–163, §321(a), substituted "September 30, 2009." for "September 30, 2009, and arrangements entered into under such subsection shall terminate not later than that date."

Subsec. (k). Pub. L. 109–163, §321(b)(2), redesignated subsec. (j) as (k).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 764—ARMAMENTS INDUSTRIAL BASE

Sec.
7551. Definitions.
7552. Policy.
7553. Armament Retooling and Manufacturing Support Initiative.
7554. Property management contracts and leases.
7555. ARMS Initiative loan guarantee program.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 434 of this title as this chapter and items 4551 to 4555 as 7551 to 7555, respectively.

## §7551. Definitions

In this chapter:

(1) The term "ARMS Initiative" means the Armament Retooling and Manufacturing Support Initiative authorized by this chapter.

(2) The term "eligible facility" means a Government-owned, contractor-operated ammunition manufacturing facility, or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition, of the Department of the Army that is in an active, inactive, layaway, or caretaker status.

(3) The term "property manager" includes any person or entity managing an eligible facility made available under the ARMS Initiative through a property management contract.

(4) The term "property management contract" includes facility use contracts, site management contracts, leases, and other agreements entered into under the authority of this chapter.

(5) The term "Secretary" means the Secretary of the Army.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–67, §4551; amended Pub. L. 109–163, div. A, title III, §323(a), Jan. 6, 2006, 119 Stat. 3193; renumbered §7551, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4551 of this title as this section.

**2006**—Par. (2). Pub. L. 109–163, §323(a), inserted ", or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition," after "manufacturing facility".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### MODERNIZATION OF THE ORGANIC INDUSTRIAL BASE OF THE ARMY

Pub. L. 119–60, div. A, title III, §351, Dec. 18, 2025, 139 Stat. 832, provided that:

"(a) AUTHORITY TO ESTABLISH AND OPERATE.—The Secretary of the Army shall accelerate the modernization of the organic industrial base of the Army to meet the requirements of the Army by ensuring additional production of materials, or expanded use of capabilities, as described in subsection (b).

"(b) MATERIALS AND CAPABILITIES.—The Secretary of the Army shall prioritize using or modifying existing facilities of the organic industrial base of the Army for the following purposes:

"(1) Production of propellant.

"(2) Production of any of 13 precursor chemicals used widely across the Joint Program Executive Office Armaments and Ammunition portfolio that are currently sourced solely from the People's Republic of China.

"(3) Production of any of the 300 chemicals identified as single point failures by the Joint Program Executive Office Armaments and Ammunition.

"(4) Production of multiple calibers of ammunition.

"(5) Development of methods for dual-use maintenance or production of vehicles and aircraft.

"(6) Use of logistics.

"(7) Production or use of any of the capabilities listed in paragraphs (1) through (6).

"(8) Another capability that the Secretary of the Army certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] is necessary to meet Army munitions and weapons requirements.

"(c) EXPEDITED PRODUCTION OR EXPANSION OF CAPABILITIES.—The Secretary shall expedite the production or expansion of any capabilities described under subsection (b) and shall use, to the fullest extent possible, existing environmental permits, security arrangements, and personnel required for the production of materials critical to Army munitions and weapons requirements.

"(d) REPORT.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Army shall submit to the congressional defense committees a report on the use of the authority under this section.

"(e) ORGANIC INDUSTRIAL BASE OF THE ARMY DEFINED.—In this section, the term 'organic industrial base of the Army' means each depot listed in section 2476(f)(1) of title 10, United States Code.

### GUIDANCE REGARDING USE OF ORGANIC INDUSTRIAL BASE

Pub. L. 115–91, div. A, title III, §323, Dec. 12, 2017, 131 Stat. 1353, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of the Army shall establish clear and prescriptive guidance on the process for conducting make-or-buy analyses for Army requirements, including the use of the organic industrial base."

### INCLUSION OF CERTAIN INDUSTRIAL PLANTS IN THE ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE

Pub. L. 114–328, div. A, title III, §323, Dec. 23, 2016, 130 Stat. 2076, as amended by Pub. L. 115–232, div.

A, title VIII, §809(b)(8), Aug. 13, 2018, 132 Stat. 1841, provided that: "During the five-year period beginning on the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense may treat a Government-owned, contractor-operated industrial plant of the Department of Defense as an eligible facility under section 7551(2) of title 10, United States Code."

**CONSIDERATION OF ARMY ARSENALS' CAPABILITIES TO FULFILL MANUFACTURING REQUIREMENTS**

Pub. L. 113–66, div. A, title III, §323, Dec. 26, 2013, 127 Stat. 733, as amended by Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227, provided that:

"(a) CONSIDERATION OF CAPABILITY OF ARSENALS.—When undertaking a make-or-buy analysis, a portfolio acquisition executive or program manager of a military service or Defense Agency shall consider the capability of arsenals owned by the United States to fulfill a manufacturing requirement.

"(b) NOTIFICATION OF SOLICITATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall establish and begin implementation of a system for ensuring that the arsenals owned by the United States are notified of any solicitation that fulfills a manufacturing requirement for which there is no or limited domestic commercial source and which may be appropriate for manufacturing within an arsenal owned by the United States."

## §7552. Policy

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, commercial firms to use Government-owned, contractor-operated ammunition manufacturing, storage, maintenance, renovation, and demilitarization facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of eligible facilities for commercial purposes;

(5) to provide, as appropriate, small businesses (including socially and economically disadvantaged small business concerns and new small businesses) with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing, storage, maintenance, renovation, and demilitarization capacity, an optimum level of readiness of the national technology and industrial base within the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the armed forces; and

(9) to encourage facility use contracting where feasible.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–67, §4552; amended Pub. L. 109–163, div. A, title III, §323(c), Jan. 6, 2006, 119 Stat. 3194; renumbered §7552, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4552 of this title as this section.

**2006**—Pars. (1), (8). Pub. L. 109–163 inserted ", storage, maintenance, renovation, and demilitarization" after "manufacturing".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7553. Armament Retooling and Manufacturing Support Initiative

(a) AUTHORITY FOR INITIATIVE.—The Secretary may carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative".

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use eligible facilities for commercial purposes.

(2) To increase the opportunities for small businesses (including socially and economically disadvantaged small business concerns and new small businesses) to use eligible facilities for those purposes.

(3) To maintain in the United States a work force having the skills necessary to meet industrial emergency planned requirements for national security purposes.

(4) To demonstrate innovative business practices, to support Department of Defense acquisition reform, and to serve as both a model and a laboratory for future defense conversion initiatives of the Department of Defense.

(5) To the maximum extent practicable, to allow the operation of eligible facilities to be rapidly responsive to the forces of free market competition.

(6) To reduce or eliminate the cost of Government ownership of eligible facilities, including the costs of operations and maintenance, the costs of environmental remediation, and other costs.

(7) To reduce the cost of products of the Department of Defense produced at eligible facilities.

(8) To leverage private investment at eligible facilities through long-term facility use contracts, property management contracts, leases, or other agreements that support and advance the policies and purposes of this chapter, for the following activities:

(A) Recapitalization of plant and equipment.

(B) Environmental remediation.

(C) Promotion of commercial business ventures.

(D) Other activities approved by the Secretary.

(9) To foster cooperation between the Department of the Army, property managers, commercial interests, and State and local agencies in the implementation of sustainable development strategies and investment in eligible facilities made available for purposes of the ARMS Initiative.

(10) To reduce or eliminate the cost of asset disposal that would be incurred if property at an eligible facility was declared excess to the needs of the Department of the Army.

(c) AVAILABILITY OF FACILITIES.—The Secretary may make any eligible facility available for the purposes of the ARMS Initiative.

(d) CONSIDERATION FOR LEASES.—Section 1302 of title 40 shall not apply to uses of property or facilities in accordance with the ARMS Initiative.

(e) PROGRAM SUPPORT.—(1) Funds appropriated for purposes of the ARMS Initiative may be used for administrative support and management.

(2) A full annual accounting of such expenses for each fiscal year shall be provided to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives not later than March 30 of the following fiscal year.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654,

1654A–68, §4553; amended Pub. L. 108–178, §4(b)(5), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–163, div. A, title III, §323(d), Jan. 6, 2006, 119 Stat. 3194; renumbered §7553, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4553 of this title as this section.

**2006**—Subsec. (b)(3). Pub. L. 109–163 struck out "in manufacturing processes that are" after "having the skills".

**2003**—Subsec. (d). Pub. L. 108–178 substituted "Section 1302 of title 40" for "Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b),".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2003 AMENDMENT**

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## §7554. Property management contracts and leases

(a) IN GENERAL.—In the case of each eligible facility that is made available for the ARMS Initiative, the Secretary—

(1) shall make full use of facility use contracts, leases, and other such commercial contractual instruments as may be appropriate;

(2) shall evaluate, on the basis of efficiency, cost, emergency mobilization requirements, and the goals and purposes of the ARMS Initiative, the procurement of services from the property manager, including maintenance, operation, modification, infrastructure, environmental restoration and remediation, and disposal of ammunition manufacturing assets, and other services; and

(3) may, in carrying out paragraphs (1) and (2)—

(A) enter into contracts, and provide for subcontracts, for terms up to 25 years, as the Secretary considers appropriate and consistent with the needs of the Department of the Army and the goals and purposes of the ARMS Initiative; and

(B) use procedures that are authorized to be used under section 3204(a)(5) of this title when the contractor or subcontractor is a source specified in law.

(b) CONSIDERATION FOR USE.—(1) To the extent provided in a contract entered into under this section for the use of property at an eligible facility that is accountable under the contract, the Secretary may accept consideration for such use that is, in whole or in part, in a form other than—

(A) rental payments; or

(B) revenue generated at the facility.

(2) Forms of consideration acceptable under paragraph (1) for a use of an eligible facility or any property at an eligible facility include the following:

(A) The improvement, maintenance, protection, repair, and restoration of the facility, the property, or any property within the boundaries of the installation where the facility is located.

(B) Reductions in overhead costs.

(C) Reductions in product cost.

(D) The demilitarization and storage of conventional ammunition.

(3) The authority under paragraph (1) may be exercised without regard to section 3302(b) of title 31 and any other provision of law.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–69, §4554; amended Pub. L. 109–163, div. A, title III, §323(b), Jan. 6, 2006, 119 Stat. 3194; renumbered §7554, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a)(3)(B). Pub. L. 116–283 substituted "section 3204(a)(5)" for "section 2304(c)(5)".
**2018**—Pub. L. 115–232 renumbered section 4554 of this title as this section.
**2006**—Subsec. (b)(2)(D). Pub. L. 109–163 added subpar. (D).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TEMPORARY AUTHORITY TO EXTEND CONTRACTS AND LEASES UNDER THE ARMS INITIATIVE**

Pub. L. 114–92, div. A, title III, §343, Nov. 25, 2015, 129 Stat. 794, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(9), Aug. 13, 2018, 132 Stat. 1841; Pub. L. 117–81, div. A, title III, §374, Dec. 27, 2021, 135 Stat. 1667, provided that: "Contracts or subcontracts entered into pursuant to section 7554(a)(3)(A) of title 10, United States Code, on or before November 25, 2025, may include an option to extend the term of the contract or subcontract for an additional 25 years."

## §7555. ARMS Initiative loan guarantee program

(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary may carry out a loan guarantee program to encourage commercial firms to use eligible facilities under this chapter. Under any such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity to use an eligible facility under this chapter.

(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into an agreement with any of the officials named in paragraph (2) under which that official may, for the purposes of this section—

(A) process applications for loan guarantees;
(B) guarantee repayment of loans; and
(C) provide any other services to the Secretary to administer the loan guarantee program.

(2) The officials referred to in paragraph (1) are as follows:

(A) The Administrator of the Small Business Administration.
(B) The head of any appropriate agency in the Department of Agriculture, including—
(i) the Administrator of the Farmers Home Administration; and
(ii) the Administrator of the Rural Development Administration.

(3) Each official authorized to do so under an agreement entered into under paragraph (1) may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the official administers.
(4) To the extent practicable, each official processing loan guarantee applications under this section pursuant to an agreement entered into under paragraph (1) shall use the same processing procedures as the official uses for processing loan guarantee applications under other loan guarantee programs that the official administers.
(d) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under this section may not exceed—
(1) $20,000,000, with respect to any single borrower; and
(2) $320,000,000 with respect to all borrowers.

(e) TRANSFER OF FUNDS.—The Secretary may transfer to an official providing services under subsection (c), and that official may accept, such funds as may be necessary to administer the loan guarantee program under this section.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–70, §4555; renumbered §7555, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4555 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 765—ISSUE OF SERVICEABLE MATERIAL TO ARMED FORCES

Sec.
7561. Rations.
7562. Clothing.
7563. Clothing: replacement when destroyed to prevent contagion.
7564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army.
7565. Colors, standards, and guidons of demobilized organizations: disposition.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 435 of this title as this chapter and items 4561 to 4565 as 7561 to 7565, respectively.

## §7561. Rations

(a) The President may prescribe the components, and the quantities thereof, of the Army ration. He may direct the issue of equivalent articles in place of the prescribed components whenever, in his opinion, economy and the health and comfort of the members of the Army so require.

(b) Under the direction of the Secretary of the Army, the branch, office, or officer designated by him shall issue the components of the Army ration.

(c) An enlisted member of the Army on active duty is entitled to one ration daily. The emergency ration, when issued, is in addition to the regular ration.

(d) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick in hospitals shall be provided under regulations prescribed by the Surgeon General and approved by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 255, §4561; renumbered §7561, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4561(a) | 10:724. | R.S. 1141 (as applicable to issue); June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |
| 4561(b) | 10:1195a (as applicable to issue). | |
| 4561(c) | 10:716b.<br>10:725. | Feb. 2, 1901, ch. 192, §40, 31 Stat. 758. |
| 4561(d) | 10:726. | R.S. 1293; July 16, 1892, ch. 195 (last 15 words before proviso under "Subsistence of the Army"), 27 Stat. 178.<br>Mar. 2, 1907, ch. 2511 (1st proviso under "Subsistence Department"), 34 Stat. 1165.<br>R.S. 1175. |

In subsection (a), the words "the components, and the quantities thereof" are substituted for the words "the kinds and quantities of the component articles". The words "substitutive" and "a due regard" are omitted as surplusage.

In subsection (b), the words "the components of the Army ration" are substituted for the words "such supplies as enter into the composition of the ration".

In subsection (c), the words "on active duty" are inserted for clarity. The words "under such regulations as may be prescribed by the Secretary of the Army", in 10:725, are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "or reserve", "prescribed for use on emergent occasions", and "furnished", in 10:725, are omitted as surplusage.

In subsection (d), the words "Such quantities of" and "may be allowed" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4561 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY**

Authority of President under subsec. (a) of this section to prescribe uniform military ration applicable to Army delegated to Secretary of Defense by section 3(a) of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.

## §7562. Clothing

The President may prescribe the quantity and kind of clothing to be issued annually to members of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 256, §4562; renumbered §7562, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4562 | 10:831. | R.S. 1296 (less 1st 9 words). |

The words "members of the Army" are substituted for the words "troops of the United States".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4562 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7563. Clothing: replacement when destroyed to prevent contagion

Upon the recommendation of the Surgeon General, the Secretary of the Army may order a gratuitous issue of clothing to any enlisted member of the Army who has had a contagious disease, and to any hospital attendant who attended him while he had that disease, to replace clothing destroyed by order of an officer of the Medical Corps to prevent contagion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 256, §4563; renumbered §7563, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4563 | 10:834. | R.S. 1298. |

The words "enlisted member" are substituted for the word "soldiers". The words "any articles of their" are omitted as surplusage. The words "while he had that disease" are inserted for clarity. The words "an officer of the Medical Corps" are substituted for the words "proper medical officers".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4563 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army

While any detachment of the Navy or Marine Corps is on shore duty in cooperation with troops of the Army, the officer of the Army designated by the Secretary of the Army shall, upon the requisition of the officer of the Navy or Marine Corps in command of the detachment, issue rations and camp equipment, and furnish transportation, to that detachment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 256, §4564; renumbered §7564, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4564 | 10:1259d.<br>10:1259e.<br>34:541. | R.S. 1143; June 28, 1950, ch. 383, §402(a), 64 Stat. 272.<br><br>R.S. 1135; June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |

The words "While * * * on shore duty" are substituted for the words "under orders to act on shore", in 10:1259d and 1259e, and 34:541. The words "branch, office, or" and "during the time such detachment is so acting or proceeding to act", in 10:1259d and 1259e, and 34:541, are omitted as surplusage. The words "their baggage, provisions, and cannon", in 10:1259e and 34:541, are omitted as surplusage. The words "and shall furnish the naval officer commanding any such detachment, and his necessary aides, with horses, accouterments, and forage", in 10:1259e and 34:541, are omitted as obsolete.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4564 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7565. Colors, standards, and guidons of demobilized organizations: disposition

(a) The Secretary of the Army may dispose of colors, standards, and guidons of demobilized organizations of the Army, as follows:

(1) Those brought into Federal service by the Army National Guard of a State may be returned

to that State upon the request of its governor.

(2) Those that cannot be returned under clause (1) may, upon the request of its governor, be sent to the State that, as determined by the Secretary, furnished the majority of members of the organization when it was formed.

Those that cannot be returned or sent under clause (1) or (2) of this subsection shall be delivered to the Secretary for such national use as the Secretary may direct.

(b) Title to colors, standards, and guidons of demobilized organizations of the Army remains in the United States.

(c) No color, standard, or guidon may be disposed of under this section unless provision satisfactory to the Secretary has been made for its preservation and care.

(Aug. 10, 1956, ch. 1041, 70A Stat. 256, §4565; Pub. L. 89–718, §29, Nov. 2, 1966, 80 Stat. 1119; renumbered §7565, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4565(a) | 5:202 (less 3d and last sentences). | Mar. 4, 1921, ch. 166, §2, 41 Stat. 1438. |
| 4565(b) | 5:202 (3d sentence). | |
| 4565(c) | 5:202 (last sentence). | |

In subsection (a), the words "Any which were used during their service by such organizations and" are omitted as surplusage. The first 15 words of the last sentence are substituted for 5:202 (1st 45 words of 2d sentence).

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7571 to 7573 were renumbered sections 8771 to 8773 of this title, respectively.

Prior sections 7574 and 7575 were repealed by Pub. L. 93–166, title V, §509(d), Nov. 29, 1973, 87 Stat. 678.

Section 7574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 468; Aug. 30, 1957, Pub. L. 85–241, title IV, §404(b), 71 Stat. 556; Aug. 10, 1959, Pub. L. 86–149, title IV, §410(b), 73 Stat. 321; July 27, 1962, Pub. L. 87–554, title V, §504(b), (d), 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, §503, 77 Stat. 325; Dec. 5, 1969, Pub. L. 91–142, title V, §510(a), 83 Stat. 312; Oct. 27, 1971, Pub. L. 92–145, title V, §508(b), (c), 85 Stat. 408, related to quarters: limitations on size.

Section 7575, act Aug. 10, 1956, ch. 1041, 70A Stat. 469, related to quarters: exemptions from cost limitations.

Prior sections 7576 and 7577 were renumbered sections 8776 and 8777 of this title, respectively.

A prior section 7578, act Aug. 10, 1956, ch. 1041, 70A Stat. 469, related to limitations on furnishing of tableware and kitchen utensils, prior to repeal by Pub. L. 85–861, §36B(24), Sept. 2, 1958, 72 Stat. 1571.

Prior sections 7579 to 7582 were renumbered sections 8779 to 8782 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4565 of this title as this section.

**1966**—Subsec. (a). Pub. L. 89–718 substituted the Secretary of the Army for the Quartermaster General as the officer to accept delivery of colors, standards, and guidons of demobilized organizations of the Army which cannot be disposed of under clauses (1) and (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

# CHAPTER 767—UTILITIES AND SERVICES

Sec.
7591. Utilities: proceeds from overseas operations.
7592. Radiograms and telegrams: forwarding charges due connecting commercial facilities.
7593. Quarters: heat and light.
7594. Furnishing of heraldic services.
7595. Army Military History Institute: fee for providing historical information to the public.
7596. Provision of goods and services at Kwajalein Atoll.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title XII, §1299A(b), Jan. 1, 2021, 134 Stat. 3998, added item 7596.

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 437 of this title as this chapter and items 4591 to 4595 as 7591 to 7595, respectively.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1085(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–288, added item 4595.

**1957**—Pub. L. 85–263, §1(2), Sept. 2, 1957, 71 Stat. 589, added item 4594.

## §7591. Utilities: proceeds from overseas operations

During actual or threatened hostilities, proceeds from operating a public utility in connection with operations of the Corps of Engineers in the field overseas are available for that utility until the close of the fiscal year following that in which they are received.

(Aug. 10, 1956, ch. 1041, 70A Stat. 257, §4591; renumbered §7591, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4591 | 10:1287. | July 9, 1918, ch. 143, subch. XX (1st par.), 40 Stat. 893; May 29, 1928, ch. 901 (par. 37), 45 Stat. 989; Aug. 1, 1953, ch. 305, Title VI, §645 (7th clause), 67 Stat. 357. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4591 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7592. Radiograms and telegrams: forwarding charges due connecting

### commercial facilities

In the operation of telegraph lines, cables, or radio stations, members of the Signal Corps may, in the discretion of the Secretary of the Army, collect forwarding charges due connecting commercial telegraph or radio companies for sending radiograms or telegrams over their lines. Under such regulations as the Secretary may prescribe, they may present a voucher to a disbursing official for payment of the forwarding charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 257, §4592; Pub. L. 97–258, §2(b)(1)(A), Sept. 13, 1982, 96 Stat. 1052; Pub. L. 104–316, title I, §105(e), Oct. 19, 1996, 110 Stat. 3830; renumbered §7592, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4592 | 10:1319. | May 12, 1917, ch. 12 (proviso under "Washington-Alaska Military Cable and Telegraph System"), 40 Stat. 43. |

The words "members of" are inserted for clarity. The words "Government", "and to this end", "as may be", and "amount of such" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4592 of this title as this section.

**1996**—Pub. L. 104–316 substituted "of the forwarding" for ", or may file a claim with the General Accounting Office for the forwarding" in second sentence.

**1982**—Pub. L. 97–258 substituted "official" for "officer".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7593. Quarters: heat and light

The heat and light necessary for the authorized quarters of members of the Army shall be furnished at the expense of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 257, §4593; renumbered §7593, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4593 | 10:723. | Mar. 2, 1907, ch. 2511 (1st proviso under "Quartermaster's Department"), 34 Stat. 1167. |

The word "members" is substituted for the words "officers and enlisted men". The words "under such regulations as the Secretary of the Army may prescribe", are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory function.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4593 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7594. Furnishing of heraldic services

(a) Under regulations to be prescribed by the Secretary of the Army, an authority designated by him may, upon the request of, and subject to approval by, the Secretary of another military department, design flags, insignia, badges, medals, seals, decorations, guidons, streamers, finial pieces for flagstaffs, buttons, buckles, awards, trophies, marks, emblems, rosettes, scrolls, braids, ribbons, knots, tabs, cords, and similar items for the requesting department.

(b) Upon request the Secretary of the Army may advise other departments and agencies of the United States on matters of heraldry.

(c) The Secretary of the Army may prescribe regulations providing for reimbursement for services furnished under this section.

(Added Pub. L. 85–263, §1(1), Sept. 2, 1957, 71 Stat. 589, §4594; renumbered §7594, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4594 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 85–263, §2, Sept. 2, 1957, 71 Stat. 589, provided that: "This Act [enacting this section] takes effect on the first day of the first month after the month in which it is enacted [September 1957]."

## §7595. Army Military History Institute: fee for providing historical information to the public

(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Army may charge a person a fee for providing the person with information from the United States Army Military History Institute that is requested by that person.

(b) EXCEPTIONS.—A fee may not be charged under this section—

(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

(2) for a release of information under section 552 of title 5.

(c) LIMITATION ON AMOUNT.—A fee charged for providing information under this section may not exceed the cost of providing the information.

(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Army Military History Institute during that fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term "United States Army Military History Institute" means the archive for historical records and materials of the Army that the Secretary of the Army designates as the primary archive for such records and materials.

(2) The terms "officer of the United States" and "employee of the United States" have the meanings given the terms "officer" and "employee", respectively, in sections 2104 and 2105, respectively, of title 5.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1085(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–287, §4595; renumbered §7595, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7601 to 7603 were renumbered sections 8801 to 8803 of this title, respectively.

A prior section 7604 was renumbered section 8804 of this title.

Another prior section 7604, acts Aug. 10, 1956, ch. 1041, 70A Stat. 471; Nov. 2, 1966, Pub. L. 89–718, §44, 80 Stat. 1120, related to profit on sales from ships' stores, prior to repeal by Pub. L. 101–510, §329(a)(1).

Prior sections 7605 and 7606 were renumbered sections 8805 and 8806 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4595 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7596. Provision of goods and services at Kwajalein Atoll

(a) AUTHORITY.—(1) Except as provided in paragraph (2), the Secretary of the Army, with the concurrence of the Secretary of State, may provide goods and services, including interatoll transportation, to the Government of the Republic of the Marshall Islands and other eligible patrons, as determined by the Secretary of the Army, at Kwajalein Atoll.

(2) The Secretary of the Army may not provide goods or services under this section if doing so would be inconsistent, as determined by the Secretary of State, with the Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands or any subsidiary agreement or implementing arrangement.

(b) REIMBURSEMENT.—(1) The Secretary of the Army may collect reimbursement from the Government of the Republic of the Marshall Islands and eligible patrons for the provision of goods or services under subsection (a).

(2) The amount collected for goods or services under this subsection may not be greater than the total amount of actual costs to the United States for providing the goods or services.

(c) NECESSARY EXPENSES.—Amounts appropriated to the Department of the Army may be used for necessary expenses associated with providing goods and services under this section.

(d) REGULATIONS.—The Secretary of the Army shall issue regulations to carry out this section.

(Added Pub. L. 116–283, div. A, title XII, §1299A(a), Jan. 1, 2021, 134 Stat. 3997.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands, referred to in subsec. (a)(2), probably means the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99–239, set out as a note under section 1901 of Title 48, Territories and Insular Possessions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### DESIGNATION OF UNITED STATES ARMY GARRISON KWAJALEIN ATOLL AS REMOTE AND ISOLATED MILITARY INSTALLATION

Pub. L. 119–60, div. A, title VI, §665, Dec. 18, 2025, 139 Stat. 917, provided that:

"(a) DESIGNATION.—Not later than 30 days after the date of the enactment of this Act [Dec. 18, 2025], the Under Secretary of Defense for Personnel and Readiness and the Secretary of the Army, in coordination with the Commander of the United States Army Pacific, shall designate United States Army Garrison Kwajalein Atoll as a remote and isolated military installation.

"(b) NOTIFICATION.—Not later than 30 days after the date on which the designation described in subsection (a) is completed, the Secretary of the Army shall submit a notification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] confirming completion of the designation.

"(c) BRIEFING REQUIRED.—Not later than 90 days after the date on which the Secretary of the Army submits the notification described in subsection (b), the Commander of the United States Army Pacific shall brief the congressional defense committees on adjustments to Department of Defense resourcing for and support to United States Army Garrison Kwajalein Atoll as a result of the designation described in subsection (a).

"(d) DEFINITION.—In this section, the term 'remote and isolated military installation' means a military installation determined to be remote and isolated pursuant to the criteria set forth in Department of Defense Instructions 1015.10 and 1015.18, dated July 6, 2009, and May 30, 2024, respectively (or successor instruction)."

## CHAPTER 769—SALE OF SERVICEABLE MATERIAL

Sec.

7621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices.

7622. Rations: commissioned officers in field.

7624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home.

7625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans.

7626. Aircraft supplies and services: foreign military or air attaché.

7627. Supplies: educational institutions.

7628. Airplane parts and accessories: civilian flying schools.

7629. Proceeds: disposition.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 439 of this title as this chapter and items 4621 to 4629 as 7621 to 7629, respectively.

**1990**—Pub. L. 101–510, div. A, title XV, §1533(a)(5)(C), Nov. 5, 1990, 104 Stat. 1734, amended item 4624 generally, substituting "Armed Forces Retirement Home" for "Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, title V, §512(18)(C), Dec. 12, 1980, 94 Stat. 2930, inserted "and Airmen's" after "Soldiers' " in item 4624.

**1970**—Pub. L. 91–482, §2B, Oct. 21, 1970, 84 Stat. 1082, struck out item 4623 "Tobacco: enlisted members of Army".

## §7621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The Secretary of the Army shall procure and sell, for cash or credit—

(1) articles specified by the Secretary of the Army or a person designated by him, to members of the Army; and

(2) items of individual clothing and equipment, to officers of the Army, under such restrictions as the Secretary may proscribe.

An account of sales on credit shall be kept and the amount due reported to any branch, office, or officer designated by the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Army.

(c) The Secretary may sell serviceable quartermaster property, other than subsistence supplies, to an officer of another armed force for his use in the service, in the same manner as these articles are sold to an officer of the Army.

(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, Marine Corps, or Space Force and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to a member of the Army.

(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Army honorably or under honorable conditions, at the prices at which like articles are sold to members of the Army. This subsection does not modify section 772 or 773 of this title.

(f) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any branch of the Army or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash or by commercial credit.

(g) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of military activities.

However, sales to officers and employees inside the United States may be made only to those residing within military installations.

(h) Appropriations for subsistence of the Army may be applied to the purchase of subsistence supplies for sale to members of the Army on active duty for the use of themselves and their families.

(Aug. 10, 1956, ch. 1041, 70A Stat. 257, §4621; Pub. L. 87–651, title I, §118, Sept. 7, 1962, 76 Stat. 513; Pub. L. 96–513, title V, §512(17), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 100–180, div. A, title III, §313(c), Dec. 4, 1987, 101 Stat. 1074; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29,

1989, 103 Stat. 1602; Pub. L. 104–106, div. A, title III, §375(b)(1), Feb. 10, 1996, 110 Stat. 283; renumbered §7621, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839; Pub. L. 116–283, div. A, title IX, §924(c)(1)(B), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4621(a) | 10:904.<br>10:1231.<br>10:1237.<br>32:156. | Aug. 31, 1918, ch. 166, §9 (less 17th through 22d words), 40 Stat. 957.<br>R.S. 1144; June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |
| 4621(b) | 10:1238. | |
| 4621(c) | 10:1233. | |
| 4621(d) | 10:1234.<br>34:539 | June 3, 1916, ch. 134, §109; restated June 4, 1920, ch. 227, subch. I, §47; restated June 3, 1924, ch. 244, §3; restated Oct. 14, 1940, ch. 875, §3, 54 Stat. 1136; Mar. 25, 1948, ch. 157, §5(b), 62 Stat. 91; Oct. 12, 1949, ch. 681, §501(f)(2) and (3) (as applicable to §109 of the Act of June 3, 1916, ch. 134), 63 Stat. 827; July 9, 1952, ch. 608, §803 (12th par.), 66 Stat. 505. |
| 4621(e) | 10:1235. | |
| 4621(f) | 10:1395 (less last sentence).<br>10:1253. | |
| 4621(g) | 10:1241. | |
| 4621(h) | 10:1196. | |
| 4621(i) | | June 30, 1922, ch. 253, Title I (last proviso under "Clothing and Equipage"), 42 Stat. 729.<br>July 5, 1884, ch. 217 (proviso under "Subsistence of the Army"), 23 Stat. 108.<br>Aug. 29, 1916, ch. 418 (words before semicolon of 3d proviso under "Subsistence of the Army"), 39 Stat. 630.<br>Mar. 4, 1915, ch. 143 (last proviso under "Clothing, and Camp and Garrison Equipage"), 38 Stat. 1079; June 28, 1950, ch. 383, §402(k), 64 Stat. 273.<br>June 5, 1920, ch. 240 (par. under "Purchase of Army Stores by Discharged Receiving Treatment from the Public Health Service"), 41 Stat. 976.<br>Feb. 14, 1927, ch. 134 (less last sentence), 44 Stat. 1096.<br>Mar. 3, 1911, ch. 209 (last par. under "Subsistence Department"), 36 Stat. 1047.<br>Aug. 8, 1953, ch. 390, §1, 67 Stat. 499.<br>Mar. 3, 1875, ch. 131 (proviso of 1st sentence of 1st par. under "War |

| | | |
|---|---|---|
| | | Department"), 18 Stat. 410. |

In subsection (a), the word "members" is substituted for the words "officers and enlisted men" in 10:1237. Clause (2) is substituted for 10:904. 32:156 is omitted as covered by 10:904, since the words "officers of the Army" necessarily cover all persons named in 32:156. The words "the Secretary of the Army or a person designated by him" are substituted for the words "by whatever branch, office, or officers of the Army the Secretary of the Army may from time to time designate", inserted by the Editors of the United States Code. R.S. 1114 which provided that this function should be invested in the Inspector General was not amended in this respect by section 402(a) of the Army Organization Act of 1950 (64 Stat. 272). However, these functions have now been transferred to the Secretary of the Army or a person designated by him. (See memorandum of the Secretary of Defense, dated October 29, 1954, subject "Transfer of Authority from the Inspector General to the Secretary of the Army to Designate Subsistence Articles for Sale," and opinion of the Judge Advocate General of the Army (JAGA 1954/9712, 2 December 1954).) The words "Except for articles and items acquired through the use of working capital funds under sections 172–172j of title 5" are inserted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

In subsection (b), the first sentence states expressly the rule which is implicit in 10:1238. The word "members" is substituted for the words "officers and enlisted men". The words "shall be understood, in all cases of such sales" are omitted as surplusage. The last sentence is inserted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Deputy General Counsel of the Office of the Secretary of Defense, March 28, 1956.)

In subsection (c), the word "members" is substituted for the words "officers and enlisted men". The words "prices at which like property is sold to" are substituted for the words "same price as is charged the".

In subsections (c) and (d), the words "other armed forces" are substituted for the words "Navy and Marine Corps", since such sales are authorized to members of the Coast Guard by section 144(b) of title 14.

In subsection (d), the words "other than subsistence supplies" are inserted, since the sale of subsistence supplies is covered by subsection (c).

In subsection (e), the words "a person who has been discharged" are substituted for the words "discharged officers and enlisted men". The words "Navy * * * or Marine Corps", omitted from the 1952 Edition of the United States Code, are inserted to conform to the source statute. The words "may buy" are substituted for the words "shall * * * be permitted to purchase". The words "at the prices at which like property is sold" are substituted for the words "at the same price as charged". The word "member" is substituted for the words "officers and enlisted men". The words "while undergoing such care and treatment" are omitted as surplusage.

In subsection (f), the words "person who has been discharged" are substituted for the words "former members * * * who have been separated therefrom". The words "at the prices at which like articles are sold to members" are inserted to conform to the last sentence of subsection (a) and subsection (e).

In subsection (g), the words "regulations to be prescribed by the Secretary" are substituted for the words "Army Regulations". The words "of the Government" are omitted as surplusage. 10:1253 (last 22 words of 1st sentence) is omitted as surplusage. The words "or to another executive department of the Government" are omitted as superseded by section 7 of the Act of May 21, 1920, ch. 194, as amended (31 U.S.C. 686). The provisions of 10:1253 relating to computation of costs are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

In subsection (h), the word "outside" is substituted for the words "beyond the continental limitations". The words "or in Alaska" are omitted, since, under section 101(1) of this title, the words "United States" are defined to include only the States and the District of Columbia. The word "continental", after the words "within the", is omitted for the same reason. The last sentence is substituted for 10:1241 (proviso).

In subsection (i), 10:1196 (last 30 words) is omitted as superseded by the Act of April 27, 1914, ch. 72 (last proviso under "Subsistence of the Army"), 38 Stat. 361. The words "So much of the" and "as may be necessary" are omitted as surplusage. The words "members * * * on active duty, for the use of themselves and their families" are substituted for the words "officers for the use of themselves and their families, and to commanders of companies or other organizations, for the use of the enlisted men of their companies or

organizations", to conform to 10:1237 and 1238. Those sections provide the basic authority for procurement and sale of subsistence supplies to all members. This interpretation conforms to established administrative practice under those sections. The word "supplies" is substituted for the word "stores".

**1962 ACT**

The change corrects an internal reference.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7621 was renumbered section 8821 of this title.

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2018**—Pub. L. 115–232 renumbered section 4621 of this title as this section.

**1996**—Subsec. (a). Pub. L. 104–106, §375(b)(1)(A), substituted "The Secretary of the Army" for "The branch, office, or officer designated by the Secretary of the Army".

Subsecs. (b), (c). Pub. L. 104–106, §375(b)(1)(B), substituted "The Secretary" for "The branch, office, or officer designated by the Secretary".

Subsec. (f). Pub. L. 104–106, §375(b)(1)(C), inserted "or by commercial credit" before period at end.

**1989**—Subsec. (d). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1987**—Subsecs. (b) to (i). Pub. L. 100–180 redesignated subsecs. (c) to (i) as subsecs. (b) to (h), respectively, and struck out former subsec. (b) which read as follows: "Subsistence supplies may be sold to members of the Army. The selling price of each article sold under this subsection is the invoice price of the last lot of that article that the officer making the sale received before the first day of the month in which the sale is made. Activities conducted under this subsection shall be consistent with section 2208 of this title."

**1980**—Subsec. (f). Pub. L. 96–513 struck out reference to section 3612 of this title.

**1962**—Subsecs. (a), (b). Pub. L. 87–651 substituted "section 2208 of this title" for "sections 172–172j of title 5".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EXECUTIVE DOCUMENTS**

**TRANSFER OF FUNCTIONS**

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

## §7622. Rations: commissioned officers in field

Commissioned officers of the Army serving in the field may buy rations for their own use, on credit, from any officer designated by the Secretary of the Army. Amounts due for these purchases shall be reported monthly to the officer of the Army designated by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 258, §4622; renumbered §7622, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4622 | 10:1232. | R.S. 1145; June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |

The words "at cost prices" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7622 and 7623 were renumbered sections 8822 and 8823 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4622 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home

(a) Under regulations to be prescribed by the Secretary of the Army, a civilian employee of the Department of the Army who is stationed at an Army post may buy necessary medical supplies from the Army when they are prescribed by an officer of the Medical Corps on active duty.

(b) With the approval of the Secretary, the Army Medical Department may sell medical supplies to the American National Red Cross for cash.

(c) Any branch, office, or officer designated by the Secretary may sell medical and hospital supplies to the Armed Forces Retirement Home.

(Aug. 10, 1956, ch. 1041, 70A Stat. 259, §4624; Pub. L. 90–329, June 4, 1968, 82 Stat. 170; Pub. L. 96–513, title V, §512(18)(A), (B), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 101–510, div. A, title XV, §1533(a)(5)(A), (B), Nov. 5, 1990, 104 Stat. 1734; renumbered §7624, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4624(a) | 10:1236. | Apr. 23, 1904, ch. 1485 (last proviso under "Medical Department"), 33 Stat. 273; Mar. 2, 1905, ch. 1307 (last proviso under "Medical Department"), 33 Stat. 839. |
| 4624(b) | 10:1254. | Mar. 4, 1915, ch. 143 (2d proviso under "Medical Department"), 38 Stat. 1080. |
| 4624(c) | 24:58. | June 4, 1897, ch. 2 (par. under "Soldiers' Home, District of Columbia"), 30 Stat. 54; June 28, |

| | | |
|---|---|---|
| | | 1950, ch. 383, §402(d), 64 Stat. 272. |

In subsection (a) the words "an officer of the Medical Corps" are substituted for the words "medical officer". The words "on active duty" are inserted for clarity.

In subsection (b) the words "rates of charge", "to cover the cost of purchase, inspection, and so forth", and "as can be spared without detriment to the military service" are omitted as surplusage. The words "the contract prices paid therefor" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.) The word "equipments" is omitted as covered by the word "supplies".

In subsection (c), the words "in the District of Columbia" are omitted as surplusage, since there is only one Soldiers' Home. The words "Upon proper application therefor" are omitted as surplusage. The words "its contract prices" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 7624, act Aug. 10, 1956, ch. 1041, 70A Stat. 473, related to reports to Congress with respect to amounts paid or received under prior sections 7622 and 7623 (now 8822 and 8823) of this title, prior to repeal by Pub. L. 86–533, §1(10)(A), June 29, 1960, 74 Stat. 247.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4624 of this title as this section.

**1990**—Pub. L. 101–510, §1533(a)(5)(B), substituted "Armed Forces Retirement Home" for "Soldiers' and Airmen's Home" in section catchline.

Subsec. (c). Pub. L. 101–510, §1533(a)(5)(A), substituted "Armed Forces Retirement Home" for "United States Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, §512(18)(B), inserted "and Airmen's" after "Soldiers' " in section catchline.

Subsec. (c). Pub. L. 96–513, §512(18)(A), substituted "United States Soldiers' and Airmen's" for "Soldiers' ".

**1968**—Subsec. (b). Pub. L. 90–329 substituted "Army Medical Department" for "Army Medical Service".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §7625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans

(a) Any branch, office, or officer designated by the Secretary of the Army may sell articles of

ordnance property to officers of other armed forces for their use in the service, in the same manner as those articles are sold to officers of the Army.

(b) Under such regulations as the Secretary may prescribe, ordnance stores may be sold to civilian employees of the Army and to the American National Red Cross.

(c) Articles of ordnance property may be sold to educational institutions and to State soldiers' and sailors' orphans' homes for maintaining the ordnance and ordnance stores issued to those institutions and homes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 259, §4625; renumbered §7625, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4625(a) | 34:540.<br>50:70. | Mar. 3, 1909, ch. 252 (5th par. under "National Trophy and Medals for Rifle Contest"), 35 Stat. 750. |
| 4625(b) | 50:71. | |
| 4625(c) | 50:63. | Mar. 3, 1909, ch. 252 (8th par. under "National Trophy and Medals for Rifle Contests"), 35 Stat. 751; June 28, 1950, ch. 383, §402(h), 64 Stat. 273.<br>May 11, 1908, ch. 163 (4th par. under "National Trophy and Medals for Rifle Contests"), 35 Stat. 125. |

In subsection (a), the words "other armed forces" are substituted for the words "the Navy and Marine Corps", in 34:540 and 50:70, since those sales may be made to officers of the Coast Guard under section 114(c) of title 14.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7625, act Aug. 10, 1956, ch. 1041, 70A Stat. 473, related to settlement of claims for damage to or loss of privately owned property, prior to repeal by Pub. L. 87–769, §1(2)(A), Oct. 9, 1962, 76 Stat. 768. See section 2736 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4625 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7626. Aircraft supplies and services: foreign military or air attaché

Under such conditions as he may prescribe, the Secretary of the Army may provide for the sale of fuel, oil, and other supplies for use in aircraft operated by a foreign military or air attaché accredited to the United States, and for the furnishing of mechanical service and other assistance to such aircraft. Shelter may be furnished to such aircraft, but only without charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 259, §4626; renumbered §7626, Pub. L. 115–232, div. A, title

VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4626 | 22:259 (less last sentence). | May 31, 1939, ch. 161 (less last sentence), 53 Stat. 795. |

The last sentence is substituted for the words "except for shelter for which no charge shall be made". The words "and equipment" are omitted as covered by the word "supplies". 22:259 (last 22 words of 2d sentence) is omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4626 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7627. Supplies: educational institutions

Under such regulations as the Secretary of the Army may prescribe, supplies and military publications procured for the Army may be sold to any educational institution to which an officer of the Army is detailed as professor of military science and tactics, for the use of its military students. Sales under this section shall be for cash.

(Aug. 10, 1956, ch. 1041, 70A Stat. 259, §4627; renumbered §7627, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4627 | 10:1179 (less proviso). | July 17, 1914, ch. 149 (less proviso), 38 Stat. 512. |

The words "procured for" are substituted for the words "as are furnished to". The words "stores * * * matériel of war" are omitted as covered by the word "supplies". The words "the price listed to the Army" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4627 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7628. Airplane parts and accessories: civilian flying schools

The Secretary of the Army may sell, to civilian flying schools at which personnel of the Department of the Army or the Department of the Air Force are receiving flight training under contracts requiring these schools to maintain and repair airplanes of the Army furnished to them for flight training, the spare parts and accessories needed for those repairs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 259, §4628; renumbered §7628, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4628 | 10:298c. | Feb. 12, 1940, ch. 27, Title I (proviso under "Air Corps"), 54 Stat. 25. |

The words "under the provisions of the Act of Apr. 3, 1939, ch. 35, 53 Stat. 555" are omitted as obsolete, since training formerly performed under that act is now performed under section 4301 of this title. The words "personnel of the Department of the Army or the Department of the Air Force" are substituted for the words "flying cadets", since the authority is reciprocal, and to conform to section 4656 of this title. The words "flying cadet" are omitted as obsolete. 10:298c (last 28 words) is omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4628 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7629. Proceeds: disposition

The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriation:

(1) Exterior articles of uniform sold under section 7621 of this title.

(2) Supplies and military publications sold to educational institutions under section 7627 of this title.

(3) Fuel, oil, other supplies, and services for aircraft of a foreign military or air attache sold under section 7626 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 260, §4629; renumbered §7629 and amended Pub. L. 115–232, div. A, title VIII, §§808(d), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4629 | 10:1179 (proviso).<br>10:1395 (last sentence).<br>22:259 (last sentence). | Feb. 14, 1927, ch. 134 (last sentence), 44 Stat. 1096.<br>July 17, 1914, ch. 149 (proviso), 38 Stat. 512.<br>May 31, 1939, ch. 161 (last sentence), 53 Stat. 796. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(d), renumbered section 4629 of this title as this section.
Par. (1). Pub. L. 115–232, §809(a), substituted "section 7621" for "section 4621".
Par. (2). Pub. L. 115–232, §809(a), substituted "section 7627" for "section 4627".
Par. (3). Pub. L. 115–232, §809(a), substituted "section 7626" for "section 4626".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 771—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.
7652. Rifles and ammunition for target practice: educational institutions having corps of cadets.
7653. Ordnance and ordnance stores: District of Columbia high schools.
7654. Quartermaster supplies: military instruction camps.
7655. Arms and ammunition: agencies and departments of the United States.
7656. Aircraft and equipment: civilian aviation schools.
7657. Sale of ammunition for avalanche-control purposes.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 441 of this title as this chapter and items 4652 to 4657 as 7652 to 7657, respectively.

**2013**—Pub. L. 112–239, div. A, title V, §552(c)(2), Jan. 2, 2013, 126 Stat. 1741, struck out item 4651 "Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C."

**1984**—Pub. L. 98–525, title XV, §1538(a)(2), Oct. 19, 1984, 98 Stat. 2636, added item 4657.

## §7652. Rifles and ammunition for target practice: educational institutions having corps of cadets

(a) The Secretary of the Army may lend, without expense to the United States, magazine rifles and

appendages that are not of the existing service models in use at the time and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of cadets of sufficient number for target practice. He may also issue 40 rounds of ball cartridges for each cadet for each range at which target practice is held, but not more than 120 rounds each year for each cadet participating in target practice.

(b) The institutions to which property is lent under subsection (a) shall use it for target practice, take proper care of it and return it when required.

(c) The Secretary shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 260, §4652; renumbered §7652, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4652(a) | 10:1185 (1st par.). | Apr. 27, 1914, ch. 72 (last proviso and last par. under "Manufacture of Arms"), 38 Stat. 370. |
| 4652(b) | 10:1185 (last par., less 1st 22, and last 19, words). | |
| 4652(c) | 10:1185 (1st 22, and last 19, words of last par.). | |

In subsection (a), the words "and carrying on military training" and "the maintenance of" are omitted as surplusage. In clause (2), the words "suitable to said arm" are omitted as surplusage.

In subsection (b), the words "shall use it for target practice" are substituted for the words "insuring the designed use of the property issued". The words "take proper care of it" are substituted for the words "providing against loss to the United States through lack of proper care".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7651 and 7652 were renumbered sections 8851 and 8852 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4652 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7653. Ordnance and ordnance stores: District of Columbia high schools

The Secretary of the Army, under regulations to be prescribed by him, may issue to the high schools of the District of Columbia ordnance and ordnance stores required for military instruction and practice. The Secretary shall require a bond in double the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 261, §4653; renumbered §7653, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4653 | 10:1183. | Feb. 5, 1891, J. Res. 9, 26 Stat. 1113. |

The words "at his discretion and", "belonging to the Government, and which can be spared for that purpose", and "in each case" are omitted as surplusage. The words "high schools of the" are substituted for the words "High School of Washington" since the various high schools of the District of Columbia have succeeded the Washington High School that existed at the time the statute was enacted. The words "except for property properly expended" are inserted for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7653 was renumbered section 8853 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4653 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7654. Quartermaster supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Army may issue, to any educational institution at which an Army officer is detailed as professor of military science and tactics, such quartermaster supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 261, §4654; renumbered §7654, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4654 | 10:1182. | May 18, 1916, ch. 124, 39 Stat. 123. |

The words "at his discretion and" and "belonging to the Government, and which can be spared for that purpose, as may appear to be" are omitted as surplusage. The words "except for property properly expended" are inserted for clarity. The word "stores" is omitted as covered by the word "supplies".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7654 was renumbered section 8854 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4654 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7655. Arms and ammunition: agencies and departments of the United States

(a) Whenever required for the protection of public money and property, the Secretary of the Army may lend arms and their accouterments, and issue ammunition, to a department or independent agency of the United States, upon request of its head. Property lent or issued under this subsection may be delivered to an officer of the department or agency designated by the head thereof, and that officer shall account for the property to the Secretary of the Army. Property lent or issued under this subsection and not properly expended shall be returned when it is no longer needed.

(b) The department or agency to which property is lent or issued under subsection (a) shall transfer funds to the credit of the Department of the Army to cover the costs of—

(1) ammunition issued;

(2) replacing arms and accouterments that have been lost or destroyed, or cannot be repaired;

(3) repairing arms and accouterments returned to the Department of the Army; and

(4) making and receiving shipments by the Department of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 261, §4655; renumbered §7655, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4655(a) | 50:61 (less proviso). | Mar. 3, 1879, ch. 183 (2d par. under "Miscellaneous"); restated Apr. 14, 1937, ch. 79, 50 Stat. 63. |
| 4655(b) | 50:61 (proviso). | |

In subsection (a), the word "lend" is substituted for the word "issue", with respect to arms and accouterments, since the property must be returned when the necessity for its use has expired. The words "and not properly expended" are inserted for clarity. The words "United States" are substituted for the word "Government". The word "their" is substituted for the words "suitable * * * for use therewith". The words "it is no longer needed" are substituted for the words "the necessity for their use has expired".

In subsection (b), the words "hereafter", "borrowed", and "under the authority of this section" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7655 was renumbered section 8855 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4655 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7656. Aircraft and equipment: civilian aviation schools

The Secretary of the Army, under regulations to be prescribed by him, may lend aircraft, aircraft

parts, and aeronautical equipment and accessories that are required for instruction, training, and maintenance, to accredited civilian aviation schools at which personnel of the Department of the Army or the Department of the Air Force are pursuing a course of instruction and training under detail by competent orders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 261, §4656; Pub. L. 97–295, §1(42), Oct. 12, 1982, 96 Stat. 1298; renumbered §7656, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4656 | 10:298b. | Apr. 3, 1939, ch. 35, §4, 53 Stat. 556. |

The words "in his discretion and", "rules", "limitations", and "on hand and belonging to the Government, such articles as may appear to be" are omitted as surplusage. The words "Department of the Army or the Department of the Air Force" are substituted for the words "Military Establishment", since the authority is reciprocal.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7656 was renumbered section 8856 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4656 of this title as this section.

**1982**—Pub. L. 97–295 struck out ", and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots" after "competent orders".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7657. Sale of ammunition for avalanche-control purposes

Subject to the needs of the Army, the Secretary of the Army may sell ammunition for military weapons which are used for avalanche-control purposes to any State (or entity of a State) or to any other non-Federal entity that has been authorized by a State to use those weapons in that State for avalanche-control purposes. Sales of ammunition under this section shall be on a reimbursable basis and shall be subject to the condition that the ammunition be used only for avalanche-control purposes.

(Added Pub. L. 98–525, title XV, §1538(a)(1), Oct. 19, 1984, 98 Stat. 2636, §4657; renumbered §7657, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7657 to 7681 were renumbered sections 8857 to 8881 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4657 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 98–525, title XV, §1538(b), Oct. 19, 1984, 98 Stat. 2636, provided that: "Section 4657 [now 7657] of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1984."

# CHAPTER 773—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
7682. Obsolete or excess material: sale to National Council of Boy Scouts of America.
7683. Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes.
7684. Surplus obsolete ordnance: sale to patriotic organizations.
7685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes.
7686. Obsolete ordnance: gift to State homes for soldiers and sailors.
7687. Sale of excess, obsolete, or unserviceable ammunition and ammunition components.
7688. Armor-piercing ammunition and components: condition on disposal.
7689. Transfer of material and equipment to the Architect of the Capitol.
7690. Recyclable munitions materials: sale; use of proceeds.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 443 of this title as this chapter and items 4682 to 4690 as 7682 to 7690, respectively.

**2016**—Pub. L. 114–328, div. A, title XII, §1253(a)(2)(D), Dec. 23, 2016, 130 Stat. 2532, struck out item 4681 "Surplus war material: sale to States and foreign governments".

**2013**—Pub. L. 112–239, div. A, title X, §1051(b), Jan. 2, 2013, 126 Stat. 1935, substituted "Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes" for "Excess M–1 rifles: loan or donation for funeral and other ceremonial purposes" in item 4683.

**2006**—Pub. L. 109–364, div. A, title III, §353(b), Oct. 17, 2006, 120 Stat. 2161, added item 4690.

**2002**—Pub. L. 107–217, §2(2), Aug. 21, 2002, 116 Stat. 1295, added item 4689.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §382(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–85, added item 4688.

**1999**—Pub. L. 106–65, div. A, title III, §381(d)(2), Oct. 5, 1999, 113 Stat. 583, substituted "Excess M–1 rifles: loan or donation for funeral and other ceremonial purposes" for "Obsolete or condemned rifles: loan to local units of recognized veterans' organizations" in item 4683.

**1997**—Pub. L. 105–85, div. A, title X, §1065(a)(2), Nov. 18, 1997, 111 Stat. 1895, added item 4687.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REPURPOSING AND REUSE OF SURPLUS ARMY FIREARMS

Pub. L. 115–91, div. A, title III, §348, Dec. 12, 2017, 131 Stat. 1365, as amended by Pub. L. 115–232, div. A, title III, §354, Aug. 13, 2018, 132 Stat. 1731, provided that:

"(a) REQUIRED TRANSFER.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], and subject to subsection (c), the Secretary of the Army shall transfer to a suitable organic facility all excess firearms, related spare parts and components, small arms ammunition, and ammunition components currently stored at Defense Distribution Depot, Anniston, Alabama, that are no longer actively issued for military service and that are otherwise prohibited from commercial sale, or distribution, under Federal law.

"(b) REPURPOSING AND REUSE.—The items specified for transfer under subsection (a) shall be

shredded or melted and repurposed for military use as determined by the Secretary of the Army, including—

"(1) the reforging of new firearms or their components; and

"(2) force protection barriers and security bollards.

"(c) ITEMS EXEMPT FROM TRANSFER.—M–1 Garand, caliber .45 M1911/M1911A1 pistols, caliber .22 rimfire rifles, and such additional items as designated by the Secretary in the annual report required under subsection (d) are not subject to the transfer requirement under subsection (a).

"(d) ANNUAL REPORT.—Not later than 5 days after the budget of the President for a fiscal year is submitted to Congress under section 1105 of title 31, United States Code, the Secretary of the Army, in coordination with the Director of the Defense Logistics Agency, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report specifying additional excess firearms, related spare parts and components, small arms ammunition, and ammunition components designated as no longer actively issued for military service and that are otherwise prohibited from commercial sale, or distribution, under Federal law. The Secretary of the Army shall designate these items to either be added to the transfer list for the purposes described under subsection (b) or the list of items exempted under subsection (c). The report may not include the redesignation or change in status of items previously designated for transfer or exemption pursuant to subsections [sic] (a) or (c).

"(e) ACTIONS PURSUANT TO ANNUAL REPORT.—The Secretary of the Army may not take any action to transfer items designated in the report submitted under subsection (d) until the date of the enactment of the National Defense Authorization Act for the fiscal year following the year such report is submitted. Upon enactment of such Act, the Secretary shall transfer or exempt the items so designated."

**ALTERNATIVE TECHNOLOGIES FOR MUNITIONS DISPOSAL**

Pub. L. 114–328, div. A, title III, §314, Dec. 23, 2016, 130 Stat. 2073, provided that: "In carrying out the disposal of munitions in the stockpile of conventional munitions awaiting demilitarization and disposal, the Secretary of the Army may use cost-competitive technologies that minimize waste generation and air emissions as alternatives to disposal by open burning, open detonation, direct contact combustion, and incineration."

## §7682. Obsolete or excess material: sale to National Council of Boy Scouts of America

Subject to regulations under section 121 of title 40, the Secretary of the Army, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America. Sales under this section shall be at fair value to the Department of the Army, including packing, handling, and transportation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 262, §4682; Pub. L. 96–513, title V, §512(19), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 107–217, §3(b)(25), Aug. 21, 2002, 116 Stat. 1297; renumbered §7682, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4682 | 10:1259. | May 15, 1937, ch. 193, 50 Stat. 167; Oct. 31, 1951, ch. 654, §2(7), 65 Stat. 707. |

The words "obsolete or excess material" are substituted for the words "such obsolete material as may not be needed by the Department of the Army, and such other material as may be spared" to conform to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.). The words "in his discretion" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4682 of this title as this section.

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and

Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §7683. Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes

(a) AUTHORITY TO LEND OR DONATE.—(1) The Secretary of the Army, under regulations prescribed by the Secretary, may conditionally lend or donate excess M–1 rifles (not more than 15), slings, and cartridge belts to any eligible organization for use by that organization for funeral ceremonies of a member or former member of the armed forces, and for other ceremonial purposes.

(2) If the rifles to be loaned or donated under paragraph (1) are to be used by the eligible organization for funeral ceremonies of a member or former member of the armed forces, the Secretary may issue and deliver the rifles, together with the necessary accoutrements and blank ammunition, without charge.

(3)(A) In order to meet the needs of an eligible organization with respect to performing funeral and other ceremonies, if the Secretary determines appropriate, the Secretary may—

(i) loan or donate excess non-automatic service rifles to an eligible organization; or

(ii) authorize an eligible organization to retain non-automatic service rifles other than M–1 rifles.

(B) Nothing in this paragraph shall be construed to supersede any Federal law or regulation governing the use or ownership of firearms.

(b) RELIEF FROM LIABILITY.—The Secretary may relieve an eligible organization to which materials are lent or donated under subsection (a), and the surety on its bond, from liability for loss or destruction of the material lent or donated, if there is conclusive evidence that the loss or destruction did not result from negligence.

(c) CONDITIONS ON LOAN OR DONATION.—In lending or donating rifles under subsection (a), the Secretary shall impose such conditions on the use of the rifles as may be necessary to ensure security, safety, and accountability. The Secretary may impose such other conditions as the Secretary considers appropriate.

(d) ELIGIBLE ORGANIZATION DEFINED.—In this section, the term "eligible organization" means—

(1) a unit or other organization of honor guards recognized by the Secretary of the Army as honor guards for a national cemetery;

(2) a law enforcement agency; or

(3) a local unit of any organization that, as determined by the Secretary of the Army, is a nationally recognized veterans' organization.

(Aug. 10, 1956, ch. 1041, 70A Stat. 262, §4683; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 106–65, div. A, title III, §381(a)–(d)(1), Oct. 5, 1999, 113 Stat. 582; Pub. L. 112–239, div. A, title X, §1051(a), Jan. 2, 2013, 126 Stat. 1935; renumbered §7683, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4683(a) | 50:62. | Feb. 10, 1920, ch. 64; restated June 5, 1920, ch. 240 (par. under "Rifles and Accessories for Organizations of War Veterans"); restated May 26, 1952, ch. 364, 66 Stat. 94. |
| 4683(b) | 50:62b. | Dec. 15, 1926, ch. 10, 44 Stat. 922. |

In subsection (a), the words "rules, limitations" and "in suitable amounts" are omitted as surplusage. The words "(not more than 10)" are substituted for 50:62 (proviso). The words "any local unit" are substituted for the words "posts or camps", before the words "of national". The words "that unit" are substituted for the word "them". The words "those units" are substituted for the words "such posts and camps". The words "a member or former member of the armed forces" are substituted for the words "soldiers, sailors, and marines". Clause (2) is substituted for 50:62 (words between semicolon and colon).

In subsection (b), the words "a unit to which materials are lent under subsection (a)" are substituted for the description of the posts or camps covered. The words "the material lent" are substituted for the words "obsolete or condemned Army rifles, slings, and cartridge belts loaned by the Secretary of the Army under authority of section 62 of this title".

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4683 of this title as this section.

**2013**—Pub. L. 112–239, §1051(a)(2), substituted "Excess non-automatic service rifles: loan or donation for funeral and other ceremonial purposes" for "Excess M–1 rifles: loan or donation for funeral and other ceremonial purposes" in section catchline.

Subsec. (a)(3). Pub. L. 112–239, §1051(a)(1), added par. (3).

**1999**—Pub. L. 106–65, §381(d)(1), substituted "Excess M–1 rifles: loan or donation for funeral and other ceremonial purposes" for "Obsolete or condemned rifles: loan to local units of recognized veterans' organizations" in section catchline.

Subsec. (a). Pub. L. 106–65, §381(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary of the Army, under regulations to be prescribed by him, may—

"(1) lend obsolete or condemned rifles (not more than 10), slings, and cartridge belts to any local unit of any national veterans' organization recognized by the Department of Veterans Affairs, for use by that unit for funeral ceremonies of a member or former member of the armed forces, and for other ceremonial purposes; and

"(2) issue and deliver to those units blank ammunition for those rifles—

"(A) without charge, if it is to be used for ceremonies at national cemeteries; and

"(B) without charge, except for packing, handling, and transportation, if it is to be used for other ceremonies."

Subsec. (b). Pub. L. 106–65, §381(c), inserted heading, substituted "an eligible organization" for "a unit" and "lent or donated" for "lent" in two places.

Subsecs. (c), (d). Pub. L. 106–65, §381(b), added subsecs. (c) and (d).

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7684. Surplus obsolete ordnance: sale to patriotic organizations

Subject to regulations under section 121 of title 40, any branch, office, or officer designated by the Secretary of the Army may sell, without advertisement and at prices that he considers reasonable—

(1) surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes; and

(2) surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers' monuments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 262, §4684; Pub. L. 96–513, title V, §512(19), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 107–217, §3(b)(26), Aug. 21, 2002, 116 Stat. 1297; renumbered §7684, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4684 | 50:64.<br>50:68. | May 28, 1908, ch. 215, §14, 35 Stat. 443; June 28, 1950, ch. 383, §402(g), 64 Stat. 273; Oct. 31, 1951, ch. 654, §2(26), 65 Stat. 707.<br>Mar. 4, 1909, ch. 319, §47, 35 Stat. 1075; June 28, 1950, ch. 383, §402(i), 64 Stat. 273; Oct. 31, 1951, ch. 654, §2(28), 65 Stat. 707. |

50:64 (proviso) and 50:68 (proviso) are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4684 of this title as this section.

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" in introductory provisions.

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §7685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes

(a) Upon the recommendation of the governor of the State concerned or Guam or the Virgin Islands, the Secretary of the Army, under regulations to be prescribed by him and without cost to the United States for transportation, may lend obsolete ordnance and ordnance stores to State, Guam, and the Virgin Islands educational institutions and to State soldiers and sailors' orphans' homes, for drill and instruction. However, no loan may be made under this subsection to an institution to which

ordnance or ordnance stores may be issued under any law that was in effect on June 30, 1906, and is still in effect.

(b) The Secretary shall require a bond from each institution or home to which property is lent under subsection (a), in double the value of the property lent, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 263, §4685; Pub. L. 109–163, div. A, title X, §1057(a)(10), Jan. 6, 2006, 119 Stat. 3441; renumbered §7685, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4685(a) | 50:62a (1st par. and proviso of last par.). | June 30, 1906, ch. 3938, 34 Stat. 817. |
| 4685(b) | 50:62a (last par., less proviso). | |

In subsection (a), the words "at his discretion" and "as may be available" are omitted as surplusage. The word "lend" is substituted for the word "issue" to reflect the intent of the section. 50:62a (1st 13 words of proviso) is omitted as surplusage. The words "and which is still in effect" are inserted for clarity.

In subsection (b), the words "to the United States" are omitted as surplusage. The words "except property properly expended" are inserted for clarity.

The words "subject to such regulations as he may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "to any of the 'National Homes for Disabled Volunteer Soldiers' already established or hereafter established and", in the Act of February 8, 1889, ch. 116, 25 Stat. 657, are not contained in 50:66 (1st sentence). They are also omitted from the revised section, since the National Homes for Disabled Volunteer Soldiers were dissolved by the Act of July 3, 1930, ch. 863, 46 Stat. 1016. The Acts of March 3, 1899, ch. 643 (1st proviso under "Ordnance Department"), 30 Stat. 1073; and May 26, 1900, ch. 586 (1st proviso under "Ordnance Department"), 31 Stat. 216, as amended, relating to disposal of ordnance to "Homes for Disabled Volunteer Soldiers" by the Chief of Ordnance, became inoperative when the Homes were dissolved. Although section 402(e) of the Army Organization Act of 1950, ch. 383, 64 Stat. 273, amended the Act of May 26, 1900, it did not have the effect of reviving that act. The word "give" is substituted for the word "deliver" to express more clearly the intent of the section. The words "serviceable" and "as may be on hand undisposed of" are omitted as surplusage. The word "may" is substituted for the words "is authorized and directed", since section 4684 of this title provides an alternative method for the disposal of obsolete cannon.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4685 of this title as this section.

**2006**—Subsec. (a). Pub. L. 109–163 substituted "State concerned or Guam or the Virgin Islands" for "State or Territory concerned" and "State, Guam, and the Virgin Islands" for "State and Territorial".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7686. Obsolete ordnance: gift to State homes for soldiers and sailors

Subject to regulations under section 121 of title 40, the Secretary of the Army may give not more than two obsolete bronze or iron cannons suitable for firing salutes to any home for soldiers or sailors established and maintained under State authority.

(Aug. 10, 1956, ch. 1041, 70A Stat. 263, §4686; Pub. L. 96–513, title V, §512(19), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 107–217, §3(b)(27), Aug. 21, 2002, 116 Stat. 1297; renumbered §7686, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4686 | 50:66. | Feb. 8, 1889, ch. 116, 25 Stat. 657; Oct. 31, 1951, ch. 654, §2(27), 65 Stat. 707.<br>Mar. 3, 1899, ch. 423 (1st proviso under "Ordnance Department"), 30 Stat. 1073; May 26, 1900, ch. 586 (1st proviso under "Ordnance Department"), 31 Stat. 216; June 28, 1950, ch. 383, §402(e), 64 Stat. 273. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4686 of this title as this section.

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §7687. Sale of excess, obsolete, or unserviceable ammunition and ammunition components

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of the Army may sell to an eligible purchaser described in subsection (c) ammunition or ammunition components that are excess, obsolete, or unserviceable and have not been demilitarized if—

(1) the purchaser enters into an agreement, in advance, with the Secretary—

(A) to demilitarize the ammunition or components; and

(B) to reclaim, recycle, or reuse the component parts or materials; or

(2) the Secretary, or an official of the Department of the Army designated by the Secretary, approves the use of the ammunition or components proposed by the purchaser as being consistent with the public interest.

(b) METHOD OF SALE.—The Secretary shall use competitive procedures to sell ammunition and ammunition components under this section, except that the Secretary may use procedures other than

competitive procedures in any case in which the Secretary determines that there is only one potential buyer of the items being offered for sale.

(c) ELIGIBLE PURCHASERS.—To be eligible to purchase excess, obsolete, or unserviceable ammunition or ammunition components under this section, the purchaser shall be a licensed manufacturer (as defined in section 921(a)(10) of title 18) that, as determined by the Secretary, has a capability to modify, reclaim, transport, and either store or sell the ammunition or ammunition components sought to be purchased.

(d) HOLD HARMLESS AGREEMENT.—The Secretary shall require a purchaser of ammunition or ammunition components under this section to agree to hold harmless and indemnify the United States from any claim for damages for death, injury, or other loss resulting from a use of the ammunition or ammunition components, except in a case of willful misconduct or gross negligence of a representative of the United States.

(e) VERIFICATION OF DEMILITARIZATION.—The Secretary shall establish procedures for ensuring that a purchaser of ammunition or ammunition components under this section demilitarizes the ammunition or ammunition components in accordance with any agreement to do so under subsection (a)(1). The procedures shall include onsite verification of demilitarization activities.

(f) CONSIDERATION.—The Secretary may accept ammunition, ammunition components, or ammunition demilitarization services as consideration for ammunition or ammunition components sold under this section. The fair market value of any such consideration shall be equal to or exceed the fair market value or, if higher, the sale price of the ammunition or ammunition components sold.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the applicability of section 38 of the Arms Export Control Act (22 U.S.C. 2778) to sales of ammunition or ammunition components on the United States Munitions List.

(h) DEFINITIONS.—In this section:

(1) The term "excess, obsolete, or unserviceable", with respect to ammunition or ammunition components, means that the ammunition or ammunition components are no longer necessary for war reserves or for support of training of the Army or production of ammunition or ammunition components.

(2) The term "demilitarize", with respect to ammunition or ammunition components—

(A) means to destroy the military offensive or defensive advantages inherent in the ammunition or ammunition components; and

(B) includes any mutilation, scrapping, melting, burning, or alteration that prevents the use of the ammunition or ammunition components for the military purposes for which the ammunition or ammunition components was designed or for a lethal purpose.

(Added Pub. L. 105–85, div. A, title X, §1065(a)(1), Nov. 18, 1997, 111 Stat. 1893, §4687; amended Pub. L. 109–364, div. A, title X, §1071(a)(30), Oct. 17, 2006, 120 Stat. 2399; renumbered §7687, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4687 of this title as this section.

**2006**—Subsec. (c). Pub. L. 109–364 substituted "921(a)(10)" for "921(10)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7688. Armor-piercing ammunition and components: condition on disposal

(a) LIMITATION ON RESALE OR OTHER TRANSFER.—Except as provided in subsection (b), whenever the Secretary of the Army carries out a disposal (by sale or otherwise) of armor-piercing ammunition, or a component of armor-piercing ammunition, the Secretary shall require as a condition of the disposal that the recipient agree in writing not to sell or otherwise transfer any of the ammunition (reconditioned or otherwise), or any armor-piercing component of that ammunition, to any purchaser in the United States other than a law enforcement or other governmental agency.

(b) EXCEPTION.—Subsection (a) does not apply to a transfer of a component of armor-piercing ammunition solely for the purpose of metal reclamation by means of a destructive process such as melting, crushing, or shredding.

(c) SPECIAL RULE FOR NON-ARMOR-PIERCING COMPONENTS.—A component of the armor-piercing ammunition that is not itself armor-piercing and is not subjected to metal reclamation as described in subsection (b) may not be used as a component in the production of new or remanufactured armor-piercing ammunition other than for sale to a law enforcement or other governmental agency or for a government-to-government sale or commercial export to a foreign government under the Arms Export Control Act (22 U.S.C. 2751).

(d) DEFINITION.—In this section, the term "armor-piercing ammunition" means a center-fire cartridge the military designation of which includes the term "armor penetrator" or "armor-piercing", including a center-fire cartridge designated as armor-piercing incendiary (API) or armor-piercing incendiary-tracer (API–T).

(Added Pub. L. 106–398, §1 [[div. A], title III, §382(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–85, §4688; renumbered §7688, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (c), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

#### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4688 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title III, §382(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–85, provided that: "Section 4688 [now 7688] of title 10, United States Code, as added by subsection (a), shall apply with respect to any disposal of ammunition or components referred to in that section after the date of the enactment of this Act [Oct. 30, 2000]."

## §7689. Transfer of material and equipment to the Architect of the Capitol

The Secretary of the Army is authorized to transfer, without payment, to the Architect of the Capitol, such material and equipment, not required by the Department of the Army, as the Architect may request for use at the Capitol power plant, the Capitol, and the Senate and House Office Buildings.

(Added Pub. L. 107–217, §2(1), Aug. 21, 2002, 116 Stat. 1294, §4689; amended Pub. L. 108–375, div. A, title X, §1084(d)(29), Oct. 28, 2004, 118 Stat. 2063; renumbered §7689, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4689 of this title as this section.

**2004**—Pub. L. 108–375 struck out "Building" after "Capitol power plant, the Capitol".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7690. Recyclable munitions materials: sale; use of proceeds

(a) AUTHORITY FOR PROGRAM.—Notwithstanding section 2577 of this title, the Secretary of the Army may carry out a program to sell recyclable munitions materials resulting from the demilitarization of conventional military munitions without regard to chapter 5 of title 40 and use any proceeds in accordance with subsection (c).

(b) METHOD OF SALE.—The Secretary shall use competitive procedures to sell recyclable munitions materials under this section in a manner consistent with Federal procurement laws and regulations.

(c) PROCEEDS.—(1) Proceeds from the sale of recyclable munitions materials under this section shall be credited to an account that is specified as being for Army ammunition demilitarization from funds made available for the procurement of ammunition, to be available only for reclamation, recycling, and reuse of conventional military munitions (including research and development and equipment purchased for such purpose).

(2) Amounts credited under this subsection shall be available for obligation for the fiscal year during which the funds are so credited and for three subsequent fiscal years.

(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out the program established under this section. Such regulations shall be consistent and in compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the regulations implementing that Act.

(Added Pub. L. 109–364, div. A, title III, §353(a), Oct. 17, 2006, 120 Stat. 2161, §4690; renumbered §7690, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (d), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4690 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 775—DISPOSITION OF EFFECTS OF DECEASED PERSONS; CAPTURED FLAGS

Sec.
7712. Disposition of effects of deceased persons by summary court-martial.
7714. Collection of captured flags, standards, and colors.
7715. Army museum system.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title III, §374, Dec. 18, 2025, 139 Stat. 838, added item 7715. Amendment was made pursuant to operation of section 102 of this title.

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 445 of this title as this chapter and items 4712 and 4714 as 7712 and 7714, respectively.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(3), (5), Oct. 5, 1999, 113 Stat. 694, 695, substituted "DISPOSITION" for "INQUESTS; DISPOSITION" in chapter heading and struck out item 4711 "Inquests".

**1990**—Pub. L. 101–510, div. A, title XV, §1533(a)(7)(B), Nov. 5, 1990, 104 Stat. 1734, struck out item 4713 "Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, title V, §512(21)(C), Dec. 12, 1980, 94 Stat. 2930, inserted "and Airmen's" after "Soldiers' " in item 4713.

## §7712. Disposition of effects of deceased persons by summary court-martial

(a) Upon the death of—

(1) a person subject to military law at a place or command under the jurisdiction of the Army; or

(2) a resident of the Armed Forces Retirement Home who dies in an Army hospital outside the District of Columbia when sent from the Home to that hospital for treatment;

the commanding officer of the place or command shall permit the legal representative or the surviving spouse of the deceased, if present, to take possession of the effects of the deceased that are then in camp or quarters.

(b) If there is no legal representative or surviving spouse present, the commanding officer shall direct a summary court-martial to collect the effects of the deceased that are then in camp or quarters.

(c) The summary court-martial may collect debts due the decedent's estate by local debtors, pay undisputed local creditors of the deceased to the extent permitted by money of the deceased in the court's possession, and shall take receipts for those payments, to be filed with the court's final report to the Department of the Army.

(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

(1) The surviving spouse or legal representative.

(2) A child of the deceased.

(3) A parent of the deceased.

(4) A brother or sister of the deceased.

(5) The next-of-kin of the deceased.

(6) A beneficiary named in the will of the deceased.

(e) If the summary court-martial cannot dispose of the effects under subsection (d) because there are no persons in those categories or because the court finds that the addresses of the persons are not known or readily ascertainable, the court may convert the effects of the deceased, except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, into cash, by public or private sale, but not until 30 days after the date of death of the deceased.

(f) As soon as practicable after the effects have been converted into cash under subsection (e), the summary court-martial shall deposit all cash in the court's possession and belonging to the estate with the officer designated in regulations, and shall send a receipt therefor, together with any will or other papers of value, an inventory of the effects, and articles not permitted to be sold, to the executive part of the Department of the Army. The Secretary of the Army shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Army under this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 264, §4712; Pub. L. 89–718, §30, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 96–513, title V, §512(20), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 99–145, title XIII, §1301(b)(4)(A), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–510, div. A, title XV, §1533(a)(6), Nov. 5, 1990, 104 Stat. 1734; Pub. L. 104–316, title II, §202(g), Oct. 19, 1996, 110 Stat. 3842; renumbered §7712, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4712(a) | 5:150j (words before 1st semicolon of 1st par.; and last par.). | June 4, 1920, ch. 227, subch. II, §1 (Art. 112), 41 Stat. 809; May 5, 1950, ch. 169, § 6(c), 64 Stat. 145. |
| 4712(b) | 5:150j (22 words after 1st semicolon of 1st par.). | |
| 4712(c) | 5:150j (words between 1st and 2d semicolons of 1st par., less 1st 22 words). | |
| 4712(d) | 5:150j (words between 2d and 3d semicolons of 1st par.). | |
| 4712(e) | 5:150j (words between 3d and 4th semicolons of 1st par.). | |
| 4712(f) | 5:150j (1st par., less words before 4th semicolon, and less last 40 words). | |
| 4712(g) | 5:150j (last 40 words of 1st par.). | |

In subsection (a), the words "the court-martial jurisdiction of the Army or the Air Force at a place or command under the jurisdiction of the Army" are substituted for the words "military law", to reflect the creation of a separate Air Force. Clause (2) is substituted for 5:150j (last par.).

In subsections (a), (b), and (d), the words "surviving spouse" are substituted for the word "widow".

In subsection (c), the word "may" is substituted for the words "shall have authority to". The words "to the extent permitted" are substituted for the words "in so far as * * * will permit". The words "under this article" and "upon its transactions" are omitted as surplusage.

In subsection (d), the words "through the Quartermaster Corps" are omitted, since the functions are no longer lodged in the Quartermaster Corps. The words "if such be found by said court" are omitted as surplusage. The words "United States" are substituted for the word "Government". 5:150j (19 words before 3d semicolon of 1st par.) is omitted as covered by subsection (g).

In subsection (e), the first 37 words are substituted for 5:150j (33 words after 3d semicolon of 1st par.). The word "may" is substituted for the words "shall have the authority".

In subsection (f), the words "Soldiers' Home" are inserted, since, as provided in section 4713 of this title, the Home is now the place where the mentioned articles are sent.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4712 of this title as this section.

**1996**—Subsec. (g). Pub. L. 104–316 struck out subsec. (g) which read as follows: "The summary court-martial shall make a full report of the transactions under this section, with respect to the deceased, to the Department of the Army for transmission to the General Accounting Office for action authorized in the settlement of accounts of deceased members of the Army."

**1990**—Subsec. (a)(2). Pub. L. 101–510, §1533(a)(6)(A), substituted "a resident of the Armed Forces Retirement Home" for "an inmate of the United States Soldiers' and Airmen's Home".

Subsec. (f). Pub. L. 101–510, §1533(a)(6)(B), struck out "for transmission to the United States Soldiers' and Airmen's Home" after "Department of the Army" and inserted at end "The Secretary of the Army shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Army under this subsection."

**1985**—Subsec. (d). Pub. L. 99–145 substituted new pars. (1) to (6) for former pars. (1) to (9) which read as follows:

"(1) Surviving spouse or legal representative.

"(2) Son.

"(3) Daughter.

"(4) Father, if he has not abandoned the support of his family.

"(5) Mother.

"(6) Brother.

"(7) Sister.

"(8) Next of kin.

"(9) Beneficiary named in the will of the deceased."

**1980**—Subsecs. (a)(2), (f). Pub. L. 96–513 substituted "United States Soldiers' and Airmen's Home" for "Soldiers' Home".

**1966**—Subsec. (a). Pub. L. 89–718 substituted "military law" for "the court-martial jurisdiction of the Army or the Air Force".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §7714. Collection of captured flags, standards, and colors

The Secretary of the Army shall have sent to him all flags, standards, and colors taken by the Army from enemies of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 266, §4714; renumbered §7714, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 4714 | 5:198. | R.S. 218. |

The words "from time to time", "collected", and "at the seat of government" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4714 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7715. Army museum system

(a) IN GENERAL.—The Secretary of the Army shall support a system of official Army museums within the United States Army Center of Military History. Such system shall include the National Museum of the United States Army and may contain other museums honoring individual installations, units, and branches, as designated by the Secretary of the Army, that meet criteria established under subsection (b).

(b) CRITERIA FOR DESIGNATION.—The Secretary of the Army shall establish criteria for designating museums of subsection (a) for inclusion in the Army museum system. Such criteria shall include—

(1) historical significance to Army operations, technology, or personnel;

(2) public accessibility and educational outreach programs; and

(3) alignment with the mission of the Army to preserve its heritage.

(c) CRITERIA FOR CLOSURE.—The Secretary of the Army shall establish criteria for closing museums within the Army museum system. No museum within such system may be closed until—

(1) the Secretary of the Army submits to the Committees on Armed Services of the House of Representatives and the Senate notice that includes—

(A) a plan for the preservation, storage, or alternate display of historical collections contained in the museum;

(B) how any issues relating to museum personnel will be resolved;

(C) an identification of any efforts to maintain museum operations through public-private partnerships; and

(D) an analysis of the cost to transport, consolidate, and preserve the historical collections contained in the museum; and

(2) a period of 90 days has elapsed after the date on which such notice is received by such committees.

(d) FUNDING AND SUPPORT.—Consistent with applicable law, the Secretary may enter into partnerships, including with nonprofit organizations, to enhance the financial sustainability and public engagement of the museums in the Army museum system.

(Added Pub. L. 119–60, div. A, title III, §374, Dec. 18, 2025, 139 Stat. 838.)

# CHAPTER 776—ARMY NATIONAL MILITARY CEMETERIES

Sec.
7721. Authority and responsibilities of the Secretary of the Army.
7722. Interment and inurnment policy.
7723. Advisory committee on Arlington National Cemetery.
7724. Executive Director.
7725. Superintendents.
7726. Oversight and inspections.
7727. Cemetery concessions contracts.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 446 of this title as this chapter and items 4721 to 4727 as 7721 to 7727, respectively.

**2013**—Pub. L. 113–66, div. A, title V, §585(b), Dec. 26, 2013, 127 Stat. 777, added item 4727.

## §7721. Authority and responsibilities of the Secretary of the Army

(a) GENERAL AUTHORITY.—The Secretary of the Army shall develop, operate, manage, administer, oversee, and fund the Army National Military Cemeteries specified in subsection (b) in a manner and to standards that fully honor the service and sacrifices of the deceased members of the armed forces buried or inurned in the Cemeteries.

(b) ARMY NATIONAL MILITARY CEMETERIES.—The Army National Military Cemeteries (in this chapter referred to as the "Cemeteries") consist of the following:

(1) Arlington National Cemetery in Arlington, Virginia.

(2) The United States Soldiers' and Airmen's Home National Cemetery in the District of Colombia.

(c) ADMINISTRATIVE JURISDICTION.—The Cemeteries shall be under the jurisdiction of Headquarters, Department of the Army.

(d) REGULATIONS AND OTHER POLICIES.—The Secretary of the Army shall prescribe such regulations and policies as may be necessary to administer the Cemeteries.

(e) BUDGETARY AND REPORTING REQUIREMENTS.—The Secretary of the Army shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and House of Representatives an annual budget request (and detailed justifications for the amount of the request) to fund administration, operation and maintenance, and construction related to the Cemeteries. The Secretary may include, as necessary, proposals for new or amended statutory authority related to the Cemeteries.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1439, §4721; renumbered §7721, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7721 was renumbered section 8891 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4721 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (e) of this section relating to submitting annual budget request to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## RESUMPTION OF CAISSON SERVICES AT FUNERAL SERVICES AT ARLINGTON NATIONAL CEMETERY

Pub. L. 118–159, div. A, title X, §1088, Dec. 23, 2024, 138 Stat. 2080, provided that:

"(a) REQUIREMENT.—The Secretary of the Army shall conduct at least 20 funeral services with caisson services each week at Arlington National Cemetery beginning on the date on which the Secretary of the Army determines that—

"(1) the renovations of the historic stables in buildings 233 and 236 at Joint Base Meyer-Henderson Hall are complete; and

"(2) the caisson herd is fully constituted, trained, and certified.

"(b) OPTION FOR LIMITED SERVICES.—The Secretary of the Army may elect to resume limited caisson services at Arlington National Cemetery before the requirements of subsection (a) have been met if the Secretary—

"(1) determines that the health of the caisson herd and the sustainability of caisson services can be maintained without disruption; and

"(2) consults with the Committees on Armed Services of the Senate and House of Representatives before resuming such limited services.

"(c) DEFINITIONS.—In this section, with respect to the caisson herd:

"(1) The term 'fully constituted' means that such herd is comprised of at least—

"(A) four caisson squads of eleven horses in each;

"(B) 14 caparison horses; and

"(C) four outreach horses.

"(2) The term 'trained' means that each caisson squad within such herd has completed the specialized training determined necessary by the Commander of the Military District of Washington to resume caisson support for funeral services.

"(3) The term 'certified' means that the Commander of the Military District of Washington, in consultation with equine and veterinary experts, has confirmed to the Secretary of the Army that each caisson squad within such herd has met the training, health, and fitness requirements determined appropriate by the Secretary."

## ESTABLISHMENT OF CAISSON PLATOON AND SUPPORT FOR MILITARY AND STATE FUNERAL SERVICES AT ARLINGTON NATIONAL CEMETERY

Pub. L. 118–31, div. A, title III, §366, Dec. 22, 2023, 137 Stat. 234, provided that:

"(a) ESTABLISHMENT.—There is established in the Department of the Army an equine unit, to be known as the 'Caisson Platoon', assigned to the 3rd Infantry Regiment of the Army. The duties of such unit shall include the provision of support for military and State funerals.

"(b) PROHIBITIONS ON ELIMINATION.—The Secretary of the Army may not eliminate the Caisson Platoon of the 3rd Infantry Regiment of the Army established under subsection (a).

"(c) BRIEFINGS.—

"(1) PROVISION TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2023], and not less frequently than every 180 days thereafter until March 31, 2027, the Secretary of the Army shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the health, welfare, and sustainment of military working equids.

"(2) ELEMENTS.—Each briefing under paragraph (1) shall include the following:

"(A) An assessment of the ability of the Caisson Platoon of the 3rd Infantry Regiment of the Army to support military funeral operations within Arlington National Cemetery, including milestones associated with achieving full operational capability for such Caisson Platoon.

"(B) An update on the plan of the task force known as the 'Task Force-Military Working Equids' established by the Office of the Surgeon General, as directed by the Director of the Army Staff, in May 2022 (or any successor task force), to promote, support, and sustain animal health and welfare.

"(C) An update on the plan of such task force to ensure the Caisson Platoon of the 3rd Infantry Regiment of the Army has the ability to continuously support military and State funeral operations within Arlington National Cemetery."

**DIGITIZATION OF ARLINGTON NATIONAL CEMETERY INTERMENT AND INURNMENT RECORDS**

Pub. L. 112–81, div. A, title V, §591(b), Dec. 31, 2011, 125 Stat. 1441, provided that:

"(1) DEADLINE FOR CONVERSION AND USE.—Not later than June 1, 2012, all records related to interments and inurnments at Arlington National Cemetery shall be converted to a digitized format. Thereafter, use of the digitized format shall be the method by which all subsequent records related to interments and inurnments at Arlington National Cemetery are preserved and utilized.

"(2) DIGITIZED FORMAT DEFINED.—In this subsection, the term 'digitized format' refers to the use of an electronic database for recordkeeping and includes the full accounting of all records of each specific gravesite and niche location at Arlington National Cemetery and the identification of the individual interred or inurned at each specific gravesite and niche location."

## §7722. Interment and inurnment policy

(a) ELIGIBILITY DETERMINATIONS GENERALLY.—(1) The Secretary of the Army, with the approval of the Secretary of Defense, shall determine eligibility for interment or inurnment in the Cemeteries.

(2) The Secretary of the Army, with the approval of the Secretary of Defense, shall establish policy and procedures for reviewing and determining requests for exceptions to interment and inurnment eligibility policy, which shall include a requirement, before granting the request for an exception, for notification of the Committees on Armed Services and the Committees on Veterans Affairs of the Senate and the House of Representatives.

(b) REMOVAL OF REMAINS.—Under such regulations as the Secretary of the Army may prescribe under section 7721(d) of this title, the Secretary of the Army may authorize the removal of the remains of a person described in subsection (c) from one of the Cemeteries for re-interment or re-inurnment if, upon the death of the primary person eligible for interment or inurnment in the Cemeteries, the deceased primary eligible person will not be buried in the same or an adjoining grave.

(c) COVERED PERSONS.—Except as provided in subsection (d), the persons whose remains may be removed pursuant to subsection (b) are the deceased spouse, a minor child, and, in the discretion of the Secretary of the Army, an unmarried adult child of a member eligible for interment or inurnment in the Cemeteries.

(d) EXCEPTIONS.—The remains of a person described in subsection (c) may not be removed from one of the Cemeteries under subsection (b) if the primary person eligible for burial in the Cemeteries is a person—

(1) who is missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the choice of the person or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1439, §4722; renumbered §7722 and amended Pub. L. 115–232, div. A, title VIII, §§808(d), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7722 was renumbered section 8892 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §808(d), renumbered section 4722 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 7721(d)" for "section 4721(d)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7723. Advisory committee on Arlington National Cemetery

(a) APPOINTMENT.—The Secretary of the Army shall appoint an advisory committee on Arlington National Cemetery.

(b) ROLE.—The Secretary of the Army shall advise and consult with the advisory committee with respect to the administration of Arlington National Cemetery, the erection of memorials at the cemetery, and master planning for the cemetery.

(c) REPORTS AND RECOMMENDATIONS.—The advisory committee shall make periodic reports and recommendations to the Secretary of the Army.

(d) SUBMISSION TO CONGRESS.—Not later than 90 days after receiving a report or recommendations from the advisory committee under subsection (c), the Secretary of the Army shall submit the report or recommendations to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and House of Representatives and include such comments and recommendations of the Secretary as the Secretary considers appropriate.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1440, §4723; renumbered §7723, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7723 was renumbered section 8893 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4723 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7724. Executive Director

(a) APPOINTMENT AND QUALIFICATIONS.—(1) There shall be an Executive Director of the Army National Military Cemeteries who shall meet such professional qualifications as may be established by the Secretary of the Army.

(2) The Executive Director reports directly to the Secretary.

(b) RESPONSIBILITIES.—The Executive Director is responsible for the following:

(1) Exercising authority, direction and control over all aspects of the Cemeteries.

(2) Establishing and maintaining full accountability for all gravesites and inurnment niches in the Cemeteries.

(3) Oversight of the construction, operation and maintenance, and repair of the buildings, structures, and utilities of the Cemeteries.

(4) Acquisition and maintenance of real property and interests in real property for the Cemeteries.

(5) Planning and conducting private ceremonies at the Cemeteries, including funeral and memorial services for interment and inurnment, and planning and conducting public ceremonies, as directed by the Secretary of the Army.

(6) Formulating, promulgating, administering, and overseeing policies and addressing proposals for the placement of memorials and monuments in the Cemeteries.

(7) Formulating and implementing a master plan for Arlington National Cemetery that, at a minimum, addresses interment and inurnment capacity, visitor accommodation, operation and maintenance, capital requirements, preservation of the cemetery's special features, and other matters the Executive Director considers appropriate.

(8) Overseeing the programming, planning, budgeting, and execution of funds authorized and appropriated for the Cemeteries.

(9) Providing recommendations regarding any request for an exception to interment and inurnment eligibility policy.

(10) Supervising the superintendents of the Cemeteries.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1440, §4724; renumbered §7724, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7724 was renumbered section 8894 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4724 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7725. Superintendents

(a) APPOINTMENT AND QUALIFICATIONS.—An individual serving as the superintendent of one of the Cemeteries should have, as determined by the Secretary of the Army—

(1) experience in the administration, management, and operation of cemeteries under the jurisdiction of the National Cemeteries System administered by the Department of Veterans Affairs; or

(2) experience in the administration, management, and operation of large civilian cemeteries equivalent to the experience described in paragraph (1).

(b) DUTIES.—The superintendents of the Cemeteries report directly to the Executive Director and performs such duties and responsibilities as the Executive Director prescribes.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1441, §4725; renumbered §7725, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7725 was renumbered section 8895 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4725 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7726. Oversight and inspections

(a) INSPECTIONS REQUIRED.—The Secretary of the Army shall provide for the oversight of the Cemeteries to ensure the highest quality standards are maintained by providing for the periodic inspection of the administration, operation and maintenance, and construction elements applicable to the Cemeteries. The inspections shall be conducted by personnel of the Department of the Army with the assistance, as the Secretary considers appropriate, of personnel from other Federal agencies and civilian experts.

(b) SUBMISSION OF RESULTS.—Not later than 120 days after the completion of an inspection conducted under subsection (a), the Secretary of the Army shall submit to the congressional defense committees a report containing the results of the inspection and recommendations and a plan for corrective actions to be taken in response to the inspection.

(Added Pub. L. 112–81, div. A, title V, §591(a)(1), Dec. 31, 2011, 125 Stat. 1441, §4726; renumbered §7726, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 7726 was renumbered section 8896 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4726 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7727. Cemetery concessions contracts

(a) CONTRACTS AUTHORIZED.—The Secretary of the Army may enter into a contract with an appropriate entity for the provision of transportation, interpretative, or other necessary or appropriate concession services to visitors at the Army National Military Cemeteries.

(b) SPECIAL REQUIREMENTS.—(1) The Secretary of the Army shall establish and include in each concession contract such requirements as the Secretary determines are necessary to ensure the protection, dignity, and solemnity of the cemetery at which services are provided under the contract.

(2) A concession contract shall not include operation of the gift shop at Arlington National Cemetery without the specific prior authorization by an Act of Congress.

(c) FRANCHISE FEES.—A concession contract shall provide for payment to the United States of

a franchise fee or such other monetary consideration as determined by the Secretary of the Army. The Secretary shall ensure that the objective of generating revenue for the United States is subordinate to the objectives of honoring the service and sacrifices of the deceased members of the armed forces and of providing necessary and appropriate services for visitors to the Cemeteries at reasonable rates.

(d) SPECIAL ACCOUNT.—All franchise fees (and other monetary consideration) collected by the United States under subsection (c) shall be deposited into a special account established in the Treasury of the United States. The funds deposited in such account shall be available for expenditure by the Secretary of the Army, to the extent authorized and in such amounts as are provided in advance in appropriations Acts, to support activities at the Cemeteries. The funds deposited into the account shall remain available until expended.

(e) CONCESSION CONTRACT DEFINED.—In this section, the term "concession contract" means a contract authorized and entered into under this section.

(Added Pub. L. 113–66, div. A, title V, §585(a), Dec. 26, 2013, 127 Stat. 777, §4727; renumbered §7727, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 7727 to 7730 were renumbered sections 8897 to 8900 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4727 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 777—TRANSPORTATION

Sec.
7749. Property: for United States surveys.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 447 of this title as this chapter and item 4749 as 7749.

**2004**—Pub. L. 108–375, div. A, title X, §1072(d)(2), Oct. 28, 2004, 118 Stat. 2058, struck out items 4741 "Control and supervision", 4743 "Officers: use of transportation", 4744 "Persons and supplies: sea transportation", 4745 "Civilian passengers and commercial cargoes: transports in trans-Atlantic service", 4746 "Civilian personnel in Alaska", and 4747 "Passengers and merchandise to Guam: sea transport".

**1996**—Pub. L. 104–201, div. A, title IX, §906(d)(2), Sept. 23, 1996, 110 Stat. 2620, struck out item 4742 "Control of transportation systems in time of war".

**1962**—Pub. L. 87–651, title I, §119(2), Sept. 7, 1962, 76 Stat. 513, struck out item 4748 "Motor vehicles: for members on permanent change of station".

## §7749. Property: for United States surveys

Under regulations governing the transportation of Army supplies, any branch, office, or officer designated by the Secretary of the Army shall receive, transport, and be responsible for property

turned over by the officers or agents of any United States survey, for the National Museum or for a department of the United States or field office thereof. The amount paid by the Army for transportation under this section shall be refunded to the Army by the National Museum or the department to which the property is consigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 268, §4749; renumbered §7749, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4749 | 10:1377. | July 5, 1884, ch. 217 (9th proviso under "Quartermaster's Department"), 23 Stat. 111; June 28, 1950, ch. 383, §402(b), 64 Stat. 272. |

The words "a department of the United States or a field office thereof" are substituted for the words "the civil or naval departments of the Government, in Washington or elsewhere". The words "National Museum or the department to which the property is consigned" are substituted for the words "bureau to which such property or stores pertain". The words "United States" are substituted for the word "Government". The words "wherever stationed" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4749 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 779—REAL PROPERTY

Sec.
7771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
7772. Heritage Center for the National Museum of the United States Army: development and operation.
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**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 449 of this title as this chapter and items 4771 to 4781 as 7771 to 7781, respectively.

**2017**—Pub. L. 115–91, div. A, title X, §1081(a)(49)(B), Dec. 12, 2017, 131 Stat. 1597, struck out second item 4781 "Cyber Center for Education and Innovation-Home of the National Cryptologic Museum" after

identical first item 4781.

Pub. L. 115–31, div. N, title VI, §602(b), May 5, 2017, 131 Stat. 829, added identical second item 4781 after first item 4781.

**2016**—Pub. L. 114–328, div. B, title XXVIII, §2831(b), Dec. 23, 2016, 130 Stat. 2740, added item 4781 after item 4780.

**2004**—Pub. L. 108–375, div. B, title XXVIII, §2822(b), Oct. 28, 2004, 118 Stat. 2132, added item 4772.

**1982**—Pub. L. 97–295, §1(43)(B), Oct. 12, 1982, 96 Stat. 1298, struck out item 4772 "Reservation and use for air base or testing field".

Pub. L. 97–214, §10(a)(9)(A), July 12, 1982, 96 Stat. 175, struck out item 4774 "Construction: limitations".

**1973**—Pub. L. 93–166, title V, §509(c), Nov. 29, 1973, 87 Stat. 677, substituted "Construction: limitations" for "Construction of quarters: limitations on space and cost" in item 4774.

**1971**—Pub. L. 92–145, title V, §509(a), Oct. 27, 1971, 85 Stat. 408, struck out item 4775 "Quarters: officers".

**1958**—Pub. L. 85–861, §1(105)(B), Sept. 2, 1958, 72 Stat. 1490, added item 4780.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SERVICEWOMEN'S COMMEMORATIVE PARTNERSHIPS

Pub. L. 116–283, div. A, title III, §362, Jan. 1, 2021, 134 Stat. 3547, as amended by Pub. L. 119–60, div. A, title X, §1084, Dec. 18, 2025, 139 Stat. 1054, provided that:

"(a) In GENERAL.—The Secretary of the Army may enter into a contract, partnership, or grant with a non-profit organization for the purpose of providing financial support for the maintenance and sustainment of infrastructure and facilities at military service memorials and museums that highlight the role of women in the military. Such a contract, partnership, or grant shall be referred to as a 'Servicewomen's Commemorative Partnership'.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2026 [Pub. L. 119–60, see Tables for classification], $1,000,000 shall be available for Servicewomen's Commemorative Partnerships under subsection (a)."

### DEPARTMENT OF THE ARMY PILOT PROGRAM FOR DEVELOPMENT AND USE OF ONLINE REAL ESTATE INVENTORY TOOL

Pub. L. 116–283, div. B, title XXVIII, §2866, Jan. 1, 2021, 134 Stat. 4361, as amended by Pub. L. 118–159, div. B, title XXVIII, §2873, Dec. 23, 2024, 138 Stat. 2283; Pub. L. 119–60, div. B, title XXVIII, §2881, Dec. 18, 2025, 139 Stat. 1329, provided that:

"(a) PILOT PROGRAM REQUIRED.—

"(1) ESTABLISHMENT.—The Secretary of the Army shall establish a pilot program for the development of an online real estate tool to identify the existing inventory of space available at the Army installations selected by the Secretary under paragraph (2) for the purposes specified in subsection (b).

"(2) SELECTION OF PILOT LOCATIONS.—The Secretary shall evaluate the online inventory tool at not less than five, but not more than 10, Army installations selected by the Secretary as appropriate locations for evaluation of the online inventory tool.

"(3) CONSULTATION.—The Secretary shall establish the pilot program and develop the online inventory tool in consultation with the Administrator of General Services and the Assistant Secretary of Defense for Sustainment.

"(b) PURPOSES.—The purposes of the online inventory tool are—

"(1) to achieve efficiencies in real estate property management consistent with the National Defense Strategy goal of finding greater efficiencies within Department of Defense operations;

"(2) to provide a means to better market to the public information regarding space available at Army installations for better utilization of such space; and

"(3) to provide a means to better quantify existing space available at Army installations and how it is utilized for current missions and requirements.

"(c) CONSIDERATIONS.—To establish the pilot program, the Secretary of the Army shall—

"(1) consider innovative approaches, including the use of other transaction authorities consistent with section 2371 of title 10, United States Code [now 10 U.S.C. 4021], and the use of commercial off-the-shelf technologies;

"(2) develop appropriate protections of sensitive or classified information from being included with the online inventory tool; and

"(3) develop appropriate levels of access for private sector users of the online inventory tool.

"(d) ESTABLISHMENT OF USE POLICY.—In connection with the development of the online inventory tool, the Secretary of the Army shall develop policy requiring the use of the online inventory tool at the Army installations selected under subsection (a)(2) to query for existing inventory at such installations before any military construction or off-post leases are agreed to for such installations. The Secretary shall ensure that all relevant notifications to congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] include certification that the online inventory tool was used.

"(e) ONLINE INVENTORY TOOL DEFINED.—In this section, the term 'online inventory tool' means the online real estate tool developed under the pilot program to identify existing inventory of space available at Army installations selected to participate in the pilot program.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to effect [sic] the application of title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.).

"(g) REPORTING REQUIREMENT.—Not later than February 15, 2025, the Secretary of the Army shall submit to Committees on Armed Services of the Senate and the House of Representatives a report evaluating the success of the pilot program in achieving the purposes specified in subsection (b). At a minimum, the report also shall identify and contain the following:

"(1) The Army installations selected under subsection (a)(2) to participate in the pilot program.

"(2) The number of real estate agreements entered into by the Department of the Army that were facilitated by use of the online inventory tool, including for each agreement the installation, amount of space, value, and purpose of the agreement.

"(3) An evaluation of the extent to which use of the online inventory tool reduced the need for military construction or off-post leases.

"(4) An evaluation of any impediments to efficient use of the online inventory tool.

"(5) The recommendations of the Secretary regarding whether the pilot program should be extended, expanded, or made permanent.

"(h) DURATION.—The authority of the Secretary of the Army to conduct the pilot program shall expire on September 30, 2030."

## §7771. Acceptance of donations: land for mobilization, training, supply base, or aviation field

The Secretary of the Army may accept for the United States a gift of—

(1) land that he considers suitable and desirable for a permanent mobilization, training, or supply station; and

(2) land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 268, §4771; renumbered §7771, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4771 | 10:1342.<br>10:1344. | Aug. 29, 1916, ch. 418 (6th and 8th pars. under "Office of the Chief Signal Officer"), 39 Stat. 622, 623. |

10:1344 (last 40 words) is omitted as executed. The words "tract or tracts", in 10:1342 and 1344, are omitted as surplusage. The words "and remount station", in 10:1342, are omitted, since the property and civilian personnel of the Remount Service of the Quartermaster Corps were transferred to the Department of Agriculture by the Act of April 21, 1948, ch. 224, 62 Stat. 197 (7 U.S.C. 436–438). The words "by the United States for any purpose" are substituted for the words "for any other service of the United States which may hereafter appear desirable", in 10:1342. The words "from any person", in 10:1344, are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4771 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7772. Heritage Center for the National Museum of the United States Army: development and operation

(a) AGREEMENT FOR DEVELOPMENT OF CENTER.—The Secretary of the Army may enter into an agreement with the Army Historical Foundation, a nonprofit organization, for the design, construction, and operation of a facility or group of facilities at Fort Belvoir, Virginia, for the National Museum of the United States Army. The facility or group of facilities constructed pursuant to the agreement shall be known as the Heritage Center for the National Museum of the United States Army (in this section referred to as the "Center").

(b) PURPOSE OF CENTER.—The Center shall be used for the identification, curation, storage, and public viewing of artifacts and artwork of significance to the United States Army, as agreed to by the Secretary of the Army. The Center may also be used to support such education, training, research, and associated purposes as the Secretary considers appropriate.

(c) DESIGN AND CONSTRUCTION.—(1) The design of the Center shall be subject to the approval of the Secretary of the Army.

(2) For each phase of the development of the Center, the Secretary may—

(A) accept funds and in-kind gifts, including services, construction materials, and equipment used in construction, from the Army Historical Foundation and other persons for the design and construction of such phase of the Center; or

(B) permit the Army Historical Foundation to contract for the design and construction of such phase of the Center.

(d) ACCEPTANCE BY SECRETARY.—Upon the satisfactory completion, as determined by the Secretary of the Army, of any phase of the Center, and upon the satisfaction of any financial obligations incident to such phase of the Center by the Army Historical Foundation, the Secretary shall accept such phase of the Center from the Army Historical Foundation, and all right, title, and interest in and to such phase of the Center shall vest in the United States. Upon becoming the property of the United States, the Secretary shall assume administrative jurisdiction over the Center.

(e) USE OF CERTAIN GIFTS.—(1) Under regulations prescribed by the Secretary of the Army, the Commander of the United States Army Center of Military History may, without regard to section 2601 of this title, accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $250,000 or less made to the United States if such gift, devise, or bequest is for the benefit of the National Museum of the United States Army or the Center.

(2) The Secretary may pay or authorize the payment of any reasonable and necessary expense in connection with the conveyance or transfer of a gift, devise, or bequest under this subsection.

(f) LEASE OF FACILITY.—(1) Under such terms and conditions as the Secretary of the Army considers appropriate, the Secretary may lease portions of the Center to the Army Historical Foundation to be used by the Foundation, consistent with the purpose of the Center, for—

(A) generating revenue for activities of the Center through rental use by the public, commercial and nonprofit entities, State and local governments, and other Federal agencies; and

(B) such administrative purposes as may be necessary for the support of the Center.

(2) The annual amount of consideration paid to the Secretary by the Army Historical Foundation

for a lease under paragraph (1) may not exceed an amount equal to the actual cost, as determined by the Secretary, of the annual operations and maintenance of the Center.

(3) Notwithstanding any other provision of law, the Secretary shall use amounts paid under paragraph (2) to cover the costs of operation of the Center.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the agreement authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 108–375, div. B, title XXVIII, §2822(a), Oct. 28, 2004, 118 Stat. 2130, §4772; amended Pub. L. 113–291, div. B, title XXVIII, §2851, Dec. 19, 2014, 128 Stat. 3713; renumbered §7772, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4772 of this title as this section.

**2014**—Subsec. (c)(2)(A). Pub. L. 113–291 substituted "accept funds and in-kind gifts, including services, construction materials, and equipment used in construction, from the Army Historical Foundation and other persons" for "accept funds from the Army Historical Foundation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7776. Emergency construction: fortifications

If in an emergency the President considers it urgent, a temporary fort or fortification may be built on private land if the owner consents in writing.

(Aug. 10, 1956, ch. 1041, 70A Stat. 270, §4776; Pub. L. 91–393, §5, Sept. 1, 1970, 84 Stat. 835; renumbered §7776, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4776 | 50:178. | Apr. 11, 1898, J. Res. 21, 30 Stat. 737. |

The word "important" is omitted as covered by the word "urgent". The words "upon which such work is to be placed" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4776 of this title as this section.

**1970**—Pub. L. 91–393 struck out at end "In such a case, section 175 of title 50 does not apply."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7777. Permits: military reservations; landing ferries, erecting bridges, driving livestock

Whenever the Secretary of the Army considers that it can be done without injury to the reservation or inconvenience to the military forces stationed there, he may permit—

(1) the landing of ferries at a military reservation;

(2) the erection of bridges on a military reservation; and

(3) the driving of livestock across a military reservation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 270, §4777; Pub. L. 96–513, title V, §512(23), Dec. 12, 1980, 94 Stat. 2930; renumbered §7777, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4777 | 10:1348. | July 5, 1884, ch. 214, §6, 23 Stat. 104. |

The words "may permit" are substituted for the words "shall have authority, in his discretion, to permit". The words "to permit the extension of State, county, and Territorial roads across military reservations" are omitted as superseded by section 2668 of this title. In clause (3), the word "livestock" is substituted for the words "cattle, sheep or other stock animals".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4777 of this title as this section.

**1980**—Pub. L. 96–513 substituted "reservations" for "reservation" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §7778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association

Under such conditions as he may prescribe, the Secretary of the Army may issue a revocable license to the International Committee of Young Men's Christian Associations of North America to erect and maintain on military reservations, inside the United States and the Commonwealths and possessions, buildings needed by that organization for the promotion of the social, physical, intellectual, and moral welfare of the members of the Army on those reservations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 270, §4778; Pub. L. 109–163, div. A, title X, §1057(a)(5), (6), Jan. 6, 2006, 119 Stat. 3440, 3441; Pub. L. 111–383, div. A, title X, §1075(h)(4)(A)(i), Jan. 7, 2011, 124 Stat. 4377; renumbered §7778, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4778 | 10:1346. | May 31, 1902, ch. 943, 32 Stat. 282. |

The words "may issue" are substituted for the words "Authority is given to * * * in his discretion, to grant permission". The words "Under such conditions as he may prescribe" are substituted for the words "under such regulations as the Secretary of the Army may impose". The words "members of the Army" are substituted for the word "garrisons". The words "the Territories, Commonwealths, and possessions" are substituted for the words "or its island possessions" for clarity.

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440, which directed the substitution of "Commonwealths or possessions" for "Territories, Commonwealths, or possessions" in this section, but which could not be executed because "Territories, Commonwealths, or possessions" did not appear in text, was amended, effective as if included in Pub. L. 109–163 as enacted, so as to not apply to this section by Pub. L. 111–383, div. A, title X, §1075(h)(4)(A)(i), Jan. 7, 2011, 124 Stat. 4377.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4778 of this title as this section.

**2011**—Pub. L. 111–383 amended Pub. L. 109–163, §1057(a)(6). See 2006 Amendment note below.

**2006**—Pub. L. 109–163, §1057(a)(6), substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

Pub. L. 109–163, §1057(a)(5), which directed amendment of this section by substituting "Commonwealths or possessions" for "Territories, Commonwealths, or possessions", could not be executed and was subsequently amended by Pub. L. 111–383 so as to no longer direct amendment of this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 111–383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that amendment by section 1075(h)(4)(A)(i) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

## §7779. Use of public property

(a) When the economy of the Army so requires, the Secretary of the Army shall establish military headquarters in places where suitable buildings are owned by the United States.

(b) No money appropriated for the support of the Army may be spent for post gardens or Army exchanges. However, this does not prevent Army exchanges from using public buildings or public transportation that, in the opinion of the office or officer designated by the Secretary, are not needed for other purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 270, §4779; Pub. L. 99–661, div. B, title VII, §2721, Nov. 14, 1986, 100 Stat. 4042; renumbered §7779, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4779(a) | 10:1332. | June 23, 1879, ch. 35, §8, 21 Stat. 35. |
| 4779(b) | 10:1345. | |

| | | |
|---|---|---|
| 4779(c) | 10:1335. | Aug. 1, 1914, ch. 223 (2d par. under "Quartermaster Corps"), 38 Stat. 629.<br>July 16, 1892, ch. 195 (last proviso under "Quartermaster's Department"), 27 Stat. 178; June 28, 1950, ch. 383, §402(c), 64 Stat. 227. |

In subsection (a), the words "United States" are substituted for the word "Government".

In subsection (b), the words "suitable space" are substituted for the words "proper and suitable room or rooms". The words "there is a" are substituted for the words "have been established".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4779 of this title as this section.

**1986**—Subsecs. (b), (c). Pub. L. 99–661 redesignated subsec. (c) as (b) and struck out former subsec. (b) which directed the Secretary to assign suitable space for postal purposes at each military post where there was a post office.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7780. Acquisition of buildings in District of Columbia

(a) In time of war or when war is imminent, the Secretary of the Army may acquire by lease any building, or part of a building, in the District of Columbia that may be needed for military purposes.

(b) At any time, the Secretary may, for the purposes of the Department of the Army, requisition the use and take possession of any building or space in any building, and its appurtenances, in the District of Columbia, other than—

(1) a dwelling house occupied as such;

(2) a building occupied by any other agency of the United States; or

(3) space in such a dwelling house or building.

The Secretary shall determine, and pay out of funds appropriated for the payment of rent by the Department of the Army, just compensation for that use. If the amount of the compensation is not satisfactory to the person entitled to it, the Secretary shall pay 75 percent of it to that person, and the claimant is entitled to recover by action against the United States an additional amount that, when added to the amount paid by the Secretary, is determined by the court to be just compensation for that use.

(Added Pub. L. 85–861, §1(105)(A), Sept. 2, 1958, 72 Stat. 1489, §4780; renumbered §7780, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4780(a) | 40:37. | July 9, 1918, ch. 143 (3d proviso under "Barracks and Quarters"), 40 Stat. 861. |

| | | |
|---|---|---|
| 4780(b) | 40:41. | July 8, 1918, ch. 139 (2d par. under "War Department"), 40 Stat. 826. |

In subsection (a), the words "may acquire by lease" are substituted for the words "is authorized, in his discretion, to rent or lease". The word "needed" is substituted for the word "required".

In subsection (b), the words "At any time" are inserted for clarity. The word "may" is substituted for the words "is authorized". The word "agency" is substituted for the word "branch". Clause (3) is inserted for clarity. The word "determine" is substituted for the word "ascertain". The words "out of funds appropriated for the payment of rent by" are substituted for the words "within the limits of the appropriations for rent made by any act making appropriations for". The word "is" is substituted for the word "be". The words "so ascertained" and "in the manner provided by sections 41(20) and 250 of Title 28" are omitted as surplusage, since those sections were repealed in 1948 and replaced by sections 1346, 1491, 1496, 1501, 1503, 2401, 2402, and 2501 of that title.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4780 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7781. Cyber Center for Education and Innovation-Home of the National Cryptologic Museum

(a) ESTABLISHMENT.—The Secretary of Defense may establish at a publicly accessible location at Fort George G. Meade the "Cyber Center for Education and Innovation-Home of the National Cryptologic Museum" (in this section referred to as the "Center"). The Center may be used for the identification, curation, storage, and public viewing of materials relating to the activities of the National Security Agency, its predecessor or successor organizations, and the history of cryptology. The Center may contain meeting, conference, and classroom facilities that will be used to support such education, training, public outreach, and other purposes as the Secretary considers appropriate.

(b) DESIGN, CONSTRUCTION, AND OPERATION.—The Secretary may enter into an agreement with the National Cryptologic Museum Foundation (in this section referred to as the "Foundation"), a nonprofit organization, for the design, construction, and operation of the Center.

(c) ACCEPTANCE AUTHORITY.—

(1) ACCEPTANCE OF FACILITY.—If the Foundation constructs the Center pursuant to an agreement with the Foundation under subsection (b), upon satisfactory completion of the Center's construction or any phase thereof, as determined by the Secretary, and upon full satisfaction by the Foundation of any other obligations pursuant to such agreement, the Secretary may accept the Center (or any phase thereof) from the Foundation, and all right, title, and interest in the Center or such phase shall vest in the United States.

(2) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, the Secretary may accept services from the Foundation in connection with the design, construction, and operation of the Center. For purposes of this section and any other provision of law, employees or personnel of the Foundation shall not be considered to be employees of the United States.

(d) FEES AND USER CHARGES.—

(1) AUTHORITY TO ASSESS FEES AND USER CHARGES.—The Secretary may assess

fees and user charges sufficient to cover the cost of the use of Center facilities and property, including rental, user, conference, and concession fees.

(2) USE OF FUNDS.—Amounts received by the Secretary under paragraph (1) shall be deposited into the Fund established under subsection (e).

(e) FUND.—

(1) ESTABLISHMENT.—Upon the Secretary's acceptance of the Center under subsection (c)(1), there is established in the Treasury a fund to be known as the Cyber Center for Education and Innovation-Home of the National Cryptologic Museum Fund (in this section referred to as the "Fund").

(2) CONTENTS.—The Fund shall consist of the following amounts:

(A) Fees and user charges deposited by the Secretary under subsection (d).

(B) Any other amounts received by the Secretary which are attributable to the operation of the Center.

(3) USE OF FUND.—Amounts in the Fund shall be available to the Secretary for the benefit and operation of the Center, including the costs of operation and the acquisition of books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

(4) CONTINUING AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available without fiscal year limitation.

(Added Pub. L. 114–328, div. B, title XXVIII, §2831(a), Dec. 23, 2016, 130 Stat. 2738, §4781; renumbered §7781, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4781 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 781—MILITARY CLAIMS

Sec.
7801. Definition.
7802. Admiralty claims against the United States.
7803. Admiralty claims by United States.
7804. Salvage claims by United States.
7806. Settlement or compromise: final and conclusive.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 451 of this title as this chapter and items 4801 to 4806 as 7801 to 7806, respectively.

**1972**—Pub. L. 92–417, §1(2), Aug. 29, 1972, 86 Stat. 654, substituted "Admiralty claims against the United States" for "Damage by United States vessels; towage and salvage of United States vessels" in item 4802.

**1960**—Pub. L. 86–533, §1(8)(B), June 29, 1960, 74 Stat. 247, struck out item 4805 "Reports to Congress".

## §7801. Definition

In this chapter, the term "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 270, §4801; Pub. L. 100–180, div. A, title XII, §1231(19)(B), Dec. 4, 1987, 101 Stat. 1161; renumbered §7801, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4801 | [No source]. | [No source]. |

The revised section is inserted for clarity, and is based on usage in the source laws for this revised chapter.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4801 of this title as this section.
**1987**—Pub. L. 100–180 inserted "the term" after "In this chapter,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7802. Admiralty claims against the United States

(a) The Secretary of the Army may settle or compromise an admiralty claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Army or by other property under the jurisdiction of the Department of the Army;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army or to other property under the jurisdiction of the Department of the Army; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.

(b) If a claim under subsection (a) is settled or compromised for $500,000 or less, the Secretary of the Army may pay it. If it is settled or compromised for more than $500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $100,000, the Secretary of the Army may delegate his authority under subsection (a) to any person in the Department of the Army designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 271, §4802; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 92–417, §1(1), Aug. 29, 1972, 86 Stat. 654; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; renumbered §7802, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4802(a) | 10:1861 (less 35 words before 1st proviso, and less last proviso). | Oct. 20, 1951, ch. 524, §§1 (less 35 words before 1st proviso), 6 (as applicable to §1), 65 Stat. 572, 573. |
| 4802(b) | 10:1861 (last proviso). | |
| 4802(c) | 10:1866 (as applicable to 10:1861). | |

In subsection (a), the words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 4801 of this title. 10:1861 (1st proviso) is omitted as unnecessary, since other applicable claims laws are restated in this title. 10:1861 (2d proviso) is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4802 of this title as this section.

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".

**1972**—Subsec. (a). Pub. L. 92–417 substituted "Admiralty claims against the United States" for "Damage by United States vessels, towage and salvage of United States vessels" in section catchline, in text preceding par. (1), struck out requirement that the Secretary of the Army discharge his functions under the direction of the Secretary of Defense, in par. (1) inserted "or by other property under the jurisdiction of the Department of the Army," in par. (2) inserted "or to other property under the jurisdiction of the Department of the Army; or," and added par. (3).

**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7803. Admiralty claims by United States

(a) Under the direction of the Secretary of Defense, the Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Army or property for which the Department has assumed an obligation to respond for damage, if—

(1) the claim is—

(A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or

(B) for damage caused by a vessel or floating object; and

(2) the amount to be received by the United States is not more than $500,000.

(b) In exchange for payment of an amount found to be due the United States under subsection (a), the Secretary of the Army may execute a release of the claim on behalf of the United States. Amounts received under this section shall be covered into the Treasury.

(c) In any case where the amount to be received by the United States is not more than $100,000, the Secretary of the Army may delegate his authority under subsections (a) and (b) to any person in the Department of the Army designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 271, §4803; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; renumbered §7803, Pub. L.

115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4803(a) | 10:1862 (1st sentence; 2d sentence, less last 32 words; and provisos of last sentence). | Oct. 20, 1951, ch. 524, §§2 (less last 32 words of 2d sentence), 6 (less applicability to §1), 65 Stat. 572, 573. |
| 4803(b) | 10:1862 (3d sentence; and last sentence, less provisos). | |
| 4803(c) | 10:1866 less applicability to 10:1861). | |

In subsection (a), the words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 4801 of this title. The words "receive payment" are substituted for 10:1862 (2d sentence, less last 32 words). The words "of a kind that is within the admiralty jurisdiction" are substituted for the words "cognizable in admiralty". Clause (2) is substituted for 10:1862 (last proviso of last sentence). 10:1862 (1st proviso of last sentence) is omitted as unnecessary, since other applicable claims laws are restated in this title. The words "by contract or otherwise" are omitted as surplusage.

In subsection (b), the words "of the United States as miscellaneous receipts" and "to deliver" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4803 of this title as this section.

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".

**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7804. Salvage claims by United States

(a) The Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army. Amounts received under this section shall be covered into the Treasury.

(b) In any case where the amount to be received by the United States is not more than $10,000, the Secretary of the Army may delegate his authority under subsection (a) to any person designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 271, §4804; Pub. L. 92–417, §1(3), Aug. 29, 1972, 86 Stat. 654; renumbered §7804, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4804 | 10:1863. | Oct. 20, 1951, ch. 524, §3, 65 Stat. 573. |

The words "under this section" are substituted for the words "for salvage services rendered". The words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 4801 of this title. The words "and receive payment of" are inserted for clarity and to conform to section 4803 of this

title. The words "as miscellaneous receipts" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4804 of this title as this section.

**1972**—Pub. L. 92–417 designated existing provisions as subsec. (a), struck out requirement that the Secretary of the Army discharge his functions under the direction of the Secretary of Defense, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7806. Settlement or compromise: final and conclusive

Notwithstanding any other provision of law, upon acceptance of payment the settlement or compromise of a claim under section 7802 or 7803 of this title is final and conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 272, §4806; renumbered §7806 and amended Pub. L. 115–232, div. A, title VIII, §§808(d), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4806 | 10:1861 (35 words before 1st proviso).<br>10:1862 (last 32 words of 2d sentence). | Oct. 20, 1951, ch. 524, §§1 (35 words before 1st proviso), 2 (last 32 words of 2d sentence), 65 Stat. 572, 573. |

The words "for all purposes" and "to the contrary", in 10:1861 and 1862; "by the claimant and not until then", in 10:1861; and "but not until then", in 10:1862; are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "section 7802 or 7803" for "section 4802 or 4803".

Pub. L. 115–232, §808(d), renumbered section 4806 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 783—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
7831. Custody of departmental records and property.
7837. Settlement of accounts: remission or cancellation of indebtedness of members.

7838. Settlement of accounts: affidavit of company commander.
7839. Settlement of accounts: oaths.
7840. Final settlement of officer's accounts.
7841. Payment of small amounts to public creditors.
7842. Settlement of accounts of line officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §808(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1839, redesignated chapter 453 of this title as this chapter and items 4831 to 4842 as 7831 to 7842, respectively.

**2008**—Pub. L. 110–181, div. A, title III, §375(c)(2)(A), Jan. 28, 2008, 122 Stat. 84, struck out items 4832 "Property accountability: regulations" and 4836 "Individual equipment: unauthorized disposition".

**2006**—Pub. L. 109–163, div. A, title VI, §683(a)(2), Jan. 6, 2006, 119 Stat. 3322, struck out "enlisted" before "members" in item 4837.

**2002**—Pub. L. 107–314, div. A, title X, §1006(c)(2), Dec. 2, 2002, 116 Stat. 2633, struck out item 4835 "Reports of survey".

**1982**—Pub. L. 97–258, §2(b)(10)(A), Sept. 13, 1982, 96 Stat. 1056, added items 4841 and 4842.

**1980**—Pub. L. 96–513, title V, §512(24)(C), Dec. 12, 1980, 94 Stat. 2931, substituted "remission or cancellation of indebtedness of enlisted members" for "deductions from pay" in item 4837.

**1972**—Pub. L. 92–310, title II, §204(b), June 6, 1972, 86 Stat. 202, struck out item 4834 "Fidelity bonds: accountable officers; Quartermaster Corps".

**1962**—Pub. L. 87–480, §1(3), June 8, 1962, 76 Stat. 94, struck out item 4833 "Accountability for public money: disbursing officers; agent officers".

## §7831. Custody of departmental records and property

The Secretary of the Army has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 272, §4831; renumbered §7831, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4831 | 5:191. | R.S. 217. |

The words "under the lawful control of the executive part of the Department of the Army" are substituted for the words "appertaining to the Department".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4831 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7837. Settlement of accounts: remission or cancellation of indebtedness of members

(a) IN GENERAL.—The Secretary of the Army may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Army, whether as a regular or a reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

(b) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

(c) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 273, §4837; Pub. L. 85–861, §33(a)(27), Sept. 2, 1958, 72 Stat. 1566; Pub. L. 87–649, §14c(10), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title V, §512(24)(A), (B), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 109–163, div. A, title VI, §683(a)(1), Jan. 6, 2006, 119 Stat. 3322; Pub. L. 109–364, div. A, title VI, §673(a)(1), (2), (e)(1), Oct. 17, 2006, 120 Stat. 2271, 2272; Pub. L. 110–181, div. A, title X, §1063(c)(7)(A), Jan. 28, 2008, 122 Stat. 323; Pub. L. 114–328, div. A, title VI, §671(b)(1), Dec. 23, 2016, 130 Stat. 2173; renumbered §7837, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4837(a) | 10:875. | R.S. 1300. |
| | 10:875b. | R.S. 1301. |
| 4837(b) | 10:875a (less 3d and last provisos). | May 22, 1928, ch. 676, 45 Stat. 698; June 26, 1934, ch. 751, 48 Stat. 1222. |
| 4837(c) | 10:875a (last proviso). | |
| 4837(d) | 10:875a (3d proviso). | |
| 4837(e) | 10:871. | R.S. 1303. |
| 4837(f) | 10:872. | R.S. 1304. |
| 4837(g) | 10:875c. | R.S. 1299. |

In subsection (a), the words "sold to the member on credit under section 4621(a)(1) of this title" are substituted for the words "articles designated by the inspectors general of the Army, and sold to him on credit by officers of the Quartermaster Corps", in 10:875. The words "at cost prices" are omitted to reflect section 4623 of this title.

In subsection (b), the last sentence is substituted for 10:875a (1st and 2d provisos). The words "on current payrolls" are omitted as surplusage.

In subsection (c), the words "Subject to subsection (b)" are substituted for the words "in the proportions hereinbefore indicated".

In subsection (d), the words "If he considers it in the best interest of the United States" are substituted for the words "when in his opinion the interests of the Government are best served by such action". The words "before, or at the time of" are substituted for the words "either on * * * or prior thereto".

In subsection (e), the words "member" and "his" are substituted for the words "officer or soldier". The words "or implement" are omitted as surplusage.

In subsection (f), the words "or if an article of military supply with whose issue a commissioned officer is charged is damaged" are substituted for 10:872 (last sentence). The words "that he was not at fault" are substituted for the words "that said deficiency [such damage] was not occasioned by any fault on his part".

In subsection (g), the words "bought on credit under section 4621(a)(1) of this title" are substituted for the words "designated by the officers of the Inspector-General's Department of the Army and purchased on credit from commissaries of subsistence".

**1958 ACT**

The change [in subsec. (b)] reflects the opinion of the Judge Advocate General of the Air Force (June 10, 1957) that the term "rate of pay", as used in the source law for section 4837(b) (Act of May 22, 1928, ch. 676 (45 Stat. 698), as amended), included special pay and incentive pay.

The change [in subsec. (f)] reflects the opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense (July 19, 1957), that section 1304, Revised Statutes (formerly 10 U.S.C. 872), the source law for this section, applied to warrant officers as well as to commissioned officers.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4837 of this title as this section.

**2016**—Subsec. (a). Pub. L. 114–328 substituted "as a member of the Army, whether as a regular or a reserve in active status" for "on active duty as a member of the Army".

**2008**—Subsec. (a). Pub. L. 110–181 made technical correction to directory language of Pub. L. 109–364, §673(a)(1). See 2006 Amendment note below.

**2006**—Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text read as follows: "If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge."

Subsec. (a). Pub. L. 109–364, §673(e)(1), substituted "The Secretary of the Army" for "If the Secretary considers it to be in the best interest of the United States, the Secretary" and inserted ", but only if the Secretary considers such action to be in the best interest of the United States" before period at end.

Pub. L. 109–364, §673(a)(1), as amended by Pub. L. 110–181, substituted "of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the Army" for "of a member of the Army on active duty, or a member of a reserve component of the Army in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty".

Subsecs. (b) to (d). Pub. L. 109–364, §673(a)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release."

**1980**—Pub. L. 96–513, substituted "remission or cancellation of indebtedness of enlisted members" for "deductions from pay" in section catchline, and in text substituted "If he" for "(d) If he".

**1962**—Pub. L. 87–649 repealed subsecs. (a) to (c) and (e) to (g) which related to deductions from pay. See subsecs. (b) to (g), respectively, of section 1007 of Title 37, Pay and Allowances of the Uniformed Services.

**1958**—Subsec. (b). Pub. L. 85–861, §33(a)(27)(A), substituted "his pay for that month" for "his basic pay for that month".

Subsec. (f). Pub. L. 85–861, §33(a)(27)(B), substituted "an officer" for "a commissioned officer" in two places.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, §671(b)(5), Dec. 23, 2016, 130 Stat. 2174, provided that: "The amendments made by this subsection [amending this section, sections 6161 and 9837 of this title, and section 461 of Title 14, Coast Guard] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply with respect to debt incurred on or after October 7, 2001."

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(7)(A) is effective as of Oct. 17, 2006, and as if included in the John Warner National

Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

**TERMINATION DATE OF 2006 AMENDMENT**

Pub. L. 109–163, div. A, title VI, §683(a)(3), Jan. 6, 2006, 119 Stat. 3322, which provided for termination of amendments by Pub. L. 109–163, §683(a), amending this section and the analysis to this chapter, on Dec. 31, 2007, and restoration of provisions as in effect on the day before Jan. 6, 2006, was repealed by Pub. L. 109–364, div. A, title VI, §673(a)(3), Oct. 17, 2006, 120 Stat. 2271.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

**REGULATIONS**

Pub. L. 109–364, div. A, title VI, §673(d), Oct. 17, 2006, 120 Stat. 2272, provided that: "The Secretary of Defense shall prescribe the regulations required for purposes of sections 4837, 6161, and 9837 [now 7837, 8271, and 9837] of title 10, United States Code, as amended by this section, not later than March 1, 2007."

## §7838. Settlement of accounts: affidavit of company commander

In the settlement of the accounts of the commanding officer of a company for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or company books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Army to be just and proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274, §4838; renumbered §7838, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4838 | 10:1302. | R.S. 225 (less 1st sentence); added Feb. 27, 1877, ch. 69 (3d par.), 19 Stat. 241. |

The word "anything" is substituted for the words "any matter or circumstance". The words "properly used" are substituted for the words "legally used and appropriated". The words "of the case" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4838 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7839. Settlement of accounts: oaths

The Secretary of the Army may detail any employee of the Department of the Army to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274, §4839; renumbered §7839, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4839 | 10:1303. | R.S. 225 (1st sentence). |

The words "and other military supplies" are substituted for the words "camp and garrison equipage, quartermaster's stores, and ordnance" to conform to section 4838 of this title. The words "person to whom administered" are substituted for the words "parties taking them". The words "for the purpose of" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4839 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Army who has been accountable or responsible for public property, he must obtain a certificate of nonindebtedness to the United States from each officer to whom he was accountable or responsible for property. He must also make an affidavit, certified by his commanding officer to be correct, that he is not accountable or responsible for property to any other officer. An officer who has not been responsible for public property must make an affidavit of that fact, certified by his commanding officer. Compliance with this section warrants the final payment of the officer concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274, §4840; renumbered §7840, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4840 | 10:878. | Jan. 12, 1899, ch. 46, §2, 30 Stat. 784. |

The words "Before final payment upon discharge may be made" are substituted for the words "shall warrant their final payment". The words "at any time" are omitted as surplusage. The word "must" is substituted for the words "shall be required * * * to". The words "He must also make" are substituted for the words "accompanied by". The words "from each officer to whom he was accountable or responsible for property" are substituted for the words "from only such of the bureaus of the Department of the Army to which the property for which they were accountable or responsible pertains", since there is no longer a bureau structure within the Department of the Army. The words "that he is not accountable or responsible for property to any other officer" are substituted for the words "accompanied by the affidavits of officers, of nonaccountability or nonresponsibility to other bureaus of the Department of the Army", for the same reason. The reference to certificates from the General Accounting Office is omitted as obsolete. The last sentence is substituted for 10:878 (last 18 words). The last proviso of section 2 of the act of January 12, 1899, ch. 46, 30 Stat. 784, is not contained in 10:878. It is also omitted from the revised section, since it related to authority of mustering officers to administer oaths and the general authority to administer oaths is now contained in section 936 of this title (article 136 of the Uniform Code of Military Justice).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4840 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7841. Payment of small amounts to public creditors

When authorized by the Secretary of the Army, a disbursing official of Army subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

(Added Pub. L. 97–258, §2(b)(10)(B), Sept. 13, 1982, 96 Stat. 1056, §4841; renumbered §7841, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4841 | 31:493. | Mar. 2, 1907, ch. 251 (proviso on p. 1166), 34 Stat. 1166. |

The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The word "When" is substituted for "as shall from time to time be" to eliminate unnecessary words. The words "disbursing official" are substituted for "Officers intrusted with the disbursement" for consistency.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 4841 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §7842. Settlement of accounts of line officers

The Comptroller General shall settle the account of a line officer of the Army for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.

(Added Pub. L. 97–258, §2(b)(10)(B), Sept. 13, 1982, 96 Stat. 1057, §4842; renumbered §7842, Pub. L. 115–232, div. A, title VIII, §808(d), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4842 | 31:44 (1st sentence). | June 10, 1921, ch. 18, §304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:95. | R.S. §278. |

The words "Comptroller General" are substituted for "General Accounting Office" for consistency. The words "audit and" are omitted as surplus. The words "for their services as such" and "by the affidavit of the officer or otherwise" are omitted as surplus. The words "to account for property or make a report or return" are added for clarity. The words "in the hands of the enemy" are omitted as surplus.

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 7851 to 7854, 7861 to 7863, 7881, and 7901 to 7903 were renumbered sections 8901 to 8904, 8911 to 8913, 8921, and 8931 to 8933 of this title, respectively.

A prior section 7911, Pub. L. 110–181, div. A, title III, §377(a), Jan. 28, 2008, 122 Stat. 84, related to issuance of arms, tentage, and equipment for educational institutions not maintaining units of the Reserve Officers' Training Corps, prior to repeal by Pub. L. 112–239, div. A, title V, §552(b), Jan. 2, 2013, 126 Stat. 1741.

Prior sections 7912, 7913, and 7921 were renumbered sections 8942, 8943, and 8951 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 4842 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# Subtitle C—Navy and Marine Corps

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## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(f)(2), Aug. 13, 2018, 132 Stat. 1838, redesignated items for chapters 501 to 669 as 801 to 897 and redesignated section numbers 5001 to 7921 as 8001 to 8951. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

Pub. L. 115–232, div. A, title V, §503(b)(2), Aug. 13, 2018, 132 Stat. 1742, struck out item for chapter 544 "Temporary Appointments".

**2011**—Pub. L. 112–81, div. A, title III, §363(b), Dec. 31, 2011, 125 Stat. 1379, added item for chapter 669.

**2008**—Pub. L. 110–417, [div. A], title X, §1061(a)(6), Oct. 14, 2008, 122 Stat. 4612, added item for chapter 667 and struck out former item for chapter 667 "Issue of serviceable material other than to Armed Forces".

Pub. L. 110–181, div. A, title III, §377(b), Jan. 28, 2008, 122 Stat. 85, added item for chapter 667.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(3)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289, struck out "Related" after "Quarters, Utilities, and" in item for chapter 649.

**1998**—Pub. L. 105–261, div. A, title V, §521(b)(2), Oct. 17, 1998, 112 Stat. 2011, added item for chapter 602.

**1996**—Pub. L. 104–201, div. A, title II, §282(a)(2), Sept. 23, 1996, 110 Stat. 2473, added item for chapter 665.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(a)(1), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 519 "Naval Reserve and Marine Corps Reserve", 531 "Strength of Naval Reserve and Marine Corps Reserve", 541 "Running Mates for Reserve Officers", and 549 "Reserve Promotions".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(3), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 635 "Naval Aircraft".

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(27)(B), Dec. 5, 1991, 105 Stat. 1474, substituted "Education" for "Educational" in item for chapter 609.

**1990**—Pub. L. 101–510, div. A, title IX, §912(b), Nov. 5, 1990, 104 Stat. 1627, added item for chapter 609.

**1986**—Pub. L. 99–433, title V, §514(d)(1), Oct. 1, 1986, 100 Stat. 1055, substituted "Office of the Chief of Naval Operations" for "Secretary, Under Secretary, and Assistant Secretaries of the Navy" in item for chapter 505, added item for chapter 506, substituted "Composition of the Department of the Navy" for "Office of the Comptroller of the Navy" in item for chapter 507, struck out item for chapter 509 "Office of the Chief of Naval Operations", struck out "; Office of Naval Research" after "General" in item for chapter 513, and struck out item for chapter 515 "Commandant of the Marine Corps; Headquarters, Marine Corps".

**1984**—Pub. L. 98–525, title XIV, §1405(48), title XV, §1532(a)(2), Oct. 19, 1984, 98 Stat. 2625, 2631, substituted "Responsibility" for "responsibility" in item for chapter 661 and added item for chapter 663.

**1982**—Pub. L. 97–295, §1(50)(G), Oct. 12, 1982, 96 Stat. 1300, substituted "United States Naval Observatory" for "United States Naval Oceanographic Office and Naval Observatory" in item for chapter 639.

Pub. L. 97–295, §1(51)(A), Oct. 12, 1982, 96 Stat. 1300, which directed substitution of "Responsibility" for "responsibility" in item for chapter 659, was executed to item for chapter 661 as the probable intent of Congress.

Pub. L. 97–258, §2(b)(12)(A), Sept. 13, 1982, 96 Stat. 1057, added item for chapter 661.

**1980**—Pub. L. 96–513, title V, §§503(1), 513(1), Dec. 12, 1980, 94 Stat. 2911, 2931, struck out item for chapter 517 "Fleet Commands and other High Positions", inserted "of Naval Reserve and Marine Corps Reserve" after "Strength" in item for chapter 531, inserted "for Reserve Officers" after "Running Mates" in item for chapter 541, struck out item for chapter 543 "Selection Boards", added item for chapter 544, and struck out items for chapter 545 "Promotions" and for chapter 547 "Examinations for Promotion", and in item for chapter 641 substituted "7420" for "7421"

**1977**—Pub. L. 95–82, title VI, §611(b), Aug. 1, 1977, 91 Stat. 378, struck out item for chapter 516 "Naval Districts".

**1967**—Pub. L. 90–110, title X, §1001(2), Oct. 21, 1967, 81 Stat. 310, added item for chapter 516.

**1966**—Pub. L. 89–718, §34(b), Nov. 2, 1966, 80 Stat. 1119, struck out item for chapter 511 "Office of the Chief of Naval Material".

**1962**—Pub. L. 87–533, §2, July 10, 1962, 76 Stat. 155, substituted "United States Naval Oceanographic" for "Hydrographic" in item for chapter 639.

**1958**—Pub. L. 85–861, §1(134), Sept. 2, 1958, 72 Stat. 1507, added item for chapter 549.

# PART I—ORGANIZATION


| Chap. | | Sec. |
|---|---|---|
| **801.** | **Definitions** | **8001** |
| **803.** | **Department of the Navy** | **8011** |
| **805.** | **Office of the Chief of Naval Operations** | **8031** |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(f)(2), Aug. 13, 2018, 132 Stat. 1838, redesignated items for chapters 501 to 513 as 801 to 809 and redesignated section numbers 5001 to 5131 as 8001 to 8071.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(a)(2), Oct. 5, 1994, 108 Stat. 3015, struck out item for chapter 519 "Naval Reserve and Marine Corps Reserve".

**1986**—Pub. L. 99–433, title V, §514(d)(1), Oct. 1, 1986, 100 Stat. 1055, substituted "Office of the Chief of Naval Operations" for "Secretary, Under Secretary, and Assistant Secretaries of the Navy" in item for chapter 505, added item for chapter 506, substituted "Composition of the Department of the Navy" for "Office of the Comptroller of the Navy" in item for chapter 507, struck out item for chapter 509 "Office of the Chief of Naval Operations", struck out "; Office of Naval Research" after "General" in item for chapter 513, and struck out item for chapter 515 "Commandant of the Marine Corps; Headquarters, Marine Corps".

**1980**—Pub. L. 96–513, title V, §503(2), Dec. 12, 1980, 94 Stat. 2911, struck out item for chapter 517 "Fleet Commands and other High Positions".

**1977**—Pub. L. 95–82, title VI, §611(b), Aug. 1, 1977, 91 Stat. 378, struck out item for chapter 516 "Naval Districts".

**1967**—Pub. L. 90–110, title X, §1001(2), Oct. 21, 1967, 81 Stat. 310, added item for chapter 516.

**1966**—Pub. L. 89–718, §34(b), Nov. 2, 1966, 80 Stat. 1119, struck out item for chapter 511 "Office of the Chief of Naval Material".

## CHAPTER 801—DEFINITIONS


Sec.
8001. Definitions.


**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 801, containing no sections, related to definitions, prior to renumbering as chapter 901 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 501 of this title as this chapter and item 5001 as 8001.

### §8001. Definitions

(a) In this subtitle:

(1) The term "Navy" means the United States Navy. It includes the Regular Navy, the Fleet Reserve, and the Navy Reserve.

(2) The term "Marine Corps" means the United States Marine Corps. It includes the Regular Marine Corps, the Fleet Marine Corps Reserve, and the Marine Corps Reserve.

(3) The term "member of the naval service" means a person appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps.

(4) The term "enlisted member" means a member of the naval service serving in an enlisted grade or rating. It excludes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(5) The term "officer" means a member of the naval service serving in a commissioned or warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(6) The term "commissioned officer" means a member of the naval service serving in a grade above warrant officer, W–1. It includes, unless otherwise specified, a member who holds a permanent enlisted grade or the permanent grade of warrant officer, W–1, and a temporary appointment in a grade above warrant officer, W–1.

(7) The term "warrant officer" means a member of the naval service serving in a warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a warrant officer grade.

(8) The term "officer restricted in the performance of duty" means an officer of the Navy designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or an officer of the Marine Corps designated for limited duty.

(b) For the purposes of this subtitle, a member of the naval service who holds a temporary appointment in a grade higher than his permanent grade is considered, unless otherwise specified, to be serving in the higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 276, §5001; Pub. L. 87–123, §5(1), Aug. 3, 1961, 75 Stat. 264; Pub. L. 96–513, title III, §371, title V, §513(2), Dec. 12, 1980, 94 Stat. 2903, 2931; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109–163, div. A, title V, §515(b)(1)(E), Jan. 6, 2006, 119 Stat. 3233; renumbered §8001, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8010 was renumbered section 8011 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5001 of this title as this section.

**2006**—Subsec. (a)(1). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1987**—Subsec. (a). Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (3) to (8) and substituted lowercase letter.

**1980**—Subsec. (a)(3). Pub. L. 96–513, §513(2), struck out ", male or female," after "person".

Subsec. (a)(9), (10). Pub. L. 96–513, §371, struck out pars. (9) and (10) which defined the active lists of the Navy and the Marine Corps, respectively. See section 101 of this title.

**1961**—Subsec. (a)(8). Pub. L. 87–123 struck out provisions which related to Marine Corps officers designated for supply duty.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 371 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

Amendment by section 513(2) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

# CHAPTER 803—DEPARTMENT OF THE NAVY

Sec.
8011. Organization.
8012. Department of the Navy: seal.
8013. Secretary of the Navy.
8013a. Secretary of the Navy: powers with respect to Coast Guard.
8014. Office of the Secretary of the Navy.
8015. Under Secretary of the Navy.
8016. Assistant Secretaries of the Navy.
8017. Secretary of the Navy: successors to duties.
8018. Administrative Assistant.
8019. General Counsel.
8020. Naval Inspector General: detail; duties.
8022. Office of Naval Research: duties.
8023. Office of Naval Research: appropriations; time limit.
[8024. Repealed.]
8025. Financial management.
8026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation or amphibious force structure and capability.
8027. Chief of Legislative Affairs.
8028. Director of Small Business Programs.
8029. Naval Air Warfare Rapid Capabilities Office.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 803, consisting of sections 8011 to 8024, related to Department of the Air Force, prior to renumbering as chapter 903 of this title.

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title II, §215, title IX, §914, Dec. 22, 2023, 137 Stat. 184, 368, added item 8029 and struck out item 8024 "Naval Research Advisory Committee". Amendments were made pursuant to section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title X, §1022(b)(2), Dec. 23, 2022, 136 Stat. 2763, added item 8026 and struck out former item 8026 "Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 503 of this title as this chapter and items 5011 to 5028 as 8011 to 8028, respectively.

**2006**—Pub. L. 109–163, div. A, title IX, §904(d)(2), Jan. 6, 2006, 119 Stat. 3401, added item 5028.

**2002**—Pub. L. 107–314, div. A, title V, §504(d)(1)(B), Dec. 2, 2002, 116 Stat. 2532, added item 5027.

**1998**—Pub. L. 105–261, div. A, title IX, §935(b), Oct. 17, 1998, 112 Stat. 2110, added item 5026.

**1990**—Pub. L. 101–510, div. A, title IX, §910(b)(2), Nov. 5, 1990, 104 Stat. 1625, struck out item 5021 "Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties".

**1988**—Pub. L. 100–456, div. A, title VII, §702(b)(3), Sept. 29, 1988, 102 Stat. 1995, added item 5025.

**1986**—Pub. L. 99–433, title V, §511(f), Oct. 1, 1986, 100 Stat. 1048, amended analysis generally, substituting items 5011 to 5024 for former items 5011 to 5014.

**1964**—Pub. L. 88–426, title III, §305(40)(B), Aug. 14, 1964, 78 Stat. 427, struck out item 5014 "Compensation of General Counsel".

**1958**—Pub. L. 85–861, §1(106)(B), Sept. 2, 1958, 72 Stat. 1490, added item 5014.

## §8011. Organization

The Department of the Navy is separately organized under the Secretary of the Navy. It operates

under the authority, direction, and control of the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 277, §5011; Pub. L. 87–651, title II, §212, Sept. 7, 1962, 76 Stat. 524; Pub. L. 99–433, title V, §511(b)(2), (c)(1), Oct. 1, 1986, 100 Stat. 1043; renumbered §8011, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

The Act of July 26, 1947, ch. 343, as amended (5 U.S.C. 411a(a)) which is the National Security Act of 1947, defined "Department of the Navy". The Acts of Mar. 5, 1948, ch. 98 (5 U.S.C. 423a(a)), and Aug. 2, 1946, ch. 756 (5 U.S.C. 421g) defined "Naval Establishment". The terms "Department of the Navy" and "Naval Establishment" are considered to be synonymous. All three definitions were considered, but the phraseology adopted is that of the National Security Act of 1947. The phrase "as a service in the Navy" is substituted for "as a part of the Navy" to conform to the provisions of title 14.

### 1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5011 | 5:171a(c)(7) (1st sentence, less applicability to Departments of Army and Air Force). | July 26, 1947, ch. 343, §202(c)(7) (1st sentence, less applicability to Departments of Army and Air Force); added Aug. 6, 1958, Pub. L. 85–599, §3(a) (1st sentence of 8th par., less applicability to Departments of Army and Air Force), 72 Stat. 516. |

The words "to include naval aviation and the United States Marine Corps" are omitted as covered by the first sentence of section 5011. The word "operates" is substituted for the words "shall function".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8011 was renumbered section 9011 of this title.

Another prior section 8011 was renumbered section 9012 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5011 of this title as this section.

**1986**—Pub. L. 99–433, §511(c)(1), substituted "Organization" for "Composition" in section catchline.

Pub. L. 99–433, §511(b)(2), struck out the last two sentences which read as follows: "It is composed of the executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy." See section 5061 of this title.

**1962**—Pub. L. 87–651 inserted sentences providing that the Department of the Navy is separately organized under the Secretary of the Navy, and that it operates under the authority, direction, and control of the Secretary of Defense.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8012. Department of the Navy: seal

The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

(Added Pub. L. 99–433, title V, §511(c)(2), Oct. 1, 1986, 100 Stat. 1043, §5012; renumbered §8012, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8012 was renumbered section 9012 of this title.

Another prior section 8012 was renumbered section 8013 of this title and subsequently repealed.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5012 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8013. Secretary of the Navy

(a)(1) There is a Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience. The Secretary is the head of the Department of the Navy.

(2) A person may not be appointed as Secretary of the Navy within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Navy, including the following functions:

(1) Recruiting.

(2) Organizing.

(3) Supplying.

(4) Equipping (including research and development).

(5) Training.

(6) Servicing.

(7) Mobilizing.

(8) Demobilizing.

(9) Administering (including the morale and welfare of personnel).

(10) Maintaining.

(11) The construction, outfitting, and repair of military equipment.

(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Navy;

(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

(4) carrying out the functions of the Department of the Navy so as to fulfill the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

(g) The Secretary of the Navy may—

(1) assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy;

(2) change the title of any officer or activity of the Department of the Navy not prescribed by law; and

(3) prescribe regulations to carry out his functions, powers, and duties under this title.

(Added Pub. L. 99–433, title V, §511(c)(2), Oct. 1, 1986, 100 Stat. 1043, §5013; amended Pub. L. 99–661, div. A, title V, §534, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 108–136, div. A, title IX, §901, Nov. 24, 2003, 117 Stat. 1558; Pub. L. 114–328, div. A, title IX, §931(b), Dec. 23, 2016, 130 Stat. 2363; renumbered §8013, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 117–81, div. A, title IX, §901(d), Dec. 27, 2021, 135 Stat. 1868.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5031 of this title prior to enactment of Pub. L. 99–433.

A prior section 8013 was renumbered section 9013 of this title.

Another prior section 8013, acts Aug. 10, 1956, ch. 1041, 70A Stat. 488, §8012; Sept. 2, 1958, Pub. L. 85–861, §1(152), 72 Stat. 1513; Sept. 7, 1962, Pub. L. 87–651, title II, §211, 76 Stat. 524; Aug. 14, 1964, Pub. L. 88–426, title III, §§305(7), 306(j)(7), 78 Stat. 423, 432; renumbered §8013, Oct. 1, 1986, Pub. L. 99–433, title V, §521(a)(1), 100 Stat. 1055, related to Secretary of the Air Force, powers and duties, and delegations, prior to repeal by Pub. L. 99–433, §521(a)(3).

Another prior section 8013 was renumbered section 8014 of this title and subsequently repealed.

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 117–81 substituted "seven" for "five".

**2018**—Pub. L. 115–232 renumbered section 5013 of this title as this section.

**2016**—Subsec. (a)(1). Pub. L. 114–328 inserted "The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience,

including persons with appropriate management or leadership experience." after first sentence.

**2003**—Subsec. (c)(4). Pub. L. 108–136 struck out "(to the maximum extent practicable)" after "fulfill".

**1986**—Subsec. (a)(2). Pub. L. 99–661 substituted "five years" for "10 years".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable with respect to appointments made on or after Dec. 27, 2021, see section 901(g) of Pub. L. 117–81, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### INCLUSION OF INFORMATION ON AMPHIBIOUS WARFARE SHIP SPARES AND REPAIR PARTS IN NAVY BUDGET JUSTIFICATION MATERIALS

Pub. L. 119–60, div. A, title I, §132, Dec. 18, 2025, 139 Stat. 758, provided that:

"(a) IN GENERAL.—In the budget justification materials submitted to Congress in support of the Department of the Defense budget for fiscal year 2027 and each fiscal year thereafter (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the Secretary of the Navy shall include information on the costs of spare parts and repair parts for amphibious warfare ships in the materials for other procurement, Navy.

"(b) AMPHIBIOUS WARFARE SHIP DEFINED.—In this section, the term 'amphibious warfare ship' has the meaning given that term in section 8062(h) of title 10, United States Code."

### DESIGNATION OF OFFICIAL RESPONSIBLE FOR AUTONOMOUS SURFACE AND UNDERWATER DUAL-MODALITY VEHICLES

Pub. L. 118–159, div. A, title I, §125, Dec. 23, 2024, 138 Stat. 1806, provided that:

"(a) DESIGNATION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Navy shall designate an appropriate official within the Department of the Navy to have primary responsibility for the development and acquisition of surface and underwater dual-modality, advanced autonomous vehicles, consistent with warfighter requirements.

"(b) PROGRAM ELEMENT.—The Secretary of the Navy shall ensure, within budget program elements for the Navy, that there is a dedicated program element for the development and acquisition of surface and underwater dual-modality, advanced autonomous vehicles."

### PILOT PROGRAM ON USE OF AUTOMATED INSPECTION TECHNOLOGIES AT SHIPYARDS

Pub. L. 118–159, div. A, title X, §1030, Dec. 23, 2024, 138 Stat. 2057, provided that:

"(a) IN GENERAL.—Beginning not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Navy shall carry out a pilot program on the use of automated inspection technologies at shipyards.

"(b) SELECTION OF LOCATION.—The Secretary shall select one shipyard at which to carry out the pilot program required under subsection (a) and shall take such steps as may be necessary to minimize the disruption to the operations of the shipyard during the conduct of the pilot program.

"(c) ELEMENTS.—In carrying out the pilot program required under subsection (a), the Secretary shall—

"(1) select at least one surface ship as a test platform to collect a comprehensive set of inspection criteria used for defining maintenance requirements;

"(2) define requirements for the upgrade or overhaul of the information technology infrastructure at the shipyard to ensure compatibility with new technologies implemented under the pilot program;

"(3) provide for the training of personnel on the operation and maintenance of the automated inspection technologies selected for use during the pilot program;

"(4) designate an individual who shall be responsible for implementing and overseeing each phase of the pilot program; and

"(5) recommend a strategic sequencing plan of the pilot program to ensure the execution of necessary information technology upgrades prior to the deployment of robotic systems.

"(d) REPORT AND BRIEFINGS.—

"(1) REPORT.—Not later than 180 days after the termination of the pilot program under subsection

(e), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the pilot program.

"(2) BRIEFINGS.—Upon completion of the sequencing plan required under subsection (c)(5), the Secretary shall provide to the congressional defense committees a briefing on the plan.

"(e) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on the date that is three years after the date of the enactment of this Act."

## ESTABLISHMENT OF NUCLEAR-ARMED, SEA-LAUNCHED CRUISE MISSILE PROGRAM ELEMENT

Pub. L. 118–159, div. A, title XVI, §1627(c), Dec. 23, 2024, 138 Stat. 2175, provided that: "Beginning on the date of the submission of the budget of the President for fiscal year 2026 in accordance with section 1105(a) of title 31, United States Code, the Secretary of the Navy shall—

"(1) establish a separate, dedicated program element for the development of a nuclear-armed, sea-launched cruise missile within the budget program elements for Navy Strategic Systems Programs; and

"(2) ensure that Navy activities in support of such development are executed within such program element."

## STRATEGY ON USE OF AUTOMATION AND ARTIFICIAL INTELLIGENCE FOR SHIPYARD OPTIMIZATION

Pub. L. 118–31, div. A, title III, §350(a), Dec. 22, 2023, 137 Stat. 228, provided that: "The Secretary of the Navy, in coordination with the Shipyard Infrastructure Optimization Program of the Department of the Navy, shall develop and implement a strategy to leverage commercial best practices used in shipyards to improve the efficiency of operations and to demonstrate a digital platform that uses artificial intelligence to analyze data on the maintenance and condition of shipboard assets of the Navy at shipyards, for the purpose of improving the readiness of the Armed Forces, predicting and diagnosing issues prior to the occurrence of such issues, and lowering maintenance costs."

## DIGITAL AMBASSADOR PROGRAM OF THE NAVY: CESSATION; REPORT; RESTART

Pub. L. 118–31, div. A, title V, §594, Dec. 22, 2023, 137 Stat. 286, provided that:

"(a) CESSATION.—The Secretary of the Navy shall cease all activities of the digital ambassador program of the Office of Information of the Department of the Navy. The Secretary shall notify each individual designated as a digital ambassador of such cessation and that the individual is not authorized to act as a digital ambassador of the Navy.

"(b) RESTART.—The Secretary may not restart such program until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report containing the following:

"(1) All policies and documents of the program.

"(2) The number of digital ambassadors designated.

"(3) The process and criteria for such designation.

"(4) The duties of a digital ambassador.

"(5) The online platforms (including social media) on which an individual is authorized under such program to perform duties of a digital ambassador.

"(6) The determination of the Secretary that such program complies with applicable laws, regulations, and guidance."

## PILOT PROGRAM TO SUPPORT THE DEVELOPMENT OF PATENTABLE INVENTIONS IN THE DEPARTMENT OF THE NAVY

Pub. L. 117–263, div. A, title II, §224, Dec. 23, 2022, 136 Stat. 2483, provided that:

"(a) IN GENERAL.—The Secretary of the Navy may carry out a pilot program to expand the support available to covered personnel who seek to engage in the development of patentable inventions that—

"(1) have applicablity [sic] to the job-related functions of such personnel; and

"(2) may have applicability in the civilian sector.

"(b) ACTIVITIES.—As part of the pilot program under subsection (a), the Secretary of the Navy may—

"(1) expand outreach to covered personnel regarding the availability of patent-related training, legal assistance, and other support for personnel interested in developing patentable inventions;

"(2) expand the availability of patent-related training to covered personnel, including by making such training available online;

"(3) clarify and issue guidance detailing how covered personnel, including personnel outside of the

laboratories and other research organizations of the Department of the Navy, may—

"(A) seek and receive support for the development of patentable inventions; and

"(B) receive a portion of any royalty or other payment as an inventor or coinventor such as may be due under section 14(a)(1)(A)(i) of the Stevension-Wylder [sic; probably should be "Stevenson-Wydler"] Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)(i)); and

"(4) carry out other such activities as the Secretary determines appropriate in accordance with the purposes of the pilot program.

"(c) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate three years after the date of the enactment of this Act [Dec. 23, 2022].

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered personnel' means members of the Navy and Marine Corps and civilian employees of the Department of the Navy, including members and employees whose primary duties do not involve research and development.

"(2) The term 'patentable invention' means an invention that is patentable under title 35, United States Code."

**ESTABLISHMENT OF CYBER OPERATIONS DESIGNATOR AND RATING FOR THE NAVY**

Pub. L. 117–263, div. A, title XV, §1532, Dec. 23, 2022, 136 Stat. 2901, provided that:

"(a) MILITARY CAREER FIELD.—

"(1) OFFICERS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2023], the Secretary of the Navy, in coordination with the Chief of Naval Operations, shall establish a cyber warfare operations designator for officers (including an intended billet base, functions, and training pipeline), which shall be a separate designator from the cryptologic warfare officer designator.

"(2) ENLISTED.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in coordination with the Chief, shall establish a cyber warfare rating for enlisted personnel (including an intended billet base, functions, and training pipeline), which shall be a separate rating from the cryptologic technician enlisted rating.

"(3) PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in coordination with the Chief, shall submit to the Committees on Armed Services of the House of Representatives and the Senate an implementation plan to carry out paragraphs (1) and (2).

"(b) REQUIREMENT.—

"(1) DEADLINE.—Except as provided by paragraphs (2) and (3), the Secretary shall ensure that, beginning October 1, 2025, members of the Navy assigned to the cyber mission force shall be qualified with either the designator or rating established under subsection (a), as the case may be.

"(2) EXCEPTION.—The requirement under paragraph (1) shall not apply to—

"(A) a member of the Navy who is assigned to the cyber mission force under orders issued before October 1, 2025; or

"(B) a position whose primary function is the provision of intelligence, foreign language, or administrative support to the cyber mission force.

"(3) WAIVER.—The Secretary may waive, on a case-by-case basis, the requirement under paragraph (1), except that the total number of such waivers made during a fiscal year may not exceed 10 percent of the total number of members of the Navy assigned to the cyber mission force (not counting members assigned to a position described in paragraph (2)(B)).

"(c) RESERVE MATTERS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in coordination with the Chief, shall direct the Chief of Navy Reserve to establish, and retain, a cadre of members of the Navy Reserve with the designator and rating established under subsection (a).

"(d) OFFICER QUALIFICATIONS AND TRAINING.—The Secretary, in coordination with the Chief of Naval Operations and in consultation with the Commander of the United States Cyber Command, shall ensure that the designator established under subsection (a)(1) includes the development and execution of a training curriculum and qualification standards commensurate with those of the cyber officers of the Army and the Air Force.

"(e) COMMUNITY MANAGEMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary, acting through the Principal Cyber Advisor of the Navy, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and provide to such committees a briefing on, the findings of a study on whether the designator and rating established under subsection (a), along with the Maritime Space Officer and the Cyberspace Warfare Engineer, should continue to be considered part of the information warfare community.

"(f) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall

submit to the Committees on Armed Services of the House of Representatives and Senate a report certifying that the following actions have been carried out or are in the process of being completed (including detailed explanations):

"(1) An identification by the Chief of Naval Operations of the resource manager within the Office of the Chief of Naval Operations for the designator and rating established under subsection (a).

"(2) An identification by the Chief of the type command at United States Fleet Forces Command responsible for manning and training the designator and rating established under subsection (a).

"(3) An inventory of those billets within the Cyber Mission Force, or any other service or joint assignment that requires personnel (both officer and enlisted) to conduct operations through cyberspace.

"(4) An inventory and position description of the those positions within the Cyber Mission Force that have been identified under subsection (b)(2)(B).

"(5) A funding profile detailing the complete costs associated with the designator and rating established under subsection (a), including costs associated with meeting the training requirements of the United States Cyber Command for the period covered by the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code.

"(6) An inventory of all flag officer positions at joint and naval components and commands conducting or managing cyberspace operations and activities, including with respect to—

"(A) the United States Cyber Command;

"(B) the Fleet Cyber Command;

"(C) Joint Forces Headquarters-Cyber, Navy;

"(D) 10th Fleet;

"(E) the Deputy Chief of Naval Operations for Information Warfare and the Director of Naval Intelligence; and

"(F) Naval Information Forces.

"(7) An update to the plan required under subsection (a)(3), including timelines and procedures, for filling the positions within the cyber mission force for which the Secretary is responsible.

"(8) Any anticipated changes to the end-strength of the Navy by reason of establishing the designator and rating under subsection (a).

"(9) The implementation of the designator and rating established under subsection (a) within the Navy Reserve.

"(10) The development and execution of the training curriculum and qualification standards under subsection (d).

"(g) LEADERSHIP QUALIFICATIONS.—The Secretary shall ensure that flag officers with the cyber warfare operations designator established under subsection (a) are primarily employed in billets identified under subsection (f)(6).

"(h) DETERMINATION BY CYBER COMMAND.—Not later than 60 days after the date on which the Secretary submits the report under subsection (f), the Commander of the United States Cyber Command shall submit to the Committees on Armed Services of the House of Representatives and Senate a determination with respect to whether the matters contained in the report satisfy the requirements of the United States Cyber Command."

## SHIPYARD INFRASTRUCTURE OPTIMIZATION PROGRAM OF THE NAVY

Pub. L. 118–159, div. B, title XXVIII, §2879, Dec. 23, 2024, 138 Stat. 2289, provided that:

"(a) POLICY AND GUIDANCE UPDATE.—

"(1) IN GENERAL.—The Secretary of the Navy shall update relevant internal policy and guidance of the Department of the Navy with respect to the projects described in paragraph (2) to require the head of the Program Management Office of the Department to—

"(A) update the relevant methodologies used to conduct cost sensitivity, risk, and uncertainty analyses throughout the project design process;

"(B) document the use of different methods to validate high-value cost elements for projects under the Shipyard Infrastructure Optimization Program; and

"(C) adhere to best practices for the development of construction schedules.

"(2) PROJECTS DESCRIBED.—The projects described in this paragraph are—

"(A) the replacement of dry dock 1 at Portsmouth Naval Shipyard;

"(B) the replacement of dry dock 3 at Pearl Harbor Naval Shipyard; and

"(C) any other project of the Navy under the Shipyard Infrastructure Optimization Program.

"(b) PLANNING.—The Secretary shall implement measures to ensure more extensive planning on military construction projects under the Shipyard Infrastructure Optimization Program for which the Secretary has

obligated more than $500,000,000 to more accurately identify operational mission need dates.

"(c) BRIEFINGS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this section [Dec. 23, 2024], and quarterly thereafter until each project is completed, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the status of the construction projects for the replacement by the Navy of—

"(A) dry dock 1 at Portsmouth Naval Shipyard; and

"(B) dry dock 3 at Pearl Harbor Naval Shipyard.

"(2) ELEMENTS.—Each briefing required under paragraph (1) shall include, at a minimum, the following:

"(A) A summary of the steps the Secretary is taking to ensure the costs of the projects specified in such paragraph do not increase.

"(B) An assessment by the Secretary as of the date of the briefing of the likelihood of future cost overruns for each such project.

"(C) Any other details the Secretary determines relevant to support the oversight by Congress of each such project and other projects under the Shipyard Infrastructure Optimization Program."

Pub. L. 117–263, div. A, title III, §356, Dec. 23, 2022, 136 Stat. 2534, provided that:

"(a) IN GENERAL.—Not later than March 1, 2023, the Secretary of the Navy shall—

"(1) develop metrics for assessing progress of the Secretary toward improved shipyard capacity and performance in carrying out the Shipyard Infrastructure Optimization Plan of the Navy, including by measuring the effectiveness of capital investments;

"(2) ensure that the shipyard optimization program office of the Navy—

"(A) includes all costs, such as inflation, program office activities, utilities, roads, environmental remediation, historic preservation, and alternative workspace when developing a detailed cost estimate; and

"(B) uses cost estimating best practices in developing a detailed cost estimate, including—

"(i) a program baseline;

"(ii) a work breakdown structure;

"(iii) a description of the methodology and key assumptions;

"(iv) a consideration of inflation;

"(v) a full assessment of risk and uncertainty; and

"(vi) a sensitivity analysis; and

"(3) obtain independent cost estimates for projects under the shipyard optimization program that are estimated to exceed $250,000,000, to validate the cost estimates of the Navy developed for such projects pursuant to paragraph (2) and inform the prioritization of projects under such program.

"(b) BRIEFING.—If the Secretary of the Navy is unable to implement the requirements under subsection (a) by March 1, 2023, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives before such date on—

"(1) the current progress of the Secretary toward implementing those requirements;

"(2) any hindrance to implementing those requirements; and

"(3) any additional resources necessary to implement those requirements."

Pub. L. 117–81, div. A, title III, §355, Dec. 27, 2021, 135 Stat. 1657, as amended by Pub. L. 118–31, div. A, title III, §344(a), Dec. 22, 2023, 137 Stat. 225; Pub. L. 119–60, div. A, title III, §339, Dec. 18, 2025, 139 Stat. 821, provided that:

"(a) UPDATED PLAN.—

"(1) IN GENERAL.—Not later than September 30, 2022, the Secretary of the Navy shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] an update to the plan of the Secretary for implementation of the Shipyard Infrastructure Optimization Program of the Department of the Navy, with the objective of providing increased transparency for the actual costs and schedules associated with infrastructure optimization activities for shipyards covered by such program.

"(2) UPDATED COST ESTIMATES.—The updated plan required under paragraph (1) shall include updated cost estimates comprising the most recent costs of capital improvement projects for each of the four public shipyards covered by the Shipyard Infrastructure Optimization Program.

"(b) BRIEFING REQUIREMENT.—

"(1) IN GENERAL.—Before the start of physical construction with respect to a covered project, the Secretary of the Navy or a designee of the Secretary shall brief each of the congressional defense committees on such project, regardless of the source of funding for such project.

"(2) WRITTEN INFORMATION.—Before conducting a briefing under paragraph (1) with respect to a covered project, the Secretary of the Navy or a designee of the Secretary shall submit to the congressional defense committees in writing the following information:

"(A) An updated cost estimate for such project that—

"(i) meets the standards of the Association for the Advancement of Cost Engineering for a Level 1 or Level 2 cost estimate; or

"(ii) is an independent cost estimate.

"(B) A schedule for such project that is comprehensive, well-constructed, credible, and controlled pursuant to the Schedule Assessment Guide: Best Practices for Project Schedules (GAO–16–89G) set forth by the Comptroller General of the United States in December 2015, or successor guide.

"(C) An estimate of the likelihood that programmed and planned funds for such project will be sufficient for the completion of the project.

"(D) A risk analysis of how the schedule for such project affects the availability schedule for submarines and aircraft carriers, including the following:

"(i) A timeline for the completion of such project, including construction dates and dates of planned maintenance at each shipyard under such project.

"(ii) Contingency maintenance plans if such project is delayed, including any backup location for maintenance availabilities determined by the Chief Naval Officer and any resulting alteration in plans or schedules for maintenance.

"(iii) The effect on public shipyards should a delay to such project result in the implementation of a contingency plan pursuant to clause (ii), including the effect on the workforce and workload capacity at the public shipyard with respect to which such project is conducted.

"(iv) A cost-benefit analysis of the potential for private shipyards to assist with such workload should such project be delayed, including an identification of any gaps in the capability of private shipyards to conduct the maintenance described in clause (ii).

"(v) An assessment of whether greater flexibilities in authorities are necessary to better support fleet maintenance needs and the Shipyard Infrastructure Optimization Program.

"(3) COVERED PROJECT DEFINED.—In this subsection, the term 'covered project' means a shipyard project under the Shipyard Infrastructure Optimization Program—

"(A) with a contract awarded on or after October 1, 2024; and

"(B) valued at $250,000,000 or more.

"(c) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than December 31, 2022, and not later than December 31 of each year thereafter, the Commander of the Naval Sea Systems Command, in coordination with the Program Manager Ships 555, shall submit to the congressional defense committees a report detailing the use by the Department of the Navy of funding for all efforts associated with the Shipyard Infrastructure Optimization Program, including the use of amounts made available by law to support the projects identified in the plan to implement such program, including any update to such plan under subsection (a).

"(2) ELEMENTS.—Each report required by paragraph (1) shall include updated cost and schedule estimates—

"(A) for the plan to implement the Shipyard Optimization Program, including any update to such plan under subsection (a), and the incorporation of digital infrastructure (including hardware, software, and cloud storage) and platforms into such program; and

"(B) for each dry dock, major facility, and infrastructure project valued at $250,000,000 or more under such program.

"(d) COMPTROLLER GENERAL REPORT.—

"(1) REPORT.—

"(A) IN GENERAL.—Not later than May 1, 2023, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress of the Secretary of the Navy in implementing the Shipyard Infrastructure Optimization Program, including—

"(i) the progress of the Secretary in completing the first annual report required under such program; and

"(ii) the cost and schedule estimates for full implementation of such program.

"(B) ELEMENTS.—The report required by subparagraph (A) shall include the following:

"(i) An assessment of the extent to which the cost estimate for the updated optimization plan for the Shipyard Infrastructure Optimization Program is consistent with leading practices for cost estimation.

"(ii) An assessment of the extent to which the project schedule for such program is comprehensive, well-constructed, credible, and controlled.

"(iii) An assessment of whether programmed and planned funds for a project under such program will be sufficient for the completion of the project.

"(iv) Such other related matters as the Comptroller General considers appropriate.

"(2) INITIAL BRIEFING.—Not later than April 1, 2023, the Comptroller General shall brief the Committees on Armed Services of the Senate and the House of Representatives on the preliminary findings of the report under paragraph (1)."

## IMPROVED OVERSIGHT OF CERTAIN INFRASTRUCTURE SERVICES PROVIDED BY NAVAL FACILITIES ENGINEERING SYSTEMS COMMAND PACIFIC

Pub. L. 117–81, div. B, title XXVIII, §2871, Dec. 27, 2021, 135 Stat. 2214, provided that: "The Secretary of the Navy shall designate an administrative position within the Naval Facilities Engineering Systems Command Pacific for the purpose of improving the continuity of management and oversight of real property and infrastructure assets in the Pacific Area of Responsibility related to the training needs of the Armed Forces, particularly regarding leased property for which the lease will expire within 10 years after the date of the enactment of this Act [Dec. 27, 2021]."

## EXECUTIVE AGENT FOR AUTONOMY

Pub. L. 116–283, div. A, title II, §218, Jan. 1, 2021, 134 Stat. 3463, which required designation of an existing program executive officer from within the Department of the Navy to serve as the acquisition executive agent for autonomy, was repealed by Pub. L. 119–60, div. A, title VIII, §811(b)(3)(A), Dec. 18, 2025, 139 Stat. 948.

## FIRE FIGHTERS ALTERNATIVE WORK SCHEDULE DEMONSTRATION PROJECT FOR THE NAVY REGION MID-ATLANTIC FIRE AND EMERGENCY SERVICES

Pub. L. 116–283, div. A, title XI, §1109, Jan. 1, 2021, 134 Stat. 3891, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], the Commander, Navy Region Mid-Atlantic, shall establish and carry out, for a period of not less than five years, a Fire Fighters Alternative Work Schedule demonstration project for the Navy Region Mid-Atlantic Fire and Emergency Services. Such demonstration project shall provide, with respect to each employee of the Navy Region Mid-Atlantic Fire and Emergency Services, that—

"(1) assignments to tours of duty are scheduled in advance over periods of not less than two weeks;

"(2) tours of duty are scheduled using a regularly recurring pattern of 48-hour shifts followed by 48 or 72 consecutive non-work hours, as determined by mutual agreement between the Commander, Navy Region Mid-Atlantic, and the exclusive employee representative at each Navy Region Mid-Atlantic installation, in such a manner that each employee is regularly scheduled for 144-hours in any two-week period;

"(3) for any such employee that is a fire fighter working an alternative work schedule, such employee shall earn overtime compensation in a manner consistent with other applicable law and regulation;

"(4) no right shall be established to any form of premium pay, including night, Sunday, holiday, or hazard duty pay; and

"(5) leave accrual and use shall be consistent with other applicable law and regulation.

"(b) REPORT.—Not later than 180 days after the date on which the demonstration project under this section terminates, the Commander, Navy Region Mid-Atlantic, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing—

"(1) any financial savings or expenses directly and inseparably linked to the demonstration project;

"(2) any intangible quality of life and morale improvements achieved by the demonstration project; and

"(3) any adverse impact of the demonstration project occurring solely as the result of the transition to the demonstration project."

## NOTIFICATIONS ON MANNING OF AFLOAT NAVAL FORCES

Pub. L. 116–92, div. A, title V, §597(a)–(e), Dec. 20, 2019, 133 Stat. 1418, 1419, as amended by Pub. L. 117–263, div. A, title V, §592(a)(1), (b), (c), Dec. 23, 2022, 136 Stat. 2612, which related to quarterly notifications on manning of afloat naval forces, was transferred to section 8227 of this title by Pub. L. 117–263, div. A, title V, §592(d)(1), Dec. 23, 2022, 136 Stat. 2612.

Pub. L. 115–232, div. A, title V, §525, Aug. 13, 2018, 132 Stat. 1757, which provided that the Secretary of the Navy was to notify the Committees on Armed Services and Appropriations of the Senate and the House of

Representatives, in writing, not later than 15 days after the manning fit for a commissioned battle force ship was less than 87 percent or the manning fill for such ship was less than 90 percent, was repealed by Pub. L. 116–92, div. A, title V, §597(f), Dec. 20, 2019, 133 Stat. 1419, which was repealed by Pub. L. 117–263, div. A, title V, §592(a)(2), Dec. 23, 2022, 136 Stat. 2612.

## FORMAL TRAINING FOR SHIPBOARD SYSTEM PROGRAMS OF RECORD

Pub. L. 116–92, div. A, title X, §1036, Dec. 20, 2019, 133 Stat. 1583, provided that:

"(a) IN GENERAL.—The Secretary of the Navy shall ensure that there is formal training provided for any shipboard system that is a program of record on any Navy surface vessel.

"(b) TIMLINE FOR IMPLEMENTATION.—

"(1) CURRENT PROGRAMS.—In the case of any shipboard system program of record that is in use as of the date of the enactment of this Act [Dec. 20, 2019] for which no formal training is available, the Secretary shall ensure that such training is available by not later than 12 months after the date of the enactment of this Act.

"(2) FUTURE PROGRAMS.—In the case of any shipboard system program of record that is first accepted by the Government after the date of the enactment of this Act, the Secretary shall ensure that formal training is established for such program by not later than 12 months after the date on which the shipboard system program of record is first accepted by the Government."

## LIMITATION ON MODIFICATIONS TO NAVY FACILITIES SUSTAINMENT, RESTORATION, AND MODERNIZATION STRUCTURE AND MECHANISM

Pub. L. 115–232, div. A, title III, §328, Aug. 13, 2018, 132 Stat. 1723, provided that: "The Secretary of the Navy may not make any modification to the existing Navy Facilities Sustainment, Restoration, and Modernization structure or mechanism that would modify duty relationships or significantly alter the existing structure until 90 days after providing notice of the proposed modification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]."

## NAVY WATCHSTANDER RECORDS

Pub. L. 115–232, div. A, title V, §526, Aug. 13, 2018, 132 Stat. 1758, provided that:

"(a) IN GENERAL.—The Secretary of the Navy shall require that, commencing not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], key watchstanders on Navy surface ships shall maintain a career record of watchstanding hours and specific operational evolutions.

"(b) KEY WATCHSTANDER DEFINED.—In this section, the term 'key watchstander' means each of the following:

"(1) Officer of the Deck.

"(2) Engineering Officer of the Watch.

"(3) Conning Officer or Piloting Officer.

"(4) Any other officer specified by the Secretary for purposes of this section.

"(c) BRIEFINGS OF CONGRESS.—

"(1) INITIAL BRIEFING.—Not later than 150 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the plan of the Secretary for the maintenance of watchstander records, including updates to policy documents.

"(2) UPDATE BRIEFINGS.—Not later than one year after the briefing pursuant to paragraph (1), and annually thereafter for the next two years, the Secretary shall provide to the committees of Congress referred to in that paragraph an update briefing on the status of the implementation of the plan described in that paragraph."

## REVERSIONARY INTERESTS IN REAL PROPERTY USED BY CLOSED OR REALIGNED NAVAL STATIONS

Pub. L. 109–148, div. B, title I, §702, Dec. 30, 2005, 119 Stat. 2773, provided that: "For any real property expressly granted to the United States since January 1, 1980 for use as or in connection with a Navy homeport subject to a reversionary interest retained by the grantor and serving as the site of or being used by a naval station subsequently closed or realigned pursuant to the Defense Base Closure and Realignment Act of 1990 [part A of title XXIX of div. B of Pub. L. 101–510, set out as a note under section 2687 of this title] as amended, the right of the United States to any consideration or repayment for the fair market value of the real property as improved shall be released, relinquished, waived, or otherwise permanently extinguished. The Secretary shall execute such written agreements as may be needed to facilitate the reversion and transfer all

right, title, and interest of the United States in any real property described in this section, including the improvements thereon, for no consideration to the reversionary interest holder as soon as practicable after the naval station is closed or realigned. This agreement shall not require the reversionary interest holder to assume any environmental liabilities of the United States or relieve the United States from any responsibilities for environmental remediation that it may have incurred as a result of federal ownership or use of the real property."

## ELIMINATION OF REVERSIONARY INTERESTS CLOUDING UNITED STATES TITLE TO PROPERTY USED AS NAVY HOMEPORTS

Pub. L. 108–375, div. B, title XXVIII, §2823, Oct. 28, 2004, 118 Stat. 2132, provided that:

"(a) AUTHORITY TO ACQUIRE COMPLETE TITLE.—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

"(b) AUTHORIZED CONSIDERATION.—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest.

"(2) In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any improvements acquired by the holder as part of the reversion of the real property, and the long-term use and ultimate disposition of the real property if the United States were to acquire all right, title, and interest in and to the real property subject to the reversionary interest.

"(c) PROHIBITED CONSIDERATION.—Cash payments are not authorized to be made as consideration for the acquisition of a reversionary interest under subsection (a)."

## MULTI-TRADES DEMONSTRATION PROJECT

Pub. L. 108–136, div. A, title III, §338, Nov. 24, 2003, 117 Stat. 1447, as amended by Pub. L. 110–181, div. A, title III, §329, Jan. 28, 2008, 122 Stat. 67; Pub. L. 112–239, div. A, title III, §321, Jan. 2, 2013, 126 Stat. 1694; Pub. L. 113–66, div. A, title X, §1091(d), Dec. 26, 2013, 127 Stat. 876; Pub. L. 115–91, div. A, title III, §321, Dec. 12, 2017, 131 Stat. 1352, provided that:

"(a) DEMONSTRATION PROJECT AUTHORIZED.—In accordance with section 4703 of title 5, United States Code, the Secretary of a military department may carry out a demonstration project at facilities described in subsection (b) under which workers who are certified at the journey level as able to perform multiple trades shall be promoted by one grade level.

"(b) SELECTION REQUIREMENTS.—As a condition on eligibility for selection to participate in the demonstration project, the head of an Air Force Air Logistics Complex, Navy Fleet Readiness Center, Navy shipyard, Marine Corps Logistics Base, or Army depot shall submit to the Secretary of the military department concerned a business case analysis and concept plan—

"(1) that, on the basis of the results of analysis of work processes, demonstrate that process improvements would result from the trade combinations proposed to be implemented under the demonstration project; and

"(2) that describes the improvements in cost, quality, or schedule of work that are anticipated to result from the participation in the demonstration project.

"(c) PARTICIPATING WORKERS.—(1) Actual worker participation in the demonstration project shall be determined through competitive selection. Not more than 15 percent of the wage grade journeyman at a demonstration project location may be selected to participate.

"(2) Job descriptions and competency-based training plans must be developed for each worker while in training under the demonstration project and once certified as a multi-trade worker. A certified multi-trade worker who receives a pay grade promotion under the demonstration project must use each new skill during at least 25 percent of the worker's work year.

"(d) DURATION.—The demonstration project shall be conducted during fiscal years 2008 through 2023.

"(e) REPORT.—Not later than January 15, 2024, the Secretary of each military department that carried out a demonstration project under this section shall submit a report to Congress describing the results of the demonstration project. Each such report shall include the Secretary's recommendation on whether permanent multi-trade authority should be authorized.

"(f) GAO EVALUATION.—Each Secretary who submits a report under subsection (e) shall transmit a copy of the report to the Comptroller General. Within 90 days after receiving a report, the Comptroller

General shall submit to Congress an evaluation of that report."

**USE OF NAVAL INSTALLATIONS FOR EMPLOYMENT TRAINING OF NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS**

Pub. L. 103–160, div. A, title XIII, §1374, Nov. 30, 1993, 107 Stat. 1821, as amended by Pub. L. 103–337, div. A, title X, §1064, Oct. 5, 1994, 108 Stat. 2848, provided that:

"(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Navy may conduct a demonstration project to test the feasibility of using Navy facilities to provide employment training to nonviolent offenders in a State penal system prior to their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

"(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

"(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

"(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

"(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

"(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

"(f) REPORT.—Not later than two years after the date of the enactment of this Act [Nov. 30, 1993], the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers to be appropriate."

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §8013a. Secretary of the Navy: powers with respect to Coast Guard

(a) Whenever the Coast Guard operates as a service in the Navy under section 3 [1] of title 14, the

Secretary of the Navy has the same powers and duties with respect to the Coast Guard as the Secretary of Homeland Security has when the Coast Guard is not so operating.

(b) While operating as a service in the Navy, the Coast Guard is subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to make them uniform, to the extent he considers advisable, with Navy operations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 279, §5032; Pub. L. 96–513, title V, §513(3), Dec. 12, 1980, 94 Stat. 2931; renumbered §5013a, Pub. L. 99–433, title V, §511(c)(3), Oct. 1, 1986, 100 Stat. 1045; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; renumbered §8013a, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**HISTORICAL AND REVISION NOTES**

Subsection (a) is derived from 14 U.S.C. 5, and subsection (b) from the second sentence of 14 U.S.C. 3. These provisions are duplicated in this title for the purpose of producing a statement of the general powers of the Secretary of the Navy in this important area.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3 of title 14, referred to in subsec. (a), was redesignated section 103 of title 14 by Pub. L. 115–282, title I, §103(b), Dec. 4, 2018, 132 Stat. 4195, and references to section 3 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5013a of this title as this section.

**2002**—Subsec. (a). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1986**—Pub. L. 99–433 renumbered section 5032 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

[1] *See References in Text note below.*

## §8014. Office of the Secretary of the Navy

(a) There is in the Department of the Navy an Office of the Secretary of the Navy. The function of the Office is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Office of the Secretary of the Navy is composed of the following:

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries of the Navy.

(3) The General Counsel of the Department of the Navy.
(4) The Judge Advocate General of the Navy.
(5) The Naval Inspector General.
(6) The Chief of Legislative Affairs.
(7) The Chief of Naval Research.
(8) Such other offices and officials as may be established by law or as the Secretary of the Navy may establish or designate.

(c)(1) The Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the following functions:
(A) Acquisition.
(B) Auditing.
(C) Comptroller (including financial management).
(D) Information management.
(E) Inspector General.
(F) Legislative affairs.
(G) Public affairs.

(2) The Secretary of the Navy shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Office of the Chief of Naval Operations or the Headquarters, Marine Corps, to conduct any of the functions specified in paragraph (1).
(3) The Secretary shall—
(A) prescribe the relationship of each office or other entity established or designated under paragraph (2)—
(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and
(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

(4) The vesting in the Office of the Secretary of the Navy of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Navy (including the Office of the Chief of Naval Operations and the Headquarters, Marine Corps) from providing advice or assistance to the Chief of Naval Operations and the Commandant of the Marine Corps or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Navy.
(5)(A) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.
(B) The position of regional director within such office or entity, and any other position within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.
(d)(1) Subject to paragraph (2), the Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the function of research and development.
(2) The Secretary of the Navy may assign to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps, responsibility for those aspects of the function of research and development relating to military requirements and test and evaluation.

(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct the function specified in paragraph (1).

(4) The Secretary shall—

(A) prescribe the relationship of the office or other entity established or designated under paragraph (3)—

(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

(e) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, do not duplicate specific functions for which the Secretary has assigned responsibility to another of such offices.

(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 3,150.

(2) Not more than 1,800 officers of the Navy and Marine Corps on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 74.

(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war.

(5) Each limitation in paragraphs (1) and (2) may be exceeded by a number equal to 15 percent of such limitation in time of national emergency.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1045, §5014; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(7), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title III, §325(b), Sept. 29, 1988, 102 Stat. 1955; Pub. L. 101–189, div. A, title VI, §652(a)(4), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 107–107, div. A, title X, §1048(a)(28), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title V, §504(d)(2), Dec. 2, 2002, 116 Stat. 2532; Pub. L. 114–328, div. A, title IX, §903(d), Dec. 23, 2016, 130 Stat. 2344; renumbered §8014, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 116–92, div. A, title IX, §901(a)(4), Dec. 20, 2019, 133 Stat. 1542.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8014 was renumbered section 9014 of this title.

Another prior section 8014, acts Aug. 10, 1956, ch. 1041, 70A Stat. 489, §8013; Aug. 6, 1958, Pub. L. 85–599, §8(c), 72 Stat. 520; Sept. 2, 1958, Pub. L. 85–861, §1(153), 72 Stat. 1513; Aug. 14, 1964, Pub. L. 88–426, title III, §305(8), 78 Stat. 423; Dec. 1, 1967, Pub. L. 90–168, §2(15), 81 Stat. 523; Nov. 9, 1979, Pub. L. 96–107, title VIII, §820(d), 93 Stat. 819; renumbered §8014, Oct. 1, 1986, Pub. L. 99–433, title V, §521(a)(1), 100 Stat. 1055, related to Under Secretary and Assistant Secretaries of the Air Force, appointment, and duties, prior to repeal by Pub. L. 99–433, §521(a)(3).

Another prior section 8014 was renumbered section 8015 of this title and subsequently repealed.

### AMENDMENTS

**2019**—Subsec. (f)(1). Pub. L. 116–92, §901(a)(4)(A), substituted "3,150" for "2,866".

Subsec. (f)(2). Pub. L. 116–92, §901(a)(4)(B), substituted "1,800" for "1,720".

**2018**—Pub. L. 115–232 renumbered section 5014 of this title as this section.

**2016**—Subsec. (f)(4). Pub. L. 114–328, §903(d)(1), substituted "time of war." for "time of war or during a national emergency declared by the President or Congress. The limitation in paragraph (2) does not apply

whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, or the Headquarters, Marine Corps."

Subsec. (f)(5). Pub. L. 114–328, §903(d)(2), added par. (5).

**2002**—Subsec. (b)(6) to (8). Pub. L. 107–314 added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

**2001**—Subsec. (f)(3). Pub. L. 107–107 substituted "74" for "the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection".

**1989**—Subsec. (f)(5). Pub. L. 101–189 struck out par. (5) which read as follows: "The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988."

**1988**—Subsec. (c)(5). Pub. L. 100–456 added par. (5).

**1987**—Subsec. (f)(4). Pub. L. 100–180 inserted "the President or" after "declared by".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title III, §325(d), Sept. 29, 1988, 102 Stat. 1955, provided that:

"(1) The requirements of sections 3014(c)(5), 5014(c)(5)(A), and 8014(c)(5) [now 7014(c)(5), 8014(c)(5)(A), and 9014(c)(5)] of title 10, United States Code (as added by subsections (a), (b), and (c), respectively), shall apply with respect to any person appointed on or after the date of the enactment of this Act [Sept. 29, 1988] as the head of the office or other entity designated for conducting the auditing function in a military department.

"(2) Subparagraph (B) of section 5014(c)(5) [now 8014(c)(5)] of title 10, United States Code (as added by subsection (b)), shall take effect at the end of the one-year period beginning on the date of the enactment of this Act."

### EFFECTIVE DATE

Subsecs. (c) and (d) of this section to be implemented not later than 180 days after Oct. 1, 1986, see section 532(a) of Pub. L. 99–433, set out as a note under section 7014 of this title.

### EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009 and fiscal years thereafter, see section 1111 of Pub. L. 110–417, set out as a note under section 143 of this title.

## §8015. Under Secretary of the Navy

(a) There is an Under Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1047, §5015; renumbered §8015, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5033 of this title prior to enactment of Pub. L. 99–433.

A prior section 8015 was renumbered section 9015 of this title.

Another prior section 8015, acts Aug. 10, 1956, ch. 1041, 70A Stat. 489, §8014; renumbered §8015, Oct. 1, 1986, Pub. L. 99–433, title V, §521(a)(1), 100 Stat. 1055, related to Comptroller and Deputy Comptroller of the Air Force, powers and duties, and appointment, prior to repeal by Pub. L. 99–433, §521(a)(3).

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5015 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §8016. Assistant Secretaries of the Navy

(a) There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management.

(B) The Assistant Secretary shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations.

(C) The principal responsibility of the Assistant Secretary shall be the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.

(4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Research, Development, and Acquisition. The principal duty of the Assistant Secretary shall be the overall supervision of research, development, acquisition, and sustainment (including maintenance) matters of the Department of the Navy.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be an officer of the Navy or the Marine Corps on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1731 of this title. In the event of a vacancy in the position of Assistant Secretary of the Navy for Research, Development, and Acquisition, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year.

(5)(A) One of the Assistant Secretaries shall be the Assistant Secretary for Energy, Installations, and Environment.

(B) The principal duty of the Assistant Secretary for Energy, Installations, and Environment shall be the overall supervision of energy, installation, and environment matters for the Department of the

Navy.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1047, §5016; amended Pub. L. 100–456, div. A, title VII, §702(b)[(1)], Sept. 29, 1988, 102 Stat. 1994; Pub. L. 110–181, div. A, title IX, §908(b), Jan. 28, 2008, 122 Stat. 278; Pub. L. 114–328, div. A, title V, §502(t), title VIII, §802(b), Dec. 23, 2016, 130 Stat. 2104, 2249; Pub. L. 115–91, div. A, title IX, §921(b), Dec. 12, 2017, 131 Stat. 1524; renumbered §8016 and amended Pub. L. 115–232, div. A, title VIII, §807(a)(1), title IX, §915, Aug. 13, 2018, 132 Stat. 1834, 1924; Pub. L. 116–92, div. A, title VIII, §861(j)(15), title IX, §911(b), Dec. 20, 2019, 133 Stat. 1520, 1559.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5034 of this title prior to enactment of Pub. L. 99–433.

A prior section 8016 was renumbered section 9016 of this title.

### AMENDMENTS

**2019**—Subsec. (b)(4)(B). Pub. L. 116–92, §861(j)(15), substituted "under section 1731 of this title" for "under section 1733 of this title".

Subsec. (b)(5). Pub. L. 116–92, §911(b), added par. (5).

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5016 of this title as this section.

Subsec. (b)(4)(A). Pub. L. 115–232, §915, substituted "acquisition, and sustainment (including maintenance) matters" for "and acquisition matters".

**2017**—Subsec. (b)(3). Pub. L. 115–91 designated first sentence as subpar. (A), designated second and third sentences as subpar. (C) and, in subpar. (C), substituted "The principal responsibility of the Assistant Secretary shall be" for "The Assistant Secretary shall have as his principal responsibility", and added subpar. (B).

**2016**—Subsec. (b)(4)(B). Pub. L. 114–328, §802(b), inserted at end "In the event of a vacancy in the position of Assistant Secretary of the Navy for Research, Development, and Acquisition, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year."

Pub. L. 114–328, §502(t), substituted "an officer of the Navy or the Marine Corps" for "a vice admiral of the Navy or a lieutenant general of the Marine Corps".

**2008**—Subsec. (b)(4). Pub. L. 110–181 added par. (4).

**1988**—Subsec. (b)(3). Pub. L. 100–456 added par. (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 807(a)(1) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

For applicability of appointment qualifications imposed by section 921 of Pub. L. 115–91 to certain appointments made on or after Dec. 12, 2017, see section 921(d) of Pub. L. 115–91, set out as a note under section 7016 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Jan. 20, 1989, see section 702(e)(1) of Pub. L. 100–456, set out as a note under section 7016 of this title.

## §8017. Secretary of the Navy: successors to duties

If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the

duties of the Secretary until the President, under section 3347 [1] of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense.

(3) The General Counsel of the Department of the Navy.

(4) The Chief of Naval Operations.

(5) The Commandant of the Marine Corps.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1047, §5017; amended Pub. L. 103–337, div. A, title IX, §902(b), Oct. 5, 1994, 108 Stat. 2823; renumbered §8017, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3347 of title 5, referred to in text, was repealed and a new section 3347 was enacted by Pub. L. 105–277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681–611, and, as so enacted, no longer contains provisions authorizing the President to direct temporary successors to duties. See section 3345 of Title 5, Government Organization and Employees.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5036 of this title prior to enactment of Pub. L. 99–433.

A prior section 8017 was renumbered section 9017 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5017 of this title as this section.

**1994**—Pars. (3) to (5). Pub. L. 103–337 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, listed in a table under section 3345 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

## §8018. Administrative Assistant

The Secretary of the Navy may appoint an Administrative Assistant in the Office of the Secretary of the Navy. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1047, §5018; renumbered §8018, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8018 was renumbered section 9018 of this title.

Another prior section 8018, added Pub. L. 85–861, §1(154)(A), Sept. 2, 1958, 72 Stat. 1513, prescribed compensation of General Counsel of Department of the Air Force, prior to repeal by Pub. L. 88–426, title III, §305(40)(A), Aug. 14, 1964, 78 Stat. 427, eff. first day of first pay period beginning on or after July 1, 1964. See section 5316 of Title 5, Government Organization and Employees.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5018 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8019. General Counsel

(a) There is a General Counsel of the Department of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel shall perform such functions as the Secretary of the Navy may prescribe.

(Added Pub. L. 99–433, title V, §511(c)(4), Oct. 1, 1986, 100 Stat. 1047, §5019; amended Pub. L. 100–456, div. A, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1996; renumbered §8019, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8019 was renumbered section 9019 of this title.

Another prior section 8019 was renumbered section 9038 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5019 of this title as this section.

**1988**—Subsec. (a). Pub. L. 100–456 inserted ", by and with the advice and consent of the Senate" before period at end.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–456 applicable to appointments made under this section on and after Sept. 29, 1988, see section 703(c) of Pub. L. 100–456, set out as a note under section 7019 of this title.

## §8020. Naval Inspector General: detail; duties

(a) There is in the Office of the Secretary of the Navy the Office of the Naval Inspector General. The Naval Inspector General shall be detailed from officers on the active-duty list in the line of the Navy serving in grades above captain.

(b) The Naval Inspector General, when directed, shall inquire into and report upon any matter that

affects the discipline or military efficiency of the Department of the Navy. He shall make such inspections, investigations, and reports as the Secretary of the Navy or the Chief of Naval Operations directs.

(c) The Naval Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under chapter 4 of title 5 regarding the Department of the Navy.

(d) The Naval Inspector General shall periodically propose programs of inspections to the Secretary of the Navy and shall recommend additional inspections and investigations as may appear appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 283, §5088; Pub. L. 96–513, title V, §503(7), Dec. 12, 1980, 94 Stat. 2911; renumbered §5020 and amended Pub. L. 99–433, title V, §511(c)(5), Oct. 1, 1986, 100 Stat. 1047; renumbered §8020, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 117–286, §4(b)(31), Dec. 27, 2022, 136 Stat. 4346.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5088(a), (b), (c) | 5 U.S.C. 423f. | Mar. 5, 1948, ch. 98, §6, 62 Stat. 68. |
| 5088(d) | 5 U.S.C. 423k (as applicable to the Naval Inspector General). | Mar. 5, 1948, ch. 98, §11, 62 Stat. 69 (as applicable to the Naval Inspector General). |

In subsection (a) the words "In addition to the divisions herein created" are omitted as surplusage. The word "detailed" is added in order to show that the position of the Inspector General is not an appointive office.

In subsection (c) the words "from time to time" are omitted as surplusage.

Subsection (d) is worded to make clear that the Naval Inspector General may be designated, under 34 U.S.C. 211d, as an officer who performs unusual or special duty, and, if so designated, is entitled to the grade, pay, and retirement privilege accompanying the special designation. The words "under section 5231 of this title" are substituted for the words "grade, rank, pay, and allowances provided under any provision of law heretofore or hereafter enacted which authorizes such grade, rank, pay, and allowances for officers so designated".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8020 was renumbered section 9020 of this title.

A prior section 8021 was renumbered section 9021 of this title.

Another prior section 8021 was renumbered section 10305 of this title.

### AMENDMENTS

**2022**—Subsec. (c). Pub. L. 117–286 substituted "chapter 4 of title 5" for "the Inspector General Act of 1978 (5 U.S.C. App. 3)".

**2018**—Pub. L. 115–232 renumbered section 5020 of this title as this section.

**1986**—Subsec. (a). Pub. L. 99–433, §511(c)(5)(A), substituted "Office of the Secretary of Navy" for "Office of the Chief of Naval Operations".

Subsec. (c). Pub. L. 99–433, §511(c)(5)(B), (C), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99–433, §511(c)(5)(B), redesignated former subsec. (c) as (d) and substituted "Secretary of the Navy" for "Chief of Naval Operations".

**1980**—Subsec. (a). Pub. L. 96–513, §503(7)(A), substituted "active-duty list" for "active list".

Subsec. (d). Pub. L. 96–513, §503(7)(B), struck out subsec. (d) which authorized the President to designate the Naval Inspector General as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8022. Office of Naval Research: duties

(a) There is in the Office of the Secretary of the Navy an Office of Naval Research.

(b) The Office of Naval Research shall perform such duties as the Secretary of the Navy prescribes relating to—

(1) the encouragement, promotion, planning, initiation, and coordination of naval research;

(2) the conduct of naval research in augmentation of and in conjunction with the research and development conducted by the bureaus and other agencies and offices of the Department of the Navy;

(3) the supervision, administration, and control of activities within or for the Department relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith; and

(4) the execution of, and management responsibility for, programs for which funds are provided in the basic and applied research and advanced technology categories of the Department of the Navy research, development, test, and evaluation budget in such a manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

(c) Sufficient information relative to estimates of appropriations for research by the several bureaus and offices shall be furnished to the Office of Naval Research to assist it in coordinating naval research and carrying out its other duties.

(d) The Office of Naval Research shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 291, §5151; renumbered §5022, Pub. L. 99–433, title V, §511(d), Oct. 1, 1986, 100 Stat. 1048; amended Pub. L. 101–510, div. A, title IX, §910(b)(1), Nov. 5, 1990, 104 Stat. 1625; Pub. L. 104–201, div. A, title V, §501(a), Sept. 23, 1996, 110 Stat. 2510; Pub. L. 106–398, §1 [[div. A], title IX, §904(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–225; Pub. L. 107–314, div. A, title V, §504(f), Dec. 2, 2002, 116 Stat. 2533; Pub. L. 114–328, div. A, title V, §502(u), Dec. 23, 2016, 130 Stat. 2104; renumbered §8022, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5151(a) | 5 U.S.C. 475 (20th through 111th words). | Aug. 1, 1946, ch. 727, §1 (22d through 114th words), 60 Stat. 779. |
| 5151(b) | 5 U.S.C. 475d(a) (2d sentence). | Aug. 1, 1946, ch. 727, §5(a) (2d sentence), 60 Stat. 780. |
| 5151(c) | 5 U.S.C. 475 (2d sentence). | Aug. 1, 1946, ch. 727, §1 (2d sentence), 60 Stat. 779. |

In subsection (c) the words "shall have full force and effect as such" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8022 was renumbered section 9022 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5022 of this title as this section.

**2016**—Subsec. (a). Pub. L. 114–328, which directed amendment of "Section 5022 of title 10, United States Code," by striking the par. (1) designation and by striking par. (2), without specifying the subsection of section 5022 to be amended, was executed by striking the par. (1) designation before "There is in the Office" in subsec. (a) and by striking par. (2) of subsec. (a) to reflect the probable intent of Congress. Par. (2) of subsec. (a) read as follows: "Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral."

**2002**—Subsec. (a)(2). Pub. L. 107–314 struck out "(upper half)" after "rear admiral".

**2000**—Subsec. (b)(4). Pub. L. 106–398 added par. (4).

**1996**—Subsec. (a). Pub. L. 104–201 designated existing provisions as par. (1) and added par. (2).

**1990**—Pub. L. 101–510 added subsec. (a) and redesignated former subsecs. (a) to (c) as (b) to (d), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–201, div. A, title V, §501(b), Sept. 23, 1996, 110 Stat. 2510, provided that: "Paragraph (2) of section 5022(a) [now 8022(a)] of title 10, United States Code, as added by subsection (a), shall take effect upon the occurrence of the first vacancy in the position of Chief of Naval Research after the date of the enactment of this Act [Sept. 23, 1996]."

**DEMONSTRATION PROJECT TO INCREASE SMALL BUSINESS AND UNIVERSITY PARTICIPATION IN OFFICE OF NAVAL RESEARCH EFFORTS TO EXTEND BENEFITS OF SCIENCE AND TECHNOLOGY RESEARCH TO FLEET**

Pub. L. 107–107, div. A, title II, §262, Dec. 28, 2001, 115 Stat. 1044, directed the Secretary of the Navy to carry out a demonstration project, during the three-year period beginning on Dec. 28, 2001, to increase access to Navy facilities of small businesses and universities that are engaged in science and technology research beneficial to the fleet and provided that the Secretary would submit a report on the demonstration project to Congress by Feb. 1, 2004.

## §8023. Office of Naval Research: appropriations; time limit

(a) Sums appropriated for the Office of Naval Research may be used to pay the cost of performing its duties under section 8022 of this title including the cost of—

(1) administration;

(2) conduct of research and development work in Government facilities; and

(3) conduct of research and development work under contracts with individuals, corporations, and educational or scientific institutions.

(b) Sums appropriated for the purposes of this section, if obligated during the fiscal year for which appropriated, remain available for expenditure for four years after the end of that fiscal year. Any balance not spent after that four-year period shall be carried to the surplus fund and covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 291, §5152; renumbered §5023 and amended Pub. L. 99–433, title V, §§511(d), 514(c)(2), Oct. 1, 1986, 100 Stat. 1048, 1055; renumbered §8023 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5152 | 5 U.S.C. 475d(a) (less 2d sentence). | Aug. 1, 1946, ch. 727, §5 (a) (less 2d sentence), 60 Stat. 780. |
| | 5 U.S.C. 475d(b). | Aug. 1, 1946, ch. 727, §5 (b), 60 Stat. 780. |

The authorization to make appropriations for the Office of Naval Research is omitted as unnecessary. The word "administration" is substituted for the words "administrative expenses" for brevity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8023 was renumbered section 9023 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5023 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8022" for "section 5022" in introductory provisions.

**1986**—Pub. L. 99–433, §511(d), renumbered section 5152 of this title as this section.

Subsec. (a). Pub. L. 99–433, §514(c)(2), substituted "section 5022" for "section 5151".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## [§8024. Repealed. Pub. L. 118–31, div. A, title IX, §914, Dec. 22, 2023, 137 Stat. 368]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 291, §5153; Pub. L. 97–60, title II, §205, Oct. 14, 1981, 95 Stat. 1007; renumbered §5024 and amended Pub. L. 99–433, title V, §§511(d), 514(d)(2), Oct. 1, 1986, 100 Stat. 1048, 1055; renumbered §8024, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834, established the Naval Research Advisory Committee.

A prior section 8024 was renumbered section 9024 of this title.

## §8025. Financial management

(a) The Secretary of the Navy shall provide that the Assistant Secretary of the Navy for Financial Management shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title;

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

(A) systems for cash management, credit management, and debt collection; and
(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b)(1) Financial management systems of the Department of the Navy (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

(2) Such systems shall provide for—

(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

(B) the development and reporting of cost information;

(C) the integration of accounting and budgeting information; and

(D) the systematic measurement of performance.

(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Navy proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

(d) The Assistant Secretary of the Navy for Financial Management shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.

(Added Pub. L. 100–456, div. A, title VII, §702(b)(2), Sept. 29, 1988, 102 Stat. 1994, §5025; amended Pub. L. 103–337, div. A, title X, §1070(a)(15), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, §1503(b)(1), Feb. 10, 1996, 110 Stat. 512; renumbered §8025, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5025 of this title as this section.

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller of the Department of Defense".

**1994**—Subsec. (a)(1). Pub. L. 103–337 substituted "135(c)" for "137(c)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Jan. 20, 1989, see section 702(e)(1) of Pub. L. 100–456, set out as an Effective Date of 1988 Amendment note under section 7016 of this title.

## §8026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation or amphibious force structure and capability

The Secretary of the Navy shall ensure that the views of the Commandant of the Marine Corps are given appropriate consideration before a major decision is made by an element of the Department of the Navy outside the Marine Corps on a matter that directly concerns Marine Corps aviation or amphibious force structure and capability.

(Added Pub. L. 105–261, div. A, title IX, §935(a), Oct. 17, 1998, 112 Stat. 2109, §5026; renumbered §8026, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; amended Pub. L. 117–263, div. A, title X, §1022(a), (b)(1), Dec. 23, 2022, 136 Stat. 2763.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–263 inserted "or amphibious force structure and capability" after "aviation" in heading and text.

**2018**—Pub. L. 115–232 renumbered section 5026 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8027. Chief of Legislative Affairs

(a) There is a Chief of Legislative Affairs in the Department of the Navy.

(b) The Chief of Legislative Affairs shall perform legislative affairs functions as specified for the Office of the Secretary of the Navy by section 8014(c)(1)(F) of this title.

(Added Pub. L. 107–314, div. A, title V, §504(d)(1)(A), Dec. 2, 2002, 116 Stat. 2532, §5027; amended Pub. L. 114–328, div. A, title V, §502(v), Dec. 23, 2016, 130 Stat. 2104; renumbered §8027 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5027 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 8014(c)(1)(F)" for "section 5014(c)(1)(F)".

**2016**—Subsec. (a). Pub. L. 114–328 struck out second sentence which read as follows: "An officer assigned to that position shall be an officer in the grade of rear admiral."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8028. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of

the Department of the Navy is the office that is established within the Department of the Navy under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, §904(d)(1), Jan. 6, 2006, 119 Stat. 3401, §5028; renumbered §8028, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5028 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

The Director of Small and Disadvantaged Business Utilization of the Department of the Navy and the Office of Small and Disadvantaged Business Utilization of the Department of the Navy were redesignated the Director of Small Business Programs of the Department of the Navy and the Office of Small Business Programs of the Department of the Navy, respectively, by Pub. L. 109–163 which also provided that references to the former were deemed to refer to the latter. See section 904(a) of Pub. L. 109–163, set out as a note under section 144 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8029. Naval Air Warfare Rapid Capabilities Office

(a) ESTABLISHMENT.—There is established within the Department of the Navy an office to be known as the Naval Air Warfare Rapid Capabilities Office (in this section referred to as the "Office").

(b) HEAD OF OFFICE.—The head of the Office shall be the designee of the Commander of the Naval Air Systems Command.

(c) MISSION.—The mission of the Office shall be—

(1) to fulfill naval and joint military operational requirements by supporting the identification and rapid development of—

(A) new naval aviation weapons and airborne electronic warfare capabilities;

(B) innovative applications for existing naval aviation weapons and airborne electronic warfare capabilities; and

(C) other innovative solutions to enhance the effectiveness of naval aviation weapons and airborne electronic warfare capabilities; and

(2) to contribute to the rapid experimentation, development, testing, and fielding of unclassified and classified naval aviation weapons and airborne electronic warfare capabilities.

(d) ACQUISITION AUTHORITIES.—

(1) IN GENERAL.—To procure goods or services for the Office, the senior contracting official

(as defined in section 1737 of this title) and any members of the acquisition workforce for the Department of the Navy may use—

(A) any applicable pathway of the adaptive acquisition framework (as described in Department of Defense Instruction 5000.02, "Operation of the Adaptive Acquisition Framework"); and

(B) any other alternative acquisition pathway that allows for accelerated or flexible methods of contracting.

(2) INAPPLICABILITY OF JCIDS.—The Joint Capabilities Integration and Development System process shall not apply to procurements described in paragraph (1).

(e) REQUIRED PROGRAM ELEMENTS.—The Secretary of the Navy shall ensure, within budget program elements for naval air warfare programs, that—

(1) there are separate, dedicated program elements for naval air warfare rapid capabilities; and

(2) the Office executes the responsibilities of the Office using such program elements.

(f) EXECUTIVE OVERSIGHT BOARD.—

(1) IN GENERAL.—There is an executive oversight board for the Office which shall consist of the officials specified in paragraph (2). The executive oversight board shall provide prioritization, oversight, and approval of projects of the Office.

(2) OFFICIALS SPECIFIED.—The officials specified in this paragraph are the following:

(A) The Vice Chief of Naval Operations.

(B) The Assistant Commandant of the Marine Corps.

(C) The Assistant Secretary of the Navy for Research, Development and Acquisition.

(D) The Commander of the Naval Air Systems Command.

(g) ANNUAL REPORTS AND BRIEFINGS.—

(1) REPORT.—On an annual basis, the head of the Office shall submit to the executive oversight board described in subsection (f) a report on the activities of the Office.

(2) BRIEFING.—On an annual basis following the submittal of the report under paragraph (1), the Assistant Secretary of the Navy for Research, Development and Acquisition shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the activities of the Office.

(3) ELEMENTS.—Each report under paragraph (1) and briefing under paragraph (2) shall include, with respect to the year preceding the date of the report or briefing (as applicable), a description of—

(A) funding allocations for the projects of the Office;

(B) capability gaps addressed by the Office;

(C) the progress of the Office in experimenting, developing, testing, and fielding capabilities described in subsection (c); and

(D) any barriers to the ability of the Office to carry out its mission, including any legislative or regulatory barriers.

(Added Pub. L. 118–31, div. A, title II, §215, Dec. 22, 2023, 137 Stat. 184.)

## CHAPTER 805—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

Sec.
8031. Office of the Chief of Naval Operations: function; composition.
8032. Office of the Chief of Naval Operations: general duties.
8033. Chief of Naval Operations.
8035. Vice Chief of Naval Operations.
8036. Deputy Chiefs of Naval Operations.

8037. Assistant Chiefs of Naval Operations.
8038. Director for Expeditionary Warfare.
8039. Deputy Commander of the Naval Sea Systems Command for the Supervision of Shipbuilding, Conversion, and Repair.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 805, consisting of sections 8031 to 8040, related to Air Staff of the Department of the Air Force, prior to renumbering as chapter 905 of this title.

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title X, §1012(b), Dec. 27, 2021, 135 Stat. 1892, added item 8039.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 505 of this title as this chapter and items 5031 to 5038 as 8031 to 8038, respectively.

**1996**—Pub. L. 104–106, div. A, title V, §502(d)(2), Feb. 10, 1996, 110 Stat. 293, struck out item 5034 "Chief of Naval Operations: retirement".

**1992**—Pub. L. 102–484, div. A, title IX, §935(b)(2), Oct. 23, 1992, 106 Stat. 2478, added item 5038.

**1986**—Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1048, inserted heading for new chapter 505 relating to the Office of The Chief of Naval Operations, and items 5031 to 5037. The heading for former chapter 505 relating to Secretary, Under Secretary, and Assistant Secretaries of the Navy, and former items 5031 to 5036 were struck out as part of the repeal of former chapter 505 by Pub. L. 99–433, title V, §511(e), Oct. 1, 1986, 100 Stat. 1048.

## §8031. Office of the Chief of Naval Operations: function; composition

(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations. The function of the Office of the Chief of Naval Operations is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Office of the Chief of Naval Operations is composed of the following:

(1) The Chief of Naval Operations.

(2) The Vice Chief of Naval Operations.

(3) The Deputy Chiefs of Naval Operations.

(4) The Assistant Chiefs of Naval Operations.

(5) The Surgeon General of the Navy.

(6) The Chief of Naval Personnel.

(7) The Chief of Chaplains of the Navy.

(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.

(9) Civilian employees in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1048, §5031; renumbered §8031, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8031 was renumbered section 9031 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5031 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8032. Office of the Chief of Naval Operations: general duties

(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Chief of Naval Operations.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

(1) subject to subsections (c) and (d) of section 8014 of this title, prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Navy), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Chief of Naval Operations, coordinate the action of organizations of the Navy; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1049, §5032; renumbered §8032 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8032 was renumbered section 9032 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5032 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "subsections (c) and (d) of section 8014" for "subsections (c) and (d) of section 5014".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8033. Chief of Naval Operations

(a)(1) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years,

from the flag officers of the Navy. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as the Chief of Naval Operations only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) [1] of this title) as a flag officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

(c) Except as otherwise prescribed by law and subject to section 8013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

(1) preside over the Office of the Chief of Naval Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 3104 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1049, §5033; amended Pub. L. 100–456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 108–136, div. A, title V, §501(a), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 114–92, div. A, title VIII, §802(d)(4)(B), Nov. 25, 2015, 129 Stat. 880; renumbered §8033 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840; Pub. L. 116–283, div. A, title XVIII, §1808(d)(3), as added Pub. L. 117–81, div. A, title XVII, §1701(r)(2), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 116–283, div. A, title XVIII, §1847(e)(6)(B), Jan. 1, 2021, 134 Stat. 4257; Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title

by Pub. L. 114–328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 5081 and 5082 of this title prior to enactment of Pub. L. 99–433.

A prior section 8033 was renumbered section 9033 of this title.

Another prior section 8033 was renumbered section 10305 of this title.

A prior section 8034 was renumbered section 9034 of this title.

Another prior section 8034 was renumbered section 8033 of this title.

**AMENDMENTS**

**2021**—Subsec. (d)(5). Pub. L. 116–283, §1847(e)(6)(B), which directed substitution of ", 3103, and 4274" for "and 2547", was repealed by Pub. L. 117–81, §1701(r)(1)(B).

Pub. L. 116–283, §1808(d)(3), as added by Pub. L. 117–81, §1701(r)(2), substituted "and 3104" for "and 2547".

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5033 of this title as this section.

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 8013(f)" for "section 5013(f)".

**2015**—Subsec. (d)(5). Pub. L. 114–92 substituted "sections 171 and 2547" for "section 171".

**2003**—Subsec. (a)(1). Pub. L. 108–136 substituted "from the flag officers of the Navy" for "from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above".

**1988**—Subsec. (a)(2)(B). Pub. L. 100–456 substituted "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "joint duty assignment".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**REAPPOINTMENT OF INCUMBENT CHIEF OF NAVAL OPERATIONS**

Pub. L. 108–136, div. A, title V, §508, Nov. 24, 2003, 117 Stat. 1458, provided that: "Notwithstanding the provisions of section 5033(a)(1) [now 8033(a)(1)] of title 10, United States Code, the President, by and with the advice and consent of the Senate, may reappoint the officer serving as Chief of Naval Operations on October 1, 2003, for an additional term as Chief of Naval Operations. Such a reappointment shall be for a term of not more than two years."

**WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF**

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99–433, title V, Oct. 1, 1986, 100 Stat. 1063, which was formerly set out as a note under section 3033 of this title.

[1] *See References in Text note below.*

## §8035. Vice Chief of Naval Operations

(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in

grades above captain and eligible to command at sea.

(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1050, §5035; renumbered §8035, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5085 of this title prior to enactment of Pub. L. 99–433.

A prior section 8035 was renumbered section 9035 of this title.

Another prior section 8035 was renumbered section 9034 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5035 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8036. Deputy Chiefs of Naval Operations

(a) There are Deputy Chiefs of Naval Operations in the Office of the Chief of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy serving in grades above captain. The Secretary of the Navy shall prescribe the number of Deputy Chiefs of Naval Operations under this section and Assistant Chiefs of Naval Operations under section 8037 of this title, for a total of not more than eight positions.

(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1051, §5036; amended Pub. L. 108–375, div. A, title V, §502(a), Oct. 28, 2004, 118 Stat. 1875; Pub. L. 110–181, div. A, title IX, §902(b)(1), Jan. 28, 2008, 122 Stat. 273; renumbered §8036 and amended Pub. L. 115–232, div. A,

title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5086 of this title prior to enactment of Pub. L. 99–433.

A prior section 8036 was renumbered section 9036 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5036 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8037" for "section 5037".

**2008**—Subsec. (a). Pub. L. 110–181 substituted "There are Deputy Chiefs of Naval Operations in the Office of the Chief of Naval Operations," for "There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations," and inserted at end "The Secretary of the Navy shall prescribe the number of Deputy Chiefs of Naval Operations under this section and Assistant Chiefs of Naval Operations under section 5037 of this title, for a total of not more than eight positions."

**2004**—Subsec. (a). Pub. L. 108–375 struck out "in the line" after "active-duty list".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8037. Assistant Chiefs of Naval Operations

(a) There are Assistant Chiefs of Naval Operations in the Office of the Chief of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy and officers on the active-duty list of the Marine Corps. The Secretary of the Navy shall prescribe the number of Assistant Chiefs of Naval Operations in accordance with section 8036(a) of this title.

(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.

(Added Pub. L. 99–433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1051, §5037; amended Pub. L. 108–375, div. A, title V, §502(b), Oct. 28, 2004, 118 Stat. 1875; Pub. L. 110–181, div. A, title IX, §902(b)(2), Jan. 28, 2008, 122 Stat. 273; renumbered §8037 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5087 of this title prior to enactment of Pub. L. 99–433.

A prior section 8037 was renumbered section 9037 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5037 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8036(a)" for "section 5036(a)".

**2008**—Subsec. (a). Pub. L. 110–181 substituted "There are Assistant Chiefs of Naval Operations in the Office of the Chief of Naval Operations," for "There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations," and inserted at end "The Secretary of the Navy shall prescribe the number of Assistant Chiefs of Naval Operations in accordance with section 5036(a) of this title."

**2004**—Subsec. (a). Pub. L. 108–375 struck out "in the line" before "of the Navy".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8038. Director for Expeditionary Warfare

(a) One of the Directors within the office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs shall be the Director for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

(b) The principal duty of the Director for Expeditionary Warfare shall be to supervise the performance of all staff responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, and other missions essential to supporting expeditionary warfare.

(c) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Director for Expeditionary Warfare.

(Added Pub. L. 102–484, div. A, title IX, §935(b)(1), Oct. 23, 1992, 106 Stat. 2478, §5038; amended Pub. L. 103–35, title II, §201(c)(10), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title IX, §944, Nov. 30, 1993, 107 Stat. 1737; Pub. L. 107–107, div. A, title IX, §932, Dec. 28, 2001, 115 Stat. 1200; Pub. L. 114–328, div. A, title V, §502(w), Dec. 23, 2016, 130 Stat. 2104; renumbered §8038, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8038 to 8040 were renumbered sections 9038 to 9040 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5038 of this title as this section.

**2016**—Subsecs. (b) to (d). Pub. L. 114–328 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: "An officer assigned to the position of Director for Expeditionary Warfare, while so serving, has the grade of major general."

**2001**—Subsec. (a). Pub. L. 107–107 substituted "office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs" for "Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments".

**1993**—Subsec. (e). Pub. L. 103–160 struck out subsec. (e) which read as follows: "This section shall cease to apply on November 1, 1997."

Pub. L. 103–35 substituted "section" for "subsection".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8039. Deputy Commander of the Naval Sea Systems Command for the Supervision of Shipbuilding, Conversion, and Repair

(a) IN GENERAL.—The Secretary of the Navy shall establish and appoint an individual to the position of Deputy Commander of the Naval Sea Systems Command for the Supervision of Shipbuilding, Conversion, and Repair (in this section referred to as the "Deputy Commander").

(b) QUALIFICATIONS.—The Deputy Commander shall be a flag officer of the Navy or an employee of the Navy in a Senior Executive Service position who possesses the expertise required to carry out the responsibilities specified in this section.

(c) REPORTING.—The Deputy Commander shall report directly to the Commander of the Naval Sea Systems Command.

(d) GENERAL RESPONSIBILITIES.—The Deputy Commander shall oversee—

(1) the independent administration and management of the execution of Department of Defense contracts awarded to commercial entities for shipbuilding, conversion, and repair at the facilities of such entities;

(2) the designated contract administration office of the Department responsible for performing contract administration services for such contracts;

(3) enforcement of requirements of such contracts to ensure satisfaction of all contractual obligations;

(4) the work performed on such contracts to facilitate greater quality and economy in the products and services being procured; and

(5) on-site quality assurance by the Government for such contracts, including inspections.

(e) NON-CONTRACT ADMINISTRATION SERVICES FUNCTIONS.—The Deputy Commander shall manage the complexities and unique demands of shipbuilding, conversion, and repair by overseeing the performance of the following non-contract administration services functions for Navy Program Executives Offices, fleet commanders, and the Naval Sea Systems Command headquarters:

(1) Project oversight, including the following:

(A) Coordinating responses to non-contractual emergent problems, as assigned by the Commander of Naval Sea Systems Command.

(B) Jointly coordinating activities of precommissioning crews and ship's force, and other Government activities.

(C) Communicating with customers and higher authority regarding matters that may affect project execution.

(D) Contract planning and procurement, including participation in acquisition planning and pre-award activities, including assessment of contractor qualifications.

(2) Technical authority, including the following:

(A) Execution of the technical authority responsibilities by the Waterfront Chief Engineer.

(B) Execution of the waterfront technical authority responsibilities of the Naval Sea Systems Command for providing Government direction and coordination in the resolution of technical issues.

(f) COMPREHENSIVE CONTRACT MANAGEMENT.—The Deputy Commander shall maintain direct relationships with the Director of the Defense Contract Management Agency and the Director of the Defense Contract Audit Agency to facilitate comprehensive contract management and oversight of commercial entities awarded a contract described in subsection (d)(1) and subcontractors (at any tier).

(g) SUBCONTRACTOR AUDITS.—The Deputy Commander shall request that the Director of the Defense Contract Audit Agency perform periodic audits of subcontractors that perform cost-type subcontracts or incentive subcontracts—

(1) that are valued at $50,000,000 or more; and

(2) for which the Deputy Commander oversees the designated contract administration office of the Department pursuant to subsection (d)(2).

(h) ANNUAL WRITTEN ASSESSMENT.—(1) Not later than March 1 of each year, the Deputy Commander shall submit to the congressional defense committees a written assessment summarizing the activities and results associated with the contracts for which the Deputy Commander oversees the designated contract administration office of the Department.

(2) Each written assessment required by paragraph (1) shall include the following:

(A) A summary of shipbuilding performance that—

(i) includes common critical process metrics documented by the appropriate Navy supervisor of shipbuilding, conversion, and repair for each commercial entity described in subsection (d)(1);

(ii) outlines corrective action requests for critical defects and any actions planned or taken to address them;

(iii) indicates waivers approved to support acceptance trials, combined trials, and Navy acceptance of ship delivery from the commercial entity described in subsection (d)(1), to include the conditions requiring the approval of each waiver; and

(iv) includes information on the extent to which letters of delegation are used for each shipbuilding program to provide for quality assurance oversight of subcontractors (at any tier) by the Defense Contract Management Agency.

(B) A summary of any significant deficiencies in contractor business systems or other significant contract discrepancies documented by the appropriate Navy supervisor of shipbuilding, conversion, and repair, the Defense Contract Management Agency, or the Defense Contract Audit Agency for such contracts, and any actions planned or taken in response.

(C) A summary of the results from audits and inspections completed by Naval Sea Systems Command that evaluate the performance of the appropriate Navy supervisor of shipbuilding, conversion, and repair in executing their quality assurance and contract administration responsibilities.

(D) A summary of any dedicated evaluation, such as a review by a task force or working group, of the organizational structure and resourcing plans and requirements that support the supervision of shipbuilding, conversion, and repair, that—

(i) includes key findings, recommendations, and implementation plans; and

(ii) indicates any additional support needed from other organizations of the Department, such as the Defense Contract Audit Agency and the Defense Contract Management Agency, for implementation.

(Added Pub. L. 117–81, div. A, title X, §1012(a), Dec. 27, 2021, 135 Stat. 1890.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 117–81, div. A, title X, §1012(c), Dec. 27, 2021, 135 Stat. 1892, provided that: "On the date that is 30 days after the date of enactment of the [James M. Inhofe] National Defense Authorization Act for Fiscal Year 2023 [Dec. 23, 2022]—

"(1) this section [enacting this section] and the amendments made by this section shall take effect; and

"(2) the Secretary of the Navy shall appoint an individual to the position of Deputy Commander of the Naval Sea Systems Command for the Supervision of Shipbuilding, Conversion, and Repair and notify the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] of such appointment."

# CHAPTER 806—HEADQUARTERS, MARINE CORPS

Sec.
8041. Headquarters, Marine Corps: function; composition.
8042. Headquarters, Marine Corps: general duties.
8043. Commandant of the Marine Corps.

8044. Assistant Commandant of the Marine Corps.
8045. Deputy Commandants.
8046. Staff Judge Advocate to the Commandant of the Marine Corps.
8047. Legislative Assistant to the Commandant.
8048. Medical Officer of the Marine Corps.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title V, §509B(a)(2), Dec. 23, 2024, 138 Stat. 1872, added item 8048.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 506 of this title as this chapter and items 5041 to 5047 as 8041 to 8047, respectively.

**2002**—Pub. L. 107–314, div. A, title V, §504(d)(3)(B), Dec. 2, 2002, 116 Stat. 2532, added item 5047.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §902(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224, substituted "Deputy Commandants" for "Chief of Staff; Deputy and Assistant Chiefs of Staff" in item 5045.

**1986**—Pub. L. 99–661, div. A, title V, §509(a)(2), Nov. 14, 1986, 100 Stat. 3868, added item 5046.

## §8041. Headquarters, Marine Corps: function; composition

(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps. The function of the Headquarters, Marine Corps, is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Headquarters, Marine Corps, is composed of the following:

(1) The Commandant of the Marine Corps.

(2) The Assistant Commandant of the Marine Corps.

(3) The Deputy Commandants.

(4) The Staff Judge Advocate to the Commandant of the Marine Corps.

(5) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.

(6) Civilian employees in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1052, §5041; amended Pub. L. 106–398, §1 [[div. A], title IX, §902(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224; Pub. L. 112–239, div. A, title V, §531(c), Jan. 2, 2013, 126 Stat. 1726; renumbered §8041, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5041 of this title as this section.

**2013**—Subsec. (b)(4) to (6). Pub. L. 112–239 added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

**2000**—Subsec. (b)(3) to (7). Pub. L. 106–398 added par. (3), redesignated pars. (6) and (7) as (4) and (5), respectively, and struck out former pars. (3) to (5) which read as follows:

"(3) The Chief of Staff of the Marine Corps.

"(4) The Deputy Chiefs of Staff.

"(5) The Assistant Chiefs of Staff."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8042. Headquarters, Marine Corps: general duties

(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Commandant of the Marine Corps.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

(1) subject to subsections (c) and (d) of section 8014 of this title, prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Commandant, coordinate the action of organizations of the Marine Corps; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Added Pub. L. 99–433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1052, §5042; renumbered §8042 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5042 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 8014" for "section 5014".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8043. Commandant of the Marine Corps

(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from the general officers of the Marine Corps. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Commandant of the Marine Corps only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) [1] of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

[(c) Repealed. Pub. L. 104–106, div. A, title V, §502(c), Feb. 10, 1996, 110 Stat. 293.]

(d) Except as otherwise prescribed by law and subject to section 8013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

(1) preside over the Headquarters, Marine Corps;

(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 3104 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99–433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1052, §5043; amended Pub. L. 100–456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102–190, div. A, title V, §505(b), Dec. 5, 1991, 105 Stat. 1358; Pub. L. 104–106, div. A, title V, §502(c), Feb. 10, 1996, 110 Stat. 293; Pub. L. 108–136, div. A, title V, §501(b), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 114–92, div. A, title VIII, §802(d)(4)(C), Nov. 25, 2015, 129 Stat. 880; renumbered §8043 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840; Pub. L. 116–283, div. A, title XVIII, §1808(d)(3), as added Pub. L. 117–81, div. A, title XVII, §1701(r)(2), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 116–283, div. A, title XVIII, §1847(e)(6)(B), Jan. 1, 2021, 134 Stat. 4257; Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title by Pub. L. 114–328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5201 of this title prior to enactment of Pub. L. 99–433.

### AMENDMENTS

**2021**—Subsec. (e)(5). Pub. L. 116–283, §1847(e)(6)(B), which directed substitution of ", 3103, and 4274" for "and 2547", was repealed by Pub. L. 117–81, §1701(r)(1)(B).

Pub. L. 116–283, §1808(d)(3), as added by Pub. L. 117–81, §1701(r)(2), substituted "and 3104" for "and 2547".

**2018**—Pub. L. 115–232, §807(a)(1), renumbered section 5043 of this title as this section.

Subsec. (d). Pub. L. 115–232, §809(a), substituted "section 8013(f)" for "section 5013(f)".

**2015**—Subsec. (e)(5). Pub. L. 114–92 substituted "sections 171 and 2547" for "section 171".

**2003**—Subsec. (a)(1). Pub. L. 108–136 substituted "from the general officers of the Marine Corps" for "from officers on the active-duty list of the Marine Corps not below the grade of colonel".

**1996**—Subsec. (c). Pub. L. 104–106 struck out subsec. (c) which read as follows: "An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President and by and with the advice and consent of the Senate, be retired with the grade of general."

**1991**—Subsec. (c). Pub. L. 102–190 inserted "and by and with the advice and consent of the Senate" after "President".

**1988**—Subsec. (a)(2)(B). Pub. L. 100–456 substituted "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "joint duty assignment".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99–433, title V, Oct. 1, 1986, 100 Stat. 1063, which was formerly set out as a note under section 3033 of this title.

[1] *See References in Text note below.*

## §8044. Assistant Commandant of the Marine Corps

(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant

until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

(Added Pub. L. 99–433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1054, §5044; renumbered §8044, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5202 of this title prior to enactment of Pub. L. 99–433.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5044 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8045. Deputy Commandants

There are in the Headquarters, Marine Corps, not more than eight Deputy Commandants, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.

(Added Pub. L. 99–433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1054, §5045; amended Pub. L. 106–398, §1 [[div. A], title IX, §902(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224; Pub. L. 107–314, div. A, title IX, §934, Dec. 2, 2002, 116 Stat. 2626; Pub. L. 114–328, div. A, title V, §503(c), Dec. 23, 2016, 130 Stat. 2107; renumbered §8045, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 118–159, div. A, title V, §509A, Dec. 23, 2024, 138 Stat. 1872.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159 substituted "not more than eight Deputy Commandants" for "not more than seven Deputy Commandants".

**2018**—Pub. L. 115–232 renumbered section 5045 of this title as this section.

**2016**—Pub. L. 114–328 substituted "seven" for "six".

**2002**—Pub. L. 107–314 substituted "six" for "five".

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, text read as follows: "There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8046. Staff Judge Advocate to the Commandant of the Marine Corps

(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be appointed by the President, by and with the advice and consent of the Senate, as Staff Judge Advocate to the Commandant of the Marine Corps.

(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(2) If the Secretary of the Navy elects to convene a selection board under section 611(a) of this title to consider eligible officers for selection to appointment as Staff Judge Advocate, the Secretary may, in connection with such consideration for selection—

(A) treat any section in chapter 36 of this title referring to promotion to the next higher grade as if such section referred to promotion to a higher grade; and

(B) waive section 619(a)(2) of this title if the Secretary determines that the needs of the Marine Corps require the waiver.

(c) The Staff Judge Advocate to the Commandant of the Marine Corps, under the direction of the Commandant of the Marine Corps and the Secretary of the Navy, shall—

(1) perform such duties relating to legal matters arising in the Marine Corps as may be assigned to the Staff Judge Advocate;

(2) perform the functions and duties, and exercise the powers, prescribed for the Staff Judge Advocate to the Commandant of the Marine Corps in chapter 47 (the Uniform Code of Military Justice) and chapter 53 of this title; and

(3) perform such other duties as may be assigned to the Staff Judge Advocate.

(d) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Staff Judge Advocate to the Commandant of the Marine Corps to give independent legal advice to the Commandant of the Marine Corps; or

(2) the ability of judge advocates of the Marine Corps assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Added Pub. L. 99–661, div. A, title V, §509(a)(1), Nov. 14, 1986, 100 Stat. 3868, §5046; amended Pub. L. 103–337, div. A, title V, §504(b)(4), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 108–375, div. A, title V, §574(b)(2), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 110–417, [div. A], title V, §504(a), Oct. 14, 2008, 122 Stat. 4434; Pub. L. 112–239, div. A, title V, §531(a), (b), Jan. 2, 2013, 126 Stat. 1725, 1726; Pub. L. 114–328, div. A, title V, §502(x), Dec. 23, 2016, 130 Stat. 2104; Pub. L. 115–91, div. A, title V, §508(a), Dec. 12, 2017, 131 Stat. 1375; renumbered §8046, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5046 of this title as this section.

**2017**—Subsec. (b). Pub. L. 115–91 designated existing provisions as par. (1) and added par. (2).

**2016**—Subsec. (a). Pub. L. 114–328 struck out last sentence which read as follows: "If the officer to be appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a grade lower than the

grade of major general immediately before the appointment, the officer shall be appointed in the grade of major general."

**2013**—Subsec. (a). Pub. L. 112–239, §531(a), substituted "appointed by the President, by and with the advice and consent of the Senate," for "detailed" and "If the officer to be appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a grade lower than the grade of major general immediately before the appointment, the officer shall be appointed in the grade of major general." for "The Staff Judge Advocate to the Commandant of the Marine Corps, while so serving, has the grade of major general."

Subsecs. (c), (d). Pub. L. 112–239, §531(b), added subsec. (c) and redesignated former subsec. (c) as (d).

**2008**—Subsec. (a). Pub. L. 110–417 substituted "The Staff Judge Advocate to the Commandant of the Marine Corps, while so serving, has the grade of major general." for "If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general."

**2004**—Subsec. (c). Pub. L. 108–375 added subsec. (c).

**1994**—Subsec. (a). Pub. L. 103–337, §504(b)(4)(A), added second sentence and struck out former second sentence which read as follows: "While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate."

Subsec. (b). Pub. L. 103–337, §504(b)(4)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: "An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that officer served on active duty satisfactorily, as determined by the Secretary of the Navy."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE

Pub. L. 99–661, div. A, title V, §509(b), Nov. 14, 1986, 100 Stat. 3868, provided that: "Section 5046 [now 8046] of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act [Nov. 14, 1986]."

#### TRANSITION PROVISION FOR RETIREMENT OF STAFF JUDGE ADVOCATES

Pub. L. 99–661, div. A, title V, §509(d), Nov. 14, 1986, 100 Stat. 3868, provided that: "Notwithstanding [former] section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act [Nov. 14, 1986], if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy."

[In determining retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of title 10 in such determination with respect to such officers deemed to be a reference to section 1370a of title 10, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.]

## §8047. Legislative Assistant to the Commandant

There is in the Marine Corps a Legislative Assistant to the Commandant.

(Added Pub. L. 107–314, div. A, title V, §504(d)(3)(A), Dec. 2, 2002, 116 Stat. 2532, §5047; amended Pub. L. 114–328, div. A, title V, §502(y), Dec. 23, 2016, 130 Stat. 2104; renumbered §8047, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5047 of this title as this section.

**2016**—Pub. L. 114–328 struck out second sentence which read as follows: "An officer assigned to that position shall be in a grade above colonel."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8048. Medical Officer of the Marine Corps

(a) There is a Medical Officer of the Marine Corps who shall be appointed from among flag officers of the Navy.

(b) The Medical Officer of the Marine Corps, while so serving, shall hold the grade of rear admiral (lower half).

(Added Pub. L. 118–159, div. A, title V, §509B(a)(1), Dec. 23, 2024, 138 Stat. 1872.)

# CHAPTER 807—COMPOSITION OF THE DEPARTMENT OF THE NAVY

Sec.
8061. Department of the Navy: composition.
8062. United States Navy: composition; functions.
8063. United States Marine Corps: composition; functions.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 807, consisting of sections 8061 to 8084, related to the Air Force, prior to renumbering as chapter 907 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 507 of this title as this chapter and items 5061 to 5063 as 8061 to 8063, respectively.

**1986**—Pub. L. 99–433, title V, §511(b)(1), Oct. 1, 1986, 100 Stat. 1042, inserted heading for new chapter 507 relating to composition of the Department of the Navy, and items 5061 to 5063. The heading for former chapter 507, relating to Office of the Comptroller of the Navy, and former items 5061 to 5064 were struck out as part of the repeal of former chapter 507 by Pub. L. 99–433, title V, §511(a), Oct. 1, 1986, 100 Stat. 1042.

## §8061. Department of the Navy: composition

The Department of the Navy is composed of the following:

(1) The Office of the Secretary of the Navy.

(2) The Office of the Chief of Naval Operations.

(3) The Headquarters, Marine Corps.

(4) The entire operating forces, including naval aviation, of the Navy and of the Marine Corps, and the reserve components of those operating forces.

(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

(6) The Coast Guard when it is operating as a service in the Navy.

(Added Pub. L. 99–433, title V, §511(b)(1), Oct. 1, 1986, 100 Stat. 1043, §5061; renumbered §8061, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5011 of this title prior to enactment of Pub. L. 99–433.

A prior section 8061 was renumbered section 9061 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5061 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8062. United States Navy: composition; functions

(a) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Navy shall be organized, trained, and equipped for the peacetime promotion of the national security interests and prosperity of the United States and for prompt and sustained combat incident to operations at sea. It is responsible for the preparation of naval forces necessary for the duties described in the preceding sentence except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

(b) The naval combat forces of the Navy shall include not less than 11 operational aircraft carriers and not less than 31 operational amphibious warfare ships, of which not less than 10 shall be amphibious assault ships. For purposes of this subsection, an operational aircraft carrier or amphibious warfare ship includes an aircraft carrier or amphibious warfare ship that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.

(c) All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation consists of combat and service and training forces, and includes land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the Navy, and the entire remainder of the aeronautical organization of the Navy, together with the personnel necessary therefor.

(d) The Navy shall develop aircraft, weapons, tactics, technique, organization, and equipment of naval combat and service elements. Matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, the Coast Guard, the Space Force, and the Navy.

(e) The Secretary of the Navy shall ensure that—

(1) the Navy maintains a minimum of 9 carrier air wings until the earlier of—

(A) the date on which additional operationally deployable aircraft carriers can fully support a 10th carrier air wing; or

(B) October 1, 2025;

(2) after the earlier of the two dates referred to in subparagraphs (A) and (B) of paragraph (1), the Navy maintains a minimum of 10 carrier air wings;

(3) for each such carrier air wing, the Navy maintains a dedicated and fully staffed headquarters; and

(4) the Navy prioritizes scheduled maintenance and repair actions to maintain the minimum number of available amphibious warfare ships to meet operational requirements.

(f)(1)(A) During the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2023 and ending on September 30, 2027, the Secretary of the Navy may not—

(i) retire an EA–18G aircraft;

(ii) reduce funding for unit personnel or weapon system sustainment activities for EA–18G aircraft in a manner that presumes future congressional authority to divest such aircraft;

(iii) place an EA–18G aircraft in active storage status or inactive storage status; or

(iv) keep an EA–18G aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions.

(B) The prohibition under subparagraph (A) shall not apply to individual EA–18G aircraft that the Secretary of the Navy determines, on a case-by-case basis, to be no longer mission capable and uneconomical to repair because of aircraft accidents or mishaps.

(2)(A) The Secretary of the Navy shall maintain a total aircraft inventory of EA–18G aircraft of not less than 158 aircraft, of which not less than 126 aircraft shall be coded as primary mission aircraft inventory.

(B) The Secretary of the Navy may reduce the number of EA–18G aircraft in the inventory of the Navy below the minimum number specified in subparagraph (A) if the Secretary determines, on a case-by-case basis, that an aircraft is no longer mission capable and uneconomical to repair because of aircraft accidents or mishaps.

(C) In this paragraph, the term "primary mission aircraft inventory" means aircraft assigned to meet the primary aircraft authorization—

(i) to a unit for the performance of its wartime mission;

(ii) to a training unit for technical and specialized training for crew personnel or leading to aircrew qualification;

(iii) to a test unit for testing of the aircraft or its components for purposes of research, development, test, and evaluation, operational test and evaluation, or to support testing programs; or

(iv) to meet requirements for missions not otherwise specified in clauses (i) through (iii).

(g) A nuclear powered aircraft carrier may not be retired before its first refueling.

(h) In this section, the term "amphibious warfare ship" means a ship that is classified as an amphibious assault ship (general purpose) (LHA), an amphibious assault ship (multi-purpose) (LHD), an amphibious transport dock (LPD), or a dock landing ship (LSD).

(Aug. 10, 1956, ch. 1041, 70A Stat. 277, §5012; renumbered §5062 and amended Pub. L. 99–433, title V, §511(b)(3), (4), Oct. 1, 1986, 100 Stat. 1043; Pub. L. 109–163, div. A, title I, §126(a), Jan. 6, 2006, 119 Stat. 3159; Pub. L. 109–364, div. A, title X, §1011(a), Oct. 17, 2006, 120 Stat. 2374; Pub. L. 114–328, div. A, title X, §1042(a), Dec. 23, 2016, 130 Stat. 2393; renumbered §8062, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 116–283, div. A, title X, §1054, Jan. 1, 2021, 134 Stat. 3850; Pub. L. 117–81, div. A, title X, §1053, Dec. 27, 2021, 135 Stat. 1908; Pub. L. 117–263, div. A, title I, §121(a), title IX, §913, title X, §1023, Dec. 23, 2022, 136 Stat. 2440, 2751, 2764; Pub. L. 118–31, div. A, title I, §121(a)(1), title XVIII, §1801(a)(38), Dec. 22, 2023, 137 Stat. 168, 685; Pub. L. 119–60, div. A, title X, §1011, Dec. 18, 2025, 139 Stat. 1030.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5012 | 5 U.S.C. 411a(b). | July 26, 1947, ch. 343, §206(b), 61 Stat. 501. |

## AMENDMENT OF SUBSECTION (E)

*Pub. L. 118–31, div. A, title I, §121(a), Dec. 22, 2023, 137 Stat. 168, provided that, effective one year after the date on which the Secretary of the Navy submits to Congress the report required under subsection (b)(3) of section 121 of Pub. L. 118–31, with an additional notification requirement, subsection (e) of this section is amended to read as follows:*

*(e) The Secretary of the Navy shall ensure that—*

*(1) the Navy maintains a minimum of 9 carrier air wings; and*

*(2) for each such carrier air wing, the Navy maintains a dedicated and fully staffed headquarters.*

*See 2023 Amendment note below.*

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2023, referred to in subsec. (f)(1)(A), is the date of enactment of Pub. L. 117–263, also known as the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, which was approved Dec. 23, 2022.

### PRIOR PROVISIONS

A prior section 8062 was renumbered section 9062 of this title.

### AMENDMENTS

**2025**—Subsec. (e)(4). Pub. L. 119–60 added par. (4).

**2023**—Subsec. (e). Pub. L. 118–31, §121(a)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to the Secretary's obligation to maintain a minimum of 9 carrier air wings, with future support for 10 carrier air wings.

Subsecs. (g), (h). Pub. L. 118–31, §1801(a)(38), redesignated subsec. (g) defining amphibious warfare ship as (h).

**2022**—Subsec. (a). Pub. L. 117–263, §913, substituted "for the peacetime promotion of the national security interests and prosperity of the United States and" for "primarily" and "for the duties described in the preceding sentence" for "for the effective prosecution of war".

Subsec. (b). Pub. L. 117–263, §1023(1), inserted "and not less than 31 operational amphibious warfare ships, of which not less than 10 shall be amphibious assault ships" after "11 operational aircraft carriers" in first sentence and "or amphibious warfare ship" after "aircraft carrier" in two places in second sentence.

Subsec. (f). Pub. L. 117–263, §121(a), added subsec. (f). Former subsec. (f) redesignated (g) relating to nuclear powered aircraft carrier.

Subsec. (g). Pub. L. 117–263, §1023(2), added subsec. (g) defining amphibious warfare ship.

Pub. L. 117–263, §121(a), redesignated subsec. (f) as (g) relating to nuclear powered aircraft carrier.

**2021**—Subsec. (d). Pub. L. 117–81 inserted "the Coast Guard, the Space Force," after "the Air Force,".

Subsec. (f). Pub. L. 116–283 added subsec. (f).

**2018**—Pub. L. 115–232 renumbered section 5062 of this title as this section.

**2016**—Subsec. (e). Pub. L. 114–328 added subsec. (e).

**2006**—Subsec. (b). Pub. L. 109–364 substituted "11" for "12".

Pub. L. 109–163, §126(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 109–163, §126(a)(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

**1986**—Pub. L. 99–433, §511(b)(3), renumbered section 5012 of this title as this section.

Subsec. (a). Pub. L. 99–433, §511(b)(4)(A), substituted "assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war" for "assigned and is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping".

Subsec. (d). Pub. L. 99–433, §511(b)(4)(B), struck out subsec. (d) which related to responsibility for expansion of peacetime naval components to meet the needs of war.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2023 AMENDMENT**

Pub. L. 118–31, div. A, title I, §121(a)(2), Dec. 22, 2023, 137 Stat. 168, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect one year after the date on which the Secretary of the Navy submits to Congress the report required under subsection (b)(3) [of section 121 of Pub. L. 118–31, 137 Stat. 169]. The Secretary of the Navy shall notify the Law Revision Counsel of the House of Representatives of the submission of the report so that the Law Revision Counsel may execute the amendment made by paragraph (1) in accordance with the preceding sentence."

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8063. United States Marine Corps: composition; functions

(a) The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct. However, these additional duties may not detract from or interfere with the operations for which the Marine Corps is primarily organized.

(b) The Marine Corps shall develop, in coordination with the Army and the Air Force, those phases of amphibious operations that pertain to the tactics, technique, and equipment used by landing forces.

(c) The Marine Corps is responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 278, §5013; renumbered §5063, Pub. L. 99–433, title V, §511(b)(3), Oct. 1, 1986, 100 Stat. 1043; renumbered §8063, Pub. L. 115–232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5013 | 5 U.S.C. 411a(c) (less last 32 words of 1st sentence). | July 26, 1947, ch. 343, §206(c) (less last 32 words of 1st sentence), 61 Stat. 502; as amended June 28, 1952, ch. 479, §1, 66 Stat. 282. |

**PRIOR PROVISIONS**

A prior section 8066, acts Aug. 10, 1956, ch. 1041, 70A Stat. 494; Sept. 2, 1958, Pub. L. 85–861, §33(a)(36), 72 Stat. 1566, authorized President, by and with consent of the Senate, to make temporary appointments in grades of general and lieutenant general from officers of Air Force on active duty in any grade above brigadier general and specified the number of positions in each such grade, prior to repeal by Pub. L. 96–513, title II, §201, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981. See section 601 of this title.

A prior section 8067 was renumbered section 9067 of this title.

A prior section 8069 was renumbered section 9069 of this title.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5063 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 809—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL

Sec.
8071. Bureaus: names; location.
8072. Bureaus: distribution of business; orders; records; expenses.
8075. Bureau Chiefs: succession to duties.
8077. Surgeon General: appointment; duties.
8078. Bureau of Medicine and Surgery: Dental Corps; Chief; functions.
8079. Appointment of chiropractors in the Medical Service Corps.
8081. Chief of Naval Personnel; Deputy Chief of Naval Personnel.
8082. Chaplain Corps and Chief of Chaplains.
8082a. Deputy Chief of Chaplains.
8083. Office of Navy Reserve: appointment of Chief.
8084. Office of Marine Forces Reserve: appointment of Commander.
8088. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties.
8089. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General.
8090. Staff Corps of the Navy.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 513 of this title as this chapter and items 5131 to 5150 as 8071 to 8090, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §502(z)(2), (bb)(3), title VII, §702(b)(2)(B), Dec. 23, 2016, 130 Stat. 2105, 2196, substituted "Surgeon General: appointment; duties" for "Bureau of Medicine and Surgery: Chief; Deputy Chief" in item 5137 and "Chief of Naval Personnel; Deputy Chief of Naval Personnel" for "Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel" in item 5141 and struck out item 5133 "Bureau Chiefs: rank; pay and allowances; retirement".

**2006**—Pub. L. 109–364, div. A, title V, §593(d)(2), Oct. 17, 2006, 120 Stat. 2235, substituted "Corps" for "Division" in item 5138.

Pub. L. 109–163, div. A, title V, §515(b)(4)(A), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy" for "Naval" in item 5143.

**1996**—Pub. L. 104–201, div. A, title XII, §1212(b)(2), (c)(2), Sept. 23, 1996, 110 Stat. 2692, 2693, added items 5143 and 5144.

**1994**—Pub. L. 103–337, div. A, title V, §504(b)(5), Oct. 5, 1994, 108 Stat. 2751, struck out "and Judge Advocate General" after "Chiefs" in item 5133.

**1992**—Pub. L. 102–484, div. A, title V, §505(b)(2), Oct. 23, 1992, 106 Stat. 2404, added item 5139.

**1986**—Pub. L. 99–433, title V, §514(a)(1), (3), Oct. 1, 1986, 100 Stat. 1054, struck out "; OFFICE OF NAVAL RESEARCH" after "GENERAL" in chapter heading, struck out items 5150 "Office of Naval Research: Chief, appointment, term, emoluments; Assistant Chief; succession to duties", 5151 "Office of

Naval Research: duties", 5152 "Office of Naval Research: appropriations; time limit", and 5153 "Naval Research Advisory Committee", and redesignated item 5155 as item 5150.

**1980**—Pub. L. 96–513, title V, §§503(8), 513(6), Dec. 12, 1980, 94 Stat. 2911, 2931, struck out items 5134 "Deputy Bureau Chiefs: pay", 5139 "Bureau of Medicine and Surgery: Medical Service Corps, Chief", 5140 "Bureau of Medicine and Surgery: Nurse Corps, Director", and 5143 "Bureau of Naval Personnel: Assistant Chief of Women", and added item 5155.

Pub. L. 96–343, §11(b), Sept. 8, 1980, 94 Stat. 1130, substituted "Chaplain Corps and" for "Bureau of Naval Personnel:" in item 5142 and added item 5142a.

**1967**—Pub. L. 90–179, §2(3), Dec. 8, 1967, 81 Stat. 547, inserted reference to Judge Advocate General's Corps in item 5148 and inserted reference to Deputy Judge Advocate General and substituted "Advocates General" for "Advocate General; succession to duties" after "Assistant Judge" in item 5149.

**1966**—Pub. L. 89–718, §§35(2), (5), 36, Nov. 2, 1966, 80 Stat. 1120, inserted "and Judge Advocate General" after "Bureau Chiefs" in item 5133, struck out items 5145, 5146, 5147, and 5154 which related to Bureau of Ships and the Chief, Deputy Chief, and Division Heads thereof, Bureau of Supplies and Accounts and the Chief and Deputy Chief thereof, Bureau of Yards and Docks and the Chief and Deputy Chief thereof, and Bureau of Naval Weapons and the Chief and Deputy Chief thereof, respectively, and struck out "pay," in item 5149.

**1959**—Pub. L. 86–174, §§1(3), 2(4), Aug. 18, 1959, 73 Stat. 395, 396, added item 5154 and eliminated items 5136 and 5144.

## §8071. Bureaus: names; location

There are in the executive part of the Department of the Navy the following bureaus:

(1) Bureau of Medicine and Surgery.

(2) Bureau of Naval Personnel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285, §5131; Pub. L. 86–174, §§1(1), 2(1), Aug. 18, 1959, 73 Stat. 395; Pub. L. 89–718, §35(1), Nov. 2, 1966, 80 Stat. 1120; renumbered §8071, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5131 | 5 U.S.C. 429 (less applicability to distribution of business among bureaus). | R.S. 419 (less applicability to distribution of business among bureaus); July 19, 1892, ch. 206, 27 Stat. 243 (6th par.); June 30, 1914, ch. 130, 38 Stat. 408 (4th par.); July 12, 1921, ch. 44, §8 (1st 17 words of 1st par.), 42 Stat. 140; June 20, 1940, ch. 400, §1(a), (b), 54 Stat. 492; May 13, 1942, ch. 303, §1, 56 Stat. 276. |

The bureaus are listed alphabetically for convenience. This listing has no effect on the precedence of the bureaus.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8071, act Aug. 10, 1956, ch. 1041, 70A Stat. 495, provided for appointment of a female Air Force officer in temporary grade of colonel, prior to repeal by Pub. L. 90–130, §1(25), Nov. 8, 1967, 81 Stat. 382.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5131 of this title as this section.

**1966**—Pub. L. 89–718 struck out cls. (3) to (6) which related to the Bureau of Naval Weapons, the Bureau

of Ships, the Bureau of Supplies and Accounts, and the Bureau of Yards and Docks, respectively.

**1959**—Pub. L. 86–174 inserted reference to Bureau of Naval Weapons and struck out reference to Bureau of Aeronautics and Bureau of Ordnance.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86–174, §2, Aug. 18, 1959, 73 Stat. 395, provided that the amendment of this section and former section 5133 of this title and the repeal of sections 5136 and 5144 of this title shall be effective on July 1, 1960, or on any earlier date on which the Secretary of the Navy makes a formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons or elsewhere.

#### BUREAU OF NAVAL WEAPONS; TRANSFER OF FUNDS

Pub. L. 86–174, §3, Aug. 18, 1959, 73 Stat. 396, provided that: "The unexpended balances of appropriations and funds available for use in connection with the exercise of any function transferred to the Bureau of Naval Weapons shall be transferred in the manner provided by section 407 of the National Security Act of 1947, as amended (5 U.S.C. 172f) [10 U.S.C. 126], for use in connection with the transferred functions."

## §8072. Bureaus: distribution of business; orders; records; expenses

(a) Except as otherwise provided by law, the business of the executive part of the Department of the Navy shall be distributed among the bureaus as the Secretary of the Navy considers expedient and proper.

(b) Each bureau shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(c) Under the Secretary, each bureau has custody and charge of its records and accounts.

(d) Each bureau shall furnish to the Secretary estimates for its specific, general, and contingent expenses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285, §5132; renumbered §8072, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5132(a) | 5 U.S.C. 429 (as applicable to distribution of business among bureaus). | R.S. 419 (as applicable to distribution of business among bureaus). |
| | 5 U.S.C. 455 (1st 23 words). | July 12, 1921, ch. 44, §8 (1st par., 1st 37 words), 42 Stat. 140. |
| 5132(b) | 5 U.S.C. 430 (last 39 words). | R.S. 420 (last 39 words). |
| | 5 U.S.C. 430b. | June 20, 1940, ch. 400, §1(b) (2d sentence), 54 Stat. 493. |
| | 5 U.S.C. 455 (less 1st 23 words). | July 12, 1921, ch. 44, §8 (1st par., less 1st 37 words), 42 Stat. 140. |
| 5132(c) | 5 U.S.C. 430 (less last 39 words). | R.S. 420 (less last 39 words). |
| 5132(d) | 5 U.S.C. 431. | R.S. 430. |

In subsection (a) the phrase "Except as otherwise provided by law" is added to preserve provisions directing that the Chief of Naval Operations and other statutory offices and boards share in the business of the executive part of the Department of the Navy. The words "The Bureau of Aeronautics shall be charged with matters pertaining to naval aeronautics" in 5 U.S.C. 455 are omitted as implied in the name of the bureau and covered by the authority granted to the Secretary to distribute the business of the Department.

In subsection (b) the words "and shall have full force and effect as such" are omitted as surplusage.

In subsection (c) the words "Under the Secretary" are inserted to make the provisions of 5 U.S.C. 413 and 5 U.S.C. 430, the latter of which is here codified, harmonious and to give meaning to each provision.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8072 was renumbered section 9037 of this title.

A prior section 8074 was renumbered section 9074 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5132 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8075. Bureau Chiefs: succession to duties

(a) When there is a vacancy in the office of chief of a bureau, or during the absence or disability of the chief of a bureau, the deputy chief of that bureau, unless otherwise directed by the President, shall perform the duties of the chief until a successor is appointed or the absence or disability ceases.

(b) When subsection (a) cannot be complied with because of the absence or disability of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order directed by the Secretary of the Navy, shall perform the duties of the chief, unless otherwise directed by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286, §5135; renumbered §8075, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5135(a) | 5 U.S.C. 445 (less 1st 43 words). | Aug. 29, 1916, ch. 417, 39 Stat. 558 (3d par., 45th through 95th words). |
| | 5 U.S.C. 446 (last 49 words). | Mar. 3, 1893, ch. 212, 27 Stat. 717 (1st par., last 53 words); May 13, 1942, ch. 303, §1, 56 Stat. 276. |
| | 5 U.S.C. 447 (25th through 74th words). | May 4, 1898, ch. 234, §1, 30 Stat. 373 (12th par., 41st through 92d words). |
| | 5 U.S.C. 448a. | June 20, 1940, ch. 400, §1(f), 54 Stat. 493. |
| | 5 U.S.C. 449 (last 51 words). | July 26, 1894, ch. 165, §1, 28 Stat. 132 (3d par., last 56 words); July 11, 1919, ch. 9, 41 Stat. 147 (1st proviso). |

| | | |
|---|---|---|
| | 5 U.S.C. 452 (less 1st 35 words). | July 12, 1921, ch. 44, §8 (3d par., less 1st 35 words), 42 Stat. 140. |
| 5135(b) | 5 U.S.C. 432a (less applicability to JAG). | Feb. 3, 1942, ch. 35, §1 (less applicability to JAG), 56 Stat. 47. |

In subsection (a) all the provisions covering succession in case of the absence of the chiefs of the various bureaus are integrated and uniformly stated.

That part of 5 U.S.C. 448a, enacted in the Act of June 20, 1940, ch. 400, §1(f), 54 Stat. 493, relating to the succession by heads of major divisions of the Bureau of Ships is superseded by the Act of Feb. 3, 1942, ch. 35, §1 (5 U.S.C. 432a).

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8075 was renumbered section 9075 of this title.

A prior section 8076, act Aug. 10, 1956, ch. 1041, 70A Stat. 496, related to composition of Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10110 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5135 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8077. Surgeon General: appointment; duties

(a) APPOINTMENT.—The Surgeon General of the Navy shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list of the Navy in any corps of the Navy Medical Department.

(b) DUTIES.—(1) The Surgeon General serves as the Chief of the Bureau of Medicine and Surgery and serves as the principal advisor to the Secretary of the Navy and the Chief of Naval Operations on all health and medical matters of the Navy and the Marine Corps, including strategic planning and policy development relating to such matters.

(2) The Surgeon General serves as the chief medical advisor of the Navy and the Marine Corps to the Director of the Defense Health Agency on matters pertaining to military health readiness requirements and safety of members of the Navy and the Marine Corps.

(3) The Surgeon General, acting under the authority, direction, and control of the Secretary of the Navy, shall recruit, organize, train, and equip, medical personnel of the Navy and the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286, §5137; Pub. L. 89–288, §4, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96–513, title V, §503(10), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 104–106, div. A, title V, §506(b), Feb. 10, 1996, 110 Stat. 296; Pub. L. 114–328, div. A, title VII, §702(b)(2)(A), Dec. 23, 2016, 130 Stat. 2195; renumbered §8077, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5137(a) | 5 U.S.C. 432. | R.S. 421. |
| | 5 U.S.C. 438. | R.S. 426. |

| | | |
|---|---|---|
| | 5 U.S.C. 440 (less applicability to Paymaster General). | R.S. 1471 (less applicability to Paymaster General); June 20, 1940, ch. 400, §1(a), 54 Stat. 492. |
| 5137(b) | 5 U.S.C. 451 (less last 10 words). | R.S. 1375 (less last 10 words); Feb. 27, 1877, ch. 69, §1, 19 Stat. 244. |

In subsection (a) the words "from officers on the active list of the Navy in the Medical Corps" are substituted for the words "from the list of Surgeons of the Navy" to conform to present statutory terminology, and the words "or from officers having the rank of captain in the staff corps of the Navy" are omitted as obsolete in view of the subsequent changes in staff corps grades and the establishment of grades and ranks higher than captain in the staff corps. R.S. 421 and 426 were derived from the Act of July 5, 1862, ch. 134, 12 Stat. 510, and the Act of Mar. 3, 1871, ch. 117, §10, 16 Stat. 537. The Act of July 5, 1862, provided that the Chief of the Bureau of Medicine and Surgery should be appointed from the list of surgeons in the Navy. At that time the senior medical officers were "surgeons" who "ranked with" commanders. Next junior to them were "surgeons" who "ranked with" lieutenants. The rank of lieutenant commander did not exist. The Act of Mar. 3, 1871, established five grades in the Medical Corps of which two, medical director and medical inspector, were higher than the grade of surgeon. Medical directors were given the relative rank of captain, medical inspectors the relative rank of commander, and surgeons the relative rank of lieutenant commander or lieutenant. The 1871 Act further provided that chiefs of bureaus might be appointed from officers having the relative rank of captain in the staff corps. This provision was probably intended to insure that the assignment of new grades and titles to senior staff corps officers should not be construed as a bar to their appointment as bureau chiefs. However, it was interpreted by the Commissioners who drafted the Revised Statutes as setting up a new category of officers from which bureau chiefs could be appointed, and it was therefore stated, in R.S. 421, as an alternative to each of the other categories specified for the various Bureaus in the 1862 Act and reenacted in R.S. 422–426. Thus the Chief of the Bureau of Medicine and Surgery could be appointed from surgeons, who had the relative rank of lieutenant commander or lieutenant in the Medical Corps, or from officers having the relative rank of captain in the Medical Corps, Pay Corps, or Engineer Corps. Section 405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a) abolished the grade of surgeon and other staff corps grades and replaced them with grades having the same titles as the grades and ranks in the line. Officers who were "surgeons" are now "lieutenant commanders and lieutenants in the Medical Corps." If this literal translation is made in R.S. 426 and the eligibility of all staff corps captains, as stated in R.S. 421, is retained, an absurd result is reached; i.e., lieutenants, lieutenant commanders, and captains in the Medical Corps are eligible for appointment as Chief of the Bureau of Medicine and Surgery; but commanders and rear admirals in that corps are ineligible; captains, but not rear admirals, in other staff corps are eligible by virtue of their rank alone, regardless of their lack of training in medicine. It appears, therefore, that the only reasonable meaning that can be given to R.S. 421 and 426 at the present time is that the Chief of the Bureau of Medicine and Surgery must be an officer of the Medical Corps.

In subsection (b) the words "Deputy Chief of the Bureau" are substituted for the words "assistant to the Bureau" for uniformity. The words "An officer on the active list of the Navy in the Medical Corps" are substituted for the words "A surgeon, assistant surgeon, or passed assistant surgeon" to conform to present statutory terminology and to describe clearly the class of officers eligible for detail under this subsection. When the source statute was enacted there was no class of officers exactly corresponding to officers of the present Naval Reserve, and retired officers could be called to active duty only in time of war, so that the detailing of an officer not on the active list as assistant to the bureau chief was probably not contemplated. Further, since the assistant or deputy must at times perform the duties of the chief, it is reasonable to assume that he was intended to be in the same category of officers. Later statutes relating to the Assistant Chiefs of the Bureau of Aeronautics and the Bureau of Ships, enacted at a time when there were Reserve officers and when retired officers could be called to duty at any time with their consent, specify that the assistant chiefs shall be officers on the active list.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8077, act Aug. 10, 1956, ch. 1041, 70A Stat. 496, related to composition of Air National Guard of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10111 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5137 of this title as this section.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, section related to Chief and Deputy Chief of the Bureau of Medicine and Surgery.

**1996**—Subsec. (a). Pub. L. 104–106, §506(b)(1), substituted "in any corps of the Navy Medical Department" for "in the Medical Corps".

Subsec. (b). Pub. L. 104–106, §506(b)(2), substituted "who is qualified to be the Chief of the Bureau of Medicine and Surgery" for "in the Medical Corps".

**1980**—Pub. L. 96–513 substituted "active-duty list" for "active list" wherever appearing.

**1965**—Subsec. (a). Pub. L. 89–288 provided the Surgeon General, while so serving, with the grade of vice admiral.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8078. Bureau of Medicine and Surgery: Dental Corps; Chief; functions

(a) An officer of the Dental Corps shall be detailed as Chief of the Dental Corps.

(b) The Chief of the Dental Corps is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 [1] of this title.

(c) All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

(d) The Chief of the Dental Corps shall—

(1) establish professional standards and policies for dental practice;

(2) initiate and recommend action pertaining to complements, strength, appointments, advancement, training assignment, and transfer of dental personnel; and

(3) serve as the advisor for the Bureau on all matters relating directly to dentistry.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286, §5138; Pub. L. 87–649, §14c(17), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title III, §342, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 109–364, div. A, title V, §593(a)–(d)(1), Oct. 17, 2006, 120 Stat. 2234; Pub. L. 114–328, div. A, title V, §502(aa), Dec. 23, 2016, 130 Stat. 2105; renumbered §8078, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5138 | 5 U.S.C. 456b. | Dec. 28, 1945, ch. 604, §2, 59 Stat. 666. |
| | 5 U.S.C. 456c. | Dec. 28, 1945, ch. 604, §3, 59 Stat. 666; Aug. 7, 1947, ch. 512, §427, 61 Stat. 880; Oct. 18, 1951, ch. 513, 65 Stat. 450. |

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 5133 of this title, referred to in subsec. (b), was repealed by Pub. L. 114–328, div. A, title V, §502(z)(1), Dec. 23, 2016, 130 Stat. 2104.

## PRIOR PROVISIONS

A prior section 8078, act Aug. 10, 1956, ch. 1041, 70A Stat. 496, provided that Air National Guard is component of Air Force when in service of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10112 of this title.

## AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5138 of this title as this section.

**2016**—Subsec. (a). Pub. L. 114–328, §502(aa)(1), struck out "not below the grade of rear admiral (lower half)" after "officer of the Dental Corps".

Subsec. (c). Pub. L. 114–328, §502(aa)(2), struck out first sentence which read as follows: "The dental functions of the Bureau of Medicine and Surgery shall be defined and prescribed by Bureau directives, and if necessary by regulations of the Secretary of the Navy, so that all such functions are under the direction of the Dental Corps."

**2006**—Pub. L. 109–364, §593(d)(1), substituted "Dental Corps" for "Dental Division" in section catchline.

Subsec. (a). Pub. L. 109–364, §593(a)(1), substituted "Chief of the Dental Corps" for "Chief of the Dental Division" and struck out first sentence which read as follows: "There is a Dental Division in the Bureau of Medicine and Surgery."

Subsec. (b). Pub. L. 109–364, §593(a)(2), substituted "Dental Corps" for "Dental Division".

Subsec. (c). Pub. L. 109–364, §593(c), substituted "shall be defined" for "shall be so defined" and "so that all such functions are" for "that all such functions will be".

Pub. L. 109–364, §593(a)(3), substituted "Dental Corps" for "Dental Division" in first sentence and "the Chief of the Dental Corps" for "that Division" in second sentence.

Subsec. (d). Pub. L. 109–364, §593(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Dental Division shall—

"(1) establish professional standards and policies for dental practice;

"(2) conduct inspections and surveys for maintenance of such standards;

"(3) initiate and recommend action pertaining to complements, appointments, advancement, training assignment, and transfer of dental personnel; and

"(4) serve as the advisory agency for the Bureau on all matters relating directly to dentistry."

**1985**—Subsec. (a). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1981**—Subsec. (a). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "not below the grade of commodore admiral" for "in the grade of rear admiral".

**1962**—Subsec. (b). Pub. L. 87–649 struck out "pay, allowances, and" after "entitled to the same". See Title 37, Pay and Allowances of the Uniformed Services.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an

Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[1] See References in Text note below.

## §8079. Appointment of chiropractors in the Medical Service Corps

Chiropractors who are qualified under regulations prescribed by the Secretary of the Navy may be appointed as commissioned officers in the Medical Service Corps of the Navy.

(Added Pub. L. 102–484, div. A, title V, §505(b)(1), Oct. 23, 1992, 106 Stat. 2404, §5139; renumbered §8079, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8079 and 8080 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994.

Section 8079, act Aug. 10, 1956, ch. 1041, 70A Stat. 496, related to status of Air National Guard of United States when not in Federal service. See section 10113 of this title.

Section 8080, added Pub. L. 86–603, §1(3)(A), July 7, 1960, 74 Stat. 357, related to authority of officers of Air National Guard of United States with respect to Federal status. See section 10215 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5139 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### REGULATIONS

Regulations required to be prescribed by amendment made by section 505 of Pub. L. 102–484 to be prescribed not later than 180 days after Oct. 23, 1992, see section 505(d) of Pub. L. 102–484, set out as a note under section 7070 of this title.

## §8081. Chief of Naval Personnel; Deputy Chief of Naval Personnel

(a) The Chief of Naval Personnel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list in the line of the Navy not below the grade of commander.

(b) An officer on the active-duty list in the line of the Navy not below the grade of commander may be detailed as Deputy Chief of Naval Personnel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 287, §5141; Pub. L. 96–513, title V, §503(11), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 114–328, div. A, title V, §502(bb)(1), (2), Dec. 23, 2016, 130 Stat. 2105; renumbered §8081, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5141(a) | 5 U.S.C. 432.<br>5 U.S.C. 434 (less applicability to Chief of BuOrd). | R.S. 421.<br>R.S. 422 (less applicability to Chief of BuOrd, Bureau of Equipment and |

| | | |
|---|---|---|
| | | Recruiting, and BuDocks); May 13, 1942, ch. 303, §1, 56 Stat. 276. |
| 5141(b) | 5 U.S.C. 446 (less last 49 words). | Mar. 3, 1893, ch. 212 (1st par., less last 53 words), 27 Stat. 717; May 13, 1942, ch. 303, §1, 56 Stat. 276. |

In subsection (a) the words "from officers on the active list in the line of the Navy" are substituted for the words "from the list of officers of the Navy" to conform to current terminology. Line officers alone had the "grade" of commander when the source statute was enacted. The words "or from officers having the rank of captain in the staff corps of the Navy" are omitted as obsolete in view of subsequent changes in the staff corps and in the staff corps ranks and grades. These words were derived from the Act of Mar. 3, 1871, ch. 117, §10, 16 Stat. 537, which established new staff corps grades and assigned to officers in the highest grade the relative rank of captain. They were probably intended merely to assure the eligibility of senior staff corps officers for appointment as chiefs of appropriate staff bureaus. However, as incorporated in R.S. 421, they provide a category of eligible officers which is an alternative to each of the categories listed in R.S. 422–426. Thus R.S. 421 and R.S. 422, as originally enacted, provided that the chiefs of the four "line" bureaus, Yards and Docks, Navigation, Ordnance, and Equipment and Recruiting, could be appointed from line officers not below the grade of commander or from officers having the relative rank of captain in any staff corps. Pursuant to these sections the Attorney General held in 1898 that an officer having the relative rank of captain in the Civil Engineer Corps could legally be appointed as Chief of the Bureau of Yards and Docks (22 Op. Atty. Gen. 47, 17 Mar. 1898). There is some confusion in the opinion as to which corps was meant. The proposed appointee was a member of the Civil Engineer Corps, but the Corps of Engineers is the corps mentioned in the conclusion of the opinion. A provision in the Act of June 29, 1906, ch. 3590, 34 Stat. 564, requires that the Chief of the Bureau of Yards and Docks be selected from officers of the Civil Engineer Corps, so that there is no longer any question as to that bureau. The Bureau of Equipment and Recruiting has been abolished, leaving only the Bureau of Naval Personnel (formerly Navigation) and the Bureau of Ordnance of the four "line" bureaus originally listed in R.S. 422. The statutes establishing new "line" bureaus, the Bureau of Ships and the Bureau of Aeronautics, contain their own requirements as to the qualifications of the chiefs. The abolition of the Corps of Engineers and the Construction Corps, with the transfer of officers in those corps to the line, has eliminated the only staff corps whose members had duties closely related to those of line officers. The present staff corps, with the possible exception of the Supply Corps, are all highly specialized. Furthermore, in five of the seven corps, captain is no longer the highest grade. In view of these facts it is considered that the provision of R.S. 421 making staff corps captains eligible for appointment as Chief of the Bureaus of Naval Personnel and Ordnance is obsolete.

In subsection (b) the words "An officer on the active list in the line of the Navy not below the grade of commander" are substituted for the words "An officer of the Navy not below the rank of commander" to conform to current terminology and for clarity. When the source statute was enacted only line officers had the actual rank of commander. The words "on the active list" are inserted for the reasons stated in the revision note on §5137(b) of this title. The words "Deputy Chief" are substituted for the words "assistant to the Chief" for the reason stated in the revision note on §5134 of this title.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8081 was renumbered section 9081 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5141 of this title as this section.

**2016**—Pub. L. 114–328, §502(bb)(2), amended section catchline generally, substituting "Chief of Naval Personnel; Deputy Chief of Naval Personnel" for "Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel".

Subsec. (a). Pub. L. 114–328, §502(bb)(1)(A), struck out first sentence which read as follows: "The Chief of the Bureau of Naval Personnel shall be known as the Chief of Naval Personnel."

Subsec. (b). Pub. L. 114–328, §502(bb)(1)(B), struck out first sentence which read as follows: "The Deputy Chief of the Bureau of Naval Personnel shall be known as the Deputy Chief of Naval Personnel."

**1980**—Pub. L. 96–513 substituted "active-duty list" for "active list" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8082. Chaplain Corps and Chief of Chaplains

(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty and who have served on active duty in the Chaplain Corps for at least eight years.

(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

(d)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

(e) The Chief of Chaplains, while so serving, holds the grade of rear admiral (upper half).

(Added Pub. L. 96–343, §11(a), Sept. 8, 1980, 94 Stat. 1130, §5142; amended Pub. L. 105–85, div. A, title V, §504(c)(1), Nov. 18, 1997, 111 Stat. 1725; Pub. L. 114–328, div. A, title V, §502(cc), Dec. 23, 2016, 130 Stat. 2105; renumbered §8082 and amended Pub. L. 115–232, div. A, title V, §510(b), title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1751, 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(a)(2), renumbered section 5142 of this title as this section.

Subsec. (e). Pub. L. 115–232, §510(b), added subsec. (e).

**2016**—Subsec. (e). Pub. L. 114–328 struck out subsec. (e) which read as follows: "The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title."

**1997**—Subsec. (b). Pub. L. 105–85 struck out ", who are not on the retired list," after "serving on active duty".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 807(a)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8082a. Deputy Chief of Chaplains

The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty and who has served on active duty in the Chaplain Corps for at least eight years.

(Added Pub. L. 96–343, §11(a), Sept. 8, 1980, 94 Stat. 1130, §5142a; amended Pub. L. 105–85, div. A, title V, §504(c)(2), Nov. 18, 1997, 111 Stat. 1725; renumbered §8082a, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5142a of this title as this section.
**1997**—Pub. L. 105–85 struck out ", who is not on the retired list," after "who is on active duty".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8083. Office of Navy Reserve: appointment of Chief

(a) ESTABLISHMENT OF OFFICE: CHIEF OF NAVY RESERVE.—There is in the executive part of the Department of the Navy, on the staff of the Chief of Naval Operations, an Office of the Navy Reserve, which is headed by a Chief of Navy Reserve. The Chief of Navy Reserve—

(1) is the principal adviser on Navy Reserve matters to the Chief of Naval Operations; and

(2) is the commander of the Navy Reserve Force.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Navy Reserve from flag officers of the Navy (as defined in section 8001(1)) who have had at least 10 years of commissioned service.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Navy Reserve unless the officer—

(A) is recommended by the Secretary of the Navy; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Navy Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Navy Reserve if the Secretary of the Navy requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT.—The Chief of Navy Reserve is appointed for a term determined by the Chief of Naval Operations, normally four years, but may be removed for cause at any time. An officer serving as Chief of Navy Reserve may be reappointed for one additional term of up to four years.

(d) BUDGET.—The Chief of Navy Reserve is the official within the executive part of the Department of the Navy who, subject to the authority, direction, and control of the Secretary of the

Navy and the Chief of Naval Operations, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Navy Reserve. As such, the Chief of Navy Reserve is the director and functional manager of appropriations made for the Navy Reserve in those areas.

(e) ANNUAL REPORT.—The Chief of Navy Reserve shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Navy Reserve and the ability of the Navy Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Naval Operations and may be submitted in classified and unclassified versions.

(Added Pub. L. 104–201, div. A, title XII, §1212(b)(1), Sept. 23, 1996, 110 Stat. 2691, §5143; amended Pub. L. 106–65, div. A, title V, §554(c), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, §1 [[div. A], title V, §507(b), title X, §1087(a)(18)], Oct. 30, 2000, 114 Stat. 1654, 1654A–103, 1654A–291; Pub. L. 107–314, div. A, title V, §501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, §536(a), Oct. 28, 2004, 118 Stat. 1901; Pub. L. 109–163, div. A, title V, §515(b)(1)(F), (2), (3)(A), Jan. 6, 2006, 119 Stat. 3233, 3234; Pub. L. 112–81, div. A, title X, §1061(26), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 114–328, div. A, title V, §502(dd), Dec. 23, 2016, 130 Stat. 2105; renumbered §8083 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840; Pub. L. 118–159, div. A, title X, §1061, Dec. 23, 2024, 138 Stat. 2064.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (e). Pub. L. 118–159 added subsec. (e).

**2018**—Pub. L. 115–232, §807(a)(2), renumbered section 5143 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 8001(1)" for "section 5001(1)".

**2016**—Subsec. (c). Pub. L. 114–328, in heading, struck out "; Grade" after "Reappointment", and in text, struck out par. (1) designation before "The Chief of Navy Reserve" and struck out par. (2) which read as follows: "The Chief of Navy Reserve, while so serving, holds the grade of vice admiral."

**2011**—Subsec. (e). Pub. L. 112–81 struck out subsec. (e). Prior to amendment, text read as follows:

"(1) The Chief of Navy Reserve shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Navy Reserve and the ability of the Navy Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Naval Operations and may be submitted in classified and unclassified versions.

"(2) The Secretary of Defense shall transmit the annual report of the Chief of Navy Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress."

**2006**—Pub. L. 109–163, §515(b)(3)(A), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(F), substituted "Navy Reserve" for "Naval Reserve" wherever appearing in text.

Subsec. (a). Pub. L. 109–163, §515(b)(2), substituted "NAVY RESERVE" for "NAVAL RESERVE" in heading.

**2004**—Subsec. (b)(4). Pub. L. 108–375 substituted "December 31, 2006" for "December 31, 2004".

**2002**—Subsec. (b)(4). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003" in introductory provisions.

**2000**—Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §507(b)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The President, by and with the advice and consent of the Senate, shall appoint the Chief of Naval Reserve from officers who—

"(1) have had at least 10 years of commissioned service;

"(2) are in a grade above captain; and

"(3) have been recommended by the Secretary of the Navy."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title V, §507(b)], amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(c) GRADE.—(1) The Chief of Naval Reserve holds office for a term determined by the Chief of Naval

Operations, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

"(2) The Chief of Naval Reserve, while so serving, has the grade of rear admiral, without vacating the officer's permanent grade. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of vice admiral."

Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(18)], substituted "has the grade of" for "has a grade".

**1999**—Subsec. (c)(2). Pub. L. 106–65 substituted "rear admiral" for "above rear admiral (lower half)" and inserted at end "However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of vice admiral."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS**

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 7038 of this title.

## §8084. Office of Marine Forces Reserve: appointment of Commander

(a) ESTABLISHMENT OF OFFICE; COMMANDER, MARINE FORCES RESERVE.—There is in the executive part of the Department of the Navy an Office of the Marine Forces Reserve, which is headed by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, is the principal adviser to the Commandant on Marine Forces Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from general officers of the Marine Corps Reserve who have had at least 10 years of commissioned service.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Commander, Marine Forces Reserve, unless the officer—

(A) is recommended by the Secretary of the Navy; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Commander, Marine Forces Reserve, shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Commander, Marine Forces Reserve, if the Secretary of the Navy requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT.—The Commander, Marine Forces Reserve, is appointed for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. An officer serving as Commander, Marine Forces Reserve, may be reappointed for one additional term of up to four years.

(d) ANNUAL REPORT.—The Commander, Marine Forces Reserve, shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Marine Corps Reserve and the ability of the Marine Corps Reserve to meet its missions. The report shall be

prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

(Added Pub. L. 104–201, div. A, title XII, §1212(c)(1), Sept. 23, 1996, 110 Stat. 2692, §5144; amended Pub. L. 106–65, div. A, title V, §554(d), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, §1 [[div. A], title V, §507(c), title X, §1087(a)(19)], Oct. 30, 2000, 114 Stat. 1654, 1654A–103, 1654A–291; Pub. L. 107–314, div. A, title V, §501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, §536(a), Oct. 28, 2004, 118 Stat. 1901; Pub. L. 114–328, div. A, title V, §502(ee), Dec. 23, 2016, 130 Stat. 2105; Pub. L. 115–91, div. A, title X, §1051(a)(29), Dec. 12, 2017, 131 Stat. 1562; renumbered §8084 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840; Pub. L. 116–92, div. A, title V, §514(a), Dec. 20, 2019, 133 Stat. 1349.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8084 was successively renumbered section 9084, 9068, and 9083 of this title and subsequently repealed.

### AMENDMENTS

**2019**—Subsec. (b)(1). Pub. L. 116–92 substituted "general officers of the Marine Corps Reserve" for "general officers of the Marine Corps (as defined in section 8001(2))".

**2018**—Pub. L. 115–232, §807(a)(2), renumbered section 5144 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 8001(2)" for "section 5001(2)".

**2017**—Subsec. (d). Pub. L. 115–91 struck out par. (1) designation before "The Commander," and struck out par. (2) which read as follows: "The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces Reserve, under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress."

**2016**—Subsec. (c). Pub. L. 114–328, in heading, struck out "; Grade" after "Reappointment", and in text, struck out par. (1) designation before "The Commander, Marine Forces Reserve," and struck out par. (2) which read as follows: "The Commander, Marine Forces Reserve, while so serving, holds the grade of lieutenant general."

**2004**—Subsec. (b)(4). Pub. L. 108–375 substituted "December 31, 2006" for "December 31, 2004".

**2002**—Subsec. (b)(4). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003".

**2000**—Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §507(c)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from officers of the Marine Corps who—

"(1) have had at least 10 years of commissioned service;

"(2) are in a grade above colonel; and

"(3) have been recommended by the Secretary of the Navy."

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title V, §507(c)], amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(c) TERM OF OFFICE; GRADE.—(1) The Commander, Marine Forces Reserve, holds office for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

"(2) The Commander, Marine Forces Reserve, while so serving, has the grade of major general, without vacating the officer's permanent grade. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(19)], substituted "has the grade of" for "has a grade".

**1999**—Subsec. (c)(2). Pub. L. 106–65 substituted "major general" for "above brigadier general" and inserted at end "However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2019 AMENDMENT**

Pub. L. 116–92, div. A, title V, §514(b), Dec. 20, 2019, 133 Stat. 1349, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 20, 2019] and shall apply to appointments made after such date."

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS**

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 7038 of this title.

## §8088. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties

(a) The Judge Advocate General's Corps is a Staff Corps of the Navy, and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

(b) There is in the executive part of the Department of the Navy the Office of the Judge Advocate General of the Navy. The Judge Advocate General shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. He shall be appointed from judge advocates of the Navy or the Marine Corps who are members of the bar of a Federal court or the highest court of a State and who have had at least eight years of experience in legal duties as commissioned officers.

(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(d) The Judge Advocate General of the Navy, under the direction of the Secretary of the Navy, shall—

(1) perform duties relating to legal matters arising in the Department of the Navy as may be assigned to him;

(2) perform the functions and duties and exercise the powers prescribed for the Judge Advocate General in chapter 47 of this title;

(3) receive, revise, and have recorded the proceedings of boards for the examination of officers of the naval service for promotion and retirement; and

(4) perform such other duties as may be assigned to him.

(e) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Navy or the Chief of Naval Operations; or

(2) the ability of judge advocates of the Navy assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(f) If the Judge Advocate General is removed from office before the end of the term of the Judge Advocate General as specified in subsection (b), the Secretary of Defense shall, not later than five days after the removal takes effect, submit to the Committees on Armed Services of the Senate and the House of Representatives notice that the Judge Advocate General is being removed and a statement of the reason for the removal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 289, §5148; Pub. L. 87–649, §14c(20), Sept. 7, 1962, 76 Stat.

501; Pub. L. 90–179, §2(1), Dec. 8, 1967, 81 Stat. 546; Pub. L. 96–513, title III, §343, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 103–337, div. A, title V, §504(b)(1), Oct. 5, 1994, 108 Stat. 2750; Pub. L. 108–375, div. A, title V, §574(b)(1), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109–163, div. A, title V, §508(b), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110–181, div. A, title V, §543(b), Jan. 28, 2008, 122 Stat. 115; Pub. L. 114–328, div. A, title V, §502(ff), Dec. 23, 2016, 130 Stat. 2105; renumbered §8088, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 119–60, div. A, title V, §506(b), Dec. 18, 2025, 139 Stat. 858.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5148 | 5 U.S.C. 428. | June 8, 1880, ch. 129, 21 Stat. 164; June 5, 1896, ch. 331, 29 Stat. 251. |
| | 50 U.S.C. 741 (as applicable to Navy JAG). | May 5, 1950, ch. 169, §13 (as applicable to Navy JAG), 64 Stat. 147. |
| | 5 U.S.C. 441 (as applicable to JAG). | July 1, 1918, ch. 114, 40 Stat. 717 (1st sentence on p. 717, as applicable to JAG). |
| | 5 U.S.C. 425a (as applicable to JAG). | June 22, 1938, ch. 567 (as applicable to JAG), 52 Stat. 839. |

In subsection (b) the rank, pay, allowances, and privileges of retirement of chiefs of bureaus of the Navy are incorporated. 5 U.S.C. 441 apparently relates the Judge Advocate General of the Navy to the Judge Advocate General of the Army, as well as to bureau chiefs. However, since the creation of the Department of the Air Force by the National Security Act of 1947, if the incorporation to the Army provision is retained, the saving provisions in the act require an incorporation also to the rank, etc., of the Judge Advocate General of the Air Force. The rank of the Judge Advocate General of each of the other departments is now specified in organizational law to be major general. Since it is possible that these ranks may at some future time not be the same, incorporation by reference to them is no longer appropriate. Instead, the section relates the Judge Advocate General's rank, pay, allowances, and privileges of retirement to those of bureau chiefs as does 5 U.S.C. 441, in part.

In subsection (c), clauses (1) and (4) are substituted for the words "and perform such other duties as have heretofore been performed by the Solicitor and Naval Judge Advocate General" to describe the duties of the Judge Advocate General directly instead of by reference to the duties performed by an officer whose office was abolished more than 75 years ago.

Subsection (c)(2) is substituted for the reference, in 5 U.S.C. 428, to courts-martial and courts of inquiry, since the Uniform Code of Military Justice has superseded prior law as to the duties of the Judge Advocates General relating to these courts.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60 added subsec. (f).

**2018**—Pub. L. 115–232 renumbered section 5148 of this title as this section.

**2016**—Subsec. (b). Pub. L. 114–328 struck out last sentence which read as follows: "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate."

**2008**—Subsec. (b). Pub. L. 110–181 substituted "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate." for "The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate."

**2006**—Subsec. (b). Pub. L. 109–163, §1057(a)(2), struck out "or Territory" after "highest court of a State".

Pub. L. 109–163, §508(b), substituted "The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate." for "If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."

**2004**—Subsec. (e). Pub. L. 108–375 added subsec. (e).

**1994**—Subsec. (b). Pub. L. 103–337, §504(b)(1)(A), added last sentence and struck out former last sentence which read as follows: "While so serving, the Judge Advocate General of the Navy shall be entitled to the rank and grade of rear admiral or major general, as appropriate, unless entitled to a higher rank and grade under another provision of law."

Subsec. (c). Pub. L. 103–337, §504(b)(1)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: "The Judge Advocate General of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title."

**1980**—Subsec. (b). Pub. L. 96–513 inserted provision entitling Judge Advocate General of Navy to rank and grade of rear admiral or major general, as appropriate.

**1967**—Pub. L. 90–179, §2(1)(A), inserted reference to Judge Advocate General's Corps in section catchline.

Subsecs. (a) to (d). Pub. L. 90–179, §2(1)(B), (C), added subsec. (a), redesignated existing subsecs. (a) to (c) as (b) to (d), respectively, and in subsec. (b) as so redesignated substituted "judge advocates" for "officers".

**1962**—Subsec. (b). Pub. L. 87–649 struck out ", pay, allowances," after "same rank". See Title 37, Pay and Allowances of the Uniformed Services.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

#### REDESIGNATION OF NAVY LAW SPECIALISTS AS JUDGE ADVOCATES

Pub. L. 90–179, §8, Dec. 8, 1967, 81 Stat. 549, provided that:

"(a) In this section 'law specialist' means a line officer on the active or retired list of the Regular Navy or of the Naval Reserve designated for special duty (law) or a line officer of the Naval Reserve [now Navy Reserve] assigned a numerical designator indicating a special duty officer (law).

"(b) All law specialists in the Navy are redesignated as judge advocates in the Judge Advocate General's Corps of the Navy. Each law specialist of the Navy who is on a promotion list on the day before the effective date of this Act [Dec. 8, 1967] shall be placed on the appropriate promotion list for the Judge Advocate General's Corps and shall be eligible for promotion when the officer who is to be his running mate in the next higher grade becomes eligible for promotion in that grade."

#### SAVINGS PROVISION

Pub. L. 90–179, §10, Dec. 8, 1967, 81 Stat. 549, provided that: "This Act [enacting sections 5578a and 5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5149, 5404, 5508, 5581, 5587, 5600, 5652a, 5702, 5708, 5753, 5762, 5896, 5897 and 6378 of this title, and section 202 of Title 37, and enacting provisions set out as notes under this section and section 5149 of this title] does not affect rights accrued, duties matured, or proceedings commenced before its effective date. Redesignation of an officer under section 8(b) of this Act [set out as a note under this section] shall not operate to change the computation of his service for any purpose."

## §8089. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General

(a)(1) There is a Deputy Judge Advocate General of the Navy who is appointed by the President from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed

for the Judge Advocate General.

(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(3) If the Secretary of the Navy elects to convene a selection board under section 611(a) of this title to consider eligible officers for selection to appointment as Deputy Judge Advocate General, the Secretary may, in connection with such consideration for selection—

(A) treat any section in chapter 36 of this title referring to promotion to the next higher grade as if such section referred to promotion to a higher grade; and

(B) waive section 619(a)(2) of this title if the Secretary determines that the needs of the Navy require the waiver.

(b) An officer of the Judge Advocate General's Corps who has the qualifications prescribed for the Judge Advocate General in section 8088(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of rear admiral (lower half).

(c) A judge advocate of the Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 8088(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of brigadier general.

(d) When there is a vacancy in the Office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(e) When subsection (d) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocates General, in the order directed by the Secretary of the Navy, shall perform the duties of the Judge Advocate General.

(Aug. 10, 1956, ch. 1041, 70A Stat. 290, §5149; Pub. L. 85–861, §33(a)(28), Sept. 2, 1958, 72 Stat. 1566; Pub. L. 87–649, §14c(21), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89–718, §36, Nov. 2, 1966, 80 Stat. 1120; Pub. L. 90–179, §2(2), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90–623, §2(9), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, §503(13), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–661, div. A, title V, §508(b), Nov. 14, 1986, 100 Stat. 3867; Pub. L. 103–337, div. A, title V, §504(b)(2), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 114–328, div. A, title V, §502(gg), Dec. 23, 2016, 130 Stat. 2105; Pub. L. 115–91, div. A, title V, §508(b), Dec. 12, 2017, 131 Stat. 1375; renumbered §8089 and amended Pub. L. 115–232, div. A, title VIII, §§807(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5149(a) | 5 U.S.C. 444 (less last 19 words). | Aug. 29, 1916, ch. 417 (3d par., 96th through 121st word), 39 Stat. 558. |
| | 5 U.S.C. 453 (as applicable to Asst. JAG). | Mar. 4, 1925, ch. 536, §15 (as applicable to Asst. JAG), 43 Stat. |

| | | |
|---|---|---|
| | | 1275. |
| 5149(b) | 5 U.S.C. 444 (last 19 words). | Aug. 29, 1916, ch. 417 (3d par., 122d word to end of par.), 39 Stat. 558. |
| 5149(c) | 5 U.S.C. 432a (as applicable to JAG). | Feb. 3, 1942, ch. 35, §1 (as applicable to JAG), 56 Stat. 47. |

Changes in phraseology are made to conform to the language used in §5135 of this title.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(a)(2), renumbered section 5149 of this title as this section.

Subsecs. (b), (c). Pub. L. 115–232, §809(a), substituted "section 8088(b)" for "section 5148(b)".

**2017**—Subsec. (a)(3). Pub. L. 115–91 added par. (3).

**2016**—Subsec. (a)(1). Pub. L. 114–328, §502(gg)(1), struck out ", by and with the advice and consent of the Senate," after "appointed by the President" and struck out second sentence which read as follows: "If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."

Subsec. (b). Pub. L. 114–328, §502(gg)(2), struck out second and last sentences which read "While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate." and "If he is retired as a rear admiral (lower half), he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.", respectively.

Subsec. (c). Pub. L. 114–328, §502(gg)(2), struck out second and last sentences which read "While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate." and "If he is retired as a brigadier general, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.", respectively.

**1994**—Subsec. (a). Pub. L. 103–337 designated existing provisions as par. (1), added second sentence, struck out former second and third sentences which read as follows: "While so serving he is entitled to the grade of rear admiral or major general, as appropriate, unless entitled to a higher grade under another provision of law. The Deputy Judge Advocate General is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.", and added par. (2).

**1986**—Subsec. (a). Pub. L. 99–661, §508(b)(1), substituted "There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General" for "A judge advocate of the Navy or Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title shall be detailed as Deputy Judge Advocate General of the Navy", and struck out "rank and" before "grade of" and struck out "rank or" before "grade under" in second sentence.

Subsec. (b). Pub. L. 99–661, §508(b)(2), substituted "While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate" for "While so serving he is entitled to the rank and grade of rear admiral (lower half), unless entitled to a higher rank or grade under another provision of law".

Subsec. (c). Pub. L. 99–661, §508(b)(3), substituted "While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate" for "While so serving he is entitled to the rank and grade of brigadier general, unless entitled to a higher rank or grade under another provision of law".

**1985**—Subsec. (b). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore" in three places.

**1981**—Subsec. (b). Pub. L. 97–86 substituted "commodore" for "commodore admiral" in three places.

**1980**—Subsec. (a). Pub. L. 96–513, §503(13)(A), struck out "(upper half)" after "entitled to the rank and grade of rear admiral".

Subsec. (b). Pub. L. 96–513, §503(13)(B), (C), substituted "rank and grade of commodore admiral" for "rank and grade of rear admiral (lower half)" in two places, "retired as a commodore admiral" for "retired as a rear admiral", and "retired pay of that grade" for "retired pay in the lower half of that grade".

**1968**—Subsec. (c). Pub. L. 90–623 substituted "5148(b)" for "4158(b)".

**1967**—Pub. L. 90–179 inserted reference to Deputy Judge Advocate General and substituted "Advocates General" for "Advocate General; succession to duties" after "Assistant Judge" in section catchline.

Subsec. (a). Pub. L. 90–179 substituted provisions relating to the detailing of a judge advocate of the Navy or Marine Corps as Deputy Judge Advocate General of the Navy, his rank while so serving and retirement privileges for provisions relating to the detailing of an officer of the Navy or Marine Corps as Assistant Judge Advocate General.

Subsecs. (b) to (d). Pub. L. 90–179 added subsecs. (b) and (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and in subsec. (d), as so redesignated, substituted "Deputy Judge Advocate General" for "Assistant Judge Advocate General, unless otherwise directed by the President,".

Subsec. (e). Pub. L. 90–179 redesignated former subsec. (c) as (e) and in subsec. (e), as so redesignated, substituted provisions relating to the performance of the duties of the Judge Advocate General by the Assistant Judge Advocates General in the event of the absence or disability of the Deputy Judge Advocate General for provisions relating to the performance of such duties by the heads of the major divisions of the Office of the Judge Advocate General in the event of the absence or disability of the Assistant Judge Advocate General.

**1966**—Pub. L. 89–718 struck out "pay," before "succession" in section catchline.

**1962**—Subsec. (a). Pub. L. 87–649 repealed last sentence which provided that a person detailed as Assistant Judge Advocate General is entitled to the highest pay of his rank. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

**1958**—Subsec. (b). Pub. L. 85–861 substituted "office" for "Office".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to appointments or details made on or after Nov. 14, 1986, see section 508(f) of Pub. L. 99–661, set out as an Effective Date note under section 12210 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### EFFECTIVE DATE OF 1958 AMENDMENT

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

### GRANDFATHERING OF RETIRED GRADE OF ASSISTANT JUDGE ADVOCATES GENERAL OF THE NAVY AS OF REPEAL OF STATUTORY SPECIFICATION OF GENERAL AND FLAG OFFICERS GRADES IN THE ARMED FORCES

Pub. L. 115–91, div. A, title V, §509, Dec. 12, 2017, 131 Stat. 1375, provided that:

"(a) IN GENERAL.—Notwithstanding the amendments made by section 502(gg)(2) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2105) [amending this section], an officer selected to hold a position specified in subsection (b) as of December 23, 2016, may be retired after that date in the grade of rear admiral (lower half) or brigadier general, as applicable, with the retired pay of such grade (unless entitled to higher pay under another provision of law).

"(b) SPECIFIED POSITIONS.—Subsection (a) applies with respect to the Assistant Judge Advocates General of the Navy provided for by subsections (b) and (c) of section 5149 [now 8089] of title 10, United

States Code."

**OFFICER SERVING AS DEPUTY AND ASSISTANT JUDGE ADVOCATE OF THE NAVY ON DEC. 7, 1967; RANK; RETIREMENT BENEFITS**

Pub. L. 90–179, §9, Dec. 8, 1967, 81 Stat. 549, provided that: "Nothing in this Act [enacting sections 5578a and 5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5148, 5404, 5508, 5581, 5587, 5600, 5652a, 5702, 5708, 5753, 5762, 5896, 5897, and 6378 of this title, and section 202 of Title 37, and enacting provisions set out as notes under this section and section 5184 of this title] shall operate to terminate or reduce the term of an officer who was serving as Deputy and Assistant Judge Advocate General of the Navy on the day before the effective date of this Act [Dec. 8, 1967] or to deprive to him of the rank, pay, allowances, or retirement privileges to which he was then entitled. Notwithstanding any other provision of law, an officer who was so serving on the day before the effective date of this Act shall be deemed to be detailed as Deputy Judge Advocate General, pursuant to section 5149 [now 8089] of title 10, United States Code, as amended by this Act [this section], and in addition to rights and benefits then accrued, to be entitled to the rank and retirement benefits authorized by that section. For the purposes of determining his eligibility for the retirement benefits authorized by section 5149 [now 8089] of title 10, United States Code, as amended by this Act [this section], an officer who is serving as Deputy Judge Advocate General on the effective date of this Act shall be credited with all service performed under appointment or detail as Deputy and Assistant Judge Advocate General before the effective date of this Act."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under this section delegated to Secretary of Defense, see section 1(8) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §8090. Staff corps of the Navy

(a) The staff corps of the Navy are—

(1) the Medical Corps;

(2) the Dental Corps;

(3) the Judge Advocate General's Corps;

(4) the Chaplain Corps;

(5) the Supply Corps;

(6) the Civil Engineer Corps;

(7) the Nurse Corps;

(8) the Medical Service Corps; and

(9) such other staff corps as may be established by the Secretary of the Navy under subsection (b).

(b)(1) The Secretary of the Navy may establish staff corps of the Navy in addition to the staff corps specified in subsection (a). The Secretary may designate commissioned officers in, and may assign members to, any such staff corps.

(2) The Secretary of the Navy may provide for the appointment of the chief of any staff corps established under this subsection.

(Added Pub. L. 96–513, title III, §351, Dec. 12, 1980, 94 Stat. 2902, §5155; amended Pub. L. 97–22, §6(a), July 10, 1981, 95 Stat. 129; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; renumbered §5150, Pub. L. 99–433, title V, §514(a)(2), Oct. 1, 1986, 100 Stat. 1054; Pub. L. 99–661, div. A, title XIII, §1343(a)(23), Nov. 14, 1986, 100 Stat. 3994; Pub. L. 100–26, §3(7), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102–190, div. A, title X, §1061(a)(22)(A), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 107–314, div. A, title V, §504(a)(2), Dec. 2, 2002, 116 Stat. 2531; Pub. L. 112–239, div. A, title V, §501(b), Jan. 2, 2013, 126 Stat. 1714; Pub. L. 114–328, div. A, title V, §502(hh), Dec. 23, 2016, 130 Stat. 2105; renumbered §8090, Pub. L. 115–232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834; Pub. L. 118–159, div. A, title IX, §923, Dec. 23, 2024, 138 Stat. 2039.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(5) to (9). Pub. L. 118–159, §923(a), added pars. (5) to (8) and redesignated former par. (5) as (9).

Subsec. (b)(1). Pub. L. 118–159, §923(b), substituted "staff corps specified in subsection (a)" for "Medical Corps, the Dental Corps, the Judge Advocate General's Corps, and the Chaplain Corps".

**2018**—Pub. L. 115–232 renumbered section 5150 of this title as this section.

**2016**—Subsec. (b)(2). Pub. L. 114–328, §502(hh)(1), substituted "The Secretary" for "Subject to subsection (c), the Secretary".

Subsec. (c). Pub. L. 114–328, §502(hh)(2), struck out subsec. (c) which read as follows: "The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps. An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary."

**2013**—Subsec. (c). Pub. L. 112–239 struck out at end "For the purpose of computing the total number of flag officers in the staff corps of the Navy under section 526 of this title, an officer so appointed shall be considered an additional number in grade."

**2002**—Subsec. (c). Pub. L. 107–314 substituted "for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps" for "for promotion to the grade of rear admiral (lower half)" in first sentence.

**1991**—Subsec. (c). Pub. L. 102–190 substituted "section 526" for "section 5444".

**1987**—Subsec. (c). Pub. L. 100–26 made technical amendment to directory language of Pub. L. 99–661, §1343(a)(23). See 1986 Amendment note below.

**1986**—Pub. L. 99–433 renumbered section 5155 of this title as this section.

Subsec. (c). Pub. L. 99–661, as amended by Pub. L. 100–26, substituted "rear admiral (lower half)" for "commodore".

**1981**—Subsec. (c). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Pub. L. 97–22 substituted "Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of commodore admiral" for "Nurse Corps or Medical Service Corps for promotion to the grade of commodore admiral or rear admiral, as appropriate", substituted "An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary" for "An officer so selected shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years to serve in the position, respectively, of Director of the Nurse Corps or Director of the Medical Service Corps", and inserted provision that for the purpose of computing the total number of flag officers in the staff corps of the Navy under section 5444 of this title, an officer so appointed shall be considered an additional number in grade.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

# PART II—PERSONNEL


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### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(f)(2), Aug. 13, 2018, 132 Stat. 1838, redesignated items for chapters 533 to 577 as 811 to 847 and redesignated section numbers 5441 to 6521 as 8101 to 8392. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(a)(3), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 531 "Strength of Naval Reserve and Marine Corps Reserve", 541 "Running Mates for Reserve Officers", and 549 "Reserve Promotions".

**1980**—Pub. L. 96–513, title V, §503(16), Dec. 12, 1980, 94 Stat. 2912, inserted "of Naval Reserve and Marine Corps Reserve" after "Strength" in item for chapter 531, inserted "for Reserve Officers" after "Running Mates" in item for chapter 541, struck out item for chapter 543 "Selection Boards", added item for chapter 544, and struck out items for chapter 545 "Promotions" and for chapter 547 "Examinations for Promotion".

**1958**—Pub. L. 85–861, §1(134), Sept. 2, 1958, 72 Stat. 1507, added item for chapter 549.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### MARITIME WORKFORCE PROMOTION AND RECRUITMENT

Pub. L. 118–159, div. A, title V, §539A, Dec. 23, 2024, 138 Stat. 1890, provided that:

"(a) CONTRACT FOR TARGETED CAMPAIGN.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Navy, in coordination with the heads of such other Federal

agencies as the Secretary determines appropriate, shall seek to enter into a contract with an entity described in subsection (b), through a competitive bidding process, for the establishment a targeted campaign to educate and recruit potential workers regarding careers in the maritime sector, including by—

"(1) promoting maritime workforce in the United States including careers in the maritime industry afloat, including in the United States Merchant Marine, sailing in the Military Sealift Command, and related positions in the maritime sector; and

"(2) promoting the United States shipbuilding industry and highlighting the critical need to attract skilled workers in the shipbuilding and related maritime sectors.

"(b) ENTITY DESCRIBED.—An entity described in this subsection is a reputable marketing, recruiting, and public relations firm with expertise in developing and deploying branding, content, advertising buys, and local and national engagement strategies.

"(c) CAMPAIGN OBJECTIVES.—A contract entered into under subsection (a) shall provide that the campaign carried out pursuant to the contract shall—

"(1) emphasize the importance of the maritime workforce for national security;

"(2) showcase the numerous career opportunities available in the maritime domain;

"(3) highlight the career opportunities in the maritime sector;

"(4) promote the excitement, benefits, and appeal of a career in the maritime industry;

"(5) inform potential workers of the points of entry available to join and receive training for such employment, including—

"(A) the United States Merchant Marine Academy;

"(B) State and regional maritime academies described in chapter 515 of title 46, United States Code;

"(C) centers of excellence for domestic maritime workforce training and education designated under section 51706 of title 46, United States Code;

"(D) the Military to Mariners Act [of 2022] (46 U.S.C. 7302 note);

"(E) merchant mariner and shipbuilding labor union training facilities;

"(F) merchant mariner and shipbuilding apprenticeship programs approved by the Secretary of Labor;

"(G) shipbuilding industry training programs; and

"(H) any other potential resources as identified by the Secretary of the Navy;

"(6) inform potential workers of sources of financial assistance for training for individuals interested in joining such industry; and

"(7) attract workers to the United States merchant marine, shipbuilding, and related sectors.

"(d) TARGET AUDIENCE.—A contract entered into under subsection (a) shall provide that in carrying out the campaign carried out pursuant to the contract, the entity shall target a diverse audience, including—

"(1) potential workers interested in maritime careers;

"(2) educational institutions, including K-12 educational institutions and community colleges, and the students of such institutions considering vocational training in maritime fields;

"(3) military veterans;

"(4) individuals seeking career transitions; and

"(5) the general public.

"(e) REPORTING AND ACCOUNTABILITY.—

"(1) QUARTERLY REPORT.—A contract entered into under subsection (a) shall provide that, not later than 30 days after the end of each quarter of each fiscal year during which a campaign is carried out pursuant to the contract, the entity carrying out the campaign, in consultation with the Secretary of the Navy and the heads of such other Federal agencies as the Secretary determines appropriate, shall submit to the relevant congressional committees quarterly reports detailing the progress, outreach, and effect of the campaign, including the effectiveness of such campaigns in increasing applications for employment in the United States Merchant Marine and shipbuilding sectors.

"(2) FINAL REPORT.—Not later than 180 days after the conclusion of a campaign carried out pursuant to a contract entered into under subsection (a), the entity carrying out the campaign, in consultation with the Secretary of the Navy and the heads of such other Federal agencies as the Secretary determines appropriate, shall submit to the relevant congressional committees a comprehensive final report on the campaign.

"(f) EXPIRATION OF AVAILABLE FUNDS.—No funds may be authorized to be appropriated or otherwise made available to carry out this section after the date that is three years after the date of the enactment of this Act [Dec. 23, 2024].

"(g) DEFINITION.—In this section, the term 'relevant congressional committees' means—

"(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Commerce, Science, and Transportation of the Senate."

### AUTHORIZATION TO PAY A LIVING QUARTERS ALLOWANCE FOR DEPARTMENT OF THE NAVY CIVILIAN EMPLOYEES ASSIGNED TO PERMANENT DUTY IN GUAM FOR PERFORMING WORK, OR SUPPORTING WORK BEING PERFORMED, ABOARD OR DOCKSIDE, OF U.S. NAVAL VESSELS

Pub. L. 118–31, div. A, title XI, §1102, Dec. 22, 2023, 137 Stat. 426, as amended by Pub. L. 118–159, div. A, title XI, §1103, Dec. 23, 2024, 138 Stat. 2087, which authorized provision of living quarters allowance for certain civilian employees in Guam, was editorially transferred and is set out as a note preceding section 1580 of this title.

### SUSPENSION OF CERTAIN SECTIONS OF TITLE 10 AND AMENDMENTS TO OFFICER PERSONNEL ACT OF 1947

Act Aug. 10, 1956, ch. 1041, §48, 70A Stat. 639, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that:

"SEC. 48. (a) Except as they may apply to women officers of the Regular Navy or the Regular Marine Corps appointed under [former] section 5590 of title 10, United States Code, enacted by section 1 of this Act, the following sections of title 10 cease to operate whenever the number of male officers serving on active duty in the grade of ensign or above in the line of the Navy does not exceed the number of male officers holding permanent appointments in the grade of ensign or above on the active list in the line of the Regular Navy: Sections 5505 [former 10 U.S.C. 5505], 5508 [now 8118], 5596 [now 8146], [former] 5651–5663, [former] 5701–5703, [former] 5705–5711, [former] 5751, [former] 5753–5759, [former] 5761, [former] 5762, [former] 5764–5770, [former] 5785, [former] 5786, [former] 5791, 6371–6384 [10 U.S.C. 6371, 6383 now 10 U.S.C. 8371, 8372; former 10 U.S.C. 6372–6382, 6384], [former] 6386, [former] 6407.

"(b) For the purposes of subsection (a), the following officers may not be considered officers serving on active duty:

"(1) Retired officers.

"(2) Officers of the Navy Reserve assigned to active duty for training.

"(3) Officers of the Navy Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, or drilling the Navy Reserve or the Marine Corps Reserve.

"(4) Officers of the Navy Reserve ordered to temporary active duty for the purpose of prosecuting special work.

"(c) Title IV of the Officer Personnel Act of 1947 (61 Stat. 869), as amended, is amended by adding the following new section at the end thereof:

"[SEC. 437. Repealed. Pub. L. 104–106, div. A, title XV, §1505(a), Feb. 10, 1996, 110 Stat. 514.]"

# CHAPTER 811—DISTRIBUTION IN GRADE

Sec.
8101. Prescribed number; vacancies.
8102. Regular Navy: retired flag officers on active duty.
8103. Suspension: preceding sections.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 533 of this title as this chapter and items 5441, 5450, and 5451 as 8101 to 8103, respectively.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(c)(20), Feb. 10, 1996, 110 Stat. 499, struck out item 5454 "Computations: rule when fraction occurs in final result".

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(b)(1), Oct. 5, 1994, 108 Stat. 3016, struck out items 5456 "Naval Reserve and Marine Corps Reserve", 5457 "Naval Reserve: officers in an active status in grades above chief warrant officer, W–5", and 5458 "Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W–5".

**1991**—Pub. L. 102–190, div. A, title XI, §1131(8)(B), Dec. 5, 1991, 105 Stat. 1506, substituted "W–5" for "W–4" in items 5457 and 5458.

**1990**—Pub. L. 101–510, div. A, title IV, §403(b)(2)(B), Nov. 5, 1990, 104 Stat. 1545, struck out items 5442 "Navy: line officers on active duty; rear admirals (lower half) and rear admirals", 5443 "Marine Corps: officers on active duty; brigadier generals and major generals", 5444 "Navy: staff corps officers on active duty; rear admirals (lower half) and rear admirals", and 5446 "Application: sections 5442, 5443, 5444".

**1985**—Pub. L. 99–145, title V, §514(b)(6)(B), (7)(B), Nov. 8, 1985, 99 Stat. 629, substituted "rear admirals (lower half)" for "commodores" in items 5442 and 5444.

**1981**—Pub. L. 97–86, title IV, §405(b)(6)(B), (7)(B), Dec. 1, 1981, 95 Stat. 1106, substituted "commodores" for "commodore admirals" in items 5442 and 5444.

Pub. L. 97–22, §10(b)(6)(B), July 10, 1981, 95 Stat. 137, struck out item 5455 "Computations and determinations: effect on status of officers".

**1980**—Pub. L. 96–513, title V, §§503(18), 513(9)(A), Dec. 12, 1980, 94 Stat. 2912, 2931, inserted "; commodore admirals and rear admirals" in item 5442, inserted "; brigadier generals and major generals" in item 5443, inserted "; commodore admirals and rear admirals" in item 5444, struck out items 5445 "Suspension: sections 5442, 5443, 5444", 5447 "Navy: line officers on the active list; permanent grade", 5448 "Marine Corps: officers on the active list; permanent grade", 5449 "Navy: staff corps officers on the active list; permanent grade", and 5452 "Navy: women line officers on active duty; Marine Corps: women officers on active duty", and substituted "in grades" for "in permanent grades" in items 5457 and 5458.

**1967**—Pub. L. 90–130, §1(17)(F), (H), Nov. 8, 1967, 81 Stat. 377, struck out item 5453 "Marine Corps: women officers on the active list; permanent grade", and substituted: "Navy: women line officers on active duty; Marine Corps: women officers on active duty" for "Navy: women line officers on the active list; permanent grade" in item 5452.

**1958**—Pub. L. 85–861, §1(113)(B), Sept. 2, 1958, 72 Stat. 1492, added items 5457 and 5458.

## §8101. Prescribed number; vacancies

In this chapter, the term "prescribed number" or "number . . . prescribed" as applied to a grade, means the number of officers of a described corps, designation, or other category that shall be maintained in the grade concerned. Except as otherwise specifically provided, the actual number of officers in a grade may not exceed the prescribed number. Vacancies occur whenever, and to the extent that, the actual number falls below the prescribed number.

(Aug. 10, 1956, ch. 1041, 70A Stat. 299, §5441; Pub. L. 96–513, title III, §313(a), Dec. 12, 1980, 94 Stat. 2889; Pub. L. 101–189, div. A, title XVI, §1622(e)(8), Nov. 29, 1989, 103 Stat. 1605; renumbered §8101, Pub. L. 115–232, div. A, title VIII, §807(b)(1), Aug. 13, 2018, 132 Stat. 1834.)

### HISTORICAL AND REVISION NOTES

This section is derived from the distribution-in-grade provisions of the Officers Personnel Act of 1947. It is inserted here to show clearly what is meant by the "authorized number" of officers in a grade as used in the distribution-in-grade sections of the Officer Personnel Act. "Prescribed number" is substituted for "authorized number" because the latter, as used in other provisions of law, means simply the maximum number of persons authorized to be in a designated category. As used in the distribution-in-grade provisions of the Officer Personnel Act the term means not only the maximum number of officers that may be in a particular grade, but also the number of officers that should be maintained in that grade. It places not only a ceiling but a floor on the number of officers for the grade concerned. This is accomplished by establishing vacancies when the actual number of officers in the grade concerned falls below the "authorized" or, as used here, the "prescribed" number. Where there is a prescribed number for a grade, an officer should, in the absence of other controlling provisions of law, be promoted to that grade to fill an existing vacancy, as of the date on which the vacancy occurred. In this manner, at least constructively, the prescribed number is maintained.

There is no source for the section because the Officer Personnel Act did not attempt specifically to define "authorized number" in this context. The meaning of the term is derived only from understanding the effect given it throughout the Officer Personnel Act and from the imperative requirements of sections 103, 203, and 303 of the act.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5441 of this title as this section.

**1989**—Pub. L. 101–189 inserted ", the term" after "In this chapter".

**1980**—Pub. L. 96–513 struck out "or combination of grades" after "to a grade", after "in the grade", and after "in a grade".

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8102. Regular Navy: retired flag officers on active duty

Except in time of war or national emergency, not more than ten retired flag officers of the Regular Navy may be on active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 312, §5450; Pub. L. 96–513, title V, §503(21), Dec. 12, 1980, 94 Stat. 2912; renumbered §8102, Pub. L. 115–232, div. A, title VIII, §807(b)(1), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5450 | 34 U.S.C. 211e. | Aug. 7, 1947, ch. 512, §430, 61 Stat. 881; Sept. 3, 1954, ch. 1257, §702(a), 68 Stat. 1188. |

In subsection (a) the words "In addition * * * to the number of rear admirals and above authorized by titles I, II, and III and by section 413 of this Act, a total of" are omitted as surplusage. Titles I, II, and III, and section 413 of the Officer Personnel Act of 1947 prescribe the number of officers on the lineal list who may have the grade of rear admiral. Retired officers are excluded from the lineal lists and are not counted for any purpose in the computations under the cited titles and section. The source text does not affect the authorized numbers so computed; it sets up an authorized number for a category of officers not previously covered.

The limitation on reserve flag officers on active duty contained in section 430 of the Officer Personnel Act of 1947 was repealed by section 702(a) of the Reserve Officer Personnel Act of 1954.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5450 of this title as this section.

**1980**—Pub. L. 96–513 struck out designation "(a)" before "Except in time of war or national emergency", substituted "flag officers of the Regular Navy" for "officers of the Regular Navy in the grade of rear admiral and above", and struck out subsec. (b) which provided that this section did not apply to fleet admirals or to retired officers ordered to temporary duty to serve on boards convened under chapter 543 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8103. Suspension: preceding sections

The President, during a war or national emergency, may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond September 30 of the fiscal year following that in which the war or national emergency ends.

(Aug. 10, 1956, ch. 1041, 70A Stat. 312, §5451; Pub. L. 94–273, §2(3), Apr. 21, 1976, 90 Stat. 375; Pub. L. 96–513, title V, §503(22), Dec. 12, 1980, 94 Stat. 2913; Pub. L. 102–190, div. A, title X, §1061(a)(21), Dec. 5, 1991, 105 Stat. 1473; renumbered §8103, Pub. L. 115–232, div. A, title VIII, §807(b)(1), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5451(a) | 34 U.S.C. 3e. | Aug. 7, 1947, ch. 512, §426(c); added June 30, 1951, ch. 196, §1(h), 65 Stat. 109. |
| 5451(b) | 34 U.S.C. 5a–1. | May 5, 1954, ch. 180, §403 68 Stat. 70. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5451 of this title as this section.

**1991**—Pub. L. 102–190 substituted "The President" for "(a) Except as provided in subsection (b), the President" and struck out subsec. (b) which authorized President to suspend provisions of sections 5442, 5443, and 5444 of this title only during war or national emergency declared by Congress or President after May 5, 1954.

**1980**—Subsec. (b). Pub. L. 96–513 struck out "relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps" after "and 5444 of this title".

**1976**—Subsec. (a). Pub. L. 94–273 substituted "September" for "June".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

# CHAPTER 812—GRADE AND RANK OF OFFICERS

Sec.
8111. Navy: grades above chief warrant officer, W–5.
8112. Marine Corps: grades above chief warrant officer, W–5.

8113. Navy and Marine Corps: warrant officer grades.
8118. Rank of line and staff corps officers of the Navy and officers of the Marine Corps.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 535 of this title as this chapter and items 5501 to 5503 and 5508 as 8111 to 8113 and 8118, respectively.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(d)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5506 "Naval Reserve and Marine Corps Reserve; officers: precedence".

**1991**—Pub. L. 102–190, div. A, title XI, §1131(8)(B), Dec. 5, 1991, 105 Stat. 1506, substituted "W–5" for "W–4" in items 5501 and 5502.

**1980**—Pub. L. 96–513, title V, §§503(25), 513(10), Dec. 12, 1980, 94 Stat. 2913, 2932, struck out items 5504 "Lineal lists: maintenance", 5505 "Reserve officers: change of lineal position", and 5507 "Rear admirals: determination of upper half".

**1958**—Pub. L. 85–861, §1(114)(B), Sept. 2, 1958, 72 Stat. 1493, added item 5506.

## §8111. Navy: grades above chief warrant officer, W–5

The commissioned grades in the Navy above the grade of chief warrant officer, W–5, are the following:

(1) Admiral.
(2) Vice admiral.
(3) Rear admiral.
(4) Rear admiral (lower half).
(5) Captain.
(6) Commander.
(7) Lieutenant commander.
(8) Lieutenant.
(9) Lieutenant (junior grade).
(10) Ensign.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314, §5501; Pub. L. 96–513, title III, §301, Dec. 12, 1980, 94 Stat. 2887; Pub. L. 97–86, title IV, §405(a), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, §514(a)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; renumbered §8111, Pub. L. 115–232, div. A, title VIII, §807(b)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5501(a) | 34 U.S.C. 1. | R.S. 1362; Mar. 3, 1883, ch. 97, §1 (2d par. on p. 472, as applicable to masters and junior grade lieutenants), 22 Stat. 472; Mar. 3, 1899, ch. 413, §7 (1st sentence, less proviso), 30 Stat. 1005. |
| | 34 U.S.C. 211d(a) (as applicable to grades of admiral and vice admiral). | Aug. 7, 1947, ch. 512, §413(a) (as applicable to grades of admiral and vice admiral), 61 Stat. 875. |
| | 34 U.S.C. 10a (1st sentence). | Aug. 7, 1947, ch. 512, §405 (1st sentence), 61 Stat. 872. |
| 5501(b) | 34 U.S.C. 350e (1st sentence). | July 24, 1941, ch. 320, §6 (1st sentence), 55 Stat. 604; Apr. 9, 1943, ch. 38, §1, 57 Stat. 59; Oct. 12, 1949, |

| | | |
|---|---|---|
| | | ch. 681, §531(b)(28), 63 Stat. 839. |

The Act of July 24, 1941, ch. 320, as amended (34 U.S.C. 350 et seq.), and §413 of the Officer Personnel Act of 1947 (34 U.S.C. 211d) provide for the temporary appointment of officers to grades up to and including admiral. Staff corps officers, women officers, and reserve officers are not excluded from the operation of the provisions of the 1941 Act. Since authority exists for the appointment of officers of any category in any grade in the Navy, the existence of every grade in the several staff corps and in the Naval Reserve is recognized, and the restriction of these grades to the active list of the line is removed.

The grade of Fleet Admiral is omitted inasmuch as the law authorizing appointments in this grade was limited.

In subsection (a) the words "above the grade of chief warrant officer, W–4" are inserted for clarity.

Subsection (c) is added to make clear the fact that an officer serving in a position, such as chief of bureau, which entitles him to the rank, pay, and allowances of a rear admiral of the upper half ranks rear admirals receiving the pay and allowances of the lower half even though he has not been appointed to the grade of rear admiral or, if so appointed, is in the lower half. A statement of this fact is necessary to give full effect to 5 U.S.C. 441 which provides that chiefs of bureaus of the Navy Department and the Judge Advocate General of the Navy, while so serving, shall have "corresponding rank and shall receive the same pay and allowances * * * as * * * chiefs of bureaus of the War Department and the Judge Advocate General of the Army". The rank so conferred, corresponding to the Army rank of major general, is rear admiral of the upper half. In §§5133 and 5148 of this title, based on 5 U.S.C. 441, the reference to the Army rank is eliminated and the corresponding Navy rank is substituted. The substitution is made because, as stated in the revision notes on those sections, the creation of the Department of the Air Force and the reorganization of the Department of the Army make it impracticable to continue to relate Navy Department positions to former War Department positions. This treatment of 5 U.S.C. 441 does not, however, completely cover the question of the rank, in relation to other officers in the Navy and other services, of a captain or rear admiral of the lower half who by virtue of his position becomes entitled to the rank, pay, and allowances of a rear admiral of the upper half. Under 34 U.S.C. 241a officers holding *commissions* in the grade of rear admiral rank with major generals if entitled to the pay of the upper half and with brigadier generals if entitled to the pay of the lower half. Under 5 U.S.C. 441 bureau chiefs and the Judge Advocate General rank with major generals regardless of the grade in which they hold commissions and, therefore, also rank all officers of the Navy who are ranked by major generals. This fact, obscured by the substitution of Navy rank in the codification of 5 U.S.C. 441, is set out in subsection (c).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5501 of this title as this section.

**1991**—Pub. L. 102–190 substituted "W–5" for "W–4" in section catchline and text.

**1985**—Par. (4). Pub. L. 99–145 substituted "Rear admiral (lower half)" for "Commodore".

**1981**—Par. (4). Pub. L. 97–86 substituted "Commodore" for "Commodore admiral".

**1980**—Pub. L. 96–513 struck out subsec. (a) designation from provisions formerly classified as such and, as so redesignated, inserted commodore admiral in the listing of commissioned grades above the grade of chief warrant officer, W–4 and struck out former subsecs. (b) and (c) which related to the grades of commodore and rear admiral, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**TRANSITION PROVISIONS OF DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

For transition provisions relating to the new commodore admiral grade established in the Navy, see section 614 of Pub. L. 96–513, set out as a note under section 611 of this title.

## §8112. Marine Corps: grades above chief warrant officer, W–5

The commissioned grades in the Marine Corps above the grade of chief warrant officer, W–5, are:

(1) General.
(2) Lieutenant general.
(3) Major general.
(4) Brigadier general.
(5) Colonel.
(6) Lieutenant colonel.
(7) Major.
(8) Captain.
(9) First lieutenant.
(10) Second lieutenant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314, §5502; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; renumbered §8112, Pub. L. 115–232, div. A, title VIII, §807(b)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5502 | 34 U.S.C. 651. | R.S. 1603. |
| | 34 U.S.C. 629. | July 1, 1918, ch. 114, 40 Stat. 715 (1st par.). |
| | 34 U.S.C. 623b(a) (as applicable to grade of lieutenant general). | Aug. 7, 1947, ch. 512, §415(a) (as applicable to grade of lieutenant general), 61 Stat. 876. |
| | 34 U.S.C. 622 (as applicable to grade of general). | Jan. 20, 1942, ch. 10, §1, 56 Stat. 10; Aug. 7, 1947, ch. 512, §429 (as applicable to grade of general), 61 Stat. 880. |

R.S. 1603 provides that officers of the Marine Corps shall be on the same footing as officers of similar grades in the Army. Recognition is made of the grades existing in the Army for the purpose of listing the grades authorized for the Marine Corps.

The provisions of the Act of July 1, 1918, ch. 114, 40 Stat. 715 (1st par.), pertaining to the appointment of a major general in addition to the Major General Commandant and a temporary major general were superseded by the Act of May 29, 1934, ch. 367, §2, 48 Stat. 812, which in turn was repealed by §436(e) of the Officer Personnel Act of 1947, 61 Stat. 882.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5502 of this title as this section.

**1991**—Pub. L. 102–190 substituted "W–5" for "W–4" in section catchline and text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

## §8113. Navy and Marine Corps: warrant officer grades

The warrant officer grades in the Navy and the Marine Corps are:

(1) Chief warrant officer, W–5.
(2) Chief warrant officer, W–4.
(3) Chief warrant officer, W–3.
(4) Chief warrant officer, W–2.
(5) Warrant officer, W–1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314, §5503; Pub. L. 102–190, div. A, title XI, §1131(9), Dec. 5, 1991, 105 Stat. 1506; renumbered §8113, Pub. L. 115–232, div. A, title VIII, §807(b)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5503 | 34 U.S.C. 135a(a) (less last sentence). | May 29, 1954, ch. 249, §3(a) (less 3d and last sentence), 68 Stat. 157. |

This section is included in subtitle C for completeness and clarity. In duplicates, in part, §§555 and 597 of this title, which cover, respectively, the "permanent regular warrant officer grades" and the "permanent reserve warrant officer grades" in the armed forces. The concept that regular grades differ from reserve grades and that a grade held under a permanent appointment differs from the grade of the same name held under a temporary appointment is foreign to the naval service. In the Navy and the Marine Corps, all officers serving, for example, in the grade of chief warrant officer, W–4, are considered to be serving in the same grade regardless of whether they are Regulars or Reserves and regardless of whether they are temporary or permanent officers holding temporary or permanent appointments in that grade. This section, therefore, lists the four warrant officer grades as applicable to all warrant officers of the naval service.

Reference to the pay grades corresponding to the military grades is omitted as unnecessary for the purpose of this section.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5503 of this title as this section.
**1991**—Pub. L. 102–190 added par. (1) and redesignated former pars. (1) to (4) as (2) to (5), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

## §8118. Rank of line and staff corps officers of the Navy and officers of the Marine Corps

Except for an officer entitled to a rank higher than his grade, line and staff corps officers of the Navy serving in the same grade and officers of the Marine Corps serving in the corresponding grade rank among themselves according to their respective dates of rank in grade whether or not they are on an active-duty list.

(Aug. 10, 1956, ch. 1041, 70A Stat. 317, §5508; Pub. L. 90–179, §4, Dec. 8, 1967, 81 Stat. 547; Pub. L. 96–513, title V, §503(27), Dec. 12, 1980, 94 Stat. 2913; renumbered §8118, Pub. L. 115–232, div. A, title VIII, §807(b)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5508 | 34 U.S.C. 306f(d)(2). | Aug. 7, 1947, ch. 512, §311(d)(2), 61 Stat. 852; Aug. 5, 1949, ch. 402, §1(c), 63 Stat. 568. |

The word "rank" is substituted for the words "take precedence" throughout the section for uniformity of expression.

In subsection (a) the first sentence is broadened to include officers of the Marine Corps and officers not on a lineal list. Inclusion of the Marine Corps is possible because the sentence reflects the rule referred to by the Attorney General (25 Op. Atty. Gen. 517) as "an unwritten law of the Army and Navy" as to relative rank between officers in different services. Officers not on a lineal list may properly be included since the statement is consistent with the provisions for assigning lineal position to such officers when they become entitled to be placed on a list.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5508 of this title as this section.

**1980**—Pub. L. 96–513 struck out designation "(a)" before "Except for an officer", substituted "an active-duty list" for "a lineal list", struck out sentence which had provided that a staff corps officer with the same date of rank as his running mate ranked above all line and staff corps officers junior to his running mate, and struck out subsec. (b) which had provided for a hierarchy of 9 categories of officers of the Navy to be used in ranking officers of the Navy on active duty serving in the same grade and having the same date of rank in that grade.

**1967**—Subsec. (b). Pub. L. 90–179 added par. (6) and renumbered former pars. (6), (7), and (8) as pars. (7), (8), and (9), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

# CHAPTER 813—ENLISTMENTS

Sec.
8120. Expiration: rights of member.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838 redesignated chapter 537 of this title as this chapter and item 5540 as 8120.

**1968**—Pub. L. 90–235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756, struck out item 5531 "Recruiting campaigns: use of advertising agencies", item 5532 "Prohibited classes", item 5533 "Minors", item 5534 "Term: grade", item 5535 "Evidence of age required for certain enlistments of minors", item 5537 "Extension: during disability incident to service", item 5538 "Extension: during war or national emergency", and item 5539 "Extension: voluntary, period and benefits."

**1958**—Pub. L. 85–861, §1(115), Sept. 2, 1958, 72 Stat. 1493, struck out item 5536 "Extension: time lost through misconduct or unauthorized absence".

## §8120. Expiration: rights of member

(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States.

(b) Each member retained under this section—

(1) shall be discharged not later than 30 days after his arrival in the United States; and

(2) except in time of war is entitled to an increase in basic pay of 25 percent.

(c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 320, §5540; renumbered §8120, Pub. L. 115–232, div. A, title VIII, §807(b)(3), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5540 | 34 U.S.C. 201. | R.S. 1422; Mar. 3, 1875, ch. 155, 18 Stat. 484. |
| | 34 U.S.C. 201a. | Aug. 18, 1941, ch. 364, §4, 55 Stat. 630. |
| | 34 U.S.C. 201b. | Dec. 13, 1941, ch. 570, §2, 55 Stat. 799. |

In subsection (a) the words "the senior officer present afloat" are substituted for the words "the commanding officer of any fleet, squadron, or vessel acting singly" to modernize the terminology. At the time of the enactment of the Revised Statutes the word "squadron" meant an organization of any number of vessels more than one, so that all cases were covered by R.S. 1422. The concept of "senior officer present afloat", today, covers as nearly as possible the current equivalent of the concept in the original section. The words "in foreign waters" are inserted to conform to the interpretation of the Supreme Court in *Wilkes* v. *Dinsman*, 7 How. 89 (1849). The words "on service" are omitted, as they have no current ascertainable meaning. The words "by Government or other transportation" are substituted for the words "in some public or other vessel", since this provision is interpreted as directing transportation by either ship or aircraft. The words "to the United States" are substituted for the words "to an Atlantic or to a Pacific port of the United States, as their enlistment may have occurred on either the Atlantic or Pacific coast, of the United States" because aircraft

now land at inland airports as well as coastal airports and the duty to return an enlisted member to the United States under this provision is considered complete upon the member's arrival in the United States. The extensive transportation system in the United States presently obviates the necessity of returning a member to a particular area. Furthermore, under 37 U.S.C. 253, the Government bears the cost of transporting the discharged member to his home or to the place from which he was called to active duty. The words "enlisted member of the naval service" are substituted for the words "all petty officers and persons of inferior ratings" in accordance with present terminology. Members of the Marine Corps are included because of interpretations of the Comptroller General, in construing the language of the statute. (14 Comp. Gen. 807, 808, May 1, 1935.) The reference to persons enlisted without the limits of the United States is omitted as unnecessary, since return to the United States is optional with the member and the basic rule applies irrespective of place of enlistment. The language requiring that persons who are detained or sent home be subject to the laws and regulations for the Government of the Navy is omitted as unnecessary in view of the Uniform Code of Military Justice. The provision referring to reentry to serve until the vessel returns to the United States is omitted because no law authorizes entry or reentry into the service for this restricted purpose.

In subsection (b) the words "an increase in basic pay of 25 percent" are substituted for the words "an addition of one-fourth of their former pay" in conformity with the Career Compensation Act of 1949. 34 U.S.C. 201b permanently suspended the detention pay increase in time of war and this effect is expressed in subsection (b)(2) by the words "except in time of war". 34 U.S.C. 201a, declaring that the pay addition authorized by this section does not apply to enlistments extended under other provisions of law, is omitted as unnecessary, since the increased pay provision is specifically limited to detentions under this section.

In subsection (c) the term "enlistment contract" is substituted for the term "shipping-articles" to conform to present terminology.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5540 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 815—ORIGINAL APPOINTMENTS

Sec.
8132. Regular Navy: transfers, line and staff corps.
8135. Regular Marine Corps: order of filling vacancies in grade of second lieutenant.
[8137. Repealed.]
8138. Regular Marine Corps: judge advocates.
8139. Regular Navy and Regular Marine Corps: officers designated for limited duty.
8146. Navy and Marine Corps: temporary appointments of officers designated for limited duty.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title V, §509(b), Jan. 1, 2021, 134 Stat. 3586, struck out item 8137 "Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 539 of this title as this chapter and items 5582, 5585, 5587, 5587a, 5589, and 5596 as 8132, 8135, 8137, 8138, 8139, and 8146, respectively.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(b)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5600 "Naval Reserve and Marine Corps Reserve: service credit upon original appointment".

**1991**—Pub. L. 102–190, div. A, title XI, §1113(d)(2)(B), Dec. 5, 1991, 105 Stat. 1502, struck out "warrant officers and" before "officers designated" in item 5596.

**1981**—Pub. L. 97–22, §10(b)(7), July 10, 1981, 95 Stat. 137, struck out item 5573a "Regular Navy and Regular Marine Corps: from reserve and temporary officers" and in item 5596 substituted "Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty" for "Navy and Marine Corps: temporary appointments".

**1980**—Pub. L. 96–513, title V, §503(28), Dec. 12, 1980, 94 Stat. 2913, struck out items 5571 "Regular Navy and Regular Marine Corps: citizenship of officers", 5572 "Regular Navy and Regular Marine Corps: appointing power" 5573 "Regular Navy and Regular Marine Crops: from graduates of the Naval Academy", 5574 "Regular Navy: Medical Corps", 5575 "Regular Navy: Supply Corps," 5576 "Regular Navy: Chaplain Corps", 5577 "Regular Navy: Civil Engineer Corps", 5578 "Regular Navy: Dental Corps", 5578a "Regular Navy: Judge Advocate General's Corps", 5579 "Regular Navy: Medical Service Corps", 5580 "Regular Navy: Nurse Corps", 5581 "Naval Reserve: Medical Corps, Dental Corps, Medical Service Corps: women", 5583 "Regular Marine Corps: from non-commissioned officers", 5584 "Regular Marine Corps: from former officers", 5586 "Regular Navy and Regular Marine Corps: from warrant officers and enlisted members", 5590 "Regular Navy and Regular Marine Corps: women", 5591 "Regular Navy: Supply Corps: maximum number of ensigns appointed annually", 5592 "Regular Navy: Civil Engineer Corps: maximum number of ensigns appointed annually", 5593 "Regular Navy: Medical Service Corps; maximum number of ensigns appointed annually", 5594 "Regular Navy: Nurse Corps: maximum number of ensigns appointed annually", 5595 "Regular Marine Corps: restriction on appointments of former midshipmen and cadets", 5597 "Navy and Marine Corps: temporary appointments in time of war or national emergency", 5598 "Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency", 5599 "Medical Corps: acting appointments for temporary service", and 5601 "Naval Reserve: Nurse Corps: men".

**1967**—Pub. L. 90–179, §5(5), Dec. 8, 1967, 81 Stat. 548, added items 5578a and 5587a.

**1961**—Pub. L. 87–123, §5(9), Aug. 3, 1961, 75 Stat. 265, struck out item 5588 "Regular Marine Corps: officers designated for supply duty".

**1958**—Pub. L. 85–861, §1(118)(B), (121)(B), Sept. 2, 1958, 72 Stat. 1493, 1495, added items 5573a, 5600, and 5601.

## §8132. Regular Navy: transfers, line and staff corps

(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324, §5582; Pub. L. 96–513, title III, §373(d), Dec. 12, 1980, 94 Stat. 2903; renumbered §8132, Pub. L. 115–232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5582(a) | 34 U.S.C. 14 (less statement of appointing authority). | July 22, 1935, ch. 402, §7 (less statement of appointing authority), 49 Stat. 490. |
| 5582(b) | 34 U.S.C. 13 (less statement of appointing authority). | July 22, 1935, ch. 402, §6 (less statement of appointing authority), 49 Stat. 490. |

The words "active list" are inserted so that this section will apply only to officers of the Regular Navy holding permanent appointments in grades above commissioned warrant officer, as this was the intent of the source statute. The words "same grade" are substituted for the words "corresponding rank and grade" in subsection (a) and for the words "corresponding grade" in subsection (b), since, under §405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a), the grades in the staff corps are the same as those in the line. The words "transfer and" and "transferred and" are omitted as surplusage.

In subsection (a) the words "and precedence in the line" are omitted as surplusage.

In subsection (b) reference to the Construction Corps is omitted because that corps was abolished by the Act of June 25, 1940, ch. 420, §1, 54 Stat. 528.

The word "male" is inserted in both subsections to limit their application to men. Authority to appoint women is covered in §5590 of this title.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5582 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "A regular officer" for "Any male officer on the active list" and "in the line" for "to the active list in the line" and deleted provision assigning an officer so appointed the lineal position he would have held had he originally been appointed in and had he remained in the line and provision that such an officer was to be considered an additional number in each grade in which he served.

Subsec. (b). Pub. L. 96–513 substituted "A regular officer" for "Any male officer on the active list" and "the same grade in a staff corps under regulations prescribed by the Secretary of Defense" for "the active list of the Navy in the Supply Corps or the Civil Engineer Corps, in the same grade, without regard to his age."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8135. Regular Marine Corps: order of filling vacancies in grade of second lieutenant

Vacancies on the active-duty list of the Marine Corps in the grade of second lieutenant shall be filled, so far as practicable, first, from members of the graduating class of the Naval Academy; second, from meritorious noncommissioned officers of the Regular Marine Corps; and third, from other persons.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324, §5585; Pub. L. 96–513, title V, §503(29), Dec. 12, 1980, 94 Stat. 2913; renumbered §8135, Pub. L. 115–232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5585 | 34 U.S.C. 634. | Mar. 3, 1899, ch. 413, §19, 30 Stat. 1008; Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (1st proviso in 5th par., 48th word to end of proviso). |

The words "from other persons" are substituted for the words "from civil life" because 34 U.S.C. 1020e authorizes the appointment of graduates of the NROTC program as well as of other persons in civil life. Such graduates are, properly, persons in "civil life", since they are members of the Naval Reserve who are not on active duty. However, since the status of members of the NROTC is not always clear, the statement of the class is expanded.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5585 of this title as this section.

**1980**—Pub. L. 96–513 substituted "active-duty list" for "active list".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## [§8137. Repealed. Pub. L. 116–283, div. A, title V, §509(a), Jan. 1, 2021, 134 Stat. 3586]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 325, §5587; Pub. L. 90–179, §5(2), Dec. 8, 1967, 81 Stat. 547; Pub. L. 90–386, §1(5), July 5, 1968, 82 Stat. 293; Pub. L. 96–513, title III, §324, Dec. 12, 1980, 94 Stat. 2893; renumbered §8137, Pub. L. 115–232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834, related to regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty.

## §8138. Regular Marine Corps: judge advocates

With the approval of the Secretary of the Navy, any regular officer on the active-duty list of the Marine Corps who is qualified under section 827(b) of this title may, upon his application, be designated as a judge advocate.

(Added Pub. L. 90–179, §5(3), Dec. 8, 1967, 81 Stat. 548, §5587a; amended Pub. L. 96–513, title V, §503(30), Dec. 12, 1980, 94 Stat. 2913; renumbered §8138, Pub. L. 115–232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5587a of this title as this section.

**1980**—Pub. L. 96–513 struck out designation "(a)" before "With the approval of the Secretary", substituted "active-duty list" for "active list", and struck out subsec. (b) which provided that, for the purposes of determining lineal position, permanent grade, seniority in permanent grade, and eligibility for promotion, a person appointed to the active list of the Marine Corps with a view to designation as a judge advocate could be credited with the amount of service prescribed by the Secretary of the Navy, but not more than three years.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a

note under section 101 of this title.

## §8139. Regular Navy and Regular Marine Corps: officers designated for limited duty

(a) Original appointments as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 8090(b) of this title and designated by the Secretary for the purposes of this section may be made from—

(1) warrant officers;

(2) chief petty officers; and

(3) first-class petty officers;

in the Regular Navy, for the performance of duty in the technical fields indicated by their warrants or ratings.

(b) Original appointments as regular officers of the Marine Corps in a grade below major may be made from—

(1) warrant officers;

(2) master sergeants; and

(3) technical sergeants;

in the Regular Marine Corps, for the performance of duty in the technical fields in which they are proficient.

(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

(2) This subsection applies to an officer of the Navy and Marine Corps who—

(A) is on the active-duty list;

(B) holds a permanent enlisted or warrant officer grade;

(C) is designated for limited duty under subsection (a) of section 8146 of this title; and

(D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 8146 of this title.

(d) To be eligible for an appointment under this section a member must have the qualifications specified in section 532(a) of this title and have completed at least 8 years of active naval service, excluding active duty for training in a reserve component.

(e) Each officer appointed under this section is known as an officer designated for limited duty. He may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

(f) Any officer designated for limited duty, upon his application and upon determination by the Secretary of the Navy that he is qualified, may—

(1) if he is in the line of the Navy, be designated for engineering duty, aeronautical engineering duty, or special duty, or be assigned to unrestricted performance of duty;

(2) if he is in a staff corps of the Navy, be assigned to unrestricted performance of duty in that corps; or

(3) if he is in the Marine Corps, be assigned to unrestricted performance of duty.

When an officer is so designated or assigned, his status as an officer designated for limited duty terminates.

(g) The Secretary shall prescribe regulations for the appointment, designation, and assignment of officers under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 326, §5589; Pub. L. 87–123, §5(10), Aug. 3, 1961, 75 Stat. 265;

Pub. L. 96–513, title III, §325, Dec. 12, 1980, 94 Stat. 2893; Pub. L. 99–433, title V, §514(c)(3), Oct. 1, 1986, 100 Stat. 1055; Pub. L. 103–337, div. A, title V, §502, Oct. 5, 1994, 108 Stat. 2748; renumbered §8139 and amended Pub. L. 115–232, div. A, title V, §512, title VIII, §§807(b)(4), 809(a), Aug. 13, 2018, 132 Stat. 1751, 1834, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5589 | 34 U.S.C. 211c ((a) (less statement of appointing authority), and less (e)–(h)). | Aug. 7, 1947, ch. 512, §404 ((a) (less statement of appointing authority), and less (e)–(h)), 61 Stat. 870; Aug. 5, 1949, ch. 402, §1(f), 63 Stat. 568. |

In subsections (a) and (b) the authority to make appointments under this section is confined to appointments in the grades of ensign and second lieutenant, since the authority in the source statute to make appointments in higher grades was limited and has been completely executed. The words "commissioned warrant officers" are omitted as surplusage, since the term "warrant officers" includes commissioned warrant officers.

The word "male" is inserted to limit the application of the section to men. Authority to appoint women is covered in §5590 of this title.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(4), renumbered section 5589 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8090(b)" for "section 5150(b)" in introductory provisions.

Subsec. (c)(2)(C), (D). Pub. L. 115–232, §809(a), substituted "section 8146" for "section 5596".

Subsec. (d). Pub. L. 115–232, §512, substituted "8 years" for "10 years".

**1994**—Subsecs. (c) to (g). Pub. L. 103–337 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

**1986**—Subsec. (a). Pub. L. 99–433 substituted "section 5150(b)" for "section 5155(b)".

**1980**—Subsec. (a). Pub. L. 96–513, §325(1), substituted "as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 5155(b) of this title and designated by the Secretary for the purposes of this section may be made from" for "to the active list of the Navy in the grade of ensign in the line, in the Supply Corps, and in the Civil Engineer Corps may be made from male".

Subsec. (b). Pub. L. 96–513, §325(2), substituted "as regular officers of the Marine Corps in a grade below major may be made from" for "to the active list of the Marine Corps in the grade of second lieutenant may be made from male".

Subsec. (c). Pub. L. 96–513, §325(3), inserted "the qualifications specified in section 532(a) of this title and have".

**1961**—Subsec. (e)(3). Pub. L. 87–123 struck out "be designated for supply duty or" before "be assigned to".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by sections 807(b)(4) and 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions relating to Regular Navy or Regular Marine Corps officers designated as limited-duty

officers under this section prior to September 15, 1981, see section 616 of Pub. L. 96–513, set out as a note under section 611 of this title.

## §8146. Navy and Marine Corps: temporary appointments of officers designated for limited duty

(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 8139 of this title. Such appointments shall be made by warrant if in the grade of warrant officer, W–1, and by commission if in a higher grade.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(c) The following members of the naval service are ineligible for temporary appointments under this section:

(1) Retired members.

(2) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty for training.

(3) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Navy Reserve or the Marine Corps Reserve.

(4) Members of the Navy Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(d) Officers designated for limited duty under subsection (a) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

(e) The Secretary of the Navy may terminate any appointment made under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 328, §5596; Pub. L. 96–513, title III, §326, Dec. 12, 1980, 94 Stat. 2894; Pub. L. 102–190, div. A, title XI, §1113(c), (d)(2)(A), Dec. 5, 1991, 105 Stat. 1502; Pub. L. 109–163, div. A, title V, §515(b)(1)(G), Jan. 6, 2006, 119 Stat. 3233; renumbered §8146 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(4), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5596(a) | 34 U.S.C. 3d. | Aug. 7, 1947, ch. 512, §301, 61 Stat. 829; June 30, 1951, ch. 196, §1(b), 65 Stat. 108. |
| 5596(b) | 34 U.S.C. 3c(c). | Aug. 7, 1947, ch. 512, §302(c), 61 Stat. 830. |
| 5596(c) | 34 U.S.C. 3c(h) (less 14th through 53d words). | Aug. 7, 1947, ch. 512, §302(h) (less 14th through 53d words), 61 Stat. 830. |
| 5596(d) | 34 U.S.C. 135a(a) (last sentence | May 29, 1954, ch. 249, §3(a) (3d |

| | | |
|---|---|---|
| | as applicable to temporary appointments). | sentence as applicable to temporary appointments), 68 Stat. 158. |
| | 34 U.S.C. 135c(a) (last sentence as applicable to temporary appointments). | May 29, 1954, ch. 249, §5(a) (last sentence as applicable to temporary appointments), 68 Stat. 159. |
| | 34 U.S.C. 330 (last sentence as applicable to temporary promotions). | May 29, 1954, ch. 249, §7 (last sentence as applicable to temporary promotions), 68 Stat. 159. |
| 5596(e) | 34 U.S.C. 3c(g). | Aug. 7, 1947, ch. 512, §302(g), 61 Stat. 830. |
| | 34 U.S.C. 626–1(a). | Aug. 7, 1947, ch. 512, §314(a), 61 Stat.863. |
| 5596(f) | 34 U.S.C. 3c(e). | Aug. 7, 1947, ch. 512, §302(e), 61 Stat. 830. |
| | 34 U.S.C. 135a(b). | May 29, 1954, ch. 249, §3(b), 68 Stat. 158. |
| 5596(g) | 34 U.S.C. 105j. | June 12, 1948, ch. 449, §215, 62 Stat. 370. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, §213(a), 62 Stat. 369. |
| | 34 U.S.C. 3c(a) (as applicable to meaning of word "officers"). | Aug. 7, 1947, ch. 512, §302(a) (as applicable to meaning of word "officers"), 61 Stat. 829. |
| | 34 U.S.C. 3c(h) (14th through 53d words). | Aug. 7, 1947, ch. 512, §302(h) (14th through 53d words), 61 Stat. 830. |
| 5596(h) | 34 U.S.C. 306h (as applicable to temporary appointments under 34 U.S.C. 3c(c)). | Aug. 7, 1947, ch. 512, §316(d) (as applicable to temporary appointments under §302(c)), 61 Stat. 867. |

Since appointments under this section are either made, or not made, in the discretion of the President, the proviso of 34 U.S.C. 3d, authorizing the President to suspend the operation of this section with respect to lieutenants (junior grade) and lieutenants in the Navy and first lieutenants and captains in the Marine Corps, is omitted from subsection (a) as unnecessary.

In subsections (b) and (c) the words "and above" have been executed by naming the grades they imply, to wit, chief petty officers and master and technical sergeants. In the statement of the grades to which appointments may be made, the words "including the grades of warrant officer and commissioned warrant officer" are omitted as surplusage. In the list of persons who may be appointed, reference to commissioned warrant officers is omitted because they are included within the term "warrant officers".

In subsection (f) the words "do not change the * * * status" are substituted for the words "appointments * * * shall not be vacated." The word "advancement", the words "in accordance with laws relating to the Regular Navy or Marine Corps", and the words "privileges and gratuities" are omitted as surplusage. The first proviso is omitted as unnecessary in view of the Career Compensation Act of 1949.

In subsection (g)(2) that portion of 34 U.S.C. 3c(a) which excludes officers on the retired list from the definition of the word "officers" is treated as precluding the appointment of such officers under this section. There is no express statement of law making retired enlisted members ineligible for such appointments; however, the context indicates this to be the intent of Congress. In subsection (g)(3) that portion of 34 U.S.C. 3c(a) which excludes officers on active duty for training from the definition of the word "officers" is treated as precluding the appointment of persons on training duty under this section. While there is no statement of law making enlisted members of the Naval Reserve and the Marine Corps Reserve on active duty for training ineligible for appointments under this section, the context indicates this to be the intent of Congress and clause (3) is thus written. The exception as to the Fleet Reserve is omitted as unnecessary inasmuch as, pursuant to the Armed Forces Reserve Act of 1952, the Fleet Reserve is no longer a part of the Naval Reserve but is a separate and distinct component of the Navy.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(4), renumbered section 5596 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8139" for "section 5589".

**2006**—Subsec. (c)(2) to (4). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" wherever appearing.

**1991**—Pub. L. 102–190, §1113(d)(2)(A), struck out "warrant officers and" before "officers designated" in section catchline.

Subsec. (a). Pub. L. 102–190, §1113(c)(1), reorganized subsec. (a), striking out par. (1) relating to warrant officer grades, and striking out par. (2) designation.

Subsec. (d). Pub. L. 102–190, §1113(c)(2), substituted "subsection (a)" for "subsection (a)(2)".

**1980**—Subsec. (a). Pub. L. 96–513 substituted provisions authorizing the Secretary of the Navy to make temporary appointments in warrant officer grades and of certain officers designated for limited duty for provisions authorizing such appointments only when the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeded the number of male officers on the active list in the line of the Navy.

Subsec. (b). Pub. L. 96–513 redesignated subsec. (f) as (b) and struck out former subsec. (b) which described persons eligible for temporary appointments in the Regular Navy, except in the Nurse Corps, in grades not above lieutenant and in the Regular Marine Corps in grades not above captain.

Subsec. (c). Pub. L. 96–513 redesignated subsec. (g) as (c), struck out provision restricting temporary appointments to male members of the naval service, and struck out former subsec. (c) which described persons eligible for temporary appointments in the Naval Reserve, except in the Nurse Corps, in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain.

Subsec. (d). Pub. L. 96–513 substituted provisions authorizing the Secretary of the Navy to temporarily appoint officers designated for limited duty under subsec. (a)(2) in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps for provisions authorizing the Secretary to make temporary appointments in warrant officer grades.

Subsec. (e). Pub. L. 96–513 redesignated subsec. (h) as (e), substituted "Secretary of the Navy" for "President", and struck out former subsec. (e) which provided that the number of persons appointed in the Regular Navy under this section in grades above chief warrant officer, W–4, could not exceed the difference between the actual number of officers on the active list of the Navy in the line or in the staff corps concerned and the authorized number of such officers.

Subsecs. (f) to (h). Pub. L. 96–513 redesignated subsecs. (f), (g), and (h) as (b), (c), and (e), respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

For delegation to Secretary of Defense of authority vested in President by section 3c(g) of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

# CHAPTER 821—OFFICERS IN COMMAND

Sec.
8162. Aviation commands: eligibility.
8163. Naval shipyards.
8164. Marine Corps officers: limitation on power to command.
8165. Staff corps officers: limitation on power to command.
8166. Precedence accorded commanding officers.
8167. Requirement of exemplary conduct.
8168. Consular powers: senior officer present afloat.
8169. Policy as to leave and liberty.
8171. Continuation of authority after loss of vessel or aircraft.
8172. Marine Corps organizations on vessels: authority of officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 551 of this title as this chapter and items 5942 to 5949, 5951, and 5952 as 8162 to 8169, 8171, and 8172, respectively.

**1980**—Pub. L. 96–513, title V, §503(41), Dec. 12, 1980, 94 Stat. 2914, struck out item 5955 "Retired officers withdrawn from command".

**1968**—Pub. L. 90–235, §5(a)(4), (b)(2), Jan. 2, 1968, 81 Stat. 761, struck out item 5941 "Assignment to command: regulations", item 5950 "Exemption from Supply Corps duties", item 5953 "Executive officer: assignment; authority", and item 5954 "Command: when different commands of Marine Corps and Army or Air Force join".

## §8162. Aviation commands: eligibility

(a)(1) To be eligible to command an aircraft carrier or an aircraft tender, an officer must be an officer in the line of the Navy who is designated as a naval aviator or naval flight officer and who is otherwise qualified.

(2) Paragraph (1) does not apply to command of a nuclear-powered aircraft carrier that has been inactivated for the purpose of permanent decommissioning and disposal.

(b) To be eligible to command a naval aviation school, a naval air station, or a naval aviation unit organized for flight tactical purposes, an officer must be an officer in the line of the Navy designated as a naval aviator or naval flight officer.

(c) To be eligible to command a Marine Corps aviation school, a Marine Corps air station, or a Marine Corps aviation unit organized for flight tactical purposes, an officer must be an officer of the Marine Corps designated as a naval aviator or naval flight officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5942; Pub. L. 91–198, §1(1), Feb. 26, 1970, 84 Stat. 15; Pub. L. 113–291, div. A, title V, §507, Dec. 19, 2014, 128 Stat. 3357; renumbered §8162, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5942(a) | 34 U.S.C. 735 (5th par.). | June 24, 1926, ch. 668, §3 (5th par.), 44 Stat. 767. |
| 5942(b) | 34 U.S.C. 735 (4th par.). | June 24, 1926, ch. 668, §3 (4th par.), 44 Stat. 767. |
| 5942(c) | 34 U.S.C. 735 (7th par.). | June 24, 1926, ch. 668, §3 (7th par.), 44 Stat. 767. |

The last proviso of §8 of the Act of July 12, 1921, ch. 44 (34 U.S.C. 734), was superseded by paragraphs 4, 5, and 7 of §3 of the Act of June 24, 1926, ch. 668 (34 U.S.C. 735), insofar as ships and activities mentioned in those paragraphs are concerned. The requirements of this section are stated as conditions of eligibility for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5942 of this title as this section.
**2014**—Subsec. (a). Pub. L. 113–291 designated existing provisions as par. (1) and added par. (2).
**1970**—Subsec. (a). Pub. L. 91–198 substituted "naval flight officer" for "naval aviation observer".
Subsecs. (b), (c). Pub. L. 91–198 inserted "or naval flight officer" after "naval aviator".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8163. Naval shipyards

Commanders of naval shipyards may be selected by the President from officers of the Navy not below the grade of commander.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5943; renumbered §8163, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5943 | 34 U.S.C. 501. | R.S. 1542. |

The words "Commanders of naval shipyards" are substituted for the words "commandants of the several navy yards" to conform to present terminology. The words "of the Navy" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5943 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8164. Marine Corps officers: limitation on power to command

Officers of the Marine Corps may not command vessels or naval shipyards.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5944; renumbered §8164, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5944 | 34 U.S.C. 713. | R.S. 1617. |

The words "of the United States" are omitted as surplusage. The word "command" is substituted for the words "exercise command over any".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5944 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8165. Staff corps officers: limitation on power to command

An officer in a staff corps may command only such activities as are appropriate to his corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5945; Pub. L. 90–130, §1(21), Nov. 8, 1967, 81 Stat. 380; renumbered §8165, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5945 | 34 U.S.C. 253. | R.S. 1488; Mar. 3, 1899, ch. 413, §7 (3d proviso of 2d sentence, and 3d sentence), 30 Stat. 1006; June 24, 1910, ch. 378, 36 Stat. 614 (3d proviso). |
| | 34 U.S.C. 30h (1st 23 words). | Aug. 4, 1947, ch. 459, §207 (1st 23 words), 61 Stat. 738; renumbered §206, Aug. 7, 1947, ch. 512, §433(b), 61 Stat. 881. |
| | 34 U.S.C. 43d (proviso). | Apr. 16, 1947, ch. 38, §205 (proviso), 61 Stat. 48. |

The provision of §7 of the Act of March 3, 1899 (supra), relating to relative rank is omitted as executed. The provision that the rank conferred upon staff corps officers shall not change their titles is omitted because these titles were abolished by §405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a) and the corresponding line grades substituted. The cited proviso in the Act of June 24, 1910 (34 U.S.C. 253 (proviso)) is omitted as obsolete because the officers referred to were officers of the Construction Corps which has been abolished.

The first sentence of this section is phrased so as to reflect the accepted meaning of the cited provision. 34 U.S.C. 253, as worded, if interpreted literally, could be held to prohibit, for example, the assignment of members of the Medical Service Corps, Nurse Corps, and Hospital Corps to duty under officers of the Medical Corps, despite the fact that all of these corps were established by law within the Medical Department of the Navy. The provision is not so interpreted. It is understood to restrict only the types of activities that staff corps officers may command, and not to restrict to a single corps the personnel who may be assigned to an activity commanded by a staff corps officer.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5945 of this title as this section.
**1967**—Pub. L. 90–130 struck out provision that an officer in the Nurse Corps may not exercise command.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8166. Precedence accorded commanding officers

The commanding officer of a vessel or of a naval station takes precedence over all officers under his command.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5946; renumbered §8166, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5946 | 34 U.S.C. 246. | R.S. 1468. |

The word "placed" is omitted as surplusage. The words "of war" are omitted to avoid an erroneous implication that the section does not apply to the commanding officers of noncombatant ships of the Navy. As of the date of enactment of R.S. 1468, all vessels of the Navy were "vessels of war"; the elimination of the words, therefore, preserves the purpose of the statute.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5946 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8167. Requirement of exemplary conduct

All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in

inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5947; renumbered §8167, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5947 | 34 U.S.C. 265. | May 5, 1950, ch. 169, §7(c), 64 Stat. 146. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5947 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8168. Consular powers: senior officer present afloat

In any foreign port where there is no resident consul of the United States, or on the high seas, the senior officer present afloat has the powers of a consul in relation to mariners of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5948; renumbered §8168, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5948 | 34 U.S.C. 217. | R.S. 1433. |

The words "the senior officer present afloat" are substituted for the words "The commanding officer of any fleet, squadron, or vessel acting singly". At the time of enactment of the Revised Statutes, the word "squadron" meant any number of vessels more than one. Today the concept of "senior officer present afloat" covers as nearly as possible the current equivalent of the original statute.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5948 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8169. Policy as to leave and liberty

The commanding officer of a vessel shall favor the faithful and obedient in granting leave and liberty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5949; renumbered §8169, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5949 | 34 U.S.C. 220. | R.S. 1431. |

The words "to exercise carefully a discrimination in" are omitted as surplusage. The words "leave and liberty" are substituted for "temporary leave of absence and liberty on shore" to conform to modern terminology.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5949 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8171. Continuation of authority after loss of vessel or aircraft

If the crew of any naval vessel or naval aircraft are separated from their vessel or aircraft because of its wreck, loss, or destruction, all the command and authority given to the officers of the vessel or aircraft remain in full force until the crew are discharged or reassigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5951; renumbered §8171, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5951 | 34 U.S.C. 264. | May 5, 1950, ch. 169, §7(a), 64 Stat. 145. |

The word "officers" is substituted for the word "officer" since the cited subsection of the Act of May 5, 1950, was intended to reenact the substance of Article 21 of the Articles for the Government of the Navy (R.S. 1624; 34 U.S.C. 1200), in which the word "officers" was used. The words "regularly" and "by competent authority" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5951 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8172. Marine Corps organizations on vessels: authority of officers

When an organization of the Marine Corps is embarked in any vessel, not as part of the authorized complement of the vessel, the authority of the officers of that organization is the same as though the organization were serving at a naval station. However, this section does not impair the paramount authority of the commanding officer of a vessel over the vessel and all persons embarked in it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5952; renumbered §8172, Pub. L. 115–232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5952 | 34 U.S.C. 623c. | May 5, 1950, ch. 169, §7(b), 64 Stat. 145. |

The words "organization of the Marine Corps" are substituted for "force of marines" for clarity. The words "or vessels", "and powers", "on shore", and "under his command" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5952 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 823—SPECIAL ASSIGNMENTS AND DETAILS

Sec.
8183. State Department: assignment of enlisted members as custodians of buildings in foreign countries.
8185. Nautical Schools: detail of naval officers as superintendents or instructors.
8186. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 553 of this title as this chapter and items 5983, 5985, and 5986 as 8183, 8185, and 8186, respectively.

**1980**—Pub. L. 96–513, title V, §503(42), Dec. 12, 1980, 94 Stat. 2914, struck out item 5982 "Ships and

squadrons: detail of retired officers to command".

**1970**—Pub. L. 91–482, §2C, Oct. 21, 1970, 84 Stat. 1082, struck out item 5981 "Squadrons: detail of officers on active list to command".

**1968**—Pub. L. 90–235, §4(a)(4), (b)(3), Jan. 2, 1968, 81 Stat. 759, 760, struck out item 5984 "Military institutions and colleges: details as superintendents and instructors", and item 5987 "American National Red Cross: detail of officers in the Medical Corps".

## §8183. State Department: assignment of enlisted members as custodians of buildings in foreign countries

Upon the request of the Secretary of State, the Secretary of the Navy may assign enlisted members of the naval service to serve as custodians under the supervision of the principal officer at any embassy, legation, or consulate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374, §5983; renumbered §8183, Pub. L. 115–232, div. A, title VIII, §807(b)(6), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5983 | 22 U.S.C. 957. | Aug. 13, 1946, ch. 957, §562, 60 Stat. 1011. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5983 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**DEPARTMENT OF DEFENSE SUPPORT TO SECURITY OF UNITED STATES DIPLOMATIC FACILITIES**

Pub. L. 113–291, div. A, title XII, §1269, Dec. 19, 2014, 128 Stat. 3586, provided that:

"(a) MARINE CORPS SECURITY GUARD PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, shall—

"(A) develop and implement a plan to incorporate the additional Marine Corps Security Guard personnel authorized under section 404 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 10 U.S.C. 5983 [now 8183] note) at United States embassies, consulates, and other facilities;

"(B) conduct an annual review of the Marine Corps Security Guard Program, including—

"(i) an evaluation of whether the size and composition of the Marine Corps Security Guard Program is adequate to meet global diplomatic security requirements;

"(ii) an assessment of whether Marine Corps security guards are appropriately deployed among facilities to respond to evolving security developments and potential threats to United States diplomatic facilities abroad; and

"(iii) an assessment of the mission objectives of the Marine Corps Security Guard Program and the procedural rules of engagement to protect diplomatic personnel under the Program; and

"(C) provide an assessment of the effectiveness of Department of Defense-provided Security Augmentation Units utilized during the previous year to improve security at high threat, high risk

facilities, including an evaluation of any impediments to the effectiveness of such units.

"(2) REPORTING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees an unclassified report, with a classified annex as necessary, that addresses the requirements set forth in paragraph (1).

"(b) REPORT ON 'NEW NORMAL' AND GENERAL MISSION REQUIREMENTS OF UNITED STATES AFRICA COMMAND.—

"(1) IN GENERAL.—Not later than March 1, 2015, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on what changes, if any, have been made to the force posture and structure of the United States Africa Command or adjacent combatant commands to respond, if requested, to a diplomatic facility's security requirements (so-called 'new normal' requirements) and general mission of United States Africa Command.

"(2) ELEMENTS.—The report required by paragraph (1) shall include the following elements:

"(A) A detailed description of the 'new normal' requirements in the area of responsibility of the United States Africa Command.

"(B) A description of any changes required for the United States Africa Command or adjacent combatant commands to meet the 'new normal' and general mission requirements in the United States Africa Command area of responsibility, including the gaps in capability, size, posture, agreements, basing, and enabler support of crisis response forces and associated assets to respond to requests for support from the Secretary of State.

"(C) A discussion and estimate of the military forces required to support mission requirements of the United States Africa Command and the shortfall, if any, in meeting such requirements.

"(D) A discussion and estimate of the annual intelligence, surveillance, and reconnaissance requirements of the United States Africa Command and the shortfall, if any, in meeting such requirements.

"(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

## ADDITIONAL MARINE CORPS PERSONNEL FOR THE MARINE CORPS SECURITY GUARD PROGRAM

Pub. L. 112–239, div. A, title IV, §404, Jan. 2, 2013, 126 Stat. 1708, provided that:

"(a) ADDITIONAL PERSONNEL.—

"(1) IN GENERAL.—The Secretary of Defense shall develop and implement a plan to increase the number of members of the Marine Corps assigned to the Marine Corps Embassy Security Group at Quantico, Virginia, and Marine Security Group Regional Commands and Marine Security Group detachments at United States embassies, consulates, and other diplomatic facilities by up to 1,000 Marines.

"(2) PURPOSE.—The purpose of the increase under paragraph (1) is to provide the additional end strength and the resources necessary to support enhanced Marine Corps security at United States embassies, consulates, and other diplomatic facilities, particularly at locations identified by the Secretary of State as in need of additional security because of threats to United States personnel and property.

"(b) CONSULTATION.—The Secretary of Defense shall develop and implement the plan required by subsection (a) in consultation with the Secretary of State pursuant to the responsibility of the Secretary of State for diplomatic security under section 103 of the Diplomatic Security Act (22 U.S.C. 4802), and in accordance with any current memorandum of understanding between the Department of State and the Marine Corps on the operational and administrative supervision of the Marine Corps Security Guard Program.

"(c) SUPPORTING INFORMATION FOR BUDGET REQUESTS.—The material submitted in support of the budget of the President for each fiscal year after fiscal year 2013, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, shall include the following with regard to the Marine Corps Security Guard Program:

"(1) A description of the expanded security support to be provided by Marine Corps Security Guards to the Department of State during that fiscal year, including—

"(A) any increased internal security to be provided at United States embassies, consulates, and other diplomatic facilities;

"(B) any increased support for emergency action planning, training, and advising of host nation security forces; and

"(C) any expansion of intelligence collection activities.

"(2) A description of the current status of Marine Corps personnel assigned to the Marine Corps Security Guard Program as a result of the plan required by subsection (a).

"(3) A description of the Department of Defense resources required during that fiscal year for the Marine Corps Security Guard Program, including total funding for personnel, operation and maintenance, and procurement, and for key supporting programs to enable both the current and expanded Program mission during that fiscal year.

"(d) PRESERVATION OF FUNDING FOR MARINE CORPS UNDER NATIONAL MILITARY STRATEGY.—In determining the amounts to be requested for each fiscal year after fiscal year 2013 for the Marine Corps Security Guard Program and for additional personnel under the Program, the President shall ensure that amounts requested for the Marine Corps for that fiscal year do not degrade the readiness of the Marine Corps to fulfill the requirements of the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

"(e) REPORTING REQUIREMENTS.—

"(1) MISSION ASSESSMENT.—Not later than October 1, 2013, the Secretary of Defense shall—

"(A) conduct an assessment of the mission of the Marine Corps Security Guard Program and the procedural rules of engagement under the Program, in light of current and emerging threats to United States diplomatic personnel; and

"(B) submit to Congress a report on the assessment, including a description and assessment of options to improve the Program to respond to such threats.

"(2) NOTIFICATION OF CHANGES IN SCOPE OF PROGRAM IN RESPONSE TO CHANGING THREATS.—If the President determines that a modification (whether an increase or a decrease) in the scope of the Marine Corps Security Guard Program is necessary or advisable in light of any change in the nature of threats to United States embassies, consulates, and other diplomatic facilities abroad, the President shall—

"(A) notify Congress of such modification and the change in the nature of threats prompting such modification; and

"(B) take such modification into account in requesting an end strength and funds for the Program for any fiscal year in which such modification is in effect."

## §8185. Nautical Schools: detail of naval officers as superintendents or instructors

The President may detail officers of the Navy as superintendents or instructors of institutions receiving benefits under chapter 515 of title 46 when in his opinion it can be done without detriment to the naval service. Officers so detailed shall be recalled from an institution if it is discontinued or if the good of the naval service requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374, §5985; Pub. L. 99–145, title XIII, §1303(a)(21), Nov. 8, 1985, 99 Stat. 739; Pub. L. 109–304, §17(a)(5), Oct. 6, 2006, 120 Stat. 1706; renumbered §8185, Pub. L. 115–232, div. A, title VIII, §807(b)(6), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5985 | 34 U.S.C. 1123 (less 1st proviso as applicable to vessels, and less 2d proviso). | Mar. 4, 1911, ch. 265, §3 (less 1st proviso as applicable to vessels, and less 2d proviso), 36 Stat. 1353. |

The words "naval service" are substituted for the words "public service" for uniformity within the section. The citation of the act establishing the nautical institutions is substituted for the words "such schools" for clarity. The word "proper" is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 5985 of this title as this section.

**2006**—Pub. L. 109–304 substituted "chapter 515 of title 46" for "section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c),".

**1985**—Pub. L. 99–145 substituted "section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c)" for "the Act of March 4, 1911, ch. 265, 36 Stat. 1353, as amended".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8186. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture

(a) To promote a knowledge of naval engineering and naval architecture, the President, upon the application of any established scientific school or college in the United States, the Commonwealths or possessions, may detail a qualified officer of the Navy as a professor in that school or college. The number of officers detailed under this section may not exceed 25 at any one time.

(b) The President may prescribe regulations for detailing such officers and may recall them when the public interest requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374, §5986; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; renumbered §8186, Pub. L. 115–232, div. A, title VIII, §807(b)(6), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5986 | 34 U.S.C. 1126. | Feb. 26, 1879, ch. 105, 20 Stat. 322. |

In subsection (a) the words "To promote" are substituted for the words "For the purposes of promoting" for brevity and the words "among the young men of the United States" are omitted as surplusage. The words "naval engineering" are substituted for the words "steam engineering" and the words "naval architecture" are substituted for the words "iron-ship building" to conform to current terminology and to express more clearly the intent of the statute. The words "the Territories, Commonwealths, or possessions" are inserted, since the words "United States" in the source statute are considered to have included all areas under the United States flag.

Section 1 of the Act of March 3, 1899, ch. 413, 30 Stat. 1004, transferred officers of the Engineer Corps of the Navy to the line of the Navy; therefore, in subsection (a) the words "qualified officer" are substituted for the words "engineer officer" to preserve the meaning of the section and to include any officer possessing adequate background and training in engineering duties.

In subsection (b) the word "regulations" is substituted for the word "rules", and the words "public interest" are substituted for the words "public service" to conform to current terminology.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8201, acts Aug. 10, 1956, ch. 1041, 70A Stat. 497; Sept. 2, 1958, Pub. L. 85–861, §1(157), 72 Stat. 1513; Oct. 13, 1964, Pub. L. 88–647, title III, §301(20), 78 Stat. 1073, prescribed authorized strength of Air Force in members on active duty, exclusive of certain categories, and authorized daily average strength of Air Force in members on active duty during fiscal year, exclusive of certain categories, prior to repeal by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981.

A prior section 8202, acts Aug. 10, 1956, ch. 1041, 70A Stat. 498; Sept. 2, 1958, Pub. L. 85–861, §1(158), 72 Stat. 1514; Dec. 28, 1967, Pub. L. 90–228, §1(4), (5), 81 Stat. 745; Dec. 12, 1980, Pub. L. 96–513, title II,

§203(b), 94 Stat. 2879, related to authorized strength of Air Force in general officers on active duty, prior to repeal by Pub. L. 101–510, div. A, title IV, §403(b)(3)(A), Nov. 5, 1990, 104 Stat. 1545.

Prior sections 8203 to 8209 were repealed by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981.

Section 8203, acts Aug. 10, 1956, ch. 1041, 70A Stat. 498; Sept. 2, 1958, Pub. L. 85–861, §1(159), 72 Stat. 1514, prescribed authorized strength of Regular Air Force in members on active duty, exclusive of officer candidates and aviation cadets.

Section 8204, acts Aug. 10, 1956, ch. 1041, 70A Stat. 499; Aug. 6, 1958, Pub. L. 85–600, §1(14), 72 Stat. 523, prescribed authorized strength of Regular Air Force in commissioned officers on active list.

Section 8205, acts Aug. 10, 1956, ch. 1041, 70A Stat. 499; Aug. 6, 1958, Pub. L. 85–600, §1(15), 72 Stat. 523; Sept. 2, 1958, Pub. L. 85–861, §1(160), 72 Stat. 1514, prescribed authorized strength of Regular Air Force in commissioned officers on active list, exclusive of certain categories.

Section 8206, acts Aug. 10, 1956, ch. 1041, 70A Stat. 499; Aug. 21, 1957, Pub. L. 85–155, title III, §301(1), 71 Stat. 386; Nov. 8, 1967, Pub. L. 90–130, §1(26)(A), 81 Stat. 382, prescribed authorized strength of Air Force nurses in commissioned officers on active list of Regular Air Force.

Section 8207, acts Aug. 10, 1956, ch. 1041, 70A Stat. 499; Aug. 21, 1957, Pub. L. 85–155, title III, §301(2), 71 Stat. 386; Nov. 8, 1967, Pub. L. 90–130, §1(26)(B), 81 Stat. 382, prescribed authorized strength of Air Force medical specialists in commissioned officers on active list of Regular Air Force.

Section 8208, acts Aug. 10, 1956, ch. 1041, 70A Stat. 499; Nov. 8, 1967, Pub. L. 90–130, §1(26)(C), 81 Stat. 382, authorized prescribed strength in female commissioned officers on active list of Regular Air Force, other than those designated under section 8067 of this title to perform professional services.

Section 8209, acts Aug. 10, 1956, ch. 1041, 70A Stat. 500; Sept. 2, 1958, Pub. L. 85–861, §1(156), 72 Stat. 1513; Nov. 8, 1967, Pub. L. 90–130, §1(26)(D), 81 Stat. 382, prescribed authorized strength of Regular Air Force in commissioned officers on active list in each of categories of officers designated under section 8067 of this title.

A prior section 8210 was renumbered section 9110 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 5986 of this title as this section.

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 825—ADMINISTRATION

Sec.
8211. Navy Regulations.
8212. Additional regulations for Marine Corps.
8213. Enlisted grades and ratings: authority to establish.
8214. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy.
8215. Citizenship of officers of vessels.
8216. Aviation duties: number of personnel assigned.
8217. Aviation training facilities.
8218. Aviation designations: naval flight officer.
8219. Medical Department: composition.
8220. Dental services: responsibilities of senior dental officer.
8221. Chaplains: divine services.
8222. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain

cases.
8225. Female members: congressional review period for assignment to duty on submarines or for reconfiguration of submarines.
8226. Fatality reviews.
8227. Notifications on manning of afloat naval forces.

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Pub. L. 117–263, div. A, title V, §592(d)(2), Dec. 23, 2022, 136 Stat. 2612, added item 8227.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 555 of this title as this chapter and items 6011 to 6014, 6019, 6021, 6022, 6024, 6027, 6029, 6031, 6032, 6035, and 6036 as 8211 to 8222, 8225, and 8226, respectively.

**2003**—Pub. L. 108–136, div. A, title V, §576(b)(2), Nov. 24, 2003, 117 Stat. 1487, added item 6036.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §573(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136, added item 6035.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(b)(3), Oct. 5, 1994, 108 Stat. 3016, struck out items 6017 "Retired list for Reserve members entitled to retired pay" and 6034 "Regulations for retired pay based on service in the Reserve".

**1993**—Pub. L. 103–160, div. A, title V, §541(b), Nov. 30, 1993, 107 Stat. 1659, struck out item 6015 "Women members: duty; qualifications; restrictions".

**1980**—Pub. L. 96–513, title V, §503(43), Dec. 12, 1980, 94 Stat. 2914, struck out items 6018 "Naval officers: shore duty; limitations" and 6028 "Medical Service Corps: composition".

**1972**—Pub. L. 92–310, title II, §204(c), June 6, 1972, 86 Stat. 203, struck out item 6026 "Supply Corps officers: bonds".

**1971**—Pub. L. 92–168, §2(3), Nov. 24, 1971, 85 Stat. 489, struck out items 6023 "Aviation designations: naval aviator," and 6025 "Aviation designations: aviation pilot".

**1970**—Pub. L. 91–198, §1(3), Feb. 26, 1970, 84 Stat. 15, substituted "naval flight officer" for "naval aviation observer" in item 6024.

**1968**—Pub. L. 90–235, §7(a)(5), Jan. 2, 1968, 81 Stat. 763, struck out item 6033 "Woman member: definition of dependents".

**1967**—Pub. L. 90–130, §1(22), Nov. 8, 1967, 81 Stat. 380, struck out item 6030 "Nurse Corps officers: authority".

**1961**—Pub. L. 87–123, §5(24), Aug. 3, 1961, 75 Stat. 266, struck out item 6020 "Marine Corps officers: detail to duty in Supply Department".

**1958**—Pub. L. 85–861, §1(135), Sept. 2, 1958, 72 Stat. 1507, struck out item 6016 "Retired officers carried on Navy Register".

## §8211. Navy Regulations

United States Navy Regulations shall be issued by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375, §6011; Pub. L. 97–60, title II, §204(a)(2), Oct. 14, 1981, 95 Stat. 1007; renumbered §8211, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6011 | 34 U.S.C. 591. | R.S. 1547. |

So much as pertains to the "orders, regulations, and instructions issued by the Secretary of the Navy prior to July 14, 1862" and the alterations thereto is omitted as executed, and the section is worded to preserve the remaining requirement that Navy Regulations must be issued with Presidential approval. The words "United States Navy Regulations" are substituted for the words "regulations of the Navy" to preserve the distinction between the permanent regulations of general applicability falling within this statute and the many other regulations issued by the Secretary alone under specific statutes and under his power to administer the Department.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8211, acts Aug. 10, 1956, ch. 1041, 70A Stat. 501; Sept. 2, 1958, Pub. L. 85–861, §1(162), 72 Stat. 1514, prescribed authorized strength of Regular Air Force in officers in each regular grade on each of promotion lists authorized by former section 8296 of this title, prior to repeal by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981. See section 521 et seq. of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6011 of this title as this section.
**1981**—Pub. L. 97–60 struck out "with the approval of the President" after "Secretary of the Navy".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### NAVY REGULATIONS ISSUED BEFORE OCTOBER 14, 1981

Pub. L. 97–60, title II, §204(b), Oct. 14, 1981, 95 Stat. 1007, provided that: "United States Navy regulations issued under section 6011 of title 10, United States Code, before the date of the enactment of this Act [Oct. 14, 1981] shall remain in effect in accordance with their terms until amended or revoked by the Secretary of the Navy."

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

For delegation to Secretary of Defense of authority vested in President by section 591 of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

## §8212. Additional regulations for Marine Corps

The President may prescribe military regulations for the discipline of the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375, §6012; renumbered §8212, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6012 | 34 U.S.C. 714. | R.S. 1620. |

The words "such" and "as he may deem expedient" are omitted as surplusage.

### EXECUTIVE DOCUMENTS

### PRIOR PROVISIONS

A prior section 8212, acts Aug. 10, 1956, ch. 1041, 70A Stat. 501; Aug. 21, 1957, Pub. L. 85–155, title III, §301(3), 71 Stat. 386; Sept. 2, 1958, Pub. L. 85–861, §1(163), 72 Stat. 1515; June 30, 1960, Pub. L. 86–559, §1(48), 74 Stat. 275; Dec. 12, 1980, Pub. L. 96–513, title V, §504(8), 94 Stat. 2916, related to temporary increases in authorized strength in grade of Air Reserve and Air National Guard of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12009 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6012 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8213. Enlisted grades and ratings: authority to establish

The Secretary of the Navy may establish such enlisted grades and ratings as are necessary for the proper administration of the Navy and the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375, §6013; renumbered §8213, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6013 | 34 U.S.C. 176. | June 4, 1920, ch. 228, §7 (proviso), 41 Stat. 836. |
| | 34 U.S.C. 34 (less 1st sentence, and less proviso of 2d sentence). | Aug. 29, 1916, ch. 417 (1st par. under "Hospital Corps", less 1st sentence, and less proviso of 2d sentence), 39 Stat. 572; Aug. 4, 1947, ch. 459, §301(a), 61 Stat. 738. |

The words "in his discretion" and "of the enlisted personnel" are omitted as surplusage. The words "Navy and the Marine Corps" are substituted for the words "naval service".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8213, act Aug. 10, 1956, ch. 1041, 70A Stat. 501, prescribed authorized strength of Regular Air Force in warrant officers on active list, prior to repeal by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6013 of this title as this section.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8214. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy

Under regulations prescribed by the Secretary of the Navy, enlisted members of the Marine Corps are eligible for transfer to the Hospital Corps of the Navy, and enlisted members of the Hospital

Corps are eligible for transfer to the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375, §6014; renumbered §8214, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6014 | 34 U.S.C. 34 (proviso of 2d sentence). | Aug. 29, 1916, ch. 417 (proviso of 2d sentence in 1st paragraph under "Hospital Corps"), 39 Stat. 572; Aug. 4, 1947, ch. 459, §301(a), 61 Stat. 738. |
| | 34 U.S.C. 34a. | Aug. 4, 1947, ch. 459, §302, 61 Stat. 738. |

The authority to transfer Navy personnel to the Hospital Corps and personnel of that Corps to other branches or designations in the Navy is omitted as unnecessary because transfers within the Navy are permitted under provisions which authorize the Secretary of the Navy to establish grades and ratings (34 U.S.C. 176) and to administer the Department (5 U.S.C. 171a(c)).

The saving provision of 34 U.S.C. 34a which provided that no person would suffer any reduction in grade, rating, or pay, is omitted as executed. It pertained to personnel who, when the Hospital Corps was reorganized under the Act of August 4, 1947, ch. 459, §§301, 302, 61 Stat. 738, were in grades and ratings prescribed by prior laws.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8214, acts Aug. 10, 1956, ch. 1041, 70A Stat. 501; Sept. 2, 1958, Pub. L. 85–861, §1(159), 72 Stat. 1514, prescribed authorized strength of Regular Air Force in enlisted members on active duty, exclusive of officer candidates and aviation cadets, prior to repeal by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6014 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8215. Citizenship of officers of vessels

The officers of vessels of the United States shall in all cases by citizens of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376, §6019; renumbered §8215, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6019 | 34 U.S.C. 211. | R.S. 1428. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8215, acts Aug. 10, 1956, ch. 1041, 70A Stat. 502; Nov. 8, 1967, Pub. L. 90–130, §1(26)(E), (F), 81 Stat. 382, prescribed authorized strength of Regular Air Force in female warrant officers on active list, prior to repeal by Pub. L. 96–513, title II, §202, Dec. 12, 1980, 94 Stat. 2878, effective Sept. 15, 1981.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6019 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8216. Aviation duties: number of personnel assigned

The number of officers and enlisted members of the Navy and the Marine Corps detailed to duty involving flying and to other duties in connection with aircraft shall be in accordance with the requirements of naval aviation as determined by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376, §6021; renumbered §8216, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6021 | 34 U.S.C. 732. | July 12, 1921, ch. 44, §8 (last par., less provisos), 42 Stat. 141. |
| | 34 U.S.C. 732a. | July 22, 1935, ch. 402, §8, 49 Stat. 490. |

The provisions cited as source are consolidated in this section. The second sentence of §8 of the Act of July 22, 1935, is omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6021 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8217. Aviation training facilities

The President may maintain facilities to provide flight training for 16,000 members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376, §6022; renumbered §8217, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6022 | 34 U.S.C. 736. | June 15, 1940, ch. 375, §1 (2d sentence), 54 Stat. 400. |

The proviso to the effect that the section does not affect the responsibility of the Secretary of the Navy under 34 U.S.C. 732 is omitted as unnecessary. The words "as may, in his judgment, be necessary" are omitted as surplusage. The words "members of the naval service" are substituted for "naval aviators" to avoid the implication that trainees are naval aviators while undergoing the training. The designation depends on successful completion of flight training.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8217, added Pub. L. 85–861, §1(164)(A), Sept. 2, 1958, 72 Stat. 1515, related to authorized strength of Air Force in reserve commissioned officers in active status, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12003 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6022 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8218. Aviation designations: naval flight officer

Any officer of the naval service may be designated a naval flight officer if he has successfully completed the course prescribed for naval flight officers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377, §6024; Pub. L. 91–198, §1(2), Feb. 26, 1970, 84 Stat. 15; renumbered §8218, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6024 | 34 U.S.C. 735 (par. 3). | June 24, 1926, ch. 668, §3 (par. 3), 44 Stat. 767. |

The phrase "by competent authority" is omitted as surplusage. The definition form of 34 U.S.C. 735 is not followed.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8218, added Pub. L. 85–861, §1(164)(A), Sept. 2, 1958, 72 Stat. 1515; amended Pub. L. 96–107, title III, §302(d), Nov. 9, 1979, 93 Stat. 806; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 102–190, div. A, title X, §1061(a)(23)(B), Dec. 5, 1991, 105 Stat. 1473, related to authorized strength of Air Force in reserve general officers in active status, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12004 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6024 of this title as this section.

**1970**—Pub. L. 91–198 substituted "naval flight officer" for "naval aviation observer" and "naval flight officers" for "naval aviation observers," and struck out requirement that such officer have been in the air at least 100 hours.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8219. Medical Department: composition

The Medical Corps and Dental Corps, and such other staff corps as the Secretary of the Navy may establish under section 8090(b) of this title and designate to be in the Medical Department of the Navy, are in the Medical Department of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377, §6027; Pub. L. 96–513, title III, §353, Dec. 12, 1980, 94 Stat. 2902; Pub. L. 99–433, title V, §514(c)(3), Oct. 1, 1986, 100 Stat. 1055; renumbered §8219 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(7), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6027 | 34 U.S.C. 30a (1st 20 words of 1st sentence). | Aug. 4, 1947, ch. 459, §201 (1st 20 words of 1st sentence), 61 Stat. 736. |
| | 34 U.S.C. 43 (less 2d sentence). | Apr. 16, 1947, ch. 38, §201 (less 2d sentence), 61 Stat. 47; Aug. 7, 1947, ch. 512, §434(a), 61 Stat. 882. |
| | 34 U.S.C. 32. | Aug. 29, 1916, ch. 417, 39 Stat. 573 (30th through 44th words of 6th par. under "Hospital Corps"). |
| | 34 U.S.C. 51 (26th through 37th words). | Aug. 29, 1916, ch. 417 (1st par. under "Naval Dental Corps", 75th word to end of 1st sentence); added July 1, 1918, ch. 114, 40 Stat. 708 (4th par.). |

There is no provision of law specifically stating that the Medical Corps is in the Medical Department. It was the first corps to have duties relating to medical and sanitary matters and so long as it was the only corps having such duties there was no need for the departmental concept. The subsequent establishment of other corps with related duties "in the Medical Department" indicates clearly that the Medical Corps is in that Department.

The words "effective August 4, 1947" and the words "establishing the Medical Service Corps" in 34 U.S.C. 30a are omitted as executed. The words "is created and established as a Staff Corps of the United States Navy" in 34 U.S.C. 43 are omitted as executed.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8219, added Pub. L. 85–861, §1(164)(A), Sept. 2, 1958, 72 Stat. 1515, related to authorized strength of Air Force in reserve commissioned officers in grades below brigadier general in active status, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12005(a) of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6027 of this title as this section and substituted "section 8090(b)" for "section 5150(b)".

**1986**—Pub. L. 99–433 substituted "section 5150(b)" for "section 5155(b)".

**1980**—Pub. L. 96–513 authorized the Secretary of the Navy to designate staff corps as being in the Medical Department of the Navy and deleted specific references to the Medical Service Corps, the Nurse Corps, and the Hospital Corps as being in such Medical Department.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

## §8220. Dental services: responsibilities of senior dental officer

(a) The Secretary of the Navy shall prescribe regulations for dental services on ships and at shore stations. Such services shall be under the senior dental officer, who is responsible to the commanding officer of the ship or station for all professional, technical, and administrative matters concerning dental services.

(b) This section does not impose any administrative requirements that would interfere with the proper functioning of battle organizations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377, §6029; renumbered §8220, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6029 | 5 U.S.C. 456d. | Dec. 28, 1945, ch. 604, §4, 59 Stat. 667. |

The words "for establishing" are omitted as executed and unnecessary.

The last sentence of §4 of the Act of December 28, 1945, ch. 604, 59 Stat. 667, was a repealing clause and savings provision. It is omitted from this section.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6029 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8221. Chaplains: divine services

(a) An officer in the Chaplain Corps may conduct public worship according to the manner and forms of the church of which he is a member.

(b) The commanders of vessels and naval activities to which chaplains are attached shall cause divine service to be performed on Sunday, whenever the weather and other circumstances allow it to be done; and it is earnestly recommended to all officers, seamen, and others in the naval service diligently to attend at every performance of the worship of Almighty God.

(c) All persons in the Navy and in the Marine Corps are enjoined to behave themselves in a reverent and becoming manner during divine service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 378, §6031; Pub. L. 86–140, Aug. 7, 1959, 73 Stat. 288; renumbered §8221, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6031(a) | 34 U.S.C. 95. | R.S. 1397. |
| 6031(b) | 34 U.S.C. 266 (1st sentence). | May 5, 1950, ch. 169, §7(d), 64 Stat. 146. |
| 6031(c) | 34 U.S.C. 266 (2d sentence). | May 5, 1950, ch. 169, §7(e), 64 Stat. 146. |
| 6031(d) | 34 U.S.C. 96. | R.S. 1398. |

In subsection (c) the words "and in the Marine Corps" are added to execute the definition of "Navy" in section 1, article 1, of the Act of May 5, 1950, ch. 169, 64 Stat. 146.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8221, ct Aug. 10, 1956, ch. 1041, 70A Stat. 502, related to authorized strength of Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12001 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6031 of this title as this section.

**1959**—Subsec. (d). Pub. L. 86–140 repealed subsec. (d) which required each chaplain to report annually to the Secretary of the Navy the official services performed by him.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8222. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases

Under regulations prescribed by the Secretary of the Navy, appropriations for the pay of the

Marine Corps are available to pay any indebtedness to Marine Corps Exchanges of members of the Marine Corps who are discharged, who desert, or who are sentenced to prison.

(Aug. 10, 1956, ch. 1041, 70A Stat. 378, §6032; renumbered §8222, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6032 | 34 U.S.C. 725. | Aug. 2, 1946, ch. 756, §28, 60 Stat. 857. |

The words "while in debt to the United States" are omitted as surplusage and to avoid the erroneous interpretation that the provision authorizes the payment, out of appropriations, of debts other than to Marine Corps Exchanges.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8222 to 8224 were repealed by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988.

Section 8222, acts Aug. 10, 1956, ch. 1041, 70A Stat. 502; Dec. 12, 1980, Pub. L. 96–513, title V, §504(9), 94 Stat. 2916, related to authorized strength of Air Force Reserve, exclusive of members on active duty. See section 12002(a) of this title.

Section 8223, act Aug. 10, 1956, ch. 1041, 70A Stat. 502, related to authorized strength of Air Force Reserve in warrant officers. See section 12008 of this title.

Section 8224, act Aug. 10, 1956. ch. 1041, 70A Stat. 502, related to authorized strength of Air National Guard of United States. See section 12001 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6032 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8225. Female members: congressional review period for assignment to duty on submarines or for reconfiguration of submarines

(a) No change in the Department of the Navy policy limiting service on submarines to males, as in effect on May 10, 2000, may take effect until—

(1) the Secretary of Defense submits to Congress written notice of the proposed change; and

(2) a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.

(b) No funds available to the Department of the Navy may be expended to reconfigure any existing submarine, or to design any new submarine, to accommodate female crew members until—

(1) the Secretary of Defense submits to Congress written notice of the proposed reconfiguration or design; and

(2) a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.

(c) For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

(Added Pub. L. 106–398, §1 [[div. A], title V, §573(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136, §6035; renumbered §8225, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8225, acts Aug. 10, 1956, ch. 1041, 70A Stat. 503; Dec. 12, 1980, Pub. L. 96–513, title V, §504(9), 94 Stat. 2916; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to authorized strength of Air National Guard and Air National Guard of United States, exclusive of members on active duty, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See section 12002 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6035 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8226. Fatality reviews

(a) REVIEW OF FATALITIES.—The Secretary of the Navy shall conduct a multidisciplinary, impartial review (referred to as a "fatality review") in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following.

(1) A member of the naval service on active duty.

(2) A current or former dependent of a member of the naval service on active duty.

(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the naval service on active duty.

(b) MATTERS TO BE INCLUDED.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

(1) An executive summary.

(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

(3) Legal disposition.

(4) System intervention and failures, if any, within the Department of Defense.

(5) A discussion of significant findings.

(6) Recommendations for systemic changes, if any, within the Department of the Navy and the Department of Defense.

(c) OSD GUIDANCE.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).

(Added Pub. L. 108–136, div. A, title V, §576(b)(1), Nov. 24, 2003, 117 Stat. 1487, §6036; renumbered §8226, Pub. L. 115–232, div. A, title VIII, §807(b)(7), Aug. 13, 2018, 132 Stat. 1834.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8230, added Pub. L. 85–861, §1(164)(B), Sept. 2, 1958, 72 Stat. 1515, provided that members of Air Force who are detailed for any duty with agencies of United States outside the Department of Defense on a reimbursable basis not be counted in computing strengths under any law, prior to repeal by Pub. L. 96–513, title II, §232, Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6036 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable to fatalities that occur on or after Nov. 24, 2003, see section 576(d) of Pub. L. 108–136, set out as a note under section 7381 of this title.

## §8227. Notifications on manning of afloat naval forces

(a) IN GENERAL.—The Secretary of the Navy shall notify the congressional defense committees, in writing, not later than 30 days after the end of each fiscal year quarter, of each covered ship (if any) that met either condition as follows:

(1) The manning fit for such ship was less than 87 percent for more than 14 days during such fiscal year quarter.

(2) The manning fill for such ship was less than 90 percent for more than 14 days during such fiscal year quarter.

(b) ELEMENTS.—The notification required by subsection (a) shall include, with respect to a covered ship, the following:

(1) The name and hull number of the ship.

(2) The homeport location of the ship.

(3) The current manning fit and fill of the ship.

(4) If the lowest level of manning fit or manning fill for the ship occurred during the fiscal year quarter concerned, the level concerned and the date on which such level occurred.

(5) If the lowest level of manning fit or manning fill for the ship is projected to occur after the fiscal year quarter concerned, the projected level and the date on which such level is projected to occur.

(6) If not achieved as of the date of the notification the projected date on which the Navy will achieve a manning fit and fill at least 87 percent and 90 percent, respectively, for the ship.

(7) If not achieved as of the date of the notification, the projected date on which the Navy will achieve a manning fit and fill of at least 92 percent and 95 percent, respectively, for the ship.

(8) A description of the reasons the Navy has not achieved, or will not achieve, as applicable, manning fit and fill of at least 87 percent and 90 percent, respectively, for the ship, including a detailed description of the specific ratings or skillset areas that must be manned to achieve those percentages.

(9) A description of corrective actions the Navy is taking to improve manning fit or manning fill on the ship.

(c) SPECIAL RULE.—For purposes of determining whether a percentage of manning fit or

manning fill has been achieved, a sailor in a more senior paygrade may count as filling the billet of a more junior paygrade, but a sailor in a more junior paygrade may not count as filling the billet of a more senior paygrade.

(d) CREWING OF A SURFACE COMBATANT VESSEL: PROHIBITION; EXCEPTION.—(1) Beginning on October 1, 2025, the Secretary of the Navy may not assign more than one crew to a covered ship that is a surface combatant vessel if any surface combatant vessel was included in a notification under subsection (a) during the 12 months preceding such assignment.

(2) The prohibition under paragraph (1) shall not apply to a littoral combat ship configured to conduct mine countermeasures if the Secretary of the Navy submits to the congressional defense committees a certification and detailed explanation that such ship is unable to meet operational requirements regarding mine countermeasures, determined by the commander of a combatant command concerned, with only one crew.

(e) DEFINITIONS.—In this section:

(1) The term "covered ship" means a commissioned battle force ship that is included in the battle force count of the Naval Vessel Register.

(2) The term "manning fill", in the case of a ship, means the total number of military personnel assigned to the ship by rating when compared with the ship manpower document requirement and billets authorized for the ship by rating.

(3) The term "manning fit", in the case of a ship, means the skills (rating), specialty skills (Navy Enlisted Classifications), and experience (paygrade) for the ship when compared with the ship manpower document requirement and billets authorized for such skills and experience.

(4) The term "surface combatant vessel" means any littoral combat ship (including the LCS–1 and LCS–2 classes), frigate (including the FFG–62 class), destroyer (excluding the DDG–1000 class), or cruiser (including the CG–47 class).

(Added Pub. L. 117–263, div. A, title V, §592(d)(1), Dec. 23, 2022, 136 Stat. 2612.)

### EDITORIAL NOTES

### CODIFICATION

Section is based on Pub. L. 116–92, div. A, title V, §597(a)–(e), Dec. 20, 2019, 133 Stat. 1418, 1419, as amended by Pub. L. 117–263, div. A, title V, §592(a)(1), (b), (c), Dec. 23, 2022, 136 Stat. 2612, which was formerly set out as a note under section 8013 of this title before being transferred to this chapter and renumbered as this section by Pub. L. 117–263, §592(d)(1).

## CHAPTER 827—RATIONS

Sec.
8241. Navy ration: persons entitled to.
8242. Rations.
8243. Fixing cost on certain vessels and stations.
8244. Enlisted members assigned to mess: basic allowance for subsistence paid to mess.
8245. Flight rations.
8246. Subsistence in hospital messes: hospital ration.
8247. Sale of meals by general messes.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 557 of this title as this chapter and items 6081 to 6087 as 8241 to 8247, respectively.

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(31), Oct. 17, 2006, 120 Stat. 2399, substituted colon for semicolon in item 6086.

**1991**—Pub. L. 102–25, title VII, §701(e)(7), Apr. 6, 1991, 105 Stat. 115, inserted a period after "6082" in item 6082.

**1990**—Pub. L. 101–510, div. A, title V, §557(b), Nov. 5, 1990, 104 Stat. 1571, amended item 6082 generally, substituting "Rations" for "Navy ration: composition" in item 6082.

## §8241. Navy ration: persons entitled to

(a) Each enlisted member of the naval service is entitled to a Navy ration for each day that he is on active duty, including each day that he is on leave.

(b) Each midshipman is entitled to a Navy ration for each day that he is on active duty, including each day that he is on leave.

(c) The Secretary of the Navy may prescribe regulations stating the conditions under which the ration shall be allowed under subsection (b).

(Aug. 10, 1956, ch. 1041, 70A Stat. 379, §6081; Pub. L. 87–649, §5(c), Sept. 7, 1962, 76 Stat. 494; Pub. L. 105–85, div. A, title VI, §602(b)(2), Nov. 18, 1997, 111 Stat. 1772; renumbered §8241, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6081 | 34 U.S.C. 901a (1st 2 sentences). | Aug. 2, 1946, ch. 756, §17(a) (1st 2 sentences), 60 Stat. 855. |
| | 5 U.S.C. 421g (b). | Aug. 2, 1946, ch. 756, §40(b), 60 Stat. 858. |

So much of 34 U.S.C. 901a as authorizes a commuted ration for enlisted members of the naval service under conditions and at rates prescribed by the Secretary of the Navy is superseded by §301 of the Career Compensation Act of 1949 (37 U.S.C. 251). That section established a basic allowance for subsistence for enlisted members entitled to basic pay who are not subsisting at Government expense and prescribes the conditions under which the basic allowance for subsistence shall be paid and the amount of the allowance. Pursuant to Executive Order No. 10119, March 30, 1950, 15 F.R. 1757, the Secretary of Defense is authorized to make supplemental regulations to carry out the provisions of §301. The words "or to a per diem in place of subsistence" are inserted to reflect the subsistence allowance authorized by §303(a) of the Career Compensation Act of 1949 (37 U.S.C. 253a) to members in travel status.

In subsection (a) reference to the Coast and Geodetic Survey is omitted since there are no enlisted personnel in that service, and reference to the Coast Guard is omitted as covered by 14 U.S.C. 478.

In subsections (a) and (b) the words "or furlough therefrom" are omitted as surplusage, and the words "for each day" are inserted to make clear the fact that a ration is a daily allowance of food and that, in subsection (b), the commuted ration is credited on a daily basis. The words "and cadets" are omitted as there are no cadets in the Navy or Marine Corps entitled to a Navy ration. Aviation cadets are entitled to the basic allowance for subsistence prescribed for officers (34 U.S.C. 850c).

In subsection (c) the words "prescribed by law" and "in accordance with law" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6081 of this title as this section.

**1997**—Subsec. (a). Pub. L. 105–85 substituted "Each enlisted member" for "Except when entitled to a basic allowance for subsistence or to a per diem in place of subsistence, each enlisted member".

**1962**—Subsec. (b). Pub. L. 87–649 struck out provisions which permitted payment of the commuted value of the ration in money. See section 422(b) of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (c). Pub. L. 87–649 struck out provisions which permitted the Secretary to prescribe regulations for the allowance of the commuted value of the ration. See section 422(b) of Title 37, Pay and Allowances of the Uniformed Services.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105–85, set out as a note under section 402 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §8242. Rations

(a) The President may prescribe the components and quantities of the Navy ration. The President may direct the issuance of equivalent articles in place of the prescribed components of the ration if the President determines that economy and the health and comfort of the members of the naval service require such action.

(b) An enlisted member of the naval service on active duty is entitled to one ration daily. If an emergency ration is issued, it is in addition to the regular ration.

(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick and injured in hospitals shall be provided under regulations prescribed by the Secretary of the Navy.

(d) The Secretary of the Navy may increase the quantity of daily rations for members of the naval service on a vessel or at a station that has an authorized complement of less than 150 members if the President determines that the vessel or station is operating under conditions that warrant an increase in rations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 379, §6082; Pub. L. 101–510, div. A, title V, §557(a), Nov. 5, 1990, 104 Stat. 1570; renumbered §8242, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6082(a) | 34 U.S.C. 902a. | Mar. 2, 1933, ch. 184, §1 (2d sentence), 47 Stat. 1423; Feb. 21, 1942, ch. 106, 56 Stat. 97. |
| 6082(b) | 34 U.S.C. 902b. | Mar. 2, 1933, ch. 184, §2, 47 Stat. 1423. |
| 6082(c) | 34 U.S.C. 902c. | Mar. 2, 1933, ch. 184, §3, 47 Stat. 1423. |

In subsection (a) the words "issued to each person entitled thereto" are omitted as surplusage. In clause (2) the words "or fresh" and in clause (6) the words "together with" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6082 of this title as this section.

**1990**—Pub. L. 101–510 substituted "Rations" for "Navy ration: composition" in section catchline and amended text generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (c) which specified the contents and quantities of the Navy ration in detail, authorized issuance of articles in addition to the authorized quantities, and provided for increases in the daily allowance of provisions on certain vessels or at certain stations.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY**

Authority of President under subsecs. (a) and (d) of this section to prescribe uniform military ration applicable to Navy delegated to Secretary of Defense by section 3(a) of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.

## §8243. Fixing cost on certain vessels and stations

If the Secretary of the Navy considers that it is undesirable to administer the mess on any ship or at any station under the quantity allowance prescribed in section 8242 of this title, he may fix the cost of each ration for that mess.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380, §6083; renumbered §8243 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(8), 809(a), Aug. 13, 2018, 132 Stat. 1835, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6083 | 34 U.S.C. 902d. | Mar. 2, 1933, ch. 184, §4, 47 Stat. 1423; Aug. 3, 1951, ch. 287, 65 Stat. 151. |

The words "the cost of each ration for that mess" are substituted for the words "the monetary limit of the cost of ration aboard such ships and at such stations" to make it clear that the figure fixed by the Secretary of the Navy under this section is the amount the mess may spend per day for food for each man subsisting at the mess.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6083 of this title as this section and substituted "section 8242" for "section 6082".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8244. Enlisted members assigned to mess: basic allowance for subsistence paid to mess

Under such regulations as the Secretary of the Navy prescribes, the basic allowance for subsistence of enlisted members of the naval service assigned to duty with and subsisting in an officers' or other mess, afloat or ashore, may be paid to the mess to which they are assigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380, §6084; renumbered §8244, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6084 | 34 U.S.C. 908. | July 1, 1902, ch. 1368, 32 Stat. 680 (4th par.); Mar. 14, 1940, ch. 53, 54 Stat. 50. |

The words "basic allowance for subsistence" are substituted for the words "money accruing from the commuted rations" to conform to the terminology of §301 of the Career Compensation Act of 1949 (37 U.S.C. 251). Section 301 of the Career Compensation Act of 1949 supersedes the authority of the Secretary of the Navy to commute the rations of enlisted members and authorizes in lieu thereof a basic allowance for subsistence. The words "enlisted members of the naval service" are substituted for the words "enlisted men" for uniformity of expression and for clarity. The word "legally" is omitted as surplusage. The words "and subsisting in" are inserted to make it clear that the mess must actually subsist the enlisted members assigned before the basic allowance of the members may be paid to the mess. The words "to which they are assigned" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6084 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8245. Flight rations

An aircraft flight ration chargeable to the proper Navy or Marine Corps appropriation may be furnished to members of the naval service and to civilian employees of the Department of the Navy while engaged in flight operations. The flight ration is supplementary to any ration or subsistence allowance to which the members or employees are otherwise entitled. However, the flight ration may not be furnished without charge to any person in a travel status or to any person to whom a per diem allowance is granted in place of subsistence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380, §6085; renumbered §8245, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6085 | 34 U.S.C. 909. | June 5, 1942, ch. 327, 56 Stat. 308. |

The words "members of the naval service and to civilian employees of the Department of the Navy" are substituted for the words "officers, enlisted men, and civilian employees of the Navy and Marine Corps" for uniformity. The words "in kind" and the word "aircraft" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6085 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8246. Subsistence in hospital messes: hospital ration

(a) Enlisted members of the naval service on duty in hospitals and enlisted members of the naval service, including retired members and members of the Fleet Reserve and the Fleet Marine Corps Reserve, when sick in hospitals, may be subsisted in hospital messes. When subsistence is furnished under this subsection, the appropriation chargeable with the maintenance of the hospital mess shall be credited at the rate prescribed by the Secretary of the Navy as the value of the hospital ration.

(b) Under such regulations as the Secretary prescribes, officers in the Nurse Corps may be subsisted in hospital messes. Each officer so subsisted shall pay for her subsistence at the rate fixed by the regulations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380, §6086; renumbered §8246, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6086 | 34 U.S.C. 901a (less 1st and 2d sentences). | Aug. 2, 1946, ch. 756, §17(a) (less 1st and 2d sentences), 60 Stat. 855. |
| | 34 U.S.C. 43h(a) (1st 21 words of 2d proviso). | Apr. 16, 1947, ch. 38, §208(a) (1st 25 words of 2d proviso), 61 Stat. 50. |

In subsection (a) the words "active duty" before the words "enlisted personnel" are omitted as surplusage since there is no authority to hospitalize an enlisted member in a naval hospital under conditions where he would not be entitled to a hospital ration. The words "active and inactive" before the words "retired enlisted personnel" are omitted as surplusage. The word "members" is substituted for the word "personnel" for uniformity. The words "the Fleet Marine Corps Reserve" are inserted for clarity since the term "Fleet Reserve" in the source statute is used in a generic sense and includes members of the Fleet Marine Corps Reserve.

In subsection (b) the words "that nothing contained in this section shall deprive such nurses of allowances for subsistence now or after August 2, 1946, provided by law" are omitted as surplusage. Section 301 of the Career Compensation Act of 1949 (37 U.S.C. 251) authorizes a basic allowance for subsistence for all officers entitled to basic pay.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6086 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8247. Sale of meals by general messes

Under such regulations as the Secretary of the Navy prescribes, meals may be sold by general messes afloat and ashore.

(Aug. 10, 1956, ch. 1041, 70A Stat. 381, §6087; renumbered §8247, Pub. L. 115–232, div. A, title VIII, §807(b)(8), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6087 | 34 U.S.C. 915b(c). | Aug. 2, 1946, ch. 756, §16(c), 60 Stat. 855. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8251 and 8252 were renumbered sections 9131 and 9132 of this title.

Another prior section 8252, act Aug. 10, 1956, ch. 1041, 70A Stat. 503, provided that temporary enlistments could be made only in Air Force without specification of component, prior to repeal by Pub. L. 90–235, §2(a)(4)(B), Jan. 2, 1968, 81 Stat. 756.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6087 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 829—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
8253. Loans: Supply Corps officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 559 of this title as this chapter and item 6113 as 8253.

**1980**—Pub. L. 96–513, title V, §513(12), Dec. 12, 1980, 94 Stat. 2932, struck out item 6111 "Pay: withheld during absence due to use of drugs or alcohol".

**1968**—Pub. L. 90–235, §6(a)(4), (9), Jan. 2, 1968, 81 Stat. 762, struck out item 6114 "Civilian employment: enlisted members", and item 6116 "Service credit: officers; service as midshipman or cadet not counted".

**1967**—Pub. L. 90–83, §3(5), Sept. 11, 1967, 81 Stat. 220, struck out item 6112 "Pay: officers; withheld while employed by certain contractors".

**1958**—Pub. L. 85–861, §1(136), Sept. 2, 1958, 72 Stat. 1507, struck out item 6115 "Drill pay; uniform gratuity: time limit for filing claim".

## §8253. Loans: Supply Corps officers

Except as otherwise provided by law, an officer in the Supply Corps on active duty may not advance or lend any sum of money, public or private, or any article or commodity and may not

extend credit to any officer of the naval service on active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 381, §6113; renumbered §8253, Pub. L. 115–232, div. A, title VIII, §807(b)(9), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6113 | 34 U.S.C. 67. | R.S. 1389. |

The words "paymaster, passed assistant paymaster, or assistant paymaster" are omitted because those titles no longer exist, and the words "officer in the Supply Corps" are substituted therefor.

The words "except as otherwise provided by law" are added because the Act of Oct. 5, 1949, ch. 600 (34 U.S.C. 875a), authorizes advances of pay to personnel upon permanent changes of station or where such personnel are on distant duty stations where disbursements of pay and allowances cannot be regularly made, and §303(a) of the Career Compensation Act of 1949 (37 U.S.C. 253) authorizes advance payments of travel and transportation allowances. The words "on active duty" are supplied since the section has application to officers accountable for public funds or property. Officers not on active duty are not accountable officers.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8253, act Aug. 10, 1956, ch. 1041, 70A Stat. 503; Pub. L. 87–143, §1(2), Aug. 17, 1961, 75 Stat. 364; Pub. L. 90–235, §2(a)(4)(A), Jan. 2, 1968, 81 Stat. 756; Pub. L. 96–513, title V, §514(2), Dec. 12, 1980, 94 Stat. 2935, provided that, in peace time, Air Force enlistment was available only to citizens and persons lawfully admitted to the United States for permanent residence, prior to repeal by Pub. L. 109–163, div. A, title V, §542(b)(1), Jan. 6, 2006, 119 Stat. 3253.

Prior sections 8254 to 8256 were repealed by Pub. L. 90–235, §2(a) (4)(B), Jan. 2, 1968, 81 Stat. 756.

Section 8254, act Aug. 10, 1956, ch. 1041, 70A Stat. 503, provided for temporary enlistments in Air Force during war or emergency.

Section 8255, act Aug. 10, 1956, ch. 1041, 70A Stat. 504, provided for recruiting campaigns to obtain enlistments in Regular Air Force.

Section 8256, act Aug. 10, 1956, ch. 1041, 70A Stat. 504, set forth qualifications for and term of enlistments in Regular Air Force and grade in which such enlistments were made.

Prior sections 8257 and 8258 were renumbered sections 9137 and 9138 of this title.

Prior sections 8259 and 8260 were repealed by Pub. L. 103–337, div. A, title XVI, §1662(b)(3), Oct. 5, 1994, 108 Stat. 2990.

Section 8259, acts Aug. 10, 1956, ch. 1041, 70A Stat. 505; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to transfers in grade of members of Air National Guard of United States to Air Force Reserve. See section 12105 of this title.

Section 8260, act Aug. 10, 1956, ch. 1041, 70A Stat. 505, provided that enlisted members of Air National Guard of United States are transferred to Air Force Reserve upon withdrawal as members of Air National Guard. See section 12106 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6113 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 831—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
8261. Presentation of United States flag upon retirement.
8262. Higher retired grade and pay for members who serve satisfactorily under temporary appointments.
8263. Emergency shore duty: advance of funds.
8264. Shore patrol duty: payment of expenses.
8265. Mileage books: commutation tickets.
8266. Uniforms, accouterments, and equipment: sale at cost.
8267. Uniform: sale to former members of the naval service.
8270. Pension to persons serving ten years.
8271. Settlement of accounts: remission or cancellation of indebtedness of members.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 831, consisting of sections 8201 to 8230, related to the force strength of the Air Force, prior to renumbering as chapter 911 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 561 of this title as this chapter and items 6141, 6151 to 6156, 6160, and 6161 as 8261 to 8267, 8270, and 8271, respectively.

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(32), Oct. 17, 2006, 120 Stat. 2400, substituted colon for semicolon in item 6154 and "Settlement of accounts: remission or cancellation of indebtedness of members" for "Remission of indebtedness of enlisted members discharge" in item 6161.

Pub. L. 109–163, div. A, title VI, §683(b)(2), Jan. 6, 2006, 119 Stat. 3323, struck out "upon" after "members" in item 6161.

**1998**—Pub. L. 105–261, div. A, title VI, §644(b)(2), Oct. 17, 1998, 112 Stat. 2049, added item 6141.

**1986**—Pub. L. 99–661, div. A, title VI, §604(f)(1)(B)(iii), Nov. 14, 1986, 100 Stat. 3877, struck out item 6148 "Disability and death benefits: Naval Reserve and Marine Corps Reserve".

**1980**—Pub. L. 96–513, title V, §513(13), Dec. 12, 1980, 94 Stat. 2932, struck out items 6141 "Pay: officers; date of commencement", 6142 "Pay: assignments", 6143 "Pay: sale to be discouraged by commanding officer", 6144 "Pay accounts: settlement when lost with vessel", 6145 "Pay accounts: settlement; fixing date of loss of vessel", 6146 "Allotments: officers", and 6147 "Allowances: prisoners".

**1970**—Pub. L. 91–482, §2D, Oct. 21, 1970, 84 Stat. 1082, struck out item 6159 "Half rating to disabled naval enlisted personnel serving twenty years".

**1968**—Pub. L. 90–235, §7(b)(4), Jan. 2, 1968, 81 Stat. 763, struck out item 6158 "Exemption from arrest for debt: enlisted members of Marine Corps".

**1963**—Pub. L. 88–132, §5(h)(3), Oct. 2, 1963, 77 Stat. 214, struck out item 6149 "Retired pay: computed on basis of rates of pay for officers on the active list".

**1962**—Pub. L. 87–651, title I, §123(c), Sept. 7, 1962, 76 Stat. 514, struck out item 6157 "Motor vehicles: transportation on permanent change of station".

**1960**—Pub. L. 86–511, §1(b), June 11, 1960, 74 Stat. 207, added item 6161.

**1959**—Pub. L. 86–155, §9(a)(2), Aug. 11, 1959, 73 Stat. 337, struck out item 6150 "Higher retired grade for officers specially commended".

**1958**—Pub. L. 85–861, §1(139)(B), Sept. 2, 1958, 72 Stat. 1508, substituted "who serve satisfactorily under temporary appointments" for "temporarily appointed or promoted during World War II" in item 6151.

**1957**—Pub. L. 85–56, title XXII, §2201(31)(D), June 17, 1957, 71 Stat. 162, eff. Jan. 1, 1958, added items 6159 and 6160.

## §8261. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Navy or Marine Corps from active duty for retirement or transfer to the Fleet Reserve or the Fleet Marine Corps Reserve, the Secretary of the Navy shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under

this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 105–261, div. A, title VI, §644(b)(1), Oct. 17, 1998, 112 Stat. 2048, §6141; amended Pub. L. 106–65, div. A, title VI, §652(e), Oct. 5, 1999, 113 Stat. 666; renumbered §8261, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8261, acts Aug. 10, 1956, ch. 1041, 70A Stat. 505; Oct. 4, 1961, Pub. L. 87–378, §4, 75 Stat. 808, related to enlistment in Air National Guard of United States, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(b)(3), Oct. 5, 1994, 108 Stat. 2990. See section 12107 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6141 of this title as this section.

**1999**—Subsec. (b). Pub. L. 106–65 substituted "under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement." for "under this section or section 3681 or 8681 of this title or section 516 of title 14."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable with respect to releases from active duty described in this section, sections 7251 and 9251 of this title, and section 2748 of Title 14, Coast Guard, on or after Oct. 1, 1998, see section 644(e) of Pub. L. 105–261, set out as a note under section 7251 of this title.

## §8262. Higher retired grade and pay for members who serve satisfactorily under temporary appointments

(a) Unless otherwise entitled to a higher retired grade and subject to section 689, and section 1370 or 1370a (as applicable), of this title, each member, other than a retired member, of the Navy or the Marine Corps shall, when retired, be advanced on the retired list to the highest officer grade in which he served satisfactorily under a temporary appointment as determined by the Secretary of the Navy.

(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Retired pay base computed under section 1406(d) or 1407 | Retired pay multiplier prescribed under section 1409 for the years of |

| | |
|---|---|
| | service that may be credited to him under section 1405. |

(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Retired pay base computed under section 1406(d) or 1407 | Retired pay multiplier prescribed under section 1409 for the number of years of service creditable for his retainer pay at the time of retirement. |

(d) A member who is advanced on the retired list under this section from the grade of warrant officer, W–1, or from an enlisted grade to a commissioned grade, and who applies to the Secretary within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted grade, as the case may be. A member who is restored to his former grade under this subsection is thereafter considered for all purposes as a warrant officer, W–1, or an enlisted member, as the case may be.

(e) Retired pay computed under subsection (b) or (c), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 385, §6151; Pub. L. 85–422, §11(a)(6)(A), May 20, 1958, 72 Stat. 131; Pub. L. 85–861, §1(138), (139)(A), Sept. 2, 1958, 72 Stat. 1507, 1508; Pub. L. 88–132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, §813(d)(13), Sept. 8, 1980, 94 Stat. 1108; Pub. L. 96–513, title V, §§503(45), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 98–94, title IX, §§922(a)(9), 923(c)(1), Sept. 24, 1983, 97 Stat. 641, 643; Pub. L. 99–348, title II, §203(c), July 1, 1986, 100 Stat. 696; Pub. L. 104–201, div. A, title V, §521(d), Sept. 23, 1996, 110 Stat. 2517; renumbered §8262, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 183; Pub. L. 116–283, div. A, title V, §508(b)(3)(A), Jan. 1, 2021, 134 Stat. 3585.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6151 | 34 U.S.C. 350i(b)(2), (e). | July 24, 1941, ch. 320, §10(b)(2), (e), 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28. |
| | 34 U.S.C. 410c(a), (b), (c). | Feb. 21, 1946, ch. 34, §7(a) (less 1st proviso), (b), (c). 60 Stat. 27; Aug. 7, 1947, ch. 512, §432(a), 61 Stat. 881. |
| | 34 U.S.C. 43g(c). | Apr. 16, 1947, ch. 38, §207(d), 61 Stat. 49; redesignated (c), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882; May 16, 1950, ch. 186, §3(h), 64 Stat. 162. |
| | 34 U.S.C. 43g(f), (g). | Apr. 16, 1947, ch. 38, §207(g), (h), 61 Stat. 47; redesignated (f), (g), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. |

| | | |
|---|---|---|
| | | 882. |
| | 34 U.S.C. 410r(a), (g), (h). | June 12, 1948, ch. 449, §207(a), (g), (h), 62 Stat. 366. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, §213(a), 62 Stat. 369. |
| | 34 U.S.C. 993c. | June 19, 1948, ch. 540, §3, 62 Stat. 505. |

Subsections (b) and (c) are worded to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). The second and third provisos in 34 U.S.C. 410c(a), relating to the computation of retired pay for officers whose pay on the active list was not based on years of service, are omitted as obsolete, since under the Career Compensation Act of 1949, the active-duty pay of all officers is based on years of service.

In subsection (d) the words "A retired member who is advanced * * * from the grade of warrant officer, W–1, or from an enlisted grade" are substituted for the words "Enlisted men and warrant officers * * * advanced" and the words "as a warrant officer, W–1, or an enlisted member" are substituted for the words "to be enlisted or warrant officer personnel" because the Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of the old warrant officer (as distinguished from commissioned warrant officer) grades. The words "rank or" are omitted as unnecessary. The words "within three months of the date of the approval of this Act" and "whichever is the later" are omitted as executed.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6151(a) | 34 App.:350i(b)(2). | May 31, 1956, ch. 348, §3, 70 Stat. 222. |

Reference to the provisions of law under which temporary appointments in officer grades were made is omitted as unnecessary, since the provisions cited comprise all existing authority for such appointments.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8262, acts Aug. 10, 1956, ch. 1041, 70A Stat. 506; Sept. 2, 1958, Pub. L. 85–861, §1(166)(A), 72 Stat. 1516, provided for extension of enlistment of members of the Air Force needing medical care or hospitalization, prior to repeal by Pub. L. 90–235, §2(a)(4)(B), Jan. 2, 1968, 81 Stat. 756.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "section 689, and section 1370 or 1370a (as applicable)," for "sections 689 and 1370".

**2018**—Pub. L. 115–232 renumbered section 6151 of this title as this section.

**1996**—Subsec. (a). Pub. L. 104–201 substituted "sections 689" for "sections 688".

**1986**—Subsec. (b). Pub. L. 99–348 amended subsec. (b) generally, substituting provision that retired pay be determined in accordance with the table for provision that retired pay, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade to which advanced or, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at a rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based and, in determining the number of years to be used as a multiplier, each additional full month of service was to be counted as one-twelfth of a year and any remaining fractional part of a month was to be disregarded.

Subsec. (c). Pub. L. 99–348 amended subsec. (c) generally, substituting provision that retired pay of a former member be determined in accordance with the table for provision that retired pay, in the case of a former member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at a rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay was based,

multiplied by the number of years of creditable service for his retainer pay at the time of retirement, but such retired pay was not to be more than 75 percent of the basic pay upon the computation of retired pay was based, or in the case of a former member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, that retired pay be at a rate of 2½ percent of the monthly retired pay base computed under section 1407(d), multiplied by the number of years of creditable service for his retainer pay at the time of retirement, but such retired pay was not to be more than 75 percent of the monthly retired pay base upon which the computation of retired pay was based.

**1983**—Subsec. (b)(2). Pub. L. 98–94, §923(c)(1), substituted "each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded".

Subsec. (e). Pub. L. 98–94, §922(a)(9), added subsec. (e).

**1980**—Subsec. (a). Pub. L. 96–513, §503(45), inserted "and subject to sections 688 and 1370 of this title" after "retired grade".

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

Pub. L. 96–342 amended subsec. (b) generally, designating existing provisions as pars. (1) and (2) and, as so amended, in par. (1) designated existing provisions as subpar. (A), as so designated, inserted provision limiting applicability to members who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

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

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

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

**1958**—Pub. L. 85–861, §1(139)(A), substituted "who serve satisfactorily under temporary appointments" for "temporarily appointed or promoted during World War II" in section catchline.

Subsec. (a). Pub. L. 85–861, §1(138), struck out provisions which restricted application of section to members of the Navy or the Marine Corps who were appointed or promoted under the act of July 24, 1941, ch. 320, 55 Stat. 603.

Subsec. (b). Pub. L. 85–422 substituted "that may be credited to him under section 1405 of this title" for "creditable for basic pay".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Sept. 30, 1997, see section 521(b) of this title, set out as an Effective Date note under section 688 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(45) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

## §8263. Emergency shore duty: advance of funds

Under such regulations as the President approves, the Secretary of the Navy may, to meet necessary expenses, advance funds to members of the naval service detailed on emergency shore duty. The funds advanced may not exceed the reasonable estimate of expenses to be incurred for which reimbursement is authorized.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386, §6152; renumbered §8263, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6152 | 34 U.S.C. 885. | May 22, 1928, ch. 688, 45 Stat. 712. |

The words "public", "actual", and "by law" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8263, added Pub. L. 85–861, §1(166)(B), Sept. 2, 1958, 72 Stat. 1516; Pub. L. 87–649, §14c(53), Sept. 7, 1962, 76 Stat. 501, provided for voluntary extension of enlistments in the Air Force, prior to repeal by Pub. L. 90–235, §2(a)(4)(B), Jan. 2, 1968, 81 Stat. 756.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6152 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

For delegation to the Secretary of Defense of authority vested in the President by section 885 of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

## §8264. Shore patrol duty: payment of expenses

An officer, midshipman, or cadet of the naval service who is assigned to shore patrol duty away from his vessel or other duty station may be paid his actual services.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386, §6153; renumbered §8264, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6153 | 37 U.S.C. 306 (less applicability to Coast Guard). | Oct. 12, 1949, ch. 681, §506 (less applicability to Coast Guard), 63 Stat. 828. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6153 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8265. Mileage books: commutation tickets

The Secretary of the Navy may buy such mileage books, commutation tickets, and other similar transportation tickets as he considers necessary, and he may furnish them to persons ordered to perform travel on official business. Payment for those tickets before the travel is performed is not an advance of public money within the meaning of subsections (a) and (b) of section 3324 of title 31.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386, §6154; Pub. L. 97–258, §3(b)(8), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98–525, title XIV, §1405(56)(A), Oct. 19, 1984, 98 Stat. 2626; renumbered §8265, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6154 | 34 U.S.C. 891. | Apr. 27, 1904, ch. 1630, 33 Stat. 403 (6th par., 2d sentence). |

The words "to continue" and the words "upon their receipt in accordance with commercial usage" are omitted as surplusage. The word "persons" is substituted for the words "officers and others".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6154 of this title as this section.
**1984**—Pub. L. 98–525 substituted "subsections (a) and (b) of section 3324" for "section 3324(a) and (b)".
**1982**—Pub. L. 97–258 substituted "section 3324(a) and (b)" for "section 529".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8266. Uniforms, accouterments, and equipment: sale at cost

Under such regulations as the Secretary of the Navy prescribes, uniforms, accouterments, and equipment shall be sold by the United States at cost to officers and midshipmen of the naval service and, when the Coast Guard is operating as a service in the Navy, to officers of the Coast Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386, §6155; renumbered §8266, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6155 | 34 U.S.C. 537. | Jan. 12, 1919, ch. 8, 40 Stat. 1054; Aug. 4, 1949, ch. 393, §9, 63 Stat. 559. |

The words "officers and midshipmen of the naval service" are substituted for the words "any officer of the Navy or any officer of the Marine Corps" and "any midshipman". The words "at the Naval Academy" are omitted. The statute is interpreted as covering all midshipmen, including the reserve category created by subsequent statute. The word "sold" is substituted for the word "furnished" for directness of expression.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6155 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8267. Uniform: sale to former members of the naval service

(a) Under such regulations as the Secretary of the Navy prescribes, exterior articles of uniform may be sold to a person who has been discharged from the naval service honorably or under honorable conditions. This section does not modify section 772 or 773 of this title.

(b) Money received from sales under this section shall be covered into the Treasury to the credit of the appropriation out of which the articles were purchased.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386, §6156; renumbered §8267, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6156 | 34 U.S.C. 608. | Feb. 14, 1927, ch. 134, 44 Stat. 1096. |

The word "person" is substituted for the words "former members of the naval service".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6156 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8270. Pension to persons serving ten years

(a) Every disabled person who has served in the Navy or Marine Corps as an enlisted member or petty officer, or both, for ten or more years, and has not been discharged for misconduct, may apply to the Secretary of the Navy for aid.

(b) Upon receipt of an application under subsection (a), the Secretary of the Navy may convene a board of not less than three naval officers (one of whom shall be a surgeon) to examine into the condition of the applicant, and to recommend a suitable amount for his relief, and for a specified time. If the Secretary of the Navy approves the recommendation, he shall so certify to the Secretary of Veterans Affairs, who shall pay a pension in such amount monthly to the applicant.

(c) No naval pension under this section shall be paid at a rate in excess of the rate payable to a veteran of World War I for permanent and total non-service-connected disability, unless the applicant's disability is service-connected, in which case the naval pension payable to him shall not exceed the rate of disability compensation payable for total disability to a veteran of any war, or of peacetime service, as the case may be. In the case of any initial award of naval pension granted before July 14, 1943, where the person granted the naval pension is also entitled to pension or compensation under laws administered by the Secretary of Veterans Affairs, such naval pension shall not exceed one-fourth of such pension or compensation.

(Added Pub. L. 85–56, title XXII, §2201(31)(C), June 17, 1957, 71 Stat. 161, §6160; amended Pub. L. 85–857, §13(v)(4), Sept. 2, 1958, 72 Stat. 1268; Pub. L. 99–145, title XIII, §1301(c)(1), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 101–510, div. A, title XIV, §1484(j)(4), Nov. 5, 1990, 104 Stat. 1719; renumbered §8270, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6160 of this title as this section.

**1990**—Subsec. (c). Pub. L. 101–510 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

**1989**—Subsec. (b). Pub. L. 101–189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

**1985**—Subsec. (a). Pub. L. 99–145 substituted "enlisted member" for "enlisted man".

**1958**—Pub. L. 85–857 limited naval pensions granted before July 14, 1943 to not more than one-fourth of any pension or compensation which the person is entitled to receive under laws administered by the Veterans' Administration.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Pub. L. 85–857, §13(v)(4), Sept. 2, 1958, 72 Stat. 1268, provided that the amendment made by that section is effective as of Jan. 1, 1958.

**EFFECTIVE DATE**

Section effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56.

## §8271. Settlement of accounts: remission or cancellation of indebtedness of members

(a) IN GENERAL.—The Secretary of the Navy may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the naval service, whether as a regular or a reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

(b) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

(c) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 86–511, §1(a), June 11, 1960, 74 Stat. 207, §6161; amended Pub. L. 109–163, div. A, title VI, §683(b)(1), Jan. 6, 2006, 119 Stat. 3322; Pub. L. 109–364, div. A, title VI, §673(b)(1), (2), (e)(2), Oct. 17, 2006, 120 Stat. 2271, 2272; Pub. L. 110–181, div. A, title X, §1063(c)(7)(B), Jan. 28, 2008, 122 Stat. 323; Pub. L. 114–328, div. A, title VI, §671(b)(2), Dec. 23, 2016, 130 Stat. 2173; renumbered §8271, Pub. L. 115–232, div. A, title VIII, §807(b)(10), Aug. 13, 2018, 132 Stat. 1835.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6161 of this title as this section.

**2016**—Subsec. (a). Pub. L. 114–328 substituted "as a member of the naval service, whether as a regular or a reserve in active status" for "on active duty as a member of the naval service".

**2008**—Subsec. (a). Pub. L. 110–181 made technical correction to directory language of Pub. L. 109–364, §673(b)(1). See 2006 Amendment note below.

**2006**—Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text read as follows: "If he considers it in the best interest of the United States, the Secretary of the Navy may have remitted or canceled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of that member's honorable discharge."

Subsec. (a). Pub. L. 109–364, §673(e)(2), substituted "The Secretary of the Navy" for "If the Secretary of the Navy considers it to be in the best interest of the United States, the Secretary" and inserted ", but only if the Secretary considers such action to be in the best interest of the United States" before period at end.

Pub. L. 109–364, §673(b)(1), as amended by Pub. L. 110–181, substituted "of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the naval service" for "of a member of the Navy on active duty, or a member of a reserve component of the Navy in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty".

Subsecs. (b) to (d). Pub. L. 109–364, §673(b)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary of the Navy may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period

beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective Dec. 23, 2016, and applicable with respect to debt incurred on or after Oct. 7, 2001, see section 671(b)(5) of Pub. L. 114–328, set out as a note under section 7837 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(7)(B) is effective as of Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

### TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §683(b)(3), Jan. 6, 2006, 119 Stat. 3323, which provided for termination of amendments by Pub. L. 109–163, §683(b), amending this section and the analysis to this chapter, on Dec. 31, 2007, and restoration of provisions as in effect on the day before Jan. 6, 2006, was repealed by Pub. L. 109–364, div. A, title VI, §673(b)(3), Oct. 17, 2006, 120 Stat. 2271.

### REGULATIONS

Secretary of Defense to prescribe regulations required for purposes of this section, as amended by Pub. L. 109–364, not later than Mar. 1, 2007, see section 673(d) of Pub. L. 109–364, set out as a note under section 7837 of this title.

# CHAPTER 833—HOSPITALIZATION AND MEDICAL CARE

Sec.
8281. Members of the naval service in other United States hospitals.
8282. Insane members of the naval service.
8283. Emergency medical treatment: reimbursement for expense.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 833, consisting of sections 8251 to 8263, related to enlistments, prior to renumbering as chapter 913 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 563 of this title as this chapter and items 6201 to 6203 as 8281 to 8283, respectively.

## §8281. Members of the naval service in other United States hospitals

(a) When appropriate naval hospital facilities are unavailable, the Secretary of the Navy may provide for the care and treatment of members of the naval service, entitled to treatment in naval hospitals, in other United States hospitals, if the agencies controlling the other hospitals consent. Expenses incident to such care and treatment are chargeable to the same appropriation as would be chargeable for care and treatment in a naval hospital.

(b) The deduction authorized by section 4812 of the Revised Statutes (24 U.S.C. 16) shall be made

from accounts of members hospitalized under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387, §6201; Pub. L. 85–861, §36B(19), Sept. 2, 1958, 72 Stat. 1571; Pub. L. 96–513, title V, §513(14), Dec. 12, 1980, 94 Stat. 2932; renumbered §8281, Pub. L. 115–232, div. A, title VIII, §807(b)(11), Aug. 13, 2018, 132 Stat. 1832, 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6201(a), (b) | 24 U.S.C. 31. | Jan. 19, 1929, ch. 85, 45 Stat. 1090. |
| 6201(c) | 34 U.S.C. 854f. | June 25, 1938, ch. 690, §207, 52 Stat. 1180. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words "members of the naval service" are substituted for the words "naval patients on the active or retired list and members of the Naval Reserve or Marine Corps Reserve". The definition of "member of the naval service" makes the terms coextensive. Reference to St. Elizabeths Hospital is omitted in view of Reorganization Plan No. 3 of 1946, §201, 60 Stat. 1098, which transferred the functions of that hospital pertaining to members of the naval service to the Secretary of the Navy. For the purposes of this section, St. Elizabeths is now in the same category as other United States hospitals.

In subsection (b) reference to R.S. 4813 (24 U.S.C. 6) is omitted because the Administrator of Veterans' Affairs held in Decision Number 571 (July 27, 1944) that R.S. 4813 was repealed by implication. Since this decision is binding on the Secretary of the Navy (see 38 U.S.C. 11a–2), the deductions from pension accounts authorized by R.S. 4813 may not be made.

In subsection (c) the words "each retired enlisted member of the naval service" are substituted for the words "retired enlisted men" and the words "is entitled to" are substituted for the words "shall receive" to conform to terminology used throughout this title. The words "equal in value to the hospital ration" are substituted for the words "prescribed by law for enlisted men of the Regular Navy" to show that the amount of the allowance is the value of the hospital ration. The words "for each day" are inserted to make it clear that the ration allowance is credited on a daily basis. The words "under this section" are substituted for the words "in a Federal hospital in accordance with law" because this section is the only authority for the hospitalization of members of the Fleet Reserve and Fleet Marine Corps Reserve and retired enlisted members of the naval service in Federal hospitals, other than naval hospitals, under conditions entitling the members to a ration allowance. The subsistence of a member of the Fleet Reserve or Fleet Marine Corps Reserve or a retired enlisted member of the naval service while hospitalized in naval hospitals is covered by §6086 of this title.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8281 was renumbered section 9151 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6201 of this title as this section.

**1980**—Subsec. (b). Pub. L. 96–513 substituted "section 4812 of the Revised Statutes (24 U.S.C. 16)" for "section 16 of title 24".

**1958**—Subsec. (c). Pub. L. 85–861 repealed subsec. (c) which related to a ration allowance for members of the Fleet Reserve of the Fleet Marine Corps Reserve and retired enlisted members of the naval service.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8282. Insane members of the naval service

A member of the naval service who becomes insane may be placed in the hospital for the insane that, in the opinion of the Secretary of the Navy, is most convenient and will provide the most beneficial treatment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387, §6202; renumbered §8282, Pub. L. 115–232, div. A, title VIII, §807(b)(11), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6202 | 34 U.S.C. 595. | R.S. 1551; July 1, 1916, ch. 209, §1, 39 Stat. 309. |

The words "that * * * will provide the most beneficial treatment" are substituted for the words "best calculated to promise a restoration of reason" for clarity. The second sentence of 34 U.S.C. 595 is omitted as superseded. It provided a method by which the Secretary of the Navy, in his discretion, could compensate other agencies for expenses involved in hospitalizing insane naval patients. Other provisions of law, principally 24 U.S.C. 31, 31 U.S.C. 686, and 37 U.S.C. 284, and regulations, principally Executive Order 10122, of April 14, 1950, establish the method currently used.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6202 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8283. Emergency medical treatment: reimbursement for expense

The Secretary of the Navy shall prescribe regulations for reimbursing members of the naval service for expenses of emergency or necessary medical service, including hospitalization and medicines, when the member was in a duty status at the time he received the service and the service was not available from a Federal source. For the purpose of this section, a member on leave or liberty is in a duty status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387, §6203; renumbered §8283, Pub. L. 115–232, div. A, title VIII, §807(b)(11), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6203 | 34 U.S.C. 921a.<br>34 U.S.C. 921b. | May 4, 1948, ch. 254, §2, 62 Stat. 208.<br>May 4, 1948, ch. 254, §3, 62 Stat. 208. |

The word "shall" is substituted for the words "authorized and directed to". The word "members" is substituted for the word "persons". The words "from civilian sources" are omitted as surplusage. The word

"hospitalization" is substituted for the words "hospital service". In the second sentence, the word "authorized" is omitted as surplusage.

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8284 and 8285 were repealed by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981.

Section 8284, act Aug. 10, 1956, ch. 1041, 70A Stat. 507, provided that appointments in commissioned grades in Regular Air Force be made by President, by and with advice and consent of Senate. See section 531 of this title.

Section 8285, acts Aug. 10, 1956, ch. 1041, 70A Stat. 507; Aug. 21, 1957, Pub. L. 85–155, title III, §301(4), 71 Stat. 386; Sept. 2, 1958, Pub. L. 85–861, §1(167), 72 Stat. 1516, prescribed eligibility requirements for original appointment in a commissioned grade in Regular Air Force, except designation as a medical or dental officer and except a graduating cadet. See section 532 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6203 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 835—BANDS

Sec.
8286. United States Navy Band; officer in charge.
8287. United States Marine Band; United States Marine Drum and Bugle Corps: composition; appointment and promotion of members.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 835, consisting of sections 8281 to 8314, related to appointments in the regular Air Force, prior to renumbering as chapter 915 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 565 of this title as this chapter and items 6221 and 6222 as 8286 and 8287, respectively.

**2008**—Pub. L. 110–181, div. A, title V, §590(b)(2)(B), Jan. 28, 2008, 122 Stat. 138, struck out item 6223 "Competition with civilian musicians prohibited".

**2006**—Pub. L. 109–364, div. A, title V, §599(b), Oct. 17, 2006, 120 Stat. 2239, substituted "United States Marine Band; United States Marine Drum and Bugle Corps: composition; appointment and promotion of members" for "United States Marine Band: composition; director; assistant director" in item 6222.

**2001**—Pub. L. 107–107, div. A, title V, §510(b), Dec. 28, 2001, 115 Stat. 1091, inserted "; officer in charge" after "Navy Band" in item 6221.

**1980**—Pub. L. 96–513, title V, §513(15), Dec. 12, 1980, 94 Stat. 2932, struck out "; leader's pay and allowances" after "Band" in item 6221, and struck out item 6224 "United States Navy Band; United States Marine Corps Band; concert tours".

**1958**—Pub. L. 85–861, §1(141), Sept. 2, 1958, 72 Stat. 1509, substituted "United States Marine Band" for "United States Marine Corps Band", and "director; assistant director" for "Pay and allowances of leader and second leader" in item 6222.

## §8286. United States Navy Band; officer in charge

(a) There is a Navy band known as the United States Navy Band.

(b)(1) An officer of the Navy designated for limited duty under section 8139 or 8146 of this title who is serving in a grade above lieutenant may be detailed by the Secretary of the Navy as Officer in Charge of the United States Navy Band.

(2) While serving as Officer in Charge of the United States Navy Band, an officer shall hold the grade of captain if appointed to that grade by the President, by and with the advice and consent of the Senate. Such an appointment may be made notwithstanding section 8146(d) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 388, §6221; Pub. L. 87–649, §14c(44), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title V, §513(16), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 107–107, div. A, title V, §510(a), Dec. 28, 2001, 115 Stat. 1091; renumbered §8286 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1835, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6221 | 34 U.S.C. 596 (less 3d proviso). | Mar. 4, 1925, ch. 536, §17 (less 3d proviso), 43 Stat. 1275. |

Subsection (a) is set forth to preserve the legal authority for the title of the band, but the first 30 words of the Act of March 4, 1925, ch. 536, §17, 43 Stat. 1275, are omitted as executed. To conform to the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), the word "basic" is inserted before "pay" in subsection (b) and the words "and is entitled to be credited for pay purposes with all service which may be credited under section 202 of the Career Compensation Act of 1949 (37 U.S.C. 233)" are substituted for the words *"Provided* , That all service as an enlisted man in the naval service shall be counted in computing longevity increases for pay of this leader".

The second proviso is omitted as executed.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8286, acts Aug. 10, 1956, ch. 1041, 70A Stat. 507; Aug. 21, 1957, Pub. L. 85–155, title III, §301(5), 71 Stat. 386; Sept. 2, 1958, Pub. L. 85–861, §1(168), 72 Stat. 1517, prescribed age limitations for original appointment in a commissioned grade in Regular Air Force, except designation as a medical or dental officer or as an Air Force nurse or medical specialist, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 532 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(12), renumbered section 6221 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 8139 or 8146" for "section 5589 or 5596".

Subsec. (b)(2). Pub. L. 115–232, §809(a), substituted "section 8146(d)" for "section 5596(d)".

**2001**—Pub. L. 107–107 amended section catchline and text generally. Prior to amendment, text read as follows: "There is a Navy band known as the United States Navy Band."

**1980**—Pub. L. 96–513 in section catchline struck out "; leader's pay and allowances" after "Band", and in text struck out designation "(a)".

**1962**—Subsec. (b). Pub. L. 87–649 repealed subsec. (b) which related to the pay and allowances of the leader of the United States Navy Band. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §8287. United States Marine Band; United States Marine Drum and Bugle Corps: composition; appointment and promotion of members

(a) UNITED STATES MARINE BAND.—The band of the Marine Corps shall be composed of one director, two assistant directors, and other personnel in such numbers and grades as the Secretary of the Navy determines to be necessary.

(b) UNITED STATES MARINE DRUM AND BUGLE CORPS.—The drum and bugle corps of the Marine Corps shall be composed of one commanding officer and other personnel in such numbers and grades as the Secretary of the Navy determines to be necessary.

(c) APPOINTMENT AND PROMOTION.—(1) The Secretary of the Navy shall prescribe regulations for the appointment and promotion of members of the Marine Band and members of the Marine Drum and Bugle Corps.

(2) The President may from time to time appoint members of the Marine Band and members of the Marine Drum and Bugle Corps to grades not above the grade of captain. The authority of the President to make appointments under this paragraph may be delegated only to the Secretary of Defense.

(3) The President, by and with the advice and consent of the Senate, may from time to time appoint any member of the Marine Band or of the Marine Drum and Bugle Corps to a grade above the grade of captain.

(d) RETIREMENT.—Unless otherwise entitled to higher retired grade and retired pay, a member of the Marine Band or Marine Drum and Bugle Corps who holds, or has held, an appointment under this section is entitled, when retired, to be retired in, and with retired pay based on, the highest grade held under this section in which the Secretary of the Navy determines that such member served satisfactorily.

(e) REVOCATION OF APPOINTMENT.—The Secretary of the Navy may revoke any appointment of a member of the Marine Band or Marine Drum and Bugle Corps. When a member's appointment to a commissioned grade terminates under this subsection, such member is entitled, at the option of such member—

(1) to be discharged from the Marine Corps; or

(2) to revert to the grade and status such member held at the time of appointment under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 388, §6222; Pub. L. 85–861, §1(140), Sept. 2, 1958, 72 Stat. 1508; Pub. L. 87–649, §14c(45), Sept. 7, 1962, 76 Stat. 501; Pub. L. 91–197, Feb. 24, 1970, 84 Stat. 15; Pub. L. 96–513, title V, §513(18), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 109–364, div. A, title V, §599(a), Oct. 17, 2006, 120 Stat. 2238; renumbered §8287, Pub. L. 115–232, div. A, title VIII, §807(b)(12), Aug. 13, 2018, 132 Stat. 1835.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6222 | 34 U.S.C. 701 (less proviso). | Mar. 4, 1925, ch. 536, §11 (less proviso), 43 Stat. 1274; June 29, |

| | | |
|---|---|---|
| | | 1946, ch. 523, §1(c), 60 Stat. 343; Oct. 12, 1949, ch. 681, §517(a), 63 Stat. 833. |

In subsection (b) the second sentence is substituted for the two references to the Career Compensation Act of 1949 and for the words "and with the same number of cumulative years of service".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6222(a) | 34 App.:701. | July 24, 1956, ch. 686, 70 Stat. 628. |
| 6222(b) | 34 App.:701–1(a). | |
| 6222(c) | 34 App.:701–1(b). | |
| 6222(d) | 34 App.:701–2. | |
| 6222(e) | 34 App.:701–3. | |
| 6222(f) | 34 App.:701–4. | |
| 6222(g) | 34 App.:701–5. | |

In subsection (a), the words "and appropriate" are omitted as covered by the word "necessary". The words "and ranks" are omitted as covered by the word "grades". The second sentence of 34 App.:701 is omitted as covered by section 6224 of this title.

In subsection (b), the words "United States" and "or the United States Marine Corps Reserve" are omitted as unnecessary in view of the definition of "Marine Corps" in section 5001(a)(2) of this title. The words "as authorized by sections 701 to 701–5 of this title" are omitted as surplusage.

In subsection (e), the words "from the United States . . . as provided by law" are omitted as surplusage.

In subsection (f), the words "a member who holds, or has held" are substituted for the words "Directors and assistant directors of the Marine Band and former directors and assistant directors who have held".

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8287 to 8289 were repealed by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981.

Section 8287, acts Aug. 10, 1956, ch. 1041, 70A Stat. 508; Aug. 21, 1957, Pub. L. 85–155, title III, §301(6), 71 Stat. 386; Sept. 2, 1958, Pub. L. 85–861, §1(169), 72 Stat. 1517; Sept. 30, 1966, Pub. L. 89–609, §1(28), 80 Stat. 854, provided service credit for a person originally appointed in a commissioned grade in Regular Air Force, other than a person appointed as a medical or dental officer, for purpose of determining grade, position on a promotion list, seniority in his grade in Regular Air Force, and eligibility for promotion, with appointment and service credit restrictions on persons who were cadets at the United States Air Force, Military, or Naval Academies but were not graduated, and a disallowance of service credit under this section for persons who graduated from one of these Academies. See section 533 of this title.

Section 8288, acts Aug. 10, 1956, ch. 1041, 70A Stat. 508; Aug. 2, 1957, Pub. L. 85–155, title III, §301(7), 71 Stat. 387; Sept. 2, 1958, Pub. L. 85–861, §1(170), 72 Stat. 1518, provided for determination of grade of a person originally appointed as a commissioned officer in Regular Air Force, other than persons appointed as medical or dental officers. See section 533 of this title.

Section 8289, act Aug. 10, 1956, ch. 1041, 70A Stat. 509, provided that no person be originally appointed as a first lieutenant in Regular Air Force with a view to designation as a medical officer until he passes an examination of his professional fitness before an examining board composed of at least three medical officers designated by Secretary of Air Force. See section 532 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6222 of this title as this section.

**2006**—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to composition of the United States Marine Band, designation of its director and assistant directors, grades upon initial appointment, promotion, retirement, and revocation of appointments.

**1980**—Subsecs. (e) to (g). Pub. L. 96–513 redesignated subsecs. (f) and (g) as (e) and (f), respectively.

**1970**—Subsec. (d). Pub. L. 91–197 struck out provision that the grade of the director be no higher than lieutenant colonel and that the grades of the assistant directors be no higher than captain.

**1962**—Subsec. (e). Pub. L. 87–649 repealed subsec. (e) which related to pay and allowances of members who accepted a commission under this section. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

**1958**—Pub. L. 85–861 substituted "United States Marine Band" for "United States Marine Corps Band", and "director; assistant director" for "pay and allowances of leader and second leader" in section catchline.

Subsec. (a). Pub. L. 85–861 authorized one director and two assistant directors instead of one leader and one second leader.

Subsec. (b). Pub. L. 85–861 substituted provisions relating to designation of director and assistant directors for provisions which prescribed the pay and allowances of the leader and second leader.

Subsecs. (c) to (g). Pub. L. 85–861 added subsecs. (c) to (g).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### EXECUTIVE DOCUMENTS

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (c)(2) delegated to Secretary of Defense, without authority for Secretary to redelegate, see Ex. Ord. No. 13598, §§1(c), 2, Jan. 27, 2012, 77 F.R. 5371, set out as a note under section 301 of Title 3, The President.

## CHAPTER 837—DECORATIONS AND AWARDS

Sec.
8291. Medal of honor.
8292. Navy cross.
8293. Distinguished-service medal.
8294. Silver star medal.
8295. Distinguished flying cross.
8296. Navy and Marine Corps Medal.
8297. Additional awards.
8298. Limitations of time.
[8299. Repealed.]
8300. Posthumous awards.
8301. Delegation of power to award.
8302. Regulations.
8303. Replacement.
8304. Availability of appropriations.
8305. Commemorative or special medals: facsimiles and ribbons.
8306. Medal of honor: duplicate medal.

8307. Medal of honor: presentation of Medal of Honor Flag.
8308. Korea Defense Service Medal.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 837, consisting of sections 8351 to 8396, related to appointments as reserved officers in the Air Force, prior to repeal, except for sections 8351 and 8352 (now sections 12212 and 12214 of this title), by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963.

**AMENDMENTS**

**2019**—Pub. L. 116–92, div. A, title V, §582(b)(2)(B), Dec. 20, 2019, 133 Stat. 1412, struck out item 8299 "Limitation of honorable service".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 567 as this chapter and items 6241 to 6258 as 8291 to 8308, respectively.

**2004**—Pub. L. 108–375, div. A, title X, §1084(d)(30), Oct. 28, 2004, 118 Stat. 2063, renumbered item 6257 "Korea Defense Service Medal" as 6258.

**2002**—Pub. L. 107–314, div. A, title V, §543(c)(2), Dec. 2, 2002, 116 Stat. 2550, added item 6257 "Korea Defense Service Medal".

Pub. L. 107–248, title VIII, §8143(c)(2)(B), Oct. 23, 2002, 116 Stat. 1570, added item 6257 "Medal of honor: presentation of Medal of Honor Flag".

**2001**—Pub. L. 107–107, div. A, title V, §553(b)(1)(B), Dec. 28, 2001, 115 Stat. 1116, added item 6256.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EXTENSION OF TIME FOR AWARD OF DECORATION**

For extension of time for the award of decorations, or devices in lieu of decorations, for acts or services performed in direct support of military operations in Southeast Asia between July 1, 1958, and Mar. 28, 1973, see Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, set out as a note preceding section 7271 of this title.

## §8291. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the naval service, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389, §6241; Pub. L. 88–77, §2(1), July 25, 1963, 77 Stat. 93; Pub. L. 104–106, div. A, title XV, §1503(b)(2), Feb. 10, 1996, 110 Stat. 512; renumbered §8291, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6241 | 34 U.S.C. 354. | Feb. 4, 1919, ch. 14, §1, 40 Stat. 1056; Aug. 7, 1942, ch. 551, §1, 56 Stat. 743. |

In subsection (a) the word "award" is added for clarity since the President determines the recipient, in addition to presenting the medal in the name of Congress. The words "a member of the naval service" are substituted for the words "in the naval service of the United States" for uniformity. The word "distinguishes" is substituted for the words "shall * * * distinguish" for uniformity.

In subsection (b) the words "of the medal of honor authorized on August 8, 1942" are substituted for the words "adopted pursuant to the Act approved December 21, 1861 (12 Stat. 330)" for the reason that the 1861

Act does not establish the design, and the date of formal adoption of the design of the medal is obscure. The effect of the subsection is to continue the design recognized by 34 U.S.C. 354.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8291, act Aug. 10, 1956, ch. 1041, 70A Stat. 509, related to original appointments in Regular Air Force of nurses or woman medical specialists, and prescribed qualifications for appointment as a nurse, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6241 of this title as this section.

**1996**—Par. (2). Pub. L. 104–106 inserted "or" after "an opposing foreign force;".

**1963**—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons distinguished themselves in action involving actual conflict with an enemy, or in the line of his profession, and without detriment to the mission of his command or to the command to which attached, to permit its award for distinguished service while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and substituted the requirement that it be of appropriate design, with ribbons and appurtenances, for the requirement that it be the same as that authorized on August 8, 1942.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EXECUTIVE DOCUMENTS

### MERITORIOUS SERVICE MEDAL

Establishment of, see Ex. Ord. No. 11448, set out as a note preceding section 1121 of this title.

## §8292. Navy cross

The President may award a Navy cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Navy or Marine Corps, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389, §6242; Pub. L. 88–77, §2(2), July 25, 1963, 77 Stat. 94; renumbered §8292, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6242 | 34 U.S.C. 356. | Feb. 4, 1919, ch. 14, §3, 40 Stat. 1056; renumbered §2 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 743. |

The word "award" is substituted for the word "present" to cover the determination of the recipient as well as the actual presenting of the decoration. The words "but not in the name of Congress" are omitted, since a

decoration is presented in the name of Congress only if the law so directs. The words "Navy or the Marine Corps" are substituted for the words "naval service of the United States" for clarity. To be eligible for the award, a person need not be a member of the naval service, but only serving in some capacity either with the Navy or with the Marine Corps.

### EXECUTIVE DOCUMENTS

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6242 of this title as this section.

**1963**—Pub. L. 88–77 enlarged the authority to award the Navy cross, which was limited to those cases in which persons distinguished themselves in connection with military operations against an armed enemy, to permit its award for extraordinary heroism not justifying the award of a medal of honor, while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8293. Distinguished-service medal

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389, §6243; renumbered §8293, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6243 | 34 U.S.C. 355. | Feb. 4, 1919, ch. 14, §2, 40 Stat. 1056; renumbered §3 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 743. |

The word "award" is substituted for the word "present" to cover the determination of the recipient as well as the actual presenting of the decoration. The words "but not in the name of Congress" are omitted as surplusage, since a decoration is presented in the name of Congress only if Congress so directs. The words "Navy or the Marine Corps" are substituted for the words "Navy of the United States" because the provision is interpreted as authorizing the award of the medal to persons serving with the Marine Corps as well as with the Navy. The words "since the sixth day of April 1917 has distinguished" are omitted as executed. The words "United States" are substituted for the word "Government" for uniformity.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8293, act Aug. 10, 1956, ch. 1041, 70A Stat. 509, provided that no person in civil life be originally appointed as a chaplain in Regular Air Force unless he has passed an examination prescribed by President as to his moral, mental, and physical qualifications, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 532 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6243 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8294. Silver star medal

The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Navy or Marine Corps, is cited for gallantry in action that does not warrant a medal of honor or Navy cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389, §6244; Pub. L. 88–77, §2(3), July 25, 1963, 77 Stat. 94; renumbered §8294, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6244 | 34 U.S.C. 356a. | Feb. 4, 1919, ch. 14, §4; added Aug. 7, 1942, ch. 551, §1, 56 Stat. 743. |

The word "award" is substituted for the word "present" to cover the determination of the recipient as well as the actual presenting of the decoration. The words "but not in the name of Congress" are omitted as surplusage, since a decoration is presented in the name of Congress only if the law so directs. The words "Navy or the Marine Corps" are substituted for the words "Navy of the United States" because the provision is interpreted as authorizing the award of the medal to persons serving with the Marine Corps. The words "since December 6, 1941, has distinguished himself" are omitted as executed.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8294, acts Aug. 10, 1956, ch. 1041, 70A Stat. 509; Sept. 2, 1958, Pub. L. 85–861, §1(173), 72 Stat. 1518, provided that original appointments in Regular Air Force be made in grades of first lieutenant through colonel for medical and dental officers as Air Force requires, from qualified doctors of medicine, osteopathy, or dentistry who are citizens of the United States and have such other qualifications as Secretary of Air Force prescribes, with specific additional eligibility requirements for a doctor of osteopathy, and that officers so appointed receive service credit for determining grade, position on a promotion list, seniority in grade in Regular Air Force, and eligibility for promotion, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 532 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6244 of this title as this section.

**1963**—Pub. L. 88–77 enlarged the authority to award a silver star medal, which was limited to those cases in which persons distinguished themselves in action, to permit its award for gallantry while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8295. Distinguished flying cross

The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6245; renumbered §8295, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6245 | 34 U.S.C. 364a (1st sentence, less 1st 9 words, and less 2d and 3d sentences). | July 2, 1926, ch. 721, §12 (1st sentence, less 1st 9 words, and less 2d and 3d sentences), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549. |

The word "award" is substituted for the word "present" to cover the determination of the recipient as well as the actual presenting of the decoration. The words "but not in the name of Congress" are omitted as surplusage, since a decoration is presented in the name of Congress only if the law so directs. The proviso of the first sentence of 34 U.S.C. 364a is omitted as executed. The words "Navy or the Marine Corps" are substituted for the words "United States Navy" because the provision is interpreted as authorizing the award of the decoration to persons serving with the Marine Corps as well as with the Navy. The words "and notwithstanding the provisions of section 14 of this Act," which are not now contained in title 34, are omitted as unnecessary. The words "since the 6th day of April, 1917, has distinguished, or who, after July 2, 1926," are omitted as executed.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8295, acts Aug. 10, 1956, ch. 1041, 70A Stat. 510; Sept. 2, 1958, Pub. L. 85–861, §1(174), 72 Stat. 1519, provided for determination of place on a promotion list of the name of each person who is originally appointed in a commissioned grade in Regular Air Force and whose name is carried on a promotion list, other than persons appointed as medical or dental officers or as an Air Force nurse or medical specialist, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 624 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6245 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8296. Navy and Marine Corps Medal

(a) The President may award a medal called the "Navy and Marine Corps Medal" of appropriate design with accompanying ribbon, together with a rosette or other device to be worn in place thereof—

(1) to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism not involving actual conflict with an enemy; or

(2) to any person to whom the Secretary of the Navy, before August 7, 1942, awarded a letter of commendation for heroism, and who applies for that medal, regardless of the date of the act of heroism.

(b) The authority in subsection (a) includes authority to award the medal to a member of the Ready Reserve who was not in a duty status defined in section 101(d) of this title when the member distinguished himself by heroism.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6246; Pub. L. 105–85, div. A, title V, §574(b), Nov. 18, 1997, 111 Stat. 1758; renumbered §8296, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6246 | 34 U.S.C. 356b. | Feb. 4, 1919, ch. 14, §5; added Aug. 7, 1942, ch. 551, §1, 56 Stat. 744. |

The word "award" is substituted for the word "present" to cover the determination of the recipient as well as the actual presenting of the award. The words "but not in the name of Congress" are omitted since a decoration is presented in the name of Congress only if the law so directs. The words "including the Naval Reserve and Marine Corps Reserve" are omitted as covered by the definitions of the Navy and the Marine Corps. The last sentence, relating to additional pay, is omitted for the reason that, under the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), there is no additional pay authorized for any medal. The words "since December 6, 1941" are omitted as executed. The words "or herself" are omitted as covered by the rules of construction in 1 U.S.C. 1.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8296, acts Aug. 10, 1956, ch. 1041, 70A Stat. 510; Aug. 6, 1958, Pub. L. 85–600, §1(16), 72 Stat. 523; Sept. 2, 1958, Pub. L. 85–861, §1(156), (175), 72 Stat. 1513, 1519, provided for promotion lists in Regular Air Force for all commissioned officers in grades below brigadier general on active list, with exceptions, which officers are known as "promotion-list officers", a separate list for chaplains, judge advocates, medical officers, dental officers, veterinary officers, medical service officers, Air Force nurses, Air Force medical specialists, and any category established by Secretary of Air Force under section 8067(i) of this title, and determination of place on list upon transfer or promotion, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 624 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6246 of this title as this section.

**1997**—Pub. L. 105–85 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8297. Additional awards

Not more than one Navy cross, distinguished-service medal, silver star medal, distinguished flying cross, or Navy and Marine Corps Medal may be awarded to a person. However, for each succeeding act or service that would otherwise justify the award of such a medal or cross, the President may award a suitable bar, emblem, or insignia to be worn with the decoration and corresponding rosette or other device.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6247; Pub. L. 113–66, div. A, title V, §561(b), Dec. 26, 2013, 127 Stat. 766; renumbered §8297, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6247 | 34 U.S.C. 358. | Feb. 4, 1919, ch. 14, §5, 40 Stat. 1056; renumbered §7 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 744. |
| | 34 U.S.C. 364a (2d sentence). | July 2, 1926, ch. 721, §12 (2d sentence), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549. |

The word "awarded" is substituted for the word "issued" for uniformity. The words "that would otherwise justify" are substituted for the words "sufficient to justify" for clarity. The word "service" is substituted for the word "achievement" for uniformity. The words "as he shall direct" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8297, acts Aug. 10, 1956, ch. 1041, 70A Stat. 510; Aug. 21, 1957, Pub. L. 85–155, title III, §301(8), 71 Stat. 387; July 12, 1960, Pub. L. 86–616, §6(1), 74 Stat. 391, provided for selection boards to recommend promotion-list officers and brigadier generals of Regular Air Force for promotion in Regular Air Force, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 611 et seq. of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6247 of this title as this section.
**2013**—Pub. L. 113–66 struck out "medal of honor," before "Navy cross".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8298. Limitations of time

(a) Except as provided in section 8296 of this title or subsection (b), no medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps Medal, or bar, emblem, or insignia in place thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the act or service justifying the award; and

(2) a statement setting forth the act or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the

date of that act or service.

(b) If the Secretary of the Navy determines that—

(1) a statement setting forth the act or distinguished service and recommending official recognition of it was made by the person's superior through official channels within three years from the date of that act or service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted on;

a medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps Medal, or bar, emblem, or insignia in place thereof, as the case may be, may be awarded to the person within two years after the date of that determination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6248; Pub. L. 86–582, §1(2), July 5, 1960, 74 Stat. 320; renumbered §8298 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6248 | 34 U.S.C. 360. | Feb. 4, 1919, ch. 14, §7, 40 Stat. 1056; renumbered §9 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 744. |

The words "Except as provided in section 6246 of this title" are substituted for the words "That except as otherwise prescribed herein" to identify the only exception. The words "may be awarded to a person" are substituted for the words "shall be issued to any person" for uniformity. The words "specific", "or report distinctly", and "at the time of" are omitted as surplusage. The words "bar, emblem, or insignia" are substituted for the words "or bar or other suitable emblem or insignia" for uniformity. The words "from the date of that act or service" are substituted for the word "thereafter".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8298, acts Aug. 10, 1956, ch. 1041, 70A Stat. 511; Aug. 21, 1957, Pub. L. 85–155, title III, §301(9), title IV, §401(1), 71 Stat. 387, 390, provided for promotion from grade of second lieutenant to first lieutenant after three years of service, discharge under section 8814 of this title upon failure of promotion, and filling vacancies for first lieutenants with second lieutenants, except Air Force nurses and medical specialists, prior to completion of three years of service, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 630 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(13), renumbered section 6248 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8296" for "section 6246" in introductory provisions.

**1960**—Pub. L. 86–582 designated existing provisions as subsec. (a), inserted "or subsection (b)" after "title", and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## [§8299. Repealed. Pub. L. 116–92, div. A, title V, §582(b)(2)(A), Dec. 20, 2019, 133 Stat. 1412]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6249; renumbered §8299, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836, related to limitation of honorable service.

A prior section 8299, acts Aug. 10, 1956, ch. 1041, 70A Stat. 511; Aug. 21, 1957, Pub. L. 85–155, title III, §301(10), title IV, §401(1), 71 Stat. 387, 390; Sept. 2, 1958, Pub. L. 85–861, §33(a)(21), 72 Stat. 1565; Sept. 30, 1966, Pub. L. 89–609, §1(29), 80 Stat. 854; Nov. 8, 1967, Pub. L. 90–130, §1(27)(A), 81 Stat. 382, provided that promotion-list officers be promoted to regular grades of captain, major, and lieutenant colonel, after specified length of service or without regard to length of service in view of actual or anticipated vacancies if Secretary of Air Force so directs, or be eliminated from active list under section 8303 of this title and a promotion-list officer who has twice been considered and not recommended for promotion to any one regular grade not be again considered for promotion under this section, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See sections 631 and 632 of this title.

## §8300. Posthumous awards

If a person who distinguishes himself dies before an award to which he is entitled is made, the award may be made and the medal, cross, or bar, or associated emblem or insignia may be presented, within five years from the date of the act or service justifying the award, to his representative as designated by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390, §6250; renumbered §8300, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6250 | 34 U.S.C. 363. | Feb. 4, 1919, ch. 14, §8 (less 1st and 2d provisos), 40 Stat. 1057; renumbered §10 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 745. |
| | 34 U.S.C. 364a (3d sentence, less last 31 words). | July 2, 1926, ch. 721, §12 (3d sentence, less last 31 words), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549. |

The word "associated" is substituted for the word "other" to relate the medal or cross to its emblem or insignia.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8300, acts Aug. 10, 1956, ch. 1041, 70A Stat. 513; Aug. 21, 1957, Pub. L. 85–155, title III, §301(11), 71 Stat. 388; July 12, 1960, Pub. L. 86–616, §6(2), 74 Stat. 391; Nov. 8, 1967, Pub. L. 90–130, §1(27)(B), 81 Stat. 382, provided for selection board procedure when promotion-list officers in regular grade of first lieutenant, captain, or major are to be considered for promotion under section 8299 of this title, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 611 et seq. of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6250 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8301. Delegation of power to award

The President may delegate, under such conditions as he prescribes, to flag and general officers who are commanders-in-chief or commanding on important independent duty, his authority to award the Navy cross, the distinguished-service medal, the silver star medal, or the Navy and Marine Corps Medal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6251; renumbered §8301, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6251 | 34 U.S.C. 364 (less 10th, and last 47 words). | Feb. 4, 1919, ch. 14, §9 (less applicability to regulations), 40 Stat. 1057; renumbered §11 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 745. |

The term "flag officers" is used generically in 34 U.S.C. 364. Officers of the Marine Corps who meet the duty requirements, if in the equivalent grades, are, therefore, within its terms and the authority to make the awards has been delegated to such officers.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8301, acts Aug. 10, 1956, ch. 1041, 70A Stat. 513; Aug. 21, 1957, Pub. L. 85–155, title III, §301(12), 71 Stat. 388; Nov. 8, 1967, Pub. L. 90–130, §1(27)(C), 81 Stat. 382, provided for, in addition to method prescribed in section 8300 of this title, promotion to captain, major, or lieutenant colonel of officers with special qualifications, whenever there are vacancies on Air Force promotion list in regular grade of captain, major, or lieutenant colonel and Secretary of Air Force considers that there are or will be too few officers in any of those grades with special qualifications, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6251 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8302. Regulations

The President may prescribe regulations for the administration of the preceding sections of this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6252; renumbered §8302, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6252 | 34 U.S.C. 364 (10th, and last 47 words). | Feb. 4, 1919, ch. 14, §9 (as applicable to regulations), 40 Stat. 1057; renumbered §11 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 745. |
| | 34 U.S.C. 364a (1st 9 words of 1st sentence). | July 2, 1926, ch. 721, §12 (1st 9 words of 1st sentence), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549. |

The words "further", "from time to time any and all rules", "orders which he shall deem necessary", and "to execute full purpose and intention thereof" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8302, act Aug. 10, 1956, ch. 1041, 70A Stat. 513, related to promotion to captain, major, or lieutenant colonel of commissioned medical, dental, or veterinary officers in Regular Air Force upon examination of professional fitness and effect upon failure of promotion, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See sections 631 and 632 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6252 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8303. Replacement

The Secretary of the Navy may replace without charge any medal of honor, Navy cross, distinguished-service medal, silver star medal, or Navy and Marine Corps Medal, or any associated bar, emblem, or insignia awarded under this chapter that is stolen, lost, or destroyed or becomes unfit for use without fault or neglect on the part of the person to whom it was awarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6253; Pub. L. 107–107, div. A, title V, §553(b)(2), Dec. 28, 2001, 115 Stat. 1116; renumbered §8303, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6253 | 34 U.S.C. 359 (proviso). | Feb. 4, 1919, ch. 14, §6 (proviso), 40 Stat. 1056; renumbered §8 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 744. |

The words "Secretary of the Navy may replace" are substituted for the words *"Provided*, That such replacement shall be made only in those cases where".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8303, acts Aug. 10, 1956, ch. 1041, 70A Stat. 514; Aug. 21, 1957, Pub. L. 85–155, title III, §301(13), 71 Stat. 388; July 12, 1960, Pub. L. 86–616, §6(3), 74 Stat. 391; June 28, 1962, Pub. L. 87–509, §4(a), 76 Stat. 121; Nov. 8, 1967, Pub. L. 90–130, §1(27)(D), 81 Stat. 382, related to effect of failure of a promotion-list officer considered for promotion to grade of captain, major, or lieutenant colonel under section 8299 of this title to be recommended for promotion, which officer was to be known as a "deferred officer", prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See sections 631 and 632 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6253 of this title as this section.
**2001**—Pub. L. 107–107 substituted "stolen, lost, or destroyed" for "lost or destroyed".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8304. Availability of appropriations

The Secretary of the Navy may spend from appropriations for the pay of the Navy or the Marine Corps, as appropriate, amounts necessary to provide and replace medals of honor, Navy crosses, distinguished-service medals, silver star medals, and Navy and Marine Corps Medals, and associated bars, emblems, and insignia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6254; renumbered §8304, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6254 | 34 U.S.C. 359 (less proviso). | Feb. 4, 1919, ch. 14, §6 (less proviso), 40 Stat. 1056; renumbered §8 and amended Aug. 7, 1942, ch. 551, §1, 56 Stat. 744. |

The words "the appropriations for the pay of the Navy or the Marine Corps, as appropriate", are substituted for the words "the appropriation 'Pay, subsistence, and transportation of naval personnel' ", to identify by a general description, rather than by the specific appropriation title, the appropriation authorized to be used. Specific appropriation titles vary from one appropriation act to the next. The permanent authority contained in 34 U.S.C. 359 for the Secretary of the Navy to use appropriations available for the pay of the Navy and the Marine Corps is not affected by a change in the titles of those appropriations nor is it affected by a specific authorization in an appropriation act to use, during the life of the act, a different type of appropriation.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8304, act Aug. 10, 1956, ch. 1041, 70A Stat. 515, related to promotion of Air Force nurses or women medical specialists to grades of first lieutenant, captain, major, lieutenant colonel, or colonel, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6254 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8305. Commemorative or special medals: facsimiles and ribbons

Under regulations prescribed by the Secretary of the Navy, members of the naval service may wear, in place of commemorative or special medals awarded to them, miniature facsimiles of such medals and ribbons symbolic of the awards.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6255; renumbered §8305, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6255 | 34 U.S.C. 358a. | Apr. 25, 1935, ch. 82, 49 Stat. 162. |

The words "members of the naval service may" are substituted for the words "That authority is hereby granted to personnel of the Navy and Marine Corps" for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8305, acts Aug. 10, 1956, ch. 1041, 70A Stat. 516; Aug. 21, 1957, Pub. L. 85–155, title III, §301(14), 71 Stat. 388; Nov. 8, 1967, Pub. L. 90–130, §1(27)(E), 81 Stat. 382, related to promotion of officers in regular grade of lieutenant colonel to grade of colonel, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 619 et seq. of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6255 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8306. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Navy may determine, as a duplicate or for display purposes only.

(Added Pub. L. 107–107, div. A, title V, §553(b)(1)(A), Dec. 28, 2001, 115 Stat. 1116, §6256; renumbered §8306, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8306, act Aug. 10, 1956, ch. 1041, 70A Stat. 516, related to promotion of officers in regular grade of colonel to grade of brigadier general, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980,

94 Stat. 2880, effective Sept. 15, 1981. See section 619 et seq. of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6256 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8307. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 8291 of this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 8291 or 8300 of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.

(Added Pub. L. 107–248, title VIII, §8143(c)(2)(A), Oct. 23, 2002, 116 Stat. 1570, §6257; amended Pub. L. 107–314, div. A, title X, §1062(a)(16), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–364, div. A, title V, §555(a), Oct. 17, 2006, 120 Stat. 2217; renumbered §8307 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8307, act Aug. 10, 1956, ch. 1041, 70A Stat. 517, related to promotion of officers in regular grade of brigadier general to grade of major general, prior to repeal by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981. See section 619 et seq. of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 8291" for "section 6241" and "section 8291 or 8300" for "section 6241 or 6250".

Pub. L. 115–232, §807(b)(13), renumbered section 6257 of this title as this section.

**2006**—Pub. L. 109–364 struck out "after October 23, 2002" after "section 6241 of this title" and inserted at end "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented."

**2002**—Pub. L. 107–314 substituted "October 23, 2002" for "the date of the enactment of this section".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR**

President to provide for the presentation of the Medal of Honor Flag to living recipients of the Medal of Honor as expeditiously as possible after Oct. 17, 2006, and for posthumous presentation to survivors of deceased recipients upon written application therefor, see section 555(b) of Pub. L. 109–364, set out as a note under section 7285 of this title.

## §8308. Korea Defense Service Medal

(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

(b) In this section, the term "KDSM eligibility period" means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.

(Added Pub. L. 107–314, div. A, title V, §543(c)(1), Dec. 2, 2002, 116 Stat. 2549, §6257; renumbered §6258, Pub. L. 108–375, div. A, title X, §1084(d)(30), Oct. 28, 2004, 118 Stat. 2063; renumbered §8308, Pub. L. 115–232, div. A, title VIII, §807(b)(13), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 107–314, which was approved Dec. 2, 2002.

#### PRIOR PROVISIONS

Prior sections 8308 and 8309 were repealed by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981.

Section 8308, act Aug. 10, 1956, ch. 1041, 70A Stat. 518, related to effect of removal from recommended list by President of name of any promotion-list officer or brigadier general of Regular Air Force who in President's opinion is not qualified for promotion or who is not confirmed by Senate. See section 629 of this title.

Section 8309, act Aug. 10, 1956, ch. 1041, 70A Stat. 518, provided that President prescribe a system of physical examination for all commissioned officers of Regular Air Force in grades below brigadier general to determine their fitness for promotion in Regular Air Force. See section 624 of this title.

A prior section 8310 was renumbered section 9160 of this title, prior to repeal by Pub. L. 118–159.

Prior sections 8312 to 8314 were repealed by Pub. L. 96–513, title II, §204, Dec. 12, 1980, 94 Stat. 2880, effective Sept. 15, 1981.

Section 8312, act Aug. 10, 1956, ch. 1041, 70A Stat. 519, provided that an officer who is promoted in Regular Air Force is considered to have accepted his promotion on date of order announcing it, unless he expressly declines it, without need to take the oath of office upon promotion if his service since last taking it has been continuous. See section 626 of this title.

Section 8313, act Aug. 10, 1956, ch. 1041, 70A Stat. 519, provided that in time of war or national emergency declared by Congress or President, the President may suspend operation of any provision of law relating to promotion, mandatory retirement, or separation of commissioned officers of Regular Air Force. See section 123(a), (b) of this title.

Section 8314, added Pub. L. 85–861, §1(177)(A), Sept. 2, 1958, 72 Stat. 1519, provided that promotion to a higher grade of a commissioned officer of Regular Air Force who is on a recommendation list awaiting promotion not be withheld or delayed because of original appointment of any other person to a commissioned grade in Regular Air Force and that this section does not apply to appointments as medical or dental officers or Air Force nurses or medical specialists. See section 624 of this title.

#### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6258 of this title as this section.

**2004**—Pub. L. 108–375 renumbered section 6257 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 839—DISCHARGE OF ENLISTED MEMBERS

Sec.
8317. Minors enlisted upon false statement of age.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 839, consisting of sections 8441 to 8452, related to temporary appointments in the Air Force, prior to renumbering as chapter 919 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 569 of this title as this chapter and item 6292 as 8317.

**1980**—Pub. L. 96–513, title V, §503(46), Dec. 12, 1980, 94 Stat. 2914, struck out item 6294 "Women in the Regular Navy and Regular Marine Corps: termination of enlistment".

**1968**—Pub. L. 90–235, §§3(a)(4), (b)(4), 8(4), Jan. 2, 1968, 81 Stat. 758, 764, struck out item 6291 "Honorable discharges", item 6293 "Minors enlisted without consent of parent or guardian", item 6295 "Regular Navy: early discharge", item 6296 "Furlough without pay", item 6297 "Disposition of uniform; clothing allowance; emergency funds", and item 6298 "Authority to live at a receiving station after honorable discharge".

## §8317. Minors enlisted upon false statement of age

(a) The Secretary of the Navy, under regulations prescribed by him, may discharge or release from the naval service, with pay and allowances and form of discharge certificate appropriate for his service after enlistment, any enlisted member who, as the result of a false statement of age on his application for enlistment, was enlisted while under the minimum statutory or administrative age limit. A member so discharged or released is entitled to transportation in kind and subsistence from the place of discharge to his home.

(b) Appropriations available for pay and allowances, subsistence, and transportation of enlisted members of the naval service are available for payments under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391, §6292; renumbered §8317, Pub. L. 115–232, div. A, title VIII, §807(b)(14), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6292(a) | 34 U.S.C. 900a. | Sept. 24, 1945, ch. 385, §1, 59 Stat. 536. |
| 6292(b) | 34 U.S.C. 900a (note). | Sept. 24, 1945, ch. 385, §3, 59 Stat. 537. |

The word "member" is substituted for the word "person" and the words "naval service" are substituted for the words "Navy, Marine Corps, and the Reserve components thereof". The words "form of" are added for clarity. Reference to the date "September 24, 1945" is omitted as unnecessary. The words "is entitled to" are substituted for the words "shall be furnished" for uniformity. The decision of the Comptroller General of December 23, 1949 (B–91297), has not been overlooked. That decision, without passing on a case in which the point was involved, indicated that the transportation entitlement in 34 U.S.C. 900a might be impliedly repealed by the Career Compensation Act of 1949. The editors of the United States Code Annotated,

apparently on the basis of this decision, have omitted 34 U.S.C.A. 900a from the 1954 pocket part. A conclusion that the section is repealed, however, defeats the specific purpose of the provision, which, as indicated in the legislative hearings, was to insure that underage dischargees would be transported home and not simply released at the place of discharge.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6292 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 841—VOLUNTARY RETIREMENT

Sec.
8321. Officers: 40 years.
8322. Officers: 30 years.
8323. Officers: 20 years.
8324. Officers: creditable service.
8325. Officers: retired grade and pay.
8326. Enlisted members: 30 years.
8327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.
8328. Computation of years of service: voluntary retirement.
8329. Officers not to be retired for misconduct.
8330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay.
8331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay.
8332. Conclusiveness of transfers.
8333. Computation of retired and retainer pay.
8334. Higher grade after 30 years of service: warrant officers and enlisted members.
8335. Restoration to former grade: warrant officers and enlisted members.
8336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 841, consisting of sections 8491 to 8504, related to active duty in the Air Force, prior to renumbering as chapter 921 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 571 of this title as this chapter and items 6321 to 6336 as 8321 to 8336, respectively.

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(B), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 6327.

**1996**—Pub. L. 104–201, div. A, title V, §532(b)(2), Sept. 23, 1996, 110 Stat. 2519, added item 6336.

Pub. L. 104–106, div. A, title V, §561(d)(3)(B), Feb. 10, 1996, 110 Stat. 323, added item 6328.

**1987**—Pub. L. 100–180, div. A, title V, §512(e)(2), Dec. 4, 1987, 101 Stat. 1091, added items 6334 and

6335.

**1986**—Pub. L. 99–348, title III, §304(b)(3), July 1, 1986, 100 Stat. 704, struck out item 6328 "Treatment of fractions of years of service in computing retired pay" and substituted "Computation of" for "Treatment of fractions of dollar amounts in computing" in item 6333.

**1983**—Pub. L. 98–94, title IX, §922(a)(10)(B), Sept. 24, 1983, 97 Stat. 641, added item 6333.

**1967**—Pub. L. 90–130, §1(23)(B), Nov. 8, 1967, 81 Stat. 380, struck out "Nurse Corps" before "Officers" in item 6324.

## §8321. Officers: 40 years

(a) Each officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W–1, or above who applies for retirement after completing 40 or more years of active service shall be retired by the Secretary of the Navy.

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 393, §6321; renumbered §8321, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6321 | 34 U.S.C. 381. | R.S. 1443; June 17, 1948, ch. 497, §1(a), 62 Stat. 477. |
| | 34 U.S.C. 879 (less applicability to enlisted men). | June 4, 1920, ch. 228, §3 (3d proviso, less applicability to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, §314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, §205, 68 Stat. 68. |

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

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

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6321 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8322. Officers: 30 years

(a) An officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment

in the grade of warrant officer, W–1, or above who applies for retirement after completing 30 or more years of active service may, in the discretion of the Secretary of the Navy, be retired.

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 394, §6322; Pub. L. 96–342, title VIII, §813(d)(1), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, §513(17), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99–348, title II, §203(b)(1), July 1, 1986, 100 Stat. 696; renumbered §8322, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

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

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

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

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

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6322 of this title as this section.

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

**1980**—Subsec. (c). Pub. L. 96–513 substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

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

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8323. Officers: 20 years

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

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

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

(b) For the purposes of this section—

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

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

(c) The retired grade of an officer retired under this section is the grade determined under section 1370 or 1370a of this title, as applicable.

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

(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay computed under section 8333 of this title.

(f) Officers of the Navy Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), or are transferred to the Retired Reserve under section 8327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394, §6323; Pub. L. 85–861, §1(142), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88–132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, §813(d)(2), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §§503(47)(A), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 99–348, title II, §203(b)(2), July 1, 1986, 100 Stat. 696; Pub. L. 101–510, div. A, title V, §523(b), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103–160, div. A, title V, §561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–163, div. A, title V, §§502(b), 515(b)(1)(H), Jan. 6, 2006, 119 Stat. 3225, 3233; Pub. L. 109–364, div. A, title X, §1071(a)(33), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–383, div. A, title V, §506(b), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 112–239, div. A, title V, §505(b), title X, §1076(e)(6), Jan. 2, 2013, 126 Stat. 1715, 1951; renumbered §8323 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 116–283, div. A, title V, §508(b)(3)(B), Jan. 1, 2021, 134 Stat. 3585.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6323(a), (b) | 34 U.S.C. 410b. | Feb. 21, 1946, ch. 34, §6, 60 Stat. 27. |

| | | |
|---|---|---|
| 6323(c) | 34 U.S.C. 410b–1. | Apr. 14, 1949, ch. 52, §1 (less applicability to Act of June 29, 1948, ch. 708, §301(b), 62 Stat. 1087), 63 Stat. 47. |

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

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

1958 ACT

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

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

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

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

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

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

Subsection (f) was formerly subsection (c).

## EDITORIAL NOTES

### REFERENCES IN TEXT

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

## AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283 substituted "section 1370 or 1370a of this title, as applicable" for "section 1370 of this title".

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6323 of this title as this section.

Subsec. (e). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

Subsec. (f). Pub. L. 115–232, §809(a), substituted "section 8327" for "section 6327".

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

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

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

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

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

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

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

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

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

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

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

**1980**—Subsec. (c). Pub. L. 96–513, §503(47)(A), substituted provisions that the retired grade of an officer retired under this section is the grade determined under section 1370 of this title for provisions that had set the grade of officers retired under this section at the highest grade, permanent or temporary, in which he had served satisfactorily on active duty as determined by the Secretary of the Navy; or, if the Secretary determined that he had not served satisfactorily in his highest temporary grade, in the next lower grade in which he had served, but not lower than his permanent grade.

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

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

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

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

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

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

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**TEMPORARY EARLY RETIREMENT AUTHORITY**

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

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under subsec. (a) to approve application of an officer of Navy or Marine Corps for retirement after completion of more than 20 years of active service and to designate month in which such retirements shall become effective delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(e), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

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

## §8324. Officers: creditable service

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 394, §6324; Pub. L. 86–197, §1(6), Aug. 25, 1959, 73 Stat. 426; Pub. L. 89–609, §1(15), Sept. 30, 1966, 80 Stat. 853; Pub. L. 90–130, §1(23)(A), Nov. 8, 1967, 81 Stat. 380; renumbered §8324, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

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

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

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6324 of this title as this section.

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

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

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

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

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

Secretaries authorized until July 1, 1972, to convene boards of officers to consider and recommend deferment of separation or retirement of officers of the Army Nurse Corps, officers of the Navy Nurse Corps, and Air Force nurses, as needs of the service require, see section 4(f) of Pub. L. 90–130, set out as a note under section 7069 of this title.

## §8325. Officers: retired grade and pay

(a) Except as provided in subsection (b) or section 1370 [1] of this title, each officer who is retired under section 8321 or 8322 of this title—

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

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 8333 of this title.

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

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

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 8333 of this title.

(c) A warrant officer who retires under section 8321, 8322, or 8323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394, §6325; Pub. L. 85–422, §11(a)(6)(B), May 20, 1958, 72 Stat. 131; Pub. L. 85–861, §1(143), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88–132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 95–377, §7, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96–342, title VIII, §813(d)(3), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §§503(47)(B), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 97–22, §10(b)(8), July 10, 1981, 95 Stat. 137; Pub. L. 99–348, title I, §104(c)(2), title II, §203(b)(3), July 1, 1986, 100 Stat. 691, 696; Pub. L. 102–484, div. A, title X, §1052(39), Oct. 23, 1992, 106 Stat. 2501; renumbered §8325 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6325 | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, §316(j), 61 Stat. 868. |
| | 34 U.S.C. 626–1(a) (1st | Aug. 7, 1947, ch. 512, §314(a) (1st |

| | |
|---|---|
| sentence). | sentence), 61 Stat. 863; May 5, 1954, ch. 180, §205, 68 Stat. 68. |
| 34 U.S.C. 389 (1st sentence as applicable to grade). | R.S. 1457 (1st sentence as applicable to grade). |
| 34 U.S.C. 410c(a) (as applicable to retired pay of officers retired under 34 U.S.C. 410b). | Feb. 21, 1946, ch. 34, §7(a) (as applicable to retired pay of officers retired under §6), 60 Stat. 27; Aug. 7, 1947, ch. 512, §432(a), 61 Stat. 881. |
| 34 U.S.C. 43g(d). | Apr. 16, 1947, ch. 38, §207(e), 61 Stat. 49; redesignated (d), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882; May 16, 1950, ch. 186, §3(i), 64 Stat. 162. |
| 34 U.S.C. 43g(f). | Apr. 16, 1947, ch. 38, §207(g), 61 Stat. 49; redesignated (f), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882. |
| 34 U.S.C. 410r(a), (g). | June 12, 1948, ch. 449, §207(a), (g), 62 Stat. 366. |
| 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, §213(a), 62 Stat. 369. |
| 34 U.S.C. 430(f) (as applicable to officers retired under 34 U.S.C. 381, 34 U.S.C. 383, and 34 U.S.C. 410b). | May 29, 1954, ch. 249, §14(f), 68 Stat. 163 (as applicable to officers retired under R.S. 1443, Act of May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso), and Act of Feb. 21, 1946, ch. 34, §6, 60 Stat. 27). |

Title III of the Officer Personnel Act of 1947 authorizes temporary promotions to the grades of lieutenant through rear admiral. The purpose of §316(j) of that act (34 U.S.C. 410m) was to insure that each officer who is temporarily promoted under that Title, and who retires before he receives a permanent appointment in the grade in which he is serving, will be considered, for the purposes of the laws relating to retired grade and pay, to be serving in the grade he holds pursuant to his temporary appointment. Since §5001 of this title provides that an officer who holds a permanent appointment in one grade and a temporary appointment in a higher grade is considered as serving in the higher grade, a restatement of the substance of §316(j) is unnecessary and is omitted from subsection (a). The words "retired other than by reason of physical disability incurred in line of duty", in 34 U.S.C. 43g(d) and (f) and 34 U.S.C. 410r(g), are omitted as unnecessary, since this section relates only to officers who are voluntarily retired under this chapter. The words "basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "active-duty pay with longevity credit of the rank with which retired" in 34 U.S.C. 410c(a), for the words "active-duty pay to which entitled at the time of retirement" in 34 U.S.C. 43g(d), and for the words "active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list" in 34 U.S.C. 43g(f) and 34 U.S.C. 410r(g), to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 U.S.C. 410q. The words "basic pay" are substituted for the words "active-duty pay" and the words "creditable for basic pay" are substituted for the words "for which entitled to credit in the computation of her active-duty pay", and for the words "for which entitled to credit in the computation of their pay while on active duty" to conform to the terminology used in the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.)

Unlike provisions of law authorizing retirement on various other grounds, R.S. 1443, which provides for the retirement of officers on their own application after 40 years of service, contains no provisions as to retired pay. R.S. 1588 provided, inter alia, that officers so retired should received retired pay at the rate of 75 percent of the sea pay of their respective grades, but that section was expressly repealed by §531(a)(7) of the Career Compensation Act of 1949, leaving no specific provision for the retired pay of officers retired under R.S. 1443. It would be absurd to assume, however, that Congress intended that an officer having 40 years of

service should be retired without pay, when he could have been retired with pay at any time within the preceding 20 years. By the repeal of R.S. 1588 Congress intended merely to remove obsolete and superseded provisions as to retirement at age 62 and retirement after 45 years of service, references to sea pay, and provisions, inconsistent with later law, for half pay for officers retired for other reasons. Congress intended the retired pay of officers retired after 40 years of service to be computed according to the formula prescribed generally for retired officers, other than for officers retired by reason of physical disability, and this section is worded accordingly.

Subsection (b) is added for clarity. With respect to officers appointed under §§5231 or 5232 of this title it represents a necessary inference from 34 U.S.C. 410o and 623b(e), codified in §5233 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6325 | [No source]. | [No source]. |

The reference to section 6323 is deleted, since it is no longer appropriate to include in this section officers retired under section 6323.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1370 of this title, referred to in subsec. (a), was repealed and new sections 1370 and 1370a of this title were enacted by Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3574, 3580. In determining the retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of this title in such determination with respect to such officers deemed to be a reference to section 1370a of this title, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.

Section 602 of this title, referred to in subsec. (b), was repealed by Pub. L. 102–190, div. A, title XI, §1113(a), Dec. 5, 1991, 105 Stat. 1502.

Section 5721 of this title, referred to in subsec. (b), was repealed by Pub. L. 115–232, div. A, title V, §503(b)(1), Aug. 13, 2018, 132 Stat. 1742.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6325 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8321 or 8322" for "section 6321 or 6322" in introductory provisions.

Subsecs. (a)(2), (b)(2). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 8321, 8322, or 8323" for "section 6321, 6322, or 6323".

**1992**—Subsec. (b). Pub. L. 102–484 substituted "section 602 (as in effect before February 1, 1992) or section 5721" for "section 602 or 5721".

**1986**—Subsec. (a)(2). Pub. L. 99–348, §203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade in which he retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (b)(2). Pub. L. 99–348, §203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade he would have held if he had not received an appointment, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (c). Pub. L. 99–348, §104(c)(2), struck out provision that if the pay of that highest grade was less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay would be based on the higher pay.

**1981**—Subsec. (b). Pub. L. 97–22, in provisions preceding par. (1), substituted "appointed or promoted under section 603 of this title or promoted under section 602 or 5721 of this title" for "appointed under section 5597 of this title or promoted under section 5787 or 5787d of this title".

**1980**—Subsec. (a). Pub. L. 96–513, §503(47)(B)(i), inserted "or section 1370 of this title" after "subsection (b)".

Subsec. (a)(2). Pub. L. 96–513, §513(17), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

Pub. L. 96–342, §813(d)(3)(A), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

Subsec. (b). Pub. L. 96–513, §503(47)(B)(ii), substituted "601" for "5231 or 5232".

Subsec. (b)(2). Pub. L. 96–513, §513(17), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

Pub. L. 96–342, §813(d)(3)(B), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

**1978**—Subsec. (b). Pub. L. 95–377 inserted "or 5787d" after "5787".

**1963**—Subsecs. (a)(2), (b)(2). Pub. L. 88–132 substituted "of" for "to which he would be entitled if serving on active duty in" following "2½ percent of the basic pay".

**1958**—Subsec. (a). Pub. L. 85–861 substituted "or 6322" for ", 6322, or 6323".

Subsecs. (a)(2), (b)(2). Pub. L. 85–422 substituted "that may be credited to him under section 1405 of this title" for "creditable for basic pay".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1963 AMENDMENT

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

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

### RECOMPUTATION OF RETIRED PAY OF ADMIRALS AND VICE ADMIRALS

Officers entitled to retired pay on May 31, 1958, who served on active duty before that day in the grade of admiral or vice admiral for a period of at least 180 days, authorized to recompute retired pay, see section 7(b), (c) of Pub. L. 85–422.

[1] *See References in Text note below.*

## §8326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for retirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), "enlisted member" includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section—

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

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 8333 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395, §6326; Pub. L. 85–422, §6(9), May 20, 1958, 72 Stat. 129; Pub. L. 85–861, §36B(20), Sept. 2, 1958, 72 Stat. 1571; Pub. L. 88–132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90–207, §3(3), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, §813(d)(4), Sept. 8, 1980, 94 Stat. 1105; Pub. L. 96–513, title V, §513(17), (19), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99–348, title II, §203(b)(4), July 1, 1986, 100 Stat. 696; renumbered §8326 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6326 | 34 U.S.C. 431. | Mar. 3, 1899, ch. 413, §17, 30 Stat. 1008; Mar. 2, 1907, ch. 2515, §1, 34 Stat. 1217. |
| | 34 U.S.C. 432. | Mar. 3, 1899, ch. 413, §17, 30 Stat. 1008; June 22, 1906, ch. 3518, 34 Stat. 451; Mar. 2, 1907, ch. 2515, §1, 34 Stat. 1217; June 4, 1920, ch. 228, §3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 879 (as applicable to enlisted men). | June 4, 1920, ch. 228, §3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 3c(e). | Aug. 7, 1947, ch. 512, §302(e), 61 Stat. 829. |
| | 34 U.S.C. 350f(a) (less provisos). | July 24, 1941, ch. 320, §7(a) (less provisos), 55 Stat. 604; Nov. 30, 1942, ch. 643, 56 Stat. 1023. |
| | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, §316(j), 61 Stat. 868. |
| | 34 U.S.C. 350i(e). | July 24, 1941, ch. 320, §10(e), 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28. |

In subsection (a) the word "Regular" is inserted before the words "Navy" and "Marine Corps" to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch. 2515, §1 (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 16, 1942, ch. 413, 56 Stat. 369. The words "active service in the armed forces" are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service in 34 U.S.C. 432 is omitted as obsolete, inasmuch as that Service was absorbed by the Coast Guard in 1915. If there are any enlisted men not yet retired who served in the Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying

this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete.

Subsection (b) is inserted to cover into the section permanent enlisted members who are temporarily appointed to commissioned or warrant grades.

In subsection (c) the word "grade" is substituted for the words "rating or rank" and the words "is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "and with 75 per centum of the pay of the said rating or rank" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsection (d) is substituted for 34 U.S.C. 350i(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6326 of this title as this section.

Subsec. (c)(2). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

**1986**—Subsec. (c). Pub. L. 99–348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he served as master chief petty officer of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate was higher, or in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be computed by multiplying the monthly retired pay base computed under section 1407(d) by 75 percent.

**1980**—Subsec. (c)(2). Pub. L. 96–513 substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing, and "master chief petty officer" for "senior enlisted advisor".

Pub. L. 96–342 designated existing provisions as subpar. (A), inserted provision limiting applicability to persons who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

**1967**—Subsec. (c)(2). Pub. L. 90–207 inserted ", or if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, he shall be entitled to retired pay at the rate of 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher" after "retirement".

**1963**—Subsec. (c)(2). Pub. L. 88–132 substituted "of" for "to which he would be entitled is serving on active duty in" after "75 percent of the basic pay".

**1958**—Subsec. (c)(2). Pub. L. 85–422 substituted "pay grade in which he was serving on the day before retirement" for "grade in which retired".

Subsec. (d). Pub. L. 85–861 repealed subsec. (d) which related to grade of members serving in a grade to which they were appointed under section 5597 or promoted under section 5787 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

### EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note

under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85–422 inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see section 6 of Pub. L. 85–422, set out in part under section 7361 of this title.

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

## §8327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Navy Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed—

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay of the grade in which retired.

(c) This section applies only to persons who were members of the Navy Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) A member who is eligible for retirement under this section, and who is also eligible for retirement under another provision or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under section 8330 of this title, is entitled to elect which of these benefits he is to receive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395, §6327; Pub. L. 85–583, §1(1), Aug. 1, 1958, 72 Stat. 480; Pub. L. 88–132, §5(h)(5), Oct. 2, 1963, 77 Stat. 214; Pub. L. 109–163, div. A, title V, §515(b)(1)(I), (3)(B), Jan. 6, 2006, 119 Stat. 3233, 3234; renumbered §8327 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6327 | 50 U.S.C. 1052(a), (b), (d), (e), (f). | July 9, 1952, ch. 608, §413(a), (b), (d), (e), (f), 66 Stat. 499. |

In subsection (a) the word "Federal" is omitted and the words "in the armed forces, other than active duty for training" are inserted. The words "active Federal service" are not defined in 50 U.S.C. 1052. Section 310 of the Naval Reserve Act of 1938, which 50 U.S.C. 1052 replaced, specifies active service in the "Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve." 50 U.S.C. 1052 was intended to preserve the rights of persons who, on January 1, 1953, were members of reserve components, so that they would not be prejudiced by the repeal of §310 of the Naval Reserve Act of 1938 (U.S. Code Congressional and Administrative News, 1952, p. 3584). To effect that purpose, the service that was creditable under the 1938 Act must be creditable under 50 U.S.C. 1052. The words "active service in the armed forces, other than active duty for training" cover all creditable service. The Judge Advocate General of the Navy, in an opinion dated August 27, 1954 (JAG II:2:WGA:CA:mk), held that active duty for training was not creditable under the 1938 Act and is, therefore, not creditable under the 1952 Act.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6327 of this title as this section.

Subsec. (e). Pub. L. 115–232, §809(a), substituted "section 8330" for "section 6330".

**2006**—Pub. L. 109–163, §515(b)(3)(B), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Subsecs. (a), (c). Pub. L. 109–163, §515(b)(1)(I), substituted "Navy Reserve" for "Naval Reserve".

**1963**—Subsec. (b). Pub. L. 88–132 substituted "of the grade in which retired" for "to which he would be entitled if on active duty" after "50 percent of the basic pay".

**1958**—Subsec. (e). Pub. L. 85–583 entitled eligible members of Naval Reserve or Marine Corps Reserve to elect to transfer to Fleet Reserve or Fleet Marine Corps Reserve.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1963 AMENDMENT

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

## §8328. Computation of years of service: voluntary retirement

(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after February 10, 1996, may not be counted in computing years of service under this chapter.

(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.

(c) TIME SPENT IN SEAMAN TO ADMIRAL PROGRAM.—The months of active service in pursuit of a baccalaureate-level degree under the Seaman to Admiral (STA–21) program of the Navy of officer candidates selected for the program on or after October 28, 2009, shall be excluded in computing the years of service of an officer who was appointed to the grade of ensign in the Navy upon completion of the program to determine the eligibility of the officer for retirement, unless the officer becomes subject to involuntary separation or retirement due to physical disability. Such active service shall be counted in computing the years of active service of the officer for all other purposes.

(Added Pub. L. 104–106, div. A, title V, §561(d)(3)(A), Feb. 10, 1996, 110 Stat. 322, §6328; amended Pub. L. 107–107, div. A, title X, §1048(c)(13), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 111–84, div. A, title V, §505, Oct. 28, 2009, 123 Stat. 2277; Pub. L. 113–291, div. A, title X, §1071(e)(5), Dec. 19, 2014, 128 Stat. 3510; renumbered §8328, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6328 of this title as this section.

**2014**—Subsec. (c). Pub. L. 113–291 substituted "on or after October 28, 2009," for "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010".

**2009**—Subsec. (c). Pub. L. 111–84 added subsec. (c).

**2001**—Subsec. (a). Pub. L. 107–107 substituted "February 10, 1996," for "the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 972 of this title.

## §8329. Officers not to be retired for misconduct

No officer of the Navy or the Marine Corps may be retired because of misconduct for which trial by court-martial would be appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 396, §6329; renumbered §8329, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6329 | 34 U.S.C. 385.<br>34 U.S.C. 626–1(a) (1st sentence). | R.S. 1456.<br>Aug. 7, 1947, ch. 512, §314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, §205, 68 Stat. 68. |

The words "for which trial by court-martial would be appropriate" are substituted for the words "but he shall be brought to trial by court-martial for such misconduct". The peremptory command in the source text is at variance with the theory of the Uniform Code of Military Justice and conflicts with the provisions of articles 30, 32, and 34. The substituted words are in accord with the interpretation placed on R.S. 1456 in *Denby* v. *Berry*, 263 U.S. 29, 36 (Nov. 12, 1923).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6329 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay

(a) The Fleet Reserve and the Fleet Marine Corps Reserve are composed of members of the naval service transferred thereto under this section.

(b) An enlisted member of the Regular Navy or the Navy Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps or the Marine Corps Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.

(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay computed under section 8333 of this title.

(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

(d)(1) For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

(i) a completed minority enlistment of the member is counted as four years of active service; and

(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 396, §6330; Pub. L. 85–583, §1(2), (3), Aug. 1, 1958, 72 Stat. 480; Pub. L. 90–207, §3(4), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, §813(d)(5), Sept. 8, 1980, 94 Stat. 1105; Pub. L. 96–513, title V, §513(17), (19), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 98–94, title IX, §923(c)(3), Sept. 24, 1983, 97 Stat. 643; Pub. L. 99–348, title II, §203(b)(6), title III, §305(a)(1), July 1, 1986, 100 Stat. 696, 704; Pub. L. 101–189, div. A, title VI, §652(a)(5), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 109–163, div. A, title V, §515(b)(1)(J), Jan. 6, 2006, 119 Stat. 3233; renumbered §8330 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6330 | 34 U.S.C. 854 (less proviso). | June 25, 1938, ch. 690, §201 (less proviso), 52 Stat. 1178. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (2d sentence of 1st par.), 66 Stat. 505. |
| | 34 U.S.C. 854c (less 4th, 5th, 6th (as applicable to 34 U.S.C. 854b) and 7th provisos). | June 25, 1938, ch. 690, §204 (less 4th, 5th, 6th (as applicable to §203 of the Naval Reserve Act of 1938), and 7th provisos), 52 Stat. 1170; Aug. 10, 1946, ch. 952, §2, 60 Stat. 993. |
| | 34 U.S.C. 854a (less provisos). | June 25, 1938, ch. 690, §202 (less provisos), 52 Stat. 1178. |

In subsection (a) the words "officers" and "assigned" are omitted, since they are applicable only to the proviso in 34 U.S.C. 854, which is recommended for repeal as obsolete. (See Table 2A.) The words "including (a) those former members of the Fleet Reserve who were transferred * * * but before the expiration of three months following discharge", appearing in §803 of the Armed Forces Reserve Act of 1952, 66 Stat. 505 (34

U.S.C. 854 (note)) are omitted as surplusage. These words merely illustrate the class of persons transferred to the Fleet Reserve under the Naval Reserve Act of 1938, 52 Stat. 1178, as referred to in the section from which these words were taken, and in no way limit that class or impose a citizenship requirement for membership in it. (See the opinion of the Judge Advocate General of the Navy, JAG:II:1:JFG:imz of February 17, 1953.)

In subsection (b) reference to the date July 1, 1925, is omitted, since members who were in the naval service on or before that date may, if they are qualified and so elect, be transferred to the Fleet Reserve or to the Fleet Marine Corps Reserve under 34 U.S.C. 854c instead of under 34 U.S.C. 854b, as provided in the fifth proviso of 34 U.S.C. 854c. That proviso and the provisions of 34 U.S.C. 854b, which are applicable only to persons who were in the naval service in 1925, are not codified because they relate to a small closed class and are therefore of limited interest. They are not repealed, however. (See Table 2D.)

In subsections (b) and (c) the term "active service in the armed forces" is substituted for the term "active Federal service" to execute the definition in the last sentence of 34 U.S.C. 854c.

In subsection (c) the words "is entitled, when not on active duty, to retainer pay at the rate of 2½ percent of the basic pay that he received at the time of transfer" are substituted for the words "except when on active duty, shall be paid at the annual rate of 2½ per centum of the annual base and longevity pay they are receiving at the time of transfer" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsection (d) states the rule as to the method of counting minority and short-term enlistments, in connection with determining active service, in accordance with *White v. United States*, 97 F. Supp. 698.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6330 of this title as this section.

Subsec. (c)(1). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

**2006**—Subsec. (b). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1989**—Subsec. (a). Pub. L. 101–189 substituted "under this section." for "under—

"(1) Title II of the Naval Reserve Act of 1938 (52 Stat. 1178), as amended; or

"(2) this section."

**1986**—Subsec. (c)(1). Pub. L. 99–348, §203(b)(6)(A), substituted provision that retainer pay be computed under section 6333 for provision that retainer pay, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay that he received at the time of transfer or, in the case of a member who served as master chief petty officer of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer, or in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d), which rates were to be multiplied by the number of years of active service in the armed forces.

Subsec. (c)(4). Pub. L. 99–348, §203(b)(6)(B), struck out par. (4) which provided that in no case could a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which computation of retainer pay was based.

Subsec. (d). Pub. L. 99–348, §305(a)(1), designated existing provisions as par. (1), struck out provision that a completed minority enlistment be counted as four years of active service and an enlistment terminated within three months before the end of the term be counted as active service for the full term, and added pars. (2) and (3).

**1983**—Subsec. (d). Pub. L. 98–94 substituted "For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "For the purposes of subsections (b) and (c), a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded".

**1980**—Subsec. (c). Pub. L. 96–513 substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing, and "master chief petty officer" for "senior enlisted advisor".

Pub. L. 96–342 amended subsec. (c) generally, designating existing provisions as pars. (1) to (4) and, as so amended, in par. (1) designated existing provisions as subpar. (A), as so designated, inserted provision

limiting applicability to persons who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B), in par. (2) inserted reference to section 1402a of this title, and in par. (4) added applicability to monthly retainer pay base.

**1967**—Subsec. (c). Pub. L. 90–207 inserted ", except that in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, retainer pay shall be computed on the basis of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer" after "armed forces".

**1958**—Subsec. (a). Pub. L. 85–583, §1(2), substituted "naval service" for "Regular Navy and the Regular Marine Corps, respectively,".

Subsec. (b). Pub. L. 85–583, §1(3), inserted "or the Naval Reserve" after "Regular Navy" and "or the Marine Corps Reserve" after "Regular Marine Corps".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

### TEMPORARY EARLY RETIREMENT AUTHORITY

For provisions authorizing the Secretary of the Navy, during the period beginning Oct. 23, 1992, and ending Oct. 1, 1995, to apply this section to an enlisted member of the Navy or Marine Corps with at least 15 but less than 20 years of service by substituting "15 or more years" for "20 or more years" in the first sentence of subsection (a) [probably should be (b)] of this section and in the second sentence of subsec. (b) of this section, see section 4403 of Pub. L. 102–484, set out as a note under section 1293 of this title.

### TRANSFER OF FORMER MEMBERS OF NAVY OR MARINE CORPS TO FLEET RESERVE OR FLEET MARINE CORPS RESERVE; TRANSFER TO RETIRED LIST

Act July 24, 1956, ch. 683, 70 Stat. 626, provided: "Upon application by any former member of the Navy or Marine Corps—

"(1) who was discharged prior to August 10, 1946, under honorable conditions, and

"(2) who, at the time of his discharge, had at least twenty years' active Federal service,

the Secretary of the Navy shall appoint such former member in the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate, in the rank held by him at the time of such discharge.

"SEC. 2. Each person appointed to the Fleet Reserve or Fleet Marine Corps Reserve under the first section of this Act shall be transferred to the appropriate retired list (1) on the first day of the first calendar month beginning after such appointment, if his last discharge occurred ten or more years prior to the date of such appointment, and (2) in the case of individuals appointed under such section before the expiration of ten years from their last discharge, on the first day of the first calendar month, beginning after the expiration of ten years from the date of such discharge.

"SEC. 3. Each former member transferred to a retired list under clauses (1) and (2) of section 2 shall receive retired pay at the annual rate of 2½ per centum of the annual base and longevity pay he was receiving at the time of his last discharge, multiplied by the number of his years of active Federal service at such time (not to exceed thirty), and adjusted to reflect the percentage increases made since such discharge in the retired pay of persons retired from the Armed Forces prior to October 12, 1949.

"SEC. 4. For the purposes of this Act, all active service in the Army of the United States, the Navy, the Marine Corps, the Coast Guard, or any component thereof, shall be deemed to be active Federal service.

"SEC. 5. No pay shall accrue to the benefit of any person appointed under the provisions of this Act prior to the date such person is actually appointed under the provisions of this Act and in no event prior to the first day of the first month following enactment of this Act [July 24, 1956]."

## §8331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay

(a) When he has completed 30 years of service, or when he is found not physically qualified in an examination under section 8385 of this title, a member of the Fleet Reserve or the Fleet Marine Corps Reserve shall be transferred—

(1) to the retired list of the Regular Navy or the Regular Marine Corps, as appropriate, if he was a member of the Regular Navy or the Regular Marine Corps at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve; or

(2) to the appropriate Retired Reserve, if he was a member of the Navy Reserve or the Marine Corps Reserve at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) For the purpose of subsection (a), a member's years of service are computed by adding—

(1) the years of service credited to him upon his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve;

(2) his years of active and inactive service in the armed forces before his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve not credited to him upon that transfer; and

(3) his years of service, active and inactive, in the Fleet Reserve or the Fleet Marine Corps Reserve.

(c) Unless otherwise entitled to higher pay, each member transferred to the retired list or the Retired Reserve under this section is entitled to retired pay at the same rate as the retainer pay to which he was entitled at the time of his transfer to the retired list or the Retired Reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 397, §6331; Pub. L. 85–583, §1(4–6), Aug. 1, 1958, 72 Stat. 480; Pub. L. 109–163, div. A, title V, §515(b)(1)(K), Jan. 6, 2006, 119 Stat. 3233; renumbered §8331 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6331 | 34 U.S.C. 854c (4th proviso). | June 25, 1938, ch. 690, §204 (4th proviso), 52 Stat. 1179; Aug. 10, 1946, ch. 952, §2, 60 Stat. 993. |
| | 34 U.S.C. 854e (2d and 4th provisos). | June 25, 1938, ch. 690, §206 (2d and 4th provisos), 52 Stat. 1179; Apr. 25, 1940, ch. 153, 54 Stat. 162. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words "transferred * * * in accordance with the provisions of this section and of sections 853 and 854b of this title", in the fourth proviso of 34 U.S.C. 854c, and the words "transferred after sixteen years' or more service in the Regular Navy", and "men coming under the cognizance of sections 853 and 854b of this title", in the second proviso of 34 U.S.C. 854e, are omitted as surplusage since the classes designated by these phrases comprise all members of the Fleet Reserve and Fleet Marine Corps Reserve.

Subsection (b) is worded so as to cover all members of the Fleet Reserve and the Fleet Marine Corps Reserve regardless of the law under which they attained that status. A member transferring under 34 U.S.C. 854b may count only active naval service in computing the service required for that transfer, but in

determining his eligibility for retirement he may add to his active naval service all previous active or inactive service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, and his time in the Fleet Reserve. A member transferring to the Fleet Reserve under 34 U.S.C. 854c may count active service in any armed force toward that transfer, and he determines his eligibility for retirement by adding to the service credited to him at the time of transfer any previous inactive service in the armed forces and his time in the Fleet Reserve. As to the latter member the words "active service" in clause (2) are superfluous, since such service would have been credited to him upon his transfer to the Fleet Reserve, but they are needed in the case of a member transferred under 34 U.S.C. 854b.

In subsection (c) references to the "allowances to which enlisted men of the Navy are entitled on retirement after thirty years' service", in the second and fourth provisos of 34 U.S.C. 854e, are omitted because of the repeal, by §19 of the Pay Readjustment Act of 1942, 56 Stat. 369, of the laws authorizing such allowances.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6331 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8385" for "section 6485" in introductory provisions.

**2006**—Subsec. (a)(2). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1958**—Subsec. (a). Pub. L. 85–583, §1(4), provided for the transfer to the appropriate Retired Reserve of those members of the Fleet Reserve or the Fleet Marine Corps Reserve who had transferred thereto from the Naval Reserve or the Marine Corps Reserve.

Subsec. (b). Pub. L. 85–583, §1(5), struck out "of clause (2)".

Subsec. (c). Pub. L. 85–583, §1(6), inserted "or the Retired Reserve" after "retired list" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8332. Conclusiveness of transfers

When a member of the naval service is transferred by the Secretary of the Navy—

(1) to the Fleet Reserve;

(2) to the Fleet Marine Corps Reserve;

(3) from the Fleet Reserve to the retired list of the Regular Navy or the Retired Reserve; or

(4) from the Fleet Marine Corps Reserve to the retired list of the Regular Marine Corps or the Retired Reserve;

the transfer is conclusive for all purposes. Each member so transferred is entitled, when not on active duty, to retainer pay or retired pay from the date of transfer in accordance with his grade and number of years of creditable service as determined by the Secretary. The Secretary may correct any error or omission in his determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retainer pay or retired pay in accordance with his grade and number of years of creditable service, as corrected, from the date of transfer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 397, §6332; Pub. L. 85–583, §1(7), Aug. 1, 1958, 72 Stat. 480; Pub. L. 85–861, §33(a)(33), Sept. 2, 1958, 72 Stat. 1566; renumbered §8332, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 6332 | 34 U.S.C. 854a (provisos). | June 25, 1938, ch. 690, §202 (provisos), 52 Stat. 1178. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505. |

The words "when not on active duty, to retainer pay or retired pay" are substituted for the words "pay and allowances". The pay and allowances of a member on active duty are covered by the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). When not on active duty a member of the Fleet Reserve receives retainer pay and a retired member receives retired pay without allowances, the provision for allowances for retired members having been repealed as pointed out in the note on the preceding section. In the last sentence the words "from the date of transfer" are added to make it clear that a correction is retroactive to that date. The Court of Claims has so held (*Dugan v. United States* (1943), 100 Ct. Cl. 7).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6332 of this title as this section.

**1958**—Pub. L. 85–861 substituted "to retainer pay or retired pay in accordance" for "to retain pay or retired pay in accordance".

Pub. L. 85–583 inserted "or the Retired Reserve" after "Navy" in cl. (3) and after "Marine Corps" in cl. (4).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §8333. Computation of retired and retainer pay

(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 8470 or 8372 of this title is computed in accordance with the following table.

| Formula | For sections | Column 1 Take | Column 2 Multiply by |
|---|---|---|---|
| A | 8325(a)<br>6326 | Retired pay base computed under section 1406(d) or 1407 | Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to the member under section 1405. |
| B | 8323<br>8325(b)<br>8470<br>8372 | Retired pay base computed under section 1406(d) or 1407 | Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405. |
| C | 8330 | Retainer pay base computed under section 1406(d) or 1407 | Retainer pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405. |

(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(2) References in the table in subsection (a) are to sections of this title.

(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 8336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member's transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.

(Added Pub. L. 98–94, title IX, §922(a)(10)(A), Sept. 24, 1983, 97 Stat. 641, §6333; amended Pub. L. 99–348, title II, §203(a), July 1, 1986, 100 Stat. 695; Pub. L. 103–337, div. A, title VI, §635(b), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104–106, div. A, title XV, §1503(b)(3), Feb. 10, 1996, 110 Stat. 512; Pub. L. 104–201, div. A, title V, §532(d)(2), Sept. 23, 1996, 110 Stat. 2520; Pub. L. 109–163, div. A, title V, §509(d)(2), Jan. 6, 2006, 119 Stat. 3231; Pub. L. 110–181, div. A, title VI, §646(a), Jan. 28, 2008, 122 Stat. 160; renumbered §8333 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6333 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8470 or 8372" for "section 6970 or 6383" in introductory provisions and, under "For sections" column in table, substituted "8325(a)" for "6325(a)" and "8326" for "6326" in Formula A, "8323" for "6323", "8325(b)" for "6325(b)", "8470" for "6970", and "8372" for "6383" in Formula B, and "8330" for "6330" in Formula C.

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 8336" for "section 6336".

**2008**—Subsec. (a). Pub. L. 110–181 substituted "Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to the member under section 1405." for "75 percent." in Formula A under Column 2 in table.

**2006**—Subsec. (a). Pub. L. 109–163 inserted "6970 or" after "section" in text and "6970" below "6325(b)" in Formula B under "For sections" column in table.

**1996**—Subsec. (a). Pub. L. 104–106 struck out first period after "section 1405" in Formula C under Column 2 in table.

Subsec. (c). Pub. L. 104–201 added subsec. (c).

**1994**—Subsec. (a). Pub. L. 103–337 substituted "the years of service that may be credited to him under section 1405." for "his years of active service in the armed forces" in Formula C under Column 2 in table.

**1986**—Pub. L. 99–348 amended section generally, designating existing provision as subsec. (b)(1), substituting "under this section" for "under this chapter", and adding subsecs. (a) and (b)(2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Jan. 1, 2007, and applicable with respect to retired pay and retainer pay payable on or after that date, see section 646(c) of Pub. L. 110–181, set out as a note under section 1402 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to

Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as an Effective Date of 1983 Amendment note under section 1401 of this title.

## §8334. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each member of the naval service covered by subsection (b) who, after December 4, 1987, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to—

(1) warrant officers of the naval service;

(2) enlisted members of the Regular Navy and Regular Marine Corps; and

(3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

(c) An enlisted member of the naval service who is advanced on the retired list under this section is entitled to recompute his retired or retainer pay under formula A of the following table, and a warrant officer of the naval service so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

| Formula | Column 1 Take | Column 2 Multiply by |
|---|---|---|
| A | Retired pay base as computed under section 1406(d) or 1407 of this title | The retired pay multiplier prescribed in section 1409 of this title for the number of years creditable for his retainer or retired pay at the time of retirement.[1] |
| B | Retired pay base as computed under section 1406(d) of this title | The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title. |

[1] In determining the retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.

(Added Pub. L. 100–180, div. A, title V, §512(b), Dec. 4, 1987, 101 Stat. 1089, §6334; amended Pub. L. 101–189, div. A, title XVI, §1622(g), Nov. 29, 1989, 103 Stat. 1605; renumbered §8334, Pub. L. 115–232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6334 of this title as this section.

**1989**—Subsec. (a). Pub. L. 101–189 substituted "December 4, 1987" for "the date of the enactment of this

section".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8335. Restoration to former grade: warrant officers and enlisted members

Each retired warrant officer or enlisted member of the naval service who has been advanced on the retired list to a higher commissioned grade under section 8334 of this title, and who applies to the Secretary of the Navy within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted status, as the case may be.

(Added Pub. L. 100–180, div. A, title V, §512(b), Dec. 4, 1987, 101 Stat. 1090, §6335; renumbered §8335 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6335 of this title as this section and substituted "section 8334" for "section 6334".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

(a) A member of the Navy Reserve or Marine Corps Reserve described in subsection (b) who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 8330 of this title shall be transferred in the highest enlisted grade in which the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty; and

(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Navy.

(c) This section applies with respect to enlisted members of the Navy Reserve and Marine Corps Reserve who are transferred to the Fleet Reserve or the Fleet Marine Corps Reserve after September 30, 1996.

(Added Pub. L. 104–201, div. A, title V, §532(b)(1), Sept. 23, 1996, 110 Stat. 2519, §6336; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(L), Jan. 6, 2006, 119 Stat. 3233; renumbered §8336 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836,

1840.)

## EDITORIAL NOTES

## PRIOR PROVISIONS

Prior sections 8351 and 8352 were renumbered sections 12212 and 12214 of this title.

Prior sections 8353 and 8354 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8353, added Pub. L. 85–861, §1(178)(A), Sept. 2, 1958, 72 Stat. 1520; amended Pub. L. 86–559, §1(49), June 30, 1960, 74 Stat. 275; Pub. L. 96–513, title II, §205(b), Dec. 12, 1980, 94 Stat. 2882; Pub. L. 97–22, §7, July 10, 1981, 95 Stat. 131; Pub. L. 98–94, title X, §1007(c)(5), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100–180, div. A, title VII, §714(d), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 103–160, div. A, title V, §509(d), Nov. 30, 1993, 107 Stat. 1648, related to service credit upon original appointment as reserve commissioned officer in Air Force. See section 12207 of this title.

Section 8354, acts Aug. 10, 1956, ch. 1041, 70A Stat. 520; Sept. 2, 1958, Pub. L. 85–861, §1(178)(B), 72 Stat. 1520, related to appointment of warrant officers and enlisted members of Air National Guard of United States as reserve officers.

A prior section 8355, acts Aug. 10, 1956, ch. 1041, 70A Stat. 520; Sept. 2, 1958, Pub. L. 85–861, §33(a)(22), 72 Stat. 1565, related to appointment of graduates of junior or senior division of Air Force Reserve Officers' Training Corps as reserve commissioned officers, prior to repeal by Pub. L. 88–647, title III, §301(21), Oct. 13, 1964, 78 Stat. 1073.

A prior section 8356, act Aug. 10, 1956, ch. 1041, 70A Stat. 520, related to appointment and promotion of aviation cadets as commissioned officers in Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1636(b), Oct. 5, 1994, 108 Stat. 2968, effective Feb. 10, 1996.

Prior sections 8358 to 8368 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8358, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1520, related to service credit upon original appointment as commissioned officer in grade below colonel. See section 12201 et seq. of this title.

Section 8359, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1521; amended Pub. L. 98–94, title X, §1014(b), Sept. 24, 1983, 97 Stat. 666; Pub. L. 98–525, title V, §521(b), Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–145, title V, §521(a), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100–180, div. A, title V, §502(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §503(a), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102–484, div. A, title V, §519(a), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103–160, div. A, title V, §514(a), Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104–106, div. A, title V, §511(a), Feb. 10, 1996, 110 Stat. 298, related to determination of grade upon original appointment as reserve officer of Air Force. See section 12201 et seq. of this title.

Section 8360, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1521; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 104–106, div. A, title XV, §1501(c)(30), Feb. 10, 1996, 110 Stat. 500, related to service required for promotion of reserve commissioned officers. See section 14001 et seq. of this title.

Section 8361, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86–559, §1(50), June 30, 1960, 74 Stat. 275, related to seniority for purposes of promotion of reserve commissioned officers. See section 14301 et seq. of this title.

Section 8362, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86–559, §1(51), June 30, 1960, 74 Stat. 275, related to convening of selection boards to consider reserve commissioned officers for promotion. See section 14101 et seq. of this title.

Section 8363, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86–559, §1(52), June 30, 1960, 74 Stat. 275; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to requirements and procedures for promotion of officers in reserve grades. See section 14301 et seq. of this title.

Section 8365, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1523, related to promotion of second lieutenants of Air Force Reserve. See section 14301 et seq. of this title.

Section 8366, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1523; amended Pub. L. 86–559, §1(53), June 30, 1960, 74 Stat. 275; Pub. L. 90–130, §1(28)(A), Nov. 8, 1967, 81 Stat. 382, related to promotion of first lieutenants, captains, and majors of Air Force Reserve or Air National Guard of United States. See section 14301 et seq. of this title.

Section 8367, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1525; amended Pub. L. 86–559, §1(54), June 30, 1960, 74 Stat. 276, related to selection board procedures for promotion of first lieutenants,

captains, and majors of Air Force Reserve or Air National Guard of United States. See section 14001 et seq. of this title.

Section 8368, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1525; amended Pub. L. 86–559, §1(55), June 30, 1960. 74 Stat. 276; Pub. L. 90–130, §1(28)(B), Nov. 8, 1967, 81 Stat. 382; Pub. L. 100–180, div. A, title XII, §1231(19)(B), Dec. 4, 1987, 101 Stat. 1161, related to effect of failure of promotion of reserve officers in grades of first lieutenant, captain, and major. See section 14301 et seq. of this title.

A prior section 8370, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1526; Pub. L. 86–559, §1(56), June 30, 1960, 74 Stat. 276, placed restrictions on promotion consideration of Air Force nurses, medical specialists, and female officers being considered for promotion to the Reserve grades of lieutenant colonel and colonel, prior to repeal by Pub. L. 90–130, §1(28)(C), Nov. 8, 1967, 81 Stat. 382.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(b)(15), renumbered section 6336 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8330" for "section 6330".

**2006**—Subsecs. (a), (c). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 843—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

Sec.
8371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority.
8372. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay.
8373. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.
8374. Treatment of fractions of years of service in computing retired pay and separation pay.
8375. Navy and Marine Corps; warrant officers, W–1: limitation on dismissal.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 843, consisting of sections 8531 to 8549, related to Air Force special appointments, assignments, details, and duties, prior to renumbering as chapter 923 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 573 of this title as this chapter and items 6371, 6383, 6389, 6404, and 6408 as 8371, 8372, 8373, 8374, and 8375, respectively.

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(C), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for 'Naval Reserve" in item 6389.

**2004**—Pub. L. 108–375, div. A, title V, §541(c)(2)(B), Oct. 28, 2004, 118 Stat. 1904, inserted "; waiver authority" after "Academy" in item 6371.

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(C), Oct. 5, 1999, 113 Stat. 604, added item 6371.

**1994**—Pub. L. 103–337, div. A, title XVI, §1673(b)(4), Oct. 5, 1994, 108 Stat. 3016, struck out items 6391 "Naval Reserve and Marine Corps Reserve; officers: retirement at age 62", 6392 "Retention in active status of certain officers", 6397 "Naval Reserves; officers in the Nurse Corps: elimination from active status", 6403

"Naval Reserve and Marine Corps Reserve; women officers: elimination from active status", and 6410 "Naval Reserve and Marine Corps Reserve; officers: elimination from active status to provide a flow of promotion".

**1987**—Pub. L. 100–180, div. A, title VII, §717(b)(2), Dec. 4, 1987, 101 Stat. 1114, added item 6392.

**1980**—Pub. L. 96–513, title V, §503(48), Dec. 12, 1980, 94 Stat. 2915, struck out items 6371 "Regular Navy; line rear admirals not restricted in performance of duty; continuation on active list; retirement", 6372 "Regular Navy; line rear admirals restricted in performance of duty and staff corps rear admirals: retention on active list; retirement", 6373 "Regular Marine Corps; major generals: retention on active list; retirement", 6374 "Regular Marine Corps: brigadier generals: retirement for failures of selection for promotion", 6376 "Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels: retirement for length of service", 6377 "Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty; retirement for length of service", 6378 "Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: continuation on active list; retirement", 6379 "Regular Navy, commanders; Regular Marine Corps. lieutenant colonels: retirement for length of service and failures of selection for promotion", 6380 "Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion", 6381 "Officers retired under preceding sections; retired grade and pay; general rule", and 6382 "Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay", substituted "retired pay" for "retired or severance pay" in item 6383, struck out items 6384 "Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status", 6385 "Officers appointed under sections 5231, 5232, 5787, or 5787d of this title; grade for purpose of preceding sections", 6386 "Suspension: preceding sections", 6387 "Regular Navy, male line officers: Regular Marine Corps, male officers: computation of total commissioned service", 6388 "Regular Navy; certain staff corps officers: computation of total commissioned service", 6390 "Regular Navy and Regular Marine Corps; officers: retirement at age 62", 6392 "Regular Navy and Regular Marine Corps, officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status", 6393 "Regular Navy and Regular Marine Corps; women officers: termination of appointments", 6394 "Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board", 6395 "Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty", 6396 "Regular Navy; officers in Nurse Corps in grades below commander: retirement or discharge", 6398 "Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service: retired grade and pay", 6400 "Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay", 6401 "Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay", and 6402 "Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay", substituted "separation pay" for "severance pay" in item 6404, and struck out item 6407 "Communication with selection board".

**1978**—Pub. L. 95–377, §8(d), Sept. 19, 1978, 92 Stat. 721, inserted reference to section 5787d in item 6385.

**1970**—Pub. L. 91–482, §2E, Oct. 21, 1970, 84 Stat. 1082, struck out item 6406 "Regular Navy and Regular Marine Corps; officers: furlough; furlough pay".

**1968**—Pub. L. 90–235, §§3(b)(5), 4(a)(13), Jan. 2, 1968, 81 Stat. 758, 760, struck out item 6405 "Effect of acceptance of appointment in Foreign Service", and item 6409 "Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement and separation during war or emergency".

**1967**—Pub. L. 90–130, §1(24)(B), (G), (H), Nov. 8, 1967, 81 Stat. 380, 382 struck out "or for age" after "length of service" in item 6377, substituted "officers in Nurse Corps in grades below commander: retirement or discharge" for "officers in Nurse Corps: retirement for age or length of service; retired grade and pay" in item 6396, substituted "Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service; retired grade and pay" for "Regular Navy, women commanders; Regular Marine Corps, women lieutenant colonels: retirement for age of length or service; retired grade and pay" in item 6398, and eliminated item 6399 which read: "Regular Navy, women lieutenant commanders and below; Regular Marine Corps, women majors and below: retirement at age 50; retired grade and pay".

**1961**—Pub. L. 87–123, §5(30), Aug. 3, 1961, 75 Stat. 267, struck out "not restricted in performance of duty" after "brigadier generals" and "colonels" in items 6374 and 6376, respectively, "; Regular Marine Corps, colonels designated for supply duty" after "Nurse Corps commanders;" in items 6377 and 6378, and struck out

item 6375 "Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement".

**1958**—Pub. L. 85–861, §1(144)(G), Sept. 2, 1958, 72 Stat. 1512, added items 6389, 6391, 6397, 6403, 6410.

**1957**—Pub. L. 85–155, title II, §201(14), Aug. 21, 1957, 71 Stat. 383, included Nurse Corps commanders and retirement for age in item 6377, and included Nurse Corps commanders in item 6378.

## §8371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Naval Academy, the Secretary of the Navy shall retire the officer under any provision of chapter 841 of this title under which the officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment. In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate.

(Added Pub. L. 106–65, div. A, title V, §532(a)(2)(A), Oct. 5, 1999, 113 Stat. 603, §6371; amended Pub. L. 108–375, div. A, title V, §541(a)(2), (c)(2)(A), Oct. 28, 2004, 118 Stat. 1902, 1904; renumbered §8371 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(16), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 117–263, div. A, title V, §509(b), Dec. 23, 2022, 136 Stat. 2560.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior section 8371, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1527, related to promotion of officers to grade of colonel to fill vacancies in Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14301 et seq. of this title.

#### AMENDMENTS

**2022**—Subsec. (b). Pub. L. 117–263 inserted at end "In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate."

**2018**—Pub. L. 115–232, §807(b)(16), renumbered section 6371 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "chapter 841" for "chapter 571".

**2004**—Pub. L. 108–375 inserted "; waiver authority" after "Academy" in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United

States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 7321 of this title.

## §8372. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay

(a) MANDATORY RETIREMENT.—(1) Except as provided in subsection (k), each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer designated for limited duty shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(2) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision of law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

(3) Except as provided in subsection (k), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

(4) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

(b) LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(c) RETIRED GRADE AND RETIRED PAY.—Each officer retired under subsection (a) or (b)—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under

section 1370 [1] of this title; and

(2) is entitled to retired pay computed under section 8333 of this title.

(d) NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(e) OFFICERS IN PAY GRADES O–2 AND O–1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant (in the case of an officer of the Navy) or captain (in the case of an officer of the Marine Corps) for the second time shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(2) Each regular officer on the active-duty list of the Navy serving in the grade of ensign who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of second lieutenant who is an officer designated for limited duty, who is found not qualified for promotion to the grade of lieutenant (junior grade) (in the case of an officer of the Navy) or first lieutenant (in the case of an officer of the Marine Corps) shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the officer was found not qualified for promotion.

(f) 18-YEAR RETIREMENT SANCTUARY.—If an officer subject to discharge under subsection (b), (d), or (e) is (as of the date on which the officer is to be discharged) not eligible for retirement under any provision of law but is within two years of qualifying for retirement under section 8323 of this title, the officer shall be retained on active duty as an officer designated for limited duty until becoming qualified for retirement under that section and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law or the officer reverts to a warrant officer grade pursuant to subsection (h).

(g) REENLISTMENT FOR LDOS APPOINTED FROM ENLISTED GRADES.—(1) An officer subject to discharge under subsection (b), (d), or (e) who is described in paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in a grade prescribed by the Secretary upon the officer's discharge pursuant to such subsection.

(2) An officer described in this paragraph is an officer who—

(A) is not eligible for retirement under any provision of law;

(B) is not covered by subsection (f); and

(C) was in an enlisted grade when first appointed as an officer designated for limited duty.

(h) REVERSION TO WARRANT OFFICER GRADE FOR LDOS APPOINTED FROM WARRANT OFFICER GRADES.—An officer subject to discharge under subsection (b), (d), or (e) (including an officer otherwise subject to retention under subsection (f)) who is not eligible for retirement under any provision of law and who had the permanent status of a warrant officer when

first appointed as an officer designated for limited duty may, at the officer's option, revert to the warrant officer grade and status that the officer would hold if the officer had not been appointed as an officer designated for limited duty.

(i) DETERMINATION OF GRADE AND STATUS OF OFFICERS REVERTING TO PRIOR STATUS.—In any computation to determine the grade and status to which an officer may revert under this section, all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

(j) SEPARATION PAY FOR OFFICERS DISCHARGED.—An officer discharged under this section is entitled, if eligible therefor, to separation pay under section 1174(a)(1) of this title.

(k) SELECTIVE RETENTION BOARDS FOR LDOS.—Under such regulations as he may prescribe, whenever the needs of the service require, the Secretary of the Navy may defer the retirement under subsection (a) or (b) or the discharge under subsection (b) or (d) of any officer designated for limited duty upon recommendation of a board of officers convened under section 611(b) of this title and with the consent of the officer concerned. An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier.

(l) APPLICABILITY OF SECTION ONLY TO PERMANENT LDOS.—This section does not apply to officers designated for limited duty under section 8146 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 405, §6383; Pub. L. 85–422, §11(a)(6)(D), May 20, 1958, 72 Stat. 131; Pub. L. 86–616, §5(2), July 12, 1960, 74 Stat. 390; Pub. L. 87–509, §4(b), June 28, 1962, 76 Stat. 121; Pub. L. 88–132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, §813(d)(7), Sept. 8, 1980, 94 Stat. 1106; Pub. L. 96–513, title III, §336, title V, §513(17), Dec. 12, 1980, 94 Stat. 2898, 2932; Pub. L. 98–94, title IX, §922(a)(11), Sept. 24, 1983, 97 Stat. 642; Pub. L. 98–525, title V, §529(c), Oct. 19, 1984, 98 Stat. 2526; Pub. L. 99–348, title II, §203(b)(7), July 1, 1986, 100 Stat. 696; Pub. L. 101–510, div. A, title V, §501(f)(2), Nov. 5, 1990, 104 Stat. 1551; Pub. L. 102–484, div. A, title V, §504(c), (d), Oct. 23, 1992, 106 Stat. 2403, 2404; Pub. L. 103–160, div. A, title V, §561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 103–337, div. A, title V, §503, Oct. 5, 1994, 108 Stat. 2749; Pub. L. 105–261, div. A, title V, §504(c), (d), Oct. 17, 1998, 112 Stat. 2004; renumbered §8372 and amended Pub. L. 115–232, div. A, title VIII, §§807(b)(16), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 118–31, div. A, title V, §508(b), Dec. 22, 2023, 137 Stat. 242; Pub. L. 118–159, div. A, title V, §505(b)(3), Dec. 23, 2024, 138 Stat. 1870.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6383(a)–(h) | 34 U.S.C. 410j(a). | Aug. 7, 1947, ch. 512, §312(a), 61 Stat. 858. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, §314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, §205, 68 Stat. 68. |
| | 34 U.S.C. 626–1(*o*). | Aug. 7, 1947, ch. 512, §314(*o*), 61 Stat. 865. |
| | 34 U.S.C. 3c(b) (1st sentence). | Aug. 7, 1947, ch. 512, §302(b) (1st sentence), 61 Stat. 829. |
| 6383(a) | 34 U.S.C. 410j(d). | Aug. 7, 1947, ch. 512, §312(d), 61 Stat. 859. |
| 6383(b) | 34 U.S.C. 410j(f) (less provisos). | Aug. 7, 1947, ch. 512, §312(f) (less provisos), 61 Stat. 859. |
| 6383(c) | 34 U.S.C. 389 (1st sentence as applicable to grade). | R.S. 1457 (1st sentence as applicable to grade). |

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| | 34 U.S.C. 410j(g) (less provisos). | Aug. 7, 1947, ch. 512, §312(g) (less provisos), 61 Stat. 860. |
| | 34 U.S.C. 3c(j). | Aug. 7, 1947, ch. 512, §312(j), 61 Stat. 831. |
| 6383(d), (e), (f) | 34 U.S.C. 410j(h) (as applicable to officers designated for limited duty who fail of selection, less provisos). | Aug. 7, 1947, ch. 512, §312(h) (as applicable to officers designated for limited duty who fail of selection less provisos), 61 Stat. 860. |
| | 34 U.S.C. 410j(m) (less applicability to persons discharged under 34 U.S.C. 410j(*l*)). | Aug. 7, 1947, ch. 512, §312(m); added June 18, 1954, ch. 311, (b) (less applicability to persons discharged under §312(*l*)), 68 Stat. 257. |
| 6383(g), (h) | 34 U.S.C. 410j(f) (provisos). | Aug. 7, 1947, ch. 512, §312(f) (provisos), 61 Stat. 859. |
| | 34 U.S.C. 410j(h) (2d proviso as applicable to officers designated for limited duty who fail of selection). | Aug. 7, 1947, ch. 512, §312(h) (2d proviso as applicable to officers designated for limited duty who fail of selection), 61 Stat. 860. |

In subsection (a) the words "if not otherwise retired pursuant to law" are omitted as surplusage.

In subsection (c) the pay provisions are worded so as to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

The second proviso in §312(g) of the Officer Personnel Act of 1947 (34 U.S.C. 410j(g)), relating to the retired pay of officers commissioned in the Regular Navy under the Act of April 18, 1946, ch. 141, as amended (34 U.S.C. 15), and officers commissioned in the Regular Navy while serving on active duty as officers of the Naval Reserve, is not codified in this section because it is inapplicable to officers designated for limited duty. The only authority to appoint limited duty officers is §404(a) of the Officer Personnel Act of 1947 (34 U.S.C. 211c(a)). Naval Reserve officers are not eligible for such appointments. Hence there can be no limited duty officers in the categories mentioned in the proviso.

In subsection (f) the words "to which he would otherwise become entitled" are omitted as surplusage and the words "based on the service for which he has received payment" are substituted for the words "attributable to the active service in respect of which lump-sum payment shall have been made to him".

The second proviso in §312(f) of the Officer Personnel Act of 1947 (34 U.S.C. 410j(f)), which provides that officers who exercise their option to revert to a warrant officer grade shall be retired upon completing 30 years of active naval service, is omitted as superseded by §14(b)(2) of the Warrant Officer Act of 1954 (34 U.S.C. 430(b)(2)), codified in §1305 of this title.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1370 of this title, referred to in subsec. (c)(1), was repealed and new sections 1370 and 1370a of this title were enacted by Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3574, 3580. In determining the retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of this title in such determination with respect to such officers deemed to be a reference to section 1370a of this title, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.

### PRIOR PROVISIONS

A prior section 8372, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1527; amended Pub. L. 86–559, §1(57), June 30, 1960, 74 Stat. 276, related to promotion of officers with special qualifications to grade of captain, major, lieutenant colonel, or colonel of Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14301 et seq. of this title.

### AMENDMENTS

**2024**—Subsec. (b). Pub. L. 118–159, §505(b)(3)(A), substituted "the Secretary concerned releases the

promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time".

Subsec. (d). Pub. L. 118–159, §505(b)(3)(B), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time".

Subsec. (e)(1). Pub. L. 118–159, §505(b)(3)(C), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time".

**2023**—Subsec. (a)(2)(A). Pub. L. 118–31, which directed the substitution of "Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "President approves the report of the board which considered him for the second time", was executed by making the substitution for "President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time", to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232, §807(b)(16), renumbered section 6383 of this title as this section.

Subsec. (c)(2). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

Subsec. (f). Pub. L. 115–232, §809(a), substituted "section 8323" for "section 6323".

Subsec. (l). Pub. L. 115–232, §809(a), substituted "section 8146" for "section 5596".

**1998**—Subsec. (a)(5). Pub. L. 105–261, §504(c), struck out par. (5) which read as follows: "Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1999."

Subsec. (k). Pub. L. 105–261, §504(d), struck out at end "During the period beginning on July 1, 1993, and ending on October 1, 1999, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain."

**1994**—Subsec. (a). Pub. L. 103–337, §503(c)(1), (d)(1), inserted heading and substituted "Except as provided in subsection (k)" for "Except as provided in subsection (i)" in pars. (1) to (4).

Subsec. (b). Pub. L. 103–337, §503(c)(2), (d)(2), inserted heading and substituted "Except as provided in subsections (f) and (k)" for "Except as provided in subsection (i)".

Subsec. (c). Pub. L. 103–337, §503(d)(3), inserted heading.

Subsec. (d). Pub. L. 103–337, §503(c)(2), (d)(4), inserted heading and substituted "Except as provided in subsections (f) and (k)" for "Except as provided in subsection (i)".

Subsec. (e). Pub. L. 103–337, §503(d)(5), inserted heading.

Subsec. (f). Pub. L. 103–337, §503(a)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: "If any officer subject to discharge under subsection (d) or (e) had the permanent status of a warrant officer when first appointed as an officer designated for limited duty, he has the option, instead of being discharged, of reverting to the grade and status he would hold if he had not been so appointed. If any such officer had a permanent grade below the grade of warrant officer, W–1, when first so appointed, he has the option, instead of being discharged, of reverting to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W–1."

Subsecs. (g), (h). Pub. L. 103–337, §503(a)(2), added subsecs. (g) and (h). Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 103–337, §503(a)(1), (d)(6), redesignated subsec. (g) as (i) and inserted heading. Former subsec. (i) redesignated (k).

Subsec. (j). Pub. L. 103–337, §503(a)(1), (d)(7), redesignated subsec. (h) as (j) and inserted heading. Former subsec. (j) redesignated (l).

Subsec. (k). Pub. L. 103–337, §503(a)(1), (b), (d)(8), redesignated subsec. (i) as (k), inserted heading, and substituted "or the discharge under subsection (b) or (d)" for "or the discharge under subsection (d)".

Subsec. (l). Pub. L. 103–337, §503(a)(1), (d)(9), redesignated subsec. (j) as (l) and inserted heading.

**1993**—Subsecs. (a)(5), (i). Pub. L. 103–160 substituted "October 1, 1999" for "October 1, 1995".

**1992**—Subsec. (a). Pub. L. 102–484, §504(c), designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (i). Pub. L. 102–484, §504(d), inserted at end "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is

deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain."

**1990**—Subsec. (h). Pub. L. 101–510 substituted "section 1174(a)(1)" for "section 1174(a)".

**1986**—Subsec. (c)(2). Pub. L. 99–348, §203(b)(7)(A), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay to which he would have been entitled if serving on active duty in the grade in which he retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (k). Pub. L. 99–348, §203(b)(7)(B), struck out subsec. (k) which provided that retired pay computed under subsec. (c), if not a multiple of $1, was to be rounded to the next lower multiple of $1.

**1984**—Subsec. (a). Pub. L. 98–525, §529(c)(1), substituted "each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer" for "each regular officer of the Navy or Marine Corps".

Subsec. (d). Pub. L. 98–525, §529(c)(2), substituted "Except as provided in subsection (i), each" for "Each".

Subsec. (i). Pub. L. 98–525, §529(c)(3), inserted "or the discharge under subsection (d)" after "the retirement under subsection (a) or (b)" and substituted "An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier" for "An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 24 years active commissioned service, if in the grade of lieutenant commander or major or 28 years active commissioned service, if in the grade of commander or lieutenant colonel, or beyond age 62, whichever is earlier".

**1983**—Subsec. (k). Pub. L. 98–94 added subsec. (k).

**1980**—Pub. L. 96–513, §336(i), struck out "or severance" before "pay" in section catchline.

Subsec. (a). Pub. L. 96–513, §336(a), substituted "Except as provided in subsection (i), each regular officer of the Navy or Marine Corps designated for limited duty" for "Each officer designated for limited duty on the active list of the Navy or Marine Corps".

Subsec. (b). Pub. L. 96–513, §336(b), authorized the discharge of certain officers considered as having failed of selection for promotion and provided that in cases of retirement such retirements were to occur on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the selection board rather than on June 30th of the fiscal year in which such officer was considered as having failed of selection.

Subsec. (c)(1). Pub. L. 96–513, §336(c), substituted "determined under section 1370 of this title" for "in which he was serving at the time of retirement".

Subsec. (c)(2). Pub. L. 96–513, §513(17), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

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

Subsec. (d). Pub. L. 96–513, §336(d), provided that Navy lieutenants designated for limited duty and Marine Corps captains similarly designated who were considered as having failed of selection for promotion were to be honorably discharged on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the selection board rather than on June 30th of the fiscal year in which he was considered as having failed of selection.

Subsec. (e). Pub. L. 96–513, §336(d), designated existing provisions as par. (1), provided that Navy lieutenants (junior grade) designated for limited duty and Marine Corps first lieutenants similarly designated who were considered as having failed of selection for promotion were to be honorably discharged on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the

selection board rather than on June 30th of the fiscal year in which he was considered as having failed of selection, and added par. (2).

Subsec. (f). Pub. L. 96–513, §336(e), (f), redesignated subsec. (g) as (f), substituted "discharge under subsection (d)" for "retirement or discharge under subsections (b), (d)" and "instead of being discharged" for "instead of being retired or discharged" in two places, and struck out former subsec. (f) authorizing a lump-sum severance payment to certain discharged officers.

Subsecs. (g) to (j). Pub. L. 96–513, §336(f)–(h), added subsecs. (h) to (j) and redesignated existing subsecs. (g) and (h) as (f) and (g), respectively.

**1963**—Subsec. (c)(2). Pub. L. 88–132 substituted "of" for "to which he would be entitled if serving on active duty in" after "2½ percent of the basic pay".

**1962**—Subsec. (f). Pub. L. 87–509 limited the lump-sum payment to not more than $15,000.

**1960**—Subsec. (d). Pub. L. 86–616 permits an officer, if he so requests, to be honorably discharged at any time during the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

Subsec. (e). Pub. L. 86–616 permits an officer, if he so requests, to be honorably discharged at any time during the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant or captain for the second time.

**1958**—Subsec. (c)(2). Pub. L. 85–422 substituted "that may be credited to him under section 1405 of this title" for "creditable for basic pay".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 336 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1963 AMENDMENT

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

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

#### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For transition provisions relating to limited-duty officers of the Regular Navy or Regular Marine Corps, see section 616 of Pub. L. 96–513, set out as a note under section 611 of this title.

[1] *See References in Text note below.*

## §8373. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service

(a) Subject to section 12645 of this title, an officer in an active status in the Navy Reserve in the permanent grade of lieutenant or lieutenant (junior grade), and an officer in an active status in the

Marine Corps Reserve in the permanent grade of captain or first lieutenant, who is considered as having twice failed of selection for promotion to the next higher grade while on the active-duty list may, in the discretion of the Secretary of the Navy, be eliminated from an active status or released from active duty and placed on the reserve active-status list.

(b) An officer who is to be eliminated from an active status under subsection (a) shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve and, if he requests it, shall be so transferred. If he is not so transferred, he shall, in the discretion of the Secretary, be transferred to the appropriate inactive status list or be discharged from the Navy Reserve or the Marine Corps Reserve.

(c)(1) An officer in an active status in the Navy Reserve in the permanent grade of lieutenant commander or commander, and an officer in an active status in the Marine Corps Reserve in the permanent grade of major or lieutenant colonel, who is considered as having twice failed of selection for promotion to the next higher grade while on the active-duty list shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve. If he is not so transferred, he shall be discharged from the Navy Reserve or the Marine Corps Reserve if he has completed a period of total commissioned service equal to that specified below for the permanent grade in which he is serving:

| *Grade* | | *Total commissioned service* |
|---|---|---|
| *Navy* | *Marine Corps* | |
| Commander | Lieutenant colonel | 28 years. |
| Lieutenant commander | Major | 20 years. |

(2) Notwithstanding the first sentence of paragraph (1), the Secretary may defer the retirement or discharge of such number of officers serving in the grade of lieutenant commander as are necessary to maintain the authorized officer strength of the Ready Reserve, but the duration of such deferment for any individual officer may not be in excess of five years.

(3) Notwithstanding paragraph (1), the Secretary may defer the retirement or discharge under this subsection of an officer serving in the permanent grade of lieutenant commander or commander in the Navy Reserve or in the permanent grade of major or lieutenant colonel in the Marine Corps Reserve for a period of time which does not exceed the amount of service in an active status which was credited to the officer at the time of his original appointment or thereafter under any provision of law, if the officer can complete at least 20 years of service as computed under section 12732 of this title during the period of such deferment.

(4) Notwithstanding paragraph (1), the Secretary may defer the retirement or discharge under this subsection of such number of officers serving in the permanent grade of commander in the Medical Corps, Chaplain Corps, or Dental Corps in the Navy Reserve as are necessary to provide for mobilization requirements.

(d) For the purposes of subsection (c), the total commissioned service of an officer who has served continuously in the Navy Reserve or the Marine Corps Reserve following appointment therein in the permanent grade of ensign or second lieutenant, as the case may be, shall be computed from June 30 of the fiscal year in which he accepted the appointment. Each other officer is considered to have for this purpose as much total commissioned service as the years of active commissioned service of any regular officer on the active-duty list of the Navy not restricted in the performance of duty, or any regular officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as an ensign on the active-duty list of the Navy or as a second lieutenant on the active-duty list of the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer. However, the total commissioned service that the other officer is considered to have may not be less than the actual number of years he has served as a commissioned officer in a grade above chief warrant officer, W–5.

(Added Pub. L. 85–861, §1(144)(A), Sept. 2, 1958, 72 Stat. 1509, §6389; amended Pub. L. 86–559, §1(46), June 30, 1960, 74 Stat. 274; Pub. L. 96–513, title III, §337(a), Dec. 12, 1980, 94 Stat. 2900; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title V, §528(c), Oct. 19, 1984, 98 Stat. 2526; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–337, div. A, title XVI, §§1628, 1673(c)(1), Oct. 5, 1994, 108 Stat. 2962, 3016; Pub. L. 104–106, div. A, title XV, §1501(c)(25), Feb. 10, 1996, 110 Stat. 499; Pub. L. 109–163, div. A, title V, §515(b)(1)(M), (3)(C), Jan. 6, 2006, 119 Stat. 3233, 3234; renumbered §8373, Pub. L. 115–232, div. A, title VIII, §807(b)(16), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6389(a) | 50:1311(c) (1st sentence). | Sept. 3, 1954, ch. 1257, §411(c) (1st sentence), 68 Stat. 1170. |
| 6389(b) | 50:1311(a) (as applicable to 1311(c)). | Sept. 3, 1954, ch. 1257, §411(a) (as applicable to 411(c)), 68 Stat. 1169. |
| 6389(c) | 50:1311(c) (2d sentence). | Sept. 3, 1954, ch. 1257, §411(c) (2d sentence), 68 Stat. 1170. |
| 6389(d) | 50:1311(c) (less 1st and 2d sentences). | Sept. 3, 1954, ch. 1257, §411(c) (less 1st and 2d sentences), 68 Stat. 1170. |
| 6389(e) | [No source]. | [No source]. |

In subsection (a), the words "who is considered as having twice failed of selection for promotion" are substituted for the words "after failing of selection for promotion * * * a second time" to conform to similar statements in this title. (See the revision note on section 5776.) The words "may be retained in" are omitted as surplusage, since the authority to eliminate such officers from an active status is discretionary with the Secretary.

Subsection (e) is added to avoid conflict with 50:1311(d) and (e), codified in sections 6397 and 6403 of this title. 50:1311(d) and (e) contain special provisions for "women officers" and officers in the Nurse Corps, respectively, so that officers in these categories must be excepted from this section. Women officers appointed under the act of June 24, 1952, ch. 457 (66 Stat. 155; 34 U.S.C. 21e) (codified in section 5581 of this title), are not "women officers" within the meaning of 50:1311(d), however, but are required to be promoted, retired, or eliminated from active status as if they were men. (See the revision note on section 5665 of this title.) The application of this section to these officers is therefore made explicit.

Both men and women are eligible for appointment as reserve officers in the Nurse Corps and are subject to the special provisions relating to that corps.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8373, added Pub. L. 89–172, §1, Sept. 8, 1965, 79 Stat. 662, related to promotion of officers to grades of brigadier general and major general of Air Force Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14315 of this title.

Another prior section 8373, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528; amended Pub. L. 86–559, §1(58), June 30, 1960, 74 Stat. 277, containing similar subject matter, expired by its own terms on June 30, 1964.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6389 of this title as this section.

**2006**—Pub. L. 109–163, §515(b)(3)(C), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(M), substituted "Navy Reserve" for "Naval Reserve" wherever appearing in text.

**1996**—Subsec. (c). Pub. L. 104–106 substituted "section 12732" for "section 1332".

**1994**—Subsec. (a). Pub. L. 103–337, §1673(c), substituted "12645" for "1005".

Pub. L. 103–337, §1628(1), inserted "while on the active-duty list" after "to the next higher grade" and "or released from active duty and placed on the reserve active-status list" after "from an active status".

Subsec. (b). Pub. L. 103–337, §1628(2), struck out "or (f)" after "subsection (a)".

Subsec. (c). Pub. L. 103–337, §1628(3)(H), designated last sentence as par. (4) and in that sentence substituted "paragraph (1)" for "the first two sentences of this subsection" and struck out "captain or" after "permanent grade of".

Pub. L. 103–337, §1628(3)(G), designated 4th sentence as par. (3) and in that sentence substituted "paragraph (1)" for "the first two sentences of this subsection".

Pub. L. 103–337, §1628(3)(F), designated sentence after table as par. (2) and in that sentence substituted "the first sentence of paragraph (1)" for "the first sentence of this subsection".

Pub. L. 103–337, §1628(3)(E), in table struck out line relating to grades of captain in Navy and colonel in Marine Corps and substituted "28 years" for "26 years".

Pub. L. 103–337, §1628(3)(D), inserted "while on the active-duty list" after "to the next higher grade" in first sentence.

Pub. L. 103–337, §1628(3)(C), substituted "major or lieutenant colonel" for "major or above" in two places.

Pub. L. 103–337, §1628(3)(B), substituted "lieutenant commander or commander" for "lieutenant commander or above" in two places.

Pub. L. 103–337, §1628(3)(A), inserted "(1)" after "(c)".

Subsec. (e). Pub. L. 103–337, §1628(4), struck out subsec. (e) which read as follows: "This section does not apply to women reserve officers or to reserve officers in the Nurse Corps."

Subsec. (f). Pub. L. 103–337, §1628(4), struck out subsec. (f) which provided for transfer or discharge of rear admirals (lower half) in Naval Reserve and brigadier generals in Marine Corps Reserve on completion of 30 years service or five years in grade and for rear admirals in Naval Reserve and major generals in Marine Corps Reserve on completion of 35 years service or five years in grade and provided that rear admirals (lower half) and rear admirals in Naval Reserve and brigadier generals and major generals in Marine Corps Reserve could be considered for early retirement by continuation board. See sections 14508 and 14705 of this title.

Subsec. (g). Pub. L. 103–337, §1628(4), struck out subsec. (g) which read as follows: "An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status."

**1991**—Subsec. (d). Pub. L. 102–190 substituted "W–5" for "W–4".

**1985**—Subsec. (f)(1), (3). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

**1984**—Subsec. (g). Pub. L. 98–525 added subsec. (g).

**1981**—Subsec. (f)(1), (3). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

**1980**—Subsec. (b). Pub. L. 96–513, §337(a)(1), substituted "subsection (a) or (f)" for "subsection (a)".

Subsec. (d). Pub. L. 96–513, §337(a)(2), substituted "as the years of active commissioned service of any regular officer on the active-duty" for "as any officer in the line on the active" and "or any regular officer on the active-duty list of the Marine Corps" for "or any officer on the active list of the Marine Corps".

Subsec. (e). Pub. L. 96–513, §337(a)(3), substituted "does not apply to" for "applies to women officers appointed under section 5581 of this title, but not to other".

Subsec. (f). Pub. L. 96–513, §337(a)(4), added subsec. (f).

**1960**—Subsec. (c). Pub. L. 86–559 empowered the Secretary to defer the retirement or discharge of officers serving in the grade of lieutenant commander in the Ready Reserve, in the permanent grade of lieutenant commander or above in the Naval Reserve, in the permanent grade of major or above in the Marine Corps Reserve, and in the permanent grade of captain or commander in the Medical Corps, Chaplain Corps, or Dental Corps in the Naval Reserve.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve

Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1673(c)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1628 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8374. Treatment of fractions of years of service in computing retired pay and separation pay

In determining the total number of years of service to be used as a multiplier in computing retired pay and separation pay on discharge under this chapter, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 415, §6404; Pub. L. 96–513, title V, §503(50), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 98–94, title IX, §923(c)(4), Sept. 24, 1983, 97 Stat. 643; renumbered §8374, Pub. L. 115–232, div. A, title VIII, §807(b)(16), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6404 | 34 U.S.C. 410c(a) (1st proviso). | Feb. 21, 1946, ch. 34, §7 (a) (1st proviso), 60 Stat. 27; Aug. 7, 1947, ch. 512, §432(a), 61 Stat. 881. |
| | 34 U.S.C. 410j(g) (1st proviso). | Aug. 7, 1947, ch. 512, §312(g) (1st proviso), 61 Stat. 860. |
| | 34 U.S.C. 410d (1st proviso). | Feb. 21, 1946, ch. 34, §9 (1st proviso), 60 Stat. 28; Aug. 7, 1947, ch. 512, §432(b), 61 Stat. 881. |
| | 34 U.S.C. 410j(h) (1st proviso). | Aug. 7, 1947, ch. 512, §312(h) (1st proviso), 61 Stat. 860. |
| | 34 U.S.C. 410r(h). | June 12, 1948, ch. 449, §207(h), 62 Stat. 368. |
| | 34 U.S.C. 410r(j) (proviso). | June 12, 1948, ch. 449, §207(j) (proviso), 62 Stat. 366. |
| | 34 U.S.C. 43g(g). | Apr. 16, 1947, ch. 38, §207(h), 61 Stat. 50; redesignated (g), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882; May 16, 1950, ch. 186, §3(j), 64 Stat. 162. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, §213(a), 62 Stat. 369. |

The words "and a part of a year that is less than six months is disregarded" are added for clarity. The legislative history of the Career Compensation Act of 1949, which contains a provision identical to those codified in this section, indicates that all of these provisions are construed as requiring a fractional year of less than six months to be disregarded (hearing before the Committee on Armed Services of the Senate on H.R. 5007, 81st Cong., 1st sess., p. 313, July 6, 1949).

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8374, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528, provided that promotion of reserve commissioned officers be effective upon Federal recognition in next higher grade of Air National Guard, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14308(f) of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6404 of this title as this section.

**1983**—Pub. L. 98–94 substituted "each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded".

**1980**—Pub. L. 96–513 substituted "separation pay" for "severance pay" in section catchline and substituted "separation pay" for "lump-sum payments" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8375. Navy and Marine Corps; warrant officers, W–1: limitation on dismissal

(a) No officer who holds the grade of warrant officer, W–1, may be dismissed from the Navy or the Marine Corps except in time of war, by order of the President.

(b) The President may drop from the rolls of the Navy or the Marine Corps any officer who holds the grade of warrant officer, W–1, who—

(1) has been absent without authority for at least three months; or

(2) is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 416, §6408; renumbered §8375, Pub. L. 115–232, div. A, title VIII, §807(b)(16), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | | |

| | | |
|---|---|---|
| 6408 | 50 U.S.C. 739 (as applicable to warrant officers, W–1, of the Navy and the Marine Corps). | May 5, 1950, ch. 169, §10 (as applicable to warrant officers, W–1, of the Navy and the Marine Corps), 64 Stat. 146. |

This section reflects the opinion of the Judge Advocate General of the Navy (JAG:I:2:ERS:cmr, dtd. 13 April 1954) that 50 U.S.C. 739 applies to warrant officers (now warrant officers, W–1), of the Navy and the Marine Corps. The Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of the former warrant officer (as distinguished from commissioned warrant officer) grades. 50 U.S.C. 739, as applicable to officers above the grade of warrant officer, W–1, is codified in §1161 of this title.

In subsection (a) the words "by sentence of a general court-martial, or in commutation thereof" are omitted since the separation from the service of a warrant officer, W–1, by sentence of court-martial is effected by dishonorable discharge.

In subsection (b) the words "from his place of duty" are omitted as surplusage. The words "at least" are substituted for the words "or more". The words "by a court other than a court-martial or other military court" are substituted for the words "by the civil authorities".

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8375 to 8378 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8375, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528; amended Pub. L. 86–559, §1(59), June 30, 1960, 74 Stat. 277; Pub. L. 96–513, title V, §514(3), Dec. 12, 1980, 94 Stat. 2935, related to transfer or discharge of officers promoted to reserve grade of brigadier general or major general ceasing to occupy those positions. See section 14314(a), (c) of this title.

Section 8376, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528; amended Pub. L. 86–559, §1(60), June 30, 1960, 74 Stat. 277, related to promotion of commissioned officers of Air Force Reserve or Air National Guard of United States to higher reserve grades after temporary appointments. See section 14301 et seq. of this title.

Section 8377, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1529; amended Pub. L. 86–559, §1(61), June 30, 1960, 74 Stat. 277, related to effect of removal of reserve commissioned officer from recommended promotion list by President. See section 14301 et seq. of this title.

Section 8378, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530, related to promotion of reserve commissioned officers removed from active status. See section 14317(a) of this title.

A prior section 8379, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530, provided that appointing commissioned officers of Air National Guard was function of governors, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1636(c), Oct. 5, 1994, 108 Stat. 2968, effective Feb. 10, 1996.

Prior sections 8380 and 8381 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8380, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530; amended Pub. L. 86–559, §1(62), June 30, 1960, 74 Stat. 277; Pub. L. 98–94, title X, §1015(b)(1), Sept. 24, 1983, 97 Stat. 667; Pub. L. 99–145, title V, §521(b), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100–180, div. A, title V, §502(b)(1), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §503(b)(1), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102–484, div. A, title V, §519(b), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103–160, div. A, title V, §514(b), Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104–106, div. A, title V, §511(b), title XV, §1501(c)(31), Feb. 10, 1996, 110 Stat. 298, 500, related to promotion of reserve commissioned officers on active duty and not on the active duty list. See section 14311(e) of this title.

Section 8381, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1531; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer, discharge, or withdrawal of Federal recognition of reserve officers ceasing to occupy position of adjutant general or assistant adjutant general. See section 14314(b), (c) of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6408 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 845—RECALL TO ACTIVE DUTY

Sec.
8383. Retired members: grade.
8384. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty.
8385. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall.
8386. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 845, consisting of sections 8571 to 8583, related to rank and command within the Air Force, prior to renumbering as chapter 925 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 575 of this title as this chapter and items 6483 to 6486 as 8383 to 8386, respectively.

**1984**—Pub. L. 98–525, title V, §533(f)(2), Oct. 19, 1984, 98 Stat. 2528, struck out item 6482 "Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall."

**1980**—Pub. L. 96–513, title V, §503(51), Dec. 12, 1980, 94 Stat. 2915, struck out items 6481 "Retired officers of the Regular Navy and Regular Marine Corps: authority to recall", 6487 "Retired rear admirals: retired pay after two years of active duty", and 6488 "Wartime appointments or promotions: retention of grade upon release from active duty".

## §8383. Retired members: grade

An officer who has been advanced on the retired list or in the Retired Reserve under former section 6150 of this title to a grade above captain in the Navy or above colonel in the Marine Corps, when recalled to active duty, may, in the discretion of the Secretary of the Navy, be recalled either in the grade he holds on the retired list or in the Retired Reserve or in the grade from which he was advanced.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417, §6483; Pub. L. 85–422, §6(5), May 20, 1958, 72 Stat. 129; Pub. L. 88–132, §5(m), Oct. 2, 1963, 77 Stat. 215; Pub. L. 90–623, §2(10), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title III, §363, Dec. 12, 1980, 94 Stat. 2903; renumbered §8383, Pub. L. 115–232, div. A, title VIII, §807(b)(17), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6483 | 34 U.S.C. 410n (1st proviso). | Aug. 7, 1947, ch. 512, §412(a) (1st proviso), 61 Stat. 874; Oct. 12, 1949, ch. 681, §522(a), 63 Stat. 835. |
| | 50 U.S.C. 1052(c) (2d sentence). | July 9, 1952, ch. 608, §413(c) (2d sentence), 66 Stat. 500. |

Subsection (a) states the general rule that a retired officer, when recalled to active duty, shall be recalled in the grade he holds on the retired list. The rule is derived, not from a specific provision of law, but from the fact that special legislative authority is required to recall a retired officer in any other grade.

The desirability of including a positive statement of the rule is pointed up by the legislative history of the Act of February 21, 1946, ch. 34, §8(a), 60 Stat. 28, amending the Act of July 24, 1941, ch. 320, §10(d), 55 Stat. 605 (34 U.S.C. 350i(d)). The 1946 amendment states the rule, but only as to a limited class of retired personnel, namely persons temporarily appointed or promoted under the 1941 Act while on the retired list. The amendment provided that such persons, when released to inactive duty, should be given the highest grade in which they had served satisfactorily and, if subsequently recalled to active duty, should be recalled in the grade so accorded them. The legislative history shows that the bill (S. 1405, 79th Cong., 1st sess.), originally was written so as to provide that retired personnel should be recalled in their prior permanent grades or ratings instead of in the higher grades accorded them on the retired list while on inactive duty. When a member of the Naval Affairs Committee of the House of Representatives suggested an amendment to allow retired personnel to be recalled in the higher grades, the Navy spokesman pointed out that no law was required to permit this; in fact, retired personnel would be *required* to be recalled in the grades they hold on the retired list in the absence of any law to the contrary. Thus the result desired by the committee member could be achieved, simply by deleting the provision instead of amending it. After some discussion, however, it was decided to adopt the suggested amendment in order not to "leave things to inference" (H. Rept. No. 158, December 6, 1945, pp. 2290–2292).

Section 412(a) of the Officer Personnel Act of 1947 (34 U.S.C. 410n) (codified, except for the first proviso, in §6150 of this title), supplies a further reason why a positive statement of the rule is desirable. That section provides that an officer who has been specially commended for the performance of duty in actual combat shall, when retired, be placed on the retired list in the grade next higher than that in which serving at the time of retirement. The first proviso, codified in subsection (b) of this section, provided further that an officer advanced under §412(a) to a flag or general officer grade could be recalled either in the advanced grade or in the grade from which advanced. The law was silent as to the grade in which other officers advanced under §412(a) should be recalled. It was understood that they would be recalled in the advanced grade accorded them on the retired list, because there was no authority to recall them in any other grade. However, the Comptroller General raised a question as to their right to the pay of the higher grade when recalled. Although the final decision of the Comptroller General was in favor of the higher pay (30 Comp. Gen. 242, December 20, 1950), the fact that the question was raised indicates the confusion that results from leaving the rule to inference.

It appears that the rule was never in doubt until after the enactment of the two recent laws cited above, one applying the rule to a limited class, and one stating a discretionary exception without stating the rule itself. These two laws make it more difficult than it was formerly to derive the correct conclusion by inference alone.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6483 of this title as this section.

**1980**—Pub. L. 96–513 struck out provisions formerly set out as subsec. (a) which authorized each retired member of the naval service, when called to active duty, to be recalled in the grade held by him on the retired list and deleted subsec. (b) designation from remaining provisions.

**1968**—Subsec. (b). Pub. L. 90–623 inserted "former" before "section 6150".

**1963**—Subsec. (c). Pub. L. 88–132 repealed subsec. (c) which provided for recomputation of retired pay of retired members of the naval service, recalled to active duty in the higher grade for officers specially commended and released from such duty, on basis of the then monthly basic pay of the grade held on the retired list after continuous 2-year period of service. See section 1402 of this title.

**1958**—Subsec. (c). Pub. L. 85–422 added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note

under section 101 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

## §8384. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty

When on active duty, retired enlisted members of the Navy or the Marine Corps are eligible for promotion to higher enlisted grades or ratings. When released from active duty, they shall, unless entitled to a higher grade under another provision of law, retain the grades or ratings they hold at the time of their release.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417, §6484, renumbered §8384, Pub. L. 115–232, div. A, title VIII, §807(b)(17), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6484 | 34 U.S.C. 434. | July 1, 1918, ch. 114, 40 Stat. 719 (1st 9 lines of 2d par.). |

The words "who has been ordered into active service since April 6, 1917" are omitted as executed. The words "to higher enlisted grades or ratings" are inserted for clarity. The eligibility of retired enlisted men for appointments to warrant and commissioned grades is covered by chapter 539 of this title where the requirements for these appointments are set forth. The words "unless entitled to a higher grade under another provision of law" are inserted to make it clear that retired enlisted members are not precluded by this section from obtaining the benefits of other provisions of law that may give a higher grade to them on their release from active duty.

The provision relating to pay, allowances, and benefits is omitted because it was superseded by §§514 and 516 of the Career Compensation Act of 1949 (37 U.S.C. 314 and 316).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6484 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8385. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority

## to recall

(a) A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be ordered by competent authority to active duty without his consent—

(1) in time of war or national emergency declared by Congress, for the duration of the war or national emergency and for six months thereafter;

(2) in time of national emergency declared by the President; or

(3) when otherwise authorized by law.

(b) In time of peace any member of the Fleet Reserve or the Fleet Marine Corps Reserve may be required to perform not more than two months' active duty for training in each four-year period.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417, §6485; Pub. L. 95–79, title VIII, §805, July 30, 1977, 91 Stat. 333; renumbered §8385, Pub. L. 115–232, div. A, title VIII, §807(b)(17), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6485 | 34 U.S.C. 854d (1st 87 words of 2d proviso). | June 25, 1938, ch. 690, §205 (1st 87 words of 2d proviso), 52 Stat. 1179; July 9, 1952, ch. 608, §808, 66 Stat. 508. |
| | 34 U.S.C. 854e (less 2d through 5th provisos). | June 25, 1938, ch. 690, §206 (less 2d through 5th provisos), 52 Stat. 1179; Apr. 25, 1940, ch. 153, 54 Stat. 162. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words "A member of the Fleet Reserve or the Fleet Marine Corps Reserve" are substituted for the words "That men so transferred to the Fleet Reserve * * * or other provision of law" for clarity. It is clear from the legislative history of the Armed Forces Reserve Act of 1952 that the amendment to the second proviso of 34 U.S.C. 854d made by that Act was intended to cover all members of the Fleet Reserve and Fleet Marine Corps Reserve.

In subsection (b) the word "enlisted" is omitted as surplusage since only enlisted members may transfer to the Fleet Reserve and Fleet Marine Corps Reserve. The words "after 16 years' or more service" are omitted as surplusage since all the members of the Fleet Reserve and Fleet Marine Corps Reserve are in that category. The words "If any member fails to report for the physical examination" are substituted for the words "upon failure * * * of such member to report for inspection" to reflect the true meaning of the section. The words "Under such conditions as may be prescribed by the Secretary of the Navy" are omitted as unnecessary since the authority to order a forfeiture is entirely within the Secretary's discretion.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6485 of this title as this section.

**1977**—Subsec. (b). Pub. L. 95–79 struck out requirements relating to physical examinations for members of the Fleet Reserve and Fleet Marine Corps Reserve.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8386. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty

(a) Except as provided in subsection (b), the Secretary of the Navy may, at any time, release any member of the Fleet Reserve or the Fleet Marine Corps Reserve from active duty.

(b) In time of war or national emergency declared by Congress or by the President after January 1, 1953, a member of the Fleet Reserve or the Fleet Marine Corps Reserve, without his consent, may be released from active duty other than from active duty for training only if—

(1) a board of officers convened at his request by an authority designated by the Secretary recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply during a period of demobilization or reduction in strength of the Navy or the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417, §6486; renumbered §8386, Pub. L. 115–232, div. A, title VIII, §807(b)(17), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6486 | 34 U.S.C. 854d (3d proviso). | June 25, 1938, ch. 690, §205 (3d proviso); added July 9, 1952, ch. 608, §808, 66 Stat. 508. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words "or active duty for training" are omitted as covered by the term "active duty" as used in this revised title.

In subsection (b) the words "other than from active duty for training" are inserted since the term "active duty" as used in 34 U.S.C. 854d (3d proviso) does not include active duty for training. Clause (3) is inserted, since other provisions of law are necessarily exceptions to the general rule here stated. The words "or the Marine Corps" are inserted in the last sentence of subsection (b) to reflect the applicability of the section to the Fleet Marine Corps Reserve.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6486 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 847—DEATH BENEFITS; CARE OF THE DEAD

Sec.

8392. Disposition of effects.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 577 of this title as this chapter and item 6522 as 8392.

**1958**—Pub. L. 85–861, §1(145), Sept. 2, 1958, 72 Stat. 1512, struck out item 6521 "Allowance to dependents: designation of beneficiary".

## §8392. Disposition of effects

(a) If money or other personal property of a deceased member of the naval service is in the custody of the Department of the Navy, the Secretary of the Navy shall keep it in safe custody and make a diligent effort to determine and locate the heirs or next of kin of the deceased member. Property remaining unclaimed two years after the death of the member shall be sold, and the proceeds, together with any of his money held in custody, shall be covered into the Treasury.

(b) Within five years after the date the money and proceeds are covered into the Treasury, any claim that is presented therefor supported by competent proof shall be certified to Congress for consideration.

(c) The Secretary shall prescribe regulations for the administration of this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 419, §6522; renumbered §8392, Pub. L. 115–232, div. A, title VIII, §807(b)(18), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6522 | 34 U.S.C. 942. | Mar. 29, 1918, ch. 31, 40 Stat. 499. |

In subsection (a) the word "shall" is substituted for the words "authorized and directed"; the word "effort" is substituted for the word "inquiry"; the words "determine and locate" are substituted for the words "ascertain the whereabouts"; the words "personal property" are substituted for the words "all articles of value, papers, keepsakes, and other similar effects". The phrase "to the credit of the Navy pension fund" is omitted since this fund was abolished by §9 of the Act of June 26, 1934, ch. 756, 48 Stat. 1229. The application of this section is confined to the money and other personal property of the deceased member in the custody of the Department of the Navy to make it clear that disposition is made only of property held by the Department of the Navy and not of property which may be under other custody, over which the Department of the Navy would have no control.

In subsection (b) the word "covered" is substituted for the word "deposited".

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8392 to 8396 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8392, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1531; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to appointment of adjutant general or assistant adjutant general in reserve commissioned grade in which Federal recognition in Air National Guard was extended. See section 12215(b) of this title.

Section 8393, added Pub. L. 85–861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1531, provided that sea or foreign service not to be required for promotion of reserve commissioned officers in reserve grades.

Section 8394, act Aug. 10, 1956, ch. 1041, 70A Stat. 521, related to acceptance of promotion by officers of Air National Guard of United States or Air Force Reserve. See section 14309 of this title.

Section 8395, act Aug. 10, 1956, ch. 1041, 70A Stat. 521, related to appointment of reserve officers in time of war. See section 14317(e) of this title.

Section 8396, added Pub. L. 96–513, title II, §206(b), Dec. 12, 1980, 94 Stat. 2884, provided that this chapter, except section 8353, did not apply to reserve officers on active-duty list.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6522 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# PART III—EDUCATION AND TRAINING


| Chap. | | Sec. |
|---|---|---|
| **851.** | **Officer Procurement Programs** | **8411** |
| **852.** | **Training Generally** | **8431** |
| **853.** | **United States Naval Academy** | **8451** |
| **855.** | **United States Naval Postgraduate School** | **8541** |
| **857.** | **Retirement of Civilian Members of the Teaching Staffs of the United States Naval Academy and United States Naval Postgraduate School** | **8581** |
| **859.** | **Professional Military Education Schools** | **8591** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(f)(2), Aug. 13, 2018, 132 Stat. 1838, redesignated items for chapters 601 to 609 as 851 to 859 and redesignated section numbers 6901 to 7101 as 8411 to 8591. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**1998**—Pub. L. 105–261, div. A, title V, §521(b)(2), Oct. 17, 1998, 112 Stat. 2011, added item for chapter 602.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(27)(B), Dec. 5, 1991, 105 Stat. 1474, substituted "Education" for "Educational" in item for chapter 609.

**1990**—Pub. L. 101–510, div. A, title IX, §912(b), Nov. 5, 1990, 104 Stat. 1627, added item for chapter 609.

## CHAPTER 851—OFFICER PROCUREMENT PROGRAMS


Sec.

8411. Aviation cadets: grade; procurement; transfer.

8412. Aviation cadets: benefits.

8413. Aviation cadets: appointment as reserve officers.

8415. Reserve student aviation pilots; reserve aviation pilots: appointments in commissioned grade.


**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 601 of this title as this chapter and items 6911 to 6913 and 6915 as 8411 to 8413 and 8415, respectively.

**1980**—Pub. L. 96–513, title V, §503(52), Dec. 12, 1980, 94 Stat. 2915, struck out items 6909 "Direct procurement: qualifications; retention or transfer to Reserve" and 6914 "Reserve naval aviators: appointment in Regular Navy and Regular Marine Corps; eligibility; grade; rank".

**1964**—Pub. L. 88–647, title III, §301(18), Oct. 13, 1964, 78 Stat. 1072, struck out items 6901 "Naval Reserve Officers' Training Corps: administration", 6902 "Transfer of graduates of Naval Reserve Officers' Training Corps to Regular Navy", 6903 "Officer candidate training program: administration; qualifications for enrollment", 6904 "Officer candidate training program: members enrolled from Naval Reserve Officers' Training Corps; appointment as midshipmen; pay; allowances; commissioning", 6905 "Officer candidate training program: members enrolled as naval aviation officer candidates; instruction; pay; allowances", 6906

"Officer candidate training program: naval aviation candidates; appointment as midshipmen; flight training; appointment as ensigns", 6908 "Officer candidate training program: naval aviators; retention or transfer to Reserve", 6910 "Payment of expenses".

**1961**—Pub. L. 87–100, §1(2), July 21, 1961, 75 Stat. 218, struck out item 6907 "Officer candidate training program: officers other than naval aviators; retention or transfer to Reserve".

**1958**—Pub. L. 85–861, §1(147)(B), Sept. 2, 1958, 72 Stat. 1513, substituted "benefits" for "pay and allowances" in item 6912.

## §8411. Aviation cadets: grade; procurement; transfer

(a) The grade of aviation cadet is a special enlisted grade in the naval service. Under such regulations as the Secretary of the Navy prescribes, citizens in civil life may be enlisted as, and enlisted members of the naval service with their consent may be designated as, aviation cadets.

(b) Except in time of war or emergency declared by Congress, 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Regular Navy and the Regular Marine Corps.

(c) No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve, and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the naval service, released from active duty, or discharged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 426, §6911; Pub. L. 85–578, July 31, 1958, 72 Stat. 456; Pub. L. 96–513, title III, §373(f), Dec. 12, 1980, 94 Stat. 2903; Pub. L. 109–163, div. A, title V, §515(b)(1)(N), Jan. 6, 2006, 119 Stat. 3233; renumbered §8411, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6911(a), (c), (d) | 34 U.S.C. 850a, 850b. | Aug. 4, 1942, ch. 547, §§2, 3, 56 Stat.737. |
| 6911(b) | 34 U.S.C. 735b. | June 13, 1949, ch. 199, §3, 63 Stat. 175. |

In subsection (a) the words "in civil life" are added to indicate that regular enlisted members, to be eligible, must be discharged as is required by subsection (b).

In subsection (b) the words before the first proviso are omitted as executed. The words "after June 13, 1949" in the first proviso, relating to a declaration of emergency by Congress, are omitted as executed. The emergencies existing on June 13, 1949, have expired, as indicated in the Act of July 3, 1952, ch. 570, 66 Stat. 333. The word "Regular" is inserted before "Navy" and "Marine Corps" to preserve the meaning of this provision which distinguishes members of the reserve components from members of the Navy and the Marine Corps. The words "who are discharged for the purpose of enlisting as aviation cadets" are added. Since discharge from a regular component must precede enlistment in a reserve component, the designation language of 34 U.S.C. 735b, although appropriate to the Air Force counterpart to which it also applies, is inappropriate to this section.

Subsection (c) is written as a condition precedent to enlistment or transfer, and not as a requirement, to conform with interpretation of the provision.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6911 of this title as this section.

**2006**—Subsec. (c)(1). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1980**—Subsec. (a). Pub. L. 96–513 struck out "male" before "citizens" and "enlisted".

**1958**—Subsec. (a). Pub. L. 85–578 substituted "naval service" for "Naval Reserve and the Marine Corps Reserve", made changes in phraseology including the substitution of "designated" for "transferred", and specified consent as requisite for designation as aviation cadet.

Subsec. (b). Pub. L. 85–578 struck out "at least" before "20 percent" and "who, with their consent, are discharged for the purpose of enlisting as aviation cadets" after "Regular Marine Corps".

Subsec. (c). Pub. L. 85–578 designated existing provisions as cls. (1) and (2), made phraseological changes including the substitution of "designated" for "transferred", and prescribed consent for one under 21 years of age instead of one described as minor and active duty service with commissioned status for minimum three year period instead of maximum four year period and unspecified grade.

Subsec. (d). Pub. L. 85–578 substituted "naval service" for "Naval Reserve or the Marine Corps Reserve" and struck out "as appropriate" after such term.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8412. Aviation cadets: benefits

Except as provided in section 402(a) and (b) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E–4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 426, §6912; Pub. L. 85–861, §1(147)(A), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 87–649, §6(f)(6), Sept. 7, 1962, 76 Stat. 494; renumbered §8412, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6912(a), (b) | 34 U.S.C. 850c. | Aug. 4, 1942, ch. 547, §4, 56 Stat. 737; Oct. 12, 1949, ch. 681, §527, 63 Stat. 837; May 19, 1952, ch. 310, §1(e) (as applicable to §527), 66 Stat. 80. |
| 6912(c) | 34 U.S.C. 850e. | Aug. 4, 1942, ch. 547, §6, 56 Stat. 738. |

In subsection (b) the words "and at the same rates" are omitted as covered by the words "on the same basis".

In subsection (c) the words "enlisted members in pay grade E–4" are substituted for "enlisted men of the fourth pay grade" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). The words "by law or regulation" are omitted as surplusage. The words "and the premiums on their life insurance" are omitted as impliedly repealed by §10 of the Insurance Act of 1951, 65 Stat. 37, which provided that such premium payments shall not be made by the Government.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6912 | [No source]. | [No source]. |

Section 6912 is amended by eliminating subsections (a) (less clause (4)) and (b) and by substituting a reference to section 301 of the Career Compensation Act of 1949 for the reference to subsection (a) in former subsection (c). The substance of former subsections (a) (less clause (4)) and (b) is covered by the Career Compensation Act, as amended by the Act of March 31, 1955 (69 Stat. 19) and section 10 of this Act.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6912 of this title as this section.

**1962**—Pub. L. 87–649 substituted "section 402(a) and (b) of title 37" for "section 251(a) of title 37".

**1958**—Pub. L. 85–861 substituted "benefits" for "pay and allowances" in section catchline, and struck out provisions which prescribed the rate of pay of cadets, which authorized them to receive the same allowances for subsistence as prescribed for officers, which related to the furnishing of quarters, medical care and hospitalization, and which authorized transportation and expenses while traveling under orders.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §8413. Aviation cadets: appointment as reserve officers

(a) An aviation cadet who fulfills the requirements of section 2003 of this title may be appointed an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve and designated a naval aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary of the Navy in this regard is conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 427, §6913; Pub. L. 96–513, title V, §513(20), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 109–163, div. A, title V, §515(b)(1)(O), Jan. 6, 2006, 119 Stat. 3233; renumbered §8413, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6913(a) | 34 U.S.C. 850f. | Aug. 4, 1942, ch. 547, §7, 56 Stat. 738. |
| 6913(b) | 34 U.S.C. 850g. | Aug. 4, 1942, ch. 547, §8, 56 Stat. 738. |

In subsection (a) the proviso is omitted as unnecessary. Section 1 of the Act of April 28, 1950, ch. 120, 64 Stat. 90, terminated service credit for lump-sum payments granted under §12 of the Act of August 4, 1942, ch. 547, 56 Stat. 738, and thereby removed the only consequences of the proviso. The words "section 6023(b) of this title" are substituted for the words "law for designation or appointment as naval aviators" to provide specific reference to those requirements. The words "and designated a naval aviator" are added for clarity and to authorize specifically the designation, which is implied in 34 U.S.C. 850f.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6913 of this title as this section.
**2006**—Subsec. (a). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".
**1980**—Subsec. (a). Pub. L. 96–513 substituted "section 2003" for "section 6023(b)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

# §8415. Reserve student aviation pilots; reserve aviation pilots: appointments in commissioned grade

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the Navy Reserve and the Marine Corps Reserve may be designated as student aviation pilots.

(b) A member who is not a qualified civilian aviator may not be designated as a student aviation pilot unless he agrees in writing, with the consent of his parent or guardian if he is a minor, to serve on active duty for a period of two years after successfully completing flight training, unless sooner released. Such a student aviation pilot may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(c) If he is a qualified civilian aviator, a student aviation pilot may be given a brief refresher course in flight training.

(d) While he is in flight training, a student aviation pilot shall have uniforms and equipment issued to him at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot of the Navy Reserve or the Marine Corps Reserve may be designated an aviation pilot upon successfully completing flight training.

(f) In time of peace, an aviation pilot who is obligated under subsection (b) to serve on active duty for a period of two years may serve, with his consent, for an additional period of not more than two years.

(g) An aviation pilot of the Navy Reserve or the Marine Corps Reserve may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(h) An aviation pilot of the Navy Reserve or the Marine Corps Reserve may, if qualified under regulations prescribed by the Secretary, be appointed an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve, as appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 427, §6915; Pub. L. 87–649, §14c(51), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title V, §513(21), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 109–163, div. A, title V, §515(b)(1)(P), Jan. 6, 2006, 119 Stat. 3233; renumbered §8415, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6915 | 34 U.S.C. 841a–841e. | Nov. 5, 1941, ch. 468, §§1–5, 55 Stat. 759. |
| | 34 U.S.C. 841h. | Nov. 5, 1941, ch. 468, §8; added Aug. |

| | | |
|---|---|---|
| | | 4, 1942, ch. 547, §15(h), 56 Stat. 740. |

In subsection (a) the authority to designate student aviation pilots is expressly set forth.

The portion of 34 U.S.C. 841h that provides that student aviation pilots who are qualified civilian aviators shall be given a brief refresher course in flight training is contained in subsection (c). The remainder of 34 U.S.C. 841h, which provides that such pilots shall not be considered as having been designated pursuant to 34 U.S.C. 841a–841h, is reflected in subsection (b) by making that subsection applicable only to student aviation pilots who are not qualified civilian aviators. No other consequences attach to designation as student aviation pilots under the particular provisions. In subsection (b) the word "continuous" is omitted as covered by the word "period", and the subsection is written as a condition precedent to designation, because it is so interpreted.

In subsection (c) the words "enlisted in or transferred to pilot ratings" are omitted as surplusage.

Subsection (e) states expressly the authority to designate aviation pilots, which is implied in 34 U.S.C. 841a, 841b, and 841d.

In subsection (f) the words "pay grade E–5" are substituted for the words "third grade" in 34 U.S.C. 841b to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

In subsection (h) the words "of the Naval Reserve or the Marine Corps Reserve" are substituted for the words "designated as such in accordance with sections 841a and 841b of this title" for uniformity.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6915 of this title as this section.

**2006**—Subsecs. (a), (e), (g), (h). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" wherever appearing.

**1980**—Subsecs. (f) to (i). Pub. L. 96–513 redesignated subsecs. (g), (h), and (i) as (f), (g), and (h), respectively.

**1962**—Subsec. (f). Pub. L. 87–649 repealed subsec. (f) which provided that while on active duty, an aviation pilot of the Naval Reserve or the Marine Corps Reserve is entitled to the pay of an enlisted member in pay grade E–5 or that of his grade, whichever is greater. See section 201 of Title 37, Pay and Allowances of the Uniformed Services.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## CHAPTER 852—TRAINING GENERALLY

Sec.
8431. Recruit basic training: separate housing for male and female recruits.
8432. Recruit basic training: privacy.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 602 of this title as this chapter and items 6931 and 6932 as 8431 and 8432, respectively.

**1998**—Pub. L. 105–261, div. A, title V, §522(b)(2), Oct. 17, 1998, 112 Stat. 2013, added item 6932.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM FOR GENERATIVE ARTIFICIAL INTELLIGENCE AND SPATIAL COMPUTING FOR PERFORMANCE TRAINING AND PROFICIENCY ASSESSMENT

Pub. L. 119–60, div. A, title V, §547, Dec. 18, 2025, 139 Stat. 874, provided that:

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Navy shall develop and implement a pilot program to optimize the use of generative artificial intelligence and spatial computing for immersive training and assessment.

"(b) ELEMENTS.—The pilot program required by subsection (a) shall include—

"(1) the development of content with respect to not less than 5 occupational specialties; and

"(2) methods to assess the feasibility and effectiveness of the use of generative artificial intelligence and spatial computing training methods in comparison to other training methods, particularly with respect to cost and time required to achieve training goals.

"(c) TERMINATION.—The pilot program required by subsection (a) shall terminate on the date that is one year after the date of the establishment of the program.

"(d) REPORT.—Not later than 90 days after the termination of the pilot program required by subsection (a), the Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the results of the pilot program, including an analysis of the effectiveness of the use of generative artificial intelligence and spatial computing for training and a description of any cost savings and savings in time required to achieve training goals."

### PROHIBITION ON GENDER-SEGREGATED TRAINING AT MARINE CORPS RECRUIT DEPOTS

Pub. L. 116–92, div. A, title V, §565, Dec. 20, 2019, 133 Stat. 1395, provided that:

"(a) PARRIS ISLAND.—

"(1) PROHIBITION.—Subject to paragraph (2), training at the Marine Corps Recruit Depot, Parris Island, South Carolina, may not be segregated based on gender.

"(2) DEADLINE.—The Commandant of the Marine Corps shall carry out this subsection not later than five years after the date of the enactment of this Act [Dec. 20, 2019].

"(b) SAN DIEGO.—

"(1) PROHIBITION.—Subject to paragraph (2), training at the Marine Corps Recruit Depot, San Diego, California, may not be segregated based on gender.

"(2) DEADLINE.—The Commandant of the Marine Corps shall carry out this subsection not later than eight years after the date of the enactment of this Act."

### ANNUAL CERTIFICATIONS RELATED TO READY, RELEVANT LEARNING INITIATIVE OF THE NAVY

Pub. L. 115–91, div. A, title V, §545, Dec. 12, 2017, 131 Stat. 1396, which related to additional elements to be submitted in 2021 and 2022 along with the certification for implementation of the Ready, Relevant Learning initiative of the Navy, was repealed by Pub. L. 119–60, div. A, title V, §544, Dec. 18, 2025, 139 Stat. 873.

Pub. L. 115–91, div. A, title V, §545, Dec. 12, 2017, 131 Stat. 1396, provided that:

"(a) ANNUAL CERTIFICATIONS REQUIRED.—Not later than March 1, 2018, and each year thereafter, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a certification on the status of implementation of the Ready, Relevant Learning initiative of the Navy for each applicable enlisted rating.

"(b) ELEMENTS.—Each certification under subsection (a) shall include the following:

"(1) A certification by the Commander of the United States Fleet Forces Command that the block learning and modernized delivery methods of the Ready, Relevant Learning initiative to be implemented during the fiscal year beginning in which such certification is submitted will meet or exceed the existing training delivery approach for all associated training requirements.

"(2) A certification by the Secretary of the Navy that the content re-engineering necessary to meet all training objectives and transition from the traditional training curriculum to the modernized delivery format

to be implemented during such fiscal year will be complete prior to such transition, including full functionality of all required course software and hardware.

"(3) A detailed cost estimate of transitioning to the block learning and modernized delivery approaches to be implemented during such fiscal year with funding listed by purpose, amount, appropriations account, budget program element or line item, and end strength adjustments.

"(4) A detailed phasing plan associated with transitioning to the block learning and modernized delivery approaches to be implemented during such fiscal year, including the current status, timing, and identification of reductions in 'A' school and 'C' school courses, curricula, funding, and personnel.

"(5) A certification by the Secretary of the Navy that—

"(A) the contracting strategy associated with transitioning to the modernized delivery approach to be implemented during such fiscal year has been completed; and

"(B) contracting actions contain sufficient specification detail to enable a low risk approach to receiving the deliverable end item or items on-budget, on-schedule, and with satisfactory performance."

## §8431. Recruit basic training: separate housing for male and female recruits

(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Navy shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Navy shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Navy shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

(d) BASIC TRAINING DEFINED.—In this section, the term "basic training" means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.

(Added Pub. L. 105–261, div. A, title V, §521(b)(1), Oct. 17, 1998, 112 Stat. 2010, §6931; renumbered §8431, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6931 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### IMPLEMENTATION

Pub. L. 105–261, div. A, title V, §521(b)(3), Oct. 17, 1998, 112 Stat. 2011, provided that: "The Secretary of the Navy shall implement section 6931 [now 8431] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## §8432. Recruit basic training: privacy

The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a living area in which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.

(Added Pub. L. 105–261, div. A, title V, §522(b)(1), Oct. 17, 1998, 112 Stat. 2012, §6932; renumbered §8432, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8441 and 8442 were repealed by Pub. L. 96–513, title II, §207, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981.

Section 8441, act Aug. 10, 1956, ch. 1041, 70A Stat. 521, provided that temporary appointments be made only in the Air Force without specification of component.

Section 8442, act Aug. 10, 1956, ch. 1041, 70A Stat. 521, provided that a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed, based upon ability and efficiency with regard being given to seniority and age, in a temporary grade that is equal to or higher than his regular or reserve grade, without vacating any other grade held by him. See section 601 of this title.

A prior section 8443, act Aug. 10, 1956, ch. 1041, 70A Stat. 522, related to grade of reserve commissioned officers ordered to active duty or serving on active duty, prior to repeal by Pub. L. 85–861, §36B(25), Sept. 2, 1958, 72 Stat. 1571.

Prior sections 8444 and 8445 were repealed by Pub. L. 96–513, title II, §207, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981.

Section 8444, acts Aug. 10, 1956, ch. 1041, 70A Stat. 522; Sept. 2, 1958, Pub. L. 85–861, §1(180)(A), 72 Stat. 1532, authorized President, in time of war or national emergency, to appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary grade, provided for vacation of the appointment, and permitted, for purposes of determining grade, position on a promotion list, seniority in temporary grade, and eligibility for promotion, a medical or dental officer of the Air Force who is appointed in a temporary grade to be credited, when he enters active duty, with the constructive service authorized by section 8294(b) of this title. See section 603 of this title.

Section 8445, acts Aug. 10, 1956, ch. 1041, 70A Stat. 522; Sept. 2, 1958, Pub. L. 85–861, §1(180)(B), 72 Stat. 1532, provided that in addition to temporary appointments authorized, in time of war or national emergency, a regular officer or a reserve warrant officer may be appointed in any temporary grade higher than his regular or reserve grade, without vacating that grade, or a person who holds no commissioned grade in Regular Air Force be appointed in any temporary commissioned grade. See section 603 of this title.

A prior section 8446 was renumbered section 9176 of this title.

A prior section 8447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 523; Sept. 2, 1958, Pub. L. 85–861, §1(180)(D), 72 Stat. 1532; Sept. 28, 1971, Pub. L. 92–129, title VI, §604, 85 Stat. 362, provided that temporary appointment of a person be made without reference to any other appointment that he may hold in the Air Force, temporary appointments of commissioned officers in the Regular Air Force be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades of lieutenant colonel and above, temporary appointments of commissioned officers in the reserve components of the Air Force be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades above major, and that the President may vacate at any time a temporary appointment in a commissioned grade, prior to repeal by Pub. L. 96–513, title II, §207, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981. See section 601 of this title.

Prior sections 8448 and 8449 were repealed by Pub. L. 96–513, title II, §208, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981.

Section 8448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 523; Aug. 8, 1958, Pub. L. 85–603, §1(4), 72 Stat. 526; Sept. 2, 1958, Pub. L. 85–861, §33(a)(39), 72 Stat. 1566, authorized Secretary of the Air Force, upon his determination of need, to appoint qualified persons as warrant officers, with such appointments to continue at pleasure of Secretary, and such warrant officers entitled to count all periods of active duty under appointment as warrant or enlisted service for all purposes and to benefits of all laws and regulations applicable to retirement, pensions, and disability of members of Air Force on active duty. See section 602 of this title.

Section 8449, act Aug. 10, 1956, ch. 1041, 70A Stat. 523, provided that temporary promotions in warrant officer grades be governed by such regulations as the Secretary of the Air Force prescribe. See section 602 of this title.

A prior section 8450, act Aug. 10, 1956, ch. 1041, 70A Stat. 523, provided for suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of Air Force, prior to repeal by Pub. L. 90–235, §3(b)(1), Jan. 2, 1968, 81 Stat. 758.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6932 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### IMPLEMENTATION

Pub. L. 105–261, div. A, title V, §522(b)(3), Oct. 17, 1998, 112 Stat. 2013, provided that: "The Secretary of the Navy shall implement section 6932 [now 8432] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## CHAPTER 853—UNITED STATES NAVAL ACADEMY

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## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 853, consisting of sections 8681 to 8693, related to miscellaneous rights and benefits in the Air Force, prior to renumbering as chapter 933 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title V, §§555(b)(1), 558(a), Dec. 18, 2025, 139 Stat. 878, 879, substituted "appointment; numbers, territorial distribution" for "number" in item 8454 and added item 8451b. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title V, §557(b)(1), Dec. 23, 2024, 138 Stat. 1897, substituted "service obligation" for "agreement for length of service" in item 8459. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §553(b)(2), Dec. 27, 2021, 135 Stat. 1737, added item 8454a.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 603 of this title as this chapter and items 6951 to 6956 and 6958 to 6981 as 8451 to 8456 and 8458 to 8481, respectively.

**2016**—Pub. L. 114–328, div. A, title XII, §1248(b)(2)(B), Dec. 23, 2016, 130 Stat. 2525, struck out items 6957 "Selection of persons from foreign countries", 6957a "Exchange program with foreign military academies", and 6957b "Foreign and cultural exchange activities".

**2013**—Pub. L. 112–239, div. A, title V, §542(b), Jan. 2, 2013, 126 Stat. 1737, added item 6981.

**2008**—Pub. L. 110–417, [div. A], title V, §541(b)(2), Oct. 14, 2008, 122 Stat. 4455, added item 6957b.

Pub. L. 110–181, div. A, title V, §508(a)(2), Jan. 28, 2008, 122 Stat. 97, added items 6970 and 6970a and struck out former item 6970 "Permanent professors: retirement for years of service; authority for deferral".

**2006**—Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, made technical correction to directory language of Pub. L. 108–375, §544(b)(2). See 2004 Amendment note below.

Pub. L. 109–364, div. A, title V, §532(d)(2), title X, §1071(a)(34), Oct. 17, 2006, 120 Stat. 2206, 2400, substituted colon for semicolon in item 6965 and added item 6980.

Pub. L. 109–163, div. A, title V, §509(b)(2), Jan. 6, 2006, 119 Stat. 3230, added item 6970.

**2004**—Pub. L. 108–375, div. A, title V, §545(b)(2), Oct. 28, 2004, 118 Stat. 1908, added item 6979.

Pub. L. 108–375, div. A, title V, §544(b)(2), Oct. 28, 2004, 118 Stat. 1907, as amended by Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, added item 6978.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §942(e)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242, added items 6973 and 6974 and struck out former items 6973 "Gifts and bequests: acceptance for benefit of Naval Academy" and 6974 "Gifts and bequests: acceptance for benefit of museum".

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(D), div. B, title XXVIII, §2871(b)(2), Oct. 5, 1999, 113 Stat. 604, 875, added items 6951a and 6975.

**1998**—Pub. L. 105–261, div. A, title X, §1063(b)(2), Oct. 17, 1998, 112 Stat. 2131, added item 6977.

**1997**—Pub. L. 105–85, div. A, title V, §542(b)(2), div. B, title XXVIII, §2871(a)(2), Nov. 18, 1997, 111 Stat. 1742, 2015, added items 6957a and 6976.

**1996**—Pub. L. 104–201, div. A, title III, §370(d), Sept. 23, 1996, 110 Stat. 2499, struck out item 6970 "Storekeeper: detail; returns; inspection of accounts" and substituted "trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts" for "laundry, barber shop, cobbler shop, tailor shop, and dairy: disposition of funds" in item 6971.

**1994**—Pub. L. 103–337, div. A, title V, §556(b)(2), Oct. 5, 1994, 108 Stat. 2775, which amended analysis by adding item 6975 "Athletics program: athletic director; nonappropriated fund account", was repealed by Pub. L. 104–106, div. A, title V, §533(b), Feb. 10, 1996, 110 Stat. 315, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(1)(C), Nov. 18, 1997, 111 Stat. 1905.

**1983**—Pub. L. 98–94, title X, §1004(b)(2), Sept. 24, 1983, 97 Stat. 659, substituted "Selection of persons from foreign countries" for "Admission of foreigners for instruction: restrictions, conditions" in item 6957.

## §8451. Location

The United States Naval Academy shall be located at Annapolis, Maryland.

(Aug. 10, 1956, ch. 1041, 70A Stat. 428, §6951; renumbered §8451, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6951 | 34 U.S.C. 1021. | R.S. 1511. |

The words "United States" are inserted before the words "Naval Academy" to state the full title. The word "established" is omitted as executed. The words "in the State of" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8451, act Aug. 10, 1956, ch. 1041, 70A Stat. 524, provided that an officer who is promoted to a temporary grade is considered to have accepted his promotion on date of order announcing it, unless he expressly declines promotion, prior to repeal by Pub. L. 96–513, title II, §207, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6951 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8451a. Superintendent

(a) There is a Superintendent of the United States Naval Academy. The immediate governance of the Naval Academy is under the Superintendent.

(b) The Superintendent shall be detailed to that position by the President. As a condition for detail to that position, an officer shall acknowledge that upon termination of that detail the officer shall be retired pursuant to section 8371(a) of this title, unless such retirement is waived under section 8371(b) of this title.

(c) An officer who is detailed to the position of Superintendent shall be so detailed for a period of

not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.

(Added Pub. L. 106–65, div. A, title V, §532(a)(2)(B), Oct. 5, 1999, 113 Stat. 603, §6951a; amended Pub. L. 108–375, div. A, title V, §541(b)(2), Oct. 28, 2004, 118 Stat. 1903; renumbered §8451a and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6951a of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 8371(a)" for "section 6371(a)" and "section 8371(b)" for "section 6371(b)".

**2004**—Subsec. (b). Pub. L. 108–375, §541(b)(2)(A), inserted before period at end "pursuant to section 6371(a) of this title, unless such retirement is waived under section 6371(b) of this title".

Subsec. (c). Pub. L. 108–375, §541(b)(2)(B), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 7321 of this title.

## §8451b. Director of admissions

(a) ESTABLISHMENT AND APPOINTMENT.—There is a director of admissions of the Naval Academy. The director of admissions shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Naval Academy may prescribe with the approval of the Secretary of the Navy.

(b) GRADE.—(1) Subject to paragraph (2), a person appointed as director of admissions of the Naval Academy has the regular grade of commander in the Navy or lieutenant colonel in the Marine Corps.

(2) A person serving as director of admissions shall have the regular grade of captain in the Navy or colonel in the Marine Corps upon the earlier of—

(A) the date on which such person completes six years of service as the director of admissions; and

(B) the date on which such person would have been promoted had the person been selected for promotion from among officers in the promotion zone.

(c) DETAIL.—The President may detail any officer of the Navy or the Marine Corps in a grade above lieutenant or captain, respectively, to perform the duties of director of admissions without appointing the officer as director of admissions. Such a detail does not affect the position of the

officer on the active-duty list.

(Added Pub. L. 119–60, div. A, title V, §558(a), Dec. 18, 2025, 139 Stat. 879.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONTINUATION OF SERVICE OF CURRENT DIRECTOR OF ADMISSIONS**

Pub. L. 119–60, div. A, title V, §558(b), Dec. 18, 2025, 139 Stat. 879, provided that: "Notwithstanding subsection (a) of section 8451b of title 10, United States Code, as added by subsection (a) of this section, the person serving as the director of admissions of the Naval Academy on the date of the enactment of this Act [Dec. 18, 2025]—

"(1) may serve as the director of admissions of the Naval Academy until the date on which—

"(A) a director of admissions is appointed by the President, by and with the advice and consent of the Senate, in accordance with subsection (a) of such section 8451b; or

"(B) the President details an officer to perform the duties of the director of admissions in accordance with subsection (c) of such section 8451b; and

"(2) has the regular grade described in subsection (b) of such section 8451b."

## §8452. Civilian teachers: number; compensation

(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval Academy as he considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary of the Navy may, notwithstanding the provisions of subchapter V of chapter 55 of title 5 or section 6101 of such title, prescribe for persons employed under this section the following:

(1) The work schedule, including hours of work and tours of duty, set forth with such specificity and other characteristics as the Secretary determines appropriate.

(2) Any premium pay or compensatory time off for hours of work or tours of duty in excess of the regularly scheduled hours or tours of duty.

(d) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 428, §6952; Pub. L. 106–65, div. A, title XI, §1107(b), Oct. 5, 1999, 113 Stat. 778; renumbered §8452, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6952 | 34 U.S.C. 1071 (as applicable to Naval Academy). | Aug. 2, 1946, ch. 756, §7(a) (as applicable to Naval Academy), 60 Stat. 854. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

The words "for the proper instruction of naval personnel" and the words "be paid out of naval appropriations" are omitted as surplusage.

In subsection (c) the words "except the authority to prescribe regulations" are omitted, since 34 U.S.C. 1071 contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**EDITORIAL NOTES**

### PRIOR PROVISIONS

A prior section 8452, added Pub. L. 85–861, §1(180)(E), Sept. 2, 1958, 72 Stat. 1532, provided that, notwithstanding any other provision of law, a medical or dental officer may be promoted to temporary grade of captain at any time after first anniversary of date upon which he graduated from a medical, osteopathic, or dental school, prior to repeal by Pub. L. 96–513, title II, §207, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6952 of this title as this section.
**1999**—Subsecs. (c), (d). Pub. L. 106–65 added subsec. (c) and redesignated former subsec. (c) as (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8453. Midshipmen: appointment

Midshipmen at the Naval Academy shall be appointed by the President alone. An appointment is conditional until the midshipman is admitted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 429, §6953; Pub. L. 97–60, title II, §203(b)(1), Oct. 14, 1981, 95 Stat. 1006; renumbered §8453, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### HISTORICAL AND REVISION NOTES

This section is included in this chapter without specific reference to statutory source to resolve the ambiguities and conflicts existing in the statutes relating to the appointment of midshipmen at the Naval Academy. The word "appoint" has been used in various statutes when the intent of Congress was to provide authority in the persons named to "choose," "select," or "nominate" for the office of midshipman. These statutes have been collected and codified in §6954 of this title, which reflects the various sources of nominees for "appointment" as midshipmen and the persons who may so "nominate" them. The actual appointing power resides in the President and this implied authority is herein expressed for clarity and for the purpose of uniformity of expression.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6953 of this title as this section.
**1981**—Pub. L. 97–60 inserted provision that an appointment is conditional until the midshipman is admitted.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 7441a of this title.

## §8454. Midshipmen: appointment; numbers, territorial distribution

(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,400 or such lower number as may be prescribed by the Secretary of the Navy under subsection (h). Subject to that limitation, midshipmen are selected as follows:

(1) 65 selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated, is binding upon the Secretary of the Navy.

(2) Five nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten from each State, five of whom are nominated by each Senator from that State.

(4) Five nominated by each Representative in Congress.

(5) Five from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Four from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Five from Guam, nominated by the Delegate in Congress from Guam.

(9) Three from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) Three from the Commonwealth of the Northern Mariana Islands, nominated by the Delegate in Congress from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 15 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and up to 14 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter. When a nominee of a Senator, Representative, or Delegate is selected for appointment as a midshipman, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made.

(b) In addition there may be appointed each year at the Academy midshipmen as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under chapter 1223 of this title except for not having attained 60 years of age;

however, a person who is eligible for selection under paragraph (1) of subsection (a) may not be selected under this paragraph.

(2) 85 nominated by the Secretary of the Navy from enlisted members of the Regular Navy and

the Regular Marine Corps.

(3) 85 nominated by the Secretary of the Navy from enlisted members of the Navy Reserve and the Marine Corps Reserve.

(4) 20 nominated by the Secretary of the Navy, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Naval Reserve Officer's Training corps.

(5) 200 [1] selected by the Secretary of the Navy in order of merit (prescribed pursuant to section 8456 of this title) from qualified alternates nominated by persons named in paragraphs (3) through (10) of subsection (a).

(c) The President may also appoint as midshipmen at the Academy children of persons who have been awarded the medal of honor for acts performed while in the armed forces.

(d) The Superintendent of the Naval Academy may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under paragraphs (2) through (9) of subsection (a) and may not cause the total strength of midshipmen at the Naval Academy to exceed the authorized number.

(e) The Secretary of the Navy may limit the number of midshipmen appointed under subsection (b)(5). When he does so, if the total number of midshipmen, upon admission of a new class at the Academy, will be more than 3,737, no appointments may be made under subsection (b)(2) or (3) of this section or section 8456 of this title.

(f) The Superintendent of the Naval Academy shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(g) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of the Brigade of Midshipmen, the Secretary of the Navy may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(h)(1) Beginning with the 2003–2004 academic year, the Secretary of the Navy may prescribe annual increases in the midshipmen strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 midshipmen or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the midshipmen strength limit is 4,400.

(2) Any increase in the midshipmen strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in Senior Navy Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

(3) The amount of an increase under paragraph (1) in the midshipmen strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of midshipmen enrolled in the Navy Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

(4) In this subsection, the term "midshipmen strength limit" means the authorized maximum strength of the Brigade of Midshipmen.

(Aug. 10, 1956, ch. 1041, 70A Stat. 429, §6954; Pub. L. 87–651, title I, §124, Sept. 7, 1962, 76 Stat. 514; Pub. L. 87–663, §1(3), Sept. 14, 1962, 76 Stat. 547; Pub. L. 88–276, §2, Mar. 3, 1964, 78 Stat. 150; Pub. L. 89–650, §1(1)–(3), Oct. 13, 1966, 80 Stat. 896; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 90–623, §2(8), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91–405, title II, §204(c), Sept. 22, 1970, 84 Stat. 852; Pub. L. 92–365, §1(2), Aug. 7, 1972, 86 Stat. 505; Pub. L. 93–171, §2(1)–(3), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, §803(b)(1), Oct. 7, 1975, 89 Stat. 538; Pub.

L. 96–600, §2(b), Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97–60, title II, §203(b)(2), Oct. 14, 1981, 95 Stat. 1006; Pub. L. 97–295, §1(44), Oct. 12, 1982, 96 Stat. 1298; Pub. L. 98–94, title X, §1005(a)(2), (b)(2), Sept. 24, 1983, 97 Stat. 660; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 101–510, div. A, title V, §532(b)(1), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 103–160, div. A, title V, §531, Nov. 30, 1993, 107 Stat. 1657; Pub. L. 103–337, div. A, title XVI, §1673(c), Oct. 5, 1994, 108 Stat. 3016; Pub. L. 104–106, div. A, title V, §532(b), Feb. 10, 1996, 110 Stat. 314; Pub. L. 105–85, div. A, title X, §1073(a)(62), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. A, title V, §531(b)(2), Oct. 5, 1999, 113 Stat. 602; Pub. L. 106–398, §1 [[div. A], title V, §531(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–109; Pub. L. 107–107, div. A, title X, §1048(g)(1), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 107–314, div. A, title V, §532(b), Dec. 2, 2002, 116 Stat. 2545; Pub. L. 108–136, div. A, title V, §524(b), title X, §1031(a)(55), Nov. 24, 2003, 117 Stat. 1464, 1603; Pub. L. 109–163, div. A, title V, §515(b)(1)(Q), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 110–229, title VII, §718(b), May 8, 2008, 122 Stat. 869; Pub. L. 110–417, [div. A], title V, §540(b), Oct. 14, 2008, 122 Stat. 4454; Pub. L. 111–84, div. A, title V, §527(b), Oct. 28, 2009, 123 Stat. 2288; Pub. L. 112–239, div. A, title X, §1076(f)(40), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 114–92, div. A, title V, §556(b), Nov. 25, 2015, 129 Stat. 824; Pub. L. 114–328, div. A, title V, §566(b), Dec. 23, 2016, 130 Stat. 2138; renumbered §8454 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 117–263, div. A, title V, §552(b), Dec. 23, 2022, 136 Stat. 2592; Pub. L. 118–31, div. A, title V, §§561(b), 562(b), Dec. 22, 2023, 137 Stat. 273, 274; Pub. L. 119–60, div. A, title V, §555(b), Dec. 18, 2025, 139 Stat. 878.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6954(a)(1) | 34 U.S.C. 1036a. | June 8, 1926, ch. 492, par. 2, 44 Stat. 703; Dec. 1, 1942, ch. 650, 56 Stat. 1024; Nov. 24, 1945, ch. 493, 59 Stat. 586; June 30, 1950, ch. 421, §6(c), 64 Stat. 305; June 3, 1954, ch. 251, §1, 68 Stat. 168. |
| 6954(a)(2) | 34 U.S.C. 1037. | May 28, 1928, ch. 820, 45 Stat. 788. |
| 6954(a)(3)– (7) | 34 U.S.C. 1032 (1st 31 words). | Dec. 20, 1917, ch. 5, §1 (1st 31 words), 40 Stat. 430; Aug. 13, 1946, ch. 962, §16, 60 Stat. 1061; May 16, 1947, ch. 77, §1(*o*), 61 Stat. 100. |
| 6954(a)(7) | 34 U.S.C. 1034. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (2d par.). |
| 6954(a)(8) | 34 U.S.C. 1035a. | June 8, 1939, ch. 195, 53 Stat. 814. |
| 6954(b)(1) | 34 U.S.C. 1039. | Aug. 13, 1946, ch. 962, §16(a), 60 Stat. 1061; May 16, 1947, ch. 77, §1(*o*), 61 Stat. 100; June 30, 1950, ch. 421, §5, 64 Stat. 305. |
| 6954(b)(2), (3) | 34 U.S.C. 1032 (32d to 70th words). | Dec. 20, 1917, ch. 5, §1 (32d to 70th words), 40 Stat. 430; Aug. 13, 1946, ch. 962, §16, 60 Stat. 1061. |
| 6954(b)(4) | 34 U.S.C. 1033a. | Feb. 27, 1936, ch. 89, 49 Stat. 1144; June 6, 1941, ch. 175, 55 Stat. 246. |
| 6954(c) | 34 U.S.C. 1038. | Nov. 24, 1945, ch. 492, 59 Stat. 586. |

All provisions of law authorizing appointments to the Naval Academy from various sources are collected in this section. The language is extensively changed to meet the needs of this organization of the source material. In those provisions that now authorize "appointments" by other than the President, the language is changed to

indicate that the process is one of selection where the law requires selection by competitive examination, and to show that other candidates are nominated. The manner of appointing the selectees and nominees, in all cases, is covered in §6953 of this title. In the case of nominees from States, the District of Columbia, Territories, and from Puerto Rico, the qualification that the nominees must be from the political subdivisions from which nominated is indicated. The requirement that the nominees be actual residents of the political subdivisions is contained in §6958(b) of this title.

In subsection (a)(1) the words "armed forces" are substituted for the description of the land and naval forces. The words "including male and female members of" and "of all components thereof" are omitted as surplusage.

In subsection (a)(1)(B), the date February 1, 1955, fixed by Proclamation No. 3080 (Jan. 7, 1955; 20 F.R. 173), is substituted for the words "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress under section 745 of title 38".

In subsection (b)(1) the qualification that appointees must be from the sons of members of the various "regular" components of the armed forces is added, as "Army, Navy, Air Force, Marine Corps, and Coast Guard" are so interpreted in this statute.

In subsection (c) the proviso "That all such appointees are otherwise qualified for admission" is omitted as covered by §6958 of this title setting forth qualifications of all candidates.

The applicability to the United States Military Academy in the Act of June 8, 1926, ch. 492, as amended (34 U.S.C. 1036a; 10 U.S.C. 1091a), was repealed by section 6(c) of the Act of June 30, 1950, ch. 421, 64 Stat. 305.

### 1962 ACT

The change reflects the change of the name of the Panama Railroad Company to the Panama Canal Company by section 2(a)(2) of the Act of September 26, 1950 (64 Stat. 1038).

### 1982 ACT

In 10:6954(f), the word "The" is substituted for "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the" to eliminate executed words.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, §555(b)(1), substituted "appointment; numbers, territorial distribution" for "number" in section catchline.

Subsec. (a). Pub. L. 119–60, §555(b)(2), substituted "up to 14 ranked or unranked alternates" for "9 ranked or unranked alternates" in concluding provisions.

**2023**—Subsec. (a). Pub. L. 118–31, §561(b)(1), substituted "15 persons" for "10 persons" in concluding provisions.

Subsec. (a)(8). Pub. L. 118–31, §562(b), substituted "Five" for "Four".

Subsec. (b)(5). Pub. L. 118–31, §561(b)(2), substituted "200" for "150".

**2022**—Subsec. (b)(5). Pub. L. 117–263 substituted "paragraphs (3) through (10)" for "paragraphs (3) and (4)".

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6954 of this title as this section.

Subsecs. (b)(5), (e). Pub. L. 115–232, §809(a), substituted "section 8456" for "section 6956".

**2016**—Subsec. (a). Pub. L. 114–328 inserted at end of concluding provisions "When a nominee of a Senator, Representative, or Delegate is selected for appointment as a midshipman, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made."

**2015**—Subsec. (a)(6). Pub. L. 114–92, §556(b)(1), substituted "Four" for "Three".

Subsec. (a)(8). Pub. L. 114–92, §556(b)(2), substituted "Four" for "Three".

Subsec. (a)(9). Pub. L. 114–92, §556(b)(3), substituted "Three" for "Two".

Subsec. (a)(10). Pub. L. 114–92, §556(b)(4), substituted "Three" for "Two".

**2013**—Subsec. (b)(1). Pub. L. 112–239, §1076(f)(40)(A)(i), substituted "paragraph" for "clause" in two places in concluding provisions.

Subsec. (b)(5), (d). Pub. L. 112–239, §1076(f)(40)(A)(ii), (B), substituted "paragraphs" for "clauses".

**2009**—Subsec. (a)(10). Pub. L. 111–84 substituted "Two" for "One".

**2008**—Subsec. (a). Pub. L. 110–417, §540(b)(1), substituted "4,400 or such lower number" for "4,000 or such higher number" in introductory provisions.

Subsec. (a)(10). Pub. L. 110–229 substituted "Delegate in Congress" for "resident representative".

Subsec. (h)(1). Pub. L. 110–417, §540(b)(2), struck out last sentence which read as follows: "However, no increase may be prescribed for any academic year after the 2007–2008 academic year."

**2006**—Subsec. (b)(3). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2003**—Subsec. (a)(6), (8). Pub. L. 108–136, §524(b)(1), substituted "Three" for "Two".

Subsec. (a)(9). Pub. L. 108–136, §524(b)(2), substituted "Two" for "One".

Subsec. (f). Pub. L. 108–136, §1031(a)(55), substituted "Superintendent of the Naval Academy" for "Secretary of the Navy".

**2002**—Subsec. (a). Pub. L. 107–314, §532(b)(1), inserted before period at end of first sentence "or such higher number as may be prescribed by the Secretary of the Navy under subsection (h)".

Subsec. (h). Pub. L. 107–314, §532(b)(2), added subsec. (h).

**2001**—Subsec. (a). Pub. L. 107–107 amended directory language of Pub. L. 106–65, §531(b)(2)(A). See 1999 Amendment note below.

**2000**—Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title V, §531(b)(1)], struck out ", other than those granted retired pay under section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" after "retired or retainer pay".

Subsec. (b)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title V, §531(b)(2)], added subpars. (C) and (D).

**1999**—Subsec. (a). Pub. L. 106–65, §531(b)(2)(A), as amended by Pub. L. 107–107, §1048(g)(1), substituted "(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, midshipmen are selected as follows:" for "(a) There may be at the Naval Academy at any one time midshipmen as follows:" in introductory provisions.

Subsec. (g). Pub. L. 106–65, §531(b)(2)(B), added subsec. (g).

**1997**—Subsec. (a)(10). Pub. L. 105–85 substituted "Mariana" for "Marianas".

**1996**—Subsec. (a)(10). Pub. L. 104–106 added par. (10).

**1994**—Subsec. (b)(1)(B). Pub. L. 103–337 substituted "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" for "section 1331 of this title".

**1993**—Subsec. (a). Pub. L. 103–160, in concluding provisions, substituted "10 persons" for "a principal candidate and nine alternates" and inserted at end "Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter."

**1990**—Subsec. (a)(8) to (10). Pub. L. 101–510, §532(b)(1)(A), redesignated cls. (9) and (10) as (8) and (9), respectively, and struck out former cl. (8) which read as follows: "One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States."

Subsec. (d). Pub. L. 101–510, §532(b)(1)(B), substituted "clauses (2) through (9)" for "clauses (2)–(7), (9), or (10)".

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1983**—Subsec. (a)(8). Pub. L. 98–94, §1005(b)(2), substituted "One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States" for "One nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama".

Subsec. (a)(10). Pub. L. 98–94, §1005(a)(2), substituted "One from American Samoa, nominated by the Delegate in Congress from American Samoa" for "One from American Samoa nominated by the Secretary of the Navy upon recommendation of the Governor of American Samoa".

**1982**—Subsec. (f). Pub. L. 97–295 substituted "The" for "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the".

**1981**—Subsecs. (d) to (f). Pub. L. 97–60 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

**1980**—Subsec. (a)(6), (9). Pub. L. 96–600 substituted "Two" for "One".

**1975**—Subsecs. (a)(1), (8), (b)(1), (c). Pub. L. 94–106 substituted "children" for "sons" wherever appearing.

**1973**—Subsec. (a)(6). Pub. L. 93–171, §2(1), substituted "One from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five from each Territory, nominated by the Delegate in

Congress from that Territory".

Subsec. (a)(9). Pub. L. 93–171, §2(2), struck out reference to American Samoa and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, §2(3), added cl. (10).

**1972**—Subsec. (a)(1). Pub. L. 92–365 increased the number of midshipmen from 40 to 65 and added sons of members who are in missing status and sons of civilian employees who are in missing status as eligible for competitive examination.

**1970**—Subsec. (a)(5). Pub. L. 91–405 substituted "Delegate to the House of Representatives from the District of Columbia" for "Commissioner of that District".

**1968**—Subsec. (a). Pub. L. 90–374 increased from five to nine the number of alternates for each vacancy each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate.

Subsec. (a)(5). Pub. L. 90–623 substituted "Commissioner" for "Commissioners".

**1966**—Subsec. (a)(1). Pub. L. 89–650, §1(1), provided for selection of cadets to the Naval Academy from sons of members of the armed forces who have a 100 per centum service-connected disability and removed the limitation to active service during World War I or World War II or after June 26, 1950, and before Feb. 1, 1955.

Subsec. (a)(2). Pub. L. 89–650, §1(2), provided for nominations to the Naval Academy by the President pro tempore of the Senate if there is no Vice President.

Subsec. (b)(1). Pub. L. 89–650, §1(3), increased the number of Presidential appointments to the Naval Academy from 75 to 100, provided for selection of eligible persons as stated in items (A) and (B), previously chosen from sons of members of regular components, and declared persons eligible under subsec. (a)(1) ineligible under subsec. (b)(1) of this section.

**1964**—Subsec. (a). Pub. L. 88–276, §2(1), inserted "Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate a principal candidate and five alternates for each vacancy that is available to him under this section".

Subsec. (b)(2), (3), (5). Pub. L. 88–276, §2(2), reduced the number of nominees in cls. (2) and (3) from 160 to 85 and added cl. (5).

Subsecs. (d), (e). Pub. L. 88–276, §2(3), added subsecs. (d) and (e).

**1962**—Subsec. (a). Pub. L. 87–663 added cl. (9).

Pub. L. 87–651 substituted "Panama Canal Company" for "Panama Railroad Company" in cl. (8).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by section 561(b) of Pub. L. 118–31 applicable to nominations of candidates and appointments to the Service Academies for classes entering such Service Academies beginning with the 2025-2026 academic year, see section 561(d) of Pub. L. 118–31, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the appointment of cadets and midshipmen to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Merchant Marine Academy for classes entering these service academies after Jan. 1, 2018, see section 566(e) of Pub. L. 114–328, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–92 applicable with respect to the nomination of candidates for appointment to the United States Military Academy, Naval Academy, and Air Force Academy for classes entering after Nov. 25, 2015, see section 556(d) of Pub. L. 114–92, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–84 applicable with respect to appointments to the United States Naval Academy beginning with the first class of candidates nominated for appointment after Oct. 28, 2009, see section 527(d) of Pub. L. 111–84, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable with respect to academic years at the United States Naval Academy after the 2007-2008 academic year, see section 540(d) of Pub. L. 110–417, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 524(b) of Pub. L. 108–136 applicable with respect to nomination of candidates for appointment to United States Naval Academy for classes entering after Nov. 24, 2003, see section 524(d) of Pub. L. 108–136, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title X, §1048(g), Dec. 28, 2001, 115 Stat. 1228, provided that the amendment made by section 1048(g)(1) is effective as of Oct. 5, 1999, and as if included in Pub. L. 106–65 as enacted.

## EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 7441a of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–600 effective beginning with nominations for appointment to the service academies for academic years beginning more than one year after Dec. 24, 1980, see section 2(d) of Pub. L. 96–600 set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## LIMITATION ON NUMBER OF CADETS AND MIDSHIPMEN AUTHORIZED TO ATTEND SERVICE ACADEMIES

Authorized strength of service academies not to exceed 4,000 per academy for class years beginning after 1994, and any reduction in number of appointments not to be achieved by reduction in number of appointments under subsec. (a) of this section, see section 511 of Pub. L. 102–190, set out as a note under section 7442 of this title.

## ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS

Secretary to take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the United States Naval Academy, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals, see section 803(a) of Pub. L. 94–106, set out as a note under section 7442 of this title.

**SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY**

Secretary to continue to exercise the authority granted under this chapter and chapters 403 and 903 of this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94–106, set out as a note under section 7442 of this title.

## §8454a. Midshipmen: nomination in event of death, resignation, or expulsion from office of Member of Congress otherwise authorized to nominate

(a) SENATORS.—In the event a Senator does not submit all nominations for midshipmen allocated to such Senator for an academic year in accordance with section 8454(a)(3) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Senator's successor as Senator occurs after the date of the deadline for submittal of nominations for midshipmen for the academic year, the nominations for midshipmen for such academic year, otherwise authorized to be made by the Senator pursuant to such section, may be made instead by the other Senator from the State of such Representative.

(b) REPRESENTATIVES.—In the event a Representative does not submit all nominations for midshipmen allocated to such Representative for an academic year in accordance with section 8454(a)(4) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Representative's successor as Representative occurs after the date of the deadline for submittal of nominations for midshipmen for the academic year, the nominations for midshipmen for such academic year, otherwise authorized to be made by the Representative pursuant to such section, may be made instead by the Senators from the State of such Representative, with such nominations divided equally among such Senators and any remainder going to the senior Senator from the State.

(c) RULE OF CONSTRUCTION.—The nomination of a midshipman by a Member of Congress pursuant to this section shall not be construed to permanently reallocate nominations under section 8454 of this title.

(Added Pub. L. 117–81, div. A, title V, §553(b)(1), Dec. 27, 2021, 135 Stat. 1737.)

## §8455. Midshipmen: allotment upon redistricting of Congressional Districts

If as a result of redistricting a State the domicile of a midshipman, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of midshipmen otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a midshipman or when he is finally separated from the Naval Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430, §6955; renumbered §8455, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6955 | 34 U.S.C. 1032–1. | July 7, 1943, ch. 193, 57 Stat. 383. |

The word "domicile" is substituted for the words "place of residence" to conform to the long-standing interpretation of this section (see also opinions of the Judge Advocate General of the Army R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words "a congressional district other than that from which he was nominated" are substituted for the word "another". The words "were appointed with respect to", "of the former district", "as additional numbers", "at such academy for the Representative", "temporarily", and "in attendance at either academy under an appointment from such former district" are omitted as surplusage. The words "the district in

which his domicile so falls" are substituted for the words "of the latter district". The words "to include him" are substituted for 34 U.S.C. 1032–1 (18 words before proviso). The words "However, the number as so increased" are substituted for 34 U.S.C. 1032–1 (1st 13 words of proviso). The words "if he fails to become a midshipman" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6955 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8456. Midshipmen: nomination and selection to fill vacancies

(a) If the annual quota of midshipmen from—

(1) enlisted members of the Regular Navy and the Regular Marine Corps;

(2) enlisted members of the Navy Reserve and the Marine Corps Reserve; or

(3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(b) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this subsection shall be from qualified alternates under paragraphs (2) through (8) of section 8454(a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430, §6956; Pub. L. 88–276, §3, Mar. 3, 1964, 78 Stat. 151; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 93–171, §2(4), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, §803(b)(2), Oct. 7, 1975, 89 Stat. 538; Pub. L. 97–60, title II, §206, Oct. 14, 1981, 95 Stat. 1007; Pub. L. 101–510, div. A, title V, §532(b)(2), title XIII, §1322(a)(14), Nov. 5, 1990, 104 Stat. 1563, 1671; Pub. L. 109–163, div. A, title V, §515(b)(1)(R), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 112–239, div. A, title X, §1076(f)(41), Jan. 2, 2013, 126 Stat. 1954; renumbered §8456 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6956(a), (b), (c) | 34 U.S.C. 1041. | June 29, 1906, ch. 3590, 34 Stat. 578 (last par.). |
| 6956(d) | 34 U.S.C. 1040. | Aug. 13, 1946, ch. 962, §14, 60 Stat. |

| | | |
|---|---|---|
| | | 1061. |
| 6956(e) | 34 U.S.C. 1049. | June 30, 1950, ch. 421, §4, 64 Stat. 305. |
| 6956(f) | 34 U.S.C. 1047 (1st proviso). | June 30, 1950, ch. 421, §2 (1st proviso), 64 Stat. 304. |

The section is worded to indicate that all appointments are made by the President, and that, before appointment, prospective midshipmen are "nominees" or "candidates", as appropriate.

In subsection (b) the provision authorizing the Secretary of the Navy to nominate candidates in the event nominations to fill vacancies under subsection (a) are not made by March fourth is omitted as covered by subsection (e), the purpose of which was to assure the entrance of a full class each year.

Reference in subsection (e) to the strength of the "brigade of midshipmen" is dropped, since there is no statutory requirement that the midshipmen at the Academy be so organized, and the term is a recognition of current organization only. The language authorizing the Secretary, in his discretion, to nominate additional midshipmen to meet the needs of the armed services but not to exceed the authorized strength of the Academy is changed to authorize the Secretary to "fill the vacancies by nominating additional midshipmen". In exercising his discretion under this subsection, these factors are necessarily considered by the Secretary, irrespective of a specific provision so instructing him.

In subsection (f) the word "admission" is changed to the word "appointment", since the admission of a person is a consequence of, and follows automatically from, his appointment. The statement of reasons for failure to complete the course is omitted as unnecessary.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6956 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 8454(a)" for "section 6954(a)".

**2013**—Subsec. (b). Pub. L. 112–239 substituted "paragraphs" for "clauses".

**2006**—Subsec. (a)(2). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1990**—Subsec. (a). Pub. L. 101–510, §1322(a)(14), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: "The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each Senator, Representative, and delegate in Congress of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the member or delegate is entitled to nominate a candidate and nine alternates."

Subsec. (b). Pub. L. 101–510, §1322(a)(14)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 101–510, §1322(a)(14)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 101–510, §532(b)(2), substituted "clauses (2) through (8)" for "clauses (2)–(9)".

Subsec. (d). Pub. L. 101–510, §1322(a)(14)(B), redesignated subsec. (d) as (c).

**1981**—Subsecs. (b) to (d). Pub. L. 97–60 redesignated subsecs. (d), (e), and (f) as (b), (c), and (d), respectively. Former subsec. (b) providing that a nomination following notification under subsection (a) be made by the fourth of March of the year following that in which notice of the vacancy was given and that, if the candidate died or declined the nomination, or if the nomination could not be made by reason of a vacancy in the membership of the Senate or the House of Representatives, the nomination could be made, as determined by the Secretary, not later than the date of the final entrance examination for that year, and former subsec. (c) providing that the nomination of candidates to fill vacancies for the District of Columbia, and selection of all candidates at large, be made by the fourth of March of the year in which the candidates were to enter the Academy, were struck out.

**1975**—Subsec. (d). Pub. L. 94–106 substituted "enlisted members" for "enlisted men" in pars. (1) and (2).

**1973**—Subsec. (e). Pub. L. 93–171 substituted reference to clauses (2)–(9) of section 6954(a) for reference to clauses (2)–(8) of section 6954(a).

**1968**—Subsec. (a). Pub. L. 90–374 substituted "nine alternates" for "five alternates".

**1964**—Subsec. (a). Pub. L. 88–276, §3(1), substituted "five alternates" for "one or more alternates".

Subsec. (e). Pub. L. 88–276, §3(2), substituted "three-fourths of those nominated" for "two-thirds of those nominated".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1973 AMENDMENT**

For effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

**NUMBER OF ALTERNATE-APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS**

Nonreduction of number of appointees from congressional sources under this section because of additional presidential appointments under section 6954(b)(1) of this title, see note set out under section 7443 of this title.

## §8458. Midshipmen: qualifications for admission

(a) Each candidate for admission to the Naval Academy—

(1) must be at least 17 years of age and must not have passed his twenty-third birthday on July 1 of the calendar year in which he enters the Academy; and

(2) shall be examined according to such regulations as the Secretary of the Navy prescribes, and if rejected at one examination may not be examined again for admission to the same class unless recommended by the Academic Board.

(b) Each candidate for admission nominated under clauses (3) through (9) of section 8454(a) of this title must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(c) Each candidate nominated under clause (2) or (3) of section 8454(b) of this title—

(1) must be a citizen of the United States;

(2) must have passed the required physical examination; and

(3) shall be appointed in the order of merit from candidates who have, in competition with each other, passed the required mental examination.

(d) To be admitted to the Naval Academy, an appointee must take and subscribe to an oath prescribed by the Secretary of the Navy. If a candidate for admission refuses to take and subscribe to the prescribed oath, the candidate's appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 431, §6958; Pub. L. 87–663, §1(4), Sept. 14, 1962, 76 Stat. 547; Pub. L. 93–171, §2(5), Nov. 29, 1973, 87 Stat. 690; Pub. L. 101–510, div. A, title V, §532(b)(3), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 102–190, div. A, title V, §512, Dec. 5, 1991, 105 Stat. 1360; Pub. L. 104–201, div. A, title V, §555(c), Sept. 23, 1996, 110 Stat. 2527; Pub. L. 105–85, div. A, title V, §541(a), Nov. 18, 1997, 111 Stat. 1740; renumbered §8458 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6958(a)(1) | 34 U.S.C. 1047 (less 1st proviso). | June 30, 1950, ch. 421, §2 (less 1st proviso), 64 Stat. 304. |
| 6958(a)(2) | 34 U.S.C. 1043. | R.S. 1515. |
| 6958(b) | 34 U.S.C. 1047 (2d proviso). | June 30, 1950, ch. 421, §2 (2d proviso), 64 Stat. 304. |

| | | |
|---|---|---|
| 6958(c) | 34 U.S.C. 1042. | Mar. 4, 1917, ch. 180, 39 Stat. 1182 (1st par.). |
| | 34 U.S.C. 1032 (less 1st 70 words). | Dec. 20, 1917, ch. 5, §1 (less 1st 70 words), 40 Stat. 430; Aug. 13, 1946, ch. 962, §16, 60 Stat. 1061; May 16, 1947, ch. 77, §1(*o*), 61 Stat. 100. |

In subsection (a) the effective date is omitted as executed. The words "at least 17 years of age and must not have passed his twenty-second birthday" are substituted for the words "not less than seventeen years of age and not more than twenty-two years of age" to remove ambiguity, and for uniformity of treatment of provisions of this type. The reference to time of examination is omitted as being included within the Secretary's authority to prescribe regulations, which is stated in the subsection. The words "Academic Board" are substituted for the words "board of examiners".

In subsection (b) the words "domiciled in" are substituted for the words "actual resident of" since this term has been so interpreted.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6958 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "clauses (3) through (9) of section 8454(a)" for "clauses (3) through (9) of section 6954(a)".

Subsec. (c). Pub. L. 115–232, §809(a), substituted "clause (2) or (3) of section 8454(b)" for "clause (2) or (3) of section 6954(b)" in introductory provisions.

**1997**—Subsec. (d). Pub. L. 105–85 added subsec. (d).

**1996**—Subsec. (a)(1). Pub. L. 104–201 substituted "twenty-third birthday" for "twenty-second birthday".

**1991**—Subsec. (c)(2) to (4). Pub. L. 102–190 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which required candidates to have served at least one year as enlisted members on date of entrance.

**1990**—Subsec. (b). Pub. L. 101–510 substituted "clauses (3) through (9)" for "clauses (3)–(7), (9) and (10)".

**1973**—Subsec. (b). Pub. L. 93–171 substituted ", (9) and (10) of section 6954(a)" for "and (9) of section 6954(a)" and struck out "or Territory".

**1962**—Subsec. (b). Pub. L. 87–663 inserted references to American Samoa, Guam, and the Virgin Islands, and substituted "clauses (3)–(7) and (9)" for "clauses (3)–(7)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

### AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR

For authority to waive maximum age limitation in subsec. (a)(1) of this section on basis of service on active duty in connection with Operation Desert Storm, see section 514 of Pub. L. 102–190, set out as a note under section 7446 of this title.

## §8459. Midshipmen: service obligation

(a) Each midshipman shall sign an agreement with respect to the midshipman's length of service in the armed forces. The agreement shall provide that the midshipman agrees to the following:

(1) That the midshipman will complete the course of instruction at the Naval Academy.

(2) That upon graduation from the Naval Academy the midshipman—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the midshipman is permitted to resign as a regular officer before completion of the commissioned service obligation of the midshipman, the midshipman—

(A) will accept an appointment as a commissioned officer in the Navy Reserve or the Marine Corps Reserve or as a Reserve in the Air Force for service in the Air Force Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the midshipman.

(4) That if an appointment described in paragraph (2) or (3) is tendered and the midshipman participates in a program under section 2121 of this title, the midshipman will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.

(5) That the midshipman may not obtain employment as a professional athlete until two years after the midshipman graduates from the Academy.

(b)(1) Subject to paragraph (4), the Secretary of the Navy may transfer to the Navy Reserve or the Marine Corps Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a midshipman who breaches an agreement under subsection (a). The period of time for which a midshipman is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A midshipman who is transferred to the Navy Reserve or Marine Corps Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a midshipman shall be considered to have breached an agreement under subsection (a) if the midshipman is separated from the Naval Academy under circumstances which the Secretary determines constitute a breach by the midshipman of the midshipman's agreement to complete the course of instruction at the Naval Academy and accept an appointment as a commissioned officer upon graduation from the Naval Academy.

(4) Each academic year, the Secretary of the Navy may transfer not more than five midshipmen, who obtain employment in violation of paragraph (5) of subsection (a), to the Selected Reserve of the Navy or the Selected Reserve of the Marine Corps. Each midshipman so transferred shall—

(A) serve as a commissioned officer—

(i) in an appropriate grade or rating, determined by the Secretary of the Navy; and

(ii) for a period, determined by the Secretary of the Navy, not longer than 10 years; and

(B) while so serving, participate in efforts to recruit and retain members of the armed forces.

(c) The Secretary of the Navy shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) that a midshipman who obtains employment as a professional athlete—

(A) in violation of paragraph (5) of subsection (a) has breached an agreement under such subsection unless such midshipman receives a transfer under paragraph (4) of subsection (b);

and

(B) at least two years after the midshipman graduates from the Academy has not breached an agreement under subsection (a);

(3) procedures for determining whether such a breach has occurred; and

(4) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, "commissioned service obligation", with respect to a midshipman, means the period beginning on the date of the midshipman's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a midshipman who is not a citizen or national of the United States.

(2) In the case of a midshipman who is a minor and who has parents or a guardian, the midshipman may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A midshipman or former midshipman who does not fulfill each term of the agreement as specified under subsection (a), or an alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6959; Pub. L. 88–276, §5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88–647, title III, §301(19), Oct. 13, 1964, 78 Stat. 1072; Pub. L. 98–525, title V, §§541(b), 542(c), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99–145, title V, §512(b), Nov. 8, 1985, 99 Stat. 624; Pub. L. 101–189, div. A, title V, §511(c), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 104–106, div. A, title V, §531(b), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109–163, div. A, title V, §515(b)(1)(S), title VI, §687(c)(10), Jan. 6, 2006, 119 Stat. 3233, 3335; Pub. L. 111–84, div. A, title X, §1073(a)(29), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title V, §554(b), Jan. 7, 2011, 124 Stat. 4221; Pub. L. 115–91, div. A, title V, §543(b), title VI, §618(a)(1)(L), Dec. 12, 2017, 131 Stat. 1395, 1426; renumbered §8459, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116–92, div. A, title V, §554(b), Dec. 20, 2019, 133 Stat. 1388; Pub. L. 117–263, div. A, title V, §553(b), Dec. 23, 2022, 136 Stat. 2593; Pub. L. 118–159, div. A, title V, §557(b), Dec. 23, 2024, 138 Stat. 1897; Pub. L. 119–60, div. A, title V, §556(b), Dec. 18, 2025, 139 Stat. 878.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6959 | 34 U.S.C. 1048. | June 30, 1950, ch. 421, §3, 64 Stat. 304. |

The words "Hereafter" and "appointed to the United States Naval Academy" are omitted as surplusage. The words "an agreement that * * * he will" are substituted for the words "articles * * * by which he shall engage". The word "separated" is substituted for the words "discharged by competent authority". The words "if tendered an appointment", "upon graduation from the United States Naval Academy", and "consecutive" are omitted as surplusage. The words "if he is permitted to resign" are substituted for the words "in the event of the acceptance of his resignation", since a resignation is effective only if accepted. The first 43 words of clause (3) are substituted for 34 U.S.C. 1048 (last 30 words of clause (3)). The last sentence is substituted for the words "with the consent of his parents or guardian if he be a minor, and if any he have."

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60 substituted "five" for "three" in introductory provisions.

**2024**—Pub. L. 118–159, §557(b)(1), substituted "service obligation" for "agreement for length of service" in section catchline.

Subsec. (b)(1). Pub. L. 118–159, §557(b)(2)(A), substituted "Subject to paragraph (4), the Secretary of the

Navy" for "The Secretary of the Navy".

Subsec. (b)(4). Pub. L. 118–159, §557(b)(2)(B), added par. (4) and struck out former par. (4) which read as follows: "A midshipman who violates paragraph (5) of subsection (a) is not eligible for the alternative obligation under paragraph (1)."

Subsec. (c)(2)(A). Pub. L. 118–159, §557(b)(3), inserted "unless such midshipman receives a transfer under paragraph (4) of subsection (b)" before "; and".

Subsec. (f). Pub. L. 118–159, §557(b)(4), substituted "an alternative obligation" for "the alternative obligation".

**2022**—Subsec. (a)(5). Pub. L. 117–263, §553(b)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "That the midshipman—

"(A) will not seek release from the midshipman's commissioned service obligation or seek or accept approval for off-duty employment while completing the midshipman's commissioned service obligation to obtain employment as a professional athlete following graduation until the midshipman completes a period of at least two consecutive years of commissioned service; and

"(B) understands that the appointment alternative described in paragraph (3) will not be used to allow the midshipman to obtain such employment until at least the end of that two-year period."

Subsec. (b)(4). Pub. L. 117–263, §553(b)(2), added par. (4).

Subsec. (c)(2) to (4). Pub. L. 117–263, §553(b)(3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 117–263, §553(b)(4), substituted "with respect to a midshipman" for "with respect to an officer who is a graduate of the Academy" and "midshipman's" for "officer's".

Subsec. (f). Pub. L. 117–263, §553(b)(5), substituted "each term" for "the terms".

**2019**—Subsec. (a)(5)(A). Pub. L. 116–92 inserted "or seek or accept approval for off-duty employment while completing the midshipman's commissioned service obligation" before "to obtain employment".

**2018**—Pub. L. 115–232 renumbered section 6959 of this title as this section.

**2017**—Subsec. (a)(5). Pub. L. 115–91, §543(b), added par. (5).

Subsec. (f). Pub. L. 115–91, §618(a)(1)(L), inserted "or 373" before "of title 37".

**2011**—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

**2009**—Subsec. (f). Pub. L. 111–84 substituted "subsection (a)" for "section (a)".

**2006**—Subsecs. (a)(3)(A), (b)(1), (2). Pub. L. 109–163, §515(b)(1)(S), substituted "Navy Reserve" for "Naval Reserve".

Subsec. (f). Pub. L. 109–163, §687(c)(10), added subsec. (f).

**1996**—Subsec. (a)(2)(B). Pub. L. 104–106 substituted "five years" for "six years".

**1989**—Subsec. (a)(2)(B). Pub. L. 101–189 substituted "six years" for "five years".

**1985**—Pub. L. 99–145 amended section generally. Prior to amendment, section read as follows:

"(a) Each midshipman who is a citizen or national of the United States shall sign an agreement that he will—

"(1) unless sooner separated from the Naval Academy, complete the course of instruction at the Naval Academy;

"(2) accept an appointment and, unless sooner separated from the naval service, serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least five years immediately after graduation; and

"(3) accept an appointment as a commissioned officer in the reserve component of the Navy or the Marine Corps or as a Reserve in the Air Force for service in the Air Force Reserve and, unless sooner separated from the naval service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation if an appointment in the regular component of that armed force is not tendered to him or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the midshipman is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

"(b) A midshipman who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Navy to the Naval Reserve or the Marine Corps Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes but not for more than four years."

**1984**—Subsec. (a). Pub. L. 98–525, §541(b), struck out ", unless sooner separated," in introductory text preceding "he will"; inserted in cl. (1) "unless sooner separated from the Naval Academy,"; and inserted ", unless sooner separated from the naval service," in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98–525, §542(c), substituted "at least the sixth anniversary and, at the direction of

the Secretary of Defense, up to the eighth anniversary" for "the sixth anniversary".

**1964**—Pub. L. 88–647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88–276 substituted "five" for "three".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–263 only applicable to cadets or midshipmen who first enroll in the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on or after June 1, 2021, see section 553(d) of Pub. L. 117–263, as added by section 202(a) of Pub. L. 117–328, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Revised cadet and midshipman service agreements under this section and sections 7448 and 9448 of this title applicable to cadets and midshipmen who are attending the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on Dec. 12, 2017, and to persons who begin attendance at such military service academies on or after that date, see section 543(d) of Pub. L. 115–91, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 applicable to persons first admitted to United States Military Academy, United States Naval Academy, and United States Air Force Academy after Dec. 31, 1991, see section 531(e) of Pub. L. 104–106, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101–189, as amended, set out as a note under section 2114 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 (other than with respect to the authority of the Secretary of the Navy to prescribe regulations) effective on the date on which regulations prescribed by the Secretary take effect and applicable to agreements entered into under this section on or after the effective date of such regulations and also with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a midshipman on such date, see section 512(e) of Pub. L. 99–145, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 541(b) of Pub. L. 98–525 applicable with respect to agreements entered into under this section before, on, or after Oct. 19, 1984, see section 541(d) of Pub. L. 98–525, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

For effective date of amendment by Pub. L. 88–276, see section 5(c) of Pub. L. 88–276, set out as a note under section 7448 of this title.

### REGULATIONS IMPLEMENTING 1985 AMENDMENT

Secretary of the Navy to prescribe regulations required by subsec. (c) of this section as added by Pub. L. 99–145 not later than the end of the 90-day period beginning on Nov. 8, 1985, see section 512(d) of Pub. L. 99–145, set out as a note under section 7448 of this title.

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of

Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

**DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS**

Secretary of Defense to prescribe, not later than July 1, 2007, Department of Defense policy on whether to authorize service academy and ROTC graduates to participate in professional sports before the completion of their obligations for service on active duty, see section 533 of Pub. L. 109–364, set out as a note under section 7448 of this title.

## §8460. Midshipmen: clothing and equipment; uniform allowance

The Secretary of the Navy may prescribe the amount to be credited to a midshipman, upon original admission to the Naval Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a midshipman is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in as much of his clothing and equipment of a distinctively military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6960; renumbered §8460, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6960 | 34 U.S.C. 1052a. | Aug. 22, 1951, ch. 340, §1, 65 Stat. 196. |

The word "new" before "midshipmen" and the word "subsequently" after "deducted" are omitted as surplusage. The words "while owing the United States for pay advanced for the purchase of" are substituted for the words "who is indebted to the United States on account of advances of pay to purchase".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6960 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8461. Midshipmen: dismissal for best interests of the service

(a) Whenever the Superintendent of the Naval Academy believes that the continued presence of any midshipman at the Academy is contrary to the best interest of the service, he shall report in writing to the Secretary of the Navy a full statement of the facts upon which his belief is based. If the Secretary determines from the report that the Superintendent's belief is well founded, the Secretary shall serve a copy of the report on the midshipman. Within such time as the Secretary considers reasonable, the midshipman shall show cause in writing why he should not be dismissed from the Academy. The Secretary, after consideration of any cause so shown, and with the written approval of the President, may dismiss the midshipman from the Academy and from the naval service.

(b) The truth of any issue of fact raised under subsection (a), except as to the record of demerits, shall be determined by a court of inquiry convened by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6961; renumbered §8461, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6961 | 34 U.S.C. 1062. | Apr. 9, 1906, ch. 1370, §1, 34 Stat. 104. |

The words "court of inquiry" are substituted for the words "board of inquiry" to conform to the terminology of the Uniform Code of Military Justice. The words "under the rules and regulations for the government of the Navy" are omitted as unnecessary.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6961 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

For delegation to Secretary of Defense of authority vested in President by section 1062 of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

## §8462. Midshipmen: discharge for unsatisfactory conduct or inaptitude

(a) The Superintendent of the Naval Academy shall submit to the Secretary of the Navy in writing a full report of the facts—

(1) whenever the Superintendent determines that the conduct of a midshipman is unsatisfactory; or

(2) whenever the Academic Board unanimously determines that midshipman possesses insufficient aptitude to become a commissioned officer in the naval service.

(b) A midshipman upon whom a report is made under subsection (a) shall be given an opportunity to examine the report and submit a written statement thereon. If the Secretary believes, on the basis of the report and statement, that the determination of the Superintendent or of the Academic Board is reasonable and well founded, he may discharge the midshipman from the Naval Academy and from the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6962; renumbered §8462, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 6962 | 34 U.S.C. 1062a. | Dec. 11, 1945, ch. 562, 59 Stat. 605. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6962 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8463. Midshipmen: discharge for deficiency

Midshipmen found deficient at any examination shall, unless the Academic Board recommends otherwise, be discharged from the Naval Academy and from the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433, §6963; renumbered §8463, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6963 | 34 U.S.C. 1053. | R.S. 1519; restored Oct. 22, 1921, ch. 113, §2, 42 Stat. 207. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6963 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8464. Hazing: definition; prohibition

(a) In this chapter, the term "hazing" means any unauthorized assumption of authority by a midshipman whereby another midshipman suffers or is exposed to any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgement of any right.

(b) The Superintendent of the Naval Academy shall prescribe regulations, to be approved by the Secretary of the Navy, to prevent hazing.

(c) Hazing is an offense that may be dealt with as an offense against good order and discipline or as a violation of the regulations of the Naval Academy. However, no midshipman may be dismissed for a single act of hazing except by sentence of a court-martial.

(d) The finding and sentence of a court-martial of a midshipman for hazing shall be reviewed in the manner prescribed for general court-martial cases.

(e) A midshipman who is sentenced to imprisonment for hazing may not be confined with persons who have been convicted of crimes or misdemeanors.

(f) A midshipman who is dismissed from the Academy for hazing may not be reappointed as a midshipman or be appointed as a commissioned officer in the Army, Navy, Air Force, Marine Corps, or Space Force until two years after the graduation of the class of which he was a member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433, §6964; Pub. L. 99–145, title XIII, §1301(c)(2), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–189, div. A, title XVI, §1622(e)(8), Nov. 29, 1989, 103 Stat. 1605; renumbered §8464, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116–283, div. A, title IX, §924(d)(1), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6964(a) | 34 U.S.C. 1064. | Apr. 9, 1906, ch. 1370, §4, 34 Stat. 105. |
| 6964(b) | 34 U.S.C. 1063. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (1st 28 words of 1st proviso). |
| 6964(c) | 34 U.S.C. 1065. | Apr. 9, 1906, ch. 1370, §2 (last 54 words), 34 Stat. 104. |
| 6964(d), (e) | 34 U.S.C. 1066. | June 23, 1874, ch. 453, 18 Stat. 203; Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (29th to 49th word of 1st proviso); Apr. 9, 1906, ch. 1370, §3, 34 Stat. 104; May 5, 1950, ch. 169, §11, 64 Stat. 146. |
| 6964(f) | 34 U.S.C. 1067. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (last 43 words of 1st proviso). |

In subsection (a) the words "privilege, or advantage to which he shall legally be entitled" are omitted as surplusage, since they are covered by the word "right". The definition in this subsection is made applicable throughout the chapter to cover §6965 of this title, since the reference in that section to hazing was also derived from the act which is the source for this subsection.

In subsection (b) the words "prescribe regulations * * * to prevent hazing" are substituted for the words "make such rules * * * as will effectually prevent the practice of hazing".

In subsection (c) the words "dealt with" are substituted for the words "proceeded against, dealt with, and punished". The word "regulations" is substituted for the word "rules" for uniformity and the words "and breaches" are omitted as surplusage. The words "except by sentence of a court-martial" are substituted for the words "except under the provisions of section three of this Act" because §3 of the source statute provided for a Naval Academy court-martial with special provisions for handling cases involving hazing. The enactment of the Uniform Code of Military Justice made midshipmen at the Naval Academy subject to the same military law which applies generally to the naval service, thereby superseding the special type of court-martial for midshipmen. A court-martial under the Uniform Code of Military Justice has the power to sentence anyone convicted by it to dismissal if authorized by the Table of Maximum Punishments.

In subsections (d) and (e) all that part of the source text preceding the proviso is omitted as superseded by the Uniform Code of Military Justice. The words "in a military or naval prison or elsewhere" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (f). Pub. L. 116–283 substituted "Marine Corps, or Space Force" for "or Marine Corps".

**2018**—Pub. L. 115–232 renumbered section 6964 of this title as this section.

**1989**—Subsec. (a). Pub. L. 101–189 inserted ", the term" after "In this chapter".

**1985**—Subsec. (e). Pub. L. 99–145 substituted "persons" for "men".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8465. Failure to report violation: dismissal

(a) Each officer stationed at the Naval Academy, each midshipman officer, each midshipman petty officer, and each civilian member of the teaching staff of the Academy shall report promptly to the Superintendent of the Naval Academy any fact that tends to show the commission of hazing or any violation of an Academy regulation by a midshipman.

(b) An officer of the naval service who fails to make a report required by subsection (a) shall be tried by court-martial and if convicted shall be dismissed from the naval service.

(c) A civilian member of the teaching staff of the Academy who fails to make a report required by subsection (a) shall, with the approval of the Secretary of the Navy, be dismissed by the Superintendent.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433, §6965; renumbered §8465, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6965 | 34 U.S.C. 1068. | Apr. 9, 1906, ch. 1370, §5, 34 Stat. 105. |

In subsection (a) the words "each officer stationed at the Naval Academy, each midshipman officer, each midshipman petty officer, and each civilian member of the teaching staff of the Academy shall" are substituted for the words "it shall be the duty of every professor, assistant professor, academic officer, or any cadet officer or cadet petty officer, or instructor, as well as every other officer stationed at the United States Naval Academy to" to state the current applicability of the provision. The words "commission of hazing" are substituted for the words "violation * * * of any of the provisions of this Act".

In subsection (b) the words "for neglect of duty" are omitted inasmuch as the Uniform Code of Military Justice sets out the offenses for which persons subject to the Code may be tried.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6965 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8466. Course of study

(a) The course at the Naval Academy is four years.

(b) The Secretary of the Navy shall arrange the course so that classes will not be held on Sunday.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434, §6966; renumbered §8466, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6966(a) | 34 U.S.C. 1054. | Mar. 7, 1912, ch. 53 (1st 11 words), 37 Stat. 73. |
| 6966(b) | 34 U.S.C. 1056. | R.S. 1526. |

In subsection (b) the words "of studies and the order of recitations" are omitted as surplusage. The words "classes will not be held on Sunday" are substituted for the words "students in said institution shall not be required to pursue their studies on Sunday".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6966 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8467. Degree on graduation

Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy may confer the degree of bachelor of science upon graduates of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434, §6967; renumbered §8467, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6967 | 34 U.S.C. 1057a (less last sentence). | May 25, 1933, ch. 37, 48 Stat. 73 (less last sentence); Aug. 9, 1946, ch. 932, 60 Stat. 968; Aug. 4, 1949, ch. 393, §13, 63 Stat. 559; Aug. 18, 1949, ch. 476, 63 Stat. 614. |

The word "regulations" is substituted for the words "such rules and regulations". Since the Naval Academy is now accredited, the words "from and after the date of accrediting of said Academy" are omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6967 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**DEGREES FOR PERSONS WHO GRADUATED BEFORE ACCREDITING OF NAVAL ACADEMY**

Act Aug. 10, 1956, ch. 1041, §35, 70A Stat. 634, provided in part that, under conditions prescribed by the Secretary of the Navy, the Superintendent of the United States Naval Academy "may confer the degree of bachelor of science upon living graduates of [the] Academy who were graduated before the date of accrediting of [the] Academy and who have met the requirements of [the] Academy for that degree."

## §8468. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chair of the Committee on Armed Services of the Senate, or the designee of such chair;

(2) the ranking member of the Committee on Armed Services of the Senate, or the designee of the ranking member;

(3) two other members of the Senate designated by the Majority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(4) two other members of the Senate designated by the Minority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(5) the chair of the Committee on Armed Services of the House of Representatives, or the designee of such chair;

(6) the ranking member of the Committee on Armed Services of the House of Representatives, or the designee of the ranking member;

(7) two other members of the House of Representatives designated by the Speaker of the House of Representatives, one of whom is a member of the Committee on Appropriations of the House of Representatives;

(8) two other members of the House of Representatives designated by the Minority Leader of the House of Representatives; and

(9) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed by the President. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Navy, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President and the Committees on Armed Services of the Senate and House of Representatives of its action and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President and the Committees on Armed Services of the Senate and House of Representatives within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses.

(i)(1) A majority of the members of the Board may call an official meeting of the Board once per year.

(2) A member may attend such meeting—

(A) in person, at the Academy; or

(B) remotely, at the election of such member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434, §6968; Pub. L. 96–579, §13(b), Dec. 23, 1980, 94 Stat. 3369; Pub. L. 104–106, div. A, title X, §1061(e)(2), title XV, §1502(a)(12), Feb. 10, 1996, 110 Stat. 443, 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §8468, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 117–81, div. A, title V, §§554(b), 555(b), Dec. 27, 2021, 135 Stat. 1738, 1739; Pub. L. 118–159, div. A, title V, §558(b), Dec. 23, 2024, 138 Stat. 1898; Pub. L. 119–60, div. A, title V, §557(b), Dec. 18, 2025, 139 Stat. 879.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6968(a), (b) | 34 U.S.C. 1083. | June 29, 1948, ch. 714, §1, 62 Stat. 1094. |
| | 34 U.S.C. 1084. | June 29, 1948, ch. 714, §2, 62 Stat. 1094. |
| 6968(c) | 34 U.S.C. 1085. | June 29, 1948, ch. 714, §3, 62 Stat. 1094. |
| 6968(d) | 34 U.S.C. 1086. | June 29, 1948, ch. 714, §4, 62 Stat. 1094; June 30, 1954, ch. 432, §732, 68 Stat. 356. |
| 6968(e), (f), (g) | 34 U.S.C. 1087. | June 29, 1948, ch. 714, §5, 62 Stat. 1094. |
| 6968(h) | 34 U.S.C. 1088. | June 29, 1948, ch. 714, §6, 62 Stat. 1094. |

In subsection (a) the words "A Board of Visitors to the Naval Academy is constituted annually" are substituted for the words "There shall be appointed * * * every year a Board of Visitors", since appointments, in the strict sense, are not involved.

In subsection (b) the language establishing staggered terms is eliminated as executed, and the existence of such terms is recognized by the use of the words "two persons shall be designated by him each year to succeed the members whose terms expire that year". No effect is given to the language "the nine Presidential appointees". The hearings indicate that one of the bills considered provided for nine such "appointees", and it appears that the number nine was inadvertently retained. The provision specifically authorizes only six Presidential designees.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(8). Pub. L. 119–60 substituted "two other members" for "one other member".

**2024**—Subsec. (a). Pub. L. 118–159, §558(b)(1), added subsec. (a) and struck out former subsec. (a) which related to membership of Board of Visitors.

Subsec. (f). Pub. L. 118–159, §558(b)(2), inserted "and the Committees on Armed Services of the Senate and House of Representatives" after "the President" in two places.

**2021**—Subsec. (b). Pub. L. 117–81, §554(b), substituted "is appointed by the President" for "is appointed".

Subsec. (i). Pub. L. 117–81, §555(b), added subsec. (i).

**2018**—Pub. L. 115–232 renumbered section 6968 of this title as this section.

**1999**—Subsec. (a)(3). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (a)(3). Pub. L. 104–106, §1502(a)(12), substituted "National Security" for "Armed Services".

Subsec. (h). Pub. L. 104–106, §1061(e)(2), struck out "is entitled to not more than $5 a day and" after "each adviser".

**1980**—Subsec. (b). Pub. L. 96–579 required member whose term of office had expired to continue service until appointment of a successor.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8469. Band: composition

(a) The Naval Academy Band shall be composed of one leader, one second leader, and such enlisted members of the Navy as may be assigned.

(b) In determining years of service for the purpose of retirement, and in determining eligibility for reenlistment bonus, the members who are assigned as leader and second leader shall be treated as if they had not been so assigned.

(c) The enlisted members assigned to the Naval Academy Band shall be distributed in grade substantially the same as in the United States Navy Band.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435, §6969; Pub. L. 87–649, §14c(52), Sept. 7, 1962, 76 Stat. 501; renumbered §8469, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6969 | 34 U.S.C. 1091a. | Feb. 14, 1931, ch. 184, 46 Stat. 1111; July 17, 1953, ch. 226, §2, 67 Stat. 181. |

In subsection (a) the words "of the Navy" are supplied since the requirement that the distribution in ratings be similar to that in the United States Navy Band indicates that the Naval Academy Band should not include members of the Marine Corps, and it is so interpreted.

In subsection (b) the words "an officer in the grade of warrant officer, W–1," are substituted for the words "a warrant officer" because the Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of all the former warrant officer (as distinguished from commissioned warrant officer) grades. The second sentence covers that part of the second proviso which relates to pay and makes reference to the Career Compensation Act of 1949, since it is that Act which governs entitlement to basic pay and the computation of cumulative years of creditable service. Retirement rights and reenlistment bonuses referred to in the second proviso are covered in the third sentence of this subsection, giving recognition to the fact that the status of the members who are assigned as leader and second leader of the band remains unchanged in these respects.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6969 of this title as this section.

**1962**—Subsec. (b). Pub. L. 87–649 repealed first and second sentences which related to pay and allowances for the leader and second leader of the Naval Academy Band, and to crediting of service for pay purposes. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1962 AMENDMENT**

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## §8470. Permanent professors: promotion

(a) PROMOTION.—An officer serving as a permanent professor may be recommended for promotion to the grade of captain or colonel, as the case may be, under regulations prescribed by the Secretary of the Navy. The regulations shall include a competitive selection board process to identify those permanent professors best qualified for promotion. An officer so recommended shall be promoted by appointment to the higher grade by the President, by and with the advice and consent of the Senate.

(b) EFFECTIVE DATE OF PROMOTION.—If made, the promotion of an officer under subsection (a) shall be effective not earlier than three years after the selection of the officer as a permanent professor as described in that subsection.

(Added Pub. L. 110–181, div. A, title V, §508(a)(1)(B), Jan. 28, 2008, 122 Stat. 97, §6970; renumbered §8470, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6970 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8470a. Permanent professors: retirement for years of service; authority for deferral

(a) RETIREMENT FOR YEARS OF SERVICE.—(1) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is not on a list of officers recommended for promotion to the grade of captain or colonel, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

(2) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of captain or colonel who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) or brigadier general, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

(b) CONTINUATION ON ACTIVE DUTY.—(1) An officer subject to retirement under subsection (a) may have his retirement deferred and be continued on active duty by the Secretary of the Navy.

(2) Subject to section 1252 of this title, the Secretary of the Navy shall determine the period of any continuation on active duty under this section.

(c) ELIGIBILITY FOR PROMOTION.—A permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is continued on active duty as a permanent professor under subsection (b) remains eligible for consideration for promotion to the grade of captain or colonel, as the case may be.

(d) RETIRED GRADE AND RETIRED PAY.—Each officer retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 [1] of this title; and

(2) is entitled to retired pay computed under section 8333 of this title.

(Added Pub. L. 109–163, div. A, title V, §509(b)(1), Jan. 6, 2006, 119 Stat. 3229, §6970; renumbered §6970a, Pub. L. 110–181, div. A, title V, §508(a)(1)(A), Jan. 28, 2008, 122 Stat. 96; renumbered §8470a and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 1370 of this title, referred to in subsec. (d)(1), was repealed and new sections 1370 and 1370a of this title were enacted by Pub. L. 116–283, div. A, title V, §508(a)(1), Jan. 1, 2021, 134 Stat. 3574, 3580. In determining the retired grade of certain commissioned officers of the Armed Forces who retire after Jan. 1, 2021, any reference to section 1370 of this title in such determination with respect to such officers deemed to be a reference to section 1370a of this title, see section 508(c) of Pub. L. 116–283, set out as a note under section 1370 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6970a of this title as this section.

Subsec. (d)(2). Pub. L. 115–232, §809(a), substituted "section 8333" for "section 6333".

**2008**—Pub. L. 110–181 renumbered section 6970 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

[1] *See References in Text note below.*

## §8471. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts

(a) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—The Superintendent of the Naval Academy shall operate the Naval Academy activities referred to in subsection (b) as a nonappropriated fund instrumentality under the jurisdiction of the Navy.

(b) COVERED ACTIVITIES.—The nonappropriated fund instrumentality required under subsection (a) shall consist of the following Naval Academy activities:

(1) The midshipmen's store.

(2) The barber shop.

(3) The cobbler shop.

(4) The tailor shop.

(5) The dairy (if any).

(6) The laundry.

(c) NONAPPROPRIATED FUND ACCOUNTS.—The Superintendent of the Naval Academy shall administer a separate nonappropriated fund account for each of the Naval Academy activities included in the nonappropriated fund instrumentality required under subsection (a).

(d) CREDITING OF REVENUE.—The Superintendent shall credit all revenue received from a Naval Academy activity referred to in subsection (b) to the account administered with respect to that

activity under subsection (c), and amounts so credited shall be available for operating expenses of that activity.

(e) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435, §6971; Pub. L. 89–718, §38, Nov. 2, 1966, 80 Stat. 1120; Pub. L. 103–337, div. A, title III, §376, Oct. 5, 1994, 108 Stat. 2736; Pub. L. 104–201, div. A, title III, §370(a), Sept. 23, 1996, 110 Stat. 2498; Pub. L. 105–85, div. B, title XXVIII, §2871(c)(1), Nov. 18, 1997, 111 Stat. 2015; renumbered §8471, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6971(a) | 34 U.S.C. 1108b (less last proviso). | July 26, 1946, ch. 675, §2 (less last proviso), 60 Stat. 704. |
| 6971(b) | 34 U.S.C. 1106. | Aug. 5, 1939, ch. 448, §1, 53 Stat. 1210. |

In subsection (a) the second listing of the activities is omitted for brevity.

In subsection (b) the words "including midshipmen" are omitted as surplusage. The words "are available for the maintenance of" are substituted for the words "are appropriated for the purpose of providing and maintaining".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6971 of this title as this section.

**1997**—Subsec. (b)(5). Pub. L. 105–85 inserted "(if any)" before period at end.

**1996**—Pub. L. 104–201 substituted "trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts" for "laundry, barber shop, cobbler shop, tailor shop, and dairy: disposition of funds" in section catchline and amended text generally. Prior to amendment, text consisted of one undesignated par. providing for deposit and expenditure of funds from operation of midshipmen's store, including barber shop, cobbler shop, and tailor shop at Naval Academy, Academy dairy, and Academy laundry.

**1994**—Pub. L. 103–337 struck out "(a)" before "Funds collected from the operation of the midshipmen's", substituted "the Academy dairy, and the Academy laundry" for "and the Academy dairy", and struck out subsec. (b) which read as follows: "Funds collected from the operation of the Academy laundry shall be accounted for as public funds and are available for the maintenance of necessary laundry service for Academy activities and personnel."

**1966**—Subsec. (a). Pub. L. 89–718 substituted "person designated by the Secretary of the Navy under section 6970(b) of this title" for "Bureau of Supplies and Accounts".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 370(e) of Pub. L. 104–201, set out as a note under section 2105 of Title 5, Government Organization and Employees.

## §8472. Chapel: crypt and window spaces

The crypt and window spaces of the Naval Academy Chapel may be used only for memorials to

officers of the Navy who have successfully commanded a fleet or squadron in battle or who have received the thanks of Congress for conspicuously distinguished services in time of war. No memorial to an officer may be accepted for, or installed in, the crypt or window spaces until at least five years after the death of that officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435, §6972; renumbered §8472, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6972 | 34 U.S.C. 1111. | Mar. 3, 1909, ch. 255, 35 Stat. 773 (2d par.). |

The words "United States" in connection with the chapel, the words "of the United States" in connection with naval officers and with Congress, and the words "or may receive" are omitted as surplusage. The proviso is omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6972 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8473. Gifts, bequests, and loans of property: acceptance for benefit and use of Naval Academy

(a) The Secretary of the Navy may accept, hold, administer, and spend any gift or bequest of personal property, and may accept, hold, and administer any loan of personal property other than money, that is made on the condition that it be used for the benefit of, or for use in connection with, the Naval Academy or the Naval Academy Museum, its collection, or its services. Gifts and bequests of money and the proceeds from the sales of property received as gifts shall be deposited in the Treasury in the fund called "United States Naval Academy Gift and Museum Fund". The Secretary may disburse funds deposited under this subsection for the benefit or use of the Naval Academy (including the Naval Academy Museum) subject to the terms of the gift or bequest.

(b) The Secretary shall prescribe written guidelines to be used for determinations of whether the acceptance of money, any personal property, or any loan of personal property under subsection (a) would reflect unfavorably on the ability of the Department of the Navy or any officer or employee of the Department of the Navy to carry out responsibilities or duties in a fair and objective manner, or would compromise either the integrity or the appearance of the integrity of any program of the Department of the Navy or any officer or employee of the Department of the Navy who is involved in any such program.

(c) For the purpose of Federal income, estate, and gift taxes, property that is accepted under this section is considered as a gift or bequest to or for the use of the United States.

(d) Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest, reinvest, or retain investments of money or securities comprising any part of the United States Naval Academy Gift and Museum Fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from those securities

shall be deposited to the credit of the United States Naval Academy Gift and Museum Fund and may be disbursed as provided in this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 436, §6973; Pub. L. 106–398, §1 [[div. A], title IX, §942(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241; renumbered §8473, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6973(a) | 34 U.S.C. 1115. | Mar. 31, 1944, ch. 147, §1, 58 Stat. 135. |
| | 34 U.S.C. 1115a. | Mar. 31, 1944, ch. 147, §2, 58 Stat. 135. |
| 6973(b) | 34 U.S.C. 1115b. | Mar. 31, 1944, ch. 147, §3, 58 Stat. 135. |
| 6973(c) | 34 U.S.C. 1115c. | Mar. 31, 1944, ch. 147, §4, 58 Stat. 135. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6973 of this title as this section.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §942(c)(4)], substituted "Gifts, bequests, and loans of property: acceptance for benefit and use of Naval Academy" for "Gifts and bequests: acceptance for benefit of Naval Academy" as section catchline.

Subsec. (a). Pub. L. 106–398, §1 [[div. A], title IX, §942(c)(1)], in first sentence, substituted "any gift or bequest of personal property, and may accept, hold, and administer any loan of personal property other than money, that is" for "gifts and bequests of personal property" and inserted "or the Naval Academy Museum, its collection, or its services" before period at end, in second sentence, substituted "United States Naval Academy Gift and Museum Fund" for "United States Naval Academy general gift fund", and, in last sentence, inserted "(including the Naval Academy Museum)" after "the Naval Academy".

Subsecs. (b), (c). Pub. L. 106–398, §1 [[div. A], title IX, §942(c)(2)], added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title IX, §942(c)(3)], substituted "United States Naval Academy Gift and Museum Fund" for "United States Naval Academy general gift fund" in two places.

Pub. L. 106–398, §1 [[div. A], title IX, §942(c)(2)(A)], redesignated subsec. (c) as (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8474. United States Naval Academy Museum Fund: references to Fund

Any reference in a law, regulation, document, paper, or other record of the United States to the United States Naval Academy Museum Fund formerly maintained under this section shall be deemed to refer to the United States Naval Academy Gift and Museum Fund maintained under section 8473 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 436, §6974; Pub. L. 106–398, §1 [[div. A], title IX, §942(d)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242; renumbered §8474 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6974(a) | 34 U.S.C. 1118. | Mar. 26, 1938, ch. 52, §3, 52 Stat. 119. |
| 6974(b) | 34 U.S.C. 1119. | Mar. 26, 1938, ch. 52, §4, 52 Stat. 119. |
| 6974(c) | 34 U.S.C. 1120. | Mar. 26, 1938, ch. 52, §5, 52 Stat. 119. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6974 of this title as this section and substituted "section 8473" for "section 6973".

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section related to acceptance and administration of gifts, bequests, and loans for the benefit of the Naval Academy Museum.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**CONSOLIDATION OF NAVAL ACADEMY GENERAL GIFT FUND AND NAVAL ACADEMY MUSEUM FUND**

Pub. L. 106–398, §1 [[div. A], title IX, §942(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241, provided that:

"(1) The Secretary of the Navy shall transfer all amounts in the United States Naval Academy Museum Fund established by section 6974 [now 8474] of title 10, United States Code, to the gift fund maintained for the benefit and use of the United States Naval Academy under section 6973 [now 8473] of such title. Upon completing the transfer, the Secretary shall close the United States Naval Academy Museum Fund.

"(2) Amounts transferred under this subsection shall be merged with other amounts in the gift fund to which transferred and shall be available for the purposes for which amounts in that gift fund are available."

## §8475. Acceptance of guarantees with gifts for major projects

(a) ACCEPTANCE AUTHORITY.—Subject to subsection (c), the Secretary of the Navy may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Naval Academy.

(b) OBLIGATION AUTHORITY.—The amount of a qualified guarantee accepted under this section shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of the funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

(c) NOTICE OF PROPOSED ACCEPTANCE.—The Secretary of the Navy may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(d) PROHIBITION ON COMMINGLING OF FUNDS.—The Secretary of the Navy may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

(e) DEFINITIONS.—In this section:

(1) MAJOR PROJECT.—The term "major project" means a project for the purchase or other procurement of real or personal property, or for the construction, renovation, or repair of real or personal property, the total cost of which is, or is estimated to be, at least $1,000,000.

(2) QUALIFIED GUARANTEE.—The term "qualified guarantee", with respect to a major project, means a guarantee that—

(A) is made by one or more persons in connection with a donation, specifically for the project, of a total amount in cash or securities that, as determined by the Secretary of the Navy, is sufficient to defray a substantial portion of the total cost of the project;

(B) is made to facilitate or expedite the completion of the project in reasonable anticipation that other donors will contribute sufficient funds or other resources in amounts sufficient to pay for completion of the project;

(C) is set forth as a written agreement that provides for the donor to furnish in cash or securities, in addition to the donor's other gift or gifts for the project, any additional amount that may become necessary for paying the cost of completing the project by reason of a failure to obtain from other donors or sources funds or other resources in amounts sufficient to pay the cost of completing the project; and

(D) is accompanied by—

(i) an irrevocable and unconditional standby letter of credit for the benefit of the Naval Academy that is in the amount of the guarantee and is issued by a major United States commercial bank; or

(ii) a qualified account control agreement.

(3) QUALIFIED ACCOUNT CONTROL AGREEMENT.—The term "qualified account control agreement", with respect to a guarantee of a donor, means an agreement among the donor, the Secretary of the Navy, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the Naval Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, at any time that the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(4) MAJOR UNITED STATES COMMERCIAL BANK.—The term "major United States commercial bank" means a commercial bank that—

(A) is an insured bank (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(B) is headquartered in the United States; and

(C) has net assets in a total amount considered by the Secretary of the Navy to qualify the bank as a major bank.

(5) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term "major United States investment management firm" means any broker, dealer, investment adviser, or provider of investment supervisory services (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) or section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2)) or a major United States commercial bank that—

(A) is headquartered in the United States; and

(B) holds for the account of others investment assets in a total amount considered by the Secretary of the Navy to qualify the firm as a major investment management firm.

(Added Pub. L. 106–65, div. B, title XXVIII, §2871(b)(1), Oct. 5, 1999, 113 Stat. 873, §6975; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(17)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 108–136, div. A, title X, §1031(a)(56), Nov. 24, 2003, 117 Stat. 1603; renumbered §8475, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 6975 of this title as this section.

**2003**—Subsec. (c). Pub. L. 108–136 inserted before period at end "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**2000**—Subsec. (e)(5). Pub. L. 106–398 inserted a closing parenthesis after "80b–2)" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8476. Operation of Naval Academy dairy farm

(a) DISCRETION REGARDING CONTINUED OPERATION.—(1) Subject to paragraph (2), the Secretary of the Navy may terminate or reduce the dairy or other operations conducted at the Naval Academy dairy farm located in Gambrills, Maryland.

(2) Notwithstanding the termination or reduction of operations at the Naval Academy dairy farm under paragraph (1), the real property containing the dairy farm (consisting of approximately 875 acres)—

(A) may not be declared to be excess real property to the needs of the Navy or transferred or otherwise disposed of by the Navy or any Federal agency; and

(B) shall be maintained in its rural and agricultural nature.

(b) LEASE AUTHORITY.—(1) Subject to paragraph (2), to the extent that the termination or reduction of operations at the Naval Academy dairy farm permit, the Secretary of the Navy may lease the real property containing the dairy farm, and any improvements and personal property thereon, to such persons and under such terms as the Secretary considers appropriate. In leasing any of the property, the Secretary may give a preference to persons who will continue dairy operations on the property.

(2) Any lease of property at the Naval Academy dairy farm shall be subject to a condition that the lessee maintain the rural and agricultural nature of the leased property.

(c) LEASE PROCEEDS.—All money received from a lease entered into under subsection (b) shall be retained by the Superintendent of the Naval Academy and shall be available to cover expenses related to the property described in subsection (a), including reimbursing nonappropriated fund instrumentalities of the Naval Academy.

(d) EFFECT OF OTHER LAWS.—Nothing in section 8471 of this title shall be construed to require the Secretary of the Navy or the Superintendent of the Naval Academy to operate a dairy farm for the Naval Academy in Gambrills, Maryland, or any other location.

(Added Pub. L. 105–85, div. B, title XXVIII, §2871(a)(1), Nov. 18, 1997, 111 Stat. 2014, §6976; amended Pub. L. 106–65, div. B, title XXVIII, §2814, Oct. 5, 1999, 113 Stat. 851; renumbered §8476 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6976 of this title as this section.
Subsec. (d). Pub. L. 115–232, §809(a), substituted "section 8471" for "section 6971".
**1999**—Subsecs. (c), (d). Pub. L. 106–65 added subsec. (c) and redesignated former subsec. (c) as (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8477. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

(f) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the administration of this section.

(Added Pub. L. 105–261, div. A, title X, §1063(b)(1), Oct. 17, 1998, 112 Stat. 2130, §6977; renumbered §8477, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6977 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8478. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds

(a) AUTHORITY.—In the case of a Naval Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Navy may designate funds appropriated to the Department of the Navy and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) COVERED PROGRAMS.—In this section, the term "Naval Academy mixed-funded athletic or recreational extracurricular program" means an athletic or recreational extracurricular program of the Naval Academy to which each of the following applies:

(1) The program is not considered a morale, welfare, or recreation program.

(2) The program is supported through appropriated funds.

(3) The program is supported by a nonappropriated fund instrumentality.

(4) The program is not a private organization and is not operated by a private organization.

(Added Pub. L. 108–375, div. A, title V, §544(b)(1), Oct. 28, 2004, 118 Stat. 1906, §6978; renumbered §8478, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6978 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable only with respect to funds appropriated for fiscal years after fiscal year 2004, see section 544(d) of Pub. L. 108–375, set out as a note under section 7459 of this title.

## §8479. Midshipmen: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Naval Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to midshipmen for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, §545(b)(1), Oct. 28, 2004, 118 Stat. 1908, §6979; renumbered §8479, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 6979 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8480. Policy on sexual harassment and sexual violence

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Navy shall direct the Superintendent of the Naval Academy to prescribe a policy on sexual harassment and sexual violence applicable to the midshipmen and other personnel of the Naval Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve midshipmen or other Academy personnel.

(2) Procedures that a midshipman should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the midshipman chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a midshipman or other Academy personnel.

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a midshipman or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all midshipmen and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Navy, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Navy shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(3)(A) The Secretary of Defense may postpone the conduct of an assessment under this subsection if the Secretary determines that conducting such assessment is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary of Defense shall ensure that an assessment postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary of Defense shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(d) ANNUAL REPORT.—(1) The Secretary of the Navy shall direct the Superintendent of the Naval Academy to submit to the Secretary a report on sexual harassment and sexual violence involving midshipmen or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving midshipmen or other Academy personnel that have been reported to Naval Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the Navy and the leadership of the Naval Academy in response to sexual harassment and sexual violence involving midshipmen or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving midshipmen or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Secretary of the Navy shall transmit to the Secretary of Defense, and to the Board of Visitors of the Naval Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(e) CONSIDERATION OF REQUEST FOR TRANSFER OF A MIDSHIPMAN WHO IS THE VICTIM OF A SEXUAL ASSAULT OR RELATED OFFENSE.—(1) The Secretary of the Navy shall provide for timely consideration of and action on a request submitted by a midshipman appointed to the United States Naval Academy who is the victim of an alleged sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) for transfer to another military service academy or to enroll in a Senior Reserve Officers' Training Corps program affiliated with another institution of higher education.

(2) The Secretary of the Navy shall prescribe regulations to carry out this subsection, within guidelines provided by the Secretary of Defense that—

(A) provide that the Superintendent of the United States Naval Academy shall ensure that any midshipman who has been appointed to the United States Naval Academy and who is a victim of an alleged sexual assault or other offense referred to in paragraph (1), is informed of the right to request a transfer pursuant to this section, and that any formal request submitted by a midshipman is processed as expeditiously as practicable through the chain of command for review and action by the Superintendent;

(B) direct the Superintendent of the United States Naval Academy, in coordination with the Superintendent of the military service academy to which the midshipman requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the midshipman;

(ii) to approve such request for transfer unless there are exceptional circumstances that require denial of the request; and

(iii) upon approval of such request, to take all necessary and appropriate action to effectuate the transfer of the midshipman to the military service academy concerned as expeditiously as possible; and

(C) direct the Superintendent of the United States Naval Academy, in coordination with the Secretary of the military department that sponsors the Senior Reserve Officers' Training Corps program at the institution of higher education to which the midshipman requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the midshipman;

(ii) subject to the midshipman's acceptance for admission to the institution of higher education to which the midshipman wishes to transfer, to approve such request for transfer unless there are exceptional circumstances that require denial of the application; and

(iii) to take all necessary and appropriate action to effectuate the midshipman's enrollment in the institution of higher education to which the midshipman wishes to transfer and to process the midshipman for participation in the relevant Senior Reserve Officers' Training Corps program as expeditiously as possible.

(3) If the Superintendent of the United States Naval Academy denies a request for transfer under this subsection, the midshipman may request review of the denial by the Secretary of the Navy, who shall take action on such request not later than 72 hours after receipt of the formal request for review.

(4) The Secretary concerned shall ensure that all records of any request, determination, transfer, or other action under this subsection remain confidential, consistent with applicable law and regulation.

(5) A midshipman who transfers under this subsection may retain the midshipman's appointment to the United States Naval Academy or may be appointed to the military service academy to which the midshipman transfers without regard to the limitations and requirements set forth in sections 7442, 8454, and 9442 of this title.

(Added Pub. L. 109–364, div. A, title V, §532(a)(2), Oct. 17, 2006, 120 Stat. 2201, §6980; renumbered §8480, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; amended Pub. L. 116–92, div. A, title V, §555(b), Dec. 20, 2019, 133 Stat. 1389; Pub. L. 116–283, div. A, title V, §552(b)(2), Jan. 1, 2021, 134 Stat. 3632.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(3). Pub. L. 116–283 added par. (3).
**2019**—Subsec. (e). Pub. L. 116–92 added subsec. (e).
**2018**—Pub. L. 115–232 renumbered section 6980 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d)(4)(B) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section

111 of this title.

**POLICY FOR MILITARY SERVICE ACADEMIES ON SEPARATION OF ALLEGED VICTIMS AND ALLEGED PERPETRATORS IN INCIDENTS OF SEXUAL ASSAULT**

Secretary of Defense to consult with Secretaries of the military departments and Superintendent of each military service academy and prescribe in regulations a policy that allows a cadet or midshipman of a military service academy who is the alleged victim or alleged perpetrator of a sexual assault to complete their course of study at the academy with minimal disruption and does not preclude the academy from taking other administrative or disciplinary action, see section 539 of Pub. L. 116–283, set out as a note under section 7461 of this title.

**APPLICABILITY OF SEXUAL ASSAULT PREVENTION AND RESPONSE AND RELATED MILITARY JUSTICE ENHANCEMENTS TO MILITARY SERVICE ACADEMIES**

Secretary of the military department concerned to ensure that the provisions of title XVII of Pub. L. 113–66 and subtitle D of title V of div. A of Pub. L. 113–291 apply to the United States Military Academy, the Naval Academy, and the Air Force Academy, as applicable, see section 552(a) of Pub. L. 113—291, set out as a note under section 7461 of this title.

**PREVENTION OF SEXUAL ASSAULT AT MILITARY SERVICE ACADEMIES**

Secretary of Defense to ensure that military service academy curricula include honor, respect, and character development pertaining to prevention of sexual assault in the Armed Forces; training provided within 14 days after a new cadet or midshipman arrives at the academy and repeated annually, see section 1746 of Pub. L. 113–66, set out as a note under section 7461 of this title.

**FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES**

Secretary of a military department to provide for focus groups to ascertain information relating to sexual assault and sexual harassment issues in any year in which the Secretary is not required by law to conduct a survey on such matters at the service academy under the Secretary's jurisdiction and to include such information in the Secretary's annual report to Congress, see section 532(b) of Pub. L. 109–364, set out as a note under section 7461 of this title.

## §8481. Support of athletic and physical fitness programs

(a) AUTHORITY.—

(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary of the Navy may enter into contracts and cooperative agreements with the Naval Academy Athletic Association for the purpose of supporting the athletic and physical fitness programs of the Naval Academy. Notwithstanding section 3201(e) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 3204(a)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the Naval Academy.

(2) LEASES.—The Secretary may enter into leases, in accordance with section 2667 of this title, or licenses with the Association for the purpose of supporting the athletic and physical fitness programs of the Naval Academy. Any such lease or license shall be deemed to satisfy the conditions of section 2667(h)(2) of this title.

(b) USE OF NAVY PERSONAL PROPERTY BY THE ASSOCIATION.—The Secretary may allow the Association to use, at no cost, personal property of the Department of the Navy to assist the Association in supporting the athletic and physical fitness programs of the Naval Academy.

(c) ACCEPTANCE OF SUPPORT.—

(1) SUPPORT RECEIVED FROM THE ASSOCIATION.—Notwithstanding section 1342 of title 31, the Secretary may accept from the Association funds, supplies, and services for the support of the athletic and physical fitness programs of the Naval Academy. For purposes of this section, employees or personnel of the Association may not be considered to be employees of the United States.

(2) FUNDS RECEIVED FROM NCAA.—The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic and physical fitness programs of the Naval Academy.

(3) LIMITATION.—The Secretary shall ensure that contributions under this subsection do not reflect unfavorably on the ability of the Department of the Navy, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or compromise the integrity or appearance of integrity of any program of the Department of the Navy, or any individual involved in such a program.

(d) RETENTION AND USE OF FUNDS.—Notwithstanding section 2260(d) of this title, funds received under this section may be retained for use in support of athletic and physical fitness programs of the Naval Academy and shall remain available until expended.

(e) TRADEMARKS AND SERVICE MARKS.—

(1) LICENSING, MARKETING, AND SPONSORSHIP AGREEMENTS.—An agreement under subsection (a)(1) may, consistent with sections 2260 (other than subsection (d)) and 8022(b)(3) of this title, authorize the Association to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying the Naval Academy, subject to the approval of the Department of the Navy.

(2) LIMITATIONS.—No such licensing, marketing, or sponsorship agreement may be entered into if it would reflect unfavorably on the ability of the Department of the Navy, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or if the Secretary determines that the use of the trademark or service mark would compromise the integrity or appearance of integrity of any program of the Department of the Navy, or any individual involved in such a program.

(f) SERVICE ON ASSOCIATION BOARD OF CONTROL.—The Association is a designated entity for which authorization under sections 1033(a) and 1589(a) of this title may be provided.

(g) CONDITIONS.—The authority provided in this section with respect to the Association is available only so long as the Association continues to—

(1) qualify as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 and operates in accordance with this section, the laws of the State of Maryland, and the constitution and bylaws of the Association; and

(2) operate exclusively to support the athletic and physical fitness programs of the Naval Academy.

(h) ASSOCIATION DEFINED.—In this section, the term "Association" means the Naval Academy Athletic Association.

(Added Pub. L. 112–239, div. A, title V, §542(a), Jan. 2, 2013, 126 Stat. 1735, §6981; renumbered §8481 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (g)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

### PRIOR PROVISIONS

A prior section 8491 was renumbered section 9191 of this title.

Prior sections 8495 to 8502 were repealed by Pub. L. 103–337, div. A, title XVI, §1662(f)(2), Oct. 5, 1994, 108 Stat. 2994, effective Dec. 1, 1994.

Section 8495, act Aug. 10, 1956, ch. 1041, 70A Stat. 524, provided that members of Air National Guard of United States were not in active Federal service except when ordered thereto under law. See section 12401 of this title.

Section 8496, act Aug. 10, 1956, ch. 1041, 70A Stat. 524, authorized President to order commissioned officers of Air National Guard of United States to active duty in National Guard Bureau. See section 12402(a), (b)(2) of this title.

Section 8497, act Aug. 10, 1956, ch. 1041, 70A Stat. 525, provided that members of Air National Guard of United States ordered to active duty were to be ordered to duty as Reserves of Air Force. See section 12403 of this title.

Section 8498, act Aug. 10, 1956, ch. 1041, 70A Stat. 525, related to organization during initial mobilization of units of Air National Guard of United States ordered into active Federal service. See section 12404 of this title.

Section 8499, act Aug. 10, 1956, ch. 1041, 70A Stat. 525, related to application of laws governing Air Force to members of Air National Guard called into Federal service. See section 12405 of this title.

Section 8500, acts Aug. 10, 1956, ch. 1041, 70A Stat. 525; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, authorized President to call Air National Guard units and members into Federal service. See section 12406 of this title.

Section 8501, acts Aug. 10, 1956, ch. 1041, 70A Stat. 525; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to period of service and apportionment of members and units of Air National Guard called into Federal service. See section 12407 of this title.

Section 8502, act Aug. 10, 1956, ch. 1041, 70A Stat. 526, related to physical examinations of members of Air National Guard called into or mustered out of Federal service. See section 12408 of this title.

A prior section 8503 was renumbered section 9203 of this title.

A prior section 8504, acts Aug. 10, 1956, ch. 1041, 70A Stat. 526; Nov. 8, 1967, Pub. L. 90–130, §1(29), 81 Stat. 382, authorized President to order any retired member of Regular Air Force to active duty and assign him duties considered necessary in interests of national defense, prior to repeal by Pub. L. 96–513, title II, §210, Dec. 12, 1980, 94 Stat. 2884, effective Sept. 15, 1981. See section 688 of this title.

A prior section 8531, act Aug. 10, 1956, ch. 1041, 70A Stat. 526, authorized President, by and with consent of Senate, to appoint a general officer of Air Force as Chief of Staff to President, which officer, unless entitled to rank, pay, and allowances of a grade above lieutenant general under another provision of law, is entitled to rank, pay, and allowances of a general, and is in addition to number otherwise authorized for that grade, prior to repeal by Pub. L. 96–513, title II, §233(b), Dec. 12, 1980, 94 Stat. 2887, effective Sept. 15, 1981.

A prior section 8537, act Aug. 10, 1956, ch. 1041, 70A Stat. 526, provided for detail of Air Force officers to duty under Secretary of Commerce in connection with promotion of civil aviation, prior to repeal by Pub. L. 90–235, §4(b)(1), Jan. 2, 1968, 81 Stat. 760.

A prior section 8540, act Aug. 10, 1956, ch. 1041, 70A Stat. 527, related to detail of members of regular or reserve components as professors and instructors in air science and tactics, prior to repeal by Pub. L. 88–647, title III, §301(23), Oct. 13, 1964, 78 Stat. 1073. See section 2111 of this title.

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283 substituted "section 3201(e)" for "section 2304(k)" and "section 3204(a)(5)" for "section 2304(c)(5)".

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 6981 of this title as this section.

Subsec. (e)(1). Pub. L. 115–232, §809(a), substituted "and 8022(b)(3)" for "and 5022(b)(3)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 855—UNITED STATES NAVAL POSTGRADUATE SCHOOL

Sec.
8541. Function.
8542. President; assistants.
8543. Provost and Chief Academic Officer.
8544. Civilian teachers: number; compensation.
8545. Officers of the other armed forces; enlisted members: admission.
8546. Officers of foreign countries: admission.
8547. Students at institutions of higher education: admission.
8548. Degree granting authority for United States Naval Postgraduate School.
8549. Defense industry civilians: admission to defense product development program.
8550. Grants for faculty research for scientific, literary, and educational purposes: acceptance, authorized grantees.
8551. Development and operation of the Naval Innovation Center at the Naval Postgraduate School.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 855, consisting of sections 8721 to 8723, related to hospitalization while serving in the Air Force, prior to renumbering as chapter 935 of this title.

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. B, title XXVIII, §2872, Dec. 23, 2024, 138 Stat. 2281, added item 8551. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title V, §554(a)(2)(B), Dec. 23, 2022, 136 Stat. 2594, substituted "Provost and Chief Academic Officer" for "Provost and Academic Dean" in item 8543.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 605 of this title as this chapter and items 7041 to 7050 as 8541 to 8550, respectively.

**2008**—Pub. L. 110–417, [div. A], title V, §543(e)(2), Oct. 14, 2008, 122 Stat. 4461, added item 7048 and struck out former item 7048 "Conferring of degrees on graduates".

**2006**—Pub. L. 109–163, div. A, title V, §522(c)(2), Jan. 6, 2006, 119 Stat. 3242, added item 7050.

**2004**—Pub. L. 108–375, div. A, title V, §557(c), Oct. 28, 2004, 118 Stat. 1916, substituted "President; assistants" for "Superintendent; assistants" in item 7042 and "Provost and Academic Dean" for "Academic Dean" in item 7043.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §535(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–113, added item 7049.

**1997**—Pub. L. 105–85, div. A, title V, §551(b)(2), Nov. 18, 1997, 111 Stat. 1748, substituted "Officers of the other armed forces; enlisted members:" for "Officers of Army, Air Force, and Coast Guard:" in item 7045.

**1992**—Pub. L. 102–484, div. A, title X, §1073(b), Oct. 23, 1992, 106 Stat. 2511, added item 7047 and redesignated former item 7047 as 7048.

## §8541. Function

There is a United States Naval Postgraduate School, the primary function of which is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in—

(1) their practical and theoretical duties;

(2) the science, physics, and systems engineering of current and future naval warfare doctrine, operations, and systems; and

(3) the integration of naval operations and systems into joint, combined, and multinational operations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437, §7041; Pub. L. 109–163, div. A, title V, §523(a), Jan. 6, 2006, 119 Stat. 3244; renumbered §8541, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7041 | 34 U.S.C. 1076. | July 31, 1947, ch. 420, §1, 61 Stat. 705. |

The words "There is a" are substituted for the words "That the Secretary of the Navy is hereby authorized and directed to establish the", as the Postgraduate School is in operation. The words "technical education" are substituted for the word "training" to describe more aptly the higher level of instruction at the Postgraduate School. The words "naval service" are substituted for the words "Regular Navy and Marine Corps and the reserve components thereof". The word "their" is substituted for the words "of commissioned officers".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8541, act Aug. 10, 1956, ch. 1041, 70A Stat. 527, authorized President to assign regular and reserve Air Force officers to National Guard Bureau, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1661(c)(2), Oct. 5, 1994, 108 Stat. 2982, effective Dec. 1, 1994. See section 10507 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7041 of this title as this section.

**2006**—Pub. L. 109–163 amended text generally. Prior to amendment, text read as follows: "There is a United States Naval Postgraduate School for the advanced instruction and technical education of commissioned officers of the naval service in their practical and theoretical duties."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8542. President; assistants

(a)(1) The President of the Naval Postgraduate School shall be one of the following:

(A) An active-duty officer of the Navy or Marine Corps in a grade not below the grade of captain or colonel, respectively, who is assigned or detailed to such position.

(B) A civilian individual, including an individual who was retired from the Navy or Marine Corps in a grade not below captain, or colonel, respectively, who has the qualifications appropriate to the position of President and is selected by the Secretary of the Navy as the best qualified from among candidates for the position in accordance with—

(i) the criteria specified in paragraph (4);

(ii) a process determined by the Secretary; and

(iii) other factors the Secretary considers essential.

(2) Before making an assignment, detail, or selection of an individual for the position of President of the Naval Postgraduate School, the Secretary shall—

(A) consult with the Board of Advisors for the Naval Postgraduate School;

(B) consider any recommendation of the leadership and faculty of the Naval Postgraduate School regarding the assignment or selection to that position; and

(C) consider the recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps.

(3) An individual selected for the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.

(4) The qualifications appropriate for selection of an individual for detail or assignment to the

position of President of the Naval Postgraduate School include the following:

(A) An academic degree that is either—

(i) a doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School; or

(ii) a master's degree in a field of study relevant to the mission and function of the Naval Postgraduate School, but only if—

(I) the individual is an active-duty or retired officer of the Navy or Marine Corps in a grade not below the grade of captain or colonel, respectively; and

(II) at the time of the selection of that individual as President, the individual selected for the position of Provost and Chief Academic Officer has a doctorate degree in such a field of study.

(B) A comprehensive understanding of the Department of the Navy, the Department of Defense, and joint and combined operations.

(C) Leadership experience at the senior level in a large and diverse organization.

(D) Demonstrated ability to foster and encourage a program of research in order to sustain academic excellence.

(E) Other qualifications, as determined by the Secretary of the Navy.

(b) The Secretary shall detail officers of the Navy and the Marine Corps of appropriate grades and qualifications to assist the President in—

(1) the advanced instruction and professional and technical education of students and the provision of research opportunities for students; and

(2) the administration of the Postgraduate School.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437, §7042; Pub. L. 96–513, title V, §503(53), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 108–375, div. A, title V, §557(a)(3), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109–163, div. A, title V, §§523(b), 524, Jan. 6, 2006, 119 Stat. 3244, 3245; Pub. L. 109–364, div. A, title V, §508, Oct. 17, 2006, 120 Stat. 2180; Pub. L. 111–383, div. A, title X, §1075(b)(49), Jan. 7, 2011, 124 Stat. 4371; renumbered §8542, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 117–263, div. A, title V, §554(a)(2)(C), Dec. 23, 2022, 136 Stat. 2594.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7042 | 34 U.S.C. 1076a. | July 31, 1947, ch. 420, §2, 61 Stat. 705. |

In subsection (a) the word "Regular" is omitted as covered by the term "active list".

In subsection (b) the words "line and staff" and "as may be necessary" are omitted as surplusage. The word "grades" is substituted for the word "ranks". The words "advanced instruction and technical education" are substituted for the words "training * * * in the practical and theoretical duties of commissioned naval officers".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8542, act Aug. 10, 1956, ch. 1041, 70A Stat. 527, authorized President to detail certain officers as chief and assistant chief of staff of wings of Air National Guard in Federal service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(g)(2), Oct. 5, 1994, 108 Stat. 2996, effective Dec. 1, 1994. See section 12502(b) of this title.

### AMENDMENTS

**2022**—Subsec. (a)(4)(A)(ii)(II). Pub. L. 117–263 substituted "selected for the position of Provost and Chief Academic Officer" for "permanently appointed to the position of Provost and Academic Dean".

**2018**—Pub. L. 115–232 renumbered section 7042 of this title as this section.

**2011**—Subsec. (a)(1)(A). Pub. L. 111–383 struck out comma after "captain".

**2006**—Subsec. (a). Pub. L. 109–364 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to assignment of an officer of the Navy in a grade not below the grade of captain or an appropriately qualified civilian individual to the position of President of the Naval Postgraduate School.

Pub. L. 109–163, §524, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary of the Navy shall detail as President of the Naval Postgraduate School an officer on the active-duty list in the line of the Navy eligible for command at sea not below the grade of captain. The President has military command of the Postgraduate School."

Subsec. (b)(1). Pub. L. 109–163, §523(b), substituted "and professional and technical education of students and the provision of research opportunities for students" for "and technical education of students".

**2004**—Pub. L. 108–375 substituted "President" for "Superintendent" wherever appearing in section catchline and text.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "active-duty list" for "active list".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 108–375, div. A, title V, §557(a)(1), (2), Oct. 28, 2004, 118 Stat. 1915, provided that:

"(1) The position of Superintendent of the Naval Postgraduate School is redesignated as President of the Naval Postgraduate School.

"(2) Any reference to the Superintendent of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the President of the Naval Postgraduate School."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §8543. Provost and Chief Academic Officer

(a) There is at the Naval Postgraduate School the civilian position of Provost and Chief Academic Officer. An individual selected by the Secretary of the Navy for the position of Provost and Chief Academic Officer shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years. Before making an appointment to the position of Provost and Chief Academic Officer, the Secretary shall consult with the Board of Advisors for the Naval Postgraduate School and shall consider any recommendation of the leadership and faculty of the Naval Postgraduate School regarding an appointment to that position.

(b) The Provost and Chief Academic Officer is entitled to such compensation for his services as the Secretary prescribes, but not more than the rate of compensation authorized for level IV of the Executive Schedule.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437, §7043; Pub. L. 85–861, §1(148), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 89–536, Aug. 11, 1966, 80 Stat. 346; Pub. L. 96–513, title V, §513(22), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 105–85, div. A, title V, §551(c), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 108–375, div. A, title V, §557(b)(3), (4), Oct. 28, 2004, 118 Stat. 1915, 1916; renumbered §8543, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 117–263, div. A, title V, §554(a)(1), (2)(A), Dec. 23, 2022, 136 Stat. 2594.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7043 | 34 U.S.C. 1074 (1st 98 words). | June 10, 1946, ch. 298 (1st 98 words), 60 Stat. 236. |
| | 34 U.S.C. 1076c. | July 31, 1947, ch. 420, §4, 61 Stat. 706. |

The words "of the Naval Academy" following "Postgraduate School" are dropped as a result of §4 of the Act of July 31, 1947 (supra). This Act created the Postgraduate School and in effect transferred the position of Academic Dean of the Postgraduate School of the Naval Academy to the newly created Postgraduate School.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7043 | 34 App.:1076c (less last sentence). | Aug. 9, 1955, ch. 669, §1 (less last sentence), 69 Stat. 607. |

## EDITORIAL NOTES

### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b), is set out in section 5315 of Title 5, Government Organization and Employees.

### PRIOR PROVISIONS

A prior section 8543, act Aug. 10, 1956, ch. 1041, 70A Stat. 527, related to number of authorized aides, prior to repeal by Pub. L. 114–328, div. A, title V, §502(pp)(1), Dec. 23, 2016, 130 Stat. 2106.

### AMENDMENTS

**2022**—Pub. L. 117–263, §554(a)(2)(A), substituted "Chief Academic Officer" for "Academic Dean" in section catchline.

Pub. L. 117–263, §554(a)(1)(A), substituted "Chief Academic Officer" for "Academic Dean" wherever appearing.

Subsec. (a). Pub. L. 117–263, §554(a)(1)(B), substituted "An individual selected by the Secretary of the Navy for the position of Provost and Chief Academic Officer shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years." for "The Provost and Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy."

**2018**—Pub. L. 115–232 renumbered section 7043 of this title as this section.

**2004**—Pub. L. 108–375, §557(b)(3)(B), substituted "Provost and Academic Dean" for "Academic Dean" in section catchline.

Subsec. (a). Pub. L. 108–375, §557(b)(3)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There is at the Naval Postgraduate School the civilian position of Academic Dean. The Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy upon the recommendation of the Postgraduate School Council consisting of the Superintendent, the Deputy Superintendent, and the directors of the Technical, Administrative, and Professional Divisions of the school."

Subsec. (b). Pub. L. 108–375, §557(b)(4), substituted "Provost and Academic Dean" for "Academic Dean".

**1997**—Subsec. (b). Pub. L. 105–85 substituted "level IV of the Executive Schedule" for "grade GS–18 of the General Schedule under section 5332 of title 5".

**1980**—Subsec. (b). Pub. L. 96–513 substituted "authorized for grade GS–18 of the General Schedule under section 5332 of title 5" for "provided for grade 18 of the general schedule of the Classification Act of 1949, as amended".

**1966**—Subsec. (b). Pub. L. 89–536 substituted for a limit of $13,500 per annum a rate of compensation comparable to grade 18 of the general schedule of the Classification Act of 1949, as amended.

**1958**—Pub. L. 85–861, among other changes, increased the maximum compensation of the Academic Dean from $12,000 to $13,500 a year.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**CHANGE OF NAME**

Pub. L. 108–375, div. A, title V, §557(b)(1), (2), Oct. 28, 2004, 118 Stat. 1915, provided that:

"(1) The position of Academic Dean of the Naval Postgraduate School is redesignated as Provost and Academic Dean of the Naval Postgraduate School.

"(2) Any reference to the Academic Dean of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the Provost and Academic Dean of the Naval Postgraduate School."

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §8544. Civilian teachers: number; compensation

The Secretary of the Navy may employ as many civilians as he considers necessary to serve at the Naval Postgraduate School under the direction of the President of the school as senior professors, professors, associate professors, assistant professors, and instructors. The Secretary shall prescribe the compensation of those persons.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437, §7044; Pub. L. 108–375, div. A, title V, §557(a)(4)(A), Oct. 28, 2004, 118 Stat. 1915; renumbered §8544, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7044 | 34 U.S.C. 1076b (less last sentence). | July 31, 1947, ch. 420, §3 (less last sentence), 61 Stat. 706; Aug. 30, 1954, ch. 1076, §1(21), 68 Stat. 968. |

The words "as many * * * as he considers necessary" are substituted for the words "such number * * * as in his opinion may be necessary for the proper instruction of students in the theoretical, academic, and scientific subjects pertaining to the technical and practical aspects of the naval profession" for brevity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8544, act Aug. 10, 1956, ch. 1041, 70A Stat. 527, restricted performance of civil functions by commissioned officers of Regular Air Force, prior to repeal by Pub. L. 90–235, §4(a)(6), Jan. 2, 1968, 81 Stat. 759. See section 973 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7044 of this title as this section.

**2004**—Pub. L. 108–375 substituted "President of the school" for "Superintendent".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8545. Officers of the other armed forces; enlisted members: admission

(a)(1) The Secretary of the Navy may permit officers of the Army, Air Force, Space Force, and Coast Guard to receive instruction at the Naval Postgraduate School. The numbers and grades of such officers shall be as agreed upon by the Secretary of the Navy with the Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security, respectively.

(2)(A) The Secretary may permit an enlisted member of the armed forces to receive instruction at the Naval Postgraduate School through attendance at an executive level seminar.

(B) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction at the Postgraduate School in connection with pursuit of a program of education in a cyber discipline as a participant in the Cyber Scholarship program under chapter 112 of this title. To be eligible for instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.

(C) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member's duties.

(D)(i) The Secretary may permit an eligible enlisted member of the armed forces to receive graduate-level instruction at the Naval Postgraduate School in a program leading to a master's degree in a technical, analytical, or engineering curriculum.

(ii) To be eligible to be provided instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.

(iii) Instruction under this subparagraph may be provided.

(iv) An enlisted member who successfully completes a course of instruction under this subparagraph may be awarded a master's degree under section 8548 of this title.

(v) Instruction under this subparagraph shall be provided pursuant to regulations prescribed by the Secretary. Such regulations may include criteria for eligibility of enlisted members for instruction under this subparagraph and specification of obligations for further service in the armed forces relating to receipt of such instruction.

(E) In addition to instruction authorized under subparagraphs (A), (B), (C), and (D), the Secretary may, on a space-available basis, permit an enlisted member of the armed forces who is assigned permanently to the staff of the Postgraduate School or to a nearby command to receive instruction at the Postgraduate School.

(b)(1) Except as provided under paragraph (3), the Department of the Army, the Department of the Air Force, and the Department of Homeland Security shall bear the cost of the instruction received by members detailed for that instruction by the Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security, respectively.

(2) In the case of an enlisted member permitted under subsection (a)(2)(E) to receive instruction at the Postgraduate School on a space-available basis, the Secretary of the Navy shall charge that member only for such costs and fees as the Secretary considers appropriate.

(3) The requirements for payment of costs and fees under paragraph (1) shall be subject to such exceptions as the Secretary of Defense may prescribe for members of the armed forces who receive instruction at the Postgraduate School in connection with pursuit of a degree or certification as participants in the Cyber Scholarship program under chapter 112 of this title.

(c) While receiving instruction at the Postgraduate School, members of the Army, Air Force, Space Force, and Coast Guard are subject to such regulations, as determined appropriate by the Secretary of the Navy, as apply to students who are members of the naval service.

(d) The Secretary may not award a baccalaureate, masters, or doctorate degree to an enlisted member based upon instruction received at the Postgraduate School under subsection (a)(2)(C).

(Aug. 10, 1956, ch. 1041, 70A Stat. 437, §7045; Pub. L. 96–513, title V, §513(23), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 105–85, div. A, title V, §551(a), (b)(1), Nov. 18, 1997, 111 Stat. 1747; Pub. L. 105–261, div. A, title X, §1069(a)(6), Oct. 17, 1998, 112 Stat. 2136; Pub. L. 107–296, title XVII, §1704(b)(5), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §532, Nov. 24, 2003,

117 Stat. 1472; Pub. L. 109–163, div. A, title V, §526(a), (b), Jan. 6, 2006, 119 Stat. 3245, 3246; Pub. L. 109–364, div. A, title V, §543(a)–(c), Oct. 17, 2006, 120 Stat. 2213; Pub. L. 115–91, div. A, title XVI, §1649(d)(3), Dec. 12, 2017, 131 Stat. 1753; renumbered §8545 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840; Pub. L. 117–263, div. A, title V, §555(a), Dec. 23, 2022, 136 Stat. 2595; Pub. L. 118–31, div. A, title IX, §915, Dec. 22, 2023, 137 Stat. 368.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7045 | 34 U.S.C. 1076e. | July 31, 1947, ch. 420, §6, 61 Stat. 706. |

The section is enlarged to cover officers of the Air Force under authority of §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171e).

In subsection (a) the words "at the request of the Secretary of the Army and the Secretary of the Treasury" are omitted as surplusage. The words "to receive instruction" are inserted after the listing of the services and the words "attendance and" are omitted. The word "grades" is substituted for the word "ranks".

In subsection (c) the words "rules and" are omitted. The words "who are officers of the naval service" are substituted for the words "of the United States Navy", since officers of the Marine Corps are occasionally ordered to attend the Postgraduate School on the same basis as officers of the Navy.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8545, act Aug. 10, 1956, ch. 1041, 70A Stat. 528, provided that cooking for enlisted members of Air Force should be superintended by officers of organizations to which members belonged, prior to repeal by Pub. L. 90–235, §4(b)(1), Jan. 2, 1968, 81 Stat. 760.

### AMENDMENTS

**2023**—Subsec. (a)(1). Pub. L. 118–31, §915(1), substituted "Space Force, and Coast Guard" for "and Coast Guard".

Subsec. (c). Pub. L. 118–31, §915(2), substituted "Space Force, and Coast Guard" for "and Coast Guard".

**2022**—Subsec. (a)(2)(D)(iii). Pub. L. 117–263 struck out "only on a space-available basis" after "provided".

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 7045 of this title as this section.

Subsec. (a)(2)(D)(iv). Pub. L. 115–232, §809(a), substituted "section 8548" for "section 7048".

**2017**—Subsec. (a)(2)(B). Pub. L. 115–91 substituted "a cyber discipline" for "information assurance" and "Cyber Scholarship program" for "Information Security Scholarship program".

Subsec. (b)(3). Pub. L. 115–91, §1649(d)(3)(A), substituted "Cyber Scholarship program" for "Information Security Scholarship program".

**2006**—Subsec. (a)(2)(C). Pub. L. 109–364, §543(a), substituted "armed forces" for "Navy or Marine Corps".

Pub. L. 109–163, §526(a)(1)(B), added subpar. (C). Former subpar.(C) redesignated (D).

Subsec. (a)(2)(D). Pub. L. 109–364, §543(b)(2), added subpar. (D). Former subpar. (D) redesignated (E).

Pub. L. 109–163, §526(a)(1)(A), (C), redesignated subpar. (C) as (D) and substituted "subparagraphs (A), (B), and (C)" for "subparagraphs (A) and (B)".

Subsec. (a)(2)(E). Pub. L. 109–364, §543(b)(1), (c)(1), redesignated subpar. (D) as (E) and substituted "(C), and (D)" for "and (C)".

Subsec. (b)(2). Pub. L. 109–364, §543(c)(2), substituted "(a)(2)(E)" for "(a)(2)(D)".

Pub. L. 109–163, §526(a)(2), substituted "subsection (a)(2)(D)" for "subsection (a)(2)(C)".

Subsec. (d). Pub. L. 109–163, §526(b), added subsec. (d).

**2003**—Subsec. (a)(2). Pub. L. 108–136, §532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary may permit an enlisted member of the armed forces who is assigned to the Naval Postgraduate School or to a nearby command to receive instruction at the Naval Postgraduate School. Admission of enlisted members for instruction under this paragraph shall be on a space-available basis."

Subsec. (b). Pub. L. 108–136, §532(b), designated first sentence as par. (1) and substituted "Except as provided under paragraph (3), the Department" for "The Department" and "members" for "officers", designated second sentence as par. (2) and inserted "under subsection (a)(2)(C)" after "permitted" and "on a

space-available basis" after "instruction at the Postgraduate School" and struck out "(taking into consideration the admission of enlisted members on a space-available basis)" before period at end, and added par. (3).

**2002**—Subsec. (a)(1). Pub. L. 107–296, §1704(b)(5)(A), substituted "Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security" for "Secretaries of the Army, Air Force, and Transportation".

Subsec. (b). Pub. L. 107–296, §1704(b)(5), substituted "Department of Homeland Security" for "Department of Transportation" and "Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security" for "Secretaries of the Army, Air Force, and Transportation".

**1998**—Subsec. (c). Pub. L. 105–261 struck out "the" after "are subject to".

**1997**—Pub. L. 105–85, §551(b)(1), substituted "Officers of the other armed forces; enlisted members:" for "Officers of Army, Air Force, and Coast Guard:" in section catchline.

Subsec. (a). Pub. L. 105–85, §551(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 105–85, §551(a)(2), substituted "officers detailed" for "the students detailed" and inserted at end "In the case of an enlisted member permitted to receive instruction at the Postgraduate School, the Secretary of the Navy shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis)."

Subsec. (c). Pub. L. 105–85, §551(a)(3), substituted "members" for "officers" in two places and "such regulations, as determined appropriate by the Secretary of the Navy," for "same regulations".

**1980**—Subsec. (a). Pub. L. 96–513, §513(23), substituted references to Transportation Department and Secretary for references to Treasury Department and Secretary, respectively.

Subsec. (b). Pub. L. 96–513, §513(23)(A), substituted reference to Transportation Secretary for reference to Treasury Secretary.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### PILOT PROGRAM TO PROVIDE GRADUATE EDUCATION OPPORTUNITIES FOR ENLISTED MEMBERS OF THE ARMY AND NAVY

Pub. L. 118–159, div. A, title V, §559D, Dec. 23, 2024, 138 Stat. 1900, provided that:

"(a) AUTHORITY.—The Secretary of the Navy and the Secretary of the Army may jointly conduct a pilot program (referred to in this section as the 'Program') under which certain enlisted personnel of the covered Armed Forces may enroll in a master's degree program at the Naval Postgraduate School.

"(b) PROGRAM REQUIREMENTS.—The Secretaries concerned may carry out the Program—

"(1) in accordance with this section;

"(2) in accordance with such regulations as may be prescribed by the Secretary of Defense for purposes of the Program; and

"(3) in a manner consistent with the Graduate Education Program–Enlisted pilot program of the Marine Corps.

"(c) ELIGIBILITY OF PARTICIPANTS.—The Secretaries concerned shall establish criteria for determining the eligibility of enlisted members of the covered Armed Forces for participation in the Program.

"(d) SELECTION OF PARTICIPANTS.—Selection of a member for the Program shall be based on consideration of—

"(1) the eligibility criteria established under subsection (c);

"(2) professional performance;

"(3) promotion potential;

"(4) retention potential;

"(5) academic background, capabilities, and accomplishments;

"(6) the needs of the Navy and Army; and

"(7) input from the component within each covered Armed Force with primary responsibility for determining the duty assignments of enlisted members.

"(e) POST-PARTICIPATION SERVICE.—Subject to such terms, conditions, and exceptions as the Secretaries concerned may establish, an enlisted member who receives a master's degree under the Program shall serve for a period of not less than two years in a duty assignment that is relevant to the degree obtained by the member under the Program.

"(f) FRAMEWORK FOR FILLING BILLETS.—In conjunction with selecting enlisted members for participation in the Program as described in subsection (d), the Secretaries concerned shall establish a framework for assigning enlisted personnel who are not participating in the Program—

"(1) to fill the billets of the members participating in the Program while such members are completing a course of study at the Naval Postgraduate School; and

"(2) to fill the billets of members who received a master's degree under the Program while such members are engaged in post-participation service as described in subsection (e).

"(g) IDENTIFICATION OF DEGREE PROGRAMS.—The Secretaries concerned shall coordinate with the President of the Naval Postgraduate School to identify specific master's degree programs offered by the School in which Program participants may enroll. In identifying such programs, the Secretaries shall consider—

"(1) the needs of the Navy and Army;

"(2) the capacity of the Naval Postgraduate School; and

"(3) the extent to which enrollment in a specific program is expected to have a positive effect on the career trajectories of participants.

"(h) INFORMATION DISSEMINATION.—The Secretaries concerned shall take such actions as are necessary to notify and inform enlisted members about the Program.

"(i) REPORT.—Before the expiration of the six-year period described in subsection (j), the Secretaries concerned, in coordination with the Secretary of Defense, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes—

"(1) an assessment of whether and to what extent the Program has met the needs of the covered Armed Forces and had positive effects on participating enlisted members, including with respect to—

"(A) career trajectory, including potential pay increases;

"(B) retention;

"(C) recruitment;

"(D) job performance;

"(E) merit-based promotions and merit-based promotion reorder; and

"(F) compatibility with the objectives outlined in the 2022 National Defense Strategy to modernize the Armed Services, spur innovation, and outpace and outthink adversaries of the United States;

"(2) the recommendations of the Secretaries regarding whether the Program should be extended or made permanent;

"(3) an assessment of the funding and capabilities that may be needed to make the Program permanent; and

"(4) any other matters the Secretaries determine to be relevant.

"(j) SUNSET.—The Program shall terminate six years after the date on which the Program commences under this section.

"(k) DEFINITIONS.—In this section:

"(1) The term 'covered Armed Force' means the Army or Navy.

"(2) The term 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to matters concerning the Army; and

"(B) the Secretary of the Navy, with respect to matters concerning the Navy."

## §8546. Officers of foreign countries: admission

(a) The Secretary of the Navy, upon authorization of the President, may permit commissioned officers of the military services of foreign countries to receive instruction at the Naval Postgraduate School.

(b) Officers receiving instruction under this section are subject to the same regulations governing

attendance, discipline, discharge, and standards of study as apply to students who are officers of the United States naval service.

(c) No officer of a foreign country is entitled to an appointment in the Navy or the Marine Corps by reason of his completion of the prescribed course of study at the Postgraduate School.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438, §7046; renumbered §8546, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7046 | 34 U.S.C. 1076d. | July 31, 1947, ch. 420, §5, 61 Stat. 706. |

In subsection (b) the words "rules and" are omitted. The words "United States naval service" are substituted for the words "United States Navy" for uniformity.

In subsection (c) the words "to any office or position" are omitted as surplusage. The words "or Marine Corps" are inserted, as the word "Navy" in this context has been interpreted to include officers of the Marine Corps.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8546, act Aug. 10, 1956, ch. 1041, 70A Stat. 528, required medical officers and contract surgeons to attend families of members of Air Force, prior to repeal by Pub. L. 85–861, §36B(26), Sept. 2, 1958, 72 Stat. 1571.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7046 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8547. Students at institutions of higher education: admission

(a) ADMISSION PURSUANT TO RECIPROCAL AGREEMENT.—The Secretary of the Navy may enter into an agreement with an accredited institution of higher education to permit a student described in subsection (b) enrolled at that institution to receive instruction at the Naval Postgraduate School on a tuition-free basis. In exchange for the admission of the student, the institution of higher education shall be required to permit an officer of the armed forces to attend on a tuition-free basis courses offered by that institution corresponding in length to the instruction provided to the student at the Naval Postgraduate School.

(b) ELIGIBLE STUDENTS.—A student enrolled at an institution of higher education that is party to an agreement under subsection (a) may be admitted to the Naval Postgraduate School pursuant to that agreement if—

(1) the student is a citizen of the United States or lawfully admitted for permanent residence in the United States; and

(2) the Secretary of the Navy determines that the student has a demonstrated ability in a field of study designated by the Secretary as related to naval warfare and national security.

(Added Pub. L. 102–484, div. A, title X, §1073(a)(2), Oct. 23, 1992, 106 Stat. 2510, §7047; renumbered §8547, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8547 was renumbered section 9217 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7047 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8548. Degree granting authority for United States Naval Postgraduate School

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Naval Postgraduate School may, upon the recommendation of the faculty of the Naval Postgraduate School, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the Naval Postgraduate School is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval Postgraduate School to award any new or existing degree.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438, §7047; renumbered §7048, Pub. L. 102–484, div. A, title X, §1073(a)(1), Oct. 23, 1992, 106 Stat. 2510; amended Pub. L. 108–375, div. A, title V, §557(a)(4)(B), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 110–417, [div. A], title V, §543(e)(1), Oct. 14, 2008, 122 Stat. 4460; renumbered §8548, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 7047 | 34 U.S.C. 1076f. | Dec. 7, 1945, ch. 559, 59 Stat. 603; July 31, 1947, ch. 420, §7, 61 Stat. 706. |

In subsection (a) the words "of science" are omitted as surplusage since the curriculum is in engineering and related fields.

In subsection (b) the words "from time to time" are omitted as surplusage.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8548 was renumbered section 9218 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7048 of this title as this section.

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, text read as follows:

"(a) The President of the Naval Postgraduate School, under regulations prescribed by the Secretary of the Navy, may confer on any qualified graduate a bachelor's, master's, or doctor's degree in engineering or a related field.

"(b) A degree may not be conferred under this section unless the curriculum leading to that degree is accredited by the appropriate professional authority."

**2004**—Subsec. (a). Pub. L. 108–375 substituted "President" for "Superintendent".

**1992**—Pub. L. 102–484 renumbered section 7047 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

## §8549. Defense industry civilians: admission to defense product development program

(a) AUTHORITY FOR ADMISSION.—The Secretary of the Navy may permit eligible defense industry employees to receive instruction at the Naval Postgraduate School in accordance with this section. Any such defense industry employee may only be enrolled in, and may only be provided instruction in, a program leading to a master's degree or professional continuing education certificate in a curriculum related to defense product development and systems engineering. No more than 125 such defense industry employees may be enrolled at any one time. Upon successful completion of the course of instruction in which enrolled, any such defense industry employee may be awarded an appropriate degree under section 8548 of this title or an appropriate professional continuing education certificate, as applicable.

(b) ELIGIBLE DEFENSE INDUSTRY EMPLOYEES.—For purposes of this section, an eligible defense industry employee is an individual employed by a private firm that is engaged in providing to the Department of Defense significant and substantial defense-related systems, products, or services. A defense industry employee admitted for instruction at the school remains eligible for such instruction only so long as that person remains employed by the same firm.

(c) ANNUAL DETERMINATION BY THE SECRETARY OF THE NAVY.—Defense industry employees may receive instruction at the school during any academic year only if, before the start of

that academic year, the Secretary of the Navy determines that providing instruction to defense industry employees under this section during that year—

(1) will further the military mission of the school;

(2) will enhance the ability of the Department of Defense and defense-oriented private sector contractors engaged in the design and development of defense systems to reduce the product and project lead times required to bring such systems to initial operational capability; and

(3) will be done on a space-available basis and not require an increase in the size of the faculty of the school, an increase in the course offerings of the school, or an increase in the laboratory facilities or other infrastructure of the school.

(d) PROGRAM REQUIREMENTS.—The Secretary of the Navy shall ensure that—

(1) the curriculum for the defense product development program in which defense industry employees may be enrolled under this section is not readily available through other schools and concentrates on defense product development functions that are conducted by military organizations and defense contractors working in close cooperation; and

(2) the course offerings at the school continue to be determined solely by the needs of the Department of Defense.

(e) TUITION.—The President of the school shall charge tuition for students enrolled under this section at a rate not less than the rate charged for employees of the United States outside the Department of the Navy.

(f) STANDARDS OF CONDUCT.—While receiving instruction at the school, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the school.

(g) USE OF FUNDS.—Amounts received by the school for instruction of students enrolled under this section shall be retained by the school to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the school.

(Added Pub. L. 106–398, §1 [[div. A], title V, §535(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–112, §7049; amended Pub. L. 108–136, div. A, title X, §1031(a)(57), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 108–375, div. A, title V, §557(a)(4)(B), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109–163, div. A, title V, §525, Jan. 6, 2006, 119 Stat. 3245; Pub. L. 110–417, [div. A], title V, §542, Oct. 14, 2008, 122 Stat. 4456; Pub. L. 112–239, div. A, title V, §589(a), Jan. 2, 2013, 126 Stat. 1769; renumbered §8549 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 7049 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8548" for "section 7048".

**2013**—Subsec. (a). Pub. L. 112–239 inserted "or professional continuing education certificate" after "master's degree" and "or an appropriate professional continuing education certificate, as applicable" before period at end.

**2008**—Subsec. (a). Pub. L. 110–417 substituted "125" for "25".

**2006**—Subsec. (a). Pub. L. 109–163 inserted "and systems engineering" after "curriculum related to defense product development" and substituted "25" for "10".

**2004**—Subsec. (e). Pub. L. 108–375 substituted "President" for "Superintendent".

**2003**—Subsec. (c). Pub. L. 108–136 substituted "Determination" for "Certification" in heading and struck out ", and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives," after "determines" in introductory provisions.

### PRIOR PROVISIONS

A prior section 8549, act Aug. 10, 1956, ch. 1041, 70A Stat. 528, prohibited assignment of female

members, except those designated under section 8067, to duty in aircraft engaged in combat missions, prior to repeal by Pub. L. 102–190, div. A, title V, §531(a)(1), Dec. 5, 1991, 105 Stat. 1365.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### REQUEST FOR INCREASE IN NUMBER OF DEFENSE INDUSTRY CIVILIANS AUTHORIZED FOR ADMISSION

Pub. L. 112–239, div. A, title V, §589(c), Jan. 2, 2013, 126 Stat. 1769, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(10), Aug. 13, 2018, 132 Stat. 1841, provided that: "If the Secretary of Defense determines that it is in the best interest of the Department of Defense to increase the maximum number of defense industry employees authorized to be enrolled in the Naval Defense Development Program or the Air Force Institute of Technology at any one time, as specified in sections 8549(a) and 9414a(a) of title 10, United States Code, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a request for such an increase, including draft legislation to effectuate the increase."

### PROGRAM EVALUATION AND REPORT

Pub. L. 106–398, §1 [[div. A], title V, §535(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–113, provided that:

"(1) Before the start of the fourth year of instruction, but no earlier than the start of the third year of instruction, of defense industry employees at the Naval Postgraduate School under section 7049 [now 8549] of title 10, United States Code, as added by subsection (a), the Secretary of the Navy shall conduct an evaluation of the admission of such students under that section. The evaluation shall include the following:

"(A) An assessment of whether the authority for instruction of nongovernment civilians at the school has resulted in a discernible benefit for the Government.

"(B) Determination of whether the receipt and disposition of funds received by the school as tuition for instruction of such civilians at the school have been properly identified in records of the school.

"(C) A summary of the disposition and uses made of those funds.

"(D) An assessment of whether instruction of such civilians at the school is in the best interests of the Government.

"(2) Not later than 30 days after completing the evaluation referred to in paragraph (1), the Secretary of the Navy shall submit to the Secretary of Defense a report on the program under such section. The report shall include—

"(A) the results of the evaluation under paragraph (1);

"(B) the Secretary's conclusions and recommendation with respect to continuing to allow nongovernment civilians to receive instruction at the Naval Postgraduate School as part of a program related to defense product development; and

"(C) any proposals for legislative changes recommended by the Secretary.

"(3) Not later than 60 days after receiving the report of the Secretary of the Navy under paragraph (2), the Secretary of Defense shall submit the report, together with any comments that the Secretary considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives."

## §8550. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Naval Postgraduate School to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the School for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval Postgraduate School shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval Postgraduate School may be used to pay expenses incurred by the School in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(c)(1), Jan. 6, 2006, 119 Stat. 3241, §7050; renumbered §8550, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8571, acts Aug. 10, 1956, ch. 1041, 70A Stat. 528; Sept. 2, 1958, Pub. L. 85–861, §§1(183), 33(a)(41), 72 Stat. 1533, 1566; June 30, 1960, Pub. L. 86–559, §1(64), 74 Stat. 278, provided that commissioned officers of Air Force on active duty in same grade rank themselves according to date of rank and specified procedures for determining date of rank, prior to repeal by Pub. L. 96–513, title II, §211, Dec. 12, 1980, 94 Stat. 2885, effective Sept. 15, 1981. See section 741 of this title.

A prior section 8572 was renumbered section 9222 of this title.

Prior sections 8573 and 8574 were repealed by Pub. L. 96–513, title II, §211, Dec. 12, 1980, 94 Stat. 2885.

Section 8573, act Aug. 10, 1956, ch. 1041, 70A Stat. 529, specified date of rank of an officer whose regular grade is brigadier general and date of rank of an officer whose regular grade is major general and provided that names of general officers of Regular Air Force be carried on a seniority list in order of seniority in both regular grade and date of rank. See section 741 of this title.

Section 8574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 530; Sept. 2, 1958, Pub. L. 85–861, §§1(184), 33(a)(24), 72 Stat. 1533, 1565, provided for determination of rank of commissioned officers of same grade in Regular Air Force who are on same promotion list, rank of commissioned officers of same grade in Regular Air Force who are not on same promotion list or not on a promotion list, and rank among graduates of each class at United States Military, Naval, or Air Force Academies who, upon graduation, are appointed to Regular Air Force. See section 741 of this title.

A prior section 8575 was renumbered section 9225 of this title.

A prior section 8576, act Aug. 10, 1956, ch. 1041, 70A Stat. 530, provided for command when different commands of Air Force and Marine Corps joined or served together, prior to repeal by Pub. L. 90–235, §5(a)(2), Jan. 2, 1968, 81 Stat. 761. See section 747 of this title.

A prior section 8577, act Aug. 10, 1956, ch. 1041, 70A Stat. 530, provided for the command of flying units by commissioned officers of Air Force who had received aeronautical ratings as pilots of service types of aircraft, prior to repeal by Pub. L. 93–525, Dec. 18, 1974, 88 Stat. 1695.

A prior section 8578, act Aug. 10, 1956, ch. 1041, 70A Stat. 530, provided for command when two or more commissioned officers of Air Force in same grade were on duty at same place, prior to repeal by Pub. L. 90–235, §5(a)(2), Jan. 2, 1968, 81 Stat. 761. See section 749 of this title.

A prior section 8579 was renumbered section 9229 of this title.

A prior section 8580, Aug. 10, 1956, ch. 1041, 70A Stat. 531, provided that Secretary of Air Force should prescribe military authority that female members of Air Force, except those designated under former section 8067 of this title to perform professional functions, might exercise, prior to repeal by Pub. L. 90–130, §1(30), Nov. 8, 1967, 81 Stat. 382.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7050 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8551. Development and operation of the Naval Innovation Center at the Naval Postgraduate School

(a) AUTHORITY TO SUPPORT THE NAVAL INNOVATION CENTER.—(1) The Secretary of the Navy may enter into a contract or other agreement with one or more eligible nonprofit organizations for the design, construction, and maintenance of a multipurpose facility—

(A) to be known as the "Naval Innovation Center" (in this section referred to as the "NIC"); and

(B) to be located at the United States Naval Postgraduate School.

(2) The NIC shall be used—

(A) to convene interested persons to develop and accelerate the adoption of new and innovative technologies and practices for the benefit of the Department of Defense; and

(B) to support such education, training, research, and associated activities, as determined by the Secretary, in support of the Naval Postgraduate School and the Department of Defense.

(b) FUNDS.—Under the contract or other agreement described in subsection (a), the Secretary may—

(1) accept funds from a partner organization for any phase of development of the NIC; and

(2) accept funds, personal property, or services from a covered entity that is not a partner organization for maintenance of the NIC.

(c) AUTHORITY TO ACCEPT GIFTS.—(1) The Secretary of the Navy may accept, hold, administer, and spend any gift, device, or bequest of real property, personal property, services, or money on the condition that the gift, device, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance of the NIC. Section 2601 of this title (other than subsections (b), (c), and (e) of such section) shall apply to gifts accepted under this subsection.

(2) The Secretary may display at the NIC recognition for an individual or entity that contributes money to a partner organization or for a corporate partner that contributes money directly to the Navy for the benefit of the NIC, whether or not the contribution is subject to the condition that the recognition be provided. The Secretary shall prescribe regulations governing the circumstances under which contributor recognition may be provided, appropriate forms of recognition, and suitable display standards.

(3) The Secretary may authorize the sale of donated property received under paragraph (1). A sale under this paragraph need not be conducted in accordance with disposal requirements that would otherwise apply, so long as the sale is conducted at arms-length and includes an auditable transaction record.

(4) Any money received under paragraph (1) and any proceeds from the sale of property under paragraph (3) shall be deposited into a fund established in the Treasury to support the NIC.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with a contract or other agreement described in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) DEFINITIONS.—In this section:

(1) The term "covered entity" means—

(A) an entity incorporated or operating under the laws of any State; or

(B) a nonprofit organization.

(2) The term "eligible nonprofit organization" means an organization that—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code; and

(B) has as its primary purpose the support and operation of the Naval Postgraduate School.

(3) The term "partner organization" means an eligible nonprofit organization with which the Secretary of the Navy enters into a contract or other agreement under subsection (a).

(Added Pub. L. 118–159, div. B, title XXVIII, §2872, Dec. 23, 2024, 138 Stat. 2281.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (e)(2)(A), is classified to section 501 of Title 26, Internal Revenue Code.

# CHAPTER 857—RETIREMENT OF CIVILIAN MEMBERS OF THE TEACHING STAFFS OF THE UNITED STATES NAVAL ACADEMY AND UNITED STATES NAVAL POSTGRADUATE SCHOOL

Sec.
8581. Civilian member: definition; exceptions.
8582. Deferred annuity policy required.
8583. Annuity premium to be paid by monthly installments; government reimbursement.
8584. Age of retirement.
8585. Computation of life annuity.
8586. Physical disability retirement.
8587. Election of annuity for self and beneficiary.
8588. Regulations.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 857, consisting of sections 8741 to 8756, related to decorations and awards in the Air Force, prior to renumbering as chapter 937 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 607 of this title as this chapter and items 7081 to 7088 as 8581 to 8588, respectively.

**2006**—Pub. L. 109–364, div. A, title X, §1071(a)(35), Oct. 17, 2006, 120 Stat. 2400, substituted "Civilian member:" for "Civilian member;" in item 7081.

## §8581. Civilian member: definition; exceptions

(a) In this chapter, the term "civilian member" means a civilian member of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School. It includes the Provost and Chief Academic Officer, senior professors, professors, associate professors, assistant professors, chief instructors, assistant chief instructors, and instructors.

(b) This chapter does not apply to any civilian member who was employed at the Naval Academy or the Postgraduate School on January 16, 1936, and who did not elect to participate in the benefits provided by the Act of January 16, 1936, ch. 3 (49 Stat. 1092).

(c) This chapter does not apply to any person who was a civilian member after September 30, 1956.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438, §7081; Pub. L. 85–861, §1(149), Sept. 2, 1958, 72 Stat.

1513; Pub. L. 101–189, div. A, title XVI, §1622(e)(8), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 108–375, div. A, title V, §557(b)(4), Oct. 28, 2004, 118 Stat. 1916; renumbered §8581, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 118–159, div. A, title XVII, §1701(a)(45), Dec. 23, 2024, 138 Stat. 2206.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7081(a) | 34 U.S.C. 1073d. | Jan. 16, 1936, ch. 3, §5, 49 Stat. 1093; Nov. 28, 1943, ch. 331, §2, 57 Stat. 595. |
| | 34 U.S.C. 1074 (less 1st 98 words). | June 10, 1946, ch. 298 (less 1st 98 words), 60 Stat. 236. |
| | 34 U.S.C. 1076b (last sentence). | July 31, 1947, ch. 420, §3 (last sentence), 61 Stat. 760; Aug. 30, 1954, ch. 1076, §1(21), 68 Stat. 968. |
| 7081(b) | 34 U.S.C. 1073c. | Jan. 16, 1936, ch. 3, §4, 49 Stat. 1092. |
| | 34 U.S.C. 1073c–1 (2d proviso). | Jan. 16, 1936, ch. 3, §4A (2d proviso); added Nov. 28, 1943, ch. 331, §1, 57 Stat. 594. |

Section 4 of the Act of January 16, 1936, ch. 3, 49 Stat. 1092, provided that persons who were then members of the teaching staff should have the right to participate in benefits under the Act if they requested such participation within 60 days. Members who were then under the civil-service retirement system were required to choose whether they would remain under it or would participate in the system established by the 1936 Act. They could not come under both. The section also authorized the Secretary of the Navy to supplement the retired income of members who elected to come under the 1936 Act and whose age in 1936 was such that they could not purchase adequate annuities before retiring. The provisions whereby members could elect to participate were temporary and are executed. The provisions relating to retired income are superseded by §4A, added by the Act of November 28, 1943, ch. 331, 57 Stat. 594. The only remaining effect of §4 and the second proviso of §4A is to exclude from the benefits and requirements of the 1936 Act persons who were members of the teaching staff in 1936 and did not elect to participate.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7081(c) | [No source]. | [No source]. |

Subsection (c) is added to reflect the effect on chapter 607 of this title of the Act of July 31, 1956, ch. 804, §402(a) (70 Stat. 760) which brought the civilian faculties of the Naval Academy and Naval Postgraduate School under the Civil Service Retirement Act effective October 1, 1956, and provided that on and after that date the Act of January 16, 1936, ch. 3 (49 Stat. 1092) would no longer apply to civilians employed at those schools on or after that date.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Act of January 16, 1936, ch. 3 (49 Stat. 1092), referred to in subsec. (b), was classified to sections 1073 to 1073f of former Title 34, Navy, and was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. See section 7081 et seq. of this title.

### PRIOR PROVISIONS

A prior section 8581 was renumbered section 9231 of this title.

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159 substituted "Provost and Chief Academic Officer" for "Provost and

Academic Dean of the Postgraduate School".

**2018**—Pub. L. 115–232 renumbered section 7081 of this title as this section.

**2004**—Subsec. (a). Pub. L. 108–375 substituted "Provost and Academic Dean" for "Academic Dean".

**1989**—Subsec. (a). Pub. L. 101–189 inserted ", the term" after "In this chapter".

**1958**—Subsec. (c). Pub. L. 85–861 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8582. Deferred annuity policy required

Each civilian member, as a part of his contract of employment, shall carry, during his employment, a deferred annuity policy, having no cash surrender or loan provision, in a joint-stock life insurance corporation that is incorporated under the laws of a State and has a charter restriction that its business must be conducted without profit to its stockholders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439, §7082; renumbered §8582, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7082 | 34 U.S.C. 1073. | Jan. 16, 1936, ch. 3, §1, 49 Stat. 1092. |

The words "whose employment commences from and after the date of approval of this act" are omitted as surplusage. Under §4 of the Act, members already employed when the Act was approved were given 60 days in which to decide whether or not they wished to participate in the benefits provided by the Act. Those who chose not to participate are excluded from the application of this chapter by §7081 of this title.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8582, act Aug. 10, 1956, ch. 1041, 70A Stat. 531, provided that a retired officer has no right to command except when on active duty, prior to repeal by Pub. L. 96–513, title II, §211, Dec. 12, 1980, 94 Stat. 2885, effective Sept. 15, 1981. See section 750 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7082 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8583. Annuity premium to be paid by monthly installments; government reimbursement

Each civilian member shall make a monthly allotment in an amount equal to 10 percent of his monthly basic salary toward the purchase of his deferred annuity policy. For each month the

allotment is in force, the pay account of the civilian member shall be credited monthly from appropriations made for this purpose with an additional amount equal to 5 percent of his monthly basic salary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439, §7083; Pub. L. 89–718, §39, Nov. 2, 1966, 80 Stat. 1120; renumbered §8583, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7083 | 34 U.S.C. 1073a. | Jan. 16, 1936, ch. 3, §2, 49 Stat. 1092. |

The words "Chief, Field Branch, Bureau of Supplies and Accounts" are substituted for the words "Navy Allotment Office, Navy Department, Washington, District of Columbia", to designate the agency through which allotments are now made.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8583 was renumbered section 9233 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7083 of this title as this section.

**1966**—Pub. L. 89–718 removed requirement that the 10 percent monthly allotment be made through the Chief, Field Branch, Bureau of Supplies and Accounts.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8584. Age of retirement

A civilian member may be retired at any time after his sixty-fifth birthday, and shall be retired by June 30 following that birthday. However, in any special case the Secretary of the Navy may defer the retirement of a member until a date not later than the member's seventieth birthday.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439, §7084; renumbered §8584, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7084 | 34 U.S.C. 1073b. | Jan. 16, 1936, ch. 3, §3, 49 Stat. 1092. |

The words "individual and" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7084 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8585. Computation of life annuity

Each civilian member who retires under section 8584 of this title is entitled to a life annuity computed by multiplying his average annual compensation during any five consecutive years of allowable service, at his option, by his number of years of service, not exceeding 35, and dividing the product by 70. The retirement annuity payable to a retired civilian member under a policy required by section 8582 of this title is counted as part of the retirement annuity provided in this section. Any difference between the amount received by the retired civilian member under his annuity policy and the total annual amount to which he is entitled under this section shall be paid to him by the Secretary of the Navy from appropriations made for this purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439, §7085; renumbered §8585 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7085 | 34 U.S.C. 1073c–1 (less 2d proviso). | Jan. 16, 1936, ch. 3, §4A (less 2d proviso); added Nov. 28, 1943, ch. 331, §1, 57 Stat. 594. |

The words "terminable on his death at the rate of the following total annual amount" are omitted as surplusage, since they are covered by the words "life annuity".

The words "basic salary, pay, or" are omitted as surplusage, since they are covered by the word "compensation". The first proviso is omitted as unnecessary, since all existing rights and benefits of persons affected by this title are protected by a general saving provision.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §809(a), substituted "section 8584" for "section 7084" and "section 8582" for "section 7082".

Pub. L. 115–232, §807(c)(1), renumbered section 7085 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**INCREASE IN ANNUITIES OF CIVILIAN MEMBERS WHO RETIRED BEFORE APRIL 1, 1948**

Pub. L. 85–861, §30, Sept. 2, 1958, 72 Stat. 1563, provided that:

"(a) A retired civilian member of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School who retired before April 1, 1948, is entitled to be paid, out of applicable current appropriations, $300 a year in addition to the annuity to which he is entitled under section 7085 [now 8585] of title 10.

"(b) A retired civilian member whose annuity, when increased by $300 under subsection (a), is less than $1,860 is entitled to be paid an additional $300 a year out of applicable current appropriations.

"(c) Additions to the annuities of retired civilian members under subsection (b) do not increase the annuities payable to the survivors of those members."

**INCREASE OF ANNUITIES—1957**

Pub. L. 85–40, May 31, 1957, 71 Stat. 42, provided: "That the annuities, payable under chapter 607 [now 857] of title 10, United States Code, to civilian members of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School are increased as follows: That portion of an annuity which is not in excess of $1,500 is increased by 12 per centum, and that portion of an annuity which is in excess of $1,500 is increased by 8 per centum. These increases shall not exceed the sum necessary to increase the annuity to $4,104, and are in addition to the increases authorized by Public Law 371, Eighty-fourth Congress. The monthly installments of each annuity shall be fixed at the nearest dollar.

"SEC. 2. The increases provided by section 1, when added to the annuities of retired civilian members of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School, do not increase the annuities of their survivors. The annuity of any such survivor, however, who is entitled to or becomes entitled to an annuity under chapter 607 [now 857] of title 10, United States Code, shall be increased in accordance with the following schedule:

| *"If annuity commences between—* | *Portion of annuity not in excess of $1,500 shall be increased by—* | *Portion of annuity in excess of $1,500 shall be increased by—* |
|---|---|---|
| | *per centum* | *per centum* |
| Jan. 16, 1936, and June 30, 1955 | 12 | 8 |
| July 1, 1955, and Dec. 31, 1955 | 10 | 7 |
| Jan. 1, 1956, and June 30, 1956 | 8 | 6 |
| July 1, 1956, and Dec. 31, 1956 | 6 | 4 |
| Jan. 1, 1957, and June 30, 1957 | 4 | 2 |
| July 1, 1957, and Dec. 31, 1957 | 2 | 1 |

"SEC. 3. Any provision of law, enacted after the effective date of this Act [May 31, 1957], which increases the annuities of retired employees and their survivors who are entitled to annuities under the Civil Service Retirement Act of May 29, 1930, as amended (5 U.S.C. 691 et seq.) [now covered by section 8331 et seq. 30 of Title 5], shall be applicable in like manner and to the same extent to civilian members of the teaching staff of the United States Naval Academy and of the United States Naval Postgraduate School and their survivors who are entitled to annuities under chapter 607 [now 857] of title 10, United States Code."

## §8586. Physical disability retirement

(a) Each civilian member who has served not less than five years, and who, before reaching the age of 65, becomes totally disabled for useful and efficient service in his position, by reason of disease or injury not due to his own vicious habits, intemperance, or willful misconduct shall, upon his application or upon the request of the Secretary of the Navy, be retired with a life annuity computed under section 8585 of this title.

(b) The amount that the Secretary shall pay annually under this section is the difference between the total amount to which the retired member is entitled under subsection (a) and the immediate life annuity to which he is entitled at the time of his disability retirement under the annuity policy required by section 8582 of this title.

(c) Each civilian member retired under this section, unless the disability for which he was retired is permanent in character, shall be examined by a board of medical officers designated by the

Superintendent of the Naval Academy or of the Postgraduate School, as appropriate, one year after his retirement and annually thereafter, until he becomes 65 years of age.

(d) Payments by the Secretary under this section shall be terminated if the retired civilian member is found to be sufficiently recovered for useful and efficient service in his former position and is offered reemployment in that position by the Superintendent.

(e) If a civilian member retired under this section is later reemployed by the United States, the payments by the Secretary shall be terminated.

(f) Each civilian member retired under this section who is reemployed as a civilian member of the teaching staff of the Naval Academy or the Naval Postgraduate School shall, upon his later retirement, be paid annually by the Secretary the difference between the total annual amount computed under section 8585 of this title and the immediate life annuity which the total premiums paid on his annuity contracts would buy.

(g) No person may receive payments from the Secretary of the Navy under this chapter and, for the same period of time, compensation under chapter 81 of title 5.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439, §7086; Pub. L. 89–718, §40, Nov. 2, 1966, 80 Stat. 1120; renumbered §8586 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7086 | 34 U.S.C. 1073c–2. | Jan. 16, 1936, ch. 3, §4B; added Aug. 2, 1946, ch. 740, 60 Stat. 804. |

In subsection (a) the words "reaching the age of 65" are substituted for the words "becoming eligible for retirement under the conditions defined in the preceding sections hereof", since a civilian member's 65th birthday is the date on which he becomes eligible for retirement under this chapter.

In subsection (c) the words "or the Postgraduate School, as appropriate" are inserted because the Postgraduate School and the Naval Academy are now two separate institutions.

In subsection (f) the words "or the Naval Postgraduate School" are inserted for the same reason.

In subsection (g) the words "Federal Employees Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.)," are substituted for the words "Act of Sept. 7, 1916, entitled 'An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes' ". Authority for referring to this Act as the Federal Employees Compensation Act is contained in the Federal Employees Compensation Act Amendments of 1949, 63 Stat. 854. The words "but this provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period" are omitted as unnecessary.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 7086 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8585" for "section 7085".

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 8582" for "section 7082".

Subsec. (f). Pub. L. 115–232, §809(a), substituted "section 8585" for "section 7085".

**1966**—Subsec. (g). Pub. L. 89–718 substituted "chapter 81 of title 5" for "sections 751–756, 757–791, and 793 of title 5".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

References to Superintendent of the Naval Postgraduate School deemed to refer to President of the Naval Postgraduate School, see section 557(a)(1), (2) of Pub. L. 108–375, set out as a note under section 8542 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8587. Election of annuity for self and beneficiary

(a) At the time of his retirement, a civilian member retiring under this chapter may elect to receive instead of the amount payable annually by the Secretary of the Navy under section 8585 or 8586 of this title a reduced annuity for his life and an annuity payable after his death to his beneficiary in either—

(1) an amount equal to his reduced annuity; or

(2) an amount equal to 50 percent of his reduced annuity.

The annuities payable to principal and beneficiary, under either election, shall be in amounts that have, on the date of the retirement of the civilian member, a combined actuarial value equal to the actuarial value of the annuity payable by the Secretary under section 8585 or 8586 of this title, as determined under actuarial tables prepared by the Director of the Office of Personnel Management.

(b) If the civilian member elects to take a reduced annuity under this section, he shall, at the time of his retirement, designate the beneficiary in writing and file the designation with the Secretary.

(c) The annuity payable under this section to the beneficiary of a deceased civilian member shall be terminated upon the death of the beneficiary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 440, §7087; Pub. L. 97–295, §1(45), Oct. 12, 1982, 96 Stat. 1298; renumbered §8587 and amended Pub. L. 115–232, div. A, title VIII, §§807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7087 | 34 U.S.C. 1073c–3. | Jan. 16, 1936, ch. 3, §4C; added Aug. 2, 1946, ch. 740, 60 Stat. 805. |

In subsection (a) the words "under actuarial tables prepared by the Civil Service Commission" are substituted for the words "under the provisions of the Civil Service Retirement Act" because that Act, as amended in 1948, no longer provides for the computation of actuarial values. The Secretary of the Navy, in administering the provisions of law codified in this section, uses tables prepared by the Civil Service Commission prior to the 1948 amendment.

**1982 ACT**

This amends 10:7087(a) to reflect the transfer of functions from the Civil Service Commission to the Director of the Office of Personnel Management under section 102 of Reorganization Plan No. 2 of 1978 (eff. Jan. 1, 1979, 92 Stat. 3783).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(c)(1), renumbered section 7087 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8585 or 8586" for "section 7085 or 7086" in introductory provisions and concluding provisions.

**1982**—Subsec. (a). Pub. L. 97–295 substituted "Director of the Office of Personnel Management" for "Civil Service Commission".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8588. Regulations

The Secretary of the Navy shall prescribe regulations for the administration of this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 441, §7088; renumbered §8588, Pub. L. 115–232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7088 | 34 U.S.C. 1073e. | Jan. 16, 1936, ch. 3, §6, 49 Stat. 1093. |

The appropriations authorization in the second sentence of the source is omitted as unnecessary.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7088 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 859—PROFESSIONAL MILITARY EDUCATION SCHOOLS

Sec.
8591. Degree granting authority for Naval War College.
8592. Degree granting authority for Marine Corps University.
8593. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.
8594. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes.
8595. United States Naval Community College: establishment and degree granting authority.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title V, §557(b), Dec. 27, 2021, 135 Stat. 1741, added item 8595.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(3), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 609 of this title as this chapter and items 7101 to 7104 as 8591 to 8594, respectively.

**2008**—Pub. L. 110–417, [div. A], title V, §543(f)(2), (g)(2), Oct. 14, 2008, 122 Stat. 4462, 4463, added items 7101 and 7102 and struck out former items 7101 "Naval War College: master of arts in national security and strategic studies" and 7102 "Marine Corps University: masters degrees; board of advisors".

**2006**—Pub. L. 109–163, div. A, title V, §522(d)(2), Jan. 6, 2006, 119 Stat. 3243, added items 7103 and 7104.

**2001**—Pub. L. 107–107, div. A, title V, §532(b)(3)(B), Dec. 28, 2001, 115 Stat. 1105, substituted "masters degrees; board of advisors" for "master of military studies" in item 7102.

**1994**—Pub. L. 103–337, div. A, title IX, §911(a)(2), Oct. 5, 1994, 108 Stat. 2828, added item 7102.

## §8591. Degree granting authority for Naval War College

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Naval War College may, upon the recommendation of the faculty of the Naval War College components, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the Naval War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval War College to award any new or existing degree.

(Added Pub. L. 101–510, div. A, title IX, §912(a), Nov. 5, 1990, 104 Stat. 1626, §7101; amended Pub. L. 110–417, [div. A], title V, §543(f)(1), Oct. 14, 2008, 122 Stat. 4461; renumbered §8591, Pub. L. 115–232, div. A, title VIII, §807(c)(2), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7101 of this title as this section.

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, text read as follows:

"(a) AUTHORITY.—Upon the recommendation of the faculty of the Naval War College, the President of the college may confer the degree of master of arts in national security and strategic studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.

"(c) NAVAL WAR COLLEGE DEFINED.—In this section, the term 'Naval War College' means the College of Naval Warfare and the College of Naval Command and Staff."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

## §8592. Degree granting authority for Marine Corps University

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Navy, the President of the Marine Corps University may, upon the recommendation of the directors and faculty of the Marine Corps University, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the Marine Corps University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Marine Corps University to award any new or existing degree.

(d) BOARD OF ADVISORS.—The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.

(Added Pub. L. 103–337, div. A, title IX, §911(a)(1), Oct. 5, 1994, 108 Stat. 2828, §7102; amended Pub. L. 107–107, div. A, title V, §532(a)–(b)(3)(A), (c)(1), Dec. 28, 2001, 115 Stat. 1104, 1105; Pub. L. 108–136, div. A, title V, §531(a), Nov. 24, 2003, 117 Stat. 1472; Pub. L. 108–375, div. A, title X, §1084(d)(31), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 110–417, [div. A], title V, §543(g)(1), Oct. 14, 2008, 122 Stat. 4462; renumbered §8592, Pub. L. 115–232, div. A, title VIII, §807(c)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7102 of this title as this section.

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, section related to conferral of master of military studies, master of strategic studies, and master of operational studies degrees by Marine Corps University and establishment of a board of advisors.

**2004**—Subsec. (a). Pub. L. 108–375, §1084(d)(31)(A), substituted "MASTER OF MILITARY STUDIES" for "AUTHORITY" in heading.

Subsec. (b). Pub. L. 108–375, §1084(d)(31)(B), substituted "MASTER OF STRATEGIC STUDIES" for " MARINE CORPS WAR COLLEGE" in heading.

Subsec. (c). Pub. L. 108–375, §1084(d)(31)(C), substituted "MASTER OF OPERATIONAL STUDIES" for "COMMAND AND STAFF COLLEGE OF THE MARINE CORPS UNIVERSITY" in heading.

Subsec. (d). Pub. L. 108–375, §1084(d)(31)(D), substituted "subsections (a), (b), and (c)" for "subsections (a) and (b)".

**2003**—Subsecs. (c) to (e). Pub. L. 108–136 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

**2001**—Pub. L. 107–107, §532(b)(3)(A), substituted "masters degrees; board of advisors" for "master of military studies" in section catchline.

Subsec. (a). Pub. L. 107–107, §532(b)(1), substituted "upon graduates of the Command and Staff College who fulfill the requirements for that degree" for "upon graduates of the college who fulfill the requirements for the degree".

Subsec. (b). Pub. L. 107–107, §532(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–107, §532(b)(2), substituted "subsections (a) and (b)" for "subsection (a)".

Pub. L. 107–107, §532(a)(1), redesignated subsec. (b) as (c).

Subsec. (d). Pub. L. 107–107, §532(c)(1), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §531(b), Nov. 24, 2003, 117 Stat. 1472, provided that: "The authority to confer the degree of master of operational studies under section 7102(c) [now 8592(c)] of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Command and General Staff College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts." [Approval granted by Secretary of Education on Jan. 10, 2003, for Marine Corps University to award the Master's degree in operational studies for successful completion of the School of Advanced Warfighting program.]

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §532(d), Dec. 28, 2001, 115 Stat. 1105, provided that: "The authority to confer the degree of master of strategic studies under section 7102(b) [now 8592(b)] of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Marine Corps War College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts. Upon receipt of such a certification, the President of the University shall promptly transmit a copy of the certification to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives." [Approval granted by Secretary of Education on Aug. 8, 2001, for Marine Corps University to award the Master's degree for successful completion of the Marine Corps War College program in strategic studies.]

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title IX, §911(b), Oct. 5, 1994, 108 Stat. 2828, provided that: "The authority provided by section 7102(a) [now 8592(a)] of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements

established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts." [Approval granted by Secretary of Education on Mar. 22, 1995, for Marine Corps University to award the Master of Military Studies degree through its Command and Staff College.]

**BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY**

Pub. L. 103–337,div. A, title IX, §912, Oct. 5, 1994, 108 Stat. 2828, which authorized the Secretary of the Navy to establish a board of advisors for the Marine Corps University and to ensure that the board met all requirements of the appropriate regional accrediting association, was repealed and restated in subsec. (d) of this section by Pub. L. 107–107, div. A, title V, §532(c), Dec. 28, 2001, 115 Stat. 1105.

## §8593. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Naval War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval War College shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(d)(1), Jan. 6, 2006, 119 Stat. 3242, §7103; renumbered §8593, Pub. L. 115–232, div. A, title VIII, §807(c)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7103 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8594. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the

President of the Marine Corps University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Marine Corps University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Marine Corps University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(d)(1), Jan. 6, 2006, 119 Stat. 3242, §7104; renumbered §8594, Pub. L. 115–232, div. A, title VIII, §807(c)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7104 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8595. United States Naval Community College: establishment and degree granting authority

(a) ESTABLISHMENT AND FUNCTION.—There is a United States Naval Community College. The primary function of such College shall be to provide—

(1) programs of academic instruction and professional and technical education for individuals described in subsection (b) in—

(A) academic and technical fields of the liberal arts and sciences which are relevant to the current and future needs of the Navy and Marine Corps, including in designated fields of national and economic importance such as cybersecurity, artificial intelligence, machine learning, data science, and software engineering; and

(B) their practical duties;

(2) remedial, developmental, or continuing education programs, as prescribed by the Secretary of the Navy, which are necessary to support, maintain, or extend programs under paragraph (1);

(3) support and advisement services for individuals pursuing such programs; and

(4) continuous monitoring of the progress of such individuals.

(b) INDIVIDUALS ELIGIBLE FOR PROGRAMS.—Subject to such other eligibility

requirements as the Secretary of the Navy may prescribe, the following individuals are eligible to participate in programs and services under subsection (a):

(1) Enlisted members of the Navy and Marine Corps.

(2) Officers of the Navy and Marine Corps who hold a commission but have not completed a postsecondary degree.

(3) Civilian employees of the Department of the Navy.

(4) Other individuals, as determined by the Secretary of the Navy, so long as access to programs and services under subsection (a) by such individuals is—

(A) in alignment with the mission of the United States Naval Community College; and

(B) determined to support the mission or needs of the Department of the Navy.

(c) DEGREE AND CREDENTIAL GRANTING AUTHORITY.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of the Navy, the head of the United States Naval Community College may, upon the recommendation of the directors and faculty of the College, confer appropriate degrees or academic credentials upon graduates who meet the degree or credential requirements.

(2) LIMITATION.—A degree or credential may not be conferred under this subsection unless—

(A) the Secretary of Education has recommended approval of the degree or credential in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(B) the United States Naval Community College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree or credential, as determined by the Secretary of Education.

(3) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—

(A) When seeking to establish degree or credential granting authority under this subsection, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(i) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(ii) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree or credential granting authority.

(B) Upon any modification or redesignation of existing degree or credential granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(C) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Naval Community College to award any new or existing degree or credential.

(d) CIVILIAN FACULTY MEMBERS.—

(1) AUTHORITY OF SECRETARY.—The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the United States Naval Community College as the Secretary considers necessary.

(2) COMPENSATION.—The compensation of persons employed under this subsection shall be prescribed by the Secretary of the Navy.

(Added Pub. L. 117–81, div. A, title V, §557(a), Dec. 27, 2021, 135 Stat. 1739.)

# PART IV—GENERAL ADMINISTRATION


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### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(f)(2), Aug. 13, 2018, 132 Stat. 1838, redesignated items for chapters 631 to 669 as 861 to 897 and redesignated section numbers 7201 to 7921 as 8604 to 8951. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2011**—Pub. L. 112–81, div. A, title III, §363(b), Dec. 31, 2011, 125 Stat. 1379, added item for chapter 669.

**2008**—Pub. L. 110–417, [div. A], title X, §1061(a)(6), Oct. 14, 2008, 122 Stat. 4612, added item for chapter 667 and struck out former item for chapter 667 "Issue of serviceable material other than to Armed Forces".

Pub. L. 110–181, div. A, title III, §377(b), Jan. 28, 2008, 122 Stat. 85, added item for chapter 667.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(3)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289, struck out "Related" after "Quarters, Utilities, and" in item for chapter 649.

**1996**—Pub. L. 104–201, div. A, title II, §282(a)(2), Sept. 23, 1996, 110 Stat. 2473, added item for chapter 665.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(b)(3), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 635 "Naval Aircraft".

**1984**—Pub. L. 98–525, title XV, §1532(a)(2), Oct. 19, 1984, 98 Stat. 2631, added item for chapter 663.

**1982**—Pub. L. 97–295, §1(50)(H), Oct. 12, 1982, 96 Stat. 1300, struck out "Naval Oceanographic Office and" after "United States" in item for chapter 639.

Pub. L. 97–295, §1(51)(B), Oct. 12, 1982, 96 Stat. 1300, added item for chapter 661.

**1980**—Pub. L. 96–513, title V, §513(1), Dec. 12, 1980, 94 Stat. 2931, substituted "7420" for "7421" in item for chapter 641.

**1962**—Pub. L. 87–533, §2, July 10, 1962, 76 Stat. 155, substituted "United States Naval Oceanographic" for "Hydrographic" in item for chapter 639.

## CHAPTER 861—SECRETARY OF THE NAVY: MISCELLANEOUS POWERS AND DUTIES

Sec.

8604. Schools near naval activities: financial aid.
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8617. National Museum of the United States Navy.
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8635. Establishment of the Southern Sea Otter Military Readiness Areas.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 861, consisting of sections 8811 to 8820, related to separation from service within the Air Force for various reasons, prior to renumbering as chapter 939 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title III, §375, Dec. 18, 2025, 139 Stat. 839, added item 8617A. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. B, title XXVIII, §2882(a), Dec. 22, 2023, 137 Stat. 780, added item 8618. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. B, §2003(b), title XXVIII, §2821, Dec. 27, 2021, 135 Stat. 2162, 2195, added item 8617.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 631 of this title as this chapter and items 7204, 7205, 7207, 7211, 7212, 7214, 7216, 7219 to 7229, 7231, and 7233 to 7235 as 8604, 8605, 8607, 8611, 8612, 8614, 8616, 8619 to 8629, 8631, and 8633 to 8635, respectively.

**2015**—Pub. L. 114–92, div. A, title III, §312(b), Nov. 25, 2015, 129 Stat. 789, added item 7235.

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(D), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for 'Naval Reserve" in items 7225 and 7226.

**2004**—Pub. L. 108–375, div. A, title XII, §1223(b), Oct. 28, 2004, 118 Stat. 2090, added item 7234.

**2000**—Pub. L. 106–398, §1 [[div. A], title IX, §942(e)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–243, substituted "Naval Historical Center Fund: references to Fund" for "Naval Historical Center Fund" in item 7222.

**1999**—Pub. L. 106–65, div. A, title X, §1014(a)(2), Oct. 5, 1999, 113 Stat. 742, added item 7233.

**1996**—Pub. L. 104–201, div. A, title X, §1073(b)(2)(B), Sept. 23, 1996, 110 Stat. 2657, substituted "Naval Historical Center Fund" for "Office of Naval Records and History gift fund" in item 7222.

**1994**—Pub. L. 103–355, title III, §3025(b), Oct. 13, 1994, 108 Stat. 3334, struck out item 7203 "Scientific investigation and research".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(a)(6), Nov. 30, 1993, 107 Stat. 1713, struck out items 7201

"Guided missiles: research and development, procurement, and construction", 7210 "Purchase of patents, patent applications, and licenses", 7213 "Relief of contractors and their employees from losses by enemy action", and 7230 "Sale of degaussing equipment".

**1990**—Pub. L. 101–510, div. A, title XIII, §1331(8), Nov. 5, 1990, 104 Stat. 1673, struck out item 7217 "Annual report to Congress: appropriations".

**1988**—Pub. L. 100–370, §1(e)(3)(B), July 19, 1988, 102 Stat. 845, struck out item 7209 "Rewards for recovery of missing naval property".

**1984**—Pub. L. 98–525, title XIV, §1401(d)(3)(B), (j)(3)(B), Oct. 19, 1984, 98 Stat. 2616, 2620, struck out "; transportation of dependents" at end of item 7204 and struck out item 7208 "Latin American cooperation".

**1982**—Pub. L. 97–258, §2(b)(11)(A), Sept. 13, 1982, 96 Stat. 1057, added item 7231.

**1975**—Pub. L. 94–106, title VIII, §804(b), Oct. 7, 1975, 89 Stat. 538, struck out item 7202 "Emergency and extraordinary expenses".

**1968**—Pub. L. 90–377, §4, July 5, 1968, 82 Stat. 288, struck out item 7215 "Naval prisons, prison farms, and prisoners".

**1966**—Pub. L. 89–529, §1(4), Aug. 11, 1966, 80 Stat. 339, struck out item 7218 "Recognition for accomplishments, special service, and good conduct".

**1959**—Pub. L. 86–55, §2, June 23, 1959, 73 Stat. 89, inserted "and aircraft" in item 7227.

**1958**—Pub. L. 85–861, §1(150), Sept. 2, 1958, 72 Stat. 1513, struck out item 7206 "Minor construction and extension of structures".

**1957**—Pub. L. 85–43, §1(2), May 31, 1957, 71 Stat. 45, added item 7230.

## §8604. Schools near naval activities: financial aid

(a) The Secretary of the Navy may contribute, out of funds specifically appropriated for the purpose, to the support of schools in any locality where a naval activity is located if he finds that the schools available in the locality are inadequate for the welfare of the dependents of—

(1) members of the naval service;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy;

who are stationed at the activity.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 442, §7204; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(24), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 98–525, title XIV, §1401(j)(3)(A), (B), Oct. 19, 1984, 98 Stat. 2620; Pub. L. 99–145, title XIII, §1303(a)(23), Nov. 8, 1985, 99 Stat. 739; renumbered §8604, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7204 | 5 U.S.C. 421d. | Aug. 2, 1946, ch. 756, §13, 60 Stat. 854. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, §40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 5 U.S.C. 421d contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7204 of this title as this section.

**1985**—Subsec. (a). Pub. L. 99–145 ran in "contribute, out of" after "Secretary of the Navy may", and realigned margins of cls. (1) to (4) and provision following cl. (4).

**1984**—Pub. L. 98–525, §1401(j)(3)(B), struck out "; transportation of dependents" in section catchline.

Subsec. (a). Pub. L. 98–525, §1401(j)(3)(A), substituted "The Secretary of the Navy may" for "The Secretary of the Navy may—", struck out "(1)" before "contribute out of", thereby eliminating paragraph designation, redesignated cls. (A) to (D) as (1) to (4), respectively, substituted "the activity." for "the activity; and", and struck out par. (2), which provided for transportation between the schools and the activity when the schools are not accessible by regular means of transportation.

**1980**—Subsec. (a)(1)(D). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Subsec. (a)(1)(D). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8605. Promotion of health and prevention of accidents

(a) The Secretary of the Navy may make such expenditures as he considers appropriate to prevent accidents and to promote the safety and occupational health of—

(1) members of the naval service on active duty;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy.

The expenditures may include payments for clothing, equipment, and other materials necessary for the purposes of this section. Any appropriation available for the activities in which the personnel are engaged shall be available for these purposes.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this

section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 443, §7205; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(24), Dec. 12, 1980, 94 Stat. 2932; renumbered §8605, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7205 | 5 U.S.C. 421e(b). | Aug. 2, 1946, ch. 756, §24(b), 60 Stat. 856. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, §40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (a) the word "maintenance" is omitted as surplusage.

**EDITORIAL NOTES**

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 5 U.S.C. 421e(b) contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7205 of this title as this section.

**1980**—Subsec. (a)(4). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Subsec. (a)(4). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**REPEALS**

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**MANAGEMENT OF FATIGUE AMONG CREW OF NAVAL SURFACE SHIPS AND RELATED IMPROVEMENTS**

Pub. L. 117–81, div. A, title III, §379(a), Dec. 27, 2021, 135 Stat. 1670, provided that: "The Secretary of the Navy shall implement each recommendation for executive action set forth in the report of the Government

Accountability Office titled 'Navy Readiness: Additional Efforts Are Needed to Manage Fatigue, Reduce Crewing Shortfalls, and Implement Training' (GAO–21–366)."

## §8607. Administration of liberated and occupied areas

(a) The Secretary of the Navy may, out of any appropriation made for the purpose, provide for the administration of liberated and occupied areas by the Department of the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 443, §7207; renumbered §8607, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7207 | 5 U.S.C. 421f (as applicable to administration of liberated and occupied areas). | Aug. 2, 1946, ch. 756, §38 (as applicable to administration of liberated and occupied areas), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 5 U.S.C. 421f contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7207 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8611. Attendance at meetings of technical, professional, or scientific organizations

(a) The Secretary of the Navy may authorize—

(1) members of the naval service on active duty;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy;

to attend meetings of technical, professional, scientific, and similar organizations, if the Secretary believes that their attendance will benefit the Department. The personnel may be reimbursed for their expenses at the rates prescribed by law.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make

successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 444, §7211; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(24), Dec. 12, 1980, 94 Stat. 2932; renumbered §8611, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7211 | 5 U.S.C. 421c. | Aug. 2, 1946, ch. 756, §1, 60 Stat. 853. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, §40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 5 U.S.C. 421c contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8611, act Aug. 10, 1956, ch. 1041, 70A Stat. 531, provided that President could prescribe uniform of Air Force, prior to repeal by Pub. L. 90–235, §8(2), Jan. 2, 1968, 81 Stat. 764.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7211 of this title as this section.

**1980**—Subsec. (a)(4). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Subsec. (a)(4). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**REPEALS**

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8612. Employment of outside architects and engineers

(a) Whenever the Secretary of the Navy believes that the existing facilities of the Department of

the Navy are inadequate and he considers it advantageous to national defense, he may employ, by contract or otherwise, without advertising and without reference to sections 305, 3324, and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5, architectural or engineering corporations, or firms, or individual architects or engineers, to produce designs, plans, drawings, and specifications for the accomplishment of any naval public works or utilities project or for the construction of any vessel or aircraft, or part thereof.

(b) The fee for any service under this section may not exceed 10 percent of the estimated cost, as determined by the Secretary, of the project to which the fee applies.

(Aug. 10, 1956, ch. 1041, 70A Stat. 444, §7212; Pub. L. 89–718, §28, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 95–454, title VII, §703(c)(3), title VIII, §801(a)(3)(I), Oct. 13, 1978, 92 Stat. 1217, 1222; Pub. L. 96–513, title V, §513(25), Dec. 12, 1980, 94 Stat. 2932; renumbered §8612, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 118–31, div. B, title XXVIII, §2881(b), Dec. 22, 2023, 137 Stat. 780.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7212 | 34 U.S.C. 556. | Apr. 25, 1939, ch. 87, §3, 53 Stat. 591. |

In subsection (a) the word "outside" is omitted as surplusage and the words "architects or engineers" are inserted for clarity. The words "without advertising" are substituted for the reference to R.S. 3609, for brevity and clarity.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8612, act Aug. 10, 1956, ch. 1041, 70A Stat. 531, provided for disposition of uniforms of enlisted members of Air Force who were discharged and for disposition of uniforms of and issuance of civilian clothing to enlisted members of Air Force who were discharged otherwise than honorably, prior to repeal by Pub. L. 90–235, §8(2), Jan. 2, 1968, 81 Stat. 764.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31 substituted "10 percent" for "6 percent".

**2018**—Pub. L. 115–232 renumbered section 7212 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of" for "5101–5115, 5331–5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such".

**1978**—Subsec. (a). Pub. L. 95–454, §801(a)(3)(I), inserted reference to subchapter VI of chapter 53 of title 5.

Pub. L. 95–454, §703(c)(3), substituted "7204" for "7154".

**1966**—Subsec. (a). Pub. L. 89–718 substituted "sections 305, 3324, 5101–5115, 5331–5338, 5341, 5342, and 7154 of title 5" for "sections 1071–1153 of title 5".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907

of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

Amendment by section 801(a)(3)(I) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of Title 5.

## §8614. Apprehension of deserters and prisoners; operation of shore patrols

(a) The Secretary of the Navy may make such expenditures out of available appropriations as he considers necessary to—

(1) apprehend and deliver deserters, stragglers, and prisoners; and

(2) operate shore patrols.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 445, §7214; renumbered §8614, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7214 | 34 U.S.C. 606. | Aug. 2, 1946, ch. 756, §22, 60 Stat. 856. |
| | 5 U.S.C. 421g(d). | Aug. 2, 1946, ch. 756, §40(d), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (a) the word "naval" is omitted as surplusage.

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 34 U.S.C. 606 contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7214 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8616. Collection, preservation, and display of captured flags

The Secretary of the Navy shall collect all flags, standards, and colors taken by the Navy or the Marine Corps from enemies of the United States. These flags, standards, and colors shall be delivered to the President. Under his direction they shall be preserved and displayed in any public place he considers proper.

(Aug. 10, 1956, ch. 1041, 70A Stat. 445, §7216; renumbered §8616, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7216 | 5 U.S.C. 418. | R.S. 428; R.S. 1554; R.S. 1555. |

The words "from time to time cause to be", "transmitted to him", and "for the purpose of being" are omitted as surplusage. The words "Marine Corps" are inserted for clarity, since the provision is interpreted as applicable thereto.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7216 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8617. National Museum of the United States Navy

(a) AUTHORITY TO SUPPORT DEVELOPMENT AND OPERATION OF MUSEUM.—(1) The Secretary of the Navy may select and enter into a contract, cooperative agreement, or other agreement with one or more eligible nonprofit organizations to support the development, design, construction, renovation, or operation of a multipurpose museum to serve as the National Museum of the United States Navy.

(2) The Secretary may—

(A) authorize a partner organization to contract for each phase of development, design, construction, renovation, or operation of the museum, or all such phases; or

(B) authorize acceptance of funds from a partner organization for each or all such phases.

(b) PURPOSES OF MUSEUM.—(1) The museum shall be used for the identification, curation, storage, and public viewing of artifacts and artwork of significance to the Navy, as agreed to by the Secretary of the Navy.

(2) The museum also may be used to support such education, training, research, and associated activities as the Secretary considers compatible with and in support of the museum and the mission of the Naval History and Heritage Command.

(c) ACCEPTANCE UPON COMPLETION.—Upon the satisfactory completion, as determined by the Secretary of the Navy, of any phase of the museum, and upon the satisfaction of any financial obligations incident thereto, the Secretary shall accept such phase of the museum from the partner organization, and all right, title, and interest in and to such phase of the museum shall vest in the United States. Upon becoming the property of the United States, the Secretary shall assume administrative jurisdiction over such phase of the museum.

(d) LEASE AUTHORITY.—(1) The Secretary of the Navy may lease portions of the museum to an eligible nonprofit organization for use in generating revenue for the support of activities of the museum and for such administrative purposes as may be necessary for support of the museum. Such a lease may not include any part of the collection of the museum.

(2) Any rent received by the Secretary under a lease under paragraph (1), including rent-in-kind, shall be used solely to cover or defray the costs of development, maintenance, or operation of the museum.

(e) AUTHORITY TO ACCEPT GIFTS.—(1) The Secretary of the Navy may accept, hold,

administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of the museum. Section 2601 (other than subsections (b), (c), and (e)) of this title shall apply to gifts accepted under this subsection.

(2) The Secretary may display at the museum recognition for an individual or organization that contributes money to a partner organization, or an individual or organization that contributes a gift directly to the Navy, for the benefit of the museum, whether or not the contribution is subject to the condition that the recognition be provided. The Secretary shall prescribe regulations governing the circumstances under which contributor recognition may be provided, appropriate forms of recognition, and suitable display standards.

(3) The Secretary may authorize the sale of donated property received under paragraph (1). A sale under this paragraph need not be conducted in accordance with disposal requirements that would otherwise apply, so long as the sale is conducted at arms-length and includes an auditable transaction record.

(4) Any money received under paragraph (1) and any proceeds from the sale of property under paragraph (3) shall be deposited into a fund established in the Treasury to support the museum.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with a contract, cooperative agreement, or other agreement under subsection (a) or a lease under subsection (d) as the Secretary considers appropriate to protect the interests of the United States.

(g) USE OF NAVY INDICATORS.—(1) In a contract, cooperative agreement, or other agreement under subsection (a) or a lease under subsection (d), the Secretary of the Navy may authorize, consistent with section 2260 (other than subsection (d)) of this title, a partner organization to enter into licensing, marketing, and sponsorship agreements relating to Navy indicators, including the manufacture and sale of merchandise for sale by the museum, subject to the approval of the Department of the Navy.

(2) No such licensing, marketing, or sponsorship agreement may be entered into if it would reflect unfavorably on the ability of the Department of the Navy, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or if the Secretary determines that the use of the Navy indicator would compromise the integrity or appearance of integrity of any program of the Department of the Navy.

(h) DEFINITIONS.—In this section:

(1) The term "eligible nonprofit organization" means an entity that—

(A) qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) has as its primary purpose the preservation and promotion of the history and heritage of the Navy.

(2) The term "museum" means the National Museum of the United States Navy, including its facilities and grounds.

(3) The term "Navy indicator" includes trademarks and service marks, names, identities, abbreviations, official insignia, seals, emblems, and acronyms of the Navy and Marine Corps, including underlying units, and specifically includes the term "National Museum of the United States Navy".

(4) The term "partner organization" means an eligible nonprofit organization with whom the Secretary of the Navy enters into a contract, cooperative agreement, or other agreement under subsection (a) or a lease under subsection (d).

(Added Pub. L. 117–81, div. B, title XXVIII, §2821, Dec. 27, 2021, 135 Stat. 2195.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (h)(1)(A), is classified to

section 501(c)(3) of Title 26, Internal Revenue Code.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**LEASE OR LICENSE OF UNITED STATES NAVY MUSEUM FACILITIES**

Pub. L. 109–163, div. B, title XXVIII, §2852, Jan. 6, 2006, 119 Stat. 3530, as amended by Pub. L. 117–81, div. B, title XXVIII, §2822, Dec. 27, 2021, 135 Stat. 2197, provided that:

"(a) LEASES AND LICENSES AUTHORIZED.—The Secretary of the Navy may lease or license any portion of the facilities of a United States Navy museum to a foundation established to support that museum for the purpose of permitting the foundation to carry out the following activities:

"(1) Generation of revenue for that United States Navy museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

"(2) Performance of administrative activities in support of that United States Navy museum.

"(b) LIMITATION.—Activities carried out at a facility subject to a lease or license under subsection (a) must be consistent with the operations of the United States Navy museum of which the facility is a part.

"(c) CONSIDERATION.—The amount of consideration paid in a year by a foundation described in subsection (a) to the United States for the lease or license of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

"(d) DEPOSIT AND USE OF PROCEEDS.—Consideration paid under subsection (c) shall be deposited into the appropriations account available for the operation and maintenance of the applicable United States Navy museum. The Secretary may use the amounts so deposited to cover costs associated with the operation and maintenance of that museum and its exhibits.

"(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a lease or license under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

"(f) UNITED STATES NAVY MUSEUM.—In this section, the term 'United States Navy museum' means a museum under the jurisdiction of the Secretary of Defense and operated through the Naval History and Heritage Command."

## §8617A. United States Navy Museum System

(a) IN GENERAL.—The Secretary of the Navy shall support a system of official Navy museums, which shall collectively be known as the "United States Navy Museum System". Such system shall include the following museums:

(1) The National Museum of the United States Navy.

(2) The United States Naval Academy Museum.

(3) The Naval War College Museum.

(4) The Submarine Force Museum.

(5) The National Naval Aviation Museum.

(6) The USS Constitution Naval History and Heritage Command, Detachment Boston.

(7) The United States Navy Seabee Museum.

(8) The Puget Sound Navy Museum.

(9) The Naval Undersea Museum.

(10) The National Museum of the American Sailor.

(11) The Hampton Roads Naval Museum.

(12) Such other museums as may be designated by the Secretary of the Navy that meet criteria established under subsection (b).

(b) CRITERIA FOR DESIGNATION.—The Secretary of the Navy shall establish criteria for designating museums other than museums identified in paragraphs (1) through (11) of subsection (a) for inclusion in the United States Navy Museum System. Such criteria shall include—

(1) historical significance to naval operations, technology, or personnel;

(2) public accessibility and educational outreach programs; and

(3) alignment with the mission of the Navy to preserve its heritage.

(c) CRITERIA FOR CLOSURE.—The Secretary of the Navy shall establish criteria for the closure of museums within the United States Navy Museum System. No museum within such system may be closed until—

(1) the Secretary of the Navy submits to the Committees on Armed Services of the House of Representatives and the Senate notice that includes—

(A) a plan for the preservation, storage, or alternate display of historical collections contained in the museum;

(B) how any issues relating to museum personnel will be resolved;

(C) an identification of any efforts to maintain museum operations through public-private partnerships; and

(D) an analysis of the cost to transport, consolidate, and preserve the historical collections contained in the museum; and

(2) a period of 90 days has elapsed after the date on which such notice is received by such committees.

(d) FUNDING AND SUPPORT.—Consistent with applicable law, the Secretary of the Navy may enter into partnerships, including with nonprofit organizations, to enhance the financial sustainability and public engagement of the museums in the United States Museum System.

(Added Pub. L. 119–60, div. A, title III, §375, Dec. 18, 2025, 139 Stat. 839.)

## §8618. Marine Corps Heritage Center and National Museum of the Marine Corps at Marine Corps Base, Quantico, Virginia

(a) JOINT VENTURE FOR DEVELOPMENT AND CONTINUED MAINTENANCE AND OPERATION.—The Secretary of the Navy may enter into a joint venture with the Marine Corps Heritage Foundation (in this section referred to as the "Foundation"), a not-for-profit entity, for the design, construction, and maintenance and operation of a multipurpose facility to be used for historical displays for public viewing, curation, and storage of artifacts, research facilities, classrooms, offices, and associated activities consistent with the mission of the Marine Corps University. The facility shall be known as the Marine Corps Heritage Center and the National Museum of the Marine Corps.

(b) DESIGN AND CONSTRUCTION.—For each phase of development of the facility described in subsection (a), the Secretary may—

(1) permit the Foundation to contract for the design, construction, or both of such phase of development; or

(2) accept funds from the Foundation for the design, construction, or both of such phase of development.

(c) ACCEPTANCE AUTHORITY.—Upon completion of construction of any phase of development of the facility described in subsection (a) by the Foundation to the satisfaction of the Secretary, and the satisfaction of any financial obligations incident thereto by the Foundation, the facility shall become the real property of the Department of the Navy with all right, title, and interest in and to facility being in the United States.

(d) MAINTENANCE, OPERATION, AND SUPPORT.—(1) The Secretary may, for the purpose of maintenance and operation of the Marine Corps Heritage Center and the National Museum of the Marine Corps—

(A) enter into contracts or cooperative agreements, on a sole-source basis, with the Foundation for the procurement of property or services for the direct benefit or use of the Marine Corps Heritage Center and the National Museum of the Marine Corps; and

(B) notwithstanding the requirements of subsection (h) of section 2667 of this title and under such terms and conditions as the Secretary considers appropriate for the joint venture authorized

by subsection (a), lease in accordance with such section 2667 portions of the facility developed under subsection (a) to the Foundation for use in generating revenue for activities of the facility and for such administrative purposes as may be necessary for support of the facility.

(2) In making a determination of fair market value under section 2667(b)(4) of this title for payment of consideration pursuant to a lease described in paragraph (1)(B), the Secretary may consider the entirety of the educational efforts of the Foundation, support to the Marine Corps Heritage Center history division by the Foundation, or the funding of museum programs and exhibits by the Foundation, or other support related to the Marine Corps Heritage Center and the National Museum of the Marine Corps, in addition to the types of in-kind consideration provided under section 2667(c) of this title.

(3) The Secretary may authorize the Foundation to use real or personal property within the Marine Corps Heritage Center and National Museum of the Marine Corps to conduct additional revenue-generating activities, as the Secretary considers appropriate considering the work of the Foundation and needs of the Marine Corps Heritage Center and National Museum of the Marine Corps. The Secretary shall only authorize the use of such property for a revenue-generating activity if the Secretary determines the activity will not interfere with military activities and personnel or the activities of the Marine Corps Heritage Center and National Museum of the Marine Corps.

(4) The Secretary shall retain lease payments received under this section, other than in-kind consideration authorized under paragraph (2) or under section 2667(c) of this title, solely for use in support of the Marine Corps Heritage Center and the National Museum of the Marine Corps, and funds received as lease payments shall remain available until expended.

(e) AUTHORITY TO ACCEPT GIFTS.—(1) The Secretary of the Navy may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of the Marine Corps Heritage Center or the National Museum of the Marine Corps. Section 2601 (other than subsections (b), (c), and (e)) of this title shall apply to gifts accepted under this subsection.

(2) The Secretary may display at the Marine Corps Heritage Center or the National Museum of the Marine Corps recognition for an individual or organization that contributes money to a partner organization, or an individual or organization that contributes a gift directly to the Navy, for the benefit of the Marine Corps Heritage Center or the National Museum of the Marine Corps, whether or not the contribution is subject to the condition that the recognition be provided. The Secretary shall prescribe regulations governing the circumstances under which contributor recognition may be provided, appropriate forms of recognition, and suitable display standards.

(3) The Secretary may authorize the sale of donated property received under paragraph (1). A sale under this paragraph need not be conducted in accordance with disposal requirements that would otherwise apply, so long as the sale is conducted at arms-length and includes an auditable transaction record.

(4) Any money received under paragraph (1) and any proceeds from the sale of property under paragraph (3) shall be deposited into a fund established in the Treasury to support the Marine Corps Heritage Center and the National Museum of the Marine Corps.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the joint venture authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 118–31, div. B, title XXVIII, §2882(a), Dec. 22, 2023, 137 Stat. 780.)

## §8619. Leases of waterfront property from States or municipalities

In leasing waterfront property from a State or municipality, the Secretary of the Navy may provide in the lease, where it is required by state law or municipal charter, that, as part or all of the consideration, any improvements placed upon the property by the United States become the property

of the lessor when the lease, including any renewal, ends.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446, §7219; renumbered §8619, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7219 | 34 U.S.C. 521. | July 1, 1918, ch. 114, 40 Stat. 705 (2d par.). |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7219 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8620. Gifts for welfare of enlisted members

The Secretary of the Navy may accept gifts for use in providing recreation, amusement, and contentment for enlisted members of the naval service. The fund "Ships' Stores Profits, Navy" shall be credited with these gifts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446, §7220; renumbered §8620, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7220 | 5 U.S.C. 419a. | June 30, 1932, ch. 318, 47 Stat. 424 (2d proviso). |

The words "and contributions from organizations, individuals, or others" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7220 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8621. Acceptance and care of gifts to vessels

The Secretary of the Navy may accept and care for such gifts of silver, colors, books, or other articles of equipment or furniture as, in accordance with custom, are made to vessels of the Navy. Necessary expenses incident to the care of gifts that are accepted shall be paid from the appropriation for the maintenance and operation of vessels.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446, §7221; renumbered §8621, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7221 | 5 U.S.C. 419. | May 20, 1908, ch. 182, 35 Stat. 171. |

The words "in the form" and "by States, municipalities, or otherwise" are omitted as surplusage. The words "the appropriation for the maintenance and operation of vessels" are substituted for the words "the appropriation 'Equipment of Vessels' " to identify by a general description, rather than by a specific appropriation title, the appropriation authorized to be used.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7221 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8622. Naval Historical Center Fund: references to Fund

Any reference in a law, regulation, document, paper, or other record of the United States to the Naval Historical Center Fund formerly maintained under this section shall be deemed to refer to the Department of the Navy General Gift Fund maintained under section 2601 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446, §7222; Pub. L. 104–201, div. A, title X, §1073(b)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2657; Pub. L. 106–398, §1 [[div. A], title IX, §942(d)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242; renumbered §8622, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7222 | 5 U.S.C. 419b. | Mar. 4, 1937, ch. 26, 50 Stat. 25. |

In subsection (a) the word "receive" and the words "from individuals or others" and "of the United States" are omitted as surplusage. The title of the "Office of Naval Records and Library, Navy Department" is changed to "Office of Naval Records and History", in accordance with a directive of the Secretary of the Navy dated March 10, 1949.

Subsection (b) is rewritten for clarity and to conform to a similar statement appearing in 5 U.S.C. 150s.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7222 of this title as this section.

**2000**—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section related to acceptance and administration of gifts, bequests, and loans for the benefit of the Naval Historical Center.

**1996**—Pub. L. 104–201, §1073(b)(2)(A), substituted "Naval Historical Center Fund" for "Office of Naval Records and History gift fund" in section catchline.

Subsecs. (a), (c). Pub. L. 104–201, §1073(b)(1), substituted "Naval Historical Center" for "Office of Naval Records and History" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### MERGER OF NAVAL HISTORICAL CENTER FUND INTO DEPARTMENT OF THE NAVY GENERAL GIFT FUND

Pub. L. 106–398, §1 [[div. A], title IX, §942(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241, provided that:

"(1) The Secretary of the Navy shall transfer all amounts in the Naval Historical Center Fund maintained under section 7222 [now 8622] of title 10, United States Code, to the Department of the Navy General Gift Fund maintained under section 2601 of such title. Upon completing the transfer, the Secretary shall close the Naval Historical Center Fund.

"(2) Amounts transferred to the Department of the Navy General Gift Fund under this subsection shall be merged with other amounts in that Fund and shall be available for the purposes for which amounts in that Fund are available."

## §8623. Acquisition of land for radio stations and for other purposes

Land of the United States that is under the control of any department or agency of the United States may be mutually selected as a site for a naval radio station by the Secretary of the Navy and the head of the department or agency having control of the land. By direction of the President, land so selected may be transferred to and placed under the jurisdiction of the Department of the Navy for use as a naval radio station or for any other naval purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447, §7223; renumbered §8623, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7223 | 34 U.S.C. 523. | Aug. 29, 1916, ch. 417, 39 Stat. 606 (3d proviso). |

The word "agency" is substituted for the word "branch" to conform to present terminology. The words "by the Secretary of the Navy and the head of the department or agency having control of the land" are added to identify the officials who "mutually" select the site.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7223 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §8624. Transportation on naval vessels during wartime

In time of war or during a national emergency declared by the President, such persons as the Secretary of the Navy authorizes by regulation may be transported and subsisted on naval vessels at Government expense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447, §7224; renumbered §8624, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7224 | 34 U.S.C. 474. | Aug. 2, 1946, ch. 756, §18, 60 Stat. 855. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7224 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of section 474 of former Title 34, the date July 25, 1947, should be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

The state of war with Japan ended on Apr. 28, 1952, by the coming into effect of the Treaty of Peace with Japan on that date. The state of war with Germany ended on Oct. 19, 1951. See notes preceding section 1 of Title 50, War and National Defense.

## §8625. Navy Reserve flag

The Secretary of the Navy shall prescribe a suitable flag to be known as the Navy Reserve flag. This flag may be flown by a seagoing merchant vessel if—

(1) the vessel is documented under the laws of the United States;

(2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and

(3) the master or commanding officer and at least half of the other licensed officers of the vessel are members of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447, §7225; Pub. L. 109–163, div. A, title V, §515(b)(1)(T), (3)(D), Jan. 6, 2006, 119 Stat. 3233, 3234; renumbered §8625, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 7225 | 50 U.S.C. 1048. | July 9, 1952, ch. 608, §409, 66 Stat. 499. |

In clause (3) the words "at least half" are substituted for the words "not less than 50 per centum". The words "or Naval Reserve" are omitted as surplusage, since the Navy includes the Naval Reserve.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7225 of this title as this section.

**2006**—Pub. L. 109–163, §515(b)(3)(D), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(T), substituted "Navy Reserve" for "Naval Reserve" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8626. Navy Reserve yacht pennant

The Secretary of the Navy shall prescribe a suitable pennant to be known as the Navy Reserve yacht pennant. This pennant may be flown by a yacht or similar vessel if—

(1) the vessel is documented under the laws of the United States;

(2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and

(3) the captain or owner of the vessel is a member of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447, §7226; Pub. L. 109–163, div. A, title V, §515(b)(1)(U), (3)(E), Jan. 6, 2006, 119 Stat. 3233, 3234; renumbered §8626, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7226 | 50 U.S.C. 1049. | July 9, 1952, ch. 608, §410, 66 Stat. 499. |

In clause (3) the words "or Naval Reserve" are omitted as surplusage, since the Navy includes the Naval Reserve.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7226 of this title as this section.

**2006**—Pub. L. 109–163, §515(b)(3)(E), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(U), substituted "Navy Reserve" for "Naval Reserve" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8627. Foreign naval vessels and aircraft: supplies and services

(a) The Secretary of the Navy, under such regulations as he prescribes, may authorize any United States naval vessel or activity to furnish any of the following supplies or services, when in the best interests of the United States, on a reimbursable basis without an advance of funds if similar supplies and services are furnished on a like basis to naval vessels and military aircraft of the United States by the foreign country concerned:

(1) Routine port services in territorial waters of the United States or in waters under United States control, including pilotage, tugs, garbage removal, line-handling, and utilities, to naval vessels of foreign countries.

(2) Routine airport services, including landing and takeoff assistance, use of runways, parking and servicing, to military aircraft of foreign countries.

(3) Miscellaneous supplies, including fuel, provisions, spare parts, and general stores, but not including ammunition, to naval vessels and military aircraft of foreign countries.

(4) Overhauls, repairs, and alterations together with necessary equipment and its installation required in connection therewith, to naval vessels and military aircraft of foreign countries.

(b)(1) Routine port and airport services may be furnished under this section at no cost to the foreign country concerned where such services are provided by United States naval personnel and equipment without direct cost to the Navy.

(2) When furnishing routine port services under this section to naval vessels of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine port services to naval vessels of the United States without reimbursement. When furnishing routine airport services under this section to military aircraft of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine airport services to military aircraft of the United States without reimbursement.

(3) If routine port or airport services are furnished under this section by a working-capital fund activity of the Navy established under section 2208 of this title and such activity is not reimbursed directly for the costs incurred by the activity in furnishing those services by reason of paragraph (2), the working-capital fund activity shall be reimbursed for such costs out of operating funds currently available to the Navy.

(c) Payments for supplies and services furnished under this section may be credited to current appropriations so as to be available for the same purpose as the appropriation initially charged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447, §7227; Pub. L. 86–55, §1, June 23, 1959, 73 Stat. 89; Pub. L. 98–94, title XII, §1219(a), Sept. 24, 1983, 97 Stat. 691; Pub. L. 98–525, title XIV, §1405(49), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 102–190, div. A, title X, §1048, Dec. 5, 1991, 105 Stat. 1468; renumbered §8627, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7227 | 34 U.S.C. 555d, 34 U.S.C. 555e. | May 27, 1953, ch. 67, 67 Stat. 34. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7227 of this title as this section.

**1991**—Subsec. (a). Pub. L. 102–190, §1048(a), struck out "friendly" before "foreign country" in introductory provisions and "friendly" before "foreign countries" in pars. (1) to (4).

Subsec. (b)(2). Pub. L. 102–190, §1048(b), struck out subpar. (A) designation, substituted "naval vessels of a foreign country" for "naval vessels of an allied country", inserted after first sentence "When furnishing routine airport services under this section to military aircraft of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine airport services to military aircraft of the United States without reimbursement.", designated last sentence relating to furnishing of routine services by a working-capital fund activity of the Navy as par. (3), and struck out former subpar. (B) which defined "allied country".

Subsec. (b)(3). Pub. L. 102–190, §1048(b)(5), designated last sentence of par. (2) relating to furnishing of routine services by a working-capital fund activity of the Navy as par. (3) and substituted "port or airport services" for "port services" and "paragraph (2)" for "this paragraph".

**1984**—Subsec. (a)(1), (2). Pub. L. 98–525, §1405(49)(A), (C), in cls. (1) and (2), substituted "Routine" for "routine" and a period for the semicolon at the end.

Subsec. (a)(3). Pub. L. 98–525, §1405(49)(B), (D), substituted "Miscellaneous" for "miscellaneous" and a period for "; and".

**1983**—Subsec. (b). Pub. L. 98–94 designated existing provisions as par. (1) and added par. (2).

**1959**—Pub. L. 86–55 authorized supplies and services to be furnished by any United States naval vessel or activity, and the furnishing of supplies and services to aircraft, eliminated provisions which limited the furnishing of supplies on a reimbursable basis to ships of foreign countries that had entered into a prior reciprocal agreement, and which permitted services, including overhauling, repairs, alterations and installation of equipment, to be furnished only if funds to cover the estimated cost thereof were advanced, and permitted the furnishing of routine port and airport services at no cost where such services are without direct cost to the Navy.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title XII, §1219(b), Sept. 24, 1983, 97 Stat. 691, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983."

## §8628. Merchant vessels: supplies

(a) The Secretary of the Navy, under such regulations as he prescribes, may sell to a merchant ship such fuel and other supplies as may be required to meet its necessities if the ship is unable—

(1) to procure the supplies from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried on it.

(b) Sales under this section shall be at such prices as the Secretary considers reasonable. Payment shall be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448, §7228; renumbered §8628, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7228 | 34 U.S.C. 555f. | June 4, 1954, ch. 264, §3, 68 Stat. 176. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7228 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8629. Purchase of fuel

In buying fuel, the Secretary of the Navy may, in any manner he considers proper, buy the kind of fuel that is best adapted to the purpose for which it is to be used.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448, §7229; renumbered §8629, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7229 | 34 U.S.C. 580. | R.S. 3728. |

The first sentence is omitted as covered by §2 of the Act of Mar. 3, 1933, ch. 212 (41 U.S.C. 10a). The words "for the Navy, or for naval stations and yards" are omitted, since R.S. 3728 has been interpreted as authorizing the Armed Services Petroleum Purchasing Agency to negotiate contracts for the purchase of fuel, not only when acting as a procuring activity for the Navy, but also when filling the consolidated fuel requirements of the armed forces. The word "may" is substituted for the words "shall have the power to" for uniformity. The words "discriminate and" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7229 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8631. Accounting for expenditures for obtaining information

When the Secretary of the Navy decides that an expenditure by the Department of the Navy from an appropriation for obtaining information from anywhere in the world may be made public, the expenditure shall be accounted for specifically. When the Secretary decides that an expenditure

should not be made public, the Secretary shall make a certificate on the amount of the expenditure. The certificate is a sufficient voucher for the amount stated to have been spent.

(Added Pub. L. 97–258, §2(b)(11)(B), Sept. 13, 1982, 96 Stat. 1057, §7231; renumbered §8631, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7231 | 31:108. | Aug. 29, 1916, ch. 417 (2d proviso under heading "Pay, Miscellaneous"), 39 Stat. 557. |

The words "anywhere in the world" are substituted for "abroad and at home", and the words "decides that an expenditure should not be made public" are substituted for "may think it advisable not to specify", for clarity and consistency.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8631, act Aug. 10, 1956, ch. 1041, 70A Stat. 532, prohibited any officer of Air Force who was engaged in procurement or sale of quartermaster supplies from dealing in said supplies, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

A prior section 8632, act Aug. 10, 1946, ch. 1041, 70A Stat. 532, provided for forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs, prior to repeal by Pub. L. 87–649, §14c(54), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962. See section 802 of Title 37, Pay and Allowances of the Uniformed Services.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7231 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8633. Auxiliary vessels: extended lease authority

(a) AUTHORIZED CONTRACTS.—Subject to subsection (b), the Secretary of the Navy may enter into contracts with private United States shipyards for the construction of new surface vessels to be acquired on a long-term lease basis by the United States from the shipyard or other private person for any of the following:

(1) The combat logistics force of the Navy.
(2) The strategic sealift force of the Navy.
(3) Other auxiliary support vessels for the Department of Defense.

(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under subsection (a) with respect to a specific vessel only if the Secretary is specifically authorized by law to enter into such a contract with respect to that vessel. As part of a request to Congress for enactment of any such authorization by law, the Secretary of the Navy shall provide to Congress the Secretary's findings under subsection (g).

(c) TERM OF CONTRACT.—In this section, the term "long-term lease" means a lease, bareboat charter, or conditional sale agreement with respect to a vessel the term of which (including any

option period) is for a period of 20 years or more.

(d) OPTION TO BUY.—A contract entered into under subsection (a) may include options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount equal to the lesser of (1) the unamortized portion of the cost of the vessel plus amounts incurred in connection with the termination of the financing arrangements associated with the vessel, or (2) the fair market value of the vessel.

(e) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

(1) shall have been constructed in a shipyard within the United States; and

(2) upon delivery, shall be documented under the laws of the United States.

(f) VESSEL OPERATION.—(1) The Secretary may operate a vessel held by the Secretary under a long-term lease under this section through a contract with a United States corporation with experience in the operation of vessels for the United States. Any such contract shall be for a term as determined by the Secretary.

(2) The Secretary may provide a crew for any such vessel using civil service mariners only after an evaluation taking into account—

(A) the fully burdened cost of a civil service crew over the expected useful life of the vessel;

(B) the effect on the private sector manpower pool; and

(C) the operational requirements of the Department of the Navy.

(g) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—(1) The Secretary may waive the applicability of subsection (b)(2) of section 3672 and section 3675 of this title to a contract authorized by law as provided in subsection (b) if the Secretary makes the following findings with respect to that contract:

(A) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

(B) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

(C) The timeliness of consideration of the contract by Congress is such that such a waiver is in the interest of the United States.

(2) The Secretary shall submit a notice of any waiver under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(h) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

(1) amounts originally made available for performance of the contract;

(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

(3) funds appropriated for those costs.

(Added Pub. L. 106–65, div. A, title X, §1014(a)(1), Oct. 5, 1999, 113 Stat. 741, §7233; renumbered §8633, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8633, act Aug. 10, 1946, ch. 1041, 70A Stat. 532, provided for forfeiture of pay when dropped from rolls, prior to repeal by Pub. L. 87–649, §14c(55), Sept. 7, 1962, 76 Stat. 502, effective Nov. 1,

1962. See section 803 of Title 37, Pay and Allowances of the Uniformed Services.

**AMENDMENTS**

**2021**—Subsec. (g)(1). Pub. L. 116–283 substituted "subsection (b)(2) of section 3672 and section 3675" for "subsections (e)(2) and (f) of section 2401".

**2018**—Pub. L. 115–232 renumbered section 7233 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 106–65, div. A, title X, §1014(c), Oct. 5, 1999, 113 Stat. 742, provided that: "Section 7233 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1999."

**LONG-TERM LEASE OR CHARTER AUTHORITY FOR CERTAIN DOUBLE-HULL TANKERS AND OCEANOGRAPHIC VESSELS**

Pub. L. 103–160, div. A, title I, §126, Nov. 30, 1993, 107 Stat. 1567, as amended by Pub. L. 104–106, div. D, title XLIII, §4321(i)(1)(A), Feb. 10, 1996, 110 Stat. 676, provided that:

"(a) AUTHORITY.—The Secretary of the Navy may enter into a long-term lease or charter for any double-hull tanker or oceanographic vessel constructed in a United States shipyard after the date of the enactment of this Act [Nov. 30, 1993] using assistance provided under the National Shipbuilding Initiative.

"(b) CONDITIONS ON OBLIGATION OF FUNDS.—Unless budget authority is specifically provided in an appropriations Act for the lease or charter of vessels pursuant to subsection (a), the Secretary may not enter into a contract for a lease or charter pursuant to that subsection unless the contract includes the following provisions:

"(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that lease or charter or that kind of vessel lease or charter.

"(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that lease or charter, or that kind of lease or charter, for that fiscal year.

"(3) A statement that such a commitment given under paragraph (2) does not constitute an obligation of the United States.

"(c) INAPPLICABILITY OF CERTAIN LAWS.—A long-term lease or charter authorized by subsection (a) may be entered into without regard to the provisions of section 2401 [see 10 U.S.C. 3671 et seq.] or 2401a [see former 10 U.S.C. 3678, 10 U.S.C. 3681] of title 10, United States Code.

"(d) DEFINITION.—For purposes of subsection (a), the term 'long-term lease or charter' has the meaning given that term in subparagraph (A) of section 2401(d)(1) of title 10, United States Code [now 10 U.S.C. 3674(a)(1)(A)]."

## §8634. Submarine safety programs: participation of NATO naval personnel

(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program beginning on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization may be assigned to United States commands to work on such systems and procedures.

(b) RECIPROCITY NOT REQUIRED.—The authority under subsection (a) is not an exchange program. Reciprocal assignments of members of the Navy to the naval service of a foreign country is not a condition for the exercise of such authority.

(c) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

(A) Salary.

(B) Per diem.

(C) Cost of living.

(D) Travel costs.

(E) Cost of language or other training.

(F) Other costs.

(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

(A) The cost of temporary duty directed by the Secretary of the Navy or an officer of the Navy authorized to do so.

(B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.

(C) Costs incident to the use of the facilities of the Navy in the performance of assigned duties.

(d) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall apply in the exercise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a Navy submarine safety program. The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of such authority.

(Added Pub. L. 108–375, div. A, title XII, §1223(a), Oct. 28, 2004, 118 Stat. 2089, §7234; renumbered §8634, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836; amended Pub. L. 118–31, div. A, title XII, §1248, Dec. 22, 2023, 137 Stat. 464.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (a), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

### PRIOR PROVISIONS

A prior section 8634, act Aug. 10, 1956, ch. 1041, 70A Stat. 532; Pub. L. 101–510, div. A, title III, §327(c), Nov. 5, 1990, 104 Stat. 1532, generally prohibited Air Force band from being paid for performance outside air base, prior to repeal by Pub. L. 110–181, div. A, title V, §590(b)(1), Jan. 28, 2008, 122 Stat. 138. See section 974 of this title.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31, §1248(b), substituted "the Secretary of the Navy may conduct a program beginning on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024" for "the Secretary of the Navy may conduct a program".

Subsec. (e). Pub. L. 118–31, §1248(a), struck out subsec. (e). Text read as follows: "The Secretary of the Navy may not accept the assignment of a member of the naval service of a foreign country under this section after September 30, 2008."

**2018**—Pub. L. 115–232 renumbered section 7234 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8635. Establishment of the Southern Sea Otter Military Readiness Areas

(a) ESTABLISHMENT.—The Secretary of the Navy shall establish areas, to be known as "Southern Sea Otter Military Readiness Areas", for national defense purposes. Such areas shall include each of the following:

(1) The area that includes Naval Base Ventura County, San Nicolas Island, and Begg Rock and the adjacent and surrounding waters within the following coordinates:

N. Latitude/W. Longitude
33°27.8/119°34.3
33°20.5/119°15.5
33°13.5/119°11.8
33°06.5/119°15.3
33°02.8/119°26.8
33°08.8/119°46.3
33°17.2/119°56.9
33°30.9/119°54.2.

(2) The area that includes Naval Base Coronado, San Clemente Island and the adjacent and surrounding waters running parallel to shore to 3 nautical miles from the high tide line designated by part 165 of title 33, Code of Federal Regulations, on May 20, 2010, as the San Clemente Island 3NM Safety Zone.

(b) ACTIVITIES WITHIN THE SOUTHERN SEA OTTER MILITARY READINESS AREAS.—

(1) INCIDENTAL TAKINGS UNDER ENDANGERED SPECIES ACT OF 1973.—Sections 4 and 9 of the Endangered Species Act of 1973 (16 U.S.C. 1533, 1538) shall not apply with respect to the incidental taking of any southern sea otter in the Southern Sea Otter Military Readiness Areas in the course of conducting a military readiness activity.

(2) INCIDENTAL TAKINGS UNDER MARINE MAMMAL PROTECTION ACT OF 1972 .—Sections 101 and 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371, 1372) shall not apply with respect to the incidental taking of any southern sea otter in the Southern Sea Otter Military Readiness Areas in the course of conducting a military readiness activity.

(3) TREATMENT AS SPECIES PROPOSED TO BE LISTED.—For purposes of conducting a military readiness activity, any southern sea otter while within the Southern Sea Otter Military Readiness Areas shall be treated for the purposes of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) as a member of a species that is proposed to be listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(c) REMOVAL.—Nothing in this section or any other Federal law shall be construed to require that any southern sea otter located within the Southern Sea Otter Military Readiness Areas be removed from the Areas.

(d) REVISION OR TERMINATION OF EXCEPTIONS.—The Secretary of the Interior may revise or terminate the application of subsection (b) if the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that military activities occurring in the Southern Sea Otter Military Readiness Areas are impeding the southern sea otter conservation or the return of southern sea otters to optimum sustainable population levels.

(e) MONITORING.—

(1) IN GENERAL.—The Secretary of the Navy shall conduct monitoring and research within the Southern Sea Otter Military Readiness Areas to determine the effects of military readiness activities on the growth or decline of the southern sea otter population and on the near-shore ecosystem. Monitoring and research parameters and methods shall be determined in consultation with the Service.

(2) REPORTS.—Not later than November 25, 2017, and every three years thereafter, the Secretary of the Navy shall report to Congress and the public on monitoring undertaken pursuant to paragraph (1).

(f) DEFINITIONS.—In this section:

(1) SOUTHERN SEA OTTER.—The term "southern sea otter" means any member of the subspecies Enhydra lutris nereis.

(2) TAKE.—The term "take"—

(A) when used in reference to activities subject to regulation by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), shall have the meaning given such term in that Act; and

(B) when used in reference to activities subject to regulation by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall have the meaning given such term in that Act.

(3) INCIDENTAL TAKING.—The term "incidental taking" means any take of a southern sea otter that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(4) MILITARY READINESS ACTIVITY.—The term "military readiness activity" has the meaning given that term in section 315(f) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (16 U.S.C. 703 note) and includes all training and operations of the armed forces that relate to combat and the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

(5) OPTIMUM SUSTAINABLE POPULATION.—The term "optimum sustainable population" means, with respect to any population stock, the number of animals that will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

(Added Pub. L. 114–92, div. A, title III, §312(a), Nov. 25, 2015, 129 Stat. 787, §7235; amended Pub. L. 115–91, div. A, title X, §1081(a)(50), Dec. 12, 2017, 131 Stat. 1597; renumbered §8635, Pub. L. 115–232, div. A, title VIII, §807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (f)(2)(A), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

The Marine Mammal Protection Act of 1972, referred to in subsec. (f)(2)(B), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, which is classified generally to chapter 31 (§1361 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of Title 16 and Tables.

Section 315 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, referred to in subsec. (f)(4), is section 315 of Pub. L. 107–314, which is set out as a note under section 703 of Title 16, Conservation.

### PRIOR PROVISIONS

A prior section 8635, act Aug. 10, 1956, ch. 1041, 70A Stat. 532, set forth restrictions on civilian employment for enlisted members of Air Force on active duty, prior to repeal by Pub. L. 90–235, §6(a)(7), Jan. 2, 1968, 81 Stat. 762.

A prior section 8639 was renumbered section 9239 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7235 of this title as this section.

**2017**—Subsec. (e)(2). Pub. L. 115–91 substituted "November 25, 2017," for "24 months after the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

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## EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title III, §§337, 811(a)(8), Dec. 18, 2025, 139 Stat. 819, 948, added item 8698 and struck out item 8688 "Warranty requirements for shipbuilding contracts". Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title X, §1025, Dec. 23, 2024, 138 Stat. 2055, added item 8679a. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title XVIII, §1801(a)(39), Dec. 22, 2023, 137 Stat. 685, renumbered item 8696 "Battle force ship employment, maintenance, and manning baseline plans" as 8697. Amendment was made pursuant to operation of section 102 of this title.

**2022**—Pub. L. 117–263, div. A, title I, §122(b), title X, §1026(b), Dec. 23, 2022, 136 Stat. 2443, 2767, added two items 8696.

**2021**—Pub. L. 117–81, div. A, title X, §§1013(b), 1014(b), 1015(a), 1016(b), 1017(b), Dec. 27, 2021, 135 Stat. 1893–1895, 1897, added items 8669c, 8678a, 8694, and 8695, and redesignated item 8692 "Biennial report on shipbuilder training and the defense industrial base" as 8693.

Pub. L. 116–283, div. A, title XVIII, §1876(d), Jan. 1, 2021, 134 Stat. 4291, which added items 8684a and 8688a to the analysis of this chapter effective Jan. 1, 2022, was repealed by Pub. L. 117–81, div. A, title XVII, §1701(n)(3), Dec. 27, 2021, 135 Stat. 2146.

Pub. L. 116–283, div. A, title X, §1026(b), Jan. 1, 2021, 134 Stat. 3844, added item 8692 "Biennial report on shipbuilder training and the defense industrial base".

**2019**—Pub. L. 116–92, div. A, title I, §121(b), title X, §1034(b), Dec. 20, 2019, 133 Stat. 1234, 1583, added item 8669b and item 8692 "Ford-class aircraft carriers: cost limitation baselines".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 633 of this title as this chapter and items 7291 to 7294, 7297, 7299 to 7301, and 7303 to 7321 as 8661 to 8664, 8667, 8669 to 8671, and 8673 to 8691, respectively.

Pub. L. 115–232, div. A, title III, §323(a)(2), title X, §§1015(b)(2), 1016(b), Aug. 13, 2018, 132 Stat. 1720, 1949, 1951, added items 7320 and 7321 and struck out item 7295 "Vessels: under-age".

Pub. L. 115–91, div. C, title XXXI, §3115(b)(2), Dec. 12, 2017, 131 Stat. 1887, added item 7319.

**2016**—Pub. L. 114–328, div. A, title X, §1022(a)(2), (b), Dec. 23, 2016, 130 Stat. 2388, added item 7318, effective on the later of the date of enactment of the National Defense Authorization for Fiscal Year 2018 or Sept. 30, 2017.

Pub. L. 114–328, div. A, title I, §121(a)(2), Dec. 23, 2016, 130 Stat. 2030, added item 7301.

**2013**—Pub. L. 113–66, div. A, title X, §1022(e)(2), Dec. 26, 2013, 127 Stat. 846, substituted "Vessels stricken from Naval Vessel Register; captured vessels: conveyance by donation" for "Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise" in item 7306.

**2011**—Pub. L. 112–81, div. A, title X, §1061(27)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 7296 "Combatant surface vessels: notice before reduction in number; preservation of surge capability".

Pub. L. 111–350, §5(b)(51), Jan. 4, 2011, 124 Stat. 3846, substituted "chapter 65 of title 41" for "Walsh-Healey Act" in item 7299.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(30), Oct. 28, 2009, 123 Stat. 2474, inserted period after "thereof" in item 7317.

**2008**—Pub. L. 110–417, [div. A], title VIII, §825(b), Oct. 14, 2008, 122 Stat. 4534, added item 7317.

**2004**—Pub. L. 108–375, div. A, title X, §§1011(b), 1012(a)(2), Oct. 28, 2004, 118 Stat. 2039, 2040, added items 7305a and 7312.

**2003**—Pub. L. 108–136, div. A, title X, §§1013(b), 1015(b), Nov. 24, 2003, 117 Stat. 1591, 1592, added items 7306b and 7316.

**2002**—Pub. L. 107–314, div. A, title X, §1021(b)(2), Dec. 2, 2002, 116 Stat. 2639, added item 7296.

**1999**—Pub. L. 106–65, div. A, title X, §1016(b), Oct. 5, 1999, 113 Stat. 744, added item 7300.

**1997**—Pub. L. 105–85, div. A, title X, §1027(a)(2), Nov. 18, 1997, 111 Stat. 1879, added item 7315.

**1996**—Pub. L. 104–106, div. A, title VIII, §815(b), Feb. 10, 1996, 110 Stat. 396, added item 7299.

**1994**—Pub. L. 103–355, title II, §2001(j)(3)(A), title III, §§3023(b), 3024(b), Oct. 13, 1994, 108 Stat. 3303, 3333, 3334, struck out items 7299 "Contracts: application of Public Contracts Act", 7302 "Construction on Pacific Coast", and 7312 "Repair or maintenance of naval vessels: progress payments under certain contracts".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(a)(7), (c)(7), Nov. 30, 1993, 107 Stat. 1713, 1714, struck out items 7296 "Appropriations: available for other purposes", 7298 "Conversion of combatants and auxiliaries", and 7301 "Bids on construction: estimates required", substituted "Examination of vessels; striking of vessels" for "Examination by board: unfit vessel stricken" in item 7304, "Vessels stricken from Naval Vessel Register: sale" for "Sale of vessel stricken from Naval Vessel Register" in item 7305, and "Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise" for "Use for experimental purposes" in item 7306, added item 7306a, substituted "Disposals to foreign nations" for "Restriction on disposal" in item 7307, "Chief of Naval Operations: certification required for disposal of combatant vessels" for "Transfer or gift of obsolete, condemned, or captured vessels" in item 7308, "Construction of vessels in foreign shipyards: prohibition" for "Restrictions on construction or repair of vessels in foreign shipyards" in item 7309, and "Overhaul, repair, etc. of vessels in foreign shipyards: restrictions" for "Policy in constructing combatant vessels" in item 7310.

**1989**—Pub. L. 101–189, div. A, title XVI, §1622(a), Nov. 29, 1989, 103 Stat. 1604, redesignated item 7313 "Overhaul of naval vessels: competition between public and private shipyards" as 7314.

**1988**—Pub. L. 100–456, div. A, title XII, §§1224(b)(2), 1225(a)(2), Sept. 29, 1988, 102 Stat. 2054, 2055, substituted "Restrictions on construction or repair" for "Restriction on construction" in item 7309 and added item 7313 "Overhaul of naval vessels: competition between public and private shipyards".

Pub. L. 100–370, §1(n)(2), July 19, 1988, 102 Stat. 850, added item 7313 "Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work".

**1987**—Pub. L. 100–180, div. A, title XI, §1102(a)(2), Dec. 4, 1987, 101 Stat. 1145, added item 7312.

**1986**—Pub. L. 99–661, div. A, title XII, §1202(b), Nov. 14, 1986, 100 Stat. 3968, added item 7311.

**1985**—Pub. L. 99–145, title XIII, §1303(a)(24)(B), Nov. 8, 1985, 99 Stat. 740, struck out "naval" before "vessels" in item 7309.

**1982**—Pub. L. 97–295, §1(48)(B), Oct. 12, 1982, 96 Stat. 1298, added item 7299a.

Pub. L. 97–295, §1(49)(B), Oct. 12, 1982, 96 Stat. 1299, added item 7310.

Pub. L. 97–252, title XI, §1127(b), Sept. 8, 1982, 96 Stat. 759, added item 7309.

**1981**—Pub. L. 97–86, title IX, §911(b)(2), Dec. 1, 1981, 95 Stat. 1122, struck out item 7300 "Contracts for construction: profit limitation".

## §8661. Classification

The President may establish, and from time to time modify, as the needs of the service require, a classification of naval vessels.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448, §7291; renumbered §8661, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7291 | 34 U.S.C. 451 (as applicable to classification of vessels). | Mar. 3, 1901, ch. 852 (last par. as applicable to classification of vessels), 31 Stat. 1133. |

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7291 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### STRATEGY FOR NAVY INVESTMENT IN AND SUPPORT FOR THE MARITIME INDUSTRIAL BASE

Pub. L. 119–60, div. A, title X, §1019, Dec. 18, 2025, 139 Stat. 1032, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Navy shall develop and implement a strategy for investing in and supporting the maritime industrial base to address cost and schedule challenges for surface and submarine shipbuilding programs.

"(b) ELEMENTS.—The strategy under subsection (a) shall—

"(1) focus on ensuring reliable supplies of sequence critical components for submarine and surface shipbuilding programs; and

"(2) include measures—

"(A) to identify key performance indicators to measure return on investment;

"(B) to centralize data collection to support further analysis of maritime industrial base performance; and

"(C) to apply artificial intelligence to monitor and predict potential supply chain challenges, including potential disruptions, material shortages, delivery delays, and other such factors.

"(c) REPORT.—Following completion of the strategy required under subsection (a), but not later than 210 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the strategy. The report shall include—

"(1) a summary of the strategy;

"(2) timelines for implementation of the strategy; and

"(3) an explanation of how the strategy is expected to address cost and schedule challenges for surface and submarine shipbuilding programs."

### PILOT PROGRAM ON USE OF AUTOMATED SHIPBUILDING TECHNOLOGIES AND CAPABILITIES

Pub. L. 119–60, div. A, title X, §1021, Dec. 18, 2025, 139 Stat. 1033, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Navy shall establish a pilot program on the use of automated assembly technologies and capabilities in naval shipbuilding to reduce overall construction times and alleviate workforce constraints (in this section referred to as the 'pilot program').

"(b) ELEMENTS OF PILOT PROGRAM.—In carrying out the pilot program, the Secretary of the Navy shall—

"(1) identify and select available novel automated hull assembly technologies for incorporation and demonstration;

"(2) designate at least one surface ship or submarine program to demonstrate the automated technologies identified under paragraph (1);

"(3) carry out such demonstrations;

"(4) evaluate the demonstrated automated technologies—

"(A) across a range of functions, including plate preparation, welding, and block assembly; and

"(B) for compatibility and ease of adoption into the existing shipbuilding value chain; and

"(5) assess the feasibility and effectiveness of automated approaches in improving subassembly construction times, overall ship construction schedules, and workforce efficiency and safety.

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than September 30, 2026, and annually thereafter until the pilot program terminates, the Secretary of the Navy shall submit to the Committee on Armed Services of the

Senate and the Committee on Armed Services of the House of Representatives a report on the implementation and results of the pilot program.

"(2) ELEMENTS OF REPORTS.—Each report required by paragraph (1) shall include the following:

"(A) An identification of the time required to adapt specific technologies and processes.

"(B) A description of the impact of the pilot program on workforce and construction schedules.

"(d) TERMINATION.—The pilot program shall terminate on the date that is three years after the date of the enactment of this Act [Dec. 18, 2025]."

## REQUIREMENTS FOR THE UNMANNED MARITIME AUTONOMY ARCHITECTURE

Pub. L. 118–159, div. A, title X, §1031, Dec. 23, 2024, 138 Stat. 2058, provided that:

"Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of the Navy shall—

"(1) provide a forum and resources to facilitate industry participation in the creation and management of a vendor-agnostic and platform-agnostic modular open systems architecture and associated standards for maritime unmanned systems;

"(2) adopt or join a governance model for the standards described in paragraph (1) that includes Government and industry participation;

"(3) implement a frequent or continuous process for incorporating industry feedback into the standards described in paragraph (1) and conforming those standards with leading industry practices;

"(4) for each relevant Navy program or contract, tailor the standards described in paragraph (1) to the minimum standards necessary to enable desired operational capabilities for the program or contract; and

"(5) label and distribute the standards described in paragraph (1) as open, publicly releasable information, to the greatest extent possible."

## REQUIREMENT FOR MATURE SHIP DESIGN

Pub. L. 118–159, div. A, title X, §1033, Dec. 23, 2024, 138 Stat. 2060, provided that: "The Secretary of the Navy shall take such actions as are necessary for the Navy to adopt recommendations 1, 3, 4, and 6 in the report of the Government Accountability Office titled, 'Navy Shipbuilding: Increased Use of Leading Design Practices Could Improve Timeliness of Deliveries', and dated May 2, 2024 (GAO–24–105503)."

## POLICY OF THE UNITED STATES ON MINIMUM NUMBER OF BATTLE FORCE SHIPS

Pub. L. 115–91, div. A, title X, §1025, Dec. 12, 2017, 131 Stat. 1549, as amended by Pub. L. 118–31, div. A, title X, §1020, Dec. 22, 2023, 137 Stat. 385, provided that:

"(a) POLICY.—It shall be the policy of the United States—

"(1) to have available, as soon as practicable, not fewer than 355 battle force ships, comprised of the optimal mix of platforms, with funding subject to the availability of appropriations or other funds; and

"(2) that the United States shipbuilding defense industrial base is fundamental to achieving the shipbuilding requirements of the Navy and constitutes a unique national security imperative that requires sustainment and support by the Navy and Congress.

"(b) BATTLE FORCE SHIPS DEFINED.—In this section, the term 'battle force ship' has the meaning given the term in Secretary of the Navy Instruction 5030.8C."

## METERING OF NAVY PIERS TO ACCURATELY MEASURE ENERGY CONSUMPTION

Pub. L. 112–81, div. B, title XXVIII, §2828, Dec. 31, 2011, 125 Stat. 1694, provided that:

"(a) METERING REQUIRED.—The Secretary of the Navy shall meter Navy piers so that the energy consumption of naval vessels while in port can be accurately measured and captured and steps taken to improve the efficient use of energy by naval vessels while in port.

"(b) PROGRESS REPORTS.—In each of the Department of Defense energy management reports submitted to Congress during fiscal years 2012 through 2017 under section 2925(a) of title 10, United States Code [section 2925(a) of this title struck out, and new section 2925(a) of this title added, by Pub. L. 117–263, §314(b)(1)(B)], the Secretary of the Navy shall include information on the progress being made to implement the metering of Navy piers, including information on any reductions in energy consumption achieved through the use of such metering."

## ADVANCE PROCUREMENT FUNDING

Pub. L. 111–84, div. A, title I, §124(a), Oct. 28, 2009, 123 Stat. 2214, provided that:

"(a) ADVANCE PROCUREMENT.—With respect to a naval vessel for which amounts are authorized to be appropriated or otherwise made available for fiscal year 2010 or any fiscal year thereafter for advance procurement in shipbuilding and conversion, Navy, the Secretary of the Navy may enter into a contract, in

advance of a contract for construction of any vessel, for any of the following:

"(1) Components, parts, or materiel.

"(2) Production planning and other related support services that reduce the overall procurement lead time of such vessel."

## ASSESSMENTS REQUIRED PRIOR TO START OF CONSTRUCTION ON FIRST SHIP OF A SHIPBUILDING PROGRAM

Pub. L. 110–181, div. A, title I, §124, Jan. 28, 2008, 122 Stat. 28, required assessment of certain factors prior to start of construction on first ship of a shipbuilding program, prior to repeal by Pub. L. 117–81, div. A, title X, §1013(c), Dec. 27, 2021, 135 Stat. 1893. See section 8669c of this title.

## FAST SEALIFT PROGRAM

Pub. L. 101–510, div. A, title XIV, §1424, Nov. 5, 1990, 104 Stat. 1683, as amended by Pub. L. 102–190, div. A, title X, §1015, Dec. 5, 1991, 105 Stat. 1458; Pub. L. 102–484, div. A, title X, §1022, Oct. 23, 1992, 106 Stat. 2485; Pub. L. 103–337, div. A, title I, §125, Oct. 5, 1994, 108 Stat. 2683, provided that:

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall establish a program for the construction and operation, or conversion and operation, of cargo vessels that incorporate features essential for military use of the vessels.

"(b) PROGRAM REQUIREMENTS.—The program under this section shall be carried out as follows:

"(1) The Secretary of the Navy shall establish the design requirements for vessels to be constructed or converted under the program.

"(2) In establishing the design requirements for vessels to be constructed or converted under the program, the Secretary shall use commercial design standards and shall consult with the Administrator of the Maritime Administration.

"(3) Construction or conversion of the vessels shall be accomplished in private United States shipyards.

"(4) The vessels constructed or converted under the program shall incorporate propulsion systems whose main components (that is, the engines, reduction gears, and propellers) are manufactured in the United States.

"(5) The vessels constructed or converted under the program shall incorporate bridge and machinery control systems and interior communications equipment which—

"(A) are manufactured in the United States; and

"(B) have more than half of their value, in terms of cost, added in the United States.

"(6) The Secretary of Defense may waive the requirement of paragraph (5) with respect to a system or equipment described in that paragraph if—

"(A) the system or equipment is not available; or

"(B) the costs of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.

"(c) CHARTER OF VESSELS CONSTRUCTED.—(1) Except when the Secretary determines that having a vessel immediately available with a full or partial crew is in the national interest, the Secretary, in consultation with the Administrator of the Maritime Administration, shall charter each vessel constructed before October 1, 1995, under the program for commercial operation. Any such charter—

"(A) shall not permit the operation of the vessel other than in the foreign commerce of the United States;

"(B) may be made only with an individual or entity that is a citizen of the United States (which, in the case of a corporation, partnership, or association, shall be determined in the manner specified in section 2 of the Shipping Act, 1916 ([former] 46 U.S.C. App. 802)) [see 46 U.S.C. 50501]; and

"(C) shall require that the vessel be documented (and remain documented) under the laws of the United States.

"(2) The Secretary may enter into a charter under paragraph (1) only through the use of competitive bidding procedures that ensure that the highest charter rates are obtained by the United States consistent with good business practice, except that the Secretary may operate the vessel (or contract to have the vessel operated) in direct support of United States military forces during a time of war or national emergency and at other times when the Administrator of the Maritime Administration determines that that operation would not unfairly compete with another United States-flag vessel.

"(3) If the Secretary determines that a vessel previously chartered under the program no longer has commercial utility, the Secretary may transfer the vessel to the National Defense Reserve Fleet.

"(4) A contract for the charter of a vessel under paragraph (1) shall include a provision that the charter may be terminated for national security reasons without cost to the United States.

"(d) REPORTS TO CONGRESS.—(1) Not later than six months after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of the Navy shall submit to Congress a report describing the Secretary's plan for implementing the fast sealift program authorized by this section.

"(2) Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan described in the report submitted under paragraph (1). The report shall include a description of vessels built or under contract to be built pursuant to this section, the use of such vessels, and the operating experience and manning of such vessels.

"(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Administrator of the Maritime Administration.

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated to the Department of Defense for any fiscal year for acquisition of fast sealift vessels may be used for the program under this section."

## FUNDING FOR SHIP PRODUCTION ENGINEERING

Pub. L. 101–189, div. A, title XVI, §1613, Nov. 29, 1989, 103 Stat. 1601, provided that:

"(a) CATEGORY FOR FUNDING.—Any request submitted to Congress for appropriations for ship production engineering necessary to support the procurement of any ship included (at the time the request is submitted) in the five-year shipbuilding and conversion plan of the Navy shall be set forth in the Shipbuilding and Conversion account of the Navy (rather than in research and development accounts).

"(b) APPLICABILITY.—Subsection (a) shall apply only with respect to appropriations for a fiscal year after fiscal year 1990."

## REPAIR OF VESSELS IN FOREIGN SHIPYARDS

Pub. L. 99–500, §101(c) [title IX, §9101], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, §101(c) [title IX, §9101], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, provided that: "No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs."

## ENCOURAGEMENT OF CONSTRUCTION IN UNITED STATES SHIPYARDS OF COMBATANT VESSELS FOR UNITED STATES ALLIES

Pub. L. 99–145, title XIV, §1455, Nov. 8, 1985, 99 Stat. 761, provided that:

"(a) IN GENERAL.—The Secretary of the Navy shall take such steps as necessary—

"(1) to encourage United States shipyards to construct combatant vessels for nations friendly to the United States, subject to the requirement to safeguard sensitive warship technology; and

"(2) to ensure that no effort is made by any element of the Department of the Navy to inhibit, delay, or halt the provision of any United States naval system to a nation allied with the United States if that system is approved for export to a foreign nation, unless approval of such system for export is withheld solely for the purpose of safeguarding sensitive warship technology;

"(3) if opportunities arise to construct combatant vessels (including diesel submarines) outside the United States in a shipyard of a friendly foreign nation, with some or all of the costs provided by United States funds—

"(A) to encourage United States firms to participate in such construction to the maximum extent possible, subject to the requirement to safeguard sensitive warship technology; and

"(B) to ensure, whenever practicable, that at least 51 percent of the dollar value of such construction is provided by United States firms.

"(b) DEFINITION.—For the purposes of this section, the term 'sensitive warship technology' means technology relating to the design or construction of a combatant naval vessel that is determined by the Secretary of Defense to be vital to United States security."

## SIX-HUNDRED-SHIP GOAL FOR NAVY; SENSE OF CONGRESS

Pub. L. 97–114, title VII, §791, Dec. 29, 1981, 95 Stat. 1593, provided that: "It is the sense of the Congress that—

"(1) A larger and stronger American Navy is needed as an essential ingredient of our Armed Forces, in order to fulfill its basic missions of (A) protecting the sea lanes to preserve the safety of the free world's commerce, (B) assuring continued access to raw materials essential to the well-being of the free world, (C) enhancing our capacity to project effective American forces into regions of the world where the vital interests of the United States must be protected, (D) engaging the Navy of the Soviet Union or any other

potential adversary successfully, (E) continuing to serve as a viable leg of our strategic triad, and (F) providing visible evidence of American diplomatic, economic and military commitments throughout the world.

"(2) In order to conduct the numerous and growing missions of the modern American Navy, a goal of a naval inventory of approximately six hundred active ships of various types by the end of the century at the latest, is highly desirable, the exact figure to be flexible to accommodate new designs as the specific details of our naval missions evolve to meet various contingencies.

"(3) The Secretary of Defense comply with section 808 of Public Law 94–106, the Department of Defense Appropriation Authorization Act of 1976 [set out as a note under this section], in order that the Congress may more properly appropriate the funds necessary to reach a six hundred-ship goal at least by the end of the present century."

**TONNAGE BALANCE FOR CONSTRUCTION OF SHIPS; REPEAL**

Pub. L. 89–37, title III, §301, June 11, 1965, 79 Stat. 128, provided that: "Outstanding tonnage balances remaining in law for construction of Navy ships are hereby repealed."

## §8662. Naming

(a) Not more than one vessel of the Navy may have the same name.

(b) The Secretary of the Navy may change the name of any vessel bought for the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448, §7292; Pub. L. 112–239, div. A, title X, §1018(b), Jan. 2, 2013, 126 Stat. 1910; Pub. L. 113–291, div. A, title X, §1071(f)(27), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–92, div. A, title X, §1074(a), Nov. 25, 2015, 129 Stat. 996; renumbered §8662, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 118–31, div. A, title X, §1018, Dec. 22, 2023, 137 Stat. 384.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7292(a) | 34 U.S.C. 462. | R.S. 1532. |
| 7292(b) | 34 U.S.C. 461. | May 4, 1898, ch. 234, 30 Stat. 390 (2d sentence under "Armor and Armament"); May 13, 1908, ch. 166, 35 Stat. 159; June 29, 1949, ch. 278, 63 Stat. 300 (6th par.). |
| 7292(c) | 34 U.S.C. 463. | R.S. 1533. |

In subsection (a) the words "care shall be taken that" are omitted as surplusage.

In subsection (b) the words "first class" are omitted as obsolete.

In subsection (c) the words "by authority of law" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8662, act Aug. 10, 1956, ch. 1041, 70A Stat. 533, provided for military training, organization, and equipping of prisoners who have been sent to United States Disciplinary Barracks, prior to repeal by Pub. L. 90–377, §6(3), July 5, 1968, 82 Stat. 288.

**AMENDMENTS**

**2023**—Subsecs. (b), (c). Pub. L. 118–31 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Each battleship shall be named for a State. However, if the names of all the States are in use, a battleship may be named for a city, place, or person."

**2018**—Pub. L. 115–232 renumbered section 7292 of this title as this section.

**2015**—Subsec. (d). Pub. L. 114–92 struck out subsec. (d) which read as follows:

"(1) The Secretary of the Navy may not announce or implement any proposal to name a vessel of the Navy until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the

Senate and the House of Representatives a report setting forth such proposal.

"(2) Each report under this subsection shall describe the justification for the proposal covered by such report in accordance with the standards referred to in section 1018(a) of the National Defense Authorization Act for Fiscal Year 2013."

**2014**—Subsec. (d)(2). Pub. L. 113–291 substituted "section 1018(a)" for "section 1024(a)".

**2013**—Subsec. (d). Pub. L. 112–239 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1018(c), Jan. 2, 2013, 126 Stat. 1911, provided that: "This section [amending this section and enacting provisions set out as a note under this section] and the amendment made by this section shall go into effect on the date that is 30 days after the date of the enactment of this Act [Jan. 2, 2013]."

### FINDINGS

Pub. L. 112–239, div. A, title X, §1018(a), Jan. 2, 2013, 126 Stat. 1910, provided that: "Congress makes the following findings:

"(1) The Navy traces its ancestry to October 13, 1775, when an Act of the Continental Congress authorized the first vessel of a navy for the United Colonies. Vessels of the Continental Navy were named for early patriots and military heroes, Federal institutions, colonial cities, and positive character traits representative of naval and military virtues.

"(2) An Act of Congress on March 3, 1819, made the Secretary of the Navy responsible for assigning names to vessels of the Navy. Traditional sources for vessel names customarily encompassed such categories as geographic locations in the United States; historic sites, battles, and ships; naval and military heroes and leaders; and noted individuals who made distinguished contributions to United States national security.

"(3) These customs and traditions provide appropriate and necessary standards for the naming of vessels of the Navy."

## §8663. Number in service in time of peace

In time of peace, the President may keep in service such vessels of the Navy as are required and keep the rest in reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449, §7293; renumbered §8663, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7293 | 34 U.S.C. 452. | R.S. 1534. |

The words "vessels of the Navy" are substituted for the words "of the public armed vessels". The words "actual", "in his opinion", and "by the nature of the service" are omitted as surplusage. The words "in reserve" are substituted for the words "to be laid up in ordinary in convenient ports" to conform to modern terminology.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8663, act Aug. 10, 1956, ch. 1041, 70A Stat. 533, authorized Secretary of Air Force to

parole or remit sentence and restore to duty offenders who are confined in the United States Disciplinary Barracks, prior to repeal by Pub. L. 90–377, §6(3), July 5, 1968, 82 Stat. 288.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7293 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8664. Suspension of construction in case of treaty

In case of a treaty for the limitation of naval armament to which the United States is a signatory, the President may suspend so much of the authorized naval construction as is necessary to bring the naval vessels of the United States within the limitations agreed upon. Such a suspension does not apply to vessels under construction at the time the suspension is made.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449, §7294; renumbered §8664, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7294 | 34 U.S.C. 498h (as applicable to vessels). | May 17, 1938, ch. 243, §9 (as applicable to vessels), 52 Stat. 403. |

The words "the United States would welcome and support an international conference for naval limitations" are omitted as a declaration of purpose without permanent or general significance. The word "further" is omitted since there is no such agreement in existence today. The word "international" is omitted as unnecessary since the word "treaty" necessarily involves an international understanding. The word "may" is substituted for the words "is hereby authorized and empowered to" for brevity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7294 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8667. Changing category or type: limitations

Unless they have been specifically made available for the purpose, funds appropriated for the repair or alteration of naval vessels may not be used to make repairs or alterations of any vessel that would change its category or type.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449, §7297; renumbered §8667, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7297 | 34 U.S.C. 490. | June 12, 1948, ch. 452, §2, 62 Stat. 382. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7297 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8669. Contracts: applicability of chapter 65 of title 41

Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to chapter 65 of title 41 unless the President determines that this requirement is not in the interest of national defense.

(Added Pub. L. 104–106, div. A, title VIII, §815(a), Feb. 10, 1996, 110 Stat. 396, §7299; amended Pub. L. 111–350, §5(b)(52), Jan. 4, 2011, 124 Stat. 3846; renumbered §8669, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7299 of this title as this section.

**2011**—Pub. L. 111–350 substituted "chapter 65 of title 41" for "Walsh-Healey Act" in section catchline and for "the Walsh-Healey Act (41 U.S.C. 35 et seq.)" in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8669a. Construction of combatant and escort vessels and assignment of vessel projects

(a) The assignment of naval vessel conversion, alteration, and repair projects shall be based on economic and military considerations and may not be restricted by a requirement that certain parts of naval shipwork be assigned to a particular type of shipyard or geographical area or by a similar requirement.

(b) In evaluating bids or proposals for a contract for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall, in determining the cost or price of work to be performed in an area outside the area of the homeport of the vessel, consider foreseeable costs of

moving the vessel and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract.

(c)(1) Before issuing a solicitation for a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall determine if there is adequate competition available among firms able to perform the work at the homeport of the vessel. If the Secretary determines that there is adequate competition among such firms, the Secretary—

(A) shall issue such a solicitation only to firms able to perform the work at the homeport of the vessel; and

(B) may not award such contract to a firm other than a firm that will perform the work at the homeport of the vessel.

(2) Paragraph (1) applies notwithstanding subsection (a) or any other provision of law.

(3) Paragraph (1) does not apply in the case of voyage repairs.

(4) In this subsection, the term "short-term work" means work that will be for a period of 18 months or less.

(Added Pub. L. 97–295, §1(48)(A), Oct. 12, 1982, 96 Stat. 1298, §7299a; amended Pub. L. 99–661, div. A, title XII, §1201(a), Nov. 14, 1986, 100 Stat. 3967; Pub. L. 100–180, div. A, title XI, §1101, Dec. 4, 1987, 101 Stat. 1145; Pub. L. 101–510, div. A, title XIV, §1422, Nov. 5, 1990, 104 Stat. 1682; Pub. L. 102–484, div. A, title X, §1016, Oct. 23, 1992, 106 Stat. 2485; Pub. L. 114–328, div. A, title X, §1021, Dec. 23, 2016, 130 Stat. 2388; renumbered §8669a, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 118–159, div. A, title X, §1023(a), Dec. 23, 2024, 138 Stat. 2052; Pub. L. 119–60, div. A, title X, §1012, Dec. 18, 2025, 139 Stat. 1030.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7299a | 10:7291 (note). | June 11, 1965, Pub. L. 89–37, §§302, 303, 79 Stat. 128. |

In subsection (a), the words "combatant vessels" are substituted for "warships" for consistency in title 10 and because of 1:3. The words "for which appropriations are authorized by this Act and hereafter" are omitted as unnecessary.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (c)(4). Pub. L. 119–60 substituted "18 months" for "12 months".

**2024**—Subsec. (c)(4). Pub. L. 118–159 substituted "12 months" for "10 months".

**2018**—Pub. L. 115–232 renumbered section 7299a of this title as this section.

**2016**—Subsec. (c)(4). Pub. L. 114–328 substituted "10 months" for "six months".

**1992**—Subsec. (a). Pub. L. 102–484, §1016(a), (b)(1), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: "The distribution of assignments and contracts for the construction of combatant vessels and escort vessels is subject to the Act of March 27, 1934 (ch. 95, 48 Stat. 503), requiring that the first and each succeeding alternate vessel be constructed in a Navy yard. However, the President may direct that a vessel be constructed in a Navy or private yard if the requirement of this subsection is inconsistent with the public interest."

Subsec. (b). Pub. L. 102–484, §1016(b)(1), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 102–484, §1016(b), redesignated subsec. (d) as (c) and substituted "subsection (a)" for "subsection (b)" in par. (2). Former subsec. (c) redesignated (b).

**1990**—Subsec. (d)(3). Pub. L. 101–510 substituted "apply in the case of voyage repairs." for "apply—

"(A) in the case of voyage repairs; or

"(B) in the case of a vessel that is assigned to the Naval Reserve force and homeported on the West Coast of the United States."

**1987**—Subsec. (d). Pub. L. 100–180 amended subsec. (d) generally. Prior to amendment, subsec. (d) read

as follows:

"(1) Notwithstanding subsections (b) and (c), the Secretary may award a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel only to a contractor that is able to perform the work at the homeport of the vessel, if the Secretary determines that adequate competition is available among firms able to perform the work at the homeport of the vessel.

"(2) In this subsection, the term 'short-term work' means work that will be for a period of six months or less."

**1986**—Subsecs. (c), (d). Pub. L. 99–661 added subsecs. (c) and (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF AUTHORITY

For delegation of authority of President under subsec. (a) of this section, see section 2 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

## §8669b. Senior Technical Authority for each naval vessel class

(a) SENIOR TECHNICAL AUTHORITY.—

(1) DESIGNATION FOR EACH VESSEL CLASS REQUIRED.—The Secretary of the Navy shall designate, in writing, a Senior Technical Authority for each class of naval vessels as follows:

(A) In the case of a class of vessels which has received Milestone A approval, an approval to enter into technology maturation and risk reduction, or an approval to enter into a subsequent Department of Defense or Department of the Navy acquisition phase as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, not later than 30 days after such date of enactment.

(B) In the case of any class of vessels which has not received any approval described in subparagraph (A) as of such date of enactment, at or before the first of such approvals.

(2) INDIVIDUALS ELIGIBLE FOR DESIGNATION.—Each individual designated as a Senior Technical Authority under paragraph (1) shall be an employee of the Navy in the Senior Executive Service in an organization of the Navy that—

(A) possesses the technical expertise required to carry out the responsibilities specified in subsection (b); and

(B) reports directly to the portfolio acquisition executive, established under section 1732 of this title.

(3) TERM.—Each Senior Technical Authority shall be designated for a fixed term, not shorter than the time anticipated to establish demonstrated successful performance of the class of vessels concerned in accordance with its approved capabilities document, as determined by the Secretary at the time of designation.

(4) VOLUNTARY DEPARTURE.—If an individual designated as a Senior Technical Authority voluntarily departs the position before demonstrated successful performance of the class of vessels concerned, the Secretary shall designate, in writing, a replacement, and shall notify, in writing, the congressional defense committees not later than 90 days after such departure.

(5) REMOVAL.—An individual may be removed involuntarily from designation as a Senior Technical Authority only by the Secretary. Not later than 15 days after the involuntary removal of

an individual from such designation, the Secretary shall notify, in writing, the congressional defense committees of the removal, including the reasons for the removal. Not later than 90 days after the involuntary removal, the Secretary shall designate, in writing, a replacement, and shall notify, in writing, the congressional defense committees of such designation.

(6) REASSIGNMENT FOR MISSION NEEDS.—Subject to paragraphs (4) and (5), the Secretary may reassign a Senior Technical Authority or remove an individual from designation as a Senior Technical Authority in furtherance of Department of the Navy mission needs.

(b) RESPONSIBILITIES AND AUTHORITY.—(1) Each Senior Technical Authority shall be responsible for, and have the authority to, establish, monitor, and approve technical standards, tools, and processes for the class of naval vessels for which designated under this section in conformance with applicable laws and Department of Defense and Department of the Navy policies, requirements, architectures, and standards.

(2) Each Senior Technical Authority shall also be responsible for the determination that all design requirements for a vessel class are directly related to a key performance parameter or key system attribute established in the capability development document for such class. Any such requirement that the Senior Technical Authority determines is unnecessary to meet a key performance parameter or key system attribute shall not be approved.

(c) LIMITATION ON OBLIGATION OF FUNDS ON LEAD VESSEL IN VESSEL CLASS.—

(1) IN GENERAL.—On or after January 1, 2021, funds authorized to be appropriated for Shipbuilding and Conversion, Navy or Other Procurement, Navy may not be obligated for the first time on the lead vessel in a class of naval vessels unless the Secretary of the Navy certifies as described in paragraph (2).

(2) CERTIFICATION ELEMENTS.—The certification on a class of naval vessels described in this paragraph is a certification containing each of the following:

(A) The name or names of the individual or individuals designated as the Senior Technical Authority for such class of vessels, and the qualifications and professional biography or biographies of the individual or individuals so designated.

(B) A description by the Senior Technical Authority of the systems engineering, technology, and ship integration risks for such class of vessels.

(C) The designation by the Senior Technical Authority of each critical hull, mechanical, electrical, propulsion, and combat system of such class of vessels, including systems relating to power generation, power distribution, and key operational mission areas.

(D) The date on which the Senior Technical Authority approved the systems engineering, engineering development, and land-based engineering and testing plans for such class of vessels.

(E) A description by the Senior Technical Authority of the key technical knowledge objectives and demonstrated system performance of each plan approved as described in subparagraph (D).

(F) A determination by the Senior Technical Authority that such plans are sufficient to achieve thorough technical knowledge of critical systems of such class of vessels before the start of detail design and construction.

(G) A determination by the Senior Technical Authority that actual execution of activities in support of such plans as of the date of the certification have been and continue to be effective and supportive of the acquisition schedule for such class of vessels.

(H) A description by the Senior Technical Authority of other technology maturation and risk reduction efforts not included in such plans for such class of vessels taken as of the date of the certification.

(I) A certification by the Senior Technical Authority that each critical system covered by subparagraph (C) has been demonstrated through testing of a prototype or identical component in its final form, fit, and function in a realistic environment.

(J) A determination by the Secretary that the plans approved as described in subparagraph (D) are fully funded and will be fully funded in the future-years defense program for the fiscal year

beginning in the year in which the certification is submitted.

(K) A determination by the Secretary that the Senior Technical Authority will approve, in writing, the ship specification for such class of vessels before the request for proposals for detail design, construction, or both, as applicable, is released.

(3) DEADLINE FOR SUBMITTAL OF CERTIFICATION.—The certification required by this subsection with respect to a class of naval vessels shall be submitted, in writing, to the congressional defense committees not fewer than 30 days before the Secretary obligates for the first time funds authorized to be appropriated for Shipbuilding and Conversion, Navy or Other Procurement, Navy for the lead vessel in such class of naval vessels.

(d) DEFINITIONS.—In this section:

(1) The term "class of naval vessels"—

(A) means any group of similar undersea or surface craft procured with Shipbuilding and Conversion, Navy or Other Procurement, Navy funds, including manned, unmanned, and optionally-manned craft; and

(B) includes—

(i) a substantially new class of craft (including craft procured using "new start" procurement); and

(ii) a class of craft undergoing a significant incremental change in its existing class (such as a next "flight" of destroyers or next "block" of attack submarines).

(2) The term "future-years defense program" has the meaning given that term in section 221 of this title.

(3) The term "Milestone A approval" means a decision to enter into technology maturation and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(Added Pub. L. 116–92, div. A, title X, §1034(a), Dec. 20, 2019, 133 Stat. 1580; amended Pub. L. 116–283, div. A, title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 4294; Pub. L. 119–60, div. A, title X, §1013, div. A, title XVIII, §1805(b)(2), Dec. 18, 2025, 139 Stat. 1030, 1236.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 and such date of enactment, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

### AMENDMENTS

**2025**—Subsec. (a)(2)(B). Pub. L. 119–60, §1013(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "operates independently of chains-of-command for acquisition program management."

Subsec. (b). Pub. L. 119–60, §1013(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(3). Pub. L. 119–60, §1805(b)(2), substituted "means a decision to enter into technology maturation and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs." for "has the meaning given that term in section 4211 of this title."

**2021**—Subsec. (d)(3). Pub. L. 116–283 substituted "section 4211" for "section 2431a".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a

note preceding section 3001 of this title.

**EXEMPTION OF UNMANNED SURFACE VESSELS AND UNMANNED UNDERWATER VEHICLES FROM CERTAIN TECHNICAL AUTHORITY REQUIREMENTS**

Pub. L. 119–60, div. A, title X, §1020, Dec. 18, 2025, 139 Stat. 1033, provided that:

"(a) EXEMPTION FROM SENIOR TECHNICAL AUTHORITY REQUIREMENTS.—Unmanned surface vessels and unmanned underwater vehicles acquired or developed by the Department of the Navy are exempt from any requirement for oversight by a senior technical authority established under section 8669b of title 10, United States Code, except the requirements, specifications, and approvals described in subsection (c).

"(b) LIMITATION RELATING TO OFFICE OF THE CHIEF ENGINEER.—Subject to subsection (c), the Chief Engineer of the Naval Sea Systems Command may not establish any requirement, specification, or approval for an unmanned surface vessel or an unmanned underwater vehicle unless such action is approved in advance by the program manager responsible for the respective unmanned system.

"(c) EXCEPTIONS.—As the Secretary of the Navy considers appropriate, unmanned surface vessels and unmanned underwater vehicles may be subject to requirements, specifications, and approvals established by technical domain managers or technical warrant holders with responsibility for cybersecurity, ordnance and explosives, or warfare systems, without advanced approval described in subsection (b).

"(d) DEFINITIONS.—In this section:

"(1) The term 'unmanned surface vessel' means a vessel designed to operate on the surface of the water without an onboard human crew.

"(2) The term 'unmanned underwater vehicle' means a vehicle designed to operate below the surface of the water without an onboard human crew."

## §8669c. Assessments required prior to start of construction on first ship of a shipbuilding program

(a) IN GENERAL.—The Secretary of the Navy may not approve the start of construction of the first ship for any major shipbuilding program until a period of 15 days has elapsed following the date on which the Secretary—

(1) submits a report to the congressional defense committees on the results of any production readiness review;

(2) certifies to the congressional defense committees that the findings of any such review support the start of construction; and

(3) certifies to the congressional defense committees that at least 95 percent of all the basic and functional design drawing packages for the ship have reached final approval.

(b) REPORT.—The report required by subsection (a)(1) shall include each of the following:

(1) An identification of the degree to which detail design and production design drawings and related documents have been completed in accordance with the shipbuilding contract.

(2) An assessment of the readiness of the shipyard facilities and workforce to begin construction.

(3) The Navy's estimated delivery date and a description of any risks that could affect such delivery date.

(4) An assessment of the extent to which adequate processes and metrics are in place to measure and manage program risks.

(5) With respect to the first ship, a description of the plans of the Navy to oversee and document the construction of the ship to ensure that the detail design supports the construction schedule for the ship.

(6) A definition of the term "start of construction" that—

(A) is applicable to the first ship; and

(B) does not mean a point in time—

(i) after the completion of 5 percent of lightship displacement; or

(ii) after the advance procurement or advance construction of the ship.

(7) An identification of any fabrication of the hull and superstructure of the ship that will occur

before the date on which the Secretary submits the certifications required under paragraphs (2) and (3) of subsection (a).

(8) An identification of the extent of to which vendor- and government-furnished information supports the overall maturity and stability of the ship's design, including information regarding—

(A) whether vendor selection is complete for major distributive systems and key equipment supporting operational requirements;

(B) whether specifications are finalized for major distributive systems and key equipment; and

(C) the status of factory acceptance testing, as applicable, to validate finalized specifications for major distributive systems and key equipment through manufacturing.

(c) DEFINITIONS.—For the purposes of subsection (a):

(1) BASIC AND FUNCTIONAL DESIGN.—The term "basic and functional design", when used with respect to a vessel, means design through computer aided models, and when used with respect to manned surface and undersea combatants, means design through the completion of three-dimensional computer aided modeling, that—

(A) supports the major hull structure of the vessel;

(B) sets the hydrodynamics of the vessel; and

(C) positions and routes all major distributive systems of the ship, including electricity, water, and other utilities.

(2) FIRST SHIP.—The term "first ship" applies to a ship if—

(A) the ship is the first ship to be constructed under that shipbuilding program; or

(B) the shipyard at which the ship is to be constructed has not previously started construction on a ship under that shipbuilding program.

(3) MAJOR SHIPBUILDING PROGRAM.—The term "major shipbuilding program" means a program for the construction of combatant and support vessels required for the naval vessel force, as reported within the annual naval vessel construction plan required by section 231 of this title.

(4) PRODUCTION READINESS REVIEW.—The term "production readiness review" means a formal examination of a program prior to the start of construction to determine if the design is ready for production, production engineering problems have been resolved, and the producer has accomplished adequate planning for the production phase.

(Added Pub. L. 117–81, div. A, title X, §1013(a), Dec. 27, 2021, 135 Stat. 1892; amended Pub. L. 118–159, div. A, title X, §1024, Dec. 23, 2024, 138 Stat. 2053.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §1024(1)(A), substituted "15 days" for "30 days" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–159, §1024(1)(B), substituted "the start" for "commencement".

Subsec. (a)(3). Pub. L. 118–159, §1024(1)(C), inserted "at least 95 percent of all" before "the basic" and substituted "drawing packages for the ship have reached final approval" for "of the vessel is complete".

Subsec. (b). Pub. L. 118–159, §1024(2)(A), struck out ", at a minimum, an assessment of" after "include" in introductory provisions.

Subsec. (b)(1) to (8). Pub. L. 118–159, §1024(2)(B), added pars. (1) to (8) and struck out former pars. (1) to (6) which read as follows:

"(1) The maturity of the ship's design, as measured by stability of the ship contract specifications and the degree of completion of detail design and production design drawings.

"(2) The maturity of developmental command and control systems, weapon and sensor systems, and hull, mechanical and electrical systems.

"(3) The readiness of the shipyard facilities and workforce to begin construction.

"(4) The Navy's estimated cost at completion and the adequacy of the budget to support the estimate.

"(5) The Navy's estimated delivery date and description of any variance to the contract delivery date.

"(6) The extent to which adequate processes and metrics are in place to measure and manage program risks."

Subsec. (c)(1). Pub. L. 118–159, §1024(3)(A)(i), inserted ", and when used with respect to manned surface and undersea combatants, means design through the completion of three-dimensional computer aided modeling" after "computer aided models" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 118–159, §1024(3)(A)(ii), substituted "supports" for "fixes".

Subsec. (c)(1)(C). Pub. L. 118–159, §1024(3)(A)(iii), substituted "positions and routes all major distributive systems of the ship" for "routes major portions of all distributive systems of the vessel".

Subsec. (c)(5). Pub. L. 118–159, §1024(3)(B), struck out par. (5) which defined "start of construction".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### METRICS FOR BASIC AND FUNCTIONAL DESIGN FOR SHIP CONSTRUCTION

Pub. L. 119–60, div. A, title X, §1016, Dec. 18, 2025, 139 Stat. 1031, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Navy shall select a metric to measure the progression of basic and functional design with respect to the construction of ships.

"(b) REPORT.—Not later than 45 days after the selection of a metric under subsection (a), the Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on such metric that includes the justification for the selection of the metric.

"(c) BASIC AND FUNCTIONAL DESIGN.—In this section, the term 'basic and functional design' has the meaning given such term in section 8669c(1) [sic; probably means 8669c(c)(1)] of title 10, United States Code."

## §8670. Contracts for nuclear ships: sales of naval shipyard articles and services to private shipyards

The conditions set forth in section 2208(j)(1)(B) of this title and subsections (a)(1) and (c)(1)(A) of section 2563 of this title shall not apply to a sale by a naval shipyard of articles or services to a private shipyard that is made at the request of the private shipyard in order to facilitate the private shipyard's fulfillment of a Department of Defense contract with respect to a nuclear ship. This section does not authorize a naval shipyard to construct a nuclear ship for the private shipyard, to perform a majority of the work called for in a contract with a private entity, or to provide articles or services not requested by the private shipyard.

(Added Pub. L. 106–65, div. A, title X, §1016(a), Oct. 5, 1999, 113 Stat. 744, §7300; amended Pub. L. 106–398, §1 [[div. A], title X, §1033(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–261; renumbered §8670, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7300 of this title as this section.

**2000**—Pub. L. 106–398 substituted "section 2563" for "section 2553".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8671. Determination of vessel delivery dates

(a) IN GENERAL.—The delivery of a covered vessel shall be deemed to occur on the date on which—

(1) the Secretary of the Navy determines that the vessel is assembled and complete; and

(2) custody of the vessel and all systems contained in the vessel transfers to the Navy.

(b) INCLUSION IN BUDGET AND ACQUISITION REPORTS.—The delivery dates of covered vessels shall be included—

(1) in the materials submitted to Congress by the Secretary of Defense in support of the budget of the President for each fiscal year (as submitted to Congress under section 1105(a) of title 31, United States Code); and

(2) in any relevant Selected Acquisition Report submitted to Congress under section 4351 of this title.

(c) LISTING AS BATTLE FORCE SHIP IN NAVAL VESSEL REGISTER.—A covered vessel may not be listed in the Naval Vessel Register or other fleet inventory measures as a battle force ship until the delivery date specified in subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term "covered vessel" means any vessel of the Navy that is under construction or constructed using amounts authorized to be appropriated for the Department of Defense for shipbuilding and conversion, Navy.

(2) The term "battle force ship" means the following:

(A) A commissioned United States Ship warship capable of contributing to combat operations.

(B) A United States Naval Ship that contributes directly to Navy warfighting or support missions.

(Added Pub. L. 114–328, div. A, title I, §121(a)(1), Dec. 23, 2016, 130 Stat. 2029, §7301; renumbered §8671 and amended Pub. L. 115–232, div. A, title VIII, §807(d)(2), title X, §1014, Aug. 13, 2018, 132 Stat. 1836, 1948; Pub. L. 116–283, div. A, title XVIII, §1849(f), formerly §1849(m), Jan. 1, 2021, 134 Stat. 4264, renumbered §1849(f) and amended Pub. L. 117–81, div. A, title XVII, §1701(o)(5)(B), (6)(D), Dec. 27, 2021, 135 Stat. 2147.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(2). Pub. L. 116–283, §1849(f), formerly §1849(m), as renumbered and amended by Pub. L. 117–81, §1701(o)(5)(B), (6)(D), substituted "section 4351" for "section 2432".

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7301 of this title as this section.

Subsec. (c). Pub. L. 115–232, §1014(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 115–232, §1014(b), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "In this section, the term 'covered vessel' means any vessel of the Navy that is under construction on or after the date of the enactment of this section using amounts authorized to be appropriated for the Department of Defense for shipbuilding and conversion, Navy."

Pub. L. 115–232, §1014(a)(1), redesignated subsec. (c) as (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note

preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 807(d)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**CERTIFICATION**

Pub. L. 114–328, div. A, title I, §121(b), Dec. 23, 2016, 130 Stat. 2030, provided that:

"(1) IN GENERAL.—Not later than January 1, 2017, the Secretary of the Navy shall certify to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the delivery dates of the following vessels have been adjusted in accordance with section 7301 [now 8671] of title 10, United States Code, as added by subsection (a):

"(A) The U.S.S. John F. Kennedy (CVN–79).

"(B) The U.S.S. Zumwalt (DDG–1000).

"(C) The U.S.S. Michael Monsoor (DDG–1001).

"(D) The U.S.S. Lyndon B. Johnson (DDG–1002).

"(E) Any other vessel of the Navy that is under construction on the date of the enactment of this Act [Dec. 23, 2016].

"(2) CONTENTS.—The certification under paragraph (1) shall include—

"(A) an identification of each vessel for which the delivery date was adjusted; and

"(B) the delivery date of each such vessel, as so adjusted."

## §8673. Model Basin; investigation of hull designs

The Secretary of the Navy may authorize experiments to be made at the Model Basin for private persons. The costs of experiments made for private persons shall be paid by those persons under regulations prescribed by the Secretary. The results of private experiments are confidential and may not be divulged without the consent of the persons for whom they are made. However, the data obtained from such experiments may be used by the Secretary for governmental purposes, subject to the patent laws of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 451, §7303; Pub. L. 89–718, §41, Nov. 2, 1966, 80 Stat. 1120; renumbered §8673 and amended Pub. L. 115–232, div. A, title VIII, §807(d)(2), title X, §1015(a), Aug. 13, 2018, 132 Stat. 1836, 1949.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7303 | 5 U.S.C. 430a. | May 6, 1936, ch. 333, 49 Stat. 1263; June 20, 1940, ch. 400, §1(a), (b), 54 Stat. 492. |

In subsection (a) the authority to purchase a site and construct the model basin is omitted as executed. The words "David W. Taylor Model Basin, Carderock, Maryland" are inserted to designate the model basin established under this authority. The words "investigations to determine" are substituted for the words "work of investigating and determining." The phrase "vessels, including aircraft" is changed to read "vessels and aircraft", and the words "their design" are substituted for "ship design".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7303 of this title as this section.

Pub. L. 115–232, §1015(a), struck out subsec. (b) designation before "The Secretary" and struck out subsec. (a) which read as follows: "An office or agency in the Department of the Navy designated by the Secretary of

the Navy shall conduct at the David W. Taylor Model Basin, Carderock, Maryland, investigations to determine the most suitable shapes and forms for United States vessels and aircraft and investigations of other problems of their design."

**1966**—Subsec. (a). Pub. L. 89–718 substituted "An officer or agency of the Department of the Navy designated by the Secretary of the Navy" for "The Bureau of Ships".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 807(d)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8674. Examination of vessels; striking of vessels from Naval Vessel Register

(a) BOARDS OF OFFICERS TO EXAMINE NAVAL VESSELS.—(1) The Secretary of the Navy shall designate boards of naval officers to examine naval vessels, including unfinished vessels, for the purpose of making a recommendation to the Secretary as to which vessels, if any, should be stricken from the Naval Vessel Register. Each vessel shall be examined at least once every three years if practicable.

(2)(A) Except as provided in subparagraph (B), any naval vessel examined under this section on or after January 1, 2020, shall be examined with minimal notice provided to the crew of the vessel.

(B) Subparagraph (A) shall not apply to a vessel undergoing necessary trials before acceptance into the fleet.

(b) ACTIONS BY BOARD.—A board designated under subsection (a) shall submit to the Secretary in writing its recommendations as to which vessels, if any, among those it examined should be stricken from the Naval Vessel Register.

(c) ACTION BY SECRETARY.—If the Secretary concurs with a recommendation by a board that a vessel should be stricken from the Naval Vessel Register, the Secretary shall strike the name of that vessel from the Naval Vessel Register.

(d) ANNUAL REPORT.—(1) Not later than March 1 each year, the board designated under subsection (a) shall provide to the congressional defense committees a briefing and submit to such committees a report regarding the following:

(A) An overall narrative summary of the material readiness of Navy ships as compared to established material requirements standards.

(B) The overall number and types of vessels inspected during the preceding fiscal year.

(C) For in-service vessels, material readiness trends by inspected functional area as compared to the previous five years.

(2) Each report under this subsection shall be submitted in—

(A) a classified form; and

(B) an unclassified form that is releasable to the public without further redaction.

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708, §7304; renumbered §8674 and amended Pub. L. 115–232, div. A, title III, §322, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1719, 1836; Pub. L. 117–81, div. A, title III, §362, Dec. 27, 2021, 135 Stat. 1660.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (d)(1). Pub. L. 117–81, §362(1), substituted "provide to the congressional defense committees a briefing and submit to such committees a report regarding" for "submit to the congressional defense committees a report setting forth" in introductory provisions.

Subsec. (d)(2). Pub. L. 117–81, §362(2), substituted "in—" for "in an unclassified form that is releasable to the public without further redaction." and added subpars. (A) and (B).

Subsec. (d)(3). Pub. L. 117–81, §362(3), struck out par. (3) which read as follows: "No report shall be required under this subsection after October 1, 2021."

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7304 of this title as this section.

Subsec. (a). Pub. L. 115–232, §322(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 115–232, §322(b), added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 807(d)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8675. Vessels stricken from Naval Vessel Register: sale

(a) APPRAISAL OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER.—The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register under section 8674 of this title.

(b) AUTHORITY TO SELL VESSEL.—If the Secretary considers that the sale of the vessel is in the national interest, the Secretary may sell the vessel. Any such sale shall be in accordance with regulations prescribed by the Secretary for the purposes of this section.

(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section.

(2) In such a case, the Secretary may—

(A) sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after publicly advertising the sale of the vessel for a period of not less than 30 days; or

(B) subject to paragraph (3), sell the vessel by competitive negotiation to the acceptable offeror who submits the offer that is most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(3) Before entering into negotiations to sell a vessel under paragraph (2)(B), the Secretary shall publish notice of the intention to do so in the Commerce Business Daily sufficiently in advance of initiating the negotiations that all interested parties are given a reasonable opportunity to prepare and submit proposals. The Secretary shall afford an opportunity to participate in the negotiations to all acceptable offerors submitting proposals that the Secretary considers as having the potential to be the most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(d) APPLICABILITY.—This section does not apply to a vessel the disposal of which is authorized by subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, if it is to be disposed of under those provisions.

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1708, §7305; amended Pub. L. 105–85, div. A, title X, §1021, Nov. 18, 1997, 111 Stat. 1875; Pub. L. 107–217, §3(b)(28), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title X, §1045(a)(7), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 111–350, §5(b)(53), Jan. 4, 2011, 124 Stat. 3847; renumbered §8675 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(2), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7305 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8674" for "section 7304".

**2011**—Subsec. (d). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, if it is to be disposed of under those provisions" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), if it is to be disposed of under subtitle I of title 40 and such title III".

**2003**—Subsec. (d). Pub. L. 108–136 inserted "such" before "title III.".

**2002**—Subsec. (d). Pub. L. 107–217 inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)" and "subtitle I of title 40 and title III" for "that Act".

**1997**—Subsec. (c). Pub. L. 105–85 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section. In such a case, the Secretary may sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after the vessel is publicly advertised for sale for a period of not less than 30 days.

"(2) If the Secretary determines that the bid prices for a vessel received after advertising under paragraph (1) are not acceptable and that readvertising will serve no useful purpose, the Secretary may sell the vessel by negotiation to the highest acceptable bidder if—

"(A) each responsible bidder has been notified of intent to negotiate and has been given a reasonable opportunity to negotiate; and

"(B) the negotiated price is—

"(i) higher than the highest rejected price of any responsible bidder; or

"(ii) reasonable and in the national interest."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8675a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis

(a) AUTHORITY FOR NET-COST BASIS CONTRACTS.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

(b) RETENTION BY CONTRACTOR OF PROCEEDS OF SALE OF SCRAP AND REUSABLE ITEMS.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

(c) DEFINITIONS.—In this section:

(1) The term "net-cost basis", with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling and for removal and disposal of hazardous waste material is discounted by the offeror's estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

(2) The term "scrap" means personal property that has no value except for its basic material content.

(3) The term "reusable item" means a demilitarized component or a removable portion of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.

(Added Pub. L. 108–375, div. A, title X, §1011(a), Oct. 28, 2004, 118 Stat. 2038, §7305a; renumbered §8675a, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7305a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8676. Vessels stricken from Naval Vessel Register; captured vessels: conveyance by donation

(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may convey, by donation, all right, title, and interest to any vessel stricken from the Naval Vessel Register or any captured vessel, for use as a museum or memorial for public display in the United States, to—

(1) any State, the District of Columbia, any Commonwealth or possession of the United States, or any municipal corporation or political subdivision thereof; or

(2) any nonprofit entity.

(b) LIMITATIONS ON LIABILITY AND RESPONSIBILITY.—(1) The United States and all departments and agencies thereof, and their officers and employees, shall not be liable at law or in equity for any injury or damage to any person or property occurring on a vessel donated under this section.

(2) Notwithstanding any other law, the Department of Defense, and the officers and employees of the Department of Defense, shall have no responsibility or obligation to make, engage in, or provide funding for, any improvement, upgrade, modification, maintenance, preservation, or repair to a vessel donated under this section.

(c) TRANSFERS TO BE AT NO COST TO DEPARTMENT OF DEFENSE.—Any transfer of a vessel under this section, the maintenance and preservation of that vessel as a museum or memorial, and the ultimate disposal of that vessel, including demilitarization of Munitions List items at the end of the useful life of the vessel as a museum or memorial, shall be made at no cost to the Department of Defense.

(d) APPLICATION OF ENVIRONMENTAL LAWS.—Nothing in this section shall affect the applicability of Federal, State, interstate, and local environmental laws and regulations, including the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), to the Department of Defense or to a donee.

(e) DEFINITIONS.—In this section:

(1) The term "nonprofit entity" means any entity qualifying as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) The term "Munitions List" means the United States Munitions List created and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(3) The term "donee" means any entity receiving a vessel pursuant to subsection (a).

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1709, §7306; amended Pub. L. 106–65, div. A, title X, §1011, Oct. 5, 1999, 113 Stat. 739; Pub. L. 107–217, §3(b)(29), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 113–66, div. A, title X, §1022(a)–(e)(1), Dec. 26, 2013, 127 Stat. 845, 846; Pub. L. 114–92, div. A, title X, §1074(b), Nov. 25, 2015, 129 Stat. 996; renumbered §8676, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (d), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (d), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (e)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7306 of this title as this section.

**2015**—Subsecs. (d) to (f). Pub. L. 114–92 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which related to congressional notice-and-wait period.

**2013**—Pub. L. 113–66, §1022(e)(1), substituted "Vessels stricken from Naval Vessel Register; captured vessels: conveyance by donation" for "Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise" in section catchline.

Subsec. (a). Pub. L. 113–66, §1022(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "Subject to section 113 of title 40, the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register, or any captured vessel, to—

"(1) any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof;

"(2) the District of Columbia; or

"(3) any not-for-profit or nonprofit entity."

Subsec. (b). Pub. L. 113–66, §1022(b), amended subsec. (b) generally. Prior to amendment, text read as follows: "An agreement for the transfer of a vessel under subsection (a) shall include a requirement that the transferee will maintain the vessel in a condition satisfactory to the Secretary."

Subsec. (c). Pub. L. 113–66, §1022(c), in heading, substituted "Department of Defense" for "United States" and in text, inserted ", the maintenance and preservation of that vessel as a museum or memorial, and the ultimate disposal of that vessel, including demilitarization of Munitions List items at the end of the useful life of the vessel as a museum or memorial," after "under this section" and substituted "the Department of Defense" for "the United States".

Subsecs. (e), (f). Pub. L. 113–66, §1022(d), added subsecs. (e) and (f).

**2002**—Subsec. (a). Pub. L. 107–217 substituted "section 113 of title 40" for "subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)".

**1999**—Subsec. (d). Pub. L. 106–65 amended heading and text of subsec. (d) generally. Text read as follows:

"(1) No transfer under this section takes effect unless—

"(A) notice of the proposal to make the transfer is sent to Congress; and

"(B) 60 days of continuous session of Congress have expired following the date on which such notice is sent to Congress.

"(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8676a. Vessels stricken from Naval Vessel Register: use for experimental purposes

(a) AUTHORITY.—The Secretary of the Navy may use for experimental purposes any vessel stricken from the Naval Vessel Register.

(b) STRIPPING AND ENVIRONMENTAL REMEDIATION OF VESSEL.—(1) Before using a vessel for an experimental purpose pursuant to subsection (a), the Secretary shall carry out such stripping of the vessel as is practicable and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes.

(2) Material and equipment stripped from a vessel under paragraph (1) may be sold by the contractor or by a sales agent approved by the Secretary.

(3) Amounts received as proceeds from the stripping of a vessel pursuant to this subsection shall be credited to appropriations available for the procurement of services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes.

(c) USE FOR EXPERIMENTAL PURPOSES DEFINED.—In this section, the term "use for experimental purposes", with respect to a vessel, includes use of the vessel in a Navy sink exercise or for target purposes.

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1709, §7306a; amended Pub. L. 108–136, div. A, title X, §1012, Nov. 24, 2003, 117 Stat. 1589; renumbered §8676a, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7306a of this title as this section.

**2003**—Subsec. (b). Pub. L. 108–136, §1012(a)(1), inserted "and Environmental Remediation of" before "Vessel" in heading.

Subsec. (b)(1). Pub. L. 108–136, §1012(a)(2), inserted before period at end "and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes".

Subsec. (b)(2). Pub. L. 108–136, §1012(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 108–136, §1012(b)(1), (3), redesignated par. (2) as (3) and substituted "services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes" for "scrapping services needed for such stripping. Amounts received which are in excess of amounts needed for procuring such services shall be deposited into the general fund of the Treasury".

Subsec. (c). Pub. L. 108–136, §1012(c), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8676b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs

(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, for use as provided in subsection (b).

(b) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources (as that term is defined in section 3(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14))); and

(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.

(c) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF.—The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with—

(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 16 U.S.C. 1220 note); and

(2) any applicable environmental laws.

(d) COST SHARING.—The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (c).

(e) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT.—A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.

(g) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.

(Added Pub. L. 108–136, div. A, title X, §1013(a), Nov. 24, 2003, 117 Stat. 1590, §7306b; amended Pub. L. 109–364, div. A, title X, §1071(a)(36), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–84, div. A, title X, §1073(a)(31), Oct. 28, 2009, 123 Stat. 2474; renumbered §8676b, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Fishing Enhancement Act of 1984, referred to in subsec. (b)(1), is title II of Pub. L. 98–623, Nov. 8, 1984, 98 Stat. 3394, which enacted chapter 35 (§2101 et seq.) of Title 33, Navigation and Navigable Waters, and section 1220d of Title 16, Conservation, and amended sections 1220 to 1220c of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 33 and Tables.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7306b of this title as this section.

**2009**—Subsec. (b)(1). Pub. L. 111–84 substituted "1802(14)))" for "1802(14))".
**2006**—Subsec. (b)(1). Pub. L. 109–364 substituted "3(14)" for "2(14)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8677. Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposal of that vessel, or of a vessel of the class of that vessel, is authorized by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.). In the case of an authorization by law for the disposal of such a vessel that names a specific vessel as being authorized for such disposal, the Secretary of Defense may substitute another vessel of the same class, if the vessel substituted has virtually identical capabilities as the named vessel. In the case of an authorization by law for the disposal of vessels of a specified class, the Secretary may dispose of vessels of that class pursuant to that authorization only in the number of such vessels specified in that law as being authorized for disposal.

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed disposition; and

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1709, §7307; amended Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 109–364, div. A, title X, §1013, Oct. 17, 2006, 120 Stat. 2376; renumbered §8677, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 6 of that Act is classified generally to subchapter VI (§2796 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of chapter 32 of Title 22. For complete classification of this Act to the Code, see Short Title note set out

under section 2151 of Title 22 and Tables.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7307 of this title as this section.

**2006**—Subsec. (a). Pub. L. 109–364 substituted "disposal of that vessel, or of a vessel of the class of that vessel, is authorized" for "disposition of that vessel is approved" and inserted at end "In the case of an authorization by law for the disposal of such a vessel that names a specific vessel as being authorized for such disposal, the Secretary of Defense may substitute another vessel of the same class, if the vessel substituted has virtually identical capabilities as the named vessel. In the case of an authorization by law for the disposal of vessels of a specified class, the Secretary may dispose of vessels of that class pursuant to that authorization only in the number of such vessels specified in that law as being authorized for disposal."

**1999**—Subsec. (b)(1)(A). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b)(1)(A). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8678. Chief of Naval Operations: certification required for disposal of combatant vessels

Notwithstanding any other provision of law, no combatant vessel of the Navy may be sold, transferred, or otherwise disposed of unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1710, §7308; renumbered §8678, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7308 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8678a. Limitation on decommissioning or inactivating a battle force ship before the end of expected service life

(a) LIMITATION.—The Secretary of the Navy may not decommission or inactivate a battle force ship before the end of the expected service life of the ship.

(b) WAIVER.—The Secretary of the Navy may waive the limitation under subsection (a) with respect to a battle force ship if—

(1) the Secretary submits to the congressional defense committees the certification described in

subsection (c) with respect to such ship by not later than three days after the date on which the President submits the budget materials under section 1105(a) of title 31 for the fiscal year in which such waiver is sought; and

(2) a period of 30 days has elapsed following the date on which the National Defense Authorization Act for such fiscal year is enacted.

(c) CERTIFICATION DESCRIBED.—A certification described in this subsection is a certification that—

(1)(A) maintaining the battle force ship in a reduced operating status is not feasible;

(B) maintaining the ship with reduced capability is not feasible;

(C) maintaining the ship as a Navy Reserve unit is not feasible;

(D) transferring the ship to the Coast Guard is not feasible; and

(E) maintaining the ship is not required to support the most recent national defense strategy required by section 113(g) of this title; and

(2) includes an explanation of—

(A) the options assessed and the rationale for the determinations under subparagraphs (A) through (D) of paragraph (1); and

(B) the rationale for the determination under subparagraph (E) of such paragraph.

(d) FORM.—A certification submitted under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section:

(1) The term "battle force ship" means the following:

(A) A commissioned United States Ship warship capable of contributing to combat operations.

(B) A United States Naval Ship that contributes directly to Navy warfighting or support missions.

(2) The term "expected service life" means the number of years a naval vessel is expected to be in service.

(Added Pub. L. 117–81, div. A, title X, §1014(a), Dec. 27, 2021, 135 Stat. 1894; amended Pub. L. 117–263, div. A, title X, §1024(a), Dec. 23, 2022, 136 Stat. 2764.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (b)(1). Pub. L. 117–263, §1024(a)(1), inserted "by not later than three days after the date on which the President submits the budget materials under section 1105(a) of title 31 for the fiscal year in which such waiver is sought" after "such ship".

Subsec. (b)(2). Pub. L. 117–263, §1024(a)(2), substituted "the National Defense Authorization Act for such fiscal year is enacted" for "such certification was submitted".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2022 AMENDMENT**

Pub. L. 117–263, div. A, title X, §1024(b), Dec. 23, 2022, 136 Stat. 2764, provided that: "The amendments made by subsection (a) [amending this section] do not apply to a battle force ship (as such term is defined in section 8678a(e)(1) of title 10, United States Code) that is proposed to be decommissioned or inactivated during fiscal year 2023."

## §8679. Construction of vessels in foreign shipyards: prohibition

(a) PROHIBITION.—Except as provided in subsection (b), no vessel to be constructed for any of

the armed forces, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard.

(b) PRESIDENTIAL WAIVER FOR NATIONAL SECURITY INTEREST.—(1) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.

(c) EXCEPTION FOR INFLATABLE BOATS.—An inflatable boat or a rigid inflatable boat, as defined by the Secretary of the Navy, is not a vessel for the purpose of the restriction in subsection (a).

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1710, §7309; renumbered §8679, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7309 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY**

For delegation of authority of President under subsec. (b) of this section, see section 3 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

## §8679a. Contracting with shipyards controlled by a foreign adversary country: prohibition

The Secretary of Defense may not enter into any contract or other agreement with a shipyard determined by the Secretary of Defense to be under the ownership, control, or influence of a covered nation, as defined in section 4872(f) of this title.

(Added Pub. L. 118–159, div. A, title X, §1025, Dec. 23, 2024, 138 Stat. 2055; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(36), Dec. 18, 2025, 139 Stat. 1209.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60 substituted "a covered nation, as defined in section 4872(f) of this title" for "a foreign adversary country (as defined in section 4872(d)(2) of title 10, United States Code)" in text.

## §8680. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS UNDER JURISDICTION OF THE SECRETARY OF THE NAVY WITH HOMEPORT IN UNITED STATES, GUAM, OR COMMONWEALTH OF THE NORTHERN

MARIANA ISLANDS.—(1) A naval vessel the homeport of which is in the United States, Guam, or the Commonwealth of the Northern Mariana Islands may not be overhauled, repaired, or maintained in a shipyard outside the United States, Guam, or the Commonwealth of the Northern Mariana Islands.

(2)(A) Notwithstanding paragraph (1) and subject to subparagraph (B), in the case of a naval vessel classified as a Littoral Combat Ship and operating on deployment, corrective and preventive maintenance or repair (whether intermediate or depot level) and facilities maintenance may be performed on the vessel—

(i) in a foreign shipyard;

(ii) at a facility outside of a foreign shipyard; or

(iii) at any other facility convenient to the vessel.

(B)(i)(I) Corrective and preventive maintenance or repair may be performed on a vessel as described in subparagraph (A) if the work is performed by United States Government personnel or United States contractor personnel.

(II) Notwithstanding subclause (I), foreign workers may be used to perform corrective and preventive maintenance or repair on a vessel as described in subparagraph (A) only if the Secretary of the Navy determines that travel by United States Government personnel or United States contractor personnel to perform the corrective or preventive maintenance or repair is not advisable for health or safety reasons. The Secretary of the Navy may not delegate the authority to make a determination under this subclause.

(III) Not later than 30 days after making a determination under subclause (II), the Secretary of the Navy shall submit to the congressional defense committees written notification of the determination. The notification shall include the reasons why travel by United States personnel is not advisable for health or safety reasons, the location where the corrective and preventive maintenance or repair will be performed, and the approximate duration of the corrective and preventive maintenance or repair.

(ii) Facilities maintenance may be performed by a foreign contractor on a vessel as described in subparagraph (A) only as approved by the Secretary of the Navy.

(C) In this paragraph:

(i) The term "corrective and preventive maintenance or repair" means—

(I) maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(II) scheduled maintenance or repair actions to prevent or discover functional failures.

(ii) The term "facilities maintenance" means—

(I) the effort required to provide housekeeping services throughout the ship;

(II) the effort required to perform coating maintenance and repair to exterior and interior surfaces due to normal environmental conditions; and

(III) the effort required to clean mechanical spaces, mission zones, and topside spaces.

(3)(A) Notwithstanding paragraph (1) and subject to subparagraph (B), a naval vessel described in paragraph (1) may be repaired in a shipyard outside the United States, Guam, or the Commonwealth of the Northern Mariana Islands if the repairs are—

(i) voyage repairs;

(ii) necessary to correct damage sustained due to hostile actions or interventions; or

(iii) corrective and preventive maintenance of a deployed naval vessel planned to last not more than 21 days.

(B) During any fiscal year, the cumulative work carried out under this paragraph for ships at any particular homeport may not exceed two percent of the average annual total workload of that homeport over the preceding three-year period, as measured in shipyard labor hours.

(b) VESSEL CHANGING HOMEPORTS.—(1) In the case of a naval vessel the homeport of

which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.

(2) In the case of a naval vessel the homeport of which is in the United States (or a territory of the United States), the Secretary of the Navy shall during the 15-month period preceding the planned reassignment of the vessel to a homeport not in the United States (or a territory of the United States) perform in the United States (or a territory of the United States) any work for the overhaul, repair, or maintenance of the vessel that is scheduled—

(A) to begin during the 15-month period; and

(B) to be for a period of more than six months.

(c) REPAIR AND REFURBISHMENT OF CERTAIN SUBMARINES.—(1) Notwithstanding any other provision of this section, and subject to paragraph (2), the President shall determine the appropriate public or private shipyard in the United States, Australia, or the United Kingdom to perform any repair or refurbishment of a United States submarine involved in submarine security activities between the United States, Australia, and the United Kingdom.

(2)(A) The President may determine under paragraph (1) that repair or refurbishment described in such paragraph may be performed in Australia or the United Kingdom only if—

(i) such repair or refurbishment will facilitate the development of repair or refurbishment capabilities in the United Kingdom or Australia;

(ii) such repair or refurbishment will be for a United States submarine that is operating forward outside of the United States; or

(iii) the Secretary of Defense certifies to Congress that performing such repair or refurbishment at a shipyard in Australia or the United Kingdom is required due to an exigent threat to the national security interests of the United States.

(B) In making a determination under subparagraph (A), the President shall consider any effects of such determination on the capacity and capability of shipyards in the United States.

(C) Not later than 15 days after the date on which the Secretary of Defense makes a certification under subparagraph (A)(iii), the Secretary shall brief the congressional defense committees on—

(i) the threat that requires the use of a shipyard in Australia or the United Kingdom; and

(ii) opportunities to mitigate the future potential need to leverage foreign shipyards.

(3) Repair or refurbishment described in paragraph (1) may be carried out by personnel and contractors of the United States, the United Kingdom, or Australia in accordance with the international arrangements governing the submarine security activities described in such paragraph.

(d) REPORT.—(1) The Secretary of the Navy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States, Guam, or the Commonwealth of the Northern Mariana Islands (in this section referred to as a "foreign shipyard") during the fiscal year preceding the fiscal year in which the report is submitted.

(2) The report shall include the percentage of the annual ship repair budget of the Navy that was spent on repair of covered naval vessels in foreign shipyards during the fiscal year covered by the report.

(3) Except as provided in paragraph (4), the report also shall include the following with respect to each covered naval vessel:

(A) The justification under law and operational justification for the repair in a foreign shipyard.

(B) The name and class of vessel repaired.

(C) The category of repair and whether the repair qualified as voyage repair as defined in Commander Military Sealift Command Instruction 4700.15C (September 13, 2007) or Joint Fleet Maintenance Manual (Commander Fleet Forces Command Instruction 4790.3 Revision A, Change

7), Volume III. Scheduled availabilities are to be considered as a composite and reported as a single entity without individual repair and maintenance items listed separately.

(D) The shipyard where the repair work was carried out.

(E) The number of days the vessel was in port for repair.

(F) The cost of the repair and the amount (if any) that the cost of the repair was less than or greater than the cost of the repair provided for in the contract.

(G) The schedule for repair, the amount of work accomplished (stated in terms of work days), whether the repair was accomplished on schedule, and, if not so accomplished, the reason for the schedule over-run.

(H) The homeport or location of the vessel prior to its voyage for repair.

(I) Whether the repair was performed under a contract awarded through the use of competitive procedures or procedures other than competitive procedures.

(4) In the case of a covered vessel described in subparagraph (C) of paragraph (5), the report shall not be required to include the information described in subparagraphs (A), (E), (F), (G), and (I) of paragraph (3).

(5) In this subsection, the term "covered naval vessel" means any of the following:

(A) A naval vessel.

(B) Any other vessel under the jurisdiction of the Secretary of the Navy.

(C) A vessel not described in subparagraph (A) or (B) that is operated pursuant to a contract entered into by the Secretary of the Navy and the Maritime Administration or the United States Transportation Command in support of Department of Defense operations.

(Added and amended Pub. L. 103–160, div. A, title III, §367, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1632, 1710, §7310; Pub. L. 104–106, div. A, title X, §1017, Feb. 10, 1996, 110 Stat. 425; Pub. L. 109–364, div. A, title X, §1014, Oct. 17, 2006, 120 Stat. 2376; Pub. L. 110–417, [div. A], title X, §1012, Oct. 14, 2008, 122 Stat. 4584; Pub. L. 112–239, div. A, title III, §344, Jan. 2, 2013, 126 Stat. 1700; Pub. L. 115–91, div. A, title X, §1023, Dec. 12, 2017, 131 Stat. 1548; renumbered §8680, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116–92, div. A, title X, §1035, Dec. 20, 2019, 133 Stat. 1583; Pub. L. 116–283, div. A, title X, §§1025, 1081(a)(45), Jan. 1, 2021, 134 Stat. 3843, 3873; Pub. L. 118–31, div. A, title XIII, §1352(g), Dec. 22, 2023, 137 Stat. 517; Pub. L. 118–159, div. A, title X, §1026, Dec. 23, 2024, 138 Stat. 2055; Pub. L. 119–60, div. A, title X, §1014, Dec. 18, 2025, 139 Stat. 1031.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60, §1014(1), substituted "United States, Guam, or Commonwealth of the Northern Mariana Islands" for "United States or Guam" in heading and "the United States, Guam, or the Commonwealth of the Northern Mariana Islands" for "the United States or Guam" wherever appearing in text.

Subsec. (d). Pub. L. 119–60, §1014(2), substituted "the United States, Guam, or the Commonwealth of the Northern Mariana Islands" for "the United States or Guam".

**2024**—Subsec. (a)(3). Pub. L. 118–159 designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), inserted "and subject to subparagraph (B)" after "paragraph (1)" in introductory provisions of subpar. (A), and added cl. (iii) of subpar. (A) and subpar. (B).

**2023**—Subsecs. (c), (d). Pub. L. 118–31 added subsec. (c) and redesignated former subsec. (c) as (d).

**2021**—Subsec. (a)(1). Pub. L. 116–283, §1025(a)(1), struck out ", other than in the case of voyage repairs" after "outside the United States or Guam".

Subsec. (a)(2)(B)(i). Pub. L. 116–283, §1025(b), designated existing provisions as subcl. (I) and added subcls. (II) and (III).

Subsec. (a)(2)(C)(ii). Pub. L. 116–283, §§1025(c), 1081(a)(45), amended introductory provisions identically, striking out period after "means—".

Subsec. (a)(3). Pub. L. 116–283, §1025(a)(2), added par. (3).

**2019**—Subsec. (a)(2)(C)(ii). Pub. L. 116–92, §1035(1), substituted "means—" for "means preservation or

corrosion control efforts and cleaning services" and added subcls. (I) to (III).

Subsec. (a)(2)(D). Pub. L. 116–92, §1035(2), struck out subpar. (D) which read as follows: "This paragraph shall expire on September 30, 2020."

**2018**—Pub. L. 115–232 renumbered section 7310 of this title as this section.

**2017**—Subsec. (a). Pub. L. 115–91 inserted "Under Jurisdiction of the Secretary of the Navy" after "Vessels" in heading, designated existing provisions as par. (1), substituted "A naval vessel" for "A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy)", and added par. (2).

**2013**—Subsec. (c)(3). Pub. L. 112–239, §344(1)(A), substituted "Except as provided in paragraph (4), the report" for "The report" in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 112–239, §344(1)(B), inserted "and operational justification" after "justification under law".

Subsec. (c)(4). Pub. L. 112–239, §344(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 112–239, §344(2), redesignated par. (4) as (5).

Subsec. (c)(5)(C). Pub. L. 112–239, §344(4), added subpar. (C).

**2008**—Subsec. (c). Pub. L. 110–417 added subsec. (c).

**2006**—Subsec. (a). Pub. L. 109–364 inserted "or Guam" after "United States" in heading and after "in the United States" in text.

**1996**—Subsec. (a). Pub. L. 104–106 inserted "or Guam" after "outside the United States".

**1993**—Subsec. (b). Pub. L. 103–160, §367, amended subsec. (b) generally, designating existing provisions as par. (1) and adding par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

## §8681. Repair or maintenance of naval vessels: handling of hazardous waste

(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that each contract entered into for work on a naval vessel (other than new construction) includes the following provisions:

(1) IDENTIFICATION OF HAZARDOUS WASTES.—A provision in which the Navy identifies the types and amounts of hazardous wastes that are required to be removed by the contractor from the vessel, or that are expected to be generated, during the performance of work under the contract, with such identification by the Navy to be in a form sufficient to enable the contractor to comply with Federal and State laws and regulations on the removal, handling, storage, transportation, or disposal of hazardous waste.

(2) COMPENSATION.—A provision specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

(3) STATEMENT OF WORK.—A provision specifying the responsibilities of the Navy and of the contractor, respectively, for the removal (including the handling, storage, transportation, and disposal) of hazardous wastes.

(4) ACCOUNTABILITY FOR HAZARDOUS WASTES.—(A) A provision specifying the following:

(i) In any case in which the Navy is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage,

transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the Navy pursuant to applicable law.

(ii) In any case in which the contractor is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the contractor pursuant to applicable law.

(iii) In any case in which both the Navy and the contractor are generators of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear both a generator identification number issued to the Navy and a generator identification number issued to the contractor pursuant to applicable law.

(B) A determination under this paragraph of whether the Navy is a generator, a contractor is a generator, or both the Navy and a contractor are generators, shall be made in the same manner provided under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) and regulations promulgated under that subtitle.

(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

(1) the contractor, during the performance of work under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

(2) those hazardous wastes originated on, or resulted from material furnished by the Government for, the naval vessel on which the work is being performed.

(c) REMOVAL OF WASTES.—The Secretary of the Navy shall remove known hazardous wastes from a vessel before the vessel's arrival at a contractor's facility for performance of a contract, to the extent such removal is feasible.

(d) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed as altering or otherwise affecting those provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that relate to generators of hazardous waste. For purposes of this section, any term used in this section for which a definition is provided by the Solid Waste Disposal Act (or regulations promulgated pursuant to such Act) has the meaning provided by that Act or regulations.

(Added Pub. L. 99–661, div. A, title XII, §1202(a), Nov. 14, 1986, 100 Stat. 3967, §7311; amended Pub. L. 101–189, div. A, title XVI, §1611(a), Nov. 29, 1989, 103 Stat. 1599; renumbered §8681, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsecs. (a)(4)(B) and (d), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. Subtitle C of the Solid Waste Disposal Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 8681 was renumbered section 9251 of this title.

Another prior section 8681, act Aug. 10, 1956, ch. 1041, 70A Stat. 534, prescribed service to be listed in official Air Force Register, prior to repeal by Pub. L. 85–861, §36B(28), Sept. 2, 1958, 72 Stat. 1571.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7311 of this title as this section.

**1989**—Pub. L. 101–189 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) relating to contractual provisions, and (b) relating to renegotiation of contract.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title XVI, §1611(b), Nov. 29, 1989, 103 Stat. 1601, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any contract for work on a naval vessel (other than new construction) entered into after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 29, 1989]."

## §8682. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale

(a) EXCHANGE OR SALE OF SIMILAR ITEMS.—When the Secretary of the Navy sells an obsolete service craft or an obsolete boat, or exchanges such a craft or boat in a transaction for which a similar craft or boat is acquired, the Secretary may retain the proceeds of the sale or the exchange allowance from the exchange, as the case may be, and apply the proceeds of sale or the exchange allowance for any of the following purposes:

(1) For payment, in whole or in part, for a similar service craft or boat acquired as a replacement, as authorized by section 503 of title 40.

(2) For reimbursement, to the extent practicable, of the appropriate accounts of the Navy for the full costs of preparation of such obsolete craft or boat for such sale or exchange.

(3) For deposit to the special account established under subsection (b), to be available in accordance with that subsection.

(b) SPECIAL ACCOUNT.—Amounts retained under subsection (a) that are not applied as provided in paragraph (1) or (2) of that subsection shall be deposited into a special account. Amounts in the account shall be available under subsection (c) without regard to fiscal year limitation. Amounts in the account that the Secretary of the Navy determines are not needed for the purpose stated in subsection (c) shall be transferred at least annually to the General Fund of the Treasury.

(c) COSTS OF PREPARATION OF OBSOLETE SERVICE CRAFT AND BOATS FOR FUTURE SALE OR EXCHANGE.—The Secretary may use amounts in the account under subsection (b) for payment, in whole or in part, for the full costs of preparation of obsolete service craft and obsolete boats for future sale or exchange.

(d) COSTS OF PREPARATION FOR SALE OR EXCHANGE.—In this section, the term "full costs of preparation" means the full costs (direct and indirect) incurred by the Navy in preparing an obsolete service craft or an obsolete boat for exchange or sale, including the cost of the following:

(1) Towing.

(2) Storage.

(3) Defueling.

(4) Removal and disposal of hazardous wastes.

(5) Environmental surveys to determine the presence of regulated materials containing polychlorinated biphenyl (PCB) and, if such materials are found, the removal and disposal of such materials.

(6) Other costs related to such preparation.

(e) OBSOLETE SERVICE CRAFT.—For purposes of this section, an obsolete service craft is a service craft that has been stricken from the Naval Vessel Register.

(f) INAPPLICABILITY OF ADVERTISING REQUIREMENT.—Section 6101 of title 41 does not apply to sales of service craft and boats described in subsection (a).

(g) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the purposes of this section.

(Added Pub. L. 108–375, div. A, title X, §1012(a)(1), Oct. 28, 2004, 118 Stat. 2039, §7312; amended Pub. L. 113–291, div. A, title X, §1071(a)(12), Dec. 19, 2014, 128 Stat. 3505; renumbered §8682, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8682, act Aug. 10, 1956, ch. 1041, 70A Stat. 535, provided that in computing length of service, no commissioned officer of Air Force could be credited with service as a cadet at the Military Academy or the Air Force Academy, or as a midshipman at the Naval Academy, if he was appointed as a cadet or midshipman after Aug. 24, 1912, prior to repeal by Pub. L. 90–235, §6(a)(2), Jan. 2, 1968, 81 Stat. 761. See section 971 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7312 of this title as this section.

**2014**—Subsec. (f). Pub. L. 113–291 substituted "Section 6101 of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 108–375, div. A, title X, §1012(b), Oct. 28, 2004, 118 Stat. 2040, provided that: "Section 7312 of title 10, United States Code, as added by subsection (a), shall apply with respect to amounts received on or after the date of the enactment of this Act [Oct. 28, 2004] and to amounts received before the date of the enactment of this Act and not obligated as of that date."

## §8683. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work

(a) UNUSUAL COST OVERRUNS.—(1) Appropriations available to the Department of Defense for a fiscal year may be used for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for a vessel inducted into an industrial-fund activity or contracted for during a prior fiscal year.

(2) The Secretary of Defense shall notify Congress promptly before an obligation is incurred for any payment under paragraph (1).

(b) CHANGES IN SCOPE OF WORK.—An appropriation available to the Department of Defense for a fiscal year may be used after the otherwise-applicable expiration of the availability for obligation of that appropriation—

(1) for payments to an industrial-fund activity for amounts required because of changes in the scope of work for ship overhaul, maintenance, and repair, in the case of work inducted into the industrial-fund activity during the fiscal year; and

(2) for payments under a contract for amounts required because of changes in the scope of work, in the case of a contract entered into during the fiscal year for ship overhaul, maintenance,

and repair.

(c) TREATMENT OF AMOUNTS APPROPRIATED AFTER END OF PERIOD OF OBLIGATION.—In the application of section 1553(c) of title 31 to funds appropriated in the Operation and Maintenance, Navy account that are available for ship overhaul, the Secretary of the Navy may treat the limitation specified in paragraph (1) of such section to be "$10,000,000" rather than "$4,000,000".

(Added Pub. L. 100–370, §1(n)(1), July 19, 1988, 102 Stat. 850, §7313; renumbered §8683, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; amended Pub. L. 116–283, div. A, title III, §367, Jan. 1, 2021, 134 Stat. 3551.)

**HISTORICAL AND REVISION NOTES**

Section is based on Pub. L. 99–190, §101(b) [title VIII, §8005(j), (k)], Dec. 19, 1985, 99 Stat. 1185, 1203.

In two instances, the source law to be codified by the bill includes provisions that on their face require that the Department of Defense notify Congress of certain actions. These notification requirements were terminated by section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433), which terminated all recurring reporting requirements applicable to the Department of Defense except for those requirements that were specifically exempted in that section. The source law sections are sections 8009(c) and 8005(j) (proviso) of the FY86 defense appropriations Act (Public Law 99–190), enacted December 19, 1985, which would be codified as section 2201 of title 10 (by section 1(d) of the bill) and section 7313(a) of title 10 (by section 1(n) of the bill). In codifying the authorities provided the Department of Defense by these two provisions of law, the committee believes that it is appropriate to reinstate the congressional notification requirements that go with those authorities. These sections were recurring annual appropriation provisions for many years and were made permanent only months before the enactment of the 1986 Reorganization Act. It is the committee's belief that the failure to exempt these provisions from the general reports termination provision was inadvertent and notes that the notification provisions had in fact previously applied to the Department of Defense for many years. The action of the committee restores the status quo as it existed before the Reorganization Act.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8683, acts Aug. 10, 1956, ch. 1041, 70A Stat. 535; Sept. 2, 1958, Pub. L. 85–861, §1(156), 72 Stat. 1513; Aug. 25, 1959, Pub. L. 86–197, §1(7), 73 Stat. 426, related to service credit for certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department, prior to repeal by Pub. L. 99–145, title XIII, §1301(d)(1)(A), Nov. 8, 1985, 99 Stat. 736.

**AMENDMENTS**

**2021**—Subsec. (c). Pub. L. 116–283 added subsec. (c).

**2018**—Pub. L. 115–232 renumbered section 7313 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8684. Overhaul of naval vessels: competition between public and private shipyards

The Secretary of the Navy should ensure, in any case in which the Secretary awards a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that each of the following criteria is met:

(1) The bid of any public shipyard for the award includes—

(A) the full costs to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by Office of Management and Budget Circular A–76; and

(B) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs of the Navy supply system.

(2) Costs applicable to oversight of the contract by the appropriate Navy supervisor of shipbuilding, conversion, and repair are added to the bid of any private shipyard for the purpose of comparability analysis.

(3) The award is made using the results of the comparability analysis.

(Added Pub. L. 100–456, div. A, title XII, §1225(a)(1), Sept. 29, 1988, 102 Stat. 2054, §7313; renumbered §7314, Pub. L. 101–189, div. A, title XVI, §1622(a), Nov. 29, 1989, 103 Stat. 1604; renumbered §8684, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8684 was renumbered section 9252 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7314 of this title as this section.
**1989**—Pub. L. 101–189 renumbered section 7313 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 100–456, div. A, title XII, §1225(b), Sept. 29, 1988, 102 Stat. 2055, provided that: "Section 7313 [now 8684] of title 10, United States Code, as added by subsection (a), applies to any award by the Secretary of the Navy made after the end of the 30-day period beginning on the date of the enactment of this Act [Sept. 29, 1988] for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards."

## [§8684a. Omitted]

**CODIFICATION**

Section, added and amended Pub. L. 116–283, div. A, title XVIII, §1876(a), Jan. 1, 2021, 134 Stat. 4291, related to rate for progress payments in the repair, maintenance, or overhaul of naval vessels, and was to become effective Jan. 1, 2022. Pub. L. 117–81, div. A, title XVII, §1701(n)(3), Dec. 27, 2021, 135 Stat. 2146, repealed section 1876 of Pub. L. 116–283, effective as if included in title XVIII of Pub. L. 116–283, thereby omitting this section before it took effect. Text of section 2307(g)(1) of this title, which had been transferred to this section, was transferred to section 3808(a) of this title.

## §8685. Preservation of Navy shipbuilding capability

(a) SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS.—The Secretary of the Navy may enter into an agreement, to be known as a "shipbuilding capability preservation agreement", with a shipbuilder under which the cost reimbursement rules described in subsection (b) shall be applied to the shipbuilder under a Navy contract for the construction of a ship. Such an

agreement may be entered into in any case in which the Secretary determines that the application of such cost reimbursement rules would facilitate the achievement of the policy objectives set forth in section 4811(b) of this title.

(b) COST REIMBURSEMENT RULES.—The cost reimbursement rules applicable under an agreement entered into under subsection (a) are as follows:

(1) The Secretary of the Navy shall, in determining the reimbursement due a shipbuilder for its indirect costs of performing a contract for the construction of a ship for the Navy, allow the shipbuilder to allocate indirect costs to its private sector work only to the extent of the shipbuilder's allocable indirect private sector costs, subject to paragraph (3).

(2) For purposes of paragraph (1), the allocable indirect private sector costs of a shipbuilder are those costs of the shipbuilder that are equal to the sum of the following:

(A) The incremental indirect costs attributable to such work.

(B) The amount by which the revenue attributable to such private sector work exceeds the sum of—

(i) the direct costs attributable to such private sector work; and

(ii) the incremental indirect costs attributable to such private sector work.

(3) The total amount of allocable indirect private sector costs for a contract covered by the agreement may not exceed the amount of indirect costs that a shipbuilder would have allocated to its private sector work during the period covered by the agreement in accordance with the shipbuilder's established accounting practices.

(c) AUTHORITY TO MODIFY COST REIMBURSEMENT RULES.—The cost reimbursement rules set forth in subsection (b) may be modified by the Secretary of the Navy for a particular agreement if the Secretary determines that modifications are appropriate to the particular situation to facilitate achievement of the policy set forth in section 4811(b) of this title.

(d) APPLICABILITY.—(1) An agreement entered into with a shipbuilder under subsection (a) shall apply to each of the following Navy contracts with the shipbuilder:

(A) A contract that is in effect on the date on which the agreement is entered into.

(B) A contract that is awarded during the term of the agreement.

(2) In a shipbuilding capability preservation agreement applicable to a shipbuilder, the Secretary may agree to apply the cost reimbursement rules set forth in subsection (b) to allocations of indirect costs to private sector work performed by the shipbuilder only with respect to costs that the shipbuilder incurred on or after November 18, 1997, under a contract between the shipbuilder and a private sector customer of the shipbuilder that became effective on or after January 26, 1996.

(Added Pub. L. 105–85, div. A, title X, §1027(a)(1), Nov. 18, 1997, 111 Stat. 1878, §7315; amended Pub. L. 106–65, div. A, title X, §1066(a)(29), Oct. 5, 1999, 113 Stat. 772; renumbered §8685, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116–283, div. A, title XVIII, §1867(e)(3), Jan. 1, 2021, 134 Stat. 4282.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8685, acts Aug. 10, 1956, ch. 1041, 70A Stat. 535; Sept. 2, 1958, Pub. L 85–861, §1(187), 72 Stat. 1534, set forth restrictions on consideration of a husband or child as dependent of a female member of Regular Air Force, Air National Guard of the United States or Air Force Reserve, prior to repeal by Pub. L. 90–235, §7(a)(3), Jan. 2, 1968, 81 Stat. 763.

### AMENDMENTS

**2021**—Subsecs. (a), (c). Pub. L. 116–283 substituted "section 4811(b)" for "section 2501(b)".

**2018**—Pub. L. 115–232 renumbered section 7315 of this title as this section.

**1999**—Subsec. (d)(2). Pub. L. 106–65 substituted "November 18, 1997," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**PILOT PROGRAM TO TRAIN SKILLED TECHNICIANS IN CRITICAL SHIPBUILDING SKILLS**

Pub. L. 116–92, div. A, title III, §357, Dec. 20, 2019, 133 Stat. 1322, provided that:

"(a) ESTABLISHMENT.—The Secretary of the Navy may carry out a pilot program to train individuals to become skilled technicians in critical shipbuilding skills such as welding, metrology, quality assurance, machining, and additive manufacturing.

"(b) PARTNERSHIPS.—In carrying out the pilot program under this section, the Secretary may partner with existing Federal or State projects relating to investment and infrastructure in training and education or workforce development, such as the National Network for Manufacturing Innovation, the Industrial Base Analysis and Sustainment program of the Department of Defense, and the National Maritime Educational Council.

"(c) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on September 30, 2025.

"(d) BRIEFINGS.—If the Secretary carries out a pilot program under this section, the Secretary shall provide briefings to the Committees on Armed Services of the Senate and the House of Representatives as follows:

"(1) Not later than 30 days before beginning to implement the pilot program, the Secretary shall provide a briefing on the plan, cost estimate, and schedule for the pilot program.

"(2) Not less frequently than annually during the period when the pilot program is carried out, the Secretary shall provide briefings on the progress of the Secretary in carrying out the pilot program."

**PROCEDURES FOR APPLICATIONS AND FOR CONSIDERATION OF AGREEMENTS**

Pub. L. 105–85, div. A, title X, §1027(b), Nov. 18, 1997, 111 Stat. 1880, provided that: "Not later than 30 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of the Navy shall establish application procedures and procedures for expeditious consideration of shipbuilding capability preservation agreements as authorized by section 7315 [now 8685] of title 10, United States Code, as added by subsection (a)."

## §8686. Support for transfers of decommissioned vessels and shipboard equipment

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Navy may provide an entity described in subsection (b) with assistance in support of a transfer of a vessel or shipboard equipment described in such subsection that is being executed under section 2572, 8676, 8677, or 8765 of this title, or under any other authority.

(b) COVERED VESSELS AND EQUIPMENT.—The authority under this section applies—

(1) in the case of a decommissioned vessel that—

(A) is owned and maintained by the Navy, is located at a Navy facility, and is not in active use; and

(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the vessel; and

(2) in the case of any shipboard equipment that—

(A) is on a vessel described in paragraph (1)(A); and

(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the equipment.

(c) REIMBURSEMENT.—The Secretary may require a recipient of assistance under subsection (a) to reimburse the Navy for amounts expended by the Navy in providing the assistance.

(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in a fiscal year under subsection (c) shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.

(Added Pub. L. 108–136, div. A, title X, §1015(a), Nov. 24, 2003, 117 Stat. 1591, §7316; renumbered §8686 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(2), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8686, acts Aug. 10, 1956, ch. 1041, 70A Stat. 536; Sept. 24, 1980, Pub. L. 96–357, §5(a), 94 Stat. 1182; Oct. 19, 1984, Pub. L. 98–525, title IV, §414(a)(7)(B), 98 Stat. 2519, related to credit to members of Air National Guard of United States for service as members of Air National Guard, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1662(g)(2), Oct. 5, 1994, 108 Stat. 2996. See section 12602 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7316 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 2572, 8676, 8677, or 8765" for "section 2572, 7306, 7307, or 7545".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8687. Status of Government rights in the designs of vessels, boats, and craft, and components thereof

(a) IN GENERAL.—Government rights in the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and all shipboard equipment and systems, shall be determined solely as follows:

(1) In the case of a vessel, boat, craft, or component procured through a contract, in accordance with the provisions of subchapter I of chapter 275 of this title.

(2) In the case of a vessel, boat, craft, or component procured through an instrument not governed by subchapter I of chapter 275 of this title, by the terms of the instrument (other than a contract) under which the design for such vessel, boat, craft, or component, as applicable, was developed for the Government.

(b) CONSTRUCTION OF SUPERSEDING AUTHORITIES.—This section may be modified or superseded by a provision of statute only if such provision expressly refers to this section in modifying or superseding this section.

(Added Pub. L. 110–417, [div. A], title VIII, §825(a), Oct. 14, 2008, 122 Stat. 4534, §7317; renumbered §8687, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; amended Pub. L. 116–283, div. A, title XVIII, §1833(p), Jan. 1, 2021, 134 Stat. 4234.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8687, acts Aug. 10, 1956, ch. 1041, 70A Stat. 536; Sept. 2, 1958, Pub. L. 85–861, §1(188), 72 Stat. 1534; Sept. 7, 1962, Pub. L. 87–649, §6(d), 76 Stat. 494, related to compensation for members of Air Force other than Regular Air Force prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), Nov. 14, 1986, 100 Stat. 3877.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "subchapter I of chapter 275" for "section 2320" in pars. (1) and (2).

**2018**—Pub. L. 115–232 renumbered section 7317 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## [§8688. Repealed. Pub. L. 119–60, div. A, title VIII, §811(a)(8), Dec. 18, 2025, 139 Stat. 948]

Section, Pub. L. 114–328, div. A, title X, §1022(a)(1), Dec. 23, 2016, 130 Stat. 2388, §7318; renumbered §8688, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836, related to warranty requirements for shipbuilding contracts.

A prior section 8688, act Aug. 10, 1956, ch. 1041, 70A Stat. 536, related to death gratuity payable to survivors of members of Air Force, prior to repeal by Pub. L. 85–861, §36B(29), Sept. 2, 1958, 72 Stat. 1571. See sections 1475 to 1480 of this title.

## [§8688a. Omitted]

### CODIFICATION

Section, added and amended Pub. L. 116–283, div. A, title XVIII, §1876(b), Jan. 1, 2021, 134 Stat. 4291, related to liens in contracts for construction or conversion of naval vessels, and was to become effective Jan. 1, 2022. Pub. L. 117–81, div. A, title XVII, §1701(n)(3), Dec. 27, 2021, 135 Stat. 2146, repealed section 1876 of Pub. L. 116–283, effective as if included in title XVIII of Pub. L. 116–283, thereby omitting this section before it took effect. Text of section 2307(g)(3) of this title, which had been transferred to this section, was transferred to section 3808(c) of this title.

## §8689. Requirements for availability of funds relating to advanced naval nuclear fuel systems based on low-enriched uranium

(a) AUTHORIZATION.—Low-enriched uranium activities may only be carried out using funds authorized to be appropriated or otherwise made available for the Department of Energy for atomic energy defense activities for defense nuclear nonproliferation.

(b) PROHIBITION REGARDING CERTAIN ACCOUNTS.—(1) None of the funds described in

paragraph (2) may be obligated or expended to carry out low-enriched uranium activities.

(2) The funds described in this paragraph are funds authorized to be appropriated or otherwise made available for any fiscal year for any of the following accounts:

(A) Shipbuilding and conversion, Navy, or any other account of the Department of Defense.

(B) Any account within the atomic energy defense activities of the Department of Energy other than defense nuclear nonproliferation, as specified in subsection (a).

(3) The prohibition in paragraph (1) may not be superseded except by a provision of law that specifically supersedes, repeals, or modifies this section. A provision of law, including a table incorporated into an Act, that appropriates funds described in paragraph (2) for low-enriched uranium activities may not be treated as specifically superseding this section unless such provision specifically cites to this section.

(c) LOW-ENRICHED URANIUM ACTIVITIES DEFINED.—In this section, the term "low-enriched uranium activities" means the following:

(1) Planning or carrying out research and development of an advanced naval nuclear fuel system based on low-enriched uranium.

(2) Procuring ships that use low-enriched uranium in naval nuclear propulsion reactors.

(Added Pub. L. 115–91, div. C, title XXXI, §3115(b)(1), Dec. 12, 2017, 131 Stat. 1886, §7319; renumbered §8689, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8689, acts Aug. 10, 1956, ch. 1041, 70A Stat. 537; Sept. 26, 1961, Pub. L. 87–304, §9(d), 75 Stat. 665, related to assignments and allotments of pay, prior to repeal by Pub. L. 87–649, §14c(57), Sept. 7, 1962, 76 Stat. 502, effective Nov. 1, 1962. See section 701 of Title 37, Pay and Allowances of the Uniformed Services.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7319 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8690. Limitation on length of overseas forward deployment of naval vessels

(a) LIMITATION.—The Secretary of the Navy shall ensure that no naval vessel specified in subsection (b) that is listed in the Naval Vessel Register is forward deployed overseas for a period in excess of ten years. At the end of a period of overseas forward deployment, the vessel shall be assigned a homeport in the United States.

(b) VESSELS SPECIFIED.—A naval vessel specified in this subsection is any of the following:

(1) Aircraft carrier.

(2) Amphibious ship.

(3) Cruiser.

(4) Destroyer.

(5) Frigate.

(6) Littoral Combat Ship.

(c) WAIVER.—The Secretary of the Navy may waive the limitation under subsection (a) with

respect to a naval vessel if the Secretary submits to the congressional defense committees notice in writing of—

(1) the waiver of such limitation with respect to the vessel;

(2) the date on which the period of overseas forward deployment of the vessel is expected to end; and

(3) the factors used by the Secretary to determine that a longer period of deployment would promote the national defense or be in the public interest.

(Added §7320 and renumbered §8690, Pub. L. 115–232, div. A, title III, §323(a)(1), title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1719, 1836.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8690, act Aug. 10, 1956, ch. 1041, 70A Stat. 538, exempted enlisted members of Air Force, while on active duty, from arrest for any debt, unless it was contracted before enlistment and amounted to at least $20 when first contracted, prior to repeal by Pub. L. 90–235, §7(b)(1), Jan. 2, 1968, 81 Stat. 763.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7320 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 807(d)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TREATMENT OF CURRENTLY DEPLOYED VESSELS; EXTENSION OF LIMITATION FOR U.S.S. SHILOH

Pub. L. 115–232, div. A, title III, §323(b), (c), Aug. 13, 2018, 132 Stat. 1720, as amended by Pub. L. 116–92, div. A, title III, §353(2), Dec. 20, 2019, 133 Stat. 1321; Pub. L. 116–283, div. A, title III, §344, Jan. 1, 2021, 134 Stat. 3538, provided that:

"(b) TREATMENT OF CURRENTLY DEPLOYED VESSELS.—In the case of any aircraft carrier, amphibious ship, cruiser, destroyer, frigate, or littoral combat ship that has been forward deployed overseas for a period in excess of ten years as of the date of the enactment of this Act [Aug. 13, 2018], the Secretary of the Navy shall ensure that such vessel is assigned a homeport in the United States by not later than three years after the date of the enactment of this Act.

"(c) EXTENSION OF LIMITATION ON LENGTH OF OVERSEAS FORWARD DEPLOYMENT FOR U.S.S. SHILOH (CG–67).—Notwithstanding subsection (b), the Secretary of the Navy shall ensure that the U.S.S. Shiloh (CG–67) is assigned a homeport in the United States by not later than September 30, 2023."

## §8691. Nuclear-powered aircraft carriers: dismantlement and disposal

(a) IN GENERAL.—Not less than 90 days before the award of a contract for the dismantlement and disposal of a nuclear-powered aircraft carrier, or the provision of funds to a naval shipyard for the dismantlement and disposal of a nuclear-powered aircraft carrier, the Secretary of the Navy shall submit to the congressional defense committees a report setting forth the following:

(1) A cost and schedule baseline for the dismantlement and disposal approved by the service acquisition executive of the Department of the Navy and the Chief of Naval Operations.

(2) A description of the regulatory framework applicable to the management of radioactive materials in connection with the dismantlement and disposal, including, in cases in which the Navy intends to have another government entity serve as the regulatory enforcement authority—

(A) a certification from that entity of its agreement to serve as the regulatory enforcement authority; and

(B) a description of the legal basis for the authority of that entity to serve as the regulatory enforcement authority.

(b) SUPPLEMENTAL INFORMATION WITH BUDGETS.—In the materials submitted to Congress by the Secretary of Defense in support of the budget of the President for a fiscal year (as submitted to Congress under section 1105(a) of title 31), the Secretary of the Navy shall include information on each dismantlement and disposal of a nuclear-powered aircraft carrier occurring or planned to occur during the period of the future-years defense program submitted to Congress with that budget. Such information shall include, by ship concerned, the following:

(1) A summary of activities and significant developments in connection with such dismantlement and disposal.

(2) If applicable, a detailed description of cost and schedule performance against the baseline for such dismantlement and disposal established pursuant to subsection (a), including a description of and explanation for any variance from such baseline.

(3) A description of the amounts requested, or intended or estimated to be requested, for such dismantlement and disposal for each of the following:

(A) Each fiscal year covered by the future-years defense program.

(B) Any fiscal years before the fiscal years covered by the future-years defense program.

(C) Any fiscal years after the end of the period of the future-years defense program.

(c) FUTURE-YEARS DEFENSE PROGRAM DEFINED.—In this section, the term "future-years defense program" means the future-years defense program required by section 221 of this title.

(Added §7321 and renumbered §8691, Pub. L. 115–232, div. A, title VIII, §807(d)(2), title X, §1016(a), Aug. 13, 2018, 132 Stat. 1836, 1950.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8691 was renumbered section 9253 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(2), renumbered section 7321 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 807(d)(2) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8692. Ford-class aircraft carriers: cost limitation baselines

(a) LIMITATION.—The total amounts obligated or expended from funds authorized to be appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, may not exceed the following amounts for the following aircraft carriers:

(1) $13,224,000,000 for the construction of the aircraft carrier designated CVN–78.

(2) $11,398,000,000 for the construction of the aircraft carrier designated CVN–79.

(3) $12,202,000,000 for the construction of the aircraft carrier designated CVN–80.

(4) $12,451,000,000 for the construction of the aircraft carrier designated CVN–81.

(b) EXCLUSION OF BATTLE AND INTERIM SPARES FROM COST LIMITATION.—The Secretary of the Navy shall exclude from the determination of the amounts set forth in subsection (a) the costs of the following items:

(1) CVN–78 class battle spares.

(2) Interim spares.

(3) Increases attributable to economic inflation after December 1, 2018, not otherwise included in the amounts listed in subsection (a).

(c) WRITTEN NOTICE AND BRIEFING ON CHANGE IN AMOUNT.—The Secretary of the Navy may adjust an amount listed in subsection (a) not fewer than 15 days after submitting written notice and providing a briefing to the congressional defense committees, each of which shall include the amount and rationale of any change and the resulting amount after such change.

(Added Pub. L. 116–92, div. A, title I, §121(a), Dec. 20, 2019, 133 Stat. 1233.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 8692 was renumbered section 8693 of this title.

**PRIOR PROVISIONS**

A prior section 8692, act Aug. 10, 1956, ch. 1041, 70A Stat. 538, provided qualifications to receive a rating of pilot in time of peace, prior to repeal by Pub. L. 92–168, §3(1), Nov. 24, 1971, 85 Stat. 489. See section 2003 of this title.

## §8693. Biennial report on shipbuilder training and the defense industrial base

(a) IN GENERAL.—Not later than February 1 of each even-numbered year until 2026, the Secretary of the Navy, in coordination with the Secretary of Labor, shall submit to the Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Armed Services and the Committee on Education and Labor of the House of Representatives a report on shipbuilder training and hiring requirements necessary to achieve the Navy's 30-year shipbuilding plan and to maintain the shipbuilding readiness of the defense industrial base. Each such report shall include each of the following:

(1) An analysis and estimate of the time and investment required for new shipbuilders to gain proficiency in particular shipbuilding occupational specialties, including detailed information about the occupational specialty requirements necessary for construction of naval surface ship and submarine classes to be included in the Navy's 30-year shipbuilding plan.

(2) An analysis of the age demographics and occupational experience level (measured in years of experience) of the shipbuilding defense industrial workforce.

(3) An analysis of the potential time and investment challenges associated with developing and retaining shipbuilding skills in organizations that lack intermediate levels of shipbuilding experience.

(4) Recommendations concerning how to address shipbuilder training during periods of demographic transition and evolving naval fleet architecture consistent with the Navy's most recent Integrated Force Structure Assessment.

(5) An analysis of whether emerging technologies, such as augmented reality, may aid in new shipbuilder training.

(6) Recommendations concerning how to encourage young adults to enter the defense shipbuilding industry and to develop the skills necessary to support the shipbuilding defense industrial base.

(7) An analysis of the potential benefits of multi-year procurement contracting for the stability of the shipbuilding defense industrial base.

(b) SOLICITATION AND ANALYSIS OF INFORMATION.—In order to carry out subsection (a)(2), the Secretary of the Navy and Secretary of Labor shall—

(1) solicit information regarding the age demographics and occupational experience level from the private shipyards of the shipbuilding defense industrial base; and

(2) analyze such information for findings relevant to carrying out subsection (a)(2), including findings related to the current and projected defense shipbuilding workforce, current and projected labor needs, and the readiness of the current and projected workforce to supply the proficiencies analyzed in subsection (a)(1).

(Added Pub. L. 116–283, div. A, title X, §1026(a), Jan. 1, 2021, 134 Stat. 3843, §8692; renumbered §8693 and amended Pub. L. 117–81, div. A, title X, §1015, Dec. 27, 2021, 135 Stat. 1894.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8693, act Aug. 10, 1956, ch. 1041, 70A Stat. 538, provided for replacement of a lost or destroyed certificate of discharge from Air Force, prior to repeal by Pub. L. 90–235, §7(a)(3), Jan. 2, 1968, 81 Stat. 763. See section 1041 of this title.

**AMENDMENTS**

**2021**—Pub. L. 117–81, §1015(a), renumbered section 8692 of this title, as added by section 1026(a) of Pub. L. 116–283, as this section.

Pub. L. 117–81, §1015(b)(1), (3), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (a)(7). Pub. L. 117–81, §1015(b)(2), added par. (7).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

## §8694. Annual report on ship maintenance

(a) REPORT REQUIRED.—Not later than October 15 of each year, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth each of the following:

(1) A description of all ship maintenance planned for the fiscal year during which the report is submitted, by hull.

(2) The estimated cost of the maintenance described pursuant to paragraph (1).

(3) A summary of all ship maintenance conducted by the Secretary during the previous fiscal year.

(4) A detailed description of any ship maintenance that was deferred during the previous fiscal year, including specific reasons for the delay or cancellation of any availability.

(5) A detailed description of the effect of each of the planned ship maintenance actions that were delayed or cancelled during the previous fiscal year, including—

(A) a summary of the effects on the costs and schedule for each delay or cancellation; and

(B) the accrued operational and fiscal cost of all the deferments over the fiscal year.

(b) FORM OF REPORT.— Each report submitted under subsection (a) shall be submitted in unclassified form and made publicly available on an appropriate internet website in a searchable format, but may contain a classified annex.

(Added Pub. L. 117–81, div. A, title X, §1016(a), Dec. 27, 2021, 135 Stat. 1895.)

## §8695. Navy battle force ship assessment and requirement reporting

(a) IN GENERAL.—Not later than 180 days after the date on which a covered event occurs, the

Chief of Naval Operations shall submit to the congressional defense committees a battle force ship assessment and requirement.

(b) ASSESSMENT.—Each assessment required by subsection (a) shall include the following:

(1) A review of the strategic guidance of the Federal Government, the Department of Defense, and the Navy for identifying priorities, missions, objectives, and principles, in effect as of the date on which the assessment is submitted, that the force structure of the Navy must follow.

(2) An identification of the steady-state demand for maritime security and security force assistance activities.

(3) An identification of the force options that can satisfy the steady-state demands for activities required by theater campaign plans of combatant commanders.

(4) A force optimization analysis that produces a day-to-day global posture required to accomplish peacetime and steady-state tasks assigned by combatant commanders.

(5) A modeling of the ability of the force to fight and win scenarios approved by the Department of Defense.

(6) A calculation of the number and global posture of each force element required to meet steady-state presence demands and warfighting response timelines.

(c) REQUIREMENT.—(1) Each requirement required by subsection (a) shall—

(A) be based on the assessment required by subsection (b); and

(B) identify, for each of the fiscal years that are five, 10, 15, 20, 25, and 30 years from the date of the covered event—

(i) the total number of battle force ships required;

(ii) the number of battle force ships required in each of the categories described in paragraph (2);

(iii) the classes of battle force ships included in each of the categories described in paragraph (2); and

(iv) the number of battle force ships required in each class.

(2) The categories described in this paragraph are the following:

(A) Aircraft carriers.

(B) Large surface combatants.

(C) Small surface combatants.

(D) Amphibious warfare ships.

(E) Attack submarines.

(F) Ballistic missile submarines.

(G) Combat logistics force.

(H) Expeditionary fast transport.

(I) Expeditionary support base.

(J) Command and support.

(K) Other.

(d) DEFINITIONS.—In this section:

(1) The term "battle force ship" means the following:

(A) A commissioned United States Ship warship capable of contributing to combat operations.

(B) A United States Naval Ship that contributes directly to Navy warfighting or support missions.

(2) The term "covered event" means a significant change to any of the following:

(A) Strategic guidance that results in changes to theater campaign plans or warfighting scenarios.

(B) Strategic laydown of vessels or aircraft that affects sustainable peacetime presence or warfighting response timelines.

(C) Operating concepts, including employment cycles, crewing constructs, or operational tempo limits, that affect peacetime presence or warfighting response timelines.

(D) Assigned missions that affect the type or quantity of force elements.

(e) RESPONSIBILITIES OF COMMANDANT OF MARINE CORPS.—In preparing each assessment and requirement under subsection (a), the Commandant of the Marine Corps shall be specifically responsible for developing the requirements relating to amphibious warfare ships and for naval vessels with the primary mission of transporting Marines.

(Added Pub. L. 117–81, div. A, title X, §1017(a), Dec. 27, 2021, 135 Stat. 1896; amended Pub. L. 117–263, div. A, title X, §1025, Dec. 23, 2022, 136 Stat. 2764; Pub. L. 118–31, div. A, title X, §1019, Dec. 22, 2023, 137 Stat. 384.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (e). Pub. L. 118–31 substituted "Responsibilities of Commandant of Marine Corps" for "Amphibious Warfare Ships" in heading and inserted "and for naval vessels with the primary mission of transporting Marines" before period at end.

**2022**—Subsec. (e). Pub. L. 117–263 added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**BASELINE ASSESSMENT AND REQUIREMENT REQUIRED**

Pub. L. 117–81, div. A, title X, §1017(c), Dec. 27, 2021, 135 Stat. 1897, provided that: "The date of the enactment of this Act [Dec. 27, 2021] is deemed to be a covered event for the purposes of establishing a baseline battle force ship assessment and requirement under section 8695 of title 10, United States Code, as added by subsection (a) [enacting this section]."

## §8696. Navy shipbuilding workforce development special incentive

(a) REQUIREMENT.—

(1) IN GENERAL.—The Secretary of the Navy shall include in any solicitation for a covered contract a special incentive for workforce development that funds one or more workforce development activities described in subsection (c).

(2) AMOUNT OF SPECIAL INCENTIVE.—The amount of a special incentive required under subsection (a)(1) shall be equal to not less than one quarter of one percent and not more than one percent of the estimated cost of the covered contract.

(3) WAIVER.—

(A) IN GENERAL.—The Secretary of the Navy may waive one or more of the requirements of this section if the Secretary determines—

(i) unreasonable cost or delay would be incurred by complying with such requirements;

(ii) existing workforce development initiatives are sufficient to meet workforce needs;

(iii) there are minimal workforce development issues to be addressed; or

(iv) it is not in the national security interests of the United States to comply with such requirements.

(B) NOTICE TO CONGRESS.—Not less than 30 days prior to issuing a waiver under subparagraph (A), the Secretary of the Navy shall submit to the congressional defense committees written notice of the intent of the Secretary to issue such a waiver. Such notice shall specify the basis for such waiver and include a detailed explanation of the reasons for issuing the waiver.

(b) MATCHING CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Funds for a special incentive for workforce development required under subsection (a)(1) may be expended only—

(A) on or after the date on which the service acquisition executive of the Navy receives a written commitment from one or more entities described in paragraph (2) of separate and distinct cumulative monetary contributions to be made on or after the date of such commitment for workforce development; and

(B) in an amount that is equal to the aggregate amount of all monetary contributions from entities that made commitments under subparagraph (A) not to exceed the amount of funding made available for the special incentive under subsection (a)(2).

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are the following:

(A) The prime contractor that was awarded a covered contract.

(B) A qualified subcontractor.

(C) A State government or other State entity.

(D) A county government or other county entity.

(E) A local government or other local entity.

(F) An industry association, organization, or consortium that directly supports workforce development.

(3) SPECIAL RULE.—In a case in which the aggregate amount of all monetary contributions from entities that made commitments under paragraph (1)(A) is less than the minimum amount specified for the special incentive under subsection (a)(2), funds for the special incentive may be expended in an amount equal to such lesser amount.

(c) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds for a special incentive for workforce development required under subsection (a)(1) may be obligated or expended only to provide for the activities described in paragraph (2) in support of the production and production support workforce of the prime contractor concerned or a qualified subcontractor concerned.

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are the following:

(A) The creation of short- and long-term workforce housing, transportation, and other support services to facilitate attraction, relocation, and retention of workers.

(B) The expansion of local talent pipeline programs for both new and existing workers.

(C) Investments in long-term outreach in middle school and high school programs, specifically career and technical education programs, to promote and develop manufacturing skills.

(D) The development or modification of facilities for the primary purpose of workforce development.

(E) Payment of direct costs attributable to workforce development.

(F) Attraction and retention bonus programs.

(G) On-the-job training to develop key manufacturing skills.

(d) APPROVAL REQUIREMENT.—The service acquisition executive of the Navy shall—

(1) provide the final approval of the use of funds for a special incentive for workforce development required under subsection (a)(1); and

(2) not later than 30 days after the date on which such approval is provided, certify to the congressional defense committees compliance with the requirements of subsections (b) and (c), including—

(A) a detailed explanation of such compliance; and

(B) the associated benefits to—

(i) the Federal Government; and

(ii) the shipbuilding industrial base of the Navy.

(e) DEFINITIONS.—In this section:

(1) The term "covered contract" means a prime contract for the construction of a naval vessel funded using amounts appropriated or otherwise made available for Shipbuilding and Conversion, Navy.

(2) The term "qualified subcontractor" means a subcontractor that will deliver the vessel or vessels awarded under a covered contract to the Navy.

(Added Pub. L. 117–263, div. A, title I, §122(a), Dec. 23, 2022, 136 Stat. 2441.)

**EDITORIAL NOTES**

**CODIFICATION**

Another section 8696 was renumbered section 8697 of this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 117–263, div. A, title I, §122(c), Dec. 23, 2022, 136 Stat. 2443, provided that: "Section 8696 of title 10, United States Code, as added by subsection (a), shall apply with respect to—

"(1) a solicitation for a covered contract (as defined in subsection (e) of that section) made on or after June 1, 2023; and

"(2) a solicitation or award of a covered contract, if otherwise determined appropriate by the Secretary of the Navy."

## §8697. Battle force ship employment, maintenance, and manning baseline plans

(a) IN GENERAL.—Not later than 45 days after the date of the delivery of the first ship in a new class of battle force ships, the Secretary of the Navy shall submit to the congressional defense committees a report on the employment, maintenance, and manning baseline plans for the class, including a description of the following:

(1) The sustainment and maintenance plans for the class that encompass the number of years the class is expected to be in service, including—

(A) the allocation of maintenance tasks among organizational, intermediate, depot, or other activities;

(B) the planned duration and interval of maintenance for all depot-level maintenance availabilities; and

(C) the planned duration and interval of drydock maintenance periods.

(2) Any contractually required integrated logistics support deliverables for the ship, including technical manuals, and an identification of—

(A) the deliverables provided to the Government on or before the delivery date; and

(B) the deliverables not provided to the Government on or before the delivery date and the expected dates those deliverables will be provided to the Government.

(3) The planned maintenance system for the ship, including—

(A) the elements of the system, including maintenance requirement cards, completed on or before the delivery date;

(B) the elements of the system not completed on or before the delivery date and the expected completion date of those elements; and

(C) the plans to complete planned maintenance from the delivery date until all elements of the system have been completed.

(4) The coordinated shipboard allowance list for the class, including—

(A) the items on the list onboard on or before the delivery date; and

(B) the items on the list not onboard on or before the delivery date and the expected arrival date of those items.

(5) The ship manpower document for the class, including—
(A) the number of officers by grade and designator; and
(B) the number of enlisted personnel by rate and rating.

(6) The personnel billets authorized for the ship for the fiscal year in which the ship is delivered and each of the four fiscal years thereafter, including—
(A) the number of officers by grade and designator; and
(B) the number of enlisted personnel by rate and rating.

(7) Programmed funding for manning and end strength on the ship for the fiscal year in which the ship is delivered and each of the four fiscal years thereafter, including—
(A) the number of officers by grade and designator; and
(B) the number of enlisted personnel by rate and rating.

(8) Personnel assigned to the ship on the delivery date, including—
(A) the number of officers by grade and designator; and
(B) the number of enlisted personnel by rate and rating.

(9) For each critical hull, mechanical, electrical, propulsion, and combat system of the class as so designated by the Senior Technical Authority pursuant to section 8669b(c)(2)(C) of this title, the following:
(A) The Government-provided training available for personnel assigned to the ship at the time of delivery, including the nature, objectives, duration, and location of the training.
(B) The contractor-provided training available for personnel assigned to the ship at the time of delivery, including the nature, objectives, duration, and location of the training.
(C) Plans to adjust how the training described in subparagraphs (A) and (B) will be provided to personnel after delivery, including the nature and timeline of those adjustments.

(10) The notional employment schedule of the ship for each month of the fiscal year in which the ship is delivered and each of the four fiscal years thereafter, including an identification of time spent in the following phases:
(A) Basic.
(B) Integrated or advanced.
(C) Deployment.
(D) Maintenance.
(E) Sustainment.

(b) NOTIFICATION REQUIRED.—Not less than 30 days before implementing a significant change to the baseline plans described in subsection (a) or any subsequent significant change, the Secretary of the Navy shall submit to the congressional defense committees written notification of the change, including for each such change the following:
(1) An explanation of the change.
(2) The desired outcome.
(3) The rationale.
(4) The duration.
(5) The operational effects.
(6) The budgetary effects, including—
(A) for the year in which the change is made;
(B) over the five years thereafter; and
(C) over the expected service life of the relevant class of battle force ships.

(7) The personnel effects, including—
(A) for the year in which the change is made;
(B) over the five years thereafter; and
(C) over the expected service life of the relevant class of battle force ships.

(8) The sustainment and maintenance effects, including—
(A) for the year in which the change is made;
(B) over the five years thereafter; and
(C) over the expected service life of the relevant class of battle force ships.

(c) TREATMENT OF CERTAIN SHIPS.—(1) For the purposes of this section, the Secretary of the Navy shall treat as the first ship in a new class of battle force ships the following:
(A) U.S.S. John F. Kennedy (CVN–79).
(B) U.S.S. Michael Monsoor (DDG–1001).
(C) U.S.S. Jack H. Lucas (DDG–125).

(2) For each ship described in paragraph (1), the Senior Technical Authority shall identify critical systems for the purposes of subsection (a)(9).
(d) DEFINITIONS.—In this section:
(1) The term "battle force ship" means the following:
(A) A commissioned United States Ship warship capable of contributing to combat operations.
(B) A United States Naval Ship that contributes directly to Navy warfighting or support missions.

(2) The term "delivery" has the meaning provided for in section 8671 of this title.
(3) The term "Senior Technical Authority" has the meaning provided for in section 8669b of this title.

(Added Pub. L. 117–263, div. A, title X, §1026(a), Dec. 23, 2022, 136 Stat. 2765, §8696; renumbered §8697, Pub. L. 118–31, div. A, title XVIII, §1801(a)(39), Dec. 22, 2023, 137 Stat. 685.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 renumbered section 8696 of this title relating to battle force ship employment, maintenance, and manning baseline plans as this section.

## §8698. Roles and responsibilities relating to sustainment and readiness of certain naval surface vessels

(a) TYPE COMMANDER LEADERSHIP.—(1) Beginning on the date that is one year after the date of the enactment of this section, the Secretary of the Navy shall—
(A) designate type commanders as the primary authorities responsible for the maintenance, repair, sustainment, and readiness of covered vessels; and
(B) ensure that regional maintenance centers act under the direction of, and in support of, type commanders with respect to such maintenance, repair, and sustainment.

(2) The responsibilities of each type commander under paragraph (1)(A) shall include—
(A) overseeing all maintenance and repair activities at private shipyards for covered vessels in the naval force of that type commander; and
(B) setting priorities and approving contracts for the maintenance and repair of such vessels.

(b) MAINTENANCE AND REPAIR AT PRIVATE SHIPYARDS.—(1) Beginning on the date that is one year after the date of the enactment of this section, for each covered vessel undergoing maintenance or repair at a private shipyard, the project manager concerned, the port engineer concerned, and the commanding officer of such vessel—

(A) may jointly determine the work to be performed during the overhaul period for the covered vessel, including by jointly adjusting priorities for such work consistent with the applicable budget and schedule for such maintenance or repair; and

(B) shall report directly to the type commander of the naval force to which the covered vessel belongs with respect to such maintenance or repair.

(2) Contracting officers of the Department of Defense shall manage contracts as necessary to ensure consistency with any determination or adjustment made pursuant to paragraph (1)(A).

(c) DEFINITIONS.—In this section:

(1) The term "covered vessel" means a naval surface vessel that is not propelled or powered by a nuclear reactor.

(2) The term "port engineer concerned" means, with respect to a naval vessel, the technical expert on the condition of such vessel responsible for advising on repairs and related standards for such vessel.

(3) The term "project manager concerned" means, with respect to a naval vessel undergoing maintenance or repair, the individual responsible for overseeing the overhaul period with respect to such maintenance or repair.

(4) The term "regional maintenance center"—

(A) means an organization of the Navy that supports ship maintenance in a designated geographic region; and

(B) includes the Mid-Atlantic Regional Maintenance Center in Nofolk, Virginia, the Southwest Regional Maintenance Center in San Diego, California, the Southeast Regional Maintenance Center in Mayport, Florida, and the Hawaii Regional Maintenance Center in Pearl Harbor, Hawaii.

(5) The term "type commander" means the flag officer in command of a naval surface force, such as the following:

(A) Commander, Naval Surface Force, Atlantic.

(B) Commander, Naval Surface Force, Pacific Fleet.

(Added Pub. L. 119–60, div. A, title III, §337, Dec. 18, 2025, 139 Stat. 819.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in text, means the date of enactment of the National Defense Authorization Act for Fiscal Year 2026, which was approved on December 18, 2025.

## CHAPTER 865—SALVAGE FACILITIES

Sec.
8701. Authority to provide for necessary salvage facilities.
8702. Acquisition and transfer of vessels and equipment.
8703. Settlement of claims.
8704. Disposition of receipts.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 865, formerly consisting of sections 8881 to 8889, related to retirement from the Air Force for age, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390, and Pub. L. 96–513, title II, §216, Dec. 12, 1980, 94 Stat. 2886.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 637 of this title as this chapter and items 7361 to 7364 as 8701 to 8704, respectively.

**1996**—Pub. L. 104–106, div. A, title X, §1015, Feb. 10, 1996, 110 Stat. 424, amended analysis generally, adding items 7361 to 7364 and striking out former items 7361 "Naval salvage facilities: contracts for commercial facilities", 7362 "Commercial use of naval facilities", 7363 "Transfer of equipment: contract provisions", 7365 "Settlement of claims", and 7367 "Disposition of receipts".

**1994**—Pub. L. 103–355, title II, §2001(j)(3)(B), Oct. 13, 1994, 108 Stat. 3303, struck out item 7364 "Advancement of funds for salvage operations".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(a)(8), Nov. 30, 1993, 107 Stat. 1713, struck out item 7366 "Limitation on appropriations".

## §8701. Authority to provide for necessary salvage facilities

(a) AUTHORITY.—The Secretary of the Navy may provide, by contract or otherwise, necessary salvage facilities for public and private vessels.

(b) COORDINATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall submit to the Secretary of Homeland Security for comment each proposed contract for salvage facilities that affects the interests of the Department of Homeland Security.

(c) LIMITATION.—The Secretary of the Navy may enter into a term contract under subsection (a) only if the Secretary determines that available commercial salvage facilities are inadequate to meet the requirements of national defense.

(d) PUBLIC NOTICE.—The Secretary may not enter into a contract under subsection (a) until the Secretary has provided public notice of the intent to enter into such a contract.

(e) SALVAGE FACILITIES DEFINED.—In this section, the term "salvage facilities" includes equipment and gear utilized to prevent, abate, or minimize damage to the environment.

(Added Pub. L. 104–106, div. A, title X, §1015, Feb. 10, 1996, 110 Stat. 424, §7361; amended Pub. L. 107–296, title XVII, §1704(b)(1), (6), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title III, §315(a), Nov. 24, 2003, 117 Stat. 1431; renumbered §8701, Pub. L. 115–232, div. A, title VIII, §807(d)(3), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7361 of this title as this section.

**2003**—Subsec. (e). Pub. L. 108–136 added subsec. (e).

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in heading and in two places in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §8702. Acquisition and transfer of vessels and equipment

(a) AUTHORITY.—The Secretary of the Navy may acquire or transfer for operation by private salvage companies such vessels and equipment as the Secretary considers necessary.

(b) AGREEMENT ON USE.—Before any salvage vessel or salvage gear is transferred by the Secretary to a private party, the private party must agree in writing with the Secretary that the vessel or gear will be used to support organized offshore salvage facilities for a period of as many years as the Secretary considers appropriate.

(c) REFERENCE TO AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS.—For authority for the Secretary of the Navy to advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations, see section 3808(b) of this title.

(Added Pub. L. 104–106, div. A, title X, §1015, Feb. 10, 1996, 110 Stat. 424, §7362; renumbered §8702, Pub. L. 115–232, div. A, title VIII, §807(d)(3), Aug. 13, 2018, 132 Stat. 1836; amended Pub. L. 116–283, div. A, title XVIII, §1834(i)(5), as added Pub. L. 117–81, div. A, title XVII, §1701(n)(2), Dec. 27, 2021, 135 Stat. 2145; Pub. L. 116–283, div. A, title XVIII, §1876(c), Jan. 1, 2021, 134 Stat. 4291; Pub. L. 117–81, div. A, title XVII, §1701(n)(3), Dec. 27, 2021, 135 Stat. 2146.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 116–283, §1876(c), which directed striking the first two words of the subsec. heading, striking the text of subsec. (c) and inserting the text of par. (2) of section 2307(g) of this title, and substituting "this subsection" for "this paragraph" in the second sentence thereof, was repealed by Pub. L. 117–81, §1701(n)(3), effective as if included in title XVIII of Pub. L. 116–283.

Pub. L. 116–283, §1834(i)(5), as added by Pub. L. 117–81, §1701(n)(2), which directed substitution of "section 3808(b)" for "section 2307(g)(2)" in section 8702(c), without specifying the Code title to be amended, was executed to subsec. (c) of this section to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232 renumbered section 7362 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8703. Settlement of claims

(a) AUTHORITY TO SETTLE CLAIM.—The Secretary of the Navy may settle any claim by the United States for salvage services rendered by the Department of the Navy and may receive payment of any such claim.

(b) SALVAGE SERVICES DEFINED.—In this section, the term "salvage services" includes services performed in connection with a marine salvage operation that are intended to prevent, abate, or minimize damage to the environment.

(Added Pub. L. 104–106, div. A, title X, §1015, Feb. 10, 1996, 110 Stat. 425, §7363; amended Pub. L. 108–136, div. A, title III, §315(b), Nov. 24, 2003, 117 Stat. 1431; renumbered §8703, Pub. L. 115–232, div. A, title VIII, §807(d)(3), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7363 of this title as this section.

**2003**—Pub. L. 108–136 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8704. Disposition of receipts

Amounts received under this chapter shall be credited to appropriations for maintaining naval salvage facilities. However, any amount received under this chapter in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited into the general fund of the Treasury.

(Added Pub. L. 104–106, div. A, title X, §1015, Feb. 10, 1996, 110 Stat. 425, §7364; renumbered §8704, Pub. L. 115–232, div. A, title VIII, §807(d)(3), Aug. 13, 2018, 132 Stat. 1836.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7364 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 867—UNITED STATES NAVAL OBSERVATORY

Sec.
8715. Naval Observatory: administration.
8716. Naval Observatory: exchange of information with foreign offices.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 867, consisting of sections 8911 to 8929, related to retirement from the Air Force for length of service, prior to renumbering as chapter 941 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 639 of this title as this chapter and items 7395 and 7396 as 8715 and 8716, respectively.

**1982**—Pub. L. 97–295, §1(50)(F), Oct. 12, 1982, 96 Stat. 1300, struck out "NAVAL OCEANOGRAPHIC OFFICE AND" from chapter heading.

Pub. L. 97–295, §1(50)(B), Oct. 12, 1982, 96 Stat. 1299, struck out items 7391 "United States Naval Oceanographic Office: establishment and duties", 7392 "United States Naval Oceanographic Office: maps, charts and books", 7393 "United States Naval Oceanographic Office: pilot charts", and 7394 "Price of maps, charts, and navigational publications".

**1964**—Pub. L. 88–436, §1(b), Aug. 14, 1964, 78 Stat. 436, substituted "navigational publications" for "nautical books" in item 7394.

**1962**—Pub. L. 87–533, §1(a)(1), (b), July 10, 1962, 76 Stat. 154, 155, substituted "United States Naval Oceanographic" for "Hydrographic" in chapter heading and in items 7391 to 7393.

## §8715. Naval Observatory: administration

(a) The Naval Observatory shall be attached to the Office of the Chief of Naval Operations.

(b) The Superintendent of the Naval Observatory shall be detailed from officers in the line of the Navy serving in the grade of captain or above.

(c) The Secretary of the Navy may detail any officer of the Navy, competent for that duty, to supervise the Nautical Almanac.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457, §7395; renumbered §8715, Pub. L. 115–232, div. A, title VIII, §807(d)(4), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7395 | 5 U.S.C. 133y–16 (note). | Reorganization Plan No. 3 of 1946, Part III, §301, 60 Stat. 1099. |
| | 5 U.S.C. 461. | Mar. 3, 1901, ch. 852, 31 Stat. 1122 (2d par., last sentence). |
| | 5 U.S.C. 463. | R.S. 436; June 29, 1949, ch. 278, 63 Stat. 300 (2d par.). |

In subsection (a) the words "together with their respective functions, are hereby transferred from the Bureau of Naval Personnel, Department of the Navy" are omitted as executed. The words "attached to" are substituted for the words "and shall be administered, subject to the direction and control of the Secretary of the Navy, under the Chief of Naval Operations" for brevity. All orders issued by the Chief of Naval Operations in performing the duties assigned to him are issued under the authority of the Secretary of the Navy.

In subsection (b) the words "until further legislation by Congress" are omitted as surplusage.

In subsection (c) the word "detail" is substituted for the word "place". The words "in charge" are omitted as surplusage. The word "duty" is substituted for the word "service" for clarity.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7395 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8716. Naval Observatory: exchange of information with foreign offices

(a) The Secretary of the Navy may arrange to exchange data with foreign almanac offices to reduce the duplication of work in preparing the different national nautical and astronomical almanacs and make available for publication a larger amount of data useful to navigators and astronomers. Each such arrangement shall be made terminable on one year's notice.

(b) The work of the Nautical Almanac Office shall be so conducted that in an emergency the part of the work intended for the use of navigators may be computed by the force of the office without foreign cooperation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457, §7396; Pub. L. 95–357, Sept. 8, 1978, 92 Stat. 591; renumbered §8716, Pub. L. 115–232, div. A, title VIII, §807(d)(4), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7396 | 5 U.S.C. 464. | Aug. 22, 1912, ch. 335, 37 Stat. 342 (2d par.). |

In subsection (a) the words "as he may from time to time deem desirable with a view" are omitted as surplusage. The words "a larger amount of data useful" are substituted for the words "increase the total data which may be of use" for clarity.

In subsection (b) the words "during the continuance of any such arrangement" are omitted as surplusage. The third proviso of 5 U.S.C. 464 is omitted as obsolete.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7396 of this title as this section.

**1978**—Subsec. (a). Pub. L. 95–357 struck out "in the American Ephemeris and Nautical Almanac" after "for publication".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 869—NAVAL PETROLEUM RESERVES

Sec.
8720. Definitions.
8721. Jurisdiction and control.
8722. Administration.
8723. Periodic re-examination of production requirements.
8724. Protection of oil reserves; contracts for conservation.
8725. Acquisition by condemnation and purchase.
8727. Cooperative or unit plans in the naval petroleum reserves.
8728. Agreements and leases: provision for change.
8729. Re-lease of certain lands: lessee's preferential right.
8730. Disposition of products.
8731. Requirements as to consultation and approval.
8732. Authorizations of appropriations.
8733. Disposition of royalties.
8735. Foreign interest.

8736. Regulations.
8737. Violations by lessee.
8738. Rifle, Colorado, plant; possession, use, and transfer of.
8739. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 869, consisting of sections 8961 to 8966, related to retired grade for members of the Air Force, prior to renumbering as chapter 943 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 641 of this title as this chapter and items 7420 to 7425, 7427 to 7433, and 7435 to 7439 as 8720 to 8725, 8727 to 8733, and 8735 to 8739, respectively.

**2000**—Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(b)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, struck out item 7426 "Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1".

**1997**—Pub. L. 105–85, div. C, title XXXIV, §3404(b), Nov. 18, 1997, 111 Stat. 2061, added item 7439.

**1996**—Pub. L. 104–201, div. A, title X, §1074(a)(19), Sept. 23, 1996, 110 Stat. 2660, struck out item 7434 "Annual report to congressional committees".

Pub. L. 104–106, div. A, title XV, §§1502(a)(28)(B), 1503(b)(4), Feb. 10, 1996, 110 Stat. 506, 513, substituted "Agreements" for "Agreement" in item 7428 and "congressional committees" for "Armed Services Committees" in item 7434.

**1990**—Pub. L. 101–510, div. A, title XIII, §1331(9), Nov. 5, 1990, 104 Stat. 1673, amended item 7434 generally, substituting "Annual report" for "Quarterly reports".

**1980**—Pub. L. 96–513, title V, §513(32)(C), Dec. 12, 1980, 94 Stat. 2933, substituted "Naval Petroleum Reserve Numbered" for "naval petroleum reserve numbered" in item 7426.

**1979**—Pub. L. 96–137, §3(b)(2), Dec. 12, 1979, 93 Stat. 1062, substituted "Authorizations of appropriations" for "Naval petroleum reserve special account" in item 7432.

**1976**—Pub. L. 94–258, title II, §201(20), Apr. 5, 1976, 90 Stat. 313, added item 7420 and substituted "Naval petroleum reserve special account" for "Expenditures; appropriations chargeable" in item 7432.

**1962**—Pub. L. 87–796, §1(13), Oct. 11, 1962, 76 Stat. 906, substituted "Rifle, Colorado, plant; possession, use, and transfer of" for "Exclusion of naval oil shale reserves" in item 7438.

## §8720. Definitions

In this chapter:

(1) The term "national defense" includes the needs of, and the planning and preparedness to meet, essential defense, industrial, and military emergency energy requirements relative to the national safety, welfare, and economy, particularly resulting from foreign military or economic actions.

(2) The term "naval petroleum reserves" means the naval petroleum and oil shale reserves established by this chapter, including Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912; Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912; Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915; Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919; Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1924.

(3) The term "petroleum" includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

(4) The term "Secretary" means the Secretary of Energy.

(5) The term "small refiner" means an owner of a refinery or refineries (including refineries not in operation) who qualifies as a small business refiner under the rules and regulations of the Small Business Administration.

(6) The term "maximum efficient rate" means the maximum sustainable daily oil or gas rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to the ultimate recovery.

(Added Pub. L. 94–258, title II, §201(1), Apr. 5, 1976, 90 Stat. 307, §7420; amended Pub. L. 96–513, title V, §513(30), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 100–26, §7(k)(5), Apr. 21, 1987, 101 Stat. 284; renumbered §8720, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7420 of this title as this section.

**1987**—Pub. L. 100–26 substituted colon for dash at end of introductory provisions, inserted "The term" in each par., substituted periods for semicolons in pars. (1) to (4) and period for "; and" in par. (5).

**1980**—Pub. L. 96–513 in introductory text struck out "(a)" before "In", in par. (2) struck out provisions relating to Naval Petroleum Reserve Numbered 4, and in par. (4) substituted "Energy" for "the Navy".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### NAVAL PETROLEUM RESERVE

Pub. L. 109–58, title III, subtitle D, Aug. 8, 2005, 119 Stat. 694, provided that:

"SEC. 331. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

"(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR .—Effective on the date of the enactment of this Act [Aug. 8, 2005], administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California (other than the lands specified in subsection (b)), are transferred from the Secretary to the Secretary of the Interior for management, subject to subsection (c), in accordance with the laws governing management of the public lands, and the regulations promulgated under such laws, including the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

"(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note [now 10 U.S.C. 8720 note]).

"(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 333.

"(c) PURPOSE OF TRANSFER.—

"(1) PRODUCTION OF HYDROCARBON RESOURCES.—Notwithstanding any other provision of law, the principal purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

"(2) DISPOSAL AUTHORITY AND SURFACE USE.—The Secretary of the Interior may make

disposals of lands subject to transfer under subsection (a), or allow commercial or non-profit surface use of such lands, not to exceed 10 acres each, so long as the disposals or surface uses do not materially interfere with the ultimate economic recovery of the hydrocarbon resources of such lands. All revenues received from the disposal of lands under this paragraph or from allowing the surface use of such lands shall be deposited in the Naval Petroleum Reserve Numbered 2 Lease Revenue Account established by section 332.

"(d) CONFORMING AMENDMENT.—[Amended section 3403 of Pub. L. 105–261, set out below.]

"SEC. 332. NAVAL PETROLEUM RESERVE NUMBERED 2 LEASE REVENUE ACCOUNT.

"(a) ESTABLISHMENT.—There is established in the Treasury a special deposit account to be known as the 'Naval Petroleum Reserve Numbered 2 Lease Revenue Account' (in this section referred to as the 'lease revenue account'). The lease revenue account is a revolving account, and amounts in the lease revenue account shall be available to the Secretary of the Interior, without further appropriation, for the purposes specified in subsection (b).

"(b) PURPOSES OF ACCOUNT.—

"(1) ENVIRONMENTAL-RELATED COSTS.—The lease revenue account shall be the sole and exclusive source of funds to pay for any and all costs and expenses incurred by the United States for—

"(A) environmental investigations (other than any environmental investigations that were conducted by the Secretary before the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331), remediation, compliance actions, response, waste management, impediments, fines or penalties, or any other costs or expenses of any kind arising from, or relating to, conditions existing on or below the Naval Petroleum Reserve Numbered 2 lands, or activities occurring or having occurred on such lands, on or before the date of the transfer of such lands; and

"(B) any future remediation necessitated as a result of pre-transfer and leasing activities on such lands.

"(2) TRANSITION COSTS.—The lease revenue account shall also be available for use by the Secretary of the Interior to pay for transition costs incurred by the Department of the Interior associated with the transfer and leasing of the Naval Petroleum Reserve Numbered 2 lands.

"(c) FUNDING.—The lease revenue account shall consist of the following:

"(1) Notwithstanding any other provision of law, for a period of three years after the date of the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331, the sum of $500,000 per year of revenue from leases entered into before that date, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et. seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

"(2) Subject to subsection (d), all revenues derived from leases on Naval Petroleum Reserve Numbered 2 lands issued on or after the date of the transfer of such lands, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), shall be deposited into the lease revenue account.

"(d) LIMITATION.—Funds in the lease revenue account shall not exceed $3,000,000 at any one time. Whenever funds in the lease revenue account are obligated or expended so that the balance in the account falls below that amount, lease revenues referred to in subsection (c)(2) shall be deposited in the account to maintain a balance of $3,000,000.

"(e) TERMINATION OF ACCOUNT.—At such time as the Secretary of the Interior certifies that remediation of all environmental contamination of Naval Petroleum Reserve Numbered 2 lands in existence as of the date of the transfer of such lands under section 331 has been successfully completed, that all costs and expenses of investigation, remediation, compliance actions, response, waste management, impediments, fines, or penalties associated with environmental contamination of such lands in existence as of the date of the transfer have been paid in full, and that the transition costs of the Department of the Interior referred to in subsection (b)(2) have been paid in full, the lease revenue account shall be terminated and any remaining funds shall be distributed in accordance with subsection (f).

"(f) DISTRIBUTION OF REMAINING FUNDS.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) shall apply to the payment and distribution of all funds remaining in the lease revenue account upon its termination under subsection (e).

"SEC. 333. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

"(a) CONVEYANCE.—Effective on the date of the enactment of this Act [Aug. 8, 2005], there is conveyed to the City of Taft, California (in this section referred to as the 'City'), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 220 acres located in the NE¼, the

NE¼ of the NW¼, and the N½ of the SE¼ of the NW¼ of section 18, township 32 south, range 24 east, Mount Diablo meridian, Kern County, California.

"(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

"(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC–019577.

"(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

"(e) INDEMNIFY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City's use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

"(f) INSTRUMENT OF CONVEYANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

"SEC. 334. REVOCATION OF LAND WITHDRAWAL.

"Effective on the date of the enactment of this Act [Aug. 8, 2005], the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety."

## DISPOSAL OF NAVAL PETROLEUM RESERVES

Pub. L. 105–261, div. C, title XXXIV, Oct. 17, 1998, 112 Stat. 2265, as amended by Pub. L. 106–398, §1 [div. C, title XXXIV, §3403(a), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, 1654A–489; Pub. L. 108–204, title I, §129, Mar. 2, 2004, 118 Stat. 547; Pub. L. 109–58, title III, §331(d), Aug. 8, 2005, 119 Stat. 695; Pub. L. 110–181, div. C, title XXXIV, §3402, Jan. 28, 2008, 122 Stat. 590, provided that:

"SEC. 3401. DEFINITIONS.

"In this title:

"(1) The term 'naval petroleum reserves' has the meaning given the term in section 7420(2) [now 8720(2)] of title 10, United States Code.

"(2) The term 'Naval Petroleum Reserve Numbered 2' means the naval petroleum reserve, commonly referred to as the Buena Vista unit, that is located in Kern County, California, and was established by Executive order of the President, dated December 13, 1912.

"(3) The term 'Naval Petroleum Reserve Numbered 3' means the naval petroleum reserve, commonly referred to as the Teapot Dome unit, that is located in the State of Wyoming and was established by Executive order of the President, dated April 30, 1915.

"(4) The term 'Oil Shale Reserve Numbered 2' means the naval petroleum reserve that is located in the State of Utah and was established by Executive order of the President, dated December 6, 1916.

"(5) The term 'antitrust laws' has the meaning given the term in section 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that the term also includes—

"(A) the Act of June 19, 1936 (15 U.S.C. 13 et seq.; commonly known as the Robinson-Patman Act); and

"(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section applies to unfair methods of competition.

"(6) The term 'petroleum' has the meaning given the term in section 7420(3) [now 8720(3)] of title 10, United States Code.

"SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

"(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $22,500,000 for fiscal year 1999 for the purpose of carrying out—

"(1) activities under chapter 641 [now 869] of title 10, United States Code, relating to the naval petroleum reserves;

"(2) closeout activities at Naval Petroleum Reserve Numbered 1 upon the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note [now 10 U.S.C. 8720 note]); and

"(3) activities under this title relating to the disposition of Naval Petroleum Reserve Numbered 2,

Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2.

"(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

"SEC. 3403. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 2.

"(a) DISPOSAL OF FORD CITY LOTS AUTHORIZED.—(1) Subject to section 3406, the Secretary of Energy may dispose of the portion of Naval Petroleum Reserve Numbered 2 that is located within the town lots in Ford City, California, which are identified as 'Drill Sites Numbered 3A, 4, 6, 9A, 20, 22, 24, and 26' and described in the document entitled 'Ford City Drill Site Locations—NPR–2,' and accompanying maps on file in the office of the Deputy Assistant Secretary for Naval Petroleum and Oil Shale Reserves of the Department of Energy.

"(2) The Secretary of Energy shall carry out the disposal authorized by paragraph (1) by competitive sale or lease consistent with commercial practices, by transfer to another Federal agency or a public or private entity, or by such other means as the Secretary considers appropriate. Any competitive sale or lease under this subsection shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed. The Secretary of Energy may use the authority provided by the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the Recreation and Public Purposes Act), in the same manner and to the same extent as the Secretary of the Interior, to dispose of the portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1).

"(3) Section 2696(a) of title 10, United States Code, regarding the screening of real property for further Federal use before disposal, shall apply to the disposal authorized by paragraph (1).

"[(b) Repealed. Pub. L. 109–58, title III, §331(d), Aug. 8, 2005, 119 Stat. 695.]

"(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

"SEC. 3404. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 3.

"(a) ADMINISTRATION PENDING TERMINATION OF OPERATIONS.—The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 3 in accordance with chapter 641 [now 869] of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 3 in accordance with commercial operating practices.

"(b) DISPOSAL AUTHORIZED.—After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 3, the Secretary of Energy may dispose of the reserve as provided in this subsection. Subject to section 3406, the Secretary shall carry out any such disposal of the reserve by sale or lease or by transfer to another Federal agency. Any sale or lease shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed and shall be conducted in accordance with competitive procedures consistent with commercial practices, as established by the Secretary.

"(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

"SEC. 3405. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.

"(a) DEFINITIONS.—In this section:

"(1) NOSR–2.—The term 'NOSR–2' means Oil Shale Reserve Numbered 2, as identified on a map on file in the Office of the Secretary of the Interior.

"(2) MOAB SITE.—The term 'Moab site' means the Moab uranium milling site located approximately three miles northwest of Moab, Utah, and identified in the Final Environmental Impact Statement issued by the Nuclear Regulatory Commission in March 1996 in conjunction with Source Materials License No. SUA–917.

"(3) MAP.—The term 'map' means the map depicting the boundaries of NOSR–2, to be kept on file and available for public inspection in the offices of the Department of the Interior.

"(4) TRIBE.—The term 'Tribe' means the Ute Indian Tribe of the Uintah and Ouray Indian Reservation.

"(5) TRUSTEE.—The term 'Trustee' means the Trustee of the Moab Mill Reclamation Trust.

"(b) CONVEYANCE.—(1) Except as provided in paragraph (2) and subsection (e), all right, title, and interest of the United States in and to all Federal lands within the exterior boundaries of NOSR–2 (including surface and mineral rights) are hereby conveyed to the Tribe in fee simple. The Secretary of Energy shall execute and file in the appropriate office a deed or other instrument effectuating the conveyance made by this section.

"(2) The conveyance under paragraph (1) does not include the following:

"(A) The portion of the bed of Green River contained entirely within NOSR–2, as depicted on the map.

"(B) The land (including surface and mineral rights) to the west of the Green River within NOSR–2, as depicted on the map.

"(C) A ¼ mile scenic easement on the east side of the Green River within NOSR–2.

"(c) CONDITIONS ON CONVEYANCE.—(1) The conveyance under subsection (b) is subject to valid existing rights in effect on the day before the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

"(2) On completion of the conveyance under subsection (b), the United States relinquishes all management authority over the conveyed land, including tribal activities conducted on the land.

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.

"(4) The reservation of the easement under subsection (b)(2)(C) shall not affect the right of the Tribe to use and maintain access to the Green River through the use of the road within the easement, as depicted on the map.

"(5) Each withdrawal that applies to NOSR–2 and that is in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000] is revoked to the extent that the withdrawal applies to NOSR–2.

"(6) Notwithstanding that the land conveyed to the Tribe under subsection (b) shall not be part of the reservation of the Tribe, such land shall be deemed to be part of the reservation of the Tribe for the purposes of criminal and civil jurisdiction.

"(d) ADMINISTRATION OF UNCONVEYED LAND AND INTERESTS IN LAND.—(1) The land and interests in land excluded by subparagraphs (A) and (B) of subsection (b)(2) from conveyance under subsection (b) shall be administered by the Secretary of the Interior in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(2) Not later than three years after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Secretary of the Interior shall submit to Congress a land use plan for the management of the land and interests in land referred to in paragraph (1).

"(3) There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out this subsection.

"(e) ROYALTY.—(1) Notwithstanding the conveyance under subsection (b), the United States retains a nine percent royalty interest in the value of any oil, gas, other hydrocarbons, and all other minerals that are produced, saved, and sold from the conveyed land during the period beginning on the date of the conveyance and ending on the date the Secretary of Energy releases the royalty interest under subsection (i).

"(2) The royalty payments shall be made by the Tribe or its designee to the Secretary of Energy during the period that the oil, gas, hydrocarbons, or minerals are being produced, saved, sold, or extracted. The Secretary of Energy shall retain and use the payments in the manner provided in subsection (i)(3).

"(3) The royalty interest retained by the United States under this subsection does not include any development, production, marketing, and operating expenses.

"(4) The Tribe shall submit to the Secretary of Energy and to Congress an annual report on resource development and other activities of the Tribe concerning the conveyance under subsection (b).

"(5) Not later than five years after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], and every five years thereafter, the Tribe shall obtain an audit of all resource development activities of the Tribe concerning the conveyance under subsection (b), as provided under chapter 75 of title 31, United States Code. The results of each audit under this paragraph shall be included in the next annual report submitted under paragraph (4).

"(f) RIVER MANAGEMENT.—(1) The Tribe shall manage, under Tribal jurisdiction and in accordance with ordinances adopted by the Tribe, land of the Tribe that is adjacent to, and within ¼ mile of, the Green River in a manner that—

"(A) maintains the protected status of the land; and

"(B) is consistent with the government-to-government agreement and in the memorandum of understanding dated February 11, 2000, as agreed to by the Tribe and the Secretary of the Interior.

"(2) An ordinance referred to in paragraph (1) shall not impair, limit, or otherwise restrict the management

and use of any land that is not owned, controlled, or subject to the jurisdiction of the Tribe.

"(3) An ordinance adopted by the Tribe and referenced in the government-to-government agreement may not be repealed or amended without the written approval of both the Tribe and the Secretary of the Interior.

"(g) PLANT SPECIES.—(1) In accordance with a government-to-government agreement between the Tribe and the Secretary of the Interior, in a manner consistent with levels of legal protection in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Tribe shall protect, under ordinances adopted by the Tribe, any plant species that is—

"(A) listed as an endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

"(B) located or found on the NOSR–2 land conveyed to the Tribe.

"(2) The protection described in paragraph (1) shall be performed solely under tribal jurisdiction.

"(h) HORSES.—(1) The Tribe shall manage, protect, and assert control over any horse not owned by the Tribe or tribal members that is located or found on the NOSR–2 land conveyed to the Tribe in a manner that is consistent with Federal law governing the management, protection, and control of horses in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

"(2) The management, control, and protection of horses described in paragraph (1) shall be performed solely—

"(A) under tribal jurisdiction; and

"(B) in accordance with a government-to-government agreement between the Tribe and the Secretary of the Interior.

"(i) REMEDIAL ACTION AT MOAB SITE.—(1)(A) The Secretary of Energy shall prepare a plan for remediation, including ground water restoration, of the Moab site in accordance with title I of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7911 et seq.). The Secretary of Energy shall enter into arrangements with the National Academy of Sciences to obtain the technical advice, assistance, and recommendations of the National Academy of Sciences in objectively evaluating the costs, benefits, and risks associated with various remediation alternatives, including removal or treatment of radioactive or other hazardous materials at the site, ground water restoration, and long-term management of residual contaminants. If the Secretary prepares a remediation plan that is not consistent with the recommendations of the National Academy of Sciences, the Secretary shall submit to Congress a report explaining the reasons for deviation from the National Academy of Sciences' recommendations.

"(B) The remediation plan required by subparagraph (A) shall be completed not later than one year after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], and the Secretary of Energy shall commence remedial action at the Moab site as soon as practicable after the completion of the plan.

"(C) The license for the materials at the Moab site issued by the Nuclear Regulatory Commission shall terminate one year after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, unless the Secretary of Energy determines that the license may be terminated earlier. Until the license is terminated, the Trustee, subject to the availability of funds appropriated specifically for a purpose described in clauses (i) through (iii) or made available by the Trustee from the Moab Mill Reclamation Trust, may carry out—

"(i) interim measures to reduce or eliminate localized high ammonia concentrations in the Colorado River, identified by the United States Geological Survey in a report dated March 27, 2000;

"(ii) activities to dewater the mill tailings at the Moab site; and

"(iii) other activities related to the Moab site, subject to the authority of the Nuclear Regulatory Commission and in consultation with the Secretary of Energy.

"(D) As part of the remediation plan for the Moab site required by subparagraph (A), the Secretary of Energy shall develop, in consultation with the Trustee, the Nuclear Regulatory Commission, and the State of Utah, an efficient and legal means for transferring all responsibilities and title to the Moab site and all the materials therein from the Trustee to the Department of Energy.

"(2) The Secretary of Energy shall limit the amounts expended in carrying out the remedial action under paragraph (1) to—

"(A) amounts specifically appropriated for the remedial action in an appropriation Act; and

"(B) other amounts made available for the remedial action under this subsection.

"(3)(A) The royalty payments received by the Secretary of Energy under subsection (e) shall be available to the Secretary, without further appropriation, to carry out the remedial action under paragraph (1) until such time as the Secretary determines that all costs incurred by the United States to carry out the remedial action (other than costs associated with long-term monitoring) have been paid.

"(B) Upon making the determination referred to in subparagraph (A), the Secretary of Energy shall transfer all remaining royalty amounts to the general fund of the Treasury and release to the Tribe the royalty interest retained by the United States under subsection (e).

"(4)(A) Funds made available to the Department of Energy for national security activities shall not be used to carry out the remedial action under paragraph (1), except that the Secretary of Energy may use such funds for program direction directly related to the remedial action.

"(B) There are authorized to be appropriated to the Secretary of Energy to carry out the remedial action under paragraph (1) such sums as are necessary.

"(5) If the Moab site is sold after the date on which the Secretary of Energy completes the remedial action under paragraph (1), the seller shall pay to the Secretary of Energy, for deposit in the general fund of the Treasury, the portion of the sale price that the Secretary determines resulted from the enhancement of the value of the Moab site as a result of the remedial action. The enhanced value of the Moab site shall be equal to the difference between—

"(A) the fair market value of the Moab site on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], based on information available on that date; and

"(B) the fair market value of the Moab site, as appraised on completion of the remedial action.

"(6)(A) Not later than October 1, 2019, the Secretary of Energy shall complete remediation at the Moab site and removal of the tailings to the Crescent Junction site in Utah.

"(B) In the event the Secretary of Energy is unable to complete remediation at the Moab Site by October 1, 2019, the Secretary shall submit to Congress a plan setting forth the projected completion date and the estimated funding to meet the revised date. The Secretary shall submit the plan, if required, to Congress not later than October 2, 2019.

"SEC. 3406. ADMINISTRATION.

"(a) PROTECTION OF EXISTING RIGHTS.—At the discretion of the Secretary of Energy, the disposal of property under this title shall be subject to any contract related to the United States ownership interest in the property in effect at the time of disposal, including any lease agreement pertaining to the United States interest in Naval Petroleum Reserve Numbered 2.

"(b) DEPOSIT OF RECEIPTS.—Notwithstanding any other law, all monies received by the United States from the disposal of property under this title, including any monies received from a lease entered into under this title, shall be deposited in the general fund of the Treasury.

"(c) TREATMENT OF ROYALTIES.—Any petroleum accruing to the United States as royalty from any lease of lands transferred under this title shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Interior may elect.

"(d) ELEMENTS OF LEASE.—A lease under this title may provide for the exploration for, and development and production of, petroleum, other than petroleum in the form of oil shale.

"(e) WAIVER OF REQUIREMENTS REGARDING CONSULTATION AND APPROVAL.—Section 7431 [now 8731] of title 10, United States Code, shall not apply to the disposal of property under this title.

"(f) OIL SHALE RESERVE NUMBERED 2.—This section does not apply to the transfer of Oil Shale Reserve Numbered 2 under section 3405."

Pub. L. 104–106, div. C, title XXXIV, subtitle B, Feb. 10, 1996, 110 Stat. 631, as amended by Pub. L. 106–65, div. A, title X, §1067(6), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–291, div. A, title X, §1071(b)(12), Dec. 19, 2014, 128 Stat. 3507, provided that:

"SEC. 3411. DEFINITIONS.

"For purposes of this subtitle:

"(1) The terms 'Naval Petroleum Reserve Numbered 1' and 'reserve' mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

"(2) The term 'naval petroleum reserves' has the meaning given that term in section 7420(2) [now 8720(2)] of title 10, United States Code, except that the term does not include Naval Petroleum Reserve Numbered 1.

"(3) The term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

"(4) The term 'effective date' means the date of the enactment of this Act [Feb. 10, 1996].

"(5) The term 'Secretary' means the Secretary of Energy.

"(6) The term 'appropriate congressional committees' means the Committee on Armed Services of the Senate and the Committee on Armed Services and the Committee on Commerce [now Committee on

Energy and Commerce] of the House of Representatives.

"SEC. 3412. SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

"(a) SALE OF RESERVE REQUIRED.—Subject to section 3414, not later than two years after the effective date, the Secretary of Energy shall enter into one or more contracts for the sale of all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Chapter 641 [now 869] of title 10, United States Code, shall not apply to the sale of the reserve.

"(b) EQUITY FINALIZATION.—(1) Not later than eight months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

"(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

"(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within eight months after the effective date. The resolution shall be considered final for all purposes under this section.

"(c) NOTICE OF SALE.—Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall ensure that the sale process is fair and open to all interested and qualified parties.

"(d) ESTABLISHMENT OF MINIMUM SALE PRICE.—(1) Not later than seven months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. The independent experts shall complete their assessments within 11 months after the effective date. In making their assessments, the independent experts shall consider (among other factors)—

"(A) all equipment and facilities to be included in the sale;

"(B) the estimated quantity of petroleum and natural gas in the reserve; and

"(C) the net present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold.

"(2) The independent experts retained under paragraph (1) shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

"(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum acceptable price for the reserve. The Secretary may not set the minimum acceptable price below the higher of—

"(A) the average of the five assessments prepared under paragraph (1); and

"(B) the average of three assessments after excluding the high and low assessments.

"(e) ADMINISTRATION OF SALE; DRAFT CONTRACT.—(1) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker or an appropriate equivalent financial adviser to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section. Costs and fees of retaining the investment banker or financial adviser may be paid out of the proceeds of the sale of the reserve.

"(2) Not later than 11 months after the effective date, the investment banker or financial adviser retained under paragraph (1) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

"(3) The draft contract or contracts shall identify—

"(A) all equipment and facilities to be included in the sale; and

"(B) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (g).

"(4) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and approve or disapprove, the draft contract or contracts not later than 12 months after the effective date.

"(f) SOLICITATION OF OFFERS.—(1) Not later than 13 months after the effective date, the Secretary shall publish the solicitation of offers for Naval Petroleum Reserve Numbered 1.

"(2) Not later than 18 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under subsection (d)(3).

"(3) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within 10 months after that date a reserve report prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

"(g) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in Naval Petroleum Reserve Numbered 1, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

"(h) MAINTAINING PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

"(i) NONCOMPLIANCE WITH DEADLINES.—At any time during the two-year period beginning on the effective date, if the Secretary determines that the actions necessary to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the appropriate congressional committees a written notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

"(j) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the appropriate congressional committees any findings on such actions that the Comptroller General considers appropriate to report to the committees.

"(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 3304(a) of title 41, United States Code, except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

"SEC. 3413. EFFECT OF SALE OF RESERVE.

"(a) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of the production shall not exceed the anticipated closing date for the sale of the reserve.

"(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

"(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

"(b) EFFECT ON ANTITRUST LAWS.—Nothing in this subtitle shall be construed to alter the application of the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under section 3412 upon the completion of the sale.

"(c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this subtitle shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit

plan contract.

"(d) TRANSFER OF OTHERWISE NONTRANSFERABLE PERMIT.—The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer.

"SEC. 3414. CONDITIONS ON SALE PROCESS.

"(a) NOTICE REGARDING SALE CONDITIONS.—The Secretary may not enter into any contract for the sale of Naval Petroleum Reserve Numbered 1 under section 3412 until the end of the 31-day period beginning on the date on which the Secretary submits to the appropriate congressional committees a written notification—

"(1) describing the conditions of the proposed sale; and

"(2) containing an assessment by the Secretary of whether it is in the best interests of the United States to sell the reserve under such conditions.

"(b) AUTHORITY TO SUSPEND SALE.—(1) The Secretary may suspend the sale of Naval Petroleum Reserve Numbered 1 under section 3412 if the Secretary and the Director of the Office of Management and Budget jointly determine that—

"(A) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or

"(B) a course of action other than the immediate sale of the reserve is in the best interests of the United States.

"(2) Immediately after making a determination under paragraph (1) to suspend the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall submit to the appropriate congressional committees a written notification describing the basis for the determination and requesting a reconsideration of the merits of the sale of the reserve.

"(c) EFFECT OF RECONSIDERATION NOTICE.—After the Secretary submits a notification under subsection (b), the Secretary may not complete the sale of Naval Petroleum Reserve Numbered 1 under section 3412 or any other provision of law unless the sale of the reserve is authorized in an Act of Congress enacted after the date of the submission of the notification.

"SEC. 3415. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING RESERVE.

"(a) RESERVATION OF FUNDS.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under section 3412 are deducted, nine percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury for payment to the State of California for the Teachers' Retirement Fund of the State in the event that, and to the extent that, the claims of the State against the United States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are—

"(1) settled by agreement with the United States under subsection (c); or

"(2) finally resolved in favor of the State by a court of competent jurisdiction, if a settlement agreement is not reached.

"(b) DISPOSITION OF FUNDS.—In such amounts as may be provided in appropriation Acts, amounts in the contingent fund shall be available for paying a claim described in subsection (a). After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury. If no payment is made from the contingent fund within 10 years after the effective date, amounts in the contingent fund shall be credited to the general fund of the Treasury.

"(c) SETTLEMENT OFFER.—Not later than 30 days after the date of the sale of Naval Petroleum Reserve Numbered 1 under section 3412, the Secretary shall offer to settle all claims of the State of California against the United States with respect to lands in the reserve located in sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, and production or proceeds of sale from the reserve, in order to provide proper compensation for the State's claims. The Secretary shall base the amount of the offered settlement payment from the contingent fund on the fair value for the State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund.

"(d) RELEASE OF CLAIMS.—Acceptance of the settlement offer made under subsection (c) shall be subject to the condition that all claims against the United States by the State of California for the Teachers' Retirement Fund of the State be released with respect to lands in Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from the reserve.

"SEC. 3416. STUDY OF FUTURE OF OTHER NAVAL PETROLEUM RESERVES.

"(a) STUDY REQUIRED.—The Secretary of Energy shall conduct a study to determine which of the following options, or combinations of options, regarding the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) would maximize the value of the reserves to the United States:

"(1) Retention and operation of the naval petroleum reserves by the Secretary under chapter 641 [now 869] of title 10, United States Code.

"(2) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of another Federal agency for administration under chapter 641 [now 869] of title 10, United States Code.

"(3) Transfer of all or a part of the naval petroleum reserves to the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act [of 1976] (43 U.S.C. 1701 et seq.).

"(4) Sale of the interest of the United States in the naval petroleum reserves.

"(b) CONDUCT OF STUDY.—The Secretary shall retain an independent petroleum consultant to conduct the study.

"(c) CONSIDERATIONS UNDER STUDY.—An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves shall include an assessment and estimate of the fair market value of the interest of the United States in the naval petroleum reserves. The assessment and estimate shall be made in a manner consistent with customary property valuation practices in the oil and gas industry.

"(d) REPORT AND RECOMMENDATIONS REGARDING STUDY.—Not later than June 1, 1996, the Secretary shall submit to Congress a report describing the results of the study and containing such recommendations (including proposed legislation) as the Secretary considers necessary to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to the United States."

## §8721. Jurisdiction and control

(a) The Secretary shall take possession of all properties inside the naval petroleum reserves that are or may become subject to the control of and use by the United States for national defense purposes, except as otherwise provided in this chapter.

(b) The Secretary has exclusive jurisdiction and control over those lands inside Naval Petroleum Reserves Numbered 1 and 2 that are covered by leases granted under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of title 30, and shall administer those leases.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457, §7421; Pub. L. 87–796, §1(1), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(2), Apr. 5, 1976, 90 Stat. 307; Pub. L. 98–525, title XIV, §1405(50), Oct. 19, 1984, 98 Stat. 2625; renumbered §8721, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7421(a) | 34 U.S.C. 524 (1st 36 words of 1st par.). | June 4, 1920, ch. 228 (1st par., 1st 36 words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1253; June 17, 1944, ch. 262, 58 Stat. 280. |
| 7421(b) | 34 U.S.C. 524 (293d word to end of 1st par.). | June 4, 1920, ch. 228 (1st par., 294th word to end, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |
| | 34 U.S.C. 524a. | Feb. 25, 1928, ch. 104, 45 Stat. 148. |

In subsection (b) the reference to the transfer of jurisdiction and administration is omitted as executed.

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 194 of title 30, referred to in subsec. (b), was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 644.

Section 204 of title 30, included within the reference to sections 202–209 in subsec. (b), was repealed by Pub. L. 94–377, §13(a), Aug. 4, 1976, 90 Stat. 1090, subject to valid existing rights.

Sections 226d and 226e of title 30, referred to in subsec. (b), were omitted from the Code. See section 226 of Title 30, Mineral Lands and Mining.

Section 227 of title 30, referred to in subsec. (b), was omitted from the Code.

### PRIOR PROVISIONS

A prior section 8721, acts Aug. 10, 1956, ch. 1041, 70A Stat. 538; Sept. 2, 1958, Pub. L. 85–861, §1(190)(A), 72 Stat. 1534, related to hospital benefits for members of Air Force, other than of Regular Air Force, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), Nov. 14, 1986, 100 Stat. 3877.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7421 of this title as this section.

**1984**—Subsec. (b). Pub. L. 98–525 substituted "Naval Petroleum Reserves Numbered" for "naval petroleum reserves numbered".

**1976**—Subsec. (a). Pub. L. 94–258 struck out "of the Navy" after "Secretary", "and oil shale" after "naval petroleum", and substituted "for national defense purposes" for "for naval purposes", and "this chapter" for "section 7438 hereof".

**1962**—Subsec. (a). Pub. L. 87–796 empowered the Secretary to take possession of all properties inside the oil shale reserves, and inserted the exception clause.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8722. Administration

(a) The Secretary, directly or by contract, lease, or otherwise, shall explore, prospect, conserve, develop, use, and operate the naval petroleum reserves in his discretion, subject to the provisions of subsection (c) and the other provisions of this chapter; except that no petroleum leases shall be granted at Naval Petroleum Reserves Numbered 1 and 3.

(b) Except as otherwise provided in this chapter, particularly subsection (c), the naval petroleum reserves shall be used and operated for—

(1) the protection, conservation, maintenance, and testing of those reserves; or

(2) the production of petroleum whenever and to the extent that the Secretary, with the approval of the President, finds that such production is needed for national defense purposes and the production is authorized by a joint resolution of Congress.

(c)(1) In administering Naval Petroleum Reserves Numbered 1, 2, and 3, the Secretary is authorized and directed—

(A) to further explore, develop, and operate such reserves;

(B) to produce, during any extension of a period under paragraph (2), such reserves—

(i) at the maximum efficient rate consistent with sound engineering practices; or

(ii) at a lesser rate consistent with sound engineering practices and the protection, conservation, maintenance, and testing of such reserves if the Secretary determines that the minimum price described in section 8730(b)(2) of this title cannot be attained for the United

States share of petroleum (other than natural gas liquids) produced from such Reserves;

(C) during such production period or any extension thereof to sell or otherwise dispose of the United States share of such petroleum produced from such reserves as provided in section 8730 of this title; and

(D) to construct, acquire, or contract for the use of storage and shipping facilities on and off the reserves and pipelines and associated facilities on and off the reserves for transporting petroleum from such reserves to the points where the production from such reserves will be refined or shipped.

Any pipeline in the vicinity of a naval petroleum reserve not otherwise operated as a common carrier may be acquired by the Secretary by condemnation, if necessary, if the owner thereof refuses to accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserve. With the approval of the Secretary, rights-of-way for new pipelines and associated facilities may be acquired by the exercise of the right of eminent domain in the appropriate United States district court. Such rights-of-way may be acquired in the manner set forth in sections 3114–3116 and 3118 of title 40, and the prospective holder of the right-of-way is "the authority empowered by law to acquire the land" within the meaning of those sections. Such new pipelines shall accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserves as a common carrier.

(2) After April 5, 1982, the President may extend the period of production in the case of any naval petroleum reserve for additional periods of not to exceed three years each—

(A) after the President requires an investigation to be made, in the case of each extension, to determine the necessity for continued production from such naval petroleum reserve;

(B) after the President submits to the Congress, at least 180 days before the expiration of the current production period prescribed by this section, or any extension thereof, a copy of the report made to him on such investigation together with a certification by him that continued production from such naval petroleum reserve is in the national interest; and

(C) if neither House of Congress within ninety days after receipt of such report and certification adopts a resolution disapproving further production from such naval petroleum reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458, §7422; Pub. L. 87–599, §1, Aug. 24, 1962, 76 Stat. 401; Pub. L. 87–796, §1(2), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(3), Apr. 5, 1976, 90 Stat. 307; Pub. L. 96–137, §3(a), Dec. 12, 1979, 93 Stat. 1061; Pub. L. 96–513, title V, §513(31), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 98–525, title XIV, §1405(51), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–413, §1(a), Aug. 29, 1986, 100 Stat. 944; Pub. L. 100–202, §101(g) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–242; Pub. L. 101–189, div. A, title XVI, §1622(f)(2), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 107–217, §3(b)(30), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–178, §4(b)(6), Dec. 15, 2003, 117 Stat. 2641; renumbered §8722 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7422 | 34 U.S.C. 524 (1st par., 37th through 62d words, and 123d through 185th words). | June 4, 1920, ch. 228 (1st par., 37th through 62d words, and 123d through 185th words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Section 8722, acts Aug. 10, 1956, ch. 1041, 70A Stat. 539; Sept. 2, 1958, Pub. L. 85–861, §1(190)(B), (C), 72 Stat. 1534, related to hospital and related benefits for members of a Citizens' Air Training Camp and for members of Air Force not covered by former section 8721 of this title, prior to repeal by Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), Nov. 14, 1986, 100 Stat. 3877.

## AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(5), renumbered section 7422 of this title as this section.

Subsec. (c)(1)(B)(ii). Pub. L. 115–232, §809(a), substituted "section 8730(b)(2)" for "section 7430(b)(2)".

Subsec. (c)(1)(C). Pub. L. 115–232, §809(a), substituted "section 8730" for "section 7430".

**2003**—Subsec. (c)(1). Pub. L. 108–178 substituted "land' within the meaning of those sections" for "lands' within the meaning of that Act" in concluding provisions.

**2002**—Subsec. (c)(1). Pub. L. 107–217 substituted "sections 3114–3116 and 3118 of title 40" for "the Act of February 26, 1931 (40 U.S.C. 258a–258e)" in concluding provisions.

**1989**—Subsec. (c)(2)(B). Pub. L. 101–189 substituted "180 days before" for "one hundred eighty days prior to".

**1987**—Subsec. (c)(1)(B)(ii). Pub. L. 100–202 inserted "(other than natural gas liquids)" after "petroleum".

**1986**—Subsec. (c)(1)(B). Pub. L. 99–413, §1(a)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "to produce such reserves at the maximum efficient rate consistent with sound engineering practices for a period ending not later than April 5, 1982;".

Subsec. (c)(3). Pub. L. 99–413, §1(a)(2), struck out par. (3) which conditioned the production authorization for Naval Petroleum Reserve Numbered 1 upon private owners' agreements with the Secretary to continue operations of such reserve under a unitized plan contract that protected the public interest.

**1984**—Subsec. (b). Pub. L. 98–525 struck out "of this section" after "subsection (c)" in provisions preceding par. (1).

**1980**—Subsec. (c)(1). Pub. L. 96–513, §513(31)(A)–(D), in cl. (B) substituted provisions respecting termination on April 5, 1982, for provisions respecting commencement and termination, respectively, ninety days after date of enactment of the Naval Petroleum Reserves Production Act of 1976, and not to exceed six years after such date, in cl. (C) substituted "provided in section 7430 of this title" for "hereinafter provided", and in text following cl. (D) substituted "discrimination" for "discrimiation", and "(40 U.S.C. 258a–258e)" for ", chapter 307 (46 Stat. 1421; 40 U.S.C. 258(a))".

Subsec. (c)(2). Pub. L. 96–513, §513(31)(E), substituted "After April 5, 1982," for "At the conclusion of the six-year production period authorized by paragraph (1)(B) of this subsection".

Subsec. (c)(3). Pub. L. 96–513, §513(31)(F), substituted "by July 4, 1976" for "within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976".

**1979**—Subsec. (c)(1). Pub. L. 96–137 struck out in text following subpar. (D), provision requiring that pipelines and associated facilities constructed at or procured for Naval Petroleum Reserve Numbered 1 pursuant to this subsection have adequate capacity to accommodate not less than three hundred fifty thousand barrels of oil per day and be fully operable as soon as possible, but not later than three years after the date of enactment of the Naval Petroleum Reserves Production Act of 1976.

**1976**—Subsec. (a). Pub. L. 94–258 substituted provisions authorizing the Secretary to explore, etc., the naval petroleum reserves in his discretion, subject to subsec. (c) of this section and this chapter and excepting specified Reserves from leasing arrangements, for provisions authorizing the Secretary of the Navy, except as provided in section 7438 hereof, to explore, etc., the naval petroleum preserves and oil shale reserves in his discretion, subject to Presidential approval.

Subsec. (b). Pub. L. 94–258 in introductory cl. substituted provisions authorizing use and operation of naval petroleum reserves except as otherwise provided in this chapter and in particular subsec. (c) of this section, for provisions authorizing use and operation of naval petroleum and oil shale reserves and lands outside naval petroleum reserve numbered 1 covered by contracts under section 7426 of this title and in cl. (2) struck out reference to gas, oil shale and products thereof.

Subsec. (c). Pub. L. 94–258 substituted provisions setting forth manner of administration by Secretary of Naval Petroleum Reserves Numbered 1, 2, and 3, authorizing President to extend period of production of any naval petroleum reserve, and conditioning production authorization for Reserve Numbered 1, for provisions authorizing the Secretary to develop naval petroleum reserve numbered 4, South Barrow gas field, and to supply gas to government installations at or near Point Barrow and to the native village of Barrow.

**1962**—Subsec. (a). Pub. L. 87–796 substituted "Except as otherwise provided in section 7438 hereof, the Secretary" for "The Secretary", and included oil shale reserves.

Subsec. (b). Pub. L. 87–796 included oil shale reserves in the opening provisions, and substituted "petroleum, gas, oil shale and products thereof whenever" for "petroleum whenever" in cl. (2).

Subsec. (c). Pub. L. 87–599 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### AVAILABILITY OF REVENUES FROM SALE OF NATURAL GAS FOR USE IN GAS PROTECTION ACTIVITY

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1947, provided in part: "That, notwithstanding any other provision of law, revenues received from the sale of natural gas after the date of enactment of this Act [Nov. 5, 1990] from wells drilled or communitized in fiscal year 1990 and thereafter as part of gas protection activity at the Naval Oil Shale Reserves shall be deposited in this account, to remain available until expended, for use in further gas protection activity".

### CONNECTIONS TO PIPELINE IN SOUTH BARROW GAS FIELD

Pub. L. 87–599, §3, Aug. 24, 1962, 76 Stat. 401, provided that: "The Federal agency or agencies in control of any pipeline between gas wells in the South Barrow gas field and the town of Barrow may authorize purchasers of the gas or carriers of the gas to install connections to such pipeline."

## §8723. Periodic re-examination of production requirements

The Secretary shall from time to time reexamine the need for the production of petroleum from oil shale for national defense when that production is authorized under section 8722 of this title. If he finds that the authorized quantity is no longer needed, he shall reduce production to the amount currently needed for national defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458, §7423; Pub. L. 87–796, §1(3), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(4), Apr. 5, 1976, 90 Stat. 309; renumbered §8723 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7423 | 34 U.S.C. 524 (186th through 243d words of 1st par.). | June 4, 1920, ch. 228 (1st par., 186th through 243d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8723 was renumbered section 9263 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §809(a), substituted "section 8722" for "section 7422".
Pub. L. 115–232, §807(d)(5), renumbered section 7423 of this title as this section.
**1976**—Pub. L. 94–258 struck out "of the Navy" after "Secretary" and "or products" after "petroleum".
**1962**—Pub. L. 87–796 directed the Secretary to reexamine, from time to time, the need for production of products from oil shale.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8724. Protection of oil reserves; contracts for conservation

(a) To consolidate and protect the oil lands owned by the United States, the Secretary may—
(1) contract with owners and lessees of land inside or adjoining naval petroleum reserves for—
(A) conservation of oil and gas; and
(B) compensation for estimated drainage in lieu of drilling or operating offset wells; and

(2) acquire privately owned lands or leases inside Naval Petroleum Reserve Numbered 1 by exchange of—
(A) lands of the United States inside Naval Petroleum Reserve Numbered 1;
(B) the right to royalty production from any of the naval petroleum reserves; and
(C) the right to any money due the United States as a result of the wrongful extraction of petroleum products from lands inside Naval Petroleum Reserve Numbered 1.

(b) The Secretary shall report annually to Congress all agreements under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458, §7424; Pub. L. 87–796, §1(4), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(5), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, §513(32)(A), Dec. 12, 1980, 94 Stat. 2933; renumbered §8724, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7424 | 34 U.S.C. 524 (4th par., less 1st proviso). | June 4, 1920, ch. 228 (4th par., less 1st proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7424 of this title as this section.
**1980**—Subsec. (a). Pub. L. 96–513 substituted "Naval Petroleum Reserve Numbered 1" for "naval petroleum reserve numbered 1" wherever appearing.
**1976**—Subsec. (a). Pub. L. 94–258 struck out "of the Navy" after "Secretary", "and oil shale" after "petroleum" in par. (1), and "in the ground" after "conservation" in subpar. (A) of par. (1).
**1962**—Subsec. (a). Pub. L. 87–796 inserted provisions in cl. (1) empowering the Secretary to contract with owners and lessees of land inside or adjoining oil shale reserves.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §8725. Acquisition by condemnation and purchase

(a) Whenever the Secretary is unable to make arrangements he considers satisfactory for exchanges of land or agreements for conservation authorized by section 8724 of this title, the Secretary may acquire, with the approval of the President, such privately owned lands and leases—

(1) by purchase, inside the naval petroleum reserves, or outside those reserves on the same geologic structure; and

(2) by condemnation, inside Naval Petroleum Reserve Numbered 1, or, if there is substantial drainage, outside that reserve on the same geologic structure.

(b) The Secretary shall report annually to Congress all proceedings for purchase and condemnation under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458, §7425; Pub. L. 94–258, title II, §201(6), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, §513(32)(A), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484; renumbered §8725 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7425 | 34 U.S.C. 524 (5th par., 1st 123 words, and 169th through 193d words). | June 4, 1920, ch. 228 (5th par., 1st 123 words, and 169th through 193d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

The words "Whenever the Secretary of the Navy is unable" are substituted for the words "In the event of the inability of the Secretary of the Navy" for brevity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(5), renumbered section 7425 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8724" for "section 7424" in introductory provisions.

**2000**—Subsec. (a). Pub. L. 106–398 substituted "for exchanges of land or agreements for conservation authorized by section 7424 of this title, the Secretary may acquire" for "for—

"(1) exchanges of land or agreements for conservation authorized by section 7424 of this title; or

"(2) contracts for joint, unit, or other cooperative plans with respect to lands or leases authorized by section 7426 of this title;

he may acquire".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Naval Petroleum Reserve Numbered 1" for "naval

petroleum reserve numbered 1".

**1976**—Subsec. (a). Pub. L. 94–258 struck out "of the Navy" after "Secretary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8727. Cooperative or unit plans in the naval petroleum reserves

The Secretary, with the consent of the President, may make agreements, with respect to lands inside the naval petroleum reserves, of the same type as the Secretary of the Interior may make under section 17(m) of the Act of February 25, 1920 (30 U.S.C. 226(m)). No such agreement made by the Secretary may extend the term of any lease unless the agreement so provides.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, §7427; Pub. L. 94–258, title II, §201(8), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, §513(33), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 100–456, div. A, title XII, §1233(g)(3), Sept. 29, 1988, 102 Stat. 2058; renumbered §8727, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7427 | 30 U.S.C. 236b (last 46 words). | Aug. 8, 1946, ch. 916, §13 (29th through 85th words) 60 Stat. 958. |

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7427 of this title as this section.

**1988**—Pub. L. 100–456 substituted "section 17(m)" for "section 17(j)" and "30 U.S.C. 226(m)" for "30 U.S.C. 226(j)".

**1980**—Pub. L. 96–513 substituted "section 17(j) of the Act of February 25, 1920 (30 U.S.C. 226(j))" for "section 226e of title 30".

**1976**—Pub. L. 94–258 struck out "of the Navy" after "Secretary" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EXECUTIVE DOCUMENTS

**EX. ORD. NO. 12929. DELEGATION OF AUTHORITY REGARDING NAVAL PETROLEUM AND OIL SHALE RESERVES**

Ex. Ord. No. 12929, Sept. 29, 1994, 59 F.R. 50473, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 and sections 7427 and 7428 [now 8727 and 8728] of title 10, United States Code, and in order to meet the goals and requirements of the Naval Petroleum and Oil Shale Reserves, it is hereby ordered as follows:

The functions vested in the President by sections 7427 and 7428 [now 8727 and 8728] of title 10 of the United States Code are delegated to the Secretary of Energy.

WILLIAM J. CLINTON.

Temporary delegations of functions of President under this section were contained in the following prior Executive Orders:

Ex. Ord. No. 12784, Dec. 19, 1991, 56 F.R. 66339.

Ex. Ord. No. 12659, Dec. 15, 1988, 53 F.R. 50911.

## §8728. Agreements and leases: provision for change

Every unit or cooperative plan of development and operation and every lease affecting lands owned by the United States within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary, subject to approval by the President and to any limitation in the plan or lease, to change from time to time the rate of prospecting and development on, and the quantity and rate of production from, lands of the United States under the plan or lease, notwithstanding any other provision of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, §7428; Pub. L. 87–796, §1(5), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, §201(9), Apr. 5, 1976, 90 Stat. 309; Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484; renumbered §8728, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7428 | 34 U.S.C. 524 (proviso of 6th par.). | June 4, 1920, ch. 228 (6th par., proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

The words "entered into after July 1, 1937" and "entered into subsequent to July 1, 1937" are omitted as surplusage. The words "in his discretion" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7428 of this title as this section.

**2000**—Pub. L. 106–398 struck out ", except a plan authorized by section 7426 of this title," after "development and operation".

**1976**—Pub. L. 94–258 substituted "within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary" for "within the naval petroleum and oil shale reserves shall contain a provision authorizing the Secretary of the Navy".

**1962**—Pub. L. 87–796 included leases affecting lands within oil shale reserves.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of the President under this section were delegated to the Secretary of Energy by Ex. Ord. No. 12929, Sept. 29, 1994, 59 F.R. 50473, set out as a note under section 7427 of this title.

## §8729. Re-lease of certain lands: lessee's preferential right

The Secretary, on terms prescribed by him, may re-lease lands in the naval petroleum reserves that were covered by leases made before July 1, 1936, and terminated by law at the expiration of their initial twenty-year periods. If any such land is to be re-leased, the Secretary shall give to the former lessee preferential rights to the new lease.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, §7429; Pub. L. 94–258, title II, §201(10), Apr. 5, 1976, 90 Stat. 309; renumbered §8729, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7429 | 34 U.S.C. 524 (6th par., less proviso). | June 4, 1920, ch. 228 (6th par., less proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1253; June 17, 1944, ch. 262, 58 Stat. 282. |

The source law provided that leases of lands of the United States within the naval petroleum reserves in existence before July 1, 1936, except leases that had become part of an approved unit or cooperative plan and agreement, should terminate at the end of their initial 20-year period, and that the lands covered by these leases could then be re-leased by the Secretary of the Navy. All of the leases covered by this provision have terminated as provided therein. Thus the provision for the termination of the leases is executed and the only remaining effect of the source is to authorize the re-lease of the lands formerly covered by the terminated leases. This section is worded accordingly. Reference to the classes of leases that were excepted from the termination is omitted as unnecessary because these leases were, of course, not terminated. They are not affected, since this section refers only to leases that were "terminated by law". The word "conditions" is omitted as included in the word "terms".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7429 of this title as this section.
**1976**—Pub. L. 94–258 struck out "of the Navy" after "Secretary".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8730. Disposition of products

(a) In administering the naval petroleum reserves under this chapter, the Secretary shall use, store, or sell the petroleum produced from the naval petroleum reserves and lands covered by joint, unit, or other cooperative plans.

(b)(1) Subject to paragraph (2) and notwithstanding any other provision of law, each sale of the United States share of petroleum shall be made by the Secretary at public sale to the highest qualified bidder, at such time, in such amounts, and after such advertising as the Secretary considers proper and without regard to Federal, State, or local regulations controlling sales or allocation of petroleum products. Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.

(2) The Secretary may not sell any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 2 and 3 at a price less than the current sales price, as estimated by the Secretary, of comparable petroleum in the same area.

(3) For purposes of paragraph (2), the term "petroleum" does not include natural gas liquids.

(c) In no event shall the Secretary permit the award of any contract which would result in any person obtaining control, directly or indirectly, over more than 20 percent of the estimated annual United States share of petroleum produced from Naval Petroleum Reserve Numbered 1.

(d) Each proposal for sale under this title shall provide that the terms of every sale of the United States share of petroleum from the naval petroleum reserves shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike. When the Secretary, in consultation with the Secretary of the Interior, determines that the public interests will be served by the sale of petroleum to small refiners not having their own adequate sources of supply of petroleum, the Secretary is authorized and directed to set aside a portion of the United States share of petroleum produced for sale to such refiners under the provisions of this section for processing or use in such refineries, except that—

(1) none of the production sold to small refiners may be resold in kind;

(2) production must be sold at a cost of not less than the prevailing local market price of comparable petroleum;

(3) the set-aside portion may not exceed 25 percent of the estimated annual United States share of the total production from all producing naval petroleum reserves; and

(4) notwithstanding the provisions of subsection (b), the Secretary may, at his discretion if he deems it to be in the public interest, prorate such petroleum among such refiners for sale, without competition, at not less than the prevailing local market price of comparable petroleum.

(e) Any petroleum produced from the naval petroleum reserves, except such petroleum which is either exchanged in similar quantities for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Export Administration Act of 1979, the President must make and publish an express finding that such exports will not diminish the total quality or quantity of petroleum available to the United States and that such exports are in the national interest and are in accord with the Export Administration Act of 1979.

(f) During the period of production or any extension thereof authorized by section 8722(c) of this title, the consultation and approval requirements of section 8731(a)(3) of this title are waived.

(g)(1) Prior to the promulgation of any rules and regulations, plans of development and amendments thereto, and in the entering and making of contracts and operating agreements relating to the development, production, or sale of petroleum in or from the reserves, the Secretary shall consult with and give due consideration to the views of the Attorney General of the United States with respect to matters which may affect competition.

(2) No contract or operating agreement may be made, issued, or executed under this chapter until at least 15 days after the Secretary notifies the Attorney General of the proposed contract or operating agreement. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary as to whether such contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws. If, within such 15-day period, the Attorney General advises the Secretary that a contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws, then the Secretary may not make, issue, or execute that contract or operating agreement.

(h) Nothing in this chapter shall be deemed to confer on any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(i) In this section, the term "antitrust laws" means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the "Robinson-Patman Act") (15 U.S.C. 13a, 13b, and 21a).

(j) Any pipeline which accepts, conveys, or transports any petroleum produced from Naval Petroleum Reserves Numbered 1 or Numbered 3 shall accept, convey, and transport without discrimination and at reasonable rates any such petroleum as a common carrier insofar as petroleum from such reserves is concerned. Every contract entered into by the Secretary for the sale of any petroleum owned by the United States which is produced from such reserves shall contain provisions implementing the requirements of the preceding sentence if the contractor owns a controlling interest in any pipeline or any company operating any pipeline, or is the operator of any pipeline, which carries any petroleum produced from such naval petroleum reserves. The Secretary may promulgate rules and regulations for the purpose of carrying out the provisions of this section and he, or the Secretary of the Interior where the authority extends to him, may declare forfeit any contract, operating agreement, right-of-way, permit, or easement held by any person violating any such rule or regulation. This section shall not apply to any natural gas common carrier pipeline operated by any person subject to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.) or any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231–6246); or

(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.

(l)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) or placed in the Strategic Petroleum Reserve under subsection (k).

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, §7430; Pub. L. 87–599, §2, Aug. 24, 1962, 76 Stat. 401; Pub. L. 87–796, §1(6), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, §201(11), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–294, title VIII, §804, June 30, 1980, 94 Stat. 777; Pub. L. 96–513, title V, §513(34), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 97–22, §11(a)(10), July 10, 1981, 95 Stat. 138; Pub. L. 98–525, title XIV, §1405(53), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–413, §1(b), (c), Aug. 29, 1986, 100 Stat. 944, 945; Pub. L. 100–26, §7(k)(9), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–202, §101(g) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–242; Pub. L. 100–456, div. A, title XII, §1233(e)(2), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 106–398, §1 [div. C, title XXXIV, §3401], Oct. 30, 2000, 114 Stat. 1654, 1654A–484; Pub. L. 107–107, div. A, title X, §1048(e)(12), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 114–328, div. A, title X, §1081(b)(3)(E), Dec. 23, 2016, 130 Stat. 2419; renumbered §8730 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7430(a) | 34 U.S.C. 524 (244th through 293d words of 1st par.). | June 4, 1920, ch. 228 (1st par., 244th through 293d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |
| 7430(b) | 34 U.S.C. 524 (2d sentence of 3d par.). | June 4, 1920, ch. 228 (3d par., 2d sentence, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "subject to the applicable limitations and restrictions of this Act" are omitted as surplusage and the words "in administering" are inserted.

In subsection (b) the words "under this section" are substituted for the words "from the naval reserves" to make it clear that the requirements of this subsection apply to sales of petroleum, gas, and other hydrocarbons from lands outside petroleum reserve numbered 1 covered by joint, unit, or other cooperative plans as well as the sale of those products from the naval reserves proper. Subsection (a) is the only authority for the sale of petroleum, gas, and other hydrocarbons from the naval petroleum reserves.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (e), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613).

The Sherman Act, referred to in subsec. (i)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (i)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (i)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete

classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Wilson Tariff Act, referred to in subsec. (i)(4), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which enacted sections 8 and 9, respectively, of Title 15.

Act of June 19, 1936, referred to in subsec. (i)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15 and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

The Natural Gas Act, referred to in subsec. (j), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of Title 15. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

## AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(5), renumbered section 7430 of this title as this section.

Subsec. (f). Pub. L. 115–232, §809(a), substituted "section 8722(c)" for "section 7422(c)" and "section 8731(a)(3)" for "section 7431(a)(3)".

**2016**—Subsec. (e). Pub. L. 114–328 substituted "(50 U.S.C. 4601 et seq.)" for "(50 U.S.C. App. 2401 et seq.)".

**2001**—Subsec. (b)(2). Pub. L. 107–107 substituted "at a price less than the current sales price" for "at a price less than the higher of— (A) the current sales price", substituted a period for "; or" after "petroleum in the same area", and struck out subpar. (B) which read as follows: "the price of petroleum being purchased for the Strategic Petroleum Reserve, minus the cost of transporting petroleum from the naval petroleum reserve concerned to the nearest storage area of the Strategic Petroleum Reserve, with adjustments for the difference in the quality of the petroleum being purchased for the Strategic Petroleum Reserve and petroleum being produced from the naval petroleum reserve concerned."

**2000**—Subsec. (b)(2). Pub. L. 106–398 substituted "Naval Petroleum Reserves Numbered 2 and 3" for "Naval Petroleum Reserves Numbered 1, 2, and 3" in introductory provisions and struck out "90 percent of" before "the current sales price" in subpar. (A).

**1988**—Subsec. (b)(3). Pub. L. 100–456 realigned margin of par. (3) and substituted a period for comma at end.

**1987**—Subsec. (b)(3). Pub. L. 100–202 added par. (3).

Subsec. (i). Pub. L. 100–26 substituted "In" for "As used in".

**1986**—Subsec. (b). Pub. L. 99–413, §1(b), designated existing provisions as par. (1), substituted "Subject to paragraph (2) and notwithstanding" for "Notwithstanding", and added par. (2).

Subsec. (g)(2). Pub. L. 99–413, §1(c), substituted "15 days" for "30 days" and "15-day" for "30-day".

**1984**—Subsec. (d)(4). Pub. L. 98–525, §1405(53)(A), struck out "of this section" after "subsection (b)".

Subsec. (g)(2). Pub. L. 98–525, §1405(53)(B), substituted "30 days" for "thirty days" and "30-day" for "thirty day".

Subsec. (l)(4). Pub. L. 98–525, §1405(53)(C), struck out "of this section" after "subsection (d)" and "subsection (k)".

**1981**—Subsec. (e). Pub. L. 97–22 substituted "Export Administration Act of 1979" for "Export Administration Act of 1969" in three places.

**1980**—Subsec. (b). Pub. L. 96–294, §804(a), struck out "for periods of not more than one year," after "qualified bidder," and inserted last sentence limiting sales of the United States share of petroleum to periods of not more than one year, except for sales of natural gas.

Subsecs. (c), (d)(3). Pub. L. 96–513(34)(A), substituted "percent" for "per centum".

Subsec. (e). Pub. L. 96–513, §513(34)(B), substituted "(50 U.S.C. App. 2401 et seq.)" for "(83 Stat. 841)".

Subsec. (f). Pub. L. 96–513, §513(34)(C), inserted references to this title wherever appearing.

Subsec. (i). Pub. L. 96–513, §513(34)(D), substituted "(1) the Sherman Act (15 U.S.C. 1 et seq.);", "(2) the Clayton Act (15 U.S.C. 12 et seq.);", "(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);", "(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and", and "(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the 'Robinson-Patman Act') (15 U.S.C. 13a, 13b, and 21a)." for "(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;" "(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;" "(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;" "(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or", and "(5) sections 2, 3, and 4 of the Act of June 19, 1936, chapter 592 (15 U.S.C. 13a, 13b, and 21a)", respectively.

Subsec. (j). Pub. L. 96–513, §513(34)(E), inserted "(15 U.S.C. 717 et seq.)".

Subsec. (k). Pub. L. 96–294, §804(b), amended subsec. (k) generally, inserting references to the Secretary, provision authorizing the exchange of petroleum under terms and conditions determined appropriate without regard to Federal procurement statutes and regulations, and provision making 42 U.S.C. 6239 inapplicable.

Subsec. (l). Pub. L. 96–294, §804(c), added subsec. (l).

**1976**—Subsec. (a). Pub. L. 94–258 substituted provisions setting forth requirements for Secretary in administering naval petroleum reserves under this chapter, for provisions setting forth requirements for Secretary of the Navy in administering naval petroleum and oil shale reserves under this chapter.

Subsec. (b). Pub. L. 94–258 inserted "Notwithstanding any other provision of law" before "each sale", reference to United States share of petroleum, provision relating to periods of sale, and provision exempting Federal, State, or local regulations controlling sales or allocation of petroleum products, and struck out applicability to sales of gas, other hydrocarbons, oil shale, or products therefrom.

Subsecs. (c) to (k). Pub. L. 94–258 added subsecs. (c) to (k).

**1962**—Subsec. (a). Pub. L. 87–796 included provision for administration of oil shale reserves, required the Secretary of the Navy to use, store, sell, or exchange oil shale and products therefrom produced from oil shale reserves for other petroleum or refined products, and deleted provision which required the Secretary to use, store, sell, or exchange gas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Pub. L. 87–599 required the Secretary of the Navy to use, store, sell, or exchange gas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Subsec. (b). Pub. L. 87–796 included sale of oil shale and products from petroleum, gas, other hydrocarbons, and oil shale.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### MINIMUM SELLING PRICE OF UNITED STATES SHARE OF PETROLEUM

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 976, provided in part: "That the requirements of 10 U.S.C. 7430(b)(2)(B) [now 8730(b)(2)(B)] shall not apply to fiscal year 2001 and any fiscal year thereafter".

Similar provisions were contained in the following appropriation and authorization acts:

Pub. L. 106–113, div. B, §1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–179.

Pub. L. 105–277, div. A, §101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–276.

Pub. L. 105–85, div. C, title XXXIV, §3402, Nov. 18, 1997, 111 Stat. 2059.

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1580.

Pub. L. 104–208, div. A, title I, §101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–210.

Pub. L. 104–201, div. C, title XXXIV, §3402, Sept. 23, 1996, 110 Stat. 2858.

Pub. L. 104–134, title I, §101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–187; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–106, div. C, title XXXIV, §3402, Feb. 10, 1996, 110 Stat. 631.

Pub. L. 103–337, div. C, title XXXV, §3502, Oct. 5, 1994, 108 Stat. 3111.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2525.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1405.

## EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (k) of this section delegated to Secretary of Energy by section 1–102 of Ex. Ord. No. 12231, Aug. 4, 1980, 45 F.R. 52139, set out as a note under section 6240 of Title 42, The Public Health and Welfare.

## §8731. Requirements as to consultation and approval

(a) The Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives must be consulted and the President's approval must be obtained before any condemnation proceedings may be started under this chapter and before any of the following transactions authorized by this chapter may be effective:

(1) A lease of any part of the naval petroleum reserves.

(2) A contract to alienate from the United States the use, control, or possession of any part of the naval petroleum reserves (except that consultation and Presidential approval are not required in connection with the issuance of permits, licenses, easements, grazing and agricultural leases, rights-of-way, and similar contracts pertaining to use of the surface area of the naval petroleum reserves).

(3) A contract to sell the petroleum (other than royalty oil and gas) produced from any part of the naval petroleum reserves.

(4) A contract for conservation or for compensation for estimated drainage.

(5) An agreement to exchange land, the right to royalty production, or the right to any money due the United States.

(b)(1) During the period of production authorized by section 8722(c) of this title, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration, development, and production of the naval petroleum reserves.

(2) All plans or substantial amendments submitted to the Congress pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after such plans or amendments have been submitted to such committees.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460, §7431; Pub. L. 87–796, §1(7), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, §201(12), Apr. 5, 1976, 90 Stat. 311; Pub. L. 98–525, title XIV, §1405(52), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–145, title XIII, §1303(a)(25), Nov. 8, 1985, 99 Stat. 740; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 114–92, div. A, title X, §1073(b), Nov. 25, 2015, 129 Stat. 995; renumbered §8731 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7431 | 34 U.S.C. 524 (1st proviso of 4th par.). | June 4, 1920, ch. 228 (4th par., 1st proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(5), renumbered section 7431 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 8722(c)" for "section 7422(c)".

**2015**—Subsec. (c). Pub. L. 114–92 struck out subsec. (c) which required annual reports relating to naval petroleum reserves.

**1999**—Subsecs. (a), (b)(1), (c). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsecs. (a), (b)(1), (c). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1985**—Subsec. (c). Pub. L. 99–145 in pars. (1) to (3) substituted "The" for "the" at beginning and periods for the semicolons at end, in par. (4) substituted "A summary" for "a summary" and a period for "; and", and in par. (5) substituted "Such" for "such".

**1984**—Subsecs. (b)(1), (c). Pub. L. 98–525 inserted "of this title" after "section 7422(c)".

**1976**—Pub. L. 94–258 designated existing provisions as subsec. (a), struck out "or oil shale" in pars. (1) and (2) before "reserves", struck out "and oil shale" in pars. (2) and (3), before "reserves" substituted "petroleum (other than royalty oil and gas)" for "oil and gas (other than royalty oil and gas), oil shale, and products therefrom" in par. (3), and added subsecs. (b) and (c).

**1962**—Pub. L. 87–796 included oil shale reserves in cls. (1) and (2), inserted provisions in cl. (2) excepting consultation and Presidential approval in connection with issuance of permits, licenses, easements, grazing and agricultural leases, rights-of-way, and similar contracts pertaining to use of surface area of naval petroleum and oil shale reserves, and included oil shale, and products therefrom produced from any part of oil shale reserves.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8732. Authorizations of appropriations

(a) Funds for the following purposes may not be appropriated unless such appropriations have been specifically authorized by law:

(1) Exploration, prospecting, conservation, development, use, operations, and production of the naval petroleum reserves as authorized by this chapter.

(2) Production (including preparation for production) as authorized by this chapter or as may be authorized after April 5, 1976.

(3) The construction and operation of facilities both within and outside the naval petroleum reserves incident to the production and the delivery of petroleum, including pipelines and shipping terminals.

Sums appropriated for such purposes shall remain available until expended.

(b) Contracts under this chapter providing for the obligation of funds may be entered into for a period of five years, renewable for an additional five-year period; however, such contracts may obligate funds only to the extent that such funds are made available in appropriation Acts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461, §7432; Pub. L. 87–796, §1(8), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, §201(13), Apr. 5, 1976, 90 Stat. 312; Pub. L. 96–137, §3(b)(1), Dec. 12, 1979, 93 Stat. 1061; Pub. L. 96–513, title V, §513(35), Dec. 12, 1980, 94 Stat. 2934; renumbered §8732, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7432 | 34 U.S.C. 524 (3d par., less 2d sentence; 5th par., 124th through 168th words). | June 4, 1920, ch. 228 (3d par., less 2d sentence; 5th par., 124th through 168th words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "by the Congress" are omitted as surplusage.
In subsection (b) the words "There is authorized to be appropriated" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7432 of this title as this section.
**1980**—Subsec. (a)(1). Pub. L. 96–513 substituted a period for the semicolon at the end.
**1979**—Pub. L. 96–137 struck out provisions relating to the naval petroleum reserves special account.
**1976**—Pub. L. 94–258 substituted "Naval petroleum reserves special account" for "Expenditures: appropriations chargeable" in section catchline.
Subsec. (a). Pub. L. 94–258 substituted provisions establishing a special account on the books of the Treasury Department to be designated as the "naval petroleum reserves special account", and authorizing to be credited proceeds resulting from the sale or exchange of the United States share of petroleum, refined petroleum products, appropriation funds, royalties, or other revenue from the operation of the reserves, for provisions authorizing the expenditure of funds from available appropriations for expenses incurred in the administration of the reserves.
Subsec. (b). Pub. L. 94–258 substituted provisions which made funds in the naval petroleum reserve special account available in sums specified in annual appropriations acts for enumerated expense items, for provisions which authorized expenditures to be made under the direction of the President and requiring the President to submit an estimate of expenditures necessary to carry out the purposes of this chapter.
Subsecs. (c), (d). Pub. L. 94–258 added subsecs. (c) and (d).
**1962**—Subsec. (a). Pub. L. 87–796 substituted "with respect to the naval petroleum and oil shale reserves shall be paid from appropriations made available for the purposes specified in this chapter" for "in exploring, prospecting, conserving, developing, using and operating lands owned or controlled by the United States in the naval petroleum reserves, and in producing petroleum, and the share of the United States of expenses incurred under any contract entered into under this chapter, shall be paid from appropriations made available for those purposes".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### ABOLITION OF NAVAL PETROLEUM RESERVES SPECIAL ACCOUNT

Pub. L. 96–137, §3(c), Dec. 12, 1979, 93 Stat. 1062, abolished the naval petroleum reserves special account established by this section as in existence on the day before Dec. 12, 1979, and transferred unappropriated balances of funds on that date to the Treasury.

## §8733. Disposition of royalties

(a) Any oil, gas, gasoline or other substance accruing to the United States as royalty from any lease under this chapter shall be delivered to the United States, or shall be paid for in money, as the Secretary elects.

(b) All money accruing to the United States from lands in the naval petroleum reserves shall be covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461, §7433; Pub. L. 87–796, §1(9), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, §201(14), (15), Apr. 5, 1976, 90 Stat. 313; renumbered §8733, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7433 | 34 U.S.C. 524 (10th par.). | June 4, 1920, ch. 228 (10th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "or all" are omitted as surplusage. The words "under this chapter" are substituted for the words "of lands within the naval petroleum reserves or other naval fuel reserves under the authority of this section" for brevity. The words "be delivered to the United States, or shall be paid for in money" are substituted for the words "be paid for in money or be paid in kind" for clarity. Neither gas, oil, gasoline, nor hydrocarbon can be "paid", but any one of them may be delivered.

In subsection (b) the words "except as otherwise provided in this section" are omitted as surplusage. There is no exception within the chapter to the rule stated in subsection (b). The word "paid" is substituted for the words "which may accrue" for clarity. The words "under this chapter" are substituted for the words "under the provisions of this section or of sections * * * on account of the petroleum products extracted therefrom" for brevity. The two terms are coextensive. The sections of 30 U.S.C. that are cited in 34 U.S.C. 524 (10th par.) comprise the entire Act of Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended. The application of that Act to the Navy is covered in §7427 of this title. The words "as miscellaneous receipts" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7433 of this title as this section.

**1976**—Subsec. (a). Pub. L. 94–258, §201(14), struck out "of the Navy" after "Secretary".

Subsec. (b). Pub. L. 94–258, §201(15), struck out "and oil shale" after "petroleum".

**1962**—Subsec. (a). Pub. L. 87–796 substituted "or other substance" for "or other hydrocarbon substance".

Subsec. (b). Pub. L. 87–796 substituted "All money accruing to the United States from lands in the naval petroleum and oil shale reserves" for "Money paid to the United States for petroleum products under this chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8735. Foreign interest

(a) If the laws, customs, or regulations of any foreign country deny the privilege of leasing public lands to citizens or corporations of the United States, citizens of that foreign country, or corporations controlled by citizens of that country, may not, by contract made after July 1, 1937, or by stock ownership, holding, or control, acquire or own any interest in, or right to any benefit from, any lease of land in the naval petroleum, naval oil shale, or other naval fuel reserves made under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of title 30, or under this chapter.

(b) The Secretary may cancel any lease for any violation of this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461, §7435; Pub. L. 87–796, §1(11), Oct. 11, 1962, 76 Stat. 906; Pub. L. 94–258, title II, §201(17), Apr. 5, 1976, 90 Stat. 313; renumbered §8735, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7435 | 34 U.S.C. 524 (8th par.). | June 4, 1920, ch. 228 (8th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "foreign country" are substituted for the words "another country" for clarity.
In subsection (b) the word "for" is substituted for the words "in the event of" for brevity.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 194 of title 30, referred to in subsec. (a), was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 644.

Section 204 of title 30, referred to in subsec. (a), was repealed by Pub. L. 94–377, §13(a), Aug. 4, 1976, 90 Stat. 1090, subject to valid existing rights.

Sections 226d and 226e of title 30, referred to in subsec. (a), were omitted from the Code. See section 226 of Title 30, Mineral Lands and Mining.

Section 227 of title 30, referred to in subsec. (a), was omitted from the Code.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7435 of this title as this section.

**1976**—Subsec. (b). Pub. L. 94–258 struck out "of the Navy" after "Secretary".

**1962**—Subsec. (a). Pub. L. 87–796 substituted "land in the naval petroleum, naval oil shale, or other naval fuel reserves" for "land in the naval petroleum or other naval fuel reserves".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8736. Regulations

(a) The Secretary may prescribe regulations and take any proper action to accomplish the purposes of this chapter.

(b) All statements, reports, and representations required by the regulations shall be under oath, unless otherwise specified, and in such form as the Secretary requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461, §7436; Pub. L. 94–258, title II, §201(18), Apr. 5, 1976, 90 Stat. 313; renumbered §8736, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7436 | 34 U.S.C. 524 (9th par.). | June 4, 1920, ch. 228 (9th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "necessary rules and" are omitted as surplusage, and the words "to take any

proper action" are substituted for the words "to do any and all things necessary or proper" for brevity.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7436 of this title as this section.

**1976**—Subsec. (a). Pub. L. 94–258 struck out "of the Navy, subject to approval by the President," after "Secretary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8737. Violations by lessee

(a) If a lessee fails to comply with any provision of this chapter, of his lease, or of regulations issued under section 8736 of this title that are in force on the date of his lease, the lease may be forfeited and cancelled by an appropriate proceeding in the United States district court for the district in which any part of the property is located.

(b) The lease may provide appropriate methods for the settlement of disputes and remedies for breach of specified conditions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461, §7437; renumbered §8737 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(5), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7437 | 34 U.S.C. 524 (11th par., less proviso). | June 4, 1920, ch. 228 (11th par., less proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words "the district in which any part of the property is located" are substituted for the words "the district in which the property, or some part thereof, is located," for brevity.

In subsection (b) the words "for resort to" and "for" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(5), renumbered section 7437 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8736" for "section 7436".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8738. Rifle, Colorado, plant; possession, use, and transfer of

(a) The Secretary shall take possession of the experimental demonstration facility near Rifle, Colorado, which was constructed and operated by the Department of the Interior on lands on or near the naval oil shale reserves under the Act of April 5, 1944 (30 U.S.C. 321 et seq.).

(b) The Secretary, subject to the approval of the President, shall by contract, lease, or otherwise encourage the use of the facility described in subsection (a) in research, development, test, evaluation, and demonstration work. For such purposes the Secretary may use or lease for use by institutions, organizations, or individuals, public or private, the facility described in subsection (a) and may construct, install, and operate, or lease for operation additional experimental facilities on such lands. The Secretary may, after consultation with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, mine and remove, or authorize the mining and removal, of any oil shale or products therefrom from lands in the naval oil shale reserves that may be needed for such experimentation.

(c) Nothing in this chapter shall be construed—

(1) to authorize the commercial development and operation of the naval oil shale reserves by the Government in competition with private industry; or

(2) in diminution of the responsibility of the Secretary in providing oil shale and products therefrom for needs of national defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462, §7438; Pub. L. 87–796, §1(12), Oct. 11, 1962, 76 Stat. 906; Pub. L. 94–258, title II, §201(19), Apr. 5, 1976, 90 Stat. 313; Pub. L. 96–513, title V, §513(37), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §8738, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7438 | 34 U.S.C. 524 (proviso of 11th par.). | June 4, 1920, ch. 228 (11th par., proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

The words "this chapter does not authorize" are substituted for the words "nothing herein contained shall be construed to permit" for brevity.

### EDITORIAL NOTES

### REFERENCES IN TEXT

Act April 5, 1944, referred to in subsec. (a), is act Apr. 5, 1944, ch. 172, 58 Stat. 190, as amended, which is classified generally to chapter 6 (§321 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code see Tables.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7438 of this title as this section.

**1999**—Subsec. (b). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1980**—Subsec. (a). Pub. L. 96–513, §513(37)(A), substituted provisions relating to authority of the Secretary under the specified statute, for provisions relating to authority of the Administrator of the Energy Research and Development Administration under the specified statute.

Subsec. (b). Pub. L. 96–513, §513(37)(B), substituted provisions relating to authorities of the Secretary, for provisions relating to authorities of the Administrator of the Energy Research and Development

Administration.

Subsec. (c). Pub. L. 96–513, §513(37)(C), substituted "in this chapter" for "herein contained".

**1976**—Subsec. (a). Pub. L. 94–258 substituted "Administrator of the Energy Research and Development Administration" for "Secretary of the Interior".

Subsec. (b). Pub. L. 94–258 substituted "Administrator of the Energy Research and Development Administration" for "Secretary of the Interior" wherever appearing therein and struck out "of the Navy" after "Secretary" wherever appearing.

Subsec. (c). Pub. L. 94–258 struck out "of the Navy" after "Secretary".

**1962**—Pub. L. 87–796 amended section generally by substituting provisions relating to the possession, use, and transfer of the experimental demonstration facility near Rifle, Colorado, for provisions which stated that this chapter does not authorize the development or operation of the naval oil-shale reserves.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8739. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production

(a) TRANSFER REQUIRED.—(1) Upon the enactment of this section, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over all public domain lands included within Oil Shale Reserve Numbered 1 and those public domain lands included within the undeveloped tracts of Oil Shale Reserve Numbered 3.

(2) Not later than November 18, 1998, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over those public domain lands included within the developed tract of Oil Shale Reserve Numbered 3, which consists of approximately 6,000 acres and 24 natural gas wells, together with pipelines and associated facilities.

(3) Notwithstanding the transfer of jurisdiction, the Secretary of Energy shall continue to be responsible for all environmental restoration, waste management, and environmental compliance activities that are required under Federal and State laws with respect to conditions existing on the lands at the time of the transfer.

(4) Upon the transfer to the Secretary of the Interior of jurisdiction over public domain lands under this subsection, the other provisions of this chapter shall cease to apply with respect to the transferred lands.

(b) AUTHORITY TO LEASE.—(1) Beginning on November 18, 1997, or as soon thereafter as practicable, the Secretary of the Interior shall enter into leases with one or more private entities for the purpose of exploration for, and development and production of, petroleum (other than in the form of oil shale) located on or in public domain lands in Oil Shale Reserves Numbered 1 and 3 (including the developed tract of Oil Shale Reserve Numbered 3). Any such lease shall be made in accordance with the requirements of the Mineral Leasing Act (30 U.S.C. 181 et seq.) regarding the lease of oil and gas lands and shall be subject to valid existing rights.

(2) Notwithstanding the delayed transfer of the developed tract of Oil Shale Reserve Numbered 3 under subsection (a)(2), the Secretary of the Interior shall enter into a lease under paragraph (1) with respect to the developed tract before November 18, 1998.

(c) MANAGEMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the lands transferred under subsection (a) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other laws

applicable to the public lands.

(d) TRANSFER OF EXISTING EQUIPMENT.—The lease of lands by the Secretary of the Interior under this section may include the transfer, at fair market value, of any well, gathering line, or related equipment owned by the United States on the lands transferred under subsection (a) and suitable for use in the exploration, development, or production of petroleum on the lands.

(e) COST MINIMIZATION.—The cost of any environmental assessment required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with a proposed lease under this section shall be paid out of unobligated amounts available for administrative expenses of the Bureau of Land Management.

(f) TREATMENT OF RECEIPTS.—(1) Notwithstanding section 35 of the Mineral Leasing Act (30 U.S.C. 191), all moneys received during the period specified in paragraph (2) from a lease under this section (including moneys in the form of sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be covered into the Treasury of the United States and shall not be subject to distribution to the States pursuant to subsection (a) of such section 35.

(2) The period referred to in this subsection is the period beginning on November 18, 1997, and ending on the date on which the Secretary of Energy and the Secretary of the Interior jointly certify to Congress that the sum of the moneys deposited in the Treasury under paragraph (1) is equal to the total of the following:

(A) The cost of all environmental restoration, waste management, and environmental compliance activities incurred by the United States with respect to the lands transferred under subsection (a).

(B) The cost to the United States to originally install wells, gathering lines, and related equipment on the transferred lands and any other cost incurred by the United States with respect to the lands.

(g) USE OF RECEIPTS.—(1) The Secretary of the Interior may use, without further appropriation, not more than $1,500,000 of the moneys covered into the Treasury under subsection (f)(1) to cover the cost of any additional analysis, site characterization, and geotechnical studies deemed necessary by the Secretary to support environmental restoration, waste management, or environmental compliance with respect to Oil Shale Reserve Numbered 3. Upon the completion of such studies, the Secretary of the Interior shall submit to Congress a report containing—

(A) the results and conclusions of such studies; and

(B) an estimate of the total cost of the Secretary's preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3.

(2) If the cost estimate required by paragraph (1)(B) does not exceed the total of the moneys covered into the Treasury under subsection (f)(1) and remaining available for obligation as of the date of submission of the report under paragraph (1), the Secretary of the Interior may access such moneys, beginning 60 days after submission of the report and without further appropriation, to cover the costs of implementing the preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3. If the cost estimate exceeds such available moneys, the Secretary of the Interior may only access such moneys as authorized by subsequent Act of Congress.

(Added Pub. L. 105–85, div. C, title XXXIV, §3404(a), Nov. 18, 1997, 111 Stat. 2059, §7439; amended Pub. L. 107–107, div. A, title X, §1048(c)(14), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 107–345, §1, Dec. 17, 2002, 116 Stat. 2894; renumbered §8739, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Mineral Leasing Act, referred to in subsec. (b)(1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Oil and Gas Royalty Management Act of 1982, referred to in subsec. (f)(1), is Pub. L. 97–451, Jan. 12, 1983, 96 Stat. 2447, which is classified generally to chapter 29 (§1701 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 30 and Tables.

### PRIOR PROVISIONS

A prior section 8741 was renumbered section 9271 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7439 of this title as this section.

**2002**—Subsec. (f)(1). Pub. L. 107–345, §1(1), struck out after first sentence: "Subject to a specific authorization and appropriation for this purpose, such moneys may be used for reimbursement of environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the lands transferred under subsection (a)."

Subsec. (g). Pub. L. 107–345, §1(2), added subsec. (g).

**2001**—Subsec. (a)(2). Pub. L. 107–107, §1048(c)(14)(A), substituted "November 18, 1998" for "one year after the date of the enactment of this section".

Subsec. (b)(1). Pub. L. 107–107, §1048(c)(14)(B), substituted "November 18, 1997," for "the date of the enactment of this section,".

Subsec. (b)(2). Pub. L. 107–107, §1048(c)(14)(C), substituted "November 18, 1998" for "the end of the one-year period beginning on the date of the enactment of this section".

Subsec. (f)(2). Pub. L. 107–107, §1048(c)(14)(D), substituted "November 18, 1997," for "the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 871—CIVILIAN EMPLOYEES

Sec.
8742. Physical examination: employees engaged in hazardous occupations.
8743. Employment of aliens.
8746. Administration of oaths by clerks and employees.
8747. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation.
8748. Naval War College and Marine Corps University: civilian faculty members.
8749. Civil service mariners of Military Sealift Command: release of drug and alcohol test results to Coast Guard.
8749a. Civil service mariners of Military Sealift Command: alcohol testing.
8750. Special agents of the Naval Criminal Investigative Service: authority to execute

warrants and make arrests.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(32), Dec. 27, 2021, 135 Stat. 1921, added items 8749 and 8749a and struck out former items 8749 "Civil service mariners of military sealift command: release of drug and alcohol test results to Coast Guard" and 8749a "Civil service mariners of military sealift command: alcohol testing".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 643 of this title as this chapter and items 7472, 7473, and 7476 to 7480 as 8742, 8743, and 8746 to 8750, respectively.

Pub. L. 115–232, div. A, title XI, §1114(c), Aug. 13, 2018, 132 Stat. 2013, added items 7479 and 7479a and struck out former item 7479 "Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard".

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §554(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127, added item 7480.

**1998**—Pub. L. 105–261, div. A, title XI, §1103(b), Oct. 17, 1998, 112 Stat. 2141, added item 7479.

**1997**—Pub. L. 105–85, div. A, title XI, §1109(b)(2), Nov. 18, 1997, 111 Stat. 1927, substituted "Marine Corps University" for "Marine Corps Command and Staff College" in item 7478.

**1989**—Pub. L. 101–189, div. A, title XI, §1124(c)(2), Nov. 29, 1989, 103 Stat. 1559, substituted "Naval War College and Marine Corps Command and Staff College: civilian faculty members" for "Naval War College: employment of civilian professors; compensation" in item 7478.

**1966**—Pub. L. 89–718, §43, Nov. 2, 1966, 80 Stat. 1120, struck out item 7474 "Wage rates: establishment".

**1959**—Pub. L. 86–148, §1(2), Aug. 7, 1959, 73 Stat. 302, struck out item 7475 "Force at naval activities not to be increased before elections".

**1958**—Pub. L. 85–861, §1(151), Sept. 2, 1958, 72 Stat. 1513, struck out item 7471 "Appointments: professional and scientific services".

## §8742. Physical examination: employees engaged in hazardous occupations

(a) The Secretary of the Navy may provide for physical examination by civilians of employees engaged in hazardous occupations, where the professional services of the Medical Department are not available. The Secretary may compensate these civilians for their services, on a contract or fee basis, at the rates customary in the locality.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462, §7472; renumbered §8742, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7472 | 5 U.S.C. 415c. | Aug. 2, 1946, ch. 756, §2, 60 Stat. 853. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (b) the words "except the authority to prescribe regulations" are omitted, since 5 U.S.C. 415c contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8742 was renumbered section 9272 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7472 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8743. Employment of aliens

Laws prohibiting payment of compensation to a person who is not a citizen of the United States do not apply to a person whose employment by the Department of the Navy is determined by the Secretary of the Navy to be necessary to obtain for the armed forces the benefits of the special technical or scientific knowledge or experience possessed by that person and not readily obtainable from a citizen.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462, §7473; renumbered §8743, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7473 | 5 U.S.C. 415b. | Feb. 26, 1946, ch. 36, 60 Stat. 31. |

The word "Laws" is substituted for the words "Statutory provisions" for clarity. The words "armed forces" are substituted for the words "military services of the United States" for uniformity. The words "of the United States" at the end of the section are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8743 to 8745 were renumbered sections 9273 to 9275 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7473 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8746. Administration of oaths by clerks and employees

(a) Chief clerks and inspectors attached to any office of inspector of naval material, chief clerks attached to the field service of the Department of the Navy, to naval shipyards and stations, and to Marine Corps posts and stations, and such other clerks and employees attached to those activities as the Secretary of the Navy designates, may administer—

(1) oaths required by law or regulation relating to claims against, or applications to, the United States of officers and of employees of the Department; and

(2) oaths of office to officers and employees of the Department.

(b) There may be no compensation for the administration of oaths under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 463, §7476; renumbered §8746, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7476 | 34 U.S.C. 217b. | Apr. 25, 1935, ch. 83, 49 Stat. 162. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8746 was renumbered section 9276 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7476 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8747. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation

(a) When civilian employees of the Department of the Navy are located at duty stations outside the United States, the dependents and household effects of such personnel may be transported—

(1) from the locations outside the United States to locations designated by such personnel or their dependents; and

(2) from those designated locations to the duty stations to which the personnel are ordered.

The Secretary of the Navy may determine the civilian employees whose dependents and household effects may be transported under this section.

(b) Authority to transport household effects under this section includes authority to pack and unpack those effects.

(c) Transportation of dependents and household effects is authorized under this section either before or after orders are issued relieving the civilian concerned from the duty station outside the United States. The transportation may be by Government or commercial facilities.

(d) In place of the transportation in kind authorized for dependents, the Secretary may authorize the payment, after the travel has been completed, of an amount equal to the commercial transportation costs, including taxes if paid, of all parts of the travel for which transportation in kind was not furnished.

(e) Current appropriations available for travel and transportation may be used for expenditures under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 463, §7477; renumbered §8747, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 7477 | 37 U.S.C. 112c. | Feb. 18, 1946, ch. 30 (3d par.), 60 Stat. 20; Oct. 12, 1949, ch. 681, §524, 63 Stat. 836. |

In subsection (a) the words "without regard to rank or grade" and "or subsequent to the discharge or release of such personnel from active service" are omitted as applicable only to members of the naval service. The Act of February 18, 1946, 60 Stat. 20, applied to both civilian and naval personnel and was amended by the Act of October 12, 1949, ch. 681, §524, by deleting therefrom all reference to naval personnel. The words "the continental limits of" and "or in Alaska" are omitted as covered by the term "outside the United States".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8747 was renumbered section 9277 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7477 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8748. Naval War College and Marine Corps University: civilian faculty members

(a) AUTHORITY OF SECRETARY.—The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at a school of the Naval War College or of the Marine Corps University as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Naval War College or of the Marine Corps University if the duration of the principal course of instruction offered at the school or college involved is less than 10 months.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464, §7478; Pub. L. 101–189, div. A, title XI, §1124(c)(1), Nov. 29, 1989, 103 Stat. 1559; Pub. L. 105–85, div. A, title XI, §1109(a), (b)(1), Nov. 18, 1997, 111 Stat. 1927; renumbered §8748, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7478 | 34 U.S.C. 1071 (less applicability to Naval Academy). | Aug. 2, 1946, ch. 756, §7(a) (less applicability to Naval Academy), 60 Stat. 854. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (a) the words "for the proper instruction of naval personnel" and in subsection (b) the words "out of naval appropriations" are omitted as surplusage.

In subsection (c) the words "except the authority to prescribe regulations" are omitted, since 34 U.S.C. 1071

contains no authority for the Secretary to prescribe regulations.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8748 was renumbered section 9278 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7478 of this title as this section.

**1997**—Pub. L. 105–85, §1109(b)(1), substituted "Marine Corps University" for "Marine Corps Command and Staff College" in section catchline.

Subsecs. (a), (c). Pub. L. 105–85, §1109(a), substituted "of the Marine Corps University" for "at the Marine Corps Command and Staff College".

**1989**—Pub. L. 101–189 substituted "Naval War College and Marine Corps Command and Staff College: civilian faculty members" for "Naval War College: employment of civilian professors; compensation" as section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval War College as he considers necessary.

"(b) The compensation of persons employed under this section is as prescribed by the Secretary.

"(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8749. Civil service mariners of Military Sealift Command: release of drug and alcohol test results to Coast Guard

(a) RELEASE OF DRUG OR ALCOHOL TEST RESULTS TO COAST GUARD.—The Secretary of the Navy may release to the Commandant of the Coast Guard the results of a drug or alcohol test of any employee of the Department of the Navy who is employed in any capacity on board a vessel of the Military Sealift Command. Any such release shall be in accordance with the standards and procedures applicable to the disclosure and reporting to the Coast Guard of drug or alcohol test results and drug or alcohol test records of individuals employed on vessels documented under the laws of the United States.

(b) WAIVER.—The results of a drug or alcohol test of an employee may be released under subsection (a) without the prior written consent of the employee that is otherwise required under section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note).

(Added Pub. L. 105–261, div. A, title XI, §1103(a), Oct. 17, 1998, 112 Stat. 2141, §7479; renumbered §8749 and amended Pub. L. 115–232, div. A, title VIII, §807(d)(6), title XI, §1114(b), Aug. 13, 2018, 132 Stat. 1836, 2013; Pub. L. 116–92, div. A, title XVII, §1731(a)(60)(A), Dec. 20, 2019, 133 Stat. 1815; Pub. L. 116–283, div. A, title X, §1081(a)(46), Jan. 1, 2021, 134 Stat. 3873.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (b), is section 503(e) of Pub. L. 100–71 which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

**PRIOR PROVISIONS**

A prior section 8749 was renumbered section 9279 of this title.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted "alcohol test results" for "alcohol tests results".

**2019**—Pub. L. 116–92 capitalized "Military Sealift Command" and "Coast Guard" in section catchline.

**2018**—Pub. L. 115–232, §807(d)(6), renumbered section 7479 of this title as this section.

Pub. L. 115–232, §1114(b), substituted "Civil service mariners of military sealift command: release of drug and alcohol test results to coast guard" for "Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard" in section catchline and inserted "Or Alcohol" after "Drug" in subsec. (a) heading and "or alcohol" after "drug" wherever appearing in text. Quoted text directed to be inserted in subsec. (a) heading was conformed to the style used in this title.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 807(d)(6) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8749a. Civil service mariners of Military Sealift Command: alcohol testing

The Secretary of the Navy may prescribe regulations establishing a program to conduct on-duty reasonable suspicion alcohol testing and post-accident alcohol testing of civil service mariners of the Military Sealift Command who are assigned to vessels.

(Added §7479a and renumbered §8749a, Pub. L. 115–232, div. A, title VIII, §807(d)(6), title XI, §1114(a), Aug. 13, 2018, 132 Stat. 1836, 2013; amended Pub. L. 116–92, div. A, title XVII, §1731(a)(60)(B), Dec. 20, 2019, 133 Stat. 1815.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92 capitalized "Military Sealift Command" in section catchline.

**2018**—Pub. L. 115–232, §807(d)(6), renumbered section 7479a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 807(d)(6) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8750. Special agents of the Naval Criminal Investigative Service: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of the Navy may authorize any Department of the Navy

civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) AGENTS TO HAVE AUTHORITY.—Subsection (a) applies to any employee of the Department of the Navy who is a special agent of the Naval Criminal Investigative Service (or any successor to that service) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Navy.

(c) GUIDELINES FOR EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Navy and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Navy, the Secretary of Defense, or the Attorney General.

(Added Pub. L. 106–398, §1 [[div. A], title V, §554(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–126, §7480; renumbered §8750, Pub. L. 115–232, div. A, title VIII, §807(d)(6), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior section 8750 was renumbered section 9280 of this title.

#### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7480 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 873—PROCUREMENT OF SUPPLIES AND SERVICES

Sec.
8751. Notification of Navy procurement production disruptions.
8752. Contracts for research.
8753. Tolls and fares: payment or reimbursement.
8754. Marine mammals: use for national defense purposes.
8755. Disclosures for offerors for certain shipbuilding major defense acquisition program contracts.

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior chapter 873, consisting of sections 9021 to 9027, related to civilian employees in the Air Force, prior to renumbering as chapter 947 of this title.

#### AMENDMENTS

**2021**—Pub. L. 117–81, div. A, title XVII, §1701(e)(1)(B), Dec. 27, 2021, 135 Stat. 2138, added item 8755.

Pub. L. 116–283, div. A, title XVIII, §1878(b), Jan. 1, 2021, 134 Stat. 4292, added item 8751.

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 645 of this title as this chapter and items 7522 to 7524 as 8752 to 8754, respectively.

**1994**—Pub. L. 103–355, title II, §2001(j)(3)(C), Oct. 13, 1994, 108 Stat. 3303, struck out item 7521 "Progress payment for work done; lien based on payment".

**1986**—Pub. L. 99–661, div. A, title XIII, §1354(b), Nov. 14, 1986, 100 Stat. 3996, added item 7524.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PILOT PROGRAM ON NAVY INSTALLATION NUCLEAR ENERGY

Pub. L. 119–60, div. A, title III, §321, Dec. 18, 2025, 139 Stat. 812, provided that:

"(a) PILOT PROGRAM REQUIRED.—Beginning not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Assistant Secretary of the Navy for Energy, Installations, and Environment shall initiate a ten-year pilot program at one or more naval installations for the purpose of determining how small modular reactors or mobile reactors could be used—

"(1) to meet the installation energy needs of the Department of the Navy during the ten-year period beginning on the date of the enactment of this Act; and

"(2) to inform the development of concepts for the use of nuclear power facilities to support increased energy security for Navy and Marine Corps installations.

"(b) CONSIDERATIONS.—

"(1) SELECTION OF INSTALLATIONS.—In selecting naval installations for the pilot program required by subsection (a), the Assistant Secretary of the Navy for Energy, Installations, and Environment shall consider whether an installation—

"(A) has entered into, as of the date of the enactment of this Act, a memorandum of agreement with a private power provider or reactor technology vendor to explore the use of a small modular reactor or mobile reactor designed for standardized and scaleable production for installation energy requirements;

"(B) contributes support to naval operations and readiness; and

"(C) could be co-located with a data center.

"(2) SELECTION OF REACTORS.—In selecting nuclear reactors for use in the pilot program required under subsection (a), the Assistant Secretary shall consider—

"(A) the type of fuel for advanced nuclear power production, with a preference for fuel that is resistant to high heat, such as tri-structural isotropic particle fuel;

"(B) the capacity of the reactor, including that the needed capacity of the reactor is in the range of 20MW to 300MW; and

"(C) whether the reactor includes a passive cooling system to ensure operational safety and sustainability.

"(c) PROGRAM REQUIREMENTS.—In carrying out the pilot program required by subsection (a), the Assistant Secretary of the Navy for Energy, Installations, and Environment shall—

"(1) assess and make recommendations regarding how to make available the facilities of a Navy or Marine Corps program selected for participation in the pilot program;

"(2) ensure that the program includes a plan for refueling and end-of-life waste stream management;

"(3) ensure that any reactor used in the program is resilient to grid interruption; and

"(4) coordinate with the working group established by section 319 [139 Stat. 810] and the executive agent established by section 318 [set out as a note under section 2911 of this title] with respect to timing, sequencing of projects, and locations and to prevent duplication and conflicts between the pilot program and other pilot programs and nuclear initiatives of the Department of Defense.

"(d) CONTRACTS.—The pilot program does not require the Secretary of the Navy to enter into any new contract, including an energy savings performance contract.

"(e) REPORTING REQUIREMENTS.—

"(1) ANNUAL REPORT.—Not later than 30 days after the date of the initiation of the pilot program under subsection (a), the Secretary of the Navy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes each of the following:

"(A) A five-year funding plan for all Navy nuclear shore and installation power programs for the Navy, including nuclear efforts provided for in the context of the Navy Shore Energy Program and any identified funding shortfalls.

"(B) An identification of authorities required and remaining barriers to the provision of nuclear power from a military installation to civilian energy grids.

"(C) A review of lessons learned from related efforts conducted by the other military departments, the Defense Innovation Unit, and any other entities the Secretary considers relevant.

"(D) An analysis of efforts taken by the Navy to use nuclear power on Navy installations to support data center power demands.

"(E) Any other details the Secretary of the Navy considers relevant.

"(2) FINAL REPORT.—Upon conclusion of the pilot program, the Secretary of the Navy shall submit to the congressional defense committees a report that includes, or include in the report required under section 2925 of title 10, United States Code, for the fiscal year during which the pilot program concludes, each of the following:

"(A) An identification of the funding that would be required to convert the pilot program to a program of record.

"(B) An identification of all available funding provided in the budget of the Navy for the fiscal year during which the report is submitted for nuclear power at Navy and Marine Corps installations.

"(C) A list of all installations where the Secretary is considering the future use of nuclear power.

"(f) EARLY TERMINATION.—The Secretary of the Navy may terminate the pilot program before the expiration of the ten-year period referred to in subsection (a) if the Secretary provides notice of such early termination to the congressional defense committees."

## TECHNOLOGY ENHANCEMENT FOR SURFACE SHIP MAINTENANCE

Pub. L. 119–60, div. A, title III, §345, Dec. 18, 2025, 139 Stat. 825, provided that:

"(a) IN GENERAL.—The Secretary of the Navy shall investigate, and, as feasible, qualify, approve, integrate, and fully adopt into contract requirements, advanced technologies and processes for Navy surface ship maintenance on an expedited timeline to enhance readiness, reduce costs, and address delays in maintenance and repair activities.

"(b) SPECIFIED ADVANCED TECHNOLOGIES AND PROCESSES.—In carrying out subsection (a), the Secretary of the Navy shall prioritize the following:

"(1) Automated weld inspection for robotic weld defect detection.

"(2) Real-time sustainment monitoring for sensor-based health tracking.

"(3) Advanced blast and painting for automated hull coating systems.

"(4) Press connect fittings for no-hot-work pipe repairs.

"(5) Robotic tank inspection for confined space condition assessments.

"(6) Additive manufacturing for on-demand 3D-printed parts.

"(7) Augmented reality support for augmented reality-guided repairs.

"(8) Cold spray repair for metal surface restoration.

"(9) Predictive maintenance algorithms for artificial intelligence-driven failure prediction.

"(10) Automated nondestructive testing for robotic material evaluation.

"(11) Autonomous underwater vehicles for hull inspection submersibles.

"(12) Digital twin technology for virtual ship modeling.

"(13) High-pressure waterjet cleaning for rust and paint removal.

"(14) Modular maintenance platforms for standardized repair setups.

"(15) Smart coatings for self-healing, anti-fouling surfaces.

"(16) Laser ablation for laser-based surface preparation.

"(17) Drone-based inspection for uncrewed structural surveys.

"(18) Electrochemical corrosion mitigation for corrosion prevention systems.

"(19) Smart pigging for internal pipe diagnostics.

"(20) Modular overhaul kits for pre-packaged repair solutions.

"(21) Plasma coating for durable surface protection.

"(22) High-velocity oxygen fuel coating for high-velocity wear protection.

"(23) Portable diagnostics for handheld troubleshooting tools.

"(c) OPEN QUALIFICATION PROCESS.—

"(1) IN GENERAL.—The Secretary of the Navy shall establish a process under which non-government entities may submit proposals for the investigation, qualification, approval, integration, and full adoption under subsection (a) of advanced technologies or processes not specified in subsection (b).

"(2) EVALUATION.—The Secretary of the Navy shall evaluate any proposal submitted pursuant to the process established under paragraph (1) not later than 90 days after the date of such submission.

"(3) PROPOSAL REQUIREMENTS.—A proposal submitted pursuant to the process established under paragraph (1) shall include an assessment of options to improve maintenance efficiency, safety, or cost-effectiveness.

"(4) QUALIFICATION DECISION.—In evaluating proposals pursuant to the process established under paragraph (1), the Secretary of the Navy shall make decisions based on technical merit and the needs of the Navy.

"(d) THIRD-PARTY REVIEW.—

"(1) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment shall seek to

enter into a contract with an appropriate independent third-party reviewer under which such reviewer shall assess any decision of the Secretary of the Navy not to select for qualification of approval an advanced technology or process included in a proposal submitted pursuant to the process established under subsection (c).

"(2) REPORT TO CONGRESS.—A contract entered into under paragraph (1) shall require the independent third-party reviewer to, not later than 90 days after the date of the decision concerned, submit to the Committees on Armed Services of the Senate and House of Representatives an unaltered report that includes—

"(A) an evaluation of the rationale of the Secretary in not selecting the technology or process;

"(B) a statement of the agreement or disagreement of the reviewer with the decision and rationale of the Secretary; and

"(C) recommendations, if applicable.

"(e) PRIORITY.—The Secretary of the Navy may prioritize the investigation, qualification, approval, integration, and full adoption of advanced technologies and processes under this section based on operational needs, budget constraints, and compatibility with existing systems, if the Secretary includes justifications for such prioritization in the report required by subsection (g).

"(f) UPDATES.—If an advanced technology or process is adopted into contract requirements pursuant to subsection (a), the Secretary of the Navy shall update policies, specifications, guidance, and contracts, as necessary, to account for such adoption.

"(g) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Navy shall submit to Congress a report that includes detailed timelines for the qualification and approval of each advanced technology or process specified in subsection (b) and any additional advanced technologies or processes identified pursuant to the process established under subsection (c), including estimated implementation dates or justifications for non-pursuit."

## §8751. Notification of Navy procurement production disruptions

(a) REQUIREMENT FOR CONTRACTOR TO PROVIDE NOTICE OF DELAYS.—The Secretary of the Navy shall require prime contractors of any Navy procurement program funded under either the Shipbuilding and Conversion, Navy account or the Other Procurement, Navy account to report within 15 calendar days any stop work order or other manufacturing disruption of 15 calendar days or more, by the prime contractor or any subcontractor, to the respective program manager and Navy technical authority.

(b) QUARTERLY REPORTS.—The Secretary of the Navy shall submit to the congressional defense committees not later than 15 calendar days after the end of each quarter of a fiscal year a report listing all notifications made pursuant to subsection (a) during the preceding quarter.

(Added Pub. L. 116–92, div. A, title VIII, §820(a), Dec. 20, 2019, 133 Stat. 1489, §2339b; renumbered §8751, Pub. L. 116–283, div. A, title XVIII, §1878(a), Jan. 1, 2021, 134 Stat. 4292.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8751 was renumbered section 9281 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 renumbered section 2339b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

## §8752. Contracts for research

(a) The Secretary of the Navy and, by direction of the Secretary, the Chief of Naval Research and the chiefs of bureaus may, without advertising, make contracts or amendments or modifications of contracts for services and materials necessary to conduct research and to make or secure reports, tests, models, or apparatus. A contractor supplying such services or materials need not be required to furnish a bond.

(b) This section does not authorize the use of the cost-plus-a-percentage-of-cost system of contracting.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464, §7522; Pub. L. 96–513, title V, §513(38), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 97–258, §3(b)(9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 98–525, title XIV, §1405(56)(B), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 103–355, title II, §2001(j)(2), Oct. 13, 1994, 108 Stat. 3303; renumbered §8752, Pub. L. 115–232, div. A, title VIII, §807(d)(7), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7522 | 5 U.S.C. 475e. | Aug. 1, 1946, ch. 727, §6, 60 Stat. 780. |

In subsection (a) reference to R.S. 3718, 3719, 3720, and 3722 (34 U.S.C. 561, 562, 563, and 572) is omitted because these sections were expressly repealed by §11(a) of the Act of February 19, 1948, ch. 65, 62 Stat. 25. The words "without advertising" are substituted for the reference to R.S. 3709 (41 U.S.C. 5) for brevity and clarity. The sentence "A contractor supplying such services or materials need not be required to furnish a bond" is substituted for the words "without performance or other bonds" for clarity, since the provision is interpreted as a discretionary authority in the Secretary to waive bond.

In subsection (c) the words "This section does not authorize" are substituted for the words "nothing in this section shall be construed to authorize".

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8752 was renumbered section 9282 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7522 of this title as this section.

**1994**—Subsecs. (b), (c). Pub. L. 103–355 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Subsections (a) and (b) of section 3324 of title 31 do not apply to advance, progress, or other payments made with respect to a contract under this section."

**1984**—Subsec. (b). Pub. L. 98–525 substituted "Subsections (a) and (b) of section 3324 of title 31 do" for "Section 3324(a) and (b) of title 31 does".

**1982**—Subsec. (b). Pub. L. 97–258 substituted "section 3324(a) and (b) of title 31" for "section 3648 of the Revised Statutes (31 U.S.C. 529)".

**1980**—Subsec. (b). Pub. L. 96–513 substituted "Section 3648 of the Revised Statutes (31 U.S.C. 529)" for "Section 529 of title 31".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–355, title X, §10001, Oct. 13, 1994, 108 Stat. 3404, provided that:

"(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act [see Tables for classification] and the amendments made by this Act shall take effect on the date of the enactment of this Act [Oct. 13,

1994].

"(b) APPLICABILITY OF AMENDMENTS.—(1) An amendment made by this Act shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 10002 [108 Stat. 3404, formerly set out as a Regulations note under section 251 of former Title 41, Public Contracts] to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

"(2) An amendment made by this Act shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 10002 to implement such amendment, with respect to any matter related to—

"(A) a contract that is in effect on the date described in paragraph (3);

"(B) an offer under consideration on the date described in paragraph (3); or

"(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

"(3) The date referred to in paragraphs (1) and (2) is the date specified in such final regulations [Oct. 1, 1995, see 60 F.R. 48231, Sept. 18, 1995]. The date so specified shall be October 1, 1995, or any earlier date that is not within 30 days after the date on which such final regulations are published.

"(c) IMMEDIATE APPLICABILITY OF CERTAIN AMENDMENTS.—Notwithstanding subsection (b), the amendments made by the following provisions of this Act apply on and after the date of the enactment of this Act [Oct. 13, 1994]: sections 1001, 1021, 1031, 1051, 1071, 1092, 1201, 1506(a), 1507, 1554, 2002(a), 2191, 3062(a), 3063, 3064, 3065(a)(1), 3065(b), 3066, 3067, 6001(a), 7101, 7103, 7205, and 7206, the provisions of subtitles A, B, and C of title III [§§3001–3025], and the provisions of title V [see Tables for classification]."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**RELATIONSHIP OF 1994 AMENDMENT TO PROMPT PAYMENT REQUIREMENTS**

Pub. L. 103–355, title II, §2001(h), Oct. 13, 1994, 108 Stat. 3303, provided that: "The amendments made by this section [amending this section and section 2307 of this title and repealing sections 7312, 7364, and 7521 of this title] are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law (as such procedures are in effect on the date of the enactment of this Act [Oct. 13, 1994]), except that the Government may accept payment terms offered by a contractor offering a commercial item."

## §8753. Tolls and fares: payment or reimbursement

Naval appropriations chargeable for transportation or travel are available for the payment or reimbursement of ferry, bridge, and similar tolls and of streetcar, bus, and similar fares.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464, §7523; renumbered §8753, Pub. L. 115–232, div. A, title VIII, §807(d)(7), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7523 | 34 U.S.C. 899a. | Aug. 2, 1946, ch. 756, §23, 60 Stat. 856. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7523 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8754. Marine mammals: use for national defense purposes

(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may authorize the taking of not more than 25 marine mammals each year for national defense purposes. Any such authorization may be made only with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission established by section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401).

(b) HUMANE TREATMENT REQUIRED.—A mammal taken under this section shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

(c) PROTECTION FOR ENDANGERED SPECIES.—A mammal may not be taken under this section if the mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(d) APPLICATION OF OTHER ACT.—This section applies without regard to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(Added Pub. L. 99–661, div. A, title XIII, §1354(a), Nov. 14, 1986, 100 Stat. 3996, §7524; renumbered §8754, Pub. L. 115–232, div. A, title VIII, §807(d)(7), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (d), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of Title 16 and Tables.

#### PRIOR PROVISIONS

Prior sections 8754 to 8756 were renumbered sections 9284 to 9286 of this title, respectively.

#### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7524 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### PROHIBITION ON USE OF FUNDS FOR RETIREMENT OF LEGACY MARITIME MINE COUNTERMEASURES PLATFORMS

Pub. L. 117–263, div. A, title III, §393, Dec. 23, 2022, 136 Stat. 2550, provided that:

"(a) PROHIBITION.—Except as provided in subsection (b), the Secretary of the Navy may not obligate or expend funds to discontinue or prepare to discontinue, including by making a substantive reduction in training and operational employment, any element of the Marine Mammal Program of the Navy, that has been used, or is currently being used, for—

"(1) port security at Navy bases, known as Mark-6 systems; or

"(2) mine search capabilities, known as Mark-7 systems.

"(b) WAIVER.—The Secretary of the Navy may waive the prohibition under subsection (a) if the Secretary, with the concurrence of the Director of Operational Test and Evaluation, certifies in writing to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the

House of Representatives] that the Secretary has—

"(1) identified a replacement capability and the necessary quantity of such capability to meet all operational requirements currently being met by the Marine Mammal Program, including a detailed explanation of such capability and quantity;

"(2) achieved initial operational capability of all capabilities referred to in paragraph (1), including a detailed explanation of such achievement; and

"(3) deployed a sufficient quantity of capabilities referred to in paragraph (1) that have achieved initial operational capability to continue to meet or exceed all operational requirements currently being met by Marine Mammal Program, including a detailed explanation of such deployment."

## §8755. Disclosures for offerors for certain shipbuilding major defense acquisition program contracts

(a) IN GENERAL.—Any covered offeror seeking to be awarded a shipbuilding construction contract as part of a major defense acquisition program with funds from the Shipbuilding and Conversion, Navy account shall disclose along with the offer and any subsequent revisions of the offer (including the final proposal revision offer) if any part of the planned contract performance will or is expected to include foreign government subsidized performance, foreign financing, foreign financial guarantees, or foreign tax concessions.

(b) REQUIREMENTS.—A disclosure required under subsection (a) shall be made in a form prescribed by the Secretary of the Navy and shall include a specific description of the extent to which the planned contract performance will include, with or without contingencies, any foreign government subsidized performance, foreign financing, foreign financial guarantees, or foreign tax concessions.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 5 days after awarding a contract described under subsection (a), the Secretary of the Navy shall notify the congressional defense committees and summarize the disclosure provided under such subsection.

(d) DEFINITIONS.—In this section:

(1) COVERED OFFEROR.—The term "covered offeror" means any offeror that requires or may reasonably be expected to require, during the period of performance on a shipbuilding construction contract described in subsection (a), a method to mitigate or negate foreign ownership under section 2004.34(f)(6) of title 32, Code of Federal Regulations.

(2) FOREIGN GOVERNMENT SUBSIDIZED PERFORMANCE.—The term "foreign government subsidized performance" means any financial support, materiel, services, or guarantees of support, services, supply, performance, or intellectual property concessions, that may be provided to or for the covered offeror or the customer of the offeror by a foreign government or entity effectively owned or controlled by a foreign government, which may have the effect of supplementing, supplying, servicing, or reducing the cost or price of an end item, or supporting, financing in whole or in part, or guaranteeing contract performance by the offeror.

(3) MAJOR DEFENSE ACQUISITION PROGRAM.—The term "major defense acquisition program" has the meaning given the term in section 4201 of this title.

(Added Pub. L. 116–283, div. A, title VIII, §803(a), Jan. 1, 2021, 134 Stat. 3734, §2339c; renumbered §8755 and amended Pub. L. 117–81, div. A, title XVII, §1701(e)(1)(A), Dec. 27, 2021, 135 Stat. 2138.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 2339c of this title as this section and substituted "section 4201" for "section 2430" in subsec. (d)(3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117–81, which renumbered section 2339c of this title as this section, deemed to have taken effect immediately before section 1881 of Pub. L. 116–283, subsec. (a) of which had repealed chapter 137 of this title, where section 2339c of this title was located. See section 881(a) of Pub. L. 117–263, set out as a note under section 4027 of this title.

# CHAPTER 875—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
8761. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League.
8761a. Uniform clothing: sale to Naval Sea Cadet Corps.
8761b. Authority to make grants for purposes of Naval Sea Cadet Corps.
8762. Excess clothing: sale for distribution to needy.
8763. Useless ordnance material: disposition of proceeds on sale.
8764. Devices and trophies: transfer to other agencies.
8765. Obsolete material and articles of historical interest: loan or gift.
8766. Loan or gift of articles to ships' sponsors and donors.
8767. Equipment for instruction in seamanship: loan to military schools.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 875, consisting of section 9061, related to miscellaneous investigation requirements and other duties, prior to renumbering as chapter 949 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 647 of this title as this chapter and items 7541 to 7547 as 8761 to 8767, respectively.

**2009**—Pub. L. 111–84, div. A, title V, §592(b), Oct. 28, 2009, 123 Stat. 2337, added item 7541b.

**1975**—Pub. L. 93–628, §1(b), Jan. 3, 1975, 88 Stat. 2148, inserted ", Naval Sea Cadet Corps and Young Marines of the Marine Corps League" in item 7541.

**1965**—Pub. L. 89–266, §1(2), Oct. 19, 1965, 79 Stat. 990, added item 7541a.

## §8761. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League

Subject to regulations under section 121 of title 40, the Secretary of the Navy may—

(1) give obsolete material not needed for naval purposes; and

(2) sell other material that may be spared at a price representing its fair value;

to the Boy Scouts of America for the sea scouts, to the Naval Sea Cadet Corps for the sea cadets, and to the Young Marines of the Marine Corps League for the young marines. The cost of transportation and delivery of material given or sold under this section shall be charged to the Boy Scouts of America, to the Naval Sea Cadets, or to the Young Marines of the Marine Corps League, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465, §7541; Pub. L. 93–628, §1, Jan. 3, 1975, 88 Stat. 2147; Pub. L. 96–513, title V, §513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, §3(b)(31), Aug. 21, 2002, 116 Stat. 1297; renumbered §8761, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | | |

| | | |
|---|---|---|
| 7541 | 34 U.S.C. 546b. | Mar. 1, 1929, ch. 429, 45 Stat. 1430; Oct. 31, 1951, ch. 654, §2(21), 65 Stat. 707. |

The word "give" is substituted for the words "dispose of without charge"; the words "naval purposes" are substituted for the words "the Navy"; and the word "sell" is substituted for the words "dispose of * * * at prices". The words "to the Navy" are omitted as surplusage. Since the corporate name of the organization is "Boy Scouts of America", that name is used to designate the transferee in lieu of words "sea scout department", and the words "for the sea scouts" are added.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7541 of this title as this section.

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" in introductory provisions.

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

**1975**—Pub. L. 93–628 inserted "Naval Sea Cadet Corps and Young Marines of the Marine Corps League" in section catchline, and authorized the Secretary of the Navy to gift obsolete materials and to sell surplus materials to the Naval Sea Cadet Corps and the Young Marines of the Marine Corps League with the requirement that the cost of transportation and delivery of such materials be charged to the recipient.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93–628, §2, Jan. 3, 1975, 88 Stat. 2148, provided that: "The amendments made by the first section [amending this section] shall take effect on the date of the enactment of this Act [Jan. 3, 1975]."

## §8761a. Uniform clothing: sale to Naval Sea Cadet Corps

Subject to regulations under section 121 of title 40, the Secretary of the Navy, under regulations prescribed by him, may sell any item of enlisted naval uniform clothing that may be spared, at a price representing its fair value, to the Naval Sea Cadet Corps for the sea cadets and to any Federal or State maritime academy having a department of naval science for the maritime cadets and midshipmen. The cost of transportation and delivery of items sold under this section shall be charged to the Naval Sea Cadet Corps and to such Federal and State maritime academies.

(Added Pub. L. 89–266, §1(1), Oct. 19, 1965, 79 Stat. 990, §7541a; amended Pub. L. 96–513, title V, §513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, §3(b)(32), Aug. 21, 2002, 116 Stat. 1297; renumbered §8761a, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7541a of this title as this section.

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8761b. Authority to make grants for purposes of Naval Sea Cadet Corps

Subject to the availability of funds for this purpose, the Secretary of the Navy may make grants to support the purposes of Naval Sea Cadet Corps, a federally chartered corporation under chapter 1541 of title 36.

(Added Pub. L. 111–84, div. A, title V, §592(a), Oct. 28, 2009, 123 Stat. 2337, §7541b; renumbered §8761b, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7541b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8762. Excess clothing: sale for distribution to needy

(a) Subject to regulations under section 121 of title 40, the Secretary of the Navy, under regulations prescribed by him, may sell, at nominal prices, to recognized charitable organizations, to States and subdivisions thereof, and to municipalities nonregulation and excess clothing that may be available for distribution to the needy. The clothing may be sold only if the purchaser agrees not to resell it but to give it to the needy.

(b) A fair proportionate allotment of clothing to be sold under this section shall be set aside for distribution in each State and the District of Columbia. An allotment so set aside may not be sold for other distribution until at least 30 days after the allotment was made.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465, §7542; Pub. L. 96–513, title V, §513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, §3(b)(33), Aug. 21, 2002, 116 Stat. 1297; renumbered §8762, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 7542 | 34 U.S.C. 546d. | Dec. 23, 1932, ch. 8, 47 Stat. 751; Oct. 31, 1951, ch. 654, §2(22), 65 Stat. 707. |

In subsection (a) the words "absolutely free" are omitted as surplusage.

In subsection (b) the words "for other distribution" are substituted for the words "distribution within any other State". The words "at least" are added for clarity.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7542 of this title as this section.

**2002**—Subsec. (a). Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8763. Useless ordnance material: disposition of proceeds on sale

The net proceeds of sales of useless ordnance material by the Department of the Navy shall be covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465, §7543; renumbered §8763, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7543 | 50 U.S.C. 74. | Jan. 22, 1923, ch. 28, 42 Stat. 1142 (last 24 words of 5th par.). |

The words "as miscellaneous receipts" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7543 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8764. Devices and trophies: transfer to other agencies

(a) The Secretary of the Navy may, without reimbursement, transfer to the Secretary of the Treasury devices and trophies for the promotion of the sale of war bonds or victory bonds. The Secretary of the Treasury may sell or donate the devices and trophies for the promotion of the sale of such bonds.

(b) The Secretary of the Navy may, without reimbursement, transfer to any agency of the United States devices and trophies for scientific, experimental, monumental, or display purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465, §7544; renumbered §8764, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7544 | 34 U.S.C. 546i. | Aug. 7, 1946, ch. 804, §4, 60 Stat. 898. |

The words "such * * * as he may in his discretion determine" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7544 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8765. Obsolete material and articles of historical interest: loan or gift

(a) AUTHORITY TO MAKE LOANS AND GIFTS.—The Secretary of the Navy may lend or give, without expense to the United States, items described in subsection (b) that are not needed by the Department of the Navy to any of the following:

(1) A State, Commonwealth, or possession of the United States, or political subdivision or municipal corporation thereof.

(2) The District of Columbia.

(3) A library.

(4) A historical society.

(5) An educational institution whose graduates or students fought in a foreign war.

(6) A servicemen's monument association.

(7) A State museum.

(8) A museum or memorial operated and maintained for educational purposes only, whose charter denies it the right to operate for profit.

(9) A post of the Veterans of Foreign Wars of the United States.

(10) A post of the American Legion.

(11) Any other recognized war veterans' association.

(12) A post of the Sons of Veterans Reserve.

(b) ITEMS ELIGIBLE FOR DISPOSAL.—This section applies to the following types of property held by the Department of the Navy:

(1) Captured, condemned, or obsolete ordnance material.

(2) Captured, condemned, or obsolete combat or shipboard material.

(c) REGULATIONS.—A loan or gift made under this section shall be subject to regulations prescribed by the Secretary and to regulations under section 121 of title 40.

(d) MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—Records of the Government as defined in section 3301 of title 44 may not be disposed of under this section.

(e) ALTERNATIVE AUTHORITIES TO MAKE GIFTS OR LOANS.—If any disposition is authorized by this section and section 2572 of this title, the Secretary may make the gift or loan under either section.

(f) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give, or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization specified in subsection (a). The terms and conditions of an agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466, §7545; Pub. L. 96–513, title V, §513(39), (40), Dec. 12, 1980, 94 Stat. 2934, 2935; Pub. L. 104–106, div. A, title X, §1061(i), Feb. 10, 1996, 110 Stat. 443; Pub. L. 107–107, div. A, title X, §1043(a)–(c), Dec. 28, 2001, 115 Stat. 1218, 1219; Pub. L. 107–217, §3(b)(34), Aug. 21, 2002, 116 Stat. 1298; Pub. L. 107–314, div. A, title X, §1062(e)(2), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440; renumbered §8765, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7545 | 34 U.S.C. 546g. | Aug. 7, 1946, ch. 804, §2, 60 Stat. 897; Oct. 31, 1951, ch. 654, §2(23), 65 Stat. 707. |
| | 34 U.S.C. 546h (last sentence as applicable to 34 U.S.C. 546g). | Aug. 7, 1946, ch. 804, §3 (last sentence as applicable to §2), 60 Stat. 897. |
| | 34 U.S.C. 546k (1st sentence as applicable to 34 U.S.C. 546g, and 3d sentence). | Aug. 7, 1946, ch. 804, §6 (1st sentence as applicable to §2, and 3d sentence), 60 Stat. 898. |

In subsection (a) the words, "ordnance material" are substituted for the words "ordnance, guns, projectiles". Posts of the Grand Army of the Republic are omitted from the list of authorized donees because there are no surviving members of that organization. The word "Commonwealth" is inserted to reflect the present status of Puerto Rico. Specific reference to the Canal Zone is omitted as unnecessary, since the Zone is a "possession of the United States" as defined in section 101 of this title and is therefore covered by clause (1).

Subsection (d) is added to note the existence of a later act, codified in §2572 of this title, which provides similar disposal authority, and to give effect to §2 of the Act of February 27, 1948, ch. 76, 62 Stat. 37, which is not now contained in the U.S. Code, and which saves this section despite the apparent implied repeal.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7545 of this title as this section.

**2006**—Subsec. (a)(1). Pub. L. 109–163 struck out "Territory," after "A State,".

**2002**—Subsec. (c). Pub. L. 107–217, as amended by Pub. L. 107–314, substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**2001**—Subsec. (a). Pub. L. 107–107, §1043(a)(1), inserted heading and substituted introductory provisions for provisions which read as follows: "Subject to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of the Navy, under regulations prescribed by him, may lend or give, without expense to the United States, captured, condemned, or obsolete ordnance

material, books, manuscripts, works of art, drawings, plans, and models, other condemned or obsolete material, trophies, and flags, and other material of historic interest not needed by the Department of the Navy, to—".

Subsec. (a)(1) to (12). Pub. L. 107–107, §1043(a)(2), capitalized the first letter after the paragraph designation in each of pars. (1) to (12), substituted a period for a semicolon at end of pars. (1) to (10) and a period for "; or" at end of par. (11), substituted "a foreign war" for "World War I or World War II" in par. (5) and "servicemen's monument" for "soldiers' monument" in par. (6), and inserted "or memorial" after "museum" in par. (8).

Subsecs. (b), (c). Pub. L. 107–107, §1043(b)(2), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 107–107, §1043(b)(1), (c)(1), redesignated subsec. (b) as (d) and inserted heading.

Subsec. (e). Pub. L. 107–107, §1043(b)(1), (c)(2), redesignated subsec. (c) as (e) and inserted heading.

Subsec. (f). Pub. L. 107–107, §1043(b)(3), added subsec. (f).

**1996**—Subsecs. (c), (d). Pub. L. 104–106 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "No loan or gift under this section may be made unless—

"(1) notice of the proposal to make the loan or gift is sent to Congress;

"(2) 30 calendar days of continuous session of Congress have expired after the notice was sent to Congress; and

"(3) during that 30-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed loan or gift."

**1980**—Subsec. (a). Pub. L. 96–513, §513(39), substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)," for "section 486 of title 40".

Subsec. (b). Pub. L. 96–513, §513(40), substituted "section 3301" for "section 366".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(e), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(e)(2) is effective as if included in Pub. L. 107–217 as originally enacted.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8766. Loan or gift of articles to ships' sponsors and donors

The Secretary of the Navy, under regulations prescribed by him and without expense to the United States, may lend or give—

(1) to the sponsor of a vessel the name plate or any small article of negligible or sentimental value from that vessel; and

(2) to any State, group, or organization named in section 8765 of this title any article, material, or equipment, including silver service, given by it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466, §7546; renumbered §8766 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(8), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7546 | 34 U.S.C. 546h (less applicability to 34 U.S.C. 546g). | Aug. 7, 1946, ch. 804, §3 (less applicability to §2), 60 Stat. 898. |

The words "the sponsor" are substituted for the words "any individual who sponsored" for brevity. The word "ship" and the word "person" are omitted as surplusage. The words "the loans or gifts described in this section shall be made" are omitted as unnecessary, and the words "under regulations prescribed by him" are substituted for the words "subject to such rules and regulations as may be prescribed by the Secretary of the Navy" for brevity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(8), renumbered section 7546 of this title as this section.
Par. (2). Pub. L. 115–232, §809(a), substituted "section 8765" for "section 7545".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8767. Equipment for instruction in seamanship: loan to military schools

(a) Upon the application of the governor of any State having a seacoast or bordering on any of the Great Lakes, the President may direct the Secretary of the Navy to lend to one well-established military school in that State that desires to instruct its cadets in elementary seamanship one fully equipped cutter for every 25 cadets attending the school, and such other equipment adequate for instruction in elementary seamanship as may be spared.

(b) To be eligible for a loan under this section a school must—

(1) have adequate facilities for cutter drill;

(2) have at least 75 cadets—

(A) at least 15 years of age;

(B) in uniform;

(C) receiving military instruction; and

(D) quartered in barracks under military regulations; and

(3) have the capacity to quarter and educate 150 cadets at one time.

(c) Whenever a loan is made under this section, the Secretary shall require a bond in double the value of the property for its care and return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466, §7547; renumbered §8767, Pub. L. 115–232, div. A, title VIII, §807(d)(8), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7547 | 34 U.S.C. 1128. | Mar. 3, 1901, ch. 863, 31 Stat. 1440; June 29, 1906, ch. 3612, 34 Stat. 620; June 24, 1910, ch. 378, 36 Stat. 613 (1st par.). |

In subsection (a) the word "lend" is substituted for the word "furnish" because of the provision for return of the equipment. The words "man-of-war's" are omitted as obsolete. The words "attending the school" are substituted for the words "in actual attendance".

In subsection (b) the words "To be eligible for a loan under this section" are added, and the subsection is phrased as a condition.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7547 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 877—QUARTERS, UTILITIES, AND SERVICES

Sec.
8771. Quarters or other accommodations: to whom furnished.
8772. Quarters: accommodations in place for members on sea duty or assigned to duty in connection with commissioning or fitting out of a ship.
8773. Quarters: temporary; transient members.
8776. Quarters: extension telephones.
8777. Quarters: Nurse Corps officers; assignment in hospitals.
8779. Officers' messes and quarters: limitations on employment of enlisted members.
8780. Heat and light for Young Men's Christian Association buildings.
8781. Marine Corps post laundries: disposition of receipts.
8782. Naval and Marine Corps Historical Centers: fee for providing historical information to the public.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 649 of this title as this chapter and items 7571 to 7573, 7576, 7577, and 7579 to 7582 as 8771 to 8773, 8776, 8777, and 8779 to 8782, respectively.

**2011**—Pub. L. 112–81, div. A, title VI, §602(d)(2), Dec. 31, 2011, 125 Stat. 1448, added item 7572 and struck out former item 7572 "Quarters: accommodations in place of for members on sea duty".

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(2), (3)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A–288, 1654A–289, struck out "**RELATED**" before "**SERVICES**" in chapter heading and added item 7582.

**1996**—Pub. L. 104–106, div. A, title XV, §1503(b)(5), Feb. 10, 1996, 110 Stat. 513, substituted "officers" for "Officers" in item 7577.

**1973**—Pub. L. 93–166, title V, §509(d), Nov. 29, 1973, 87 Stat. 678, struck out items 7574 "Quarters: limitations on size" and 7575 "Quarters: exemptions from cost limitations".

**1958**—Pub. L. 85–861, §1(155), Sept. 2, 1958, 72 Stat. 1513, struck out item 7578 "Tableware and kitchen utensils: limitations on furnishing".

## §8771. Quarters or other accommodations: to whom furnished

(a) Under such regulations as the Secretary of the Navy prescribes, public quarters including heat, light, water, and refrigeration may be furnished for personnel in the following categories who are on active duty:

(1) Members of the naval service.

(2) Members of the Coast Guard when it is operating as a service in the Navy.

(3) Members of the National Oceanic and Atmospheric Administration serving with the Navy.

If public quarters are not available for any such member, the Secretary may provide lodging accommodations for him. Lodging accommodations so provided may not be occupied by the member's dependents.

(b) The Secretary may determine in any case whether public quarters are available within the meaning of any provision of law relating to the assignment of or commutation for public quarters.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a), except the authority to prescribe regulations, to any person in the Department of the Navy, with or without authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 467, §7571; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(41), Dec. 12, 1980, 94 Stat. 2935; renumbered §8771, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7571(a) | 34 U.S.C. 911a (less applicability to members on sea duty). | Aug. 2, 1946, ch. 756, §15 (less applicability to members on sea duty), 60 Stat. 854. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, §40(b), 60 Stat. 858. |
| 7571(b) | 34 U.S.C. 911. | July 1, 1918, ch. 114, 40 Stat. 718 (4th par.). |
| 7571(c) | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (a) the words "including members of the Nurse Corps" are omitted as surplusage, and the definition of "naval personnel" in 5 U.S.C. 421g, which is applicable to this subsection, is executed.

In subsection (b) the words "in any case whether public quarters are available" are substituted for the words "where and when there are no public quarters". The words "for persons in the Navy and Marine Corps, or serving therewith" are omitted, since these classes of personnel for whom the Secretary makes the determination of availability are the same as those who may be furnished quarters under subsection (a).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7571 of this title as this section.

**1980**—Subsec. (a)(3). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Subsec. (a)(3). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat.

1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION**

Assessment of members for excess energy consumption in military family housing facilities, see section 507 of Pub. L. 95–82, title V, Aug. 1, 1977, 91 Stat. 372, set out as a note under section 4593 of this title.

## §8772. Quarters: accommodations in place for members on sea duty or assigned to duty in connection with commissioning or fitting out of a ship

(a) If public quarters are not available, the Secretary of the Navy may provide lodging accommodations for any—

(1) member of the naval service;

(2) member of the Coast Guard when it is operating as a service in the Navy; or

(3) member of the National Oceanic and Atmospheric Administration serving with the Navy;

on sea duty or assigned to duty in connection with commissioning or fitting out of a ship who is deprived of his quarters on board ship because of repairs, because the ship is under construction and is not yet habitable, or because of other conditions that make his quarters uninhabitable. Lodging accommodations so provided may not be occupied by the member's dependents.

[(b) Repealed. Pub. L. 105–261, div. A, title X, §1069(a)(7), Oct. 17, 1998, 112 Stat. 2136.]

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a) to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(d)(1) A member of the naval service on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable may be reimbursed for expenses incurred in obtaining housing if it is impracticable to furnish the member with accommodations under subsection (a).

(2) The total amount that a member may be reimbursed under this subsection may not exceed an amount equal to the basic allowance for housing of a member of that member's grade.

(3) This subsection shall not apply to a member who is entitled to basic allowance for housing.

(4) The Secretary may prescribe regulations to carry out this subsection.

(e)(1) The Secretary may reimburse a member of the naval service assigned to duty in connection with commissioning or fitting out of a ship in Pascagoula, Mississippi, or Bath, Maine, who is deprived of quarters on board a ship because the ship is under construction and is not yet habitable, or because of other conditions that make the member's quarters uninhabitable, for expenses incurred in obtaining housing, but only when the Navy is unable to furnish the member with lodging accommodations under subsection (a).

(2) The total amount that a member may be reimbursed under this subsection may not exceed an amount equal to the basic allowance for housing of a member without dependents of that member's grade.

(3) A member without dependents, or a member who resides with dependents while assigned to duty in connection with commissioning or fitting out of a ship at one of the locations specified in paragraph (1), may not be reimbursed under this subsection.

(4) The Secretary may prescribe regulations to carry out this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 468, §7572; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–357, §3, Sept. 24, 1980, 94 Stat. 1182; Pub. L. 96–513, title V, §513(41), Dec. 12, 1980,

94 Stat. 2935; Pub. L. 97–60, title II, §207(b), Oct. 14, 1981, 95 Stat. 1007; Pub. L. 98–94, title IX, §912(a), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98–525, title VI, §§602(d)(3), 603(a), title XIV, §1405(54), Oct. 19, 1984, 98 Stat. 2536, 2537, 2625; Pub. L. 99–145, title VI, §606(a), Nov. 8, 1985, 99 Stat. 638; Pub. L. 99–661, div. A, title VI, §603(a), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 102–190, div. A, title VI, §607(a), (b), Dec. 5, 1991, 105 Stat. 1375; Pub. L. 105–85, div. A, title VI, §603(d)(2)(D), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 105–261, div. A, title X, §1069(a)(7), Oct. 17, 1998, 112 Stat. 2136; Pub. L. 112–81, div. A, title VI, §602(a)–(d)(1), Dec. 31, 2011, 125 Stat. 1447, 1448; Pub. L. 112–239, div. A, title X, §1076(a)(5), Jan. 2, 2013, 126 Stat. 1948; renumbered §8772, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7572(a) | 34 U.S.C. 911a (as applicable to members on sea duty). | Aug. 2, 1946, ch. 756, §15 (as applicable to members on sea duty), 60 Stat. 854. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, §40(b), 60 Stat. 858. |
| 7572(b) | 34 U.S.C. 915. | June 19, 1942, ch. 419, §1, 56 Stat. 371. |
| 7572(c) | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |

In subsection (a) the word "public" is substituted for the words "possessed by the United States" and the subsection is phrased in terms of availability, as it is so interpreted. The itemization of personnel categories for whom quarters may be furnished is inserted to execute the definition of "naval personnel", made applicable to this section by 5 U.S.C. 421g. The requirement in that definition that personnel be on active duty is omitted since this subsection applies only to personnel on sea duty.

In subsection (b) the words "and who is not entitled to basic allowance for quarters" are inserted to make it clear that the entitlement under this subsection, as interpreted, is not in addition to basic allowance for quarters. The words "in obtaining quarters" are inserted for clarity. The words "basic allowance for quarters of an officer of his grade" are substituted for the words "his quarters allowance" because, under the Career Compensation Act of 1949, members without dependents are not entitled to a quarters allowance when on sea duty, and the limitation must be based upon the allowance of an officer of the same grade who is entitled thereto.

In subsection (c) the words "except the authority to prescribe regulations" are omitted, since subsection (a) does not contain such authority.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7572 of this title as this section.

**2013**—Subsec. (a). Pub. L. 112–239 made technical amendment to directory language of Pub. L. 112–81, §602(a)(2). See 2011 Amendment note below.

**2011**—Pub. L. 112–81, §602(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Quarters: accommodations in place of for members on sea duty".

Subsec. (a). Pub. L. 112–81, §602(a)(2), as amended by Pub. L. 112–239, §1076(a)(5), inserted ", because the ship is under construction and is not yet habitable," after "because of repairs" in concluding provisions.

Pub. L. 112–81, §602(a)(1), inserted "or assigned to duty in connection with commissioning or fitting out of a ship" after "sea duty" in concluding provisions.

Subsec. (d)(1). Pub. L. 112–81, §602(b)(1), substituted "A member" for "After the expiration of the authority provided in subsection (b), an officer", "member's quarters" for "officer's quarters", "obtaining housing" for "obtaining quarters", and "the member" for "the officer".

Subsec. (d)(2). Pub. L. 112–81, §602(b)(2), substituted "a member" for "an officer" in two places, "housing" for "quarters", and "member's grade" for "officer's grade".

Subsec. (d)(3). Pub. L. 112–81, §602(b)(3), substituted "a member" for "an officer" and "housing" for

"quarters".

Subsec. (e). Pub. L. 112–81, §602(c), added subsec. (e).

**1998**—Subsec. (b). Pub. L. 105–261 struck out subsec. (b) which authorized reimbursements to members of a uniformed service on sea duty who are deprived of quarters on board because of repairs or because of other conditions, and provided that such authority expire on Sept. 30, 1992.

**1997**—Subsec. (b)(1). Pub. L. 105–85, §603(d)(2)(D)(i), substituted "the basic allowance for housing payable under section 403 of title 37 to a member of the same pay grade without dependents for the period during which the member is deprived of quarters on board ship." for "the total of—

"(A) the basic allowance for quarters payable to a member of the same pay grade without dependents for the period during which the member is deprived of quarters on board ship; and

"(B) the variable housing allowance that could be paid to a member of the same pay grade under section 403a of title 37 at the location where the member is deprived of quarters on board ship for the period during which the member is deprived of quarters on board ship."

Subsec. (b)(2). Pub. L. 105–85, §603(d)(2)(D)(ii), substituted "basic allowance for housing" for "basic allowance for quarters".

**1991**—Subsec. (b). Pub. L. 102–190, §607(a), amended subsec. to read as in effect on Sept. 30, 1991, in par. (3) struck out "$1,421,000 for fiscal year 1986 and" after "may not exceed" and substituted "1992" for "1991", and added par. (4).

Subsec. (d). Pub. L. 102–190, §607(b), added subsec. (d).

**1986**—Subsec. (b)(3). Pub. L. 99–661 substituted "$1,421,000 for fiscal year 1986 and $1,657,000 for each of the fiscal years 1987 through 1991" for "$9,000,000 for fiscal year 1981, $6,300,000 for fiscal year 1982, $1,700,000 for fiscal year 1983, $1,300,000 for fiscal year 1984, $1,421,000 for fiscal year 1985, and $1,421,000 for fiscal year 1986".

**1985**—Subsec. (b)(3). Pub. L. 99–145 added limit of $1,421,000 for fiscal year 1986.

**1984**—Subsec. (b)(1)(B). Pub. L. 98–525, §1405(54), substituted "on board" for "onboard".

Pub. L. 98–525, §602(d)(3), substituted "section 403a" for "section 403".

Subsec. (b)(3). Pub. L. 98–525, §603(a), added limit of $1,421,000 for fiscal year 1985.

**1983**—Subsec. (b)(3). Pub. L. 98–94 added limits of $1,700,000, and $1,300,000 for fiscal years 1983 and 1984, respectively.

**1981**—Subsec. (b). Pub. L. 97–60 amended subsec. (b) generally, dividing existing provisions into numbered paragraphs (1), (2), and (3), inserting in par. (1), provisions relating to the variable housing allowance that could be paid to a member of the same pay grade under section 403 of title 37 at the location where the member is deprived of quarters onboard ship for the period during which the member is deprived of quarters on board ship and, in par. (3), inserting provision setting a limit of $6,300,000 on the total amount of reimbursement for fiscal year 1982.

**1980**—Subsec. (a)(3). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (b). Pub. L. 96–357 substituted reimbursement provision when conditions make uninhabitable quarters aboard ship for member of uniformed services on sea duty limited to basic allowance for quarters of member of same grade without dependents for prior such provision for officer of naval service on sea duty so deprived of quarters and not entitled to basic allowance for quarters and limited to basic allowance for quarters of an officer of his grade, made the member able to reside with dependents ineligible for reimbursement, and limited reimbursements for fiscal year 1981 to $9,000,000.

**1966**—Subsec. (a)(3). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(5) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Pub. L. 102–190, div. A, title VI, §607(c), Dec. 5, 1991, 105 Stat. 1375, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to members of the uniformed services who perform sea duty on or after October 1, 1991."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99–661, div. A, title VI, §603(a), Nov. 14, 1986, 100 Stat. 3874, provided that the amendment made by that section is effective Oct. 1, 1986.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99–190, §101(b) [title VIII, §8102], Dec. 19, 1985, 99 Stat. 1185, 1220, provided that: "The amendments made to section 7572(b)(3) [now 8772(b)(3)] of title 10, United States Code, and to section 3 of Public Law 96–357 (10 U.S.C. 7572 note [now 10 U.S.C. 8772 note]) by section 606 of the Department of Defense Authorization Act, 1986 [Pub. L. 99–145], shall apply to reimbursement of expenses incurred on or after October 1, 1985, by a member of a uniformed service on sea duty."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by section 602(d)(3) of Pub. L. 98–525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98–525, set out as a note under section 403 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97–60, title II, §207(c), Oct. 14, 1981, 95 Stat. 1008, provided that: "The amendments made by this section [amending this section] shall take effect as of October 1, 1981."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE AND TERMINATION DATE OF 1980 AMENDMENT**

Pub. L. 96–357, §3, Sept. 24, 1980, 94 Stat. 1182, as amended by Pub. L. 97–60, title II, §207(a), Oct. 14, 1981, 95 Stat. 1007; Pub. L. 98–94, title IX, §912(b), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98–525, title VI, §603(b), Oct. 19, 1984, 98 Stat. 2537; Pub. L. 99–145, title VI, §606(b), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99–661, div. A, title VI, §603(b), Nov. 14, 1986, 100 Stat. 3874, eff. Oct. 1, 1986, provided that the amendment made by that section is effective only for the period beginning Oct. 1, 1980, and ending Sept. 30, 1991. Pub. L. 99–500, §101(c) [title IX, §9107], Oct. 18, 1986, 100 Stat. 1783–82, 1783–119, and Pub. L. 99–591, §101(c) [title IX, §9107], Oct. 30, 1986, 100 Stat. 3341–82, 3341–119, extended the authority for reimbursement provided pursuant to section 3 of Public Law 96–357 (see above) through Sept. 30, 1987, at an amount not to exceed $1,657,000.

**REPEALS**

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8773. Quarters: temporary; transient members

Temporary quarters may be furnished on a rental basis to transient members of the naval service with their dependents, for periods not exceeding 60 days, without loss of entitlement to basic allowance for housing under section 403 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 468, §7573; Pub. L. 105–85, div. A, title VI, §603(d)(2)(E), Nov. 18, 1997, 111 Stat. 1783; renumbered §8773, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7573 | [None]. | April 4, 1944, ch. 165 (3d proviso on p. 190), 58 Stat. 190. |

The words "That effective December 13, 1943" are omitted as executed. The word "quarters" is substituted for the word "housing" for uniformity. The words "basic allowance for quarters" are substituted for the words "rental allowance or money allowance for quarters" to conform to the terminology of §302 of the Career Compensation Act of 1949 (37 U.S.C. 252).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7573 of this title as this section.

**1997**—Pub. L. 105–85 substituted "basic allowance for housing under section 403 of title 37" for "basic allowance for quarters".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

## §8776. Quarters: extension telephones

(a) Under regulations prescribed by the Secretary of the Navy appropriated funds may be used to pay the cost of installation and use, other than for personal long distance calls, of extension telephones connecting public quarters occupied by personnel in the following categories with the switchboards of their official stations:

(1) Members of the naval service.

(2) Members of the Coast Guard when it is operating as a service in the Navy.

(3) Members of the National Oceanic and Atmospheric Administration serving with the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 469, §7576; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(41), Dec. 12, 1980, 94 Stat. 2935; renumbered §8776, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7576 | 34 U.S.C. 915a. | Aug. 2, 1946, ch. 756, §4, 60 Stat. 853. |

| | | |
|---|---|---|
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |
| | 5 U.S.C. 421g(d). | Aug. 2, 1946, ch. 756, §40(d), 60 Stat. 858. |

In subsection (a) the words "appropriated funds" are substituted for the words "naval appropriations", and the definition of "naval personnel" in 5 U.S.C. 421g, which is applicable to this section, is executed. In executing this definition the words "while on active duty" are omitted as unnecessary, since a member not on active duty would not have an official station within the meaning of this section.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7576 of this title as this section.

**1980**—Subsec. (a)(3). Pub. L. 96–513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

**1966**—Subsec. (a)(3). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8777. Quarters: Nurse Corps officers; assignment in hospitals

Under such regulations as the Secretary of the Navy prescribes, officers in the Nurse Corps may be assigned quarters in naval hospitals.

(Aug. 10, 1956, ch. 1041, 70A Stat. 469, §7577; renumbered §8777, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7577 | 34 U.S.C. 43h(a) (2d proviso, less 1st 21 words). | Apr. 16, 1947, ch. 38, §208(a) (2d proviso, less 1st 25 words), 61 Stat. 50. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7577 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8779. Officers' messes and quarters: limitations on employment of enlisted members

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the naval service and enlisted members of the Coast Guard when it is operating as a service in the Navy may be assigned to duty in a service capacity in officers' messes and public quarters where the Secretary finds that this use of the members is desirable for military reasons.

(b) Notwithstanding any other provision of law, retired enlisted members of the naval service and members of the Fleet Reserve and the Fleet Marine Corps Reserve may, when not on active duty, be voluntarily employed in any service capacity in officers' messes and public quarters without additional expense to the United States.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470, §7579; renumbered §8779, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7579 | 34 U.S.C. 915b(b). | Aug. 2, 1946, ch. 756, §16(b), 60 Stat. 855. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, §39, 60 Stat. 858. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, §40(b), 60 Stat. 858. |

In subsection (a) the words "enlisted members of the naval service and enlisted members of the Coast Guard when it is operating as a service in the Navy" are substituted for the words "enlisted naval personnel" to execute the definition of "naval personnel" made applicable to this section by 5 U.S.C. 421g. The definition in that section also covers personnel of the Coast and Geodetic Survey, but since that service has no enlisted members reference to it is unnecessary. In executing this definition the words "while on active duty" are omitted as unnecessary, since members not on active duty would not be subject to assignment by the Secretary of the Navy.

In subsection (b) the word "transferred" before the words "member of the Fleet Reserve" is omitted as unnecessary, since the categories of such members other than "transferred" have not been administratively used, and authority for them is omitted in this title. The words "and the Fleet Marine Corps Reserve" are added, as the words "Fleet Reserve" are used in a generic sense to cover such members. The words "when not on active duty" are added. When the personnel concerned are on active duty, they are treated in the same manner as others on active duty.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7579 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8780. Heat and light for Young Men's Christian Association buildings

The Secretary of the Navy may furnish, without charge, heat and light to any building of the Young Men's Christian Association located at a naval activity.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470, §7580; renumbered §8780, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7580 | 34 U.S.C. 527. | Mar. 4, 1911, ch. 239, 36 Stat. 1274 (2d proviso). |

The words "naval activity" are substituted for the words "navy yards and stations" to use present terminology and provide the same coverage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7580 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8781. Marine Corps post laundries: disposition of receipts

(a) Money received for laundry work performed by Marine Corps post laundries shall be used to pay the cost of maintenance and operation of those laundries. Any amount remaining at the end of the fiscal year after the cost has been so paid shall be deposited in the Treasury to the credit of the appropriation from which the cost of operating the laundries is paid.

(b) The receipts and expenditures of Marine Corps post laundries shall be accounted for as public funds.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470, §7581; renumbered §8781, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7581 | 34 U.S.C. 724. | July 11, 1919, ch. 9, 41 Stat. 155 (proviso). |

In subsection (a) the words "Marine Corps" are inserted before the words "post laundries" for clarity. The words "maintenance and" are added to the first sentence and the words "maintenance and operation" are omitted from the second sentence.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8781, acts Aug. 10, 1956, ch. 1041, 70A Stat. 542; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 391, authorized Secretary of Air Force to convene at any time a board of officers to review record of any commissioned officer on active list of Regular Air Force to determine whether he should be required, because of substandard performance of duty, to show cause for his retention on active list, prior to repeal by Pub. L. 96–513, title II, §213, Dec. 12, 1980, 94 Stat. 2885, effective Sept. 15, 1981. See section 1181(a) of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7581 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8782. Naval and Marine Corps Historical Centers: fee for providing historical information to the public

(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Navy may charge a person a fee for providing the person with information from the United States Naval Historical Center or the Marine Corps Historical Center that is requested by that person.

(b) EXCEPTIONS.—A fee may not be charged under this section—

(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

(2) for a release of information under section 552 of title 5.

(c) LIMITATION ON AMOUNT.—A fee charged for providing information under this section may not exceed the cost of providing the information.

(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information from the United States Naval Historical Center or the Marine Corps Historical Center in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from that historical center during that fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term "United States Naval Historical Center" means the archive for historical records and materials of the Navy that the Secretary of the Navy designates as the primary archive for such records and materials.

(2) The term "Marine Corps Historical Center" means the archive for historical records and

materials of the Marine Corps that the Secretary of the Navy designates as the primary archive for such records and materials.

(3) The terms "officer of the United States" and "employee of the United States" have the meanings given the terms "officer" and "employee", respectively, in sections 2104 and 2105, respectively, of title 5.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–288, §7582; renumbered §8782, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8782 to 8787 and 8791 to 8797 were repealed by Pub. L. 96–513, title II, §213, Dec. 12, 1980, 94 Stat. 2885, effective Sept. 15, 1981.

Section 8782, acts Aug. 10, 1956, ch. 1041, 70A Stat. 543; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 391, provided for boards of inquiry, composed of three or more officers, to be convened at such places as Secretary of Air Force prescribes, to receive evidence and make findings and recommendations whether an officer, required to show cause under section 8781 of this title, should be retained on active list of Regular Air Force. See section 1182 of this title.

Section 8783, acts Aug. 10, 1956, ch. 1041, 70A Stat. 543; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 391, provided for boards of review, composed of three or more officers, to be convened by Secretary of Air Force, at such places as he prescribes, to review records of cases of officers recommended by boards of inquiry for removal from active list of Regular Air Force.

Section 8784, acts Aug. 10, 1956, ch. 1041, 70A Stat. 543; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 392, authorized Secretary of Air Force to remove an officer from active list of Regular Air Force if his removal is recommended by a board of review and provided that decision of Secretary in such case is final and conclusive. See section 1184 of this title.

Section 8785, acts Aug. 10, 1956, ch. 1041, 70A Stat. 543; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 392, provided that each officer under consideration for removal from active list of Regular Air Force under this chapter, be given written notification, at least 30 days prior to a board of inquiry hearing, that he is being required to show cause for retention on active list, be allowed reasonable time to prepare a defense, be allowed to appear in person and by counsel at proceedings before a board of inquiry, and be allowed full access to, and furnished copies of, records relevant to his case at all stages of the proceeding. See section 1185 of this title.

Section 8786, acts Aug. 10, 1956, ch. 1041, 70A Stat. 544; July 12, 1960, Pub. L. 86–616, §7(a), 74 Stat. 392, authorized Secretary of Air Force, at any time during proceedings under this chapter and before removal of an officer from active list of Regular Air Force, to grant that officer's request for voluntary retirement, if he is otherwise qualified therefor, or for honorable discharge with severance benefits. See section 1186 of this title.

Section 8787, added Pub. L. 86–616, §7(a), July 12, 1960, 74 Stat. 392, provided that no officer serve on a board under this chapter unless he holds a regular or temporary grade above lieutenant colonel, and is senior in regular grade to, and outranks, any officer considered by that board and that no person be a member of more than one board convened under this chapter for same officer. See section 1187 of this title.

Section 8791, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 393, authorized Secretary of Air Force to convene at any time a board of general officers to review record of any commissioned officer on active list of Regular Air Force to determine whether he should be required, because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active list. See section 1181(b) of this title.

Section 8792, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 393, provided for boards of inquiry, composed of three or more general officers, to be convened at such places as Secretary of Air Force prescribes, to receive evidence and make findings and recommendations whether an officer, required to show cause under section 8791 of this title, should be retained on active list of the Regular Air Force. See section 1182 of this title.

Section 8793, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 393, provided for boards of review, composed of three or more general officers, to be convened by Secretary of Air Force, at such places as he prescribes, to review the records of cases of officers recommended by boards of inquiry for removal from active list of Regular Air Force.

Section 8794, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 394, authorized Secretary of Air Force

to remove an officer from active list of Regular Air Force if his removal is recommended by a board of review and provided that decision of Secretary in such a case is final and conclusive. See section 1184 of this title.

Section 8795, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 394, provided that each officer under consideration for removal from active list of Regular Air Force under this chapter be given written notification, at least 30 days prior to a board of inquiry hearing, that he is being required to show cause for retention on active list, be allowed reasonable time to prepare a defense, be allowed to appear in person and by counsel at proceedings before the board of inquiry, and be allowed full access to, and furnished copies of, records relevant to his case at all stages of the proceedings, except records that the Secretary determines be withheld in interests of national security, in which case, a summary, to the extent national security permits, be furnished. See section 1185 of this title.

Section 8796, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 394, authorized Secretary of Air Force, at any time during proceedings under this chapter and before removal of an officer from active list of Regular Air Force, to grant that officer's request for voluntary retirement, if he is otherwise qualified therefor, or for honorable discharge with severance benefits. See section 1186 of this title.

Section 8797, added Pub. L. 86–616, §8(a), July 12, 1960, 74 Stat. 394, provided that no officer serve on a board under this chapter unless he holds a regular or temporary grade above lieutenant colonel, and is senior in regular grade to, and outranks, any officer considered by that board and that no person be a member of more than one board convened under this chapter for the same officer. See section 1187 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7582 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 879—SHIPS' STORES AND COMMISSARY STORES

Sec.
8801. Sales: members of the naval service and Coast Guard; widows and widowers; civilian employees and other persons.
8802. Sales: members of Army, Air Force, and Space Force; prices.
8803. Sales: veterans under treatment.
8804. Ships' stores: sale of goods and services.
8805. Acceptance of Government checks outside the United States.
8806. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title IX, §924(d)(2)(C), Jan. 1, 2021, 134 Stat. 3826, added item 8802 and struck out former item 8802 "Sales: members of Army and Air Force; prices".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 651 of this title as this chapter and items 7601 to 7606 as 8801 to 8806, respectively.

**1996**—Pub. L. 104–106, div. A, title III, §375(a)(2), Feb. 10, 1996, 110 Stat. 283, added item 7606.

**1990**—Pub. L. 101–510, div. A, title III, §329(a)(2), Nov. 5, 1990, 104 Stat. 1534, amended item 7604 generally, substituting "Ships' stores: sale of goods and services" for "Profits: ships' stores".

**1985**—Pub. L. 99–145, title XIII, §1301(c)(3)(C), Nov. 8, 1985, 99 Stat. 736, inserted "the" before "naval service" and "and widowers" after "widows" in item 7601.

## §8801. Sales: members of the naval service and Coast Guard; widows and

## widowers; civilian employees and other persons

(a) Such stores as the Secretary of the Navy designates may be procured and sold to members of the naval service, members of the Coast Guard, and widows and widowers of such members.

(b) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of naval activities.

However, sales to civilian officers and employees inside the United States may be made only to those residing within military installations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470, §7601; Pub. L. 99–145, title XIII, §1301(c)(3)(A), (B), Nov. 8, 1985, 99 Stat. 736; renumbered §8801, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7601(a) | 34 U.S.C. 533. | Mar. 3, 1909, ch. 255, 35 Stat. 768 (1st proviso); Apr. 14, 1937, ch. 78, 50 Stat. 63; June 10, 1939, ch. 196, 53 Stat. 814; Jan. 23, 1942, ch. 15, 56 Stat. 13; Apr. 9, 1943, ch. 39, 57 Stat. 60; Aug. 8, 1953, ch. 390, §2, 67 Stat. 499. |
| 7601(b) | 34 U.S.C. 533a. | Aug. 8, 1953, ch. 390, §1 (as applicable to Secretary of the Navy), 67 Stat. 499. |

In subsection (a) the words "members of the naval service" are substituted for the words "officers and enlisted men of the Navy, Marine Corps".

In subsection (b) the word "outside" is substituted for the words "beyond the continental limitations". The words "or in Alaska" are omitted, since, in section 101(1) of this title, the words, "United States" are defined to include only the States and the District of Columbia. The word "continental", after the words "within the", is omitted for the same reason. The last sentence is substituted for 34 U.S.C. 533a (proviso).

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7601 of this title as this section.

**1985**—Pub. L. 99–145, §1301(c)(3)(B), inserted "the" before "naval service" and "and widowers" after "widows" in section catchline.

Subsec. (a). Pub. L. 99–145, §1301(c)(3)(A), inserted "and widowers" after "widows".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8802. Sales: members of Army, Air Force, and Space Force; prices

The Navy and the Marine Corps shall sell subsistence supplies to any member of the Army, the Air Force, or the Space Force at prices charged members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471, §7602; renumbered §8802, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title IX, §924(d)(2)(A), (B), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7602 | 34 U.S.C. 538. | Aug. 29, 1916, ch. 418, §1, 39 Stat. 630 (less words before semicolon of 3d proviso under "Subsistence of the Army"). |

This section is expanded to cover sales to members of the Air Force, as authorized by §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171l).

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "Sales: members of Army, Air Force, and Space Force; prices" for "Sales: members of Army and Air Force; prices" in section catchline and ", the Air Force, or the Space Force" for "or the Air Force" in text.

**2018**—Pub. L. 115–232 renumbered section 7602 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8803. Sales: veterans under treatment

A person who has been separated honorably or under honorable conditions from the Army, the Navy, the Air Force, the Marine Corps, the Space Force, or the Coast Guard and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, from the Navy and the Marine Corps at prices charged members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471, §7603; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; renumbered §8803, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title IX, §924(d)(3), Jan. 1, 2021, 134 Stat. 3826; Pub. L. 118–159, div. A, title VI, §642, Dec. 23, 2024, 138 Stat. 1938.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7603 | 34 U.S.C. 536. | June 5, 1920, ch. 240 (par. under "Purchase of Army Stores by Discharged Receiving Treatment from the Public Health Service"), 41 Stat. 976. |

The word "separated" is substituted for the word "discharged". The words "under honorable conditions" are added since this provision is interpreted as benefiting personnel discharged under honorable conditions. The words "Air Force" are supplied under the authority of §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171l). The words "Veterans' Administration" are added under the authority of the Act of August 9, 1921, ch. 57, 42 Stat. 148, which transferred care of veterans to the Veterans' Bureau, the Act of June 7, 1924, ch. 320, 43 Stat. 610, which transferred all hospitals under the jurisdiction of the Public Health Service to the Veterans' Bureau, and the Act of July 3, 1930, ch. 863, §1, 46 Stat. 1016, under which the President by Executive Order No. 5398, July 21, 1930, transferred the Veterans' Bureau to the Veterans' Administration. The words "while undergoing such care and treatment" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159 substituted ", the Space Force, or the Coast Guard" for ", or the Space Force".
**2021**—Pub. L. 116–283 substituted "the Marine Corps, or the Space Force" for "or the Marine Corps".
**2018**—Pub. L. 115–232 renumbered section 7603 of this title as this section.
**1989**—Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8804. Ships' stores: sale of goods and services

(a) IN GENERAL.—Under such regulations and at such prices as the Secretary of the Navy may prescribe, the Secretary may provide for the sale of goods and services from ships' stores to members of the naval service and to such other persons as provided by law.

(b) INCIDENTAL SERVICES.—The Secretary of the Navy may provide financial services, space, utilities, and labor to ships' stores on a nonreimbursable basis.

(c) ITEMS SOLD.—Merchandise sold by ship stores afloat may include items in the following categories:

(1) Health, beauty, and barber items.
(2) Prerecorded music and videos.
(3) Photographic batteries and related supplies.
(4) Appliances and accessories.
(5) Uniform items, emblematic and athletic clothing, and equipment.
(6) Luggage and leather goods.
(7) Stationery, magazines, books, and supplies.
(8) Sundry, games, and souvenirs.
(9) Beverages and related food and snacks.
(10) Laundry, tailor, and cleaning supplies.
(11) Tobacco products.

(Added Pub. L. 101–510, div. A, title III, §329(a)(1), Nov. 5, 1990, 104 Stat. 1534, §7604; amended

Pub. L. 103–160, div. A, title III, §371(a), formerly §371(c), Nov. 30, 1993, 107 Stat. 1635, renumbered §371(a), Pub. L. 104–106, div. A, title III, §340(a)(2), Feb. 10, 1996, 110 Stat. 265; Pub. L. 112–81, div. A, title VI, §641, Dec. 31, 2011, 125 Stat. 1466; renumbered §8804, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7604 of this title as this section.

**2011**—Subsec. (c). Pub. L. 112–81 substituted "may" for "shall" in introductory provisions.

**1993**—Pub. L. 103–160 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. A, title III, §371(b), formerly §371(d), Nov. 30, 1993, 107 Stat. 1635, renumbered §371(b) by Pub. L. 104–106, div. A, title III, §340(a)(2), Feb. 10, 1996, 110 Stat. 265; as amended by Pub. L. 103–337, div. A, title III, §374(b), Oct. 5, 1994, 108 Stat. 2736, provided that: "Subsections (b) and (c) of section 7604 [now 8804] of title 10, United States Code, as added by subsection (c) [now (a)], shall take effect on October 1, 1994."

### REGULATIONS

Pub. L. 101–510, div. A, title III, §329(a)(3), Nov. 5, 1990, 104 Stat. 1534, provided that: "The regulations required to be prescribed under section 7604 [now 8804] of title 10, United States Code (as amended by paragraph (1)), shall be first prescribed not later than 90 days after the date of the enactment of this Act [Nov. 5, 1990]."

## §8805. Acceptance of Government checks outside the United States

Notwithstanding section 3302(a) of title 31, the Secretary of the Navy may authorize the officer in charge of any commissary store or ship's store ashore located outside the United States to—

(1) accept any Government check tendered by a retired member of the Navy or the Marine Corps, a member of the Navy Reserve or the Marine Corps Reserve, or a member of the Fleet Reserve or the Fleet Marine Corps Reserve, if the member is the payee of the check and the check is tendered in payment of amounts due from the member to the store; and

(2) refund in cash any difference between the amount due and the amount of the tendered check.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471, §7605; Pub. L. 96–513, title V, §513(42), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 97–258, §3(b)(10), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 109–163, div. A, title V, §515(b)(1)(V), Jan. 6, 2006, 119 Stat. 3233; renumbered §8805, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7605 | 34 U.S.C. 552. | July 15, 1939, ch. 285, 53 Stat. 1043. |

Since the authority of this section to refund any cash balance extends only to the payee of a check, the section is written to authorize only the payee to cash it. The Fleet Reserve and the Fleet Marine Corps Reserve were parts of the Naval Reserve and the Marine Corps Reserve, respectively, when the source statute was

enacted but were removed therefrom by the Armed Forces Reserve Act of 1952. The words "or a member of the Fleet Reserve or the Fleet Marine Corps Reserve" are inserted in clause (1) to give this section the same applicability as the source.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7605 of this title as this section.

**2006**—Par. (1). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1982**—Pub. L. 97–258 substituted "section 3302(a) of title 31" for "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)".

**1980**—Pub. L. 96–513 substituted "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)" for "sections 521 and 543 of title 31".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §8806. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a)(1) The Secretary of the Navy shall procure and sell, for cash or credit—

(A) articles designated by the Secretary to members of the Navy and Marine Corps; and

(B) items of individual clothing and equipment to members of the Navy and Marine Corps,

under such restrictions as the Secretary may prescribe.

(2) An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

(c) The Secretary may sell serviceable supplies, other than subsistence supplies, to members of other armed forces for the buyers' use in the service. The prices at which the supplies are sold shall be the same prices at which like property is sold to members of the Navy and Marine Corps.

(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, Marine Corps, or Space Force and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to members of the Navy and Marine Corps.

(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged honorably or under honorable conditions from the Navy or Marine Corps, at the prices at which like articles are sold to members of the Navy or Marine Corps. This subsection does not modify section 772 or 773 of this title.

(f) Under regulations prescribed by the Secretary, payment for subsistence supplies shall be made in cash or by commercial credit.

(g)(1) The Secretary may provide for the procurement and sale of stores designated by the

Secretary to such civilian officers and employees of the United States, and such other persons, as the Secretary considers proper—

(A) at military installations outside the United States; and

(B) subject to paragraph (2), at military installations inside the United States where the Secretary determines that it is impracticable for those civilian officers, employees, and persons to obtain such stores from commercial enterprises without impairing the efficient operation of military activities.

(2) Sales to civilian officers and employees inside the United States may be made under paragraph (1) only to civilian officers and employees residing within military installations.

(h) Appropriations for subsistence of the Navy or Marine Corps may be applied to the purchase of subsistence supplies for sale to members of the Navy and Marine Corps on active duty for the use of such members and their families.

(Added Pub. L. 104–106, div. A, title III, §375(a)(1), Feb. 10, 1996, 110 Stat. 281, §7606; amended Pub. L. 105–85, div. A, title X, §1073(a)(63), Nov. 18, 1997, 111 Stat. 1903; renumbered §8806, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title IX, §924(d)(4), Jan. 1, 2021, 134 Stat. 3826.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8811 to 8813 were repealed by Pub. L. 90–235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 8811, act Aug. 10, 1956, ch. 1041, 70A Stat. 544, provided for discharge of enlisted members of Air Force and limitations thereon, and for issuance of discharge certificates. See section 1169 of this title.

Section 8812, act Aug. 10, 1956, ch. 1041, 70A Stat. 544, provided for discharge of members of Air Force enlisted during war or emergency. See section 1172 of this title.

Section 8813, act Aug. 10, 1956, ch. 1041, 70A Stat. 544, provided for dependency discharges for enlisted members of Air Force.

A prior section 8814, act Aug. 10, 1956, ch. 1041, 70A Stat. 545, authorized Secretary of Air Force to discharge a regular commissioned officer who has less than three years of continuous service as a commissioned officer therein, provided that such officer not be dismissed because of his marriage, unless marriage occurred within one year after date of his original appointment, prior to repeal by Pub. L. 96–513, title II, §214, Dec. 12, 1980, 94 Stat. 2885, effective Sept. 15, 1981. See section 630 of this title

Prior sections 8815 and 8816 were repealed by Pub. L. 90–235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 8815, act Aug. 10, 1956, ch. 1041, 70A Stat. 545, provided for resignation of regular enlisted members of Air Force enlisted on a career basis and limitations thereon.

Section 8816, act Aug. 10, 1956, ch. 1041, 70A Stat. 545, provided for minority discharges for regular enlisted members of Air Force. See section 1170 of this title.

A prior section 8817 was renumbered section 9307 of this title.

A prior section 8818, act Aug. 10, 1956, ch. 1041, 70A Stat. 545, authorized Secretary of Air Force, under regulations prescribed by President, to terminate appointment or enlistment of any female member of Regular Air Force, provided that appointment of a commissioned officer not be terminated by dismissal, prior to repeal by Pub. L. 96–513, title II, §236, Dec. 12, 1980, 94 Stat. 2887, effective Sept. 15, 1981.

Prior sections 8819 and 8820 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(2), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8819, added Pub. L. 85–861, §1(191)(A), Sept. 2, 1958, 72 Stat. 1534; amended Pub. L. 86–559, §1(65), June 30, 1960, 74 Stat. 278; Pub. L. 98–525, title V, §528(d), Oct. 19, 1984, 98 Stat. 2526; Pub. L. 104–106, div. A, title XV, §1501(c)(32), (33), Feb. 10, 1996, 110 Stat. 500, related to discharge of officers of Air Force Reserve or Air National Guard of United States for failure of promotion to first lieutenant. See section 14503 of this title.

Section 8820, act Aug. 10, 1956, ch. 1041, 70A Stat. 546, related to discharge and withdrawal of Federal recognition of officers of Air National Guard of United States absent without leave. See section 14907 of this title.

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283, which directed substitution of ", Air Force, Marine Corps, or Space Force" for "or Air Force or Marine Corps", was executed by making the substitution for ", Air Force or Marine Corps" to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232 renumbered section 7606 of this title as this section.

**1997**—Subsec. (e). Pub. L. 105–85 substituted "section" for "sections".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 881—CLAIMS

Sec.
8821. Definitions.
8822. Admiralty claims against the United States.
8823. Admiralty claims by the United States.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 653 of this title as this chapter and items 7621 to 7623 as 8821 to 8823, respectively.

**1962**—Pub. L. 87–769, §1(2)(B), Oct. 9, 1962, 76 Stat. 768, struck out item 7625 "Claims against the United States: private property; loss or damage".

**1960**—Pub. L. 86–533, §1(10)(B), June 29, 1960, 74 Stat. 247, struck out item 7624 "Reports to Congress".

## §8821. Definitions

(a) In this chapter "vessel in the naval service" means—

(1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or

(2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.

(b) In this chapter "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472, §7621; renumbered §8821, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7621 | 46 U.S.C. 793. | July 3, 1944, ch. 399, §3, 58 Stat. 724. |

In subsection (a) the words "vessel in the naval service" are substituted for the words "vessels of the Navy or in the naval service". The defined term is used throughout the chapter, and by definition includes vessels of the Navy. The words "when the Coast Guard is operating as a service in the Navy" are substituted for the words "the Coast Guard when operating as a part of the Navy" to conform to the terminology of 14 U.S.C. 3.

Subsection (b) is inserted for clarity, and is based on the source laws for this revised chapter.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7621 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8822. Admiralty claims against the United States

(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than $15,000,000 an admiralty claim against the United States for—

(1) damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service or to other property under the jurisdiction of the Department of the Navy; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.

(b) If a claim under this section is settled or compromised for more than $15,000,000, the Secretary shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $1,000,000, the Secretary may delegate his authority under this section to any person designated by him.

(d) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472, §7622; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 92–417, §1(5), Aug. 29, 1972, 86 Stat. 654; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; Pub. L. 107–107, div. A, title X, §1014(a), Dec. 28, 2001, 115 Stat. 1212; renumbered §8822, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7622 | 46 U.S.C. 797. | July 3, 1944, ch. 399, §7, 58 Stat. 726. |
| | 46 U.S.C. 799. | July 3, 1944, ch. 399, §9; added Aug. 2, 1946, ch. 739, 60 Stat. 803. |

In subsection (a) the words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in §7621(b) of this title. The words "vessel in the naval service" are substituted for the words "vessels of the Navy or in the naval service", in view of the definition in §7621(a) of this title. The words "pay in an amount not more than $1,000,000, a claim" are substituted for the words "pay the amount of any claim, so determined, compromised, or settled" and for the words "the payment of any claim on which a net amount exceeding $1,000,000 is determined to be due from the United States, or which is compromised or

settled at a net amount exceeding $1,000,000 payable by the United States, shall not be authorized by this section".

In subsection (c) the words "In any case where the amount to be paid is not more than" are substituted for the words "When the net amount paid in settlement does not exceed" for clarity, since the delegation necessarily precedes payment. The words "the Secretary may delegate his authority" are substituted for the words "the authority of the Secretary of the Navy * * * may be exercised by" for clarity.

In subsection (d) the words "but not until then", "for all purposes", and "to the contrary" are omitted as surplusage.

The first proviso in 46 U.S.C. 797, stating that this section is supplementary to, and not in lieu of, other laws authorizing the settlement of claims, is omitted as unnecessary, since the other applicable claims laws are restated in this title. The second proviso, forbidding consideration of claims for more than $3,000 if they accrued before Sept. 8, 1939, is omitted as obsolete. It was designed to avoid reviving stale claims upon enactment of the source law on July 3, 1944. However, as a matter of practice, no claims are settled under this authority which are more than two years old, in line with the two-year statute of limitations contained in the Suits in Admiralty Act and the Public Vessels Act. This limitation has been officially publicized in the Federal Register for May 22, 1947, p. 3296, and in 32 C.F.R. 752. The third proviso in 46 U.S.C. 797 is omitted as unnecessary, since the appropriation named therein no longer exists, and the payments are now made from appropriations for the Department of Defense.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7622 of this title as this section.

**2001**—Subsecs. (a), (b). Pub. L. 107–107, §1014(a)(1), substituted "$15,000,000" for "$1,000,000".

Subsec. (c). Pub. L. 107–107, §1014(a)(2), substituted "$1,000,000" for "$100,000".

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".

**1972**—Subsec. (a). Pub. L. 92–417 substituted "an admiralty claim against the United States" for "a claim against the United States" in text preceding par. (1), in par. (1) inserted "or by other property under the jurisdiction of the Department of the Navy", in par. (2) inserted "or to other property under the jurisdiction of the Department of the Navy", and added par. (3).

**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title X, §1014(c), Dec. 28, 2001, 115 Stat. 1212, provided that: "The amendments made by this section [amending this section and section 7623 of this title] shall apply with respect to any claim accruing on or after February 1, 2001."

## §8823. Admiralty claims by the United States

(a) The Secretary of the Navy may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Navy or property for which the Department has assumed an obligation to respond for damage, if—

(1) the claim is—

(A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or

(B) for damage caused by a vessel or floating object; and

(2) the net amount to be received by the United States is not more than $15,000,000.

(b)(1) In exchange for payment of an amount found to be due the United States under this section, the Secretary may execute a release of the claim on behalf of the United States.

(2)(A) Except as provided in subparagraph (B), amounts received under this section shall be covered into the Treasury as miscellaneous receipts.

(B) Amounts received under this section for damage or loss to property operated and maintained with funds from a Department of Defense working capital fund or account shall be credited to that fund or account.

(c) In any case where the amount to be received by the United States is not more than $1,000,000, the Secretary may delegate his authority under this section to any person designated by him.

(d) Upon acceptance of payment by the Secretary, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

(e) This section does not apply to any claim while there is pending as to that claim a suit filed by or against the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472, §7623; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; Pub. L. 107–107, div. A, title X, §1014(b), Dec. 28, 2001, 115 Stat. 1212; Pub. L. 110–417, [div. A], title X, §1032, Oct. 14, 2008, 122 Stat. 4591; renumbered §8823, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7623 | 34 U.S.C. 600a. | Dec. 5, 1945, ch. 555, §1, 59 Stat. 596. |
| | 34 U.S.C. 600d. | Dec. 5, 1945, ch. 555, §4; added Aug. 2, 1946, ch. 742, 60 Stat. 806. |
| | 34 U.S.C. 600c. | Dec. 5, 1945, ch. 555, §3, 59 Stat. 596. |

In subsection (a) the words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 7621(b) of this title. The words "of the United States" (following the word "property"), "by contract or otherwise", and "thereto" are omitted as surplusage. The words "of a kind that is within the admiralty jurisdiction of" are substituted for the words "cognizable in admiralty in". The words "receive payment of a claim * * * if the net amount to be received by the United States is not more than $1,000,000" are substituted for the words "receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized * * * *Provided, further*, That no settlement or compromise where there is involved a payment in the net amount of over $1,000,000 shall be authorized by this Act".

In subsection (b) the words "and to deliver" are omitted as covered by the word "execute". The words "Amounts received under this section" are substituted for the words "All such payments" for clarity and uniformity. The words "of the United States as miscellaneous receipts" are omitted as surplusage.

In subsection (c) the words "In any case where the amount to be received by the United States is not more than" are substituted for the words "Where the net amount received in settlement does not exceed" for clarity, since the delegation of authority necessarily precedes receipt of payment. The words "the Secretary may delegate his authority" are substituted for the words "the authority of the Secretary of the Navy * * * may be exercised" for clarity.

In subsection (d) the words "but not until then", "for all purposes", and "to the contrary" are omitted as surplusage.

Subsection (e) is worded to insure that the effect of a suit pending at any time is preserved and that the provision is not interpreted to apply only to suits that are pending on the date of enactment of this title.

The first proviso of 34 U.S.C. 600a, stating that this section is supplementary to, and not in lieu of, other laws authorizing the settlement of claims, is omitted as unnecessary, since the other applicable claims laws are restated in this title.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8841 and 8842, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1535, related to separation or transfer to Retired Reserve of female reserve nurses and medical specialists at age 50 if in a Reserve grade below major and at age 55 if in a Reserve grade above captain, prior to repeal by Pub. L. 86–559, §1(66), June 30, 1960, 74 Stat. 278.

Prior sections 8843 to 8846 were repealed by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8843, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1535; amended Pub. L. 86–599, §1(67), June 30, 1960, 74 Stat. 278, related to transfer or discharge of reserve commissioned officers 60 years of age and below grade of major general. See section 14510 of this title.

Section 8844, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1535; amended Pub. L. 86–559, §1(68), June 30, 1960, 74 Stat. 279, related to transfer or discharge of certain reserve major generals who are 62 years of age. See section 14511 of this title.

Section 8845, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1535; amended Pub. L. 86–559, §1(69), June 30, 1960, 74 Stat. 279; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of certain reserve officers of Air Force who are 64 years of age. See section 14512(a) of this title.

Section 8846, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1536; amended Pub. L. 104–106, div. A, title XV, §1501(c)(32), Feb. 10, 1996, 110 Stat. 500, related to transfer or discharge of deferred officers.

A prior section 8847, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1536; amended Pub. L. 86–559, §1(70), June 30, 1960, 74 Stat. 279, provided for mandatory retirement of female commissioned officers, Air Force nurses, and medical specialists on active duty in a Reserve grade below lieutenant colonel after completion of 25 years of service computed under former section 8853, prior to repeal by Pub. L. 90–130, §1(31)(A), Nov. 8, 1967, 81 Stat. 382.

A prior section 8848, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1536; amended Pub. L. 86–559, §1(71), June 30, 1960, 74 Stat. 279; Pub. L. 90–130, §1(31)(B), Nov. 8, 1967, 81 Stat. 382; Pub. L. 90–486, §9(2), Aug. 13, 1968, 82 Stat. 760; Pub. L. 96–513, title V, §514(7), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 99–145, title V, §522(b)(1), title XIII, §1303(a)(27)(A), Nov. 8, 1985, 99 Stat. 632, 740, related to transfer or discharge of reserve first lieutenants, captains, majors, and lieutenant colonels with 28 years of service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14501 et seq. of this title.

A prior section 8849, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1536, related to separation or transfer to Retired Reserve of female reserve lieutenant colonels, except those designated under former section 8067 of this title, upon completion of 28 years of service, prior to repeal by Pub. L. 86–559, §1(72), June 30, 1960, 74 Stat. 279.

A prior section 8850, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1537; amended Pub. L. 90–168, §2(22), Dec. 1, 1967, 81 Stat. 525; Pub. L. 104–106, div. A, title XV, §1501(c)(25), Feb. 10, 1996, 110 Stat. 499, related to transfer or discharge of excessive reserve commissioned officers in active status with 30 or more years of service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See sections 14514 and 14704 of this title.

## AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7623 of this title as this section.

**2008**—Subsec. (b). Pub. L. 110–417 designated existing provisions as par. (1), struck out last sentence which read "Amounts received under this section shall be covered into the Treasury.", and added par. (2).

**2001**—Subsec. (a)(2). Pub. L. 107–107, §1014(b)(1), substituted "$15,000,000" for "$1,000,000".

Subsec. (c). Pub. L. 107–107, §1014(b)(2), substituted "$1,000,000" for "$100,000".

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".

**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 applicable with respect to any claim accruing on or after Feb. 1, 2001, see

section 1014(c) of Pub. L. 107–107, set out as a note under section 8822 of this title.

# CHAPTER 883—PRIZE

Sec.
8851. Scope of chapter.
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8880. Appeals and amendments in prize causes.
8881. Reciprocal privileges to cobelligerent.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 655 of this title as this chapter and items 7651 to 7681 as 8851 to 8881, respectively.

## §8851. Scope of chapter

(a) This chapter applies to all captures of vessels as prize during war by authority of the United States or adopted and ratified by the President. However, this chapter does not affect the right of the Army, the Air Force, or the Space Force, while engaged in hostilities, to capture wherever found and without prize procedure—

(1) enemy property; or

(2) neutral property used or transported in violation of the obligations of neutrals under international law.

(b) As used in this chapter—
(1) "vessel" includes aircraft; and
(2) "master" includes the pilot or other person in command of an aircraft.

(c) Property seized or taken upon the inland waters of the United States by its naval forces is not maritime prize. All such property shall be delivered promptly to the proper officers of the courts.
(d) Nothing in this chapter may be construed as contravening any treaty of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474, §7651; renumbered §8851, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title IX, §924(d)(5), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7651(a) | 34 U.S.C. 1131 (less 1st proviso). | R.S. 4613 (less 1st proviso); June 24, 1941, ch. 232, 55 Stat. 261. |
| | 34 U.S.C. 1159 (as applicable to capture). | Aug. 18, 1942, ch. 553, §1 (as applicable to capture), 56 Stat. 746; July 1, 1944, ch. 370, §1, 58 Stat. 678; Nov. 14, 1945, ch. 472, §1, 59 Stat. 581. |
| 7651(b) | 34 U.S.C. 1131 (1st proviso). | R.S. 4613 (1st proviso); June 24, 1941, ch. 232, 55 Stat. 261. |
| | 34 U.S.C. 1132. | R.S. 4614; June 24, 1941, ch. 232, 55 Stat. 261. |
| 7651(c) | 50 U.S.C. 214. | R.S. 5310. |
| 7651(d) | 34 U.S.C. 1158 (last sentence). | R.S. 4652 (last sentence). |

In subsection (a) the words "including aircraft" are omitted as covered by subsection (b). The section is written to make the words "during war" applicable to the entire chapter. These words appear in 34 U.S.C. 1159, but not in 34 U.S.C. 1131. Prize is historically and uniformly treated as a war-time matter, so no substantive change results from the extension. The words "this chapter does not affect" are substituted for the words "nothing herein contained shall be construed as affecting, or in any way impairing". The words "Air Force" are added under authority of §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171l), to provide the same applicability as formerly provided by the word "Army". The word "legal" is omitted as surplusage.

In subsection (b) the definition of the term "ship" is omitted as covered by the term "vessel". All of 34 U.S.C. 1132 except that part which includes "aircraft" within the term "vessels" is omitted as unnecessary since the defined term "vessels of the Navy" does not appear in the provisions to which the definition is made applicable. The last sentence of 34 U.S.C. 1158 applies only to Title LIV (Prize) of the Revised Statutes. In subsection (d) it is broadened to cover the entire body of statutory prize law. Additions to the prize law made by the Act of August 18, 1942, ch. 553, 56 Stat. 746, as amended, operated only to extend the jurisdiction of courts of the United States to certain cases in which the prizes are not brought into the territorial waters of the United States. Relations of this country with other countries are not affected by the 1942 Act except when jurisdiction is exercised by American courts over prizes brought into cobelligerent ports. As that Act provides that the consent of the cobelligerent is necessary to the exercise of such jurisdiction, the rule against contravention of treaties is properly applied to it.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8851, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1537; amended Pub. L. 86–559, §1(73), June 30, 1960, 74 Stat. 280; Pub. L. 90–83, §3(6), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90–486, §9(2), Aug. 13, 1968, 82 Stat. 760; Pub. L. 96–513, title V, §514(7), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 98–525, title XIV, §1405(55), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 99–145, title V, §522(b)(2), title

XIII, §1303(a)(27)(B), Nov. 8, 1985, 99 Stat. 632, 740; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve lieutenant colonels, colonels, and brigadier generals with 30 years of service or five years in grade, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 substituted ", the Air Force, or the Space Force" for "or the Air Force".
**2018**—Pub. L. 115–232 renumbered section 7651 of this title as this section.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8852. Jurisdiction

(a) The United States district courts have original jurisdiction, exclusive of the courts of the States, of each prize and each proceeding for the condemnation of property taken as prize, if the prize is—

(1) brought into the United States, or the Commonwealths or possessions;

(2) brought into the territorial waters of a cobelligerent;

(3) brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States; or

(4) appropriated for the use of the United States.

(b) The United States district courts, exclusive of the courts of the States, also have original jurisdiction of a prize cause in which the prize property—

(1) is lost or entirely destroyed; or

(2) cannot be brought in for adjudication because of its condition.

(c) The jurisdiction conferred by this section of prizes brought into the territorial waters of a cobelligerent may not be exercised, nor may prizes be appropriated for the use of the United States within those territorial waters, unless the government having jurisdiction over those waters consents to the exercise of the jurisdiction or to the appropriation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474, §7652; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; renumbered §8852, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7652(a) | 34 U.S.C. 1159 (less applicability to capture). | Aug. 18, 1942, ch. 553, §1 (less applicability to capture), 56 Stat. 746; July 1, 1944, ch. 370, §1, 58 Stat. 678; Nov. 14, 1945, ch. 472, §1, 59 Stat. 581. |
| | 34 U.S.C. 1164 (2d sentence). | Aug. 18, 1942, ch. 553, §6 (less 1st sentence), 56 Stat. 747. |
| 7652(c) | 34 U.S.C. 1166. | Aug. 18, 1942, ch. 553, §8, 56 Stat. 747. |
| | 34 U.S.C. 1161. | Aug. 18, 1942, ch. 553, §3, 56 Stat. 746. |

Subsection (a) reflects 28 U.S.C. 1333 by restating the basic prize jurisdiction of that section over prizes brought into the United States, and by providing that the extension of prize jurisdiction conferred by 34 U.S.C. 1159 on the United States district courts is exclusive of the courts of the States. 34 U.S.C. 1166 and the second

sentence of 34 U.S.C. 1164 are executed in the single jurisdictional statement of this section and the consolidation of the Act of August 18, 1942, ch. 553, 56 Stat. 746 (34 U.S.C. 1159–1166) with the earlier prize provisions. The words "during war" in 34 U.S.C. 1159 are omitted as covered in §7651 of this title. In clause (1) the words "or the Territories, Commonwealths, or possessions" are added, since "United States" in this title is geographically limited to the 48 States and the District of Columbia, whereas the term here is intended to include all places within the jurisdiction of the district courts.

In clause (4) the words "taken or" preceding the words "appropriated for the use of the United States" are omitted as surplusage and in order to avoid confusion between the two meanings of the word "taken" in prize law. In both the Revised Statutes and the 1942 Act the phrase "taken or appropriated" means no more than "appropriated" alone, whereas "taken", in the phrase "taken as prize" means "captured".

Subsection (b) is included to make the statement of jurisdiction complete. It is derived by implication from the first sentence of R.S. 4625 (34 U.S.C. 1141) which is the source of subsection (c) of §7653 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8852, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1537; amended Pub. L. 86–559, §1(74), June 30, 1960, 74 Stat. 280; Pub. L. 99–145, title XIII, §1303(a)(27)(B), Nov. 8, 1985, 99 Stat. 740; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve major generals and brigadier generals with 35 years of service or five years in grade, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7652 of this title as this section.

**2006**—Subsec. (a)(1). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8853. Court in which proceedings brought

(a) If a prize is brought into a port of the United States, or the Commonwealths or possessions, proceedings for the adjudication of the prize cause shall be brought in the district in which the port is located.

(b) If a prize is brought into the territorial waters of a cobelligerent, or is brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States, or is appropriated for the use of the United States, before proceedings are started, the venue of the proceedings for adjudication of the cause shall be in the judicial district selected by the Attorney General, or his designee, for the convenience of the United States.

(c) If the prize property is lost or entirely destroyed or if, because of its condition, no part of it has been or can be sent in for adjudication, proceedings for adjudication of the cause may be brought in any district designated by the Secretary of the Navy. In such cases the proceeds of anything sold shall be deposited with the Treasurer of the United States or public depositary in or nearest the district designated by the Secretary, subject to the orders of the court for that district.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474, §7653; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; renumbered §8853, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7653(b) | 34 U.S.C. 1160. | Aug. 18, 1942, ch. 553, §2, 56 Stat. 746. |
| 7653(c) | 34 U.S.C. 1141 (less last sentence). | R.S. 4625 (less last sentence). |

Subsection (a) is inserted in order to present a complete statement of the subject matter of the section. Its substance is not specifically set out in the Revised Statutes but is strongly implied in 34 U.S.C. 1135 which requires the United States attorney for the district in which the port is located to file a libel.

In subsection (b) the requisites for jurisdiction conferred under the 1942 Act are substituted for the words "brought under the jurisdiction conferred by this Act". The substituted words are the same as those used in clauses (2), (3), and (4) of the preceding section except that the words "before proceedings are started" are added following the words "appropriated for the use of the United States" for clarity. An appropriation can take place before or after proceedings are commenced, but in the latter case there is no occasion for the Attorney General to determine venue.

In subsection (c) the words "or if because the whole has been appropriated to the use of the United States" and the words "or the value of anything taken or appropriated for the use of the United States" are omitted. The provision in the 1942 Act which empowers the Attorney General to decide the venue of proceedings when the prize property has been appropriated is incompatible with the provision in R.S. 4625 which authorizes the Secretary of the Navy to select the judicial district in such cases. Hence the 1942 Act superseded R.S. 4625 with respect to cases of this type. Deposit of the value of prize property appropriated by the United States is adequately covered in §7663 of this title and is not mentioned here. The second sentence of 34 U.S.C. 1141 (R.S. 4625), relating to proceedings by captors, is omitted because it was rendered inoperative by the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8853, added Pub. L. 85–861, §1(192), Sept. 2, 1958, 72 Stat. 1538; amended Pub. L. 86–559, §1(75), June 30, 1960, 74 Stat. 280; Pub. L. 98–94, title X, §1016(c), Sept. 24, 1983, 97 Stat. 668, related to computation of years of service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14706 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7653 of this title as this section.

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8854. Effect of failure to start proceedings

If a vessel is captured as prize and no proceedings for adjudication are started within a reasonable time, any party claiming the captured property may, in any district court as a court of prize—

(1) move for a monition to show cause why such proceedings shall not be started; or

(2) bring an original suit for restitution.

The monition issued in either case shall be served on the United States Attorney for the district, on the Secretary of the Navy, and on such other persons as are designated by order of the court.

(Aug. 10, 1956. ch. 1041, 70A Stat. 475, §7654; renumbered §8854, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7654 | 34 U.S.C. 1141 (last sentence). | R.S. 4625 (last sentence). |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7654 of this title as this section.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8855. Appointment of prize commissioners and special prize commissioners

(a) In each judicial district there may be not more than three prize commissioners, one of whom is the naval prize commissioner. They shall be appointed by the district court for service in connection with any prize cause in which proceedings are brought under section 8853(a) or (c) of this title. The naval prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary of the Navy. The naval prize commissioner shall protect the interests of the Department of the Navy in the prize property. At least one of the other commissioners must be a member of the bar of the court, of not less than three years' standing, who is experienced in taking depositions.

(b) A district court may appoint special prize commissioners to perform abroad, in connection with any prize cause in which proceedings are brought under section 8853(b) of this title, the duties prescribed for prize commissioners, and, in connection with those causes, to exercise anywhere such additional powers and perform such additional duties as the court considers proper, including the duties prescribed by this chapter for United States marshals. The court may determine the number and qualifications of the special prize commissioners it appoints, except that for each cause there shall be at least one naval special prize commissioner. The naval special prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary. The naval special prize commissioner shall protect the interests of the Department of the Navy in the prize property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475, §7655; renumbered §8855 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7655(a) | 34 U.S.C. 1137 (less applicability to compensation of the naval prize commissioner). | R.S. 4621 (less applicability to compensation of the naval prize commissioner); Nov. 14, 1945, ch. 472, §2, 59 Stat. 581. |
| 7655(b) | 34 U.S.C. 1163 (less applicability to compensation of the naval special prize commissioner). | Aug. 18, 1942, ch. 553, §5 (less applicability to compensation of the naval special prize commissioner), 56 Stat. 746. |

The first sentence of subsection (a) is reworded to make it clear that the limitation as to number applies to the number of prize commissioners who may serve in each judicial district at any one time and that the court is not precluded from making additional appointments to fill vacancies. The words "for service in connection with any prize cause in which proceedings are brought under section 7653(a) or (c) of this title" are added to distinguish the prize commissioners from the special prize commissioners mentioned in subsection (b). The

words "officer of the Navy" in subsections (a) and (b) are substituted for the words "naval officer, active or retired" because an officer of the Navy does not lose his status as such upon retirement, and to retain these words would open to question the many other provisions in this subtitle treating retired officers as officers.

In subsection (b) the words "in connection with any prize cause in which proceedings are brought under section 7653(b) of this title" are substituted for the words "in cases arising under this Act" for accuracy of reference. The words "including the duties prescribed by this chapter for United States marshals" are added for clarity. Section 7662 of this title prescribes the duties of marshals. Most of these duties could not be performed by the marshals if the prize was not brought into a United States port. In such cases occurring during World War II the courts, under the authority of the 1942 Act, required the special prize commissioners to perform the duties ordinarily performed by the marshals. The words "without regard for the requirements of section 7367 of this title" are omitted as unnecessary, since that section is codified in subsection (a), and language distinguishing the prize commissioners from the special prize commissions is included in each subsection.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8855, added Pub. L. 86–559, §1(76), June 30, 1960, 74 Stat. 280; amended Pub. L. 96–107, title IV, §403(b), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96–513, title II, §215(b), Dec. 12, 1980, 94 Stat. 2885; Pub. L. 100–180, div. A, title VII, §717(c), (d)(2)(A), Dec. 4, 1987, 101 Stat. 1114; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1233(l)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–189, div. A, title VII, §710(c), Nov. 29, 1989, 103 Stat. 1477, related to retention in active status of certain reserve officers, prior to repeal by Pub. L. 103–337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14703(a)(3), (b) of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(9), renumbered section 7655 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8853(a) or (c)" for "section 7653(a) or (c)".

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 8853(b)" for "section 7653(b)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8856. Duties of United States attorney

(a) The interests of the United States in a prize cause shall be represented by the United States attorney for the judicial district in which the prize cause is adjudicated. The United States attorney shall protect the interests of the United States and shall examine all fees, costs, and expenses sought to be charged against the prize fund.

(b) In a judicial district where one or more prize causes are pending the United States attorney shall send to the Secretary of the Navy, at least once every three months, a statement of all such causes in the form and covering the particulars required by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475, §7656; renumbered §8856, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7656 | 34 U.S.C. 1136. | R.S. 4619. |

The Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors, rendered inoperative parts of R.S. 4619 relative to protection of captors' interest.

These parts are omitted from 34 U.S.C. 1136 and from the revised section.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7656 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8857. Duties of commanding officer of capturing vessel

(a) The commanding officer of a vessel making a capture shall—

(1) secure the documents of the captured vessel, including the log, and the documents of cargo, together with all other documents and papers, including letters, found on board;

(2) inventory and seal all the documents and papers;

(3) send the inventory and documents and papers to the court in which proceedings are to be had, with a written statement—

(A) that the documents and papers sent are all the papers found, or explaining the reasons why any are missing; and

(B) that the documents and papers sent are in the same condition as found, or explaining the reasons why any are in different condition;

(4) send as witnesses to the prize court the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any other person found on board whom he believes to be interested in or to know the title, national character, or destination of the prize, and if any of the usual witnesses cannot be sent, send the reasons therefor to the court; and

(5) place a competent prize master and a prize crew on board the prize and send the prize, the witnesses, and all documents and papers, under charge of the prize master, into port for adjudication.

(b) In the absence of instructions from higher authority as to the port to which the prize shall be sent for adjudication, the commanding officer of the capturing vessel shall select the port that he considers most convenient in view of the interests of probable claimants.

(c) If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, the commanding officer of the capturing vessel shall have a survey and an appraisal made by competent and impartial persons. The reports of the survey and the appraisal shall be sent to the court in which proceedings are to be had. Property so surveyed and appraised, unless appropriated for the use of the United States, shall be sold under authority of the commanding officer present. Proceeds of the sale shall be deposited with the Treasurer of the United States or in the public depositary most accessible to the court in which proceedings are to be had and subject to its order in the cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476, §7657; renumbered §8857, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7657 | 34 U.S.C. 1133. | R.S. 4615. |

As does 34 U.S.C. 1133, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, and the Act of May 29, 1920, ch. 214, §1, 41 Stat. 654, which, respectively, abolished the interest of captors in prize property and substituted "Treasurer of the United States or public depositary" for "assistant treasurer of the United States".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7657 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8858. Duties of prize master

The prize master shall take the captured vessel to the selected port. On arrival he shall—

(1) deliver immediately to a prize commissioner the documents and papers and the inventory thereof;

(2) make affidavit that the documents and papers and the inventory thereof and the prize property are the same and are in the same condition as delivered to him, or explaining any loss or absence or change in their condition;

(3) report all information respecting the prize and her capture to the United States attorney;

(4) deliver the persons sent as witnesses to the custody of the United States marshal; and

(5) retain the prize in his custody until it is taken therefrom by process from the prize court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476, §7658; renumbered §8858, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7658 | 34 U.S.C. 1134. | R.S. 4617. |

The word "diligently" is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7658 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8859. Libel and proceedings by United States attorney

(a) Upon receiving the report of the prize master directed by section 8858 of this title, the United

States attorney for the district shall promptly—

(1) file a libel against the prize property;

(2) obtain a warrant from the court directing the marshal to take custody of the prize property; and

(3) proceed to obtain a condemnation of the property.

(b) In connection with the condemnation proceedings the United States attorney shall insure that the prize commissioners—

(1) take proper preparatory evidence; and

(2) take depositions de bene esse of the prize crew and of other transient persons who know any facts bearing on condemnation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, §7659; renumbered §8859 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7659 | 34 U.S.C. 1135. | R.S. 4618. |

As does 34 U.S.C. 1135, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(9), renumbered section 7659 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8858" for "section 7658" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8860. Duties of prize commissioners

One or more of the prize commissioners shall—

(1) receive from the prize master the documents and papers of the captured vessel and the inventory thereof;

(2) take the affidavit of the prize master required by section 8858 of this title;

(3) take promptly, in the manner prescribed by section 8861 of this title, the testimony of the witnesses sent in;

(4) take, at the request of the United States attorney, on interrogatories prescribed by the court, the depositions de bene esse of the prize crew and others;

(5) examine and inventory the prize property;

(6) apply to the court for an order to the marshal to unload the cargo, if this is necessary to that examination and inventory;

(7) report to the court, and notify the United States attorney, whether any of the prize property requires immediate sale in the interest of all parties;

(8) report to the court, from time to time, any matter relating to the condition, custody, or disposal of the prize property requiring action by the court;

(9) return to the court sealed and secured from inspection—

(A) the documents and papers received, duly scheduled and numbered;
(B) the preparatory evidence;
(C) the evidence taken de bene esse; and
(D) their inventory of the prize property; and

(10) report to the Secretary of the Navy, if, in their judgment, any of the prize property is useful to the United States in the prosecution of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, §7660; renumbered §8860 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7660 | 34 U.S.C. 1138 (less applicability to procedure for interrogating witnesses). | R.S. 4622 (less applicability to procedure for interrogating witnesses). |

The words "but the custody of the property shall be in the marshal only" are omitted as surplusage, since this fact is made clear in §7662 of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(9), renumbered section 7660 of this title as this section.
Par. (2). Pub. L. 115–232, §809(a), substituted "section 8858" for "section 7658".
Par. (3). Pub. L. 115–232, §809(a), substituted "section 8861" for "section 7661".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8861. Interrogation of witnesses by prize commissioners

Witnesses before the prize commissioners shall be questioned separately, on interrogatories prescribed by the court, in the manner usual in prize courts. Without special authority from the court, the witnesses may not see the interrogatories, documents, or papers, or consult with counsel or with other persons interested in the cause. Witnesses who have the rights of neutrals shall be discharged as soon as practicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, §7661; renumbered §8861, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7661 | 34 U.S.C. 1138 (as applicable to procedure for interrogating witnesses). | R.S. 4622 (as applicable to procedure for interrogating witnesses). |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7661 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8862. Duties of marshal

The marshal shall—

(1) keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court;

(2) keep safely in his custody all prize property under warrant from the court;

(3) report to the court any cargo or other property that he thinks should be unloaded and stored or sold;

(4) insure the prize property, if in his judgment it is in the interest of all concerned;

(5) have charge of the sale of the property, if a sale is ordered, and be responsible for the conduct of the sale in the manner required by the court, for the collection of the gross proceeds, and for their immediate deposit with the Treasurer of the United States or public depositary nearest the place of sale, subject to the order of the court in the cause; and

(6) submit to the Secretary of the Navy, at such times as the Secretary designates, a full statement of the condition of the prize and of the disposal made thereof.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478, §7662; renumbered §8862, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7662 | 34 U.S.C. 1139. | R.S. 4623. |

In clause (2) the words "in his custody" are inserted to make clear the fact that the marshal has custody of the prize property.

In clause (5) the words "and be responsible for" are inserted for clarity, since 34 U.S.C. 1144 provides that the sale and deposit of the proceeds shall be made by the auctioneer and his agent rather than by the marshal, although the marshal supervises them. The words "Treasurer of the United States or public depositary" are substituted for "assistant treasurer" to reflect the Act of May 29, 1920, ch. 214, 41 Stat. 654.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7662 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8863. Prize property appropriated for the use of the United States

(a) Any officer or agency designated by the President may appropriate for the use of the United States any captured vessel, arms, munitions, or other material taken as prize. The department or agency for whose use the prize property is appropriated shall deposit the value of the property with the Treasurer of the United States or with the public depositary nearest to the court in which the proceedings are to be had, subject to the orders of the court.

(b) Whenever any captured vessel, arms, munitions, or other material taken as prize is appropriated for the use of the United States before that property comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisal, and inventory sent to the court in which the proceedings are to be had. If the property is appropriated after it comes into the custody of the court, sufficient notice shall be given to enable the court to have the property appraised for the protection of the rights of the claimants.

(c) Notwithstanding subsections (a) and (b), in any case where prize property is appropriated for the use of the United States, a prize court may adjudicate the cause on the basis of an inventory and survey and an appropriate undertaking by the United States to respond for the value of the property, without either an appraisal or a deposit of the value of the prize with the Treasurer of the United States or a public depositary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478, §7663; renumbered §8863, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7663 | 34 U.S.C. 1162. | Aug. 18, 1942, ch. 553, §4, 56 Stat. 746; July 1, 1944, ch. 370, §2, 58 Stat. 678. |
| | 34 U.S.C. 1140. | R.S. 4624; Nov. 14, 1945, ch. 472, §3, 59 Stat. 581. |

In subsection (a) the words "may appropriate" are substituted for the words "the power to take or appropriate * * * may be exercised", in 34 U.S.C. 1162, for clarity and uniformity of statement. Under the Revised Statutes it was implied and understood that the Navy could appropriate prizes on behalf of the United States for use by the Navy. Use by other government agencies was not contemplated. The 1942 Act enabled the Navy to turn prize vessels over to the War Shipping Administration without bringing them back to United States ports. Reference to that Administration in subsection (a) is omitted since the Administration has been abolished and these functions have not been specifically vested in its successors. It is surplusage as well, because the authority to appropriate is given to any officer or agency designated by the President.

The proviso added to R.S. 4624 (34 U.S.C. 1140) by the 1945 amendment is identical with the proviso added to the 1942 Act (34 U.S.C. 1162) by the 1944 amendment. The 1945 Act completed the process of making the procedure under the Revised Statutes the same as that in effect for causes over which the courts were given jurisdiction by the World War II legislation, and its single statement in subsection (c) is therefore justified.

34 U.S.C. 1140 and the revised section reflect the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, 41 Stat. 654, which requires substitution of "Treasurer of the United States or public depositary" for "assistant treasurer".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7663 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8864. Delivery of property on stipulation

(a) Prize property may be delivered to a claimant on stipulation, deposit, or other security, if—

(1) the claimant satisfies the court that the property has a peculiar and intrinsic value to him, independent of its market value;

(2) the court is satisfied that the rights and interests of the United States or of other claimants will not be prejudiced;

(3) an opportunity is given to the United States attorney and the naval prize commissioner or the naval special prize commissioner to be heard as to the appointment of appraisers; and

(4) a satisfactory appraisal is made.

(b) Money collected on a stipulation, or deposited instead of it, that does not represent costs shall be deposited with the Treasurer of the United States or a public depositary in the same manner as proceeds of a sale.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479, §7664; renumbered §8864, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7664 | 34 U.S.C. 1142. | R.S. 4626. |

34 U.S.C. 1142 and this section reflect the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, §1, 41 Stat. 654, which requires substitution of "Treasurer of the United States or public depositary" for "assistant treasurer".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7664 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8865. Sale of prize

(a) The court shall order a sale of prize property if—

(1) the property has been condemned;

(2) the court finds, at any stage of the proceedings, that the property is perishable, liable to deteriorate, or liable to depreciate in value; or

(3) the cost of keeping the property is disproportionate to its value.

(b) The court may order a sale of the prize property if, after the return-day on the libel, all the

parties in interest who have appeared in the cause agree to it.

(c) An appeal does not prevent the order of a sale under this section or the execution of such an order.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479, §7665; renumbered §8865, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7665 | 34 U.S.C. 1143. | R.S. 4627. |

In subsection (a) the word "perishing" is omitted as surplusage. The words "in value" are added after "depreciate" for clarity.

In subsection (c) the words "An appeal does not prevent" are substituted for the words "no appeal shall operate to prevent".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7665 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8866. Mode of making sale

(a) If a sale of prize property is ordered by the court, the marshal shall—

(1) prepare and circulate full catalogues and schedules of the property to be sold and return a copy of each to the court;

(2) advertise the sale fully and conspicuously by posters and in newspapers ordered by the court;

(3) give notice to the naval prize commissioner at least five days before the sale; and

(4) keep the goods open for inspection for at least three days before the sale.

(b) An auctioneer of known skill in the business to which the sale pertains shall be employed by the Secretary of the Navy to make the sale. The auctioneer, or his agent, shall collect and deposit the gross proceeds of the sale. The auctioneer and his agent are responsible to the marshal for the conduct of the sale and the collection and deposit of the gross proceeds.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479, §7666; renumbered §8866, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7666 | 34 U.S.C. 1144. | R.S. 4628. |

The statement in subsection (b) of the responsibility of the auctioneer and agent to the marshal in the collection and deposit of proceeds is inserted to clarify the marshal's functions. It is derived from 34 U.S.C. 1139, and appears in §7662 of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7666 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8867. Transfer of prize property to another district for sale

(a) In the case of any prize property ordered to be sold, if the court believes that it will be in the interest of all parties to have the property sold in a judicial district other than the one in which the proceedings are pending, the court may direct the marshal to transfer the property to the district selected by the court for the sale, and to insure it. In such a case the court shall give the marshal proper orders as to the time and manner of conducting the sale.

(b) When so ordered the marshal shall transfer the property and keep it safely. He is responsible for its sale in the same manner as if the property were in his own district and for the deposit of the gross proceeds with the Treasurer of the United States or public depositary nearest to the place of sale, subject to the order of the court for the district where the adjudication is pending.

(c) The necessary expenses of insuring, transferring, receiving, keeping, and selling the property are a charge upon it and upon the proceeds. Whenever any such expense is paid in advance by the marshal, any amount not repaid to him from the proceeds shall be allowed to him as in the case of expenses incurred in suits in which the United States is a party.

(d) If the Secretary of the Navy believes that it will be in the interest of all parties to have the property sold in a judicial district other than the one in which the proceedings are pending, he may, either by a general regulation or by a special direction in the cause, require the marshal to transfer the property from the district in which the judicial proceedings are pending to any other district for sale. In such a case proceedings shall be had as if the transfer had been made by order of the court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479, §7667; renumbered §8867, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7667 | 34 U.S.C. 1145. | R.S. 4629. |

34 U.S.C. 1145 and this section reflect the Act of May 29, 1920, ch. 214, §1, 41 Stat. 654, which requires substitution of "Treasurer of the United States or public depositary" for "assistant treasurer".

In subsection (b) the words "He is responsible for its sale" are substituted for the words "It shall be the duty of the marshal to * * * sell the same", because, as shown in §7666 of this title, the marshal does not sell the property himself but supervises the auctioneer who conducts the sale.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7667 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8868. Disposition of prize money

The net proceeds of all property condemned as prize shall be decreed to the United States and shall be ordered by the court to be paid into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480, §7668; renumbered §8868, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7668 | 34 U.S.C. 1151. | R.S. 4630; R.S. 4641. |

R.S. 4630 provided that in some circumstances the captors were to receive the net proceeds of prize property and in other circumstances they were to receive half and the United States was to receive the other half. The Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, repealed "all provisions of law authorizing the distribution among captors of the whole or any portion of the proceeds of vessels, or any property hereafter captured, condemned as prize". Thus the only part of R.S. 4630 that remains in effect, as is indicated in 34 U.S.C. 1151, is that part which provides that proceeds shall be decreed to the United States. The section is so worded. R.S. 4641 stated how proceeds decreed to captors should be divided among them. These provisions were eliminated by the Act of March 3, 1899, supra. All that remains of R.S. 4641, as is indicated in 34 U.S.C. 1151, is the provision that proceeds decreed to the United States shall be paid into the Treasury, and the section is worded accordingly.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7668 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8869. Security for costs

The court may require any party to give security for costs at any stage of the cause and upon filing an appeal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480, §7669; renumbered §8869, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7669 | 34 U.S.C. 1148. | R.S. 4638. |

The word "filing" is substituted for the word "claiming".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7669 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8870. Costs and expenses a charge on prize property

(a) Costs and expenses allowed by the court incident to the bringing in, custody, preservation, insurance, and sale or other disposal of prize property are a charge upon the property and shall be paid from the proceeds thereof, unless the court decrees restitution free from such a charge.

(b) Charges for work and labor, materials furnished, or money paid must be supported by affidavit or vouchers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480, §7670; renumbered §8870, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7670(a) | 34 U.S.C. 1149. | R.S. 4639. |
| 7670(b) | 34 U.S.C. 1150 (2d sentence). | R.S. 4640 (2d sentence). |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7670 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8871. Payment of costs and expenses from prize fund

(a) Payment may not be made from a prize fund except upon the order of the court. The court may, at any time, order the payment, from the deposit made with the Treasurer or public depositary in the cause, of costs or charges accrued and allowed.

(b) When the cause is finally disposed of, the court shall order the Treasurer or public depositary to pay the costs and charges allowed and unpaid. If the final decree is for restitution, or if there is no money subject to the order of the court in the cause, costs or charges allowed by the court and not paid by the claimants shall be paid out of the fund for paying the expenses of suits in which the United States is a party or is interested.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480, §7671; renumbered §8871, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7671 | 34 U.S.C. 1150 (less 2d sentence). | R.S. 4640 (less 2d sentence). |

In subsection (b) the words "or orders" after "order" are omitted as surplusage. The words "a charge upon and" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7671 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8872. Recaptures: award of salvage, costs, and expenses

(a) If a vessel or other property that has been captured by a force hostile to the United States is recaptured, and the court believes that the property had not been condemned as prize by competent authority before its recapture, the court shall award an appropriate sum as salvage.

(b) If the recaptured property belonged to the United States, it shall be restored to the United States, and costs and expenses ordered to be paid by the court shall be paid from the Treasury.

(c) If the recaptured property belonged to any person residing within or under the protection of the United States, the court shall restore the property to its owner upon his claim and on payment of such sum as the court may award as salvage, costs, and expenses.

(d) If the recaptured property belonged to any person permanently residing within the territory and under the protection of any foreign government in amity with the United States, and, by the law or usage of that government, the property of a citizen of the United States would be restored under like circumstances of recapture, the court shall, upon the owner's claim, restore the property to him under such terms as the law or usage of that government would require of a citizen of the United States under like circumstances. If no such law or usage is known, the property shall be restored upon the payment of such salvage, costs, and expenses as the court orders.

(e) Amounts awarded as salvage under this section shall be paid to the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481, §7672; renumbered §8872, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7672 | 34 U.S.C. 1158 (less last sentence). | R.S. 4652 (less last sentence). |

In subsection (c) the words "restore the property" are substituted for the words "adjudge to be restored." A similar substitution is made in subsection (d).

In subsection (d) the words "foreign government" are substituted for the words "foreign prince, government, or state".

Subsection (e) is derived from the next to the last sentence of R.S. 4652 which, when enacted, read:

"The whole amount awarded as salvage shall be decreed to the captors and no part to the United States, and shall be distributed as in the case of proceeds of property condemned as prize."

The Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, repealed all laws authorizing the distribution of prize money to captors. Accordingly, 34 U.S.C. 1158 states:

"The whole amount awarded as salvage shall be disposed of as in the case of proceeds of property condemned as prize."

As shown in §7668 of this title, the net proceeds of property condemned as prize must be decreed to the United States. Subsection (e) is phrased so as to state directly, instead of by reference, the fact that the amount awarded as salvage is paid to the government. While this is apparently inconsistent with R.S. 4652 as originally enacted, it is consistent with the intent expressed by Congress in the provision of the Act of March 3, 1899 (supra), which repealed provisions relating to the distribution of prize money and bounty to crews. This act, it is true, did not mention salvage; and salvage money is still occasionally awarded to crews of naval vessels. However, such occasions are rare, and it is the general policy of the Department of the Navy not to claim salvage on behalf of its personnel. No case appears in which salvage derived from prize has been claimed for such personnel. Prize salvage is more closely related to prize money than it is to other salvage. The determination by Congress that captors should not share in the proceeds of prizes is, therefore, as in 34 U.S.C. 1158, carried through the revised section to salvage derived from prize. The word "amounts" is substituted for the words "the whole amount".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7672 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8873. Allowance of expenses to marshals

The marshal shall be allowed his actual and necessary expenses for the custody, care, preservation, insurance, and sale or other disposal of the prize property, and for executing any order of the court in the prize cause. Charges of the marshal for expenses or disbursements shall be allowed only upon his oath that they have been necessarily incurred for the purpose stated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481, §7673; renumbered §8873, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7673 | 34 U.S.C. 1153. | R.S. 4645. |

34 U.S.C. 1153 and the revised section reflect the Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, which provided that marshals should receive annual salaries in lieu of the fees and emoluments previously allowed them.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7673 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8874. Payment of witness fees

If the court allows fees to any witness in a prize cause, or fees for taking evidence out of the district in which the court sits, and there is no money subject to its order in the cause, the marshal shall pay the fees. He shall be repaid from any money deposited to the order of the court in the cause. Any amount not so repaid to the marshal shall be allowed him as witness fees paid by him in cases in which the United States is a party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481, §7674; renumbered §8874, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7674 | 34 U.S.C. 1157. | R.S. 4651. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7674 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8875. Commissions of auctioneers

(a) The Secretary of the Navy may establish a scale of commissions to be paid to auctioneers employed to make sales of prize property. These commissions are in full satisfaction of expenses as well as services. The scale may in no case allow a commission in excess of—

(1) ½ of 1 percent on any amount exceeding $10,000 on the sale of a vessel; and

(2) 1 percent on any amount exceeding $10,000 on the sale of other prize property.

(b) If no such scale is established, auctioneers in prize causes shall be paid such compensation as the court considers just under the circumstances of each case.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481, §7675; renumbered §8875, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7675 | 34 U.S.C. 1156. | R.S. 4650. |

The word "amount" is substituted for the word "sum".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7675 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8876. Compensation of prize commissioners and special prize commissioners

(a) Naval prize commissioners and naval special prize commissioners may not receive compensation for their services in prize causes other than that to which they are entitled as officers of the Navy.

(b) Prize commissioners and special prize commissioners, except naval prize commissioners and naval special prize commissioners, are entitled to just and suitable compensation for their services in prize causes. The amount of compensation in each cause shall be determined by the court and allowed as costs.

(c) Annually, on the anniversary of his appointment, each prize commissioner and special prize commissioner, except a naval prize commissioner or a naval special prize commissioner, shall submit to the Attorney General an account of all amounts received for his services in prize causes within the previous year. Of the amounts reported, each such commissioner may retain not more than $3,000, which is in full satisfaction for all his services in prize causes for that year. He shall pay any excess over that amount into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482, §7676; renumbered §8876, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7676(a) | 34 U.S.C. 1137 (as applicable to compensation of naval prize commissioner). | R.S. 4621 (as applicable to compensation of naval prize commissioner); Nov. 14, 1945, ch. 472, §2, 59 Stat. 581. |
| | 34 U.S.C. 1163 (as applicable to compensation of naval special prize commissioner). | Aug. 18, 1942, ch. 553, §5 (as applicable to compensation of naval special prize commissioner), 56 Stat. 746. |
| 7676(b) | 34 U.S.C. 1154. | R.S. 4646. |
| 7676(c) | 34 U.S.C. 1155. | R.S. 4647. |

In subsection (c) the words "on the anniversary of his appointment" are inserted for clarity, as "year" in the context of this section means a year of service as prize commissioner. The words "and shall be credited to the fund for paying naval pensions" are omitted because the Act of June 26, 1934, ch. 756, §9, 48 Stat. 1229, abolished the naval pension fund and provided that moneys previously required to be paid into it should be deposited in the Treasury as miscellaneous receipts. The words "as miscellaneous receipts" are omitted as surplusage. The word "amounts" is substituted for the word "sums".

34 U.S.C. 1154 and 1155 and this section reflect the Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, 180, which provided that United States attorneys should receive fixed annual salaries in lieu of the fees and emoluments previously authorized.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7676 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8877. Accounts of clerks of district courts

(a) The clerk of each district court, for the purpose of the final decree in each prize cause, shall keep account of—

(1) the amount deposited with the Treasurer or public depositary, subject to the order of the court in the cause; and

(2) the amounts ordered to be paid therefrom as costs and charges.

(b) The clerk shall draw the orders of the court for the payment of costs and allowances and for the disposition of the residue of the prize fund in each cause.

(c) The clerk shall send to the Secretary of the Treasury and the Secretary of the Navy—

(1) copies of final decrees in prize causes; and

(2) a semi-annual statement of the amounts allowed by the court, and ordered to be paid, within the preceding six months to the prize commissioners and special prize commissioners for their services.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482, §7677; renumbered §8877, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7677 | 34 U.S.C. 1152. | R.S. 4644. |

34 U.S.C. 1152 and this section reflect modifications of R.S. 4644 effected by—

(1) Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, which provided for fixed annual salaries for United States attorneys and marshals;

(2) Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors;

(3) Act of February 26, 1919, ch. 49, §1, 40 Stat. 1182, which provided that clerks of United States district courts should receive fixed annual salaries; and

(4) Act of May 29, 1920, ch. 214, 41 Stat. 654, which abolished the offices of assistant treasurers and distributed their functions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7677 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8878. Interfering with delivery, custody, or sale of prize property

Whoever willfully does, or aids or advises in the doing of, any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States or any claimant of that property, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482, §7678; renumbered §8878, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7678 | 34 U.S.C. 1167. | Mar. 4, 1909, ch. 321, §38, 35 Stat. 1096. |

The words "captor or" between "any" and "claimant" are omitted because the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, repealed all laws authorizing the distribution of prize proceeds to captors. These words were apparently carried over inadvertently to §38 of the 1909 Act from the source of that section, namely R.S. 5441.

The section is worded in the style of Title 18, U.S. Code.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7678 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8879. Powers of district court over prize property notwithstanding appeal

Notwithstanding an appeal, the district court may make and execute all necessary orders for the custody and disposal of prize property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483, §7679; renumbered §8879, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7679 | 34 U.S.C. 1147. | R.S. 565; R.S. 4637. |

34 U.S.C. 1147 and this section reflect—

(1) Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors;

(2) Acts of March 3, 1911, ch. 231, §128, 36 Stat. 1133, and February 13, 1925, ch. 229, §1, 43 Stat. 938, which defined the appellate jurisdiction of the United States circuit courts, and provided that the Supreme Court should not directly review district court decisions except in specified cases, not including prize cases; and

(3) Act of June 25, 1948, ch. 646, 62 Stat. 869, which repealed the Acts of February 13, 1925, and March 3, 1911, supra, but enacted similar provisions and changed the name of United States Circuit Courts of Appeals to United States Courts of Appeals for the several circuits.

Reference to the court is omitted from 34 U.S.C. 1147 and from the revised section in view of the 1948 Act.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7679 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8880. Appeals and amendments in prize causes

(a) A United States Court of Appeals may allow an appeal in a prize cause if it appears that a notice of appeal was filed with the clerk of the district court within thirty days after the final decree in that cause.

(b) A United States Court of Appeals, if in its opinion justice requires it, may allow amendments in form or substance of any appeal in a prize cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483, §7680; renumbered §8880, Pub. L. 115–232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7680 | 34 U.S.C. 1146. | R.S. 1006; R.S. 4636. |

34 U.S.C. 1146 and this section reflect—

(1) Acts of March 3, 1911, ch. 231, §128, 36 Stat. 1133, and February 13, 1925, ch. 229, §1, 43 Stat. 938, which defined the appellate jurisdiction of the United States Circuit Courts of Appeals; and

(2) Act of June 25, 1948, ch. 646, 62 Stat. 869, which repealed the 1911 and 1925 Acts, but enacted similar provisions and changed the name of the circuit courts to United States Courts of Appeals for the several circuits.

The words "or of intention to appeal" are omitted as surplusage. Formerly "notices of appeal" were filed in some courts and "notices of intention to appeal" were filed in others. The difference was in terminology, not in substance. These notices are now known as "notices of appeal". The words "next" and "the rendition of" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7680 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8881. Reciprocal privileges to cobelligerent

(a) A cobelligerent of the United States that consents to the exercise of jurisdiction conferred by section 8852(a) of this title with respect to any prize of the United States brought into the territorial waters of the cobelligerent or appropriated for the use of the United States within those territorial waters shall be given, upon proclamation by the President of the United States, like privileges with respect to any prize captured under the authority of that cobelligerent and brought into the territorial waters of the United States or appropriated for the use of the cobelligerent within the territorial waters of the United States.

(b) Reciprocal recognition shall be given to the jurisdiction acquired by courts of a cobelligerent under this section and full faith and credit shall be given to all proceedings had or judgments rendered in the exercise of that jurisdiction.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483, §7681; renumbered §8881 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7681 | 34 U.S.C. 1165. | Aug. 18, 1942, ch. 553, §7, 56 Stat. 747. |

The words "taking or" before "appropriation" and the words "taken or" before "appropriated" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 8881 and 8882 were repealed by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Section 8881, act Aug. 10, 1956, ch. 1041, 70A Stat. 546, authorized Secretary of Air Force to retire Air Force nurses and woman medical specialists whose regular grade is below major.

Section 8882, act Aug. 10, 1956, ch. 1041, 70A Stat. 546, authorized Secretary of Air Force to retire Air Force nurses or woman medical specialists whose regular grade is above captain.

Prior sections 8883 to 8886 were repealed by Pub. L. 96–513, title II, §216, Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

Section 8883, acts Aug. 10, 1956, ch. 1041, 70A Stat. 546; Aug. 6, 1958, Pub. L. 85–600, §1(17), 72 Stat. 523; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is below major general, other than a professor or the registrar of the United States Air Force Academy, be retired when he becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 8884, acts Aug. 10, 1956, ch. 1041, 70A Stat. 547; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat 1115, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 8923 of this title has been deferred under cl. (1) of that section, be retired when be becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 8885, acts Aug. 10, 1956, ch. 1041, 70A Stat. 547; Sept. 2, 1958, Pub. L. 85–861, §33(a)(42), 72 Stat. 1567; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date or unless retained under section 8923(2) of this title, each commissioned officer whose regular grade is major general be retired when he becomes 62 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 8886, acts Aug. 10, 1956, ch. 1041, 70A Stat. 547; Aug. 6, 1958, Pub. L. 85–600, §1(18), 72 Stat. 523; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 8923 of this title has been deferred under cl. (2) of that section, and each permanent professor and the registrar of the United States Air Force Academy, be retired when he becomes 64 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

A prior section 8887, act Aug. 10, 1956, ch. 1041, 70A Stat. 547, related to computation of years of service of Air Force nurses or woman medical specialists for purposes of retirement under former sections 8881 or 8882 of this title, or retirement pay under former section 8991 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Prior sections 8888 And 8889 were repealed by Pub. L. 96–513, title II, §216, Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

Section 8888, acts Aug. 10, 1956, ch. 1041, 70A Stat. 547; Aug. 21, 1957, Pub. L. 85–155, title III, §301(16), 71 Stat. 388; May 20, 1958, Pub. L. 85–422, §11(a)(7), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(194), 72 Stat. 1538; Sept. 30, 1966, Pub. L. 89–609, §1(30), 80 Stat. 854, related to computation of years of service for determining retired pay of a commissioned officer of Regular Air Force retired under former section 8883, 8884, 8885, or 8886 of this title. See section 1405 of this title.

Section 8889, act Aug. 10, 1956, ch. 1041, 70A Stat. 548, provided that a member of Air Force retired under this chapter be entitled to retired pay computed under former chapter 871 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, §807(d)(9), renumbered section 7681 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8852(a)" for "section 7652(a)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### RECIPROCAL PRIVILEGES

The Governments listed below are accorded like privileges with respect to prizes captured under authority of the said Governments and brought into the territorial waters of the United States or taken or appropriated in the territorial waters of the United States for the use of the said Governments, namely: Australia, Proc. No. 2617, Aug. 16, 1944, 9 F.R. 9969; Canada, Proc. No. 2594, Sept. 27, 1943, 8 F.R. 13217; India, Proc. No. 2601, Dec. 6, 1943, 8 F.R. 16351; New Zealand, Proc. No. 2582, Apr. 2, 1943, 8 F.R. 4275; United Kingdom, Proc. No. 2575, Feb. 2, 1944, 8 F.R. 1429.

# CHAPTER 885—STAY OF JUDICIAL PROCEEDINGS

Sec.
8891. Scope of chapter.
8892. Stay of suit.
8893. Stay of proceedings for preserving evidence after stay of suit.
8894. Stay of proceedings for taking evidence before suit is filed.
8895. Stay extended or shortened.
8896. Reconsideration of stay.
8897. Duration of stay.
8898. Restricted certificate.
8899. Investigation before issue of certificate.
8900. Evidence admissible when witness is not available.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 657 of this title as this chapter and items 7721 to 7730 as 8891 to 8900, respectively.

## §8891. Scope of chapter

(a) This chapter applies to any suit against the United States under chapter 311 of title 46 for—

(1) damage caused by a vessel in the naval service; or

(2) compensation for towage or salvage services, including contract salvage, rendered to a vessel in the naval service.

(b) In this chapter, the term "vessel in the naval service" means—

(1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or

(2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483, §7721; Pub. L. 96–513, title V, §513(43), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 100–26, §7(k)(10), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103–35, title II, §201(c)(11), May 31, 1993, 107 Stat. 98; Pub. L. 109–304, §17(a)(6), Oct. 6, 2006, 120 Stat. 1706; renumbered §8891, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7721(a) | 46 U.S.C. 791 (2d sentence). | July 3, 1944, ch. 399, §1 (2d sentence), 58 Stat. 723. |
| 7721(b) | 46 U.S.C. 793. | July 3, 1944, ch. 399, §3, 58 Stat. 724. |

In subsection (a) the words "wherein a claim is made" are omitted as surplusage. The words "vessel in the naval service" are substituted for the words "vessel in the Navy, or in the naval service" for brevity. No change in meaning results, since the term used in subsection (a) is defined in subsection (b).

In subsection (b) the words "service in" are substituted for the words "part of" to conform to the terminology used in 14 U.S.C. 3.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7721 of this title as this section.

**2006**—Subsec. (a). Pub. L. 109–304 substituted "chapter 311 of title 46" for "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)".

**1993**—Subsec. (a). Pub. L. 103–35 substituted "(46 U.S.C. App. 781–790)" for "(46 U.S.C. 781–790)".

**1987**—Subsec. (b). Pub. L. 100–26 inserted ", the term" after "In this chapter".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. 781–790)" for "sections 781–790 of title 46".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §8892. Stay of suit

(a) Whenever in time of war the Secretary of the Navy certifies to a court, or to a judge of a court, in which a suit described in section 8891 of this title is pending, that the prosecution of the suit would tend to endanger the security of naval operations in the war, or would tend to interfere with those operations, all further proceedings in the suit shall be stayed.

(b) A stay under this section does not suspend the issue of process to take or preserve evidence to be used in the trial or prevent the completion of action under similar process issued before the stay.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484, §7722; renumbered §8892 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(10), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7722(a) | 46 U.S.C. 791 (1st sentence, less applicability to duration of stay). | July 3, 1944, ch. 399, §1 (1st sentence, less applicability to duration of stay), 58 Stat. 723. |
| 7722(b) | 46 U.S.C. 791 (less 1st and 2d sentences and less proviso). | July 3, 1944, ch. 399, §1 (less 1st and 2d sentences and less proviso), 58 Stat. 723. |

In subsection (a) the word "forthwith" is omitted as surplusage.

In subsection (b) the words "of proceedings in pending suits as provided" are omitted as surplusage. The words "does not suspend" are substituted for the words "shall not operate to suspend". The words "of the issues" and "the authority of" are omitted as surplusage. The words "issued before the stay" are substituted for the words "already issued at the time of such stay of suit".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §807(d)(10), renumbered section 7722 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 8891" for "section 7721".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8893. Stay of proceedings for preserving evidence after stay of suit

If, at the time of certification under section 8892 of this title, or at any time before the termination of the stay based on the certificate, the Secretary of the Navy files with the court an additional certificate to the effect that the issue of any process to preserve evidence or the completion of action on process previously issued would tend to endanger the security of the United States or of any of its naval or military operations in the war, or would tend to interfere with those operations, then all proceedings for the taking or preserving of evidence to be used by either party in the trial shall be stayed.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484, §7723; renumbered §8893 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(10), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7723 | 46 U.S.C. 791 (proviso, less applicability to duration of stay). | July 3, 1944, ch. 399, §1 (proviso, less applicability to duration of stay), 58 Stat. 723. |

The word "stayed" is substituted for the word "suspended" for uniformity and clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7723 of this title as this section and substituted "section 8892" for "section 7722".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8894. Stay of proceedings for taking evidence before suit is filed

(a) If in time of war, with respect to any claim against the United States on which a suit described in section 8891 of this title would lie, the Secretary of the Navy certifies to the court, or to a judge of the court, in which proceedings are pending for—

(1) the granting of a dedimus potestatem to take depositions;

(2) a direction to take depositions in perpetuam rei memoriam; or

(3) the taking of depositions or production of evidence pursuant to such dedimus potestatem or direction, or pursuant to any other proceedings for the purpose;

that the proceedings would tend to endanger the security of the United States or any of its naval or military operations in the war, or would tend to interfere with those operations, then the proceedings may not be started or, if they have been started, they shall, when the certificate is filed, be stayed.

(b) The time during which a claimant may file suit of the type described in section 8891 of this title is computed by excluding the time during which a stay under this section or any extension of such a stay is in effect.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484, §7724; renumbered §8894 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(10), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7724 | 46 U.S.C. 792 (less applicability to duration of stay). | July 3, 1944, ch. 399, §2 (less applicability to duration of stay), 58 Stat. 724. |
| | 46 U.S.C. 796. | July 3, 1944, ch. 399, §6, 58 Stat. 726. |

In subsection (b) the words "upon a claim against the United States" and "as to any proceedings by or on behalf of such claimant for the taking of a deposition or the production of evidence in connection with or in relation to such claim" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7724 of this title as this section and substituted "section 8891" for "section 7721" in introductory provisions of subsec. (a) and in subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8895. Stay extended or shortened

The Secretary of the Navy, when a stay under this chapter is in effect, may file with the court, or a judge of the court, a certificate extending or shortening the time stated in the prior certificate. The filing of such a new certificate extends or shortens the stay to the period specified in the new certificate or terminates the stay if the new certificate so states.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484, §7725; renumbered §8895, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7725 | 46 U.S.C. 794 (1st, and 9th (less proviso), sentences). | July 3, 1944, ch. 399, §4 (1st, and 9th (less proviso), sentences), 58 Stat. 724. |

The words "or suspension", "either of prosecution of the suit or of the taking of testimony", "during which the prosecution of such suit or taking of such deposition or production of evidence would tend to endanger the security of the United States or of such operations in time of war, or to interfere therewith", "as the case may be", and "in relation to which it is made shall continue in effect" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7725 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8896. Reconsideration of stay

(a) A claimant or party who considers himself adversely affected by a stay under this chapter may serve a written notice on the Secretary of the Navy at Washington, D.C., requesting him to reconsider the stay previously issued and to issue a new certificate. The notice shall identify the stay by means of an attached copy of the certificate of the Secretary or a sufficient description of the stay. The notice may not contain any recital of the facts or circumstances involved.

(b) Within ten days after receiving notice under this section, the Secretary or his designee shall hold a secret meeting at which the claimant or party, or his representative, may present any facts and arguments he thinks material.

(c) Within ten days after a hearing under this section, the Secretary shall file with the court that ordered the stay a new certificate stating whether the stay is then to be terminated or for what period the stay is to continue in effect. If the Secretary fails to file a new certificate, the court, upon application by the claimant or party, shall issue an order directing the Secretary to file a new certificate within a specified time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485, §7726; renumbered §8896, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7726(a) | 46 U.S.C. 794 (2d, 3d, and 4th sentences). | July 3, 1944, ch. 399, §4 (2d, 3d, and 4th sentences), 58 Stat. 724. |
| 7726(b) | 46 U.S.C. 794 (5th sentence). | July 3, 1944, ch. 399, §4 (5th sentence), 58 Stat. 724. |
| 7726(c) | 46 U.S.C. 794 (6th and 7th sentences). | July 3, 1944, ch. 399, §4 (6th and 7th sentences), 58 Stat. 724. |

In subsection (a) the words "then in effect", "upon which the stay is based", and "for its identification" are omitted as surplusage.

In subsection (b) the words "with respect to whether or not a stay should be issued or maintained" are omitted as surplusage. The words "his designee" are substituted for the words "some official designated by him" for brevity.

In subsection (c) the words "that ordered the stay" are substituted for the words "in which said stay is pending or the court in which the proceeding stayed was instituted" for brevity and clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7726 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8897. Duration of stay

A stay of proceedings under this chapter remains in effect for the period specified in the certificate upon which it was based unless the Secretary of the Navy issues a new certificate under section 8895 or 8896 of this title changing the termination date. However, a stay under this chapter may not remain in force longer than six months after the cessation of hostilities.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485, §7727; renumbered §8897 and amended Pub. L. 115–232, div. A, title VIII, §§807(d)(10), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7727 | 46 U.S.C. 791 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay). | July 3, 1944, ch. 399, §1 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay), 58 Stat. 723. |

| | | |
|---|---|---|
| | 46 U.S.C. 792 (as applicable to duration of stay).<br>646 U.S.C. 794 (8th sentence and proviso of 9th sentence). | July 3, 1944, ch. 399, §2 (as applicable to duration of stay), 58 Stat. 724.<br>July 3, 1944, ch. 399, §4 (8th sentence and proviso of 9th sentence), 58 Stat. 724. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7727 of this title as this section and substituted "section 8895 or 8896" for "section 7725 or 7726".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8898. Restricted certificate

The Secretary of the Navy may restrict a certificate issued under this chapter so that it stays only the taking of testimony of certain witnesses or the production of evidence on certain subjects. The proceedings not stayed may continue.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485, §7728; renumbered §8898, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7728 | 46 U.S.C. 794 (10th sentence). | July 3, 1944, ch. 399, §4 (10th sentence), 58 Stat. 724. |

The words "The Secretary of the Navy may restrict a certificate" are substituted for the words "Any certificate * * * by the Secretary of the Navy * * * may, in his discretion, be restricted." The words "the production of" are inserted for clarity. The words "in which event" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7728 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8899. Investigation before issue of certificate

The Secretary of the Navy may not issue a certificate under this chapter until he satisfies himself

by investigation that it is necessary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485, §7729; renumbered §8899, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7729 | 46 U.S.C. 794 (less 1st 10 sentences). | July 3, 1944, ch. 399, §4 (less 1st 10 sentences), 58 Stat. 724. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7729 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8900. Evidence admissible when witness is not available

Whenever the court is satisfied by appropriate evidence or by agreement of counsel that the United States or the claimant is unable after reasonable efforts to secure the testimony of a witness and—

(1) the United States or the claimant has been prevented by a stay under this chapter from examining the witness; or

(2) the United States establishes that it has refrained from bringing a suit or from taking the testimony of the witness in a pending suit to avoid endangering the security of naval operations or interfering with such operations;

the court shall receive in evidence in place of the testimony of the witness—

(1) the affidavit of the witness duly sworn to before a notary public or other authorized officer; or

(2) the statement or testimony of the witness before a court-martial, a court of inquiry, or an investigation; but the use of such statement or testimony does not, in any litigation, make the remainder of the record admissible or compel the United States to produce the remainder of the record.

The court shall give such weight to the affidavit, statement, or testimony as it considers proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485, §7730; renumbered §8900, Pub. L. 115–232, div. A, title VIII, §807(d)(10), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7730 | 46 U.S.C. 795. | July 3, 1944, ch. 399, §5, 58 Stat. 725. |

The words "naval", "board of investigation", and "Coast Guard investigation" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7730 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 887—NAVAL MILITIA

Sec.
8901. Composition.
8902. Appointment and enlistment in reserve components.
8903. Release from Militia duty upon order to active duty in reserve components.
8904. Availability of material for Naval Militia.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 659 of this title as this chapter and items 7851 to 7854 as 8901 to 8904, respectively.

## §8901. Composition

The Naval Militia consists of the Naval Militia of the States, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486, §7851; Pub. L. 109–163, div. A, title X, §1057(a)(11), Jan. 6, 2006, 119 Stat. 3441; renumbered §8901, Pub. L. 115–232, div. A, title VIII, §807(d)(11), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7851 | 50 U.S.C. 1071. | July 9, 1952, ch. 608, §501, 66 Stat. 500. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7851 of this title as this section.

**2006**—Pub. L. 109–163 substituted "States, the District of Columbia, Guam, and the Virgin Islands" for "States, the Territories, and the District of Columbia".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8902. Appointment and enlistment in reserve components

In the discretion of the Secretary of the Navy, any member of the Naval Militia may be appointed or enlisted in the Navy Reserve or the Marine Corps Reserve in the grade for which he is qualified.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486, §7852; Pub. L. 109–163, div. A, title V, §515(b)(1)(W), Jan. 6, 2006, 119 Stat. 3233; renumbered §8902, Pub. L. 115–232, div. A, title VIII, §807(d)(11), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7852 | 50 U.S.C. 1072. | July 9, 1952, ch. 608, §502, 66 Stat. 500. |

This section is written to indicate that the Secretary of the Navy has discretion in authorizing the appointment or enlistment in the Naval Reserve of members of the Naval Militia but does not make such appointments or enlistments. Section 593 of this title, based on 50 U.S.C. 942, 943, provides the manner in which all reserve appointments are made, and §510 of this title, based on 50 U.S.C. 941, 952, 956 provides the authority to enlist persons in the reserve components. As worded, this section removes the conflicting statement of appointing authority, and allows appointments and enlistments to be controlled by these other provisions. The words "rank" and "or rating" are omitted as covered by the word "grade".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7852 of this title as this section.
**2006**—Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8903. Release from Militia duty upon order to active duty in reserve components

When ordered to active duty, a member of the Navy Reserve or the Marine Corps Reserve who is a member of the Naval Militia is relieved from all service and duty in the Naval Militia from the date of active duty specified in his orders until he is released from active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486, §7853; Pub. L. 109–163, div. A, title V, §515(b)(1)(X), Jan. 6, 2006, 119 Stat. 3233; renumbered §8903, Pub. L. 115–232, div. A, title VIII, §807(d)(11), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7853 | 50 U.S.C. 1073. | July 9, 1952, ch. 608, §503, 66 Stat. 500. |

The words "in the service of the United States" are omitted as covered by the definition of "active duty" in §101 of this title. The words "is relieved" are substituted for the words "shall stand relieved".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7853 of this title as this section.

**2006**—Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8904. Availability of material for Naval Militia

Under regulations prescribed by the Secretary of the Navy, vessels, material, armament, equipment, and other facilities of the Navy and the Marine Corps available to the Navy Reserve and the Marine Corps Reserve may also be made available for issue or loan to any State, the District of Columbia, Guam, or the Virgin Islands for the use of its Naval Militia if—

(1) at least 95 percent of the members of the portion or unit of the Naval Militia to which the facilities would be made available are members of the Navy Reserve or the Marine Corps Reserve; and

(2) the organization, administration, and training of the Naval Militia conform to standards prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486, §7854; Pub. L. 109–163, div. A, title V, §515(b)(1)(Y), title X, §1057(a)(12), Jan. 6, 2006, 119 Stat. 3233, 3441; renumbered §8904, Pub. L. 115–232, div. A, title VIII, §807(d)(11), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7854 | 50 U.S.C. 1074. | July 9, 1952, ch. 608, §504, 66 Stat. 500. |

The words "are or may be made", before the word "available", are omitted as surplusage.

In clause (1) the word "members" is substituted for the word "personnel".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7854 of this title as this section.

**2006**—Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" and "any State, the District of Columbia, Guam, or the Virgin Islands" for "any State, any Territory, or the District of Columbia" in introductory provisions and substituted "Navy Reserve" for "Naval Reserve" in par. (1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 889—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
8911. Custody of departmental records and property.
8912. Accounts of paymasters of lost or captured naval vessels.
8913. Disposal of public stores by order of commanding officer.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 661 of this title as this chapter and items 7861 to 7863 as 8911 to 8913, respectively.

**1996**—Pub. L. 104–106, div. A, title IX, §913(c)(3)(B)(ii), Feb. 10, 1996, 110 Stat. 411, substituted "Disposal of public stores" for "Disbursements" in item 7863.

**1986**—Pub. L. 99–433, title V, §514(b)(2), Oct. 1, 1986, 100 Stat. 1054, renumbered items 7861 and 7862 as 7862 and 7863, respectively, and inserted item 7861.

**1982**—Pub. L. 97–295, §1(51)(D), Oct. 12, 1982, 96 Stat. 1300, substituted "naval" for "public" in item 7861.

## §8911. Custody of departmental records and property

The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.

(Added Pub. L. 99–433, title V, §514(b)(2), Oct. 1, 1986, 100 Stat. 1055, §7861; renumbered §8911, Pub. L. 115–232, div. A, title VIII, §807(d)(12), Aug. 13, 2018, 132 Stat. 1837.)

**PRIOR PROVISIONS**

A prior section 8911 was renumbered section 9311 of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7861 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8912. Accounts of paymasters of lost or captured naval vessels

When settling the account of a paymaster of a lost or captured naval vessel, the Comptroller General in settling money accounts, and the Secretary of the Navy in settling property accounts, shall credit the account of the paymaster for the amount of provisions, clothing, small stores, and money for which the paymaster is charged that the Comptroller General or Secretary believes was lost inevitably because of the loss or capture. The paymaster is then free of liability for the provisions, clothing, small stores, and money.

(Added Pub. L. 97–258, §2(b)(12)(B), Sept. 13, 1982, 96 Stat. 1057, §7861; amended Pub. L. 97–295, §1(51)(C), Oct. 12, 1982, 96 Stat. 1300; renumbered §7862, Pub. L. 99–433, title V, §514(b)(1), Oct. 1, 1986, 100 Stat. 1054; renumbered §8912, Pub. L. 115–232, div. A, title VIII, §807(d)(12), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7861 | 31:44 (1st sentence). | June 10, 1921, ch. 18, §304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:104. | R.S. §284; Feb. 18, 1875, ch. 80, §1 (4th complete par. on p. 317), 18 Stat. 317. |

The word "naval" is substituted for "belonging to the Navy of the United States" to eliminate unnecessary words. The words "Secretary of the Navy" are substituted for "Paymaster General of the Navy" because of section 1 of the Act of March 29, 1894 (ch. 49, 28 Stat. 47), and 10:5061. The words "the account of the paymaster" are substituted for "him" for clarity. The words "such portion of the", "on their books", and "of a public vessel" are omitted as surplus. The words "free of" are substituted for "fully exonerated by such credit from all" to eliminate unnecessary words. The words "so proved to have been captured or lost" are omitted as surplus.

**PRIOR PROVISIONS**

A prior section 8912, act Aug. 10, 1956, ch. 1041, 70A Stat. 549, permitted Secretary of Air Force, upon officer's request, to retire an Air Force nurse, or a woman medical specialist, of Regular Air Force, who has at least 20 years of service computed under former section 8928 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7862 of this title as this section.
**1986**—Pub. L. 99–433 renumbered section 7861 of this title as this section.
**1982**—Pub. L. 97–295 substituted "naval" for "public" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8913. Disposal of public stores by order of commanding officer

When settling an account of a disbursing official, the Comptroller General shall allow disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that the stores were disposed of as the order provided. The commanding officer is accountable for the disposal.

(Added Pub. L. 97–258, §2(b)(12)(B), Sept. 13, 1982, 96 Stat. 1057, §7862; renumbered §7863, Pub. L. 99–433, title V, §514(b)(1), Oct. 1, 1986, 100 Stat. 1054; amended Pub. L. 104–106, div. A, title IX, §913(c)(3)(A), (B)(i), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104–201, div. A, title X, §1074(a)(20), Sept. 23, 1996, 110 Stat. 2660; renumbered §8913, Pub. L. 115–232, div. A, title VIII, §807(d)(12), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7862 | 31:44 (1st sentence). | June 10, 1921, ch. 18, §304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:106. | R.S. §285. |

The words "disbursing official" are substituted for "disbursing officer" for consistency with other titles of the United States Code. The words "Comptroller General" are substituted for "General Accounting Office" for consistency. The words "of the Navy" are omitted because of the restatement. The words "when presented with" are substituted for "upon" for clarity. The words "by whose order such disbursement or disposal was made" are omitted as surplus.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 8913, acts Aug. 10, 1956, ch. 1041, 70A Stat. 549; July 12, 1960, Pub. L. 86–616, §9, 74 Stat. 395; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of deferred officers not recommended for promotion after twenty years or more of service, except as provided in section 8301 of Title 5, prior to repeal by Pub. L. 96–513, title II, §217(a), Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981. See section 627 et seq. of this title.

A prior section 8914 was renumbered section 9314 of this title.

Prior sections 8915 and 8916 were repealed by Pub. L. 96–513, title II, §217(a), Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

Section 8915, acts Aug. 10, 1956, ch. 1041, 70A Stat. 550; Aug. 21, 1957, Pub. L. 85–155, title III, §301(18), 71 Stat. 389; Sept. 30, 1966, Pub. L. 89–609, §1(31), 80 Stat. 854; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115; Nov. 8, 1967, Pub. L. 90–130, §1(32)(A), 89 Stat. 382, authorized the Secretary of the Air Force to defer the retirement of any Air Force nurse or medical specialist in the regular grade of major until the 30th day after the officer completes 28 years of service. See section 632 of this title.

Section 8916, acts Aug. 10, 1956, ch. 1041, 70A Stat. 550; Aug. 21, 1957, Pub. L. 85–155, title III, §301(19), 71 Stat. 389, provided for retirement of a promotion-list lieutenant colonel, except as provided by section 8301 of title 5, on the 30th day after he completes 28 years of service, with authority for the Secretary of the Air Force to defer retirement in certain cases. See section 633 of this title.

Prior sections 8917 and 8918 were renumbered sections 9317 and 9318 of this title.

A prior section 8919, act Aug. 10, 1956, ch 1041, 70A Stat. 551, authorized Secretary of Air Force, when he determined that there were too many commissioned officers on active list of Regular Air Force in any grade who have at least 30 years of service, to convene a board of at least five general officers of the Regular Air Force to make recommendations for retirement and to retire any officer so recommended, prior to repeal by Pub. L. 96–513, title II, §217(a), Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

A prior section 8920 was renumbered section 9320 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7863 of this title as this section.

**1996**—Pub. L. 104–201 inserted "were" after "the stores" in first sentence.

Pub. L. 104–106, §913(c)(3)(B)(i), substituted "Disposal of public stores" for "Disbursements" in section catchline.

Pub. L. 104–106, §913(c)(3)(A), in first sentence, struck out "disbursements of public moneys or" after "Comptroller General shall allow" and "the money was paid or" after "the order was made and that" and, in second sentence, struck out "disbursement or" after "commanding officer is accountable for the".

**1986**—Pub. L. 99–433 renumbered section 7862 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 891—NAMES AND INSIGNIA

Sec.
8921. Unauthorized use of Marine Corps insignia.

### EDITORIAL NOTES

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 663 of this title as this chapter and item 7881 as 8921.

## §8921. Unauthorized use of Marine Corps insignia

(a) The seal, emblem, and initials of the United States Marine Corps shall be deemed to be insignia of the United States.

(b) No person may, except with the written permission of the Secretary of the Navy, use or imitate the seal, emblem, name, or initials of the United States Marine Corps in connection with any promotion, goods, services, or commercial activity in a manner reasonably tending to suggest that such use is approved, endorsed, or authorized by the Marine Corps or any other component of the Department of Defense.

(c) Whenever it appears to the Attorney General of the United States that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (b), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added Pub. L. 98–525, title XV, §1532(a)(1), Oct. 19, 1984, 98 Stat. 2631, §7881; renumbered §8921, Pub. L. 115–232, div. A, title VIII, §807(d)(13), Aug. 13, 2018, 132 Stat. 1837.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 8921 was renumbered section 9321 of this title.

Another prior section 8921, acts Aug. 10, 1956, ch. 1041, 70A Stat. 551; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a promotion-list colonel, except as provided by section 8301 of title 5, on 30th day after he completes 30 years of service or 5th anniversary of date of his appointment in that regular grade, whichever is later, with authority for Secretary of Air Force to defer retirement in certain cases, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2995, effective Sept. 15, 1981.

Prior sections 8922 and 8923 were repealed by Pub. L. 96–513, title II, §217(a), Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981.

Section 8922, acts Aug. 10, 1956, ch. 1041, 70A Stat. 551; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a regular grade brigadier general, other than a professor of the United States Air Force Academy, except as provided by section 8301 of title 5, on 30th day after he completes 30 years of service or 5th anniversary of date of his appointment in that regular grade, whichever is later, with authority for Secretary of Air Force to defer retirement in certain cases. See section 635 of this title.

Section 8923, acts Aug. 10, 1956, ch. 1041, 70A Stat. 552; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat 1115, provided for retirement of a regular grade major general, except as provided by section 8301 of title 5, on 30th day after he completes 35 years of service or 5th anniversary of his appointment in that regular grade, whichever is later, with authority for Secretary of Air Force to defer retirement in certain cases. See section 636 of this title.

Prior sections 8924 to 8926 were renumbered section 9324 to 9326, respectively, of this title.

A prior section 8927, acts Aug. 10, 1956, ch. 1041, 70A Stat. 553; Aug. 21, 1957, Pub. L. 85–155, title III, §301(20), 71 Stat. 389; May 20, 1958, Pub. L. 85–422, §11(a)(8), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(196), 72 Stat. 1540; Sept. 30, 1966, Pub. L. 89–609, §1(33), 80 Stat. 854, related to computation of years of service for determining whether a regular commissioned officer should be retired under former section 8913, 8915, 8916, 8919, 8921, 8922, or 8923 of this title and for determining retired pay of officers of Regular Air Force retired under former section 8913, 8915, 8916, 8919, 8921, 8922, or 8923 of this title, was repealed by Pub. L. 96–513, title II, §217(a), Dec. 12, 1980, 94 Stat. 2886, effective Sept. 15, 1981. See section 1405 of this title.

A prior section 8928, act Aug. 10, 1956, ch. 1041, 70A Stat. 554, related to computation of years of service

of Air Force Nurses or women medical specialists for purposes of retirement under former section 8912 of this title, or retirement pay under section 8991 of this title, was repealed by Pub. L. 85–155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

A prior section 8929 was renumbered section 9329 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7881 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**SAVINGS PROVISION**

Pub. L. 98–525, title XV, §1532(b), Oct. 19, 1984, 98 Stat. 2631, provided that: "The amendments made by subsection (a) [enacting this chapter] shall not affect rights that vested before the date of the enactment of this Act [Oct. 19, 1984]."

# CHAPTER 893—NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM

Sec.
8931. National Oceanographic Partnership Program.
8932. Ocean Policy Committee.
8933. Ocean Research Advisory Panel.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title X, §1055(b)(2)(B), Jan. 1, 2021, 134 Stat. 3854, added item 8932 and struck out former item 8932 "National Ocean Research Leadership Council".

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 665 of this title as this chapter and items 7901 to 7903 as 8931 to 8933, respectively.

## §8931. National Oceanographic Partnership Program

(a) ESTABLISHMENT.—The Secretary of the Navy shall establish a program to be known as the "National Oceanographic Partnership Program".

(b) PURPOSES.—The purposes of the program are as follows:

(1) To promote the national goals of assuring national security, advancing economic development, protecting quality of life, ensuring environmental stewardship, and strengthening science education and communication through improved knowledge of the ocean.

(2) To coordinate and strengthen oceanographic efforts in support of those goals by—

(A) creating and carrying out partnerships among Federal agencies, academia, industry, and other members of the oceanographic community in the areas of science, data, technology development, resources, education, and communication; and

(B) accepting, planning, and executing oceanographic research projects funded by grants, contracts, cooperative agreements, or other vehicles as appropriate, that contribute to assuring national security, advancing economic development, protecting quality of life, ensuring environmental stewardship, and strengthening science education and communication through improved knowledge of the ocean.

(Added Pub. L. 104–201, div. A, title II, §282(a)(1), Sept. 23, 1996, 110 Stat. 2470, §7901;

renumbered §8931, Pub. L. 115–232, div. A, title VIII, §807(d)(14), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title X, §1055(a), Jan. 1, 2021, 134 Stat. 3851.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 amended section generally. Prior to amendment, section related to establishment and purposes of National Oceanographic Partnership Program. As enacted by Pub. L. 116–283, "SEC." preceding section designation and catchline text were editorially conformed to the style used in this title.

**2018**—Pub. L. 115–232 renumbered section 7901 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### CONGRESSIONAL FINDINGS

Pub. L. 104–201, div. A, title II, §281, Sept. 23, 1996, 110 Stat. 2469, provided that: "Congress finds the following:

"(1) The oceans and coastal areas of the United States are among the Nation's most valuable natural resources, making substantial contributions to economic growth, quality of life, and national security.

"(2) Oceans drive global and regional climate. Hence, they contain information affecting agriculture, fishing, and the prediction of severe weather.

"(3) Understanding of the oceans through basic and applied research is essential for using the oceans wisely and protecting their limited resources. Therefore, the United States should maintain its world leadership in oceanography as one key to its competitive future.

"(4) Ocean research and education activities take place within Federal agencies, academic institutions, and industry. These entities often have similar requirements for research facilities, data, and other resources (such as oceanographic research vessels).

"(5) The need exists for a formal mechanism to coordinate existing partnerships and establish new partnerships for the sharing of resources, intellectual talent, and facilities in the ocean sciences and education, so that optimal use can be made of this most important natural resource for the well-being of all Americans."

## §8932. Ocean Policy Committee

(a) COMMITTEE.—There is established an Ocean Policy Committee (hereinafter referred to as the "Committee"). The Committee shall retain broad and inclusive membership.

(b) RESPONSIBILITIES.—The Committee shall—

(1) continue the activities of that Committee as it was in existence on the day before the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021;

(2) engage and collaborate, pursuant to existing laws and regulations, with stakeholders, including regional ocean partnerships, to address ocean-related matters that may require interagency or intergovernmental solutions;

(3) facilitate coordination and integration of Federal activities in ocean and coastal waters to inform ocean policy and identify priority ocean research, technology, and data needs;

(4) prescribe policies and procedures to implement the National Oceanographic Partnership Program, including developing guidelines for review, selection, identification, and approval of partnership projects, in conjunction with Federal agencies participating in the program, for implementation under the program, based on—

(A) whether the project addresses important research objectives or operational goals;

(B) whether the project has, or is designed to have, appropriate participation or support from

public, academic, commercial, and private entities within the oceanographic community;

(C) whether the partners have a long-term commitment to the objectives of the project;

(D) whether the resources supporting the project are shared among the partners;

(E) whether the project has been subjected to adequate scientific and technical merit review according to each participating agency; and

(F) the approval of such guidelines by a consensus of the members of the Committee; and

(5) for projects under the purview of the Committee, establish or designate one or more systems for ocean-related and ocean-mapping-related documents prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), in accordance with subsection (h).

(c) SUBCOMMITTEES.—(1) The Committee shall include—

(A) a subcommittee to be known as the "Ocean Science and Technology Subcommittee"; and

(B) a subcommittee to be known as the "Ocean Resource Management Subcommittee".

(2) In discharging its responsibilities in support of agreed-upon scientific needs, and to assist in the execution of the responsibilities described in subsection (b), the Committee may delegate responsibilities to the Ocean Science and Technology Subcommittee, the Ocean Resource Management Subcommittee, or another subcommittee of the Committee, as the Committee determines appropriate.

(d) ANNUAL REPORT AND BRIEFING.—(1) Not later than March 1 of each year, the Committee shall—

(A) make publicly available on an appropriate website a report on the National Oceanographic Partnership Program; and

(B) provide to the appropriate congressional committees a briefing on the contents of the report.

(2) Not later than 30 days after providing a briefing under paragraph (1)(B), the Committee shall make publicly available on an appropriate website the briefing materials covered by the briefing.

(3) Each report and briefing shall include the following:

(A) A description of activities of the National Oceanographic Partnership Program carried out during the fiscal year preceding the fiscal year during which the report is published.

(B) A general outline of the activities planned for the program during the fiscal year during which the report is published.

(C) A summary of projects, partnerships, and collaborations, including the Federal and non-Federal sources of funding, continued from the fiscal year preceding the fiscal year during which the report is published and projects expected to begin during the fiscal year during which the report is published and any subsequent fiscal year, as required under subsection (e)(4)(C).

(D) The amounts requested in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year during which the report is published, for the programs, projects, activities and the estimated expenditures under such programs, projects, and activities, to execute the National Oceanographic Partnership Program.

(E) A summary of national ocean research priorities informed by the Ocean Research Advisory Panel, as required under section 8933(b)(4) of this title.

(F) A list of the members of the Ocean Research Advisory Panel established under section 8933(a) of this title and any working groups described in subsection (e)(4)(A) in existence during the fiscal years covered by the report.

(e) PARTNERSHIP PROGRAM OFFICE.—(1) The Secretary of the Navy and Administrator of the National Oceanic and Atmospheric Administration shall jointly establish a partnership program office for the National Oceanographic Partnership Program.

(2) The Secretary of the Navy and Administrator of the National Oceanic and Atmospheric Administration shall use competitive procedures to select a non-Government entity to manage the partnership program office.

(3) The Committee shall monitor the management of the partnership program office.

(4) The partnership program office shall perform the following duties:

(A) Supporting working groups established by the Committee or subcommittee and reporting to the Committee and to any Federal agency that has contributed amounts to the National Oceanographic Partnership Program on the activities of such working groups, including the proposals of such working groups for partnership projects.

(B) Supporting the process for proposing partnership projects to the Committee and to the agencies referred to in subparagraph (A), including, where appropriate, managing review of such projects.

(C) Submitting to the appropriate congressional committees, and making publicly available, an annual report on the status of all partnership projects, including the Federal and non-Federal sources of funding for each project, and activities of the office.

(D) Performing such additional duties for the administration of the National Oceanographic Partnership Program that the Committee and the agencies referred to in subparagraph (A) consider appropriate.

(f) CONTRACT AND GRANT AUTHORITY.—The Committee may authorize one or more of the departments or agencies represented on the Committee to enter into contracts and make grants, using funds appropriated pursuant to an authorization of appropriations for the National Oceanographic Partnership Program, for the purpose of implementing the program and carrying out the responsibilities of the Committee.

(g) ESTABLISHMENT AND FORMS OF PARTNERSHIP PROJECTS.—(1) A partnership project under the National Oceanographic Partnership Program may be established by any instrument that the Committee considers appropriate, including a memorandum of understanding, a cooperative research and development agreement, and any similar instrument.

(2) Projects under the program may include demonstration projects.

(h) ELEMENTS OF DOCUMENT SYSTEM.—The systems established or designated under subsection (b)(5) may include the following:

(1) A publicly accessible, centralized digital archive of documents described in subsection (b)(5) that are finalized after the date of the enactment of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, including—

(A) environmental impact statements;

(B) environmental assessments;

(C) records of decision; and

(D) other relevant documents as determined by the lead agency on a project.

(2) Geospatially referenced data, if any, contained in the documents under paragraph (1).

(3) A mechanism to retrieve information through geo-information tools that can map and integrate relevant geospatial information, such as—

(A) Ocean Report Tools;

(B) the Environmental Studies Program Information System;

(C) Regional Ocean Partnerships; and

(D) the Integrated Ocean Observing System.

(4) Appropriate safeguards on the public accessibility of data to protect national security equities.

(i) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Commerce, Science, and Transportation of the Senate;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Natural Resources of the House of Representatives;

(5) the Committee on Science, Space, and Technology of the House of Representatives;
(6) the Committee on Armed Services of the House of Representatives; and
(7) the Committee on Appropriations of the House of Representatives.

(Added Pub. L. 104–201, div. A, title II, §282(a)(1), Sept. 23, 1996, 110 Stat. 2470, §7902; amended Pub. L. 105–85, div. A, title II, §241(a), title X, §1073(a)(64), Nov. 18, 1997, 111 Stat. 1665, 1903; Pub. L. 106–65, div. A, title X, §1066(a)(30), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107–296, title XVII, §1713, Nov. 25, 2002, 116 Stat. 2320; renumbered §8932, Pub. L. 115–232, div. A, title VIII, §807(d)(14), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title X, §1055(b)(1), (2)(A), Jan. 1, 2021, 134 Stat. 3851–3853; Pub. L. 117–263, div. J, title CIII, §10303, Dec. 23, 2022, 136 Stat. 3967.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(5), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of the enactment of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, referred to in subsec. (h)(1), is the date of enactment of Pub. L. 117–263, which was approved Dec. 23, 2022.

### AMENDMENTS

**2022**—Subsec. (b)(5). Pub. L. 117–263, §10303(b)(1), added par. (5).

Subsec. (c). Pub. L. 117–263, §10303(a), amended subsec. (c) generally. Prior to amendment, text read as follows: "In discharging its responsibilities in support of agreed-upon scientific needs, and to assist in the execution of the responsibilities described in subsection (b), the Committee may delegate responsibilities to a subcommittee of the Committee, as the Committee determines appropriate."

Subsecs. (h), (i). Pub. L. 117–263, §10303(b)(2), added subsec. (h) and redesignated former subsec. (h) as (i).

**2021**—Pub. L. 116–283, §1055(b)(2)(A), substituted "Ocean Policy Committee" for "National Ocean Research Leadership Council" in section catchline.

Subsecs. (a) to (e). Pub. L. 116–283, §1055(b)(1)(A), (B), added subsecs. (a) to (e) and struck out former subsecs. (a) to (e) which related to establishment, membership, chairman and vice chairman, responsibilities, and annual reports of the National Ocean Research Leadership Council.

Subsec. (f). Pub. L. 116–283, §1055(b)(1)(A), (C), (D), redesignated subsec. (g) as (f), substituted "Committee" for "Council" wherever appearing, and struck out former subsec. (f) which related to establishment of a partnership program office for the National Oceanographic Partnership Program.

Subsec. (g). Pub. L. 116–283, §1055(b)(1)(C), (D), redesignated subsec. (h) as (g) and substituted "Committee" for "Council". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 116–283, §1055(b)(1)(E), added subsec. (h). Former subsec. (h) redesignated (g).

**2018**—Pub. L. 115–232 renumbered section 7902 of this title as this section.

**2002**—Subsec. (b)(13), (14). Pub. L. 107–296 added pars. (13) and (14).

**1999**—Subsec. (e)(5). Pub. L. 106–65 struck out ", United States Code," after "title 31".

**1997**—Subsec. (b)(8). Pub. L. 105–85, §1073(a)(64), inserted "United States" before "Geological Survey".

Subsec. (b)(11) to (13). Pub. L. 105–85, §241(a)(1), redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11) which read as follows: "The President of the National Academy of Sciences, the President of the National Academy of Engineering, and the President of the Institute of Medicine."

Subsec. (b)(14) to (17). Pub. L. 105–85, §241(a)(1)(A), struck out pars. (14) to (17) which read as follows:

"(14) One member appointed by the chairman from among individuals who will represent the views of ocean industries.

"(15) One member appointed by the chairman from among individuals who will represent the views of

State governments.

"(16) One member appointed by the chairman from among individuals who will represent the views of academia.

"(17) One member appointed by the chairman from among individuals who will represent such other views as the chairman considers appropriate."

Subsecs. (d) to (i). Pub. L. 105–85, §241(a)(2), (3), redesignated subsecs. (e) to (i) as (d) to (h), respectively, and struck out former subsec. (d) which read as follows:

"(d) TERM OF OFFICE.—The term of office of a member of the Council appointed under paragraph (14), (15), (16), or (17) of subsection (b) shall be two years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title II, §241(d), Nov. 18, 1997, 111 Stat. 1666, provided that: "The amendments made by subsections (a) and (b) [amending this section, section 7903 of this title, and provisions set out as a note under section 7903 of this title] shall be effective as of September 23, 1996, as if included in section 282 of Public Law 104–201."

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

### INITIAL APPOINTMENTS OF COUNCIL MEMBERS

Pub. L. 104–201, div. A, title II, §282(b), Sept. 23, 1996, 110 Stat. 2473, directed Secretary of the Navy to make appointments required by subsec. (b) of this section, not later than Dec. 1, 1996, prior to repeal by Pub. L. 105–85, div. A, title II, §241(c)(1), Nov. 18, 1997, 111 Stat. 1666.

### FIRST ANNUAL REPORT OF COUNCIL

Pub. L. 104–201, div. A, title II, §282(c), formerly §282(d), Sept. 23, 1996, 110 Stat. 2473, as renumbered by Pub. L. 105–85, div. A, title II, §241(c)(2), Nov. 18, 1997, 111 Stat. 1666, provided that the first annual report required by former subsec. (f) of this section was to be submitted to Congress not later than Mar. 1, 1997.

## §8933. Ocean Research Advisory Panel

(a) ESTABLISHMENT.—(1) The Ocean Policy Committee shall establish an Ocean Research Advisory Panel (in this section referred to as the "Advisory Panel"). The Advisory Panel shall consist of not fewer than 10 and not more than 18 members appointed by the co-chairs of the Committee,

including each of the following:

(A) Three members who represent the National Academies of Sciences, Engineering, and Medicine.

(B) Members selected from among individuals who represent the views of ocean industries, State, tribal, territorial or local governments, academia, and such other views as the co-chairs consider appropriate.

(C) Members selected from among individuals eminent in the fields of marine science, marine technology, and marine policy, or related fields.

(2) The Committee shall ensure that an appropriate balance of academic, scientific, industry, and geographical interests and gender and racial diversity are represented by the members of the Advisory Panel.

(b) RESPONSIBILITIES.—The Committee shall assign the following responsibilities to the Advisory Panel:

(1) To advise the Committee on policies and procedures to implement the National Oceanographic Partnership Program.

(2) To advise the Committee on matters relating to national oceanographic science, engineering, facilities, or resource requirements.

(3) To advise the Committee on improving diversity, equity, and inclusion in the ocean sciences and related fields.

(4) To advise the Committee on national ocean research priorities.

(5) Any additional responsibilities that the Committee considers appropriate.

(c) MEETINGS.—The Committee shall require the Advisory Panel to meet not less frequently than two times each year.

(d) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Administrator of the National Oceanic and Atmospheric Administration shall provide to the Advisory Panel such administrative and technical support as the Advisory Panel may require.

(e) TERMINATION.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.),[1] the Advisory Panel shall terminate on January 1, 2040.

(Added Pub. L. 104–201, div. A, title II, §282(a)(1), Sept. 23, 1996, 110 Stat. 2473, §7903; amended Pub. L. 105–85, div. A, title II, §241(b)(1), Nov. 18, 1997, 111 Stat. 1666; Pub. L. 114–92, div. A, title X, §1084, Nov. 25, 2015, 129 Stat. 1004; renumbered §8933, Pub. L. 115–232, div. A, title VIII, §807(d)(14), Aug. 13, 2018, 132 Stat. 1837; Pub. L. 116–283, div. A, title X, §1055(c), Jan. 1, 2021, 134 Stat. 3854.)

## REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (e), is section 14 of Pub. L. 92–463, which was set out in the Appendix to Title 5, Government Organization and Employees, and was repealed and restated as section 1013 of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4204, 4361.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 amended section generally. Prior to amendment, section related to establishment, membership, and responsibilities of Ocean Research Advisory Panel.

**2018**—Pub. L. 115–232 renumbered section 7903 of this title as this section.

**2015**—Subsec. (c). Pub. L. 114–92 struck out subsec. (c). Text read as follows: "The Secretary of the Navy annually shall make funds available to support the activities of the Advisory Panel."

**1997**—Pub. L. 105–85 amended text generally. Prior to amendment, text read as follows:

"(a) ESTABLISHMENT.—The Council shall establish an Ocean Research Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the Council from among persons eminent in the fields of marine science or marine policy, or related fields, and who are representative, at a minimum, of the

interests of government, academia, and industry.

"(b) RESPONSIBILITIES.—The Council shall assign to the Advisory Panel responsibilities that the Council considers appropriate."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective as of Sept. 23, 1996, as if included in section 282 of Pub. L. 104–201, see section 241(d) of Pub. L. 105–85, set out as a note under section 7902 of this title.

### INITIAL APPOINTMENTS OF PANEL MEMBERS

Pub. L. 104–201, div. A, title II, §282(b), formerly §282(c), Sept. 23, 1996, 110 Stat. 2473, as renumbered and amended by Pub. L. 105–85, div. A, title II, §241(b)(2), (c)(2), Nov. 18, 1997, 111 Stat. 1666, provided that the National Ocean Research Leadership Council established by 10 U.S.C. 8932 was to make the appointments required by this section not later than Jan. 1, 1998.

[1] *See References in Text note below.*

# CHAPTER 895—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.
8942. Rifles and ammunition for target practice: educational institutions having corps of midshipmen.
8943. Supplies: military instruction camps.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 667 of this title as this chapter and items 7912 and 7913 as 8942 and 8943, respectively.

**2013**—Pub. L. 112–239, div. A, title V, §552(c)(3), Jan. 2, 2013, 126 Stat. 1741, struck out item 7911 "Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C."

## §8942. Rifles and ammunition for target practice: educational institutions having corps of midshipmen

(a) AUTHORITY TO LEND.—The Secretary of the Navy may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of midshipmen of sufficient number for target practice. The Secretary may also issue 40 rounds of ball cartridges for each midshipman for each range at which target practice is held, but not more than 120 rounds each year for each midshipman participating in target practice.

(b) RESPONSIBILITIES OF INSTITUTIONS.—The institutions to which property is lent under subsection (a) shall—

(1) use the property for target practice;

(2) take proper care of the property; and

(3) return the property when required.

(c) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

(Added Pub. L. 110–181, div. A, title III, §377(a), Jan. 28, 2008, 122 Stat. 85, §7912; renumbered §8942, Pub. L. 115–232, div. A, title VIII, §807(d)(15), Aug. 13, 2018, 132 Stat. 1837.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7912 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §8943. Supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Navy may issue, to any educational institution at which an officer of the naval service is detailed as professor of naval science, such supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and except for property properly expended, for its return when required.

(Added Pub. L. 110–181, div. A, title III, §377(a), Jan. 28, 2008, 122 Stat. 85, §7913; renumbered §8943, Pub. L. 115–232, div. A, title VIII, §807(d)(15), Aug. 13, 2018, 132 Stat. 1837.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 7913 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 897—MARITIME SAFETY OF FORCES

Sec.
8951. Safety and effectiveness information; hydrographic information.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §807(e)(4), (f)(1), Aug. 13, 2018, 132 Stat. 1838, redesignated chapter 669 of this title as this chapter and item 7921 as 8951.

## §8951. Safety and effectiveness information; hydrographic information

(a) SAFETY AND EFFECTIVENESS INFORMATION.—(1) The Secretary of the Navy shall maximize the safety and effectiveness of all maritime vessels, aircraft, and forces of the armed forces by means of—

(A) marine data collection;

(B) numerical weather and ocean prediction; and

(C) forecasting of hazardous weather and ocean conditions.

(2) The Secretary may extend similar support to forces of the North Atlantic Treaty Organization, and to coalition forces, that are operating with the armed forces.

(b) HYDROGRAPHIC INFORMATION.—The Secretary of the Navy shall collect, process, and provide to the Director of the National Geospatial-Intelligence Agency hydrographic information to support preparation of maps, charts, books, and geodetic products by that Agency.

(Added Pub. L. 112–81, div. A, title III, §363(a), Dec. 31, 2011, 125 Stat. 1379, §7921; renumbered §8951, Pub. L. 115–232, div. A, title VIII, §807(d)(16), Aug. 13, 2018, 132 Stat. 1837.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 8961 to 8963 were renumbered sections 9341 to 9343 of this title, respectively.

Another prior section 8963, acts Aug. 10, 1956, ch. 1041, 70A Stat. 555; Sept. 2, 1958, Pub. L. 85–861, §1(156), (198), 72 Stat. 1513, 1541; Dec. 12, 1980, Pub. L. 96–513, title V, §504(21), 94 Stat. 2917, related to higher grade for service during certain periods for regular and reserve commissioned officers, prior to repeal by Pub. L. 99–145, title XIII, §1301(d)(2)(A), (C), Nov. 8, 1985, 99 Stat. 736, with such repeal not applicable in the case of an Air Force nurse or medical specialist described in section 8963 of this title, as such section was in effect on the day before Nov. 8, 1985.

Prior sections 8964 to 8966 were renumbered sections 9344 to 9346 of this title, respectively.

Prior sections 8991 and 8992 were renumbered sections 9361 and 9362 of this title, respectively.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 7921 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# Subtitle D—Air Force and Space Force

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| **903.** | **Department of the Air Force** | **9011** |
| **905.** | **The Air Staff** | **9031** |
| **907.** | **The Air Force** | **9061** |
| **908.** | **The Space Force** | **9081** |


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**915. Appointments in the Regular Air Force and in the Space Force 9151**
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### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XVII, §1721(a)(5)(B), Dec. 22, 2023, 137 Stat. 666, added item for chapter 915 and struck out former item for chapter 915 "Appointments in the Regular Air Force and the Regular Space Force". Amendment was executed to reflect the probable intent of Congress, notwithstanding directory language amending this analysis as if it were within part II of this subtitle.

**2021**—Pub. L. 116–283, div. A, title IX, §923(a)(1), (c)(3)(C), title X, §1081(a)(47), Jan. 1, 2021, 134 Stat. 3807, 3810, 3873, substituted "Air Force and Space Force" for "Air Force" in subtitle heading, struck out period at end of item for chapter 908, and added item for chapter 915 and struck out former item for chapter 915 "Appointments in the Regular Air Force".

**2019**—Pub. L. 116–92, div. A, title IX, §952(f), Dec. 20, 2019, 133 Stat. 1562, added item for chapter 908.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(e)(2), Aug. 13, 2018, 132 Stat. 1834, redesignated items for chapters 801 to 953 as 901 to 983 and redesignated section numbers 8011 to 9831 as 9011 to 9831. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(8), Dec. 23, 2016, 130 Stat. 2512, struck out item for chapter 905 "Aviation Leadership Program".

**2003**—Pub. L. 108–136, div. A, title V, §576(c)(2), Nov. 24, 2003, 117 Stat. 1488, added item for chapter

875.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(8), Oct. 5, 1999, 113 Stat. 695, substituted "Disposition" for "Inquests; Disposition" and "9712" for "9711" in item for chapter 945.

**1996**—Pub. L. 104–106, div. A, title XV, §1503(b)(6), Feb. 10, 1996, 110 Stat. 513, inserted comma after "SUPPLY" in heading for part IV.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(a), Oct. 5, 1994, 108 Stat. 3016, struck out items for chapters 837 "Appointments as Reserve Officers" and 863 "Separation or Transfer to Retired Reserve".

**1993**—Pub. L. 103–160, div. A, title VIII, §828(c)(8)(B), title XI, §1178(c), Nov. 30, 1993, 107 Stat. 1715, 1769, added item for chapter 905 and substituted "Civil Reserve Air Fleet" for "Industrial Mobilization, Research, and Development" and "9511" for "9501" in item for chapter 931.

**1987**—Pub. L. 100–26, §7(j)(10)(B), Apr. 21, 1987, 101 Stat. 283, substituted "8011" for "8010" in item for chapter 803.

**1980**—Pub. L. 96–513, title V, §§504(1), 514(1), Dec. 12, 1980, 94 Stat. 2915, 2935, substituted "8010" for "8011" in item for chapter 803 and struck out items for chapters 859 "Separation from Regular Air Force for Substandard Performance of Duty", 860 "Separation from Regular Air Force for Moral or Professional Dereliction or in Interests of National Security", and 865 "Retirement for Age".

**1968**—Pub. L. 90–377, §5, July 5, 1968, 82 Stat. 288, struck out item for chapter 851 "United States Disciplinary Barracks".

Pub. L. 90–235, §8(6), Jan. 2, 1968, 81 Stat. 764, struck out item for chapter 847 "The Uniform".

**1964**—Pub. L. 88–647, title III, §301(27), Oct. 13, 1964, 78 Stat. 1073, struck out item for chapter 905 "Air Force Reserve Officers' Training Corps".

**1960**—Pub. L. 86–616, §§7(b), 8(b), July 12, 1960, 74 Stat. 393, 395, substituted "Substandard Performance of Duty" for "Failure to Meet Standards" in item for chapter 859 and added item for chapter 860.

**1958**—Pub. L. 85–861, §1(193), Sept. 2, 1958, 72 Stat. 1538, substituted "8841" for "[No present sections]" in item for chapter 863.

# PART I—ORGANIZATION


| Chap. | | Sec. |
|---|---|---|
| **901.** | **Definitions. [No present sections.]** | |
| **903.** | **Department of the Air Force** | **9011** |
| **905.** | **The Air Staff** | **9031** |
| **907.** | **The Air Force** | **9061** |
| **908.** | **The Space Force** | **9081** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title X, §1081(a)(47), Jan. 1, 2021, 134 Stat. 3873, struck out period at end of item for chapter 908.

**2019**—Pub. L. 116–92, div. A, title IX, §952(f), Dec. 20, 2019, 133 Stat. 1562, added item for chapter 908.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(e)(2), Aug. 13, 2018, 132 Stat. 1834, redesignated items for chapters 801 to 807 as 901 to 907 and redesignated section numbers 8011 to 8061 as 9011 to 9061.

**1987**—Pub. L. 100–26, §7(j)(10)(B), Apr. 21, 1987, 101 Stat. 283, substituted "8011" for "8010" in item for chapter 803.

**1980**—Pub. L. 96–513, title V, §514(1), Dec. 12, 1980, 94 Stat. 2935, substituted "8010" for "8011" in item for chapter 803.

## CHAPTER 901—DEFINITIONS

[NO PRESENT SECTIONS]

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 901, consisting of sections 9301 to 9320, related to Air Force training generally, prior to renumbering as chapter 951 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(4), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 801 of this title as this chapter.

# CHAPTER 903—DEPARTMENT OF THE AIR FORCE

Sec.
9011. Organization.
9012. Department of the Air Force: seal.
9013. Secretary of the Air Force.
9014. Office of the Secretary of the Air Force.
9015. Under Secretary of the Air Force.
9016. Assistant Secretaries of the Air Force.
9017. Secretary of the Air Force: successors to duties.
9018. Administrative Assistant.
9019. General Counsel.
9020. Inspector General.
9021. Space Acquisition Council.
9021a. Air Force Reserve Forces Policy Committee.
9022. Financial management.
9023. Chief of Legislative Liaison.
9023a. Legislative Liaison of the Space Force.
9024. Director of Small Business Programs.
9025. Office of Expanded Competition.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 903, consisting of sections 9331 to 9362, related to the United States Air Force Academy, prior to renumbering as chapter 953 of this title.

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title IX, §924(a), Dec. 23, 2024, 138 Stat. 2039, added item 9025. Amendment was made pursuant to operation of section 102 of this title.

**2023**—Pub. L. 118–31, div. A, title V, §509B, Dec. 22, 2023, 137 Stat. 243, added item 9023a. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title XVI, §1602(a)(3), Dec. 27, 2021, 135 Stat. 2076, substituted "Space Acquisition Council" for "Space Force Acquisition Council" in item 9021.

**2019**—Pub. L. 116–92, div. A, title IX, §954(b), Dec. 20, 2019, 133 Stat. 1565, added items 9021 and 9021a and struck out former item 9021 "Air Force Reserve Forces Policy Committee".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(4), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 803 of this title as this chapter and items 8011 to 8024 as 9011 to 9024, respectively.

**2006**—Pub. L. 109–163, div. A, title IX, §904(e)(2), Jan. 6, 2006, 119 Stat. 3402, added item 8024.

**2002**—Pub. L. 107–314, div. A, title V, §504(e)(1)(B), Dec. 2, 2002, 116 Stat. 2532, added item 8023.

**1988**—Pub. L. 100–456, div. A, title VII, §702(c)(3), Sept. 29, 1988, 102 Stat. 1996, added item 8022.

**1986**—Pub. L. 99–433, title V, §521(b), Oct. 1, 1986, 100 Stat. 1060, amended analysis generally, substituting items 8011 to 8021 for former items 8010 to 8019.

**1967**—Pub. L. 90–168, §2(20), Dec. 1, 1967, 81 Stat. 525, added item 8019.

**1964**—Pub. L. 88–426, title III, §§305(40)(B), 306(j)(8), Aug. 14, 1964, 78 Stat. 427, 432, struck out "; compensation" from item 8012, and struck out item 8018 "Compensation of General Counsel".

**1962**—Pub. L. 87–651, title II, §213(b), Sept. 7, 1962, 76 Stat. 524, added item 8010.

**1958**—Pub. L. 85–861, §1(154)(B), Sept. 2, 1958, 72 Stat. 1513, added item 8018.

## §9011. Organization

The Department of the Air Force is separately organized under the Secretary of the Air Force. It operates under the authority, direction, and control of the Secretary of Defense.

(Added Pub. L. 87–651, title II, §213(a), Sept. 7, 1962, 76 Stat. 524, §8010; renumbered §8011, Pub. L. 99–433, title V, §521(a)(1), Oct. 1, 1986, 100 Stat. 1055; renumbered §9011, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES
1962 AMENDMENT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8010 | 5:171a(c)(7) (1st sentence, as applicable to Department of Air Force). | July 26, 1947, ch. 343, §202(c)(7) (1st sentence as applicable to Department of Air Force); added Aug. 6, 1958, Pub. L. 85–599, §3(a) (1st sentence of 8th par., as applicable to Department of Air Force), 72 Stat. 516. |

The word "operates" is substituted for the words "shall function".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8011 of this title as this section.
**1986**—Pub. L. 99–433 renumbered section 8010 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9012. Department of the Air Force: seal

The Secretary of the Air Force shall have a seal for the Department of the Air Force. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 488, §8011; renumbered §8012, Pub. L. 99–433, title V, §521(a)(1), Oct. 1, 1986, 100 Stat. 1055; renumbered §9012, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8011 | 5:626(g). | July 26, 1947, ch. 343, §207(g), 61 Stat 503. |

The words "of office" are omitted as surplusage. The words "a design" are substituted for the words "such device".

**EDITORIAL NOTES**

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8012 of this title as this section.
**1986**—Pub. L. 99–433 renumbered section 8011 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 9902. SEAL FOR THE DEPARTMENT OF THE AIR FORCE

Ex. Ord. No. 9902, Nov. 1, 1947, 12 F.R. 7153, provided:

WHEREAS section 207(g) of the National Security Act of 1947, approved July 26, 1947 (Public Law 253, 80th Congress 1st Session) provides, in part, that the Secretary of the Air Force shall cause a seal of office to be made for the Department of the Air Force of such device as the President shall approve; and

WHEREAS the Secretary of the Air Force has caused to be made and has recommended that I approve a seal the design of which accompanies and is hereby made a part of this order, and which is described in heraldic terms as follows:

SHIELD: Per fess nebuly abased azure and argent, in chief a thunderbolt or inflamed proper.

CREST: On a wreath argent and azure an American bald eagle, wings displayed and partially elevated proper in front of a cloud argent.

Encircling the shield and crest an arc of thirteen stars and below the shield the inscription "MCMXLVII".

On a band encircling the whole the inscriptions "Department of the Air Force" and "United States of America."

When illustrating the seal in color the background shall be ultramarine blue, the shield a light blue and white, and the thunderbolt in gold with flames in natural color. The twists of the wreath shall be alternated white and blue, and the eagle shall be in natural color in front of a white cloud. The thirteen stars shall be white, and the Roman numerals shall be gold. The encircling band shall be white edged in gold with black letters.

AND WHEREAS it appears that such seal is of suitable design and is appropriate for establishment as the official seal of the Department of the Air Force:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the said section 207(g) of the National Security Act of 1947, I hereby approve such seal as the official seal of the Department of the Air Force.

HARRY S. TRUMAN.

## §9013. Secretary of the Air Force

(a)(1) There is a Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience. The Secretary is the head of the Department of the Air Force.

(2) A person may not be appointed as Secretary of the Air Force within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Air Force is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Air Force, including the following functions:

(1) Recruiting.

(2) Organizing.

(3) Supplying.
(4) Equipping (including research and development).
(5) Training.
(6) Servicing.
(7) Mobilizing.
(8) Demobilizing.
(9) Administering (including the morale and welfare of personnel).
(10) Maintaining.
(11) The construction, outfitting, and repair of military equipment.
(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is also responsible to the Secretary of Defense for—
(1) the functioning and efficiency of the Department of the Air Force;
(2) the formulation of policies and programs by the Department of the Air Force that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;
(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Air Force;
(4) carrying out the functions of the Department of the Air Force so as to fulfill the current and future operational requirements of the unified and specified combatant commands;
(5) effective cooperation and coordination between the Department of the Air Force and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;
(6) the presentation and justification of the positions of the Department of the Air Force on the plans, programs, and policies of the Department of Defense; and
(7) the effective supervision and control of the intelligence activities of the Department of the Air Force.

(d) The Secretary of the Air Force is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.
(e) After first informing the Secretary of Defense, the Secretary of the Air Force may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.
(f) The Secretary of the Air Force may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force and officers of the Space Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.
(g) The Secretary of the Air Force may—
(1) assign, detail, and prescribe the duties of members of the Air Force, members of the Space Force, and civilian personnel of the Department of the Air Force;
(2) change the title of any officer or activity of the Department of the Air Force not prescribed by law; and
(3) prescribe regulations to carry out his functions, powers, and duties under this title.

(Added Pub. L. 99–433, title V, §521(a)(3), Oct. 1, 1986, 100 Stat. 1055, §8013; amended Pub. L. 99–661, div. A, title V, §534, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 108–136, div. A, title IX, §901, Nov. 24, 2003, 117 Stat. 1558; Pub. L. 114–328, div. A, title IX, §931(c), Dec. 23, 2016, 130 Stat. 2363; renumbered §9013, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(b)(1), Jan. 1, 2021, 134 Stat. 3807; Pub. L. 117–81, div. A, title IX, §901(e), Dec. 27, 2021, 135 Stat. 1868.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 117–81 substituted "seven" for "five".

Subsec. (f). Pub. L. 116–283, §923(b)(1)(A), inserted "and officers of the Space Force" after "Officers of the Air Force".

Subsec. (g)(1). Pub. L. 116–283, §923(b)(1)(B), inserted ", members of the Space Force," after "members of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8013 of this title as this section.

**2016**—Subsec. (a)(1). Pub. L. 114–328 inserted "The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience." after first sentence.

**2003**—Subsec. (c)(4). Pub. L. 108–136 struck out "(to the maximum extent practicable)" after "fulfill".

**1986**—Subsec. (a)(2). Pub. L. 99–661 substituted "five years" for "10 years".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable with respect to appointments made on or after Dec. 27, 2021, see section 901(g) of Pub. L. 117–81, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### BLAST DAMAGE ASSESSMENT GUIDE FOR SPACE VEHICLES AT AIR FORCE LAUNCH COMPLEXES

Pub. L. 119–60, div. A, title XVI, §1610, Dec. 18, 2025, 139 Stat. 1180, provided that:

"(a) REQUIREMENT.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Air Force shall publish a liquid oxygen and methane blast damage assessment guide for space launch vehicles at Air Force launch complexes.

"(b) NOTICE AND BRIEFING.—Not later than 30 days after the date on which the Secretary publishes the assessment guide under subsection (a), the Secretary shall—

"(1) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such publication; and

"(2) provide the congressional defense committees with a briefing on the contents of the assessment guide.

"(c) WAIVER.—

"(1) AUTHORITY.—The Secretary may waive the one-year publication timeline under subsection (a) for national security purposes, or if the Secretary determines that such timeline is impractical, if the Secretary notifies the congressional defense committees with respect to an alternate date on which the publication shall occur.

"(2) LIMITATION.—The Secretary may exercise the waiver authority under paragraph (1) not more than once."

### PROVISION BY AIR FORCE OF METEOROLOGICAL SERVICES FOR INTELLIGENCE COMMUNITY

Pub. L. 119–60, div. A, title XVI, §1624, Dec. 18, 2025, 139 Stat. 1183, provided that:

"(a) IN GENERAL.—The Secretary of the Air Force shall provide meteorological services for operations of—

"(1) each combat support agency that is an element of the intelligence community; and

"(2) by agreement with the head of any other element of the intelligence community, that element of the intelligence community.

"(b) DEFINITIONS.—In this section:

"(1) The term 'combat support agency' has the meaning given that term in section 193 of title 10, United States Code.

"(2) The term 'intelligence community' has the meaning given that term in section 3 of the National

Security Act of 1947 (50 U.S.C. 3003)."

**PROVISION BY SECRETARY OF THE AIR FORCE OF METEOROLOGICAL DATA FOR AIR FORCE AND ARMY**

Pub. L. 118–159, div. A, title III, §321, Dec. 23, 2024, 138 Stat. 1853, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Air Force shall provide meteorological and environmental services for operations of the Department of the Air Force and shall provide meteorological services for the Department of the Army.

"(b) EXCEPTION FOR BALLISTICS DATA.—The requirement under subsection (a) shall not apply to meteorological ballistics data for the Department of the Army."

**RATING CHAINS FOR SYSTEM PROGRAM MANAGERS**

Pub. L. 112–239, div. A, title III, §323, Jan. 2, 2013, 126 Stat. 1696, as amended Pub. L. 119–60, div. A, title XVIII, §1802(b)(1)(A), Dec. 18, 2025, 139 Stat. 1227, provided that: "The Secretary of the Air Force, in managing system program management responsibilities for sustainment programs not assigned to a portfolio acquisition executive or a direct reporting program manager, shall comply with the Department of Defense Instructions regarding assignment of program responsibility."

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Air Force, see Ex. Ord. No. 12909, Apr. 22, 1994, 59 F.R. 21909, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §9014. Office of the Secretary of the Air Force

(a) There is in the Department of the Air Force an Office of the Secretary of the Air Force. The function of the Office is to assist the Secretary of the Air Force in carrying out his responsibilities.

(b) The Office of the Secretary of the Air Force is composed of the following:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretaries of the Air Force.

(3) The General Counsel of the Department of the Air Force.

(4) The Inspector General of the Department of the Air Force.

(5) The Chief of Legislative Liaison.

(6) The Air Reserve Forces Policy Committee.

(7) Such other offices and officials as may be established by law or as the Secretary of the Air Force may establish or designate.

(c)(1) The Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary, the Air Staff, and the Office of the Chief of Space Operations for the following functions:

(A) Acquisition.

(B) Auditing.

(C) Comptroller (including financial management).

(D) Information management.

(E) Inspector General.

(F) Legislative affairs.

(G) Public affairs.

(2) Subject to paragraph (6), the Secretary of the Air Force shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Air Staff or the Office of the Chief of Space Operations to conduct any of the functions specified in paragraph (1).

(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff of the Air Force and the Air Staff, and to the Chief of Space Operations and the Office of the Chief of Space Operations, and shall ensure that each such office or entity provides the Chief of Staff and Chief of Space Operations such staff support as the Chief concerned considers necessary to perform the Chief's duties and responsibilities.

(4) The vesting in the Office of the Secretary of the Air Force of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Air Force (including the Air Staff and the Office of the Chief of Space Operations) from providing advice or assistance to the Chief of Staff and the Chief of Space Operations or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Air Force.

(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

(6) Notwithstanding section 1702 of title 41, the Secretary of the Air Force may assign to the Assistant Secretary of the Air Force for Space Acquisition and Integration duties and authorities of the senior procurement executive that pertain to space systems and programs.

(d)(1) Subject to paragraph (2), the Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary, the Air Staff, and the Office of the Chief of Space Operations for the function of research and development.

(2) The Secretary of the Air Force may assign to the Air Staff and the Office of the Chief of Space Operations responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct the function specified in paragraph (1).

(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Air Force and the Air Staff, and to the Chief of Space Operations and the Office of the Chief of Space Operations, and shall ensure that each such office or entity provides the Chief of Staff and Chief of Space Operations such staff support as the Chief concerned considers necessary to perform the Chief's duties and responsibilities.

(e) The Secretary of the Air Force shall ensure that the Office of the Secretary of the Air Force, the Air Staff, and the Office of the Chief of Space Operations do not duplicate specific functions for which the Secretary has assigned responsibility to any of the others.

(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Air Force assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed 2,750.

(2) Not more than 1,650 officers of the Air Force on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff.

(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed 60.

(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war.

(5) Each limitation in paragraphs (1) and (2) may be exceeded by a number equal to 15 percent of such limitation in time of national emergency.

(Added Pub. L. 99–433, title V, §521(a)(3), Oct. 1, 1986, 100 Stat. 1057, §8014; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(7), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title III, §325(c), Sept. 29, 1988, 102 Stat. 1955; Pub. L. 101–189, div. A, title VI, §652(a)(4), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 107–107, div. A, title X, §1048(a)(29), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title V, §504(e)(2), Dec. 2, 2002, 116 Stat. 2533; Pub. L. 114–328, div. A, title IX, §903(e), Dec. 23, 2016, 130 Stat. 2344; renumbered §9014, Pub. L. 115–232, div. A, title

VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–92, div. A, title IX, §901(a)(5), Dec. 20, 2019, 133 Stat. 1542; Pub. L. 116–283, div. A, title IX, §923(b)(2), Jan. 1, 2021, 134 Stat. 3807; Pub. L. 117–81, div. A, title IX, §905(b)(1), Dec. 27, 2021, 135 Stat. 1872.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(4). Pub. L. 116–283, §923(b)(2)(A), added par. (4) and struck out former par. (4) which read as follows: "The Inspector General of the Air Force."

Subsec. (c)(1). Pub. L. 116–283, §923(b)(2)(B)(i), substituted ", the Air Staff, and the Office of the Chief of Space Operations" for "and the Air Staff".

Subsec. (c)(2). Pub. L. 117–81, §905(b)(1)(A), substituted "Subject to paragraph (6), the Secretary of the Air Force shall" for "The Secretary of the Air Force shall".

Pub. L. 116–283, §923(b)(2)(B)(ii), inserted "or the Office of the Chief of Space Operations" after "the Air Staff".

Subsec. (c)(3). Pub. L. 116–283, §923(b)(2)(B)(iii), substituted "to the Chief of Staff of the Air Force and the Air Staff, and to the Chief of Space Operations and the Office of the Chief of Space Operations, and shall ensure that each such office or entity provides the Chief of Staff and Chief of Space Operations such staff support as the Chief concerned considers necessary to perform the Chief's duties and responsibilities." for "to the Chief of Staff and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities."

Subsec. (c)(4). Pub. L. 116–283, §923(b)(2)(B)(iv), inserted "and the Office of the Chief of Space Operations" after "the Air Staff" and "and the Chief of Space Operations" after "Chief of Staff".

Subsec. (c)(6). Pub. L. 117–81, §905(b)(1)(B), added par. (6).

Subsec. (d)(1). Pub. L. 116–283, §923(b)(2)(C)(i), substituted ", the Air Staff, and the Office of the Chief of Space Operations" for "and the Air Staff".

Subsec. (d)(2). Pub. L. 116–283, §923(b)(2)(C)(ii), inserted "and the Office of the Chief of Space Operations" after "the Air Staff".

Subsec. (d)(4). Pub. L. 116–283, §923(b)(2)(C)(iii), substituted "to the Chief of Staff of the Air Force and the Air Staff, and to the Chief of Space Operations and the Office of the Chief of Space Operations, and shall ensure that each such office or entity provides the Chief of Staff and Chief of Space Operations such staff support as the Chief concerned considers necessary to perform the Chief's duties and responsibilities." for "to the Chief of Staff of the Air Force and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities."

Subsec. (e). Pub. L. 116–283, §923(b)(2)(D), substituted ", the Air Staff, and the Office of the Chief of Space Operations" for "and the Air Staff" and "to any of the others" for "to the other".

**2019**—Subsec. (f)(1). Pub. L. 116–92, §901(a)(5)(A), substituted "2,750" for "2,639".

Subsec. (f)(2). Pub. L. 116–92, §901(a)(5)(B), substituted "1,650" for "1,585".

**2018**—Pub. L. 115–232 renumbered section 8014 of this title as this section.

**2016**—Subsec. (f)(4). Pub. L. 114–328, §903(e)(1), substituted "time of war." for "time of war or during a national emergency declared by the President or Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force or on the Air Staff."

Subsec. (f)(5). Pub. L. 114–328, §903(e)(2), added par. (5).

**2002**—Subsec. (b)(5) to (7). Pub. L. 107–314 added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

**2001**—Subsec. (f)(3). Pub. L. 107–107 substituted "60" for "the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection".

**1989**—Subsec. (f)(5). Pub. L. 101–189 struck out par. (5) which read as follows: "The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988."

**1988**—Subsec. (c)(5). Pub. L. 100–456 added par. (5).

**1987**—Subsec. (f)(4). Pub. L. 100–180 inserted "the President or" after "declared by".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Requirements of subsec. (c)(5) of this section applicable with respect to any person appointed on or after Sept. 29, 1988, as head of office or other entity designated for conducting auditing function in a military department, see section 325(d)(1) of Pub. L. 100–456, set out as a note under section 8014 of this title.

**EFFECTIVE DATE**

Subsecs. (c) and (d) of this section to be implemented not later than 180 days after Oct. 1, 1986, see section 532(a) of Pub. L. 99–433, set out as a note under section 7014 of this title.

**EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL**

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009 and fiscal years thereafter, see section 1111 of Pub. L. 110–417, set out as a note under section 143 of this title.

## §9015. Under Secretary of the Air Force

(a) There is an Under Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

(Added Pub. L. 99–433, title V, §521(a)(3), Oct. 1, 1986, 100 Stat. 1058, §8015; renumbered §9015, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 8013 of this title prior to enactment of Pub. L. 99–433.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8015 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Air Force, see Ex. Ord. No. 12909, Apr. 22, 1994, 59 F.R. 21909, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## §9016. Assistant Secretaries of the Air Force

(a) There are five Assistant Secretaries of the Air Force. They shall be appointed from civilian life

by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.

(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Financial Management.

(B) The Assistant Secretary shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations.

(C) The principal responsibility of the Assistant Secretary shall be the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.

(4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition, technology, and logistics matters of the Department of the Air Force.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be an officer of the Air Force on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1731 of this title. In the event of a vacancy in the position of Assistant Secretary of the Air Force for Acquisition, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year.

(5)(A) One of the Assistant Secretaries shall be the Assistant Secretary for Energy, Installations, and Environment.

(B) The principal duty of the Assistant Secretary for Energy, Installations, and Environment shall be the overall supervision of energy, installation, and environment matters for the Department of the Air Force.

(6)(A) One of the Assistant Secretaries is the Assistant Secretary of the Air Force for Space Acquisition and Integration.

(B) Subject to the authority, direction, and control of the Secretary of the Air Force, the Assistant Secretary shall do as follows:

(i) Be responsible for and oversee all architecture and integration with respect to the acquisition of the space systems and programs of the armed forces, including in support of the Chief of Space Operations under section 9082 of this title.

(ii) Act as the chair of the Space Acquisition Council under section 9021 of this title.

(iii) Advise the service acquisition executive of the Air Force with responsibility for space systems and programs (including for all major defense acquisition programs under chapter 144 [1] of this title for space) on the acquisition of such systems and programs by the Air Force.

(iv) Oversee and direct each of the following:

(I) The Space Rapid Capabilities Office under section 2273a of this title.

(II) The Space Systems Command.

(III) The Space Development Agency with respect to acquisition decisions.

(v) Advise and synchronize acquisition projects for all space systems and programs of the Air Force, including projects for space systems and programs responsibility for which is transferred to the Assistant Secretary pursuant to section 956(b)(3) of the United States Space Force Act.

(vi) Effective as of the date specified in section 957(d) of such Act, and in accordance with such section 957, serve as the Service Acquisition Executive of the Department of the Air Force for Space Systems and Programs and discharge any senior procurement executive duties and

authorities assigned by the Secretary of the Air Force pursuant to section 9014(c)(6) of this title.

(C) The Assistant Secretary of the Air Force for Space Acquisition and Integration shall have a Principal Military Deputy for Space Acquisition and Integration, who shall be an officer of the Space Force on active duty. The Principal Military Deputy for Space Acquisition and Integration shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy for Space Acquisition and Integration shall be designated as a critical acquisition position under section 1731 of this title. In the event of a vacancy in the position of Assistant Secretary of the Air Force for Space Acquisition and Integration, the Principal Military Deputy for Space Acquisition and Integration may serve as Acting Assistant Secretary for Space Acquisition and Integration for a period of not more than one year.

(Added Pub. L. 99–433, title V, §521(a)(3), Oct. 1, 1986, 100 Stat. 1058, §8016; amended Pub. L. 100–456, div. A, title VII, §702(c)[(1)], (d), Sept. 29, 1988, 102 Stat. 1995, 1996; Pub. L. 110–181, div. A, title IX, §908(c), Jan. 28, 2008, 122 Stat. 278; Pub. L. 114–328, div. A, title V, §502(ii), title VIII, §802(c), title IX, §934(a), Dec. 23, 2016, 130 Stat. 2105, 2249, 2365; Pub. L. 115–91, div. A, title IX, §921(c), Dec. 12, 2017, 131 Stat. 1524; renumbered §9016, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–92, div. A, title VIII, §861(j)(16), title IX, §§911(c), 956(b)(1), Dec. 20, 2019, 133 Stat. 1520, 1559, 1565; Pub. L. 116–283, div. A, title XVI, §1601(c), Jan. 1, 2021, 134 Stat. 4042; Pub. L. 117–81, div. A, title IX, §905(a)(2)(B), (b)(2), title XVI, §1602(a)(2), (b)(2), Dec. 27, 2021, 135 Stat. 1872, 2076, 2077; Pub. L. 118–31, div. A, title XVI, §1604, Dec. 22, 2023, 137 Stat. 586; Pub. L. 118–159, div. A, title V, §521(i), Dec. 23, 2024, 138 Stat. 1882.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 144 of this title, referred to in subsec. (b)(6)(B)(iii), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149.

Section 956(b)(3) of the United States Space Force Act and section 957 of that Act, referred to in subsec. (b)(6)(B)(v), (vi), are sections 956(b)(3) and 957, respectively, of subtitle D of title IX of div. A of Pub. L. 116–92, which are set out as notes under this section.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3013 of this title prior to enactment of Pub. L. 99–433.

### AMENDMENTS

**2024**—Subsec. (b)(6)(B)(iv)(II). Pub. L. 118–159 substituted "Space Systems Command" for "Space and Missile Systems Center".

**2023**—Subsec. (b)(6)(C). Pub. L. 118–31 added subpar. (C).

**2021**—Subsec. (b)(6)(B)(i). Pub. L. 117–81, §1602(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "Be responsible for all architecture and integration of the Air Force for space systems and programs, including in support of the Chief of Space Operations under section 9082 of this title."

Subsec. (b)(6)(B)(ii). Pub. L. 117–81, §1602(a)(2), substituted "Space Force Acquisition Council" for "Space Force Acquisition Council".

Subsec. (b)(6)(B)(iv)(III). Pub. L. 116–283 inserted "with respect to acquisition decisions" before period at end.

Subsec. (b)(6)(B)(vi). Pub. L. 117–81, §905(a)(2)(B), (b)(2), substituted "Effective as of October 1, 2022, in accordance with section 957 of that Act," for "Effective as of October 1, 2022, in accordance with section 957 of that Act," and inserted "and discharge any senior procurement executive duties and authorities assigned by the Secretary of the Air Force pursuant to section 9014(c)(6) of this title" after "Space Systems and Programs".

**2019**—Subsec. (a). Pub. L. 116–92, §956(b)(1)(A), substituted "five" for "four".

Subsec. (b)(4)(B). Pub. L. 116–92, §861(j)(16), substituted "under section 1731 of this title" for "under

section 1733 of this title".

Subsec. (b)(5). Pub. L. 116–92, §911(c), added par. (5).

Subsec. (b)(6). Pub. L. 116–92, §956(b)(1)(B), added par. (6).

**2018**—Pub. L. 115–232 renumbered section 8016 of this title as this section.

**2017**—Subsec. (b)(3). Pub. L. 115–91 designated first sentence as subpar. (A), designated second and third sentences as subpar. (C) and, in subpar. (C), substituted "The principal responsibility of the Assistant Secretary shall be" for "The Assistant Secretary shall have as his principal responsibility", and added subpar. (B).

**2016**—Subsec. (b)(4)(A). Pub. L. 114–328, §934(a), substituted "Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics" for "Assistant Secretary of the Air Force for Acquisition" and inserted ", technology, and logistics" after "acquisition".

Subsec. (b)(4)(B). Pub. L. 114–328, §802(c), inserted at end "In the event of a vacancy in the position of Assistant Secretary of the Air Force for Acquisition, the Principal Military Deputy may serve as Acting Assistant Secretary for a period of not more than one year."

Pub. L. 114–328, §502(ii), substituted "an officer" for "a lieutenant general".

**2008**—Subsec. (b)(4). Pub. L. 110–181 added par. (4).

**1988**—Subsec. (a). Pub. L. 100–456, §702(d), substituted "four" for "three".

Subsec. (b)(3). Pub. L. 100–456, §702(c)[(1)], added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 114–328, div. A, title IX, §934(b), Dec. 23, 2016, 130 Stat. 2365, provided that: "Any reference to the Assistant Secretary of the Air Force for Acquisition in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

For applicability of appointment qualifications imposed by section 921 of Pub. L. 115–91 to certain appointments made on or after Dec. 12, 2017, see section 921(d) of Pub. L. 115–91, set out as a note under section 3016 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–456, div. A, title VII, §702(e)(2), Sept. 29, 1988, 102 Stat. 1996, provided that: "The amendments made by subsections (c) and (d) [enacting section 8022 of this title and amending this section] shall take effect on July 1, 1989, except that such amendments shall take effect on such earlier date, but not before January 21, 1989, as may be prescribed by the President in advance by Executive order."

### SENIOR ADVISOR FOR SPACE COMMAND, CONTROL, AND INTEGRATION

Pub. L. 118–159, div. A, title XVI, §1607, Dec. 23, 2024, 138 Stat. 2162, provided that:

"(a) DESIGNATION.—Not later than 30 days after the date of the enactment of this Act [Dec. 23, 2024], the Assistant Secretary of the Air Force for Space Acquisition and Integration, acting as the service acquisition executive for the Air Force for space systems and programs, shall designate from among qualified officers and employees of the Department of Defense a Senior Advisor for Space Command, Control, and Integration.

"(b) RESPONSIBILITIES.—The Senior Advisor shall be responsible for conducting oversight of all acquisition efforts within the authority of the Assistant Secretary with respect to developing, upgrading, deploying, and sustaining space command, control, and integration to meet the space command, control, and integration requirements of the combatant commands, including by monitoring system-level integration of each of the following:

"(1) Space domain sensors.

"(2) Space catalog.

"(3) Target recognition.

"(4) Weapons system selection and control.

"(5) Battle damage assessment.

"(6) Associated communications among elements of the space control and command architecture of the Department of Defense.

"(c) NOTIFICATION.—Not later than 10 days after the date on which a designation is made under subsection (a), the Assistant Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such designation.

"(d) ANNUAL REVIEW.—Not later than June 30 of each year, the Space Acquisition Council established by section 9021 of title 10, United States Code, shall review whether the requirements of the United States Space Command with respect to space command, control, and integration are being fulfilled.

"(e) ANNUAL BRIEFING.—At the same time as the submission of each budget of the President under section 1105(a) of title 31, United States Code, through fiscal year 2029, the Assistant Secretary, in consultation with the Commander of the United States Space Command, shall provide to the congressional defense committees a briefing on the status of all space command, control, and integration activities to support the missions of the Armed Forces. The briefing shall include—

"(1) accomplishments achieved in the year prior to the submission of the respective budget; and

"(2) actions to meet the requirements of the United States Space Command with respect to space command, control, and integration that will be taken during the period covered by the most recent future-years defense program submitted under section 221 of title 10, United States Code, as of the date of the briefing."

## ASSISTANT SECRETARY OF THE AIR FORCE FOR SPACE ACQUISITION AND INTEGRATION

Pub. L. 116–92, div. A, title IX, §956(a), Dec. 20, 2019, 133 Stat. 1565, provided that:

"(a) REDESIGNATION OF PRINCIPAL ASSISTANT FOR SPACE AS ASSISTANT SECRETARY FOR SPACE ACQUISITION AND INTEGRATION.—

"(1) IN GENERAL.—The Principal Assistant to the Secretary of the Air Force for Space is hereby redesignated as the Assistant Secretary of the Air Force for Space Acquisition and Integration.

"(2) REFERENCES.—Any reference to the Principal Assistant to the Secretary of the Air Force for Space in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Assistant Secretary of the Air Force for Space Acquisition and Integration."

## TRANSFER OF ACQUISITION PROJECTS FOR SPACE SYSTEMS AND PROGRAMS

Pub. L. 116–92, div. A, title IX, §956(b)(3), Dec. 20, 2019, 133 Stat. 1566, as amended by Pub. L. 117–81, div. A, title IX, §905(a)(2)(A), title XVI, §1602(b)(3), Dec. 27, 2021, 135 Stat. 1871, 2077, provided that: "Effective on the date specified in section 957(d), the Secretary of the Air Force shall transfer to the Assistant Secretary of the Air Force for Space Acquisition and Integration under paragraph (6) of section 9016(b) of title 10, United States Code (as added by this subsection), responsibility for architecture and integration of any acquisition projects for space systems and programs of the Armed Forces that are under the oversight or direction of the Assistant Secretary of the Air Force for Acquisition as of the day before the date specified in section 957(d)."

[Pub. L. 117–81, div. A, title XVI, §1602(b)(3), Dec. 27, 2021, 135 Stat. 2077, which directed substitution of "of the Armed Forces" for "of the Air Force", was executed by making the substitution after "space systems and programs" to reflect the probable intent of Congress.]

## SERVICE ACQUISITION EXECUTIVE OF THE DEPARTMENT OF THE AIR FORCE FOR SPACE SYSTEMS AND PROGRAMS

Pub. L. 116–92, div. A, title IX, §957, Dec. 20, 2019, 133 Stat. 1566, as amended by Pub. L. 116–283, div. A, title XVI, §1605, Jan. 1, 2021, 134 Stat. 4044; Pub. L. 117–81, div. A, title IX, §905(a)(1), title XVI, §1607(a), Dec. 27, 2021, 135 Stat. 1871, 2079, provided that:

"(a) IN GENERAL.—Effective on the date specified in subsection (d), there shall be within the Department of the Air Force a Service Acquisition Executive of the Department of the Air Force for Space Systems and Programs.

"(b) SERVICE.—

"(1) IN GENERAL.—Effective as of the date specified in subsection (d) and subject to paragraph (2), the individual serving as Assistant Secretary of the Air Force for Space Acquisition and Integration under paragraph (6) of section 9016(b) of title 10, United States Code (as added by section 1832(b) [probably should be "section 956(b)"] of this Act), shall also serve as the Service Acquisition Executive for Space Systems and Programs.

"(2) INCUMBENT.—The individual serving as Assistant Secretary of the Air Force for Space Acquisition and Integration as of the date specified in subsection (d) may also serve as the Service Acquisition Executive for Space Systems and Programs pursuant to paragraph (1) only if appointed as the Service Acquisition Executive for Space Systems and Programs by the President, by and with the advice and consent of the Senate, pursuant to a nomination submitted to the Senate on or after that date.

"(c) AUTHORITIES AND RESPONSIBILITIES.—

"(1) IN GENERAL.—The Service Acquisition Executive for Space Systems and Programs shall have within the Department of the Air Force all the authorities and responsibilities of a service acquisition executive under section 1704 of title 10, United States Code, and other applicable law, for the Department of the Air Force with respect to space systems and programs.

"(2) SEPARATE SAE WITHIN THE AIR FORCE.—The Service Acquisition Executive for Space Systems and Programs shall be in addition to the service acquisition executive in the Department of the Air Force for all acquisition matters of the Department of the Air Force other than with respect to space systems and programs.

"(3) GUIDANCE ON RELATIONSHIP AMONG SAES.—Not later than the date specified in subsection (d), and from time to time thereafter, the Secretary of the Air Force shall issue guidance for the Department of the Air Force on the authorities and responsibilities of the Service Acquisition Executive for Space Systems and Programs and the authorities and responsibilities of the service acquisition executive of the Department for all acquisition matters of the Department other than with respect to space systems and programs.

"(4) COMMERCIAL SATELLITE COMMUNICATIONS SERVICES.—

"(A) AUTHORITY.—Beginning on the date specified in subparagraph (B), the Service Acquisition Executive for Space Systems and Programs shall be responsible for the procurement of commercial satellite communications services for the Department of Defense.

"(B) DATE SPECIFIED.—The date specified in this subparagraph is the date that is 120 days after the date on which the Service Acquisition Executive for Space Systems and Programs submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for delegating the authority under subparagraph (A) to a subordinate acquisition command within the Space Force.

"(C) RESPONSIBILITY DURING INTERIM PERIOD.—During the period preceding the date specified in subparagraph (B), the Chief of Space Operations shall be responsible for the procurement of commercial satellite communications services for the Department of Defense.

"(5) PROGRAMS OF RECORD AND COMMERCIAL CAPABILITIES.—Prior to establishing a program of record, the Service Acquisition Executive for Space Systems and Programs shall determine whether existing or planned commercially available capabilities could meet all or a portion of the requirements for that proposed program. Not later than 30 days after the date on which the Service Acquisition Executive makes such a positive determination, the Service Acquisition Executive shall submit to the congressional defense committees a notification of the results of the determination.

"(d) DATE SPECIFIED.—The date specified in this subsection is a date determined by the Secretary of the Air Force that is not later than October 1, 2022."

[1] *See References in Text note below.*

## §9017. Secretary of the Air Force: successors to duties

If the Secretary of the Air Force dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 [1] of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretaries of the Air Force, in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense.

(3) The General Counsel of the Department of the Air Force.

(4) The Chief of Staff.

(5) The Chief of Space Operations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 489, §8017; Pub. L. 89–718, §23, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 90–235, §4(a)(9), Jan. 2, 1968, 81 Stat. 760; Pub. L. 99–433, title V, §521(a)(4), Oct. 1, 1986, 100 Stat. 1058; Pub. L. 103–337, div. A, title IX, §902(c), Oct. 5, 1994, 108 Stat. 2823; renumbered §9017, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(b)(3), Jan. 1, 2021, 134 Stat. 3808.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8017(a) | 5:626–1(b). | Sept. 19, 1951, ch. 407, §102 (less (a)), 65 Stat. 327. |
| 8017(b) | 5:626–1(c). | |

In subsection (a), the word "person" is substituted for the words "officer of the United States". The words "until a successor is appointed" are omitted as surplusage.

Subsection (b) is substituted for 5:626–1(c) and states the effect of section 8544(b) of this title.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 3347 of title 5, referred to in text, was repealed and a new section 3347 was enacted by Pub. L. 105–277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681–611, and, as so enacted, no longer contains provisions authorizing the President to direct temporary successors to duties. See section 3345 of Title 5, Government Organization and Employees.

**AMENDMENTS**

**2021**—Par. (5). Pub. L. 116–283 added par. (5).

**2018**—Pub. L. 115–232 renumbered section 8017 of this title as this section.

**1994**—Pars. (3), (4). Pub. L. 103–337 added par. (3) and redesignated former par. (3) as (4).

**1986**—Pub. L. 99–433 struck out subsec. (a) designation, substituted in par. (2) ", in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense" for "in order of their length of service as such", and struck out subsec. (b) which read as follows: "Performance of the duties of the Secretary by the Chief of Staff or any officer of the Air Force designated under section 3347 of title 5 shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title."

**1968**—Subsec. (b). Pub. L. 90–235 substituted "section 973(b) of this title" for "section 8544(b) of this title".

**1966**—Pub. L. 89–718 substituted "section 3347 of title 5" for "section 6 of title 5" wherever appearing.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**ORDER OF SUCCESSION**

For order of succession in event of death, permanent disability, or resignation of Secretary of the Air Force, see Ex. Ord. No. 12909, Apr. 22, 1994, 59 F.R. 21909, listed in a table under section 3345 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

## §9018. Administrative Assistant

The Secretary of the Air Force may appoint an Administrative Assistant in the Office of the Secretary of the Air Force. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, §521(a)(5), Oct. 1, 1986, 100 Stat. 1059, §8018; renumbered §9018, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8018 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9019. General Counsel

(a) There is a General Counsel of the Department of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel shall perform such functions as the Secretary of the Air Force may prescribe.

(Added Pub. L. 99–433, title V, §521(a)(5), Oct. 1, 1986, 100 Stat. 1059, §8019; amended Pub. L. 100–456, div. A, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1996; renumbered §9019, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8019 of this title as this section.

**1988**—Subsec. (a). Pub. L. 100–456 inserted ", by and with the advice and consent of the Senate" before period at end.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–456 applicable to appointments made under this section on and after Sept. 29, 1988, see section 703(c) of Pub. L. 100–456, set out as a note under section 7019 of this title.

## §9020. Inspector General

(a) There is an Inspector General of the Department of the Air Force who shall be detailed to such position by the Secretary of the Air Force from the general officers of the Air Force or the Space

Force. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

(b) When directed by the Secretary, the Chief of Staff of the Air Force, or the Chief of Space Operations, the Inspector General shall—

(1) inquire into and report upon the discipline, efficiency, and economy of the Department of the Air Force; and

(2) perform any other duties prescribed by the Secretary, the Chief of Staff, or the Chief of Space Operations.

(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Air Force and shall recommend additional inspections and investigations as may appear appropriate.

(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under chapter 4 of title 5 regarding the Department of the Air Force.

(e) The Inspector General shall have such deputies and assistants as the Secretary of the Air Force may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Air Force or the Space Force for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.

(Added Pub. L. 99–433, title V, §521(a)(5), Oct. 1, 1986, 100 Stat. 1059, §8020; renumbered §9020, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(b)(4), Jan. 1, 2021, 134 Stat. 3808; Pub. L. 117–286, §4(b)(32), Dec. 27, 2022, 136 Stat. 4346; Pub. L. 118–31, div. A, title XVII, §1741(a)(7), Dec. 22, 2023, 137 Stat. 680.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31 struck out "the general, flag, or equivalent officers of" before "the Space Force".

**2022**—Subsec. (d). Pub. L. 117–286 substituted "chapter 4 of title 5" for "the Inspector General Act of 1978 (5 U.S.C. App. 3)".

**2021**—Subsec. (a). Pub. L. 116–283, §923(b)(4)(A), inserted "Department of the" after "Inspector General of the" and "or the general, flag, or equivalent officers of the Space Force" after "general officers of the Air Force".

Subsec. (b). Pub. L. 116–283, §923(b)(4)(B)(i), substituted ", the Chief of Staff of the Air Force, or the Chief of Space Operations" for "or the Chief of Staff".

Subsec. (b)(1). Pub. L. 116–283, §923(b)(4)(B)(ii), inserted "Department of the" before "Air Force".

Subsec. (b)(2). Pub. L. 116–283, §923(b)(4)(B)(iii), substituted ", the Chief of Staff, or the Chief of Space Operations" for "or the Chief of Staff".

Subsec. (e). Pub. L. 116–283, §923(b)(4)(C), inserted "or the Space Force" before "for a tour of duty".

**2018**—Pub. L. 115–232 renumbered section 8020 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### SERVICE OF INCUMBENTS IN CERTAIN POSITIONS WITHOUT REAPPOINTMENT

Pub. L. 116–283, div. A, title IX, §923(f), Jan. 1, 2021, 134 Stat. 3820, provided that:

"(1) IN GENERAL.—The individual serving in a position under a provision of law specified in paragraph (2) as of the date of the enactment of this Act [Jan. 1, 2021] may continue to serve in such position after that

date without further appointment as otherwise provided by such provision of law, notwithstanding the amendment of such provision of law by subsection (b).

"(2) PROVISIONS OF LAW.—The provisions of law specified in this paragraph are the provisions of title 10, United States Code, as follows:

"(A) Section 9020, relating to the Inspector General of the Department of the Air Force.

"(B) Section 9036. [sic] relating to the Surgeon General of the Air Force.

"(C) Section 9037(a), relating to the Judge Advocate General of the Air Force.

"(D) Section 9037(d), relating to the Deputy Judge Advocate General of the Air Force.

"(E) Section 9039, relating to the Chief of Chaplains for the Air Force and the Space Force."

## §9021. Space Acquisition Council

(a) ESTABLISHMENT.—There is in the Office of the Secretary of the Air Force a council to be known as the "Space Acquisition Council" (in this section referred to as the "Council").

(b) MEMBERS.—The members of the Council are as follows:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretary of the Air Force for Space Acquisition and Integration, who shall act as chair of the Council.

(3) The Assistant Secretary of Defense for Space Policy.

(4) The Director of the National Reconnaissance Office.

(5) The Chief of Space Operations.

(6) The Commander of the United States Space Command.

(c) DUTIES.—(1) The Council shall oversee, direct, and manage acquisition and integration space systems and programs of the armed forces in order to ensure integration across the national security space enterprise.

(2)(A) The Council shall promptly—

(i) review any determination made by the Assistant Secretary of the Air Force for Space Acquisition and Integration with respect to architecture for the space systems and programs of the armed forces under section 9016(b)(6)(B)(i) of this title, including the requirements for operating such space systems or programs; and

(ii) either—

(I) if the Council finds such a determination to be warranted, certify the determination; or

(II) if the Council finds such a determination not to be warranted, decline to certify the determination.

(B) Not later than 10 business days after the date on which the Council makes a finding with respect to a certification under subparagraph (A), the Council shall submit to the congressional defense committees a notification of the finding, including a detailed justification for the finding.

(C) Except as provided in subparagraph (D), the Assistant Secretary of the Air Force for Space Acquisition and Integration may not take any action to implement a determination referred to in subparagraph (A)(i) until 30 days has elapsed following the date on which the Council submits the notification under subparagraph (B).

(D)(i) The Secretary of Defense may waive subparagraph (C) in the event of an urgent national security requirement.

(ii) The Secretary of Defense shall submit to the congressional defense committees a notification of any waiver granted under clause (i), including a justification for the waiver.

(d) MEETINGS.—The Council shall meet not less frequently than monthly.

(e) REPORTS.—Not later than 30 days after the end of each calendar year quarter through the first calendar year quarter of 2025, the Council shall submit to the congressional defense committees a report on the activities of the Council during the calendar year quarter preceding the calendar year quarter in which such report is submitted.

(Added Pub. L. 116–92, div. A, title IX, §954(a)(2), Dec. 20, 2019, 133 Stat. 1564; amended Pub. L.

117–81, div. A, title XVI, §1602(a)(1), (b)(1), Dec. 27, 2021, 135 Stat. 2075, 2076.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9021 was renumbered section 9021a of this title.

Another prior section 9021 was renumbered section 9371 of this title.

Another prior section 9021, act Aug. 10, 1956, ch. 1041, 70A Stat. 558, related to appointments in professional and scientific service, prior to repeal by Pub. L. 85–861, §36B(30), Sept. 2, 1958, 72 Stat. 1571.

### AMENDMENTS

**2021**—Pub. L. 117–81, §1602(a)(1)(A), struck out "Force" before "Acquisition" in section catchline.

Subsec. (a). Pub. L. 117–81, §1602(a)(1)(B), substituted " 'Space Acquisition Council' " for " 'Space Force Acquisition Council' ".

Subsec. (c). Pub. L. 117–81, §1602(b)(1), designated existing provisions as par. (1) and added par. (2).

Pub. L. 117–81, §1602(a)(1)(C), substituted "space systems and programs of the armed forces" for "of the Air Force for space systems and programs".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### REFERENCES

Pub. L. 117–81, div. A, title XVI, §1602(a)(4), Dec. 27, 2021, 135 Stat. 2076, provided that: "Any reference to the Space Force Acquisition Council in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Space Acquisition Council."

## §9021a. Air Force Reserve Forces Policy Committee

There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(b)(4)(B), Oct. 5, 1994, 108 Stat. 2982, §8021; renumbered §9021, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9021a, Pub. L. 116–92, div. A, title IX, §954(a)(1), Dec. 20, 2019, 133 Stat. 1564.)

### EDITORIAL NOTES

### AMENDMENTS

**2019**—Pub. L. 116–92 renumbered section 9021 of this title as this section.

**2018**—Pub. L. 115–232 renumbered section 8021 of this title as section 9021 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §9022. Financial management

(a) The Secretary of the Air Force shall provide that the Assistant Secretary of the Air Force for Financial Management shall direct and manage financial management activities and operations of the Department of the Air Force, including ensuring that financial management systems of the Department of the Air Force comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Air Force and otherwise carry out, with respect to the Department of the Air Force, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title;

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Air Force; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Air Force, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b)(1) Financial management systems of the Department of the Air Force (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

(2) Such systems shall provide for—

(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

(B) the development and reporting of cost information;

(C) the integration of accounting and budgeting information; and

(D) the systematic measurement of performance.

(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Air Force proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

(d) The Assistant Secretary of the Air Force for Financial Management shall transmit to the Secretary of the Air Force a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Air Force financial management.

(Added Pub. L. 100–456, div. A, title VII, §702(c)(2), Sept. 29, 1988, 102 Stat. 1995, §8022; amended Pub. L. 103–337, div. A, title X, §1070(a)(15), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, §1503(b)(1), Feb. 10, 1996, 110 Stat. 512; renumbered §9022, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9022, act Aug. 10, 1956, ch. 1041, 70A Stat. 558, authorized Secretary of the Air Force to employ contract surgeons in an emergency, prior to repeal by Pub. L. 98–94, title IX, §932(c)(1), (f), Sept. 24, 1983, 97 Stat. 650, effective Oct. 1, 1983, with provision for contracts existing on that date. See section 1091 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8022 of this title as this section.

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "Under Secretary of Defense (Comptroller)" for "Comptroller of the Department of Defense".

**1994**—Subsec. (a)(1). Pub. L. 103–337 substituted "135(c)" for "137(c)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective July 1, 1989, but with an earlier effective date, not before Jan. 21, 1989, if so prescribed by the President in advance by Executive order, see section 702(e)(2) of Pub. L. 100–456, set out as an Effective Date of 1988 Amendment note under section 9016 of this title.

## §9023. Chief of Legislative Liaison

(a) There is a Chief of Legislative Liaison in the Department of the Air Force.

(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Air Force by section 9014(c)(1)(F) of this title.

(Added Pub. L. 107–314, div. A, title V, §504(e)(1)(A), Dec. 2, 2002, 116 Stat. 2532, §8023; amended Pub. L. 114–328, div. A, title V, §502(jj), Dec. 23, 2016, 130 Stat. 2106; renumbered §9023 and amended Pub. L. 115–232, div. A, title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9023, act Aug. 10, 1956, ch. 1041, 70A Stat. 558, related to employment of civilians in service club and library services, prior to repeal by Pub. L. 87–651, title I, §128(1), Sept. 7, 1962, 76 Stat. 514.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(c), renumbered section 8023 of this title as this section.

Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 9014(c)(1)(F)" for "section 8014(c)(1)(F)".

**2016**—Subsec. (a). Pub. L. 114–328 struck out second sentence which read as follows: "An officer assigned to that position shall be an officer in the grade of major general."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9023a. Legislative Liaison of the Space Force

(a) ESTABLISHMENT.—There is a Legislative Liaison of the Space Force.

(b) FUNCTIONS.—The Legislative Liaison shall perform legislative affairs functions under the direction of the Chief of Space Operations.

(Added Pub. L. 118–31, div. A, title V, §509B, Dec. 22, 2023, 137 Stat. 243.)

## §9024. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Air Force. The Director is appointed by the Secretary of the Air Force.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Air Force is the office that is established within the Department of the Air Force under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Air Force, and shall exercise such powers regarding those programs, as the Secretary of the Air Force may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, §904(e)(1), Jan. 6, 2006, 119 Stat. 3401, §8024; renumbered §9024, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 9025 and 9027 were renumbered sections 9375 and 9377 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8024 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force and the Office of Small and Disadvantaged Business Utilization of the Department of the Air Force were redesignated the Director of Small Business Programs of the Department of the Air Force and the Office of Small Business Programs of the Department of the Air Force, respectively, by Pub. L. 109–163 which also provided that references to the former were deemed to refer to the latter. See section 904(a) of Pub. L. 109–163, set out as a note under section 144 of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9025. Office of Expanded Competition

(a) ESTABLISHMENT.—There is in the Office of the Secretary of the Air Force an office to be known as the Office of Expanded Competition (in this section referred to as the "Office").

(b) DIRECTOR.—The head of the Office shall be the Director. The Director shall be appointed by the Secretary of the Air Force from among employees of the Department of Defense with requisite subject matter expertise who—

(1) are in a Senior Executive Service position (as defined in section 3132 of title 5) at the time of appointment; or

(2) are not in a Senior Executive Service position at the time of appointment, but meet the Executive Core Qualifications (ECQs) for such a position.

(c) DUTIES.—The duties of the Office are as follows:

(1) In consultation with other components of the Department of Defense and the Federal Government, conduct coordinated and integrated assessments of adversarial capital flows into industries or businesses of interest to the Department of Defense.

(2) Identify and prioritize promising critical technologies and assets for the Joint Force in need of capital assistance, including critical technologies and assets available from foreign entities.

(3) Fund investments in such technologies and assets, including supply chain technologies not always supported through direct investment.

(4) Support the coordination and outreach efforts of technology scouting and acquisition elements within the Department of Defense to enable investment decision-making by those elements that counteract entities employing adversarial capital flows against industries or businesses described in paragraph (1), including the employment of relevant authorities vested in other components of the Department and the Federal Government.

(5) Identify, accelerate, and sustain the establishment, research, development, construction, procurement, leasing, consolidation, alteration, improvement, modernization, and repair of tangible and intangible assets vital to the national security of the United States.

(6) Help the Department of Defense provide capital assistance to entities, including foreign entities, engaged in investments that facilitate the efforts of the Department.

(7) Experiment, prototype, test, or validate Government-developed or commercially developed analytical tools, processes, and tradecraft to improve the due diligence and investment analysis processes for the Department of Defense, including the employment of relevant delegated authorities vested in other components of the Department and the Federal Government.

(8) Assist the Secretary of Defense in developing access and placement using commercial means.

(9) Otherwise engage with, coordinate, and collaborate with other components of the Department of Defense and the Federal Government to maximize efficiencies and promote whole-of-government solutions to protect the national security of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "adversarial capital flow" means an investment by—

(A) the government of a country that is an adversary of the United States; or

(B) an entity organized under the laws of, or otherwise subject to the jurisdiction of, such a country.

(2) The term "capital assistance" means a loan, loan guarantee, or technical assistance.

(Added Pub. L. 118–159, div. A, title IX, §924(a), Dec. 23, 2024, 138 Stat. 2039.)

# CHAPTER 905—THE AIR STAFF

Sec.
9031. The Air Staff: function; composition.
9032. The Air Staff: general duties.
9033. Chief of Staff.
9034. Vice Chief of Staff.
9035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
9036. Surgeon General: appointment; duties.
9037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
9038. Office of Air Force Reserve: appointment of Chief.
9039. Chief of Chaplains: appointment; duties.
9040. Oversight of nuclear deterrence mission.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 905, consisting of sections 9381 to 9383, related to the Aviation Leadership Program, prior to repeal by Pub. L. 114–328, div. A, title XII, §1241(i)(2), Dec. 23, 2016, 130 Stat. 2508.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(4), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 805 of this title as this chapter and items 8031 to 8040 as 9031 to 9040, respectively.

**2016**—Pub. L. 114–328, div. A, title VII, §702(b)(3)(B), Dec. 23, 2016, 130 Stat. 2196, substituted "Surgeon General: appointment; duties" for "Surgeon General: appointment; grade" in item 8036.

**2015**—Pub. L. 114–92, div. A, title XVI, §1652(a)(2), Nov. 25, 2015, 129 Stat. 1122, added item 8040.

**2013**—Pub. L. 112–239, div. A, title V, §508(b), Jan. 2, 2013, 126 Stat. 1717, added item 8039.

**1986**—Pub. L. 99–433, title V, §522(g)(1), Oct. 1, 1986, 100 Stat. 1063, amended analysis generally, substituting items 8031 to 8038 for former items 8031 to 8036.

**1965**—Pub. L. 89–288, §5(b), Oct. 22, 1965, 79 Stat. 1050, added item 8036.

## §9031. The Air Staff: function; composition

(a) There is in the executive part of the Department of the Air Force an Air Staff. The function of the Air Staff is to assist the Secretary of the Air Force in carrying out his responsibilities.

(b) The Air Staff is composed of the following:

(1) The Chief of Staff.
(2) The Vice Chief of Staff.
(3) The Deputy Chiefs of Staff.
(4) The Assistant Chiefs of Staff.
(5) The Surgeon General of the Air Force.
(6) The Judge Advocate General of the Air Force.
(7) The Chief of the Air Force Reserve.
(8) Other members of the Air Force or the Space Force assigned or detailed to the Air Staff.
(9) Civilian employees in the Department of the Air Force assigned or detailed to the Air Staff.

(c) Except as otherwise specifically prescribed by law, the Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Aug. 10, 1956, ch. 1041, 70A Stat. 490, §8031; Pub. L. 89–718, §45, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 93–608, §1(5), Jan. 2, 1975, 88 Stat. 1968; Pub. L. 98–525, title V, §515, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–433, title V, §522(a), Oct. 1, 1986, 100 Stat. 1060; renumbered §9031, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(b)(5), Jan. 1, 2021, 134 Stat. 3809.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8031(a) | 10:1811(a). | Sept. 19, 1951, ch. 407, §201, 65 Stat. 327. |
| 8031(b) | 10:1811(b). | |
| 8031(c) | 10:1811(c). | |
| 8031(d) | 10:1811(d). | |

In subsection (a), the words "an Air Staff consisting of—" are substituted for the words "a staff, which shall be known as the Air Staff, and which shall consist of—". The words "under regulations prescribed by the Secretary of the Air Force" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

In subsection (b), 10:1811(b) (proviso) is omitted as superseded by section 264(c) of this title.

In subsection (c), the third sentence is substituted for 10:1811(c) (1st 13 words and 1st proviso). The words "officers and employees * * * or under the jurisdiction of" are omitted as surplusage.

In subsections (c) and (d), the word "hereafter" is omitted, since all wars and emergencies declared by Congress before September 19, 1951, have been terminated.

In subsection (d), the words "now or hereafter" are omitted as surplusage and as executed. The second sentence is substituted for 10:1811(d) (last 31 words of 1st sentence). The third sentence is substituted for 10:1811(d) (2d sentence). 10:1811(d) (1st 13 words of last sentence) is omitted as executed. The words "This subsection does not apply" are substituted for the words "and shall be inapplicable".

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(8). Pub. L. 116–283 inserted "or the Space Force" after "of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8031 of this title as this section.

**1986**—Pub. L. 99–433 amended section generally, substituting "The Air Staff: function; composition" for "Composition: assignment and detail of members of Air Force and civilians" in section catchline and substituting in text provisions relating to establishment and composition of the Air Staff and authorizing the Secretary to prescribe the organization, duties, and titles of the Air Staff for provisions relating to establishment and composition of the Air Staff, authorizing the Secretary to prescribe the organization, duties, and titles of the Air Staff, and limiting the number of officers who may be assigned or detailed to permanent duty in the executive part of the Department of the Air Force.

**1984**—Subsec. (d). Pub. L. 98–525 struck out subsec. (d) which had provided that no commissioned officer who was assigned or detailed to duty in the executive part of the Department of the Air Force could serve for a tour of duty of more than four years, but that the Secretary could extend such a tour of duty if he made a special finding that the extension was necessary in the public interest, that no officer could be assigned or detailed to duty in the executive part of the Department of the Air Force within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail was necessary in the public interest, and that the subsection did not apply in time of war, or of national emergency declared by Congress.

**1975**—Subsec. (c). Pub. L. 93–608 struck out requirement of annual report to Congress on the number of officers in the executive part of the Department of the Air Force and the justification therefor.

**1966**—Subsec. (c). Pub. L. 89–718 changed the reporting requirement from quarterly to annually.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title V, §515, Oct. 19, 1984, 98 Stat. 2522, provided in part that the repeal of subsec. (d) of this section is effective Oct. 1, 1984.

## §9032. The Air Staff: general duties

(a) The Air Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Air Force, and the Chief of Staff of the Air Force.

(b) Under the authority, direction, and control of the Secretary of the Air Force, the Air Staff shall—

(1) subject to subsections (c) and (d) of section 9014 of this title, prepare for such employment of the Air Force, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Air Force), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Air Force, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Air Force and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Air Force; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 490, §8032; Pub. L. 85–599, §4(h), Aug. 6, 1958, 72 Stat. 517; Pub. L. 99–433, title V, §522(b), Oct. 1, 1986, 100 Stat. 1060; renumbered §9032 and amended Pub. L. 115–232, div. A, title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8032(a) | 10:1815(a). | Sept. 19, 1951, ch. 407, §205, 65 Stat. 329. |
| 8032(b) | 10:1815(b). | |

In subsection (a), the word "furnish" is substituted for the word "render".

In subsection (b)(1), the words "power, duty, or function of" are substituted for the words "power vested in, duty imposed upon, or function assigned to".

In subsection (b)(2), the words "all questions affecting" and "state of" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(c), renumbered section 8032 of this title as this section.

Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 9014" for "section 8014".

**1986**—Pub. L. 99–433, §522(b)(3), substituted "The Air Staff: general duties" for "General duties" in section catchline.

Subsec. (a). Pub. L. 99–433, §522(b)(1), inserted "of the Air Force" after "Chief of Staff".

Subsec. (b). Pub. L. 99–433, §522(b)(2), substituted "Under the authority, direction, and control of the Secretary of the Air Force, the Air Staff" for "The Air Staff" before par. (1), inserted "subject to subsections (c) and (d) of section 8014 of this title," and substituted "(including those aspects of research and development assigned by the Secretary of the Air Force), training, servicing, mobilizing, demobilizing, administering, and maintaining" for ", training, serving, mobilizing, and demobilizing" in par. (1), substituted "to support military operations by combatant commands" for "for military operations" in par. (2), and amended par. (4) generally. Prior to amendment, par. (4) read as follows: "act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Air Force; and".

**1958**—Subsec. (b)(1). Pub. L. 85–599 substituted "prepare for such employment of the Air Force" for "prepare such plans for the national security, for employment of the Air Force for that purpose, both separately and in conjunction with the land and naval forces".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9033. Chief of Staff

(a)(1) There is a Chief of Staff of the Air Force, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Chief of Staff only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) [1] of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

(c) Except as otherwise prescribed by law and subject to section 9013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief of Staff shall—

(1) preside over the Air Staff;

(2) transmit the plans and recommendations of the Air Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Air Force as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 3104 of this title and other provisions of law, including pursuant to section 9040 of this title; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Air Force.

(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 492, §8034; Pub. L. 85–599, §4(d), (e), Aug. 6, 1958, 72 Stat. 517; Pub. L. 87–651, title I, §114, Sept. 7, 1962, 76 Stat. 513; Pub. L. 90–22, title IV, §403, June 5, 1967, 81 Stat. 53; Pub. L. 96–513, title V, §504(2), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 97–22, §10(b)(9), July 10, 1981, 95 Stat. 137; renumbered §8033 and amended Pub. L. 99–433, title V, §522(c), Oct. 1, 1986, 100 Stat. 1061; Pub. L. 100–456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 114–92, div. A, title VIII, §802(d)(4)(D), title XVI, §1652(a)(3), Nov. 25, 2015, 129 Stat. 880, 1122; renumbered §9033 and amended Pub. L. 115–232, div. A, title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title XVIII, §1808(d)(3), as added Pub. L. 117–81, div. A, title XVII, §1701(r)(2), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 116–283, div. A, title XVIII, §1847(e)(6)(B), Jan. 1, 2021, 134 Stat. 4257; Pub. L. 117–81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8034(a) | 10:1812 (1st sentence). | Sept. 19, 1951, ch. 407, §§202, 204, 65 Stat. 328. |
| 8034(b) | 10:1812 (less 1st sentence). | |
| 8034(c) | 10:1814(a) (1st 10 words).<br>10:1814(b) (2d sentence).<br>10:1814(c). | June 3, 1916, ch. 134, §5 (last par.); added June 15, 1933, ch. 87, §2 (last par.), 48 Stat. 154. |
| 8034(d) | 10:38 (last par.).<br>10:1814(a) (less 1st 10 words).<br>10:1814(b) (less 2d sentence). | |

In subsection (a), the words "not for" are substituted for the words "no person shall serve as Chief of Staff for a term of".

In subsection (b), the words "so serving" are substituted for the words "holding office as such". The words "regular or reserve" are substituted for the word "permanent", since there are no other "permanent" grades in the Air Force. The words "in the Air Force" are omitted as surplusage. The words "and shall take rank as prescribed by law" are omitted as superseded by section 743 of this title. The words "He shall receive the compensation prescribed by law" are omitted as covered by the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.).

In subsection (c), the provisions of 10:1814 relating to the direction of the Secretary of the Air Force over the Chief of Staff are combined. The words "and subsection (c) of this section" and "state of" are omitted as surplusage.

In subsection (d), 10:38 (last par.) is omitted as covered by 10:1814(a). The words "and other provisions of law" are substituted for the words "and by other laws".

**1962 ACT**

The changes correct references to section 202(j) of the National Security Act of 1947, which is now set out as section 124 of title 10.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title by Pub. L. 114–328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

### AMENDMENTS

**2021**—Subsec. (d)(5). Pub. L. 116–283, §1847(e)(6)(B), which directed substitution of ", 3103, and 4274" for "and 2547", was repealed by Pub. L. 117–81, §1701(r)(1)(B).

Pub. L. 116–283, §1808(d)(3), as added by Pub. L. 117–81, §1701(r)(2), substituted "and 3104" for "and 2547".

**2018**—Pub. L. 115–232, §806(c), renumbered section 8033 of this title as this section.

Subsec. (c). Pub. L. 115–232, §809(a), substituted "section 9013(f)" for "section 8013(f)".

Subsec. (d)(5). Pub. L. 115–232, §809(a), substituted "section 9040" for "section 8040".

**2015**—Subsec. (d)(5). Pub. L. 114–92, §1652(a)(3), inserted ", including pursuant to section 8040 of this title" after "other provisions of law".

Pub. L. 114–92, §802(d)(4)(D), substituted "sections 171 and 2547" for "section 171".

**1988**—Subsec. (a)(2)(B). Pub. L. 100–456 substituted "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "joint duty assignment".

**1986**—Pub. L. 99–433 renumbered section 8034 of this title as this section, substituted "Chief of Staff" for "Chief of Staff: appointment; duties" in section catchline, and amended text generally. Prior to amendment, text read as follows:

"(a) The Chief of Staff shall be appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves during the pleasure of the President. In time of war or national emergency declared by the Congress after December 31, 1968, he may be reappointed for a term of not more than four years.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.

"(c) Except as otherwise prescribed by law and subject to section 8012(c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Air Force, and is directly responsible to the Secretary for the efficiency of the Air Force, its preparedness for military operations, and plans therefor.

"(d) The Chief of Staff shall—

"(1) preside over the Air Staff;

"(2) send the plans and recommendations of the Air Staff to the Secretary, and advise him with regard thereto;

"(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision over such of the members and organizations of the Air Force as the Secretary of the Air Force determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title.

"(5) perform the duties prescribed for him by sections 141 and 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President."

**1981**—Subsec. (b). Pub. L. 97–22 struck out the comma after "his regular or reserve grade".

**1980**—Subsec. (b). Pub. L. 96–513 struck out "and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 8066 of this title" after "without vacating his regular or reserve grade".

**1967**—Subsec. (a). Pub. L. 90–22 changed the requirement that the Chief of Staff be reappointed only with the advice and consent of the Senate by providing for his reappointment for a term of not more than four years by the President without such advice and consent in a time of war or national emergency as declared by the Congress.

**1962**—Subsec. (d)(4). Pub. L. 87–651 substituted "under section 124 of this title" for "pursuant to section 202(j) of the National Security Act of 1947, as amended".

**1958**—Subsec. (d)(4) to (7). Pub. L. 85–599 redesignated pars. (5) to (7) as (4) to (6), respectively, and in par. (4), as redesignated, required the Chief of Staff to exercise supervision only as the Secretary of the Air Force determines and in a manner consistent with the full operational command vested in unified or specified combatant commanders. Former par. (4), which related to command over the air defense, strategic, tactical, and other major commands, was struck out.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–22 effective Jan. 1, 1969, see section 405 of Pub. L. 90–22, set out as a note under section 7033 of this title.

#### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99–433, title V, Oct. 1, 1986, 100 Stat. 1063, which was formerly set out as a note under section 3033 of this title.

[1] *See References in Text note below.*

## §9034. Vice Chief of Staff

(a) There is a Vice Chief of Staff of the Air Force, appointed by the President, by and with the

advice and consent of the Senate, from the general officers of the Air Force.

(b) The Vice Chief of Staff of the Air Force, while so serving, has the grade of general without vacating his permanent grade.

(c) The Vice Chief of Staff has such authority and duties with respect to the Department of the Air Force as the Chief of Staff, with the approval of the Secretary of the Air Force, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff.

(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Air Force in the Air Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first.

(Aug. 10, 1956, ch. 1041, 70A Stat. 492, §8035; Pub. L. 85–599, §6(d), Aug. 6, 1958, 72 Stat. 519; renumbered §8034 and amended Pub. L. 99–433, title V, §522(d), Oct. 1, 1986, 100 Stat. 1062; renumbered §9034, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8035(a) | 10:1813(a) (1st sentence). | Sept. 19, 1951, ch. 407, §203, 65 Stat. 328. |
| 8035(b) | 10:1813(a) (less 1st sentence). | |
| 8035(c) | 10:1813(b). | |

In subsection (a), the words "of the Air Force" are omitted as surplusage.

In subsection (b), the words "if the Chief of Staff is absent or disabled or if that office is vacant" are substituted for 10:1813(a) (1st 18 words of last sentence). The words "the officer who is highest on the following list and" are inserted for clarity. The words "until his successor is appointed" are omitted as surplusage.

In subsection (c), the words "If the Vice Chief of Staff is absent or disabled or if that office is vacant" are substituted for 10:1813(b) (1st 19 words).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8034 of this title as this section.

**1986**—Pub. L. 99–433, §522(d), renumbered section 8035 of this title as this section.

Pub. L. 99–433, §522(d)(5), substituted "Vice Chief of Staff" for "Vice Chief of Staff; Deputy Chiefs of Staff: succession to duties of Chief of Staff and Vice Chief of Staff" in section catchline.

Subsecs. (a), (b). Pub. L. 99–433, §522(d)(1), substituted subsecs. (a) and (b) for former subsecs. (a) and (b) which read as follows:

"(a) The Vice Chief of Staff and the Deputy Chiefs of Staff shall be general officers detailed to those positions.

"(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

"(1) The Vice Chief of Staff.

"(2) The Deputy Chiefs of Staff in order of seniority."

Subsec. (c). Pub. L. 99–433, §522(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "If the Vice Chief of Staff is absent or disabled or if that office is vacant, the senior

Deputy Chief of Staff who is not absent or disabled shall, unless otherwise directed by the Secretary of the Air Force, perform the duties of the Vice Chief of Staff until a successor is designated or the absence or disability ceases."

Subsec. (d). Pub. L. 99–433, §522(d)(3), (4), added subsec. (d). Former subsec. (d) was redesignated (c).

**1958**—Subsec. (d). Pub. L. 85–599 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) The Secretary of the Air Force shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.

(Added Pub. L. 99–433, title V, §522(e), Oct. 1, 1986, 100 Stat. 1062, §8035; Pub. L. 110–181, div. A, title IX, §902(c), Jan. 28, 2008, 122 Stat. 273; renumbered §9035, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8035 of this title as this section.

**2008**—Subsec. (b). Pub. L. 110–181 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9036. Surgeon General: appointment; duties

(a) APPOINTMENT.—The Surgeon General of the Air Force shall be appointed by the President, by and with the advice and consent of the Senate from officers of the Air Force who are in the Air Force medical department.

(b) DUTIES.—(1) The Surgeon General serves as the principal advisor to the Secretary of the Air Force, the Chief of Staff of the Air Force, and the Chief of Space Operations on all health and medical matters of the Air Force and the Space Force, including strategic planning and policy development relating to such matters.

(2) The Surgeon General serves as the chief medical advisor of the Air Force and the Space Force to the Director of the Defense Health Agency on matters pertaining to military health readiness requirements and safety of members of the Air Force and members of the Space Force.

(3) The Surgeon General, acting under the authority, direction, and control of the Secretary of the

Air Force, shall recruit, organize, train, and equip, medical personnel of the Air Force.

(Added Pub. L. 89–288, §5(a), Oct. 22, 1965, 79 Stat. 1050, §8036; amended Pub. L. 99–433, title V, §522(g)(2), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 104–106, div. A, title V, §506(c), Feb. 10, 1996, 110 Stat. 296; Pub. L. 114–328, div. A, title VII, §702(b)(3)(A), Dec. 23, 2016, 130 Stat. 2196; renumbered §9036, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(b)(6), Jan. 1, 2021, 134 Stat. 3809.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (b)(1). Pub. L. 116–283, §923(b)(6)(A), substituted "Secretary of the Air Force, the Chief of Staff of the Air Force, and the Chief of Space Operations on all health and medical matters of the Air Force and the Space Force" for "Secretary of the Air Force and the Chief of Staff of the Air Force on all health and medical matters of the Air Force".

Subsec. (b)(2). Pub. L. 116–283, §923(b)(6)(B), inserted "and the Space Force" after "advisor of the Air Force" and "and members of the Space Force" after "members of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8036 of this title as this section.

**2016**—Pub. L. 114–328 amended section generally. Prior to amendment, text read as follows: "There is a Surgeon General of the Air Force who is appointed by the President by and with the advice and consent of the Senate from officers of the Air Force who are in the Air Force medical department. The Surgeon General, while so serving, has the grade of lieutenant general."

**1996**—Pub. L. 104–106 substituted "in the Air Force medical department" for "designated as medical officers under section 8067(a) of this title".

**1986**—Pub. L. 99–433 substituted a semicolon for the comma in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### SERVICE OF INCUMBENTS IN CERTAIN POSITIONS WITHOUT REAPPOINTMENT

For continued service of Surgeon General of the Air Force under this section after Jan. 1, 2021, without further appointment, notwithstanding amendment by section 923(b)(6) of Pub. L. 116–283, see section 923(f) of Pub. L. 116–283, set out as a note under section 9020 of this title.

## §9037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties

(a) There is a Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. The term of office is four years.

(b) The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Air Force and of all officers and agencies of the Department of the Air Force;

(2) shall direct the officers of the Air Force designated as judge advocates in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is four years.

(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

(e)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(2) If the Secretary of the Air Force elects to convene a selection board under section 611(a) of this title to consider eligible officers for selection to appointment as Deputy Judge Advocate General, the Secretary may, in connection with such consideration for selection—

(A) treat any section in chapter 36 of this title referring to promotion to the next higher grade as if such section referred to promotion to a higher grade; and

(B) waive section 619(a)(2) of this title if the Secretary determines that the needs of the Air Force or the Space Force require the waiver.

(f) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Air Force, the Chief of Staff of the Air Force, or the Chief of Space Operations; or

(2) the ability of officers of the Air Force who are designated as judge advocates who are assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(g) If the Judge Advocate General is removed from office before the end of the term of the Judge Advocate General as specified in subsection (a), the Secretary of Defense shall, not later than five days after the removal takes effect, submit to the Committees on Armed Services of the Senate and the House of Representatives notice that the Judge Advocate General is being removed and a statement of the reason for the removal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 495, §8072; Pub. L. 96–343, §12(a), (b)(1), Sept. 8, 1980, 94 Stat. 1130, 1131; renumbered §8037, Pub. L. 99–433, title V, §522(f), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103–337, div. A, title V, §504(c), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 104–106, div. A, title V, §507(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 108–375, div. A, title V, §574(c), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109–163, div. A, title V, §508(c), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110–181, div. A, title V, §543(c), Jan. 28, 2008, 122 Stat. 115; Pub. L. 114–328, div. A, title V, §502(kk), Dec. 23, 2016, 130 Stat. 2106; Pub. L. 115–91, div. A, title V, §508(c), Dec. 12, 2017, 131 Stat. 1375; renumbered §9037, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(b)(7), Jan. 1, 2021, 134 Stat. 3809; Pub. L. 119–60, div. A, title V, §506(c), Dec. 18, 2025, 139 Stat. 858.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8072(a) | 10:1840(a). | Sept. 19, 1951, ch. 407, §310(a), (b) |

| | | |
|---|---|---|
| 8072(b) | 50:741. | (less 1st sentence), 65 Stat. 332. |
| 8072(c) | 10:62, 10:1840(b) (last sentence). | May 5, 1950, ch. 169, §13 (as applicable to Air Force), 64 Stat. 147.<br>R.S. 1199.<br>June 23, 1874, ch. 458, §2, 18 Stat. 244. |

In subsection (a), the words "subject to the provisions of section 741 of Title 50" are omitted as surplusage. The words "but may be sooner terminated, or extended, by the President" are substituted for 10:1840(a) (last 11 words of 1st sentence, and 2d sentence). 10:1840(a) (1st 46 words of 3d sentence) is omitted as surplusage. 10:1840(a) (last sentence) is omitted as executed. The words "by the President, by and with the advice and consent of the Senate", as they relate to the appointment as a major general in the Regular Air Force, are omitted as covered by section 8284 of this title.

In subsection (b), the words "Hereafter" and "exclusive of the present incumbents" are omitted as surplusage. The words "at least" are substituted for the words "not less than a total".

In subsection (c), the Act of June 23, 1874, ch. 458, §2 (words before semicolon of 1st sentence, and last sentence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section, since the Air Force does not have organic corps created by statute.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (g). Pub. L. 119–60 added subsec. (g).

**2021**—Subsec. (e)(2)(B). Pub. L. 116–283, §923(b)(7)(A), inserted "or the Space Force" after "of the Air Force".

Subsec. (f)(1). Pub. L. 116–283, §923(b)(7)(B), substituted "the Secretary of the Air Force, the Chief of Staff of the Air Force, or the Chief of Space Operations" for "the Secretary of the Air Force or the Chief of Staff of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8037 of this title as this section.

**2017**—Subsec. (e). Pub. L. 115–91 designated existing provisions as par. (1) and added par. (2).

**2016**—Subsec. (a). Pub. L. 114–328, §502(kk)(1), struck out last sentence which read as follows: "The Judge Advocate General, while so serving, has the grade of lieutenant general."

Subsec. (d)(1). Pub. L. 114–328, §502(kk)(2), struck out last sentence which read as follows: "An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general."

**2008**—Subsec. (a). Pub. L. 110–181 substituted "The Judge Advocate General, while so serving, has the grade of lieutenant general." for "The Judge Advocate General, while so serving, shall hold a grade not lower than major general."

**2006**—Subsec. (a). Pub. L. 109–163, §508(c), substituted "The Judge Advocate General, while so serving, shall hold a grade not lower than major general." for "An appointee who holds a lower regular grade shall be appointed in the regular grade of major general."

Subsec. (b). Pub. L. 109–163, §1057(a)(2), struck out "or Territory" after "a State".

**2004**—Subsec. (a). Pub. L. 108–375, §574(c)(1), struck out ", but may be sooner terminated or extended by the President" after "four years".

Subsec. (c). Pub. L. 108–375, §574(c)(2)(A), struck out "shall" after "General" in introductory provisions.

Subsec. (c)(1) to (3). Pub. L. 108–375, §574(c)(2)(B)–(D), added pars. (1) and (2), redesignated former par. (1) as (3), inserted "shall" before "receive", substituted period for "; and" at end, and struck out former par. (2) which read as follows: "perform such other legal duties as may be directed by the Secretary of the Air Force."

Subsec. (d)(1). Pub. L. 108–375, §574(c)(3), struck out ", but may be sooner terminated or extended by the President" after "four years".

Subsec. (f). Pub. L. 108–375, §574(c)(4), added subsec. (f).

**1996**—Subsec. (d)(1). Pub. L. 104–106 substituted "four years" for "two years" and "An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general." for "An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense."

**1994**—Subsec. (e). Pub. L. 103–337 added subsec. (e).

**1986**—Pub. L. 99–433 renumbered section 8072 of this title as this section.

**1980**—Pub. L. 96–343, §12(b)(1), substituted "General, Deputy Judge Advocate General:" for "General:" in section catchline.

Subsec. (d). Pub. L. 96–343, §12(a), added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title V, §507(b), Feb. 10, 1996, 110 Stat. 296, provided that: "The amendments made by subsection (a) [amending this section] apply to any appointment to the position of Deputy Judge Advocate General of the Air Force that is made after the date of the enactment of this Act [Feb. 10, 1996]."

### SERVICE OF INCUMBENTS IN CERTAIN POSITIONS WITHOUT REAPPOINTMENT

For continued service of Judge Advocate General of the Air Force under subsec. (a) of this section or Deputy Judge Advocate General of the Air Force under subsec. (d) of this section after Jan. 1, 2021, without further appointment, notwithstanding amendment by section 923(b)(7) of Pub. L. 116–283, see section 923(f) of Pub. L. 116–283, set out as a note under section 9020 of this title.

## §9038. Office of Air Force Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Air Force an Office of Air Force Reserve which is headed by a chief who is the adviser to the Chief of Staff on Air Force Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Air Force Reserve from general officers of the Air Force Reserve who have had at least 10 years of commissioned service in the Air Force.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Air Force Reserve unless the officer—

(A) is recommended by the Secretary of the Air Force; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Air Force Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Air Force Reserve if the Secretary of the Air Force requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT.—The Chief of Air Force Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Air Force Reserve may be reappointed for one additional four-year period.

(d) BUDGET.—The Chief of Air Force Reserve is the official within the executive part of the Department of the Air Force who, subject to the authority, direction, and control of the Secretary of the Air Force and the Chief of Staff, is responsible for preparation, justification, and execution of the

personnel, operation and maintenance, and construction budgets for the Air Force Reserve. As such, the Chief of Air Force Reserve is the director and functional manager of appropriations made for the Air Force Reserve in those areas.

(e) FULL TIME SUPPORT PROGRAM.—The Chief of Air Force Reserve manages, with respect to the Air Force Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

(f) ANNUAL REPORT.—The Chief of Air Force Reserve shall submit to the Secretary of Defense, through the Secretary of the Air Force, an annual report on the state of the Air Force Reserve and the ability of the Air Force Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Air Force and may be submitted in classified and unclassified versions.

(Added Pub. L. 90–168, §2(19), Dec. 1, 1967, 81 Stat. 524, §8019; renumbered §8038 and amended Pub. L. 99–433, title V, §§521(a)(2), 522(g)(3), Oct. 1, 1986, 100 Stat. 1055, 1063; Pub. L. 103–337, div. A, title XVI, §1674(c)(1), Oct. 5, 1994, 108 Stat. 3016; Pub. L. 104–201, div. A, title XII, §1212(d), Sept. 23, 1996, 110 Stat. 2693; Pub. L. 105–85, div. A, title X, §1073(a)(65), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106–65, div. A, title V, §554(e), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, §1 [[div. A], title V, §507(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–104; Pub. L. 107–314, div. A, title V, §501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, §536(a), Oct. 28, 2004, 118 Stat. 1901; Pub. L. 114–328, div. A, title V, §502(ll), Dec. 23, 2016, 130 Stat. 2106; Pub. L. 115–91, div. A, title X, §1051(a)(30), Dec. 12, 2017, 131 Stat. 1562; renumbered §9038, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8038 of this title as this section.

**2017**—Subsec. (f). Pub. L. 115–91 struck out par. (1) designation before "The Chief" and struck out par. (2) which read as follows: "The Secretary of Defense shall transmit the annual report of the Chief of Air Force Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress."

**2016**—Subsec. (c). Pub. L. 114–328, in heading, struck out "; Grade" after "Reappointment", and in text, struck out par. (1) designation before "The Chief of Air Force Reserve" and struck out par. (2) which read as follows: "The Chief of Air Force Reserve, while so serving, holds the grade of lieutenant general."

**2004**—Subsec. (b)(4). Pub. L. 108–375 substituted "December 31, 2006" for "December 31, 2004".

**2002**—Subsec. (b)(4). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003".

**2000**—Subsec. (b). Pub. L. 106–398 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The President, by and with the advice and consent of the Senate, shall appoint the Chief of Air Force Reserve from officers of the Air Force Reserve not on active duty, or on active duty under section 10211 of this title, who—

"(1) have had at least 10 years of commissioned service in the Air Force;

"(2) are in grade of brigadier general and above; and

"(3) have been recommended by the Secretary of the Air Force."

Subsec. (c). Pub. L. 106–398 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Chief of Air Force Reserve holds office for four years, but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for service in the Air Force Reserve. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

**1999**—Subsec. (c). Pub. L. 106–65 inserted at end "However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

**1997**—Subsec. (e). Pub. L. 105–85 struck out "(1)" before "The Chief of Air Force".

**1996**—Subsecs. (d) to (f). Pub. L. 104–201 added subsecs. (d) to (f).

**1994**—Subsec. (b). Pub. L. 103–337 substituted "10211" for "265".

**1986**—Pub. L. 99–433, §521(a)(2), renumbered section 8019 of this title as this section.

Subsec. (a). Pub. L. 99–433, §522(g)(3), struck out the comma after "Chief of Staff".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 7038 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Section effective on first day of first calendar month following date of enactment of Pub. L. 90–168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as an Effective Date of 1967 Amendment note under section 138 of this title.

## §9039. Chief of Chaplains: appointment; duties

(a) CHIEF OF CHAPLAINS.—(1) There is a Chief of Chaplains for the Air Force and the Space Force, appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force designated under section 9067(h) of this title as chaplains who—

(A) are serving on active duty; and

(B) have served on active duty as a chaplain for at least eight years.

(2) An officer appointed as the Chief of Chaplains shall be appointed for a term of three years. However, the President may terminate or extend the appointment at any time.

(3) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Air Force and by law.

(b) SELECTION BOARD.—Under regulations approved by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President for appointment as the Chief of Chaplains, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to the selection boards convened under chapter 36 of this title.

(c) GRADE OF CHIEF OF CHAPLAINS.—The Chief of Chaplains, while so serving, holds the grade of major general.

(Added Pub. L. 112–239, div. A, title V, §508(a), Jan. 2, 2013, 126 Stat. 1716, §8039; amended Pub. L. 114–328, div. A, title V, §502(mm), Dec. 23, 2016, 130 Stat. 2106; renumbered §9039 and amended Pub. L. 115–232, div. A, title V, §510(c), title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1751, 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(b)(8), Jan. 1, 2021, 134 Stat. 3809.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "for the Air Force and the Space Force" for "in the Air Force".

**2018**—Pub. L. 115–232, §806(c), renumbered section 8039 of this title as this section.

Subsec. (a)(1). Pub. L. 115–232, §809(a), substituted "section 9067(h)" for "section 8067(h)" in

introductory provisions.

Subsec. (c). Pub. L. 115–232, §510(c), added subsec. (c).

**2016**—Subsec. (a)(1). Pub. L. 114–328, §502(mm)(1), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "are serving in the grade of colonel or above;".

Subsec. (c). Pub. L. 114–328, §502(mm)(2), struck out subsec. (c). Text read as follows: "An officer appointed as Chief of Chaplains who holds a lower regular grade may be appointed in the regular grade of major general."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by sections 806(c) and 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### SERVICE OF INCUMBENTS IN CERTAIN POSITIONS WITHOUT REAPPOINTMENT

For continued service of Chief of Chaplains for the Air Force and the Space Force under this section after Jan. 1, 2021, without further appointment, notwithstanding amendment by section 923(b)(8) of Pub. L. 116–283, see section 923(f) of Pub. L. 116–283, set out as a note under section 9020 of this title.

## §9040. Oversight of nuclear deterrence mission

(a) OVERSIGHT OF NUCLEAR DETERRENCE MISSION.—Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief of Staff of the Air Force shall be responsible for overseeing the safety, security, reliability, effectiveness, and credibility of the nuclear deterrence mission of the Air Force.

(b) DEPUTY CHIEF OF STAFF.—Not later than March 1, 2016, the Chief of Staff shall designate a Deputy Chief of Staff to carry out the following duties in coordination with the Commander of Air Force Global Strike Command:

(1) Provide direction, guidance, integration, and advocacy regarding the nuclear deterrence mission of the Air Force.

(2) Coordinate with and support the activities of Air Force Global Strike Command, the Air Force Nuclear Systems Center, and any other applicable Air Force organization in the sustainment and modernization of weapon systems associated with the nuclear deterrence mission of the Air Force.

(3) Conduct monitoring and oversight activities regarding the safety, security, reliability, effectiveness, and credibility of the nuclear deterrence mission of the Air Force.

(4) Conduct periodic comprehensive assessments of all aspects of the nuclear deterrence mission of the Air Force and provide such assessments to the Secretary of the Air Force [1] the Chief of Staff of the Air Force, and the Commander of Air Force Global Strike Command.

(5) Represent Air Force nuclear deterrence mission equities on behalf of the Chief of Staff of the Air Force and the Commander of Air Force Global Strike Command within the Nuclear Weapons Council processes and other Department of Defense fora, as appropriate.

(Added Pub. L. 114–92, div. A, title XVI, §1652(a)(1), Nov. 25, 2015, 129 Stat. 1121, §8040; renumbered §9040, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 119–60, div. A, title XVI, §1642(b), Dec. 18, 2025, 139 Stat. 1192.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60, §1642(b)(1), inserted "in coordination with the Commander of Air Force Global Strike Command" after "duties" in introductory provisions.

Subsec. (b)(2) to (4). Pub. L. 119–60, §1642(b)(2)–(4), added par. (2), redesignated former pars. (2) and (3)

as (3) and (4), respectively, and in par. (4), substituted "the Chief of Staff of the Air Force, and the Commander of Air Force Global Strike Command" for "and the Chief of Staff of the Air Force".

Subsec. (b)(5). Pub. L. 119–60, §1642(b)(5), added par. (5).

**2018**—Pub. L. 115–232 renumbered section 8040 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

[1] *So in original. Probably should be followed by a comma.*

# CHAPTER 907—THE AIR FORCE

Sec.
9061. Regulations.
9062. Policy; composition; aircraft authorization.
9062a. Annual report on Air Force tactical fighter aircraft force structure.
9063. Designation: officers to perform certain professional functions.
9064. Air Force nurses: Chief; appointment.
9065. Commands: territorial organization.
9066. Regular Air Force: composition.
9067. Assistant Surgeon General for Dental Services.
9068. Air Force Global Strike Command.
[9069,
9074,
9075,
9081,
9084.
Renumbered.]

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 907, consisting of sections 9411 to 9417, related to schools and camps, prior to renumbering as chapter 957 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVI, §1642(a), Dec. 18, 2025, 139 Stat. 1191, added item 9068. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title I, §142, Dec. 23, 2024, 138 Stat. 1809, added item 9062a. Amendment was made pursuant to operation of section 102 of this title.

**2019**—Pub. L. 116–92, div. A, title IX, §952(g), Dec. 20, 2019, 133 Stat. 1563, added items 9063 to 9067 and struck out former item 9067 "Designation: officers to perform certain professional functions" and items 9069 "Air Force nurses: Chief; appointment", 9074 "Commands: territorial organization", 9075 "Regular Air Force: composition", 9081 "Assistant Surgeon General for Dental Services", and 9084 "Officer career field for space".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(4), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 807 of this title as this chapter and items 8061, 8062, 8067, 8069, 8074, 8075, 8081, and 8084 as 9061, 9062, 9067, 9069, 9074, 9075, 9081, and 9084, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §502(nn)(3), Dec. 23, 2016, 130 Stat. 2106, substituted "Air Force nurses: Chief; appointment" for "Air Force nurses: Chief and assistant chief; appointment; grade" in item 8069.

**2001**—Pub. L. 107–107, div. A, title IX, §912(b), Dec. 28, 2001, 115 Stat. 1196, added item 8084.

**1997**—Pub. L. 105–85, div. A, title X, §1073(a)(66), Nov. 18, 1997, 111 Stat. 1904, substituted "nurses" for "Nurse Corps" in item 8069.

**1996**—Pub. L. 104–201, div. A, title V, §502(c)(2), Sept. 23, 1996, 110 Stat. 2511, added item 8069.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(1), Oct. 5, 1994, 108 Stat. 3016, struck out items 8076 "Air Force Reserve: composition", 8077 "Air National Guard of United States: composition", 8078 "Air National Guard: when a component of Air Force", 8079 "Air National Guard of United States: status when not in Federal service", and 8080 "Air National Guard of the United States: authority of officers with respect to Federal status".

**1986**—Pub. L. 99–433, title V, §522(g)(4), Oct. 1, 1986, 100 Stat. 1063, struck out item 8072 "Judge Advocate General, Deputy Judge Advocate General: appointment; duties". See section 8037 of this title.

**1980**—Pub. L. 96–513, title V, §504(3), Dec. 12, 1980, 94 Stat. 2915, struck out item 8066 "Generals and lieutenant generals".

Pub. L. 96–343, §12(b)(2), Sept. 8, 1980, 94 Stat. 1131, substituted "General, Deputy Judge Advocate General:" for "General:" in item 8072.

**1978**—Pub. L. 95–485, title VIII, §805(c)(2), Oct. 20, 1978, 92 Stat. 1622, added item 8081.

**1967**—Pub. L. 90–130, §1(25), Nov. 8, 1967, 81 Stat. 382, struck out item 8071 "Temporary grade of colonel in the Air Force: appointment of women."

**1960**—Pub. L. 86–603, §1(3)(B), July 7, 1960, 74 Stat. 358, added item 8080.

## §9061. Regulations

The President may prescribe regulations for the government of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 493, §8061; renumbered §9061, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8061 | 10:16. | July 15, 1870, ch. 294, §20, 16 Stat. 319; Mar. 1, 1875, ch. 115, 18 Stat. 337. |

The word "prescribe" is substituted for the words "make and publish". 10:16 (last 35 words) is omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9061 was renumbered section 9381 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8061 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9062. Policy; composition; aircraft authorization

(a) It is the intent of Congress to provide an Air Force that is capable, in conjunction with the other armed forces, of—

(1) preserving the peace and security, and providing for the defense, of the United States, the Commonwealths and possessions, and any areas occupied by the United States;
(2) supporting the national policies;
(3) implementing the national objectives; and
(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) There is a United States Air Force within the Department of the Air Force.
(c) In general, the Air Force includes aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations. It is responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.
(d) The Air Force consists of—
(1) the Regular Air Force, the Air National Guard of the United States, the Air National Guard while in the service of the United States, and the Air Force Reserve;
(2) all persons appointed or enlisted in, or conscripted into, the Air Force without component; and
(3) all Air Force units and other Air Force organizations, with their installations and supporting and auxiliary combat, training, administrative, and logistic elements; and all members of the Air Force, including those not assigned to units; necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency.

(e) Subject to subsection (f) of this section, chapter 911 of this title, and the strength authorized by law pursuant to section 115 of this title, the authorized strength of the Air Force is 70 Regular Air Force groups and such separate Regular Air Force squadrons, reserve groups, and supporting and auxiliary regular and reserve units as required.
(f) There are authorized for the Air Force 24,000 serviceable aircraft or 225,000 airframe tons of serviceable aircraft, whichever the Secretary of the Air Force considers appropriate to carry out this section. This subsection does not apply to guided missiles.
(g)(1) Effective October 1, 2011, the Secretary of the Air Force shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 301 aircraft. Effective on the date that is 45 days after the date on which the report under section 141(c)(3) of the National Defense Authorization Act for Fiscal Year 2013 is submitted to the congressional defense committees, the Secretary shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 275 aircraft.
(2) In this subsection:
(A) The term "strategic airlift aircraft" means an aircraft—
(i) that has a cargo capacity of at least 150,000 pounds; and
(ii) that is capable of transporting outsized cargo an unrefueled range of at least 2,400 nautical miles.

(B) The term "outsized cargo" means any single item of equipment that exceeds 1,090 inches in length, 117 inches in width, or 105 inches in height.

[(h) Repealed. Pub. L. 116–283, div. A, title I, §132(b), Jan. 1, 2021, 134 Stat. 3430.]
(i)(1) During the period beginning on October 1, 2017, and ending on October 1, 2026, the Secretary of the Air Force shall maintain a total aircraft inventory of fighter aircraft of not less than 1,800 aircraft, and a total primary mission aircraft inventory (combat-coded) of not less than 1,145 fighter aircraft.
(2) In this subsection:
(A) The term "fighter aircraft" means an aircraft that—
(i) is designated by a mission design series prefix of F– or A–;

(ii) is manned by one or two crewmembers; and

(iii) executes single-role or multi-role missions, including air-to-air combat, air-to-ground attack, air interdiction, suppression or destruction of enemy air defenses, close air support, strike control and reconnaissance, combat search and rescue support, or airborne forward air control.

(B) The term "primary mission aircraft inventory" means aircraft assigned to meet the primary aircraft authorization to a unit for the performance of its wartime mission.

(j)(1) Except as provided in paragraphs (2) and (3), the Secretary of the Air Force shall maintain a total aircraft inventory of air refueling tanker aircraft—

(A) of not less than 466 aircraft during the period ending on September 30, 2026;

(B) of not less than 478 aircraft during the period beginning on October 1, 2026, and ending on September 30, 2027;

(C) of not less than 490 aircraft during the period beginning on October 1, 2027, and ending on September 30, 2028; and

(D) of not less than 502 aircraft beginning on October 1, 2028.

(2) The Secretary of the Air Force may reduce the number of air refueling tanker aircraft in the total aircraft inventory of the Air Force below the applicable level specified in paragraph (1) only if—

(A) the Secretary certifies to the congressional defense committees that such reduction is justified by the results of the mobility capability and requirements study conducted under section 144(b) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91); and

(B) a period of 30 days has elapsed following the date on which the certification is made to the congressional defense committees under subparagraph (A).

(3) In the case of a KC–135 aircraft that is replaced in the aircraft inventory by a KC–46 aircraft, the Secretary of the Air Force may reassign the KC–135 aircraft to any Air Refueling Wing that has the capacity to expand its aircraft inventory to include such reassigned aircraft. In determining whether an Air Refueling Wing has the capacity to so expand its inventory, the Secretary shall consider, among other things, the capacity of the Air Refueling Wing to man the additional aircraft and support pilot training requirements for the additional aircraft.

(4) In this subsection:

(A) The term "air refueling tanker aircraft" means an aircraft that has as its primary mission the refueling of other aircraft.

(B) The term "total aircraft inventory" means aircraft authorized to a flying unit for operations or training.

(k)(1) During the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2023 and ending on September 30, 2027, the Secretary of the Air Force may not—

(A) retire an F–22 aircraft;

(B) reduce funding for unit personnel or weapon system sustainment activities for F–22 aircraft in a manner that presumes future congressional authority to divest such aircraft;

(C) keep an F–22 aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions (commonly referred to as "XJ" status); or

(D) decrease the total aircraft inventory of F–22 aircraft below 184 aircraft.

(2) The prohibition under paragraph (1) shall not apply to individual F–22 aircraft that the Secretary of the Air Force determines, on a case-by-case basis, to be no longer mission capable and uneconomical to repair because of aircraft accidents, mishaps, or excessive material degradation and non-airworthiness status of certain aircraft.

(l)(1) During the covered period, the Secretary of the Air Force may not retire more than a total of 51 F–15E aircraft as follows:

(A) From the beginning of the covered period through the end of fiscal year 2026, the Secretary may not retire any F–15E aircraft.

(B) In fiscal year 2027, the Secretary may not retire more than 21 F–15E aircraft.

(C) In fiscal year 2028, the Secretary may not retire more than 30 F–15E aircraft.

(2) During the covered period the Secretary of the Air Force may not—

(A) reduce funding for unit personnel or weapon system sustainment activities for retained F–15E aircraft in a manner that presumes future congressional authority to divest such aircraft; or

(B) keep an F–15E aircraft (other than an aircraft identified for retirement under paragraph (1)) in a status considered excess to the requirements of the possessing command and awaiting disposition instructions (commonly referred to as "XJ" status).

(3) In this subsection, the term "covered period" means the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026 and ending on September 30, 2030.

(m)(1) During the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 and ending on September 30, 2030, the Secretary of the Air Force may not—

(A) retire an RQ–4 aircraft;

(B) reduce funding for unit personnel or weapon system sustainment activities for RQ–4 aircraft in a manner that presumes future congressional authority to divest such aircraft;

(C) keep an RQ–4 aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions (commonly referred to as "XJ" status); or

(D) decrease the total aircraft inventory of RQ–4 aircraft below 10 aircraft.

(2) The prohibition under paragraph (1) shall not apply to individual RQ–4 aircraft that the Secretary of the Air Force determines, on a case-by-case basis, to be no longer mission capable and uneconomical to repair because of aircraft accidents, mishaps, or excessive material degradation and non-airworthiness status of certain aircraft.

(n)(1) The Secretary of the Air Force shall maintain a total inventory of intercontinental ballistic missiles sufficient to ensure that not fewer than 400 such missiles are operationally available.

(2) Such intercontinental ballistic missiles shall be deployed among not fewer than 150 launch facilities dispersed across each of the following locations (for a total of not fewer than 450):

(A) Francis E. Warren Air Force Base, Laramie County, Wyoming.

(B) Malmstrom Air Force Base, Cascade County, Montana.

(C) Minot Air Force Base, Ward County, North Dakota.

(3) In this subsection, the term "intercontinental ballistic missile" means any combination of the LGM–30G Minuteman III intercontinental ballistic missile or the LGM–35A Sentinel intercontinental ballistic missile.

(Aug. 10, 1956, ch. 1041, 70A Stat. 493, §8062; Pub. L. 96–513, title V, §504(4), Dec. 12, 1980, 94 Stat. 2916; Pub. L. 99–433, title I, §110(g)(10), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 100–26, §7(g)(3), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–180, div. A, title XIII, §1314(b)(9), Dec. 4, 1987, 101 Stat. 1176; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 109–364, div. A, title I, §132, Oct. 17, 2006, 120 Stat. 2112; Pub. L. 111–84, div. A, title I, §139, Oct. 28, 2009, 123 Stat. 2223; Pub. L. 112–81, div. A, title I, §131, Dec. 31, 2011, 125 Stat. 1320; Pub. L. 112–239, div. A, title I, §§141(a), 142(a), Jan. 2, 2013, 126 Stat. 1659, 1662; Pub. L. 115–91, div. A, title I, §131(a), Dec. 12, 2017, 131 Stat. 1314; renumbered §9062 and amended Pub. L. 115–232, div. A, title I, §141(a), title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1666, 1833, 1840; Pub. L. 116–283, div. A, title I, §132(b), Jan. 1, 2021, 134 Stat. 3430; Pub. L. 117–81, div. A, title I, §131(a), Dec. 27, 2021, 135 Stat. 1573; Pub. L. 117–263, div. A, title I, §§141(a), 142(a),

143(a), Dec. 23, 2022, 136 Stat. 2452, 2453; Pub. L. 118–31, div. A, title I, §§131(a), 132, Dec. 22, 2023, 137 Stat. 171, 172; Pub. L. 118–159, div. A, title I, §141, Dec. 23, 2024, 138 Stat. 1808; Pub. L. 119–60, div. A, title I, §§141(a), (b), 142(a), 143, title XVI, §1632(a), Dec. 18, 2025, 139 Stat. 759, 760, 1185.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8062(a) | 10:20. | July 26, 1947, ch. 343, §208(a), (f), 61 Stat. 503; Aug. 10, 1949, ch. 412, §12(d), 63 Stat. 591. |
| 8062(b) | 5:626c(a). | |
| 8062(c) | 5:626c(f). | |
| 8062(d) | 10:20r(a). | |
| | 10:1831. | |
| | 50:1091. | July 10, 1950, ch. 454, §§2, 201, 203, 64 Stat. 321, 323, 324. |
| 8062(e) | 10:20r(b). | |
| 8062(f) | 10:20t. | |
| | | Sept. 19, 1951, ch. 407, §301, 65 Stat. 329. |
| | | July 9, 1952, ch. 608, §601, 66 Stat. 501. |

In subsection (a), 10:20 (1st 19 words) is omitted as surplusage. The words "any areas occupied by the United States" are substituted for the words "occupied areas wherever located".

Subsection (b) is substituted for 5:626c(a) (1st sentence). 5:626c(a) (last sentence) is omitted as executed.

In subsection (d), the words "consists of" are substituted for the word "includes".

In subsection (d)(1), 10:20r(a) is omitted as superseded by 10:1831. The words "all persons serving in the Air Force under call or * * * under any provision of law, including members of the Air National Guard of the several States, Territories, and the District of Columbia when in the service of the United States pursuant to call as provided by law" are omitted as covered by the words "the Air National Guard while in the service of the United States". 50:1091 (last sentence) is omitted, since the components listed include their members.

In subsection (d)(2), the words "or inducted" are omitted as covered by the word "conscripted".

In subsection (e), the words "Effective on July 10, 1950" are omitted as executed. The words "the limitations imposed by" are omitted as surplusage. The words "not to exceed" are omitted as surplusage, since the revised section states the authorized number and any number over that would not be authorized. The words "and chapter 31 of this title" are substituted for the reference to 10:20s to make it clear that the authority for a 70 group Air Force is subject to all provisions which prescribe the authorized personnel strength of the Air Force.

In subsection (f), the word "considers" is substituted for the words "may determine is more". The words "aggregate" and "amount" are omitted as surplusage. The words "carry out this section" are substituted for the words "fulfill the requirements of the Air Force of the United States for aircraft necessary to carry out the purposes of this chapter, section 481 of this title, and sections 235, 235a, 628, and 628a of title 5", since the purposes to which the reference is made are stated in the revised section. The last sentence is substituted for 10:20t (proviso).

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 141(c)(3) of the National Defense Authorization Act for Fiscal Year 2013, referred to in subsec. (g)(1), is section 141(c)(3) of Pub. L. 112–239, div. A, title I, Jan. 2, 2013, 126 Stat. 1661, which is not classified to the Code.

Section 144(b) of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (j)(2)(A), is section 144(b) of Pub. L. 115–91, div. A, title I, Dec. 12, 2017, 131 Stat. 1321, which is not classified to the Code.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2023, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 117–263, also known as the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, which was approved Dec. 23, 2022.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (l)(3), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsec. (m)(1), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

## AMENDMENTS

**2025**—Subsec. (j)(1). Pub. L. 119–60, §141(b)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)" in introductory provisions.

Pub. L. 119–60, §141(a)(1), substituted "a total aircraft inventory of air refueling tanker aircraft—" and subpars. (A) to (D) for "a total aircraft inventory of air refueling tanker aircraft of not less than 466 aircraft."

Subsec. (j)(2). Pub. L. 119–60, §141(a)(2), substituted "below the applicable level specified in paragraph (1)" for "below 466" in introductory provisions.

Subsec. (j)(3), (4). Pub. L. 119–60, §141(b)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (l). Pub. L. 119–60, §142(a), amended subsec. (l) generally. Prior to amendment, subsec. (l) placed limitations on retirement of F–15E aircraft and funding for unit personnel or weapon system sustainment activities for retained F–15E aircraft.

Subsec. (m)(1). Pub. L. 119–60, §143, substituted "September 30, 2030" for "September 30, 2029" in introductory provisions.

Subsec. (n). Pub. L. 119–60, §1632(a), added subsec. (n).

**2024**—Subsec. (m)(1). Pub. L. 118–159 substituted "September 30, 2029" for "September 30, 2028" in introductory provisions.

**2023**—Subsec. (l). Pub. L. 118–31, §131(a), added subsec. (l).

Subsec. (m). Pub. L. 118–31, §132, added subsec. (m).

**2022**—Subsec. (i)(1). Pub. L. 117–263, §141(a), substituted "1,800" for "1,970".

Subsec. (j)(1). Pub. L. 117–263, §142(a), struck out "effective October 1, 2019," after "paragraph (2)," and substituted "466" for "479".

Subsec. (j)(2). Pub. L. 117–263, §142(a)(2), substituted "466" for "479" in introductory provisions.

Subsec. (k). Pub. L. 117–263, §143(a), added subsec. (k).

**2021**—Subsec. (h). Pub. L. 116–283 struck out subsec. (h) which read as follows:

"(1) Beginning October 1, 2011, the Secretary of the Air Force may not retire more than six B–1 aircraft.

"(2) The Secretary shall maintain in a common capability configuration not less than 36 B–1 aircraft as combat-coded aircraft.

"(3) In this subsection, the term 'combat-coded aircraft' means aircraft assigned to meet the primary aircraft authorization to a unit for the performance of its wartime mission."

Subsec. (i)(1). Pub. L. 117–81 substituted "October 1, 2026" for "October 1, 2022".

**2018**—Pub. L. 115–232, §806(c), renumbered section 8062 of this title as this section.

Subsec. (e). Pub. L. 115–232, §809(a), substituted "chapter 911" for "chapter 831".

Subsec. (j). Pub. L. 115–232, §141(a), added subsec. (j).

**2017**—Subsec. (i). Pub. L. 115–91 added subsec. (i).

**2013**—Subsec. (g)(1). Pub. L. 112–239, §141(a), inserted at end "Effective on the date that is 45 days after the date on which the report under section 141(c)(3) of the National Defense Authorization Act for Fiscal Year 2013 is submitted to the congressional defense committees, the Secretary shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 275 aircraft."

Subsec. (h). Pub. L. 112–239, §142(a), added subsec. (h).

**2011**—Subsec. (g)(1). Pub. L. 112–81 substituted "October 1, 2011" for "October 1, 2009" and "301 aircraft" for "316 aircraft".

**2009**—Subsec. (g)(1). Pub. L. 111–84 substituted "2009" for "2008" and "316" for "299".

**2006**—Subsec. (a)(1). Pub. L. 109–163 substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

Subsec. (g). Pub. L. 109–364 added subsec. (g).

**1987**—Subsec. (e). Pub. L. 100–26 and Pub. L. 100–180 amended subsec. (e) identically, substituting "section 115" for "section 114".

**1986**—Subsec. (e). Pub. L. 99–433 substituted "section 114" for "section 138".

**1980**—Subsec. (e). Pub. L. 96–513 substituted ", chapter 831 of this title, and the strength authorized by law pursuant to section 138" for "and chapter 831".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

## EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by sections 806(c) and 809(a) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## PROPOSED ACTIONS WITH RESPECT TO CAUSES AND EFFECTS OF DECLINING AIRCRAFT READINESS RATES

Pub. L. 119–60, div. A, title III, §344, Dec. 18, 2025, 139 Stat. 824, provided that:

"(a) REPORT ON PROPOSED ACTIONS.—Not later than May 31, 2026, the Secretary of the Air Force shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the declining rates of aircraft readiness within the fleet of the Air Force (with an emphasis on fighter aircraft within such fleet) and factors contributing to that decline. Such report shall include, with respect to such aircraft—

"(1) proposed actions to—

"(A) reverse the declining rates of aircraft readiness;

"(B) improve the effectiveness of aircraft sustainment, including by addressing maintenance backlogs, supply shortages of aircraft parts, and depot capacity constraints; and

"(C) ensure more accurate readiness reporting; and

"(2) recommendations for any relevant legislative actions.

"(b) IMPLEMENTATION DEADLINE.—Not later than one year after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of the Air Force shall implement the proposed actions identified in the report required under subsection (a).

"(c) ANNUAL IMPLEMENTATION REPORTS.—Not later than 30 days after the date on which the Secretary of the Air Force implements the proposed actions under subsection (b), and annually thereafter for each of the subsequent three years, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the status of the implementation of such actions.

"(d) FORM OF REPORTS.—Each report required to be submitted under this section shall be submitted in unclassified form, but may include a classified annex."

## CLARIFICATION OF RELATIONSHIP BETWEEN LIMITATIONS

Pub. L. 118–31, div. A, title I, §131(c), Dec. 22, 2023, 137 Stat. 172, provided that: "The authority of the Secretary of the Air Force to retire F–15E aircraft to the extent allowed under subsection (l)(1)(A) of section 9062 of title 10, United States Code (as added by subsection (a) of this section) shall not apply until the Secretary complies with the requirements of section 150 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2456) (as amended by subsection (b) of this section)."

## MODIFICATION OF FORCE STRUCTURE OBJECTIVES FOR BOMBER AIRCRAFT

Pub. L. 116–283, div. A, title I, §132, Jan. 1, 2021, 134 Stat. 3430, provided that:

"(a) MINIMUM LEVEL FOR ALL BOMBER AIRCRAFT.—

"(1) IN GENERAL.—During the period beginning on the date of the enactment of this Act [Jan. 1, 2021] and ending on October 1, 2025, the Secretary of the Air Force shall, except as provided in paragraph (2), maintain not less than 92 bomber aircraft based on the Primary Mission Aircraft Inventory (PMAI) of the Air Force.

"(2) EXCEPTION.—The Secretary may reduce the number of aircraft required by the Primary Mission Aircraft Inventory below the number specified in paragraph (1) if the Secretary determines, on a case-by-case basis, that a bomber aircraft is no longer to be so required because such aircraft is no longer mission capable due to mishap or other damage, or being uneconomical to repair.

"(b) REPEAL OF MINIMUM B–1 INVENTORY REQUIREMENT.—[Amended this section.]

"(c) PRESERVATION OF CERTAIN B–1 AIRCRAFT AND MAINTENANCE PERSONNEL.—Until the date on which the Secretary determines that the B–21 bomber aircraft has attained initial operating capability, the Secretary—

"(1) shall preserve four B–1 aircraft that are retired pursuant to subsection (a), in a manner that ensures the components and parts of each such aircraft are maintained in reclaimable condition that is consistent with type 2000 recallable storage, or better; and

"(2) may not reduce the number of billets assigned to maintenance of B–1 aircraft in effect on January 1, 2020."

## RETIREMENT OF AIR FORCE FIGHTER AIRCRAFT

Pub. L. 115–91, div. A, title I, §131(b), (c), formerly §131(b)–(d), Dec. 12, 2017, 131 Stat. 1314, 1315, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(11), Aug. 13, 2018, 132 Stat. 1841; Pub. L. 117–81, div. A, title I, §131(b), Dec. 27, 2021, 135 Stat. 1573, provided that:

"(b) REPORT ON RETIREMENT OF AIRCRAFT.—

"(1) IN GENERAL.—Beginning with fiscal year 2023, for any fiscal year in which the Secretary of the Air Force expects the total aircraft inventory of fighter aircraft of the Air Force or the total primary mission aircraft inventory of fighter aircraft of the Air Force to decrease below the levels specified in section 9062(i)(1) of title 10, United States Code, the Secretary of the Air Force shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report setting forth the following:

"(A) A detailed rationale for the retirement of existing fighter aircraft and a detailed operational analysis of the portfolio of capabilities of the Air Force that demonstrates performance of the designated mission at an equal or greater level of effectiveness as the retiring aircraft.

"(B) An assessment of the implications for the Air Force, the Air National Guard, and the Air Force Reserve of the force mix ratio of fighter aircraft and how existing aircraft inventory levels and unit personnel levels for the active and reserve components are proposed to change during the fiscal year in which fighter aircraft will be retired.

"(C) A detailed assessment of the current operational risk and the operational risk that will be incurred for meeting—

"(i) the requirements of the National Defense Strategy and combatant commanders; and

"(ii) operational plans for major contingency operations and steady-state or rotational operations.

"(D) Such other matters relating to the retirement of fighter aircraft as the Secretary considers appropriate.

"(2) TIMING OF REPORT.—Each report required under paragraph (1) shall be included in the materials submitted in support of the budget of the President (as submitted to Congress under section 1105(a) of title 31, United States Code) for the fiscal year in which applicable decrease in fighter aircraft inventory levels is expected to occur.

"(c) FIGHTER AIRCRAFT DEFINED.—In this section, the term 'fighter aircraft' has the meaning given the term in subsection (i)(2)(A) of section 9062 of title 10, United States Code, as added by subsection (a) of this section."

## TRANSITION OF AIR FORCE TO OPERATION OF REMOTELY PILOTED AIRCRAFT BY ENLISTED PERSONNEL

Pub. L. 114–328, div. A, title X, §1052, Dec. 23, 2016, 130 Stat. 2397, provided that:

"(a) TRANSITION REQUIRED.—The Secretary of the Air Force shall transition the Air Force to an organizational model for all Air Force remotely piloted aircraft that uses a significant number of enlisted personnel as operators of such aircraft rather than officers only.

"(b) DEADLINES.—

"(1) REGULAR COMPONENT.—For the regular component of the Air Force, the transition required by subsection (a) shall be completed not later than September 30, 2020.

"(2) RESERVE COMPONENTS.—For the Air Force Reserve and Air National Guard, the transition required by subsection (a) shall be completed not later than September 30, 2023.

"(c) TRANSITION MATTERS.—The transition required by subsection (a) shall account for the following:

"(1) Training infrastructure for enlisted personnel operating Air Force remotely piloted aircraft.

"(2) Supervisory roles for officers and senior enlisted personnel for enlisted personnel operating Air Force remotely piloted aircraft.

"(d) REPORTS.—

"(1) INITIAL REPORT.—Not later than March 1, 2017, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth a detailed description of the plan for the transition required by subsection (a), including the following:

"(A) The objectives of the transition.

"(B) The timeline of the transition.

"(C) The resources required to implement the transition.

"(D) Recommendations for any legislation action required to implement the transition.

"(E) The assumptions used to complete the transition.

"(F) Risks associated with implementing the transition.

"(2) REPORTS ON PROGRESS OF IMPLEMENTATION.—Not later than March 1, 2018, and each March 1 thereafter until the transition required by subsection (a) is completed, the Secretary shall submit to the committees referred to in paragraph (1) a report on the progress of the Air Force in implementing the plan required under that paragraph and in achieving the transition required by subsection (a)."

**REQUIREMENTS FOR TRANSFERRING AIRCRAFT WITHIN THE AIR FORCE INVENTORY**

Pub. L. 111–383, div. A, title III, §345, Jan. 7, 2011, 124 Stat. 4191, as amended by Pub. L. 114–92, div. A, title X, §1088, Nov. 25, 2015, 129 Stat. 1014, provided that:

"(a) REQUIREMENTS.—Before making an aircraft transfer described in subsection (c), the Secretary of the Air Force shall ensure that a written agreement regarding such transfer has been entered into between the Chief of Staff of the Air Force and the Director of the Air National Guard or the Chief of Air Force Reserve. Any such agreement shall specify each of the following:

"(1) The number of and type of aircraft to be transferred.

"(2) In the case of any aircraft transferred on a temporary basis—

"(A) the schedule under which the aircraft will be returned to the reserve component;

"(B) a description of the condition, including the estimated remaining service life, in which any such aircraft will be returned to the reserve component; and

"(C) a description of the allocation of resources, including the designation of responsibility for funding aircraft operation and maintenance and a detailed description of budgetary responsibilities, for the period for which the aircraft is transferred to the regular component.

"(3) The designation of responsibility for funding maintenance requirements or modifications to the aircraft generated as a result of the transfer, including any such requirements and modifications required during the period for which the aircraft is transferred to the regular component.

"(4) Any location from which the aircraft will be transferred.

"(5) The effects on manpower that such a transfer may have at any facility identified under paragraph (4).

"(6) The effects on the skills and proficiencies of the reserve component personnel affected by the transfer.

"(7) Any other items the Director of the Air National Guard or the Chief of Air Force Reserve determines are necessary in order to execute such a transfer.

"(b) SUBMITTAL OF AGREEMENTS TO THE DEPARTMENT OF DEFENSE AND CONGRESS .—The Secretary of the Air Force may not take any action to transfer an aircraft until the Secretary—

"(1) ensures that the Air Force has complied with Department of Defense regulations applicable to the transfer; and

"(2) for a transfer described in subsection (c)(1), submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an agreement entered into pursuant to subsection (a) regarding the transfer of the aircraft.

"(c) COVERED AIRCRAFT TRANSFERS.—

"(1) COVERED TRANSFERS.—An aircraft transfer described in this subsection is the transfer (other than as specified in paragraph (2)) from a reserve component of the Air Force to the regular component of the Air Force of—

"(A) the permanent assignment of an aircraft that terminates a reserve component's equitable interest in the aircraft; or

"(B) possession of an aircraft for a period in excess of 90 days.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

"(A) A routine temporary transfer of possession of an aircraft from a reserve component that is made solely for the benefit of the reserve component for the purpose of maintenance, upgrade, conversion, modification, or testing and evaluation.

"(B) A routine permanent transfer of assignment of an aircraft that terminates a reserve component's equitable interest in the aircraft if notice of the transfer has previously been provided to the congressional defense committees and the transfer has been approved by the Secretary of Defense pursuant to Department of Defense regulations.

"(C) A transfer described in paragraph (1)(A) when there is a reciprocal permanent assignment of an aircraft from the regular component of the Air Force to the reserve component that does not degrade the capability of, or reduce the total number of, aircraft assigned to the reserve component.

"(d) RETURN OF AIRCRAFT AFTER ROUTINE TEMPORARY TRANSFER.—In the case of an aircraft

transferred from a reserve component of the Air Force to the regular component of the Air Force for which an agreement under subsection (a) is not required by reason of subsection (c)(2)(A), possession of the aircraft shall be transferred back to the reserve component upon completion of the work described in subsection (c)(2)(A)."

**CONSOLIDATION OF AIR FORCE AND AIR NATIONAL GUARD AIRCRAFT MAINTENANCE**

Pub. L. 110–417, [div. A], title III, §324, Oct. 14, 2008, 122 Stat. 4416, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(4), Jan. 7, 2011, 124 Stat. 4374, provided that:

"(a) RESTRICTION ON IMPLEMENTATION OF CONSOLIDATION.—The Secretary of the Air Force shall not implement the consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard or the consolidation of aircraft repair facilities and personnel of the Air National Guard with aircraft repair facilities and personnel of the active Air Force unless and until the Secretary of the Air Force submits the reports required by (b) and (c), the Chief of the National Guard Bureau submits the assessment required by subsection (d), and the Secretary of Defense submits the certification required by subsection (e).

"(b) REPORT ON CRITERIA.—Not later than 30 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report stating all the criteria being used by the Department of the Air Force and the Rand Corporation to evaluate the feasibility of consolidating Air Force maintenance functions into organizations that would integrate active, Guard, and Reserve components into a total-force approach. The report shall include the assumptions that were provided to or developed by the Rand Corporation for its study of the feasibility of the consolidation proposal.

"(c) REPORT ON FEASIBILITY STUDY.—At least 90 days before any consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the findings of the Rand Corporation feasibility study and the Rand Corporation's recommendations, the Air Force's assessment of the findings and recommendations, any plans developed for implementation of the consolidation, and a delineation of all infrastructure costs anticipated as a result of implementation.

"(d) ASSESSMENT BY CHIEF OF THE NATIONAL GUARD BUREAU.—Not later than 30 days after the date on which the report required by subsection (c) is submitted, the Chief of the National Guard Bureau shall submit to the Committees on Armed Services of the Senate and House of Representatives a written assessment of—

"(1) the proposed actions to consolidate aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard by the Secretary of the Air Force; and

"(2) the information included in the report required by subsection (c).

"(e) CERTIFICATION BY THE SECRETARY OF DEFENSE.—After the Secretary of the Air Force submits the reports required by subsections (b) and (c), and before any consolidation of aircraft repair facilities and personnel of the active Air Force with aircraft repair facilities and personnel of the Air National Guard by the Secretary of the Air Force, the Secretary of Defense shall certify that such consolidation is in the national interest and will not adversely affect recruitment, retention, or execution of the Air National Guard mission in the individual States."

## §9062a. Annual report on Air Force tactical fighter aircraft force structure

(a) IN GENERAL.—Not later than April 1, 2025, and annually thereafter through 2030, the Secretary of the Air Force, in coordination with the Director of the Air National Guard and the Commander of the Air Force Reserve Command, shall—

(1) develop a 10-year tactical fighter aircraft force structure, recapitalization, training, and sustainment plan for the active and reserve components of the Air Force; and

(2) submit to the congressional defense committees a report on the plan.

(b) ELEMENTS OF REPORT.—The report required by subsection (a) shall address each of the following:

(1) The appropriate mix of tactical fighter aircraft, and associated operational risk analyses, required for the Secretary of the Air Force to meet expected steady-state, global force management

allocation plans and geographic combatant commander contingency operational plans tasked to the Air Force, using active and reserve component tactical fighter aircraft units.

(2) The procurement, divestment, and unit activation, deactivation, or re-missioning plans or actions the Secretary plans to implement, fiscal year-by-fiscal year, unit-by-unit, for the 10-year period beginning on the date on which the report is submitted, for each active and reserve component tactical fighter aircraft unit existing as of such date of submittal, including the rationale and justification for any such plans or actions.

(3) The actions the Secretary will take to ensure that required operational readiness rates are maintained during any planned recapitalization, modernization, or change of mission affecting tactical fighter aircraft units.

(4) Any plans of the Secretary to augment or supplant existing piloted tactical fighter aircraft capability or capacity with collaborative combat aircraft increment 1 or increment 2 capability or capacity.

(5) Any plans of the Secretary to augment or supplant existing piloted tactical fighter aircraft training events through the acquisition and fielding of common, joint, all-domain, high-fidelity synthetic simulation environments.

(c) FORM OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form with accompanying graphs, tables, and charts, but may contain a classified annex.

(d) FIGHTER AIRCRAFT DEFINED.—In this section, the term "fighter aircraft" has the meaning given that term in section 9062(i)(2) of this title.

(Added Pub. L. 118–159, div. A, title I, §142, Dec. 23, 2024, 138 Stat. 1809; amended Pub. L. 119–60, div. A, title I, §144, title XVII, §1701(a)(37), Dec. 18, 2025, 139 Stat. 760, 1210.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, §1701(a)(37), struck out period after "structure" in section catchline.

Subsec. (a). Pub. L. 119–60, §144, substituted "2030" for "2029" and "coordination" for "consultation" in introductory provisions.

## §9063. Designation: officers to perform certain professional functions

(a) Medical functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary of the Air Force and who are designated as medical officers.

(b) Dental functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as dental officers.

(c) Veterinary functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as veterinary officers.

(d) Medical service functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as medical service officers.

(e) Nursing functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as Air Force nurses.

(f) Biomedical science functions, including physician assistant functions and chiropractic functions, in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as biomedical science officers.

(g) Judge advocate functions in the Air Force and the Space Force shall be performed by

commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as judge advocates.

(h) Chaplain functions in the Air Force and the Space Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as chaplains.

(i) Other functions in the Air Force and the Space Force requiring special training or experience shall be performed by members of the Air Force or the Space Force who are qualified under regulations prescribed by the Secretary, and who are designated as being in named categories.

(Aug. 10, 1956, ch. 1041, 70A Stat. 494, §8067; Pub. L. 85–861, §1(156), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 96–513, title V, §504(5), Dec. 12, 1980, 94 Stat. 2916; Pub. L. 97–86, title IV, §403, Dec. 1, 1981, 95 Stat. 1105; Pub. L. 102–484, div. A, title V, §505(c), Oct. 23, 1992, 106 Stat. 2404; renumbered §9067, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9063, Pub. L. 116–92, div. A, title IX, §952(b)(1), Dec. 20, 2019, 133 Stat. 1561; Pub. L. 116–283, div. A, title IX, §923(b)(9), Jan. 1, 2021, 134 Stat. 3809.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8067(a) | 10:1837(a) (as applicable to medical officers). | Sept. 19, 1951, ch. 407, §307 (less (d)), 65 Stat. 330. |
| 8067(b) | 10:1837(a) (as applicable to dental officers). | June 24, 1952, ch. 457 (less 1st and last provisos), 66 Stat. 156. |
| 8067(c) | 10:1837(a) (as applicable to veterinary officers). | |
| 8067(d) | 10:1837(a) (as applicable to medical service officers). | |
| 8067(e) | 10:1837(a) (as applicable to nurses). | |
| 8067(f) | 10:1837(a) (as applicable to women medical specialists). | |
| 8067(g) | 10:1837(a) (as applicable to judge advocates). | |
| 8067(h) | 10:1837(a) (as applicable to chaplains). | |
| 8067(i) | 10:1837(a) (less categories covered by subsections (a)–(h)).<br>10:1837(b), (c).<br>10:81–2 (less 1st and last provisos). | |

The references in clauses (4), (6), and (7) of 10:1837(a) are omitted, since the laws to which reference is made deal with qualifications for appointment as commissioned officers and do not specify professional qualifications prerequisite to designation to duties requiring special training or experience. The reference in clause (8) is omitted as executed.

10:1837(b) and (c) are omitted, since, except in the case of a reference to a law not presently in effect, their substance is covered by including the laws referred to in various revised sections of this title (see the distribution tables). 10:81–2 (less 1st and last provisos) is omitted as unnecessary.

In subsections (a)–(d), (g), and (h), the words "commissioned officers" are substituted for the word "members", in 10:1837(a), since, under the laws to which reference is made, only commissioned officers may be designated to perform these functions.

In subsections (e) and (f), the words "female commissioned officers" are substituted for the word "members", in 10:1837(a), since, under the laws to which reference is made, only female commissioned

officers may be designated to perform these functions.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8067(e), (f) | 10 App.:166b–3.<br>10 App.:1837. | Aug. 9, 1955, ch. 654, §§1, 3(b), 69 Stat. 579. |

The section is amended to reflect the authority contained in the source statute to appoint male reserve officers with a view to designation as Air Force nurses or medical specialists.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsecs. (a) to (h). Pub. L. 116–283, §923(b)(9)(A), substituted "in the Air Force and the Space Force" for "in the Air Force".

Subsec. (i). Pub. L. 116–283 substituted "in the Air Force and the Space Force" for "in the Air Force" and inserted "or the Space Force" after "members of the Air Force".

**2019**—Pub. L. 116–92 renumbered section 9067 of this title as this section.

**2018**—Pub. L. 115–232 renumbered section 8067 of this title as section 9067 of this title.

**1992**—Subsec. (f). Pub. L. 102–484 inserted "and chiropractic functions" after "physician assistant functions".

**1981**—Subsec. (f). Pub. L. 97–86 inserted reference to physician assistant functions.

**1980**—Subsec. (a). Pub. L. 96–513, §504(5)(A), struck out "in conformity with section 8289 or 8294 of this title," after "Secretary of the Air Force".

Subsec. (b). Pub. L. 96–513, §504(5)(B), struck out "in conformity with section 8294 of this title," after "prescribed by the Secretary".

Subsec. (e). Pub. L. 96–513, §504(5)(C), struck out "in conformity with section 8291 of this title," after "prescribed by the Secretary".

Subsec. (f). Pub. L. 96–513, §504(5)(D), substituted "Biomedical science functions" for "Medical specialist functions" and "biomedical science officers" for "medical specialists".

Subsec. (h). Pub. L. 96–513, §504(5)(E), struck out "in conformity with section 8293 of this title," after "prescribed by the Secretary".

**1958**—Subsec. (e). Pub. L. 85–861 struck out "female" before "commissioned officers".

Subsec. (f). Pub. L. 85–861 struck out "female" before "commissioned officers", and "women" before "medical specialists".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §9064. Air Force nurses: Chief; appointment

(a) POSITION OF CHIEF.—There is a Chief of the Air Force Nurse Corps.

(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. The Chief serves during the pleasure of the Secretary.

(Added Pub. L. 104–201, div. A, title V, §502(b), Sept. 23, 1996, 110 Stat. 2511, §8069; amended

Pub. L. 105–261, div. A, title V, §505, Oct. 17, 1998, 112 Stat. 2004; Pub. L. 107–314, div. A, title V, §504(a)(3), Dec. 2, 2002, 116 Stat. 2531; Pub. L. 114–328, div. A, title V, §502(nn)(1), (2), Dec. 23, 2016, 130 Stat. 2106; renumbered §9069, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9064 and amended Pub. L. 116–92, div. A, title IX, §952(b)(1), title XVII, §1731(a)(61), Dec. 20, 2019, 133 Stat. 1561, 1815.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92, §952(b)(1), renumbered section 9069 of this title as this section.

Subsec. (a). Pub. L. 116–92, §1731(a)(61), substituted "is" for "are". Amendment was directed to section 9069 of this title and was executed before amendment by section 952(b)(1) of Pub. L. 116–92, see above, pursuant to section 1731(f) of Pub. L. 116–92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

**2018**—Pub. L. 115–232 renumbered section 8069 of this title as section 9069 of this title.

**2016**—Pub. L. 114–328, §502(nn)(2), amended section catchline generally, substituting "Air Force nurses: Chief; appointment" for "Air Force nurses: Chief and assistant chief; appointment; grade".

Subsec. (a). Pub. L. 114–328, §502(nn)(1)(A), substituted "Position of Chief" for "Positions of Chief and Assistant Chief" in heading and struck out "and assistant chief" after "There are a Chief" in text.

Subsec. (b). Pub. L. 114–328, §502(nn)(1)(B), struck out second sentence which read as follows: "An appointee who holds a lower regular grade shall be appointed in the regular grade of major general."

Subsec. (c). Pub. L. 114–328, §502(nn)(1)(C), struck out subsec. (c). Text read as follows: "The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel."

**2002**—Subsec. (b). Pub. L. 107–314 substituted "major general" for "brigadier general" in second sentence.

**1998**—Subsec. (b). Pub. L. 105–261 struck out ", but not for more than three years, and may not be reappointed to the same position" after "pleasure of the Secretary".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9065. Commands: territorial organization

(a) Except as otherwise prescribed by law or by the Secretary of Defense, the Air Force shall be divided into such organizations as the Secretary of the Air Force may prescribe.

(b) For Air Force purposes, the United States, its possessions, and other places in which the Air Force is stationed or is operating, may be divided into such areas as directed by the Secretary. Officers of the Air Force may be assigned to command Air Force activities, installations, and personnel in those areas. In the discharge of the Air Force's functions or other functions authorized by law, officers so assigned have the duties and powers prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 495, §8074; Pub. L. 85–599, §4(f), Aug. 6, 1958, 72 Stat. 517; Pub. L. 89–37, title III, §306(a), June 11, 1965, 79 Stat. 129; Pub. L. 99–433, title V, §523, Oct. 1, 1986, 100 Stat. 1063; Pub. L. 107–107, div. A, title IX, §931(b), Dec. 28, 2001, 115 Stat. 1200; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; renumbered §9074, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9065, Pub. L. 116–92, div. A, title IX, §952(b)(1), Dec. 20, 2019, 133 Stat. 1561.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | | |

| | | |
|---|---|---|
| 8074(a) | 10:1838(a)(1). | Sept. 19, 1951, ch. 407, §§308, 309, 65 Stat. 332. |
| 8074(b) | 10:1838(a)(2). | |
| 8074(c) | 10:1838(b). | |
| 8074(d) | 10:1839. | |

In subsection (b), the words "from time to time" are omitted as surplusage.

In subsection (d), the words "have the duties and powers" are substituted for the words "shall perform such duties and exercise such powers". The words "of America", "elements of", "other provisions of", and "so assigned" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92 renumbered section 9074 of this title as this section.

**2018**—Pub. L. 115–232 renumbered section 8074 of this title as section 9074 of this title.

**2006**—Subsec. (b). Pub. L. 109–163 struck out "its Territories," after "the United States,".

**2001**—Subsec. (c). Pub. L. 107–107 struck out subsec. (c) which read as follows: "The Military Air Transport Service is redesignated as the Military Airlift Command."

**1986**—Subsec. (a). Pub. L. 99–433 substituted "Except as otherwise prescribed by law or by the Secretary of Defense, the" for "The".

**1965**—Subsec. (c). Pub. L. 89–37 added subsec. (c).

**1958**—Subsec. (a). Pub. L. 85–599, §4(f)(1), substituted provisions permitting the Air Force to be divided into such organizations as the Secretary of the Air Force may prescribe for provisions which established an air-defense, a strategic, and a tactical command in the Air Force.

Subsecs. (b) to (d). Pub. L. 85–599, §4(f)(2), redesignated subsec. (d) as (b), and repealed former subsecs. (b) and (c) which permitted the Secretary of the Air Force to establish additional commands and organizations in the interest of efficiency and economy of operation, and, for the duration of any war or national emergency, to establish new major commands or to discontinue or consolidate major commands.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1965 AMENDMENT**

Pub. L. 89–37, title III, §306(b), June 11, 1965, 79 Stat. 129, provided that: "The amendment made by subsection (a) of this section [amending this section] shall become effective January 1, 1966."

## §9066. Regular Air Force: composition

(a) The Regular Air Force is the component of the Air Force that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Air Force.

(b) The Regular Air Force includes—

(1) the officers and enlisted members of the Regular Air Force;

(2) the professors, registrar, and cadets at the United States Air Force Academy; and

(3) the retired officers and enlisted members of the Regular Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 496, §8075; Pub. L. 85–600, §1(13), Aug. 6, 1958, 72 Stat. 523; renumbered §9075, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9066, Pub. L. 116–92, div. A, title IX, §952(b)(1), Dec. 20, 2019, 133 Stat. 1561.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8075(a) | 10:1832(a). | Sept. 19, 1951, ch. 407, §302, 65 Stat. 329; Apr. 1, 1954, ch. 127, §7, 68 Stat. 48. |
| 8075(b) | 10:1832 (less (a)). | |

In subsection (b), the words "holding appointments or enlisted in the Regular Air Force as now or hereafter provided by law", "and such other persons as are now or may hereafter be specified by law", and "commissioned * * * warrant officers" are omitted as surplusage, since the revised section lists all persons in the Regular Air Force. 10:1832(b) (last sentence) is omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2019**—Pub. L. 116–92 renumbered section 9075 of this title as this section.
**2018**—Pub. L. 115–232 renumbered section 8075 of this title as section 9075 of this title.
**1958**—Subsec. (b)(2). Pub. L. 85–600 included the registrar of the Air Force Academy.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9067. Assistant Surgeon General for Dental Services

There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of lieutenant colonel who are designated as dental officers under section 9067(b) of this title. The Assistant Surgeon General for Dental Services serves at the pleasure of the Secretary.

(Added Pub. L. 95–485, title VIII, §805(c)(1), Oct. 20, 1978, 92 Stat. 1622, §8081; amended Pub. L. 105–261, div. A, title V, §506, Oct. 17, 1998, 112 Stat. 2004; Pub. L. 109–364, div. A, title V, §504(a), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 114–328, div. A, title V, §502(oo), Dec. 23, 2016, 130 Stat. 2106; renumbered §9081 and amended Pub. L. 115–232, div. A, title VIII, §§806(c), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; renumbered §9067, Pub. L. 116–92, div. A, title IX, §952(b)(1), Dec. 20, 2019, 133 Stat. 1561.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9067 was renumbered section 9063 of this title.

**AMENDMENTS**

**2019**—Pub. L. 116–92 renumbered section 9081 of this title as this section.
**2018**—Pub. L. 115–232 renumbered section 8081 of this title as section 9081 of this title and substituted "section 9067(b)" for "section 8067(b)".
**2016**—Pub. L. 114–328 struck out second sentence which read as follows: "An appointee who holds a lower regular grade shall be appointed in the regular grade of major general."
**2006**—Pub. L. 109–364 substituted "major general" for "brigadier general".
**1998**—Pub. L. 105–261 substituted "lieutenant colonel" for "major" and "An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Assistant Surgeon General for

Dental Services serves at the pleasure of the Secretary." for "The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109–364, div. A, title V, §504(b), Oct. 17, 2006, 120 Stat. 2179, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the occurrence of the next vacancy in the position of Assistant Surgeon General for Dental Services in the Air Force that occurs after the date of the enactment of this Act [Oct. 17, 2006] or, if earlier, on the date of the appointment to the grade of major general of the officer who is the incumbent in that position on the date of the enactment of the Act."

## §9068. Air Force Global Strike Command

(a) ESTABLISHMENT.—There is in the Air Force a major command, which shall be known as Air Force Global Strike Command.

(b) COMMANDER.—(1) The Commander of Air Force Global Strike Command shall hold the grade of general while serving in that position, without vacating that officer's permanent grade. The commander shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(2) The commander shall serve as the single accountable officer responsible to the Secretary of the Air Force and the Chief of Staff of the Air Force for carrying out all aspects of Air Force nuclear and long-range strike missions in support of United States Strategic Command, including such aspects described in subsection (c).

(c) FUNCTIONS.—The Commander of Air Force Global Strike Command shall be responsible for carrying out all aspects and activities of the Air Force nuclear and long-range strike missions in support of United States Strategic Command. Such aspects include nuclear weapons, nuclear weapon delivery systems, long-range strike bomber aircraft, and the nuclear command, control, and communication systems. Such activities include the following:

(1) Providing combat-ready nuclear and long-range conventional strike forces in support of Presidential and combatant commander directives.

(2) Administrating, organizing, training, and equipping assigned and gained forces.

(3) Assessing the readiness of assigned and gained forces and submitting to the Secretary and the Air Force Chief of Staff periodic reports with respect to such assessments.

(4) Leading development in the Air Force of—

(A) military requirements with respect to nuclear and long-range strike missions;

(B) budget proposals necessary to carry out the missions of the Air Force Global Strike Command;

(C) long-range investment plans and priorities to sustain, modernize, and recapitalize assigned forces; and

(D) employment strategies, concepts, tactics, techniques, and procedures with respect to strategic deterrence, nuclear deterrence operation, and long-range strike operations.

(5) Advising the Secretary, as necessary, on the adequacy of resources of the Department of the Air Force dedicated to support and execute nuclear missions.

(6) Such other functions as the Secretary determines necessary or appropriate for execution of nuclear deterrence and long-range strike missions.

(Added Pub. L. 119–60, div. A, title XVI, §1642(a), Dec. 18, 2025, 139 Stat. 1191.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9068 of this title resulted from the redesignation of section 9084 of this title as section 9068 of this title by section 952(b)(1) of Pub. L. 116–92. Such section 9068 was renumbered section 9083 of this title by section 952(e) of Pub. L. 116–92 and subsequently repealed by Pub. L. 116–283, div. A, title IX, §921(a), Jan. 1, 2021, 134 Stat. 3804.

A prior section 9069 was renumbered section 9064 of this title.

A prior section 9074 was renumbered section 9065 of this title.

A prior section 9075 was renumbered section 9066 of this title.

# CHAPTER 908—THE SPACE FORCE

Sec.
9081. The United States Space Force.
9082. Chief of Space Operations.
9083. Vice Chief of Space Operations.
9084. Office of the Chief of Space Operations: function; composition.
9085. Office of the Chief of Space Operations: general duties.
9086. Regular Space Force: composition.
9087. Space Development Agency.
9088. Duty assignments after officer training course.
9089. Program Executive Officer for Assured Access to Space.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVI, §1601(a), (b), Dec. 18, 2025, 139 Stat. 1172, 1173, added items 9088 and 9089. Amendments were made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title V, §509C(c), Dec. 23, 2024, 138 Stat. 1874, added item 9083 and renumbered former items 9083 to 9086 as 9084 to 9087, respectively.

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(33), Dec. 27, 2021, 135 Stat. 1921, redesignated item 9084 "Space Development Agency" as 9086 and transferred it to appear after item 9085.

Pub. L. 116–283, div. A, title IX, §§921(b), 922(e), title XVI, §1601(b), Jan. 1, 2021, 134 Stat. 3805, 3807, 4042, added items 9083, 9084 "Space Development Agency", 9084 "Office of the Chief of Space Operations: general duties", and 9085 and struck out former item 9083 "Officer career field for space".

## §9081. The United States Space Force

(a) ESTABLISHMENT.—There is established a United States Space Force as an armed force within the Department of the Air Force.

(b) COMPOSITION.—The Space Force consists of—

(1) the Regular Space Force;

(2) all persons appointed or enlisted in, or conscripted into, the Space Force, including those not assigned to units, necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency; and

(3) all Space Force units and other Space Force organizations, including installations and supporting and auxiliary combat, training, administrative, and logistic elements.

(c) FUNCTIONS.—The Space Force shall be organized, trained, and equipped to—

(1) provide freedom of operation for the United States in, from, and to space;

(2) conduct space operations; and

(3) protect the interests of the United States in space.

(Added Pub. L. 115–91, div. A, title XVI, §1601(a)(1), Dec. 12, 2017, 131 Stat. 1718, §2279c; amended Pub. L. 115–232, div. A, title X, §1081(a)(17), Aug. 13, 2018, 132 Stat. 1984; renumbered §9081 and amended Pub. L. 116–92, div. A, title IX, §952(b)(3), (4), Dec. 20, 2019, 133 Stat. 1562; Pub. L. 116–283, div. A, title IX, §922(a), (b), Jan. 1, 2021, 134 Stat. 3806; Pub. L. 118–31, div. A, title XVII, §1712(a), Dec. 22, 2023, 137 Stat. 625.)

## AMENDMENT OF SUBSECTION (B)

*Pub. L. 118–31, div. A, title XVII, §1712, Dec. 22, 2023, 137 Stat. 625, provided that, effective on the date of the certification by the Secretary of the Air Force under section 1745 (probably should be "section 1735") of Pub. L. 118–31, subsection (b) of this section is amended as follows:*

*(1) by striking paragraph (1);*

*(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and*

*(3) in paragraph (1), as so redesignated, by striking ", including" and all that follows through "emergency".*

*See 2023 Amendment notes below.*

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9081 was renumbered section 9067 of this title.

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §1712(a)(1), (2), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "the Regular Space Force;".

Subsec. (b)(1). Pub. L. 118–31, §1712(a)(3), struck out ", including those not assigned to units, necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency" after "Space Force".

**2021**—Subsec. (b). Pub. L. 116–283, §922(a), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The Space Force shall be composed of the following:

"(1) The Chief of Space Operations.

"(2) The space forces and such assets as may be organic therein."

Subsec. (c). Pub. L. 116–283, §922(b)(1), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The Space Force shall be organized, trained, and equipped to provide—

"(1) freedom of operation for the United States in, from, and to space; and

"(2) prompt and sustained space operations."

Subsec. (d). Pub. L. 116–283, §922(b)(2), struck out subsec. (d). Text read as follows: "It shall be the duty of the Space Force to—

"(1) protect the interests of the United States in space;

"(2) deter aggression in, from, and to space; and

"(3) conduct space operations."

**2019**—Pub. L. 116–92, §952(b)(4), amended section generally. Prior to amendment, section related to Air Force Space Command.

Pub. L. 116–92, §952(b)(3), renumbered section 2279c of this title as this section.

**2018**—Subsec. (a)(3). Pub. L. 115–232, §1081(a)(17)(A), substituted "December 12, 2017" for "the date of the enactment of this Act".

Subsec. (b). Pub. L. 115–232, §1081(a)(17)(B)(i), substituted "December 12, 2017" for "the date of the enactment of this section" in introductory provisions.

Subsec. (b)(3). Pub. L. 115–232, §1081(a)(17)(B)(ii), substituted "after December 11, 2018" for "on or after the date that is one year after the date of the enactment of this section".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME; REDESIGNATION OF AIR FORCE SPACE COMMAND AS UNITED STATES SPACE FORCE

Pub. L. 116–92, div. A, title IX, §952(a), Dec. 20, 2019, 133 Stat. 1561, provided that: "The Air Force Space Command is hereby redesignated as the United States Space Force (USSF)."

## EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title XVII, §1712(b), Dec. 22, 2023, 137 Stat. 625, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the certification by the Secretary of the Air Force under section 1745 [probably means section "1735" of Pub. L. 118–31, set out in a Transition Provisions note under section 20001 of this title]."

## PILOT PROGRAM TO DEMONSTRATE HYBRID SATELLITE COMMUNICATION ARCHITECTURE

Pub. L. 118–159, div. A, title XVI, §1608, Dec. 23, 2024, 138 Stat. 2163, provided that:

"(a) PROGRAM REQUIRED.—Beginning in fiscal year 2025, the Assistant Secretary of the Air Force for Space Acquisition and Integration shall carry out a pilot program to demonstrate a hybrid satellite communication architecture at the Space Systems Command of the Space Force.

"(b) REQUIREMENTS AND CONSIDERATIONS.—In carrying out the pilot program under subsection (a), the Assistant Secretary shall include in the hybrid satellite communication architecture at least one military satellite communications system, such as the Wideband Global Satcom system or the Micro Geostationary Earth Orbit system.

"(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Assistant Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing that includes—

"(1) a description of the hybrid satellite communication architecture developed under the pilot program under subsection (a) and a summary of the results of the program as of the date of the briefing; and

"(2) a plan for supporting the transition of the hybrid satellite communication architecture efforts to a program of record within the Space Force and the Space Systems Command.

"(d) HYBRID SATELLITE COMMUNICATION ARCHITECTURE.—In this section, the term 'hybrid satellite communication architecture' means the network of integrated United States Government, allied Government, and commercially owned and operated capabilities both for on-orbit communication constellations and ground systems."

## AUTHORIZATION FOR ESTABLISHMENT OF THE NATIONAL SPACE INTELLIGENCE CENTER AS A FIELD OPERATING AGENCY

Pub. L. 118–31, div. A, title XVI, §1606, Dec. 22, 2023, 137 Stat. 586, provided that:

"(a) AUTHORIZATION.—The Secretary of the Air Force may establish the National Space Intelligence Center as a field operating agency of the Space Force to analyze and produce scientific and technical intelligence on space-based and counterspace threats from foreign adversaries.

"(b) COLOCATION.—If the Secretary of the Air Force decides to establish the National Space Intelligence Center as a field operating agency, the Secretary shall consider the operational and geographical benefits provided by colocating with the National Air and Space Intelligence Center."

## APPLIED RESEARCH AND EDUCATIONAL ACTIVITIES TO SUPPORT SPACE TECHNOLOGY DEVELOPMENT

Pub. L. 117–263, div. A, title XVI, §1607, Dec. 23, 2022, 136 Stat. 2932, provided that:

"(a) IN GENERAL.—The Secretary of the Air Force and the Chief of Space Operations, in coordination with the Chief Technology and Innovation Office of the Space Force, may carry out applied research and educational activities to support space technology development.

"(b) ACTIVITIES.—Activities carried out under subsection (a) shall support the applied research, development, and demonstration needs of the Space Force, including by addressing and facilitating the advancement of capabilities related to—

"(1) space domain awareness;

"(2) positioning, navigation, and timing;

"(3) communications;

"(4) hypersonics;

"(5) cybersecurity; and

"(6) any other matter the Secretary of the Air Force considers relevant.

"(c) EDUCATION AND TRAINING.—Activities carried out under subsection (a) shall—

"(1) promote education and training for students so as to support the future national security space workforce of the United States; and

"(2) explore opportunities for international collaboration.

"(d) TERMINATION.—The authority provided by this section shall expire on December 31, 2027."

## SPACE SYSTEM ACQUISITION AND THE ADAPTIVE ACQUISITION FRAMEWORK

Pub. L. 116–283, div. A, title VIII, §807, Jan. 1, 2021, 134 Stat. 3742, as amended by Pub. L. 118–159, div. A, title VIII, §§804(c)(7), 805(c)(2), Dec. 23, 2024, 138 Stat. 1969, 1972; Pub. L. 119–60, div. A, title XVIII, §§1802(b)(1)(A), (B), 1805(b)(3), Dec. 18, 2025, 139 Stat. 1227, 1236, provided that:

"(a) SERVICE ACQUISITION EXECUTIVE FOR SPACE SYSTEMS AND PROGRAMS.—Before implementing the application of the adaptive acquisition framework to a Space Systems Acquisition pathway described in subsection (c), there shall be within the Department of the Air Force an individual serving as the Service Acquisition Executive of the Department of the Air Force for Space Systems and Programs as required under section 957 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1566; 10 U.S.C. 9016 note).

"(b) MILESTONE DECISION AUTHORITY FOR UNITED STATES SPACE FORCE.—

"(1) PORTFOLIO ACQUISITION EXECUTIVE.—The Service Acquisition Executive for Space Systems and Programs of the United States Space Force may further delegate authority to an appropriate portfolio acquisition executive to serve as the milestone decision authority for major defense acquisition programs of the United States Space Force.

"(2) PROGRAM MANAGER.—The portfolio acquisition executive assigned under paragraph (1) may further delegate authority over major systems to an appropriate program manager.

"(c) ADAPTIVE ACQUISITION FRAMEWORK APPLICATION TO SPACE ACQUISITION.—

"(1) IN GENERAL.—The Secretary of Defense shall take such actions necessary to ensure the adaptive acquisition framework (as described in Department of Defense Instruction 5000.02, 'Operation of the Adaptive Acquisition Framework') includes one or more pathways specifically tailored for Space Systems Acquisition in order to achieve faster acquisition, improve synchronization and more rapid fielding of critical end-to-end capabilities (including by using new commercial capabilities and services), while maintaining accountability for effective programs that are delivered on time and on budget.

"(2) GOAL.—The goal of the application of the adaptive acquisition framework to a Space Systems Acquisition pathway shall be to quickly and effectively acquire end-to-end space warfighting capabilities needed to address the requirements of the national defense strategy (as defined under section 113(g) of title 10, United States Code).

"(d) REPORT.—

"(1) IN GENERAL.—Not later than May 15, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the application of the adaptive acquisition framework to any Space Systems Acquisition pathway established under subsection (a) that includes the following:

"(A) Proposed United States Space Force budget line items for fiscal year 2022, including—

"(i) a comparison with budget line items for any major defense acquisition programs, middle tier acquisition programs, covered software programs, and major systems of the United States Space Force for three previous fiscal years;

"(ii) existing and recommended measures to ensure sufficient transparency and accountability related to the performance of the Space Systems Acquisition pathway; and

"(iii) proposed mechanisms to enable insight into the funding prioritization process and significant funding changes, including the independent cost estimate basis and full funding considerations for any major defense acquisition programs, middle tier acquisition programs, covered software programs, and major systems procured by the United States Space Force.

"(B) Proposed revised, flexible, and streamlined options for joint requirements validation in order to be more responsive and innovative, while ensuring the ability of the Joint Chiefs of Staff to ensure top-level system requirements are properly prioritized to address joint-warfighting needs.

"(C) A list of acquisition programs of the United States Space Force for which multiyear contracting authority under sections 2306b [now 10 U.S.C. 3501] or 2306c [now 10 U.S.C. 3531] of title 10, United States Code, is recommended.

"(D) A list of space systems acquisition programs for which alternative acquisition pathways may be used.

"(E) Policies or procedures for potential new pathways in the application of the adaptive acquisition framework to a Space Systems Acquisition with specific acquisition key decision points and reporting requirements for development, fielding, and sustainment activities that meet the requirements of the adaptive acquisition framework.

"(F) An analysis of the need for updated determination authority for procurement of useable end items that are not weapon systems.

"(G) Policies and a governance structure, for both the Office of the Secretary of Defense and each

military department, for a separate United States Space Force budget topline, corporate process, and portfolio management process.

"(H) An analysis of the risks and benefits of the delegation of the authority of the head of contracting activity authority to the Chief of Space Operations in a manner that would not expand the operations of the United States Space Force.

"(2) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after the submission of the report required under paragraph (1), the Comptroller General of the United States shall review such report and submit to the congressional defense committees an analysis and recommendations based on such report.

"(e) DEFINITIONS.—In this section:

"(1) COVERED SOFTWARE PROGRAM.—The term 'covered software program' means an acquisition program or project that is carried out using the software acquisition pathway established under section 3603 of title 10, United States Code.

"(2) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning given in section 2430 of title 10, United States Code [now 10 U.S.C. 4201].

"(3) MAJOR SYSTEM.—The term 'major system' has the meaning given in section 2302 of title 10, United States Code [now 10 U.S.C. 3041].

"(4) MIDDLE TIER ACQUISITION PROGRAM.—The term 'middle tier acquisition program' means an acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of title 10, United States Code.

"(5) MILESTONE DECISION AUTHORITY.—The term 'milestone decision authority' has the meaning given the term 'decision authority' in section 4211 of title 10, United States Code.

"(6) PORTFOLIO ACQUISITION EXECUTIVE; PROGRAM MANAGER.—The terms 'portfolio acquisition executive' and 'program manager' have the meanings given those terms, respectively, in section 1737 of title 10, United States Code."

## MEMBERS

Pub. L. 116–92, div. A, title IX, §952(d), Dec. 20, 2019, 133 Stat. 1562, provided that:

"(1) IN GENERAL.—Effective as of the date of the enactment of this Act [Dec. 20, 2019], there shall be assigned to the Space Force such members of the Air Force as the Secretary of the Air Force shall specify.

"(2) NO AUTHORIZATION OF ADDITIONAL MILITARY BILLETS.—The Secretary shall carry out this subsection within military personnel of the Air Force otherwise authorized by this Act. Nothing in this subsection shall be construed to authorize additional military billets for the purposes of, or in connection with, the establishment of the Space Force."

## CLARIFICATION OF AUTHORITIES

Pub. L. 116–92, div. A, title IX, §958(b), Dec. 20, 2019, 133 Stat. 1567, as amended by Pub. L. 116–283, div. A, title IX, §928, Jan. 1, 2021, 134 Stat. 3832, provided that:

"(1) IN GENERAL.—Except as specifically provided by this subtitle [subtitle D (§§951–961) of title IX of div. A of Pub. L. 116–92, see Short Title of 2019 Amendment note set out under section 101 of this title and Tables], the amendments made by this subtitle, or the amendments made by subtitle C of title IX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [§§921–931 of title IX of div. A of Pub. L. 116–283, see Tables for classification]—

"(A) a member of the Space Force shall be treated as a member of the Air Force for the purpose of the application of any provision of law, including provisions of law relating to pay, benefits, and retirement;

"(B) a civilian employee of the Space Force shall be treated as a civilian employee of the Air Force for the purpose of the application of any provision of law, including provisions of law relating to pay, benefits, and retirement;

"(C) the authority of the Secretary of Defense with respect to the Air Force, members of the Air Force, or civilian employees of the Air Force may be exercised by the Secretary with respect to the Space Force, members of the Space Force, or civilian employees of the Space Force; and

"(D) the authority of the Secretary of the Air Force with respect to the Air Force, members of the Air Force, or civilian employees of the Air Force may be exercised by the Secretary with respect to the Space Force, members of the Space Force, or civilian employees of the Space Force.

"(2) APPOINTMENT AND ENLISTMENT.—For purposes of the appointment or enlistment of individuals as members of the Space Force pending the integration of the Space Force into the laws providing for the appointment or enlistment of individuals as members of the Armed Forces, appointments and enlistments of individuals as members of the Armed Forces in the Space Force may be made in the same manner in which appointments and enlistments of individuals as members of the Armed Forces in the other Armed Forces may be made by law."

## EFFECTS ON MILITARY INSTALLATIONS

Pub. L. 116–92, div. A, title IX, §959, Dec. 20, 2019, 133 Stat. 1568, provided that: "Nothing in this subtitle [subtitle D (§§951–961) of title IX of div. A of Pub. L. 116–92, see Short Title of 2019 Amendment note set out under section 101 of this title and Tables], or the amendments made by this subtitle, shall be construed to authorize or require the relocation of any facility, infrastructure, or military installation of the Air Force."

## IMPLEMENTATION

Pub. L. 116–92, div. A, title IX, §961, Dec. 20, 2019, 133 Stat. 1568, provided that:

"(a) REQUIREMENT.—Except as specifically provided by this subtitle [subtitle D (§§951–961) of title IX of div. A of Pub. L. 116–92, see Short Title of 2019 Amendment note set out under section 101 of this title and Tables], the Secretary of the Air Force shall implement this subtitle, and the amendments made by this subtitle, by not later than 18 months after the date of the enactment of this Act [Dec. 20, 2019].

"(b) BRIEFINGS.—Not later than 60 days after the date of the enactment of this Act, and every 60 days thereafter until March 31, 2023, the Secretary of the Air Force and the Chief of Space Operations shall jointly provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of the implementation of the Space Force pursuant to this subtitle and the amendments made by this subtitle. Each briefing shall address the current missions, operations and activities, manpower requirements and status, and budget and funding requirements and status of the Space Force, and such other matters with respect to the implementation and operation of the Space Force as the Secretary and the Chief jointly consider appropriate to keep Congress fully and currently informed on the status of the implementation of the Space Force."

## EXECUTIVE DOCUMENTS

### SPACE POLICY DIRECTIVE–4. ESTABLISHMENT OF THE UNITED STATES SPACE FORCE

Space Policy Directive–4, Feb. 19, 2019, 84 F.R. 6049, provided:

Memorandum for the Vice President[,] the Secretary of State[,] the Secretary of Defense[,] the Secretary of Commerce[,] the Secretary of Labor[,] the Secretary of Transportation[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[,] the Director of National Intelligence[,] the Assistant to the President for National Security Affairs[,] the Director of the Office of Science and Technology Policy[,] the Chairman of the Joint Chiefs of Staff[,] the Administrator of the National Aeronautics and Space Administration[, and] the Deputy Assistant to the President for Homeland Security and Counterterrorism

SECTION 1. *Introduction*. Space is integral to our way of life, our national security, and modern warfare. Although United States space systems have historically maintained a technological advantage over those of our potential adversaries, those potential adversaries are now advancing their space capabilities and actively developing ways to deny our use of space in a crisis or conflict. It is imperative that the United States adapt its national security organizations, policies, doctrine, and capabilities to deter aggression and protect our interests. Toward that end, the Department of Defense shall take actions under existing authority to marshal its space resources to deter and counter threats in space, and to develop a legislative proposal to establish a United States Space Force as a sixth branch of the United States Armed Forces within the Department of the Air Force. This is an important step toward a future military department for space. Under this proposal, the United States Space Force would be authorized to organize, train, and equip military space forces of the United States to ensure unfettered access to, and freedom to operate in, space, and to provide vital capabilities to joint and coalition forces in peacetime and across the spectrum of conflict.

SEC. 2. *Definitions*. For the purposes of this memorandum and the legislative proposal directed by section 3 of this memorandum, the following definitions shall apply:

(a) The term "United States Space Force" refers to a new branch of the United States Armed Forces to be initially placed by statute within the Department of the Air Force.

(b) The term "Department of the Space Force" refers to a future military department within the Department of Defense that will be responsible for organizing, training, and equipping the United States Space Force.

(c) The term "United States Space Command" refers to a Unified Combatant Command to be established pursuant to the Presidential memorandum of December 18, 2018 (Establishment of United States Space Command as a Unified Combatant Command) [10 U.S.C. 161 note], that will be responsible for Joint Force space operations as will be assigned in the Unified Command Plan.

SEC. 3. *Legislative Proposal and Purpose*. The Secretary of Defense shall submit a legislative proposal to

the President through the Office of Management and Budget that would establish the United States Space Force as a new armed service within the Department of the Air Force.

The legislative proposal would, if enacted, establish the United States Space Force to organize, train, and equip forces to provide for freedom of operation in, from, and to the space domain; to provide independent military options for national leadership; and to enhance the lethality and effectiveness of the Joint Force. The United States Space Force should include both combat and combat support functions to enable prompt and sustained offensive and defensive space operations, and joint operations in all domains. The United States Space Force shall be organized, trained, and equipped to meet the following priorities:

(a) Protecting the Nation's interests in space and the peaceful use of space for all responsible actors, consistent with applicable law, including international law;

(b) Ensuring unfettered use of space for United States national security purposes, the United States economy, and United States persons, partners, and allies;

(c) Deterring aggression and defending the Nation, United States allies, and United States interests from hostile acts in and from space;

(d) Ensuring that needed space capabilities are integrated and available to all United States Combatant Commands;

(e) Projecting military power in, from, and to space in support of our Nation's interests; and

(f) Developing, maintaining, and improving a community of professionals focused on the national security demands of the space domain.

SEC. 4. *Scope*. (a) The legislative proposal required by section 3 of this memorandum shall, in addition to the provisions required under section 3 of this memorandum, include provisions that would, if enacted:

(i) consolidate existing forces and authorities for military space activities, as appropriate, in order to minimize duplication of effort and eliminate bureaucratic inefficiencies; and

(ii) not include the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Reconnaissance Office, or other non-military space organizations or missions of the United States Government.

(b) The proposed United States Space Force should:

(i) include, as determined by the Secretary of Defense in consultation with the Secretaries of the military departments, the uniformed and civilian personnel conducting and directly supporting space operations from all Department of Defense Armed Forces;

(ii) assume responsibilities for all major military space acquisition programs; and

(iii) create the appropriate career tracks for military and civilian space personnel across all relevant specialties, including operations, intelligence, engineering, science, acquisition, and cyber.

SEC. 5. *United States Space Force Budget*. In accordance with the Department of Defense budget process, the Secretary of Defense shall submit to the Director of the Office of Management and Budget a proposed budget for the United States Space Force to be included in the President's Fiscal Year 2020 Budget Request.

SEC. 6. *United States Space Force Organization and Leadership*. (a) The legislative proposal required by section 3 of this memorandum shall create a civilian Under Secretary of the Air Force for Space, to be known as the Under Secretary for Space, appointed by the President by and with the advice and consent of the Senate.

(b) The legislative proposal shall establish a Chief of Staff of the Space Force, who will be a senior military officer in the grade of General or Admiral, and who shall serve as a member of the Joint Chiefs of Staff.

SEC. 7. *Associated Elements*. (a) A Unified Combatant Command for space, to be known as the United States Space Command, will be established consistent with law, as directed on December 18, 2018. This command will have all of the responsibilities of a Unified Combatant Command in addition to the space-related responsibilities previously assigned to United States Strategic Command. It will also have the responsibilities of the Joint Force provider and Joint Force training for space operations forces. Moving expeditiously toward a Unified Combatant Command reflects the importance of warfighting in space to the Joint Force. The commander of this command will lead space warfighting through global space operations that may occur in the space domain, the terrestrial domains, or through the electromagnetic spectrum.

(b) With forces provided by the United States Space Force and other United States Armed Forces, the United States Space Command shall ensure unfettered access to, and freedom to operate in, space and provide vital effects and capabilities to joint and coalition forces during peacetime and across the spectrum of conflict.

SEC. 8. *Relationship with National Intelligence*. The Secretary of Defense and the Director of National Intelligence shall create and enhance mechanisms for collaboration between the Department of Defense and the United States Intelligence Community in order to increase unity of effort and the effectiveness of space operations. The Secretary of Defense and the Director of National Intelligence shall provide a report to the President within 180 days of the date of this memorandum [Feb. 19, 2019] on steps they have taken and are planning to take toward these ends, including legislative proposals as necessary and appropriate.

SEC. 9. *Operational Authorities*. In order to ensure that the United States Space Force and United States Space Command have the necessary operational authorities, the National Space Council and the National Security Council shall coordinate an accelerated review of space operational authorities. Within 90 days of the date of this memorandum, the Secretary of Defense shall present to the National Space Council and the National Security Council proposed relevant authority changes for the President's approval. The National Space Council and the National Security Council shall then conduct an interagency review of the Secretary's proposal and make recommendations to the President on appropriate authorities, to be completed no later than 60 days from the date the Secretary of Defense presents his proposal to the councils.

SEC. 10. *Periodic Review*. As the United States Space Force matures, and as national security requires, it will become necessary to create a separate military department, to be known as the Department of the Space Force. This department will take over some or all responsibilities for the United States Space Force from the Department of the Air Force. The Secretary of Defense will conduct periodic reviews to determine when to recommend that the President seek legislation to establish such a department.

SEC. 11. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and United States national and homeland security requirements, and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

## §9082. Chief of Space Operations

(a) APPOINTMENT.—(1) There is a Chief of Space Operations, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Space Force. The Chief serves at the pleasure of the President.

(2) The Chief shall be appointed for a term of four years. In time of war or during a national emergency declared by Congress, the Chief may be reappointed for a term of not more than four years.

(3) The President may appoint an officer as Chief of Space Operations only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(d) of this title) as a general officer of the Space Force.

(4) The President may waive paragraph (3) in the case of an officer if the President determines such action is necessary in the national interest.

(b) GRADE.—The Chief, while so serving, has the grade of general without vacating the permanent grade of the officer.

(c) RELATIONSHIP TO THE SECRETARY OF THE AIR FORCE.—Except as otherwise prescribed by law and subject to section 9013(f) of this title, the Chief performs the duties of such position under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

(d) DUTIES.—Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief shall—

(1) preside over the Office of the Chief of Space Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Space Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Space Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Space Force as the Secretary determines;

(5) perform duties prescribed for the Chief of Space Operations by sections 171 and 3104 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to the Chief by the President, the Secretary of Defense, or the Secretary of the Air Force.

(e) JOINT CHIEFS OF STAFF.—(1) The Chief of Space Operations shall be a member of the Joint Chiefs of Staff.

(2) To the extent that such action does not impair the independence of the Chief in the performance of the duties of the Chief as a member of the Joint Chiefs of Staff pursuant to paragraph (1), the Chief shall inform the Secretary of the Air Force regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(f) VACANCY IN POSITION OF CHIEF OF SPACE OPERATIONS.—When there is a vacancy in the position of Chief of Space Operations or during the absence or disability of the Chief of Space Operations—

(1) the Vice Chief of Space Operations shall perform the duties of the Chief of Space Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the position of the Vice Chief of Space Operations or the Vice Chief of Space Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Space Force in the Space Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Space Operations until the earliest of—

(A) the appointment of a successor to the Chief of Space Operations or the Vice Chief of Space Operations; or

(B) the cessation of the absence or disability of the Chief of Space Operations or Vice Chief of Space Operations.

(Added Pub. L. 116–92, div. A, title IX, §953(a), Dec. 20, 2019, 133 Stat. 1563; amended Pub. L. 116–283, div. A, title IX, §922(c), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3806, 4294; Pub. L. 118–31, div. A, title XVII, §1741(b)(7), Dec. 22, 2023, 137 Stat. 681; Pub. L. 118–159, div. A, title V, §§509C(b), 521(j), Dec. 23, 2024, 138 Stat. 1873, 1882.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(1), (3)(B). Pub. L. 118–159, §521(j)(1), struck out ", flag, or equivalent" after "general".

Subsec. (b). Pub. L. 118–159, §521(j)(2), substituted "grade of general" for "grade in the Space Force equivalent to the grade of general in the Army, Air Force, and Marine Corps, or admiral in the Navy".

Subsec. (f). Pub. L. 118–159, §509C(b), added subsec. (f).

**2023**—Subsec. (d)(5). Pub. L. 118–31, §1741(b)(7)(A), substituted "sections 171 and 3104 of this title and other provisions of law" for "sections 171, 1808(a), and 1847(e)(4)(B), (5) of this title and other provision of law".

Subsec. (e)(1). Pub. L. 118–31, §1741(b)(7)(B), substituted "The Chief" for "Commencing one year after the date of the enactment of the United States Space Force Act, the Chief".

**2021**—Subsec. (a)(1). Pub. L. 116–283, §922(c)(1)(A), substituted "general, flag, or equivalent officers of the Space Force" for "general officers of the Air Force".

Subsec. (a)(3), (4). Pub. L. 116–283, §922(c)(1)(B), added pars. (3) and (4).

Subsec. (b). Pub. L. 116–283, §922(c)(2), substituted "grade in the Space Force equivalent to the grade of general in the Army, Air Force, and Marine Corps, or admiral in the Navy" for "grade of general".

Subsec. (d)(5). Pub. L. 116–283, §922(c)(3), added par. (5). Former par. (5) redesignated (6).

Pub. L. 116–283, §1883(b)(2), substituted ", 1808(a), and 1847(e)(4)(B), (5)" for "and 2547".
Subsec. (d)(6). Pub. L. 116–283, §922(c)(3), redesignated par. (5) as (6).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### DESIGNATION OF FORCE DESIGN ARCHITECT FOR DEPARTMENT OF DEFENSE SPACE SYSTEMS

Pub. L. 117–81, div. A, title XVI, §1602(b)(4), Dec. 27, 2021, 135 Stat. 2077, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall—

"(A) designate the Chief of Space Operations the force design architect for space systems of the Armed Forces; and

"(B) submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a certification of such designation."

### SERVICE

Pub. L. 116–92, div. A, title IX, §953(b), Dec. 20, 2019, 133 Stat. 1564, provided that:

"(1) INCUMBENT.—The individual serving as Commander of the Air Force Space Command as of the day before the date of the enactment of this Act [Dec. 20, 2019] may serve as the Chief of Space Operations under subsection (a) of section 9082 of title 10, United States Code (as added by subsection (a) of this section), after that date without further appointment as otherwise provided for by subsection (a) of such section 9082.

"(2) U.S. SPACE COMMAND.—During the one-year period beginning on the date of the enactment of this Act, the Secretary of Defense may authorize an officer serving as the Chief of Space Operations to serve concurrently as the Commander of the United States Space Command, without further appointment."

## §9083. Vice Chief of Space Operations

(a) APPOINTMENT.—There is a Vice Chief of Space Operations, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Space Force.

(b) GRADE.—The Vice Chief of Space Operations, while so serving, has the grade of general without vacating the permanent grade of the officer.

(c) DUTIES.—The Vice Chief of Space Operations shall have such authorities and duties with respect to the Space Force as the Chief of Space Operations, with the approval of the Secretary of the Air Force, may delegate to or prescribe for the Vice Chief of Space Operations. Orders issued by the Vice Chief of Space Operations in performing such duties have the same effect as orders issued by the Chief of Space Operations.

(Added Pub. L. 118–159, div. A, title V, §509C(a)(2), Dec. 23, 2024, 138 Stat. 1873.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9083 was renumbered section 9084 of this title.

Another prior section 9083, added Pub. L. 107–107, div. A, title IX, §912(a), Dec. 28, 2001, 115 Stat. 1196, §8084; amended Pub. L. 108–375, div. A, title X, §1084(d)(32), Oct. 28, 2004, 118 Stat. 2063; renumbered §9084, Pub. L. 115–232, div. A, title VIII, §806(c), Aug. 13, 2018, 132 Stat. 1833; renumbered §9068, Pub. L. 116–92, div. A, title IX, §952(b)(1), Dec. 20, 2019, 133 Stat. 1561; renumbered §9083, Pub. L. 116–92, div. A, title IX, §952(e), Dec. 20, 2019, 133 Stat. 1562, related to a career field for officers in the Air Force with technical competence in space-related matters, prior to repeal by Pub. L. 116–283, div. A, title IX, §921(a), Jan. 1, 2021, 134 Stat. 3804.

## §9084. Office of the Chief of Space Operations: function; composition

(a) FUNCTION.—There is in the executive part of the Department of the Air Force an Office of the Chief of Space Operations to assist the Secretary of the Air Force in carrying out the responsibilities of the Secretary.

(b) COMPOSITION.—The Office of the Chief of Space Operations is composed of the following:

(1) The Chief of Space Operations.

(2) Other members of the Space Force and Air Force assigned or detailed to the Office of the Chief of Space Operations.

(3) Civilian employees in the Department of the Air Force assigned or detailed to the Office of the Chief of Space Operations.

(c) ORGANIZATION.—Except as otherwise specifically prescribed by law, the Office of the Chief of Space Operations shall be organized in such manner, and the members of the Office of the Chief of Space Operations shall perform such duties and have such titles, as the Secretary of the Air Force may prescribe.

(Added Pub. L. 116–283, div. A, title IX, §921(a), Jan. 1, 2021, 134 Stat. 3805, §9083; renumbered §9084, Pub. L. 118–159, div. A, title V, §509C(a)(1), Dec. 23, 2024, 138 Stat. 1873.)

### EDITORIAL NOTES

### CODIFICATION

Another section 9084 was renumbered section 9087 of this title.

### PRIOR PROVISIONS

A prior section 9084 was renumbered section 9085 of this title.

Another prior section 9084 was successively renumbered section 9068, then 9083, of this title by Pub. L. 116–92, div. A, title IX, §952(b)(1), (e), Dec. 20, 2019, 133 Stat. 1561, 1562, and was subsequently repealed by Pub. L. 116–283, div. A, title IX, §921(a), Jan. 1, 2021, 134 Stat. 3804.

### AMENDMENTS

**2024**—Pub. L. 118–159 renumbered section 9083 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 116–283, div. A, title IX, §921(c), Jan. 1, 2021, 134 Stat. 3805, provided that: "The amendments made by this section [enacting this section and section 9084 of this title relating to general duties of the Office of the Chief of Space Operations, repealing former section 9083 of this title, and enacting provisions set out as a note below] shall take effect on the date on which the Secretary of the Air Force and the Chief of Space Operations jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report detailing the functions that the headquarters staff of the Department of the Air Force will continue to perform in support of the Space Force."

### NO AUTHORIZATION OF ADDITIONAL MILITARY BILLETS

Pub. L. 116–283, div. A, title IX, §921(d), Jan. 1, 2021, 134 Stat. 3806, provided that: "The Secretary shall establish the Office of the Chief of Space Operations under section 9083 of title 10, United States Code [now 10 U.S.C. 9084], as amended by subsection (a), using military personnel otherwise authorized. Nothing in this section [enacting this section and section 9084 of this title relating to general duties of the Office of the Chief of Space Operations, repealing former section 9083 of this title, and enacting provisions set out as a note above] or the amendments made by this section shall be construed to authorize additional military billets for the purposes of, or in connection with, the establishment of the Office of the Chief of Space Operations."

## §9085. Office of the Chief of Space Operations: general duties

(a) PROFESSIONAL ASSISTANCE.—The Office of the Chief of Space Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Air Force and to the Chief of Space Operations.

(b) AUTHORITIES.—Under the authority, direction, and control of the Secretary of the Air Force, the Office of the Chief of Space Operations shall—

(1) subject to subsections (c) and (d) of section 9014 of this title, prepare for such employment of the Space Force, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Space Force, as will assist in the execution of any power, duty, or function of the Secretary of the Air Force or the Chief of Space Operations;

(2) investigate and report upon the efficiency of the Space Force and its preparation to support military operations by commanders of the combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary of the Air Force or the Chief of Space Operations, coordinate the action of organizations of the Space Force; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary of the Air Force.

(Added Pub. L. 116–283, div. A, title IX, §921(a), Jan. 1, 2021, 134 Stat. 3805, §9084; renumbered §9085, Pub. L. 118–159, div. A, title V, §509C(a)(1), Dec. 23, 2024, 138 Stat. 1873.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9085 was renumbered section 9086 of this title.

**AMENDMENTS**

**2024**—Pub. L. 118–159 renumbered section 9084 of this title as this section.

## §9086. Regular Space Force: composition

(a) IN GENERAL.—The Regular Space Force is the component of the Space Force that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Space Force.

(b) COMPOSITION.—The Regular Space Force includes—

(1) the officers and enlisted members of the Regular Space Force; and

(2) the retired officers and enlisted members of the Regular Space Force.

(Added Pub. L. 116–283, div. A, title IX, §922(d), Jan. 1, 2021, 134 Stat. 3807, §9085; renumbered §9086, Pub. L. 118–159, div. A, title V, §509C(a)(1), Dec. 23, 2024, 138 Stat. 1873.)

**REPEAL OF SECTION**

*Pub. L. 118–31, div. A, title XVII, §1735(c), Dec. 22, 2023, 137 Stat. 677, provided that, effective on the date on which the certification by the Secretary of the Air Force is submitted under section 1735(a) of Pub. L. 118–31, this section is repealed.*

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9086 was renumbered section 9087 of this title.

**AMENDMENTS**

**2024**—Pub. L. 118–159 renumbered section 9085 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Repeal effective on the date on which the certification by the Secretary of the Air Force is submitted under section 1735(a) of Pub. L. 118–31, see section 1735(c)(2) of Pub. L. 118–31, set out in a Transitions Provisions note under section 20001 of this title.

## §9087. Space Development Agency

(a) IN GENERAL.—(1) There is a Space Development Agency of the Department of Defense (in this section referred to as the "Agency"). The Director of the Space Development Agency shall be the head of the Agency.

(2) Effective on October 1, 2022—

(A) the Agency shall be an element of the Space Force; and

(B) the Director shall report—

(i) pursuant to section 9016(b)(6)(B)(iv)(III) of this title, to the Assistant Secretary of the Air Force for Space Acquisition and Integration with respect to acquisition decisions; and

(ii) directly to the Chief of Space Operations with respect to requirements decisions, personnel decisions, and any other matter not covered by clause (i).

(b) DEVELOPMENT AND INTEGRATION AUTHORITIES.—The Director shall lead—

(1) the development and demonstration of a resilient military space-based sensing, tracking, and data transport architecture that uses proliferated low-Earth orbit systems and services;

(2) the integration of next-generation space capabilities, such as novel sensors (including with respect to alternate navigation, and autonomous battle management features), and sensor and tracking components (including a hypersonic and ballistic missile tracking space sensor payload pursuant to section 1645 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021), into the architecture specified in paragraph (1) to address the requirements and needs of the armed forces and combatant commands for such capabilities;

(3) the procurement of commercial capabilities and services, including—

(A) options for integrating payloads on commercial buses and spacecraft into existing commercial architectures; and

(B) innovative commercial capabilities and services, such as on-orbit servicing or in-space transportation systems, that could extend the life of space systems, rapidly respond to threats, or contribute to resilience; and

(4) the rapid introduction, acquisition, and iteration of cost-effective, resilient solutions that leverage planned and existing commercial low-Earth orbit capabilities or innovative capabilities.

(c) BUDGET MATERIALS AND PROGRAM ELEMENTS.—Beginning not later than with respect to fiscal year 2023 and each fiscal year thereafter—

(1) in the budget justification materials submitted to Congress in support of the Department of Defense budget for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for the activities of the Agency shall be separate from the other activities of the Space Force; and

(2) the Secretary of Defense shall ensure that the programs of the Agency are assigned program elements different from other program elements of the Space Force.

(d) DELEGATION OF AUTHORITIES.—(1) With respect to tranche 0 capabilities and tranche 1 capabilities, to the extent practicable, the Secretary of the Air Force, acting through the Service Acquisition Executive for Space Systems and Programs, shall ensure the delegation to the Agency of—

(A) head of contracting authority; and

(B) milestone decision authority for the middle tier of acquisition programs.

(2)(A) The Service Acquisition Executive for Space Systems and Programs may rescind the delegation of authority under paragraph (1) for cause or on a case-by-case basis.

(B) Not later than 30 days after the date of a rescission under subparagraph (A), the Secretary of the Air Force shall notify the congressional defense committees of such rescission.

(3) In this subsection:

(A) The term "tranche 0 capabilities" means capabilities relating to transport, battle management, tracking, custody, navigation, deterrence, and support, that are intended to be achieved by September 30, 2022.

(B) The term "tranche 1 capabilities" means capabilities relating to transport, battle management, tracking, custody, navigation, deterrence, and support, that are intended to be achieved by September 30, 2024.

(Added Pub. L. 116–283, div. A, title XVI, §1601(a), Jan. 1, 2021, 134 Stat. 4041, §9084; renumbered §9086 and amended Pub. L. 117–81, div. A, title X, §1081(a)(33), title XVI, §1603, Dec. 27, 2021, 135 Stat. 1921, 2077; renumbered §9087, Pub. L. 118–159, div. A, title V, §509C(a)(1), Dec. 23, 2024, 138 Stat. 1873.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 1645 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (b)(2), is section 1645 of Pub. L. 116–283, div. A, title XVI, Jan. 1, 2021, 134 Stat. 4064. Subsec. (g) of section 1645 amended provisions formerly set out as a note under section 2431 of this title. Subsecs. (a) to (f) of section 1645 are not classified to the Code.

### AMENDMENTS

**2024**—Pub. L. 118–159 renumbered section 9086 of this title as this section.

**2021**—Pub. L. 117–81, §1081(a)(33), renumbered section 9084 of this title, as added by section 1601(a) of Pub. L. 116–283, as this section.

Subsec. (d). Pub. L. 117–81, §1603, added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSITION

Pub. L. 116–283, div. A, title XVI, §1601(d), Jan. 1, 2021, 134 Stat. 4042, provided that:

"(1) TRANSFER.—Effective on October 1, 2022, the Secretary of Defense shall transfer the Space Development Agency from the Office of the Secretary of Defense to the Space Force.

"(2) FUNDING, DUTIES, RESPONSIBILITIES, AND PERSONNEL.—Except as provided by section 9084 of title 10, United States Code [now 10 U.S.C. 9085], the transfer under paragraph (1) of the Space Development Agency from the Office of the Secretary of Defense to the Space Force shall include the transfer of the funding, duties, responsibilities, and personnel of the Agency as of the day before the date of the transfer."

### REVIEW OF SPACE DEVELOPMENT AGENCY EXEMPTION FROM JOINT CAPABILITIES INTEGRATION AND DEVELOPMENT SYSTEM

Pub. L. 117–263, div. A, title XVI, §1608, Dec. 23, 2022, 136 Stat. 2932, provided that:

"(a) REVIEW.—Not later than March 31, 2023, the Secretary of Defense shall complete a review regarding whether the Space Development Agency should be exempt from the Joint Capabilities Integration and Development System.

"(b) RECOMMENDATION.—Not later than 30 days after the date on which the review under subsection (a) is completed, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a recommendation as to whether the exemption described in such subsection should apply to the Space Development Agency.

"(c) IMPLEMENTATION.—Not later than 60 days after the date on which the recommendation is

submitted under subsection (b), the Secretary of the Air Force and the Director of the Space Development Agency shall implement the recommendation."

## §9088. Duty assignments after officer training course

(a) REQUIREMENT.—The Secretary of the Air Force shall ensure that members of the Space Force who complete an initial Space Force officer training course are assigned—

(1) in a manner that sustains acquisition billet manning levels comparably to operational billet manning levels; and

(2) to Space Force billets allocated to the National Reconnaissance Office at a manning level that is sufficient to maintain effective operation of the National Reconnaissance Office.

(b) REPORT.—Not later than 60 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, and not later than October 31 of each year through 2030, the Secretary of the Air Force shall submit to the Committees on Armed Forces of the Senate and the House of Representatives a report describing—

(1) the number and percentage of authorized and assigned Space Force officer billets, by grade and year group, within—

(A) acquisition career fields; and

(B) operational career fields;

(2) the manning rate for junior officer billets of the Space Force, disaggregated by career field and organization, including the National Reconnaissance Office;

(3) any identified shortfalls or imbalances in acquisition manning relative to operational manning in the Space Force; and

(4) actions taken or planned to achieve and sustain comparable manning levels for billets in acquisition and operations for Space Force officers.

(Added Pub. L. 119–60, div. A, title XVI, §1601(a), Dec. 18, 2025, 139 Stat. 1172.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (b), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

## §9089. Program Executive Officer for Assured Access to Space

(a) ESTABLISHMENT.—(1) There is a Program Executive Officer for Assured Access to Space within the Space Force.

(2) The Program Executive Officer for Assured Access to Space shall serve a term of four years.

(b) GRADE.—The Program Executive Officer for Assured Access to Space, while so serving, shall have the grade of brigadier general, major general, lieutenant general, or general.

(c) ADDITIONAL DUTIES.—The Program Executive Officer for Assured Access to Space, while serving as the Program Executive Officer, shall also serve as the Commander of Space Launch Delta 45.

(Added Pub. L. 119–60, div. A, title XVI, §1601(b), Dec. 18, 2025, 139 Stat. 1173.)

# PART II—PERSONNEL


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| **911.** | **Strength** | **9110** |
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**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title XVII, §1721(a)(5)(B), Dec. 22, 2023, 137 Stat. 666, added item for chapter 915 and struck out former item for chapter 915 "Appointments in the Regular Air Force and the Regular Space Force".

**2021**—Pub. L. 116–283, div. A, title IX, §923(c)(3)(C), Jan. 1, 2021, 134 Stat. 3810, added item for chapter 915 and struck out former item for chapter 915 "Appointments in the Regular Air Force".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(e)(2), Aug. 13, 2018, 132 Stat. 1834, redesignated items for chapters 831 to 875 as 911 to 949 and redesignated section numbers 8201 to 9061 as 9110 to 9381. Section numbers were conformed to the first section appearing in each chapter after renumbering by Pub. L. 115–232 to reflect the probable intent of Congress.

**2003**—Pub. L. 108–136, div. A, title V, §576(c)(2), Nov. 24, 2003, 117 Stat. 1488, added item for chapter 875.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(a), Oct. 5, 1994, 108 Stat. 3016, struck out items for chapters 837 "Appointments as Reserve Officers" and 863 "Separation or Transfer to Retired Reserve".

**1980**—Pub. L. 96–513, title V, §504(1), Dec. 12, 1980, 94 Stat. 2915, struck out items for chapters 859 "Separation from Regular Air Force for Substandard Performance of Duty", 860 "Separation from Regular Air Force for Moral or Professional Dereliction or in Interests of National Security", and 865 "Retirement for Age".

**1968**—Pub. L. 90–377, §5, July 5, 1968, 82 Stat. 288, struck out item for chapter 851 "United States Disciplinary Barracks".

Pub. L. 90–235, §8(6), Jan. 2, 1968, 81 Stat. 764, struck out item for chapter 847 "The Uniform".

**1960**—Pub. L. 86–616, §§7(b), 8(b), July 12, 1960, 74 Stat. 393, 395, substituted "Substandard Performance of Duty" for "Failure to Meet Standards" in item for chapter 859 and added item for chapter 860.

**1958**—Pub. L. 85–861, §1(193), Sept. 2, 1958, 72 Stat. 1538, substituted "8841" for "[No present sections]" in item for chapter 863.

# CHAPTER 911—STRENGTH

Sec.
9110. Regular Air Force: strength in grade; general officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 831 of this title as this chapter and item 8210 as 9110.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(2), Oct. 5, 1994, 108 Stat. 3016, struck out items 8212 "Air Reserve; Air National Guard of the United States: strength in grade; temporary increases", 8217 "Reserves: commissioned officers in an active status", 8218 "Reserves: strength in grade; general officers in

an active status", 8219 "Reserves: strength in grade; commissioned officers in grades below brigadier general in an active status", 8221 "Air Force Reserve", 8222 "Air Force Reserve, exclusive of members on active duty", 8223 "Air Force Reserve: warrant officers", 8224 "Air National Guard of United States", and 8225 "Air National Guard and Air National Guard of United States, exclusive of members on active duty".

**1990**—Pub. L. 101–510, div. A, title IV, §403(b)(3)(B), Nov. 5, 1990, 104 Stat. 1545, struck out item 8202 "Air Force: strength in grade; general officers".

**1985**—Pub. L. 99–145, title XIII, §1303(a)(26), Nov. 8, 1985, 99 Stat. 740, inserted "; general officers" after "grade" in item 8202.

**1980**—Pub. L. 96–513, title V, §504(6), Dec. 12, 1980, 94 Stat. 2916, struck out item 8201 "Air Force: members on active duty", substituted "strength in grade" for "officers in certain commissioned grades" in item 8202, struck out items 8203 "Regular Air Force: members on active duty", 8204 "Regular Air Force: commissioned officers on active list", 8205 "Regular Air Force: commissioned officers on active list, exclusive of certain categories", 8206 "Regular Air Force: commissioned officers on active list; Air Force nurses", 8207 "Regular Air Force: commissioned officers on active list; medical specialists", 8208 "Regular Air Force: commissioned officers on active list; female commissioned officers, other than those designated under section 8067 of this title to perform professional functions", 8209 "Regular Air Force: commissioned officers on active list; special categories", and 8211 "Regular Air Force: strength in grade; promotion-list officers", substituted "Air Reserve; Air National Guard of the United States: strength in grade; temporary increases" for "Regular Air Force; Air Force Reserve; Air National Guard of the United States: strength in grade; temporary increases" in item 8212, and struck out items 8213 "Regular Air Force: warrant officers on active list", 8214 "Regular Air Force: enlisted members on active duty", 8215 "Regular Air Force: female warrant officers on active list", and 8230 "Personnel detailed outside Department of Defense."

**1967**—Pub. L. 90–130, §1(26)(F), Nov. 8, 1967, 81 Stat. 382, struck out "; female enlisted members on active duty" after "female warrant officers on active list" in item 8215.

**1958**—Pub. L. 85–861, §1(165), Sept. 2, 1958, 72 Stat. 1516, substituted "Air Force medical specialists" for "women medical specialists" in item 8207, inserted "Air Force Reserve; Air National Guard of United States" in item 8212, and added items 8217 to 8219 and 8230.

## §9110. Regular Air Force: strength in grade; general officers

(a) Subject to section 526 of this title, the authorized strength of the Regular Air Force in general officers on the active-duty list is 75/10,000 of the authorized strength of the Regular Air Force in commissioned officers on the active-duty list. Of this authorized strength, not more than one-half may be in a regular grade above brigadier general.

(b) When the application of subsection (a) results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(c) General officers on the active-duty list of the Regular Air Force who are specifically authorized by law to hold a civil office under the United States, or an instrumentality thereof, are not counted in determining authorized strength under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 500, §8210; Pub. L. 85–861, §1(161), Sept. 2, 1958, 72 Stat. 1514; Pub. L. 96–513, title V, §504(7), Dec. 12, 1980, 94 Stat. 2916; Pub. L. 102–190, div. A, title X, §1061(a)(23)(A), Dec. 5, 1991, 105 Stat. 1473; renumbered §9110, Pub. L. 115–232, div. A, title VIII, §806(b)(1), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8210(a) | 10:506a(a) (words before 1st semicolon). | Aug. 7, 1947, ch. 512, §503(a), 61 Stat. 885. |
| 8210(b) | 10:506a(a) (less words before 1st semicolon, and less provisos). | |
| 8210(c) | 10:506a(a) (1st, 2d, and 3d provisos). | |
| 8210(d) | 10:506a(a) (4th proviso). | |

| | | |
|---|---|---|
| 8210(e) | 10:506a(a) (last proviso). | |

As enacted, section 503(a) of the Officer Personnel Act of 1947 (10:506a(a)) provided, subject to certain percentage limitations, for the following authorized strength of the Regular Army in general officers on the active list:

| | |
|---|---|
| Medical Corps | 16 |
| Dental Corps | 4 |
| Veterinary Corps | 1 |
| The Chaplains | 2 |
| Army, exclusive of the above | 334 |
| Total | 357 |

Under section 208(e) of the National Security Act of 1947 (5 U.S.C. 626c(e)), allocations of those authorized strengths were made between the Army and the Air Force as follows:

| | *Army* | *Air Force* |
|---|---|---|
| Medical Corps | 12 | 4 |
| Dental Corps | 3 | 1 |
| Veterinary Corps | 1 | 0 |
| The Chaplains | 1 | 1 |
| Army and Air Force, exclusive of the above | 184 | 150 |
| Total | 201 | 156 |

After the enactment of the Officer Personnel Act of 1947, section 308 of the Army Organization Act of 1950 (10:61–1) provided for an Assistant Judge Advocate General and three brigadier generals in the Judge Advocate General's Corps of the Army. The creation of these four general officer spaces served to increase the mentioned authorized strength figure from 357 to 361, and the figure 201 to 205. The opinion of the Judge Advocate General of the Army (JAGA 1948/5806, 2 Sept. 1948) is in accord with that conclusion.

The revised section reflects the authorized strength of the Regular Air Force in general officers on the active list resulting from the mentioned allocation to the Air Force.

That allocation, and those mentioned in the explanation of subsection (c) below, have had the force of law since July 26, 1950, when the period for transfers, including the administrative authority to change these allocations, expired.

The word "regular" is substituted for the word "permanent" throughout the revised subsection.

In subsection (c), 10:506a(a) (1st proviso) is omitted, since there is no authority to appoint to a regular grade above major general. 10:506a(a) (last 65 words of 2d proviso) is omitted as executed by the declaration of a national emergency on December 16, 1950.

In subsection (c)(1), the figures "4" and "2" result from the allocation of the original figures "16" and "8".

In subsection (c)(2), the figure "1" results from the allocation of the original figures "4" and "2".

In subsection (c)(3), the figure "1" results from the allocation of the original figures "2" and "1". (The major general was allocated to the Army, the brigadier general to the Air Force.)

In subsection (c)(4), the figures "150" and "75" result from the allocation of the original figures "334" and "167". That allocation corresponds to the allotment made by the Secretary of War between the Air Corps and the Army exclusive of the Air Corps, the Medical Department, and the Chaplains, under 10: 506a(a) (3d proviso). That proviso is omitted as executed.

In subsection (e), the words "by law to hold any civil office under the United States" are substituted for the words "by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government".

## 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8210(a) | 10 App.:506a(a)(2) (less 4th and last sentences). | July 20, 1956, ch. 646, §302 (less 1st par.), 70 Stat. 587. |
| 8210(b) | 10 App.:506a(a)(2) (4th sentence). | |
| 8210(c) | 10 App.:506a(a)(2) (last sentence). | |

In subsection (a), the words "Subject to section 8202(a) of this title" are substituted for 10 App.:506a(a)(2) (3d sentence).

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8210 of this title as this section.

**1991**—Subsec. (a). Pub. L. 102–190 substituted "section 526" for "section 8202(a)".

**1980**—Subsecs. (a), (c). Pub. L. 96–513 substituted "active-duty list" for "active list" wherever appearing.

**1958**—Subsec. (a). Pub. L. 85–861 inserted "Subject to section 8202(a) of this title," before "the", and struck out provisions which excluded the number of commissioned officers on the active list authorized by former subsec. (b) of this section and medical service officers.

Subsec. (b). Pub. L. 85–861 redesignated subsec. (d) as (b), and struck out former subsec. (b) which prescribed the authorized strength of general officers as medical, dental, and veterinary officers, and as chaplains.

Subsec. (c). Pub. L. 85–861 redesignated subsec. (e) as (c), and struck out former subsec. (c) which prescribed the maximum number of general officers for the active list of the Regular Air Force.

Subsecs. (d), (e). Pub. L. 85–861 redesignated subsecs. (d) and (e) as (b) and (c), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## CHAPTER 913—ENLISTMENTS

Sec.
9131. Definition.
9132. Regular Air Force and Space Force: gender-free basis for acceptance of original enlistments.
9137. Regular Air Force: aviation cadets; qualifications, grade, limitations.
9138. Regular Air Force and Space Force: reenlistment after service as an officer.

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XVII, §1721(a)(1)(B), (2)(B), Dec. 22, 2023, 137 Stat. 665, struck out "Regular" before "Space Force:" in items 9132 and 9138. Amendments were made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title X, §1081(a)(34), Dec. 27, 2021, 135 Stat. 1921, which directed conforming this analysis to the redesignation of section 9132 relating to Regular Air Force and Regular Space

Force: reenlistment after service as an officer as section 9138, could not be executed because item 9138, as added by section 923(c)(1)(C) of Pub. L. 116–283, already related to Regular Air Force and Regular Space Force: reenlistment after service as an officer. See below.

Pub. L. 116–283, div. A, title IX, §923(c)(1)(C), (2)(C), Jan. 1, 2021, 134 Stat. 3810, added items 9132 and 9138 and struck out former items 9132 "Regular Air Force: gender-free basis for acceptance of original enlistments" and 9138 "Regular Air Force: reenlistment after service as an officer".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 833 of this title as this chapter and items 8251, 8252, 8257, and 8258 as 9131, 9132, 9137, and 9138, respectively.

**2006**—Pub. L. 109–163, div. A, title V, §542(b)(2), Jan. 6, 2006, 119 Stat. 3253, struck out item 8253 "Air Force: persons not qualified".

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(3), Oct. 5, 1994, 108 Stat. 3016, struck out items 8259 "Air Force Reserve: transfer from Air National Guard of United States", 8260 "Air Force Reserve: transfer to upon withdrawal as member of Air National Guard", and 8261 "Air National Guard of United States".

**1988**—Pub. L. 100–456, div. A, title V, §522(a)(2), Sept. 29, 1988, 102 Stat. 1973, added item 8252.

**1968**—Pub. L. 90–235, §2(a)(4)(C), Jan. 2, 1968, 81 Stat. 756, struck out item 8252 "Temporary enlistments", item 8254 "Air Force: during war or emergency", item 8255 "Regular Air Force: recruiting campaigns", item 8256 "Regular Air Force: qualifications, term, grade", item 8262 "Extension of enlistment for members needing medical care or hospitalization", and item 8263 "Voluntary extension of enlistment".

**1958**—Pub. L. 85–861, §1(166)(C), (D), Sept. 2, 1958, 72 Stat. 1516, struck out ": enlistment" after "United States" in item 8261, and added item 8263.

## §9131. Definition

In this chapter, the term "enlistment" means original enlistment or reenlistment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 503, §8251; Pub. L. 100–180, div. A, title XII, §1231(19)(A), Dec. 4, 1987, 101 Stat. 1161; renumbered §9131, Pub. L. 115–232, div. A, title VIII, §806(b)(2), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8251 | [No source]. | [No source]. |

The revised section is inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8251 of this title as this section.

**1987**—Pub. L. 100–180 inserted ", the term" after "In this chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9132. Regular Air Force and Space Force: gender-free basis for acceptance of original enlistments

In accepting persons for original enlistment in the Regular Air Force or the Space Force, the Secretary of the Air Force may not—

(1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to gender for skill categories or jobs; or

(2) in any other way base the acceptance of a person for such an enlistment on gender.

(Added Pub. L. 100–456, div. A, title V, §522(a)(1), Sept. 29, 1988, 102 Stat. 1973, §8252; amended Pub. L. 102–484, div. A, title X, §1052(40), Oct. 23, 1992, 106 Stat. 2501; renumbered §9132, Pub. L. 115–232, div. A, title VIII, §806(b)(2), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(c)(1)(A), (B), Jan. 1, 2021, 134 Stat. 3809, 3810; Pub. L. 118–31, div. A, title XVII, §1721(a)(1), Dec. 22, 2023, 137 Stat. 665.)

### EDITORIAL NOTES

### CODIFICATION

Another section 9132 was renumbered section 9138 of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31 struck out "Regular" before "Space Force:" in section catchline and "Regular" before "Space Force" in introductory provisions.

**2021**—Pub. L. 116–283 substituted "Regular Air Force and Regular Space Force: gender-free basis for acceptance of original enlistments" for "Regular Air Force: gender-free basis for acceptance of original enlistments" in section catchline and inserted "or the Regular Space Force" after "Regular Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 8252 of this title as this section.

**1992**—Pub. L. 102–484 substituted "In" for "(a) Except as provided in subsection (b), in" and struck out subsec. (b) which read as follows: "Subsection (a) shall not apply with respect to an enlistment specified as being for training leading to designation in a skill category involving duty assignments to which, under section 8549 of this title, female members of the Air Force may not be assigned."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 100–456, div. A, title V, §522(c), Sept. 29, 1988, 102 Stat. 1974, provided that: "Such section [10 U.S.C. 8252] shall apply with respect to persons accepted for original enlistment in the Regular Air Force after September 30, 1989."

### IMPLEMENTATION

Pub. L. 100–456, div. A, title V, §522(b), Sept. 29, 1988, 102 Stat. 1973, provided that: "The Secretary of the Air Force shall develop a methodology for implementing section 8252 of title 10, United States Code, as added by subsection (a), not later than October 1, 1989."

## §9137. Regular Air Force: aviation cadets; qualifications, grade, limitations

(a) The grade of aviation cadet is a special enlisted grade in the Regular Air Force.

(b) Any citizen of the United States may be enlisted as an aviation cadet, if he is otherwise qualified.

(c) Any enlisted member of the Regular Air Force who is otherwise qualified may be designated, with his consent, as an aviation cadet by the Secretary of the Air Force.

(d) Except in time of war or of emergency declared by Congress, at least 20 percent of the aviation cadets designated in each fiscal year shall be selected from members of the Regular Air Force or the Regular Army who are eligible and qualified. No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as second lieutenant in the Air Force Reserve, and will serve on active duty as such for a period of three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

(e) While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 504, §8257; Pub. L. 85–861, §33(a)(37), Sept. 2, 1958, 72 Stat. 1566; Pub. L. 96–513, title II, §237, Dec. 12, 1980, 94 Stat. 2887; renumbered §9137, Pub. L. 115–232, div. A, title VIII, §806(b)(2), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8257(a) | 10:297a. | June 3, 1941, ch. 165, §§1, 3 (1st and 2d sentences), 55 Stat. 239. |
| 8257(b) | 10:299 (1st sentence, less last 19 words). | |
| 8257(c) | 10:291f–2 (less 1st 55 words of 1st proviso). | June 13, 1949, ch. 199, §3, 63 Stat. 175. |
| | 10:299 (last 19 words of 1st sentence). | |
| 8257(d) | 10:291f–2 (1st 55 words of 1st proviso). | |
| | 10:299 (2d sentence). | |

In subsection (b), the words "Under such regulations as the Secretary of the Army may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

In subsection (c), the words "who is otherwise qualified" and "with his consent" are substituted for 10: 291f–2 (less 1st 55 words of 1st proviso).

In subsection (d), the first sentence is substituted for 10:291f–2 (proviso). The words "after June 13, 1940" (the date of enactment of the source statute) are substituted for the word "hereafter", in 10:291f–2. The words "after June 13, 1949", in 10:291f–2, are omitted as executed. The first 17 words of the last sentence are substituted for 10:299 (1st 20 words of 2d sentence). Clause (2) is substituted for 10:299 (proviso of 2d sentence).

**1958 ACT**

The new subsection (e) is necessary to reflect the last 11 words of the second sentence of section 4 of the Army Aviation Cadet Act (formerly 10 U.S.C. 304), which were omitted from the original military codification act, the Act of August 10, 1956, chapter 1041, as part of the source law for section 20(b) of that Act (70A Stat. 627). See Senate Report No. 2484, 84th Congress, 2d Session, page 738. Since the source law did not permit the payment of a money allowance to an aviation cadet in place of the issuance of uniforms, clothing, and equipment, as may be done for enlisted members generally, it is necessary to restate this provision separately. See Opinion of the Deputy General Counsel, Department of Defense, May 29, 1957.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8257 of this title as this section.

**1980**—Subsec. (b). Pub. L. 96–513 substituted "Any citizen" for "Any male citizen".

Subsec. (c). Pub. L. 96–513 substituted "Any enlisted member" for "Any male enlisted member".

**1958**—Subsec. (e). Pub. L. 85–861 added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §9138. Regular Air Force and Space Force: reenlistment after service as an officer

(a) Any former enlisted member of the Regular Air Force or the Space Force who has served on active duty as an officer of the Air Force or the Space Force, or who was discharged as an enlisted member to accept an appointment as an officer of the Air Force or the Space Force, is entitled to be reenlisted in the Regular Air Force or the Space Force in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty, if (1) his service as an officer is terminated by an honorable discharge or he is relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and (2) he applies for reenlistment within six months (or such other period as the Secretary of the Air Force prescribes for exceptional circumstances) after termination of that service.

(b) A person is not entitled to be reenlisted under this section if—

(1) the person was discharged or released from active duty as an officer on the basis of a determination of—

(A) misconduct;

(B) moral or professional dereliction;

(C) duty performance below prescribed standards for the grade held; or

(D) retention being inconsistent with the interests of national security; or

(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the commission held by that person during the active duty from which the person was released or discharged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 505, §8258; Pub. L. 85–603, §1(3), Aug. 8, 1958, 72 Stat. 526; Pub. L. 102–484, div. A, title V, §520(b), Oct. 23, 1992, 106 Stat. 2409; Pub. L. 110–181, div. A, title V, §506(b), Jan. 28, 2008, 122 Stat. 96; renumbered §9138, Pub. L. 115–232, div. A, title VIII, §806(b)(2), Aug. 13, 2018, 132 Stat. 1832; renumbered §9132 and amended Pub. L. 116–283, div. A, title IX, §923(c)(2)(A), (B), Jan. 1, 2021, 134 Stat. 3810; renumbered §9138, Pub. L. 117–81, div. A, title X, §1081(a)(34), Dec. 27, 2021, 135 Stat. 1921; Pub. L. 118–31, div. A, title XVII, §1721(a)(2), Dec. 22, 2023, 137 Stat. 665.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8258 | 10:631a (less last proviso). | July 14, 1939, ch. 267, §1 (less last proviso); restated May 29, 1954, ch. 249, §19(b) (less last proviso), 68 Stat. 166. |

The words "former" and "as an enlisted member" are inserted for clarity. The words "credit for service" are substituted for the words "of service". The words "in his grade" are substituted for the words "in the appropriate enlisted grade". The words "he applies" are substituted for the words "application * * * shall be made". The words "Hereafter" and "while on active duty" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1721(a)(2)(B), struck out "Regular" before "Space Force:" in section catchline.

Subsec. (a). Pub. L. 118–31, §1721(a)(2)(A), struck out "Regular" before "Space Force" in two places.

**2021**—Pub. L. 117–81 renumbered section 9132 of this title relating to Regular Air Force and Regular Space Force: reenlistment after service as an officer as this section.

Pub. L. 116–283, §923(c)(2)(B), which directed the amendment of "such section 9132" by substituting "9132" for "9138" as the section designation and "Regular Air Force and Regular Space Force: reenlistment after service as an officer" for "Regular Air Force: reenlistment after service as an officer" as the section catchline, was executed to this section to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 116–283, §923(c)(2)(A), inserted "or the Regular Space Force" after "Regular Air Force" in two places and "or the Space Force" after "officer of the Air Force" in two places.

**2018**—Pub. L. 115–232 renumbered section 8258 of this title as this section.

**2008**—Subsec. (a). Pub. L. 110–181, §506(b)(1), substituted "duty as an officer of the Air Force" for "duty as a reserve officer of the Air Force" and "an appointment" for "a temporary appointment".

Subsec. (b)(1). Pub. L. 110–181, §506(b)(2)(A), substituted "an officer" for "a Reserve officer" in introductory provisions.

Subsec. (b)(2). Pub. L. 110–181, §506(b)(2)(B), substituted "the commission" for "the Reserve commission".

**1992**—Pub. L. 102–484 designated existing provisions as subsec. (a), added subsec. (b), and struck out at end of subsec. (a) "However, if his service as an officer terminated by a general discharge, he may, under regulations to be prescribed by the Secretary of the Air Force, be so reenlisted."

**1958**—Pub. L. 85–603 limited entitlement to be reenlisted in enlisted grade to those officers whose service terminated by an honorable discharge and those relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and provided that persons whose service terminated by a general discharge, may, under regulations to be prescribed by the Secretary of the Air Force, be so reenlisted.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–484 applicable to persons discharged or released from active duty as commissioned officers in the Air Force Reserve after Oct. 23, 1992, see section 520(c) of Pub. L. 102–484, set out as a note under section 3258 of this title.

## CHAPTER 915—APPOINTMENTS IN THE REGULAR AIR FORCE AND IN THE SPACE FORCE

Sec.
9151. Commissioned officer grades.
[9160. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title V, §509D(b), Dec. 23, 2024, 138 Stat. 1874, struck out item 9160 "Warrant officers: original appointment; qualifications".

**2023**—Pub. L. 118–31, div. A, title XVII, §1721(a)(5)(A), Dec. 22, 2023, 137 Stat. 665, substituted "APPOINTMENTS IN THE REGULAR AIR FORCE AND IN THE SPACE FORCE" for "APPOINTMENTS IN THE REGULAR AIR FORCE AND THE REGULAR SPACE FORCE" in chapter heading.

**2021**—Pub. L. 116–283, div. A, title IX, §923(c)(3)(B), Jan. 1, 2021, 134 Stat. 3810, substituted "APPOINTMENTS IN THE REGULAR AIR FORCE AND THE REGULAR SPACE FORCE" for "APPOINTMENTS IN THE REGULAR AIR FORCE" in chapter heading.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 835 of this title as this chapter and items 8281 and 8310 as 9151 and 9160, respectively.

**1980**—Pub. L. 96–513, title V, §504(10), Dec. 12, 1980, 94 Stat. 2916, struck out items 8284 "Commissioned officers: appointment, how made", 8285 "Commissioned officers: original appointment; qualifications", 8286 "Commissioned officers: original appointment; age limitations", 8287 "Commissioned officers: original appointment; service credit", 8288 "Commissioned officers: original appointment; determination of grade", 8289 "Commissioned officers: medical officers; original appointment; professional examination", 8293 "Commissioned officers; chaplains: original appointment; examination", 8294 "Commissioned officers: medical and dental officers: original appointment", 8295 "Commissioned officers: original appointment; determination of place on promotion list", 8296 "Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion", 8297 "Selection boards", 8298 "Commissioned officers: promotion to first lieutenant; effect of failure of promotion", 8299 "Commissioned officers: promotion to captain, major, or lieutenant colonel", 8300 "Commissioned officers: promotion to captain, major, or lieutenant colonel; selection board procedure", 8301 "Commissioned officers: promotion to captain, major, or lieutenant colonel; officers with special qualifications", 8302 "Commissioned officers: medical, dental, and veterinary officers: promotion to captain, major, or lieutenant colonel; professional examination", 8303 "Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel", 8305 "Commissioned officers: promotion to colonel", 8306 "Commissioned officers: promotion to brigadier general", 8307 "Commissioned officers: promotion to major general", 8308 "Commissioned officers: effect of removal from recommended list by President or failure of confirmation by Senate", 8309 "Commissioned officers: physical examination for promotion", 8312 "Officers: acceptance of promotion", 8313 "Suspension of laws for promotion or mandatory retirement or separation during war or emergency", and 8314 "Commissioned officers: promotion not be to delayed by another appointment".

**1958**—Pub. L. 85–861, §§1(177)(B), 33(a)(38), Sept. 2, 1958, 72 Stat. 1520, 1566, substituted "officers" for "Officers" in item 8309, and added item 8314.

**1957**—Pub. L. 85–155, title III, §301(15), Aug. 21, 1957, 71 Stat. 388, struck out items 8291 "Commissioned officers; Air Force nurses and women medical specialists: original appointment; additional qualifications, grade" and 8304 "Commissioned officers; Air Force nurses and women medical specialists: promotion to first lieutenant, captain, major, lieutenant colonel, or colonel".

## §9151. Commissioned officer grades

The commissioned grades in the Regular Air Force and in the Space Force are:

(1) Major general.
(2) Brigadier general.
(3) Colonel.
(4) Lieutenant colonel.
(5) Major.
(6) Captain.
(7) First lieutenant.
(8) Second lieutenant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 507, §8281; renumbered §9151, Pub. L. 115–232, div. A, title VIII, §806(b)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 118–31, div. A, title XVII, §1741(a)(1), Dec. 22, 2023, 137 Stat. 679.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8281 | 10:506(a) (last 24 words). | Aug. 7, 1947, ch. 512, §502(a) (last 24 words), 61 Stat. 884. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 inserted "and in the Space Force" after "in the Regular Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 8281 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## [§9160. Repealed. Pub. L. 118–159, div. A, title V, §509D(a), Dec. 23, 2024, 138 Stat. 1874]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 518, §8310; renumbered §9160, Pub. L. 115–232, div. A, title VIII, §806(b)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(c)(3)(A), Jan. 1, 2021, 134 Stat. 3810; Pub. L. 118–31, div. A, title XVII, §1721(a)(3), Dec. 22, 2023, 137 Stat. 665, provided that original appointments as warrant officers in the Regular Air Force or the Space Force would be made from persons who had served on active duty at least one year in the Air Force or the Space Force.

# CHAPTER 919—TEMPORARY APPOINTMENTS

Sec.
9176. Retention on active duty.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 839 of this title as this chapter and item 8446 as 9176.

**1980**—Pub. L. 96–513, title V, §504(12), Dec. 12, 1980, 94 Stat. 2917, struck out items 8441 "General rule", 8442 "Commissioned officers; regular and reserve components: appointment in higher grade", 8444 "Commissioned officers: during war or emergency", 8445 "Officers: additional appointments during war or emergency", 8447 "Appointments in commissioned grade: how made; how terminated", 8448 "Warrant officers: grades; appointment", 8449 "Warrant officers: promotion", 8451 "Officers: acceptance of appointment in higher grade", and 8452 "Medical and dental officers: temporary promotion to captain".

**1968**—Pub. L. 90–235, §3(b)(6), Jan. 2, 1968, 81 Stat. 758, struck out item 8450 "Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency".

**1958**—Pub. L. 85–861, §1(180)(F), (G), Sept. 2, 1958, 72 Stat. 1532, struck out item 8443 "Commissioned officers; Reserves; appointment in higher or lower grade", and added item 8452.

## §9176. Retention on active duty

The President may retain on active duty a disabled officer until—

(1) the physical condition of the officer is such that the officer will not be further benefited by retention in a military hospital or a medical facility of the Department of Veterans Affairs; or

(2) the officer is processed for physical disability benefits provided by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 522, §8446; Pub. L. 85–861, §1(180)(C), Sept. 2, 1958, 72 Stat. 1532; Pub. L. 101–189, div. A, title XVI, §1621(a)(10), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 102–25, title VII, §701(j)(6), Apr. 6, 1991, 105 Stat. 116; renumbered §9176, Pub. L. 115–232, div. A, title VIII, §806(b)(4), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8446 | 10:499. | June 19, 1948, ch. 511, 62 Stat. 489. |

The word "Shall" is substituted for the words "authorized and directed". The words "on active duty" are substituted for the words "in service". The words "warrant officers, and flight officers" are omitted, since the definition of "officer" in section 101(14) of this title covers commissioned, warrant, and flight officers. The words "who has only a temporary appointment" are substituted for the words "of the Air Force * * * of the United States". The words "his physical condition is such that he" are substituted for the words "their treatment for physical reconstruction has reached a point where they". The words "in the Air Force" are substituted for the words "in the military service".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8446 | 10 App.:499. | June 15, 1956, ch. 388, 70 Stat. 282. |

The words "commissioned officers and warrant" are omitted as covered by the definition of the word "officer" in section 101(14) of this title. The words "condition is such that" are substituted for the words "reconstruction has reached a point where".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8446 of this title as this section.

**1991**—Par. (2). Pub. L. 102–25 struck out "as" before "provided by law".

**1989**—Pub. L. 101–189 amended section generally. Prior to amendment, section read as follows: "Notwithstanding any other provision of law, the President may retain on active duty any disabled officer until his physical condition is such that he will not be further benefited by retention in a military or Veterans' Administration hospital or until he is processed for physical disability benefits provided by law."

**1958**—Pub. L. 85–861 substituted "may retain on active duty any disabled officer" for "shall retain on active duty any disabled officer who has only a temporary appointment", and "military or Veterans' Administration hospital or until he is processed for physical disability benefits provided by law", for "military hospital or in the Army".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 921—ACTIVE DUTY

Sec.
9191. Non-regular officers: status.
9203. Retired commissioned officers: status.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 841 of this title as this chapter and items 8491 and 8503 as 9191 and 9203, respectively.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(4), Oct. 5, 1994, 108 Stat. 3016, struck out items 8495 "Air National Guard of United States: status", 8496 "Air National Guard of United States: commissioned officers; duty in National Guard Bureau", 8497 "Air National Guard of United States: members; status in which ordered into Federal service", 8498 "Air National Guard of United States: mobilization; maintenance of organization", 8499 "Air National Guard in Federal service: status", 8500 "Air National Guard in Federal service: call", 8501 "Air National Guard in Federal service: period of service; apportionment", and 8502 "Air National Guard in Federal service: physical examination".

**1980**—Pub. L. 96–513, title V, §504(13), Dec. 12, 1980, 94 Stat. 2917, struck out items 8494 "Commissioned officers: grade in which ordered to active duty" and 8504 "Retired commissioned officers: status".

**1968**—Pub. L. 90–235, §1(a)(4), Jan. 2, 1968, 81 Stat. 753, struck out item 8492 "Members: service extension during war".

**1967**—Pub. L. 90–130, §1(29)(B), Nov. 8, 1967, 81 Stat. 382, struck out ": limitations; grade" after "Retired members" in item 8504.

**1958**—Pub. L. 85–861, §1(181)(B), Sept. 2, 1958, 72 Stat. 1533, added item 8494.

## §9191. Non-regular officers: status

A commissioned officer of the Air Force, other than of the Regular Air Force, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Air Force Reserve—

(1) whose reserve grade is that in which the officer not of the Regular Air Force is serving;

(2) who has the same length of service as the officer not of the Regular Air Force; and

(3) who is on active duty in his reserve grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 524, §8491; renumbered §9191, Pub. L. 115–232, div. A, title VIII, §806(b)(5), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8491 | 10:506d(h). | Aug. 7, 1947, ch. 512, §515(h), 61 Stat. 908. |

The first 12 words are substituted for 10:506d(h) (1st 11 words). The words "has the rights and privileges, and is entitled to the benefits" are substituted for the words "shall be entitled * * * to the same rights, privileges, and benefits". Clause (1) is substituted for the words "in a grade the same as such 'active-duty grade' ". The words "as the officer not of the Regular Air Force" are substituted for the words "holding appointment in the Army Reserve". The words "his reserve grade" are substituted for the words "the grade held in the Army".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8491 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §9203. Retired commissioned officers: status

A retired commissioned officer of the Air Force or the Space Force who is on active duty is considered, for all purposes except promotion, to be an officer of the organization to which he is assigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 526, §8503; renumbered §9203, Pub. L. 115–232, div. A, title VIII, §806(b)(5), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(c)(4), Jan. 1, 2021, 134 Stat. 3810.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8503 | 10:999. | July 9, 1918, ch. 143, subch. XX (2d par.), 40 Stat. 893. |

The words "and shall be an extra number therein" are omitted, since, in the opinion of the Judge Advocate General of the Army (JAG 210.85, Feb. 21, 1923), they were repealed by the Act of July 31, 1935, ch. 422, 49 Stat. 505. The words "in the discretion of the President, employed * * * assigned to duty" are omitted as surplusage. The words "arms, corps, department" are omitted, since the Air Force does not have organic corps created by statute.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".
**2018**—Pub. L. 115–232 renumbered section 8503 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 923—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.
9217. Duties: chaplains; assistance required of commanding officers.
9218. Duties: warrant officers; limitations.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 843 of this title as this chapter and items 8547 and 8548 as 9217 and 9218, respectively.
**2016**—Pub. L. 114–328, div. A, title V, §502(pp)(2), Dec. 23, 2016, 130 Stat. 2106, struck out item 8543 "Aides: detail; number authorized".
**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(5), Oct. 5, 1994, 108 Stat. 3016, struck out items 8541 "National Guard Bureau: assignment of officers of regular or reserve components" and 8542 "Chief and assistant chief of staff of wings of Air National Guard in Federal service: detail".
**1991**—Pub. L. 102–190, div. A, title V, §531(a)(2), Dec. 5, 1991, 105 Stat. 1365, struck out item 8549 "Duties: female members; limitations".

**1980**—Pub. L. 96–513, title V, §504(14), Dec. 12, 1980, 94 Stat. 2917, struck out item 8531 "Chief of Staff to President: appointment".

**1968**—Pub. L. 90–235, §4(a)(11), (b)(4), Jan. 2, 1968, 81 Stat. 760, struck out item 8537 "Department of Commerce: detail in aid of civil aviation", item 8544 "Duties: regular officers; performance of civil functions restricted", and item 8545 "Duties: officers; superintendence of cooking for enlisted members".

**1964**—Pub. L. 88–647, title III, §301(24), Oct. 13, 1964, 78 Stat. 1073, struck out item 8540 "Educational institutions: detail of members of regular or reserve components as professors and instructors in air science and tactics".

**1958**—Pub. L. 85–861, §1(182), Sept. 2, 1958, 72 Stat. 1533, struck out item 8546 "Duties: medical officers, contract surgeons; attendance on families of members".

## §9217. Duties: chaplains; assistance required of commanding officers

(a) Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Air Force or the Space Force who die while in that command.

(b) Each commanding officer shall furnish facilities, including necessary transportation, to any chaplain assigned to his command, to assist the chaplain in performing his duties.

(Aug. 10, 1956, ch. 1041, 70A Stat. 528, §8547; renumbered §9217, Pub. L. 115–232, div. A, title VIII, §806(b)(6), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(c)(5), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8547(a) | 10:238. | R.S. 1125. |
| 8547(b) | 10:239. | R.S. 1127. |
| | [Uncodified: Feb. 2, 1901, ch. 192, §12 (last sentence), 31 Stat. 750]. | Feb. 2, 1901, ch. 192, §12 (last sentence), 31 Stat. 750. |

In subsection (a), the words "members of the Air Force" are substituted for the words "officers and soldiers".

In subsection (b), the words "regiments, hospitals, and posts", in 10:239, are omitted, since at the time of the enactment of section 1127 of the Revised Statutes, chaplains were authorized only for regiments, hospitals, and posts. The revised section preserves the broad coverage of the original statute. The words "each commanding officer shall" are substituted for the words "It shall be the duty of commanders", in 10:239. The word "furnish" is substituted for the words "to afford", in 10:239. The words "including necessary transportation" are substituted for the last sentence of section 12 of the Act of February 2, 1901, ch. 192, 31 Stat. 750. The words "his command" are substituted for the words "the same", in 10:239. The words "to assist" are substituted for the words "as may aid them", in 10:239.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8547 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9218. Duties: warrant officers; limitations

Under regulations prescribed by the President, a warrant officer may be assigned to perform duties that necessarily include those normally performed by a commissioned officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 528, §8548; renumbered §9218, Pub. L. 115–232, div. A, title VIII, §806(b)(6), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8548 | 10:593 (1st sentence). | Aug. 21, 1941, ch. 384, §4 (1st sentence), 55 Stat. 653. |

10:593 (1st sentence, less provisos) is omitted as superseded by section 8012(e) of this title. 10:593 (last proviso) is omitted as covered by section 936(a)(4) of this title (article 136(a)(4) of the Uniform Code of Military Justice). The words "may be assigned" are substituted for the words "shall be vested with power to".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8548 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 925—RANK AND COMMAND

Sec.
9222. Rank: commissioned officers serving under temporary appointments.
9225. Rank: warrant officers.
9229. Command: commissioned officers in certain designated categories.
9231. Command: chaplains.
9233. Requirement of exemplary conduct.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 845 of this title as this chapter and items 8572, 8575, 8579, 8581, and 8583 as 9222, 9225, 9229, 9231, and 9233, respectively.

**1997**—Pub. L. 105–85, div. A, title V, §507(b)(2), Nov. 18, 1997, 111 Stat. 1727, added item 8583.

**1980**—Pub. L. 96–513, title V, §504(15), Dec. 12, 1980, 94 Stat. 2917, struck out items 8571 "Rank: commissioned officers on active duty", 8573 "Rank: commissioned officers in regular grades of brigadier general and major general; seniority list", 8574 "Rank: commissioned officers in regular grades below brigadier general", and 8582 "Command: retired officers".

**1974**—Pub. L. 93–525, Dec. 18, 1974, 88 Stat. 1695, struck out item 8577 "Command: flying units".

**1968**—Pub. L. 90–235, §5(a)(5), Jan. 2, 1968, 81 Stat. 761, struck out items 8576 "Command: when different commands of Air Force and Marine Corps join", and 8578 "Command, commissioned officers of Air Force in same grade on duty at same place".

**1967**—Pub. L. 90–130, §1(30), Nov. 8, 1967, 81 Stat. 382, struck out item 8580 "Command: female members of Air Force".

## §9222. Rank: commissioned officers serving under temporary appointments

The President may, in accordance with the needs of the Air Force or the Space Force, adjust dates of rank of commissioned officers of the Air Force or the Space Force serving in temporary grades.

(Aug. 10, 1956, ch. 1041, 70A Stat. 529, §8572; renumbered §9222, Pub. L. 115–232, div. A, title VIII, §806(b)(7), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(c)(6), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8572 | 10:506d(c) (last sentence). | Aug. 7, 1947, ch. 512, §515(c) (last sentence), 61 Stat. 907. |

The word "commissioned" is inserted for clarity, since the source statute related only to commissioned officers. The words "in his discretion, from time to time" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" in two places.
**2018**—Pub. L. 115–232 renumbered section 8572 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9225. Rank: warrant officers

Warrant officers rank next below second lieutenants and rank among themselves within each warrant officer grade under regulations to be prescribed by the Secretary of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 530, §8575; renumbered §9225, Pub. L. 115–232, div. A, title VIII, §806(b)(7), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8575 | 10:593 (less 1st sentence). | Aug. 21, 1941, ch. 384, §4 (less 1st sentence), 55 Stat. 653; May 29, 1954, ch. 249, §19(e), 68 Stat. 167. |

10:593 (2d sentence) is omitted as executed. The words "within each warrant officer grade" are inserted for clarity, since section 745 of this title covers rank between warrant officers in different warrant officer grades. The words "they shall take precedence" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8575 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9229. Command: commissioned officers in certain designated categories

An officer designated as a medical, dental, veterinary, medical service, or biomedical sciences officer or as a nurse is not entitled to exercise command because of rank, except within the categories prescribed in subsection (a), (b), (c), (d), (e), (f), or (i) of section 9067 of this title, or over persons placed under his charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 531, §8579; Pub. L. 85–861, §1(156), (185), Sept. 2, 1958, 72 Stat. 1513, 1533; Pub. L. 96–513, title II, §212(b), Dec. 12, 1980, 94 Stat. 2885; renumbered §9229 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(7), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8579(a) | 10:82. | R.S. 1169. |
| 8579(b) | 10:166e (less 1st sentence). | Apr. 16, 1947, ch. 38, §106 (less 1st sentence), 61 Stat. 44. |

In subsection (a), the words "Except as provided in section 94 of this title", not contained in section 1169 of the Revised Statutes, but contained in the United States Code, are omitted as surplusage, since 10:94 deals exclusively with assignments. The words "except within the categories prescribed in section 8067(a)–(d) of this title" are substituted for the words "in the line or in other staff corps". Air Force nurses and women medical specialists are not covered by subsection (a), since their command authority is specifically stated in subsection (b).

In subsection (b), the words "may exercise command only" are substituted for the words "shall not be entitled * * * to command except". The words "by virtue of their rank" and "by competent authority" are omitted as surplusage. 10:166(e) (last 22 words of last sentence) is omitted as superseded by section 8012(e) of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8579(b) | 10 App.:166b–3. | Aug. 9, 1955, ch. 654, §1, 69 Stat. 579. |

This amendment reflects the authority contained in section 8067(e) and (f) of this title to appoint male reserve officers with a view to designation as Air Force nurses or medical specialists.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8579 of this title as this section and substituted "section 9067" for "section 8067".

**1980**—Pub. L. 96–513 substituted provision prohibiting an officer designated as a medical, dental, veterinary, medical service, or biomedical sciences officer or as a nurse from exercising command because of rank, except within the categories prescribed in section 8067(a) to (f) or (i) of this title, or over persons placed under his charge for provision prohibiting an officer designated as a medical, dental, veterinary, or medical

service officer from exercising command because of rank, except within categories prescribed in section 8067(a) to (d) of this title, and authorizing an Air Force nurse or medical specialist to exercise command only within his category, or over persons placed under his charge.

**1958**—Subsec. (b). Pub. L. 85–861 struck out "woman" before "medical specialist", and substituted "his" for "her" in two places.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §9231. Command: chaplains

An officer designated as a chaplain has rank without command.

(Aug. 10, 1956, ch. 1041, 70A Stat. 531, §8581; renumbered §9231, Pub. L. 115–232, div. A, title VIII, §806(b)(7), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8581 | 10:235. | R.S. 1122. |

The words "and shall be on the same footing with other officers of the Army, as to tenure of office, retirement, and pensions" are omitted as obsolete, since there is no distinction between the status of a chaplain as an officer and the status of other officers of the Air Force.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8581 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9233. Requirement of exemplary conduct

All commanding officers and others in authority in the Air Force and in the Space Force are required—

(1) to show in themselves a good example of virtue, honor, patriotism, and subordination;

(2) to be vigilant in inspecting the conduct of all persons who are placed under their command;

(3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Air Force or the Space Force, respectively, all persons who are guilty of them; and

(4) to take all necessary and proper measures, under the laws, regulations, and customs of the Air Force or the Space Force, respectively, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

(Added Pub. L. 105–85, div. A, title V, §507(b)(1), Nov. 18, 1997, 111 Stat. 1727, §8583; renumbered §9233, Pub. L. 115–232, div. A, title VIII, §806(b)(7), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(c)(7), Jan. 1, 2021, 134 Stat. 3811.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §923(c)(7)(A), inserted "and in the Space Force" after "the Air Force" in introductory provisions.

Pars. (3), (4). Pub. L. 116–283, §923(c)(7)(B), inserted "or the Space Force, respectively" after "the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8583 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 929—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
9239. Enlisted members: officers not to use as servants.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 849 of this title as this chapter and item 8639 as 9239.

**2008**—Pub. L. 110–181, div. A, title V, §590(b)(2)(C), Jan. 28, 2008, 122 Stat. 138, struck out item 8634 "Air Force band: may not be paid for performance outside air base".

**1980**—Pub. L. 96–513, title V, §514(4), Dec. 12, 1980, 94 Stat. 2935, struck out items 8632 "Members of Air Force: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs", 8633 "Commissioned officers: forfeiture of pay when dropped from rolls", and 8636 "Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge".

**1968**—Pub. L. 90–235, §§6(a)(10), 7(b)(5), Jan. 2, 1968, 81 Stat. 762, 763, struck out items 8631 "Dealing in quartermaster supplies prohibited", 8635 "Enlisted members: restriction on civilian employment", and 8637 "Enlisted members: forfeiture of right to pension by deserters".

**1958**—Pub. L. 85–861, §§1(186), 33(a)(40), Sept. 2, 1958, 72 Stat. 1533, 1566, substituted "8632" for "8362" in item 8632, and struck out item 8638 "Enlisted members: required to make up time lost".

## §9239. Enlisted members: officers not to use as servants

No officer of the Air Force or the Space Force may use an enlisted member of the Air Force or the Space Force as a servant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 533, §8639; renumbered §9239, Pub. L. 115–232, div. A, title VIII, §806(b)(8), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(c)(8), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8639 | 10:608. | R.S. 1232. |

The words "in any case whatever" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force" in two places.

**2018**—Pub. L. 115–232 renumbered section 8639 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 933—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
9251. Presentation of United States flag upon retirement.
9252. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
9253. Flying officer rating: qualifications.
9254. Authority to designate certain separated members of the Air Force as honorary separated members of the Space Force.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 933, consisting of sections 9531 to 9541, related to procurement, prior to renumbering as chapter 963 of this title.

### AMENDMENTS

**2024**—Pub. L. 118–159, div. A, title V, §525, Dec. 23, 2024, 138 Stat. 1885, added item 9254. Amendment was made pursuant to operation of section 102 of this title.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 853 of this title as this chapter and items 8681, 8684, and 8691 as 9251, 9252, and 9253, respectively.

**1998**—Pub. L. 105–261, div. A, title VI, §644(c)(2), Oct. 17, 1998, 112 Stat. 2049, added item 8681.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(6), Oct. 5, 1994, 108 Stat. 3016, struck out item 8686 "Members of Air National Guard of United States: credit for service as members of Air National Guard".

**1986**—Pub. L. 99–661, div. A, title VI, §604(f)(1)(B)(iv), Nov. 14, 1986, 100 Stat. 3877, struck out item 8687 "Compensation: members of Air Force other than of regular Air Force; when same as that provided for members of Regular Air Force".

**1985**—Pub. L. 99–145, title XIII, §1301(d)(1)(B), Nov. 8, 1985, 99 Stat. 736, struck out item 8683 "Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted".

**1980**—Pub. L. 96–513, title V, §514(5), Dec. 12, 1980, 94 Stat. 2935, struck out item 8689 "Assignments and allotments of pay".

**1971**—Pub. L. 92–168, §3(2), Nov. 24, 1971, 85 Stat. 489, struck out item 8692 "Pilot rating in time of peace: qualifications".

**1968**—Pub. L. 90–235, §§6(a)(5), 7(a)(6), (b)(6), Jan. 2, 1968, 81 Stat. 762, 763, struck out items 8682 "Service credit: officers; service as cadet not counted", 8685 "Regular Air Force; Air Force Reserve: female

members; definition of 'dependents' ", 8690 "Exemption from arrest for debt: enlisted members", and 8693 "Replacement of certificates of discharge".

**1958**—Pub. L. 85–861, §1(189), Sept. 2, 1958, 72 Stat. 1534, struck out items 8681 "Air Force Register: Regular Air Force officers; service to be listed" and 8688 "Death gratuity".

## §9251. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Air Force or the Space Force from active duty for retirement, the Secretary of the Air Force shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 105–261, div. A, title VI, §644(c)(1), Oct. 17, 1998, 112 Stat. 2049, §8681; amended Pub. L. 106–65, div. A, title VI, §652(e), Oct. 5, 1999, 113 Stat. 666; renumbered §9251, Pub. L. 115–232, div. A, title VIII, §806(b)(9), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(9), Jan. 1, 2021, 134 Stat. 3811.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8681 of this title as this section.

**1999**—Subsec. (b). Pub. L. 106–65 substituted "under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement." for "under this section or section 3681 or 6141 of this title or section 516 of title 14."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable with respect to releases from active duty described in this section, sections 7251 and 8261 of this title, and section 2748 of Title 14, Coast Guard, on or after Oct. 1, 1998, see section 644(e) of Pub. L. 105–261, set out as a note under section 7251 of this title.

## §9252. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Air Force or the Space Force is entitled to count active service as an officer in the Air Force, in the Space Force, and in the Army, as enlisted service for all purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 535, §8684; renumbered §9252, Pub. L. 115–232, div. A, title VIII, §806(b)(9), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(10), Jan. 1, 2021, 134 Stat. 3811; Pub. L. 118–31, div. A, title XVII, §1721(a)(4), Dec. 22, 2023, 137 Stat. 665.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8684 | 10:631a (last proviso). | July 14, 1939, ch. 267, §1 (last proviso); restated May 29, 1954, ch. 249, §19(b) (last proviso), 68 Stat. 166. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 struck out "Regular" before "Space Force is entitled".

**2021**—Pub. L. 116–283 inserted "or the Regular Space Force" after "Regular Air Force" and "in the Space Force," after "in the Air Force,".

**2018**—Pub. L. 115–232 renumbered section 8684 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9253. Flying officer rating: qualifications

Only officers of the Air Force in the following categories may be rated as flying officers:

(1) Officers who have aeronautical ratings as pilots of service types of aircraft or as aircraft observers.

(2) Flight surgeons.

(3) Officers undergoing flight training.

(4) Officers who are members of combat crews, other than pilots of service types of aircraft, aircraft observers, and observers.

(5) In time of war, officers who have aeronautical ratings as observers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 538, §8691; renumbered §9253, Pub. L. 115–232, div. A, title VIII, §806(b)(9), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8691 | 10:291c.<br>10:291c–1.<br>10:291e. | June 3, 1916, ch. 134, §13a (8th, 9th, and 11th provisos); added July 2, 1926, ch. 721, §2 (4th sentence, less 2d proviso), 44 Stat. 781; June 16, 1936, ch. 587, §3, 49 Stat. 1524; Oct. 4, 1940, ch. 742 (last proviso), 54 Stat. 963.<br>June 24, 1948, ch. 632 (2d proviso under "Finance Department"), 62 Stat. 650. |

10:291c (proviso) and the words "after June 30, 1948", in 10:291c–1, are omitted as executed. The definition of the term "flying officer", in 10:291c, originally was a definition of the term "flying officer in time of peace" as provided by section 2 of the Act of July 2, 1926, ch. 721, 44 Stat. 781. Section 1 of the Act of

October 4, 1940, ch. 742, 54 Stat. 963, eliminated the words "in time of peace". As a consequence of that amendment, 10:291e (1st 26 words) is omitted as surplusage. Clause (2) is substituted for 10:291c–1 (less last 10 words). The words "commissioned officers or warrant", in 10:291c–1, are omitted as surplusage. In clause (4), the last 19 words are substituted for the words "any other".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8691 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9254. Authority to designate certain separated members of the Air Force as honorary separated members of the Space Force

(a) AUTHORITY.—The Secretary of the Air Force may prescribe regulations that authorize an eligible individual to be designated as an honorary separated member of the Space Force. An eligible individual so designated may be referred to as a "Legacy Guardian".

(b) ELEMENTS.—Regulations prescribed under this section may include the following elements:

(1) Eligibility criteria, including applicable dates of service and constructive service credit, for designation under this section.

(2) An application process through which an eligible individual, or a survivor of a deceased eligible individual, may apply for such designation of such eligible individual.

(3) A certificate, approved device, or other insignia of such designation.

(c) RULE OF CONSTRUCTION.—Designation of an eligible individual under this section shall not be construed to entitle such eligible individual to any benefit in addition to those established by this section or pursuant to regulations prescribed under this section.

(d) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means an individual—

(1) whom the Secretary of the Air Force determines served in support of space operations as a member of the Air Force; and

(2) who separates (or previously separated) from the armed forces as a member of the Air Force.

(Added Pub. L. 118–159, div. A, title V, §525, Dec. 23, 2024, 138 Stat. 1885.)

# CHAPTER 935—HOSPITALIZATION

Sec.
9263. When Secretary may require.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 935, consisting of sections 9561 to 9565, related to issue of serviceable material to Armed Forces, prior to renumbering as chapter 965 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833,

redesignated chapter 855 of this title as this chapter and item 8723 as 9263.

**1986**—Pub. L. 99–661, div. A, title VI, §604(f)(1)(B)(v), Nov. 14, 1986, 100 Stat. 3877, struck out item 8721 "Members of Air Force, other than of Regular Air Force" and item 8722 "Members of C.A.T.C.; members of Air Force not covered by section 8721 of this title".

**1958**—Pub. L. 85–861, §1(190)(D), Sept. 2, 1958, 72 Stat. 1534, struck out reference to members of the A.F.R.O.T.C. in item 8722.

## §9263. When Secretary may require

The Secretary of the Air Force may order the hospitalization, medical and surgical treatment, and domiciliary care for as long as necessary, of any member of the Air Force or the Space Force on active duty, and may incur obligations with respect thereto, whether or not the member incurred an injury, illness, or disease in line of duty, except in the case of a member treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

(Aug. 10, 1956, ch. 1041, 70A Stat. 539, §8723; Pub. L. 99–661, div. A, title VI, §604(f)(1)(D), Nov. 14, 1986, 100 Stat. 3878; Pub. L. 100–26, §7(j)(11), Apr. 21, 1987, 101 Stat. 283; renumbered §9263, Pub. L. 115–232, div. A, title VIII, §806(b)(10), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(11), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8723 | 10:455e.<br>32:164d. | July 15, 1939, ch. 282; restated Oct. 14, 1940, ch. 875, §5, 54 Stat. 1137. |

The words "under such regulations as he may prescribe", in 10:455e and 32:164d, are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The references to 10:455a–455d and 32:164a–164c, and the words "nor any other law of the United States shall be construed as limiting the power and authority", are omitted, since the revised section makes explicit the authority of the Secretary to require the prescribed hospitalization and care. The words "or in training, under the provisions of sections 62—" are omitted as covered by the words "active duty". The words "so long as any or all are necessary" and "in the active military service" are omitted as surplusage. With the exception of 32:62 (4th proviso of last sentence), the references to 32:62–65, 144–146, 183, and 186, in 10:455e and 32:164d, do not refer to members of the Air National Guard of the United States and are therefore omitted from the revised section. 10:455e (1st proviso) and 32:164d (1st proviso) are omitted, since they apply only to the National Guard and are covered by section 320 of title 32.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8723 of this title as this section.

**1987**—Pub. L. 100–26 struck out comma after "disease".

**1986**—Pub. L. 99–661 substituted "incurred an injury, illness, or disease" for "was injured, or contracted a disease".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to persons who, after Nov. 14, 1986, incur or

aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

# CHAPTER 937—DECORATIONS AND AWARDS

Sec.
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## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 937, consisting of sections 9591 to 9594, related to utilities and services, prior to renumbering as chapter 967 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(A), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 857 of this title as this chapter and items 8741 to 8756 as 9271 to 9286, respectively.

**2004**—Pub. L. 108–375, div. A, title X, §1084(d)(33), Oct. 28, 2004, 118 Stat. 2063, renumbered item 8755 "Korea Defense Service Medal" as 8756.

**2002**—Pub. L. 107–314, div. A, title V, §543(d)(2), Dec. 2, 2002, 116 Stat. 2550, added item 8755 "Korea Defense Service Medal".

Pub. L. 107–248, title VIII, §8143(c)(3)(B), Oct. 23, 2002, 116 Stat. 1571, added item 8755 "Medal of honor: presentation of Medal of Honor Flag".

**2001**—Pub. L. 107–107, div. A, title V, §553(c)(1)(B), Dec. 28, 2001, 115 Stat. 1116, added item 8754.

**1960**—Pub. L. 86–593, §1(7), July 6, 1960, 74 Stat. 332, substituted "Air Force cross" for "distinguished-service cross" in items 8742, 8744, and 8745, inserted "Air Force cross;" in items 8747 and 8748, and substituted "Airman's Medal" for "Soldier's Medal" in item 8750.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EXTENSION OF TIME FOR AWARD OF DECORATION

For extension of time for award of decorations, or devices in lieu of decorations, for acts or services performed in direct support of military operations in Southeast Asia between July 1, 1958, and Mar. 28, 1973, see Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, set out as a note preceding section 7271 of this title.

For extension of time for award of decoration, or device in lieu of decoration, for an act or service performed while on active duty in military or naval forces, or while serving with such forces, between June 27, 1950, and July 27, 1953, see act Aug. 2, 1956, ch. 877, 70 Stat. 933, set out as a note preceding section 7271 of this title.

**EXECUTIVE DOCUMENTS**

**MERITORIOUS SERVICE MEDAL**

Establishment of, see Ex. Ord. No. 11448, set out as a note preceding section 1121 of this title.

## §9271. Medal of honor: award

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the Air Force or the Space Force, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 540, §8741; Pub. L. 88–77, §3(1), July 25, 1963, 77 Stat. 94; renumbered §9271, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(i), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8741 | 10:1403. | July 9, 1918, ch. 143, (8th par. under "Ordnance Department"), 40 Stat. 870. |

The words "That the provisions of existing law relating to the award of medals of honor to officers, noncommissioned officers, and privates of the Army be, and they hereby are, amended so that", in the Act of July 9, 1918, ch. 143 (8th par. under "Ordnance Department"), 40 Stat. 870, are not contained in 10:1403. They are also omitted from the revised section as surplusage. The word "member" is substituted for the words "officer or enlisted man". The word "only" is omitted as surplusage. The word "award" is inserted for clarity, since the President determines the recipient of the medal in addition to presenting it.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 8741 of this title as this section.

**1963**—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons distinguished themselves in action involving actual conflict with an enemy, to permit its award for distinguished service while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9272. Air Force cross: award

The President may award an Air Force cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Air Force or the Space Force, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 540, §8742; Pub. L. 86–593, §1(1), July 6, 1960, 74 Stat. 331; Pub. L. 88–77, §3(2), July 25, 1963, 77 Stat. 94; renumbered §9272, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(ii), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8742 | 10:1406. | July 9, 1918, ch. 143 (9th par. under "Ordnance Department"), 40 Stat. 870. |

The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The words "since the 6th day of April, 1917" are omitted as executed. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal, and to conform to other sections of this chapter. The words "or herself" are omitted, since, under section 1 of title 1, words importing the masculine gender include the feminine. The words "or who shall hereafter distinguish" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 8742 of this title as this section.

**1963**—Pub. L. 88–77 enlarged the authority to award the Air Force cross, which was limited to those cases in which persons distinguished themselves in connection with military operations against an armed enemy, to permit its award for extraordinary heroism not justifying the award of a medal of honor, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

**1960**—Pub. L. 86–593 substituted "Air Force cross" for "Distinguished-service cross" in section catchline, and substituted "an Air Force cross" for "a distinguished-service cross" in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**REFERENCES TO DISTINGUISHED-SERVICE CROSS AND SOLDIER'S MEDAL CONSIDERED MADE TO AIR FORCE CROSS AND AIRMAN'S MEDAL**

Pub. L. 86–593, §3, July 6, 1960, 74 Stat. 332, provided that: "References that other laws, regulations, and orders make, with respect to the Air Force, to the distinguished-service cross and the Soldier's Medal shall be considered to be made to the Air Force cross and the Airman's Medal, respectively."

## §9273. Distinguished-service medal: award

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Air Force or the Space Force, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

(Aug. 10, 1956, ch. 1041, 70A Stat. 540, §8743; renumbered §9273, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(iii), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8743 | 10:1407. | July 9, 1918, ch. 143 (10th par., less words after 1st semicolon, under "Ordnance Department"), 40 Stat. 870. |

The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The words "since the 6th day of April, 1917" are omitted as executed. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal, and to conform to other sections of this chapter. The words "or herself" are omitted, since, under section 1 of title 1, words importing the masculine gender include the feminine. The words "or who shall distinguish" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".
**2018**—Pub. L. 115–232 renumbered section 8743 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9274. Medal of honor; Air Force cross; distinguished-service medal: limitations on award

(a) No more than one Air Force Cross or distinguished-service medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal or cross, the President may award a suitable bar or other device to be worn as he directs.

(b) Except as provided in subsection (c), no medal of honor, Air Force cross, distinguished-service medal, or device in place thereof, may be awarded to a person unless—

(1) the award is made within five years after the date of the act justifying the award;

(2) a statement setting forth the distinguished service and recommending official recognition of it was made within three years after the distinguished service; and

(3) it appears from records of the Department of the Air Force that the person is entitled to the award.

(c) If the Secretary of the Air Force determines that—

(1) a statement setting forth the distinguished service and recommending official recognition of it was made and supported by sufficient evidence within three years after the distinguished service; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted on;

a medal of honor, Air Force cross, distinguished-service medal, or device in place thereof, as the case may be, may be awarded to the person concerned within two years after the date of that determination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 540, §8744; Pub. L. 86–582, §1(3), July 5, 1960, 74 Stat. 320; Pub. L. 86–593, §1(2), July 6, 1960, 74 Stat. 331; Pub. L. 113–66, div. A, title V, §§561(c), 562(b), Dec. 26, 2013, 127 Stat. 766; renumbered §9274, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–92, div. A, title V, §582(b)(3), Dec. 20, 2019, 133 Stat. 1412.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8744(a) | 10:1411. | July 9, 1918, ch. 143 (12th par., less words after 2d semicolon, under "Ordnance Department"); restated Jan. 24, 1920, ch. 55, §1 (less last sentence), 41 Stat. 398. |
| 8744(b) | 10:1409 (words before 1st semicolon). | July 9, 1918, ch. 143 (less words between 1st and 2d semicolons of 15th par. under "Ordnance Department"), 40 Stat. 871. |
| 8744(c) | 10:1409 (words after 2d semicolon). | |

In subsection (a), the words "may be awarded to a person" are substituted for the words "shall be issued to any one person" to conform to the other subsections of the revised section.

In subsection (b), the word "thereof" is substituted for the words "of either of said medal or of said cross". The words "Except as otherwise prescribed in this section", "at the time of", "specific", "official", and "has so distinguished himself as" are omitted as surplusage.

In subsection (c), 10:1409 (words after 3d semicolon) is omitted as executed. The words "hereinbefore authorized" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (b). Pub. L. 116–92, §582(b)(3)(A), substituted "subsection (c)" for "subsection (d)" in introductory provisions.

Subsecs. (c), (d). Pub. L. 116–92, §582(b)(3)(B), (C), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "No medal of honor, Air Force cross, distinguished-service medal, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable."

**2018**—Pub. L. 115–232 renumbered section 8744 of this title as this section.

**2013**—Subsec. (a). Pub. L. 113–66, §561(c), substituted "Air Force Cross" for "medal of honor, Air Force cross,".

Subsec. (b)(1). Pub. L. 113–66, §562(b)(1)(A), substituted "five years" for "three years".

Subsec. (b)(2). Pub. L. 113–66, §562(b)(1)(B), substituted "three years" for "two years".

Subsec. (d)(1). Pub. L. 113–66, §562(b)(2), substituted "three years" for "two years".

**1960**—Pub. L. 86–593 substituted "Air Force cross" for "distinguished-service cross" in section catchline and wherever appearing in subsecs. (a) to (d).

Subsec. (b). Pub. L. 86–582, §1(3)(A), substituted "Except as provided in subsection (d), no" for "No".

Subsec. (d). Pub. L. 86–582, §1(3)(B), added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**PERSONS AWARDED DISTINGUISHED-SERVICE CROSS OR SOLDIER'S MEDAL BEFORE JULY 6, 1960**

Pub. L. 86–593, §2, July 6, 1960, 74 Stat. 332, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(12), Aug. 13, 2018, 132 Stat. 1841, provided that: "For the purposes of sections 9274(a) and 9280(b) of title 10, United States Code, a person who was awarded a distinguished-service cross or Soldier's Medal before the date of enactment of this Act [July 6, 1960] shall be treated as if he had not been awarded an Air Force cross or Airman's Medal, as the case may be."

## §9275. Medal of honor; Air Force cross; distinguished-service medal: delegation of power to award

The President may delegate his authority to award the medal of honor, Air Force cross, and distinguished-service medal, to a commanding general of a separate air force or higher unit in the field, or to an equivalent commander of a separate space force or higher unit in the field.

(Aug. 10, 1956, ch. 1041, 70A Stat. 541, §8745; Pub. L. 86–593, §1(3), July 6, 1960, 74 Stat. 332; renumbered §9275, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(12)(B), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8745 | 10:1410. | July 9, 1918, ch. 143 (16th par., less words after semicolon, under "Ordnance Department"), 40 Stat. 872. |

The words "under such conditions, regulations, and limitations as he shall prescribe" are omitted as surplusage. The words "his authority" are substituted for the words "the power conferred upon him by sections 1403, 1406–1408, 1409–1412, 1416, 1420, 1422, 1423, and 1424 of this title".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted before period at end ", or to an equivalent commander of a separate space force or higher unit in the field".

**2018**—Pub. L. 115–232 renumbered section 8745 of this title as this section.

**1960**—Pub. L. 86–593 substituted "Air Force cross" for "distinguished-service cross" in section catchline and in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9276. Silver star: award

The President may award a silver star of appropriate design, with ribbons and appurtenances, to a

person who, while serving in any capacity with the Air Force or the Space Force, is cited for gallantry in action that does not warrant a medal of honor or Air Force cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 541, §8746; Pub. L. 88–77, §3(3), July 25, 1963, 77 Stat. 95; renumbered §9276, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(iv), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8746 | 10:1412. | July 9, 1918, ch. 143 (words after 2d semicolon of 12th par. under "Ordnance Department"); restated Jan. 24, 1920, ch. 55, §1 (last sentence); restated Dec. 15, 1942, ch. 736, 56 Stat. 1052. |

The words "may award" are inserted to conform to other sections of this chapter. The words "if the person earned" are inserted for clarity. The words "commanded by" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 8746 of this title as this section.

**1963**—Pub. L. 88–77 substituted provisions permitting the issuance of a silver star for gallantry while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and requiring it to be of appropriate design, for provisions which authorized the issuance of the silver star for gallantry in action and which required that the silver star be three-sixteenths of an inch in diameter, the citation thereof be published in orders issued from the headquarters of a force that is the appropriate command of a general officer, and that it be worn as directed by the President.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9277. Medal of honor; Air Force cross; distinguished-service cross; distinguished-service medal; silver star: replacement

Any medal of honor, Air Force cross, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is stolen, lost, or destroyed, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 541, §8747; Pub. L. 86–593, §1(4), July 6, 1960, 74 Stat. 332; Pub. L. 107–107, div. A, title V, §553(c)(2), Dec. 28, 2001, 115 Stat. 1116; renumbered §9277, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8747 | 10:1416. | July 9, 1918, ch. 143 (14th par. under "Ordnance Department"), 40 Stat. 871. |

The words "issued for wear with or in place of any of them" are inserted for clarity. The words "presented under the provisions of this title" and "such medal, cross, bar, ribbon, rosette, or device" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8747 of this title as this section.
**2001**—Pub. L. 107–107 substituted "stolen, lost," for "lost".
**1960**—Pub. L. 86–593 inserted "Air Force cross" in section catchline and in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9278. Medal of honor; Air Force cross; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations

The Secretary of the Air Force may spend, from any appropriation for contingent expenses of the Department of the Air Force, amounts necessary to provide medals and devices under sections 9271, 9272, 9273, 9274, 9276, 9277, and 9282 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 541, §8748; Pub. L. 86–593, §1(5), July 6, 1960, 74 Stat. 332; renumbered §9278 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8748 | 10:1424. | July 9, 1918, ch. 143 (13th par. under "Ordnance Department"), 40 Stat. 871. |

The word "amounts" is substituted for the words "so much as may be". The word "provides" is substituted for the words "defray the cost of". The words "medals and devices under" are substituted for the words "medals of honor, distinguished-service crosses, distinguished-service medals, bars, rosettes, and other devices provided for in". The words "from time to time" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8748 of this title as this section and substituted "sections 9271, 9272, 9273, 9274, 9276, 9277, and 9282" for "sections 8741, 8742, 8743, 8744, 8746, 8747, and 8752".
**1960**—Pub. L. 86–593 inserted "Air Force cross" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9279. Distinguished flying cross: award; limitations

(a) The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Air Force or Space Force, distinguishes himself by heroism or extraordinary achievement while participating in an aerial or space flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 541, §8749; renumbered §9279, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–92, div. A, title V, §582(b)(4), Dec. 20, 2019, 133 Stat. 1412; Pub. L. 118–159, div. A, title V, §521(k)(1), Dec. 23, 2024, 138 Stat. 1882.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8749(a) | 10:1429 (less 2d and last sentences). | July 2, 1926, ch. 721, §12 (less 1st 49 words of last sentence), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549. |
| 8749(b) | 10:1429 (2d sentence). | |
| 8749(c) | 10:1429 (last sentence, less 1st 49 words). | |

In subsection (a), the words "under such rules and regulations as he may prescribe" are omitted, since the President has inherent authority to issue regulations appropriate to exercising his functions. The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal. The words "since the 6th day of April, 1917, has distinguished, or who, after July 2, 1926" and 10:1429 (proviso of 1st sentence) are omitted as executed.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a). Pub. L. 118–159 inserted "or Space Force" after "Air Force" and "or space" after "aerial".

**2019**—Subsec. (c). Pub. L. 116–92 struck out subsec. (c) which read as follows: "No distinguished flying cross, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable."

**2018**—Pub. L. 115–232 renumbered section 8749 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9280. Airman's Medal: award; limitations

(a)(1) The President may award a decoration called the "Airman's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Air Force or Space Force, distinguishes himself by heroism not involving actual conflict with an enemy.

(2) The authority in paragraph (1) includes authority to award the medal to a member of the Ready Reserve who was not in a duty status defined in section 101(d) of this title when the member distinguished himself by heroism.

(b) Not more than one Airman's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 542, §8750; Pub. L. 86–593, §1(6), July 6, 1960, 74 Stat. 332; Pub. L. 105–85, div. A, title V, §574(c), Nov. 18, 1997, 111 Stat. 1758; renumbered §9280, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 118–159, div. A, title V, §521(k)(2), Dec. 23, 2024, 138 Stat. 1882.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8750(a) | 10:1428 (less last sentence). | July 2, 1926, ch. 721, §11, 44 Stat. 789. |
| 8750(b) | 10:1428 (last sentence). | |

The words "Under such rules and regulations as he may prescribe" are omitted, since the President has inherent authority to issue regulations appropriate to exercising his functions. The words "but not in the name of Congress" are omitted as surplusage, since a medal is presented in the name of Congress only if the law so directs. The word "award" is substituted for the word "present" to cover the determination of the recipients as well as the actual presentation of the medal. The words "a decoration called" are substituted for the words "a medal to be known as". The words "including the National Guard and the Organized Reserves" are omitted as surplusage. The words "or herself" are omitted, since, under section 1 of title 1, words importing the masculine gender include the feminine. The words "after July 2, 1926" are omitted as executed.

In subsection (b), the words "that would otherwise justify" are substituted for the words "sufficient to".

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a)(1). Pub. L. 118–159 inserted "or Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 8750 of this title as this section.

**1997**—Subsec. (a). Pub. L. 105–85 designated existing provisions as par. (1) and added par. (2).

**1960**—Pub. L. 86–593 substituted "Airman's Medal" for "Soldier's Medal" in section catchline and wherever appearing in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9281. Service medals: issue; replacement; availability of appropriations

(a) The Secretary of the Air Force shall procure, and issue without charge to any person entitled thereto, any service medal authorized for members of the Air Force or the Space Force after September 26, 1947, and any ribbon, clasp, star, or similar device prescribed as a part of that medal.

(b) Under such regulations as the Secretary may prescribe, any medal or other device issued under

subsection (a) that is lost, destroyed, or becomes unfit for use without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Air Force or the Space Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Air Force or the Space Force, amounts necessary to provide medals and devices under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 542, §8751; renumbered §9281, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(v), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8751(a) | 10:1415a (less 21st through 30th words, and less clauses (a) through (n)). | May 12, 1928, ch. 528, §§1 (less 25th through 34th words, and less clauses (a) through (n)), 2 (less applicability to §1 (clauses (a) through (n))), 3 (less applicability to §1 (clauses (a) through (n))), 45 Stat. 500. |
| 8751(b) | 10:1415b (less applicability to 10:1415a (clauses (a) through (n))). | |
| 8751(c) | 10:1415c (less applicability to 10:1415a (clauses (a) through (n))). | |

In subsection (a), the words "authorized for members of the Air Force after September 26, 1947" are substituted for the words "hereafter authorized", since, under Transfer Order 1, that date was the effective date of the transfer of personnel from the Army to the Air Force under section 208(e) of the National Security Act of 1947, as amended (5 U.S.C. 626c(e)). 10:1415a (proviso) is omitted as surplusage, since the revised section is not limited to persons who are members of the Air Force at the time of the issue.

In subsection (b), the words "member of the Air Force" are substituted for the words "persons in the military service of the United States".

In subsection (c), the last 16 words are substituted for 10:1415c (last 16 words).

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" wherever appearing after the first appearance.

**2018**—Pub. L. 115–232 renumbered section 8751 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9282. Medals: posthumous award and presentation

(a) If a person dies before the award of a medal of honor, distinguished-service cross, distinguished-service medal, distinguished flying cross, or device in place thereof, to which he is entitled, the award may be made and the medal or device presented to his representative, as designated by the President.

(b) If a person dies before an authorized service medal or device prescribed as a part thereof is presented to him under section 9281 of this title, it shall be presented to his family.

(Aug. 10, 1956, ch. 1041, 70A Stat. 542, §8752; Pub. L. 85–861, §33(a)(23), Sept. 2, 1958, 72 Stat.

1565; renumbered §9282 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8752(a) | 10:1409 (words between 1st and 2d semicolons).<br>10:1429 (1st 49 words of last sentence). | July 9, 1918, ch. 143 (words between 1st and 2d semicolons of 15th par. under "Ordnance Department"), 40 Stat. 871. |
| 8752(b) | 10:1415a (21st through 30th words, less applicability to clauses (a) through (n)). | July 2, 1926, ch. 721, §12 (1st 49 words of last sentence), 44 Stat. 789; July 30, 1937, ch. 545, §4, 50 Stat. 549.<br>May 12, 1928, ch. 528, §1 (25th through 34th words, less applicability to clauses (a) through (n)), 45 Stat. 500. |

In subsection (a), the words "If a person" are substituted for the words "In case an individual * * * dies", in 10:1409, and "In case an individual * * * shall have died", in 10:1429. The words "within three years from the date", in 10:1409, are omitted as covered by section 8744 of this title. The words "who shall distinguish himself", in 10:1409, and "who distinguishes himself", in 10:1429, are omitted as covered by the words "the award * * * to which he is entitled".

**1958 ACT**

The change reflects the fact that the source statute for these sections (sec. 1 of the Act of May 12, 1928, ch. 528, 45 Stat. 500) was mandatory and not merely permissive.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(b)(11), renumbered section 8752 of this title as this section.
Subsec. (b). Pub. L. 115–232, §809(a), substituted "section 9281" for "section 8751".
**1958**—Subsec. (b). Pub. L. 85–861 substituted "it shall be presented" for "it may be presented".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §9284. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Air Force may determine, as a duplicate or for display purposes only.

(Added Pub. L. 107–107, div. A, title V, §553(c)(1)(A), Dec. 28, 2001, 115 Stat. 1116, §8754;

renumbered §9284, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8754 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9285. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 9271 of this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 9271 or 9282(a) of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.

(Added Pub. L. 107–248, title VIII, §8143(c)(3)(A), Oct. 23, 2002, 116 Stat. 1570, §8755; amended Pub. L. 107–314, div. A, title X, §1062(a)(16), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–364, div. A, title V, §555(a), Oct. 17, 2006, 120 Stat. 2217; renumbered §9285 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(11), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8755 of this title as this section and substituted "section 9271" for "section 8741" and "section 9271 or 9282(a)" for "section 8741 or 8752(a)".

**2006**—Pub. L. 109–364 struck out "after October 23, 2002" after "section 8741 of this title" and inserted at end "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented."

**2002**—Pub. L. 107–314 substituted "October 23, 2002" for "the date of the enactment of this section".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR**

President to provide for the presentation of the Medal of Honor Flag to living recipients of the Medal of Honor as expeditiously as possible after Oct. 17, 2006, and for posthumous presentation to survivors of deceased recipients upon written application therefor, see section 555(b) of Pub. L. 109–364, set out as a note under section 7285 of this title.

## §9286. Korea Defense Service Medal

(a) The Secretary of the Air Force shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Air Force or the Space Force

served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

(b) In this section, the term "KDSM eligibility period" means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

(c) The Secretary of the Air Force shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.

(Added Pub. L. 107–314, div. A, title V, §543(d)(1), Dec. 2, 2002, 116 Stat. 2550, §8755; renumbered §8756, Pub. L. 108–375, div. A, title X, §1084(d)(33), Oct. 28, 2004, 118 Stat. 2063; renumbered §9286, Pub. L. 115–232, div. A, title VIII, §806(b)(11), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(c)(12)(A)(vi), Jan. 1, 2021, 134 Stat. 3811.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 107–314, which was approved Dec. 2, 2002.

#### PRIOR PROVISIONS

Prior sections 9301 to 9306 were renumbered sections 9401 to 9406 of this title, respectively.

#### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8756 of this title as this section.

**2004**—Pub. L. 108–375 renumbered section 8755 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 939—SEPARATION FOR VARIOUS REASONS

Sec.
9307. Aviation cadets: discharge.

### EDITORIAL NOTES

#### PRIOR PROVISIONS

A prior chapter 939, consisting of sections 9621 to 9629, related to sale of serviceable material, prior to renumbering as chapter 969 of this title.

#### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(i), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 861 of this title as this chapter and item 8817 as 9307.

**1994**—Pub. L. 103–337, div. A, title XVI, §1674(b)(7), Oct. 5, 1994, 108 Stat. 3016, struck out items 8819 "Reserve officers: discharge for failure of promotion to first lieutenant" and 8820 "Air National Guard of United States officers: discharge".

**1980**—Pub. L. 96–513, title V, §504(16), Dec. 12, 1980, 94 Stat. 2917, struck out items 8814 "Regular commissioned officers: discharge during three-year probationary period" and 8818 "Regular female members:

termination of appointment or enlistment".

**1968**—Pub. L. 90–235, §3(a)(5), (b)(7), Jan. 2, 1968, 81 Stat. 758, struck out items 8811 "Air Force enlisted members: discharge certificate; limitations on discharge", 8812 "Air Force enlisted members: during war or emergency; discharge", 8813 "Air Force enlisted members: dependency discharge", 8815 "Regular enlisted members: resignation of members enlisted on career basis; limitations", and 8816 "Regular enlisted members: minority discharge".

**1958**—Pub. L. 85–861, §1(191)(B), Sept. 2, 1958, 72 Stat. 1534, added item 8819.

## §9307. Aviation cadets: discharge

The Secretary of the Air Force may discharge an aviation cadet at any time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 545, §8817; renumbered §9307, Pub. L. 115–232, div. A, title VIII, §806(b)(12), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8817 | 10:299 (last sentence). | June 3, 1941, ch. 165, §3 (last sentence), 55 Stat. 239. |

10:299 (last sentence, less 1st 14 words) is omitted as superseded by section 681 of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8817 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 941—RETIREMENT FOR LENGTH OF SERVICE

Sec.
9311. Twenty years or more: regular or reserve commissioned officers.
9314. Twenty to thirty years: enlisted members.
9317. Thirty years or more: regular enlisted members.
9318. Thirty years or more: regular commissioned officers.
9320. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy.
9321. Mandatory retirement: Superintendent of the United States Air Force Academy; waiver authority.
9324. Forty years or more: Air Force officers and Space Force officers.
9325. Computation of years of service: voluntary retirement; enlisted members.
9326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers.
9329. Computation of retired pay: law applicable.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 941, consisting of sections 9651 to 9656, related to issue of serviceable material other than to Armed Forces, prior to renumbering as chapter 971 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title IX, §923(c)(17)(C), Jan. 1, 2021, 134 Stat. 3812, added item 9324 and struck out former item 9324 "Forty years or more: Air Force officers".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(ii), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 867 of this title as this chapter and items 8911, 8914, 8917, 8918, 8920, 8921, 8924 to 8926, and 8929 as 9311, 9314, 9317, 9318, 9320, 9321, 9324 to 9326, and 9329, respectively.

**2004**—Pub. L. 108–375, div. A, title V, §541(c)(3)(B), Oct. 28, 2004, 118 Stat. 1904, inserted "; waiver authority" after "Academy" in item 8921.

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(E), Oct. 5, 1999, 113 Stat. 604, added item 8921.

**1996**—Pub. L. 104–106, div. A, title V, §509(b)(2), Feb. 10, 1996, 110 Stat. 298, substituted "permanent professors and the Director of Admissions" for "professors" in item 8920.

**1980**—Pub. L. 96–513, title V, §504(17), Dec. 12, 1980, 94 Stat. 2917, struck out items 8913 "Twenty years or more: deferred officers not recommended for promotion", 8915 "Twenty-eight years: deferred retirement of nurses and medical specialists in regular grade of major", 8916 "Twenty-eight years: promotion-list lieutenant colonels", 8919 "Thirty years or more: regular commissioned officers; excessive number", 8921 "Thirty years or five years in grade: promotion-list colonels", 8922 "Thirty years or five years in grade: regular brigadier generals", 8923 "Thirty-five years or five years in grade: regular major generals", and 8927 "Computation of years of service: mandatory retirement; regular commissioned officers".

Pub. L. 96–343, §9(b)(3), Sept. 8, 1980, 94 Stat. 1129, struck out "regular" before "enlisted members" in items 8914 and 8925.

**1967**—Pub. L. 90–130, §1(32)(C), Nov. 8, 1967, 81 Stat. 383, substituted "Twenty-eight years: deferred retirement of nurses and medical specialists in regular grade of major" for "Twenty-five years: female majors except those designated under section 8067(a)–(d) or (g)–(i) of this title; male majors designated under section 8067(e) or (f) of this title" in item 8915.

**1966**—Pub. L. 89–609, §1(32), Sept. 30, 1966, 80 Stat. 854, inserted "; male majors designated under section 8067(e) or (f) of this title" in item 8915.

**1957**—Pub. L. 85–155, title III, §301(21), Aug. 21, 1957, 71 Stat. 389, struck out items 8912 and 8928, and substituted "section 8067(a)–(d) or (g)–(i)" for "section 8067" in item 8915.

## §9311. Twenty years or more: regular or reserve commissioned officers

(a) The Secretary of the Air Force may, upon the officer's request, retire a regular or reserve commissioned officer of the Air Force or the Space Force who has at least 20 years of service computed under section 9326 of this title, at least 10 years of which have been active service as a commissioned officer.

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

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 549, §8911; Pub. L. 101–510, div. A, title V, §523(c), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103–160, div. A, title V, §561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, §561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, §1 [[div. A], title V, §571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–163, div. A, title V, §502(c), Jan. 6, 2006, 119 Stat. 3225; Pub. L. 109–364, div. A, title X, §1071(a)(37), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–383, div. A, title V, §506(c), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 112–239, div. A, title V, §505(c), title X, §1076(e)(6), Jan. 2, 2013, 126 Stat. 1715, 1951; renumbered §9311 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(13), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8911 | 10:943a.<br>10:971b (1st 100 words). | July 31, 1935, ch. 422, §5 (1st 101 words); restated June 13, 1940, ch. 344, §3 (1st 45 words), 54 Stat. 380; June 29, 1948, ch. 708, §202 (1st 105 words), 62 Stat. 1084; July 16, 1953, ch. 203, 67 Stat. 175. |

The words "a regular or reserve commissioned officer of the Air Force" are substituted for the words "any officer on the active list of the * * * Regular Air Force * * * or any officer of the reserve components of the * * * Air Force of the United States". The words "Philippine Scouts" are omitted as obsolete. The words "has at least 20" are substituted for the words "shall have completed not less than twenty". The words "upon his request" are substituted for the words "upon his own application". The words "service computed under section 8926 of this title" are substituted for the words "active Federal service in the armed forces of the United States", since that revised section makes explicit the service covered.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "officer of the Air Force".

**2018**—Pub. L. 115–232, §806(b)(13), renumbered section 8911 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 9326" for "section 8926".

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

Pub. L. 112–239 substituted "September 30, 2018" for "September 30, 2013".

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

**2006**—Subsec. (b). Pub. L. 109–364 struck out second comma after "paragraph (2)" in par. (1) and substituted "January 6, 2006," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006" in par. (2).

Pub. L. 109–163 designated existing provisions as par. (1), substituted "during the period specified in paragraph (2)," for "during the period beginning on October 1, 1990, and ending on December 31, 2001", and added par. (2).

**2000**—Subsec. (b). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

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

**1993**—Subsec. (b). Pub. L. 103–160 substituted "nine-year period" for "five-year period".

**1990**—Pub. L. 101–510 designated existing provisions as subsec. (a) and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TEMPORARY EARLY RETIREMENT AUTHORITY

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

## §9314. Twenty to thirty years: enlisted members

Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force or the Space Force who has at least 20, but less than 30, years of service computed under section 9325 of this title may, upon his request, be retired.

(Aug. 10, 1956, ch. 1041, 70A Stat. 550, §8914; Pub. L. 96–343, §9(b)(1), Sept. 8, 1980, 94 Stat. 1128; Pub. L. 103–337, div. A, title V, §515(b), Oct. 5, 1994, 108 Stat. 2753; renumbered §9314 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(14), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8914 | 10:948 (1st sentence).<br>10:948a. | Oct. 6, 1945, ch. 393, §4 (1st sentence); restated Aug. 10, 1946, ch. 952, §6(a) (1st sentence), 60 Stat. 996.<br>Aug. 10, 1946, ch. 952, §7, 60 Stat. 996. |

The words "now or hereafter", in 10:948a, are omitted as surplusage. The words "computed under section 8925 of this title" are substituted for the words "active Federal service", in 10:948, and "active Federal military service", in 10:948a, since that revised section makes explicit the service covered. The words "be retired from" are substituted for the words "will be placed on the retired list of", in 10:948. The words "completed a minimum", in 10:948; and "the period of", "be subject to", "period of", and "now or after August 10, 1946", in 10:948a; are omitted as surplusage.

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 9314, 9314a, 9314b, and 9315 were renumbered sections 9414, 9414a, 9414b, and 9415 of this title, respectively.

A prior section 9316, added Pub. L. 101–510, div. A, title XIV, §1439(c), Nov. 5, 1990, 104 Stat. 1689, related to training and support for A–10 aircraft, prior to repeal by Pub. L. 110–417, [div. A], title III, §353(a), Oct. 14, 2008, 122 Stat. 4425.

### AMENDMENTS

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8914 of this title as this section and substituted "section 9325" for "section 8925".

**1994**—Pub. L. 103–337 struck out at end "A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years."

**1980**—Pub. L. 96–343 struck out "regular" before "enlisted members" in section catchline and substituted in text "an enlisted member" for "a regular enlisted member", "A regular enlisted member" for "He", and "Air Force Reserve. A member retired under this section" for "Air Force, and".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–343 effective with respect to retired pay payable for months beginning after Sept. 8, 1980, see section 9(c) of Pub. L. 96–343, set out as a note under section 7314 of this title.

### TEMPORARY EARLY RETIREMENT AUTHORITY

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

## §9317. Thirty years or more: regular enlisted members

A regular enlisted member of the Air Force or the Space Force who has at least 30 years of service computed under section 9325 of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 550, §8917; renumbered §9317 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(15), Jan. 1, 2021, 134 Stat. 3811.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8917 | 10:947 (less proviso).<br>10:947a (less last 11 words). | Mar. 2, 1907, ch. 2515, §1 (1st 35 words), 34 Stat. 1217.<br>Feb. 14, 1885, ch. 67 (less 43d through 53d words); restated Sept. 30, 1890, ch. 1125 (less 43d through 53d words), 26 Stat. 504. |

The word "regular" is inserted to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/2301, 23 Mar. 1953). The words "upon his request" are substituted for the words "upon making application to the President", in 10:947, and "by application to the President", in 10:947a. The words "either as a private or non-commissioned officer, or both", in 10:947a, are omitted as surplusage. The words "shall be retired" are substituted for the words "be placed upon the retired list", in 10:947, and "be placed on the retired list heretofore created", in 10:947a. The words "computed under section 8925 of this title" are inserted for clarity. The 21 words before the proviso and the proviso of the Act of February 14, 1885, as restated, are not contained in 10:947a. They are also omitted from the revised section, since the proviso is executed and the 21 words before the proviso are omitted as covered by formula E of section 8991 of this title.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9317 was renumbered section 9417 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 8917 of this title as this section and substituted "section 9325" for "section 8925".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9318. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Air Force or the Space Force who has at least 30 years of service computed under section 9326 of this title may be retired upon his request, in the discretion of

the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 550, §8918; renumbered §9318 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(16), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8918 | 10:943. | R.S. 1243; Dec. 16, 1930, ch. 14, §1 (as applicable to R.S. 1243), 46 Stat. 1028. |

The word "commissioned" is inserted, since the retirement of warrant officers for length of service is covered by section 1293 of this title. The word "regular" is inserted, since 10:943 is applicable historically only to officers of a regular component. The words "and placed on the retired list" are omitted as surplusage. The words "computed under section 8926 of this title" are inserted for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9319 was renumbered section 9419 of this title.

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 8918 of this title as this section and substituted "section 9326" for "section 8926".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of President under this section to approve request of a regular commissioned officer of Air Force to retire after at least 30 years of service delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(f), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

## §9320. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy

(a) The Secretary of the Air Force may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

(b) Subsection (a) applies in the case of the following officers:

(1) Any permanent professor of the United States Air Force Academy.

(2) The Director of Admissions of the United States Air Force Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 551, §8920; Pub. L. 104–106, div. A, title V, §509(b)(1), Feb. 10, 1996, 110 Stat. 298; renumbered §9320, Pub. L. 115–232, div. A, title VIII, §806(b)(13), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8920 | 10:1079a(c) (proviso). | Aug. 7, 1947, ch. 512, §520(c) (proviso), 61 Stat. 912. |

The word "retire" is substituted for the words "direct the retirement of". The words "as a commissioned officer" are substituted for the word "commissioned".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9320 was renumbered section 9420 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 8920 of this title as this section.

**1996**—Pub. L. 104–106 substituted "permanent professors and the Director of Admissions" for "professors" in section catchline and amended text generally. Prior to amendment, text read as follows: "The Secretary of the Air Force may retire any permanent professor of the United States Air Force Academy who has more than 30 years of service as a commissioned officer."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9321. Mandatory retirement: Superintendent of the United States Air Force Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Air Force Academy, the Secretary of the Air Force shall retire the officer under any provision of this chapter under which the officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment. In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate.

(Added Pub. L. 106–65, div. A, title V, §532(a)(3)(A), Oct. 5, 1999, 113 Stat. 603, §8921; amended Pub. L. 108–375, div. A, title V, §541(a)(3), (c)(3)(A), Oct. 28, 2004, 118 Stat. 1902, 1904; renumbered §9321, Pub. L. 115–232, div. A, title VIII, §806(b)(13), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 117–263, div. A, title V, §509(c), Dec. 23, 2022, 136 Stat. 2560.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (b). Pub. L. 117–263 inserted at end "In the event a waiver under this subsection is granted, the subsequent nomination and appointment of such officer having served as Superintendent of the Academy to a further assignment in lieu of retirement shall be subject to the advice and consent of the Senate."

**2018**—Pub. L. 115–232 renumbered section 8921 of this title as this section.

**2004**—Pub. L. 108–375 inserted "; waiver authority" after "Academy" in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 3921 of this title.

## §9324. Forty years or more: Air Force officers and Space Force officers

(a) Except as provided in section 1186 of this title, a commissioned officer of the Air Force or the Space Force who has at least 40 years of service computed under section 9326 of this title shall be retired upon his request.

(b) Any warrant officer of the Air Force or the Space Force who has at least 40 years of service computed under section 9326(a) of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 552, §8924; Pub. L. 96–513, title V, §504(18), Dec. 12, 1980, 94 Stat. 2917; renumbered §9324 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(17)(A), (B), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8924(a) | 10:942 (as applicable to commissioned officers). | June 30, 1882, ch. 254 (last 21 words of 3d proviso under "Pay Department"), 22 Stat. 118. |
| 8924(b) | 10:942 (less applicability to commissioned officers). | |

In subsection (a), the words "Except as provided in section 8786 of this title" are inserted, since, under that revised section, when board proceedings are pending against a commissioned officer, his right to retire under this revised section, which is otherwise absolute, is discretionary with the Secretary under that revised section.

In subsections (a) and (b), the words "or volunteer service, or both" are omitted as obsolete in accordance with an opinion of the Attorney General, 22 Ops. Atty. Gen. 199, Aug. 30, 1898, holding that such words refer to volunteer service in the Civil War. The words "upon his request" are substituted for the words "if he make application therefor to the President".

In subsection (b), the applicability of 10:942 to warrant officers is based on an opinion of the Judge Advocate General of the Army (JAGA 1950/6951, 4 Jan. 1951), which holds that 10:594 (less provisos) makes 10:942 applicable to warrant officers.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283 substituted "Forty years or more: Air Force officers and Space Force officers" for "Forty years or more: Air Force officers" in section catchline and inserted "or the Space Force" after "Air Force" in subsecs. (a) and (b).

**2018**—Pub. L. 115–232, §809(a), substituted "section 9326" for "section 8926" in subsec. (a) and "section

9326(a)" for "section 8926(a)" in subsec. (b).

Pub. L. 115–232, §806(b)(13), renumbered section 8924 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "section 1186" for "section 8786".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §9325. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Air Force or the Space Force may be retired under section 9314 or 9317 of this title, his years of service are computed by adding all active service in the armed forces.

(b) Time required to be made up under section 972(a) of this title may not be counted in computing years of service under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 552, §8925; Pub. L. 85–861, §1(195), Sept. 2, 1958, 72 Stat. 1540; Pub. L. 96–343, §9(b)(2), Sept. 8, 1980, 94 Stat. 1129; Pub. L. 99–348, title II, §204(c), July 1, 1986, 100 Stat. 698; Pub. L. 101–189, div. A, title VI, §652(a)(6), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 103–337, div. A, title VI, §635(c)(1), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104–106, div. A, title V, §561(d)(4)(A), Feb. 10, 1996, 110 Stat. 323; renumbered §9325 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(18), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8925(a) | 10:947 (proviso).<br>10:958. | Mar. 2, 1907, ch. 2515, §1 (proviso), 34 Stat. 1218. |
| 8925(b) | [No source]. | Aug. 10, 1946, ch. 952, §6(b), 60 Stat. 996. |

In subsection (a), the words "active service" are substituted for the word "service", in 10:947, and "active Federal service performed", in 10:958, for uniformity. The words "service computed under section 8683 of this title" are inserted, since a person entitled to count service under that revised section might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

Subsection (b) is inserted because of section 8638 of this title and in accordance with long standing interpretation of the effect of 10:629 upon the computation of years of service for retirement.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8925 | [No source]. | [No source]. |

The amendment reflects the repeal of section 8638 of this title and the enactment of a similar provision in section 972 of this title.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232, §806(b)(13), renumbered section 8925 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 9314 or 9317" for "section 8914 or 8917".

**1996**—Subsec. (b). Pub. L. 104–106 substituted "section 972(a)" for "section 972".

**1994**—Subsec. (a). Pub. L. 103–337, §635(c)(1)(A), struck out "and of computing his retired pay under section 8991 of this title," after "8917 of this title,".

Subsec. (c). Pub. L. 103–337, §635(c)(1)(B), struck out subsec. (c) which read as follows: "In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

**1989**—Subsec. (a). Pub. L. 101–189 struck out "and service computed under section 8683 of this title" before period at end.

**1986**—Subsec. (c). Pub. L. 99–348 added subsec. (c).

**1980**—Pub. L. 96–343, §9(b)(2)(B), struck out "regular" before "enlisted members" in section catchline.

Subsec. (a). Pub. L. 96–343, §9(b)(2)(A), substituted "an enlisted" for "a regular enlisted".

**1958**—Subsec. (b). Pub. L. 85–861 substituted "section 972 of this title" for "section 8638 of this title".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as a note under section 972 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–343 effective with respect to retired pay payable for months beginning after Sept. 8, 1980, see section 9(c) of Pub. L. 96–343, set out as a note under section 7314 of this title.

## §9326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Air Force or the Space Force may be retired under section 9311, 9318, or 9324 of this title, the officer's years of service are computed by adding—

(1) all active service performed as a member of the Army, the Air Force, or the Space Force; and

(2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

(b) For the purpose of determining whether a medical officer of the Regular Air Force may be retired under section 9311, 9318, or 9324 of this title, the officer's years of service are computed by adding to the officer's service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a dental officer of the Regular Air Force may be retired under section 9311, 9318, or 9324 of this title, the officer's years of service are computed by adding to the officer's service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

(d) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 552, §8926; Pub. L. 86–197, §1(8), Aug. 25, 1959, 73 Stat. 426; Pub. L. 101–189, div. A, title VI, §652(a)(7), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 104–106, div. A, title V, §561(d)(4)(B), Feb. 10, 1996, 110 Stat. 323; renumbered §9326 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(19), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8926(a) | 10:951 (less applicability to 10:166g(a)).<br>10:951a.<br>10:951b (less applicability to 10:166g(a)).<br>[Uncodified June 18, 1878, ch. 263, §7 (less applicability to 10:166g(a)), 20 Stat. 150.]<br>10:953a (1st sentence). | June 3, 1916, ch. 134, §127a (6th par., less 1st 13 words, and less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended); added June 4, 1920, ch. 227, subch. I, §51 (6th par., less 1st 13 words, and less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 41 Stat. 785. |
| 8926(b) | 10:953a (less 1st sentence). | |
| 8926(c) | | May 23, 1928, ch. 716, 45 Stat. 720.<br>June 15, 1935, ch. 257 (less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 49 Stat. 377.<br>June 18, 1878, ch. 263, §7 (less applicability to §108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 20 Stat. 150.<br>May 29, 1928, ch. 902, 45 Stat. 996; Jan. 29, 1938, ch. 12, §2, 52 Stat. 8. |

Subsection (a) consolidates the various service computation provisions applicable to voluntary retirement of commissioned officers. Clause (1) is substituted for 10:951. Clause (2) is substituted for 10:951b. The words "pay period and", in 10:951a, are omitted as superseded by section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233). The words "longevity pay and", in section 7 of the Act of June 18, 1878, ch. 263, 20 Stat. 150, are omitted for the same reason. The last sentence of section 7 of that act is omitted, since the distinction between limited and unlimited retired lists was abolished by section 201 of the Act of June 29, 1948, ch. 708, 62 Stat. 1084. Clause (3) is inserted, since a person entitled to count service under section 8683 of this title might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

In subsection (b), the words "as a member of the Medical Reserve Corps", in 10:953a, are omitted as covered by subsection (a)(1). The words "are computed by adding to his service under subsection (a)" are

substituted for the words "shall be credited to the same extent as service under a Regular Army commission".

Subsection (c) is substituted for 10:953a (less 1st sentence).

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §923(c)(19)(B), which directed amendment of subsec. (a) by substituting "the officer's" for "his" wherever appearing, was executed by making the substitution wherever appearing in this section to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 116–283, §923(c)(19)(A)(i), inserted "or the Space Force" after "of the Air Force" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §923(c)(19)(A)(ii), substituted ", the Air Force, or the Space Force" for "or the Air Force".

**2018**—Pub. L. 115–232, §806(b)(13), renumbered section 8926 of this title as this section.

Subsecs. (a) to (c). Pub. L. 115–232, §809(a), substituted "section 9311, 9318, or 9324" for "section 8911, 8918, or 8924".

**1996**—Subsec. (d). Pub. L. 104–106 added subsec. (d).

**1989**—Subsec. (a)(1). Pub. L. 101–189, §652(a)(7)(A)(i), inserted "and" after semicolon at end.

Subsec. (a)(2). Pub. L. 101–189, §652(a)(7)(A)(ii), substituted period for semicolon at end.

Subsec. (a)(3), (4). Pub. L. 101–189, §652(a)(7)(A)(iii), struck out pars. (3) and (4) which read as follows:

"(3) all service computed under section 8683 of this title; and

"(4) if an officer of the Regular Air Force, all active service performed as an officer of the Philippine Constabulary."

Subsec. (d). Pub. L. 101–189, §652(a)(7)(B), struck out subsec. (d) which read as follows: "For the purpose of determining whether an Air Force nurse or medical specialist may be retired under section 8911 of this title, all service computed under section 8683 of this title, shall be treated as if it was service as a commissioned officer."

**1959**—Subsec. (d). Pub. L. 86–197 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as a note under section 972 of this title.

## §9329. Computation of retired pay: law applicable

A member of the Air Force or the Space Force retired under this chapter is entitled to retired pay computed under chapter 945 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 554, §8929; renumbered §9329 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(20), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8929 | [No source]. | [No source]. |

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

### EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 9331 to 9336 were renumbered sections 9431 to 9436 of this title, respectively.

A prior section 9337, act Aug. 10, 1956, ch. 1041, 70A Stat. 562; Pub. L. 87–651, title I, §117, Sept. 7, 1962, 76 Stat. 513, related to United States Air Force Academy chaplain, prior to repeal by Pub. L. 114–328, div. A, title V, §591(a), Dec. 23, 2016, 130 Stat. 2152.

A prior section 9338 was renumbered section 9438 of this title.

### AMENDMENTS

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 8929 of this title as this section and substituted "chapter 945" for "chapter 871".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 943—RETIRED GRADE

Sec.
9341. General rule.
9342. Higher grade for service in special positions.
9343. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.
9344. Higher grade after 30 years of service: warrant officers and enlisted members.
9345. Restoration to former grade: retired warrant officers and enlisted members.
9346. Retired lists.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 943, consisting of sections 9681 to 9686, related to disposal of obsolete or surplus material, prior to renumbering as chapter 973 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(ii), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 869 of this title as this chapter and items 8961 to 8966 as 9341 to 9346, respectively.

**1996**—Pub. L. 104–201, div. A, title V, §532(c)(2), Sept. 23, 1996, 110 Stat. 2520, added item 8963.

**1988**—Pub. L. 100–456, div. A, title XII, §1233(i)(2)(B), Sept. 29, 1988, 102 Stat. 2058, substituted "retired" for "Regular Air Force" in item 8965.

**1987**—Pub. L. 100–180, div. A, title V, §512(e)(3), Dec. 4, 1987, 101 Stat. 1091, substituted "warrant officers and enlisted members" for "Air Force warrant officers; regular enlisted members" in item 8964.

**1985**—Pub. L. 99–145, title XIII, §1301(d)(2)(B), Nov. 8, 1985, 99 Stat. 736, struck out item 8963 "Higher grade for service during certain periods: regular and reserve commissioned officers".

**1980**—Pub. L. 96–343, §13(b)(3), Sept. 8, 1980, 94 Stat. 1131, substituted "positions" for "positions: regular commissioned officers" in item 8962.

## §9341. General rule

(a)(1) The retired grade of a regular commissioned officer of the Air Force who retires other than

for physical disability is determined under section 1370 of this title.

(2) The retired grade of a reserve commissioned officer of the Air Force who retires other than for physical disability is determined under section 1370a of this title.

(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Air Force not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that the member holds on the date of the member's retirement.

(c) SPACE FORCE.—(1) The retired grade of a commissioned officer of the Space Force who retires other than for physical disability is determined under section 1370 or 1370a of this title, as applicable to the officer.

(2) Unless entitled to a higher retired grade under some other provision of law, a member of the Space Force not covered by paragraph (1) who retires other than for physical disability retires in the grade that the member holds on the date of the member's retirement.

(Aug. 10, 1956, ch. 1041, 70A Stat. 554, §8961; Pub. L. 96–513, title V, §504(19), Dec. 12, 1980, 94 Stat. 2917; Pub. L. 103–337, div. A, title XVI, §1674(c)(2), Oct. 5, 1994, 108 Stat. 3016; Pub. L. 106–398, §1 [[div. A], title V, §506(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–102; renumbered §9341, Pub. L. 115–232, div. A, title VIII, §806(b)(14), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title V, §508(b)(4), Jan. 1, 2021, 134 Stat. 3585; Pub. L. 118–31, div. A, title XVII, §1719A(b)(2), Dec. 22, 2023, 137 Stat. 664.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8961 | 10:941a(a)(3) (31st through 42d words; and proviso, as applicable to retired grade).<br>10:941a(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade).<br>10:947a (last 11 words).<br>10:1025. | Aug. 7, 1947, ch. 512, §§514(a)(3) (31st through 42d words; and proviso, as applicable to retired grade), 514(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade), 61 Stat. 902, 905.<br><br>Feb. 14, 1885, ch. 67 (43d through 53d words); restated Sept. 30, 1890, ch. 1125 (43d through 53d words), 26 Stat. 504.<br>R.S. 1254. |

The applicability of the rule stated in the revised section to situations not expressly covered by the laws named in the source credits above is necessarily implied from laws providing for retirement in higher grade in those situations.

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 9341 and 9341a were renumbered sections 9441 and 9441a of this title, respectively.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31, §1719A(b)(2)(A), struck out "or the Space Force" after "Air Force" in pars. (1) and (2).

Subsec. (b). Pub. L. 118–31, §1719A(b)(2)(B), struck out "or a Regular or Reserve of the Space Force" after "Air Force".

Subsec. (c). Pub. L. 118–31, §1719A(b)(2)(C), added subsec. (c).

**2021**—Subsec. (a). Pub. L. 116–283, §508(b)(4)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: "The retired grade of a regular commissioned officer of the Air Force who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Air Force who retires other than for physical disability, is determined under section 1370 of this title."

Subsec. (b). Pub. L. 116–283, §508(b)(4)(B), inserted "or a Regular or Reserve of the Space Force" after "Air Force" and substituted "the member" for "he" and "the member's" for "his".

**2018**—Pub. L. 115–232 renumbered section 8961 of this title as this section.

**2000**—Subsec. (a). Pub. L. 106–398 struck out "or for nonregular service under chapter 1223 of this title" before ", is determined".

**1994**—Subsec. (a). Pub. L. 103–337 substituted "chapter 1223" for "chapter 67".

**1980**—Pub. L. 96–513 added subsec. (a), designated existing provisions as subsec. (b), and inserted "not covered by subsection (a)" after "a Regular or Reserve of the Air Force".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106–398 applicable to Reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion by a board convened under chapter 36 or 1403 of this title, or having been found qualified for Federal recognition in a higher grade under chapter 3 of Title 32, National Guard, after Oct. 1, 1996, see section 1 [[div. A], title V, §506(c)] of Pub. L. 106–398, set out as a note under section 7341 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §9342. Higher grade for service in special positions

Upon retirement, any permanent professor of the United States Air Force Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 554, §8962; Pub. L. 85–861, §1(197), Sept. 2, 1958, 72 Stat. 1541; Pub. L. 89–288, §6, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96–343, §13(b)(1), (2), Sept. 8, 1980, 94 Stat. 1131; Pub. L. 96–513, title V, §504(20), Dec. 12, 1980, 94 Stat. 2917; Pub. L. 104–106, div. A, title V, §502(c), (d)(1), Feb. 10, 1996, 110 Stat. 293; renumbered §9342, Pub. L. 115–232, div. A, title VIII, §806(b)(14), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8962(a) | 10:506b(d) (less 1st and last provisos). | Aug. 7, 1947, ch. 512, §§504(d) (less 1st and last provisos), 520(b) (less proviso), 61 Stat. 888, 912. |
| 8962(b) | 5:627b(h) (1st 42 words of 3d proviso). | June 12, 1948, ch. 449, §303(h) (1st 42 words of 3d proviso), 62 Stat. 372. |
| 8962(c) | 10:1079a(b) (less proviso). | |

In subsection (a), the words "who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Air Force, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a

position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title" are substituted for the words "while serving in accordance with the provisions of subsection (b) or (c) of this section".

In subsection (b), the words "in that grade" are substituted for the words "in such higher temporary grade". The words "under section 8071 of this title" are inserted for clarity.

In subsection (c), the words "Upon retirement" are substituted for the words "When * * * is retired". The word "allowances" is omitted, since retired officers are not entitled to allowances. The words "grade is below brigadier general" are inserted, since any permanent professor who has the grade of brigadier general retires in that grade under section 9335 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8962 | [No source]. | [No source]. |

The amendment reflects section 1 of the Act of May 31, 1956, ch. 348 (70 Stat. 222), which in effect amended section 8963 of this title to cover regular and reserve officers covered by section 8962(b). As to temporary officers, section 8962(b) is obsolete. (See opinion of the Judge Advocate General of the Air Force, May 2, 1957.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9342 was renumbered section 9442 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 8962 of this title as this section.

**1996**—Pub. L. 104–106 designated subsec. (b) as entire section and struck out subsec. (a) which read as follows: "Upon retirement, a commissioned officer of the Air Force who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Air Force, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) as Surgeon General of the Air Force in the grade of lieutenant general may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade in which he served on active duty."

**1980**—Pub. L. 96–343, §13(b)(2), substituted "positions" for "positions: regular commissioned officers" in section catchline.

Subsec. (a). Pub. L. 96–513 substituted "or (4)" for "(4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title, or (5)".

Pub. L. 96–343, §13(b)(1), substituted "Air Force who has" for "Regular Air Force who has" and "in which he served on active duty" for "held by him at any time on the active list".

**1965**—Subsec. (a). Pub. L. 89–288 added the Surgeon General of the Air Force to the list of commissioned officers who may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him at any time on the active list.

**1958**—Subsecs. (b), (c). Pub. L. 85–861 redesignated subsec. (c) as (b), and struck out former subsec. (b) which related to retirement grade of a woman Air Force officer who served at least two and one-half years on active duty in the temporary grade of colonel in the Air Force under section 8071 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**APPOINTMENT BY PRESIDENT OF RETIRED COMMISSIONED OFFICER OF RESERVE COMPONENT TO HIGHER RETIRED GRADE; RECALCULATION OF PAY**

For authority of the President to appoint a retired commissioned officer of a reserve component to a higher retired grade and for recalculation of pay, see section 13(c) of Pub. L. 96–343, set out as a note under section 7342 of this title.

**RETIRED GRADE FOR CERTAIN GENERAL OFFICERS**

Extension of privilege granted by subsec. (a) of this section, to officers, heretofore or hereafter retired, who served in the grade of general or lieutenant general after Dec. 7, 1941, and before July 1, 1946, see section 38 of act Aug. 10, 1956, set out as a note under section 7342 of this title.

## §9343. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

(a) A Reserve enlisted member of the Air Force described in subsection (b) who is retired under section 9314 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Air Force.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Air Force.

(c) This section applies with respect to Reserve enlisted members who are retired under section 9314 of this title after September 30, 1996.

(Added Pub. L. 104–201, div. A, title V, §532(c)(1), Sept. 23, 1996, 110 Stat. 2519, §8963; renumbered §9343 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(14), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9343 was renumbered section 9443 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(b)(14), renumbered section 8963 of this title as this section.

Subsecs. (a), (c). Pub. L. 115–232, §809(a), substituted "section 9314" for "section 8914".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9344. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each retired member of the Air Force or the Space Force covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on

the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily (or, in the case of a member of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Air Force.

(b) This section applies to—

(1) warrant officers of the Air Force or the Space Force;

(2) enlisted members of the Regular Air Force or the Space Force; and

(3) reserve enlisted members of the Air Force or the Space Force who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time duty).

(Aug. 10, 1956, ch. 1041, 70A Stat. 555, §8964; Pub. L. 85–861, §1(198A), Sept. 2, 1958, 72 Stat. 1541; Pub. L. 98–525, title V, §533(c), Oct. 19, 1984, 98 Stat. 2528; Pub. L. 100–180, div. A, title V, §512(c), Dec. 4, 1987, 101 Stat. 1090; renumbered §9344, Pub. L. 115–232, div. A, title VIII, §806(b)(14), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283, div. A, title IX, §923(c)(21)(A), Jan. 1, 2021, 134 Stat. 3812; Pub. L. 118–31, div. A, title XVII, §1719A(b)(3), Dec. 22, 2023, 137 Stat. 664.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8964 | 10:594 (1st proviso, less last 39 words; and last proviso).<br>10:1004 (less 30 words before proviso). | Aug. 21, 1941, ch. 384, §5 (1st proviso, less last 39 words; and last proviso); restated June 29, 1948, ch. 708, §203 (c) (1st proviso, less last 39 words; and last proviso), 62 Stat. 1085; May 29, 1954, ch. 249, §19(f), 68 Stat. 167.<br>June 29, 1948, ch. 708, §203(e) (less 30 words before proviso), 62 Stat. 1086. |

The words "when his active service plus his service on the retired list totals 30 years" are substituted for the words "upon the completion of thirty years' [years of] service, to include the sum of his active service and his service on the retired list", in 10:594 and 1004. The words "under any provision of law", in 10:594 and 1004; "officer, flight officer, or warrant officer", in 10:594; and "commissioned, warrant, or enlisted", in 10:1004; are omitted as surplusage. 10:594 (last proviso) and 1004 (proviso) are omitted as superseded by section 1372 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8964 | 10 App.:1004. | May 31, 1956, ch. 348, §1, 70 Stat. 222. |

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9344, act Aug. 10, 1956, ch. 1041, 70A Stat. 564; Pub. L. 98–94, title X, §1004(c)(1), Sept. 24, 1983, 97 Stat. 659; Pub. L. 105–85, div. A, title V, §543(c), Nov. 18, 1997, 111 Stat. 1744; Pub. L. 106–65, div. A, title V, §534(c), Oct. 5, 1999, 113 Stat. 605; Pub. L. 106–398, §1 [[div. A], title V, §532(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–110; Pub. L. 107–107, div. A, title V, §533(c)(1), (2), Dec. 28, 2001, 115 Stat. 1106, related to selection of persons from foreign countries to receive instruction at the United States Air Force Academy, prior to repeal by Pub. L. 114–328, div. A, title XII, §1248(b)(1), Dec. 23, 2016, 130 Stat. 2525. See section 347 of this title.

**AMENDMENTS**

**2023**—Subsec. (b)(2). Pub. L. 118–31 struck out "Regular" before "Space Force".

**2021**—Subsec. (a). Pub. L. 116–283, §923(c)(21)(A)(i), inserted "or the Space Force" after "member of the Air Force".

Subsec. (b)(1). Pub. L. 116–283, §923(c)(21)(A)(ii)(I), inserted "or the Space Force" after "Air Force".

Subsec. (b)(2). Pub. L. 116–283, §923(c)(21)(A)(ii)(II), inserted "or the Regular Space Force" after "Regular Air Force".

Subsec. (b)(3). Pub. L. 116–283, §923(c)(21)(A)(ii)(I), inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 8964 of this title as this section.

**1987**—Pub. L. 100–180 substituted "warrant officers and enlisted members" for "Air Force warrant officers; regular enlisted members" in section catchline, and amended text generally. Prior to amendment, text read as follows: "Each warrant officer of the Air Force, and each enlisted member of the Regular Air Force, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the grade that is equal to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Air Force."

**1984**—Pub. L. 98–525 substituted "highest grade" for "highest temporary grade".

**1958**—Pub. L. 85–861 struck out "after September 8, 1940 and before July 1, 1946" after "Secretary of the Air Force".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–180 applicable to any reserve enlisted member who completes 30 years of service in Armed Forces before, on, or after Dec. 4, 1987, and no person to be paid retired pay at higher rate by reason of enactment of Pub. L. 100–180 for any period before Dec. 4, 1987, see section 512(f) of Pub. L. 100–180, set out as a note under section 3964 of this title.

## §9345. Restoration to former grade: retired warrant officers and enlisted members

Each retired warrant officer or enlisted member of the Air Force or the Space Force who has been advanced on the retired list to a higher commissioned grade under section 9344 of this title, and who applies to the Secretary of the Air Force within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant-officer or enlisted status, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 555, §8965; Pub. L. 100–180, div. A, title V, §512(d)(3), Dec. 4, 1987, 101 Stat. 1090; Pub. L. 100–456, div. A, title XII, §1233(i)(2)(A), Sept. 29, 1988, 102 Stat. 2058; renumbered §9345 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(14), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(21)(B), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8965 | 10:1006. | June 29, 1948, ch. 708, §204, 62 Stat. 1086. |

The words "hereafter", "rank or", and "shall thereafter be deemed to be enlisted or warrant officer personnel, as appropriate, for all purposes" are omitted as surplusage. The words "three months from June 29, 1948" and "whichever is later" are omitted as executed.

### EDITORIAL NOTES

**PRIOR PROVISIONS**

A prior section 9345, added Pub. L. 105–85, div. A, title V, §542(c)(1), Nov. 18, 1997, 111 Stat. 1742; amended Pub. L. 106–65, div. A, title V, §535(c), Oct. 5, 1999, 113 Stat. 606; Pub. L. 109–364, div. A, title V, §531(c), Oct. 17, 2006, 120 Stat. 2199, related to exchange program with foreign military academies, prior to repeal by Pub. L. 114–328, div. A, title XII, §1248(b)(1), Dec. 23, 2016, 130 Stat. 2525.

Another prior section 9345, act Aug. 10, 1956, ch. 1041, 70A Stat. 565, related to selection of Filipinos for instruction at the Air Force Academy, prior to repeal by Pub. L. 98–94, title X, §1004(c)(2), (d), Sept. 24, 1983, 97 Stat. 660, effective one year after Sept. 24, 1983.

A prior section 9345a, added Pub. L. 110–417, [div. A], title V, §541(c)(1), Oct. 14, 2008, 122 Stat. 4456; amended Pub. L. 113–291, div. A, title V, §553(c), Dec. 19, 2014, 128 Stat. 3377, related to foreign and cultural exchange activities, prior to repeal by Pub. L. 114–328, div. A, title XII, §1248(b)(1), Dec. 23, 2016, 130 Stat. 2525.

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2018**—Pub. L. 115–232 renumbered section 8965 of this title as this section and substituted "section 9344" for "section 8964".

**1988**—Pub. L. 100–456 substituted "retired" for "Regular Air Force" in section catchline.

**1987**—Pub. L. 100–180 struck out "Regular" before "Air Force who".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9346. Retired lists

(a) The Secretary of the Air Force shall maintain a retired list containing the name of each retired commissioned officer of the Regular Air Force and a separate retired list containing the name of each retired commissioned officer of the Space Force (other than an officer whose name is on the list maintained under subsection (b)(2)).

(b)(1) The Secretary shall maintain a retired list containing the name of—

(A) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Air Force, other than of the Regular Air Force; and

(B) each retired warrant officer or enlisted member of the Air Force who is advanced to a commissioned grade.

(2) The Secretary shall maintain a retired list containing the name of—

(A) each person entitled to retired pay who as a member of the Space Force qualified for retirement under section 20601 of this title; and

(B) each retired warrant officer or enlisted member of the Space Force who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Air Force and a separate retired list containing the name of each retired warrant officer of the Space Force.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Air Force and a separate retired list containing the name of each retired enlisted member of the Space Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 556, §8966; Pub. L. 85–861, §1(199), Sept. 2, 1958, 72 Stat. 1541; Pub. L. 100–180, div. A, title V, §512(d)(3), Dec. 4, 1987, 101 Stat. 1090; renumbered §9346, Pub. L. 115–232, div. A, title VIII, §806(b)(14), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116–283,

div. A, title IX, §923(c)(21)(C), Jan. 1, 2021, 134 Stat. 3812; Pub. L. 118–31, div. A, title XVII, §1719A(b)(4), Dec. 22, 2023, 137 Stat. 664.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8966(a) | 10:1001. | June 29, 1948, ch. 708, §§201, 301(a), 62 Stat. 1084, 1087. |
| 8966(b) | 10:1036. | |
| 8966(c) | [No source]. | |
| 8966(d) | [No source]. | |

In subsections (a), (b), and (d), the word "maintain" is substituted for the word "establish", and in subsection (c) the word "maintain" is substituted for the word "established", since the lists have been established and are published annually.

In subsection (a), the words "Effective upon June 29, 1948" are omitted as executed. 10:1001 (last 12 words of 1st sentence, and last sentence) is omitted as no longer required, since, upon enactment of this title, laws referring to the limited or unlimited retired list will be expressly repealed.

In subsection (b), the word "shall" is substituted for the word "may", since 10:1036 further requires that such a list be published annually in the Register. The requirement as to publication necessarily implies that the list must be maintained.

Subsection (b)(1) is substituted for the words "all commissioned officers and former commissioned officers * * * or the Air Force of the United States, as the case may be * * * or the Regular Air Force, heretofore or hereafter granted retirement pay under sections 456, 456a, and 1036a of this title, or any law hereafter enacted to provide retirement pay for commissioned officers * * * or the Regular Air Force".

In subsection (b)(2), the words "who is advanced to a commissioned grade" are substituted for the words "heretofore or hereafter retired under any provision of law who, by reason of service in temporary commissioned grades * * * or the Air Force of the United States, or in any of the respective components thereof, are entitled to be retired with commissioned rank or grade".

Subsections (c) and (d) are inserted, since sections 8964 and 8965 of this title refer to service on the retired list as a warrant officer or enlisted member.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8966(a) | 10 App.:1001. | July 24, 1956, ch. 677, §2(f), (g), 70 Stat. 623. |
| 8966(b) | 10 App.:1036. | |

## EDITORIAL NOTES

### PRIOR PROVISIONS

Prior sections 9346 to 9356 were renumbered sections 9446 to 9456 of this title, respectively.

Another prior section 9356, added Pub. L. 103–337, div. A, title V, §556(c)(1), Oct. 5, 1994, 108 Stat. 2775, related to position of athletic director of Academy and to administration of nonappropriated fund account for athletics program of Academy, prior to repeal by Pub. L. 104–106, div. A, title V, §533(c)(1), Feb. 10, 1996, 110 Stat. 315.

Prior sections 9357 to 9360 were renumbered sections 9457 to 9460 of this title, respectively.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31, §1719A(b)(4)(A), substituted "and a separate retired list containing the name of each retired commissioned officer of the Space Force (other than an officer whose name is on the list maintained under subsection (b)(2))" for "or the Regular Space Force".

Subsec. (b). Pub. L. 118–31, §1719A(b)(4)(B)(i), (ii), (v), inserted par. (1) designation before "The Secretary", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (b)(1)(A). Pub. L. 118–31, §1719A(b)(4)(B)(iii), struck out ", or for commissioned officers of the Space Force other than of the Regular Space Force" after "Regular Air Force".

Subsec. (b)(1)(B). Pub. L. 118–31, §1719A(b)(4)(B)(iv), struck out "or the Space Force" after "Air Force".

Subsec. (c). Pub. L. 118–31, §1719A(b)(4)(C), substituted "and a separate retired list containing the name of each retired warrant officer of the Space Force" for "or the Space Force".

Subsec. (d). Pub. L. 118–31, §1719A(b)(4)(D), substituted "and a separate retired list containing the name of each retired enlisted member of the Space Force" for "or the Regular Space Force".

**2021**—Subsec. (a). Pub. L. 116–283, §923(c)(21)(C)(i), inserted "or the Regular Space Force" after "Regular Air Force".

Subsec. (b)(1). Pub. L. 116–283, §923(c)(21)(C)(ii), inserted ", or for commissioned officers of the Space Force other than of the Regular Space Force" after "Regular Air Force".

Subsec. (b)(2). Pub. L. 116–283, §923(c)(21)(C)(iii), inserted "or the Space Force" after "Air Force".

Subsec. (c). Pub. L. 116–283, §923(c)(21)(C)(iii), inserted "or the Space Force" after "Air Force".

Subsec. (d). Pub. L. 116–283, §923(c)(21)(C)(i), inserted "or the Regular Space Force" after "Regular Air Force".

**2018**—Pub. L. 115–232 renumbered section 8966 of this title as this section.

**1987**—Subsec. (b)(2). Pub. L. 100–180 struck out "Regular" before "Air Force".

**1958**—Pub. L. 85–861 struck out provisions in subsecs. (a) and (b) which required annual publication in official Air Force Register of the retired list.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 945—COMPUTATION OF RETIRED PAY

Sec.
9361. Computation of retired pay.
9362. Recomputation of retired pay to reflect advancement on retired list.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 945, consisting of sections 9711 to 9713, related to disposition of effects of deceased persons, prior to renumbering as chapter 975 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(ii), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 871 of this title as this chapter and items 8991 and 8992 as 9361 and 9362, respectively.

## §9361. Computation of retired pay

(a) COMPUTATION.—

(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

(A) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 9314 of this title has been credited by the Secretary of the Air Force with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph

(1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based (except in the case of a member who served during the Vietnam era, as that term is defined in section 12731 of this title)). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

(b) GENERAL RULES.—

(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 9343.—In the case of a Reserve enlisted member retired under section 9314 of this title whose retired grade is determined under section 9343 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member's retired grade (determined based upon the rates of basic pay applicable on the date of the member's retirement), and that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(e) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 556, §8991; Pub. L. 85–155, title III, §301(22), Aug. 21, 1957, 71 Stat. 389; Pub. L. 85–422, §§6(6), (8), 11(a)(9), May 20, 1958, 72 Stat. 129, 131; Pub. L. 85–861, §1(199A), Sept. 2, 1958, 72 Stat. 1541; Pub. L. 87–651, title I, §127, Sept. 7, 1962, 76 Stat. 514; Pub. L. 88–132, §5(h)(2), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90–207, §3(5), Dec. 16, 1967, 81 Stat. 654; Pub. L. 96–342, title VIII, §813(e), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 96–513, title V, §§504(22), 514(8), Dec. 12, 1980, 94 Stat. 2917, 2935; Pub. L. 98–94, title IX, §§922(a)(12), 923(a)(1), (2)(H), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 99–348, title II, §204(a), July 1, 1986, 100 Stat. 697; Pub. L. 103–337, div. A, title VI, §635(c)(2), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104–201, div. A, title V, §532(d)(3), Sept. 23, 1996, 110 Stat. 2520; renumbered §9361 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 118–159, div. A, title VI, §604(3), Dec. 23, 2024, 138 Stat. 1931; Pub. L. 119–60, div. A, title XVII, §1701(a)(38), Dec. 18, 2025, 139 Stat. 1210.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8991 Introductory paragraph | 10:941a(a)(3) (proviso, less applicability to retired grade).<br>10:941a(e) (1st proviso of clause (1), less applicability to retired grade). | R.S. 1274.<br>Mar. 2, 1907, ch. 2515, §1 (less 1st 35 words, and less proviso), 34 Stat. 1217. |
| 8991(A) | 10:166g(a) (less 1st 49 words; less 1st proviso; and less 1st 84 words of last proviso).<br>10:941a(a)(3) (less 31st through 42d words, and less proviso). | July 31, 1935, ch. 422, §5 (less 1st 101 words, and less 3d proviso); restated June 13, 1940, ch. 344, §3 (less 1st 45 words, and less 2d proviso), 54 Stat. 380; Aug. 7, 1947, ch. 512, §§514(g), 521(a), 61 Stat. 906, 912; June 29, 1948, ch. 708, §202 (less 1st 105 words), 62 Stat. 1084. |
| 8991(B) | 10:941a(e) (clause (1), less 1st 25, and 59th through 113th, words; and less 1st proviso). | |

| | | |
|---|---|---|
| 8991(C) | 10:971.<br>10:971b (less 1st 100 words, and less 1st and 3d proviso).<br>10:948 less (1st sentence, and less 1st and last provisos of last sentence). | Oct. 6, 1945, ch. 393, §4 (less 1st sentence); restated Aug. 10, 1946, ch. 952, §6(a) (less 1st sentence), 60 Stat. 996. |
| 8991(D) | | Aug. 10, 1946, ch. 952, §6(c), 60 Stat. 996. |
| 8991(E) | 10:980. | Apr. 16, 1947, ch. 38, §108(a) (less 1st 49 words, and less 1st 84 words of last proviso), 61 Stat. 44. |
| 8991 Footnote 1 | 10:506b(d) (1st proviso). | |
| 8991 Footnote 2 | 10:1079a(b) (proviso). | |
| 8991 Footnote 3 | 5:627b(h) (3d proviso, less 1st 42, and last 13, words).<br>10:1002 (34 words before proviso and proviso).<br>10:1003 (last 40 words). | Aug. 7, 1947, ch. 512, §§504(d) (1st proviso), 514(a)(3) (less 31st through 42d words; and less proviso, less applicability to retired grade), 514(e) (clause (1), less 1st 25, and 59th through 93d, words; and less 1st proviso, as applicable to retired grade), 520(b) (proviso), 61 Stat. 888, 902, 905, 912. |
| 8991 Footnote 4 | [No source].<br>10:166g(a) (1st proviso).<br>10:941a(e) (94th through 113th words of clause (1)).<br>10:948 (last proviso of last sentence). | June 12, 1948, ch. 449, §303(h) (3d proviso, less 1st 42, and last 13, words), 62 Stat. 372. |
| 8991 Footnote 5 | 10:971b (1st proviso).<br>37:272(d) (1st proviso).<br>10:948 (1st proviso of last sentence). | June 29, 1948, ch. 708, §§203(a) (34 words before proviso, and proviso), 203(d) (last 40 words), 62 Stat. 1085. |

In the introductory paragraph, the applicability of the rule stated in the third sentence to situations not expressly covered by the laws named in the source statutes above is a practical construction that the rule must be reciprocally applied in all cases.

In formula B, the words "basic pay" are substituted for the words "base and longevity pay" to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "his retired grade" are substituted for the words "permanent grade held at time of retirement" to reflect the right to higher retired grade when qualified under other provisions of law. 10:941a(e) (last proviso of clause (1)), is omitted, since, under section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233), the active duty pay of all members of the Air Force is based upon years of service.

In formula C, the computation is based on monthly pay instead of annual pay to conform to the other formulas of the revised section. The words "basic pay" are substituted for the words "active duty base and longevity pay", and the words "in determining his basic pay" are substituted for the words "for longevity pay purposes", to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "Monthly basic pay of member's retired grade" are substituted for the words "the rank upon which they are retired", in 10:971, and "rank with which retired", in 10:971b, to reflect their right to advancement on the retired list. 10:971 now applies only when the retiring officer has 30 or more years of service which may be credited in computing his retired pay. 10:971b (2d proviso) is omitted, since, under section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233), the pay of all members is based upon cumulative years of service. 10:971b (4th proviso) is omitted as executed. 10:971b (last proviso) is omitted, since the distinction between limited and unlimited retired lists was abolished by section 201 of the Act of June 29, 1948, ch. 708, 62 Stat. 1084. Sections 8918, 8920, and 8924 are included under this formula, since it achieves the same result as is reached on a basis of 30 years multiplied by 2½ percent, and simplifies the table.

In formulas D and E the words "credited under section 8925" are substituted for the words "active Federal service", since that revised section makes explicit the service covered. The Act of August 10, 1946, ch. 952, §6(c), 60 Stat. 996, is not contained in 10:948. It is also omitted from the revised section as executed. 10:980 now applies only when the retiring enlisted member has at least 30 years of service which may be credited in

computing his retired pay. However, as noted above, 10:980 is the only provision of law applicable to cases in which the retiring member has at least 30 years of service. The Act of June 16, 1942, ch. 413, §19 (63d through 75th words of 2d par.), 56 Stat. 369, repealed so much of the Act of March 2, 1907, ch. 2513, 34 Stat. 1217, as provided allowances for enlisted men on the retired list. The repeal of section 19 of the Act of June 16, 1942, by section 531(b)(34) of the Career Compensation Act of 1949, 63 Stat. 839, did not revive that portion of the Act of March 2, 1907, which had been repealed by the Act of June 16, 1942. Accordingly, the Act of March 2, 1907, as thus modified by the Act of June 16, 1942, is used as the basis for formula E.

Footnote 2 reflects the long-standing construction of those provisions dealing with computation of retired pay which do not specifically provide that the member is entitled to compute his retired pay on the basis of the monthly basic pay to which he would be entitled if he were on active duty in his retired grade. Except in cases covered by formula C, the pertinent basic computation provisions for such retirement either provide for computation of retired pay on the same basis as the provisions dealing with higher retired grade, or the basic retirement provisions were themselves enacted after the provisions authorizing higher retired grade. The provisos of 10:1002 and 1005 are omitted as surplusage, since no formula for the computation of retired pay includes inactive service on the retired list as a credit.

The words "at rates applicable on date of retirement and adjust to reflect later changes in permanent rates", in footnote 2; and all of footnote 4; are based on the source statutes incorporated in the formulas to which footnotes 2 and 4 apply.

In footnote 4, the words "and disregard a part of a year that is less than six months" are made applicable to formulas A–E, although this part of the rule is expressed only as to formula B, in 10:941a(4)(1). The legislative history of the Career Compensation Act of 1949 (Hearings before the Committee on Armed Services of the Senate on H.R. 5007, 81st Congress, first session, p. 313, July 6, 1949) indicates that the provisions, upon which formulas A and C–E are based, should be construed to require that a part of a year that is less than six months be disregarded.

## 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8991 | [No source]. | [No source]. |

The amendment reflects section 1(197) of the bill [amendment of section 8962 of title 10].

### 1962 ACT

The change corrects a cross-reference error.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9361 was renumbered section 9461 of this title.

### AMENDMENTS

**2025**—Subsec. (a)(2). Pub. L. 119–60 substituted "Vietnam era" for "Vietnam Era".

**2024**—Subsec. (a)(2). Pub. L. 118–159 inserted "(except in the case of a member who served during the Vietnam Era, as that term is defined in section 12731 of this title)" after "is based".

**2018**—Pub. L. 115–232, §806(b)(15), renumbered section 8991 of this title as this section.

Subsec. (a)(2). Pub. L. 115–232, §809(a), substituted "section 9314" for "section 8914".

Subsec. (c). Pub. L. 115–232, §809(a), substituted "Section 9343" for "Section 8963" in heading and "section 9314" for "section 8914" and "section 9343" for "section 8963" in text.

**1996**—Subsec. (c). Pub. L. 104–201 added subsec. (c).

**1994**—Subsec. (a)(1). Pub. L. 103–337, §635(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) contained table which provided two formulas for computing retired pay for cases covered under sections 8911, 8914, 8917, 8918, 8920, and 8924 of this title.

Subsec. (b)(1). Pub. L. 103–337, §635(c)(2)(B)(i), struck out "of the table" after "than one formula".

Subsec. (b)(3). Pub. L. 103–337, §635(c)(2)(B)(ii), struck out heading and text of par. (3). Text read as follows: "Section references in the table in subsection (a) are to sections of this title."

**1986**—Pub. L. 99–348 amended section generally by completely revising the formula for computation of retired pay to provide that the retired pay base as computed under section 1406(e) or section 1407 be multiplied by the retired pay multiplier prescribed in section 1409 for years of service credited under section

1405 for sections 8911, 8918, 8920, and 8924 and for the years of service credited under section 8925 for sections 8914 and 8917, eliminated monthly basic pay of a member's retired grade or to which a member was entitled on the day before he retired multiplied by 2½ percent of the years of service credited, subject to footnotes 1 to 4, as the basis for computing retired pay, incorporated provisions of column 3 and footnote 5 into subsec. (a)(2), struck out column 4, which provided that the excess over 75% of pay upon which the computation is based be subtracted, eliminated footnotes 1 to 4, and added subsec. (b).

**1983**—Pub. L. 98–94, §923(a)(1), (2)(H), in footnote 4 to table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

Pub. L. 98–94, §922(a)(12), inserted "The amount computed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

**1980**—Pub. L. 96–513, §514(8), in heading for column 1 of table substituted "after September 7, 1980" for "on or after the date of the enactment of the Department of Defense Authorization Act, 1981".

Pub. L. 96–342 in heading for column 1 of table inserted provisions respecting applicability to persons after date of enactment of Department of Defense Authorization Act, 1981.

Pub. L. 96–513, §504(22), in table struck out Formula A and redesignated Formulas B, C, and D as A, B, and C, respectively.

**1967**—Pub. L. 90–207 inserted ", or if the member has served as chief master sergeant of the Air Force, compute at the highest basic pay applicable to him while he so served, if such basic pay is greater" after "retirement" in footnote 3 of the table.

**1963**—Pub. L. 88–132 substituted in column 1 of Formula A in table "Monthly basic pay [2] of member's retired grade [1]" for "Monthly basic pay to which member would be entitled if he were on active duty in his retired grade [1]" and eliminated from footnote 2 to such table "and adjust to reflect later changes in applicable permanent rates. However, if member's retired grade is determined under section 3963(a) or 3963(b), use pay to which member would be entitled if he were on active duty in his retired grade" after "date of retirement".

**1962**—Pub. L. 87–651 substituted "section 8962(b)" for "section 8962(c)" in footnote 1.

**1958**—Formula B. Pub. L. 85–422, §11(a)(9), substituted "credited to him under section 1405 of this title" for "credited to him in determining basic pay" in column 2.

Formula C. Pub. L. 85–422, §6(8), substituted "Monthly basic pay to which member was entitled on day before he retired" for "Monthly basic pay to which member was entitled on date when he applied for retirement" in column 1.

Formula D. Pub. L. 85–422, §6(8), substituted "Monthly basic pay to which member was entitled on day before he retired" for "Monthly basic pay of member's retired grade" in column 1.

Footnote 1. Pub. L. 85–422, §6(6), permitted in case of an officer who has served as Chief of Staff, computation at highest rates of basic pay applicable to him while he served in that office.

Footnote 2. Pub. L. 85–861 struck out reference to section 8962(b).

**1957**—Pub. L. 85–155 redesignated formulas "B" to "E" of table as formulas "A" to "D". Former formula "A", which related to computation of retirement pay for persons retired under former sections 8881, 8882, and 8912 of this title, was repealed by such Pub. L. 85–155.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by section 504(22) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 514(8) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1967 AMENDMENT**

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

**EFFECTIVE DATE OF 1963 AMENDMENT**

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

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by section 6(6), (8) of Pub. L. 85–422 inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see section 6 of Pub. L. 85–422, set out in part under section 3991 of this title.

Amendment by Pub. L. 85–422 effective on June 1, 1958, see section 9 of Pub. L. 85–422, May 20, 1958, 72 Stat. 130.

**COMPUTATION OF RETIRED PAY FOR CERTAIN ENLISTED MEMBERS RETIRED PRIOR TO JUNE 1, 1958**

Members retired prior to June 1, 1958, authorized to include active service performed to the date of retirement as creditable service in computation of basic pay upon which retired pay is based, see Pub. L. 87–537, set out as a note under section 7361 of this title.

## §9362. Recomputation of retired pay to reflect advancement on retired list

(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Air Force or the Space Force who is advanced on the retired list under section 9344 of this title is entitled to recompute his retired pay in accordance with this section.

(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

(1) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 557, §8992; Pub. L. 96–342, title VIII, §813(e), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 96–513, title V, §514(8), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 97–295, §1(52), Oct. 12, 1982, 96 Stat. 1300; Pub. L. 98–94, title IX, §§922(a)(13), 923(a)(1), (2)(I), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 99–348, title II, §204(b), July 1, 1986, 100 Stat. 698; Pub. L. 103–337, div. A, title VI, §635(c)(3), Oct. 5, 1994, 108 Stat. 2789; renumbered §9362 and amended Pub. L. 115–232, div. A, title VIII, §§806(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116–283, div. A, title IX, §923(c)(22), Jan. 1, 2021, 134 Stat. 3813.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8992 | 10:594 (last 39 words of 1st proviso).<br>10:1004 (30 words before proviso). | Aug. 21, 1941, ch. 384, §5 (last 39 words of 1st proviso); restated June 29, 1948, ch. 708, §203(c) (last 39 words of 1st proviso), 62 Stat. 1085; May 29, 1954, ch. 249, §19(f), 68 Stat. 167.<br>June 29, 1948, ch. 708, §203(e) (30 words before proviso), 62 Stat. 1086. |

The words "basic pay * * * as the case may be" are inserted to conform to the terminology of the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.). The words "at the rate prescribed by law for his length of service", in 10:1004, are omitted as covered by the words "base and longevity pay". The words "base and longevity pay" are retained to cover the cases of members retired before the enactment of the Career Compensation Act of 1949, and advanced on the retired list after the enactment of that act. The words "and disregard a part of a year that is less than six months" are inserted to conform to footnote 4 of section 8991 of this title.

**1982 ACT**

This amends 10:8992 to correct an inadvertent error in the codification of title 10 in 1956 relating to retirement pay of warrant officers advanced on the retired list. For further details, see the explanation for amendment of 10:1405 made by section 1(17).

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9362 was renumbered section 9462 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232, §806(b)(15), renumbered section 8992 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 9344" for "section 8964".

**1994**—Pub. L. 103–337 amended section generally. Prior to amendment, section contained table with two formulas for recomputing retired pay of enlisted members and warrant officers of Air Force to reflect advancement on retired list.

**1986**—Pub. L. 99–348 revised table generally by striking out provision in column 1 that for a person who first became a member of a uniformed service, as defined in section 1407(a)(2), after Sept. 7, 1980, one multiplier is the monthly retired pay base as computed under section 1407(e), substituting in formulas A and B provision that the retired pay base as computed under section 1406(e) or 1407 of this title be multiplied by the retired pay multiplier prescribed in section 1409 of this title for the number of years credited for provisions that the monthly basic pay or base and longevity pay, as the case may be, subject to footnote 1, of the grade to which the member is advanced on the retired list be multiplied by 2½% of years of service credited, subject to footnote 2, and have subtracted from it the excess over 75% of pay upon which the computation is based, struck out footnote 1, which provided that the computation be at the rate applicable on the date of retirement, and redesignated footnote 2 as 1 and substituted "In determining retired pay multiplier" for "Before applying percentage factor" and "1/12" for "one-twelfth".

**1983**—Pub. L. 98–94, §923(a)(1), (2)(I), in footnote 2 to table, substituted "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month" for "Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months".

Pub. L. 98–94, §922(a)(13), inserted "The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1."

**1982**—Pub. L. 97–295 inserted "enlisted" before "member of the Air Force" and formula B relating to warrant officers.

**1980**—Pub. L. 96–513 in heading for column 1 of table substituted "after September 7, 1980" for "on or after the date of the enactment of the Department of Defense Authorization Act, 1981".

Pub. L. 96–342 in heading for column 1 of table inserted provisions respecting applicability to persons after date of enactment of Department of Defense Authorization Act, 1981.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, and (2) the recomputation of retired pay under this section, of any individual who after Sept. 30, 1983, becomes entitled to recompute retired pay under this section, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

# CHAPTER 947—CIVILIAN EMPLOYEES

Sec.
9371. Air University and Space Delta 13: civilian faculty members.
9375. Production of supplies and munitions: hours and pay of laborers and mechanics.
9377. Civilian special agents of the Office of Special Investigations: authority to execute warrants and make arrests.

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 947, consisting of repealed sections 9741 to 9748, related to transportation, prior to renumbering as chapter 977 of this title.

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title XI, §1117(b), Dec. 22, 2023, 137 Stat. 433, added item 9371 and struck out former item 9371 "Air University: civilian faculty members".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(ii), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 873 of this title as this chapter and items 9021, 9025, and 9027 as 9371, 9375, and 9377, respectively.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §554(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127, added item 9027.

**1989**—Pub. L. 101–189, div. A, title XI, §1124(d)(2), Nov. 29, 1989, 103 Stat. 1560, added item 9021.

**1983**—Pub. L. 98–94, title IX, §932(c)(2), Sept. 24, 1983, 97 Stat. 650, struck out item 9022 "Contract surgeons".

**1962**—Pub. L. 87–651, title I, §128(2), Sept. 7, 1962, 76 Stat. 514, struck out item 9023 "Service club and library services".

**1958**—Pub. L. 85–861, §1(200), Sept. 2, 1958, 72 Stat. 1541, struck out item 9021 "Appointment: professional and scientific services".

## §9371. Air University and Space Delta 13: civilian faculty members

(a) AUTHORITY OF SECRETARY.—The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at a school of the Air University or of the Space Delta 13 as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at a school of the Air University or of the Space Delta 13 after February 27, 1990.

(2) This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Air University or of the Space Delta 13 if the duration of the principal course of instruction offered at that school is less than 10 months.

(Added Pub. L. 101–189, div. A, title XI, §1124(d)(1), Nov. 29, 1989, 103 Stat. 1559, §9021; amended Pub. L. 103–337, div. A, title X, §1070(a)(17), Oct. 5, 1994, 108 Stat. 2856; renumbered §9371, Pub. L. 115–232, div. A, title VIII, §806(b)(16), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 118–31, div. A, title XI, §1117(a), Dec. 22, 2023, 137 Stat. 433.)

### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, §1117(a)(1), inserted "and Space Delta 13" after "Air University" in section catchline.

Subsec. (a). Pub. L. 118–31, §1117(a)(2), inserted "or of the Space Delta 13" after "Air University".

Subsec. (c)(1). Pub. L. 118–31, §1117(a)(3)(A), inserted "or of the Space Delta 13" after "Air University".

Subsec. (c)(2). Pub. L. 118–31, §1117(a)(3)(B), inserted "or of the Space Delta 13" after "Air University".

**2018**—Pub. L. 115–232 renumbered section 9021 of this title as this section.

**1994**—Subsec. (c)(1). Pub. L. 103–337 substituted "after February 27, 1990" for "after the end of the 90-day period beginning on the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9375. Production of supplies and munitions: hours and pay of laborers and mechanics

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Air Force producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Air Force these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.

(Aug. 10, 1956, ch. 1041, 70A Stat. 558, §9025; renumbered §9375, Pub. L. 115–232, div. A, title VIII, §806(b)(16), Aug. 13, 2018, 132 Stat. 1833.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9025 | 5:189a. | July 2, 1940, ch. 508, §4 (b), 54 Stat. 714. |

The words "Notwithstanding the provisions of any other law" are omitted as surplusage. The word "producing" is substituted for the words "who are engaged in the manufacture or production". The last sentence is substituted for 5:189a (last 34 words).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9025 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9377. Civilian special agents of the Office of Special Investigations: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of the Air Force may authorize any Department of the Air Force civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) AGENTS TO HAVE AUTHORITY.—Subsection (a) applies to any employee of the Department of the Air Force who is a special agent of the Air Force Office of Special Investigations (or a successor to that office) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Air Force.

(c) GUIDELINES FOR EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Air Force and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Air Force, the Secretary of Defense, or the Attorney General.

(Added Pub. L. 106–398, §1 [[div. A], title V, §554(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127, §9027; renumbered §9377, Pub. L. 115–232, div. A, title VIII, §806(b)(16), Aug. 13, 2018, 132 Stat. 1833.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9027 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

# CHAPTER 949—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

Sec.
9381. Fatality reviews.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior chapter 949, consisting of sections 9771 to 9783, related to real property, prior to renumbering as chapter 979 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(3)(B)(ii), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 875 of this title as this chapter and item 9061 as 9381.

## §9381. Fatality reviews

(a) REVIEW OF FATALITIES.—The Secretary of the Air Force shall conduct a multidisciplinary, impartial review (referred to as a "fatality review") in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following:

(1) A member of the Air Force or the Space Force on active duty.

(2) A current or former dependent of a member of the Air Force or the Space Force on active duty.

(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the Air Force or the Space Force on active duty.

(b) MATTERS TO BE INCLUDED.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

(1) An executive summary.

(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

(3) Legal disposition.

(4) System intervention and failures, if any, within the Department of Defense.

(5) A discussion of significant findings.

(6) Recommendations for systemic changes, if any, within the Department of the Air Force and the Department of Defense.

(c) OSD GUIDANCE.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).

(Added Pub. L. 108–136, div. A, title V, §576(c)(1), Nov. 24, 2003, 117 Stat. 1488, §9061; renumbered §9381, Pub. L. 115–232, div. A, title VIII, §806(b)(17), Aug. 13, 2018, 132 Stat. 1833; amended Pub. L. 116–283, div. A, title IX, §923(c)(23), Jan. 1, 2021, 134 Stat. 3813.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 9381 to 9383 were repealed by Pub. L. 114–328, div. A, title XII, §1241(i)(2), Dec. 23, 2016,

130 Stat. 2508.

Section 9381, added Pub. L. 103–160, div. A, title XI, §1178(b), Nov. 30, 1993, 107 Stat. 1769, established the Aviation Leadership Program. See section 348 of this title.

Section 9382, added Pub. L. 103–160, div. A, title XI, §1178(b), Nov. 30, 1993, 107 Stat. 1769, related to the Secretary of the Air Force providing to a person receiving training transportation, supplies, equipment, clothing, billeting, food, and health services.

Section 9383, added Pub. L. 103–160, div. A, title XI, §1178(b), Nov. 30, 1993, 107 Stat. 1769, related to the Secretary of the Air Force paying a living allowance to a person receiving training.

Other prior sections 9381 to 9383 and prior sections 9384 to 9387 were repealed by Pub. L. 88–647, title III, §301(26), Oct. 13, 1964, 78 Stat. 1073. See chapter 103 of this title.

Section 9381, act Aug. 10, 1956, ch. 1041, 70A Stat. 568, defined "advanced training".

Section 9382, acts Aug. 10, 1956, ch. 1041, 70A Stat. 568; Sept. 2, 1958, Pub. L. 85–861, §33(a)(44), 72 Stat. 1567, related to establishment and composition of Air Force Reserve Officers' Training Corps.

Section 9383, act Aug. 10, 1956, ch. 1041, 70A Stat. 569, related to admission and training of medical, dental, pharmacy and veterinary students.

Section 9384, act Aug. 10, 1956, ch. 1041, 70A Stat. 569; Pub. L. 85–861, §1(202), Sept. 2, 1958, 72 Stat. 1541, set out courses of training.

Section 9385, act Aug. 10, 1956, ch. 1041, 70A Stat. 569, authorized operation and maintenance of training camps.

Section 9386, act Aug. 10, 1956, ch. 1041, 70A Stat. 570, provided for supplies and uniforms.

Section 9387, act Aug. 10, 1956, ch. 1041, 70A Stat. 570, provided for advanced training and compensation therefor.

### AMENDMENTS

**2021**—Subsec. (a)(1) to (3). Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 9061 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable to fatalities that occur on or after Nov. 24, 2003, see section 576(d) of Pub. L. 108–136, set out as a note under section 4061 of this title.

# PART III—TRAINING


| Chap. | | Sec. |
|---|---|---|
| **951.** | **Training Generally** | **9401** |
| **953.** | **United States Air Force Academy** | **9431** |
| **957.** | **Schools and Camps** | **9481** |
| **959.** | **Civil Air Patrol** | **9491** |


### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(e)(2), Aug. 13, 2018, 132 Stat. 1834, redesignated items for chapters 901 to 909 as 951 to 959 and redesignated section numbers 9301 to 9441 as 9401 to 9491.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(8), Dec. 23, 2016, 130 Stat. 2512, struck out item for chapter 905 "Aviation Leadership Program".

**1993**—Pub. L. 103–160, div. A, title XI, §1178(c), Nov. 30, 1993, 107 Stat. 1769, added item for chapter 905.

**1964**—Pub. L. 88–647, title III, §301(27), Oct. 13, 1964, 78 Stat. 1073, struck out item for chapter 905.

# CHAPTER 951—TRAINING GENERALLY

Sec.
9401. Members of Air Force and Space Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.
9402. Enlisted members of Air Force or Space Force: schools.
9403. Aviation cadets and aviation students: schools.
9404. Aviation students: detail of enlisted members of Air Force.
9405. Civilian flying school instructors: instruction at Air Force training commands.
9406. Service schools: leaves of absence for instructors.
9413. United States Air Force Institute of Technology: establishment.
9414. United States Air Force Institute of Technology: degree granting authority; faculty, reimbursement and tuition; acceptance of research grants.
9414a. United States Air Force Institute of Technology: admission of certain private sector civilians.
9414b. United States Air Force Institute of Technology: administration.
9415. Community College of the Air Force: associate degrees.
9417. Degree granting authority for Air University.
9419. Recruit basic training: separate housing for male and female recruits.
9420. Recruit basic training: privacy.
9421. Space Force officer training course requirements.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior chapter 951, consisting of sections 9801 to 9806, related to military claims, prior to renumbering as chapter 981 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title V, §559(a)(1), title XVI, §1601(c)(1), Dec. 18, 2025, 139 Stat. 880, 1173, added items 9414 and 9421 and struck out former item 9414 "Degree granting authority for United States Air Force Institute of Technology". Amendments were made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §558(b), title X, §1081(a)(35), (36), Dec. 27, 2021, 135 Stat. 1741, 1921, added item 9413 and reenacted items 9401 and 9402.

Pub. L. 116–283, div. A, title IX, §923(d)(1)(D), (2)(C), Jan. 1, 2021, 134 Stat. 3813, 3814, added items 9401 and 9402 and struck out former items 9401 "Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals" and 9402 "Enlisted members of Air Force: schools".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(2), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 901 of this title as this chapter and items 9301 to 9306, 9314, 9314a, 9314b, 9315, 9317, 9319, and 9320 as 9401 to 9406, 9414, 9414a, 9414b, 9415, 9417, 9419, and 9420, respectively.

**2017**—Pub. L. 115–91, div. A, title V, §581(d)(2), Dec. 12, 2017, 131 Stat. 1415, added item 9314a and struck out former item 9314a "United States Air Force Institute of Technology: admission of defense industry civilians".

**2011**—Pub. L. 112–81, div. A, title V, §554(b), Dec. 31, 2011, 125 Stat. 1415, added item 9314b.

Pub. L. 111–383, div. A, title V, §593(b), Jan. 7, 2011, 124 Stat. 4234, added item 9314a.

**2008**—Pub. L. 110–417, [div. A], title III, §353(b), title V, §543(h)(2), (i)(2), Oct. 14, 2008, 122 Stat. 4425, 4464, 4465, added items 9314 and 9317 and struck out former items 9314 "United States Air Force Institute of Technology", 9316 "Training and support for A–10 aircraft", and 9317 "Air University: conferral of degrees".

**2004**—Pub. L. 108–375, div. A, title V, §556(c)(2), Oct. 28, 2004, 118 Stat. 1915, substituted "conferral of degrees" for "graduate-level degrees" in item 9317.

**1999**—Pub. L. 106–65, div. A, title V, §543(b)(2), Oct. 5, 1999, 113 Stat. 607, substituted "graduate-level degrees" for "master of airpower art and science" in item 9317.

**1998**—Pub. L. 105–261, div. A, title V, §§521(c)(2), 522(c)(2), Oct. 17, 1998, 112 Stat. 2012, 2013, added items 9319 and 9320.

**1994**—Pub. L. 103–337, div. A, title IX, §913(a)(2), Oct. 5, 1994, 108 Stat. 2828, added item 9317.

**1991**—Pub. L. 102–190, div. A, title X, §1061(a)(25), Dec. 5, 1991, 105 Stat. 1474, struck out section

symbol before "9316" in item 9316.

**1990**—Pub. L. 101–510, div. A, title XIV, §1439(d), Nov. 5, 1990, 104 Stat. 1689, added item 9316.

**1985**—Pub. L. 99–145, title V, §504(a)(2)(B), Nov. 8, 1985, 99 Stat. 622, struck out ": degrees" after "Technology" in item 9314.

**1976**—Pub. L. 94–361, title VI, §602, July 14, 1976, 90 Stat. 928, added item 9315.

## §9401. Members of Air Force and Space Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Air Force may detail members of the Air Force and members of the Space Force as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Air Force on the active-duty list, or one of the Space Force in a space force active status not on sustained duty, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Air Force or member of the Space Force in a space force active status not on sustained duty may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without the member's consent and, if a member of the Air National Guard of the United States, without the approval of the governor or other appropriate authority of the State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands of whose Air National Guard the Reserve is a member.

(d) The Secretary may require, as a condition of a detail under subsection (a), that an enlisted member accept a discharge and be reenlisted in his component for at least three years.

(e) The total length of details of an enlisted member of the Air Force or the Space Force under subsection (a) during one enlistment period may not exceed 50 percent of that enlistment.

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in enlisted members, of the Regular Air Force or of Space Force members on sustained duty, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Air Force or of Space Force members in an active status not on sustained duty, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) Expenses incident to the detail of members under this section shall be paid from any funds appropriated for the Department of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 559, §9301; Pub. L. 93–169, Nov. 29, 1973, 87 Stat. 689; Pub. L. 96–513, title V, §504(23), Dec. 12, 1980, 94 Stat. 2917; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(a)(9), Jan. 6, 2006, 119 Stat. 3441; renumbered §9401, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(1)(A)–(C), Jan. 1, 2021, 134 Stat. 3813; Pub. L. 117–81, div. A, title X, §1081(a)(35), Dec. 27, 2021, 135 Stat. 1921; Pub. L. 118–31, div. A, title XVII, §1721(b), Dec. 22, 2023, 137 Stat. 666.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9301(a) | 5:626q (1st 78 words). | June 3, 1916, ch. 134, §127a (13th par.); added June 4, 1920, ch. 227, subch. I, §51 (13th par.); restated |
| 9301(b) | 5:626q (less 1st 78 words, and less provisos). | |

| | | |
|---|---|---|
| 9301(c) | 5:626q (1st proviso). | June 8, 1926, ch. 495; May 13, 1941, ch. 113; June 30, 1941, ch. 262 (4th proviso under "Finance Department"); restated June 19, 1948, ch. 501, §1, 62 Stat. 477. |
| 9301(d) | 5:626q (words of 2d proviso before semicolon). | |
| 9301(e) | 5:626q (words of 2d proviso after semicolon). | |
| 9301(f). | 5:626q (last proviso). | |
| 9301(g) | 5:626r. | June 19, 1948, ch. 501, §§2, 3, 62 Stat. 478. |

In subsection (a), the words "members of the Air Force" are substituted for the words "personnel of the Air Force of the United States, without regard to component".

In subsection (b), the words "is detailed under subsection (a)" are substituted for the words "receives such instruction". The words "as long as the detail" are substituted for the words "equal to the duration of his period of instruction". The words "However, if the detail is for" are substituted for the words "except that where the duration of such training is". The words "other than one of the Regular Air Force on the active list" are inserted, since members of the Regular Air Force on the active list are on continuous active duty. The word "additional" is inserted, since the detail under this section is active duty. The words "the officer may be ordered to that additional duty" are substituted for the words "such subsequent active duty may * * * the officer concerned".

In subsection (c), the words "of whose Air National Guard he is a member" are substituted for the words "whichever is concerned".

In subsection (d), the words "as a condition of a detail under subsection (a)" are substituted for the words "prior to his detail pursuant to the provisions of this paragraph". The words "accept the discharge" are substituted for the words "be discharged".

In subsection (e), the words "during an enlistment" are inserted for clarity.

In subsection (f), the last sentence is substituted for 5:626q (words within parentheses of last proviso).

In subsection (g), the words "under this section" are substituted for 5:626r (9th through 41st words).

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §1721(b)(1), struck out "or the Regular Space Force" after "Regular Air Force" and inserted "or one of the Space Force in a space force active status not on sustained duty," after "on the active-duty list,".

Subsec. (c). Pub. L. 118–31, §1721(b)(2), substituted "or member of the Space Force in a space force active status not on sustained duty" for "or Reserve of the Space Force" and "the member's consent" for "the Reserve's consent".

Subsec. (f). Pub. L. 118–31, §1721(b)(3), substituted "of Space Force members on sustained duty" for "the Regular Space Force" and "of Space Force members in an active status not on sustained duty" for "the Space Force Reserve".

**2021**—Pub. L. 117–81 inserted a comma after "observers" in section catchline.

Pub. L. 116–283, §923(d)(1)(C), substituted "Members of Air Force and Space Force: detail as students, observers and investigators at educational institutions, industrial plants, and hospitals" for "Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals" in section catchline.

Subsec. (a). Pub. L. 116–283, §923(d)(1)(A)(i), inserted "and members of the Space Force" after "members of the Air Force".

Subsec. (b). Pub. L. 116–283, §923(d)(1)(A)(ii), inserted "or the Regular Space Force" after "Regular Air Force".

Subsec. (c). Pub. L. 116–283, §923(d)(1)(A)(iii), (B), inserted "or Reserve of the Space Force" after "Reserve of the Air Force" and substituted "the Reserve's" for "his" and "the Reserve" for "he".

Subsec. (e). Pub. L. 116–283, §923(d)(1)(A)(iv), inserted "or the Space Force" after "Air Force".

Subsec. (f). Pub. L. 116–283, §923(d)(1)(A)(v)(II), which directed amendment by inserting "or the Space Force Reserve" after "the reserve components of the Air Force", was executed by making the insertion after "the total of reserve components of the Air Force" to reflect the probable intent of Congress.

Pub. L. 116–283, §923(d)(1)(A)(v)(I), inserted "or the Regular Space Force" after "Regular Air Force".

**2018**—Pub. L. 115–232 renumbered section 9301 of this title as this section.

**2006**—Subsec. (c). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

**1988**—Subsec. (c). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

**1980**—Subsec. (b). Pub. L. 96–513 substituted "active-duty list" for "active list".

**1973**—Subsec. (b). Pub. L. 93–169 struck out provisions which limited to four years the maximum period for which an officer detailed for additional active duty upon termination of detail is required to serve.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §9402. Enlisted members of Air Force or Space Force: schools

(a) So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Air Force with the approval of the President, enlisted members of the Air Force and enlisted members of the Space Force shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial, and business occupations. Part of this instruction may be vocational education in agriculture or the mechanic arts. Civilian teachers may be employed to aid Air Force officers and Space Force officers in this instruction.

(b) Schools for the instruction of enlisted members of the Air Force or the Space Force in the common branches of education, including United States history, shall be maintained at all air bases at which members of the Air Force or the Space Force are stationed. The Secretary may detail members of the Air Force or the Space Force to carry out this subsection. The commander of each air base where schools are maintained under this subsection shall provide a suitable room or building for school and religious purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 560, §9302; renumbered §9402, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(d)(2)(A), (B), Jan. 1, 2021, 134 Stat. 3813, 3814; Pub. L. 117–81, div. A, title X, §1081(a)(36), Dec. 27, 2021, 135 Stat. 1921.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9302(a) | 10:1176. | June 3, 1916, ch. 134, §27 (last par.), 39 Stat. 186. |
| 9302(b) | 10:1172. | R.S. 1231. |

In subsection (a), the first 12 words are substituted for 10:1176 (1st 5, and last 18, words). The words "and the Secretary of the Army shall have the power at all times to suspend, increase, or decrease the amount of such instruction offered" are omitted as surplusage.

In subsection (b), the words "garrisons, and permanent camps" are omitted as covered by the word "posts". The word "including" is substituted for the words "and especially in". The word "members" is substituted for the words "officers and enlisted men". The words "as may be necessary", "It * * * be the duty", and "or garrison" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 117–81 substituted "Enlisted members of Air Force or Space Force: schools" for "Enlisted members Air Force or Space Force: schools" in section catchline.

Pub. L. 116–283, §923(d)(2)(B), amended section catchline generally. Prior to amendment, catchline read as follows: "Enlisted members of Air Force: schools".

Subsec. (a). Pub. L. 116–283, §923(d)(2)(A)(i), inserted "and enlisted members of the Space Force" after "members of the Air Force" and "and Space Force officers" after "Air Force officers".

Subsec. (b). Pub. L. 116–283, §923(d)(2)(A)(ii), inserted "or the Space Force" after "Air Force" wherever appearing.

**2018**—Pub. L. 115–232 renumbered section 9302 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) of this section delegated to Secretary of Defense, see section 1(6) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §9403. Aviation cadets and aviation students: schools

The Secretary of the Air Force shall establish and maintain—

(1) one or more schools for the training and instruction of aviation cadets; and

(2) courses of instruction for aviation students at one or more established flying schools.

(Aug. 10, 1956, ch. 1041, 70A Stat. 560, §9303; renumbered §9403, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9303 | 10:296.<br>10:296a. | July 11, 1919, ch. 8 (2d par. under "Air Service"), 41 Stat. 109.<br>June 3, 1941, ch. 165, §2, 55 Stat. 239. |

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9303 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9404. Aviation students: detail of enlisted members of Air Force

The Secretary of the Air Force may detail enlisted Regulars of the Air Force, and enlisted Reserves of the Air Force who are on active duty, for training and instruction as aviation students in their respective grades at schools selected by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 560, §9304; renumbered §9404, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9304 | 10:298a–1. | June 3, 1941, ch. 167, 55 Stat. 241. |

The words "under such regulations as he may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. 10:298a–1 (1st proviso) is omitted as impliedly repealed by section 10 of the Insurance Act of 1951, ch. 39, 65 Stat. 36. 10:298a–1 (last proviso) is omitted as surplusage. The words "active duty" are substituted for the words "active Federal service".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9304 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9405. Civilian flying school instructors: instruction at Air Force training commands

(a) The Secretary of the Air Force may provide for the instruction and training, at Air Force training commands, of civilians selected from the instructional staffs of civilian flying schools that are accredited by the Department of the Air Force for the education and training of members of the Air Force.

(b) The training of civilians under subsection (a) shall be without cost to the United States, except for supplies necessary for training purposes.

(c) A civilian undergoing training under subsection (a) may be treated in a Government hospital if he becomes sick or is injured. However, that treatment shall be without cost to the United States except for services of Government medical personnel and the use of hospital equipment other than medicine or supplies.

(d) No civilian who sustains a personal injury, and no dependent of a civilian who dies of disease or injury, while undergoing training under subsection (a), is entitled to any compensation, pension, or gratuity for that injury or death.

(Aug. 10, 1956, ch. 1041, 70A Stat. 560, §9305; renumbered §9405, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 9305(a) | 10:292c–1 (less provisos). | Apr. 3, 1939, ch. 35, §3, 53 Stat. 556. |
| 9305(b) | 10:292c–1 (1st proviso). | |
| 9305(c) | 10:292c–1 (2d proviso). | |
| 9305(d) | 10:292c–1 (last proviso). | |

In subsection (a), the words "under such rules and regulations as he may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "Air Force training commands" are substituted for the words "the Air Corps Training Center", since those commands now perform the functions formerly performed by the Air Corps Training Center. The words "in his discretion", "experience", and "upon their own applications" are omitted as surplusage. The words "and may provide for the instruction and training" are substituted for the words "is authorized to enroll as students * * * for the pursuit of such courses of instruction as may be prescribed therefor".

In subsection (b), the words "the furnishing of such" are omitted as surplusage. The words "matériel, or equipment" are omitted as covered by the word "supplies", as defined in section 101(26) of this title.

In subsection (c), the word "Government" is substituted for the words "Medical Department" to conform to the first sentence of the revised subsection.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9305 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9406. Service schools: leaves of absence for instructors

The officer in charge of an Air Force or Space Force service school may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to any officer on duty exclusively as an instructor at the school.

(Aug. 10, 1956, ch. 1041, 70A Stat. 561, §9306; renumbered §9406, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(3), Jan. 1, 2021, 134 Stat. 3814.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9306 | 10:843. | Mar. 23, 1910, ch. 115 (proviso under "United States Service Schools"), 36 Stat. 244. |

The words "The provisions of section 1144 of this title, authorizing leaves of absence to certain officers of the Military Academy * * * are hereby extended to include" are omitted as surplusage.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 9411 to 9413 were renumbered sections 9481 to 9483 of this title, respectively.

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or Space Force" after "Air Force".

**2018**—Pub. L. 115–232 renumbered section 9306 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9413. United States Air Force Institute of Technology: establishment

There is in the Department of the Air Force a United States Air Force Institute of Technology, the purposes of which are to perform research and to provide, to members of the Air Force and Space Force (including the reserve components) and civilian employees of such Department, advanced instruction and technical education regarding their duties.

(Added Pub. L. 117–81, div. A, title V, §558(a), Dec. 27, 2021, 135 Stat. 1741.)

## §9414. United States Air Force Institute of Technology: degree granting authority; faculty, reimbursement and tuition; acceptance of research grants

(a) AUTHORITY.—Under regulations prescribed by the Secretary of the Air Force, the commander of the Air University may, upon the recommendation of the faculty of the United States Air Force Institute of Technology, confer appropriate degrees upon graduates of the United States Air Force Institute of Technology who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the United States Air Force Institute of Technology is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Air Force Institute of Technology to award any new or existing degree.

(d) CIVILIAN FACULTY.—(1) The Secretary of the Air Force may employ as many civilian faculty members at the United States Air Force Institute of Technology as is consistent with the

needs of the Air Force or the Space Force and with Department of Defense personnel limits.

(2) The Secretary shall prescribe regulations determining—

(A) titles and duties of civilian members of the faculty; and

(B) pay of civilian members of the faculty, notwithstanding chapter 53 of title 5, but subject to the limitation set out in section 5373 of title 5.

(e) SPACE FORCE FACULTY.—(1) The Secretary shall detail members of the Space Force as instructors at the United States Air Force Institute of Technology to provide instruction in areas that support the mission of the Space Force.

(2) The number of members of the Space Force detailed by the Secretary to the United States Air Force Institute of Technology as instructors during an academic year shall be equal to or greater than the product of—

(A) the total number of members of the Space Force divided by the total number of members of the Space Force and the Air Force; and

(B) the total number of instructors at the United States Air Force Institute of Technology.

(f) REIMBURSEMENT AND TUITION.—(1) The Department of the Army, the Department of the Navy, and the Department of Homeland Security shall bear the cost of the instruction at the Air Force Institute of Technology that is received by members of the armed forces detailed for that instruction by the Secretaries of the Army, Navy, and Homeland Security, respectively.

(2) Members of the Army, Navy, Marine Corps, and Coast Guard may only be detailed for instruction at the Institute on a space-available basis.

(3) In the case of an enlisted member of the Army, Navy, Marine Corps, and Coast Guard permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).

(4)(A) The Institute shall charge tuition for the cost of providing instruction at the Institute for any civilian employee of a military department (other than a civilian employee of the Department of the Air Force), of another component of the Department of Defense, or of another Federal agency who receives instruction at the Institute.

(B) The cost of any tuition charged an individual under this paragraph shall be borne by the department, agency, or component sending the individual for instruction at the Institute.

(5) Amounts received by the Institute for the instruction of students under this subsection shall be retained by the Institute. Such amounts shall be available to the Institute to cover the costs of such instruction. The source and disposition of such amounts shall be specifically identified in the records of the Institute.

(g) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Director and Chancellor of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(4) The Secretary shall establish an account for administering funds received as research grants under this section. The Director and Chancellor of the Institute shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Institute may be used to pay expenses incurred by the Institute in applying for, and otherwise

pursuing, the award of qualifying research grants.

(6) The Secretary shall prescribe regulations for the administration of this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 561, §9314; Pub. L. 99–145, title V, §504(a)(1), (2)(A), Nov. 8, 1985, 99 Stat. 622; Pub. L. 99–661, div. A, title V, §510, Nov. 14, 1986, 100 Stat. 3868; Pub. L. 101–509, title V, §529 [title I, §106(b)(6)(C)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 105–261, div. A, title XI, §1102, Oct. 17, 1998, 112 Stat. 2141; Pub. L. 108–136, div. A, title V, §533, Nov. 24, 2003, 117 Stat. 1473; Pub. L. 109–163, div. A, title V, §522(e), Jan. 6, 2006, 119 Stat. 3243; Pub. L. 110–417, [div. A], title V, §§543(h)(1), 544, Oct. 14, 2008, 122 Stat. 4463, 4465; renumbered §9414, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–92, div. A, title V, §556(b), Dec. 20, 2019, 133 Stat. 1392; Pub. L. 116–283, div. A, title IX, §923(d)(4), Jan. 1, 2021, 134 Stat. 3814; Pub. L. 119–60, div. A, title V, §559(a), Dec. 18, 2025, 139 Stat. 880.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9314 | [Uncodified]. | Aug. 31, 1954, ch. 1151, 68 Stat. 1006. |

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9414 was renumbered section 9484 of this title.

### AMENDMENTS

**2025**—Pub. L. 119–60, §559(a)(1), added section catchline and struck out former catchline "Degree granting authority for United States Air Force Institute of Technology".

Subsecs. (e) to (g). Pub. L. 119–60, §559(a)(2), (3), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

**2021**—Subsec. (d)(1). Pub. L. 116–283 inserted "or the Space Force" after "needs of the Air Force".

**2019**—Subsec. (f). Pub. L. 116–92 substituted "Director and Chancellor" for "Commandant" in pars. (1) and (4).

**2018**—Pub. L. 115–232 renumbered section 9314 of this title as this section.

**2008**—Pub. L. 110–417, §543(h)(1), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to conferral of degrees, civilian faculty, costs of instruction, and research grants at the United States Air Force Institute of Technology.

Subsec. (e)(4), (5). Pub. L. 110–417, §544, added pars. (4) and (5).

**2006**—Subsec. (d). Pub. L. 109–163 added subsec. (d).

**2003**—Subsec. (a). Pub. L. 108–136, §533(b)(1), (c), inserted heading, designated existing provisions as par. (1), substituted "The Commander" for "When the United States Air Force Institute of Technology is accredited by a nationally recognized accreditation association or authority, the Commander" and "the United States Air Force Institute of Technology" for "that Institute", and added par. (2).

Subsec. (b). Pub. L. 108–136, §533(b)(2), inserted heading.

Subsec. (c). Pub. L. 108–136, §533(a), added subsec. (c).

**1998**—Subsec. (b)(2)(B). Pub. L. 105–261 substituted "section 5373" for "section 5306(e)".

**1990**—Subsec. (b)(2)(B). Pub. L. 101–509 substituted "5306(e)" for "5308".

**1986**—Subsec. (b)(2)(B). Pub. L. 99–661 struck out "rates of basic" before "pay of civilian".

**1985**—Pub. L. 99–145, §504(a)(2)(A), struck out ": degrees" after "Technology" in section catchline.

Subsecs. (a), (b). Pub. L. 99–145, §504(a)(1), designated existing provisions as subsec. (a) and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by section 543(h)(1) of Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

**CIVILIAN MEMBERS OF FACULTY OF AIR FORCE INSTITUTE OF TECHNOLOGY ON NOVEMBER 8, 1985**

Subsec. (b)(2) of this section not applicable to persons who, on Nov. 8, 1985, were civilian members of the faculty of the Air Force Institute of Technology, were being paid a rate of basic pay under the General Schedule, and elected under procedures prescribed by the Secretary of the Air Force to continue to be paid under the General Schedule, see section 504(c) of Pub. L. 99–145, set out as a note under section 5102 of Title 5, Government Organization and Employees.

## §9414a. United States Air Force Institute of Technology: admission of certain private sector civilians

(a) ADMISSION AUTHORIZED.—(1) The Secretary of the Air Force may permit a covered private sector employee to receive instruction at the United States Air Force Institute of Technology in accordance with this section. A covered private sector employee may be enrolled in, and may be provided instruction in, a program leading to a graduate degree or professional continuing education certificate in a defense-focused or homeland security-focused curriculum related to aeronautics and astronautics, electrical and computer engineering, engineering physics, mathematics and statistics, operational sciences, or systems and engineering management.

(2) No more than 125 covered private sector employees may be enrolled at the United States Air Force Institute of Technology at any one time under the authority of paragraph (1).

(3) Upon successful completion of the course of instruction at the United States Air Force Institute of Technology in which a covered private sector employee is enrolled, the covered private sector employee may be awarded an appropriate degree under section 9414 of this title or an appropriate professional continuing education certificate, as applicable.

(b) COVERED PRIVATE SECTOR EMPLOYEE DEFINED.—(1) In this section, the term "covered private sector employee" means—

(A) an individual employed by a private firm that is engaged in providing to the Department of Defense significant and substantial defense-related systems, products, or services; or

(B) an individual employed by a private firm in one of the critical infrastructure sectors identified in Presidential Policy Directive 21 (Critical Infrastructure Security and Resilience).

(2) A covered private sector employee admitted for instruction at the United States Air Force Institute of Technology remains eligible for such instruction only so long as the person remains employed by the same firm.

(c) ANNUAL DETERMINATION BY THE SECRETARY OF THE AIR FORCE.—A covered private sector employee may receive instruction at the United States Air Force Institute of Technology during any academic year only if, before the start of that academic year, the Secretary of the Air Force, or the designee of the Secretary, determines that providing instruction to covered private sector employees under this section during that year—

(1) will further the military mission of the United States Air Force Institute of Technology; and

(2) will not require an increase in the permanently authorized size of the faculty of the school, an increase in the course offerings of the school, or an increase in the laboratory facilities or other

infrastructure of the school.

(d) PROGRAM REQUIREMENTS.—The Secretary of the Air Force shall ensure that—

(1) the curriculum in which a covered private sector employee may be enrolled under this section is not readily available through other schools and concentrates on the areas of focus specified in subsection (a)(1) that are conducted by military organizations and defense or homeland security contractors working in close cooperation; and

(2) the course offerings at the United States Air Force Institute of Technology continue to be determined solely by the needs of the Department of Defense or the Department of Homeland Security, as applicable.

(e) TUITION.—(1) The United States Air Force Institute of Technology shall charge tuition for students enrolled under this section at a rate not less than the rate charged for employees of the United States outside the Department of the Air Force.

(2) Amounts received by the United States Air Force Institute of Technology for instruction of students enrolled under this section shall be retained by the school to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the school.

(f) STANDARDS OF CONDUCT.—While receiving instruction at the United States Air Force Institute of Technology, covered private sector employees enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the school.

(Added Pub. L. 111–383, div. A, title V, §593(a), Jan. 7, 2011, 124 Stat. 4232, §9314a; amended Pub. L. 112–239, div. A, title V, §589(b), Jan. 2, 2013, 126 Stat. 1769; Pub. L. 114–92, div. A, title V, §558, title X, §1081(a)(13), Nov. 25, 2015, 129 Stat. 827, 1001; Pub. L. 115–91, div. A, title V, §581(a)–(d)(1), Dec. 12, 2017, 131 Stat. 1414, 1415; renumbered §9414a and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9314a of this title as this section.

Subsec. (a)(3). Pub. L. 115–232, §809(a), substituted "section 9414" for "section 9314".

**2017**—Pub. L. 115–91, §581(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "United States Air Force Institute of Technology: admission of defense industry civilians".

Subsec. (a)(1). Pub. L. 115–91, §581(b)(1)(A), (c)(1), substituted "a covered private sector employee" for "defense industry employees described in subsection (b)", "A covered private sector employee" for "Any such defense industry employee", and "a defense-focused or homeland security-focused" for "a defense focused".

Subsec. (a)(2). Pub. L. 115–91, §581(b)(1)(B), substituted "covered private sector employees" for "defense industry employees".

Subsec. (a)(3). Pub. L. 115–91, §581(b)(1)(C), substituted "covered private sector employee" for "defense industry employee" in two places.

Subsec. (b). Pub. L. 115–91, §581(a), amended subsec. (b) generally. Prior to amendment, text read as follows: "For purposes of this section, an eligible defense industry employee is an individual employed by a private firm that is engaged in providing to the Department of Defense significant and substantial defense-related systems, products, or services. A defense industry employee admitted for instruction at the United States Air Force Institute of Technology remains eligible for such instruction only so long as that person remains employed by the same firm."

Subsec. (c). Pub. L. 115–91, §581(b)(2), in introductory provisions, substituted "A covered private sector employee" for "Defense industry employees" and "covered private sector employees" for "defense industry employees".

Subsec. (d)(1). Pub. L. 115–91, §581 (b)(3), (c)(2)(A), substituted "a covered private sector employee" for "defense industry employees" and inserted "or homeland security" after "and defense".

Subsec. (d)(2). Pub. L. 115–91, §581(c)(2)(B), inserted "or the Department of Homeland Security, as

applicable" before period at end.

Subsec. (f). Pub. L. 115–91, §581(b)(4), substituted "covered private sector employees" for "defense industry employees".

**2015**—Subsec. (b). Pub. L. 114–92, §1081(a)(13), substituted "only so long as" for "only so long at".

Subsec. (c)(2). Pub. L. 114–92, §558, substituted "will not require an increase in the permanently authorized size of the faculty" for "will be done on a space-available basis and not require an increase in the size of the faculty".

**2013**—Subsec. (a)(1). Pub. L. 112–239, §589(b)(1), inserted "or professional continuing education certificate" after "graduate degree".

Subsec. (a)(3). Pub. L. 112–239, §589(b)(2), inserted "or an appropriate professional continuing education certificate, as applicable" before period at end.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9414b. United States Air Force Institute of Technology: administration

(a) DIRECTOR AND CHANCELLOR.—

(1) SELECTION.—The Director and Chancellor of the United States Air Force Institute of Technology shall be selected by the Secretary of the Air Force.

(2) ELIGIBILITY.—The Director and Chancellor shall be one of the following:

(A) An officer of the Air Force or the Space Force on active duty in a grade not below the grade of colonel who possesses such qualifications as the Secretary considers appropriate and is assigned or detailed to such position.

(B) A member of the Senior Executive Service or a civilian individual, including an individual who was retired from the Air Force or the Space Force in a grade not below brigadier general, who has the qualifications appropriate for the position of Director and Chancellor and is selected by the Secretary as the best qualified from among candidates for the position in accordance with a process and criteria determined by the Secretary.

(3) TERM FOR CIVILIAN DIRECTOR AND CHANCELLOR.—An individual selected for the position of Director and Chancellor under paragraph (2)(B) shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.

(b) PROVOST AND CHIEF ACADEMIC OFFICER.—

(1) IN GENERAL.—There is established at the United States Air Force Institute of Technology the civilian position of Provost and Chief Academic Officer who shall be selected by the Secretary.

(2) TERM.—An individual selected for the position of Provost and Chief Academic Officer shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.

(3) COMPENSATION.—The individual serving as Provost and Chief Academic Officer is entitled to such compensation for such service as the Secretary shall prescribe for purposes of this section, but not more than the rate of compensation authorized for level IV of the Executive Schedule.

(Added Pub. L. 112–81, div. A, title V, §554(a), Dec. 31, 2011, 125 Stat. 1414, §9314b; renumbered §9414b, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–92, div. A, title V, §556(a), Dec. 20, 2019, 133 Stat. 1392; Pub. L. 116–283, div. A, title

IX, §923(d)(5), Jan. 1, 2021, 134 Stat. 3814; Pub. L. 117–263, div. A, title V, §554(b), Dec. 23, 2022, 136 Stat. 2594; Pub. L. 118–159, div. A, title V, §521(l), Dec. 23, 2024, 138 Stat. 1882.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(3), is set out in section 5315 of Title 5, Government Organization and Employees.

### AMENDMENTS

**2024**—Subsec. (a)(2)(B). Pub. L. 118–159 struck out "or the equivalent grade in the Space Force" after "brigadier general".

**2022**—Subsec. (b). Pub. L. 117–263, §554(b)(2), substituted "Chief Academic Officer" for "Academic Dean" wherever appearing.

Pub. L. 117–263, §554(b)(1), substituted "Chief Academic Officer" for "Academic Dean" in heading.

Subsec. (b)(1). Pub. L. 117–263, §554(b)(3), substituted "selected" for "appointed".

Subsec. (b)(2). Pub. L. 117–263, §554(b)(4), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "An individual appointed to the position of Provost and Academic Dean shall serve in that position for a term of five years."

**2021**—Subsec. (a)(2). Pub. L. 116–283, §923(d)(5)(A), inserted "or the Space Force" after "the Air Force" in two places.

Subsec. (a)(2)(B). Pub. L. 116–283, §923(d)(5)(B), inserted "or the equivalent grade in the Space Force" after "brigadier general".

**2019**—Subsec. (a). Pub. L. 116–92, §556(a)(1), (2), substituted "DIRECTOR AND CHANCELLOR" for " COMMANDANT" in heading and "Director and Chancellor" for "Commandant" wherever appearing in text.

Subsec. (a)(3). Pub. L. 116–92, §556(a)(3), which directed substitution of "DIRECTOR AND CHANCELLOR" for "COMMANDANT" in heading, was executed by substituting "DIRECTOR AND CHANCELLOR" for "COMMANDANT" to reflect the probable intent of Congress and conform the style of paragraph headings to that used in this title.

**2018**—Pub. L. 115–232 renumbered section 9314b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 116–92, div. A, title V, §556(c), Dec. 20, 2019, 133 Stat. 1392, provided that: "Any reference in any law, regulation, map, document, paper, or other record of the United States to the Commandant of the United States Air Force Institute of Technology shall be deemed to be a reference to the Director and Chancellor of the United States Air Force Institute of Technology."

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9415. Community College of the Air Force: associate degrees

(a) ESTABLISHMENT AND MISSION.—There is in the Department of the Air Force a Community College of the Air Force. Such college, in cooperation with civilian colleges and universities, shall—

(1) prescribe programs of higher education for enlisted members described in subsection (b) designed to improve the technical, managerial, and related skills of such members and to prepare such members for military jobs which require the utilization of such skills; and

(2) monitor on a continuing basis the progress of members pursuing such programs.

(b) MEMBERS ELIGIBLE FOR PROGRAMS.—Subject to such other eligibility requirements as

the Secretary concerned may prescribe, the following members of the armed forces are eligible to participate in programs of higher education under subsection (a)(1):

(1) Enlisted members of the Air Force or the Space Force.

(2) Enlisted members of the armed forces other than the Air Force or the Space Force who are serving as instructors at Department of the Air Force training schools.

(3) Enlisted members of the armed forces other than the Air Force or the Space Force who are participating in Community College of the Air Force affiliated joint-service training and education courses.

(c) SERIOUSLY WOUNDED, ILL, OR INJURED FORMER AND RETIRED ENLISTED MEMBERS.—(1) The Secretary of the Air Force may authorize participation in a program of higher education under subsection (a)(1) by a person who is a former or retired enlisted member of the armed forces who at the time of the person's separation from active duty—

(A) had commenced but had not completed a program of higher education under subsection (a)(1); and

(B) is categorized by the Secretary concerned as seriously wounded, ill, or injured.

(2) For purposes of this subsection, a person who may be categorized as seriously wounded, ill, or injured is a person with a serious injury or illness (as that term is defined in section 1602(8) of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note)).

(3) A person may not be authorized under paragraph (1) to participate in a program of higher education after the end of the 10-year period beginning on the date of the person's separation from active duty.

(4) The Secretary may not pay the tuition for participation in a program of higher education under subsection (a)(1) of a person participating in such program pursuant to an authorization under paragraph (1).

(d) ASSOCIATE DEGREES.—(1) Subject to paragraph (2), an academic degree at the level of associate may be conferred under section 9417 of this title upon any person who has completed a program prescribed by the Community College of the Air Force.

(2) No degree may be conferred upon any person under this section unless the Secretary of Education determines that the standards for the award of academic degrees in agencies of the United States have been met.

(Added Pub. L. 94–361, title VI, §602, July 14, 1976, 90 Stat. 928, §9315; amended Pub. L. 96–513, title V, §514(9), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 103–160, div. A, title XI, §1182(a)(12), Nov. 30, 1993, 107 Stat. 1772; Pub. L. 104–106, div. A, title X, §1078(a), Feb. 10, 1996, 110 Stat. 451; Pub. L. 105–85, div. A, title V, §552(a), (b), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 108–375, div. A, title V, §556(b), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 112–81, div. A, title V, §555(a), (b), Dec. 31, 2011, 125 Stat. 1415; renumbered §9415 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840; Pub. L. 116–92, div. A, title V, §557, Dec. 20, 2019, 133 Stat. 1392; Pub. L. 116–283, div. A, title IX, §923(d)(6), Jan. 1, 2021, 134 Stat. 3814.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9415 was renumbered section 349 of this title.

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §923(d)(6)(A), substituted "in the Department of the Air Force" for "in the Air Force" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–283, §923(d)(6)(B)(i), inserted "or the Space Force" after "Air Force".

Subsec. (b)(2). Pub. L. 116–283, §923(d)(6)(B)(ii), substituted "other than the Air Force or the Space Force who are serving as instructors at Department of the Air Force training schools." for "other than the Air Force who are serving as instructors at Air Force training schools."

Subsec. (b)(3). Pub. L. 116–283, §923(d)(6)(B)(iii), which directed amendment of par. (3) by inserting "or

the Space Force" after "Air Force", was executed by making the insertion after "Air Force" the first place appearing to reflect the probable intent of Congress.

**2019**—Subsec. (b)(3). Pub. L. 116–92 added par. (3).

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9315 of this title as this section.

Subsec. (d)(1). Pub. L. 115–232, §809(a), substituted "section 9417" for "section 9317".

**2011**—Subsec. (c). Pub. L. 112–81, §555(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–81, §555(a)(1), (b), redesignated subsec. (c) as (d) and substituted "person" for "enlisted member" in two places.

**2004**—Subsec. (c). Pub. L. 108–375 amended heading and text generally. Prior to amendment, text read as follows:

"(1) Subject to paragraph (2), the commander of the Air Education and Training Command of the Air Force may confer an academic degree at the level of associate upon any enlisted member who has completed the program prescribed by the Community College of the Air Force.

"(2) No degree may be conferred upon any enlisted member under this section unless (A) the Community College of the Air Force certifies to the commander of the Air Education and Training Command of the Air Force that such member has satisfied all the requirements prescribed for such degree, and (B) the Secretary of Education determines that the standards for the award of academic degrees in agencies of the United States have been met."

**1997**—Subsec. (a). Pub. L. 105–85, §552(b)(1), inserted heading.

Subsec. (a)(1). Pub. L. 105–85, §552(a)(1), substituted "enlisted members described in subsection (b)" for "enlisted members of the Air Force".

Subsec. (b). Pub. L. 105–85, §552(a)(4), added subsec. (b). Former subsec. (b) redesignated subsec. (c)(1).

Subsec. (c). Pub. L. 105–85, §552(a)(2), (3), (b)(2), redesignated subsec. (b) as subsec. (c)(1), inserted subsec. heading, substituted "Subject to paragraph (2)," for "Subject to subsection (c),", and redesignated former subsec. (c) as subsec. (c)(2) and pars. (1) and (2) of former subsec. (c) as subpars. (A) and (B), respectively, of subsec. (c)(2).

**1996**—Subsec. (a)(1). Pub. L. 104–106 substituted "Air Force" for "armed forces".

**1993**—Subsec. (b). Pub. L. 103–160, §1182(a)(12)(A), substituted "Air Education and Training Command" for "Air Training Command".

Subsec. (c). Pub. L. 103–160, §1182(a)(12)(B), substituted "Air Education and Training Command of the Air Force" for "Air Force Training Command".

**1980**—Subsec. (c). Pub. L. 96–513 substituted "Secretary of Education" for "Commissioner of Education of the Department of Health, Education, and Welfare".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, §555(c), Dec. 31, 2011, 125 Stat. 1416, provided that: "Subsection (c) of section 9315 [now 9415] of title 10, United States Code (as added by subsection (a)(2)), shall apply to persons covered by paragraph (1) of such subsection who are categorized by the Secretary concerned as seriously wounded, ill, or injured after September 11, 2001. With respect to any such person who is separated from active duty during the period beginning on September 12, 2001, and ending on the date of the enactment of this Act [Dec. 31, 2011], the 10-year period specified in paragraph (3) of such subsection shall be deemed to commence on the date of the enactment of this Act."

### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title V, §552(c), Nov. 18, 1997, 111 Stat. 1748, provided that: "Subsection (b) of section 9315 [now 9415] of such title, as added by subsection (a)(4), applies with respect to enrollments in the Community College of the Air Force after March 31, 1996."

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title X, §1078(b), Feb. 10, 1996, 110 Stat. 451, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to enrollments in the Community

College of the Air Force after March 31, 1996."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §9417. Degree granting authority for Air University

(a) AUTHORITY.—Except as provided in sections 9414 and 9415 of this title, under regulations prescribed by the Secretary of the Air Force, the commander of the Air University may, upon the recommendation of the faculty of the Air University components, confer appropriate degrees upon graduates who meet the degree requirements.

(b) LIMITATION.—A degree may not be conferred under this section unless—

(1) the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies; and

(2) the Air University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

(c) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—(1) When seeking to establish degree granting authority under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity; and

(B) the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

(2) Upon any modification or redesignation of existing degree granting authority, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.

(3) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Air University to award any new or existing degree.

(Added Pub. L. 103–337, div. A, title IX, §913(a)(1), Oct. 5, 1994, 108 Stat. 2828, §9317; amended Pub. L. 106–65, div. A, title V, §543(a), (b)(1), Oct. 5, 1999, 113 Stat. 607; Pub. L. 108–375, div. A, title V, §556(a), (c)(1), Oct. 28, 2004, 118 Stat. 1914, 1915; Pub. L. 110–181, div. A, title V, §527, Jan. 28, 2008, 122 Stat. 105; Pub. L. 110–417, [div. A], title V, §543(i)(1), Oct. 14, 2008, 122 Stat. 4464; renumbered §9417 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9417 was renumbered section 9487 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9317 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "sections 9414 and 9415" for "sections 9314 and 9315".

**2008**—Pub. L. 110–417 amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to the authority of Air University to confer academic degrees and regulations under which

authority would be exercised.

Subsec. (a)(4), (5). Pub. L. 110–181 added par. (4) and redesignated former par. (4) as (5).

**2004**—Pub. L. 108–375, §556(c)(1), substituted "conferral of degrees" for "graduate-level degrees" in section catchline.

Subsec. (a). Pub. L. 108–375, §556(a), substituted "may confer academic degrees as follows:" for "may confer—" in introductory provisions, "The" for "the" in pars. (1) to (3), period for semicolon in par. (1), and period for "; and" in par. (2) and added par. (4).

**1999**—Pub. L. 106–65, §543(b)(1), substituted "graduate-level degrees" for "master of airpower art and science" in section catchline.

Subsec. (a). Pub. L. 106–65, §543(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable to any degree granting authority established, modified, or redesignated on or after Oct. 14, 2008, for an institution of professional military education referred to in such amendment, see section 543(j) of Pub. L. 110–417, set out as a note under section 2163 of this title.

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title IX, §913(b), Oct. 5, 1994, 108 Stat. 2828, provided that: "The authority provided by section 9317(a) [now 9417(a)] of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science."

## §9419. Recruit basic training: separate housing for male and female recruits

(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Air Force shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Air Force shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Air Force shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

(d) BASIC TRAINING DEFINED.—In this section, the term "basic training" means the initial entry training program of the Air Force or the Space Force that constitutes the basic training of new recruits.

(Added Pub. L. 105–261, div. A, title V, §521(c)(1), Oct. 17, 1998, 112 Stat. 2011, §9319; renumbered §9419, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 118–31, div. A, title XVII, §1741(b)(6), Dec. 22, 2023, 137 Stat. 681.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (d). Pub. L. 118–31 inserted "or the Space Force" after "training program of the Air Force".
**2018**—Pub. L. 115–232 renumbered section 9319 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title V, §521(c)(3), Oct. 17, 1998, 112 Stat. 2012, provided that: "The Secretary of the Air Force shall implement section 9319 [now 9419] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## §9420. Recruit basic training: privacy

The Secretary of the Air Force shall require that access by military training instructors and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to military training instructors and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.

(Added Pub. L. 105–261, div. A, title V, §522(c)(1), Oct. 17, 1998, 112 Stat. 2013, §9320; renumbered §9420, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9320 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION**

Pub. L. 105–261, div. A, title V, §522(c)(3), Oct. 17, 1998, 112 Stat. 2013, provided that: "The Secretary of

the Air Force shall implement section 9320 [now 9420] of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999."

## §9421. Space Force officer training course requirements

The Secretary of the Air Force shall ensure that—

(1) the initial Space Force officer training course provides foundational instruction in acquisition management, space mission integration, and related disciplines; and

(2) the curriculum for such course is developed by the Commander of Space Training and Readiness Command, in coordination with the Assistant Secretary of the Air Force for Space Acquisition and Integration and the Director of Acquisition Career Management.

(Added Pub. L. 119–60, div. A, title XVI, §1601(c)(1), Dec. 18, 2025, 139 Stat. 1173.)

# CHAPTER 953—UNITED STATES AIR FORCE ACADEMY

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**PRIOR PROVISIONS**

A prior chapter 953, consisting of sections 9831 to 9842, related to accountability and responsibility, prior to renumbering as chapter 983 of this title.

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title V, §557(c)(1), Dec. 23, 2024, 138 Stat. 1897, substituted "service obligation" for "agreement to serve as officer" in item 9448. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 117–81, div. A, title V, §553(c)(2), Dec. 27, 2021, 135 Stat. 1738, added item 9442a.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(2), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 903 of this title as this chapter and items 9331 to 9336, 9338 to 9343, and 9346 to 9362 as 9431 to 9436, 9438 to 9443, and 9446 to 9462, respectively.

**2016**—Pub. L. 114–328, div. A, title V, §591(b), title XII, §1248(b)(2)(C), Dec. 23, 2016, 130 Stat. 2152, 2525, struck out items 9337 "Chaplain", 9344 "Selection of persons from foreign countries", 9345 "Exchange program with foreign military academies", and 9345a "Foreign and cultural exchange activities".

**2009**—Pub. L. 111–84, div. A, title V, §528(b), Oct. 28, 2009, 123 Stat. 2290, added item 9362.

**2008**—Pub. L. 110–417, [div. A], title V, §541(c)(2), Oct. 14, 2008, 122 Stat. 4456, added item 9345a.

**2006**—Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, made technical correction to directory language of Pub. L. 108–375, §544(c)(2). See 2004 Amendment note below.

Pub. L. 109–364, div. A, title V, §532(d)(3), Oct. 17, 2006, 120 Stat. 2206, added item 9361.

**2004**—Pub. L. 108–375, div. A, title V, §545(c)(2), Oct. 28, 2004, 118 Stat. 1909, added item 9360.

Pub. L. 108–375, div. A, title V, §544(c)(2), Oct. 28, 2004, 118 Stat. 1907, as amended by Pub. L. 109–364, div. A, title X, §1071(g)(2), Oct. 17, 2006, 120 Stat. 2402, added item 9359.

**1999**—Pub. L. 106–65, div. A, title V, §532(a)(4)(F), div. B, title XXVIII, §2871(c)(2), Oct. 5, 1999, 113 Stat. 604, 877, added items 9333a and 9356.

**1998**—Pub. L. 105–261, div. A, title X, §1063(c)(2), Oct. 17, 1998, 112 Stat. 2132, added item 9357.

**1997**—Pub. L. 105–85, div. A, title V, §542(c)(2), Nov. 18, 1997, 111 Stat. 1743, added item 9345.

**1996**—Pub. L. 104–106, div. A, title V, §533(c)(2), Feb. 10, 1996, 110 Stat. 315, struck out item 9356 "Athletics program: athletic director; nonappropriated fund account".

**1994**—Pub. L. 103–337, div. A, title V, §556(c)(2), Oct. 5, 1994, 108 Stat. 2775, added item 9356.

**1993**—Pub. L. 103–160, div. A, title V, §533(b)(2), Nov. 30, 1993, 107 Stat. 1658, added item 9338.

**1989**—Pub. L. 101–189, div. A, title V, §515(b)(2), Nov. 29, 1989, 103 Stat. 1441, substituted "director of admissions" for "registrar" in item 9336.

**1983**—Pub. L. 98–94, title X, §1004(c)(3), Sept. 24, 1983, 97 Stat. 660, substituted "Selection of persons from foreign countries" for "Selection of persons from Canada and American Republics" in item 9344, and struck out item 9345 "Selection of Filipinos".

**1981**—Pub. L. 97–60, title II, §203(c)(2)(B), Oct. 14, 1981, 95 Stat. 1006, added item 9341a.

**1958**—Pub. L. 85–600, §1(23), Aug. 6, 1958, 72 Stat. 524, inserted "; registrar" in item 9336.

## §9431. Establishment; Superintendent; faculty

(a) There is in the Department of the Air Force an Air Force Academy (hereinafter in this chapter referred to as the "Academy") for the instruction and preparation for military service of selected persons called "cadets". The organization of the Academy shall be prescribed by the Secretary of the Air Force.

(b) There shall be at the Academy the following:

(1) A Superintendent.
(2) A Dean of the Faculty.
(3) A Commandant of Cadets.
(4) 25 permanent professors.
(5) A chaplain.
(6) A director of admissions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 561, §9331; Pub. L. 85–600, §1(19), Aug. 6, 1958, 72 Stat. 523; Pub. L. 96–513, title V, §514(10), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 101–189, div. A, title V, §515(a)(1), Nov. 29, 1989, 103 Stat. 1441; Pub. L. 102–484, div. A, title V, §523(b), Oct. 23, 1992,

106 Stat. 2410; Pub. L. 103–160, div. A, title V, §533(b)(3), Nov. 30, 1993, 107 Stat. 1658; Pub. L. 108–136, div. A, title V, §529(c)(1), Nov. 24, 2003, 117 Stat. 1471; Pub. L. 110–417, [div. A], title V, §545, Oct. 14, 2008, 122 Stat. 4466; renumbered §9431, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title V, §573, title IX, §923(d)(7), Jan. 1, 2021, 134 Stat. 3644, 3814.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9331(a) | 10:1851.<br>10:1854. | R.S. 1309; Feb. 18, 1896, ch. 22 (less proviso), 29 Stat. 8. |
| 9331(b) | 10:1061.<br>10:1087.<br>10:1089 (1st 20 words). | June 26, 1946, ch. 495, §§1, 3 (1st 20 words), 60 Stat. 312.<br>Apr. 1, 1954, ch. 127, §§2, 5, 68 Stat. 47, 48. |

In subsection (b), reference to the senior instructors of artillery, cavalry, and infantry, and the master of the sword, in 10:1061, are omitted as obsolete. The names of the other departments are omitted as inapplicable to the Air Force. The departmental names will be established under section 9332 of this title. The words "and one assistant professor", in 10:1061, are omitted as superseded by section 9333 of this title. 10:1061 (words before colon) is omitted as inapplicable to the Air Force. 10:1854 (less last sentence) is omitted as executed by the inclusion in this chapter of the laws applicable to the Air Force Academy. 10:1087 (proviso) is omitted as inapplicable to the Air Force.

Subsection (b)(3) is based on those laws establishing the various departments at the United States Military Academy (see revision note for section 4331 of this title).

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §923(d)(7), substituted "cadets" for "Air Force cadets".

Subsec. (b)(4). Pub. L. 116–283, §573, substituted "25" for "23".

**2018**—Pub. L. 115–232 renumbered section 9331 of this title as this section.

**2008**—Subsec. (b)(4). Pub. L. 110–417 substituted "23 permanent professors" for "21 permanent professors".

**2003**—Subsec. (b)(2). Pub. L. 108–136 substituted "Dean of the Faculty" for "dean of the Faculty, who is a permanent professor".

**1993**—Subsec. (c). Pub. L. 103–160 struck out subsec. (c) which read as follows:

"(1) The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) The Secretary may delegate the authority conferred by this subsection to any person in the Department of the Air Force to the extent the Secretary considers proper. Such delegation may be made with or without the authority to make successive redelegations."

**1992**—Subsec. (c). Pub. L. 102–484 added subsec. (c).

**1989**—Subsec. (b)(6). Pub. L. 101–189 substituted "director of admissions" for "registrar".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "(hereinafter in this chapter referred to as the 'Academy')" for ", in this chapter called the 'Academy',".

**1958**—Subsec. (b)(6). Pub. L. 85–600 added par. (6).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2003 AMENDMENT**

Pub. L. 108–136, div. A, title V, §529(d), Nov. 24, 2003, 117 Stat. 1472, provided that: "The amendments made by this section [amending this section and sections 9335 and 9336 of this title] shall apply with respect to any Dean of the Faculty of the United States Air Force Academy selected on or after the date of the enactment of this Act [Nov. 24, 2003]."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**APPROPRIATIONS FOR THE AIR FORCE ACADEMY AFTER AUGUST 1, 1964; REQUIREMENT OF AUTHORIZATION IN SUBSEQUENT LEGISLATION; APPROPRIATIONS FOR ADVANCE PLANNING AND MINOR CONSTRUCTION**

Pub. L. 88–390, title VI, §608, Aug. 1, 1964, 78 Stat. 364, provided that: "Notwithstanding the provisions of section 9 of the Act of April 1, 1954 (Public Law 325) as amended [set out below], no funds may be appropriated after the date of enactment of this Act [Aug. 1, 1964] for construction at the Air Force Academy unless appropriation of such funds has been authorized in this Act [Military Construction Authorization Act, 1965] or any Act enacted after the date of enactment of this Act: *Provided*, That funds are authorized to be appropriated to accomplish advance planning and minor construction at the Air Force Academy in the same manner as for other projects under the Act of September 28, 1951, as amended (31 U.S.C. 723) [10 U.S.C. 2661a(a)], and title 10, United States Code, section 2674, as amended."

**APPROPRIATIONS FOR AIR FORCE ACADEMY**

Act Apr. 1, 1954, ch. 127, 68 Stat. 47, which established the Air Force Academy, provided by section 9 of such act, as amended by act Aug. 3, 1956, ch. 939, title IV, §413(b), 70 Stat. 1018, and by Pub. L. 85–241, title V, §508, Aug. 30, 1957, 71 Stat. 559; Pub. L. 85–685, title III, §309, Aug. 20, 1958, 72 Stat. 659; Pub. L. 87–57, title III, §304, June 27, 1961, 75 Stat. 108; Pub. L. 90–408, title III, §304, July 21, 1968, 82 Stat. 385, that there was authorized to be appropriated not to exceed the sum of $141,978,000 to carry out the provisions of that Act, of which not to exceed $26,000,000 was to be the amount so appropriated for any such period, not to exceed $1,858,000 might be utilized for the purpose of section 4 of this Act [set out below].

**TEMPORARY BUILDINGS AND FACILITIES**

Act Apr. 1, 1954, ch. 127, §4, 68 Stat. 47, provided that for the purpose of providing temporary facilities and enabling early operation of the Academy, the Secretary of the Air Force was authorized to provide for the erection of the minimum additional number of temporary buildings and the modification of existing structures and facilities at an existing Air Force base and to provide for the proper functioning, equipping, maintaining, and repairing thereof; and to contract with civilian institutions for such operation or instruction as he deemed necessary.

## §9432. Departments and professors: titles

The Secretary of the Air Force may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 562, §9332; renumbered §9432, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9332 | 10:1061a. | Dec. 14, 1942, ch. 729, 56 Stat. 1049. |

The words "now or after December 14, 1942, established at" are omitted as surplusage. The word "precedence" is omitted as covered by the word "rank". The words "pay, allowances" are omitted, since they are determined by the grade held. The words "from time to time", "shall be known", and "operate in any case or on any account" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9332 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9433. Superintendent; faculty: appointment and detail

(a) The Superintendent and the Commandant of Cadets of the Academy shall be detailed to those positions by the President from the officers of the Air Force or the Space Force.

(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The director of admissions of the Academy shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 562, §9333; Pub. L. 85–600, §1(20), Aug. 6, 1958, 72 Stat. 523; Pub. L. 101–189, div. A, title V, §515(a)(2), Nov. 29, 1989, 103 Stat. 1441; renumbered §9433, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(8), Jan. 1, 2021, 134 Stat. 3814.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9333(a) | 10:1062. | R.S. 1313. |
| 9333(b) | 10:1063. | R.S. 1314 (words before semicolon). |

In subsection (a), the word "detailed" is substituted for the word "selected", since historically the offices of superintendent and commandant of cadets have been filled by detail. The words "the officers of the Air Force" are substituted for the words "any arm of the service", since the Air Force does not have statutory arms or corps. 10:1063 (1st sentence and 1st 26 words of last sentence) is omitted as covered by section 8012 of this title.

In subsection (b), the words "by and with the advice and consent of the Senate" are inserted, since many of the statutes establishing particular permanent professorships from time to time have so provided, and historically it has been the uniform practice to make these appointments in this manner. 10:1063 (last 14 words) is omitted as obsolete and as covered by section 9349(b) of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "Air Force".
**2018**—Pub. L. 115–232 renumbered section 9333 of this title as this section.
**1989**—Subsec. (c). Pub. L. 101–189 substituted "director of admissions" for "registrar".
**1958**—Subsec. (c). Pub. L. 85–600 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9433a. Superintendent: condition for detail to position

(a) RETIREMENT.—As a condition for detail to the position of Superintendent of the Academy, an officer shall acknowledge that upon termination of that detail the officer shall be retired pursuant to section 9321(a) of this title, unless such retirement is waived under section 9321(b) of this title.

(b) MINIMUM TOUR OF DUTY.—An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Air Force shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.

(Added Pub. L. 106–65, div. A, title V, §532(a)(3)(B), Oct. 5, 1999, 113 Stat. 603, §9333a; amended Pub. L. 108–375, div. A, title V, §541(b)(3), Oct. 28, 2004, 118 Stat. 1903; renumbered §9433a and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9333a of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 9321(a)" for "section 8921(a)" and "section 9321(b)" for "section 8921(b)".

**2004**—Pub. L. 108–375 designated existing provisions as subsec. (a), inserted heading, inserted "pursuant to section 8921(a) of this title, unless such retirement is waived under section 8921(b) of this title" before period at end, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 7321 of this title.

## §9434. Command and supervision

(a) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy and of the military post.

(b) The permanent professors and the director of admissions exercise command only in the academic department of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 562, §9334; Pub. L. 85–600, §1(21), Aug. 6, 1958, 72 Stat. 524; Pub. L. 101–189, div. A, title V, §515(a)(3), Nov. 29, 1989, 103 Stat. 1441; renumbered §9434, Pub.

L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9334(a) | 10:1042. | R.S. 1311. |
| 9334(b) | 10:1079. | June 28, 1902, ch. 1300 (1st proviso under "Permanent Establishment"), 32 Stat. 409. |

In subsection (a), the words "and, in his absence, the next in rank" are omitted as surplusage.

In subsection (b), reference to assimilated rank is omitted as superseded by section 9336 of this title. The words "and the associate professor" are omitted as obsolete.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9334 of this title as this section.

**1989**—Subsec. (b). Pub. L. 101–189 substituted "director of admissions" for "registrar".

**1958**—Subsec. (b). Pub. L. 85–600 inserted reference to registrar.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9435. Dean of the Faculty

(a) The Dean of the Faculty is responsible to the Superintendent for developing and sustaining the curriculum and overseeing the faculty of the Academy. The qualifications, selection procedures, training, pay grade, and retention of the Dean shall be prescribed by the Secretary of the Air Force, except that a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field. If a person appointed as the Dean is not an officer on active duty, the person shall be appointed as a member of the Senior Executive Service.

(b) The retirement age of an officer appointed as Dean of the Faculty is that of a permanent professor of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 562, §9335; Pub. L. 85–861, §33(a)(46)(A), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 99–661, div. A, title V, §508(c), Nov. 14, 1986, 100 Stat. 3867; Pub. L. 102–484, div. A, title V, §521(b), Oct. 23, 1992, 106 Stat. 2409; Pub. L. 106–65, div. A, title V, §533(b), Oct. 5, 1999, 113 Stat. 605; Pub. L. 108–136, div. A, title V, §529(a), (b), Nov. 24, 2003, 117 Stat. 1471; Pub. L. 108–375, div. A, title V, §542, Oct. 28, 2004, 118 Stat. 1904; Pub. L. 114–328, div. A, title V, §502(qq), Dec. 23, 2016, 130 Stat. 2106; Pub. L. 115–91, div. A, title V, §507(b), Dec. 12, 2017, 131 Stat. 1375; renumbered §9435, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9335(a) | 10:1089 (2d sentence). | June 26, 1946, ch. 495, §3 (less 1st 20 words), 60 Stat. 312. |
| 9335(b) | 10:1089 (less 1st 20 words, and less 2d sentence). | |

In subsection (b), the word "grade" is substituted for the word "rank". The words "pay, allowances" are omitted, since they are determined by the grade held. The words "retirement rights" are omitted as covered by the word "benefits". The words "There is authorized", "from time to time", and "statutory" are omitted as surplusage. So much of 10:1089 as relates to the duties of the Dean of the Faculty is omitted as covered by section 8012(e) of this title.

**1958 ACT**

The word "regular" is deleted [in sections 9335 and 9336] to make clear that a Dean or professor of the United States Air Force Academy holds only the office of "Dean" or "professor" and not the office of "brigadier general" or "colonel", as the case may be, even though he is entitled to the pay and allowances of that grade.

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9335 of this title as this section.

**2017**—Subsec. (b). Pub. L. 115–91 substituted "appointed as Dean of the Faculty" for "so appointed".

**2016**—Subsec. (b). Pub. L. 114–328 struck out first and third sentences which read "While serving as Dean of the Faculty, an officer on active duty who holds a grade lower than brigadier general (or the equivalent) shall hold the grade of brigadier general (or the equivalent), if appointed to that grade by the President, by and with the advice and consent of the Senate." and "An officer so appointed is counted for purposes of the applicable limitation in section 526(a) of this title on general officers on active duty.", respectively.

**2004**—Subsec. (a). Pub. L. 108–375 inserted ", except that a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field" after "Secretary of the Air Force".

**2003**—Subsec. (a). Pub. L. 108–136, §529(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Dean of the Faculty shall be appointed as an additional permanent professor from the permanent professors who have served as heads of departments of instruction at the Academy."

Subsec. (b). Pub. L. 108–136, §529(b), in first sentence, substituted "on active duty" for "of the Air Force" and inserted "(or the equivalent)" after "brigadier general" in two places and, in last sentence, inserted "applicable" before "limitation" and struck out "of the Air Force" after "general officers".

**1999**—Pub. L. 106–65 designated existing provisions as subsec. (a) and added subsec. (b).

**1992**—Pub. L. 102–484 designated subsec. (a) as entire section and struck out subsec. (b) which read as follows: "The Dean has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Air Force, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy."

**1986**—Subsec. (b). Pub. L. 99–661 amended subsec. (b) generally, substituting "while serving in such position" for "while serving as such" and "if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed" for "except that his retirement age".

**1958**—Subsec. (b). Pub. L. 85–861 substituted "the grade of brigadier general" for "the regular grade of brigadier general".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 applicable with respect to any Dean of the Faculty of the United States Air Force Academy selected on or after Nov. 24, 2003, see section 529(d) of Pub. L. 108–136, set out as a note under section 9431 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to appointments or details made on or after Nov. 14, 1986, see section 508(f) of Pub. L. 99–661, set out as an Effective Date note under section 12210 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §9436. Permanent professors; director of admissions

(a) A permanent professor of the Academy who is the head of a department of instruction, or who has served as such a professor for more than six years, has the grade of colonel in the Air Force or the Space Force. However, a permanent professor appointed from the Regular Air Force or the Space Force has the grade of colonel after the date when such person completes six years of service as a professor, or after the date on which such person would have been promoted had such person been selected for promotion from among officers in the promotion zone, whichever is earlier. All other permanent professors have the grade of lieutenant colonel in the Air Force or the Space Force.

(b) A person appointed as director of admissions of the Academy has the regular grade of lieutenant colonel in the Air Force or the grade of lieutenant colonel in the Space Force, and, after such person has served six years as director of admissions, has the regular grade of colonel in the Air Force or the grade of lieutenant colonel in the Space Force. However, a person appointed from the Regular Air Force has the regular grade of colonel and a person appointed from the Space Force has the grade of colonel in the Space Force after the date when such person completes six years of service as director of admissions, or after the date on which such person would have been promoted had such person been selected for promotion from among officers in the promotion zone, whichever is earlier.

(Aug. 10, 1956, ch. 1041, 70A Stat. 562, §9336; Pub. L. 85–600, §1(22), Aug. 6, 1958, 72 Stat. 524; Pub. L. 85–861, §33(a)(46)(B), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 96–513, title II, §218(b), title V, §504(24), Dec. 12, 1980, 94 Stat. 2886, 2917; Pub. L. 98–525, title V, §533(d)(2), Oct. 19, 1984, 98 Stat. 2528; Pub. L. 101–189, div. A, title V, §515(a)(4), (b)(1), Nov. 29, 1989, 103 Stat. 1441; Pub. L. 108–136, div. A, title V, §529(c)(2), Nov. 24, 2003, 117 Stat. 1472; renumbered §9436, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(9), Jan. 1, 2021, 134 Stat. 3814; Pub. L. 118–31, div. A, title XVII, §1721(c)(1), Dec. 22, 2023, 137 Stat. 666.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9336 | 10:1079a(a). | Aug. 7, 1947, ch. 512, §520(a) 61 Stat. 912. |

The word "grade" is substituted for the word "rank". The words "pay, and allowances" are omitted, since they are determined by the grade held. 10:1079a(a) (last proviso), and the words "Hereafter each of", "who have been or may hereafter be", and "and appointed in" are omitted as surplusage.

**1958 ACT**

The word "regular" is deleted [in sections 9335 and 9336] to make clear that a Dean or professor of the United States Air Force Academy holds only the office of "Dean" or "professor" and not the office of "brigadier general" or "colonel", as the case may be, even though he is entitled to the pay and allowances of that grade.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (a). Pub. L. 118–31, §1721(c)(1)(A), struck out "the equivalent grade in" before "the Space

Force." in two places and "and a permanent professor appointed from the Regular Space Force has the grade equivalent to the grade of colonel in the Regular Air Force" before "after the date when such person completes" and inserted "or the Space Force" after "from the Regular Air Force".

Subsec. (b). Pub. L. 118–31, §1721(c)(1)(B), substituted "the grade of lieutenant colonel in" for "the equivalent grade in" in two places and "Space Force has the grade of colonel in the Space Force" for "Regular Space Force has the grade equivalent to the grade of colonel in the Regular Air Force".

**2021**—Pub. L. 116–283, §923(d)(9)(B), substituted "such person" for "he" wherever appearing.

Subsec. (a). Pub. L. 116–283, §923(d)(9)(A)(i), inserted "in the Air Force or the equivalent grade in the Space Force" after "grade of colonel", "and a permanent professor appointed from the Regular Space Force has the grade equivalent to the grade of colonel in the Regular Air Force" after "Force has the grade of colonel", and "in the Air Force or the equivalent grade in the Space Force" after "lieutenant colonel".

Subsec. (b). Pub. L. 116–283, §923(d)(9)(A)(ii), inserted "in the Air Force or the equivalent grade in the Space Force" after "colonel" in two places in first sentence, and "and a person appointed from the Regular Space Force has the grade equivalent to the grade of colonel in the Regular Air Force" before "after the date when" in second sentence. Insertions in first sentence were executed to reflect the probable intent of Congress due to omission of the words "by inserting" in directory language.

**2018**—Pub. L. 115–232 renumbered section 9336 of this title as this section.

**2003**—Subsec. (a). Pub. L. 108–136 struck out ", other than the Dean of the Faculty," after "Academy".

**1989**—Pub. L. 101–189, §515(b), substituted "director of admissions" for "registrar" in section catchline.

Subsec. (b). Pub. L. 101–189, §515(a)(4), substituted "director of admissions" for "registrar" in three places.

**1984**—Subsecs. (a), (b). Pub. L. 98–525 substituted "on which he would have been promoted had he been selected for promotion from among officers in the promotion zone," for "when a regular officer, junior to him on the promotion list or active-duty list on which his name was carried before his appointment as a professor, is promoted to the regular grade of colonel,".

**1980**—Subsecs. (a), (b). Pub. L. 96–513, §504(24), substituted "after the date when a regular officer, junior to him on the promotion list or active-duty list on which his name was carried" for "after the date when a promotion-list officer, junior to him on the promotion list on which his name was carried".

Subsec. (c). Pub. L. 96–513, §218(b), struck out subsec. (c) which provided that, unless he is serving in a higher grade, an officer detailed to perform the duties of registrar has, while performing those duties, the temporary grade of lieutenant colonel and, after performing those duties for a period of six years, has the temporary grade of colonel.

**1958**—Pub. L. 85–600, §1(22)(C), inserted "; registrar" in section catchline.

Subsec. (a). Pub. L. 85–861 substituted "has the grade of colonel" for "has the regular grade of colonel" in two places, and "have the grade of lieutenant colonel" for "have the regular grade of lieutenant colonel".

Pub. L. 85–600, §1(22)(A), designated existing provisions as subsec. (a).

Subsecs. (b), (c). Pub. L. 85–600, §1(22)(B), added subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 applicable with respect to any Dean of the Faculty of the United States Air Force Academy selected on or after Nov. 24, 2003, see section 529(d) of Pub. L. 108–136, set out as a note under section 9431 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 218(b) of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513.

Amendment by section 504(24) of Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective August 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a

note under section 101 of this title.

**SERVICE PERFORMED AS REGISTRAR PRIOR TO AUGUST 6, 1958**

Prohibition against accrual of increase in pay or allowances for service performed prior to Aug. 6, 1958, see note set out under section 7436 of this title.

## §9438. Civilian faculty: number; compensation

(a) The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary of the Air Force may, notwithstanding the provisions of subchapter V of chapter 55 of title 5 or section 6101 of such title, prescribe for persons employed under this section the following:

(1) The work schedule, including hours of work and tours of duty, set forth with such specificity and other characteristics as the Secretary determines appropriate.

(2) Any premium pay or compensatory time off for hours of work or tours of duty in excess of the regularly scheduled hours or tours of duty.

(Added Pub. L. 103–160, div. A, title V, §533(b)(1), Nov. 30, 1993, 107 Stat. 1658, §9338; amended Pub. L. 106–65, div. A, title XI, §1107(c), Oct. 5, 1999, 113 Stat. 778; renumbered §9438, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9338 of this title as this section.

**1999**—Subsec. (c). Pub. L. 106–65 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9441. Faculty and other officers: leaves of absence

The Superintendent of the Academy may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to a professor, assistant professor, instructor, or other officer of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 563, §9341; renumbered §9441, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9341 | 10:1144. | R.S. 1330. |

The words "under regulations prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9441 was renumbered section 9491 of this title.

Another prior section 9441, acts Aug. 10, 1956, ch. 1041, 70A Stat. 572; Pub. L. 96–342, title X, §1007(a), (b)(1), Sept. 8, 1980, 94 Stat. 1121, 1122; Pub. L 96–513, title V, §514(12), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 98–525, title XV, §1533(a), Oct. 19, 1984, 98 Stat. 2632; Pub. L. 99–145, title XIII, §1303(a)(28), title XIV, §1458(a), Nov. 8, 1985, 99 Stat. 740, 763; Pub. L. 99–661, div. A, title XIII, §1365(a), Nov. 14, 1986, 100 Stat. 4002; Pub. L. 103–337, div. A, title X, §1062, Oct. 5, 1994, 108 Stat. 2847; Pub. L. 105–225, §4(a)(3), Aug. 12, 1998, 112 Stat. 1499, related to Civil Air Patrol status, support by Air Force, and employment, prior to the general amendment of former chapter 909 (now 959) of this title by Pub. L. 106–398.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9341 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9441a. Cadets: appointment by the President

Cadets at the Academy shall be appointed by the President alone. An appointment is conditional until the cadet is admitted.

(Added Pub. L. 97–60, title II, §203(c)(2)(A), Oct. 14, 1981, 95 Stat. 1006, §9341a; renumbered §9441a, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9341a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as a note under section 7441a of this title.

## §9442. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,400 or such lower number as may be prescribed by the Secretary of the Air Force under subsection (j). Subject to that limitation, cadets are selected as follows:

(1) 65 cadets selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active

service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated, is binding upon the Secretary of the Air Force.

(2) Five cadets nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten cadets from each State, five of whom are nominated by each Senator from that State.

(4) Five cadets from each congressional district, nominated by the Representative from the district.

(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Four cadets from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six cadets from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Five cadets from Guam, nominated by the Delegate in Congress from Guam.

(9) Three cadets from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) Three cadets from the Commonwealth of the Northern Mariana Islands, nominated by the Delegate in Congress from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 15 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and up to 14 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter. When a nominee of a Senator, Representative, or Delegate is selected for appointment as a cadet, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made.

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components, or the Space Force, and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under chapter 1223 of this title except for not having attained 60 years of age;

however, a person who is eligible for selection under paragraph (1) of subsection (a) may not be selected under this paragraph.

(2) 85 nominated by the Secretary of the Air Force from enlisted members of the Regular Air Force or the Space Force.

(3) 85 nominated by the Secretary of the Air Force from enlisted members of reserve components of the Air Force.

(4) 20 nominated by the Secretary of the Air Force, under regulations prescribed by the Secretary, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Air Force Reserve Officers' Training Corps.

(5) 200 [1] selected by the Secretary of the Air Force in order of merit (prescribed pursuant to

section 9443 of this title) from qualified alternates nominated by persons named in paragraphs (3) through (10) of subsection (a).

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

(d) The Superintendent may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under paragraphs (2) through (9) of subsection (a) and may not cause the total strength of cadets to exceed the authorized number.

(e) If the annual quota of cadets under subsection (b)(1), (2), or (3) is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(f) Each candidate for admission nominated under paragraphs (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(g) The Secretary of the Air Force may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy as determined by the Secretary after consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, subject to the following:

(1) Cadets chargeable to each nominating authority named in subsection (a)(3) or (4) may not be limited to less than four.

(2) If the Secretary limits the number of appointments under subsection (a)(3) or (4), appointments under subsection (b)(1)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(1);
(B) 27 appointments under subsection (b)(2);
(C) 27 appointments under subsection (b)(3); and
(D) 13 appointments under subsection (b)(4).

(3) If the Secretary limits the number of appointments under subsection (b)(5), appointments under subsection (b)(2)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(2);
(B) 27 appointments under subsection (b)(3); and
(C) 13 appointments under subsection (b)(4).

(4) The limitations provided for in this subsection do not affect the operation of subsection (e).

(h) The Superintendent shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(i) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of cadets, the Secretary of the Air Force may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Air Force may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400.

(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under sections 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the

increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Air Force Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Air Force Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

(4) In this subsection, the term "cadet strength limit" means the authorized maximum strength of cadets of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 563, §9342; Pub. L. 87–663, §1(5), (6), Sept. 14, 1962, 76 Stat. 547; Pub. L. 88–276, §4(1), Mar. 3, 1964, 78 Stat. 151; Pub. L. 89–650, §1(1)–(3), (5), Oct. 13, 1966, 80 Stat. 896; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 90–623, §2(8), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91–405, title II, §204(c), Sept. 22, 1970, 84 Stat. 852; Pub. L. 92–365, §1(3), Aug. 7, 1972, 86 Stat. 505; Pub. L. 93–171, §3(1)–(4), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, §803(b)(1), Oct. 7, 1975, 89 Stat. 538; Pub. L. 96–513, title V, §514(11), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 96–600, §2(c), Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97–60, title II, §203(c)(1), Oct. 14, 1981, 95 Stat. 1006; Pub. L. 98–94, title X, §1005(a)(3), (b)(3), Sept. 24, 1983, 97 Stat. 660, 661; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 101–510, div. A, title V, §532(c)(1), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 103–160, div. A, title V, §531, Nov. 30, 1993, 107 Stat. 1657; Pub. L. 103–337, div. A, title XVI, §1674(c)(3), Oct. 5, 1994, 108 Stat. 3017; Pub. L. 104–106, div. A, title V, §532(c), title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 315, 502; Pub. L. 105–85, div. A, title X, §1073(a)(62), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. A, title V, §531(b)(3), title X, §1067(1), Oct. 5, 1999, 113 Stat. 602, 774; Pub. L. 106–398, §1 [[div. A], title V, §531(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–110; Pub. L. 107–314, div. A, title V, §532(c), Dec. 2, 2002, 116 Stat. 2546; Pub. L. 108–136, div. A, title V, §524(c), title X, §1031(a)(58), Nov. 24, 2003, 117 Stat. 1464, 1603; Pub. L. 109–364, div. A, title X, §1071(a)(38), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 110–229, title VII, §718(c), May 8, 2008, 122 Stat. 869; Pub. L. 110–417, [div. A], title V, §540(c), Oct. 14, 2008, 122 Stat. 4454; Pub. L. 111–84, div. A, title V, §527(c), Oct. 28, 2009, 123 Stat. 2288; Pub. L. 112–239, div. A, title X, §1076(f)(42), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 114–92, div. A, title V, §556(c), Nov. 25, 2015, 129 Stat. 825; Pub. L. 114–328, div. A, title V, §566(c), Dec. 23, 2016, 130 Stat. 2139; renumbered §9442 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840; Pub. L. 116–283, div. A, title IX, §923(d)(10), Jan. 1, 2021, 134 Stat. 3815; Pub. L. 117–263, div. A, title V, §552(c), Dec. 23, 2022, 136 Stat. 2592; Pub. L. 118–31, div. A, title V, §§561(c), 562(c), title XVII, §1721(c)(2), Dec. 22, 2023, 137 Stat. 273, 274, 666; Pub. L. 119–60, div. A, title V, §555(c), Dec. 18, 2025, 139 Stat. 878.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9342(a) | 10:1092a (1st par., less clauses (a) through (e)).<br>10:1092a (clauses (a), less 14th through 52d words after 4th semicolon; and less last 32 words).<br>10:1092a (1st 13 words of clause (b)).<br>10:1092a (1st 26 words of clause (c)).<br>10:1092a (clause (d)).<br>10:1092a (clause (e), less last 53 words). | R.S. 1317.<br>June 30, 1950, ch. 421, §§1, 2 (last proviso), 64 stat. 303, 304; June 3, 1954, ch. 251, §2, 68 Stat. 169. |

| | | |
|---|---|---|
| 9342(b) | 10:1092a (last par.).<br>10:1098. | |
| 9342(c) | 10:1092a (14th through 52d words after 4th semicolon of clause (a)).<br>10:1092b (last proviso). | |
| 9342(d) | 10:1092a (last 32 words of clause (a)). | |
| 9342(e) | 10:1092a (clause (b), less 1st 13 words, and less 1st proviso). | |
| 9342(f) | 10:1092a (1st proviso of clause (b)). | |
| 9342(g) | 10:1092a (clause (c), less 1st 26 words). | |
| 9342(h) | 10:1092a (last 53 words of clause (e)). | |

In subsection (a), the words "the authorized strength * * * is as follows—" are substituted for the words "shall be authorized and consist of the following". The words "at large" and "which totals two thousand four hundred and ninety-six", and 10:1092a (clause (d)) are omitted as surplusage.

In subsection (b), the words "from whatever source of admission", in 10:1092a, are omitted as surplusage. 10:1098 (words before last semicolon) is omitted as obsolete.

In subsection (c), the first 15 words are substituted for the words "all of which cadets shall be". The words "domiciled in" are substituted for the words "actual residents of" to conform to opinions of the Judge Advocate General of the Army (R. 29, 83; J.A.G. 351.11, Feb. 10, 1925).

In subsection (e)(4), the words "armed forces" are substituted for the description of the land or naval forces. The date February 1, 1955, fixed by Proclamation No. 3080 (Jan. 7, 1955; 20 F.R. 173), is substituted for the words "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress under section 745 of title 38". The words "including male and female members of * * * and all components thereof" are omitted as surplusage.

In subsection (f), the words "whether a death is service-connected" are substituted for the words "as to the service connection of the cause of death".

In subsection (g), the words "(National Guard of the United States, the Air National Guard of the United States and Army Reserve, and the Air Force Reserve)", "Regular components", "by members of the National Guard of the United States, and the Air National Guard of the United States", and "established at the competitive entrance examination" are omitted as surplusage. The word "grades" is substituted for the words "proficiency averages".

In subsection (h), the words "or shall hereafter be" are omitted as surplusage.

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9442 was renumbered section 9492 of this title.

Another prior section 9442, added Pub. L. 98–525, title XV, §1533(b)(1), Oct. 19, 1984, 98 Stat. 2632, related to assistance of Civil Air Patrol by other agencies, prior to the general amendment of former chapter 909 (now 959) of this title by Pub. L. 106–398.

### AMENDMENTS

**2025**—Subsec. (a). Pub. L. 119–60 substituted "up to 14 ranked or unranked alternates" for "9 ranked or unranked alternates" in concluding provisions.

**2023**—Subsec. (a). Pub. L. 118–31, §561(c)(1), substituted "15 persons" for "10 persons" in concluding provisions.

Subsec. (a)(8). Pub. L. 118–31, §562(c), substituted "Five" for "Four".

Subsec. (b)(1)(C). Pub. L. 118–31, §1721(c)(2)(A), inserted ", or the Space Force," after "members of reserve components".

Subsec. (b)(2). Pub. L. 118–31, §1721(c)(2)(B), struck out "Regular" before "Space Force".

Subsec. (b)(5). Pub. L. 118–31, §561(c)(2), substituted "200" for "150".

**2022**—Subsec. (b)(5). Pub. L. 117–263 substituted "paragraphs (3) through (10)" for "paragraphs (3) and (4)".

**2021**—Pub. L. 116–283, §923(d)(10)(A)(i), substituted "cadets" for "Air Force Cadets" wherever appearing.

Subsec. (b)(2). Pub. L. 116–283, §923(d)(10)(A)(ii), inserted "or the Regular Space Force" after "Regular Air Force".

Subsec. (b)(4). Pub. L. 116–283, §923(d)(10)(B), substituted "prescribed by the Secretary" for "prescribed by him".

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9342 of this title as this section.

Subsec. (b)(5). Pub. L. 115–232, §809(a), substituted "section 9443" for "section 9343".

**2016**—Subsec. (a). Pub. L. 114–328 inserted at end of concluding provisions "When a nominee of a Senator, Representative, or Delegate is selected for appointment as a cadet, the Senator, Representative, or Delegate shall be notified at least 48 hours before the official notification or announcement of the appointment is made."

**2015**—Subsec. (a)(6). Pub. L. 114–92, §556(c)(1), substituted "Four" for "Three".

Subsec. (a)(8). Pub. L. 114–92, §556(c)(2), substituted "Four" for "Three".

Subsec. (a)(9). Pub. L. 114–92, §556(c)(3), substituted "Three" for "Two".

Subsec. (a)(10). Pub. L. 114–92, §556(c)(4), substituted "Three" for "Two".

**2013**—Subsec. (b)(1). Pub. L. 112–239, §1076(f)(42)(A)(i), substituted "paragraph" for "clause" in two places in concluding provisions.

Subsecs. (b)(5), (d), (f). Pub. L. 112–239, §1076(f)(42)(A)(ii)–(C), substituted "paragraphs" for "clauses".

**2009**—Subsec. (a)(10). Pub. L. 111–84 substituted "Two cadets" for "One cadet".

**2008**—Subsec. (a). Pub. L. 110–417, §540(c)(1), substituted "4,400 or such lower number" for "4,000 or such higher number" in introductory provisions.

Subsec. (a)(10). Pub. L. 110–229 substituted "Delegate in Congress" for "resident representative".

Subsec. (j)(1). Pub. L. 110–417, §540(c)(2), struck out last sentence which read as follows: "However, no increase may be prescribed for any academic year after the 2007–2008 academic year."

**2006**—Subsec. (a)(9). Pub. L. 109–364 substituted "cadets" for "cadet".

**2003**—Subsec. (a)(6), (8). Pub. L. 108–136, §524(c)(1), substituted "Three" for "Two".

Subsec. (a)(9). Pub. L. 108–136, §524(c)(2), substituted "Two" for "One".

Subsec. (h). Pub. L. 108–136, §1031(a)(58), substituted "Superintendent" for "Secretary of the Air Force".

**2002**—Subsec. (a). Pub. L. 107–314, §532(c)(1), inserted before period at end of first sentence "or such higher number as may be prescribed by the Secretary of the Air Force under subsection (j)".

Subsec. (j). Pub. L. 107–314, §532(c)(2), added subsec. (j).

**2000**—Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title V, §531(c)(1)], struck out ", other than those granted retired pay under section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" after "retired or retainer pay".

Subsec. (b)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title V, §531(c)(2)], added subpars. (C) and (D).

**1999**—Subsec. (a). Pub. L. 106–65, §531(b)(3)(A), substituted "(determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, Air Force Cadets are selected as follows:" for "is as follows:" in introductory provisions.

Subsec. (g). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

Subsec. (i). Pub. L. 106–65, §531(b)(3)(B), added subsec. (i).

**1997**—Subsec. (a)(10). Pub. L. 105–85 substituted "Mariana" for "Marianas".

**1996**—Subsec. (a)(10). Pub. L. 104–106, §532(c), added par. (10).

Subsec. (g). Pub. L. 104–106, §1502(a)(1), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

**1994**—Subsec. (b)(1)(B). Pub. L. 103–337 substituted "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)" for "section 1331 of this title".

**1993**—Subsec. (a). Pub. L. 103–160, in concluding provisions, substituted "10 persons" for "a principal candidate and nine alternates" and inserted at end "Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter."

**1990**—Subsec. (a)(8) to (10). Pub. L. 101–510, §532(c)(1)(A), redesignated cls. (9) and (10) as (8) and (9), respectively, and struck out former cl. (8) which read as follows: "One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States."

Subsec. (d). Pub. L. 101–510, §532(c)(1)(B), substituted "clauses (2) through (9)" for "clauses (2)–(7), (9), or (10)".

Subsec. (f). Pub. L. 101–510, §532(c)(1)(C), substituted "clauses (3) through (9)" for "clauses (3)–(7), (9) and (10)".

**1989**—Subsec. (a)(1). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1983**—Subsec. (a)(8). Pub. L. 98–94, §1005(b)(3), substituted: "One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States" for "One cadet nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama".

Subsec. (a)(10). Pub. L. 98–94, §1005(a)(3), substituted "One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa" for "One cadet from American Samoa nominated by the Secretary of the Air Force upon recommendation of the Governor of American Samoa".

**1981**—Subsec. (d). Pub. L. 97–60 substituted provisions authorizing the Superintendent to nominate for appointment each year 50 persons from the country at large for provisions that all cadets were to be appointed by the President and that all such appointments were conditional until the cadets were admitted. See section 9341a of this title.

**1980**—Subsec. (a)(6), (9). Pub. L. 96–600 substituted "Two cadets" for "One cadet".

Subsec. (h). Pub. L. 96–513 substituted "The" for "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the".

**1975**—Subsecs. (a)(1), (8), (b)(1), (c). Pub. L. 94–106 substituted "children" for "sons" wherever appearing.

**1973**—Subsec. (a)(6). Pub. L. 93–171, §3(1), substituted "One cadet from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands" for "Five cadets from each Territory, nominated by the Delegate in Congress from that Territory".

Subsec. (a)(9). Pub. L. 93–171, §3(2), struck out reference to American Samoa and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, §3(3), added cl. (10).

Subsec. (f). Pub. L. 93–171, §3(4), substituted ", (9) and (10) of subsection (a)" for "and (9) of subsection (a)" and struck out reference to Territory.

**1972**—Subsec. (a)(1). Pub. L. 92–365 increased number of Air Force Cadets from 40 to 65 and added sons of members who are in missing status and sons of civilian employees who are in missing status as eligible for competitive examination.

**1970**—Subsec. (a)(5). Pub. L. 91–405 substituted "delegate to the House of Representatives from the District of Columbia" for "Commissioner of that District".

**1968**—Subsec. (a). Pub. L. 90–374 increased from five to nine the number of alternates for each vacancy each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate.

Subsec. (a)(5). Pub. L. 90–623 substituted "Commissioner" for "Commissioners".

**1966**—Subsec. (a)(1). Pub. L. 89–650, §1(1), provided for selection of cadets to the Air Force Academy from sons of members of the armed forces who have a 100 per centum service-connected disability and removed the limitation to active service during World War I or World War II or after June 26, 1950, and before Feb. 1, 1955.

Subsec. (a)(2). Pub. L. 89–650, §1(2), provided for nominations to Air Force Academy by President pro tempore of Senate if there is no Vice President.

Subsec. (b)(1). Pub. L. 89–650, §1(3), increased number of Presidential appointments to Air Force Academy from 75 to 100, provided for selection of eligible persons as stated in items (A) and (B), previously chosen from sons of members of regular components, and declared persons eligible under subsec. (a)(1) ineligible under subsec. (b)(1) of this section.

Subsec. (b)(3). Pub. L. 89–650, §1(5), substituted "reserve components of the Air Force" for "the Air Force Reserve".

**1964**—Pub. L. 88–276 amended section generally, and among other changes, in the noncompetitive appointments, increased the number of cadets nominated by the Vice President from three to five, each

Senator, Representative and Delegate from 4 to 5, and the Commissioner of Puerto Rico from 4 to 5, authorized the Governor of Puerto Rico to appoint one cadet, each Senator, Representative and Delegate to nominate a principal and five alternates for each vacancy, and, in the competitive appointments, permitted the President to appoint 75 cadets annually from the sons of members of the Regular components, instead of a cumulative total of 89, the Secretary of the Air Force to appoint 85 cadets annually from enlisted members of the Regular Air Force, instead of a cumulative total of 90, 85 annually from enlisted members of the Air Force Reserve, instead of a cumulative total of 90, 20 annually from honor graduates of designated honor schools and the A.F.R.O.T.C., instead of a cumulative total of 40 from honor schools only, 150 annually, in order of merit, from among the qualified alternates nominated by Members of Congress, and when the quota of cadets selected under subsec. (b)(1), (2), (3) is not filled, to fill the vacancies by appointing those best qualified from any of the three sources, decreased the number of cadets nominated by the Commissioners of the District of Columbia from 6 to 5, and by the Governor of the Panama Canal from 2 to 1, limited appointments to the number that can be adequately accommodated at the Academy, within the limitation that congressional appointments cannot be limited to less than four, and if limited, a priority of selection is established for the other categories, and, beginning in 1964, the Secretary may upon request of a Member of Congress, furnish him the name of any nominating authority responsible for the nomination of any identified person to the Academy.

**1962**—Subsec. (a)(10). Pub. L. 87–663, §1(5), added cl. (10).

Subsec. (c). Pub. L. 87–663, §1(6), inserted references to American Samoa, Guam, and the Virgin Islands, and substituted "Clauses (1)–(5) and (10)" for "clauses (1)–(5)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by section 561(c) of Pub. L. 118–31 applicable to nominations of candidates and appointments to the Service Academies for classes entering such Service Academies beginning with the 2025-2026 academic year, see section 561(d) of Pub. L. 118–31, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 applicable with respect to the appointment of cadets and midshipmen to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Merchant Marine Academy for classes entering these service academies after Jan. 1, 2018, see section 566(e) of Pub. L. 114–328, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–92 applicable with respect to the nomination of candidates for appointment to the United States Military Academy, Naval Academy, and Air Force Academy for classes entering after Nov. 25, 2015, see section 556(d) of Pub. L. 114–92, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–84 applicable with respect to appointments to the United States Air Force Academy beginning with the first class of candidates nominated for appointment after Oct. 28, 2009, see section 527(d) of Pub. L. 111–84, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 applicable with respect to academic years at the Air Force Academy after the 2007–2008 academic year, see section 540(d) of Pub. L. 110–417, set out as a note under section 7442 of this title.

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 524(c) of Pub. L. 108–136 applicable with respect to nomination of candidates for appointment to United States Air Force Academy for classes entering after Nov. 24, 2003, see section 524(d) of Pub. L. 108–136, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 7441a of this title.

## EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–600 effective beginning with nominations for appointment to the service academies for academic years beginning more than one year after Dec. 24, 1980, see section 2(d) of Pub. L. 96–600, set out as a note under section 7442 of this title.

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

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE; INTERIM SYSTEM FOR APPOINTMENT OF CADETS

Act Aug. 10, 1956, ch. 1041, §52(b), 70A Stat. 641, as amended by Pub. L. 85–182, Aug. 28, 1957, 71 Stat. 463, provided that section 9342(a) [now 9442(a)] of Title 10, Armed Forces would take effect four years after the entrance of the initial class at the United States Air Force Academy. However, for the four-year period beginning with the class of cadets entering in July 1959, not more than one quarter of the number of cadets authorized by clause (1), (2), (3), (4), (7), or (8) of that section could be appointed in any one academic year; two of the number of cadets authorized by clause (5) of that section could be appointed in the first and third years of that four-year period, and not more than one of the number authorized by it could be appointed in the second and fourth years of that period; and one cadet authorized by clause (6) of that section could be appointed in the first two years of that four-year period, and not more than one of the number authorized by it could be appointed in the second two years of that period. In addition, during that four-year period, the nominating authority named in clauses (1) to (6) of that section could select for each cadet allocated to him for the year concerned a principal candidate and not more than ten alternate candidates, or he could nominate as many candidates as the Secretary prescribed and authorize the Secretary to select the principal candidates in order of merit as determined by competitive examination. In carrying out section 9343 [now 9443] of Title 10, during that four-year period, only qualified alternates who were nominated by the authorities named in clauses (1) to (4) of section 9342(a) could be nominated for appointment as cadets. Not more than one qualified alternate nominated by any one authority named in those classes could be appointed as a cadet, after nomination under section 9343 [now 9443], during each year of that four-year period.

## LIMITATION ON NUMBER OF CADETS AND MIDSHIPMEN AUTHORIZED TO ATTEND SERVICE ACADEMIES

Authorized strength of service academies not to exceed 4,000 per academy for class years beginning after 1994, and any reduction in number of appointments not to be achieved by reduction in number of appointments under subsec. (a) of this section, see section 511 of Pub. L. 102–190, set out as a note under section 7442 of this title.

## ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER

**STANDARDS TO MALE AND FEMALE INDIVIDUALS**

Secretary required to take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the United States Air Force Academy, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals, see section 803(a) of Pub. L. 94–106, set out as a note under section 7442 of this title.

**SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY**

Secretary to continue to exercise the authority granted under this chapter and chapters 403 and 603 of this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94–106, set out as a note under section 7442 of this title.

## §9442a. Cadets: nomination in event of death, resignation, or expulsion from office of Member of Congress otherwise authorized to nominate

(a) SENATORS.—In the event a Senator does not submit all nominations for cadets allocated to such Senator for an academic year in accordance with section 9442(a)(3) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Senator's successor as Senator occurs after the date of the deadline for submittal of nominations for cadets for the academic year, the nominations for cadets for such academic year, otherwise authorized to be made by the Senator pursuant to such section, may be made instead by the other Senator from the State of such Representative.

(b) REPRESENTATIVES.—In the event a Representative does not submit all nominations for cadets allocated to such Representative for an academic year in accordance with section 9442(a)(4) of this title, due to death, resignation from office, or expulsion from office, and the date of the swearing-in of the Representative's successor as Representative occurs after the date of the deadline for submittal of nominations for cadets for the academic year, the nominations for cadets for such academic year, otherwise authorized to be made by the Representative pursuant to such section, may be made instead by the Senators from the State of such Representative, with such nominations divided equally among such Senators and any remainder going to the senior Senator from the State.

(c) RULE OF CONSTRUCTION.—The nomination of a cadet by a Member of Congress pursuant to this section shall not be construed to permanently reallocate nominations under section 9442 of this title.

(Added Pub. L. 117–81, div. A, title V, §553(c)(1), Dec. 27, 2021, 135 Stat. 1737.)

## §9443. Cadets: appointment; to bring to full strength

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Air Force may fill the vacancies by nominating additional cadets from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academy Board. At least three-fourths of those nominated under this section shall be selected from qualified alternates nominated by the persons named in paragraphs (2) through (8) of section 9442(a) of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 564, §9343; Pub. L. 88–276, §4(2), Mar. 3, 1964, 78 Stat. 153; Pub. L. 89–718, §46, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 93–171, §3(5), Nov. 29, 1973, 87 Stat. 691; Pub. L. 101–510, div. A, title V, §532(a)(2), (c)(2), Nov. 5, 1990, 104 Stat. 1563, 1564; Pub. L.

112–239, div. A, title X, §1076(f)(43), Jan. 2, 2013, 126 Stat. 1955; renumbered §9443 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(3), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9343 | 10:1092d. | June 30, 1950, ch. 421, §4, 64 Stat. 305. |

The words "If it is determined" are substituted for the words "When upon determination". The words "within his discretion" are omitted as covered by the word "may". The words "within the capacity of the Academy", "from the remaining sources of admission authorized by law", and "to be admitted in such class" are omitted as surplusage. The words "by the persons named in clauses (1)–(6) of section 9342(a), and clause (2) of section 9342(e), of this title" are substituted for the words "by the Vice President, Members of the Senate and House of Representatives of the United States, Delegates and Resident Commissioners, the Commissioners of the District of Columbia, and the Governor of the Canal Zone". The words "under any other provision of law" are substituted for the words "from sources authorized by law other than those holding such alternate appointments".

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Prior sections 9443 to 9445 were renumbered sections 9493 to 9495 of this title, respectively.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9343 of this title as this section and substituted "section 9442(a)" for "section 9342(a)".

**2013**—Pub. L. 112–239 substituted "paragraphs" for "clauses".

**1990**—Pub. L. 101–510, §532(a)(2), (c)(2), amended section identically, substituting "clauses (2) through (8)" for "clauses (2)–(9)".

**1973**—Pub. L. 93–171 substituted "clauses (2)–(9) of section 9342(a)" for "clauses (2)–(8) of section 9342(a)".

**1966**—Pub. L. 89–718 substituted "Academy Board" for "Faculty".

**1964**—Pub. L. 88–276, among other changes, increased percentage of nominees to be selected from two-thirds to three-fourths, and struck out "as are necessary to meet the needs of the Air Force, but not more than the authorized strength of Air Force cadets" after "the Faculty".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1973 AMENDMENT**

For effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 7442 of this title.

**NUMBER OF ALTERNATE APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS**

Nonreduction of number of appointees from congressional sources under this section because of additional Presidential appointments under section 9342(b) (1) of this title, see section 2 of Pub. L. 89–650, set out as a note under section 7443 of this title.

## §9446. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-third birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Air Force, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

(d) To be admitted to the Academy, an appointee must take and subscribe to an oath prescribed by the Secretary of the Air Force. If a candidate for admission refuses to take and subscribe to the prescribed oath, his appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 565, §9346; Pub. L. 89–718, §47, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 104–201, div. A, title V, §555(d), Sept. 23, 1996, 110 Stat. 2527; renumbered §9446, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9346(a) | 10:1092b (less provisos). | June 30, 1950, ch. 421, §2 (less provisos), 64 Stat. 304. |
| 9346(b) | 10:1096. | |
| 9346(c) | 10:1095. | R.S. 1319; restated Mar. 2, 1901, ch. 804 (1st proviso under "Permanent Establishment"), 31 Stat. 911.<br>Aug. 9, 1912, ch. 275 (2d proviso under "Permanent Establishment"), 37 Stat. 252. |

In subsection (a), the words "Effective January 1, 1951" are omitted as executed. The word "Calendar" is omitted as surplusage. The words "must not have passed his twenty-second birthday" are substituted for the words "not more than twenty-two years of age", to make it clear that a person whose twenty-second birthday falls on July 1 of the year of admission is eligible (see opinion of the Judge Advocate General of the Army (JAGA 1952/7083, 2 Sept. 1952)).

In subsection (b), the words "is qualified in" are substituted for the words "to be well versed in". The words "To be" are substituted for the words "before they shall be". The words "an appointee must show that he is qualified" are substituted for the words "shall be required to be well versed". The words "from time to time" are omitted as surplusage.

In subsection (c), the word "shall" is substituted for the word "may", since the nominee is required to appear for the examination. The word "appear" is substituted for the words "present himself". The words "at a place" are substituted for the words "at West Point, New York, or other prescribed places".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9446 was renumbered section 9496 of this title.

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9346 of this title as this section.

**1996**—Subsec. (a). Pub. L. 104–201 substituted "twenty-third birthday" for "twenty-second birthday".

**1966**—Subsec. (d). Pub. L. 89–718 added subsec. (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

**AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR**

For authority to waive maximum age limitation in subsec. (a) of this section on basis of service on active duty in connection with Operation Desert Storm, see section 514 of Pub. L. 102–190, set out as a note under section 7446 of this title.

## §9447. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of cadets otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a cadet or when he is finally separated from the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 565, §9347, renumbered §9447, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9347 | 10:1091–1. | July 7, 1943, ch. 193, 57 Stat. 383. |

The word "domicile" is substituted for the words "place of residence" and "residence" to conform to opinions of the Judge Advocate General of the Army (R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words "a * * * other than that from which he was nominated" are substituted for the word "another". The words "were appointed with respect to", "of the former district", "as additional numbers", "at such academy for the Representative", "temporarily", and "in attendance at such academy under an appointment from such former district" are omitted as surplusage. The words "the district in which his domicile so falls" are substituted for the words "of the latter district". The words "to include him" are substituted for 10:1091–1 (18 words before proviso). The words "but the number as so increased" are substituted for 10:1091–1 (1st 13 words of proviso). The words "if he fails to become a cadet" are inserted for clarity.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9447 was renumbered section 9497 of this title.

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9347 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9448. Cadets: service obligation

(a) Each cadet shall sign an agreement with respect to the cadet's length of service in the armed forces. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Academy.

(2) That upon graduation from the Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Air Force or the Space Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer, or to terminate the officer's order to sustained duty in the Space Force before completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer as a Reserve in the Air Force for service in the Air Force Reserve or will accept further assignment in a space force active status; and

(B) will remain in that reserve component, or the Space Force, until completion of the commissioned service obligation of the cadet.

(4) That if an appointment described in paragraph (2) or (3) is tendered and the cadet participates in a program under section 2121 of this title, the cadet will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.

(5) That the cadet may not obtain employment as a professional athlete until two years after the cadet graduates from the Academy.

(b)(1) Subject to paragraph (4), the Secretary of the Air Force may transfer to the Air Force Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (a). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A cadet who is transferred to the Air Force Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (a) if the cadet is separated from the Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Academy and accept an appointment as a commissioned officer upon graduation from the Academy.

(4) Each academic year, the Secretary of the Air Force may transfer not more than five cadets, who obtain employment in violation of paragraph (5) of subsection (a), to the Selected Reserve of the Air Force. Each cadet so transferred shall—

(A) serve as a commissioned officer—

(i) in an appropriate grade or rating, determined by the Secretary of the Air Force; and

(ii) for a period, determined by the Secretary of the Air Force, not longer than 10 years; and

(B) while so serving, participate in efforts to recruit and retain members of the armed forces.

(c) The Secretary of the Air Force shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) that a cadet who obtains employment as a professional athlete—

(A) in violation of paragraph (5) of subsection (a) has breached an agreement under such subsection unless such cadet receives a transfer under paragraph (4) of subsection (b); and

(B) at least two years after the cadet graduates from the Academy has not breached an agreement under subsection (a);

(3) procedures for determining whether such a breach has occurred; and

(4) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection(b).

(d) In this section, the term "commissioned service obligation", with respect to a cadet, means the period beginning on the date of the cadet's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A cadet or former cadet who does not fulfill each term of the agreement as specified under subsection (a), or an alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 565, §9348; Pub. L. 88–276, §5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88–647, title III, §301(25), Oct. 13, 1964, 78 Stat. 1073; Pub. L. 98–525, title V, §§541(c), 542(d), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99–145, title V, §512(c), Nov. 8, 1985, 99 Stat. 625; Pub. L. 101–189, div. A, title V, §511(d), title XVI, §1622(e)(5), Nov. 29, 1989, 103 Stat. 1439, 1605; Pub. L. 104–106, div. A, title V, §531(c), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109–163, div. A, title VI, §687(c)(11), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 111–84, div. A, title X, §1073(a)(29), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title V, §554(c), Jan. 7, 2011, 124 Stat. 4221; Pub. L. 115–91, div. A, title V, §543(c), title VI, §618(a)(1)(M), Dec. 12, 2017, 131 Stat. 1396, 1426; renumbered §9448, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–92, div. A, title V, §554(c), Dec. 20, 2019, 133 Stat. 1388; Pub. L. 116–283, div. A, title IX, §923(d)(11), Jan. 1, 2021, 134 Stat. 3815; Pub. L. 117–263, div. A, title V, §553(c), Dec. 23, 2022, 136 Stat. 2593; Pub. L. 118–31, div. A, title XVII, §1721(c)(3), Dec. 22, 2023, 137 Stat. 666; Pub. L. 118–159, div. A, title V, §557(c), Dec. 23, 2024, 138 Stat. 1897; Pub. L. 119–60, div. A, title V, §556(c), Dec. 18, 2025, 139 Stat. 878.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9348 | 10:1092c. | June 30, 1950, ch. 421, §3, 64 Stat. 304. |

The word "agreement" is substituted for the word "articles". The words "Hereafter", "appointed to the United States Military Academy", "engage", and 10: 1092c (1st 25 words of clause (2) are omitted as surplusage. The word "separated" is substituted for the words "discharged by competent authority". The words "if he is permitted to resign" are substituted for the words "in the event of the acceptance of his resignation", since a resignation is effective only when accepted. The first 32 words of clause (3) are substituted for 10:1092c (last 29 words of clause (3)). The last sentence is substituted for the words "with the consent of his parents or guardian if he be a minor, and if any he have".

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9448 was renumbered section 9498 of this title.

### AMENDMENTS

**2025**—Subsec. (b)(4). Pub. L. 119–60 substituted "five cadets" for "three cadets" in introductory provisions.

**2024**—Pub. L. 118–159, §557(c)(1), substituted "service obligation" for "agreement to serve as officer" in section catchline.

Subsec. (b)(1). Pub. L. 118–159, §557(c)(2)(A), substituted "Subject to paragraph (4), the Secretary of the Air Force" for "The Secretary of the Air Force".

Subsec. (b)(4). Pub. L. 118–159, §557(c)(2)(B), added par. (4) and struck out former par. (4) which read as follows: "A cadet who violates paragraph (5) of subsection (a) is not eligible for the alternative obligation under paragraph (1)."

Subsec. (c)(2)(A). Pub. L. 118–159, §557(c)(3), inserted "unless such cadet receives a transfer under paragraph (4) of subsection (b)" after "under such subsection".

Subsec. (f). Pub. L. 118–159, §557(c)(4), substituted "an alternative obligation" for "the alternative obligation".

**2023**—Subsec. (a)(2)(A). Pub. L. 118–31, §1721(c)(3)(A), struck out "Regular" before "Space Force".

Subsec. (a)(3). Pub. L. 118–31, §1721(c)(3)(B)(i), inserted ", or to terminate the officer's order to sustained duty in the Space Force" after "resign as a regular officer" in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 118–31, §1721(c)(3)(B)(ii), substituted "or will accept further assignment in a space force active status" for "or as a Reserve in the Space Force for service in the Space Force Reserve".

Subsec. (a)(3)(B). Pub. L. 118–31, §1721(c)(3)(B)(iii), inserted ", or the Space Force," after "that reserve component".

**2022**—Subsec. (a)(5). Pub. L. 117–263, §553(c)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "That the cadet—

"(A) will not seek release from the cadet's commissioned service obligation or seek or accept approval for off-duty employment while completing the cadet's commissioned service obligation to obtain employment as a professional athlete following graduation until the cadet completes a period of at least two consecutive years of commissioned service; and

"(B) understands that the appointment alternative described in paragraph (2) will not be used to allow the cadet to obtain such employment until at least the end of that two-year period."

Subsec. (b)(4). Pub. L. 117–263, §553(c)(2), added par. (4).

Subsec. (c)(2) to (4). Pub. L. 117–263, §553(c)(3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 117–263, §553(c)(4), substituted "with respect to a cadet" for "with respect to an officer who is a graduate of the Academy" and "cadet's" for "officer's".

Subsec. (f). Pub. L. 117–263, §553(c)(5), substituted "each term" for "the terms".

**2021**—Subsec. (a)(2)(A). Pub. L. 116–283, §923(d)(11)(A), inserted "or the Regular Space Force" after "Regular Air Force".

Subsec. (a)(3)(A). Pub. L. 116–283, §923(d)(11)(B), inserted "or as a Reserve in the Space Force for service in the Space Force Reserve" after "Air Force Reserve".

**2019**—Subsec. (a)(5)(A). Pub. L. 116–92 inserted "or seek or accept approval for off-duty employment while completing the cadet's commissioned service obligation" before "to obtain employment".

**2018**—Pub. L. 115–232 renumbered section 9348 of this title as this section.

**2017**—Subsec. (a)(5). Pub. L. 115–91, §543(c), added par. (5).

Subsec. (f). Pub. L. 115–91, §618(a)(1)(M), inserted "or 373" before "of title 37".

**2011**—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

**2009**—Subsec. (f). Pub. L. 111–84 substituted "subsection (a)" for "section (a)".

**2006**—Subsec. (f). Pub. L. 109–163 added subsec. (f).

**1996**—Subsec. (a)(2)(B). Pub. L. 104–106 substituted "five years" for "six years".

**1989**—Subsec. (a)(2)(B). Pub. L. 101–189, §511(d), substituted "six years" for "five years".

Subsec. (d). Pub. L. 101–189, §1622(e)(5), inserted "the term" after "In this section,".

**1985**—Pub. L. 99–145 amended section generally. Prior to amendment, section read as follows:

"(a) Each cadet who is a citizen or national of the United States shall sign an agreement that he will—

"(1) unless sooner separated from the Academy, complete the course of instruction at the Academy;

"(2) accept an appointment and, unless sooner separated from the service, serve as a commissioned officer of the Regular Air Force for at least the five years immediately after graduation; and

"(3) accept an appointment as a commissioned officer as a Reserve for service in the Air Force Reserve and, unless sooner separated from the service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation, if an appointment in the Regular Air Force is not tendered to him, or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

"(b) A cadet who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Air Force to the Air Force Reserve in an appropriate enlisted grade and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade for such period of time as the Secretary

prescribes but not for more than four years."

**1984**—Subsec. (a). Pub. L. 98–525, §541(c), struck out ", unless sooner separated," in introductory text before "he will"; inserted in cl. (1) "unless sooner separated from the Academy,"; and inserted ", unless sooner separated from the service," in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98–525, §542(d), substituted "at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary" for "the sixth anniversary".

**1964**—Pub. L. 88–647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88–276 substituted "five" for "three".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–263 only applicable to cadets or midshipmen who first enroll in the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on or after June 1, 2021, see section 553(d) of Pub. L. 117–263, as added by section 202(a) of Pub. L. 117–328, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2017 AMENDMENT

Revised cadet and midshipman service agreements under this section and sections 7448 and 8459 of this title applicable to cadets and midshipmen who are attending the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on Dec. 12, 2017, and to persons who begin attendance at such military service academies on or after that date, see section 543(d) of Pub. L. 115–91, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 applicable to persons first admitted to United States Military Academy, United States Naval Academy, and United States Air Force Academy after Dec. 31, 1991, see section 531(e) of Pub. L. 104–106, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 511(d) of Pub. L. 101–189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101–189, as amended, set out as a note under section 2114 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 (other than with respect to the authority of the Secretary of the Air Force to prescribe regulations) effective on the date on which regulations prescribed by the Secretary take effect and applicable to agreements entered into under this section on or after the effective date of such regulations and also with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a cadet on such date, see section 512(e) of Pub. L. 99–145, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 541(c) of Pub. L. 98–525 applicable with respect to agreements entered into under this section before, on, or after Oct. 19, 1984, see section 541(d) of Pub. L. 98–525, set out as a note under section 7448 of this title.

### EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

For effective date of amendment by Pub. L. 88–276, see section 5(c) of Pub. L. 88–276, set out as a note under section 7448 of this title.

### REGULATIONS IMPLEMENTING 1985 AMENDMENT

Secretary of the Air Force to prescribe regulations required by subsec. (c) of this section as added by Pub. L. 99–145 not later than the end of the 90-day period beginning on Nov. 8, 1985, see section 512(d) of Pub. L.

99–145, set out as a note under section 7448 of this title.

**SAVINGS PROVISION**

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

**DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS**

Secretary of Defense to prescribe, not later than July 1, 2007, Department of Defense policy on whether to authorize service academy and ROTC graduates to participate in professional sports before the completion of their obligations for service on active duty, see section 533 of Pub. L. 109–364, set out as a note under section 7448 of this title.

## §9449. Cadets: organization; service; instruction

(a) A cadet shall perform duties at such places and of such type as the President may direct.

(b) The course of instruction at the Academy is four years.

(c) The Secretary of the Air Force shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(Aug. 10, 1956, ch. 1041, 70A Stat. 566, §9349; renumbered §9449, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–283, div. A, title IX, §923(d)(12), Jan. 1, 2021, 134 Stat. 3815.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9349(a) | 10:1102. | R.S. 1322. |
| 9349(b) | 10:1043. | R.S. 1323. |
| 9349(c) | 10:1044. | Mar. 30, 1920, ch. 112 (1st par., less provisos, under "Miscellaneous"), 41 Stat. 548. |
| 9349(d) | 10:1105. | R.S. 1324. |

In subsection (a), the word "commissioned" is inserted for clarity. 10:1105 (2d sentence) is omitted as obsolete.

In subsection (b), the word "perform" is substituted for the words "be subject at all times to do". The words "of such type" are substituted for the words "on such service".

In subsection (e), the words "members of the Air Force" are substituted for the words "private soldier, noncommissioned officer, and officer". The words "taught and" are omitted as surplusage. 10:1105 (less 1st 18 words of last sentence) is omitted as inapplicable to the Air Force.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 116–283 struck out subsec. (d) which read as follows: "Cadets shall be trained in the duties of members of the Air Force."

**2018**—Pub. L. 115–232 renumbered section 9349 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §9450. Cadets: clothing and equipment

(a) The Secretary of the Air Force may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 566, §9350; renumbered §9450, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9350(a) | 10:1149a. | Aug. 31, 1918, ch. 166, §9 (17th through 22d words), 40 Stat. 957. |
| 9350(b) | 10:1106. | Aug. 22, 1951, ch. 340, §1, 65 Stat. 196. |

In subsection (a), the words "while owing the United States for pay advanced for the purpose of" are substituted for the words "who is indebted to the United States on account of advances in pay to purchase". The words "as is necessary to repay the amount advanced" are substituted for the words "to the extent required to discharge such indebtedness".

In subsection (b), the word "accouterments" is omitted as surplusage. The words "by the Government" and "such restrictions and" are omitted as surplusage. The words "at cost" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9350 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9451. Cadets: deficiencies in conduct or studies; effect of failure on successor

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academy Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies

in writing to the Superintendent within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 566, §9351; renumbered §9451, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9351(a) | 10:1104. | Aug. 11, 1916, ch. 314 (3d, 4th, and 5th provisos under "Permanent Establishment"), 39 Stat. 493. |
| 9351(b) | 10:1103. | R.S. 1325. |
| 9351(c) | 10:1092b (1st proviso). | June 30, 1950, ch. 421, §2 (1st proviso), 64 Stat. 304. |

In subsection (a), 10:1104 (last 20 words) is omitted as superseded by section 8287(d) of this title.

In subsection (b), the words "is entitled to" are substituted for the words "shall have the right to apply". The words "of equal scope and difficulty in that subject" are substituted for the words "by compliance with the requirements existing at the time of the first examination".

In subsection (c), the words "by reason of sickness, or deficiency in his studies, or other cause" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9351 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9452. Cadets: hazing

(a) Subject to the approval of the Secretary of the Air Force, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed as a cadet, and is ineligible for appointment as a commissioned officer in a regular component of the Army, Navy, Air Force, or Marine Corps, or in the Space Force, until two years after the graduation of his class.

(Aug. 10, 1956, ch. 1041, 70A Stat. 566, §9352; renumbered §9452, Pub. L. 115–232, div. A, title

VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(13), Jan. 1, 2021, 134 Stat. 3815; Pub. L. 118–31, div. A, title XVII, §1721(c)(4), Dec. 22, 2023, 137 Stat. 667.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9352(a) | 10:1163 (1st par.). | Mar. 2, 1901, ch. 804 (2d proviso under "Permanent Establishment"); restated Apr. 19, 1910, ch. 174 (38th par. under "Buildings and Grounds"), 36 Stat. 323. |
| 9352(b) | 10:1163 (1st 32 words of last par.). | |
| 9352(c) | 10:1163 (last par., less 1st 32 words). | |

In subsection (a), the word "violations" is substituted for the words "infractions of the same". The words "to embody a clear" are omitted as surplusage.

In subsection (b), the words "the penalty for which is or may be" are substituted for the words "which would involve". The words "may not be dismissed for that offense except under sentence of such a court" are substituted for the words "shall be granted".

In subsection (c), the words "a regular component" are inserted, since the source statute historically applied only to the regular components.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (c). Pub. L. 118–31 substituted "or Marine Corps, or in the Space Force," for "Marine Corps, or Space Force,".

**2021**—Subsec. (c). Pub. L. 116–283 substituted "as a cadet" for "as an Air Force cadet" and "Marine Corps, or Space Force" for "or Marine Corps".

**2018**—Pub. L. 115–232 renumbered section 9352 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9453. Cadets: degree and commission on graduation

(a) The Superintendent of the Academy may, under such conditions as the Secretary of the Air Force may prescribe, confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Air Force under section 531 of this title or a second lieutenant in the Space Force under section 531 or 20201 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 567, §9353; Pub. L. 85–861, §§1(201), 33(a)(43), Sept. 2, 1958, 72 Stat. 1541, 1567; Pub. L. 96–513, title V, §504(25), Dec. 12, 1980, 94 Stat. 2917; Pub. L. 105–85, div. A, title V, §542(d), Nov. 18, 1997, 111 Stat. 1743; renumbered §9453, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(14), Jan. 1, 2021, 134 Stat. 3815; Pub. L. 118–31, div. A, title XVII, §1721(c)(5), Dec. 22, 2023, 137 Stat. 667.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9353(a) | 10:486a (less last sentence). | May 25, 1933, ch. 37 (less last sentence); restated Aug. 9, 1946, ch. 932 (less last sentence); restated Aug. 4, 1949, ch. 393, §13; restated Aug. 18, 1949, ch. 476 (less last sentence), 63 Stat. 615. |
| 9353(b) | 10:506c(f) (1st sentence, less last 43 words). | Aug. 7, 1947, ch. 512, §506(f) (1st sentence, less last 43 words), 61 Stat. 892. |

In subsection (a), the last 27 words are substituted for 10:486a (last sentence). The words "rules and" and "from and after the date of the accrediting of said Academy" are omitted as surplusage. The word "conditions" is substituted for the word "regulations".

In subsection (b), the words "except section 541 of this title" are inserted to reflect the authority to appoint graduates of one service academy as officers of another service.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9353(b) | 10 App.:1850c(e) (1st sentence). | July 20, 1956, ch. 646, §203(e) (1st sentence), 70 Stat. 585. |

It is unnecessary to include a reference to section 541 of title 10, since that section does not derogate from the authority granted in this section.

The change reflects the opinion of the Judge Advocate General of the Air Force (July 19, 1957) that the words "from and after the date of the accrediting of said academies" in the source law for section 9353(a) (Act of May 25, 1933, ch. 37 (48 Stat. 73), as amended) were a condition precedent to the authority to grant degrees and should not have been omitted.

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31 struck out "or in the equivalent grade in the Regular Space Force" after "Regular Air Force" and inserted before period at end "or a second lieutenant in the Space Force under section 531 or 20201 of this title".

**2021**—Subsec. (b). Pub. L. 116–283 inserted "or in the equivalent grade in the Regular Space Force" after "Regular Air Force".

**2018**—Pub. L. 115–232 renumbered section 9353 of this title as this section.

**1997**—Subsec. (a). Pub. L. 105–85 substituted "The" for "After the date of the accrediting of the Academy, the".

**1980**—Subsec. (b). Pub. L. 96–513 inserted "under section 531 of this title" after "Regular Air Force".

**1958**—Subsec. (a). Pub. L. 85–861, §33(a)(43), permitted conferring of degrees only after date of accrediting of Academy.

Subsec. (b). Pub. L. 85–861, §1(201), struck out "except section 541 of this title" after "provision of law".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by section 33(a)(43) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

## §9454. Buildings and grounds: buildings for religious worship

The Secretary of the Air Force may authorize any denomination, sect, or religious body to erect a building for religious worship at the Air Force Academy, if its erection will not interfere with the use of the reservation for military purposes and will be without expense to the United States. Such a building shall be removed, or its location changed, without compensation for it and without expense to the United States, by the denomination, sect, or religious body that erected it, whenever in the opinion of the Secretary public or military necessity so requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 567, §9354; renumbered §9454, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9354 | 10:1126. | July 8, 1898, ch. 636, 30 Stat. 722. |

The words "in his discretion" and "Government of" are omitted as surplusage. The words "United States" are substituted for the word "Government".

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9354 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9455. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chair of the Committee on Armed Services of the Senate, or the designee of such chair;

(2) the ranking member of the Committee on Armed Services of the Senate, or the designee of the ranking member;

(3) two other members of the Senate designated by the Majority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(4) two other members of the Senate designated by the Minority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(5) the chair of the Committee on Armed Services of the House of Representatives, or the designee of such chair;

(6) the ranking member of the Committee on Armed Services of the House of Representatives, or the designee of the ranking member;

(7) two other members of the House of Representatives designated by the Speaker of the House of Representatives, one of whom is a member of the Committee on Appropriations of the House of Representatives;

(8) two other members of the House of Representatives designated by the Minority Leader of

the House of Representatives; and

(9) six persons designated by the President.

(b)(1) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is designated by the President. The President shall designate persons each year to succeed the members designated by the President whose terms expire that year.

(2) At least two of the members designated by the President shall be graduates of the Academy.

(c)(1) If a member of the Board dies or resigns or is terminated as a member of the Board under paragraph (2), a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(2)(A) If a member of the Board fails to attend two successive Board meetings, except in a case in which an absence is approved in advance, for good cause, by the Board chairman, such failure shall be grounds for termination from membership on the Board. A person designated for membership on the Board shall be provided notice of the provisions of this paragraph at the time of such designation.

(B) Termination of membership on the Board under subparagraph (A)—

(i) in the case of a member of the Board who is not a member of Congress, may be made by the Board chairman; and

(ii) in the case of a member of the Board who is a member of Congress, may be made only by the official who designated the member.

(C) When a member of the Board is subject to termination from membership on the Board under subparagraph (A), the Board chairman shall notify the official who designated the member. Upon receipt of such a notification with respect to a member of the Board who is a member of Congress, the official who designated the member shall take such action as that official considers appropriate.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Air Force, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy. Board members shall have access to the Academy grounds and the cadets, faculty, staff, and other personnel of the Academy for the purposes of the duties of the Board.

(e)(1) The Board shall inquire into the morale, discipline, and social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(2) The Secretary of the Air Force and the Superintendent of the Academy shall provide the Board candid and complete disclosure, consistent with applicable laws concerning disclosure of information, with respect to institutional problems.

(3) The Board shall recommend appropriate action.

(f) The Board shall prepare a semiannual report containing its views and recommendations pertaining to the Academy, based on its meeting since the last such report and any other considerations it determines relevant. Each such report shall be submitted concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing duties as a member of the Board, each member of the Board and each adviser shall be reimbursed under Government travel regulations for travel expenses.

(i)(1) A majority of the members of the Board may call an official meeting of the Board once per year.

(2) A member may attend such meeting—

(A) in person, at the Academy; or

(B) remotely, at the election of such member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 567, §9355; Pub. L. 96–579, §13(c), Dec. 23, 1980, 94 Stat. 3369; Pub. L. 104–106, div. A, title X, §1061(e)(2), title XV, §1502(a)(12), Feb. 10, 1996, 110 Stat. 443, 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–375,

div. A, title V, §543, Oct. 28, 2004, 118 Stat. 1904; Pub. L. 109–364, div. A, title X, §1071(a)(39), Oct. 17, 2006, 120 Stat. 2400; renumbered §9455 and amended Pub. L. 115–232, div. A, title V, §593, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1789, 1832; Pub. L. 117–81, div. A, title V, §§554(c), 555(c), Dec. 27, 2021, 135 Stat. 1738, 1739; Pub. L. 118–159, div. A, title V, §558(c), Dec. 23, 2024, 138 Stat. 1899; Pub. L. 119–60, div. A, title V, §557(c), Dec. 18, 2025, 139 Stat. 879.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9355(a) | 10:1055.<br>10:1056 (1st sentence). | June 29, 1948, ch. 714, §§1–6, 62 Stat. 1094; June 30, 1954, ch. 432, §732, 68 Stat. 356. |
| 9355(b) | 10:1056 (less 1st sentence). | |
| 9355(c) | 10:1057. | |
| 9355(d) | 10:1058. | |
| 9355(e) | 10:1059(a). | |
| 9355(f) | 10:1059(b). | |
| 9355(g) | 10:1059(c). | |
| 9355(h) | 10:1060. | |

In subsections (a) and (b), the word "designated" is substituted for the word "appointed" to make it clear that the positions described are not constitutional offices.

Subsection (b) is substituted for 10:1056(e) (less 1st sentence).

In subsection (c), the words "during the term for which such member was appointed" and "Such successor shall be appointed * * * who died or resigned" are omitted as surplusage.

In subsection (g), the words "as it may deem necessary or advisable to effectuate the duties imposed upon it by the provisions of sections 1055–1060 of this title" are omitted as surplusage.

In subsection (h), the words "called for consultation by the Board in connection with the business of the Board" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (a)(8). Pub. L. 119–60 substituted "two other members" for "one other member".

**2024**—Subsec. (a). Pub. L. 118–159, §558(c)(1), added subsec. (a) and struck out former subsec. (a) which set out 5 categories of members of the Board of Visitors to the Academy, as constituted annually.

Subsec. (f). Pub. L. 118–159, §558(c)(2), which directed insertion of "and the Committees on Armed Services of the Senate and House of Representatives" after "the President" both places it appeared, could not be executed because "the President" no longer appeared in subsec. (f) after the general amendment of this section by Pub. L. 108–375, §543.

**2021**—Subsec. (b)(1). Pub. L. 117–81, §554(c), substituted "is designated by the President" for "is designated".

Subsec. (i). Pub. L. 117–81, §555(c), added subsec. (i).

**2018**—Pub. L. 115–232, §806(a)(3), renumbered section 9355 of this title as this section.

Subsec. (d). Pub. L. 115–232, §593, added subsec. (d) and struck out former subsec. (d) which read as follows: "The Board should meet at least four times a year, with at least two of those meetings at the Academy. The Board or its members may make other visits to the Academy in connection with the duties of the Board. Board meetings should last at least one full day. Board members shall have access to the Academy grounds and the cadets, faculty, staff, and other personnel of the Academy for the purposes of the duties of the Board."

**2006**—Subsec. (c)(1). Pub. L. 109–364 substituted "Board under paragraph (2)" for "board under paragraph (2)".

**2004**—Pub. L. 108–375 amended section generally. Prior to amendment, section contained provisions relating to membership of Board of Visitors in subsec. (a), term of office in subsec. (b), designation of

successor in subsec. (c), frequency of Academy visits in subsec. (d), scope of Board inquiries in subsec. (e), submission of reports in subsec. (f), calling in of advisers in subsec. (g), and reimbursement for travel in subsec. (h).

**1999**—Subsec. (a)(3). Pub. L. 106–65 substituted "Committee on Armed Services" for "Committee on National Security".

**1996**—Subsec. (a)(3). Pub. L. 104–106, §1502(a)(12), substituted "National Security" for "Armed Services".

Subsec. (h). Pub. L. 104–106, §1061(e)(2), struck out "is entitled to not more than $5 a day and" after "each adviser".

**1980**—Subsec. (b). Pub. L. 96–579 required member whose term of office had expired to continue service until appointment of a successor.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by section 806(a)(3) of Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9456. Acceptance of guarantees with gifts for major projects

(a) ACCEPTANCE AUTHORITY.—Subject to subsection (c), the Secretary of the Air Force may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Academy.

(b) OBLIGATION AUTHORITY.—The amount of a qualified guarantee accepted under this section shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of the funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

(c) NOTICE OF PROPOSED ACCEPTANCE.—The Secretary of the Air Force may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(d) PROHIBITION ON COMMINGLING OF FUNDS.—The Secretary of the Air Force may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

(e) DEFINITIONS.—In this section:

(1) MAJOR PROJECT.—The term "major project" means a project for the purchase or other procurement of real or personal property, or for the construction, renovation, or repair of real or personal property, the total cost of which is, or is estimated to be, at least $1,000,000.

(2) QUALIFIED GUARANTEE.—The term "qualified guarantee", with respect to a major project, means a guarantee that—

(A) is made by one or more persons in connection with a donation, specifically for the project, of a total amount in cash or securities that, as determined by the Secretary of the Air Force, is sufficient to defray a substantial portion of the total cost of the project;

(B) is made to facilitate or expedite the completion of the project in reasonable anticipation that other donors will contribute sufficient funds or other resources in amounts sufficient to pay for completion of the project;

(C) is set forth as a written agreement that provides for the donor to furnish in cash or securities, in addition to the donor's other gift or gifts for the project, any additional amount that

may become necessary for paying the cost of completing the project by reason of a failure to obtain from other donors or sources funds or other resources in amounts sufficient to pay the cost of completing the project; and

(D) is accompanied by—

(i) an irrevocable and unconditional standby letter of credit for the benefit of the Academy that is in the amount of the guarantee and is issued by a major United States commercial bank; or

(ii) a qualified account control agreement.

(3) QUALIFIED ACCOUNT CONTROL AGREEMENT.—The term "qualified account control agreement", with respect to a guarantee of a donor, means an agreement among the donor, the Secretary of the Air Force, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, at any time that the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(4) MAJOR UNITED STATES COMMERCIAL BANK.—The term "major United States commercial bank" means a commercial bank that—

(A) is an insured bank (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(B) is headquartered in the United States; and

(C) has net assets in a total amount considered by the Secretary of the Air Force to qualify the bank as a major bank.

(5) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term "major United States investment management firm" means any broker, dealer, investment adviser, or provider of investment supervisory services (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) or section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2)) or a major United States commercial bank that—

(A) is headquartered in the United States; and

(B) holds for the account of others investment assets in a total amount considered by the Secretary of the Air Force to qualify the firm as a major investment management firm.

(Added Pub. L. 106–65, div. B, title XXVIII, §2871(c)(1), Oct. 5, 1999, 113 Stat. 875, §9356; amended Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(17)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 108–136, div. A, title X, §1031(a)(59), Nov. 24, 2003, 117 Stat. 1603; renumbered §9456, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9356 of this title as this section.

**2003**—Subsec. (c). Pub. L. 108–136 inserted before period at end "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

**2000**—Subsec. (e)(5). Pub. L. 106–398 inserted a closing parenthesis after "80b–2)" in introductory

provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9457. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Air Force may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

(f) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations for the administration of this section.

(Added Pub. L. 105–261, div. A, title X, §1063(c)(1), Oct. 17, 1998, 112 Stat. 2131, §9357; renumbered §9457, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9357 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9459. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds

(a) AUTHORITY.—In the case of an Academy mixed-funded athletic or recreational

extracurricular program, the Secretary of the Air Force may designate funds appropriated to the Department of the Air Force and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) COVERED PROGRAMS.—In this section, the term "Academy mixed-funded athletic or recreational extracurricular program" means an athletic or recreational extracurricular program of the Academy to which each of the following applies:

(1) The program is not considered a morale, welfare, or recreation program.

(2) The program is supported through appropriated funds.

(3) The program is supported by a nonappropriated fund instrumentality.

(4) The program is not a private organization and is not operated by a private organization.

(Added Pub. L. 108–375, div. A, title V, §544(c)(1), Oct. 28, 2004, 118 Stat. 1907, §9359; renumbered §9459, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9359 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section applicable only with respect to funds appropriated for fiscal years after fiscal year 2004, see section 544(d) of Pub. L. 108–375, set out as a note under section 7459 of this title.

## §9460. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, §545(c)(1), Oct. 28, 2004, 118 Stat. 1908, §9360; renumbered §9460, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9360 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

## §9461. Policy on sexual harassment and sexual violence

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Air Force shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Air Force, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Air Force shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(3)(A) The Secretary of Defense may postpone the conduct of an assessment under this subsection

if the Secretary determines that conducting such assessment is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary of Defense shall ensure that an assessment postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary of Defense shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(d) ANNUAL REPORT.—(1) The Secretary of the Air Force shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the Air Force and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Secretary of the Air Force shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(e) CONSIDERATION OF REQUEST FOR TRANSFER OF A CADET WHO IS THE VICTIM OF A SEXUAL ASSAULT OR RELATED OFFENSE.—(1) The Secretary of the Air Force shall provide for timely consideration of and action on a request submitted by a cadet appointed to the United States Air Force Academy who is the victim of an alleged sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) for transfer to another military service academy or to enroll in a Senior Reserve Officers' Training Corps program affiliated with another institution of higher education.

(2) The Secretary of the Air Force shall prescribe regulations to carry out this subsection, within guidelines provided by the Secretary of Defense that—

(A) provide that the Superintendent of the United States Air Force Academy shall ensure that any cadet who has been appointed to the United States Air Force Academy and who is a victim of an alleged sexual assault or other offense referred to in paragraph (1), is informed of the right to request a transfer pursuant to this section, and that any formal request submitted by a cadet is processed as expeditiously as practicable through the chain of command for review and action by the Superintendent;

(B) direct the Superintendent of the United States Air Force Academy, in coordination with the Superintendent of the military service academy to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) to approve such request for transfer unless there are exceptional circumstances that require denial of the request; and

(iii) upon approval of such request, to take all necessary and appropriate action to effectuate

the transfer of the cadet to the military service academy concerned as expeditiously as possible; and

(C) direct the Superintendent of the United States Air Force Academy, in coordination with the Secretary of the military department that sponsors the Senior Reserve Officers' Training Corps program at the institution of higher education to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) subject to the cadet's acceptance for admission to the institution of higher education to which the cadet wishes to transfer, to approve such request for transfer unless there are exceptional circumstances that require denial of the application; and

(iii) to take all necessary and appropriate action to effectuate the cadet's enrollment in the institution of higher education to which the cadet wishes to transfer and to process the cadet for participation in the relevant Senior Reserve Officers' Training Corps program as expeditiously as possible.

(3) If the Superintendent of the United States Air Force Academy denies a request for transfer under this subsection, the cadet may request review of the denial by the Secretary of the Air Force, who shall take action on such request not later than 72 hours after receipt of the formal request for review.

(4) The Secretary concerned shall ensure that all records of any request, determination, transfer, or other action under this subsection remain confidential, consistent with applicable law and regulation.

(5) A cadet who transfers under this subsection may retain the cadet's appointment to the United States Air Force Academy or may be appointed to the military service academy to which the cadet transfers without regard to the limitations and requirements set forth in sections 7442, 8454, and 9442 of this title.

(Added Pub. L. 109–364, div. A, title V, §532(a)(3), Oct. 17, 2006, 120 Stat. 2203, §9361; renumbered §9461, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116–92, div. A, title V, §555(c), Dec. 20, 2019, 133 Stat. 1390; Pub. L. 116–283, div. A, title V, §552(b)(3), Jan. 1, 2021, 134 Stat. 3632.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c)(3). Pub. L. 116–283 added par. (3).

**2019**—Subsec. (e). Pub. L. 116–92 added subsec. (e).

**2018**—Pub. L. 115–232 renumbered section 9361 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d)(4)(B) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### POLICY FOR MILITARY SERVICE ACADEMIES ON SEPARATION OF ALLEGED VICTIMS AND ALLEGED PERPETRATORS IN INCIDENTS OF SEXUAL ASSAULT

Secretary of Defense to consult with Secretaries of the military departments and Superintendent of each military service academy and prescribe in regulations a policy that allows a cadet or midshipman of a military

service academy who is the alleged victim or alleged perpetrator of a sexual assault to complete their course of study at the academy with minimal disruption and does not preclude the academy from taking other administrative or disciplinary action, see section 539 of Pub. L. 116–283, set out as a note under section 7461 of this title.

**APPLICABILITY OF SEXUAL ASSAULT PREVENTION AND RESPONSE AND RELATED MILITARY JUSTICE ENHANCEMENTS TO MILITARY SERVICE ACADEMIES**

Secretary of the military department concerned to ensure that the provisions of title XVII of Pub. L. 113–66 and subtitle D of title V of div. A of Pub. L. 113–291 apply to the United States Military Academy, the Naval Academy, and the Air Force Academy, as applicable, see section 552(a) of Pub. L. 113—291, set out as a note under section 7461 of this title.

**PREVENTION OF SEXUAL ASSAULT AT MILITARY SERVICE ACADEMIES**

Secretary of Defense to ensure that military service academy curricula include honor, respect, and character development pertaining to prevention of sexual assault in the Armed Forces; training provided within 14 days after a new cadet or midshipman arrives at the academy and repeated annually, see section 1746 of Pub. L. 113–66, set out as a note under section 7461 of this title.

**FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES**

Secretary of a military department to provide for focus groups to ascertain information relating to sexual assault and sexual harassment issues in any year in which the Secretary is not required by law to conduct a survey on such matters at the service academy under the Secretary's jurisdiction and to include such information in the Secretary's annual report to Congress, see section 532(b) of Pub. L. 109–364, set out as a note under section 7461 of this title.

## §9462. Support of athletic programs

(a) CORPORATION FOR SUPPORT AUTHORIZED.—(1) The Secretary of the Air Force may, in accordance with the laws of the State of incorporation, establish a corporation (in this section referred to as the "corporation") to support the athletic programs of the Academy. All stock of the corporation shall be owned by the United States and held in the name of and voted by the Secretary of the Air Force.

(2) The corporation shall operate exclusively for charitable, educational, and civic purposes to support the athletic programs of the Academy.

(b) CORPORATE ORGANIZATION.—The corporation shall be organized and operated—

(1) as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986;

(2) in accordance with this section; and

(3) pursuant to the laws of the State of incorporation, its articles of incorporation, and its bylaws.

(c) CORPORATE BOARD OF DIRECTORS.—(1) The members of the board of directors of the corporation shall serve without compensation as members of the board, except for reasonable travel and other related expenses for attendance at meetings of the board.

(2) The Secretary of the Air Force may authorize military and civilian personnel of the Department of the Air Force under section 1033 of this title to serve, in their official capacities, as members of the board of directors of the corporation, but such personnel shall not hold more than one-third of the directorships.

(d) TRANSFERS FROM NONAPPROPRIATED FUND OPERATION.—The Secretary of the Air Force may, subject to the acceptance of the corporation, transfer to the corporation all title to and ownership of the assets and liabilities of the Air Force nonappropriated fund instrumentality whose functions include providing support for the athletic programs of the Academy, including bank accounts and financial reserves in its accounts, equipment, supplies, and other personal property, but excluding any interest in real property.

(e) ACCEPTANCE OF SUPPORT.—

(1) SUPPORT RECEIVED FROM THE CORPORATION.—Notwithstanding section 1342 of title 31, the Secretary of the Air Force may accept from the corporation funds, supplies, equipment, and services for the support of the athletic programs of the Academy.

(2) FUNDS RECEIVED FROM OTHER SOURCES.—The Secretary may charge fees for the support of the athletic programs of the Academy. The Secretary may accept and retain fees for services and other benefits provided incident to the operation of its athletic programs, including fees from the National Collegiate Athletic Association, fees from athletic conferences, game guarantees from other educational institutions, fees for ticketing or licensing, and other consideration provided incidental to the execution of the athletic programs of the Academy.

(3) LIMITATIONS.—The Secretary shall ensure that contributions accepted under this subsection do not—

(A) reflect unfavorably on the ability of the Department of the Air Force, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

(B) compromise the integrity or appearance of integrity of any program of the Department of the Air Force, or any individual involved in such a program.

(f) LEASES AND LICENSES.—

(1) IN GENERAL.—The Secretary of the Air Force may, in accordance with section 2667 of this title, enter into leases or licenses with the corporation for the purpose of supporting the athletic programs of the Academy. Consideration provided under such a lease or license may be provided in the form of funds, supplies, equipment, and services for the support of the athletic programs of the Academy.

(2) SUPPORT SERVICES.—The Secretary may provide support services to the corporation without charge while the corporation conducts its support activities at the Academy. In this paragraph, the term "support services" includes utilities, office furnishings and equipment, communications services, records staging and archiving, audio and video support, and security systems in conjunction with the leasing or licensing of property. Any such support services may only be provided without any liability of the United States to the corporation.

(g) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary of the Air Force may enter into contracts and cooperative agreements with the corporation for the purpose of supporting the athletic programs of the Academy. Notwithstanding section 3201(e) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 3204(a)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property, services, or travel for the direct benefit or use of the athletic programs of the Academy.

(h) TRADEMARKS AND SERVICE MARKS.—

(1) LICENSING, MARKETING, AND SPONSORSHIP AGREEMENTS.—An agreement under subsection (g) may, consistent with section 2260 of this title (other than subsection (d) of such section), authorize the corporation to enter into licensing, marketing, and sponsorship agreements relating to trademarks and service marks identifying the Academy, subject to the approval of the Secretary of the Air Force.

(2) LIMITATIONS.—No licensing, marketing, or sponsorship agreement may be entered into under paragraph (1) if—

(A) such agreement would reflect unfavorably on the ability of the Department of the Air Force, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

(B) the Secretary determines that the use of the trademark or service mark would compromise the integrity or appearance of integrity of any program of the Department of the Air Force, or any individual involved in such a program.

(i) RETENTION AND USE OF FUNDS.—Any funds received under this section may be retained

for use in support of the athletic programs of the Academy and shall remain available until expended.

(Added Pub. L. 111–84, div. A, title V, §528(a), Oct. 28, 2009, 123 Stat. 2289, §9362; amended Pub. L. 113–291, div. A, title V, §554, Dec. 19, 2014, 128 Stat. 3377; renumbered §9462, Pub. L. 115–232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(15), title XVIII, §1883(b)(2), Jan. 1, 2021, 134 Stat. 3815, 4294.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (b)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

### AMENDMENTS

**2021**—Subsec. (c)(2). Pub. L. 116–283, §923(d)(15), substituted "personnel of the Department of the Air Force" for "personnel of the Air Force".

Subsec. (g). Pub. L. 116–283, §1883(b)(2), substituted "section 3201(e)" for "section 2304(k)" and "section 3204(a)(5)" for "section 2304(c)(5)".

**2018**—Pub. L. 115–232 renumbered section 9362 of this title as this section.

**2014**—Subsecs. (e) to (i). Pub. L. 113–291 added subsecs. (e) to (i) and struck out former subsecs. (e) to (g) which related to acceptance of gifts, leases of real and personal property, and cooperative agreements, respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1883(b)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 957—SCHOOLS AND CAMPS

Sec.
9481. Establishment: purpose.
9482. Operation.
9483. Transportation and subsistence during travel.
9484. Quartermaster and ordnance property: sales.
9487. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(2), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 907 of this title as this chapter and items 9411 to 9414 and 9417 as 9481 to 9484 and 9487, respectively.

**2016**—Pub. L. 114–328, div. A, title XII, §1241(o)(9), Dec. 23, 2016, 130 Stat. 2512, struck out item 9415 "Inter-American Air Forces Academy".

**2006**—Pub. L. 109–163, div. A, title V, §522(f)(2), Jan. 6, 2006, 119 Stat. 3244, added item 9417.

**1990**—Pub. L. 101–510, div. A, title III, §330(b), Nov. 5, 1990, 104 Stat. 1535, added item 9415.

## §9481. Establishment: purpose

The Secretary of the Air Force may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Air Force, the Space Force, and civilians, to qualify them for—

(1) appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Air Force Reserve; or

(2) appointment as officers, or enlistment as noncommissioned officers, for service in the Space Force in a space force active status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 571, §9411; renumbered §9481, Pub. L. 115–232, div. A, title VIII, §806(a)(2), Aug. 13, 2018, 132 Stat. 1832; Pub. L. 116–283, div. A, title IX, §923(d)(16), Jan. 1, 2021, 134 Stat. 3815; Pub. L. 118–31, div. A, title XVII, §1721(d)(1), Dec. 22, 2023, 137 Stat. 667.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9411 | 10:442 (words before 1st semicolon of 1st sentence). | June 3, 1916, ch. 134, §47d (words before 1st semicolon of 1st sentence); added June 4, 1920, ch. 227, subch. I, §34 (words before 1st semicolon of 1st sentence of last par.), 41 Stat. 779. |

The words "upon military reservations or elsewhere" are omitted as surplusage. The words "of the Air Force" are inserted for clarity. The words "or enlistment as" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Pub. L. 118–31 inserted dash after "to qualify them for" and par. (1) designation before "appointment", substituted "; or" for "or the Space Force Reserve.", and added par. (2).

**2021**—Pub. L. 116–283, §923(d)(16)(B), inserted "or the Space Force Reserve" after "the Air Force Reserve".

Pub. L. 116–283, §923(d)(16)(A), which directed amendment of this section by inserting ", the Space Force," after "members of the Air Force,", was executed by making the insertion after "members of the Air Force" to reflect the probable intent of Congress.

**2018**—Pub. L. 115–232 renumbered section 9411 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9482. Operation

In maintaining camps established under section 9481 of this title, the Secretary of the Air Force may—

(1) prescribe the periods during which they will be operated;

(2) prescribe regulations for their administration;

(3) prescribe the courses to be taught;

(4) detail members of the Regular Air Force or members of the Space Force in an active status

to designated duties relating to the camps;

(5) use necessary supplies and transportation;

(6) furnish uniforms, subsistence, and medical attendance and supplies to persons attending the camp; and

(7) authorize necessary expenditures from proper Air Force or Space Force funds for—

(A) water;

(B) fuel;

(C) light;

(D) temporary structures, except barracks and officers' quarters;

(E) screening;

(F) damages resulting from field exercises;

(G) expenses incident to theoretical winter instruction of trainees; and

(H) other expenses incident to maintaining the camps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 571, §9412; renumbered §9482 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840; Pub. L. 116–283, div. A, title IX, §923(d)(17), Jan. 1, 2021, 134 Stat. 3816; Pub. L. 118–31, div. A, title XVII, §1721(d)(2), Dec. 22, 2023, 137 Stat. 667.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9412 | 10:442 (47 words after 1st semicolon, and 72 words before 3d semicolon, of 1st sentence; and last sentence). | June 3, 1916, ch. 134, §47d (47 words after 1st semicolon, and 72 words before 3d semicolon, of 1st sentence; and last sentence); added June 4, 1920, ch. 227, subch. I, §34 (47 words after 1st semicolon, and 72 words before 3d semicolon, of 1st sentence; and last sentence of last par.), 41 Stat. 779. |

The word "supplies" is substituted for the words "such arms, ammunition, accoutrements, equipments, tentage, field equipage", since, under the definition of the word "supplies", in section 101(26) of this title, those words are covered by the word "supplies". The words "belonging to the United States", "and imparting military instruction and training thereat", "during the period of their attendance", "theoretical and practical instruction", "persons attending the camps authorized by this section", and "as he may deem" are omitted as surplusage. The word "detail" is substituted for the word "employ". The word "members" is substituted for the words "officers, warrant officers, and enlisted men".

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Par. (4). Pub. L. 118–31 substituted "or members of the Space Force in an active status" for "or the Regular Space Force".

**2021**—Par. (4). Pub. L. 116–283, §923(d)(17)(A), inserted "or the Regular Space Force" after "Regular Air Force".

Par. (7). Pub. L. 116–283, §923(d)(17)(B), inserted "or Space Force" after "Air Force" in introductory provisions.

**2018**—Pub. L. 115–232 renumbered section 9412 of this title as this section and substituted "section 9481" for "section 9411" in introductory provisions.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments

and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9483. Transportation and subsistence during travel

(a) There may be furnished to a person attending a school or camp established under section 9481 of this title, for travel to and from that school or camp—

(1) transportation and subsistence;

(2) transportation in kind and a subsistence allowance of one cent a mile; or

(3) a travel allowance of five cents a mile.

(b) The travel allowance for the return trip may be paid in advance.

(c) For the purposes of this section, distance is computed by the shortest usually traveled route, within such territorial limits as the Secretary of the Air Force may prescribe, from the authorized starting point to the school or camp and return.

(Aug. 10, 1956, ch. 1041, 70A Stat. 572, §9413; renumbered §9483 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9413(a), (b), (c) | 10:442 (words between 1st and 3d semicolons, less 47 words after 1st semicolon, and less 72 words before 3d semicolon, of 1st sentence). | June 3, 1916, ch. 134, §47d (words between 1st and 3d semicolons, less 47 words after 1st semicolon, and less 72 words before 3d semicolon, of 1st sentence); added June 4, 1920, ch. 227, §34 (words between 1st and 3d semicolons, less 47 words after 1st semicolon, and less 72 words before 3d semicolon, of 1st sentence of last par.), 41 Stat. 779; Mar. 9, 1928, ch. 161, 45 Stat. 251. |

In subsection (a), the introductory clause is inserted for clarity. The words "at the option of the Secretary of the Army" are omitted as surplusage.

In subsection (b), the words "of the actual performance of the same" are omitted as surplusage.

Subsection (c) is substituted for the words "the most usual and direct route within such limits as to territory as the Secretary of the Army may prescribe * * * for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp, and for the return travel thereto".

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §806(a)(2), renumbered section 9413 of this title as this section.

Subsec. (a). Pub. L. 115–232, §809(a), substituted "section 9481" for "section 9411" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9484. Quartermaster and ordnance property: sales

The Secretary of the Air Force may sell to a person attending a school or camp established under section 9481 of this title quartermaster and ordnance property necessary for his proper equipment. Sales under this section shall be for cash.

(Aug. 10, 1956, ch. 1041, 70A Stat. 572, §9414; renumbered §9484 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9414 | 10:442 (words after 3d semicolon of 1st sentence; and 2d sentence). | June 3, 1916, ch. 134, §47d (words after 3d semicolon of 1st sentence; and 2d sentence); added June 4, 1920, ch. 227, §34 (words after 3d semicolon of 1st sentence; and 2d sentence of last par.), 41 Stat. 779. |

10:442 (2d sentence) is omitted as superseded by section 10 of the Act of June 26, 1934, ch. 756, 48 Stat. 1229 (31 U.S.C. 725i), which limits credits to the replacing account to the actual cost of the items sold. The words "quartermaster and ordnance property necessary for his proper equipment" are substituted for 10:442 (last 26 words of 1st sentence). The words "and at cost price, plus 10 per centum" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9414 of this title as this section and substituted "section 9481" for "section 9411".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §9487. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Air Force may authorize the Commandant of the Air War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for

administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Air War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(f)(1), Jan. 6, 2006, 119 Stat. 3243, §9417; renumbered §9487, Pub. L. 115–232, div. A, title VIII, §806(a)(2), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9417 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

# CHAPTER 959—CIVIL AIR PATROL

Sec.
9491. Status as federally chartered corporation; purposes.
9492. Status as volunteer civilian auxiliary of the Air Force.
9493. Activities performed as federally chartered nonprofit corporation.
9494. Activities performed as auxiliary of the Air Force.
9495. Funds appropriated for the Civil Air Patrol.
9496. Miscellaneous personnel authorities.
9497. Board of Governors.
9498. Regulations.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(2), (e)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 909 of this title as this chapter and items 9441 to 9448 as 9491 to 9498, respectively.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294, amended chapter heading and analysis generally, substituting items 9441 to 9448 for former items 9441 "Status: support by Air Force; employment" and 9442 "Assistance by other agencies".

## §9491. Status as federally chartered corporation; purposes

(a) STATUS.—(1) The Civil Air Patrol is a nonprofit corporation that is federally chartered under section 40301 of title 36.

(2) Except as provided in section 9492(b)(2) of this title, the Civil Air Patrol is not an instrumentality of the Federal Government for any purpose.

(b) PURPOSES.—The purposes of the Civil Air Patrol are set forth in section 40302 of title 36.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–295, §9441; renumbered §9491 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(1), 809(a),

Aug. 13, 2018, 132 Stat. 1832, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(a)(1), renumbered section 9441 of this title as this section.
Subsec. (a)(2). Pub. L. 115–232, §809(a), substituted "section 9492(b)(2)" for "section 9442(b)(2)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Pub. L. 106–398, §1 [[div. A], title X, §1090(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–300, provided that: "The amendments made by this section [enacting this section and sections 9492 to 9498 of this title and amending sections 40302 and 40303 of Title 36, Patriotic and National Observances, Ceremonies, and Organizations] shall take effect 120 days after the date of the enactment of this Act [Oct. 30, 2000]."

## §9492. Status as volunteer civilian auxiliary of the Air Force

(a) VOLUNTEER CIVILIAN AUXILIARY.—The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency in any branch of the Federal Government.

(b) USE BY AIR FORCE.—(1) The Secretary of the Air Force may use the services of the Civil Air Patrol to fulfill the noncombat programs and missions of the Department of the Air Force.

(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–295, §9442; renumbered §9492, Pub. L. 115–232, div. A, title VIII, §806(a)(1), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9442 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9493. Activities performed as federally chartered nonprofit corporation

(a) USE OF FEDERALLY PROVIDED RESOURCES.—In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds)—

(1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and nonemergency missions and activities; and

(2) to fulfill its other purposes set forth in section 40302 of title 36.

(b) USE SUBJECT TO APPLICABLE LAWS.—The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.

(c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT.—The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.

(d) LIABILITY INSURANCE.—The Secretary of the Air Force may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–295, §9443; renumbered §9493, Pub. L. 115–232, div. A, title VIII, §806(a)(1), Aug. 13, 2018, 132 Stat. 1832.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 renumbered section 9443 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9494. Activities performed as auxiliary of the Air Force

(a) AIR FORCE SUPPORT FOR ACTIVITIES.—The Secretary of the Air Force may furnish to the Civil Air Patrol in accordance with this section any equipment, supplies, and other resources that the Secretary determines necessary to enable the Civil Air Patrol to fulfill the missions assigned by the Secretary to the Civil Air Patrol as an auxiliary of the Air Force.

(b) FORMS OF AIR FORCE SUPPORT.—The Secretary of the Air Force may, under subsection (a)—

(1) give, lend, or sell to the Civil Air Patrol without regard to subtitle I of title 40 and division C

(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41—

(A) major items of equipment (including aircraft, motor vehicles, computers, and communications equipment) that are excess to the military departments; and

(B) necessary related supplies and training aids that are excess to the military departments;

(2) permit the use, with or without charge, of services and facilities of the Air Force;

(3) furnish supplies (including fuel, lubricants, and other items required for vehicle and aircraft operations) or provide funds for the acquisition of supplies;

(4) establish, maintain, and supply liaison officers of the Air Force at the national, regional, State, and territorial headquarters of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any liaison office at the national, regional, State, or territorial headquarters of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training programs of the Civil Air Patrol;

(7) authorize the payment of travel expenses and allowances, at rates not to exceed those paid to employees of the United States under subchapter I of chapter 57 of title 5, to members of the Civil Air Patrol while the members are carrying out programs or missions specifically assigned by the Air Force;

(8) provide funds for the national headquarters of the Civil Air Patrol, including—

(A) funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent, utilities, other operational expenses of the national headquarters; and

(B) to the extent considered necessary by the Secretary of the Air Force to fulfill Air Force requirements, funds for the payment of compensation and benefits for key staff at regional, State, or territorial headquarters;

(9) authorize the payment of expenses of placing into serviceable condition, improving, and maintaining equipment (including aircraft, motor vehicles, computers, and communications equipment) owned or leased by the Civil Air Patrol;

(10) provide funds for the lease or purchase of items of equipment that the Secretary determines necessary for the Civil Air Patrol;

(11) support the Civil Air Patrol cadet program by furnishing—

(A) articles of the Air Force uniform to cadets without cost; and

(B) any other support that the Secretary of the Air Force determines is consistent with Air Force missions and objectives; and

(12) provide support, including appropriated funds, for the Civil Air Patrol aerospace education program to the extent that the Secretary of the Air Force determines appropriate for furthering the fulfillment of Air Force missions and objectives.

(c) ASSISTANCE BY OTHER AGENCIES.—(1) The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its mission.

(2) An arrangement for use of facilities or services of a military department or other department or agency under this subsection shall be subject to the agreement of the Secretary of the military department or head of the other department or agency, as the case may be.

(3) Each arrangement under this subsection shall be made in accordance with regulations prescribed under section 9498 of this title.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–296,

§9444; amended Pub. L. 107–217, §3(b)(35), Aug. 21, 2002, 116 Stat. 1298; Pub. L. 111–350, §5(b)(54), Jan. 4, 2011, 124 Stat. 3847; renumbered §9494 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §806(a)(1), renumbered section 9444 of this title as this section.

Subsec. (c)(3). Pub. L. 115–232, §809(a), substituted "section 9498" for "section 9448".

**2011**—Subsec. (b)(1). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" in introductory provisions.

**2002**—Subsec. (b)(1). Pub. L. 107–217, in introductory provisions, inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9495. Funds appropriated for the Civil Air Patrol

Funds appropriated for the Civil Air Patrol shall be available only for the exclusive use of the Civil Air Patrol.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–297, §9445; renumbered §9495, Pub. L. 115–232, div. A, title VIII, §806(a)(1), Aug. 13, 2018, 132 Stat. 1832.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232 renumbered section 9445 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9496. Miscellaneous personnel authorities

(a) USE OF RETIRED AIR FORCE PERSONNEL.—(1) Upon the request of a person retired from service in the Air Force, the Secretary of the Air Force may enter into a personal services contract with that person providing for the person to serve as an administrator or liaison officer for the Civil Air Patrol. The qualifications of a person to provide the services shall be determined and approved in accordance with regulations prescribed under section 9498 of this title.

(2) To the extent provided in a contract under paragraph (1), a person providing services under the contract may accept services on behalf of the Air Force.

(3) A person, while providing services under a contract authorized under paragraph (1), may not be considered to be on active duty or inactive-duty training for any purpose.

(b) USE OF CIVIL AIR PATROL CHAPLAINS.—The Secretary of the Air Force may use the services of Civil Air Patrol chaplains in support of the Air Force active duty and reserve component forces to the extent and under conditions that the Secretary determines appropriate.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–297, §9446; renumbered §9496 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(a)(1), renumbered section 9446 of this title as this section.

Subsec. (a)(1). Pub. L. 115–232, §809(a), substituted "section 9498" for "section 9448".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9497. Board of Governors

(a) GOVERNING BODY.—The Board of Governors of the Civil Air Patrol is the governing body of the Civil Air Patrol.

(b) COMPOSITION.—The Board of Governors is composed of 11 members as follows:

(1) Four members appointed by the Secretary of the Air Force, who may be active or retired officers of the Air Force (including reserve components of the Air Force), employees of the United States, or private citizens.

(2) Four members of the Civil Air Patrol, selected in accordance with the constitution and bylaws of the Civil Air Patrol.

(3) Three members appointed or selected as provided in subsection (c) from among personnel of any Federal Government agencies, public corporations, nonprofit associations, and other organizations that have an interest and expertise in civil aviation and the Civil Air Patrol mission.

(c) APPOINTMENTS FROM INTERESTED ORGANIZATIONS.—(1) Subject to paragraph (2), the members of the Board of Governors referred to in subsection (b)(3) shall be appointed jointly by the Secretary of the Air Force and the National Commander of the Civil Air Patrol.

(2) Any vacancy in the position of a member referred to in paragraph (1) that is not filled under that paragraph within 90 days shall be filled by majority vote of the other members of the Board.

(d) CHAIRMAN.—The Chairman of the Board of Governors shall be chosen by the members of

the Board of Governors from among the members of the Board referred to in paragraphs (1) and (2) of subsection (b) and shall serve for a term of two years. The position of Chairman shall be held on a rotating basis between members of the Board appointed by the Secretary of the Air Force under paragraph (1) of subsection (b) and members of the Board selected under paragraph (2) of that subsection.

(e) POWERS.—(1) The Board of Governors shall, subject to paragraphs (2) and (3), exercise the powers granted to the Civil Air Patrol under section 40304 of title 36.

(2) Any exercise by the Board of the power to amend the constitution or bylaws of the Civil Air Patrol or to adopt a new constitution or bylaws shall be subject to approval by a majority of the members of the Board.

(3) Neither the Board of Governors nor any other component of the Civil Air Patrol may modify or terminate any requirement or authority set forth in this section.

(f) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY.—(1) Subject to paragraph (2), the Board of Governors may take such action as is necessary to limit the personal liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for a breach of fiduciary duty while serving as a member of the Board.

(2) The Board may not limit the liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for any of the following:

(A) A breach of the member's duty of loyalty to the Civil Air Patrol or its members.

(B) Any act or omission that is not in good faith or that involves intentional misconduct or a knowing violation of law.

(C) Participation in any transaction from which the member directly or indirectly derives an improper personal benefit.

(3) Nothing in this subsection shall be construed as rendering section 207 or 208 of title 18 inapplicable in any respect to a member of the Board of Governors who is a member of the Air Force on active duty, an officer on a retired list of the Air Force, or an employee of the United States.

(g) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY.—(1) Except as provided in paragraph (2), no member of the Board of Governors or officer of the Civil Air Patrol shall be personally liable for damages for any injury or death or loss or damage of property resulting from a tortious act or omission of an employee or member of the Civil Air Patrol.

(2) Paragraph (1) does not apply to a member of the Board of Governors or officer of the Civil Air Patrol for a tortious act or omission in which the member or officer, as the case may be, was personally involved, whether in breach of a civil duty or in commission of a criminal offense.

(3) Nothing in this subsection shall be construed to restrict the applicability of common law protections and rights that a member of the Board of Governors or officer of the Civil Air Patrol may have.

(4) The protections provided under this subsection are in addition to the protections provided under subsection (f).

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–298, §9447; renumbered §9497, Pub. L. 115–232, div. A, title VIII, §806(a)(1), Aug. 13, 2018, 132 Stat. 1832.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, §806(a)(1), renumbered section 9447 of this title as this section.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding

section 3001 of this title.

**EFFECTIVE DATE**

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

## §9498. Regulations

(a) AUTHORITY.—The Secretary of the Air Force shall prescribe regulations for the administration of this chapter.

(b) REQUIRED REGULATIONS.—The regulations shall include the following:

(1) Regulations governing the conduct of the activities of the Civil Air Patrol when it is performing its duties as a volunteer civilian auxiliary of the Air Force under section 9492 of this title.

(2) Regulations for providing support by the Air Force and for arranging assistance by other agencies under section 9494 of this title.

(3) Regulations governing the qualifications of retired Air Force personnel to serve as an administrator or liaison officer for the Civil Air Patrol under a personal services contract entered into under section 9496(a) of this title.

(c) APPROVAL BY SECRETARY OF DEFENSE.—The regulations required by subsection (b)(2) shall be subject to the approval of the Secretary of Defense.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1090(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–299, §9448; renumbered §9498 and amended Pub. L. 115–232, div. A, title VIII, §§806(a)(1), 809(a), Aug. 13, 2018, 132 Stat. 1832, 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, §806(a)(1), renumbered section 9448 of this title as this section.
Subsec. (b)(1). Pub. L. 115–232, §809(a), substituted "section 9492" for "section 9442".
Subsec. (b)(2). Pub. L. 115–232, §809(a), substituted "section 9494" for "section 9444".
Subsec. (b)(3). Pub. L. 115–232, §809(a), substituted "section 9496(a)" for "section 9446(a)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective 120 days after Oct. 30, 2000, see section 1 [[div. A], title X, §1090(c)] of Pub. L. 106–398, set out as a note under section 9491 of this title.

# PART IV—SERVICE, SUPPLY, AND PROCUREMENT


| Chap. | | Sec. |
|---|---|---|
| **961.** | **Civil Reserve Air Fleet** | **9511** |
| **963.** | **Procurement** | **9531** |
| **965.** | **Issue of Serviceable Material to Armed Forces** | **9561** |
| **967.** | **Utilities and Services** | **9591** |
| **969.** | **Sale of Serviceable Material** | **9621** |
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**973. Disposal of Obsolete or Surplus Material 9681**
**975. Disposition of Effects of Deceased Persons 9712**
**977. Transportation 9741**
**979. Real Property 9771**
**981. Military Claims 9801**
**983. Accountability and Responsibility 9831**

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(e)(2), Aug. 13, 2018, 132 Stat. 1834, redesignated items for chapters 931 to 953 as 961 to 983, respectively.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(8), Oct. 5, 1999, 113 Stat. 695, substituted "Disposition" for "Inquests; Disposition" and "9712" for "9711" in item for chapter 945.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(c)(8)(B), Nov. 30, 1993, 107 Stat. 1715, substituted "Civil Reserve Air Fleet" for "Industrial Mobilization, Research, and Development" and "9511" for "9501" in item for chapter 931.

# CHAPTER 961—CIVIL RESERVE AIR FLEET

Sec.
9511. Definitions.
[9511a. Renumbered.]
9512. Civil Reserve Air Fleet contracts: payment rate.
9513. Contracts for the inclusion or incorporation of defense features.
9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance.
9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet.
9516. Airlift service.
9517. Level of readiness of Civil Reserve Air Fleet carriers.

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Chapter was comprised of subchapter I, sections 9501 to 9507, and subchapter II, sections 9511 to 9513, prior to amendment by Pub. L. 103–160, div. A, title VIII, §828(a)(8)(A)(ii), Nov. 30, 1993, 107 Stat. 1714, which struck out headings for subchapters I and II.

Prior section 9501, act Aug. 10, 1956, ch. 1041, 70A Stat. 573, related to mobilization by the President in time of war, prior to repeal by Pub. L. 103–160, div. A, title VIII, §822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See section 4882 of this title.

Prior section 9502, act Aug. 10, 1956, ch. 1041, 70A Stat. 574, related to maintenance by Secretary of the Air Force of lists of plants equipped to manufacture arms or ammunition and lists of plants convertible into ammunition factories, and provided for a Board on Mobilization of Industries Essential for Military Preparedness, prior to repeal by Pub. L. 103–160, div. A, title VIII, §822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See sections 4883 and 4884 of this title.

Prior section 9503, act Aug. 10, 1956, ch. 1041, 70A Stat. 574, related to research and development programs of the Air Force, prior to repeal by Pub. L. 103–160, div. A, title VIII, §827(c), Nov. 30, 1993, 107 Stat. 1713.

Prior section 9504, act Aug. 10, 1956, ch. 1041, 70A Stat. 575, related to procurement of ordnance, signal, and chemical warfare supplies for experimental purposes by the Secretary of the Air Force, prior to repeal by Pub. L. 103–160, div. A, title VIII, §822(c)(2), Nov. 30, 1993, 107 Stat. 1707. See section 4023 of this title.

Prior section 9505, act Aug. 10, 1956, ch. 1041, 70A Stat. 575, related to procurement of production equipment by Secretary of the Air Force, prior to repeal by Pub. L. 103–160, div. A, title VIII, §823(1), Nov. 30, 1993, 107 Stat. 1707.

Prior section 9506, act Aug. 10, 1956, ch. 1041, 70A Stat. 575, related to sale, loan, or gift of samples, drawings, and information to contractors, prior to repeal by Pub. L. 103–160, div. A, title VIII, §822(b)(3),

Nov. 30, 1993, 107 Stat. 1706.

Prior section 9507, act Aug. 10, 1956, ch. 1041, 70A Stat. 575, related to sale of ordnance and ordnance stores to designers, prior to repeal by Pub. L. 103–160, div. A, title VIII, §822(b)(3), Nov. 30, 1993, 107 Stat. 1706.

**AMENDMENTS**

**2021**—Pub. L. 117–81, div. A, title X, §1083(c)(2), Dec. 27, 2021, 135 Stat. 1923, added items 9512 and 9513 and struck out item 9511a "Civil Reserve Air Fleet contracts: payment rate" and former item 9512 "Contracts for the inclusion or incorporation of defense features".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 931 of this title as this chapter.

**2017**—Pub. L. 115–91, div. A, title X, §1081(a)(51), Dec. 12, 2017, 131 Stat. 1597, substituted "readiness" for "Readiness" in item 9517.

**2015**—Pub. L. 114–92, div. A, title X, §1085(b)(2), Nov. 25, 2015, 129 Stat. 1005, added item 9517.

**2014**—Pub. L. 113–291, div. A, title X, §§1042(b), 1045(b), Dec. 19, 2014, 128 Stat. 3493, 3494, struck out item 9513 "Use of military installations by Civil Reserve Air Fleet contractors" and added item 9516.

**2011**—Pub. L. 112–81, div. A, title III, §366(b), Dec. 31, 2011, 125 Stat. 1381, added item 9511a.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(32), Oct. 28, 2009, 123 Stat. 2474, transferred item 9515 from chapter 941 of this title to this chapter.

**1996**—Pub. L. 104–201, div. A, title X, §1079(a)(2), Sept. 23, 1996, 110 Stat. 2669, added item 9514.

**1994**—Pub. L. 103–355, title III, §3033(b), Oct. 13, 1994, 108 Stat. 3336, substituted "Use of military installations by Civil Reserve Air Fleet contractors" for "Commitment of aircraft to the Civil Reserve Air Fleet" in item 9513.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(c)(8)(A), Nov. 30, 1993, 107 Stat. 1714, substituted "CIVIL RESERVE AIR FLEET" for "INDUSTRIAL MOBILIZATION, RESEARCH, AND DEVELOPMENT" in chapter heading, struck out subchapter analysis consisting of items for subchapter I "General" and subchapter II "Civil Reserve Air Fleet", struck out subchapter I heading "GENERAL", struck out items 9501 "Industrial mobilization: orders; priorities; possession of manufacturing plants; violations", 9502 "Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness", 9503 "Research and development programs", 9504 "Procurement for experimental purposes", 9505 "Procurement of production equipment", 9506 "Sale, loan, or gift of samples, drawings, and information to contractors", and 9507 "Sale of ordnance and ordnance stores to designers", and struck out heading for subchapter II "CIVIL RESERVE AIR FLEET".

**1989**—Pub. L. 101–189, div. A, title XVI, §1636(c)(2), Nov. 29, 1989, 103 Stat. 1610, substituted "Contracts for the inclusion or incorporation of defense features" for "Contracts to modify aircraft: cargo-convertible features" in item 9512 and "Commitment" for "Contracts to modify aircraft: commitment" in item 9513.

**1981**—Pub. L. 97–86, title IX, §915, Dec. 1, 1981, 95 Stat. 1125, added analysis of subchapters, subchapter headings "SUBCHAPTER I—GENERAL" and "SUBCHAPTER II—CIVIL RESERVE AIR FLEET", and the analysis of sections for subchapter II consisting of items 9511, 9512, and 9513.

## §9511. Definitions

In this chapter:

(1) The terms "aircraft", "citizen of the United States", "civil aircraft", "person", and "public aircraft" have the meanings given those terms by section 40102(a) of title 49.

(2) The term "passenger-cargo combined aircraft" means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.

(3) The term "cargo-capable aircraft" means a civil aircraft equipped so that all or substantially all of the aircraft's capacity can be used for the carriage of property or mail.

(4) The term "passenger aircraft" means a civil aircraft equipped so that its main deck can be used for the carriage of individuals and cannot be used principally, without major modification, for the carriage of property or mail.

(5) The term "cargo-convertible aircraft" means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.

(6) The term "Civil Reserve Air Fleet" means those aircraft allocated, or identified for allocation, to the Department of Defense under section 101 of the Defense Production Act of 1950 (50 U.S.C. 4511), or made available (or agreed to be made available) for use by the Department of Defense under a contract made under this title, as part of the program developed by the Department of Defense through which the Department of Defense augments its airlift capability by use of civil aircraft.

(7) The term "contractor" means a citizen of the United States (A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary under section 9513 of this title to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, (B) who subsequently obtains ownership or control of a civil aircraft covered by such a contract and assumes all existing obligations under that contract, or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet.

(8) The term "existing aircraft" means a civil aircraft other than a new aircraft.

(9) The term "new aircraft" means a civil aircraft that a manufacturer has not begun to assemble before the aircraft is covered by a contract under section 9513 of this title.

(10) The term "Secretary" means the Secretary of Defense.

(11) The term "defense feature" means equipment or design features included or incorporated in a civil aircraft which ensures the compatibility of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as an aeromedical aircraft or a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.

(12) The term "Civil Reserve Air Fleet program" means the program developed by the Department of Defense through which the Department of Defense augments its airlift capability by use of civil aircraft.

(Added Pub. L. 97–86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1125; amended Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100–456, div. A, title XII, §1233(k)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–189, div. A, title XVI, §1636(a), Nov. 29, 1989, 103 Stat. 1609; Pub. L. 103–272, §5(b)(2), July 5, 1994, 108 Stat. 1373; Pub. L. 103–355, title III, §3031, Oct. 13, 1994, 108 Stat. 3334; Pub. L. 114–92, div. A, title X, §1085(b)(3), Nov. 25, 2015, 129 Stat. 1005; Pub. L. 114–328, div. A, title X, §1081(b)(4)(C), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 117–81, div. A, title X, §1083(a)(1), (c)(1)(B), Dec. 27, 2021, 135 Stat. 1922, 1923.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pars. (7), (9). Pub. L. 117–81, §1083(c)(1)(B), substituted "section 9513" for "section 9512".

Par. (10). Pub. L. 117–81, §1083(a)(1), amended par. (10) generally. Prior to amendment, par. (10) read as follows: "The term 'Secretary' means the Secretary of the Air Force."

**2016**—Par. (6). Pub. L. 114–328 substituted "(50 U.S.C. 4511)" for "(50 U.S.C. App. 2071)".

**2015**—Par. (12). Pub. L. 114–92 added par. (12).

**1994**—Pub. L. 103–355, §3031(c), substituted "In this chapter:" for "In this subchapter:" in introductory provisions.

Par. (1). Pub. L. 103–355, §3031(b)(1)(C), which directed substitution of "section 40102 of title 49" for "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)", could not be executed because of the intervening amendment by Pub. L. 103–272 which substituted "section 40102(a) of title 49" for "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)", see below.

Pub. L. 103–355, §3031(b)(1)(A), (B), inserted " 'civil aircraft'," before " 'person'," and substituted "meanings" for "meaning".

Pub. L. 103–272 substituted "section 40102(a) of title 49" for "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)".

Par. (6). Pub. L. 103–355, §3031(b)(2), (3), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: "The term 'civil aircraft' means an aircraft other than a public aircraft."

Par. (7). Pub. L. 103–355, §3031(b)(3), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Par. (8). Pub. L. 103–355, §3031(b)(3), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Pub. L. 103–355, §3031(a)(1), inserted "under section 9512 of this title" after "and who contracts with the Secretary" in subpar. (A) and added subpar. (C).

Pars. (9), (10). Pub. L. 103–355, §3031(b)(3), redesignated pars. (10) and (11) as (9) and (10), respectively. Former par. (9) redesignated (8).

Par. (11). Pub. L. 103–355, §3031(b)(3), (4), redesignated par. (12) as (11), substituted "compatibility" for "interoperability", and inserted "an aeromedical aircraft or" before "a cargo-convertible". Former par. (11) redesignated (10).

Par. (12). Pub. L. 103–355, §3031(b)(3), redesignated par. (12) as (11).

**1989**—Par. (2). Pub. L. 101–189, §1636(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'cargo air service' means the carriage of property or mail on the main deck of a civil aircraft."

Par. (5). Pub. L. 101–189, §1636(a)(2), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "The term 'cargo-convertible feature' means equipment or design features included or incorporated in a passenger aircraft that can readily enable all or substantially all of that aircraft's main deck to be used for the carriage of property or mail."

Par. (8)(A). Pub. L. 101–189, §1636(a)(3), substituted "a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features" for "a civil aircraft and who contracts with the Secretary of the Air Force to modify that aircraft by including or incorporating cargo-convertible features suitable for defense purposes".

Par. (12). Pub. L. 101–189, §1636(a)(4), added par. (12).

**1988**—Par. (1). Pub. L. 100–456 substituted "The terms" for "The term".

**1987**—Pars. (1) to (11). Pub. L. 100–180 inserted "The term" after each par. designation, and revised first word in quotes in pars. (1) to (6) and (8) to (10) to make initial letter of each word lowercase.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

## [§9511a. Renumbered §9512]

## §9512. Civil Reserve Air Fleet contracts: payment rate

(a) AUTHORITY.—The Secretary shall determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet program.

(b) REGULATIONS.—The Secretary shall prescribe regulations for purposes of subsection (a). The Secretary may exclude from the applicability of those regulations any airlift services contract made through the use of competitive procedures.

(c) COMMITMENT OF AIRCRAFT AS A BUSINESS FACTOR.—The Secretary may, in determining the quantity of business to be received under an airlift services contract for which the rate of payment is determined in accordance with subsection (a), use as a factor the relative amount of airlift capability committed by each air carrier to the Civil Reserve Air Fleet.

(d) INAPPLICABLE PROVISIONS OF LAW.—An airlift services contract for which the rate of payment is determined in accordance with subsection (a) shall not be subject to the provisions of chapter 271 of this title or to the provisions of subsections (a) and (b) of section 1502 of title 41.

(Added Pub. L. 112–81, div. A, title III, §366(a), Dec. 31, 2011, 125 Stat. 1380, §9511a; amended Pub. L. 116–283, div. A, title XVIII, §1831(j)(6), Jan. 1, 2021, 134 Stat. 4217; renumbered §9512 and amended Pub. L. 117–81, div. A, title X, §1083(a)(2)(A), (c)(1)(A), Dec. 27, 2021, 135 Stat. 1922, 1923.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 9512 was renumbered section 9513 of this title.

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 9511a of this title as this section and substituted "Secretary" for "Secretary of Defense" in subsecs. (a) and (b).

Subsec. (d). Pub. L. 116–283 substituted "chapter 271" for "section 2306a".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d)(1) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### INITIAL REGULATIONS

Pub. L. 112–81, div. A, title III, §366(c), Dec. 31, 2011, 125 Stat. 1381, provided that: "Regulations shall be prescribed under section 9511a(b) of title 10, United States Code [now 10 U.S.C. 9512(b)], as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011]."

## §9513. Contracts for the inclusion or incorporation of defense features

(a) AUTHORITY TO CONTRACT.—Subject to the provisions of chapter 137 [1] of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

(b) COMMITMENT TO CIVIL RESERVE AIR FLEET.—Each contract entered into under this section shall provide—

(1) that any aircraft covered by the contract shall be committed to the Civil Reserve Air Fleet;

(2) that, so long as the aircraft is owned or controlled by a contractor, the contractor shall operate the aircraft for the Department of Defense as needed during any activation of the Civil Reserve Air Fleet, notwithstanding any other contract or commitment of that contractor; and

(3) that the contractor operating the aircraft for the Department of Defense shall be paid for that operation at fair and reasonable rates.

(c) TERMS AND REQUIRED REPAYMENT.—Each contract entered into under subsection (a) shall include a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

(4) the registration of the aircraft under section 44103 of title 49 is terminated for any reason not beyond the control of the contractor.

(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—(1) A contract under subsection (a)

for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

(B) to pay such other person directly for such work.

(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.

(e) EXCLUSIVITY OF COMMITMENT TO CIVIL RESERVE AIR FLEET.—Notwithstanding section 101 of the Defense Production Act of 1950 (50 U.S.C. 4511), each aircraft covered by a contract entered into under this section shall be committed exclusively to the Civil Reserve Air Fleet for use by the Department of Defense as needed during any activation of the Civil Reserve Air Fleet unless the aircraft is released from that use by the Secretary.

(Added Pub. L. 97–86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1126, §9512; amended Pub. L. 98–525, title XIV, §1405(57), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 101–189, div. A, title XVI, §1636(b), Nov. 29, 1989, 103 Stat. 1609; Pub. L. 103–272, §5(b)(3), July 5, 1994, 108 Stat. 1373; Pub. L. 103–355, title III, §3032(1)–(8), Oct. 13, 1994, 108 Stat. 3334, 3335; Pub. L. 104–106, div. A, title X, §1087, Feb. 10, 1996, 110 Stat. 458; Pub. L. 114–328, div. A, title X, §1081(b)(4)(D), Dec. 23, 2016, 130 Stat. 2419; renumbered §9513 and amended Pub. L. 117–81, div. A, title X, §1083(a)(2)(B), (c)(1)(A), Dec. 27, 2021, 135 Stat. 1922, 1923.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (a), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of "chapter 137 legacy provisions", see section 3016 of this title.

### CODIFICATION

The text of subsecs. (a) and (b) of prior section 9513 of this title, which were redesignated as subsecs. (b) and (e) of this section by Pub. L. 103–355, §3032(4), (5), was based on Pub. L. 97–86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1128; amended Pub. L. 101–189, div. A, title XVI, §1636(c)(1), Nov. 29, 1989, 103 Stat. 1610.

### PRIOR PROVISIONS

A prior section 9513, added Pub. L. 103–355, title III, §3033(a), Oct. 13, 1994, 108 Stat. 3335, related to use of military installations by Civil Reserve Air Fleet contractors, prior to repeal by Pub. L. 113–291, div. A, title X, §1045(a), Dec. 19, 2014, 128 Stat. 3494.

Another prior section 9513, added Pub. L. 97–86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1128; amended Pub. L. 101–189, div. A, title XVI, §1636(c)(1), Nov. 29, 1989, 103 Stat. 1610, directed that each contract under section 9512 of this title be committed to Civil Reserve Air Fleet, prior to amendment by Pub. L. 103–355, §3032(4), (5), (9), which struck out section catchline and redesignated subsecs. (a) and (b) as subsecs. (b) and (e) of section 9512, respectively.

### AMENDMENTS

**2021**—Pub. L. 117–81 renumbered section 9512 of this title as this section and substituted "Secretary" for "Secretary of Defense" in subsec. (e).

**2016**—Subsec. (e). Pub. L. 114–328 substituted "(50 U.S.C. 4511)" for "(50 U.S.C. App. 2071)".

**1996**—Subsecs. (b)(2), (e). Pub. L. 104–106 struck out "full" before "Civil Reserve Air Fleet".

**1994**—Subsec. (a). Pub. L. 103–355, §3032(1), inserted heading.

Subsec. (b). Pub. L. 103–355, §3032(6), inserted heading and substituted "entered into under this section" for "under section 9512 of this title" in introductory provisions.

Pub. L. 103–355, §3032(4), redesignated subsec. (a) of section 9513 of this title as subsec. (b) of this section. Former subsec. (b) redesignated (c). See Codification note above.

Subsec. (b)(4). Pub. L. 103–272 substituted "section 44103 of title 49" for "section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401)".

Subsec. (c). Pub. L. 103–355, §3032(7), struck out "the terms required by section 9513 of this title and" before "a provision that requires the contractor" in introductory provisions.

Pub. L. 103–355, §3032(3), redesignated subsec. (b) as (c) and inserted heading. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103–355, §3032(2), redesignated subsec. (c) as (d) and inserted heading.

Subsec. (e). Pub. L. 103–355, §3032(8), inserted heading and substituted "entered into under this section" for "under section 9512 of this title".

Pub. L. 103–355, §3032(5), redesignated subsec. (b) of section 9513 of this title as subsec. (e) of this section. See Codification note above.

**1989**—Pub. L. 101–189 substituted "Contracts for the inclusion or incorporation of defense features" for "Contracts to modify aircraft: cargo-convertible features" as section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsecs. (a) to (e).

**1984**—Subsec. (b)(1). Pub. L. 98–525 substituted "App. 1401" for "1401".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of this title.

[1] *See References in Text note below.*

## §9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance

(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by defense-related aviation insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

(A) in the case of a claim for the loss of an aircraft hull, not later than 30 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the defense-related aviation insurance; and

(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

(2) When there is a loss of an aircraft hull that is (or may be) covered by defense-related aviation insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such aircraft. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the aircraft hull to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the aviation insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

(c) NOTICE TO CONGRESS.—In the event of a loss that is covered by defense-related aviation insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of $10,000,000, the Secretary of Defense shall submit to Congress notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss.

(d) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

(e) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

(f) DEFINITIONS.—In this section:

(1) DEFENSE-RELATED AVIATION INSURANCE.—The term "defense-related aviation insurance" means aviation insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 443 of title 49 that pursuant to section 44305(b) of that title is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

(2) LOSS.—The term "loss" includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the defense-related aviation insurance.

(Added Pub. L. 104–201, div. A, title X, §1079(a)(1), Sept. 23, 1996, 110 Stat. 2667; amended Pub. L. 108–136, div. A, title X, §1031(a)(60), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 112–81, div. A, title X, §1064(10), Dec. 31, 2011, 125 Stat. 1587; Pub. L. 117–81, div. A, title X, §1083(c)(1)(C), Dec. 27, 2021, 135 Stat. 1923.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 104–201, which was approved Sept. 23, 1996.

**AMENDMENTS**

**2021**—Subsecs. (f), (g). Pub. L. 117–81 redesignated subsec. (g) as (f).

**2011**—Subsec. (c). Pub. L. 112–81 substituted "$10,000,000" for "$1,000,000".

**2003**—Subsec. (c). Pub. L. 108–136, §1031(a)(60)(A), struck out designation for par. (1) before "notification of the loss", substituted "Congress" for "Congress—" and "loss." for "loss; and", and struck out par. (2) which read as follows: "semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of those funds, pending litigation, and estimated total cost to the Government."

Subsec. (f). Pub. L. 108–136, §1031(a)(60)(B), struck out heading and text of subsec. (f). Text read as follows: "Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the insurance program under chapter 443 of title 49."

## §9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet

(a) IN GENERAL.—The Secretary shall take steps to—

(1) improve the predictability in Department of Defense charter requirements;

(2) strengthen Civil Reserve Airlift Fleet participation to assure adequate capacity is available to

meet steady-state, surge and mobilization requirements; and

(3) provide incentives for commercial air carriers to provide newer, more efficient and reliable aircraft for Department of Defense service rather than older, fully depreciated aircraft.

(b) CONSIDERATION OF RECOMMENDATIONS.—In carrying out subsection (a), the Secretary shall consider the recommendations on courses of action for the Civil Reserve Air Fleet as outlined in the report required by section 356 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181).

(c) CONTRACTS FOR CHARTER AIR TRANSPORTATION SERVICES.—The Secretary may award to an air carrier or an air carrier contractor team arrangement participating in the Civil Reserve Air Fleet on a fiscal year basis a one-year contract for charter air transportation services with a minimum purchase amount under such contract determined in accordance with this section.

(d) ELIGIBLE CHARTER AIR TRANSPORTATION CARRIERS.—In order to be eligible for payments under the minimum purchase amount provided by this section, an air carrier (or any air carrier participating in an air carrier contractor team arrangement)—

(1) if under contract with the Department of Defense in the prior fiscal year, shall have an average on-time pick up rate, based on factors within such air carrier's control, of at least 90 percent;

(2) shall offer such amount of commitment to the Civil Reserve Air Fleet in excess of the minimum required for participation in the Civil Reserve Air Fleet as the Secretary shall specify for purposes of this section; and

(3) may not have refused a Department of Defense request to act as a host for other Civil Reserve Air Fleet carriers at intermediate staging bases during the prior fiscal year.

(e) AGGREGATE MINIMUM PURCHASE AMOUNT.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year shall be based on forecast needs, but may not exceed the amount equal to 80 percent of the average annual expenditure of the Department of Defense for charter air transportation services during the five-fiscal year period ending in the fiscal year before the fiscal year for which such contracts are awarded.

(2) In calculating the average annual expenditure of the Department of Defense for charter air transportation services for purposes of paragraph (1), the Secretary shall omit from the calculation any fiscal year exhibiting unusually high demand for charter air transportation services if the Secretary determines that the omission of such fiscal year from the calculation will result in a more accurate forecast of anticipated charter air transportation services for purposes of that paragraph.

(f) ALLOCATION OF MINIMUM PURCHASE AMONG CHARTER AIR TRANSPORTATION CONTRACTS.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year, as determined under subsection (e), shall be allocated among all air carriers and air carrier contractor team arrangements awarded contracts under subsection (c) for such fiscal year in proportion to the commitments of such carriers to the Civil Reserve Air Fleet for such fiscal year.

(2) In determining the minimum purchase amount payable under paragraph (1) under a contract under subsection (c) for charter air transportation services provided by an air carrier or air carrier contractor team arrangement during the fiscal year covered by such contract, the Secretary may adjust the amount allocated to such carrier or arrangement under paragraph (1) to take into account periods during such fiscal year when charter air transportation services of such carrier or a carrier in such arrangement are unavailable for usage by the Department of Defense, including during periods of refused business or suspended operations or when such carrier is placed in nonuse status pursuant to section 2640 of this title for safety reasons.

(g) DISTRIBUTION OF AMOUNTS.—If any amount available under this section for the minimum purchase of charter air transportation services from a carrier or air carrier contractor team arrangement for a fiscal year under a contract under subsection (c) is not utilized to purchase charter air transportation services from the carrier or arrangement in such fiscal year, such amount shall be provided to the carrier or arrangement before the first day of the following fiscal year.

(h) COMMITMENT OF FUNDS.—(1) The Secretary of each military department shall transfer to the transportation working capital fund a percentage of the total amount anticipated to be required in such fiscal year for the payment of minimum purchase amounts under all contracts awarded under subsection (c) for such fiscal year equivalent to the percentage of the anticipated use of charter air transportation services by such military department during such fiscal year from all carriers under contracts awarded under subsection (c) for such fiscal year.

(2) Any amounts required to be transferred under paragraph (1) shall be transferred by the last day of the fiscal year concerned to meet the requirements of subsection (g) unless minimum purchase amounts have already been distributed by the Secretary under subsection (g) as of that date.

(i) AVAILABILITY OF AIRLIFT SERVICES.—(1) From the total amount of charter air transportation services available for a fiscal year under all contracts awarded under subsection (c) for such fiscal year, a military department shall be entitled to obtain a percentage of such services equal to the percentage of the contribution of the military department to the transportation working capital fund for such fiscal year under subsection (h).

(2) A military department may transfer any entitlement to charter air transportation services under paragraph (1) to any other military department or to any other agency, element, or component of the Department of Defense.

(j) DEFINITION.—In this section, the term "charter air transportation" has the meaning given such term in section 40102(14) of title 49.

(Added Pub. L. 110–417, [div. A], title X, §1033(a), Oct. 14, 2008, 122 Stat. 4591; amended Pub. L. 111–383, div. A, title X, §1075(b)(50), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–239, div. A, title X, §§1055, 1076(b)(4), (f)(44), Jan. 2, 2013, 126 Stat. 1938, 1949, 1955; Pub. L. 116–283, div. A, title III, §342, Jan. 1, 2021, 134 Stat. 3538; Pub. L. 117–81, div. A, title X, §1083(a)(2)(C), Dec. 27, 2021, 135 Stat. 1922.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 356 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (b), is section 356 of Pub. L. 110–181, div. A, title III, Jan. 28, 2008, 122 Stat. 74, which is not classified to the Code.

### AMENDMENTS

**2021**—Pub. L. 117–81 substituted "Secretary" for "Secretary of Defense" wherever appearing.

Subsec. (k). Pub. L. 116–283 struck out subsec. (k). Text read as follows: "The authorities in this section shall expire on December 31, 2020."

**2013**—Subsec. (a)(3). Pub. L. 112–239, §1055(b)(1), struck out "passenger" after "commercial air".

Subsec. (b). Pub. L. 112–239, §1076(f)(44), substituted "required by section 356 of the National Defense Authorization Act for Fiscal Year 2008" for "required by section 1356 of the National Defense Authorization Act for Fiscal Year 2008".

Subsec. (j). Pub. L. 112–239, §1076(b)(4), made technical amendment to directory language of Pub. L. 111–383, §1075(b)(50)(C). See 2011 Amendment note below.

Pub. L. 112–239, §1055(b)(2), struck out ", except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel" before period at end.

Subsec. (k). Pub. L. 112–239, §1055(a), substituted "December 31, 2020" for "December 31, 2015".

**2011**—Subsec. (b). Pub. L. 111–383, §1075(b)(50)(A), which directed substitution of "section 1356 of the National Defense Authorization Act for Fiscal Year 2008" for "Section 1356 of the National Defense Authorization Act for 2008" was executed by making the substitution for "Section 356 of the National Defense Authorization Act for 2008" to reflect the probable intent of Congress.

Subsec. (f)(2). Pub. L. 111–383, §1075(b)(50)(B), substituted "arrangement under paragraph (1)" for "arrangement under paragraph (2)".

Subsec. (j). Pub. L. 111–383, §1075(b)(50)(C), as amended by Pub. L. 112–239, §1076(b)(4), struck out "United States Code," after "title 49,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2013 AMENDMENT**

Amendment by section 1076(b)(4) of Pub. L. 112–239 effective Jan. 7, 2011, and as if included in Pub. L. 111–383 as enacted.

**REPORT TO CONGRESS; LIMITATION ON EXERCISE OF AUTHORITY**

Pub. L. 110–417, [div. A], title X, §1033(c), Oct. 14, 2008, 122 Stat. 4593, provided that:

"(1) REPORT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written report on the actions taken under subsections (a) and (b) of section 9515 of title 10, United States Code, as added by subsection (a), along with the anticipated risks and benefits of such actions.

"(2) LIMITATION.—No authority under subsections (c) through (I) [sic] of such section may be implemented until 30 days after the date on which the Secretary submits the report required under paragraph (1)."

## §9516. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of title 49.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of title 49 to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS .—Except as provided in subsection (d), the transportation of passengers or property by CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—Subject to subsection (e), when the Secretary of Defense decides that no air carrier holding a certificate under section 41102 of title 49 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(e) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that—

(1) identifies each contract for airlift services awarded in the preceding fiscal year to a provider that does not meet the requirements set forth in subparagraphs (A) and (B) of subsection (a)(1); and

(2) for each such contract—

(A) specifies the dollar value of the award; and

(B) provides a detailed explanation of the reasons for the award.

(f) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, "CRAF-eligible aircraft" means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

(Added Pub. L. 113–291, div. A, title X, §1042(a), Dec. 19, 2014, 128 Stat. 3492; amended Pub. L. 117–81, div. A, title X, §1083(b), Dec. 27, 2021, 135 Stat. 1922.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (d). Pub. L. 117–81, §1083(b)(1), substituted "Subject to subsection (e), when the Secretary" for "When the Secretary".

Subsecs. (e), (f). Pub. L. 117–81, §1083(b)(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f).

## §9517. Level of readiness of Civil Reserve Air Fleet carriers

The Civil Reserve Air Fleet program is an important component of the military airlift system in support of United States defense and foreign policies, and it is the policy of the United States to maintain the readiness and interoperability of Civil Reserve Air Fleet carriers by providing appropriate levels of peacetime airlift augmentation to maintain networks and infrastructure, exercise the system, and interface effectively within the military airlift system.

(Added Pub. L. 114–92, div. A, title X, §1085(b)(1), Nov. 25, 2015, 129 Stat. 1005.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**FINDINGS**

Pub. L. 114–92, div. A, title X, §1085(a), Nov. 25, 2015, 129 Stat. 1004, provided that: "Congress finds the following:

"(1) The National Airlift Policy states that '[t]he national defense airlift objective is to ensure that military and civil airlift resources will be able to meet defense mobilization and deployment requirements in support of US defense and foreign policies.'.

"(2) The National Airlift Policy also emphasizes the need for 'dialogue and cooperation with our national aviation industry,' and it states that '[i]t is of particular importance that the aviation industry be apprised by the Department of Defense of long-term requirements for airlift in support of national defense.'.

"(3) The National Airlift Policy emphasizes the importance of both military and civil airlift resources and their interdependence in the fulfillment of the national defense airlift objective, and it states that the 'Department of Defense shall establish appropriate levels for peacetime cargo airlift augmentation in order to promote the effectiveness of Civil Reserve Air Fleet and provide training within the military airlift system.'.

"(4) Civil Reserve Air Fleet carriers continue to be an important component of the military airlift system in support of United States defense and foreign policies."

# CHAPTER 963—PROCUREMENT

Sec.
9531. Commercial Augmentation Space Reserve.
9532. Factories, arsenals, and depots: manufacture at.
[9534, 9535. Repealed.]
9536. Equipment: bakeries, schools, kitchens, and mess halls.
[9537, 9538. Repealed.]
9540. Architectural and engineering services.
[9541. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title XVI, §1602(a), Dec. 23, 2024, 138 Stat. 2158, added item 9531.

Amendment was made pursuant to operation of section 102 of this title.

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 933 of this title as this chapter.

**1993**—Pub. L. 103–160, div. A, title VIII, §828(a)(9), Nov. 30, 1993, 107 Stat. 1713, struck out items 9531, "Authorization", 9534, "Subsistence supplies: contract stipulations; place of delivery on inspection", 9535, "Exceptional subsistence supplies: purchases without advertising", 9537, "Military surveys and maps: assistance of United States mapping agencies", 9538, "Unserviceable ammunition: exchange and reclamation", and 9541, "Gratuitous services of officers of the Air Force Reserve".

**1982**—Pub. L. 97–258, §2(b)(13)(A), Sept. 13, 1982, 96 Stat. 1058, added item 9541.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPARTMENT OF AIR FORCE PROGRAM OF RECORD FOR COMMERCIAL WEATHER DATA

Pub. L. 119–60, div. A, title III, §320, Dec. 18, 2025, 139 Stat. 812, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2027, the Secretary of the Air Force shall establish a program of record of the Department of the Air Force to—

"(1) acquire and use non-space based commercial weather data to—

"(A) support operational weather forecasting; and

"(B) enhance mission planning and execution in data-sparse and contested environments; and

"(2) integrate such commercial weather data and related systems into meteorological and decision support frameworks of the Air Force.

"(b) SUBMISSION TO CONGRESS.—Not later than March 1, 2026, the Secretary of the Air Force shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], with respect to the program of record to be established under subsection (a), the following:

"(1) A transition plan for the adoption of such program of record, including projected costs and funding requirements over the period covered by the program objective memorandum process for fiscal years 2027 through 2031.

"(2) An acquisition strategy for such program of record, including an outline of potential middle tier of acquisition pathways or major capability acquisition pathways (as such term is defined in Department of Defense Instruction 5000.85, titled 'Major Capability Acquisition' and issued on August 6, 2020 (or successor instruction)).

"(3) A budget justification for inclusion of such program of record in the budget materials submitted by the Secretary of Defense to Congress in support of the President's annual budget request (submitted to Congress pursuant to section 1105 of title 31, United States Code) for fiscal year 2027, to secure sustained funding."

### PILOT PROGRAM TO COMMERCIALIZE PROTOTYPES OF THE DEPARTMENT OF THE AIR FORCE

Pub. L. 118–31, div. A, title II, §230, Dec. 22, 2023, 137 Stat. 202, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of the Air Force, acting through the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics, shall carry out a pilot program under which the Secretary identifies prototypes under development by the Department of the Air Force that have the potential to be developed into commercial products and provides support to qualified entities to carry out projects to commercialize such prototypes.

"(b) FORM OF SUPPORT.—The support provided to a qualified entity under subsection (a) may include the award of—

"(1) a grant;

"(2) a contract or other agreement; or

"(3) such other form of support as the Secretary of the Air Force determines appropriate.

"(c) AMOUNT.—The total value of support awarded to a qualified entity under this section may not exceed $10,000,000.

"(d) FUNDING.—The Secretary of the Air Force shall carry out the pilot program under this section using funds designated as budget activity 6 (RDT&E management support) or budget activity 4 (Advanced Component Development and Prototypes) as those budget activity classifications are set forth in volume 2B, chapter 5 of the Department of Defense Financial Management Regulation (DOD 7000.14-R).

"(e) APPLICATION.—

"(1) IN GENERAL.—A qualified entity that seeks an award of support under this section shall submit an application to the Secretary of the Air Force at such time, in such manner, and containing such information as the Secretary may require.

"(2) CONTENTS.—As part of the application required under paragraph (1), a qualified entity shall—

"(A) outline measures the entity will implement to give the Department of Defense purchasing priority when supply chain issues are a factor;

"(B) certify that the entity will, with respect to the export of any such product, comply with—

"(i) International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations (or any successor regulations); and

"(ii) any other applicable export restrictions; and

"(C) acknowledge that the entity may seek advice and assistance from the Department of the Air Force and the Department of State in the event that the export restrictions applicable to a commercial product developed with support under this section—

"(i) are more restrictive than the export restrictions applicable to the component technologies that comprise the product; and

"(ii) are expected to unnecessarily impede the ability to make the product commercially available outside the United States.

"(f) BRIEFING.—Not later than December 31, 2024, the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the implementation of the pilot program under this section and any related policy issues.

"(g) NOTICE TO CONGRESS.—Not later than 30 days after each instance in which the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics awards support to a qualified entity under this section, the Assistant Secretary shall submit to the congressional defense committees notice of such award.

"(h) TERMINATION.—The pilot program under this section shall terminate on the date that is five years after the date of the enactment of this Act.

"(i) DEFINITIONS.—In this section:

"(1) The term 'commercialize', when used with respect to a prototype, means to transition a prototype into a commercial product.

"(2) The term 'commercial product' has the meaning given that term in section 103 of title 41, United States Code.

"(3) The term 'qualified entity' means an individual or entity the Secretary of the Air Force determines to be qualified to participate in the pilot program under this section."

## AUTHORIZATION TO ESTABLISH TECHNOLOGY TRANSITION PROGRAM FOR STRATEGIC NUCLEAR DETERRENCE

Pub. L. 118–31, div. A, title XVI, §1639, Dec. 22, 2023, 137 Stat. 594, provided that:

"(a) IN GENERAL.—The Commander of Air Force Global Strike Command may, through the use of a partnership intermediary, establish a program—

"(1) to carry out technology transition, digital engineering projects, and other innovation activities supporting the Air Force nuclear enterprise; and

"(2) to identify capabilities for the Air Force nuclear enterprise that have the potential to generate life-cycle cost savings and provide data-driven approaches to resource allocation.

"(b) TERMINATION.—The program established under subsection (a) shall terminate on September 30, 2029.

"(c) PARTNERSHIP INTERMEDIARY DEFINED.—In this section, term 'partnership intermediary' has the meaning given that term in section 23(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3715(c))."

## DIGITAL TRANSFORMATION COMMERCIAL SOFTWARE ACQUISITION

Pub. L. 117–263, div. A, title I, §153, Dec. 23, 2022, 136 Stat. 2457, provided that:

"(a) PROCUREMENT AUTHORITY.—The Secretary of the Air Force may enter into one or more contracts for the procurement of commercial digital engineering and software tools to meet the digital transformation goals and objectives of the Department of the Air Force.

"(b) INCLUSION OF PROGRAM ELEMENT IN BUDGET MATERIALS.—In the materials submitted by the Secretary of the Air Force in support of the budget of the President for fiscal year 2024 (as submitted to Congress pursuant to section 1105 of title 31, United States Code), the Secretary shall include a program

element dedicated to the procurement and management of the commercial digital engineering and software tools described in subsection (a).

"(c) REVIEW.—In carrying out subsection (a), the Secretary of the Air Force shall—

"(1) review the market for commercial digital engineering and software tools; and

"(2) conduct research on providers of commercial software capabilities that have the potential to expedite the progress of digital engineering initiatives across the weapon system enterprise, with a particular focus on capabilities that have the potential to generate significant life-cycle cost savings, streamline and accelerate weapon system acquisition, and provide data-driven approaches to inform investments by the Department of the Air Force.

"(d) REPORT.—Not later than March 1, 2023, the Secretary of the Air Force shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

"(1) an analysis of specific digital engineering and software tool capability manufacturers that deliver high mission impact with broad reach into the weapon system enterprise of the Department of the Air Force; and

"(2) a prioritized list of programs and offices of the Department of the Air Force that could better utilize commercial digital engineering and software tools and opportunities for the implementation of such digital engineering and software tool capabilities within the Department."

## COMPETITIVELY AWARDED DEMONSTRATIONS AND TESTS OF ELECTROMAGNETIC WARFARE TECHNOLOGY

Pub. L. 117–263, div. A, title II, §217, Dec. 23, 2022, 136 Stat. 2474, provided that:

"(a) DEMONSTRATIONS AND TESTS REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Dec. 23, 2022], the Director of the Air Force Rapid Capabilities Office, in coordination with the Air Force Life Cycle Management Center, shall select one or more qualified entities under competitive processes to conduct demonstrations and tests of commercial electronics technology to determine whether technology currently exists that could enable the following electromagnetic warfare capabilities:

"(1) The operation of multiple emitters and receivers in the same frequency at the same time and in the same location without mutual interference and without using adaptive beam forming or nulling.

"(2) Protecting the reception of Global Positioning System and other vulnerable low-power signals from multiple high-power jammers at a level that is significantly better than the protection afforded by controlled reception pattern antennas.

"(3) Simultaneous transmission from and reception of separate signals on the same platform wherein the signals lie in the same frequency and are transmitted and received at the same time without interference.

"(4) Capabilities similar those described in paragraphs (1) through (3) in a live, virtual constructive simulation environment.

"(5) Other capabilities that might satisfy or support needs set forth in the Electromagnetic Spectrum Superiority Strategy Implementation Plan released on August 5, 2021.

"(b) OVERSIGHT OF TESTS.—The Director of Operational Test and Evaluation shall—

"(1) provide oversight of the demonstrations and tests required by subsection (a);

"(2) review other applicable government or commercial demonstrations and tests; and

"(3) not later than 30 days after the completion of the demonstrations and tests under subsection (a), advise the Chief Information Officer of the Department of Defense, the Under Secretary of Defense for Research and Engineering, and the Under Secretary of Defense for Acquisition and Sustainment of the outcomes of the demonstrations and tests.

"(c) OUTCOME-BASED ACTIONS REQUIRED.—If the Director of Operational Test and Evaluation and the Director of the Air Force Rapid Capabilities Office affirm that the demonstrations and tests under subsection (a) confirm that certain commercial electronics technology could enable one or more of the capabilities described in such subsection—

"(1) not later than 45 days after the conclusion of the tests under subsection (a), the Director of the Air Force Rapid Capabilities Office and the Director of Operational Test and Evaluation shall jointly provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the outcomes of the tests;

"(2) the Director of the Air Force Rapid Capabilities Office may begin engineering form, fit, and function development and integration to incorporate technologies demonstrated and tested under subsection (a) into specific Department of Defense platforms and applications; and

"(3) not later than 90 days after the conclusion of the tests under subsection (a), the Director of the Air Force Rapid Capabilities Office, the Chief Information Officer, the Under Secretary of Defense for

Research and Engineering, and the Under Secretary of Defense for Acquisition and Sustainment shall jointly provide to the congressional defense committees a briefing on any plans of the Department of Defense to further develop and deploy the technologies demonstrated and tested under subsection (a) to support the Electromagnetic Spectrum Superiority Strategy Implementation Plan released on August 5, 2021.

"(d) COMPETITIVENESS REQUIREMENTS.—A decision to commit, obligate, or expend funds for the purposes outlined in this section shall be based on merit-based selection procedures in accordance with the requirements of sections 3201(e) and 4024 of title 10, United States Code, or on competitive procedures.

"(e) COMMERCIAL ELECTRONICS TECHNOLOGY DEFINED.—The term 'commercial electronics technology' means electronics technology that is—

"(1) a commercial component (as defined in section 102 of title 41, United States Code);

"(2) a commercial product (as defined in section 103 such title);

"(3) a commercial service (as defined in section 103a of such title); or

"(4) a commercially available off-the-shelf item (as defined in section 104 of such title)."

## §9531. Commercial Augmentation Space Reserve

(a) PROGRAM.—The Secretary may carry out a program to be known as the "Commercial Augmentation Space Reserve" program. Under the program, the Secretary may include in a contract for the procurement of space products or services one or more provisions under which a qualified contractor agrees to provide additional space products or services to the Department of Defense on an as-needed basis under circumstances determined by the Secretary.

(b) SECURITY MEASURES.—In carrying out the program under subsection (a), the Secretary—

(1) shall ensure that each contract under, and qualified contractor participating in, the program complies with applicable security measures, including any security measures required under the National Industrial Security program (or any successor to such program); and

(2) may establish and implement such additional security measures as the Secretary determines appropriate to protect the national security interests of the United States.

(c) COMMITMENT OF SPACE PRODUCTS OR SERVICES AS A BUSINESS FACTOR.—In determining the quantity of business to be received under a space product or services contract pursuant to subsection (a), the Secretary may use as a factor the relative amount of space product or service committed to the program under subsection (a) by the qualified contractor involved.

(d) DEFINITIONS.—In this section:

(1) The term "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States.

(2) The term "qualified contractor" means a contractor that is a citizen of the United States.

(3) The term "Secretary" means the Secretary of Defense.

(4) The term "space products or services" means commercial products and commercial services (as those terms are defined in section 2.101 of the Federal Acquisition Regulation) and noncommercial products and noncommercial services offered by commercial companies that operate to, through, or from space, including any required terrestrial ground, support, and network systems and associated services that can be used to support military functions and missions.

(Added Pub. L. 118–159, div. A, title XVI, §1602(a), Dec. 23, 2024, 138 Stat. 2158; amended Pub. L. 119–60, div. A, title XVII, §1701(a)(39), Dec. 18, 2025, 139 Stat. 1210.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 9531, act Aug. 10, 1956, ch. 1041, 70A Stat. 575, authorized Secretary of the Air Force to procure aircraft and equipment and facilities necessary for the maintenance and operation of the Air Force, prior to repeal by Pub. L. 103–160, div. A, title VIII, §823(2), Nov. 30, 1993, 107 Stat. 1707.

**AMENDMENTS**

**2025**—Pub. L. 119–60 struck out period after "Reserve" in section catchline.

## §9532. Factories, arsenals, and depots: manufacture at

The Secretary of the Air Force may have supplies needed for the Department of the Air Force made in factories, arsenals, or depots owned by the United States, so far as those factories, arsenals, or depots can make those supplies on an economical basis.

(Aug. 10, 1956, ch. 1041, 70A Stat. 576.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9532 | 5:626–2(e). | Sept. 19, 1951, ch. 407, §101(e), 65 Stat. 327. |

The word "made" is substituted for the words "manufactured or produced". The words "United States" are substituted for the word "Government".

## [§§9534, 9535. Repealed. Pub. L. 103–160, div. A, title VIII, §823(4), (5), Nov. 30, 1993, 107 Stat. 1707]

Section 9534, act Aug. 10, 1956, ch. 1041, 70A Stat. 576, related to provisions in contracts for subsistence supplies.

Section 9535, act Aug. 10, 1956, ch. 1041, 70A Stat. 576, related to purchases without advertising of exceptional subsistence supplies.

## §9536. Equipment: bakeries, schools, kitchens, and mess halls

Money necessary for the following items for the use of enlisted members of the Air Force or the Space Force may be spent from appropriations for regular supplies:

(1) Equipment for air base bakeries.

(2) Furniture, textbooks, paper, and equipment for air base schools.

(3) Tableware and mess furniture for kitchens and mess halls.

(Aug. 10, 1956, ch. 1041, 70A Stat. 576; Pub. L. 116–283, div. A, title IX, §923(e)(1), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9536 | 10:1334. | June 13, 1890, ch. 423 (1st proviso under "Quartermaster's Department"), 26 Stat. 152. |

The words "Money necessary * * * may be spent" are substituted for the words "There may be expended * * * the amounts required". The word "bakeries" is substituted for the words "bake house to carry on post bakeries". The words "each and all" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force" in introductory provisions.

## [§§9537, 9538. Repealed. Pub. L. 103–160, div. A, title VIII, §823(6), (7), Nov. 30, 1993, 107 Stat. 1707]

Section 9537, acts Aug. 10, 1956, ch. 1041, 70A Stat. 576; Nov. 2, 1966, Pub. L. 89–718, §8(a), 80 Stat. 1117; Dec. 12, 1980, Pub. L. 96–513, title V, §514(13), 94 Stat. 2936, related to assistance of United States mapping agencies in making and developing military surveys and maps.

Section 9538, acts Aug. 10, 1956, ch. 1041, 70A Stat. 576; Dec. 12, 1980, Pub. L. 96–513, title V, §514(14), 94 Stat. 2936, related to exchange and reclamation of unserviceable ammunition by Secretary of the Air Force.

## §9540. Architectural and engineering services

(a) Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Air Force are inadequate, the Secretary of the Air Force may, by contract or otherwise, employ the architectural or engineering services of any person outside that Department for producing and delivering designs, plans, drawings, and specifications needed for any public works or utilities project of the Department.

(b) The fee for any service under this section may not be more than 10 percent of the estimated cost, as determined by the Secretary, of the project to which it applies.

(c) Sections 305, 3324, and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5 do not apply to employment under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 577; Pub. L. 89–718, §28, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 95–454, title VII, §703(c)(3), title VIII, §801(a)(3)(I), Oct. 13, 1978, 92 Stat. 1217, 1222; Pub. L. 96–513, title V, §514(15), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 118–31, div. B, title XXVIII, §2881(c), Dec. 22, 2023, 137 Stat. 780.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9540(a) | 5:221 (1st sentence, less last 15 words). | Aug. 7, 1939, ch. 511, §2, 53 Stat. 1240. |
| 9540(b) | 5:221 (less 1st sentence). | |
| 9540(c) | 5:221 (last 15 words of 1st sentence). | |

In subsection (a), the words "and providing that in the opinion" are omitted as covered by the words "whenever he considers". The words "needed for" are substituted for the words "required for the accomplishment of".

In subsection (c), reference is made in substance to the Classification Act of 1949, instead of the Classification Act of 1923 referred to in the source statute, since section 1106(a) of the Classification Act of 1949, 63 Stat. 972, provides that all references in other acts to the Classification Act of 1923 should be considered to refer to the Classification Act of 1949.

**EDITORIAL NOTES**

**AMENDMENTS**

**2023**—Subsec. (b). Pub. L. 118–31 substituted "10 percent" for "6 percent".

**1980**—Subsec. (c). Pub. L. 96–513 substituted "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5" for "5101–5115, 5331–5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such title 5".

**1978**—Subsec. (c). Pub. L. 95–454, §801(a)(3)(I), inserted reference to subchapter VI of chapter 53 of title 5.

Pub. L. 95–454, §703(c)(3), substituted "7204" for "7154".

**1966**—Subsec. (c). Pub. L. 89–718 substituted "Sections 305, 3324, 5101–5115, 5331–5338, 5341, 5342, and 7154 of title 5" for "Sections 1071–1153 of title 5".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

Amendment by section 801(a)(3)(I) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of Title 5.

## [§9541. Repealed. Pub. L. 103–160, div. A, title VIII, §822(d)(2), Nov. 30, 1993, 107 Stat. 1707]

Section, added Pub. L. 97–258, §2(b)(13)(B), Sept. 13, 1982, 96 Stat. 1058, related to gratuitous services of officers of Air Force Reserve. See section 10212 of this title.

# CHAPTER 965—ISSUE OF SERVICEABLE MATERIAL TO ARMED FORCES

Sec.
9561. Rations.
9562. Clothing.
9563. Clothing: replacement when destroyed to prevent contagion.
9564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Air Force.
9565. Colors, standards, and guidons of demobilized organizations: disposition.

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 935 of this title as this chapter.

## §9561. Rations

(a) The President may prescribe the components, and the quantities thereof, of the Air Force ration and the Space Force ration. He may direct the issue of equivalent articles in place of the prescribed components whenever, in his opinion, economy and the health and comfort of the members of the Air Force or the Space Force so require.

(b) An enlisted member of the Air Force or the Space Force on active duty is entitled to one ration daily. The emergency ration, when issued, is in addition to the regular ration.

(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick in hospitals shall be provided under regulations approved by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 577; Pub. L. 116–283, div. A, title IX, §923(e)(2), Jan. 1, 2021,

134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9561(a) | 10:724. | Feb. 2, 1901, ch. 192 §40, 31 Stat. 758. |
| 9561(b) | 10:716b.<br>10:725. | |
| 9561(c) | 10:726. | R.S. 1293, July 16, 1892, ch. 195 (last 15 words before proviso under "Subsistence of the Army"), 27 Stat. 178.<br>Mar. 2, 1907, ch. 2511 (1st proviso under "Subsistence Department"), 34 Stat. 1165.<br>R.S. 1175. |

In subsection (a), the words "the components, and the quantities thereof" are substituted for the words "the kinds and quantities of the component articles". The words "substitutive" and "a due regard" are omitted as surplusage.

In subsection (b), the words "on active duty" are inserted for clarity. The words "under such regulations as may be prescribed by the Secretary of the Army", in 10:725, are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "or reserve", "prescribed for use on emergent occasions", and "furnished", in 10:725, are omitted as surplusage.

In subsection (c), the words "as the Surgeon General" are omitted, since the Air Force does not have the statutory office of Surgeon General, and functions which, for the Army, are assigned by statute to subordinate officers of the Army are, for the Air Force, assigned to the Secretary of the Air Force. The words "Such quantities of" and "may be allowed" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §923(e)(2)(A), inserted "and the Space Force ration" after "the Air Force ration" and "or the Space Force" after "the Air Force".

Subsec. (b). Pub. L. 116–283, §923(e)(2)(B), inserted "or the Space Force" after "the Air Force".

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY**

Authority of President under subsec. (a) of this section to prescribe uniform military ration applicable to Air Force delegated to Secretary of Defense by section 3(a) of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.

## §9562. Clothing

The President may prescribe the quantity and kind of clothing to be issued annually to members of the Air Force and members of the Space Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 577; Pub. L. 116–283, div. A, title IX, §923(e)(3), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9562 | 10:831. | R.S. 1296 (less 1st 9 words). |

The words "members of the Air Force" are substituted for the words "troops of the United States".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "and members of the Space Force" after "the Air Force".

## §9563. Clothing: replacement when destroyed to prevent contagion

The Secretary of the Air Force may order a gratuitous issue of clothing to any enlisted member of the Air Force or the Space Force who has had a contagious disease, and to any hospital attendant who attended him while he had that disease, to replace clothing destroyed by order of a medical officer to prevent contagion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 577; Pub. L. 116–283, div. A, title IX, §923(e)(4), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9563 | 10:834 | R.S. 1298. |

The words "enlisted member" are substituted for the word "soldiers". The words "any articles of their" are omitted as surplusage. The words "while he had that disease" are inserted for clarity. The words "a medical officer" are substituted for the words "proper medical officers". The words "on the recommendation of the Surgeon General" are omitted, since the Air Force does not have the statutory office of Surgeon General, and functions which, for the Army, are assigned by statute to subordinate officers of the Army are, for the Air Force, assigned to the Secretary of the Air Force.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

## §9564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Air Force

While any detachment of the Navy or Marine Corps is on shore duty in cooperation with troops of the Air Force, the Secretary of the Air Force shall, upon the requisition of the officer of the Navy or Marine Corps in command of the detachment, issue rations and camp equipment, and furnish transportation, to that detachment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 578.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9564 | 10:1259d.<br>10:1259e.<br>34:541. | R.S. 1143; June 28, 1950, ch. 383, §402(a), 64 Stat. 272.<br><br>R.S. 1135; June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |

The words "While * * * on shore duty" are substituted for the words "under orders to act on shore", in 10:1259d and 1259e, and 34:541. The words "the Secretary of the Air Force" are substituted for the words "the branch, office, or officers of the Army, the Secretary of the Army may from time to time designate", in

10:1259d and 1259e, and 34:541, since the functions which, for the Army, are assigned by statute to subordinate officers of the Army, are, for the Air Force, assigned to the Secretary of the Air Force. The words "during the time such detachment is so acting or proceeding to act", in 10:1259d and 1259e, and 34:541, are omitted as surplusage. The words "their baggage, provisions, and cannon", in 10:1259e and 34:541, are omitted as surplusage. The words "and shall furnish the naval officer commanding any such detachment, and his necessary aides, with horses, accouterments, and forage", in 10:1259e and 34:541, are omitted as obsolete.

## §9565. Colors, standards, and guidons of demobilized organizations: disposition

(a) The Secretary of the Air Force may dispose of colors, standards, and guidons of demobilized organizations of the Air Force or the Space Force, as follows:

(1) Those brought into Federal service by the Air National Guard of a State may be returned to that State upon the request of its governor.

(2) Those that cannot be returned under clause (1) may, upon the request of its governor, be sent to the State that, as determined by the Secretary, furnished the majority of members of the organization when it was formed.

Those that cannot be returned or sent under clause (1) or (2) of this subsection shall be delivered to the Secretary, for such national use as he may direct.

(b) Title to colors, standards, and guidons of demobilized organizations of the Air Force or the Space Force remains in the United States.

(c) No color, standard, or guidon may be disposed of under this section unless provision satisfactory to the Secretary has been made for its preservation and care.

(Aug. 10, 1956, ch. 1041, 70A Stat. 578; Pub. L. 116–283, div. A, title IX, §923(e)(5), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9565(a) | 5:202 (less 3d and last sentences). | Mar. 4, 1921, ch. 166, §2, 41 Stat. 1438. |
| 9565(b) | 5:202 (3d sentence). | |
| 9565(c) | 5:202 (last sentence). | |

In subsection (a), the words "Any which were used during their service by such organizations and" are omitted as surplusage. The first 15 words of the last sentence are substituted for 5:202 (1st 45 words of 2d sentence). The words "the Quartermaster General" are omitted, since the functions which, for the Army, are assigned by statute to subordinate officers of the Army, are, for the Air Force, assigned to the Secretary of the Air Force.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §923(e)(5)(A), inserted "or the Space Force" after "organizations of the Air Force" in introductory provisions.

Subsec. (b). Pub. L. 116–283, §923(e)(5)(B), inserted "or the Space Force" after "the Air Force".

# CHAPTER 967—UTILITIES AND SERVICES

Sec.
9591. Utilities: proceeds from overseas operations.
9592. Radiograms and telegrams: forwarding charges due connecting commercial facilities.
9593. Quarters: heat and light.

9594. Department of the Air Force Military History Institute: fee for providing historical information to the public.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title IX, §923(e)(8)(C), Jan. 1, 2021, 134 Stat. 3817, added item 9594 and struck out former item 9594 "Air Force Military History Institute: fee for providing historical information to the public".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 937 of this title as this chapter.

**2000**—Pub. L. 106–398, §1 [[div. A], title X, §1085(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289, added item 9594.

## §9591. Utilities: proceeds from overseas operations

During actual or threatened hostilities, proceeds from operating a public utility in connection with operations of the Air Force or the Space Force in the field overseas are available for that utility until the close of the fiscal year following that in which they are received.

(Aug. 10, 1956, ch. 1041, 70A Stat. 578; Pub. L. 116–283, div. A, title IX, §923(e)(6), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9591 | 10:1287. | July 9, 1918, ch. 143, subch. XX (1st par.), 40 Stat. 893; May 29, 1928, ch. 901 (par. 37), 45 Stat. 989; Aug. 1, 1953, ch. 305, §645 (7th clause), 67 Stat. 357. |

The words "Air Force" are substituted for the word "Engineer", since the Air Force does not have organic corps created by statute.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".

## §9592. Radiograms and telegrams: forwarding charges due connecting commercial facilities

In the operation of telegraph lines, cables, or radio stations, members of the Air Force may, in the discretion of the Secretary of the Air Force, collect forwarding charges due connecting commercial telegraph or radio companies for sending radiograms or telegrams over their lines. Under such regulations as the Secretary may prescribe, they may present a voucher to a disbursing official for payment of the forwarding charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 578; Pub. L. 97–258, §2(b)(1)(A), Sept. 13, 1982, 96 Stat. 1052; Pub. L. 104–316, title I, §105(e), Oct. 19, 1996, 110 Stat. 3830.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9592 | 10:1319. | May 12, 1917, ch. 12 (proviso under "Washington-Alaska Military Cable |

| | | |
|---|---|---|
| | | and Telegraph System"), 40 Stat. 43. |

The words "members of the Air Force" are substituted for the words "Signal Corps", since the Air Force does not have organic corps created by statute. The words "Government", "and to this end", "as may be", and "amount of such" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–316 substituted "of the forwarding" for ", or may file a claim with the General Accounting Office for the forwarding" in second sentence.

**1982**—Pub. L. 97–258 substituted "official" for "officer".

## §9593. Quarters: heat and light

The heat and light necessary for the authorized quarters of members of the Air Force and members of the Space Force shall be furnished at the expense of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 578; Pub. L. 116–283, div. A, title IX, §923(e)(7), Jan. 1, 2021, 134 Stat. 3816.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9593 | 10:723. | Mar. 2, 1907, ch. 2511 (1st proviso under "Quartermaster's Department"), 34 Stat. 1167. |

The word "members" is substituted for the words "officers and enlisted men". The words "under such regulations as the Secretary of the Army may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "and members of the Space Force" after "the Air Force".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION**

Assessment of members for excess energy consumption in military family housing facilities, see section 507 of Pub. L. 95–82, title V, Aug. 1, 1977, 91 Stat. 372, set out as a note under section 4593 of this title.

## §9594. Department of the Air Force Military History Institute: fee for providing historical information to the public

(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Air Force may charge a person a fee for providing the person with information from the United States Department of the Air Force Military History Institute that is requested by that person.

(b) EXCEPTIONS.—A fee may not be charged under this section—

(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

(2) for a release of information under section 552 of title 5.

(c) LIMITATION ON AMOUNT.—A fee charged for providing information under this section may not exceed the cost of providing the information.

(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Department of the Air Force Military History Institute during that fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term "United States Department of the Air Force Military History Institute" means the archive for historical records and materials of the Air Force and the Space Force that the Secretary of the Air Force designates as the primary archive for such records and materials.

(2) The terms "officer of the United States" and "employee of the United States" have the meanings given the terms "officer" and "employee", respectively, in sections 2104 and 2105, respectively, of title 5.

(Added Pub. L. 106–398, §1 [[div. A], title X, §1085(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289; amended Pub. L. 116–283, div. A, title IX, §923(e)(8)(A), (B), Jan. 1, 2021, 134 Stat. 3816.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §923(e)(8)(B), amended section catchline generally. Prior to amendment, catchline read as follows: "Air Force Military History Institute: fee for providing historical information to the public".

Subsecs. (a), (d). Pub. L. 116–283, §923(e)(8)(A)(i), inserted "Department of the" before "Air Force Military History".

Subsec. (e)(1). Pub. L. 116–283, §923(e)(8)(A)(ii), inserted "Department of the" before "Air Force Military History" and "and the Space Force" after "materials of the Air Force".

# CHAPTER 969—SALE OF SERVICEABLE MATERIAL

Sec.
9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.
9622. Rations: commissioned officers in field.
[9623. Repealed.]
9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home.
9625. Ordnance property: officers of the armed forces; civilian employees of the Department of the Air Force; American National Red Cross; educational institutions; homes for veterans' orphans.
9626. Aircraft supplies and services: foreign military or other state aircraft.
9627. Supplies: educational institutions.
9628. Airplane parts and accessories: civilian flying schools.
9629. Proceeds: disposition.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title IX, §923(e)(12)(C), Jan. 1, 2021, 134 Stat. 3818, added item 9625 and struck out former item 9625 "Ordnance property: officers of armed forces; civilian employees of Air Force; American National Red Cross; educational institutions; homes for veterans' orphans".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 939 of this title as this chapter.

**2008**—Pub. L. 110–181, div. A, title X, §1031(a)(2), Jan. 28, 2008, 122 Stat. 306, added item 9626 and

struck out former item 9626 "Aircraft supplies and services: foreign military or air attaché".

**1998**—Pub. L. 105–261, div. A, title III, §366(b), Oct. 17, 1998, 112 Stat. 1987, struck out item 9623 "Tobacco: enlisted members of Air Force".

**1990**—Pub. L. 101–510, div. A, title XV, §1533(a)(8)(C), Nov. 5, 1990, 104 Stat. 1735, amended item 9624 generally, substituting "Armed Forces Retirement Home" for "Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, title V, §514(17)(C), Dec. 12, 1980, 94 Stat. 2936, substituted "Soldiers' and Airmen's Home" for "Soldiers' Home" in item 9624.

## §9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The Secretary of the Air Force shall procure and sell, for cash or credit—

(1) articles designated by him, to members of the Air Force and members of the Space Force; and

(2) items of individual clothing and equipment, to officers of the Air Force and officers of the Space Force, under such restrictions as the Secretary may prescribe.

An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Air Force or the Space Force.

(c) The Secretary may sell serviceable quartermaster property, other than subsistence supplies, to an officer of another armed force for his use in the service, in the same manner as these articles are sold to an officer of the Air Force or the Space Force.

(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, Marine Corps, or Space Force and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to a member of the Air Force.

(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Air Force or the Space Force honorably or under honorable conditions, at the prices at which like articles are sold to members of the Air Force or the Space Force, respectively. This subsection does not modify section 772 or 773 of this title.

(f) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any organization of the Air Force or the Space Force or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash or by commercial credit.

(g) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of military activities.

However, sales to those officers and employees inside the United States may be made only to those residing within military installations.

(h) Appropriations for subsistence of the Air Force or the Space Force may be applied to the purchase of subsistence supplies for sale to members of the Air Force or members of the Space Force on active duty for the use of themselves and their families.

(Aug. 10, 1956, ch. 1041, 70A Stat. 579; Pub. L. 87–651, title I, §118, Sept. 7, 1962, 76 Stat. 513;

Pub. L. 96–513, title V, §514(16), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 97–22, §11(a)(11), July 10, 1981, 95 Stat. 138; Pub. L. 100–180, div. A, title III, §313(c), Dec. 4, 1987, 101 Stat. 1074; Pub. L. 101–189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 104–106, div. A, title III, §375(b)(2), Feb. 10, 1996, 110 Stat. 283; Pub. L. 116–283, div. A, title IX, §923(e)(9), Jan. 1, 2021, 134 Stat. 3817.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9621(a) | 10:904.<br>10:1231.<br>10:1237.<br>32:156. | Aug. 31, 1918, ch. 166, §9 (less 17th through 22d words), 40 Stat. 957. |
| 9621(b) | 10:1238. | R.S. 1144; June 28, 1950, ch. 383, §402(a), 64 Stat. 272. |
| 9621(c) | 10:1233. | |
| 9621(d) | 10:1234.<br>34:539. | June 3, 1916, ch. 134, §109; restated June 4, 1920, ch. 227, subch. I, §47; restated June 3, 1924, ch. 244, §3; restated Oct. 14, 1940, ch. 875, §3, 54 Stat. 1136; Mar. 25, 1948, ch. 157, §5(b), 62 Stat. 91; Oct. 12, 1949, ch. 681, §501(f)(2) and (3) (as applicable to §109 of the Act of June 3, 1916, ch. 134), 63 Stat. 827; July 9, 1952, ch. 608, §803 (12th par.), 66 Stat. 505. |
| 9621(e) | 10:1235. | |
| 9621(f) | 10:1395 (less last sentence).<br>10:1253. | |
| 9621(g) | 10:1241. | |
| 9621(h) | 10:1196. | |
| 9621(i) | | June 30, 1942, ch. 253, title I (last proviso under "Clothing and Equipage"), 42 Stat. 729.<br>July 5, 1884, ch. 217 (proviso under "Subsistence of the Army"), 23 Stat. 108.<br>Aug. 29, 1916, ch. 418 (words before semicolon of 3d proviso under "Subsistence of the Army"), 39 Stat. 630.<br>Mar. 4, 1915, ch. 143 (last proviso under "Clothing, and Camp and Garrison Equipage"), 38 stat. 1079; June 28, 1950, ch. 383, §402(k), 64 Stat. 273.<br>June 5, 1920, ch. 240 (par. under "Purchase of Army Stores by Discharged Receiving Treatment from the Public Health Service"), 41 Stat. 976.<br>Feb. 14, 1927, ch. 134 (less last sentence), 44 Stat. 1096.<br>Mar. 3, 1911, ch. 209 (last par. under "Subsistence Department"), 36 Stat. 1047.<br>Aug. 8, 1953, ch. 390, §1, 67 Stat. 499. |

| | | |
|---|---|---|
| | | Mar. 3, 1875, ch. 131 (proviso of 1st sentence of 1st par. under "War Department"), 18 Stat. 410. |

In subsection (a), the word "members" is substituted for the words "officers and enlisted men", in 10:1237. Clause (2) is substituted for 10:904. Reference to the Secretary of the Air Force is substituted for reference to branch, office, or officers of the Army, in 10:1237, since the functions which, for the Army are assigned to subordinate officers, are, for the Air Force assigned to the Secretary of the Air Force. 32:156 is omitted as covered by 10:904, since the words "officers of the Air Force" necessarily cover all persons named in 32:156. The words "Except for articles and items acquired through the use of working capital funds under sections 172–172j of title 5" are inserted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

In subsection (b), the first sentence states expressly the rule which is implicit in 10:1238. The word "members" is substituted for the words "officers and enlisted men". The words "shall be understood, in all cases of such sales" are omitted as surplusage. The last sentence is inserted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Deputy General Counsel of the Office of the Secretary of Defense, March 28, 1956.)

In subsection (c), the word "members" is substituted for the words "officers and enlisted men". The words "prices at which like property is sold to" are substituted for the words "same price as is charged the".

In subsections (c) and (d), the words "other armed forces" are substituted for the words "Navy and Marine Corps", since such sales are authorized to members of the Coast Guard by section 144(b) of Title 14.

In subsection (d), the words "other than subsistence supplies" are inserted, since the sale of subsistence supplies is covered by subsection (c).

In subsection (e), the words "a person who has been discharged" are substituted for the words "discharged officers and enlisted men". The words "Navy * * * or Marine Corps", omitted from the 1952 edition of the United States Code, are inserted to conform to the source statute. The words "may buy" are substituted for the words "shall * * * be permitted to purchase". The words "at the prices at which like property is sold" are substituted for the words "at the same price as charged". The word "member" is substituted for the words "officers and enlisted men". The words "while undergoing such care and treatment" are omitted as surplusage.

In subsection (f), the words "person who has been discharged" are substituted for the words "former members * * * who have been separated therefrom". The words "at the prices at which like articles are sold to members" are inserted to conform to the last sentence of subsection (a) and subsection (e).

In subsection (g), the words "regulations to be prescribed by the Secretary" are substituted for the words "Army Regulations". The words "of the Government" are omitted as surplusage. 10:1253 (last 22 words of 1st sentence) is omitted as surplusage. The words "or to another executive department of the Government" are omitted as superseded by section 7 of the act of May 21, 1920, ch. 194, as amended (31 U.S.C. 686). The provisions of 10:1253 relating to the computation of cost are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

In subsection (h), the word "outside" is substituted for the words "beyond the continental limitations". The words "or in Alaska" are omitted, since, under section 101(1) of this title, the words "United States" are defined to include only the States and the District of Columbia. The word "continental", after the words "within the", is omitted for the same reason. The last sentence is substituted for 10:1241 (proviso).

In subsection (i), 10:1196 (last 30 words) is omitted as superseded by the Act of April 27, 1914, ch. 72 (last proviso under "Subsistence of the Army"), 38 Stat. 361. The words "So much of the" and "as may be necessary" are omitted as surplusage. The words "members * * * on active duty, for the use of themselves and their families" are substituted for the words "officers for the use of themselves and their families, and to commanders of companies or other organizations, for the use of the enlisted men of their companies or organizations", to conform to 10:1237 and 1238. Those sections provide the basic authority for procurement and sale of subsistence supplies to all members. This interpretation conforms to established administrative practice under those sections. The word "supplies" is substituted for the word "stores".

**1962 ACT**

The change corrects an internal reference.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283, §923(e)(9)(A)(i), inserted "and members of the Space Force" after "the Air Force".

Subsec. (a)(2). Pub. L. 116–283, §923(e)(9)(A)(ii), inserted "and officers of the Space Force" after "the Air Force".

Subsec. (b). Pub. L. 116–283, §923(e)(9)(B), inserted "or the Space Force" after "the Air Force".

Subsec. (c). Pub. L. 116–283, §923(e)(9)(C), inserted "or the Space Force" after "the Air Force".

Subsec. (d). Pub. L. 116–283, §923(e)(9)(D), substituted "Marine Corps, or Space Force" for "or Marine Corps".

Subsec. (e). Pub. L. 116–283, §923(e)(9)(E), inserted "or the Space Force" after "from the Air Force" and "or the Space Force, respectively" after "of the Air Force".

Subsec. (f). Pub. L. 116–283, §923(e)(9)(F), inserted "or the Space Force" after "the Air Force".

Subsec. (h). Pub. L. 116–283, §923(e)(9)(G), inserted "or the Space Force" after "subsistence of the Air Force" and "or members of the Space Force" after "members of the Air Force".

**1996**—Subsec. (b). Pub. L. 104–106, §375(b)(2)(A), substituted "The Secretary shall" for "The Air Force shall".

Subsec. (f). Pub. L. 104–106, §375(b)(2)(B), inserted "or by commercial credit" before period at end.

**1989**—Subsec. (d). Pub. L. 101–189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

**1987**—Subsecs. (b) to (i). Pub. L. 100–180 redesignated subsecs. (c) to (i) as (b) to (h), respectively, and struck out former subsec. (b) which read as follows: "Subsistence supplies may be sold to members of the Air Force. The selling price of each article sold under this subsection is the invoice price of the last lot of that article that the officer making the sale received before the first day of the month in which the sale is made. Activities conducted under this subsection shall be consistent with section 2208 of this title."

**1981**—Subsec. (f). Pub. L. 97–22 struck out a comma after "section 772".

**1980**—Subsec. (f). Pub. L. 96–513 struck out reference to section 8612 of this title.

**1962**—Subsecs. (a), (b). Pub. L. 87–651 substituted "section 2208 of this title" for "sections 172–172j of title 5".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §9622. Rations: commissioned officers in field

Commissioned officers of the Air Force and commissioned officers of the Space Force serving in the field may buy rations for their own use, on credit. Amounts due for these purchases shall be reported monthly to the Secretary of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 580; Pub. L. 116–283, div. A, title IX, §923(e)(10), Jan. 1, 2021, 134 Stat. 3817.)

### HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9622 | 10:1232. | R.S. 1145. |

The words "at cost prices" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant

General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "and commissioned officers of the Space Force" after "officers of the Air Force".

## [§9623. Repealed. Pub. L. 105–261, div. A, title III, §366(a), Oct. 17, 1998, 112 Stat. 1987]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 580, related to sale of tobacco by Air Force to enlisted members.

## §9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home

(a) Under regulations to be prescribed by the Secretary of the Air Force, a civilian employee of the Department of the Air Force who is stationed at an Air Force or Space Force military installation may buy necessary medical supplies from the Department of the Air Force when they are prescribed by a medical officer on active duty.

(b) The Secretary may sell medical supplies to the American National Red Cross for cash.

(c) The Secretary may sell medical and hospital supplies to the Armed Forces Retirement Home.

(Aug. 10, 1956, ch. 1041, 70A Stat. 580; Pub. L. 96–513, title V, §514(17)(A), (B), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 101–510, div. A, title XV, §1533(a)(8)(A), (B), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 116–283, div. A, title IX, §923(e)(11), Jan. 1, 2021, 134 Stat. 3817.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9624(a) | 10:1236. | Apr. 23, 1904, ch. 1485 (last proviso under "Medical Department"), 33 Stat. 273; Mar. 2, 1905, ch. 1307 (last proviso under "Medical Department"), 33 Stat. 839. |
| 9624(b) | 10:1254. | Mar. 4, 1915, ch. 143 (2d proviso under "Medical Department"), 38 Stat. 1080. |
| 9624(c) | 24:58. | June 4, 1897, ch. 2 (par. under "Soldiers' Home, District of Columbia"), 30 Stat. 54; June 28, 1950, ch. 383, §402(d), 64 Stat. 272. |

In subsection (a), the words "on active duty" are inserted for clarity.

In subsection (b), the words "rates of charge", "to cover the cost of purchase, inspection, and so forth", and "as can be spared without detriment to the military service" are omitted as surplusage. The words "the contract prices paid therefor" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories, at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.) The word "equipments" is omitted as covered by the word "supplies".

In subsections (b) and (c), the words "The Secretary" are substituted for the words "Medical Department of the Army", since the functions which, for the Army, are assigned by statute to subordinate organizational units

of the Army, are, for the Air Force, assigned to the Secretary of the Air Force.

In subsection (c), the words "in the District of Columbia" are omitted as surplusage, since there is only one Soldiers' Home. The words "Upon proper application therefor" are omitted as surplusage. The words "its contract prices" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 substituted "Air Force or Space Force military installation" for "air base" and "Department of the Air Force when" for "Air Force when".

**1990**—Pub. L. 101–510, §1533(a)(8)(B), substituted "Armed Forces Retirement Home" for "Soldiers' and Airmen's Home" in section catchline.

Subsec. (c). Pub. L. 101–510, §1533(a)(8)(A), substituted "Armed Forces Retirement Home" for "United States Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, §514(17)(B), inserted "the" before "Air" and "and Airmen's" after "Soldiers' " in section catchline.

Subsec. (c). Pub. L. 96–513, §514(17)(A), substituted "United States Soldiers' and Airmen's" for "Soldiers' ".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §9625. Ordnance property: officers of the armed forces; civilian employees of the Department of the Air Force; American National Red Cross; educational institutions; homes for veterans' orphans

(a) The Secretary of the Air Force may sell articles of ordnance property to officers of other armed forces for their use in the service, in the same manner as these articles are sold to officers of the Air Force or the Space Force.

(b) Under such regulations as the Secretary may prescribe, ordnance stores may be sold to civilian employees of the Department of the Air Force and to the American National Red Cross.

(c) Articles of ordnance property may be sold to educational institutions and to State soldiers' and sailors' orphans' homes for maintaining the ordnance and ordnance stores issued to those institutions and homes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 580; Pub. L. 116–283, div. A, title IX, §923(e)(12)(A), (B), Jan. 1, 2021, 134 Stat. 3817.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9625(a) | 34:540.<br>50:70. | Mar. 3, 1909, ch. 252 (5th par. under "National Trophy and Medals for Rifle Contests"), 35 Stat. 750. |
| 9625(b) | 50:71. | |
| 9625(c) | 50:63. | |

| | | |
|---|---|---|
| | | Mar. 3, 1909, ch. 252 (8th par. under "National Trophy and Medals for Rifle Contests"), 35 Stat. 751; June 28, 1950, ch. 383, §402(h), 64 Stat. 273.<br>May 11, 1908, ch. 163 (4th par. under "National Trophy and Medals for Rifle Contests"), 35 Stat. 125. |

In subsection (a), the words "Secretary of the Air Force" are substituted for the words "Chief of Ordnance", since the functions which, for the Army, are assigned to subordinate officers of the Army, are, for the Air Force, assigned to the Secretary of the Air Force. The words "other armed forces" are substituted for the words "the Navy and Marine Corps", in 34:540 and 50:70, since those sales may be made to officers of the Coast Guard under section 114(c) of Title 14.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §923(e)(12)(B), amended section catchline generally. Prior to amendment, catchline read as follows: "Ordnance property: officers of armed forces; civilian employees of Air Force; American National Red Cross; educational institutions; homes for veterans' orphans".

Subsec. (a). Pub. L. 116–283, §923(e)(12)(A)(i), inserted "or the Space Force" after "officers of the Air Force".

Subsec. (b). Pub. L. 116–283, §923(e)(12)(A)(ii), substituted "the Department of the Air Force" for "the Air Force".

## §9626. Aircraft supplies and services: foreign military or other state aircraft

(a) PROVISION OF SUPPLIES AND SERVICES ON REIMBURSABLE BASIS.—(1) The Secretary of the Air Force may, under such regulations as the Secretary may prescribe and when in the best interests of the United States, provide any of the supplies or services described in paragraph (2) to military and other state aircraft of a foreign country, on a reimbursable basis without an advance of funds, if similar supplies and services are furnished on a like basis to military aircraft and other state aircraft of the United States by the foreign country concerned.

(2) The supplies and services described in this paragraph are supplies and services as follows:

(A) Routine airport services, including landing and takeoff assistance, servicing aircraft with fuel, use of runways, parking and servicing, and loading and unloading of baggage and cargo.

(B) Miscellaneous supplies, including Air Force-owned fuel, provisions, spare parts, and general stores, but not including ammunition.

(b) PROVISION OF ROUTINE AIRPORT SERVICES ON NON-REIMBURSABLE BASIS .—(1) Routine airport services may be provided under this section at no cost to a foreign country—

(A) if such services are provided by Air Force personnel and equipment without direct cost to the Air Force; or

(B) if such services are provided under an agreement with the foreign country that provides for the reciprocal furnishing by the foreign country of routine airport services, as defined in that agreement, to military and other state aircraft of the United States without reimbursement.

(2) If routine airport services are provided under this section by a working-capital fund activity of the Air Force under section 2208 of this title and such activity is not reimbursed directly for the costs incurred by the activity in providing such services by reason of paragraph (1)(B), the working-capital fund activity shall be reimbursed for such costs out of funds currently available to the Air Force for operation and maintenance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 581; Pub. L. 110–181, div. A, title X, §1031(a)(1), Jan. 28, 2008, 122 Stat. 305.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9626 | 22:259 (less last sentence). | May 31, 1939, ch. 161 (less last sentence), 53 Stat. 795. |

The last sentence is substituted for the words "except for shelter for which no charge shall be made". The words "and equipment" are omitted as covered by the word "supplies". 22:259 (last 22 words of 2d sentence) is omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Pub. L. 110–181 amended section generally. Prior to amendment, text read as follows: "Under such conditions as he may prescribe, the Secretary of the Air Force may provide for the sale of fuel, oil, and other supplies for use in aircraft operated by a foreign military or air attaché accredited to the United States, and for the furnishing of mechanical service and other assistance to such aircraft. Shelter may be furnished to such aircraft, but only without charge."

## §9627. Supplies: educational institutions

Under such regulations as the Secretary of the Air Force may prescribe, supplies and military publications procured for the Air Force or the Space Force may be sold to any educational institution to which an officer of the Air Force or the Space Force is detailed as professor of science and tactics, for the use of its military students. Sales under this section shall be for cash.

(Aug. 10, 1956, ch. 1041, 70A Stat. 581; Pub. L. 116–283, div. A, title IX, §923(e)(13), Jan. 1, 2021, 134 Stat. 3818.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9627 | 10:1179 (less proviso). | July 17, 1914, ch. 149 (less proviso), 38 Stat. 512. |

The words "procured for" are substituted for the words "as are furnished to". The words "stores * * * matériel of war" are omitted as covered by the word "supplies". The words "the price listed to the Army" are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "for the Air Force" and after "officer of the Air Force", and substituted "science and tactics" for "air science and tactics".

## §9628. Airplane parts and accessories: civilian flying schools

The Secretary of the Air Force may sell, to civilian flying schools at which personnel of the Department of the Air Force or the Department of the Army are receiving flight training under contracts requiring these schools to maintain and repair airplanes of the Air Force furnished to them for flight training, the spare parts and accessories needed for those repairs.

(Aug. 10, 1956, ch. 1041, 70A Stat. 581.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9628 | 10:298c. | Feb. 12, 1940, ch. 27, Title I (proviso under "Air Corps"), 54 Stat. 25. |

The words "under the provisions of the Act of April 3, 1939 (53 Stat. 555)", are omitted as obsolete, since training formerly performed under that act is now performed under section 9301 of this title. The words "personnel of the Departments" are substituted for the words "flying cadets", since the authority is reciprocal, and to conform to section 9656 of this title. The words "flying cadet" are omitted as obsolete. 10:298c (last 28 words) is omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

## §9629. Proceeds: disposition

The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriation:

(1) Exterior articles of uniform sold under section 9621 of this title.

(2) Supplies, war material, and military publications sold to educational institutions under section 9627 of this title.

(3) Fuel, oil, other supplies, and services sold under section 9626 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 581; Pub. L. 110–181, div. A, title X, §1031(b), Jan. 28, 2008, 122 Stat. 306.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9629 | 10:1179 (proviso).<br>10:1395 (last sentence).<br>22:259 (last sentence). | Feb. 14, 1927, ch. 134 (last sentence), 44 Stat. 1096.<br><br>July 17, 1914, ch. 149 (proviso), 38 Stat. 512.<br>May 31, 1939, ch. 161 (last sentence), 53 Stat. 796. |

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Par. (3). Pub. L. 110–181 struck out "for aircraft of a foreign military or air attaché" after "services".

# CHAPTER 971—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.
[9651. Repealed.]
9652. Rifles and ammunition for target practice: educational institutions having corps of cadets.
9653. Ordnance and ordnance stores: District of Columbia high schools.
9654. Supplies: military instruction camps.
9655. Arms and ammunition: agencies and departments of United States.
9656. Aircraft and equipment: civilian aviation schools.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 941 of this title as this chapter.

**2013**—Pub. L. 112–239, div. A, title V, §552(c)(4), Jan. 2, 2013, 126 Stat. 1741, struck out item 9651 "Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C."

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(32), Oct. 28, 2009, 123 Stat. 2474, transferred item 9515 "Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet" to chapter 931 of this title.

**2008**—Pub. L. 110–417, [div. A], title X, §1033(b), Oct. 14, 2008, 122 Stat. 4593, added item 9515 at end.

## [§9651. Repealed. Pub. L. 112–239, div. A, title V, §552(b), Jan. 2, 2013, 126 Stat. 1741]

Section, Aug. 10, 1956, ch. 1041, 70A Stat. 581; Pub. L. 99–145, title XIII, §1301(d)(3), Nov. 8, 1985, 99 Stat. 736, related to issuance of arms, tentage, and equipment to educational institutions not maintaining units of the Air Force Reserve Officers' Training Corps.

## §9652. Rifles and ammunition for target practice: educational institutions having corps of cadets

(a) The Secretary of the Air Force may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time, and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of cadets of sufficient number for target practice. He may also issue 40 rounds of ball cartridges for each cadet for each range at which target practice is held, but not more than 120 rounds each year for each cadet participating in target practice.

(b) The institutions to which property is lent under subsection (a) shall use it for target practice, take proper care of it, and return it when required.

(c) The Secretary shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9652(a) | 10:1185 (1st par.). | Apr. 27, 1914, ch. 72 (last proviso and last par. under "Manufacture of Arms"), 38 Stat. 370. |
| 9652(b) | 10:1185 (last par., less 1st 22, and last 19, words). | |
| 9652(c) | 10:1185 (1st 22, and last 19, words of last par.). | |

In subsection (a), the words, "and carrying on military training" and "the maintenance of" are omitted as surplusage. In clause (2), the words "suitable to said arm" are omitted as surplusage.

In subsection (b), the words "shall use it for target practice" are substituted for the words "insuring the

designed use of the property issued". The words "take proper care of it" are substituted for the words "providing against loss to the United States through lack of proper care".

## §9653. Ordnance and ordnance stores: District of Columbia high schools

The Secretary of the Air Force, under regulations to be prescribed by him, may issue to the high schools of the District of Columbia ordnance and ordnance stores required for military instruction and practice. The Secretary shall require a bond in double the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9653 | 10:1183. | Feb. 5, 1891, J. Res. 9, 26 Stat. 1113. |

The words "at his discretion and", "belonging to the Government, and which can be spared for that purpose", and "in each case" are omitted as surplusage. The words "high schools of the" are substituted for the words "High School of Washington", since the various high schools of the District of Columbia have succeeded the Washington High School that existed at the time the statute was enacted. The words "except for property properly expended" are inserted for clarity.

## §9654. Supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Air Force may issue, to any educational institution at which an Air Force or Space Force officer is detailed as professor of science and tactics, such supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 582; Pub. L. 116–283, div. A, title IX, §923(e)(14), Jan. 1, 2021, 134 Stat. 3818.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9654 | 10:1182. | May 18, 1916, ch. 124, 39 Stat. 123. |

The words "at his discretion and" and "belonging to the Government, and which can be spared for that purpose, as may appear to be" are omitted as surplusage. The words "except for property properly expended" are inserted for clarity. The word "stores" is omitted as covered by the word "supplies".

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or Space Force" after "an Air Force" and substituted "science and tactics" for "air science and tactics".

## §9655. Arms and ammunition: agencies and departments of United States

(a) Whenever required for the protection of public money and property, the Secretary of the Air Force may lend arms and their accouterments, and issue ammunition, to a department or independent agency of the United States, upon request of its head. Property lent or issued under this subsection

may be delivered to an officer of the department or agency designated by the head thereof, and that officer shall account for the property to the Secretary of the Air Force. Property lent or issued under this subsection and not properly expended shall be returned when it is no longer needed.

(b) The department or agency to which property is lent or issued under subsection (a) shall transfer funds to the credit of the Department of the Air Force to cover the costs of—

(1) ammunition issued;

(2) replacing arms and accouterments that have been lost or destroyed or cannot be repaired;

(3) repairing arms and accouterments returned to the Department of the Air Force; and

(4) making and receiving shipments by the Department of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9655(a)<br>9655(b) | 50:61 (less proviso).<br>50:61 (proviso). | Mar. 3, 1879, ch. 183 (2d par. under "Miscellaneous"); restated Apr. 14, 1937, ch. 79, 50 Stat. 63. |

In subsection (a), the word "lend" is substituted for the word "issue", with respect to arms and accouterments, since the property must be returned when the necessity for its use has expired. The words "and not properly expended" are inserted for clarity. The words "United States" are substituted for the word "Government". The word "their" is substituted for the words "suitable * * * for use therewith". The words "it is no longer needed" are substituted for the words "the necessity for their use has expired".

In subsection (b), the words "hereafter", "borrowed", and "under the authority of this section" are omitted as surplusage.

## §9656. Aircraft and equipment: civilian aviation schools

The Secretary of the Air Force, under regulations to be prescribed by him, may lend aircraft, aircraft parts, and aeronautical equipment and accessories that are required for instruction, training, and maintenance, to accredited civilian aviation schools at which personnel of the Department of the Air Force or the Department of the Army are pursuing a course of instruction and training under detail by competent orders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 583; Pub. L. 97–295, §1(53), Oct. 12, 1982, 96 Stat. 1301.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9656 | 10:298b. | Apr. 3, 1939, ch. 35, §4, 53 Stat. 556. |

The words "in his discretion and", "rules", "limitations", and "on hand and belonging to the Government such articles as may appear to be" are omitted as surplusage. The words "Department of the Air Force or the Department of the Army" are substituted for the words "Military Establishment", since the authority is reciprocal.

**1982 ACT**

In 10:9656, the words ", and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots" are stricken as obsolete.

**EDITORIAL NOTES**

**AMENDMENTS**

**1982**—Pub. L. 97–295 struck out ", and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots" after "competent orders".

# CHAPTER 973—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
[9681. Repealed.]
9682. Obsolete or excess material: sale to National Council of Boy Scouts of America.
9684. Surplus obsolete ordnance: sale to patriotic organizations.
9685. Obsolete ordnance: loan to educational institutions and State soldiers' and sailors' orphans' homes.
9686. Obsolete ordnance: gift to State homes for soldiers and sailors.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 943 of this title as this chapter.

**2016**—Pub. L. 114–328, div. A, title XII, §1253(a)(2)(E), Dec. 23, 2016, 130 Stat. 2532, struck out item 9681 "Surplus war material: sale to States and foreign governments".

## [§9681. Repealed. Pub. L. 114–328, div. A, title XII, §1253(a)(1)(D), Dec. 23, 2016, 130 Stat. 2532]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 583; Pub. L. 96–513, title V, §514(18), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 107–217, §3(b)(36), Aug. 21, 2002, 116 Stat. 1298, related to sale to States and certain foreign governments of surplus war material.

## §9682. Obsolete or excess material: sale to National Council of Boy Scouts of America

Subject to regulations under section 121 of title 40, the Secretary of the Air Force, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America. Sales under this section shall be at fair value to the Department of the Air Force, including packing, handling, and transportation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 583; Pub. L. 96–513, title V, §514(18), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 107–217, §3(b)(37), Aug. 21, 2002, 116 Stat. 1298.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9682 | 10:1259. | May 15, 1937, ch. 193, 50 Stat. 167; Oct. 31, 1951, ch. 654, §2(7), 65 Stat. 707. |

The words "obsolete or excess material" are substituted for the words "such obsolete material as may not be needed by the Department of the Army, and such other material as may be spared" to conform to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.). The words "in his discretion" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of

1949 (40 U.S.C. 486)" for "section 486 of title 40".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §9684. Surplus obsolete ordnance: sale to patriotic organizations

Subject to regulations under section 121 of title 40, the Secretary of the Air Force may sell, without advertisement and at prices that he considers reasonable—

(1) surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes; and

(2) surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers' monuments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 583; Pub. L. 96–513, title V, §514(18), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 107–217, §3(b)(38), Aug. 21, 2002, 116 Stat. 1298.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9684 | 50:64.<br>50:68. | May 28, 1908, ch. 215, §14, 35 Stat. 443; June 28, 1950, ch. 383, §402(g), 64 Stat. 273; Oct. 31, 1951, ch. 654, §2(26), 65 Stat. 707.<br>Mar. 4, 1909, ch. 319, §47, 35 Stat. 1075; June 28, 1950, ch. 383, §402(i), 64 Stat. 273; Oct. 31, 1951, ch. 654, §2(28), 65 Stat. 707. |

50:64 (proviso) and 50:68 (proviso) are omitted as surplusage.

The words "the Chief of Ordnance" are omitted, since the functions which, for the Army, are assigned by statute to subordinate officers of the Army, are, for the Air Force, assigned to the Secretary of the Air Force.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" in introductory provisions.

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §9685. Obsolete ordnance: loan to educational institutions and State soldiers' and sailors' orphans' homes

(a) Upon the recommendation of the Governor of the State concerned or Guam or the Virgin

Islands, the Secretary of the Air Force, under regulations to be prescribed by him and without cost to the United States for transportation, may lend obsolete ordnance and ordnance stores to State, Guam, and the Virgin Islands educational institutions and to State soldiers' and sailors' orphans' homes, for drill and instruction. However, no loan may be made under this subsection to an institution to which ordnance or ordnance stores may be issued under any law that was in effect on June 30, 1906, and is still in effect.

(b) The Secretary shall require a bond from each institution or home to which property is lent under subsection (a), in double the value of the property lent, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 584; Pub. L. 109–163, div. A, title X, §1057(a)(10), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9685(a) | 50:62a (1st par. and proviso of last par.). | June 30, 1906, ch. 3938, 34 Stat. 817. |
| 9685(b) | 50:62a (last par., less proviso). | |

In subsection (a), the words "at his discretion" and "as may be available" are omitted as surplusage. The word "lend" is substituted for the word "issue" to reflect the intent of the section. 50:62a (1st 13 words of proviso) is omitted as surplusage. The words "and which is still in effect" are inserted for clarity.

In subsection (b), the words "to the United States" are omitted as surplusage. The words "except property properly expended" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 substituted "State concerned or Guam or the Virgin Islands" for "State or Territory concerned" and "State, Guam, and the Virgin Islands" for "State and Territorial".

## §9686. Obsolete ordnance: gift to State homes for soldiers and sailors

Subject to regulations under section 121 of title 40, the Secretary of the Air Force may give not more than two obsolete bronze or iron cannons suitable for firing salutes to any home for soldiers or sailors established and maintained under State authority.

(Aug. 10, 1956, ch. 1041, 70A Stat. 584; Pub. L. 96–513, title V, §514(18), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 107–217, §3(b)(39), Aug. 21, 2002, 116 Stat. 1298.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9686 | 50:66. | Feb. 8, 1889, ch. 116, 25 Stat. 657; Oct. 31, 1951, ch. 654, §2(27), 65 Stat. 707.<br>Mar. 3, 1899, ch. 423 (1st proviso under "Ordnance Department"), 30 Stat. 1073; May 26, 1900, ch. 586 (1st proviso under "Ordnance Department"), 31 Stat. 216; June 28, 1950, ch. 383, §402(e), 64 Stat. 273. |

The words "subject to such regulations as he may prescribe" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "to any of the

'National Homes for Disabled Volunteer Soldiers' already established or hereafter established and", in the Act of February 8, 1889, ch. 116, 25 Stat. 657, are not contained in 50:66 (2d sentence). They are also omitted from the revised section, since the National Homes for Disabled Volunteer Soldiers were dissolved by the Act of July 3, 1930, ch. 863, 46 Stat. 1016. The Acts of March 3, 1899, ch. 643 (1st proviso under "Ordnance Department"), 30 Stat. 1073; and May 26, 1900, ch. 586 (1st proviso under "Ordnance Department"), 31 Stat. 216, as amended, relating to disposal of ordnance to "Homes for Disabled Volunteer Soldiers" by the Chief of Ordnance of the Army, became inoperative when the Homes were dissolved. Although section 402(e) of the Army Organization Act of 1950, ch. 383, 64 Stat. 273, amended the Act of May 26, 1900, it did not have the effect of reviving that act. The word "give" is substituted for the word "deliver" to express more clearly the intent of the section. The words "serviceable" and "as may be on hand undisposed of" are omitted as surplusage. The word "may" is substituted for the words "is authorized and directed", since section 9684 of this title provides an alternative method for the disposal of obsolete cannon.

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

**1980**—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

# CHAPTER 975—DISPOSITION OF EFFECTS OF DECEASED PERSONS

Sec.
[9711. Repealed.]
9712. Disposition of effects of deceased persons by summary court-martial.
[9713. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 945 of this title as this chapter.

**1999**—Pub. L. 106–65, div. A, title VII, §721(c)(4), (6), Oct. 5, 1999, 113 Stat. 695, substituted "DISPOSITION" for "INQUESTS; DISPOSITION" in chapter heading and struck out item 9711 "Inquests".

**1990**—Pub. L. 101–510, div. A, title XV, §1533(a)(10)(B), Nov. 5, 1990, 104 Stat. 1735, struck out item 9713 "Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

**1980**—Pub. L. 96–513, title V, §514(20)(C), Dec. 12, 1980, 94 Stat. 2936, substituted "Soldiers' and Airmen's Home" for "Soldiers' Home" in item 9713.

## [§9711. Repealed. Pub. L. 106–65, div. A, title VII, §721(b), Oct. 5, 1999, 113 Stat. 694]

Section, Aug. 10, 1956, ch. 1041, 70A Stat. 584, related to inquests.

## §9712. Disposition of effects of deceased persons by summary court-martial

(a) Upon the death of—

(1) a person subject to military law at a place or command under the jurisdiction of the Air Force or the Space Force; or

(2) a resident of the Armed Forces Retirement Home who dies in an Air Force hospital outside the District of Columbia when sent from the Home to that hospital for treatment;

the commanding officer of the place or command shall permit the legal representative or the surviving spouse of the deceased, if present, to take possession of the effects of the deceased that are then at the air base or in quarters.

(b) If there is no legal representative or surviving spouse present, the commanding officer shall direct a summary court-martial to collect the effects of the deceased that are then at the air base or in quarters.

(c) The summary court-martial may collect debts due the decedent's estate by local debtors, pay undisputed local creditors of the deceased to the extent permitted by money of the deceased in the court's possession, and shall take receipts for those payments, to be filed with the court's final report to the Department of the Air Force.

(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

(1) The surviving spouse or legal representative.

(2) A child of the deceased.

(3) A parent of the deceased.

(4) A brother or sister of the deceased.

(5) The next-of-kin of the deceased.

(6) A beneficiary named in the will of the deceased.

(e) If the summary court-martial cannot dispose of the effects under subsection (d) because there are no persons in those categories or because the court finds that the addresses of the persons are not known or readily ascertainable, the court may convert the effects of the deceased, except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, into cash, by public or private sale, but not until 30 days after the date of death of the deceased.

(f) As soon as practicable after the effects have been converted into cash under subsection (e), the summary court-martial shall deposit all cash in the court's possession and belonging to the estate with the officer designated in regulations, and shall send a receipt therefor, together with any will or other papers of value, an inventory of the effects and articles not permitted to be sold, to the executive part of the Department of the Air Force. The Secretary of the Air Force shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Air Force under this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 585; Pub. L. 89–718, §48, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96–513, title V, §514(19), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 99–145, title XIII, §1301(d)(4)(A), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–510, div. A, title XV, §1533(a)(9), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 104–316, title II, §202(g), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 116–283, div. A, title IX, §923(e)(15), Jan. 1, 2021, 134 Stat. 3818.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9712(a) | 5:150j (words before 1st semicolon of 1st par.; and last par.). | June 4, 1920, ch. 227, subch. II, §1 (Art. 112), 41 Stat. 809; May 5, 1950, ch. 169, §6(c), 64 Stat. 145. |
| 9712(b) | 5:150j (22 words after 1st semicolon of 1st par.). | |
| 9712(c) | 5:150j (words between 1st and | |

| | | |
|---|---|---|
| | 2d semicolons of 1st par., less 1st 22 words). | |
| 9712(d) | 5:150j (words between 2d and 3d semicolons of 1st par.). | |
| 9712(e) | 5:150j (words between 3d and 4th semicolons of 1st par.). | |
| 9712(f) | 5:150j (1st par., less words before 4th semicolon, and less last 40 words). | |
| 9712(g) | 5:150j (last 40 words of 1st par.). | |

In subsection (a), the words "the court-martial jurisdiction of the Air Force or the Army at a place or command under the jurisdiction of the Air Force" are substituted for the words "military law", to reflect the creation of a separate Air Force. Clause (2) is substituted for 5:150j (last par.).

In subsections (a), (b), and (c), the words "surviving spouse" are substituted for the word "widow".

In subsection (c), the word "may" is substituted for the words "shall have authority to". The words "to the extent permitted" are substituted for the words "in so far as * * * will permit". The words "under this article" and "upon its transactions" are omitted as surplusage.

In subsection (d), the words "through the Quartermaster Corps" are omitted, since the Air Force does not have organic corps created by statute. The words "if such be found by said court" are omitted as surplusage. The words "United States" are substituted for the word "Government". 5:150j (19 words before 3d semicolon of 1st par.) is omitted as covered by subsection (g).

In subsection (e), the first 37 words are substituted for 5:150j (33 words after 3d semicolon of 1st par.). The word "may" is substituted for the word "shall have the authority".

In subsection (f), the words "Soldiers' Home" are inserted, since, as provided in section 9713 of this title, the Home is now the place where the mentioned articles are sent.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(1). Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".

**1996**—Subsec. (g). Pub. L. 104–316 struck out subsec. (g) which read as follows: "The summary court-martial shall make a full report of the transactions under this section, with respect to the deceased, to the Department of the Air Force for transmission to the General Accounting Office for action authorized in the settlement of accounts of deceased members of the Air Force."

**1990**—Subsec. (a)(2). Pub. L. 101–510, §1533(a)(9)(A), substituted "a resident of the Armed Forces Retirement Home" for "an inmate of the United States Soldiers' and Airmen's Home".

Subsec. (f). Pub. L. 101–510, §1533(a)(9)(B), struck out "for transmission to the United States Soldiers' and Airmen's Home" after "Department of the Air Force" and inserted at end "The Secretary of the Air Force shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Air Force under this subsection."

**1985**—Subsec. (d). Pub. L. 99–145 substituted pars. (1) to (6) for former pars. (1) to (9) which read as follows:

"(1) Surviving spouse or legal representative.

"(2) Son.

"(3) Daughter.

"(4) Father, if he has not abandoned the support of his family.

"(5) Mother.

"(6) Brother.

"(7) Sister.

"(8) Next of kin.

"(9) Beneficiary named in the will of the deceased."

**1980**—Subsecs. (a)(2), (f). Pub. L. 96–513 substituted "United States Soldiers' and Airmen's Home" for "Soldiers' Home".

**1966**—Subsec. (a)(1). Pub. L. 89–718 substituted "military law" for "the court-martial jurisdiction of the Air Force or the Army".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## [§9713. Repealed. Pub. L. 101–510, div. A, title XV, §1533(a)(10)(A), Nov. 5, 1990, 104 Stat. 1735]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 586; Dec. 12, 1980, Pub. L. 96–513, title V, §514(20)(A), (B), 94 Stat. 2936; Nov. 8, 1985, Pub. L. 99–145, title XIII, §1301(d)(4)(B), 99 Stat. 737; Nov. 29, 1989, Pub. L. 101–189, div. A, title XVI, §1621(a)(1), 103 Stat. 1602, related to disposition of effects of deceased persons by Soldiers' and Airmen's Home.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

# CHAPTER 977—TRANSPORTATION

Sec.
[9741 to 9748. Repealed.]

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 947 of this title as this chapter.

**2004**—Pub. L. 108–375, div. A, title X, §1072(d)(3), Oct. 28, 2004, 118 Stat. 2058, struck out items 9741 "Control and supervision", 9743 "Officers: use of transportation", and 9746 "Civilian personnel in Alaska".

**1996**—Pub. L. 104–201, div. A, title IX, §906(d)(3), Sept. 23, 1996, 110 Stat. 2620, struck out item 9742 "Control of transportation systems in time of war".

**1962**—Pub. L. 87–651, title I, §129(2), Sept. 7, 1962, 76 Stat. 514, struck out item 9748 "Motor vehicles: for members on permanent change of station".

## [§9741. Repealed. Pub. L. 108–375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 587, related to control and supervision of transportation of members, munitions of war, equipment, military property, and stores of the Air Force.

## [§9742. Repealed. Pub. L. 104–201, div. A, title IX, §906(c), Sept. 23, 1996, 110 Stat. 2620]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 587, authorized President, through Secretary of the Air Force, to assume control of any transportation system in time of war. See section 2644 of this title.

## [§9743. Repealed. Pub. L. 108–375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 587, related to use of transportation by officers of the Air Force.

## [§9746. Repealed. Pub. L. 108–375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 587; Pub. L. 98–443, §9(k), Oct. 4, 1984, 98 Stat. 1708, related to civilian personnel in Alaska.

## [§9748. Repealed. Pub. L. 87–651, title I, §129(1), Sept. 7, 1962, 76 Stat. 514]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 588, related to transportation of motor vehicles for members on permanent change of station.

# CHAPTER 979—REAL PROPERTY

Sec.
9771. Acceptance of donations: land for mobilization, training, supply base, aviation field, or space mission-related facility.
[9772. Repealed.]
9773. Acquisition and construction: installations and depots.
[9774, 9775. Repealed.]
9776. Emergency construction: fortifications.
9777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
9778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
9779. Use of public property.
9780. Acquisition of buildings in District of Columbia.
9781. Disposition of real property at missile sites.
9782. Maintenance and repair of real property.
9783. Johnston Atoll: reimbursement for support provided to civil air carriers.
9784. Air Force and Space Force Museum System.

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title III, §376, Dec. 18, 2025, 139 Stat. 840, added item 9784. Amendment was made pursuant to operation of section 102 of this title.

**2021**—Pub. L. 116–283, div. A, title IX, §923(e)(16)(C), (17)(C), Jan. 1, 2021, 134 Stat. 3818, 3819, added items 9771 and 9773 and struck out former items 9771 "Acceptance of donations: land for mobilization, training, supply base, or aviation field" and 9773 "Acquisition and construction: air bases and depots".

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 949 of this title as this chapter.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §383(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–86, added item 9783.

**1997**—Pub. L. 105–85, div. A, title II, §242(b), Nov. 18, 1997, 111 Stat. 1667, added item 9782.

**1987**—Pub. L. 100–180, div. B, subdiv. 3, title II, §2325(b), Dec. 4, 1987, 101 Stat. 1221, added item 9781.

**1982**—Pub. L. 97–214, §10(a)(9)(B), July 12, 1982, 96 Stat. 175, struck out item 9774 "Construction: limitations".

**1980**—Pub. L. 96–513, title V, §514(21), Dec. 12, 1980, 94 Stat. 2936, struck out item 9772 "Reservation

and use for air base or testing field".

**1973**—Pub. L. 93–166, title V, §509(e), Nov. 29, 1973, 87 Stat. 678, substituted "Construction: limitations" for "Construction of quarters: limitations on space and cost" in item 9774.

**1971**—Pub. L. 92–145, title V, §509(b), Oct. 27, 1971, 85 Stat. 408, struck out item 9775 "Quarters: officers".

**1958**—Pub. L. 85–861, §1(203)(B), Sept. 2, 1958, 72 Stat. 1542, added item 9780.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### ROCKET CARGO TEST AND DEMONSTRATION

Pub. L. 119–60, div. A, title XVI, §1605, Dec. 18, 2025, 139 Stat. 1176, provided that:

"(a) REQUIREMENT.—Except as provided by subsection (b), the Secretary of the Air Force shall use the test sites and ranges of the Department of Defense that exist as of the date of the enactment of this Act [Dec. 18, 2025] for any test or demonstrations required by the Rocket Cargo Program.

"(b) WAIVER.—The Secretary may waive the requirement in subsection (a) if—

"(1) the Secretary determines that none of the test sites and ranges of the Department of Defense that exist as of the date of the enactment of this Act meet the needs of the Rocket Cargo Program; and

"(2) not later than 30 days after the date of such determination, the Secretary notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] in writing of such determination and includes—

"(A) the requirements of the test or demonstration that cannot be met at an existing site or range;

"(B) the proposed alternative site chosen to conduct the test or demonstration;

"(C) the estimated cost to conduct the test or demonstration, including infrastructure improvement and equipment relocation costs, to use the alternative site; and

"(D) any departmental or interagency reviews or approvals that are required to be completed before the Secretary may use the alternative site."

### SUFFICIENT FIREFIGHTER PERSONNEL COVERED INSTALLATIONS

Pub. L. 118–159, div. A, title XI, §1110, Dec. 23, 2024, 138 Stat. 2089, provided that:

"(a) IN GENERAL.—The Secretary of Defense shall ensure that—

"(1) a sufficient number of firefighter personnel are on duty at each covered installation to maintain manning and service necessary to safeguard life and property at such covered installation; and

"(2) a risk assessment may not be used to limit the number of firefighter personnel at a covered installation.

"(b) COVERED INSTALLATION DEFINED.—In this section, the term 'covered installation' means a military installation under the jurisdiction of the Chief of Space Operations of the United States Space Force with a space launch facility."

### PILOT PROGRAM TO AUGMENT SUSTAINMENT WITH MAINTENANCE COST REIMBURSEMENTS FROM MAJOR RANGE AND TEST FACILITY BASE USERS AT INSTALLATIONS OF THE DEPARTMENT OF THE AIR FORCE

Pub. L. 117–81, div. B, title XXVIII, §2862, Dec. 27, 2021, 135 Stat. 2213, as amended by Pub. L. 118–31, div. B, title XXVIII, §2872, Dec. 22, 2023, 137 Stat. 776, which established a pilot program to augment sustainment with maintenance cost reimbursements from Major Range and Test Facility Base users at installations of the Department of the Air Force, was repealed by Pub. L. 119–60, div. B, title XXVIII, §2849, Dec. 18, 2025, 139 Stat. 1319.

## §9771. Acceptance of donations: land for mobilization, training, supply base, aviation field, or space mission-related facility

The Secretary of the Air Force may accept for the United States a gift of—

(1) land that he considers suitable and desirable for a permanent mobilization, training, or supply base; and

(2) land that he considers suitable and desirable for an aviation field or space mission-related facility, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 588; Pub. L. 116–283, div. A, title IX, §923(e)(16)(A), (B), Jan. 1, 2021, 134 Stat. 3818.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9771 | 10:1342.<br>10:1344. | Aug. 29, 1916, ch. 418 (6th and 8th pars. under "Office of the Chief Signal Officer"), 39 Stat. 622, 623. |

10:1344 (last 40 words) is omitted as executed. The words "tract or tracts", in 10:1342 and 1344, are omitted as surplusage. The words "and remount station", in 10:1342, are omitted, since the property and civilian personnel of the Remount Service of the Quartermaster Corps were transferred to the Department of Agriculture by the Act of April 21, 1948, ch. 224, 62 Stat. 197 (7 U.S.C. 436–438). The words "by the United States for any purpose" are substituted for the words "for any other service of the United States which may hereafter appear desirable", in 10:1342. The words "from any person", in 10:1344, are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283, §923(e)(16)(B), amended section catchline generally. Prior to amedment, catchline read as follows: "Acceptance of donations: land for mobilization, training, supply base, or aviation field".

Par. (2). Pub. L. 116–283, §923(e)(16)(A), inserted "or space mission-related facility" after "aviation field".

## [§9772. Repealed. Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 588, authorized unappropriated public land or other property of United States to be reserved or used for air bases or testing fields.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF REPEAL**

Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, provided that this section is repealed effective on and after Oct. 21, 1976.

**SAVINGS PROVISION**

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of Title 43, Public Lands.

## §9773. Acquisition and construction: installations and depots

(a) The Secretary of the Air Force shall determine the sites of such additional permanent Air Force and Space Force military installations and depots in all strategic areas of the United States and the Commonwealths, possessions, and holdings as he considers necessary. He shall determine when the enlargement of existing installations and depots is necessary for the effective peacetime training of the Air Force or the Space Force.

(b) In determining the sites of new installations and depots, the Secretary shall consider the following regions for the purposes indicated—

(1) the Atlantic northeast, for training in cold weather and in fog;

(2) the Atlantic southeast and Caribbean areas, for training in long-range operations, especially those incident to reinforcing the defenses of the Panama Canal;

(3) the southeastern United States, to provide a depot necessary to maintain the Air Force;

(4) the Pacific northwest, to establish and maintain air communication with Alaska;

(5) Alaska, for training under conditions of extreme cold;

(6) the Rocky Mountain area, to provide a depot necessary to maintain the Air Force, and for training in operations from fields in high altitudes; and

(7) other regions, for the establishment of intermediate installations to provide for transcontinental movements of the Air Force or Space Force for maneuvers.

(c) In selecting sites for installations and depots covered by this section and in determining the alteration or enlargement of existing installations or depots, the Secretary shall consider the need—

(1) to form the nucleus for concentration of Air Force or Space Force units in time of war;

(2) to permit, in time of peace, training and effective planning in each strategic area for the use and expansion of commercial, municipal, and private flying installations in time of war;

(3) to locate, in each strategic area in which it is considered necessary, adequate storage facilities for munitions and other articles necessary to facilitate the movement, concentration, maintenance, and operation of the Air Force or the Space Force; and

(4) to afford the maximum warning against surprise attack by enemy aircraft upon aviation of the United States and its necessary installations consistent with maintaining, in connection with existing or contemplated landing fields, the full power of the Air Force or the Space Force for operations necessary in the defense of the United States, and in the defense and reinforcement of the Commonwealths, possessions, and holdings.

(d) In carrying out this section, the Secretary, on behalf of the United States, may acquire title, in fee simple and free of encumbrance, to any land that he considers necessary—

(1) by accepting title without cost to the United States;

(2) by exchanging military reservations or parts thereof for that land, upon the written approval of the President; or

(3) by purchase or condemnation, if acquisition by gift or exchange is impracticable.

(e) The Secretary may, by purchase, gift, lease, or otherwise, acquire at desired locations bombing and machine gun ranges necessary for practice by, and the training of, tactical units.

(f) At each installation or depot established under this section, the Secretary shall remove or remodel existing structures as necessary; do necessary grading; and provide buildings, utilities, communication systems, landing fields and mats, roads, walks, aprons, docks, runways, facilities for the storage and distribution of ammunition, fuel, oil, necessary protection against bombs, and all appurtenances to the foregoing.

(g) The Secretary may direct the transportation of personnel, and the purchase, renovation, and transportation of material, that he considers necessary to carry out this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 588; Pub. L. 109–163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 116–283, div. A, title IX, §923(e)(17)(A), (B), Jan. 1, 2021, 134 Stat. 3818, 3819.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9773(a) | 10:1343a (1st sentence). | Aug. 12, 1935, ch. 511, §§1–3, 49 Stat. 610. |
| 9773(b) | 10:1343a (2d sentence). | |
| 9773(c) | 10:1343a (less 1st and 2d sentences). | |
| 9773(d) | 10:1343b. | |
| 9773(e) | 10:1343c (last sentence). | |
| 9773(f) | 10:1343c (1st sentence). | |
| 9773(g) | 10:1343c (2d sentence). | |

In subsection (a), the word "shall" is substituted for the words "is authorized and directed to". The words

"Territories, Commonwealths," are substituted for the word "Alaska" to make it clear that the section covers all territory of the United States. The words "Air Force" are substituted for the words "General Headquarters Air Force and the Air Corps components of our overseas garrisons".

In subsection (b), the words "to provide", "to permit", "in addition", and "incident to the concentration of" are omitted as surplusage.

In subsection (c), the introductory clause is substituted for 10:1343a (1st 41 words of 3d sentence). The words "to locate" are substituted for the words "there shall be provided". The words "aviation of the United States" are substituted for the words "our own aviation". The words, "Territories, Commonwealths," are inserted to conform to subsection (a). The words "The stations shall be suitably located", "of the set-up", "by responsible personnel", "there shall be provided", "General Headquarters", "in peace and war", "such close and distant * * * over land and sea", and "The stations and depots shall be located with a view", and 10:1343a (4th clause of 3d sentence) are omitted as surplusage.

In subsection (d), clause (3) is substituted for 10: 1343b (last 26 words). 10:1043b (24 words before 1st proviso) is omitted as surplusage.

In subsection (f), the word "shall" is substituted for the words "is further authorized and directed to". The word "provide" is substituted for the words "construct, install, and equip, or complete the construction, installation, and equipment". The words "technical buildings and utilities" are omitted as covered by the words "buildings" and "utilities". The words "sewer, water, power, station and aerodrome lighting" are omitted as covered by the word "utilities". The words "communication systems" are substituted for the words "telephone and signal communications". The words "appurtenances to the foregoing" are substituted for the words "other essentials".

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, §923(e)(17)(B), amended section catchline generally. Prior to amendment, catchline read as follows: "Acquisition and construction: air bases and depots".

Subsec. (a). Pub. L. 116–283, §923(e)(17)(A)(i), substituted "permanent Air Force and Space Force military installations" for "permanent air bases" and "existing installations" for "existing air bases", and inserted "or the Space Force" after "training of the Air Force".

Subsec. (b). Pub. L. 116–283, §923(e)(17)(A)(ii), substituted "installations" for "air bases" in introductory provisions.

Subsec. (b)(7). Pub. L. 116–283, §923(e)(17)(A)(ii), (iii), substituted "installations" for "air bases" and inserted "or Space Force" after "Air Force".

Subsec. (c). Pub. L. 116–283, §923(e)(17)(A)(ii), substituted "installations" for "air bases" in two places in introductory provisions.

Subsec. (c)(1). Pub. L. 116–283, §923(e)(17)(A)(iv)(I), inserted "or Space Force" after "Air Force".

Subsec. (c)(3), (4). Pub. L. 116–283, §923(e)(17)(A)(iv)(II), inserted "or the Space Force" after "the Air Force".

Subsec. (f). Pub. L. 116–283, §923(e)(17)(A)(v), substituted "installation" for "air base".

**2006**—Subsecs. (a), (c)(4). Pub. L. 109–163 struck out "Territories," before "Commonwealths, possessions,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PLAN AND REQUIREMENTS FOR FIELDING AIR BASE AIR DEFENSE SITES AT AIR FORCE INSTALLATIONS

Pub. L. 118–159, div. A, title I, §152, Dec. 23, 2024, 138 Stat. 1813, provided that:

"(a) PLAN REQUIRED.—The Secretary of the Air Force, in consultation with the Commander of the United States Northern Command, the Commander of United States European Command, and the Commander of United States Indo-Pacific Command, shall develop and implement a plan to support the fielding of air base air defense sites at Air Force installations and other priority sites identified by the Secretary.

"(b) AIR BASE AIR DEFENSE SITE REQUIREMENTS.—Each air base air defense site fielded under the plan required under subsection (a) shall have the following capabilities:

"(1) Expeditionary mobile protection for dispersed air bases.

"(2) Fixed protection for primary air bases.

"(3) Ground-based protection systems that incorporate kinetic and non-kinetic capabilities.
"(4) Counter-unmanned aircraft systems.
"(5) Counter-fixed and Counter-rotary wing aircraft capabilities.
"(6) Counter-cruise missile capabilities.
"(7) Interoperability with joint command and control networks.
"(8) 360-degree active and passive sensors.
"(9) Systems and software that enable reduced staffing.

"(c) FIELDING REQUIREMENT.—Pursuant to the plan developed under subsection (a), the Secretary shall—

"(1) by not later than September 30, 2027, field a total of not fewer than four air base air defense sites, of which not fewer than two such sites shall be located in the United States; and

"(2) in each of fiscal years 2028 through 2031, field at least four air base air defense sites per year, of which not fewer than two of the sites fielded each year shall be located in the United States.

"(d) REPORT.—Not later than March 1, 2025, the Secretary of the Air Force shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plan required under subsection (a)."

## [§9774. Repealed. Pub. L. 97–214, §7(1), July 12, 1982, 96 Stat. 173]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 590; Aug. 30, 1957, Pub. L. 85–241, title IV, §404(c), 71 Stat. 556; Aug. 10, 1959, Pub. L. 86–149, title IV, §410(c), 73 Stat. 322; July 27, 1962, Pub. L. 87–554, title V, §504(a), (c), 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, §503, 77 Stat. 325; Dec. 5, 1969, Pub. L. 91–142, title V, §510(b), 83 Stat. 312; Oct. 27, 1971, Pub. L. 92–145, title V, §508(a), (c), 85 Stat. 408; Nov. 29, 1973, Pub. L. 93–166, title V, §509(e), 87 Stat. 678, related to limitations on construction.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## [§9775. Repealed. Pub. L. 92–145, title V, §509(b), Oct. 27, 1971, 85 Stat. 408]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 590, authorized assignment of quarters belonging to United States at an air base or other Air Force installation to officers, grade lieutenant general down to second lieutenant, 10 to 2 rooms, respectively, and prohibited other assignment where quarters existed.

## §9776. Emergency construction: fortifications

If in an emergency the President considers it urgent, a temporary installation or fortification may be built on private land if the owner consents in writing.

(Aug. 10, 1956, ch. 1041, 70A Stat. 591; Pub. L. 91–393, §5, Sept. 1, 1970, 84 Stat. 835; Pub. L. 116–283, div. A, title IX, §923(e)(18), Jan. 1, 2021, 134 Stat. 3819.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9776 | 50:178. | Apr. 11, 1898, J. Res. 21, 30 Stat. 737. |

The word "important" is omitted as covered by the word "urgent". The words "upon which such work is to be placed" are omitted as surplusage.

### EDITORIAL NOTES

**AMENDMENTS**

**2021**—Pub. L. 116–283 substituted "installation" for "air base".
**1970**—Pub. L. 91–393 struck out "In such a case, section 175 of title 50 does not apply."

## §9777. Permits: military reservations; landing ferries, erecting bridges, driving livestock

Whenever the Secretary of the Air Force considers that it can be done without injury to the reservation or inconvenience to the military forces stationed there, he may permit—

(1) the landing of ferries at a military reservation;
(2) the erection of bridges on a military reservation; and
(3) the driving of livestock across a military reservation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 591.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9777 | 10:1348. | July 5, 1884, ch. 214, §6, 23 Stat. 104. |

The words "may permit" are substituted for the words "shall have authority, in his discretion, to permit". The words "to permit the extension of State, county, and Territorial roads across military reservations" are omitted as superseded by section 2668 of this title. In clause (3), the word "livestock" is substituted for the words "cattle, sheep or other stock animals".

## §9778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association

Under such conditions as he may prescribe, the Secretary of the Air Force may issue a revocable license to the International Committee of Young Men's Christian Associations of North America to erect and maintain, on military reservations within the United States and the Commonwealths and possessions, buildings needed by that organization for the promotion of the social, physical, intellectual, and moral welfare of the members of the Air Force on those reservations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 591; Pub. L. 109–163, div. A, title X, §1057(a)(6), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9778 | 10:1346. | May 31, 1902, ch. 943, 32 Stat. 282. |

The words "may issue" are substituted for the words "Authority is given to * * * in his discretion, to grant permission". The words "Under such conditions as he may prescribe" are substituted for the words "under such regulations as the Secretary of the Army may impose". The words "members of the Air Force" are substituted for the word "garrisons". The words "the Territories, Commonwealths, and possessions" are substituted for the words "or its island possessions", for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163 substituted "Commonwealths and possessions" for "Territories, Commonwealths, and possessions".

## §9779. Use of public property

(a) When the economy of the Air Force or the Space Force so requires, the Secretary of the Air Force shall establish military headquarters in places where suitable buildings are owned by the United States.

(b) No money appropriated for the support of the Air Force or the Space Force may be spent for base gardens or Air Force exchanges. However, this does not prevent Air Force exchanges from using public buildings or public transportation that, in the opinion of the Secretary, are not needed for other purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 591; Pub. L. 99–661, div. B, title VII, §2721, Nov. 14, 1986, 100 Stat. 4042; Pub. L. 116–283, div. A, title IX, §923(e)(19), Jan. 1, 2021, 134 Stat. 3819.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9779(a) | 10:1332. | June 23, 1879, ch. 35, §8, 21 Stat. 35. |
| 9779(b) | 10:1345. | |
| 9779(c) | 10:1335. | Aug. 1, 1914, ch. 223 (2d par. under "Quartermaster Corps"), 38 Stat. 629.<br>July 16, 1892, ch. 195 (last proviso under "Quartermaster's Department"), 27 Stat. 178; June 28, 1950, ch. 383, §402(c), 64 Stat. 272. |

In subsection (a), the words "United States" are substituted for the word "Government".

In subsection (b), the words "suitable space" are substituted for the words "proper and suitable room or rooms". The words "there is a" are substituted for the words "have been established".

In subsection (c), the words "the Secretary" are substituted for the words "the Quartermaster General", since the functions which, for the Army, are assigned by statute to subordinate officers of the Army, are, for the Air Force, assigned to the Secretary.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 116–283, §923(e)(19)(A), inserted "or the Space Force" after "economy of the Air Force".

Subsec. (b). Pub. L. 116–283, §923(e)(19)(B), inserted "or the Space Force" after "support of the Air Force".

**1986**—Subsecs. (b), (c). Pub. L. 99–661 redesignated subsec. (c) as (b) and struck out former subsec. (b) which directed the Secretary to assign suitable space for postal purposes at each air base where there was a post office.

## §9780. Acquisition of buildings in District of Columbia

(a) In time of war or when war is imminent, the Secretary of the Air Force may acquire by lease any building, or part of a building, in the District of Columbia that may be needed for military purposes.

(b) At any time, the Secretary may, for the purposes of the Department of the Air Force, requisition the use and take possession of any building or space in any building, and its appurtenances, in the District of Columbia, other than—

(1) a dwelling house occupied as such;

(2) a building occupied by any other agency of the United States; or

(3) space in such a dwelling house or building.

The Secretary shall determine, and pay out of funds appropriated for the payment of rent by the Department of the Air Force, just compensation for that use. If the amount of the compensation is not satisfactory to the person entitled to it, the Secretary shall pay 75 percent of it to that person, and the claimant is entitled to recover by action against the United States an additional amount that, when added to the amount paid by the Secretary, is determined by the court to be just compensation for that use.

(Added Pub. L. 85–861, §1(203)(A), Sept. 2, 1958, 72 Stat. 1542.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9780(a) | 40:37. | July 9, 1918, ch. 143 (3d proviso under "Barracks and Quarters"), 40 Stat. 861. |
| 9780(b) | 40:41. | July 8, 1918, ch. 139 (2d par. under "War Department"), 40 Stat. 826. |

In subsection (a), the words "may acquire by lease" are substituted for the words "is authorized, in his discretion, to rent or lease". The word "needed" is substituted for the word "required".

In subsection (b), the words "At any time" are inserted for clarity. The word "may" is substituted for the words "is authorized". The word "agency" is substituted for the word "branch". Clause (3) is inserted for clarity. The word "determine" is substituted for the word "ascertain". The words "out of funds appropriated for the payment of rent by" are substituted for the words "within the limits of the appropriations for rent made by any act making appropriations for". The word "is" is substituted for the word "be". The words "so ascertained" and "in the manner provided by sections 41(20) and 250 of Title 28" are omitted as surplusage, since those sections were repealed in 1948 and replaced by sections 1346, 1491, 1496, 1501, 1503, 2401, 2402, and 2501 of that title.

## §9781. Disposition of real property at missile sites

(a)(1) The Administrator of General Services shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Department of the Air Force that—

(A) is not required for the needs of the Department of the Air Force and the discharge of the responsibilities of the Department of the Air Force, as determined by the Secretary of the Air Force;

(B) does not exceed 25 acres;

(C) was used by the Department of the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

(D) is surrounded by lands that are adjacent to such tract and that—

(i) are owned in fee simple by one owner, either individually or by more than one person jointly, in common, or by the entirety; or

(ii) are owned separately by two or more owners.

(b)(1)(A) Whenever the interest of the United States in a tract of real property or easement referred to in subsection (a) is available for disposition under this section, the Administrator shall transmit a notice of the availability of the real property or easement to each person described in subsection (a)(2)(D)(i) who owns lands adjacent to that real property or easement.

(B) The Administrator shall convey, for fair market value, the interest of the United States in a tract of land referred to in subsection (a), or in any easement in connection with such a tract of land, to any person or persons described in subsection (a)(2)(D)(i) who, with respect to such land, are

ready, willing, and able to purchase such interest for the fair market value of such interest.

(2)(A) In the case of a tract of real property referred to in subsection (a) that is surrounded by adjacent lands that are owned separately by two or more owners, the Administrator shall dispose of that tract of real property in accordance with this paragraph. In disposing of the real property, the Administrator shall satisfy the requirements specified in paragraph (1) regarding notice to owners, sale at fair market value, and the determination of the qualifications of the purchaser.

(B) The Administrator shall dispose of such a tract of real property through a sealed bid competitive sale. The Administrator shall afford an opportunity to compete to acquire the interest of the United States in the real property to all of the persons described in subsection (a)(2)(D)(ii) who own lands adjacent to that real property. The Administrator shall restrict to these persons the opportunity to compete in the sealed bid competitive sale.

(C) Subject to subparagraph (D), the Administrator shall convey the interest of the United States in the tract of real property to the highest bidder.

(D) If all of the bids received by the Administrator in the sealed bid competitive sale of the tract of real property are less than the fair market value of the real property, the Administrator shall dispose of the real property in accordance with the provisions of chapter 5 of title 40.

(c) The Administrator shall determine the fair market value of the interest of the United States to be conveyed under this section.

(d) The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under chapter 5 of title 40 before disposing of such tract shall not be applicable to the disposition of such tract under this section.

(e) The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary of the Air Force with respect to such tract, and (2) such additional terms and conditions as the Administrator considers necessary or appropriate to protect the interests of the United States.

(f) The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Administrator. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

(g) If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Added Pub. L. 100–180, div. B, subdiv. 3, title II, §2325(a), Dec. 4, 1987, 101 Stat. 1220; amended Pub. L. 103–160, div. B, title XXVIII, §2851, Nov. 30, 1993, 107 Stat. 1906; Pub. L. 107–217, §3(b)(40), Aug. 21, 2002, 116 Stat. 1298; Pub. L. 108–178, §4(b)(7), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 111–350, §5(b)(55), Jan. 4, 2011, 124 Stat. 3847; Pub. L. 116–283, div. A, title IX, §923(e)(20), Jan. 1, 2021, 134 Stat. 3819.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a)(2). Pub. L. 116–283, §923(e)(20)(A), substituted "Department of the Air Force" for "Air Force" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 116–283, §923(e)(20)(B), substituted "Department of the Air Force" for "Air Force" the first two places appearing.

Subsec. (a)(2)(C). Pub. L. 116–283, §923(e)(20)(C), substituted "Department of the Air Force" for "Air Force".

**2011**—Subsec. (g). Pub. L. 111–350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)".

**2003**—Subsec. (g). Pub. L. 108–178 substituted "title III of the Federal Property and Administrative Services Act of 1949" for "subtitle III of the Federal Property and Administrative Services Act of 1949" and made technical correction to reference to (41 U.S.C. 251 et seq.).

**2002**—Subsec. (b)(2)(D). Pub. L. 107–217, §3(b)(40)(A), substituted "chapter 5 of title 40" for "title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)".

Subsec. (d). Pub. L. 107–217, §3(b)(40)(B), substituted "chapter 5 of title 40" for "title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)".

Subsec. (g). Pub. L. 107–217, §3(b)(40)(C), inserted "subtitle I of title 40 and subtitle III of" before "the Federal Property and Administrative Services Act of 1949" and "(41 U.S.C. 251 et seq.)" at end.

**1993**—Subsec. (a)(1). Pub. L. 103–160, §2851(a)(1), substituted "Administrator of General Services" for "Secretary of the Air Force".

Subsec. (a)(2)(D). Pub. L. 103–160, §2851(b), added subpar. (D) and struck out former subpar. (D) which read as follows: "is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety."

Subsec. (b). Pub. L. 103–160, §2851(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person."

Subsec. (c). Pub. L. 103–160, §2851(a)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 103–160, §2851(a)(3), substituted "Secretary of the Air Force with respect to such tract, and (2) such additional terms and conditions as the Administrator" for "Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary".

Subsec. (f). Pub. L. 103–160, §2851(a)(4), substituted "Administrator" for "Secretary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## §9782. Maintenance and repair of real property

(a) ALLOCATION OF FUNDS.—The Secretary of the Air Force shall allocate funds authorized to be appropriated by a provision described in subsection (c) and a provision described in subsection (d) for maintenance and repair of real property at military installations of the Department of the Air Force without regard to whether the installation is supported with funds authorized by a provision described in subsection (c) or (d).

(b) MIXING OF FUNDS PROHIBITED ON INDIVIDUAL PROJECTS.—The Secretary of the Air Force may not combine funds authorized to be appropriated by a provision described in subsection (c) and funds authorized to be appropriated by a provision described in subsection (d) for an individual project for maintenance and repair of real property at a military installation of the Department of the Air Force.

(c) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS.—The provision described in this subsection is a provision of a national defense authorization Act that authorizes funds to be appropriated for a fiscal year to the Air Force or the Space Force for research, development, test, and evaluation.

(d) OPERATION AND MAINTENANCE FUNDS.—The provision described in this subsection is a provision of a national defense authorization Act that authorizes funds to be appropriated for a fiscal year to the Air Force or the Space Force for operation and maintenance.

(Added Pub. L. 105–85, div. A, title II, §242(a), Nov. 18, 1997, 111 Stat. 1666; amended Pub. L. 116–283, div. A, title IX, §923(e)(21), Jan. 1, 2021, 134 Stat. 3819.)

### EDITORIAL NOTES

**AMENDMENTS**

**2021**—Subsecs. (c), (d). Pub. L. 116–283 inserted "or the Space Force" after "the Air Force".

## §9783. Johnston Atoll: reimbursement for support provided to civil air carriers

(a) AUTHORITY OF THE SECRETARY.—The Secretary of the Air Force may, under regulations prescribed by the Secretary, require payment by a civil air carrier for support provided by the United States to the carrier at Johnston Atoll that is either—

(1) requested by the civil air carrier; or

(2) determined under the regulations as being necessary to accommodate the civil air carrier's use of Johnston Atoll.

(b) AMOUNT OF CHARGES.—Any amount charged an air carrier under subsection (a) for support shall be equal to the total amount of the actual costs to the United States of providing the support. The amount charged may not include any amount for an item of support that does not satisfy a condition described in paragraph (1) or (2) of subsection (a).

(c) RELATIONSHIP TO LANDING FEES.—No landing fee shall be charged an air carrier for a landing of an aircraft of the air carrier at Johnston Atoll if the air carrier is charged under subsection (a) for support provided to the air carrier.

(d) DISPOSITION OF PAYMENTS.—(1) Amounts collected from an air carrier under this section shall be credited to appropriations available for the fiscal year in which collected, as follows:

(A) For support provided by the Air Force, to appropriations available for the Air Force for operation and maintenance.

(B) For support provided by the Army, to appropriations available for the Army for chemical demilitarization.

(2) Amounts credited to an appropriation under paragraph (1) shall be merged with funds in that appropriation and shall be available, without further appropriation, for the purposes and period for which the appropriation is available.

(e) DEFINITIONS.—In this section:

(1) The term "civil air carrier" means an air carrier (as defined in section 40102(a)(2) of title 49) that is issued a certificate of public convenience and necessity under section 41102 of such title.

(2) The term "support" includes fuel, fire rescue, use of facilities, improvements necessary to accommodate use by civil air carriers, police, safety, housing, food, air traffic control, suspension of military operations on the island (including operations at the Johnston Atoll Chemical Agent Demilitarization System), repairs, and any other construction, services, or supplies.

(Added Pub. L. 106–398, §1 [[div. A], title III, §383(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–86; amended Pub. L. 107–107, div. A, title X, §1048(a)(30), Dec. 28, 2001, 115 Stat. 1225.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Subsec. (e)(1). Pub. L. 107–107 substituted "40102(a)(2)" for "40101(a)(2)".

## §9784. Air Force and Space Force Museum System

(a) IN GENERAL.—The Secretary of the Air Force shall support a system of official Air Force and Space Force museums within the Department of the Air Force. Such system shall include the National Museum of the United States Air Force and may contain other museums honoring individual installations, units, and branches, as designated by the Secretary of the Air Force, that meet criteria established under subsection (b).

(b) CRITERIA FOR DESIGNATION.—The Secretary of the Air Force shall establish criteria for

designating museums of subsection (a) for inclusion in the Air Force and Space Force museum system. Such criteria shall include—

(1) historical significance to Air Force and Space Force operations, technology, or personnel;

(2) public accessibility and educational outreach programs; and

(3) alignment with the mission of the Air Force and Space Force to preserve the heritage of the Air Force and Space Force.

(c) CRITERIA FOR CLOSURE.—The Secretary of the Air Force shall establish criteria for the closure of museums within the Air Force and Space Force museum system. No museum within such system may be closed until—

(1) the Secretary of the Air Force submits to the Committees on Armed Services of the House of Representatives and the Senate notice that includes—

(A) a plan for the preservation, storage, or alternate display of historical collections contained in the museum;

(B) how any issues relating to museum personnel will be resolved;

(C) an identification of any efforts to maintain museum operations through public-private partnerships; and

(D) an analysis of the cost to transport, consolidate, and preserve the historical collections contained in the museum; and

(2) a period of 90 days has elapsed after the date on which such notice is received by such committees.

(d) FUNDING AND SUPPORT.—Consistent with applicable law, the Secretary may enter into partnerships, including with nonprofit organizations, to enhance the financial sustainability and public engagement of the museums in the Air Force and Space Force museum system.

(Added Pub. L. 119–60, div. A, title III, §376, Dec. 18, 2025, 139 Stat. 840.)

# CHAPTER 981—MILITARY CLAIMS

Sec.
9801. Definition.
9802. Admiralty claims against the United States.
9803. Admiralty claims by United States.
9804. Salvage claims by United States.
[9805. Repealed.]
9806. Settlement or compromise: final and conclusive.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 951 of this title as this chapter.

**1972**—Pub. L. 92–417, §1(7), Aug. 29, 1972, 86 Stat. 655, substituted "Admiralty claims against the United States" for "Damage by United States vessels; towage and salvage of United States vessels" in item 9802.

**1960**—Pub. L. 86–533, §1(7)(B), June 29, 1960, 74 Stat. 247, struck out item 9805 "Reports to Congress".

## §9801. Definition

In this chapter, the term "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 591; Pub. L. 100–180, div. A, title XII, §1231(19)(B), Dec. 4,

1987, 101 Stat. 1161.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9801 | [No source]. | [No source]. |

The revised section is inserted for clarity, and is based on usage in the source laws for this revised chapter.

**EDITORIAL NOTES**

**AMENDMENTS**

**1987**—Pub. L. 100–180 inserted "the term" after "In this chapter,".

## §9802. Admiralty claims against the United States

(a) The Secretary of the Air Force may settle or compromise an admiralty claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Air Force or by other property under the jurisdiction of the Department of the Air Force;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force or to other property under the jurisdiction of the Department of the Air Force; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.

(b) If a claim under subsection (a) is settled or compromised for $500,000 or less, the Secretary of the Air Force may pay it. If it is settled or compromised for more than $500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $100,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person in the Department of the Air Force designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 592; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 92–417, §1(6), Aug. 29, 1972, 86 Stat. 655; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9802(a) | 10:1861 (less 35 words before 1st proviso, and less last proviso). | Oct. 20, 1951, ch. 524, §§1 (less 35 words before 1st proviso), 6 (as applicable to §1), 65 Stat. 572, 573. |
| 9802(b) | 10:1861 (last proviso). | |
| 9802(c) | 10:1866 (as applicable to 10:1861). | |

In subsection (a), the words "consider, ascertain, adjust, determine, compromise" are omitted as covered by the word "settle", as defined in section 9801 of this title. 10:1861 (1st proviso) is omitted as unnecessary, since other applicable claims laws are restated in this title. 10:1861 (2d proviso) is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".

**1972**—Subsec. (a). Pub. L. 92–417 substituted "Admiralty claims against the United States" for "Damage by United States vessels, towage and salvage of United States vessels" in section catchline, in text preceding par. (1), struck out requirement that the Secretary of the Air Force discharge his functions under the direction of the Secretary of Defense, in par. (1), inserted "or by other property under the jurisdiction of the Department of the Air Force", in par. (2), inserted "or to other property under the jurisdiction of the Department of the Air Force", and added par. (3).

**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

## §9803. Admiralty claims by United States

(a) Under the direction of the Secretary of Defense, the Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Air Force or property for which the Department has assumed an obligation to respond for damage, if—

(1) the claim is—

(A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or

(B) for damage caused by a vessel or floating object; and

(2) the amount to be received by the United States is not more than $500,000.

(b) In exchange for payment of an amount found to be due the United States under subsection (a), the Secretary of the Air Force may execute a release of the claim on behalf of the United States. Amounts received under this section shall be covered into the Treasury.

(c) In any case where the amount to be received by the United States is not more than $100,000, the Secretary of the Air Force may delegate his authority under subsections (a) and (b) to any person in the Department of the Air Force designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 592; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9803(a) | 10:1862 (1st sentence; 2d sentence, less last 32 words; and provisos of last sentence). | Oct. 20, 1951, ch. 524, §§2 (less last 32 words of 2d sentence), 6 (less applicability to §1), 65 Stat. 572, 573. |
| 9803(b) | 10:1862 (3d sentence; and last sentence, less provisos). | |
| 9803(c) | 10:1866 (less applicability to 10:1861). | |

In subsection (a), the words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 9801 of this title. The words "receive payment" are substituted for 10:1862 (2d sentence, less last 32 words). The words "of a kind that is within the admiralty jurisdiction" are substituted for the words "cognizable in admiralty". Clause (2) is substituted for 10:1862 (last proviso of last sentence). 10:1862 (1st proviso of last sentence) is omitted as unnecessary, since other applicable claims laws are restated in this title. The words "by contract or otherwise" are omitted as surplusage.

In subsection (b), the words "of the United States as miscellaneous receipts" and "to deliver" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1989**—Subsec. (c). Pub. L. 101–189 substituted "$100,000" for "$10,000".
**1965**—Subsec. (c). Pub. L. 89–67 substituted "$10,000" for "$1,000".

## §9804. Salvage claims by United States

(a) The Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Air Force. Amounts received under this section shall be covered into the Treasury.

(b) In any case where the amount to be received by the United States is not more than $10,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 592; Pub. L. 92–417, §1(8), Aug. 29, 1972, 86 Stat. 655.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9804 | 10:1863. | Oct. 20, 1951, ch. 524, §3, 65 Stat. 573. |

The words "under this section" are substituted for the words "for salvage services rendered". The words "consider, ascertain, adjust, determine" are omitted as covered by the word "settle", as defined in section 9801 of this title. The words "and receive payment of" are inserted for clarity and to conform to section 9803 of this title. The words "as miscellaneous receipts" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1972**—Pub. L. 92–417 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, eliminated the requirement that the Secretary of the Air Force discharge his functions under the direction of the Secretary of Defense, and added subsec. (b).

## [§9805. Repealed. Pub. L. 86–533, §1(7)(A), June 29, 1960, 74 Stat. 246]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 592, related to reports to Congress with respect to claims under sections 9802, 9803, and 9804 of this title.

## §9806. Settlement or compromise: final and conclusive

Notwithstanding any other provision of law, upon acceptance of payment the settlement or compromise of a claim under section 9802 or 9803 of this title is final and conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 593.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9806 | 10:861 (35 words before 1st proviso).<br>10:862 (last 32 words of 2d sentence). | Oct. 20, 1951, ch. 524, §§1 (35 words before 1st proviso), 2 (last 32 words of 2d sentence), 65 Stat. 572, 573. |

The words "for all purposes" and "to the contrary", in 10:1861 and 1862; "by the claimant and not until then", in 10:1861; and "but not until then", in 10:1862; are omitted as surplusage.

# CHAPTER 983—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
9831. Custody of departmental records and property.
[9832, 9833, 9835, 9836. Repealed.]
9837. Settlement of accounts: remission or cancellation of indebtedness of members.
9838. Settlement of accounts: affidavit of squadron commander.
9839. Settlement of accounts: oaths.
9840. Final settlement of officer's accounts.
9841. Payment of small amounts to public creditors.
9842. Settlement of accounts of line officers.

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232, div. A, title VIII, §806(d)(1), Aug. 13, 2018, 132 Stat. 1833, redesignated chapter 953 of this title as this chapter.

**2008**—Pub. L. 110–181, div. A, title III, §375(c)(2)(B), Jan. 28, 2008, 122 Stat. 84, struck out items 9832 "Property accountability: regulations" and 9836 "Individual equipment: unauthorized disposition".

**2006**—Pub. L. 109–163, div. A, title VI, §683(c)(2), (3), Jan. 6, 2006, 119 Stat. 3324, struck out "enlisted" before "members" in item 9837.

**2002**—Pub. L. 107–314, div. A, title X, §1006(c)(2), Dec. 2, 2002, 116 Stat. 2633, struck out item 9835 "Reports of survey".

**1982**—Pub. L. 97–258, §2(b)(14)(A), Sept. 13, 1982, 96 Stat. 1058, added items 9841 and 9842.

**1980**—Pub. L. 96–513, title V, §514(22)(C), Dec. 12, 1980, 94 Stat. 2937, substituted "remission or cancellation of indebtedness of enlisted members" for "deductions from pay" in item 9837.

**1962**—Pub. L. 87–480, §1(5), June 8, 1962, 76 Stat. 94, struck out item 9833 "Accountability for public money; disbursing officers; agent officers".

## §9831. Custody of departmental records and property

The Secretary of the Air Force has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Air Force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 593.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9831 | 5:191. | R.S. 217. |

The words "under the lawful control of the executive part of the Department of the Air Force" are substituted for the words "appertaining to the Department".

## [§9832. Repealed. Pub. L. 110–181, div. A, title III, §375(c)(1)(C), Jan. 28, 2008, 122 Stat. 84]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 593, authorized Secretary of the Air Force to prescribe regulations for property accountability.

## [§9833. Repealed. Pub. L. 87–480, §1(4), June 8, 1962, 76 Stat. 94]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 593, related to accountability of Air Force officers for public money. See section 2773 of this title.

## [§9835. Repealed. Pub. L. 107–314, div. A, title X, §1006(c)(1), Dec. 2, 2002, 116 Stat. 2633]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 593, related to action upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of or damage to property of the United States under the control of the Department of the Air Force.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of United States under control of Department of Defense occurring on or after effective date of regulations prescribed pursuant to section 2787 of this title, see section 1006(d) of Pub. L. 107–314, set out as an Effective Date note under section 2787 of this title.

## [§9836. Repealed. Pub. L. 110–181, div. A, title III, §375(c)(1)(D), Jan. 28, 2008, 122 Stat. 84]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 594, prohibited unauthorized disposition of individual equipment by enlisted members of the Air Force.

## §9837. Settlement of accounts: remission or cancellation of indebtedness of members

(a) IN GENERAL.—The Secretary of the Air Force may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Air Force or the Space Force, whether as a regular or a reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

(b) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

(c) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 594; Pub. L. 85–861, §33(a)(45), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 87–649, §14c(58), Sept. 7, 1962, 76 Stat. 502; Pub. L. 96–513, title V, §514(22)(A), (B), Dec. 12, 1980, 94 Stat. 2936; Pub. L. 109–163, div. A, title VI, §683(c)(1), Jan. 6, 2006, 119 Stat. 3323; Pub. L. 109–364, div. A, title VI, §673(c)(1), (2), (e)(3), Oct. 17, 2006, 120 Stat. 2271, 2272; Pub. L. 110–181, div. A, title X, §1063(c)(7)(C), Jan. 28, 2008, 122 Stat. 323; Pub. L. 114–328, div. A, title VI, §671(b)(3), Dec. 23, 2016, 130 Stat. 2173; Pub. L. 116–283, div. A, title IX, §923(e)(22), Jan. 1, 2021, 134 Stat. 3819.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9837(a) | 10:875. | R.S. 1300. |
| | 10:875b. | R.S. 1301. |
| 9837(b) | 10:875a (less 3d and last provisos). | May 22, 1928, ch. 676, 45 Stat. 698; June 26, 1934, ch. 751, 48 Stat. 1222. |
| 9837(c) | 10:875a (last proviso). | |
| 9837(d) | 10:875a (3d proviso). | |

| | | |
|---|---|---|
| 9837(e) | 10:871. | R.S. 1303. |
| 9837(f) | 10:872. | R.S. 1304. |
| 9837(g) | 10:875c. | R.S. 1299. |

In subsection (a), the words "sold to the member on credit under section 9621(a)(1) of this title" are substituted for the words "articles designated by the inspectors general of the Army, and sold to him on credit by officers of the Quartermaster Corps", in 10:875. The words "at cost prices" are omitted to reflect section 9623 of this title.

In subsection (b), the last sentence is substituted for 10:875a (1st and 2d provisos). The words "on current payrolls" are omitted as surplusage.

In subsection (c), the words "Subject to subsection (b)" are substituted for the words "in the proportions hereinbefore indicated".

In subsection (d), the words "If he considers it in the best interests of the United States" are substituted for the words "when in his opinion the interests of the Government are best served by such action". The words "before, or at the time of" are substituted for the words "either on * * * or prior thereto".

In subsection (e), the words "member" and "his" are substituted for the words "officer or soldier". The words "or implement" are omitted as surplusage.

In subsection (f), the words "or if an article of military supply with whose issue a commissioned officer is charged is damaged" are substituted for 10:872 (last sentence). The words "that he was not at fault" are substituted for the words "that said deficiency [such damage] was not occasioned by any fault on his part".

In subsection (g), the words "bought on credit under section 9621(a)(1) of this title" are substituted for the words "designated by the officers of the Inspector-General's Department of the Army and purchased on credit from commissaries of subsistence".

**1958 ACT**

The change [in subsec. (b)] reflects the opinion of the Judge Advocate General of the Air Force (June 10, 1957) that the term "rate of pay", as used in the source law for section 9837(b) (Act of May 22, 1928, ch. 676 (45 Stat. 698), as amended), included special pay and incentive pay.

The change [in subsec. (f)] reflects the opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense (July 19, 1957), that section 1304, Revised Statutes (formerly 10 U.S.C. 872), the source law for this section, applied to warrant officers as well as to commissioned officers.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283 inserted "or the Space Force" after "member of the Air Force".

**2016**—Subsec. (a). Pub. L. 114–328 substituted "as a member of the Air Force, whether as a regular or a reserve in active status" for "on active duty as a member of the Air Force".

**2008**—Subsec. (a). Pub. L. 110–181 made technical correction to directory language of Pub. L. 109–364, §673(c)(1). See 2006 Amendment note below.

**2006**—Pub. L. 109–163 amended section catchline and text generally. Prior to amendment, text read as follows: "If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge."

Subsec. (a). Pub. L. 109–364, §673(e)(3), substituted "The Secretary of the Air Force" for "If the Secretary considers it to be in the best interest of the United States, the Secretary" and inserted before period at end ", but only if the Secretary considers such action to be in the best interest of the United States".

Pub. L. 109–364, §673(c)(1), as amended by Pub. L. 110–181, substituted "of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the Air Force" for "of a member of the Air Force on active duty, or a member of a reserve component of the Air Force in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty".

Subsecs. (b) to (d). Pub. L. 109–364, §673(c)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period

beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release."

**1980**—Pub. L. 96–513 substituted "remission or cancellation of indebtedness of enlisted members" for "deductions from pay" in section catchline, and struck out designation "(d)" before "If he".

**1962**—Pub. L. 87–649 repealed subsecs. (a) to (c) and (e) to (g) which related to deductions from pay. See subsecs. (b) to (g) of section 1007 of Title 37, Pay and Allowances of the Uniformed Services.

**1958**—Subsec. (b). Pub. L. 85–861, §33(a)(45)(A), substituted "his pay for that month" for "his basic pay for that month".

Subsec. (f). Pub. L. 85–861, §33(a)(45)(B), substituted "an officer" for "a commissioned officer" in two places.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–328 effective Dec. 23, 2016, and applicable with respect to debt incurred on or after Oct. 7, 2001, see section 671(b)(5) of Pub. L. 114–328, set out as a note under section 4837 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(7)(C) is effective as of Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109–364, as enacted.

#### TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §683(c)(3), Jan. 6, 2006, 119 Stat. 3324, which provided for termination of amendments by Pub. L. 109–163, §683(c), amending this section and the analysis to this chapter, on Dec. 31, 2007, and restoration of provisions as in effect on the day before Jan. 6, 2006, was repealed by Pub. L. 109–364, div. A, title VI, §673(c)(3), Oct. 17, 2006, 120 Stat. 2272.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

#### EFFECTIVE DATE OF 1958 AMENDMENT

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

#### REGULATIONS

Secretary of Defense to prescribe regulations required for purposes of this section, as amended by Pub. L. 109–364, not later than Mar. 1, 2007, see section 673(d) of Pub. L. 109–364, set out as a note under section 4837 of this title.

## §9838. Settlement of accounts: affidavit of squadron commander

In the settlement of the accounts of the commanding officer of a squadron for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or squadron books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Air Force to be just and proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 595.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9838 | 10:1302. | R.S. 225 (less 1st sentence); added Feb. 27, 1877, ch. 69 (3d par.), 19 Stat. 241. |

The word "anything" is substituted for the words "any matter or circumstance". The words "properly used" are substituted for the words "legally used and appropriated". The words "of the case" are omitted as surplusage.

## §9839. Settlement of accounts: oaths

The Secretary of the Air Force may detail any employee of the Department of the Air Force to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

(Aug. 10, 1956, ch. 1041, 70A Stat. 595.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9839 | 10:1303. | R.S. 225 (1st sentence). |

The words "and other military supplies" are substituted for the words "camp and garrison equipage, quartermaster's stores, and ordnance" to conform to section 9838 of this title. The words "person to whom administered" are substituted for the words "parties taking them." The words "for the purpose of" are omitted as surplusage.

## §9840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Air Force or the Space Force who has been accountable or responsible for public property, the officer must obtain a certificate of nonindebtedness to the United States from each officer to whom the officer was accountable or responsible for property. The officer must also make an affidavit, certified by the officer's commanding officer to be correct, that the officer is not accountable or responsible for property to any other officer. An officer who has not been responsible for public property must make an affidavit of that fact, certified by the officer's commanding officer. Compliance with this section warrants the final payment of the officer concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 595; Pub. L. 116–283, div. A, title IX, §923(e)(23), Jan. 1, 2021, 134 Stat. 3819; Pub. L. 117–81, div. A, title X, §1081(a)(37), Dec. 27, 2021, 135 Stat. 1922.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9840 | 10:878. | Jan. 12, 1899, ch. 46, §2, 30 Stat. 784. |

The words "Before final payment upon discharge may be made" are substituted for the words "shall warrant their final payment". The words "at any time" are omitted as surplusage. The word "must" is substituted for the words "shall be required * * * to". The words "He must also make" are substituted for the words "accompanied by". The words "from each officer to whom he was accountable or responsible for property" are substituted for the words "from only such of the bureaus of the Department of the Army to which the property for which they were accountable or responsible pertains", since the Air Force does not have organic bureaus

created by statute. The words "that he is not accountable or responsible for property to any other officer" are substituted for the words "accompanied by the affidavits of officers, of nonaccountability, or nonresponsibility to other bureaus of the Department of the Army" for the same reason. The reference to certificates from the General Accounting Office is omitted as obsolete. The last sentence is substituted for 10:878 (last 18 words). The last proviso of section 2 of the Act of January 12, 1899, ch. 46, 30 Stat. 784, is not contained in 10:878. It is also omitted from the revised section, since it related to authority of mustering officers to administer oaths, and the general authority to administer oaths is now contained in section 936 of this title (article 136 of the Uniform Code of Military Justice).

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 117–81 substituted "The officer must" for "He must".

Pub. L. 116–283 inserted "or the Space Force" after "Air Force" and substituted "the officer" for "he" wherever appearing and "the officer's" for "his" in two places.

## §9841. Payment of small amounts to public creditors

When authorized by the Secretary of the Air Force, a disbursing official of Air Force or Space Force subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

(Added Pub. L. 97–258, §2(b)(14)(B), Sept. 13, 1982, 96 Stat. 1058; amended Pub. L. 116–283, div. A, title IX, §923(e)(24), Jan. 1, 2021, 134 Stat. 3820.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9841 | 31:493. | Mar. 2, 1907, ch. 2511 (proviso on p. 1166), 34 Stat. 1166. |

The words "Secretary of the Air Force" are substituted for "Secretary of War" because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 488, 676). For comparable provisions that apply to the Army, see the revision note for 10:4841.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or Space Force" after "official of Air Force".

## §9842. Settlement of accounts of line officers

The Comptroller General shall settle the account of a line officer of the Air Force or the Space Force for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.

(Added Pub. L. 97–258, §2(b)(14)(B), Sept. 13, 1982, 96 Stat. 1058; amended Pub. L. 116–283, div. A, title IX, §923(e)(25), Jan. 1, 2021, 134 Stat. 3820.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9842 | 31:44 (1st sentence). | June 10, 1921, ch. 18, §304 (1st par. 1st |

| | | |
|---|---|---|
| | | sentence), 42 Stat. 24. |
| | 31:95. | R.S. §278. |

The section is made applicable to the Air Force by section 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 502). For comparable provisions that apply to the Army, see the revision note for 10:4842.

**EDITORIAL NOTES**

**AMENDMENTS**

**2021**—Pub. L. 116–283 inserted "or the Space Force" after "Air Force".

# Subtitle E—Reserve Components

## PART I—ORGANIZATION AND ADMINISTRATION


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| **1003.** | **Reserve Components Generally** | **10101** |
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### EDITORIAL NOTES

### AMENDMENTS

**2023**—Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 245, added item for chapter 1413. Amendment was made pursuant to operation of section 102 of this title.

**2009**—Pub. L. 111–84, div. A, title X, §1073(a)(33), Oct. 28, 2009, 123 Stat. 2474, substituted "Reserve Active-Status List" for "Reserve-Active Status List" in item for chapter 1409.

**2004**—Pub. L. 108–375, div. A, title V, §527(c), Oct. 28, 2004, 118 Stat. 1894, added item for chapter 1607.

**1999**—Pub. L. 106–65, div. A, title V, §551(a)(2), Oct. 5, 1999, 113 Stat. 614, added item for chapter 1611.

**1997**—Pub. L. 105–85, div. A, title V, §515(b), Nov. 18, 1997, 111 Stat. 1733, substituted "12551" for "[No present sections]" in item for chapter 1215.

**1996**—Pub. L. 104–201, div. A, title XII, §1211(a)(2), Sept. 23, 1996, 110 Stat. 2691, added item for chapter 1006.

Pub. L. 104–106, div. A, title V, §512(a)(2), title XV, §1501(b)(1), Feb. 10, 1996, 110 Stat. 305, 495, added item for chapter 1214 and substituted "Repayment Programs" for "Repayments" in item for chapter 1609.

# PART I—ORGANIZATION AND ADMINISTRATION

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### EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–201, div. A, title XII, §1211(a)(2), Sept. 23, 1996, 110 Stat. 2691, added item for chapter 1006.

## CHAPTER 1001—DEFINITIONS

Sec.
10001. Definition of State.

## §10001. Definition of State

In this subtitle, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2969.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1501(f)(2), Feb. 10, 1996, 110 Stat. 501, as amended by Pub. L. 105–85, div. A, title X, §1073(d)(1)(E)(ii), Nov. 18, 1997, 111 Stat. 1905, provided that: "The amendments made by sections 1672(a), 1673(a) (with respect to chapters 541 and 549), 1673(b)(2), 1673(b)(4), 1674(a), and 1674(b)(7) of the Reserve Officer Personnel Management Act [Pub. L. 103–337, amending the tables of chapters for subtitle B, part II of subtitle B, subtitle C, part II of subtitle C, subtitle D, and part II of subtitle D of this title and the tables of sections for chapters 539, 573, and 861 of this title] shall take effect on the effective date specified in section 1691(b)(1) of the Reserve Officer Personnel Management Act [set out as a note below] (notwithstanding section 1691(a) of such Act [set out as a note below])."

### EFFECTIVE DATE

Pub. L. 103–337, div. A, title XVI, §1691, Oct. 5, 1994, 108 Stat. 3026, provided that:

"(a) EFFECTIVE DATE FOR AMENDMENTS.—Except as provided in subsection (b), the amendment made by section 1611 [enacting heading and analysis of this subtitle and enacting part III of this subtitle] and the amendments made by subtitles C and D [subtitles C (§§1661 to 1665) and D (§§1671 to 1677) of title XVI of div. A of Pub. L. 103–337, see Tables for classification] shall take effect on December 1, 1994.

"(b) EFFECTIVE DATE FOR NEW RESERVE OFFICER PERSONNEL POLICIES.—(1) The provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall become effective on October 1, 1996. The amendments made by part II [part II (§§1621 to 1630) of subtitle A of title XVI of div. A of Pub. L. 103–337, see Tables for classification], of subtitle A, by subtitle B [subtitle B (§§1631 to 1641) of title XVI of div. A of Pub. L. 103–337, see Tables for classification], and by section 1671(c)(2) [amending section 113 of this title] and paragraphs (2), (3)(B), (3)(C), and (4) of section 1675(d) [amending sections 12645 to 12647 of this title] shall take effect on October 1, 1996.

"(2) Any reference in subtitle E of this title to the effective date of this title is a reference to the effective date prescribed in paragraph (1).

"(3) The personnel policies applicable to Reserve officers under the provisions of law in effect on the day before the date prescribed in subsection (a) and replaced by the Reserve officer personnel policies prescribed in part III of subtitle E of title 10, United States Code, as added by section 1611, shall, notwithstanding the provisions of subsection (a), continue in effect until the effective date prescribed in paragraph (1).

"(4) The authority to prescribe regulations under the provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall take effect on the date of the enactment of this Act [Oct. 5, 1994]."

### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title XII, §1201, Sept. 23, 1996, 110 Stat. 2689, provided that: "This title [enacting chapter 1006 and sections 5143, 5144, and 10543 of this title, amending sections 113, 641, 3038, 8038, and 10216 of this title and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting provisions set out as notes under this section and sections 10171 and 10543 of this title, and repealing provisions set out as a note under section 3074 of this title] may be cited as the 'Reserve Forces Revitalization Act of 1996'."

### SHORT TITLE

Pub. L. 103–337, div. A, title XVI, §1601, Oct. 5, 1994, 108 Stat. 2921, provided that: "This title [see Tables for classification] may be cited as the 'Reserve Officer Personnel Management Act'."

### CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 104–201, div. A, title XII, §1202, Sept. 23, 1996, 110 Stat. 2689, provided that: "The purpose of this title [see Short Title of 1996 Amendment note above] is to revise the basic statutory authorities governing

the organization and administration of the reserve components of the Armed Forces in order to recognize the realities of reserve component partnership in the Total Force and to better prepare the American citizen-soldier, sailor, airman, and Marine in time of peace for duties in war."

**PRESERVATION OF SUSPENDED STATUS OF LAWS SUSPENDED ON SEPTEMBER 30, 1996**

Pub. L. 103–337, div. A, title XVI, §1692, Oct. 5, 1994, 108 Stat. 3027, provided that: "If a provision of law that is in a suspended status on the day before the effective date of this title under section 1691(b)(1) [set out above] is transferred or amended by this title [see Tables for classification], the suspended status of that provision is not affected by that transfer or amendment."

**PRESERVATION OF PRE-EXISTING RIGHTS, DUTIES, PENALTIES, AND PROCEEDINGS**

Pub. L. 103–337, div. A, title XVI, §1693, Oct. 5, 1994, 108 Stat. 3027, provided that: "Except as otherwise provided in this title [see Tables for classification], the provisions of this title and the amendments made by this title do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this title under section 1691(b)(1) [set out above]."

# CHAPTER 1003—RESERVE COMPONENTS GENERALLY

Sec.
10101. Reserve components named.
10102. Purpose of reserve components.
10102a. Deployment prioritization and readiness of Army components.
10103. Basic policy for order into Federal service.
10104. Army Reserve: composition.
10105. Army National Guard of the United States: composition.
10106. Army National Guard: when a component of the Army.
10107. Army National Guard of the United States: status when not in Federal service.
10108. Navy Reserve: administration.
10109. Marine Corps Reserve: administration.
10110. Air Force Reserve: composition.
10111. Air National Guard of the United States: composition.
10112. Air National Guard: when a component of the Air Force.
10113. Air National Guard of the United States: status when not in Federal service.
10114. Coast Guard Reserve.

**EDITORIAL NOTES**

**AMENDMENTS**

**2016**—Pub. L. 114–328, div. A, title III, §321(a)(2), Dec. 23, 2016, 130 Stat. 2075, added item 10102a.

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(E), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 10108.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(2)(B), Feb. 10, 1996, 110 Stat. 495, substituted "into Federal service" for "of National Guard into Federal service" in item 10103.

## §10101. Reserve components named

The reserve components of the armed forces are:

(1) The Army National Guard of the United States.
(2) The Army Reserve.
(3) The Navy Reserve.
(4) The Marine Corps Reserve.
(5) The Air National Guard of the United States.
(6) The Air Force Reserve.
(7) The Coast Guard Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970; amended Pub.

L. 109–163, div. A, title V, §515(b)(1)(Z), Jan. 6, 2006, 119 Stat. 3233.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 261(a) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2006**—Par. (3). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 109–163, div. A, title V, §515(a)(1), Jan. 6, 2006, 119 Stat. 3233, provided that: "The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve."

Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, as amended by Pub. L. 111–383, div. A, title X, §1075(h)(1), Jan. 7, 2011, 124 Stat. 4377, provided that: "Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve."

Pub. L. 108–375, div. A, title V, §517, Oct. 28, 2004, 118 Stat. 1884, which authorized the Secretary of the Navy, with the President's approval, to redesignate the Naval Reserve as the "Navy Reserve", was repealed by Pub. L. 109–163, div. A, title V, §515(a)(2), Jan. 6, 2006, 119 Stat. 3233.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### PILOT PROGRAM ON THE USE OF ROBOTIC TARGETS TO ENHANCE THE LETHALITY OF THE RESERVE COMPONENTS OF THE ARMY

Pub. L. 118–159, div. A, title I, §112, Dec. 23, 2024, 138 Stat. 1802, provided that:

"(a) ESTABLISHMENT.—The Secretary of the Army shall carry out a pilot program under which the Secretary incorporates the use of moving robotic target systems into live fire training provided to select infantry units of the reserve and National Guard components of the Army.

"(b) DESIGNATION.—The pilot program under subsection (a) shall be known as the 'Lethality and Warfighting Enhancement Program'.

"(c) LOCATIONS.—The Secretary of the Army shall select not fewer than three military installations at which to conduct the pilot program under subsection (a).

"(d) OBJECTIVES.—The objectives of the pilot program under subsection (a) shall be—

"(1) to increase the lethality of the combined fighting force of the Army by providing reserve component and National Guard infantry units with the opportunity to conduct realistic live fire training on state-of-the-art moving robotic target systems; and

"(2) to demonstrate the effect of such training on small arms proficiency and lethality in ground combat operations.

"(e) SELECTION OF PARTICIPATING UNITS.—The Secretary of the Army shall select infantry units of the reserve components of the Army to participate in the pilot program under subsection (a) taking into consideration—

"(1) the past performance of the unit;

"(2) the readiness status of the unit, with an emphasis on providing training to those units designated as preparing to deploy or at a similarly designated readiness status; and

"(3) the likelihood that a unit would be actively deployed or commanded to conduct decisive action.

"(f) COMMENCEMENT.—The Secretary of the Army shall commence the pilot program under subsection (a) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024].

"(g) TERMINATION.—The pilot program under subsection (a) shall terminate five years after the date of the enactment of this Act.

"(h) BRIEFINGS.—Not later than 90 days after concluding activities under the pilot program at a military installation selected under subsection (c), the Secretary of the Army shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing that includes a description of—

"(1) the manner in which the program was conducted at such installation; and

"(2) any results achieved under the program at such installation.

"(i) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—The Secretary of the Army is authorized to enter into one or more contracts for the procurement of moving robotic target systems for use in the pilot program under subsection (a).

"(2) REQUIRED CAPABILITIES.—Robotic target systems procured under paragraph (1) shall be capable of—

"(A) conducting multiple realistic offensive and defensive scenarios in a single training session that are consistent with combat operations;

"(B) operating in an unpredictable, realistic, and reactionary fashion;

"(C) objectively scoring trainee performance;

"(D) maneuvering across diverse geographic landscapes, including snow, ice, soft soils, extreme heat, extreme cold, wooded terrain and offroad areas;

"(E) operating at distances greater than 100 yards from the range operator;

"(F) surviving live fire from 6.8 mm rounds and the Next Generation Squad Weapon of the Army; and

"(G) fully functioning in all reasonably expected weather conditions."

## NOTICE TO CONGRESS BEFORE CERTAIN ACTIONS REGARDING UNITS OF CERTAIN RESERVE COMPONENTS

Pub. L. 117–263, div. A, title V, §518, Dec. 23, 2022, 136 Stat. 2567, provided that:

"(a) NOTICE REQUIRED; ELEMENTS.—The Secretary of a military department may not take any covered action regarding a covered unit until the day that is 60 days after the Secretary of a military department submits to Congress notice of such covered action. Such notice shall include the following elements:

"(1) An analysis of how the covered action would improve readiness.

"(2) A description of how the covered action would align with the National Defense Strategy and the supporting strategies of each military departments.

"(3) A description of any proposed organizational change associated with the covered action and how the covered action will affect the relationship of administrative, operational, or tactical control responsibilities of the covered unit.

"(4) The projected cost and any projected long-term cost savings of the covered action.

"(5) A detailed description of any requirements for new infrastructure or relocation of equipment and assets necessary for the covered action.

"(6) A description of how the covered activity will affect the ability of the covered Armed Force to accomplish its current mission.

"(b) APPLICABILITY.—This section shall apply to any step to perform covered action regarding a covered unit on or after the date of the enactment of this Act [Dec. 23, 2022].

"(c) DEFINITIONS.—In this section:

"(1) The term 'covered action' means any of the following:

"(A) To deactivate.

"(B) To reassign.

"(C) To move the home station.

"(2) The term 'covered Armed Force' means the following:

"(A) The Army.

"(B) The Navy.

"(C) The Marine Corps.

"(D) The Air Force.

"(E) The Space Force.

"(3) The term 'covered unit' means a unit of a reserve component of a covered Armed Force."

## DIRECT EMPLOYMENT PILOT PROGRAM FOR CERTAIN MEMBERS OF THE RESERVE COMPONENTS

Pub. L. 116–283, div. A, title V, §518, Jan. 1, 2021, 134 Stat. 3590, provided that:

"(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to enhance the efforts of the Department of Defense to provide job placement assistance and related employment services directly to members of the National Guard and Reserves in reserve active-status.

"(b) ADMINISTRATION.—Any such pilot program shall be offered to, and administered by, the adjutants general appointed under section 314 of title 32, United States Code, or other officials in the States concerned designated by the Secretary for purposes of the pilot program.

"(c) COST-SHARING REQUIREMENT.—As a condition on the provision of funds under this section to a State to support the operation of the pilot program in that State, the State must agree to contribute funds, derived from non-Federal sources, in an amount equal to at least 50 percent of the funds necessary for the operation of the pilot program in that State.

"(d) DEVELOPMENT.—In developing any such pilot program, the Secretary shall—

"(1) incorporate elements of State direct employment programs for members of the reserve components; and

"(2) use resources provided to members of the Armed Forces with civilian training opportunities through the SkillBridge transition training program administered by the Department of Defense.

"(e) DIRECT EMPLOYMENT PROGRAM MODEL.—Any such pilot program shall use a job placement program model that focuses on working one-on-one with eligible members to cost-effectively provide job placement services, including—

"(1) identifying unemployed and underemployed individuals;

"(2) job matching services;

"(3) resume editing;

"(4) interview preparation; and

"(5) post-employment follow up.

"(f) EVALUATION.—The Secretary shall develop outcome metrics to evaluate the success of any such pilot program.

"(g) REPORTING.—

"(1) REPORT REQUIRED.—If the Secretary carries out the pilot Program, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the results of the pilot program not later than March 1, 2022. The Secretary shall prepare the report in coordination with the Chief of the National Guard Bureau.

"(2) ELEMENTS.—A report under paragraph (1) shall include the following:

"(A) A description and assessment of the effectiveness and achievements of the pilot program, including the number of members of the reserve components of the Armed Forces hired and the cost-per-placement of participating members.

"(B) An assessment of the effects of the pilot program and increased reserve component employment on the readiness of members of the reserve components and on the retention of members.

"(C) A comparison of the pilot program to other programs conducted by the Department of Defense to provide unemployment or underemployment support to members of the reserve components of the Armed Forces, including the best practices developed through and used in such programs.

"(D) Any other matters the Secretary of Defense determines appropriate.

"(h) DURATION; EXTENSION.—

"(1) Subject to paragraph (2), the authority to carry out the pilot program expires on September 30, 2024.

"(2) The Secretary may elect to extend the pilot program for not more than two additional fiscal years."

## PILOT PROGRAM ON ENHANCEMENTS OF DEPARTMENT OF DEFENSE EFFORTS ON MENTAL HEALTH IN THE NATIONAL GUARD AND RESERVES THROUGH COMMUNITY PARTNERSHIPS

Pub. L. 112–239, div. A, title VII, §706, Jan. 2, 2013, 126 Stat. 1800, as amended by Pub. L. 113–66, div. A, title V, §511(b), Dec. 26, 2013, 127 Stat. 751, provided that:

"(a) PROGRAM AUTHORITY.—The Secretary of Defense may carry out a pilot program to enhance the efforts of the Department of Defense in research, treatment, education, and outreach on mental health, substance use disorders, traumatic brain injury, and suicide prevention in members of the National Guard and Reserves, their family members, and their caregivers through community partners.

"(b) AGREEMENTS WITH COMMUNITY PARTNERS.—In carrying out the pilot program authorized by subsection (a), the Secretary may enter into partnership agreements with community partners described in subsection (c) using a competitive and merit-based award process.

"(c) COMMUNITY PARTNER DESCRIBED.—A community partner described in this subsection is a private non-profit organization or institution that meets such qualifications as the Secretary shall establish for purposes of the pilot program and engages in one or more of the following:

"(1) Research on the causes, development, and innovative treatment of mental health and substance use disorders and traumatic brain injury in members of the National Guard and Reserves, their family members, and their caregivers.

"(2) Identifying and disseminating evidence-based treatments of mental health and substance use disorders and traumatic brain injury described in paragraph (1).

"(3) Outreach and education to such members, their families and caregivers, and the public about mental health, substance use disorders, traumatic brain injury, and suicide prevention.

"(d) DURATION.—The duration of the pilot program may not exceed three years.

"(e) REPORT.—Not later than 180 days before the completion of the pilot program, the Secretary of Defense shall submit to the Secretary of Veterans Affairs and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the pilot program, including the number of members of the National Guard and Reserves provided treatment or services by community partners, and a description and assessment of the effectiveness and achievements of the pilot program with respect to research, treatment, education, and outreach on mental health, substance use disorders, traumatic brain injury, and suicide prevention."

## BEHAVIORAL HEALTH SUPPORT

Pub. L. 112–81, div. A, title VII, §703(b), Dec. 31, 2011, 125 Stat. 1471, provided that:

"(1) IN GENERAL.—Each member of a reserve component of the Armed Forces participating in annual training or individual duty training shall have access, while so participating, to the behavioral health support programs for members of the reserve components described in paragraph (2).

"(2) BEHAVIORAL HEALTH SUPPORT PROGRAMS.—The behavioral health support programs for members of the reserve components described in this paragraph shall include one or any combination of the following:

"(A) Programs providing access to licensed mental health providers in armories, reserve centers, or other places for scheduled unit training assemblies.

"(B) Programs providing training on suicide prevention and post-suicide response.

"(C) Psychological health programs.

"(D) Such other programs as the Secretary of Defense, in consultation with the Surgeon General for the National Guard of the State in which the members concerned reside, the Director of Psychological Health of the State in which the members concerned reside, the Department of Mental Health or the equivalent agency of the State in which the members concerned reside, or the Director of the Psychological Health Program of the National Guard Bureau, considers appropriate.

"(3) FUNDING.—Behavioral health support programs provided to members of the reserve components under this subsection shall be provided using amounts made available for operation and maintenance for the reserve components.

"(4) STATE DEFINED.—In this subsection, the term 'State' has the meaning given that term in section 10001 of title 10, United States Code."

## LIMITATION ON SCHEDULING OF MOBILIZATION OR PRE-MOBILIZATION TRAINING FOR RESERVE UNITS WHEN CERTAIN SUSPENSION OF TRAINING IS LIKELY

Pub. L. 111–84, div. A, title V, §514, Oct. 28, 2009, 123 Stat. 2282, provided that:

"(a) LIMITATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of a military department shall avoid scheduling mobilization training or pre-mobilization training for a unit of a reserve component of the Armed Forces at a temporary duty location that is outside the normal commuting distance of the unit (as determined pursuant to the regulations prescribed by the Secretary of Defense under subsection (c)) if a suspension of training at such temporary duty location of at least five days is anticipated to occur during any portion of such mobilization or pre-mobilization training.

"(2) WAIVER.—The Secretary of a military department may waive the applicability of the limitation in paragraph (1) to a unit of a reserve component if the Secretary determines that the waiver is in the national security interests of the United States.

"(3) NOTICE TO CONGRESS.—Until December 31, 2014, the Secretary of the military department

concerned shall submit written notice of each waiver issued under paragraph (2) to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]. Notice of such waiver shall be so submitted at the time of the issuance of such waiver.

"(b) NOTICE OF OTHER SUSPENSIONS OF TRAINING.—Until December 31, 2014, in the event of a suspension of training (other than an anticipated suspension of training described in subsection (a)(1)) of at least five days at a temporary duty location at which one or more units of the reserve components on active duty are engaged in mobilization training or pre-mobilization training, the Secretary of the military department having jurisdiction over such unit or units shall submit written notice of the suspension to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]. Notice of such suspension of training shall be so submitted at the time of such suspension of training.

"(c) REGULATIONS.—The Secretaries of the military departments shall administer this section in accordance with regulations prescribed by the Secretary of Defense. Such regulations shall apply uniformly among the military departments."

## YELLOW RIBBON REINTEGRATION PROGRAM

Pub. L. 111–84, div. A, title V, §597(b), Oct. 28, 2009, 123 Stat. 2344, which related to annual reports on the Yellow Ribbon Reintegration Program, was repealed by Pub. L. 114–92, div. A, title X, §1072(d)(2), Nov. 25, 2015, 129 Stat. 995.

Pub. L. 110–181, div. A, title V, §582, Jan. 28, 2008, 122 Stat. 122, as amended by Pub. L. 111–84, div. A, title V, §595, Oct. 28, 2009, 123 Stat. 2338; Pub. L. 111–383, div. A, title V, §583, Jan. 7, 2011, 124 Stat. 4228; Pub. L. 112–81, div. A, title V, §590, Dec. 31, 2011, 125 Stat. 1438; Pub. L. 112–239, div. A, title V, §581(b), Jan. 2, 2013, 126 Stat. 1766; Pub. L. 114–92, div. A, title V, §551, title X, §1072(d)(1), Nov. 25, 2015, 129 Stat. 820, 995; Pub. L. 119–60, div. A, title V, §588, Dec. 18, 2025, 139 Stat. 893, provided that:

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a national reintegration program to provide eligible individuals with sufficient information, services, referral, and proactive outreach opportunities. This program shall be known as the Yellow Ribbon Reintegration Program.

"(b) PURPOSE OF PROGRAM.—The Yellow Ribbon Reintegration Program shall consist of informational events and activities (including programs of outreach) for eligible individuals and community members to facilitate access to services supporting their health and well-being.

"(c) EXECUTIVE AGENT.—The Secretary shall designate the Under Secretary of Defense for Personnel and Readiness as the Department of Defense executive agent for the Yellow Ribbon Reintegration Program.

"(d) OFFICE FOR REINTEGRATION PROGRAMS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Under Secretary of Defense for Personnel and Readiness shall establish the Office for Reintegration Programs within the Office of the Secretary of Defense. The office shall administer all reintegration programs in coordination with State National Guard organizations. The office shall be responsible for coordination with existing National Guard and Reserve family and support programs. The Directors of the Army National Guard and Air National Guard and the Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserve, and Air Force Reserve may appoint liaison officers to coordinate with the permanent office staff.

"(B) PARTNERSHIPS AND ACCESS.—The office may enter into partnerships with other public entities, including the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration and the Department of Veterans Affairs, for access to necessary substance abuse, mental health treatment, and other quality of life services from local State-licensed service providers. Service and State-based programs may provide access to curriculum, training, and support for services to members and families from all components.

"(2) CENTER FOR EXCELLENCE IN REINTEGRATION.—The Office for Reintegration Programs shall establish a Center for Excellence in Reintegration within the office. The Center shall have the following functions:

"(A) To collect and analyze 'lessons learned' and suggestions from State National Guard and Reserve organizations with existing or developing reintegration programs.

"(B) To assist in developing training aids and briefing materials and training representatives from State National Guard and Reserve organizations.

"(C) To develop and implement a process for evaluating the effectiveness of the Yellow Ribbon Reintegration Program in supporting the health and well-being of eligible individuals.

"(D) To develop and implement a process for identifying best practices in the delivery of information and services in programs of outreach as described in subsection (j).

"(3) GRANTS.—The Office for Reintegration Programs may make grants to conduct data collection, trend analysis, and curriculum development and to prepare reports in support of activities under this section.

"(e) ADVISORY BOARD.—

"(1) APPOINTMENT.—The Secretary of Defense shall appoint an advisory board to analyze the Yellow Ribbon Reintegration Program and report on areas of success and areas for necessary improvements. The advisory board shall include the Director of the Army National Guard, the Director of the Air National Guard, Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserve, and Air Force Reserve, the Assistant Secretary of Defense for Reserve Affairs [now Assistant Secretary of Defense for Manpower and Reserve Affairs], an Adjutant General on a rotational basis as determined by the Chief of the National Guard Bureau, and any other Department of Defense, Federal Government agency, or outside organization as determined by the Secretary of Defense. The members of the advisory board may designate representatives in their stead.

"(2) SCHEDULE.—The advisory board shall meet on a schedule determined by the Secretary of Defense.

"(3) INITIAL REPORTING REQUIREMENT.—The advisory board shall issue internal reports as necessary and shall submit an initial report to the Committees on Armed Services of the Senate and House of Representatives not later than 180 days after the end of the 1-year period beginning on the date of the establishment of the Office for Reintegration Programs. The report shall contain—

"(A) an evaluation of the implementation of the Yellow Ribbon Reintegration Program by State National Guard and Reserve organizations;

"(B) an assessment of any unmet resource requirements; and

"(C) recommendations regarding closer coordination between the Office of Reintegration Programs and State National Guard and Reserve organizations.

"(f) SUPPORT TEAMS.—The Office for Reintegration Programs may employ personnel to administer the Yellow Ribbon Reintegration Program at the State level. The primary function of team members shall be—

"(1) to implement the reintegration curriculum through the deployment cycle described in subsection (g);

"(2) to obtain necessary service providers; and

"(3) to educate service providers and community-based organizations regarding the unique military nature of the reintegration program.

"(g) OPERATION OF PROGRAM.—

"(1) IN GENERAL.—The Office for Reintegration Programs shall assist State National Guard and Reserve organizations with the development and provision of information, events, and activities to support the health and well-being of eligible individuals before, during, and after periods of activation, mobilization, or deployment.

"(2) FOCUS OF INFORMATION, EVENTS, AND ACTIVITIES.—

"(A) BEFORE ACTIVATION, MOBILIZATION, OR DEPLOYMENT.—Before a period of activation, mobilization, or deployment, the information, events, and activities described in paragraph (1) should focus on preparing eligible individuals and affected communities for the rigors of activation, mobilization, and deployment.

"(B) DURING ACTIVATION, MOBILIZATION, OR DEPLOYMENT.—During such a period, the information, events, and activities described in paragraph (1) should focus on—

"(i) helping eligible individuals cope with the challenges and stress associated with such period;

"(ii) decreasing the isolation of eligible individuals during such period; and

"(iii) preparing eligible individuals for the challenges associated with reintegration.

"(C) AFTER ACTIVATION, MOBILIZATION, OR DEPLOYMENT.—After such a period, but no earlier than 30 days after demobilization, the information, events, and activities described in paragraph (1) should focus on—

"(i) reconnecting the member with their families, friends, and communities;

"(ii) providing information on employment opportunities;

"(iii) helping eligible individuals deal with the challenges of reintegration;

"(iv) ensuring that eligible individuals understand what benefits they are entitled to and what resources are available to help them overcome the challenges of reintegration; and

"(v) providing a forum for addressing negative behaviors related to operational stress and reintegration.

"(3) MEMBER PAY.—Members shall receive appropriate pay for days spent attending such events and activities.

"(4) MINIMUM NUMBER OF EVENTS AND ACTIVITIES.—The State National Guard and Reserve Organizations shall provide to eligible individuals—

"(A) one event or activity before a period of activation, mobilization, or deployment;

"(B) one event or activity during a period of activation, mobilization, or deployment; and

"(C) two events or activities after a period of activation, mobilization, or deployment.

"(h) OUTREACH SERVICES.—As part of the Yellow Ribbon Reintegration Program, the Office for Reintegration Programs may develop programs of outreach to eligible individuals to educate such eligible individuals about the assistance and services available to them under the Yellow Ribbon Reintegration Program. Such assistance and services may include the following:

"(1) Marriage counseling.

"(2) Services for children.

"(3) Substance abuse awareness and treatment.

"(4) Mental health awareness and treatment.

"(5) Financial counseling.

"(6) Anger management counseling.

"(7) Domestic violence awareness and prevention.

"(8) Employment assistance.

"(9) Preparing and updating family care plans.

"(10) Development of strategies for living with a member of the Armed Forces with post-traumatic stress disorder or traumatic brain injury.

"(11) Other services that may be appropriate to address the unique needs of members of the Armed Forces and their families who live in rural or remote areas with respect to family readiness and servicemember reintegration.

"(12) Assisting members of the Armed Forces and their families find and receive assistance with military family readiness and servicemember reintegration, including referral services.

"(13) Development of strategies and programs that recognize the need for long-term follow-up services for reintegrating members of the Armed Forces and their families for extended periods following deployments, including between deployments.

"(14) Assisting members of the Armed Forces and their families in receiving services and assistance from the Department of Veterans Affairs, including referral services.

"(15) Resiliency training to promote comprehensive programs for members of the Armed Forces to build mental and emotional resiliency for successfully meeting the demands of the deployment cycle.

"(16) Stress management and positive coping skills.

"(i) SUPPORT OF SUICIDE PREVENTION EFFORTS.—The Office for Reintegration Programs shall assist the Defense Suicide Prevention Office and the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury to collect and analyze information, suggestions, and best practices from State National Guard and Reserve organizations with suicide prevention and community response programs.

"(j) STATE-LED PROGRAMS OF OUTREACH.—The Office for Reintegration Programs may work with the States, whether acting through or in coordination with their National Guard and Reserve organizations, to assist the States and such organizations in developing and carrying out programs of outreach for eligible individuals to inform and educate them on the assistance and services available to them under the Yellow Ribbon Reintegration Program, including the assistance and services described in subsection (h).

"(k) SUPPORT BEYOND PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense may provide funds to States, Territories, and government entities to carry out programs, and other activities as the Secretary considers appropriate, that provide deployment cycle information, services, and referrals to eligible individuals throughout the deployment cycle. Such programs may include the provision of access to outreach services, including the following:

"(A) Employment counseling.

"(B) Behavioral health counseling.

"(C) Suicide prevention.

"(D) Housing advocacy.

"(E) Financial counseling.

"(F) Referrals for the receipt of other related services.

"(2) AUTHORIZATION OF APPROPRIATION.—For fiscal year 2026, $20,000,000 are authorized to be appropriated to carry out paragraph (1).

"(l) SCOPE OF ACTIVITIES UNDER PROGRAMS OF OUTREACH.—For purposes of this section, the activities and services provided under programs of outreach may include personalized and substantive care

coordination services targeted specifically to eligible individuals.

"(m) ELIGIBLE INDIVIDUALS DEFINED.—For the purposes of this section, the term 'eligible individual' means a member of a reserve component, a member of their family, or a designated representative who the Secretary of Defense determines to be eligible for the Yellow Ribbon Reintegration Program."

## PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES

Pub. L. 109–163, div. A, title V, §520, Jan. 6, 2006, 119 Stat. 3238, directed the Secretary of the Army to carry out a pilot program in two States to assess the feasibility and advisability of using a coalition of military and civilian community personnel to enhance the quality of life for members of the Army Reserve and their families and, not later than Apr. 1, 2007, submit to the appropriate Senate and House committees a report on the pilot program with appropriate assessments and recommendations.

## ANNUAL REVIEW

Pub. L. 108–375, div. A, title V, §513(h), Oct. 28, 2004, 118 Stat. 1882, as amended by Pub. L. 114–92, div. A, title X, §1079(g), Nov. 25, 2015, 129 Stat. 999, provided that:

"(1) The Secretary of Defense shall annually review the reserve components of the Armed Forces with regard to—

"(A) the roles and missions of the reserve components; and

"(B) the compensation and other benefits, including health care benefits, that are provided for members of the reserve components under the laws of the United States.

"(2) The first review under paragraph (1) shall take place during fiscal year 2006."

## PAY OF ADMINISTRATION, TRAINING, AND SUPPLY MAINTENANCE TECHNICIANS FOR ARMY RESERVE CONTINGENT UPON RESERVE STATUS

Pub. L. 104–61, title VIII, §8016, Dec. 1, 1995, 109 Stat. 654, provided that none of the funds appropriated for Department of Defense during and after fiscal year 1996 were to be obligated for pay of any individual who was initially employed after Dec. 1, 1995, as technician in administration and training of Army Reserve and maintenance and repair of supplies issued to Army Reserve unless such individual was also military member of Army Reserve troop program unit that he or she was employed to support, prior to repeal by Pub. L. 105–85, div. A, title V, §522(e), Nov. 18, 1997, 111 Stat. 1735.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, §8015, Sept. 30, 1994, 108 Stat. 2620.

Pub. L. 103–139, title VIII, §8016, Nov. 11, 1993, 107 Stat. 1440.

Pub. L. 102–396, title IX, §9019, Oct. 6, 1992, 106 Stat. 1904.

Pub. L. 102–172, title VIII, §8018, Nov. 26, 1991, 105 Stat. 1175.

Pub. L. 101–511, title VIII, §8018, Nov. 5, 1990, 104 Stat. 1878.

Pub. L. 101–165, title IX, §9027, Nov. 21, 1989, 103 Stat. 1135.

Pub. L. 100–463, title VIII, §8045, Oct. 1, 1988, 102 Stat. 2270–25.

Pub. L. 100–202, §101(b) [title VIII, §8055], Dec. 22, 1987, 101 Stat. 1329–43, 1329–72.

Pub. L. 99–500, §101(c) [title IX, §9054], Oct. 18, 1986, 100 Stat. 1783–82, 1783–111, and Pub. L. 99–591, §101(c) [title IX, §9054], Oct. 30, 1986, 100 Stat. 3341–82, 3341–111.

Pub. L. 99–190, §101(b) [title VIII, §8059], Dec. 19, 1985, 99 Stat. 1185, 1212.

Pub. L. 98–473, title I, §101(h) [title VIII, §8076], Oct. 12, 1984, 98 Stat. 1904, 1938.

Pub. L. 98–212, title VII, §783, Dec. 8, 1983, 97 Stat. 1453.

## RETENTION IN ACTIVE STATUS OF NATIONAL GUARD OR RESERVE TECHNICIANS UNTIL AGE SIXTY

Pub. L. 104–61, title VIII, §8017, Dec. 1, 1995, 109 Stat. 655, provided that: "Notwithstanding any other provision of law, during the current fiscal year and hereafter, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any person who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, §8016, Sept. 30, 1994, 108 Stat. 2620.

Pub. L. 103–139, title VIII, §8018, Nov. 11, 1993, 107 Stat. 1441.

Pub. L. 102–396, title IX, §9022, Oct. 6, 1992, 106 Stat. 1905.

Pub. L. 102–172, title VIII, §8022, Nov. 26, 1991, 105 Stat. 1176.

Pub. L. 101–511, title VIII, §8022, Nov. 5, 1990, 104 Stat. 1879.

Pub. L. 101–165, title IX, §9032, Nov. 21, 1989, 103 Stat. 1136.
Pub. L. 100–463, title VIII, §8052, Oct. 1, 1988, 102 Stat. 2270–26.
Pub. L. 100–202, §101(b) [title VIII, §8064], Dec. 22, 1987, 101 Stat. 1329–43, 1329–73.
Pub. L. 99–500, §101(c) [title IX, §9063], Oct. 18, 1986, 100 Stat. 1783–82, 1783–112, and Pub. L. 99–591, §101(c) [title IX, §9063], Oct. 30, 1986, 100 Stat. 3341–82, 3341–112.
Pub. L. 99–190, §101(b) [title VIII, §8073], Dec. 19, 1985, 99 Stat. 1185, 1214.
Pub. L. 98–473, title I, §101(h) [title VIII, §8106], Oct. 12, 1984, 98 Stat. 1904, 1943.

## §10102. Purpose of reserve components

The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever more units and persons are needed than are in the regular components.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970; amended Pub. L. 108–375, div. A, title V, §511, Oct. 28, 2004, 118 Stat. 1877.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 262 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2004**—Pub. L. 108–375 struck out ", during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization," after "whenever".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10102a. Deployment prioritization and readiness of Army components

(a) DEPLOYMENT PRIORITIZATION.—The Secretary of the Army shall maintain a system for identifying the priority of deployment for units of all components of the Army.

(b) DEPLOYABILITY READINESS RATING.—The Secretary of the Army shall maintain a readiness rating system for units of all components of the Army that provides an accurate assessment of the deployability of a unit and those shortfalls of a unit that require the provision of additional resources. The system shall ensure—

(1) that the personnel readiness rating of a unit reflects—

(A) both the percentage of the overall personnel requirement of the unit that is manned and deployable and the fill and deployability rate for critical occupational specialties necessary for the unit to carry out its basic mission requirements; and

(B) the number of personnel in the unit who are qualified in their primary military occupational specialty; and

(2) that the equipment readiness assessment of a unit—

(A) documents all equipment required for deployment;

(B) reflects only that equipment that is directly possessed by the unit;

(C) specifies the effect of substitute items; and

(D) assesses the effect of missing components and sets on the readiness of major equipment

items.

(Added Pub. L. 114–328, div. A, title III, §321(a)(1), Dec. 23, 2016, 130 Stat. 2074.)

## §10103. Basic policy for order into Federal service

Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970; amended Pub. L. 104–106, div. A, title XV, §1501(b)(2)(A), Feb. 10, 1996, 110 Stat. 495.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 263 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

#### AMENDMENTS

**1996**—Pub. L. 104–106 substituted "into Federal service" for "of the National Guard and reserve components to active duty" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

#### ORDERING READY RESERVE TO ACTIVE DUTY DURING NATIONAL EMERGENCIES

For additional provisions authorizing ordering of Ready Reserve to active duty during national emergencies, see section 12303 of this title and notes thereunder.

## §10104. Army Reserve: composition

The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3076 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10105. Army National Guard of the United States: composition

The Army National Guard of the United States is the reserve component of the Army that consists of—

(1) federally recognized units and organizations of the Army National Guard; and

(2) members of the Army National Guard who are also Reserves of the Army.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3077 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

### ACTIVE COMPONENT SUPPORT FOR RESERVE TRAINING

Pub. L. 103–160, div. A, title V, §515, Nov. 30, 1993, 107 Stat. 1650, provided that:

"(a) REQUIREMENT TO ESTABLISH.—The Secretary of the Army shall, not later than September 30, 1995, establish one or more active-component units of the Army with the primary mission of providing training support to reserve units. Each such unit shall be part of the active Army force structure and shall have a commander who is on the active-duty list of the Army.

"(b) IMPLEMENTATION PLAN.—The Secretary of the Army shall during fiscal year 1994 submit to the Committees on Armed Services of the Senate and House of Representatives a plan to meet the requirement in subsection (a). The plan shall include a proposal for any statutory changes that the Secretary considers to be necessary for the implementation of the plan."

### TEST PROGRAM FOR RESERVE COMBAT MANEUVER UNIT INTEGRATION

Pub. L. 103–160, div. A, title V, §516, Nov. 30, 1993, 107 Stat. 1650, directed Secretary of the Army to prepare a plan for carrying out a test program to determine feasibility and advisability of applying the roundout and roundup models for integration of active and reserve component Army units at the battalion and company levels and submit to Congress not later than Mar. 31, 1994, a report that includes the plan for the test program.

### ARMY NATIONAL GUARD COMBAT READINESS REFORM

Pub. L. 102–484, div. A, title XI, Oct. 23, 1992, 106 Stat. 2536, as amended by Pub. L. 103–35, title II, §202(a)(11), May 31, 1993, 107 Stat. 101; Pub. L. 103–160, div. A, title V, §520, Nov. 30, 1993, 107 Stat. 1651; Pub. L. 103–337, div. A, title V, §516, Oct. 5, 1994, 108 Stat. 2754; Pub. L. 104–106, div. A, title V, §§514, 515, title VII, §704(b), Feb. 10, 1996, 110 Stat. 307, 308, 372; Pub. L. 114–328, div. A, title III, §321(b), Dec. 23, 2016, 130 Stat. 2075; Pub. L. 116–92, div. A, title V, §520, Dec. 20, 2019, 133 Stat. 1351, provided that:

"SEC. 1101. SHORT TITLE.

"This title may be cited as the 'Army National Guard Combat Readiness Reform Act of 1992'.

"SUBTITLE A—DEPLOYABILITY ENHANCEMENTS

"SEC. 1111. PRIOR ACTIVE-DUTY PERSONNEL.

"(a) ADDITIONAL PRIOR ACTIVE DUTY OFFICERS.—The Secretary of the Army shall increase the number of qualified prior active-duty officers in the Army National Guard by providing a program that

permits the separation of officers on active duty with at least two, but less than three, years of active service upon condition that the officer is accepted for appointment in the Army National Guard. The Secretary shall have a goal of having not fewer than 150 officers become members of the Army National Guard each year under this section.

"(b) ADDITIONAL PRIOR ACTIVE DUTY ENLISTED MEMBERS.—The Secretary of the Army shall increase the number of qualified prior active-duty enlisted members in the Army National Guard through the use of enlistments as described in section 8020 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139) [107 Stat. 1441]. The Secretary shall enlist not fewer than 1,000 new enlisted members each year under enlistments described in that section.

"(c) QUALIFIED PRIOR ACTIVE-DUTY PERSONNEL.—For purposes of this section, qualified prior active-duty personnel are members of the Army National Guard with not less than two years of active duty.

"SEC. 1112. SERVICE IN SELECTED RESERVE IN LIEU OF ACTIVE-DUTY SERVICE.

"(a) ACADEMY GRADUATES AND DISTINGUISHED ROTC GRADUATES TO SERVE IN SELECTED RESERVE FOR PERIOD OF ACTIVE-DUTY SERVICE OBLIGATION NOT SERVED ON ACTIVE DUTY.—(1) An officer who is a graduate of one of the service academies or who was commissioned as a distinguished Reserve Officers' Training Corps graduate and who is permitted to be released from active duty before the completion of the active-duty service obligation applicable to that officer shall serve the remaining period of such active-duty service obligation as a member of the Selected Reserve.

"(2) The Secretary concerned may waive paragraph (1) in a case in which the Secretary determines that there is no unit position available for the officer.

"(b) ROTC GRADUATES.—The Secretary of the Army shall provide a program under which graduates of the Reserve Officers' Training Corps program may perform their minimum period of obligated service by a combination of (A) two years of active duty, and (B) such additional period of service as is necessary to complete the remainder of such obligation, to be served in the Selected Reserve.

"[SEC. 1113. REPEALED. PUB. L. 116–92, DIV. A, TITLE V, §520, DEC. 20, 2019, 133 STAT. 1351.]

"SEC. 1114. NONCOMMISSIONED OFFICER EDUCATION REQUIREMENTS.

"(a) NONWAIVABILITY.—Any standard prescribed by the Secretary of the Army establishing a military education requirement for noncommissioned officers that must be met as a requirement for promotion to a higher noncommissioned officer grade may be waived only if the Secretary determines that the waiver is necessary in order to preserve unit leadership continuity under combat conditions.

"(b) AVAILABILITY OF TRAINING POSITIONS.—The Secretary of the Army shall ensure that there are sufficient training positions available to enable compliance with subsection (a).

"SEC. 1115. INITIAL ENTRY TRAINING AND NONDEPLOYABLE PERSONNEL ACCOUNT.

"(a) ESTABLISHMENT OF PERSONNEL ACCOUNT.—The Secretary of the Army shall establish a personnel accounting category for members of the Army Selected Reserve to be used for categorizing members of the Selected Reserve who have not completed the minimum training required for deployment or who are otherwise not available for deployment. The account shall be designed so that it is compatible with the decentralized personnel systems of the Army Guard and Reserve. The account shall be used for the reporting of personnel readiness and may not be used as a factor in establishing the level of Army Guard and Reserve force structure.

"(b) USE OF ACCOUNT.—Until a member of the Army Selected Reserve has completed the minimum training necessary for deployment, the member may not be assigned to fill a position in a Selected Reserve unit but shall be carried in the account established under subsection (a).

"(c) TIME FOR QUALIFICATION FOR DEPLOYMENT.—(1) If at the end of 24 months after a member of the Army Selected Reserve enters the Army Selected Reserve, the member has not completed the minimum training required for deployment, the member shall be discharged.

"(2) The Secretary of the Army may waive the requirement in paragraph (1) in the case of health care providers and in other cases determined necessary. The authority to make such a waiver may not be delegated.

"SEC. 1116. MINIMUM PHYSICAL DEPLOYABILITY STANDARDS.

"The Secretary of the Army shall transfer the personnel classification of a member of the Army Selected Reserve from the Selected Reserve unit of the member to the personnel account established pursuant to section 1115 if the member does not meet minimum physical profile standards required for deployment. Any such transfer shall be made not later than 90 days after the date on which the determination that the member does not meet such standards is made.

"[SECS. 1117, 1118. REPEALED. PUB. L. 104–106, DIV. A, TITLE VII, §704(B), FEB. 10, 1996, 110 STAT.

372.]

"SEC. 1119. COMBAT UNIT TRAINING.

"The Secretary of the Army shall establish a program to minimize the post-mobilization training time required for combat units of the Army National Guard. The program shall require—

"(1) that unit premobilization training emphasize—

"(A) individual soldier qualification and training;

"(B) collective training and qualification at the crew, section, team, and squad level; and

"(C) maneuver training at the platoon level as required of all Army units; and

"(2) that combat training for command and staff leadership include annual multi-echelon training to develop battalion, brigade, and division level skills, as appropriate.

"SEC. 1120. USE OF COMBAT SIMULATORS.

"The Secretary of the Army shall expand the use of simulations, simulators, and advanced training devices and technologies in order to increase training opportunities for members and units of the Army National Guard and the Army Reserve.

## "SUBTITLE B—ASSESSMENT OF NATIONAL GUARD CAPABILITY

"[SEC. 1121. REPEALED. PUB. L. 114–328, DIV. A, TITLE III, §321(B), DEC. 23, 2016, 130 STAT. 2075.]

"SEC. 1122. INSPECTIONS.

"[Amended section 105 of Title 32, National Guard.]

## "SUBTITLE C—COMPATIBILITY OF GUARD UNITS WITH ACTIVE COMPONENT UNITS

"SEC. 1131. ACTIVE DUTY ASSOCIATE UNIT RESPONSIBILITY.

"(a) ASSOCIATE UNITS.—The Secretary of the Army shall require—

"(1) that each ground combat maneuver brigade of the Army National Guard that (as determined by the Secretary) is essential for the execution of the National Military Strategy be associated with an active-duty combat unit; and

"(2) that combat support and combat service support units of the Army Selected Reserve that (as determined by the Secretary) are essential for the execution of the National Military Strategy be associated with active-duty units.

"(b) RESPONSIBILITIES.—The commander (at a brigade or higher level) of the associated active duty unit for any National Guard unit or Army Selected Reserve unit that (as determined by the Secretary under subsection (a)) is essential for the execution of the National Military Strategy shall be responsible for—

"(1) approving the training program of that unit;

"(2) reviewing the readiness report of that unit;

"(3) assessing the manpower, equipment, and training resources requirements of that unit; and

"(4) validating, not less often than annually, the compatibility of that unit with the active duty forces.

"(c) IMPLEMENTATION.—The Secretary of the Army shall begin to implement subsection (a) during fiscal year 1993 and shall achieve full implementation of the plan not later than October 1, 1995.

"SEC. 1132. TRAINING COMPATIBILITY.

"[Amended section 414(c) of Pub. L. 102–190, set out as a note under section 12001 of this title.]

"SEC. 1133. SYSTEMS COMPATIBILITY.

"(a) COMPATIBILITY PROGRAM.—The Secretary of the Army shall develop and implement a program to ensure that Army personnel systems, Army supply systems, Army maintenance management systems, and Army finance systems are compatible across all Army components.

"(b) REPORT.—Not later than September 30, 1993, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program under subsection (a) and setting forth a plan for implementation of the program by the end of fiscal year 1997.

"SEC. 1134. EQUIPMENT COMPATIBILITY.

"[Amended section 115b(b) [now 10541(b)] of this title.]

"[SEC. 1135. REPEALED. PUB. L. 114–328, DIV. A, TITLE III, §321(B), DEC. 23, 2016, 130 STAT. 2075.]

"SEC. 1136. QUALIFICATION FOR PRIOR-SERVICE ENLISTMENT BONUS.

"[Amended section 308i(c) of Title 37, Pay and Allowances of the Uniformed Services.]

"SEC. 1137. STUDY OF IMPLEMENTATION FOR ALL RESERVE COMPONENTS.

"The Secretary of Defense shall conduct an assessment of the feasibility of implementing the provisions of this title for all reserve components. Not later than December 31, 1993, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for such implementation."

## §10106. Army National Guard: when a component of the Army

The Army National Guard while in the service of the United States is a component of the Army.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2970.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3078 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10107. Army National Guard of the United States: status when not in Federal service

When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3079 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10108. Navy Reserve: administration

(a) The Navy Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Navy Reserve as they do to the Regular Navy.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(AA), (3)(F), Jan. 6, 2006, 119 Stat. 3233, 3234.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5251(a), (b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**AMENDMENTS**

**2006**—Pub. L. 109–163, §515(b)(3)(F), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(AA), substituted "Navy Reserve" for "Naval Reserve" in subsecs. (a) and (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10109. Marine Corps Reserve: administration

(a) The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5252(a), (b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10110. Air Force Reserve: composition

The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 8076 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10111. Air National Guard of the United States: composition

The Air National Guard of the United States is the reserve component of the Air Force that consists of—

(1) federally recognized units and organizations of the Air National Guard; and

(2) members of the Air National Guard who are also Reserves of the Air Force.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 8077 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10112. Air National Guard: when a component of the Air Force

The Air National Guard while in the service of the United States is a component of the Air Force.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 8078 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10113. Air National Guard of the United States: status when not in Federal service

When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 8079 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10114. Coast Guard Reserve

As provided in section 701 [1] of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 [1] of title 14 (14 U.S.C. 701 et seq.).

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2971.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 701 of title 14, referred to in text, was redesignated section 3701 of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233, and references to section 701 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

Chapter 21 of title 14, referred to in text, was comprised of sections 701 to 713 and 720 to 746, prior to the renumbering of such sections as sections 3701 to 3714 and 3731 to 3757, respectively, of title 14 by Pub. L. 115–282, title I, §118(b)(2), Dec. 4, 2018, 132 Stat. 4233. After renumbering, such sections now comprise chapter 37 (designated as chapter "1" in chapter analysis) of title 14.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] *See References in Text note below.*

# CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

Sec.
10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.
10142. Ready Reserve.
10143. Ready Reserve: Selected Reserve.

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10151. Standby Reserve: composition.
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**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(3), Feb. 10, 1996, 110 Stat. 496, struck out "generally" after "Reserve" in item 10142.

## §10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2972.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 267 and 2001 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A), (3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10142. Ready Reserve

(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

(b) The authorized strength of the Ready Reserve is 2,900,000.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2972.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 268(a) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10143. Ready Reserve: Selected Reserve

(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

(b) The organization and unit structure of the Selected Reserve shall be approved—

(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

(2) in the case of the Coast Guard Reserve, by the Secretary of Homeland Security upon the recommendation of the Commandant of the Coast Guard.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2972; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 268(b), (c) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Subsec. (b)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10144. Ready Reserve: Individual Ready Reserve

(a) Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

(b)(1) Within the Individual Ready Reserve of each reserve component there is a category of members, as designated by the Secretary concerned, who are subject to being ordered to active duty involuntarily in accordance with section 12304 of this title. A member may not be placed in that

mobilization category unless—

(A) the member volunteers for that category; and

(B) the member is selected for that category by the Secretary concerned, based upon the needs of the service and the grade and military skills of that member.

(2) A member of the Individual Ready Reserve may not be carried in such mobilization category of members after the end of the 24-month period beginning on the date of the separation of the member from active service.

(3) The Secretary shall designate the grades and military skills or specialities of members to be eligible for placement in such mobilization category.

(4) A member in such mobilization category shall be eligible for benefits (other than pay and training) as are normally available to members of the Selected Reserve, as determined by the Secretary of Defense.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2973; amended Pub. L. 105–85, div. A, title V, §511(a), Nov. 18, 1997, 111 Stat. 1728.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Pub. L. 105–85 designated existing provisions as subsec. (a) and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10145. Ready Reserve: placement in

(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The authority of the Secretary concerned under the preceding sentence may not be delegated—

(1) to a civilian officer or employee of the military department concerned below the level of Assistant Secretary; or

(2) to a member of the armed forces below the level of the lieutenant general or vice admiral in an armed force with responsibility for military personnel policy in that armed force.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2973; amended Pub. L. 108–136, div. A, title V, §513, Nov. 24, 2003, 117 Stat. 1460.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 269(a)–(d) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2003**—Subsec. (d). Pub. L. 108–136 substituted last sentence of introductory provisions and pars. (1) and (2) for "The Secretary concerned may not delegate his authority under the preceding sentence."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10146. Ready Reserve: transfer from

(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve.

(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2973; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 269(e)–(g) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10147. Ready Reserve: training requirements

(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a

service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

(2) serve on active duty for training not more than 30 days during each year.

(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2973; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 270(a) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

Pub. L. 103–337, div. A, title XVI, §1661(a)(5)(A), Oct. 5, 1994, 108 Stat. 2980, provided that: "Section 10147(a) [10 U.S.C. 10147(a)], as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955."

## §10148. Ready Reserve: failure to satisfactorily perform prescribed training

(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2974.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 270(b), (c) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

Pub. L. 103–337, div. A, title XVI, §1661(a)(5)(B), Oct. 5, 1994, 108 Stat. 2980, provided that: "Section 10148(b) [10 U.S.C. 10148(b)], as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961."

## §10149. Ready Reserve: continuous screening

(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

(1) That there will be no significant attrition of those members or units during a mobilization.

(2) That there is a proper balance of military skills.

(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

(b)(1) In applying Ready Reserve continuous screening under this section, an individual who is both a member of the Ready Reserve and a Member of Congress may not be transferred to the Standby Reserve or discharged on account of the individual's position as a Member of Congress.

(2) The transfer or discharge of an individual who is both a member of the Ready Reserve and a Member of Congress may be ordered—

(A) only by the Secretary of Defense or, in the case of a Member of Congress who also is a member of the Coast Guard Reserve, the Secretary of the Department in which the Coast Guard is operating when it is not operating as a service in the Navy; and

(B) only on the basis of the needs of the service, taking into consideration the position and duties of the individual in the Ready Reserve.

(3) In this subsection, the term "Member of Congress" includes a Delegate or Resident Commissioner to Congress and a Member-elect.

(c) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be—

(1) transferred to the Standby Reserve;

(2) discharged; or

(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2974; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114–92, div. A, title V,

§511, Nov. 25, 2015, 129 Stat. 808.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 271 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2015**—Subsecs. (b), (c). Pub. L. 114–92 added subsec. (b) and redesignated former subsec. (b) as (c).
**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 11190. SCREENING OF READY RESERVE

Ex. Ord. No. 11190, Dec. 29, 1964, 29 F.R. 19183, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 13286, §67, Feb. 28, 2003, 68 F.R. 10630, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. There is delegated to the Secretary of Defense (and to the Secretary of Homeland Security with regard to the United States Coast Guard) the authority vested in the President by section 271 [see 10149] of title 10 of the United States Code to prescribe regulations for the screening of units and members of the Ready Reserve of the Armed Forces.

SEC. 2. Executive Order No. 10651 of January 6, 1956, is revoked.

## §10150. Ready Reserve: transfer back from Standby Reserve

Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2975; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 272 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10151. Standby Reserve: composition

The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2975.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 273(a) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10152. Standby Reserve: inactive status list

An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2975.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 273(b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10153. Standby Reserve: status of members

While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2975.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 273(c) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10154. Retired Reserve

The Retired Reserve consists of the following Reserves:

(1) Reserves who are or have been retired under section 7311, 8323, or 9311 of this title or under section 291 [1] of title 14.

(2) Reserves who have been transferred to the Retired Reserve, retain their status as Reserves, and are otherwise qualified.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2975; amended Pub. L. 107–107, div. A, title V, §517(a), Dec. 28, 2001, 115 Stat. 1094; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 291 of title 14, referred to in par. (1), was redesignated section 2152 of title 14 by Pub. L. 115–282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216, and references to section 291 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 274 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2018**—Par. (1). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**2001**—Par. (2). Pub. L. 107–107 struck out "upon their request" after "Retired Reserve".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2001 AMENDMENT**

Pub. L. 107–107, div. A, title V, §517(g), Dec. 28, 2001, 115 Stat. 1096, provided that: "The amendments made by this section [enacting sections 12108 and 12244 of this title and amending this section and sections 14513 to 14515 of this title] shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act [Dec. 28, 2001]."

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

**AUTHORITY TO ISSUE MILITARY IDENTIFICATION CARDS TO SO-CALLED HONORARY RETIREES OF THE NAVAL AND MARINE CORPS RESERVES**

Pub. L. 103–337, div. A, title III, §377, Oct. 5, 1994, 108 Stat. 2737, as amended by Pub. L. 104–106, div. A, title XV, §1501(d)(1), Feb. 10, 1996, 110 Stat. 500; Pub. L. 105–85, div. A, title X, §1073(d)(1)(E)(i), Nov. 18, 1997, 111 Stat. 1905; Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that:

"(a) AUTHORITY.—The Secretary of the Navy may issue a military identification card to a member of the Retired Reserve described in subsection (b).

"(b) COVERED MEMBERS.—A member of the Retired Reserve referred to in subsection (a) is a member of the Navy Reserve or Marine Corps Reserve who transferred to the Retired Reserve under section 274(2) [see 10154(2)] of title 10, United States Code, without having completed the years of service required under section 1331(a)(2) [see 12731(a)(2)] of such title for eligibility for retired pay under chapter 67 [see 1223] of such title or who after November 30, 1994, transferred to the Retired Reserve under section 10154(2) of title 10, United States Code, without having completed the years of service required under section 12731(a)(2) of such title for eligibility for retired pay under chapter 1223 of such title.

"(c) EFFECT ON COMMISSARY AND EXCHANGE BENEFITS.—The issuance of a military identification card under subsection (a) to a member of the Retired Reserve does not confer eligibility for commissary and exchange benefits on that member.

"(d) LIMITATION ON COLOR AND FORMAT.—The Secretary shall ensure that the color and format in which a military identification card is issued under subsection (a) is not similar to the color and format in which a military identification card is issued by the Department of Defense to individuals other than members described in subsection (b)."

[1] *See References in Text note below.*

# CHAPTER 1006—RESERVE COMPONENT COMMANDS

Sec.
10171. United States Army Reserve Command.
10172. Navy Reserve Force.
10173. Marine Forces Reserve.
10174. Air Force Reserve Command.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(F), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 10172.

## §10171. United States Army Reserve Command

(a) COMMAND.—The United States Army Reserve Command is a separate command of the Army commanded by the Chief of Army Reserve.

(b) CHAIN OF COMMAND.—Except as otherwise prescribed by the Secretary of Defense, the Secretary of the Army shall prescribe the chain of command for the United States Army Reserve Command.

(c) ASSIGNMENT OF FORCES.—The Secretary of the Army—

(1) shall assign to the United States Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 7013 of this title, shall assign all such forces of the Army Reserve to the commander of the United States Atlantic Command.

(Added Pub. L. 104–201, div. A, title XII, §1211(a)(1), Sept. 23, 1996, 110 Stat. 2689; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (c)(2). Pub. L. 115–232 substituted "section 7013" for "section 3013".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**IMPLEMENTATION SCHEDULE FOR RESERVE COMPONENT COMMANDS**

Pub. L. 104–201, div. A, title XII, §1211(c), Sept. 23, 1996, 110 Stat. 2691, provided that: "Implementation of chapter 1006 of title 10, United States Code, as added by subsection (a), shall begin not later than 90 days after the date of the enactment of this Act [Sept. 23, 1996] and shall be completed not later than one year after such date."

## §10172. Navy Reserve Force

(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Navy, with the advice and assistance of the Chief of Naval Operations, shall establish a Navy Reserve Force. The Navy Reserve Force shall be operated as a separate command of the Navy.

(b) COMMANDER.—The Chief of Navy Reserve shall be the commander of the Navy Reserve Force. The commander of the Navy Reserve Force reports directly to the Chief of Naval Operations.

(c) ASSIGNMENT OF FORCES.—The Secretary of the Navy—

(1) shall assign to the Navy Reserve Force specified portions of the Navy Reserve other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 8013 of this title, shall assign to the combatant commands all such forces assigned to the Navy Reserve Force under paragraph (1) in the manner specified by the Secretary of Defense.

(Added Pub. L. 104–201, div. A, title XII, §1211(a)(1), Sept. 23, 1996, 110 Stat. 2689; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(BB), (3)(G), Jan. 6, 2006, 119 Stat. 3233, 3234; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (c)(2). Pub. L. 115–232 substituted "section 8013" for "section 5013".

**2006**—Pub. L. 109–163, §515(b)(3)(G), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(BB), substituted "Navy Reserve" for "Naval Reserve" wherever appearing in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §10173. Marine Forces Reserve

(a) ESTABLISHMENT.—The Secretary of the Navy, with the advice and assistance of the Commandant of the Marine Corps, shall establish in the Marine Corps a command known as the Marine Forces Reserve.

(b) COMMANDER.—The Marine Forces Reserve is commanded by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, reports directly to the Commandant of the Marine Corps.

(c) ASSIGNMENT OF FORCES.—The Commandant of the Marine Corps—

(1) shall assign to the Marine Forces Reserve the forces of the Marine Corps Reserve stationed in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 8013 of this title, shall assign to the combatant commands (through the Marine Corps component commander for each such command) all such forces assigned to the Marine Forces Reserve under paragraph (1) in the manner specified by the Secretary of Defense.

(Added Pub. L. 104–201, div. A, title XII, §1211(a)(1), Sept. 23, 1996, 110 Stat. 2690; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Subsec. (c)(2). Pub. L. 115–232 substituted "section 8013" for "section 5013".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## §10174. Air Force Reserve Command

(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Air Force, with the advice and assistance of the Chief of Staff of the Air Force, shall establish an Air Force Reserve Command. The Air Force Reserve Command shall be operated as a separate command of the Air Force.

(b) COMMANDER.—The Chief of Air Force Reserve is the Commander of the Air Force Reserve Command. The commander of the Air Force Reserve Command reports directly to the Chief of Staff of the Air Force.

(c) ASSIGNMENT OF FORCES.—The Secretary of the Air Force—

(1) shall assign to the Air Force Reserve Command all forces of the Air Force Reserve stationed

in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Air Force specified in section 9013 of this title, shall assign to the combatant commands all such forces assigned to the Air Force Reserve Command under paragraph (1) in the manner specified by the Secretary of Defense.

(Added Pub. L. 104–201, div. A, title XII, §1211(a)(1), Sept. 23, 1996, 110 Stat. 2690; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

### EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (c)(2). Pub. L. 115–232 substituted "section 9013" for "section 8013".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

## CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

Sec.
10201. Assistant Secretary of Defense for Manpower and Reserve Affairs.
10202. Regulations.
10203. Reserve affairs: designation of general or flag officer of each armed force.
10204. Personnel records.
10205. Members of Ready Reserve: requirement of notification of change of status.
10206. Members: physical examinations.
10207. Mobilization forces: maintenance.
10208. Annual mobilization exercise.
10209. Regular and reserve components: discrimination prohibited.
10210. Dissemination of information.
10211. Policies and regulations: participation of Reserve officers in preparation and administration.
10212. Gratuitous services of officers: authority to accept.
10213. Reserve components: dual membership prohibited.
10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.
10216. Military technicians (dual status).
10217. Non-dual status technicians.
10218. Army and Air Force Reserve technicians: conditions for retention; mandatory retirement under civil service laws.
10219. Suicide prevention and resilience program.

### EDITORIAL NOTES

### AMENDMENTS

**2014**—Pub. L. 113–291, div. A, title IX, §902(b)(2), Dec. 19, 2014, 128 Stat. 3470, added item 10201 and struck out former item 10201 "Assistant Secretary of Defense for Reserve Affairs".

**2013**—Pub. L. 112–239, div. A, title V, §581(a)(2), Jan. 2, 2013, 126 Stat. 1765, added item 10219.

**2006**—Pub. L. 109–163, div. A, title VII, §732(c), Jan. 6, 2006, 119 Stat. 3352, struck out "periodic" before "physical" in item 10206.

**1999**—Pub. L. 106–65, div. A, title V, §§522(a)(2), 523(b), Oct. 5, 1999, 113 Stat. 597, 598, struck out "military" after "status" in item 10217 and added item 10218.

**1997**—Pub. L. 105–85, div. A, title V, §§522(h)(2), 523(a)(2), Nov. 18, 1997, 111 Stat. 1736, 1737, inserted "(dual status)" after "technicians" in item 10216 and added item 10217.

**1996**—Pub. L. 104–106, div. A, title V, §513(c)(2), title XV, §1501(b)(4), Feb. 10, 1996, 110 Stat. 306, 496, struck out "Individual" after "Members of" in item 10205, substituted "Reserve" for "reserve" in item 10211, and added item 10216.

## §10201. Assistant Secretary of Defense for Manpower and Reserve Affairs

As provided in section 138(b)(2) [1] of this title, the official in the Department of Defense with responsibility for overall supervision of reserve affairs of the Department of Defense is the Assistant Secretary of Defense for Manpower and Reserve Affairs.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2976; amended Pub. L. 104–106, div. A, title IX, §903(f)(4), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 113–291, div. A, title IX, §902(b)(1), Dec. 19, 2014, 128 Stat. 3469.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 138(b)(2) of this title, referred to in text, was struck out and subsec. (b)(4) was redesignated subsec. (b)(2) by Pub. L. 115–91, div. A, title IX, §907(b), Dec. 12, 2017, 131 Stat. 1514.

#### AMENDMENTS

**2014**—Pub. L. 113–291 amended section generally. Prior to amendment, text read as follows: "As provided in section 138(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs."

**1996**—Pub. L. 104–106, §903(a), (f)(4), which directed that this section be amended, eff. Jan. 31, 1997, to read "The official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the official designated by the Secretary of Defense to have that responsibility.", was repealed by Pub. L. 104–201.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

[1] *See References in Text note below.*

## §10202. Regulations

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

(b) The Secretary of Homeland Security, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast

Guard is operating as a service in the Navy.

(c) So far as practicable, regulations for all reserve components shall be uniform.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2976; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 280 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10203. Reserve affairs: designation of general or flag officer of each armed force

(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the Commandant of the Marine Corps.

(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

(d) The Secretary of Homeland Security may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2976; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 264(a) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Subsec. (d). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10204. Personnel records

(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

(1) Physical condition.
(2) Dependency status.
(3) Military qualifications.
(4) Civilian occupational skills.
(5) Availability for service.
(6) Such other information as the Secretary concerned may prescribe.

(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2977.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 275 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

**RECORDS OF SERVICE FOR RESERVES**

Pub. L. 116–92, div. A, title V, §570, Dec. 20, 2019, 133 Stat. 1397, provided that:

"(a) ESTABLISHMENT.—Not later than September 30, 2020, the Secretary of Defense shall establish and implement a standard record of service for members of the reserve components of the Armed Forces, similar to DD Form 214, that summarizes the record of service of each such member, including dates of active duty service.

"(b) COORDINATION.—In carrying out this section, the Secretary of Defense shall coordinate with the Secretary of Veterans Affairs to ensure that the record established under this section is acceptable as proof of service for former members of the reserve components of the Armed Forces who are eligible for benefits under laws administered by the Secretary of Veterans Affairs to receive such benefits."

## §10205. Members of Ready Reserve: requirement of notification of change of status

(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or

mental standards prescribed for the member's armed force.

(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2977; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 652 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**AMENDMENTS**

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10206. Members: physical examinations

(a) Each member of the Selected Reserve who is not on active duty shall—

(1) have a comprehensive medical readiness health and dental assessment on an annual basis, including routine annual preventive health care screening and periodic comprehensive physical examinations in accordance with regulations prescribed by the Secretary of Defense that reflect morbidity and mortality risks associated with the military service, age, and gender of the member; and

(2) execute and submit to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties.

(b) A member of the Individual Ready Reserve or inactive National Guard shall be examined for physical fitness as necessary to determine the member's physical fitness for—

(1) military duty or promotion;

(2) attendance at a school of the armed forces; or

(3) other action related to career progression.

(c) Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

(d) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2977; amended Pub. L. 107–107, div. A, title V, §516, Dec. 28, 2001, 115 Stat. 1094; Pub. L. 109–163, div. A, title VII, §732(a), (b), Jan. 6, 2006, 119 Stat. 3351, 3352.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1004(a), (b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(4)(A).

**AMENDMENTS**

**2006**—Pub. L. 109–163, §732(b), struck out "periodic" before "physical" in section catchline.

Subsec. (a)(1). Pub. L. 109–163, §732(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "be examined as to the member's physical fitness every five years, or more often as the Secretary concerned considers necessary; and".

Subsec. (a)(2). Pub. L. 109–163, §732(a)(2), substituted "to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties" for "annually to the Secretary concerned a certificate of physical condition".

**2001**—Subsec. (a). Pub. L. 107–107, §516(a)(1), (2), substituted "Selected Reserve" for "Ready Reserve" in introductory provisions and redesignated concluding provisions as subsec. (c).

Subsec. (a)(1). Pub. L. 107–107, §516(b), substituted "the member's physical fitness" for "his physical fitness".

Subsec. (b). Pub. L. 107–107, §516(a)(4), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 107–107, §516(a)(2), redesignated concluding provisions of subsec. (a) as (c).

Subsec. (d). Pub. L. 107–107, §516(a)(3), redesignated subsec. (b) as (d).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10207. Mobilization forces: maintenance

(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

(b) In this section, the term "partial mobilization" means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2977.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 276 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10208. Annual mobilization exercise

(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

(c)(1) The Secretary shall, beginning in the first fiscal year that begins after the date of the enactment of this subsection, and every five years thereafter, as part of the major mobilization exercise under subsection (a), include the processes of the Selective Service System in preparation for induction of personnel into the armed forces under the Military Selective Service Act (50 U.S.C. 3801 et seq.), and submit to Congress a report on the results of this exercise and evaluation. The report may be submitted in classified form.

(2) The exercise under this subsection—

(A) shall include a review of national mobilization strategic and operational concepts; and

(B) shall include a simulation of a mobilization of all armed forces and reserve units, with plans and processes for incorporating Selective Service System inductees.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2978; amended Pub. L. 117–81, div. A, title V, §527(a), Dec. 27, 2021, 135 Stat. 1689.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of div. A of Pub. L. 117–81, which was approved Dec. 27, 2021.

The Military Selective Service Act, referred to in subsec. (c)(1), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 98–525, title V, §552(e), Oct. 19, 1984, 98 Stat. 2531, which was set out in a note under section 12001 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(B).

#### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 117–81 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10209. Regular and reserve components: discrimination prohibited

Laws applying to both Regulars and Reserves shall be administered without discrimination—

(1) among Regulars;

(2) among Reserves; and

(3) between Regulars and Reserves.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2978.)

### EDITORIAL NOTES

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 277 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10210. Dissemination of information

The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2978.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 278 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10211. Policies and regulations: participation of Reserve officers in preparation and administration

Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2978.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 265 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10212. Gratuitous services of officers: authority to accept

(a) Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.

(b) Notwithstanding section 1342 of title 31, the Secretary of a military department may accept the gratuitous services of an officer of a reserve component under the Secretary's jurisdiction (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States)—

(1) in the furtherance of the enrollment, organization, and training of that officer's reserve component or the Reserve Officers' Training Corps; or

(2) in consultation upon matters relating to the armed forces.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2978; amended Pub. L. 103–355, title III, §3021(a), Oct. 13, 1994, 108 Stat. 3333.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 279 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A), and in sections 4541 and 9541 of this title, prior to repeal by Pub. L. 103–160, §822(d)(2).

#### AMENDMENTS

**1994**—Pub. L. 103–355 added subsec. (a) and designated existing provisions as subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–355, title III, §3021(b), Oct. 13, 1994, 108 Stat. 3333, provided that: "Notwithstanding section 10001 [set out as a note under section 2302 of this title], the amendments made by subsection (a) [amending this section] shall take effect on December 1, 1994, immediately after the amendments made by the Reserve Officer Personnel Management Act [Pub. L. 103–337, see Tables for classification]."

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10213. Reserve components: dual membership prohibited

Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2979.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 261(b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out

as a note under section 10001 of this title.

## §10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard

In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12215, 12642(c), 14507(b), 14508(h), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2979; amended Pub. L. 111–383, div. A, title X, §1075(b)(51), Jan. 7, 2011, 124 Stat. 4371.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 281 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

### AMENDMENTS

**2011**—Pub. L. 111–383 substituted "14508(h)" for "14508(e)".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

(2) Officers of the Air National Guard of the United States who are not on active duty—

(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

(c) This section shall be carried out under regulations prescribed by the Secretary of the Army,

with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(1), Oct. 5, 1994, 108 Stat. 2979.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3080 and 8080 of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10216. Military technicians (dual status)

(a) IN GENERAL.—(1) For purposes of this section and any other provision of law, a military technician (dual status) is a Federal civilian employee who—

(A) is employed under section 3101 of title 5 or section 709(b) of title 32;

(B) is required as a condition of that employment to maintain membership in the Selected Reserve; and

(C) is assigned to a civilian position as a technician in the organizing, administering, instructing, or training of the Selected Reserve or in the maintenance and repair of supplies or equipment issued to the Selected Reserve or the armed forces.

(2) Military technicians (dual status) shall be authorized and accounted for as a separate category of civilian employees.

(3) A military technician (dual status) who is employed under section 3101 of title 5 may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the primary duties described in paragraph (1):

(A) Supporting operations or missions assigned in whole or in part to the technician's unit.

(B) Supporting operations or missions performed or to be performed by—

(i) a unit composed of elements from more than one component of the technician's armed force; or

(ii) a joint forces unit that includes—

(I) one or more units of the technician's component; or

(II) a member of the technician's component whose reserve component assignment is in a position in an element of the joint forces unit.

(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

(i) active-duty members of the armed forces;

(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

(iii) Department of Defense contractor personnel; or

(iv) Department of Defense civilian employees.

(b) PRIORITY FOR MANAGEMENT OF MILITARY TECHNICIANS (DUAL STATUS).—(1) As a basis for making the annual request to Congress pursuant to section 115(d) of this title for authorization of end strengths for military technicians (dual status) of the Army and Air Force

reserve components, the Secretary of Defense shall give priority to supporting authorizations for military technicians (dual status) in the following high-priority units and organizations:

(A) Units of the Selected Reserve that are scheduled to deploy no later than 90 days after mobilization.

(B) Units of the Selected Reserve that are or will deploy to relieve active duty peacetime operations tempo.

(C) Those organizations with the primary mission of providing direct support surface and aviation maintenance for the reserve components of the Army and Air Force, to the extent that the military technicians (dual status) in such units would mobilize and deploy in a skill that is compatible with their civilian position skill.

(2) For each fiscal year, the Secretary of Defense shall, for the high-priority units and organizations referred to in paragraph (1), seek to achieve a programmed manning level for military technicians (dual status) that is not less than 90 percent of the programmed manpower structure for those units and organizations for military technicians (dual status) for that fiscal year.

(3) Military technician (dual status) authorizations and personnel shall be exempt from any requirement (imposed by law or otherwise) for reductions in Department of Defense civilian personnel and shall only be reduced as part of military force structure reductions.

(c) INFORMATION REQUIRED TO BE SUBMITTED WITH ANNUAL END STRENGTH AUTHORIZATION REQUEST.—(1) The Secretary of Defense shall include as part of the budget justification documents submitted to Congress with the budget of the Department of Defense for any fiscal year the following information with respect to the end strengths for military technicians (dual status) requested in that budget pursuant to section 115(d) of this title, shown separately for each of the Army and Air Force reserve components:

(A) The number of military technicians (dual status) in the high priority units and organizations specified in subsection (b)(1).

(B) The number of technicians other than military technicians (dual status) in the high priority units and organizations specified in subsection (b)(1).

(C) The number of military technicians (dual status) in other than high priority units and organizations specified in subsection (b)(1).

(D) The number of technicians other than military technicians (dual status) in other than high priority units and organizations specified in subsection (b)(1).

(2)(A) If the budget submitted to Congress for any fiscal year requests authorization for that fiscal year under section 115(d) of this title of a military technician (dual status) end strength for a reserve component of the Army or Air Force in a number that constitutes a reduction from the end strength minimum established by law for that reserve component for the fiscal year during which the budget is submitted, the Secretary of Defense shall submit to the congressional defense committees with that budget a justification providing the basis for that requested reduction in technician end strength.

(B) Any justification submitted under subparagraph (A) shall clearly delineate the specific force structure reductions forming the basis for such requested technician reduction (and the numbers related to those reductions).

(d) UNIT MEMBERSHIP REQUIREMENT.—(1) Unless specifically exempted by law, each individual who is hired as a military technician (dual status) after December 1, 1995, shall be required as a condition of that employment to maintain membership in—

(A) the unit of the Selected Reserve by which the individual is employed as a military technician; or

(B) a unit of the Selected Reserve that the individual is employed as a military technician to support.

(2) Paragraph (1) does not apply to a military technician (dual status) who is employed by the Army Reserve in an area other than Army Reserve troop program units.

(3) Paragraph (1) does not apply to a military technician (dual status) who is employed by the Air

Force Reserve in an area other than the Air Force Reserve unit program, except that not more than 50 of such technicians may be assigned outside of the unit program at the same time.

(e) DUAL STATUS REQUIREMENT.—(1) Funds appropriated for the Department of Defense may not (except as provided in paragraph (2)) be used for compensation as a military technician of any individual hired as a military technician (dual status) after February 10, 1996, who is no longer a member of the Selected Reserve.

(2) Except as otherwise provided by law, the Secretary concerned may pay compensation described in paragraph (1) to an individual described in that paragraph who is no longer a member of the Selected Reserve for a period up to 12 months following the individual's loss of membership in the Selected Reserve if the Secretary determines that such loss of membership was not due to the failure of that individual to meet military standards.

(f) AUTHORITY FOR DEFERRAL OF MANDATORY SEPARATION.—The Secretary of the Army and the Secretary of the Air Force may each implement personnel policies so as to allow, at the discretion of the Secretary concerned, a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 62 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).

(g) RETENTION OF MILITARY TECHNICIANS WHO LOSE DUAL STATUS DUE TO COMBAT-RELATED DISABILITY.—(1) Notwithstanding subsection (d) of this section or subsections (a)(3) and (b) of section 10218 of this title, if a military technician (dual status) loses such dual status as the result of a combat-related disability (as defined in section 1413a of this title), the person may be retained as a non-dual status technician so long as—

(A) the combat-related disability does not prevent the person from performing the non-dual status functions or position; and

(B) the person, while a non-dual status technician, is not disqualified from performing the non-dual status functions or position because of performance, medical, or other reasons.

(2) A person so retained shall be removed not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age.

(3) Persons retained under the authority of this subsection do not count against the limitations of section 10217(c) of this title.

(Added Pub. L. 104–106, div. A, title V, §513(c)(1), Feb. 10, 1996, 110 Stat. 306; amended Pub. L. 104–201, div. A, title IV, §413(b), (c), title XII, §1214, Sept. 23, 1996, 110 Stat. 2507, 2508, 2695; Pub. L. 105–85, div. A, title V, §522(a), (b), (f)–(h)(1), Nov. 18, 1997, 111 Stat. 1734–1736; Pub. L. 106–65, div. A, title V, §521, Oct. 5, 1999, 113 Stat. 595; Pub. L. 108–136, div. A, title IV, §403(c), Nov. 24, 2003, 117 Stat. 1452; Pub. L. 109–163, div. A, title V, §513(a), Jan. 6, 2006, 119 Stat. 3232; Pub. L. 109–364, div. A, title V, §525(b), Oct. 17, 2006, 120 Stat. 2194; Pub. L. 110–181, div. A, title V, §511, Jan. 28, 2008, 122 Stat. 98; Pub. L. 110–417, [div. A], title V, §511, Oct. 14, 2008, 122 Stat. 4439; Pub. L. 111–383, div. A, title V, §512, title X, §1075(b)(52), Jan. 7, 2011, 124 Stat. 4210, 4372; Pub. L. 112–81, div. A, title V, §514(a), Dec. 31, 2011, 125 Stat. 1394; Pub. L. 118–159, div. A, title V, §511(a), Dec. 23, 2024, 138 Stat. 1875; Pub. L. 119–60, div. A, title XVII, §1701(a)(40), Dec. 18, 2025, 139 Stat. 1210.)

## EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (f). Pub. L. 119–60 struck out period after "age 62".

**2024**—Subsec. (f). Pub. L. 118–159 substituted "62." for "60".

**2011**—Subsecs. (b)(1), (c)(1), (2)(A). Pub. L. 111–383, §1075(b)(52), substituted "section 115(d)" for "section 115(c)".

Subsec. (d)(3). Pub. L. 111–383, §512, added par. (3).

Subsec. (f). Pub. L. 112–81 inserted "Authority for" before "Deferral of Mandatory Separation" in heading,

and in text, substituted "may each implement" for "shall implement", inserted ", at the discretion of the Secretary concerned," after "so as to allow", and struck out "for officers" after "mandatory removal date".

**2008**—Subsec. (f). Pub. L. 110–417 inserted "and the Secretary of the Air Force" after "Secretary of the Army".

Subsec. (g). Pub. L. 110–181 added subsec. (g).

**2006**—Subsec. (a)(1)(C). Pub. L. 109–364, §525(b)(1), substituted "organizing, administering, instructing, or" for "administration and".

Subsec. (a)(3). Pub. L. 109–364, §525(b)(2), added par. (3).

Subsec. (f). Pub. L. 109–163 added subsec. (f).

**2003**—Subsecs. (b)(1), (c)(1), (2)(A). Pub. L. 108–136 substituted "section 115(c)" for "115(g)".

**1999**—Subsec. (a)(1)(A). Pub. L. 106–65, §521(a)(1), substituted "section 709(b)" for "section 709".

Subsec. (a)(1)(C). Pub. L. 106–65, §521(a)(2), inserted "civilian" after "is assigned to a".

Subsec. (e)(1). Pub. L. 106–65, §521(b)(1), inserted "(dual status)" after "military technician" the second place it appeared.

Subsec. (e)(2). Pub. L. 106–65, §521(b)(2), substituted "Except as otherwise provided by law, the Secretary" for "The Secretary" and "up to 12 months" for "not to exceed six months".

**1997**—Pub. L. 105–85, §522(h), inserted "(dual status)" after "military technicians" in section catchline.

Subsec. (a). Pub. L. 105–85, §522(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(a) IN GENERAL.—Military technicians are Federal civilian employees hired under title 5 and title 32 who are required to maintain dual-status as drilling reserve component members as a condition of their Federal civilian employment. Such employees shall be authorized and accounted for as a separate category of dual-status civilian employees, exempt as specified in subsection (b)(3) from any general or regulatory requirement for adjustments in Department of Defense civilian personnel."

Subsec. (b). Pub. L. 105–85, §522(g)(1), inserted "(DUAL STATUS)" after "MILITARY TECHNICIANS" in heading.

Subsec. (b)(1). Pub. L. 105–85, §522(g)(2)(A), (B), in introductory provisions, inserted "(dual status)" after "for military technicians" and substituted "military technicians (dual status)" for "dual status military technicians".

Subsec. (b)(1)(C). Pub. L. 105–85, §522(g)(2)(C), inserted "(dual status)" after "military technicians".

Subsec. (b)(2). Pub. L. 105–85, §522(g)(3), inserted "(dual status)" after "military technicians" in two places.

Subsec. (b)(3). Pub. L. 105–85, §522(g)(4), inserted "(dual status)" after "Military technician".

Subsec. (c). Pub. L. 105–85, §522(g)(5)(A), inserted "(dual status)" after "military technicians" in introductory provisions.

Subsec. (c)(1)(A) to (D). Pub. L. 105–85, §522(f), (g)(5)(B), substituted "subsection (b)(1)" for "subsection (a)(1)" and "military technicians (dual status)" for "dual-status technicians".

Subsec. (c)(2)(A). Pub. L. 105–85, §522(g)(5)(C), inserted "(dual status)" after "military technician".

Subsec. (c)(2)(B). Pub. L. 105–85, §522(g)(5)(D), substituted "delineate the specific force structure reductions" for "delineate—

"(i) in the case of a reduction that includes a reduction in technicians described in subparagraph (A) or (C) of paragraph (1), the specific force structure reductions forming the basis for such requested technician reduction (and the numbers related to those force structure reductions); and

"(ii) in the case of a reduction that includes reductions in technicians described in subparagraphs (B) or (D) of paragraph (1), the specific force structure reductions, Department of Defense civilian personnel reductions, or other reasons".

Subsecs. (d), (e). Pub. L. 105–85, §522(b), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows:

"(d) DUAL-STATUS REQUIREMENT.—The Secretary of Defense shall require the Secretary of the Army and the Secretary of the Air Force to establish as a condition of employment for each individual who is hired after February 10, 1996, as a military technician that the individual maintain membership in the Selected Reserve (so as to be a so-called 'dual-status' technician) and shall require that the civilian and military position skill requirements of dual-status military technicians be compatible. No Department of Defense funds may be spent for compensation for any military technician hired after February 10, 1996, who is not a member of the Selected Reserve, except that compensation may be paid for up to six months following loss of membership in the Selected Reserve if such loss of membership was not due to the failure to meet military standards."

**1996**—Subsec. (a). Pub. L. 104–201, §1214(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (a)(1). Pub. L. 104–201, §413(c)(1), substituted "section 115(g)" for "section 115" in introductory

provisions.

Subsec. (b). Pub. L. 104–201, §1214(1), (3), redesignated subsec. (a) as (b) and struck out "in high-priority units and organizations specified in paragraph (1)" after "authorizations and personnel" in par. (3). Former subsec. (b) redesignated (c).

Pub. L. 104–201, §413(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–201, §1214(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Pub. L. 104–201, §413(b)(1), (c)(2), redesignated subsec. (b) as (c) and substituted "after February 10, 1996," for "after the date of the enactment of this section" in two places.

Subsec. (d). Pub. L. 104–201, §1214(1), redesignated subsec. (c) as (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §513(b), Jan. 6, 2006, 119 Stat. 3232, provided that: "The Secretary of the Army shall implement subsection (f) of section 10216 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act [Jan. 6, 2006]."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### CONVERSION OF CERTAIN MILITARY TECHNICIAN (DUAL STATUS) POSITIONS TO CIVILIAN POSITIONS

Pub. L. 114–92, div. A, title X, §1053(a), Nov. 25, 2015, 129 Stat. 981, as amended by Pub. L. 114–328, div. A, title X, §1084(a), Dec. 23, 2016, 130 Stat. 2421; Pub. L. 115–91, div. A, title X, §1083, Dec. 12, 2017, 131 Stat. 1602, provided that:

"(1) IN GENERAL.—By not later than October 1, 2017, the Secretary of Defense shall convert not fewer than 12.6 percent of all military technician positions to positions filled by individuals who are employed under section 3101 of title 5, United States Code, or section 1601 of title 10, United States Code, and are not military technicians. The positions to be converted are described in paragraph (2).

"(2) COVERED POSITIONS.—The positions described in this paragraph are military technician (dual status) positions as follows:

"(A) Military technician (dual status) positions identified as general administration, clerical, finance, and office service occupations by the Army Reserve, the Air Force Reserve, the National Guard Bureau, State adjutants general, and the Secretary of Defense in the course of reviewing all military technician positions for purposes of implementing this section.

"(B) Such other military technician (dual status) positions as the Secretary shall specify for purposes of this subsection.

"(3) TREATMENT OF INCUMBENTS.—In the case of a position converted under paragraph (1) for which there is an incumbent employee, the Secretary shall fill that position, as converted, with the incumbent employee without regard to any requirement concerning competition or competitive hiring procedures."

## §10217. Non-dual status technicians

(a) DEFINITION.—For the purposes of this section and any other provision of law, a non-dual status technician is a civilian employee of the Department of Defense serving in a military technician position who—

(1) was hired as a technician before November 18, 1997, under any of the authorities specified in subsection (b) and as of that date is not a member of the Selected Reserve or after such date has ceased to be a member of the Selected Reserve;

(2) is employed under section 709 of title 32 in a position designated under subsection (c) of that section and when hired was not required to maintain membership in the Selected Reserve; or

(3) is hired as a temporary employee pursuant to the exception for temporary employment provided by subsection (d) and subject to the terms and conditions of such subsection.

(b) EMPLOYMENT AUTHORITIES.—The authorities referred to in subsection (a) are the following:

(1) Section 10216 of this title.

(2) Section 709 of title 32.

(3) The requirements referred to in section 8401 of title 5.

(4) Section 8016 of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 654), and any comparable provision of law enacted on an annual basis in the Department of Defense Appropriations Acts for fiscal years 1984 through 1995.

(5) Any memorandum of agreement between the Department of Defense and the Office of Personnel Management providing for the hiring of military technicians.

(c) PERMANENT LIMITATIONS ON NUMBER.—(1) The total number of non-dual status technicians employed by the Army Reserve may not exceed 595 and by the Air Force Reserve may not exceed 90. If at any time the number of non-dual status technicians employed by the Army Reserve and Air Force Reserve exceeds the number specified in the limitation in the preceding sentence, the Secretary of Defense shall require that the Secretary of the Army or the Secretary of the Air Force, or both, take immediate steps to reduce the number of such technicians in order to comply with such limitation.

(2) The total number of non-dual status technicians employed by the National Guard may not exceed 1,950. If at any time the number of non-dual status technicians employed by the National Guard exceeds the number specified in the limitation in the preceding sentence, the Secretary of Defense shall require that the Secretary of the Army or the Secretary of the Air Force, or both, take immediate steps to reduce the number of such technicians in order to comply with such limitation.

(3) An individual employed as a non-dual status technician as described in subsection (a)(3) shall not be considered a non-dual status technician for purposes of paragraphs (1) and (2).

(d) EXCEPTION FOR TEMPORARY EMPLOYMENT.—(1) Notwithstanding section 10218 of this title, the Secretary of the Army or the Secretary of the Air Force may employ, for a period not to exceed two years, a person to fill a vacancy created by the mobilization of a military technician (dual status) occupying a position under section 10216 of this title.

(2) The duration of the temporary employment of a person in a military technician position under this subsection may not exceed the shorter of the following:

(A) The period of mobilization of the military technician (dual status) whose vacancy is being filled by the temporary employee.

(B) Two years.

(3) No person may be hired under the authority of this subsection after January 6, 2013.

(e) CONVERSION OF POSITIONS.—(1) No individual may be newly hired or employed, or rehired or reemployed, as a non-dual status technician for purposes of this section after September 30, 2017.

(2) By not later than October 1, 2017, the Secretary of Defense shall convert all non-dual status technicians to positions filled by individuals who are employed under section 3101 of title 5 or section 1601 of this title and are not military technicians.

(3) In the case of a position converted under paragraph (2) for which there is an incumbent employee on October 1, 2017, the Secretary shall fill that position, as converted, with the incumbent employee without regard to any requirement concerning competition or competitive hiring procedures.

(4) Any individual newly hired or employed, or rehired or employed, to a position required to be filled by reason of paragraph (1) shall be an individual employed in such position under section 3101 of title 5 or section 1601 of this title.

(Added Pub. L. 105–85, div. A, title V, §523(a)(1), Nov. 18, 1997, 111 Stat. 1736; amended Pub. L. 106–65, div. A, title V, §523, Oct. 5, 1999, 113 Stat. 598; Pub. L. 106–398, §1 [[div. A], title IV, §414(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–94; Pub. L. 107–314, div. A, title IV, §414(d), Dec. 2, 2002, 116 Stat. 2527; Pub. L. 108–136, div. A, title IV, §415, Nov. 24, 2003, 117 Stat. 1453; Pub.

L. 111–383, div. A, title V, §513, title X, §1075(b)(53), Jan. 7, 2011, 124 Stat. 4210, 4372; Pub. L. 112–239, div. A, title X, §1076(e)(7), (f)(45), Jan. 2, 2013, 126 Stat. 1951, 1955; Pub. L. 114–92, div. A, title X, §1053(b)(1), Nov. 25, 2015, 129 Stat. 981; Pub. L. 114–328, div. A, title X, §1084(b), Dec. 23, 2016, 130 Stat. 2421; Pub. L. 116–92, div. A, title XVII, §1731(a)(62), Dec. 20, 2019, 133 Stat. 1816.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 8016 of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 654), referred to in subsec. (b)(4), was set out as a note under section 10101 of this title prior to repeal by Pub. L. 105–85, div. A, title V, §522(e), Nov. 18, 1997, 111 Stat. 1735.

### AMENDMENTS

**2019**—Subsec. (e)(4). Pub. L. 116–92 substituted "shall be an individual" for "shall an individual".

**2016**—Subsec. (e). Pub. L. 114–328 amended subsec. (e) generally. Prior to amendment, subsec. (e) related to phased-in termination of non-dual status positions.

**2015**—Subsec. (e). Pub. L. 114–92 added subsec. (e).

**2013**—Subsec. (c)(3). Pub. L. 112–239, §1076(f)(45), substituted "considered" for "consider".

Subsec. (d)(3). Pub. L. 112–239, §1076(e)(7), substituted "after January 6, 2013" for "after the end of the 2-year period beginning on the date of the enactment of this subsection".

**2011**—Subsec. (a)(3). Pub. L. 111–383, §513(a)(1), added par. (3).

Subsec. (c)(1). Pub. L. 111–383, §1075(b)(53), substituted "The" for "Effective October 1, 2007, the" and struck out "after the preceding sentence takes effect" after "If at any time".

Subsec. (c)(3). Pub. L. 111–383, §513(b), added par. (3).

Subsec. (d). Pub. L. 111–383, §513(a)(2), added subsec. (d).

**2003**—Subsec. (c)(1). Pub. L. 108–136 substituted "may not exceed 595 and by the Air Force Reserve may not exceed 90" for "and Air Force Reserve may not exceed 175".

**2002**—Subsec. (c)(2). Pub. L. 107–314 substituted "The total number" for "Effective October 1, 2002, the total number" in first sentence and struck out "after the preceding sentence takes effect" after "If at any time" in second sentence.

**2000**—Subsec. (c)(2). Pub. L. 106–398 substituted "October 1, 2002" for "October 1, 2001".

**1999**—Pub. L. 106–65, §523(b), struck out "military" after "status" in section catchline.

Subsec. (a). Pub. L. 106–65, §523(a)(1)(A), struck out "military" after "non-dual status" in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 106–65, §523(a)(1)(B), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) was hired as a military technician before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 under any of the authorities specified in subsection (c); and

"(2) as of the date of the enactment of that Act is not a member of the Selected Reserve or after such date ceased to be a member of the Selected Reserve."

Subsec. (c). Pub. L. 106–65, §523(a)(2), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title V, §525, Oct. 5, 1999, 113 Stat. 600, provided that: "The amendments made by sections 523 and 524 [amending this section and section 709 of Title 32, National Guard] shall take effect 180 days after the date of the receipt by Congress of the plan required by section 523(d) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1737) [set out below] [plan received by Congress from Under Secretary of Defense, Personnel and Readiness on Sept. 21, 1999, see Cong. Rec., vol. 145, pt. 15, p. 21975, Ex. Comm. 4276] or a report by the Secretary of Defense providing an alternative proposal to the plan required by that section."

### PLAN FOR FULL UTILIZATION OF MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 105–85, div. A, title V, §523(d), (e), Nov. 18, 1997, 111 Stat. 1737, provided that:

"(d) PLAN FOR FULL UTILIZATION OF MILITARY TECHNICIANS (DUAL STATUS).—(1) Not

later than 180 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of Defense shall submit to Congress a plan for ensuring that, on and after September 30, 2007, all military technician positions are held only by military technicians (dual status).

"(2) The plan shall provide for achieving, by September 30, 2002, a 50 percent reduction, by conversion of positions or otherwise, in the number of non-dual status military technicians that are holding military technicians positions, as compared with the number of non-dual status technicians that held military technician positions as of September 30, 1997, as specified in the report under subsection (c) [111 Stat. 1737].

"(3) Among the alternative actions to be considered in developing the plan, the Secretary shall consider the feasibility and cost of each of the following:

"(A) Eliminating or consolidating technician functions and positions.

"(B) Contracting with private sector sources for the performance of functions performed by military technicians.

"(C) Converting non-dual status military technician positions to military technician (dual status) positions or to positions in the competitive service or, in the case of positions of the Army National Guard of the United States or the Air National Guard of the United States, to positions of State employment.

"(D) Use of incentives to facilitate attainment of the objectives specified for the plan in paragraphs (1) and (2).

"(4) The Secretary shall submit with the plan any recommendations for legislation that the Secretary considers necessary to carry out the plan.

"(e) DEFINITIONS FOR CATEGORIES OF MILITARY TECHNICIANS.—In this section [enacting this section]:

"(1) The term 'non-dual status military technician' has the meaning given that term in section 10217 of title 10, United States Code, as added by subsection (a).

"(2) The term 'military technician (dual status)' has the meaning given the term in section 10216(a) of such title."

## §10218. Army and Air Force Reserve technicians: conditions for retention; mandatory retirement under civil service laws

(a) SEPARATION AND RETIREMENT OF MILITARY TECHNICIANS (DUAL STATUS) .—(1) An individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after October 5, 1999, loses dual status is subject to paragraph (2) or (3), as the case may be.

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity and is age 60 or older at that time, the technician shall be separated not later than 30 days after the date on which dual status is lost.

(3)(A) If a technician described in paragraph (1) is not eligible at the time dual status is lost for an unreduced annuity or is under age 60 at that time, the technician shall be offered the opportunity to—

(i) reapply for, and if qualified may be appointed to, a position as a military technician (dual status); or

(ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—

(i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and

(ii) shall be separated or retired—

(I) in the case of a technician first hired as a military technician (dual status) on or before February 10, 1996, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

(4) For purposes of this subsection, a military technician is considered to lose dual status upon—

(A) being separated from the Selected Reserve; or

(B) ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

(b) NON-DUAL STATUS TECHNICIANS.—(1) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity and is age 60 or older shall be separated not later than April 5, 2000.

(2)(A) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is not eligible for an unreduced annuity or is under age 60 shall be offered the opportunity to—

(i) reapply for, and if qualified be appointed to, a position as a military technician (dual status); or

(ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—

(i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and

(ii) shall be separated or retired—

(I) in the case of a technician first hired as a technician on or before February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a technician after February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status technician who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such a position, or who, during the period beginning on October 5, 1999, and ending on April 5, 2000, is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

(c) UNREDUCED ANNUITY DEFINED.—For purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of the age or years of service of the technician.

(d) VOLUNTARY PERSONNEL ACTION DEFINED.—In this section, the term "voluntary personnel action", with respect to a non-dual status technician, means any of the following:

(1) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

(2) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

(Added Pub. L. 106–65, div. A, title V, §522(a)(1), Oct. 5, 1999, 113 Stat. 595; amended Pub. L. 106–398, §1 [[div. A], title V, §525(a), title X, §1087(a)(20)], Oct. 30, 2000, 114 Stat. 1654, 1654A–108, 1654A–291; Pub. L. 112–81, div. A, title V, §514(b), Dec. 31, 2011, 125 Stat. 1394.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (a)(3)(A)(i). Pub. L. 112–81 substituted "if qualified may be appointed" for "if qualified be appointed".

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted "October 5, 1999," for "the date of the enactment of this section".

Subsec. (a)(2). Pub. L. 106–398, §1 [[div. A], title V, §525(a)(1)(A)], inserted "and is age 60 or older at that time" after "unreduced annuity".

Subsec. (a)(3)(A). Pub. L. 106–398, §1 [[div. A], title V, §525(a)(1)(B)], inserted "or is under age 60 at that time" after "unreduced annuity" in introductory provisions.

Subsec. (a)(3)(B)(i). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(B)], substituted "October 5, 2000" for "the end of the one-year period beginning on the date of the enactment of this subsection".

Subsec. (a)(3)(B)(ii)(I). Pub. L. 106–398, §1 [[div. A], title V, §525(a)(1)(C)], inserted "and becoming 60 years of age" after "unreduced annuity".

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(A), (C)], substituted "October 5, 1999," for "the date of the enactment of this section" and "April 5, 2000" for "six months after the date of the enactment of this section".

Pub. L. 106–398, §1 [[div. A], title V, §525(a)(2)(A)], inserted "and is age 60 or older" after "unreduced annuity".

Subsec. (b)(2)(A). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted "October 5, 1999," for "the date of the enactment of this section" in introductory provisions.

Pub. L. 106–398, §1 [[div. A], title V, §525(a)(2)(B)], inserted "or is under age 60" after "unreduced annuity" in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(B)], substituted "October 5, 2000" for "the end of the one-year period beginning on the date of the enactment of this subsection".

Subsec. (b)(2)(B)(ii). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(A)], substituted "October 5, 1999," for "the date of the enactment of this section" in subcls. (I) and (II).

Subsec. (b)(2)(B)(ii)(I). Pub. L. 106–398, §1 [[div. A], title V, §525(a)(2)(C)], inserted "and becoming 60 years of age" after "unreduced annuity".

Subsec. (b)(3). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(20)(D)], substituted "during the period beginning on October 5, 1999, and ending on April 5, 2000," for "within six months of the date of the enactment of this section".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TRANSITION PROVISION

Pub. L. 106–398, §1 [[div. A], title V, §525(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–109, as amended by Pub. L. 107–107, div. A, title X, §1048(f)(1), Dec. 28, 2001, 115 Stat. 1228, provided that:

"(1) An individual who before the date of the enactment of this Act [Oct. 30, 2000] was involuntarily separated or retired from employment as an Army Reserve or Air Force Reserve technician under section 10218 of title 10, United States Code, and who would not have been so separated if the provisions of subsections (a) and (b) of that section, as amended by subsection (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before that separation. The effective date of any such reinstatement is the date the employee resumes technician status.

"(2) The authority under paragraph (1) applies only to reinstatement for which an application is received by the Secretary concerned before the end of the one-year period beginning on the date of the enactment of this Act [Oct. 30, 2000]."

### TEMPORARY PROVISION FOR EXTENSION OF TIME FOR SEPARATION OR RETIREMENT

Pub. L. 106–65, div. A, title V, §522(a)(3), Oct. 5, 1999, 113 Stat. 597, provided that: "During the six-month period beginning on the date of the enactment of this Act [Oct. 5, 1999], the provisions of subsections (a)(3)(B)(ii)(I) and (b)(2)(B)(ii)(I) of section 10218 of title 10, United States Code, as added by paragraph (1), shall be applied by substituting 'six months' for '30 days'."

## §10219. Suicide prevention and resilience program

(a) PROGRAM REQUIREMENT.—The Secretary of Defense shall establish and carry out a program to provide members of the National Guard and Reserves and their families with training in

suicide prevention, resilience, and community healing and response to suicide, including provision of such training at Yellow Ribbon Reintegration Program events and activities authorized under section 582 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 10101 note).

(b) SUICIDE PREVENTION TRAINING.—Under the program, the Secretary shall provide members of the National Guard and Reserves with training in suicide prevention. Such training may include—

(1) describing the warning signs for suicide and teaching effective strategies for prevention and intervention;

(2) examining the influence of military culture on risk and protective factors for suicide; and

(3) engaging in interactive case scenarios and role plays to practice effective intervention strategies.

(c) COMMUNITY RESPONSE TRAINING.—Under the program, the Secretary shall provide the families and communities of members of the National Guard and Reserves with training in responses to suicide that promote individual and community healing. Such training may include—

(1) enhancing collaboration among community members and local service providers to create an integrated, coordinated community response to suicide;

(2) communicating best practices for preventing suicide, including safe messaging, appropriate memorial services, and media guidelines;

(3) addressing the impact of suicide on the military and the larger community, and the increased risk that can result; and

(4) managing resources to assist key community and military service providers in helping the families, friends, and fellow servicemembers of a suicide victim through the processes of grieving and healing.

(d) COMMUNITY TRAINING ASSISTANCE.—The program shall include the provision of assistance with such training to the local communities of those servicemembers and families, to be provided in coordination with local community programs.

(e) COLLABORATION.—In carrying out the program, the Secretary shall collect and analyze "lessons learned" and suggestions from State National Guard and Reserve organizations with existing or developing suicide prevention and community response programs.

(f) OUTREACH FOR CERTAIN MEMBERS OF THE RESERVE COMPONENTS.—(1) Upon the request of an adjutant general of a State, the Secretary may share with the adjutant general the contact information of members described in paragraph (2) who reside in such State in order for the adjutant general to include such members in suicide prevention efforts conducted under this section.

(2) Members described in this paragraph are—

(A) members of the Individual Ready Reserve; and

(B) members of a reserve component who are individual mobilization augmentees.

(g) TRIENNIAL EVALUATION.—The Secretary shall evaluate the program every third year beginning in 2022 until the program terminates to determine whether the program effectively—

(1) provides training and assistance under subsections (b), (c), and (d); and

(2) implements subsection (e).

(Added Pub. L. 112–239, div. A, title V, §581(a)(1), Jan. 2, 2013, 126 Stat. 1764; amended Pub. L. 113–66, div. A, title V, §511(a), Dec. 26, 2013, 127 Stat. 751; Pub. L. 114–328, div. A, title V, §565, Dec. 23, 2016, 130 Stat. 2138; Pub. L. 115–91, div. A, title V, §544, Dec. 12, 2017, 131 Stat. 1396; Pub. L. 116–92, div. A, title V, §515, Dec. 20, 2019, 133 Stat. 1349; Pub. L. 116–283, div. A, title V, §514, Jan. 1, 2021, 134 Stat. 3588.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 582 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (a), is

section 582 of Pub. L. 110–181, which is set out as a note under section 10101 of this title.

## AMENDMENTS

**2021**—Subsec. (h). Pub. L. 116–283 struck out subsec. (h). Text read as follows: "The program under this section shall terminate on October 1, 2025."

**2019**—Subsec. (g). Pub. L. 116–92 added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 116–92, §515(1), (2), redesignated subsec. (g) as (h) and substituted "2025" for "2020".

**2017**—Subsec. (g). Pub. L. 115–91 substituted "October 1, 2020" for "October 1, 2018".

**2016**—Subsec. (g). Pub. L. 114–328 substituted "October 1, 2018" for "October 1, 2017".

**2013**—Subsecs. (f), (g). Pub. L. 113–66 added subsec. (f) and redesignated former subsec. (f) as (g).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### NATIONAL GUARD SUICIDE PREVENTION PILOT PROGRAM

Pub. L. 116–92, div. A, title VII, §739, Dec. 20, 2019, 133 Stat. 1464, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Chief of the National Guard Bureau may carry out a pilot program to expand suicide prevention and intervention efforts at the community level through the use of a mobile application that provides the capability for a member of the National Guard to receive prompt support, including access to a behavioral health professional, on a smartphone, tablet computer, or other handheld mobile device.

"(b) ELEMENTS.—The pilot program shall include, subject to such conditions as the Secretary may prescribe—

"(1) the use by members of the National Guard of an existing mobile application that provides the capability described in subsection (a); or

"(2) the development and use of a new mobile application that provides such capability.

"(c) ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—The Chief of the National Guard Bureau shall establish requirements with respect to eligibility and participation in the pilot program.

"(d) ASSESSMENT PRIOR TO PILOT PROGRAM COMMENCEMENT.—Prior to commencement of the pilot program, the Chief of the National Guard Bureau shall—

"(1) conduct an assessment of existing prevention and intervention efforts of the National Guard in each State that include the use of mobile applications that provide the capability described in subsection (a) to determine best practices for providing immediate and localized care through the use of such mobile applications; and

"(2) determine the feasibility of expanding existing programs on a national scale.

"(e) RESPONSIBILITIES OF ENTITIES PARTICIPATING IN PILOT PROGRAM.—Each entity that participates in the pilot program shall—

"(1) share best practices with other entities participating in the program; and

"(2) annually assess outcomes with respect to members of the National Guard.

"(f) TERM.—The pilot program shall terminate on the date that is three years after the date on which the pilot program commenced.

"(g) REPORTS.—

"(1) INITIAL REPORT.—If the Chief of the National Guard Bureau commences the pilot program authorized under subsection (a), not later than 180 days after the date of the commencement of such program, the Chief shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the pilot program and such other matters as the Chief considers appropriate.

"(2) FINAL REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the termination of the pilot program, the Chief of the National Guard Bureau shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such pilot program.

"(B) MATTERS INCLUDED.—The report under subparagraph (A) shall include the following:

"(i) A description of the pilot program, including any partnerships entered into by the Chief of the National Guard Bureau under the program.

"(ii) An assessment of the effectiveness of the pilot program.

"(iii) A description of costs associated with the implementation of the pilot program.

"(iv) The estimated costs of making the pilot program permanent.

"(v) A recommendation as to whether the pilot program should be extended or made permanent.

"(vi) Such other recommendations for legislative or administrative action as the Chief of the National Guard Bureau considers appropriate.

"(h) STATE DEFINED.—In this section, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands."

# CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

Sec.
10301. Reserve Forces Policy Board.
10302. Army Reserve Forces Policy Committee.
10303. Navy Reserve Policy Board.
10304. Marine Corps Reserve Policy Board.
10305. Air Force Reserve Forces Policy Committee.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(G), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 10303.

## §10301. Reserve Forces Policy Board

(a) IN GENERAL.—As provided in section 175 of this title, there is in the Office of the Secretary of Defense a board known as the "Reserve Forces Policy Board" (in this section referred to as the "Board").

(b) FUNCTIONS.—The Board shall serve as an independent adviser to the Secretary of Defense to provide advice and recommendations to the Secretary on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.

(c) MEMBERSHIP.—The Board consists of 20 members, appointed or designated as follows:

(1) A civilian appointed by the Secretary of Defense from among persons determined by the Secretary to have the knowledge of, and experience in, policy matters relevant to national security and reserve component matters necessary to carry out the duties of chair of the Board, who shall serve as chair of the Board.

(2) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Army—

(A) one of whom shall be a member of the Army National Guard of the United States or a former member of the Army National Guard of the United States in the Retired Reserve; and

(B) one of whom shall be a member or retired member of the Army Reserve.

(3) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy—

(A) one of whom shall be an active or retired officer of the Navy Reserve; and

(B) one of whom shall be an active or retired officer of the Marine Corps Reserve.

(4) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force—

(A) one of whom shall be a member of the Air National Guard of the United States or a former member of the Air National Guard of the United States in the Retired Reserve; and

(B) one of whom shall be a member or retired member of the Air Force Reserve.

(5) One active or retired reserve officer or enlisted member of the Coast Guard designated by

the Secretary of Homeland Security.

(6) Ten persons appointed or designated by the Secretary of Defense, each of whom shall be a United States citizen having significant knowledge of and experience in policy matters relevant to national security and reserve component matters and shall be one of the following:

(A) An individual not employed in any Federal or State department or agency.

(B) An individual employed by a Federal or State department or agency.

(C) An officer of a regular component of the armed forces on active duty, or an officer of a reserve component of the armed forces in an active status, who—

(i) is serving or has served in a senior position on the Joint Staff, the headquarters staff of a combatant command, or the headquarters staff of an armed force; and

(ii) has experience in joint professional military education, joint qualification, and joint operations matters.

(7) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general or flag officer recommended by the chair and designated by the Secretary of Defense, who shall serve without vote—

(A) as military adviser to the chair;

(B) as military executive officer of the Board; and

(C) as supervisor of the operations and staff of the Board.

(8) A senior enlisted member of a reserve component recommended by the chair and designated by the Secretary of Defense, who shall serve without vote as enlisted military adviser to the chair.

(d) MATTERS TO BE ACTED ON.—The Board may act on those matters referred to it by the chair and on any matter raised by a member of the Board or the Secretary of Defense.

(e) STAFF.—The Board shall be supported by a staff consisting of one full-time officer from each of the reserve components listed in paragraphs (1) through (6) of section 10101 of this title who holds the grade of colonel (or in the case of the Navy, the grade of captain) or who has been selected for promotion to that grade. These officers shall also serve as liaisons between their respective components and the Board. They shall perform their staff and liaison duties under the supervision of the military executive officer of the Board in an independent manner reflecting the independent nature of the Board.

(f) RELATIONSHIP TO SERVICE RESERVE POLICY COMMITTEES AND BOARDS.—This section does not affect the committees and boards prescribed within the military departments by sections 10302 through 10305 of this title, and a member of such a committee or board may, if otherwise eligible, be a member of the Board.

(Added Pub. L. 103–337, div. A, title XVI, §1661(b)(1), Oct. 5, 1994, 108 Stat. 2980; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title V, §515(b)(1)(CC), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 111–383, div. A, title V, §514(a)(1), Jan. 7, 2011, 124 Stat. 4211.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 175 of this title, prior to amendment by Pub. L. 103–337, §1661(b)(3).

### AMENDMENTS

**2011**—Pub. L. 111–383 amended section generally. Prior to amendment, section related to the composition and functions of the Reserve Forces Policy Board.

**2006**—Subsec. (a)(7). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 111–383, div. A, title V, §514(a)(2), Jan. 7, 2011, 124 Stat. 4213, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on July 1, 2011."

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10302. Army Reserve Forces Policy Committee

(a) There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The Committee shall review and comment upon major policy matters directly affecting the reserve components and the mobilization preparedness of the Army. The Committee's comments on such policy matters shall accompany the final report regarding any such matters submitted to the Secretary of the Army and the Chief of Staff.

(b) The Committee consists of officers in the grade of colonel or above, as follows:

(1) five members of the Regular Army on duty with the Army General Staff;

(2) five members of the Army National Guard of the United States; and

(3) five members of the Army Reserve.

(c) The members of the Committee shall select the Chairman from among the members of the reserve components on the Committee.

(d) A majority of the members of the Committee shall act whenever matter affecting both the Army National Guard of the United States and Army Reserve are being considered. However, when any matter solely affecting one of the reserve components of the Army is being considered, it shall be acted upon only by the Subcommittee on Army National Guard Policy or the Subcommittee on Army Reserve Policy, as appropriate.

(e) The Subcommittee on Army National Guard Policy consists of the members of the Committee other than the Army Reserve members.

(f) The Subcommittee on Army Reserve Policy consists of the members of the Committee other than the Army National Guard members.

(g) Membership on the Committee is determined by the Secretary of the Army and is for a minimum period of three years. Except in the case of members of the Committee from the Regular Army, the Secretary of the Army, when appointing new members, shall insure that among the officers of each component on the Committee there will at all times be two or more members with more than one year of continuous service on the Committee.

(h) There shall be not less than 10 officers of the Army National Guard of the United States and the Army Reserve on duty with the Army Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Army Staff while on that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 161, §3033; Pub. L. 85–861, §33(a)(17), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 90–168, §2(18), Dec. 1, 1967, 81 Stat. 524; renumbered §3021 and amended Pub. L. 99–433, title V, §501(a)(8), Oct. 1, 1986, 100 Stat. 1039; renumbered §10302, Pub. L. 103–337, div. A, title XVI, §1661(b)(2)(A), Oct. 5, 1994, 108 Stat. 2981; Pub. L. 115–232, div. A, title V, §516, Aug. 13, 2018, 132 Stat. 1753.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3033(a) | 10:38 (1st par., less last 37 words). | June 3, 1916, ch. 134, §5 (less last par.); June 4, 1920, ch. 227, subch. I, §5 (1st 7 pars.); Sept. 22, 1922, ch. 423, §1; July 2, 1926, ch. 721, §5; May 21, 1928, ch. 647; added June 15, 1933, ch. 87, §2 (less last par.), 48 Stat. 153; June 3, 1938, ch. 319; July 14, 1939, ch. 269; June 28, 1950, ch. 383, §401(b), 64 Stat. 271. |
| 3033(b) | 10:38 (last 37 words of 1st par.). | |
| 3033(c) | 10:38 (1st sentence, less proviso of 2d par.). | |
| 3033(d) | 10:38 (proviso of 1st sentence of 2d par.). | |
| 3033(e) | 10:38 (2d sentence, and 3d sentence less proviso, of 2d par.). | |
| 3033(f) | 10:38 (proviso of 3d sentence, and last sentence, of 2d par.). | |

In subsection (a), the words "the following subjects" are inserted for clarity.

In subsections (a) and (c), the words "of officers", after the word "committee", are inserted for clarity. The words "and of" are substituted for the words "to which shall be added".

In subsection (e), the words "For the purpose specified herein" are omitted as surplusage. The words "on that duty" are substituted for the words "so serving".

**1958 ACT**

The change is necessary to make subsection (d) coextensive with subsection (c), to which it was a proviso in the source law, the Act of June 3, 1916, chapter 134, section 5 (1st sentence of 2d par.) (formerly 10 U.S.C. 38 (1st sentence of 2d par.)).

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (b)(2), (3). Pub. L. 115–232, §516(1), struck out "not on active duty" after "United States" in par. (2) and after "Army Reserve" in par. (3).

Subsec. (c). Pub. L. 115–232, §516(2), inserted "of the reserve components" after "among the members" and struck out "not on active duty" before period at end.

**1994**—Pub. L. 103–337 renumbered section 3021 of this title as this section.

**1986**—Pub. L. 99–433, §501(a)(8)(C), renumbered section 3033 of this title as this section, and substituted "Army Reserve Forces Policy Committee" for "Reserve components of Army; policies and regulations for government of" in section catchline.

Subsec. (a). Pub. L. 99–433, §501(a)(8)(A), substituted "Office" for "office" and "Committee. The Committee" for "Committee which", inserted "and the mobilization preparedness", and substituted "Army. The" for "Army, and the" and "Secretary of the Army and the Chief of Staff" for "Chief of Staff and the Assistant Secretary responsible for reserve affairs".

Subsec. (h). Pub. L. 99–433, §501(a)(8)(B), struck out "General" before "Staff" in two places.

**1967**—Pub. L. 90–168 amended section generally, and restated with certain changes the existing authority relating to the Army Reserve Forces Policy Committee within the Office of the Secretary of the Army, reduced the membership of the Committee from 21 to 15, reduced the grade requirements so as to permit inclusion of colonels, and provided that the Committee review and comment upon all major policies affecting Army Reserve matters and that the Committee comments accompany any final submission to the Chief of Staff and Assistant Secretary responsible for Reserve Affairs.

**1958**—Subsec. (d). Pub. L. 85–861 substituted "affecting the organization, distribution, training, appointment, assignment, promotion, or discharge of members of the Army Reserve and those of either" for "affecting the Army Reserve and either".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–168 effective on first day of first calendar month following date of enactment of Pub. L. 90–168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as a note under

section 138 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

## §10303. Navy Reserve Policy Board

A Navy Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Navy Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(b)(1), Oct. 5, 1994, 108 Stat. 2981; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(DD), (3)(H), Jan. 6, 2006, 119 Stat. 3233, 3234.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5251(c) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**AMENDMENTS**

**2006**—Pub. L. 109–163, §515(b)(3)(H), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(DD), substituted "Navy Reserve" for "Naval Reserve" in two places in text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10304. Marine Corps Reserve Policy Board

A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1661(b)(1), Oct. 5, 1994, 108 Stat. 2981.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5252(c) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(3)(A).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10305. Air Force Reserve Forces Policy Committee

(a) There is in the Office of the Secretary of the Air Force an Air Reserve Forces Policy Committee on Air National Guard and Air Force Reserve Policy. The Committee shall review and comment upon major policy matters directly affecting the reserve components and the mobilization preparedness of the Air Force. The Committee's comments on such policy matters shall accompany the final report regarding any such matters submitted to the Secretary of the Air Force and the Chief of Staff.

(b)(1) The committee shall have voting members, who shall be officers in the grade of colonel or above, as follows:

(A) five members of the Regular Air Force on duty with the Air Staff;

(B) five members of the Air National Guard of the United States; and

(C) five members of the Air Force Reserve.

(2)(A) The committee shall have four nonvoting members, who shall be the Chief Master Sergeants of the Air Force, the Air Force Reserve, the Air National Guard, and the Space Force.

(B) A nonvoting member who cannot attend a meeting of the committee may designate a member in the grade of E–8 or E–9 to attend in their stead.

(c) The members of the Committee shall select the Chairman from among the members of the reserve components on the Committee.

(d) A majority of the members of the Committee shall act whenever matters affecting both the Air National Guard of the United States and Air Force Reserve are being considered. However, when any matter solely affecting one of the Air Force Reserve components is being considered, it shall be acted upon only by the Subcommittee on Air National Guard Policy or the Subcommittee on Air Force Reserve Policy, as appropriate.

(e) The Subcommittee on Air National Guard Policy consists of the members of the Committee other than the Air Force Reserve members.

(f) The Subcommittee on Air Force Reserve Policy consists of the members of the Committee other than the Air National Guard members.

(g) Membership on the Air Staff Committee is determined by the Secretary of the Air Force and is for a minimum period of three years. Except in the case of members of the Committee from the Regular Air Force, the Secretary of the Air Force, when appointing new members, shall insure that among the officers of each component on the Committee there will at all times be two or more members with more than one year of continuous service on the Committee.

(h) There shall be not less than 10 officers of the Air National Guard of the United States and the Air Force Reserve on duty with the Air Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Air Staff while on that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 491, §8033; Pub. L. 85–861, §33(a)(17), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 90–168, §2(21), Dec. 1, 1967, 81 Stat. 525; renumbered §8021 and amended Pub. L. 99–433, title V, §521(a)(6), Oct. 1, 1986, 100 Stat. 1059; renumbered §10305, Pub. L. 103–337, div. A, title XVI, §1661(b)(2)(B), Oct. 5, 1994, 108 Stat. 2981; Pub. L. 118–31, div. A, title V, §511, title IX, §916, Dec. 22, 2023, 137 Stat. 244, 368.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8033(a) | 10:38 (1st par., less last 37 words). | June 3, 1916, ch. 134, §5 (less last par.); June 4, 1920, ch. 227, subch. I, §5 (1st 7 pars.); Sept. 22, 1922, ch. 423, §1, July 2, 1926, ch. 721, §5; May 21, 1928, ch. 647; added June 15, 1933, ch. 87, §2 (less last par.), 48 Stat. 153; June 3, 1938, ch. 319; |
| 8033(b) | 10:38 (last 37 words of 1st par.). | |
| 8033(c) | 10:38 (1st sentence, less proviso, of 2d par.). | |
| 8033(d) | 10:38 (proviso of 1st sentence of 2d par.). | |

| | | |
|---|---|---|
| 8033(e) | 10:38 (2d sentence, and 3d sentence less proviso, of 2d par.). | July 14, 1939, ch. 269; June 28, 1950, ch. 383, §401(b), 64 Stat. 271. |
| 8033(f) | 10:38 (proviso of 3d sentence, and last sentence, of 2d par.). | |
| 8033(g) | 5:626(f). | July 26, 1947, ch. 343, §207(f), 61 Stat. 503. |

In subsection (a), the words "the following subjects" are inserted for clarity.

In subsections (a) and (c), the words "of officers", after the word "committee", are inserted for clarity. The words "and of" are substituted for the words "to which shall be added".

In subsection (e), the words "For the purpose specified herein" are omitted as surplusage. The words "on that duty" are substituted for the words "so serving".

In subsection (g), the word "perform" is substituted for the words "be charged with". All of 5:626(f) except the first proviso of the first sentence is omitted as executed. The words "Territories, Puerto Rico, the Canal Zone, and the District of Columbia" are inserted to conform to other sections of this title which, in describing the National Guard, also include these jurisdictions.

**1958 ACT**

The change is necessary to make subsection (d) coextensive with subsection (c), to which it was a proviso in the source law, the Act of June 3, 1916, chapter 134, section 5 (1st sentence of 2d par.) (formerly 10 U.S.C. 38 (1st sentence of 2d par.)).

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b). Pub. L. 118–31, §916(2)–(4), inserted par. (1) designation before "The committee", redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), and added par. (2).

Pub. L. 118–31, §916(1), substituted "shall have voting members, who shall be" for "consists of" in introductory provisions.

Subsec. (b)(2). Pub. L. 118–31, §511(1), struck out "not on active duty" after "Air National Guard of the United States".

Subsec. (b)(3). Pub. L. 118–31, §511(1), struck out "not on active duty" before period at end.

Subsec. (c). Pub. L. 118–31, §511(2), inserted "of the reserve components" after "among the members" and struck out "not on active duty" before period at end.

**1994**—Pub. L. 103–337 renumbered section 8021 of this title as this section.

**1986**—Pub. L. 99–433, §521(a)(6)(C), renumbered section 8033 of this title as this section, and substituted "Air Force Reserve Forces Policy Committee" for "Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard" in section catchline.

Subsec. (a). Pub. L. 99–433, §521(a)(6)(A), substituted "Policy. The Committee" for "Policy which", inserted "and the mobilization preparedness", and substituted "Air Force. The" for "Air Force and the" and "Secretary of the Air Force and the Chief of Staff" for "Chief of Staff, and the Assistant Secretary responsible for reserve affairs".

Subsec. (b)(2). Pub. L. 99–433, §521(a)(6)(B), inserted "and" after the semicolon.

**1967**—Pub. L. 90–168 amended section generally, and among other changes, redesignated subsec. (e) as (h) and increased from seven to eight the number of subsecs. in the section and in such subsecs. (a)–(h) restated with certain changes the existing authority relating to the Staff Committee on Air Force Reserve Policy within the Office of the Secretary of the Air Force, reduced the membership of the Committee from 21 to 15, reduced the grade requirements so as to permit inclusion of colonels, and provided that the Committee review and comment on all major policies affecting Air Force Reserve matters and that the Committee comments accompany any final submission to the Chief of Staff and Assistant Secretary responsible for Reserve matters.

**1958**—Subsec. (d). Pub. L. 85–861 substituted "affecting the organization, distribution, training, appointment, assignment, promotion, or discharge of members of the Air Force Reserve and those of either" for "affecting the Air Force Reserve and either".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1967 AMENDMENT**

For effective date of amendment by Pub. L. 90–168, see section 7 of Pub. L. 90–168, set out as a note under section 138 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

# CHAPTER 1011—NATIONAL GUARD BUREAU

Sec.
10501. National Guard Bureau.
10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession.
10503. Functions of National Guard Bureau: charter.
10504. Chief of National Guard Bureau: annual reports.
10505. Vice Chief of the National Guard Bureau.
10506. Other senior National Guard Bureau officers.
10507. National Guard Bureau: assignment of officers of regular or reserve components.
10508. National Guard Bureau: general provisions.

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Pub. L. 115–91, div. A, title III, §333(b)(2), Dec. 12, 2017, 131 Stat. 1356, added item 10504 and struck out former item 10504 "Chief of National Guard Bureau: annual report".

**2011**—Pub. L. 112–81, div. A, title V, §511(d)(2), Dec. 31, 2011, 125 Stat. 1393, substituted "Vice Chief of the National Guard Bureau" for "Director of the Joint Staff of the National Guard Bureau" in item 10505.

**2008**—Pub. L. 110–181, div. A, title XVIII, §§1812(b)(2), 1813(c)(2), Jan. 28, 2008, 122 Stat. 497, 498, substituted "Functions of National Guard Bureau: charter" for "Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force" in item 10503 and added item 10508.

**2004**—Pub. L. 108–375, div. A, title V, §§507(b)(2), 508(c)(2), Oct. 28, 2004, 118 Stat. 1876, 1877, inserted "; succession" after "grade" in item 10502 and substituted "Director of the Joint Staff" for "Vice Chief" in item 10505.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(5), (7)(B), Feb. 10, 1996, 110 Stat. 496, inserted "Sec." at top of column of section numbers and struck out item 10508 "Definition".

**1994**—Pub. L. 103–337, div. A, title XVI, §1661(c)(1)(B), Oct. 5, 1994, 108 Stat. 2982, added item 10507.

## §10501. National Guard Bureau

(a) NATIONAL GUARD BUREAU.—There is in the Department of Defense the National Guard Bureau, which is a joint activity of the Department of Defense.

(b) PURPOSES.—The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2824; amended Pub. L. 110–181, div. A, title XVIII, §1812(a), Jan. 28, 2008, 122 Stat. 497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3040(a) of this title, prior to repeal by

Pub. L. 103–337, §904(b)(1).

**AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–181 substituted "joint activity of the Department of Defense" for "joint bureau of the Department of the Army and the Department of the Air Force".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 103–337, div. A, title IX, §904(d), Oct. 5, 1994, 108 Stat. 2827, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(6), Feb. 10, 1996, 110 Stat. 513, provided that: "The provisions of chapter 1011 of title 10, United States Code, as added by subsection (a), shall become effective, and the repeal made by subsection (b) [repealing section 3040 of this title] and the amendment made by subsection (c) [amending section 108 of Title 32, National Guard] shall take effect, at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 5, 1994]."

## §10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession

(a) APPOINTMENT.—There is a Chief of the National Guard Bureau, who is responsible for the organization and operations of the National Guard Bureau. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

(2) are recommended for such appointment by the Secretary of the Army or the Secretary of the Air Force;

(3) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard;

(4) are in a grade above the grade of brigadier general;

(5) are determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience;

(6) are determined by the Secretary of Defense to have successfully completed such other assignments and experiences so as to possess a detailed understanding of the status and capabilities of National Guard forces and the missions of the National Guard Bureau as set forth in section 10503 of this title;

(7) have a level of operational experience in a position of significant responsibility, professional military education, and demonstrated expertise in national defense and homeland defense matters that are commensurate with the advisory role of the Chief of the National Guard Bureau; and

(8) possess such other qualifications as the Secretary of Defense shall prescribe for purposes of this section.

(b) TERM OF OFFICE.—(1) An officer appointed as Chief of the National Guard Bureau serves at the pleasure of the President for a term of four years. An officer may be reappointed as Chief of the National Guard Bureau.

(2) Except as provided in section 14508(d) of this title, while holding the office of Chief of the National Guard Bureau, the Chief of the National Guard Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

(c) Advisor on National Guard Matters.—The Chief of the National Guard Bureau is—

(1) a principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of

Staff, on matters involving non-federalized National Guard forces and on other matters as determined by the Secretary of Defense; and

(2) the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

(d) MEMBER OF JOINT CHIEFS OF STAFF.—As a member of the Joint Chiefs of Staff, the Chief of the National Guard Bureau has the specific responsibility of addressing matters involving non-Federalized National Guard forces in support of homeland defense and civil support missions.

(e) GRADE AND EXCLUSION FROM GENERAL AND FLAG OFFICER AUTHORIZED STRENGTH.—(1) The Chief of the National Guard Bureau shall be appointed to serve in the grade of general.

(2) The Secretary of Defense shall designate, pursuant to subsection (b) of section 526 of this title, the position of Chief of the National Guard Bureau as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(f) SUCCESSION.—(1) When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence or disability ceases.

(2) When there is a vacancy in the offices of both the Chief and the Vice Chief of the National Guard Bureau or in the absence or disability of both the Chief and the Vice Chief of the National Guard Bureau, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty with the National Guard Bureau shall perform the duties of the Chief until a successor to the Chief or Vice Chief is appointed or the absence or disability of the Chief or Vice Chief ceases, as the case may be.

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2824; amended Pub. L. 108–375, div. A, title V, §507(a), (b)(1), Oct. 28, 2004, 118 Stat. 1876; Pub. L. 110–181, div. A, title XVIII, §§1811, 1825(c)(2), Jan. 28, 2008, 122 Stat. 496, 502; Pub. L. 112–81, div. A, title V, §§511(a)(1),(2), 512(b), Dec. 31, 2011, 125 Stat. 1391, 1393.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3040(a)–(c) of this title, prior to repeal by Pub. L. 103–337, §904(b)(1).

### AMENDMENTS

**2011**—Subsec. (d). Pub. L. 112–81, §512(b)(2) added subsec (d). Former subsec. (d) redesignated (e).

Pub. L. 112–81, §511(a)(1), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Chief of the National Guard Bureau shall be appointed to serve in the grade of general."

Subsec. (e). Pub. L. 112–81, §512(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Pub. L. 112–81, §511(a)(2), amended subsec. (e) generally. Prior to amendment, text related to succession for office of Chief of the National Guard Bureau.

Subsec. (f). Pub. L. 112–81, §512(b)(1), redesignated subsec. (e) as (f).

**2008**—Subsec. (a). Pub. L. 110–181, §1811(a), added pars. (1) to (8) and struck out former pars. (1) to (3) which read as follows:

"(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(2) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(3) are in a grade above the grade of brigadier general."

Subsec. (b). Pub. L. 110–181, §1825(c)(2), inserted par. (1) designation before "An officer appointed" and substituted "(2) Except as provided in section 14508(d) of this title, while holding the office of Chief of the

National Guard Bureau" for "While holding that office".

Pub. L. 110–181, §1811(c), struck out "An officer may not hold that office after becoming 64 years of age." after "four years."

Subsec. (c). Pub. L. 110–181, §1811(d), amended subsec. (c) generally. Prior to amendment, text read as follows: "The Chief of the National Guard Bureau is the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States."

Subsec. (d). Pub. L. 110–181, §1811(b), substituted "general" for "lieutenant general".

**2004**—Pub. L. 108–375, §507(b)(1), inserted "; succession" after "grade" in section catchline.

Subsec. (e). Pub. L. 108–375, §507(a), added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337, set out as a note under section 10501 of this title.

## §10503. Functions of National Guard Bureau: charter

The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force, shall develop and prescribe a charter for the National Guard Bureau. The charter shall reflect the full scope of the duties and activities of the Bureau, including the following matters:

(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

(2) The role of the National Guard Bureau in support of the Secretary of the Army and the Secretary of the Air Force.

(3) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

(4) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

(5) Monitoring and assisting the States in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

(6) Planning and administering the budget for the Army National Guard of the United States and the Air National Guard of the United States.

(7) Supervising the acquisition and supply of, and accountability of the States for, Federal property issued to the National Guard through the property and fiscal officers designated, detailed, or appointed under section 708 of title 32.

(8) Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of (A) National Guard units, and (B) officers of the National Guard.

(9) Establishing policies and programs for the employment and use of National Guard technicians under section 709 of title 32.

(10) Supervising and administering the Active Guard and Reserve program as it pertains to the National Guard.

(11) Issuing directives, regulations, and publications consistent with approved policies of the Army and Air Force, as appropriate.

(12) Facilitating and supporting the training of members and units of the National Guard to meet State requirements.

(13)(A) Assisting the Secretary of Defense in facilitating and coordinating with the entities listed in subparagraph (B) the use of National Guard personnel and resources for operations

conducted under title 32, or in support of State missions.

(B) The entities listed in this subparagraph for purposes of subparagraph (A) are the following:

(i) Other Federal agencies.

(ii) The Adjutants General of the States.

(iii) The combatant command the geographic area of responsibility of which includes the United States.

(14) Such other functions as the Secretary of Defense may prescribe.

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2825; amended Pub. L. 110–181, div. A, title XVIII, §1813(a)–(c)(1), Jan. 28, 2008, 122 Stat. 497, 498; Pub. L. 112–239, div. A, title X, §1081(3), Jan. 2, 2013, 126 Stat. 1960.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Par. (13)(B)(iii), (iv). Pub. L. 112–239 redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "The United States Joint Forces Command."

**2008**—Pub. L. 110–181, §1813(c)(1), substituted "charter" for "charter from Secretaries of the Army and Air Force" in section catchline.

Pub. L. 110–181, §1813(b)(1), in introductory provisions, substituted "The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force, shall develop" for "The Secretary of the Army and the Secretary of the Air Force shall jointly develop" and "reflect the full scope of the duties and activities of the Bureau, including" for "cover".

Pars. (2) to (14). Pub. L. 110–181, §1813(a), (b)(2), added pars. (2) and (13), redesignated former pars. (2) to (11) as (3) to (12), respectively, and former par. (12) as (14), and substituted "the Secretary of Defense" for "the Secretaries" in par. (14).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337, set out as a note under section 10501 of this title.

**ANNUAL PREPARATION OF FUTURE YEARS DEFENSE PLAN**

Pub. L. 104–196, §123, Sept. 16, 1996, 110 Stat. 2392, provided that: "The National Guard Bureau shall annually prepare a future years defense plan based on the requirement and priorities of the National Guard: *Provided*, That this plan shall be presented to the committees of Congress concurrent with the President's budget submission for each fiscal year."

## §10504. Chief of National Guard Bureau: annual reports

(a) ANNUAL REPORT ON STATE OF THE NATIONAL GUARD.—(1) The Chief of the National Guard Bureau shall submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions.

(2) The annual report required by paragraph (1) shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.

(b) SUBMISSION OF REPORT TO CONGRESS.—The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113(c) of this title is submitted to Congress.

(c) ANNUAL REPORT ON NON-FEDERALIZED SERVICE NATIONAL GUARD

PERSONNEL, TRAINING, AND EQUIPMENT REQUIREMENTS.—(1) Not later than January 31 of each of calendar years 2018 through 2020, the Chief of the National Guard Bureau, in coordination with the Secretary of Defense, shall submit to the recipients described in paragraph (3) a report that identifies the personnel, training, and equipment required by the non-Federalized National Guard—

(A) to support civilian authorities in connection with natural and man-made disasters during the covered period; and

(B) to carry out prevention, protection, mitigation, response, and recovery activities relating to such disasters during the covered period.

(2) In preparing each report under paragraph (1), the Chief of the National Guard Bureau shall—

(A) consult with the chief executive of each State, the Council of Governors, and other appropriate civilian authorities;

(B) collect and validate information from each State relating to the personnel, training, and equipment requirements described in paragraph (1);

(C) set forth separately the personnel, training, and equipment requirements for—

(i) each of the emergency support functions of the National Response Framework; and

(ii) each of the Federal Emergency Management Agency regions;

(D) assess core civilian capability gaps relating to natural and man-made disasters, as identified by States in submissions to the Department of Homeland Security;

(E) take into account threat and hazard identifications and risk assessments of the Department of Defense, the Department of Homeland Security, and the States; and

(F) assess the budgets of each State to support the personnel, training, and equipment requirements of the non-Federalized National Guard.

(3) The annual report required by paragraph (1) shall be submitted to the following officials:

(A) The congressional defense committees, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(B) The Secretary of Defense.

(C) The Secretary of Homeland Security.

(D) The Council of Governors.

(E) The Secretary of the Army.

(F) The Secretary of the Air Force.

(G) The Commander of the United States Northern Command.

(H) The Commander of the United States Indo-Pacific Command.

(I) The Commander of the United States Cyber Command.

(4) In this subsection, the term "covered period" means the fiscal year beginning after the date on which a report is submitted under paragraph (1).

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2825; amended Pub. L. 115–91, div. A, title III, §333(a), (b)(1), Dec. 12, 2017, 131 Stat. 1354–1356; Pub. L. 115–232, div. A, title X, §1081(a)(30), title XII, §1251(b)(1), Aug. 13, 2018, 132 Stat. 1985, 2053.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232, §1081(a)(30)(A), inserted "(1)" before "The Chief".

Subsecs. (b), (c). Pub. L. 115–232, §1081(a)(30)(B), redesignated subsec. (b), relating to annual report on non-Federalized service National Guard personnel, training, and equipment requirements, as (c).

Subsec. (c)(3)(H). Pub. L. 115–232, §1251(b)(1), substituted "United States Indo-Pacific Command" for "United States Pacific Command".

**2017**—Pub. L. 115–91, §333(b)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Chief of National Guard Bureau: annual report".

Subsec. (a). Pub. L. 115–91, §333(a)(1)(A), substituted "Report on State of the National Guard" for "Report" in heading.

Subsec. (a)(2). Pub. L. 115–91, §333(a)(1)(B), designated second sentence of subsec. (a) as par. (2) and substituted "The annual report required by paragraph (1)" for "The report".

Subsec. (b). Pub. L. 115–91, §333(a)(2), added subsec. (b) relating to annual report on non-Federalized service National Guard personnel, training, and equipment requirements.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337, set out as a note under section 10501 of this title.

## §10505. Vice Chief of the National Guard Bureau

(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, appointed by the President, by and with the advice and consent of the Senate. The appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

(B) are recommended by the Secretary of the Army, in the case of officers of the Army National Guard of the United States, or by the Secretary of the Air Force, in the case of officers of the Air National Guard of the United States, and by the Secretary of Defense;

(C) are determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience; and

(D) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard.

(2) The Chief of the National Guard Bureau and the Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3) for not more than 90 days to provide for the orderly transition of officers appointed to serve in the positions of Chief of the National Guard Bureau and the Vice Chief of the National Guard Bureau.

(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

(c) GRADE.—(1) The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of general.

(2) The Secretary of Defense shall designate, pursuant to subsection (b) of section 526 of this title, the position of Vice Chief of the National Guard Bureau as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section.

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2826; amended Pub. L. 108–375, div. A, title V, §§507(c), 508(a)–(b)(3), (c)(1), Oct. 28, 2004, 118 Stat. 1876, 1877; Pub. L. 112–81, div. A, title V, §511(b), (c)(1), (d)(1), Dec. 31, 2011, 125 Stat. 1392, 1393; Pub. L. 114–328, div. A, title V, §§502(rr), 511, Dec. 23, 2016, 130 Stat. 2106, 2112; Pub. L. 118–31, div. A, title V, §512, Dec. 22, 2023, 137 Stat. 244.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (c). Pub. L. 118–31 added subsec. (c).

**2016**—Subsec. (a)(1)(E). Pub. L. 114–328, §502(rr)(1), struck out subpar. (E) which read as follows: "are in a grade above the grade of brigadier general."

Subsec. (a)(4). Pub. L. 114–328, §511, substituted "paragraph (3) for not more than 90 days" for "paragraph (3)(B) for a limited period of time".

Subsec. (c). Pub. L. 114–328, §502(rr)(2), struck out subsec. (c). Text read as follows:

"(1) The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

"(2) The Secretary of Defense shall designate, pursuant to subsection (b) of section 526 of this title, the position of Vice Chief of the National Guard Bureau as one of the general officer and flag officer positions to be excluded from the limitations in subsection (a) of such section."

**2011**—Pub. L. 112–81, §511(d)(1), substituted "Vice Chief of the National Guard Bureau" for "Director of the Joint Staff of the National Guard Bureau" in section catchline.

Subsec. (a)(1). Pub. L. 112–81, §511(b)(1), substituted "Vice Chief of the National Guard Bureau, appointed by the President, by and with the advice and consent of the Senate. The appointment shall be made from" for "Director of the Joint Staff of the National Guard Bureau, selected by the Secretary of Defense from" in introductory provisions.

Subsec. (a)(1)(B) to (E). Pub. L. 112–81, §511(b)(2), added subpars. (B) and (C), redesignated former subpars. (B) and (C) as (D) and (E), respectively, and substituted "brigadier general" for "colonel" in subpar. (E).

Subsec. (a)(2) to (4). Pub. L. 112–81, §511(c)(1)(A), substituted "Vice Chief" for "Director of the Joint Staff" wherever appearing and substituted "as the Vice Chief" for "as the Director" in par. (3)(B).

Subsec. (b). Pub. L. 112–81, §511(c)(1)(B), substituted "Vice Chief" for "Director of the Joint Staff".

Subsec. (c). Pub. L. 112–81, §511(b)(3), amended subsec. (c) generally. Prior to amendment, text read as follows: "The Director of the Joint Staff of the National Guard Bureau shall be appointed to serve in the grade of major general."

**2004**—Pub. L. 108–375, §508(c)(1), substituted "Director of the Joint Staff" for "Vice Chief" in section catchline.

Subsec. (a)(1). Pub. L. 108–375, §508(a), substituted "Director of the Joint Staff" for "Vice Chief" in introductory provisions.

Subsec. (a)(2). Pub. L. 108–375, §508(b)(3), substituted "Chief of the National Guard Bureau and the Director of the Joint Staff of the National Guard Bureau" for "Chief and Vice Chief of the National Guard Bureau".

Subsec. (a)(3)(A). Pub. L. 108–375, §508(b)(1), substituted "Director of the Joint Staff" for "Vice Chief".

Subsec. (a)(3)(B). Pub. L. 108–375, §508(b)(1), (2), substituted "Director of the Joint Staff" for "Vice Chief" and "as the Director" for "as the Vice Chief".

Subsec. (a)(4). Pub. L. 108–375, §508(b)(3), substituted "Chief of the National Guard Bureau and the Director of the Joint Staff of the National Guard Bureau" for "Chief and Vice Chief of the National Guard Bureau".

Subsecs. (b), (c). Pub. L. 108–375, §508(b)(1), substituted "Director of the Joint Staff" for "Vice Chief".

Subsecs. (d), (e). Pub. L. 108–375, §507(c), struck out subsecs. (d) and (e) which related to functions as acting Chief and succession after Chief and Vice Chief, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Pub. L. 112–81, div. A, title V, §511(c)(3), Dec. 31, 2011, 125 Stat. 1393, provided that: "Any reference in any law, regulation, document, paper, or other record of the United States to the Director of the Joint Staff of the National Guard Bureau shall be deemed to be a reference to the Vice Chief of the National Guard Bureau."

Pub. L. 108–375, div. A, title V, §508(d), Oct. 28, 2004, 118 Stat. 1877, provided that: "Any reference in any law, regulation, document, paper, or other record of the United States to the Vice Chief of the National Guard Bureau shall be deemed to be a reference to the Director of the Joint Staff of the National Guard Bureau."

**EFFECTIVE DATE**

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337, set out as a note under section 10501 of this title.

**TREATMENT OF CURRENT DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU**

Pub. L. 112–81, div. A, title V, §511(e), Dec. 31, 2011, 125 Stat. 1393, provided that: "The officer who is serving as Director of the Joint Staff of the National Guard Bureau on the date of the enactment of this Act [Dec. 31, 2011] shall serve, in the grade of major general, as acting Vice Chief of the National Guard Bureau until the appointment of a Vice Chief of the National Guard Bureau in accordance with subsection (a) of section 10505 of title 10, United States Code, as amended by subsection (b). Notwithstanding the amendment made by subsection (b)(3) [amending this section], the acting Vice Chief of the National Guard Bureau shall not be excluded from the limitations in section 526(a) of such title."

## §10506. Other senior National Guard Bureau officers

(a) ADDITIONAL GENERAL OFFICERS.—(1) In addition to the Chief and Vice Chief of the National Guard Bureau, there shall be assigned to the National Guard Bureau—

(A) two officers selected by the Secretary of the Army (after consultation with the Chief of the National Guard Bureau) from officers of the Army National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom shall be appointed in accordance with paragraph (3) and shall serve as Director, Army National Guard, with the other serving as Deputy Director, Army National Guard; and

(B) two officers selected by the Secretary of the Air Force (after consultation with the Chief of the National Guard Bureau) from officers of the Air National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom shall be appointed in accordance with paragraph (3) and shall serve as Director, Air National Guard, with the other serving as Deputy Director, Air National Guard.

(2) The Director and Deputy Director, Army National Guard, and the Director and Deputy Director, Air National Guard, shall assist the Chief of the National Guard Bureau in carrying out the functions of the National Guard Bureau as they relate to their respective branches.

(3)(A) The President, by and with the advice and consent of the Senate, shall appoint the Director, Army National Guard, from general officers of the Army National Guard of the United States and shall appoint the Director, Air National Guard, from general officers of the Air National Guard of the United States.

(B) The Secretary of Defense may not recommend an officer to the President for appointment as Director, Army National Guard, or as Director, Air National Guard, unless the officer—

(i) is recommended by the Secretary of the military department concerned; and

(ii) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(C) An officer on active duty for service as the Director, Army National Guard, or the Director, Air National Guard, shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(D) The Director, Army National Guard, and the Director, Air National Guard, are appointed for a period of four years, but may be removed for cause at any time. An officer serving as either Director may be reappointed for one additional four-year period.

(b) OTHER OFFICERS.—There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

(Added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2827; amended Pub. L. 106–65, div. A, title V, §554(f), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, §1 [[div. A], title V, §507(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–105; Pub. L. 107–314, div. A, title V, §501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, §§508(b)(4), 536(a), Oct. 28, 2004, 118 Stat. 1877, 1901; Pub. L. 112–81, div. A, title V, §511(c)(2), Dec. 31, 2011, 125 Stat. 1393; Pub. L. 113–291, div. A, title V, §512(a)–(c), Dec. 19, 2014, 128 Stat. 3358; Pub. L. 114–328, div. A, title V, §502(ss), Dec. 23, 2016, 130 Stat. 2107.)

## EDITORIAL NOTES

### AMENDMENTS

**2016**—Subsec. (a)(1)(A), (B). Pub. L. 114–328, §502(ss)(2), which directed amendment of subpars. (A) and (B) by striking ", and shall hold the grade of lieutenant general while so serving," was executed by striking ", shall hold the grade of lieutenant general while so serving," after "in accordance with paragraph (3)" to reflect the probable intent of Congress.

Pub. L. 114–328, §502(ss)(1), which directed amendment of subpars. (A) and (B) by striking "general", was executed by striking "general" before "officers selected" to reflect the probable intent of Congress.

**2014**—Subsec. (a)(1)(A). Pub. L. 113–291, §512(a)(1), inserted "(after consultation with the Chief of the National Guard Bureau)" after "selected by the Secretary of the Army".

Subsec. (a)(1)(B). Pub. L. 113–291, §512(a)(2), inserted "(after consultation with the Chief of the National Guard Bureau)" after "selected by the Secretary of the Air Force".

Subsec. (a)(2). Pub. L. 113–291, §512(b), substituted "The Director and Deputy Director, Army National Guard, and the Director and Deputy Director, Air National Guard," for "The officers so selected".

Subsec. (a)(3)(D), (E). Pub. L. 113–291, §512(c), redesignated subpar. (E) as (D) and struck out former subpar. (D). Prior to amendment, subpar. (D) related to waiver of subsec. (a)(3)(B)(ii) with respect to the appointment of an officer as Director, Army National Guard, or as Director, Air National Guard.

**2011**—Subsec. (a)(1). Pub. L. 112–81 substituted "Chief and Vice Chief" for "Chief of the National Guard Bureau and the Director of the Joint Staff".

**2004**—Subsec. (a)(1). Pub. L. 108–375, §508(b)(4), substituted "Chief of the National Guard Bureau and the Director of the Joint Staff of the National Guard Bureau" for "Chief and Vice Chief of the National Guard Bureau" in introductory provisions.

Subsec. (a)(3)(D). Pub. L. 108–375, §536(a), substituted "December 31, 2006" for "December 31, 2004".

**2002**—Subsec. (a)(3)(D). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003".

**2000**—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title V, §507(e)(1)], substituted "shall be appointed in accordance with paragraph (3), shall hold the grade of lieutenant general while so serving, and shall" for "while so serving shall hold the grade of major general or, if appointed to that position in accordance with section 12505(a)(2) of this title, the grade of lieutenant general, and" in subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title V, §507(e)(2)], added par. (3).

**1999**—Subsec. (a)(1)(A), (B). Pub. L. 106–65 inserted "or, if appointed to that position in accordance with section 12505(a)(2) of this title, the grade of lieutenant general," after "major general".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title V, §512(d), Dec. 19, 2014, 128 Stat. 3358, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to assignments to the National Guard Bureau under section 10506 of title 10, United States Code, that occur after the date of the enactment of this Act [Dec. 19, 2014]."

### EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 3038 of this title.

### EFFECTIVE DATE

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337,

set out as a note under section 10501 of this title.

## §10507. National Guard Bureau: assignment of officers of regular or reserve components

Except as provided in section 12402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army or Air Force as he considers necessary.

(Added Pub. L. 103–337, div. A, title XVI, §1661(c)(1)(A), Oct. 5, 1994, 108 Stat. 2982; amended Pub. L. 104–106, div. A, title XV, §1501(b)(6), Feb. 10, 1996, 110 Stat. 496.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3541 and 8541 of this title, prior to repeal by Pub. L. 103–337, §1661(c)(2).

### AMENDMENTS

**1996**—Pub. L. 104–106 substituted "12402(b)" for "124402(b)" and "Air Force" for "Air Forces".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §10508. National Guard Bureau: general provisions

(a) MANPOWER REQUIREMENTS OF NATIONAL GUARD BUREAU.—The manpower requirements of the National Guard Bureau as a joint activity of the Department of Defense shall be determined in accordance with regulations prescribed by the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff.

(b) PERSONNEL FOR FUNCTIONS OF NATIONAL GUARD BUREAU.—

(1) IN GENERAL.—The Chief of the National Guard Bureau may program for, appoint, employ, administer, detail, and assign persons under sections 2102, 2103, 2105, and 3101 of title 5, subchapter IV of chapter 53 of title 5, or section 328 of title 32, within the National Guard Bureau and the National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands to execute the functions of the National Guard Bureau and the missions of the National Guard, and missions as assigned by the Chief of the National Guard Bureau.

(2) ADMINISTRATION THROUGH ADJUTANTS GENERAL.—The Chief of the National Guard Bureau may designate the adjutants general referred to in section 314 of title 32 to appoint, employ, and administer the National Guard employees authorized by this subsection.

(3) ADMINISTRATIVE ACTIONS.—Notwithstanding the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and under regulations prescribed by the Chief of the National Guard Bureau, all personnel actions or conditions of employment, including adverse actions under title 5, pertaining to a person appointed, employed, or administered by an adjutant general under this subsection shall be accomplished by the adjutant general of the jurisdiction concerned. For

purposes of any administrative complaint, grievance, claim, or action arising from, or relating to, such a personnel action or condition of employment:

(A) The adjutant general of the jurisdiction concerned shall be considered the head of the agency and the National Guard of the jurisdiction concerned shall be considered the employing agency of the individual and the sole defendant or respondent in any administrative action.

(B) The National Guard of the jurisdiction concerned shall defend any administrative complaint, grievance, claim, or action, and shall promptly implement all aspects of any final administrative order, judgment, or decision.

(C) In any civil action or proceeding brought in any court arising from an action under this section, the United States shall be the sole defendant or respondent.

(D) The Attorney General of the United States shall defend the United States in actions arising under this section described in subparagraph (C).

(E) Any settlement, judgment, or costs arising from an action described in subparagraph (A) or (C) shall be paid from appropriated funds allocated to the National Guard of the jurisdiction concerned.

(Added Pub. L. 110–181, div. A, title XVIII, §1812(b)(1), Jan. 28, 2008, 122 Stat. 497; amended Pub. L. 114–328, div. A, title IX, §932, Dec. 23, 2016, 130 Stat. 2363; Pub. L. 115–232, div. A, title V, §517, Aug. 13, 2018, 132 Stat. 1754.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in subsec. (b)(3), is Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, which is classified principally to chapter 62 (§4701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 42 and Tables.

### PRIOR PROVISIONS

A prior section 10508, added Pub. L. 103–337, div. A, title IX, §904(a), Oct. 5, 1994, 108 Stat. 2827, defined "State" for purposes of this chapter, prior to repeal by Pub. L. 104–106, div. A, title XV, §1501(b)(7)(A), Feb. 10, 1996, 110 Stat. 496.

### AMENDMENTS

**2018**—Subsec. (b)(1). Pub. L. 115–232 substituted "sections 2102, 2103, 2105, and 3101 of title 5, subchapter IV of chapter 53 of title 5, or section 328 of title 32," for "sections 2103, 2105, and 3101 of title 5, or section 328 of title 32,".

**2016**—Pub. L. 114–328 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### NUMBER OF MEMBERS OF THE NATIONAL GUARD ON FULL-TIME DUTY IN SUPPORT OF THE RESERVES WITHIN THE NATIONAL GUARD BUREAU

Pub. L. 115–91, div. A, title IV, §416, Dec. 12, 2017, 131 Stat. 1370, provided that:

"(a) ARMY NATIONAL GUARD OF THE UNITED STATES.—As of the end of fiscal year 2019, and as of the end of each fiscal year thereafter, the number of members of the Army National Guard of the United States serving with the National Guard Bureau on full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components may not exceed the number equal to six percent of the total number of members of the Army National Guard of the United States authorized for service on full-time duty for that purpose in that fiscal year.

"(b) AIR NATIONAL GUARD OF THE UNITED STATES.—As of the end of fiscal year 2019, and as of the end of each fiscal year thereafter, the number of members of the Air National Guard of the United States serving with the National Guard Bureau on full-time duty for the purpose of organizing, administering,

recruiting, instructing, or training the reserve components may not exceed the number equal to six percent of the total number of members of the Air National Guard of the United States authorized for service on full-time duty for that purpose in that fiscal year."

# CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

Sec.
10541. National Guard and reserve component equipment: annual report to Congress.
[10542. Repealed.]
10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program.

**EDITORIAL NOTES**

**AMENDMENTS**

**2015**—Pub. L. 114–92, div. A, title X, §1073(c)(2), Nov. 25, 2015, 129 Stat. 996, struck out item 10542 "Army National Guard combat readiness: annual report".

**1996**—Pub. L. 104–201, title XII, §1257(a)(2), Sept. 23, 1996, 110 Stat. 2699, added item 10543.

## §10541. National Guard and reserve component equipment: annual report to Congress

(a) The Secretary of Defense shall submit to the Congress each year, not later than March 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

(b) Each report under this section shall include the following:

(1) Recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces.

(2) A statement of the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report.

(3) A statement of the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces.

(4) A statement of the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

(5) A listing of each major item of equipment required by the Selected Reserve of the Ready Reserve of each reserve component indicating—

(A) the full war-time requirement of that component for that item, shown in accordance with deployment schedules and requirements over successive 30-day periods following mobilization;

(B) the number of each such item in the inventory of the component;

(C) a separate listing of each such item in the inventory that is a deployable item and is not the most desired item;

(D) the number of each such item projected to be in the inventory at the end of the third succeeding fiscal year; and

(E) the number of nondeployable items in the inventory as a substitute for a required major item of equipment.

(6) A narrative explanation of the plan of the Secretary concerned to provide equipment needed to fill the war-time requirement for each major item of equipment to all units of the Selected Reserve, including an explanation of the plan to equip units of the Selected Reserve that are short of major items of equipment at the outset of war.

(7) For each item of major equipment reported under paragraph (3) in a report for one of the three previous years under this section as an item expected to be procured for the Selected Reserve or to be transferred to the Selected Reserve, the quantity of such equipment actually procured for or transferred to the Selected Reserve.

(8) A statement of the current status of the compatibility of equipment between the Army reserve components and active forces of the Army, the effect of that level of incompatibility on combat effectiveness, and a plan to achieve full equipment compatibility.

(9) An assessment of the extent to which the National Guard possesses the equipment required to perform the responsibilities of the National Guard pursuant to sections 251, 252, 253, 12304(b), and 12406 of this title in response to an emergency or major disaster (as such terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)). Such assessment shall—

(A) identify any shortfall in equipment provided to the National Guard by the Department of Defense throughout the United States and the territories and possessions of the United States that is likely to affect the ability of the National Guard to perform such responsibilities;

(B) evaluate the effect of any such shortfall on the capacity of the National Guard to perform such responsibilities in response to an emergency or major disaster that occurs in the United States or a territory or possession of the United States; and

(C) identify the requirements and investment strategies for equipment provided to the National Guard by the Department of Defense that are necessary to plan for a reduction or elimination of any such shortfall.

(10) A joint assessment by the Chief of Staff of the Army and the Chief of the National Guard Bureau on the efforts of the Army to achieve parity among the active component, the Army Reserve, and the Army National Guard with respect to equipment and capabilities. Each assessment shall include a comparison of the inventory of high priority items of equipment available to each component of the Army described in preceding sentence, including—

(A) AH–64 Attack Helicopters;

(B) UH–60 Black Hawk Utility Helicopters;

(C) Abrams Main Battle Tanks;

(D) Bradley Infantry Fighting Vehicles;

(E) Stryker Combat Vehicles; and

(F) any other items of equipment identified as high priority by the Chief of Staff of the Army or the Chief of the National Guard Bureau.

(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense.

(d) Each report under this section concerning equipment of the National Guard shall also include the following:

(1) A statement of the accuracy of the projections required by subsection (b)(5)(D) contained in earlier reports under this section, and an explanation, if the projection was not met, of why the projection was not met.

(2) A certification from the Chief of the National Guard Bureau setting forth an inventory for the preceding fiscal year of each item of equipment—

(A) for which funds were appropriated;

(B) which was due to be procured for the National Guard during that fiscal year; and

(C) which has not been received by a National Guard unit as of the close of that fiscal year.

(Added Pub. L. 101–510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1714, §115b; amended

Pub. L. 102–484, div. A, title XI, §1134, Oct. 23, 1992, 106 Stat. 2541; renumbered §10541 and amended Pub. L. 103–337, div. A, title XVI, §1661(d)(2), Oct. 5, 1994, 108 Stat. 2982; Pub. L. 110–181, div. A, title III, §351(a), title XVIII, §1826, Jan. 28, 2008, 122 Stat. 70, 503; Pub. L. 112–81, div. A, title X, §1070, Dec. 31, 2011, 125 Stat. 1592; Pub. L. 115–232, div. A, title I, §111(a), title XII, §1204(b)(1)(B), Aug. 13, 2018, 132 Stat. 1660, 2017.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(a)(2), (3) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

### AMENDMENTS

**2018**—Subsec. (b)(9). Pub. L. 115–232, §1204(b)(1)(B), substituted "sections 251, 252, 253," for "sections 331, 332, 333," in introductory provisions.

Subsec. (b)(10). Pub. L. 115–232, §111(a), added par. (10).

**2011**—Subsec. (a). Pub. L. 112–81 substituted "March 15" for "February 15".

**2008**—Subsec. (b)(9). Pub. L. 110–181, §351(a), added par. (9).

Subsec. (d). Pub. L. 110–181, §1826, added subsec. (d).

**1994**—Pub. L. 103–337 renumbered section 115b of this title as this section and substituted "National Guard and reserve component equipment: annual report to Congress" for "Annual report on National Guard and reserve component equipment" as section catchline.

**1992**—Subsec. (b)(8). Pub. L. 102–484 added par. (8).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title I, §111(b), Aug. 13, 2018, 132 Stat. 1660, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to reports required to be submitted under section 10541 of title 10, United States Code, after the date of the enactment of this Act [Aug. 13, 2018]."

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title III, §351(c)(1), Jan. 28, 2008, 122 Stat. 70, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to reports submitted after the date of the enactment of this Act [Jan. 28, 2008]."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## [§10542. Repealed. Pub. L. 114–92, div. A, title X, §1073(c)(1), Nov. 25, 2015, 129 Stat. 996]

Section, added Pub. L. 103–160, div. A, title V, §521(a), Nov. 30, 1993, 107 Stat. 1652, §3082; renumbered §10542 and amended Pub. L. 103–337, div. A, title XVI, §1661(d)(3), Oct. 5, 1994, 108 Stat. 2982; Pub. L. 104–106, div. A, title XV, §1501(b)(8), Feb. 10, 1996, 110 Stat. 496; Pub. L. 104–201, div. A, title X, §1074(a)(21), Sept. 23, 1996, 110 Stat. 2660, related to annual report on Army National Guard combat readiness.

## §10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program

(a) IN GENERAL.—The Secretary of Defense shall specify in each future-years defense program

submitted to Congress under section 221 of this title the estimated expenditures and the proposed appropriations, for each fiscal year of the period covered by that program, for the procurement of equipment and for military construction for each of the reserve components of the armed forces.

(b) ASSOCIATED ANNEXES.—The associated annexes of the future-years defense program shall specify, at the same level of detail as is set forth in the annexes for the active components, the amount requested for—

(1) procurement of each item of equipment to be procured for each reserve component; and

(2) each military construction project to be carried out for each reserve component, together with the location of the project.

(c) REPORT.—(1) If the aggregate of the amounts specified in paragraphs (1) and (2) of subsection (b) for a fiscal year is less than the amount equal to 90 percent of the average authorized amount applicable for that fiscal year under paragraph (2), the Secretary of Defense shall submit to Congress a report specifying for each reserve component the additional items of equipment that would be procured, and the additional military construction projects that would be carried out, if that aggregate amount were an amount equal to such average authorized amount. The report shall be at the same level of detail as is required by subsection (b).

(2) In this subsection, the term "average authorized amount", with respect to a fiscal year, means the average of—

(A) the aggregate of the amounts authorized to be appropriated for the preceding fiscal year for the procurement of items of equipment, and for military construction, for the reserve components; and

(B) the aggregate of the amounts authorized to be appropriated for the fiscal year preceding the fiscal year referred to in subparagraph (A) for the procurement of items of equipment, and for military construction, for the reserve components.

(3) A report required under paragraph (1) for a fiscal year shall be submitted not later than 90 days after the date on which the President submits to Congress the budget for such fiscal year under section 1105(a) of title 31.

(Added Pub. L. 104–201, div. A, title XII, §1257(a)(1), Sept. 23, 1996, 110 Stat. 2699; amended Pub. L. 105–85, div. A, title X, §1009(a), Nov. 18, 1997, 111 Stat. 1872; Pub. L. 106–398, §1 [[div. A], title IX, §931], Oct. 30, 2000, 114 Stat. 1654, 1654A–237; Pub. L. 112–81, div. A, title X, §1064(11), Dec. 31, 2011, 125 Stat. 1587.)

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (c)(3). Pub. L. 112–81 substituted "90 days" for "15 days".

**2000**—Subsec. (c)(3). Pub. L. 106–398 added par. (3).

**1997**—Pub. L. 105–85 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 104–201, div. A, title XII, §1257(b), Sept. 23, 1996, 110 Stat. 2699, provided that: "Section 10543 of title 10, United States Code, as added by subsection (a), shall apply with respect to each future-years defense program submitted to Congress after the date of the enactment of this Act [Sept. 23, 1996]."

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

### REQUIRED LEVEL OF DETAIL

Pub. L. 105–85, div. A, title X, §1009(b), Nov. 18, 1997, 111 Stat. 1872, provided that: "The level of detail provided for procurement and military construction in the future-years defense programs for fiscal years after fiscal year 1998 may not be less than the level of detail provided for procurement and military construction in the future-years defense program for fiscal year 1998."

# PART II—PERSONNEL GENERALLY


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**EDITORIAL NOTES**

**AMENDMENTS**

**1997**—Pub. L. 105–85, div. A, title V, §515(b), Nov. 18, 1997, 111 Stat. 1733, substituted "12551" for "[No present sections]" in item for chapter 1215.

**1996**—Pub. L. 104–106, div. A, title V, §512(a)(2), Feb. 10, 1996, 110 Stat. 305, added item for chapter 1214.

## CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE


Sec.

12001. Authorized strengths: reserve components.

12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.

12003. Authorized strengths: commissioned officers in an active status.

12004. Strength in grade: reserve general and flag officers in an active status.

12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.

12006. Strength limitations: authority to waive in time of war or national emergency.

12007. Reserve officers of the Army: distribution.

12008. Army Reserve and Air Force Reserve: warrant officers.

12009. Army and Air Force reserve components: temporary increases.

12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.

12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.


**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(H), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 12010.

**1999**—Pub. L. 106–65, div. A, title X, §1066(a)(31), Oct. 5, 1999, 113 Stat. 772, inserted "in an" after "officers" in item 12003.

## §12001. Authorized strengths: reserve components

(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2983.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3221, 3224, 5413, 5456, 8221, and 8224 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### NOTICE TO CONGRESS REGARDING REAPPORTIONMENT OF NATIONAL GUARD FORCE STRUCTURE

Pub. L. 118–159, div. A, title V, §515, Dec. 23, 2024, 138 Stat. 1879, provided that:

"(a) IN GENERAL.—Not later than 60 days before reapportioning the force structure of the National Guard of a State, including by converting a position into a military technician (dual status), the Chief of the National Guard Bureau, in consultation with the Secretary of the military department concerned, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a notice of such reapportionment.

"(b) FORM; ELEMENTS.—A notice under subsection (a)—

"(1) may be submitted in unclassified form with a classified annex; and

"(2) shall include the following elements:

"(A) A description of such reapportionment, including the number of such conversions and any changes to the number of personnel.

"(B) A description of the projected operational effect of such reapportionment on the mission of the National Guard of such State.

"(C) A description of any end strength requirements that justify such reapportionment.

"(D) Recommendations for any change to statutory end strengths that may be necessary to offset such requirements.

"(c) DEFINITIONS.—In this section:

"(1) The term 'military technician (dual status)' has the meaning given such term in section 10216 of title 10, United States Code.

"(2) The term 'State' has the meaning given such term in section 901 of title 32, United States Code."

## END STRENGTHS FOR SELECTED RESERVE AND FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF RESERVES

Pub. L. 109–163, div. A, title IV, §§411, 412, Jan. 6, 2006, 119 Stat. 3220, 3221, which authorized end strengths for Selected Reserve personnel of the reserve components and for Reserves on active duty in support of the Reserves as of the last day of a fiscal year was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, §§411, 412, Oct. 28, 2004, 118 Stat. 1864, 1865.

Pub. L. 108–136, div. A, title IV, §§411, 412, Nov. 24, 2003, 117 Stat. 1452, 1453.

Pub. L. 107–314, div. A, title IV, §§411, 412, Dec. 2, 2002, 116 Stat. 2526, 2527.

Pub. L. 107–107, div. A, title IV, §§411, 412, Dec. 28, 2001, 115 Stat. 1069, 1070.

Pub. L. 106–398, §1 [[div. A], title IV, §§411, 412], Oct. 30, 2000, 114 Stat. 1654, 1654A–93.

Pub. L. 106–65, div. A, title IV, §§411, 412, Oct. 5, 1999, 113 Stat. 585, 586.

Pub. L. 105–261, div. A, title IV, §§411, 412, Oct. 17, 1998, 112 Stat. 1997.

Pub. L. 105–85, div. A, title IV, §§411, 412, Nov. 18, 1997, 111 Stat. 1719, 1720.

Pub. L. 104–201, div. A, title IV, §§411, 412, Sept. 23, 1996, 110 Stat. 2506, 2507.

Pub. L. 104–106, div. A, title IV, §§411, 412, Feb. 10, 1996, 110 Stat. 287, 288.

Pub. L. 103–337, div. A, title IV, §§411, 412, Oct. 5, 1994, 108 Stat. 2746.

Pub. L. 103–160, div. A, title IV, §§411, 412, Nov. 30, 1993, 107 Stat. 1641, 1642.

Pub. L. 102–484, div. A, title IV, §§411, 412, Oct. 23, 1992, 106 Stat. 2399.

Pub. L. 102–190, div. A, title IV, §§411, 412, Dec. 5, 1991, 105 Stat. 1351.

Pub. L. 101–510, div. A, title IV, §§411(a)–(c), 412, Nov. 5, 1990, 104 Stat. 1546, 1547; Pub. L. 102–25, title II, §§201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 102–190, div. A, title IV, §414(e), Dec. 5, 1991, 105 Stat. 1353; Pub. L. 103–160, div. A, title V, §513, Nov. 30, 1993, 107 Stat. 1649.

Pub. L. 101–189, div. A, title IV, §§411, 412, Nov. 29, 1989, 103 Stat. 1432, as amended by Pub. L. 101–510, div. A, title IV, §411(d), Nov. 5, 1990, 104 Stat. 1547.

Pub. L. 100–456, div. A, title IV, §§411(a), 412, Sept. 29, 1988, 102 Stat. 1964.

Pub. L. 100–180, div. A, title IV, §§411, 412, Dec. 4, 1987, 101 Stat. 1082, 1083, as amended by Pub. L. 100–456, div. A, title IV, §411(b), Sept. 29, 1988, 102 Stat. 1964.

Pub. L. 99–661, div. A, title IV, §§411(a)–(c), 412(a), Nov. 14, 1986, 100 Stat. 3860, 3861.

Pub. L. 99–145, title IV, §§411, 412, Nov. 8, 1985, 99 Stat. 618, 619.

Pub. L. 98–525, title IV, §§411, 412, Oct. 19, 1984, 98 Stat. 2516, 2517.

Pub. L. 98–94, title V, §§501, 502, Sept. 24, 1983, 97 Stat. 630, 631.

Pub. L. 97–252, title V, §§501, 502, Sept. 8, 1982, 96 Stat. 726, as amended by Pub. L. 98–94, title V, §504(a), Sept. 24, 1983, 97 Stat. 631.

Pub. L. 97–86, title V, §§501, 502, Dec. 1, 1981, 95 Stat. 1107.

Pub. L. 96–342, title IV, §401, Sept. 8, 1980, 94 Stat. 1084.

Pub. L. 96–107, title IV, §401, Nov. 9, 1979, 93 Stat. 807.

Pub. L. 95–485, title IV, §401, Oct. 20, 1978, 92 Stat. 1613.

Pub. L. 95–79, title IV, §401, July 30, 1977, 91 Stat. 327.

Pub. L. 94–361, title IV, §401, July 14, 1976, 90 Stat. 926.

Pub. L. 94–106, title IV, §401, Oct. 7, 1975, 89 Stat. 532.

Pub. L. 93–365, title IV, §§401, 402, Aug. 5, 1974, 88 Stat. 402, 403.

Pub. L. 93–155, title IV, §§401, 402, Nov. 16, 1973, 87 Stat. 608.

Pub. L. 92–436, title IV, §§401, 402, Sept. 26, 1972, 86 Stat. 736.

Pub. L. 92–156, title III, §§301, 302, Nov. 17, 1971, 85 Stat. 425.

Pub. L. 91–441, title III, §§301, 302, Oct. 7, 1970, 84 Stat. 908.

Pub. L. 91–121, title III, §§301, 302, Nov. 19, 1969, 83 Stat. 206.

Pub. L. 90–500, title III, §§301, 302, Sept. 20, 1968, 82 Stat. 850.

## RESERVE COMPONENT FORCE STRUCTURE

Pub. L. 102–484, div. A, title IV, §413, Oct. 23, 1992, 106 Stat. 2400, provided that:

"(a) REQUIREMENT TO PRESCRIBE RESERVE COMPONENT FORCE STRUCTURE.—The Secretary of each military department shall prescribe a force structure allowance for each reserve component under the jurisdiction of the Secretary. Each such force structure allowance for a reserve component—

"(1) shall be consistent with, but in no case include a number of personnel spaces that is less than, the authorized end strength for that component; and

"(2) shall be prescribed in accordance with historic service policies.

"(b) DEFINITION.—For purposes of this section, the term 'force structure allowance' means the number and types of units and organizations, and the number of authorized personnel spaces allocated to those units and organizations, in a military force."

## LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL

Pub. L. 102–484, div. A, title V, §518, Oct. 23, 1992, 106 Stat. 2407, as amended by Pub. L. 103–337, div. A, title VII, §716, Oct. 5, 1994, 108 Stat. 2803, prohibited Secretary of Defense from reducing number of medical personnel in any reserve component below number of such personnel in that component on Sept. 30, 1992, unless Secretary certified to Congress that number of such personnel to be reduced in particular military department was excess to current and projected needs for personnel in Selected Reserve of that department, and required that assessment of such needs be consistent with wartime requirements for Selected Reserve personnel identified in final report on comprehensive study of military medical care system prepared pursuant to section 733 of Pub. L. 102–190, formerly set out as a note under section 1071 of this title, prior to repeal by Pub. L. 104–106, div. A, title V, §564(d)(3), Feb. 10, 1996, 110 Stat. 327.

## PROGRAM FOR ACTIVE COMPONENT SUPPORT OF RESERVES

Pub. L. 108–375, div. A, title V, §515(b)–(d), Oct. 28, 2004, 118 Stat. 1883, 1884, prohibited the Secretary of the Army from reducing the number of active component Reserve support personnel below the number of such personnel as of Oct. 28, 2004, until the Secretary of the Army submitted to the Committees on Armed Services of the Senate and House of Representatives, not later than Mar. 31, 2005, a report on the support by active components of the Army for training and readiness of the Army National Guard and Army Reserve.

Pub. L. 103–160, div. A, title V, §517(b), Nov. 30, 1993, 107 Stat. 1651, provided that:

"(1) The Secretary of the Army shall include in the annual report of the Secretary to Congress known as the Army Posture Statement a presentation relating to the implementation of the Pilot Program for Active Component Support of the Reserves under section 414 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; [former] 10 U.S.C. 261 note [now set out below]), as amended by subsection (a).

"(2) Each such presentation shall include, with respect to the period covered by the report, the following information:

"(A) The promotion rate for officers considered for promotion from within the promotion zone who are serving as active component advisers to units of the Selected Reserve of the Ready Reserve (in accordance with that program) compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category, shown for all officers of the Army.

"(B) The promotion rate for officers considered for promotion from below the promotion zone who are serving as active component advisers to units of the Selected Reserve of the Ready Reserve (in accordance with that program) compared in the same manner as specified in subparagraph (A)."

Pub. L. 102–190, div. A, title IV, §414(a)–(d), Dec. 5, 1991, 105 Stat. 1352, 1353, as amended by Pub. L. 102–484, div. A, title V, §511(b), title XI, §1132, Oct. 23, 1992, 106 Stat. 2405, 2541; Pub. L. 103–160, div. A, title V, §517(a), Nov. 30, 1993, 107 Stat. 1650; Pub. L. 103–337, div. A, title IV, §413, Oct. 5, 1994, 108 Stat. 2747; Pub. L. 104–106, div. A, title IV, §413, Feb. 10, 1996, 110 Stat. 288; Pub. L. 104–201, div. A, title V, §545(b), Sept. 23, 1996, 110 Stat. 2524; Pub. L. 106–65, div. A, title X, §1066(d)(2), Oct. 5, 1999, 113 Stat. 773; Pub. L. 108–375, div. A, title V, §515(a), Oct. 28, 2004, 118 Stat. 1883, provided that:

"(a) PROGRAM REQUIRED.—The Secretary of the Army shall carry out a program to provide active component advisers to combat units, combat support units, and combat service support units in the Selected Reserve of the Ready Reserve that have a high priority for deployment on a time-phased troop deployment list or have another contingent high priority for deployment. The advisers shall be assigned to full-time duty in connection with organizing, administering, recruiting, instructing, or training such units.

"(b) OBJECTIVES OF PROGRAM.—The objectives of the program are as follows:

"(1) To improve the readiness of units in the reserve components of the Army.

"(2) To increase substantially the number of active component personnel directly advising reserve component unit personnel.

"(3) To provide a basis for determining the most effective mix of reserve component personnel and active component personnel in organizing, administering, recruiting, instructing, or training reserve component units.

"(4) To provide a basis for determining the most effective mix of active component officer and enlisted personnel in advising reserve component units regarding organizing, administering, recruiting, instructing, or training reserve component units.

"(c) PERSONNEL TO BE ASSIGNED.—(1) The Secretary shall assign not less than 3,500 active component personnel to serve as advisers under the program.

"(2) The Secretary of Defense may count toward the number of active component personnel required under paragraph (1) to be assigned to serve as advisers under the program under this section any active component personnel who are assigned to an active component unit (A) that was established principally for the purpose of providing dedicated training support to reserve component units, and (B) the primary mission of which is to provide such dedicated training support.

"(d) ACTION ON THE BASIS OF PROGRAM RESULTS.—Based on the experience under the pilot program, the Secretary of the Army shall by April 1, 1993, submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's evaluation of the program to that date. As part of the budget submission for fiscal year 1995, the Secretary shall submit any recommendations for expansion or modification of the program, together with a proposal for any statutory changes that the Secretary considers necessary to implement the program on a permanent basis. In no case may the number of active duty personnel assigned to the program decrease below the number specified for the pilot program."

## RESERVE FORCES READINESS

Pub. L. 98–525, title V, §552(a)–(e), (g), Oct. 19, 1984, 98 Stat. 2530, as amended by Pub. L. 103–337, div. A, title XVI, §1661(a)(3)(B), Oct. 5, 1994, 108 Stat. 2980, provided that:

"(a)(1) The Secretary of Defense shall conduct a review of the various systems used to measure the readiness of reserve units of the Armed Forces and shall implement a measurement system for the active and reserve components of the Armed Forces to provide an objective and uniform evaluation of the readiness of all units of the Armed Forces. The measurement system should be designed to produce information adequate to provide comparisons concerning the readiness of all units. The system for evaluation of the readiness of a unit of an active component should incorporate the performance of any unit of a reserve component affiliated with the active component unit, including the effect of the reserve component unit on the mobilization capability of the active component unit.

"(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the results of the review under paragraph (1) and the measurement system implemented in accordance with that paragraph.

"(b)(1) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs [now Assistant Secretary of Defense for Manpower and Reserve Affairs], shall conduct a study to evaluate the feasibility of allocating equipment to units of reserve components based on a measure of effectiveness of such units. The study should consider the effects of allocating equipment by comparing units with similar deployment times and similar capabilities in terms of training and equipment rather than by comparing all reserve component units with each other. The study should be integrated with an evaluation of the system for measuring unit effectiveness to be implemented in accordance with subsection (a).

"(2) As part of the report under subsection (a)(2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study carried out under paragraph (1).

"(c) It is the sense of Congress that the number of members of the Army Reserve and of the Army National Guard assigned to full-time manning duty should be increased to 14 percent of the total membership of the Army Reserve and of the Army National Guard, respectively, by fiscal year 1989.

"(d)(1)(A) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs [now Assistant Secretary of Defense for Manpower and Reserve Affairs], shall conduct a study of the benefits of a longer training program for certain units of the reserve components and shall conduct a test of such a program. The test program should begin at the earliest realistic date.

"(B) In developing training programs for the reserve components, the Secretary shall give increased attention to innovative training technologies, techniques, and schedules that recognize the limitations on time and the geographic dispersion of the reserve components.

"(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the study under paragraph (1).

"(e) [Repealed. Pub. L. 103–337, div. A, title XVI, §1661(a)(3)(B), Oct. 5, 1994, 108 Stat. 2980.]

"(g) This section does not apply to the Coast Guard."

## §12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

| | |
|---|---|
| Army National Guard and the Army National Guard of the United States | 600,000 |
| Army Reserve | 980,000 |
| Air National Guard and the Air National Guard of the United States | 150,000 |
| Air Force Reserve | 500,000. |

(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2983.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3222, 3225, 8222, and 8225 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12003. Authorized strengths: commissioned officers in an active status

(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as follows:

| | |
|---|---|
| Army | 275,000 |
| Air Force | 200,000 |
| Navy | 150,000 |
| Marine Corps | 24,500. |

(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

(2) the excess results directly from the operation of a nondiscretionary provision of law.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2984.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3217, 5414, and 8217 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12004. Strength in grade: reserve general and flag officers in an active status

(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active status, are as follows:

| | |
|---|---|
| Army | 207 |
| Air Force | 157 |
| Navy | 48 |
| Marine Corps | 10. |

(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

(1) Those serving as adjutants general or assistant adjutants general of a State.

(2) Those serving in the National Guard Bureau.

(3) Those counted under section 526 of this title.

(4) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the armed force concerned by subsection (a).

(c)(1) The following Navy reserve officers shall not be counted for purposes of this section:

(A) Those counted under section 526 of this title.

(B) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the Navy in subsection (a).

(2) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

(d) The following Marine Corps reserve officers shall not be counted for purposes of this section:

(1) Those counted under section 526 of this title.

(2) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed the number equal to 20 percent of the number of officers authorized for the Marine Corps in subsection (a).

(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of

a reduction in the number of general officers authorized under subsection (a).

(2) An officer of the Navy Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

(f) The limitations in subsection (a) do not apply to an officer released from a joint duty assignment or other non-joint active duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty or other active duty assignment. The Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, except that not more than three officers in an active status from each reserve component may be covered by an extension under this sentence at the same time.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2984; amended Pub. L. 104–106, div. A, title XV, §1501(b)(9), Feb. 10, 1996, 110 Stat. 496; Pub. L. 105–261, div. A, title IV, §415, Oct. 17, 1998, 112 Stat. 1998; Pub. L. 109–163, div. A, title V, §§512, 515(b)(1)(EE), Jan. 6, 2006, 119 Stat. 3232, 3233; Pub. L. 110–417, [div. A], title V, §526, Oct. 14, 2008, 122 Stat. 4448; Pub. L. 111–84, div. A, title V, §502(h), Oct. 28, 2009, 123 Stat. 2276; Pub. L. 111–383, div. A, title V, §511, Jan. 7, 2011, 124 Stat. 4210.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3218, 5457(a), 5458(a), and 8218 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

### AMENDMENTS

**2011**—Subsec. (c)(2) to (5). Pub. L. 111–383 redesignated par. (4) as (2) and struck out former pars. (2), (3), and (5). Former pars. (2) and (3) specified the distribution of Navy reserve officers authorized by subsection (a), and former par. (5) specified the Medical Department staff corps for purposes of par. (1).

**2009**—Subsec. (f). Pub. L. 111–84 added subsec. (f).

**2008**—Subsec. (b)(4). Pub. L. 110–417, §526(a), added par. (4).

Subsec. (c). Pub. L. 110–417, §526(b), added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, and in introductory provisions of par. (2) substituted "Of the number of Navy reserve officers authorized by subsection (a), 40 are distributed among the line and staff corps as follows:" for "The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 40 are distributed among the line and the staff corps as follows:".

Subsec. (d). Pub. L. 110–417, §526(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title."

**2006**—Subsec. (c)(1). Pub. L. 109–163, §512(a), (b), (d), substituted "40" for "39" in introductory provisions and "33" for "28" and "5" for "9" in table.

Subsec. (c)(2)(A). Pub. L. 109–163, §512(c), substituted "six" for "seven".

Subsec. (e)(2). Pub. L. 109–163, §515(b)(1)(EE), substituted "Navy Reserve" for "Naval Reserve".

**1998**—Subsec. (c)(1). Pub. L. 105–261, §415(1), in table, inserted item relating to Medical Department staff corps and struck out items relating to Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps.

Subsec. (c)(4). Pub. L. 105–261, §415(2), added par. (4).

**1996**—Subsec. (a). Pub. L. 104–106 substituted "active status, are" for "active-status, are".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

| Grade | Army percentage | Air Force percentage |
|---|---|---|
| Colonel | 2 | 1.8 |
| Lieutenant colonel | 6 | 4.6 |
| Major | 13 | 14.0 |
| Captain | 35 | 32.0 |
| First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title) | 44 | 47.6 |

(3) Medical officers and dental officers shall not be counted for the purposes of this subsection.

(b)(1) The authorized strengths of the Navy Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

| | |
|---|---|
| Captain | 1.5 percent |
| Commander | 7 percent |
| Lieutenant commander | 22 percent |
| Lieutenant | 37 percent |
| Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title) | 32.5 percent. |

(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

| | |
|---|---|
| Colonel | 2 percent |

| | |
|---|---|
| Lieutenant colonel | 8 percent |
| Major | 16 percent |
| Captain | 39 percent |
| First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title) | 35 percent. |

(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

(2) An officer of the Navy Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2985; amended Pub. L. 106–398, §1 [[div. A], title IV, §423], Oct. 30, 2000, 114 Stat. 1654, 1654A–96; Pub. L. 108–375, div. A, title V, §504, Oct. 28, 2004, 118 Stat. 1875; Pub. L. 109–163, div. A, title V, §515(b)(1)(FF), Jan. 6, 2006, 119 Stat. 3233.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3219, 5457(b)–(d), 5458(b)–(d), and 8219 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

**AMENDMENTS**

**2006**—Subsec. (b)(1). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" in introductory provisions.

Subsec. (d)(2). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2004**—Subsec. (c)(1). Pub. L. 108–375 amended table generally, increasing percentages of authorized number of officers in grades other than colonel.

**2000**—Subsec. (a)(3). Pub. L. 106–398 added par. (3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12006. Strength limitations: authority to waive in time of war or national emergency

(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2986.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The National Emergencies Act, referred to in subsec. (b), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF AUTHORITY**

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, set out as a note under section 12302 of this title.

## §12007. Reserve officers of the Army: distribution

The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

(1) each special branch; and

(2) all other branches taken together.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2986.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 3220 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12008. Army Reserve and Air Force Reserve: warrant officers

The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3223 and 8223 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12009. Army and Air Force reserve components: temporary increases

(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 7036, 14304(b), 14314, or 14317 of this title.

(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987; amended Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3212 and 8212 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

**AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–232 substituted "section 1211(a), 7036," for "section 1211(a), 3036,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result

When there is a fraction in the final result of any computation under this chapter for the Navy Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(GG), (3)(I), Jan. 6, 2006, 119 Stat. 3233, 3234.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5454 of this title, prior to repeal by Pub. L. 103–337, §1662(a)(3).

### AMENDMENTS

**2006**—Pub. L. 109–163, §515(b)(3)(I), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Pub. L. 109–163, §515(b)(1)(GG), substituted "Navy Reserve" for "Naval Reserve" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard

(a) LIMITATIONS.—(1) Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| Total number of members of a reserve component serving on full-time reserve component duty: | Number of officers of that reserve component who may be serving in the grade of: | | |
|---|---|---|---|
| | Major | Lieutenant Colonel | Colonel |
| Army Reserve: | | | |
| 10,000 | 1,390 | 740 | 230 |
| 11,000 | 1,529 | 803 | 242 |
| 12,000 | 1,668 | 864 | 252 |
| 13,000 | 1,804 | 924 | 262 |
| 14,000 | 1,940 | 984 | 272 |
| 15,000 | 2,075 | 1,044 | 282 |
| 16,000 | 2,210 | 1,104 | 291 |
| 17,000 | 2,345 | 1,164 | 300 |
| 18,000 | 2,479 | 1,223 | 309 |
| 19,000 | 2,613 | 1,282 | 318 |
| 20,000 | 2,747 | 1,341 | 327 |
| 21,000 | 2,877 | 1,400 | 336 |
| Army National Guard: | | | |
| 20,000 | 1,500 | 850 | 325 |
| 22,000 | 1,650 | 930 | 350 |

| | | | |
|---|---|---|---|
| 24,000 | 1,790 | 1,010 | 378 |
| 26,000 | 1,930 | 1,085 | 395 |
| 28,000 | 2,070 | 1,168 | 420 |
| 30,000 | 2,200 | 1,245 | 445 |
| 32,000 | 2,330 | 1,315 | 460 |
| 34,000 | 2,450 | 1,385 | 470 |
| 36,000 | 2,570 | 1,455 | 480 |
| 38,000 | 2,670 | 1,527 | 490 |
| 40,000 | 2,770 | 1,590 | 500 |
| 42,000 | 2,837 | 1,655 | 505 |

Marine Corps Reserve:

| | | | |
|---|---|---|---|
| 1,000 | 99 | 63 | 20 |
| 1,200 | 103 | 67 | 21 |
| 1,300 | 107 | 70 | 22 |
| 1,400 | 111 | 73 | 23 |
| 1,500 | 114 | 76 | 24 |
| 1,600 | 117 | 79 | 25 |
| 1,700 | 120 | 82 | 26 |
| 1,800 | 123 | 85 | 27 |
| 1,900 | 126 | 88 | 28 |
| 2,000 | 129 | 91 | 29 |
| 2,100 | 132 | 94 | 30 |
| 2,200 | 134 | 97 | 31 |
| 2,300 | 136 | 100 | 32 |
| 2,400 | 143 | 105 | 34 |
| 2,500 | 149 | 109 | 35 |
| 2,600 | 155 | 113 | 36 |
| 2,700 | 161 | 118 | 37 |
| 2,800 | 167 | 122 | 39 |
| 2,900 | 173 | 126 | 41 |
| 3,000 | 179 | 130 | 42 |

Air Force Reserve

| | | | |
|---|---|---|---|
| 1,000 | 166 | 170 | 100 |
| 1,500 | 245 | 251 | 143 |
| 2,000 | 322 | 330 | 182 |
| 2,500 | 396 | 406 | 216 |
| 3,000 | 467 | 479 | 246 |
| 3,500 | 536 | 550 | 271 |
| 4,000 | 602 | 618 | 292 |
| 4,500 | 665 | 683 | 308 |
| 5,000 | 726 | 746 | 320 |
| 5,500 | 784 | 806 | 325 |
| 6,000 | 840 | 864 | 327 |
| 7,000 | 962 | 990 | 347 |
| 8,000 | 1,087 | 1,110 | 356 |
| 10,000 | 1,322 | 1,362 | 395 |

| | | | |
|---|---|---|---|
| Air National Guard: | | | |
| 10,000 | 763 | 745 | 333 |
| 12,000 | 915 | 923 | 377 |
| 14,000 | 1,065 | 1,057 | 402 |
| 16,000 | 1,211 | 1,185 | 426 |
| 18,000 | 1,347 | 1,313 | 450 |
| 20,000 | 1,463 | 1,440 | 468 |
| 22,000 | 1,606 | 1,569 | 494 |
| 24,000 | 1,739 | 1,697 | 517 |
| 26,000 | 1,872 | 1,825 | 539 |
| 28,000 | 2,005 | 1,954 | 562 |
| 30,000 | 2,138 | 2,082 | 585 |
| 32,000 | 2,271 | 2,210 | 608 |
| 34,000 | 2,404 | 2,338 | 630 |
| 36,000 | 2,537 | 2,466 | 653 |
| 38,000 | 2,670 | 2,595 | 676 |
| 40,000 | 2,803 | 2,723 | 698 |

(2) Of the total number of members of the Navy Reserve who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of lieutenant commander, commander, and captain may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| Total number of members of Navy Reserve serving on full-time reserve component duty: | Number of officers who may be serving in the grade of: | | |
|---|---|---|---|
| | Lieutenant commander | Commander | Captain |
| 10,000 | 807 | 447 | 141 |
| 11,000 | 867 | 467 | 153 |
| 12,000 | 924 | 485 | 163 |
| 13,000 | 980 | 503 | 173 |
| 14,000 | 1,035 | 521 | 183 |
| 15,000 | 1,088 | 538 | 193 |
| 16,000 | 1,142 | 555 | 203 |
| 17,000 | 1,195 | 565 | 213 |
| 18,000 | 1,246 | 575 | 223 |
| 19,000 | 1,291 | 585 | 233 |
| 20,000 | 1,334 | 595 | 242 |
| 21,000 | 1,364 | 603 | 250 |
| 22,000 | 1,384 | 610 | 258 |
| 23,000 | 1,400 | 615 | 265 |
| 24,000 | 1,410 | 620 | 270. |

(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in

the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as is reflected in the nearest limit shown in the table.

(c) REALLOCATIONS TO LOWER GRADES.—Whenever the number of officers serving in any grade for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve officers that may be on full-time reserve component duty for a reserve component in a grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for the grade in that table.

(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term "full-time reserve component duty" means the following duty:

(1) Active duty described in sections 10211, 10302, 10303, 10304, 10305, 12310, or 12402 of this title.

(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32, except for duty under section 115(b)(1)(B) and (C) of this title and section 115(i)(9) of this title.

(3) Active duty described in section 708 of title 32.

(Added Pub. L. 96–513, title I, §103, Dec. 12, 1980, 94 Stat. 2844, §524; amended Pub. L. 97–86, title V, §503(b), Dec. 1, 1981, 95 Stat. 1108; Pub. L. 97–252, title V, §503(b), Sept. 8, 1982, 96 Stat. 727; Pub. L. 98–94, title V, §503(b), Sept. 24, 1983, 97 Stat. 631; Pub. L. 98–525, title IV, §§413(b), 414(a)(4)(A), (B)(i), Oct. 19, 1984, 98 Stat. 2518, 2519; Pub. L. 99–145, title IV, §413(b), Nov. 8, 1985, 99 Stat. 619; Pub. L. 100–180, div. A, title IV, §413(b), Dec. 4, 1987, 101 Stat. 1083; Pub. L. 101–189, div. A, title IV, §413(b), Nov. 29, 1989, 103 Stat. 1433; Pub. L. 102–190, div. A, title IV, §413(b), Dec. 5, 1991, 105 Stat. 1352; Pub. L. 103–160, div. A, title IV, §413(b), Nov. 30, 1993, 107 Stat. 1642; renumbered §12011 and amended Pub. L. 103–337, div. A, title XVI, §1662(a)(2), Oct. 5, 1994, 108 Stat. 2988; Pub. L. 104–106, div. A, title IV, §414(a), Feb. 10, 1996, 110 Stat. 288; Pub. L. 105–261, div. A, title IV, §414(a), Oct. 17, 1998, 112 Stat. 1998; Pub. L. 106–65, div. A, title IV, §414(a), Oct. 5, 1999, 113 Stat. 586; Pub. L. 106–398, §1 [[div. A], title IV, §§415(a), 421(b), 424(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–94 to 1654A–96; Pub. L. 107–107, div. A, title IV, §415(a), Dec. 28, 2001, 115 Stat. 1070; Pub. L. 108–375, div. A, title IV, §416(h), Oct. 28, 2004, 118 Stat. 1869; Pub. L. 109–163, div. A, title V, §515(b)(1)(HH), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 110–417, [div. A], title V, §512(a), (b), Oct. 14, 2008, 122 Stat. 4439, 4440; Pub. L. 115–232, div. A, title V, §515(a), Aug. 13, 2018, 132 Stat. 1752; Pub. L. 116–92, div. A, title IV, §§415(a), 416(a), Dec. 20, 2019, 133 Stat. 1337, 1338.)

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (a)(1). Pub. L. 116–92 inserted sections of table relating to the Marine Corps Reserve and Air Force Reserve and struck out corresponding former sections.

**2018**—Subsec. (a)(1). Pub. L. 115–232 inserted section of table relating to the Air National Guard and struck out corresponding former section.

**2008**—Subsec. (a)(1). Pub. L. 110–417 inserted sections of table relating to the Army National Guard,

Marine Corps Reserve, and Air National Guard, and struck out corresponding former sections.

**2006**—Subsec. (a)(2). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" in introductory provisions and table.

**2004**—Subsec. (e)(2). Pub. L. 108–375 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Full-time National Guard duty (other than for training) under section 502(f) of title 32."

**2001**—Subsec. (a). Pub. L. 107–107 inserted heading and amended text of subsec. (a) generally. Prior to amendment, text consisted of table setting out maximum number of reserve officers of the Army, Air Force, and Marine Corps who may be on active duty or full-time National Guard duty in each of the grades of major, lieutenant colonel, and colonel, and of the Navy who may be on active duty in each of the grades of lieutenant commander, commander, and captain.

Subsec. (b). Pub. L. 107–107 inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: "Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade."

Subsec. (c). Pub. L. 107–107 inserted heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows: "Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section."

Subsec. (d). Pub. L. 107–107 inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of officers of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength."

Subsec. (e). Pub. L. 107–107 added subsec. (e).

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title IV, §415(a)], amended table generally, increasing the fiscal year limitation on number of reserve officers in the Army in grade of Major or Lieutenant Commander from 3,227 to 3,316, in grade of Lieutenant Colonel or Commander from 1,611 to 1,759, and in grade of Colonel or Navy Captain from 471 to 529, and in the Air Force in grade of Major or Lieutenant Commander from 860 to 948, in grade of Lieutenant Colonel or Commander from 777 to 852, and in grade of Colonel or Navy Captain from 297 to 317.

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title IV, §421(b)], added subsec. (c).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title IV, §424(a)], added subsec. (d).

**1999**—Subsec. (a). Pub. L. 106–65 amended table generally, increasing the fiscal year limitation on number of reserve officers in the Army in grade of Major or Lieutenant Commander from 3,219 to 3,227, in grade of Lieutenant Colonel or Commander from 1,524 to 1,611, and in grade of Colonel or Navy Captain from 438 to 471, and in the Air Force in grade of Major or Lieutenant Commander from 791 to 860 and in grade of Lieutenant Colonel or Commander from 713 to 777.

**1998**—Subsec. (a). Pub. L. 105–261, in table, increased fiscal year limitation on number of reserve officers in the Army in grade of Colonel or Navy Captain from 412 to 438 and in the Air Force in grade of Major or Lieutenant Commander from 643 to 791, in grade of Lieutenant Colonel or Commander from 672 to 713, and in grade of Colonel or Navy Captain from 274 to 297.

**1996**—Subsec. (a). Pub. L. 104–106, in table, increased fiscal year limitation on number of reserve officers in the Army in grade of Colonel or Navy Captain from 372 to 412, in the Air Force in grade of Major or Lieutenant Commander from 575 to 643 and in grade of Lieutenant Colonel or Commander from 636 to 672, and in the Marine Corps in grade of Major or Lieutenant Commander from 110 to 140, in grade of Lieutenant Colonel or Commander from 75 to 90, and in grade of Colonel or Navy Captain from 25 to 30. All other figures remained unchanged.

**1994**—Pub. L. 103–337 renumbered section 524 of this title as this section and amended section catchline generally striking out at end "in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain".

**1993**—Subsec. (a). Pub. L. 103–160, in table, increased fiscal year limitation on number of reserve officers in the Air Force in grade of Lieutenant Colonel or Commander from 595 to 636 and in grade of Colonel or Navy Captain from 227 to 274. Army, Navy, and Marine Corps figures remained unchanged.

**1991**—Subsec. (a). Pub. L. 102–190, in table, increased fiscal year limitation on number of reserve officers

in the Army in grade of Colonel or Navy Captain from 364 to 372, and increased such limitation on number of reserve officers in the Air Force in grade of Lieutenant Colonel or Commander from 532 to 595 and in grade of Colonel or Navy Captain from 194 to 227. Navy and Marine Corps figures remained unchanged.

**1989**—Subsec. (a). Pub. L. 101–189, §413(b)(2), in table, increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 3,219, 1,524, and 364 from 3,030, 1,448, and 351; Navy, to 1,071, 520, and 188 from 1,065, 520, and 188; Air Force, to 575, 532, and 194 from 575, 476, and 190. Marine Corps figures remained unchanged.

Pub. L. 101–189, §413(b)(1), in table, increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 3,030, 1,448, and 351 from 2,600, 1,250, and 348; Navy, to 1,065, 520, and 188 from 875, 520, and 185; Air Force, to 575, 476, and 190 from 575, 322, and 190. Marine Corps figures remained unchanged.

**1987**—Subsec. (a). Pub. L. 100–180, §413(b)(2), in table, increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,600, 1,250, and 348 from 2,550, 1,152, and 348; Navy, to 875, 520, and 185 from 850, 520, and 185; Air Force, to 575, 322, and 190 from 575, 322, and 184; and Marine Corps, to 110, 75, and 25 from 105, 70, and 25.

Pub. L. 100–180, §413(b)(1), in table, changed fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,550, 1,152, and 348 from 2,317, 1,152, and 348; Navy, to 850, 520, and 185 from 850, 520, and 177; Air Force, to 575, 322, and 184 from 476, 318, and 189; and Marine Corps, to 105, 70, and 25 from 100, 60, and 25.

**1985**—Subsec. (a). Pub. L. 99–145 increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,317, 1,152, and 348 from 2,261, 1,121, and 345; Navy, to 850, 520, and 177 from 823, 520, and 177; Air Force, to 476, 318, and 189, from 471, 293, and 172; and Marine Corps, to 100, 60, and 25 from 100, 50, and 25.

**1984**—Pub. L. 98–525, §414(a)(4)(B)(i), inserted references to National Guard and to full-time National Guard duty in section catchline.

Subsec. (a). Pub. L. 98–525, §414(a)(4)(A), inserted "or full-time National Guard duty" after "Marine Corps who may be on active duty" and inserted "or full-time National Guard duty (other than for training) under section 502(f) of title 32".

Pub. L. 98–525, §413(b), increased fiscal year limitation on number of reserve officers in grade of major or lieutenant commander, lieutenant colonel or commander, and colonel or Navy captain who may be on active duty to, respectively: Army, to 2,261, 1,121, and 345 from 1,948, 967, and 338; Air Force, to 471, 293, and 172 from 408, 303, and 171; Marine Corps, to 100, 50, and 25 from 95, 48, and 23. Figures for the Navy remained unchanged.

**1983**—Subsec. (a). Pub. L. 98–94 increased fiscal year limitation on number of reserve officers in grade major or lieutenant commander; lieutenant colonel or commander; and colonel or Navy captain who may be on active duty to, respectively: Army, to 1,948, 967, and 338 from 1,351, 671, and 234; Navy, to 823, 520, and 177 from 823, 425, and 177; Air Force, to 408, 303, and 171 from 281, 267, and 170; Marine Corps, to 95, 48, and 23 from 95, 40, and 21.

**1982**—Subsec. (a). Pub. L. 97–252 increased numbers in columns headed "Army", "Air Force", and "Marine Corps" from 1,105, 189, and 51 in line for major or lieutenant commander to 1,351, 281, and 95, respectively, from 551, 194, and 35 in line for lieutenant colonel or commander to 671, 267, and 40, respectively, and from 171, 147, and 19 in line for colonel or Navy captain to 234, 170, and 21, respectively.

**1981**—Subsec. (a). Pub. L. 97–86 increased numbers in columns headed "Army" and "Air Force" from 821 and 170 in line for major or lieutenant commander to 1,105 and 189, respectively, from 503 and 183 in line for lieutenant colonel or commander to 551 and 194, respectively, and from 163 and 146 in line for colonel or Navy captain to 171 and 147, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title IV, §416(b), Dec. 20, 2019, 133 Stat. 1338, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2019, and shall apply with

respect to fiscal years beginning on or after that date."

**EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106–398, §1 [[div. A], title IV, §415(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–94, provided that: "The amendments made by this section [amending this section and section 12012 of this title] shall take effect on October 1, 2000."

**EFFECTIVE DATE OF 1998 AMENDMENT**

Pub. L. 105–261, div. A, title IV, §414(c), Oct. 17, 1998, 112 Stat. 1998, provided that: "The amendments made by this section [amending this section and section 12012 of this title] shall take efffect [sic] on October 1, 1998."

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1989 AMENDMENT**

Pub. L. 101–189, div. A, title IV, §413(b)(2), Nov. 29, 1989, 103 Stat. 1433, provided that the amendment made by that section is effective Oct. 1, 1990.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100–180, div. A, title IV, §413(b)(2), Dec. 4, 1987, 101 Stat. 1083, provided that the amendment made by that section is effective Oct. 1, 1988.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 413(c) of Pub. L. 99–145, set out as a note under section 517 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 413(c) of Pub. L. 98–525, set out as a note under section 517 of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT**

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 503(c) of Pub. L. 98–94, set out as a note under section 517 of this title.

## §12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard

(a) LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E–8 and E–9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|---|
| | E–8 | E–9 |
| Army Reserve: | | |
| 10,000 | 1,052 | 154 |
| 11,000 | 1,126 | 168 |

| | | |
|---|---|---|
| 12,000 | 1,195 | 180 |
| 13,000 | 1,261 | 191 |
| 14,000 | 1,327 | 202 |
| 15,000 | 1,391 | 213 |
| 16,000 | 1,455 | 224 |
| 17,000 | 1,519 | 235 |
| 18,000 | 1,583 | 246 |
| 19,000 | 1,647 | 257 |
| 20,000 | 1,711 | 268 |
| 21,000 | 1,775 | 278 |

Army National Guard:

| | | |
|---|---|---|
| 20,000 | 1,650 | 550 |
| 22,000 | 1,775 | 615 |
| 24,000 | 1,950 | 645 |
| 26,000 | 2,100 | 675 |
| 28,000 | 2,250 | 715 |
| 30,000 | 2,400 | 735 |
| 32,000 | 2,500 | 760 |
| 34,000 | 2,600 | 780 |
| 36,000 | 2,700 | 800 |
| 38,000 | 2,800 | 820 |
| 40,000 | 2,900 | 830 |
| 42,000 | 3,000 | 840 |

Navy Reserve:

| | | |
|---|---|---|
| 10,000 | 340 | 143 |
| 11,000 | 364 | 156 |
| 12,000 | 386 | 169 |
| 13,000 | 407 | 182 |
| 14,000 | 423 | 195 |
| 15,000 | 435 | 208 |
| 16,000 | 447 | 221 |
| 17,000 | 459 | 234 |
| 18,000 | 471 | 247 |
| 19,000 | 483 | 260 |
| 20,000 | 495 | 273 |
| 21,000 | 507 | 286 |
| 22,000 | 519 | 299 |
| 23,000 | 531 | 312 |
| 24,000 | 540 | 325 |

Marine Corps Reserve:

| | | |
|---|---|---|
| 1,100 | 50 | 11 |
| 1,200 | 55 | 12 |
| 1,300 | 60 | 13 |
| 1,400 | 65 | 14 |
| 1,500 | 70 | 15 |

| | | |
|---|---|---|
| 1,600 | 75 | 16 |
| 1,700 | 80 | 17 |
| 1,800 | 85 | 18 |
| 1,900 | 89 | 19 |
| 2,000 | 93 | 20 |
| 2,100 | 96 | 21 |
| 2,200 | 99 | 22 |
| 2,300 | 101 | 23 |
| 2,400 | 106 | 24 |
| 2,500 | 112 | 25 |
| 2,600 | 116 | 26 |
| 2,700 | 121 | 27 |
| 2,800 | 125 | 28 |
| 2,900 | 130 | 29 |
| 3,000 | 134 | 30 |
| | | |
| Air Force Reserve: | | |
| 500 | 75 | 40 |
| 1,000 | 145 | 75 |
| 1,500 | 208 | 105 |
| 2,000 | 270 | 130 |
| 2,500 | 325 | 150 |
| 3,000 | 375 | 170 |
| 3,500 | 420 | 190 |
| 4,000 | 460 | 210 |
| 4,500 | 495 | 230 |
| 5,000 | 530 | 250 |
| 5,500 | 565 | 270 |
| 6,000 | 600 | 290 |
| 7,000 | 670 | 330 |
| 8,000 | 740 | 370 |
| 10,000 | 800 | 400 |
| | | |
| Air National Guard: | | |
| 10,000 | 1,350 | 550 |
| 12,000 | 1,466 | 594 |
| 14,000 | 1,582 | 636 |
| 16,000 | 1,698 | 676 |
| 18,000 | 1,814 | 714 |
| 20,000 | 1,930 | 752 |
| 22,000 | 2,046 | 790 |
| 24,000 | 2,162 | 828 |
| 26,000 | 2,278 | 866 |
| 28,000 | 2,394 | 904 |
| 30,000 | 2,510 | 942 |
| 32,000 | 2,626 | 980 |
| 34,000 | 2,742 | 1,018 |
| 36,000 | 2,858 | 1,056 |

| | | |
|---|---|---|
| 38,000 | 2,974 | 1,094 |
| 40,000 | 3,090 | 1,132 . |

(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the table in subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the table in subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in the table at the same proportion as is reflected in the nearest limit shown in the table.

(c) REALLOCATIONS TO LOWER GRADE.—Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E–8.

(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve enlisted members that may be on active duty or full-time National Guard duty as described in subsection (a) for a reserve component in a pay grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for that grade and reserve component in the table.

(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term "full-time reserve component duty" has the meaning given the term in section 12011(e) of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987; amended Pub. L. 104–106, div. A, title IV, §414(b), title XV, §1501(b)(10), Feb. 10, 1996, 110 Stat. 288, 496; Pub. L. 105–261, div. A, title IV, §414(b), Oct. 17, 1998, 112 Stat. 1998; Pub. L. 106–65, div. A, title IV, §414(b), Oct. 5, 1999, 113 Stat. 586; Pub. L. 106–398, §1 [[div. A], title IV, §§415(b), 421(c), 424(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–94 to 1654A–96; Pub. L. 107–107, div. A, title IV, §415(b), Dec. 28, 2001, 115 Stat. 1073; Pub. L. 108–375, div. A, title X, §1084(d)(34), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 109–163, div. A, title V, §515(b)(1)(II), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 110–417, [div. A], title V, §512(c), Oct. 14, 2008, 122 Stat. 4440; Pub. L. 115–232, div. A, title V, §515(b), Aug. 13, 2018, 132 Stat. 1753; Pub. L. 116–92, div. A, title IV, §415(c), Dec. 20, 2019, 133 Stat. 1337.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 517(b), (c) of this title, prior to amendment by Pub. L. 103–337, §1662(a)(4).

### AMENDMENTS

**2019**—Subsec. (a). Pub. L. 116–92 inserted section of table relating to the Marine Corps Reserve and struck out corresponding former section.

**2018**—Subsec. (a). Pub. L. 115–232 inserted section of table relating to the Air National Guard and struck out corresponding former section.

**2008**—Subsec. (a). Pub. L. 110–417 inserted section of table relating to the Army National Guard and struck out corresponding former section.

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" in table.

**2004**—Subsec. (a). Pub. L. 108–375 inserted colon after "Air National Guard" in table.

**2001**—Subsec. (a). Pub. L. 107–107 inserted heading and amended text of subsec. (a) generally. Prior to amendment, text consisted of table setting out maximum number of enlisted members in pay grades E–8 and E–9 who may be on active duty (other than for training) or on full-time National Guard duty (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard.

Subsec. (b). Pub. L. 107–107 inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: "Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8."

Subsec. (c). Pub. L. 107–107 inserted heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows: "Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section."

Subsec. (d). Pub. L. 107–107 inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of enlisted members of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength."

Subsec. (e). Pub. L. 107–107 added subsec. (e).

**2000**—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title IV, §415(b)], amended table generally, increasing the fiscal year limitation on number of enlisted members in the Army in grade of E–9 from 645 to 764 and in grade of E–8 from 2,593 to 2,821, and in the Air Force in grade of E–9 from 405 to 502 and in grade of E–8 from 1,041 to 1,117.

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title IV, §421(c)], added subsec. (c).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title IV, §424(b)], added subsec. (d).

**1999**—Subsec. (a). Pub. L. 106–65 amended table generally, increasing the fiscal year limitation on number of enlisted members in the Army in grade of E–9 from 623 to 645 and in grade of E–8 from 2,585 to 2,593, and in the Air Force in grade of E–9 from 395 to 405 and in grade of E–8 from 997 to 1,041.

**1998**—Subsec. (a). Pub. L. 105–261, in table, in grade E–9 increased figure for Army from 603 to 623 and for Air Force from 366 to 395, and in grade E–8 increased figure for Air Force from 890 to 997.

**1996**—Pub. L. 104–106, §1501(b)(10), substituted "the National" for "National" in section catchline.

Subsec. (a). Pub. L. 104–106, §414(b), in table, in grade E–9, increased figure for Army from 569 to 603, for Air Force from 328 to 366, and for Marine Corps from 14 to 20, and in grade E–8, increased figure for Air Force from 840 to 890 and for Marine Corps from 74 to 94. All other figures remained unchanged.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1 [[div. A], title IV, §415(b)] of Pub. L. 106–398 effective Oct. 1, 2000, see section 1 [[div. A], title IV, §415(c)] of Pub. L. 106–398, set out as a note under section 12011 of this title.

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–261 effective Oct. 1, 1998, see section 414(c) of Pub. L. 105–261, set out as a note under section 12011 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1501(b)(10) of Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1203—ENLISTED MEMBERS

Sec.
12101. Definition.
12102. Reserve components: qualifications.
12103. Reserve components: terms.
12104. Reserve components: transfers.
12105. Army Reserve and Air Force Reserve: transfer from Guard components.
12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.
12108. Enlisted members: discharge or retirement for years of service or for age.

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–107, div. A, title V, §517(f)(2), Dec. 28, 2001, 115 Stat. 1096, added item 12108.

## §12101. Definition

In this chapter, the term "enlistment" means original enlistment or reenlistment.

(Added Pub. L. 103–337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2988.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12102. Reserve components: qualifications

(a) To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 502 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, he must meet the requirements of section 12107 of this title.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the enlistment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be enlisted as a Reserve unless—

(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be enlisted as a Reserve of any armed force under the jurisdiction of that Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 17, §510; Pub. L. 88–236, Dec. 23, 1963, 77 Stat. 474; Pub. L. 90–130, §1(2), Nov. 8, 1967, 81 Stat. 374; Pub. L. 90–623, §2(3), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, §511(13), Dec. 12, 1980, 94 Stat. 2921; renumbered §12102 and amended Pub. L. 103–337, div. A, title XVI, §§1631(a), 1662(b)(2), 1675(a), Oct. 5, 1994, 108 Stat. 2964, 2989, 3017; Pub. L. 104–106, div. A, title XV, §1501(a)(5)(A), Feb. 10, 1996, 110 Stat. 495.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 510(a) | 50:952 (less proviso). | July 9, 1952, ch. 608, §§217 (less (c), as applicable to enlistments), 228 (less proviso), 232 (as applicable to enlistments), 66 Stat. 486, 488, 489. |
| 510(b) | 50:941(a) (as applicable to enlistments). | |
| 510(c) | 50:941(b) (as applicable to enlistments). | |
| 510(d) | 50:956 (as applicable to enlistments). | |

In subsection (a), the last sentence is inserted to reflect sections 3261 and 8261 of this title.

In subsection (b), the word "However" is substituted for the words "Subject to the limitation that". The words "as Reserves in the armed forces under his jurisdiction" are substituted for the words "of Reserve members of the Armed Forces of the United States". The words "its Territories" are omitted as surplusage, since citizens of the Territories are citizens of the United States.

In subsection (c), the words "armed force concerned" are substituted for the words "of the appropriate Armed Force of the United States". The words "in which she previously served satisfactorily" are substituted for the words "satisfactorily held by her".

In subsection (d), the words "under the jurisdiction of that Secretary" are inserted for clarity. The words "general or special" are omitted as surplusage.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

### AMENDMENTS

**1996**—Subsecs. (c), (d). Pub. L. 104–106 made technical correction to directory language of Pub. L. 103–337, §1631(a). See 1994 Amendment note below.

**1994**—Pub. L. 103–337, §1662(b)(2), renumbered section 510 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(a), substituted "12107" for "3261 or 8261".

Subsecs. (c), (d). Pub. L. 103–337, §1631(a), as amended by Pub. L. 104–106, redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "Women may be enlisted as Reserves of the armed forces. Women are enlisted in the grades and ratings authorized for enlisted women of the regular component of the armed force concerned. Any female former enlisted member of an armed force may, if otherwise qualified, be enlisted as a Reserve of that armed force in the highest grade or rating in which she previously served satisfactorily on active duty (other than for training)."

**1980**—Subsec. (b)(1). Pub. L. 96–513 substituted "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)" for "chapter 12 of title 8".

**1968**—Subsec. (a). Pub. L. 90–623 substituted "section 502" for "section 501".

**1967**—Subsec. (c). Pub. L. 90–130 struck out provision limiting the reserve components in which women may be enlisted as Reserves of the armed forces to the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve.

**1963**—Subsec. (b)(1). Pub. L. 88–236 substituted "he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under chapter 12 of title 8" for "he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as

a note under section 113 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by sections 1662(b)(2) and 1675(a) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1631(a) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS OF THE ARMED FORCES**

Pub. L. 99–661, div. A, title V, §523, Nov. 14, 1986, 100 Stat. 3871, as amended by Pub. L. 100–180, div. A, title V, §503, Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, §504, Nov. 29, 1989, 103 Stat. 1437, which provided that, in determining under section 510 [now 12102] of title 10 whether a person who is applying to enlist in a reserve component of the Armed Forces upon discharge or release from active duty is qualified for enlistment as a Reserve of an Armed Force, the Secretary concerned may not disqualify the person because the person is a single parent if the person is otherwise qualified for enlistment, the person became a single parent while serving on active duty, and the person's status as a single parent was not a factor in the person's discharge or release from active duty, with provision that the requirements imposed with respect to parenthood not be more stringent than those imposed on a member who becomes a single parent during the term of the member's enlistment, and with provision defining "single parent" as a person who is not married and who has custody of a child under the age of 18 pursuant to a court order, expired on Sept. 30, 1991.

## §12103. Reserve components: terms

(a) Except as otherwise prescribed by law, enlistments as Reserves are for terms prescribed by the Secretary concerned. However, an enlistment that is in effect at the beginning of a war or of a national emergency declared by Congress, or entered into during such a war or emergency, and that would otherwise expire, continues in effect until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a person who is qualified for enlistment for active duty in an armed force, and who is not under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. 3801 et seq.), may be enlisted as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of not less than six years nor more than eight years. Each person enlisted under this subsection shall serve—

(1) on active duty for a period of not less than two years; and

(2) the rest of his period of enlistment as a member of the Ready Reserve.

(c) In time of war or of national emergency declared by Congress the term of service of an enlisted member transferred to a reserve component according to law, that would otherwise expire, continues until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(d) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a non-prior-service person who is qualified for induction for active duty in an armed force and who is not under orders to report for induction into an armed force under the Military Selective Service Act

(50 U.S.C. 3801 et seq.), except as provided in clauses (ii) and (iii) of section 6(c)(2)(A) of such Act (50 U.S.C. 3806(c)(2)(A)), may be enlisted in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of not less than six years nor more than eight years. Each person enlisted under this subsection shall perform an initial period of active duty for training of not less than twelve weeks to commence insofar as practicable within one year after the date of that enlistment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 18, §511; Pub. L. 85–861, §1(8), Sept. 2, 1958, 72 Stat. 1439; Pub. L. 88–110, §3, Sept. 3, 1963, 77 Stat. 135; Pub. L. 90–168, §2(11), Dec. 1, 1967, 81 Stat. 523; Pub. L. 94–106, title VIII, §802(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 95–485, title IV, §405(c)(1), Oct. 20, 1978, 92 Stat. 1615; Pub. L. 96–107, title VIII, §805(a), Nov. 9, 1979, 93 Stat. 812; Pub. L. 96–513, title V, §511(14), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 97–252, title XI, §1115(a), Sept. 8, 1982, 96 Stat. 750; Pub. L. 97–295, §1(6), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–94, title X, §1022(a)(1), Sept. 24, 1983, 97 Stat. 670; renumbered §12103, Pub. L. 103–337, div. A, title XVI, §1662(b)(2), Oct. 5, 1994, 108 Stat. 2989; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title V, §533(a), Dec. 2, 2002, 116 Stat. 2547; Pub. L. 109–163, div. A, title V, §515(b)(1)(JJ), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(vii), Dec. 23, 2016, 130 Stat. 2418.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 511(a) | 50:951 (less (c)). | July 9, 1952, ch. 608, §227, 66 Stat. 488. |
| 511(b) | 50:951(c). | |

In subsection (a), the first sentence is substituted for 50:951(a). The words "as Reserves in the Armed Forces of the United States" and "the existence of" are omitted as surplusage.

In subsections (a) and (b), the word "hereafter" is omitted as surplusage. The words "the expiration of" are inserted for clarity.

In subsection (b), the word "continues" is substituted for the words "shall * * * be extended".

### 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 511(b) | 50:1012. | Aug. 9, 1955, ch. 665, §2(i) (1st 2 pars.), 69 Stat. 600. |

In subsection (b), the words "respectively, pursuant to the provisions of this section" are omitted as surplusage. The words "as a Reserve for service" are inserted to reflect section 510 of this title. The last six words of the first sentence are substituted for 50:1012(b) (1st sentence).

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsecs. (b) and (d), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

### AMENDMENTS

**2016**—Subsec. (b). Pub. L. 114–328, §1081(b)(1)(A)(vii)(I), substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)" in introductory provisions.

Subsec. (d). Pub. L. 114–328, §1081(b)(1)(A)(vii), substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)" and "clauses (ii) and (iii) of section 6(c)(2)(A) of such Act (50 U.S.C. 3806(c)(2)(A))" for "section 6(c)(2)(A)(ii) and (iii) of such Act".

**2006**—Subsecs. (b), (d). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2002**—Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

Subsec. (d). Pub. L. 107–314 substituted "one year" for "270 days" in last sentence.

Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1994**—Pub. L. 103–337 renumbered section 511 of this title as this section.

**1983**—Subsec. (b). Pub. L. 98–94, §1022(a)(1)(A), substituted "not less than six years nor more than eight years" for "six years".

Subsec. (d). Pub. L. 98–94, §1022(a)(1)(B), substituted "not less than six years nor more than eight years" for "six years".

**1982**—Subsec. (b). Pub. L. 97–295 substituted "(50 U.S.C. App. 451 et seq.)" for "(50 U.S.C. App. 451–473)" after "Military Selective Service Act".

Subsec. (d). Pub. L. 97–252 extended to 270 from 180 days requirement for commencement of initial period of active duty for training after date of enlistment.

**1980**—Subsec. (d). Pub. L. 96–513 substituted "Military Selective Service Act (50 U.S.C. App. 451 et seq.)" for "Military Selective Service Act of 1967 (50 App. U.S.C. 451–473)".

**1979**—Subsec. (d). Pub. L. 96–107 struck out requirement that a non-prior-service person be under 26 years of age.

**1978**—Subsec. (b). Pub. L. 95–485, in provision preceding cl. (1), substituted "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" for "the Secretary concerned" and "the Military Selective Service Act (50 U.S.C. App. 451–473)" for "sections 451–473 of title 50, appendix", in cl. (1), substituted "not less than two years; and" for "two years;", struck out former cl. (2), requiring a person enlisted under this subsec. to serve satisfactorily as a member of the Ready Reserve for a period which when added to his active duty under cl. (1) totals five years, redesignated former cl. (3) as (2), and in cl. (2) as so redesignated, substituted "Ready Reserve" for "Standby Reserve".

**1975**—Subsec. (d). Pub. L. 94–106 reduced initial period of active duty for training for persons enlisted under this subsection from four months to twelve weeks.

**1967**—Subsec. (d). Pub. L. 90–168 substituted the Secretary of Transportation for the Secretary of the Treasury as the prescribing authority for regulations covering the Coast Guard when not operating as part of the Navy, inserted exception as provided in section 6(c)(2)(A)(ii) and (iii) of the Military Selective Service Act of 1967, added requirement that the initial period of four months' service commence insofar as practicable within 180 days after the date of enlistment, and struck out provision that the remainder of the period of service after the initial period of four months be served, subject to section 269(e)(4) of this title, as a member of the Ready Reserve.

**1963**—Subsec. (d). Pub. L. 88–110 added subsec. (d).

**1958**—Subsecs. (b), (c). Pub. L. 85–861, §1(8)(A), added subsec. (b) and redesignated former subsec. (b) as (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107–314, div. A, title V, §533(b), Dec. 2, 2002, 116 Stat. 2547, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to enlistments under section 12103(d) of title 10, United States Code, after the end of the 90-day period beginning on the date of the enactment of this Act [Dec. 2, 2002]."

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title X, §1022(a)(2), Sept. 24, 1983, 97 Stat. 670, provided that: "The amendments made by paragraph (1) [amending this section] shall apply only with respect to persons who enlist under the authority of subsection (b) or (d) of section 511 [now 12103] of title 10, United States Code, 60 or more days after the date of the enactment of this Act [Sept. 24, 1983]."

### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–252, title XI, §1115(b), Sept. 8, 1982, 96 Stat. 750, provided that: "The amendment made by this section [amending this section] shall be effective with respect to persons enlisting in a reserve component of the Armed Forces after the end of the ninety-day period beginning on the date of the enactment of this Act

[Sept. 8, 1982]."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1979 AMENDMENT**

Pub. L. 96–107, title VIII, §805(c), Nov. 9, 1979, 93 Stat. 813, provided that: "The amendments made by this section [amending this section and section 651 of this title] shall apply only to individuals who become members of an Armed Force after the date of the enactment of this Act [Nov. 9, 1979]."

**EFFECTIVE DATE OF 1978 AMENDMENT**

Pub. L. 95–485, title IV, §405(c)(2), Oct. 20, 1978, 92 Stat. 1616, provided that: "The amendments made by paragraph (1) [amending this section] shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) [now 12103(b)] of title 10, United States Code, before the date of the enactment of this Act [Oct. 20, 1978]."

**EFFECTIVE DATE OF 1967 AMENDMENT**

For effective date of amendment by Pub. L. 90–168, see section 7 of Pub. L. 90–168, set out as a note under section 138 of this title.

**TRANSITION**

Pub. L. 107–314, div. A, title V, §533(c), Dec. 2, 2002, 116 Stat. 2547, provided that: "In the case of a person who enlisted under section 12103(d) of title 10, United States Code, before the date of the enactment of this Act [Dec. 2, 2002] and who as of such date has not commenced the required initial period of active duty for training under that section, the amendment made by subsection (a) [amending this section] may be applied to that person, but only with the agreement of that person and the Secretary concerned."

## §12104. Reserve components: transfers

(a) A person who would otherwise be required to be transferred to a reserve component under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.), is entitled, if he is qualified and accepted, to be enlisted in any armed force that he chooses and to participate in the programs authorized for that armed force. However, unless the two Secretaries concerned consent, he may not be enlisted as a Reserve of an armed force other than that from which he is transferred. All periods of his participation shall be credited against the total period of service required of him under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.). However, no period may be credited more than once.

(b) A person covered by subsection (a) shall perform the rest of his required term of service in the armed force in which he is so enlisted or in any other armed force in which he is later enlisted or appointed.

(c) This section does not change any term of service under an appointment, enlistment, or agreement, including an agreement made before or at the time when the member entered upon a program authorized by an armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 18, §512; Pub. L. 96–513, title V, §511(15), Dec. 12, 1980, 94 Stat. 2921; renumbered §12104, Pub. L. 103–337, div. A, title XVI, §1662(b)(2), Oct. 5, 1994, 108 Stat. 2989; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(viii), Dec. 23, 2016, 130 Stat. 2418.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 512(a) | 50:929(a) (less 2d sentence, as applicable to enlistments). | July 9, 1952, ch. 608, §209 (as applicable to enlistments), 66 Stat. 484. |
| 512(b) | 50:929(a) (2d sentence, as applicable to enlistments). | |
| 512(c) | 50:929(b) (as applicable to | |

| | | |
|---|---|---|
| | enlistments). | |

In subsection (a), the words "is entitled * * * to be enlisted in any armed force that he chooses" are substituted for the words "shall * * * be permitted to enlist * * * in such Armed Force of the United States as he may elect". The second sentence is substituted for 50:929(a) (words within parentheses). The words "of an Armed Force of the United States" are omitted as surplusage.

In subsection (b), the word "rest" is substituted for the words "remaining period". The words "be required to" are omitted as surplusage.

In subsection (c), the words "This section does not" are substituted for the words "Nothing in this section shall be construed". The word "change" is substituted for the words "reduce, limit, or modify". The words "which any person may undertake to perform" are omitted as surplusage.

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328 substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)" in two places.

**1994**—Pub. L. 103–337 renumbered section 512 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "the Military Selective Service Act (50 U.S.C. App. 451 et seq.)" for "sections 451–473 of title 50, appendix" wherever appearing.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §12105. Army Reserve and Air Force Reserve: transfer from Guard components

(a) Under such regulations as the Secretary concerned may prescribe—

(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

(Added Pub. L. 103–337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2988.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3259 and 8259 of this title, prior to repeal by Pub. L. 103–337, §1662(b)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(Added Pub. L. 103–337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3260 and 8260 of this title, prior to repeal by Pub. L. 103–337, §1662(b)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard,

becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3261 and 8261 of this title, prior to repeal by Pub. L. 103–337, §1662(b)(3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12108. Enlisted members: discharge or retirement for years of service or for age

Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 107–107, div. A, title V, §517(f)(1), Dec. 28, 2001, 115 Stat. 1095.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 10154 of this title.

# CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

Sec.
12201. Reserve officers: qualifications for appointment.
12202. Commissioned officer grades.
12203. Commissioned officers: appointment, how made; term.
12204. Commissioned officers: original appointment; limitation.
12205. Commissioned officers: appointment; educational requirement.
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12210. Attending Physician to the Congress: reserve grade.
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12213. Officers; Army Reserve: transfer from Army National Guard of the United States.
12214. Officers; Air Force Reserve: transfer from Air National Guard of the United States.
12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, div. A, title V, §507(a)(2)(C), Oct. 17, 2006, 120 Stat. 2180, struck out "while so serving" after "reserve grade" in item 12210.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(11)(B), (13)(B), Feb. 10, 1996, 110 Stat. 496, substituted "Reserve officers: qualifications" for "Qualifications" in item 12201 and inserted "the" after "National Guard of" in items 12211, 12212, 12213, and 12214.

## §12201. Reserve officers: qualifications for appointment

(a)(1) To become an officer of a reserve component a person must be appointed as a Reserve of an armed force in a grade corresponding to a grade authorized for the regular component of the armed force concerned and, except as provided in paragraph (2), subscribe to the oath prescribed by section 3331 of title 5. In addition, to become an officer of the Army National Guard of the United States or the Air National Guard of the United States, he must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard, as the case may be.

(2) If an officer is transferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer is not required to subscribe to the oath referred to in paragraph (1) in order to qualify for an appointment under that paragraph.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the appointment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be appointed as a Reserve unless he is at least 18 years of age and—

(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be appointed as a Reserve of any armed force under the jurisdiction of that Secretary.

(d) In prescribing age qualifications under subsection (b) for the appointment of persons as Reserves of the armed forces under his jurisdiction, the Secretary concerned may not prescribe a maximum age qualification of less than 47 years of age for the initial appointment of a person as a Reserve to serve in a health profession specialty which has been designated by the Secretary concerned as a specialty critically needed in wartime.

(Aug. 10, 1956, ch. 1041, 70A Stat. 24, §591; Pub. L. 85–861, §1(10)(A), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 88–236, Dec. 23, 1963, 77 Stat. 474; Pub. L. 89–718, §4, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, §1(3), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V §511(16), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 100–180, div. A, title VII, §718(a), Dec. 4, 1987, 101 Stat. 1115; renumbered §12201 and amended Pub. L. 103–337, div. A, title XVI, §§1631(b), 1662(c)(2), Oct. 5, 1994, 108 Stat. 2964, 2990; Pub. L. 104–106, div. A, title XV, §1501(a)(5)(B), (b)(11)(A), Feb. 10, 1996, 110

Stat. 495, 496; Pub. L. 108–375, div. A, title V, §501(c)(3), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111–383, div. A, title V, §515, Jan. 7, 2011, 124 Stat. 4213.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 591(a) | 50:946. | July 9, 1952, ch. 608, §§217 (less (c), and less applicability to enlistments), 222, 232 (less applicability to enlistments), 66 Stat. 486, 487, 489. |
| 591(b) | 50:941(a) (less applicability to enlistments). | |
| 591(c) | 50:941(b) (less applicability to enlistments). | |
| 591(d) | 50:956 (less applicability to enlistments). | |

In subsection (a), 50:946(a) (last 12 words of proviso) is omitted as covered by section 312 of title 32, 50:946(b) is omitted as covered by the revised subsection.

In subsection (b), the word "However" is substituted for the words "Subject to the limitation that". The exception as to section 4(i)(7) of the Universal Military Training and Service Act is inserted for clarity. The words "as Reserves of the armed forces under his jurisdiction" are substituted for the words "of Reserve members of the Armed Forces of the United States". The words "unless he is at least 18 years of age" are substituted for 50:941(a) (last sentence). The words "its Territories" are omitted as surplusage, since citizens of the Territories are citizens of the United States.

In subsection (c), the words "armed force concerned" are substituted for the words "of the appropriate Armed Force of the United States". The words "in the grades corresponding to the grades authorized for female officers of the" are substituted for the words "in the same grades * * * as are authorized for women in the", to conform to subsection (a). The words "in which she previously served satisfactorily" are substituted for the words "satisfactorily held by her".

In subsection (d), the words "under the jurisdiction of that Secretary" are inserted for clarity. The words "general or special" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 591(c) | 50:941(b). | July 30, 1956, ch. 789, §4(a), 70 Stat. 729. |

The words "Subject to section 946(a) of this title" are omitted, since that section is restated in subsection (a) of the revised section and is applicable to all reserve appointments. 50:941(b) (last 2 sentences) is omitted as covered by sections 510 and 591 of this title.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

### AMENDMENTS

**2011**—Subsec. (a)(2). Pub. L. 111–383 substituted "If an officer is transferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer" for "An officer transferred from the active-duty list of an armed force to a reserve active-status list of an armed force under section 647 of this title".

**2004**—Subsec. (a). Pub. L. 108–375 designated existing provisions as par. (1), inserted ", except as provided in paragraph (2)," after "the armed force concerned and", and added par. (2).

**1996**—Pub. L. 104–106, §1501(b)(11), substituted "Reserve officers: qualifications for appointment" for

"Reserve components: qualifications" as section catchline.

Subsecs. (c) to (e). Pub. L. 104–106, §1501(a)(5)(B), made technical correction to directory language of Pub. L. 103–337, §1631(b). See 1994 Amendment note below.

**1994**—Pub. L. 103–337, §1662(c)(2), renumbered section 591 of this title as this section.

Subsecs. (c) to (e). Pub. L. 103–337, §1631(b), as amended by Pub. L. 104–106, §1501(a)(5)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: "Women may be appointed as Reserves of the armed forces for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve. Women who are otherwise qualified may be appointed as Reserves of the armed forces with a view to serving in the Army National Guard of the United States or the Air National Guard of the United States. Women are appointed in grades corresponding to the grades authorized for female officers of the regular component of the armed force concerned. Any female former officer of an armed force may, if otherwise qualified, be appointed as a Reserve of that armed force in the highest grade in which she previously served satisfactorily on active duty (other than for training)."

**1987**—Subsec. (e). Pub. L. 100–180 added subsec. (e).

**1980**—Subsec. (b). Pub. L. 96–513 substituted "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)" for "chapter 12 of title 8", and struck out reference to section 454(i)(7) of title 50, appendix.

**1967**—Subsec. (c). Pub. L. 90–130 struck out provision limiting areas of service of women in Army National Guard of the United States and Air National Guard of the United States to service as nurses or medical specialists.

**1966**—Subsec. (a). Pub. L. 89–718 substituted "3331" for "16".

**1963**—Subsec. (b) (1). Pub. L. 88–236 substituted "he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under chapter 12 of title 8" for "he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof".

**1958**—Subsec. (c). Pub. L. 85–861 permitted appointment of women as Reserves of armed forces with a view to serving as nurses or medical specialists in Army National Guard of the United States or Air National Guard of the United States.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1631(b) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### EFFECTIVE DATE OF 1980 AMENDMENT

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

### BACCALAUREATE DEGREE REQUIRED FOR APPOINTMENT OR PROMOTION OF RESERVE COMPONENT OFFICERS TO GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE)

Pub. L. 102–190, div. A, title V, §523, Dec. 5, 1991, 105 Stat. 1363, provided that after Sept. 30, 1995, no person could be appointed to a grade above grade of first lieutenant in Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above grade of lieutenant (junior grade) in Naval Reserve, or be federally recognized in a grade above grade of first lieutenant as a member of Army National Guard or Air National Guard, unless that person had been awarded a baccalaureate degree by an accredited educational institution, prior to repeal by Pub. L. 103–35, title II, §203(a), May 31, 1993, 107 Stat. 102. See section 12205 of this title.

**PRIORITY IN MAKING ORIGINAL APPOINTMENTS IN GUARD AND RESERVE COMPONENTS FOR ROTC SCHOLARSHIP PROGRAM GRADUATES**

Pub. L. 102–190, div. A, title V, §524, Dec. 5, 1991, 105 Stat. 1363, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that: "In making appointments of persons as second lieutenants in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to the grade of ensign in the Navy Reserve, or in granting federal recognition in the grade of second lieutenant to members of the Army National Guard or Air National Guard, the Secretary of the military department concerned shall give preference to persons who have completed a post-secondary program of education pursued under a ROTC scholarship program at a college or university accredited to award baccalaureate degrees or pursued under a ROTC scholarship program at an accredited two-year or four-year military college."

**REPORT ON INITIAL APPOINTMENT OF ALL OFFICERS AS RESERVE OFFICERS AND ON APPROPRIATE ACTIVE DUTY OBLIGATION OF GRADUATES OF SERVICE ACADEMIES**

Pub. L. 101–510, div. A, title V, §524, Nov. 5, 1990, 104 Stat. 1562, directed Secretary of Defense to submit to Congress a report on advantages, disadvantages, and desirability of initially appointing all persons commissioned as officers in the Army, Navy, Air Force, or Marine Corps as Reserve officers, and the appropriate active duty service obligation for graduates of the service academies, directed Secretary to submit report not later than 60 days after Nov. 5, 1990, and provided that if the report was not submitted by that date, all persons initially appointed as commissioned officers in the Army, Navy, Air Force, and Marine Corps after that date would be appointed as commissioned officers in a Reserve component of the Armed Forces, and all persons entering the service academies after that date would incur an obligation to serve on active duty for a period of five years.

**DEADLINE FOR REGULATIONS IMPLEMENTING SUBSECTION (E) OF THIS SECTION**

Pub. L. 100–180, div. A, title VII, §718(b), Dec. 4, 1987, 101 Stat. 1115, provided that: "The Secretary concerned shall prescribe regulations implementing subsection (e) of section 591 [now 12201(d)] of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]."

## §12202. Commissioned officer grades

Except for commissioned warrant officers, the reserve commissioned officer grades in each armed force are those authorized for regular commissioned officers of that armed force.

(Added Pub. L. 85–861, §1(10)(B), Sept. 2, 1958, 72 Stat. 1440, §592; renumbered §12202, Pub. L. 103–337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 592 | 50:1181(1) (as applicable to 50:1201).<br>50:1201. | Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §211), 211, 68 Stat. 1149, 1153. |

The words "including those heretofore or hereafter transferred to the Retired Reserve", "permanent", and "pursuant to the Officer Personnel Act of 1947, as amended" are omitted as surplusage. The rule as to the Coast Guard is consolidated with the rule applicable to the other armed forces, since 14:754 prescribes the same substantive result as that prescribed by 50:1201 for the other armed forces.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 592 of this title as this section.

## §12203. Commissioned officers: appointment, how made; term

(a) Appointments of reserve officers in commissioned grades of lieutenant colonel and commander or below, except commissioned warrant officer, shall be made by the President alone. Appointments of reserve officers in commissioned grades above lieutenant colonel and commander shall be made by the President, by and with the advice and consent of the Senate, except as provided in section 624, 12213, or 12214 of this title.

(b) Subject to the authority, direction, and control of the President, the Secretary of Defense may appoint as a reserve commissioned officer any regular officer transferred from the active-duty list of an armed force to the reserve active-status list of a reserve component under section 647 of this title, notwithstanding the requirements of subsection (a).

(c) Appointments of Reserves in commissioned grades are for an indefinite term and are held during the pleasure of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §593; Pub. L. 85–861, §1(10)(C), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 92–129, title VI, §601, Sept. 28, 1971, 85 Stat. 361; Pub. L. 96–513, title V, §501(7), Dec. 12, 1980, 94 Stat. 2907; renumbered §12203 and amended Pub. L. 103–337, div. A, title XVI, §§1632, 1662(c)(2), 1675(b)(1), Oct. 5, 1994, 108 Stat. 2965, 2990, 3017; Pub. L. 104–106, div. A, title XV, §1501(a)(6), Feb. 10, 1996, 110 Stat. 495; Pub. L. 108–375, div. A, title V, §501(c)(4), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111–383, div. A, title X, §1075(b)(54), Jan. 7, 2011, 124 Stat. 4372; Pub. L. 116–92, div. A, title V, §501(b), Dec. 20, 2019, 133 Stat. 1343.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 593(a)<br><br>593(b) | 50:942.<br>50:943.<br>50:945.<br>50:948 (less 3d and 4th sentences, as applicable to commissioned officers). | July 9, 1952, ch. 608, §§218, 219, 221, 224 (less 3d and 4th sentences, as applicable to commissioned officers), 66 Stat. 487. |

In subsection (a), the word "alone" is inserted for clarity. The exception as to commissioned warrant officers is inserted to reflect section 597 of this title, since reserve chief warrant officers of the Navy, Marine Corps, and Coast Guard are appointed by commission by the Secretary concerned.

In subsection (b), 50:948 (2d and last sentences) is omitted as executed.

### 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 593(a) | [No source]. | [No source]. |

The exception is inserted to reflect section 3352(b) of title 10, United States Code.

## EDITORIAL NOTES

### AMENDMENTS

**2019**—Subsec. (b). Pub. L. 116–92 substituted "the Secretary of Defense" for "the Secretary concerned".

**2011**—Subsec. (a). Pub. L. 111–383 substituted "of" for "above" in first sentence.

**2004**—Subsecs. (b), (c). Pub. L. 108–375 added subsec. (b) and redesignated former subsec. (b) as (c).

**1996**—Subsec. (a). Pub. L. 104–106 made technical correction to directory language of Pub. L. 103–337, §1632. See 1994 Amendment note below.

**1994**—Pub. L. 103–337, §1662(c)(2), renumbered section 593 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(b), substituted "12213, or 12214" for "3352, or 8352".

Pub. L. 103–337, §1632, as amended by Pub. L. 104–106, substituted "reserve officers in commissioned grades of lieutenant colonel and commander or below" for "Reserves in commissioned grades below lieutenant colonel and commander" and "reserve officers in commissioned grades above lieutenant colonel and commander" for "Reserves in commissioned grades above major and lieutenant commander".

**1980**—Subsec. (a). Pub. L. 96–513 inserted reference to section 624 of this title.

**1971**—Subsec. (a). Pub. L. 92–129 substituted "below lieutenant colonel and commander" for "below general officer and flag officer", "in commissioned grades above major and lieutenant commander" for "as general and flag officers", and "section 3352 or 8352 of this title" for "section 3352 of this title".

**1958**—Subsec. (a). Pub. L. 85–861 inserted ", except as provided in section 3352 of this title" after "consent of the Senate".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(c)(2) and 1675(b)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1632 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

#### INDEFINITE APPOINTMENTS FOR CERTAIN RESERVE OFFICERS

Act Aug. 10, 1956, ch. 1041, §41, 70A Stat. 636, provided that: "Each person who was a reserve officer on July 9, 1952, and who did not hold an appointment for an indefinite term on that date, shall be given an appointment for an indefinite term in place of the appointment he then held, if after written notification by competent authority before July 2, 1953, the officer agrees in writing to have that appointment continued for an indefinite term. In the event such officer does not agree in writing, the term of his current appointment shall not be changed by this section."

### EXECUTIVE DOCUMENTS

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under first sentence of subsec. (a) of this section, see sections 1(b) and 2(b) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

## §12204. Commissioned officers: original appointment; limitation

(a) No person may be appointed as a Reserve in a commissioned grade above major or lieutenant commander, unless—

(1) he was formerly a commissioned officer of an armed force; or

(2) such an appointment is recommended by a board of officers convened by the Secretary concerned.

(b) This section does not apply to adjutants general and assistant adjutants general of the several States, Puerto Rico, and the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §594; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12204, Pub. L. 103–337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 594(a) | 50:941(c) (less 1st 21 words). | July 9, 1952, ch. 608 §217(c), 66 Stat. 487. |
| 594(b) | 50:941(c) (1st 21 words). | |

In subsection (a), the words "unless * * * he was formerly" are substituted for the words "has not held an appointment as". The words "or any component thereof" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (b). Pub. L. 109–163 struck out "and Territories" after "States".
**1994**—Pub. L. 103–337 renumbered section 594 of this title as this section.
**1988**—Subsec. (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

## §12205. Commissioned officers: appointment; educational requirement

(a) IN GENERAL.—No person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Navy Reserve, or be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) The appointment to or recognition in a higher grade of a person who is appointed in or assigned for service in a health profession for which a baccalaureate degree is not a condition of original appointment or assignment.

(2) The appointment in the Navy Reserve or Marine Corps Reserve of a person appointed for service as an officer designated as a limited duty officer.

(3) The appointment in the Navy Reserve of a person appointed for service under the Naval Aviation Cadet (NAVCAD) program or the Seaman to Admiral program.

(4) The appointment to or recognition in a higher grade of any person who was appointed to, or federally recognized in, the grade of captain or, in the case of the Navy, lieutenant before October 1, 1995.

(5) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.

(c) QUALIFYING EDUCATIONAL INSTITUTIONS.—(1) A qualifying educational institution for purposes of this section is an educational institution that is accredited or that meets the requirements of paragraph (2).

(2)(A) An unaccredited educational institution shall be considered to be a qualifying educational institution for purposes of the appointment or recognition of a person who is a graduate of that institution if the Secretary concerned determines that (as of the year of the graduation of that person from that institution) at least three educational institutions that are accredited and that maintain Reserve Officers' Training Corps programs each generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of those courses.

(B) In order to assist the Secretary concerned in making determinations under subparagraph (A), any unaccredited institution that seeks to be considered to be a qualifying educational institution for purposes of this paragraph shall submit to the Secretary of Defense each year such information as the

Secretary may require concerning the program of instruction at that institution.

(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than eight years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Navy Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.

(d) WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND CERTAIN MARINE CORPS OFFICERS.—(1) The Secretary of the Army may waive the applicability of subsection (a) to any officer whose original appointment in the Army as a Reserve officer is through the Army Officer Candidate School program.

(2) The Secretary of the Navy may waive the applicability of subsection (a) to any officer whose original appointment in the Marine Corps as a Reserve officer is through the Marine Corps meritorious commissioning program.

(3) Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than two years after the waiver is granted. The Secretary concerned may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

(Added Pub. L. 102–484, div. A, title V, §515(a), Oct. 23, 1992, 106 Stat. 2406, §596; renumbered §12205 and amended Pub. L. 103–337, div. A, title V, §§519, 520, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2755, 2990; Pub. L. 104–201, div. A, title V, §§504, 505, title X, §1074(a)(22), Sept. 23, 1996, 110 Stat. 2512, 2660; Pub. L. 107–107, div. A, title V, §512(a), Dec. 28, 2001, 115 Stat. 1092; Pub. L. 109–163, div. A, title V, §515(b)(1)(KK), Jan. 6, 2006, 119 Stat. 3234.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102–190, div. A, title V, §523, Dec. 5, 1991, 105 Stat. 1363, which was set out as a note under section 591 [now 12201] of this title, prior to repeal by Pub. L. 103–35, §203(a).

### AMENDMENTS

**2006**—Subsecs. (a), (b)(2), (3), (c)(2)(C). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2001**—Subsec. (d). Pub. L. 107–107 added subsec. (d).

**1996**—Subsec. (a). Pub. L. 104–201, §1074(a)(22), substituted "No person" for "After September 30, 1995, no person".

Subsec. (b)(3). Pub. L. 104–201, §505, inserted "or the Seaman to Admiral program" after "(NAVCAD) program".

Subsec. (c)(2)(C). Pub. L. 104–201, §504, substituted "eight years" for "three years".

**1994**—Pub. L. 103–337, §1662(c)(2), renumbered section 596 of this title as this section.

Subsec. (a). Pub. L. 103–337, §519(1), substituted "a qualifying educational institution" for "an accredited educational institution".

Subsec. (b)(2), (3). Pub. L. 103–337, §520(b), substituted "a person" for "an individual".

Subsec. (b)(5). Pub. L. 103–337, §520(a), added par. (5).

Subsec. (c). Pub. L. 103–337, §519(2), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §512(b), Dec. 28, 2001, 115 Stat. 1092, provided that: "Subsection (d) of section 12205 of title 10, United States Code, as added by subsection (a), shall apply with respect to officers appointed before, on, or after the date of the enactment of this Act [Dec. 28, 2001]."

### AUTHORITY FOR TEMPORARY WAIVER FOR CERTAIN ARMY RESERVE OFFICERS OF

**BACCALAUREATE DEGREE REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS**

Pub. L. 105–261, div. A, title V, §516, Oct. 17, 1998, 112 Stat. 2008, provided that:

"(a) WAIVER AUTHORITY FOR ARMY OCS GRADUATES.—The Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to any officer who before the date of the enactment of this Act [Oct. 17, 1998] was commissioned through the Army Officer Candidate School. Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than 2 years after the waiver is granted. The Secretary may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

"(b) EXPIRATION OF AUTHORITY.—A waiver under this section may not be granted after September 30, 2000."

## §12206. Commissioned officers: appointment of former commissioned officers

Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.

(Added §596a and renumbered §12206, Pub. L. 103–337, div. A, title XVI, §§1633, 1662(c)(2), Oct. 5, 1994, 108 Stat. 2965, 2990.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1662(c)(2), renumbered section 596a of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12207. Commissioned officers: service credit upon original appointment

(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b) or (e).

(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer)

of the Army, Navy, Air Force, or Marine Corps, and who has special training or experience, or advanced education (if applicable), shall be credited with constructive service for such education, training, or experience, as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

(D) Additional credit as follows:

(i) For special training or experience in a particular officer field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned.

(ii) During fiscal years 2021 through 2025, for advanced education in an officer field so designated, if such education is directly related to the operational needs of the armed force concerned.

(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

(2)(A) If the Secretary of Defense determines that the number of officers in a health profession described in subparagraph (B) who are serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed in such health profession by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment as an officer for service in such health profession with a period of constructive credit in such amount (in addition to any amount credited such person under paragraph (1)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant.

(B) The types of health professions referred to in subparagraph (A) include the following:

(i) Any health profession performed by officers in the Medical Corps of the Army or the Navy or by officers of the Air Force designated as a medical officer.

(ii) Any health profession performed by officers in the Dental Corps of the Army or the Navy or by officers of the Air Force designated as a dental officer.

(iii) Any health profession performed by officers in the Medical Service Corps of the Army or the Navy or by officers of the Air Force designated as a medical service officer or biomedical sciences officer.

(iv) Any health profession performed by officers in the Army Medical Specialist Corps.

(v) Any health profession performed by officers of the Nurse Corps of the Army or the Navy or by officers of the Air Force designated as a nurse.

(vi) Any health profession performed by officers in the Veterinary Corps of the Army or by

officers designated as a veterinary officer.

(3) The amount of constructive service credit credited to an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of colonel or as a reserve officer of the Navy in the grade of captain.

(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

(1) initial grade as a reserve officer;

(2) rank in grade; and

(3) service in grade for promotion eligibility.

(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.

(Added §596b and renumbered §12207, Pub. L. 103–337, div. A, title XVI, §§1634, 1662(c)(2), Oct. 5, 1994, 108 Stat. 2965, 2990; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(LL), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110–181, div. A, title V, §512, Jan. 28, 2008, 122 Stat. 98; Pub. L. 115–91, div. A, title V, §512(a), Dec. 12, 2017, 131 Stat. 1376; Pub. L. 115–232, div. A, title V, §502(b), Aug. 13, 2018, 132 Stat. 1739; Pub. L. 116–283, div. A, title V, §502(b), Jan. 1, 2021, 134 Stat. 3564.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3353, 5600, and 8353 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (c)(1) and Pub. L. 104–106, §1501(c)(26).

### AMENDMENTS

**2021**—Subsec. (b)(1). Pub. L. 116–283, §502(b)(1), substituted "and who has special training or experience, or advanced education (if applicable)," for "or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training," in introductory provisions. Amendment was executed to reflect the probable intent of Congress due to omission of words "by striking" in directory language.

Subsec. (b)(1)(D). Pub. L. 116–283, §502(b)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "Additional credit for special training or experience in a particular officer career field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned."

**2018**—Subsec. (b)(1)(D). Pub. L. 115–232, §502(b)(1)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: "Additional credit, in unusual cases, based on special experience in a particular field."

Subsec. (b)(3). Pub. L. 115–232, §502(b)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of officers covered by paragraph (2), the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander."

Subsecs. (e) to (g). Pub. L. 115–232, §502(b)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively, substituted "or (d)" for ", (d), or (e)" in introductory provisions of subsec. (e), and struck out former subsec. (e) which related to constructive service credited to commissioned officers with cyberspace-related experience or advanced education in reserve active-status.

**2017**—Subsec. (a)(2). Pub. L. 115–91, §512(a)(1), inserted "or (e)" after "subsection (b)".

Subsec. (e). Pub. L. 115–91, §512(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 115–91, §512(a)(2), (4), redesignated subsec. (e) as (f) and substituted ", (d), or (e)" for "or (d)". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115–91, §512(a)(2), redesignated subsec. (f) as (g).

**2008**—Subsec. (b)(2). Pub. L. 110–181, §512(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant."

Subsec. (b)(3). Pub. L. 110–181, §512(b), substituted "officers covered by paragraph (2)" for "a medical or dental officer".

**2006**—Subsec. (b)(2). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1994**—Pub. L. 103–337, §1662(c)(2), renumbered section 596b of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### ANNUAL REPORT

For provisions requiring submission to Congress of reports on the use of the authorities in subsec. (b)(1)(D) of this section, see section 502(c) of Pub. L. 116–283, set out as a note under section 533 of this title.

## §12208. Officers: appointment upon transfer

(a) A person who would otherwise be required to be transferred to a reserve component under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.), is entitled, if he is qualified and accepted, to be appointed as an officer of any armed force that he

chooses and to participate in the programs authorized for that armed force. However, unless the two Secretaries concerned consent, he may not be appointed as a Reserve of an armed force other than that from which he is transferred. All periods of his participation shall be credited against the total period of service required of him under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.). However, no period may be credited more than once.

(b) A person covered by subsection (a) shall perform the rest of his required term of service in the armed force in which he is so appointed or in any other armed force in which he is later appointed or enlisted.

(c) This section does not change any term of service under an appointment, enlistment, or agreement, including an agreement made before or at the time when the member entered upon a program authorized by an armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §595; Pub. L. 96–513, title V, §511(17), Dec. 12, 1980, 94 Stat. 2921; renumbered §12208, Pub. L. 103–337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 114–328, div. A, title X, §1081(b)(1)(A)(ix), Dec. 23, 2016, 130 Stat. 2418.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 595(a) | 50:929(a) (less 2d sentence, less applicability to enlistments). | July 9, 1952, ch. 608, §209 (less applicability to enlistments), 66 Stat. 484. |
| 595(b) | 50:929(a) (2d sentence, and less applicability to enlistments). | |
| 595(c) | 50:929(b) (less applicability to enlistments). | |

In subsection (a), the words "is entitled * * * to be appointed as an officer of any armed force that he chooses" are substituted for the words "shall be permitted to * * * accept an appointment in such armed force of the United States as he may elect". The last sentence is substituted for 50:929(a) (words within parentheses). The words "of an armed force of the United States" are omitted as surplusage.

In subsection (b), the word "rest" is substituted for the words "remaining period". The words "be required to" are omitted as surplusage.

In subsection (c), the words "This section does not" are substituted for the words "Nothing in this section shall be construed". The word "change" is substituted for the words "reduce, limit, or modify". The words "which any person may undertake to perform" are omitted as surplusage.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

### AMENDMENTS

**2016**—Subsec. (a). Pub. L. 114–328 substituted "(50 U.S.C. 3801 et seq.)" for "(50 U.S.C. App. 451 et seq.)" in two places.

**1994**—Pub. L. 103–337 renumbered section 595 of this title as this section.

**1980**—Subsec. (a). Pub. L. 96–513 substituted "the Military Selective Service Act (50 U.S.C. App. 451 et seq.)" for "sections 451–473 of title 50, appendix" wherever appearing.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1980 AMENDMENT

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

## §12209. Officer candidates: enlisted Reserves

(a) Within such numbers as the Secretary concerned may prescribe, enlisted Reserves may, with their consent, be selected for training as officer candidates. Enlisted Reserves so selected shall be designated as officer candidates during that training. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be so selected or designated unless—

(1) he is on active duty; or

(2) the governor or other appropriate authority of the jurisdiction concerned consents.

(b) The enlistment or term of service of a Reserve who is designated as an officer candidate under this section is extended to include any period, beyond its normal expiration date, during which he is an officer candidate.

(c) While he is on active duty, other than active duty for training without pay, or performing authorized travel to and from that duty, an officer candidate designated under this section is entitled to the pay and allowances of his enlisted grade, but not less than those prescribed for pay grade E–2.

(d) An officer candidate designated under this section may not participate in the program of a reserve officer training corps of any armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 26, §600; renumbered §12209, Pub. L. 103–337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104–106, div. A, title XV, §1501(b)(12)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 600(a) | 50:935(a). | July 9, 1952, ch. 608, §§215(a), 230, 242, 66 Stat. 486, 489, 492. |
| 600(b) | 50:954(a). | |
| 600(c) | 50:973. | |
| 600(d) | 50:954(b). | |

In subsection (a), the words "who is not in active Federal service" are substituted for the words "when not in the active military service of the United States". The word "during" is substituted for the words "for the period of".

In subsection (c), the words "active duty other than active duty for training without pay" are substituted for the words "active duty or active duty for training with pay". The words "enlisted members of the reserve components designated as", "enlisted", and "under the Career Compensation Act of 1949, as amended" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–106 substituted "candidates: enlisted Reserves" for "candidates" in section catchline.

**1994**—Pub. L. 103–337 renumbered section 600 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

## §12210. Attending Physician to the Congress: reserve grade

While serving as Attending Physician to the Congress, a Reserve holds the reserve grade of major general or rear admiral, as appropriate.

(Added Pub. L. 99–661, div. A, title V, §508(d)(1)(A), Nov. 14, 1986, 100 Stat. 3867, §600a; renumbered §12210, Pub. L. 103–337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; amended Pub. L. 104–106, div. A, title XV, §1501(b)(12)(B), Feb. 10, 1996, 110 Stat. 496; Pub. L. 109–364, div. A, title V, §507(a)(2)(A), (B), Oct. 17, 2006, 120 Stat. 2180.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Pub. L. 109–364 struck out "while so serving" after "reserve grade" in section catchline and substituted "holds the reserve grade of major general or rear admiral, as appropriate" for "who holds a reserve grade lower than major general or rear admiral shall hold the reserve grade of major general or rear admiral, as appropriate, if appointed to that grade by the President, by and with the advice and consent of the Senate" in text.

**1996**—Pub. L. 104–106 substituted "Congress: reserve grade while so serving" for "Congress" in section catchline.

**1994**—Pub. L. 103–337 renumbered section 600a of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Pub. L. 99–661, div. A. title V, §508(f), Nov. 14, 1986, 100 Stat. 3868, provided that: "The amendments made by this section [enacting this section and amending sections 1374, 4335, 5149, and 9335 of this title] shall apply only with respect to appointments or details made on or after the date of the enactment of this Act [Nov. 14, 1986]."

## §12211. Officers: Army National Guard of the United States

(a) Upon being federally recognized, an officer of the Army National Guard shall be appointed as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard. However, an officer of the Army Reserve who is federally recognized as an officer of the Army National Guard becomes an officer of the Army National Guard of the United States and ceases to be an officer of the Army Reserve. The acceptance of an appointment as a Reserve for service as a member of the Army National Guard of the United States by an officer of the Army National Guard does not vacate his office in the Army National Guard.

(b) When an officer of the Army National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Army National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Army National Guard of the United States is ordered to active duty, any officer of the Army National Guard who is not a Reserve of the Army may be appointed by the President as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 193, §3351; renumbered §12211, Pub. L. 103–337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104–106, div. A, title XV, §1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3351(a) | 50:1113 (less (a)). | July 9, 1952, ch. 608, §§703 (less (a)), |
| | 50:1115(a) (last 39 words). | 704 (2d sentence), 705(a) (last 39 |
| 3351(b) | 50:1114 (2d sentence). | words), 713 (less (a)), 66 Stat. |
| 3351(c) | 50:1123 (less (a)). | 502–504. |

In subsection (a), the words "as a Reserve" are substituted for the words "as Reserve officers of the appropriate Armed Force of the United States" and "as a Reserve officer of the Armed Force of the United States concerned", in 50:1113(b). The words "federally recognized appointments" and "in the same grade and branch", in 50:1113(b), are omitted as surplusage. The words "those officers who do not hold appointments as Reserve officers of the appropriate Armed Force of the United States", in 50:1113(b), are omitted as covered by the second sentence of the revised subsection.

In subsection (c), the words "active duty" are substituted for the words "active military service of the United States". The words "and branch" are omitted as surplusage. The words "of the Army National Guard of the United States" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106 inserted "the" after "National Guard of" in section catchline.

**1994**—Pub. L. 103–337 renumbered section 3351 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

## §12212. Officers: Air National Guard of the United States

(a) Upon being federally recognized, an officer of the Air National Guard shall be appointed as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard. However, an officer of the Air Force Reserve who is federally recognized as an officer of the Air National Guard becomes an officer of the Air National Guard of the United States and ceases to be an officer of the Air Force Reserve. The acceptance of an appointment as a Reserve for service as a member of the Air National Guard of the United States by an officer of the Air National Guard does not vacate his office in the Air National Guard.

(b) When an officer of the Air National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Air National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Air National Guard of the United States is ordered to active duty, any officer of the Air National Guard who is not a Reserve of the Air Force may be appointed by the President as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 519, §8351; renumbered §12212, Pub. L. 103–337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104–106, div. A, title XV, §1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | | |

| | | |
|---|---|---|
| 8351(a) | 50:1113 (less (a)). | July 9, 1952, ch. 608, §§703 (less (a)), |
| | 50:1115(a) (last 39 words). | 704 (2d sentence), 705(a) (last 39 |
| 8351(b) | 50:1114 (2d sentence). | words), 713 (less (a)), 66 Stat. |
| 8351(c) | 50:1123 (less (a)). | 502–504. |

In subsection (a), the words "as a Reserve" are substituted for the words "as Reserve officers of the appropriate Armed Force of the United States" and "as a Reserve officer of the Armed Force of the United States concerned" in 50:1113(b). The words "federally recognized appointments" and "in the same grade and branch", in 50:1113(b), are omitted as surplusage. The words "those officers who do not hold appointments as reserve officers of the appropriate Armed Force of the United States", in 50:1113(b), are omitted as covered by the second sentence of the revised subsection.

In subsection (c), the words "active duty" are substituted for the words "active military service of the United States". The words "and branch" are omitted as surplusage. The words "of the Air National Guard of the United States" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106 inserted "the" after "National Guard of" in section catchline.

**1994**—Pub. L. 103–337 renumbered section 8351 of this title as this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

## §12213. Officers; Army Reserve: transfer from Army National Guard of the United States

(a) Under such regulations as the Secretary of the Army may prescribe, and with the consent of the governor or other appropriate authority of the State concerned, an officer of the Army National Guard of the United States may be transferred in grade to the Army Reserve.

(b) Unless discharged from his appointment as a Reserve, an officer of the Army National Guard of the United States whose Federal recognition as a member of the Army National Guard is withdrawn becomes a member of the Army Reserve. An officer who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 194, §3352; Pub. L. 85–861, §1(80)(A), Sept. 2, 1958, 72 Stat. 1468; Pub. L. 86–559, §1(7), June 30, 1960, 74 Stat. 265; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12213 and amended Pub. L. 103–337, div. A, title XVI, §§1636(a), 1662(c)(3), 1675(b)(2), Oct. 5, 1994, 108 Stat. 2968, 2990, 3017; Pub. L. 104–106, div. A, title XV, §1501(b)(13)(A), (14), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3352(a) | 50:1116 (less last 15 words of 1st sentence, and less applicability to enlistments). | July 9, 1952, ch. 608, §§706 (less last 15 words of 1st sentence, and less applicability to enlistments), 707 (less applicability to enlistments), 66 Stat. 503. |
| 3352(b) | 50:1117 (less applicability to enlistments). | |

In subsection (a), the words "at any time", "of any person", and "from the National Guard of the United States or from the Air National Guard of the United States" are omitted as surplusage. The words "highest regular or reserve grade ever held by him in the Army" are substituted for the words "highest permanent grade previously held in the Army or any component thereof", since "permanent" grades are held only in a component and there are no "non-permanent" grades held in a component.

In subsection (b), the words "appointment as a Reserve" are substituted for the words "appointment or * * * as a Reserve officer or". The words "whose Federal recognition as a member * * * is withdrawn" are substituted for the words "ceases to hold a status as a federally recognized member".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 3352(a) | 50:1254. | Sept. 3, 1954, ch. 1257, §322, 68 Stat. 1161. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, §1501(b)(13)(A), inserted "the" after "National Guard of" in section catchline.

Subsec. (a). Pub. L. 104–106, §1501(b)(14), substituted "section 12203" for "section 593" in last sentence.

**1994**—Pub. L. 103–337, §1662(c)(3), renumbered section 3352 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(b), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is" after "authority of the State".

Pub. L. 103–337, §1636(a), struck out at end "Notwithstanding any other provision of this chapter or section 12203 of this title, an officer who is transferred under this section shall be advanced to the highest temporary, regular, or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service."

**1988**—Subsec. (a). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

**1960**—Subsec. (a). Pub. L. 86–559 authorized officers transferred under this section to be advanced to the highest temporary grade ever held in the Army.

**1958**—Subsec. (a). Pub. L. 85–861 substituted "Notwithstanding any other provision of this chapter or section 593 of this title, an officer who is transferred under this section shall be advanced to the highest regular or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service" for "Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENTS**

Pub. L. 104–106, div. A, title XV, §1501(f)(1), Feb. 10, 1996, 110 Stat. 501, provided that: "Section 1636 of the Reserve Officer Personnel Management Act [Pub. L. 103–337, amending this section and repealing sections 8356 and 8379 of this title] shall take effect on the date of the enactment of this Act [Feb. 10, 1996]."

Amendment by sections 1662(c)(3) and 1675(b)(2) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## §12214. Officers; Air Force Reserve: transfer from Air National Guard of the United States

(a) Under such regulations as the Secretary of the Air Force may prescribe, and with the consent

of the governor or other appropriate authority of the State concerned, an officer of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

(b) Unless discharged from his appointment as a Reserve, an officer of the Air National Guard of the United States whose Federal recognition as a member of the Air National Guard is withdrawn becomes a member of the Air Force Reserve. An officer who so becomes a member of the Air Force Reserve ceases to be a member of the Air National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 520, §8352; Pub. L. 87–651, title I, §126, Sept. 7, 1962, 76 Stat. 514; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12214 and amended Pub. L. 103–337, div. A, title XVI, §§1662(c)(3), 1675(b)(2), Oct. 5, 1994, 108 Stat. 2990, 3017; Pub. L. 104–106, div. A, title XV, §1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 8352(a) | 50:1116 (less last 15 words of 1st sentence, and less applicability to enlistments). | July 9, 1952, ch. 608, §§706 (less last 15 words of 1st sentence, and less applicability to enlistments), 707 (less applicability to enlistments), 66 Stat. 503. |
| 8352(b) | 50:1117 (less applicability to enlistments). | |

In subsection (a), the words "at any time", "of any person", and "from the National Guard of the United States or from the Air National Guard of the United States" are omitted as surplusage. The words "highest regular or reserve grade ever held by him in the Air Force" are substituted for the words "highest permanent grade previously held in * * * the Air Force or any component thereof", since "permanent" grades are held only in a component and there are no "nonpermanent" grades held in a component.

In subsection (b), the words "appointment as a Reserve" are substituted for the words "appointment or * * * as a Reserve officer or". The words "whose Federal recognition as a member * * * is withdrawn" are substituted for the words "ceases to hold a status as a federally recognized member".

**1962 ACT**

The change reflects the implied repeal of the second sentence of section 8352(a) by section 502(a) of the Reserve Officer Personnel Act of 1954 (68 Stat. 1172).

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–106 inserted "the" after "National Guard of" in section catchline.

**1994**—Pub. L. 103–337, §1662(c)(3), renumbered section 8352 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(b)(2), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is" after "authority of the State".

**1988**—Subsec. (a). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

**1962**—Subsec. (a). Pub. L. 87–651 struck out sentence which provided that upon transfer, an officer is eligible for promotion to the highest regular or reserve grade ever held by him in the Air Force, if his service has been honorable.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.

(Added Pub. L. 103–337, div. A, title XVI, §1662(c)(1), Oct. 5, 1994, 108 Stat. 2990.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3392 and 8392 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (c)(1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1207—WARRANT OFFICERS

Sec.
12241. Warrant officers: grades; appointment, how made; term.
12242. Warrant officers: promotion.
12243. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.
12244. Warrant officers: discharge or retirement for years of service or for age.

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Pub. L. 107–107, div. A, title V, §517(e)(2), Dec. 28, 2001, 115 Stat. 1095, added item 12244.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(15), Feb. 10, 1996, 110 Stat. 496, substituted "promotion" for "promotions" in item 12243.

## §12241. Warrant officers: grades; appointment, how made; term

(a) The permanent reserve warrant officer grades in each armed force are those prescribed for regular warrant officers by section 571(a) of this title.

(b) Appointments in permanent reserve warrant officer grades shall be made in the same manner as is prescribed for regular warrant officer grades by section 571(b) of this title.

(c) Appointments as Reserves in permanent warrant officer grades are for an indefinite term and are held during the pleasure of the Secretary concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 26, §597; Pub. L. 99–145, title V, §531(b), Nov. 8, 1985, 99 Stat. 633; Pub. L. 102–190, div. A, title XI, §1131(2), Dec. 5, 1991, 105 Stat. 1505; renumbered §12241, Pub. L. 103–337, div. A, title XVI, §1662(d)(2), Oct. 5, 1994, 108 Stat. 2991; Pub. L. 111–383, div. A, title V, §502(b), Jan. 7, 2011, 124 Stat. 4207.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 597(a) | 10:600a(a) (less 3d and last sentences, as applicable to permanent reserve appointments).<br>34:135a(a) (less last sentence, as applicable to permanent reserve appointments). | May 29, 1954, ch. 249, §§3(a) (less last sentence, as applicable to permanent reserve appointments), 5(a) (last sentence, as applicable to permanent reserve appointments), 68 Stat. 157, 159. |
| 597(b) | 10:600a(a) (3d sentence, as applicable to permanent reserve appointments).<br>10:600c(a) (last sentence, as applicable to permanent reserve appointments).<br>34:135a(a) (last sentence, as applicable to permanent reserve appointments).<br>34:135c(a) (last sentence, as applicable to permanent reserve appointments).<br>50:944. | July 9, 1952, ch. 608, §§220, 223, 224 (less 3d and 4th sentences, and less applicability to commissioned officers), 66 Stat. 487. |
| 597(c) | 50:947.<br>50:948 (less 3d and 4th sentences, and less applicability to commissioned officers). | |

In subsection (b), the words "W–4, W–3, and W–2" and "persons" are omitted as surplusage.

In subsection (c), the words "After July 9, 1952" are omitted as executed. 50:948 (2d and last sentence) is omitted as executed.

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 111–383 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Appointments made in the permanent reserve grade of warrant officer, W–1, shall be made by warrant by the Secretary concerned. Appointments made in a permanent reserve grade of chief warrant officer shall be made by commission by the Secretary concerned."

**1994**—Pub. L. 103–337 renumbered section 597 of this title as this section.

**1991**—Subsec. (a). Pub. L. 102–190 substituted "section 571(a)" for "section 555(a)".

**1985**—Subsec. (b). Pub. L. 99–145 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Reserve chief warrant officers of the Army and the Air Force shall be appointed in those grades, by warrant, by the Secretary concerned. Permanent reserve chief warrant officers of the Navy, Marine Corps, and Coast Guard shall be appointed in those grades, by commission, by the Secretary concerned. Permanent reserve warrant officers, W-1, shall be appointed in those grades, by warrant, by the Secretary concerned."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–145, title V, §531(d), Nov. 8, 1985, 99 Stat. 633, provided that: "This section [amending this

section and section 555 of this title and enacting provisions set out below] takes effect six months after the date of the enactment of this Act [Nov. 8, 1985]."

**TRANSITION PROVISIONS FOR 1985 AMENDMENT**

Pub. L. 99–145, title V, §531(c), Nov. 8, 1985, 99 Stat. 633, provided that:

"(1) The amendments made by subsections (a) and (b) [amending this section and section 555 of this title] apply to any appointment of a warrant officer or chief warrant officer on or after the effective date of this section [see Effective Date of 1985 Amendment note above].

"(2) An officer who on the effective date of this section is serving in a chief warrant officer grade under an appointment by warrant may be appointed in that grade by commission under section 555(b) or 597(b) [now 12241(b)] of title 10, United States Code, as appropriate. The date of rank of an officer who receives an appointment under this paragraph is the date of rank for the officer's appointment by warrant to that grade."

**PRESIDENTIAL FUNCTIONS**

Pub. L. 111–383, div. A, title V, §502(c), Jan. 7, 2011, 124 Stat. 4207, provided that: "Except as otherwise provided by the President by Executive order, the provisions of Executive Order 13384 (10 U.S.C. 531 note) relating to the functions of the President under the second sentence of section 571(b) of title 10, United States Code, shall apply in the same manner to the functions of the President under section 12241(b) of title 10, United States Code."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Authority of President under subsec. (b) of this section to appoint by commission reserve chief warrant officers in the Coast Guard delegated to Secretary of Homeland Security by Ex. Ord. No. 14106, §1(h), Aug. 14, 2023, 88 F.R. 55905, set out in a note under section 2101 of Title 14, Coast Guard.

## §12242. Warrant officers: promotion

The promotion of permanent reserve warrant officers not on the warrant officer active-duty list to permanent reserve warrant officer grades shall be governed by such regulations as the Secretary concerned may prescribe.

(Aug. 10, 1956, ch. 1041, 70A Stat. 26, §598; Pub. L. 102–190, div. A, title XI, §1131(3), Dec. 5, 1991, 105 Stat. 1505; renumbered §12242, Pub. L. 103–337, div. A, title XVI, §1662(d)(2), Oct. 5, 1994, 108 Stat. 2991.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 598 | 10:600e (last sentence, less applicability to temporary promotions).<br>34:330 (last sentence, less applicability to temporary promotions). | May 29, 1954, ch. 249, §7 (last sentence, less applicability to temporary promotions), 68 Stat. 159. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 598 of this title as this section.

**1991**—Pub. L. 102–190 inserted "not on the warrant officer active-duty list" after "reserve warrant officers".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1991 AMENDMENT**

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

## §12243. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency

In time of war, or of emergency declared after May 29, 1954, by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of permanent reserve warrant officers of any armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 26, §599; renumbered §12243, Pub. L. 103–337, div. A, title XVI, §1662(d)(2), Oct. 5, 1994, 108 Stat. 2991.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 599 | 10:600p (as applicable to reserve warrant officers).<br>34:330g (as applicable to reserve warrant officers).<br>34:430d (as applicable to reserve warrant officers). | May 29, 1954, ch. 249, §18 (as applicable to reserve warrant officers), 68 Stat. 165. |

The word "may" is substituted for the words "is authorized, in his discretion". The words "any provision of law" are substituted for the words "all or any part or parts of the several provisions of law".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 599 of this title as this section.

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

Functions of the President under this section delegated to the Secretary of Defense, see section 1(4) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

## §12244. Warrant officers: discharge or retirement for years of service or for age

Each reserve warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(1) be transferred to the Retired Reserve if the warrant officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged if the warrant officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 107–107, div. A, title V, §517(e)(1), Dec. 28, 2001, 115 Stat. 1095.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 10154 of this title.

# CHAPTER 1209—ACTIVE DUTY

Sec.
12301. Reserve components generally.
12302. Ready Reserve.
12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
12304. Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency.
12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency.
12304b. Selected Reserve: order to active duty for preplanned missions in support of the combatant commands.
12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation.
12306. Standby Reserve.
12307. Retired Reserve.
12308. Retention after becoming qualified for retired pay.
12309. Reserve officers: use of in expansion of armed forces.
12310. Reserves: for organizing, administering, etc., reserve components.
12311. Active duty agreements.
12312. Active duty agreements: release from duty.
12313. Reserves: release from active duty.
12314. Reserves: kinds of duty.
12315. Reserves: duty with or without pay.
12316. Payment of certain Reserves while on duty.
12317. Reserves: theological students; limitations.
12318. Reserves on active duty: duties; funding.
12319. Ready Reserve: muster duty.
12320. Reserve officers: grade in which ordered to active duty.
12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned.
12322. Active duty for health care.
12323. Active duty pending line of duty determination required for response to sexual assault.

**EDITORIAL NOTES**

**AMENDMENTS**

**2013**—Pub. L. 112–239, div. A, title V, §571(b), Jan. 2, 2013, 126 Stat. 1753, added item 12323.

**2011**—Pub. L. 112–81, div. A, title V, §§515(a)(2), 516(a)(2), Dec. 31, 2011, 125 Stat. 1394, 1397, added items 12304a and 12304b.

**1999**—Pub. L. 106–65, div. A, title VII, §705(a)(2), Oct. 5, 1999, 113 Stat. 683, added item 12322.

**1997**—Pub. L. 105–85, div. A, title V, §511(e)(2), Nov. 18, 1997, 111 Stat. 1729, inserted "and certain Individual Ready Reserve members" after "Selected Reserve" in item 12304.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(16), Feb. 10, 1996, 110 Stat. 496, substituted a semicolon for a colon in item 12304 and struck out "on active duty" after "Retention" in item 12308.

## §12301. Reserve components generally

(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons

affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty for the duration of the war or emergency and for six months thereafter. However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.

(b) At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor of the State (or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard).

(c) So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty as provided in subsection (a), members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with their units. However, members of those units may be reassigned after being so ordered to active duty.

(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.

(e) The period of time allowed between the date when a Reserve ordered to active duty as provided in subsection (a) is alerted for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.

(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.

(g)(1) A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.

(2) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.

(3) In this section, the term "captive status" means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.

(h)(1) When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty—

(A) to receive authorized medical care;

(B) to be medically evaluated for disability or other purposes; or

(C) to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

(2) A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27, §672; Pub. L. 85–861, §§1(13), 33(a)(5), Sept. 2, 1958, 72 Stat. 1440, 1564; Pub. L. 96–357, §6, Sept. 24, 1980, 94 Stat. 1182; Pub. L. 96–584, §1, Dec. 23, 1980, 94 Stat. 3377; Pub. L. 99–500, §101(c) [title IX, §9122], Oct. 18, 1986, 100 Stat. 1783–82, 1783–127, and Pub. L. 99–591, §101(c) [title IX, §9122], Oct. 30, 1986, 100 Stat. 3341–82, 3341–127; Pub. L. 99–661, div. A, title V, §§522, 524(a), Nov. 14, 1986, 100 Stat. 3871; Pub. L. 100–456, div. A, title XII, §1234(a)(1), (2), Sept. 29, 1988, 102 Stat. 2059; renumbered §12301 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(1), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 106–65, div. A, title V, §512, Oct. 5, 1999, 113 Stat. 592; Pub. L. 108–375, div. A, title V, §514(a), Oct. 28, 2004, 118 Stat. 1882.)

## HISTORICAL AND REVISION NOTES

### 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 672(a) | 50:961(a). | July 9, 1952, ch. 608, §§233 (less (b) and (f)), 234 (1st sentence), 66 Stat. 489, 490. |
| 672(b) | 50:961(c). | |
| 672(c) | 50:961(g). | |
| 672(d) | 50:961(d).<br>50:962 (1st sentence). | |
| 672(e) | 50:961(e). | |

In subsection (a), the word "hereafter" is omitted as surplusage. The words "there are not enough * * * who are" are substituted for the words "adequate numbers of * * * are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity. The words "and the members thereof" are omitted as surplusage.

In subsection (b), the words "without the consent of the persons affected" are substituted for the words "without his consent", since units as well as individuals are covered by the revised subsection. The words "and the members thereof", "and required to perform", "or required to serve on", and "in the service of the United States" are omitted as surplusage.

In subsections (b) and (d), the words "active duty for training" are omitted as covered by the words "active duty".

In subsection (c), the words "to active duty" are substituted for the words "into the active military service of the United States", in 50:961(g) (1st and last sentences). The words "to serve" are substituted for the words "for the purpose of serving". The words "without their consent" are substituted for the word "involuntarily". The words "to that duty" are substituted for the words "into active duty". The last sentence of the revised subsection is substituted for 50:961(g) (last sentence).

In subsection (d), the words "the consent of that member" are substituted for the words "his consent". The words "under his jurisdiction" are inserted for clarity. 50:962 (last 15 words of 1st sentence) is omitted as covered by 50:961(d).

In subsection (e), the words "to active duty (other than for training)" are substituted for the words "into the active military service of the United States". The words "period of" are omitted as surplusage. The word "requirements" is substituted for the word "condition" for clarity.

### 1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 672(a) | 50:961(a). | Aug. 9, 1955, ch. 665, §2(e), 69 Stat. 599. |

The word "hereafter" is omitted as surplusage. The words "there are not enough . . . who are" are substituted for the words "adequate numbers of . . . are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term "active duty" to exclude active duty for training. This definition applied to the

source law for these sections [sections 672 and 673], section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c)).

## EDITORIAL NOTES

### CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

### AMENDMENTS

**2004**—Subsec. (a). Pub. L. 108–375, §514(a)(1), struck out "(other than for training)" after "that Secretary to active duty".

Subsec. (c). Pub. L. 108–375, §514(a)(2), substituted "as provided in subsection (a)" for "(other than for training)" and "so ordered to active duty" for "ordered to active duty (other than for training)".

Subsec. (e). Pub. L. 108–375, §514(a)(3), substituted "as provided in subsection (a)" for "(other than for training)".

**1999**—Subsec. (h). Pub. L. 106–65 added subsec. (h).

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 672 of this title as this section.

Subsec. (b). Pub. L. 103–337, §1675(c)(1)(A), substituted "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)" for "or Territory or Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be".

Subsec. (d). Pub. L. 103–337, §1675(c)(1)(B), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is" after "authority of the State".

**1988**—Subsec. (b). Pub. L. 100–456, §1234(a)(2), substituted "or Puerto Rico" for ", Puerto Rico, or the Canal Zone,".

Subsec. (d). Pub. L. 100–456, §1234(a)(1), struck out "the Canal Zone," after "Puerto Rico,".

**1986**—Subsec. (f). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§9122], Pub. L. 99–661, §522, amended section identically adding subsec. (f).

Subsec. (g). Pub. L. 99–661, §524(a), added subsec. (g).

**1980**—Subsec. (a). Pub. L. 96–357 struck out cl. (1) designation for second sentence and cl. (2) prohibition against ordering a member of the Standby Reserve to active duty unless the Director of Selective Service determined that the member was available for active duty.

Subsec. (e). Pub. L. 96–584 substituted provisions respecting determination of the allowable time in terms of military requirements for provisions authorizing a reasonable time.

**1958**—Subsec. (a). Pub. L. 85–861, §§1(13), 33(a)(5), inserted "(other than for training)" after "active duty", substituted "inactive National Guard" for "inactive Army National Guard or in the inactive Air National Guard", and inserted provisions prohibiting a member of the Standby Reserve from being ordered to active duty under this subsection unless the Director of Selective Service determines that the member is available for active duty.

Subsec. (c). Pub. L. 85–861, §33(a)(5), inserted "(other than for training)" after "active duty".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title V, §524(b), Nov. 14, 1986, 100 Stat. 3872, provided that: "Section 672(g) [now 12301(g)] of title 10, United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act [Nov. 14, 1986]."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(a)(5) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

### RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661

For rule of construction for certain duplicate provisions of Public Laws 99–500, 99–591, and 99–661, see Pub. L. 100–26, §6, Apr. 21, 1987, 101 Stat. 274, set out as a note under section 101 of this title.

**QUARANTINE LODGING FOR MEMBERS OF THE RESERVE COMPONENTS WHO PERFORM CERTAIN SERVICE IN RESPONSE TO THE COVID–19 EMERGENCY**

Pub. L. 116–283, div. A, title V, §517, Jan. 1, 2021, 134 Stat. 3590, provided that:

"(a) IN GENERAL.—The Secretary of Defense may provide, to a member of the reserve components of the Armed Forces who performs a period of covered service, housing for not fewer than 14 days immediately after the end of such period of covered service.

"(b) DEFINITIONS.—In this section:

"(1) The term 'active service' has the meaning given that term in section 101 of title 10, United States Code.

"(2) The term 'covered service' means active service performed in response to the covered national emergency.

"(3) The term 'covered national emergency' means the national emergency declared on March 13, 2020, by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to COVID–19."

**LIMITATIONS ON CANCELLATIONS OF DEPLOYMENT OF CERTAIN RESERVE COMPONENT UNITS AND INVOLUNTARY MOBILIZATIONS OF CERTAIN RESERVES**

Pub. L. 113–66, div. A, title V, §513, Dec. 26, 2013, 127 Stat. 752, provided that:

"(a) LIMITATION ON CANCELLATION OF DEPLOYMENT OF CERTAIN UNITS WITHIN 180 DAYS OF SCHEDULED DEPLOYMENT.—

"(1) LIMITATION.—The deployment of a unit of a reserve component of the Armed Forces described in paragraph (2) may not be cancelled during the 180-day period ending on the date on which the unit is otherwise scheduled for deployment without the approval, in writing, of the Secretary of Defense.

"(2) COVERED DEPLOYMENTS.—A deployment of a unit of a reserve component described in this paragraph is a deployment whose cancellation as described in paragraph (1) is due to the deployment of a unit of a regular component of the Armed Forces to carry out the mission for which the unit of the reserve component was otherwise to be deployed.

"(3) NOTICE TO CONGRESS AND GOVERNORS ON APPROVAL OF CANCELLATION OF DEPLOYMENT.—On approving the cancellation of deployment of a unit under paragraph (1), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Governor concerned a notice on the approval of cancellation of deployment of the unit.

"(b) ADVANCE NOTICE TO CERTAIN RESERVES ON INVOLUNTARY MOBILIZATION.—

"(1) ADVANCE NOTICE REQUIRED.—The Secretary concerned may not provide less than 120 days advance notice of an involuntary mobilization to a member of the reserve component of the Armed Forces described in paragraph (2) without the approval, in writing, of the Secretary of Defense.

"(2) COVERED RESERVES.—A member of a reserve component described in this paragraph is a member as follows:

"(A) A member who is not assigned to a unit organized to serve as a unit.

"(B) A member who is to be mobilized apart from the member's unit.

"(3) COMMENCEMENT OF APPLICABILITY.—This subsection shall apply with respect to members who are mobilized on or after the date that is 120 days after the date of the enactment of this Act [Dec. 26, 2013].

"(4) SECRETARY CONCERNED DEFINED.—In this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(a)(9) of title 10, United States Code.

"(5) SUNSET.—This subsection shall cease to apply as of the date of the completion of the withdrawal of United States combat forces from Afghanistan.

"(c) NONDELEGATION OF APPROVAL.—The Secretary of Defense may not delegate the approval of cancellations of deployments of units under subsection (a) or the approval of mobilization of Reserves without advance notice under subsection (b)."

**ADVANCE NOTICE TO MEMBERS OF RESERVE COMPONENTS OF DEPLOYMENT IN SUPPORT OF CONTINGENCY OPERATIONS**

Pub. L. 110–181, div. A, title V, §515, Jan. 28, 2008, 122 Stat. 99, provided that:

"(a) ADVANCE NOTICE REQUIRED.—The Secretary of a military department shall ensure that a member of a reserve component under the jurisdiction of that Secretary who will be called or ordered to active

duty for a period of more than 30 days in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) receives notice in advance of the mobilization date. In so far as is practicable, the notice shall be provided not less than 30 days before the mobilization date, but with a goal of 90 days before the mobilization date.

"(b) REDUCTION OR WAIVER OF NOTICE REQUIREMENT.—The Secretary of Defense may waive the requirement of subsection (a), or authorize shorter notice than the minimum specified in such subsection, during a war or national emergency declared by the President or Congress or to meet mission requirements. If the waiver or reduction is made on account of mission requirements, the Secretary shall submit to Congress a report detailing the reasons for the waiver or reduction and the mission requirements at issue."

## §12302. Ready Reserve

(a) In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty for not more than 24 consecutive months.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(2) family responsibilities; and

(3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection.

(c) Not more than 1,000,000 members of the Ready Reserve may be on active duty, without their consent, under this section at any one time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 28, §673; Pub. L. 85–861, §§1(14), 33(a)(5), Sept. 2, 1958, 72 Stat. 1441, 1564; Pub. L. 93–155, title III, §303(a), Nov. 16, 1973, 87 Stat. 607; renumbered §12302, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(61), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 108–375, div. A, title V, §514(b), Oct. 28, 2004, 118 Stat. 1883; Pub. L. 112–81, div. A, title X, §1061(28), (30), Dec. 31, 2011, 125 Stat. 1584.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 673(a) | 50:961(b)(1). | July 9, 1952, ch. 608, §233(b), 66 Stat. 489. |
| 673(b) | 50:961(b)(2). | |

In subsection (a), the words "after January 1, 1953" are substituted for the word "hereafter", to reflect the effective date of the source statute. The words "without the consent of the persons concerned" are substituted for the word "involuntarily".

The words "under the jurisdiction of that Secretary" are inserted for clarity. The last sentence of the revised subsection is substituted for 50:961(b)(1) (proviso). The words "and the members thereof" and "and required to perform" are omitted as surplusage.

In subsection (b), the words "to achieve" are substituted for the words "in the interest of". The words "without their consent" are substituted for the word "involuntarily". The words "who are being considered for" are inserted for clarity. The words "prescribe such policies and procedures" are substituted for the words "promulgate such policies and establish such procedures". The words "as he considers necessary" are substituted for the words "as may be required in his opinion". The words "this subsection" are substituted for the words "our intent here declared". The words "at least once a year" are substituted for the words "from time

to time, and at least annually". The words "Senate and the House of Representatives" are substituted for the word "Congress". 50:961(b)(2) (1st 18 words) is omitted as surplusage. The words "with the objective" and "found to be" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 673(a)<br>673(c) | 50:961(b)(1) (less proviso).<br>50:961(b)(1) (proviso) | Aug. 9, 1955, ch. 665, §2(f), 69 Stat. 599. |

In subsection (c), the words "on active duty (other than for training)" are substituted for the words "may be required to perform active duty" for clarity. The words "without their consent" are substituted for the word "involuntarily". The words "of all reserve components" and "unless the Congress shall have authorized the exercise of the authority contained in this subsection" are omitted as surplusage.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term "active duty" to exclude active duty for training. This definition applied to the source law for these sections [sections 672 and 673], section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c)).

## EDITORIAL NOTES

### AMENDMENTS

**2011**—Subsec. (b). Pub. L. 112–81, in concluding provisions, struck out at end "He shall report on those policies and procedures at least once a year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives."

**2004**—Subsecs. (a), (c). Pub. L. 108–375 struck out "(other than for training)" after "active duty".

**2003**—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which read as follows: "Whenever one or more units of the Ready Reserve are ordered to active duty, the President shall, on the first day of the second fiscal year quarter immediately following the quarter in which the first unit or units are ordered to active duty and on the first day of each succeeding six-month period thereafter, so long as such unit is retained on active duty, submit a report to the Congress regarding the necessity for such unit or units being ordered to and retained on active duty. The President shall include in each such report a statement of the mission of each such unit ordered to active duty, an evaluation of such unit's performance of that mission, where each such unit is being deployed at the time of the report, and such other information regarding each unit as the President deems appropriate."

**1999**—Subsec. (b). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in concluding provisions.

**1996**—Subsec. (b). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1994**—Pub. L. 103–337 renumbered section 673 of this title as this section.

**1973**—Subsec. (d). Pub. L. 93–155 added subsec. (d).

**1958**—Subsec. (a). Pub. L. 85–861, §§1(14)(A), 33(a)(5), inserted "(other than for training)" after "active duty", and struck out provisions that made subsection inapplicable unless Congress determined how many members of the reserve components were necessary, in the interest of national security, to be ordered to active duty.

Subsec. (c). Pub. L. 85–861, §1(14)(B), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93–155, title III, §303(b), Nov. 16, 1973, 87 Stat. 608, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective with respect to any unit of the Ready Reserve ordered to active duty on or after the date of enactment of this Act [Nov. 16, 1973]."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(a)(5) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L.

85–861, set out as a note under section 101 of this title.

## EXECUTIVE DOCUMENTS

### EXECUTIVE ORDER NO. 12743

Ex. Ord. No. 12743, Jan. 18, 1991, 56 F.R. 2661, as amended by Ex. Ord. No. 13286, §35, Feb. 28, 2003, 68 F.R. 10625, which related to ordering the Ready Reserve of the Armed Forces to active duty, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, listed in a table under section 1701 of Title 50, War and National Defense.

### EX. ORD. NO. 13223. ORDERING THE READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY AND DELEGATING CERTAIN AUTHORITIES TO THE SECRETARY OF DEFENSE AND THE SECRETARY OF HOMELAND SECURITY

Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended by Ex. Ord. No. 13253, Jan. 16, 2002, 67 F.R. 2791; Ex. Ord. No. 13286, §9, Feb. 28, 2003, 68 F.R. 10622; Ex. Ord. No. 13814, Oct. 20, 2017, 82 F.R. 49273, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3, United States Code, and in furtherance of the proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks [Proc. No. 7463, 50 U.S.C. 1621 note], which declared a national emergency by reason of the terrorist attacks on the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States, I hereby order as follows:

SECTION 1. To provide additional authority to the Department of Defense and the Department of Transportation [Homeland Security] to respond to the continuing and immediate threat of further attacks on the United States, the authority under title 10, United States Code, to order any unit, and any member of the Ready Reserve not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term "Secretary concerned" is defined in section 101(a)(9) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air Force with respect to the Air Force; and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy. The authorities available for use during a national emergency under sections 688 and 690 of title 10, United States Code, are also invoked and made available, according to their terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense.

SEC. 2. To allow for the orderly administration of personnel within the armed forces, the following authorities vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.

SEC. 3. To allow for the orderly administration of personnel within the armed forces, the authorities vested in the President by sections 331, 359, and 367 [now 2127, 2308, and 2314] of title 14, United States Code, relating to the authority to order to active duty certain officers and enlisted members of the Coast Guard and to detain enlisted members, are invoked to the full extent provided by the terms thereof.

SEC. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 123, 123a, 527, and 12006 of title 10, United States Code, as invoked by sections 2 and 3 of this order.

SEC. 5. The Secretary of Homeland Security is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in sections 331, 359, and 367 [now 2127, 2308, and 2314] of title 14, United States Code, when the Coast Guard is not serving as part of the Navy, as invoked by section 2 of this order, to recall any regular officer or enlisted member on the retired list to active duty and to detain any enlisted member beyond the term of his or her enlistment. The Secretary of Homeland Security is further designated and empowered, without the approval, ratification or any other action by the President, to exercise the authority vested in the President by sections 123 and 123a of title 10, United States Code, and sections 149 [now 710] (detail members to assist foreign governments), 275(a) [now

2125(a)] (suspension of provisions on selection, promotion, or involuntary separation of officers), and 722 [now 3733] (administration of reserve forces) of title 14, United States Code, as invoked by section 2 of Executive Order 13223.

SEC. 6. The authority delegated by this order to the Secretary of Defense and the Secretary of Homeland Security may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

SEC. 7. Based upon my determination under 10 U.S.C. 2201(c) that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty for the Department of Defense beyond the number for which funds are provided in the appropriation Act for the Department of Defense, which, by virtue of 14 U.S.C. 652 [now 14 U.S.C. 104], applies to the Department of Homeland Security with respect to the Coast Guard, the Secretary of Defense and the Secretary of Homeland Security may provide for the cost of such additional members under their respective jurisdictions as an excepted expense under [former] section 11(a) of title 41, United States Code [see 41 U.S.C. 6301(a), (b)].

SEC. 8. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 9. This order is effective immediately and shall be promptly transmitted to the Congress and published in the Federal Register.

## EX. ORD. NO. 13912. NATIONAL EMERGENCY AUTHORITY TO ORDER THE SELECTED RESERVE AND CERTAIN MEMBERS OF THE INDIVIDUAL READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13912, Mar. 27, 2020, 85 F.R. 18407, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 et seq.), and in furtherance of Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak) [50 U.S.C. 1621 note], which declared a national emergency by reason of the threat that the novel (new) coronavirus known as SARS–CoV–2 poses to our Nation's healthcare systems, I hereby order as follows:

SECTION 1. *Emergency Authority*. To provide additional authority to the Secretaries of Defense and Homeland Security to respond to the national emergency declared by Proclamation 9994, the authorities under section 12302 of title 10, United States Code, and sections 2127, 2308, 2314, and 3735 of title 14, United States Code, are invoked and made available, according to their terms, to the Secretaries of Defense and Homeland Security. The Secretaries of the Army, Navy, and Air Force, at the direction of the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, are authorized to order to active duty not to exceed 24 consecutive months, such units, and individual members of the Ready Reserve under the jurisdiction of the Secretary concerned, not to exceed 1,000,000 members on active duty at any one time, as the Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security consider necessary. The Secretary of Defense or the Secretary of Homeland Security, as applicable, will ensure appropriate consultation is undertaken with relevant state officials with respect to the utilization of National Guard Reserve Component units activated under this authority.

SEC. 2. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## EX. ORD. NO. 14097. AUTHORITY TO ORDER THE READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY TO ADDRESS INTERNATIONAL DRUG TRAFFICKING

Ex. Ord. No. 14097, Apr. 27, 2023, 88 F.R. 26471, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 et seq.), and in furtherance of Executive Order

14059 of December 15, 2021 (Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade) [50 U.S.C. 1701 note], which declared a national emergency to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by international drug trafficking, it is hereby ordered as follows:

SECTION 1. *Emergency Authority*. To provide additional authority to the Secretary of Defense and the Secretary of Homeland Security to respond to the national emergency declared in Executive Order 14059, the authority under section 12302 of title 10, United States Code, is invoked and made available, according to its terms, to the Secretary of Defense and the Secretary of Homeland Security. The Secretaries of the Army, Navy, and Air Force, at the direction of the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, are authorized to order to active duty such units and individual members of the Ready Reserve under the jurisdiction of the Secretary concerned as the Secretary concerned considers necessary, consistent with the terms of section 12302 of title 10, United States Code.

SEC. 2. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

**EX. ORD. NO. 14102. ORDERING THE SELECTED RESERVE AND CERTAIN MEMBERS OF THE INDIVIDUAL READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY**

Ex. Ord. No. 14102, July 13, 2023, 88 F.R. 45807, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active Armed Forces of the United States for the effective conduct of Operation Atlantic Resolve in and around the United States European Command's area of responsibility. In furtherance of this operation, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, not to exceed 3,000 total members at any one time, of whom not more than 450 may be members of the Individual Ready Reserve, as they deem necessary, and to terminate the service of those units and members ordered to active duty.

This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

## §12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units

(a) Notwithstanding any other provision of law, the President may order to active duty any member of the Ready Reserve of an armed force who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) A member who is ordered to active duty under this section may be required to serve on active duty until his total service on active duty equals 24 months. If his enlistment or other period of

military service would expire before he has served the required period under this section, it may be extended until he has served the required period.

(c) To achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this section, appropriate consideration shall be given to—

(1) family responsibilities; and

(2) employment necessary to maintain the national health, safety, or interest.

(Added Pub. L. 90–40, §6(1), June 30, 1967, 81 Stat. 105, §673a; renumbered §12303, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

## EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337 renumbered section 673a of this title as this section.

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 11366. AUTHORIZATION TO ORDER READY RESERVE TO ACTIVE DUTY; EXTENSION OF MILITARY SERVICE

Ex. Ord. No. 11366, Aug. 4, 1967, 32 F.R. 11411, as amended by Ex. Ord. No. 13286, §64, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by section 673a [now 12303] of title 10 of the United States Code, and by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Defense is hereby authorized and empowered to exercise the authority vested in the President by section 673a [now 12303] of title 10 of the United States Code, to order to active duty any member of the Ready Reserve of an armed force (except the Coast Guard when not operating as a service in the Navy) who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) In pursuance of the provisions of section 673a [now 12303] of title 10 of the United States Code, the Secretary of Defense is hereby authorized to require a member ordered to active duty under the authority of this Order to serve on active duty until his total service on active duty equals 24 months. If the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under this authority would expire before he has served the required period of active duty prescribed herein, his enlistment or period of military service may be extended until he has served the required period.

(c) In pursuance of the provisions of section 673a [now 12303] of title 10 of the United States Code, and in order to achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this authority, appropriate consideration shall be given to—

(1) family responsibilities; and

(2) employment necessary to maintain the national health, safety, or interest.

SEC. 2. The Secretary of Homeland Security is hereby authorized and empowered to exercise the authority vested in the President by section 673a [now 12303] of the title 10 of the United States Code, with respect to any member of the Ready Reserve of the Coast Guard when it is not operating as a service in the Navy, under the same conditions as such authority may be exercised by the Secretary of Defense under this Order with respect to any member of the Ready Reserve of any other armed force.

SEC. 3. (a) The Secretary of Defense may designate any of the Secretaries of the military departments of the Department of Defense to exercise the authority vested in him by section 1 of this Order.

(b) The Secretary of Homeland Security may designate the Commandant of the United States Coast Guard to exercise the authority vested in him by section 2 of this Order.

SEC. 4. Executive Order No. 11327 of February 15, 1967, is superseded except with respect to members of the Ready Reserve ordered to active duty under the authority of that Order.

### EX. ORD. NO. 11406. ASSIGNING AUTHORITY TO ORDER READY RESERVE TO ACTIVE DUTY

Ex. Ord. No. 11406, Apr. 10, 1968, 33 F.R. 5735, authorized Secretary of Defense and, when designated by

him, any of Secretaries of military departments of Department of Defense to exercise authority vested in President until June 30, 1968 by paragraph (e) of title I of the Department of Defense Appropriation Act, 1967 (80 Stat. 981) to order any unit in the Ready Reserve to active duty for a period not to exceed 24 months.

## §12304. Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency

(a) AUTHORITY.—Notwithstanding the provisions of section 12302(a) or any other provision of law, when the President determines that it is necessary to augment the active forces or that it is necessary to provide assistance referred to in subsection (b), he may authorize the Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit of the Selected Reserve (as defined in section 10143(a) of this title), or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, under their respective jurisdictions, to active duty for not more than 365 consecutive days.

(b) SUPPORT FOR RESPONSES TO CERTAIN EMERGENCIES.—The authority under subsection (a) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving—

(1) a use or threatened use of a weapon of mass destruction; or

(2) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in significant loss of life or property.

(c) AUTHORITY RELATING TO SIGNIFICANT CYBER INCIDENTS.—When the Secretary of Defense or the Secretary of the department in which the Coast Guard is operating determines that it is necessary to augment the active armed forces for the response of the Department of Defense or other department under which the Coast Guard is operating, respectively, to a covered incident, such Secretary may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit of the Selected Reserve (as defined in section 10143(a) of this title), under the respective jurisdiction of such Secretary, to active duty for not more than 365 consecutive days.

(d) LIMITATIONS.—(1) No unit or member of a reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 13 or section 12406 of this title or, except as provided in subsection (b) or subsection (c), to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.

(2) Not more than 200,000 members of the Selected Reserve and the Individual Ready Reserve may be on active duty under this section at any one time, of whom not more than 30,000 may be members of the Individual Ready Reserve.

(3) No unit or member of a reserve component may be ordered to active duty under this section to provide assistance referred to in subsection (b) unless the President determines that the requirements for responding to an emergency referred to in that subsection have exceeded, or will exceed, the response capabilities of local, State, and Federal civilian agencies.

(e) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or any other law.

(f) POLICIES AND PROCEDURES.—The Secretary of Defense and the Secretary of Homeland Security shall prescribe such policies and procedures for the armed forces under their respective jurisdictions as they consider necessary to carry out this section.

(g) NOTIFICATION OF CONGRESS.—Whenever the President authorizes the Secretary of Defense or the Secretary of Homeland Security to order any unit or member of the Selected Reserve or Individual Ready Reserve to active duty, under the authority of subsection (a) or subsection (c), he

shall, within 24 hours after exercising such authority, submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of these units or members.

(h) TERMINATION OF DUTY.—(1) Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit, or any member of the Individual Ready Reserve, is ordered to active duty under authority of subsection (a), the service of all units or members so ordered to active duty may be terminated by—

(A) order of the President; or

(B) law.

(2) Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit is ordered to active duty under authority of subsection (c), the service of all units or members so ordered to active duty may be terminated by—

(A) order of the Secretary of Defense or, with respect to the Coast Guard, the Secretary of the Department in which the Coast Guard is operating; or

(B) law.

(i) RELATIONSHIP TO WAR POWERS RESOLUTION.—Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(j) CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.—(1) In determining which members of the Selected Reserve and Individual Ready Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

(A) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(B) the frequency of assignments during service career;

(C) family responsibilities; and

(D) employment necessary to maintain the national health, safety, or interest.

(2) The Secretary of Defense shall prescribe such policies and procedures as the Secretary considers necessary to carry out this subsection.

(k) DEFINITIONS.—In this section:

(1) The term "covered incident" means—

(A) a cyber incident involving a Department of Defense information system, or a breach of a Department of Defense system that involves personally identifiable information, that the Secretary of Defense determines is likely to result in demonstrable harm to the national security interests, foreign relations, or the economy of the United States, or to the public confidence, civil liberties, or public health and safety of the people of the United States;

(B) a cyber incident involving a Department of Homeland Security information system, or a breach of a Department of Homeland Security system that involves personally identifiable information, that the Secretary of Homeland Security determines is likely to result in demonstrable harm to the national security interests, foreign relations, or the economy of the United States or to the public confidence, civil liberties, or public health and safety of the people of the United States;

(C) a cyber incident, or collection of related cyber incidents, that the President determines is likely to result in demonstrable harm to the national security interests, foreign relations, or economy of the United States or to the public confidence, civil liberties, or public health and safety of the people of the United States; or

(D) a significant incident declared pursuant to section 2233 of the Homeland Security Act of 2002 (6 U.S.C. 677b).

(2) The term "Individual Ready Reserve mobilization category" means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of

this title.

(3) The term "weapon of mass destruction" has the meaning given that term in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

(Added Pub. L. 94–286, §1, May 14, 1976, 90 Stat. 517, §673b; amended Pub. L. 96–584, §2, Dec. 23, 1980, 94 Stat. 3377; Pub. L. 97–295, §1(9), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99–661, div. A, title V, §521, Nov. 14, 1986, 100 Stat. 3870; renumbered §12304 and amended, Pub. L. 103–337, div. A, title V, §511(a), title XVI, §§1662(e)(2), 1675(c)(2), Oct. 5, 1994, 108 Stat. 2752, 2992, 3017; Pub. L. 105–85, div. A, title V, §511(b)–(e)(1), Nov. 18, 1997, 111 Stat. 1728, 1729; Pub. L. 105–261, div. A, title V, §511(a), Oct. 17, 1998, 112 Stat. 2005; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title V, §514(a), Dec. 2, 2002, 116 Stat. 2539; Pub. L. 108–136, div. A, title V, §515, Nov. 24, 2003, 117 Stat. 1460; Pub. L. 108–375, div. A, title V, §514(c), Oct. 28, 2004, 118 Stat. 1883; Pub. L. 109–364, div. A, title V, §522, title X, §1076(c), Oct. 17, 2006, 120 Stat. 2192, 2406; Pub. L. 110–181, div. A, title X, §§1063(a)(15), 1068(c), Jan. 28, 2008, 122 Stat. 322, 326; Pub. L. 112–81, div. A, title V, §516(b), Dec. 31, 2011, 125 Stat. 1397; Pub. L. 115–232, div. A, title XII, §1204(a)(5), Aug. 13, 2018, 132 Stat. 2017; Pub. L. 118–31, div. A, title XV, §1532, Dec. 22, 2023, 137 Stat. 563.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (i), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

### AMENDMENTS

**2023**—Subsec. (a). Pub. L. 118–31, §1532(1), struck out "for any named operational mission" after "active forces".

Subsec. (c). Pub. L. 118–31, §1532(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 118–31, §1532(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 118–31, §1532(4), inserted "or subsection (c)" after "subsection (b)".

Subsecs. (e), (f). Pub. L. 118–31, §1532(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 118–31, §1532(2), (5), redesignated subsec. (f) as (g) and inserted "or subsection (c)" after "subsection (a)". Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 118–31, §1532(2), (6), redesignated subsec. (g) as (h) and amended it generally. Prior to amendment, text read as follows: "Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit, or any member of the Individual Ready Reserve, is ordered to active duty under authority of subsection (a), the service of all units or members so ordered to active duty may be terminated by—

"(1) order of the President, or

"(2) law."

Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 118–31, §1532(2), redesignated subsecs. (h) and (i) as (i) and (j), respectively. Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 118–31, §1532(7), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Pub. L. 118–31, §1532(2), redesignated subsec. (j) as (k).

**2018**—Subsec. (c)(1). Pub. L. 115–232 substituted "chapter 13" for "chapter 15".

**2011**—Subsec. (a). Pub. L. 112–81 inserted "named" before "operational mission" and substituted "365 consecutive days" for "365 days".

**2008**—Subsec. (a). Pub. L. 110–181, §1063(a)(15), struck out second period at end.

Subsec. (c)(1). Pub. L. 110–181, §1068(c), substituted "No unit or member of a reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section

12406 of this title or, except as provided in subsection (b)," for "Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section".

**2006**—Subsec. (a). Pub. L. 109–364, §522(a), substituted "365 days." for "270 days".

Subsec. (c)(1). Pub. L. 109–364, §1076(c), substituted "Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section" for "No unit or member of a reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 12406 of this title or, except as provided in subsection (b),".

Subsecs. (i), (j). Pub. L. 109–364, §522(b), added subsec. (i) and redesignated former subsec. (i) as (j).

**2004**—Subsec. (a). Pub. L. 108–375 struck out "(other than for training)" after "active duty".

**2003**—Subsec. (b)(2). Pub. L. 108–136, §515(1), substituted "significant" for "catastrophic".

Subsec. (c)(3). Pub. L. 108–136, §515(2), added par. (3).

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

Subsec. (b). Pub. L. 107–314 substituted "involving—

"(1) a use or threatened use of a weapon of mass destruction; or

"(2) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property."

for "involving a use or threatened use of a weapon of mass destruction."

Subsecs. (e), (f). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1998**—Subsec. (a). Pub. L. 105–261, §511(a)(1)(A), (3)(A), inserted heading and inserted "or that it is necessary to provide assistance referred to in subsection (b)" after "operational mission" in text.

Subsec. (b). Pub. L. 105–261, §511(a)(1)(D), added subsec. (b). Former subsec. (b) redesignated subsec. (c)(1).

Subsec. (c). Pub. L. 105–261, §511(a)(1)(B), (C), redesignated subsec. (b) as par. (1) of subsec. (c), inserted subsec. heading, substituted "or, except as provided in subsection (b), to provide" for ", or to provide", and redesignated former subsec. (c) as par. (2).

Subsecs. (d) to (h). Pub. L. 105–261, §511(a)(3)(B)–(F), inserted headings.

Subsec. (i). Pub. L. 105–261, §511(a)(2), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "For purposes of this section, the term 'Individual Ready Reserve mobilization category' means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title."

**1997**—Pub. L. 105–85, §511(e)(1), inserted "and certain Individual Ready Reserve members" after "Selected Reserve" in section catchline.

Subsec. (a). Pub. L. 105–85, §511(b), inserted "or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned," after "of this title),".

Subsec. (c). Pub. L. 105–85, §511(c), inserted "and the Individual Ready Reserve" after "Selected Reserve" and ", of whom not more than 30,000 may be members of the Individual Ready Reserve" before period at end.

Subsec. (f). Pub. L. 105–85, §511(d)(1), inserted "or Individual Ready Reserve" after "Selected Reserve".

Subsec. (g). Pub. L. 105–85, §511(d)(2), inserted ", or any member of the Individual Ready Reserve," after "to serve as a unit" in introductory provisions.

Subsec. (i). Pub. L. 105–85, §511(d)(3), added subsec. (i).

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 673b of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(c)(2)(A), (B), substituted "12302(a)" for "673(a)" and "10143(a)" for "268(b)".

Pub. L. 103–337, §511(a)(1), substituted "270 days" for "90 days".

Subsec. (b). Pub. L. 103–337, §1675(c)(2)(C), substituted "12406" for "3500 or 8500".

Subsec. (i). Pub. L. 103–337, §511(a)(2), struck out subsec. (i) which read as follows: "When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, is ordered to active duty under this section and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than 90 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement of reasons for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g)."

**1986**—Subsec. (b). Pub. L. 99–661, §521(c)(1), substituted "reserve component" for "Reserve component".
Subsec. (c). Pub. L. 99–661, §521(a), substituted "200,000" for "100,000".
Subsec. (e). Pub. L. 99–661, §521(c)(2), substituted "armed forces" for "Armed Forces".
Subsec. (f). Pub. L. 99–661, §521(c)(3), substituted "Congress" for "the Speaker of the House of Representatives and to the President pro tempore of the Senate".
Subsec. (g)(2). Pub. L. 99–661, §521(c)(4), substituted "law" for "a concurrent resolution of the Congress".
Subsec. (i). Pub. L. 99–661, §521(b), added subsec. (i).
**1982**—Subsec. (h). Pub. L. 97–295 inserted "(50 U.S.C. 1541 et seq.)" after "the War Powers Resolution".
**1980**—Subsec. (c). Pub. L. 96–584 substituted "100,000" for "50,000".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(e)(2) and 1675(c)(2) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### ORDERS TO ACTIVE DUTY FOR SELECTED RESERVE COMBAT UNITS INVOLVED IN OPERATION DESERT SHIELD; EXTENSIONS OF TIME FOR FISCAL YEAR 1991

Pub. L. 101–511, title VIII, §8132, Nov. 5, 1990, 104 Stat. 1908, provided that, during fiscal year 1991, the President, in authorizing under this section the order to active duty of units and members of the Selected Reserve, could use that authority in the case of orders to active duty in support of operations in and around the Arabian Peninsula and Operation Desert Shield as if "180" were substituted for "90" in subsecs. (a) and (i) of this section.

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 12727. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12727, Aug. 22, 1990, 55 F.R. 35027, as amended by Ex. Ord. No. 13286, §39, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b [now 12304] of title 10 of the United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operational missions in and around the Arabian Peninsula. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when the latter is not operating as a service in the Department of the Navy, to order to active duty units and individual members not assigned to units, of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

This order shall be published in the Federal Register and transmitted promptly to the Congress.

### EX. ORD. NO. 12733. AUTHORIZING EXTENSION OF PERIOD OF ACTIVE DUTY OF PERSONNEL OF SELECTED RESERVE OF ARMED FORCES

Ex. Ord. No. 12733, Nov. 13, 1990, 55 F.R. 47837, as amended by Ex. Ord. No. 13286, §37, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b(i) [673b now 12304] of title 10 of the United States Code, I hereby determine that, in the interests of national security, extending the period of active duty is necessary for the following: units of the Selected Reserve, and members of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, now serving on or hereafter ordered to active duty pursuant to section 673b(a) [now 12304(a)] of title 10 of the United States Code and Executive Order No. 12727 of August 22,

1990 [set out above]. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when the latter is not operating as a service in the Department of the Navy, to extend the period of active duty of such units and members of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

This order shall be published in the Federal Register and transmitted promptly to the Congress.

### EX. ORD. NO. 12927. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12927, Sept. 15, 1994, 59 F.R. 47781, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b [now 12304] of title 10 of the United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operational missions to restore the civilian government in Haiti. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

This order is effective immediately and shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

### EX. ORD. NO. 12982. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12982, Dec. 8, 1995, 60 F.R. 63895, as amended by Ex. Ord. No. 13286, §21, Feb. 28, 2003, 68 F.R. 10624, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around former Yugoslavia. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

This order shall be published in the Federal Register and transmitted to the Congress.

### EX. ORD. NO. 13076. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13076, Feb. 24, 1998, 63 F.R. 9719, as amended by Ex. Ord. No. 13286, §17, Feb. 28, 2003, 68 F.R. 10623, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around Southwest Asia. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

### EX. ORD. NO. 13120. ORDERING SELECTED RESERVE AND CERTAIN INDIVIDUAL READY

## RESERVE MEMBERS OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13120, Apr. 27, 1999, 64 F.R. 23007, as amended by Ex. Ord. No. 13286, §14, Feb. 28, 2003, 68 F.R. 10623, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around the former Yugoslavia related to the conflict in Kosovo. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

## EX. ORD. NO. 13529. ORDERING THE SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE MEMBERS OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13529, Jan. 16, 2010, 75 F.R. 3331, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active Armed Forces of the United States for the effective conduct of operational missions, including those involving humanitarian assistance, related to relief efforts in Haiti necessitated by the earthquake on January 12, 2010. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## EX. ORD. NO. 13680. ORDERING THE SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE MEMBERS OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13680, Oct. 16, 2014, 79 F.R. 63287, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active Armed Forces of the United States for the effective conduct of Operation United Assistance, which is providing support to civilian-led humanitarian assistance and consequence management support related to the Ebola virus disease outbreak in West Africa. In furtherance of this operation, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## EX. ORD. NO. 13919. ORDERING THE SELECTED RESERVE OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13919, Apr. 30, 2020, 85 F.R. 26591, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 12304 of title 10, United States Code, and having determined that it is necessary to augment the regular Armed Forces of the United States for a named operational mission, specifically the "Enhanced Department of Defense Counternarcotic Operation in the Western Hemisphere," I hereby order as follows:

SECTION 1. *Activation Authority*. The Secretary of Defense is directed to order to active duty for not more than 365 consecutive days, any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve under the jurisdiction of the Secretary of Defense, not to exceed 200 Selected Reservists at any one time, as he considers necessary.

SEC. 2. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

## §12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency

(a) AUTHORITY.—When a Governor requests Federal assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of not more than 120 days to respond to the Governor's request.

(b) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or any other law.

(c) TERMINATION OF DUTY.—Whenever any unit or member of the reserve components is ordered to active duty under this section, the service of all units or members so ordered to active duty may be terminated by order of the Secretary of Defense or law.

(Added Pub. L. 112–81, div. A, title V, §515(a)(1), Dec. 31, 2011, 125 Stat. 1394.)

## §12304b. Selected Reserve: order to active duty for preplanned missions in support of the combatant commands

(a) AUTHORITY.—When the Secretary of a military department determines that it is necessary to augment the active forces for a preplanned mission in support of a combatant command, the Secretary may, subject to subsection (b), order any unit of the Selected Reserve (as defined in section 10143(a) of this title), without the consent of the members, to active duty for not more than 365 consecutive days.

(b) LIMITATIONS.—(1)(A) Except as provided under subparagraph (B), units may be ordered to active duty under this section only if—

(i) the manpower and associated costs of such active duty are specifically included and identified in the defense budget materials for the fiscal year or years in which such units are anticipated to be ordered to active duty; and

(ii) the budget information on such costs includes a description of the mission for which such

units are anticipated to be ordered to active duty and the anticipated length of time of the order of such units to active duty on an involuntary basis.

(B) In the event the President's budget is delivered later than April 1st in the year prior to the year of the mobilization of one or more units under this section, the Secretary concerned may submit to Congress the information required under subparagraph (A) in a separate notice.

(2) Not more than 60,000 members of the reserve components of the armed forces may be on active duty under this section at any one time.

(c) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or total number of members in grade under this title or any other law.

(d) NOTICE TO CONGRESS.—Whenever the Secretary of a military department orders any unit of the Selected Reserve to active duty under subsection (a), such Secretary shall submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of such unit.

(e) TERMINATION OF DUTY.—Whenever any unit of the Selected Reserve is ordered to active duty under subsection (a), the service of all units so ordered to active duty may be terminated—

(1) by order of the Secretary of the military department concerned; or

(2) by law.

(f) RELATIONSHIP TO WAR POWERS RESOLUTION.—Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(g) CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.—In determining which units of the Selected Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as national security and military requirements will reasonably allow;

(2) the frequency of assignments during service career;

(3) family responsibilities; and

(4) employment necessary to maintain the national health, safety, or interest.

(h) POLICIES AND PROCEDURES.—The Secretaries of the military departments shall prescribe policies and procedures to carry out this section, including on determinations with respect to orders to active duty under subsection (g). Such policies and procedures shall not go into effect until approved by the Secretary of Defense.

(i) DEFENSE BUDGET MATERIALS DEFINED.—In this section, the term "defense budget materials" has the meaning given that term in section 231(f)(2) [1] of this title.

(Added Pub. L. 112–81, div. A, title V, §516(a)(1), Dec. 31, 2011, 125 Stat. 1395; amended Pub. L. 112–239, div. A, title X, §1014(b), Jan. 2, 2013, 126 Stat. 1908; Pub. L. 118–31, div. A, title V, §513, Dec. 22, 2023, 137 Stat. 245.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (f), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

Section 231(f)(2) of this title, referred to in subsec. (i), was redesignated as section 231(g)(2) of this title by Pub. L. 117–263, div. A, title III, §352(a)(2), Dec. 23, 2022, 136 Stat. 2533, and subsequently was redesignated as section 231(h)(2) of this title by Pub. L. 118–159, div. A, title X, §1021(1), Dec. 23, 2024, 138 Stat. 2052.

### AMENDMENTS

**2023**—Subsec. (b)(1). Pub. L. 118–31 substituted "(A) Except as provided under subparagraph (B), units" for "Units", redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

**2013**—Subsec. (i). Pub. L. 112–239 substituted "section 231(f)(2)" for "section 231(g)(2)".

[1] *See References in Text note below.*

## §12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation

(a) Notwithstanding any other provision of law, during any period members of a reserve component are serving on active duty pursuant to an order to active duty under authority of section 12301, 12302, or 12304 of this title, the President may suspend any provision of law relating to promotion, retirement, or separation applicable to any member of the armed forces who the President determines is essential to the national security of the United States.

(b) A suspension made under the authority of subsection (a) shall terminate (1) upon release from active duty of members of the reserve component ordered to active duty under the authority of section 12301, 12302, or 12304 of this title, as the case may be, or (2) at such time as the President determines the circumstances which required the action of ordering members of the reserve component to active duty no longer exist, whichever is earlier.

(c) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.

(Added Pub. L. 98–94, title X, §1021(a), Sept. 24, 1983, 97 Stat. 670, §673c; amended Pub. L. 98–525, title XIV, §1405(16), Oct. 19, 1984, 98 Stat. 2622; renumbered §12305 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(3), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 107–107, div. A, title V, §508(a), Dec. 28, 2001, 115 Stat. 1090.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Subsec. (c). Pub. L. 107–107 added subsec. (c).

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 673c of this title as this section.

Subsecs. (a), (b). Pub. L. 103–337, §1675(c)(3), substituted "12301, 12302, or 12304" for "672, 673, or 673b".

**1984**—Subsec. (b)(1). Pub. L. 98–525 inserted "of this title" after "673b".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EXECUTIVE DOCUMENTS

### EX. ORD. NO. 12728. DELEGATING PRESIDENT'S AUTHORITY TO SUSPEND ANY PROVISION OF LAW RELATING TO PROMOTION, RETIREMENT, OR SEPARATION OF MEMBERS OF ARMED FORCES

Ex. Ord. No. 12728, Aug. 22, 1990, 55 F.R. 35029, as amended by Ex. Ord. No. 13286, §38, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 673c [now 12305] of title 10 of the United States Code and section 301 of title 3 of the United States Code, I hereby order:

SECTION 1. The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by section 673c [now 12305] of title 10 of the United States Code (1) to suspend any provision of law relating to promotion, retirement, or separation applicable to any member of the armed forces determined to be essential to the national security of the United States, and (2) to determine, for the purposes of said section, that members of the armed forces are essential to the national security of the United States.

SEC. 2. The authority delegated to the Secretary of Defense and the Secretary of Homeland Security by this order may be redelegated and further subdelegated to subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

SEC. 3. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

## §12306. Standby Reserve

(a) Units and members in the Standby Reserve may be ordered to active duty only as provided in section 12301 of this title, but subject to the limitations in subsection (b).

(b) In time of emergency—

(1) no unit in the Standby Reserve organized to serve as a unit or any member thereof may be ordered to active duty under section 12301(a) of this title, unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough of the required kinds of units in the Ready Reserve that are readily available; and

(2) notwithstanding section 12301(a) of this title, no other member in the Standby Reserve may be ordered to active duty as an individual under such section without his consent, unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough qualified members in the Ready Reserve in the required category who are readily available.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, §674; Pub. L. 87–651, title I, §130, Sept. 7, 1962, 76 Stat. 514; renumbered §12306 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(4), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 108–375, div. A, title V, §514(d), Oct. 28, 2004, 118 Stat. 1883.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 674(a) | 50:926(a) (less 1st 28 words). | July 9, 1952, ch. 608, §206 (less 1st 28 words of (a)), 66 Stat. 483. |
| 674(b) | 50:926(b). | |

In subsection (b), the words "to serve" are substituted for the words "for the purpose of serving". The words "there are not enough * * * that are" are substituted for the words "adequate numbers of * * * are not". The words "(other than for training)" are inserted, since the words "active duty" were defined in the source statute cited above to exclude "active duty for training".

**1962 ACT**

The change is made to conform section 674(a) more closely to the source law for that section, section 206(a) of the Armed Forces Reserve Act of 1952 (66 Stat. 483). Section 206(a) of that Act defined the Standby Reserve in terms of units and members of the reserve components according to their liability to be

ordered to active duty. It did not provide authority to order units and members of the Standby Reserve to active duty. This authority was provided by section 233(a) of the Armed Forces Reserve Act of 1952 (66 Stat. 489), which is restated in section 672(a) of title 10. Since the present language of section 674(a) may be interpreted to provide independent authority to order units and members of the Standby Reserve to active duty, it is revised to make clear that this is not the case and that section 672 is the authority for that action.

**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Subsec. (a). Pub. L. 108–375, §514(d)(1), substituted "active duty only as provided in section 12301 of this title, but subject to the limitations in subsection (b)" for "active duty (other than for training) only as provided in section 12301 of this title".

Subsec. (b)(1). Pub. L. 108–375, §514(d)(2)(A), substituted "under section 12301(a) of this title" for "(other than for training)".

Subsec. (b)(2). Pub. L. 108–375, §514(d)(2)(B), substituted "notwithstanding section 12301(a) of this title, no other member in the Standby Reserve may be ordered to active duty as an individual under such section without his consent" for "no other member in the Standby Reserve may be ordered to active duty (other than for training) as an individual without his consent".

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 674 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(c)(4), substituted "12301" for "672".

**1962**—Subsec. (a). Pub. L. 87–651 substituted "only as provided in section 672 of this title" for "only in time of war, of national emergency declared by Congress, or when otherwise authorized by law".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12307. Retired Reserve

A member in the Retired Reserve may, if qualified, be ordered to active duty without his consent, but only as provided in section 688 or 12301(a) of this title. A member of the Retired Reserve (other than a member transferred to the Retired Reserve under section 12641(b) of this title) who is ordered to active duty or other appropriate duty in a retired status may be credited under chapter 1223 of this title with service performed pursuant to such order. A member in a retired status is not eligible for promotion (or for consideration for promotion) as a Reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, §675; Pub. L. 98–94, title X, §1017(a), Sept. 24, 1983, 97 Stat. 669; Pub. L. 101–189, div. A, title VI, §651(d), Nov. 29, 1989, 103 Stat. 1461; renumbered §12307 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(5), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 104–106, div. A, title XV, §1501(b)(17), Feb. 10, 1996, 110 Stat. 497.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 675 | 50:927(c). | July 9, 1952, ch. 608, §207(c), 66 Stat. 483. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106 substituted "Retired Reserve (other" for "Ready Reserve (other".

**1994**—Pub. L. 103–337, §1675(c)(5), substituted "688 or 12301(a)" for "672(a) or 688", "12641(b)" for

"1001(b)", and "1223" for "67".

Pub. L. 103–337, §1662(e)(2), renumbered section 675 of this title as this section.

**1989**—Pub. L. 101–189 inserted at end "A member of the Ready Reserve (other than a member transferred to the Retired Reserve under section 1001(b) of this title) who is ordered to active duty or other appropriate duty in a retired status may be credited under chapter 67 of this title with service performed pursuant to such order. A member in a retired status is not eligible for promotion (or for consideration for promotion) as a Reserve."

**1983**—Pub. L. 98–94 inserted reference to section 688.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §12308. Retention after becoming qualified for retired pay

Any person who has qualified for retired pay under chapter 1223 of this title may, with his consent and by order of the Secretary concerned, be retained on active duty, or in service in a reserve component other than that listed in section 12732(b) of this title. A member so retained shall be credited with that service for all purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, §676; renumbered §12308 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(6), Oct. 5, 1994, 108 Stat. 2992, 3017.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 676 | 10:1036a(e).<br>34:440i(e). | June 29, 1948, ch. 708, §302(e), 62 Stat. 1088. |

The words "active duty, or in service, in a reserve component other than that listed in section 1332(b) of this title" are inserted to reflect the words "Federal service", as used in Title III of the source statute. The words "that service for all purposes" are substituted for 10:1036a(e) (last 11 words) and 34:440i(e) (last 11 words). The words "upon attaining the age of sixty years" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337, §1675(c)(6), substituted "1223" for "67" and "12732(b)" for "1332(b)".

Pub. L. 103–337, §1662(e)(2), renumbered section 676 of this title as this section.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §12309. Reserve officers: use of in expansion of armed forces

When an expansion of the active armed forces requires that officers of the reserve components who are not members of units organized to serve as such be ordered as individuals to active duty (other than for training) without their consent, the services of qualified and available reserve officers in all grades shall be used, so far as practicable, according to the needs of the branches, grades, or specialties concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, §677; renumbered §12309, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 677 | 50:961(f). | July 9, 1952, ch. 608, §233(f), 66 Stat. 490. |

The words "without their consent" are substituted for the word "involuntarily". The words "it shall be the policy" are omitted as surplusage. The words "to active duty (other than for training)" are substituted for the words "into the active military service".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 677 of this title as this section.

## §12310. Reserves: for organizing, administering, etc., reserve components

(a) AUTHORITY.—(1) The Secretary concerned may order a member of a reserve component under the Secretary's jurisdiction to active duty pursuant to section 12301(d) of this title to perform Active Guard and Reserve duty organizing, administering, recruiting, instructing, or training the reserve components.

(2) A Reserve ordered to active duty under paragraph (1) shall be ordered in the Reserve's reserve grade. While so serving, the Reserve continues to be eligible for promotion as a Reserve, if otherwise qualified.

(b) DUTIES.—A Reserve on active duty under subsection (a) may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the Reserve's primary Active Guard and Reserve duties described in subsection (a)(1):

(1) Supporting operations or missions assigned in whole or in part to the reserve components.

(2) Supporting operations or missions performed or to be performed by—

(A) a unit composed of elements from more than one component of the same armed force; or

(B) a joint forces unit that includes—

(i) one or more reserve component units; or

(ii) a member of a reserve component whose reserve component assignment is in a position in an element of the joint forces unit.

(3) Advising the Secretary of Defense, the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of the combatant commands regarding reserve component matters.

(4) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

(A) active-duty members of the armed forces;

(B) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

(C) Department of Defense contractor personnel; or

(D) Department of Defense civilian employees.

(c) OPERATIONS RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION AND TERRORIST ATTACKS.—(1) Notwithstanding subsection (b), a Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may, subject to paragraph (3), perform duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving any of the following:

(A) The use or threatened use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) in the United States.

(B) A terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.

(C) The intentional or unintentional release of nuclear, biological, radiological, or toxic or poisonous chemical materials in the United States that results, or could result, in catastrophic loss of life or property.

(D) A natural or manmade disaster in the United States that results in, or could result in, catastrophic loss of life or property.

(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).

(3) A Reserve may perform duty described in paragraph (1) only while assigned to a reserve component weapons of mass destruction civil support team.

(4) Reserves on active duty who are performing duties described in paragraph (1) shall be counted against the annual end strength authorizations required by section 115(a)(1)(B) and 115(a)(2) of this title. The justification material for the defense budget request for a fiscal year shall identify the number and component of the Reserves programmed to be performing duties described in paragraph (1) during that fiscal year.

(5) A reserve component weapons of mass destruction civil support team, and any Reserve assigned to such a team, may not be used to respond to an emergency described in paragraph (1) unless the Secretary of Defense has certified to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that that team, or that Reserve, possesses the requisite skills, training, and equipment to be proficient in all mission requirements.

(6) If the Secretary of Defense submits to Congress any request for the enactment of legislation to modify the requirements of paragraphs (1) and (3), the Secretary shall provide with the request—

(A) justification for each such requested modification; and

(B) the Secretary's plan for sustaining the qualifications of the personnel and teams described in paragraph (3).

(7) In this subsection, the term "United States" includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(d) TRAINING.—A Reserve on active duty as described in subsection (a) may be provided training consistent with training provided to other members on active duty, as the Secretary concerned sees fit.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, §678; renumbered §12310 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(7), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 104–201, div. A, title V, §541, Sept. 23, 1996, 110 Stat. 2521; Pub. L. 105–261, div. A, title V, §511(b)(1), Oct. 17, 1998, 112 Stat. 2006; Pub. L. 106–65, div. A, title V, §§555(a), (b), 556, title X, §1067(1), Oct. 5, 1999, 113 Stat. 617–619, 774; Pub. L. 107–314, div. A, title V, §514(b), title IX, §933, Dec. 2, 2002, 116 Stat. 2539, 2626; Pub. L. 109–364, div. A, title V, §§525(a), 527, Oct. 17, 2006, 120 Stat. 2193, 2196; Pub. L. 111–84, div. A, title X, §1073(a)(34), Oct. 28, 2009, 123 Stat. 2474.)

## HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 678(a) | 50:962 (2d sentence). | July 9, 1952, ch. 608, §234, (less 1st sentence), 66 Stat. 490. |
| 678(b) | 50:962 (less 1st and 2d sentences). | |

In subsection (a), the words "to active duty under section 672(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components" are substituted for the words "into the active military service of the United States under the provisions of this section". The words "his reserve grade" are substituted for the words "held by them in the Reserve of their Armed Force". The words "as a Reserve", in the last sentence of the revised subsection, are substituted for the words "in the Reserve of their Armed Force". The word "Hereafter" is omitted as surplusage.

Subsection (b) is substituted for 50:962 (less 1st and 2d sentences).

## EDITORIAL NOTES

### AMENDMENTS

**2009**—Subsec. (c)(1)(A). Pub. L. 111–84 substituted "section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))" for "section 12304(i)(2) of this title".

**2006**—Subsecs. (a), (b). Pub. L. 109–364, §525(a), amended subsecs. (a) and (b) generally, substituting provisions relating to authority of the Secretary concerned to order a member of a reserve component to active duty and setting forth duties including supporting operations or missions, providing advice regarding reserve component matters, and providing instruction or training of active-duty members of the armed forces or foreign military forces and Department of Defense contractor personnel or civilian employees, for provisions relating to grade when a Reserve is ordered to active duty and setting forth duties including supporting operations or missions and providing advice regarding reserve component matters.

Subsec. (c). Pub. L. 109–364, §527(b)(1), substituted "Operations Relating to Defense Against Weapons of Mass Destruction and Terrorist Attacks" for "Duties Relating to Defense Against Weapons of Mass Destruction" in heading.

Subsec. (c)(1). Pub. L. 109–364, §527(a)(1)(A), substituted "involving any of the following:" for "involving—" in introductory provisions.

Subsec. (c)(1)(A) to (D). Pub. L. 109–364, §527(a)(1)(B), added subpars. (A) to (D) and struck out former subpars. (A) and (B) which read as follows:

"(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

"(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property."

Subsec. (c)(3). Pub. L. 109–364, §527(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "A Reserve may perform duties described in paragraph (1) only while assigned to a reserve component rapid assessment element team and performing those duties within the geographical limits of the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico."

Subsec. (c)(5). Pub. L. 109–364, §527(b)(2), substituted "weapons of mass destruction civil support team" for "rapid assessment element team".

Subsec. (c)(6). Pub. L. 109–364, §527(b)(3)(A), substituted "paragraphs (1) and (3)" for "paragraph (3)" in introductory provisions.

Subsec. (c)(6)(B). Pub. L. 109–364, §527(b)(3)(B), substituted "(3)" for "(3)(B)".

Subsec. (c)(7). Pub. L. 109–364, §527(a)(3), added par. (7).

**2002**—Subsec. (c)(1). Pub. L. 107–314, §514(b), substituted "involving—

"(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

"(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property."

for "involving the use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)))."

Subsec. (c)(3). Pub. L. 107–314, §933, substituted "only while assigned" for "only—

"(A) while assigned to the Department of Defense Consequence Management Program Integration Office; or

"(B) while assigned".

**1999**—Subsec. (a). Pub. L. 106–65, §555(b)(1), inserted heading.

Subsec. (b). Pub. L. 106–65, §555(a)(2), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 106–65, §555(b)(2), inserted heading.

Subsec. (c)(1). Pub. L. 106–65, §555(b)(2), substituted "Notwithstanding subsection (b), a Reserve" for "A Reserve".

Subsec. (c)(4). Pub. L. 106–65, §556(a), struck out first sentence which read as follows: "The number of Reserves on active duty who are performing duties described in paragraph (1) at the same time may not exceed 228."

Subsec. (c)(5). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

Subsec. (c)(6). Pub. L. 106–65, §556(b), struck out "or to increase the number of personnel authorized by paragraph (4)" after "requirements of paragraph (3)" in introductory provisions and "or for the requested additional personnel and explain the need for the increase in the context of existing or projected similar capabilities at the local, State, and Federal levels" after "modification" in subpar. (A).

Subsec. (d). Pub. L. 106–65, §555(a)(1), (b)(3), redesignated subsec. (b) as (d) and inserted heading.

**1998**—Subsec. (c). Pub. L. 105–261 added subsec. (c).

**1996**—Subsec. (b). Pub. L. 104–201 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "To assure that a Reserve on duty under subsection (a) receives periodic refresher training in the categories for which he is qualified, the Secretary concerned may detail him to duty with any armed force, or otherwise as the Secretary sees fit."

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 678 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(c)(7), substituted "12301(d)" for "672(d)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS

Pub. L. 107–314, div. A, title XIV, §1403, Dec. 2, 2002, 116 Stat. 2676, as amended by Pub. L. 112–239, div. A, title XIV, §1435(a), Jan. 2, 2013, 126 Stat. 2051, provided that:

"(a) ESTABLISHMENT OF ADDITIONAL TEAMS.—The Secretary of Defense shall—

"(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams, for a total of 55 such teams; and

"(2) ensure that of such 55 teams, there is at least one team established in each State and territory.

"(b) ESTABLISHMENT OF FURTHER ADDITIONAL TEAMS.—The Secretary of Defense is authorized to have established two additional teams designated as Weapons of Mass Destruction Civil Support Teams, beyond the 55 teams required in subsection (a), if—

"(1) the Secretary of Defense has made the certification provided for in section 12310(c)(5) of title 10, United States Code, with respect to each of such additional teams before December 31, 2011; and

"(2) the establishment of such additional teams does not require an increase in authorized personnel levels above the numbers authorized as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239, approved Jan. 2, 2013].

"(c) LIMITATION OF ESTABLISHMENT OF FURTHER TEAMS.—No Weapons of Mass Destruction Civil Support Team may be established beyond the number authorized by subsections (a) and (b) unless—

"(1) the Secretary submits to Congress a request for authority to establish such team, including a detailed justification for its establishment; and

"(2) the establishment of such team is specifically authorized by a law enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013.

"(d) NOTIFICATION OF DISESTABLISHMENT OF TEAMS.—No Weapons of Mass Destruction Civil Support Team established pursuant to this section may be disestablished unless, by not later than 90 days before the date on which such team is disestablished, the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of the proposed disestablishment of the team and the date on which the disestablishment is proposed to take place.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'Weapons of Mass Destruction Civil Support Team' means a team of members of the reserve components of the Armed Forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

"(2) The term 'State and territory' means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands."

## §12311. Active duty agreements

(a) To provide definite terms of active duty (other than for training) for Reserves with their consent, the Secretary concerned may make a standard written agreement with any member of a reserve component under his jurisdiction requiring the member to serve for a period of active duty (other than for training) of not more than five years. When such an agreement expires, a new one may be made. This subsection does not apply in time of war declared by Congress.

(b) An agreement may not be made under subsection (a) unless the specified period of duty is at least 12 months longer than any period of active duty that the member is otherwise required to perform.

(c) Agreements made under subsection (a) shall be uniform so far as practicable, and are subject to such standards and policies as may be prescribed by the Secretary of Defense for the armed forces under his jurisdiction or by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(d) If an agreement made under subsection (a) expires during a war or during a national emergency declared by Congress or the President after January 1, 1953, the Reserve concerned may be kept on active duty, without his consent, as otherwise prescribed by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, §679; Pub. L. 96–513, title V, §511(19), Dec. 12, 1980, 94 Stat. 2921; renumbered §12311, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 679(a) | 50:963(a) (less last sentence).<br>50:963(c).<br>50:963(f). | July 9, 1952, ch. 608, §§235 (less last sentence of (a), and less (b)), 236, 66 Stat. 491. |
| 679(b) | 50:963(d). | |
| 679(c) | 50:963(e). | |
| 679(d) | 50:964. | |

In subsection (a), the words "To provide definite terms of active duty for" are substituted for the words "In order that * * * may remain on or be ordered to active duty * * * for terms of service of definite duration". The words "with their consent" are substituted for the word "voluntarily". The words "requiring the member to serve" are substituted for 50:963(c). The words "more than" are substituted for the words "to exceed". The second sentence is substituted for 50:963(a) (2d sentence). The word "hereafter" is omitted as surplusage. 50:963(f) is omitted as executed. The words "under his jurisdiction" are inserted for clarity.

In subsection (b), the words "is at least * * * longer" are substituted for the words "exceeds by at least". The words "active duty that the member is otherwise required to perform" are substituted for the words "obligated or involuntary active duty to which he is otherwise liable".

In subsection (c), the words "for the armed forces under his jurisdiction" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (c). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of

Transportation".

**1994**—Pub. L. 103–337 renumbered section 679 of this title as this section.

**1980**—Subsec. (c). Pub. L. 96–513 substituted "Secretary of Transportation" for "Secretary of the Treasury".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

## §12312. Active duty agreements: release from duty

(a) Each agreement made under section 12311(a) of this title shall provide that the member may not be released from active duty without his consent during the period of the agreement—

(1) because of a reduction in the actual personnel strength of the armed force concerned, unless the release is in accordance with the recommendation of a board of officers appointed by an authority designated by the Secretary concerned to determine the members to be released from active duty under regulations prescribed by the Secretary; or

(2) for any other reason, without an opportunity to be heard by a board of officers before the release, unless he is (A) dismissed or discharged under the sentence of a court-martial, (B) released because of an unexplained absence without leave for at least three months, (C) released because he is convicted and sentenced to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final, or (D) released because he has been considered at least twice and has not been recommended for promotion to the next higher grade or because he is considered as having failed of selection for promotion to the next higher grade and has not been recommended for promotion to that grade, under conditions that would require the release or separation of a reserve officer who is not serving under such agreement.

(b) A member who is released from active duty without his consent before the end of his agreement made under section 12311(a) of this title is entitled to an amount computed by multiplying the number of years and fractions of a year of his unexpired period of service under the agreement by the sum of one month's basic pay, special pay, and allowances to which he is entitled on the day of his release. The amount to which a member is entitled under this subsection is in addition to any pay and allowances to which he is otherwise entitled. For the purposes of this subsection, a fraction of a month of 15 days or more is counted as a whole month, and a fraction of a month of less than 15 days is disregarded. This subsection does not apply to a member if he is—

(1) released for a reason described in subsection (a)(2)(A)–(C);

(2) released because of a physical disability resulting from his intentional misconduct or wilful neglect;

(3) eligible for retired pay, separation pay, or severance pay under another provision of law;

(4) placed on a temporary disability retired list; or

(5) released to accept an appointment, or to be enlisted, in a regular component of an armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, §680; Pub. L. 87–509, §2, June 28, 1962, 76 Stat. 121; Pub. L. 98–525, title V, §533(b), title XIV, §1405(17), Oct. 19, 1984, 98 Stat. 2528, 2622; renumbered §12312 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(8), Oct. 5, 1994, 108 Stat. 2992, 3017.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 680(a) | 50:963(a) (last sentence). | July 9, 1952, ch. 608, §235(a) (last sentence), (b), 66 Stat. 491. |
| 680(b) | 50:963(b). | |

In subsections (a) and (b), the words "without his consent" are substituted for the word "involuntary".

In subsection (a)(1), the word "because" is substituted for the words "by reason". The words "actual personnel strength" are substituted for the words "numerical strength of the military personnel".

In subsection (a)(2), the words "for any other reason" are substituted for the words "for reasons other than that prescribed in paragraph (1)". The words "dismissed or discharged" are inserted for clarity. The words "at least" are substituted for the word "duration". The words "is convicted and sentenced * * * and the sentence has become final" are substituted for the words "final conviction and sentence". The words "from active duty" are omitted as surplusage.

In subsection (b), the words "before the end of" are substituted for the words "prior to the expiration of the period of service under". The words "computed by multiplying * * * and fractions of a year of his unexpired period of service under the agreement by the sum of one month's * * * pay, and allowances" are substituted for the words "equal to one month's pay and allowances multiplied by * * * (including any pro rata part thereof) remaining as the unexpired period of his agreement for active duty". The words "basic * * * special pay * * * to which he is entitled on the day of his release" are substituted for 50:963(b) (2d sentence). The third sentence is substituted for 50:963(b) (last sentence). The last sentence is substituted for 50:963(b) (words within 1st parentheses).

In subsection (b)(2), the words "because of" are substituted for the words "when such release is due to".

In subsection (b)(5), the words "to accept" are substituted for the words "for the purpose of accepting". The words "of an armed force" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 680 of this title as this section.

Subsecs. (a), (b). Pub. L. 103–337, §1675(c)(8), substituted "12311(a)" for "679(a)".

**1984**—Subsec. (a)(2)(D). Pub. L. 98–525, §1405(17), substituted "reserve officer" for "Reserve Officer".

Subsec. (b)(3). Pub. L. 98–525, §533(b), inserted ", separation pay," after "retired pay".

**1962**—Subsec. (a)(2)(D). Pub. L. 87–509 added cl. (D).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12313. Reserves: release from active duty

(a) Except as otherwise provided in this title, the Secretary concerned may at any time release a Reserve under his jurisdiction from active duty.

(b) In time of war or of national emergency declared by Congress or the President after January 1, 1953, a member of a reserve component may be released from active duty (other than for training) only if—

(1) a board of officers convened at his request by an authority designated by the Secretary concerned recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply to an armed force during a period of demobilization or reduction in strength of that armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §681; renumbered §12313, Pub. L. 103–337, div. A, title

XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 681(a) | 50:967(a). | July 9, 1952, ch. 608, §239, 66 Stat. 492. |
| 681(b) | 50:967 (less (a)). | |

In subsection (a), the word "title" is substituted for the word "chapter". The provisions of this title relating to active duty of Reserves are based on the Armed Forces Reserve Act of 1952. The words "under his jurisdiction" are inserted for clarity. The words "or active duty for training" are omitted as covered by the words "active duty".

Subsection (b) is substituted for 50:967(b). Clause (3) is inserted, since other provisions of law are necessarily exceptions to the general rule here stated.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 681 of this title as this section.

## §12314. Reserves: kinds of duty

Notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §682; renumbered §12314, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 682 | 50:965. | July 9, 1952, ch. 608, §237, 66 Stat. 492. |

The words "armed force concerned" are substituted for the words "Armed Forces of the United States". The words "now or hereafter" and "officers and enlisted" are omitted as surplusage. The words "other than for training" are inserted, since the words "active duty" were defined in the source statute cited above to exclude active duty for training.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 682 of this title as this section.

## §12315. Reserves: duty with or without pay

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

(1) with the pay and allowances provided by law; or

(2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and

allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §683; renumbered §12315, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 683(a) | 50:971. | July 9, 1952, ch. 608, §§240, 241, 66 Stat. 492. |
| 683(b) | 50:972. | |

In subsection (a), the word "title" is substituted for the word "chapter". The provisions of this title relating to active duty of reservists are based on the Armed Forces Reserve Act of 1952. The words "shall be considered * * * as if it were" are substituted for the words "shall be counted * * * the same as like".

In subsections (a) and (b), the words "active duty for training" are omitted as covered by the words "active duty".

In subsection (b), the word "kept" is substituted for the words "retained or continued". The words "pursuant to law" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 683 of this title as this section.

## §12316. Payment of certain Reserves while on duty

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

(1) the pay and allowances authorized by law for the duty that the Reserve is performing; or

(2) if the Reserve specifically waives those payments, the retired or retainer pay to which the Reserve is entitled because of the Reserve's earlier military service.

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

(1) the pension or disability compensation to which the Reserve is entitled because of the Reserve's earlier military service; or

(2) if the Reserve specifically waives those payments, the pay and allowances authorized by law for the duty that the Reserve is performing.

(c) Unless the payments because of a Reserve's earlier military service are greater than the compensation prescribed by subsection (a)(1) or (b)(2), as applicable,, a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve's earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of the Reserve's earlier military service until the period of active duty ends. While on that active duty, the Reserve is entitled to the compensation prescribed by subsection (a)(1) or (b)(2), as applicable,. Other rights and benefits of the Reserve or the Reserve's dependents are unaffected by this subsection.

(d) The Secretary of Defense shall prescribe regulations under which a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard may waive the pay and allowances authorized by law for the duty the Reserve is performing under subsection (a)(2) or (b)(2).

(Added Pub. L. 85–861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §684; amended Pub. L. 93–586, §1, Jan. 2, 1975, 88 Stat. 1920; renumbered §12316, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 116–283, div. A, title VI, §621(a)–(d), Jan. 1, 2021, 134 Stat. 3675, 3676.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 684(a) | 10 App.:369b (less proviso and last 3 sentences).<br>34 App.:853e–1 (less provisos and last 3 sentences). | Aug. 2, 1946, ch. 756, §10; restated Sept. 27, 1950, ch. 1053, §1, 64 Stat. 1067; July 12, 1955, ch. 337, §§1, 4, 69 Stat. 300, 301. |
| 684(b) | 10 App.:369b (proviso and last 3 sentences).<br>34 App.:853e–1 (provisos and last 3 sentences). | Sept. 27, 1950, ch. 1053, §2, 64 Stat. 1067; July 12, 1955, ch. 337, §§2, 4, 69 Stat. 301. |

In subsections (a) and (b), the words "retirement pay" are omitted as covered by the words "retired pay".

In subsection (a), the words "Except as provided by subsection (b)" are inserted for clarity. The words "who performs duty for which he is entitled to compensation, may elect to receive for that duty" are substituted for the words "may elect, with reference to periods of active duty, active duty for training, drill, training, instruction, or other duty for which they may be entitled to receive compensation pursuant to any provisions of law". The words "Notwithstanding the provisions of any other law", in 10 App.:369b, and "or relinquish" are omitted as surplusage.

Subsection (a)(1) is substituted for clause (2) of 10 App.:369b, and clause (2) of 34 App.:853e–1.

In subsection (a)(2), the words "pay and allowances authorized by law for the duty that he is performing" are substituted for clause (1) of 10 App.:369b and 34 App.:853e–1.

In subsection (b), the word "extended", the next to the last sentence of 10 App.: 369b and of 34 App.: 853e–1, and the first proviso of 34 App.:853e–1, are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §621(a)(1), in introductory provisions, substituted "subsection (c)" for "subsection (b)", "the Reserve's earlier military service" for "his earlier military service", "retired or retainer pay" for "a pension, retired or retainer pay, or disability compensation", and "the Reserve is entitled" for "he is entitled".

Subsec. (a)(1), (2). Pub. L. 116–283, §621(a)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) the payments to which he is entitled because of his earlier military service; or

"(2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing."

Subsec. (b). Pub. L. 116–283, §621(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–283, §621(b)(1), (c), redesignated subsec. (b) as (c) and substituted "(a)(1) or (b)(2), as applicable," for "(a)(2)" in two places, "a Reserve's earlier military service are greater" for "his earlier military service are greater", "the Reserve's earlier military service" for "his earlier military service" in two places, "the Reserve is entitled" for "he is entitled", and "the Reserve or the Reserve's dependents" for "the member or his dependents".

Subsec. (d). Pub. L. 116–283, §621(d), added subsec. (d).

**1994**—Pub. L. 103–337 renumbered section 684 of this title as this section.

**1975**—Subsecs. (a), (b). Pub. L. 93–586 inserted reference to Coast Guard.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Pub. L. 116–283, div. A, title VI, §621(e), Jan. 1, 2021, 134 Stat. 3676, provided that: "The amendments made by this section [amending this section] shall take effect 180 days after the date of the enactment of this Act [Jan. 1, 2021]."

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## §12317. Reserves: theological students; limitations

A Reserve may not be required to serve on active duty, or to participate in inactive duty training, while preparing for the ministry in a recognized theological or divinity school.

(Added Pub. L. 85–861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §685; renumbered §12317, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 686 | 50:961(h) (last sentence). | Aug. 9, 1955, ch. 665, §2(g) (last sentence), 69 Stat. 599. |

The words "active training and service, active duty for training" are omitted as covered by the words "active duty" as defined in section 101(22) of this title.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 685 of this title as this section.

## §12318. Reserves on active duty: duties; funding

(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 12302 or 12304 of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

(b) Funds available for the pay and allowances of Reserves referred to section 12310 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 12302 or 12304 of this title under the authority of subsection (a).

(Added Pub. L. 99–661, div. A, title IV, §412(b)(1), Nov. 14, 1986, 100 Stat. 3861, §686; renumbered §12318 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(9), Oct. 5, 1994, 108 Stat. 2992, 3017.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 686 of this title as this section.

Pub. L. 103–337, §1675(c)(9), substituted "12302 or 12304" for "673 or 673b" in subsecs. (a) and (b) and "12310" for "678" in subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12319. Ready Reserve: muster duty

(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered without his consent to muster duty one time each year. A member ordered to muster duty under this section shall be required to perform a minimum of two hours of muster duty on the day of muster.

(b) The period which a member may be required to devote to muster duty under this section, including round-trip travel to and from the location of that duty, may not total more than one day each calendar year.

(c) Except as specified in subsection (d), muster duty (and travel directly to and from that duty) under this section shall be treated as the equivalent of inactive-duty training (and travel directly to and from that training) for the purposes of this title and the provisions of title 37 (other than section 206(a)) and title 38, including provisions relating to the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 1223 of this title.

(Added Pub. L. 101–189, div. A, title V, §502(a)(1), Nov. 29, 1989, 103 Stat. 1436, §687; renumbered §12319 and amended Pub. L. 103–337, div. A, title XVI, §§1662(e)(2), 1675(c)(10), Oct. 5, 1994, 108 Stat. 2992, 3018.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1662(e)(2), renumbered section 687 of this title as this section.

Subsec. (d). Pub. L. 103–337, §1675(c)(10), substituted "1223" for "67".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12320. Reserve officers: grade in which ordered to active duty

A reserve officer who is ordered to active duty or full-time National Guard duty shall be ordered to active duty or full-time National Guard duty in his reserve grade, except that a reserve officer who is credited with service under section 12207 of this title and is ordered to active duty and placed on the active-duty list may be ordered to active duty in a reserve grade and with a date of rank and position on the active-duty list determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.

(Added Pub. L. 96–513, title I, §106, Dec. 12, 1980, 94 Stat. 2868, §689; amended Pub. L. 97–22, §4(g), July 10, 1981, 95 Stat. 127; renumbered §12320 and amended Pub. L. 103–337, div. A, title XVI, §§1625, 1662(e)(2), 1675(c)(11), Oct. 5, 1994, 108 Stat. 2962, 2992, 3018; Pub. L. 104–106, div. A, title XV, §1501(a)(2), Feb. 10, 1996, 110 Stat. 495.)

### EDITORIAL NOTES

### AMENDMENTS

**1996**—Pub. L. 104–106 made technical correction to directory language of Pub. L. 103–337, §1625. See 1994 Amendment note below.

**1994**—Pub. L. 103–337, §1675(c)(11), substituted "12207" for "3353, 5600, or 8353".

Pub. L. 103–337, §1662(e)(2), renumbered section 689 of this title as this section.

Pub. L. 103–337, §1625, as amended by Pub. L. 104–106, inserted "or full-time National Guard duty" after "who is ordered to active duty" and after "shall be ordered to active duty" and inserted "and placed on the active-duty list" after "and is ordered to active duty".

**1981**—Pub. L. 97–22 inserted provision relating to a reserve officer who is credited with service under section 3353, 5600, or 8353 of this title and is ordered to active duty.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(e)(2) and 1675(c)(11) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1625 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## §12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned

The number of members of the reserve components serving on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components who are assigned to duty with a unit of the Reserve Officer Training Corps program may not exceed 275.

(Added Pub. L. 101–510, div. A, title V, §559(a)(1), Nov. 5, 1990, 104 Stat. 1571, §687; renumbered §690 and amended Pub. L. 102–25, title VII, §704(a)(3)(A), (B), Apr. 6, 1991, 105 Stat. 118; Pub. L. 102–190, div. A, title X, §1061(a)(4)(A), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. A, title V, §512, Oct. 23, 1992, 106 Stat. 2405; Pub. L. 103–160, div. A, title V, §512, Nov. 30, 1993, 107 Stat. 1649; renumbered §12321 and amended Pub. L. 103–337, div. A, title XVI, §1662(e)(2), (3), Oct. 5, 1994, 108 Stat. 2992.)

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337 renumbered section 690 of this title as this section and substituted "Reserve Officer Training Corps units: limitation on number of Reserves assigned" for "Limitation on duty with Reserve Officer Training Corps units" as section catchline.

**1993**—Pub. L. 103–160 substituted "may not exceed 275" for "may not exceed 200".

**1992**—Pub. L. 102–484 substituted "The number of members of the reserve components" for "A member of a reserve component", "who are assigned" for "may not be assigned", and "may not exceed 200." for period at end.

**1991**—Pub. L. 102–190 substituted "Corps" for "Corp" in section catchline.

Pub. L. 102–25, §704(a)(3)(B), renumbered section 687 of this title as this section.

Pub. L. 102–25, §704(a)(3)(A), made technical correction to directory language of Pub. L. 101–510, §559(a)(1), which enacted this section.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1991 AMENDMENT**

Pub. L. 102–25, title VII, §704(e), Apr. 6, 1991, 105 Stat. 120, provided that: "The amendments made by this section [amending this section and sections 6686 and 7381b of Title 42, The Public Health and Welfare, and amending provisions set out as notes under this section, sections 1701, 1705, 1721, 1724, 1733, 2302, 2306a, 2432, and 3074 of this title, and section 1928 of Title 22, Foreign Relations and Intercourse] shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)."

**EFFECTIVE DATE**

Pub. L. 101–510, div. A, title V, §559(b), Nov. 5, 1990, 104 Stat. 1571, as amended by Pub. L. 102–25, title VII, §704(a)(3)(C), Apr. 6, 1991, 105 Stat. 118, provided that: "Section 690 [now 12321] of title 10, United States Code, as added by subsection (a), shall take effect on September 30, 1991."

**WAIVER OF PROHIBITION ON CERTAIN RESERVE SERVICE WITH ROTC PROGRAM**

Pub. L. 102–190, div. A, title V, §525, Dec. 5, 1991, 105 Stat. 1363, as amended by Pub. L. 104–106, div. A, title XV, §1501(d)(2), Feb. 10, 1996, 110 Stat. 500, permitted the Secretary of the military department concerned to waive the prohibition in this section in the case of a member of a reserve component of the Armed Forces who is serving with the Reserve Officer Training Corps program on Sept. 30, 1991, if the removal of the member from that assignment would cause a financial hardship for that member.

## §12322. Active duty for health care

A member of a uniformed service described in paragraph (1)(B) or (2)(B) of section 1074a(a) of this title may be ordered to active duty, and a member of a uniformed service described in paragraph (1)(A) or (2)(A) of such section may be continued on active duty, for a period of more than 30 days while the member is being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty as described in any of such paragraphs.

(Added Pub. L. 106–65, div. A, title VII, §705(a)(1), Oct. 5, 1999, 113 Stat. 683.)

## §12323. Active duty pending line of duty determination required for response to sexual assault

(a) CONTINUATION ON ACTIVE DUTY.—In the case of a member of a reserve component who is the alleged victim of sexual assault committed while on active duty and who is expected to be released from active duty before the determination is made regarding whether the member was assaulted while in the line of duty (in this section referred to as a "line of duty determination"), the Secretary concerned, upon the request of the member, may order the member to be retained on active duty until completion of the line of duty determination. A member eligible for continuation on active duty under this subsection shall be informed as soon as practicable after the alleged assault of the option to request continuation on active duty under this subsection.

(b) RETURN TO ACTIVE DUTY.—In the case of a member of a reserve component not on active duty who is the alleged victim of a sexual assault that occurred while the member was on

active duty and when the line of duty determination is not completed, the Secretary concerned, upon the request of the member, may order the member to active duty for such time as necessary for completion of the line of duty determination.

(c) REGULATIONS.—The Secretaries of the military departments shall prescribe regulations to carry out this section, subject to guidelines prescribed by the Secretary of Defense. The guidelines of the Secretary of Defense shall provide that—

(1) a request submitted by a member described in subsection (a) or (b) to continue on active duty, or to be ordered to active duty, respectively, must be decided within 30 days from the date of the request; and

(2) if the request is denied, the member may appeal to the first general officer or flag officer in the chain of command of the member, and in the case of such an appeal a decision on the appeal must be made within 15 days from the date of the appeal.

(Added Pub. L. 112–239, div. A, title V, §571(a), Jan. 2, 2013, 126 Stat. 1753.)

# CHAPTER 1211—NATIONAL GUARD MEMBERS IN FEDERAL SERVICE

Sec.
12401. Army and Air National Guard of the United States: status.
12402. Army and Air National Guard of the United States: commissioned officers; duty in National Guard Bureau.
12403. Army and Air National Guard of the United States: members; status in which ordered into Federal service.
12404. Army and Air National Guard of the United States: mobilization; maintenance of organization.
12405. National Guard in Federal service: status.
12406. National Guard in Federal service: call.
12407. National Guard in Federal service: period of service; apportionment.
12408. National Guard in Federal service: physical examination.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(18)(A), Feb. 10, 1996, 110 Stat. 497, inserted "the" after "Army and Air National Guard of" in items 12401, 12402, 12403, and 12404.

## §12401. Army and Air National Guard of the United States: status

Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3495 and 8495 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12402. Army and Air National Guard of the United States: commissioned officers; duty in National Guard Bureau

(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104–106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3496 and 8496 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

#### AMENDMENTS

**1996**—Pub. L. 104–106 inserted "the" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12403. Army and Air National Guard of the United States: members; status in which ordered into Federal service

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104–106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

### EDITORIAL NOTES

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3497 and 8497 of this title, prior to

repeal by Pub. L. 103–337, §1662(f)(2).

**AMENDMENTS**

**1996**—Pub. L. 104–106 inserted "the" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12404. Army and Air National Guard of the United States: mobilization; maintenance of organization

During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104–106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3498 and 8498 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

**AMENDMENTS**

**1996**—Pub. L. 104–106 inserted "the" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12405. National Guard in Federal service: status

Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3499 and 8499 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12406. National Guard in Federal service: call

Whenever—

(1) the United States, or any of the Commonwealths or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3500 and 8500 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

**AMENDMENTS**

**2006**—Par. (1). Pub. L. 109–163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12407. National Guard in Federal service: period of service; apportionment

(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the National Guard of a State is called into Federal service with the National Guard of

another State, the President may apportion the total number called from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the States affected by the call.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 104–106, div. A, title XV, §1501(b)(19), Feb. 10, 1996, 110 Stat. 497.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3501 and 8501 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

### AMENDMENTS

**1996**—Subsec. (b). Pub. L. 104–106 substituted "another State" for "another of those jurisdictions" and "States affected" for "jurisdictions affected".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12408. National Guard in Federal service: physical examination

(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service under section 12301(a), 12302, or 12304 of this title shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

(Added Pub. L. 103–337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 104–201, div. A, title V, §523, Sept. 23, 1996, 110 Stat. 2517.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3502 and 8502 of this title, prior to repeal by Pub. L. 103–337, §1662(f)(2).

### AMENDMENTS

**1996**—Subsec. (a). Pub. L. 104–201 inserted "under section 12301(a), 12302, or 12304 of this title" after "called into Federal service".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.
12501. Reserve components: detail of members of regular and reserve components to assist.
12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.
12503. Ready Reserve: funeral honors duty.
[12505. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §507(f)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–105, struck out item 12505 "Selection of officers for certain senior reserve component positions".

**1999**—Pub. L. 106–65, div. A, title V, §§554(a)(2), 578(k)(2)(B), Oct. 5, 1999, 113 Stat. 616, 631, added items 12503 and 12505.

## §12501. Reserve components: detail of members of regular and reserve components to assist

The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

(Added Pub. L. 103–337, div. A, title XVI, §1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 715 of this title, prior to repeal by Pub. L. 103–337, §1662(g)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

(Added Pub. L. 103–337, div. A, title XVI, §1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3542 and 8542 of this title, prior to repeal by Pub. L. 103–337, §1662(g)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12503. Ready Reserve: funeral honors duty

(a) ORDER TO DUTY.—A member of the Ready Reserve may be ordered to funeral honors duty, with the consent of the member, in preparation for or to perform funeral honors functions at the funeral of a veteran as defined in section 1491 of this title. Performance of funeral honors duty by a Reserve not on active duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.

(b) SERVICE CREDIT.—A member ordered to funeral honors duty under this section shall be required to perform a minimum of two hours of such duty in order to receive—

(1) service credit under section 12732(a)(2)(E) of this title; and

(2) as directed by the Secretary concerned, either—

(A) the allowance under section 435 of title 37; or

(B) compensation under section 206 of title 37.

(c) REIMBURSABLE EXPENSES.—A member who performs funeral honors duty under this section may be reimbursed for travel and transportation expenses incurred in conjunction with such duty as authorized under section 452 of title 37 if such duty is performed at a location 50 miles or more from the member's residence.

(d) REGULATIONS.—The exercise of authority under subsection (a) is subject to regulations prescribed by the Secretary of Defense.

(e) MEMBERS OF THE NATIONAL GUARD.—This section does not apply to members of the Army National Guard of the United States or the Air National Guard of the United States. The performance of funeral honors duty by those members is provided for in section 115 of title 32.

(Added Pub. L. 106–65, div. A, title V, §578(g)(3), Oct. 5, 1999, 113 Stat. 628; amended Pub. L. 106–398, §1 [[div. A], title V, §575(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138; Pub. L. 107–107, div. A, title V, §562(a), Dec. 28, 2001, 115 Stat. 1119; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–263, div. A, title VI, §626(c)(9), Dec. 23, 2022, 136 Stat. 2628.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2022**—Subsec. (a). Pub. L. 117–263, §626(c)(9)(A), substituted "sections 206 and 435" for "sections 206 and 495".

Subsec. (b)(2)(A). Pub. L. 117–263, §626(c)(9)(B), substituted "section 435" for "section 495".

Subsec. (c). Pub. L. 117–263, §626(c)(9)(C), substituted "section 452" for "chapter 7".

**2013**—Subsecs. (a), (b)(2)(A). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

**2011**—Subsecs. (a), (b)(2)(A). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "495" for "435".

**2001**—Subsec. (a). Pub. L. 107–107 inserted at end "Performance of funeral honors duty by a Reserve not on active duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37."

**2000**—Subsec. (b)(2). Pub. L. 106–398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "if authorized by the Secretary concerned, the allowance under section 435 of title 37."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, §562(c), Dec. 28, 2001, 115 Stat. 1120, provided that: "The amendments made by this section [amending this section and section 115 of Title 32, National Guard] shall apply to funeral honors duty performed on or after October 30, 2000."

### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title V, §575(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138, provided that: "The amendments made by this section [amending this section, section 115 of Title 32, National Guard, and section 435 of Title 37, Pay and Allowances of the Uniformed Services] shall apply with respect to funeral honors duty performed on or after October 1, 2000."

## [§12505. Repealed. Pub. L. 106–398, §1 [[div. A], title V, §507(f)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–105]

Section, added Pub. L. 106–65, div. A, title V, §554(a)(1), Oct. 5, 1999, 113 Stat. 616, related to selection of officers for certain senior reserve component positions.

# CHAPTER 1214—READY RESERVE MOBILIZATION INCOME INSURANCE

Sec.
12521. Definitions.
12522. Establishment of insurance program.
12523. Risk insured.
12524. Enrollment and election of benefits.
12525. Benefit amounts.
12526. Premiums.
12527. Payment of premiums.
12528. Reserve Mobilization Income Insurance Fund.
12529. Board of Actuaries.
12530. Payment of benefits.
12531. Purchase of insurance.
12532. Termination for nonpayment of premiums; forfeiture.
12533. Termination of program.

### EDITORIAL NOTES

### AMENDMENTS

**1997**—Pub. L. 105–85, div. A, title V, §512(b), Nov. 18, 1997, 111 Stat. 1729, added item 12533.

## §12521. Definitions

In this chapter:

(1) The term "insurance program" means the Ready Reserve Mobilization Income Insurance Program established under section 12522 of this title.

(2) The term "covered service" means active duty performed by a member of a reserve component under an order to active duty for a period of more than 30 days which specifies that the member's service—

(A) is in support of an operational mission for which members of the reserve components have been ordered to active duty without their consent; or

(B) is in support of forces activated during a period of war declared by Congress or a period of national emergency declared by the President or Congress.

(3) The term "insured member" means a member of the Ready Reserve who is enrolled for coverage under the insurance program in accordance with section 12524 of this title.

(4) The term "Secretary" means the Secretary of Defense.

(5) The term "Department" means the Department of Defense.

(6) The term "Board of Actuaries" means the Department of Defense Board of Actuaries under section 183 of this title.

(7) The term "Fund" means the Reserve Mobilization Income Insurance Fund established by section 12528(a) of this title.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 299; amended Pub. L. 110–181, div. A, title IX, §906(c)(4), Jan. 28, 2008, 122 Stat. 277.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Par. (6). Pub. L. 110–181 substituted "Department of Defense Board of Actuaries under section 183 of this title" for "Department of Defense Education Benefits Board of Actuaries referred to in section 2006(e)(1) of this title".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 104–106, div. A, title V, §512(b), Feb. 10, 1996, 110 Stat. 305, provided that: "The insurance program provided for in chapter 1214 of title 10, United States Code, as added by subsection (a), and the requirement for deductions and contributions for that program shall take effect on September 30, 1996, or on any earlier date declared by the Secretary and published in the Federal Register."

## §12522. Establishment of insurance program

(a) ESTABLISHMENT.—The Secretary shall establish for members of the Ready Reserve (including the Coast Guard Reserve) an insurance program to be known as the "Ready Reserve Mobilization Income Insurance Program".

(b) ADMINISTRATION.—The insurance program shall be administered by the Secretary. The Secretary may prescribe in regulations such rules, procedures, and policies as the Secretary considers necessary or appropriate to carry out the insurance program.

(c) AGREEMENT WITH SECRETARY OF HOMELAND SECURITY.—The Secretary and the Secretary of Homeland Security shall enter into an agreement with respect to the administration of the insurance program for the Coast Guard Reserve.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 299; amended Pub. L. 107–296, title XVII, §1704(b)(1), (7), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (c). Pub. L. 107–296 substituted "Homeland Security" for "Transportation" in heading and

text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §12523. Risk insured

(a) IN GENERAL.—The insurance program shall insure members of the Ready Reserve against the risk of being ordered into covered service.

(b) ENTITLEMENT TO BENEFITS.—(1) An insured member ordered into covered service shall be entitled to payment of a benefit for each month (and fraction thereof) of covered service that exceeds 30 days of covered service, except that no member may be paid under the insurance program for more than 12 months of covered service served during any period of 18 consecutive months.

(2) Payment shall be based solely on the insured status of a member and on the period of covered service served by the member. Proof of loss of income or of expenses incurred as a result of covered service may not be required.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 300.)

## §12524. Enrollment and election of benefits

(a) ENROLLMENT.—(1) Except as provided in subsection (f), upon first becoming a member of the Ready Reserve, a member shall be automatically enrolled for coverage under the insurance program. An automatic enrollment of a member shall be void if within 60 days after first becoming a member of the Ready Reserve the member declines insurance under the program in accordance with the regulations prescribed by the Secretary.

(2) Promptly after the insurance program is established, the Secretary shall offer to members of the reserve components who are then members of the Ready Reserve (other than members ineligible under subsection (f)) an opportunity to enroll for coverage under the insurance program. A member who fails to enroll within 60 days after being offered the opportunity shall be considered as having declined to be insured under the program.

(3) A member of the Ready Reserve ineligible to enroll under subsection (f) shall be afforded an opportunity to enroll upon being released from active duty in accordance with regulations prescribed by the Secretary if the member has not previously had the opportunity to be enrolled under paragraph (1) or (2). A member who fails to enroll within 60 days after being afforded that opportunity shall be considered as having declined to be insured under the program.

(b) ELECTION OF BENEFIT AMOUNT.—The amount of a member's monthly benefit under an enrollment shall be the basic benefit under subsection (a) of section 12525 of this title unless the member elects a different benefit under subsection (b) of such section within 60 days after first becoming a member of the Ready Reserve or within 60 days after being offered the opportunity to enroll, as the case may be.

(c) ELECTIONS IRREVOCABLE.—(1) An election to decline insurance pursuant to paragraph (1) or (2) of subsection (a) is irrevocable.

(2) The amount of coverage may not be increased after enrollment.

(d) ELECTION TO TERMINATE.—A member may terminate an enrollment at any time.

(e) INFORMATION TO BE FURNISHED.—The Secretary shall ensure that members referred to in subsection (a) are given a written explanation of the insurance program and are advised that they have the right to decline to be insured and, if not declined, to elect coverage for a reduced benefit or an enhanced benefit under subsection (b).

(f) MEMBERS INELIGIBLE TO ENROLL.—Members of the Ready Reserve serving on active

duty (or full-time National Guard duty) are not eligible to enroll for coverage under the insurance program. The Secretary may define any additional category of members of the Ready Reserve to be excluded from eligibility to purchase insurance under this chapter.

(g) MEMBERS OF INDIVIDUAL READY RESERVE.—Notwithstanding any other provision of this section, and pursuant to regulations issued by the Secretary, a member of the Individual Ready Reserve who becomes a member of the Selected Reserve shall not be denied eligibility to purchase insurance under this chapter upon becoming a member of the Selected Reserve unless the member previously declined to enroll in the program of insurance under this chapter while a member of the Selected Reserve.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 300; amended Pub. L. 104–201, div. A, title V, §542, Sept. 23, 1996, 110 Stat. 2521.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (g). Pub. L. 104–201 added subsec. (g).

## §12525. Benefit amounts

(a) BASIC BENEFIT.—The basic benefit for an insured member under the insurance program is $1,000 per month (as adjusted under subsection (d)).

(b) REDUCED AND ENHANCED BENEFITS.—Under the regulations prescribed by the Secretary, a person enrolled for coverage under the insurance program may elect—

(1) a reduced coverage benefit equal to one-half the amount of the basic benefit; or

(2) an enhanced benefit in the amount of $1,500, $2,000, $2,500, $3,000, $3,500, $4,000, $4,500, or $5,000 per month (as adjusted under subsection (d)).

(c) AMOUNT FOR PARTIAL MONTH.—The amount of insurance payable to an insured member for any period of covered service that is less than one month shall be determined by multiplying 1/30 of the monthly benefit rate for the member by the number of days of the covered service served by the member during such period.

(d) ADJUSTMENT OF AMOUNTS.—(1) The Secretary shall determine annually the effect of inflation on benefits and shall adjust the amounts set forth in subsections (a) and (b)(2) to maintain the constant dollar value of the benefit.

(2) If the amount of a benefit as adjusted under paragraph (1) is not evenly divisible by $10, the amount shall be rounded to the nearest multiple of $10, except that an amount evenly divisible by $5 but not by $10 shall be rounded to the next lower amount that is evenly divisible by $10.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 301.)

## §12526. Premiums

(a) ESTABLISHMENT OF RATES.—(1) The Secretary, in consultation with the Board of Actuaries, shall prescribe the premium rates for insurance under the insurance program.

(2) The Secretary shall prescribe a fixed premium rate for each $1,000 of monthly insurance benefit. The premium amount shall be equal to the share of the cost attributable to insuring the member and shall be the same for all members of the Ready Reserve who are insured under the insurance program for the same benefit amount. The Secretary shall prescribe the rate on the basis of the best available estimate of risk and financial exposure, levels of subscription by members, and other relevant factors.

(b) LEVEL PREMIUMS.—The premium rate prescribed for the first year of insurance coverage of an insured member shall be continued without change for subsequent years of insurance coverage, except that the Secretary, after consultation with the Board of Actuaries, may adjust the premium

rate in order to fund inflation-adjusted benefit increases on an actuarially sound basis.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 301.)

## §12527. Payment of premiums

(a) METHODS OF PAYMENT.—(1) The monthly premium for coverage of a member of the Selected Reserve under the insurance program shall be deducted and withheld from the insured member's pay for each month.

(2) The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall prescribe regulations which specify the procedures for payment of premiums by members of the Individual Ready Reserve and other members who do not receive pay on a monthly basis.

(b) ADVANCE PAY FOR PREMIUM.—The Secretary concerned may advance to an insured member the amount equal to the first insurance premium payment due under this chapter. The advance may be paid out of appropriations for military pay. An advance to a member shall be collected from the member either by deducting and withholding the amount from basic pay payable for the member or by collecting it from the member directly. No disbursing or certifying officer shall be responsible for any loss resulting from an advance under this subsection.

(c) PREMIUMS TO BE DEPOSITED IN FUND.—Premium amounts deducted and withheld from the pay of insured members and premium amounts paid directly to the Secretary shall be credited monthly to the Fund.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 302; amended Pub. L. 104–201, div. A, title V, §547, Sept. 23, 1996, 110 Stat. 2524; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (a)(2). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1996**—Subsec. (a)(1). Pub. L. 104–201, §547(1), inserted "of the Selected Reserve" after "a member".

Subsec. (a)(2). Pub. L. 104–201, §547(2), added par. (2) and struck out former par. (2) which read as follows: "An insured member who does not receive pay on a monthly basis shall pay the Secretary directly the premium amount applicable for the level of benefits for which the member is insured."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

## §12528. Reserve Mobilization Income Insurance Fund

(a) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the "Reserve Mobilization Income Insurance Fund", which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance the liabilities of the insurance program on an actuarially sound basis.

(b) ASSETS OF FUND.—There shall be deposited into the Fund the following:

(1) Premiums paid under section 12527 of this title.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(c) AVAILABILITY.—Amounts in the Fund shall be available for paying insurance benefits under the insurance program.

(d) INVESTMENT OF ASSETS OF FUND.—The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current liabilities. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to the Fund.

(e) ANNUAL ACCOUNTING.—At the beginning of each fiscal year, the Secretary, in consultation with the Board of Actuaries and the Secretary of the Treasury, shall determine the following:

(1) The projected amount of the premiums to be collected, investment earnings to be received, and any transfers or appropriations to be made for the Fund for that fiscal year.

(2) The amount for that fiscal year of any cumulative unfunded liability (including any negative amount or any gain to the Fund) resulting from payments of benefits.

(3) The amount for that fiscal year (including any negative amount) of any cumulative actuarial gain or loss to the Fund.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 302.)

## §12529. Board of Actuaries

(a) ACTUARIAL RESPONSIBILITY.—The Board of Actuaries shall have the actuarial responsibility for the insurance program.

(b) VALUATIONS AND PREMIUM RECOMMENDATIONS.—The Board of Actuaries shall carry out periodic actuarial valuations of the benefits under the insurance program and determine a premium rate methodology for the Secretary to use in setting premium rates for the insurance program. The Board shall conduct the first valuation and determine a premium rate methodology not later than six months after the insurance program is established.

(c) EFFECTS OF CHANGED BENEFITS.—If at the time of any actuarial valuation under subsection (b) there has been a change in benefits under the insurance program that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Board of Actuaries shall determine a premium rate methodology, and recommend to the Secretary a premium schedule, for the liquidation of any liability (or actuarial gain to the Fund) resulting from such change and any previous such changes so that the present value of the sum of the scheduled premium payments (or reduction in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such benefits.

(d) ACTUARIAL GAINS OR LOSSES.—If at the time of any such valuation the Board of Actuaries determines that there has been an actuarial gain or loss to the Fund as a result of changes in actuarial assumptions since the last valuation or as a result of any differences, between actual and expected experience since the last valuation, the Board shall recommend to the Secretary a premium rate schedule for the amortization of the cumulative gain or loss to the Fund resulting from such changes in assumptions and any previous such changes in assumptions or from the differences in actual and expected experience, respectively, through an increase or decrease in the payments that would otherwise be made to the Fund.

(e) INSUFFICIENT ASSETS.—If at any time liabilities of the Fund exceed assets of the Fund as a result of members of the Ready Reserve being ordered to active duty as described in section 12521(2) of this title, and funds are unavailable to pay benefits completely, the Secretary shall request the President to submit to Congress a request for a special appropriation to cover the unfunded liability. If appropriations are not made to cover an unfunded liability in any fiscal year, the Secretary shall reduce the amount of the benefits paid under the insurance program to a total

amount that does not exceed the assets of the Fund expected to accrue by the end of such fiscal year. Benefits that cannot be paid because of such a reduction shall be deferred and may be paid only after and to the extent that additional funds become available.

(f) DEFINITION OF PRESENT VALUE.—The Board of Actuaries shall define the term "present value" for purposes of this subsection.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 303.)

## §12530. Payment of benefits

(a) COMMENCEMENT OF PAYMENT.—An insured member who serves in excess of 30 days of covered service shall be paid the amount to which such member is entitled on a monthly basis beginning not later than one month after the 30th day of covered service.

(b) METHOD OF PAYMENT.—The Secretary shall prescribe in the regulations the manner in which payments shall be made to the member or to a person designated in accordance with subsection (c).

(c) DESIGNATED RECIPIENTS.—(1) A member may designate in writing another person (including a spouse, parent, or other person with an insurable interest, as determined in accordance with the regulations prescribed by the Secretary) to receive payments of insurance benefits under the insurance program.

(2) A member may direct that payments of insurance benefits for a person designated under paragraph (1) be deposited with a bank or other financial institution to the credit of the designated person.

(d) RECIPIENTS IN EVENT OF DEATH OF INSURED MEMBER.—Any insurance payable under the insurance program on account of a deceased member's period of covered service shall be paid, upon the establishment of a valid claim, to the beneficiary or beneficiaries which the deceased member designated in writing. If no such designation has been made, the amount shall be payable in accordance with the laws of the State of the member's domicile.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 304.)

## §12531. Purchase of insurance

(a) PURCHASE AUTHORIZED.—The Secretary may, instead of or in addition to underwriting the insurance program through the Fund, purchase from one or more insurance companies a policy or policies of group insurance in order to provide the benefits required under this chapter. The Secretary may waive any requirement for full and open competition in order to purchase an insurance policy under this subsection.

(b) ELIGIBLE INSURERS.—In order to be eligible to sell insurance to the Secretary for purposes of subsection (a), an insurance company shall—

(1) be licensed to issue insurance in each of the 50 States and in the District of Columbia; and

(2) as of the most recent December 31 for which information is available to the Secretary, have in effect at least one percent of the total amount of insurance that all such insurance companies have in effect in the United States.

(c) ADMINISTRATIVE PROVISIONS.—(1) An insurance company that issues a policy for purposes of subsection (a) shall establish an administrative office at a place and under a name designated by the Secretary.

(2) For the purposes of carrying out this chapter, the Secretary may use the facilities and services of any insurance company issuing any policy for purposes of subsection (a), may designate one such company as the representative of the other companies for such purposes, and may contract to pay a reasonable fee to the designated company for its services.

(d) REINSURANCE.—The Secretary shall arrange with each insurance company issuing any policy for purposes of subsection (a) to reinsure, under conditions approved by the Secretary,

portions of the total amount of the insurance under such policy or policies with such other insurance companies (which meet qualifying criteria prescribed by the Secretary) as may elect to participate in such reinsurance.

(e) TERMINATION.—The Secretary may at any time terminate any policy purchased under this section.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 304.)

## §12532. Termination for nonpayment of premiums; forfeiture

(a) TERMINATION FOR NONPAYMENT.—The coverage of a member under the insurance program shall terminate without prior notice upon a failure of the member to make required monthly payments of premiums for two consecutive months. The Secretary may provide in the regulations for reinstatement of insurance coverage terminated under this subsection.

(b) FORFEITURE.—Any person convicted of mutiny, treason, spying, or desertion, or who refuses to perform service in the armed forces or refuses to wear the uniform of any of the armed forces shall forfeit all rights to insurance under this chapter.

(Added Pub. L. 104–106, div. A, title V, §512(a)(1), Feb. 10, 1996, 110 Stat. 305.)

## §12533. Termination of program

(a) IN GENERAL.—The Secretary shall terminate the insurance program in accordance with this section.

(b) TERMINATION OF NEW ENROLLMENTS.—The Secretary may not enroll a member of the Ready Reserve for coverage under the insurance program after November 18, 1997.

(c) TERMINATION OF COVERAGE.—(1) The enrollment under the insurance program of insured members other than insured members described in paragraph (2) is terminated as of November 18, 1997. The enrollment of an insured member described in paragraph (2) is terminated as of the date of the termination of the period of covered service of that member described in that paragraph.

(2) An insured member described in this paragraph is an insured member who on November 18, 1997, is serving on covered service for a period of service, or has been issued an order directing the performance of covered service, that satisfies or would satisfy the entitlement-to-benefits provisions of this chapter.

(d) TERMINATION OF PAYMENT OF BENEFITS.—The Secretary may not make any benefit payment under the insurance program after November 18, 1997, other than to an insured member who on that date (1) is serving on an order to covered service, (2) has been issued an order directing performance of covered service, or (3) has served on covered service before that date for which benefits under the program have not been paid to the member.

(e) TERMINATION OF INSURANCE FUND.—The Secretary shall close the Fund not later than 60 days after the date on which the last benefit payment from the Fund is made. Any amount remaining in the Fund when closed shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 105–85, div. A, title V, §512(a), Nov. 18, 1997, 111 Stat. 1729; amended Pub. L. 107–107, div. A, title X, §1048(c)(15), Dec. 28, 2001, 115 Stat. 1226.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Subsecs. (b), (c)(1). Pub. L. 107–107, §1048(c)(15)(A), substituted "November 18, 1997." for "the date of the enactment of this section."

Subsecs. (c)(2), (d). Pub. L. 107–107, §1048(c)(15)(B), substituted "November 18, 1997," for "the date of the enactment of this section".

# CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
[12551. Repealed.]
12552. Funeral honors functions at funerals for veterans.

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Pub. L. 107–314, div. A, title V, §515(b), Dec. 2, 2002, 116 Stat. 2540, struck out item 12551 "Prohibition of use of Air Force Reserve AGR personnel for Air Force base security functions".

**1999**—Pub. L. 106–65, div. A, title V, §578(k)(2)(C), Oct. 5, 1999, 113 Stat. 631, substituted "honors functions at funerals for veterans" for "honor guard functions: prohibition of treatment as drill or training" in item 12552.

**1998**—Pub. L. 105–261, div. A, title V, §567(c)(2), Oct. 17, 1998, 112 Stat. 2031, added item 12552.

**1997**—Pub. L. 105–85, div. A, title V, §515(a), Nov. 18, 1997, 111 Stat. 1732, substituted table of sections consisting of item 12551 for "[No present sections]".

## [§12551. Repealed. Pub. L. 107–314, div. A, title V, §515(a), Dec. 2, 2002, 116 Stat. 2539]

Section, added Pub. L. 105–85, div. A, title V, §515(a), Nov. 18, 1997, 111 Stat. 1732, related to prohibition of use of Air Force Reserve AGR personnel for Air Force base security functions.

## §12552. Funeral honors functions at funerals for veterans

Performance by a Reserve of funeral honors functions at the funeral of a veteran (as defined in section 1491(h) of this title) may not be considered to be a period of drill or training, but may be performed as funeral honors duty under section 12503 of this title.

(Added Pub. L. 105–261, div. A, title V, §567(c)(1), Oct. 17, 1998, 112 Stat. 2031; amended Pub. L. 106–65, div. A, title V, §578(g)(4), Oct. 5, 1999, 113 Stat. 628; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(21)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398 inserted period at end.

**1999**—Pub. L. 106–65 substituted "honors functions at funerals for veterans" for "honor guard functions: prohibition of treatment as drill or training" in section catchline and amended text generally. Prior to amendment, text read as follows: "Performance by a Reserve of honor guard functions at the funeral of a veteran may not be considered to be a period of drill or training otherwise required."

# CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
12601. Compensation: Reserve on active duty accepting from any person.
12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard.
12603. Attendance at inactive-duty training assemblies: commercial travel at Federal supply schedule rates.
12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training.
12605. Presentation of United States flag: members transferred from an active status or

discharged after completion of eligibility for retired pay.

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398, §1 [[div. A], title VI, §663(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–168, added item 12604.

**1999**—Pub. L. 106–65, div. A, title VI, §652(a)(2), Oct. 5, 1999, 113 Stat. 665, added item 12605.

**1998**—Pub. L. 105–261, div. A, title VI, §635(b), Oct. 17, 1998, 112 Stat. 2045, added item 12603.

## §12601. Compensation: Reserve on active duty accepting from any person

Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

(Added Pub. L. 103–337, div. A, title XVI, §1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1033 of this title, prior to repeal by Pub. L. 103–337, §1662(g)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

(3) inactive-duty training performed by a member of the Air National Guard of the United

States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.

(Added Pub. L. 103–337, div. A, title XVI, §1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3686 and 8686 of this title, prior to repeal by Pub. L. 103–337, §1662(g)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12603. Attendance at inactive-duty training assemblies: commercial travel at Federal supply schedule rates

(a) FEDERAL SUPPLY SCHEDULE TRAVEL.—Commercial travel under Federal supply schedules is authorized for the travel of a Reserve to the location of inactive duty training to be performed by the Reserve and from that location upon completion of the training.

(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions for travel under the authority of subsection (a) as the Secretary considers appropriate. The regulations shall include policies and procedures for preventing abuses of that travel authority.

(c) REIMBURSEMENT NOT AUTHORIZED.—A Reserve is not entitled to Government reimbursement for the cost of travel authorized under subsection (a).

(d) TREATMENT OF TRANSPORTATION AS USE BY MILITARY DEPARTMENTS.—For the purposes of section 501 of title 40, travel authorized under subsection (a) shall be treated as transportation for the use of a military department.

(Added Pub. L. 105–261, div. A, title VI, §635(a), Oct. 17, 1998, 112 Stat. 2044; amended Pub. L. 107–217, §3(b)(41), Aug. 21, 2002, 116 Stat. 1298.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2002**—Subsec. (d). Pub. L. 107–217 substituted "section 501 of title 40" for "section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a))".

## §12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training

(a) AUTHORITY FOR BILLETING ON SAME BASIS AS ACTIVE DUTY MEMBERS TRAVELING UNDER ORDERS.—The Secretary of Defense shall prescribe regulations authorizing a Reserve traveling to inactive-duty training at a location more than 50 miles from that Reserve's residence to be eligible for billeting in Department of Defense facilities on the same basis and to the same extent as a member of the armed forces on active duty who is traveling under orders away from the member's permanent duty station.

(b) PROOF OF REASON FOR TRAVEL.—The Secretary shall include in the regulations the

means for confirming a Reserve's eligibility for billeting under subsection (a).

(c) LODGING IN KIND.—(1) In the case of a member of a reserve component performing active duty for training or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty. If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind.

(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretary concerned.

(3) The Secretary may pay service charge expenses under paragraph (1) and expenses of providing lodging in kind under such paragraph out of funds appropriated for operation and maintenance for the reserve component concerned. Use of a Government charge card is authorized for payment of these expenses.

(4) Decisions regarding the availability or adequacy of government housing at a military installation under paragraph (1) shall be made by the installation commander.

(Added Pub. L. 106–398, §1 [[div. A], title VI, §663(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–168; amended Pub. L. 117–81, div. A, title VI, §603(a)(1), Dec. 27, 2021, 135 Stat. 1765.)

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (c). Pub. L. 117–81 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VI, §663(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–168, provided that: "Section 12604 of title 10, United States Code, as added by subsection (a), shall apply with respect to periods of inactive-duty training beginning more than 180 days after the date of the enactment of this Act [Oct. 30, 2000]."

## §12605. Presentation of United States flag: members transferred from an active status or discharged after completion of eligibility for retired pay

(a) PRESENTATION OF FLAG.—Upon the transfer from an active status or discharge of a Reserve who has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the Secretary concerned shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 106–65, div. A, title VI, §652(a)(1), Oct. 5, 1999, 113 Stat. 664.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 106–65, div. A, title VI, §652(d), Oct. 5, 1999, 113 Stat. 665, provided that: "Section 12605 of title 10, United States Code (as added by subsection (a)), section 213 of the Public Health Service Act [42 U.S.C.

214] (as added by subsection (b)), and section 25 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 [33 U.S.C. 853v] (as added by subsection (c)) shall apply with respect to releases from service described in those sections on or after October 1, 1999."

# CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

Sec.
12641. Standards and procedures: Secretary to prescribe.
12642. Standards and qualifications: result of failure to comply with.
12643. Boards for appointment, promotion, and certain other purposes: composition.
12644. Members physically not qualified for active duty: discharge or transfer to retired status.
12645. Commissioned officers: retention until completion of required service.
12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.
12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.

## §12641. Standards and procedures: Secretary to prescribe

(a) The Secretary concerned shall, by regulation, prescribe—

(1) standards and qualifications for the retention and promotion of members of the reserve components under his jurisdiction; and

(2) equitable procedures for the periodic determination of the compliance of each such Reserve with those standards and qualifications.

(b) If a Reserve fails to comply with the standards and qualifications prescribed under subsection (a), he shall—

(1) if qualified, be transferred to an inactive reserve status;

(2) if qualified, be retired without pay; or

(3) have his appointment or enlistment terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 79, §1001; renumbered §12641 and amended Pub. L. 103–337, div. A, title XVI, §1662(h)(2), (4)(A), Oct. 5, 1994, 108 Stat. 2996.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1001(a) | 10:1036c (1st sentence).<br>34:440k (1st sentence). | June 29, 1948, ch. 708, §304 (less last sentence), 62 Stat. 1088. |
| 1001(b) | 10:1036c (2d sentence).<br>34:440k (2d sentence). | |

In subsection (a), the words "As soon as may be practicable after the effective date of sections 1036–1036i [440h–440q] of this title" are omitted as executed. The words "not inconsistent with said sections or any other Act" and "appropriate" are omitted as surplusage.

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337 renumbered section 1001 of this title as this section and substituted "Standards and procedures: Secretary to prescribe" for "Secretary to prescribe" as section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12642. Standards and qualifications: result of failure to comply with

(a) To be retained in an active status, a reserve commissioned officer must, in any applicable yearly period, attain the number of points under section 12732(a)(2) of this title prescribed by the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, and must conform to such other standards and qualifications as the Secretary concerned may prescribe. The Secretary may not prescribe a minimum of more than 50 points under this subsection.

(b) Subject to section 12645 of this title, a reserve commissioned officer who fails to attain the number of points, or to conform to the standards and qualifications, prescribed in subsection (a) shall—

(1) be transferred to the Retired Reserve if he is qualified and applies therefor;

(2) if he is not qualified or does not apply for transfer to the Retired Reserve, be transferred to an inactive status, if he is qualified therefor; or

(3) if he is not transferred to the Retired Reserve or an inactive status, be discharged from his reserve appointment.

(c) This section does not apply to commissioned warrant officers or to adjutants general or assistant adjutants general of States, Puerto Rico, and the District of Columbia.

(Added Pub. L. 85–861, §1(22)(A), Sept. 2, 1958, 72 Stat. 1443, §1002; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12642 and amended Pub. L. 103–337, div. A, title XVI, §§1662(h)(2), 1675(d)(1), Oct. 5, 1994, 108 Stat. 2996, 3018; Pub. L. 109–163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1002(a) | 50:1192(b) (1st sentence, less 11th through 29th words).<br>50:1181(4).<br>50:1192(b) (less 1st sentence). | Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §202(b)), 102(4), 202(b), 68 Stat. 1149, 1150. |
| 1002(b) | | |
| 1002(c) | 50:1181(1) (as applicable to 50:1192(b)).<br>50:1192(b) (11th through 29th words of 1st sentence). | |

In subsection (a), the word "minimum" is omitted as surplusage. The last sentence is substituted for the words "(not to exceed fifty)".

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (c). Pub. L. 109–163 struck out "and Territories" after "States".

**1994**—Pub. L. 103–337, §1662(h)(2), renumbered section 1002 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(d)(1)(A), substituted "12732(a)(2)" for "1332(a)(2)".

Subsec. (b). Pub. L. 103–337, §1675(d)(1)(B), substituted "12645" for "1005".

**1988**—Subsec. (c). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12643. Boards for appointment, promotion, and certain other purposes: composition

(a) Except as provided in section 612(a)(3) of this title and except for boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion.

(b) Each member of a board convened for the selection for promotion, or for the demotion or discharge, of Reserves must be senior in rank to the persons under consideration by that board. However, a member serving in a legal advisory capacity may be junior in rank to any person, other than a judge advocate or law specialist, being considered by that board; and a member serving in a medical advisory capacity may be junior in rank to any person, other than a medical officer, being considered by that board.

(Aug. 10, 1956, ch. 1041, 70A Stat. 11, §266; Pub. L. 96–513, title V, §501(4), Dec. 12, 1980, 94 Stat. 2907; Pub. L. 97–22, §2(c), July 10, 1981, 95 Stat. 124; renumbered §12643, Pub. L. 103–337, div. A, title XVI, §1662(h)(2), Oct. 5, 1994, 108 Stat. 2996.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 266(a) | 50:1005(a). | July 9, 1952, ch. 608, §254, 66 Stat. 496. |
| 266(b) | 50:1005(b). | |

In subsection (a), the words "under * * * prescribed" are substituted for the words "in accordance * * * established".

In subsection (b), the words "in rank" and "by that board" are inserted for clarity.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 266 of this title as this section.

**1981**—Subsec. (a). Pub. L. 97–22 substituted "Except as provided in section 612(a)(3) of this title and except for Boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion" for "Except as provided in section 612(a)(3) of this title, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense".

**1980**—Subsec. (a). Pub. L. 96–513 substituted "Except as provided in section 612(a)(3) of this title, each" for "Each".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

## §12644. Members physically not qualified for active duty: discharge or transfer to retired status

Except as otherwise provided by law, the Secretary concerned may provide for the honorable discharge or the transfer to a retired status of members of the reserve components under his jurisdiction who are found to be not physically qualified for active duty. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred under this subsection without the consent of the governor or other appropriate authority of the jurisdiction concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 79, §1004; Pub. L. 86–603, §1(1), July 7, 1960, 74 Stat. 357; Pub. L. 103–160, div. A, title V, §519, Nov. 30, 1993, 107 Stat. 1651; renumbered §12644 and amended Pub. L. 103–337, div. A, title XVI, §§1661(a)(4), 1662(h)(2), (4)(B), Oct. 5, 1994, 108 Stat. 2980, 2996, 2997.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1004(a)<br>1004(b)<br>1004(c) | 50:949.<br>50:950 (last sentence).<br>50:950 (less last sentence). | July 9, 1952, ch. 608, §§225, 226, 66 Stat. 488. |

In subsection (a), the words "Each * * * who is not on active duty" are substituted for the words "when not on active duty all". The words "examined as to his physical fitness" are substituted for the words "given physical examinations". The words "be required to" are omitted as surplusage. The words "execute and" are inserted for clarity.

In subsection (c), the words "under his jurisdiction" are inserted for clarity.

### EDITORIAL NOTES

### AMENDMENTS

**1994**—Pub. L. 103–337, §1662(h)(2), (4)(B), renumbered section 1004 of this title as this section and substituted "Members physically not qualified for active duty: discharge or transfer to retired status" for "Physical examination" as section catchline.

Pub. L. 103–337, §1661(a)(4), struck out "(c)" before "Except as otherwise provided" and struck out subsecs. (a) and (b) which read as follows:

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty."

**1993**—Subsec. (a)(1). Pub. L. 103–160 substituted "five years" for "four years".

**1960**—Subsec. (a). Pub. L. 86–603 limited the requirement for a physical examination every four years, and for the annual execution of a certificate of physical condition, to the Ready Reserve, and also required each Reserve in an active status, or on an inactive status list, who is not on active duty to execute and submit annually a certificate of physical condition.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## §12645. Commissioned officers: retention until completion of required service

(a) Except as provided in subsection (b), a reserve commissioned officer who has not completed the period of service required of him by section 651 of this title or any other provision of law may not be discharged or transferred from an active status under chapter 843, 1407, 1409, or 1411 of this title or chapter 21 [1] of title 14. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade.

(b) Subsection (a) does not prevent the discharge or transfer from an active status of—

(1) a commissioned warrant officer;

(2) an officer on the active-duty list or a reserve active-status list who is found not qualified for promotion to the grade of first lieutenant, in the case of an officer of the Army, Air Force, or Marine Corps, or lieutenant (junior grade), in the case of an officer of the Navy;

(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

(4) an officer whose discharge or transfer from an active status is required by law.

(Added Pub. L. 85–861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1444, §1005; amended Pub. L. 93–586, §2, Jan. 2, 1975, 88 Stat. 1920; Pub. L. 98–525, title V, §528(a), Oct. 19, 1984, 98 Stat. 2525; renumbered §12645 and amended Pub. L. 103–337, div. A, title XVI, §§1627, 1662(h)(2), 1675(d)(2), Oct. 5, 1994, 108 Stat. 2962, 2996, 3018; Pub. L. 104–106, div. A, title XV, §1501(a)(4), Feb. 10, 1996, 110 Stat. 495; Pub. L. 104–201, div. A, title V, §544(b), Sept. 23, 1996, 110 Stat. 2523; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1005 | 50:1181(1) (as applicable to 50: 1194).<br>50:1194. | Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §204), 204, 68 Stat. 1149, 1151. |

The word "subsequently" is omitted as surplusage.

### EDITORIAL NOTES

### REFERENCES IN TEXT

Chapter 21 of title 14, referred to in text, was comprised of sections 701 to 713 and 720 to 746, prior to the renumbering of such sections as sections 3701 to 3714 and 3731 to 3757, respectively, of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233. After renumbering, such sections now comprise chapter 37 (designated as chapter "1" in chapter analysis) of title 14.

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–232 substituted "under chapter 843," for "under chapter 573,".

**1996**—Subsec. (b)(2). Pub. L. 104–201 inserted "or a reserve active-status list" after "active-duty list".

Subsec. (b)(3), (4). Pub. L. 104–106 made technical correction to directory language of Pub. L. 103–337, §1627. See 1994 Amendment note below.

**1994**—Pub. L. 103–337, §1662(h)(2), renumbered section 1005 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1675(d)(2), substituted "573, 1407, 1409, or 1411" for "337, 361, 363, 573, 837, 861, or 863".

Subsec. (b)(3), (4). Pub. L. 103–337, §1627, as amended by Pub. L. 104–106, added pars. (3) and (4).

**1984**—Pub. L. 98–525 substituted "(a) Except as provided in subsection (b), a reserve commissioned officer" for "A reserve commissioned officer, other than a commissioned warrant officer,", struck out the comma before "may", and added subsec. (b).

**1975**—Pub. L. 93–586 inserted reference to chapter 21 of title 14.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1627 and 1675(d)(2) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

*[1] See References in Text note below.*

## §12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 12732 of this title, he may not be discharged or transferred from an active status under chapter 843, 1407, or 1409 of this title or chapter 21 [1] of title 14, without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 12732 of this title; or

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

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 12732 of this title, he may not be discharged or transferred from an active status under chapter 843, 1407, or 1409 of this title or chapter 21 [1] of title 14, without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 12732 of this title; or

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

(c) An officer who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.

(d) Subsections (a) and (b) do not apply to—

(1) officers who are discharged or transferred from an active status for physical disability, for cause, or because they have reached the age at which transfer from an active status or discharge is required by law; or

(2) commissioned warrant officers.

(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 8373, 14513, or 14514 of this title or section 740 [1] of title 14, is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 7311, 8323, or 9311 of this title; and

(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.

(Added Pub. L. 85–861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1444, §1006; amended Pub. L. 86–559, §1(3)(A), June 30, 1960, 74 Stat. 264; Pub. L. 87–651, title I, §105, Sept. 7, 1962, 76 Stat. 508; Pub. L. 90–130, §1(4), Nov. 8, 1967, 81 Stat. 374; Pub. L. 93–586, §3, Jan. 2, 1975, 88 Stat. 1920; Pub. L. 96–322, §2, Aug. 4, 1980, 94 Stat. 1015; Pub. L. 96–513, title V, §511(30), Dec. 12, 1980, 94 Stat. 2922; renumbered §12646 and amended Pub. L. 103–337, div. A, title XVI, §§1662(h)(2), 1675(d)(3), Oct. 5, 1994, 108 Stat. 2996, 3018; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

HISTORICAL AND REVISION NOTES
1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1006(a) | 50:1195(a) (less last 30 words).<br>50:1195(b) (less last 30 words). | Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §205), 205, 307(c), 503(c), 68 Stat. 1149, 1151, 1155, 1173; June 30, 1955, ch. 247, §1(b), 69 Stat. 218. |
| 1006(b) | 50:1227(c).<br>50:1333(c). | |
| 1006(c) | 50:1181(1) (as applicable to 50:1195). | |
| 1006(d) | 50:1195(a) (last 30 words).<br>50:1195(b) (last 30 words). | |
| 1006(e) | 50:1195(c). | |

In subsections (a) and (b), the words "Notwithstanding any other provisions of this chapter, except as provided in sections 1265 and 1279 of this title" and "has been credited with, or" are omitted as surplusage. The words "entitled to be" in clause (1) are inserted for clarity.

In subsection (e), the words "at the end of that period" are substituted for the word "then" for clarity. The words "before the end of that period" are substituted for the word "earlier" for clarity.

**1962 ACT**

The change reflects the repeal of section 611 of the Reserve Officer Personnel Act of 1954, ch. 1257 (68 Stat. 1186), formerly section 1391 of title 50, and its restatement in section 787 of title 14 (see sections 5(2) and 36A of the Act of September 2, 1958, Pub. L. 85–861 (72 Stat. 1547 and 1569)).

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Chapter 21 of title 14, referred to in subsecs. (a) and (b), was comprised of sections 701 to 713 and 720 to

746 prior to the renumbering of such sections as sections 3701 to 3714 and 3731 to 3757, respectively, of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233. After renumbering, such sections now comprise chapter 37 (designated as chapter "1" in chapter analysis) of title 14.

Section 740 of title 14, referred to in subsec. (e)(1), was redesignated section 3751 of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233, and references to section 740 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

## AMENDMENTS

**2018**—Subsecs. (a), (b). Pub. L. 115–232 substituted "under chapter 843," for "under chapter 573," in introductory provisions.

Subsec. (e)(1). Pub. L. 115–232 substituted "under section 8373," for "under section 6389," and "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

Subsec. (e)(2)(A). Pub. L. 115–232 substituted "section 7311, 8323, or 9311" for "section 3911, 6323, or 8911".

**1994**—Pub. L. 103–337, §1662(h)(2), renumbered section 1006 of this title as this section.

Subsecs. (a), (b). Pub. L. 103–337, §1675(d)(3)(B), substituted "573, 1407, or 1409" for "337, 361, 363, 573, 837, 861, or 863".

Pub. L. 103–337, §1675(d)(3)(A), substituted "12732" for "1332" wherever appearing.

Subsec. (e). Pub. L. 103–337, §1675(d)(3)(C), added subsec. (e) and struck out former subsec. (e) which read as follows: "A reserve commissioned officer on active duty (other than for training) who, on the date on which he would otherwise be removed from an active status under section 3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 740 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by section 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in section 3843, 3844, or 3845 of this title, or section 21(e) of Public Law 85–861, as the case may be."

**1980**—Subsec. (e). Pub. L. 96–513 substituted "Public Law 85–861" for "the Act enacting this section".

Pub. L. 96–322 substituted "section 740 of title 14" for "section 787 of title 14".

**1975**—Subsecs. (a), (b). Pub. L. 93–586, §3(1), inserted reference to chapter 21 of title 14.

Subsec. (c). Pub. L. 93–586, §3(2), substituted "An officer who is retained" for "An officer of the Army or the Air Force who is retained".

Subsec. (e). Pub. L. 93–586, §3(3), substituted "discharge is required by this title or title 14" for "discharge is required by this title".

**1967**—Subsec. (e). Pub. L. 90–130 struck out references to sections 3847 and 8847 of this title.

**1962**—Subsec. (e). Pub. L. 87—651 substituted "section 787 of title 14" for "section 1391 of title 50".

**1960**—Subsec. (e). Pub. L. 86–559 struck out references to sections 3849 and 8849 of this title.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### REFERENCES TO SECTIONS OF TITLE 14 AS REDESIGNATED BY PUB. L. 115–282

Section 740 of title 14 redesignated section 3751 of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233, and references to section 740 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a note preceding section 101 of Title 14, Coast Guard.

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(h)(2) and 1675(d)(3)(A) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1675(d)(3)(B), (C) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

[1] *See References in Text note below.*

## §12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers

Notwithstanding chapters 843, 1407, and 1409 of this title, a reserve commissioned officer, other than a commissioned warrant officer, who is assigned to the Selective Service System or who is a property and fiscal officer appointed, designated, or detailed under section 708 of title 32, may be retained in an active status in that assignment or position until he becomes 62 years of age.

(Added Pub. L. 85–861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1445, §1007; amended Pub. L. 86–559, §1(3)(B), June 30, 1960, 74 Stat. 265; renumbered §12647 and amended Pub. L. 103–337, div. A, title XVI, §§1662(h)(2), 1675(d)(4), Oct. 5, 1994, 108 Stat. 2996, 3018; Pub. L. 110–417, [div. A], title V, §514(a), Oct. 14, 2008, 122 Stat. 4441; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1007 | 50:1181(1) (as applicable to 50:1202).<br>50:1202. | Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §212), 212, 68 Stat. 1149, 1153. |

The words "this title" are substituted for the words "this chapter", since the provisions of this title requiring transfer from an active status are based on the source statute for this section (the Reserve Officer Personnel Act of 1954).

**EDITORIAL NOTES**

**AMENDMENTS**

**2018**—Pub. L. 115–232 substituted "chapters 843, 1407, and 1409" for "chapters 573, 1407, and 1409".

**2008**—Pub. L. 110–417 substituted "62 years" for "60 years".

**1994**—Pub. L. 103–337, §1675(d)(4), substituted "573, 1407, and 1409" for "337, 363, 573, 837, and 863".

Pub. L. 103–337, §1662(h)(2), renumbered section 1007 of this title as this section.

**1960**—Pub. L. 86–559 inserted "or serving as United States property and fiscal officers" in section catchline, and inserted provisions in text authorizing retention of reserve commissioned officers who are property and fiscal officers, appointed, designated, or detailed under section 708 of title 32.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1675(d)(4) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

# CHAPTER 1221—SEPARATION

Sec.
12681. Reserves: discharge authority.
12682. Reserves: discharge upon becoming ordained minister of religion.
12683. Reserve officers: limitation on involuntary separation.
12684. Reserves: separation for absence without authority or sentence to imprisonment.
12685. Reserves separated for cause: character of discharge.
12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.
12687. Reserves under confinement by sentence of court-martial: separation after six months confinement.

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106, div. A, title V, §563(a)(2)(B), Feb. 10, 1996, 110 Stat. 325, added item 12687.

## §12681. Reserves: discharge authority

Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2997.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1162(a) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

**AVAILABILITY OF TRANSITION ASSISTANCE ADVISORS TO ASSIST MEMBERS OF RESERVE COMPONENTS WHO SERVE ON ACTIVE DUTY FOR MORE THAN 180 CONSECUTIVE DAYS**

Pub. L. 112–239, div. A, title V, §513, Jan. 2, 2013, 126 Stat. 1718, provided that:

"(a) TRANSITION ASSISTANCE ADVISOR PROGRAM AUTHORIZED.—The Chief of the National Guard Bureau may establish a program to provide professionals (to be known as Transition Assistance Advisors) in each State to serve as points of contact to assist eligible members of the reserve components in accessing benefits and health care furnished under laws administered by the Secretary of Defense and benefits and health care furnished under laws administered by the Secretary of Veterans Affairs.

"(b) ELIGIBLE MEMBERS.—To be eligible for assistance under this section, a member of a reserve component must have served on active duty in the Armed Forces for a period of more than 180 consecutive days.

"(c) DUTIES.—The duties of a Transition Assistance Advisor include the following:

"(1) To assist with the creation and execution of an individual transition plan for an eligible member of a reserve component and dependents of the member for the reintegration of the member into civilian life.

"(2) To provide employment support services to the member and dependents of the member, including assistance with finding employment opportunities and identifying and obtaining assistance from programs within and outside of the Federal Government.

"(3) To provide information on relocation, health care, mental health care, and financial support

services available to the member and dependents of the member from the Department of Defense, the Department of Veterans Affairs, and other Federal, State, and local agencies.

"(4) To provide information on educational support services available to the member, including Post-9/11 Educational Assistance under chapter 33 of title 38, United States Code.

"(d) TRANSITION PLANS.—The individual transition plan referred to in subsection (c)(1) created for an eligible member of a reserve component shall include at a minimum the following:

"(1) A plan for the transition of the member to civilian life, including with respect to employment, education, and health care.

"(2) A description of the transition services that the member and dependents of the member will need to achieve their transition objectives, including information on any forms that the member will need to fill out to be eligible for such services.

"(3) A point of contact for each agency or entity that can provide the transition services described in paragraph (2).

"(4) Such other information determined to be essential for the transition of the member, as determined by the Chief of the National Guard Bureau in consultation with the Secretary of Defense and the Secretary of Veterans Affairs.

"(e) FUNDING.—Funding for Transition Assistance Advisors for a fiscal year shall be derived from amounts authorized to be appropriated for operation and maintenance for the National Guard for that fiscal year.

"(f) STATE DEFINED.—In this section, the term 'State' means each of the several States of the United States, the District of Columbia, and any territory of the United States."

## IMPLEMENTATION OF AGREEMENT ON RESTRUCTURING OF ARMY NATIONAL GUARD AND ARMY RESERVE

Pub. L. 103–335, title VIII, §8129, Sept. 30, 1994, 108 Stat. 2652, provided that:

"(a) FINDING.—Congress finds that the implementation of the off-site agreement may result in the loss to the Armed Forces of military personnel who have significant military experience and expertise.

"(b) REASSIGNMENT OF MEMBERS.—(1) To the maximum extent practicable, the Secretary of the Army shall ensure that members of the Armed Forces who would otherwise be separated from service as a result of the deactivation of military units of the Army National Guard and the Army Reserve under the off-site agreement be reassigned instead to units that are not being deactivated.

"(2) The reassignment of a member under paragraph (1) shall not affect the grade or rank in grade of the member.

"(c) REPORTS.—Not later than April 15 and October 15 of each calendar year while the off-site agreement is in effect, the Secretary of the Army shall submit to the congressional defense committees a semi-annual report on the number of members of the Armed Forces who were reassigned under subsection (b)(1) during the preceding six months.

"(d) DEFINITIONS.—In this section:

"(1) The term 'congressional defense committees' means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

"(2) The term 'off-site agreement' means the agreement on the restructuring of the Army National Guard and the Army Reserve."

## GUARD AND RESERVE TRANSITION INITIATIVES

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8050], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99, provided that: "During the current fiscal year and hereafter, annual payments granted under the provisions of section 4416 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2714) [set out below] shall be made from appropriations in this Act [Pub. L. 104–208] which are available for the pay of reserve component personnel."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8061, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103–335, title VIII, §8073, Sept. 30, 1994, 108 Stat. 2635.

Pub. L. 103–139, title VIII, §8087, Nov. 11, 1993, 107 Stat. 1459.

Pub. L. 102–484, div. D, title XLIV, subtitle B, Oct. 23, 1992, 106 Stat. 2712, as amended by Pub. L. 103–35, title II, §202(a)(17), May 31, 1993, 107 Stat. 102; Pub. L. 103–160, div. A, title V, §561(f)(1)–(3), Nov. 30, 1993, 107 Stat. 1667, 1668; Pub. L. 103–337, div. A, title V, §518(a), (b), Oct. 5, 1994, 108 Stat. 2754; Pub. L. 104–106, div. A, title XV, §1501(d)(3), Feb. 10, 1996, 110 Stat. 500; Pub. L. 105–261, div. A,

title V, §561(l), (m), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(l), (m)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–107, div. A, title X, §1048(h)(2), Dec. 28, 2001, 115 Stat. 1229, provided that:

"SEC. 4411. FORCE REDUCTION TRANSITION PERIOD DEFINED.

"In this subtitle [subtitle B (§§4411–4422) of title XLIV of div. D of Pub. L. 102–484], the term 'force reduction transition period' means the period beginning on October 1, 1991, and ending on December 31, 2001.

"SEC. 4412. MEMBER OF SELECTED RESERVE DEFINED.

"In this subtitle, the term 'member of the Selected Reserve' means—

"(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

"(2) a Reserve designated pursuant to section 268(b) [see 10143(a)] of title 10, United States Code, who is assigned to an authorized position the performance of the duties of which qualify the member for basic pay or compensation for inactive-duty training or both.

"SEC. 4413. RESTRICTION ON RESERVE FORCE REDUCTION.

"(a) IN GENERAL.—During the force reduction transition period, a member of the Selected Reserve may not be involuntarily discharged from a reserve component of the Armed Forces, or involuntarily transferred from the Selected Reserve, before the Secretary of Defense has prescribed and implemented regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions and a copy of such regulations has been transmitted to the Committees on Armed Services of the Senate and House of Representatives.

"(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act [Oct. 23, 1992].

"SEC. 4414. TRANSITION PLAN REQUIREMENTS.

"(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 4413 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

"(b) SCOPE OF PLAN.—The regulations shall include—

"(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

"(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

"(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

"(1) The giving of a priority for enrollment in, or reassignment to, Selected Reserve units not being inactivated to—

"(A) personnel being separated from active-duty or full-time National Guard duty; and

"(B) members of the Selected Reserve whose units are inactivated.

"(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

"(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

"(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

"(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

"SEC. 4415. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

"The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

"(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 12731a of title 10, United States Code (as added by section 4417);

"(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act [Oct. 23, 1992];

"(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

"(4) if the member—

"(A) is immediately eligible for retired pay based on military service under any provision of law;

"(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

"(C) is eligible for separation pay under section 1174 of title 10, United States Code.

"SEC. 4416. FORCE REDUCTION PERIOD RETIREMENTS.

"(a) TEMPORARY SPECIAL AUTHORITY FOR ELIMINATION OF OFFICERS FROM ACTIVE STATUS.—(1) During the force reduction transition period, the Secretary of the Army and the Secretary of the Air Force may, whenever the Secretary determines that such action is necessary, convene a board to recommend an appropriate number of officers in the reserve components of the Army or the Air Force, as the case may be, who (A) have met the age and service requirements specified in section 12731 of title 10, United States Code, for entitlement to retired pay for nonregular service except for not being at least 60 years of age, or (B) are immediately eligible for retired pay based on military service under any provision of law, for elimination from an active status.

"(2) An officer who is to be eliminated from an active status under this section, shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve and, if the officer requests it, shall be so transferred. If the officer is not transferred to the Retired Reserve, the officer shall, in the discretion of the Secretary concerned, be transferred to the appropriate inactive status list or be discharged.

"(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may not be eliminated from an active status under this section without the consent of the Governor or other appropriate authority of the State or territory, Puerto Rico, or the District of Columbia, whichever is concerned.

"(b) TEMPORARY SPECIAL AUTHORITY.—During the force reduction transition period, the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

"(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before the end of the force reduction transition period, such member completes 20 years of service computed under that section or section 12732;

"(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) or 12731(a) of title 10, United States Code; and

"(3) the member applies for transfer to the Retired Reserve.

"(c) [Repealed. Pub. L. 103–160, div. A, title V, §561(f)(2)(B), Nov. 30, 1993, 107 Stat. 1667.]

"(d) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for a period of years prescribed by the Secretary concerned, except that if the member attains 60 years of age during that period the entitlement to the annual payment shall terminate on the member's 60th birthday. A period prescribed for purposes of this subsection may not be less than one year nor more than five years.

"(e) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

"(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 12732 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

"(B) The maximum percent applicable under this paragraph is 10 percent.

"(3) In the case of a member who will attain 60 years of age during the 12-month period following the date on which an annual payment is due, the payment shall be paid on a prorated basis of one-twelfth of the annual payment for each full month between the date on which the payment is due and the date on which the member attains age 60.

"(f) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed

by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a).

"(g) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 12731a of title 10, United States Code (as added by section 4417), may not be paid annual payments under this section.

"(h) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

"SEC. 4417. RETIREMENT WITH 15 YEARS OF SERVICE.

"(a) AUTHORITY.—[Enacted section 1331a [now 12731a] of this title.]

"(b) CLERICAL AMENDMENT.—[Amended analysis of chapter 67 [now 1223] of this title.]

"SEC. 4418. SEPARATION PAY.

"(a) ELIGIBILITY.—Subject to section 4415, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 12732 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve during the force reduction transition period is entitled to separation pay.

"(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

"(A) the years of service credited to that person under section 12733 of title 10, United States Code; and

"(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

"(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

"(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

"SEC. 4419. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR CERTAIN RESERVISTS FOR MONTGOMERY GI BILL BENEFITS.

"(a) CHAPTER 106.—[Amended section 2133(b)(1) [now 16133(b)(1)] of this title.]

"(b) CHAPTER 30.—[Amended section 3012(b)(1)(B) of Title 38, Veterans' Benefits.]

"SEC. 4420. COMMISSARY AND EXCHANGE PRIVILEGES.

"The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of two years beginning on the later of—

"(1) the date on which that person ceases to be a member of the Selected Reserve; or

"(2) the date of the enactment of this Act [Oct. 23, 1992].

"SEC. 4421. APPLICABILITY AND TERMINATION OF BENEFITS.

"(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 4418 through 4420 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a).

"(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 4418 through 4420 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

"(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 4418 through 4420 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

"SEC. 4422. READJUSTMENT BENEFITS FOR CERTAIN VOLUNTARILY SEPARATED MEMBERS OF THE RESERVE COMPONENTS.

"(a) SPECIAL SEPARATION BENEFITS.—[Amended section 1174a of this title.]

"(b) VOLUNTARY SEPARATION INCENTIVE.—[Amended section 1175 of this title.]"

[Section 518(c) of Pub. L. 103–337 provided that: "The amendments made by this section [amending section 4416 of Pub. L. 102–484, set out above] shall apply only to payments to a member of the Armed Forces under subsection (b) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484) that are granted by the Secretary of Defense to that member after the date of the enactment of this Act [Oct. 5, 1994]."]

## §12682. Reserves: discharge upon becoming ordained minister of religion

Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2997.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1162(b) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12683. Reserve officers: limitation on involuntary separation

(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

(2) by the approved sentence of a court-martial.

(b) Subsection (a) does not apply to any of the following:

(1) A separation under section 12684, 14901, or 14907 of this title.

(2) A dismissal under section 1161(a) of this title.

(3) A transfer under section 12213, 12214, 14514, or 14515 of this title.

(4) A separation of an officer who is in an inactive status in the Standby Reserve and who is not qualified for transfer to the Retired Reserve or is qualified for transfer to the Retired Reserve and does not apply for such a transfer.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2997; amended Pub. L. 105–85, div. A, title V, §516, Nov. 18, 1997, 111 Stat. 1733; Pub. L. 105–261, div. A, title X, §1069(a)(8), Oct. 17, 1998, 112 Stat. 2136.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(a) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

### AMENDMENTS

**1998**—Subsec. (b)(2). Pub. L. 105–261 substituted a period for "; or" at end.

**1997**—Subsec. (b). Pub. L. 105–85, §516(a)(1), substituted "apply to any of the following:" for "apply—" in introductory provisions.

Subsec. (b)(1). Pub. L. 105–85, §516(b)(1), (2), substituted "A" for "to a" and "title." for "title;".

Subsec. (b)(2). Pub. L. 105–85, §516(b)(3), which directed substitution of a period for "; and" at end of par. (2), could not be executed because "; and" did not appear in par. (2).

Pub. L. 105–85, §516(b)(1), substituted "A" for "to a".

Subsec. (b)(3). Pub. L. 105–85, §516(b)(1), substituted "A" for "to a".

Subsec. (b)(4). Pub. L. 105–85, §516(a)(2), added par. (4).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12684. Reserves: separation for absence without authority or sentence to imprisonment

The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

(1) who has been absent without authority for at least three months;

(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial; or

(3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104–106, div. A, title V, §563(b)(2), Feb. 10, 1996, 110 Stat. 325.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(b) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

### AMENDMENTS

**1996**—Pub. L. 104–106 struck out "or" at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12685. Reserves separated for cause: character of discharge

A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(c) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

(a) LIMITATION.—Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system (other than the retirement system under chapter 1223 of this title), may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.

(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104–201, div. A, title V, §533, Sept. 23, 1996, 110 Stat. 2520; Pub. L. 108–375, div. A, title V, §522, Oct. 28, 2004, 118 Stat. 1888.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(d) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

**AMENDMENTS**

**2004**—Subsec. (a). Pub. L. 108–375 inserted "(other than the retirement system under chapter 1223 of this title)" after "retirement system".

**1996**—Pub. L. 104–201 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.

(Added Pub. L. 104–106, div. A, title V, §563(a)(2)(A), Feb. 10, 1996, 110 Stat. 325.)

# CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.
12731. Age and service requirements.
12731a. Temporary special retirement qualification authority.
12731b. Special rule for members with physical disabilities not incurred in line of duty.
12732. Entitlement to retired pay: computation of years of service.
12733. Computation of retired pay: computation of years of service.
12734. Time not creditable toward years of service.
12735. Inactive status list.
12736. Service credited for retired pay benefits not excluded for other benefits.
12737. Limitation on active duty.
12738. Limitations on revocation of retired pay.
12739. Computation of retired pay.
12740. Eligibility: denial upon certain punitive discharges or dismissals.
12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement.

**EDITORIAL NOTES**

**AMENDMENTS**

**2009**—Pub. L. 111–84, div. A, title VI, §643(e)(2), Oct. 28, 2009, 123 Stat. 2367, substituted "Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement" for "Retirement from active reserve service performed after regular retirement" in item 12741.

**2000**—Pub. L. 106–398, §1 [[div. A], title VI, §653(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–165, added item 12741.

**1999**—Pub. L. 106–65, div. A, title VI, §653(b)(2), Oct. 5, 1999, 113 Stat. 667, added item 12731b.

**1996**—Pub. L. 104–106, div. A, title VI, §632(a)(2), Feb. 10, 1996, 110 Stat. 365, added item 12740.

**1994**—Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, renumbered chapter 67 of this title as this chapter and amended analysis generally, renumbering items 1331 to 1338 as items 12731 to 12738, respectively, substituting "Entitlement to retired pay: computation of years of service" for "Computation of years of service in determining entitlement to retired pay" in item 12732 and "Computation

of retired pay: computation of years of service" for "Computation of years of service in computing retired pay" in item 12733, and adding item 12739.

**1992**—Pub. L. 102–484, div. D, title XLIV, §4417(b), Oct. 23, 1992, 106 Stat. 2717, added item 1331a.

**1986**—Pub. L. 99–348, title III, §304(b)(1), July 1, 1986, 100 Stat. 703, added item 1338.

## §12731. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

(1) has attained the eligibility age applicable under subsection (f) to that person;

(2) has performed at least 20 years of service computed under section 12732 of this title;

(3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and

(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Homeland Security, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

(A) the person performed active duty during World War I or World War II; or

(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

(2) In this subsection:

(A) The term "World War I" means the period beginning on April 6, 1917, and ending on November 11, 1918.

(B) The term "World War II" means the period beginning on September 9, 1940, and ending on December 31, 1946.

(C) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on July 27, 1953.

(D) The term "Berlin crisis" means the period beginning on August 14, 1961, and ending on May 30, 1963.

(E) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on March 27, 1973.

(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

(f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age.

(2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or

performs active service described in subparagraph (B) after January 28, 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced, subject to subparagraph (C), below 60 years of age by three months for each aggregate of 90 days on which such person serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014. A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

(B)(i) Service on active duty described in this subparagraph is service on active duty pursuant to a call or order to active duty under section 12301(d) or 12304b of this title, or under a provision of law referred to in section 101(a)(13)(B) of this title. Such service does not include service on active duty pursuant to a call or order to active duty under section 12310 of this title.

(ii) Active service described in this subparagraph is also service under a call to active service authorized by the President or the Secretary of Defense under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President or supported by Federal funds.

(iii) If a member described in subparagraph (A) is wounded or otherwise injured or becomes ill while serving on active duty pursuant to a call or order to active duty under a provision of law referred to in the first sentence of clause (i) or in clause (ii), and the member is then ordered to active duty under section 12301(h)(1) of this title to receive medical care for the wound, injury, or illness, each day of active duty under that order for medical care shall be treated as a continuation of the original call or order to active duty for purposes of reducing the eligibility age of the member under this paragraph.

(iv) Service on active duty described in this subparagraph is also service on active duty pursuant to a call or order to active duty authorized by the Secretary of Homeland Security under section 712 [1] of title 14 for purposes of emergency augmentation of the Regular Coast Guard forces.

(C) The eligibility age for purposes of subsection (a)(1) may not be reduced below 50 years of age for any person under subparagraph (A).

(3) The Secretary concerned shall periodically notify each member of the Ready Reserve described by paragraph (2) of the current eligibility age for retired pay of such member under this section, including any reduced eligibility age by reason of the operation of that paragraph. Notice shall be provided by such means as the Secretary considers appropriate taking into account the cost of provision of notice and the convenience of members.

(Aug. 10, 1956, ch. 1041, 70A Stat. 102, §1331; Pub. L. 85–704, Aug. 21, 1958, 72 Stat. 702; Pub. L. 85–861, §33(a)(8), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 89–652, §1, Oct. 14, 1966, 80 Stat. 902; Pub. L. 90–485, §2, Aug. 13, 1968, 82 Stat. 754; Pub. L. 95–397, title II, §206, Sept. 30, 1978, 92 Stat. 847; Pub. L. 96–513, title V, §511(47), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98–94, title IX, §924(a), Sept. 24, 1983, 97 Stat. 644; Pub. L. 101–189, div. A, title XIV, §1404(b)(1), Nov. 29, 1989, 103 Stat. 1586; renumbered §12731 and amended Pub. L. 103–337, div. A, title VI, §636, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2790, 2999; Pub. L. 104–106, div. A, title XV, §1501(b)(20), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105–261, div. A, title V, §561(n)(1), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(n)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §631(a), (b), Dec. 2, 2002, 116 Stat. 2571, 2572; Pub. L. 108–375, div. A, title V, §501(f), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 109–364, div. A, title X, §1071(a)(40), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 110–181, div. A, title VI, §647(a), Jan. 28, 2008, 122 Stat. 160; Pub. L. 111–84, div. A, title X, §1073(a)(35), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111–383, div. A, title VI, §633, Jan. 7, 2011, 124 Stat. 4240; Pub. L. 112–239, div. A, title VI, §681(b), Jan. 2, 2013, 126 Stat. 1795; Pub. L. 113–66, div. A, title VI, §632, Dec. 26, 2013, 127 Stat. 785; Pub. L. 113–291, div. A, title VI, §625, Dec. 19, 2014, 128 Stat. 3405; Pub. L. 116–92, div. A, title VI, §604, Dec. 20, 2019, 133 Stat. 1424.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | | |

| | | |
|---|---|---|
| 1331(a) | 10:1036a(a) (less last proviso).<br>10:1036d (1st sentence).<br>34:440i(a) (less last proviso).<br>34:440<br>*l* (1st sentence). | June 29, 1948, ch. 708, §§302(a), (d), 305 (1st sentence), 62 Stat. 1087–1089; July 12, 1952, ch. 698, 66 Stat. 590. |
| 1331(b) | 10:1036a(d).<br>34:440i(d). | |
| 1331(c) | 10:1036a(a) (last proviso).<br>34:440i(a) (last proviso). | |

In subsection (a), the words "is entitled" are substituted for the words "shall * * * be granted". The words "in the status of a commissioned officer, warrant officer, flight officer, or enlisted person" and the references to reserve components are omitted as surplusage. Reference to the Army and the Air Force without component is inserted, since the words "reserve component", as used in 10:1036a(a), include all members of the Army and the Air Force except members of the regular components thereof. The words "service, computed under section 1332 of this title" are substituted for the words "satisfactory Federal service" to make it clear that some service that is not normally covered by the latter term may be counted in determining rights to retired pay under this chapter. Section 311 of the source statute, which made title III of that act applicable to the Coast Guard, was expressly repealed by the Act of August 4, 1949, ch. 393, §20, 63 Stat. 565, the act which codified Title 14 of the United States Code. 14 U.S.C. 755(e) provides for Coast Guard Reservists the same retirement benefits as those prescribed by law for the Naval Reserve, and, for this purpose, confers upon the Secretary of the Treasury the same authority as that conferred upon the Secretary of the Navy, when the Coast Guard is operating under the Treasury Department. Accordingly, the revised chapter is made expressly applicable to the Coast Guard.

In subsection (c), the words "the Army without component or other category covered by section 1332(a)(1) of this title" are inserted, since the words "reserve component", as used in 10:1036a(a), also cover members without component and members of the other special categories listed. The words "annual training duty, or attendance at a school designated as a service school by law or by the Secretary of the appropriate military department" are inserted since the words "active Federal service", as used in 10:1036a(a), also cover the additional service listed. The words "active duty" are substituted for the words "active Federal service" for uniformity.

**1958 ACT**

The change makes clear that in the determination of eligibility for retired pay for non–regular service, the service of a Regular serving in a temporary grade (that is, without component) may not be counted. See opinion of the Judge Advocate General of the Army, JAGA 1957/4463, May 13, 1957.

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 712 of title 14, referred to in subsec. (f)(2)(B)(iv), was redesignated section 3713 of title 14 by Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233, and references to section 712 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

### AMENDMENTS

**2019**—Subsec. (f)(2)(B)(i). Pub. L. 116–92 substituted "under section 12301(d) or 12304b of this title, or under a provision of law referred to in section 101(a)(13)(B)" for "under a provision of law referred to in section 101(a)(13)(B) or under section 12301(d)".

**2014**—Subsec. (f)(2)(A). Pub. L. 113–291 inserted ", subject to subparagraph (C)," after "shall be reduced" and substituted "serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014" for "so performs in any fiscal year after such date, subject to subparagraph (C)".

**2013**—Subsec. (f)(2)(B)(iv). Pub. L. 112–239 added cl. (iv).

Subsec. (f)(3). Pub. L. 113–66 added par. (3).

**2011**—Subsec. (f)(2)(B)(iii). Pub. L. 111–383 added cl. (iii).

**2009**—Subsec. (f)(2)(A). Pub. L. 111–84 substituted "January 28, 2008" for "the date of the enactment of

the National Defense Authorization Act for Fiscal Year 2008".

**2008**—Subsec. (a)(1). Pub. L. 110–181, §647(a)(1), added par. (1) and struck out former par. (1) which read as follows: "is at least 60 years of age;".

Subsec. (f). Pub. L. 110–181, §647(a)(2), added subsec. (f).

**2006**—Subsec. (a)(3). Pub. L. 109–364 substituted "before April 25, 2005" for "before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005".

**2004**—Subsec. (a)(3). Pub. L. 108–375 inserted after par. (3) designation "in the case of a person who completed the service requirements of paragraph (2) before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005,".

**2002**—Subsec. (a)(3). Pub. L. 107–314, §631(a), substituted "six years" for "eight years" and inserted before semicolon ", except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight".

Subsec. (b). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

Subsec. (f). Pub. L. 107–314, §631(b), struck out subsec. (f) which read as follows: "In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on October 5, 1994, and ending on December 31, 2001, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'."

**2000**—Subsec. (f). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

**1998**—Subsec. (f). Pub. L. 105–261 substituted "September 30, 2001" for "September 30, 1999".

**1996**—Subsec. (f). Pub. L. 104–106 substituted "October 5, 1994," for "the date of the enactment of this subsection".

**1994**—Pub. L. 103–337, §1662(j)(1), renumbered section 1331 of this title as this section and amended text generally, making changes in style and in references to other sections.

Subsec. (f). Pub. L. 103–337, §636, added subsec. (f) which read as follows: "In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'."

**1989**—Subsec. (d). Pub. L. 101–189 inserted "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

**1983**—Subsec. (c). Pub. L. 98–94 substituted "unless—

"(1) he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947; or

"(2) he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961, and before May 31, 1963, or after August 4, 1964, and before March 28, 1973.",

for "unless he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947, or unless he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953".

**1980**—Subsec. (b). Pub. L. 96–513, §511(47)(A), substituted "Secretary of Transportation" for "Secretary of the Treasury".

Subsec. (e). Pub. L. 96–513, §511(47)(B), struck out "United States Code," after "title 5,".

**1978**—Subsec. (d). Pub. L. 95–397 inserted provisions requiring that notice include notification of elections available under the Survivor Benefit Plan and the effects thereof.

**1968**—Subsec. (e). Pub. L. 90–485 added subsec. (e).

**1966**—Subsec. (d). Pub. L. 89–652 added subsec. (d).

**1958**—Subsec. (a)(3). Pub. L. 85–861 struck out provisions which related to service as a member of the Army or the Air Force without component.

Subsec. (c). Pub. L. 85–704 made persons who performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, eligible for retired pay under this chapter.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 applicable to call or order to active duty authorized under section 3713 of Title 14, Coast Guard, after Dec. 31, 2011, and deemed to have been enacted on Dec. 31, 2011, for purposes of applying the amendment to this section, section 701 of this title, and section 5538 of Title 5, Government

Organization and Employees, see section 681(d) of Pub. L. 112–239, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 2004 AMENDMENT**

Amendment by Pub. L. 108–375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as a note under section 531 of this title.

**EFFECTIVE DATE OF 2002 AMENDMENTS**

Pub. L. 107–314, div. A, title VI, §631(c), Dec. 2, 2002, 116 Stat. 2572, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2002. No benefit shall accrue to any person for any period before that date by reason of the enactment of those amendments."

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1662(j)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1989 AMENDMENT**

Pub. L. 101–189, div. A, title XIV, §1404(b)(3), Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101–510, div. A, title VI, §631(1), Nov. 5, 1990, 104 Stat. 1580, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and section 3101 [now 5301] of Title 38, Veterans' Benefits] shall take effect on April 1, 1992."

**EFFECTIVE DATE OF 1983 AMENDMENT**

Pub. L. 98–94, title IX, §924(b), Sept. 24, 1983, 97 Stat. 644, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to retired pay payable for months beginning after September 30, 1983, or the date of the enactment of this Act [Sept. 24, 1983], whichever is later."

**EFFECTIVE DATE OF 1980 AMENDMENT**

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

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95–397 applicable to notifications after Sept. 30, 1978, see section 210(b) of Pub. L. 95–397, set out as a note under section 1447 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Amendment by Pub. L. 90–485 effective Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

**EFFECTIVE DATE OF 1958 AMENDMENT**

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

**ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY**

Pub. L. 110–181, div. A, title VI, §647(c), Jan. 28, 2008, 122 Stat. 161, provided that: "With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section."

**RESERVE RETIREMENT SYSTEM; REPORT TO CONGRESS**

Pub. L. 99–348, title III, §302, July 1, 1986, 100 Stat. 702, directed Secretary of Defense to submit to Congress, not later than Feb. 1, 1988, a report on the retirement system provided under chapter 67 of this title for members of Armed Forces performing non-regular-service, including in the report any proposals of the Secretary for modifications to such system.

**SURVIVOR ANNUITIES; EFFECTIVE DATE**

Pub. L. 94–448, §1, Oct. 1, 1976, 90 Stat. 1499, provided: "That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code [section 1431 et seq. of this title], and under prior corresponding provisions of law, the provisions of section 1331(e) [now 12731(e)] of such title 10, relating to the date of entitlement to retired pay under chapter 67 [now 1223] of such title 10, shall be effective as of November 1, 1953."

**PAYMENT OF SURVIVOR ANNUITIES BENEFITS PRIOR TO OCTOBER 1, 1976**

Pub. L. 94–448, §2, Oct. 1, 1976, 90 Stat. 1499, provided that: "No benefits shall be paid to any person for any period prior to the date of enactment of this Act [Oct. 1, 1976] as a result of the enactment of this Act."

**ENTITLEMENT TO RETIREMENT PAY AFTER OCTOBER 14, 1966; CONCLUSIVENESS**

Notification of completion of requisite years of service as conclusive for entitlement to retirement pay if made after Oct. 14, 1966, see section 3 of Pub. L. 89–652, set out as a note under section 1406 of this title.

[1] *See References in Text note below.*

## §12731a. Temporary special retirement qualification authority

(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

(B) after that date and before the end of the period described in subsection (b), completes 15 years of service computed under that section; and

(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on December 31, 2001.

(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2713).

(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for

membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard.

(Added Pub. L. 102–484, div. D, title XLIV, §4417(a), Oct. 23, 1992, 106 Stat. 2716, §1331a; amended Pub. L. 103–35, title II, §201(f)(2), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. A, title V, §§561(f)(4), 564(c), Nov. 30, 1993, 107 Stat. 1668, 1670; renumbered §12731a and amended Pub. L. 103–337, div. A, title V, §517, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2754, 2998, 3000; Pub. L. 104–106, div. A, title XV, §1501(b)(21), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105–261, div. A, title V, §561(n)(2), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, §1 [[div. A], title V, §571(n)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 and section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (c)(2), (3), are sections 4414(a) and 4415(2) of Pub. L. 102–484, which are set out in a note under section 12681 of this title.

### AMENDMENTS

**2002**—Subsec. (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**2000**—Subsec. (a)(1)(B). Pub. L. 106–398, §1 [[div. A], title V, §571(n)(2)(A)], substituted "the end of the period described in subsection (b)" for "October 1, 2001".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §571(n)(2)(B)], substituted "December 31, 2001" for "October 1, 2001".

**1998**—Subsec. (a)(1)(B), (b). Pub. L. 105–261 substituted "October 1, 2001" for "October 1, 1999".

**1996**—Subsec. (c)(3). Pub. L. 104–106 inserted comma after "Defense Conversion".

**1994**—Pub. L. 103–337, §1662(j)(1), renumbered section 1331a of this title as this section and amended text generally, changing references to other sections.

Subsec. (c)(3). Pub. L. 103–337, §517, added par. (3) which read as follows: "Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence."

**1993**—Subsec. (a). Pub. L. 103–160, §564(c)(1), substituted "Secretary concerned" for "Secretary of a military department" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 103–160, §561(f)(4)(A), substituted "October 1, 1999" for "October 1, 1995".

Subsec. (a)(2). Pub. L. 103–160, §561(f)(4)(B), struck out "within one year after the date of the notification referred to in paragraph (1)" after "to the Secretary".

Subsec. (b). Pub. L. 103–160, §561(f)(4)(C), substituted "October 1, 1999" for "October 1, 1995".

Pub. L. 103–35 substituted "October 23, 1992," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993".

Subsec. (c)(1). Pub. L. 103–160, §564(c)(2), struck out "of the military department" after "The Secretary".

Subsec. (e). Pub. L. 103–160, §564(c)(3), inserted before period at end "and by the Secretary of Transportation with respect to the Coast Guard".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1662(j)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

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

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

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

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

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

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

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

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

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

(A) The armed forces.

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

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

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

(E) The Navy Reserve Force.

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

(G) The National Naval Volunteers.

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

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

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

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

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

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

(A) One point for each day of—

(i) active service; or

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

if that service conformed to required standards and qualifications.

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

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

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

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

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

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

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

(F)(i) Subject to regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy, one point for each day of active service or one point for each drill or period of equivalent instruction that was prescribed by the Secretary concerned to be performed during the covered emergency period, if such person was prevented from performing such duty due to travel or duty restrictions imposed by the President, the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard.

(ii) A person may not be credited more than 35 points in a one-year period under this subparagraph.

(iii) In this subparagraph, the term "covered emergency period" means the period beginning on March 1, 2020, and ending on the day that is 60 days after the date on which the travel or duty restriction applicable to the person concerned is lifted.

(G) Points at the rate of 1 per inactive-duty training period, under section 206 of title 37, during which the member is on parental leave under section 711 of this title.

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

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

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

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

(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

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

(3) Service in the inactive National Guard.

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

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

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

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

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 102, §1332; Pub. L. 85–861, §33(a)(9), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 86–197, §1(1)–(3), Aug. 25, 1959, 73 Stat. 425; Pub. L. 88–636, §1, Oct. 8, 1964, 78 Stat. 1034; Pub. L. 93–545, §1, Dec. 26, 1974, 88 Stat. 1741; Pub. L. 96–513, title V, §511(48), Dec. 12, 1980, 94 Stat. 2924; renumbered §12732 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3000; Pub. L. 104–201, div. A, title V, §543(b)(1), Sept. 23, 1996, 110 Stat. 2522; Pub. L. 106–65, div. A, title V, §578(h)(1), Oct. 5, 1999, 113 Stat. 628; Pub. L. 109–163, div. A, title V, §515(b)(1)(MM), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110–181, div. A, title VI, §633(c), Jan. 28, 2008, 122 Stat. 155; Pub. L. 116–283, div. A, title V, §516(a), title VI, §602(b)(4), Jan. 1, 2021, 134 Stat. 3589, 3671; Pub. L. 118–31, div. A, title VI, §601(c), Dec. 22, 2023, 137 Stat. 289.)

HISTORICAL AND REVISION NOTES

1956 ACT

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

| | | |
|---|---|---|
| | 34:440m(d) (less applicability to determination of retired pay). | |
| 1332(b) | 10:1036e(e).<br>10:1036e(f).<br>34:440m(e).<br>34:440m(f). | |

Subsection (a) consolidates the provisions of 10:1036a and 1036e(b)–(d), and 34:440i and 440m(b)–(d), relating to service that may be counted in determining eligibility for retired pay under this chapter. 10:1036e(a) and 34:440m(a) are omitted as covered by the enumeration of the service that may be counted for the purposes of the revised section.

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

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

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

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

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

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

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

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

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

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

**1958 ACT**

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

## EDITORIAL NOTES

### REFERENCES IN TEXT

Act of December 22, 1942, referred to in subsec. (a)(1)(I), is act Dec. 22, 1942, ch. 805, 56 Stat. 1072, which amended section 164 of former Title 10, Army and Air Force, and enacted provisions set out as notes under section 81 of former Title 10 and section 113 of former Title 37, Pay and Allowances, and was repealed

as executed, by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

Women's Medical Specialist Corps, referred to in subsec. (a)(1)(J)(ii), redesignated Army Medical Specialist Corps by Pub. L. 85–155, Aug. 21, 1957, 71 Stat. 375. See section 7070 of this title. See, also, act Aug. 9, 1955, ch. 654, 69 Stat. 579.

## AMENDMENTS

**2023**—Subsec. (a)(2)(G). Pub. L. 118–31 substituted "1 per inactive-duty training period, under section 206 of title 37, during which the member is on parental leave under section 711 of this title." for "12 per period during which the member is on maternity leave."

**2021**—Subsec. (a)(2). Pub. L. 116–283, §602(b)(4)(B), substituted "(F), and (G)" for "and (F)" in concluding provisions.

Pub. L. 116–283, §516(a)(2), substituted "(E), and (F)" for "and (E)" in concluding provisions.

Subsec. (a)(2)(F). Pub. L. 116–283, §516(a)(1), added subpar. (F).

Subsec. (a)(2)(G). Pub. L. 116–283, §602(b)(4)(A), added subpar. (G).

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

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

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

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

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

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

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

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

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

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

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

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by Pub. L. 118–31 effective on Oct. 1, 2024, and applicable with respect to periods of parental leave that commence on or after such date, see section 601(e) of Pub. L. 118–31, set out as a note under section 711 of this title.

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title VI, §602(c), Jan. 1, 2021, 134 Stat. 3671, provided that: "This section [amending this section, section 12733 of this title, and section 206 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply with respect to periods of maternity leave that commence on or after that date."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## EFFECTIVE DATE OF 1964 AMENDMENT

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

## EFFECTIVE DATE OF 1958 AMENDMENT

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

## SAVINGS PROVISION

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

## CREDIT FOR RETIRED PAY PURPOSES

Pub. L. 116–283, div. A, title VI, §602(b)(1)–(3), Jan. 1, 2021, 134 Stat. 3670, 3671, as amended by Pub. L. 118–31, div. A, title VI, §601(d), Dec. 22, 2023, 137 Stat. 289, provided that:

"(1) IN GENERAL.—The period of parental leave described in section 12732(a)(2)(G) of title 10, United States Code, taken by a member of the reserve components of the Armed Forces shall count toward the member's entitlement to retired pay, and in connection with the years of service used in computing retired pay, under chapter 1223 of title 10, United States Code, as 12 points.

"(2) SEPARATE CREDIT FOR EACH PERIOD OF LEAVE.—Separate crediting of points shall accrue to a member pursuant to this subsection for each period of parental leave taken by the member.

"(3) WHEN CREDITED.—Points credited a member for a period of parental leave pursuant to this subsection shall be credited in the year in which the period of parental leave concerned commences."

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

Pub. L. 104–201, div. A, title V, §531(b), (c), Sept. 23, 1996, 110 Stat. 2517, 2518, provided that:

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

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

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

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

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

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

Pub. L. 87–482, June 12, 1962, 76 Stat. 95, provided: "That any person who was a member of the Coast Guard Women's Reserve and who served on active duty therein for at least one year prior to July 25, 1947;

who was separated therefrom under honorable conditions; and who also had membership therein for any period between November 1, 1949, and July 1, 1956, shall be deemed to have served on inactive duty with the Coast Guard Women's Reserve from July 25, 1947, to November 1, 1949, in the grade or rating satisfactorily held on active duty prior to July 25, 1947.

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

"SEC. 3. Additional pay accruing to any person by virtue of increased creditable service resulting from the inclusion of constructive service creditable by application of section 1 hereof shall not be made for active or inactive duty for which pay is authorized by competent authority which is performed prior to the first day of the calendar quarter next succeeding the calendar quarter in which this Act becomes effective."

**ADDITIONAL CLERICAL SERVICE CREDITABLE UNDER THIS CHAPTER**

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

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

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

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

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

(1) The person's days of active service.

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

(3) One day for each point credited to the person under clause (B), (C), (D), or (F) of section 12732(a)(2) of this title, but not more than—

(A) 60 days in any one year of service before the year of service that includes September 23, 1996;

(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes October 30, 2000;

(C) 90 days in the year of service that includes October 30, 2000, and in any subsequent year of service before the year of service that includes October 30, 2007; and

(D) 130 days in the year of service that includes October 30, 2007, and in any subsequent year of service.

(4) One day for each point credited to the person under subparagraph (E) of section 12732(a)(2) of this title.

(5) One day for each point credited to the person under subparagraph (F) of section 12732(a)(2) of this title.

(6) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

(Aug. 10, 1956, ch. 1041, 70A Stat. 103, §1333; Pub. L. 85–861, §33(a)(10), Sept. 2, 1958, 72 Stat. 1565; renumbered §12733 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3002; Pub. L. 104–201, div. A, title V, §§531(a), 543(b)(2), Sept. 23, 1996,

110 Stat. 2517, 2522; Pub. L. 105–85, div. A, title X, §1073(a)(67), (c)(4), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106–65, div. A, title V, §578(h)(2), Oct. 5, 1999, 113 Stat. 628; Pub. L. 106–398, §1 [[div. A], title VI, §652], Oct. 30, 2000, 114 Stat. 1654, 1654A–163; Pub. L. 107–107, div. A, title X, §1048(c)(16), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 110–181, div. A, title VI, §648, Jan. 28, 2008, 122 Stat. 161; Pub. L. 116–283, div. A, title V, §516(b), title VI, §602(b)(5), Jan. 1, 2021, 134 Stat. 3589, 3671.)

HISTORICAL AND REVISION NOTES
1956 ACT

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

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

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

**1958 ACT**

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

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Par. (3). Pub. L. 116–283, §516(b), substituted "(D), or (F)" for "or (D)" in introductory provisions.

Pars. (5), (6). Pub. L. 116–283, §602(b)(5), added par. (5) and redesignated former par. (5) as (6).

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

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

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

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

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

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

Pub. L. 105–85, §1073(a)(67), inserted a comma after "(B)" and substituted "that includes September 23,

1996," for "in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs".

**1996**—Par. (3). Pub. L. 104–201, §543(b)(2), substituted "(C), or (D)" for "or (C)".

Pub. L. 104–201, §531(a), as amended by Pub. L. 105–85, §1073(c)(4), inserted before period at end "of service before the year of service in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs and not more than 75 days in any subsequent year of service".

**1994**—Pub. L. 103–337 renumbered section 1333 of this title as this section, substituted "Computation of retired pay: computation of years of service" for "Computation of years of service in computing retired pay" as section catchline, and amended text generally, changing style and references to other sections.

**1958**—Pub. L. 85–861 added cls. (1) and (2), struck out former cl. (1) which permitted the addition of the days of service credited under section 1332(a)(2)(A) of this title, and redesignated former cls. (2) and (3) as (3) and (4), respectively.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 602(b)(5) of Pub. L. 116–283 effective, and applicable with respect to periods of maternity leave that commence on or after, Jan. 1, 2021, see section 602(c) of Pub. L. 116–283, set out as a note under section 12732 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1958 AMENDMENT

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

## §12734. Time not creditable toward years of service

(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1334; Pub. L. 87–651, title I, §108, Sept. 7, 1962, 76 Stat. 509; renumbered §12734 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1334(a) | 10:1036c (last sentence, as applicable to inactive status).<br>10:1036g (last 41 words of 2d sentence).<br>34:440k (last sentence, as applicable to inactive status).<br>34:440*o* (last 41 words of 2d | June 29, 1948, ch. 708, §§304 (last sentence), 308 (last 41 words of 2d sentence), 62 Stat. 1088, 1090.<br>July 9, 1952, ch. 608, §211(b) (less 1st 16 words), 66 Stat. 485. |

| | | |
|---|---|---|
| | sentence).<br>50:931(b) (less 1st 16 words). | |
| 1334(b) | 10:1036c (last sentence, less applicability to inactive status).<br>34:440k (last sentence, less applicability to inactive status). | |

Subsection (a) is substituted for 10:1036c (1st 17 words of last sentence, as applicable to inactive status), 10:1036g (last 41 words of 2d sentence), 34:440k (last 17 words of last sentence, as applicable to inactive status), and 34:440o (last 41 words of 2d sentence). 10:1036c (proviso of last sentence, as applicable to inactive status) and 34:440k (proviso of last sentence, as applicable to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) are omitted as surplusage.

In subsection (b), 10:1036c (proviso of last sentence, less applicability to inactive status) and 34:440k (proviso of last sentence, less applicability to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) are omitted as surplusage.

**1962 ACT**

The change conforms section 1334(b) of title 10 to the source law, the last sentence of section 304 of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1089). Section 305 makes the change retroactive to August 10, 1956, the date of repeal of the source law by the original military codification act of that date.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 1334 of this title as this section and amended text generally, changing one section reference.

**1962**—Subsec. (b). Pub. L. 87–651 substituted "retirement (without pay) for failure to conform to standards and qualifications prescribed under section 1001 of this title may not be credited in a computation" for "retirement or transfer to the Retired Reserve may not be credited in any computation."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1962 AMENDMENT**

Section 305 of Pub. L. 87–651 provided that: "Section 108 of this Act [amending this section] is effective as of August 10, 1956, for all purposes. Section 304 of this Act is effective as of February 6, 1959."

## §12735. Inactive status list

(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1335; renumbered §12735 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1335(a) | 10:1036g (1st sentence).<br>34:440 | June 29, 1948, ch. 708, §308 (less last 41 words of 2d sentence), 62 Stat. 1090. |
| 1335(b) | *o* (1st sentence).<br>10:1036g (2d sentence, less last 41 words).<br>34:440<br>*o* (2d sentence, less last 41 words). | |
| 1335(c) | 10:1036g (less 1st and 2d sentences).<br>34:440*o* (less 1st and 2d sentences). | |

In subsection (a), the words "would be eligible but for the fact that he is under 60 years of age" are substituted for the words "has not attained the age of sixty years but is eligible in all other respects". The words "for members of his armed force, other than members of a regular component" are substituted for the words "for the reserve components of the Army of the United States or Air Force of the United States", since the source statute applied to all members except members of the regular components. The words "as has been, or" and "by law or regulation" are omitted as surplusage.

In subsection (b), the words "after the effective date of such transfer" are omitted as surplusage.

In subsection (c), 10:1036g (last 32 words of last sentence) and 34:440o (last 32 words of last sentence) are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 1335 of this title as this section and amended text generally, making changes in style.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12736. Service credited for retired pay benefits not excluded for other benefits

No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1336; renumbered §12736 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|

| | | |
|---|---|---|
| 1336 | 10:1036d (less 1st sentence).<br>34:440<br>*l* (less 1st sentence). | June 29, 1948, ch. 708, §305 (less 1st sentence), 62 Stat. 1089. |

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 1336 of this title as this section and restated catchline and text without change.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12737. Limitation on active duty

A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1337; renumbered §12737 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1337 | 10:1036h.<br>34:440p. | June 29, 1948, ch. 708, §309, 62 Stat. 1090. |

10:1036h (1st sentence) and 34:440p (1st sentence) are omitted as surplusage. The words "member of the armed forces" are substituted for the word "person", since only a member may be "ordered to active duty".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 1337 of this title as this section and amended text generally, substituting "the member" for "him".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §12738. Limitations on revocation of retired pay

(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

(Added Pub. L. 89–652, §2(1), Oct. 14, 1966, 80 Stat. 902, §1406; renumbered §1338 and amended Pub. L. 99–348, title I, §104(a), July 1, 1986, 100 Stat. 686; renumbered §12738 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 1338 of this title as this section and amended text generally, making changes in style and references to other sections.

**1986**—Pub. L. 99–348 renumbered section 1406 of this title as this section, designated first sentence as subsec. (a) and substituted "this chapter" for "chapter 67 of this title" in two places, and designated second sentence as subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**ENTITLEMENT TO RETIREMENT PAY AFTER OCTOBER 14, 1966; CONCLUSIVENESS**

Pub. L. 89–652, §3, Oct. 14, 1966, 80 Stat. 902, provided that: "Notwithstanding section 1406 [now 12738] of title 10, United States Code, as added by this Act—

"(1) the granting of retired pay to a person under chapter 67 [now 1223] of that title is conclusive as to that person's entitlement to such pay only if the payment of that retired pay is begun after the effective date of this Act [Oct. 14, 1966]; and

"(2) a notification that a person has completed the years of service required for eligibility for retired pay under chapter 67 [now 1223] of that title is conclusive as to the person's subsequent entitlement to such pay only if the notification is made after the effective date of this Act."

## §12739. Computation of retired pay

(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

(b) If a person entitled to retired pay under this chapter has been credited by the Secretary concerned with extraordinary heroism in the line of duty and if the highest grade held satisfactorily by that person at any time in the armed forces is an enlisted grade, the person's retired pay shall be increased by 10 percent of the amount determined under subsection (a). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

(c)(1) Except as provided in paragraph (2), the total amount of the monthly retired pay computed under subsections (a) and (b) may not exceed 75 percent of the retired pay base upon which the computation is based.

(2) In the case of a person who retires after December 31, 2006, with more than 30 years of service credited to that person under section 12733 of this title, the total amount of the monthly retired pay computed under subsections (a) and (b) may not exceed the sum of—

(A) 75 percent of the retired pay base upon which the computation is based; and

(B) the product of—

(i) the retired pay base upon which the computation is based; and

(ii) 2½ percent of the years of service credited to that person under section 12733 of this title, for service under conditions authorized for purposes of this paragraph during a period designated by the Secretary of Defense for purposes of this paragraph.

(d) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.

(e)(1) If a member of the Retired Reserve is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to the recomputation under this section of the retired pay of the member.

(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

(B) completes at least one year of service in such position; and

(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.

(f) MODERNIZED RETIREMENT SYSTEM.—

(1) REDUCED MULTIPLIER FOR FULL TSP MEMBERS.—Notwithstanding subsection (a) or (c), in the case of a person who first performs reserve component service on or after January 1, 2018, after not having performed regular or reserve component service on or before that date, or a person who makes the election described in paragraph (2) (referred to as a "full TSP member")—

(A) subsection (a)(2) shall be applied by substituting "2 percent" for "2½ percent";

(B) subparagraph (A) of subsection (c)(2) shall be applied by substituting "60 percent" for "75 percent"; and

(C) subparagraph (B)(ii) of such subsection shall be applied by substituting "2 percent" for "2½ percent".

(2) ELECTION TO PARTICIPATE IN MODERNIZED RETIREMENT SYSTEM.—

(A) IN GENERAL.—Pursuant to subparagraph (B), a person performing reserve component service on December 31, 2017, who has performed fewer than 12 years of service as of December 31, 2017 (as computed in accordance with section 12733 of this title), may elect, in exchange for the reduced multipliers described in paragraph (1) for purposes of calculating the retired pay of the person, to receive Thrift Savings Plan contributions pursuant to section 8440e(e) of title 5.

(B) ELECTION PERIOD.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), a person described in subparagraph (A) may make the election described in that subparagraph during the period that begins on January 1, 2018, and ends on December 31, 2018.

(ii) HARDSHIP EXTENSION.—The Secretary concerned may extend the election period described in clause (i) for a person who experiences a hardship as determined by the Secretary concerned.

(iii) PERSONS EXPERIENCING BREAK IN SERVICE.—A person returning to reserve component service after a break in reserve component service in which falls the election period specified in clause (i) shall make the election described in subparagraph (A) within 30 days after the date of the reentry into service of the person.

(C) NO RETROACTIVE CONTRIBUTIONS PURSUANT TO ELECTION.—Thrift Savings Plan contributions may not be made for a person making an election pursuant to subparagraph (A) for any pay period beginning before the date of the person's election under that subparagraph by reason of the person's election.

(3) REGULATIONS.—The Secretary concerned shall prescribe regulations to implement this

subsection.

(Added Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 3004; amended Pub. L. 107–314, div. A, title VI, §632(a), (b), Dec. 2, 2002, 116 Stat. 2572; Pub. L. 109–364, div. A, title VI, §642(b), Oct. 17, 2006, 120 Stat. 2259; Pub. L. 111–84, div. A, title VI, §642(a), Oct. 28, 2009, 123 Stat. 2365; Pub. L. 114–92, div. A, title VI, §631(b), Nov. 25, 2015, 129 Stat. 843; Pub. L. 115–91, div. A, title VI, §623(a), Dec. 12, 2017, 131 Stat. 1428.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in formula 3 of the table in section 1401(a) of this title, prior to amendment by Pub. L. 103–337, §1662(j)(2).

### AMENDMENTS

**2017**—Subsec. (f)(2)(B)(iii). Pub. L. 115–91 substituted "within 30 days after the date of the reentry" for "on the date of the reentry".

**2015**—Subsec. (f). Pub. L. 114–92 added subsec. (f).

**2009**—Subsec. (e). Pub. L. 111–84 added subsec. (e).

**2006**—Subsec. (c). Pub. L. 109–364 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the" for "The", and added par. (2).

**2002**—Subsec. (b). Pub. L. 107–314, §632(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–314, §632(a)(1), (b), redesignated subsec. (b) as (c) and substituted "total amount of the monthly retired pay computed under subsections (a) and (b)" for "amount computed under subsection (a)". Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–314, §632(a)(1), redesignated subsec. (c) as (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title VI, §623(b), Dec. 12, 2017, 131 Stat. 1429, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2018, immediately after the coming into effect of the amendment made by section 631(b) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 843) [amending this section], to which the amendment made by subsection (a) relates."

### EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114–92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114–92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, §632(c), Dec. 2, 2002, 116 Stat. 2572, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 2002, and shall apply with respect to retired pay for months beginning on or after that date."

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12740. Eligibility: denial upon certain punitive discharges or dismissals

A person who—

(1) is convicted of an offense under the Uniform Code of Military Justice (chapter 47 of this title) and whose sentence includes death; or

(2) is separated pursuant to sentence of a court-martial with a dishonorable discharge, a bad

conduct discharge, or (in the case of an officer) a dismissal,

is not eligible for retired pay under this chapter.

(Added Pub. L. 104–106, div. A, title VI, §632(a)(1), Feb. 10, 1996, 110 Stat. 365.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 104–106, div. A, title VI, §632(b), Feb. 10, 1996, 110 Stat. 365, provided that: "Section 12740 of title 10, United States Code, as added by subsection (a), shall apply with respect to court-martial sentences adjudged after the date of the enactment of this Act [Feb. 10, 1996]."

## §12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement

(a) AUTHORITY TO ELECT TO RECEIVE RESERVE RETIRED PAY.—(1) Notwithstanding the requirement in paragraph (4) of section 12731(a) of this title that a person may not receive retired pay under this chapter when the person is entitled, under any other provision of law, to retired pay or retainer pay, a person may elect to receive retired pay under this chapter, instead of receiving retired or retainer pay under chapter 65, 741, 841, or 941 of this title, if the person—

(A) satisfies the requirements specified in paragraphs (1) and (2) of such section for entitlement to retired pay under this chapter;

(B) served in an active status in the Selected Reserve of the Ready Reserve after becoming eligible for retirement under chapter 65, 741, 841, or 941 of this title (without regard to whether the person actually retired or received retired or retainer pay under one of those chapters); and

(C) completed not less than two years of satisfactory service (as determined by the Secretary concerned) in such active status (excluding any period of active service).

(2) The Secretary concerned may reduce the minimum two-year service requirement specified in paragraph (1)(C) in the case of a person who—

(A) completed at least one year of service in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general; and

(B) failed to complete the minimum years of service solely because the appointment of the person to such position was terminated or vacated as described in section 324(b) of title 32.

(b) ACTIONS TO EFFECTUATE ELECTION.—As of the effective date of an election made by a person under subsection (a), the Secretary concerned shall—

(1) terminate the eligibility of the person to retire under chapter 65, 741, 841, or 941 of this title, if the person is not already retired under one of those chapters, and terminate entitlement of the person to retired or retainer pay under one of those chapters, if the person was already receiving retired or retainer pay under one of those chapters; and

(2) in the case of a reserve commissioned officer, transfer the officer to the Retired Reserve.

(c) TIME AND FORM OF ELECTION.—An election under subsection (a) shall be made within such time and in such form as the Secretary concerned requires.

(d) EFFECTIVE DATE OF ELECTION.—An election made by a person under subsection (a) shall be effective—

(1) except as provided in paragraph (2)(B), as of the date on which the person attains the eligibility age applicable to the person under section 12731(f) of this title, if the Secretary concerned receives the election in accordance with this section within 180 days after that date; or

(2) on the first day of the first month that begins after the date on which the Secretary concerned

receives the election in accordance with this section, if—

(A) the date of the receipt of the election is more than 180 days after the date on which the person attains the eligibility age applicable to the person under such section; or

(B) the person retires from service in an active status within that 180-day period.

(Added Pub. L. 106–398, §1 [[div. A], title VI, §653(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–164; amended Pub. L. 107–107, div. A, title X, §1048(a)(31), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 109–364, div. A, title X, §1071(a)(41), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–84, div. A, title VI, §643(a)–(c), (e)(1), Oct. 28, 2009, 123 Stat. 2366, 2367; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

## EDITORIAL NOTES

### AMENDMENTS

**2018**—Subsec. (a)(1). Pub. L. 115–232 substituted "chapter 65, 741, 841, or 941" for "chapter 65, 367, 571, or 867" in introductory provisions and in subpar. (B).

Subsec. (b)(1). Pub. L. 115–232 substituted "chapter 65, 741, 841, or 941" for "chapter 65, 367, 571, or 867".

**2009**—Pub. L. 111–84, §643(e)(1), substituted "Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement" for "Retirement from active reserve service performed after regular retirement" in section catchline.

Subsec. (a). Pub. L. 111–84, §643(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(a) ELECTION OF RESERVE RETIRED PAY.—A person who, after becoming entitled to retired or retainer pay under chapter 65, 367, 571, or 867 of this title, serves in an active status in a reserve component is entitled to retired pay under this chapter if—

"(1) the person would, but for paragraphs (3) and (4) of section 12731(a) of this title, otherwise be entitled to retired pay under this chapter;

"(2) the person elects under this section to receive retired pay under this chapter; and

"(3) the person's service in an active status after having become entitled to retired or retainer pay under that chapter is determined by the Secretary concerned to have been satisfactory."

Subsec. (b)(1). Pub. L. 111–84, §643(b), added par. (1) and struck out former par. (1) which read as follows: "terminate the person's entitlement to retired or retainer pay under the applicable chapter of this title referred to in subsection (a); and".

Subsec. (d)(1). Pub. L. 111–84, §643(c)(1), substituted "attains the eligibility age applicable to the person under section 12731(f) of this title" for "attains 60 years of age".

Subsec. (d)(2)(A). Pub. L. 111–84, §643(c)(2), substituted "attains the eligibility age applicable to the person under such section" for "attains 60 years of age".

**2006**—Subsecs. (c), (d). Pub. L. 109–364 substituted "subsection (a)" for "subsection (b)".

**2001**—Subsec. (a)(2). Pub. L. 107–107 substituted "receive" for "received".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VI, §653(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–165, provided that: "Section 12741 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply with respect to retired pay payable for months beginning on or after that effective date."

# CHAPTER 1225—RETIRED GRADE

Sec.
12771. Reserve officers: grade on transfer to Retired Reserve.
12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
12773. Limitation on accrual of increased pay or benefits.
12774. Retired lists.

## §12771. Reserve officers: grade on transfer to Retired Reserve

(a) GRADE ON TRANSFER.—Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370a of this title, in the armed force in which he is serving on the date of transfer.

(b) EFFECT OF SUBSEQUENT RECALL TO ACTIVE STATUS.—(1) If a member of the Retired Reserve who is a commissioned officer is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to an adjustment in the retired grade of the member in the manner provided in section 1370a of this title.

(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

(B) completes at least one year of service in such position; and

(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.

(Added Pub. L. 103–337, div. A, title XVI, §1662(k)(1), Oct. 5, 1994, 108 Stat. 3005; amended Pub. L. 111–84, div. A, title VI, §642(b), Oct. 28, 2009, 123 Stat. 2365; Pub. L. 116–283, div. A, title V, §508(b)(5), Jan. 1, 2021, 134 Stat. 3585.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1374(b), (f) of this title, prior to repeal by Pub. L. 103–337, §1662(k)(2).

### AMENDMENTS

**2021**—Subsec. (a). Pub. L. 116–283, §508(b)(5)(A), substituted "section 1370a of this title" for "section 1370(d)".

Subsec. (b)(1). Pub. L. 116–283, §508(b)(5)(B), substituted "section 1370a" for "section 1370(d)".

**2009**—Pub. L. 111–84 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

(Added Pub. L. 103–337, div. A, title XVI, §1662(k)(1), Oct. 5, 1994, 108 Stat. 3005.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1374(e) of this title, prior to repeal by Pub. L. 103–337, §1662(k)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12773. Limitation on accrual of increased pay or benefits

Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1662(k)(1), Oct. 5, 1994, 108 Stat. 3005.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1374(d) of this title, prior to repeal by Pub. L. 103–337, §1662(k)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §12774. Retired lists

(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Navy Reserve and the Marine Corps Reserve entitled to retired pay.

(Added Pub. L. 103–337, div. A, title XVI, §1662(k)(1), Oct. 5, 1994, 108 Stat. 3006; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(NN), Jan. 6, 2006, 119 Stat. 3234.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 1376(a) and 6017 of this title, prior to

repeal by Pub. L. 103–337, §1662(k)(2), (3)(A)(i).

**AMENDMENTS**

**2006**—Subsec. (b). Pub. L. 109–163 substituted "the Navy Reserve" for "the Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST


| Chap. | | Sec. |
|---|---|---|
| **1401.** | **Applicability and Reserve Active-Status Lists** | **14001** |
| **1403.** | **Selection Boards** | **14101** |
| **1405.** | **Promotions** | **14301** |
| **1407.** | **Failure of Selection for Promotion and Involuntary Separation** | **14501** |
| **1409.** | **Continuation of Officers on the Reserve Active-Status List and Selective Early Removal** | **14701** |
| **1411.** | **Additional Provisions Relating to Involuntary Separation** | **14901** |
| **1413.** | **Alternative Promotion Authority for Officers in Designated Competitive Categories** | **15101** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVII, §1701(a)(41), Dec. 18, 2025, 139 Stat. 1210, added item for chapter 1413 and struck out former item for chapter 1413 "Alternative promotion authority for officers in designated competitive categories".

**2023**—Pub. L. 118–31, div. A, title V, §514(b), Dec. 22, 2023, 137 Stat. 248, added item for chapter 1413.

## CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS


Sec.

14001. Applicability of this part.
14002. Reserve active-status lists: requirement for each armed force.
14003. Reserve active-status lists: position of officers on the list.
14004. Reserve active-status lists: eligibility for Reserve promotion.
14005. Competitive categories.
14006. Determination of years in grade.


### §14001. Applicability of this part

This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2922.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS**

Section 1682 of title XVI of div. A of Pub. L. 103–337 provided that:

"(a) PROMOTIONS TO FILL VACANCIES.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title], is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this title, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this title.

"(b) PROMOTIONS OTHER THAN TO FILL VACANCIES.—A reserve officer of the Army or Air Force who, on the day before the effective date of this title, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this title, to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this title.

"(c) OFFICERS FOUND QUALIFIED FOR PROMOTION TO FIRST LIEUTENANT.—A reserve officer of the Army or Air Force who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted to that grade on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this title.

"(d) OFFICERS ONCE FAILED OF SELECTION.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this title. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

"(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of this title, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this title, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

"(e) OFFICERS TWICE FAILED OF SELECTION.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this title.

"(f) OFFICERS WITH APPROVED PROMOTION DECLINATIONS IN EFFECT.—A reserve officer of the Army who, on the day before the effective date of this title, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the

effective date of this title, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10, United States Code (as added by this title), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

"(g) COVERED OFFICERS.—This section applies to reserve officers of the Army and Air Force who—

"(1) on the day before the effective date of this title are in an active status; and

"(2) on the effective date of this title are subject to placement on the reserve active-status list of the Army or the Air Force."

**EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS**

Section 1683 of title XVI of div. A of Pub. L. 103–337 provided that:

"(a) RECOMMENDATIONS FOR PROMOTION.—An officer covered by this section who, on the day before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title], has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this title.

"(b) FAILURES OF SELECTION.—An officer covered by this section who, on the day before the effective date of this title is considered to have failed of selection for promotion one or more times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this title, as if such failure or failures had occurred under the provisions of those chapters.

"(c) OFFICERS OTHER THAN COVERED OFFICERS RECOMMENDED FOR PROMOTION.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this title (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this title.

"(d) OFFICERS FOUND QUALIFIED FOR PROMOTION TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTENANT.—A covered officer who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this title.

"(e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED FROM A LIST FURNISHED TO A SELECTION BOARD.—A covered officer whose name, as of the effective date of this title, had been omitted by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this title. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904 of title 10, United States Code, as in effect on the day before the effective date of this title.

"(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this title is in an active status, and (2) on the effective date of this title is subject to placement on the reserve active-status list of the Navy or Marine Corps."

## §14002. Reserve active-status lists: requirement for each armed force

(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The

Secretary of the Navy shall maintain separate lists for the Navy Reserve and the Marine Corps Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2922; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(OO), Jan. 6, 2006, 119 Stat. 3234.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (b). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST

Pub. L. 103–337, div. A, title XVI, §1686, Oct. 5, 1994, 108 Stat. 3024, provided that:

"(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title], the Secretary of the military department concerned shall ensure that—

"(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this title, shall be placed on the list for their armed force and in their competitive category; and

"(2) the relative seniority of those officers on each such list shall be established.

"(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this title, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this title. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this title."

### PRESERVATION OF RELATIVE SENIORITY UNDER INITIAL ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST

Pub. L. 103–337, div. A, title XVI, §1687, Oct. 5, 1994, 108 Stat. 3025, provided that: "In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 1686 [set out above], the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title], adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date."

## §14003. Reserve active-status lists: position of officers on the list

(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923; amended Pub. L.

104–106, div. A, title XV, §1501(b)(22), Feb. 10, 1996, 110 Stat. 497.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Pub. L. 104–106 inserted "lists" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14004. Reserve active-status lists: eligibility for Reserve promotion

Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14005. Competitive categories

Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14006. Determination of years in grade

For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1403—SELECTION BOARDS

Sec.
14101. Convening of selection boards.
14102. Selection boards: appointment and composition.
14103. Oath of members.
14104. Nondisclosure of board proceedings.
14105. Notice of convening of promotion board.
14106. Communication with board by officers under consideration.
14107. Information furnished by the Secretary concerned to promotion boards.
14108. Recommendations by promotion boards.
14109. Reports of promotion boards: in general.
14110. Reports of promotion boards: review by Secretary.
14111. Reports of selection boards: transmittal to President.
14112. Dissemination of names of officers selected.

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–364, div. A, title V, §547(d)(2), Oct. 17, 2006, 120 Stat. 2216, substituted "Nondisclosure" for "Confidentiality" in item 14104.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(23), Feb. 10, 1996, 110 Stat. 497, substituted "promotion" for "selection" in item 14105.

## §14101. Convening of selection boards

(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Navy Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a "promotion board".

(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall be known as a "vacancy promotion board". Any other promotion board convened under this subsection shall be known as a "mandatory promotion board".

(3) Paragraph (1) does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 14308(b)(4) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) SELECTIVE EARLY SEPARATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

(1) for selective early removal from the reserve active-status list under section 14704 of this title; or

(2) for selective early retirement under section 14705 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2924; amended Pub. L.

105–85, div. A, title V, §514(a), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107–107, div. A, title V, §505(b)(3), Dec. 28, 2001, 115 Stat. 1087; Pub. L. 108–136, div. A, title V, §511(b)(1), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 109–163, div. A, title V, §515(b)(1)(PP), Jan. 6, 2006, 119 Stat. 3234.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a)(1). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2003**—Subsec. (b). Pub. L. 108–136, §511(b)(1)(A), (D), substituted "Selective Early Separation Boards" for "Continuation Boards" in heading and struck out concluding provisions which read as follows: "A selection board convened under this subsection shall be known as a 'continuation board'."

Subsec. (b)(1) to (3). Pub. L. 108–136, §511(b)(1)(B), (C), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "for continuation on the reserve active-status list under section 14701 of this title;".

**2001**—Subsec. (a)(3). Pub. L. 107–107 added par. (3).

**1997**—Subsec. (a)(2). Pub. L. 105–85 struck out "(except in the case of a board convened to consider officers as provided in section 14301(e) of this title)" before "be known as a 'vacancy promotion board'."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14102. Selection boards: appointment and composition

(a) APPOINTMENT.—Members of selection boards convened under section 14101 of this title shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Selection boards convened under section 14101(b) of this title shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title

for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2924; amended Pub. L. 108–136, div. A, title V, §511(b)(2), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 116–283, div. A, title V, §503(b), Jan. 1, 2021, 134 Stat. 3565.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3362(b), (c), 5893(a), (b), and 8362(b), (c) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

**AMENDMENTS**

**2021**—Subsec. (b). Pub. L. 116–283 inserted at end: "The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable."

**2003**—Subsec. (a). Pub. L. 108–136 substituted "Selection boards convened under section 14101(b) of this title" for "Continuation boards".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14103. Oath of members

Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3362(d), 5894, and 8362(d) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14104. Nondisclosure of board proceedings

(a) PROHIBITION ON DISCLOSURE.—The proceedings of a selection board convened under section 14101 or 14502 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.

(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, NOTES, AND RECORDS.—The discussions and deliberations of a selection board described in subsection (a) and

any written or documentary record of such discussions and deliberations—

(1) are immune from legal process;

(2) may not be admitted as evidence; and

(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.

(c) APPLICABILITY.—This section applies to all selection boards convened under section 14101 or 14502 of this title, regardless of the date on which the board was convened.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925; amended Pub. L. 109–364, div. A, title V, §547(b), Oct. 17, 2006, 120 Stat. 2216; Pub. L. 111–383, div. A, title V, §503(c), Jan. 7, 2011, 124 Stat. 4208.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5898(e) of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2011**—Subsec. (a). Pub. L. 111–383, §503(c)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board."

Subsec. (b). Pub. L. 111–383, §503(c)(2), substituted "Notes, and Records" for "and Records" in heading.

Subsec. (c). Pub. L. 111–383, §503(c)(3), added subsec. (c).

**2006**—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, text read as follows: "Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

This section, as amended by Pub. L. 109–364, applicable with respect to the proceedings of all selection boards convened under section 14101 of this title, including selection boards convened before Oct. 17, 2006, see section 547(c) of Pub. L. 109–364, set out as an Effective Date note under section 613a of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14105. Notice of convening of promotion board

(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14106. Communication with board by officers under consideration

Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so as to arrive not later than 10 calendar days before the date on which the board convenes. The board shall give consideration to any timely communication under this section.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925; amended Pub. L. 109–163, div. A, title V, §505(b), Jan. 6, 2006, 119 Stat. 3227; Pub. L. 115–91, div. A, title V, §501(b), Dec. 12, 2017, 131 Stat. 1373.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(f), 5900, and 8362(f) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

### AMENDMENTS

**2017**—Pub. L. 115–91 substituted "10 calendar days" for "the day".
**2006**—Pub. L. 109–163 inserted "the day before" after "not later than".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 applicable with respect to promotion selection boards convened on or after Dec. 12, 2017, see section 501(c) of Pub. L. 115–91, set out as a note under section 614 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 effective Mar. 1, 2006, and applicable with respect to selection boards convened on or after that date, see section 505(c) of Pub. L. 109–163, set out as a note under section 614 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14107. Information furnished by the Secretary concerned to promotion boards

(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

(3)(A) In the case of an eligible officer considered for promotion to a grade above lieutenant colonel, or, in the case of the Navy, commander, any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

(B) The standards and procedures referred to in subparagraph (A) shall require the furnishing to the selection board, and to each individual member of the board, the information described in that subparagraph with regard to an officer in a grade specified in that subparagraph at each stage or phase of the selection board, concurrent with the screening, rating, assessment, evaluation, discussion, or other consideration by the board or member of the official military personnel file of the officer, or of the officer.

(C) With respect to the consideration of an officer for promotion to a grade at or below major general or, in the Navy, rear admiral, the requirements in subparagraphs (A) and (B) may be met through the convening and actions of a special selection board with respect to the officer under section 14502a of this title.

(4) Information provided to a promotion board in accordance with paragraphs (2) and (3) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

(5) Paragraphs (2), (3), and (4) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

(6) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2), or in paragraph (3), may not be furnished to a later promotion board unless—

(A) the information has been properly placed in the official military personnel file of the officer concerned; or

(B) the information is provided to the later selection board in accordance with paragraph (2) or (3), as applicable.

(7)(A) Before information described in paragraph (2)(B) or (3) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

(i) that such information is made available to such officer; and

(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an

appropriate summary of the information.

(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Navy Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2926; amended Pub. L. 109–163, div. A, title V, §§506(b), 515(b)(1)(QQ), Jan. 6, 2006, 119 Stat. 3227, 3234; Pub. L. 116–283, div. A, title V, §505(d), Jan. 1, 2021, 134 Stat. 3573.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (b) of this section were contained in section 5895 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2021**—Subsec. (a)(3)(A). Pub. L. 116–283, §505(d)(2), which directed amendment of subpar. (A) by substituting "lieutenant colonel, or, in the case of the Navy, commander" for "colonel, or, in the case of the Navy, captain", was executed by making the substitution for "colonel or, in the case of the Navy, captain" to reflect the probable intent of Congress.

Pub. L. 116–283, §505(d)(1), designated existing provisions of par. (3) as subpar. (A).

Subsec. (a)(3)(B), (C). Pub. L. 116–283, §505(d)(3), added subpars. (B) and (C).

**2006**—Subsec. (a)(3). Pub. L. 109–163, §506(b)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 109–163, §506(b)(1)(A), (2)(A), redesignated par. (3) as (4) and substituted "paragraphs (2) and (3)" for "paragraph (2)". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109–163, §506(b)(1)(A), (2)(B), redesignated par. (4) as (5) and substituted ", (3), and (4)" for "and (3)". Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 109–163, §506(b)(1)(A), (2)(C)(i), redesignated par. (5) as (6) and inserted ", or in paragraph (3)," after "paragraph (2)" in introductory provisions. Former par. (6) redesignated (7).
Subsec. (a)(6)(B). Pub. L. 109–163, §506(b)(2)(C)(ii), inserted "or (3), as applicable" after "paragraph (2)".
Subsec. (a)(7). Pub. L. 109–163, §506(b)(1)(A), redesignated par. (6) as (7).
Subsec. (a)(7)(A). Pub. L. 109–163, §506(b)(2)(D), inserted "or (3)" after "paragraph (2)(B)".
Subsec. (d). Pub. L. 109–163, §515(b)(1)(QQ), substituted "Navy Reserve" for "Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by section 506(b) of Pub. L. 109–163 effective Oct. 1, 2006, and applicable with respect to promotion selection boards convened on or after that date, see section 506(c) of Pub. L. 109–163, set out as a note under section 615 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14108. Recommendations by promotion boards

(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under section 14107 of this title).

(b) ACTIONS REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 14107 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable.

(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

(f) HIGHER PLACEMENT OF OFFICERS OF PARTICULAR MERIT ON PROMOTION LIST .—(1) In selecting officers to be recommended for promotion, a promotion board may, when authorized by the Secretary concerned, recommend that officers of particular merit, from among those officers selected for promotion, be placed higher on the promotion list established by the Secretary under section 14308(a) of this title.

(2) A promotion board may make a recommendation under paragraph (1) only if an officer receives the recommendation of—

(A) a majority of the members of the promotion board; or

(B) an alternative requirement established by the Secretary concerned and furnished to the promotion board as part of the guidelines under section 14107 of this title.

(3) For officers who receive recommendations under paragraph (1), the board shall recommend the order in which those officers should be placed on the promotion list.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 109–364, div. A, title V, §512(b), Oct. 17, 2006, 120 Stat. 2184; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–92, div. A, title V, §510(a), Dec. 20, 2019, 133 Stat. 1347.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(e), 5893(c), 5896, and 8362(e) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

### AMENDMENTS

**2019**—Subsec. (f). Pub. L. 116–92 added subsec. (f).

**2018**—Subsec. (b)(3). Pub. L. 115–232 substituted "section 7233, 8167, or 9233" for "section 3583, 5947, or 8583".

**2006**—Subsec. (b). Pub. L. 109–364, §512(b)(1), substituted "Actions" for "Majority" in heading.

Subsec. (b)(3). Pub. L. 109–364, §512(b)(2)–(4), added par. (3).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Oct. 17, 2006, and applicable with respect to selection boards convened on or after that date, see section 512(c) of Pub. L. 109–364, set out as a note under section 616 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14109. Reports of promotion boards: in general

(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.

(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

(d) REPORT OF OFFICERS RECOMMENDED FOR HIGHER PLACEMENT ON PROMOTION LIST.—A promotion board convened under section 14101(a) of this title shall, when authorized under section 14108(f) of this title, include in its report to the Secretary concerned—

(1) the names of those officers the promotion board recommends be placed higher on the promotion list; and

(2) the order in which the promotion board recommends those officers should be placed on the promotion list.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 116–92, div. A, title V, §510(b), Dec. 20, 2019, 133 Stat. 1347.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 5897 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2019**—Subsec. (d). Pub. L. 116–92 added subsec. (d).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14110. Reports of promotion boards: review by Secretary

(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines

furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5898(a) of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14111. Reports of selection boards: transmittal to President

(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

(b) REMOVAL OF NAME FROM BOARD REPORT.—(1) Except as provided in paragraph (2), the name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

(2) In the case of an officer recommended by a selection board for promotion to a grade below brigadier general or rear admiral (lower half), the name of the officer may also be removed from the report of the selection board by the Secretary of Defense or the Deputy Secretary of Defense.

(3) The Secretary of Defense shall notify the congressional defense committees of the removal of the name of an officer from the report of a selection board by the President or the Secretary or Deputy Secretary of Defense under paragraph (1) or paragraph (2), respectively, for any reason other than misconduct—

(A) not later than 30 days after the name of an officer is removed; and

(B) prior to submission to the Senate of a promotion list with respect to such report pursuant to section 12203 of this title.

(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT .—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and

the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929; amended Pub. L. 109–364, div. A, title V, §513(b), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 119–60, div. A, title V, §503(b), Dec. 18, 2025, 139 Stat. 855.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 5898(b) and (c) of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2025**—Subsec. (b)(3). Pub. L. 119–60 added par. (3).

**2006**—Subsec. (b). Pub. L. 109–364 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the" for "The", and added par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 applicable with respect to selection boards convened on or after Oct. 17, 2006, see section 513(c) of Pub. L. 109–364, set out as a note under section 618 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### EXECUTIVE DOCUMENTS

### DELEGATION OF FUNCTIONS

For assignment of functions of President under first sentence of subsec. (a) of this section, see section 1(c) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, and section 1(a) of Ex. Ord. No. 13598, Jan. 27, 2012, 77 F.R. 5371, set out as notes under section 301 of Title 3, The President.

## §14112. Dissemination of names of officers selected

(a) TIME FOR DISSEMINATION.—The names of the officers recommended for promotion in the report of a selection board shall be disseminated to the armed force concerned as follows:

(1) In the case of officers recommended for promotion to a grade below brigadier general or rear admiral (lower half), such names may be disseminated upon, or at any time after, the transmittal of the report to the President.

(2) In the case of officers recommended for promotion to a grade above colonel or, in the case of the Navy, captain, such names may be disseminated upon, or at any time after, the approval of the report by the President.

(3) In the case of officers whose names have not been sooner disseminated, such names shall be promptly disseminated—

(A) upon confirmation of the promotion of the officers by the Senate (in the case of promotions required to be submitted to the Senate for confirmation); or

(B) upon the approval of the report by the President (in the case of promotions not required to be submitted to the Senate for confirmation).

(b) NAMES NOT DISSEMINATED.—A list of names of officers disseminated under subsection (a) may not include—

(1) any name removed by the President from the report of the selection board containing that name, if dissemination is under the authority of paragraph (2) or (3)(B) of that subsection; or

(2) the name of any officer whose promotion the Senate failed to confirm, if dissemination is under the authority of paragraph (3)(A) of that subsection.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2930; amended Pub. L. 106–398, §1 [[div. A], title V, §503(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–101.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5898(d) of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2000**—Pub. L. 106–398 amended text generally. Prior to amendment, text read as follows: "Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## CHAPTER 1405—PROMOTIONS

Sec.
14301. Eligibility for consideration for promotion: general rules.
14302. Promotion zones.
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**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163, div. A, title V, §515(b)(4)(I), Jan. 6, 2006, 119 Stat. 3235, substituted "Navy Reserve" for "Naval Reserve" in item 14306.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(24), Feb. 10, 1996, 110 Stat. 497, substituted "Number" for "Numbers" in item 14307, a semicolon for a colon in item 14309, and "State" for "state" in item 14314.

## §14301. Eligibility for consideration for promotion: general rules

(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

(c) CERTAIN OFFICERS NOT TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under a provision referred to in paragraph (1), in the case of such a report that has not yet been approved by the President.

(3) An officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to that grade as a reserve of the Army or of the Air Force as the case may be, if that nomination is pending before the Senate.

(4) An officer who has been nominated by the President for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(5) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 14308(b)(4) of this title.

(6) An officer excluded under subsection (j).

(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion.

(e) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel,

colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

(f) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, preclude from consideration by a selection board by which an officer would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened or an approved retirement date.

(g) BRIGADIER GENERALS.—(1) An officer who is a reserve component brigadier general of the Army or the Air Force who is not eligible for consideration for promotion under subsection (a) because the officer is not on the reserve active status list (as required by paragraph (1) of that subsection for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than one year; and

(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list) for at least one year.

(2) An officer who is a reserve component brigadier general of the Army or the Air Force who is on the reserve active status list but who is not eligible for consideration for promotion under subsection (a) because the officer's service does not meet the one-year-of-continuous-service requirement under paragraph (2) of that subsection is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

(A) the officer was transferred from an inactive status to the reserve active status list during the one-year period preceding the date of the convening of the promotion board;

(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list).

(h) OFFICERS ON EDUCATIONAL DELAY.—An officer on the reserve active-status list is ineligible for consideration for promotion, but shall remain on the reserve active-status list, while the officer—

(1) is pursuing a program of graduate level education in an educational delay status approved by the Secretary concerned; and

(2) is receiving from the Secretary financial assistance in connection with the pursuit of that program of education while in that status.

(i) RESERVE OFFICERS EMPLOYED AS MILITARY TECHNICIAN (DUAL STATUS).—A reserve officer of the Army or Air Force employed as a military technician (dual status) under section 10216 of this title who has been retained beyond the mandatory removal date for years of service pursuant to subsection (f) of such section or section 14702(a)(2) of this title is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

(j) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—(1) The Secretary of a military department may provide that an officer under the jurisdiction of the Secretary may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 14101(a) of this title to consider officers for promotion to the next higher grade.

(2) The Secretary concerned may only approve a request under paragraph (1) if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Department, training, or a career progression requirement delayed by the assignment, education, or training;

(B) the Secretary determines the exclusion from consideration is in the best interest of the military department concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests the exclusion from consideration.

(k) CERTAIN OFFICERS NOT TO BE CONSIDERED FOR SELECTION FOR PROMOTION .—The Secretary of the military department concerned may provide that an officer who is in an active status, but is in a duty status in which the only points the officer accrues under section 12732(a)(2) of this title are pursuant to subparagraph (C)(i) of that section (relating to membership in a reserve component), shall not be considered for selection for promotion until completion of two years of service in such duty status. Any such officer may remain on the reserve active-status list.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2931; amended Pub. L. 105–85, div. A, title V, §§503(b), (c), 514(b), Nov. 18, 1997, 111 Stat. 1724, 1725, 1732; Pub. L. 105–261, div. A, title V, §514, Oct. 17, 1998, 112 Stat. 2008; Pub. L. 106–65, div. A, title V, §513(a), title X, §1066(a)(32), Oct. 5, 1999, 113 Stat. 593, 772; Pub. L. 107–107, div. A, title V, §505(c)(1)(B), Dec. 28, 2001, 115 Stat. 1087; Pub. L. 107–314, div. A, title V, §521, Dec. 2, 2002, 116 Stat. 2540; Pub. L. 112–81, div. A, title V, §517, Dec. 31, 2011, 125 Stat. 1397; Pub. L. 115–232, div. A, title V, §§505(b), 513, Aug. 13, 2018, 132 Stat. 1743, 1752; Pub. L. 118–159, div. A, title V, §§503(c), 505(a)(2), Dec. 23, 2024, 138 Stat. 1868, 1869.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (f). Pub. L. 118–159, §503(c), amended subsec. (f) generally. Prior to amendment, text read as follows: "The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened."

Subsec. (j)(2)(A). Pub. L. 118–159, §505(a)(2), inserted "training," after "Department," and substituted "assignment, education, or training" for "assignment or education".

**2018**—Subsec. (c). Pub. L. 115–232, §505(b)(1)(A), substituted "Certain Officers Not" for "Previously Selected Officers Not Eligible" in heading.

Subsec. (c)(6). Pub. L. 115–232, §505(b)(1)(B), added par. (6).

Subsec. (j). Pub. L. 115–232, §505(b)(2), added subsec. (j).

Subsec. (k). Pub. L. 115–232, §513, added subsec. (k).

**2011**—Subsec. (i). Pub. L. 112–81 added subsec. (i).

**2002**—Subsec. (g). Pub. L. 107–314 amended subsec. (g) generally. Prior to amendment, text read as follows: "A reserve component brigadier general of the Army or the Air Force who is in an inactive status is eligible (notwithstanding subsection (a)) for consideration for promotion to major general by a promotion board convened under section 14101(a) of this title if the officer—

"(1) has been in an inactive status for less than one year as of the date of the convening of the promotion board; and

"(2) had continuously served for at least one year on the reserve active status list or the active duty list (or a combination of both) immediately before the officer's most recent transfer to an inactive status."

**2001**—Subsec. (c)(5). Pub. L. 107–107 added par. (5).

**1999**—Subsec. (g)(1), (2). Pub. L. 106–65, §1066(a)(32), substituted "one year" for "1 year".

Subsec. (h). Pub. L. 106–65, §513(a), added subsec. (h).

**1998**—Subsec. (g). Pub. L. 105–261 added subsec. (g).

**1997**—Subsec. (c). Pub. L. 105–85, §503(b)(1), substituted "grade any of the following officers:" for "grade—" in introductory provisions.

Subsec. (c)(1). Pub. L. 105–85, §503(b)(2), (3), substituted "An officer" for "an officer" and "title." for

"title;".

Subsec. (c)(2). Pub. L. 105–85, §503(b)(6), added par. (2). Former par. (2) redesignated (3).

Pub. L. 105–85, §503(b)(2), (4), substituted "An officer" for "an officer" and "be." for "be; or".

Subsec. (c)(3). Pub. L. 105–85, §503(c), inserted ", if that nomination is pending before the Senate" before period at end.

Pub. L. 105–85, §503(b)(5), redesignated par. (2) as (3) and substituted "that grade" for "the next higher grade". Former par. (3) redesignated (4).

Pub. L. 105–85, §503(b)(2), substituted "An officer" for "an officer".

Subsec. (c)(4). Pub. L. 105–85, §503(c), inserted ", if that nomination is pending before the Senate" before period at end.

Pub. L. 105–85, §503(b)(5), redesignated par. (3) as (4) and substituted "that grade" for "the next higher grade".

Subsecs. (e) to (g). Pub. L. 105–85, §514(b), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows:

"(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title V, §513(b), Oct. 5, 1999, 113 Stat. 593, provided that:

"(1) Subsection (h) of section 14301 of title 10, United States Code (as added by subsection (a)), shall apply with respect to boards convened under section 14101(a) of such title before, on, or after the date of the enactment of this Act [Oct. 5, 1999].

"(2) The Secretary of the military department concerned, upon receipt of request submitted in a form and manner prescribed by the Secretary, shall expunge from the military records of an officer any indication of a failure of selection of the officer for promotion by a board referred to in paragraph (1) while the officer was ineligible for consideration by that board by reason of section 14301(h) of title 10, United States Code."

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 503(b), (c) of Pub. L. 105–85 effective Nov. 18, 1997, and applicable with respect to selection boards that are convened under section 611(a), 14101(a), or 14502 of this title on or after Nov. 18, 1997, see section 503(d) of Pub. L. 105–85, set out as a note under section 619 of this title.

#### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14302. Promotion zones

(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Navy Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the

Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

(3) Those officers who—

(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

(B) have not failed of selection for promotion to that next higher grade; and

(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

(1) are eligible for consideration for promotion to the next higher grade;

(2) are in the same grade as those officers in the promotion zone for that competitive category; and

(3) are senior to the senior officer in the promotion zone for that competitive category.

(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

(1) are eligible for consideration for promotion to the next higher grade;

(2) are in the same grade as those officers in the promotion zone for that competitive category; and

(3) are junior to the junior officer in the promotion zone for that competitive category.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2932; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(RR), Jan. 6, 2006, 119 Stat. 3234.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (a)(1)(A). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14303. Eligibility for consideration for promotion: minimum years of service in grade

(a) OFFICERS IN PAY GRADES O–1 AND O–2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

(b) OFFICERS IN PAY GRADES O–3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2933.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14304. Eligibility for consideration for promotion: maximum years of service in grade

(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

| Current Grade | Maximum years of service in grade |
|---|---|

| | |
|---|---|
| First lieutenant or Lieutenant (junior grade) | 5 years |
| Captain or Navy Lieutenant | 7 years |
| Major or Lieutenant commander | 7 years |

(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM .—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2934.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION**

Pub. L. 103–337, div. A, title XVI, §1685, Oct. 5, 1994, 108 Stat. 3024, provided that during the five-year period beginning on Oct. 1, 1996, the Secretary of the Army and the Secretary of the Air Force could waive the provisions of this section and during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of this title.

## §14305. Establishment of promotion zones: mandatory consideration for promotion

(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers

in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2935.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system

(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2935; amended Pub. L. 109–163, div. A, title V, §515(b)(3)(J), Jan. 6, 2006, 119 Stat. 3235.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (b) of this section were contained in section 5899 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2006**—Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve" in section catchline.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14307. Number of officers to be recommended for promotion

(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 14101(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2936.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5901 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14308. Promotions: how made

(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list or based on particular merit, as determined by the promotion board. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.

(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

(4)(A) Officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned. Such promotions shall be in the manner specified in section 12203 of this title.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter and chapter 1403 of this title.

(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the reserve active-status list in a grade who the Secretary of the military department concerned determines—

(i) are fully qualified for promotion to the next higher grade; and

(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title upon the convening of such a board.

(E) If the Secretary of the military department concerned determines that one or more officers or former officers were not placed on an all-fully-qualified-list under this paragraph because of administrative error, the Secretary may prepare a supplemental all-fully-qualified-officers list containing the names of any such officers for approval in accordance with this paragraph.

(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

(2) The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, subparagraph (C)(ii) of such section shall be applied by substituting "reserve active-status list" for "active-duty list".

(3) The Secretary concerned may adjust the date of rank of an officer whose name is placed on a

reserve active-status promotion list pursuant to subsection (e) or (f) of section 624 of this title.

(4) Except as provided in paragraph (2) or as otherwise specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES .—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

(2) an officer in a grade below colonel in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—(1) The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

(2) If there is a delay in extending Federal recognition in the next higher grade in the Army National Guard or the Air National Guard to a reserve commissioned officer of the Army or the Air Force that exceeds 100 days from the date the National Guard Bureau deems such officer's application for Federal recognition to be completely submitted by the State and ready for review at the National Guard Bureau, and the delay was not attributable to the action or inaction of such officer—

(A) in the event of State promotion with an effective date before January 1, 2024, the effective date of the promotion concerned under paragraph (1) may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion; and

(B) in the event of State promotion with an effective date on or after January 1, 2024, the effective date of the promotion concerned under paragraph (1) shall be adjusted by the Secretary concerned to the later of—

(i) the date the National Guard Bureau deems such officer's application for Federal recognition to be completely submitted by the State and ready for review at the National Guard Bureau; and

(ii) the date on which the officer occupies a billet in the next higher grade.

(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army or the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Army Reserve or the Air Force Reserve, as the case may be, in that grade.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2937; amended Pub. L. 105–85, div. A, title V, §514(c), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107–107, div. A, title V, §§505(b)(1), 506(b), Dec. 28, 2001, 115 Stat. 1086, 1089; Pub. L. 109–364, div. A, title V, §511(d)(2), Oct. 17, 2006, 120 Stat. 2183; Pub. L. 114–92, div. A, title V, §502(b), Nov. 25, 2015, 129 Stat. 806; Pub. L. 115–232, div. A, title V, §518(a), Aug. 13, 2018, 132 Stat. 1754; Pub. L.

116–92, div. A, title V, §510(c), Dec. 20, 2019, 133 Stat. 1347; Pub. L. 117–263, div. A, title V, §513, Dec. 23, 2022, 136 Stat. 2565; Pub. L. 118–31, div. A, title V, §503(b)(2), Dec. 22, 2023, 137 Stat. 241.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsecs. (a), (d), and (f) of this section were contained in sections 3385, 5902(a) to (c), and 8374 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

### AMENDMENTS

**2023**—Subsec. (c)(3), (4). Pub. L. 118–31 added par. (3) and redesignated former par. (3) as (4).

**2022**—Subsec. (f)(2). Pub. L. 117–263 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "If the Secretary concerned determines that there was an undue delay in extending Federal recognition in the next higher grade in the Army National Guard or the Air National Guard to a reserve commissioned officer of the Army or the Air Force, and the delay was not attributable to the action (or inaction) of such officer, the effective date of the promotion concerned under paragraph (1) may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion."

**2019**—Subsec. (a). Pub. L. 116–92 inserted "or based on particular merit, as determined by the promotion board" after "reserve active-status list".

**2018**—Subsec. (f)(1). Pub. L. 115–232, §518(a)(1), which directed amendment of subsec. (f) by inserting "(1)" before "The effective date of promotion", was executed by making the insertion before "The effective date of a promotion" to reflect the probable intent of Congress.

Subsec. (f)(2). Pub. L. 115–232, §518(a)(2), added par. (2).

**2015**—Subsec. (b)(4)(E). Pub. L. 114–92 added subpar. (E).

**2006**—Subsec. (a). Pub. L. 109–364 inserted at end "A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence."

**2001**—Subsec. (b)(4). Pub. L. 107–107, §505(b)(1), added par. (4).

Subsec. (c)(2). Pub. L. 107–107, §506(b)(1)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 107–107, §506(b)(1)(A), (2), redesignated par. (2) as (3) and inserted "provided in paragraph (2) or as otherwise" after "Except as".

**1997**—Subsec. (e)(2). Pub. L. 105–85, §514(c)(1), inserted "a grade below colonel in" after "an officer in".

Subsec. (g). Pub. L. 105–85, §514(c)(2), inserted "or the Air Force" after "A reserve officer of the Army", substituted "in the Army Reserve or the Air Force Reserve, as the case may be, in that grade" for "in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army", and struck out at end "A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title V, §518(b), Aug. 13, 2018, 132 Stat. 1754, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 13, 2018], and shall apply with respect to promotions of officers whose State effective date is on or after that date."

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Oct. 17, 2006, and applicable with respect to officers on promotion lists established on or after such date, see section 511(e) of Pub. L. 109–364, set out as a note under section 624 of this title.

### EFFECTIVE DATE OF 2001 AMENDMENT

Subsec. (c)(2) of this section applicable with respect to any report of a selection board recommending officers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after Dec. 28, 2001, and Secretary of the military department concerned may apply subsec.

(c)(2) of this section in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before Dec. 28, 2001, if the Secretary determines that such appointment would have been made on an earlier date that is on or after Oct. 1, 2001, and was delayed under the circumstances specified in section 741(d)(4) of this title, see section 506(c) of Pub. L. 107–107, set out as a note under section 741 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14309. Acceptance of promotion; oath of office

(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2938.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3394 and 8394 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (c)(1).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14310. Removal of officers from a list of officers recommended for promotion

(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

(3) In this subsection, the term "promotion eligibility period" means, with respect to an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the

advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.

(d) ADMINISTRATIVE REMOVAL.—Under regulations prescribed by the Secretary concerned, if an officer on the reserve active-status list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter or having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2938; amended Pub. L. 109–364, div. A, title V, §515(b), Oct. 17, 2006, 120 Stat. 2186; Pub. L. 110–181, div. A, title X, §1063(a)(16), Jan. 28, 2008, 122 Stat. 322; Pub. L. 111–383, div. A, title V, §504(b), title X, §1075(f)(7), Jan. 7, 2011, 124 Stat. 4208, 4376.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5905 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2011**—Subsec. (d). Pub. L. 111–383, §504(b)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 111–383, §1075(f)(7), made technical amendment to directory language of Pub. L. 110–181, §1063(a)(16). See 2008 Amendment note below.

Pub. L. 111–383, §504(b)(1), redesignated subsec. (d) as (e).

**2008**—Subsec. (d). Pub. L. 110–181, §1063(a)(16), as amended by Pub. L. 111–383, §1075(f)(7), inserted comma after "(a)".

**2006**—Subsec. (c). Pub. L. 109–364, §515(b)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–364, §515(b)(2), which directed amendment of par. (1) of subsec. (d) by substituting "(b), or (c)" for "or (b)", was executed by amending text of subsec. (d), which does not contain any pars., to reflect the probable intent of Congress.

Pub. L. 109–364, §515(b)(1)(A), redesignated subsec. (c) as (d).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 applicable to any promotion list approved by the President after Jan. 1, 2007, see section 515(c) of Pub. L. 109–364, set out as a note under section 629 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

### REMOVALS FROM PROMOTION LIST

Pub. L. 103–337, div. A, title XVI, §1684(b), Oct. 5, 1994, 108 Stat. 3024, as amended by Pub. L. 104–106, div. A, title XV, §1501(a)(9), Feb. 10, 1996, 110 Stat. 495, provided that: "An action that was initiated before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an

Effective Date note under section 10001 of this title] under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14111(c) or 14310, as appropriate, of title 10, United States Code, as added by this title."

**EXECUTIVE DOCUMENTS**

**DELEGATION OF FUNCTIONS**

For assignment of functions of President under subsec. (a) of this section, see section 1(d) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

Functions of President under subsec. (c)(2) of this section delegated to Secretary of Defense, with authority for Secretary to redelegate, see Ex. Ord. No. 13598, §§1(b), 2, Jan. 27, 2012, 77 F.R. 5371, set out as a note under section 301 of Title 3, The President.

## §14311. Delay of promotion: involuntary

(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of Defense, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

(E) Substantiated adverse information about the officer that is material to the decision to appoint the officer is under review by the Secretary of Defense or the Secretary concerned.

(F) The Secretary of the military department concerned determines that credible information of adverse nature, including a substantiated adverse finding or conclusion described in section 14107(a)(3)(A) of this title, with respect to the officer will result in the convening of a special selection review board under section 14502a of this title to review the officer and recommend whether the recommendation for promotion of the officer should be sustained.

(2) If disciplinary action is not taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, if the officer is acquitted of the charges, or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable), list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

(3) In the case of an officer whose promotion is delayed pursuant to paragraph (1)(F) and whose recommendation for promotion is sustained, authorities for the promotion of the officer are specified in section 14502a(f) of this title.

(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of Defense, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer has not met the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, or is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to the higher grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to the higher grade, the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable), the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

(3) Notwithstanding paragraphs (1) and (2), in the case of an officer whose promotion is delayed pursuant to subsection (a)(1)(F), requirements applicable to notice and opportunity for response to such delay are specified in section 14502a(c)(3) of this title.

(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

(3) The date of rank and position on the reserve active-status list of a reserve officer whose

promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2939; amended Pub. L. 107–107, div. A, title V, §505(c)(2)(B), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 109–364, div. A, title V, §511(b), Oct. 17, 2006, 120 Stat. 2182; Pub. L. 111–383, div. A, title X, §1075(g)(4), Jan. 7, 2011, 124 Stat. 4377; Pub. L. 115–232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116–283, div. A, title V, §505(b)(3), Jan. 1, 2021, 134 Stat. 3572.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3363(e), 3380(b), 5902(d), 8363(g), and 8380(b) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

### AMENDMENTS

**2021**—Subsec. (a)(1)(F). Pub. L. 116–283, §505(b)(3)(A)(i), added subpar. (F).

Subsec. (a)(3). Pub. L. 116–283, §505(b)(3)(A)(ii), added par. (3).

Subsec. (c)(3). Pub. L. 116–283, §505(b)(3)(B), added par. (3).

**2018**—Subsecs. (a)(2), (b). Pub. L. 115–232 substituted "section 7233, 8167, or 9233" for "section 3583, 5947, or 8583" in subsec. (a)(2) and in two places in subsec. (b).

**2011**—Subsec. (b). Pub. L. 111–383 made technical amendment to directory language of Pub. L. 109–364, §511(b)(3). See 2006 Amendment note below.

**2006**—Subsec. (a)(1). Pub. L. 109–364, §511(b)(1), substituted "Secretary of Defense" for "Secretary of the military department concerned" in introductory provisions.

Subsec. (a)(1)(E). Pub. L. 109–364, §511(b)(2)(A), added subpar. (E).

Subsec. (a)(2). Pub. L. 109–364, §511(b)(2)(B), struck out "or" after "show cause for retention," and inserted "or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion," after "of the charges,".

Subsec. (b). Pub. L. 109–364, §511(b)(3), as amended by Pub. L. 111–383, §1075(g)(4), inserted "has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or" before "is mentally, physically," and substituted "If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to the higher grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to the higher grade" for "If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade".

Pub. L. 109–364, §511(b)(1), substituted "Secretary of Defense" for "Secretary of the military department concerned".

**2001**—Subsec. (a)(2). Pub. L. 107–107, §505(c)(2)(B)(i), inserted "(including an approved

all-fully-qualified-officers list, if applicable)" after "on the promotion list".

Subsec. (b). Pub. L. 107–107, §505(c)(2)(B)(ii), inserted "(including an approved all-fully-qualified-officers list, if applicable)" after "on the promotion list" in second sentence.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 111–383, div. A, title X, §1075(g), Jan. 7, 2011, 124 Stat. 4376, provided that amendment by section 1075(g)(4) is effective as of Oct. 17, 2006, and as if included in Pub. L. 109–364 as enacted.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109–364 effective Oct. 17, 2006, and applicable with respect to officers on promotion lists established on or after such date, see section 511(e) of Pub. L. 109–364, set out as a note under section 624 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**DELAYS IN PROMOTIONS**

Pub. L. 103–337, div. A, title XVI, §1684(a), Oct. 5, 1994, 108 Stat. 3024, provided that:

"(1) A delay in a promotion that is in effect on the day before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title] under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this title.

"(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code, or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this title, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this title."

## §14312. Delay of promotion: voluntary

(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

(2) Regulations under this section shall provide that—

(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2941.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Navy Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2942; amended Pub. L. 109–163, div. A, title V, §515(b)(1)(SS), Jan. 6, 2006, 119 Stat. 3234.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Subsec. (b). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

(a) GENERAL OFFICERS.—(1) Except as provided in paragraph (2), within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

(A) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

(B) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

(C) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

(D) Discharge the officer from the officer's reserve appointment.

(2) For any general officer covered by paragraph (1) who is released from a joint duty assignment or other non-joint active-duty assignment, the Secretary concerned shall complete the transfer or discharge required by paragraph (1) not later than 60 days after the officer's release.

(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

(1) withdraw that officer's Federal recognition; and

(2) require that the officer—

(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

(C) be discharged from the officer's reserve appointment.

(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(1)(C) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2942; amended Pub. L. 104–201, div. A, title V, §544(c), Sept. 23, 1996, 110 Stat. 2523; Pub. L. 118–159, div. A, title V, §512, Dec. 23, 2024, 138 Stat. 1875.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3375, 8375, and 8381 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (c)(1).

### AMENDMENTS

**2024**—Subsec. (a). Pub. L. 118–159, §512(1), designated introductory provisions as par. (1) and substituted "Except as provided in paragraph (2), within" for "Within", redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and added par. (2).

Subsec. (c). Pub. L. 118–159, §512(2), substituted "subsection (a)(1)(C)" for "subsection (a)(3)".

**1996**—Subsec. (b)(2)(B). Pub. L. 104–201 struck out "of the Air Force" after "reserve officer".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14315. Position vacancy promotions: Army and Air Force officers

(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

(1) The officer is occupying or, under regulations prescribed by the Secretary concerned, has been recommended to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in the Army Reserve or is recommended for such an assignment under regulations prescribed by the Secretary of the Army, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade or is recommended for such an assignment under regulations prescribed by the Secretary of the Air Force, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2943; amended Pub. L. 104–106, div. A, title XV, §1501(b)(25), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105–85, div. A, title V, §514(d), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 106–398, §1 [[div. A], title V, §501], Oct. 30, 2000, 114 Stat. 1654, 1654A–98; Pub. L. 108–136, div. A, title V, §512(b), Nov. 24, 2003, 117 Stat. 1460.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3384 and 8373 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (c)(1).

### AMENDMENTS

**2003**—Subsec. (a)(1). Pub. L. 108–136 substituted "under regulations prescribed by the Secretary concerned, has been recommended" for "as determined by the Secretary concerned, is available".

**2000**—Subsec. (b)(1)(A). Pub. L. 106–398, §1 [[div. A], title V, §501(1)], inserted "or is recommended for such an assignment under regulations prescribed by the Secretary of the Army" after "Army Reserve".

Subsec. (b)(2)(A). Pub. L. 106–398, §1 [[div. A], title V, §501(2)], inserted "or is recommended for such an assignment under regulations prescribed by the Secretary of the Air Force" after "reserve grade".

**1997**—Subsec. (b)(1)(A). Pub. L. 105–85 substituted "duties of a general officer of the next higher reserve grade in the Army Reserve," for "duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit,".

**1996**—Subsec. (a). Pub. L. 104–106 substituted "or a reserve officer" for "or a Reserve officer" in introductory provisions.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended

Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2944.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14317. Officers in transition to and from the active-status list or active-duty list

(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

(d) OFFICERS SELECTED FOR POSITION VACANCIES.—(1) Except as provided in subsection (e), if a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14315 of this title to fill a position vacancy or examined

for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer—

(A) is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty; or

(B) has been ordered to or is serving on active duty in support of a contingency operation.

(2) If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

(e) OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—(1) A reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion—

(A) by a mandatory promotion board convened under section 14101(a) of this title or a special selection board convened under section 14502 of this title; or

(B) in the case of an officer who has been ordered to or is serving on active duty in support of a contingency operation, by a vacancy promotion board convened under section 14101(a) of this title, or by examination for Federal recognition under title 32.

(2) An officer may not be considered for promotion under this subsection after the end of the two-year period beginning on the date on which the officer is ordered to active duty.

(3) An officer may not be considered for promotion under this subsection during a period when the operation of this section has been suspended by the President under section 123(a) of this title.

(4) Consideration of an officer for promotion under this subsection shall be under regulations prescribed by the Secretary of the military department concerned.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2945; amended Pub. L. 104–106, div. A, title XV, §1501(b)(26), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105–85, div. A, title X, §1073(a)(68), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 108–136, div. A, title V, §512(a), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 110–417, [div. A], title V, §513, Oct. 14, 2008, 122 Stat. 4441.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in sections 3378, 5906, and 8378 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(1), (b)(2), (c)(1).

### AMENDMENTS

**2008**—Subsec. (d). Pub. L. 110–417, §513(a), designated first sentence as par. (1) and second sentence as par. (2) and, in par. (1), substituted "unless the officer—" for "unless the officer", inserted subpar. (A) designation before "is ordered", substituted "duty; or" for "duty.", and added subpar. (B).

Subsec. (e)(1)(B). Pub. L. 110–417, §513(b), inserted ", or by examination for Federal recognition under title 32" before period at end.

**2003**—Subsec. (d). Pub. L. 108–136, §512(a)(1), substituted "Except as provided in subsection (e), if a reserve officer" for "If a reserve officer".

Subsec. (e). Pub. L. 108–136, §512(a)(2), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 123 or 10213 of this title."

**1997**—Subsec. (d). Pub. L. 105–85 substituted "section 14315" for "section 14314".

**1996**—Subsec. (e). Pub. L. 104–106 inserted heading and substituted "123 or 10213" for "10213 or 644".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

Sec.
14501. Failure of selection for promotion.
14502. Special selection boards: correction of errors.
14502a. Special selection review boards.
14503. Discharge of officers with less than six years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).
14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy.
14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy.
14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy.
14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
14509. Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half).
14510. Separation at age 62: brigadier generals and rear admirals (lower half).
14511. Separation at age 64: officers in grade of major general or rear admiral and above.
14512. Separation at age 66: officers holding certain offices.
14513. Failure of selection for promotion: transfer, retirement, or discharge.
14514. Discharge or retirement for years of service or after selection for early removal.
14515. Discharge or retirement for age.
14516. Separation to be considered involuntary.
14517. Entitlement of officers discharged under this chapter to separation pay.
14518. Continuation of officers to complete disciplinary action.
14519. Deferment of retirement or separation for medical reasons.

### EDITORIAL NOTES

### AMENDMENTS

**2021**—Pub. L. 116–283, div. A, title V, §505(b)(2), Jan. 1, 2021, 134 Stat. 3571, added item 14502a.

**2008**—Pub. L. 110–181, div. A, title V, §503(c)(3), title XVIII, §1825(a)(2), Jan. 28, 2008, 122 Stat. 95, 502, substituted "six years" for "five years" in item 14503 and "officers in grade of major general or rear admiral and above" for "major generals and rear admirals" in item 14511.

**2006**—Pub. L. 109–364, div. A, title V, §503(f), Oct. 17, 2006, 120 Stat. 2178, struck out "reserve" before "brigadier" in item 14510 and substituted "62" for "60" in items 14509 and 14510, "64" for "62" in item 14511, and "66" for "64" in item 14512.

**2002**—Pub. L. 107–314, div. A, title V, §522(b), Dec. 2, 2002, 116 Stat. 2541, added item 14519.

**2001**—Pub. L. 107–107, div. A, title V, §517(b)(2)(B), Dec. 28, 2001, 115 Stat. 1094, substituted "Failure of selection for promotion: transfer, retirement, or discharge" for "Separation for failure of selection of promotion" in item 14513.

**1999**—Pub. L. 106–65, div. A, title V, §511(b), Oct. 5, 1999, 113 Stat. 592, added item 14518.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(27), Feb. 10, 1996, 110 Stat. 497, inserted "reserve" after "Marine Corps and" in item 14506, "reserve" after "Removal from the" in item 14507, and "in grades" after "reserve officers" in item 14509.

## §14501. Failure of selection for promotion

(a) OFFICERS BELOW THE GRADE OF COLONEL OR NAVY CAPTAIN.—An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Navy Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2946; amended Pub. L. 104–106, div. A, title XV, §1501(b)(28), Feb. 10, 1996, 110 Stat. 498; Pub. L. 109–163, div. A, title V, §515(b)(1)(TT), Jan. 6, 2006, 119 Stat. 3234.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**1996**—Subsec. (a). Pub. L. 104–106 inserted heading.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**CONTINUATION ON RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF ARMY AND AIR FORCE**

Pub. L. 103–337, div. A, title XVI, §1681, Oct. 5, 1994, 108 Stat. 3021, provided that:

"(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title]—

"(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

"(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this title.

"(b) EXEMPTION.—This section does not apply to an officer who is—

"(1) sooner transferred from an active status or discharged under some other provision of law;

"(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this title; or

"(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this title."

**MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF NAVY AND MARINE CORPS**

Pub. L. 103–337, div. A, title XVI, §1690, Oct. 5, 1994, 108 Stat. 3025, provided that:

"(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

"(1) who—

"(A) on the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title] is in an active status, and

"(B) on the day before the effective date of this title was an officer described in section 6389(e) [now 8373(e)], [former] 6397(a), [former] 6403(a), or [former] 6403(b) of title 10, United States Code; and

"(2) who, on or after the effective date of this title is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under [former] section 6397 or 6403 as applicable, as in effect on the day before the effective date of this title, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this title.

"(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve [now Navy Reserve] or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

"(c) An officer who was initially appointed in the Naval Reserve [now Navy Reserve] or the Marine Corps Reserve before the effective date of this title, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age."

## §14502. Special selection boards: correction of errors

(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a

mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a mandatory promotion board convened under section 14101(a) of this title but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

(A) the action of the mandatory promotion board that considered the officer or former officer was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or

(B) the mandatory promotion board did not have before it for its consideration material information.

(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

(3) The special selection board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the mandatory promotion board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

(c) REPORT.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

(d) APPLICABLE PROVISIONS.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board

convened under section 14101(a) of this title.

(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

(f) TIME LIMITS FOR CONSIDERATION.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2947; amended Pub. L. 107–107, div. A, title V, §505(c)(3)(B), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 109–364, div. A, title V, §514(b), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 114–92, div. A, title V, §§502(c)(2), 512, Nov. 25, 2015, 129 Stat. 807, 809.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5904 of this title, prior to repeal by Pub. L. 103–337, §1629(b)(2).

### AMENDMENTS

**2015**—Subsec. (a)(1). Pub. L. 114–92, §502(c)(2), struck out "or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error," after "administrative error,".

Subsec. (b)(1). Pub. L. 114–92, §512(1), substituted "a mandatory promotion board convened under section 14101(a) of this title" for "a selection board" in introductory provisions and "mandatory promotion board" for "selection board" in subpars. (A) and (B).

Subsec. (b)(3). Pub. L. 114–92, §512(2), in first sentence, substituted "The special selection board" for "Such board" and "mandatory promotion board" for "selection board".

**2006**—Subsec. (b)(1)(A). Pub. L. 109–364 inserted "in a matter material to the decision of the board" after "contrary to law".

**2001**—Subsec. (a)(1). Pub. L. 107–107 inserted "or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error," after "because of administrative error,".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Mar. 1, 2007, and applicable with respect to selection boards convened on or after that date, see section 514(c) of Pub. L. 109–364, set out as a note under section 628 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14502a. Special selection review boards

(a) IN GENERAL.—(1) If the Secretary of the military department concerned determines that a person recommended by a promotion board for promotion to a grade at or below the grade of major general or rear admiral in the Navy is the subject of credible information of an adverse nature, including any substantiated adverse finding or conclusion described in section 14107(a)(3)(A) of this title, that was not furnished to the promotion board during its consideration of the person for promotion as otherwise required by such section, the Secretary shall convene a special selection review board under this section to review the person and recommend whether the recommendation for promotion of the person should be sustained.

(2) If a person and the recommendation for promotion of the person is subject to review under this section by a special selection review board convened under this section, the name of the person—

(A) shall not be disseminated or publicly released on the list of officers recommended for promotion by the promotion board recommending the promotion of the person; and

(B) shall not be forwarded for appointment or nomination to the Secretary of Defense, the President, or the Senate, as applicable.

(b) CONVENING.—(1) Any special selection review board convened under this section shall be convened in accordance with the provisions of section 14502(b)(2) of this title.

(2) Any special selection review board convened under this section may review such number of persons, and recommendations for promotion of such persons, as the Secretary of the military department concerned shall specify in convening such special selection review board.

(c) INFORMATION CONSIDERED.—(1) In reviewing a person and recommending whether the recommendation for promotion of the person should be sustained under this section, a special selection review board convened under this section shall be furnished and consider the following:

(A) The record and information concerning the person furnished in accordance with section 14107(a)(2) of this title to the promotion board that recommended the person for promotion.

(B) Any credible information of an adverse nature on the person, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry described in section 14107(a)(3)(A) of this title.

(2) The furnishing of information to a special selection review board under paragraph (1)(B) shall be governed by the standards and procedures referred to in paragraph (3)(B) of section 14107(a) of this title applicable to the furnishing of information described in paragraph (3)(A) of such section to promotion boards in accordance with that section.

(3)(A) Before information on person described in paragraph (1)(B) is furnished to a special selection review board for purposes of this section, the Secretary of the military department concerned shall ensure that—

(i) such information is made available to the person; and

(ii) subject to subparagraphs (C) and (D), the person is afforded a reasonable opportunity to submit comments on such information to the special selection review board before its review of the person and the recommendation for promotion of the person under this section.

(B) If information on an officer described in paragraph (1)(B) is not made available to the person as otherwise required by subparagraph (A)(i) due to the classification status of such information, the person shall, to the maximum extent practicable, be furnished a summary of such information appropriate to the person's authorization for access to classified information.

(C)(i) An opportunity to submit comments on information is not required for a person under subparagraph (A)(ii) if—

(I) such information was made available to the person in connection with the furnishing of such information under section 14107(a) of this title to the promotion board that recommended the promotion of the person subject to review under this section; and

(II) the person submitted comments on such information to that promotion board.

(ii) The comments on information of a person described in clause (i)(II) shall be furnished to the special selection review board.

(D) A person may waive either or both of the following:

(i) The right to submit comments to a special selection review board under subparagraph (A)(ii).

(ii) The furnishing of comments to a special selection review board under subparagraph (C)(ii).

(d) CONSIDERATION.—(1) In considering the record and information on a person under this section, the special selection review board shall compare such record and information with an appropriate sampling of the records of those officers of the same competitive category who were recommended for promotion by the promotion board that recommended the person for promotion, and an appropriate sampling of the records of those officers who were considered by and not recommended for promotion by that promotion board.

(2) Records and information shall be presented to a special selection review board for purposes of paragraph (1) in a manner that does not indicate or disclose the person or persons for whom the special selection review board was convened.

(3) In considering whether the recommendation for promotion of a person should be sustained under this section, a special selection review board shall, to the greatest extent practicable, apply standards used by the promotion board that recommended the person for promotion.

(4) The recommendation for promotion of a person may be sustained under this section only if the special selection review board determines that the person—

(A) ranks in the upper half of an order of merit created by the special selection review board or

ranks on an order of merit created by the special selection review board as better qualified for promotion than the sample officer highest on the order of merit list who was considered by and not recommended for promotion by the promotion board concerned; and

(B) is comparable in qualification for promotion to those sample officers who were recommended for promotion by that promotion board.

(5) A recommendation for promotion of a person may be sustained under this section only by a vote of a majority of the members of the special selection review board.

(6) If a special selection review board does not sustain a recommendation for promotion of a person under this section, the person shall be considered to have failed of selection for promotion.

(e) REPORTS.—(1) Each special selection review board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each person whose recommendation for promotion it recommends for sustainment and certifying that the board has carefully considered the record and information of each person whose name was referred to it.

(2) The provisions of sections 14109(c), 14110, and 14111 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

(f) APPOINTMENT OF PERSONS.—(1) If the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of a person whose name was referred to it for review under this section, and the President approves the report, the person shall, as soon as practicable, be appointed to that grade in accordance with section 14308 of this title.

(2) A person who is appointed to the next higher grade as described in paragraph (1) shall, upon that appointment, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the person would have had pursuant to the original recommendation for promotion of the promotion board concerned.

(g) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly across the military departments.

(2) Any regulation prescribed by the Secretary of a military department to supplement the regulations prescribed pursuant to paragraph (1) may not take effect without the approval of the Secretary of Defense, in writing.

(h) PROMOTION BOARD DEFINED.—In this section, the term "promotion board" means a selection board convened by the Secretary of a military department under section 14101(a) of this title.

(Added Pub. L. 116–283, div. A, title V, §505(b)(1), Jan. 1, 2021, 134 Stat. 3569; amended Pub. L. 118–31, div. A, title V, §507(b), Dec. 22, 2023, 137 Stat. 242; Pub. L. 118–159, div. A, title V, §506(b), Dec. 23, 2024, 138 Stat. 1871.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (d)(4)(A). Pub. L. 118–159 inserted "ranks in the upper half of an order of merit created by the special selection review board or" before "ranks on an order of merit created by the special selection review board as better qualified".

**2023**—Subsec. (a)(2)(B). Pub. L. 118–31 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "shall not be forwarded to the Secretary of Defense, the President, or the Senate, as applicable, or included on a promotion list under section 14308(a) of this title."

## §14503. Discharge of officers with less than six years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior

**grade)**

(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

(1) has less than six years of service in an active status as a commissioned officer; or

(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

(A) may be discharged at any time after being found not qualified for promotion; and

(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

(2) Paragraph (1) shall not apply if the officer is sooner promoted.

(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2949; amended Pub. L. 110–181, div. A, title V, §503(c)(1), (2), Jan. 28, 2008, 122 Stat. 95.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in subsecs. (a) and (b) of this section were contained in sections 3819(b) and 8819(c) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(2), (c)(2).

**AMENDMENTS**

**2008**—Pub. L. 110–181, §503(c)(2), substituted "six years" for "five years" in section catchline.

Subsec. (a)(1). Pub. L. 110–181, §503(c)(1), substituted "six years" for "five years".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

**RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE**

Pub. L. 103–337, div. A, title XVI, §1689, Oct. 5, 1994, 108 Stat. 3025, provided that: "A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title] and who was subject to placement of the reserve active-status list on the effective date of this title may not be discharged under section 14503 of title 10, United States Code, as added by this title, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer."

## §14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in

accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public, or (2) as provided in section 12646 or 12686 of this title.

(c) OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) FOUND NOT FULLY QUALIFIED FOR PROMOTION.—For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps on a reserve active-status list who holds the grade of first lieutenant, and an officer of the Navy on a reserve active-status list who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 14308(b)(4) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2950; amended Pub. L. 107–107, div. A, title V, §505(b)(2), Dec. 28, 2001, 115 Stat. 1087; Pub. L. 118–159, div. A, title V, §505(b)(4), Dec. 23, 2024, 138 Stat. 1870; Pub. L. 119–60, div. A, title XVII, §1701(a)(42), Dec. 18, 2025, 139 Stat. 1210.)

### EDITORIAL NOTES

### AMENDMENTS

**2025**—Subsec. (b). Pub. L. 119–60 substituted "the Secretary" for "the the Secretary".

**2024**—Subsec. (a). Pub. L. 118–159, §505(b)(4)(A), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the board which considered the officer for the second time".

Subsec. (b). Pub. L. 118–159, §505(b)(4)(B), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "President approves the report of the selection board which resulted in the second failure".

**2001**—Subsec. (c). Pub. L. 107–107 added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 or 14701a of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2950; amended Pub. L. 118–159, div. A, title V, §§505(b)(5), 513(c)(2), Dec. 23, 2024, 138 Stat. 1870, 1876.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, §513(c)(2), inserted "or 14701a" after "14701".

Pub. L. 118–159, §505(b)(5), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the board which considered the officer for the second time".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy

Unless retained as provided in section 12646, 12686, 14701, 14701a, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the later of (1) the first day of the month after the month in which the officer completes 20 years of commissioned service, or (2) the first day of the seventh month after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2951; amended Pub. L. 104–106, div. A, title XV, §1501(b)(29), Feb. 10, 1996, 110 Stat. 498; Pub. L. 106–65, div. A, title V, §514(a), Oct. 5, 1999, 113 Stat. 593; Pub. L. 118–159, div. A, title V, §§505(b)(6), 513(c)(3), Dec. 23, 2024, 138 Stat. 1870, 1876.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Pub. L. 118–159, §513(c)(3), inserted "14701a," after "14701,".

Pub. L. 118–159, §505(b)(6), substituted "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public" for "the President approves the report of the board which considered the officer for the second time".

**1999**—Pub. L. 106–65 inserted "the later of (1)" after "in accordance with section 14513 of this title on" and ", or (2) the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time" before the period at end.

**1996**—Pub. L. 104–106 inserted comma after "Force" in section catchline.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title V, §514(b), Oct. 5, 1999, 113 Stat. 593, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to removals of reserve officers from reserve active-status lists under section 14506 of title 10, United States Code, on or after the date of the enactment of

this Act [Oct. 5, 1999]."

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701, 14701a, or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701, 14701a, or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

(c) TEMPORARY AUTHORITY TO RETAIN CERTAIN OFFICERS DESIGNATED AS JUDGE ADVOCATES.—(1) Notwithstanding the provisions of subsections (a) and (b), the Secretary of the Air Force may retain on the reserve active-status list any reserve officer of the Air Force who is designated as a judge advocate and who obtained the first professional degree in law while on an educational delay program subsequent to being commissioned through the Reserve Officers' Training Corps.

(2) No more than 50 officers may be retained on the reserve active-status list under the authority of paragraph (1) at any time.

(3) No officer may be retained on the reserve active-status list under the authority of paragraph (1) for a period exceeding three years from the date on which, but for that authority, that officer would have been removed from the reserve active-status list under subsection (a) or (b).

(4) The authority of the Secretary of the Air Force under paragraph (1) expires on September 30, 2003.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2951; amended Pub. L. 104–201, div. A, title V, §508(a), Sept. 23, 1996, 110 Stat. 2513; Pub. L. 118–159, div. A, title V, §513(c)(4), Dec. 23, 2024, 138 Stat. 1876.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsecs. (a), (b). Pub. L. 118–159 inserted ", 14701a," after "14701".

**1996**—Subsec. (c). Pub. L. 104–201 added subsec. (c).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–201, div. A, title V, §508(b), Sept. 23, 1996, 110 Stat. 2513, provided that: "Subsection (c) of section 14507 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996."

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE FOR BRIGADIER GENERALS AND REAR ADMIRALS (LOWER HALF).—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of brigadier general or rear admiral (lower half), whichever is later, be separated in accordance with section 14514 of this title.

(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE FOR MAJOR GENERALS AND REAR ADMIRALS.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance with section 14514 of this title.

(c) THIRTY-EIGHT YEARS OF SERVICE FOR LIEUTENANT GENERALS AND VICE ADMIRALS.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of lieutenant general and each reserve officer of the Navy in the grade of vice admiral shall be separated in accordance with section 14514 of this title on the later of the following:

(1) 30 days after completion of 38 years of commissioned service.

(2) The fifth anniversary of the date of the officer's appointment in the grade of lieutenant general or vice admiral.

(d) FORTY YEARS OF SERVICE FOR GENERALS AND ADMIRALS.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of general and each reserve officer of the Navy in the grade of admiral shall be separated in accordance with section 14514 of this title on the first day of the first month beginning after the date of the fifth anniversary of the officer's appointment to that grade or 30 days after the date on which the officer completes 40 years of commissioned service, whichever is later.

(e) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the last day of the month in which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

(f) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under subsection (b)

may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 64 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

(g) RETENTION OF LIEUTENANT GENERALS.—A reserve officer of the Army or Air Force in the grade of lieutenant general who would otherwise be removed from an active status under subsection (c) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 66 years of age.

(h) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2951; amended Pub. L. 104–106, div. A, title XV, §1501(b)(30), Feb. 10, 1996, 110 Stat. 498; Pub. L. 105–85, div. A, title V, §521(b), Nov. 18, 1997, 111 Stat. 1734; Pub. L. 109–364, div. A, title V, §503(e), Oct. 17, 2006, 120 Stat. 2178; Pub. L. 110–181, div. A, title V, §513, title XVIII, §1825(c)(1), Jan. 28, 2008, 122 Stat. 99, 502; Pub. L. 110–417, [div. A], title V, §515, Oct. 14, 2008, 122 Stat. 4442.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3851, 3852, 6389(f)(1), (2), 8851, and 8852 of this title, prior to repeal by Pub. L. 103–337, §§1628(4), 1629(a)(3), (c)(3).

### AMENDMENTS

**2008**—Subsec. (a). Pub. L. 110–181, §513(b)(1), inserted "FOR BRIGADIER GENERALS AND REAR ADMIRALS (LOWER HALF)" after "GRADE" in heading.

Subsec. (b). Pub. L. 110–181, §513(b)(2), inserted "FOR MAJOR GENERALS AND REAR ADMIRALS" after "GRADE" in heading.

Subsec. (c). Pub. L. 110–181, §513(a)(2), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 110–181, §1825(c)(1), added subsec. (d). Former subsec. (d) redesignated (f).

Pub. L. 110–181, §513(a)(1), redesignated subsec. (d) as (f).

Subsecs. (e) and (f). Pub. L. 110–181, §513(a)(1), redesignated subsecs. (c) and (d) as (e) and (f), respectively.

Subsec. (g). Pub. L. 110–417, §515(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 110–181, §513(a)(1), redesignated subsec. (e) as (g).

Subsec. (h). Pub. L. 110–417, §515(1), redesignated subsec. (g) as (h).

**2006**—Subsec. (c). Pub. L. 109–364, §503(e)(1), substituted "62" for "60".

Subsec. (d). Pub. L. 109–364, §503(e)(2), substituted "64" for "62".

**1997**—Subsec. (c). Pub. L. 105–85 substituted "not later than the last day of the month in which the officer becomes 60 years of age" for "not later than the date on which the officer becomes 60 years of age".

**1996**—Subsecs. (c), (d). Pub. L. 104–106 struck out "this" after "from an active status under".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14509. Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half)

Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that officer becomes 62 years of age, be separated in accordance with section 14515 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2952; amended Pub. L. 109–364, div. A, title V, §503(c), Oct. 17, 2006, 120 Stat. 2178.)

### EDITORIAL NOTES

### AMENDMENTS

**2006**—Pub. L. 109–364 substituted "62" for "60" in section catchline and text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14510. Separation at age 62: brigadier generals and rear admirals (lower half)

Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2952; amended Pub. L. 109–364, div. A, title V, §503(b), Oct. 17, 2006, 120 Stat. 2178.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3843(a) and 8843 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (c)(3).

### AMENDMENTS

**2006**—Pub. L. 109–364 substituted "age 62: brigadier generals" for "age 60: reserve brigadier generals" in section catchline and "62" for "60" in text.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14511. Separation at age 64: officers in grade of major general or rear admiral and above

(a) SEPARATION REQUIRED.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general or above and each reserve officer of the Navy in the grade of rear admiral or above shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 64 years of age.

(b) EXCEPTION FOR OFFICERS SERVING IN O–9 AND O–10 POSITIONS.—The retirement of a reserve officer of the Army, Air Force, or Marine Corps in the grade of lieutenant general or general, or a reserve officer of the Navy in the grade of vice admiral or admiral, under subsection (a) may be deferred—

(1) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

(2) by the Secretary of Defense, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.

(c) EXCEPTION FOR OFFICERS HOLDING CERTAIN OFFICES.—This section does not apply to an officer covered by section 14512 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2953; amended Pub. L. 109–364, div. A, title V, §503(a), Oct. 17, 2006, 120 Stat. 2178; Pub. L. 110–181, div. A, title XVIII, §1825(a)(1), Jan. 28, 2008, 122 Stat. 501.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3844 and 8844 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (c)(3).

**AMENDMENTS**

**2008**—Pub. L. 110–181 amended section generally. Prior to amendment, text read as follows: "Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 64 years of age."

**2006**—Pub. L. 109–364 substituted "64" for "62" in section catchline and text.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14512. Separation at age 66: officers holding certain offices

(a) ARMY AND AIR FORCE.—(1) Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is specified in paragraph (2) shall on the last day of the month in which the officer becomes 66 years of age, be separated in accordance with section 14515 of this title.

(2) Paragraph (1) applies to a reserve officer of the Army or Air Force who is any of the following:

(A) The Chief of the Army Reserve, Chief of the Air Force Reserve, Director of the Army National Guard, or Director of the Air National Guard.

(B) An adjutant general.

(C) If a reserve officer of the Army, the commanding general of the troops of a State.

(b) NAVY AND MARINE CORPS.—(1) The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 66 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Navy Reserve and the Marine Corps Reserve as the Secretary determines.

(2) The Secretary of Defense may defer the retirement of a reserve officer serving in the position of Chief of the Navy Reserve or Commander of the Marine Forces Reserve, but such deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age. A deferment under this paragraph shall not count toward the limitation on the total number of officers whose retirement may be deferred at any one time under paragraph (1).

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2953; amended Pub. L. 109–163, div. A, title V, §§511, 515(b)(1)(UU), Jan. 6, 2006, 119 Stat. 3231, 3234; Pub. L. 109–364, div. A, title V, §503(d), Oct. 17, 2006, 120 Stat. 2178; Pub. L. 110–181, div. A, title XVIII, §1825(b), Jan. 28, 2008, 122 Stat. 502.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3845, 6391(b), and 8845 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (b)(3), (c)(3).

### AMENDMENTS

**2008**—Subsec. (a)(2). Pub. L. 110–181, §1825(b)(1), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: "The Chief of the National Guard Bureau."

Subsec. (b). Pub. L. 110–181, §1825(b)(2), designated existing provisions as par. (1) and added par. (2).

**2006**—Pub. L. 109–364, §503(d)(2), substituted "66" for "64" in section catchline.

Subsec. (a). Pub. L. 109–163, §511, designated existing provisions as par. (1), substituted "who is specified in paragraph (2)" for "who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State,", and added par. (2).

Subsec. (a)(1). Pub. L. 109–364, §503(d)(1), substituted "66" for "64".

Subsec. (b). Pub. L. 109–364, §503(d)(1), substituted "66" for "64".

Pub. L. 109–163, §515(b)(1)(UU), substituted "Navy Reserve" for "Naval Reserve".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14513. Failure of selection for promotion: transfer, retirement, or discharge

Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

(2) be transferred to the Retired Reserve if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2953; amended Pub. L. 107–107, div. A, title V, §517(b)(1), (2)(A), Dec. 28, 2001, 115 Stat. 1094.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Pub. L. 107–107, §517(b)(2)(A), substituted "Failure of selection for promotion: transfer, retirement, or discharge" for "Separation for failure of selection of promotion" in section catchline.

Par. (2). Pub. L. 107–107, §517(b)(1), substituted "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve" for ", if the officer is qualified and applies for such transfer".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as a note under section 10154 of this title.

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14514. Discharge or retirement for years of service or after selection for early removal

Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

(1) be transferred to the Retired Reserve if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2953; amended Pub. L. 107–107, div. A, title V, §517(c), Dec. 28, 2001, 115 Stat. 1094.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Par. (1). Pub. L. 107–107, §517(c)(1), substituted "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve" for ", if the officer is qualified and applies for such transfer".

Par. (2). Pub. L. 107–107, §517(c)(2), added par. (2) and struck out former par. (2) which read as follows: "if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 effective on the first day of the first month that begins more than 180 days

after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as a note under section 10154 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14515. Discharge or retirement for age

Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive-status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

(1) be transferred to the Retired Reserve if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2954; amended Pub. L. 104–106, div. A, title XV, §1501(b)(31), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107–107, div. A, title V, §517(d), Dec. 28, 2001, 115 Stat. 1095.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2001**—Par. (1). Pub. L. 107–107, §517(d)(1), substituted "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve" for ", if the officer is qualified and applies for such transfer".

Par. (2). Pub. L. 107–107, §517(d)(2), added par. (2) and struck out former par. (2) which read as follows: "if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment."

**1996**—Pub. L. 104–106 substituted "inactive-status" for "inactive status" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2001 AMENDMENT**

Amendment by Pub. L. 107–107 effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as a note under section 10154 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14516. Separation to be considered involuntary

The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2954.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14517. Entitlement of officers discharged under this chapter to separation pay

An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2954.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14518. Continuation of officers to complete disciplinary action

The Secretary concerned may delay the separation or retirement under this chapter of an officer against whom an action has been commenced with a view to trying the officer by court-martial. Any such delay may continue until the completion of the disciplinary action against the officer.

(Added Pub. L. 106–65, div. A, title V, §511(a), Oct. 5, 1999, 113 Stat. 592.)

## §14519. Deferment of retirement or separation for medical reasons

(a) AUTHORITY.—If, in the case of an officer required to be retired or separated under this chapter or chapter 1409 of this title, the Secretary concerned determines that the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the officer's well being before the date on which the officer would otherwise be required to retire or be separated, the Secretary may defer the retirement or separation of the officer.

(b) PERIOD OF DEFERMENT.—A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after the completion of the evaluation requiring hospitalization or medical observation.

(Added Pub. L. 107–314, div. A, title V, §522(a), Dec. 2, 2002, 116 Stat. 2540.)

# CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

Sec.
14701. Selection of officers for continuation on the reserve active-status list.
14701a. Continuation on reserve active-status list: officers in certain military specialties and career tracks.
14702. Retention on reserve active-status list of certain officers in the grade of major, lieutenant colonel, colonel, or brigadier general.

14703. Authority to retain chaplains and officers in medical specialties until specified age.
14704. Selective early removal from the reserve active-status list.
14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.
14706. Computation of total years of service.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title V, §513(b), Dec. 23, 2024, 138 Stat. 1876, added item 14701a.

**2008**—Pub. L. 110–417, [div. A], title V, §514(c)(2), Oct. 14, 2008, 122 Stat. 4442, added item 14702 and struck out former item 14702 "Retention on reserve active-status list of certain officers until age 60".

## §14701. Selection of officers for continuation on the reserve active-status list

(a) CONSIDERATION FOR CONTINUATION.—(1)(A) A reserve officer of the Army, Navy, Air Force, or Marine Corps described in subparagraph (B) who is required to be removed from the reserve active-status list under section 14504 of this title, or a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title, may be considered for continuation on the reserve active-status list under regulations prescribed by the Secretary of Defense.

(B) A reserve officer covered by this subparagraph is a reserve officer of the Army, Air Force, or Marine Corps who holds the grade of first lieutenant, or a reserve officer of the Navy who holds the grade of lieutenant (junior grade), and who—

(i) is a health professions officer; or

(ii) is actively pursuing an undergraduate program of education leading to a baccalaureate degree.

(C) The consideration of a reserve officer for continuation on the reserve active-status list pursuant to this paragraph is subject to the needs of the service and to section 14509 of this title.

(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

(6) An officer who is selected for continuation on the reserve active-status list under regulations prescribed under paragraph (1) but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under

another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

(b) CONTINUATION OF HEALTH PROFESSIONS OFFICERS.—(1) Notwithstanding subsection (a)(6), a health professions officer obligated to a period of service incurred under section 16201 of this title who is required to be removed from the reserve active-status list under section 14504, 14505, 14506, or 14507 of this title and who has not completed a service obligation incurred under section 16201 of this title shall be retained on the reserve active-status list until the completion of such service obligation and then discharged, unless sooner retired or discharged under another provision of law.

(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the service obligation of that officer is not in the best interest of the service.

(3) A health professions officer who is continued on the reserve active-status list under this subsection who is subsequently promoted or whose name is on a list of officers recommended for promotion to the next higher grade is not required to be discharged or retired upon completion of the officer's service obligation. Such officer may continue on the reserve active-status list as other officers of the same grade unless separated under another provision of law.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2954; amended Pub. L. 106–398, §1 [[div. A], title V, §522], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 108–136, div. A, title V, §511(a), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 113–291, div. A, title V, §511, Dec. 19, 2014, 128 Stat. 3357.)

## EDITORIAL NOTES

### AMENDMENTS

**2014**—Subsec. (a)(1). Pub. L. 113–291, §511(a), designated existing provisions as subpar. (A), substituted "A reserve officer of the Army, Navy, Air Force, or Marine Corps described in subparagraph (B) who is required to be removed from the reserve active-status list under section 14504 of this title, or a reserve officer of" for "A reserve officer of" and "of this title, may" for "of this title may, subject to the needs of the service and to section 14509 of this title,", and added subpars. (B) and (C).

Subsecs. (b), (c). Pub. L. 113–291, §511(b), added subsec. (b) and redesignated former subsec. (b) as (c).

**2003**—Subsec. (a)(1). Pub. L. 108–136, §511(a)(1)(A), substituted "under regulations prescribed by the Secretary of Defense" for "by a selection board convened under section 14101(b) of this title".

Subsec. (a)(6). Pub. L. 108–136, §511(a)(1)(B), substituted "under regulations prescribed under paragraph (1)" for "as a result of the convening of a selection board under section 14101(b) of this title".

Subsecs. (b) to (d). Pub. L. 108–136, §511(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsecs. (b) and (c) which read as follows:

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned."

**2000**—Subsec. (a)(1). Pub. L. 106–398 substituted "A reserve officer" for "Upon application, a reserve officer".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section

10001 of this title.

## §14701a. Continuation on reserve active-status list: officers in certain military specialties and career tracks

(a) IN GENERAL.—The Secretary of the military department concerned may authorize a reserve commissioned officer in a grade above O-2 to remain on the reserve active-status list after the date otherwise provided for the separation or retirement of the officer under section 14505, 14506, or 14507 of this title, as applicable, if the officer has a military occupational specialty, rating, or specialty code in a military specialty designated pursuant to subsection (b).

(b) MILITARY SPECIALTIES.—The Secretary of a military department shall designate the military specialties in which a military occupational specialty, rating, or specialty code, as applicable, assigned to members of the armed forces under the jurisdiction of such Secretary authorizes the members to be eligible for continuation on the reserve active-status list as provided in subsection (a).

(c) DURATION OF CONTINUATION.—An officer continued on the reserve active-status list pursuant to this section shall, if not earlier retired, transferred to the Retired Reserve, or discharged, be separated in accordance with section 14513 or 14514 of this title, as applicable, on the first day of the month after the month in which the officer completes 40 years of commissioned service.

(d) REGULATIONS.—The Secretaries of the military departments shall carry out this section in accordance with regulations prescribed by the Secretary of Defense. The regulations shall specify the criteria to be used by the Secretaries of the military departments in designating military specialties for purposes of subsection (b).

(Added Pub. L. 118–159, div. A, title V, §513(a), Dec. 23, 2024, 138 Stat. 1876.)

## §14702. Retention on reserve active-status list of certain officers in the grade of major, lieutenant colonel, colonel, or brigadier general

(a) RETENTION.—Notwithstanding the provisions of section 14506, 14507, or 14508 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, colonel, or brigadier general who is—

(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

(b) SEPARATION FOR AGE.—An officer may be retained under this section only so long as the officer continues to meet the conditions of paragraph (1) or (2) of subsection (a). An officer described in paragraph (1) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 62 years of age. An officer described in paragraph (2) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 62 years of age.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2955; amended Pub. L. 105–85, div. A, title V, §521(a), Nov. 18, 1997, 111 Stat. 1734; Pub. L. 110–417, [div. A], title V, §514(b), (c)(1), Oct. 14, 2008, 122 Stat. 4441; Pub. L. 118–159, div. A, title V, §511(b), Dec. 23, 2024, 138 Stat. 1875.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 substituted "62" for "60".

**2008**—Pub. L. 110–417, §514(c)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Retention on reserve active-status list of certain officers until age 60".

Subsec. (b). Pub. L. 110–417, §514(b), in heading, substituted "for Age" for "at Age 60" and, in text, substituted "paragraph (1) or (2) of subsection (a)" for "subsection (a)(1) or (a)(2)" and "An officer described in paragraph (1) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 62 years of age. An officer described in paragraph (2) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 60 years of age." for "An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age."

**1997**—Subsec. (a). Pub. L. 105–85, in introductory provisions, substituted "section 14506, 14507, or 14508" for "section 14506 or 14507" and "colonel, or brigadier general" for "or colonel".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14703. Authority to retain chaplains and officers in medical specialties until specified age

(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, Air Force nurse, Medical Service Corps officer, biomedical sciences officer, or chaplain.

(b) SEPARATION AT SPECIFIED AGE.—(1) Subject to paragraph (2), an officer may not be retained in active status under this section later than the date on which the officer becomes 68 years of age.

(2) The Secretary concerned may, with the consent of the officer, retain in an active status an officer in a medical specialty described in subsection (a) beyond the date described in paragraph (1) of this subsection if the Secretary concerned determines that such retention is necessary to the military department concerned. Each such retention shall be made on a case-by-case basis and for such period as the Secretary concerned determines appropriate.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2956; amended Pub. L. 106–65, div. A, title V, §516, Oct. 5, 1999, 113 Stat. 594; Pub. L. 106–398, §1 [[div. A], title V, §523], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 110–417, [div. A], title V, §516(a), Oct. 14, 2008, 122 Stat. 4442; Pub. L. 116–92, div. A, title V, §516, Dec. 20, 2019, 133 Stat. 1349.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3855(a), (c)(1), 6392(a), (c)(1), and 8855(a), (c)(1) of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (b)(3), (c)(3).

**AMENDMENTS**

**2019**—Subsec. (b). Pub. L. 116–92 designated existing provisions as par. (1), substituted "Subject to paragraph (2), an" for "An", and added par. (2).

**2008**—Subsec. (b). Pub. L. 110–417 substituted "68 years" for "67 years".

**2000**—Subsec. (a)(3). Pub. L. 106–398 substituted "Air Force nurse, Medical Service Corps officer, biomedical sciences officer, or chaplain." for "veterinary officer, Air Force nurse, or chaplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist."

**1999**—Subsec. (b). Pub. L. 106–65 struck out "(or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age)" after "67 years of age".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14704. Selective early removal from the reserve active-status list

(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—(1) Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider officers on the reserve active-status list who are in that grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from that list.

(2) Except as provided in paragraph (3), the list of officers in a reserve component whose names are submitted to a board under paragraph (1) shall include each officer on the reserve active-status list for that reserve component in the same grade and competitive category whose position on the reserve active-status list is between—

(A) that of the most junior officer in that grade and competitive category whose name is submitted to the board; and

(B) that of the most senior officer in that grade and competitive category whose name is submitted to the board.

(3) A list submitted to a board under paragraph (1) may not include an officer who—

(A) has been approved for voluntary retirement; or

(B) is to be involuntarily retired under any provision of law during the fiscal year in which the board is convened or during the following fiscal year.

(b) SPECIFICATION OF NUMBER OF OFFICERS WHO MAY BE RECOMMENDED FOR SEPARATION.—The Secretary of the military department concerned shall specify the number of officers described in subsection (a)(1) that a board may recommend for separation under subsection (c).

(c) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

(d) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2956; amended Pub. L. 113–66, div. A, title V, §503(b), Dec. 26, 2013, 127 Stat. 750.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3850 and 8850 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (c)(3).

**AMENDMENTS**

**2013**—Subsec. (a). Pub. L. 113–66, §503(b)(1), designated existing provisions as par. (1), substituted "officers on the reserve active-status list" for "all officers on that list" and "that list." for "the reserve active-status list, in the number specified by the Secretary by each grade and competitive category." in par. (1), and added pars. (2) and (3).

Subsecs. (b) to (d). Pub. L. 113–66, §503(b)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

(a) AUTHORITY TO CONSIDER.—An officer in the Navy Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

(b) BOARDS.—(1) If the Secretary of the Navy determines that consideration of officers for early retirement under this section is necessary, the Secretary shall convene a selection board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

(2) In the case of such a board convened to consider officers in the grade of rear admiral or major general, the Secretary of the Navy may appoint the board without regard to section 14102(b) of this title. In doing so, however, the Secretary shall ensure that—

(A) each regular commissioned officer appointed to the board holds a grade higher than the grade of rear admiral or major general; and

(B) at least one member of the board is a reserve officer who holds the grade of rear admiral or major general.

(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2957; amended Pub. L. 105–261, div. A, title V, §515, Oct. 17, 1998, 112 Stat. 2008; Pub. L. 108–136, div. A, title V, §511(b)(3), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 109–163, div. A, title V, §515(b)(1)(VV), Jan. 6, 2006, 119 Stat. 3234.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 6389(f)(3) of this title, prior to repeal by Pub. L. 103–337, §1628(4).

**AMENDMENTS**

**2006**—Subsec. (a). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2003**—Subsec. (b)(1). Pub. L. 108–136 substituted "selection board" for "continuation board".

**1998**—Subsec. (b). Pub. L. 105–261 designated existing provisions as par. (1), inserted "of officers" after "consideration" and "continuation" after "shall convene a", and added par. (2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14706. Computation of total years of service

(a) For the purpose of this chapter and chapter 1407 of this title, a Reserve officer's years of service include all service of the officer as a commissioned officer of a uniformed service other than the following:

(1) Service as a warrant officer.

(2) Constructive service.

(3) Service after appointment as a commissioned officer of a reserve component while in a program of advanced education to obtain the first professional degree required for appointment, designation, or assignment to a professional specialty, but only if that service occurs before the officer commences initial service on active duty or initial service in the Ready Reserve in the specialty that results from such a degree.

(b) The exclusion under subsection (a)(3) does not apply to service performed by an officer who previously served on active duty or participated as a member of the Ready Reserve in other than a student status for the period of service preceding the member's service in a student status.

(c) For purposes of subsection (a)(3), an officer shall be considered to be in a professional specialty if the officer is appointed or assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Service Corps, the Nurse Corps, or the Army Medical Specialists Corps or is designated as a chaplain or judge advocate.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2957; amended Pub. L. 106–65, div. A, title V, §515, Oct. 5, 1999, 113 Stat. 594.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 3853 and 8853 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(3), (c)(3).

**AMENDMENTS**

**1999**—Pub. L. 106–65 amended text generally. Prior to amendment, text read as follows: "For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer)."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section

10001 of this title.

# CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

Sec.
14901. Separation of chaplains for loss of professional qualifications.
14902. Separation for substandard performance and for certain other reasons.
14903. Boards of inquiry.
14904. Rights and procedures.
14905. Officer considered for removal: retirement or discharge.
14906. Officers eligible to serve on boards.
14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

## §14901. Separation of chaplains for loss of professional qualifications

(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title.

(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2957.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14902. Separation for substandard performance and for certain other reasons

(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2958.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14903. Boards of inquiry

(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this title to show cause for retention in an active status.

(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned that the officer not be retained in an active status.

(d) ACTION BY SECRETARY.—After review of the recommendation of the board of inquiry, the Secretary may—

(1) remove the officer from an active status; or

(2) determine that the case be closed.

(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention under such subsection during the one-year period beginning on the date of that determination.

(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2958; amended Pub. L. 104–106, div. A, title XV, §1501(b)(32), Feb. 10, 1996, 110 Stat. 498.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1996**—Subsec. (b). Pub. L. 104–106 substituted "title" for "chapter".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14904. Rights and procedures

(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

(3) subject to subsection (c), shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

(c) REMOTE APPEARANCE.—The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via means other than in person.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2959; amended Pub. L. 118–159, div. A, title V, §509(b), Dec. 23, 2024, 138 Stat. 1872.)

### EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (a)(3). Pub. L. 118–159, §509(b)(1), substituted "subject to subsection (c), shall be" for "shall be".

Subsec. (c). Pub. L. 118–159, §509(b)(2), added subsec. (c).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14905. Officer considered for removal: retirement or discharge

(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

(1) for voluntary retirement, if the officer is qualified for retirement;

(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

(3) for discharge in accordance with subsection (b)(3).

(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status

under section 14903 of this title shall—

(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2959.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14906. Officers eligible to serve on boards

(a) COMPOSITION OF BOARDS.—Each board convened under this chapter shall consist of officers appointed as follows:

(1) Each member of the board shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

(2) Each member of the board shall hold a grade above major or lieutenant commander, except that at least one member of the board shall hold a grade above lieutenant colonel or commander.

(3) Each member of the board shall be senior in grade to any officer to be considered by the board.

(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2960; amended Pub. L. 106–65, div. A, title V, §504(b), Oct. 5, 1999, 113 Stat. 591.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Subsec. (a). Pub. L. 106–65 amended heading and text generally. Prior to amendment, text read as follows:

"(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

(1) terminate the reserve appointment of the officer; and

(2) withdraw the officer's Federal recognition as an officer of the National Guard.

(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.

(Added Pub. L. 103–337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2960.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3820(a), (b) and 8820 of this title, prior to repeal by Pub. L. 103–337, §1629(a)(2), (c)(2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1413—ALTERNATIVE PROMOTION AUTHORITY FOR OFFICERS IN DESIGNATED COMPETITIVE CATEGORIES

Sec.
15101. Officers in designated competitive categories.
15102. Selection for promotion.
15103. Eligibility for consideration for promotion.
15104. Opportunities for consideration for promotion.
15105. Promotions.
15106. Failure of selection for promotion.
15107. Retirement: retirement for years of service; selective early retirement.
15108. Continuation on the Reserve Active-Status List.
15109. Other administrative authorities.
15110. Regulations.

## §15101. Officers in designated competitive categories

(a) AUTHORITY TO DESIGNATE COMPETITIVE CATEGORIES OF OFFICERS.—Each Secretary of a military department may designate one or more competitive categories for promotion

of officers under section 14005 of this title that are under the jurisdiction of such Secretary as a competitive category of officers whose promotion, retirement, and continuation on the reserve active-status list shall be subject to the provisions of this chapter.

(b) LIMITATION ON EXERCISE OF AUTHORITY.—The Secretary of a military department may not designate a competitive category of officers for purposes of this chapter until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the designation of the competitive category. The report on the designation of a competitive category shall set forth the following:

(1) A detailed description of officer requirements for officers within the competitive category.

(2) An explanation of the number of opportunities for consideration for promotion to each particular grade, and an estimate of promotion timing, within the competitive category.

(3) An estimate of the size of the promotion zone for each grade within the competitive category.

(4) A description of any other matters the Secretary considered in determining to designate the competitive category for purposes of this chapter.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 245.)

## §15102. Selection for promotion

(a) IN GENERAL.—Except as provided in this section, the selection for promotion of officers in any competitive category of officers designated for purposes of this chapter shall be governed by the provisions under chapter 1403 of this title.

(b) NO RECOMMENDATION FOR PROMOTION OF OFFICERS BELOW PROMOTION ZONE.—Section 14301(d) of this title shall not apply to the selection for promotion of officers described in subsection (a).

(c) RECOMMENDATION FOR OFFICERS TO BE EXCLUDED FROM FUTURE CONSIDERATION FOR PROMOTION.—In making recommendations pursuant to chapter 1403 of this title for purposes of the administration of this chapter, a selection board convened under section 14101(a) of this title may recommend that an officer considered by the board be excluded from future consideration for promotion under this chapter.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 246.)

## §15103. Eligibility for consideration for promotion

(a) IN GENERAL.—Except as provided by this section, eligibility for promotion of officers in any competitive category of officers designated for purposes of this chapter shall be governed by the provisions of sections 14301, 14303, and 14304 of this title.

(b) INAPPLICABILITY OF CERTAIN TIME-IN-GRADE REQUIREMENTS.—Sections 14303 and 14304 of this title shall not apply to the promotion of officers described in subsection (a).

(c) INAPPLICABILITY TO OFFICERS ABOVE AND BELOW PROMOTION ZONE.—The following provisions of this title shall not apply to the promotion of officers described in subsection (a):

(1) The reference in section 14301(b) to an officer above the promotion zone.

(2) Section 14301(d).

(d) INELIGIBILITY OF CERTAIN OFFICERS.—The following officers are not eligible for promotion under this chapter:

(1) An officer described in section 14301(c) of this title.

(2) An officer not included within the promotion zone.

(3) An officer who has failed of promotion to a higher grade the maximum number of times specified for opportunities for promotion for such grade within the competitive category concerned pursuant to section 15104 of this title.

(4) An officer recommended by a selection board to be removed from consideration for promotion in accordance with section 15102(c) of this title.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 246.)

## §15104. Opportunities for consideration for promotion

(a) SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.—In designating a competitive category of officers pursuant to section 15101 of this title, the Secretary of a military department shall specify the number of opportunities for consideration for promotion to be afforded officers of the armed force concerned within the category for promotion to each grade above the grade of first lieutenant or lieutenant (junior grade), as applicable.

(b) LIMITED AUTHORITY OF SECRETARY OF MILITARY DEPARTMENT TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of a military department may modify the number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as previously specified by the Secretary pursuant subsection (a) of this subsection, not more frequently than once every five years.

(c) DISCRETIONARY AUTHORITY OF SECRETARY OF DEFENSE TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of Defense may modify the number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as previously specified or modified pursuant to any provision of this section, at the discretion of the Secretary.

(d) LIMITATION ON NUMBER OF OPPORTUNITIES SPECIFIED.—The number of opportunities for consideration for promotion to be afforded officers of an armed force within a competitive category for promotion to a particular grade, as specified or modified pursuant to any provision of this section, may not exceed five opportunities.

(e) EFFECT OF CERTAIN REDUCTION IN NUMBER OF OPPORTUNITIES SPECIFIED .—If, by reason of a reduction in the number of opportunities for consideration for promotion under this section, an officer would no longer have one or more opportunities for consideration for promotion that were available to the officer before the reduction, the officer shall be afforded one additional opportunity for consideration for promotion after the reduction.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 246.)

## §15105. Promotions

Sections 14307 through 14317 of this title shall apply in promotions of officers in competitive categories of officers designated for purposes of this chapter.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 247.)

## §15106. Failure of selection for promotion

(a) IN GENERAL.—Except as provided in this section, sections 14501 through 14513 of this title shall apply to promotions of officers in competitive categories of officers designated for purposes of this chapter.

(b) INAPPLICABILITY OF FAILURE OF SELECTION FOR PROMOTION TO OFFICERS ABOVE PROMOTION ZONE.—The reference in section 14501 of this title to an officer above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(c) SPECIAL SELECTION BOARD MATTERS.—The reference in section 14502(a)(1) of this title to a person above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(d) EFFECT OF FAILURE OF SELECTION.—In the administration of this chapter pursuant to

subsection (a)—

(1) an officer described in subsection (a) shall not be deemed to have failed twice of selection for promotion for purposes of section 14502(b) [1] of this title until the officer has failed selection of promotion to the next higher grade the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to section 15104 of this title; and

(2) any reference in sections 14504 through 14506 of this title to an officer who has failed of selection for promotion to the next higher grade for the second time shall be deemed to refer instead to an officer described in subsection (a) who has failed of selection for promotion to the next higher grade for the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to such section 15104.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 247.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 14502(b) of this title, referred to in subsec. (d)(1), probably should be section 14501(b) of this title, which relates to officers twice failed of selection. Section 14502(b) of this title relates to officers considered but not selected due to material error.

[1] *See References in Text note below.*

## §15107. Retirement: retirement for years of service; selective early retirement

(a) RETIREMENT FOR YEARS OF SERVICE.—Sections 14507 through 14515 of this title shall apply to the retirement of officers in competitive categories of officers designated for purposes of this chapter.

(b) SELECTIVE EARLY RETIREMENT.—Section 14101(b) of this title shall apply to the retirement of officers described in subsection (a).

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 248.)

## §15108. Continuation on the Reserve Active-Status List

Sections 14701 through 14703 of this title shall apply in continuation or retention on a reserve active-status list of officers designated for purposes of this chapter.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 248.)

## §15109. Other administrative authorities

The following provisions of this title shall apply to officers in competitive categories of officers designated for purposes of this chapter:

(1) Section 14518, relating to continuation of officers to complete disciplinary action.

(2) Section 14519, relating to deferment of retirement or separation for medical reasons.

(3) Section 14704, relating to the selective early removal from the reserve active-status list.

(4) Section 14705, relating to the selective early retirement of reserve general and flag officers of the Navy and Marine Corps.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 248; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(46), Dec. 23, 2024, 138 Stat. 2206.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, which directed striking out "(a) In general.—", was executed by striking out "(a) IN GENERAL.—" before "The following provisions" in introductory provisions, to reflect the probable intent of Congress.

## §15110. Regulations

The Secretary of Defense shall prescribe regulations regarding the administration of this chapter. The elements of such regulations shall include mechanisms to clarify the manner in which provisions of other chapters of this part of this subtitle shall be used in the administration of this chapter in accordance with the provisions of this chapter.

(Added Pub. L. 118–31, div. A, title V, §514(a), Dec. 22, 2023, 137 Stat. 248; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(47), Dec. 23, 2024, 138 Stat. 2206.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159 substituted "this subtitle" for "the title".

# PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS


| Chap. | | Sec. |
|---|---|---|
| **1601.** | **Training Generally. [No present sections]** | |
| **1606.** | **Educational Assistance for Members of the Selected Reserve** | **16131** |
| **1607.** | **Educational Assistance for Reserve Component Members Supporting Contingency Operations and Certain Other Operations** | **16161** |
| **1608.** | **Health Professions Stipend Program** | **16201** |
| **1609.** | **Education Loan Repayment Programs** | **16301** |
| **1611.** | **Other Educational Assistance Programs** | **16401** |


**EDITORIAL NOTES**

**AMENDMENTS**

**2004**—Pub. L. 108–375, div. A, title V, §527(c), Oct. 28, 2004, 118 Stat. 1894, added item for chapter 1607.

**1999**—Pub. L. 106–65, div. A, title V, §551(a)(2), Oct. 5, 1999, 113 Stat. 614, added item for chapter 1611.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(1), Feb. 10, 1996, 110 Stat. 495, substituted "Repayment Programs" for "Repayments" in item for chapter 1609.

## CHAPTER 1601—TRAINING GENERALLY

[NO PRESENT SECTIONS]

## CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE


Sec.

16131. Educational assistance program: establishment; amount.

16131a. Accelerated payment of educational assistance.

16132. Eligibility for educational assistance.

16132a. Authority to transfer unused education benefits to family members.
16133. Time limitation for use of entitlement.
16134. Termination of assistance.
16135. Failure to participate satisfactorily; penalties.
16136. Administration of program.
[16137. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 112–81, div. A, title X, §1061(29)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 16137 "Biennial report to Congress".

**2008**—Pub. L. 110–252, title V, §5006(e)(2), June 30, 2008, 122 Stat. 2386, added item 16132a.

Pub. L. 110–181, div. A, title V, §528(a)(2), Jan. 28, 2008, 122 Stat. 107, added item 16131a.

**1999**—Pub. L. 106–65, div. A, title V, §548(b), Oct. 5, 1999, 113 Stat. 609, substituted "Biennial report to Congress" for "Reports to Congress" in item 16137.

**1996**—Pub. L. 104–106, div. A, title XV, §1501(b)(33), Feb. 10, 1996, 110 Stat. 498, substituted "limitation" for "limitations" in item 16133.

## §16131. Educational assistance program: establishment; amount

(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Homeland Security, under regulations prescribed by the Secretary with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who agree to remain members of the Selected Reserve for a period of not less than six years.

(b)(1) Except as provided in subsections (d) through (f), each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, to each person entitled to educational assistance under this chapter who is pursuing a program of education of an educational assistance allowance at the following rates:

(A) $251 (as increased from time to time under paragraph (2)) per month for each month of full-time pursuit of a program of education;

(B) $188 (as increased from time to time under paragraph (2)) per month for each month of three-quarter-time pursuit of a program of education;

(C) $125 (as increased from time to time under paragraph (2)) per month for each month of half-time pursuit of a program of education; and

(D) an appropriately reduced rate, as determined under regulations which the Secretary of Veterans Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.

(2) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1) equal to the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(c)(1) Educational assistance may be provided under this chapter for pursuit of any program of

education that is an approved program of education for purposes of chapter 30 of title 38.

(2) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not—

(i) be charged against the entitlement of any individual under this chapter; or

(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual's receipt of assistance.

(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, 12304, 12304a, or 12304b of this title; and

(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i), the individual's course pursuit.

(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of title 38 shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(ii).

(d)(1) Except as provided in paragraph (2), the amount of the monthly educational assistance allowance payable to a person pursuing a full-time program of apprenticeship or other on-the-job training under this chapter is—

(A) for each of the first six months of the person's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such person under this chapter;

(B) for each of the second six months of the person's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the person's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which any person pursuing a program of education consisting of a program of apprenticeship or other on-the-job training fails to complete 120 hours of training, the amount of the monthly educational assistance allowance payable under this chapter to the person shall be limited to the same proportion of the applicable full-time rate as the number of hours worked during such month, rounded to the nearest 8 hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B), for each month that such person is paid a monthly educational assistance allowance under this chapter, the person's entitlement under this chapter shall be charged at the rate of—

(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A);

(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B); and

(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C).

(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).

(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to a person who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such person.

(B) For purposes of subparagraph (A), the term "established charge" means the lesser of—

(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

(ii) the actual charge to the person for such course or courses.

(C) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the person and serviced by the institution.

(2) In each case in which the amount of educational assistance is determined under paragraph (1), the period of entitlement of the person concerned shall be charged with one month for each amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned which is paid to the individual as an educational assistance allowance.

(f)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 16136(c) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

(3) The period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned which is paid to that individual as an educational assistance allowance for such program.

(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.

(g)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.

(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not

the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.

(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(h) A program of education in a course of instruction beyond the baccalaureate degree level shall be provided under this chapter, subject to the availability of appropriations.

(i)(1) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under subparagraphs (A) through (D) of subsection (b)(1) as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

(2) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, who is eligible for educational benefits under chapter 30 (other than section 3012) of title 38 and who meets the eligibility criteria specified in subparagraphs (A) and (B) of section 16132(a)(1) of this title, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under section 3015 of title 38 as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

(3) The authority provided by paragraphs (1) and (2) shall be exercised by the Secretaries concerned under regulations prescribed by the Secretary of Defense.

(j)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of title 38 is the lesser of $2,000 or the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, but for paragraph (1), such individual would otherwise be paid under subsection (b).

(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.

(k)(1) In the case of an individual entitled to educational assistance under this chapter who is pursuing education or training described in subsection (a) or (c) of section 2007 of this title on a half-time or more basis, the Secretary concerned shall, at the election of the individual, pay the individual educational assistance allowance under this chapter for pursuit of such education or training as if the individual were not also eligible to receive or in receipt of educational assistance under section 2007 for pursuit of such education or training.

(2) Concurrent receipt of educational assistance under section 2007 of this title and educational assistance under this chapter shall not be considered a duplication of benefits if the individual is enrolled in a program of education on a half-time or more basis.

(Added Pub. L. 95–79, title IV, §402(a), July 30, 1977, 91 Stat. 328, §2131; amended Pub. L. 96–107, title IV, §402(a), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96–342, title IX, §906(a)(1), Sept. 8, 1980, 94 Stat. 1117; Pub. L. 96–513, title V, §511(68), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–525,

title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2565; Pub. L. 100–689, title I, §§110(a), 111(b)(1), Nov. 18, 1988, 102 Stat. 4170, 4172; Pub. L. 101–189, div. A, title VI, §§642(a), (b), 645(a)(1), (b)(1), Nov. 29, 1989, 103 Stat. 1456, 1458; Pub. L. 101–237, title IV, §422(b)(2), Dec. 18, 1989, 103 Stat. 2089; Pub. L. 102–25, title III, §337(b), Apr. 6, 1991, 105 Stat. 90; Pub. L. 102–127, §2(d), Oct. 10, 1991, 105 Stat. 621; Pub. L. 102–568, title III, §§301(b), (d), 310(b), 318, 320(a)(1), Oct. 29, 1992, 106 Stat. 4326, 4330, 4334, 4335; Pub. L. 103–66, title XII, §12009(b), Aug. 10, 1993, 107 Stat. 416; Pub. L. 103–160, div. A, title V, §518, Nov. 30, 1993, 107 Stat. 1651; renumbered §16131 and amended Pub. L. 103–337, div. A, title XVI, §1663(b)(2), (3), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104–106, div. A, title X, §1076, Feb. 10, 1996, 110 Stat. 450; Pub. L. 104–275, title I, §105(d), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 105–85, div. A, title V, §553(a), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 105–178, title VIII, §8203(b)(1)–(3), June 9, 1998, 112 Stat. 493, 494; Pub. L. 106–65, div. A, title X, §1066(a)(33), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title V, §539(a), Jan. 6, 2006, 119 Stat. 3250; Pub. L. 114–315, title IV, §416(a), Dec. 16, 2016, 130 Stat. 1565; Pub. L. 117–81, div. A, title V, §559(a), Dec. 27, 2021, 135 Stat. 1741.)

## EDITORIAL NOTES

### AMENDMENTS

**2021**—Subsec. (k). Pub. L. 117–81 added subsec. (k).

**2016**—Subsec. (c)(3)(B)(i). Pub. L. 114–315 substituted "12304, 12304a, or 12304b" for "or 12304".

**2006**—Subsec. (j). Pub. L. 109–163 added subsec. (j).

**2002**—Subsec. (a). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (b)(1). Pub. L. 106–65 inserted "in" after "Except as provided" in introductory provisions.

**1998**—Subsec. (b)(1). Pub. L. 105–178, §8203(b)(3), struck out "in paragraph (2) and" after "Except as provided" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 105–178, §8203(b)(1)(A), substituted "$251 (as increased from time to time under paragraph (2))" for "$190".

Subsec. (b)(1)(B). Pub. L. 105–178, §8203(b)(1)(B), substituted "$188 (as increased from time to time under paragraph (2))" for "$143".

Subsec. (b)(1)(C). Pub. L. 105–178, §8203(b)(1)(C), substituted "$125 (as increased from time to time under paragraph (2))" for "$95".

Subsec. (b)(2). Pub. L. 105–178, §8203(b)(2), in introductory provisions, substituted ", the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1)" for "beginning on or after October 1, 1994, the Secretary shall continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under this paragraph for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates".

**1997**—Subsec. (c)(3)(B)(i). Pub. L. 105–85 struck out ", in connection with the Persian Gulf War," after "being ordered".

**1996**—Subsec. (b)(1). Pub. L. 104–275, §105(d)(2), substituted "(f)" for "(g)".

Subsecs. (e) to (i). Pub. L. 104–275, §105(d)(1), redesignated subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which read as follows:

"(e)(1) The amount of the monthly educational assistance allowance payable to a person pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such person under this chapter.

"(2) For each month that a person is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the person's entitlement under this chapter shall be charged at the rate of 80 percent of a month."

Subsec. (j). Pub. L. 104–275, §105(d)(1), redesignated subsec. (j) as (i).

Pub. L. 104–106 added subsec. (j).

**1994**—Pub. L. 103–337, §1663(b)(2), renumbered section 2131 of this title as this section.

Subsec. (c)(3)(B)(i). Pub. L. 103–337, §1663(b)(3)(A), substituted "12301(a), 12301(d), 12301(g), 12302, or 12304" for "672(a), (d), or (g), 673, or 673b".

Subsec. (g)(1). Pub. L. 103–337, §1663(b)(3)(B), substituted "16136(c)" for "2136(c)".

**1993**—Subsec. (b)(2). Pub. L. 103–66 struck out subpar. (A), struck out subpar. (B) designation before

"With respect to", redesignated former cls. (i) and (ii) as subpars. (A) and (B), respectively, and in subpar. (B) substituted "subparagraph (A)" for "clause (i)". Prior to amendment, subpar. (A) read as follows: "With respect to the fiscal year beginning on October 1, 1993, the Secretary shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992."

Subsec. (c)(1). Pub. L. 103–160, §518(1), struck out "other than a program of education in a course of instruction beyond the baccalaureate degree level" after "title 38".

Subsec. (i). Pub. L. 103–160, §518(2), added subsec. (i).

**1992**—Subsec. (b)(1). Pub. L. 102–568, §301(b), substituted "$190" for "$140" in subpar. (A), "$143" for "$105" in subpar. (B), and "$95" for "$70" in subpar. (C).

Subsec. (b)(2)(A). Pub. L. 102–568, §301(d)(1), (2), redesignated subpar. (B) as (A), substituted "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)" for "may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under subparagraph (A) of this paragraph and may provide a percentage increase in such rates", and struck out former subpar. (A) which read as follows: "During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) shall be $170, $128, and $85, respectively."

Subsec. (b)(2)(B), (C). Pub. L. 102–568, §301(d)(3), redesignated subpar. (C) as (B) and substituted "shall continue" for "may continue" and "shall provide" for "may provide" in introductory provisions. Former subpar. (B) redesignated (A).

Subsec. (c)(2). Pub. L. 102–568, §320(a)(1)(A), substituted "section 3695 of title 38" for "section 1795 of title 38".

Subsec. (c)(3)(B)(ii). Pub. L. 102–568, §320(a)(1)(B), substituted ", the individual's" for "of this subparagraph, his or her".

Subsec. (c)(3)(C). Pub. L. 102–568, §320(a)(1)(C), struck out "of this paragraph" after "subparagraph (B)(ii)".

Subsec. (g)(1). Pub. L. 102–568, §310(b)(1), struck out "(other than tuition and fees charged for or attributable to solo flying hours)" after "tuition and fees".

Subsec. (g)(4). Pub. L. 102–568, §310(b)(2), added par. (4).

Subsec. (h). Pub. L. 102–568, §318, added subsec. (h).

**1991**—Subsec. (b). Pub. L. 102–25, §337(b)(1), designated existing provisions as par. (1) and substituted "Except as provided in paragraph (2) and" for "Except as provided in", redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

Subsec. (c)(3). Pub. L. 102–127 added par. (3).

Subsecs. (f)(2), (g)(3). Pub. L. 102–25, §337(b)(2), (3), substituted "amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned" for "$140".

**1989**—Subsec. (b). Pub. L. 101–237, §422(b)(2)(A), in introductory provisions, substituted "subsections (d) through (g)" for "subsections (d) through (f)".

Pub. L. 101–189, §645(b)(1), in introductory provisions, substituted "of an educational assistance allowance" for "and educational assistance allowance".

Pub. L. 101–189, §642(b)(1), in introductory provisions, substituted "Except as provided in subsections (d) through (f), each" for "Each" and inserted ", through the Secretary of Veterans Affairs," after "Secretary concerned".

Subsec. (b)(4). Pub. L. 101–189, §645(a)(1), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (c)(1). Pub. L. 101–189, §642(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study."

Subsecs. (d) to (f). Pub. L. 101–189, §642(b)(2), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 101–237, §422(b)(2)(B), added subsec. (g).

**1988**—Subsec. (b)(4). Pub. L. 100–689, §110(a), added par. (4).

Subsec. (c)(2). Pub. L. 100–689, §111(b)(1), inserted "(or the equivalent thereof in part-time educational assistance)" before period at end.

**1984**—Pub. L. 98–525 amended section generally, substituting a schedule of payments at stated monthly

rates for full-time, three-quarter-time, and half-time pursuit of an education program for former provisions which had set a maximum for any one member of $1,000 for any twelve-month period and $4,000 for the total assistance to any one member.

**1980**—Subsec. (a). Pub. L. 96–513, §511(68)(A), substituted "armed forces" for "armed force".

Subsec. (b)(2). Pub. L. 96–513, §511(68)(B), inserted "of this title" after "2132".

Subsec. (c). Pub. L. 96–342 substituted "$1,000" for "$500" and "$4,000" for "$2,000".

Subsec. (d). Pub. L. 96–513, §511(68)(C), substituted "Secretary of Education" for "Commissioner of Education, Department of Health, Education, and Welfare".

**1979**—Subsec. (b)(1). Pub. L. 96–107 substituted "100 percent" for "50 percent".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, §539(c), Jan. 6, 2006, 119 Stat. 3250, provided that: "The amendments made by this section [amending this section and section 16162 of this title] shall apply to a licensing or certification test administered on or after the date of the enactment of this Act [Jan. 6, 2006]."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title VIII, §8203(b)(4), June 9, 1998, 112 Stat. 494, provided that: "The amendments made by this subsection [amending this section] shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made under paragraph (2) of section 16131(b) of title 10, United States Code, as amended by paragraph (2), for fiscal year 1999."

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–568, title III, §301(e), Oct. 29, 1992, 106 Stat. 4326, provided that:

"(1) The amendments made by this section [amending this section and section 3015 of Title 38, Veterans' Benefits] shall take effect on April 1, 1993.

"(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 [now 1606] of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms 'Montgomery GI bill rate increase' and 'title III benefit' have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 [Pub. L. 102–25] (105 Stat. 99)."

Pub. L. 102–568, title III, §310(d), Oct. 29, 1992, 106 Stat. 4330, provided that: "The amendments made by this section [amending this section and sections 3032 and 3231 of Title 38] shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 [now 1606] of title 10, United States Code, after September 30, 1992."

### EFFECTIVE DATE OF 1989 AMENDMENTS

Pub. L. 101–237, title IV, §422(d), Dec. 18, 1989, 103 Stat. 2090, provided that: "The amendments made by this section [amending this section, section 2136 [now 16136] of this title, and sections 1432 [now 3032] and 1434 [now 3034] of Title 38, Veterans' Benefits] shall take effect on September 30, 1990."

Pub. L. 101–189, div. A, title VI, §642(d), Nov. 29, 1989, 103 Stat. 1458, provided that: "The amendments made by this section [amending this section and section 2136 [now 16136] of this title] shall apply with respect to any person who after September 30, 1990, meets the requirements set forth in subparagraph (A) or (B) of section 2132(a)(1) [now 16132(a)(1)(A), (B)] of title 10, United States Code."

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–525, title VII, §705(b), Oct. 19, 1984, 98 Stat. 2567, provided that: "The amendments made by this section [amending this chapter] shall take effect on July 1, 1985, and shall apply only to members of the

Armed Forces who qualify for educational assistance under chapter 106 of title 10, United States Code, as amended by subsection (a), on or after such date."

**EFFECTIVE DATE OF 1980 AMENDMENTS**

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

Pub. L. 96–342, title IX, §906(a)(2), Sept. 8, 1980, 94 Stat. 1117, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1980."

**EFFECTIVE DATE OF 1979 AMENDMENT**

Pub. L. 96–107, title IV, §402(c), Nov. 9, 1979, 93 Stat. 808, provided that: "The amendments made by this section [amending sections 2131 and 2133 [now 16131 and 16133] of this title] shall apply only to individuals enlisting in the Reserves after September 30, 1979."

**INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING; SELECTED RESERVE MONTGOMERY GI BILL**

Pub. L. 108–454, title I, §103(d), Dec. 10, 2004, 118 Stat. 3601, provided that: "For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (d)(1) of section 16131 of title 10, United States Code, shall be applied as if—

"(1) the reference to '75 percent' in subparagraph (A) were a reference to '85 percent';

"(2) the reference to '55 percent' in subparagraph (B) were a reference to '65 percent'; and

"(3) the reference to '35 percent' in subparagraph (C) were a reference to '45 percent'."

**1995 COST-OF-LIVING ADJUSTMENT IN RATES OF EDUCATIONAL ASSISTANCE**

Pub. L. 103–66, title XII, §12009(c), Aug. 10, 1993, 107 Stat. 416, provided that the fiscal year 1995 cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of Title 38, Veterans' Benefits, and this chapter were to be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of Title 38 and subsec. (b)(2) of this section but for section 12009 of Pub. L. 103–66.

## §16131a. Accelerated payment of educational assistance

(a) The educational assistance allowance payable under section 16131 of this title with respect to an eligible person described in subsection (b) may, upon the election of such eligible person, be paid on an accelerated basis in accordance with this section.

(b) An eligible person described in this subsection is a person entitled to educational assistance under this chapter who is—

(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title.

(c)(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible person making an election under subsection (a) for a program of education shall be the lesser of—

(A) the amount equal to 60 percent of the established charges for the program of education; or

(B) the aggregate amount of educational assistance allowance to which the person remains entitled under this chapter at the time of the payment.

(2)(A) In this subsection, except as provided in subparagraph (B), the term "established charges", in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs) for tuition and fees which similarly

circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

(B) In this subsection, the term "established charges" does not include any fees or payments attributable to the purchase of a vehicle.

(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible person under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

(d) An accelerated payment of educational assistance allowance made with respect to an eligible person under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

(1) the person's enrollment in and pursuit of the program of education; and

(2) the amount of the established charges for the program of education.

(e)(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible person under this section, the person's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible person under section 16131 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the person's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

(f) The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

(g) The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $4,000,000.

(Added Pub. L. 110–181, div. A, title V, §528(a)(1), Jan. 28, 2008, 122 Stat. 105.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 110–181, div. A, title V, §528(a)(3), Jan. 28, 2008, 122 Stat. 107, provided that: "The amendments made by this subsection [enacting this section] shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date."

## §16132. Eligibility for educational assistance

(a) A person who—

(1) after June 30, 1985—

(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 16131 of this title.

(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.

(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this chapter and stating clearly and prominently the substance of sections 16134 and 16135 of this title as such sections may apply to the person. At the request of the Secretary of Veterans Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to that Secretary.

(d) A person who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited. However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(a)(1)(B) of this title.

(Added Pub. L. 95–79, title IV, §402(a), July 30, 1977, 91 Stat. 329, §2132; amended Pub. L. 95–485, title IV, §402(a), Oct. 20, 1978, 92 Stat. 1613; Pub. L. 96–513, title V, §511(69), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2565; Pub. L. 100–48, §4, June 1, 1987, 101 Stat. 331; Pub. L. 100–689, title I, §§110(b), 111(b)(2)–(4), Nov. 18, 1988, 102 Stat. 4170, 4173; Pub. L. 101–189, div. A, title VI, §§643(a), 645(a), (b)(2), Nov. 29, 1989, 103 Stat. 1458; Pub. L. 102–25, title VII, §701(f)(6), Apr. 6, 1991, 105 Stat. 115; renumbered §16132 and amended Pub. L. 103–337, div. A, title XVI, §1663(b)(2), (4), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104–106, div. A, title XV, §1501(b)(34), Feb. 10, 1996, 110 Stat. 498; Pub. L. 106–419, title I, §102(d), Nov. 1, 2000, 114 Stat. 1825.)

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (a)(2). Pub. L. 106–419 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "before completing initial active duty for training has completed the requirements of a secondary school diploma (or an equivalency certificate), or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension;".

**1996**—Subsec. (c). Pub. L. 104–106 substituted "sections 16134" for "section 16134".

**1994**—Pub. L. 103–337, §1663(b)(2), renumbered section 2132 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1663(b)(4)(A), substituted "16131" for "2131" in concluding provisions.

Subsec. (c). Pub. L. 103–337, §1663(b)(4)(B), substituted "section 16134 and 16135" for "sections 2134 and 2135".

**1991**—Subsec. (d). Pub. L. 102–25 substituted "section 115(a)(1)(B)" for "section 115(b)(1)(A)(ii)".

**1989**—Subsec. (c). Pub. L. 101–189, §645(a), substituted "Secretary of Veterans Affairs" for

"Administrator of Veterans' Affairs" and "to that Secretary" for "to the Administrator".

Subsec. (d). Pub. L. 101–189, §645(a)(1), (b)(2), substituted "A person" for "An individual" and "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Pub. L. 101–189, §643(a), inserted at end "However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(b)(1)(A)(ii) of this title."

**1988**—Subsec. (a)(2). Pub. L. 100–689, §111(b)(2), substituted "completed the requirements of" for "received", and inserted before semicolon at end ", or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension".

Subsec. (b). Pub. L. 100–689, §110(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Educational assistance may not be provided to a member under this chapter until the member—

"(1) has completed the initial period of active duty for training required of the member; and

"(2) has completed 180 days of service in the Selected Reserve."

Subsec. (c). Pub. L. 100–689, §111(b)(3), inserted at end "At the request of the Administrator of Veterans' Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator."

Subsec. (d). Pub. L. 100–689, §111(b)(4), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "A person who is entitled to educational assistance under chapter 30 of title 38 based on section 1412 of that title may not also be provided educational assistance under this chapter."

**1987**—Subsec. (a)(1). Pub. L. 100–48 substituted "after June 30, 1985" for "during the period beginning on July 1, 1985, and ending on June 30, 1988".

**1984**—Pub. L. 98–525 amended section generally, updating provisions covering eligibility for educational assistance to cover the period beginning July 1, 1985, and ending June 30, 1988.

**1980**—Pub. L. 96–513 inserted "of this title" after "section 2131" wherever appearing.

**1978**—Subsec. (b)(1). Pub. L. 95–485 substituted "not less than six years" for "automatically extended by two years" and "last day of the term" for "eighth anniversary".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as a note under section 16131 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### SAVINGS PROVISION

Pub. L. 101–189, div. A, title VI, §643(b), Nov. 29, 1989, 103 Stat. 1458, provided that: "The amendment made by subsection (a) [amending this section] shall not affect the eligibility for educational assistance of any person who before the date of the enactment of this Act [Nov. 29, 1989] is entitled to educational assistance under section 2131(a) [now 16131(a)] of title 10, United States Code."

## §16132a. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—Subject to regulation prescribed by the Secretary of Defense, the Secretary concerned may permit a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member's entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the Selected Reserve of the Ready Reserve who, at the time of the approval of the member's request to transfer entitlement to basic educational assistance under this section, has completed—

(1) at least six years of service in the Selected Reserve and enters into an agreement to serve at least four more years as a member of the armed forces; or

(2) the years of service as determined in regulations pursuant to subsection (j).

(c) ELIGIBLE DEPENDENTS.—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member's entitlement as follows:

(1) To the member's spouse.

(2) To one or more of the member's children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) DESIGNATION OF TRANSFEREE.—A member transferring an entitlement to basic educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 16133, a member approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the member's request to transfer such entitlement.

(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

(A) six years of service in the armed forces; or

(B) the years of service as determined in regulations pursuant to subsection (j); or

(2) in the case of entitlement transferred to a child, both—

(A) the completion by the member making the transfer of at least—

(i) ten years of service in the armed forces; or

(ii) the years of service as determined in regulations pursuant to subsection (j); and

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16131 and 16131a to the member making the transfer.

(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) The involuntary separation or retirement of the member—

(A) because of a nondiscretionary provision of law for age or years of service;

(B) because of a policy prescribed by the Secretary concerned mandating such separation or retirement based solely on age or years of service for the prescribed pay grade of an enlisted member;

(C) under section 16133(b); or

(D) because of medical disqualification which is not the result of gross negligence or misconduct of the member,

shall not affect the use of entitlement by the dependent to whom the entitlement is transferred.

(6) A child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

(7) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions.

(8) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

(2) Except as provided in paragraph (3), if a member's eligibility is terminated under section 16134(2), the amount of any transferred entitlement under this section that is used by a dependent of the member as of the date of such termination shall be treated as an overpayment of basic educational assistance under paragraph (1).

(3) Paragraph (2) shall not apply in the case of a member who fails to complete service agreed to by the member—

(A) by reason of the death of the member; or

(B) for a reason referred to in section 16133(b).

(j) REGULATIONS.—The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

(2) the eligibility criteria in accordance with subsection (b);

(3) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2); and

(4) the manner in which the provisions referred to in subsections (h)(4) and (5) shall be administered with respect to a dependent to whom entitlement is transferred under this section.

(Added Pub. L. 110–252, title V, §5006(b), June 30, 2008, 122 Stat. 2381; amended Pub. L. 111–383, div. A, title X, §1075(b)(55), Jan. 7, 2011, 124 Stat. 4372.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (b)(1). Pub. L. 111–383, §1075(b)(55)(A), substituted "agreement to serve" for "agreement to service".

Subsec. (i)(2). Pub. L. 111–383, §1075(b)(55)(B), struck out "whose" after "member's".

## §16133. Time limitation for use of entitlement

(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this chapter may use such person's entitlement expires on the date the person is separated from the Selected Reserve.

(b)(1) In the case of a person—

(A) who is separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter; or

(B) who, on or after the date on which such person became entitled to educational assistance under this chapter ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on December 31, 2001, or the period beginning on October 1, 2007, and ending on September 30, 2014, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 10143(a) of this title,

the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.

(2) The provisions of section 3031(f) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

(3) The provisions of section 3031(d) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

(4) In the case of a member of the Selected Reserve of the Ready Reserve who serves on active duty pursuant to an order to active duty issued under section 12301(a), 12301(d), 12301(g), 12302, 12304, 12304a, or 12304b of this title—

(A) the period of such active duty service plus four months shall not be considered in determining the expiration date applicable to such member under subsection (a); and

(B) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.

(5) In any case in which the Secretary concerned determines that a person entitled to educational assistance under this chapter has been prevented from using such person's entitlement due to an emergency situation, the Secretary concerned shall extend the period of entitlement prescribed in subsection (a) for a period equal to the number of months that the person was so prevented from using such entitlement, as determined by the Secretary.

(c) In this section, the term "emergency situation" has the meaning given such term in section 3601 of title 38.

(Added Pub. L. 95–79, title IV, §402(a), July 30, 1977, 91 Stat. 329, §2133; amended Pub. L. 96–107, title IV, §402(b), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96–513, title V, §511(70), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; Pub. L. 100–456, div. A, title XII, §1233(g)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 100–689, title I, §111(b)(5), Nov. 18, 1988, 102 Stat. 4173; Pub. L. 102–127, §3, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102–484, div. D, title XLIV, §4419(a), Oct. 23, 1992, 106 Stat. 2717; Pub. L. 102–568, title III, §320(a)(2), Oct. 29, 1992, 106 Stat. 4335; Pub. L. 103–160, div. A, title V, §561(m), Nov. 30, 1993, 107 Stat. 1668; renumbered §16133 and amended Pub. L. 103–337, div. A, title XVI, §1663(b)(2), (5), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 105–85, div. A, title V, §553(b), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 105–261, div. A, title V, §561(q), Oct. 17, 1998, 112 Stat. 2027; Pub. L. 106–398, §1 [[div. A], title V, §571(p)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–314, div. A, title VI, §641(a), Dec. 2, 2002, 116 Stat. 2576; Pub. L. 110–181, div. A, title V, §529, Jan. 28, 2008, 122 Stat. 110; Pub. L. 110–252, title V, §5006(d), June 30, 2008, 122 Stat. 2386; Pub. L. 114–315, title IV, §416(b), Dec. 16, 2016, 130 Stat. 1565; Pub. L. 117–333, §3(d), (e)(4), Jan. 5, 2023, 136 Stat. 6127, 6128.)

## EDITORIAL NOTES

### AMENDMENTS

**2023**—Subsec. (b)(5). Pub. L. 117–333, §3(d), added par. (5).

Subsec. (c). Pub. L. 117–333, §3(e)(4), added subsec. (c).

**2016**—Subsec. (b)(4). Pub. L. 114–315 substituted "12304, 12304a, or 12304b" for "or 12304" in introductory provisions.

**2008**—Subsec. (a). Pub. L. 110–252 substituted "on the date the person is separated from the Selected Reserve." for "(1) at the end of the 14-year period beginning on the date on which such person becomes entitled to such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first."

Subsec. (b)(1)(B). Pub. L. 110–181 inserted "or the period beginning on October 1, 2007, and ending on September 30, 2014," after "December 31, 2001,".

**2002**—Subsec. (a)(1). Pub. L. 107–314 substituted "14-year" for "10-year".

**2000**—Subsec. (b)(1)(B). Pub. L. 106–398 substituted "December 31, 2001" for "September 30, 2001".

**1998**—Subsec. (b)(1)(B). Pub. L. 105–261 substituted "September 30, 2001" for "September 30, 1999".

**1997**—Subsec. (b)(4). Pub. L. 105–85 struck out "(A)" before "In the case of", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, struck out ", during the Persian Gulf War," after "Ready Reserve who", and struck out former subpar. (B) which read as follows: "For the purposes of this paragraph, the term 'Persian Gulf War' shall have the meaning given such term in section 101(33) of title 38."

**1994**—Pub. L. 103–337, §1663(b)(2), renumbered section 2133 of this title as this section.

Subsec. (b)(1)(B). Pub. L. 103–337, §1663(b)(5)(A), substituted "10143(a)" for "268(b)".

Subsec. (b)(4)(A). Pub. L. 103–337, §1663(b)(5)(B), substituted "12301(a), 12301(d), 12301(g), 12302, or 12304" for "672(a), (d), or (g), 673, or 673b".

**1993**—Subsec. (b)(1)(B). Pub. L. 103–160 substituted "September 30, 1999" for "September 30, 1995".

**1992**—Subsec. (b)(1). Pub. L. 102–484 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection."

Subsec. (b)(2), (3). Pub. L. 102–568 substituted "section 3031(f) of title 38" for "section 1431(f) of title 38" in par. (2) and "section 3031(d) of title 38" for "section 1431(d) of title 38" in par. (3).

**1991**—Subsec. (b)(4). Pub. L. 102–127 added par. (4).

**1988**—Subsec. (a). Pub. L. 100–689, §111(b)(5)(A), substituted "chapter" for "section".

Subsec. (b). Pub. L. 100–689, §111(b)(5)(B), added par. (1), redesignated existing pars. (1) and (2) as (2) and (3), respectively, and directed the substitution of "1431(f)" for "1431(e)" in par. (2) as redesignated, which could not be executed because such substitution was previously made by Pub. L. 100–456, prior to redesignation of par. (1) as (2), see below.

Pub. L. 100–456 substituted "section 1431(f)" for "section 1431(e)" in par. (1).

**1984**—Pub. L. 98–525 amended section generally, substituting provisions setting a time limit for the use of

educational entitlement for provisions covering the termination of assistance and refund by members. See section 2134 of this title.

**1980**—Subsec. (a). Pub. L. 96–513 inserted "of this title" after "2131" and "2107".

**1979**—Subsec. (b). Pub. L. 96–107 redesignated existing provisions as par. (1), inserted provisions respecting agreement for term of enlistment, substituted provisions relating to computation under par. (2) for provisions relating to computation under section 2131, and added par. (2).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, §641(b), Dec. 2, 2002, 116 Stat. 2577, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2002, and shall apply with respect to periods of entitlement to educational assistance under chapter 1606 of title 10, United States Code, that begin on or after October 1, 1992."

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as a note under section 16131 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–107 applicable only to individuals enlisting in the Reserves after Sept. 30, 1979, see section 402(c) of Pub. L. 96–107, set out as a note under section 16131 of this title.

#### EXTENSION OF TIME LIMITATIONS FOR USE OF ENTITLEMENT: EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Pub. L. 116–140, §6(d), Apr. 28, 2020, 134 Stat. 634, which provided for a temporary extension to use entitled educational assistance, was repealed by Pub. L. 117–333, §3(f), Jan. 5, 2023, 136 Stat. 6128. See subsec. (b)(5) of this section.

## §16134. Termination of assistance

Educational assistance may not be provided under this chapter—

(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

(Added Pub. L. 95–79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2134; amended Pub. L. 98–94, title XII, §1268(14), Sept. 24, 1983, 97 Stat. 707; Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; renumbered §16134, Pub. L. 103–337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006.)

### EDITORIAL NOTES

#### AMENDMENTS

**1994**—Pub. L. 103–337 renumbered section 2134 of this title as this section.

**1984**—Pub. L. 98–525 amended section generally, substituting provisions covering termination of educational assistance for provisions relating to reports to Congress. See section 16137 of this title.

**1983**—Pub. L. 98–94 struck out provision requiring the first report under this section to be submitted not later than Dec. 31, 1977.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as a note under section 16131 of this title.

## §16135. Failure to participate satisfactorily; penalties

(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

(2) be subject to the repayment provisions under section 303a(e) or 373 of title 37.

(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) or 373 of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.

(Added Pub. L. 95–79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2135; amended Pub. L. 95–485, title IV, §402(b), Oct. 20, 1978, 92 Stat. 1613; Pub. L. 96–342, title IX, §906(b), Sept. 8, 1980, 94 Stat. 1117; Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; Pub. L. 100–689, title I, §111(b)(6), Nov. 18, 1988, 102 Stat. 4173; renumbered §16135 and amended Pub. L. 103–337, div. A, title XVI, §1663(b)(2), (6), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104–106, div. A, title XV, §1501(b)(35), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107–314, div. A, title VI, §642, Dec. 2, 2002, 116 Stat. 2577; Pub. L. 109–163, div. A, title VI, §687(c)(12), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 115–91, div. A, title VI, §618(a)(1)(N), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsecs. (a)(2), (b). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Pub. L. 109–163 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to penalties for failure of a member of the Selected Reserve of the Ready Reserve of an armed force to participate satisfactorily in required training.

**2002**—Subsec. (c). Pub. L. 107–314 added subsec. (c).

**1996**—Subsec. (b)(1)(A). Pub. L. 104–106 substituted "16131(a)" for "2131(a)".

**1994**—Pub. L. 103–337, §1663(b)(2), renumbered section 2135 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 103–337, §1663(b)(6)(A), substituted "16132" for "2132".

Subsec. (b)(1)(A). Pub. L. 103–337, §1663(b)(6)(B), which directed substitution of "section 16132(a)" for "section 2132(a)", could not be executed because "section 2132(a)" does not appear in subsec. (b)(1)(A).

**1988**—Subsec. (a)(1). Pub. L. 100–689, §111(b)(6)(A), inserted ", and during which the member has received such assistance," after "chapter".

Subsec. (b)(1)(A). Pub. L. 100–689, §111(b)(6)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and".

**1984**—Pub. L. 98–525 amended section generally, substituting provisions relating to the failure to participate satisfactorily and penalties for provisions which had designated Sept. 30, 1985, as the termination date for enlistments qualifying for educational assistance.

**1980**—Pub. L. 96–342 substituted "1985" for "1980".

**1978**—Pub. L. 95–485 substituted "1980" for "1978".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as a note under section 16131 of this title.

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §16136. Administration of program

(a) Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) Except as otherwise provided in this chapter, the provisions of sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran" and the term "a person", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

(2) the individual possesses a valid private pilot certificate and meets, on the day the individual begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(Added Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2567, §2136; amended Pub. L. 101–189, div. A, title VI, §§642(c), 645(a)(1), Nov. 29, 1989, 103 Stat. 1457, 1458; Pub. L. 101–237, title IV, §§405(d)(3), 422(b)(1), Dec. 18, 1989, 103 Stat. 2081, 2089; Pub. L. 101–510, div. A, title XIV, §1484(j)(3), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 102–16, §10(b), Mar. 22, 1991, 105 Stat. 56; Pub. L. 102–568, title III, §§313(a)(6), 319, 320(a)(3), Oct. 29, 1992, 106 Stat. 4333, 4335, 4336; renumbered §16136, Pub. L. 103–337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; Pub. L. 103–446, title VI, §601(c), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105–368, title

II, §204(b), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

## EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (a). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

**1998**—Subsec. (c)(2). Pub. L. 105–245 substituted "pilot certificate" for "pilot's license" in two places and inserted ", on the day the individual begins a course of flight training," after "meets".

**1994**—Pub. L. 103–337 renumbered section 2136 of this title as this section.

Subsec. (c). Pub. L. 103–446 struck out "(1)" after "(c)", redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: "This subsection shall not apply to a course of flight training that commences on or after October 1, 1994."

**1992**—Subsec. (b). Pub. L. 102–568, §320(a)(3), substituted "sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)" for "sections 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1786(a), 1787, and 1792)".

Pub. L. 102–568, §319, struck out "1780(c)," after "exception of sections".

Subsec. (c)(1). Pub. L. 102–568, §313(a)(6), substituted "section 3680A(b) of title 38" for "section 1673(b) of title 38".

**1991**—Subsec. (b). Pub. L. 102–16 struck out "1434(b), 1663," before "1670," and "1780(g)," before "1786(a),".

**1990**—Subsec. (a). Pub. L. 101–510 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

**1989**—Subsec. (a). Pub. L. 101–189, §645(a)(1), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (b). Pub. L. 101–237, §405(d)(3), inserted reference to section 1685 of title 38.

Pub. L. 101–189, §642(c), amended first sentence generally and substituted "and the term 'a person', as used" for ", as used" in second sentence. Prior to amendment, first sentence read as follows: "Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter."

Subsec. (c). Pub. L. 101–237, §422(b)(1), added subsec. (c).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, §204(c), Nov. 11, 1998, 112 Stat. 3327, provided that: "The amendments made by this section [amending this section and sections 3034 and 3241 of Title 38, Veterans' Benefits] shall apply with respect to courses of flight training beginning on or after October 1, 1998."

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 effective Oct. 1, 1994, see section 601(d) of Pub. L. 103–446, set out as a note under section 3034 of Title 38, Veterans' Benefits.

### EFFECTIVE DATE OF 1989 AMENDMENTS

Pub. L. 101–237, title IV, §405(e), Dec. 18, 1989, 103 Stat. 2082, provided that: "The amendments made by this section [amending this section and section 1685 [now 3485] of Title 38, Veterans' Benefits] shall take effect on May 1, 1990, and shall apply to services performed on or after that date."

Amendment by section 422(b)(1) of Pub. L. 101–237 effective Sept. 30, 1990, see section 422(d) of Pub. L.

101–237, set out as a note under section 16131 of this title.

Amendment by section 642(c) of Pub. L. 101–189 applicable with respect to any person who after Sept. 30, 1990, meets the requirements set forth in section 2132(a)(1)(A) or (B) [16132(a)(1)(A), (B)] of this title, see section 642(d) of Pub. L. 101–189, set out as a note under section 16131 of this title.

**EFFECTIVE DATE**

Section effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98–525, set out as an Effective Date of 1984 Amendment note under section 16131 of this title.

**SAVINGS PROVISION**

Pub. L. 102–568, title III, §313(b), Oct. 29, 1992, 106 Stat. 4333, provided that: "The amendments made by paragraphs (2) through (6) of subsection (a) of this section [enacting section 3680A of Title 38, Veterans' Benefits, amending this section and sections 3034 and 3241 of Title 38, and repealing section 3473 of Title 38] shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section [Oct. 29, 1992] for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date."

## [§16137. Repealed. Pub. L. 112–81, div. A, title X, §1061(29)(A), Dec. 31, 2011, 125 Stat. 1584]

Section, added Pub. L. 98–525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2567, §2137; renumbered §16137, Pub. L. 103–337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; amended Pub. L. 104–106, div. A, title X, §1077, Feb. 10, 1996, 110 Stat. 451; Pub. L. 106–65, div. A, title V, §548(a), Oct. 5, 1999, 113 Stat. 609, required biennial report on the operation of the educational assistance program.

# CHAPTER 1607—EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

Sec.
16161. Purpose.
16162. Educational assistance program.
16162a. Accelerated payment of educational assistance.
16163. Eligibility for educational assistance.
16163a. Authority to transfer unused education benefits to family members.
16164. Time limitation for use of entitlement.
16165. Termination of assistance.
16166. Administration of program.
16167. Sunset.

**EDITORIAL NOTES**

**AMENDMENTS**

**2015**—Pub. L. 114–92, div. A, title V, §555(b), Nov. 25, 2015, 129 Stat. 824, added item 16167.

**2008**—Pub. L. 110–252, title V, §5006(e)(3), June 30, 2008, 122 Stat. 2386, added item 16163a.

Pub. L. 110–181, div. A, title V, §528(b)(2), Jan. 28, 2008, 122 Stat. 109, added item 16162a.

## §16161. Purpose

The purpose of this chapter is to provide educational assistance to members of the reserve components called or ordered to active service in response to a war or national emergency declared

by the President or the Congress, in recognition of the sacrifices that those members make in answering the call to duty.

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1890.)

## §16162. Educational assistance program

(a) PROGRAM ESTABLISHMENT.—The Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program as prescribed in this chapter to provide educational assistance to members of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned.

(b) AUTHORIZED EDUCATION PROGRAMS.—Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

(c) BENEFIT AMOUNT.—(1) The educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, an educational assistance allowance to each member entitled to educational assistance under this chapter who is pursuing a program of education authorized under subsection (b).

(2) The educational assistance allowance provided under this chapter shall be based on the applicable percent under paragraph (4) to the applicable rate provided under section 3015 of title 38 for a member whose entitlement is based on completion of an obligated period of active duty of three years.

(3) The educational assistance allowance provided under this section for a person who is undertaking a program for which a reduced rate is specified in chapter 30 of title 38, that rate shall be further adjusted by the applicable percent specified in paragraph (4).

(4) The adjusted educational assistance allowance under paragraph (2) or (3), as applicable, shall be—

(A) 40 percent in the case of a member of a reserve component who performed active service for 90 consecutive days but less than one continuous year;

(B) 60 percent in the case of a member of a reserve component who performed active service for one continuous year but less than two continuous years; or

(C) 80 percent in the case of a member of a reserve component who performed active service for—

(i) two continuous years or more; or

(ii) an aggregate of three years or more.

(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any member under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) shall not—

(i) be charged against the entitlement of any individual under this chapter; or

(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual's receipt of assistance.

(B) The payment of the educational assistance allowance referred to in subparagraph (A) is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title; and

(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described

in clause (i), the individual's course pursuit.

(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of title 38 shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(ii).

(e) AVAILABILITY OF ASSISTANCE FOR LICENSING AND CERTIFICATION TESTS .—The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.

(f) CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE .—(1)(A) Any individual eligible for educational assistance under this section may contribute amounts for purposes of receiving an increased amount of educational assistance as provided for in paragraph (2).

(B) An individual covered by subparagraph (A) may make the contributions authorized by that subparagraph at any time while a member of a reserve component, but not more frequently than monthly.

(C) The total amount of the contributions made by an individual under subparagraph (A) may not exceed $600. Such contributions shall be made in multiples of $20.

(D) Contributions under this subsection shall be made to the Secretary concerned. Such Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

(2) Effective as of the first day of the enrollment period following the enrollment period in which an individual makes contributions under paragraph (1), the monthly amount of educational assistance allowance applicable to such individual under this section shall be the monthly rate otherwise provided for under subsection (c) increased by—

(A) an amount equal to $5 for each $20 contributed by such individual under paragraph (1) for an approved program of education pursued on a full-time basis; or

(B) an appropriately reduced amount based on the amount so contributed as determined under regulations that the Secretary of Veterans Affairs shall prescribe, for an approved program of education pursued on less than a full-time basis.

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1890; amended Pub. L. 109–163, div. A, title V, §539(b), Jan. 6, 2006, 119 Stat. 3250; Pub. L. 110–181, div. A, title V, §528(c), Jan. 28, 2008, 122 Stat. 109.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Subsec. (c)(4)(C). Pub. L. 110–181, §528(c)(1), substituted "for—" for "for two continuous years or more." and added cls. (i) and (ii).

Subsec. (f). Pub. L. 110–181, §528(c)(2), added subsec. (f).

**2006**—Subsec. (e). Pub. L. 109–163 added subsec. (e).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109–163 applicable to a licensing or certification test administered on or after Jan. 6, 2006, see section 539(c) of Pub. L. 109–163, set out as a note under section 16131 of this title.

## §16162a. Accelerated payment of educational assistance

(a) PAYMENT ON ACCELERATED BASIS.—The educational assistance allowance payable under section 16162 of this title with respect to an eligible member described in subsection (b) may, upon the election of such eligible member, be paid on an accelerated basis in accordance with this section.

(b) ELIGIBLE MEMBERS.—An eligible member described in this subsection is a member of a reserve component entitled to educational assistance under this chapter who is—

(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title.

(c) AMOUNT OF ACCELERATED PAYMENT.—(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible member making an election under subsection (a) for a program of education shall be the lesser of—

(A) the amount equal to 60 percent of the established charges for the program of education; or

(B) the aggregate amount of educational assistance allowance to which the member remains entitled under this chapter at the time of the payment.

(2)(A) In this subsection, except as provided in subparagraph (B), the term "established charges", in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

(B) In this subsection, the term "established charges" does not include any fees or payments attributable to the purchase of a vehicle.

(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible member under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

(d) TIME OF PAYMENT.—An accelerated payment of educational assistance allowance made with respect to an eligible member under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

(1) the member's enrollment in and pursuit of the program of education; and

(2) the amount of the established charges for the program of education.

(e) CHARGE AGAINST ENTITLEMENT.—(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible member under this section, the member's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an

eligible member under section 16162 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the member's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

(f) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

(g) LIMITATION.—The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $3,000,000.

(Added Pub. L. 110–181, div. A, title V, §528(b)(1), Jan. 28, 2008, 122 Stat. 107.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Pub. L. 110–181, div. A, title V, §528(b)(3), Jan. 28, 2008, 122 Stat. 109, provided that: "The amendments made by this subsection [enacting this section] shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date."

## §16163. Eligibility for educational assistance

(a) ELIGIBILITY.—On or after September 11, 2001, a member of a reserve component is entitled to educational assistance under this chapter if the member—

(1) served on active duty in support of a contingency operation for 90 consecutive days or more; or

(2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full time National Guard duty under section 502(f) of title 32 for 90 consecutive days or more when authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(b) DISABLED MEMBERS.—Notwithstanding the eligibility requirements in subsection (a), a member who was ordered to active service as prescribed under subsection (a)(1) or (a)(2) but is released from duty before completing 90 consecutive days because of an injury, illness or disease incurred or aggravated in the line of duty shall be entitled to educational assistance under this chapter at the rate prescribed in section 16162(c)(4)(A) of this title.

(c) WRITTEN NOTIFICATION.—(1) Each member who becomes entitled to educational assistance under subsection (a) shall be given a statement in writing prior to release from active service that summarizes the provisions of this chapter and stating clearly and prominently the substance of section 16165 of this title as such section may apply to the member.

(2) At the request of the Secretary of Veterans Affairs, the Secretary concerned shall transmit a notice of entitlement for each such member to that Secretary.

(d) BAR FROM DUAL ELIGIBILITY.—A member who qualifies for educational assistance under this chapter may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall make an irrevocable election (in such form and manner as the Secretary of Veterans Affairs may prescribe) as to the program to which such service is to be credited.

(e) BAR FROM DUPLICATION OF EDUCATIONAL ASSISTANCE ALLOWANCE.—(1) Except as provided in paragraph (2), an individual entitled to educational assistance under this

chapter who is also eligible for educational assistance under chapter 1606 of this title, chapter 30, 31, 32, 33, or 35 of title 38, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under more than one such program and shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) under which program the member elects to receive educational assistance.

(2) The restriction on duplication of educational assistance under paragraph (1) does not apply to the entitlement of educational assistance under section 16131(i) of this title.

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1892; amended Pub. L. 109–163, div. A, title V, §540(a), Jan. 6, 2006, 119 Stat. 3251; Pub. L. 110–252, title V, §5003(b)(1)(C), June 30, 2008, 122 Stat. 2375; Pub. L. 111–84, div. A, title X, §1073(a)(36), Oct. 28, 2009, 123 Stat. 2474.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Hostage Relief Act of 1980, referred to in subsec. (e)(1), is Pub. L. 96–449, Oct. 14, 1980, 94 Stat. 1967, as amended, which was formerly set out as a note under section 5561 of Title 5, Government Organization and Employees.

### AMENDMENTS

**2009**—Subsec. (e)(1). Pub. L. 111–84 substituted "such program" for "such programs".

**2008**—Subsec. (e)(1). Pub. L. 110–252 inserted "33," after "32,".

**2006**—Subsec. (e)(1). Pub. L. 109–163 substituted "Secretary of Veterans Affairs" for "Secretary concerned".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–252, title V, §5003(d), June 30, 2008, 122 Stat. 2378, provided that: "This section [enacting chapter 33 of Title 38, Veterans' Benefits, amending this section and sections 3033, 3485, 3688 to 3690, 3692, 3695, 3697, and 3697A of Title 38, and enacting provisions set out as a note under section 3301 of Title 38] and the amendments made by this section shall take effect on August 1, 2009."

## §16163a. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary concerned may permit, at such Secretary's sole discretion, a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member's entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the armed forces who, at the time of the approval of the member's request to transfer entitlement to basic educational assistance under this section, has completed at least—

(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the armed forces; or

(2) the years of service as determined in regulations pursuant to subsection (j).

(c) ELIGIBLE DEPENDENTS.—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member's entitlement as follows:

(1) To the member's spouse.

(2) To one or more of the member's children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) DESIGNATION OF TRANSFEREE.—A member transferring an entitlement to basic educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 16164, a member approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

(A) six years of service in the armed forces; or

(B) the years of service as determined in regulations pursuant to subsection (j); or

(2) in the case of entitlement transferred to a child, both—

(A) the completion by the member making the transfer of at least—

(i) ten years of service in the armed forces; or

(ii) the years of service as determined in regulations pursuant to subsection (j); and

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16162 and 16162a to the member making the transfer.

(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) Notwithstanding section 16164(a)(2), a child to whom entitlement is transferred under this

section may use the benefit without regard to the 10-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

(6) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions.

(7) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(i) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(A) by reason of the death of the individual; or

(B) for a reason referred to in section 16133(b).

(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

(k) SECRETARY CONCERNED DEFINED.—For purposes of this section, the term "Secretary concerned" has the meaning given in section 101(a)(9) in the case of a member of the armed forces.

(Added Pub. L. 110–252, title V, §5006(c), June 30, 2008, 122 Stat. 2383; amended Pub. L. 111–383, div. A, title X, §1075(b)(56), Jan. 7, 2011, 124 Stat. 4372.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Subsec. (b)(2). Pub. L. 111–383 substituted "subsection (j)" for "section (j)".

## §16164. Time limitation for use of entitlement

(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter—

(1) while the member is serving—

(A) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

(B) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve); and

(2) in the case of a person who separates from the Selected Reserve of the Ready Reserve after completion of a period of active service described in section 16163 of this title and completion of a service contract under honorable conditions, during the 10-year period beginning on the date on which the person separates from the Selected Reserve.

(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person's entitlement to educational assistance expires at the end of the 10-year period beginning on the date on which such person became entitled to such assistance.

(2) The provisions of subsections (d) and (f) of section 3031 of title 38 shall apply to the period of entitlement prescribed by paragraph (1).

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1892; amended Pub. L. 110–181, div. A, title V, §530(a)(1), Jan. 28, 2008, 122 Stat. 110; Pub. L. 110–417, [div. A], title V, §546(a), Oct. 14, 2008, 122 Stat. 4466.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Subsec. (a). Pub. L. 110–181 substituted "this chapter—" and pars. (1) and (2) for "this chapter while serving—

"(1) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

"(2) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve)."

Subsec. (a)(2). Pub. L. 110–417 substituted "honorable conditions" for "other than dishonorable conditions".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–417, [div. A], title V, §546(b), Oct. 14, 2008, 122 Stat. 4466, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 14, 2008] and shall apply to a person described in section 16163 of title 10, United States Code, who—

"(1) separates from a reserve component on or after January 28, 2008, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 [Pub. L. 110–181]; and

"(2) as of the date of the enactment of this Act, has not used any of the person's entitlement to educational assistance under chapter 1607 of such title."

Pub. L. 110–181, div. A, title V, §530(c), Jan. 28, 2008, 122 Stat. 110, provided that: "The amendments made by this section [amending this section and section 16165 of this title] shall take effect as of October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), to which such amendments relate."

## §16165. Termination of assistance

(a) IN GENERAL.—Except as provided in subsection (b), educational assistance may not be provided under this chapter, or if being provided under this chapter, shall be terminated—

(1) if the member is receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

(2) when the member separates from the Ready Reserve as provided in section 16164(a)(1) of this title, or upon completion of the period provided for in section 16164(a)(2) of this title, as applicable.

(b) EXCEPTION.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve if the member continues to serve in the Ready Reserve during and after such break in service.

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1893; amended Pub. L. 109–163, div. A, title V, §540(b), Jan. 6, 2006, 119 Stat. 3251; Pub. L. 110–181, div. A, title V, §530(a)(2), (b), Jan. 28, 2008, 122 Stat. 110.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Subsec. (a)(2). Pub. L. 110–181, §530(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "when the member separates from the Ready Reserve, as provided for under section 16164(a)(1) or section 16164(a)(2), as applicable, of this title."

Subsec. (b). Pub. L. 110–181, §530(b), struck out "of not more than 90 days" after "in the Selected Reserve".

**2006**—Pub. L. 109–163 designated existing provisions as subsec. (a), inserted heading, substituted "Except as provided in subsection (b), educational assistance" for "Educational assistance", and added subsec. (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–181 effective as of Oct. 28, 2004, as if included in the enactment of Pub. L. 108–375 to which such amendment related, see section 530(c) of Pub. L. 110–181, set out as a note under section 16164 of this title.

## §16166. Administration of program

(a) ADMINISTRATION.—Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) PROGRAM MANAGEMENT.—Except as otherwise provided in this chapter, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran" and the term "person", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) FLIGHT TRAINING.—The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

(2) the individual possesses a valid private pilot certificate and meets, on the day the member begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(d) TRUST FUND.—Amounts for payments for benefits under this chapter shall be derived from

the Department of Defense Education Benefits Fund under section 2006 of this title.

(Added Pub. L. 108–375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1893.)

## §16167. Sunset

(a) SUNSET.—The authority to provide educational assistance under this chapter shall terminate on the date that is four years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016.

(b) LIMITATION ON PROVISION OF ASSISTANCE PENDING SUNSET.—Notwithstanding any other provision of this chapter, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 and ending on the date that is four years after the date of the enactment of that Act, educational assistance may be provided under this chapter only to a member otherwise eligible for educational assistance under this chapter who received educational assistance under this chapter for a course of study at an educational institution for the enrollment period at the educational institution that immediately preceded the date of the enactment of that Act.

(c) ELIGIBILITY FOR POST-9/11 EDUCATIONAL ASSISTANCE.—A member who loses eligibility for benefits under this chapter pursuant to subsection (b) shall be allowed to elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) to have such service previously credited toward this chapter credited towards establishing eligibility for educational assistance under chapter 33 of title 38, notwithstanding the provisions of section 16163(e) of this title or section 3322(h)(1) of title 38.

(Added Pub. L. 114–92, div. A, title V, §555(a), Nov. 25, 2015, 129 Stat. 824; amended Pub. L. 115–48, title I, §106(a), Aug. 16, 2017, 131 Stat. 977.)

### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsecs. (a) and (b), is the date of enactment of Pub. L. 114–92, which was approved Nov. 25, 2015.

#### AMENDMENTS

**2017**—Subsec. (c). Pub. L. 115–48 added subsec. (c).

# CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

Sec.
16201. Financial assistance: health-care professionals in reserve components.
16202. Reserve service: required active duty for training.
16203. Penalties and limitations.
16204. Regulations.

## §16201. Financial assistance: health-care professionals in reserve components

(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions, the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in health care education and training in return for a commitment to subsequent service in the Selected Reserve of the Ready Reserve.

(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is eligible to be appointed as an officer in a reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve in the Selected Reserve, upon successful completion of the program, for the period of service applicable under paragraph (3).

(3)(A) Subject to subparagraph (B), the period for which a participant is required to serve in the Selected Reserve under the agreement pursuant to paragraph (2)(D) shall be one year for each period of six months, or part thereof, for which the participant is provided a stipend pursuant to the agreement.

(B) In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.

(c) PHYSICIANS AND DENTISTS IN CRITICAL WARTIME SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is a graduate of a medical school or dental school;

(B) is eligible for appointment, designation, or assignment as a medical officer or dental officer in the Reserve of the armed force concerned or has been appointed as a medical or dental officer in the Reserve of the armed force concerned; and

(C) is enrolled or has been accepted for enrollment in a residency program for physicians or dentists in a medical or dental specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (g), for the period or the remainder of the period of the residency program in which the

participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer or dental officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided.

(d) REGISTERED NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is a registered nurse;

(B) is eligible for appointment as a Reserve officer for service in a reserve component in a Nurse Corps or as a nurse; and

(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (g), for the period or the remainder of the period of the nursing program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before being appointed as a Reserve officer for service in the Ready Reserve in a Nurse Corps or as a nurse;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided.

(e) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS .—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a Reserve officer for duty as a nurse or other health professional; and

(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

(i) an accredited baccalaureate nursing program; or

(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Selected Reserve for each year, or part thereof, for which the stipend is paid.

(f) MENTAL HEALTH PROFESSIONALS IN CRITICAL WARTIME SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is eligible to be appointed as an officer in a reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in clinical psychology or social work;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program if required for clinical licensure in a mental health profession skill; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a mental health profession skill that has been designated by the Secretary as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in clinical psychology or social work while enrolled in a school accredited in the designated mental health discipline;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Selected Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Selected Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided.

(g) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b), (c), (d), or (f) shall be the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title.

(Added Pub. L. 100–180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1108, §2128; renumbered §16201 and amended Pub. L. 103–337, div. A, title XVI, §1663(c)(2), (5), Oct. 5, 1994, 108 Stat. 3007, 3008; Pub. L. 104–106, div. A, title VII, §736, Feb. 10, 1996, 110 Stat. 383; Pub. L. 107–107, div. A, title V, §539, Dec. 28, 2001, 115 Stat. 1108; Pub. L. 109–163, div. A, title V, §515(b)(1)(WW), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110–417, [div. A], title VI, §616(c), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111–84, div. A, title X, §1073(c)(3), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 112–81, div. A, title V, §556, Dec. 31, 2011, 125 Stat. 1416; Pub. L. 113–66, div. A, title VI, §618, Dec. 26, 2013, 127 Stat. 782.)

## EDITORIAL NOTES

### AMENDMENTS

**2013**—Subsec. (a). Pub. L. 113–66, §618(b)(1), substituted "the Selected Reserve of the Ready Reserve" for "the Ready Reserve".

Subsec. (c)(2)(D). Pub. L. 113–66, §618(b)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "the participant shall agree to serve, upon successful completion of the program, one year in the Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement."

Subsec. (d)(1)(B). Pub. L. 113–66, §618(a)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "is eligible for appointment as—

"(i) a Reserve officer for service in the Army Reserve in the Army Nurse Corps;

"(ii) a Reserve officer for service in the Navy Reserve in the Navy Nurse Corps; or

"(iii) a Reserve officer for service in the Air Force Reserve with a view to designation as an Air Force nurse under section 8067(e) of this title; and".

Subsec. (d)(2)(B). Pub. L. 113–66, §618(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "the participant shall not be eligible to receive such stipend before being appointed as a Reserve officer for service in the Ready Reserve—

"(i) in the Nurse Corps of the Army or Navy; or

"(ii) as an Air Force nurse of the Air Force;".

Subsec. (d)(2)(D). Pub. L. 113–66, §618(b)(3), added subpar. (D) and struck out former subpar. (D) which read as follows: "the participant shall agree to serve, upon successful completion of the program, one year in the Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement."

Subsec. (e)(2)(D). Pub. L. 113–66, §618(b)(4), substituted "the Selected Reserve" for "the Ready Reserve".

Subsec. (g). Pub. L. 113–66, §618(c), amended subsec. (g) generally. Prior to amendment, text read as follows: "The amount of a stipend under an agreement under subsection (b), (c), or (f) shall be—

"(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

"(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve."

**2011**—Subsecs. (b)(2)(A), (c)(2)(A), (d)(2)(A). Pub. L. 112–81, §556(b)(1), substituted "subsection (g)" for "subsection (f)".

Subsec. (f). Pub. L. 112–81, §556(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112–81, §556(a)(1), (b)(2), redesignated subsec. (f) as (g) and substituted "subsection (b), (c), or (f)" for "subsection (b) or (c)" in introductory provisions.

**2009**—Subsec. (e)(2)(A). Pub. L. 111–84 made technical amendment to directory language of Pub. L. 110–417, §616(c). See 2008 Amendment note below.

**2008**—Subsec. (e)(2)(A). Pub. L. 110–417, §616(c), as amended by Pub. L. 111–84, substituted "monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title" for "stipend of $100 per month".

**2006**—Subsec. (d)(1)(B)(ii). Pub. L. 109–163 substituted "Navy Reserve" for "Naval Reserve".

**2001**—Subsec. (a). Pub. L. 107–107, §539(a), struck out "specialties critically needed in wartime" after "qualified in health professions" and substituted "training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime" for "training in such specialties" and "health care education and training" for "training in certain health care specialties".

Subsec. (b). Pub. L. 107–107, §539(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–107, §539(b)(1), (c)(1), redesignated subsec. (b) as (c) and inserted "Wartime" after "Critical" in heading. Former subsec. (c) redesignated (d).

Subsec. (c)(1)(B). Pub. L. 107–107, §539(c)(2), inserted "or has been appointed as a medical or dental officer in the Reserve of the armed force concerned" before semicolon at end.

Subsec. (c)(2)(A). Pub. L. 107–107, §539(e), substituted "subsection (f)" for "subsection (e)".

Subsec. (c)(2)(D). Pub. L. 107–107, §539(d), substituted "one year in the Ready Reserve for each six months" for "two years in the Ready Reserve for each year".

Subsec. (d). Pub. L. 107–107, §539(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(A). Pub. L. 107–107, §539(e), substituted "subsection (f)" for "subsection (e)".

Subsec. (d)(2)(D). Pub. L. 107–107, §539(d), substituted "one year in the Ready Reserve for each six months" for "two years in the Ready Reserve for each year".

Subsecs. (e), (f). Pub. L. 107–107, §539(b)(1), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

**1996**—Subsec. (b). Pub. L. 104–106, §736(1), inserted "and Dentists" in heading.

Subsec. (b)(1)(A). Pub. L. 104–106, §736(2), inserted "or dental school" after "medical school".

Subsec. (b)(1)(B). Pub. L. 104–106, §736(3), inserted "or dental officer" after "medical officer".

Subsec. (b)(1)(C). Pub. L. 104–106, §736(4), substituted "physicians or dentists in a medical or dental specialty" for "physicians in a medical specialty".

Subsec. (b)(2)(B). Pub. L. 104–106, §736(3), inserted "or dental officer" after "medical officer".

**1994**—Pub. L. 103–337, §1663(c)(2), renumbered section 2128 of this title as this section.

Subsecs. (a), (b)(1), (c)(1), (d)(1). Pub. L. 103–337, §1663(c)(5), substituted "chapter" for "subchapter".

Subsec. (f). Pub. L. 103–337, §1663(c)(2), struck out subsec. (f) which defined "Individual Ready Reserve".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(3) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**PAYMENTS FOR PERIOD PRIOR TO DECEMBER 4, 1987**

Pub. L. 100–180, div. A, title VII, §711(e)(2), Dec. 4, 1987, 101 Stat. 1111, provided that: "An agreement entered into by the Secretary of a military department under section 2128 [now 16201] of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before the date of the enactment of this Act [Dec. 4, 1987]."

## §16202. Reserve service: required active duty for training

(a) SELECTED RESERVE.—A person who is required under an agreement under section 16201 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

(b) IRR SERVICE.—A person who is required under an agreement under section 16201 of this title to serve in the Individual Ready Reserve shall serve—

(1) not less than 30 days of initial active duty for training; and

(2) not less than five days of active duty for training each year during the period of service required by the agreement.

(Added Pub. L. 100–180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1111, §2129; renumbered §16202 and amended Pub. L. 103–337, div. A, title XVI, §1663(c)(3), (6), Oct. 5, 1994, 108 Stat. 3007, 3008.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337, §1663(c)(3), renumbered section 2129 of this title as this section.

Subsecs. (a), (b). Pub. L. 103–337, §1663(c)(6), substituted "16201" for "2128".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §16203. Penalties and limitations

(a) FAILURE TO COMPLETE PROGRAM OF TRAINING.—(1) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in training, or for other reasons, shall be required, at the discretion of the Secretary concerned—

(A) to perform one year of active duty for each year (or part thereof) for which such person was provided financial assistance under this section; or

(B) to comply with the repayment provisions of section 303a(e) or 373 of title 37.

(2) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member participating in the program who is dropped from the program from any requirement that may be imposed under paragraph (1), but such relief shall not relieve him from any military obligation imposed by any other law.

(b) PROHIBITIONS OF DUPLICATE BENEFITS.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

(Added Pub. L. 100–180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1111, §2130; renumbered §16203 and amended Pub. L. 103–337, div. A, title XVI, §1663(c)(4), Oct. 5, 1994, 108 Stat. 3008; Pub. L. 109–163, div. A, title VI, §687(c)(13), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 115–91, div. A, title VI, §618(a)(1)(O), Dec. 12, 2017, 131 Stat. 1426.)

### EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (a)(1)(B). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Subsec. (a)(1)(B). Pub. L. 109–163 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "to repay the United States an amount equal to the total amount paid to such person under the program."

**1994**—Pub. L. 103–337, §1663(c)(4), renumbered section 2130 of this title as this section and substituted "Penalties and limitations" for "Penalties, limitations, and other administrative provisions" as section catchline.

Subsec. (c). Pub. L. 103–337, §1663(c)(4)(A), struck out subsec. (c) which related to regulations. See section 16204 of this title.

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## §16204. Regulations

This chapter shall be administered under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 103–337, div. A, title XVI, §1663(c)(1), Oct. 5, 1994, 108 Stat. 3007.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2130(c) of this title, prior to amendment by Pub. L. 103–337, §1663(c)(4)(A).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

# CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

Sec.
16301. Education loan repayment program: members of Selected Reserve.
16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.
16303. Loan repayment program: chaplains serving in the Selected Reserve.

**EDITORIAL NOTES**

**AMENDMENTS**

**2008**—Pub. L. 110–181, div. A, title VI, §672(c)(2), Jan. 28, 2008, 122 Stat. 185, substituted "Education loan repayment program: members of Selected Reserve" for "Education loan repayment program: enlisted members of Selected Reserve with critical specialties" in item 16301.

**2006**—Pub. L. 109–163, div. A, title VI, §684(b), Jan. 6, 2006, 119 Stat. 3325, added item 16303.

## §16301. Education loan repayment program: members of Selected Reserve

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.);

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.); or

(D) any loan incurred for educational purposes made by a lender that is—

(i) an agency or instrumentality of a State;

(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

(iii) a pension fund approved by the Secretary for purposes of this section; or

(iv) a nonprofit private entity designated by a State, regulated by that State, and approved by the Secretary for purposes of this section.

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for service performed as a member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and in an officer program or military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $1,000, whichever is greater, for each year of service, plus the amount of any interest that may accrue during the current year.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required. For the purposes of this section, any interest that has accrued on the loan for periods before the current year shall be considered as within the total loan amount that shall be repaid.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds

made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.

(g) The Secretary of Homeland Security may repay loans described in subsection (a)(1) and otherwise administer this section in the case of members of the Selected Reserve of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy.

(h) Except a person described in subsection (e) who transfers to service making the person eligible for repayment of loans under section 2171 of this title, a member of the armed forces who fails to complete the period of service required to qualify for loan repayment under this section shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(i) The Secretary of Defense may prescribe, by regulations, procedures for implementing this section, including standards for qualified loans and authorized payees and other terms and conditions for making loan repayments. Such regulations may include exceptions that would allow for the payment as a lump sum of any loan repayment due to a member under a written agreement that existed at the time of a member's death or disability.

(Added Pub. L. 103–337, div. A, title XVI, §1663(d)(1), Oct. 5, 1994, 108 Stat. 3008; amended Pub. L. 104–106, div. A, title X, §1079(b), Feb. 10, 1996, 110 Stat. 451; Pub. L. 106–65, div. A, title VI, §676, Oct. 5, 1999, 113 Stat. 676; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §534, Nov. 24, 2003, 117 Stat. 1474; Pub. L. 108–375, div. A, title V, §526, Oct. 28, 2004, 118 Stat. 1890; Pub. L. 110–181, div. A, title VI, §672(a)–(c)(1), Jan. 28, 2008, 122 Stat. 184, 185; Pub. L. 111–383, div. A, title V, §552(b), Jan. 7, 2011, 124 Stat. 4220; Pub. L. 115–91, div. A, title VI, §618(a)(1)(P), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 116–283, div. A, title V, §515(a), Jan. 1, 2021, 134 Stat. 3589.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), D (§1087a et seq.), and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

### AMENDMENTS

**2021**—Subsec. (b). Pub. L. 116–283 substituted "$1,000" for "$500".

**2017**—Subsec. (h). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2011**—Subsecs. (h), (i). Pub. L. 111–383 added subsecs. (h) and (i).

**2008**—Pub. L. 110–181, §672(c)(1), substituted "Education loan repayment program: members of Selected Reserve" for "Education loan repayment program: enlisted members of Selected Reserve with critical specialties" in section catchline.

Subsec. (a)(1)(D). Pub. L. 110–181, §672(a), added subpar. (D).

Subsec. (a)(2). Pub. L. 110–181, §672(b)(1), substituted "The Secretary" for "Except as provided in paragraph (3), the Secretary" and "a member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and in an officer program or military specialty" for "an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty".

Subsec. (a)(3). Pub. L. 110–181, §672(b)(2), struck out par. (3) which read as follows: "In the case of a commitment made by the Secretary of Defense after the date of the enactment of this paragraph to repay a loan under paragraph (1) conditioned upon the performance by the borrower of service as an enlisted member under paragraph (2), the Secretary may repay the loan for service performed by the borrower as an officer (rather than as an enlisted member) in the case of a borrower who, after such commitment is entered into and while performing service as an enlisted member, accepts an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve."

**2004**—Subsec. (a)(2). Pub. L. 108–375, §526(1), substituted "Except as provided in paragraph (3), the Secretary of Defense may repay loans" for "The Secretary may repay loans".

Subsec. (a)(3). Pub. L. 108–375, §526(2), added par. (3).

**2003**—Subsec. (b). Pub. L. 108–136, §534(1), inserted before period at end ", plus the amount of any

interest that may accrue during the current year".

Subsec. (c). Pub. L. 108–136, §534(2), inserted last sentence.

**2002**—Subsec. (g). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**1999**—Subsec. (g). Pub. L. 106–65 added subsec. (g).

**1996**—Subsec. (a)(1). Pub. L. 104–106 struck out "or" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title V, §515(b), Jan. 1, 2021, 134 Stat. 3589, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 1, 2021] and shall apply with respect to loan repayment under section 16301 of title 10, United States Code, for eligible years of service completed on or after the date of the enactment of this Act."

### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

(a) Under regulations prescribed by the Secretary of Defense and subject to the other provisions of this section, the Secretary concerned may repay—

(1) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(2) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

(3) a loan made under part E of such title (20 U.S.C. 1087aa et seq.) after October 1, 1975;

(4) a health professions education loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part B of title VIII of such Act (42 U.S.C. 297 et seq.); and

(5) a loan made, insured, or guaranteed through a recognized financial or educational institution if that loan was used to finance education regarding a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in a health profession that the Secretary of Defense determines to be critically needed in order to meet identified wartime combat medical skill shortages.

(b) The Secretary concerned may repay loans described in subsection (a) only in the case of a person who—

(1) performs satisfactory service as an officer in the Selected Reserve of an armed force; and

(2) possesses professional qualifications, or is enrolled in a program of education leading to professional qualifications, in a health profession that the Secretary of Defense has determined to be needed critically in order to meet identified wartime combat medical skill shortages.

(c)(1) The amount of any repayment of a loan made under this section on behalf of any person shall be determined on the basis of each complete year of service that is described in subsection (b)(1) and performed by the person after the date on which the loan was made.

(2) The annual maximum amount of a loan that may be repaid under this section shall be the same as the maximum amount in effect for the same year under subsection (e)(2) of section 2173 of this

title for the education loan repayment program under such section.

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer on or before December 31, 2026.

(Added Pub. L. 99–145, title VI, §671(a)(1), Nov. 8, 1985, 99 Stat. 662, §2172; amended Pub. L. 100–180, div. A, title VII, §713, Dec. 4, 1987, 101 Stat. 1112; Pub. L. 101–189, div. A, title VII, §701(a)–(c), Nov. 29, 1989, 103 Stat. 1467; Pub. L. 102–484, div. A, title VI, §612(f), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, §613(f), Nov. 30, 1993, 107 Stat. 1681; renumbered §16302 and amended Pub. L. 103–337, div. A, title VI, §613(e), title X, §1070(a)(9), title XVI, §1663(d)(2), Oct. 5, 1994, 108 Stat. 2783, 2855, 3009; Pub. L. 104–106, div. A, title VI, §613(h), title X, §1079(c), Feb. 10, 1996, 110 Stat. 360, 452; Pub. L. 104–201, div. A, title VI, §613(g), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §611(h), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105–261, div. A, title VI, §§611(h), 654, Oct. 17, 1998, 112 Stat. 2039, 2052; Pub. L. 106–65, div. A, title VI, §611(h), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, §1 [[div. A], title VI, §621(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, §611(h), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–314, div. A, title VI, §612(b), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, §612(b), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §§612(b), 662, Oct. 28, 2004, 118 Stat. 1947, 1974; Pub. L. 109–163, div. A, title VI, §622(b), Jan. 6, 2006, 119 Stat. 3294; Pub. L. 109–364, div. A, title VI, §612(b), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §612(b), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title V, §547, title VI, §612(b), Oct. 14, 2008, 122 Stat. 4466, 4484; Pub. L. 111–84, div. A, title VI, §612(a)(2), Oct. 28, 2009, 123 Stat. 2353; Pub. L. 111–383, div. A, title VI, §612(a)(2), Jan. 7, 2011, 124 Stat. 4236; Pub. L. 112–81, div. A, title VI, §612(a)(2), Dec. 31, 2011, 125 Stat. 1449; Pub. L. 112–239, div. A, title VI, §612(a)(2), Jan. 2, 2013, 126 Stat. 1776; Pub. L. 113–66, div. A, title VI, §612(a)(2), Dec. 26, 2013, 127 Stat. 780; Pub. L. 113–291, div. A, title VI, §612(a)(2), Dec. 19, 2014, 128 Stat. 3400; Pub. L. 114–92, div. A, title VI, §612(a)(2), Nov. 25, 2015, 129 Stat. 838; Pub. L. 114–328, div. A, title VI, §612(a)(2), Dec. 23, 2016, 130 Stat. 2158; Pub. L. 115–91, div. A, title VI, §612(a)(2), Dec. 12, 2017, 131 Stat. 1421; Pub. L. 115–232, div. A, title VI, §611(b)(2), Aug. 13, 2018, 132 Stat. 1797; Pub. L. 116–92, div. A, title VI, §611(b)(2), Dec. 20, 2019, 133 Stat. 1426; Pub. L. 116–283, div. A, title VI, §611(b)(2), Jan. 1, 2021, 134 Stat. 3673; Pub. L. 117–81, div. A, title VI, §611(b)(2), Dec. 27, 2021, 135 Stat. 1769; Pub. L. 117–263, div. A, title VI, §601(b)(2), Dec. 23, 2022, 136 Stat. 2619; Pub. L. 118–31, div. A, title VI, §613(b)(2), Dec. 22, 2023, 137 Stat. 291; Pub. L. 118–159, div. A, title VI, §611(b)(2), Dec. 23, 2024, 138 Stat. 1932; Pub. L. 119–60, div. A, title VI, §611(b)(2), Dec. 18, 2025, 139 Stat. 906.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1) to (3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), D (§1087a et seq.), and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (a)(4), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title VII of the Act is classified generally to part A (§292 et seq.) of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part B of title VIII of the Act is classified generally to part B (§297 et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

### AMENDMENTS

**2025**—Subsec. (d). Pub. L. 119–60 substituted "December 31, 2026" for "December 31, 2025".

**2024**—Subsec. (d). Pub. L. 118–159 substituted "December 31, 2025" for "December 31, 2024".

**2023**—Subsec. (d). Pub. L. 118–31 substituted "December 31, 2024" for "December 31, 2023".

**2022**—Subsec. (d). Pub. L. 117–263 substituted "December 31, 2023" for "December 31, 2022".

**2021**—Subsec. (d). Pub. L. 117–81 substituted "December 31, 2022" for "December 31, 2021".

Subsec. (d). Pub. L. 116–283 substituted "December 31, 2021" for "December 31, 2020".

**2019**—Subsec. (d). Pub. L. 116–92 substituted "December 31, 2020" for "December 31, 2019".
**2018**—Subsec. (d). Pub. L. 115–232 substituted "December 31, 2019" for "December 31, 2018".
**2017**—Subsec. (d). Pub. L. 115–91 substituted "December 31, 2018" for "December 31, 2017".
**2016**—Subsec. (d). Pub. L. 114–328 substituted "December 31, 2017" for "December 31, 2016".
**2015**—Subsec. (d). Pub. L. 114–92 substituted "December 31, 2016" for "December 31, 2015".
**2014**—Subsec. (d). Pub. L. 113–291 substituted "December 31, 2015" for "December 31, 2014".
**2013**—Subsec. (d). Pub. L. 113–66 substituted "December 31, 2014" for "December 31, 2013".
Pub. L. 112–239 substituted "December 31, 2013" for "December 31, 2012".
**2011**—Subsec. (d). Pub. L. 112–81 substituted "December 31, 2012" for "December 31, 2011".
Pub. L. 111–383 substituted "December 31, 2011" for "December 31, 2010".
**2009**—Subsec. (d). Pub. L. 111–84 substituted "December 31, 2010" for "December 31, 2009".
**2008**—Subsec. (c)(2), (3). Pub. L. 110–417, §547, added par. (2) and struck out former pars. (2) and (3) which read as follows:
"(2) Subject to paragraph (3), the amount of a loan that may be repaid under this section on behalf of any person may not exceed $20,000 for each year of service described in paragraph (1).
"(3) The total amount that may be repaid on behalf of any person under this section may not exceed $50,000."
Subsec. (d). Pub. L. 110–417, §612(b), substituted "on or before December 31, 2009" for "before January 1, 2009".
Pub. L. 110–181 substituted "January 1, 2009" for "January 1, 2008".
**2006**—Subsec. (d). Pub. L. 109–364 substituted "January 1, 2008" for "January 1, 2007".
Pub. L. 109–163 substituted "January 1, 2007" for "January 1, 2006".
**2004**—Subsec. (a)(5). Pub. L. 108–375, §662, inserted "a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in" after "regarding".
Subsec. (d). Pub. L. 108–375, §612(b), substituted "January 1, 2006" for "January 1, 2005".
**2003**—Subsec. (d). Pub. L. 108–136 substituted "January 1, 2005" for "January 1, 2004".
**2002**—Subsec. (d). Pub. L. 107–314 substituted "January 1, 2004" for "January 1, 2003".
**2001**—Subsec. (d). Pub. L. 107–107 substituted "January 1, 2003" for "January 1, 2002".
**2000**—Subsec. (d). Pub. L. 106–398 substituted "January 1, 2002" for "January 1, 2001".
**1999**—Subsec. (d). Pub. L. 106–65 substituted "January 1, 2001" for "January 1, 2000".
**1998**—Subsec. (b)(2). Pub. L. 105–261, §654(a), inserted ", or is enrolled in a program of education leading to professional qualifications," after "possesses professional qualifications".
Subsec. (c)(2). Pub. L. 105–261, §654(b)(1), substituted "$20,000" for "$3,000".
Subsec. (c)(3). Pub. L. 105–261, §654(b)(2), substituted "$50,000" for "$20,000".
Subsec. (d). Pub. L. 105–261, §611(h), substituted "January 1, 2000" for "October 1, 1999".
**1997**—Subsec. (d). Pub. L. 105–85 substituted "October 1, 1999" for "October 1, 1998".
**1996**—Subsec. (a)(2) to (5). Pub. L. 104–106, §1079(c), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.
Subsec. (d). Pub. L. 104–201 substituted "October 1, 1998" for "October 1, 1997".
Pub. L. 104–106, §613(h), substituted "October 1, 1997" for "October 1, 1996".
**1994**—Pub. L. 103–337, §1663(d)(2), renumbered section 2172 of this title as this section and substituted "Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages" for "Education loans for certain health professionals who serve in the Selected Reserve" as section catchline.
Subsec. (a)(3). Pub. L. 103–337, §1070(a)(9), substituted "health professions education loan" for "health education assistance loan", "part A" for "part C", and "42 U.S.C. 292" for "42 U.S.C. 294".
Subsec. (d). Pub. L. 103–337, §613(e), substituted "October 1, 1996" for "October 1, 1995".
**1993**—Subsec. (d). Pub. L. 103–160 substituted "October 1, 1995" for "October 1, 1993".
**1992**—Subsec. (d). Pub. L. 102–484 substituted "October 1, 1993" for "October 1, 1992".
**1989**—Subsec. (a)(1). Pub. L. 101–189, §701(c)(1), struck out "a portion of" before "a loan made".
Subsec. (a)(4). Pub. L. 101–189, §701(a), added par. (4).
Subsec. (c)(2). Pub. L. 101–189, §701(c)(2), substituted "amount of" for "portion of".
Subsec. (d). Pub. L. 101–189, §701(b), substituted "October 1, 1992" for "October 1, 1990".
**1987**—Subsec. (a)(3). Pub. L. 100–180, §713(a), inserted "or under part B of title VIII of such Act (42 U.S.C. 297 et seq.)".
Subsec. (d). Pub. L. 100–180, §713(b), substituted "October 1, 1990" for "October 1, 1988".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1663(d)(2) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE**

Pub. L. 99–145, title VI, §671(b)(2), Nov. 8, 1985, 99 Stat. 663, provided that: "The authority provided under section 2172 [now 16302] of title 10, United States Code, as added by subsection (a), shall apply only—

"(A) in the case of a person who is first appointed as a commissioned officer of an Armed Force after September 30, 1985; and

"(B) with respect to service performed after that date."

## §16303. Loan repayment program: chaplains serving in the Selected Reserve

(a) AUTHORITY TO REPAY EDUCATION LOANS.—For purposes of maintaining adequate numbers of chaplains in the Selected Reserve, the Secretary concerned may repay a loan that was obtained by a person who—

(1) satisfies the requirements for accessioning and commissioning of chaplains, as prescribed in regulations;

(2) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

(3) signs a written agreement with the Secretary concerned to serve not less than three years in the Selected Reserve.

(b) EXCEPTION FOR CHAPLAIN CANDIDATE PROGRAM.—A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of a loan under subsection (a).

(c) LOAN REPAYMENT PROCESS; MAXIMUM AMOUNT.—(1) Subject to paragraph (2), the repayment of a loan under subsection (a) may consist of the payment of the principal, interest, and related expenses of the loan.

(2) The amount of any repayment of a loan made under subsection (a) on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (a)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to the agreement. The balance of such amount shall be payable at such time or times as are prescribed in regulations.

(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on whose behalf a loan is repaid under subsection (a) who fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3) shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added and amended Pub. L. 109–163, div. A, title VI, §§684(a), 687(c)(14), Jan. 6, 2006, 119 Stat. 3324, 3335; Pub. L. 115–91, div. A, title VI, §618(a)(1)(Q), Dec. 12, 2017, 131 Stat. 1426.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2017**—Subsec. (d). Pub. L. 115–91 inserted "or 373" before "of title 37".

**2006**—Subsec. (d). Pub. L. 109–163, §687(c)(14), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: "If a person on whose behalf a loan is repaid under subsection (a) fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3), the Secretary concerned may require the person to pay the United States an amount equal to the amount of the loan repayments made on behalf of the person in connection with the agreement."

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**SAVINGS PROVISION**

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

# CHAPTER 1611—OTHER EDUCATIONAL ASSISTANCE PROGRAMS

Sec.
16401. Marine Corps Platoon Leaders Class: college tuition assistance program.

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §533(g)], Oct. 30, 2000, 114 Stat. 1654, 1654A–112, substituted "Class: college tuition assistance program" for "Class program: officer candidates pursuing degrees" in item 16401.

## §16401. Marine Corps Platoon Leaders Class: college tuition assistance program

(a) AUTHORITY.—The Secretary of the Navy may provide financial assistance to an eligible member of the Marine Corps Reserve for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in less than five academic years; or

(2) a doctor of jurisprudence or bachelor of laws degree in not more than four academic years.

(b) ELIGIBILITY.—(1) To be eligible for financial assistance under this section, a member of the Marine Corps Reserve must—

(A) be a member of the Marine Corps Platoon Leaders Class program and have successfully completed one six-week (or longer) increment of military training required under that program;

(B) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(C) enter into a written agreement with the Secretary described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(C) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Marine Corps, if tendered by the President;

(B) to serve on active duty for at least five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Marine Corps Reserve until the eighth anniversary of the date of the appointment.

(c) COVERED EXPENSES.—Expenses for which financial assistance may be provided under this section are—

(1) tuition and fees charged by the institution of higher education involved;

(2) the cost of books; and

(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(d) AMOUNT.—The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $13,800 for any academic year.

(e) LIMITATIONS.—(1) Financial assistance may be provided to a member under this section only for three consecutive academic years.

(2) Not more than 450 members may participate in the financial assistance program under this section in any academic year.

(f) FAILURE TO COMPLETE PROGRAM.—(1) An enlisted member who receives financial assistance under this section may be ordered to active duty in the Marine Corps by the Secretary to serve in an appropriate enlisted grade for such period as the Secretary prescribes, but not for more than four years, and an officer who receives financial assistance under this section shall be subject to the repayment provisions of section 303a(e) or 373 of title 37, if the member—

(A) completes the military and academic requirements of the Marine Corps Platoon Leaders Class program and refuses to accept an appointment as a commissioned officer in the Marine Corps when offered or, if already a commissioned officer in the Marine Corps, refuses to accept an assignment on active duty when offered;

(B) fails to complete the military or academic requirements of the Marine Corps Platoon Leaders Class program; or

(C) is disenrolled from the Marine Corps Platoon Leaders Class program for failure to maintain eligibility for an original appointment as a commissioned officer under section 532 of this title.

(2) Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) or 373 of title 37. The Secretary of the Navy may waive the requirements of paragraph (1) in the case of a person who—

(A) becomes unqualified to serve on active duty as an officer due to a circumstance not within the control of the person;

(B) is not physically qualified for appointment under section 532 of this title and later is determined by the Secretary of the Navy under section 505 of this title to be unqualified for service as an enlisted member of the Marine Corps due to a physical or medical condition that was not the result of misconduct or grossly negligent conduct; or

(C) fails to complete the military or academic requirements of the Marine Corps Platoon Leaders Class program due to a circumstance not within the control of the person.

(g) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 106–65, div. A, title V, §551(a)(1), Oct. 5, 1999, 113 Stat. 612; amended Pub. L. 106–398, §1 [[div. A], title V, §533(a)–(d), (f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–110, 1654A–111; Pub. L. 109–163, div. A, title VI, §687(c)(15), Jan. 6, 2006, 119 Stat. 3336; Pub. L. 115–91, div. A, title VI, §618(a)(1)(R), Dec. 12, 2017, 131 Stat. 1426; Pub. L. 118–159, div. A, title V, §559, Dec. 23, 2024, 138 Stat. 1899.)

## EDITORIAL NOTES

### AMENDMENTS

**2024**—Subsec. (d). Pub. L. 118–159, §559(1), substituted "$13,800" for "$5,200".

Subsec. (e)(2). Pub. L. 118–159, §559(2), substituted "450" for "1,200".

**2017**—Subsec. (f). Pub. L. 115–91 inserted "or 373" before "of title 37" in introductory provisions of par.

(1) and in par. (2).

**2006**—Subsec. (f)(1). Pub. L. 109–163, §687(c)(15)(A), substituted "shall be subject to the repayment provisions of section 303a(e) of title 37" for "may be required to repay the full amount of financial assistance" in introductory provisions.

Subsec. (f)(2). Pub. L. 109–163, §687(c)(15)(B), inserted "Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37." before "The Secretary of the Navy may waive" in introductory provisions.

**2000**—Pub. L. 106–398, §1 [[div. A], title V, §533(f)(1)], substituted "Class: college tuition assistance program" for "Class program: officer candidates pursuing degrees" in section catchline.

Subsec. (a). Pub. L. 106–398, §1 [[div. A], title V, §533(a)(1), (f)(2)], struck out "for Financial Assistance Program" after "Authority" in heading and "enlisted" after "an eligible" in introductory provisions.

Subsec. (a)(2). Pub. L. 106–398, §1 [[div. A], title V, §533(c)], substituted "four" for "three".

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title V, §533(a)(2)(A)], substituted "a member" for "an enlisted member" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 106–398, §1 [[div. A], title V, §533(a)(2)(B)], substituted "a member of" for "an officer candidate in".

Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title V, §533(b)(1)(A), (B)], redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "meet the applicable age requirement specified in paragraph (2);".

Subsec. (b)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title V, §533(b)(1)(B), (C)], redesignated subpar. (D) as (C) and substituted "paragraph (2)" for "paragraph (3)".

Subsec. (b)(2), (3). Pub. L. 106–398, §1 [[div. A], title V, §533(b)(2)–(4)], redesignated par. (3) as (2), substituted "paragraph (1)(C)" for "paragraph (1)(D)" in introductory provisions, and struck out former par. (2) which read as follows:

"(2)(A) In the case of a member pursuing a baccalaureate degree, the member meets the age requirements of this paragraph if the member will be under 27 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 30 years that exceeds 27 years by a number of months that is not more than the number of months that the member served on active duty.

"(B) In the case of a member pursuing a doctor of jurisprudence or bachelor of laws degree, the member meets the age requirements of this paragraph if the member will be under 31 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 35 years that exceeds 31 years by a number of months that is not more than the number of months that the member served on active duty."

Subsec. (f)(1). Pub. L. 106–398, §1 [[div. A], title V, §533(d)(1)(A), (B)], in introductory provisions, substituted "An enlisted member who" for "A member who" and inserted "and an officer who receives financial assistance under this section may be required to repay the full amount of financial assistance," after "for more than four years,".

Subsec. (f)(1)(A). Pub. L. 106–398, §1 [[div. A], title V, §533(d)(1)(C)], inserted "or, if already a commissioned officer in the Marine Corps, refuses to accept an assignment on active duty when offered" after "when offered".

Subsec. (f)(2). Pub. L. 106–398, §1 [[div. A], title V, §533(d)(2)], added par. (2) and struck out former par. (2) which read as follows: "The Secretary of the Navy may waive the obligated service under paragraph (1) of a person who is not physically qualified for appointment under section 532 of this title and later is determined by the Secretary of the Navy under section 505 of this title to be unqualified for service as an enlisted member of the Marine Corps due to a physical or medical condition that was not the result of misconduct or grossly negligent conduct."

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

### TRANSITION PROVISION

Pub. L. 106–65, div. A, title V, §551(d), Oct. 5, 1999, 113 Stat. 614, provided that:

"(1) An enlisted member of the Marine Corps Reserve selected for training as an officer candidate under section 12209 of title 10, United States Code, before implementation of a financial assistance program under section 16401 of such title (as added by subsection (a)) may, upon application, participate in the financial assistance program established under section 16401 of such title (as added by subsection (a)) if the member—

"(A) is eligible for financial assistance under such section 16401;

"(B) submits a request for the financial assistance to the Secretary of the Navy not later than 180 days after the date on which the Secretary establishes the financial assistance program; and

"(C) enters into a written agreement described in subsection (b)(3) of such section.

"(2) Section 205(f) of title 37, United States Code, as added by subsection (c), applies to a member referred to in paragraph (1)."

# PART V—SERVICE, SUPPLY, AND PROCUREMENT


| Chap. | | Sec. |
|---|---|---|
| **1801.** | **Issue of Serviceable Material to Reserve Components. [No present sections]** | |
| **1803.** | **Facilities for Reserve Components** | **18231** |
| **1805.** | **Miscellaneous Provisions** | **18501** |


## CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

[NO PRESENT SECTIONS]

## CHAPTER 1803—FACILITIES FOR RESERVE COMPONENTS


Sec.

18231. Purpose.
18232. Definitions.
18233. Acquisition.
18233a. Notice and wait requirements for certain projects.
18233b. Authority to carry out small projects with operation and maintenance funds.
18234. Location and use.
18235. Administration; other use permitted by Secretary.
18236. Contributions to States; other use permitted by States.
18237. Supervision of construction: compliance with State law.
18238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units.
18239. Waiver of certain restrictions.
18240. Acquisition of facilities by exchange.


### EDITORIAL NOTES

### AMENDMENTS

**2004**—Pub. L. 108–375, div. B, title XXVIII, §§2808(c), 2809(a)(2), Oct. 28, 2004, 118 Stat. 2125, 2127, substituted "Notice and wait requirements for certain projects" for "Limitation on certain projects; authority to carry out small projects with operation and maintenance funds" in item 18233a and added items 18233b and 18240.

**1994**—Pub. L. 103–337, div. A, title XVI, §1664(b)(1), (3), Oct. 5, 1994, 108 Stat. 3010, renumbered chapter 133 as this chapter and renumbered items 2231 to 2239 as items 18231 to 18239, respectively.

**1982**—Pub. L. 97–214, §3(b)(2), (c)(2), July 12, 1982, 96 Stat. 169, 170, substituted "Limitation on certain projects; authority to carry out small projects with operation and maintenance funds" for "Limitation" in item 2233a, and added item 2239.

**1958**—Pub. L. 85–861, §1(42), Sept. 2, 1958, 72 Stat. 1457, inserted ": compliance with State law" in item 2237.

Pub. L. 85–685, title VI, §601(4), Aug. 20, 1958, 72 Stat. 665, added item 2233a.

## §18231. Purpose

The purpose of this chapter is to provide for—

(1) the acquisition, by purchase, lease, transfer, construction, expansion, rehabilitation, or conversion of facilities necessary for the proper development, training, operation, and maintenance of the reserve components of the armed forces, including troop housing and messing facilities;

(2) the joint use of those facilities by units of two or more of those reserve components, to the greatest practicable extent for efficiency and economy;

(3) the use of those facilities, in time of war or national emergency, by those units and other units of the armed forces, to the greatest practicable extent for efficiency and economy; and

(4) any other use of those facilities by the United States, in time of war or national emergency, to the greatest practicable extent for efficiency and economy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 120, §2231; Pub. L. 85–215, §1, Aug. 29, 1957, 71 Stat. 489; renumbered §18231, Pub. L. 103–337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2231 | 50:881. | Sept. 11, 1950, ch. 945, §2, 64 Stat. 829. |

In clause (1), the words "units of" are omitted as surplusage.
In clause (4), the words "United States" are substituted for the words "Federal Government".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 2231 of this title as this section.
**1957**—Par. (1). Pub. L. 85–215 included troop housing and messing facilities.

## §18232. Definitions

In this chapter:

(1) The term "State" means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States and includes political subdivisions and military units thereof and tax-supported agencies therein.

(2) The term "facility" includes any (A) interest in land, (B) armory, readiness center, or other structure, and (C) storage or other facility normally needed for the administration and training of any unit of the reserve components of the armed forces.

(3) The terms "armory" and "readiness center" mean a structure that houses one or more units of a reserve component and is used for training and administering those units. Such terms include a structure that is appurtenant to such a structure and houses equipment used for that training and administration.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2232; Pub. L. 85–861, §1(36), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 97–214, §3(d)(1), July 12, 1982, 96 Stat. 170; Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; renumbered §18232, Pub. L. 103–337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 106–398, §1 [div. B, title XXVIII, §2807(a), (b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–415.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2232 | 50:886. | Sept. 11, 1950, ch. 945, §7, 64 Stat. 831. |

Clause (1) is substituted for 50:886(b). The words "(2) Puerto Rico; and (3) the District of Columbia" are omitted, since they are specifically included, where applicable, in the revised chapter. The words "together with any improvement thereto" and "of the United States" are omitted as surplusage. 50:886(c) is omitted, since the reserve components of the armed forces are named in section 261 of this title. 50:886(d) is omitted, since its subject matter is covered by other relevant sections of the revised chapter.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2232 | 50:886. | Aug. 9, 1955, ch. 662, §1(g), (h), 69 Stat. 594. |

The last sentence of 50:886(b) is omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**2000**—Par. (2)(B). Pub. L. 106–398, §1 [div. B, title XXVIII, §2807(b)(1)], substituted "armory, readiness center, or other structure" for "armory or other structure".

Par. (3). Pub. L. 106–398, §1 [div. B, title XXVIII, §2807(a)], substituted "The terms 'armory' and 'readiness center' mean" for "The term 'armory' means" and "Such terms include" for "It includes".

**1994**—Pub. L. 103–337 renumbered section 2232 of this title as this section.

**1987**—Pub. L. 100–26 inserted "The term" after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (2) and (3) and substituted lowercase letter.

**1982**—Cl. (1). Pub. L. 97–214 substituted provision defining "State" as any State of the United States, the District of Columbia, Puerto Rico, and each territory and possession of the United States including political subdivisions and military units thereof and tax-supported agencies therein for provision defining "State" and "Territory" as including political subdivisions and military units thereof and tax-supported agencies therein.

**1958**—Cl. (3). Pub. L. 85–861 added cl. (3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §18233. Acquisition

(a) Subject to sections 18233a, 18234, 18235, 18236, and 18238 of this title and to subsection (c), the Secretary of Defense may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as are authorized by law to carry out the purposes of this chapter;

(2) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it or by the United States for use jointly by units of two or more reserve components of the armed forces or to acquire or construct facilities for such use;

(3) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it (or to acquire, construct, expand, rehabilitate, or convert additional facilities) made necessary by the conversion, redesignation, or reorganization of units of the Army National Guard of the United States or the Air National Guard of the United States authorized by the Secretary of the military department concerned;

(4) contribute to any State such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States;

(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter; and

(6) contribute to any State such amounts for the construction, alteration, or rehabilitation of critical portions of facilities as the Secretary determines to be required to meet a change in Department of Defense construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility.

(b) Title to property acquired by the United States under subsection (a)(1) vests in the United States. Such property may be transferred to any State incident to the expansion, rehabilitation, or conversion of such property under subsection (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State within a Federal installation.

(c) The Secretary of Defense may delegate any of his authority or functions under this chapter to any department, agency, or officer of the Department of Defense.

(d) The expenses of leasing property under subsection (a)(1) may be paid from appropriations available for the payment of rent.

(e) The Secretary of Defense may procure, or contribute to any State such amounts as the Secretary determines to be necessary to procure, architectural and engineering services and construction design in connection with facilities to be established or developed under this chapter which are not otherwise authorized by law.

(f)(1) Authority provided by law to construct, expand, rehabilitate, convert, or equip any facility under this section includes authority to expend funds for surveys, administration, overhead, planning, design, and supervision incident to any such activity.

(2) Authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase or gift.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2233; Pub. L. 85–685, title VI, §601(1), (2), Aug. 20, 1958, 72 Stat. 664; Pub. L. 85–861, §1(37)–(39), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 96–125, title VII, §703, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97–99, title VIII, §§803, 804, Dec. 23, 1981, 95 Stat. 1380, 1381; Pub. L. 97–214, §§3(a), (d)(2), (e)(1), 10(a)(2), July 12, 1982, 96 Stat. 169, 170, 175; Pub. L. 98–407, title VII, §703(a), Aug. 28, 1984, 98 Stat. 1517; Pub. L. 98–525, title XIV, §1405(34), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 99–167, title VII, §702(a), Dec. 3, 1985, 99 Stat. 985; Pub. L. 102–190, div. B, title XXVIII, §2801, Dec. 5, 1991, 105 Stat. 1537; renumbered §18233 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (4), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 106–65, div. B, title XXVIII, §2805, Oct. 5, 1999, 113 Stat. 850; Pub. L. 108–375, div. B, title XXVIII, §2809(b), Oct. 28, 2004, 118 Stat. 2127; Pub. L. 109–364, div. A, title X, §1071(a)(42), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–84, div. B, title XXVIII, §2805, Oct. 28, 2009, 123 Stat. 2662.)

## HISTORICAL AND REVISION NOTES
## 1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2233(a) | 50:882. | Sept. 11, 1950, ch. 945, §§3, 4(c) (1st sentence), 5, 64 Stat. 830, 831. |
| 2233(b) | 50:883(c) (1st sentence). | |
| 2233(c) | 50:884. | |

In subsection (a), the 16th through the 31st words are omitted as executed on July 1, 1955, the end of the 5-year period.

In subsection (a)(2), the words "to the extent required" are omitted as covered by the word "necessary". The words "use jointly by units of two or more of the reserve components of the armed forces" are substituted for

the words "joint utilization of such facilities" to reflect 50:886(d).

In subsections (a)(2) and (3), the words "Territory, Puerto Rico, or the District of Columbia" are inserted to reflect 50:886(b).

In subsection (a)(3), the words "to be required" are substituted for the words "to have been made essential".

In subsection (b), the words "real or personal" are omitted as surplusage.

In subsection (c), the words "all or * * * part", "conferred", "imposed", "without relieving himself of the responsibility therefor", "or officers", and "as he may designate from time to time" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2233(a) | 50:882 (less 16th through 36th words and (a)). | Aug. 9, 1955, ch. 662, §1(b), (d), 69 Stat. 593. |
| 2233(b) | 50:883(c) (2d sentence). | |
| 2233(d) | 50:882(a) (less last 12 words). | Aug. 3, 1956, ch. 939, §414 (less last 12 words), 70 Stat. 1018. |

In subsections (a)(2), (3), and (4), the words "Territory, Puerto Rico, or the District of Columbia" are inserted to reflect 50:886(c).

In subsection (d), 50:882(a) (1st 28 words) is omitted as covered by section 2233(a)(1) of this title.

## EDITORIAL NOTES

### CODIFICATION

Subsequent to enactment of this section, act Sept. 11, 1950 (cited in the Historical and Revision Notes above) was amended by acts Aug. 9, 1955, ch. 662, 69 Stat. 593; Aug. 3, 1956, ch. 939, title IV, §414, 70 Stat. 1018; Aug. 29, 1957, Pub. L. 85–215, §2, 71 Stat. 490. The amendments were later repealed and reenacted in sections 2233 and 2236 to 2238 [now 18233 and 18236 to 18238] of this title by Pub. L. 85–685, title VI, §602, Aug. 20, 1958, 72 Stat. 665, and Pub. L. 85–861, §§1(37)–(39), 16, 36, Sept. 2, 1958, 72 Stat. 1456, 1558, 1568.

### AMENDMENTS

**2009**—Subsec. (a)(1). Pub. L. 111–84 substituted "as are authorized by law" for "as he determines to be necessary".

**2006**—Subsec. (f)(2). Pub. L. 109–364 struck out comma after "purchase".

**2004**—Subsec. (f)(2). Pub. L. 108–375 substituted "or gift" for "gift, exchange of Government-owned land, or otherwise".

**1999**—Subsec. (f)(1). Pub. L. 106–65 inserted "design," after "planning,".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2233 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1664(b)(4), substituted "18233a, 18234, 18235, 18236, and 18238" for "2233a, 2234, 2235, 2236, and 2238".

**1991**—Subsec. (a)(2). Pub. L. 102–190 inserted before semicolon "or to acquire or construct facilities for such use".

**1985**—Subsec. (e). Pub. L. 99–167 amended subsec. (e) generally, inserting ", or contribute to any State such amounts as the Secretary determines to be necessary to procure,".

**1984**—Subsec. (a). Pub. L. 98–525, §1405(34)(A), substituted "to subsection (c)" for "subsection (c) of this section".

Subsec. (a)(6). Pub. L. 98–407 substituted "critical portions of facilities" for "arms storage rooms" and "construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility" for "standards related to the safekeeping of arms".

Subsec. (b). Pub. L. 98–525, §1405(34)(B), struck out "or Territory, Puerto Rico, or the District of Columbia" after "State" in two places. See section 18232(1) of this title.

**1982**—Subsec. (a)(2) to (4). Pub. L. 97–214, §3(d)(2), struck out "or Territory, Puerto Rico, or the District of Columbia" after "contribute to any State".

Subsec. (a)(5). Pub. L. 97–214, §3(e)(1), substituted "contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this

chapter" for "contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter" and "A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied".

Subsec. (a)(6). Pub. L. 97–214, §3(d)(2), struck out "or Territory, Puerto Rico, or the District of Columbia" after "contribute to any State".

Subsec. (e). Pub. L. 97–214, §10(a)(2), substituted "architectural and engineering services and construction design" for "advance planning, construction design, and architectural services".

Subsec. (f). Pub. L. 97–214, §3(a), expanded subsec. (f) into pars. (1) and (2), and substituted provision that legal authority to construct, expand, rehabilitate, etc., any facility under this section, also includes the authority to expend funds for surveys, administration, overhead, planning, and supervision incident to any such activity and provisions that authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase, gift, exchange of Government-owned land, or otherwise, for provisions that facilities authorized by subsec. (a) could not be considered "military public works" under the military construction authorization acts that repeal prior authorizations for military public works.

**1981**—Subsec. (a)(2). Pub. L. 97–99, §803(1), inserted "or by the United States" after "or convert facilities owned by it".

Subsec. (a)(6). Pub. L. 97–99, §804, added par. (6).

Subsec. (b). Pub. L. 97–99, §803(2), inserted provisions that such property may be transferred to any State or Territory, Puerto Rico, or the District of Columbia incident to the expansion, rehabilitation, or conversion of such property under subsec. (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State or Territory, Puerto Rico, or the District of Columbia within a Federal installation.

**1979**—Subsec. (a)(5). Pub. L. 96–125 added par. (5).

**1958**—Subsec. (a). Pub. L. 85–861, §1(37), substituted "two or more reserve components" for "two or more of the reserve components" in cl. (2), added cl. (3), and redesignated former cl. (3) as (4).

Pub. L. 85–685, §601(1), inserted reference to section 2233a of this title in opening provisions, and struck out provisions which required the Secretary of Defense to consult with the Committees on Armed Services of the Senate and House of Representatives.

Subsec. (b). Pub. L. 85–861, §1(38), inserted "by the United States" after "property acquired".

Subsec. (d). Pub. L. 85–861, §1(39), added subsec. (d).

Subsecs. (e), (f). Pub. L. 85–685, §601(2), added subsecs. (e) and (f).

### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VII, §703(b), Aug. 28, 1984, 98 Stat. 1517, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984."

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

#### OBLIGATION OF FUNDS BEFORE JULY 1, 1958

Section 16 of Pub. L. 85–861, Sept. 2, 1958, 72 Stat. 1558, provided that not more than $580,000,000 could be obligated for the purposes of this section before July 1, 1958, but with such limitation not applicable to the expenses for the leasing of property under subsec. (a)(1) of this section.

## §18233a. Notice and wait requirements for certain projects

(a) CONGRESSIONAL NOTIFICATION.—Except as provided in subsection (b), an expenditure

or contribution in excess of the amount specified in section 2805(b)(1) of this title may not be made under section 18233 of this title for any facility until—

(1) the Secretary of Defense has notified the congressional defense committees of the location, nature, and estimated cost of the facility; and

(2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(b) CERTAIN EXPENDITURES OR CONTRIBUTIONS EXEMPTED.—Subsection (a) does not apply to expenditures or contributions for the following:

(1) Facilities acquired by lease.

(2) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

(A) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

(B) the current working estimate of the cost of the project does not exceed the amount approved for the project by more than the lesser of the following:

(i) 25 percent.

(ii) 200 percent of the amount specified by section 2805(a) of this title as the maximum amount for a minor military construction project.

(3) A repair project (as that term is defined in subsection (e) of section 2811 of this title) that costs less than the amount specified in subsection (d) of such section.

(Added Pub. L. 85–685, title VI, §601(3), Aug. 20, 1958, 72 Stat. 665, §2233a; amended Pub. L. 87–554, title VII, §701, July 27, 1962, 76 Stat. 243; Pub. L. 93–552, title VII, §703, Dec. 27, 1974, 88 Stat. 1770; Pub. L. 94–107, title VII, §703, Oct. 7, 1975, 89 Stat. 569; Pub. L. 96–125, title VII, §704, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97–214, §3(c)(1), July 12, 1982, 96 Stat. 169; Pub. L. 98–115, title VII, §702, Oct. 11, 1983, 97 Stat. 782; Pub. L. 98–407, title VII, §702, Aug. 28, 1984, 98 Stat. 1517; Pub. L. 100–26, §7(f)(1), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100–180, div. B, subdiv. 3, title I, §2304(a), Dec. 4, 1987, 101 Stat. 1215; Pub. L. 102–190, div. B, title XXVIII, §2804, Dec. 5, 1991, 105 Stat. 1537; renumbered §18233a and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (5), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104–106, div. A, title XV, §1502(a)(10), Feb. 10, 1996, 110 Stat. 503; Pub. L. 104–201, div. B, title XXVIII, §2801(b), (c), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 106–65, div. A, title X, §1067(1), div. B, title XXVIII, §2806, Oct. 5, 1999, 113 Stat. 774, 850; Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(22)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 108–375, div. B, title XXVIII, §2808(a), Oct. 28, 2004, 118 Stat. 2124; Pub. L. 112–81, div. B, title XXVIII, §2802(c)(3), Dec. 31, 2011, 125 Stat. 1685; Pub. L. 114–92, div. B, title XXVIII, §2801, Nov. 25, 2015, 129 Stat. 1168.)

## EDITORIAL NOTES

### AMENDMENTS

**2015**—Subsec. (a). Pub. L. 114–92, §2801(1), substituted "in excess of the amount specified in section 2805(b)(1) of this title" for "in an amount in excess of $750,000" in introductory provisions.

Subsec. (b)(3). Pub. L. 114–92, §2801(2), substituted "subsection (e) of section 2811 of this title) that costs less than the amount specified in subsection (d) of such section" for "section 2811(e) of this title) that costs less than $7,500,000".

**2011**—Subsec. (b)(2)(B)(ii). Pub. L. 112–81 substituted "section 2805(a)" for "section 2805(a)(2)".

**2004**—Pub. L. 108–375 amended section generally, substituting provisions relating to notice and wait requirements for certain projects for provisions relating to limitation on certain projects and authority to carry out small projects with operation and maintenance funds.

**2000**—Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(22)(A)], substituted "section 2805(c)(1)(A)" for "section 2805(c)(1)".

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(22)(B)], substituted "section 2805(c)(1)(B)"

for "section 2805(c)(2)".

**1999**—Subsec. (a)(1). Pub. L. 106–65, §1067(1), substituted "and the Committee on Armed Services" for "and the Committee on National Security".

Subsec. (a)(2)(C). Pub. L. 106–65, §2806(a), added subpar. (C).

Subsec. (b). Pub. L. 106–65, §2806(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Under such regulations as the Secretary of Defense may prescribe, a project authorized under section 18233(a) of this title that costs $500,000 or less may be carried out with funds available for operations and maintenance."

**1996**—Subsec. (a)(1). Pub. L. 104–201, §2801(c), substituted "$1,500,000" for "$400,000".

Pub. L. 104–106 substituted "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the" for "the Committees on Armed Services and on Appropriations of the Senate and".

Subsec. (b). Pub. L. 104–201, §2801(b), substituted "$500,000" for "$300,000".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2233a of this title as this section.

Subsec. (a)(1). Pub. L. 103–337, §1664(b)(5)(A), substituted "18233" for "2233".

Subsec. (b). Pub. L. 103–337, §1664(b)(5)(B), substituted "18233(a)" for "2233(a)".

**1991**—Subsec. (b). Pub. L. 102–190 substituted "$300,000" for "$200,000".

**1987**—Subsec. (a)(2)(B)(ii)(II). Pub. L. 100–26 substituted "specified by section 2805(a)(2) of this title" for "specified by law".

Subsec. (b). Pub. L. 100–180 substituted "$200,000" for "$100,000".

**1984**—Subsec. (b). Pub. L. 98–407 substituted "$100,000" for "$50,000".

**1983**—Subsec. (a)(1). Pub. L. 98–115 substituted "$400,000" for "$200,000".

**1982**—Pub. L. 97–214 substituted "Limitation on certain projects; authority to carry out small projects with operation and maintenance funds" for "Limitation" as section catchline and completely revised text. Before such revision section had provided that no expenditure or contribution of more than $175,000 could be made under section 2233 of this title for any facility until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notified the Senate and the House of Representatives of the location, nature, and estimated cost of such facility, but that such requirement did not apply to facilities acquired by lease, facilities acquired, constructed, expanded, rehabilitated, converted, or equipped to restore or replace facilities damaged or destroyed, where the Senate and the House of Representatives had been notified of that action, and that, under such regulations as the Secretary of Defense might prescribe, any project authorized pursuant to section 2233(a) which did not cost more than $50,000 could be accomplished from appropriations available for maintenance and operations.

**1979**—Par. (1). Pub. L. 96–125 substituted "$175,000" for "$100,000".

**1975**—Par. (2). Pub. L. 94–107 substituted "$50,000" for "$25,000".

**1974**—Par. (1). Pub. L. 93–552 substituted "$100,000" for "$850,000".

**1962**—Pub. L. 87–554 designated existing provisions as par. (1), substituted "until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notifies the Senate and the House of Representatives of the location, nature, and estimated cost of such facility" for "that has not been authorized by a law authorizing appropriations for specific facilities for reserve forces", and added par. (2).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–180, div. B, subdiv. 3, title I, §2304(b), Dec. 4, 1987, 101 Stat. 1215, provided that: "The amendment made by subsection (a) [amending this section] shall apply to projects authorized under section 2233(a) [now 18233(a)] of title 10, United States Code, for which contracts are entered into on or after the date of the enactment of this Act [Dec. 4, 1987]."

### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VII, §702, Aug. 28, 1984, 98 Stat. 1517, provided that the amendment made by that section is effective Oct. 1, 1984.

### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–115, title VII, §702, Oct. 11, 1983, 97 Stat. 782, provided that the amendment made by that section is effective Oct. 1, 1983.

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §18233b. Authority to carry out small projects with operation and maintenance funds

Under such regulations as the Secretary of Defense may prescribe, the Secretary may expend, from appropriations available for operation and maintenance, amounts necessary to carry out any project authorized under section 18233(a) of this title that costs not more than the amount specified in section 2805(c) of this title.

(Added Pub. L. 108–375, div. B, title XXVIII, §2808(b), Oct. 28, 2004, 118 Stat. 2125; amended Pub. L. 112–81, div. B, title XXVIII, §2802(c)(4), Dec. 31, 2011, 125 Stat. 1685.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2011**—Pub. L. 112–81 substituted "not more than the amount specified in section 2805(c) of this title." for "not more than—

"(1) the amount specified in section 2805(c)(1)(A) of this title, in the case of a project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

"(2) the amount specified in section 2805(c)(1)(B) of this title, in the case of any other project."

## §18234. Location and use

No expenditures or contribution may be made for a facility under section 18233 of this title, unless the Secretary of Defense determines that—

(1) the number of units of the reserve components of the armed forces located or to be located in the area within which the facility is to be provided is not and will not be larger than the number that can reasonably be expected to be maintained at authorized strength, considering the number of persons living in the area who are qualified for membership in those reserve units; and

(2) the plan under which the facility is to be provided makes provision for the greatest practicable use of the facility jointly by units of two or more of those components.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2234; renumbered §18234 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (6), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2234 | 50:883(a). | Sept. 11, 1950, ch. 945, §4(a), 64 Stat. 830. |

The word "community" is omitted as covered by the word "area". The word "program" is omitted as covered by the word "plan". The words "use * * * jointly by units of two or more of those components" are substituted for the words "joint utilization" to reflect 50:886(d). The words "is not and will not be larger than" are substituted for the words "does not exceed". The word "considering" is substituted for the words "taking into account".

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 2234 of this title as this section and substituted "18233" for "2233" in introductory provisions.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §18235. Administration; other use permitted by Secretary

(a) The Secretary of Defense, after consulting the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on matters of policy, may—

(1) administer, operate, maintain, and equip facilities constructed, expanded, rehabilitated, or converted under section 18233 of this title or otherwise acquired and used for the purposes of this chapter;

(2) permit persons or organizations other than members and units of the armed forces to use those facilities under such leases or other agreements as he considers appropriate; and

(3) cover the payments received under those leases or agreements into the Treasury to the credit of the appropriation from which the cost of maintaining the facility, including its utilities and services, is paid.

(b) The Secretary may not permit any use or disposition to be made of a facility covered by subsection (a) that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 122, §2235; renumbered §18235 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (7), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2235(a) | 50:883(c) (less 1st sentence, and less last 70 words of last sentence). | Sept. 11, 1950, ch. 945, §4(c) (less 1st sentence), 64 Stat. 830. |
| 2235(b) | 50:883(c) (last 70 words of last sentence). | |

In subsection (a), the words "from time to time" and "or appropriations" are omitted as surplusage.

In subsection (b), the words "United States" are substituted for the words "Federal Government". The words "units of" are omitted as surplusage. The words "may not" are substituted for the words "shall at no time".

**EDITORIAL NOTES**

**AMENDMENTS**

**1999**—Subsec. (a). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in introductory provisions.

**1996**—Subsec. (a). Pub. L. 104–106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2235 of this title as this section.
Subsec. (a)(1). Pub. L. 103–337, §1664(b)(7), substituted "18233" for "2233(a)(1)".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

## §18236. Contributions to States; other use permitted by States

(a) Contributions under section 18233 of this title are subject to such terms as the Secretary of Defense, after consulting the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, considers necessary for the purposes of this chapter. Except as otherwise agreed when the contribution is made, a facility provided by a contribution under paragraph (3) or (4) of section 18233(a) of this title may be used jointly by units of two or more reserve components of the armed forces only to the extent that the State considers practicable.

(b) A contribution made for an armory or readiness center under paragraph (4) or (5) of section 18233(a) of this title may not exceed the sum of—

(1) 100 percent of the cost of architectural, engineering and design services (including advance architectural, engineering and design services under section 18233(e) of this title); and

(2) a percentage of the cost of construction (exclusive of the cost of architectural, engineering and design services) calculated so that upon completion of construction the total contribution (including the contribution for architectural, engineering and design services) equals 75 percent of the total cost of construction (including the cost of architectural, engineering and design services).

For the purpose of computing the cost of construction under this subsection, the amount contributed by a State may not include the cost or market value of any real property that it has contributed.

(c) If a State acquires, constructs, expands, rehabilitates, or converts a facility with amounts contributed under section 18233 of this title, it may—

(1) permit persons or organizations other than members and units of the armed forces to use the facility under such leases or other agreements as it considers appropriate; and

(2) apply amounts received under those leases or agreements to the cost of maintaining the facility.

(d) Except as otherwise agreed when the contribution is made, and except as the agreement is later changed, a State may not permit any use or disposition of the facility that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 122, §2236; Pub. L. 85–861, §1(40), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 97–214, §3(d)(2), (3), (e)(2), July 12, 1982, 96 Stat. 170; Pub. L. 99–167, title VII, §702(b), Dec. 3, 1985, 99 Stat. 985; Pub. L. 99–661, div. A, title XIII, §1343(a)(11), Nov. 14, 1986, 100 Stat. 3993; renumbered §18236 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (8), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104–106, div. A, title XV, §§1501(b)(36), 1502(a)(2), Feb. 10, 1996, 110 Stat. 498, 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [div. B, title XXVIII, §2807(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–415.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2236(a) | 50:883(d) (1st sentence). | Sept. 11, 1950, ch. 945, §4(d), (e), 64 Stat. 830. |
| 2236(b) | 50:883(d) (less 1st sentence). | |
| 2236(c) | 50:883(e) (less last 87 words). | |
| 2236(d) | 50:883(e) (last 87 words). | |

Appropriate references to the Territories, Puerto Rico, and the District of Columbia are inserted throughout the revised section to reflect 50:886(b).

In subsection (a), the words "and conditions" are omitted as covered by the word "terms". The words "considers necessary for" are substituted for the words "shall deem necessary to accomplish". The words "used jointly by units of two or more reserve components of the armed forces" are substituted for the words "joint utilization", to reflect 50:886(d).

In subsection (b), the words "the construction to which it is to be applied" are substituted for the words "the additional or improved facilities to be constructed", since, under section 2233 of this title, contributions may be made for other purposes as well as additions and improvements. The words "may not include" are substituted for the words "shall be exclusive of".

In subsection (c)(1), the words "from time to time" are omitted as surplusage.

In subsection (c)(2), the words "defray in whole or in part" are omitted as surplusage.

In subsection (d), the words "except as the agreement is later changed" are substituted for the words "by subsequent modifications of the agreement." The words "units of" and "at no time" are omitted as surplusage. The words "United States" are substituted for the words "Federal Government".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2236(a) | 50:883(d) (1st sentence). | Aug. 9, 1955, ch. 662, §1(e), 69 Stat. 593. |
| 2236(b) | 50:883(d) (less 1st sentence). | |

In subsection (a), the words "may be used jointly" are substituted for the words "shall be subject to joint utilization". The words "and conditions" are omitted as surplusage.

## EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (b). Pub. L. 106–398 inserted "or readiness center" after "armory" in introductory provisions.

**1999**—Subsec. (a). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

**1996**—Subsec. (a). Pub. L. 104–106, §1502(a)(2), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

Subsec. (b)(1). Pub. L. 104–106, §1501(b)(36), substituted "18233(e)" for "2233(e)".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2236 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1664(b)(8)(A), substituted "18233" for "2233" and "paragraph (3) or (4) of section 18233(a)" for "section 2233(a)(3) or (4)".

Subsec. (b). Pub. L. 103–337, §1664(b)(8)(B)(i), substituted "paragraph (4) or (5) of section 18233(a)" for "clause (4) or (5) of section 2233(a)" in introductory provisions.

Subsec. (b)(2). Pub. L. 103–337, §1664(b)(8)(B)(ii), which directed amendment of par. (2) by substituting "section 18233(e)" for "section 2233(e)", could not be executed because the words "section 2233(e)" did not appear in par. (2).

Subsec. (c). Pub. L. 103–337, §1664(b)(8)(C), substituted "18233" for "2233" in introductory provisions.

**1986**—Subsec. (b). Pub. L. 99–661 struck out ", territory, the Commonwealth of Puerto Rico, or the District of Columbia, as the case may be," after "contributed by a State" in last sentence.

**1985**—Subsec. (b). Pub. L. 99–167 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "A contribution made for an armory under section 2233(a)(4) or (5) of this title may not be more than

75 percent of the cost of the construction to which it is applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State may not include the cost or market value of any real property that it has contributed."

**1982**—Subsec. (a). Pub. L. 97–214, §3(d)(3), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is concerned," after "the State".

Subsec. (b). Pub. L. 97–214, §3(d)(3), (e)(2), inserted "or (5)", and struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is concerned," after "the State".

Subsecs. (c), (d). Pub. L. 97–214, §3(d)(2), struck out "or Territory, Puerto Rico, or the District of Columbia" after "a State".

**1958**—Subsec. (a). Pub. L. 85–861 permitted joint use of facilities provided by contributions under section 2233(a)(4) of this title.

Subsec. (b). Pub. L. 85–861 substituted "A contribution made for an armory under section 2233(a)(4) of this title may not be more than 75 percent of the cost of the construction to which it is applied" for "No contribution made for a facility under section 2233(a)(3) of this title may be more than 75 percent of the cost of the construction to which it is to be applied".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by section 1501(b)(36) of Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

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

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §18237. Supervision of construction: compliance with State law

(a) Any construction, expansion, rehabilitation, or conversion under section 18233(a)(1) of this title may be performed under the supervision of the Chief of Engineers of the Army or the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate.

(b) The construction, expansion, rehabilitation, or conversion of facilities in a State under paragraph (2), (3), (4), (5), or (6) of section 18233(a) of this title shall be done according to the laws of that jurisdiction and under the supervision of its officials, subject to the inspection and approval of the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 123, §2237; Pub. L. 85–861, §1(41), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 89–718, §19, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 97–214, §3(d)(2), July 12, 1982, 96 Stat. 170; renumbered §18237 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (9), div. B, title XXVIII, §2852, Oct. 5, 1994, 108 Stat. 3010, 3011, 3072; Pub. L. 104–106, div. A, title XV, §1501(b)(37), Feb. 10, 1996, 110 Stat. 498.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2237 | 50:885. | Sept. 11, 1950, ch. 945, §6, 64 Stat. 831. |

The words "of facilities" are omitted as surplusage. The words "Chief of Engineers" are substituted for the words "Chief, Corps of Engineers" to conform to section 3036(a)(1) of this title. The words "of the Army" and

"of the Navy" are inserted for clarity.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2237(a) | 50:885(a). | Aug. 9, 1955, ch. 662, §1(f), 69 Stat. 594. |
| 2237(b) | 50:885 (less (a)). | |

In subsection (b), the words "Territory, Puerto Rico, or the District of Columbia" are inserted to reflect 50:886(c).

## EDITORIAL NOTES

### AMENDMENTS

**1996**—Subsec. (a). Pub. L. 104–106, §1501(37)(A), substituted "18233(a)(1)" for "2233(a)(1)".

Subsec. (b). Pub. L. 104–106, §1501(37)(B), substituted "18233(a)" for "2233(a)".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2237 of this title as this section.

Subsec. (a). Pub. L. 103–337, §1664(b)(9)(A), which directed amendment of subsec. (a) by substituting "paragraph (2), (3), or (4) of section 18233(a)" for "section 2233(a)(2), (3) and (4)", could not be executed because the words "section 2233(a)(2), (3) and (4)" did not appear subsequent to intervening amendment by Pub. L. 103–337, §2852(a). See below.

Pub. L. 103–337, §2852(a), substituted "under section 2233(a)(1)" for "under any provision of this chapter except section 2233(a)(2), (3), and (4)".

Subsec. (b). Pub. L. 103–337, §1664(b)(9)(B), which directed amendment of subsec. (b) by substituting "paragraph (2), (3), or (4) of section 18233(a)" for "section 2233(a)(2), (3) or (4)", could not be executed because the words "section 2233(a)(2), (3) or (4)" did not appear subsequent to intervening amendment by Pub. L. 103–337, §2852(b). See below.

Pub. L. 103–337, §2852(b), substituted "paragraph (2), (3), (4), (5), or (6) of section 2233(a)" for "section 2233(a)(2), (3), or (4)".

**1982**—Subsec. (b). Pub. L. 97–214 struck out "or Territory, Puerto Rico, or the District of Columbia" after "facilities in a State".

**1966**—Subsec. (a). Pub. L. 89–718 substituted "the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate" for "the Chief of the Bureau of Yards and Docks of the Navy".

**1958**—Pub. L. 85–861 inserted ": compliance with State law" in section catchline.

Subsec. (a). Pub. L. 85–861 designated existing provisions as subsec. (a) and substituted "under any provision of this chapter except section 2233(a)(2), (3), and (4) of this title" for "under this chapter".

Subsec. (b). Pub. L. 85–861 added subsec. (b).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of this title.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1664(b)(2), (9) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §18238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 123, §2238; Pub. L. 85–861, §1(43), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 97–214, §3(d)(4), July 12, 1982, 96 Stat. 170; renumbered §18238, Pub. L. 103–337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2238 | 50:883(b). | Sept. 11, 1950, ch. 945, §4(b), 64 Stat. 830. |

The words "from any community or area" are omitted as surplusage. The word "relocated" is substituted for the words "location * * * be changed". The words "Territory, or Puerto Rico, or the commanding general of the National Guard of the District of Columbia" are inserted to reflect 50:886(b), since the source statute applied to the District of Columbia and there is no "governor" of the District of Columbia. The words "as the case may be" are substituted for the words "within which such unit is situated". The words "with regard to such withdrawal or change of location" are omitted as surplusage.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 2238 | 50:883(b). | Aug. 9, 1955, ch. 662, §1(c), 69 Stat. 593. |

The words "shall have been consulted" and "such withdrawal or change of location" are omitted as surplusage.

**EDITORIAL NOTES**

**AMENDMENTS**

**1994**—Pub. L. 103–337 renumbered section 2238 of this title as this section.

**1982**—Pub. L. 97–214 substituted "or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia" for "or Territory, or Puerto Rico, or the commanding general of the District of Columbia, as the case may be".

**1958**—Pub. L. 85–861 required the consent of the governor, or the commanding general of the National Guard of the District of Columbia, prior to relocation or withdrawal.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of this title.

## §18239. Waiver of certain restrictions

(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 18233 of this title without regard to section 3324(a) and

(b) of title 31.

(b) Authority provided by law to place permanent or temporary improvements on land under section 18233 of this title may be exercised on land not owned by the United States—

(1) before title to the land on which the improvement is located (or is to be located) is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(Added Pub. L. 97–214, §3(b)(1), July 12, 1982, 96 Stat. 169, §2239; amended Pub. L. 97–295, §1(23), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 97–321, title VIII, §805(a)(2), Oct. 15, 1982, 96 Stat. 1573; renumbered §18239 and amended Pub. L. 103–337, div. A, title XVI, §1664(b)(2), (10), Oct. 5, 1994, 108 Stat. 3010, 3011; Pub. L. 107–217, §3(b)(42), Aug. 21, 2002, 116 Stat. 1298.)

### EDITORIAL NOTES

### AMENDMENTS

**2002**—Subsec. (b)(1). Pub. L. 107–217 substituted "section 3111 of title 40" for "section 355 of the Revised Statutes (40 U.S.C. 255)".

**1994**—Pub. L. 103–337, §1664(b)(2), renumbered section 2239 of this title as this section.

Subsecs. (a), (b). Pub. L. 103–337, §1664(b)(10), substituted "18233" for "2233".

**1982**—Subsec. (a). Pub. L. 97–295 substituted "section 3324(a) and (b) of title 31" for "section 3648 of the Revised Statutes (31 U.S.C. 529)".

Subsec. (b). Pub. L. 97–321, in introductory text, substituted "on land" for "on lands" and inserted "on land not owned by the United States"; redesignated former cl. (1) as par. (1); added par. (2) and struck out former cl. (2) "even though the land is held temporarily".

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 1994 AMENDMENT

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

### EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

## §18240. Acquisition of facilities by exchange

(a) EXCHANGE AUTHORITY.—In addition to the acquisition authority provided by section 18233 of this title, the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State, local government, local authority, or private entity. The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.

(b) FACILITIES ELIGIBLE FOR EXCHANGE.—Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

(c) EQUAL VALUE EXCHANGE.—In any exchange carried out using the authority provided by this section, the value of the replacement facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are

unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

(d) REQUIREMENTS FOR REPLACEMENT FACILITIES.—The Secretary of a military department may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition—

(1) is complete and usable, fully functional, and ready for occupancy;

(2) satisfies all operational requirements; and

(3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

(e) CONSULTATION REQUIREMENTS.—The Secretary of a military department authorized to enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate—

(1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and

(2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

(f) ADVANCE NOTICE OF PROPOSED EXCHANGE.—(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that lead to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.

(2) The agreement described in a report prepared under paragraph (1) may be entered into, and the exchange covered by the agreement made, only after the end of the 21-day period beginning on the date the report is received by the congressional defense committees in an electronic medium pursuant to section 480 of this title.

(3) Section 2662 of this title shall not apply to an exchange carried out using the authority provided by this section.

(g) RELATION TO OTHER MILITARY CONSTRUCTION REQUIREMENTS.—The acquisition of a facility, or an addition to an existing facility, using the authority provided by this section shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(Added Pub. L. 108–375, div. B, title XXVIII, §2809(a)(1), Oct. 28, 2004, 118 Stat. 2125; amended Pub. L. 109–163, div. B, title XXVIII, §2808(a), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110–181, div.

B, title XXVIII, §2807, Jan. 28, 2008, 122 Stat. 541; Pub. L. 115–91, div. B, title XXVIII, §2801(g), Dec. 12, 2017, 131 Stat. 1845.)

## EDITORIAL NOTES

### AMENDMENTS

**2017**—Subsec. (f)(2). Pub. L. 115–91 substituted "21-day period" for "30-day period" and struck out "or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided" after "defense committees".

**2008**—Subsec. (a). Pub. L. 110–181 substituted "with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State" for "with a State".

**2006**—Subsec. (a). Pub. L. 109–163, §2808(a)(1), inserted at end "The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility."

Subsec. (c). Pub. L. 109–163, §2808(a)(2), inserted "including any utilities, equipment, and furnishings, to be" after "existing facility,".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### TEMPORARY AUTHORITY TO INCLUDE CASH EQUALIZATION PAYMENTS IN EXCHANGE

Pub. L. 108–375, div. B, title XXVIII, §2809(c), Oct. 28, 2004, 118 Stat. 2127, as amended by Pub. L. 109–163, div. B, title XXVIII, §2808(b), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110–181, div. B, title XXVIII, §2805, Jan. 28, 2008, 122 Stat. 540, provided that:

"(1) Notwithstanding subsection (c) of section 18240 of title 10, United States Code, as added by subsection (a), the Secretary of Defense may authorize the Secretary of a military department, as part of an exchange agreement under such section, to make or accept a cash equalization payment if the value of the facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States under the agreement is not equal to the fair market value of the facility to be conveyed by the United States under the agreement. All other requirements of such section shall continue to apply to the exchange.

"(2) Cash equalization payments received by the Secretary of a military department under this subsection shall be deposited in a separate account in the Treasury. Amounts in the account shall be available to the Secretary of Defense, without further appropriation and until expended, for transfer to the Secretary of a military department—

"(A) to make any cash equalization payments required to be made by the United States in connection with an exchange agreement covered by this subsection, and the account shall be the only source for such payments; and

"(B) to cover costs associated with the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of facilities, and additions to existing facilities, acquired using an exchange agreement covered by this subsection.

"(3) Not more than 15 exchange agreements under section 18240 of title 10, United States Code, may include the exception for cash equalization payments authorized by this subsection. Of those 15 exchange agreements, not more than eight may be for the same reserve component.

"(4) In this section, the term 'facility' has the meaning given that term in section 18232(2) of title 10, United States Code.

"(5) No cash equalization payment may be made or accepted under the authority of this subsection after September 30, 2010. Except as otherwise specifically authorized by law, the authority provided by this subsection to make or accept cash equalization payments in connection with the acquisition or disposal of facilities of the reserve components is the sole authority available in law to the Secretary of Defense or the Secretary of a military department for that purpose.

"(6) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the exercise of the authority provided by this subsection. The report shall include the following:

"(A) A description of the exchange agreements under section 18240 of title 10, United States Code, that included the authority to make or accept cash equalization payments.

"(B) A description of the analysis and criteria used to select such agreements for inclusion of the

authority to make or accept cash equalization payments.

"(C) An assessment of the utility to the Department of Defense of the authority, including recommendations for modifications of such authority in order to enhance the utility of such authority for the Department.

"(D) An assessment of interest in the future use of the authority, in the event the authority is extended.

"(E) An assessment of the advisability of making the authority, including any modifications of the authority recommended under subparagraph (C), permanent."

# CHAPTER 1805—MISCELLANEOUS PROVISIONS

Sec.
18501. Reserve components: personnel and logistic support by military departments.
18502. Reserve components: supplies, services, and facilities.
18505. Reserves traveling for inactive-duty training: space-required travel on military aircraft.
[18506. Repealed.]

**EDITORIAL NOTES**

**AMENDMENTS**

**2006**—Pub. L. 109–163, div. A, title V, §589(b)(1), Jan. 6, 2006, 119 Stat. 3279, struck out item 18506 "Recruitment and retention: availability of funds for recognition items for Army Reserve personnel".

**2004**—Pub. L. 108–375, div. A, title V, §520(a)(2), Oct. 28, 2004, 118 Stat. 1886, added item 18506.

**2001**—Pub. L. 107–107, div. A, title V, §518(b), Dec. 28, 2001, 115 Stat. 1096, struck out "annual training duty or" before "inactive-duty training:" in item 18505.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §384(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87, substituted "Reserves traveling for annual training duty or inactive-duty training: space-required travel on military aircraft" for "Reserves traveling to inactive-duty training OCONUS: authority for space-required travel" in item 18505.

**1999**—Pub. L. 106–65, div. A, title V, §517(a)(2), Oct. 5, 1999, 113 Stat. 595, added item 18505.

## §18501. Reserve components: personnel and logistic support by military departments

The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Homeland Security when the Coast Guard is not operated as a service of the Navy.

(Added Pub. L. 103–337, div. A, title XVI, §1664(c)(1), Oct. 5, 1994, 108 Stat. 3011; amended Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 264(b) of this title, prior to repeal by Pub. L. 103–337, §1661(a)(2)(A).

**AMENDMENTS**

**2002**—Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §18502. Reserve components: supplies, services, and facilities

(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.

(Added Pub. L. 103–337, div. A, title XVI, §1664(c)(1), Oct. 5, 1994, 108 Stat. 3012.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2540 of this title, prior to repeal by Pub. L. 103–337, §1664(c)(2).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

## §18505.[1] Reserves traveling for inactive-duty training: space-required travel on military aircraft

(a) A member of a reserve component traveling for inactive-duty training (including a place other than the place of the member's unit training assembly if the member is performing inactive-duty training in another location) may travel in a space-required status on aircraft of the armed forces between the member's home and the place of the inactive-duty training.

(b) A member traveling in a space-required status on any such aircraft under subsection (a) is not authorized to receive travel, transportation, or per diem allowances in connection with that travel.

(Added Pub. L. 106–65, div. A, title V, §517(a)(1), Oct. 5, 1999, 113 Stat. 594; amended Pub. L. 106–398, §1 [[div. A], title III, §384(a), (b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87; Pub. L. 107–107, div. A, title V, §518, Dec. 28, 2001, 115 Stat. 1096.)

### EDITORIAL NOTES

### AMENDMENTS

**2001**—Pub. L. 107–107, §518(b), struck out "annual training duty or" before "inactive-duty training:" in section catchline.

Subsec. (a). Pub. L. 107–107, §518(a), struck out "annual training duty or" before "inactive-duty training" wherever appearing.

**2000**—Pub. L. 106–398, §1 [[div. A], title III, §384(b)(1)], substituted "Reserves traveling for annual training duty or inactive-duty training: space-required travel on military aircraft" for "Reserves traveling to inactive-duty training OCONUS: authority for space-required travel" as section catchline.

Subsec. (a). Pub. L. 106–398, §1 [[div. A], title III, §384(a)], amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "In the case of a member of a reserve component whose place of inactive-duty training is outside the contiguous States (including a place other than the place of the member's unit training assembly if the member is performing the inactive-duty training in another location), the member may travel in a space-required status on aircraft of the armed forces between the member's home and the place of such training if there is no transportation between those locations by means of road or railroad (or a combination of road and railroad)."

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Pub. L. 106–65, div. A, title V, §517(c), Oct. 5, 1999, 113 Stat. 595, provided that: "The amendments made by this section [enacting this section] shall apply with respect to travel commencing on or after the date of the enactment of this Act [Oct. 5, 1999]."

*[1] So in original. No sections 18503 and 18504 have been enacted.*

## [§18506. Repealed. Pub. L. 109–163, div. A, title V, §589(b)(1), Jan. 6, 2006, 119 Stat. 3279]

Section, added Pub. L. 108–375, div. A, title V, §520(a)(1), Oct. 28, 2004, 118 Stat. 1886, related to availability of funds for recognition items for Army Reserve personnel.

# Subtitle F—Alternative Military Personnel Systems

## PART I—SPACE FORCE


| Chap. | | Sec. |
|---|---|---|
| **2001.** | **Space Force Personnel System** | **20001** |
| **2003.** | **Status and Participation** | **20101** |
| **2005.** | **Officers** | **20201** |
| **2007.** | **Enlisted Members** | **20301** |
| **2009.** | **Retention and Separation Generally** | **20401** |
| **2011.** | **Separation of Officers for Substandard Performance of Duty or for Certain Other Reasons** | **20501** |
| **2013.** | **Voluntary Retirement for Length of Service** | **20601** |
| **2015.** | **Reports** | **20701** |


### EDITORIAL NOTES

### AMENDMENTS

**2025**—Pub. L. 119–60, div. A, title XVI, §1601(e), Dec. 18, 2025, 139 Stat. 1174, added item for chapter 2015. Amendment was made pursuant to operation of section 102 of this title.

Pub. L. 118–31, div. A, title XVII, §§1711, 1715, 1716(a), 1717(a), 1718(a), 1719, 1719A(a), Dec. 22, 2023, 137 Stat. 625, 626, 631, 654, 655, 658, 662, added item for part I and items for chapters 2001 to 2013. Amendments were made pursuant to operation of section 102 of this title.

# PART I—SPACE FORCE


| Chap. | | Sec. |
|---|---|---|
| **2001.** | **Space Force Personnel System** | **20001** |
| **2003.** | **Status and Participation** | **20101** |
| **2005.** | **Officers** | **20201** |
| **2007.** | **Enlisted Members** | **20301** |
| **2009.** | **Retention and Separation Generally** | **20401** |
| **2011.** | **Separation of Officers for Substandard Performance of Duty or for Certain Other Reasons** | **20501** |
| **2013.** | **Voluntary Retirement for Length of Service** | **20601** |
| **2015.** | **Reports** | **20701** |


**EDITORIAL NOTES**

**CODIFICATION**

As enacted, section 1711 of Pub. L. 118–31, which enacted this subtitle, set out, in order, the headings for subtitle F and part I, the heading and table of sections for chapter 2001, the heading and text of section 20001, and a table of chapters consisting of chapters 2001 to 2013. Such table of chapters was executed as the table of chapters for this part.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVI, §1601(e), Dec. 18, 2025, 139 Stat. 1174, added item for chapter 2015. Amendment was made pursuant to operation of section 102 of this title.

**2024**—Pub. L. 118–159, div. A, title XVII, §1701(a)(48), Dec. 23, 2024, 138 Stat. 2206, substituted "Voluntary Retirement for Length of Service" for "Retirement" in item for chapter 2013.

## CHAPTER 2001— SPACE FORCE PERSONNEL SYSTEM


Sec.

20001. Single military personnel management system.

20002. Members: duty status.

20003. Members: minimum service requirement as applied to Space Force.


## §20001. Single military personnel management system

Members of the Space Force shall be managed through a single military personnel management system, without component.

(Added Pub. L. 118–31, div. A, title XVII, §1711, Dec. 22, 2023, 137 Stat. 625.)

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**TRANSFER TO THE SPACE FORCE OF COVERED SPACE FUNCTIONS OF THE AIR NATIONAL GUARD OF THE UNITED STATES**

Pub. L. 118–159, div. A, title V, §514, Dec. 23, 2024, 138 Stat. 1876, provided that:

"(a) TRANSFER OF COVERED SPACE FUNCTIONS.—

"(1) IN GENERAL.—During the transition period, the Secretary of the Air Force shall transfer to the Space Force the covered space functions of the Air National Guard of the United States. The transfer shall occur without regard to section 104 of title 32, United States Code, or section 18238 of title 10, United States Code.

"(2) PERSONNEL BILLETS LIMITATIONS.—With regard to personnel billets, the statutory waiver

under paragraph (1) is limited to 578 personnel billets of the Air National Guard, as follows:

"(A) 33 personnel from the State of Alaska.

"(B) 126 personnel from the State of California.

"(C) 119 personnel from the State of Colorado.

"(D) 75 personnel from the State of Florida.

"(E) 130 personnel from the State of Hawaii.

"(F) 69 personnel from the State of Ohio.

"(G) 26 personnel assigned to Headquarters, Air National Guard.

"(b) TRANSFER OF UNITS.—Upon the transfer to the Space Force of a covered space function of the Air National Guard of the United States, the Secretary of the Air Force may—

"(1) change the status of a unit related to such covered space function of the Air National Guard of the United States from a unit of the Air National Guard of the United States to a unit of the Space Force;

"(2) deactivate the covered space function of the Air National Guard of the United States; or

"(3) assign the covered space function of the Air National Guard of the United States a new Federal mission.

"(c) TRANSFER OF COVERED MEMBERS.—

"(1) OFFICERS.—During the transition period, the Secretary of Defense may, with the consent of the covered officer, transfer a covered officer of the Air National Guard of the United States to, and appoint the covered officer in, the Space Force.

"(2) ENLISTED MEMBERS.—During the transition period, the Secretary of the Air Force may, with the consent of the covered enlisted member, transfer a covered enlisted member of the Air National Guard of the United States to the Space Force. Upon such a transfer, the covered enlisted member shall cease to be a member of the Air National Guard of the United States and be discharged from enlistment as a Reserve of the Air Force.

"(3) EFFECTIVE DATE OF TRANSFERS.—A transfer under this subsection shall be effective on the date specified by the Secretary of Defense, in the case of an officer, or the Secretary of the Air Force, in the case of an enlisted member. No date so specified may be after the last day of the transition period.

"(4) LIMITATIONS.—A covered officer or covered enlisted member transferred under paragraph (1) or (2)—

"(A) may consent to a transfer under this subsection during the period, beginning on the date of the enactment of this Act [Dec. 23, 2024], that is the longer of one year, or a period determined by the Secretary of Defense or the Secretary of the Air Force, as applicable; and

"(B) to the maximum extent practicable, shall not be subject to a permanent change of duty station during the period of three years beginning on the day that the covered officer or covered enlisted member consents to such transfer.

"(d) REGULATIONS.—A transfer under subsection (c) shall be carried out under regulations prescribed by the Secretary of Defense. In the case of a covered officer, applicable regulations shall include those prescribed pursuant to section 716 of title 10, United States Code.

"(e) TERM OF INITIAL ENLISTMENT IN THE SPACE FORCE.—In the case of a covered enlisted member who is transferred to the Space Force under subsection (c), the Secretary of the Air Force may accept the initial enlistment of the covered enlisted member in the Space Force for a period of less than two years if such period is not shorter than the period remaining, as of the date of the transfer, in the term of enlistment in a reserve component of the Air Force of such covered enlisted member.

"(f) END STRENGTH ADJUSTMENTS UPON TRANSFERS FROM THE AIR NATIONAL GUARD OF THE UNITED STATES.—Upon the transfer to the Space Force of a covered space function of the Air National Guard of the United States during the transition period, the end strength authorized for the Space Force pursuant to section 115(a)(1)(A) of title 10, United States Code, for the fiscal year during which the transfer occurs, shall be increased by the number of billets associated with such transfer.

"(g) ADMINISTRATIVE PROVISIONS.—For purposes of the transfer of covered members of the Air National Guard of the United States under subsection (c)—

"(1) the Air National Guard of the United States and the Space Force shall be considered to be components of the same Armed Force; and

"(2) the Space Force officer list shall be considered to be an active-duty list of such Armed Force.

"(h) RETRAINING AND REASSIGNMENT FOR MEMBERS NOT TRANSFERRING.—If a covered member of the Air National Guard of the United States does not consent to a transfer under subsection (c), the Secretary of the Air Force shall provide to the covered member retraining and reassignment, in a reserve component of the Air Force, that the Secretary determines appropriate for such covered member.

"(i) PROTECTION OF RANK AND PAY.—A covered member of the Air National Guard who transfers to

the Space Force under subsection (c) shall not lose rank or pay solely as a result of such transfer.

"(j) SPACE FORCE UNITS IN AFFECTED STATES.—In order to reduce the cost of transferring to the Space Force a covered space function of the Air National Guard of the United States, and to reduce the impact of such a transfer on an affected State, the following provisions apply:

"(1) Except as provided in paragraph (2), the Space Force shall continue to perform the mission of a covered space function of the Air National Guard of the United States within the affected State during a period not shorter than 10 years following the date of such transfer.

"(2) Except when the Secretary of the Air Force determines that it would not be in the best interests of the United States, the Secretary may not, during the 10-year period following such a transfer, move a covered space function of the Air National Guard of the United States out of an affected State until 120 days after the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] receive, from the Secretary of the Air Force, notice of such move, including—

"(A) details of such move; and

"(B) an explanation regarding why the move is necessary to support the National Defense Strategy.

"(3) Unless the Secretary of the Air Force determines that it would not be in the best interests of the United States, the Secretary shall seek to enter into an agreement with the Governor of an affected State under which the Space Force may be a tenant on an installation—

"(A) of the National Guard of the affected State; and

"(B) that was the home station of a covered space function of the Air National Guard of the United States.

"(k) DEFINITIONS.—In this section:

"(1) The term 'active-duty list' has the meaning given such term in section 101 of title 10, United States Code.

"(2) The term 'affected State' means Alaska, California, Colorado, Florida, Hawaii, or Ohio.

"(3) The term 'covered', with respect to a member of the Air National Guard of the United States, has the meaning given such term in section 1733 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 137 Stat. 676) [10 U.S.C. 20001 note, set out below].

"(4) The term 'covered space function of the Air National Guard of the United States' means any of the following units of the Air National Guard of the United States associated with the performance of a space-related function, including personnel, equipment, and resources:

"(A) 213th Space Warning Squadron, Alaska Air National Guard.

"(B) 148th Space Operations Squadron, California Air National Guard.

"(C) 216th Electromagnetic Warfare Squadron, California Air National Guard.

"(D) 137th Space Warning Squadron, Colorado Air National Guard.

"(E) 138th Electromagnetic Warfare Squadron, Colorado Air National Guard.

"(F) 114th Electromagnetic Warfare Squadron, Florida Air National Guard.

"(G) 150th Electromagnetic Warfare Squadron, Hawaii Air National Guard.

"(H) 109th Electromagnetic Warfare Squadron, Hawaii Air National Guard.

"(I) 126th Intelligence Squadron, Ohio Air National Guard.

"(5) The term 'Space Force officer list' means the list maintained under section 20235 of title 10, United States Code.

"(6) The term 'transition period' means the period beginning on the date of the enactment of this Act [Dec. 23, 2024] and ending on the last day of the eighth fiscal year beginning after the date of the enactment of this Act."

## TRANSITION PROVISIONS

Pub. L. 118–31, div. A, title XVII, subtitle C, Dec. 22, 2023, 137 Stat. 675, as amended by Pub. L. 118–159, div. A, title IV, §402(c)(4), title V, §521(y), Dec. 23, 2024, 138 Stat. 1862, 1883, provided that:

"SEC. 1731. TRANSITION PERIOD.

"In this subtitle, the term 'transition period' means the period beginning on the date of the enactment of this Act [Dec. 22, 2023] and ending on the last day of the fourth fiscal year beginning after the date of the enactment of this Act.

"SEC. 1732. CHANGE OF DUTY STATUS OF MEMBERS OF THE SPACE FORCE.

"(a) CHANGE OF DUTY STATUS.—

"(1) CONVERSION OF STATUS AND ORDER TO SUSTAINED DUTY.—During the transition

period, the Secretary of the Air Force shall change the duty status of each member of the Regular Space Force to space force active status and shall, at the same time, order the member to sustained duty under section 20105 of title 10, United States Code, as added by section 1715. Any such order may be made without regard to any otherwise applicable requirement that such an order be made only with the consent of the member or as specified in an enlistment agreement or active-duty service commitment.

"(2) DEFINITIONS.—For purposes of this section, the terms 'space force active status' and 'sustained duty' have the meanings given those terms by subsection (e) of section 101 of title 10, United States Code, as added by section 1713(a).

"(b) EFFECTIVE DATE OF CHANGE OF DUTY STATUS.—The change of a member's duty status and order to sustained duty in accordance with subsection (a) shall be effective on the date specified by the Secretary of the Air Force, but not later than the last day of the transition period.

"SEC. 1733. TRANSFER TO THE SPACE FORCE OF MEMBERS OF THE RESERVE COMPONENTS OF THE AIR FORCE.

"(a) TRANSFER OF MEMBERS.—

"(1) OFFICERS.—During the transition period, the Secretary of Defense may, with the officer's consent, transfer a covered officer of a reserve component of the Air Force to, and appoint the officer in, the Space Force.

"(2) ENLISTED MEMBERS.—During the transition period, the Secretary of the Air Force may transfer each covered enlisted member of a reserve component of the Air Force to the Space Force, other than those members who do not consent to the transfer.

"(3) EFFECTIVE DATE OF TRANSFERS.—Each transfer under this subsection shall be effective on the date specified by the Secretary of Defense, in the case of an officer, or the Secretary of the Air Force, in the case of an enlisted member, but not later than the last day of the transition period.

"(b) REGULATIONS.—Transfers under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense. In the case of an officer, applicable regulations shall include those prescribed pursuant to section 716 of title 10, United States Code.

"(c) TERM OF INITIAL ENLISTMENT IN SPACE FORCE.—In the case of a covered enlisted member who is transferred to the Space Force in accordance with subsection (a), the Secretary of the Air Force may accept the initial enlistment of the member in the Space Force for a period of less than 2 years, but only if the period of enlistment in the Space Force is not less than the period remaining, as of the date of the transfer, in the member's term of enlistment in a reserve component of the Air Force.

"(d) END STRENGTH ADJUSTMENTS UPON TRANSFERS FROM RESERVE COMPONENTS OF THE AIR FORCE.—During the transition period, upon the transfer of a mission of the Air Force Reserve to the Space Force—

"(1) the end strength authorized for the Space Force pursuant to section 115(a)(1)(A) of title 10, United States Code, for the fiscal year during which the transfer occurs shall be increased by the number of billets associated with that mission; and

"(2) the end strength authorized for the reserve components of the Air Force pursuant to section 115(a)(2) of such title for such fiscal year shall be decreased by the same number.

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the transfer of covered members of the Air Force Reserve in accordance with subsection (a)—

"(1) the Air Force Reserve, the Air National Guard, and the Space Force shall be considered to be components of the same Armed Force; and

"(2) the Space Force officer list shall be considered to be an active-duty list of an Armed Force.

"(f) RETRAINING AND REASSIGNMENT FOR MEMBERS NOT TRANSFERRING.—If a covered member of a reserve component of the Air Force does not consent to transfer to the Space Force in accordance with subsection (a), the Secretary of the Air Force may, as determined appropriate by the Secretary in the case of the individual member, provide the member retraining and reassignment within a reserve component of the Air Force.

"(g) COVERED DEFINED.—For purposes of this section, the term 'covered', with respect to a member of a reserve component of the Air Force, means—

"(1) a member who, as of the date of the enactment of this Act, holds an Air Force specialty code for a specialty held by members of the Space Force; and

"(2) any other member designated by the Secretary of the Air Force for the purposes of this section.

"SEC. 1734. PLACEMENT OF OFFICERS ON THE SPACE FORCE OFFICER LIST.

"(a) PLACEMENT ON LIST.—Officers of the Space Force whose duty status is changed in accordance with section 1732, and officers of the reserve components of the Air Force who transfer to the Space Force in

accordance with [section] 1733, shall be placed on the Space Force officer list in an order determined by their respective grades and dates of rank.

"(b) OFFICERS OF SAME GRADE AND DATE OF RANK.—Among officers of the same grade and date of rank, placement on the Space Force officer list shall be in the order of their rank as determined in accordance with section 741(c) of title 10, United States Code.

"SEC. 1735. DISESTABLISHMENT OF REGULAR SPACE FORCE.

"(a) DISESTABLISHMENT.—The Secretary of the Air Force shall disestablish the Regular Space Force not later than the end of the transition period, once there are no longer any members remaining in the Regular Space Force. The Regular Space Force shall be disestablished upon the completion of the change of duty status of all members of the Space Force pursuant to section 1742 [probably should be section "1732"] and certification by the Secretary of the Air Force to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that there are no longer any members of the Regular Space Force.

"(b) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register notice of the disestablishment of the Regular Space Force, including the date thereof, together with any certification submitted pursuant to subsection (a).

"(c) CONFORMING REPEAL.—

"(1) REPEAL.—Section 9085 of title 10, United States Code [now 10 U.S.C. 9086], relating to the composition of the Regular Space Force, is repealed.

"(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date on which the certification is submitted under subsection (a).

"SEC. 1736. END STRENGTH FLEXIBILITY.

"(a) ADDITIONAL AUTHORITY TO VARY END STRENGTHS.—

"(1) AUTHORITY.—Notwithstanding section 115(g) of title 10, United States Code, upon determination by the Secretary of the Air Force that such action would enhance manning and readiness in essential units or in critical specialties, the Secretary may vary the end strength authorized by Congress for a fiscal year as follows:

"(A) Increase the end strength authorized pursuant to section 115(a)(3) of such title for a fiscal year for the Space Force by a number equal to not more than 5 percent of such authorized end strength.

"(B) Decrease the end strength authorized pursuant to section 115(a)(3) of such title for a fiscal year for the Space Force by a number equal to not more than 10 percent of such authorized end strength.

"(2) TERMINATION.—The authority provided under paragraph (1) shall terminate on the last day of the transition period.

"(b) TEMPORARY EXEMPTION FOR THE SPACE FORCE FROM END STRENGTH GRADE RESTRICTIONS.—Sections 517 and 523 of title 10, United States Code, shall not apply to the Space Force during the transition period.

"SEC. 1737. PROMOTION AUTHORITY FLEXIBILITY.

"(a) PROMOTION AUTHORITY FLEXIBILITY.—During the transition period, the Secretary of the Air Force may convene selection boards to consider officers on the space force officer list for promotion, and may promote Space Force officers selected by such boards, in accordance with any of the following provisions of title 10, United States Code:

"(1) Chapter 36.

"(2) Part III of subtitle E.

"(3) Chapter 2005, as added by section 1716.

"(b) COORDINATION OF PROVISIONS.—

"(1) For a selection board convened pursuant to subsection (a) to consider members of the Space Force for promotion in accordance with chapter 36 of such title—

"(A) provisions that apply to an officer of a regular component of the Armed Forces shall apply to an officer of the Space Force; and

"(B) the space force officer list shall be considered to be an active-duty list.

"(2) For a selection board convened pursuant to pursuant to subsection (a) to consider members of the Space Force for promotion in accordance with part III of subtitle E of such title—

"(A) provisions that apply to an officer of a reserve component of the Armed Forces shall apply to an officer of the Space Force; and

"(B) the space force officer list shall be considered to be a reserve active-status list.

"(3) For a selection board convened pursuant to subsection (a) to consider members of the Space Force

for promotion in accordance with either chapter 36 or part III of subtitle E of such title—

"(A) section 20212 of such title shall apply to the composition of the selection board;

"(B) the provisions of chapter 2005 of such title regarding officers on the space force officer list eligible to be considered for promotion to the grade of brigadier general or major general shall apply;

"(C) section 20216 of such title shall apply; and

"(D) the provisions of chapter 36 or part III of subtitle E of such title, as the case may be, regarding failure of selection for promotion shall apply.

"(c) EFFECT OF USING NEW CHAPTER 2005 AUTHORITIES.—If the Secretary of the Air Force convenes a selection board under chapter 2005 of title 10, United States Code, as added by section 1716, to consider officers on the space force officer list in a particular grade and competitive category for selection for promotion to the next higher grade, the Secretary may not convene a future selection board pursuant to subsection (a) to consider officers of the same grade and competitive category under chapter 36 or part III of subtitle E of such title."

## §20002. Members: duty status

Under regulations prescribed by the Secretary of the Air Force, each member of the Space Force shall be placed in one of the following duty statuses:

(1) Space Force active status.

(2) Space Force inactive status.

(3) Space Force retired status.

(Added Pub. L. 118–31, div. A, title XVII, §1714, Dec. 22, 2023, 137 Stat. 626.)

## §20003. Members: minimum service requirement as applied to Space Force

(a) INAPPLICABILITY OF ACTIVE/RESERVE SERVICE DISTINCTION.—In applying section 651 of this title to a person who becomes a member of the Space Force, the provisions of the second sentence of subsection (a) and of subsection (b) of that section (relating to service in a reserve component) are inapplicable.

(b) TREATMENT UPON TRANSFER OUT OF SPACE FORCE.—A member of the Space Force who transfers to one of the other armed forces before completing the service required by subsection (a) of section 651 of this title shall upon such transfer be subject to section 651 of this title in the same manner as if such member had initially entered the armed force to which the member transfers.

(Added Pub. L. 118–31, div. A, title XVII, §1714, Dec. 22, 2023, 137 Stat. 626.)

# CHAPTER 2003—STATUS AND PARTICIPATION

Sec.

20101. Members in Space Force active status: amount of annual training or active duty service required.

20102. Individual ready guardians: designation; mobilization category.

20103. Members not on sustained duty: agreements concerning conditions of service.

20104. Orders to active duty: with consent of member.

20105. Sustained duty.

20106. Orders to active duty: without consent of member.

20107. Transfer to inactive status: initial service obligation not complete.

20108. Members of Space Force: credit for service for purposes of laws providing pay and benefits for members, dependents, and survivors.

20109. Policy for order to active duty based upon determination by Congress.

20110. Strength in grade: Space Force general officers in a Space Force active status, not on sustained duty.

**EDITORIAL NOTES**

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title V, §501(c), Dec. 18, 2025, 139 Stat. 854, added item 20110. Amendment was made pursuant to operation of section 102 of this title.

## §20101. Members in Space Force active status: amount of annual training or active duty service required

Except as specifically provided in regulations prescribed by the Secretary of Defense, a member of the Space Force in a space force active status who is not serving on sustained duty shall be required to—

(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for not less than 14 days (exclusive of travel time) during each year; or

(2) serve on active duty for training for not more than 30 days during each year.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 627.)

## §20102. Individual ready guardians: designation; mobilization category

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may designate a member of the Space Force in a space force active status as an Individual Ready Guardian.

(b) MOBILIZATION CATEGORY.—

(1) IN GENERAL.—Among members of the Space Force designated as Individual Ready Guardians, there is a category of members (referred to as a "mobilization category") who, as designated by the Secretary of the Air Force, are subject to being ordered to active duty without their consent in accordance with section 20106(a) of this title.

(2) LIMITATIONS ON PLACEMENT IN MOBILIZATION CATEGORY.—A member designated as an Individual Ready Guardian may not be placed in the mobilization category referred to in paragraph (1) unless—

(A) the member volunteers to be placed in that mobilization category; and

(B) the member is selected by the Secretary of the Air Force, based upon the needs of the Space Force and the grade and military skills of that member.

(3) LIMITATION ON TIME IN MOBILIZATION CATEGORY.—A member of the Space Force in a space force active status may not remain designated an Individual Ready Guardian in such mobilization category after the end of the 24-month period beginning on the date of the separation of the member from active service.

(4) DESIGNATION OF GRADES AND MILITARY SKILLS OR SPECIALTIES.—The Secretary of the Air Force shall designate the grades and military skills or specialties of members to be eligible for placement in such mobilization category.

(5) BENEFITS.—A member in such mobilization category shall be eligible for benefits (other than pay and training) on the same basis as are available to members of the Individual Ready Reserve who are in the special mobilization category under section 10144(b) of this title, as determined by the Secretary of Defense.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 627.)

## §20103. Members not on sustained duty: agreements concerning conditions of service

(a) AGREEMENTS.—The Secretary of the Air Force may enter into a written agreement with a

member of the Space Force not on sustained duty—

(1) requiring the member to serve on active duty for a definite period of time;

(2) specifying the conditions of the member's service on active duty; and

(3) for a member serving in a space force inactive status, specifying the conditions for the member's continued service as well as order to active duty with and without the consent of the member.

(b) CONDITIONS OF SERVICE.—An agreement under subsection (a) shall specify the conditions of service. The Secretary of the Air Force shall prescribe regulations establishing—

(1) what conditions of service may be specified in the agreement;

(2) the obligations of the parties; and

(3) the consequences of failure to comply with the terms of the agreement.

(c) AUTHORITY FOR RETENTION ON ACTIVE DUTY DURING WAR OR NATIONAL EMERGENCY.—If the period of service on active duty of a member under an agreement under subsection (a) expires during a war or during a national emergency declared by Congress or the President, the member concerned may be kept on active duty, without the consent of the member, as otherwise prescribed by law.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 628.)

## §20104. Orders to active duty: with consent of member

(a) AUTHORITY.—A member of the Space Force who is serving in a space force active status and is not on sustained duty, or who is serving in a space force inactive status, may, with the consent of the member, be ordered to active duty, or retained on active duty, under the following sections of chapter 1209 of this title in the same manner as applies to a member of a reserve component ordered to active duty, or retained on active duty, under that section with the consent of the member:

(1) Section 12301(d), relating to orders to active duty at any time with the consent of the member.

(2) Section 12301(h), relating to orders to active duty in connection with medical or health care matters.

(3) Section 12322, relating to active duty for health care.

(4) Section 12323, relating to active duty pending line of duty determination required for response to sexual assault.

(b) APPLICABLE PROVISIONS OF LAW.—The following sections of chapter 1209 of this title pertaining to a member of a reserve component ordered to active duty with the consent of the member apply to a member of the Space Force who is ordered to active duty under this section in the same manner as to such a reserve component member:

(1) Section 12308, relating to retention after becoming qualified for retired pay.

(2) Section 12309, relating to use of Reserve officers in expansion of armed forces.

(3) Section 12313, relating to release of reserve members from active duty.

(4) Section 12314, relating to kinds of duty.

(5) Section 12315, relating to duty with or without pay.

(6) Section 12316, relating to payment of certain Reserves while on duty.

(7) Section 12318, relating to duties and funding of reserve members on active duty.

(8) Section 12320, relating to grade in which ordered to active duty.

(9) Section 12321, relating to a limitation on number of reserve members assigned to Reserve Officer Training Corps units.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 628.)

## §20105. Sustained duty

(a) ENLISTED MEMBERS.—An authority designated by the Secretary of the Air Force may order an enlisted member of the Space Force in a space force active status to sustained duty, or retain an enlisted member on sustained duty, with the consent of that member, as specified in the terms of the member's enlistment or reenlistment agreement.

(b) OFFICERS.—

(1) An authority designated by the Secretary of the Air Force may order a Space Force officer in a space force active status to sustained duty—

(A) with the consent of the officer; or

(B) to fulfill the terms of an active-duty service commitment incurred by the officer under any provision of law.

(2) An officer ordered to sustained duty under paragraph (1) may not be released from sustained duty without the officer's consent except as provided in chapter 2009 or 2011 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 629.)

## §20106. Orders to active duty: without consent of member

(a) MEMBERS IN A SPACE FORCE ACTIVE STATUS.—

(1) A member of the Space Force in a space force active status who is not on sustained duty, may, without the consent of the member, be ordered to active duty or inactive duty in the same manner as a member of a reserve component ordered to active duty or inactive duty under the provisions of chapter 1209 of this title and any other provision of law authorizing the order to active duty of a member of a reserve component in an active status without the consent of the member.

(2) The provisions of chapter 1209 of this title, or other applicable provisions of law, pertaining to a member of the Ready Reserve when ordered to active duty shall apply to a member of the Space Force who is in a space force active status when ordered to active duty under paragraph (1).

(3) The provisions of section 12304 of this title pertaining to members in the Individual Ready Reserve mobilization category shall apply to a member of the Space Force who is designated an Individual Ready Guardian when ordered to active duty who meets the provisions of section 20102(b) of this title.

(b) MEMBERS IN A SPACE FORCE INACTIVE STATUS.—

(1) A member of the Space Force in a space force inactive status may be ordered to active duty under—

(A) the provisions of chapter 1209 of this title;

(B) any other provision of law authorizing the order to active duty of a member of a reserve component in an inactive status; and

(C) the terms of any agreement entered into by the member under section 20103 of this title.

(2) The provisions of chapter 1209 of this title, or other applicable provisions of law, pertaining to the Standby Reserve shall apply to a member of the Space Force who is in a space force inactive service when ordered to active duty.

(c) MEMBERS IN A SPACE FORCE RETIRED STATUS.—

(1) Chapters 39 and 1209 of this title include provisions authorizing the order to active duty of a member of the Space Force in a space force retired status.

(2) The provisions of sections 688, 688a, and 12407 of this title pertaining to a retired member or a member of the Retired Reserve shall apply to a member of the Space Force in a space force retired status when ordered to active duty.

(3) The provisions of section 689 of this title pertaining to a retired member ordered to active

duty shall apply to a member of the Space Force in a space force retired status who is ordered to active duty.

(d) OTHER APPLICABLE PROVISIONS.—The following provisions of chapter 1209 of this title shall apply to a member of the Space Force ordered to active duty in the same manner as to a Reserve or member of the Retired Reserve ordered to active duty:

(1) Section 12305, relating to the authority of the President to suspend certain laws relating to promotion, retirement, and separation.

(2) Section 12308, relating to retention after becoming qualified for retired pay.

(3) Section 12313, relating to release from active duty.

(4) Section 12314, relating to kinds of duty.

(5) Section 12315, relating to duty with or without pay.

(6) Section 12316, relating to payment of certain Reserves while on duty.

(7) Section 12317, relating to theological students; limitations.

(8) Section 12320, relating to grade in which ordered to active duty.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 629; amended Pub. L. 118–159, div. A, title V, §521(m), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (d). Pub. L. 118–159 struck out "pertaining" before "shall apply" in introductory provisions.

## §20107. Transfer to inactive status: initial service obligation not complete

(a) GENERAL RULE.—A member of the Space Force who has not completed the required minimum service obligation referred to in section 20003 of this title shall, if terminating space force active status, be transferred to a space force inactive status and, unless otherwise designated an Individual Ready Guardian under section 20102 of this title, shall remain subject to order to active duty without the member's consent under section 20106 of this title.

(b) EXCEPTION.—Subsection (a) does not apply to a member who is separated from the Space Force by the Secretary of the Air Force under section 20503 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 630.)

## §20108. Members of Space Force: credit for service for purposes of laws providing pay and benefits for members, dependents, and survivors

For the purposes of laws providing pay and benefits for members of the armed forces and their dependents and beneficiaries:

(1) Military training, duty, or other service performed by a member of the Space Force in a space force active status not on sustained duty shall be considered military training, duty, or other service, as the case may be, as a member of a reserve component.

(2) Sustained duty performed by a member of the Space Force under section 20105 of this title shall be considered active duty as a member of a regular component.

(3) Active duty performed by a member of the Space Force in a space force active status not on sustained duty shall be considered active duty as a member of a reserve component.

(4) Inactive-duty training performed by a member of the Space Force shall be considered inactive-duty training as a member of a reserve component.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 631.)

## §20109. Policy for order to active duty based upon determination by Congress

Whenever Congress determines that more units and organizations capable of conducting space operations are needed for the national security than are available among those units comprised of members of the Space Force serving on active duty, members of the Space Force not serving on active duty shall be ordered to active duty and retained as long as so needed.

(Added Pub. L. 118–31, div. A, title XVII, §1715, Dec. 22, 2023, 137 Stat. 631.)

## §20110. Strength in grade: Space Force general officers in a Space Force active status, not on sustained duty

(a) AUTHORIZED STRENGTH.—The authorized strength of general officers in the Space Force serving in a Space Force active status but not on sustained duty is five.

(b) EXCLUSIONS.—The following Space Force general officers shall not be counted for purposes of this section:

(1) Those counted under section 526 of this title.

(2) Those serving in a joint duty assignment for purposes of chapter 38 of this title, except that the number of officers who may be excluded under this paragraph may not exceed two.

(c) PERMANENT GRADE.—A Space Force general officer may not be reduced in permanent grade because of a reduction in the number authorized under subsection (a).

(d) TEMPORARY EXCLUSION.—The limitations of subsection (a) do not apply to an officer released from a joint duty assignment or other non-joint active service assignment, but only during the 60-day period beginning on the date the officer departs the joint duty or other active service assignment. The Secretary of Defense may authorize the Secretary of the Air Force to extend the 60-day period by an additional 120 days, except that not more than three Space Force officers may be covered by an extension under this subsection at the same time.

(Added Pub. L. 119–60, div. A, title V, §501(c), Dec. 18, 2025, 139 Stat. 854.)

# CHAPTER 2005—OFFICERS


| Subchapter | | Sec. |
|---|---|---|
| **I.** | **Original Appointments** | **20201** |
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**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 118–31, div. A, title XVII, §1716(a), (c), Dec. 22, 2023, 137 Stat. 631, 634, 638, 649, 653, added items for subchapters I to V. Amendments were made pursuant to operation of section 102 of this title. Amendment by section 1716(c) adding subchapters II to V to chapter "205" of this title was executed by adding items for subchapters II to V to the analysis for this chapter, which is chapter 2005, to reflect the probable intent of Congress.

# SUBCHAPTER I—ORIGINAL APPOINTMENTS


Sec.

20201. Original appointments: how made.

20202. Original appointments: qualifications.

20203. Original appointments: service credit.

**EDITORIAL NOTES**

**AMENDMENTS**

Pub. L. 118–31, div. A, title XVII, §1716(a), Dec. 22, 2023, 137 Stat. 631, 632, added items 20201 to 20203. Amendment was made pursuant to operation of section 102 of this title.

## §20201. Original appointments: how made

(a) IN GENERAL.—The provisions of section 531 of this title shall apply to original appointments of commissioned officers in the Space Force.

(b) GRADE UPON APPOINTMENT.—(1) The grade of a person receiving an appointment under this section who at the time of appointment is credited with service under section 20203 of this title shall be determined under regulations prescribed by the Secretary of the Defense based upon the amount of service credited.

(2) The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component shall be determined under section 20203(e) of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1716(a), Dec. 22, 2023, 137 Stat. 631.)

## §20202. Original appointments: qualifications

(a) IN GENERAL.—An original appointment as a commissioned officer in the Space Force may be given only to a person who—

(1) is a citizen of the United States;

(2) is at least 18 years of age; and

(3) has such other physical, mental, moral, professional, and age qualifications as the Secretary of the Air Force may prescribe by regulation.

(b) EXCEPTION.—A person who is otherwise qualified, but who has a physical condition that the Secretary of the Air Force determines will not interfere with the performance of the duties to which that person may be assigned, may be appointed as an officer in the Space Force.

(Added Pub. L. 118–31, div. A, title XVII, §1716(a), Dec. 22, 2023, 137 Stat. 632.)

## §20203. Original appointments: service credit

(a) IN GENERAL.—The provisions of section 533 of this title shall apply to the crediting of prior active commissioned service for original appointments of commissioned officers.

(b) CREDIT FOR PRIOR SERVICE.—(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade in the Space Force, such person shall be credited at the time of such appointment with any commissioned service (other than service as a commissioned warrant officer) that the person performed before such appointment—

(A) as a Space Force officer on active duty or in a space force active status; or

(B) as a regular officer, or as a reserve officer in an active status, in any uniformed service.

(2) The regulations prescribed by the Secretary of Defense under section 533 of this title shall apply to the Space Force to authorize the Secretary of the Air Force to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1).

(b) CREDIT FOR EDUCATION, TRAINING, AND EXPERIENCE.—(1) Under regulations prescribed by the Secretary of the Air Force, the Secretary shall credit a person who is receiving an

original appointment in a commissioned grade in the Space Force and who has advanced education, training, or special experience with constructive service for such education, training, or experience in a particular officer career field as designated by the Secretary of the Air Force, if such education, training, or experience is directly related to the operational needs of the Space Force.

(2)(A) The Secretary may credit a person with constructive service under this subsection for each instance of relevant advanced education or training or special experience regardless of whether two or more such instances are concurrent.

(B) The Secretary may not credit more than 20 persons with an amount of constructive credit under this paragraph in any year.

(3) The amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of colonel.

(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

(5) Not later than December 1 of each year, the Secretary of the Air Force shall submit a report to the Committees on Armed Services of the Senate and House of Representatives regarding the amount of constructive service credited under this subsection during the preceding calendar year.

(c) AUTHORIZED USE OF CONSTRUCTIVE CREDIT.—Constructive service credited an officer under subsection (b) shall be used only for determining the officer's—

(1) initial grade;

(2) rank in grade; and

(3) service in grade for promotion eligibility.

(d) EXCLUSION FOR GRADUATES OF THE SERVICE ACADEMIES.—A graduate of a Service Academy (as such term is defined in section 347 of this title) is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Service Academy.

(e) RESERVE OFFICERS.—A reserve officer (other than a warrant officer) who receives an original appointment as an officer in the Space Force shall—

(1) in the case of an officer on the active-duty list of an armed force immediately before that appointment, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and

(2) in the case of an officer not on the active-duty list immediately before that appointment, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment.

(f) CONTINUITY OF EXISTING DELEGATION OF PRESIDENTIAL APPOINTMENT FUNCTIONS.—Except as otherwise provided by the President by Executive order, the provisions of Executive Order 13384 (10 U.S.C. 531 note) relating to the functions of the President under section 531(a) of this title shall apply in the same manner to functions of the President under section 20201 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1716(a), Dec. 22, 2023, 137 Stat. 632.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order 13384, referred to in subsec. (f), is Ex. Ord. No. 13384, July 27, 2005, 70 F.R. 43739, which is set out as a note under section 531 of this title.

## SUBCHAPTER II—SELECTION BOARDS

Sec.
20211. Convening of selection boards.
20212. Composition of selection boards.
20213. Notice of convening of selection boards.
20214. Information furnished to selection boards.
20215. Recommendations for promotion by selection boards.
20216. Reports of selection boards.
20217. Action on reports of selection boards for promotion to brigadier general or major general.

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, which directed amendment of chapter "205" of this title by adding this subchapter at the end, was executed by adding this subchapter at the end of this chapter, which is chapter 2005, to reflect the probable intent of Congress.

**AMENDMENTS**

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634–638, added items 20211 to 20217. Amendment was made pursuant to operation of section 102 of this title.

## §20211. Convening of selection boards

(a) IN GENERAL.—Whenever the needs of the service require, the Secretary of the Air Force shall convene selection boards to recommend for promotion to the next higher permanent grade officers of the Space Force in each permanent grade from first lieutenant through brigadier general.

(b) EXCEPTION FOR OFFICERS IN GRADE OF FIRST LIEUTENANT.—Subsection (a) does not require the convening of a selection board in the case of Space Force officers in the permanent grade of first lieutenant when the Secretary of the Air Force recommends for promotion to the grade of captain under section 20239(c)(4)(A) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(c) SELECTION BOARDS FOR EARLY RETIREMENT OR DISCHARGE.—The Secretary of the Air Force may convene selection boards to recommend officers for early retirement under section 20404(a) of this title or for discharge under section 20404(b) of this title.

(d) REGULATIONS.—The convening of selection boards under subsection (a) shall be under regulations prescribed by the Secretary of the Defense.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634; amended Pub. L. 118–159, div. A, title V, §521(n), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 substituted "20239(c)(4)(A)" for "20238(a)(4)(A)".

## §20212. Composition of selection boards

(a) APPOINTMENT AND COMPOSITION OF BOARDS.—

(1) IN GENERAL.—Members of a selection board shall be appointed by the Secretary of the Air Force in accordance with this section. A selection board shall consist of five or more officers of the Space Force. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major. The members of a selection board shall include at least one member serving on sustained duty and at least one member in a space force active status who is

not serving on sustained duty. The ratio of the members of a selection board serving on sustained duty to members serving in a space force active status not on sustained duty shall, to the extent practicable, reflect the ratio of officers serving in each of those statuses who are being considered for promotion by the board. The members of a selection board shall represent the diverse population of the Space Force to the extent practicable.

(2) REPRESENTATION FROM COMPETITIVE CATEGORIES.—(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(B) A selection board need not include an officer from a competitive category when there are no officers of that competitive category on the Space Force officer list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board.

(3) RETIRED OFFICERS.—If qualified officers on the Space Force officer list are not available in sufficient number to comprise a selection board, the Secretary of the Air Force shall complete the membership of the board by appointing as members of the board—

(A) Space Force officers who hold a grade higher than the grade of the officers under consideration by the board and who are retired officers; and

(B) if sufficient Space Force officers are not available pursuant to subparagraph (A), Air Force officers who hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, but only if the Air Force officer to be appointed to the board has served in the Space Force or in a space-related career field of the Air Force for sufficient time such that the Secretary of the Air Force determines that the retired Air Force officer has adequate knowledge concerning the standards of performance and conduct required of an officer of the Space Force.

(4) EXCLUSION OF RETIRED GENERAL OFFICERS ON ACTIVE DUTY TO SERVE ON A BOARD FROM NUMERIC GENERAL OFFICER ACTIVE-DUTY LIMITATIONS.—A retired general officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(b) LIMITATION ON MEMBERSHIP ON CONSECUTIVE BOARDS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), no officer may be a member of two successive selection boards convened under section 20211 of this title for the consideration of officers of the same competitive category and grade.

(2) EXCEPTION FOR GENERAL OFFICER BOARDS.—Paragraph (1) does not apply with respect to selection boards convened under section 20211 of this title for the consideration of officers in the grade of colonel or brigadier general.

(c) JOINT QUALIFIED OFFICERS.—(1) Each selection board convened under section 20211 of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who—

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) for any selection board of the Space Force.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634; amended Pub. L. 118–159, div. A, title V, §521(o), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a)(1). Pub. L. 118–159 substituted "Secretary of the Air Force" for "Secretary of Air Force".

## §20213. Notice of convening of selection boards

(a) NOTICE TO ELIGIBLE OFFICERS.—At least 30 days before a selection board is convened under section 20211 of this title to recommend officers in a grade for promotion to the next higher grade, the Secretary of the Air Force shall—

(1) notify in writing the officers eligible for consideration for promotion of the date on which the board is to convene and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification; or

(2) issue a general written notice to the Space Force regarding the convening of the board which shall include the convening date of the board and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification.

(b) COMMUNICATION FROM OFFICERS.—An officer eligible for consideration by a selection board convened under section 20211 of this title (other than an officer who has been excluded under section 20231(d) of this title from consideration by the board) may send a written communication to the board, to arrive not later than 10 calendar days before the date on which the board convenes, calling attention to any matter concerning the officer that the officer considers important to the officer's case. The selection board shall give consideration to any timely communication under this subsection.

(c) NOTICE OF INTENT OF CERTAIN OFFICERS TO SERVE ON OR OFF ACTIVE DUTY .—An officer on the Space Force officer list in the grade of colonel or brigadier general who receives a notice under subsection (a) shall inform the Secretary of the officer's preference to serve either on or off sustained duty if promoted to the grade of brigadier general or major general, respectively.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 635.)

## §20214. Information furnished to selection boards

The provisions of section 615 of this title shall apply to information furnished to selection boards.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 636.)

## §20215. Recommendations for promotion by selection boards

(a) BOARD TO RECOMMEND OFFICERS BEST QUALIFIED FOR PROMOTION.—A selection board convened under section 20211 of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the Space Force for officers with particular skills (as noted in the guidelines or information furnished the board under section 615(b) of this title), considers best qualified for promotion within each competitive category considered by the board.

(b) NUMBER TO BE RECOMMENDED.—The Secretary of the Air Force shall establish the number of officers such a selection board may recommend for promotion from among officers being considered.

(c) BOARD PROCEDURES FOR RECOMMENDATIONS; LIMITATIONS.—A selection board convened under section 20211 of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this

title, finds that the officer is among the officers best qualified for promotion to meet the needs of the Space Force consistent with the requirement of exemplary conduct set forth in section 9233 of this title.

(d) LIMITATION ON PROMOTIONS UNDER OTHER AUTHORITY.—Except as otherwise provided by law, a Space Force officer may not be promoted to a higher grade under this chapter unless the officer is considered and recommended for promotion to that grade by a selection board convened under this chapter or, in the case of an officer transferring into the Space Force from another armed force, chapter 36 or chapter 1403 of this title.

(e) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a selection board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary of the Air Force to assist the board) until the written report of the recommendations of the board, required by section 617 of this title, is signed by each member of the board.

(f) PROHIBITION ON ATTEMPTING TO INFLUENCE MEMBERS OF A BOARD.—The Secretary of the Air Force, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a selection board or any member of a selection board in the formulation of the board's recommendations.

(g) HIGHER PLACEMENT ON PROMOTION LIST OF OFFICER OF PARTICULAR MERIT .—(1) In selecting the officers to be recommended for promotion, a selection board shall, when authorized by the Secretary of the Air Force, recommend officers of particular merit, pursuant to guidelines and procedures prescribed by the Secretary, from among those officers selected for promotion, to be placed higher on the promotion list established by the Secretary under section 624(a)(1) of this title.

(2) An officer may be recommended to be placed higher on a promotion list under paragraph (1) only if the officer receives the recommendation of at least a majority of the members of the board, unless the Secretary of the Air Force establishes an alternative requirement. Any such alternative requirement shall be furnished to the board as part of the guidelines furnished to the board under section 615 of this title.

(3) For the officers recommended to be placed higher on a promotion list under paragraph (1), the board shall recommend, pursuant to guidelines and procedures prescribed by the Secretary, the order in which those officers should be placed on the list.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 636.)

## §20216. Reports of selection boards

(a) IN GENERAL.—Each selection board convened under section 20211 of this title shall submit to the Secretary of the Air Force a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying—

(1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title; and

(2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the Space Force (as noted in the guidelines or information furnished the board under section 615(b) of this title) among those officers whose names were furnished to the selection board.

(b) OFFICERS WHO SHOULD BE REQUIRED TO SHOW CAUSE FOR RETENTION.—A selection board convened under section 20211 of this title shall include in its report the name of any officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under section 20503 of this title to show cause for the officer's retention in a space force active status.

(c) OFFICERS RECOMMENDED TO BE PLACED HIGHER ON THE PROMOTION LIST .—A selection board convened under section 20211 of this title shall, when authorized under section 20215(g) of this title, include in its report the names of those officers recommended by the board to be placed higher on the promotion list and the order in which the board recommends that those officers should be placed on the list.

(d) RECOMMENDATION FOR OFFICERS TO BE EXCLUDED FROM FUTURE CONSIDERATION FOR PROMOTION.—A selection board convened under section 20211 of this title may include in its report a recommendation that an officer considered by the board be excluded from future consideration for promotion under this chapter.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 637; amended Pub. L. 118–159, div. A, title V, §521(p), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (c). Pub. L. 118–159 substituted "20215(g)" for "20214(g)".

## §20217. Action on reports of selection boards for promotion to brigadier general or major general

(a) IN GENERAL.—After reviewing a report received under section 20215 of this title recommending officers on the Space Force officer list for promotion to the grade of brigadier general or major general, but before submitting the report to the Secretary of Defense, the Secretary of the Air Force may, under regulations prescribed by the Secretary of the Air Force, adjust the placement of officers as recommended in the report in order to ensure that sufficient number of officers on both sustained and non-sustained duty are promoted to meet the requirements of the Space Force to fill general officer vacancies.

(b) REPORT.—Whenever the Secretary of the Air Force uses the authority under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report informing the committees that the authority has been used and the reason for the use of the authority.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 638.)

# SUBCHAPTER III—PROMOTIONS

Sec.
20231. Eligibility for consideration for promotion: general rules.
20232. Authority to allow officers to opt out of selection board consideration.
20233. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to brigadier general; exceptions.
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20244. Eligibility for consideration for promotion: duty assignments.

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 638, which directed amendment of chapter "205" of this title by adding this subchapter at the end, was executed by adding this subchapter at the end of this chapter, which is chapter 2005, to reflect the probable intent of Congress.

**AMENDMENTS**

**2025**—Pub. L. 119–60, div. A, title XVI, §1601(d)(1), Dec. 18, 2025, 139 Stat. 1174, added item 20244. Amendment was made pursuant to operation of section 102 of this title.

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 638, 641–645, 647–649, added items 20231 to 20243. Amendment was made pursuant to operation of section 102 of this title.

## §20231. Eligibility for consideration for promotion: general rules

(a) IN GENERAL.—

(1) REQUIREMENT TO BE ON SPACE FORCE OFFICER LIST.—An officer is eligible under this chapter for consideration for promotion by a selection board convened under section 14101(a) of this title only if the officer is on the Space Force officer list.

(2) AUTHORITY TO PRECLUDE FROM CONSIDERATION CERTAIN OFFICERS BASED ON TIME OF ENTRY ON OR DEPARTURE FROM SUSTAINED DUTY.—The Secretary of the Air Force—

(A) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer on the Space Force officer list transfers on or off of sustained duty during which the officer shall be ineligible for consideration for promotion; and

(B) may, by regulation, provide for the exclusion from consideration for promotion by a selection board of an officer otherwise eligible to be considered by the board who has an established date for removal from the Space Force officer list that is not more than 90 days after the date on which the board is to be convened.

(b) CERTAIN OFFICERS NOT TO BE CONSIDERED.—A selection board convened under section 20211 of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 20151 of this title, under section 14101 or 14502 of this title, or under chapter 36 of this title.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under a provision referred to in paragraph (1), in the case of such a report that has not yet been approved by the President.

(3) An officer who has been nominated by the President for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(4) An officer in the grade of first lieutenant who is on an approved all-fully-qualified-officers list under section 20239(c)(4) of this title.

(5) An officer excluded under section 20232 of this title.

(6) An officer who has failed of promotion to a higher grade the maximum number of times specified for opportunities for promotion for such grade within the competitive category concerned pursuant to section 20234 of this title.

(c) CERTAIN COLONELS.—

(1) AUTHORITY TO PRECLUDE FROM CONSIDERATION.—The Secretary of Defense may authorize the Secretary of the Air Force to preclude from consideration by selection boards for promotion to the grade of brigadier general, officers in the grade of colonel who—

(A) have been considered and not selected for promotion to the grade of brigadier general or by at least two selection boards; and

(B) are determined, in accordance with standards and procedures prescribed pursuant to paragraph (2), as not being exceptionally well qualified for promotion.

(2) REGULATIONS.—If the Secretary of Defense authorizes the Secretary of the Air Force to have the authority described in subparagraph (A), the Secretary shall prescribe by regulation the standards and procedures for the exercise of such authority. Those regulations shall apply uniformly among the military departments and shall include the following provisions:

(A) A requirement that the Secretary of the Air Force may exercise such authority in the case of a particular selection board only if the Secretary of Defense approves the exercise of that authority for that board.

(B) A requirement that an officer may be precluded from consideration by a selection board under this paragraph only upon the recommendation of a preselection board of officers convened by the Secretary of the military department concerned and composed of at least three officers all of whom are serving in a grade higher than the grade of such officer.

(C) A requirement that such a preselection board may not recommend that an officer be precluded from such consideration unless the Secretary of the Air Force has given the officer advance written notice of the convening of such board and of the military records that will be considered by the board and has given the officer a reasonable period before the convening of the board in which to submit comments to the board.

(D) A requirement that the Secretary of the Air Force shall provide general guidance to the board in accordance with standards and procedures prescribed by the Secretary of Defense in those regulations.

(E) A requirement that the preselection board may recommend that an officer be precluded from consideration by a selection board only on the basis of the general guidance provided by the Secretary of the Air Force, information in the officer's official military personnel records that has been described in the notice provided the officer as required pursuant to subparagraph (C), and any communication to the board received from that officer before the board convenes.

(d) BRIGADIER GENERALS.—

(1) OFFICERS NOT ON SPACE FORCE OFFICER LIST.—A brigadier general who is not eligible for consideration for promotion because the officer is not on the Space Force officer list (as required by paragraph (1) of subsection (a) for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a selection board convened under section 20211(a) of this title if—

(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than the minimum threshold established in paragraph (2) of subsection (a); and

(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the Space Force officer list for at least one year.

(2) OFFICERS NOT MEETING MINIMUM PARTICIPATION THRESHOLD.—A brigadier general who is on the Space Force officer list but who is not eligible for consideration for promotion because the officer's service does not meet the minimum participation threshold established under subsection (a)(2) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 20211(a) of this title if—

(A) the officer was transferred from an inactive status to the reserve active-status list during the one-year period preceding the date of the convening of the promotion board;

(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active-status list or the active-duty list (or a combination of the reserve active-status list and the active-duty list).

(e) OFFICERS ON EDUCATIONAL DELAY.—An officer on the Space Force officer list is ineligible for consideration for promotion, but shall remain on the Space Force officer list, while the officer—

(1) is pursuing a program of graduate level education in an educational delay status approved by the Secretary concerned; and

(2) is receiving from the Secretary financial assistance in connection with the pursuit of that program of education while in that status.

(f) CERTAIN OFFICERS NOT TO BE CONSIDERED FOR SELECTION FOR PROMOTION .—The Secretary of the Air Force may provide that an officer who is in a space force active status, but is in a duty status in which the only points the officer accrues under section 12732(a)(2) of this title are pursuant to subparagraph (C)(i) of that section, shall not be considered for selection for promotion until completion of two years of service in such duty status. Any such officer may remain on the Space Force officer list.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 638; amended Pub. L. 118–159, div. A, title V, §521(q), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b)(4). Pub. L. 118–159, §521(q)(1)(A), substituted "20239(c)(4)" for "20238(a)(4)".

Subsec. (b)(5). Pub. L. 118–159, §521(q)(1)(B), substituted "section 20232" for "20232".

Subsec. (c)(2)(E). Pub. L. 118–159, §521(q)(2), substituted "Secretary of the Air Force" for "Secretary Air Force".

## §20232. Authority to allow officers to opt out of selection board consideration

(a) AUTHORITY.—The Secretary of the Air Force may provide that an officer on the Space Force officer list may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 20211 of this title to consider officers for promotion to the next higher grade.

(b) CRITERIA.—The Secretary may only approve a request under subsection (a) as follows:

(1) COMPLETION OF CERTAIN ASSIGNMENTS.—If—

(A) the basis for the request is to allow an officer to complete a broadening assignment, an advanced education assignment, another assignment of significant value to the Department, or a career progression requirement delayed by such an assignment;

(B) the Secretary determines the exclusion from consideration is in the best interest of the Space Force; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests the exclusion from consideration.

(2) COMPLETION OF CERTAIN EDUCATION.—If—

(A) the basis for the request is to allow an officer to complete advanced education or professional military education;

(B) the Secretary determines that it is in the best interests of the Space Force for the officer to continue to serve in current position and grade; and

(C) the officer has not previously opted out of a promotion board under this section.

(3) SERVICE IN CRITICAL SKILL POSITION.—If—

(A) the officer is serving in a critical skill position that cannot be filled by another Space Force officer serving in the same grade;

(B) the Secretary determines that it is in the best interests of the Space Force for the officer to continue to serve in their current position and grade; and

(C) the officer has not previously opted out of a promotion board under this section.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 641.)

## §20233. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to brigadier general; exceptions

(a) GENERAL RULE.—An officer on the Space Force officer list may not be appointed to the grade of brigadier general unless the officer has been designated as a joint qualified officer in accordance with section 661 of this title.

(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

(1) When necessary for the good of the service.

(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(3) In the case of an officer selected by a promotion board for appointment to the grade of brigadier general while serving in a joint duty assignment if—

(A) the officer's total consecutive service in joint duty assignments is not less than two years; and

(B) the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title.

(4) In the case of an officer who—

(A) is selected by a promotion board for appointment to the grade of brigadier general;

(B) is not exempted under subsection (g); and

(C) has successfully completed the education requirements prescribed in subparagraph (A) of section 661(c)(1) of this title but has not been afforded the opportunity to complete the experience requirements described in subparagraph (B) of that section.

(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary of Defense shall provide that the first duty assignment as a general officer of the officer for whom the waiver is granted shall be in a joint duty assignment.

(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the Secretary of Defense to grant a waiver under subsection (b)(4) may only be delegated as provided in section 619a(e) of this title.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to brigadier general is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(g) EXEMPTION.—Subsection (a) shall not apply to an officer who transfers to the Space Force from a reserve component before the first day of the sixth fiscal year beginning after the date of the enactment of this section, and who, as of the date of the transfer, is serving in the grade of major, lieutenant colonel, or colonel or, in the case of the Navy or Coast Guard, lieutenant commander, commander, or captain.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 642.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (g), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

## §20234. Opportunities for consideration for promotion

(a) SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.—The Secretary of the Air Force shall specify the number of opportunities for consideration for promotion to be afforded to Space Force officers for promotion to each grade above the grade of captain.

(b) LIMITED AUTHORITY OF SECRETARY OF THE AIR FORCE TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of the Air Force may modify the number of opportunities for consideration for promotion to be afforded officers within a competitive category for promotion to a particular grade, as previously specified by the Secretary pursuant to subsection (a), not more frequently than once every five years.

(c) AUTHORITY OF SECRETARY OF DEFENSE TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of Defense may modify the number of opportunities for consideration for promotion to be afforded officers of the Space Force within a competitive category for promotion to a particular grade, as previously specified or modified pursuant to any provision of this section, at the discretion of the Secretary.

(d) LIMITATION ON NUMBER OF OPPORTUNITIES SPECIFIED.—The number of opportunities for consideration for promotion to be afforded officers of the Space Force within a competitive category for promotion to a particular grade, as specified or modified pursuant to any provision of this section, may not exceed five opportunities.

(e) EFFECT OF CERTAIN REDUCTION IN NUMBER OF OPPORTUNITIES SPECIFIED .—If, by reason of a reduction in the number of opportunities for consideration for promotion under this section, an officer would no longer have one or more opportunities for consideration for promotion that were available to the officer before the reduction, the officer shall be afforded one additional opportunity for consideration for promotion after the reduction.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 643; amended Pub. L. 118–159, div. A, title V, §521(r), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 substituted "pursuant to subsection (a)" for "pursuant subsection (a)".

## §20235. Space Force officer list

(a) SINGLE LIST.—The Secretary of the Air Force shall maintain a single list of all Space Force officers serving in a space force active status. The list shall be known as the "Space Force officer list".

(b) ORDER OF OFFICERS ON LIST.—Officers shall be carried on the Space Force officer list in the order of seniority of the grade in which they are serving. Officers serving in the same grade shall be carried in the order of their rank in that grade.

(c) EFFECT OF SERVICE IN A TEMPORARY APPOINTMENT.—An officer whose position on the Space Force officer list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on the Space Force officer list that the officer would have held if the officer had not received that appointment or assignment.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 643.)

## §20236. Competitive categories

(a) REQUIREMENT TO ESTABLISH COMPETITIVE CATEGORIES FOR PROMOTION .—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall establish at least one competitive category for promotion for officers on the Space Force officer list. Each officer whose name appears on the Space Force officer list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

(b) SINGLE COMPETITIVE CATEGORY FOR PROMOTION TO GENERAL OFFICER GRADES.—The Secretary of the Air Force shall establish a single competitive category for all officers on the Space Force officer list who will be considered by a selection board convened under section 20211 of this title for promotion to the grade of brigadier general or major general.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 644.)

## §20237. Numbers to be recommended for promotion

(a) PROMOTION TO GRADES BELOW BRIGADIER GENERAL.—

(1) DETERMINATION OF MAXIMUM NUMBER.—Before convening a selection board under section 20211 of this title to consider officers for recommendation for promotion to a grade below brigadier general and in any competitive category, the Secretary of the Air Force shall determine the maximum number of officers in that competitive category that the board may recommend for promotion.

(2) DETERMINATIONS.—In order to make the determination under paragraph (1), the Secretary shall determine—

(A) the number of positions needed to accomplish mission objectives which require officers of that competitive category in the grade to which the board will recommend officers for promotion;

(B) the estimated number of officers needed to fill vacancies in those positions during the period in which it is anticipated that officers selected for promotion will be promoted; and

(C) the number of officers in a space force active status authorized by the Secretary of the Air Force to serve both on sustained duty and not on sustained duty in the grade and competitive category under consideration.

(b) PROMOTION TO BRIGADIER GENERAL AND MAJOR GENERAL.—

(1) DETERMINATION OF MAXIMUM NUMBERS.—Before convening a selection board under section 20211 of this title to consider officers for recommendation for promotion to the grade of brigadier general or major general, the Secretary of the Air Force shall determine the maximum number of officers serving in a space force active status on sustained duty, and the maximum number of officers serving in a space force active status not on sustained duty, that the board may recommend for promotion.

(2) DETERMINATIONS.—In order to make the determinations under paragraph (1), the Secretary shall determine—

(A) the number of positions needed to accomplish mission objectives which require officers serving in a space force active status on sustained duty, and in a space force active status not on sustained duty, in the grade to which the board will recommend officers for promotion; and

(B) the estimated number of officers on sustained duty and not on sustained duty needed to fill vacancies in those positions over the 24-month period beginning on the date on which the selection board convenes.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 644.)

## §20238. Establishment of promotion zones

(a) IN GENERAL.—Before convening a selection board under section 20211 of this title to consider officers for promotion to any grade above first lieutenant or lieutenant (junior grade), the Secretary of the Air Force shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

(b) DETERMINATION OF NUMBER.—The Secretary of the Air Force shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category. Such determination shall be made on the basis of an estimate of—

(1) the number of officers needed in that competitive category in the next higher grade in each of the next five years;

(2) the number of officers to be serving in that competitive category in the next higher grade in each of the next five years;

(3) in the case of a promotion zone for officers to be promoted to a grade to which section 523 of this title is applicable, the number of officers authorized for such grade under such section to be on sustained duty on the last day of each of the next five fiscal years; and

(4) the number of officers that should be placed in that promotion zone in each of the next five years to provide to officers in those years relatively similar opportunity for promotion.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 645.)

## §20239. Promotions: how made

(a) PROMOTION LISTS.—

(1) PLACEMENT OF NAMES ON PROMOTION LIST.—When the report of a selection board convened under section 20211 of this title is approved by the President, the Secretary of the Air Force shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the Space Force officer list or based on particular merit, as determined by the promotion board, or as modified by the Secretary of the Air Force under section 20217 of this title.

(2) TIME OF ESTABLISHMENT OF PROMOTION LIST.—A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under paragraph (1).

(b) PROMOTIONS; HOW MADE; ORDER.—

(1) APPOINTMENT AUTHORITY.—Officers on a promotion list shall be promoted by appointment in the manner specified in section 20201 of this title.

(2) TIMING.—Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the Air Force.

(3) ORDER.—Except as provided in subsections (e) and (f), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

(4) PROMOTIONS TO GRADE OF FIRST LIEUTENANT.—Officers to be promoted to the grade of first lieutenant shall be promoted in accordance with regulations prescribed by the Secretary of the Air Force.

(c) PROMOTION OF FIRST LIEUTENANTS ON AN ALL-FULLY-QUALIFIED OFFICERS LIST.—(1) Except as provided in subsection (f), officers on the Space Force officer list in the grade of first lieutenant who are on an approved all-fully-qualified-officers list shall be promoted to the grade of captain in accordance with regulations prescribed by the Secretary of the Air Force.

(2) An all-fully-qualified-officers list shall be considered to be approved for purposes of paragraph

(1) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

(3) The Secretary of the Air Force may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(4) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the Space Force officer list in a grade who the Secretary of the Air Force determines—

(A) are fully qualified for promotion to the next higher grade; and

(B) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 20211 of this title upon the convening of such a board.

(5) If the Secretary of the Air Force determines that one or more officers or former officers were not placed on an all-fully-qualified-list under this subsection because of administrative error, the Secretary may prepare a supplemental all-fully-qualified-officers list containing the names of any such officers for approval in accordance with this subsection.

(d) DATE OF RANK.—

(1) GENERAL RULE.—The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

(2) ADJUSTMENTS.—The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, section 741(d)(4)(C)(ii) of this title shall be applied by substituting "Space Force officer list" for "active-duty list".

(3) ADDITIONAL PAY AND ALLOWANCES PRECLUDED.—Except as provided in paragraph (2) or as otherwise specifically authorized by law, an officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

(e) DELAY OF PROMOTIONS TO GENERAL OFFICER GRADES TO COMPLY WITH STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, the promotion of an officer on the Space Force officer list to the grade of brigadier general or major general shall be delayed if that promotion would cause any strength limitation of section 526 of this title to be exceeded. The delay shall expire when the Secretary of the Air Force determines that the delay is no longer required to ensure compliance with the strength limitation.

(f) AUTHORITY TO DELAY APPOINTMENTS FOR SPECIFIED REASONS.—The provisions of section 14311 of this title shall apply to the appointment of an officer under this section in the same manner as they apply to an appointment of an officer under that section, and any reference in that section to an reserve active-status list shall be treated for purposes of applicability to an officer of the Space Force as referring to the Space Force officer list.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 645; amended Pub. L. 118–159, div. A, title V, §521(s), Dec. 23, 2024, 138 Stat. 1882.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (c)(2). Pub. L. 118–159, §521(s)(1), substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (d)(2). Pub. L. 118–159, §521(s)(2), substituted "section 741(d)(4)(C)(ii) of this title" for "subparagraph (C)(ii) of such section".

## §20240. Acceptance of promotions; oath of office

(a) ACCEPTANCE.—An officer who is appointed to a higher grade under section 20239 of this

title is considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 20239 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 647.)

## §20241. Removal of officers from a list of officers recommended for promotion

(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 20238(a) of this title to a grade for which appointment is required by section 20201(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

(3) In this subsection, the term "promotion eligibility period" means, with respect to an officer whose name is on a list of officers approved for promotion under section 20238(a) of this title to a grade for which appointment is required by section 20201(a) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.

(d) ADMINISTRATIVE REMOVAL.—Under regulations prescribed by the Secretary of the Air Force, if an officer on the Space Force officer list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—(1) An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the Air Force may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the Space Force officer list, as the officer would have had if the officer's name had not been removed from the list.

(2) If such an officer who is in a grade below the grade of colonel is not recommended for promotion by the next selection board convened for the officer's grade and competitive category, or if the officer's name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, the officer shall be considered for all purposes to have failed of selection for promotion to the next higher grade.

(f) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by the President by Executive order, any Executive order issued before the date of the enactment of this section relating to functions of the President under section 629 or 14310 of this title shall apply in the same manner to functions of the President under this section.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 647; amended Pub. L.

118–159, div. A, title V, §509E, Dec. 23, 2024, 138 Stat. 1874.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (f), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

**AMENDMENTS**

**2024**—Subsec. (f). Pub. L. 118–159 substituted "section 629 or 14310" for "section 14310".

## §20242. Authority to vacate promotions to grade of brigadier general

(a) AUTHORITY.—The President may vacate the appointment of a Space Force officer to the grade of brigadier general if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

(b) EFFECT OF PROMOTION BEING VACATED.—An officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel. Upon assuming the grade of colonel under this section, the officer shall have the same position on the Space Force officer list as the officer would have had if the officer had not served in the higher grade.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 648.)

## §20243. General officers ceasing to occupy positions commensurate with grade

(a) GENERAL OFFICERS.—Within 60 days after an officer of the Space Force on the Space Force officer list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary of the Air Force shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

(1) Transfer the officer in grade to the Space Force retired list, if the officer is qualified and applies for the transfer.

(2) Transfer the officer in grade to a Space Force inactive status, if the officer is qualified.

(3) Discharge the officer from the officer's appointment and, if the officer is qualified and applies therefor, appoint the officer in the grade held by the officer before the officer's appointment in a general officer grade.

(4) Discharge the officer from the officer's appointment.

(b) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 649; amended Pub. L. 118–159, div. A, title V, §521(t), Dec. 23, 2024, 138 Stat. 1883.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (a)(3). Pub. L. 118–159 struck out "as a" after "held by the officer".

## §20244. Eligibility for consideration for promotion: duty assignments

(a) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations to ensure that an officer on the Space Force officer list is not considered for promotion to the grade of brigadier

general unless the officer has completed—

(1) a duty assignment with a command or other organization that has responsibility for acquisition matters; and

(2) a duty assignment with a command or other organization that has responsibility for operations.

(b) IMPLEMENTATION DATE.—(1) The Secretary of the Air Force shall prescribe the regulations required under subsection (a) not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2026; and

(2) The regulations required under subsection (a) shall apply to officers considered for promotion to brigadier general on or after January 1, 2035.

(Added Pub. L. 119–60, div. A, title XVI, §1601(d)(1), Dec. 18, 2025, 139 Stat. 1174.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2026, referred to in subsec. (b), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

## SUBCHAPTER IV—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

Sec.
20251. Failure of selection for promotion.
20252. Special selection boards; correction of errors.
20252a. Special selection review boards: reference.
20253. Retirement: retirement for years of service.

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 649, which directed amendment of chapter "205" of this title by adding this subchapter at the end, was executed by adding this subchapter at the end of this chapter, which is chapter 2005, to reflect the probable intent of Congress.

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title V, §521(v)(2), Dec. 23, 2024, 138 Stat. 1883, renumbered item 20251 "Special selection boards; correction of errors" as 20252.

**2023**—Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 649, 650, 653, added two items 20251 and items 20252a and 20253. Amendment was made pursuant to operation of section 102 of this title.

### §20251. Failure of selection for promotion

(a) IN GENERAL.—Except as provided in this section, sections 14501, 14503, 14504, 631, and 632 of this title shall apply to promotions of officers on the Space Force officer list. For the purpose of such applicability—

(1) any reference in those sections to the reserve active-status list or the active-duty list shall apply to the Space Force officer list; and

(2) any reference in those sections to a board convened under section 14201 [1] or section 611 of this title shall apply to a board convened under section 20211 of this title.

(b) INAPPLICABILITY OF FAILURE OF SELECTION FOR PROMOTION TO OFFICERS

ABOVE PROMOTION ZONE.—The reference in section 14501 of this title to an officer above the promotion zone shall not apply in the promotion of officers on the Space Force officer list.

(c) RETIREMENT AUTHORITIES.—In applying section 631 or 632 of this title to such an officer, the reference in subsection (a)(3) of that section to qualifying for retirement under certain sections of this title shall be deemed to refer to qualifying for retirement under any provision of law other than chapter 61 of this title.

(d) EFFECT OF FAILURE OF SELECTION.—In the administration of this chapter pursuant to subsection (a)—

(1) an officer on the Space Force officer list shall not be deemed to have failed twice of selection for promotion for purposes of section 629(e)(2) or 14501(b) of this title until the officer has failed selection of promotion to the next higher grade the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned under section 20234 of this title; and

(2) any reference in section 631(a) or 632(a) of this title, or in sections 14504 through 14506 of this title, to an officer who has failed of selection for promotion to the next higher grade for the second time shall be deemed to refer instead to an officer on the Space Force officer list who has failed of selection for promotion to the next higher grade for the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned under section 20234 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 649; amended Pub. L. 118–159, div. A, title V, §521(u), Dec. 23, 2024, 138 Stat. 1883; Pub. L. 119–60, div. A, title XVII, §1701(a)(43), Dec. 18, 2025, 139 Stat. 1210.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 14201 of this title, referred to in subsec. (a)(2), probably should be section 14101 of this title, which relates to convening of selection boards. There is no section 14201 of this title.

**CODIFICATION**

Another section 20251 was renumbered section 20252 of this title by section 521(v)(2) of Pub. L. 118–159. The amendments made by section 521(u) of Pub. L. 118–159 to section 20251 of this title were executed to this section to reflect the probable intent of Congress.

**AMENDMENTS**

**2025**—Subsec. (a). Pub. L. 119–60 struck out "and" before "14504, 631, and 632".

**2024**—Subsec. (a). Pub. L. 118–159, §521(u)(1)(A), substituted "14504, 631, and 632" for "14504 and section 631 and 632" in introductory provisions. See Codification note above.

Subsec. (a)(2). Pub. L. 118–159, §521(u)(1)(B), substituted "section 14201 or section 611" for "section 14201 or 611". See Codification note above.

Subsec. (d)(1). Pub. L. 118–159, §521(u)(2), substituted "14501(b)" for "14502(b)". See Codification note above.

[1] *See References in Text note below.*

## §20252. Special selection boards; correction of errors

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARD BECAUSE OF ADMINISTRATIVE ERROR.—

(1) CONVENING OF BOARD.—In the case of an officer or former officer who the Secretary of the Air Force determines was not considered for selection for promotion by a selection board

convened under section 20211 of this title because of administrative error, the Secretary shall convene a special selection board under this subsection to determine whether that officer or former officer should be recommended for promotion.

(2) BOARD COMPOSITION; OATH.—Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 20212 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

(3) RECORD CONSIDERED BY BOARD.—A special selection board convened under paragraph (1) shall consider the record of the officer or former officer as that record would have appeared to the selection board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion, and those officers of the same grade and competitive category who were not recommended for promotion, by that board.

(4) EFFECT.—If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—

(1) CONVENING OF BOARD.—In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion by a selection board convened under section 20211 of this title but was not selected, the Secretary of the Air Force may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary must determine that—

(A) the action of the selection board that considered the officer or former officer was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or

(B) the board did not have before it for its consideration material information.

(2) BOARD COMPOSITION; OATH.—A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 20212 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

(3) RECORD CONSIDERED BY BOARD.—The special selection board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the board that considered the officer or former officer. That record shall be compared with the records of a sampling of those officers of the same grade and competitive category who were recommended for promotion, and those officers of the same grade and competitive category who were not recommended for promotion, by that board.

(4) EFFECT.—If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer whose name was referred to it for consideration, the officer or former officer incurs no additional failure of selection for promotion.

(c) REPORT OF BOARD.—Each special selection board convened under this section shall submit to the Secretary of the Air Force a written report, signed by each member of the board, containing the name of each officer or former officer it recommends for promotion and certifying that the board has carefully considered the record of each officer or former officer whose name was referred to it.

(d) APPLICABLE PROVISIONS.—The provisions of sections 20215 and 20216 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a selection board convened under section 20211 of this title.

(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—

(1) PROMOTION.—An officer or former officer whose name is placed on a promotion list as a result of a recommendation for promotion by a special selection board convened under this section shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had the officer or former officer been recommended for promotion by the board which should have considered or which did consider the officer of former officer.

(2) STATUS OF PROMOTED OFFICER.—An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the Space Force officer list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

(3) CORRECTION OF MILITARY RECORD.—If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary of the Air Force may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

(f) PRESCRIBING OF CIRCUMSTANCES FOR CONSIDERATION BY BOARD.—The Secretary of Defense may prescribe by regulation—

(1) the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer; and

(2) time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

(g) CONVENING OF BOARDS.—A board convened under this section—

(1) shall be convened under regulations prescribed by the Secretary of Defense;

(2) shall be composed in accordance with section 20212 of this title and regulations prescribed by the Secretary of the Air Force; and

(3) shall be subject to the provisions of section 613 of this title.

(h) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under this chapter until—

(A) the claim has been referred to a special selection board by the Secretary of the Air Force and acted upon by that board; or

(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer or former officer's claim.

(i) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary of the Air Force under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary, who shall provide for consideration of the officer or former officer by a special selection board under this section.

(2) If a court finds that the action of a special selection board which considers an officer or former

officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary, who shall provide the officer or former officer reconsideration by a new special selection board.

(j) DESIGNATION OF BOARDS.—The Secretary of the Air Force may designate a promotion board convened under section 20201(a) of this title as a special selection board convened under this section.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 650, §20251; renumbered §20252 and amended Pub. L. 118–159, div. A, title V, §521(v), Dec. 23, 2024, 138 Stat. 1883.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, §521(v)(2), renumbered the second section 20251 of this title as this section.
Subsec. (b)(2). Pub. L. 118–159, §521(v)(1)(A)(i), substituted "(1)" for "((1)" and "such" for "sch".
Subsec. (b)(4). Pub. L. 118–159, §521(v)(1)(A)(ii), substituted "an officer" for "a officer".
Subsec. (f)(2). Pub. L. 118–159, §521(v)(1)(B), substituted "which an officer" for "which of officer".

## §20252a. Special selection review boards: reference

Section 628a of this title, relating to the convening of a special selection review board when credible information of an adverse nature was not furnished to a promotion board, applies with respect to persons recommended by a selection board for promotion to a grade at or below the grade of major general in the Space Force.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

## §20253. Retirement: retirement for years of service

Sections 633 through 636 of this title shall apply to the retirement of officers on the Space Force officer list in the same manner as to officers of the Regular Air Force.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

# SUBCHAPTER V—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT; OTHER PROVISIONS

Sec.
20261. Selection of officers for continuation on the Space Force officer list.
20262. Retirement: selective early retirement.
20263. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay.
20264. Other administrative authorities.

**EDITORIAL NOTES**

**CODIFICATION**

Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 653, which directed amendment of chapter "205" of this title by adding this subchapter at the end, was executed by adding this subchapter at the end of this chapter, which is chapter 2005, to reflect the probable intent of Congress.

**AMENDMENTS**

**2023**—Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 634, 653, added items 20261 to 20264. Amendment was made pursuant to operation of section 102 of this title.

## §20261. Selection of officers for continuation on the Space Force officer list

Section 14701 of this title shall apply in continuation or retention on the Space Force officer in the same manner as to continuation on the reserve active-status list.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

## §20262. Retirement: selective early retirement

Sections 638 and 638a of this title shall apply to the retirement of officers on the Space Force officer list in the same manner as to officers of the Regular Air Force.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

## §20263. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay

(a) SEPARATION PAY.—An officer who is discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1174 of this title.

(b) RETIRED PAY.—An officer who is retired under this chapter is entitled to retired pay computed under chapter 71 or 1223 of this title, as applicable.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

## §20264. Other administrative authorities

The following provisions of this title shall apply to officers on the Space Force officer list in the same manner as to officers subject to those provisions:

(1) Section 14518, relating to continuation of officers to complete disciplinary action.

(2) Section 14519, relating to deferment of retirement or separation for medical reasons.

(3) Section 14704, relating to the selective early removal from the reserve active-status list.

(Added Pub. L. 118–31, div. A, title XVII, §1716(c), Dec. 22, 2023, 137 Stat. 653.)

# CHAPTER 2007—ENLISTED MEMBERS

Sec.
20301. Original enlistments: qualifications; grade.
20302. Enlisted members: term of enlistment.
20303. Reference to chapter 31.

## §20301. Original enlistments: qualifications; grade

(a) ORIGINAL ENLISTMENTS.—

(1) AUTHORITY TO ACCEPT.—The Secretary of the Air Force may accept original enlistments in the Space Force of qualified, effective, and able-bodied persons.

(2) AGE.—A person accepted for original enlistment shall be not less than seventeen years of age. However, no person under eighteen years of age may be originally enlisted without the written consent of the person's parent or guardian, if the person has a parent or guardian entitled to the person's custody and control.

(b) GRADE.—A person is enlisted in the Space Force in the grade prescribed by the Secretary of the Air Force.

(Added Pub. L. 118–31, div. A, title XVII, §1717(a), Dec. 22, 2023, 137 Stat. 654.)

## §20302. Enlisted members: term of enlistment

(a) TERM OF ORIGINAL ENLISTMENTS.—The Secretary of the Air Force may accept original enlistments of persons for the duration of their minority or for a period of at least two but not more than eight years in the Space Force.

(b) TERM OF REENLISTMENTS.—The Secretary of the Air Force may accept a reenlistment in the Space Force for a period determined in accordance with paragraphs (2), (3), and (4) of section 505(d) of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1717(a), Dec. 22, 2023, 137 Stat. 654.)

## §20303. Reference to chapter 31

For other provisions of this title applicable to enlistments in the Space Force, see chapter 31 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1717(a), Dec. 22, 2023, 137 Stat. 654.)

# CHAPTER 2009—RETENTION AND SEPARATION GENERALLY

Sec.
20401. Applicability of certain provisions of law related to separation.
20402. Enlisted members: standards and qualifications for retention.
20403. Officers: standards and qualifications for retention.
20404. Selection of officers for early retirement or discharge.
20405. Force shaping authority.

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Pub. L. 118–159, div. A, title XVII, §1701(a)(49), Dec. 23, 2024, 138 Stat. 2206, renumbered item 20404 "Force shaping authority" as 20405.

## §20401. Applicability of certain provisions of law related to separation

(a) OFFICER SEPARATION.—Except as specified in this section or otherwise modified in this chapter, the provisions of chapter 59 of this title applicable to officers of a regular component shall apply to officers of the Space Force.

(b) Except as specified in this section or otherwise modified in this chapter, the provisions of sections 1169, 1170, 1171, 1173, 1174(b), and 1176(a) of chapter 59 of this title applicable to enlisted members of a regular component shall apply to enlisted members of the Space Force.

(c) The provisions of section 1172 of this title pertaining to a person enlisted under section 518 of this title shall apply to an enlisted member of the Space Force.

(d) The provisions of section 1174 of this title—

(1) pertaining to a regular officer shall apply to a Space Force officer serving on sustained duty;

(2) pertaining to a regular enlisted member shall apply to an enlisted member of the Space Force serving on sustained duty; and

(3) pertaining to other members shall apply to members of the Space Force not serving on sustained duty.

(e) The provisions of section 1175 of this title pertaining to a voluntary appointment, enlistment, or transfer to a reserve component shall apply to the voluntary release from active duty of a member

of the Space Force on sustained duty.

(f) The provisions of section 1176 of this title—

(1) pertaining to a regular enlisted member shall apply to an enlisted member of the Space Force serving on sustained duty; and

(2) pertaining to a reserve enlisted member serving in an active status shall apply to an enlisted member of the Space Force serving in a space force active status or on sustained duty.

(Added Pub. L. 118–31, div. A, title XVII, §1718(a), Dec. 22, 2023, 137 Stat. 656; amended Pub. L. 118–159, div. A, title V, §521(w), Dec. 23, 2024, 138 Stat. 1883.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (b). Pub. L. 118–159 inserted ", and" after "1174(b)".

## §20402. Enlisted members: standards and qualifications for retention

(a) STANDARDS AND QUALIFICATIONS FOR RETENTION.—The Secretary of the Air Force shall, by regulation, prescribe—

(1) standards and qualifications for the retention of enlisted members of the Space Force; and

(2) equitable procedures for the periodic determination of the compliance of each such member with those standards and qualifications.

(b) EFFECT OF FAILURE TO COMPLY WITH STANDARDS AND QUALIFICATIONS.—If an enlisted member serving in Space Force active status fails to comply with the standards and qualifications prescribed under subsection (a), the member shall—

(1) if qualified, be transferred to Space Force inactive status;

(2) if qualified, be retired in accordance with section 20603 of this title; or

(3) have the member's enlistment terminated.

(Added Pub. L. 118–31, div. A, title XVII, §1718(a), Dec. 22, 2023, 137 Stat. 656.)

## §20403. Officers: standards and qualifications for retention

(a) STANDARDS AND QUALIFICATIONS.—To be retained in an active status, a Space Force officer must—

(1) in any applicable yearly period, attain the number of points under section 12732(a)(2) of this title that are prescribed by the Secretary of the Air Force; and

(2) conform to such other standards and qualifications as the Secretary may prescribe for officers of the Space Force.

(b) LIMITATION ON MINIMUM NUMBER OF POINTS.—The Secretary may not prescribe a minimum of more than 50 points under subsection (a).

(c) RESULT OF FAILURE TO COMPLY.—A Space Force officer who fails to attain the number of points prescribed under subsection (a)(1), or to conform to the standards and qualifications prescribed under subsection (a)(2), may be referred to a board convened under section 20501(a) of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1718(a), Dec. 22, 2023, 137 Stat. 656.)

## §20404. Selection of officers for early retirement or discharge

(a) CONSIDERATION FOR EARLY RETIREMENT.—The Secretary of the Air Force may convene selection boards under section 20211(b) of this title to consider for early retirement officers

on the Space Force officer list as follows:

(1) Officers in the grade of lieutenant colonel who have failed of selection for promotion at least one time and whose names are not on a list of officers recommended for promotion.

(2) Officers in the grade of colonel who have served in that grade for at least two years and whose names are not on a list of officers recommended for promotion.

(3) Officers, other than those described in paragraphs (1) and (2), holding a grade below the grade of colonel—

(A) who are eligible for retirement under section 20601 of this title or who after two additional years or less of active service would be eligible for retirement under that section; and

(B) whose names are not on a list of officers recommended for promotion.

(b) CONSIDERATION FOR DISCHARGE.—

(1) The Secretary of the Air Force may convene selection boards under section 20211 of this title to consider for discharge officers on the Space Force officer list—

(A) who have served at least one year of active status in the grade currently held;

(B) whose names are not on a list of officers recommended for promotion; and

(C) who are not eligible to be retired under any provision of law (other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993) and are not within two years of becoming so eligible.

(2) An officer who is recommended for discharge by a selection board convened pursuant to the authority of paragraph (1) and whose discharge is approved by the Secretary of the Air Force shall be discharged on a date specified by the Secretary.

(3) Selection of officers for discharge under paragraph (1) shall be based on the needs of the service.

(c) DISCHARGES AND RETIREMENTS CONSIDERED TO BE INVOLUNTARY.—The discharge or retirement of an officer pursuant to this section shall be considered to be involuntary for purposes of any other provision of law.

(Added Pub. L. 118–31, div. A, title XVII, §1718(a), Dec. 22, 2023, 137 Stat. 657; amended Pub. L. 118–159, div. A, title XVII, §1701(a)(50), Dec. 23, 2024, 138 Stat. 2206.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (b)(1)(C), is section 4403 of Pub. L. 102–484, which is set out as a note under section 1293 of this title.

**AMENDMENTS**

**2024**—Subsecs. (a), (b)(1). Pub. L. 118–159 substituted "Space Force" for "space force" in introductory provisions.

## §20405. Force shaping authority

(a) AUTHORITY.—The Secretary of the Air Force may, solely for the purpose of restructuring the Space Force—

(1) discharge an officer described in subsection (b); or

(2) involuntarily release such an officer from sustained duty.

(b) COVERED OFFICERS.—

(1) The authority under this section may be exercised in the case of an officer of the Space Force serving on sustained duty who—

(A) has completed not more than six years of service as a commissioned officer in the armed

forces; or

(B) has completed more than six years of service as a commissioned officer in the armed forces, but has not completed the minimum service obligation applicable to that officer.

(2) In this subsection, the term "minimum service obligation", with respect to a member of the Space Force, means the initial period of required active duty service applicable to the member, together with any additional period of required active duty service incurred by that member during the member's initial period of required active duty service.

(c) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations for the exercise of the Secretary's authority under this section.

(Added Pub. L. 118–31, div. A, title XVII, §1718(a), Dec. 22, 2023, 137 Stat. 658.)

## CHAPTER 2011—SEPARATION OF OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

Sec.
20501. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons.
20502. Retention boards.
20503. Removal of officer: action by Secretary upon recommendation of retention board.
20504. Rights and procedures.
20505. Officer considered for removal: voluntary retirement or discharge.
20506. Officers eligible to serve on retention boards.

### §20501. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

(a) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO STANDARDS OF PERFORMANCE OF DUTY.—

(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a retired officer) of the Space Force in a space force active status to determine whether the officer shall be required, because of a reason stated in paragraph (2), to show cause for the officer's retention in a space force active status.

(2) The reasons referred to in paragraph (1) are the following:

(A) The officer's performance of duty has fallen below standards prescribed by the Secretary of Defense.

(B) The officer has failed to satisfy the standards and qualifications established under section 20403 of this title by the Secretary of the Air Force.

(b) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO CERTAIN OTHER REASONS.—

(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a retired officer) of the Space Force in a space force active status to determine whether the officer should be required, because of a reason stated in paragraph (2), to show cause for the officer's retention in a space force active status.

(2) The reasons referred to in paragraph (1) are the following:

(A) Misconduct.

(B) Moral or professional dereliction.

(C) The officer's retention is not clearly consistent with the interests of national security.

(c) SECRETARY OF DEFENSE LIMITATIONS.—Regulations prescribed by the Secretary of the Air Force under this section are subject to such limitations as the Secretary of Defense may prescribe.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 659.)

## §20502. Retention boards

(a) CONVENING OF BOARDS TO CONSIDER OFFICERS REQUIRED TO SHOW CAUSE .—The Secretary of the Air Force shall convene retention boards at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 20501 of this title to show cause for retention in a space force active status should be retained in a space force active status. Each retention board shall be composed of not less than three officers having the qualifications prescribed by section 20506 of this title.

(b) FAIR AND IMPARTIAL HEARING.—A retention board shall give a fair and impartial hearing to each officer required under section 20501 of this title to show cause for retention in a space force active status.

(c) EFFECT OF BOARD DETERMINATION THAT AN OFFICER HAS FAILED TO ESTABLISH THAT THE OFFICER SHOULD BE RETAINED.—

(1) If a retention board determines that the officer has failed to establish that the officer should be retained in a space force active status, the board shall recommend to the Secretary of the Air Force one of the following:

(A) That the officer be transferred to an inactive status.

(B) That the officer, if qualified under any provision of law, be retired.

(C) That the officer be discharged from the Space Force.

(2) Under regulations prescribed by the Secretary of the Air Force, an officer as to whom a retention board makes a recommendation under paragraph (1) that the officer not be retained in a space force active status may be required to take leave pending the completion of the officer's case under this chapter. The officer may be required to begin such leave at any time following the officer's receipt of the report of the retention board, including the board's recommendation for removal from a space force active status, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued until the date on which action by the Secretary of the Air Force on the officer's case is completed or may be terminated at any earlier time.

(d) EFFECT OF BOARD DETERMINATION THAT AN OFFICER HAS ESTABLISHED THAT THE OFFICER SHOULD BE RETAINED.—

(1) If a retention board determines that the officer has established that the officer should be retained in a space force active status, the officer's case is closed.

(2) An officer who is required to show cause for retention in a space force active status under subsection (a) of section 20501 of this title and who is determined under paragraph (1) to have established that the officer should be retained in a space force active status may not again be required to show cause for retention in a space force active status under such subsection within the one-year period beginning on the date of that determination.

(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention in a space force active status under subsection (b) of section 20501 of this title and who is determined under paragraph (1) to have established that the officer should be retained in a space force active status may again be required to show cause for retention at any time.

(B) An officer who has been required to show cause for retention in a space force active status under subsection (b) of section 20501 of this title and who is thereafter retained in an active status

may not again be required to show cause for retention in a space force active status under such subsection solely because of conduct which was the subject of the previous proceedings, unless the findings or recommendations of the retention board that considered the officer's previous case are determined to have been obtained by fraud or collusion.

(4) In the case of an officer described in paragraph (2) or paragraph (3)(A), the retention board may recommend that the officer be required to complete additional training, professional education, or such other developmental programs as may be available to correct any identified deficiencies and improve the officer's performance within the Space Force.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 659; amended Pub. L. 118–159, div. A, title V, §521(x), Dec. 23, 2024, 138 Stat. 1883.)

**EDITORIAL NOTES**

**AMENDMENTS**

**2024**—Subsec. (c). Pub. L. 118–159, §521(x)(1), substituted "That an Officer Has Failed to Establish That the Officer Should Be Retained" for "Than an Officer Has Failed to Establish That the Officer Should Be Retained" in heading and realigned margins.

Subsec. (d). Pub. L. 118–159, §521(x)(2), substituted "That" for "Than" in heading.

## §20503. Removal of officer: action by Secretary upon recommendation of retention board

The Secretary of the Air Force may remove an officer from space force active status if the removal of such officer from space force active status is recommended by a retention board convened under section 20502 of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 661.)

## §20504. Rights and procedures

(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Air Force, each officer required under section 20501 of this title to show cause for retention in a space force active status—

(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a retention board, of the reasons for which the officer is being required to show cause for retention in a space force active status;

(2) shall be allowed a reasonable time, as determined by the board, to prepare the officer's showing of cause for retention in a space force active status;

(3) shall be allowed to appear either in person or through electronic means and to be represented by counsel at proceedings before the board; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the officer's case, except that the board shall withhold any record that the Secretary determines should be withheld in the interest of national security.

(b) SUMMARY OF RECORDS WITHHELD IN INTEREST OF NATIONAL SECURITY .—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 661.)

## §20505. Officer considered for removal: voluntary retirement or discharge

(a) IN GENERAL.—At any time during proceedings under this chapter with respect to the

removal of an officer from a space force active status, the Secretary of the Air Force may grant a request by the officer—

(1) for voluntary retirement, if the officer is qualified for retirement; or

(2) for discharge in accordance with subsection (b)(2).

(b) RETIREMENT OR DISCHARGE.—An officer removed from a space force active status under section 20503 of this title shall—

(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which the officer would be eligible if retired under such provision; and

(2) if ineligible for voluntary retirement under any provision of law on the date of such removal—

(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 20501 of this title; or

(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 20501 of this title.

(c) SEPARATION PAY FOR DISCHARGED OFFICER.—An officer who is discharged under subsection (b)(2) is entitled, if eligible therefor, to separation pay under section 1174(a)(2) of this title.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 661.)

## §20506. Officers eligible to serve on retention boards

(a) IN GENERAL.—The provisions of section 1187 of this title apply to the membership of boards convened under this chapter in the same manner as to the membership of boards convened under chapter 60 of this title.

(b) RETIRED AIR FORCE OFFICERS.—

(1) AUTHORITY.—In applying subsection (b) of section 1187 of this title to a board convened under this chapter, the Secretary of the Air Force may appoint retired officers of the Air Force, in addition to retired officers of the Space Force, to complete the membership of the board.

(2) LIMITATION.—A retired officer of the Air Force may be appointed to a board under paragraph (1) only if the officer served in a space-related career field of the Air Force for sufficient time such that the Secretary of the Air Force determines that the retired Air Force officer has adequate knowledge concerning the standards of performance and conduct required of an officer of the Space Force.

(Added Pub. L. 118–31, div. A, title XVII, §1719, Dec. 22, 2023, 137 Stat. 662.)

# CHAPTER 2013—VOLUNTARY RETIREMENT FOR LENGTH OF SERVICE

Sec.
20601. Officers: voluntary retirement for length of service.
20602. Officers: computation of years of service for voluntary retirement.
20603. Enlisted members: voluntary retirement for length of service.
20604. Enlisted members: computation of years of service for voluntary retirement.
20605. Applicability of other provisions of law relating to retirement.

## §20601. Officers: voluntary retirement for length of service

(a) TWENTY YEARS OR MORE.—The Secretary of the Air Force may, upon the officer's

request, retire a commissioned officer of the Space Force who has at least 20 years of service computed under section 20602 of this title, at least 10 years of which have been active service as a commissioned officer.

(b) THIRTY YEARS OR MORE.—A commissioned officer of the Space Force who has at least 30 years of service computed under section 20602 of this title may be retired upon the officer's request, in the discretion of the President.

(c) FORTY YEARS OR MORE.—Except as provided in section 20503 of this title, a commissioned officer of the Space Force who has at least 40 years of service computed under section 20602 of this title shall be retired upon the officer's request.

(Added Pub. L. 118–31, div. A, title XVII, §1719A(a), Dec. 22, 2023, 137 Stat. 662.)

## §20602. Officers: computation of years of service for voluntary retirement

(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an officer of the Space Force may be retired under section 20601 of this title, the officer's years of service are computed by adding all active service in the armed forces.

(b) REFERENCE TO SECTION EXCLUDING SERVICE DURING CERTAIN PERIODS .—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

(Added Pub. L. 118–31, div. A, title XVII, §1719A(a), Dec. 22, 2023, 137 Stat. 663.)

## §20603. Enlisted members: voluntary retirement for length of service

(a) TWENTY TO THIRTY YEARS.—Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Space Force who has at least 20, but less than 30, years of service computed under section 20604 of this title may, upon the member's request, be retired.

(b) THIRTY YEARS OR MORE.—An enlisted member of the Space Force who has at least 30 years of service computed under section 20604 of this title shall be retired upon the member's request.

(Added Pub. L. 118–31, div. A, title XVII, §1719A(a), Dec. 22, 2023, 137 Stat. 663.)

## §20604. Enlisted members: computation of years of service for voluntary retirement

(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an enlisted member of the Space Force may be retired under section 20603 of this title, the member's years of service are computed by adding all active service in the armed forces.

(b) REFERENCE TO SECTION EXCLUDING COUNTING OF CERTAIN SERVICE REQUIRED TO BE MADE UP.—Time required to be made up under section 972(a) of this title may not be counted in computing years of service under subsection (a).

(Added Pub. L. 118–31, div. A, title XVII, §1719A(a), Dec. 22, 2023, 137 Stat. 663.)

## §20605. Applicability of other provisions of law relating to retirement

(a) APPLICABILITY TO MEMBERS OF THE SPACE FORCE.—Except as specifically provided for by this chapter, the provisions of this title specified in subsection (b) apply to members of the Space Force as follows:

(1) Provisions pertaining to an officer of the Air Force shall apply to an officer of the Space Force.

(2) Provisions pertaining to an enlisted member of the Air Force shall apply to an enlisted

member of the Space Force.

(3) Provisions pertaining to a regular officer shall apply to an officer who is on sustained duty in the Space Force.

(4) Provisions pertaining to a regular enlisted member shall apply to an enlisted member who is on sustained duty in the Space Force.

(5) Provisions pertaining to a reserve officer shall apply to an officer who is in a space force active status but not on sustained duty.

(6) Provisions pertaining to a reserve enlisted member shall apply to an enlisted member who is in a space force active status but not on sustained duty.

(7) Provisions pertaining to service in a regular component shall apply to service on sustained duty.

(8) Provisions pertaining to service in a reserve component shall apply to service in a space force active status not on sustained duty.

(9) Provisions pertaining to a member of the Ready Reserve shall apply to a member of the Space Force who is in a space force active status prior to being ordered to active duty.

(10) Provisions pertaining to a member of the Retired Reserve shall apply to a member of the Space Force who has retired under chapter 1223 of this title.

(b) PROVISIONS OF LAW.—The provisions of this title referred to in subsection (a) are the following:

(1) Chapter 61, relating to retirement or separation for physical disability.

(2) Chapter 63, relating to retirement for age.

(3) Chapter 69, relating to retired grade.

(4) Chapter 71, relating to computation of retired pay.

(5) Chapter 941, relating to retirement from the Air Force for length of service.

(6) Chapter 945, relating to computation of retired pay.

(7) Chapter 1223, relating to retired pay for non-regular service.

(8) Chapter 1225, relating to retired grade.

(Added Pub. L. 118–31, div. A, title XVII, §1719A(a), Dec. 22, 2023, 137 Stat. 663.)

# CHAPTER 2015—REPORTS

Sec.
20701. Promotion rates.
20702. Modifications to career fields and codes.

## §20701. Promotion rates

Not later than December 31 of each year, the Secretary of the Air Force shall submit to the Committees on Armed Forces of the Senate and the House of Representatives a report on the promotion rates of members of the Space Force for the preceding fiscal year. Such report shall include—

(1) the number of and percentage of members of the Space Force in each grade selected for promotion;

(2) the number of and percentage of members of the Space Force in each career specialty track selected for promotion; and

(3) the number of members of the Space Force who were selected for promotion to the grade of brigadier general, major general, lieutenant general, or general, disaggregated by career specialty track.

(Added Pub. L. 119–60, div. A, title XVI, §1601(e), Dec. 18, 2025, 139 Stat. 1174.)

## §20702. Modifications to career fields and codes

Not later than 60 days before the date on which a change is made to the career fields or mission occupational specialty codes for the Space Force, the Secretary of the Air Force shall submit to the Committees on Armed Forces of the Senate and the House of Representatives a report that includes—

(1) a description of the changes intended to be made to such career fields or mission occupational specialty codes; and

(2) the plan of the Secretary to maintain the Space Force competencies and comply with requirements in law with respect to Space Force career fields and duty assignments.

(Added Pub. L. 119–60, div. A, title XVI, §1601(e), Dec. 18, 2025, 139 Stat. 1174.)